CURRENT PERIODICAL SERIES

PUBLICATION NO: 2575

TITLE: FEDERAL REGISTER

VOLUME: 42

ISSUES: 159-169
pages: 41401-43956

DATE: August 17-31, 1977
Reel 4 of 12

NOTICE: This periodical may be copyrighted, in which case the contents remain the property of the copyright owner. The microfilm edition is reproduced by agreement with the publisher. Duplication or resale without permission is prohibited.

University Microfilms International, Ann Arbor, Mich.

MICROFILMED – 1978

VOL 42

Vol.42—No.159
8–17–77
PAGES
41401–41602

federal register

WEDNESDAY, AUGUST 17, 1977

highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Workshops include a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

OUT OF TOWN WORKSHOPS PREVIOUSLY ANNOUNCED

New York, N.Y. 8–18, 8–19
(Details: 42 FR 36040, 7/13/77)
For reservations call: Dorothy Gemmallo
at (212) 264–3514

Boston, Mass., 9–7, 9–8, 9–9
(Details: 42 FR 37261, 7–20–77)
For reservations call: Mrs. Louise Conboy
at (617) 223–7121

Saint Paul, Minn. 9–13, 9–14, 9–15
(Details: 42 FR 40999, 8–12–77)
For reservations call: Chuck McDew
at (612) 291–6421

SUNSHINE ACT MEETINGS 41521

SALE OF DEFENSE ARTICLES AND SERVICES TO TURKEY
Presidential determination 41401

ELECTRIC AND GAS UTILITY COMPANIES
SEC extends comments to 9–15–77 on the development of disclosure guidelines 41434

DISCLOSURE PROBLEMS AND POLICIES
Justice/Parole proposes clarification of prisoner's right to review documents to be considered at a hearing and access to copies of documents contained in regional office files; comments by 9–21–77 41435

COPYRIGHT LAWS
Library of Congress/Copyright Office proposes regulations on filing of copies of certain contracts entered into by Cable Television Systems located outside of the forty-eight contiguous states; comments by 9–2–77 41438
Library of Congress/Copyright Office proposes amendments on the use and display by libraries and archives of certain warnings of copyright in connection with photoduplication and related activities; comments by 9–2–77 41437

CONTINUED INSIDE

V42 159 AUG 17 77 UM

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202–523–5240.**

FEDERAL REGISTER, Daily Issue:	
Subscription orders (GPO)	**202**–783–3238
Subscription problems (GPO)	**202**–275–3050
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	**202**–523–5022
Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227
PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235
PUBLIC LAWS:	
Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

INSPECTION AND CERTIFICATION OF FISHERY PRODUCTS
Commerce/NOAA proposes to establish rates for conduct of lot inspections under the voluntary seafood inspection program on a written contract basis; comments by 9–15–77 41440

TAX REFORM ACT OF 1976
Treasury/Secy issues boycott guidelines; comments by 9–30–77 41504

SECURITIES EXCHANGE ACT
SEC postpones effective date until 4–30–78 on beneficial ownership disclosure requirements 41434

MANDATORY PETROLEUM PRICE AND ALLOCATION REGULATIONS
FEA issues regulations on Alaska North Slope crude oil pricing and entitlements treatment; effective 6–1–77 (Part II of this issue) 41565
FEA proposes additional price incentives for tertiary enhanced recovery techniques (Part III of this issue) 41571

FOREIGN FISHING
Commerce/NOAA amends the total allowable level of fishing for short-finned and long-finned squid and provides increased allocation; effective 8–12–77 41430

PRIVACY ACT
DOD/AF adopts additional exemption; effective 8–3–77 41409
DOD/AF amends system of records 41468
Justice/AG revokes an exemption of systems of records; effective 8–5–77 41408
Justice/AG removes certain systems of records 41499

MEETINGS—
Commerce/Census: Census Advisory Committee on the Black, Spanish Origin, and Asian and Pacific American Population, 9–8 and 9–9–77 41461
DOD/AF: USAF Scientific Advisory Board, 9–7 and 9–8–77 (2 documents) 41469
HEW/OE: National Advisory Council on Indian Education, 9–17 thru 9–19–77 41479

SEPARATE PARTS OF THIS ISSUE
Part II, FEA 41565
Part III, FEA 41571
Part IV, USDA/AMS 41581

V 42 15 9 AUG 17 77 UM

contents

THE PRESIDENT

Memorandums.

Turkey; sale of defense articles and services 41401

EXECUTIVE AGENCIES

AGRICULTURAL MARKETING SERVICE

Rules

Cotton research and promotion: Board membership, determination 41404
Potatoes (Irish) grown in Calif. and Oreg 41403

Proposed Rules

Celery grown in Fla 41431
Milk marketing orders: New York-New Jersey 41581
Peaches grown in Colo 41431

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service.

AIR FORCE DEPARTMENT

Rules

Privacy Act; implementation 41409

Notices

Meetings:
Scientific Advisory Board (3 documents) 41469
Privacy Act; systems of records 41468

CENSUS BUREAU

Notices

Meetings:
Black Population for the 1980 Census Advisory Committee et al 41461

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:
International Air Transport Association 41443
Pan American World Airways, et al 41444
TACA International Airlines, S.A 41442

COMMERCE DEPARTMENT

See also Census Bureau; Domestic and International Business Administration; Economic Development Administration; National Oceanic and Atmospheric Administration.

Notices

Organization and functions: Automatic Data Processing Management Office 41467

COPYRIGHT OFFICE, LIBRARY OF CONGRESS

Proposed Rules

Copyright owners and broadcasting entities:
Cable systems; recordation of certain contracts 41438
Copyright warning, use by libraries and archives 41437

CUSTOMS SERVICE

Rules

Antidumping:
Potassium chloride (muriate of potash) from Canada 41406

DEFENSE DEPARTMENT

See Air Force Department.

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Notices

Export privileges, actions affecting:
Naya, Yoshihiro, et al 41465
Meetings:
Management-Labor Textile Advisory Committee 41463
Scientific articles; duty free entry:
Howard University 41462
Howard University et al 41461
National Institutes of Health 41463
Texas Tech University School of Medicine 41463
Uniformed Services University of the Health Sciences 41464
University of Texas Health Science Center 41464
University of Washington, Center for Bioengineering 41465
Washington University School of Medicine 41465

ECONOMIC DEVELOPMENT ADMINISTRATION

Notices

Import determination petitions:
Crest Shoe Co 41466

EDUCATION OFFICE

Notices

Advisory committees, closed meetings; reports, availability 41479
Meetings:
Indian Education National Advisory Council 41479

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Notices

Braille communication; intent to grant exclusive patent license 41469

ENVIRONMENTAL PROTECTION AGENCY

Rules

Air pollutants, hazardous; National emission standards:
Authority citation changes 41424

Notices

Pesticides, specific exemptions and experimental use permits:
California Department of Food and Agriculture 41469
Illinois Department of Agriculture 41470
New Jersey Department of Environmental Protection 41471
New Mexico Department of Agriculture 41472

FEDERAL DISASTER ASSISTANCE ADMINISTRATION

Notices

Authority delegations:
Assistant Secretary for Housing-Federal Housing Commissioner 41480
Disaster and emergency areas:
Colorado 41480
Georgia 41481
Michigan 41482
Pennsylvania 41482
Virginia 41482
Drought impact areas, emergency; various States 41481

FEDERAL ELECTION COMMISSION

Notices

Advisory opinion requests 41473

FEDERAL ENERGY ADMINISTRATION

Rules

Petroleum allocation and price regulations, mandatory:
Alaska North Slope crude oil pricing and entitlements treatment 41565

Proposed Rules

Petroleum price regulations, mandatory:
Crude oil, domestic; additional incentives; tertiary enhanced recovery techniques 41571

FEDERAL MARITIME COMMISSION

Notices

Complaints filed:
Houston Gulf Crane, Inc., et al. v. Port of Houston, Harris County Authority, Tex 41473
P & M Crane Service, Inc. v. Port of Houston, Harris County Authority, Tex 41474
Rate increases, etc.: investigations and hearings, etc.:
American Export Lines, et al 41473
Agreements filed, etc.:
Lykes Bros. Steamship Co.; Inc., et al 41474
Prudential Lines, Inc., et al 41474

FEDERAL POWER COMMISSION

Notices

Natural gas companies:
Certificates of public convenience and necessity; applications, abandonment of service and petitions to amend (4 documents) 41447–41450
Hearings, etc.:
Alabama Power Co., et al 41446
Arkansas Power & Light Co. (2 documents) 41446, 41447
Central Telephone & Utilities Corp. (2 documents) 41447
Columbia Gas Transmission Corp 41448
Consumers Power Co 41449
Duke Power Co. (2 documents) 41450
El Ran, Inc 41451
Georgia Power Co 41451
Gulf Power Co 41451
Hartford Electric Light Co. (2 documents) 41451, 41452
Hoffpauir, Thomas C 41452
Iowa Public Service Co 41452
Iowa Southern Utilities Co 41452
Kentucky West Virginia Gas Co 41453
Lightning Productions, Inc., et al 41453
Louisiana Power & Light Co 41453
Michigan Wisconsin Pipe Line Co. et al 41454
Midwestern Gas Transmission Co 41454
Mississippi River Transmission Corp 41454
Mobil Oil Corp 41455
Northern States Power Co. (2 documents) 41455
Ohio Edison Co 41456
Power Authority of State of New York 41456
Public Service Co. of Oklahoma 41457
Southern Natural Gas Co 41457
Transcontinental Gas Pipe Line Corp. (2 documents) 41457, 41458
Transcontinental Gas Pipe Line Corp. et al 41458
Transwestern Pipeline Co 41459
Trunkline Gas Co 41459
Trunkline Gas Co. et al 41459
United Gas Pipe Line Co 41460
Vaughan, John W 41460
Western Massachusetts Electric Co 41460
Western Transmission Corp 41460

FEDERAL RESERVE SYSTEM

Notices

Applications, etc.:
Central Bancorporation, Inc 41475
First Bankers Corp. of Florida 41475
Marine Corp 41476
Marine National Exchange Bank of Milwaukee 41476

FEDERAL TRADE COMMISSION

Proposed Rules

Consent orders:
Dayco Corp 41431

FISCAL SERVICE

Notices

Surety companies acceptable on Federal bonds:
Insurance Co. of the West 41504

FISH AND WILDLIFE SERVICE

Rules

Fishing:
Upper Mississippi River Wild Life and Fish Refuge, Ill., et al 41426
Hunting:
Chassahowitzka National Wildlife Refuge, Fla 41427
Eufaula National Wildlife Refuge, Ala 41428
Lake Alice National Wildlife Refuge, N. Dak. (3 documents) 41427, 41428
Lake Woodruff National Wildlife Refuge, Fla 41428
Upper Mississippi River Wild Life and Fish Refuge, Ill. et al. (2 documents) 41426
White River National Wildlife Refuge, Ark 41429
Public access, entry, use, and recreation:
Upper Mississippi River Wild Life and Fish Refuge, Ill. et al 41425

Notices

Endangered and threatened species permits; applications (7 documents) 41489–41496

GENERAL ACCOUNTING OFFICE

Notices

Regulatory reports review; proposals, approvals, etc 41476

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Education Office.

Notices

Information collection and data acquisition activity, description; inquiry 41477

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Disaster Assistance Administration; Interstate Land Sales Registration Office.

INDIAN AFFAIRS BUREAU

Proposed Rules

Indian tribe, Federal recognition; determination procedures; extension of time 41435

INTERIOR DEPARTMENT

See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; National Park Service; Reclamation Bureau.

INTERNATIONAL TRADE COMMISSION

Notices

Competition conditions study; domestic and foreign steel products, western U.S. market; investigation and hearings 41498
Gas guzzler tax; investigation and inquiry 41498

INTERSTATE COMMERCE COMMISSION

Rules

Railroad car service orders; various companies:
Louisiana & Arkansas Railway Co 41424

Notices

Agreements under sections 5 a and b, applications for approval, etc.:
Mover's & Warehousemen's Association of America, Inc 41519
Hearing assignments 41517
Petitions filing:
Aliquippa & Southern Railroad Co. et al 41518
Railroad car service rules, mandatory; exemptions 41520
Rerouting of traffic:
Association of American Railroads 41520

INTERSTATE LAND SALES REGISTRATION OFFICE

Notices

Land developers; investigatory hearings, order of suspension, etc.:
Astro Manufacturing Co. et al.; correction 41482
Dysart Ranchettes 41483
Oak Crest Estates 41483
Pinehurst 41483
Woodbridge 41484

JUSTICE DEPARTMENT

See also Law Enforcement Assistance Administration; Parole Commission.

Rules

Information; production or disclosure:
Privacy Act; Watergate Special Prosecution Force systems of records, exemption revoked 41408
Organization, functions, and authority delegations:
Assistant Attorney General for Administration; real property acquisition 41407

Notices

Pollution control; consent judgments; U.S. versus listed companies, etc.:
Kaiser Steel Corp 41499
Springfield, Ill 41499
Privacy Act; systems of records 41499

LAND MANAGEMENT BUREAU

Notices

Applications, etc.:
New Mexico (7 documents) 41485, 41486
Wyoming 41488
Authority delegations:
Colorado State Office, Technical Services Division, Adjudication Branch Chief 41484
Motor vehicles, off-road; road closures; area designations:
Oregon 41488
Outer Continental Shelf:
Official protraction diagrams; availability, etc 41488
Withdrawal and reservation of lands, proposed, etc.:
Montana 41484
New Mexico 41486

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Notices

Meetings:
Juvenile Justice and Delinquency Prevention National Advisory Committee 41499

LIBRARY OF CONGRESS

See Copyright Office, Library of Congress.

MANAGEMENT AND BUDGET OFFICE

Notices

Clearance of requests; list of requests 41500

VOL 42 NO 159 AUG 17 1977 UM

CONTENTS

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Rules

Fishery conservation and management:
Foreign fishing; allocations ---- 41430

Proposed Rules

Fishery products, processed:
Inspection and certification; lot inspections, contract basis --- 41440

Notices

Fishery management plans, preliminary; approvals, etc.:
Squid; Northwestern Atlantic; allocation increase ---------- 41466
Marine mammal permit applications, etc.:
Overton Park Zoo and Aquarium ---------- 41466
Sea Life, Inc ---------- 41466
Twentieth Century-Fox Marineland, Inc ---------- 41467

NATIONAL PARK SERVICE

Notices

Cumberland Island National Seashore, Ga.; wilderness study and management plan; meetings and hearings ---------- 41498
Environmental statements; availability, etc.:
Cumberland Island National Seashore, Ga ---------- 41497
Olympic National Park, Wash. -- 41498

PAROLE COMMISSION

Rules

Prisoners, youth offenders, and juvenile delinquents; parole, release, etc.:
Appeals by prisoners, possible grounds enlarged; correction- 41407
Eligibility for parole ---------- 41408

Proposed Rules

Prisoners, youth offenders, and juvenile delinquents; parole, release, etc.:
"Absconding" definition expanded ---------- 41436
Prisoners right to review parole hearing and regional office ---- 41435

RECLAMATION BUREAU

Proposed Rules

Water quality standards and effluent limitation; pollutant discharge into Conconully Lake and Conconully Reservoir, Okanogan County, Wash ---------- 41440

SECURITIES AND EXCHANGE COMMISSION

Rules

Investment Company Act:
Brokers and dealers; interested persons, exemptions ---------- 41406
Securities Act and Securities Exchange Act:
Corporate ownership disclosure requirements; effective date deferred ---------- 41405

Proposed Rules

Financial statements and interpretative releases:
Replacement cost data disclosure; inquiry ---------- 41433
Securities Act and Securities Exchange Act:
Electric and gas utility company disclosure guidelines; extension of time ---------- 41434
Securities Exchange Act:
Brokers and dealers; uniform net capital rule; extension of time ---------- 41434

Notices

Self-regulatory organizations; proposed rule changes:
Depository Trust Co ---------- 41501
Midwest Stock Exchange, Inc -- 41501
National Association of Securities Dealers, Inc ---------- 41502
Hearings, etc.:
Air pollution Industries, Inc --- 41500
Cincinnati Stock Exchange ---- 41501

STATE DEPARTMENT

Notices

Meetings:
International Educational and Cultural Affairs, U.S. Advisory Commission ---------- 41504

TEXTILE AGREEMENTS IMPLEMENTATION COMMITTEE

Notices

Cotton, wool and man-made textiles:
Hong Kong ---------- 41467

TREASURY DEPARTMENT

See also Customs Service; Fiscal Service.

Notices

Antidumping:
Roller chain, other than bicycle, from Japan ---------- 41517
Boycotts, international:
Guidelines ---------- 41504

VETERANS ADMINISTRATION

Rules

Authority delegations:
General Counsel Office ---------- 41409
Legal services; District Counsels- 41410

Proposed Rules

Medical benefits:
Emergency hospitalization; authority to furnish; time limitation for application extended ---------- 41439

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR

MEMORANDUMS:
November 19, 1976 (Supplemented by Memorandum of July 21, 1977) ---------- 41401
July 21, 1977 ---------- 41401

7 CFR

947 ---------- 41403
1205 ---------- 41404

PROPOSED RULES:
919 ---------- 41431
967 ---------- 41431
1002 ---------- 41582

10 CFR

211 ---------- 41566
212 ---------- 41566

PROPOSED RULES:
212 ---------- 41572

16 CFR

PROPOSED RULES:
13 ---------- 41431

17 CFR

239 ---------- 41405
240 ---------- 41405
270 ---------- 41405

PROPOSED RULES:
210 ---------- 41433
211 ---------- 41433
231 ---------- 41434
240 ---------- 41434
241 ---------- 41434

19 CFR

153 ---------- 41406

25 CFR

PROPOSED RULES:
54 ---------- 41435

28 CFR

0 ---------- 41407
2 ---------- 41407
16 ---------- 41408

PROPOSED RULES:
2 (2 documents) ---- 41435, 41436

32 CFR

806b ---------- 41409

37 CFR

PROPOSED RULES:
201 (2 documents) ---- 41437, 41438

38 CFR

2 (2 documents) ---------- 41409, 41410
13 ---------- 41410
14 ---------- 41410

PROPOSED RULES:
17 ---------- 41439

40 CFR

60 ---------- 41424
61 ---------- 41424

43 CFR

PROPOSED RULES:
424 ---------- 41440

49 CFR

1033 ---------- 41424

50 CFR

26 ---------- 41425
32 (10 documents) ---------- 41426–41429
33 ---------- 41426
611 ---------- 41430

PROPOSED RULES:
260 ---------- 41440

V 42 159 AUG 17 77 UM V

CUMULATIVE LIST OF PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR

Ch. I 38891

3 CFR

EXECUTIVE ORDERS:

12006 39081

MEMORANDUMS:

January 2, 1973 (Amended by Memorandum of August 1, 1977) 40169
April 26, 1973 (See Memorandum of August 1, 1977) 40169
December 13, 1973 (See Memorandum of August 1, 1977) 40169
October 29, 1974 (See Memorandum of August 1, 1977) 40169
May 20, 1975 (See Memorandum of August 1, 1977) 40169
August 5, 1975 (See Memorandum of August 1, 1977) 40169
March 25, 1976 (Superseded by Memorandum of August 1, 1977) 40169
April 14, 1976 (See Memorandum of August 1, 1977) 40169
November 5, 1976 (See Memorandum of August 1, 1977) 40169
November 19, 1976 (Supplemented by Memorandum of July 21, 1977) 41401
July 20, 1977 39083
July 21, 1977 41401
August 1, 1977 40169
August 5, 1977 40171

4 CFR

105 39691

5 CFR

213 ..... 39085, 39657, 40173–40175, 40215, 40866, 40867, 41265–41267
713 40175

7 CFR

2 39669
27 40677
68 40868
318 41267
354 41267
406 39953
409 39956
650 40114
725 40881
905 40882
908 ..... 38892, 39359, 39959, 40678, 41095
910 ..... 39085, 39359, 39669, 40882
918 40883
922 41268
926 40678
927 39670
929 40679
944 40885
945 40886
946 39671
947 41403
948 39360
958 39360
967 39361
980 40175
1011 40888
1205 41404
1421 ..... 40175–40185, 41269
1425 40187

7 CFR—Continued

1427 40421
1443 41269
1473 41269
1479 41269
1821 39085
1822 ..... 39361, 39362, 40679
1980 39362
2024 40680

PROPOSED RULES:

220 40911
780 39223
917 39989
919 41431
926 41130
929 39989
945 39395
946 38913
967 ..... 39108, 41431
993 39672
1002 41582
1006 38913
1011 39108
1012 38913
1013 38913
1133 40218
1435 40216

8 CFR

242 38892

PROPOSED RULES:

108 39672

9 CFR

82 39658
325 39086

PROPOSED RULES:

51 40911

10 CFR

0 38893
71 39364
Ch. II 41095
202 41269
210 39959
211 ..... 39959, 41566
212 ..... 38894, 39195, 39959, 41566
213 39087
430 39964
460 41270

PROPOSED RULES:

205 41242
210 40915
211 ..... 39914, 39395, 39990, 40448, 40915, 41242
212 ..... 39114, 40915, 41242, 41396, 41572
430 ..... 39114, 39673, 40217, 40701, 40826

12 CFR

7 39969
202 ..... 39368, 40424
226 40424
329 40425
343 40891
505 39368
545 39088
563 39198
563b 39088
701 39369

12 CFR—Continued

PROPOSED RULES:

308 41130
311 41130
564 39115

13 CFR

120 40900
123 39970
301 39970
317 38896

PROPOSED RULES:

107 39992

14 CFR

1 41101
39 ..... 38896–38900, 39373–39377, 39971, 39972, 41102–41106
45 41101
71 ..... 38901, 39378, 39379, 39972–39976, 40690–40693, 41107–41113
73 ..... 39379, 41113
75 39379
97 ..... 39380, 41114

PROPOSED RULES:

25 41236
39 ..... 38917, 41131–41133
71 ..... 38917, 39993, 39994, 40710, 40711, 41134–41137
75 ..... 38917, 40711
241 39115
245 39115
246 39115
378 40450

15 CFR

46 39976
70 38901

PROPOSED RULES:

904 40711

16 CFR

2 39658
3 ..... 39658, 39977
13 ..... 39198, 40681
18 39660
22 39660
27 41270
35 39660
47 39660
66 39660
105 39660
138 39660
177 39660
191 39660
206 39660
226 39660
433 40426
702 39381
1025 39089
1026 39089
1201 40188

PROPOSED RULES:

13 ..... 40714, 41297, 41431
441 39995
705 39223
801 ..... 39040, 39995
802 ..... 39040, 39995
803 ..... 39040, 39995

16 CFR—Continued

PROPOSED RULES—Continued

1500 39648
1605 39402

17 CFR

140 39033
200 ..... 40189, 40900
239 ..... 40900, 41405
240 ..... 38902, 39090, 40900, 41405
241 41022
249 40902
270 41405

PROPOSED RULES:

1 39036
210 41433
211 41433
231 41434
239 41139
240 ..... 41138, 41434
241 41434
270 41139
274 41139

18 CFR

1 40191
3 ..... 40191, 41276
4 40191
5 40191
6 40191
16 40191
35 ..... 39660, 41277
101 39661
104 39661
141 39661
154 ..... 41276, 41277
157 ..... 39090, 41276
201 39661
204 39661
260 39661

19 CFR

133 41278
153 ..... 39200, 41406
205 40426
210 40428

PROPOSED RULES:

134 39227

20 CFR

416 ..... 39098, 40191
602 40192
901 ..... 39200, 41115
902 39200

PROPOSED RULES:

404 38918
405 39995

21 CFR

Ch. I 40904
6 39100
133 39101
193 41279
310 41374
522 39103
561 41279
700 41374
801 40215

PROPOSED RULES:

182 ..... 39117, 41299
184 ..... 39117, 41299
186 41299
312 41301
320 39675

21 CFR—Continued

PROPOSED RULES—Continued

500 40217
808 41301

22 CFR

123 39103
202 40428

23 CFR

160 41279
655 41280

24 CFR

25 40193
203 40430
811 39209
880 39212
881 39212
883 39212

25 CFR

141 40194
221 41116
252 40904
258 40904

PROPOSED RULES:

54 41435

26 CFR

7 39104
11 39382

PROPOSED RULES:

1 ..... 38919, 39227, 39233, 39408 39997
301 ..... 39227, 39233, 39997
404 ..... 39227, 39233, 39997

27 CFR

178 41116

PROPOSED RULES:

181 ..... 39316, 40921

28 CFR

0 ..... 40433, 41407
2 ..... 39668, 39808, 41407
16 ..... 40905, 41408
17 39212
32 39386

PROPOSED RULES:

2 ..... 41435, 41436
540 41368
541 41368
548 41368
551 41368

29 CFR

102 41117
452 ..... 39105, 41280
1601 41280
1908 41386
1952 ..... 40194, 40195

PROPOSED RULES:

70a 39997
1910 39120
2608 39120

32 CFR

Ch. I 39213
199 41118
286b 39214
290 40433
806b 41409

PROPOSED RULES:

114 39234
143 41306

32 CFR—Continued

PROPOSED RULES—Continued

286 40552
865 39999

33 CFR

110 ..... 39386, 40693, 40694
117 ..... 38903, 39386, 41118
204 ..... 40196, 41281
207 40908
274 41118

PROPOSED RULES:

117 ..... 38919, 38920
154 39408
155 39408
156 39408
157 39999

34 CFR

231 40694

35 CFR

69 40196

36 CFR

67 40436
200 40438
292 39387

37 CFR

PROPOSED RULES:

2 40450
4 40450
201 ..... 41437, 41438

38 CFR

2 ..... 41409, 41410
13 41410
14 41410

PROPOSED RULES:

8 40452
17 ..... 39409, 41439

39 CFR

111 38904

PROPOSED RULES:

111 ..... 39411, 40219, 40922

40 CFR

52 ..... 39389, 39664, 40695, 41121
55 41282
60 ..... 39389, 41122, 41424
61 41424
86 40697
136 39977
180 ..... 39977, 40909
416 40697
610 40438

PROPOSED RULES:

20 39414
52 ..... 38920, 38921, 39235, 39415, 40220
61 40452
85 40221
180 ..... 40715, 40922
211 41139
700 39182
710 39182

41 CFR

1–4 39215
Ch. 9 41128
29–1 40197
29–2 40201
29–3 40201
29–12 40205

V 42 159 AUG 17 77 UM

41 CFR—Continued

29–26	40206
29–61	40206
101–41	41128
101–42	40847
101–43	40847
101–44	40850
101–45	40852
101–46	40858
101–47	40698
105–63	40858
114–25	39978

PROPOSED RULES:

9–4	40923
60–4	41378

43 CFR

423	41122

PROPOSED RULES:

424	41440
1880	40000

45 CFR

100a	40207
173	40209
194	40207
196	39218
1015	41282

PROPOSED RULES:

11	41140
146a	40221
170	40926

46 CFR

10	39978

46 CFR—Continued

PROPOSED RULES:

162	40000
502	40452

47 CFR

15	39979
73	38905, 39665, 39981, 39982, 40210, 41123–41125, 41283
76	41127, 41284
81	39666
87	38906

PROPOSED RULES:

1	40715
13	40939
43	40454
61	40002
63	39236
73	40003, 40454, 41141, 41302–41305
81	40223, 40224, 40455
83	40224
89	39560
90	39560
91	39560, 41143
93	39560

49 CFR

99	39220
529	39983
571	39983, 39984
580	38906
581	38909
1033	39221, 39389, 39985, 41424
1036	40444
1051	40860

49 CFR—Continued

1057	39666
1100	40698
1104	40860
1108	39222
1109	39390, 39985
1251	39667
1254	39390

PROPOSED RULES:

173	40003
174	40003
178	40003
179	40003
1047	40459
1082	40459
1106	39243
1307	41144

50 CFR

17	39985, 40682–40685
20	39106, 39667, 40211
26	40213, 41425
32	38909–38912, 39391–39394, 40214, 40445–40447, 40690, 40861–40865, 41127, 41426–41429
33	40214, 41426
216	39394, 41128
371	40866
611	39106, 41430

PROPOSED RULES:

17	38921, 39121, 40716, 40823
20	41145
23	40459
32	40465
260	41440

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	Date
38891–39080	Aug. 1
39081–39193	2
39195–39358	3
39359–39656	4
39657–39952	5
39953–40167	8
40169–40419	9
40421–40675	10
40677–40845	11
40847–41094	12
41095–41264	15
41265–41399	16
41401–41602	17

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

CPSC—Protection of human subjects. 36818; 7–18–77

NRC—Nuclear power plants; codes and standards..... 36803; 7–18–77

Next Week's Comments on Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—
- Cranberries; allotment transfers and allotment certificate disposition; comments by 8–23–77.....39989; 8–8–77
- Pears, plums, and peaches; grade, size, and container requirements; comments by 8–23–77..... 39989; 8–8–77

Farmers Home Administration—
- Water projects; new termination dates; comments by 8–22–77. 37354; 7–21–77

CIVIL AERONAUTICS BOARD

- Currency exchange conditions; U.S. air carriers in foreign countries; comment period extended to 8–21–77. 37824; 7–25–77 [First published in 42 FR 28898, June 6, 1977]
- Model corporate Disclosure Regulations; advance notice of proposed rulemaking; comments by 8–22–77....39115; 8–2–77
- Price advertising of air transportation; comments by 8–25–77..... 40450; 8–10–77

COMMERCE DEPARTMENT

Domestic and International Business Administration—
- Defense Priorities and Materials System; proposed increase in size of exempt delivery orders; comments by 8–26–77..... 38193; 7–27–77

National Oceanic and Atmospheric Administration—
- Alaskan marine mammals; waiver of moratorium for nine species; comments by 8–22–77.....37215; 7–20–77
- Foreign fishing ventures within U.S. fishery conservation zone; comments by 8–22–77..... 36853; 7–18–77

CONSUMER PRODUCT SAFETY COMMISSION

- Consumer Product Safety Act; proposed and interim rules of practice for expedited proceedings; extension of comment period to 8–22–77. 39089; 8–2–77 [First published at 42 FR 31446, June 21, 1977]
- Consumer Product Safety Act and Flammable Fabrics Act; interim rules of practice for adjudicative proceedings; extension of comment period to 8–22–77..... 39089; 8–2–77 [First published at 42 FR 31431, June 21, 1977]

DEFENSE DEPARTMENT

Defense Logistics Agency—
- Privacy Act; rule to change to reflect name and specific exemptions; comments by 8–25–77..... 37982; 7–26–77

ENVIRONMENTAL PROTECTION AGENCY

- Air pollution control; new motor vehicles and engines; comments by 8–23–77. 26742; 5–25–77
- Air quality implementation plans; various states:
  - Pima County, Arizona; comments by 8–22–77..... 37424; 7–21–77
  - Trinity County, California; comments by 8–24–77..... 37829; 7–25–77
  - New York; comments by 8–24–77. 37830; 7–25–77
- Aldicarb Insecticide; proposed tolerances; comments by 8–22–77. 37578; 7–22–77
- Emission control system performance warranty; comments by 8–23–77. 26759; 5–25–77

ENVIRONMENTAL QUALITY COUNCIL

- Environmental Impact statements; availability; comments by 8–22–77. 35179; 7–8–77

FEDERAL COMMUNICATIONS COMMISSION

- Cable television; creation of systems; reply comments by 8–22–77. 30222; 6–13–77
- FM broadcast stations; table of assignments: St. Ignace, Mich.; reply comments by 8–22–77.. 32813; 6–28–77
- Radio broadcast services; multiple ownership of standard FM and television stations; comments extended to 8–22–77..... 27971; 6–1–77 [First published, at 42 FR 21630, Apr. 28, 1977]
- Television table of assignments; addition of new VHF stations in top 100 markets; time for filing comments extended to 8–22–77..... 25742; 5–19–77 [First published at 42 FR 16782, Mar. 30, 1977]

FEDERAL ENERGY ADMINISTRATION

- Crude oil supplier/purchaser rule; comments by 8–25–77.. 39395; 8–4–77
- Energy conservation program for appliances; energy efficiency improvement targets; comments by 8–22–77. 36648; 7–15–77
- Supplier/purchaser relationship; crude oil; comments by 8–25–77. 39395; 8–4–77

FEDERAL HOME LOAN BANK BOARD

- FSLIC loans involving mortgage insurance companies; comments by 8–26–77..... 37822; 7–25–77

FEDERAL TRADE COMMISSION

- Industry guides; trade practice rules; comments by 8–22–77..... 31457; 6–21–77

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—
- Independent student, definition of; comments by 8–26–77..... 35942; 7–12–77

Food and Drug Administration—
- Beeswax, sorbose and cloves and their derivatives; affirmation of GRAS status as direct human food ingredients (3 documents); comments by 9–27–77..... 38609–38613; 7–29–77
- Guanine, and zinc oxide; permanent listing for use in externally applied drugs and cosmetics (2 documents) comments by 8–22–77 ..... 37536; 7–22–77

INTERGOVERNMENTAL RELATIONS ADVISORY COMMISSION

- Freedom of Information Act and Privacy Act; proposed implementation; comments by 8–26–77.. 38184; 7–27–77

INTERIOR DEPARTMENT

Fish and Wildlife Service—
- Alaskan marine mammals; waiver of moratorium for nine species; comments by 8–22–77..... 37215; 7–20–77
- Endangered and threatened species: Mona Island boa, ground iguana, blind snake; comments by 8–24–77, 27003;
- New Mexican rattlesnake; comments by 8–24–77, 27007;
- Houston toad; comments by 8–24–77.....27009; 5–26–77

Mining Enforcement and Safety Administration—
- New and revised health standards; comments by 8–22–77..... 35000; 7–7–77

LABOR DEPARTMENT

Occupational Safety and Health Administration—
- Occupational exposure to benzene; comments by 8–23–77 32263; 6–24–77

SECURITIES AND EXCHANGE COMMISSION

- Advertising by investment companies; removal of certain restrictions; comment period extended to 8–24–77. 38187; 7–27–77 [First published at 42 FR 30379, June 14, 1977]
- Off-board trading restrictions; reply comments by 8–24–77 . 33510; 6–30–77

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—
- Gothenburg, Nebr.; designation of transition area; comments by 8–21–77..... 36270; 7–14–77
- Jet route, proposed alteration; comments by 8–24–77..... 36271; 7–14–77

V 42 159 AUG 17 77 UM

Next Week's Meetings

AGRICULTURE DEPARTMENT
Forest Service—
Deschutes National Forest Advisory Committee, Bend, Oreg. (open) 8–25–77..... 38926; 8–1–77
Office of the Secretary—
National Advisory Council on Child Nutrition, Washington, D.C. (open), 8–22 and 8–23–77..... 38623; 7–29–77

ARTS AND HUMANITIES, NATIONAL FOUNDATION
Advisory Panel:
Artists-in-Schools, Providence, R.I. (partially closed), 8–24 thru 8–26–77..... 39510; 8–4–77
Fellowships Panel, Washington, D.C. (closed), 8–25 thru 8–27–77 (5 documents)..... 39728–9; 8–5–77
Literature, Washington, D.C. (partially open), 8–24 thru 8–27–77. 39510; 8–4–77
Music (Jazz Section), Washington, D.C. (closed), 8–24 thru 8–27–77. 39510; 8–4–77
National Endowment for the Arts—
Literature Advisory Panel, Washington, D.C. (open with restrictions), 8–24 thru 8–27–77..... 39510; 8–4–77
Music Advisory Panel, Washington, D.C., 8–24 thru 8–27–77. 39510; 8–4–77
National Endowment for the Humanities—
Research Grants Panel, Washington, D.C. (closed), 8–23–77. 39284; 8–3–77
Fellowships Panel, Washington, D.C. (closed), (4 documents), 8–22, 8–23, 8–25, and 8–26–77..... 37878; 7–25–77

CIVIL RIGHTS COMMISSION
Advisory Committees:
Alaska, Anchorage, Alaska (open), 8–27–77..... 39692; 8–5–77
Florida, Miami, Fla. (open with restrictions) 8–24–77..... 36538; 7–15–77
Texas, McAllen, Tex. (open), 8–24–77. 37835; 7–25–77
Federal Prevailing Rate Advisory Committee, Washington, D.C. (closed), 8–25–77..... 38624; 7–29–77

COMMERCE DEPARTMENT
National Bureau of Standards—
Computer networking standards for library and information science community, Washington, D.C. (open), 8–22 and 8–23–77. 29325; 6–8–77
Atlantic Foreign Pelagic Longline Fishery, Jacksonville, Fla. (open), 8–25–77..... 39684; 8–5–77
Atlantic Foreign Pelagic Longline Fishery, Savannah, Ga. (open), 8–22–77..... 39694; 8–5–77
Atlantic Foreign Pelagic Longline Fishery, Charleston, S.C. (open), 8–26–77..... 39694; 8–5–77
Gulf of Mexico Fishery Management Council, Mobile, Ala. (open), 8–23–77..... 36855; 7–18–77
Gulf of Mexico Fishery Management Council, New Orleans, La. (open), 8–24–77..... 36855; 7–18–77
North Pacific Fishery Management Council, Scientific and Statistical Committee and Advisory Panel, Kodiak, Alaska (open), 8–25 and 8–26–77..... 39694; 8–5–77
South Atlantic Fishery Management Council, Savannah, Ga. (open), 8–23 thru 8–25–77..... 39253; 8–3–77
South Atlantic Fishery Management Council, Jacksonville, Fla. (open), 8–25–77..... 39694; 8–5–77
South Atlantic Fishery Management Council, Savannah, Ga. (open), 8–22–77..... 39694; 8–5–77
Weather Modification Advisory Board, Grand Forks, N. Dak. (open), 8–27–77..... 39420; 8–4–77

CONSUMER PRODUCT SAFETY COMMISSION
Home insulation petition CP 77–1, Washington, D.C. (open), 8–22–77. 38421; 7–28–77

DEFENSE DEPARTMENT
Office of the Secretary—
Advisory Group on Electron Devices, Working Group B, Arlington, Va. (closed), 8–23 and 8–24–77. 40009; 8–8–77
Defense Advisory Committee on Women in the Services, Washington, D.C. (open), 8–26–77. 38203; 7–27–77
Defense Department Wage Committee, Washington, D.C. (closed), 8–23–77..... 29038; 6–7–77
Defense Science Board Task Force on Nuclear Proliferation, Arlington, Va. (closed), 8–23–77..... 31481; 6–21–77
Defense Science Board Task Force on "Organization of Test and Evaluation in the Office of the Secretary of Defense," Arlington, Va. (closed), 8–25 and 8–26–77 ..... 40473; 8–10–77

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
Fossil Energy Advisory Committee, Morgantown, W. Va. (open), 8–25–77. 38930; 8–1–77
Senior Reviewers Committee, Livermore, Calif. (closed), 8–24 thru 8–26–77. 36858; 7–18–77

ENVIRONMENTAL PROTECTION AGENCY
Flue gas desulfurization, Washington, D.C. (open), 8–22–77..... 39420; 8–4–77
Interagency Flue Gas Desulfurization Evaluation Study, Washington, D.C., 8–22–77..... 39421; 8–4–77

FEDERAL COMMUNICATIONS COMMISSION
1979 World Administrative Radio Conference, AM Broadcast Service Working Group, Washington, D.C. (open), rescheduled to 8–23 and 8–26–77. 38932; 8–1–77
[First published at 42 FR 38206, July 27, 1977]
1979 World Administrative Radio Conference, Satellite Broadcasting Service Group, Washington, D.C. (open), 8–24–77..... 39257; 8–3–77
[First published at 42 FR 36547, July 15, 1977]

FEDERAL ENERGY ADMINISTRATION
Gasoline Marketing Advisory Committee, Boston, Mass. (open), 8–22–77. 38210; 7–27–77

GENERAL SERVICES ADMINISTRATION
Program Advisory Committee, Washington, D.C. (open), 8–25 and 8–26–77. 38222; 7–27–77
Regional Public Advisory Panel on Architectural and Engineering Services, Region 4, Atlanta, Ga. (open), 8–23 thru 8–26–77 (5 documents). 39720; 8–5–77

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Food and Drug Administration—
Panel on Review of Antimicrobial Agents, Rockville, Md. (open), 8–26 and 8–27–77..... 36555; 7–15–77
Panel or Review of Antiperspirant Drug Products, Rockville, Md. (open), 8–22 and 8–23–77..... 36554; 7–15–77
Panel on Review of Dentrifices and Dental Care Agents, Rockville, Md. (open), 8–24, 8–25 and 8–26–77 (2 documents).. 36554; 7–15–77 38649; 7–29–77
Panel on Review of Hemmorhoidal Drugs, Rockville, Md. (open), 8–25 thru 8–27–77..... 36554; 7–15–77
Panel on Review of Topical Analgesics, Rockville, Md. (open), 8–22 and 8–23–77..... 36554; 7–15–77
Office of Education—
Equality of Educational Opportunity National Advisory Council, Los Angeles, Calif. (open), 8–26–77. 40775; 8–11–77
National Advisory Council on Bilingual Education, Washington, D.C. (open), 8–22–77..... 38942; 8–1–77
National Advisory Council on Equality of Educational Opportunity, Arlington, Va. (open), 8–22 and 8–23–77. 38223; 7–27–77
National Institutes of Health—
Cancer and Nutrition Scientific Review Committee, Bethesda, Md. (open-closed), 8–23 and 8–24–77. 35225; 7–8–77
Diet and Cancer Scientific Review Committee, Bethesda, Md. (open-closed), 8–23 and 8–24–77. 35225; 7–8–77
General Medical Sciences National Advisory Council, Bethesda, Md. (open), 8–26–77 36557; 7–15–77
Office of Education—
Indian Education National Advisory Council, Denver, Colo. (open), 8–26 and 8–27–77.. 40485; 8–10–77

INTERIOR DEPARTMENT
National Parks Service—
Cuyahoga Valley National Recreation Area Advisory Commission, Brecksville, Ohio (open), 8–25–77. 37871; 7–25–77
Mid-Atlantic Regional Advisory Committee, Philadelphia, Pa. (open), 8–23 and 8–24–77..... 37872; 7–25–77
Office of the Secretary—
Oil Shale Environmental Advisory Panel, Grand Junction, Colo. (open), 8–25–77.. 40495; 8–10–77

NATIONAL SCIENCE FOUNDATION
Proposal Review Panel, Ad Hoc Subpanel for the SES Project, Santa Barbara, Calif. (closed), 8–23 thru 8–26–77. 40058; 8–8–77

NUCLEAR REGULATORY COMMISSION
Advisory Committee on Reactor Safeguards, Working Group on Transportation of Radioactive Materials, New York, N.Y. (open), 8–23–77. 38946; 8–1–77
Reactor Safeguards Advisory Committee, Reactor Safety Research Subcommittee, N.Y., N.Y. (open), 8–23–77. 31848; 6–23–77
Risk Assessment Review Group, Washington, D.C. (open), 8–24 and 8–25–77..... 40289; 8–9–77

SCIENCE AND TECHNOLOGY POLICY OFFICE
Advisory Group on Space Systems, Washington, D.C. (closed), 8–25 and 8–26–77..... 38948; 8–1–77
White House Information Systems, Washington, D.C. (open), 8–24 and 8–25–77..... 40066; 8–8–77
Working Group on Basic Research in the Department of Defense, Washington, D.C. (open), 8–24 and 8–25–77. 39285; 8–3–77

SMALL BUSINESS ADMINISTRATION
District Advisory Council:
Salt Lake City, Salt Lake City, Utah (open), 8–25–77.. 39515; 8–4–77

STATE DEPARTMENT
Agency for International Development—
Joint Research Committee of the Board for International Food and Agricultural Development, Arlington, Va. (open), 8–25 and 8–26–77. 39730; 8–5–77

VETERANS ADMINISTRATION
Station Committee on Educational Allowances, Nashville, Tenn. (open), 8–22–77..... 38252; 7–27–77
Wage Committee, Washington, D.C. (closed) 8–25–77.... 31214; 6–20–77

Next Week's Hearings

CIVIL RIGHTS COMMISSION
Age discrimination; Miami, Fla. (open), 8–22 and 8–23–77.. 37431; 7–21–77

ENVIRONMENTAL PROTECTION AGENCY
Toxic substances; Inventory reporting, Washington, D.C. (open), 8–24–77. 39182; 8–2–77

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Food and Drug Administration—
Conference on Toxic substances, Jefferson, Ark. (open), 8–22 and 8–23–77..... 32319; 6–24–77
Health Care Financing Administration—
Ampicillin and Penicillin V Potassium, Washington, D.C. (open), 8–26–77. 34933; 7–7–77

INTERIOR DEPARTMENT
Mining Enforcement and Safety Administration—
Health and safety standards, Albuquerque, N. Mex. (open), 8–22 through 8–26–77.. 30772; 6–16–77

TRANSPORTATION DEPARTMENT
Office of the Secretary—
Indiana; standard time zone; boundary relocation, Petersburg, Ind. (open), 8–24–77..... 34341; 7–5–77

TREASURY DEPARTMENT
Alcohol, Tobacco and Firearms Bureau—
Wine; labeling and advertising, San Francisco, Calif. (open), 8–23 throughout 8–25–77..... 30517; 6–15–77

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

H.R. 7558..... Pub. L. 95–97
Making appropriations for Agriculture and Related Agencies programs for the fiscal year ending September 30, 1978, and for other purposes. (Aug. 12, 1977; 91 Stat. 810). Price $.90.

V 42 159 AUG 17 77 UM

presidential documents

Title 3—The President

Memorandum of July 21, 1977

Determination Under Section 620(x) of the Foreign Assistance Act of 1961, as Amended, To Permit the Sale of Certain Specified Defense Articles and Services to the Government of Turkey

[Presidential Determination No. 77–16]

Memorandum for the Secretary of State

THE WHITE HOUSE,
Washington, July 21, 1977.

Pursuant to the authority vested in me by section 620(x) of the Foreign Assistance Act of 1961, as amended (the Act), I hereby:

(a) Determine that the defense articles and defense services specified in the attached list, valued at $55.4 million, are necessary to enable Turkey to fulfill her defense responsibilities as a member of the North Atlantic Treaty Organization, and

(b) Suspend the provisions of section 620(x) of the Act and section 3(c) of the Arms Export Control Act, as amended, for the fiscal year 1977 in order that the defense articles and defense services specified in the attached list may be sold to Turkey and in order that Turkish procurement of those articles and services may be financed under the authority of the Arms Export Control Act, as amended, within the limitations specified in section 620(x) of the Act.

The determination supplements Presidential Determination No. 77–8 of November 19, 1976 (41 FR 53315), which authorized a previous sale (and financing) of defense articles to Turkey in the fiscal year 1977.

This determination shall be published in the FEDERAL REGISTER.

Jimmy Carter

Attachment: As stated.

V42I159 AUG 17 77 UMI

STATEMENT OF PROPOSED SALES

Item Description	Estimated Dollar Value	U.S. Military Department	Date LOA Expected To Be Issued
1. Ground Forces Command			
A. Repair parts and secondary items for: aviation, engineering and signal equipment	$4, 304, 300	Army	July 1977
B. Supply support arrangement for: (1) TOW missile system (2) UH-1H helicopters	1, 300, 000	Army	July 1977
C. Life-of-type buy for: (1) Howitzers-M44, M52, M55, M115 (2) Trucks—2½ ton, various series (3) Truck tractors—10 ton, M123-A1C (4) Semi-trailers, M15A1/A2 (5) Compressors, 600 CFM	3, 819, 400	Army	July 1977
D. Honest John missile warheads	145, 000	Army	July 1977
**E. TOW missile system: (1) Launchers, missiles (2) Support equipment	14, 235, 600	Army	September 1977
F. Training and technical aids	495, 700	Army	July 1977
G. Publications	100, 000	Army	July 1977
2. Air Forces Command			
**A. AIM-7E2/3 missile: (1) 240 missiles (2) Minimum essential support	17, 354, 390	Army	September 1977
B. F/RF-5 A/B service life extension program	365, 000	Air Force	July 1977
*C. 6 F-100F aircraft	482, 000	Air Force	September 1977
D. Delivery and transportation costs for 6 F-100F aircraft	389, 757	Air Force	July 1977
E. Aircraft spares, support equipment, modification kits and publications	608, 853	Air Force	July 1977
*F. Cartridge activated devices/Propellant activated devices	100, 000	Air Force	September 1977
3. Naval Forces Command			
A. (1) Harpoon missiles: support equipment, repair parts, services, and publications (2) Spare parts for ships and aircraft	4, 200, 000	Navy	July 1977
*B. 40 Harpoon missiles (advanced procurement)	2, 400, 000	Navy	September 1977
*C. War reserve munitions and ordnance equipment	1, 700, 000	Navy	September 1977
*D. Electronic warfare equipment	1, 000, 000	Navy	September 1977
*E. Cryptographic equipment	340, 000	Navy/Army	September 1977
F. Training, training equipment (1) 4 English language laboratories (2) Naval Post Graduate School (3) Technical training	1, 360, 000	Navy	July 1977
4. Communications and Electronics Command			
A. Electronic / communications equipment	500, 000	Army	July 1977
B. Electronic / communications spare parts and publications	200, 000	Army	July 1977

*Significant combat equipment subject to thirty day review under section 620(x) of the Foreign Assistance Act of 1961, as amended.

**Items subject to thirty day review under section 36(b) of the Arms Export Control Act, as amended.

[FR Doc.77-23919 Filed 8-15-77;3:24 pm]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 947—IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES IN CALIFORNIA AND IN ALL COUNTIES IN OREGON EXCEPT MALHEUR COUNTY

Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh market shipments of potatoes grown in Modoc and Siskiyou Counties in California and all counties in Oregon except Malheur County to be inspected and meet minimum grade, size, cleanliness, pack and maturity requirements. The regulation should promote orderly marketing of such potatoes by keeping less desirable sizes and qualities from being shipped to consumers.

EFFECTIVE DATE: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 447-3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 114 and Order No. 947, both as amended, regulate the handling of potatoes grown in designated counties of California and Oregon. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Oregon-California Potato Committee, established under the order, is responsible for its local administration.

Notice of proposed rulemaking was published in the July 25, 1977, Federal Register (42 FR 37820) inviting comments by August 9, 1977. None was received.

This regulation is based upon recommendations made by the committee at its public meeting in Klamath Falls, Oregon, on June 16, 1977.

The grade, size, maturity, pack, cleanliness and inspection requirements specified herein are the same as those issued during the last season. They are necessary to prevent potatoes of low quality or undesirable sizes from being distributed to fresh market outlets. These specific proposals benefit consumers and producers by standardizing and improving the quality of the potatoes shipped from the production area, thereby promoting orderly marketing and would tend to effectuate the declared policy of the act.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements are inappropriate or unreasonable.

Potatoes grown in and shipped from District 5 must meet higher size requirements, comparable to those in effect in Washington State which is contiguous. District 5 potatoes compete directly with Washington potatoes in the fresh market place and therefore size requirements should be similar.

Inspection requirements may be modified for certain handlers whose facilities are located far enough from major production areas to cause a substantial financial burden in maintaining a full-time Federal-State inspector.

A specified quantity of potatoes is exempt from maturity requirements in order to permit growers to make test diggings without loss of the potatoes so harvested.

Shipments are permitted to certain special purpose outlets without regard to minimum grade, size, cleanliness, maturity, pack and inspection requirements, provided that safeguards are met to prevent such potatoes from reaching unauthorized outlets. Certified seed is exempt, subject to the safeguard provisions only when shipped outside the district where grown.

Shipments for use as livestock feed within the production area or to specified adjacent areas are likewise exempt; a limit to the destinations of such shipments is provided so that their use for the purpose specified may be reasonably assured. Shipments of potatoes between Districts 2 and 4 for planting, grading, and storing are exempt from requirements because these two areas are homogeneous and have no natural division. Other districts are more clearly separated and do not have this problem. For the same reason, potatoes grown in District 5 may be shipped without regard to the requirements to the Counties of Adams, Benton, Franklin and Walla Walla in the State of Washington, and Malheur County, Oregon, for grading and storing. Since no purpose would be served by regulating potatoes used for charity purposes, such potatoes are exempt. Also potatoes for most processing uses are exempt under the legislative authority for this part.

Requirements for export shipments differ from those for domestic markets. While the standard quality requirements are desired in foreign markets, smaller sizes are more acceptable. Therefore, different requirements for export shipments are proposed.

Findings. After consideration of all relevant matter presented, including the proposal set forth in the notice which was recommended by the Oregon-California Potato Committee, established pursuant to said marketing agreement and order, it is hereby found that the handling regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after its publication in the Federal Register (5 U.S.C. 553) in that (1) shipments of potatoes grown in the production area will begin on or about the effective date specified herein, (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the marketing season, and (3) compliance with this regulation, which is similar to that in effect during previous marketing seasons, will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective date hereof.

The regulation is as follows:

§ 947.335 [Removed]

1. *Termination of regulations:* Handling regulation § 947.335, as amended, effective August 5, 1976, through October 15, 1977 (41 F.R. 32695 and 52058) shall be terminated upon the effective date of this section.

2. Section 947.336 is added to read as set forth below.

§ 947.336 Handling regulation.

During the period August 22, 1977, through October 15, 1978, no person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a) through (f) of this section or unless such potatoes are handled in accordance with paragraphs (g), (h), or (i) of this section.

(a) *Grade requirements.* All varieties—U.S. No. 2, or better grade.

(b) *Size requirements.* All varieties—1⅞ inches minimum diameter except potatoes from District No. 5 shall be 2 inches minimum diameter or 4 ounces minimum weight. However, potatoes for export may be 1½ inches minimum diameter.

(c) *Cleanliness requirements.* All varieties and grades—As required in the United States Standards for Grades of Potatoes, except that U.S. Commercial may be no more than "slightly dirty."

(d) *Maturity (skinning) requirements.*

(1) All varieties—no more than "moderately skinned."

V42159 AUG 17 77 UMI

(2) Not to exceed a total of 100 hundredweight of potatoes may be handled during any seven day period without meeting these maturity requirements. Prior to shipment of potatoes exempt from the above maturity requirements, the handler shall obtain from the committee a Certificate of Privilege.

(e) *Pack.* Potatoes packed in 50-pound cartons shall be U.S. No. 1 grade or better, except that potatoes that fail to meet the U.S. No. 1 grade only because of hollow heart and/or internal discoloration may be shipped provided the lot contains not more than 10 percent damage by hollow heart and/or internal discoloration, as identified by U.S.D.A. Color Photograph E (Internal Discoloration—U.S. No. 2—Upper Limit), POT–CP–9, May, 1972, or not more than 5 percent serious damage by internal defects.

(f) *Inspection.*

(1) Except when relieved by paragraphs (g), (h), or (i) of this section and subparagraph (2) of this paragraph, no person shall handle potatoes without first obtaining inspection from an authorized representative of the Federal-State Inspection Service.

(2) Handlers making shipments from facilities located in an area where inspection costs would otherwise exceed one and one-half times the current per-hundredweight inspection fee, are exempt from on site inspection provided such handler has made application to the committee for inspection exemption on forms supplied by the committee, and provided further that such handler signs an agreement with the committee to report each shipment on a daily basis and pay the committee a sum equal to the current inspection fee.

(3) For the purpose of operation under this part each required inspection certificate is hereby determined, pursuant to § 947.60(c) to be valid for a period of not to exceed 14 days following completion of inspection as shown on the certificate. The validity period of an inspection certificate covering inspected and certified potatoes that are stored in mechanically refrigerated storage within 14 days of the inspection shall be 14 days plus the number of days that the potatoes were held in refrigerated storage.

(4) Any lot of potatoes previously inspected pursuant to § 947.60(a) and certified as meeting the requirements of this part is not required to have additional inspection under § 947.60(b) after regrading, resorting, or repacking such potatoes, if the inspection certificate is valid at the time of regrading, resorting, or repacking of the potatoes.

(g) *Special purpose shipments.* The minimum grade, size, cleanliness, pack, maturity and inspection requirements set forth in paragraphs (a) through (f) of this section shall not be applicable to shipments of potatoes for any of the following purposes:

(1) Certified seed, subject to applicable safeguard requirements of paragraph (h) of this section.

(2) Livestock feed: However, potatoes may not be handled for such purposes if destined to points outside of the production area, except that shipments to the Counties of Benton, Franklin and Walla Walla in the State of Washington and to Malheur County, Oregon, may be made subject to the safeguard provisions of paragraph (h) of this section.

(3) Planting in the district where grown, except that potatoes for this purpose grown in District No. 2 or District No. 4 may be shipped between those two districts.

(4) Grading or storing under the following provisions:

(i) Between districts within the production area for grading or storing if such shipments meet the safeguard requirements of paragraph (h) of this section.

(ii) Potatoes grown in District No. 2 or District No. 4 may be shipped for grading or storing between those two Districts without regard to the safeguard requirements of paragraph (h) of this section.

(iii) Potatoes grown in District No. 5 may be shipped for grading and storing to points in the Counties of Adams, Benton, Franklin and Walla Walla in the State of Washington, or to Malheur County, Oregon, without regard to the safeguard provisions of paragraph (h) of this section.

(5) Charity: Except that shipments for charity may not be resold if they do not meet the requirements of the marketing order, and that shipments in excess of 5 hundredweight per charitable organization shall be subject to the safeguard provisions of paragraph (h) of this section.

(6) Starch manufacture.

(7) Canning, freezing, prepeeling, and "other processing" (except starch manufacturing), as hereinafter defined (including storage for such purposes).

(h) *Safeguards.* (1) Each handler making shipments of certified seed outside the district where grown pursuant to paragraph (g) shall obtain from the committee a Certificate of Privilege, and shall furnish a report of shipments to the committee on forms provided by it.

(2) Each handler making shipments of potatoes pursuant to subparagraphs (2), (4)(i), and (5) of paragraph (g) of this section shall obtain a Certificate of Privilege from the committee, and shall report shipments at such intervals as the committee may prescribe in its administrative rules.

(3) Each handler making shipments pursuant to subparagraph (7) of paragraph (g) of this section may ship such potatoes only to persons or firms designated as manufacturers of potato products by the committee, in accordance with its administrative rules.

(i) *Minimum quantity exemption.* Any person may handle not more than 19 hundredweight of potatoes on any day without regard to the inspection requirements of § 947.60 and to the assessment requirements of § 947.41 of this part except no potatoes may be handled pursuant to this exemption which do not meet the requirements of paragraphs (a), (b), (c), (d), and (e) of this section. This exemption shall not apply to any part of a shipment which exceeds 19 hundredweight.

(j) *Definitions.* (1) The terms "U.S. No. 1," "U.S. Commercial," "U.S. No. 2," and "moderately skinned" shall have the same meaning as when used in the U.S. Standards for Grades of Potatoes (7 CFR 51.1540–51.1566), including the tolerances set forth therein.

(2) The term "slightly dirty" means potatoes that are not damaged by dirt.

(3) The term "prepeeling" means the commercial preparation in a prepeeling plant of clean, sound, fresh potatoes by washing, peeling or otherwise removing the outer skin, trimming, sorting, and properly treating to prevent discoloration preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 of the United States Standards for Grades of Peeled Potatoes (7 CFR 52.2421–52.2433).

(4) The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, or starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, or dicing, or applying material to prevent oxidation does not constitute "other processing."

(5) Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 114, as amended, and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated August 12, 1977, to become effective August 22, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77–23835 Filed 8–16–77;8:45 am]

CHAPTER XI—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS, MISCELLANEOUS COMMODITIES), DEPARTMENT OF AGRICULTURE

PART 1205—COTTON RESEARCH AND PROMOTION

Determination of Cotton Board Membership

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the Regulations for the determination of Cotton Board membership. Cotton production volumes in cotton-producing states have changed since the 1961–65 period and a more recent base period for determining Board membership will assure compliance with the Cotton Research and Promotion Act and Order. In addition the rule provides that production figures will be based on 480-pound net weight bales rather than 500-pound gross weight bales.

EFFECTIVE DATE: August 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Alvin Deck, Marketing Programs Branch Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–2072.

SUPPLEMENTARY INFORMATION: On December 14, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 54494) which presented a proposal to revise Section 1205.402 of the Regulations for the determination of Cotton Board membership. The proposed revision would have changed the production period used for determining representation on the Cotton Board for states entitled to more than one Board member and changed the basis for stating annual production from 500-pound gross weight bales to 480-pound net weight bales.

The Cotton Research and Promotion Act provides that Cotton Board members will be selected "* * * so that the representation of cotton producers on the Board for each cotton-producing State shall reflect to the extent practicable, the proportion which that State's marketings of cotton bears to the total marketings of cotton in the United States: Provided, however, That each cotton-producing State shall be entitled to at least one representative on the Cotton Board * * *"

Section 1205.318 of the Cotton Research and Promotion Order provides that each cotton-producing State shall be represented by at least one member and by an additional member for each 1 million bales or major fraction (more than one-half) thereof of cotton produced in the State and marketed above 1 million bales during the period specified in the regulations for determining Board membership.

Section 1205.402 provides that average annual production of upland cotton for the five marketing years 1961 through 1965 shall be used as the basis for determining representation on the Cotton Board for States entitled to more than one Board member. Production volumes in cotton-producing States have changed since the 1961–1965 period and a more recent base period should be used to assure compliance with the Cotton Research and Promotion Act and Order.

In lieu of a 5-year stated period which might need updating from time-to-time it was proposed to use the average of upland cotton production in each cotton-producing State during the most recent five marketing years. Under the proposed revision of § 1205.402 the Director of the Cotton Division, AMS would notify all certified cotton producer organizations in each cotton-producing State of the number of vacancies to be filled on the Cotton Board each year prior to the caucus. The proposal also provided that each member and alternate member appointed would serve a full 3-year term even though use of the 5-year moving average criteria resulted in a determination that a State's membership should be reduced in subsequent years.

Interested persons were given until February 11, 1977, to submit comments on the proposal. Written submissions were received by the Hearing Clerk from 13 parties. Comments received from all sources have been reviewed and considered.

None of the comments received were in support of the proposal to shift the 5-year production base to the most recent 5 years. However most of those commenting indicated some revision should be made in the criteria for determining Board membership. Several alternatives were suggested and considered but these would require a change in the Cotton Research and Promotion Act and/or Order and subsequent approval of an amendment to the Order in a grower referendum.

Some action is needed now to correct the present unequitable representation among the large cotton-producing states. It has been determined the most practicable means to accomplish this is to update the base period by annually dropping one year off the current 1961–65 base and adding the most recent marketing year.

In 1971 the industry adopted net weight trading terms in lieu of gross weight trading. Therefore, the basis for stating annual production in 500-pound gross weight bales as presently provided in § 1205.402 needs to be changed to 480-pound net weight bales to reflect current marketing practices. Those commenting did not object to this revision.

Therefore, under authority contained in Section 15 of the Cotton Research and Promotion Act as amended (80 Stat. 285, 7 U.S.C. 2114), and in consideration of the foregoing, 7 CFR Part 1205 is amended by revising § 1205.402 as follows:

§ 1205.402 Determination of Cotton Board membership.

(a) In determining whether any cotton-producing State is entitled to be represented by more than one member of the Cotton Board pursuant to § 1205.318, average annual production of upland cotton in terms of 480-pound net weight bales for the following marketing years, shall be used as the criteria for determination of such additional members:

For Cotton Board members whose term of office begins—	*Marketing years to be used*
Jan. 1, 1979	1962, 1963, 1964, 1965, 1977.
Jan. 1, 1980	1963, 1964, 1965, 1977, 1978.
Jan. 1, 1981	1964, 1965, 1977, 1978, 1979.
Jan. 1, 1982	1965, 1977, 1978, 1979, 1980.
Jan. 1, 1983 and thereafter	5 most recent marketing years.

(b) All members appointed from a State shall be entitled to serve a full 3-year term even though it is determined in a subsequent year that a State should have fewer additional members by using the average production of the 5 marketing years specified in paragraph (a) of this section.

(c) Each year the Director shall, based on the criteria set forth in paragraph (a) of this section, notify all certified cotton producer organizations in each cotton-producing State the number of vacancies to be filled on the Cotton Board.

Dated: August 12, 1977.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.77–23834 Filed 8–16–77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–5851; 34–13844]

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Deferral of Effective Date of Beneficial Ownership Disclosure Requirements

AGENCY: Securities and Exchange Commission.

ACTION: Deferral of effective date.

SUMMARY: Because numerous inquiries have been raised concerning the applicability of the new beneficial ownership disclosure requirements scheduled to become effective on August 31, 1977, the Commission has decided to postpone the effective date until April 30, 1978. The action is being taken at this time so that interested persons will be aware of the postponement at the earliest practicable date. However, any person may on a voluntary basis choose to rely upon the new and amended beneficial ownership rules and forms during the interim period from September 1, 1977 through April 30, 1978.

DATES: Effective date: April 30, 1978, except that Rule 13d–3 will become effective on August 31, 1977 only for the purposes of Rule 14d–1(g).

FOR FURTHER INFORMATION CONTACT:

John Granda, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202–755–1750.

On February 24, 1977, the Commission announced the amendment of existing rules and Schedule 13D (17 CFR 240.13d–101) and the adoption of new rules and Form 13D–5 (17 CFR 240:13d–102) relating to disclosure by certain beneficial owners of securities pursuant to Section 13(d) of the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a

V42159 AUG 17 77 UMI

et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)). Concomitantly, the Commission amended certain of its forms and schedules under the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a et seq.) and under the Exchange Act to require issuers to disclose information regarding certain beneficial owners of their securities. These actions were to become effective on August 31, 1977. Securities Act Release No. 5808, Exchange Act Release No. 13292 (42 FR 12355). Since the Commission announced the adoption of the new beneficial ownership disclosure requirements, the staff has received numerous inquiries and requests for interpretative advice concerning their application. In addition, certain institutional investors have raised practical and other considerations relating to the impact of the rules upon them.

Accordingly, the Commission has determined to defer the effective date of the new rules from August 31, 1977 until April 30, 1978. Within the next several days, the Commission will distribute a release detailing the precise issues upon which it wishes comments.

Because of the interrelationship between Sections 13(d) and the 14(d) of the Exchange Act, the delay of the effective date of the beneficial ownership disclosure requirements will have certain effects on the operation of the Tender Offer Statement, Schedule 14D–1 (17 CFR 240.14d–100), and amended Rule 14d–1 (17 CFR 240.14d–1) which are scheduled to become effective on August 31, 1977.[1] Specifically, Rule 14d–1 (g) incorporates by reference for purposes of Section 14(d)(1) of the Exchange Act the definition of "beneficial owner" set forth in Rule 13d–3. In order to implement the amendments to Rule 14d–1, Rule 13d–3 will become effective on August 31, 1977 only for purposes of Rule 14d–1(g). A second effect of such delay concerns the filing requirements of a bidder under Section 13(d) after the termination of the tender offer. Pursuant to General Instruction F of Schedule 14D–1, the final amendment required to be filed on that Schedule is deemed to satisfy the reporting requirements of Section 13(d) with respect to all securities acquired by the bidder pursuant to the tender offer. However, should a bidder, who has acquired more than five percent of the class of securities of the subject company by its tender offer, acquire additional securities of such class subsequent to the termination of such tender offer, a reporting requirement under Section 13(d) would be triggered. To alleviate possible confusion and burdens upon such persons, the requirements of amended Schedule 13D may be complied with on a voluntary basis during the interim period.

The Commission hereby defers until April 30, 1978 the effective date of Rules 13d–1 (17 CFR 240.13d–1), 13d–2 (17 CFR 240.13d–2), 13d–3 (17 CFR 240.13d–3), (except that Rule 13d–3 will become effective on August 31, 1977 only for the purposes of Rule 14d–1(g)), 13d–4 (17 CFR 240.13d–4), 13d–5 (17 CFR 240.13d–5), 13d–6 (17 CFR 240.13d–6) and 13d–7 (17 CFR 240.13d–7), Form 13D–5 and Schedule 13D; the amendment of Forms 10 (17 CFR 249.210) and 10–K (17 CFR 249.310), and Schedules 14A (17 CFR 240.14a–101), 14B (17 CFR 340.14a–102) and 14C (17 CFR 240.14c–101); the amendment of Forms S–1 (17 CFR 239.–11) and S–11 (17 CFR 239.18), all as announced in Securities Act Release No. 5808, Exchange Acts Release No. 13291. Any person who so chooses may rely upon the new rules and forms and amendments as if adopted. No person is relieved from complying with the present statutory obligations under Section 13(d) pending the effective date of the rules, forms and amendments.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

AUGUST 10, 1977.

[FR Doc.77-23729 Filed 8-16-77;8:45 am]

[1] Exchange Act Release No. 34-13787 (July 28, 1977) (42 FR 38341).

[Release No. IC-9886, File No. S7-701]

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

Certain Persons Not Deemed Interested Persons

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission has adopted a rule to exempt certain persons from being deemed interested persons under the Investment Company Act of 1940. This exemption applies under specified circumstances to a broker or dealer, or any affiliated person of such broker or dealer, who would otherwise be deemed an interested person of an investment company, or of an investment company's investment adviser or principal underwriter. This rule will obviate the need for exemptive applications under circumstances in which the Commission has granted a number of orders.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT:

Mark B. Goldfus, Attorney, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549, 202–755–0225.

SUPPLEMENTARY INFORMATION: On June 3, 1977, the Commission published notice in Investment Company Act Release No. 9799 (42 FR 30215 (June 13, 1977)), that it had under consideration a proposal to adopt Rule 2a–5 (17 CFR 270.2a–5) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) ("Act"). The notice invited all persons who are interested in this matter to submit their views and comments on the proposed rule. The Commission has considered the comments received and has determined that, as modified herein, Rule 2a–5 is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. The adoption of Rule 2a–5 represents another step in the Commission's program to examine its regulation of investment companies and institute appropriate modifications where practicable.

In response to a concern that the proposed rule's reference to investment company "shares" may be thought to exclude from its scope variable annuity contracts or variable life insurance contracts, the rule has been modified by deleting the word "shares" in favor of the term "securities."

Because Rule 2a–5 is exemptive in nature, it is effective immediately.

Accordingly, Part 270, Chapter II of Title 17 of the Code of Federal Regulations is amended, pursuant to Section 6(c) of the Act (15 U.S.C. 80a–6(c)), by adding § 270.2a–5 as follows:

§ 270.2a–5 Certain persons not deemed interested persons.

A person shall not be deemed an interested person of another person, as defined by Section 2(a)(19), with respect to an investment company, or any investment adviser of or any principal underwriter for such investment company, solely because such person is a broker or dealer, as described in subparagraphs (A)(v) and (B)(v) of Section 2(a)(19), or an affiliated person of such a broker or dealer: *Provided*, That (a) such broker or dealer does not directly or indirectly act as a broker or dealer except in distributing securities issued by one or more registered investment companies other than such investment company; and (b) no such securities are distributed to such investment company.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

AUGUST 10, 1977.

[FR Doc.77-23731 Filed 8-16-77;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

(T.D. 77-202)

PART 153—ANTIDUMPING

Modification or Revocation of Dumping Finding

AGENCY: United States Treasury Department.

ACTION: Exclusion of companies from a finding of dumping.

SUMMARY: This notice is to inform the public that Amax Potash, Ltd. and Duval Corporation of Canada are no longer selling potassium chloride, otherwise known as muriate of potash, from Canada at less than fair value under the Antidumping Act, 1921. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. In addition, Amax Potash, Ltd. and Duval Corporation of Canada have given assurances that future sales will not be at less than fair value. As a result of this action, shipments of this merchandise from these companies which were entered or withdrawn from warehouse, for consumption on or after February 11, 1977, will not be liable for special dumping duties.

EFFECTIVE DATE: February 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Vince P. Kane, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, 202–566–5492.

SUPPLEMENTARY INFORMATION: On February 11, 1977, there was published in the FEDERAL REGISTER (42 FR 8740) a "Tentative Determination to Modify or Revoke Dumping Finding" with respect to potassium chloride, otherwise known as muriate of potash, from Canada, produced and/or sold by Duval Corporation of Canada and Amax Potash, Ltd.

Reasons for the tentative determination were published in the above-mentioned notice, and interested persons were afforded an opportunity to make written submissions or request the opportunity to present oral views in connection therewith.

No written submissions or requests to present oral views having been received, I hereby determine that for the reasons stated in the above-mentioned notice, potassium chloride, otherwise known as muriate of potash, from Canada is no longer being, nor is likely to be, sold in the United States at less than fair value by Duval Corporation of Canada and Amax Potash, Ltd., and the above-mentioned finding of dumping is hereby modified to exclude the subject merchandise produced and/or sold by the aforesaid firms.

Accordingly, § 153.46 of the Customs Regulations (19 CFR 153.46) is hereby amended to show the exclusion from the finding of dumping of potassium chloride, otherwise known as muriate of potash, from Canada, produced and/or sold by Duval Corporation of Canada and Amax Potash, Ltd.

§ 153.46 [Amended]

Merchandise	Country	T.D.	Modified by
• • •	•	•	•
Potassium Chloride, otherwise known as muriate of potash, except that produced and/or sold by U.S. Borax and Chemical Co., Kalium, Saskatchewan, Canada; Kalium Chemicals, Ltd., Regina, Saskatchewan, Canada; Potash Co. of Canada, Ltd., Lanigan, Saskatchewan, Canada; Potash Co. of America, Saskatoon, Saskatchewan, Canada; International Minerals and Chemical Corp., Libertyville, Ill., U.S.A.; CF Industries, Inc., Chicago, Ill., U.S.A.	Canada.	69–265	74–157
Brockville Chemical Industries, Ltd., Montreal, Quebec, Canada; Hudson Bay Mining and Smelting Co., Ltd., Toronto, Ontario, Canada; Swift Canadian Co., Ltd., Etobicoke, Ontario, Canada; and Cominco, Ltd., Vancouver, British Columbia, Canada.	.....		76–219
Duval Corp. of Canada, Saskatoon, Saskatchewan, Canada; Amax Potash, Ltd., Esterhazy, Saskatchewan, Canada.	.....		77–202
• • •	•	•	•

This determination is published pursuant to § 153.44(d), Customs Regulations CFR 153.44(d)).

(Sec. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173).

HENRY C. STOCKELL, Jr.,
Acting General Counsel of the Treasury.

AUGUST 11, 1977.

[FR Doc.77-23824 Filed 8-16-77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 744–77]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart O—Office of Management and Finance

DELEGATING AUTHORITY CONCERNING ACQUISITION OF REAL PROPERTY

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Under existing Departmental regulations, the Assistant Attorney General for Administration has been delegated the authority to direct and administer policies and procedures concerning the acquisition of real property for Departmental use. This order designates the Assistant Attorney General for Administration as the official responsible for taking final action relating to the acquisition of real property for Departmental use. The purpose of the order is to clarify the authority of the Assistant Attorney General for Administration and involves requests to the General Services Administration for transfer of property to the Department from GSA's surplus Federal property inventory.

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert L. Dennis, Acting Director, Administrative Programs Staff, Room 6213, Department of Justice, Washington, D.C. 20530, 202–739–3217.

By virtue of the authority vested in me by 5 U.S.C. 301 and 28 U.S.C. 509 and 510, Section 0.76 of Subpart O of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended by the addition of the following new paragraph (w).

§ 0.76 Specific functions.

Subject to the general supervision and direction of the Attorney General, the functions delegated to the Assistant Attorney General for Administration by this Subpart O shall also include the following specific policy functions:

• • • • •

(w) Taking final action, including making all required determinations and findings, in connection with the acquisition of real property for use by the Department of Justice.

Dated: August 5, 1977.

GRIFFIN B. BELL,
Attorney General.

[FR Doc. 77-23626 Filed 8-16-77;8:45 am]

PART 2—PAROLE, RELEASE, SUPERVISION, AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS AND JUVENILE DELINQUENTS

Paroling; Recommitting and Supervising Federal Prisoners

AGENCY: The United States Parole Commission.

ACTION: Correction.

SUMMARY: This document corrects the publication of a final rule governing extraordinary reviews by the full Commission. As originally proposed, the amended language should have been a substitute for an existing provision; instead the amendment was printed as an additional paragraph. This rule is now changed to reflect the Commission's vote that the new language substitute for the former provision.

EFFECTIVE DATE: August 9, 1977.

FOR FURTHER INFORMATION, CONTACT:

Michael A. Stover, Office of the General Counsel, United States Parole Commission, 320 First Street NW., Washington, D.C. 20537, telephone 202–724–3092.

V 42 159 AUG 17 77 UMI

SUPPLEMENTARY INFORMATION: On June 10, 1977, the Commission published a proposal to amend the language of 28 CFR 2.54(b). The proposed amendment (with some changes to reflect statutory time limits and to clarify cross-references) was adopted by the Commission at its meeting of July 28, 1977. The Commission's vote, however, was erroneously reported as intending that the amendment be printed as a new paragraph (c), and the publication, at 42 FR 39669 (August 5, 1977) reflected this error (F.R. Doc. 77-22724). A correction of the minutes revealed that the Commission intended the format to be as originally proposed, viz., the substitution of the new language for the existing paragraph (b).

Accordingly, pursuant to the provisions of 18 U.S.C. § 4203(a)(1) and § 4204(a)(6), 28 CFR Chapter 1, Part 2, § 2.54, is corrected as set forth below, effective August 9, 1977.

§ 2.54 Reviews pursuant to 18 U.S.C. §§ 4203/4215.

§ 2.54 [Corrected]

* * * * *

(b) Notwithstanding the provisions of §§ 2.23–2.26 and § 2.28, any decision made by a Regional Commissioner or the National Appeals Board shall, upon the petition of not less than three Commissioners, be referred to the full Commission for review and, by majority vote, affirmed, modified, or reversed. Such petition must be submitted to the Chairman of the Commission and be acted upon by the Commission not later than 30 days from the date of entry of the decision to be reviewed. The prisoner shall receive a written notice of this referral, which shall stay the decision in his case until such review has been completed. Following review by the full Commission, the prisoner shall be informed in writing of the Commission's decision and, if parole is denied, of the reasons therefor.

Dated: August 9, 1977.

CURTIS C. CRAWFORD,
Acting Chairman,
U.S. Parole Commission.

[FR Doc.77-23815 Filed 8-16-77;8:45 am]

PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS AND JUVENILE DELINQUENTS

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: The United States Parole Commission.

ACTION: Final rule.

SUMMARY: This amended rule sets forth and interprets the statutory provisions governing eligibility for parole at 18 U.S.C. § 4205, for the information of prisoners, their attorneys, and the general public. The amendment is designed to clarify the previous interpretation.

EFFECTIVE DATE: August 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael Stover, Office of the General Counsel, United States Parole Commission, 320 First Street NW., Washington, D.C. 20537, telephone 202–724–3092.

SUPPLEMENTARY INFORMATION: This amended rule, which merely attempts to illustrate the working of the statutory parole eligibility provisions in each of the types of sentences which may be imposed, is made effective immediately in order to promote public understanding of the sentencing laws [18 U.S.C. § 4205].

Accordingly, pursuant to the provisions of 18 U.S.C. § 4203(a)(1) and § 4204(a)(6), 28 CFR Chapter I, Part 2, is amended as set forth below to become effective August 10, 1977.

Dated: August 10, 1977.

CURTIS C. CRAWFORD,
Acting Chairman,
United States Parole Commission.

Sections 2.2 and 2.3 are revised as follows:

§ 2.2 Eligibility for parole; adult sentences.

(a) A Federal prisoner serving a maximum term or terms of more than one year imposed pursuant to 18 U.S.C. 4205(a) [or pursuant to former 18 U.S.C. 4202] may be released on parole in the discretion of the Commission after completion of one-third of such term or terms, or after completion of ten years of a life sentence or of a sentence of over thirty years.

(b) A Federal prisoner serving a maximum term or terms of more than one year imposed pursuant to 18 U.S.C. 4205(b)(1) [or pursuant to former 18 U.S.C. 4208(a)(1)] may be released on parole in the discretion of the Commission after completion of the court-designated minimum term, which may be less than but not more than one-third of the maximum sentence imposed.

(c) A Federal prisoner serving a maximum term or terms of more than one year imposed pursuant to 18 U.S.C. 4205(b)(2) [or pursuant to former 18 U.S.C. 4208(a)(2)] may be released on parole at any time in the discretion of the Commission.

(d) If the Court has imposed a maximum term or terms of more than one year pursuant to 18 U.S.C. 924(a) or 26 U.S.C. 5871 [violation of Federal gun control laws], a Federal prisoner serving such term or terms may be released at any time in the discretion of the Commission as if sentenced pursuant to 18 U.S.C. 4205(b)(2).

(e) A Federal prisoner serving a maximum term or terms of one year or less is not eligible for parole consideration by the Commission, except that a Federal prisoner sentenced prior to May 14, 1976, to a maximum term or terms of at least six months but not more than one year is eligible for parole consideration after service of one-third of such term or terms.

§ 2.3 Same; Narcotic Addict Rehabilitation Act.

A Federal prisoner committed under the Narcotic Addict Rehabilitation Act may be released on parole in the discretion of the Commission after completion of at least six months in treatment, not including any period of time for "study" prior to final judgment of the court. Before parole is ordered by the Commission, the Surgeon General or his designated representative must certify that the prisoner has made sufficient progress to warrant his release and the Attorney General or his designated representative must also report to the Commission whether the prisoner should be released. Recertification by the Surgeon General prior to reparole consideration is required.

(18 U.S.C. 4254)

[FR Doc.77-23817 Filed 8-16-77;8:45 am]

[Order No. 746-77]

PART 16—PRODUCTION OR DISCLOSURE OF INFORMATION

Subpart E—Exemption of Records Systems Under the Privacy Act

REVOCATION OF AN EXEMPTION

AGENCY: Department of Justice

ACTION: Final rule.

SUMMARY: As explained in greater detail in the notice portion of today's FEDERAL REGISTER,[1] the Watergate Special Prosecution Force (WSPF) within the Department of Justice has been terminated and its systems of records are being transferred and duplicate travel records are being destroyed. Notices were previously published at 42 FR 12805–12806 (March 4, 1977) of the existence of the three systems of records maintained by the WSPF. Two of these systems of records, Justice/WSPF–001, Watergate Special Prosecution Force Investigative and Prosecutory Files, and Justice/WSPF–002, Watergate Special Prosecution Force Automated Investigation Files, were exempted by 28 CFR 16.78 from certain provisions of the Privacy Act. Inactive records in Justice/WSPF–001 and all records in Justice/WSPF–002 are to be transferred to the Archivist of the United States. Active records from Justice/WSPF–001 will be transferred to other law enforcement components of the Department and maintained in appropriate systems of records also subject to the Privacy Act. Accordingly, 28 CFR 16.78 is being revoked in its entirety because it is unnecessary.

EFFECTIVE DATE: August 5, 1977.

[1] See FR Doc. 77-23841 published in the notice section of this issue of the FEDERAL REGISTER under Department of Justice.

FOR FURTHER INFORMATION CONTACT:

Harry L. Gastley, Administrative Counsel, Office of Management and Finance, Department of Justice, Washington, D.C. 20530, 202–739–5361.

Pursuant to the authority vested in me by 28 U.S.C. 509, 5 U.S.C. 301, and 5 U.S.C. 552a, Section 16.78 of Subpart E of Part 16 of Chapter I of Title 28, Code of Federal Regulations, is hereby revoked.

Dated: August 5, 1977.

GRIFFIN B. BELL,
Attorney General.

[FR Doc.77-23842 Filed 8-16-77;8:45 am]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

[AF Reg. 12-35]

PART 806b—AIR FORCE PRIVACY ACT PROGRAM

Subpart H—Appendices

AGENCY: Department of the Air Force.

ACTION: Final rule.

SUMMARY: This rule adopts a prescribed exemption which may be claimed under the Privacy Act for the system of records identified as: F04501 OKPNQSA Cadet Records. (See FR Doc. 77–23132, Department of the Air Force, in the Notices section of this issue). This action is being taken to protect the identities of persons who provide data, in confidence, which is used to determine the suitability, eligibility, or qualification of cadets for Federal Military Service.

DATE: This rule is effective August 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Jon E. Updike, 202–767–4545.

SUPPLEMENTARY INFORMATION: On July 1, 1977, the Department of the Air Force published a proposed amendment to 32 CFR 806b, Subpart H, to exempt the system of records described above from specified provisions of the Privacy Act. The proposal was initially published in FR Doc. 77–18784 of July 1, 1977 (42 FR 33776) and republished in the FEDERAL REGISTER of July 19, 1977 (42 FR 37019) to correct a typesetting error. Interested persons were invited to participate in the rulemaking process; however, no comments were received relative to the proposed amendment. The proposal is therefore adopted without change.

JAMES E. DAGWELL,
Chief, Documentation Management Branch, Directorate of Administration.

MAURICE W. ROCHE,
Director, Office of the Assistant Secretary of Defense (Comptroller).

AUGUST 8, 1977.

§ 806.58 Specific exemptions.

* * * * *

(m) *04501 Cadet Records*—(1) *Exemptions.* Portions of this system of records (Detachment POC Selection Rating Sheets; AFROTC Form 0–24—Disenrollment Review; Memorandum for Record and Staff papers containing staff advice, opinions, or suggestions) are exempt from the following provisions of 5 U.S.C. 552a: (c)(3), (d), (e)(4)(H), (e)(4)(G), and (f), but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an expressed promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(2) *Authority.* 5 U.S.C. 552a(k)(5).

(3) *Reasons.* The release of information used to determine suitability, eligibility, or qualification for Federal Military Service would cause the identity of a confidential source to be revealed. The information contained in these documents is considered relevant and necessary to making judicious determinations as to the qualification, eligibility and suitability of cadets for graduation and for commissioning as an officer in the United States Air Force. This information could only be obtained by providing assurance to the source that his or her identity would not be revealed.

[FR Doc.77-23131 Filed 8-16-77;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 2—DELEGATIONS OF AUTHORITY

Office of the General Counsel

AGENCY: Veterans Administration.

ACTION: Final Regulation.

SUMMARY: This revision delegates authority to officials in the Office of the General Counsel to hold harmless or provide liability insurance for certain persons, for damage for personal injury or death, or for property damage, negligently caused by such person while furnishing medical care or treatment in the exercise of his or her duties. It increases the authority to settle and pay a claim made by a civilian officer or employee of the Veterans Administration for damage to, or loss of, personal property incident to service and provides authority to conduct investigations, examine witnesses and to countersign VA Form 4505. It also reflects the organization change that placed District Counsels (formerly Chief Attorneys) under the General Counsel and corrects references to gender. This revision provides for greater efficiency in operation.

EFFECTIVE DATE: August 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Joseph J. Lindekugel (02A1), Director, Management and Operations Staff, Office of General Counsel, Veterans Administration, Washington, DC 20420 (202–389–3730).

SUPPLEMENTARY INFORMATION: On page 39339 of the FEDERAL REGISTER of September 15, 1976, there was published a notice of proposed regulatory development to amend § 2.6(e) relating to delegations of authority.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulation. No written comments have been received and the proposed regulation is hereby adopted without change and is set forth below.

Approved: August 10, 1977.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

In § 2.6, paragraph (e) is revised to read as follows:

§ 2.6 Administrator's delegations of authority to certain officials (38 U.S.C. 212(a)).

Employees occupying or acting in the positions designated below are delegated authority as indicated:

* * * * *

(e) *General Counsel.* (1) Under the Federal Tort Claims Act, pursuant to the provisions of 28 U.S.C. 2672, authority is delegated to the General Counsel, Deputy General Counsel and Assistant General Counsel, or those authorized to act for them, to:

(i) Consider, ascertain, adjust, determine, compromise, and settle any claim accruing on and after January 18, 1967, and asserted under the Federal Tort Claims Act, as amended by Pub. L. 89–506 (80 Stat. 306): *Provided*, That any award, compromise, or settlement in excess of $25,000 shall be effected only with the prior written approval of the Attorney General or designee.

(ii) Execute an appropriate voucher and other necessary instruments in connection with final disposition of claims within their settlement authority, and to execute an appropriate voucher in connection with claims compromised by the Attorney General pursuant to 28 U.S.C. 2677, and to determine whether such claims meet the criteria, "potentially subject to the offset provisions of 38 U.S.C. 351," for the purpose of the last clause under the heading, Veterans Administration "Compensation and Pensions," in the Independent Offices Appropriation Act.

(iii) Authority delegated to the General Counsel may be redelegated by the General Counsel to selected District Counsels or those authorized to act for them.

(2) Under the provisions of 38 U.S.C. 236, the General Counsel, Deputy General Counsel, Assistant General Counsel

V 421159 AUG 17 77 UM

and District Counsel, or those authorized to act for them, are authorized to consider, ascertain, adjust, determine, and settle tort claims cognizable thereunder and to execute an appropriate voucher and other necessary instruments in connection with the final disposition of such claims.

(3) Under the provisions of "The Federal Medical Care Recovery Act," 42 U.S.C. 2651, et seq. (as implemented by Part 43, Title 28, Code of Federal Regulations), authority is delegated to the General Counsel, Deputy General Counsel, Assistant General Counsel, Deputy Assistant General Counsel and District Counsel, or those authorized to act for them, to collect in full, compromise, settle, or waive any claim and execute the release thereof; however, claims in excess of $20,000 may be compromised, settled, or waived only with the prior approval of the Department of Justice.

(4) Under the Federal Claims Collection Act of 1966, 31 U.S.C. 951, et seq., authority is delegated to the General Counsel, Deputy General Counsel, Assistant General Counsel, Deputy Assistant General Counsel, and District Counsel or those authorized to act for them, to:

(i) Make appropriate determinations with respect to the litigative probabilities of a claim (§ 1.932 of this chapter), the legal merits of a claim (§ 1.942(e) of this chapter), and any other legal considerations of a claim.

(ii) Collect in full a claim involving damage to or loss of Government property under the jurisdiction of the Veterans Administratioin resulting from negligence or other legal wrong of a person (other than an employee of the Government while acting within the scope of his or her employment) and to compromise, suspend or terminate any such claim not exceeding $20,000.

(iii) Collect a claim in full from a third party or legal entity who is liable for the cost of hospital, medical, surgical, or dental care and treatment of a person, and to compromise, suspend, or terminate any such claim not exceeding $20,000.

(iv) The delegations of authority set forth in paragraph (e)(4)(ii) and (iii) of this section do not apply to the handling of any claim as to which there is an indication of fraud, the presentation of a false claim or misrepresentation on the part of the debtor or any other party having an interest in the claim, or to any claim based in whole or in part on conduct in violation of the antitrust laws. Such cases will be considered by the General Counsel, who will make the determination in all instances as to whether the case warrants referral to the Department of Justice. The delegations of authority are applicable to those claims where the Department of Justice determines that action based upon the alleged fraud, false claim, or misrepresentation is not warranted.

(5) Pursuant to the provisions of the Military Personnel and Civilian Employees' Claims Act of 1964, 31 U.S.C. 241, the General Counsel, Deputy General Counsel, Assistant General Counsel, Deputy Assistant General Counsel, and District Counsel or those authorized to act for them, are authorized to settle and pay a claim for not more than $15,000 made by a civilian officer or employee of the Veterans Administration for damage to, or loss of, personal property incident to his or her service occurring subsequent to August 31, 1964.

(6) Authority is delegated to the General Counsel or designee to make the final decision on complaints of discrimination on grounds of race, color, religion, sex, or national origin brought by an aggrieved employee or qualified applicant for employment in the Veterans Administration.

(7) Under the provisions of 38 U.S.C. 4116(e), authority is delegated to the General Counsel, Deputy General Counsel, and the Assistant General Counsel (Professional Staff Group I), to hold harmless or provide liability insurance for any person to whom the immunity provisions of section 4116 apply, for damage for personal injury or death, or for property damage, negligently caused by such person while furnishing medical care or treatment in the exercise of his or her duties in or for the Department of Medicine and Surgery, if such person is assigned to a foreign country, detailed to State or political division thereof, or is acting under any other circumstances which would preclude the remedies of an injured third person against the United States, provided by sections 1346(b) and 2672 of title 28, United States Code, for such damage or injury.

(8) The General Counsel, Deputy General Counsel, and those authorized to act for them, are authorized to conduct investigations, examine witnesses, take affidavits, administer oaths and affirmations, and certify copies of public or private documents on all matters within the jurisdiction of the General Counsel. Pursuant to the provisions of § 2.2(c), the General Counsel, Deputy General Counsel, and those authorized to act for them, are authorized to countersign VA Form 4505.

(9) All authority delegated in this paragraph to District Counsels will be exercised by them under the supervision of and in accordance with instructions issued by the General Counsel.

[FR Doc.76-23754 Filed 8-16-77;8:45 am]

UPDATING OF LEGAL REGULATIONS

Miscellaneous Amendments

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: This revision is a consolidation of regulations reflecting an organization change which placed the District Counsels (formerly Chief Attorneys) under the administrative control of the General Counsel. It corrects reference to gender, changes the title of the field attorneys, limits to pure legal activities the involvement of the District Counsel in fiduciary and guardianship matters and implements the increased delegated authority of District Counsels. This revision provides for greater efficiency in operation.

EFFECTIVE DATE: August 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Joseph J. Lindekugel (02A1), Director, Management and Operations Staff, Office of General Counsel, Veterans Administration, Washington, D.C. 20420, 202-389-3730.

SUPPLEMENTARY INFORMATION: On September 15, 1976, the Veterans Administration published proposed regulations (41 FR 39340) to revise Part 14. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations. One comment recommending changes in the recognition of organizations, representatives, agents, and attorneys was received. This subject is currently under review and therefore, no action on this recommendation will be taken at the present time.

Section 14.602 has been amended to include "Chicago" and "Houston", and to increase the dollar amount of settlement authority for all District Counsels. Changes are made in §§ 14.605, 14.608, 14.610, and 14.619 to show in-house administrative procedures, and § 14.506 is revoked.

Approved: August 10, 1977.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

PART 13—DEPARTMENT OF VETERANS BENEFITS, FIDUCIARY ACTIVITIES

§§ 13.400, 13.401 and 13.402 [Revoked]

1. In Part 13, §§ 13.400, 13.401 and 13.402 are revoked.

PART 14—LEGAL SERVICES, GENERAL COUNSEL

2. In Part 14, §§ 14.500 through 14.504 are revised and §§ 14.505, 14.506 and 14.507 are added so that the added and revised material reads as follows:

§ 14.500 Functions and responsibilities of General Counsel.

The General Counsel is responsible to the Administrator for the following:

(a) All litigation arising in, or out of, the activities of the Veterans Administration or involving any employee thereof in his or her official capacity.

(b) All interpretative legal advice involving construction or application of laws, including statutes, regulations, and decisional as well as common law.

(c) All legal services, advice and assistance required to implement any law administered by the Veterans Administration.

(d) All delegations of authority and professional guidance required to meet these responsibilities.

(e) Maintenance of a system of field offices capable of providing legal advice and assistance to all Veterans Administration field installations and acting for the General Counsel as provided by Veterans Administration Regulations and instructions, or as directed by the

General Counsel in special cases. This includes cooperation with U.S. Attorneys in all civil and criminal cases pertaining to the Veterans Administration and reporting to the U.S. Attorneys, as authorized, or to the General Counsel, or both, criminal matters coming to the attention of the District Counsel.

(f) Other matters assigned.

§ 14.501 Functions and responsibilities of District Counsels.

(a) Functions and responsibilities of the District Counsels are those set forth in this part and all other matters assigned by the General Counsel.

(b) In any matter within the jurisdiction of the General Counsel, delegated or otherwise assigned, the District Counsel and designated staff attorneys are authorized to conduct investigations, examine witnesses, take affidavits, administer oaths and affirmations and certify copies of public or private documents.

(c) The District Counsel is authorized to, and shall, under the guidance of the General Counsel, provide legal services, advice and assistance to Veterans Administration installations within the district assigned. In any area of regulatory, assigned or delegated responsibility, the District Counsel may delegate to staff members or other Veterans Administration attorneys authority to perform, to the extent specified, any legal function under the professional direction of the District Counsel. Conversely, the District Counsel may modify, suspend or rescind any authority delegated hereunder.

(d) The District Counsel is authorized to cooperate with affiliated organizations, legislative committees, and with local and State bar associations to the end that any State law deficiencies relating to Veterans Administration operations may be removed. No commitment as to proposed legislation will be made without the approval of the General Counsel.

(e) In any case wherein the District Counsel is authorized to take legal action and payment of costs and necessary expenses incident thereto are involved, the department requesting such action will pay such cost and expenses. Where it is impractical for the District Counsel to perform the legal service because of cost, distance, etc., the customary fee for the service rendered by a local attorney employed by the District Counsel will be borne by the department requesting such action.

§ 14.502 Requests for legal opinions from Central Office.

Requests for formal legal advice, including interpretation of law or regulations, shall be made only by the Administrator, the Deputy Administrator, Associate Deputy Administrator, Assistant Deputy Administrator, and the department head or top staff official having jurisdiction over the particular subject matter, or by a subordinate acting for any such official.

§ 14.503 Requests for legal advice and assistance in other than domestic relations matters.

(a) Requests from administrative officials in the field for legal advice or assistance will be addressed to the appropriate District Counsel and will be in writing if requested by the District Counsel. Questions regarding insurance activities at St. Paul and Philadelphia should be referred to the District Counsel at the respective station. Except as to matters referred to in § 14.504(b), the District Counsel's authority to render legal advice and assistance shall extend to the release (unless otherwise instructed by the General Counsel), without prior approval of the General Counsel, of opinions on all legal questions which are either:

(1) Wholly controlled by the interpretation or application of the laws of the State or States in the district office area, or

(2) Covered by Veterans Administration precedents and opinions of the General Counsel which the District Counsel knows to be currently authoritative on the issues involved.

In cases covered by § 14.504(b) and all others not included in paragraph (a)(1) or (2) or paragraph (b) of this section, the District Counsel will prepare a tentative opinion (including identification of the benefit sought) and forward it to the General Counsel for review. When it is returned, the District Counsel will conform the opinion (if necessary) to the views of the General Counsel, and release it to the requesting official. The District Counsel may release any modified opinion as the opinion of the General Counsel.

(b) The District Counsel may submit to the General Counsel any legal question, opinion, or question pertinent to legal functions, upon which the views or advice of the General Counsel are desired. This request should set forth the special circumstances, contain a statement of the legal implications involved (including any Veterans Administration benefits claimed), set forth the facts out of which they arise, and cite any statutes or court decisions readily available, regulations, related opinions of the General Counsel and other matters deemed pertinent, with appropriate discussion. If any department will be affected, a copy of the reply will be forwarded to that department head.

§ 14.504 Domestic relations questions, authority and exceptions.

(a) District Counsels have the same authority with respect to domestic relations questions as they do with respect to matters covered by § 14.503 except as specifically excluded by the provisions of paragraph (a) of that section.

(b) In the following instances the District Counsel, regardless of whether State law is wholly controlling or a Veterans Administration precedent is available, will prepare a tentative opinion, research as completely as possible with reasonably available facilities, and forward two copies thereof directly to the General Counsel for review and disposition (as provided in § 14.503 respecting other than domestic relations matters):

(1) Where it is not clear under applicable State law (i) whether the marriage of a veteran's child or the remarriage of a veteran's widow was void without decree of annulment, or (ii) whether an annulment decree was rendered by a court with basic authority to render annulment decrees;

(2) When fraud or collusion by either party appears to have influenced the granting of an annulment decree;

(3) Cases in which there are contesting claims;

(4) Unusual situations, such as those involving proxy marriages, the law of two or more jurisdictions or of a foreign country;

(5) Cases involving difference of opinion between District Counsels or between a District Counsel and the official who submitted the question involved.

§ 14.505 Submissions.

All submissions will set forth the question of law on which the opinion is desired, together with a complete and accurate summary of relevant facts. Files, correspondence, and other original papers will not be submitted, unless pertinent portions thereof cannot practicably be summarized, or copies made and attached as exhibits.

§ 14.507 Opinions.

Formal opinions of the General Counsel in individual claims (compensation, pension, insurance, loans, vocational rehabilitation, readjustment allowance, indemnity, etc.) are filed in the individual claims or insurance folder. (See § 1.525 of this chapter.)

Printed opinions of the General Counsel of a general nature (administration, claims, fiscal, personnel, contracts, loan guaranty, or insurance, etc.) will be digested and indexed. Copies will be filed in the Office of the General Counsel and in District Counsels' offices. Such opinions are not available for general distribution outside the Veterans Administration, but copies of printed opinions on subjects of general interest (as, for example, loan guaranty, vocational rehabilitation and education, etc.) may be supplied persons, organizations or agencies interested in the subject covered by the opinion, or affected by it, when, in the opinion of the General Counsel or of the service concerned, the public interest justifies or requires such action.

3. Sections 14.514 through 14.518 are revised to read as follows:

§ 14.514 Suits by or against United States or Veterans Administration officials.

(a) *Suits against United States or Veterans Administration officials.* When a suit involving any activities of the Vet-

V 42 159 AUG 17 77 UMI

erans Administration is filed against the United States or the Administrator or a suit is filed against any employee of the Veterans Administration in which is involved any official action of the employee, not covered by the provisions of §§ 14.600 through 14.617, a copy of the petition will be forwarded to the General Counsel who will take necessary action to obtain the pertinent facts, cooperate with or receive the cooperation of the Department of Justice and, where indicated, advise the District Counsel of any further action required.

(b) *Counsel and representation of employees.* The Department of Justice may afford counsel and representation to Government employees who are sued individually as a result of the performance of their official duties. A civil action commenced in a State court against an employee, as the result of an action under color of his or her office, may be removed to the applicable Federal District Court. If a suit is filed against an employee as the result of the performance of his or her official duties, where the provisions of either 28 U.S.C. 2679 or 38 U.S.C. 4116 are not applicable (see § 14.610), and the employee desires to be represented by the U.S. Attorney, the District Counsel will obtain a written request to this effect from the employee and will also obtain an affidavit of the station Director describing the incident in sufficient detail to enable a determination to be made as to whether the employee was in the scope of his or her employment at the time. These statements, together with a copy of the petition and two copies of a summary of pertinent facts, will be sent to the General Counsel, who will transmit copies thereof to the Department of Justice for appropriate action.

(c) *Suits by the United States.* In any instance wherein direct submission to a U.S. Attorney for institution of civil action has been authorized by the Department of Justice, the District Counsel will furnish the U.S. Attorney a complete report of the facts and applicable law, documentary evidence, names and addresses of witnesses and, in cases wherein Veterans Administration action has been taken, a copy of any pertinent decision rendered. The District Counsel will forward two copies of such report and of any proposed pleading to the General Counsel, and will render any practicable assistance requested by the U.S. Attorney.

§ 14.515 Suits involving loan guaranty matters.

(a) In actions for debt, possession or actions similar in substance (including title actions) in which § 36.4282 or § 36.4319 of this chapter has been complied with, the District Counsel is authorized to enter the appearance of and represent the Administrator of Veterans Affairs as the attorney of record and to file claims for debt in probate proceedings without prior reference to the General Counsel. Any such action will normally be taken within the time prescribed by law as though there had been valid service of process. In all other types of cases, the District Counsel will not enter an appearance or file any pleading on behalf of the Administrator except in imperative emergency until authorization is received from the General Counsel after submission of all relevant facts. In doubtful cases, the District Counsel will request instructions from the General Counsel, submitting copy of so much of the pleadings or other papers, together with a sufficient recital of the facts as will make clear the background, the issues, and the relief sought. The submission also will include names and addresses of adverse parties and attorneys so that immediate action may be taken if injunctive relief seems proper. Where necessary in any case to preserve rights which might be lost by default if there had been proper service of process, appropriate action will be taken by a special appearance, or, in jurisdictions where a special appearance does not serve the purpose or under State statute or decisions will constitute a general appearance for a later date, by an appearance through amicus curiae, to obtain an extension of time, preferably 30 days or more, in which to appear and plead without prejudice. If not feasible to obtain an extension, the District Counsel will explain to adverse counsel by letter, and personally, if desirable, the necessity of deferring all action and will see that the proper judge receives a signed copy of the letter before default day. The letter will point out that there is no valid service of process on the Administrator of Veterans Affairs but will not base the delay on that alone.

(b) The General Counsel or each District Counsel representing the General Counsel is the attorney of the Administrator of Veterans Affairs for all purposes of 38 U.S.C. 1820 and, as such, is authorized to represent the Administrator in any court action or other legal matter arising under said statutory provisions. Said authorization is subject to any applicable statutes and Executive orders concerning claims of the United States. A District Counsel may enter appearance in such cases, subject to the provisions of §§ 36.4282 and 36.4319 of this chapter and paragraph (a) of this section. Each District Counsel is authorized to contract for the employment of attorneys on a fee basis for conducting any action arising under guaranty or insurance of loans or direct loans by the Veterans Administration; or for examination and other proper services with respect to title to and liens on real and personal property, material incident to such activities of the Veterans Administration, when, such employment is deemed by the District Counsel to be appropriate. The authority delegated to the District Counsel may be redelegated with the approval of the General Counsel.

(c) The General Counsel and each District Counsel, in carrying out their duties as authorized in paragraph (a) or (b) of this section, are authorized (1) to contract for and execute, for and on behalf of the Administrator, any bond (and appropriate contract or application therefor) which is required in or preliminary to or in connection with any judicial proceeding in which the District Counsel is attorney for the Administrator, and to incur obligations for premiums for such bonds and (2) to do all other acts and incur all costs and expenses which are necessary or appropriate to further or protect the interests of the Administrator in or in connection with prosecuting or defending any cause in any court or tribunal within the United States, which cause arises out of or incident to the guaranty or insurance of loans, or the making of direct loans by the Veterans Administration, pursuant to 38 U.S.C. ch. 37.

(d) Except in an emergency, no District Counsel will initiate action for appellate review without prior approval by the General Counsel. These limitations do not preclude the filing of a motion for a new trial, appeal to intermediate court with hearing de novo, the giving of notice of appeal, reserving of bills of exception, or any other preliminary action in the trial court which may be necessary or appropriate to protect or facilitate the exercise of the right of appellate review, nor do they preclude the taking of appropriate steps on behalf of the Administrator as appellee (respondent) without prior reference to the General Counsel. Upon the conclusion of the trial of a case, the District Counsel will report the result thereof to the General Counsel with recommendation as to seeking appellate review if the result reported is adverse to the position of the Veterans Administration in the litigation. The reporting District Counsel who recommends appellate review will include as a part of the communication, or in exhibits attached, (1) a summary of the evidence; (2) a summary of the law points to be reviewed; (3) citations of statutes and cases; (4) statements of special reasons for recommending appellate review; (5) time limitations for the action recommended; (6) requirements, if any, respecting printing of the record and briefs; (7) the estimated total expenses to be incurred by reason of the appeal, reporting separately the estimated costs for printing the brief and record so that authority for printing may be granted in accordance with prescribed procedure, MP–1, part II, chapter 9; [1] and (8) the recommendation or a statement as to nonrecommendation by the Loan Guaranty Officer.

§ 14.516 Escheat and post fund cases.

In any case in which the Veterans Administration is entitled to possession of assets or property under the escheat provisions of 38 U.S.C. 3202(e), the gifts provisions of 38 U.S.C. ch. 83 or the General Post Fund provisions of 38 U.S.C. ch. 85, the District Counsel will endeavor to obtain possession of such assets or property in any manner appropriate under local procedure and practice, other than litigation. This procedure would include exploratory inquiry of the person having custody or possession of the assets or property for the purpose of determining whether the person would be willing to turn over the property to the Veterans Administration without litigation. If unsuccessful in this effort, a complete report will be submitted by the District Counsel to the General Counsel so that appropriate action may be taken to obtain the assistance of the Department of Justice in the matter.

[1] Available in any Veterans Administration station.

§ 14.517 Cases affecting the Veterans Administration generally.

District Counsels will establish and maintain such close liaison with the State and Federal courts as to insure that notice will be afforded the Veterans Administration on all cases affecting the Veterans Administration. Such information will be forwarded to the General Counsel promptly in every case.

§ 14.518 Litigation involving beneficiaries in custody of Veterans Administration employees acting in official capacity.

(a) *Service of process generally.* An employee, at a field station, served with a writ of habeas corpus involving a beneficiary of the Veterans Administration in the employee's custody will immediately notify the District Counsel of the district in addition to taking such steps as in his or her judgment are necessary for self protection.

(b) *Habeas corpus writs.* (1) If a Director of a Veterans Administration hospital concerned advises that, according to current medical opinion, hospitalization is necessary for the veteran's safety or the safety of others, the District Counsel will vigorously oppose the writ at the trial court level. If the writ is granted, no further action will be taken unless so instructed by the General Counsel.

(2) If the medical opinion is that hospitalization is not required for the veteran's safety or the safety of others but continued treatment is clearly indicated in the veteran's interest, the District Counsel will assure that the court issuing the writ is so informed and will abide by the court's decision.

(3) If the medical opinion is that there is no danger of self injury to the veteran or others and the need for continued treatment is not clearly demonstrated, the District Counsel will advise the Director of the hospital concerned that the veteran should be released and will notify the veteran's attorney of the planned discharge. These cases will be handled informally to the extent practicable.

(4) Involuntary confinement of mentally ill patients in Veterans Administration installations is predicated upon the law of the State in which the installation is location. In the event the writ is filed in Federal Court, the District Counsel will cooperate with the U.S. Attorney to the end that the case is removed to the appropriate State court.

4. Sections 14.560 through 14.583 are revoked and §§ 14.560 through 14.563 are added to read as follows:

§ 14.560 Procedure where violation of penal statutes is involved.

(a) The submission to the appropriate U.S. Attorney of a violation or suspected violation of the penal provisions of the statutes of the United States will be made by the District Counsel at the regional office, hospital or center, within whose jurisdiction the alleged offense appears to have been committed. Where the file or record which contains evidence of a penal offense is located in or forwarded to Central Office, the matter will be referred to the General Counsel for development and reference to the proper District Counsel or direct to the Department of Justice. Where the file or record is maintained in any other field station, it will be referred to the District Counsel of the regional office, center or hospital in whose district the station is located for development and determination as to whether prosecution is indicated and reference to the proper U.S. Attorney if in order.

(b) In all instances where, in developing a necessary administrative investigation, there is evidence of a violation of the penal provisions of the Federal statutes, the case will be submitted to the appropriate U.S. Attorney. In Central Office, Investigation and Security Service reports showing any criminal acts will be reported by the General Counsel to the Department of Justice. If such offense seems probable, but an administrative investigation is not necessary, the matter will be reported, without investigation, to the U.S. Attorney or the Department of Justice, as the case may be. The Department of Justice is charged with the duty and responsibility of interpreting and enforcing criminal statutes, and the final determination as to whether the evidence is sufficient to warrant prosecution in any case is a matter for that Department. The function of any administrative official is to marshal all evidence within his or her possession and, when the evidence is sufficient to make a prima facie case of a violation of the statute, to transmit the same to the U.S. Attorney for such action as the Department of Justice, acting through the U.S. Attorney, may deem necessary. If the U.S. Attorney decides to prosecute, the District Counsel will cooperate with the U.S. Attorney as may be requested. Cases deemed essential to protect Veterans Administration interests or policy will be reported to the General Counsel if prosecution is delayed or declined.

(c) A report will be made to the Federal Bureau of Investigation concerning criminal matters arising under prior laws authorizing readjustment benefits and War Orphans' Educational Assistance (see sec. 3, Pub. L. 85–857; 72 Stat. 1262) and current grants of readjustment and educational assistance as authorized in title 38, United States Code. In cases arising under the foregoing acts any evidence or information coming to the attention of a District Counsel requiring determination as to whether there may be a violation of a Federal criminal statute will be brought promptly to the attention of the local office or agent of the Federal Bureau of Investigation without attempting to develop any criminal aspects, as will such facts or evidence subsequently discovered in administrative investigation or other action. Copy of the final investigation report in administrative investigation shall be forwarded to the U.S. Attorney, if, in the opinion of the District Counsel, prosecutive action is necessary for administrative purposes. The District Counsel will bring to the attention of the General Counsel any case wherein the District Counsel is of the opinion that criminal action should be initiated, notwithstanding an adverse report or lack of a report by the Federal Bureau of Investigation.

§ 14.561 Administrative action prior to submission.

Before a submission is made to the U.S. Attorney in cases involving personnel or claims, the General Counsel, if the file is in Central Office, or the District Counsel at the regional office, hospital or center, if the file is in the regional office or other field station, will first ascertain that necessary administrative or adjudicatory (forfeiture (see Pub. L. 86–222; 73 Stat. 452), etc.), action has been taken; except that in urgent cases such as breaches of the peace, disorderly conduct, trespass, robbery, or where the evidence may be lost by delay, or prosecution barred by the statute of limitations, submission to the U.S. Attorney will be made immediately.

§ 14.562 Collections or adjustments.

When it is determined that a submission is to be made to the U.S. Attorney, no demand for payment or adjustment will be made without the advice of the U.S. Attorney. However, if, before or after submission, the potential defendant or other person tenders payment of the liability to the United States, payment will be accepted if the U.S. Attorney has no objection. If the U.S. Attorney determines that prosecution is not indicated, or when prosecution has ended, the file will be returned to the appropriate office with a report as to the action taken.

§ 14.563 Crimes or offenses on Veterans Administration property.

Upon receipt by the District Counsel of a report from the Director of any Veterans Administration facility located in the district regional office area, other than the District of Columbia, indicating a violation of any penal statutes occurring on such Veterans Administration property, the District Counsel will extend full cooperation and advice to the Director. In so doing, the District Counsel will be guided by the provisions of 18 U.S.C. 13 and 3041, and 38 U.S.C. 218. Serious crimes (felonies or misdemeanors) committed on a hospital or domiciliary reservation will be reported directly to the U.S. Attorney or local agent of the Federal Bureau of Investigation by the Director of the facility. The District Counsel will give every assistance to the Director in such cases.

V 42 159 AUG 17 77 UMI

5. In § 14.600, paragraphs (a) and (b) (1) are revised to read as follows:

§ 14.600 Federal Tort Claims Act.

(a) The Federal Tort Claims Act (28 U.S.C. 1291, 1346, 1402, 1504, 2110, 2401, 2402, 2411, 2412, and 2671 through 2680) prescribes a uniform procedure for handling of claims against the United States, for money only, on account of damage to or loss of property, or on account of personal injury or death, caused by the negligent or wrongful act or omission of a Government employee while acting within the scope of his or her office or employment, under circumstances where the United States, if a private person, would be liable in accordance with the law of the place where the act or omission occurred.

(b) The act provides that: (1) No court action (except those involving a third party complaint, cross-claim, or counterclaim) shall be instituted unless the claimant shall have first presented his or her claim to, and it has been finally denied by, the appropriate Federal agency. The failure, however, of the agency to make final disposition of the claim within 6 months after it is filed may, at the option of the claimant, be deemed a final denial of the claim (28 U.S.C. 2675(a));

* * * * *

6. Section 14.601 is revised to read as follows:

§ 14.601 Dismissal action.

Where a tort suit against the United States (other than by third party complaint, cross-claim, or counterclaim) is filed without being preceded by an administrative claim (see § 14.600(b)(1)), the District Counsel shall promptly, upon receipt of notice of the action thereon, notify the U.S. Attorney and the General Counsel, who will, in turn, notify the Department of Justice, that the provisions of 28 U.S.C. 2675(a) have not been complied with, and that the suit appears to be subject to a motion to dismiss for lack of jurisdiction. The General Counsel should be kept advised as to subsequent developments, and should be furnished a copy of any order of dismissal which may be entered by the court.

7. Section 14.602 is revised to read as follows:

§ 14.602 Scope and authority to consider claims.

(a) The Administrator and those delegated such authority in § 2.6(e) of this chapter are authorized to consider, ascertain, adjust, determine, compromise and settle claims for money damages against the United States in accordance with regulations prescribed by the Attorney General (28 CFR 14.1 et seq.). Any award, compromise, or settlement exceeding $25,000 shall be effected only with the prior written approval of the Attorney General or designee. In addition, a claim may be compromised or settled only after consultation with the Department of Justice when:

(1) A new precedent or point of law is involved;

(2) A question of policy is or may be involved;

(3) The United States is or may be entitled to indemnity or contribution from a third party and the Veterans Administration is unable to adjust the third party claim;

(4) For any reason, the compromise of a particular claim, as a practical matter, will, or may, control the disposition of a related claim in which the amount to be paid may exceed $25,000; or

(5) The United States, an employee, agent, or cost-plus contractor, is involved in litigation based on a claim arising out of the same incident or transaction.

(b)(1) All claims coming within paragraph (a) of this section will be referred to the General Counsel for disposition.

(2) Where full development of a claim indicates that liability exists and the potential settlement value exceeds $25,000, the District Counsel who received the claim will submit the case to the General Counsel for consideration.

(3) Where multiple claims (including claims of a subrogor and a subrogee) arise from the same incident, and the total of such claims exceeds the settlement amount delegated to the District Counsel, all such claims will be forwarded to the General Counsel for consideration.

(c) Authority delegated to the General Counsel by § 2.6(e) of this chapter to act on claims is redelegated to the District Counsels as follows:

(1) The District Counsels at Atlanta, Boston, Chicago, Cleveland, Denver, Detroit, Houston, Los Angeles, Montgomery, New York, Philadelphia, St. Louis, St. Petersburg, San Francisco, Seattle, Waco, and Washington, D.C. are delegated authority to determine and settle claims filed under the Federal Tort Claims Act, as amended, by disposing of those tort claims in which, in the view of the respective District Counsels, liability exists and the claim may be compromised or settled at or below $25,000.

(2) All other District Counsels are authorized to settle or compromise tort claims in which, in the view of the respective District Counsels, liability exists and the claim may be settled or compromised for amounts up to and including $10,000. Claims which these District Counsels determine to be within the delegated authority of the District Counsels at the locations set out in paragraph (c)(1) of this section will be fully developed and forwarded to the District Counsel having jurisdiction.

(3) The territorial jurisdiction and supervision for handling tort claims by the District Counsels enumerated in paragraph (c)(1) of this section is set out in instructions to all District Counsels.

(d) Where it is determined that liability on the part of the Government does not exist, the District Counsel who initially received the claim will deny liability regardless of the amount claimed or the potential value if liability existed. If liability is questionable, the District Counsel will refer the claim for final determination to that office having appropriate settlement authority.

(e) For the purpose of these tort claim regulations (§§ 14.600–14.617), any reference to the District Counsel includes all other personnel in the District Counsel's office to whom authority to handle Federal tort claims has been delegated by § 2.6(e)(1) and (2) of this chapter.

8. In § 14.603, paragraph (a) is revised to read as follows:

§ 14.603 Proper claimants.

(a)(1) A claim for damage to or loss of property may be presented by the owner of the property, his or her duly authorized agent or legal representative.

(2) A claim for personal injury may be presented by the injured person, his or her duly authorized agent, or legal representative.

(3) A claim based on death may be presented by the executor/executrix or administrator/administratrix of the decedent's estate, or by any other person legally entitled to assert such a claim in accordance with applicable State law.

(4) A claim for loss wholly compensated by an insurer with the rights of a subrogee may be presented by the insurer. A claim for loss partially compensated by an insurer with the rights of a subrogee may be presented by the parties individually as their respective interests appear, or jointly. However when an insurer presents a claim asserting the rights of a subrogee, he or she shall also present appropriate evidence to support his or her right.

(5) A claim presented by an agent or legal representative shall be presented in the name of the claimant, be signed by the agent or legal representative, show the title or legal capacity of the person signing, and be accompanied by evidence of his or her authority to present a claim on behalf of the claimant as agent, executor/executrix, administrator/administratrix, parent, guardian, or other representative.

* * * * *

9. Sections 14.604 and 14.605 are revised to read as follows:

§ 14.604 Filing a claim.

(a) Each person who inquires as to the procedure for filing a claim against the United States, predicated on a negligent or wrongful act or omission of an employee of the Veterans Administration acting within the scope of his or her employment, will be furnished a copy of SF 95, Claim for Damage, Injury, or Death. The claimant will be advised to submit the executed claim directly to the District Counsel having jurisdiction of the area wherein the occurrence complained of took place. He or she will also be advised to submit the information prescribed by § 14.607 to the extent applicable. If a claim is presented to the Veterans Administration which involves the actions of employees or officers of other agencies, it will be forwarded to the Veterans Administration General Counsel, who will transmit forthwith to the appropriate agency.

(b) A claim shall be deemed to have been presented when the Veterans Administration receives from a claimant, his or her duly authorized agent or legal representative, an executed SF 95, or other written notification of an incident, together with a claim for money damages, in a sum certain, for damage to or loss of property or personal injury or death: *Provided, however,* That before compromising or settling any claim, an executed SF 95 shall be obtained from the claimant.

(c) A claim presented in compliance with paragraphs (a) and (b) of this section may be amended by the claimant at any time prior to final Veterans Administration action or prior to the exercise of the claimant's option under 28 U.S.C. 2675(a). Amendments shall be submitted in writing and signed by the claimant or his or her duly authorized agent or legal representative. Upon the timely filing of an amendment to a pending claim, the Veterans Administration shall have 6 months in which to make a final disposition of the claim as amended and the claimant's option under 28 U.S.C. 2675(a) shall not accrue until 6 months after the filing of the amendment (see § 14.600 (b)(1)).

§ 14.605 Investigation and development.

(a) *Development of untoward incidents prior to receipt of a claim.* (1) A report of any collision involving a Government-owned vehicle which results in property damage or personal injury or death will be made by the operator of the Government vehicle immediately following the accident, on SF 91, Operator's Report of Motor Vehicle Accident, and shall be submitted to the Director of the station involved. A copy of said report, accompanied by an executed copy of VA Form 2162, Report of Accident, Injury, Occupational Illness, or Fire, and of VA Form 2162b, Report of Accident, Injury, Occupational Illness, or Fire (Continued), will be promptly submitted by the Director to the appropriate District Counsel, who will authorize such additional investigation as the circumstances of the case may warrant. Forms required by other agencies will continue to be used in addition to VA Form 2162.

(2)(i) Any incident resulting in damage to, or loss of, property, other than personal effects of a patient in a Veterans Administration facility, or in personal injury or death, due apparently or allegedly to the negligent or wrongful act or omission of an employee of the Veterans Administration acting within the scope of his or her office or employment, or damage to or loss of Government-owned property caused by other than a Veterans Administration employee acting within the scope of his or her office or employment, will be immediately reported on SF 92–A, Report of Accident Other Than Motor Vehicle. The Director of the station where such occurrence took place will promptly transmit a copy of the report to the appropriate District Counsel who will authorize such additional investigation as the circumstances of the case may warrant.

(ii) Where the incident involves the loss of personal effects of a patient in a Veterans Administration facility, the Director will assist the patient in completing an SF 95, Claim for Damage, Injury, or Death, and will advise the patient that it will be forwarded immediately to the appropriate District Counsel for consideration. The Director will forward along with the claim a brief summary of the facts, as well as his or her recommendation, to the District Counsel. The District Counsel will expedite the processing of claims of this nature.

(3) An employee will be designated at each station to investigate motor vehicle collisions and other incidents involving damage to, or loss of privately owned property or personal injury or death, apparently or allegedly resulting from the negligent or wrongful act or omission of an employee of the Veterans Administration acting within the scope of his or her employment, other than investigation of alleged malpractice, or damage to or loss of Government-owned property caused by other than Veterans Administration employees. In Central Office, the designation will be made by the Manager, Administrative Services, and at all other stations, by the Director.

(4) The District Counsel for the area in which a field station is located will be responsible for processing claims involving motor vehicle collisions and other occurrences resulting in property damage, personal injury, or death, within such area. The District Counsel, Veterans Administration Regional Office, Washington, D.C. will also have jurisdiction, except as otherwise provided in paragraph (a)(3) of this section over incidents occurring in Veterans Administration Central Office.

(b) *Postclaim requirements.* (1) Where a claim is presented, the District Counsel will immediately acknowledge receipt of the claim and commence an investigation. In the course of the investigation, statements will be obtained from the personnel involved as well as from others who have personal knowledge covering the relevant facts. Copies of all pertinent Veterans Administration medical and other records will be obtained and the copies will be assembled so that they are identical in arrangement to the originals. Pertinent medical, employment, and other records maintained by private hospitals, private industry, and other places will likewise be obtained as well as photographs or other graphic material.

(2) After completing the investigation of a claim, the District Counsel having jurisdiction of the case will review all the evidence available and prepare a concise, complete report, including a summary of the evidence, findings of essential facts, citations of applicable local law, regulations and decisions, and a conclusion as to the liability of the United States. If liability is indicated, this report will also include a determination as to the amount of the reasonable compromise or settlement range of the case. Sufficient copies of the report and supporting material will be prepared to enable the District Counsel to submit two copies to the office authorized to dispose of the claim if it is beyond the investigating office's jurisdiction, and two copies to the General Counsel if the claim subsequently reaches the litigation stage. An extra complete copy of the report and supportive material will be retained by the District Counsel and will be forwarded to the U.S. Attorney, together with the original report of investigation, if litigation is initiated. The report itself, and the supporting materials, will be indexed, tabbed and securely fastened so that it is one unit, if feasible.

(3) In medical malpractice cases, the District Counsel may refer the medical records and statements to the District Medical Director for review and for professional opinion or guidance. In the consideration of claims involving a medical question, the responsible District Counsel involved will be guided by the views of the District Medical Director and the General Counsel will be guided by the views of the Chief Medical Director as to the standard of medical care and treatment, the nature and extent of the injuries, the degree of temporary or permanent disability, the prognosis, the necessity for future treatment or physical rehabilitation, and any other pertinent medical aspects of a claim.

10. In § 14.606, paragraph (a) is revised to read as follows:

§ 14.606 Requests for medical information.

(a) Where there is indication that a tort claim will be filed, medical records or other information shall not be released without approval of the District Counsel.

* * * * *

11. In § 14.607, paragraphs (a) and (b) are revised to read as follows:

§ 14.607 Evidence to be submitted.

In conducting the investigation into the facts and circumstances giving rise to the claim, the District Counsel will consider the following guidelines to the extent applicable:

(a) *Death.* In support of a claim based on death, the claimant may be required to submit the following evidence or information:

(1) An authenticated death certificate or other competent evidence showing cause of death, date of death, and age of the decedent.

(2) Decedent's employment or occupation at time of death, including his or her monthly or yearly salary or earnings (if any), and the duration of his or her last employment or occupation.

(3) Full names, addresses, birth dates, kinship, and marital status of the decedent's survivors, including identification of those survivors who were dependent for support upon the decedent at the time of his or her death.

(4) Degree of support afforded by the decedent to each survivor dependent upon him or her for support at the time of death.

(5) Decedent's general physical and mental condition before death.

(6) Itemized bills for medical and burial expenses incurred by reason of the incident causing death, or itemized receipts of payment for such expenses.

V 42 159 AUG 17 77 UMI

(7) If damages for pain and suffering prior to death are claimed, a physician's detailed statement specifying the injuries suffered, duration of pain and suffering, any drugs administered for pain, and the decedent's physical condition in the interval between injury and death.

(8) Claimant may be requested to furnish a copy of a medical opinion supporting his or her contention of malpractice.

(9) Any other evidence or information which may have a bearing on either the responsibility of the United States for the death or the damages claimed.

(b) *Personal injury.* In support of a claim for personal injury, including pain and suffering, the claimant may be required to submit the following evidence or information:

(1) A written report by the attending physician or dentist setting forth the nature and extent of treatment, any degree of temporary or permanent disability, the prognosis, period of hospitalization, and any diminished earning capacity. In addition, the claimant may be required to submit to a physical or mental examination by a physician employed by the agency or another Federal agency. A copy of the report of the examining physician shall be made available to the claimant upon the claimant's written request provided that he or she furnished the report referred to in the first sentence of this subparagraph and has made or agrees to make available to the agency any other physician's reports previously or thereafter made of the physical or mental condition which is the subject matter of the claim.

(2) Itemized bills for medical, dental, and hospital expenses incurred, or itemized receipts of payment for such expenses.

(3) If the prognosis reveals the necessity for future treatment, a statement of expected expenses for such treatment.

(4) If a claim is made for loss of time from employment, a written statement from his or her employer showing actual time lost from employment, whether he or she is a full- or part-time employee, and wages or salary actually lost.

(5) If a claim is made for loss of income and the claimant is self-employed, documentary evidence showing the amount of earnings actually lost.

(6) Claimant may be requested to furnish a copy of a medical opinion supporting his or her contention of malpractice.

(7) Any other evidence or information which may have a bearing on either the responsibility of the United States for the personal injury or the damages claimed.

* * * * *

12. Section 14.608 is revised to read as follows:

§ 14.608 Disposition of claims.

(a) *Disallowance and appeal.* Where a determination is made that there is no liability on the part of the United States, the District Counsel or the General Counsel, as appropriate, will notify the claimant (or claimant's attorney or legal representative) by certified or registered mail. Notification of final denial may include a statement of reasons for the denial. Denial of a tort claim by any District Counsel will include appropriate notice of the appellate rights of claimants. The right to have an appeal within the Veterans Administration will extend only to the next higher level of authority. The claimant shall be advised in the denial letter of the specific office to which an appeal wil be referred and that the appeal must be perfected within 6 months. The denial letter shall also include a statement that, if the claimant is dissatisfied with the agency action, suit in an appropriate United States District Court may be instituted not later than 6 months after the date of mailing of the notice of final denial.

(b) *Statute of limitations.* Prior to the commencement of suit and prior to the expiration of the 6-month period provided in 28 U.S.C. 2401(b), a claimant, or claimant's duly authorized agent, or legal representative, may file a written request with the agency for an appeal from denial of a claim issued under paragraph (a) of this section. Upon the timely filing of an appeal the agency shall have 6 months from the date of filing in which to make a final disposition of the claim, and the claimant's option under 28 U.S.C. 2675(a), shall not accrue until 6 months after the filing of an appeal. Final agency action on an appeal shall be effected by the District Counsel if the claim is one within the jurisdiction authorized by § 2.6(e) of this chapter and § 14.602(c); otherwise, by the General Counsel. If the previous denial decision is upheld, the notice shall be by certified mail and will include advice as to the right to bring suit within 6 months.

(c) *Allowance or compromise.* (1) In the case of a claim where a determination is made by the District Counsel (if the claim is one for which authority has been delegated under § 2.6(e) of this chapter and § 14.602(c)), or by the General Counsel, that there is or could be liability on the part of the Government, an attempt will be made to obtain an agreement with the claimant, or claimant's attorney, as to a fair and reasonable settlement or compromise.

(2) If the claim is one being handled by the District Counsel and a settlement agreement is reached in a sum of $2,500 or less, the District Counsel will approve the voucher (SF 1145, Voucher for Payment under Federal Tort Claims Act) and send the signed original and three yellow copies to the General Counsel for processing. If the settlement agreement is above $2,500 but within the delegated authority of the District Counsel, the District Counsel will approve the voucher (SF 1145) and send the signed original and three yellow copies to the General Accounting Office for payment. Vouchers for settlement in excess of $25,000 will not be signed by any District Counsel, but will be forwarded to the General Counsel for signature and transmittal to the General Accounting Office. Also, in any case which is settled by the District Counsel at the specific request of the General Counsel, the voucher will not be approved by the District Counsel but will be sent to the General Counsel's Office for approval and processing. All original vouchers will be signed by the claimant or claimant's legal representative and his or her spouse, if appropriate. Where required by State law, approval of a court of competent jurisdiction will be obtained. Certified copies of appropriate court documents and duplicate originals of "hold harmless" and "covenant not to sue" agreements will accompany the transmittal of the voucher.

(3) If the claimant is a veteran, or the spouse or child of a veteran in a wrongful death claim, a copy of the letter to the General Accounting Office will be sent to the Adjudication Division of the regional office having jurisdiction over the veteran's claims folder.

(4) When a District Counsel is unable to effect settlement of a tort claim considered to be appropriate for compromise within authorized limits, the District Counsel will confer with the next level of supervising authority before issuing a letter of denial.

(d) *Attorney fees.* In any claim administratively settled or compromised, no specific portion of the award shall be designated as an attorney fee. However, 28 U.S.C. 2678 prohibits an attorney from charging, demanding, receiving, or collecting for services rendered, fees in excess of 20 per centum of any award, compromise, or settlement made pursuant to 28 U.S.C. 2672. Violation of this prohibition will subject the attorney to a fine of not more than $2,000 or imprisonment for not more than 1 year, or both. When a claimant is represented by an attorney, the voucher for payment shall designate as "payee" both the claimant and claimant's attorney and the check shall be delivered to the attorney whose address shall appear on the voucher.

(e) *Setoff for cost of unauthorized medical treatment.* In any tort claim administratively settled or compromised where the claimant owes the Veterans Administration for unauthorized medical treatment, there will be included in the tort claim award the amount of the claimant's indebtedness to the Government. The amount of the indebtedness is for credit to the appropriation account from which the services were provided. The voucher prepared for settlement of the claim will specify the amount to be deposited to the credit of the designated account and that the balance of the award be paid to the claimant.

13. Sections 14.609 and 14.610 are revised to read as follows:

§ 14.609 Tort suits following denial of an administrative tort claim.

Where civil action against the United States follows denial of an administrative claim, the General Counsel, upon receipt of notice of the action, will furnish to the Department of Justice a copy of the investigation report and other related materials obtained in connection with the consideration of the administrative claim previously submitted to the agency. The General Counsel will instruct the District Counsel to forward to the appropriate U.S. Attorney the investigation report and other related materials, including medical records and any other information, which may be appropriate to the litigation. The District Counsel will keep the General Counsel

advised of subsequent developments, and will render assistance as requested by the U.S. Attorney and the General Counsel with respect to the defense of the suit.

§ 14.610 Suits against Veterans Administration employees arising out of the operation of motor vehicles or based upon medical care and treatment furnished in or for the Department of Medicine and Surgery.

(a)(1) Section 2679 of title 28, United States Code, provides that no suit will lie against a Federal employee, or the employee's estate, for damage to property, personal injury, or death resulting from his or her operation of a motor vehicle while acting within the scope of his or her office or employment with the Federal Government. An action against the United States under 28 U.S.C. 2671–2680 is the exclusive remedy under these circumstances.

(2) Section 4116 of title 38, United States Code, provides that (i) where there is remedy against the United States under 28 U.S.C. 2671–2680, or (ii) where proceedings for compensation or other benefits from the United States are provided by law, and the availability of such benefits precludes a remedy under 28 U.S.C. 2671–2680 (as is the case, for example, in the Federal Employees' Compensation Act, 5 U.S.C. 8101, et seq.), such recourse is the exclusive remedy for property damage, personal injury, or death allegedly occurring as a result of malpractice or negligence committed by a physician, dentist, nurse, physician's assistant, dentist's assistant, pharmacist or paramedical (for example, medical and dental technicians, nursing assistants, and therapists), or other supporting personnel, while furnishing medical care and treatment in the exercise of duties in or for the Department of Medicine and Surgery. Accordingly, a malpractice or negligence suit for property damage, personal injury, or death will not lie against such personnel under the circumstances set forth in this subparagraph.

(b) The Department of Justice will defend any civil action or proceeding brought in any court against persons referred to in paragraph (a) (1) or (2) of this section under the circumstances set forth therein. Accordingly, when a suit is filed against any employee of the Veterans Administration (1) as a result of the employee's operation of a motor vehicle incident to employment with the Government, or (2) as a result of furnishing medical or dental care and treatment in or for the Department of Medicine and Surgery, the employee shall immediately forward a copy of all papers served on him or her to the District Counsel having jurisdiction over the area in which the employee works. The employee will also promptly forward to the appropriate District Counsel a signed statement indicating whether he or she desires the Department of Justice to provide representation, and to otherwise protect his or her interests as provided for by law. Even though there may not have been service, if an employee learns that a suit arising from either of the above-described circumstances has been filed against him or her, the employee shall immediately so advise the appropriate District Counsel, provide the District Counsel with a brief description of the facts unsolved, and state whether he or she desires Federal intervention.

(c) Upon receipt of notice that suit has been filed against an employee of the Veterans Administration who is entitled to protection under 28 U.S.C. 2679 or 38 U.S.C. 4116, the District Counsel having jurisdiction over the place where the employee works will conduct a preliminary investigation, which will include an affidavit by the employee's supervisor as to whether the defendant-employee was acting in the scope of his or her employment at the time of the incident, and a request from the defendant-employee for representation. The affidavit will contain a factual description of the employee's duties and responsibilities at the time of the incident and should describe the incident in question. Upon receipt of such information, the District Counsel will make a preliminary determination as to whether such suit comes within the provisions of either 28 U.S.C. 2679 or 38 U.S.C. 4116. The District Counsel will refer the matter to the appropriate U.S. Attorney with a recommendation as to whether the employee is eligible for protection under 28 U.S.C. 2679 or 38 U.S.C. 4116. The U.S. Attorney will decide whether the Veterans Administration employee is eligible for the protection. The District Counsel will submit to the General Counsel a preliminary report in duplicate containing the information furnished the U.S. Attorney. In all such cases, the District Counsel will conduct a complete investigation of the facts and law. Two copies of the investigation report will be sent to the General Counsel and one copy will be sent to the appropriate U.S. Attorney. The General Counsel, through the District Counsel, will keep the employee advised of the action being taken concerning the suit. In the event that the U.S. Attorney or the Department of Justice determines that the employee is not eligible for immunization pursuant to one of the aforementioned provisions, the General Counsel's office, through the District Counsel, will advise the employee and will call to his or her attention the discretionary conditional indemnification provisions of section 4116(e) of title 38, United States Code.

(d) Where a civil action is commenced in a State court against a Veterans Administration employee, and the matter is within the purview of either 28 U.S.C. 2679, or 38 U.S.C. 4116, the Department of Justice will be asked to remove such suit to the appropriate Federal District Court before trial, where it will be deemed an action against the United States. The defendant employee will be dismissed from the suit. After such removal, the United States has available all defenses to which it would have been entitled if the action had originally been commenced against the United States in the proper Federal District Court. Should a Federal District Court determine that the Veterans Administration employee whose acts or omissions gave rise to the suit was not acting within the scope of his or her office or employment, and therefore not eligible for immunization as provided for in the aforementioned sections, the case will be remanded to the State court from which it was removed, the employee will be reinstated as the defendant, and the United States will be dismissed from the suit. Where the employee has been reinstated as the defendant under such circumstances, in order to protect any rights which he or she may have under 38 U.S.C. 4116(e), he or she shall immediately notify the General Counsel, through the local District Counsel. Through the District Counsel, the General Counsel will call the employee's attention to the discretionary conditional indemnification provisions of section 4116(e).

(e) Under the authority of 38 U.S.C. 4116(e), the Administrator of Veterans Affairs may pay for monetary damages sustained by or assessed against an individual (or his or her estate) described in paragraph (a)(2) of this section, as the result of any suit instituted against such individual which is not cognizable under the provisions of 28 U.S.C. 2671–2680 because the individual was assigned to a foreign country, the said individual was detailed to a State or political division thereof, or the cause of action was specifically excluded under the provisions of 28 U.S.C. 2680(h): *Provided*, That the amount of damages sustained is reasonable when compared with similar cases, litigated or settled, and the United States was given a reasonable opportunity to defend such individual and to participate in settlement negotiations.

14. In § 14.615, paragraphs (b) and (c) are revised to read as follows:

§ 14.615 General.

* * * * *

(b) *Action by claimant.* Claims for property loss or damage may be filed by the owner of the property or his or her duly authorized agent or legal representative. If the property was insured and the insurer is subrogated, in whole or in part, and if both the owner and the insurer desire to file a claim for their respective losses they should join in one claim. Claims for personal injury may be filed by the injured person or his or her agent or legal representative. Claims for death may be filed by the personal representative of the decedent or any other legally qualified person. When filed by an agent or legal representative, the claim must show the title or capacity of the person representing the claimant and be accompanied by evidence of the appointment of such person as agent, legal representative, executor executrix, administrator/administratrix, guardian or other fiduciary.

(c) *Time for filing.* A claim may not be allowed under 38 U.S.C. 236 unless it is presented to the Administrator or his or her designee within 2 years after the claim accrues.

V 42 159 AUG 17 77 UMI

15. In § 14.616, paragraph (b) is revised to read as follows:

§ 14.616 Form and place of filing claim.

* * * * *

(b) *Place of filing claim.* Claims arising in the Philippines under 38 U.S.C. 236 will be filed with the Director, Veterans Administration Regional Office, Manila, Republic of the Philippines. Claims arising in other foreign countries will be filed with the American Embassy or Consulate nearest the place where the incident giving rise to the claim took place.

* * * * *

16. In § 14.617, paragraph (a) is revised to read as follows:

§ 14.617 Disposition of claims.

(a) *Disposition of claims arising in Philippines.* All claims arising under 38 U.S.C. 236 in the Philippines, including a complete investigation report and a brief resume of applicable law, will be forwarded directly by the Director to the General Counsel, together with a recommendation as to disposition.

* * * * *

17. In § 14.618, paragraphs (a), (b) and (c) are revised to read as follows:

§ 14.618 Collection action.

(a) In a case where the District Counsel determines that damage to or loss of Government property under the jurisdiction of the Veterans Administration resulted from the negligence or other legal wrong of a person, other than an employee of the United States while acting within the scope of his or her employment, the District Counsel will request payment in full of the amount of damage from the person liable therefor or such person's insurer.

(b) The District Counsel may collect, compromise, suspend or terminate collection action on any such claim as is authorized under § 2.6(e)(4)(ii) of this chapter, in conformity with standards in § 1.900 series of this chapter. Any such claim that has not been collected in full and which has not been compromised, suspended or terminated and does not exceed $20,000, will be referred by the District Counsel to the appropriate U.S. Attorney along with the information required by §§ 1.951 through 1.953 of this chapter. Any claim in excess of $20,000 for which payment in full has not been made, will be transmitted along with the report required by § 14.605(a)(2)(i), a report on credit data (§ 1.952 of this chapter), and any other pertinent information, to the General Counsel for appropriate action.

(c) The General Counsel or those designated in § 2.6(e)(4) of this chapter will take action to collect in full on such claims and to compromise, suspend or terminate any such claims not exceeding $20,000 in conformity with § 1.900 series of this chapter. Any such claims not compromised, or on which collection actions is not suspended or terminated and does not exceed $20,000, will be referred to the appropriate U.S. Attorney. Any such claims in excess of $20,000, which have not been collected in full, will be referred by the General Counsel to the Department of Justice for appropriate action.

* * * * *

18. A new centerhead and § 14.619 are added to read as follows:

CLAIMS FOR COST OF MEDICAL CARE AND SERVICES.

§ 14.619 Collection action.

(a) In a case where the District Counsel determines that medical care and services were furnished as a result of the negligence of a third party, other than an employee of the United States while acting in the scope of his or her employment, the District Counsel will request payment in full of the amount of damages from the person liable therefor or such person's insurer.

(b) The District Counsel may collect, compromise, suspend or terminate collection activity on any such claim as is authorized under § 2.6(e)(3) of this chapter. However, claims in excess of $20,000 may be compromised, settled, or waived only with the prior approval of the Department of Justice, which will be obtained through the General Counsel. Any such claim that has not been collected in full and which has not been compromised, suspended or terminated will be referred by the District Counsel to the appropriate U.S. Attorney along with appropriate information necessary to protect the interest of the Government. A copy of the referral to the U.S. Attorney will be sent to the General Counsel's office.

(c) In a case where the District Counsel determines that a claim is appropriate under the provisions of § 17.48(d) of this chapter for the cost of medical or hospital care furnished pursuant to § 17.47 (c)(1), (d), or (f) of this chapter to persons who are otherwise entitled to hospital care or medical or surgical treatment or to reimbursement for all or part of the cost thereof by virtue of any one or more of the following: Membership in an organization, rights under any medical insurance plan, or a medical rider on an automobile insurance policy, or by reason of a no-fault or worker's compensation or employer's liability or similar statute, State or Federal; right to maintenance and cure in admiralty; statutory or other relationship with third parties, including circumstances where the Veterans Administration is a third party beneficiary of a contract; the District Counsel may collect, compromise, suspend or terminate collection activity on any such claim not exceeding $20,000. Claims in excess of $20,000 may only be compromised, settled or waived with the approval of the Department of Justice, which will be obtained through the General Counsel. Any such claim not compromised, or on which collection action is not suspended or terminated, will be referred to the appropriate U.S. Attorney with sufficient data to enable that office to protect the interest of the Government. A copy of all materials referred to the Department of Justice will be furnished the General Counsel.

19. In § 14.620, paragraphs (b), (c), (d) and (e) are revised to read as follows:

§ 14.620 Power of attorney and delegation of authority.

* * * * *

(b) *Execution of power of attorney and delegation of authority.* The Director of a regional office will from time to time designate appropriate employees to be named in appropriate instruments commonly referred to as Power of Attorney, VA Form 2–23. The Loan Guaranty Officer, if any, will be one designee. At all times one additional employee shall be authorized to act by such power of attorney. Three copies of VA Form 2–23 will be filled in by the District Counsel for each designee and forwarded to the General Counsel who will secure execution and acknowledgment of two copies by the Administrator. One copy will be retained in Central Office file; the two executed copies will be returned direct to the District Counsel.

(c) *Revocation of power of attorney.* Any such power of attorney will be revoked promptly when, in the discretion of the Director, cause therefor arises; and in any event upon the designee's separation from the position of a loan guaranty official or from the service, and all executed copies of VA Form 2–23 designating such person will be marked "Canceled" and forwarded to the Office of the General Counsel. The District Counsel upon notification will prepare VA Form 2–24 accordingly and secure execution and acknowledgment thereof in like manner. It will be recorded in each county, if any, in which the power of attorney was recorded. All such copies of VA Form 2–24, whether executed heretofore or hereafter, shall be returned as promptly as feasible to the Office of the General Counsel by the District Counsel, with statement that a copy thereof was recorded in each county in which the revoked power of attorney was recorded. If the power of attorney has not been recorded, the District Counsel will so state when returning "Canceled" copies to the Office of the General Counsel. In such cases only one copy of the revocation will be executed and acknowledged by the Administrator, and it will be retained in the Office of the General Counsel.

(d) *Recordation.* VA Form 2–23 or VA Form 2–24 may be filed for record when in the judgment of the District Counsel it is appropriate to do so. If not so filed, any interested person may have the original recorded by the District Counsel upon payment of the recording fee therefor, or by including the amount thereof in the purchase price of the property, as may be agreed.

(e) *Recordation fee.* The Loan Guaranty Division is responsible for payment of the recordation fee when recordation is requested by Loan Guaranty Officer and approved by the District Counsel. Payment contemporaneously with filing for record may be accomplished by advance of cash.

20. In § 14.626, paragraph (a)(2) is revised to read as follows:

§ 14.626 Requirements for recognition of organizations.

* * * * *

(a) In requesting recognition, the following information will be supplied:

* * * * *

(2) Statement outlining the purpose of the organization and need thereof and the manner in which the veteran or his or her dependent would be benefited by such recognition.

* * * * *

21. In § 14.627, the introductory portion preceding paragraph (a) and paragraphs (a) and (c) are revised to read as follows:

§ 14.627 Accredited representatives.

Recognized organizations shall file with the Veterans Administration on the prescribed form furnished by the Veterans Administration (VA Form 2–21, Application for Accreditation as Service Organization Representative) the name of any person whom they desire recognized as accredited representative thereof. In recommending a person for recognition as a representative, the organization, through its appropriate officer, shall certify to the following: That the designee is a citizen of the United States, of good character and reputation, is qualified by ability and experience to present claims, is a member of such organization in good standing, or a full-time, paid employee thereof; and that the major portion of his or her time will be devoted to the preparation or presentation of claims for that organization or other organizations to which the designee may be accredited or that the designee is a national officer of the organization requesting accreditation; whether accredited to any other recognized organizations, and, if so, the name or names thereof; that the designee is not now employed in any civil or military department or agency of the United States and was or was not so employed within 2 years next preceding the date of recommendation for accreditation; if a veteran, the nature of discharge or separation from the active service. An accredited representative, who is a full-time paid employee of a recognized organization may, upon proper application, be accredited as a representative of another recognized organization or organizations without being a member or employee thereof but such accreditation shall be automatically canceled upon termination of employment. Recommendations for accreditation of representatives of National service organizations will be accepted only if approved by the national certifying officer of such organization; those of State organizations only if approved by the Director or higher officer of the organization.

(a) The recommendation for accreditation (VA Form 2–21) executed by a National organization or by a recognized State organization will be filed with the Office of the General Counsel. A recommendation received in Central Office may be sent to the appropriate regional office, if necessary, to secure sufficient facts to justify a determination whether the designee is qualified. The report of the District Counsel including the recommendation, if any, of the Director, together with VA Form 2–21 will be transmitted to the General Counsel, who will approve or disapprove the recommendation. If the designee is approved, FL 2–88, Notice of Approval as Accredited Representative, or FL/2–89, Notice to Accredited Representative of Supplemental Accreditation, will be issued by the General Counsel.

* * * * *

(c) Recognition of an accredited representative will be canceled at the request of the organization. A Director may suspend recognition in any case for cause, sending a report to Central Office, attention of the General Counsel, for final determination.

* * * * *

22. Section 14.628 is revised to read as follows:

§ 14.628 Powers of attorney.

(a) Before an organization may be recognized in an individual claim, there must be filed a power of attorney (VA Form 23–22, Appointment of Service Organization as Claimant's Representative) duly executed by the claimant specifically conferring upon the organization the authority to represent the claimant in the presentation of his or her claim, and to receive information in connection therewith, which power of attorney shall be presented to the Veterans Administration office concerned to be filed in the veteran's folder. The claimant may also authorize release to a local organization of information necessary to develop his or her claim and as to action thereon. The power of attorney must be signed by the claimant, or by the guardian, if any, or, in case of an incompetent without guardian, by spouse, parent, or other near relative (if interests are not adverse), or Director of hospital in which veteran is maintained. An organization which has filed a power of attorney in the case of a veteran shall, in the event of death of the veteran, and if the organization so desires, be recognized for a reasonable period thereafter to enable the new claimant or claimants to execute a new power of attorney or to state that none is desired.

(b) Upon receipt of the power of attorney, the organization named therein shall be recognized as the sole agency for the presentation of the claim covered thereby, and no other organization, agent, or attorney shall be recognized in the presentation of that claim or any phase thereof. The power of attorney given by the claimant may be revoked by him or her at any time and a subsequent power of attorney substituted, designating another organization, agent, or attorney; a subsequently executed power of attorney shall constitute a revocation of any existing power of attorney. Likewise, a power of attorney may be revoked by the organization named therein.

(c) Where, a veteran is temporarily incapacitated through illness or injury and unable to execute a power of attorney, the veteran's spouse or other next friend (if her or his interests are not adverse to that of the veteran) may execute a power of attorney, VA Form 23–22, appointing a service organization to act in the prosecution of the veteran's claim before the Veterans Administration. Such power of attorney shall remain effective during the period of the veteran's temporary incapacity. Upon regaining capacity the veteran should either execute a new power of attorney or notify the Veterans Administration in writing of the revocation of the power of attorney executed by the spouse or other next friend during the veteran's temporary incapacity. In the event that a guardian is appointed by a court of competent jurisdiction the foregoing power of attorney shall terminate and it will be necessary for the guardian to execute a new power of attorney, VA Form 23–22, reappointing the service organization to act for the veteran. This paragraph applies only to cases in which there has been no rating or other determination of mental incapacity on the part of the veteran.

(d) A parent and natural guardian of a minor child of a veteran or other person having custody of said minor, provided there is no legally appointed guardian, may execute a power of attorney, VA Form 23–22, appointing a service organization to act for said minor in the prosecution of his or her claim before the Veterans Administration. Such power of attorney shall remain in effect until the minor attains his or her 18th birthday or such later date as the minor may be eligible for benefits from the Veterans Administration or until he or she attains his or her majority under the law of the State of domicile, whichever is the earlier. In the event that a guardian is appointed by a court of competent jurisdiction the foregoing power of attorney shall terminate and it will be necessary for the guardian to execute a new power of attorney, VA Form 23–22, reappointing the service organization to act for the minor.

23. In § 14.629, paragraphs (a) and (b) (1) and (4) are revised to read as follows:

§ 14.629 Recognition of attorneys and agents.

(a) Claim agents will be granted recognition and certified by the Office of the General Counsel upon satisfactory evidence of qualification, including good reputation and knowledge of applicable law and procedure. Upon presentation to the General Counsel of a letter requesting recognition by the Administrator as an agent, any competent person of good moral character and of good repute who is a citizen of the United States, or who has declared an intention to become such a citizen, and who is not engaged in the practice of law may be recognized as an agent to represent claimants before the Veterans Administration, if the recognition is not precluded by any statutory or regulatory provision and such person has never been convicted, whether on trial or plea, of a serious penal offense, or of any violation of any penal provisions respect-

V 42 159 AUG 17 77 UMI

ing fees. Applicants for recognition as agents may be required to prove their fitness to render substantial service by undergoing a written examination testing their knowledge of the laws administered by the Veterans Administration and regulations promulgated thereunder.

(b) (1) The submission of a written declaration by a person stating that he or she is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia and that he or she is authorized to represent a particular claimant will, in the absence of contrary evidence, entitle such person to represent the claimant before this agency. The submission of the requisite declaration entitles the attorney to have access to the information in Veterans Administration files which would be available to the claimant as authorized by §§ 1.503 and 1.504 of this chapter. The additional submission of written authorization to inspect Veterans Administration records, signed by the claimant, will further entitle the attorney to have access to information and Veterans Administration files, as authorized by § 1.525 of this chapter. No particular form for the written authorization is required, nor are witnesses necessary.

• • • • •

(4) Any question as to the current qualification of a person under this paragraph shall be referred to the appropriate District Counsel for initial determination. Said determination may be appealed to the General Counsel by any interested party.

24. Section 14.630 is revised to read as follows:

§ 14.630 Agent affiliated with organizations.

The policy of the Veterans Administration precludes the recognition as an agent, of any person who is an officer or employee, appointive or elective, of any veteran, welfare, or State, county, or municipal organization engaged in assisting claimants in presenting claims before the Veterans Administration without fee or emolument, except that any person holding such office whose duties do not include actual assistance in the presentation of claims before the Veterans Administration may be recognized but will be precluded while holding such office from receiving a fee for services rendered as an agent in the presentation and prosecution of claims for benefits administered by the Veterans Administration. Furthermore, it is contrary to the policy to permit an agent to transact claims business from or at an office from or at which a veteran or welfare organization, or an agency of a State or other political subdivision, carries on its work incident to assisting claimants in presenting claims before the Veterans Administration or to use the stationery of such organization or agency in transacting claims business.

25. Section 14.635 is redesignated 14.632 and revised to read as follows:

§ 14.632 Suspension and revocation of recognition.

Whenever information is received that an attorney or agent recognized by the Veterans Administration is or has engaged in unlawful, unprofessional, or dishonest practice, or is incompetent, or has violated or refused to comply with the laws, regulations, and rules governing his or her recognition before the Veterans Administration, or who shall in any manner deceive, mislead, or threaten any claimant or prospective claimant by word, circular, letter, or advertisement, the General Counsel shall give the accused attorney or agent due notice with a statement of the charge or charges against the attorney or agent, which statement shall be sufficiently specific to permit the accused intelligently to make answer thereto, and shall cite said attorney or agent to show cause within 30 days, which time limit may be extended, why his or her recognition should not be suspended or revoked. Where deemed proper, the recognition of an attorney or agent may be temporarily suspended without notice, pending action as provided in this section.

26. Section 14.636 is redesignated 14.633 and reads as follows:

§ 14.633 Time allowed in answering charges preferred.

If said attorney or agent shall fail to file an answer or other pleading within the time specified, such charge or charges will be taken as confessed and judgment may be rendered as upon default.

27. Section 14.637 is redesignated 14.634 and revised to read as follows:

§ 14.634 Answer to charges.

If an answer, under oath, is filed denying the charges, or so explaining them as to raise an issue thereon, a time and place shall then be set for the taking of testimony. The testimony shall be taken at as convenient a place as possible for both the Government and the defendant, and notice shall be served on the defendant informing said defendant of the time and place at which testimony will be taken for the Government, in order that the defendant may be present and cross-examine the witnesses. Testimony shall be reduced to writing and be signed by the witnesses, unless otherwise stipulated, and may be taken before a District Counsel, attorney examiner, or other officer or agent of the Veterans Administration designated by the General Counsel for that purpose. The testimony, together with any brief desired to be presented by the person charged, will be considered by a board designated for such purpose, which shall recommend to the General Counsel the action to be taken. If the charge or charges be sustained and the General Counsel concurs in the recommendation, the General Counsel will suspend or revoke the recognition of such attorney or agent, or take such other action thereon as the facts warrant.

28. Sections 14.638 and 14.639 are revised to read as follows:

§ 14.638 Acts subjecting recognized attorneys or agents to suspension or revocation.

The recognition of any attorney or agent will be subject to suspension or revocation if such attorney or agent knowingly commits or is guilty of any of the following acts, to wit: (a) Presents or prosecutes a fraudulent claim against the United States or the Veterans Administration; (b) demands or accepts any unlawful compensation for preparing, presenting, or prosecuting any claim before the Veterans Administration or for advice or consultation concerning such a claim; (c) with intent to defraud has in any manner deceived, misled, or threatened any claimant or prospective claimant by word, circular, letter, or advertisement; (d) who, in the presentation or prosecution of, or in connection with, any matter or business pending before said Veterans Administration, has as an associate, or employs as an agent, subagent, or correspondent, any person who has been guilty of any of the abovementioned acts, or who has been denied recognition, or whose recognition has been suspended or revoked by the Veterans Administration, or who acts as the associate, agent, subagent, or correspondent of any such person; or who is otherwise and in any manner whatever guilty of dishonest or unprofessional conduct.

§ 14.639 Rules of recognition.

No person other than an accredited representative of a recognized organization shall be recognized in the preparation, presentation, or prosecution of any claim under statutes administered by the Veterans Administration, unless he or she has been recognized as an attorney or agent pursuant to these regulations, except (a) that any person (who is a citizen of the United States, or a resident of the United States or of one of its possessions) may be recognized for the purpose of a particular claim upon filing with the office where such claims folder is located a proper power of attorney and a statement signed by such person and the claimant that no fee or compensation of whatsoever nature shall be charged or paid for the services rendered, and, except (b) in claims for insurance benefits under a contract in which the Government admits liability on the contract, there is no issue or contest as to the designated beneficiary, and it is reasonably apparent that the attorney or agent will not charge a fee. In the first class of cases the attorney should be advised by letter regarding the requirements of being recognized in a particular claim or generally. In the latter class of cases, a paragraph substantially as follows should be incorporated in the letter acknowledging receipt of the claim:

The evidence submitted by you in connection with the claim for insurance benefits in the instant case has been received, and an adjudication of the claim for benefits will be made as expeditiously as possible. It

is understood, of course, that you are not entitled to any fee for services performed by you in connection with the preparation and presentation of this claim, inasmuch as you have not been regularly recognized to present claims before the Veterans Administration by the Administrator of Veterans Affairs.

29. Section 14.642 is revised to read as follows:

§ 14.642 Diligence or neglect on part of attorney or agent.

An agent or attorney shall be required to exercise due diligence in all claims in which he or she is recognized. Neglect to prosecute a claim for 6 months or failure to furnish evidence called for by the Veterans Administration within 90 days shall be held, in default of cause shown, presumptive evidence of the abandonment of all attorneyship rights in the claim.

30. Section 14.646 is revised to read as follows:

§ 14.646 Change of guardianship during pendency of claim.

A change of guardianship in any case during pendency of a claim shall not affect the question of attorneyship and fee, but no attorney fee shall be allowed to a guardian who prosecutes the claim of his or her ward, or to a firm of attorneys of which the guardian is a member.

31. Sections 14.649, 14.650 and 14.651 are revised to read as follows:

§ 14.649 Advertising and solicitation of claims.

Every agent shall submit to the General Counsel, in duplicate, copies of all proposed forms and letterheads intended for use in connection with business before the Veterans Administration, and the General Counsel will notify such agent as to approval or disapproval. The use by an attorney or agent of the characters "U.S." or the words "United States" as a part of his or her title or the title of his or her business shall not be permitted. The publication or circulation of ordinary simple business cards, being a matter of personal taste or local custom, and sometimes of convenience, is not of itself improper, but solicitation of business by circulars or advertisements, or by personal communications or interviews, not warranted by personal relations, is unprofessional and will render an attorney or agent liable to suspension, disbarment or revocation.

§ 14.650 Expenses incurred by attorney or agent in the prosecution of claims.

When an agent, attorney, or other person incurs any expense in the prosecution of a claim, a sworn itemized account of such expense must be filed with the Veterans Administration to be retained in the claims folder as part of the permanent record and the approval thereof secured, before demanding or receiving reimbursement from the claimant, by the adjudicating officer, or designee. Notice of the action taken in all cases shall be transmitted to the attorney concerned by the service handling the claim.

§ 14.651 Solicitation of fees.

Attorneys or agents shall not, directly or indirectly, solicit, contract for, charge, or receive, or attempt to solicit, contract for, charge, or receive any fee or compensation whatsoever for advice or consultation concerning the laws administered by the Veterans Administration and the regulations, rules based thereon, or for service to claimants thereunder, except such fee or compensation as is herein provided, whether a claim has been or is thereafter filed, or no claim is filed for the person in whose behalf such advice or consultation is given or held or service rendered. Any agent or attorney who shall so do shall thereby subject his or her recognition by the Veterans Administration to suspension or revocation and be subject to the applicable penal provisions of the law.

32. Section 14.657 is revised to read as follows:

§ 14.657 Approval of fees by Veterans Administration.

The fee provided in § 14.655 shall be due and payable only upon the approval of the claim by the Veterans Administration and then only in the event the attorney or agent has rendered material service in the prosecution of the claim. The filing of the claim may be considered as rendering material service if the attorney or agent is not in neglect but renders all the service necessary to complete the same, that is, where the attorney or agent has done all that he or she was called upon to do, or could do, even if it be the filing of the application alone, he or she is entitled to be paid the attorney's fee if one be provided in such case.

33. Section 14.663 is redesignated 14.660 and reads as follows:

§ 14.660 Banks or trust companies acting as guardians for veterans.

Banks or trust companies, corporate entities, acting as guardians for claimants, may be represented before adjudicating agencies as authorized representatives of claimants by an officer or employee thereof, including a regularly employed attorney, if such employee or attorney represents the corporation in its fiduciary capacity, but no fee may be allowed for such services under § 14.646.

34. Section 14.664 is revised to read as follows:

§ 14.664 Scope of authority and effective date.

Pub. L. 88–558 (78 Stat. 767), approved August 31, 1964, as amended, authorizes the Administrator or the Administrator's designee to settle and pay a claim for not more than $15,000 made by a civilian officer or employee of the Veterans Administration for damage to, or loss of personal property incident to such person's service. Authority is delegated by § 2.6(e)(5) of this chapter to the General Counsel, Deputy General Counsel, Assistant General Counsel (Professional Staff Group I), and the Deputy Assistant General Counsel, of said staff group and the District Counsel and those acting for them to settle and pay such claims on behalf of the Administrator, and such settlement shall be final and conclusive.

35. In § 14.665, paragraphs (a) (introduction), (a)(3) and (c) are revised to read as follows:

§ 14.665 Claims.

(a) The claim must be presented in writing on VA Form 2–4760, Employee's Claim for Reimbursement for Personal Property Damaged or Lost Incident to Employment. It will be submitted to the personnel office where the claim originates within 2 years after it accrues except that if the claim accrues in time of war or in time of armed conflict in which any Armed Force of the United States is engaged or if such war or armed conflict intervenes within 2 years after it accrues, and if good cause is shown, the claim may be presented not later than 2 years after that cause ceases to exist. The claim must be executed and certified by the officer or the employee suffering the loss or damage, or in the event of his or her death, by the surviving spouse, children, father or mother or both, or brothers or sisters or both. Claims of survivors shall be settled and paid in the order named. All claims must contain the following:

• • • • •

(3) A statement as to any claim or potential claim he or she may have for indemnification of the loss or damage against other than the United States and whether he or she will assign such to the United States and cooperate in its prosecution. Where such claim or potential claim is against a carrier or insurer, evidence that a timely claim has been properly made. Where a recovery from the carrier or his or her insurer has been obtained or offered, such information shall be included.

• • • • •

(c) The employee designated pursuant to § 14.605 will ascertain if such claim is complete in all respects and conduct such investigation as is necessary to establish all facts required to properly evaluate the claim both as to merit and the reasonable amount payable for the loss or damage. Where it is indicated that the claimant may have a potential claim against other than the United States, the employee designated will secure a suitable assignment of all right and title to such claim, to the extent the United States makes reimbursement, and the agreement of the claimant to furnish such evidence as may be necessary to pursue such claim. If the potential claim is against a carrier or insurer, the employee designated will ascertain that the claimant has filed a timely proper claim and procure evidence thereof. The employee designated will also include information concerning any offer of settlement the carrier may have made. The completed investigation, original claim and supporting evidence will be forwarded to the appropriate District Counsel.

V 42 159 AUG 17 77 UM

36. Section 14.666 is revised to read as follows:

§ 14.666 District Counsel responsibility.

(a) The District Counsel having jurisdiction will conduct such additional investigation as is deemed necessary to establish all facts required. If the claimant has a potential claim for indemnification against other than the United States, the District Counsel will ascertain that a suitable assignment, legally enforceable, of all right and title to such claim, to the extent the United States makes reimbursement, and the agreement of the claimant to furnish such evidence as may be necessary to pursue such claim is of record. If such potential claim is against a carrier or insurer, the District Counsel will ascertain that claimant has filed a timely proper claim against the carrier or insurer and review same for legal sufficiency.

(b) The District Counsel having jurisdiction over a claim will not authorize payment thereon unless the requirement of §§ 14.664 through 14.667 are met. In determining the equitable value of a claim, the depreciation schedule issued by the General Counsel will be used as a guide.

37. In § 14.667, paragraph (a) (2) and (4) is revised to read as follows:

§ 14.667 Claims payable.

(a) No claim shall be paid unless timely filed in proper form as provided in § 14.665 and the preponderance of the evidence establishes that the loss or damage:

* * * * *

(2) Was incident to the employee's service and his or her possession of the property was reasonable, useful, or proper under the circumstances.

* * * * *

(4) Was not caused wholly or partly by the negligent act of claimant, the claimant's agent, or employee, and that the claimant has no right to indemnification for the loss or damage from other than the United States, except to the extent that the claimant assigns such right to the United States and agrees to furnish evidence required to enable the United States to enforce such right. In the event there is a right to recovery for the loss or damage from a carrier or insurer the claimant will be required to file a timely claim for such recovery before consideration of the claim against the United States.

* * * * *

38. In § 14.668, paragraph (b)(2) is revised to read as follows:

§ 14.668 Disposition of claims.

(b) *Allowed claims.* * * *

(2) *Reimbursement by check.* The official authorizing settlement will forward allowed claims, other than those requiring reimbursement in kind, to the Finance activity at the Veterans Administration installation where the claim arose. That activity will audit the claim, which if found proper for payment, will be scheduled on SF 1166, Voucher and Schedule of Payments, and forwarded to the appropriate Regional Disbursing Office for payment.

39. A centerhead and §§ 14.700 through 14.709 are added to read as follows:

COMMITMENTS—FIDUCIARIES

§ 14.700 Court cost and expenses; commitment, restoration, fiduciary appointments.

Counsel to assure the protection of the veteran, his or her beneficiaries, and their estates in State court proceedings involving commitment and restoration, and the appointment of fiduciaries. To this end, certain expenses such as court costs, publication fees, recording fees, transportation expenses and fees for medical testimony may be authorized by the District Counsel. Payment of these costs will be borne by the department concerned. However, every effort will be made by the District Counsel to avoid having these costs imposed on the Veterans Administration. The travel and per diem cost of the District Counsel personnel will be borne by the District Counsel.

§ 14.701 Commitment and restoration proceedings.

(a) *State institutions.* District Counsels are authorized to cooperate with State courts, including the production of required records, in the commitment of veterans to State hospitals or in their restoration to full civil rights.

(b) *Veterans Administration institutions—(1) Assistance to courts in commitment proceedings.* The District Counsel will render assistance to the courts in cases involving the commitment of mentally ill veterans to the Veterans Administration. To this end, the District Counsel may:

(i) Produce Veterans Administration records.

(ii) Appear in court and present material facts.

(iii) When authorized to institute commitment proceedings under paragraph (b)(2) of this section, prepare and present all necessary legal papers, and arrange and authorize transportation costs of veterans and attendants at Veterans Administration expense (§§ 14.703 and 14.704).

(2) *Commitment proceedings.* If a mentally ill veteran will accept hospitalization voluntarily, no action will be initiated by any Veterans Administration employee to commit such veteran. If the veteran will not accept hospitalization, or after being voluntarily hospitalized by the Veterans Administration demands his or her release, and hospitalization is necessary for the veteran's safety or the safety of others, the District Counsel (if a relative of the veteran or other interested person has not done so) may institute proceedings to commit the veteran to the Veterans Administration subject to the following conditions:

(i) That the written consent of the veteran's nearest relative has been obtained. If the nearest relative cannot be readily contacted or refuses to consent, coupled with inability or refusal to offer adequate alternative care, the District Counsel may initiate the action if the petition is signed by another relative, a civil official or representative of a cooperating agency or other person authorized by State law.

(ii) If timely action cannot be taken under paragraph (b)(2)(i) of this section, the Hospital or Clinic Director, or designee, may sign the petition if permissible under State law, and the District Counsel will then take any action necessary to bring the matter before the appropriate court.

(3) *Illegal commitment.* When a hospitalized veteran, previously committed to the Veterans Administration, demands release and continued hospitalization is necessary for the veteran's safety or the safety of others, and the District Counsel determines the commitment to be illegal, immediate action will be taken to obtain a legal commitment.

(4) *Restoration proceedings.* When a veteran has been a committed patient in a Veterans Administration hospital and is subsequently rated competent by the Veterans Administration, the District Counsel upon request, may institute proceedings necessary to restore the veteran to full civil rights.

§ 14.702 Medical testimony in commitment or restoration proceedings.

(a) *Commitment.* When permissible under State law, Veterans Administration physicians, upon request of the District Counsel, will sign interrogatories or certificates of mental illness or insanity and, unless unavailable, as provided in paragraph (c) of this section, will testify in proceedings which the District Counsel is authorized to institute under § 14.701 to commit eligible veterans to the Veterans Administration.

(b) *Restoration.* (1) When permissible under State law, Veterans Administration physicians, upon the request of the District Counsel, will testify in proceedings brought for the purpose of restoring a committed veteran to full civil rights when the veteran is a committed patient in a Veterans Administration hospital.

(2) The Director of a Veterans Administration hospital or the District Counsel upon discharge of the veteran, may furnish a certificate of sanity or such similar certificate to the proper civil authorities.

(c) *Employment of private physicians.* When testimony of Veterans Administration physicians is prohibited or is unavailable because of a duty assignment, comparative expense or other valid reason, the Director of the Veterans Administration hospital, upon recommendation of the District Counsel, may employ any qualified physician for preliminary examination of the veteran and for testimony in any commitment or restoration proceeding which the District Counsel is authorized to institute under § 14.701, and authorize the payment of a fee not to exceed the prescribed fee, or in the absence thereof, the customary fee charged for the service rendered.

§ 14.703 Costs in commitment or restoration proceedings.

(a) When authorized to institute a proceeding under § 14.701, the District Counsel may authorize in advance or thereafter the payment or reimbursement of costs and other expenses for which the veteran is legally liable, including publication of notice necessary to accomplish the commitment.

(b) The District Counsel also may authorize the payment of necessary costs and expenses for which the veteran is legally liable incident to his or her restoration to full civil rights in any case in which the District Counsel is authorized to institute restoration proceedings under § 14.701(b)(4).

§ 14.704 Authorization of transportation necessary for commitment of a veteran beneficiary.

When a mentally ill veteran who should be committed is hospitalized by the Veterans Administration and under the law of the State wherein the hospital is located, a commitment may not be had locally, the veteran may be returned temporarily to the jurisdiction of the appropriate court in order that the commitment can be accomplished. If the veteran is in a Veterans Administration hospital, the Hospital Director may authorize travel of the veteran and an attendant or attendants, if necessary, upon request of the District Counsel. If the veteran is being maintained in a non-Veterans Administration hospital, the Director of the facility authorizing and paying for the care may authorize such travel upon request of the District Counsel.

§ 14.705 Authority to file petitions for appointment of fiduciaries in State courts.

(a) *Adult beneficiary.* The District Counsel is authorized to file or cause to be filed on behalf of a petitioner in a case coming within § 14.706(a) a petition for the appointment of a fiduciary and all necessary legal papers for an adult beneficiary only if it has been determined that alternative methods of payment would not be to the best interests of the beneficiary and when the District Counsel has obtained the written consent of:

(1) The beneficiary's spouse.

(2) The beneficiary's adult child, parent, adult brother or sister if the beneficiary is unmarried, or consent of the spouse is immaterial because of estrangement or mental incapacity, or refusal to consent coupled with failure to offer adequate alternative means for providing for the beneficiary's needs.

(3) A civil official or representative of a cooperating agency when none of the relatives listed in paragraph (a) (1) and (2) of this section can be located after reasonable inquiry or those located are not mentally competent to consent or refuse without offering adequate alternative means for providing for the needs of the beneficiary.

(b) *Minor beneficiaries.* The District Counsel is authorized to file or cause to be filed on behalf of a petitioner in a case coming within § 14.706(a) a petition for the appointment of a fiduciary for a minor, if permissible under the law of the jurisdiction concerned and if it has been determined that protection of the minor's rights under laws administered by the Veterans Administration requires the appointment, provided: the written consent of the minor's natural or adoptive parent or parents or the person or persons occupying the relationship of "in loco parentis" as defined, by the law of the jurisdiction, in which they reside has been obtained. The District Counsel will not institute a court proceeding for the appointment of a fiduciary over the objections of such parent or parents if they are sui juris unless the parent or parents have abandoned the minor or have otherwise refused to meet their parental obligations toward the minor or they have previously been appointed or recognized as the minor's fiduciary and failed to properly execute the duties of their trust. If the minor has no parent or the parent or parents are not sui juris, the District Counsel may file the petition without the consent of any relative.

(c) *Court-appointed fiduciaries.* In court-appointed fiduciary cases, the District Counsel may appear in the court of appointment or in any court having original, concurrent, or appellate jurisdiction, and make proper presentation relating to the foregoing matters. The District Counsel's authority includes but is not limited to:

(1) Petitioning the court to cite a fiduciary to account;

(2) Filing exceptions to accountings;

(3) Requiring fiduciaries to file bonds or make any necessary adjustments;

(4) Requiring investments;

(5) Filing petitions to vacate or modify court orders;

(6) Appearing or intervening in any State court as attorney for the Administrator of Veterans Affairs in litigation instituted by the Administrator or otherwise affecting money paid to such fiduciary by the Veterans Administration;

(7) Incurring necessary court costs and other expenses, including witness fees, appeal bonds, advertising in any newspaper or other publication, preparing briefs or transcripts, purchase of records of trial or other records;

(8) Instituting any other action necessary to secure proper administration of the estate of a Veterans Administration beneficiary, such as filing petitions for the removal of a fiduciary and appointment of a successor;

(9) Taking appropriate action to recover funds improperly disbursed.

(d) *Appeal.* Unless a trial is de novo, no appeal shall be taken to an appellate court and no costs incurred in connection therewith without the prior approval of the General Counsel and the Chief Benefits Director or their designees.

§ 14.706 Legal services in behalf of beneficiaries.

(a) The District Counsel may furnish legal services in behalf of minor and incompetent beneficiaries of the Veterans Administration in fiduciary appointment and estate administration matters involving Veterans Administration benefits or property derived therefrom when the beneficiary's estate or income is not sufficient to justify the employment of an attorney.

(b) The District Counsel may also furnish legal services in hardship situations when restoration from legal disability is a condition precedent to direct payment of Veterans Administration benefits.

(c) Where the fiduciary does not in due course institute the necessary action to terminate the trust relationship and the beneficiary requests representation by the District Counsel or in any such case where there is in question the proper administration of the estate, the District Counsel may file the necessary action and supply legal services. Costs, unless assessed against the fiduciary, should be charged to the estate of the beneficiary.

§ 14.707 Authorization of transportation of a veteran beneficiary for appointment of a fiduciary.

When the appointment of a fiduciary is required for an incompetent veteran hospitalized by the Veterans Administration and, under the law of the State wherein the hospital is located, the appointment cannot be had locally, the veteran may be returned temporarily to the jurisdiction of the appropriate court in order that the appointment can be accomplished. If the veteran is in a Veterans Administration hospital, the Hospital Director, upon request of the District Counsel, may authorize travel of the veteran and an attendant or attendants, if necessary. If the veteran is being maintained in a non-Veterans Administration hospital, the Director of the facility authorizing and paying for the care may authorize such travel upon request of the District Counsel.

§ 14.708 Costs and other expenses incident to appointment of fiduciary.

(a) The District Counsel may authorize the payment of costs and other necessary expenses incident to the appointment of an initial or successor fiduciary for a Veterans Administration beneficiary when:

(1) Authorized to render legal services under § 14.706.

(2) Appointment was caused by the Veterans Administration and it develops that no benefits are payable and there is no estate from which costs may be paid.

(3) Costs must be advanced when there is no immediate estate from which same may be paid. These costs are to be recovered from benefits payable unless the case falls within paragraph (a)(1) of this section.

V 42 159 AUG 17 77 UM

(b) Costs and necessary expenses include:

(1) All those chargeable by statute or rule of court and certified by the clerk of court.

(2) Certified copies of court records required by the Veterans Administration.

(3) Fees for guardian ad litem when chargeable as court costs and required by State law.

§ 14.709 Surety bonds; court-appointed fiduciary.

(a) It is the policy of the Veterans Administration to require, where possible under State laws and rules of the court, corporate surety bonds in all court-appointed fiduciary cases where the fiduciary is an individual and the estate is sufficient to justify the expense of procuring a corporate surety bond. Corporate bonds may be required of corporate fiduciaries in accordance with State laws. In cases wherein fiduciaries neglect or refuse to furnish corporate bonds, as requested by the District Counsel, the District Counsel should take appropriate court action and notify the Veterans Services Officer.

(b) When it is not practical or feasible to require a fiduciary to furnish a corporate surety bond, the District Counsel is authorized to accept bonds with such number of personal sureties as is permissible under State law, but in no event less than one. To be acceptable for Veterans Administration purposes, each personal surety must be worth at least the penal sum named in the bond over and above all debts, liabilities and exemptions and qualify in accordance with the requirements of State law. The District Counsel will request suitable evidence of financial responsibility whenever there is any question as to the ability of a personal surety to meet any probable liability. When suitable evidence is not furnished as requested, or financial responsibility is found to be insufficient to meet the penal sum of the bond, the District Counsel should take appropriate court action and notify the Veterans Services Officer.

(c) It is the policy of the Veterans Administration to require surety bonds in an amount commensurate with value of the personal estate derived from Veterans Administration benefits plus the anticipated net income from Veterans Administration benefits received during the ensuing accounting period. In cases where the fiduciaries neglect or refuse to furnish surety bonds in the amount requested by the District Counsel, the District Counsel should take appropriate court action and notify the Veterans Services Officer. When permissible under State law, the District Counsel may accept, without objection, a lesser degree of protection approved by the court when it is determined that such action will adequately protect the beneficiary's estate.

PART 2—DELEGATIONS OF AUTHORITY

40. Section 2.75 is revised to read as follows:

§ 2.75 The General Counsel, Deputy General Counsel, Assistant General Counsel (Professional Staff Group I), The Deputy Assistant General Counsel of said Staff Group, and the District Counsel and those acting for them are delegated authority to settle and pay a claim for not more than $15,000 made by a civilian officer or employee of the Veterans Administration for damage to, or loss of, personal property incident to such person's service, on behalf of the Administrator, and such settlement shall be final and conclusive.

This delegation of authority is identical to § 14.664 of this chapter.

[FR Doc.77-23753 Filed 8-16-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 775-4]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Authority Citations; Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action revises the authority citations for Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Air Pollutants. The revision adopts a method recommended by the FEDERAL REGISTER for identifying which sections are enacted under which statutory authority, making the citations more useful to the reader.

EFFECTIVE DATE: August 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone 919-541-5271.

SUPPLEMENTARY INFORMATION: This action is being taken in accordance with the requirements of 1 CFR 21.43 and is authorized under section 301(a) of the Clean Air Act, as amended, 42 U.S.C. 1857g(a). Because the amendments are clerical in nature and affect no substantive rights or requirements, the Administrator finds it unnecessary to propose and invite public comment.

Dated: August 12, 1977.

DOUGLAS M. COSTLE,
Administrator.

Parts 60 and 61 of Chapter I, Title 40 of the Code of Federal Regulations are revised as follows:

1. The authority citation following the table of sections in Part 60 is revised to read as follows:

AUTHORITY: Sec. 111, 301(a) of the Clean Air Act as amended (42 U.S.C. 1857c-6, 1857g (a)), unless otherwise noted.

2. Following §§ 60.10 and 60.24(g) the following authority citation is added:

(Sec. 116 of the Clean Air Act as amended (42 U.S.C. 1857d-1).)

3. Following §§ 60.7, 60.8, 60.9, 60.11, 60.13, 60.45, 60.46, 60.53, 60.54, 60.63, 60.64, 60.73, 60.74, 60.84, 60.85, 60.93, 60.105, 60.106, 60.113, 60.123, 60.133, 60.144, 60.153, 60.154, 60.165, 60.166, 60.175, 60.176, 60.185, 60.186, 60.194, 60.195, 60.203, 60.204, 60.213, 60.214, 60.223, 60.224, 60.233, 60.234, 60.243, 60.244, 60.253, 60.254, 60.264, 60.265, 60.266, 60.273, 60.274, 60.275 and Appendices A, B, C, and D, the following authority citation is added:

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 1857c-9).)

4. The authority citation following the table of sections in Part 61 is revised to read as follows:

AUTHORITY: Sec. 112, 301(a) of the Clean Air Act as amended (42 U.S.C. 1857c-7, 1857g (a)), unless otherwise noted.

5. Following § 61.16, the following authority citation is added:

(Sec. 116 of the Clean Air Act as amended (42 U.S.C. 1857d-1).)

6. Following §§ 61.09, 61.10, 61.12, 61.13, 61.14, 61.15, 61.24, 61.33, 61.34, 61.43, 61.44, 61.53, 61.54, 61.55, 61.67, 61.68, 61.69, 61.70, 61.71, and Appendices A and B, the following authority citation is added:

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 1857c-9).)

[FR Doc.77-23827 Filed 8-16-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Amdt. No. 1 to Service Order No. 1267]

PART 1033—CAR SERVICE

Louisiana and Arkansas Railway Co. Authorized To Operate Over Tracks of the Atchison, Topeka and Santa Fe Railway Co. and Over Tracks of Chicago, Rock Island and Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Amendment No. 1 to Service Order No. 1267).

SUMMARY: The Louisiana and Arkansas Railway has been required to discontinue use of certain yard facilities in Dallas, Texas, because of congestion in those facilities. Service Order No. 1267 authorizes the Louisiana and Arkansas to use similar yard tracks at Dallas owned by the Chcago, Rock Island and Pacific Railway and to operate over a short segment of line of the Atchison, Topeka and Santa Fe Railway in order to gain access to those yard tracks. Amendment No. 1 to Service Order No. 1267 extends for an additional six months the emergency authority given to the Louisiana and Arkansas Railway to operate over the tracks of these two railroads.

DATES: Effective 11:59 p.m., August 15, 1977; expires 11:59 p.m., February 15, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C. on the 11th day of August, 1977.

Upon further consideration of Service Order No. 1267 (42 FR 26256), and good cause appearing therefor:

It is ordered, That: §1033.1267 *Service Order No. 1267* (Louisiana & Arkansas Railway Company Authorized to Operate Over Tracks of the Atchison, Topkea and Santa Fe Railway Company and over tracks of Chicago, Rock Island and Pacific Railroad Company) be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

§ 1033.1267 Service Order No. 1267.

* * * * *

(g) Expiration date. The provisions of this order shall expire at 11:59 pm., February 15, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 15, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2). 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10)-(17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Robert S. Turkington not participating.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-23832 Filed 8-16-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 26—PUBLIC ACCESS, USE AND RECREATION

Opening of Upper Mississippi River Wild Life and Fish Refuge, Illinois and Certain Other States to Public Access, Use and Recreation

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The director has determined that the opening to public access, use and recreation of Upper Mississippi River Wild Life and Fish Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: June 30, 1977 through June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, 122 West Second Street, Winona, Minn. 55987, Jerry J. Schotzko, phone 507-452-4232.

SUPPLEMENTARY INFORMATION:

§ 26.34 Special Regulations; public access, use and recreation; for individual wildlife refuge areas.

Public use is permitted on the Upper Mississippi River Wild Life and Fish Refuge in accordance with state laws and subject to the following special conditions:

(a) The cutting of all live trees is prohibited, except that willow may be used for trap stakes, commercial fishing gear and hunting blinds.

(b) No live fire, including hot charcoal, shall be burned and/or left unattended.

(c) The abandonment, burying or placing in the water of garbage, trash, camping and picnic debris, and all other deleterious materials is prohibited.

(d) The use on refuge lands of motorized vehicles of any type is prohibited except on designated public roads and routes of travel.

(e) All state laws on use, possession, transportation and sale of all alcoholic beverages which are applicable to the geographic area concerned are adopted and made a part hereof.

(f) The use and/or possession on the refuge of all controlled substances, including but not limited to opiates, cocaine, marijuana, hashish, depressants, stimulants or hallucinogenic drugs is prohibited except when such use or possession is for the person's own use as authorized by law. All state laws on controlled substances applicable to the geographic area concerned are adopted and made a part hereof.

(g) Camping, defined as the use of tent camps; bedrolls; and all types of floating craft, motorized vehicles, trailers and other shelters for overnight stays for the purpose of sleeping, is permitted on the Upper Mississippi River Wild Life and Fish Refuge subject to the following restrictions:

(1) The period of camping by an individual or group shall not exceed fourteen (14) consecutive days at any one site or within 300 feet of such site.

(2) The leaving of tents, camping equipment or floating craft at an unoccupied campsite for more than 24 hours is prohibited. Such gear will be considered as abandoned and is subject to impoundment.

(3) The erection of tables, fireplaces, latrines and other structures and facilities related to camping is prohibited unless all vestiges of same are removed when the camper departs from the site.

(4) Camping is prohibited on developed access and parking areas and on all other areas posted against camping. Camping on the refuge while engaged in fur animal trapping is prohibited. Camping on land on the refuge while engaged in hunting is prohibited except on sites readily visible from the main commercial navigation channel of the Mississippi River or on designated developed camp sites. Camping while engaged in hunting is prohibited in all areas closed to such hunting.

(h) The placement on the refuge of boathouses, boat docks, boat slips, storage boxes or sheds, stairways, wells, septic systems, sewer systems of any type, and all other kinds and types of construction is prohibited without written authorization of the refuge manager or his authorized representative. All new structures, including boathouses, houseboats, docks, piers and floats authorized by permit to be moored, anchored, or secured along the shoreline and on the waters of the Mississippi River within the Upper Mississippi River Wild Life and Fish Refuge must use flotation methods and devices of a type constructed of polyurethane, high-impact polyethylene fiberglass material or other inert materials to provide flotation. The use of any iron or steel container not fabricated originally for flotation purposes, including barrels, tanks and other containers originally constructed for the purpose of containing fluids, powders or similar products is prohibited unless filled with polyurethane.

The provisions of this special regulation supplement the regulations which govern public access, use and recreation on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 26, and are effective until June 30, 1978.

CARL E. POSPICHAL,
Refuge Manager.

JULY 1, 1977.

[FR Doc.77-23629 Filed 8-16-77;8:45 am]

V 42 159 AUG 17 77 UM

PART 32—HUNTING

Opening of Upper Mississippi River Wild Life and Fish Refuge, Illinois and Certain Other States to Upland Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The director has determined that the opening to Upland Game Hunting of Upper Mississippi River Wild Life and Fish Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: June 30, 1977 through June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, 122 West Second Street, Winona, Minn. 55987, Jerry J. Schotzko, Phone 507–452–4232.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special Regulations, upland game, for individual wildlife refuge areas.

The public hunting of upland game birds and upland game animals on the Upper Mississippi River Wild Life and Fish Refuge, Illinois, Iowa, Minnesota and Wisconsin is permitted on the areas designated by signs as "open" to hunting. Restricted hunting of these species is also permitted on the areas designated by signs as "closed" to hunting, except that the Goose Island Closed Area in Pool 8 is closed at all times to hunting and the discharge of guns is prohibited thereon. The "open" areas comprising 153,000 acres and the "closed" areas comprising 41,000 acres are delineated on maps available at the refuge headquarters, Winona, Minn. 55987, and from the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

Hunting shall be subject to the following special conditions:

1. Hunting on designated "open" areas concurrent with applicable state seasons is permitted, but only during the periods from the first day of the earliest fall state game bird or game animal season applicable to the geographic area concerned, until the end of the applicable state seasons, or until the next succeeding March 1, whichever occurs first.

2. Except for the Goose Island Closed Area which is closed to hunting at all times, hunting on designated "closed" areas concurrent with applicable state seasons is permitted, but only during the period from the first day after the close of the last hunting season for ducks applicable to the geographic area concerned, until the end of the applicable state seasons, or until the next succeeding March 1, whichever occurs first.

3. The hunting of upland game birds and upland game animals shall be in accordance with all applicable state regulations which are adopted herein and made a part of this regulation.

No person shall hunt upland game birds or animals on the Upper Mississippi River Wild Life and Fish Refuge during any period that a person's small game hunting privileges are suspended or under revocation in any state or Canadian province for game law infractions.

5. Except with permission in writing obtained from the refuge manager, the discharge of guns of all types is prohibited on all lands and waters of the Upper Mississippi River Wild Life and Fish Refuge during the period from March 1, until the first day of the earliest fall state game bird or game animal season applicable to the geographic area concerned.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective until June 30, 1978.

CARL E. POSPICHAL,
Refuge Manager.

JULY 1, 1977.

[FR Doc.77-23630 Filed 8-16-77;8:45 am]

PART 32—HUNTING

Opening of Upper Mississippi River Wild Life and Fish Refuge, Illinois and Certain Other States to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The director has determined that the opening to big game hunting of Upper Mississippi River Wild Life and Fish Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: June 30, 1977 through June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, 122 West Second Street, Winona, Minn. 55987, Jerry J. Schotzko, Phone 507–452–4232.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special Regulations: big game; for individual wildlife refuge areas.

The public hunting of deer on the Upper Mississippi River Wild Life and Fish Refuge, Illinois, Iowa, Minnesota and Wisconsin is permitted on the areas designated by signs as "open" to hunting. Restricted hunting of deer is also permitted on the areas designated by signs as "closed" to hunting, except that the Goose Island Closed Area in Pool 8 is closed to all hunting at all times. The "open" areas comprising 153,000 acres and the "closed" areas comprising 41,000 acres are delineated on maps available at the refuge headquarters, Winona, Minn. 55987, and from the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

Hunting shall be subject to the following conditions:

1. Bow and gun deer hunting on designated "open" areas is permitted concurrent with applicable state seasons.

2. Except for the Goose Island Closed Area which is closed to hunting at all times, bow and gun deer hunting on designated "closed" areas concurrent with applicable state seasons is permitted, but only during the period from the first day after the close of the last hunting season for ducks applicable to the geographic area concerned, until the end of the applicable state seasons, or until the next succeeding March 1, whichever occurs first.

3. The hunting of white-tailed deer shall be in accordance with all applicable state regulations which are adopted herein and made a part of this regulation.

4. No person shall hunt deer on the Upper Mississippi River Wild Life and Fish Refuge during any period that person's big game hunting privileges are suspended or under revocation in any state or Canadian province for game law infractions.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective until June 30, 1978.

CARL E. POSPICHAL,
Refuge Manager.

JULY 1, 1977.

[FR Doc.77-23699 Filed 8-16-77;8:45 am]

PART 33—SPORT FISHING

Opening of Upper Mississippi River Wild Life and Fish Refuge, Illinois and Certain Other States to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The director has determined that the opening to sport fishing of Upper Mississippi River Wild Life and Fish Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: June 30, 1977 through June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, 122 West Second Street, Winona, Minn. 55987. (Jerry J. Schotzko), (Phone 507–452–4232).

SUPPLEMENTARY INFORMATION:

§ 33.5 Special Regulations; sport fishing; for individual wildlife areas.

Sport fishing, commercial fishing, and the taking of frogs, turtles, crayfish and clams on the Upper Mississippi River Wild Life and Fish Refuge, Illinois, Iowa, Minnesota and Wisconsin is permitted on all water areas of the refuge. The refuge water areas comprising 125,000 acres are delineated on maps available at the refuge headquarters, Winona, Minn. 55987, and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. All fishing is subject to the following conditions:

1. Unless further restrictions are imposed by this regulation, all fish, frogs, turtles, crayfish and clams shall be taken in accordance with all applicable state regulations and seasons which are adopted herein and made a part hereof.

2. All sport and commercial fishing and all travel by boat or any other means across, through or on the Spring Lake Closed Area of the Upper Mississippi River Wild Life and Fish Refuge in Carroll Co., Illinois is prohibited from October 1, through December 20.

3. All persons, including their helpers exercising the privilege of commercial fishing on the Spring Lake Closed Area must possess a valid commercial fishing permit issued by the Refuge Manager which are set forth in the permit.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective until June 30, 1978.

CARL E. POSPICHAL,
Refuge Manager.

JULY 1, 1977.

[FR Doc.77-23700 Filed 8-16-77;8:45 am]

PART 32—HUNTING

Opening of Chassahowitzka National Wildlife Refuge, Florida, to Migratory Bird Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening of migratory bird hunting of the Chassahowitzka National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Same as prescribed for general waterfowl season in Florida.

FOR FURTHER INFORMATION CONTACT:

Edward Collinsworth, Refuge Manager, Chassahowitzka National Wildlife Refuge, Route 2, Box 44, Homosassa, Florida 32646, telephone A/C 904–628–2201.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Migratory bird hunting is permitted on the Chassahowitzka National Wildlife Refuge, Florida, only on the areas designated by signs as open to hunting. This area comprising 2,500 acres, is delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, N.E., Atlanta, Georgia 30329. Migratory bird hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. The hunting of ducks and coots only shall be permitted.

2. Hunting will be permitted only on Wednesdays through Sundays during the regular waterfowl season.

3. A National Wildlife Refuge hunting permit is required.

4. Only steel shot ammunition may be used. The use or possession of shotgun shells with lead or other toxic shot is prohibited.

5. Each hunter under 18 years of age must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

6. Hunter must follow the routes of travel within the refuge that are designated by posting by the officer-in-charge. The routes of travel for airboats to and from the public hunting area are shown on a map available at refuge headquarters. While traveling to and from the hunting area, hunters must have guns unloaded and cased.

7. Only temporary blinds are permitted.

8. The use of dogs is encouraged to retrieve dead and wounded birds. Dogs must be under control at all times.

9. A federal permit is required for the use of airboats on the area.

10. Decoys will be retrieved by owner at the end of each day's hunt.

11. All boats shall comply with Coast Guard and State safety rules and regulations. In addition, when operating in darkness, airboats must be equipped with a spotlight capable of producing an effective beam a minimum of 300 feet.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Date: August 10, 1977.

RAY R. VAUGHN,
Acting Regional Director.

[FR Doc.77-23808 Filed 8-16-77;8:45 am]

PART 32—HUNTING

Subpart B—Migratory Game Bird Hunting

OPENING OF LAKE ALICE NATIONAL WILDLIFE REFUGE, NORTH DAKOTA, TO MIGRATORY GAME BIRD HUNTING

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to migratory game bird hunting of Lake Alice National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Geese, ducks, mergansers, coots and snipe—in accordance with open seasons established by the North Dakota Game and Fish Department.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Devils Lake Wetland Management District, Box 159–D, Devils Lake, North Dakota 58301. Telephone No. 701–662–2924.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Migratory game bird hunting is permitted on the Lake Alice National Wildlife Refuge, North Dakota, only on the areas designated by signs as being open to public hunting. These areas comprising 3,167 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. Upland game hunting shall be in accordance with all applicable state regulations subject to the following conditions:

1. Vehicle access and use restricted to established roads.

The provision of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 9, 1977.

LYLE A. STEMMERMAN,
Project Leader.

[FR Doc.77-23809 Filed 8-16-77;8:45 am]

PART 32—HUNTING

Subpart C—Resident Game Hunting

OPENING OF LAKE ALICE NATIONAL WILDLIFE REFUGE, NORTH DAKOTA, TO BIG GAME HUNTING

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to big game hunting of Lake Alice National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Deer gun and archery hunting—In accordance with open seasons

V 42 159 AUG 17 77 UM

established by the North Dakota Game and Fish Department.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Devils Lake Wetland Management District, P.O. Box 159–D, Devils Lake, North Dakota 58301, Telephone No. 701–662–2924.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Big game hunting is permitted on the Lake Alice National Wildlife Refuge, North Dakota, only on the areas designated by signs as being open to public hunting. These areas comprising 3,167 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. Big game hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Vehicle access and use restricted to established roads.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: August 9, 1977.

LYLE A. STEMMERMAN,
Project Leader.

[FR Doc.77–23810 Filed 8–16–77;8:45 am]

PART 32—HUNTING

Subpart C—Resident Game Hunting

OPENING OF LAKE ALICE NATIONAL WILDLIFE REFUGE, NORTH DAKOTA, TO UPLAND GAME HUNTING

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to upland game hunting of Lake Alice National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Jackrabbits, cotton-tailed rabbits, badgers, skunks, racoons and coyotes—September 15th through February 28th. Gray partridge, sharp tailed grouse, pheasant, tree squirrels and fox—In accordance with open seasons established by the North Dakota Game and Fish Department.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Devils Lake Wetland Management District, Box 159–D, Devils Lake, North Dakota 58301, Telephone No. 701–662–2924.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game hunting; for individual wildlife refuge areas.

Upland game hunting is permitted on the Lake Alice National Wildlife Refuge, North Dakota, only on the areas designated by signs as being open to public hunting. These areas comprising 3,167 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. Upland game hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Vehicle access and use restricted to established roads.

The provision of this special regulation supplements the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: August 9, 1977.

LYLE A. STEMMERMAN,
Project Leader.

[FR Doc.77–23811 Filed 8–16–77;8:45 am]

PART 32—HUNTING

Opening of Lake Woodruff National Wildlife Refuge, Florida, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to hunting of Lake Woodruff National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Archery—September 9–11 and September 23–25, 1977. Primitive gun—October 7–9 and October 28–30, 1977.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Lake Woodruff National Wildlife Refuge, P.O. Box 488, DeLeon Springs, Florida 32028, telephone (904) 985–4673.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Hunting is permitted on the Lake Woodruff National Wildlife Refuge, Florida, only on those federally owned lands on Dexter and Tick Islands, approximately 1,450 acres. These areas are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, N.E., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer and feral hogs, subject to the following conditions:

1. Bag limits: White-tailed deer—same as State regulations. Feral hogs—no bag limit. Deer of either sex, except spotted fawns, may be hunted during the archery and primitive gun seasons.

2. Permitted methods of hunting:

a. Archery season: Weapons permitted are longbows, including compound bows, capable of casting a one (1) ounce hunting arrow 150 yards. Sharp broad-head arrows must be used. Firearms, crossbows and drug-tipped arrows are prohibited.

b. Primitive gun season: Weapons permitted are muzzle-loading percussion cap or flintlock guns with iron sights and rifled bores of .40 caliber (.40" diameter) or larger.

3. Stand hours: All hunters must be on stands from ½ hour before sunrise to 1½ hours after sunrise. No stalking or movement through the hunt area is permitted during the stand hours. There will be no required evening stand period, although still hunting is encouraged from 4:00 p.m. until sunset.

4. Access and hours of use: All hunters must check in daily at the check station before entering the hunt area and check out daily before leaving. Access to the hunting area is by boat, and hunters must furnish their own transportation. Airboats are prohibited on the area. No one may enter the hunt area prior to two hours before sunrise, and all hunters must clear the area by two hours after sunset. No overnight use is permitted on the refuge.

5. Permits: Each participant must have in his possession a valid hunting permit issued by the Lake Woodruff National Wildlife Refuge in addition to any required State permits, licenses, etc. A state archery permit is required. All permits are non-transferable.

6. All game must be checked at the check station on the southeast side of Tick Island (Bennett Landing) prior to being taken from the refuge.

7. Hunter must wear a minimum of 500 square inches of fluorescent orange colored material above the waistline during all hunts.

8. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

9. All fires and dogs are prohibited on the refuge.

10. It is unlawful to drive a nail, spike, or other metal object into any tree or to hunt from any tree in which a metal object has been driven.

11. Littering, cutting or blazing live trees, disturbing any other forms of wildlife, or digging in Indian mounds is prohibited.

12. Apprehension of a participant for any infraction of regulations shall be cause for immediate revocation of his hunting permit.

The provision of this special regulation supplements the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: August 10, 1977.

RAY R. VAUGHN,
Acting Regional Director.

[FR Doc.77–23812 Filed 8–16–77;8:45 am]

PART 32—HUNTING

Opening of Eufaula National Wildlife Refuge, Alabama, to Mourning Dove Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to mourning dove hunting of Eufaula National Wildlife refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 8, 15, 22, and 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Eufaula National Wildlife Refuge, P.O. Box 258, Eufaula, Ala. 36027, telephone 205–687–4065.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Mourning dove hunting is permitted on the Eufaula National Wildlife Refuge, Alabama, only on the areas designated by signs as being open to hunting. These areas comprising 300 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Dove hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Hunting shall be permitted from 12 noon until sunset (central time) on the Houston Tract Unit on October 1, 8, 15, 22, and 29, 1977.

2. Each hunter must have on his person a validated refuge hunting permit. Permits will be issued to the first 75 hunters at the refuge on each day of the hunt on a first-come, first-serve basis.

3. No hunters will be permitted within hunting areas before 11:45 a.m. each day.

4. All firearms must be encased and/or unloaded when outside the designated hunting area.

5. Each hunter who successfully takes a limit of mourning doves must leave the hunting area immediately.

6. Retrievers used by hunters shall be under the control of the owner at all times.

7. All hunters must check in and out of the refuge at the designated checking station.

8. All litter (paper, empty shell boxes, etc.) must be removed by individual hunters.

9. Wounded or dead doves falling outside the hunting area may be recovered, but firearms must be left inside the hunting area.

10. Vehicle parking will be limited to areas designated by refuge personnel.

11. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through October 29, 1977. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: August 10, 1977.

RAY R. VAUGHN,
Acting Regional Director.

[FR Doc.77–23813 Filed 8–16–77;8:45 am]

PART 32—HUNTING

Opening of White River National Wildlife Refuge, Arkansas, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of White River National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 24–26, December 1–3, December 8–10.

FOR FURTHER INFORMATION CONTACT:

Raymond R. McMaster, Refuge Manager, P.O. Box 308, DeWitt, Ark. 72042, 501–946–1468.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations: upland game: for individual wildlife refuge areas.

Public hunting of raccoon on the White River National Wildlife Refuge is permitted except in those areas closed to gun deer hunting and those areas west of Essex Bayou and Brooks Island south of Brooks Bayou and west of La-Grue Bayou and White River. The open area is delineated on a map available at Refuge check station. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of raccoon, subject to the following special conditions:

1. Species permitted to be taken: Racoon.

2. Bag Limits: State regulations.

3. Weapons: In accordance with State regulations.

4. Loaded guns are not permitted in vehicles or in camps. Shooting is not allowed from vehicles, boats, or roadways used by vehicles. All vehicles must stay on regularly used roads and trails. Camping is permitted in special designated areas. No fires are permitted outside the camping area. No trees will be cut.

5. Permit required. No person is authorized to enter the hunting area without a permit. All hunters must exhibit their hunting licenses, game, and vehicle contents to Federal and State officers upon request.

6. Hunters must check in and out each day at the designated check station between the hours of 5:00 PM and 2:00 AM. Boats will be prohibited in refuge waters. Hunters cannot enter the refuge by boats from navigable waters. Shooting hours begin at 5:00 PM and close at 1:00 AM.

7. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, in no case may one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: August 10 ,1977.

RAY R. VAUGHN,
Acting Regional Director.

[FR Doc.77–23814 Filed 8–16–77;8:45 am]

V 42 159 AUG 17 77 UM

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 611—FOREIGN FISHING

Allocations for Short-Finned Squid and Long-Finned Squid

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Amendment to final regulations.

SUMMARY: This document amends the total allowable level of foreign fishing for short-finned and long-finned squid in the Atlantic Ocean and provides an increased allocation of both species to certain of those nations which had been provided an initial allocation of those species. This is the second reallocation of those species, the first having been made effective on July 29, 1977. Both reallocations are based on a commitment in the Preliminary Fishery Management Plan (PMP) for the Squid Fisheries of the Northwestern Atlantic (42 F.R. 9596) to re-evaluate the U.S. harvest of those species in mid-season in order to make available to foreign fisherman those quantities which U.S. fishermen would not harvest during 1977.

EFFECTIVE DATE: August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard Schaefer, Chief, Fishery Management Operations Division, National Marine Fisheries Service, Washington, D.C. 20235 (202–634–7454).

SUPPLEMENTARY INFORMATION: On February 11, 1977, the National Marine Fisheries Service published Foreign Fishing Regulations (42 FR 8813) which included, in Subpart B, a list of species and the quantities thereof which represented that portion of the optimum yield which would not be harvested by U.S. fishermen and, therefore, under the provisions of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801–1882, could be made available to foreign fishermen. Subpart B of the Foreign Fishing Regulations was amended on March 3, 1977 (42 FR 12176) by the inclusion of a list of countries which had made formal application to participate in specific fisheries, and the quantities of surplus species which the Secretary of State, in cooperation with the Secretary of Commerce, had allocated to each such country.

The Preliminary Fishery Management Plan for the Squid Fisheries of the Northwest Atlantic established, for 1977, an optimum yield of 35,000 metric tons of short-finned squid, and 44,000 metric tons of long-finned squid. Of those total amounts, it was initially estimated that U.S. fishermen would harvest 11,500 metric tons of short-finned squid and 25,000 metric tons of long-finned squid, resulting in a surplus for foreign fishermen of 23,500 metric tons of short-finned and 19,000 metric tons of long-finned squid for 1977. By the first of June, however, it had become obvious that U.S. fishermen would not harvest the quantities of squid which had been reserved for them and, consequently, a portion of the unused quantity of squid was reallocated to foreign fishermen by amending § 611.20 (Subpart B) of the foreign fishing regulations (42 FR 39106).

Since that initial reallocation was made, further analysis of U.S. catch data indicates that the U.S. harvest of those species for 1977 will be 5,000 metric tons of short-finned squid and 5,000 metric tons of long-finned squid. In light of this further analysis, the total allowable level of foreign fishing for those species for 1977 is now established at 30,000 metric tons of short-finned squid, and 39,000 metric tons of long-finned squid.

The following amendment reflects this determination by adding that portion of the optimum yield which will not be utilized by U.S. fishermen to the previously established total allowable level of foreign fishing for these species. The amendment further reflects the country allocation of these additional quantities which has been made by the Secretary of State in cooperation with the Secretary of Commerce. Foreign fishermen may not begin fishing for these additional quantities until their respective governments have accepted the additional allocations and the appropriate fees have been paid to the Department of Commerce.

This amendment does not modify the optimum yield for those species established in the PMP, nor does it adversely affect the conservation of the resource.

The Director finds that notice of proposed rulemaking is unnecessary because this amendment involves a foreign affairs function exempted from the requirements of the Administrative Procedure Act.

Signed at Washington, D.C. this 12th day of August 1977.

JOSEPH W. SLAVIN,
Acting Associate Director,
National Marine Fisheries Service.

This amendments to § 611.20 are as follows:

§ 611.20 [Amended]

1. The table in paragraph (b) is amended by increasing the quantity in metric tons of short-finned and long-finned squid to read as follows:

Fishery	Ocean area	Quantity (metric tons)
.	.	.
Short-finned squid..	Atlantic.....	30,000
Long-finned squid.....	do.....	39,000

2. The table in § 611.20(c)(1) is amended by changing the 1977 allocations of squid to certain foreign nations, as follows:

TABLE 1.—*Atlantic coast allocation*

Country	Fishery	1977 allocation (metric tons)
.	.	.
Poland.....	Long-finned squid.....	1,817
	Short-finned squid.....	6,684
Japan.....	Long-finned squid.....	16,930
	Short-finned squid.....	4,810
Spain.....	Long-finned squid.....	9,958
	Short-finned squid.....	7,811
Soviet Union.	Long-finned squid.....	2,131
	Short-finned squid.....	7,492
Italy.....	Long-finned squid.....	3,570
	Short-finned squid.....	1,703

§ 611.51 [Amended]

3. Section 611.51(b) catch quotas are amended as follows: In subparagraph (1) strike the number "25,000"; substitute "30,000", and in subparagraph (2) strike the number "30.000"; substitute "39,000".

[FR Doc.77–23825 Filed 8–16–77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 919]

PEACHES GROWN IN MESA COUNTY, COLORADO

Proposed Expenses and Rate of Assessment for the 1976–77 Fiscal Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comment on proposed expenses of $1,000 and a rate of assessment of $0.00728 per cwt. of peaches for the functioning of the Administrative Committee for the 1976–77 fiscal period. This committee locally administers a Federal marketing order regulating the handling of peaches grown in Mesa County, Colorado. The regulation would enable the committee to collect assessments from handlers on all assessable peaches handled and use the resulting funds for its expenses.

DATES: Comments must be received on or before August 31, 1977. Proposed effective dates: December 1, 1976, through November 30, 1977.

ADDRESSES: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: The proposals under consideration were submitted by the Administrative Committee, established under the marketing agreement, as amended, and Order No. 919, as amended (7 CFR Part 919), regulating the handling of peaches grown in the county of Mesa in the State of Colorado, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer its terms and provisions.

The proposal would add a new section reading as follows:

§ 919.216 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Administrative Committee during the period December 1, 1976, through November 30, 1977, will amount to $1,000.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 919.41, is fixed at $0.00728 per cwt. of peaches.

Dated: Aug. 12, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77–23837 Filed 8–16–77;8:45 am]

[7 CFR Part 967]

CELERY GROWN IN FLORIDA

Proposed Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on proposed expenses of $65,000 and a rate of assessment of one cent per crate of celery for the functioning of the Florida Celery Committee. The regulation would enable the committee to collect assessments from first handlers on all assessable celery handled and to use the resulting funds for its expenses.

DATE: Comments due September 2, 1977.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written materials shall be submitted. Comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: 202–447–3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 149 and Order No. 967, both as amended, regulate the handling of celery grown in Florida. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Florida Celery Committee, established under the order, is responsible for its local administration.

The proposals are as follows:

§ 967.213 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal year ending July 31, 1978, by the Florida Celery Committee, for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate, will amount to $65,000.

(b) The rate of assessment to be paid by each handler in accordance with this part, shall be one cent ($0.01) per crate of celery handled by him as the first handler during the fiscal year.

(c) Unexpended income in excess of expenses for the fiscal year may be carried over as a reserve to the extent authorized in § 967.62.

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

Dated: August 12, 1977.

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.
CHARLES R. BRADER,

[FR Doc.77–23836 Filed 8–16–77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 762 3082]

DAYCO CORP.

Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: This consent order requires a Dayton, Ohio manufacturer and importer of occupational safety products and equipment to cease misrepresenting that its products meet non-existent "government standards," or that they are approved, endorsed or required by the Occupational Safety and Health Administration (OSHA). The firm is also required to cease using, or licensing the use of the "OSHA-SPEC" trademark, and to take steps to prevent the importation of "OSHA-SPEC" branded goods. Additionally, the order prohibits the company from publishing quotations from the OSHA Act or regulations, without including all relevant portions of the quoted section.

DATE: Comments must be received on or before October 14, 1977.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th and Pennsylvania Ave., NW., Washington, D.C. 20580.

V 42 159 AUG 17 77 UM

FOR FURTHER INFORMATION CONTACT:

Paul R. Peterson, Director, Cleveland Regional Office, Federal Trade Commission, 1339 Federal Office Building, 1240 East Ninth St., Cleveland, Ohio 44199. 216–522–4207.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the FTC Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a record of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b) (14) of the Commission's Rules of Practice (16 CFR 4.9(b) (14)).

UNITED STATES OF AMERICA BEFORE FEDERAL TRADE COMMISSION

In the Matter of Dayco Corporation, a corporation.

[File No. 762 3082]

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of Dayco Corporation, a corporation, and it now appearing that Dayco Corporation, a corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Dayco Corporation, by its duly authorized officer, and its attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent Dayco Corporation is a corporation organized, existing and doing business under and by virtue of the Laws of the State of Delaware, with its office and principal place of business located at 333 West First Street, in the City of Dayton, State of Ohio.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of the complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint here attached, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the said copy of the complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in exact form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and it understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

For purposes of this order, the following definitions shall apply:

(a) "OSHA" means the Occupational Safety and Health Administration, an agency of the United States Government established pursuant to authority granted to the Secretary of Labor by the OSHA Act.

(b) "OSHA Act" includes the Williams-Steiger Occupational Safety and Health Act of 1970, 84 Stat. 1593, 29 U.S.C. Sections 651–678 (1975), and the regulations promulgated thereunder, 29 C.F.R. 1900 *et seq.* (1976).

(c) "Hazardous condition" means a circumstance or set of circumstances against which an employer must take precaution(s) in order to comply with the OSHA Act.

It is ordered that respondent Dayco Corporation, a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, advertising, offering for sale, sale, or distribution of products or equipment in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, orally or in writing, or by any other means:

(1) That any product or equipment advertised, offered for sale, sold, or distributed by respondent is approved or endorsed by OSHA or by any other governmental agency, provided, however, that this subparagraph shall not prohibit statements that any product or equipment is certified, approved, or endorsed by a governmental agency when, in fact, such product or equipment has been certified, approved, or endorsed by such agency.

(2) That the use of any product or equipment advertised, offered for sale, sold, or distributed by respondent constitutes compliance with the requirements of the OSHA Act;

(a) When hazardous conditions exist and the use of such product or equipment does not constitute compliance with the standards prescribed or referenced by the OSHA Act for such hazardous conditions;

(b) When the use of that product or equipment to protect against certain specific hazardous conditions is contra-indicated, unless respondent clearly and conspicuously discloses the specific conditions for which the use of the product or equipment is contra-indicated.

(3) That any product or equipment advertised, offered for sale, sold, or distributed by respondent meets the standards or requirements prescribed or referenced by the OSHA Act when, in fact, no such standards or requirements exist.

It is further ordered that respondent cease and desist from using the trademark "OSHA–SPEC" in conjunction with any product or equipment, or in conjunction with the advertising, offering for sale, selling, or distribution thereof; and any other title, corporate name, trade name, trademark, whether registered or not, or any other designation or device which in itself represents, directly or by implication, that respondent's occupational safety products or equipment are approved, endorsed, or accepted by, or connected or associated with, any agency or instrumentality of the United States Government. Provided, however, that respondent shall be allowed to disseminate, until December 31, 1977, existing stocks of its 1977 catalog as are in existence upon the date this order becomes final. Respondent shall not cause or permit the placement of any advertisement using the OSHA–SPEC mark after the date this order becomes final. The display of advertisements placed in the "Yellow Pages" prior to the date this order becomes final, which cannot be discontinued by respondent, shall not be deemed a violation of this order.

It is further ordered that respondent cease and desist from assigning or licensing the use of the trademark "OSHA–SPEC" by any person, partnership, or corporation.

It is further ordered that, within thirty (30) days after this order becomes final, respondent shall take such steps as are necessary to prevent importation into the United States of goods bearing, or sold in conjunction with, the "OSHA–SPEC" trademark, including the deposit of the mark with the Department of the Treasury, Bureau of Customs, pursuant to 19 U.S.C. Section 1526.

It is further ordered that respondent cease and desist from reproducing the text, in whole or in part, of the OSHA Act in any advertisement, catalog, or other printed matter which is, or which is designed to be, disseminated by respondent to its customers, unless respondent clearly and conspicuously reproduces such portion of the regulatory section sufficient to disclose alternative methods of compliance, if any, or references to pertinent exceptions, if any, and underlines any portion of the section that describes or permits a method or methods of compliance which differ(s) from the primary method of providing hazard protection referred to by pertinent regulatory sections. Provided, however, that this paragraph shall not prohibit respondent from reproducing the section numbers and corresponding captions used in the OSHA Act to identify subject matter.

It is further ordered that respondent shall forthwith distribute a copy of this order to each of its operating divisions and subsidiaries and to all present and future corporate officers, field, sales, and office personnel, which manufacture or sell occupational safety products and equipment, and prominently post a copy of this order in each office affected by this order.

It is further ordered that respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporation such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered that respondent shall, within sixty (60) days after service of it upon this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

DAYCO CORPORATION, FILE NO. 762 3082

The Federal Trade Commission has accepted an agreement to a proposed consent order from Dayco Corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges that Dayco Corporation, by using its trademark "OSHA–SPEC" in the sale of safety equipment:

Misrepresented that its safety products were approved or endorsed by the Occupational Safety and Health Administration (OSHA);

Misrepresented that all of the products sold under the OSHA–SPEC mark were acceptable for hazard protection in all situations where the OSHA Act would require the use of safety products or equipment; and

Misrepresented that the OSHA Act requires the use of certain products and equipment sold under the OSHA–SPEC mark.

In fact, OSHA neither approves nor endorses specific brands of products for use in compliance with the Williams-Steiger Occupational Safety and Health Act of 1970, 19 U.S.C. Sections 651–678, or the regulations promulgated thereunder.

The complaint also alleges that Dayco printed portions of the OSHA Act and regulations in its catalog. By printing only portions of the Act and regulations, the complaint alleges, Dayco misrepresented that the OSHA Act requires consumers to use certain products when, in fact, alternate products or alternate methods of compliance with the Act and its regulations are available to purchasers.

The proposed order requires Dayco to stop making the alleged misrepresentations, and to affirmatively disclose those instances where the use of certain types of safety products would not be permitted by OSHA. Additionally, if Dayco publishes quotations from the OSHA Act or regulations, it must include all of the pertinent portions of the section quoted.

The proposed order also requires Dayco to stop using the trademark "OSHA–SPEC," and to take steps to prevent "OSHA–SPEC" branded goods from being imported into the United States. The proposed order would also prohibit Dayco from assigning or licensing the use of the mark.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,
Secretary.

[FR Doc.77–23631 Filed 8–16–77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 210, 211]

[Release Nos. 33–5848, 34–13835, 35–20130]

DISCLOSURE OF CERTAIN REPLACEMENT COST DATA

Solicitation of Comments

AGENCY: Securities and Exchange Commission.

ACTION: Request for comments from interested persons.

SUMMARY: In 1976 the Commission adopted an accounting rule (Rule 3–17 of Regulation S–X) to require certain registrants to disclose replacement cost data. The Commission notes that significant effort has been expended by registrants, public accounting firms and industry groups to provide meaningful disclosures of such data. Comments are requested on experience with implementation problems which should be considered by the staff in providing additional implementation guidance with a goal of achieving more meaningful and consistent disclosures.

DATE: Comments should be submitted on or before October 14, 1977.

ADDRESS: Comments should refer to File S7–713 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol St., Washington, D.C. 20549. All comments will be available for public inspection.

FOR FURTHER INFORMATION CONTACT:

Gary A. Zell or Richard C. Adkerson, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202–376–8019.

SUPPLEMENTARY INFORMATION:

BACKGROUND

In Securities Act Release No. 5608 issued August 21, 1975 [40 FR 40550], the Commission proposed for comment amendments to Regulation S–X [17 CFR Part 210] requiring footnote disclosure of certain replacement cost data. On March 23, 1976, in Accounting Series Release (ASR) No. 190 [41 FR 13599] the Commission adopted the proposals in somewhat revised form as § 210.3–17 of Regulation S–X.

In requiring the disclosure the Commission indicated it was aware that the required data could not be calculated with precision. However, the Commission felt such disclosures were important and useful and not otherwise obtainable and that the imprecision of the data, if properly explained, would not obviate the usefulness of the disclosure. The Commission indicated that it could not anticipate every possible circumstance in applying the rule and viewed the various approaches in implementing the rule as experimental.

Initial implementation guidelines to assist registrants in estimating and disclosing the required replacement cost data were published in Staff Accounting Bulletin (SAB) No. 7 [41 FR 13600][1] which was published concurrently with ASR No. 190. The Commission established an Advisory Committee on Replacement Cost Implementation, which met on four occasions during 1976 to consider implementation issues submitted by registrants and others. Based primarily on advice received from the Advisory Committee, the staff issued additional implementation guidelines and interpretations relating to the replacement cost disclosure rule in SAB Nos. 9 [41 FR 26083], 10 [41 FR 35163], 11 [41 FR 39006], 12 [41 FR 50815], and 13 [42 FR 2058].

The Commission has encouraged industry groups and associations to consider specialized problems in the application of replacement cost concepts to their areas of interest. In certain circumstances approaches developed by industry groups have appeared to be the most effective and least costly means of developing replacement cost data. The Commission encourages those industry groups who were involved in these efforts last year to continue their work and other industry groups to initiate similar efforts. As indicated in ASR No. 190, the Commission's staff is willing to lend such assistance as it can to such efforts.

The Commission notes that significant efforts were expended by many registrants, public accounting firms, and industry groups in developing approaches to provide meaningful disclosure of replacement cost data. The Commission encourages those involved in such efforts to inform the Commission of their experiences by furnishing comments in response to this release.

The primary purpose of this release is to solicit comments on implementation problems encountered during the initial development of the replacement cost data. As a result of the comments submitted and the review of the initial filings containing the replacement cost data, the Commission's staff may issue additional implementation guidelines in future Staff Accounting Bulletins.

The Commission does not expect to make any changes in 1977 to the replacement cost rule, except for application in the extractive industries. A separate release will be issued in the near future pertaining to extractive industries. Several trade associations in the extractive industries have been considering the application of the replacement cost concept to mineral resource assets. The Commission did not receive the material to be supplied by the trade association in sufficient time to include issues relating to mineral resource assets in this release. When the Commission completes

[1] The statements in Staff Accounting Bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval; they represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the federal securities laws.

V42 N159 AUG 17 77 UM

its review of the data to be supplied by the trade associations, its views together with those of the trade associations will be published for public comment.

Although additional interpretations relating to the replacement cost rule may be published by the Commission's staff, the Commission plans to maintain its position of flexibility in order to encourage meaningful experimentation with the various approaches to providing replacement cost information. If additional interpretative guidelines on replacement cost are published in 1977 by the Commission's staff, they will reflect the Commission's policy of permitting flexibility. Accordingly, registrant's should plan to continue to seek methods to effectively communicate meaningful replacement cost data based on their experiences and their knowledge of the experiences of others in developing the data during the past year.

Registrants are encouraged to emphasize specific implementation matters when responding to this release. The Commission plans to engage in a general evaluation of experiences with the replacement cost rule during 1978 and an opportunity will be provided at that time for comments to be submitted on the advisability of the Commission's making substantive revisions to the replacement cost rule. The Commission plans to make no such revisions at the present time because it does not believe that there has been sufficient time to adequately evaluate the usefulness of the data disclosed.

The Commission encourages comments on all implementation matters considered significant by those involved in developing or using the data. A number of areas of specific concern to the Commission are listed below and those with experiences with these matters are particularly requested to provide comments on them.

1. Many have expressed concern about the effect of the assumed replacement of productive capacity on other operating costs. Many registrants commented generally on the likelihood of cost savings and a relatively small number of registrants estimated amounts for potential cost savings.

2. Section 210.3–17(d) requires that depreciation, depletion, and amortization based on average current replacement cost of productive capacity be estimated by using generally the same economic lives and salvage values used for historical cost purposes. Many have expressed the view that using the historical cost assumptions may not be appropriate, particularly when fully depreciated assets exist. While the Commission does not plan to amend Section 210.3–17(d) in 1977, it is interested in obtaining comments on when the historical cost assumptions for computing depreciation, depletion and amortization should be changed (as permitted by the rule) for determining the replacement cost data.

3. Section 210.3–17(e) requires description of the methods used in determining the amounts of replacement cost data disclosed. Estimating the data requires use of significant assumptions as to how replacement would take place (such as maintaining existing facilities or constructing complete new facilities, using particular types of equipment or processes, and other similar types of major alternative assumptions which would significantly affect the data). Some persons have informally commented that disclosure of the major replacement assumptions has not been uniform thus detracting from usefulness of the data disclosed.

4. Applying the replacement cost concept to certain types of business activities is particularly troublesome. Examples addressed previously include real estate operations, contracts for products manufactured to customer specification, and fee timberland operations in the forest resources industry. The Commission wishes to learn of implementation activities in these and other types of business activities where the application of the replacement cost concept caused unusual implementation or interpretation difficulties.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

AUGUST 5, 1977.

[FR Doc.77–32728 Filed 8–16–77;8:45 am]

[17 CFR Parts 231, 241]

[Release Nos. 33–5850; 34–13843; 35–20138; File No. 696]

DEVELOPMENT OF GUIDELINES FOR DISCLOSURE BY ELECTRIC AND GAS UTILITY COMPANIES

Extension of Comment Period

AGENCY: Securities and Exchange Commission.

ACTION: Extension of time for comment.

SUMMARY: The Securities and Exchange Commission announced today that it has extended, from August 1 to September 15, 1977, the date by which comments must be submitted on the development of disclosure guidelines for the electric and gas utility industry. The advance notice of proposed rulemaking with regard to this industry was issued in Release Nos. 33–5827, 34–13552 and 35–20032 (May 19, 1977) (42 FR 27260 (May 27, 1977)). The Commission has received requests that such comment period be extended and believes that an extension to September 15, 1977 will be beneficial because it will result in the receipt of more useful comments.

DATES: Comments must be received on or before September 15, 1977.

ADDRESS: All communications on this matter should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Comments should refer to File No. S7–696 and will be available for public inspection at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Linda Griggs, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549. (202–755–1750).

SUPPLEMENTARY INFORMATION: In Securities Act Release No. 5827, Securities Exchange Act Release No 13552, and Public Utility Holding Company Act Release No. 20032 (May 19, 1977), the Commission announced that it was considering the formulation of guidelines for the disclosure to be included in registration statements and reports filed by electric and gas utility companies under the federal securities regulations. Interested persons were invited to participate in the development of the guidelines by submitting comments and suggestions. Commentators were asked to consider guidelines with respect to disclosure of various matters which were listed in the release, among others.

In order to receive the benefit of the comments of persons interested in the electric and gas utility industry and in view of the requests received by the Commission for additional time in which to comment, the Commission has extended the comment period until September 15, 1977.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

AUGUST 9, 1977.

[FR Doc.77–23730 Filed 8–16–77;8:45 am]

[17 CFR Part 240]

[Release Nos. 34–13849, IC–9887; File No. S7–654]

SECURITIES CONFIRMATIONS

Extension of Comment Period

AGENCY: Securities and Exchange Commission.

ACTION: Extension of comment period.

SUMMARY: The time for comment on proposed amendments to the confirmation rule has been extended. The comment period currently expires on August 10, 1977.

DATES: Comments must be received on or before September 9, 1977.

ADDRESSES: Interested persons should submit three copies of their written views and comments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 and should refer to File No. S7–654. All submissions will be made available for public inspection in the Commission's Public Reference Section, Room 6101, 1100 L Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Jeffrey L. Steele, Esq., Office of the Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549. (202–755–8746).

SUPPLEMENTARY INFORMATION: On June 23, 1977, the Commission published Securities Exchange Act Release No. 13661[1] announcing proposed amendments to Securities Exchange Act Rule 10b–10 (17 CFR 240.10b–10). Rule 10b–10 prescribes confirmation delivery and disclosure requirements applicable to brokers and dealers effecting transactions in securities for or with customers.[2]

The Commission has received a number of requests to extend the comment period. In view of the complexity and impact of certain of the proposed amendments, the Commission has determined to extend the comment period until September 9, 1977.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

AUGUST 11, 1977.

[FR Doc.77–23732 Filed 8–16–77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 54]

PROCEDURES GOVERNING DETERMINATION THAT AN INDIAN GROUP IS A FEDERALLY RECOGNIZED INDIAN TRIBE

Extension of Time for Written Comments

AUGUST 10, 1977.

AGENCY: Bureau of Indian Affairs.

ACTION: Extension of comment period.

SUMMARY: The Bureau of Indian Affairs is extending the comment period for the proposed procedures governing the determination that an Indian group is a federally recognized Indian tribe (42 FR 30647, June 16, 1977). This extension is granted because of numerous requests from interested parties desiring more time to review this proposal.

DATES: Comments must be received by September 18, 1977.

ADDRESS: Written comments should be directed to Director, Office of Indian Services, Bureau of Indian Affairs, 18th and C Streets NW., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT:

Mr. Leslie Gay, Jr., Division of Tribal Government Services, Branch of Tribal Relations. Telephone: (202–343–4045).

SUPPLEMENTARY INFORMATION: This proposed rule making is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

The deadline for comments on the proposed regulations that will govern the Department's determination that an Indian group is a federally recognized Indian tribe is hereby extended to September 18, 1977. The proposed regulations were published at 42 FR 30647 on June 16, 1977.

RAYMOND V. BUTLER,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.77–23627 Filed 8–16–77;8:45 am]

[1] 42 FR 33348 (June 30, 1977).

[2] The adoption of Rule 10b–10 was announced by the Commission in Securities Exchange Act Release No. 13508 (May 5, 1977) 42 FR 25318 (May 17, 1977) to become effective, with certain exceptions, on January 1, 1978.

DEPARTMENT OF JUSTICE

Parole Commission

[28 CFR Part 2]

PAROLE, RELEASE, SUPERVISION, AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS AND JUVENILE DELINQUENTS

Clarification of Practices

AGENCY: United States Parole Commission.

ACTION: Proposed Rule.

SUMMARY: This proposal is designed to clarify the Commission's practices with regard to (1) the prisoner's right to review the documents which the Commission will consider at a parole hearing, and (2) the prisoner's access to copies of documents contained in the Commission's regional office file. The purpose of the proposal is to amend the Commission's practices in the light of changing disclosure problems and policies. The principal change is the adoption of a single set of disclosure exemptions for all areas of document disclosure for which the Commission is responsible.

DATES: Comments must be received on or before September 21, 1977.

ADDRESS: Send comments to the United States Parole Commission, Federal Home Loan Bank Board Building, 320 First Street NW., Washington, D.C. 20537. Attention: Rulemaking Committee.

FOR FURTHER INFORMATION CONTACT:

Michael Stover, Office of General Counsel, Telephone 202–724–3092.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of § 4203(a)(1), 90 Stat. 220, notice is hereby given that the United States Parole Commission intends to consider the adoption of a revised set of document disclosure rules. The proposed rules would govern (1) access by a prisoner to the documents which the Parole Commission will consider at a parole hearing (pursuant to 18 U.S.C. § 4208), and (2) access by a prisoner or parolee (or a former prisoner) to the documents contained in the Commission's regional office file (under the Commission's Alternate Means of Access pursuant to the Privacy Act of 1974, 5 U.S.C. § 552a). The proposed rules do not cover access by any person to documents other than those contained in his or her own files, or access to Commission documents by persons other than prisoners, parolees, or former prisoners (pursuant to the Freedom of Information Act, 5 U.S.C. § 552).

The principal feature of this proposal may be found at proposed section 2.56(c). This paragraph would incorporate the three exemptions set forth under the Parole Commission and Reorganization Act, 18 U.S.C. § 4208(c), into the Commission's "alternate means of access" under the Privacy Act of 1974, 5 U.S.C. § 552a. This change would ensure a uniform, substantive standard for disclosure under both of the two statutory procedures presently available to prisoners seeking access to file material. This means that while the procedures for access to documents necessarily remain different, the actual degree to which information is withheld would be consistent. The desirability of a uniform standard for disclosure should be evident from the fact that many of the same documents, or documents concerning the same items of information, are contained both in the file which the prisoner is entitled to review at his institution prior to a parole hearing (under 18 U.S.C. § 4208), as well as in the Commission's regional office file (which is subject to disclosure under the Privacy Act "alternate means of access"). Moreover, the three exemptions at 18 U.S.C. § 4208(c) are identical to those available to the courts under Rule 32(c)(3)(A), Federal Rules of Criminal Procedure (governing disclosure of the presentence investigation report). Since much of the basic information which the Parole Commission considers is derived from, or repeated by, the presentence investigation report, this fact also points to the need for the present proposed revision.

In addition, recent policy decisions within the Department of Justice (which impose upon all government agencies and components of the Department of Justice a standard that a "sufficient prospect of actual harm" must be present before the withholding of documents will be permitted under the Privacy Act of 1974), have resulted in an actual disclosure practice under the Privacy Act consistent with that which is expected to result under the three exemptions which the Commission now proposes to adopt. (It should be noted that the Attorney General must approve this proposal insofar as it effects a change in the Commission's "alternate means of access" under the Privacy Act of 1974, before the Commission can adopt it as a final rule.)

Other proposed changes would clarify the Commission's procedural practice with regard to pre-hearing disclosure, as well as access to documents in the regional office files. In a number of instances, the most desirable of several alternatives to resolving a particular problem has been selected for inclusion in these proposed rules as standardized practice.

Finally the overall clarification and simplification of the Commission's disclosure rules (to the extent possible under existing laws) should make training and administration in this area much easier for the Commission's staff and facilitate better understanding on the prisoner's part of his statutory disclosure rights.

The text of the proposed rules is as follows:

V 42 159 AUG 17 77 UM

Sections 2.55 and 2.56 are revised as follows:

§ 2.55 Disclosure of files prior to parole hearings.

(a) *Notice; scope of disclosure.* Upon notification of a scheduled hearing pursuant to §§ 2.13 or 2.14 (and at least thirty days prior to the hearing), each prisoner shall receive notice of his right to request disclosure of the reports and other documents to be considered by the Commission in making its determination. Such disclosure shall be limited to official reports and other documents conveying to the Commission relevant information concerning the prisoner's offense behavior, prior record, history and characteristics, institutional performance and parole release plan. For review hearings, disclosable documents will be documents informing the Commission of factors which have changed, or which may have changed, since the date of the last hearing.

(b) *Procedure.* (1) Upon request by the prisoner, review of disclosable documents in the institution file will be permitted by the Bureau of Prisons within seven days of the request, pursuant to its regulations.

(2) The prisoner shall be permitted disclosure of any documents within the scope of paragraph (a) of this section which are contained in the Commission's regional office file. Such documents shall be sent to the institution for disclosure upon receipt of a request by the prisoner.

(3) Official reports falling within the scope of Paragraph (a) shall be transmitted to the institution for inclusion in the prisoner's file upon receipt by the Commission.

(c) *Exemptions to disclosure.* A document may be withheld from disclosure to the extent it contains:

(1) Diagnostic opinions, which if known to the prisoner, could lead to a serious disruption of his institutional program;

(2) Material which would reveal a source of information obtained upon a promise of confidentiality; or

(3) Any other information, which if disclosed, might result in harm, physical or otherwise, to any person, (including the legitimate privacy interest of such person under the Privacy Act of 1974). [78 U.S.C. § 4208(c)].

(d) *Summarization of material withheld.* (1) If any document, or portion thereof, is deemed by the originating agency to fall within an exemption to disclosure, and such agency desires the Commission to withhold the document or portion thereof, the agency shall identify the material to be withheld and the basis for withholding under Paragraph (b) of this section, and shall furnish for disclosure to the prisoner a summary of the material withheld, bearing in mind the need for confidentiality or impact on the prisoner, or both. Summarization under this paragraph permits the Commission to consider the withheld information in its entirety.

(2) Preparation of official reports for disclosure and any necessary summarizing must be completed prior to the submission of reports to the institution in which the prisoner is confined. Reports which have not been prepared for disclosure will be returned to the responsible agency or office for such preparation.

(3) Documents which have not been cleared for disclosure or summarized may not be considered by the Commission in its determination, absent a signed waiver of disclosure from the prisoner.

(e) *Waivers of disclosure.* If any document has not been authorized for disclosure by the originating agency in time for the hearing, the examiner panel shall offer the prisoner the opportunity to waive prehearing disclosure of such document without prejudice to the prisoner's right to review the document (or a summary thereof) upon receipt of a response from the originating agency. If the prisoner will not sign a waiver, the hearing may be continued to the end of the docket, or to the next docket, if the panel concludes that it does not have adequate information to make a decision. In the case of a presentence report which cannot be disclosed, a continuance shall be mandatory absent a waiver of disclosure.

(f) *Late-received documents.* In the event an official report or other document is received following the parole hearing but during the pendency of the parole proceeding, and the Commission intends to consider such document, the prisoner shall be placed on the next docket for a re-hearing, and the document shall be promptly forwarded for inclusion in the prisoner's institutional file. The prisoner shall be notified of such hearing and of his right to request disclosure of the document pursuant to the provisions of this section. However, a late-received document will not be considered by the Commission unless it contains new and significant information.

(g) *Obtaining copies.* Copies of documents contained in institution files may be obtained pursuant to Bureau of Prisons regulations. Copies of documents contained in Regional Office files may be obtained pursuant to § 2.56.

§ 2.56 Disclosure of Regional Office files.

(a) *Procedure.* Copies of documents pertaining to a prisoner or parolee which are contained in the Regional office files of the Commission may be obtained by that prisoner or parolee upon written request to the appropriate regional office. Such requests shall be answered within forty business days of their receipt, absent an emergency. Representatives may obtain copies of documents only upon proof of signed authorization from the prisoner or parolee concerned.

(b) *Scope of disclosure under this section.* Disclosure under this section shall extend to Commission documents concerning the prisoner or parolee making the request. However, documents constituting the work product of the Commission's legal staff, which discuss the Commission's participation in any Court action, shall not be disclosable other than by discovery pursuant to the Federal Rules of Civil or Criminal Procedure. Documents which are contained in the regional file and which are prepared by agencies other than the Commission, shall be referred to the appropriate agency for a response pursuant to its regulations. Any request for copies of court documents (including the presentence investigation report) must be directed to the appropriate court.

(c) *Exemptions:* Disclosure of Commission documents within the scope of this section shall be subject to the exemptions set forth in §2.55(c).

(d) *Hearing record.* Upon request by the prisoner or parolee concerned, the Commission shall make available a copy of any verbatim record which it has retained of a hearing, pursuant to 18 U.S.C. §4208(f).

(e) *Specification of documents withheld.* Documents or portions thereof withheld pursuant to paragraph (c) of this section shall be identified together with the applicable exemption for withholding each document or portion thereof. The summarization requirements of §2.55(d) shall not apply to any document or portion thereof withheld pursuant to this section.

(f) *Costs.* In any case in which reproduction charges exceed three dollars (e.g. reproduction of over thirty pages or of one cassette and twenty-four pages), prisoners will be required to reimburse the United States the amount in excess of three dollars prior to the satisfaction of any disclosure request, unless a statement from the case manager is submitted affirming that no funds are available in the prisoner's commissary account.

CURTIS C. CRAWFORD,
Acting Chairman,
United States Parole Commission.

August 10, 1977.

[FR Doc. 77-23816 Filed 8-16-77; 8:45 am]

[28 CFR Part 2]

PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS AND JUVENILE DELINQUENTS

Definitions

AGENCY: United States Parole Commission.

ACTION: Proposed rule.

SUMMARY: This proposal would enlarge the definition of "absconding" in an existing rule which denies sentence credit for the time a Youth Corrections Act or Narcotic Addict Rehabilitation Act parolee is in absconder status. The proposal is designed to meet the problem of a parolee who evades supervision while remaining within his district, by removing from the existing rule a requirement that the parolee abscond "from his or her district of supervision".

DATES: Comments must be received on or before September 21, 1977.

ADDRESS: Send comments to United States Parole Commission, Federal Home Loan Bank Board Building, 320 First Street NW., Washington, D.C. 20537; Attention: Rulemaking Committee.

FOR FURTHER INFORMATION, CONTACT:

Frederick Martin, Telephone 202/724-3092.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of 18 U.S.C. § 4203(a)(1), 90 Stat. 220, notice is hereby given that the United States Parole Commission intends to consider the adoption of a certain proposed regulation discussed and set forth below.

All interested persons who wish to comment on this proposal should send their written statements and suggestions to the United States Parole Commission, Federal Home Loan Bank Board Building, 320 First Street NW., Washington, D.C. 20537, Attention: Rulemaking Committee. All comment must be received by September 21, 1977.

In the FEDERAL REGISTER for Thursday, December 2, 1976 [41 FR 52889] a notice of proposed rulemaking was published regarding whether offenders sentenced under the Youth Corrections Act and Narcotic Addict Rehabilitation Act should receive credit towards service of their term when, among other situations, the offender absconds from supervision. 28 CFR 2.10(c)(3). After receiving public comment on this proposal [42 FR 12043], the Commissioners at their March 1977 meeting approved the proposed regulation in other respects but found that the language in § 2.10(c) in their opinion was unnecessarily restrictive and did not comport with their understanding of absconding from supervision. Specifically, it was noted that a parolee need not leave "his or her district of parole supervision" in order to be declared an absconder. Rather an offender who loses all contact with the supervising probation officer, even though he or she remains within the limits of the district, is an absconder and should not be considered to be serving the sentence on parole. Supervisory contact, not geographical location, is determinative. Therefore, it was determined that section 2.10(c)(3) be amended and republished for comment.

The text of this proposed rule is as follows:

§ 2.10(c) Service of the sentence of a committed youth offender or a person committed under the Narcotic Addict Rehabilitation Act commences to run from the date of conviction and is interrupted only when such prisoner or parolee • • •

(3) has absconded from parole supervision; • • •

Dated: August 10, 1977.

CURTIS C. CRAWFORD,
Acting Chairman,
United States Parole Commission.

[FR Doc.77-23818 Filed 8-16-77;8:45 am]

LIBRARY OF CONGRESS

Copyright Office

[37 CFR Part 201]

[Docket RM 77-5]

WARNING OF COPYRIGHT FOR USE BY LIBRARIES AND ARCHIVES

Proposed Rulemaking

AGENCY: Library of Congress, Copyright Office.

ACTION: Proposed rule.

SUMMARY: This notice of proposed rulemaking is issued to advise the public that the Copyright Office of the Library of Congress is considering adoption of a new regulation designed to implement a section of the Act for General Revision of the Copyright Law, pertaining to the use and display by libraries and archives of certain warnings of copyright in connection with their photoduplication and related activities. The new regulation would establish requirements governing the content and manner of use of these warnings. Interested members of the public are invited to participate in the making of the new regulation by submiting relevant written views, arguments or other comments.

DATES: Initial comments should be received on or before September 2, 1977. Reply comments on or before September 16, 1977.

ADDRESSES: Interested persons should submit five copies of their written comments, if by mail, to: Office of the General Counsel, Copyright Office, Library of Congress, Caller No. 2999, Arlington, Virginia 22202, or, if by hand, to: Office of the General Counsel, Copyright Office, Library of Congress, Room 519, Crystal Mall, Bldg. No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT:

Jon Baumgarten, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559. 703-557-8731.

SUPPLEMENTARY INFORMATION: Sections 108(d) and 108(e) of the first section of Pub. L. 553 (90 Stat. 2541) set forth conditions under which specified libraries and archives, or their employees acting within the scope of their employment, may make and distribute single copies and phonorecords of certain copyrighter works, or parts of works, without the consent of the copyright owner. Among other conditions specified in the Act, the library or archive must "display prominently, at the place where orders [for copies or phonorecords] are accepted, and include on its order form, a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation." We propose that these requirements be established by the addition of a new § 201.14 to the regulations of the Copyright Office.

On March 30, 1977, by Advance Notice of Proposed Rulemaking (61 FR 16838), we invited public comment, views, and information to assist the Office in considering alternative forms of warning. Proposed § 201.14 adopts elements of several of the comments received. Several comments raised matters not directly touched upon in the proposed regulation. These and other matters are discussed immediately below.

(1) *Machine Warnings.* A number of comments assumed that the proposed regulation would deal with the "notice" to be used in connection with unsupervised reproducing equipment (e.g., coin-operated machines) under section 108(f)(1) of the Act. However, that section specifically refers to a "notice that the making of a copy may be subject to the copyright law" and does not require our further regulatory determination of the contents of the notice. Accordingly, the proposed regulation deals only with the warnings of copyright prescribed by sections 108 (d) and (e).

(2) *Notice of Copyright.* For similar reasons, the proposed regulation does not deal with the "notice of copyright" prescribed in section 108(a)(3) of the Act.

(3) *Purpose.* In preparing the proposed regulation we have considered that the primary purpose of the warnings is to advise the library's or archives' patrons of restrictions on the use of any copy provided, rather than to advise libraries and archives, or their staffs, of their own obligations under the Act. Accordingly, although we gave serious consideration to the use of a longer form of warning for order forms which would incorporate various conditions of sections 108 (d), (e) and (g) of the Act, we finally decided to propose the shorter warning set forth in proposed § 201.14. We specifically invite comments on this decision.

(4) *Interlibrary Loan Forms.* Several comments related to whether the warning of copyright required to be placed on order forms applies to so-called "Interlibrary Loan" (ILL) request forms used to supply photocopies of journal articles and the like. In connection with our conclusion as to the purpose of the warnings, we do not believe that the warning should be mandatory if an ILL form is used exclusively by and among employees of libraries and archives. However, if an ILL form is in whole or in part filled out by the patron, or if a copy of the ILL form is given to the patron along with the material requested, the use of the prescribed warning would appear to be required under the Act.

(5) *Explanatory and Interpretative Material.* Several comments referred to the desirability of providing additional explanatory or interpretative material, in pamphlet form or the like, for the use of library staff, patrons, or both. It is reasonable to assume that use of the proposed warnings will generate questions by library patrons directed to library

V 42 N 159 AUG 17 77 UM

staff. Although the Copyright Office will be distributing informational material about the new Copyright Act, the material will generally be declarative, rather than interpretative, of the new law. Accordingly, we urge libraries, archives, and their associations, together with legal counsel, to prepare more specific material for the guidance of staff and patrons.

(6) *Language.* One comment suggested that the warnings be given in more than one language. The proposed regulation requires that the warnings be "comprehensible" and we assume that libraries and archives will take appropriate steps to render the warnings in such manner as to reflect the linguistic backgrounds of their usual patrons.

(7) *Music.* Several comments related to the reproduction of music. As sections 108 (d) and (e) do not apply to music, we have not dealt specifically with this type of work. At the same time, there does not appear to be any inconsistency between the language of the proposed regulation and the limitations on unauthorized reproduction of music.

Copies of all comments received will be available for inspection and copying between the hours of 8 a.m. and 4 p.m., Monday through Friday, in the Public Information Office of the Copyright Office, Room No. 101, Crystal Mall, Bldg. No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

Proposed regulation. We propose to amend Part 201 of 37 CFR Chapter II by adding new § 201.14 to read as follows:

§ 201.14 Warnings of copyright for use by certain libraries and archives.

(a) *Definitions.* (1) A "Display Warning of Copyright" is a notice under paragraphs (d)(2) and (e)(2) of section 108 of Title 17 of the United States Code as amended by Pub. L. 94–553. As required by those sections the "Display Warning of Copyright" is to be displayed at the place where orders for copies or phonorecords are accepted by certain libraries and archives.

(2) An "Order Warning of Copyright" is a notice under paragraphs (d)(2) and (e)(2) of section 108 of Title 17 of the United States Code as amended by Pub. L. 94–553. As required by those sections the "Order Warning of Copyright" is to be included on printed forms supplied by certain libraries and archives and used by their patrons for ordering copies or phonorecords.

(b) *Contents.* A Display Warning of Copyright and an Order Warning of Copyright shall consist of a verbatim reproduction of the following notice, printed in such size and form and displayed in such manner as to comply with paragraph (c) of this section:

NOTICE

WARNING CONCERNING COPYRIGHT RESTRICTIONS

• The copyright law of the United States governs the making of photocopies or other reproductions of copyrighted material.

• Photocopies or other reproductions can be furnished only under certain conditions, if they will be used solely for private study, scholarship, or research. Use of the reproduction for other purposes may make the user liable for copyright infringement.

• This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

(c) *Form and Manner of Use.* (1) A Display Warning of Copyright shall be printed on cardboard stock in type at least 18 points in size, and shall be displayed prominently, in such manner and location as to be clearly visible, legible and comprehensible to a casual observer within the immediate vicinity of the place where orders are accepted.

(2) An Order Warning of Copyright shall be printed within a box located prominently on the order form itself, either on the front side of the form or immediately adjacent to the space calling for the name or signature of the person using the form. The notice shall be printed in type size no smaller than that used predominately throughout the form, and in no case shall the type size be smaller than 8 points. The notice shall be printed in such manner as to be clearly legible, comprehensible, and readily apparent to a casual reader of the form.

(17 U.S.C. 207, and under the following sections of Title 17 of the U.S. Code as amended by Pub. L. 94–553: 108; 702.)

Dated: August 9, 1977.

BARBARA RINGER,
Register of Copyrights.

Approved:

DANIEL J. BOORSTIN,
Librarian of Congress.

[FR Doc.77-23706 Filed 8-16-77;8:45 am]

[37 CFR Part 201]

[Docket RM 77-8]

FILING OF COPIES OF CERTAIN CONTRACTS BY CABLE SYSTEMS

Proposed Rulemaking

AGENCY: Library of Congress, Copyright Office.

ACTION: Proposed rule.

SUMMARY: This notice of proposed rulemaking is issued to advise the public that the Copyright Office of the Library of Congress is considering the adoption of a new regulation designed to implement a section of the Act for General Revision of the Copyright Law, pertaining to the filing of copies of certain contracts entered into by cable television systems located outside of the forty-eight contiguous States. The new regulation would establish the formal requirements governing the nature of the document to be filed for recordation. We invite interested persons to participate in the making of the new regulation by submitting relevant written views, arguments or other comments.

DATES: Initial comments should be received on or before September 2, 1977. Reply comments on or before September 16, 1977.

ADDRESS: Five copies of all written comments should be submitted, if by mail, to: Office of the General Counsel, Copyright Office, Library of Congress, Caller Number 2999, Arlington, Virginia 22202, or, if by hand, to: Office of the General Counsel, Copyright Office, Rm. 519, Crystal Mall, Bldg. No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT:

Jon Baumgarten, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559. (703—557–8731.

SUPPLEMENTARY INFORMATION: Section 111 of the first section of Pub. L. 94–553 (90 Stat. 2541) establishes a compulsory licensing system under which cable system may make secondary transmissions of copyrighted works. As a general rule, secondary transmissions must occur simultaneously with the primary transmission in order to be eligible for the compulsory license. In most cases the videotaping or other off-air recording of a broadcast program and later transmission from the recording is not permitted under the compulsory license.

However, section 111 provides for an exception to this general requirement for simultaneous retransmission. Because of the limited availability of over-the-air signals in certain areas outside of the forty-eight contiguous States, cable systems located in these areas are still eligible for the compulsory license even if their secondary transmissions are "nonsimultaneous"—that is, even if they use videotapes or similar forms of recordings to retransmit programming. The statute identifies the areas where these "nonsimultaneous secondary transmissions" are permitted under the compulsory license: those areas located in whole or in part outside the boundary of the forty-eight contiguous States, but not including Puerto Rico and, with certain exceptions, Hawaii. To simplify discussion, we shall refer in this notice to a cable system located in such an area as a "special" cable system.

Section 111(c) of the Act specifies various conditions under which nonsimultaneous secondary transmissions by special cable systems are permitted. Paragraph (2) of section 111(c) deals with exchanges of videotapes of programs between special cable systems. It provides that a videotape [1] embodying a program nonsimultaneously transmitted by a special system may, under certain circumstances,[2] be transferred to another special system, but only "pursuant to a written nonprofit contract providing for the equitable sharing of the costs of such videotape and its transfer." Among other conditions it also requires that "a copy of such contract [be] filed, within thirty days after such contract is entered into, with the Copyright Office (which Office shall make such contract available for public inspection) • • •."

We propose that the filing and recordation of these documents be covered by the addition of a new § 201.12 to the regulations of the Copyright Office, to become effective on January 1, 1978. Proposed § 201.12 would establish the formal requirements governing the nature of the document to be filed for recordation. Since all documents recorded in the Copyright Office will be open to public inspection there is no need to specify their availability in the proposed regulation. The recording fee specified in the proposed regulation is authorized by § 708(a)(11) of the new Act and is consistent with that provided by § 708(a)(4).

Copies of all comments will be available for inspection and copying between the hours of 8 a.m. and 4 p.m., Monday through Friday, in the Public Information Office of the Copyright Office, Room No. 101, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

Proposed Regulation. We propose to amend Part 201 of 37 CFR Chapter II by adding a new § 201.12 to read as follows:

§ 201.12 Recordation of certain contracts by cable systems located outside of the forty-eight contiguous states.

(a) Written, nonprofit contracts providing for the equitable sharing of costs of videotapes and their transfer, as identified in section 111(c)(2) of Title 17 of the United States Code as amended by Pub. L. 94–553, will be filed in the Copyright Office of recordation upon payment of the fee prescribed by this section. The document submitted for recordation shall meet the following requirements:

(1) It shall be an original instrument of contract; or it shall be a legible photocopy or other full-size facsimile reproduction of an original, accompanied by a certification signed by at least one of the parties to the contract, or an authorized representative of that party, that the reproduction is a true copy;

(2) It shall bear the signatures of all persons identified as parties to the contract, or of their authorized agents or representatives;

(3) It shall be complete on its face, and shall include any schedules, appendixes, or other attachments referred to in the instrument as being part of it; and

(4) It shall be clearly identified, in its body or a covering transmittal letter, as being submitted for recordation under 17 U.S.C. 111(e).

(b) For a document consisting of six pages or less the recordation fee is $10; an additional charge of 50 cents is made for each page over six. If titles of works are specified in the contract, an additional charge of 50 cents is made for each title over one.

(c) The date of recordation is the date when all of the elements required for recordation, including the prescribed fee, have been received in the Copyright Office. A document is filed in the Copyright Office and a filing in the Copyright Office takes place on the date of recordation. After recordation the document is returned to the sender with a certificate of record.

(*7 U.S.C. 207, and under the following sections of Title 17 of the U.S.C. as amended by Pub. L. 94–553: §§ 111; 702; 708(11).)

Dated: August 9, 1977.

BARBARA RINGER,
Register of Copyrights.

Approved:

DANIEL J. BOORSTIN,
Librarian of Congress.

[FR Doc.77-23651 Filed 8-16-77;8:45 am]

---

[1] For this purpose the statute defines a "videotape" to include any material object embodying the reproduction of a television program broadcast by a station licensed by the F.C.C.

[2] If a special cable system has used a videotape for a nonsimultaneous retransmission in compliance with section 111, including section 111(c), the videotape may be transferred to certain other special cable systems; under certain conditions the tape "may be transferred by one cable system in Alaska to another system in Alaska, by one cable system in Hawaii permitted to make such nonsimultaneous transmissions to another such cable system in Hawaii, or by one cable system in Guam, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands, to another cable system in any of those three territories • • •."

VETERANS ADMINISTRATION

[38 CFR Part 17]

MEDICAL BENEFITS

Authority to Furnish Emergency Hospitalization

AGENCY: Veterans Administration.

ACTION: Proposed Regulation.

SUMMARY: This proposed amendment provides that in the case of an emergency that existed at the time of admission to a non-Veterans Administration hospital an authorization may be deemed a prior authorization if an application is dispatched to the Veterans Administration for veterans in a noncontiguous State, territory or possession of the United States (not including Puerto Rico) within 72 hours after communication facilities become available for dispatch of such application. This amendment provides authority to extend the time limitation for filing of an application. This extension of time is proposed because appropriate communication facilities are not always available outside the 48 contiguous States, territories or possessions of the United States (not including Puerto Rico).

DATES: Comments must be received on or before September 16, 1977. It is proposed to make this amendment effective the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Ave., NW., Washington, D.C. 20420. Comments will be available for inspection at the address shown above during normal business hours until September 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Joseph L. Erwin, Chief, Policies and Procedures, Medical Administration Service, Department of Medicine and Surgery, Veterans Administration, Washington, D.C. 20420 (202–389–3785).

SUPPLEMENTARY INFORMATION: At the present time, an authorization for hospital care at Veterans Administration expense may be deemed a prior authorization if the application for such care is dispatched within 72 hours of the hour and date of admission to the hospital. Appropriate communication facilities (telephone, telegraph, mail or other types of communication) are not always immediately available at points in a noncontiguous State, territory or possession of the United States (not including Puerto Rico). It is proposed that, in the case of an emergency that existed at the time of admission, an authorization may be deemed a prior authorization if the application is dispatched to the Veterans Administration within 72 hours after such communications first become available to the applicant and/or his or her representative.

ADDITIONAL COMMENT INFORMATION

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays), until September 26, 1977. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

NOTE.—The Veterans Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A–107.

Approved: August 10, 1977.

By direction of the Administrator,

RUFUS H. WILSON,
Deputy Administrator.

Section 17.50d is revised to read as follows:

V 42 N 159 AUG 17 77 UM

§ 17.50d Necessity for prior authorization.

(a) The admission of a veteran to a non-Veterans Administration hospital at Veterans Administration expense must be authorized in advance. In the case of an emergency which existed at the time of admission, an authorization may be deemed a prior authorization if an application, whether formal or informal, by telephone, telegraph or other communication, made by the veteran or by others in his or her behalf is dispatched to the Veterans Administration (1) For veterans in the 48 contiguous States and Puerto Rico, within 72 hours after the hour of admission, including in the computation of time Saturday, Sunday and holidays, or (2) For veterans in a noncontiguous State, territory or possession of the United States (not including Puerto Rico) if facilities for dispatch of application as described in this section are not available within the 72-hour period, provided the application was filed within 72 hours after facilities became available.

(b) When an application for admission by a veteran in one of the 48 contiguous States in the United States or in Puerto Rico has been made more than 72 hours after admission, or more than 72 hours after facilities are available in a noncontiguous State, territory or possession of the United States, authorization for continued care at Veterans Administration expense shall be effective as of the postmark or dispatch date of the application, or the date of any telephone call constituting an informal application.

[FR Doc.77-23752 Filed 8-16-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[43 CFR Part 424]

CONCONULLY LAKE AND CONCONULLY RESERVOIR, OKANOGAN COUNTY, WASHINGTON

Regulations Pertaining to Water Quality Standards and Effluent Limitation Respecting Discharge of Pollutants

AGENCY: Bureau of Reclamation, Interior.

ACTION: Proposed rule.

SUMMARY: This document proposes rules requiring the Okanogan Irrigation District, Okanogan County, Washington, to require that recipients of district cabinsite and recreation resort leases located on Conconully Lake and Conconully Reservoir comply with applicable federal, state, and local laws, rules and regulations pertaining to water quality and discharge of pollutants into the reservoir. Action is being taken in compliance with the Reclamation Act of June 17, 1902 as amended and supplemented, and the provisions of Articles 34 and 25 of the Repayment Contract Ilr-1534, dated September 20, 1948, between the United States and the Okanogan Irrigation District.

DATE: It is the policy of the Department of the Interior to afford the public an opportunity to participate in the rule-making process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed regulations to the Bureau of Reclamation. Comments must be received on or before September 16, 1977.

ADDRESS: Comments should be submitted to the Commissioner, Bureau of Reclamation, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240, Attention: Code 420.

FOR FURTHER INFORMATION CONTACT:

Mr. L. David Williamson, Chief, Recreation and Lands Branch, Division of Water and Land, Bureau of Reclamation, 202-341-5204.

SUPPLEMENTAL INFORMATION: The Bureau of Reclamation has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A-107.

The primary authors of this document are Mr. Mike Misner and Mrs. Jean Kujawa.

It has been determined that this proposed regulation is not a major Federal action significantly affecting the quality of the human environment and that no environmental impact statement pursuant to Section 102(2)(c) of the National Environmental Policy Act, 42 U.S.C. Section 4332(c) is required.

PART 424—REGULATIONS PERTAINING TO WATER QUALITY STANDARDS AND EFFLUENT LIMITATIONS RESPECTING THE DISCHARGE OF POLLUTANTS INTO CONCONULLY LAKE AND CONCONULLY RESERVOIR, OKANOGAN COUNTY, WASHINGTON

§ 424.1 Regulations.

Pursuant to the provisions of Article 34 and 25 of repayment contract Ilr-1534, dated September 20, 1948, between the United States and the Okanogan Irrigation District, it is ordered as follows:

The Okanogan Irrigation District shall require that all recipients of cabinsite and recreation resort leases on federal lands situated on Conconully Lake (formerly Salmon Lake) and Conconully Reservoir, Okanogan County, Washington, comply with all applicable federal, state and local laws, rules and regulations pertaining to water quality standards, and effluent limitations respecting the discharge of pollutants into said reservoirs.

Dated: August 8, 1977.

GUY R. MARTIN,
Assistant Secretary of the Interior.

[FR Doc.77-23744 Filed 8-16-77;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 260]

INSPECTION AND CERTIFICATION OF FISHERY PRODUCTS

Lot Inspection—Contract Basis

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: The proposed rule establishes rates for the conduct of lot inspections under the voluntary seafood inspection program on a written contract basis.

DATE: Comments must be received on or before September 15, 1977.

ADDRESS: Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Thomas J. Billy, National Program Manager, Seafood Quality and Inspection Division, National Marine Fisheries Service, Washington, D.C. 20235. (202)—634-7458).

SUPPLEMENTARY INFORMATION: Several parties who use lot inspection services on a frequent, continuing basis have expressed concern about the high hourly rate charged for the service compared to the hourly rate charged for product inspection performed in official establishments under written contract. The current charge per hour for regular time lot inspection is $24.85, while for product inspection conducted in official establishments the rate is $16.55. The primary reason for the lower cost of the latter type inspection service is that it permits a more efficient use of the inspector's time. That is, contractual agreements guarantee a minimum number of hours of inspectors' usage within a specified time period. Thus, the scheduling of available inspection manpower can be more efficiently planned. Lot inspections are customarily performed on a request or on-call basis, and the planning and scheduling of manpower is, therefore, minimal. The hourly rate for fees charged for all inspection services must be sufficient to recover the costs associated with providing them. Fees for providing lot inspection services are necessarily higher because they must make provisions for costs which continue during nonrevenue generating time. A review of the situation indicates that improved efficiency and cost effectiveness of manpower used for performing lot inspection will result in those instances where a known, continuing minimum number of inspection hours permits a basic scheduling of the inspection workload. This method is currently used for the program's Type II—Miscellaneous Inspection and Consultative Service, which is currently available at the hourly rate of $20.70 for regular time. By making provisions for the conduct of lot inspection service on a written contract, guaranteed minimum usage basis, the inspection program can make more efficient use of inspectors' time, which, in turn, will reduce the cost of the service to those parties who use it on a continuing basis.

Accordingly, 50 CFR Part 260 is proposed to be amended by revising § 260.70 (b)(3) to read as follows:

§ 260.70 Schedule of fees.

* * * * * *

(b) * * *

(3) Type III—Miscellaneous Inspection and Consultative Services. When any inspection or related service, such as, but not limited to, initial and final establishment surveys, appeal inspection, sanitation evaluation, SIFE inspections, sampling, product evaluation, label and product specifications review, and lot inspection—contract basis, rendered is such that charges based on the foregoing section are clearly inapplicable, charges will be based on the rates set forth below:

	Per hour
Regular time	$20.70
Overtime	26.20
Sunday and legal holidays (2 h minimum)	33.30
Minimum fee	15.60

For miscellaneous inspection and consultative services performed between the hours of 7 a.m. and 5 p.m., Monday through Friday: $20.70 per hour. For miscellaneous inspections and consultative services performed at times Monday through Friday other than 7 a.m. to 5 p.m. and on Saturdays (2 hr. minimum): $26.20 per hour.

For miscellaneous inspection and consultative services performed on Sunday and national legal holidays (2 hr. minimum): $33.30 per hour. The minimum service fee to be charged and collected for miscellaneous inspection and consultative services requiring less than 1 hour shall be $15.60.

RICHARD A. FRANK,
Administrator.

Dated: August 10, 1977.

[FR Doc.77-23641 Filed 8-16-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

[Order 77-8-38; Docket 30994]

TACA INTERNATIONAL AIRLINES, S.A.

Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 11th day of August, 1977.

TACA International Airlines, S.A. (TACA) is the holder of a foreign air carrier permit[1] authorizing: (a) foreign air transportation of persons, property, and mail between the terminal point San Salvador, El Salvador; the intermediate points Guatemala City, Guatemala, San Pedro Sula, Honduras, Belize City, British Honduras (Belize), and Merida, Mexico;[2] and the terminal point New Orleans, Louisiana; and between the terminal point San Salvadors; the intermediate points San Pedro Sula, Honduras, and Belize City, British Honduras (Belize); and the terminal point Miami, Florida; and (b) the performance of charter trips pursuant to Part 212 of the Board's Economic Regulations.

By application filed on June 15, 1977,[3] TACA requests that its foreign air carrier permit, as issued by Order 76-10-44, be amended so as to eliminate the expiration date of "one year from the effective date of this permit," while retaining the expiration date of "whenever a United States carrier inaugurates scheduled service between New Orleans and Merida." TACA also requests that its applications be handled by show-cause procedures.

At the present time no U.S. air carrier serves the New Orleans-Merida market. Apart from TACA's current operations, the only direct service in that market is provided by a Guatemalan carrier operating daily round-trip flights. In Order 76-10-44 the Board found that, in the absence of air service between New Orleans and Merida by any U.S. carrier, it was in the public interest to authorize TACA to serve Merida as an additional intermediate point on the carrier's authorized flights between the terminal point San Salvador, El Salvador, and the terminal point New Orleans, Louisiana. By Order 76-9-80 the Board instituted the *Houston/New Orleans-Yucatan Route Proceeding* to examine the need for service by a U.S. air carrier between points in the United States, including New Orleans, and points in the Yucatan Peninsula, including Merida. Accordingly, TACA's authority to provide New Orleans-Merida service was a temporary authorization conditioned to expire on October 7, 1977, or whenever a U.S. carrier inaugurated scheduled New Orleans-Merida service as a result of that proceeding, which ever occurred first.

It appears that the remaining procedural steps in the *Houston-New Orleans-Yucatan Route Proceeding* will not be completed, and a U.S. carrier will not be in a position to inaugurate scheduled New Orleans-Merida service, by October 7, 1977. TACA, however, will be obliged to cease New Orleans-Merida service on that date unless the carrier's foreign air carrier permit is amended to permit continued operations until a U.S. air carrier actually inaugurates scheduled service between the two cities.

In view of the foregoing and all the facts of record, the Board tentatively finds:

1. That in the absence of air service between New Orleans and Merida, Mexico by any U.S. carrier, it is in the public interest to amend the foreign air carrier permit held by TACA International Airlines, S.A. pursuant to Order 76-10-44 so as to authorize that carrier to continue serving Merida as an additional point on its authorized flights between the terminal point San Salvador, El Salvador and the terminal point New Orleans, Louisiana, until a U.S. air carrier inaugurates scheduled service in the New Orleans-Merida market;

2. That the authority to serve Merida should be temporary, and that service to Merida under the temporary authority granted here shall *not* be considered to be activity of a continuing nature as that term is used in section 558(c) of the Administrative Procedure Act, and will not be automatically extended by the timely filing of a renewal application;

3. That TACA is fit, willing, and able to perform the air transportation proposed in its application, and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board;[4]

4. That the permit granted to TACA International Airlines, S.A. should be subject to the terms, conditions, and limitations contained in the specimen form of foreign air carrier permit attached to this order, and to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board;

5. That TACA's application presents no questions of fact or law that will require an evidentiary hearing for their resolution; and

6. That the amendment of TACA International Airlines, S.A.'s foreign air carrier permit is not a "major federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, and will not be inconsistent with the policy objectives of the Energy Policy and Conservation Act of 1975 (EPACA).[5]

Accordingly, *it is ordered*, That:

1. All interested persons be directed to show cause why the Board should not make final the tentative findings and conclusions set forth here, and why an amended foreign air carrier permit in the form of the specimen permit attached to this order should not, subject to the approval of the President pursuant to section 801 of the Act, be issued to TACA International Airlines, S.A.;

2. Any interested person having objection to the issuance of an order making final the tentative findings and conclusions here and issuing said permit shall, within 21 days after the adoption of this order, file with the Board and serve upon the persons named in paragraph 5, a statement of objections specifying the part or parts of the tentative findings and conclusions objected to, together with a summary of testimony, statistical data and such evidence expected to be relied upon in support of the statement of objections. If an evidentiary hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant and material facts he would expect to be established through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, further consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board; *Provided*, That the Board may proceed to enter an order in accordance with the tentative findings and conclusions here if it determined that there are no factual issues

[1] Issued pursuant to Order 76-10-44, approved October 7, 1976.

[2] TACA's permit states that the authority to serve Merida, Mexico as an intermediate point is a temporary authorization, which expires "one year from the effective date of this permit [October 7, 1976] or whenever a United States carrier inaugurates scheduled services between New Orleans and Merida, whichever first occurs." (Order 76-10-44)

[3] A copy of the application has been transmitted to the President of the United States in accordance with the requirements of section 801 of the Act.

[4] In granting TACA the authority originally to provide service in the New Orleans-Merida market, the Board found that the carrier met the fitness standards of the Act, and that the services proposed were in the public interest. Order 76-10-44, approved October 7, 1976.

[5] Since no new services are to be performed, there will be no material increase in the utilization of fuel.

present that warrant the holding of an evidentiary hearing;[6]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth here; and

5. This order shall be served upon TACA International Airlines, S.A., Pan American World Airways, Inc., Eastern Air Lines, Inc., United Air Lines, Inc., Texas International Airlines, Inc., National Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., and the Ambassador of El Salvador in Washington, D.C.

This order will be published in the FEDERAL REGISTER and will be transmitted to the President.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

PERMIT TO FOREIGN AIR CARRIER
(AS AMENDED)

TACA International Airlines, S.A. is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in foreign air transportation with respect to persons, property, and mail as follows:

1. Between the terminal point San Salvador, El Salvador, the intermediate points Guatemala City, Guatemala, San Pedro Sula, Honduras, Belize City, British Honduras (Belize), and Merida, Mexico, and the terminal point New Orleans, Louisiana; and

2. Between the terminal point San Salvador, El Salvador, the intermediate points San Pedro Sula, Honduras, and Belize City, British Honduras (Belize), and the terminal point Miami, Florida.

The holder shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed by Part 212 of the Board's Economic Regulations.

This permit shall be subject to the condition that the holder shall serve the terminal points Miami, Florida, and New Orleans, Louisiana, only on flights that serve San Salvador, El Salvador.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of El Salvador for Salvadoran international air service.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and El Salvador shall be parties.

This permit shall be subject to the condition that in the event any practice develops which the Board regards as inimical to sound economic conditions the holder and the Board will consult about it and will use their best efforts to agree on modifications satisfactory to both.

By accepting this permit the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations under this permit.

The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided and (2) shall not provide foreign air transportation of persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

The exercise of the privileges granted here shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall be effective on _____, and shall terminate on May 29, 1978, except that it shall be subject to termination at any time if the authority to conduct flight operations to and from El Salvador granted by the Government of El Salvador to any air carrier designated by the United States is canceled or restricted: *Provided, however*, That if in the period during which this permit shall be effective the operation of the foreign air transportation here authorized becomes the subject of any treaty, convention, or agreement to which the United States and El Salvador are or shall become parties, then this permit is continued in effect during the period provided in such treaty, convention, or agreement; *Provided further*, that, with respect to Merida, Mexico, the authority granted here shall expire whenever a United States carrier inaugurates scheduled service between New Orleans and Merida.[1]

In witness whereof, the Civil Aeronautics Board has caused this permit to be executed by the Secretary of the Board, and the seal of the Board to be affixed, on the _____.

Secretary.

[SEAL]

Issuance of this permit to the holder approved by the President of the United States on _____ in Order _____.

[FR Doc.77-23806 Filed 8-16-77;8:45 am]

[6] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[1] The amendment authorizing service to Merida is a temporary authorization and does not refer to an activity of a continuing nature within the meaning of section 558(c) of the Administrative Procedure Act, 5 U.S.C. 558(c).

[Order 77-8-33; Docket 27573; Agreement C.A.B. 26824 R-1 through R-3]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Specific Commodity Rates; Order

Issued under delegated authority August 10, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names three specific commodity rates under existing commodity descriptions as set forth below, reflecting reductions from general cargo rates; and was adopted pursuant to unprotested notice to the carriers and promulgated in IATA letters between June 24 and July 30, 1977.

Agreement CAB	Specific commodity item No.	Description and rate[1]
29824		
R-1	0300	Fish and seafood—excluding fish, live, inedible 90¢ per kg, minimum weight 500 kg, Dublin to New York, 98¢ per kg, minimum weight 500 kg, Shannon to New York.
R-2	1407	Floral and nursery stock and seeds, excluding cut flowers, 157¢ per kg, minimum weight 100 kg, London to New York/Montreal.
R-3	9983	Removal of household goods and personal effects—(A) household goods, used, not for resale; (B) personal effects when in mixed shipments with the commodities in (A) above, 180¢ per kg, minimum weight 500 kg, Beirut to New York/Montreal.

[1] Subject to applicable currency conversion factors as shown in tariffs.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions ordered.

Accordingly, *it is ordered*, That:

Agreement C.A.B. 26824, R-1 through R-3, is approved, provided that (a) approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific

V 42 N 159 AUG 17 77 UM

commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc 77-23804 Filed 8-16-77;8:45 am]

[Order 77-8-40; Docket 31267]

PAN AMERICAN WORLD AIRWAYS, ET AL.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 11th day of August, 1977.

Arthur Frommer Charters, Inc. and Pan American World Airways have filed a prospectus with the Board for the operation of 15 O.T.C. flights to Jerusalem from New York, Boston, Philadelphia or Washington, D.C., commencing on Tuesday, September 27, 1977. Likewise, Meier International Study League and Capitol International Airways, Inc.[1] have filed a prospectus for the operation of 13 I.T.C. flights to Jerusalem from Atlanta, Savannah, Little Rock, Detroit, Philadelphia, Dallas or New Orleans, commencing on Monday, October 3, 1977. Tower Travel and World Airways, Inc. have also filed a prospectus for the operation of 19 split charter flights between New York and Jersusalem commencing on December 25, 1977. All flights under the three programs are scheduled to land at Atarot Airport.

Capitol and World, both of which are supplemental carriers, hold area authority in the Middle East passenger market. Therefore, Capitol and World do not need, and have not sought, further Board authorization for the proposed charter flights. Similarly, Pan American, while holding no on-route authority, has off-route authority to operate its proposed charter flights. Off-route charters are only subject to Board review for compliance with the frequency and regularity restrictions of section 207.7a of the Board's Economic Regulations, a situation not present here. Thus, neither Capitol, World nor Pan American need apply to the Board for authority to operate these charters, and such authority is not in question.

On June 9, 1977, however, the Department of State advised the Board that it opposes the institution of air service between the United States & Atarot Airport.[2] The Department's position is as follows:

The airport which has been regularly servicing international passengers going to and from Jerusalem is Ben Gurion Airport, located roughly equidistant between Jerusalem and Tel Aviv. Atarot Airport, built originally by Jordan before the 1967 Arab-Israeli war, when the area came under Israeli military occupation, has not been used for regular international flights by the airlines of any country in the Western world since 1967 (the one flight to Atarot from West Germany which occurred was the result of misunderstanding). The United States and these other countries regard Atarot as located in the West Bank territory under Israeli military occupation. A further complication is the fact that Atarot is in an area that Israel has unilaterally declared to be part of the Jerusalem municipality and has annexed.

Under these circumstances, and in the absence of a negotiated peace settlement in the Middle East, the United States Government because of foreign policy interests opposes the institution of air connections between the United States and Atarot Airport.

The Department of State has no objection to charter flights between the U.S. and the areas under Israel's juriediction prior to June 5, 1967 provided, of course, that past Israeli charter policy is modified and that such operations are op n to U.S. airlines.

Upon consideration of the comments of the Department of State, we have decided to issue an order to show cause why the certificate of public convenience and necessity of Pan American for Route 132, the certificate of public convenience and necessity of Capitol and the certificate of public convenience and necessity of World should not be amended to preclude operations into and out of Atarot Airport. Accordingly, we tentatively find and conclude that the public convenience and necessity require the amendment of the certificates for the reasons discussed below.[3]

The Board looks to United States foreign policy considerations when resolving questions of international aviation. The Department of State, the agency charged with carrying out the foreign policy of this country, takes the position that the operation of air service between the United States and Atarot Airport would be contrary to our foreign policy interests. We conclude, therefore, that such operations are not in the public interest and that under section 401(g) of the Act the public convenience and necessity require the amendment of the certificates of Pan American, Capitol and World to preclude them from operating into and out of Atarot Airport. Further, show cause procedures are proper in this situation because there are no disputed facts and only policy considerations are involved.

The action taken here is in no way meant to discriminate against Pan American, Capitol and World. All other carriers are put on notice that similar action will be taken in regard to the authority of carriers that indicate plans to operate into or out of Atarot Airport. The action taken by this order is based on foreign policy considerations which are equally applicable to all air carriers.

Interested persons will be given fifteen days following service of this order to show cause why the tentative findings and conclusions set forth should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained. Answers to such objections should be filed within five days of service of the objections.

Accordingly, it is ordered That: 1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending the certificate of public convenience and necessity of Pan American World Airways for Route 132, the certificate of public convenience and necessity of Capitol International Airways and the certificate of public convenience and necessity of World Airways so as to preclude the operation of air service into or out of Atarot Airport;

2. Any interested persons having objections to the issuance of an order making final any of the proposed finding, conclusions, or certificate amendments set forth here shall, within 15 days after service of a copy of this order, file with the Board and serve upon all persons listed in paragraph 5 a statement of objections together with a summary of testimony, statistical data and other evidence expected to be relied upon to support the stated objections. Answers to such objections shall be filed within 5 days thereof;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth in this order; and

5. A copy of this order shall be served on Arthur Frommer Charters, Inc.; Meier International Study League; Tower Travel; all certificated air carriers and foreign air carriers; and the Department of State.

[1] Capitol was substituted for Trans International Airlines as the direct air carrier for this charter program.

[2] The letter of the Department of State was sent in response to the application of El Al Israel Airlines for approval of round-trip charter flights between several East Coast cities and Atarot Airport.

[3] We also tentatively find that Pan American, Capitol and World are fit, willing and able properly to perform the air transportation authorized by the certificates proposed to be issued and to conform to the provisions of the Act and the Board's rules, regulations, and requirements thereunder.

This order will be published in the FEDERAL REGISTER and will be transmitted to the President.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY (AS AMENDED) FOR ROUTE 132

PART I

Pan American World Airways, Inc., is hereby authorized, subject to the provisions hereinafter set forth, the provisions of Title IV of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in foreign air transportation with respect to persons, property, and mail, as follows:

1. Between the coterminal points Los Angeles and San Francisco, Calif., Seattle, Wash., Portland, Oreg., Chicago, Ill., Detroit, Mich., Washington, D.C.-Baltimore, Md., Philadelphia, Pa., New York, N.Y., Boston, Mass., and Bangor, Me.; the intermediate points The Azores; Lisbon, Portugal; Barcelona, Spain; Nice, France; and the terminal point Rome, Italy; and between the intermediate point Lisbon, Portgual, and the terminal point London, England: *Provided*, That Bermuda may be included as an intermediate point if and when required by weather conditions;

2. Between the coterminal points in Los Angeles and San Francisco, Calif., Seattle, Wash., Portland, Oreg., Chicago, Ill., Detroit, Mich., Washington, D.C.-Baltimore, Md., Philadelphia, Pa., New York, N.Y., Boston, Mass., and Bangor, Me.; the intermediate points Shannon and Dublin, Ireland; and the terminal point London, England;

3. Between the terminal point San Juan, P.R.; the intermediate points The Azores; Lisbon, Portugal; Madrid, Spain; and the terminal point Rome, Italy;

except that if a flight which shall have been commenced via the intermediate points listed under paragraph 1 above or via the intermediate points listed under paragraph 2, as the case may be, cannot be completed via the scheduled intermediate points because of weather conditions, such flight may proceed via one or more of the intermediate points listed under the other paragraph even though such weather conditions are known previous to commencement of such flight; and that during such times as New York, N.Y., is not usable as a terminal because of weather or climatic conditions, the holder shall use Baltimore, Md., or any of the other authorized terminal points within the United States as listed in paragraphs 1 and 2 above, as a terminal in lieu of New York, N.Y.

The service authorized in this Part I is subject to the following terms, conditions, and limitations:

(1) The holder shall render service to and from each of the points named in this Part I, except as temporary suspensions of service may be authorized by the Board, and may begin or terminate, or begin and terminate, trips at points short of terminal points.

(2) The holder may (a) continue to serve regularly any point named in this Part I through the airport last regularly used by the holder to serve such point prior to the effective date of this certificate, and (b) continue to maintain regularly scheduled nonstop service between any two points not consecutively named in this Part I if nonstop service was regularly scheduled by the holder between such points on the effective date of this certificate. Upon compliance with such procedure relating thereto as may be prescribed by the Board, the holder may, in addition to the service hereinabove expressly prescribed, regularly serve a point named in this Part I through any airport convenient thereto, and may render scheduled nonstop service between any two points not consecutively named in this Part I, between which such service is authorized in this Part I.

(3) In providing service over any part of segment 3 in this Part I, the holder shall not render single-plane service between Madrid and any point in the continental United States other than Miami, Fla.

(4) The holder's authority to serve the Azores; Lisbon, Portugal; Barcelona, Spain; Nice, France; and Rome, Italy, on segment 1 shall be suspended through March 2, 1978.

(5) The suspension of the holder's authority pursuant to condition (4) shall not be deemed a license for an activity of a continuing nature within the meaning of subsection 558(c) of the Administrative Procedure Act and shall expire on March 2, 1978.

PART II

Pan American World Airways, Inc., is hereby authorized, subject to the provisions hereinafter set forth, the provisions of Title IV of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in foreign air transportation with respect to persons, property, and mail, as follows:

1. Between the coterminal points Los Angeles and San Francisco, Calif., Seattle, Wash., Portland, Oreg., Chicago, Ill., Detroit, Mich., Washington, D.C.-Baltimore, Md., Philadelphia, Pa. New York, N.Y., Boston, Mass., and Bangor, Me.; intermediate points within the following areas: Iceland; Ireland, including the intermediate point Dublin; United Kingdom, including Northern Ireland; The intermediate point Paris, France; Belgium; Netherlands; Denmark; Norway; Sweden; Finland; Estonia; Latvia; Lithuania; Germany; Poland; The intermediate point Leningrad, U.S.S.R.; Czechoslovakia; Austria; Hungary; The intermediate point Rome, Italy; Yugoslavia; Rumania; Bulgaria; Turkey; Lebanon; Syria; Iraq; Iran; Afghanistan; Pakistan; India; Sri Lanka; Thailand; Hong Kong; and the terminal point Moscow, U.S.S.R.

The approved service plan designating the specific points to be served by the holder within each area described above in this Part II shall be determined in accordance with such procedure as may from time to time be prescribed by the Board.

The service authorized in this Part II is subject to the following terms, conditions, and limitations:

(1) Areas in Europe defined in terms of countries in this Part II shall be deemed to refer to areas within the boundaries of such countries as they existed on January 1, 1937. All areas, other than in Europe, defined in terms of countries in this Part II shall be deemed to refer to areas within the boundaries of such countries as they exist on the effective date of this certificate.

(2) The holder shall render service to and from each of the points in the approved service plan as fixed from time to time and to and from each of the points named specifically herein, except as temporary suspensions of service may be authorized by the Board; and shall not render service to any point not included in the approved service plan as fixed from time to time or not included among the points named specifically herein. The holder may begin or terminate, or begin and terminate, trips at points short of terminal points.

(3) The holder may (a) continue to serve regularly any point designated in its approved service plan through the airport last regularly used by the holder to serve such point prior to the effective date of this certificate; and (b) continue to maintain regularly scheduled nonstop service between any two points not consecutively designated in its approved service plan if nonstop service was regularly scheduled by the holder between such points prior to the effective date of this certificate. Upon compliance with such procedure as may be prescribed by the Board; the holder may in addition to the service hereinabove expressly prescribed, regularly serve a point authorized to be served pursuant to the approved service plan as fixed from time to time through any airport convenient thereto, and may render scheduled nonstop service omitting one or more of the intermediate points authorized to be served pursuant to the approved service plan as fixed from time to time.

(4) The exercise of the authority granted herein shall be subject to there being first obtained from the appropriate foreign government such operating rights as may be necessary.

(5) The holder's authority to serve Paris, France, and Austria shall be suspended through March 2, 1978.

(6) The holder's authority to serve points within that portion of India which lies south of the 20th parallel; Sri Lanka; Thailand; and Hong Kong; and the suspension of the holder's authority at Paris, France and Austria, shall not be deemed a license for an activity of a continuing nature within the meaning of subsection 558(c) of the Administrative Procedure Act and shall expire on March 2, 1978.

(7) The holder shall not operate any air service into or out of Atarot Airport.

PART III

Whenever refueling stops are made at points in Canada on services authorized in this certificate, through passengers on such services may be given stopover privileges at such points.

The holder may grant stopover privileges at New York, N.Y., to passengers traveling between Los Angeles, Calif., San Francisco, Calif., Portland, Oreg., or Seattle, Wash., on the one hand, and the various foreign points listed on route segments set forth in Parts I and II, on the other hand.

Notwithstanding any other provisions of this certificate, the holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate shall be subject to compliance with such treaties and agreements and to any orders of the Board issued pursuant to, or for the purpose of requiring compliance with, such treaties and agreements. The exercise of the privileges granted by this certificate shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

Notwithstanding any other provision of this certificate, the authority to serve Bangor, Maine, on segments 1 and 2 in Part I and segment 1 in Part II is limited to the carriage of property on a permissive basis, and shall terminate on January 21, 1980.

This certificate shall be effective on ------ ------.

The authorization to serve Barcelona, Spain; Nice, France; and Rome, Italy, on segment 1 in Part I of this certificate and to serve segment 3 in Part I, and the authorizations in Part II of this certificate (except with respect to Chicago, Ill.; Detroit, Mich.; Washington, D.C.-Baltimore,

V42 I159 AUG 17 77 UM

Md.; Philadelphia, Pa.; New York, N.Y.; Boston, Mass.; Bangor, Me.; Los Angeles and San Francisco, Calif.; Seattle, Wash.; and Portland, Oreg.) shall expire on April 12, 1973.[1]

In witness whereof, the Civil Aeronautics Board has caused this certificate to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the ----------.

[SEAL] ------ -------,
Secretary.

Issuance of this certificate to the holder approved by the President of the United States on ----------, in ----------.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR SUPPLEMENTAL AIR TRANSPORTATION (AS AMENDED)

CAPITOL INTERNATIONAL AIRWAYS, INC.

is hereby authorized, subject to the provisions hereinafter set forth, the provisions of Title IV of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in supplemental air transportation (including inclusive tour charter authority) with respect to persons and their personal baggage, as follows:

Between any point in any State in the United States, the District of Columbia, Puerto Rico, or the Virgin Islands, on the one hand, and points in Greenland, Iceland, the Azores, Europe, Africa, and Asia, as far east as (and including) India, on the other hand.

The service herein authorized is subject to the terms, conditions, and limitations prescribed by the Board's regulations for supplemental air transportation.

The holder shall not (a) advertise its services or hold itself out to the public as an air carrier authorized to engage in air transportation unless it includes the words "supplemental air carrier" in such advertising; or (b) conduct business in any name other than that set forth in this certificate, except as expressly authorized by the Board.

Notwithstanding any other provisions of this certificate, the holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate shall be subject to compliance with such treaties and agreements and to any orders of the Board issued pursuant to, or for the purpose of requiring compliance with, such treaties and agreements.

The holder shall not operate any air service into or out of Atarot Airport.

The exercise of the privileges granted by this certificate shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This certificate shall be effective on ---------- and shall terminate April 14, 1982: *Provided, however,* That prior to the date on which this certificate would otherwise become effective the Board, either on its own initiative or upon the timely filing of a petition or petitions seeking reconsideration of the Board's order of ---------- insofar as such order authorizes the issuance of this certificate, may by order or orders extend such effective date from time to time.

In witness whereof, the Civil Aeronautics Board has caused this certificate to the executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the

[SEAL] ------ -------,
Secretary.

[1] The holder's temporary authority is in issue in Docket 25908.

Issuance of this certificate to the holder approved by the President of the United States on ----------, in ----------.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR SUPPLEMENTAL AIR TRANSPORTATION

(as amended)

WORLD AIRWAYS, INC.

is hereby authorized, subject to the provisions hereinafter set forth, the provisions of Title IV of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in supplemental air transportation (including inclusive tour charter authority) with respect to persons and their personal baggage, as follows:

Between any point in any State in the United States, the District of Columbia, Puerto Rico, or the Virgin Islands, on the one hand, and points in Greenland, Iceland, the Azores, Europe, Africa, and Asia, as far east as (and including) India, on the other hand.

The service herein authorized is subject to the terms, conditions, and limitations prescribed by the Board's regulations for supplemental air transportation.

The holder shall not (a) advertise its services or hold itself out to the public as an air carrier authorized to engage in air transportation unless it includes the words "supplemental air carrier" in such advertising; or (b) conduct business in any name other than that set forth in this certificate, except as expressly authorized by the Board.

Notwithstanding any other provisions of this certificate, the holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate shall be subject to compliance with such treaties and agreements and to any orders of the Board issued pursuant to, or for the purpose of requiring compliance with, such treaties and agreements.

The holder shall not operate any air service into or out of Atarot Airport.

The exercise of the privileges granted by this certificate shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This certificate shall be effective on ---------- and shall terminate April 14, 1982: *Provided, however,* That prior to the date on which this certificate would otherwise become effective the Board, either on its own initiative or upon the timely filing of a petition or petitions seeking reconsideration of the Board's order of ---------- insofar as such order authorizes the issuance of this certificate, may by order or orders extend such effective date from time to time.

In witness whereof, the Civil Aeronautics Board has caused this certificate to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto,

------ -------,
Secretary.

Issuance of this certificate to the holder approved by the President of the United States on ----------, in ----------.

[FR Doc.77-23805 Filed 8-16-77; 8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER77-526]

ALABAMA POWER CO., ET AL.

Notice of Filing

AUGUST 9, 1977.

Take notice that on July 25, 1977, the above-noted Companies (The Companies) tendered for filing an Amendatory Agreement between the Tennessee Valley Authority (TVA) and The Companies.

The Companies indicate that this Amendatory Agreement was made as of February 10, 1977, and contains Enclosure A which revises the estimated date of completion of the West Point 500 kV Interconnection Point between TVA and Alabama Power Co. from June 1, 1979 to June 1, 1980. The Companies also indicate that the Amendatory Agreement contains Enclosure B which updates the estimated costs of the Widows Creed-Murphy Hill and Murphy Hill-Arkadelphia 500 kV lines.

The Companies state that Enclosures A & B do not effect any of the rates between the parties other than reimbursement for advanced expenditures by TVA.

The Companies request an effective date of September 1, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23675 Filed 8-16-77;8:45 am]

[Docket No. ER77-491]

ARKANSAS POWER & LIGHT CO.

Notice of Amendment to Agreement

AUGUST 9, 1977.

Take notice that on July 1, 1977, Arkansas Power & Light Co. (Company) tendered for filing proposed changes in one of the Company's rate schedules, Arkansas Power & Light Co. Rate Schedule FPC No. 67.

According to Company this schedule is a contract between Company and the Arkansas Electric Cooperative Corp. (AECC). Company indicates that the changes to FPC No. 67 include: the relocation and increase in capacity limitations at one point of delivery; the relocation of one point of delivery; the abandonment of three points of delivery. Some of the changes are not proposed to take effect until June 1 or July 1, 1978 and, for this reason Company requests waiver of the Commission's notice requirements. Company states that due to difficulty in making accurate estimates of the billing effect of these changes, no billing data was filed. Company states that there will be no changes in rates or provisions in the schedule other than those noted above.

A copy of the filing has been mailed to AECC, according to Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 24, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23668 Filed 8-16-77;8:45 am]

[Docket No. ER77-535]

ARKANSAS POWER & LIGHT CO.

Notice of Filing of Proposed Changes in Rates and Service

AUGUST 9, 1977.

Take notice that on July 29, 1977, Arkansas Power & Light Co. (AP&L) tendered for filing a new Agreement for Electric Service between AP&L and Arkansas Electric Cooperative Corp. (AECC). AP&L indicates that revised rates and charges would increase revenues from service to AECC by $691,225 based on the twelve month period ending August 31, 1977.

AP&L states that the increase is necessary because of an unreasonable low rate of return on sales and service to AECC.

According to AP&L a copy of the filing has been served upon AECC, the Arkansas Public Service Commission, Louisiana Public Service Commission, and the Tennessee Public Service Commission.

AP&L requests an effective date of September 1, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23654 Filed 8-16-77;8:45 am]

[Docket No. ER77-538]

CENTRAL TELEPHONE AND UTILITIES CORP.

Notice of Proposed Tariff Change

AUGUST 9, 1977.

Take notice that Central Telephone & Utilities Corp. (CTU) on August 1, 1977, tendered for filing a proposed change in its Federal Power Commission Electric Service Tariff No. 35 with the Central Kansas Electric Cooperative, Inc. of Great Bend, Kans.

CTU indicates that the filing is Service Schedule B, Emergency Service, which provides for conditions and rates applicable to Emergency Service between CTU and Central Kansas Electric Cooperative, Inc.

According to CTU a copy of the filing has been served upon Central Kansas Electric Cooperative, Inc., Great Bend, Kans., and the Utilities Division, Kansas Corporation Commission, Topeka, Kans.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). Such petitions or protests should be filed on or before August 24, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23669 Filed 8-16-77;8:45 am]

[Docket No. ER77-540]

CENTRAL TELEPHONE AND UTILITIES CORP.

Notice of Contract

AUGUST 9, 1977.

Take notice that on August 1, 1975, the Central Telephone & Utilities Corp. (CTU) tendered for filing an Interconnection Contract, dated March 3, 1976, between CTU, Western Power Division, and the City of Osborne, Kans. CTU indicates that included with this filing are Agreements between CTU and the City of Osborne covering Service Schedules A1, Firm Power Service, and Service Schedule B, Emergency Service, which are attachments to the Interconnection Contract dated March 3, 1976.

According to CTU copies of the filing were served upon the City of Osborne, Kans., and the Utilities Division, Kansas Corporation Commission, Topeka, Kans.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. (18 CFR 1.8, 1.10). Such petitions or protests should be filed on or before August 24, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23687 Filed 8-16-77;8:45 am]

[Docket No. C177-637]

CLAJON GAS CO.

Limited-Term Certificate Application

AUGUST 9, 1977.

Take notice that on July 11, 1977, Clajon Gas Co (Applicant), 1006 C & K Petroleum Building, Midland, Texas 79710, filed in Docket No. C177-637 an application pursuant to Section 7(c) of the Natural Gas Act for a limited-term certifficate of public convenience and necessity, with pregranted abandonment, for the sale of gas produced from certain leases in the West Beckville Field Area, Panola County, Texas, to United Gas Pipe Line Company (United Gas), pursuant to a Gas Purchase Contract dated June 24, 1977. Applicant proposes a rate of $1.95 plus reimbursement of any increase in taxes.

Applicant is seller under that certain Gas Purchase Contract with United Gas dated June 24, 1977, which covers the sale of gas produced from certain leases in the West Beckville Field Area, Panola County, Texas.

Sales of gas from some of the leases under contract to Applicant in this area are currently being made by Applicant (and the producers from whom Applicant will purchase for resale under the Gas Purchase Contract of June 24, 1977) to United Gas under a Gas Purchase Contract dated February 17, 1977 (this being the contract under which the producers are selling) and a Gas Purchase Contract dated May 26, 1977 (this being the Applicant's contract) both pursuant to the Emergency Natural Gas Act of 1977. Applicant requests a limited-term certificate because the commitment Applicant has with the producers from which it is purchasing the gas expires on July 31, 1978.

Applicant is informed that no construction of facilities will be necessary for United Gas to take deliveries of gas from Applicant.

The term of the certificate requested herein will expire on July 31, 1978. The commitments that Applicant holds from the producers from when it is purchasing gas extends only to July 31, 1978. Ap-

V 42 159 AUG 17 77 UM

plicant is advised that United Gas has an existing gas supply emergency on its system and the proposed gas sale sought herein is needed to assist United Gas in meeting its commitments to its customers.

The price provided in the contract is in excess of the applicable National Rate because of competitive factors in the area. Said price is a discount from the current intrastate price of $2.05 per MMBtu existing in said area.

Applicant seeks a limited-term certificate with a pregranted right of abandonment because the producers from whom it proposes to purchase gas are unwilling to enter into a long-term contract.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said applications should on or before August 17, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene to a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23685 Filed 8-16-77;8:45 am]

[Docket No. CP77-532]

COLUMBIA GAS TRANSMISSION CORP.

Application

AUGUST 10, 1977.

Take notice that on July 28, 1977, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP77-532, an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 550 Mcf of natural gas per day for Libbey-Owens-Ford Company (LOF) for an eight-year period pursuant to a gas transportation agreement between Applicant and LOF, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport said gas for LOF from an existing delivery point with Panhandle Eastern Pipe Line Company (PEPL) on Applicant's Line D-590 at Maumee, Lucas County, Ohio, to Columbia Gas of Ohio, Inc. (Columbia of Ohio), a wholesale customer of Columbia, at existing points of delivery near Toledo, Ohio.

Applicant states that LOF has been advised by Columbia of Ohio that its 1977-78 winter curtailments are estimated to be 20 percent on Priority 3 requirements and 10 percent on Priority 2 requirements from and after November 1, 1977 based on a "normal winter". It is further stated that the gas to be transported is for delivery to two LOF plants, one located in eastern Toledo and one in Rossford. Service to these two plants is provided by Columbia of Ohio at one point of delivery and is transported from that point to the two plants via 3½ miles of LOF owned pipeline, it is said. The principal function of LOF's Toledo plants is the production and fabrication of float glass, it is said.

Applicant states that during February 1977 the only gas supplied by Columbia of Ohio, the only source of gas for the LOF Toledo plants, was plant protection gas. During that period, LOF relied on oil, propane and a small supply of "self-help gas" produced by LOF from Ohio wells to keep the Toledo plants operational. Applicant asserts, however, that the continued use of propane for a long period of time would increase the cost of glass to such an extent that glass produced at LOF's Toledo plants would not be able to compete in U.S. and world markets.

It is indicated that LOF has acquired its own natural gas reserves in place in Townships 28 and 29 North, Range 14 West, Woods County, Oklahoma and that three shut-in wells with estimated recoverable reserves of 7.8335 Bcf are located in this field. The cost of the gas produced from these wells is estimated to be $1.62 per Mcf in the first year of operation and is estimated to average $1.73 per Mcf over the following seven years, it is said.

Applicant asserts that it has agreed to transport the gas subject to the limits of its pipeline capacity and to its service obligations to its CD, WS, SGES, G and SGS customers. Applicant further asserts that the said gas is subject to diversion to Applicant on a temporary basis in emergency periods when, in Applicant's sole judgment, such gas is required for the protection of Priority 1 requirements on its system and that gas so diverted would be paid back as soon as practicable after the emergency period.

It is indicated that Applicant's transportation charge for this service would be $22.21 cents per Mcf effective November 1, 1976 and that Applicant would retain for company-use and unaccounted-for gas a percentage of the total volumes received for the account of LOF which percentage is currently 3.1 percent. No additional facilities would be required, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 2, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB
Secretary.

[FR Doc. 77-23692 Filed 8-16-77; 8:45 am]

[Docket No. RP72-89]

COLUMBIA GAS TRANSMISSION CORP.

Proposed Changes in FPC Gas Tariff

AUGUST 9, 1977.

Take notice that, on August 3, 1977, Columbia Gas Transmission Corporation (Columbia) tendered for filing certain proposed changes in the General Terms and Conditions of its FPC Gas Tariff, Original Volume No. 1, as follows:

Sixth Revised Sheet No. 62;
Sixth Revised Sheet No. 62A;
Sixth Revised Sheet No. 62B;
Fourth Revised Sheet No. 62C;
First Revised Sheet No. 62D;
Original Sheet No. 62E.

According to Columbia, the changes, which are proposed to become effective on September 2, 1977, would modify and clarify Columbia's daily curtailment procedures and would simplify and expedite the process by which any penalties collected by Columbia are distributed to its customers.

Copies of the filing were served upon Columbia's jurisdictional customers and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such

petitions or protests should be filed on or before August 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene. Any person who has heretofore filed a notice or petition to intervene in this proceeding need not file again. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23683 Filed 8-16-77;8:45 am]

[Docket No. ER77-534]

CONSUMERS POWER CO.

Proposed Tariff Change

AUGUST 10, 1977.

Take notice that Consumers Power Company (Consumers Power) on July 29, 1977 tendered for filing proposed changes in its FPC Electric Service Tariff, Original Volume No. 1. Consumers Power states that the following wholesale customers in the State of Michigan would be affected by the changes: City of Eaton Rapids, City of Charlevoix, Village of Union City, Edison Sault Electric Company, City of Harbor Springs, City of Marshall, City of Petoskey, Village of Chelsea, City of Portland, City of St. Louis, City of Coldwater, Wolverine Electric Cooperative Inc., City of Bay City, Southeastern Michigan Rural Electric Cooperative, Inc. and Alpena Power Company.

Consumers Power further states that the proposed changes would increase annual revenues from jurisdictional sales and service by approximately $1,865,000, or 9.56%, based on the 12-month test period ending December 31, 1977. Consumers Power indicates that the filing also provides for the first time a schedule of on-peak and off-peak hours for wholesale electric service to Consumers Power's customers, with reduced energy charges during off-peak periods.

Consumers Power further indicates that, following a period of negotiation with its wholesale customers, all customers assented to the rate increase and other changes to the terms and conditions of service contained in this filing, and join Consumers Power in requesting Commission approval of this filing. Consumers Power requests an effective date of November 10, 1977, and therefore requests waiver of the Commission's notice requirements.

Consumers Power states that the increase in rates is necessary because of continuing increases experienced in all elements of cost since the end of 1975, which was the test year for the last rate filing by Consumers Power, and because of the need to provide earnings adequate to attract capital to finance Consumers Power's ongoing construction programs.

According to Consumers Power copies of the filing were served upon Consumers Power's jurisdictional customers and on the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 23, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23694 Filed 8-16-77;8:45 am]

[Docket No. CP77-523]

DELHI GAS PIPELINE CORP.

Notice of Application

AUGUST 8, 1977.

Take notice that on July 25, 1977, Delhi Gas Pipeline Corporation (Applicant), Fidelity Union Tower Building, Dallas, Texas 75201, filed in Docket No. CP77-523 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of up to 60,000 Mcf of natural gas per day to Columbia Gas Transmission Corporation (Columbia) for a term commencing October 1, 1977 and ending November 1, 1979, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that this limited-term purchase is necessary because of the severe gas supply shortage existing on Columbia's system which has prevented Columbia from meeting a substantial part of its existing system's firm requirements, and that in view of its projected curtailment during the period of this purchase the additional volumes purchased from Applicant would assist Columbia in its efforts to provide as reliable and adequate service as possible to high priority users including adequate injections of volumes into Columbia's extensive storage fields.

Applicant states that the natural gas it proposes to sell to Columbia is gas available under certain of Applicant's producer gas purchase agreements, which agreements are currently not dedicated to any of Applicant's intrastate customers. It is indicated that Applicant would dedicate such gas to one or more of its intrastate customers by November 1, 1979; therefore, the supply of gas is available for sale to Columbia only for the limited period for which certification is sought. Applicant further states that the sale of gas to Columbia is subject to Applicant's right to suspend temporarily or decrease deliveries if such gas is needed to fulfill the gas requirements of Applicant's present intrastate customers.

It is stated that in the operation of Applicant's various intrastate pipeline systems it dedicates to the performance of its obligations under its sales agreements with its intrastate customers the gas available under certain of Applicant's producer gas purchase agreements, and that prior to such dedication, the gas purchased under such producer gas purchase agreements is available for sale by Applicant as "spot gas" for varying periods of time.

Applicant indicates that it would charge Columbia for such gas $2.21 per one million Btu's until November 1, 1978, and that this price is based on an average replacement cost of gas of $2.01 per one million Btu's ($1.975 in the West Texas Area and $2.045 in the Gulf Coast Area of Texas), plus 20 cents per one million Btu's necessary to cover Applicant's cost of gathering, treating and compressing the gas and a return on Applicant's investment. Applicant further indicates that effective November 1, 1978 said price of $2.01 per one million Btu's would increase to $2.05 per one million Btu's which is derived by averaging a replacement cost of $2.00 per one million Btu's in the West Texas Area and $2.10 per one million Btu's in the Gulf Coast Area of Texas.

Applicant indicates that the gas sold to Columbia would be sold pursuant to a short-term contract dated July 19, 1977 between Applicant and Columbia. It is stated that the point of delivery for such sale would be into the pipeline facilities of Northern Natural Gas Company (Northern) at the existing interconnection of Applicant's facilities and Northern's facilities located in Pecos County, Texas. No additional facilities would be required on the part of Applicant or Northern for the delivery and receipt of gas at such point, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 29, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without

further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23671 Filed 8-16-77;8:45 am]

[Docket No. CP77-529]

DELHI GAS PIPELINE CORP.

Notice of Petition for Declaratory Order

AUGUST 9, 1977.

Take notice that on July 25, 1977, Delhi Gas Pipeline Corporation (Delhi), Fidelity Union Tower Building, Dallas, Texas 75201, filed in Docket No. CP77-529 a petition for a declaratory order to remove the uncertainty of whether or not Delhi must first secure regulatory approval, specifically, a certificate of convenience and necessity under Section 7(c) of the Natural Gas Act for the transportation of up to 25,000 Mcf of natural gas per day by Delhi to United Gas Pipeline Company (United), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Applicant states that it has entered into a Gas Exchange Agreement with United dated January 22, 1977, providing for the delivery of said gas by Delhi to United on United's facilities located at the outlet of Champlin Carthage Gasolina Plant in Panola County, Texas, and at other mutually agreeable points on United's pipeline system. Such gas would be redelivered to Delhi on Delhi's Blessing-Victoria System located in Victoria County, Texas.

By Order dated March 12, 1968, in Docket No. CP68-139 (39 FPC 264), the Commission granted Delhi an exemption from the provisions of the Natural Gas Act and the orders, rules and regulations of the Commission thereunder pursuant to Section 1(c) of the Act with respect to Delhi's Blessing-Victoria System.

It is indicated that such Gas Exchange Agreement further provides that United has the right to retain up to 90% of all such gas delivered by Delhi during the winter heating season of each year and to balance with Delhi by the redelivery of such gas during the summer heating season of each year. It is stated that no transportation fee will be charged by United to Delhi and no purchase or sale of the gas is involved.

It is stated that since the redelivery of the gas by United is upstream of the point on United's facilities at which it receives gas from Delhi, this exchange arrangement will result in a saving in transmission costs to United with respect to that volume of gas redelivered to Delhi. It is further stated that this exchange arrangement will make available to United additional volumes of gas during the winter heating season when United's demand is the greatest and that the benefit to Delhi is the availability of gas nearer its principal markets without the additional transportation cost.

Accordingly, Delhi requests that the Commission issue a declaratory order which affirms:

(1) The continuing exempt status of Delhi's Blessing-Victoria System pursuant to the Commission's Order dated March 12, 1968, in Docket No. CP68-139;

(2) That the non-jurisdictional status of the facilities of Delhi and the operation of such facilities necessary to deliver the gas to United in Panola County, Texas, and at other mutually agreeable points be not affected during the term of the Gas Exchange Agreement;

(3) That the non-jurisdictional status of Delhi's existing and proposed sales of gas from its system as well as Delhi's existing and proposed purchases of gas be not affected during the term of the Gas Exchange Agreement; and

(4) That the non-jurisdictional status of the facilities and operations of independent producers and other suppliers from whom Delhi purchases gas and the sales by such independent producers and other suppliers be not affected during the term of the Gas Exchange Agreement.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 2, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23662 Filed 8-16-77;8:45 am]

DUKE POWER CO.

[Docket No. ER77-527]

Notice of Proposed Supplement to Electric Power Contract

AUGUST 9, 1977.

Take notice that Duke Power Company (Duke) tendered for filing on July 28, 1977, supplements to its Electric Power Contract with the City of Monroe. Duke indicates that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FPC No. 238.

Duke indicates that its contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the termination of Delivery Point No. 2, effective July 10, 1977 and an increase in capacity from 30,000 KW to 55,000 KW at Delivery Point No. 3, effective July 20, 1977. Duke further indicates that the supplement also include an estimate of sales and revenue for the twelve months immediately preceding and for the twelve months immediately succeeding the effective date for each delivery point.

Duke requests waiver of the Commission's notice requirements to allow for the aforementioned effective dates of July 10, 1977 and July 20, 1977.

Duke states that a copy of this filing was mailed to the City of Monroe and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23655 Filed 8-16-77;8:45 am]

[Docket No. ER77-444]

DUKE POWER CO.

Notice of Supplement to Electric Power Contract

AUGUST 9, 1977.

Take notice that Duke Power Company (Duke) tendered for filing by letter dated July 7, 1977, supplements to the Company's Electric Power Contract with Rutherford Electric Membership Corporation, Inc. Duke indicates that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FPC No. 139.

Duke states that its contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for increases in capacity and reallocation of SEPA capacity and energy to preference customers. Duke further states that the supplement also includes an estimate of sales and revenue for the twelve months immediately preceding and for the twelve months immediately succeeding the effective date.

Duke states that a copy of this filing was mailed to Rutherford Electric Membership Corporation, Inc. and the North Carolina Utilities Commission.

Duke requests waiver of the Commission's notice requirements to allow for an effective date of June 20, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23659 Filed 8-16-77;8:45 am]

[Docket No. RI77-107]

EL RAN INC.

Notice of Petition for Special Relief

AUGUST 10, 1977.

Take notice that on June 16, 1977, El Ran Inc. (Petitioner), 1603 Broadway, Lubbock, Texas 79401, filed in Docket No. RI77-107 a petition for special relief pursuant to Section 2.76 of the Commission's Rules of Practice and Procedure and Order No. 551, issued June 29, 1976.

Petitioner holds a small producer certificate issued in Docket No. CS75-391 and seeks an increased rate to 49.50 cents per Mcf from a presently effective rate of 30.25 cents per Mcf to obtain further production from the Boydston and Cassity Wells, Boonesville Bend Field, Wise County, Texas. Petitioner will expend $18,700 to rework and deepen such wells.

Any person desiring to be heard or to make any protest with reference to said petition should on or before August 25, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23672 Filed 8-16-77;8:45 am]

[Docket No. E-9522]

GEORGIA POWER CO.

Notice of Compliance Filing

AUGUST 9, 1977.

Take notice that Georgia Power Company (GP), on May 19, 1977, tendered for filing the following revised tariff sheets in GP's FPC Electric Tariff, Original Volume No. 3, in compliance with the Commission's Order of February 25, 1977:

First Revised Sheet No. 8;
First Revised Sheet No. 10;
First Revised Sheet No. 11;
First Revised Sheet No. 12;
First Revised Sheet No. 13;
Original Sheet No. 13-A.

GP indicates that as set forth in the Settlement Agreement, accepted by the Commission in its February 25, 1977 Order, the revised tariff sheets amend Sections 1.01, 1.03, 2.02 and 2.03 of the standard format of the Integrated Transmission System Agreement ("ITSA") included in the Transmission Service Tariff ("TS-1").

Any person desiring to comment on this filing may file comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 19, 1977. Comments will be taken into consideration by the Commission in determining the outcome of the proceedings.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23657 Filed 8-16-77;8:45 am]

[Docket No. ER77-532]

GULF POWER CO.

Notice of Proposed Tariff Change

AUGUST 9, 1977.

Take notice that Gulf Power Company (Gulf Power) on July 29, 1977, tendered for filing proposed changes in its FPC Electric Tariff, First Revised Volume No. 1. Gulf Power states that the proposed changes would increased revenues from jurisdictional sales and service by $1,860,427 annually, based on the 12 month period ending September 30, 1978. Gulf Power further states that the changes would also institute an "Environmental Protection Cost Adjustment" clause, "zero" the fuel adjustment clause at 21.5 mills fuel costs, and effect other changes in certain of the tariff terms and conditions. Gulf Power requests the proposed tariff changes be made effective on October 1, 1977, and requests waiver of the Commission's notice requirements.

Gulf Power indicates that the foregoing tariff changes are being filed so that it can earn a fair and reasonable return on its investment in facilities used to provide jurisdictional services.

According to Gulf Power copies of the filing were served upon Gulf Power Company's jurisdictional customers, the Florida Public Service Commission and Alabama Electric Cooperative, Inc.

Any person desiring to be heard or to protect said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8, 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before August 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on filed with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77 23658 Filed 8-16-77;8:45 am]

[Doc. No. ER77-536]

HARTFORD ELECTRIC LIGHT CO.

Proposed Purchase Agreement

AUGUST 9, 1977.

Take notice that on July 29, 1977, Hartford Electric Light Company (HELCO) tendered for filing a proposed rate schedule pertaining to a Purchase Agreement with Respect to Middletown Unit No. 4, between HELCO and Reading Municipal Light Department (RMLD), dated as of January 10, 1977.

HELCO states that the Purchase Agreement provides for a sale to RMLD of a specified percentage of capacity and energy from HELCO's Middletown Unit No. 4 generating unit during the period November 1, 1979 through October 31, 1980.

HELCO requests that the Commission waive its notice requirements and accept the Purchase Agreement for filing more than ninety days prior to its proposed effective date (November 1, 1979) to assure RMLD of the capacity included in the tendered rate schedule.

HELCO also states that the capacity charge provided for in the rate schedule was developed on a cost-of-service basis.

HELCO states that a copy of the rate schedule has been mailed or delivered to RMLD, Reading, Massachusetts.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Proceure (18 CFR 1.8, 1.10). All such petitions or protests should be

filed on or before August 23, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23686 Filed 8-16-77;8:45 am]

HARTFORD ELECTRIC LIGHT CO.

[Docket No. ER77-537]

Proposed Purchase Agreement

AUGUST 10, 1977.

Take notice that on July 29, 1977 Hartford Electric Light Company (HELCO) tendered for filing a proposed Purchase Agreement with Respect to Middletown Station (Middletown Agreement), dated January 10, 1977, between HELCO and Reading Municipal Light Department (RMLD).

HELCO states that the Middletown Agreement provides for a sale to RMLD of a specified percentage of capacity and energy from four oil-fired steam generating units (Middletown Unit Nos. 1, 2, 3 and 4) during the period from November 1, 1978 to October 31, 1979, together with related transmission service.

HELCO requests that the Commission waive its notice requirements and accept the Middletown Agreement for filing more than ninety days prior to its proposed effective date (November 1, 1978) to assure RMLD of the capacity included in the tendered rate schedule.

HELCO states that the capacity charge rate for the proposed service is a rate determined on a cost-of-service basis. HELCO further states that the monthly transmission charge is equal to one-twelfth of the annual average unit cost of transmission service on the Northeast Utilities (NU) system determined in accordance with Section 13.9 of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee, multiplied by the number of kilowatts of winter capability which RMLD is entitled to receive. HELCO also states that the energy charge is based on RMLD's portion of the applicable fuel expenses and no special cost-of-service studies were made to derive this charge.

HELCO states that the services to be provided under the Middletown Agreement are similar to services provided by HELCO relating to an agreement between HELCO and Westfield Gas and Electric Department (Rate Schedule FPC No. 110 and Supplement 1).

HELCO states that copies of this rate schedule have been mailed or delivered to RMLD, Reading, Massachusetts.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 23, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23693 Filed 8-16-77;8:45 am]

[Docket No. RI77-112]

THOMAS C. HOFFPAUIR

Notice of Petition for Special Relief

AUGUST 10, 1977.

Take notice that on June 22, 1977, Thomas C. Hoffpauir (Petitioner), Route 1, Box 12, Lake Arthur, Louisiana 70549, filed in Docket No. RI77-112 a petition for special relief pursuant to Order No. 481, Docket No. R-458 (Section 2.76 of the Commission's Rules of Practice and Procedure).

Petitioner holds a small producer certificate issued in Docket No. CS74-355 and by this filing seeks an increased rate to 74.37 cents per Mcf from a presently effective rate of 26.15 cents per Mcf to obtain further production from the PL-2 SUK Unit (Walter W. Bruner, *et al.* Well No. 2) located in the Southwest Lake Arthur Field, Cameron Parish, Louisiana. Petitioner will expend $60,840 to rework the well and install a two stage compressor unit.

Any person desiring to be heard or to make any protest with reference to said petition should on or before August 25, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23673 Filed 8-16-77;8:45 am]

[Docket No. ER77-431]

IOWA PUBLIC SERVICE CO.

Notice of Proposed Interchange Agreement and Operating Agreement

AUGUST 9, 1977.

Take notice that Iowa Public Service Company (Applicant) on July 1, 1977, tendered for filing an Interchange and Operating Agreement between Applicant and Corn Belt Power Cooperative dated October 28, 1976, updating the Interchange Agreement of November 20, 1961, with seven subsequent supplements thereto, which provided for installation of facilities and interchange of power and energy between the two systems Applicant states that in addition to the aforementioned, the new agreement will provide for a coordinated operation of two systems.

Any person desiring to be heard or to protest said application should file a Petition to Intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 24, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23666 Filed 8-16-77;8:45 am]

[Docket No. ES77-50]

IOWA SOUTHERN UTILITIES CO.

Notice of Application

AUGUST 9, 1977.

Take notice that on August 1, 1977, Iowa Southern Utilities Company (Applicant) filed an application for an order pursuant to Section 204 of the Federal Power Act for authorization to issue and sell 200,000 additional shares of its Common Stock, par value $10 per share.

Applicant is incorporated under the laws of the State of Delaware and qualified to do business as a foreign corporation in the State of Iowa, with its principal place of business being located in Centerville, Iowa.

Applicant proposes to issue and sell to its common stockholders up to but not exceeding 200,000 additional shares of its Common Stock, par value $10 per share, in accordance with the terms and conditions of its Automatic Dividend Reinvestment and Stock Purchase Plan, a copy of which is filed as an exhibit to its application. The sales will be made through automatic dividend reinvestment and optional cash payments, and request is made for exemption from the competitive bidding requirements of Section 34.1a(b) and (c) of the Regulations under the Federal Power Act. Applicant states that the net proceeds realized from the sale of the 200,000 additional shares of its Common Stock dedicated to the Automatic Dividend Reinvestment and Stock Purchase Plan is estimated at approximately $5,142,500.

Any person desiring to be heard or to make any protests with reference to said

application should on or before August 26, 1977, file with the Federal Power Commission, Washington, D.C. 20246, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). The application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23665 Filed 8-16-77;8:45 am]

[Docket Nos. RP73-97 and RP76-93; PGA 77-3]

KENTUCKY WEST VIRGINIA GAS CO.

Proposed Change in Rates

AUGUST 10, 1977.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on July 25, 1977, tendered for filing with the Commission Fourth Revised Sheet No. 27 to its FPC Gas Tariff First Revised Volume No. 1 to become effective September 1, 1977. Kentucky West states that the change in rates results from the application of the Purchase Gas Cost Adjustment provision in Section 9, General Terms and Conditions of FPC Gas Tariff, Original Volume No. 1, approved by the Commission in Docket No. RP73-97 and the Purchase Gas Cost Adjustment provision in Section 18, General Terms and Conditions of FPC Gas Tariff, First Revised Volume No. 1, approved by the Commission in Docket No. RP76-93.

Kentucky West states that a copy of its filing has ben served upon the purchasers and interested state commissions and upon each party on the service list of Docket No RP76-93.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 22, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23682 Filed 8-16-77;8:45 am]

[Docket No. CI77-636]

LIGHTNING PRODUCTIONS, INC., ET AL.

Limited-Term Certificate Application

AUGUST 9, 1977.

Take notice that on July 11, 1977, Lightning Productions, Inc., 2010 Republic Bank Building, Dallas, Texas 75201, and James S. Robertson, Jr., 2928 LTV Tower, Dallas, Texas 75201, (Applicants), filed in Docket No. CI77-636 an applicant pursuant to Section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity, with preganted abandonment, for the sale to Texas Eastern Transmission Corporation of the gas produced from certain wells and units attributable to the Applicants' interest for a period of one year from date of first deliveries of gas thereunder, as provided in the contract hereinafter described. Such wells are situated in the Canadian Bayou Field, DeSoto Parish, Louisiana. The units and wells depicted on Exhibit "A" of the application are known as the E. E. Fogelson No. 1 C. A. Brown unit and well and the E. E. Fogelson—L. A. Smith unit and well. Such units consist of the North Half (N/2) of each of Sections 1 and 2, T12N, R15W, DeSoto Parish, Louisiana. Lightning Productions, Inc., is the operator of such wells and units. Applicants own the entire oil and gas leasehold estate covering such units, subject to an outstanding overriding royalty which is convertible into an undivided ¼ interest therein upon the occurrence of a certain event (Payout of the costs of such wells and two dry holes which have been drilled by Applicants offsetting the subject properties).

Applicant proposes a rate of $1.47904 per Mcf at 15,025 psia, subject to Btu adjustment from 1.000 Btu's per cubic foot, with 1.02 cents per Mcf quarterly escalations beginning July 1, 1977. Applicant claims that except for the necessity to evaluate its wells gas reserves, and developmental possibilities, the gas supply would not be available to the interstate market for the limited period sought here.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said applications should on or before August 17, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23684 Filed 8-16-77;8:45 am]

[Docket No. ER77-533]

LOUISIANA POWER & LIGHT CO.

Notice of Proposed Tariff Change

AUGUST 9, 1977.

Take notice that Louisiana Power & Light Company (LP&L) on July 29, 1977 tendered for filing proposed changes in its rates for wholesale electric service rendered under the following rate schedules:

	FPC Rates Schedule No.
Rural electric cooperatives:	
Dixie Electric Membership Corp	34
Pointe Coupee Electric Membership Corp	35
Washington-St. Tammany Electric Cooperative, Inc	37
Cajun Electric Power Cooperative Inc	42
Municipal electric systems:	
Town of Jonesville	22
Town of Winnfield	26
Town of Vidalia	53
Town of Minden	52

LP&L states that pursuant to Commission Order No. 555, LP&L has requested rates based on the inclusion of all of its construction work in progress in its rate base. LP&L further states that during the twelve months ending September 1, 1977, the rates proposed by LP&L would provide it with an increase in revenues of $6,275,000 from service to the rural cooperatives and $1,059,000 from service to the municipalities. LP&L indicates that if construction work in progress other than that associated with its pollution control and fuel conversion facilities was not included in its rate base, its proposed rates would provide it with increased revenues of $3,105,000 from service to the cooperatives and $537,000 from service to the municipalities during this period. LP&L has proposed to make the rates which it has requested effective September 1, 1977.

LP&L states that substantial immediate rate relief is required of its severe financial plight, which has resulted in its inability to issue substantial quantities of additional securities necessary to finance its construction program at reasonable cost. LPL further states that under its existing rates, it would receive an overall rate of return of 4.80 percent from service to the rural cooperatives and 4.58 percent from service to the municipalities during the year ending December 31, 1977, and that the proposed rates are designed to provide it with an overall rate of return of 9.96 percent from service to each class of customers.

According to LP&L copies of the relevant rate schedules and billing comparisons were served upon each affected customer, and the Louisiana Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8

and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be considered on or before August 23, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23664 Filed 8-16-77;8:45 a.m.]

[Docket No. CP77-526]

MICHIGAN WISCONSIN PIPE LINE CO., ET AL.

Notice of Joint Pipeline Application

AUGUST 8, 1977.

Take notice that on July 26, 1977, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), One Woodward Avenue, Detroit, Michigan 48226, Transcontinental Gas Pipe Line Corporation (Transco, P.O. Box 1396, Houston, Tex. 77001, and United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001 (Applicants) filed in Docket No. CP77-526 a joint application pursuant to Section 7(c) of the Natural Gas Act, as amended, for a certificate of public convenience and necessity authorizing the construction, ownership and operation of pipeline and related facilities necessary to connect gas supplies located in High Island Blocks A-339 and A-340, Offshore Texas, to the certificated pipeline system of High Island Offshore System (HIOS), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

By Commission orders issued June 4, 1976 and July 30, 1976 in Docket Nos. CP75-16, CP75-81 and CP75-104, HIOS was authorized, inter alia, to construct and operate 41 miles of 30-inch pipeline between High Island Block A-264 and High Island Block A-573 and to render transportation service for Applicants and others. The instant application states that Michigan Wisconsin, Transco and United have acquired the preferential rights to purchase 35 percent, 7.75 percent and 49.25 percent and 52.25 percent, respectively, of the gas underlying High Island Block A-340. Applicants state that the purpose of the instant application is to obtain authorization to construct, own and operate approximately 0.4 miles of 12-inch pipeline and related facilities to connect the producers' production platform in High Island Block A-340 with HIOS 30-inch lateral mainline in High Island Block A-340. Applicant's estimate that the total cost of the proposed facilities will be $2,098,835, of which Michigan Wisconsin will contribute $763,976, Transco $238,008 and United $1,096,851. Applicants state that they will finance their respective shares of said costs from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application, on or before August 29, 1977, should file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23652 Filed 8-16-77;8:45 am]

[Docket No. RP71-16 PGA77-5]

MIDWESTERN GAS TRANSMISSION CO.

Notice of Proposed Northern System PGA Rate Adjustment

AUGUST 10, 1977.

Take notice that on August 1, 1977, Midwestern Gas Transmission Company (Midwestern) tendered for filing Third Revised Sheet No. 5A in Third Revised Volume No. 1 of its FPC Gas Tariff, to be effective on September 21, 1977.

Midwestern states that the sole purpose of the revised tariff sheet is to reflect a PGA rate adjustment for its Northern System. Midwestern further states that such adjustment is based upon an increase, effective September 21, 1977, to $2.16 (U.S.) per MMBtu in the price which Midwestern is required by action of the Canadian Government to pay for gas to its Northern System supplier, TransCanada PipeLines Limited.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 22, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provide, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23679 Filed 8-16-77;8:45 a.m.]

[Docket No. RP72-149, PGA77-9]

MISSISSIPPI RIVER TRANSMISSION CORP.

Proposed Change in Rates

AUGUST 10, 1977.

Take notice that Mississippi River Transmission Corporation ("Mississippi") on July 29, 1977, submitted for filing Fifty-Eighth Revised Sheet No. 3A to its FPC Gas Tariff, First Revised Volume No. 1, to become effective September 1, 1977.

The instant filing is being made pursuant to the provisions of Mississippi's purchased gas cost adjustment clause to track a rate change filing made by Natural Gas Pipeline Company of America ("Natural"), under date of July 18, 1977, pursuant to the PGA provisions of its tariff and its Petition for Order Amending Opinion No. 763 relative to the tracking of purchases and transportation of methane gas at Docket No. CP75-147, to become effective September 1, 1977.

Mississippi also submitted for filing in the alternative, six (6) copies of Alternate Fifty-Eighth Revised Sheet No. 3A to its FPC Gas Tariff, First Revised Volume No. 1, to be effective September 1, 1977. Mississippi states Alternate Fifty-Eighth Revised Sheet No. 3A was submitted to track the rates included in Natural's Alternate traiff sheets. Such sheets reflected Natural's settlement base rates at Docket No. RP76-106, as well as changes in the balance of advance payments outstanding and changes related to the recovery of charges to Natural by Stangray Pipeline Company for transportation, both pursuant to tracking provisions in the settlement agreement in RP76-106 filed April 28, 1977. The settlement agreement was approved July 20, 1977, subsequent to Natural's July 18, 1977 PGA and tracking adjustment filing.

Mississippi submitted schedules containing computations supporting the rate changes, as proposed and in the alternative, to be effective September 1, 1977. Mississippi states that copies of its filing were served on Mississippi's jurisdictional customers and the State Commissions of Arkansas, Illinois and Missouri.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 22, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23688 Filed 8-16-77;8:45 am]

[Docket No. CI77-598]

MOBIL OIL CORP.

Notice of Limited-Term Certificate Application

AUGUST 10, 1977.

Take notice that on June 27, 1977, Mobil Oil Corporation (Applicant) Three Greenway Plaza East—Suite 800, Houston, Texas 70046, filed in Docket No. CI77-598 an application pursuant to Section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity, with pregranted abandonment, for the sale of gas produced from the Piceance Creek Field, Rio Blanco County, Colorado to Northwest Pipeline Corporation (Northwest) on a best efforts basis within the contemplation of Section 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70).

The gas to be sold will be delivered at the point of interconnection of the facilities of Mobil and Northwest. This application is submitted on the express conditions that the certificate authorize the proposed sale to Northwest (1) at the initial price of 149.67 cents per Mcf at 14.730 psia, which is the Opinion No. 770-A price for post July 1, 1977 deliversies; (2) and on the condition that the Commission waive its accounting and reporting requirements by Applicant for the term of the certificate with respect to this sale.

Mobil, pursuant to a contract with the United States Energy Research and Development Administration, is performing experimental stimulation techniques in the completion of said well to evaluate the effectiveness of massive hydraulic fracturing technology for stimulating gas production from reservoirs heretofore found to be noncommercial. During this test period, estimated to be completed December 31, 1978, Mobil anticipates intermittent production. To assure Mobil of a pipeline outlet for gas to permit such testing and prevent waste by flaring, and to provide additional supplies of gas for Northwest's system, Mobil claims that said application for a Limited-Term Certificate is in the public interest.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said applications should on or before August 17, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene to a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23680 Filed 8-16-77;8:45 am]

[Docket No. ER77-528]

NORTHERN STATES POWER CO. (MINNESOTA)

Notice of Proposed Rate Increase

AUGUST 8, 1977.

Take notice that Northern States Power Company, Minneapolis, Minnesota, (NSP) on July 28, 1977, tendered for filing new and revised Schedule A or Exhibit D to NSP's contracts with the following 15 wheeling customers:

	FPC Rate Schedule No.
City of Ada	304
City of Fairfax	300
City of Hillsboro	314
City of Marshall	165
City of Melrose	317
City of Olivia	322
City of Redwood Falls	283
City of Saint James	312
City of Sauk Centre	305
City of Sleepy Eye	308
Renville-Sibley Cooperative Power Association	331
City of East Grand Forks	382
City of Sioux Falls	277
University of North Dakota	347
State of South Dakota	362

The rate schedule is proposed to be effective for service provided on and after October 21, 1977.

NSP states that the proposed rate schedules will increase revenues from the sale of wheeling services by $44,362, based on sales for the calendar year 1976 test year. The proposed increase is needed, NSP states, so that the revenues will more nearly recover NSP's costs in rendering the service.

The proposed rate schedules change the rate from a kilowatt-hour basis to a kilowatt basis. NSP states that this change is proposed so that the rate will more accurately reflect the cost of service.

As provided in Section 35.2 of the regulations under the Federal Power Act, a copy of the proposed rate schedule and comparative billing data have been mailed to each of NSP's customers affected by the proposed change, to the Minnesota Public Service Commission, the North Dakota Public Service Commission, and to the South Dakota Public Utilities Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23677 Filed 8-16-77;8:45 am]

[Docket No. ER77-542]

NORTHERN STATES POWER CO. (MINNESOTA)

Supplement No. 1

AUGUST 10, 1977.

Take notice that Northern States Power Company (Minnesota), hereinafter referred to as NSPC-Minnesota, on August 3, 1977, tendered for filing Supplement No. 1, dated July 20, 1977, to the Interconnection and Interchange Agreement with Northern States Power Company (Wisconsin), hereinafter referred to as NSPC-Wisconsin, and Wisconsin Public Service Corporation.

NSPC-Minnesota indicates that Supplement No. 1 eliminates Section 4.10, Reserved Power, and amends Service Schedules A, B, D, and E, and adds Service Schedule F to the terms of the Agreement.

NSPC-Minnesota states that the proposed rates under the modified service schedules are the result of negotiations between the parties and agree closely with the rates for identical or similar service in the midwest region.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 24, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to inter-

V42 I159 AUG 17 77 UM

vene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23690 Filed 8-16-77;8:45 am]

[Docket No. ER77-530]

OHIO EDISON CO.

Notice of Proposed Tariff Change

AUGUST 9, 1977.

Take notice that Ohio Edison Company (Ohio Edison) on July 29, 1977, tendered for filing proposed changes in the following FPC Electric Service Rate Schedule Numbers:

Amherst	122
Beach City	123
Brewster	124
Columbiana	125
Cuyahoga Falls	126
Galion	127
Grafton	128
Hubbard	129
Hudson	130
Lodi	131
Lucas	132
Milan	133
Monroeville	134
Newton Falls	122
Niles	135
Oberlin	136
Prospect	137
Seville	138
South Vienna	139
Wadsworth	140
Wellington	141

Ohio Edison states that the proposed changes would increase revenues from jurisdictional sales and service by $7,927,000 based on the twelve-month period ending June 30, 1978.

Ohio Edison proposes an effective date of September 1, 1977.

Ohio further states that the reason for the proposed increase is that rates for service to its municipal wholesale customers are no longer just and reasonable, being inadequate to provide a basis for attracting capital on reasonable terms and to permit issuance of senior securities as a means of obtaining capital.

According to Ohio Edison copies of the filing were served on the Company's jurisdictional customers affected by the proposed changes.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23676 Filed 8-16-77;8:45 am]

[Project No. 2729]

POWER AUTHORITY OF THE STATE OF NEW YORK

Amended Application for License for Unconstructed Project

AUGUST 10, 1977.

Take notice that an amended application has been filed before the Federal Power Commission for a major license under the Federal Power Act (16 U.S.C. 791a–825r) on May 26, 1977, by the Power Authority of the State of New York (Correspondence to: Lewis R. Bennett, Assistant General Manager-General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019 and to John C. Mason, Esq., Morgan, Lewis and Bockius, 1800 M Street, N.W., Washington, D.C. 20036) for the proposed Prattsville Pumped Storage Project, FPC No. 2729. Previous filings by Applicant in this Docket were made on March 30, 1973; July 24, 1973; October 31, 1975; and April 28, 1976. Public notice of these filings has been given. The proposed project would be located on Schoharie Creek, a tributary of the Mohawk River, in the Towns of Gilboa and Conesville (Schoharie County), Prattsville (Greene County), and Roxbury (Delaware County), New York.

The proposed 1000-megawatt Prattsville pumped storage project would utilize as its lower reservoir the existing Schoharie Reservoir which is owned and operated by the City of New York as part of its water supply system. New York City diverts water from Schoharie Reservoir through Shandaken Tunnel into the Esopus Creek where the water flows through the Towns of Shandaken and Olive in Ulster County into the Ashokan Reservoir. The upper reservoir of the pumped storage project would be located on Dog Hill to the east of Schoharie Reservoir.

The proposed project would consist of: (1) a 500 acre upper reservoir enclosed on three sides by a 150-foot high and 19,000-foot long rolled earth fill embankment and on the fourth side by a natural ridge, with storage capacity of 30,600 acre-feet, of which 26,000 acre-feet would be live storage for power generation and water supply between elevations 1,950 and 2,017 feet; (2) an ungated submerged circular weir which would operate as a water inlet and outlet, located in the southwest portion of the upper reservoir; (3) a concrete-lined vertical 875 foot-long pressure shaft, a 3,400 foot-long horizontal tunnel and manifold, all 32.5 feet in diameter, and four 15-foot diameter pressure tunnels averaging 700 feet in length to provide passageways for the water between the pumping-generating units and the upper reservoir; (4) the existing Schoharie reservoir created by an 180-foot high and 1,984-foot long center concrete spillway containing four 43-foot wide by 46-foot high tainter gates, having a storage capacity of 70,000 acre-feet, 60,000 acre-feet of which will be active water supply and power supply storage between elevations 1,065 and 1,135 feet; (5) an underground pumping-generating plant located on the east side of the lower reservoir which would contain four generator-motor units each capable of generating 250,000 kilowatts when operated as generators and with 372,000 hp of pumping power when operated as motors; (6) step-up transformers located in the plant and connected through a system of disconnects and gas insulated high voltage busses through a vertical shaft to the switchyard; (7) a switchyard located on the east side of Schoharie Reservoir immediately east of the tailrace structure; and (8) three 345-kv transmission circuits which would share a new common right-of-way extending about 5.6 miles in a northerly direction from the switchyard in the Town of Prattsville, Greene County through the Towns of Conesville and Gilboa in Schoharie County to the existing Gilboa-Leeds 345-kv right-of-way.

Approximately 72 acres of the land acquired for the project will be developed for recreation facilities. These facilities include a community recreation area in the hamlet of Prattsville; construction overlooks at the powerhouse site and Gilboa Dam; a parking area for fishing access, snowmobiling and hiking trails at the upper reservoir; a scenic overlook at Manor Kill Falls; and educational study and picnic area north of Gilboa Dam; and trails for hiking and snowmobiling.

The project will provide fast-response peaking capacity to meet system emergencies and to serve load during periods of peak demand in the City and State of New York.

The alternate sites being considered by Applicant for a similar pumped storage project are: (1) Gardiner, located on the Shawangunk Creek in the Towns of Rochester, Gardiner, and Shawangunk in Ulster County; (2) Livingstonville, located on Catskill Creek in the Town of Broome in Schoharie County; (3) Port Jervis North, located on the Neversink River in the Towns of Deerpark in Orange County and Forestburg in Sullivan County; and (4) Breakabeen, located on Schoharie Creek near the Towns of Blenheim, Fulton, and Gilboa, in Schoharie County. A further alternate site being evaluated by the FPC Staff is Canadaigua, located within the Towns of Canandaigua, Gorham, and South Bristol in Ontario County, and Middlesex and Italy in Yates County. The lower reservoir would be the existing Canadaigua Lake and the upper reservoir would

be located on South Hill, near the southeast end of Canandaigua Lake.

Unless previously granted intervention in this matter, any person desiring to be heard or to make any protest with reference to this matter should on or before October 18, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person or organization wishing to become a party to a proceeding or to participate as a party in any evidentiary hearing therein must file a petition to intervene in accordance with the Commission's Rules. This application is on file with the Commission and available for public inspection at the Commission's offices in Washington, D.C., and at Applicant's offices in New York City and in Gilboa, Prattsville, and Catskill, New York.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23695 Filed 8-16-77;8:45 am]

[Docket No. ER77-541]

PUBLIC SERVICE CO. OF OKLAHOMA

Notice of Interconnection Change

AUGUST 9, 1977.

Take notice that on August 3, 1977, Public Service Company of Oklahoma (PSO) tendered for filing proposed changes in Rate Schedule FPC No. 143. PSO indicates that the proposed change provides a new point of interconnection to be provided under the Interconnection Agreement between PSO and Oklahoma Gas and Electric Company (OG&E) dated April 30, 1956, on file with the Commission and designated as Rate Schedule FPC No. 143. Benefits to be derived from the 345kV interconnection are mutual between the two companies, according to PSO.

PSO respectively requests that the Commission waive its notice requirements regarding the filing of contracts no more than 90 days before the contract is proposed to go into effect, and to allow this filing to become effective at the earliest possible date.

PSO indicates that copies of this filing are being served upon the Oklahoma Corporation Commission and OG&E.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 24, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23667 Filed 8-16-77;8:45 am]

[Docket No. CP77-530]

SOUTHERN NATURAL GAS CO.

Notice of Application

AUGUST 9, 1977.

Take notice that on July 27, 1977, Southern Natural Gas Company (Applicant), Post Office Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP77-530 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction during the 12-month period commencing October 21, 1977, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers and other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the system of other pipeline companies which may be authorized to transport gas from the account of or exchange with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $12,000,000 with no single offshore project to exceed a cost of $2,500,000, and no single onshore project to exceed a cost of $1,500,000. It is stated that these costs would be financed with cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 31, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23674 Filed 8-16-77;8:45 am]

[Docket No. RP73-3 (PGA77-3)]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Purchased Gas Cost Adjustments to Rates and Charges

AUGUST 10, 1977.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on August 1, 1977, tendered for filing certain revised tariff sheets to its FPC Gas Tariff, Second Revised Volume No. 1 to become effective September 1, 1977. Pursuant to the Purchased Gas Adjustment Clause (PGA Clause) contained in its Tariff, Transco proposes to increase its rates effective September 1, 1977 to reflect the net effect of a current purchased gas cost increase and a deferred adjustment increase.

Second Substitute Third Revised Sheet No. 12 and Substitute Second Revised Sheet No. 15 included in Appendix A of the filing reflect a net rate increase of 5.1¢ per dekatherm (dt) which is the result of a 0.9¢ per dt current gas cost increase and a net increase in the Deferred Adjustment of 4.2¢ per dt. Transco states that this latter increase arises from (1) an increase of 3.1¢ per dt due to the elimination of a negative deferred adjustment of the same amount which became effective March 1, 1977 pursuant to Transco's PGA Tracking Rate filing of January 28, 1977 and (2) an increase of 1.1¢ per dt to recover the balance in the Unrecovered Purchase Gas Cost Account (FPC Account No. 191) as of June 30, 1977 for gas purchase costs exclusive of amounts attributable to Commission Opinion No. 770-A.

The Company states that copies of the filing have been mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426,

VOL 42 NO 159 AUG 17 77 UM

in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 22, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspections.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77 23678 Filed 8 16 77,8:45 am]

[Docket No. CP77-527]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

AUGUST 8, 1977.

Take notice that on July 26, 1977, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77-527 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas under a transportation agreement with Florida Gas Transmission Company (Florida) whereby Applicant will receive for that company an aggregate quantity of up to 20,000 dekatherms (dt) equivalent of gas per day, and deliver a thermally equivalent quantity at any mutually agreeable existing authorized interconnection between the two systems in the gas supply area, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to transport on a best efforts basis for Florida, natural gas which Florida will purchase in Jefferson Davis and Marion Counties, Mississippi and deliver to Transco's main line system at any or all of four mutually agreeable locations, as follows: Section 5, Township 6 North, Range 16 West, Jefferson Davis County; Section 7, Township North, Range 18 West, Jefferson Davis County; Section 30, Township 5 North, Range 19 West, Marion County; and Section 35, Township 5 North, Range 12 East, Marion County.

Applicant states that Florida is presently curtailing deliveries of gas to its customers and that the volumes of gas reflected in its application will help to maintain as adequate and reliable service as possible to Florida's system.

Applicant states that it will install the necessary taps and/or valves on its pipeline, and Florida will install, operate and maintain the necessary measuring facilities used to determine the quantity and Btu content of the gas delivered. All such facilities will be constructed pursuant to a budget-type authorization of the respective parties.

For this transportation service, Applicant states that Florida will pay Applicant initially a charge of 3.5 cent per dt delivered.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 31, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23653 Filed 8-16-77;8:45 am]

[Docket No. CP77 538]

TRANSCONTINENTAL GAS PIPE LINE CORP. ET AL.

Notice of Pipeline Application

AUGUST 9, 1977.

Take notice that on August 1, 1977, Transcontinental Gas Pipe Line Corporation, 2700 South Post Oak Road, Houston, Texas 77056; Consolidated Gas Supply Corporation, 445 West Main Street, Clarksburg, West Virginia 26301; Michigan Wisconsin Pipe Line Company, One Woodward Avenue, Detroit, Michigan 48226; Natural Gas Pipeline Company of America, 122 South Michigan Avenue, Chicago, Illinois 60603; and Trunkline Gas Company, 3000 Bissonnet, Houston, Texas 77005 (Applicants), filed in Docket No. CP77-538 a joint application pursuant to Section 7(c) of the Natural Gas Act, as amended, and the Rules and Regulations of the Federal Power Commission, for a certificate of public convenience and necessity authorizing the construction and operation of natural gas pipeline facilities in the High Island Area, East Addition, South Extension, Offshore Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they have the right to purchase natural gas from reserves located in Blocks A-350, A-369 and A-370 of the above-mentioned High Island Area and in Block WC-633 of the West Cameron Area, South Addition, Offshore Louisiana. Applicants state that the purpose of the instant application is to obtain authorization to construct and operate (i) approximately 6.01 miles of 24-inch gathering line and other appurtenant facilities extending from a point in Block A-350 to a manifold platform to be jointly owned by High Island Offshore System and Stingray Pipeline Company in Block A-330, (ii) approximately 2.31 miles of 24-inch gathering line and other appurtenant facilities extending from a production platform in Block A-370 to a point in Block A-350 where such line joins with the southern terminus of the line described in (i) above, together with a meter and regulator station on the Block A-370 platform, and (iii) approximately 0.07 miles of 20-inch gathering line and other appurtenant facilities extending from a production platform in Block A-350 to a sub-sea tap which ties in such line with the 24-inch line at the point where the lines described in (i) and (ii) join, together with a meter and regulator station on the Block A-350 platform. Applicants estimate that the total cost of the proposed facilities will be $16,680,000. Applicants state that their respective shares of said costs will be financed initially through revolving credit arrangements, short-term loans, funds on hand and, in some cases, from funds obtained from parent companies. Permanent financing will be undertaken as part of Applicants' respective overall long-term financing programs at later dates.

Michigan Wisconsin Pipe Line Company will operate the proposed facilities for all Applicants.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 6, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject

to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23663 Filed 8-16-77;8:45 am]

[Docket No. CP77-107]

TRANSWESTERN PIPELINE CO.

Notice of Petition To Amend

AUGUST 9, 1977.

Take notice that on July 26, 1977, Transwestern Pipeline Co. (Petitioner), P.O. Box 2521, Houston, Tex. 77001, filed in Docket No. CP77-107 a petition pursuant to Section 7(c) of the Natural Gas Act to amend further the Commission's order issued April 2, 1976, in said docket by authorizing the transportation of natural gas for Pacific Interstate Transmission Co. (Pacific Interstate) for an additional well, as more fully set forth in the application which is on file with the Commission and open to public inspection.

Petitioner asserts that by order issued April 2, 1976 in Docket Nos. CI76-186, CP76-104 and CP76-107, the Commission authorized, inter alia, Petitioner to transport natural gas in interstate commerce for the account of Pacific Interstate pursuant to a Transportation Agreement between Petitioner and Pacific Interstate dated September 29, 1975. The gas which Petitioner is transporting is being purchased by Pacific Interstate from Pacific Lighting Gas Development Co. (PLGD) and is being sold by Pacific Interstate to its sole customer, Pacific Lighting Service Co. (Service Company), it is said.

The authorized transportation service is pursuant to the Transportation Agreement between Petitioner and Pacific Interstate dated September 29, 1975, as amended May 12, 1976, and again on November 29, 1976, to provide for the transportation of these gas supplies, it is stated. Petitioner and Pacific Interstate have entered into a further amendment, dated June 24, 1977, providing for the proposed additional transportation, it is indicated. Petitioner is still obligated to transport on a best efforts basis no more than 25,000 Dth equivalent of gas per day during each contract year, it is indicated.

Petitioner states that Pacific Interstate has contracted with PLGD to purchase gas from one additional well (the No. 2 Wink Airport Well in Section 11, Block 21, University Land, Winkler County, Tex.) and has agreed to sell this gas to Service Company. Petitioner further states that it is contracting to purchase a portion of the gas produced from the well described from Transwestern Gas Supply Co. which is involved in the drilling operation. This well would be connected to Petitioner's system under the currently effective budget-type authorization issued to Petitioner in Docket No. CP77-13, it is asserted.

Petitioner seeks authorization to transport the additional natural gas through its existing main line system and would deliver it to Service Company at an existing interconnection between the two companies' systems at the Arizona-California border near Needles, Calif. Petitioner states that no new facilities would be required.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 2, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23661 Filed 8-16-77;8:45 am]

[Docket No. CP77-544]

TRUNKLINE GAS CO.

Pipeline Application

AUGUST 10, 1977.

Take notice that on August 3, 1977, Trunkline Gas Co. (Applicant), P.O. Box 1642, Houston, Tex. 77001, filed in Docket No. CP77-544 an application pursuant to Section 7(c) of the National Gas Act and the regulations thereunder for Certificates of Public Convenience and Necessity authorizing construction of new facilities to be used for its own account and on behalf of Gulf Oil Corp. (Gulf), and for a temporary certificate therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the construction of a new sixteen-inch line to be built between Block 23, Vermilion Area, Offshore Louisiana, and a point on Applicant's existing line immediately onshore in Vermilion Parish, La. Applicant will own and operate the proposed facilities and use 50 percent of the new capacity to transport gas for its own account. Gulf will have the use of the other 50 percent of such capacity and, in return, will make a contribution in aid of construction of one-half of the cost of such facilities.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 2, 1977, should file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23691 Filed 8-16-77;8:45 am]

[Docket No. CP77-533]

TRUNKLINE GAS CO. AND PANHANDLE EASTERN PIPE LINE CO.

Pipeline Application

AUGUST 10, 1977.

Take notice that on July 29, 1977, Trunkline Gas Co. and Panhandle Eastern Pipe Line Co. (Applicants), Post Office Box 1642, Houston, Tex. 77001, filed in Docket No. CP77-533, a joint application pursuant to Section 7 of the Natural Gas Act and the regulations thereunder for a Certificate of Public Convenience and Necessity and for a Temporary Certificate authorizing the transportation of natural gas on behalf of Northern Natural Gas Co. (Northern) all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Trunkline proposes to receive initial quantities of 50,000 Mcf per day for the

account of Northern utilizing the capacity of its existing systems and arrangements with Stingray Pipeline Co. and Natural Gas Pipeline Co. of America. Trunkline will redeliver the volumes transported less compressor fuel and certain quantities to be sold to Panhandle, to Northern at Trunkline's Longville, Louisiana compressor station. Such gas will be transported pursuant to a transportation contract dated May 24, 1977, between Applicants and Northern wherein Trunkline will receive the gas at Exxon Corp.'s production platform in West Cameron Block 616, Offshore Louisiana, and redeliver at the suction header of Trunkline's Longville, Louisiana compressor station, for further transportation and delivery to Northern at Mullinville, Kans. As partial consideration for this transportation service, Northern has agreed to sell to Panhandle up to 20 percent of the volumes delivered at the point of receipt. For the transportation service between the point of receipt and Trunkline's Longville, La. compressor station, Northern will pay a monthly charge of One Hundred Fifty-Four Thousand Two Hundred Fifty-Six Dollars ($154,256) based on transportation of 40,000 Mcf per day. An upward or downward adjustment of 12.67 cents per Mcf will be applied to any deficiency or excess taken.

Applicants also seek authorization to effectuate a transportation agreement between Applicants which provides for the transportation by Trunkline of the gas purchased by Panhandle from Northern. In consideration for said transportation, Panhandle will pay to Trunkline a monthly transportation charge of Ninety-Five Thousand Nine Hundred Sixty-Four Dollars ($95,964).

Any person desiring to be heard or to make any protest with reference to said application, on or before September 6, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23689 Filed 8-16-77;8:45 am]

[Docket No. RP76-84]

UNITED GAS PIPE LINE CO.

Notice of Certification of Settlement Agreement

AUGUST 9, 1977.

Take notice that on July 22, 1977, the Presiding Judge certified a proposed settlement agreement to the Commission in the captioned docket. This agreement proposes to settle all issues in the captioned docket plus certain outstanding issues in Docket Nos. RP71-41, RP72-75, RP74-20, RP74-83, RP75-30, and RP75-109.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Initial comments will be filed with the Commission on or before August 25, 1977, and reply comments will be filed on or before September 9, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23656 Filed 8-16-77;8:45 am]

[Docket No. ID-1692]

JOHN W. VAUGHAN

Notice of Amendment to Application Under Section 305(b)

AUGUST 9. 1977.

Take notice that on July 22, 1977, John W. Vaughan filed an amendment to the supplemental application in this docket, pursuant to Section 305(b) of the Federal Power Act.

This amendment discusses certain relationships between the American Electric Power System and various financial institutions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23670 Filed 8-16-77;8:45 am]

[Docket Nos. RP-72-41; PGA77-2b]

WESTERN TRANSMISSION CORP.

Proposed Changes

AUGUST 10, 1977.

Take notice that Western Transmission Corporation (Western), on July 29, 1977, tendered for filing as part of its FPC Gas Tariff, Original Volume No. 1, the following sheet:

Fifth Revised Sheet No. 3-A, superseding Fourth Revised Sheet No. 3-A.

The proposed changes reincorporate a schedule of the estimated surcharges (which include a 9 percent carrying charge) pursuant to Section 18.4 of the General Terms and Conditions of Western's FPC Gas Tariff, Original Volume No. 1 and FPC Opinion No. 770, et seq. inadvertently omitted in Fourth Revised Sheet No. 3-A, superseding Third Revised Sheet No. 3-A.

Western's filing is proposed to become effective on June 1, 1977.

Copies of this filing have been served upon Colorado Interstate Gas Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before *August 22, 1977*. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23681 Filed 8-16-77;8:45 am]

[Docket No. ER77-539]

WESTERN MASSACHUSETTS ELECTRIC CO.

Notice of Proposed Purchase Agreement

AUGUST 9, 1977.

Take notice that on June 29, 1977, Western Massachusetts Electric Company (WMECO) tendered for filing a proposed Purchase Agreement with Respect to Various Gas Turbine Units, (the Unit Contract) dated January 10, 1977, between WMECO and Reading Municipal Light Department (RMLD).

WMECO states that the Unit Contract provides for a sale to RMLD of a specified percentage of capacity and energy from six gas turbine generating units during the period from November 1, 1978 to October 31, 1980, together with related transmission service.

WMECO requests that the Commission waive its notice requirements and accept the Unit Contract for filing more than ninety days prior to its proposed effective date (November 1, 1978) so that RMLD will be assured of the capacity included in the tendered rate schedule.

WMECO states that the capacity charge for the proposed service was developed on a cost-of-service basis. WMECO further states that the monthly transmission charge is equal to one-twelfth of the annual average unit cost of transmission service on the Northeast Utilities (NU) system, determined in accordance with Section 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the NEPOOL agreement and the uniform rules adopted by the NEPOOL Executive Committee, multiplied by the number of kilowatts of winter capability which RMLD is entitled to receive, reduced to give due recognition of the payments made by RMLD for transmission service on intervening systems, and the variable and additional maintenance charges were arrived at from historical costs.

WMECO states that copies of this rate schedule have been mailed or delivered to RMLD, Reading, Massachusetts.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 24, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23660 Filed 8-16-77;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEES ON THE BLACK POPULATION FOR THE 1980 CENSUS, THE SPANISH ORIGIN POPULATION FDR THE 1980 CENSUS, ASIAN AND PACIFIC AMERICANS POPULATION FOR THE 1980 CENSUS

Public Meetings

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 1, (Supp. V, 1975)), notice is hereby given of a combined meeting and subsequent separate meetings of the Census Advisory Committee on the Black Population for the 1980 Census, Census Advisory Committee on the Spanish Origin Population for the 1980 Census, and the Census Advisory Committee on Asian and Pacific Americans Population for the 1980 Census. The combined meeting will convene at 9 a.m. on Thursday, September 8, 1977, at the Olde Colony Motor Lodge, North Washington and First Streets, Alexandria, Virginia.

The Census Advisory Committee on the Black Population for the 1980 Census is composed of 21 members appointed by the Secretary of Commerce. It was established in October 1974 to advise the Director, Bureau of the Census, on such 1980 census planning elements as improving the accuracy of the population count, recommending subject content and tabulations of special use to the black population, and expanding the dissemination of census results among present and potential users of census data in the black population.

The Census Advisory Committee on Spanish Origin Population for the 1980 Census is composed of 21 members appointed by the Secretary of Commerce. It was established in February 1975 to advise the Director, Bureau of the Census, on such 1980 census planning elements as improving the accuracy of the population count, developing definitions for classification of the Spanish-origin population, recommending subject content and tabulations of especial use to the Spanish-origin population and expanding the dissemination of census results among present and potential users of census data in the Spanish-origin population.

The Census Advisory Committee on the Asian and Pacific Americans Population for the 1980 Census is composed of 21 members appointed by the Secretary of Commerce. It was established in June 1976 to advise the Director, Bureau of the Census, during the planning of the 1980 Census of Population and Housing on such elements as improving the accuracy of the population count, developing definitions and terminology for improved identification and classification of the Asian and Pacific Americans population, suggesting areas of research, recommending subject content and tabulations of particular use to the Asian and Pacific Americans population, and expanding the dissemination of census results among present and potential users of census data in the Asian and Pacific Americans community.

The agenda for the combined meeting, which will end at 4:30 p.m. is: (1) Status of the 1980 Census Dress Rehearsal, (2) reports on the Oakland, California, pretest, (3) race and ethnic origin questions on the census forms, (4) testing and selection aids, and (5) field training for the 1980 census.

Separate meetings of the three advisory committees will be held as follows:

The Census Advisory Committee on the Black Population for the 1980 Census will convene at 8:45 a.m. on Friday, September 9, 1977, in room 2412, Federal Building 3, Suitland, Maryland. The meeting will end at 11:15 a.m.

The Census Advisory Committee on the Spanish Origin Population for the 1980 Census will begin at 11:45 a.m. on Friday, September 9, 1977, in room 2113, Federal Building 3, Suitland, Maryland. The meeting will end at 2:15 p.m.

The Census Advisory Committee on the Asian and Pacific Americans Population for the 1980 Census will convene at 2:30 p.m. on Friday, September 9, 1977, in room 2412, Federal Building 3, Suitland, Maryland. The meeting will adjourn at 5 p.m.

The agenda for the three separate meetings is: (1) Selected field procedures and subject content of the 1980 census, (2) affirmative action report, and (3) committee recommendations and plans for future meetings.

The meetings will be open to the public and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meetings.

Persons planning to attend and wishing further information concerning these meetings should contact the Committee Control Officer, Mr. Clifton S. Jordan, Deputy Chief, Demographic Census Staff, Bureau of the Census, room 3779, Federal Building 3, Suitland Maryland. (Mailing address: Washington, D.C. 20233). Telephone: (301) 763-5169.

Dated: August 12, 1977.

MANUEL D. PLOTKIN,
Director, Bureau of the Census.

[FR Doc.77-23743 Filed 8-16-77;8:45 am]

Domestic and International Business Administration

HOWARD UNIVERSITY, ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00201. Applicant: Howard University, 2400 Sixth St., NW., Washington, D.C. 20059. Article: Electron

Microscope, Model Elmiskop 102. Manufacturer: Siemens AG, West Germany. Intended use of article: This article is intended to be used as part of a multi-use cell and molecular biology laboratory in which studies will be conducted involving the ultracytochemical localization of viral-induced antigens on the surface of cell membranes and in the cell nucleus; the use of autoradiography to localize sites of synthesis of proteins and nucleic acids and of hormone (iodinated) on membranes receptors of ovarian, testicular and luteal tissues; in hybridization studies to localize DNA & RNA binding sites on chromosomes of normal and transformed human and non-human cells; and in cardiac dynamics to examine nerve-muscle contacts. Both very thin sections, coated and negatively stained macromoleucules at varying tilt angles, autoradiograms and replicas of freeze-etch material will be examined with the article. In addition, the article will be used in the training of faculty scientists and predoctoral and post doctoral trainees. Application received by Commissioner of Customs: April 21, 1977. Advice submitted by the Department of Health, Education, and Welfare on: July 11, 1977. Article ordered: March 18, 1977.

Docket Number: 77-00224. Applicant: East Tennessee University, College of Medicine, Johnson City, Tennessee 37601. Article: Electron Microscope, Model H-500-L with Waterchiller and recirculator, Model HX75. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used in a wide variety of research projects which will include:

(a) Studies of the ultrastructural characteristics of normal and diseased cells and tissues (including those requiring the detection of viral inclusions with cells);

(b) Experimental studies involving the localization of antigens and antibody forming cells by the horseradish peroxidase procedure and the unlabeled antibody enzyme method of Sternberger;

(c) Detection of various enzymes at the ultrastructural level, including phosphatases, esterases, and NAD-pyrophosphorylase, and to localize biogenic amines (adrenaline, noradrenaline, depamine, and serotonin) by the procedure of Tranzer and Richards; and

(d) Experimental studies of nonhistone proteins and nucleoprotein organization in chromatin and chromosomes following various manipulations, including critical-point drying, acid and/or salt extractions, denaturation, etc. Application received by Commissioner of Customs: May 4, 1977. Advice submitted by the Department of Health, Education, and Welfare on: July 11, 1977. Article ordered: February 7, 1977.

Docket Number: 77-00191. Applicant: State University of New York, Upstate Medical Center, 766 Irving Avenue Syracuse, N.Y. 13210. Article: Electron Microscope, Model Elmiskop 102 and accessories. Manufacturer: Siemens A.G., West Germany. Intended use of article: The article is intended to be used in a large number of research programs including the following:

1. Studies of the secondary structure of RNA from a variety of bacteriophages and tumor viruses;

2. Studies of the arrangement of subunits of malic enzyme and fatty acid synthetase; and

3. Examination of chicken embryo fibroblasts infected with a variety of RNA tumor viruses in order to trace replication of the virus and transformation of cells.

The objectives of the investigations are to trace the roles of nucleic acid structure in regulation of replication and translation and the role of enzyme structure in enzymatic activity. The article will also be used in the course Microbiology 619M—Electron Microscope Techniques in which students are taught operation of the transmission electron microscope, specimen prepartion procedures, photographic procedures.

Application received by Commissioner of Customs: April 4, 1977. Advice submitted by the Department of Health, Education, and Welfare on: June 24, 1977. Article ordered: March 8, 1977.

Comments: No comments have been received in regard to any of the foregoing applications.

DECISION: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, was being manufactured in the United States at the time the articles were ordered. Reasons: Each foreign article has a specified resolving capability of 3 Angstroms. The Department of Health, Education, and Welfare (HEW) advises in the respectively cited memoranda that the resolving capability of the foreign articles is pertinent to the purposes for which each of the foreign articles to which the foregoing applications relate is intended to be used. HEW advises that it knows of no domestic instrument which could provide the pertinent feature at the time the articles were ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States at the time the articles were ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-23733 Filed 8-16-77;8:45 am]

HOWARD UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00443. Applicant: Howard University, Dept. of Anatomy, 520 W Street NW., Washington, D.C. 20059. Article: Electron Microscope, Model EM 201C. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for research programs concerned with morphology of cell systems at the tissues and macromolecular levels which include the following:

(1) Investigation of the ultrastructural morphology of lymphatic capillaries during the normal and the inflammatory states with special attention to the lymphatic anchoring filaments that serve to attach these vessels to the adjoining connective tissues areas.

(2) Studies on the precise nature in which these filaments are bound to the lymphatic endothelial plasma membrane.

(3) Studies of histochemical identification of substances associated with the cell surfaces of lymphatic endothelial cells at the ultrastructural level in an attempt to characterize the chemical nature of the substance involved in the binding of lymphatic anchoring filaments to the cell surface.

(4) Studies on the organization of the descending pathways and their target cells in the spinal cord of the Tegu lizzard.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (May 29, 1975). Reasons: The foreign article provides image distortion of 1.5 percent (%) lens stabilities for the objective lens of 1 part per million (ppm) and 3 ppm for other lenses, magnification reproducibility of 1 percent and voltage stabilities of 2 ppm. At the time of order the most closely comparable domestic instrument available was the Model EMU-4C supplied by the Adam David Company. The model EMU-4C provided image distortion of 2 percent or less, lens stabilities for objective lens of 2.5 ppm and 10 ppm for other lenses, magnification reproducibility of ±2 percent and voltage stabilities of 5 ppm.

The Department of Health, Education, and Welfare (HEW) and the National Bureau of Standards (NBS) advises in their respective memoranda dated October 20, 1976 and May 26, 1977 that the characteristics of the foreign article described above are pertinent to the applicant's research studies. Specifically, HEW advises that the applicant requires (1) low distortion at low magnification and 1 percent magnification reproducibility for making montages of the intercellular junctions of the lympathic endothelial cells from serial and semi-serial sections and (2) the low image distortion as well as the stabilities of lenses, magnification and voltages of the article for long exposures with thick sections and thin semi-serial sections to map accurately the topographical realtionship between the cell bodies and axons in the descending pathways of the spinal cord of the Tegu lizzard. HEW further advises that the Model EMU-4C does not provide equivalent low distortion at low magnification for the montage work or guaranteed stabilities for thick section and long exposure work.

We, therefore, find that the Model EMU-4C was not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used at the time the foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-23734 Filed 8-16-77;8:45 am]

MANAGEMENT-LABOR TEXTILE ADVISORY COMMITTEE

Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Management-Labor Textile Advisory Committee will be held on September 15, 1977 at 1:30 p.m. in Room 5611, Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230.

The Committee was established by the Secretary of Commerce on October 18, 1961 to advise U.S. Government officials on problems and conditions in the textile and apparel industry and furnish information on world trade in textiles and apparel.

The agenda for the meeting will be as follows:

1. Review of import trends.
2. Implementation of textile agreements.
3. Report on conditions in the domestic market.
4. Other business.

A limited number of seats will be available to the public on a first-come basis. The public may file written statements with the Committee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the DIBA Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-5078.

Dated: August 12, 1977.

ARTHUR GAREL,
Director, Office of Textiles.

[FR Doc.77-23803 Filed 8-16-77;8:45 am]

NATIONAL INSTITUTES OF HEALTH

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00151. Applicant: National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014. Article: Electron Microscope, Model EM 400 with high magnification stage and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for investigations of the structure and function of eukaryotic chromatin. Currently available biochemical techniques combined with the techniques of electron microscopy provide a powerful tool for the examination of the problems of gene organization and expression.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used was being manufactured in the United States at the time the article was ordered (September 29, 1976). Reasons: The foreign article provides a guaranteed resolution of 3 Angstroms as well as a magnification range up to 800,000X. The National Bureau of Standards (NBS) advises in its memorandum dated July 11, 1977 that (1) the features described above are pertinent to the applicant's intended purposes and (2) it knows of no domestic instrument which provided the pertinent features at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-23735 Filed 8-16-77;8:45 am]

TEXAS TECH UNIVERSITY SCHOOL OF MEDICINE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00219. Applicant: Texas Tech University School of Medicine, P.O. Box 4050, Lubbock, Tex. 79409. Article: Electron Microscope, Model HS-9 and accessories. Manufacturer: Hitachi, Japan. Intended use of article: The article is intended to be used for the study of human biopsy material and animal tissue related to the following scientific research projects:

(a) Rheumatic disease research—muscle biopsy material from patients with rheumatic diseases is being studied.

(b) Dermatologic research—Skin biopsies from patients with psoriasis will be compared to uninvolved areas before and after treatment with ultra-violet light and photoreactive drugs.

(c) Gastrointestinal research—Elegant studies of the transport process membranes are planned using electron opaque tracers and biochemical analysis of transport rates.

(d) Nephrology—electron microscopic evaluation of renal biopsy.

(e) Ophthalmology—study the effect of oral progestens on the development of the eye.

In addition, the article will be used by trainees (fellows) in the Departments of Medicine, Ophthalmology and Pathology.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in

the United States at the time the foreign article was ordered (April 14, 1977).

Reasons: The foreign article is a relatively-simple, easy to operate, medium resolution electron microscope designed for confident use in teaching beginning students with a minimum of detailed programming. The article provides 6A point-to-point resolution, an accelerating voltage of of 75 kilovolts, and low distortion magnification from 500X through 100,000X plus 200X for scanning which permits an overlap of light and electron microscopy.

The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated July 11, 1977 that relative simplicity and full magnification range without a pole-piece change are pertinent to the applicant's intended purposes. HEW also advises that it knows of no domestic instrument which provided all the pertinent features at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-23736 Filed 8-16-77;8:45 am]

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00175. Applicant: Uniformed Services University of the Health Sciences, 6917 Arlington Road, Bethesda, Md. 20014. Article: Electron Microscope, Model EM 400 with high magnification goniometer and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article will be used in the fine structure of (1) the neuromuscular junction; (2) alterations in the blood-brain barrier in selected diseases of the nervous system; (3) neurotransmitter receptor sites on nerve membranes *in vivo* and in tissue culture preparations; (4) lesions in formed elements of the blood caused by freeze-preservation; (5) pathologic changes in liver and kidney cells in response to drugs, toxins, pollutants, radiation or a combination of agents; (6) brain pathology in response to head injury; (7) identification of immunologically active cells from mixed populations of blood or bone marrow cells; (8) interactions of hormones and toxins with receptors on the plasma membrane; and (9) cellular effects of cytotoxic drugs. Of particular importance will be the study of the three dimensional structure of specimens by means of a eucentric goniometer stage and the use of strioscopy operatures. The development of pathological lesions induced experimentally or in clinical specimens will be analyzed over time with appropriate controls and chemical modifications in order to understand the pathophysiological processes. In addition, the article will be used in the courses Medical Physiology and Pathology which are designed to provide medical students with a firm groundwork in these disciplines and Ultrastructural Research which will be designed to provide students with experience and expertise in a wide variety of ultrastructural research techniques.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used was being manufactured in the United States at the time the article was ordered (December 7, 1976).

Reasons: The foreign article is equipped with a high magnification goniometer stage with ± 30 tilt with a guaranteed resolution of 5 Angstroms (point-to-point). The Department of Health, Education, and Welfare (HEW) in its memorandum dated June 24, 1977 advised that the characteristics of the article described above are pertinent to the applicant's intended purposes. HEW further advised that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc 77-23737 Filed 8-16-77;8:45 am]

UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00204. Applicant: University of Texas Health Science Center at Dallas, 5323 Harry Hines Blvd., Dallas, Tex. 75235. Article: Electron Microscope, Model JEM-100S and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the study of a wide variety of tissues from humans and experimental animals. Experiments to be conducted include the following:

(1) Studying liver biopsy material from patients with non A, B hepatitis to determine the identity of new virus not yet characterized.

(2) Studying the liver disease which occurs with high frequency in patients who have undergone renal transplantation.

(3) Investigation of channels formed by groups of microtubules within the axon.

The objectives of these investigations are to understand at a structural level the physiological phenomena which occur in these tissues and where applicable to determine the etiologic agent causing the cellular dysfunction. In addition, the article will be used in the following educational courses:

(a) General Pathology for sophomore medical students—to provide a background of the existing knowledge of disease processes in human body and to provide a basis for understanding future progress which will be made in diagnosis and treatment of these diseases.

(b) Residency training in pathology—to produce trained specialists of the highest quality for clinical practice and academic medicine.

(c) Graduate study in comparative pathology and microbiology—to provide an introduction to the use of sophisticated scientific instruments in the study of experimental diseases.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the application was received by the U.S. Customs Service (April 21, 1977).

Reasons: The foreign article provides distortion free micrographs over a magnification range of 100 to 200,000X without a pole-piece change. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated July 11, 1977 that distortion free micrographs in the magnification range described above are pertinent to the applicant's purposes. HEW also advises that it knows of no domestic instrument which provided the pertinent features at the time the application was received by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the application was received by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-23738 Filed 8-16-77;8:45 am]

UNIVERSITY OF WASHINGTON

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00188. Applicant: University of Washington, Center for Bioengineering RF-52, Seattle, Wash. 98195. Article: Electron Microscope, Model JEM-100C/SEG and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of the distribution and concentration of important elements (e.g., Na) in a wide variety of biological systems (e.g., cardiac muscle). Energy dispersive X-ray microanalysis will be used to determine elemental concentrations in small volumes.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the U.S. Customs Service received this application (April 1, 1977).

Reasons: The foreign article is equipped with a scanning transmission electron microscope attachment which provides a guaranteed resolving power of 15 Angstroms. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated June 24, 1977 that the feature of the article described above is pertinent to the applicant's intended use. HEW also advises that it knows of no domestic instrument which provides the pertinent feature of the article.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the U.S. Customs Service received this application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-23739 Filed 8-16-77;8:45 am]

WASHINGTON UNIVERSITY SCHOOL OF MEDICINE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00179. Applicant: Washington University School of Medicine, 660 South Euclid Avenue, St. Louis, Mo. 63110. Article: Electron Microscope, Model JEM-100CX and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for continuation of the investigation of the mechanism of action of insulin in adipocytes from its initial binding to the hormone receptor on the plasma membrane through and including its alteration of lipolysis, protein synthesis, calcium binding and distribution, plasma membrane ATPase activity and membrane phosphorylation. The distribution of insulin receptors on a variety of normal and diseased state cells will be examined using the biologically and immunologically active ferritin-insulin conjugate.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used was being manufactured in the United States at the time the article was ordered (April 7, 1977).

Reasons: The foreign article has a specified resolving capability 3 Angstroms. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated June 24, 1977 that the resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. HEW also advises that it knows of no domestic instrument which provides the pertinent feature of the article which was being manufactured in the United States at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-23740 Filed 8-16-77;8:45 am]

[File No. 539]

YOSHIHIRO NAYA AND NICHIMEN INTERNATIONAL, S.A.

Order Denying Export Privileges

In the Matter of Yohihiro Naya, and Nichimen International, S.A., P.O. Box 6-494, Eldorado, Panama, Republic of Panama, Respondents.

In a charging letter of February 2, 1977, the Compliance Division, Office of Export Administration, alleged Nichimen International, S.A., and Yoshihiro Naya, its President, violated the U.S. Export Administration Regulations, 15 CFR 368 et. seq. It alleged that respondents reexported or caused to be reexported from the Republic of Panama to Cuba, U.S. origin teletype machines with the approximate value of $13,573 without authorization of the U.S. Government all in violation of 15 CFR 374.1.

Respondents failed to answer the charging letter or to appear at a hearing which was held in this matter. After due consideration of the evidence submitted by the Government, the Hearing Commissioner found that respondents knowingly reexported or caused to be reexported certain teletype equipment when they delivered such equipment to the Cuban airline in Panama. The evidence is conclusive that the machinery was delivered to the Cuban airline for delivery to and that the equipment now is in Cuba. The Commissioner recommended respondents be denied all U.S. export privileges for a period ending May 31, 1980.

In accordance with the evidence outlined by the Hearing Commissioner and his recommendations, I find that respondents knowingly violated the Export Administration Regulations as alleged in the charging letter of February 2, 1977. I find that an order denying export privileges to the respondents for a period ending May 31, 1980, is reasonably necessary to protect the public interest and to achieve effective enforcement of the Export Administration Regulations. Therefore, pursuant to the authority delegated to me, 15 CFR 388, it is

ORDERED

I. All outstanding export licenses in which respondents appear or participate, in any manner or capacity, are hereby

revoked and shall be returned forthwith to the Bureau of East-West Trade for cancellaton.

II. The respondents are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported from the United States, in whole or in part. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control documents (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data, in whole or in part, exported or to be exported from the United States; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents but also to their agents, employees, representatives, and partners and to any other person, firm, corporation, or business organization with which the respondents now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of East-West Trade, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondents or any related party, or whereby the respondents or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for said respondents or related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. This order shall remain in effect until May 31, 1980, except insofar as this order may be amended or modified hereafter in accordance with the Export Control Regulations.

VI. In accordance with the provisions of section 388.15 of the Export Control Regulations, the respondents may move at any time to vacate or modify this Denial Order by filing with the Hearing Commissioner, Bureau of East-West Trade, U.S. Department of Commerce, Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which if requested shall be held before the Hearing Commissioner at the earliest convenient date.

This order shall become effective immediately.

Dated: August 8, 1977.

RAUER H. MEYER,
Director, Office of Export Administration.

[FR Doc 77-23622 Filed 8-16-77;8:45 am]

Economic Development Administration

CREST SHOE CO.

Petition for Determination of Eligibility to Apply for Trade Adjustment Assistance

A petition by Crest Shoe Company, 3 Middle Street, Lewiston, Maine 04240, a producer of children's shoes, was accepted for filing on August 11, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's worker's, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business August 29, 1977.

CHARLES L. SMITH,
Acting Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-23640 Filed 8-16-77;8:45 am]

National Oceanic and Atmospheric Administration

OVERTON PARK ZOO AND AQUARIUM

Issuance of Permit To Take Marine Mammals

On May 6, 1977, notice was published in the FEDERAL REGISTER (42 F.R. 23187), that an application had been filed with the National Marine Fisheries Service by Overton Park Zoo and Aquarium, Memphis, Tenn. 38112, for a permit to take six (6) California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that on August 8, 1977, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking to Overton Park Zoo and Aquarium subject to certain conditions set forth therein. The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Fla. 33702; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731.

Dated: August 8, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-23645 Filed 8-16-77;8:45 am]

Issuance of Permit To Take Marine Mammals

On January 7, 1977, notice was published in the FEDERAL REGISTER (42 FR 1501), that an application had been filed with the National Marine Fisheries Service by Sea Life, Inc., Makapuu Point, Waimanalo, Hawaii 96795, to take four (4) pygmy killer whales (*Feresa attenuata*) and four (4) melon-headed whales (*Peponocephala electra*) for public display.

Notcie is hereby given that on August 9, 1977, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking to Sea Life, Inc., subject to certain conditions set forth therein. The Permit for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW, Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731.

Dated: August 9, 1977.

JOSEPH W. SLAVIN,
Acting Associate Director, National Marine Fisheries Service.

[FR Doc.77-23644 Filed 8-16-77;8:45 am]

SQUID FISHERIES OF THE NORTHWESTERN ATLANTIC

Revision to Preliminary Fishery Management Plan

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Revision to Preliminary Fishery Management Plan.

SUMMARY: A preliminary fishery management plan Squid Fisheries of the Northwestern Atlantic published on February 16, 1977, proposed conservation and management measures for foreign squid fisheries pursuant to the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265). The plan was revised on August 1, 1977 to increase the amount of squid allocated to foreign squid fisheries. This action further revises the plan by allocating an additional amount of squid to foreign fisheries.

DATE: Effective date: August 12, 1977.

ADDRESS: Comments should be addressed to: Director, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

William G. Gordon, Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930, 617-281-3600.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On February 16, 1977, a preliminary fishery management plan entitled Squid Fisheries of the Northwestern Atlantic (42 FR 9596) was issued by the Secretary of Commerce to provide proposed conservation and management measures for foreign squid fisheries in the Northwest Atlantic pursuant to sec. 201(g) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265). The plan provided, among other things, for a preliminary determination of optimum yield and a determination of foreign surplus. Based upon a reevaluation of domestic production potential and in consideration of U.S. catches of squid during the period March-June 1977, it was determined that the foreign surplus could be increased by 12,500 tons.[1] The plan was accordingly revised for the purpose of making an additional amount of 12,500 tons of squib available for foreign fisheries and published in the FEDERAL REGISTER on August 2, 1977 (42 FR 39129).

PURPOSE

A further analysis of data on U.S. squid catches indicates that the revised estimated 1977 domestic production level of 24,000 tons will not be fully utilized during 1977. Therefore, the foreign surplus is revised and increased by the following amounts:

Illex—5,000 tons, and *Loligo*—9,000 tons.

The estimated domestic production level is decreased by equivalent amounts.

IMPACT

It has been determined by NOAA that this action will have no significant adverse impact upon the environment because the increased foreign allocation is within the optimum yield of 79,000 tons. No adverse impact upon the domestic industry is anticipated.

NEED FOR EFFECTIVE DATE

The Secretary believes that formal notice of proposed rulemaking is impractical, unnecessary, and contrary to the public interest because the proposed revision to the plan must be effected before termination of this year's squid fisheries season and will have negligible effect upon U.S. fishing interests.

The Associate Administrator for Marine Resources of the National Oceanic and Atmospheric Administration, is delegated authority to approve this document in Department of Commerce Organization Order 25-5A, Section 3-01dd, Amendment 4 (dated September 30, 1976) and NOAA Directives Manual 05-57 (dated December 1, 1976).

Dated: August 12, 1977.

JOSEPH W. SLAVIN,
Acting Associate Director, National Marine Fisheries Service.

1. In Section IVc, the first paragraph is amended by deleting the number "24,000" and inserting the number "10,000," and by deleting the number "55,000" and inserting the number "69,000."

2. Table 26 is amended as follows:

TABLE 26.—*Squid optimum yield and allocations*

[In tons]

	Maximum sustainable yield	Optimum yield	U.S. catch	Foreign surplus
Illex	40,000	35,000	5,000	30,000
Loligo	41,000	41,000	32,000	9,000
Total	81,000	76,000	37,000	39,000

3. In Section IVc, the second paragraph is amended by deleting the number "24,000" and inserting the number "10,000."

[1] Tons refers to metric tons (2,205 pounds).

[FR Doc.77-23826 Filed 8-16-77;8:45 am]

TWENTIETH CENTURY-FOX MARINELAND, INC.

Issuance of Permit To Take Marine Mammals

On May 3, 1977, notice was published in the FEDERAL REGISTER (42 FR 22393) that an application has been filed with the National Marine Fisheries Service by Twentieth Century-Fox Marineland, Inc., 6600 Palos Verdes Drive South, Rancho Palos Verdes, Calif. 90274, for a permit to take two (2) Pacific whitesided dolphins (*Lagenorhynchus obliquidens*) and two (2) Pacific bottlenosed dolphins (*Tursiops gilli*) for the purpose of public display.

Notice is hereby given that on August 9, 1977, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit for the taking of dolphins to Twentieth Century-Fox Marineland, Inc., subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731; and Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Fla. 33792.

Dated: August 9, 1977.

JOSEPH W. SLAVIN,
Acting Associate Director, National Marine Fisheries Service.

[FR Doc.77-23642 Filed 8-16-77;8:45 am]

Office of the Secretary

[Dept. Organization Order 20-14 Amdt. 1]

OFFICE OF AUTOMATIC DATA PROCESSING MANAGEMENT

Statement of Organization and Function

This order effective August 1, 1977 amends the material appearing at 41 FR 50320 of November 15, 1976.

Department Organization Order 20-14 of November 1, 1976 is hereby amended as shown below. The purpose of this amendment is to abolish the ADP Operations Division, and redistribute its functions between the newly formed ADP Analysis and Programming Division and the Computer Center.

In Section 5. Organization, delete the existing paragraph .03, and add new paragraphs .03 and .04 to read as follows:

".03 The ADP Analysis and Programming Division shall provide detailed design and programming of specific ADP applications."

".04 The Computer Center shall operate a central computer facility for the Office of the Secretary and for designated operating units, or selected ADP applications of operating units."

Effective date: August 1, 1977.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc.77-23742 Filed 8-16-77;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COTTON, WOOL AND MAN-MADE FIBER APPAREL FROM HONG KONG

Announcing Visa Requirement

AUGUST 12, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Announcing a visa requirement for cotton, wool and manmade fiber apparel exported to the United States from Hong Kong, effective on January 1, 1978.

SUMMARY: On August 8, 1977 the Governments of the United States and Hong

Kong exchanged notes establishing a new agreement concerning exports of cotton, wool and man-made fiber textile products during a five-year period beginning on January 1, 1978 and extending through December 31, 1982. Pursuant to the terms of the bilateral agreement, a visa mechanism is being established for cotton, wool and man-made fiber apparel. It will be effective on January 1, 1978 for shipments exported on and after that date. Shipments exported prior to January 1, 1978 that have been visaed in accordance with previously established procedures will not be denied entry until June 1, 1978.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Arthur Garel, Director, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5078).

SUPPLEMENTARY INFORMATION: The visa will be a signed copy of a Hong Kong export license with a stamp on the front side reading, "Approved for export to the USA," and will be signed by an authorized official of the Government of Hong Kong. It is imperative that the category indicated on the visa coincide with the classification of the U.S. Customs Service and that the quantity shown on the visa also coincide with the quantity of the shipment; otherwise, the goods will be denied entry. The only exception will be instances in which the quantity shown on the visa exceeds the actual quantity of the shipment. Interested parties should take steps to verify category classifications with the U.S. Customs Service.

This is a unique visa system, inasmuch as there is no provision for waiving any of its requirements. Full details will be published in the FEDERAL REGISTER upon receipt of the authorized visa stamp.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.77-23741 Filed 8-16-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

PRIVACY ACT OF 1974

Notice of System of Record Amendment

In Privacy Act Issuances, 1976 Comp., Vol. I, pages 378 to 650, the Department of the Air Force set forth the systems of records within the agency prescribed by the Privacy Act of 1974. A proposal to exempt system F04501 0KPNQSA Cadet Records from specified provisions of the Privacy Act by amending 32 CFR 806b, Subpart H was published in FR Doc. 77-18784, July 1, 1977 (42 FR 33776) and corrected in the FEDERAL REGISTER of July 19, 1977 (42 FR 37019). Interested persons were invited to participate in this proposed rule change on or before August 2, 1977; however, no public comments were received. The amendment to the system of record notice reflecting its exempt status is therefore being made in conjunction with the publication of the notice of final rule adoption. (See FR Doc. 77-23131, Department of the Air Force, in the Rules and Regulations section of this issue.)

F04501 0KPNQSA

System name: Cadet Records (p. 514).
Change:
Systems exempted from certain provisions of the act: Delete entire entry and substitute: "Parts of this system may be exempt under 5 U.S.C. 552a(k). For additional information, contact the Systems Manager."

F04501 0KPNQSA

System name:

Cadet records.

System location:

AFROTC/SDA, Maxwell AFB, AL 36112 and AFROTC detachments. Official mailing addresses of the detachments are in the Department of Defense directory in the appendix to the Air Force's system notice.

Categories of individuals covered by the system:

AFROTC cadets applying for enrolled or previously enrolled (within the past three years) in the professional Officers course or the general military course, if the latter participation was in a scholarship status.

Categories of records in the system:

Applications for enrollment in the Air Force reserve Officer corps (AFROTC) courses, applications for the AFROTC scholarship program, substantiation documents of qualification for the courses or programs, acceptances of applications, awards of scholarships, documents attesting to medical, academic, moral and civic qualifications, documents recording progress in flying instruction, academic curriculum and leadership training, counseling summaries, records of disenrollment from other Officer candidate training; records of separation or discharge from Officer candidate training; records of separation or discharge of prior servicemen; financial record data, certification of degree requirements; documents tendering and accepting commissions, documents verifying national agency checks or background investigations, documents required or proffered during investigations for disenrollment, legal opinions, letters of recommendations, corroboration by civil authorities, awards, citations; and allied papers.

Authority for maintenance of the system:

Title to U.S.C., chapter 103; Military Selective Service Act of 1967, section 6 (50 U.S.C. App. 456); 10 USC 8012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information collected is for the purpose of recruiting and qualifying a candidate for acceptance as an AFROTC cadet, continuing the cadet in the program and awarding an Air Force commission. Each detachment, located at its host institution, is the routine user for the members in its particular program. AFROTC, Maxwell AFB, AL, is a user by exception, that is, data is requested from the routine user if there is an aberration in the qualification of an individual for acceptance, continuation or graduation from the ROTC program. AFROTC exercises waiver authority that enables deserving individuals to remain in the program on a conditional basis if they perform below standards. AFROTC also requests data for disenrollments, changes in categories and graduation dates. Additionally, AFROTC requests data from the routine user for congressional inquiries, special projects, awards, honors and inter-service ROTC transfers. Air University (AU), as a Major Command, supervises execution of laws, plans and policies relating to AFROTC, as such, AU requires information in exercising its Command and Control function, i.e., Major Command inspection, waiver authority, and data reporting to superior agencies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

The life-cycle of the records begins with the application and testing of the candidate. Documents establishing qualification and satisfaction of criteria along with contracts and allied documents establish the cadet record. Progress documents, counseling sheets and performance records are maintained until graduation and commissioning. Finally, the records are destroyed one year after commissioning. An exception to the one year retention is the record of a disenrolee, one who does not complete the program nor receive a commission. Under these circumstances, the cadet record is maintained for three years. Further disposal of records is by burning, pulping or tearing into pieces.

Retrievability:

Records are retrieved by name, social security number and detachment number as paper records in file folders.

Safeguards:

Safeguards are storage in file cabinets that are accessible to the detachment staff and the individual concerned. AFROTC employs a locked rotary diebold power file and file cabinets accessible to the staff.

Retention and disposal:

Records are destroyed by standard means one year after a cadet is commissioned. Disenrolled cadets: records are retained for three years and then destroyed by tearing into pieces, macerating, or burning.

System manager(s) and address:

Director of senior program, Air Force Reserve Officer Training corps Maxwell AFB, AL 36112; and detachment Commander of the appropriate AFROTC detachment.

Notification procedure:

Requests from individuals should be addressed to the detachment Commanders of their particular AFROTC detachment indicating their name and social security number. However, if their request for information involves an investigation for disenrollment, the addressee is AFROTC/SDA, Maxwell AFB, AL 36112, both addresses may be visited by the requester.

Record access procedures:

Requests from individuals should be addressed to the detachment Commanders of their particular AFROTC detachment indicating their name and social security number. However, if their request for information involves an investigation for disenrollment, the addressee is AFROTC/SDA, Maxwell AFB, AL 36112, both addresses may be visited by the requester.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Sources of records in the system are educational institutions, secondary and higher learning; government agencies; civilian authorities; financial institutions; previous employers; individual recommendations, interviewing Officers; and civilian medical authorities.

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under 5 U.S.C. 552a(k). For additional information, contact the Systems Manager.

MAURICE W. ROCHE,
Director Correspondence and Directives OASD (Comptroller).

AUGUST 8, 1977.

[FR Doc.77-23132 Filed 8-16-77;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

AUGUST 9, 1977.

The USAF Scientific Advisory Board ad hoc Committee on Wide Area Munitions will hold meetings at the Armament Development and Test Center, Eglin AFB, Florida, on September 7 and 8, 1977 from 8:30 a.m. to 5 p.m. each day.

The committee will receive classified briefings and hold classified discussions on Air Force munitions programs and technology.

The meetings concern matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

[FR Doc.77-23623 Filed 8-16-77;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

AUGUST 9, 1977.

The USAF Scientific Advisory Board Aerospace Vehicles Panel Ad Hoc Committee on C-5A Structural Information will hold a meeting on September 7 and 8, 1977, at the Lockheed Georgia Company, Marietta, Georgia from 8:30 a.m to 5:00 p.m. both days.

The Committee will review the plans of the C-5A structural information enhancement and data collection program.

The meeting will be open to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8845.

[FR Doc.77-23624 Filed 8-16-77;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

AUGUST 9, 1977.

The USAF Scientific Advisory Board ad hoc Committee on the EF-111A will hold meetings at the Air Force Test and Evaluation Center, Kirtland AFB, New Mexico on September 20 and 21, 1977 from 8:30 a.m. to 5:00 p.m. each day.

The committee will receive classified briefings and hold classified discussions on the Air Force EF-111A program.

The meetings concern matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly the meetings will be closed to the public public.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8404.

[FR Doc.77-23632 Filed 8-16-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

RESEARCH FOR BRAILLE COMMUNICATION

Intent To Grant Exclusive Patent License

Notice is hereby given of an intent to grant to Research for Braille Communication, an Illinois nonprofit corporation, an exclusive license to manufacture, use, and sell in the United States the invention described in U.S. Patent No. 3,624,772, entitled "Reading and Writing Machine," issued November 30, 1971, to the United States of America as represented by the U.S. Atomic Energy Commission, now the U.S. Energy Research and Development Administration. A copy of the subject patent can be obtained from the U.S. Patent and Trademark Office, Washington, D.C. 20231. The proposed license will have a duration of five years and will contain other terms and conditions to be negotiated by the parties in accordance with Energy Research and Development Administration patent licensing regulations, Title 10 CFR Part 781. ERDA will grant the license unless within sixty days of this Notice the Assistant General Counsel for Patents, Energy Research and Development Administration, Washington, D.C. 20545, receives in writing any of the following together with supporting documents:

(1) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license; or

(2) An application for a nonexclusive license to manufacture, use, or sell the invention in the United States in accordance with Title 10 CFR 781, in which applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Assistant General Counsel for Patents will review all written responses to this Notice and will provide opportunity for a hearing before granting the exclusive license.

Dated at this 8th day of August, 1977.

For the U.S. Energy Research and Development Administration.

HUDSON B. RAGAN,
Acting General Counsel.

[FR Doc.77-23643 Filed 8-16-77 8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 778-7, OPP-180134]

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

Issuance of Specific Exemption To Use Malathion on Pomegranates To Eradicate the Comstock Mealybug

The Environmental Protection Agency (EPA) has granted a specific exemption to the California Department of Food and Agriculture (hereafter referred to as the "Applicant") to use malathion on pomegranates (*Punica* spp.) to control the Comstock Mealybug (*Pseudococcus comstocki*, Kuwana) in Tulare and Kern Counties, California. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington D.C. 20460.

According to the Applicant, this is the only infestation of the Comstock mealybug west of the Mississippi River. The present infestations are located in Kern and Tulare Counties in central California. Within this area, infestations are located in portions of ten communities, ninety-four isolated property sites, and approximately 243 acres of commercial plantings. The first infestations of Comstock mealybug, a serious pest of crops in Japan and Russia, were found in Tulare County in 1967. After early biological control efforts failed to give effective results, the mealybug populations increased rapidly and spread to other parts of Tulare and Kern Counties. Since the pest is known to attack over 300 commercial crops and ornamental plants, an eradication effort began in late 1971.

Although very few acres of commercially grown fruits have been infested by this pest, growers have shown great concern about the potential losses that would result from such an infestation, the Applicant stated. Infestations of commercial acreage are expected to affect the salability of fruit in the market and result in financial losses through quarantine restrictions. During the State eradication efforts, the following commercial and residential plantings have been treated with malathion: almonds, apples, apricots, cherries, citrus, nectarines, peaches, pears, pecans, plums, pomegranates, prunes, and walnut trees and grapevines. Tolerances for malathion have been established on all of these crops except pomegranates.

In 1976, a specific exemption was issued by EPA for this use of malathion on 1,324 acres of pomegranates on residential and commercial property in Kern and Tulare Counties. Although a petition for a tolerance for use of the pesticide in or on pomegranates has not been submitted, the Applicant did collect residue data during the 1976 growing season. The University of California established the efficacy of malathion against this pest in spray trials conducted in 1974, according to the Applicant.

The eradication program combines quarantine regulations to restrict the movement of the pest; chemical treatment to eliminate infestations; biological control as suppressive holding action; and pheromone trapping for detection of the insect and evaluation of chemical treatments. The eradication effort is a cooperative program involving the Kern and Tulare County Departments of Agriculture, the University of California, and the U.S. Department of Agriculture.

Consumers, homeowners, nurserymen, and growers of susceptible fruit and nut crops involving over one million acres of farmland as well as processors and shippers of these commodities will benefit from the eradication of this pest. If the eradication program progresses according to schedule, eradication should be complete by 1985; pheromone trapping and visual inspection will continue at least until 1987. The Applicant estimated that if the pest spreads to all susceptible crops in California, losses to agriculture production could exceed $15 million annually, exclusive of chemical control costs; if the pest becomes established, chemical control costs to the nursery industry alone could amount to $20 million per year, while out-of-state quarantine costs to the citrus industry alone could be over $30 million per year. Losses to residential and park landscape plantings and natural vegetation would be extensive.

EPA has determined that the use of malathion on various tree fruits at the proposed dosage rate has an established tolerance of 8.0 parts per million (ppm) on the harvested tree fruits. If a seven day preharvest interval were observed for pomegranates, the residues on pomegranates would not exceed 8.0 ppm; further, the residues would be primarily on the skin of the pomegranates, which is not normally consumed. In addition, EPA has determined that pomegranates comprise less than one percent of the human diet.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of Comstock mealybug has occurred; (b) there is no pesticide presently registered and available for use to control this pest in California; (c) there are no alternative means of control, taking into acount the efficacy and hazard; (d) significant economic problems may result if the pest is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until April 15, 1978, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Malathion spray applications to pomegranates are limited to those infested by the Comstock mealybug;

2. Malathion will be applied by hydraulic spray rigs at a rate of one pound of active ingredient per one hundred gallons of water. Volck Supreme Oil may be added to the spray formulation as necessary;

3. When the malathion spray is applied to bearing pomegranates, a seven day preharvest interval will be observed;

4. All applicable directions and precautions appearing on the registered product will be observed;

5. The Applicant is responsible for collecting pomegranate samples and conducting residue analyses pursuant to establishing a tolerance for malathion on pomegranates;

6. The present eradication program is an ongoing project which is expected to continue for several years, and this is the second year that an exemption has been requested for this use of malathion. EPA recommends that a petition for such a tolerance be submitted in the near future;

7. The following data should be obtained during the course of this exemption: (a) a complete description of the analytical method used to obtain the residue data. This should include recovery data for fortified samples and representative raw analytical data including sample calculations; (b) additional residue data which contains complete sample histories. This type of information would include the application rate (pounds active ingredient/gallons of spray solution and gallons of spray/acre); and (c) treatment and sampling dates, weather conditions (including irrigation information) and sample storage conditions (including storage interval); and

8. EPA has determined that residues of malathion resulting from this use will not exceed 8.0 ppm, which is adequate to protect the public health. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare has been advised of this action.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: August 11, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-23831 Filed 8-16-77;8:45 am]

[FRL 778-4; OPP-180139]

ILLINOIS DEPARTMENT OF AGRICULTURE

Issuance of Specific Exemption To Use Terramycin To Control Bacterial Spot on Peaches

The Environmental Protection Agency (EPA) has granted a specific exemption to the Illinois Department of Agriculture (hereafter referred to as the "Applicant") to use no more than 2,500 pounds of Terramycin to control bacterial spot on 150 acres of peaches in Illinois. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, bacterial spot is caused by the bacterium *Xanthomonas pruni;* bacterial spot affects leaves, twigs, and fruit, reducing both fruit quality and yield. Early and frequent defoliation caused by bacterial spot weakens the tree, predisposing it to winter injury. Vigorous treees are less susceptible to the disease than devitalized, neglected trees. The Applicant stated that in hot and humid years, up to 50% of the fruit may have to be discarded; this estimate does not consider the debilitating influences of the disease on infected trees. It is estimated

that 75% of the total crop in Illinois is susceptible to bacterial spot.

The Applicant stated that in the past, a dodine-cyprex mixture has been used in an attempt to control bacterial spot in Illinois, but this mixture has been ineffective. Other fungicides have not been used because of information that they were ineffective elsewhere.

The Applicant proposed to use the product Myco Shield Agricultural Terramycin, manufactured by Pfizer Chemical Division, at the rate of 27.2 ounces of Terramycin/acre (11.33 ounces of Terramycin/100 gallons of water) per application by ground spray. There will be a maximum of 8 applications. Application will be made by growers, some of whom are State-certified applicators.

The Applicant stated that the peach crop in Illinois is valued at about 7.56 million dollars, with approximately 75 percent of the crop being susceptible to bacterial spot. Moreover, during a year with weather conditions conducive to the development of bacterial spot, crop loss may be up to 50 percent. Therefore, if the use of Terramycin is allowed to prevent bacterial spot, an economic loss valued at about 2.83 million dollars may be prevented.

EPA has determined that, under heavy inoculum pressure, Terramycin (the calcium complex of oxytetracycline) would be needed to prevent large scale losses of peaches infected with bacterial spot. Tolerances for oxytetracycline hydrochloride were previously established at 0.35 ppm on pears; currently, a tolerance of 0.1 ppm in or on pears for the calcium complex of oxytetracycline has been proposed. Tolerances for peaches are pending. The use of this pesticide for this exemption is not expected to have any adverse effects to either man or the environment. Therefore, a residue level not exceeding 0.1 ppm has been determined by EPA to be adequate to protect the public health.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of bacterial spot on peaches has or is about to occur; (b) there is no pesticide presently registered and available for use to control the bacterial spot in Illinois; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the bacterial spot is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until July 31, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Myco Shield Agricultural Terramycin (containing the calcium complex of oxytetracycline), manufactured by Pfizer Chemical Division, is authorized;

2. Application rate shall be 27.2 ounces of Terramycin formulation/acre (11.33 ounces of Terramycin formulation/100 gallons of water) per application by ground spray;

3. A maximum of 8 applications of Terramycin may be made;

4. A maximum of 2,500 pounds of Terramycin may be applied;

5. The duration of the application period shall be from the beginning of June 6, 1977, until July 31, 1977;

6. A maximum of 150 acres in Illinois may be treated;

7. Application of Terramycin shall be by growers;

8. Workers shall not enter orchards after Terramycin application until foliage is dry;

9. There shall be a 21-day preharvest interval;

10. The Applicant shall notify Niagara (a subsidiary of FMC), sole distributor of this material, that records of the sale of this material shall be kept and made available. These records shall include the name and address of the purchaser, and the quantity of material purchased;

11. An Extension Specialist in Fruit Pathology at the University of Illinois shall coordinate the program; he and personnel under his supervision, and county agricultural agents shall make all recommendations of Terramycin application, based on disease symptoms, past history of the disease, and local weather conditions. A newsletter or agricultural bulletin shall be promulgated to growers and other interested parties, informing them about program criteria;

12. A residue level of oxytetracycline not exceeding 0.1 ppm has been deemed adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

13. All label precautions shall be followed;

14. A final report shall be submitted to EPA by December 31, 1977, summarizing the results of this program; and

15. The Applicant shall inform EPA immediately of any adverse effects resulting from this program and shall be responsible for the performance of all provisions of this exemption.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: August 11, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-23828 Filed 8-16-77;8:45 am]

[FRL 778-5; OPP-180137]

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

Issuance of Specific Exemption To Use Azinphos Methyl To Control Carrot Weevil on Root Parsley

The Environmental Protection Agency (EPA) has granted a specific exemption to the New Jersey Department of Environmental Protection (hereafter referred to as the "Applicant") to use azinphos methyl to control carrot weevil on approximately 25 acres of root parsley in southern New Jersey. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-315, Washington, D.C. 20460.

According to the Applicant, the carrot weevil (*Listronotus oregonensis*) attacks carrots, celery, parsnips, moss-curled parsley, and root parsley. This pest has become extremely serious in Cumberland County, New Jersey; the Applicant stated that severe losses due to feeding damage by the carrot weevil may occur unless an effective pesticide is made available to the growers. DDT had provided economic control of this pest, but this use of DDT was cancelled in the early 1970's.

Currently, no insecticide is registered for control of carrot weevil on this crop, which is valued at from $50,000 to $100,000. A true dollar loss is difficult to define, since this is a specialty crop and the acreage involved is relatively small. However, it appears that carrot weevil infestation has become increasingly severe in the past few years; the root parsley growers are faced with a serious problem.

The Applicant proposed to use the product Guthion 2S, containing the active ingredient azinphos methyl, at a dosage rate of 0.5 pound a.i. per acre. Three applications of Guthion, at 7–10 day intervals, will be made to each crop; applications will be made by qualified private applicators employing ground equipment.

Azinphos methyl (Guthion) was found to be effective against carrot weevil on carrots. The Applicant submitted data to EPA which demonstrated the effectiveness of azinphos methyl in controlling the pest on root parsley; the data further indicated that residue levels of azinphos methyl in or on root parsley are not likely to exceed 7.0 parts per million (ppm). Since this crop is not used in animal feed items, there is no expectation of secondary residues in meat, milk, poultry, or eggs from this use. Because of the limited acreage and the fact that ground application rather than aerial application will be employed, there appeared to be little risk to non-target organisms.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of carrot weevil on root parsley has or is about to occur; (b) there is no pesticide presently registered and available for use to control the carrot weevil on this

crop in New Jersey; (c) there are no alternative means of control; taking into account the efficacy and hazard; (d) significant economic problems may result if the carrot weevils are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until August 31, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The 2S formulation of Guthion containing the active ingredient azinphos methyl is authorized. The dosage rate is to be 0.5 pound a.i. azinphos methyl per acre;

2. Up to three applications by ground equipment made at 7–10 day intervals are authorized;

3. Applications may be made by qualified private applicators after the New Jersey Cooperative Extension Service determines that carrot weevil is present in a given growing field of root parsley;

4. A residue level of azinphos methyl not exceeding 7.0 ppm has been deemed adequate to protect the public health. The Food and Drug Adminstration of the U.S. Department of Health, Education, and Welfare, has been advised of this action;

5. The EPA shall be immediately informed of any adverse effects resulting from the use of azinphos methyl in conjunction with this exemption; and

6. All label precautions must be followed.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: August 11, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-23829 Filed 8-16-77;8:45 am]

[FRL 778-6;OPP-180136]

NEW MEXICO DEPARTMENT OF AGRICULTURE

Issuance of Specific Exemption To Use DDT To Suppress Fleas Vectoring Plague on Wild Rodents and Solicitation of Views

The Environmental Protection Agency (EPA) has granted a specific exemption to the New Mexico Department of Agriculture (hereafter referred to as the "Applicant") to use DDT dust in a program to suppress flea populations in areas in New Mexico where fleas vectoring plague on wild rodents may endanger the public health. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St., S.W., Room E–315, Washington, D.C. 20426. The situation described in this exemption has been a continuing problem in New Mexico since 1949, and has occurred in other States as well. In view of the significance of the problem of plague and the potential exposure of man to plague vectors, EPA is requesting comments/views from interested parties on this control program and any similar programs. Comments may be submitted to the Federal Register Section. Technical Services Division (WH–569), Office of Pesticide Programs, Room E–401, at the Headquarters address shown above. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must be received within 30 days of date of publication of this notice, and should bear the identifying notation OPP–180136. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

According to the Applicant, New Mexico is an endemic area for compestral (sylvatic) plague. The bubonic plague pathogen is transmitted among rodents and occasionally, to humans by some twenty (20) species of fleas. The wild rodents serve as reservoirs for the plague organisms with fleas as the vector. Fleas are capable of maintaining the plague organisms in suitable rodent burrows for several months, even in the absence of rodent hosts. The disease is most prevalent from May through October and can be found in all areas of New Mexico. According to the Applicant, testing of serum samples from wild carnivorous animals for antibody to *Yersinia pestis* was positive for thirty percent of the animals in twenty-two counties in the State last year. Testing this year has been positive for approximately twenty percent of the animals tested.

In 1975, sixteen cases of bubonic plague occurred in humans in New Mexico, two of which progressed to the infectious pneumonic form of plague. In one instance, nearly one-hundred persons were given treatment with antibiotics following contact with one of the pneumonic individuals. In 1976, New Mexico had nine human cases of plague with two cases resulting in death of the victims. According to the Applicant, the first human case for 1977 has already been reported.

Treatment should commence well in advance of the occurrence of human cases(early spring), and upon the occurrence of a human infection, the rodent flea populations in close proximity to the human case should be vigorously suppressed to reduce the likelihood of additional human infections.

Carbaryl is a registered alternative; carbaryl is registered for flea control on wild rodents. However, according to the Applicant, flea populations remain suppressed for less than one week after treatment and then build rapidly back to pre-treatment levels. Because of the large number of rodent burrows which must be treated, it is our determination that there is not sufficient manpower available to the Applicant for the use of carbaryl in an efficacious manner.

The Applicant proposed to use no more than 500 pounds of a five or ten percent DDT product in a one time application to rodent burrows at a rate of two ounces per burrow. All personnel involved in the actual application of the pesticide have been examined and licensed by the Applicant as Public Management Consultants in the category of public health pest control or as Public Operators working under the direct supervision of a licensed consultant.

According to the Chief, Plague Branch, Center for Disease Control (CDC), located at Fort Collins, Colorado, New Mexico again, as in 1975, comprised the major epicenter of bubonic plague in the United States. The plague surveillance program being conducted in New Mexico this year indicates potential hazards to the public health from exposure to fleas vectoring sylvatic plague. The Chief, Plague Branch, stated that the issuance of this exemption was advisable in order to enable the Applicant to be prepared for an epizootic outbreak of the plague bacillus.

After reviewing the application and other available information, EPA has determined (a) a pest outbreak of fleas vectoring plague is likely to occur; (b) there are no alternative means of control available, taking into account the efficacy and hazard; (c) significant health problems may result if the fleas vectoring plague are not controlled; and (d) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 30, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. A five or ten percent active DDT formulation may be used;

2. The total amount of DDT used may not exceed fifty pounds of active DDT, or 500 pounds of product, whichever is greater;

3. The DDT will be applied directly to rodent burrows by handpowered dusters at a rate of not more than two ounces of product per burrow;

4. Treatment will be initiated when the Applicant, the Plague Branch of CDC, and Region 6, EPA, agree that without flea control the public health will be endangered and that adequate control cannot be achieved with carbaryl;

5. In addition to the plague surveillance program conducted by the State, the Applicant should seek advice from CDC, Plague Branch, concerning areas to be treated and time of application;

6. The Plague Branch, CDC, Fort Collins, Colorado, will be advised of flea population suppression activities;

7. Areas treated with DDT should be surveyed to ensure that no endangered species that could be adversely affected are present;

8. Liaison will be established with the New Mexico Department of Game and Fish prior to applying DDT in any area; and

9. All applicators must be licensed by the Applicant as Public Pest Management Consultants in the category of public health pest control or as public operators working under the direct supervision of a licensed consultant.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated August 11, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-23830 Filed 8-16-77;8:45 am]

FEDERAL ELECTION COMMISSION

[Notice 1977-44, AOR 1977-38 and AOR 1977-39]

ADVISORY OPINION REQUESTS

Pursuant to 2 U.S.C. § 437f(c) and the procedures reflected in Part 112 of the Commission's regulations, published on August 25, 1976 (41 FR 35954), Advisory Opinion Requests 1977-38 and 1977-39 have been made public at the Commission. Copies of AOR 1977-38 and 1977-39 were made available on August 11, 1977. These copies of the advisory opinion requests were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street, N.W., Washton, D.C. 20463.

Interested persons may submit written comments on any advisory opinion request within ten days after the date the request was made public at the Commission. These comments should be directed to the Office of General Counsel, Advisory Opinion Section, at the Commission. Persons requiring additional time in which to respond to any advisory opinion requests will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Public Law citations.

A descriptive listing of each of the requests recently made public as well as the identification of the requesting party follows hereafter:

AOR 1977-38: May a current candidate for the United States Senate also maintain a separate political organization with a separate bank account for the sole purpose of extinguishing prior campaign debts incurred in seeking a State office in 1974 and not be subject to the Federal Election Campaign Act of 1971, as amended, if potential contributors to the 1978 Senate campaign are also asked to help retire the State campaign debt?

Requested by John Drayton Hastie, Jr., Counsel, on behalf of Charles D. Ravenel, candidate for United States Senate, Charleston, S.C.

AOR 1977-39: May a Member of the House of Representatives who incurred legal fees to defend himself against criminal charges relating to his official conduct pay those fees from his campaign fund as campaign expenses?

Requested by William L. Clay, House of Representatives, Washington, D.C.

Dated: August 11, 1977.

THOMAS E. HARRIS,
Chairman for the Federal Election Commission.

[FR Doc.77-23628 Filed 8-16-77;8:45 am]

FEDERAL MARITIME COMMISSION

[No. 77-41]

HOUSTON GULF CRANE, INC., ET AL. v. PORT OF HOUSTON, AUTHORITY OF HARRIS COUNTY, TEXAS

Notice of Filing of Complaint

AUGUST 12, 1977.

Notice is hereby given that a complaint filed by Houston Gulf Crane, Inc., and its individual stockholders against Port of Houston Authority of Harris County, Texas was served August 11, 1977. The complaint alleges violations by respondent of sections 16, 17, and 18 of the Shipping Act, 1916 in connection with certain provisions of respondent's Tariff No. 8 regarding use of outside cranes on respondent's property.

Hearing in this matter, if any is held, shall commence on or before February 11, 1978. The hearing shall include oral testimony and cross examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statement, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-23792 Filed 8-16-77;8:45 am]

[Docket No. 77-43; Amdt. No. 10286]

ITALY-U.S.A. NORTH ATLANTIC POOL AGREEMENT

Order of Investigation and Hearing

Before the Commission is FMC Agreement No. 10286, Italy-U.S.A. North Atlantic Pool Agreement, filed for approval pursuant to Section 15 of the Shipping Act, 1916, 46 U.S.C. § 814. Agreement No. 10286 is a cargo and revenue pooling agreement covering all cargo, regardless of its point of origin or destination, carried Westbound either directly or indirectly, by any member line or affiliate thereof, from Italian ports to United States North Atlantic ports (north of Cape Hatteras). Membership in the pool is open to any line which is, or becomes, a member of the underlying conference serving in this trade. FMC Agreement No. 2846, West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Conference (WINAC). The membership of WINAC, as well as the signatories to the pool is as follows: American Export Lines (re-admitted to Conference July 4, 1977); American President Lines (re-admitted to Conference July 5, 1977); Black Sea Shipping Company (notice of withdrawal from WINAC cancelled); Costa Line; Italia, S.p.A.; Jugolinija; Sea-Land Service, Inc. (re-admitted to Conference Juy 5, 1977); Turkish Cargo Lines, and Zim Israel Navigation Co., Ltd.

Notice of filing of FMC Agreement No. 10286 appeared in the FEDERAL REGISTER March 8, 1977, 42 FR 13047 (1977), and in response thereto protests were filed by the Department of Justice (Justice), the National Association of Alcoholic Beverage Importers, Inc. (NAABI) and the Wines and Spirits Wholesalers of America, Inc. (WSWA). To date, proponents have refused to provide the Commission with any statement justifying approval of Agreement No. 10286.

Justice characterizes the pool as an anticompetitive agreement for which proponents have failed to make any demonstration of justification pursuant to *Svenska*,[1] and thus requests disapproval of the Agreement, or in the alternative, an evidentiary hearing. NAABI adopts the position of Justice, and WSWA voices its protest on similar grounds.

Pooling agreements represent the "ultimate in anticompetitive combinations"[2] and are prima facie contrary to the public interest.[3] The Commission is required to disapprove, after notice and hearing, an agreement which is contrary to the public interest unless it has other evidence before it demonstrating a need for the agreement, which need outweighs the anticompetitive effect of the agreement.[4] In view of the anticompetitive

[1] *Investigation of Passenger S.S. Confs. Regarding Travel Agents*, 10 F.M.C. 27 (1966), *rev'd sub. nom., Aktiebolaget Svenska Amerika-Linien* v. *F.M.C.* 372 F. 2d 932 (D.C. Cir. 1967), *rev'd* 390 U.S. 238 (1968)

[2] *Inter-American Freight Conference—Cargo Pooling Agreements Nos. 9682, 9683, and 9684*, 14 F.M.C. 58, 72 (1970).

[3] *Mediterranean Pools Investigation*, 9 F.M.C. 264, 290 (1966).

[4] Section 15 of the Shipping Act, 1916, provides in pertinent part:

The Commission shall by order, after notice and hearing, disapprove * * * any agreement * * * that it finds to be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers * * * or to operate to the detriment of the commerce of the United States, or *to be contrary to the public interest*, or to be in violation of this Act, and shall approve all other agreements. * * * [Emphasis supplied.]

Svenska, supra; Canadian-American Working Agreement, et al., 16 S.R.A. 733 (1976).

nature of the Agreement, the lack of any justification in support thereof, and the protests and request for hearing, Agreement No. 10286 shall be the subject of an investigation and hearing to determine its approvability under the standards of Section 15, Shipping Act, 1916.

Now, therefore, *it is ordered*, That the Commission enter upon an investigation and hearing pursuant to Sections 15 and 22 of the Shipping Act, 1916, to determine whether Agreement No. 10286 is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers or ports, or between exporters from the United States and their foreign competitors, or to operate to the detriment of the commerce of the United States, or to be contrary to the public interest, or to be in violation of the Shipping Act, 1916, and whether Agreement No. 10286 should be approved, disapproved, or modified pursuant to Section 15 of the Shipping Act, 1916;

It is further ordered, That in the event any modification of Agreement No. 10286 is filed with the Commission, such modification shall be made subject to this investigation for approval, disapproval, or modification under the standards of Section 15 of the Shipping Act, 1916;

It is further ordered, That the signatories listed in Appendix A hereto are hereby made proponents in this proceeding;

It is further ordered, That the parties listed in Appendix B hereto are hereby made the protestants in this proceeding;

It is further ordered, That this proceeding be referred for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined and announced by the Presiding Administrative Law Judge, but in no event shall that hearing commence later than February 12, 1978.

The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That notice of this Order be published in the FEDERAL REGISTER, and a copy thereof be served upon proponents and protestants listed in the Appendices hereto;

It is further ordered, That any persons (including individuals, corporations, associations, firms, partnerships and public bodies) having an interest in this proceeding and desiring to intervene therein should notify the Secretary of the Commission immediately, and petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72), with a notice to the Commission's Bureau of Hearing Counsel and all parties to this proceeding;

It is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding be mailed directly to all parties of record.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

APPENDIX A

PROPONENTS

American Export Lines, 17 Battery Place, New York, N.Y. 10004.
American President Lines, 601 California Street, San Francisco, Calif. 94108.
Black Sea Shipping Company, c/o Norton, Lilly & Company, Inc., 90 West Street, New York, N.Y. 10006.
Costa Line, c/o Costa Lines Cargo Service, 26 Broadway, New York, N.Y. 10004.
Italia, S.p.A., c/o Seatrain Agencies, Inc., 88 Pine Street, New York, N.Y. 10005.
Jugolinija, c/o Crossocean Shipping Company, Inc., One World Trade Center, Suite 2045, New York, N.Y. 10048.
Sea-Land Service, Inc., P.O. Box 900, Edison, N.J. 08817.
D.B. Turkish Cargo Lines, c/o Thule Ship Agency, Inc., General Agent, One World Trade Center, Suite 2257, New York, N.Y. 10048.
Zim Israel Navigation Co., Ltd., Zim Container Service, One World Trade Center, New York, N.Y. 10048.

APPENDIX B

PROTESTANTS

National Association of Alcoholic Beverage Importers, Thomas E. O'Neill, President, General Counsel, 1025 Vermont Avenue NW., Washington, D.C. 20005.
Wines and Spirit Wholesalers of America, Inc., Fred M. Switzer, Executive Vice-President and General Counsel, Suite 201, 7750 Clayton Road, St. Louis, Mo. 63117.
Donald I. Baker, Assistant Attorney General, Jonathan C. Rose, Deputy Assistant Attorney General, Donald L. Flexner, Attorney, Antitrust Division, Elliott M. Selden, Attorney, Antitrust Division, James P. Denvir, III, Attorney, Antitrust Division, Janice M. Reece, Attorney, Antitrust Division, Department of Justice, Washington, D.C. 20530.

[FR Doc.77-23791 Filed 8-16-77;8:45 am]

LYKES BROS. STEAMSHIP CO., INC. AND SUN LINE GREECE SPECIAL SHIPPING CO., INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126 ;or may inspect the agreement at the Feild Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed for Approval by:

Mr. R. J. Finnan, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Agreement No. 10073 between Lykes Bros. Steamship Co., Inc. and Sun Line Greece Special Shipping Company, Inc. provides for the appointment by Sun Line of Lykes as its Husbanding and General Passenger Agent in the ports of Galveston and Houston, Texas, to perform services enumerated in the Agreement under covenants, conditions and terms set forth in the Agreement. Among other things, the Agreement provides for the solicitation and booking of passengers including fare collection, advertising and promoting of services as instructed by Sun Line.

By Order of the Federal Maritime Commission.

Dated: August 11, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-23794 Filed 8-16-77;8:45 am]

[No. 77-42]

P & M CRANE SERVICE, INC. v. PORT OF HOUSTON AUTHORITY OF HARRIS COUNTY, TEXAS

Notice of Filing of Complaint

AUGUST 12, 1977.

Notice is hereby given that a complaint filed by P & M Crane Service, Inc. against Port of Houston Authority of Harris County, Texas was served August 11, 1977. The complaint alleges violations by respondent of sections 16, 17, and 18 of the Shipping Act, 1916 in connection with certain provisions of respondent's Tariff No. 8 regarding use of outside cranes on respondent's property.

Hearing in this matter, if any is held, shall commence on or before February 11, 1978. The hearing shall inclure oral testimony and cross examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statement, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-23793 Filed 8-16-77;8:45 am]

PRUDENTIAL LINES INC. AND COMPANIA PERUANA DE VAPORES

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126, or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, Puerto Rico and San Francisco, California. Comments on such agreements, including requests for hearing may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement filed by:

J. Alton Boyer, Esquire, Kominers, Fort, Schlefer & Boyer, 1776 F Street, Northwest, Washington, D.C. 20006

Agreement No. 10041-5, between the above named parties, amends the basic pooling, sailing and equal access agreement, in the southbound trade from United States Atlantic ports of New York, Philadelphia and Baltimore to the Peruvian ports of Callao and Ilo, by reducing the minimum number of required sailings for each party from 18 to 15 per year.

By Order of the Federal Maritime Commission.

Dated: August 12, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc 77-23795 Filed 8-16-77;8:45 am]

FEDERAL RESERVE SYSTEM

CENTRAL BANCORPORATION, INC.

Order Approving Acquisition of Bank

The Central Bancorporation, Inc., Cincinnati, Ohio, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to First National Bank of Mercer County, Celina, Ohio ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those of the Department of Justice, in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant, the eighth largest banking organization in Ohio, controls nine banking subsidiaries with aggregate deposits of approximately $1.1 billion, representing 3.5 percent of total commercial bank deposits in Ohio.[1] Acquisition of Bank ($64.6 million in deposits) would increase Applicant's share of Statewide commercial bank deposits by only 0.2 percent and would have no appreciable effect upon the concentration of banking resources in Ohio.

Bank is the largest of six banking organizations located in the Mercer County banking market,[2] the relevant banking market, and controls approximately 34.0 percent of the total deposits in commercial banks in the market. Applicant's closest subsidiary bank, The Home Banking Company, St. Marys, Ohio ("Home Bank"), is located in the separate Wapakoneta banking market that adjoins Mercer County to the east. The closest office of Bank is located approximately 11 miles from Home Bank, although in a different market. Since the banks are located in separate banking markets, no meaningful amount of existing competition would be eliminated. It appears that acquisition of Bank would not have any significant adverse effects upon potential competition since it is unlikely that Applicant would enter the Mercer County banking market de novo,[3] and after consummation a number of alternative points of entry would remain available. Accordingly, on the basis of the above and other facts of record, it is concluded that consummation of the proposed transaction would not have any significant adverse competitive effects. The Board has considered the comments by the Department of Justice that consummation of the proposal would have adverse competitive effects. However, in light of the Board's finding that Bank and Home Bank operate in separate and distinct banking markets and that, based upon other facts of record, de novo entry by Applicant appears unlikely and other points of entry will remain available following consummation, the Board is of the view that approval of the application is warranted.

Considerations relating to the financial and managerial resources and future prospects of Bank, Applicant, and its subsidiaries are regarded as satisfactory. Therefore, banking factors are consistent with approval. Affiliation with Applicant will allow Bank to increase the services offered to its customers, including the offering of trust services and expanded agricultural lending. Considerations relating to the convenience and needs of the community to be served lend some weight toward approval of the application. Accordingly, it has been determined that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Board of Governors,[4] effective August 9, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.

[FR Doc.77-23765 Filed 8-16-77;8:45 am]

FIRST BANKERS CORPORATION OF FLORIDA, POMPANO BEACH, FLORIDA

Order Approving Acquisition of Bank

First Bankers Corporation of Florida, Pomopano Beach, Fla., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under § 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to ac-

[1] Unless otherwise indicated, all banking data are as of September 30, 1976, and reflect bank holding company formations and acquisitions approved as of June 30, 1977.

[2] The Mercer County banking market is approximated by Mercer County and Mississinawa, Allen, Wabash, York, and Patterson townships in northern Darke County.

[3] The Wapakoneta banking market is comprised of Auglaize County except for German and Jackson townships in the southwestern portion of the county.

[4] As of July 1, 1975, the Mercer County deposits per banking office and population per banking office were $11.1 million and 2,686, respectively, considerably below statewide figures of $14.3 million and 4,846.

[5] Voting for this action: Governors Wallich, Coldwell, Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Gardner.

quire 80 percent or more of the voting shares of First National Bank of Cape Canaveral, Cape Canaveral, Fla. ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and this Federal Reserve Bank has considered the application and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the State's seventeenth largest holding company, controls five banks with aggregate deposits of $286.8 million representing 1.07 percent of deposits in all commercial banks in the state. (All banking data are as of December 31, 1976 and reflect mergers and acquisitions as of June 14, 1977.) Acquisition of Bank, having deposits of $22.4 million, would not significantly increase Applicant's share of commercial bank deposits, and Applicant's status would change from seventeenth largest holding company in the state to sixteenth. No undue concentration of banking resources in Florida would result.

The relevant market area is the Central Brevard Banking Market.[1] Florida's first, second, and third largest bank holding companies are represented in the market, with the largest bank controlling 28 percent of deposits. Bank, with $22.4 million in deposits, controls 11.5 percent of market deposits, and is the fourth largest of eight banks in a market where Applicant is not represented. Acquisition of Bank will not diminish competition among banks in the market.

Applicant's nearest banking subsidiary is located in Volusia County, 41 miles north of Bank. No competition currently exists between Applicant's subsidiaries and Bank, and it is unlikely that significant future competition would result because of the distances involved and Florida's branching laws. The relevant market is not considered attractive for *de novo* entry due to a recent decline in population and the opening of three branch banks in the area.

The financial and managerial resources and prospects of Applicant, its subsidiaries, and Bank are considered to be generally satisfactory. Acquisition of Bank by Applicant will increase Bank's lending capacity. Applicant hopes to decrease Bank's operating expenses by placing the servicing of automated accounts with an affiliate. Bank's employees will be included in Applicant's retirement plan. Applicant also plans to assist Bank in constructing a new and larger main banking facility. Considerations relating to the convenience and needs of the community to be served lend weight to approval of the application. It is this Federal Reserve Bank's judgment that consummation of the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after that date, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Federal Reserve Bank of Atlanta acting under delegated authority for the Board of Governors of the Federal Reserve System, effective August 9, 1977.

MONROE KIMBREL,
President.

[FR Doc.77-23697 Filed 8-16-77;8:45 am]

[1] The Central Brevard Banking Market is approximated by the towns of Cocoa, Cocoa Beach, Merritt Island, and Cape Canaveral.

MARINE CORPORATION

Acquisition of Bank

The Marine Corporation, Milwaukee, Wisconsin, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 80 percent or more of the voting shares of American Kettle Moraine Bank, Delafield, Wisconsin. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 8, 1977.

Board of Governors of the Federal Reserve System, August 11, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-23698 Filed 8-16-77;8:45 am]

MARINE NATIONAL EXCHANGE BANK OF MILWAUKEE

Request for Determining and Notice Providing Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors of the Federal Reserve System, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. § 1841(g)(3)) ("the Act"), by Marine National Exchange Bank of Milwaukee, Milwaukee, Wisconsin ("Marine Bank"), for a determination that Marine Bank is not nor will be in fact capable of controlling Joseph B. Gutenkunst, Robert L. Habush, Richard L. Kite, George L. N. Meyer, Jr., Bernard J. Sampson, Harold Sampson, Zachary Takerlan, Joseph, A. Domanik, Mark F. Dudley, Robert F. Hammen, Jr. and Michael Rosen. Pursuant to an agreement dated July 9, 1977, Marine Bank proposes to sell for cash certain shares of American Hampton Bank, Milwaukee, Wisconsin, to each of the individuals named, each of whom are indebted to Marine Bank in connection with transactions other than the proposed sale of shares of American Hampton Bank.

Section 2(g)(3) of the Act provides that shares transferred after January 1, 1966, by any bank holding company (or any company which but for such transfer would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor, unless the Board, after opportuninty for hearing, determines that the transferor is not, in fact, capable of controlling the transferee.

Notice is hereby given, that, pursuant to section 2(g)(3) of the Act, an opportunity is provided for filing a request for oral hearing. Any such request or written comments on the application should be submitted in writing (in duplicate) to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than August 29, 1977. If a request for oral hearing is filed, each request should contain a statement of the nature of the requesting person's interest in the matter, his reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which such person wishes to give testimony. The Board subsequently will designate a time and place for any hearing it orders, and will give notice of such hearing to the transferor, the transferee, and all persons that have requested an oral hearing. In the absence of a request for an oral hearing, the Board will consider the requested determination on the basis of documentary evidence filed in connection with the application.

Board of Governors of the Federal Reserve System, August 9, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-23766 Filed 8-16-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Extension of Time to File Comments

On July 18, 1977, the Regulatory Reports Review Staff, GAO, received and accepted a request for clearance of a proposed report intended for use in collecting information from the public. (See 44 U.S.C. 3512 (c) and (d).) GAO published a notice in the FEDERAL REGISTER on July 22, 1977, at 42 FR 37598, announcing that a form had been received and accepted. The purpose of publishing this notice is to extend the period of time for interested parties to comment on the FEA form because of a misunderstanding about what schedules the respondents are required to submit.

FEDERAL ENERGY ADMINISTRATION

The FEA has requested clearance of a new single-time "Survey of Manufacturers' Alternative Energy Capabilities 1977, Form MA-400." However, it has come to our attention that Tables (A) through (F) which were submitted to GAO for clearance with Form MA-400 are not required to be filed by respondents. These tables are examples of the output to be derived from the information submitted on the MA-400. Written comments are invited from all interested persons, organizations, public interest groups, and affected businesses. We have already received several comments requesting additional time to respond, therefore, the deadline for filing comments on the FEA Form MA-400 is hereby extended to Wednesday, August 31, 1977. Comments (in triplicate) must be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-23616 Filed 8-16-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Assistant Secretary for Education

COMMENTS ON COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

Pursuant to Section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The National Center for Education Statistics and the U.S. Office of Education have proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before September 16, 1977 and should be addressed to Administrator, National Center for Education Statistics, ATTN: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: August 11, 1977.

IRIS GARFIELD,
Acting Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Survey of Recent (1976-77) College Graduates.

2. AGENCY BUREAU OFFICE

National Center for Education Statistics.

3. AGENCY FORM NUMBER

NCES form 2385.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Section 406(b)(5) (The Center shall) "Conduct a continuing survey of institutions of higher education to determine the demand for, and the availability of qualified teachers * * *" (Pub. L. 93-380 as amended by Pub. L. 94-482; 20 USC 1221e-1).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

Condition of education: Legislators, counselors, educators, students will use the data to assess the job market for college graduates by field; e.g., unemployment, underemployment, teacher supply and demand, etc.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: Fall 1977.
c. Frequency: Biennial.

8. RESPONDENTS

a. Type: College and Universities.
b. Number: Sample: 300.
c. Estimated average man-hours per respondent: 2 hours (range of 1-10 hours).

9. INFORMATION TO BE COLLECTED

Colleges and universities (1) A list of July 1, 1976-June 30, 1977 Bachelor's and Master's degree recipients with major field of study (2) Addresses for a sample (an average of 35 per school) of these graduates (Graduates will then be sent a brief questionnaire inquiring about their employment and education status).

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

A Study of Selection Institutions and Borrowers in the Federally Insured Student Loan Program.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Office of Planning, Budgeting, and Evaluation.

3. AGENCY FORM NUMBER

OE 531.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"The Commissioner shall not deny, because of any provision of this section, a certificate of insurance under section 429 to any eligible lender which is an eligible institution if such lender has previously executed an agreement with the Commissioner pursuant to section 433 of this part, unless the Commissioner determines, based on studies and surveys satisfactory to him, that access to a loan by all eligible students who make an active and diligent effort to obtain a loan under this part will be otherwise available." (Sec. 423(c), Higher Education Act of 1965, as amended, 20 USC 1087) "Nothing in this section or in this part shall be construed to excuse the holder of a federally insured loan from exercising reasonable care and diligence in the making and collection of loans under the provisions of this part. If the Commissioner, after reasonable notice and opportunity for hearing to an eligible lender, finds that it has substantially failed to exercise such care and diligence * * * he shall disqualify that lender for further Federal insurance * * * until he is satisfied that its failure has ceased * * *" (Sec. 430(d), Higher Education Act of 1965, as amended, 20 USC 1087).

"An eligible institution shall be deemed to have originated a loan for purposes of this section if it has delegated to it by an eligible lender of substantial portion of the functions normally performed by a lender prior to the making of a loan, such as interviewing the applicant for a loan, explaining the applicant's responsibilities under the loan, obtaining completion of necessary forms, obtaining necessary documentation, or verifying that the student is eligible for the loan." (Sec. 433(b), Higher Education Act of 1965, as amended, 20 USC 1087).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

Analysis of data from the Default Regression Model will be used to indicate "performance measures" for proprietary institutional lenders and more specifically, the relationships between administrative practices, borrower attitudes and demographics, and levels of default rates at these institutions. These relationships will be used to test whether higher and

V42159 AUG 17 77 UM

lower default rates at direct lender proprietary institutions are primarily the result of poor loan administration, negative borrower attitudes, and specific demographic characteristics. Data from institutions of higher education which are direct lenders will be utilized to explore whether quite different factors explain high or low default rates at these institutions. About improved program capability for contacting defaulters and about the feasibility of a future study of out-of-school borrowers, including defaulters.

7. DATA ACQUISITION PLAN

a. Method of collection: Site visits/personal interviews, mail questionnaires, telephone interviews.
b. Time of collection: Fall, 1977.
c. Frequency: Once.

8. RESPONDENTS

a. Type: Proprietary Institutions (Direct Lenders).
b. Number: 66 (Universe).
c. Estimated average man-hours per respondent: 5.0.
a. Type: Institutions of Higher Education (Direct Lenders).
b. Number: 90 (Universe).
c. Estimated average man-hours per respondent: 5.0 (Site Visits).
a. Type: In-School Borrowers.
b. Number: 2527 (Sample).
c. Estimated average man-hours per respondent: 0.25.

9. INFORMATION TO BE COLLECTED

Proprietary Schools Active as Direct Lenders Under FISLP

a. The reasons for the school seeking a direct lending status, and the extent to which loans are available from local banks.
b. The nature of the policies and procedures followed in reviewing loan applications, informing borrowers, disbursing loan monies and administering loans to students during the in-school, grace, deferment and out-of-school periods.
c. The nature of the policies and procedures followed in pursuing collections, and submitting a claim on a defaulted loan.
d. The general operation of the loan administration function, including the size and turnover of school staff, the use of mechanized systems, and the use of centralized versus decentralized management control.
e. The performance of the loan portfolio over time and the reasons why changes in this performance have occurred.
f. The extent and rationale for the sale and/or warehousing of loans to Sallie Mae or commercial lenders, the use of repurchase agreements in these transactions, and the policies and procedures followed.

Students, In-School Borrowers At Proprietary Schools

a. The factors involved in the enrollment.
b. Program awareness at the time of enrollment.
c. The factors involved in obtaining the loan.
d. Understanding of the terms and obligations of the loan.
e. The role of the loan in financing the borrowers' education.
f. Borrowers' satisfaction with the program.

Students, Out-Of-School Borrowers From Proprietary Schools

a. The factors involved in the enrollment decision.
b. The role of the loan in financing the borrowers' education.
c. Borrowers' satisfaction with the program.
d. Reasons for withdrawal (if appropriate).
e. Understanding of the terms and obligations of the loan.
f. Placement assistance provided and employment status.
g. Factors involved in repaying the loan.

Institutions of Higher Education Active As Direct Lenders Under FISLP (and selected for on-site visits)

a. The reasons for the school seeking a direct lender status, and the extent to which loans are available from local banks.
b. The nature of the policies and procedures followed in reviewing loan applicants, informing borrowers, disbursing loan monies and administering loans to students during the in-school, grace, deferment and out-of-school periods.
c. The nature of the policies and procedures followed in pursuing collections and in submitting a claim on a defaulted loan.
d. The general operation of the loan administration function, including the size and turnover of school staff, the use of mechanized systems and the use of centralized versus decentralized management control.
e. The performance of the loan portfolio over time and the reasons why changes in this performance have occurred.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITIONS ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

A Description and Assessment of Projects Funded by the Community Education Program.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Office of Planning, Budgeting, and Evaluation.

3. AGENCY FORM NUMBER

OE 567.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Section 405(g)(6) of the Community Schools Act states: "The (Community Education Advisory) Council shall create a system for the evaluation of the programs. The Council shall present to Congress a complete and thorough evaluation of the programs and operation of this section for each fiscal year ending after June 30, 1975." (Pub. L. 93-380, 20 U.S.C. 1864).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION COLLECTED WILL BE USED

Data and information collected in this study will be analyzed to: Describe the organization and operation of Community Education projects implemented by local educational agencies, State educational agencies, and institutions of higher education; and evaluate the impact of the Community Education projects at the local and State levels. This analysis will be used by the National Advisory Council on Community Education to assist the Office of Education and Congress in defining the future direction and role of Federal involvement in Community Education.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail and personal interviews.
b. Time of collection: Fall 1977.
c. Frequency: Single time.

8. RESPONDENTS

a. Type: Local Education Agencies.
b. Number: Sample—297.
c. Average man-hours per respondent: 2 hours.
a. Type School Administrators and Supervisors (School Principals and School Project Coordinators).
b. Number: Sample—134.
c. Average man-hours per respondent: 30 minutes.
a. Type: Other (Local Cooperating Institutions).
b. Number: Sample—228.
c. Average man-hours per respondent: 45 minutes.
a. Type: Individuals (chairpersons of project advisory councils and project participants).
b. Number: Sample—440.
c. Average man-hours per respondent: 20 minutes.
a. Type: Teachers, Elementary and Secondary.
b. Number: Sample—88.
c. Average man-hours per respondent: 15 minutes.
a. Type: State Education Agencies.
b. Number: Sample—33.
c. Average man-hours per respondent: 2 hours.
a. Type: State Institutions (associated with grant recipients).
b. Number: Sample—25.
c. Average man-hours per respondent: 30 minutes.
a. Type: College and Universities.
b. Number: Sample—28.
c. Average man-hours per respondent: 2 hours.

9. INFORMATION TO BE COLLECTED

LEA's, SEA's and Colleges and Universities (IHE's)

a. Institutional Characteristics—enrollment, area served, staff training and preparation, facilities and resources, and organization and management structure.
b. Planning and Evaluation Practices—data used, participants, included, techniques employed, alternatives considered, plans and reports completed.
c. Operations and Impacts—classes offered; participants serviced; cooperative linkages made; individual, institutional and community benefits derived.
d. Costs—federal, local, and other expenditures by program and budget categories.

School Administrators and Supervisors, Local Cooperating Institutions, State Institutions, Individuals, and Teachers

a. Description of project needs assessment and planning process—procedures and techniques used, role of advisory committees, persons and institutions included, agreements made.
b. Assessment of Implementation Process—appropriateness of services provided including mode of delivery, and accomplishment of service coordination and consolidation.
c. Assessment of program impacts—utility of services to participants, economies or efficiencies of services, alterations of decision-making processes, public support for the program and providing institution, provisions for continued local or institutional support after termination of federal funding.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Application for Advanced Institutional Development Program, Title III, Higher Education Act of 1965.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Bureau of Higher and Continuing Education, Division of Institutional Development.

3. AGENCY FORM NUMBER

OE 1049-1.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"Sec. 302(b). Any institution desiring special assistance under the provisions of this title shall submit an application for eligibility to the Commissioner at such time, in such form, and containing such information, as may be necessary to enable the Commissioner to evaluate the need of the applicant for such assistance and to determine its eligibility to be a developing institution for the purposes of this title." (Pub. L. 92-318, 20 U.S.C. 1052, as amended by Pub. L. 93-380.)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain benefits.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

The Division will use the information in its grant award process, in order to determine (1) the eligibility and merits of an institution as an "advanced developing institution" for participation in the Title II program, HEA of 1965, as amended; (2) the requested projects that should be funded; and (3) the total amount of any grant that may be awarded, in keeping with the objectives and priorities of the Advanced Institutional Development Program.

7. DATA ACQUISITION PLAN

(a) Method of collection: Mail.
(b) Time of collection: Winter.
(c) Frequency: Annually.

8. RESPONDENTS

(a) Type: Colleges and Universities.
(b) Number: 100–150.
(c) Estimated average man-hours per respondent: 80.

9. INFORMATION TO BE COLLECTED

Part I: Standard Form 424, followed by OE Form 1049–1 in the following parts: Part II: Institutional Statistics, covering data over a five-year period on (1) income and expenditures; (2) student characteristics, enrollment, graduates continuing higher education, students receiving BEOG; (3) faculty and staff. Part III: Institutional Mission, dealing with constituency, community concerns, career opportunities for graduates, student characteristics and need for educational opportunities, present institutional mission in historical perspective, and means of assessing attainment. Part VI:Curriculum Data, including a description of the process of curriculum change, recent modifications and future projections. Part V: Institutional Planning, locus of responsibility and process of planning. Part VI: Program Narrative, stating goals, implementation strategies, action steps and gains to be realized in institutional development for each project proposed. Part VII: Replacement of Funds, showing source of continuing funding necessary for any activity extending beyond the expiration of AIDP funding. Part VIII: Budget Pages for each program component showing estimated costs of personnel, travel, equipment, supplies, contractual services and other items allocated to institutional and Federal contributions; Institutional Eligibility and Assurances, related to compliance with regulations and guidelines required for participation in Federal assistance to proposed projects.

[FR Doc.77-23613 Filed 8-16-77;8:45 am]

Office of Education

ACTVITIES OF ADVISORY COMMITTEES

Public Availability of Reports of the Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 1 (Supp. II 1972) and OMB Circular A–63 of March 27, 1974, those advisory committees of the Department of Health, Education, and Welfare which held closed or partially closed meetings in 1976 have prepared a report, contained within the Council's 1977 Annual Report, on the activities of these meetings. Copies of the report have been filed and are available for public inspection at the following locations:

Library of Congres, Exchange and Gift Division, Federal Advisory Committee Desk, Washington, D.C. 20540.

National Advisory Council on Indian Education, Room 326, Pennsylvania Bldg., 425 13th Street NW., Washington, D.C. 20004

Committee Management Staff, U.S. Office of Education, Room 2135, FOB 6, 400 Maryland Avenue SW., Washington, D.C. 20202.

The name of the subject committee is listed below:

National Advisory Council on Indian Education

STUART A. TONEMAH,
Executive Director, National Advisory Council on Indian Education.

[FR Doc. 77-23614 Filed 8-16-77;8:45 am]

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

Meeting

AGENCY: The National Advisory Council on Indian Education.

ACTION: Notice.

SUMMARY: The notice sets forth the schedule and proposed agenda of the forthcoming Full Council Meeting of the National Advisory Council on Indian Education. It also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10 (a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: Full Council Meeting: September 17–18, 1977, 8:00 a.m. to 5:00 p.m., and September 19, 1977, 8:00 a.m. to 3:00 p.m.

ADDRESS: Hotel Adolphus, 1321 Commerce Street, Dallas, Tex.

FOR FURTHER INFORMATION CONTACT:

Stuart A. Tonemah, Executive Director, Office of the National Advisory Council on Indian Education, Suite 326, 425 13th Street NW., Washington, D.C. 20004, 202–376–8882.

V 42 159 AUG 17 77 UM

The National Advisory Council on Indian Education is established under Section 442 of the Indian Education Act, Title IV of Pub. L. 92-318, (20 U.S.C. 1221g).

The Council is directed to:

(1) Submit to the Commissioner of Education a list of nominees for the position of Deputy Commissioner of the Office of Indian Education/OE;

(2) Advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including Title III of the Act of September 30, 1950 (Pub. L. 81-874) and Section 810, Title VIII of the Elementary and Secondary Education Act of 1965 (as added by Title IV of Pub. L. 92-318 and amended by Pub. L. 93-380), and with respect to adequate funding thereof;

(3) Review applications for assistance under Title III of the Act of September 30, 1950 (Pub. L. 81-874), Section 810 of Title VIII of the Elementary and Secondary Education Act of 1965 as amended and Section 314 of the Adult Education Act (as added by Title IV of Pub. L. 92-318), and make recommendations to the Commissioner with respect to their approval;

(4) Evaluate programs and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(5) Provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(6) Assist the Commissioner in developing criteria and regulations for the administration and evaluation of grants made under Section 303(b) of the Act of September 30, 1950 (Pub. L. 81-874) as added by Title IV, Part A, of Pub. L. 92-318; and

(7) Submit to the Congress not later than March 31 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate or from which they can benefit, which report shall include a statement of the Council's recommendations to the Commissioner with respect to the funding of any such programs.

The meeting on September 17-19, 1977, will be open to the public. This meeting will be held at the Hotel Adolphus, Dallas, Tex.

The proposed agenda includes:

(1) Executive Director's Report.

(2) Action on previous meeting minutes.

(3) Committee reports and discussions.

(4) Review and approval of the NACIE fiscal year 1978 Budget.

(5) Special Reports.

(6) Approval of fiscal year 1978 meeting dates and sites.

(7) Plans for future NACIE activities.

(8) Regular Council Business.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on Indian Education, located at 425 13th Street NW., Suite 326, Washington, D.C. 20004.

Signed at Washington, D.C. on August 9, 1977.

STUART A. TONEMAH,
Executive Director, National Advisory Council on Indian Education.

[FR Doc.23615 Filed 8-16-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-530]

ADMINISTERING TEMPORARY HOUSING PROGRAMS IN CERTAIN MAJOR DISASTER AREAS

Certain Determinations and a Redelegation of Authority

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This is a notice of certain determinations and a redelegation of authority to the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housnig and Urban Development, relating to the administering of temporary housing programs under the provisions of Section 404(a), Pub. L. 93-288, in the major disaster in Pennsylvania (FDAA-537-DR).

Dated: July 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Hugh Richardson, Individual Assistance Office, Federal Disaster Assistance Administration, Washington, D.C. 20410, 202-634-7860.

NOTICE: Pursuant to the authority vested in me to exercise certain of the powers and authorities of the President with respect to Federal disaster assistance pursuant to Section 1 of the Executive Order entitled, "Delegating Disaster Relief Functions Pursuant to the Disaster Relief Act of 1974" (EO 11795, 39 FR 25939, dated July 11, 1974), and the Delegation from the Secretary of Housing and Urban Development (39 FR 28227, dated August 5, 1974), I made the following determinations and redelegation of authority to the Assistant Secretary for Housing—Federal Housing Commissioner in administering the temporary housing programs under the provisions of Section 404(a), Pub. L. 93-288, in the major disaster in Pennsylvania, FDAA-537-DR:

1. On July 22, a redelegation of "the authority under Section 302 of the Act, specifically to direct the Corps of Engineers to perform work and services necessary to the accomplishment of the temporary housing assistance (mobile home group site development and the minimal repair program) authorized by the following Notice to Proceed: Disaster No. FDAA-537-DR, Pennsylvania, July 21, 1977. You may redelegate this authority to employees of the Department of Housing and Urban Development."

2. On July 25, a determination that "it is in the public interest to lease commercial mobile home sites at Federal expense, and to upgrade or install utilities on such sites at Federal expense; and install essential utilities on or develop group sites complete with essential utilities at Federal expense. Therefore, you are authorized to take the above actions, where required, in connection with the provision of government-owned mobile homes. However, it is understood that first priority will be given to utilizing private and commercial sites. Where feasible, group sites should be placed on publicly-owned lands prior to leasing or renting private lands."

3. Also on July 25, an "authorization to purchase mobile homes for the purpose of housing eligible disaster victims under Section 404 of the Disaster Relief Act of 1974, as necessary to accomplish the temporary housing mission in FDAA-537-DR Pennsylvania."

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-23711 Filed 8-16-77;8:45 am]

[Docket No. NFD-529; FDAA-3025-EM]

COLORADO

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of Colorado (FDAA-3025-EM), dated January 29, 1977.

DATED: August 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: The Notice of emergency for the State of Colorado dated January 29, 1977, and amended on February 15, 1977, March 10, 1977, April 4, 1977, May 18, 1977, May 27, 1977, and June 14, 1977, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of January 29, 1977:

The Counties of:

Archuleta	Moffat
Hinsdale	Rio Grande
Mineral	Saguache

The purpose of this designation is to provide emergency livestock feed assistance and cattle transportation assistance only in the aforementioned affected areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-23715 Filed 8-16-77;8:45 am]

[Docket No. NFD-526; FDAA-3044-EM]

GEORGIA

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of Georgia (FDAA-3044-EM), dated July 20, 1977.

DATED: July 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of Georgia dated July 20, 1977, is hereby amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of July 20, 1977:

The Counties of:

Appling	Peach
Brantley	Rockdale
De Kalb	Ware
Meriwether	Washington

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-23712 Filed 8-16-77;8:45 am]

[Docket No. NFD-525]

INTERAGENCY DROUGHT EMERGENCY COORDINATING COMMITTEE

Designation of Additional Emergency Drought Impact Areas

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of additional designation of Emergency Drought Impact Areas by the Interagency Drought Emergency Coordinating Committee of 1977.

DATED: July 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Jack W. McGraw, Director, Preparedness Office, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7845.

Acting in concert with July 21, 1977, amendment to the March 2, 1977, notice of Emergency declared by the President for the State of Michigan, the Interagency Drought Emergency Coordinating Committee has designated the following additional counties as Emergency Drought Impact Areas:

Crawford	Roscommon

The designation of an Emergency Drought Impact Area does not confer entitlement to drought assistance. Individuals and communities must meet the separate eligibility requirements established by each agency before assistance may be provided.

Under the authority granted to the Administrator as Secretary to the Committee by the Memorandum of Agreement (42 FR 21855, April 29, 1977). I have provided this designation for the public record.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-23719 Filed 8-16-77;8:45 am]

[Docket No. NFD-524]

INTERAGENCY DROUGHT EMERGENCY COORDINATING COMMITTEE

Designation of Additional Emergency Drought Impact Areas

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of additional designation of Emergency Drought Impact Areas by the Interagency Drought Emergency Coordinating Committee of 1977.

DATED: August 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Jack W. McGraw, Director, Preparedness Office, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7845.

Acting upon the request of the respective Governors, the Interagency Drought Emergency Coordinating Committee designated the following as Emergency Drought Impact Areas:

Georgia—14 Additional Counties

Bartow	Gilmer
Catoosa	Gordon
Dade	Haralson
Dawson	Lumpkin
Fanin	Paulding
Floyd	Pickens
Forsyth	Polk

ILLINOIS—THREE ADDITIONAL COUNTIES

Edwards	White
Wayne	

VIRGINIA—22 ADDITIONAL COUNTIES

Accomack	Middlesex
Charles City	New Kent
Essex	Northampton
Gloucester	Northumberland
Greensville	Prince George
Isle of Wight	Richmond
James City	Southampton
King and Queen	Surry
King William	Sussex
Lancaster	Westmoreland
Matthews	York

AND FOUR ADDITIONAL INDEPENDENT CITIES

Emporia	Hopewell
Franklin	Williamsburg

The designation of an Emergency Drought Impact Area does not confer entitlement to drought assistance. Individuals and communities must meet the separate eligibility requirements established by each agency before assistance may be provided.

Under the authority granted to the Administrator as Secretary to the Committee by the Memorandum of Agreement (42 F.R. 21855, April 29, 1977). I have provided this designation for the public record.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-23718 Filed 8-16-77;8:45 am]

[Docket No. NFD-523]

INTERAGENCY DROUGHT EMERGENCY COORDINATING COMMITTEE

Designation of Additional Emergency Drought Impact Areas

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of additional designation of Emergency Drought Impact Areas by the Interagency Drought Emergency Coordinating Committee of 1977.

DATED: August 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Jack W. McGraw, Director, Preparedness Office, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7845).

Acting upon the request of the respective Governors, the Interagency Drought Emergency Coordinating Committee designated the following as Emergency Drought Impact Areas:

V42 I159 AUG 17 77 UM

North Carolina—56 Counties

Alamance	Lincoln
Alexander	Mecklenburg
Anson	Montgomery
Bladen	Moore
Cabarrus	Nash
Caswell	Northampton
Catawba	Orange
Chatham	Person
Cleveland	Pitt
Cumberland	Polk
Davidson	Randolph
Davie	Richmond
Duplin	Robeson
Durham	Rockingham
Edgecombe	Rowan
Forsyth	Rutherford
Franklin	Sampson
Gaston	Scotland
Granville	Stanly
Greene	Stokes
Guilford	Surry
Halifax	Union
Harnett	Vance
Hoke	Wake
Iredell	Warren
Johnston	Wayne
Lee	Wilson
Lenoir	Yadkin

South Carolina—33 Counties

Abbeville	Jasper
Aiken	Kershaw
Allendale	Lancaster
Anderson	Laurens
Bamberg	Lexington
Barnwell	McCormick
Beaufort	Newberry
Calhoun	Oconee
Charleston	Orangeburg
Cherokee	Pickens
Chester	Richland
Chesterfield	Saluda
Edgefield	Spartanburg
Fairfield	Sumter
Greenville	Union
Greenwood	York
Hampton	

West Virginia—One Additional County

Calhoun

The designation of an Emergency Drought Impact Area does not confer entitlement to drought assistance. Individuals and communities must meet the separate eligibility requirements established by each agency before assistance may be provided.

Under the authority granted to the Administrator as Secretary to the Committee by the Memorandum of Agreement (42 FR 21855, April 29, 1977), I have provided this designation for the public record.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-23717 Filed 8-16-77;8:45 am]

[Docket No. NFD-528; FDAA-3035-EM]

MICHIGAN

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of Michigan (FDAA-3035-EM), dated March 2, 1977.

DATED: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: The Notice of emergency for the State of Michigan dated March 2, 1977, and amended on April 1, 1977, and further amended on June 14, 1977, is hereby further amended to include the following County determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of March 2, 1977.

The County of: Grand Traverse

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected area effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-23714 Filed 8-16-77;8:45 am]

[Docket No. NFD-527; FDAA-537-DR]

PENNSYLVANIA

Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of Major disaster declaration for the State of Pennsylvania (FDAA-537-DR), dated July 21, 1977.

DATED: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, (202-634-7825).

NOTICE: The Notice of major disaster for the State of Pennsylvania dated July 21, 1977, is hereby amended to include the following county among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 21, 1977:

The County of: Blair

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-23713 Filed 8-16-77;8:45 am]

[Docket No. NFD-531 (FDAA-3046-EM)]

VIRGINIA

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of Virginia (FDAA-3046-EM), dated July 25, 1977.

DATED: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, (202)-634-7825.

NOTICE: The Notice of emergency for the State of Virginia dated July 25, 1977, is hereby amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of July 23, 1977:

The Counties of:

Albemarle	King George
Bath	King William
Brunswick	Lancaster
Buckingham	Middlesex
Caroline	New Kent
Charles City	Orange
Cumberland	Powhatan
Cumberland	Prince George
Goochland	Richmond
Hanover	Rockbridge
Henrico	Spotsylvania
Highland	

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-23716 Filed 8-16-77;8:45 am]

Office of the Interstate Land Sales Registration

[Docket No. N-77-789]

ASTRO MANUFACTURING CO. ET AL.

Order and hearings; Correction

This notice is issued to correct the Notice of Hearing issued on July 18, 1977.

Pursuant to 42 U.S.C. 5414(e) and 24 CFR 3282.152(c), Notice is hereby given that:

1. Respondents above being subject to the provisions of the National Mobile Home Construction and Safety Standard Act of 1974 (Pub. L. 93-383, 42 U.S.C. 5401, et seq.) received a Notice of Preliminary Determination and Opportunity for Hearing issued June 10, 1977, which was sent to the Respondents pursuant to 42 U.S.C. 5414, 24 CFR 3282.151, 24 CFR 3282.407(b)(1), and 24 CFR 3282.408(b) informing the Respondents of information obtained from the Mobile Home Standards Division and from other sources from which the Secretary determined that a noncompliance as defined in 24 CFR 3282.7 may exist in certain mobile homes manufactured by Respondents.

2. Respondents filed Answers in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answers, Respondents requested a hearing on the allegations contained in the Notice of Preliminary Determination and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 42 U.S.C. 5414(e), 24 CFR 3282.-151 and 24 CFR 3282.152(g), It is Hereby Ordered that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Preliminary Determination and Opportunity for Hearing will be held before Judge James W. Mast in room 7143, Department of HUD, 451 Seventh Street, SW., Washington, D.C. on August 22, 1977 at 10 a.m., and all inquiries concerning these proceedings should be directed to him.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, room 10278, Washington, D.C. 20410 on or before August 15, 1977. Copies of all documents filed should be served at the same time on all parties of record.

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 3282.152(c)(1).

Dated: July 25, 1977.

By the Secretary.

JAMES W. MAST,
Chief Administrative Law Judge.

[FR Doc.77-23720 Filed 8-16-77;8:45 am]

[Docket No. N-77-792; Docket No. 77-102-IS; OILSR No. 0-02245-02-465]

DYSART RANCHETTES

Hearing

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) Notice is hereby given that:

1. Dysart Ranchettes, Dysart Development Company, Inc. and Vern Wolfley, President, authorized agents and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710 et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 16, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Dysart Ranchettes, located in Maricopa County, Arizona, contain untrue statements of material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 19, 1977, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7143, Department of HUD, 451 Seventh Street, S.W. Washington, D.C. on September 8, 1977 at 2 p.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C. 20410 on or before August 19, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an ORDER Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: July 27, 1977.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc.77-23709 Filed 8-16-77;8:45 am]

[Docket No. N-77-793; Docket No. 77-94-IS; OILSR No. 0-3345-49-437]

OAK CREST ESTATES

Hearing

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) Notice is hereby given that:

1. Oak Crest Estates, Joe B. McMaster, President and Georgetown Builders, Inc., its officers and agents, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701, et seq.) received a Notice of Proceedings and Opportunity for Hearing dated June 16, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 CFR 1710.45(a)(1) and 1720.120 based on information obtained by the Office of Interstate Land Sales Registration showing that the Statement of Record and Property Report for Oak Crest Estates, located in Williamson County, Texas, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 12, 1977, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7143, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. on September 8, 1977 at 10 a.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C. 20410 on or before August 8, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: July 20, 1977.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc.77-23710 Filed 8-16-77;8:45 am]

[Docket No. N-77-791; Docket No. 77-69-IS; OILSR No. 0-1644-38-36 and (A-0)]

PINEHURST

Hearing

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) Notice is hereby given that:

1. Pinehurst, Pinehurst, Incorporated and Jack A. Furman, Vice President, authorized agents, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701, et seq.) received a Notice of Proceedings and Opportunity for Hearing dated June 3, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 CFR 1710.45(a)(1) and 1720.120 based on information obtained by the Office of Interstate Land

Sales Registration showing that the Statement of Record and Property Report for Pinehurst, located in Moore County, North Carolina, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received June 23, 1977, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7143, Department of HUD, 451 Seventh Street, SW., Washington, D.C. on August 30, 1977 at 10 a.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before August 24, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 4, 1977.

By the Secretary.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc.77-23708 Filed 8-16-77;8:45 am]

[Dockets Nos. N 77-790; 77-118-IS; OII SR No. 0-2779-38-138]

WOODBRIDGE

Hearing

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) Notice is hereby given that:

1. Woodbridge, Hamrick Development, Inc. and James C. Hamrick, President, authorized agents, officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701, et seq.) received a Notice of Proceedings and Opportunity for Hearing dated July 8, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 CFR 1710.45(a)(1) and 1720.120 based on information obtained by the Office of Interstate Land Sales Registration showing that the Statement of Record and Property Report for Woodbridge, located in Cleveland County, N.C., contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 26 and 28, 1977, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in room 7143, Department of HUD, 451 Seventh Street, SW., Washington, D.C. on September 13, 1977 at 10 a.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, room 10278, Washington, D.C., 20410 on or before August 30, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an Order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: August 4, 1977.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc.77-23707 Filed 8-16-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CHIEF, BRANCH OF ADJUDICATION, DIVISION OF TECHNICAL SERVICES, COLORADO STATE OFFICE

Redelegation of Authority

1. Pursuant to authority contained in Sec. 1.1(a), Bureau Order No. 701 of July 23, 1964, as amended, I hereby redelegate to the Chief, Branch of Adjudication, in the Division of Technical Services, authority to take action on the following matters:

Sections 1.2 (b) and (c), 1.3(a), 1.5 (b) and (c), 1.6 (a) through (l), and 1.9 (a) through (f), (h) through (s), (u), (x), and (y) of Part I of the Bureau Order No. 701, supra.

2. The Chief, Branch of Adjudication, may redelegate any o fthe above authority to his subordinate Team Leaders. Any redelegation of the above authority must be approved by the State Director and published in the FEDERAL REGISTER.

3. The Chief, Branch of Adjudication, may, by written order, designate any qualified employee of the Branch to perform the functions of his position in his absence. Such order will be approved by the Chief, Division of Technical Services.

4. This redelegation of authority supercedes the redelegation to the Chief, Branch of Adjudication, published in the FEDERAL REGISTER March 21, 1977.

5. Effective date. This redelegation will become effective August 1, 1977.

DALE R. ANDRUS,
State Director.

Approved: August 9, 1977.

GEORGE L. TURCOTT,
Acting Director.

[FR Doc.77-23635 Filed 8-16-77;8:45 am]

[M 15779]

MONTANA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

AUGUST 9, 1977.

The Department of Transportation, Federal Aviation Administration, filed application, Serial No. M 15779, on June 1, 1970, for a withdrawal in relation to the following described lands:

PRINCIPAL MERIDIAN, MONTANA

T. 13 S., R. 5 E.,
Sec. 10, Lots 1, 2, 3, and 4, SE¼SE¼NW¼, E½NE¼SW¼, SW¼NE¼SW¼, E½SW¼SW¼, and SE¼SW¼;
Sec. 15, Lot 1, N½ Lot 2 (20 acres), SW¼ Lot 2 (10 acres), NW¼ Lot 3 (10 acres), and W½;
Sec. 16, E½SE¼NE¼, E½SE¼, and E½SW¼SE¼;
Sec. 21, E½, E½W½, and E½SW¼SW¼;
Sec. 22, SW¼ Lot 2 (10 acres), W½NE¼NW¼, W½NW¼, S½SE¼NW¼, and NW¼NW¼SW¼;
Sec. 28, NW¼NE¼NE¼, NW¼NE¼, N½SW¼NE¼, SW¼SW¼NE¼, NW¼, N½SW¼, SW¼SW¼, N½SE¼SW¼, SW¼SE¼SW¼, and NW¼NW¼SE¼;
Sec. 29, E½SE¼NE¼, E½SE¼, and E½SW¼SE¼;
Sec. 32, E½, E½SE¼NW¼, E½SW¼, SE¼NW¼SW¼, E½SW¼SW¼, and SW¼SW¼SW¼; and
Sec. 33, NW¼NE¼NW¼, NW¼NW¼, N½SW¼NW¼, SW¼SW¼NW¼, and NW¼NW¼SW¼.

T. 14 S., R. 5 E.,
Sec. 5, NE¼NE¼, W½NE¼, W½SE¼NE¼, and NW¼; and
Sec. 6, NE¼NE¼NE¼, S½NE¼NE¼, SE¼SW¼NE¼, and SE¼NE¼.

The areas described aggregate approximately 2,870 acres in Gallatin County.

The applicant desires that the land be reserved for the West Yellowstone Airport.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on June 17, 1970, Volume No. 35, Page No. 9935, Document No. 70-7521.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, on or before September 19, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 19, 1977.

The above-described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, P.O. Box 30157, Billings, Montana 59107.

EDGAR D. STARK,
Acting Chief, Branch of Lands and Minerals Operation.

[FR Doc.77-23768 Filed 8-16-77;8:45 am]

[NM 31268]

NEW MEXICO

Application

AUGUST 9, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for one 4-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 17 S., R. 27 E.,
Sec. 29, SW¼NE¼ and W½SE¼.
T. 18 S., R. 27 E.,
Sec. 5, E½E½;
Sec. 8, NE¼NE¼;
Sec. 9, NW¼NW¼.

This pipeline will convey natural gas across 1.85 miles of public lands in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-23769 Filed 8-16-77;8:45 am]

[NM 31247]

NEW MEXICO

Application

AUGUST 10, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Company has applied for three 4-inch natural gas pipeline rights-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 9 W.,
Sec. 24, lots 7, 8, 9, and 10;
Sec. 26, lots 5 and 12;
Sec. 35, lots 8, 9, and 16.

These pipelines will convey natural gas across 1.110 miles of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-23770 Filed 8-16-77;8:45 am]

[NM 31244 and 31245]

NEW MEXICO

Applications

AUGUST 10, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Company of New Mexico has applied for five 4-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 6 W.,
Sec. 5, lot 1;
Sec. 7, lot 4;
Sec. 17, SE¼NE¼ and N½SE¼.
T. 27 N., R. 6 W.,
Sec. 33, SE¼SE¼;
Sec. 34, SE¼SE¼;
Sec. 35, SW¼SW¼.

These pipelines will convey natural gas across 1.125 miles of public lands in Rio Arriba County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-23771 Filed 8-16-77;8:45 am]

[NM 31242]

NEW MEXICO

Application

AUGUST 10, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Company of New Mexico has applied for one 4-inch pipeline and well site right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 32 E.,
Sec. 4, lots 13 and 14;
Sec. 5, lot 16.

The pipeline and well site will be used in connection with natural gas operations and will cross 0.516 mile and 0.92 acre of public land in Lea County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-23772 Filed 8-16-77;8:45 am]

[NM 31223]

NEW MEXICO

Application

AUGUST 10, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Phillips Petroleum Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 19 S., R. 32 E.,
Sec. 6, SE¼SW¼;
Sec. 7, NE¼NW¼.

This pipeline will convey natural gas across 0.256 miles of public land in Lea County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-23772 Filed 8-16-77;8:45 am]

[NM 31243]

NEW MEXICO

Application

AUGUST 10, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Company has applied for two 4-inch natural gas pipeline rights-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31, N., R. 12 W.,
Sec. 3, 5½SW¼;
Sec. 11, lots 2 and 3.

These pipelines will convey natural gas across 0.562 miles of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-23774 Filed 8-16-77;8:45 am]

[NM 31248, 31250, 31252, 31254 and 31255]

NEW MEXICO

Applications

AUGUST 9, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for five 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 24, N., R. 6 W.,
Sec. 25, N½NE¼ and NE¼NW¼.
T. 27 N., R. 8 W.,
Sec. 9, W½SE¼.
T. 31 N., R. 8 W.,
Sec. 30, N½SE¼ and SE¼SE¼.
T. 26 N., R. 12 W.,
Sec. 29, N½NE¼ and NE¼NW¼.

These pipelines will convey natural gas across 1.469 miles of public lands in Rio Arriba and San Juan Counties. N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-23775 Filed 8-16-77;8:45 am]

[NM 21791]

NEW MEXICO

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

AUGUST 9, 1977.

The Corps of Engineers, Department of the Army, filed application NM 21791 on May 9, 1974 for a withdrawal in relation to the following described lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

A strip of land situate in the N½ of Section 8, Township 3 South, Range 7 West, of the New Mexico Principal Meridian, Socorro County, New Mexico.

Said strip of land being 3942.41 feet long and 600 feet wide, parallel to, 300 feet to the right of and 300 feet to the left of, measured at right angles to the following described centerline as located and constructed on the ground:

Beginning at a point on the north boundary of Section 8, Township 3 South, Range 7 West, N.M.P.M., that bears N. 89°52'41.5" E., a distance of 1469.56 feet from the section corner common to sections 5, 6, 7 and 8, Township 3 South, Range 7 West, N.M.P.M.;

Thence S. 65°07'24.1" E., a distance of 1636.56 feet to a point;

Thence S. 65°07'22.5" E., a distance of 1778.86 feet to a point;

Thence S. 65°07'24.6" E., a distance of 526.73 feet to a point on the north right-of-way line of old U.S. Highway No. 60, that bears S. 09°39'41.2" W., a distance of 1690.52 feet from the section corner common to section 4, 5, 8 and 9, Township 3 South, Range 7 West, N.M.P.M., Socorro County, New Mexico, containing an area of 53.42 acres, more or less.

A strip of land situate in the SE¼NE¼ of section 8 and the S½NW¼ and the S½ of section 9, Township 3 South, Range 7 West, of the New Mexico Principal Meridian, Socorro County, New Mexico.

Said strip of land being 5968.09 feet long and 600 feet wide, parallel to, 300 feet to the right of and 300 feet to the left of, measured at right angles to the following described centerline and constructed on the ground:

Beginning at a point on the south right-of-way of old U.S. Highway No. 60, that bears S. 01°54'16.3" W., a distance of 1771.77 feet from the section corner common to sections 4, 5, 8 and 9, Township 3 South, Range 7 West, N.M.P.M.;

Thence S. 65°07'24.4" E., a distance of 73.48 feet to a point;

Thence S. 65°07'24.6" E., a distance of 2949.46 feet to a point;

Thence S. 65°07'26.9" E., a distance of 2945.16 feet to a point on the east boundary of section 9, Township 3 South, Range 7 West, N.M.P.M., Socorro County, New Mexico, containing an area of 82.21 acres, more or less.

A strip of land situate in the S½ of Section 10, S½ of section 13, section 14, N½ of section 15 and N½ of section 24, Township 3 South, Range 7 West and the NW diagonal ½ of section 19, Township 3 South, Range 6 West of the New Mexico Principal Meridian, Socorro County, New Mexico.

Said strip of land being 20,490.96 feet long, and 600 feet wide, parallel to, 300 feet to the right of, and 300 feet to the left of, measured at right angles to the following described centerline as located and constructed on the ground:

Beginning at a point on the west boundary of section 10, Township 3 South, Range 7 West, N.M.P.M., that bears N. 0°10'09" W., a distance of 1003.91 feet from the section corner common to sections 9, 10, 15 and 16, Township 3 South, Range 7 West, N.M.P.M., Socorro County, New Mexico;

Thence S. 65°07'27" E., a distance of 1311.85 feet to a point;

Thence S. 65°07'28.7" E., a distance of 2007.53 feet to a point;

Thence S. 65°07'30.5" E., a distance of 1610.99 feet to a point;

Thence S. 65°07'31.7" E., a distance of 923.87 feet to a point;

Thence S. 65°07'31.5" E., a distance of 256.58 to a point;

Thence S. 65°07'31.8" E., a distance of 5123.47 feet to a point;

Thence S. 65°07'32.6" E., a distance of 4377.84 feet to a point;

Thence S. 65°07'35.2" E., a distance of 3276.69 feet to a point;

Thence S. 65°07'35.2" E., a distance of 1602.14 feet to a point that bears S. 41°58'46.1" W., a distance of 3369.43 feet from the section corner common to sections 17, 18, 19 and 20, Township 3 South, Range 6 West, N.M.P.M. Socorro County, New Mexico, containing an area of 282.25 acres, more or less.

A strip of land situate in the southeast diagonal ½ of section 19 and the S½ of section 20, Township 3 South, Range 6 West of the New Mexico Principal Meridian, Socorro County, New Mexico.

Said strip of land being 6427.55 feet long and 600 feet wide, parallel to, 300 feet to the right of and 300 feet to the left of, measured at right angles to the following described centerline as located and constructed on the ground:

Beginning at a point that bears S. 41°58'46.1" W., a distance of 3369.43 feet from the section corner common to sections 17, 18, 19 and 20, Township 3 South, Range 6 West, N.M.P.M., Socorro County, New Mexico;

Thence S. 65°07'37.9" E., a distance of 3012.21 feet to a point;

Thence S. 65°07'38.9" E., a distance of 3415.34 feet to a point on the south boundary of said section 20, that bears S. 88°56'01" W., a distance of 1645.60 feet from the section corner common to sections 20, 21, 28 and 29, Township 3 South, Range 6 West, N.M.P.M., Socorro County, New Mexico, containing an area of 88.53 acres, more or less.

Less and except New Mexico State Highway No. 52 as located across the SE¼ of section 20, Township 3 South, Range 6 West, N.M.P.M., Socorro County, New Mexico.

A strip of land situate in the W½NE¼ and the NW¼ of section 11, Township 3 South, Range 8 West of the New Mexico Principal Meridian, Socorro County, New Mexico.

Said strip of land being 3488.72 feet long and 600 feet wide, parallel to, 300 feet to the right of and 300 feet to the left of, measured at right angles to the following described centerline as located and constructed on the ground:

Beginning at a point on the north boundary of section 11, common to the south boundary of section 2, Township 3 South, Range 8 West, N.M.P.M., Socorro County, New Mexico, that bears N. 89°40'42.9" W., a distance of 2428.32 feet from the section corner common to sections 1, 2, 11 and 12, Township 3 South, Range 8 West, N.M.P.M., Socorro County, New Mexico;

Thence S. 55°52'40.7" W., a distance of 3488.72 feet to a point on the west boundary of said section 11, Township 3 South, Range 8 West, N.M.P.M., that bears S. 0°08'15.2" E., a distance of 1973.26 feet from the section corner common to sections 2, 3, 10 and 11, Township 3 South, Range 8 West, N.M.P.M., Socorro County, New Mexico, containing an area of 48.05 acres, more or less.

A strip of land situate in the SE¼SE¼SE¼ of section 9 and the S½NE¼ and the S½ of section 10, Township 3 South, Range 8 West of the New Mexico Principal Meridian, Socorro County, New Mexico.

Said strip of land being 5939.48 feet long and 600 feet wide, parallel to, 300 feet to the right of and 300 feet to the left of, measured at right angles to the following described centerline as located and constructed on the ground:

Beginning at a point on the east boundary of section 10, common to the west boundary of section 11, Township 3 South, Range 8 West, N.M.P.M., that bears S. 0°08'15.2" E., a distance of 1973.26 feet from the section corner common to sections 2, 3, 10 and 11, Township 3 South, Range 8, West, N.M.P.M., Socorro County, New Mexico;

Thence S. 55°52'41.8" W., a distance of 5939.48 feet to a point on the south boundary of said section 10, Township 3 South, Range 8 West, N.M.P.M., that bears S. 89°26'57.8" E., a distance of 371.44 feet from the section corner common to sections 9, 10, 15 and 16, Township 3 South, Range 8 West, N.M.P.M., Socorro County, New Mexico, containing an area of 81.81 acres, more or less.

Also a triangular tract or parcel of land situate in the NW¼NW¼ of section 15, Township 3 South, Range 8 West of the New Mexico Principal Meridian, Socorro County, New Mexico, being more particularly described by metes and bounds as follows:

Beginning at a point on the section corner common to sections 9, 10, 15 and 16, Township 3 South, Range 8 West, N.M.P.M., Socorro County, New Mexico;

Thence S. 89°26'57.8" E., along the north boundary of section 15, Township 3 South, Range 8 West, N.M.P.M, a distance of 898.80 feet to a point;

Thence S. 55°52'43.8" W., a distance of 1056.28 feet to a point on the west boundary of said section 15;

Thence N. 02°18'57" W., along the west boundary of said section 15, a distance of 601.65 feet to the original point of beginning, containing an area of 6.20 acres, more or less.

A strip of land situate in the E½ and SW¼ of section 19, Township 3 South, Range 8 West of the New Mexico Principal Meridian, Socorro County, New Mexico.

Said strip of land being 5560.56 feet long and 600 feet wide, parallel to, 300 feet to the right of and 300 feet to the left of, measured at right angles to the following described centerline as located and constructed on the ground:

Beginning at a point on the east boundary of section 19, Township 3 South, Range 8 West, N.M.P.M., that bears N. 0°22'09" W., a distance of 3151.04 feet from the section corner common to sections 19, 20, 29 and 30, Township 3 South, Range 8 West, N.M.P.M.;

Thence S. 55°52'48" W., a distance of 3852.90 feet to a point;

Thence S. 55°52'49.9" W., a distance of 1707.66 feet to a point on the south boundary of section 19, Township 3 South, Range 8 West, N.M.P.M., which point bears S. 89°36'16.5" E., a distance of 741.97 feet from the section corner common to sections 19 and 30, Township 3 South, Range 8 West, and sections 24 and 25, Township 3 South, Range 9 West, N.M.P.M., Catron County, New Mexico, containing an area of 76.59 acres, more or less.

A strip of land situate in section 25, Township 3 South, Range 9 West of the New Mexico Principal Meridian, Catron County, New Mexico.

Said strip of land being 6374.96 feet long and 600 feet wide, parallel to, 300 feet to the right of and 300 feet to the left of, measured at right angles to the following described centerline as located and constructed on the ground:

Beginning at a point on the east boundary of section 25, Township 3 South, Range 9 West, N.M.P.M., Catron County, New Mexico, that bears S. 0°23'58" E., a distance of 505.45 feet from the section corner common to section corner common to sections 19 and 30, Township 3 South, Range 8 West, Socorro County, and sections 24 and 25, Township 3 South, Range 9 West, N.M.P.M., Catron County, New Mexico.

Thence S. 55°52'60" W., a distance of 778.38 feet to a point;

Thence S. 59°52'51.5" W., a distance of 5596.58 feet to a point on the west boundary of said section 25, that bears N. 01°12'03" W., a distance of 1275.11 feet from the section corner common to sections 25, 26, 35 and 36, Township 3 South, Range 9 West, N.M.P.M., Catron County, New Mexico, containing an area of 87.81 acres, more or less.

A strip of land situate in the SE¼ of section 26, Township 3 South, Range 9 West of the New Mexico Principal Meridian, Catron County, New Mexico, containing an area of 2300.42 feet long and 600 feet wide, parallel to 300 feet to the right of and 300 feet to the left of, measured at right angles to the following described centerline as located and constructed on the ground:

Beginning at a point on the east boundary of section 26, Township 3 South, Range 9 West, N.M.P.M., that bears N. 01°12'03" W., a distance of 1275.11 feet from the section corner common to sections 25, 26, 35, 36, Township 3 South, Range 9 West, N.M.P.M., Catron County, New Mexico;

Thence S. 55°52'51.5" W., a distance of 78.15 feet to a point;

Thence S. 55°52'51.4" W., a distance of 2221.91 feet to a point on the south boundary of said section 26, that bears S. 89°32'23" W., a distance of 1931.24 feet from the section corner common to sections 25, 26, 35 and 36, Township 3 South, Range 9 West, N.M.P.M., Catron County, New Mexico, containing an area of 32.69 acres, more or less.

The areas described aggregate 839.56 acres, more or less, of land in Socorro and Catron Counties, New Mexico.

The applicant desires the lands for the construction, operation and maintenance of the Very Large Array Radio Telescope Project of the National Science Foundation.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on August 15, 1974, Volume 39, Number 159, pages 29393–29394; FR Doc. 74–18788.

Pursuant to Sec. 204(h) of the Federal Land Policy and Management Act of 1976, (90 Stat. 2754), notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, Department of the Interior, P.O. Box 1449, Santa Fe, New Mexico 87501, on or before September 19, 1977. If a public hearing is scheduled, a notice will be published in the FEDERAL REGISTER giving the time and place of such hearing. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 19, 1977.

The above-described lands are temporarily segregated from the operation of the public land laws including the general mining and the mineral leasing laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Depart-

V42 159 AUG 17 77 UM

ment of the Interior, P.O. Box 1449, Santa Fe, New Mexico 87501.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-23776 Filed 8-16-77;8:45 am]

OREGON

Motorized Vehicles on Public Lands, Restriction of Use

Notice is hereby given that use of motorized vehicles on certain Public Lands in the Honeycombs area is restricted in accordance with the provisions of 43 CFR Parts 6010.4. These restrictions do not apply to emergency, law enforcement, and Federal or other government vehicles while being used for official or emergency purposes.

The areas affected by this designation and restriction notice are located approximately thirty-two miles southwest of Homedale, Idaho. The legal description of the closed lands is:

WILLAMETTE MERIDIAN

T. 24 S., R. 44 E.,
Sec. 14, $S\frac{1}{2}SW\frac{1}{4}$, $SW\frac{1}{4}SW\frac{1}{4}SE\frac{1}{4}$, $S\frac{1}{2}NW\frac{1}{4}SW\frac{1}{4}SE\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}SW\frac{1}{4}SE\frac{1}{4}$;
Sec. 15, $SW\frac{1}{4}$, $S\frac{1}{2}SE\frac{1}{4}$, $NW\frac{1}{4}SE\frac{1}{4}$, $SW\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$, $SW\frac{1}{4}NW\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$, $S\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$, $NW\frac{1}{4}SE\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$;
Sec. 22, $E\frac{1}{2}$, $N\frac{1}{2}NW\frac{1}{4}$;
Sec. 23, All;
Sec. 24, $S\frac{1}{2}$, $S\frac{1}{2}N\frac{1}{2}$, $S\frac{1}{2}N\frac{1}{2}N\frac{1}{2}$, $N\frac{1}{2}N\frac{1}{2}NE\frac{1}{4}$, $S\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}$, $S\frac{1}{2}NE\frac{1}{4}NE\frac{1}{4}NW\frac{1}{4}$;
Sec. 25, All;
Sec. 26, All;
Sec. 27, $E\frac{1}{2}$, $SW\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$;
Sec. 28, $SE\frac{1}{4}$;
Sec. 33, $NE\frac{1}{4}$;
Sec. 34, All;
Sec. 35, All.
T. 24 S., R. 45 E.,
Sec. 19, All;
Sec. 30, $W\frac{1}{2}$, $W\frac{1}{2}E\frac{1}{2}$;
Sec. 31, $W\frac{1}{2}$, $W\frac{1}{2}E\frac{1}{2}$.
T. 25 S., R. 44 E.,
Sec. 1, All;
Sec. 2, All;
Sec. 3, $E\frac{1}{2}$, $NE\frac{1}{4}NW\frac{1}{4}$;
Sec. 10, $NE\frac{1}{4}$;
Sec. 11, All;
Sec. 12, $N\frac{1}{2}$, $SW\frac{1}{4}$, $N\frac{1}{2}SE\frac{1}{4}$, $SW\frac{1}{4}SE\frac{1}{4}$, $N\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}$, $SW\frac{1}{4}SW\frac{1}{4}SE\frac{1}{4}$, $N\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}SE\frac{1}{4}$;
Sec. 13, $NW\frac{1}{4}$, $W\frac{1}{2}NE\frac{1}{4}$, $W\frac{1}{2}E\frac{1}{2}NE\frac{1}{4}$, $N\frac{1}{2}N\frac{1}{2}SW\frac{1}{4}$, $N\frac{1}{2}NW\frac{1}{4}SE\frac{1}{4}$;
Sec. 14, $E\frac{1}{2}NE\frac{1}{4}$.
T. 25 S., R. 45 E.,
Sec. 6, $W\frac{1}{2}$, $W\frac{1}{2}E\frac{1}{2}$, $E\frac{1}{2}SE\frac{1}{4}$;
Sec. 7, $N\frac{1}{2}NW\frac{1}{4}$, $SW\frac{1}{4}NW\frac{1}{4}$, $NW\frac{1}{4}SE\frac{1}{4}NW\frac{1}{4}$, $W\frac{1}{2}NE\frac{1}{4}SE\frac{1}{4}NW\frac{1}{4}$, $NW\frac{1}{4}SW\frac{1}{4}NW\frac{1}{4}SW\frac{1}{4}$, $NW\frac{1}{4}NE\frac{1}{4}SW\frac{1}{4}SW$.

Total acres: 11,932.5.

The use of these Public Lands by vehicles in the past have destroyed or severely damaged botanical, geological, zoological, wilderness and scenic values in the area. After consultation with various interest groups and individuals, a motorized vehicle restriction was determined to be necessary to protect the aforementioned values from further disturbance and destruction. The need for the vehicle restrictions were discussed at formal public meetings for the proposed Honeycombs Primitive Area and informally with various picture rock miners working near the area.

The restriction is effective immediately until February 5, 1979 or until the final regulations governing off-road vehicle use on Public Lands are published, thereby providing guidance for updated public input concerning permanent motorized vehicle restriction in the Honeycombs.

Maps showing the areas described above are available at the Bureau of Land Management, Vale District Office, 365 A Street West (P.O. Box 700), Vale, Oregon 97918.

Dated: August 5, 1977.

FEARL M. PARKER,
District Manager.

[FR Doc.77-23633 Filed 8-16-77;8:45 am]

OUTER CONTINENTAL SHELF

Approval of Official Protraction Diagrams

1. Notice is hereby given that, effective with this publication, the following OCS Official Protraction Diagrams, approved on the dates indicated, are available for information only, in the Outer Continental Shelf Office, Bureau of Land Management, Anchorage, Alaska. In accordance with Title 43, Code of Federal Regulations, these protraction diagrams are the basic record for the description of mineral and oil and gas lease offers in the geographic area they represent.

OUTER CONTINENTAL SHELF PROTRACTION DIAGRAMS

Description	Approval date
NN 3-1 [illegible]	Feb. 18, 1977
NN 2-1, Okmok Canyon	Do.
NN 4-4, Shumagin Bank	Do.
NP 2-6	Mar. 7, 1977

2. Copies of these diagrams are for sale at two dollars ($2.00) per sheet by the Manager, Outer Continental Shelf Office, Bureau of Land Management, P.O. Box 1159, Anchorage, Alaska 99510. The street address is 800 A Street, Anchorage, Alaska. Checks or Money Orders should be made payable to the Bureau of Land Management.

EDWARD J. HOFFMANN,
Manager, Alaska Outer Continental Shelf Office.

[FR Doc 77-23767 Filed 8-16-77;8:45 am]

[Wyoming 50316]

WYOMING

Notice of Application

AUGUST 9, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct a 4 inch pipeline for the purpose of transporting natural gas across the following described public lands.

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 21 N., R. 94 W.,
Sec. 4, $SW\frac{1}{4}NE\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$, $N\frac{1}{2}SE\frac{1}{4}$.

The pipeline will transport natural gas from a point in section 4, T. 21 N., R. 94 W. to present facilities in Section 3, T. 21 N., R. 94 W., in Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Rawlins District Office, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-23634 Filed 8-16-77;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Regional Director, Region 1, U.S. Fish and Wildlife Service, P.O. Box 3737, Portland, Oreg. 97208.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

OMB NO. 42-R-670

1. APPLICATION FOR (Indicate one): ☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:
Live trap, mark and release endangered salt marsh harvest mice (Reithrodontomys raviventris) for scientific purposes.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Regional Director
U. S. Fish & Wildlife Service
Post Office Box 3737
Portland, OR 97208
503-234-3361 Ext. 4050
FTS: 429-4050

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT / WEIGHT
DATE OF BIRTH / COLOR HAIR / COLOR EYES
PHONE NUMBER WHERE EMPLOYED / SOCIAL SECURITY NUMBER
OCCUPATION
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
U.S. Dept. of the Interior
Fish & Wildlife Service
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
San Francisco Bay and San Pablo Bay area, California

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit numbers)
PRT-8-7-C Expired 12/31/76

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of document(s))
State of California Cooperative Agreement 6/23/76

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $

10. DESIRED EFFECTIVE DATE: ASAP

11. DURATION NEEDED: 2 Years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
Section 17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Kathleen Merriman By [illegible] DATE Jul 27 1977

3-200
16,741

GPO 895-042

ATTACHMENT 2

12. PART 17, TITLE 50, CODE OF FEDERAL REGULATIONS

Section 17.22

(1) The activities sought to be authorized are live trapping and marking with ear tags of salt marsh harvest mice, *Reithrodontomys raviventris raviventris*, and *R. r. halicoetes*.

(2) The salt marsh harvest mice are to be trapped from and released to the wild.

(3) The mice are trapped using Sherman aluminum live traps, 3" x 3" x 9". Traps are placed above the level of high tide to reduce the chance of drowning captured mice. Traps are baited with rolled oats and peanut butter and supplied with cotton for nesting material. Traps are set before dusk and checked the next morning. Captured mice are marked with consecutively numbered fingerling tags crimped on the left ear. Body, tail and hind foot length are measured and each mouse is released at its capture site.

(4) Not applicable.

(5) Not applicable.

(6) Not applicable.

(7) One cooperator who has trapped on the San Francisco Bay National Wildlife Refuge is Dr. Howard Shellhammer of San Jose State University. An outline of his study is attached (Attachment 3).

(8) A summary of completed and ongoing studies of the salt marsh harvest mouse was submitted to the Wildlife Permit Office in January 1977. We are currently in Phase II of a study to determine the status and distribution of salt marsh harvest mice around San Francisco Bay and San Pablo Bay (outline attached—Attachment 4). Census of mice will be by live trapping, marking and releasing. No animals will be collected or removed from their original location, and extreme care will be exercised to assure that no significant impact on individual animals or on the species occurs.

The results of this study are essential for the determination of critical habitat and the proper management of lands included in the San Francisco Bay and San Pablo Bay National Wildlife Refuges which provide habitat for this species.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1229-07; please refer to this number when submitting comments. All relevant comments received on or before September 16, 1977 will be considered.

Dated: August 12, 1977.

DONALD G. DONAHOO,
Chief Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-23745 Filed 8-16-77;8:45 am]

ENDANGERED SPECIES PERMIT

Application

Notice is hereby given that the following application for a permit is deemed

to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Willard A. Minnick, Wildlife Research and Breeding Center, 5119 Ridgelane Drive, Ft. Wayne, Ind. 46804.

OMB NO. 42-R1572

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Captive Propogation : see attached brochure
Also scientific & educational purposes: see attached brochure

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Willard A. Minnick
Wildlife Research & Breeding Center
5119 Ridgelane Drive
Ft. Wayne, Ind. 46804
(219) 432-5081

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: 5' 10" WEIGHT: 200 lbs
DATE OF BIRTH: 9/9/43 COLOR HAIR: Brown COLOR EYES: Brown
PHONE NUMBER WHERE EMPLOYED: (219) 432-5081 SOCIAL SECURITY NUMBER: 311-44-5775
OCCUPATION: Director Wildlife Research Center
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: See box # 3

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION: Scientific, educational, propogational research : see attached brochure
NAME, TITLE, AND PHONE NUMBER OF PRINCIPAL OFFICER, DIRECTOR, ETC.: See box # 3 & #4
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED: Unincorporated association Indiana

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED: See Box #3

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of document(s)): Export permits Pakistan, India, Costa Rica

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $

10. DESIRED EFFECTIVE DATE: June 1, 1977

11. DURATION NEEDED:

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED IS IN 50 CFR [illegible] ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR 17.22 & 17.23 & 23.15

CERTIFICATION
I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.
SIGNATURE (In ink): Willard A. Minnick
DATE: May 24, 1977

3-200
(6-74)

MARCH 24, 1977.

ATTACHMENT TO FORM 3-200

POINTS LISTED 17.22

1 Indian Pythons *Python m. molurus* 5 young females Importing for captive propagation

2. Captive born specimens: Adults in captivity 1973

3 Animals are captive born

4. Parents taken in Pakistan and have bred in captivity while in possession of Arif Majid, Karachi

5 See circled address at left margin.

6. (i) Wooden & glass cages 8' x 8' x 6' of standard type accepted by all zoos, museums and private collectors

(ii) 20 years experience breeding reptiles, Pictures included in previous letter in file No —. See attached Brochure: Pythons hatching out as I write this letter.

(iii) I agree to participate in a cooperative program of breeding and maintain or contribute to a studbook.

(v) Animals will be shipped in standard containers accepted by airlines for international travel. All legal and humane requirements will be observed.

(v) During the past 5 years we have maintained Python m. bivatatius, Python m. pimbeura & Python m. molurus. 1972: received babies of each of the above (one pair of each.) See attachment *II*. All these within brackets are the result of captive breeding with no mortalities. 2 deaths of pythons since 1972 due to natural causes as confirmed by Purdue diagnostic lab. Copy of report available if required. Only other deaths are 10 to 20% mortality on eggs.

7. See attachment.

8. (i) Importation of specimens, interstate transport of captive born to qualified zoos, institutions, and individuals.

(i) Captive propagation. Anmals will be offered to zoos through A.A.Z.P.A.

(iii) Endangered species are in danger of extinction. I have submitted proof in the form of pictures and statements that I am capable of propagating pythons of the genus Python molurus in captivity. The small molurus which I have were born here. I have a large male and would prefer several females to produce immediately. Upon the hatching of molurus eggs I will make available to any legal organization holding permits from you, pairs of this endangered species. I will also make available to the governments of Pakistan and India these snakes subject to your offices approval and subject to protected areas in these countries where these reptiles have a chance for survival. See brochure for more detailed reasons and objectives.

(iv) See above. Summary of 17.22. I am a capable individual who heads a widely known organization (non-profit). I wish to import captive born Python molurus for captive propagation. I have submitted proof that these animals have a 99% chance of surviving, breeding and maintain the species. I will act with more care and concern and will maintain the animals under standards higher than most recognized institutions. (17.23—See attachments—Summary 17.23.)

Paid for Python m. molurus in 1973. Was told by Baysinger they could not be imported. This was cleared up by a letter from Bavin (May 1974). Shipper had died, no refund available. Found another shipper and ordered (sent payment $375.00) summer 1975. Your office again prohibited importation. Given go-ahead for importation June 1976. Simms (in your office) said no at last minute. Python m. molurus then placed on endangered species list. No refund available, animals in captivity long before Endangered.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-821-C07; please refer to this number when submitting comments. All relevant comments received on or before September 16, 1977 will be considered.

Dated: August 12, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-23746 Filed 8-16-77;8:45 am]

ENDANGERED SPECIES PERMIT

Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Ringling Bros.-Barnum & Bailey Combined Shows, Inc., 1015 18th Street NW., Washington, D.C. 20036.

OMB NO. 42-R1572

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one): 18-660
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To purchase and import one male and one female captive born sub-adult domestic Bactrian Camels (Camelus bactrianus bactrianus) from African Lion Safari, Rockton, Ontario, Canada for the purpose of propagation and exhibition.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Ringling Bros.-Barnum & Bailey Combined Shows, Inc.
1015 18th Street, N. W.
Washington, D. C. 20036
(202) 833-2700

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: WEIGHT:
DATE OF BIRTH: COLOR HAIR: COLOR EYES:
PHONE NUMBER WHERE EMPLOYED: SOCIAL SECURITY NUMBER:
OCCUPATION:
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT:

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION:
The Applicant is a corporation engaged in the presentation of Ringling Bros. and Barnum & Bailey Circus which includes the judicious display of animals for the education and recreation of millions of Americans.
NAME, TITLE, AND PHONE NUMBER OF PRINCIPAL OFFICER, DIRECTOR, ETC.:
Mr. Irvin Feld, President (202) 833-2700
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED:
Delaware

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED: See Exhibit "A"

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit number(s))

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of document(s)): A valid Canadian health certificate, Canadian Customs Exporter's declaration and Canadian permit to export endangered species will be obtained prior to consumation of the sale and importation.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $ N/A

10. DESIRED EFFECTIVE DATE: As soon as possible

11. DURATION NEEDED: To permit completion of the transaction described herein.

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED IS IN 50 CFR 17.22(b) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
See Exhibit "A" attached hereto.

CERTIFICATION
I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.
SIGNATURE (In ink): Thomas S. Kowalsky, Secretary
Ringling Bros.-Barnum & Bailey Combined Shows, Inc.
DATE: May 12, 1977

3-200
16-741
GPO 883-042

EXHIBIT "A"

The following information is submitted in accordance with Section 17.22(a) of Title 50, Chapter I, Subchapter B, Part 17 of the Code of Federal Regulations:

(1) The Applicant seeks a permit to purchase and import two sub-adult, domestic Bactrian camels (*Camelus bactrianus bactrianus*)—one male and one female.

(2) The male Bactrian camel was born in the Spring of 1974 and the female Bactrian camel was born in the Spring of 1975 at African Lion Safari, Rockton, Ontario, Canada L0R1X0.

(3) The Applicant proposes to purchase both Bactrian camels from African Lion Safari where they were born. No wild caught animals will be involved in the proposed transaction since the subject camels are captive bred and captive born from an established group of domestic Bactrian camels.

(4) See item (2) above.

(5) The Applicant's principal activity is the presentation of Ringling Bros. and Barnum & Bailey Circus. Its main office is at 1015 18th Street, N.W., Washington, D.C. It has two traveling units which present circus productions at various places throughout the United States and Canada. The Applicant maintains a winter quarters facility in Venice, Florida where each of the traveling units returns each year during the offseason and for rehearsals. It is anticipated that the camels described in this application will be maintained, exhibited and bred on one of the Applicant's traveling units.

(6) (i) The subject camels will always have adequate but varying degrees of space utilization depending on location. While at the Applicant's winter quarters facility, they will be kept in the present outside camel enclosure which is approximately 100 feet wide by 175 feet long. There are permanent inside and outside water troughs. There is also an adjoining pasture of several acres which has been utilized for parturition and raising young to weaning.

(ii) Since the 1870's, the Applicant and its predecessors have kept and maintained several members of the Family Camelidae and have successfully bred Bactrian and Dromedary camels as well as llamas. The Applicant presently maintains a breeding herd of Dromedary camels.

The professional animal staff employed by the Applicant will care for the camels that are the subject of the present application. This includes a staff veterinarian, paraveterinarian and a number of animal trainers and handlers with cumulative experience in handling and maintaining camels in excess of 200 years. In addition, the Applicant employs a Veterinary Consultant who has been responsible for obtaining, managing and raising domestic Bactrian camels at a major zoological park in the United States. The group of Bactrian camels for which the Veterinary Consultant has responsibility is presently one of only two viable breeding groups in the United States. A female calf was born in this group in February 1977 and another birth is expected soon.

(iii) The Applicant is willing to participate in cooperative breeding programs and to maintain or contribute data to an appropriate studbook.

(iv) The two camels that are the subject of the present application will be transported from African Lion Safari to the Applicant in a livestock trailer in a compartment which is at least seven feet wide by ten feet long by nine feet high. The floor will have an adequate amount of straw or hay for bedding. The trailer has sufficient ventilation for the animals and protection in the event of severe weather conditions in transit. The Applicant, its predecessors and its current staff have had extensive experience in transporting animals of this type.

(v) During the past five years, the Applicant has experienced one mortality in its camel population. In January 1974, a 10-year-old female Dromedary camel died of hypovolemic shock secondary to hemorrhage resulting from an extensive uterine prolapse incurred during parturition.

(7) A copy of the agreement pursuant to which the purchase and import of the two Bactrian camels would be accomplished is attached hereto.

(8) The exhibition of animals is an integral part of the presentation of the Applicant's Circus and has been throughout its 107-year history. In fact, in its early days, the Applicant probably had the largest display of animals in the United States. Today, the Applicant and its subsidiaries maintain an animal inventory of some 350 mammal specimens of over 24 species. The Applicant has had an excellent breeding record with the rare species it exhibits and maintains and is sincerely concerned and deeply involved in the conservation of endangered and threatened species.

The Applicant desires to become self-sufficient, to the extent possible, with respect to the animals it exhibits, especially those that are endangered or threatened. The Applicant, therefore, desires to obtain breeding stock of those species with respect to which its inventory is currently insufficient.

It is furtherence of this objective of propagation that the Applicant desires to obtain the two Bactrian camels that are the subject of this application. These camels will be given adequate opportunity to engage in social and other behavior necessary for reproduction; and under the supervision and care of its experienced professional staff, the Applicant believes that they will in fact reproduce. Our record in breeding animals supports this belief. The Applicant will keep and maintain the offspring for further breeding and exhibition; and any camels that are surplus to the Applicant's needs will be made available to respected, accredited organizations which have experienced staffs and which share the Applicant's goals. The placement of any surplus animals will be made

V42 1159 AUG 17 77 UM

with the intent of establishing a captive self-sustaining population of this species.

The Applicant's Circus plays a unique role in the education of millions of persons as to the need to preserve and protect the survival of endangered species such as these Bactrian camels. The Circus appears annually in approximately 85 cities and towns throughout the United States and Canada, many of which do not have zoos or other animal parks. Last year it played to over 6 million people. Because of the diversity of the Circus program, it also attracts many persons who might not otherwise visit zoos and animal parks in or near their communities. Thus, for millions of children and adults alike, their experience of seeing and enjoying these camels and other species of wildlife at the Circus is the only means by which they may gain an appreciation for such wildlife. Development of public awareness and appreciation for wildlife is a vital step in the process of protecting endangered species. Thus, in addition to enhancing propagation, the Applicant believes that its ownership and exhibition of these Bactrian camels will enhance the survival of this species.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-956-07; please refer to this number when submitting comments. All relevant comments received on or before September 16, 1977 will be considered.

Dated: August 12, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-23747 Filed 8-16-77;8:45 am]

ENDANGERED SPECIES PERMIT

Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: O. G. Schrum, 102 Highland Drive, Lincolnton, N.C. 28092.

OMB NO. 42-R1675

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Check only one) — ☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: Propagation of Endangered Species

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
O. G Schrum
102 Highland Drive
Lincolnton, N.C. 28092
704-735-2165

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS. — HEIGHT 5'11 — WEIGHT 190
DATE OF BIRTH July 26th 1913 — COLOR HAIR Gray — COLOR EYES Brown
PHONE NUMBER WHERE EMPLOYED — SOCIAL SECURITY NUMBER
OCCUPATION Retired
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: N/A

5. IF "APPLICANT" IS A BUSINESS CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION: N/A
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: N/A
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED: N/A

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED:

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Not Required

9. CERTIFIED CHECK OR MONEY ORDER (If application) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF:

12. DESIRED EFFECTIVE DATE: Immediately

11. DURATION NEEDED: Indefinitely

13. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR 17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): O.G. Schrum — DATE: June 3, 1977

3-200 (8/74) — GPO 893-042

ENDANGERED SPECIES PERMIT

Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Skyland Pheasantry, Star Rt. East Box 112, Newport, Oreg. 97365.

OMB NO. 42-R1675

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Check only one) — ☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: Propagation of endangered species of pheasants and interstate purchase and sale of same.

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
John R. Neilsen
Skyland Pheasantry
Star Rt. East Box 112
Newport, Oregon 97365

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS. — HEIGHT 6'2" — WEIGHT 205 lbs.
DATE OF BIRTH 5-27-38 — COLOR HAIR Brown — COLOR EYES Blue
PHONE NUMBER WHERE EMPLOYED (503) 265-7341 — SOCIAL SECURITY NUMBER 543-32-7410
OCCUPATION Business Manager
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: Skyland Pheasantry

5. IF "APPLICANT" IS A BUSINESS CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION: Business to propagate pheasants, quail and partridge and offer for sale surplus stocks.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: John R. Neilsen, Owner (503) 265-7882
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED:

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED: Star Rt. East, Box 112, Newport, Oregon 97365

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (If application) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $50.00

12. DESIRED EFFECTIVE DATE: May 1, 1977

11. DURATION NEEDED: Indefinite

13. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
Sec. 17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): John R. Neilsen — DATE: 5-10-1977

3-200 (8/74) — GPO 893-042

a)1) Goose, Aleutian Canada Branta canadensis leucopareia — pair & trios — young & adult — both
Pheasant, brown eared Crossoptilon mantchuricum — " — " — "
" Cheer Catreus wallichii — " — " — "
" Edward's Lophura edwardsi — " — " — "
" Elliot's Syrmaticus elliotî — " — " — "
" Mikado Syrmaticus mikado — " — " — "
" Swinhoe's Lophura swinhoi — " — " — "
" White eared Crossoptilon crossoptilon — " — " — "

2) born in captivity

3) N/A

4) USA

5) 102 Highland Drive, Lincolnton, North Carolina Rural Location

6)i)Photos enclosed
Outside facilities:
Fully enclosed pens (wire and lumber) each 5'x12'x6'; shelters in each pen, sand floors.

Inside facility: Bldg 52'x70'
7 fully enclosed pens along one side of bldg. Each pen is 5'x12'x12'. Each is well ventilated and lighted. Remaining part of bldg. is open area.

ii) Extensive experience in raising, caring for and propagating a variety of pheasants (eg: ring necks, gold, silvers, amherst) quails, ducks pigeons, chickens, and some geese.

iii)N/A

iv) Use of fully enclosed wire cages w/adequate room for the wildlife. Each cage is equipped with feeding and watering apparatus. Transported in covered truck.

v) N/A

7) N/A

8)i)Taking, exporting, and selling in Interstate commerce for profit as well as for a hobby.

ii) All business will be transacted on a personal basis with authorized persons.

iii)Protect and build the population of endangered species.

iv) Will sell to others authorized in the caring, exporting and selling of such wildlife.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-987-07; please refer to this number when submitting comments. All relevant comments received on or before September 16, 1977 will be considered.

Dated: August 12, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-23749 Filed 8-16-77;8:45 am]

Supplemental information to permit application is required under Chapter 1 - United States Fish, Wildlife Service, Part 17 - Endangered and Threatened Wildlife and Plants, Subpart C - Endangered Wildlife, Section 17.22 - Permits for scientific purposes, or for the enhancement or propagation or survivial.

Section 17.22

(a) Application enclosed

(1) Interstate sale and purchase of captive reared available species of pheasants for propagation.

(2) Species covered to be hatched and reared in captivity from captive breeding stock.

(3) Species covered to be purchased from pheasant breeders.

(4) Within the boundaries of the United States.

(5) Acreage located on Yaquina Bay, Oregon. Star Route East, Box 112, Newport, Oregon 97365

(6) Live wildlife to be covered by permit.

(i) Photos enclosed.

(ii) Twelve years experience in breeding captive pheasant, quail and partridge, other than those on endangered species list. Bachelor of Science Degree from Oregon State University in Fish and Wildlife Management.

(iii) Breeding data requested will be provided. Participation in a cooperative breeding program would depend on specific details.

(iv) Commercial containers designed for pheasants will be used in transporting specimens.

(v) No mortalities of species covered by the requested permit have occurred.

(7) No contracts or agreements are in effect.

(8) Justification of the permit includes:

(i) Interstate purchase and sale of endangered species of pheasants for controlled breeding of the species.

(ii) In efficiently designed enclosures for the species involved and personally attended by the applicant.

(iii) To propagate the species for continued survival.

(iv) If termination of the activity occurs, the permit would allow the interstate sale and shipment of the covered species to other breeders involved in promoting their survival.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1237-07; please refer to this number when submitting comments. All relevant comments received on or before September 16, 1977 will be considered.

Dated: August 12, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-23749 Filed 8-16-77;8:45 am]

ENDANGERED SPECIES PERMIT

Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Rudy H. Weossner, Elbow Lake, Minn. 56531.

FORM NO. 42-R1570

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Check one) — ☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Small private game farm — to breed and raise fowl for hobby.

3. APPLICANT: (If none, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Rudy H. Weossner
Elbow Lake, Minn.
Phone - 685-9269

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT 5'9" WEIGHT 165
DATE OF BIRTH 9 Feb 20 1923
COLOR HAIR Brown COLOR EYES Blue
PHONE NUMBER WHERE EMPLOYED 685-4211
SOCIAL SECURITY NUMBER 468-30-4855
OCCUPATION Owners Counselor of Sunset Club
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
None

5. IF "APPLICANT" IS A BUSINESS CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
NAME, TITLE AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
3 miles North Elbow Lake Mn. on Highway 59

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of document)
State license to own and operate game farm

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ 10-00

10. DESIRED EFFECTIVE DATE 7-1-77

11. DURATION NEEDED As long as possible

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Rudy H. Weossner — DATE 6-24-77

3-200 08/77 jm — GPO 895-042

V42N159 AUG 17 77 UM

THREATENED SPECIES PERMIT

Application

Notice is hereby given that the following application for a permit is deemed to have been received under Section 4(d), 16 U.S.C. 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR: (Species) — (No. of) — (Purpose) — (Date Needed)
IMPORT OR EXPORT LICENSE ☒ PERMIT
2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To ship and receive White lined species of pheasants (CSSP) in interstate commerce in the course of a commercial activity for the enhancement and survival of these pheasants.

3. APPLICANT: (Name, complete address and telephone number including area code)
George W. Wilson
3404 Old River Road
Fallon, Nevada 89406
702-423-3440

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MS.
HEIGHT: *6'* WEIGHT: *185*
DATE OF BIRTH: *17 Sept. 1932*
COLOR HAIR: *Brown* COLOR EYES: *Brown*
PHONE NUMBER WHERE EMPLOYED: *702-423-2345*
SOCIAL SECURITY NUMBER: *532 32 3643*
OCCUPATION: *Automobile sales*
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: *Not Applicable*

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION: *Not Applicable*
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, OR CHIEF EXECUTIVE OFFICER: *Not Applicable*
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED: *Not Applicable*

6. WOULD PROPOSED ACTIVITY BE TO BE CONDUCTED BY PERSONS OTHER THAN APPLICANT? ☐ YES ☒ NO
(If yes, list names or primary persons)

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE/PERMIT? ☐ YES ☒ NO
(If yes, list license or permit number(s))

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of document)
Nevada State Commercial Permit

9. CERTIFIED CHECK OR MONEY ORDER IN (amount) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: *Not Applicable.*

10. DESIRED EFFECTIVE DATE: *15 Sept 1977*
11. DURATION NEEDED: *two years*

12. REMARKS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR 17.23 Possession, Sale, Delivery, Shipment, Transportation

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B TO WHICH THIS APPLICATION PERTAINS, AND I HEREBY CERTIFY THAT I OR THE FIRM, AGENCY, OR INSTITUTION WHICH I REPRESENT AND WHICH I HAVE THE AUTHORITY TO BIND ARE QUALIFIED TO CONDUCT THE ACTIVITY APPLIED FOR AND THAT ALL STATEMENTS HEREIN ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

Signature (In ink): *George W. Wilson* Date: *July 25, 1977*

GPO 930-042

Common name - White-eared Pheasant
Scientific name - Crossoptilon crossoptilon
Born and raised in Devlin, Ontario, Canada
Ancestors from Tibet. Mr. Schuiteman received his pair from Jersey, Channel Island, Trust.

The entire species is an endangered species throughout the world. Am applying for a permit to get 2 White-eared pheasant. One female - One male ages of 1 year old. These pheasants were born and raised in Devlin, Ontario, Canada by Jack Schuiteman.

I want to breed and raise them for my own interest in wildlife.

Have been a farmer, born and raised on a farm, all my life. Have raised many different types of tame and wild chickens, ducks, turkeys geese. More so in the last three years, when I started the game farm as a hobby, am building it up to have for any retirement.

Am very willing to participate in cooperative breeding programs or contribute data to a stud book.

Jack Schuiteman has shipped birds many times before and is taking care of this. It will be done as requirements are set.

The reason for wanting a permit for the pheasants is simply the desire to raise different types of pheasants in this area.

Plan to have the pheasants live in as natural a habitat as possible to live as much like they would if in the wild.

Three acres in open to public to stop and look at the birds and animals. It gives the people - and children - more interest in wildlife. Which will pay off in the future in our care of wildlife.

The birds will be transfered to another game farm upon my death.

The building for the pheasants is a wood frame steel insulated heated building with a cement floor - 14 feet by 20 feet. The run is 14 feet by 16 feet mesh floor and sides.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1069-25; please refer to this number when submitting comments. All relevant comments received on or before September 16, 1977 will be considered.

Dated: August 12, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-23750 Filed 8-16-77;8:45 am]

ATTACHMENTS

(1) Pheasants: Brown Eared (Crossoptilon Mantchuricum)
Eduard's (Lophura Edwarsi)
Bartailed (Symaticus Humiae)
Mikado (Symaticus Mikado)
Palawan Peacock (Polyplectron Emphanum)
Swinhoe's (Lophura Swinhoii)

I seek a CSSP Permit to allow me to buy and sell the above listed pheasants in interstate commerce.

(2) My birds are kept in pens 24' long 8'6" wide and 6'4" high. Boards with preservative impregnation are buried 1' in the ground on all 4 sides, with an additional 1' of heavy gauge hog wire below that. The fronts and sides are boards up to 2'. The last 4' of each pen is an open fronted shelter. The remainder of the pens are covered with 1" mesh galvinized wire on 4" x 4" upright and 2" x 4" cross member frames. The pens number 21 in rows of 7. Rare and endangered species are kept in center pens with more common species kept in the outside pens. The entire pen area is surrounded with a 4' wide 6'4" high alley with alleys between rows of pens. This offers added safety and reduces disturbances to the birds. See attached sheet for diagram.

(3) I have 7 years experience raising various pheasants and other birds. My son has 3 years experience in assisting me caring for the birds.

(4) I am most willing to participate in a cooperative breeding program and will maintain a stud book. I will promptly contribute data whenever requested.

(5) Birds will be shipped in containers 14" high 15" wide and 21" long. The containers are constructed of wood slats reinforced with wire and have padded tops. Adequate food and water provided and they will have room to turn around and move around a bit while in transit. The containers are painted a bright color with the words "LIVE BIRDS" in large black letters on all sides and the top.

ATTACHMENTS CONT'D

(6) I have had no mortalities in the past 5 years.

(7) In view of the facts presented in preceding paragraphs I feel I am competent and qualified to receive a CSSP Permit.

(i) I seek the CSSP Permit to allow me to buy and to sell the birds listed in paragraph (1) in interstate commerce.

(ii) At such unforseen time as I must terminate the activities sought I will dispose of my birds by selling them or giving them to qualified aviculturist interested in the bird's welfare and their continued propagation.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1219-25; please refer to this number when submitting comments. All relevant comments received on or before September 16, 1977 will be considered.

Dated: August 12, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-23751 Filed 8-16-77;8:45 am]

National Park Service

[Int Des 77-25]

CUMBERLAND ISLAND NATIONAL SEASHORE, GEORGIA

Availability of Draft Environmental Statement on Proposed General Management Plan and Wilderness Study

Pursuant to Section 102(2) (C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Draft Environmental Statement on the proposed General Management Plan and Wilderness Study for Cumberland Island National Seashore.

The statement discusses proposals for the management, development and operation of Cumberland Island National Seashore.

Written comments on the Environmental Statement are invited and will be accepted for a period of 45 days following publication of this notice. Comments should be addressed to the Regional Director, Southeast Region, or the Superintendent, Cumberland Island National Seashore, at the addresses given below.

Copies are available from or for inspection at the following locations:

Southeast Regional Office, National Park Service, 1895 Phoenix Boluevard, Atlanta, Georgia 30349.
Superintendent, Fort Frederica National Monument, Route 4, Box 286-C, St. Simons, Georgia 31522.
Superintendent, Cumberland Island National Seashore, P.O. Box 806, St. Marys, Georgia 31558.

The U.S. Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: August 11, 1977.

LARRY E. MEIEROTTO,
Secretary of the Interior.

[FR Doc.77-23647 Filed 8-16-77;8:45 am]

CUMBERLAND ISLAND NATIONAL SEASHORE, GEORGIA, WILDERNESS STUDY

Public Meetings, Public Hearings and Proposed General Management Plan

As part of the National Park Service's program for public participation in planning, public meetings to consider the material in the draft general management plan will be held at the following locations and times:

September 24, 1977, at 2 p.m., Camden County High School, St. Marys, Ga.

September 26, 1977, at 8 p.m., Fourth Floor, Southeast Regional Office, National Park Service, 1895 Phoenix Boulevard, Atlanta, Ga.

Notice is hereby given in accordance with section 9 of the Act of October 23, 1972 (86 Stat. 1068 (16 U.S.C. 4591 et seq.)), and in accordance with Departmental procedures as identified in 43 CFR 19.5 that public hearings will be held at the following locations and times for the purpose of receiving comments and suggestions as to the appropriateness of a proposal for the establishment of wilderness comprising about 8,851.38 acres within the Cumberland Island National Seashore, Ga.:

September 24, 1977, at 7 p.m., Camden County High School, St. Marys, Ga.

September 27, 1977, at 8 p.m., Fourth Floor, Southeast Regional Office, National Park Service, 1895 Phoenix Boulevard, Atlanta, Ga.

A preliminary wilderness study report, accompanied by a related draft general management plan and draft environmental impact statement, are available for inspection at the locations noted below. A limited number of these documents may be obtained by directing requests to the Superintendent, Cumberland Island National Seashore, P.O. Box 806, St. Marys, Georgia 31558.

A description of the preliminary boundaries and a map of the areas proposed for establishment as wilderness are available for review at the locations noted below and in Room 1210 of the Department of the Interior Building at 18th and C Streets, NW., Washington, D.C.

Interested individuals, representatives of organizations and public officials are invited to express their views in person at the aforementioned public hearings, provided they notify the Hearing Officer, in care of the Superintendent, Cumberland Island National Seashore, P.O. Box 806, St. Marys, Georgia 31558, by September 22, 1977, of their desire to appear. Those not wishing to appear in person may submit written statements on the wilderness proposal to the Hearing Officer at that address for inclusion in the official record which will be held open for written statements until October 27, 1977.

Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentation made in behalf of an organization. An oral statement may, however, be supplemented by a more complete written statement which may be submitted to the Hearing Officer at the time of presentation of the oral statement.

Written statements presented in person at the hearings will be considered for inclusion in the transcribed hearing record. However, all materials so presented at the hearing shall be subject to determinations that they are appropriate for inclusion in the transcribed hearing record. To the extent that time is available after presentation of oral statements by those who have given the required advance notice, the Hearing Officer will give others present an opportunity to be heard.

After an explanation of the proposal by a representative of the National Park Service, the Hearing Officer, insofar as possible, will adhere to the following order in calling for the presentation of oral statements:

(1) Governor of the State or his representative;
(2) Members of Congress;
(3) Members of the State Legislature;
(4) Official representative of the counties in which the proposed wilderness is located;
(5) Officials of other Federal Agencies or public bodies;
(6) Organizations in alphabetical order
(7) Individuals in alphabetical order;
(8) Others not giving advance notice, to the extent there is remaining time.

Locations where the preliminary wilderness study report, the draft general management plan, the related draft environmental impact statement (and the attendant description of the preliminary wilderness boundaries and a map of the areas proposed for establishment as wilderness) are available for review:

Southeast Regional Office, National Park Service, 1895 Phoenix Boulevard, Atlanta, Ga. 30349.
Superintendent, Fort Frederica National Monument, Route 4, Box 286-C, St. Simons, Ga. 31522.
Superintendent, Cumberland Island National Seashore, P.O. Box 806, St. Marys, Ga. 31558.

The U.S. Department of the Interior has determined that these documents do not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11959, and OMB Circular A-107.

Dated: August 9, 1977.

WILLIAM J. WHALEN,
Director, National Park Service.

[FR Doc.77-23618 Filed 8-16-77;8:45 am]

[INT FES 77-27]

MASTER PLAN, OLYMPIC NATIONAL PARK, WASHINGTON

Availability of Supplement to Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a supplement to the final environmental statement for the master plan, Olympic National Park, Washington.

The supplement presents additional information on two proposals in the master plan, addition of Point of the Arches area to the park and deletion of lands at La Push from the park. Addition of the shore of Ozette Lake to the park, which was included in Pub. L. 94-578, is considered.

Copies of the statement are available from, or for inspection at, the following locations:

Pacific Northwest Region, National Park Service, Fourth and Pike Building, Seattle, Wash. 98101.
Superintendent, Olympic National Park, 600 East Park Avenue, Port Angeles, Wash. 98362.
National Park Service Information Office, Multnomah Building, 319 Southwest Pine, Portland, Oreg. 97204.

Dated: August 11, 1977.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc.77-23649 Filed 8-16-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[332-87]

CONDITIONS OF COMPETITION IN THE WESTERN U.S. STEEL MARKET BETWEEN CERTAIN DOMESTIC AND FOREIGN STEEL PRODUCTS

Dates and Sites of Public Hearings

Notice is hereby given that the public hearings in this matter will be held beginning on Monday, November 7, 1977, in Denver, Colo.; Wednesday, November 9, 1977, in Los Angeles, Calif.; Tuesday, January 24, 1978, in Portland, Oreg.; and, Tuesday, March 14, 1978, in San Francisco, Calif., at times and places to be announced later.

Notice of the investigation and hearing was published in the FEDERAL REGISTER of June 15, 1977 [42 FR 305551.

By order of the Commission.

Issued: August 12, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc 77 23822 Filed 8-16-77;8:45 am]

[332-88]

GAS GUZZLER TAX PROPOSAL

Investigation

Investigation instituted. In response to a request dated August 2, 1977, by the Committee on Finance of the United States Senate, the United States International Trade Commission, pursuant to section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), has instituted an investigation to analyze the impact of the Gas Guzzler Tax (subpart A, part 11, title II, of H.R. 6831, as reported by the House Committee on Ways and Means). The Commission's analysis will compare the impact of this proposal with that of the President's Fuel Efficiency Incentive Tax Proposal, which was the subject of a separate Commission investigation (332-86) and report to the Committee on Finance, transmitted on July 15, 1977.

Interested persons are urged to submit written statements relative to the investigation on or before August 19, 1977. No public hearing will be held in connection with this investigation. The Commission's report will be submitted to the Committee on Finance no later than September 2, 1977.

All statements and correspondence relating to this investigation should be addressed to the Secretary, U.S. International Trade Commission, Washington, D.C. 20436.

By order of the Commission.

Issued: August 12, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-23823 Filed 8-16-77;8:45 am]

DEPARTMENT OF JUSTICE

Office of Attorney General

FONTANA STEEL MILL, KAISER STEEL CORP.

Proposed Consent Decree Amending Consent Decree Entered April 26, 1976 (Clean Air Act)

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that on August 1, 1977, a proposed amended consent decree in *United States* v. *Kaiser Steel Corporation*, No. CV 76-0675 MML, was lodged with the United States District Court for the Central District of California. The proposed amended decree would require the Company to meet a detailed timetable to bring its various operations into compliance with the applicable air pollution control regulations, with liquidated damages if certain deadlines are missed; to spend sums of money above what was required by the original decree; and to pay to the United States $1 million.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice written comments relating to the proposed amended consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Kaiser Steel Corporation*, D.J. Ref. 90-5-2-1-24.

The proposed amended consent decree may be examined at the office of the United States Attorney, room 1123, United States Court House, 312 North Spring Street, Los Angeles, Calif. 90012, at the Region IX office of the Environmental Protection Agency, Enforcement Division, San Francisco, Calif. 94111, and at the Pollution Control Section, Land and Natural Resources Division, Department of Justice, room 2625, Ninth Street and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the proposed amended consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division, Department of Justice. In requesting a copy, please enclose a check in the amount of $1.90 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

JAMES W. MOORMAN,
Acting Assistant Attorney General Land and Natural Resources Division.

[FR Doc.77-23636 Filed 8-16-77;8:45 am]

PROPOSED CONSENT JUDGMENT IN ACTION TO ENJOIN DISCHARGES OF POLLUTANTS

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19020, notice is hereby given that on or about August 5, 1977, a proposed consent order in *United States of America* v. *City of Springfield*, No. S-CIV-76-0141 (S.D. Ill., S. Div.) was lodged with the United States District Court in Springfield, Ill. The proposed consent order requires the City to operate its Dallman Generating Station, Unit #3, a fossil fuel-fired steam generating unit, in compliance with the Standards of Performance for New Stationary Sources, 40 CFR Part 60. The proposed consent order requires the City to install flue gas desulfurization equipment of sufficient design capability to meet said standards and thereby to achieve compliance with said standards not later than October 1, 1980, unless the City earlier chooses to comply with said standards by burning low sulfur coal, or by other means.

The Department of Justice will receive written comments relating to the proposed consent order for thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States of America* v. *City of Springfield*, D.J. Ref. 90-5-2-1-46.

The proposed consent order may be examined at the office of the United States Attorney, P.O. Box 375, Springfield, Ill. 62705; at the office of the Clerk of the District Court Southern District of Illinois, Southern Division, Springfield, Ill.; at the office of the Environmental Protection Agency, Region V, Enforcement Division, 230 South Dearborn Street, Chicago, Ill., and at the office of the Pollution Control Section, Land and Natural Resources Division, room 2625, Department of Justice Building, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent order may be obtained in person or by mail from the Pollution Control Section. In requesting a copy by mail, please enclose a check in the amount of $.60 (ten cents per page reproduction charge) payable to the Treasurer of the United States.

JAMES W. MOORMAN,
Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc.77-23637 Filed 8-16-77;8:45 am]

Law Enforcement Assistance Administration

NATIONAL ADVISORY COMMITTEE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Meeting

Notice is hereby given that the National Advisory Committee for Juvenile Justice and Delinquency Prevention (the Committee) will meet Wednesday, August 31, 1977, Thursday and Friday, September 1 and 2, 1977, at the Monteleone Hotel, 214 Royale Street, New Orleans, Louisiana.

On Wednesday, August 31, the full Committee is scheduled to convene at 9 a.m. The session will include a report by the Assistant Administrator of the Office of Juvenile Justice and Delinquency Prevention (the Office), on (1) extension of the Juvenile Justice and Delinquency Prevention Act of 1974; (2) the report of the Department of Justice Study Group; and (3) program plans for the Office.

Following an executive session luncheon at 12 noon, the Committee will reconvene at 1 p.m. The afternoon session will include status reports on Office activities, and a review of the second Comprehensive Plan for Federal Juvenile Delinquency Programs.

On Thursday, September 1, at 9 a.m., the Committee will break into working groups to formulate recommendations regarding the analysis and evaluation of Federal juvenile delinquency programs. Following a 12 noon luncheon recess, the working groups will reconvene at 1 p.m. At 3 p.m. the full Committee will reconvene to hear the reports of the working groups.

On Friday, September 2, the meeting will reconvene at 9 a.m. The session will include presentations from State juvenile justice and delinquency prevention advisory groups and public commentary. The 10th meeting of the National Advisory Committee for Juvenile Justice and Delinquency Prevention is scheduled to adjourn at 12 noon.

All meetings wil be open to the public. For further information, contact Mr. Frederick P. Nader, Deputy Assistant Administrator, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, 633 Indiana Avenue NW., Washington, D.C. 20531.

JAY A. BROZOST,
Attorney Advisor, Office of General Counsel.

[FR Doc 77 23819 Filed 8-16 77;8:45 am]

Office of the Attorney General

PRIVACY ACT OF 1974

[Order No. 745-77]

Deletion of Systems of Records

Notices previously published in the FEDERAL REGISTER pursuant to the Privacy Act relating to the systems of records maintained by the Watergate Special Prosecution Force are being re-

V 42 159 AUG 17 UM

scinded to coincide with the termination of the Watergate Special Prosecution Force. Inactive records of JUSTICE/WSPF-001, Watergate Special Prosecution Force Investigative and Prosecutory Files, 42 FR 12805 (March 4, 1977) and all records of JUSTICE/WSPF-002, Watergate Special Prosecution Force Automated Investigation Files, 42 FR 12806 (March 4, 1977) are to be transferred to the Archivist of the United States. Active records from JUSTICE/WSPF-001 will be maintained in appropriate systems of records by law enforcement components within the Department of Justice and subject to exemptions of Subpart E of Part 16 of Chapter I of Title 28 of the Code of Federal Regulations. Section 16.78 of Title 28 of the Code of Federal Regulations, which exempted these two systems from provisions of the Privacy Act, is also being revoked by a separate order on rule-making being published in today's FEDERAL REGISTER.[1]

Records of JUSTICE/WSPF-003, Watergate Special Prosecution Force Travel File, are being destroyed because they are duplicative of records maintained in the Central Departmental Accounting System.

Requests under the Freedom of Information Act for records which have been transferred to the Archivist should be addressed to:

Assistant Archivist for the National Archives, National Archives and Records Service, Eighth Street and Pennsylvania Avenue, NW., Washington, D.C. 20408.

Dated: August 5, 1977.

GRIFFIN B. BELL,
Attorney General.

[FR Doc.77-23841 Filed 8-16-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on August 11, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529).

NEW FORMS

DEPARTMENT OF COMMERCE

Bureau of the Census:

Annual Wholesale Trade, 1977 Value Added, Capital Expenditures, Fixed Assets B-450, B-451, other (see SF 83), merchant wholesalers, Laverne Collins, 395-5867.

Form-Census of Agriculture Pretest, 77-A3-T2, single time, farms, Gaylord Worden, 395-4730.

1977 Service Trade Report—Fixed Assets, Capital Expenditures, Rental Payments and Labor Cost, B-550, B-551, B-552, other (see SF 83), selected service establishments, Louis C. Kincannon, 395-3211.

NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration, Scaling Technique: Consumer Attitudes Toward Diagnostic X-rays, single time, households in a community in the eastern United States, Richard Eisinger, 395-6140.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Community Planning Development, Historic Preservation Activities Under CDBG Survey, single time, local chief executives of metropolitan cities, Housing and Veterans and Labor Division, Roye L. Lowry, 395-3532.

REVISIONS

DEPARTMENT OF COMMERCE

Bureau of the Census:

Consumption of Fibers in Woolen Spinning and Production of Tops and Noils and Tow Top, M22D, monthly, consumers of wool and producers of Top, Louis C. Kincannon, 395-3211.

Glass Containers Monthly Report, M22G, monthly, glass container manufacturers, Louis C. Kincannon, 395-3211.

Annual Retail Trade Report, B-151, 152, 153, other (see SF 83), all types of retail businesses, Laverne Collins, 395-5867.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Administration, Agreement, Cost and Task Description Forms for Volume 103—Annual Work Program, HS-57, 57A, 62, 62A, 63, annually, State Highway Safety Agencies, Roye L. Lowry, 395-3772.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration, Evaluation of Presurgical Screening Program, HFCA 3181, other (see SF 83), individuals participating in presurgical screening programs, Marsha Traynham, 394-4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-23909 Filed 8-16-77;8:45 am]

[1] See FR Doc. 77-23842 published in the Rules and Regulations section of this issue of the FEDERAL REGISTER under the Department of Justice.

SECURITIES AND EXCHANGE COMMISSION

[File No. 81-271]

AIR POLLUTION INDUSTRIES, INC.

Application and Opportunity for Hearing

AUGUST 10, 1977.

Notice is hereby given that Air Pollution Industries, Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for exemption from Sections 13 and 15(d) of the 1934 Act, commencing with the annual report on Form 10-K otherwise required for the period ended April 30, 1977.

Section 13 provides that each issuer of a security which is registered pursuant to Section 12 of the 1934 Act shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate for the proper protection of investors and to insure fair dealing in the security, certain annual, current, and quarterly reports.

Section 15(d) provides that each issuer who has filed a registration statement which has become effective pursuant to the Securities Act of 1933, as amended, shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, such supplementary and periodic information, documents, and reports as may be required pursuant to Section 13 of the 1934 Act in respect of a security registered pursuant to Section 12 of the 1934 Act.

Section 12(h) empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the periodic reporting provisions of the 1934 Act if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The Application states in part:

1. Prior to April 14, 1977 the Applicant had two classes of securities outstanding: Common Stock and 7 percent Convertible Subordinated Debentures due October 15, 1981.

2. As a result of a merger with Neptune AirPol, Inc., a subsidiary of Neptune International, Inc., the holders of Applicant's Common Stock had the right to receive cash for each share outstanding and Neptune AirPol assumed the obligation to pay the principal amount of the debentures at maturity.

3. As a result of the merger there are no holders of Common Stock and 65 holders of debentures.

4. On May 16, 1977, Applicant filed a certification pursuant to 15d-6 of the 1934 Act indicating that it had less than 300 shareholders of record.

In absence of an exemption, Applicant would be required to file a report on Form 10-K for the period from April 30, 1976 through April 30, 1977 as required by the provisions of Sections 13(a) and 15(d) of the 1934 Act.

Applicant argues that no useful purpose would be served in filing said report.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than September 6, 1977 may submit to the Commission in writing his views of any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77-23701 Filed 8-16-77;8:45 am]

CINCINNATI STOCK EXCHANGE

Application for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 11, 1977.

In the matter of applications of the Cincinnati Stock Exchange for unlisted trading privileges in a certain security. The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the securities of the companies as set forth below, which securities are listed and registered on one or more other national securities exchanges:

Atlantic City Electric Co., common stock—$3 par value; File No. 7-4969.

Central Maine Power Co., common stock—$5 par value; File No. 7-4970.

Duquesne Light Co., common stock—$1 par value; File No. 7-4971.

Northeast Utilities Service Co., common stock—$5 par value; File No. 7-4972.

Potomac Electric Power Co., common stock—$10 par value; File No. 7-4973.

Public Service Co., of New Hampshire, common stock—$5 par value; File No. 7-4974.

Upon receipt of a request, on or before August 27, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc 77-23702 Filed 8-16-77;8:45 am]

[Release No. 34-13855; File No. SP DTC 77-6]

DEPOSITORY TRUST CO.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 21, 1977, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change provides for an addition to Fee Schedule for Major Services, filed as Form 19b-4A, File No. SR-NYSE-75-19:

Legal deposits: $25 per deposit. *DTC will consider a volume discount where the securities have a substantial dollar value (approximately $100 million) and other factors are present.*

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of the proposed change in the Fee Schedule for Major Services is to encourage further immobilization of securities certificates and to remove a disincentive to Participants, indirect depository users and those considering depository use for the first time when thousands of legal deposits are needed to be made in a short period on a bulk basis in order to establish positions in the depository.

The proposed change in the Fee Schedule for Major Services relates to DTC's carrying out the purposes of Section 17A of the Securities Exchange Act of 1934 by equitably allocating fees among DTC Participants.

Participants have from time to time expressed interest in a volume discount in DTC's legal deposit fee. Comments on the proposer rule change have not been solicited or received.

DTC believes that no burden will be placed on competition by the proposed rule change.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

All submissions should be submitted on or before September 7, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

AUGUST 11, 1977.

[FR Doc.77-23704 Filed 8-16-77;8:45 am]

[File Nos. SR-MSE-77-16, 77-20]

MIDWEST STOCK EXCHANGE, INC.

Order Extending Time Period Within Which the Commission is Required to Act on Proposed Rule Changes

AUGUST 10, 1977.

The Midwest Stock Exchange, Inc. ("MSE") 120 S. La Salle Street, Chicago, Illinois 60603, has filed, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78(s)(b)(1), and Rule 19b-4 thereunder, 17 CFR 240.19b-4 the following rule proposals:

(1) SR–MSE–77–16.[1] The proposed amendment to Article XXIV, Rule 8, of the MSE rules provides that any member of the Committee on Floor Procedure or the President of the Exchange can summarily suspend the registration of a specialist, co-specialist, or relief-specialist when it appears that such person is violating any of the rules of the Exchange or the federal securities laws or is conducting business in an unethical or unbusiness-like manner, pending an opportunity for a hearing on the apparent violation in accordance with Article XXI of the Rules of the Exchange.[2]

Article XXIV, Rule 8 also provides that the Committee on Specialist Assignment and Evaluation may suspend or terminate any such registration based upon a finding, after an opportunity for a hearing in accordance with Article XVII, that the particular specialist, co-specialist or relief specialist has not satisfactorily performed his responsibilities as defined in the Federal securities laws or the rules and policies of the Exchange.[3]

(2) SR–MSE–77–20.[4] The proposed amendment to Article XXI, Rule 15 of the MSE rules provides that whenever it appears to any member of the Committee on Floor Procedures or the President of the Exchange that an odd lot dealer is violating any of the rules of the Exchange or the Federal securities laws, or is conducting business as an odd lot dealer in an unethical or unbusiness-like manner, the member of the Committee or the President shall, without the necessity of previous notice, suspend the registration of such odd lot dealer pending an opportunity for a hearing on the apparent violation in accordance with Article XII of the Rules of the Exchange.

Rule 15 would also provide that the Committee on Specialist Assignment and Evaluation may suspend or terminate any such registration based upon a finding, after an opportunity for a hearing in accordance with Article XVII, that an odd lot dealer has not satisfactorily performed his responsibilities as defined in the Federal securities laws and the rules and policies of the Exchange.

The MSE proposals permit both summary, as well as non-summary, suspension of "special" registrants. Because of the similarity of the proposals, it appears appropriate to consider them together.

The primary question raised by these proposals is whether they are consistent with Section 6(d)(3) of the Act, which authorizes a national securities exchange to take summary action against a member or a person associated with a member or against any person with respect to access to services offered by the Exchange only under limited circumstances and prescribes procedures applicable to such Exchange action. Section 6(d)(3) also provides that persons aggrieved by a summary action be promptly afforded an opportunity for a hearing as required by paragraphs (1) or (2) of Section 6(d). The Commission is empowered by order to stay any summary exchange action on its own motion or upon application by any aggrieved person either summarily or after notice and opportunity for hearing (which may consist of the submission of affidavits or presentation of oral arguments).

The preliminary questions presented by the MSE proposals are:

(1) Does the proposed summary suspension of the registration of special registrants as such fall within the purview of Section 6(d)(3) by virtue of the fact that it is a "suspension of a member or person associated with a member", as contemplated by the Act or a "limitation or prohibition of any person with respect to access to services offered by the Exchange"? If this type of summary action does fall within the contemplation of Section 6(d)(3), then, irrespective of whether this is a suspension or a denial of access, summary action may be taken only if the firm or individual has been expelled or suspended from being associated with a member of a self-regulatory organization, or is in such financial or operating difficulty that the Exchange determines and notifies the Commission that the member cannot be permitted to continue to do business as a member with safety to investors, creditors, or other members of the Exchange.

If such summary action is determined not to be a summary suspension of a member or a person associated with a member, or the limitation or prohibition of any person with respect to access to services offered by the Exchange, then a determination must be made as to whether this type of summary action is otherwise permissible under the Act. If so, it does not appear that the Commission would have review power under Section 19, and that any review of such summary action and of the subsequent hearing pursuant to that action would be in the courts.

As a result of its preliminary review of the MSE proposals, the Commission believes that the proposals raise a number of substantial questions which require further consideration before any determination is made to approve the rule proposals or to institute proceedings, pursuant to Section 19(b)(2) of the Act, to determine whether they should be disapproved.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act, hereby extends to September 6, 1977 the time period within which the Commission must take action on the above-referenced proposed rule changes. The Commission is also extending the time period for comments on the proposed rule changes, and invites written submissions from all interested persons. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capital Street, Washington, D.C. 20549 by August 30, 1977.

Copies of all submissions, including the proposed rule changes, will be available for public inspection at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of the proposed rule change will also be available at the principal office of the MSE.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77-23703 Filed 8-16-77;8:45 am]

[1] Notice of filing of the proposed rule change was given by publication of a Commission release (Securities Exchange Act Release No. 13576 (May 27, 1977)) and by a statement of the terms of substance in the FEDERAL REGISTER (42 FR 29133 (June 7, 1977)). Interested persons were invited to submit any written data, views and arguments concerning the proposed rule change by June 28, 1977. The MSE has granted an extension of time required for the Commission to consider the proposed rule change until August 9, 1977.

[2] Article XII provides investigative and hearing procedures with respect to any default, misconduct or other offense alleged to have been committed by any member, member organization or any other person or organization subject to the jurisdiction of the Exchange.

[3] The hearing procedures provided by Article XVII of the MSE rules are the subject of SR–MSE–76–23, which is currently pending.

[4] Notice of filing of the proposed rule change was given, in accordance with the requirements of Section 19(b)(1), by publication of a Commission release (Securities Exchange Act Release No. 13728 (July 8, 1977)) and by a statement of the terms of substance in the FEDERAL REGISTER (42 FR 36575 (July 15, 1977)). Interested persons were invited to submit any written data, views and arguments on the proposed rule change by August 5, 1977.

[Release 34-13847; File No. SR-NASD-77-9]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Self-Regulatory Organization; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975) notice is hereby given that on June 13, 1977 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

NASR's STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

TEXT OF PROPOSED RULE CHANGE

The following is the full text of the proposed amendments to the Code of Arbitration Procedure of the National Association of Securities Dealers, Inc. New language is italicized, deleted language is bracketed:

Section 1—Matters Eligible for Submission

This Code of Arbitration Procedure is prescribed and adopted pursuant to Article IV, Section 2(b) of the By-Laws of the National Association of Securities Dealers, Inc. (the Association) for the arbitration of clearing controversies and any other *securities related* dispute arising out of or in connection

with the [securities] business of any member of this Association:

(1) between or among members;

(2) between or among members and public customers, *and/or between or among* others;

(3) between or among members, the clearing corporaion, clearing banks or associated banks as these terms are defined under the Operating Rules of the NCC Division of the National Securities Clearing Corporation.

Section 2(a)—Required Submissions

Any dispute, claim or controversy subject to arbitration under this Code arising on or after the effective date of the relevant section or subsection hereof shall be submitted to arbitration pursuant to this Code at the instance of:

(1) a member against another member;

(2) a public customer against a member[;]*and/or a person associated with a member;*

(3) a member against a public customer if the submission to arbitration of the dispute, claim or controversy is permitted by a duly executed and enforceable agreement to arbitrate; [1]

(4) a member, the NCC Division of the National Securities Clearing Corporation, a clearing bank, or associated bank against the other(s);

(5) a member against a person associated with a member or a person associated with a member against a member[.];

(6) a person associated with a member against a person associated with a member;

(7) any written agreement which expressly designates the Association as the arbitration forum and/or administrator of any controversy.

Section 15—Designation of Number of Arbitrators

(a) Public Controversies

(1) Except as otherwise provided [herein] *in this Code,* in all arbitration matters involving public customers, *and where the matter in controversy does not exceed the amount of $20,000,* an arbitration panel shall consist of [five] *three* arbitrators, at least [three] *two* of whom shall not be from the securities industry.

(2) *In all arbitration matters involving public customers where the amount in controversy exceeds $20,000, an arbitration panel shall consist of five arbitrators, at least three of whom shall not be from the securities industry.*

(b) Member and/or Member-Related Controversies

In all arbitration matters [involving only] *between or among* members *and/or* [members and] persons associated with members, a panel shall consist of no less than three nor more than five arbitrators all of whom shall be from the securities industry.

(c) Composition of Panels

The individuals who shall serve on a particular arbitration panel shall be determined by the Director of Arbitration. The Director of Arbitration shall name the chairman of [all] *each* panel[s].

Section 19—Initiation of Proceedings

Pleadings

An arbitration proceeding under this Code shall be instituted as follows:

(a) Statement of Claim

[(a)] The initiating party shall file with the Director of Arbitration three copies of the Submission Agreement duly executed by him together with three copies of his Statement of Claim upon the controversy in dispute and, if possible, the amount claimed and the remedies sought. The Director of Arbitration shall thereupon serve two copies of the Statement of Claim and the Submission Agreement upon the responding party by *personal service,* registered or certified mail *or by any other means which shall appraise a party of the institution of an arbitration proceeding.*

(b) Answer—Defenses and or Counter-Claims

[(b)] Two (2) copies of the duly executed Submission Agreement and two (2) copies of the Answer shall be filed with the Office of the Director of Arbitration within [ten (10)] fifteen business days from the date of receipt of the Statement of Claim. The Director of Arbitration shall thereupon serve one copy of the Answer upon the initiating party by *personal service,* certified or registered mail *or by any other means which shall appraise a party of the institution of an arbitration proceeding.* The Answer shall contain and clearly designate all available defenses to the initiating party's claim and may in addition set forth any related counterclaim denominated as such which the responding party may have against the initiating party upon any dispute, claim or controversy arising as prescribed under this Code.

Section 20—Designation of Time and Place of Hearings

Unless the law directs otherwise, the time and place of the initial hearings shall be determined by the Director of Arbitration and for each ensuing hearing thereafter by the arbitration panel presiding. Notice of the initial hearing shall be [delivered] *given* at least [eight] *five* business days prior to the date fixed for hearing by *personal service* or registered or certified mail, *or by any other means permitted by law* to each of the parties and for each hearing thereafter as the arbitration panel shall determine; unless the parties shall by their mutual consent waive the notice provisions provided under this Section.

PURPOSE OF PROPOSED RULE CHANGE

The proposed amendments to the Code of Arbitration Procedure will accomplish the following:

Section 1—Matters Eligible for Submission

This proposed amendment will permit the submission of controversies including commodities transactions, hybrid insurance cases which may involve elements of both securities and insurance products and customer dealings, e.g. mutual funds and term insurance policy writers. It will not permit the submission of controversies related solely to insurance. The amendment will also allow disputes to be submitted by other entities including SECO, Municipal Securities Rulemaking Board, SIPC and others. The present fragmentation of claims will be reduced, if not eliminated, thus allowing parties and arbitrators to more realistically deal with and include all elements of the party's dealings in a single submission and before a single forum.

Section 2(a)—Required Submissions

The proposed amendment to Subsection 2(a)2 of the Code will permit public customers to directly name and proceed against persons associated with members as party respondents. The inclusion of this category of individuals as parties will also operate to obviate the fragmentation of customer's claims. Proposed Section 2(a)6 will permit associated persons to directly name and proceed against other associated persons. The addition of this category of disputes will make arbitration available and insure equal access by such individuals to a forum which can professionally consider and promptly and economically resolve such controversies. Proposed Section 2(a)7 will permit non-member entities such as banks, SECO, the MSRB and the CBOE to utilize the Association's arbitration services by designating the Association as the administrator of their arbitration proceedings.

Section 15—Designation of Number of Arbitrators

Section 15 is proposed to be amended to provide for the reduction of the size of arbitration panels from five to three arbitrators in public cases where the sum in controversy does not exceed $20,000. In cases where the settlement dispute exceeds $20,000 a panel will continue to consist of five arbitrators as is currently the rule in respect to all submissions involving the public sector.

Section 19—Pleadings

The Code presently requires that both pleadings and notices of hearings be served by registered or certified mail. The proposed amendments to Sections 19 and 20 of the Code expand such process to permit personal service as well as service by any other means which will reasonably apprise the party of the pendency of a proceeding. Section 19 is proposed to be amended to give a responding party 15 business days after service of the claim to file a responsive pleading for answer instead of the 10 days now allowed.

Section 20—Designation of Time and Place of Hearings

Section 20 is proposed to be amended to require that a party be given five business days notice of the initial scheduled hearing date instead of the eight business days presently required.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

Section 15A(b)(6) provides that the rules of a registered securities association be "designed to prevent fraudulent and manipulative practices, to promote just and equitable principles of trade . . . and, in general, to protect investors and the public interest. . . ." The Association has adopted an extensive Code of Arbitration Procedure pursuant to the Act and Article IV, Section 2(b) of the Association's By-Laws which permits its Board of Governors to prescribe rules providing for arbitration of controversies between members and between members and customers or others.

COMMENTS RECEIVED FROM THE MEMBERS, PARTICIPANTS, OR OTHERS ON THE PROPOSED RULE CHANGE

Because Article IV, Section 2(b) of the Association's By-Laws authorizes its Board of Governors alone to prescribe a Code of Arbitration Procedure, comments of the membership on the proposed amendments to the Code of Arbitration were not solicited nor received.

[1] This subparagraph is not intended to conflict with the decision of the United States Supreme Court in *Wilko* v. *Swan,* 346 U.S. 427 (1953), which specifies that a customer of a broker/dealer does not waive the protections of the securities acts by an agreement to arbitrate future controversies. Thus, the Association will, in applicable cases, require a member to seek an order under the United States Arbitration Act to determine whether a particular dispute is properly arbitrable in view of *Wilko* v. *Swan.*

V42 1959 AUG 17 77 UM

BURDEN ON COMPETITION

The proposed rule changes impose no burdens on competition not necessary in the furtherance of the purposes of the Act.

On or before September 21, 1977, or within such longer period (i) as the Commission may designate up to ninety (90) days of such date if he finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C., 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 16, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

AUGUST 10, 1977.

[FR Doc.77-23705 Filed 8-16-77;8:45 am]

DEPARTMENT OF STATE

[CM 7/99]

U.S. ADVISORY COMMISSION ON INTERNATIONAL EDUCATIONAL AND CULTURAL AFFAIRS

Notice of Meeting

The United States Advisory Commission on International Educational and Cultural Affairs will meet in open session on Monday, September 26, in Room 1207 of the State Department. The meeting will run from 9:30 a.m. until 12:30 p.m., and from 2 p.m. until 4:30 p.m.

There will be two items on the agenda, in addition to any old or new business which any Commission member wishes to raise.

1. A report on the Belgrade conference on the Helsinki agreement.

2. An assessment of educational and cultural exchanges between the United States and other countries carried out by AID, HEW and other U.S. agencies.

Members of the general public may attend and participate in the discussion subject to the instructions of the Chairman. They will be accommodated up to the seating capacity of the room.

For purposes of fulfilling building security requirements, anyone wishing to attend the meeting must advise the Staff Director of the Commission by close of business Thursday, September 22, 1977, of his intention to attend. He may be reached by telephone at (202) 632-2764.

Dated: August 8, 1977.

W. E. WELD, Jr.,
Staff Director.

[FR Doc.77-23777 Filed 8-16-77;8:45 am]

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1977 Rev., Supp. No. 1]

SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS

Issuance of Certificate of Authority

A certificate of authority as an acceptable surety on Federal bonds is hereby issued by the Secretary of the Treasury to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $245,000 has been established for the company.

NAME OF COMPANY, BUSINESS ADDRESS, AND STATE IN WHICH INCORPORATED

Insurance Company of the West, Post Office Box 81063, San Diego, California 92138.

Certificates of authority expire on June 30 each year, unless sooner revoked, and new certificates are issued on July 1 so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: August 10, 1977.

GERALD MURPHY,
Acting Commissioner, Bureau of Government Financial Operations.

[FR Doc.77-23621 Filed 8-16-77;8:45 am]

Office of the Secretary

NEW BOYCOTT GUIDELINES

Issuance and Invitation for Public Comments

AUGUST 12, 1977.

The Secretary of the Treasury today issued new guidelines, consisting of questions and answers, relating to provisions of the Tax Reform Act of 1976 which deny certain tax benefits for participation in or cooperation with international boycotts.

The new guidelines supersede earlier sets of guidelines, also questions and answers, issued November 4, 1976 (Treasury News Release WS-1156) and December 30, 1976 (WS-1239) and published in the FEDERAL REGISTER on November 11, 1976 and January 5, 1977. The new guidelines issued today generally are effective for operations occurring after, requests received after, and agreements made after November 3, 1976.

However, if a particular answer in the new guidelines, when compared with an answer in the guidelines outstanding on August 11, 1977, results in an increase in the reporting burden or tax liability of a person, the new answer will be effective only for operations, requests, and agreements after August 22, 1977. In addition, in the case of operations that constitute participation in or cooperation with an international boycott under the new guidelines, but do not do so under the previous guidelines outstanding on August 11, 1977, and that are carried out in accordance with the terms of a binding contract entered into before August 23, 1977, such operations will not constitute participation in or cooperation with an international boycott until after December 31, 1977.

Written comments may be submitted (preferably six copies) to the Assistant Secretary for Tax Policy, U.S. Treasury Department, Washington, D.C. 20220. All comments will be available for public inspection and copying. Thus, a person submitting written comments should not include any material that is confidential or inappropriate for disclosure to the public.

A public hearing will be held upon written request to the Assistant Secretary for Tax Policy by any person who has submitted a written comment. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

Written comments and requests for a public hearing must be delivered or mailed by September 30, 1977.

This announcement and the new guidelines will appear in the FEDERAL REGISTER of August 17, 1977.

Contact: George G. Ross: (202) 566-2356.

BOYCOTT PROVISIONS (SECTION 999) OF THE INTERNAL REVENUE CODE

TABLE OF CONTENTS

A. Boycott Reports.
B. Definition of "Operations."
C. Definition of "Reason to Know" of Official Requirement of Boycott Participation.
D. Definition of "Clearly Separate and Identifiable Operations."
E. Effective Date Provisions.
F. International Boycott Factor.
G. Determinations.
H. Definition of an Agreement to Participate in or Cooperate with a Boycott (section 999(b)(3)).
I. Refraining from Doing Business with or in a Boycotted Country (section 999(b)(3)(A)(i)).
J. Refraining from Doing Business with any United States Person Engaged in Trade in a Boycotted Country (section 999(b)(3)(A)(ii)).
K. Refraining from Doing Business with any Company Whose Ownership or Management is Made Up, in Whole or in Part of Individuals of a Particular Nationality, Race or Religion (section 899(b)(3)(A)(iii)).
L. Refraining from Employing Individuals of a Particular Nationality, Race or Religion (section 999(b)(3)(A)(iv)).
M. As a Condition of the Sale of a Product, Refraining from Shipping or Insuring that Product on a Carrier Owned, Leased, or Operated by a Person who does not Participate in or Cooperate with an International Boycott (section 999(b)(3)(B)).
N. Reduction of Foreign Tax Credit.
O. Subpart F Income.

In the questions and answers:

(a) Company A and Company B are companies organized under the laws of one of the states of the United States;

(b) Company C and Company D, unless otherwise stated in the question, are companies organized under the laws of any country, including the United States;

(c) Country X is a boycotting country, which, inter alia, boycotts Country Y;

(d) Country Y is a country boycotted by Country X;

(e) Country Z is any country and may be the United States, a boycotting country or a boycotted country;

(f) All references to "Sections" are to Sections of the Internal Revenue Code of 1954, as amended;

(g) In parts H-M in instances where the action described in the question by itself does not, according to the answer, provide sufficient evidence to support an inference that an agreement under section 999(b)(3) exists, an overall course of conduct which includes such action in addition to other actions could support such an inference; and

(h) In many questions in parts H-M, a person deals with either Country X or the government, a company or a national of Country X. The result reached in the answer to each of those questions would be the same irrespective of whether the person is an individual, a company or any other type of person, and whether the person dealt with is Country X or the government, a company or a national of Country X.

A. Boycott Reports.

A-1. Q: Who must report as required by section 999(a)?

A: Generally, a United States person (within the meaning of section 7701(a)(30)) is required to report under section 999(a) if it—

1. has operations; or

2. is a member of a controlled group, a member of which has operations; or

3. is a United States shareholder within the meaning of section 951(b) of a foreign corporation that has operations, but only if the United States shareholder owns within the meaning of section 958(a) stock of that foreign corporation; or

4. is a partner in a partnership that has operations; or

5. is treated under section 671 as the owner of a trust that has operations

in or related to a boycotting country (or with the government, a company, or a national of a boycotting country). A person (within the meaning of section 7701(a)(1)) that is not a United States person is required to report under section 999(a) if it satisfies any one of the five conditions specified above and it claims either the benefit of the foreign tax credit under section 901 or owns stock of a DISC.

If a person controls a corporation within the meaning of section 304(c) and that person is required to report under section 999(a), then under section 999(e) that person must report whether the corporation participated in or cooperated with the boycott. If the corporation is required to report under section 999(a), then under section 999(e) the corporation must report whether the person participated in or cooperated with the boycott.

A boycotting country is—

(i) any country that is on the list maintained by the Secretary under section 999(a)(3), or

(ii) any country not on the list maintained by the Secretary under section 999(a)(3), in which the person required to file the report (or a member of the controlled group that includes that person) has operations, and which that person knows or has reason to know requires any person to participate in or cooperate with an international boycott that is not excepted by section 999(b)(4)(A), (B), or (C). Thus, even if the boycott participation required of the person reporting the operation is excepted by section 999(b)(4)(A), (B), or (C), if that person knows or has reason to know that boycott participation not excepted by section 999(b)(4)(A), (B), or (C) is required of any other person, the country is a boycotting country.

If the person required to file the report (or a member of the controlled group that includes that person) has operations related to a country, but not operations in that country, that country is not a boycotting country unless it is on the list maintained by the Secretary under section 999(a)(3). (For the definition of operations in or related to a country, see the questions and answers under part B.)

A-2. Q: Do the reporting requirements of section 999(a) that refer to "United States shareholders" of foreign corporations require U.S. minority shareholders to report the operations of such foreign corporations?

A: Yes. Under section 951(b) the term "United States shareholder" includes any United States person who owns (within the meaning of section 958(a)), or is considered as owning (by the application of the rules of ownership of section 958(b)), 10 percent or more of the total combined voting power of all classes of stock entitled to vote of such foreign corporation. The reporting requirement applies even if the United States shareholder is a minority shareholder and even if the foreign corporation is not a controlled foreign corporation within the meaning of section 957(a). However, as stated in Answer A-1, the reporting requirement applies only to minority share holders that actually own some stock within the meaning of section 958(a).

A-3. Q: If one member of a controlled group of corporations (within the meaning of section 993(a)(3)) files a report under section 999(a) with respect to the reportable operations of all members of that group, is this sufficient to discharge the reporting obligation of all members of the group?

A: Yes, provided that the common parent (as defined in the regulations under section 1504) files a consolidated return and the report on behalf of all members of the controlled group. In the absence of a consolidated return, each member of the controlled group must individually file the section 999(a) report. If a consolidated return is filed on behalf of some members of the controlled group, only one report need be filed with respect to those members. However, each other member must individually file the report.

A-4. Q: If one United States shareholder of a foreign corporation files a report under section 999(a) in respect of the reportable operations of the foreign corporation, is this sufficient to discharge the reporting obligations of all United States shareholders of the foreign corporation in respect of that corporation's operations?

A: No. Each United States shareholder of a foreign corporation must file the section 999(a) report in respect of the activities of that corporation. However, if two or more United States shareholders of a foreign corporation are included in the same consolidated return, only one report need be filed with respect to all United States shareholders included in the return.

A-5. Q: How will the reporting requirements under section 999(a), "International Boycott Reports by Taxpayers", be satisfied?

A: A taxpayer required to file an international boycott report under section 999(a) will fulfill this requirement by filing a new IRS Form 5713, "International Boycott Report", and all applicable supporting schedules and forms contained in the taxpayer's income tax returns which indicate the amounts and computations of benefits denied under sections 908(a), 952(a)(3) and 995(b)(1)(F) of the Internal Revenue Code.

A-6. Q: What degree of confidentiality will the international boycott reports submitted by taxpayers receive?

A: The reports by taxpayers will be submitted as part of the income tax return and, therefore, will be accorded the same degree of confidential treatment under section 6103 as any other information contained in an income tax return.

A-7. Q: Where and how should the "International Boycott Report" be filed?

A: The "International Boycott Report", Form 5713, should be filed in duplicate by all reporting taxpayers. One copy of Form 5713 should be sent to the Internal Revenue Service, 11601 Roosevelt Blvd., Philadelphia, Pennsylvania, 19155, and the other copy of Form 5713 should be attached to the taxpayer's income tax return that is filed with the taxpayer's customary Internal Revenue Service Center.

A-8. Q: Do individuals as well as corporations use Form 5713, "International Boycott Report"?

A: Yes. All taxpayers required to file a report under section 999(a) will use IRS Form 5713. However, some parts of the form apply to corporations only; individual taxpayers can ignore these parts and complete only the questions relevant to individuals. While all taxpayers reporting under section 999(a) are required to file Form 5713, the filing of Form 5713 does not necessarily fulfill all of the reporting requirements under section 999(a). (See Answer A-5.)

A-9. Q: Section 999(b)(4) permits a person to agree to comply with certain laws without being treated as having agreed to participate in or cooperate with an international boycott. In the course of its operations in or related to a boycotting country, a person agrees to comply with a prohibition on importation and exportation that is described in section 999(b)(4)(B) and section 999(b)(4)(C). Is that person required to report the operations on Form 5713, the "International Boycott Report"?

A: Yes, although agreements described in section 999(b)(4)(B) and (C) do not constitute participation in or cooperation with an international boycott, the operations in or related to a boycotting country must be reported on Form 5713.

A-10. Q: Section 999(b)(4)(A) permits a person to meet requirements imposed by a foreign country with respect to an international boycott if United States law or regulations, or an Executive Order, sanctions participation in or cooperation with that international boycott. If a person's operations fall within this exception, is the person required to report such operations?

A: No. The reporting requirements with respect to operations under such international boycott agreements are waived.

A-11. Q: Company C sells goods or services to a person other than a boycotting country, or the government, a company, or a national of a boycotting country (or does other business with that person) outside a boycotting country. Company C knows or has reason to know that that person in turn will either use the goods or services in a boycotting country or sell the goods or services for use in a boycotting country. Is Company C required to report its sale of goods or services to that person?

V 42 N 159 AUG 17 77 UM

A: Although the sale of the goods or services by Company C constitutes an operation related to a boycotting country of Company C (see Answer B–1), the requirement that Company C report the sale is waived, provided that in connection with the operation Company C does not receive a request to participate in or cooperate with an international boycott (within the meaning of section 999(b)(3)). Company C does not participate in or cooperate with an international boycott, and Company C did not establish its relationship with that person to facilitate participation in or cooperation with an international boycott.

A–12. Q: Company A is a U.S. shareholder (within the meaning of section 951(b)) of Company C, a foreign corporation. Company A has a taxable year ending January 31, and Company C has a taxable year ending June 30. Both companies have operations in Country X, which is on the list maintained pursuant to section 999(a)(3). Who should file Form 5713 and for what period?

A: As indicated in Answer A–1, Company C need not file Form 5713 unless it claims the benefit of the foreign tax credit under section 901 or owns stock of a DISC. Company A must file Form 5713 for its taxable year ending January 31, and must report operations of Company C during Company C's taxable year ending within the period covered by Company A's report.

A–13. Q: In the case of an International Boycott Report, Form 5713, filed by a member of a controlled group, what period of time should be reflected in the report, and when should the report to be filed?

A: Each person described in Answer A–1 ("reporting person") is required to report all reportable operations, requests and participation or cooperation of each member of the controlled group for each member's taxable year that ends with or within the taxable year of the controlled group's common parent that ends with or within the taxable year of the reporting person.

In addition, each reporting person is required to report all reportable operations, requests and participation or cooperation of each foreign corporation that has a United States shareholder that is a member of the controlled group. Such operations, requests and participation or cooperation of a foreign corporation are reported for the foreign corporation's taxable year that ends with or within the taxable year of the United States shareholder that ends with or within the taxable year of the common parent that ends with or within the taxable year of the reporting person.

In the event that no common parent exists, the members of the controlled group are to elect the taxable year of one of the members to serve as the common taxable year of the group. Procedures for making the taxable year election are specified in the instructions to the "International Boycott Report," Form 5713. The taxable year election is a binding election and is made only once. Approval of the Secretary of the Treasury or his delegate is required for any changes in the group taxable year.

Each reporting person will use its normal taxable year for making adjustments required under sections 908(a), 952(a)(3) and 995(b)(1)(F), and for all purposes other than reporting and computing the international boycott factor. For example, if the reporting person uses the international boycott factor, the international boycott factor will be applied to the reporting person's normal taxable year for determining the reporting person's adjustments under sections 908(a), 952(a)(3) and 995(b)(1)(F).

More details concerning the time period covered in the international boycott report are contained in the instructions to Form 5713. Details concerning the time period covered in the international boycott factor are contained in the instructions to Form 5713 and in Temp. Regs. § 7.999–1 and Proposed Regs. § 1.999–1.

As stated in Answer A–7, the reporting person's "International Boycott Report," Form 5713, is filed at the time the reporting person files its income tax return.

A–14. Q: Company C is either a U.S. corporation or a foreign corporation and is required to report under section 999(a). Company C is also a subsidiary or a sister of a foreign corporation that is not required to report under section 999(a). Is Company C required to report the operations, requests and participation or cooperation of the foreign parent or sister corporation?

A: Generally, under section 999(a) and Answer A–1, a person required to report must report the operations, requests and participation or cooperation of all members of the controlled group of which it is a member. However, if the foreign parent or sister corporation is not otherwise required to report, the requirement that Company C report the operations, requests and participation or cooperation of the foreign parent or sister corporation will be waived if Company C—

1. Is not entitled to any benefits of deferral, DISC, or the foreign tax credit, or

2. Applies the international boycott factor, and forfeits all the benefits of deferral, DISC and the foreign tax credit to which it is entitled (i.e. applies an international boycott factor of one under sections 908(a), 952(a)(3), and 995(b)(1)(F)), or

3. Identifies specifically attributable taxes and income, and forfeits all the benefits of deferral, DISC, and the foreign tax credit in respect of which it is unable to demonstrate that the foreign taxes paid and the income earned are attributable to specific operations in which there was no participation in or cooperation with an international boycott.

Although the requirement that Company C report the operations, requests and participation or cooperation of its foreign parent or sister corporations may be waived, Company C must report all operations, requests and participation or cooperation—

(i) Of itself, and

(ii) Of all domestic members of each controlled group of which Company C is a member, and

(iii) If Company C is a United States company, of all foreign corporations of which Company C is a United States shareholder within the meaning of section 951(b), but only if Company C owns within the meaning of section 958(a) stock of the foreign corporation, or

(iv) If Company C is a foreign company, of all foreign corporations more than 50 percent of the stock of which is owned, directly or indirectly, by Company C.

If Company C is required to report on behalf of a foreign corporation (including itself if Company C is a foreign corporation), it must report all operations, requests and participation or cooperation of the foreign corporation, even if conducted by or received by the foreign corporation in connection with operations that are not effectively connected with a United States trade or business.

A–15. Q: Company C receives from Country X an unsolicited invitation to tender for a contract for the construction of an industrial plant in Country X. The tender documents contain a provision stating that Country X will not enter into the contract unless the successful tenderer makes an agreement described in section 999(b)(3). Company C does not respond to the unsolicited invitation. Is Company C required to report the invitation under section 999(a)(2) as a request to participate in or cooperate with an international boycott?

A: No. The section 999(a)(2) reporting requirement will be waived provided that Company C neither solicited the invitation to tender nor responded to the invitation.

A–16: Q: Before May 13, 1977, Company C received requests to comply with international boycotts. Company C preserved the requests that were evidenced in writing and preserved the notations it made concerning the details of oral requests. When Form 5713 was issued on May 13, 1977, it required more details concerning the requests made of Company C than were preserved, and many of those details can no longer be ascertained. Will Company C's report under section 999(a)(2) be deemed deficient?

A: On October 4, 1976, Company C was put on notice that it would be required to document boycott requests received after November 3, 1976. Form 5713 does not require any details that would not have been preserved by a prudent person having such notice. In addition, under Answer A–15, the reporting requirements of section 999(a)(2) have been waived for certain unsolicited boycott requests. If Company C does not supply the required information with respect to the remaining requests that were either solicited or responded to, its report will be deficient.

A–17. Q: A United States partnership consisting of 100 United States partners has operations in a boycotting country. Is each partner required to file Form 5713?

A: Generally, if a partnership has operations in a boycotting country, each partner is required to file Form 5713. However, if the partnership files Form 5713 with its information return and has no operations for the taxable year that constitute participation in or coperation with an international boycott, then the requirement that each partner file Form 5713 will be waived for each partner that has no operations in or related to a boycotting country, or with the government, a company, or a national of a boycotting country other than operations that are reported on the Form 5713 filed by the partnership.

A–18. Q: Company A owns 10 percent or more of the outstanding stock of Company C, a foreign corporation that has operations in Country X, but Company A does not have effective control over Company C. Company C participates in or cooperates with an international boycott. Company A requests information from Company C in order to meet its reporting obligations under section 999(a). Company C refuses to provide (or is prohibited by local law, regulation, or practice from providing) that information. Will Company A be subject to the section 999(f) penalties for willful failure to report the activities of Company C?

A: Company A must report on the basis of that information that is reasonably available to it. For example, in most cases Company A will be aware that Company C has operations in Country X, even though Company A is not aware of the operational details. Company A must report on Form 5713 that Company C has operations in Country X. Company A should also describe in a statement attached to Form 5713 the good faith efforts that it has made to obtain all the information required under section 999(a). Although each case must be resolved on the basis of the particular facts and circumstances, Company A will not be subject to the section 999(f) penalties for willful failure to provide information if it can demonstrate that it made good faith efforts to obtain the information but was denied the information by Company C.

A–19. Q: The facts are the same as in A–18 above except that Company A owns less than 50 percent of the stock of Company C, and Company C is not a controlled foreign corporation. What are the tax sanctions to which Company A will be subject?

A: Since Company C is neither a controlled foreign corporation nor a DISC, the sanctions of section 952(a)(3) and 995(b)(1)(F) are not relevant. However, Company A will be subject to the sanctions of section 908(a). Thus, if Company A applies an international boycott factor, that factor is applied to Company A's foreign tax credit in accordance with Answers F–5, N–1 and N–2. If Company A identifies specifically attributable taxes and income under section 999(c)(2), Company A will lose its section 902 indirect foreign tax credit for the taxes paid by Company C that Company A cannot demonstrate are attributable to specific operations in which there was no boycott participation or cooperation. (To determine whether Company A will lose its section 901 direct foreign tax credit for income tax withheld by Country X on dividends paid by Company C to Company A, see Answer N–3.)

A–20. Q: Individual G is a national of Country X, which is on the list maintained by the Secretary. G engages in an operation with Company C. For example, if Company C were a bank, the operation might involve a deposit by G, or, if Company C were an automobile dealer, the operation might involve the purchase of a car, or, if Company C were a stockbroker, the operation might involve the purchase or sale of a security, or if Company C were a hotel, the operation might involve the letting of a room. Irrespective of the specific nature of the operation, the agreement under which the operation is consummated is the same agreement that Company C requires of all other customers. Company C is aware of G's nationality, but participation in or cooperation with an international boycott is neither contemplated nor required as a condition of G's willingness to enter into the operation with Company C. Under section 999(a), what are the reporting obligations of Company C with respect to these operations?

A: In many business operations, there will be incidental contacts between the nationals or business enterprises of boycotting countries and persons from other countries. Company C's obligation to report these incidental contacts under section 999(a) will be waived provided that the contacts satisfy the following criteria:

1. All aspects of the operation contemplated by the parties are carried on outside a boycotting country; and

2. The operation does not contemplate any agreement which would constitute participation in or cooperation with an international boycott; and

3. No request for such an agreement is actually made or received by any party to the operation; and

4. There is no such agreement in connection with the operation; and

5. a. The operation does not involve the importation of property, funds or services from or produced in a boycotting country and Country C does not know or have reason to know that the property, funds or services will be used, consumed or disposed of in a boycotting country, or

b. The value of the property, funds or services furnished or obtained in the operation does not exceed $5,000.

The answer to the question would be the same if Company C were an individual or if G were a corporation.

A–21. Q: Individual G, a U.S. citizen, owns 15 percent of the stock of Company A. Company A has operations in Country X. Is Individual G required to report the operations of Company A?

A: An individual generally is not required to report the operations of a domestic corporation of which the individual is a shareholder. However, if Individual G controls (within the meaning of section 304(c)) Company A and if Individual G is required to report under section 999(a), then under section 999(e) Individual G must report whether Company A participated in or cooperated with an international boycott.

A–22. Q: Companies A, B, and C are all U.S. corporations reporting on a calendar year basis. Companies A, B, and C each had operations in Country X during the calendar year. From January 1 to June 1, Company A owned more than 50 percent of the stock of Company B. On June 1, Company C acquired more than 50 percent of the stock of Company B. What operations must be reflected in the Forms 5713 filed by Companies A, B, and C for the calendar year?

A: The Form 5713 filed by Company A must reflect the operations of Company A for the entire calendar year and the operations of Company B for the period January 1–May 31. The Form 5713 filed by Company C must reflect the operations of Company C for the entire calendar year and the operations of Company B for the period June 1–December 31. The Form 5713 filed by Company B must reflect the operations of Company B for the entire calendar year, the operations of Company A for the period January 1–May 31 and the operations of Company C for the period June 1–December 31. If the sale of stock had occurred during the first 30 days of the calendar year, the requirement that Company A report the operations of Company B and that Company B report the operations of Company A for the period of 30 days or less would be waived unless under Reg. § 1.1502–76(b)(5) Company B is included in the consolidated return filed by Company A for that period. The requirement that Company B report the operations of Company C, and that Company C report the operations of Company B, for that period of 30 days or less, would also be waived unless under Reg. § 1.1502–76(b)(5) Company B is included in the consolidated return filed by Company C for that period. Similarly, if the sale of stock had occurred during the last 30 days of the calendar year, the requirement that Company A report the operations of Company B and that Company B report the operations of Company A for the period of 30 days or less would be waived unless under Reg. § 1.1502–76(b)(5) Company B is included in the consolidated return filed by Company A for that period, and the requirement that Company B report the operations of Company C and that Company C report the operations of Company B for the period of 30 days or less would be waived unless under Reg. § 1.1502–76(b)(5) Company B is included in the consolidated return filed by Company C for that period.

A–23. Q: In 1977, Company A owns more than 50 percent of the stock of Company C, a foreign corporation that has operations in Country X that constitute participation in or cooperation with an international boycott. Companies A and C both report on a calendar year basis. Company C pays no dividend in 1977, but pays a dividend in 1978, a year in which neither Company A nor Company C has operations in any boycotting country. Company A claims a foreign tax credit under section 902 in 1978 in respect of the taxes paid by Company C. For which year, 1977 or 1978, must Company A report of the taxes paid by Company C. For which year are Company C's operations reflected in Company A's international boycott factor; and for which year is the sanction of section 908(a) applicable?

A: Company C's operations are reported by Company A and are reflected in Company A's international boycott factor for 1977. The operations of Company C during 1977 will not be reflected in Company A's Form 5713 or international boycott factor for 1978. However, if in 1978 Company A chooses to determine its loss of tax benefits using the specifically attributable taxes and income method described in section 999(c)(2), in 1978 Company A will lose that portion of the section 902 foreign tax credit specifically attributable to Company C's 1977 boycott operations. In this case, even though in 1978 Company A and Company C have no operations that are required to be reported by Company A on Form 5713, Company A must nevertheless file Form 5713 in 1978 (which will show no operations) and complete Schedules B and C to Form 5713, on which Company A will show the loss of the section 902 foreign tax credit attributable to Company C's boycott operations for 1977.

B. *Definition of "Operations".*

B–1. Q: Under what circumstances does a person have operations in, or related to, a boycotting country (or with the government, a company, or a national of that country)?

A: A person has operations in, or related to, a boycotting country (or with the government, a company, or a national of that country) if the operation in which it engages:

1. is carried on in whole or part in a boycotting country ("in a country");

2. is carried on outside a boycotting country either for or with the government, a company, or a national of a boycotting country ("with the government, a company, or a national of a country"); or

3. is carried on outside a boycotting country for the government, a company, or a national of a non-boycotting country if the person having the operation knows or has reason to know that the specific goods, services or funds produced by the operation are intended for use in a boycotting country or for the government, a company, a country or a national of a boycotting country ("related to a country").

The term "operation" encompasses all forms of business or commercial activities whether or not productive of income, including, but not limited to, selling; purchasing; leasing; licensing; banking, financing and similar activities; extracting; processing; manufacturing; producing; constructing; transporting; performing activities ancillary to the foregoing (e.g., contract negotiating, advertising, site selecting, etc.); and performing services, whether or not ancillary to the foregoing.

Operations described in principles 2 and 3 are illustrated in the following two examples:

(a) Company C engages in a joint venture manufacturing operation in a non-boycotting country with Company D, a company incorporated under the laws of Country X. Company C has operations "with" a company of a boycotting country.

(b) D, a national of a non-boycotting country has a contract to construct a dam in Country X. D subcontracts to Company C for the manufacture of a generator for the dam. The contract between D and Company C and the generator specifications indicate that the generator is for use in Country X. The contract specifies delivery of the generator to D f.o.b. New York. Company C has operations "related to" a boycotting country.

B–2. Q: Individual G is a U.S. citizen living in Country X. G is retired. G receives social security payments and a pension, but has no business activities. Does G have "operations" in, or related to, Country X?

A: No. G is not engaged in any business or commercial activities.

B–3. Q: Individual H is a U.S. citizen living in Country X and working there as an employee. H earns a salary and has passive investment income, but has no business in-

VOL 42 NO 159 AUG 17 77 UM

come. Does H have "operations" in or related to Country X?

A: No. The performance of personal services as an employee does not constitute an "operation."

C. Definition of "Reason To Know" Requirement of Boycott Participation.

C–1. Q: Under what circumstances, in the absence of a Treasury listing of a country under section 999(a)(3), will it be deemed under section 999(a)(1)(B) that a person knows or has reason to know that participation in or cooperation with an international boycott is required as a condition of doing business within such country or with the government, a company, or a national of such country?

A: A person will be deemed to know or have reason to know that a country requires participation in or cooperation with an international boycott as a condition of doing business within a country or with the government, a company, or a national of a country, if that person receives what could be interpreted as an official request of that country to participate in or cooperate with an international boycott or if that person knows that others have received such requests. Whether a request could be interpreted as an official request of a country depends on an analysis of the facts and circumstances surrounding the request. However, the request need not be made directly by a government official or representative in order to be interpreted as an official request. Thus, for example, assume that Company C has a contract with the government of a boycotting country to build a dam in that country and is required under the contract to require its subcontractors to agree to participate in or cooperate with the boycott. Assume further that Company C requires Subcontractor D to make such an agreement as a condition of receiving the subcontract to build a generator for the dam. Subcontractor D will be deemed to have reason to know that participation in or cooperation with an international boycott is a condition of doing business within the boycotting country or with the government, a company, or a national of such country.

D. Definition of "Clearly Separate and Identifiable Operations".

D–1. Q: If a person or a member of a controlled group (within the meaning of section 993(a)(3)) enters into an agreement that constitutes participation in or cooperation with an international boycott (within the meaning of section 999(b)(3)), what operations of that person or group will be considered to be operations in connection with which such participation or cooperation occurred?

A: All operations of that person or any member of that group in

(a) the country in connection with which the agreement is made; and

(b) any other country that requires participation in or cooperation with the boycott with respect to which the agreement is made

will be presumed to be operations in connection with which there was participation in or cooperation with an international boycott. (See, however, Answer D–4 for an exception to the presumption in the case of agreements that are unintentional and unauthorized and that relate to a minor aspect of an operation.)

This presumption may be rebutted, however, if the person (or, if applicable, the U.S. shareholder of a foreign corporation) or member of the group clearly demonstrates that a particular operation is a clearly separate and identifiable operation from the operation in connection with which the agreement was made, and that no agreement constituting participation in or cooperation with an international boycott was made in connection with such separate and identifiable operation.

The presumption of participation in or cooperation with the boycott will not apply with respect to operations outside the countries described in (a) and (b) above, but such operations will be considered to be operations in connection with which there was participation in or cooperation with an international boycott if so warranted by the facts.

D–2. Q: Who has the burden of proof of clearly demonstrating that a particular operation is a "clearly separate and identifiable operation" and that there was no participation in or cooperation with an international boycott in connection with that operation?

A: If a person or a member of a controlled group has participated in or cooperated with an international boycott in connection with one or more of its operations, that person (or, if applicable, the U.S. shareholder of a foreign corporation) or that group bears the burden of proof of clearly demonstrating that any other operation is clearly separate and identifiable from the operation in connection with which such participation or cooperation occurred and that no such participation or cooperation occured in connection with the separate and identifiable operation.

D–3. Q: How can a taxpayer determine what constitutes a "clearly separate and identifiable operation"?

A: The determination whether an operation constitutes a clearly separate and identifiable operation must be based on an examination of all the facts and circumstances. The following factors are among those that may be considered in determining whether an operation is clearly separate and identifiable from an operation in connection with which participation in or cooperation with an international boycott occurred:

1. Were the two operations conducted by different corporations, partnerships, or other business entities?

2. Were the operations, whether conducted by separate entities or not, supervised by different management personnel?

3. Did the operations involve distinctly different products or services?

4. Were the operations undertaken pursuant to separate and distinct contracts?

5. If business operations in the countries conducting the international boycott in question were not continuous over time, was each transaction separately negotiated and performed?

The factors listed above are not intended to represent all the factors that will be considered in determining whether an operation is a clearly separate and identifiable operation. Additional factors will be considered if so warranted by the facts. No relative weight is assigned to any specific factor; instead, the weight to be given to any factor will depend on the facts and circumstances of each individual case. In addition, a positive answer to all the listed factors will not necessarily result in a determination that an operation is a clearly separate and identifiable operation if other facts and circumstances suggest that the operation is not clearly separate and identifiable.

D–4. Q: Company C has operations in or related to Country X. In connection with a minor aspect of that operation, an employee of Company C enters into an unintentional and unauthorized boycott agreement. For example, a clerk of Company C signs an invoice for office supplies. On the reverse side of the invoice, a boycott clause is printed in fine print or in a foreign language. Will that agreement give rise to the presumption that all the operations of Company C in or related to a boycotting country are operations in connection with which there is participation in or cooperation with an international boycott?

A: No. An agreement to participate in or cooperate with an international boycott made in connection with a minor aspect of an operation will not taint the operations of Company C in or related to a boycotting country if the agreement was unintentional. Company C has not authorized the employee to agree to participate in or cooperate with the international boycott and Company C does not comply with the terms of the unauthorized boycott clause.

E. Effective Date Provisions.

E–1. Q: What are the effective dates of the reporting requirements and sanctions of the international boycott provisions?

A: Generally, the reporting requirements and the sanctions of the international boycott provisions apply to agreements to participate in or cooperate with an international boycott made after November 3, 1976, and to agreements made on or before November 3, 1976, that continue in effect thereafter. However, there are two exceptions to this general rule. First, the reporting requirements of section 999(a) apply to operations referred to in section 999(a)(1) or (2) after November 3, 1976, whether or not there has been an agreement to participate in or cooperate with an international boycott, and whether or not operations are carried out in accordance with the terms of a binding contract entered into before September 2, 1976. Operations on or before November 3, 1976, are reportable if there has been participation in or cooperation with the boycott during the taxable year after November 3, 1976 (see Answer E–2). Second, in the case of operations carried out in accordance with the terms of a binding contract entered into before September 2, 1976, the sanctions of the international boycott provisions apply only to agreements to participate in or cooperate with an international boycott made on or after September 2, 1976, and to agreements made before that date that continue in effect after December 31, 1977. More details concerning reporting requirements and the application of sanctions for years affected by the effective date of the international boycott provisions are contained in the instructions to Form 5713, in Temp. Regs. § 7.999–1 and in Proposed Regs. § 1.999–1.

E–2. Q: If a person who reports tax liability on a calendar year basis makes an agreement on November 20, 1976, to participate in or cooperate with an international boycott, which of that person's operations conducted during the taxable year are reportable, which operations are included in the international boycott factor calculations, and how are the sanctions applied?

A: All operations of the person during the entire 1976 taxable year (including pre-November 20, 1976, operations) in or related to a boycotting country or with the government, a company, or a national of such country must be reported under section 999(a) and will be considered in calculating the international boycott factor (or the amount of taxes or income specifically attributable to operations in which there was participation in or cooperation with an international boycott) for the taxable year. However, under section 999(c)(1), operations for which the presumption of participation in or cooperation with the boycott has been rebutted need not be reflected in the numerator of the international boycott factor (or under section 999(c)(2), the tax benefits specifically attributable to specific operations for which that presumption has been rebutted will not be denied). See also Temp. Regs. § 7.999–1 and Proposed Regs. § 1.999–1.

The sanctions are applied to the year 1976 on a pro rata basis. If a person uses the international boycott factor for 1976, the factor is applied under sections 908(a), 952(a)(3), and 995(b)(1)(F) after it has been multiplied by the fraction 58/366, representing the numbr of days after the November 3, 1976 effective date remaining during the calendar year. If a person identifies specifically attributable taxes and income, the tax benefits denied under sections 908(a), 952(a)(3), and 995(b)(1)(F) are computed by first ascertaining the tax benefits of the foreign tax credit, deferral, and DISC, respectively, for the taxable year attributable to operations for which the presumption of boycott participation has not been rebutted, and then multiplying those amounts by 58/366.

E–3. Q: If a person having a July 1–June 30 taxable year carries out operations in accordance with the terms of a binding contract entered into before September 2, 1976, and, in furtherance of that contract, makes an agreement on February 15, 1978, to participate in or cooperate with an international boycott, which of the person's operations conducted during the taxable year July 1, 1977–June 30, 1978 are reportable, which operations are included in the international boycott factor calculations, and how are the sanctions applied?

A: All operations of the person during the entire July 1, 1977–June 30, 1978 taxable year (including pre-February 15, 1978 operations) in or related to a boycotting country or with the government, a company, or a national of such country, must be reported under section 999(a) and will be considered in calculating the international boycott factor (or the amount of taxes or income specifically attributable to operations in which there was participation in or cooperation with an international boycott) for the taxable year. However, under section 999(c)(1) operations for which the presumption of participation in or cooperation with the boycott has been rebutted need not be reflected in the numerator of the international boycott factor, and, under section 999(c)(2), the tax benefits specifically attributable to specific operations for which that presumption has been rebutted will not be denied.

The sanctions are applied to the July 1, 1977–June 30, 1978 taxable year on a pro rata basis. If a person uses the international boycott factor for the taxable year, the factor is applied under sections 908(a), 952(a)(3), and 995(b)(1)(F) after it has been multiplied by the fraction 181/365, representing the number of days after the December 31, 1977 effective date remaining during the taxpayer's taxable year. (See also Temp. Regs. § 7.999–1 and Proposed Regs. § 1.999–1.) If a person identifies specifically attributable taxes and income, the benefits to be denied under sections 908(a), 952(a)(3), and 995(b)(1)(F) are computed by first ascertaining the tax benefits of the foreign tax credit, deferral, and DISC, respectively, for the taxable year attributable to operations for which the presumption of boycott participation has not been rebutted and then multiplying those amounts by 181/365.

E–4. Q: What is a binding contract for purposes of the binding contract rule?

A: A binding contract with respect to a person, a member of a controlled group that includes that person, or a foreign corporation of which that person is a United States shareholder is a contract that was, on September 1, 1976, and is at all times thereafter, binding on that person, foreign corporation or member, and under which all material terms are fixed or are ascertainable with reference to an objectively determinable standard.

E–5. Q: If, under a binding contract existing before September 2, 1976, a person made an agreement described in section 999(b)(3), will operations under the contract be subject to the international boycott provisions in years after 1977?

A: Yes, unless the person establishes that, before December 31, 1977, the agreement to participate in or cooperate with the boycott was renounced, the renunciation was communicated to the government or person with which the agreement was made, and the agreement was not reaffirmed after 1977.

E–6. Q: If, under a contract made in 1979, a person who reports tax liability on a calendar year basis makes an agreement described in section 999(b)(3), but does not comply with the agreement after 1980, will operations under the contract be subject to the international boycott provisions in years after 1980?

A: Yes, unless the person establishes that, before December 30, 1980, the agreement to participate in or cooperate with the boycott was renounced, the renunciation was communicated to the government or person with which the agreement was made, and the agreement was not reaffirmed after 1980.

E–7. Q: If, under a contract made after January 1, 1977, a person makes an agreement described in section 999(b)(3), and later renounces the agreement and communicates such renunciation to the government or person with which the agreement was made, which operations of such person during the taxable year of the renunciation are reportable, which operations are included in the international boycott factor calculations, and how are the sanctions to be applied?

A: All operations of the person during the entire taxable year within which the agreement was renounced (including post-renunciation operations) in or related to a boycotting country or with the government, a company, or a national of such country must be reported under section 999(a) and will be considered in calculating the international boycott factor (or the amount of taxes or income specifically attributable to operations in which there was participation in or cooperation with an international boycott) for the taxable year. However, under section 999(c)(1), operations for which the presumption of participation in or cooperation with the boycott has been rebutted need not be reflected in the numerator of the international boycott factor, and the tax benefits specifically attributable to specific operations for which such presumption has been rebutted will not be denied. There is no proration between the pre-renunciation and post-renunciation portions of the taxable year of either the boycott factor or the specifically attributable taxes and income.

E–8. Q: Before September 2, 1976, Company A entered into a binding contract that did not contain an agreement to boycott or by itself support an inference of the existence of an agreement to boycott. However, Company A's course of conduct in carrying out operations in accordance with the terms of the contract evidences that there is an implied agreement that constitutes participation in or cooperation with an international boycott. Will the sanctions of sections 908(a), 952(a)(3), and 995(b)(1)(F) be applied to such participation or cooperation that takes place prior to January 1, 1978 (see section 1066(a) of the Tax Reform Act of 1976)?

A: If the course of conduct from which the existence of the implied agreement was inferred took place before September 2, 1976, then the sanctions of sections 908(a), 952(a)(3), and 995(b)(1)(F) will not be applied to such participation in or cooperation with an international boycott that takes place prior to January 1, 1978. However, if the inference of the existence of the implied agreement would depend on conduct on or after September 2, 1976, then those sanctions will be applied to participation in or cooperation with the international boycott after November 3, 1976 (see section 1066(a)(1) of the Tax Reform Act of 1976).

E–9. Q: Company C entered into a binding contract prior to September 2, 1976 to manufacture and deliver equipment to a customer located in Country X. The contract requires Company C to use no components that are manufactured by blacklisted United States companies. The contract also requires that the vessel on which the equipment is shipped not be blacklisted. On January 15, 1977, Company C is able to have the contract amended to eliminate the requirement regarding components, but is unable to secure any change regarding vessels. Will the amendment regarding components remove the binding contract protection otherwise afforded until December 31, 1977 that Company C has regarding vessels?

A: No. Since Company C could have waited to abrogate or renegotiate its contract until the end of 1977 and since it is in accord with the legislative purpose for Company C to accelerate elimination of the provision regarding components, it will remain protected until December 31, 1977 from the consequences of its continuing to refrain from shipping the goods on blacklisted vessels.

E–10. Q: If before December 31, 1977 a person carries out several different operations in boycotting countries and the only operation of that person that constitutes participation in or cooperation with an international boycott is carried out in accordance with the terms of a binding contract entered into before September 2, 1976, will the existence of that one boycotting operation trigger the section 999(b)(1) presumption that the other operations of that person in boycotting countries are also operations in connection with which boycott participation or cooperation occurred?

A: No. Operations carried out before December 31, 1977, in accordance with the terms of a binding contract entered into before September 2, 1976, will not trigger the section 999(b)(1) presumption.

E–11. Q: Are operations of a person that constitute participation in or cooperation with an international boycott factor reflected in the numerator of a person's international boycott factor before December 31, 1977 if those operations are carried out in accordance with the terms of a binding contract entered into before September 2, 1976?

A: No. Boycotting operations carried out before December 31, 1977 in accordance with the terms of a binding contract entered into before September 2, 1976 are not reflected in the numerator of the international boycott factor. They are reflected in the denominator, however. See Temp. Regs. § 7.999–1 and Proposed Regs. § 1.999–1.

E–12. Q: On June 30, 1976, Company A, a domestic corporation that reports its operations on a calendar basis, disposed of all of its stock in Company C, a foreign corporation. Will Company A be required to report any operations, requests or participation or cooperation of Company C for calendar year 1976? Will the operations of Company C be included in Company A's international boycott factor for 1976?

A: No. Since Company A did not own any stock of Company C after the effective date of the boycott provisions, Company A is not required to report any operations, requests or participation or cooperation of Company C in 1976 and will exclude Company C's op-

erations from its international boycott factor computations.

E–13. Q: Are operations, requests or participation in or cooperation with an international boycott of a person for that person's taxable year that ends before November 4, 1976 required to be reported, either by that person or by any other person?

A: No, operations, requests and participation in or cooperation with an international boycott of a person for that person's taxable year that ends before November 4, 1976 need not be reported by any person. However, as stated in Answers E–1 and E–2, operations, requests and participation in or cooperation with an international boycott occurring or received before November 4, 1976 during a taxable year that ends on or after that date are reportable if there has been participation in or cooperation with an international boycott during that taxable year but on or after that date.

F. *International Boycott Factor.*

F–1. Q: How is the international boycott factor computed?

A: Section 999(c)(1) provides that the international boycott factor is determined under regulations prescribed by the Secretary. The international boycott factor is a fraction, the numerator of which reflects the boycotting operations of a person (or group) in or related to countries associated in carrying out the international boycott and the denominator of which reflects the person's (or group's) worldwide foreign operations. Temporary and proposed regulations setting forth the method of determining the international boycott factor were issued in February, 1977. See Temp. Regs. § 7.999–1 and Proposed Regs. § 1.999–1.

F–2. Q: In the case of a controlled group (within the meaning of section 993(a)(3)) is a single international boycott factor computed for the entire group?

A: Yes. All members of a controlled group share a single, common international boycott factor which reflects the operations of all members of the controlled group.

F–3. Q: Once an international boycott factor has been computed for a controlled group (within the meaning of section 993(a)(3)), how is the factor applied to individual members of the group?

A: The international boycott factor of a controlled group is applied separately under sections 908(a), 952(a)(3), and 995(b)(1)(F) to each individual member of the controlled group.

F–4. Q: If a person applies the international boycott factor to some operations during the taxable year, must the factor be applied to all operations of that person for the taxable year?

A: Yes. If a person applies the international boycott factor to one operation during the taxable year, the factor must be applied to all operations during the taxable year under each of sections 908(a), 952(a)(3), and 995(b)(1)(F). If a person identifies specifically attributable taxes and income under section 999(c)(2), that method must be applied to all operations during the taxable year and must be applied under each of sections 908(a), 952(a)(3), and 995(b)(1)(F).

F–5. Q: In the case of a controlled group (within the meaning of section 993(a)(3)), may one member use the international boycott factor under section 999(c)(1) and another member identify specifically attributable taxes and income under section 999(c)(2)?

A: Yes. Each member may independently choose either to apply the international boycott factor under section 999(c)(1) or to identify specifically attributable taxes and income under section 999(c)(2). The method chosen by each member for determining the loss of tax benefits must be applied consistently to determine all loss of tax benefits of that member. For example, if one member of a controlled group, Company A, chooses to use the international boycott factor, then it must apply the international boycott factor to determine its loss of the section 902 indirect foreign tax credit in respect of a dividend paid to it by another member of the controlled group, Company C, even if Company C determines its loss of tax benefits by identifying specifically attributable taxes and income. Company A would also determine the amount deemed distributed to it under sections 995(b)(1)(F) and 952(a)(3) by applying its international boycott factor to the otherwise deferrable earnings of its DISCS or controlled foreign corporations. In addition, if an affiliated group of corporations files a consolidated return, then the affiliated group must determine its loss of tax benefits either by applying the international boycott factor to the consolidated return, or by having each member determine its loss of tax benefits by identifying specifically attributable taxes and income.

F–6. Q: If a person chooses to determine its loss of tax benefits by applying the specifically attributable taxes and income method set forth in section 999(c)(2), may it demonstrate the amount of foreign taxes paid and income earned attributable to the specific operations by applying an overall effective rate of foreign taxes and an overall profit margin to each operation?

A: No. A person must clearly demonstrate foreign taxes paid and income earned attributable to specific operations by performing an in-depth analysis of the profit and loss data of each separate and identifiable operation. The principles of Regs. § 1.861–8 are applicable in determining income and taxes attributable to specific operations.

F–7. Q: A United States partnership has operations in a boycotting country. Is the international boycott factor computed at the partnership level?

A: No. The international boycott factor is computed separately by each partner based on information submitted by the partnership and on other activities of that partner. Of course, if the partner can meet the conditions of section 999(c)(2) of the Code, he need not use the international boycott factor.

F–8. Q: A person desires to determine its loss of tax benefits by applying the specifically attributable taxes and income method set forth in section 999(c)(2). That person is able to clearly demonstrate that a specified portion of its operations in or related to a boycotting country constitute clearly separate and identifiable operations in connection with which there was no participation in or cooperation with an international boycott. That person is also able to clearly demonstrate the taxes and income attributable to those operations. With respect to the remainder of its operations in or related to a boycotting country, that person is either unable to clearly demonstrate clearly separate and identifiable operations in connection with which there was no participation in or cooperation with an international boycott or to identify taxes and income specifically attributable to operations in connection with which there was such participation or cooperation. Under these facts, will that person be required to determine its loss of tax benefits by applying the international boycott factor?

A: No. That person may compute its loss of tax benefits by applying the specifically attributable taxes and income method if it forfeits the benefits of deferral, DISC and the foreign tax credit attributable to:

1. the portion of its operations for which it can determine taxes and income specifically attributable to separate and identifiable operations in connection with which there was participation in or cooperation with an international boycott, and

2. the remaining portion of its operations for which it cannot demonstrate that the taxes and income are specifically attributable to separate and identifiable operations in connection with which there was no participation in or cooperation with an international boycott.

F–9. Q: If a person chooses to compute its loss of tax benefits in one year by applying the international boycott factor, may that person compute its loss of tax benefits in another year using the specifically attributable taxes and income method?

A: Yes. The election to use the international boycott factor or the specifically attributable taxes and income method is an annual election. The election is made by completing the appropriate Schedule A or B to Form 5713.

F–10. Q: In 1978 a person computes its loss of tax benefits using the international boycott factor. On audit, it is determined that adjustments are to be made to the international boycott factor. May that person then recompute its loss of tax benefits for 1978 using the specifically attributable taxes and income method?

A: Yes. A person may change its method of computing loss of tax benefits under the international boycott provisions at any time for any open taxable year.

G. *Determinations.*

G–1. Q: What degree of confidentiality will determinations, and requests for determinations, under section 999(d) receive?

A: A determination under section 999(d) will be treated as a "written determination" within the meaning of section 6110(b)(1). Therefore the determination and any background file document related thereto will be subject to public inspection in accordance with the rules set forth in section 6110, and subject to the deletions set forth in section 6110(c).

G–2. Q: What procedures are applicable to requests for, and the issuance of, determinations under section 999(d)?

A: The procedures applicable to requests for, and the issuance of, determinations under section 999(d) are set forth in Revenue Procedure 77–9, 1977–10 IRB 12.

H. *Definition of an Agreement to Participate in or Cooperate with a Boycott (section 999(b)(3)).*

H–1. Q: Company C, a trading company, signs a contract with Country X to export goods to Country X. The contract contains a clause requiring Company C not to obtain any of the goods from any person blacklisted by Country X. Does Company C's entering into the contract constitute an agreement according to section 999(b)(3)?

A: Generally, entering into a written or oral agreement that includes a provision requiring a person to refrain from doing business with a person blacklisted by Country X (or by a group of countries associated with Country X in carrying out an international boycott directed against Country Y) constitutes participation in or cooperation with an international boycott within the meaning of section 999(b)(3). Blacklists are normally maintained to provide a convenient list of persons that engage in business with Country Y or engage in other activities that are inconsistent with the boycott. Thus, reference in an agreement to "a blacklist" can normally be assumed to be to such a list.

However, entering into the agreement does not constitute participation in or cooperation with an international boycott if it is established that the blacklist is maintained for reasons other than furtherance of the boycott or if it is established that no person on the blacklist is either (1) blacklisted because it is the government, a company or a national of Country Y or because its ownership, management or directors is made up

of individuals of a particular nationality, race or religion or (2) a U.S. person blacklisted because it is engaged in trade with Country Y or with the government, a company or a national of Country Y.

H–2. Q: During the course of negotiations concerning a contract for the export of goods to Country X, Company C, a trading company, and Country X agree orally that Company C will not purchase any of the goods from any company included on a blacklist shown to Company C's representatives. They also agree that this agreement will not be reflected in the written contract for the export of the goods or in any other writing. Does the oral understanding between Company C and Country X constitute an agreement according to section 999(b)(3)?

A: Generally, yes. See Answer H–1.

H–3. Q: Company C signs a contract with Country X to construct an industrial plant in Country X. The contract states that the laws, regulations, requirements or administrative practices of Country X will apply to Company C's performance of the contract in Country X. The laws, regulations, requirements or administrative practices of Country X prohibit the importation into Country X of goods manufactured by any company engaged in trade in Country Y or with the government, companies or nationals of Country Y. Does Company C's action constitute an agreement according to section 999(b)(3)?

A: No, The existence of an agreement will not be inferred solely from the inclusion in a contract of a provision stating that the laws, regulations, requirements or administrative practices will apply to the performance of the contract in that country. However, a course of conduct of complying with such laws, regulations, requirements or administrative practices may evidence such an agreement.

H–4. Q: The facts are the same as those in Question H–3, except that the contract states that Company C will comply with the laws, regulations, requirements or administrative practices of Country X in its performance of the contract in Country X. Does Company C's action constitute an agreement according to section 999(b)(3)?

A: Yes. Entering into a contract that requires compliance with the laws, regulations, requirements or administrative practices of Country X constitutes an agreement according to section 999(b)(3), if some of those laws prohibit the importation into Country X of goods manufactured by any company engaged in trade in Country Y or with the government, companies or nationals of Country Y.

H–5. Q: Company C, a trading company, signs a contract with Country X to export goods to Country X. The contract contains no clause concerning a boycott, nor does it require Company C to comply with the laws, regulations, requirements or administrative practices of Country X, which, among other things, prohibit the importation into Country X of goods manufactured by persons engaged in trade in Country Y. Company C does not purchase any goods with which to fulfill its obligations under the contract from any U.S. company engaged in trade in Country Y or with the government, companies or nationals of Country Y. Does Company C's action constitute an agreement according to section 999(b)(3)?

A: Where there is no express agreement, the existence of an agreement will not be inferred solely from the fact that Company C has not, consistent with the laws, regulations, requirements or administrative practices of Country X, purchased goods with which to fulfill its obligations under the contract from any U.S. company engaged in trade in Country Y or with the government, companies or nationals of Country Y. However, the fact that Company C has not purchased goods manufactured by persons engaged in trade in Country Y suggests that Company C has entered into such an agreement. Thus, Company C's course of conduct pursuant to its contract with Country X is evidence that, together with other evidence, could be sufficient to establish an implied agreement unless Company A could show to the contrary. An example of other sufficient evidence is proof that Company C had in the past purchased goods from persons engaged in trade in Country Y but such purchases were reduced in volume or brought to a halt following the execution of the contract. An example of proof to the contrary is proof that the reduction in purchases from persons engaged in trade in Country Y was attributable to valid business reasons apart from the boycott.

H–6. Q: Questions and Answers H–1, H–2, H–4, and H–5 all involve contracts for the export of goods by Company C to Country X and either an explicit agreement, or an inferred agreement, by Company C to refrain from doing business with companies that are blacklisted by Country X. The issue of whether an agreement exists for purposes of section 999(b)(3) would be resolved in the same way as in each of the answers above were the contract for (a) the supply of services to Country X or (b) a construction project in Country X.

A: No, The existence of an agreement will not be inferred solely from the inclusion in a contract of a provision stating that the laws, regulations, requirements or administrative practices will apply to the performance of the contract in that country. However, a course of conduct of complying with such laws, regulations, requirements or administrative practices may evidence such an agreement.

H–7. Q: (a) Company C incorporates a subsidiary in Country X. In the documents submitted by Company A relating to the incorporation of the subsidiary there is a general acknowledgement that the subsidiary is subject to the laws, regulations, requirements and administrative practices of Country X.

(b) Company C establishes a branch in Country X. In the documents relating to its registration of the branch there is a general acknowledgement that the laws, regulations, requirements and administrative practices of Country X apply to the branch.

Included in the laws, regulations, requirements or administrative practices of Country X is a requirement that companies incorporated in Country X and branches registered in Country X refrain from doing business with any person engaged in trade in Country Y. Does either the acknowledgement of the subsidiary or the undertaking of the branch constitute an agreement by Company C for purposes of section 999(b)(3)?

A: The mere acknowledgement in incorporation or registration documents of the general applicability of the laws of a boycotting country will not support the inference of the existence of an agreement under section 999(b)(3). However, a course of conduct of complying with such laws, regulations, requirements or administrative practices may evidence such an agreement. In addition, if the incorporation or registration documents state that the subsidiary or branch will comply with the laws, rules, regulations, requirements or administrative practices, there is an agreement according to section 999(b)(3).

H–8. Q: Company C, a trading company, signs a contract with Country X to export goods to Country X. The contract contains no clause concerning a boycott, nor does it require the contract to be carried out in accordance with the laws, regulations, requirements or administrative practices of Country X, which prohibit the importation into Country X of goods manufactured by persons engaged in trade with Country Y. Payment is made by means of a letter of credit that requires, as a condition of payment, that Company C provide Bank D with a certificate that the goods were not manufactured by a person blacklisted by Country X. Company C provides the required certificate to Bank D. Does Company C's action constitute an agreement according to section 999(b)(3)?

A: Generally, yes. See Answer H–1. The terms of the letter of credit are part of the agreement entered into by Company C.

H–9. Q: Company C signs a contract with Country X to carry out a construction project in Country X. The contract says nothing about the nationality, race or religion of the individuals who are to be employed to carry out the contract within Country X. However, Company C is aware that the laws, regulations, requirements or administrative practices of Country X may prohibit the issuance of visas by Country X to individuals of religion R to work on projects in that country. Company C excludes from consideration for employment individuals of that religion to work on the project in Country X. Does Company C's action constitute an agreement according to section 999(b)(3)?

A: In the absence of an express agreement, the existence of an agreement normally will not be inferred solely from the fact that a person's action is apparently consistent with the boycott requirements of Country X, although such action may evidence the existence of an agreement. However, since Company C's action in excluding from employment consideration individuals of religion R violates other statutes and since it is highly unlikely that that there are valid business reasons for such action, an agreement under section 999(b)(3) will be inferred unless Company C can establish that such action was not related to the boycott requirements. It would be unusual if Company C were able to establish that such action were not related to the boycott requirements.

H–10. Q: Company C signs a contract for a construction project with Country X. The contract says nothing about the nationality, race or religion of the individuals who are to be employed to carry out the contract within Country X. However, Company C is aware that the laws, regulations, requirements or administrative practices of country X may prohibit the issuance of visas to individuals of religion R. Company C, in recruiting people for the project, informs all applicants that if they cannot obtain a visa to enter Country X, their employment will be terminated. It employs several individuals of religion R who are unsuccessful in obtaining visas and whose employment is subsequently terminated. Does Company C's action constitute an agreement according to section 999(b)(3)?

A: No. Company C has not refrained from employing individuals of religion R for the project. The existence of an agreement to refrain from employing individuals of Religion R will not be inferred from Company C's action.

H–11. Q: The facts are the same as those in Question H–10, except that Company C makes its employment contracts with all individuals for work on the project subject to the condition that they obtain visas from Country X that will permit them to work in Country X. Few, if any, individuals of religion R to whom Company C offers employment in Country X are successful in obtaining visas. Does such action by Company C constitute an agreement according to section 999(b)(3)?

A: No. Company C has offered employment to all individuals who are able to obtain visas. If an individual is unable to obtain a visa, it is due to the requirements of

Country X. The existence of an agreement by Company C will not be inferred from Company C's action.

H–12. Q: The facts are the same as those in Question H–10, except that no individuals of Religion R are willing to except employment on the terms offered by Company C. Does such action by Company C constitute an agreement according to section 999(b)(3)?

A: No, for the reasons given in Answer H–10.

H–13. Q: Company C signs a contract with Country X to carry out a construction project in Country X. The contract says nothing about who may or may not be a subcontractor to do certain work in Country X other than that Country X has the right to prior approval of any subcontractors. Does Company C's action constitute an agreement according to section 999(b)(3)?

A: The contract provision given the project owner a right of prior approval does not itself constitute an agreement according to section 999(b)(3). However, the provision may be evidence which, together with other evidence, could be sufficient to establish the existence of an implied agreement, unless Company C could show to the contrary. There may be valid business reasons for the provision apart from the boycott. On the other hand, the provision may be merely a subterfuge for Company C's cooperation in the exclusion of subcontractors that are engaged in trade in Country Y.

H–14. Q: Company C signs a contract with Country X to carry out a construction project in Country X. The contract specifies a number of permissible subcontractors. All the subcontractors, in the view of Company C, are capable of carrying out the work, but none of them appears on a list of companies that are blacklisted by Country X. Company C has previously done business with each of the specified companies, but it has also done business with certain of the blacklisted companies with which it has had satisfactory relations. Does Company C's action constitute an agreement according to section 999(b)(3)?

A: By entering into a contract that on its face indicates a pattern of exclusion of certain companies, including companies with which Company C has no particular reason not to do business, it would appear that Company C has agreed to refrain from doing business with the boycotted companies, unless Company C is able to show that the boycotted companies were not included on the list for reasons not related to the boycott. See Answer H–1.

H–15. Q: Company C signs a contract with Country X to carry out a construction project in Country X. The contract provides that Country X is to engage all the subcontractors that are to be engaged from outside Country X but that are to perform all or part of their services in Country X. Company C, however, is given the right to disapprove any company that Country X proposes to engage for a subcontract. While the contract is being carried out, none of the companies that Country X proposes to prequalify or invite to bid are included on a list of companies blacklisted by Country X. Does Company C's action constitute an agreement according to section 999(b)(3)?

A: Under the language of the contract, Company C has not agreed to refrain from doing business with companies that are on the blacklist. The contract moreover does not give Company C the right to select subcontractors other than those nominated by Country X. Therefore, Company C's action does not constitute an agreement according to section 999(b)(3). Nevertheless, an agreement may be inferred if Company C cooperates in the exclusion of blacklisted subcontractors. See Answer H–13.

H–16. Q: Company C signs a contract for a construction project with Country X. The contract states that any disputes arising under the contract will be resolved in accordance with Country X's laws. The laws of Country X contain boycott provisions. Does Company C's action constitute an agreement according to section 999(b)(3)?

A: No. The provision that disputes will be resolved in accordance with Country X's laws does not constitute Company C's agreement to comply with Country X's boycott laws with respect to the carrying out of the contract.

H–17. Q: Company C receives an inquiry from Country X about certain goods that Company C manufacturers. The inquiry also requests Company C to furnish information about the following matters: whether it does business with Country Y and whether it does business with any United States person engaged in trade in Country Y. Company C furnishes the requested information to Country X. Later Company C signs a contract with Country X to export goods to Country X. Does Company C's action constitute an agreement according to section 999(b)(3)?

A: By furnishing such information Company C has not agreed to take any action, as a condition of doing business with Country X, that is described in section 999(b)(3). Nevertheless, the furnishing of such information is suspect and, when combined with a course of conduct that is consistent with an agreement to participate in or cooperate with an international boycott, will support an inference that such an agreement exists.

H–18. Q: Company C, a trading company, signs a contract with Country X to export goods to Country X. The contract contains a clause requiring Company C not to obtain any of the goods from any company blacklisted by Country X. Company C, however, purchases some of the goods from one of the listed companies. Does Company C's entering into this contract constitute an agreement according to section 999(b)(3)?

A: Generally, entering into a written contract that includes a provision requiring Company C to refrain from doing business with a person blacklisted by Country X constitutes participation in or cooperation with an international boycott within the meaning of section 999(b)(3), even if Company C, fully or partially, does not abide by the boycott provisions. See Answer H–1.

H–19. Q: Company C signs a contract with Country X to export goods to Country X. Included in the contract is a provision that Company C will refrain from doing business with Country Y. Company C has done considerable business with Country Y in the past, but soon after it concludes that contract with Country X its distributor in Country Y, learning of the contract with Country X, refuses to continue to handle Company C's products and Company C tries but is unable to conclude any other satisfactory distribution arrangement in Country Y. Does Company C's entering into this contract constitute an agreement according to section 999(b)(3)?

A: Yes. Entering into an agreement to refrain from doing business with a boycotted country constitutes participation in or cooperation with an international boycott within the meaning of section 999(b)(3)(A)(i), even if Company C does not abide by, or intend to abide by, the terms of the agreement.

H–20. Q: Company C has been unable to do business with Country X because Company C has been on a blacklist of companies maintained by an organization of countries to which Country X belongs. Company A agrees, as a condition of being removed from the list, to refrain from doing business with Country Y. Does Company C's agreement constitute an agreement according to section 999(b)(3)?

A: Yes. Even though Company C has not yet entered into a contract to do business with any boycotting country, it has agreed, as a condition for being in a position to do business with one or more of the countries maintaining the blacklist, to refrain from doing business with Country Y. This action constitutes an agreement according to section 999(b)(3)(A)(i).

H–21. Q: The facts are the same as those in Question H–20, except that Company C does several different types of business with Country Y. It is requested to, and agrees to, refrain from doing only one of those types of business with Country Y, and in fact continues to do the other types of business with Country Y. Does Company C's agreement constitute an agreement according to section 999(b)(3)?

A: Yes. An agreement to refrain from some, but not all, business with a boycotted country constitutes an agreement according to section 999(b)(3)(A)(i). Answer H–20 is also relevant to this context.

H–22. Q: Company C is doing business in Country X. It contracts with Company D, which is not related to Company C, for Company D to build an office building for Company C's use in Country X. In the course of constructing the building, Company D participates in or cooperates with an international boycott imposed by Country X. Does Company C's actions constitute an agreement according to section 999(b)(3)?

A: Unless Company C directs or requires Company D to take action that constitutes participation in or cooperation with the boycott by Company D, or unless Company C's relationship with Company D is established to facilitate participation in or cooperation with the boycott, Company D's action will not be attributable to Company C under section 999(b)(3), and Company C will not be deemed to be participating in or cooperating with an international boycott.

H–23. Q: Company C signs a contract with Country X for the export of goods to Country X. The contract does not contain any provisions as to which ships should be used for shipping the goods to Country X or which insurance companies should be used. The laws, regulations, requirements, or administrative practices of Country X do not permit the importation of goods carried on a ship owned by, or insured by, companies that trade in Country Y. Company C is aware of this requirement and ships the goods on the ships of a company, and insures the goods with a company, that does not trade in Country Y. Does Company C's action constitute an agreement according to section 999(b)(3)?

A: As indicated by Answer H–5, the existence of an agreement will not be inferred solely from the fact that Company C ships its goods on ships of, or insures the goods with, a company that does not trade in Country Y. However, those facts, together with additional facts, may be sufficient to establish that such an agreement exists.

H–24. Q: Company C is competing for an industrial plant construction contract for which Country X is inviting international tenders. The tender documents contain a provision to the effect that Country X will not enter into the contract unless the successful tenderer certifies that in carrying out the contract it will refrain from doing business with companies blacklisted by Country X. Company C does not win the tendering, but in its tender it has indicated that it will sign a contract, in the form indicated in the tender documents, and has given Country X a tender bond to that effect. Does Company C's action constitute an agreement according to section 999(b)(3)?

A: Since its offer was not accepted, Company C has not entered into any agreement to refrain from doing business with the blacklisted companies that would constitute participation in or cooperation with an international boycott. Nevertheless, Company C's stated willingness to cooperate with Country X's boycott will be contributing factor in establishing a course of conduct from which to infer the existence of an agreement in other transactions between Company C and Country X.

H–25. Q: Company C successfully prequalifies to tender for a contract for the construction of an industrial plant that will be owned by Country X. At the time it attempts to prequalify, Company C is required to state that it understands that the successful tenderer for the contract will have to agree not to do business in connection with the project with any company blacklisted by Country X or with the government, companies or nationals of Country Y. After it prequalifies, Company C decides not to tender for the contract. Does Company C's action constitute an agreement according to section 999(b)(3)?

A: Since Company C did not tender, it did not enter into an agreement to refrain from doing business with the blacklisted companies. Thus, there was no agreement that would constitute participation in or cooperation with an international boycott. Nevertheless, Company C's stated willingness to cooperate with Country X's boycott will be a contributing factor in establishing a course of conduct from which to infer the existence of an agreement in other transactions between Company C and Country X.

H–26. Q: Company C competes for an industrial plant construction contract for which Country X is inviting international tenders. The tender documents contain a provision to the effect that Country X will not enter into a contract unless the successful tenderer certifies that in carrying out the contract it will refrain from doing business with any company blacklisted by Country X. Company C wins the tender and successfully convinces Country X that the boycott clause should be deleted from the final contract. Does Company C's action constitute an agreement according to section 999(b)(3)?

A: No. Company C's success in deleting the boycott clause from the final contract refutes the provision of the tender documents that would have required Company C to agree to participate in or cooperate with an international boycott according to section 999(b)(3). However, if the deletion of the boycott clause is not accomplished in good faith or is a subterfuge to mask an unstated understanding to participate in or cooperate with an international boycott, the existence of an agreement will be inferred.

H–27. Q: Company A charters a vessel to Company C to be used by Company C in carrying its goods to Country X. Company C, at the request of Company A, agrees in the charter agreement not to take any action with respect to, or issue any orders to, the vessel that would result in limiting the vessel's ability to call at ports in Country X or subject the vessel to arrest or confiscation in Country X. Does the action of Company C constitute participation in or cooperation with an international boycott according to section 999(b)(3)?

A: No. In the agreement, Company C has not agreed to refrain from taking any of the actions enumerated in section 999(b)(3) as a condition of doing business directly or indirectly within a boycotting country or with the government, a company, or a national of a boycotting country.

H–28. Q: Company A charters a vessel to Company C to be used by Company C in carrying its goods to or from specifically named ports, or a range of ports within a specified geographical area. Company A and Company C agree on a charter agreement which would, in effect, preclude that vessel from calling at a number of countries, including Country Y. Does the action of Company C constitute participation in or cooperation with an international boycott under section 999(b)(3)?

A: No. In the agreement, Company C has not agreed to refrain from taking any of the actions enumerated in section 999(b)(3) as a condition of doing business directly or indirectly within a boycotting country or with the government, a company or a national of a boycotting country.

H–29. Q: Company A signs a contract with Country X for the export of goods to Country X. The contract provides that Company A will not trade in Country Y, and that payment will be made by means of a letter of credit confirmed by Bank C in the United States. The letter of credit requires Company A to provide to Bank C a certificate that it has not engaged in trade with Country Y before it can be paid by Bank C. Bank C confirms the letter of credit and later makes payment to Company A after determining that all documents, including the boycott certificate, are in order. Does Bank C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)?

A: Yes. Bank C's action constitutes an agreement by it to refrain from doing business with a United States person (Company A) engaged in trade with Country Y. Therefore Bank C's action constitutes participation in or cooperation with an international boycott according to section 999(b)(3)(A)(ii). (Company A's action constitutes participation in or cooperation with an international boycott by Company A according to section 999(b)(3)(A)(i).)

H–30. Q: Company C signs a contract with Country X for the supply of goods. The contract provides that Company C will not trade with Country Y, and that payment will be made by means of a letter of credit confirmed by Bank D in the United States provided that Bank D certifies to Country X that it will not confirm letters of credit relating to the export of goods to Country Y. Bank D confirms the letter of credit, after issuing the requested certificate. Does Bank D's action constitute participation in or cooperation with an international boycott under section 999(b)(3)?

A: Yes. Bank D has agreed to refrain from doing business with or in Country Y, or with the government, companies or nationals of Country Y, and with U.S. persons engaged in trade in Country Y or with the government, companies or nationals of Country Y. This action constitutes participation in or cooperation with an international boycott according to section 999(b)(3)(A)(i) and (ii).

H–31. Q: Company C signs a contract with Country X for the export of goods to Country X. The contract, consistent with the laws of Country X, provides that the goods may not be produced in whole or in part in Country Y or contain any parts, raw materials or labor originating in Country Y. The contract also provides that payment will be made by means of a letter of credit confirmed by Bank D. The letter of credit requires Company C to provide to Bank D a certificate that the goods were not produced in whole or in part in Country Y and contain no parts, raw materials or labor originating in Country Y before it can be paid by Bank D. Bank D confirms the letter of credit and later makes payment to Company C after determining that all documents, including the certificate, are in order. Does Bank D's action constitute a participation in or cooperation with an international boycott under section 999(b)(3)?

A: No. Bank D's action constitutes an agreement to comply with a prohibition on the importation of goods produced in whole or in part in a country that is the object of an international boycott. Therefore Bank D's action, according to section 999(b)(4)(B), does not constitute participation in or cooperation with an international boycott. (Similarly, Company C's action does not constitute participation in or cooperation with an international boycott. See Answer I–1.)

H–32. Q: Company C, a trading company, signs a contract with Country X to export goods to Country X. The contract contains no clause concerning a boycott, nor does it require the contract to be carried out in accordance with the laws, regulations, requirements or administrative practices of Country X, which prohibit the importation into Country X of goods manufactured by persons engaged in trade with Country Y and which require import licenses. In order to obtain an import license, Company C provides a certificate indicating that the goods were not manufactured by a person engaged in trade in Country Y or with the government, companies or nationals of Country Y. Does Company C's action constitute an agreement according to section 999(b)(3)?

A: No. The signing (at the time of import) of a certification as to content, which is required to obtain an import license, does not by itself constitute an agreement. However, a course of conduct of providing such certificates may, along with other factors, be evidence of the existence of an agreement according to section 999(b)(3)(A)(ii).

I. *Refraining from Doing Business with or in a Boycotted Country (section 999(b)(3)(A)(i)).*

I–1. Q: Company C signs a contract with Country X for the export of certain goods to Country X. In that contract, consistent with the laws of Country X, there is a provision that none of the goods to be provided thereunder shall be produced in whole or in part in Country Y or contain any parts, raw materials or labor from Country Y. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(i)?

A: No. Company C in entering into such a contract is complying with the prohibition by Country X on the importation of goods produced in whole or in part in any country which is the object of an international boycott. Such action, according to section 999(b)(4)(B), does not constitute participation in or cooperation with an international boycott.

I–2. Q: Company C owns a number of ships. It understands that if one of its ships visits Country Y, that ship will thereafter be unable to visit Country X. Company C has some ships which visit Country Y but not Country X and other ships which visit Country X but not Country Y. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(i)?

A: No. Company C has not agreed to refrain from doing business with Country Y. Therefore Company C's action does not constitute participation in or cooperation with an international boycott according to section 999(b)(3)(A)(i).

I–3. Q: Company C signs a contract with Country X, licensing a company in Country X to use certain of its patents and trademarks in Country X. The contract provides that Company C will not enter into an agreement with any national of Country Y with respect to the use in Country Y of patents and trademarks. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(1)?

A: Yes. Company C has agreed to refrain from doing business with any national of Country Y and such action constitutes participation in or cooperation with an international boycott according to section 999(b)(3)(A)(1).

I–4. Q: The facts are the same as in Question I–3, except that Company C has a number of other licensing agreements with Country Y and enters into still more such agreements after it signs the contract with Country X. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(1)?

A: Yes, for the same reasons as stated in Answer I–3 above. Answer H–18 is relevant in this context.

I–5. Q: Company C signs a contract with Country X to export some products from Country X. The contract, consistent with the laws of Country X, requires Company C to certify that the goods will not be sent to Country Y. Company A so certifies. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(1)?

A: No. Company C's compliance with Country X's prohibition on the exportation of products of Country X to Country Y does not constitute participation in or cooperation with an international boycott, according to section 999(b)(4)(C).

I–6. Q: Company C signs a contract with Country X for the export of goods to Country X. In the contract there is a provision that no capital of Country Y origin will be used in the production or manufacturing of the goods. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(1)?

A: Yes. Under the terms of the agreement Company C has agreed to refrain from doing business with the government, a company or a national of Country Y.

I–7. Q: Company C enters into a contract with Country X for the manufacture and sale of goods and the provision of customer support services. The contract provides that Company C may assign its rights and obligations under the contract. The contract further provides that the rights and obligations cannot be assigned to a company incorporated under the laws of Country Y without the express approval of Country X. There is no similar requirement with respect to companies incorporated under the laws of other countries. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(1)?

A: The contract provision requiring Company C to obtain the approval of Country X prior to an assignment of the rights and obligations to a company incorporated under the laws of Country Y does not itself constitute an agreement under section 999(b)(3)(A)(1). However, the provision is strong evidence that, and is sufficient to create a presumption that, Company C has an implied agreement to refrain from doing business with a company of Country Y. Company C may overcome this presumption by establishing the existence of valid business reasons for this provision apart from the boycott or by establishing that Country X approves, as a matter of course, assignments of rights and obligations under the contract to companies in Country Y.

J. Refraining from Doing Business with any United States Person Engaged in Trade in a Boycotted Country (section 999(b)(3)(A)(ii)).

J–1. Q: Company C signs a contract with Country X for the turn-key construction of an industrial plant. The contract provides that Company C will not use as subcontractors a number of named U.S. firms whose past performance on contracts in Country X has been unsatisfactory, according to Country X, for reasons unrelated to the boycott. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A: No. The exclusion of subcontractors based on their performance is not covered by section 999(b)(3).

J–2. Q: Company C enters into a contract with Country X to export certain goods to Country X. The contract provides that Company C shall not use any goods manufactured by Company A in performing the contract since Company A is blacklisted by Country X even though Company A does not engage in any kind of trade in a country which is the object of the boycott or with the government, companies, or nationals of that country. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A: Generally, entering into a written or oral agreement that includes a provision requiring a person to refrain from doing business with a person blacklisted by Country X (or by a group of countries associated with Country X in carrying out an international boycott directed against Country Y) constitutes participation in or cooperation with an international boycott within the meaning of section 999(b)(3). If Company C can establish that Company A is not engaged in trade in Country Y or with the government, companies or nationals of Country Y, Company C's agreement to refrain from doing business with Company A does not come within the scope of section 999(b)(3)(A)(ii). However, Company C's action may constitute an agreement under section 999(b)(3)(A)(iii) unless Company C can establish that Company A is not blacklisted because of the nationality, race or religion of its owners, management or directors. Answer H–1 is relevant in this context.

J–3. Q: Company C competes for an industrial plant construction contract for which Company P of Country W is inviting international tenders. The contract is to be financed by Country X, which maintains a blacklist of companies. Country X requires contracts which it finances to state that the contractor is required to refrain from making any purchases for the project from any of the blacklisted companies. Country W does not boycott those companies. Company C wins the tender and signs the contract with Company P with the blacklist provision. Does Company C's action constitute participation in or cooperation with an international boycott according to section 999(b)(3)(A)(ii)?

A: Generally, yes. See Answer H–1. Although the boycott is not implemented by Country W, but by Country X, and the project is being carried out in Country W, Company C may have agreed not to do business with blacklisted U.S. companies as a condition of doing business indirectly with Country X.

J–4. Q: Company C signs a contract with Country X to export certain goods to Country X. The contract provides that Company C will not do business with any company blacklisted by Country X. Company C establishes that although a number of the blacklisted companies are foreign subsidiaries of U.S. companies, no U.S. companies are on the list. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A: No. According to section 999(b)(3)(A)(ii), refraining from doing business with any United States person engaged in trade in a boycotted country constitutes participation in or cooperation with an international boycott. For purposes of this particular section "United States person" does not include foreign subsidiaries of a United States person. However, Company C's action may constitute an agreement under section 999(b)(3)(A)(i) or (iii). Answer H–1 is relevant in this context.

J–5. Q: Bank C advises Country X on its investments in the United States. Country X instructs Bank C not to recommend for investment any shares of certain companies that are blacklisted by Country X. Bank C follows these instructions. Does Bank C's action constitute participation in or cooperation with an international boycott according to section 999(b)(3)(A)(ii)?

A: No. The recommendation of shares of certain companies by Bank C does not constitute "doing business" with those companies. Therefore Bank C's action does not constitute participation in or cooperation with an international boycott according to section 999(b)(3)(A)(ii). Nor does Bank C's action constitute an agreement under section 999(b)(3)(A)(i) or (iii).

J–6A. Q: Bank C manages Country X's investment portfolio in the United States. Bank C has been given certain powers to act for Country X, pursuant to instructions that, among other things, require Bank C not to invest Country X's funds in stocks and bonds issued by certain blacklisted United States companies. Bank C is authorized by Country X to purchase and sell stocks and bonds only through recognized exchanges. Does Bank C's action constitute participation in or cooperation with an international boycott according to section 999(b)(3)(A)(ii)?

A: No. Since purchasing stocks or bonds issued by a company, through recognized exchanges, does not constitute "doing business" with that company, an agreement to refrain from purchasing stocks or bonds issued by a company does not constitute an agreement to refrain from doing business with that company. Accordingly, Bank C's action does not constitute participation in or cooperation with an international boycott, according to section 999(b)(3)(A)(ii). Nor does Bank C's action constitute an agreement under section 999(b)(3)(A)(i) or (iii).

J–6B. Q: The facts are the same as in Question J–6A, except that Bank C is also authorized to purchase original issues of stocks and bonds directly from the issuing company. Does Bank C's action constitute participation in or cooperation with an international boycott according to section 999(b)(3)(A)(ii)?

A: Generally, yes. An agreement not to purchase original issues of stocks or bonds from a company blacklisted by Country X may constitute participation in or cooperation with an international boycott according to section 999(b)(3)(A)(ii). In addition, the agreement may constitute participation in or cooperation with an international boycott according to section 999(b)(3)(A)(i) and (iii). Answer H–1 is relevant in this context.

J–7. Q: Company C signs a contract with Country X to construct an industrial plant in Country X. The laws, regulations, requirements or administrative practices of Country X prohibit the entry into Country X of goods produced by blacklisted companies. The contract states that the laws and regulations of Country X will apply to Company C's performance of the contract in Country X. In carrying out the project, Company C invites bids to furnish all goods and equipment on a delivered-in-Country X basis. No company on the blacklist maintained by Country X bids. Does Company C's action, as described in this question, constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A: No. By the terms of the agreement Company C has not agreed to refrain from doing business with any of the blacklisted companies. The fact that blacklisted companies are unable to meet the conditions that Company C establishes is not due to any agreement by Company C with Country X, but is due to Country X's laws, regulations, requirements or administrative practices.

J–8. Q: The facts are the same as those in Question J–7, except that Company C's purchase contracts require vendors to reimburse Company C for the purchase price and transportation costs, plus interest, of any goods that Company C cannot import into Country X because of Country X's import restrictions. In this case, does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A: No, for the reasons given in Answer J–7.

J–9. Q: Company C signs a contract with Country X to produce goods in Country X for export. The contract requires Company C to certify that, consistent with the laws of Country X, the goods will not be sent to Country Y and that Company C will require any purchaser of the products to certify that the goods will not be sent to Country Y if they are substantially unaltered at the time of the resale by the purchaser. Company C thereafter sells these goods to Company A, requiring the certification. Does Company C's action constitute participating in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A: No. Company C's agreement to refrain, and to require Company A in the resale to refrain, from sending Country X's unaltered products to Country Y, according to section 999(b)(4)(C), does not constitute participation in or cooperation with an international boycott.

J–10. Q: Company C, a trading company, signs a contract with Country X for the export goods to Country X. The contract requires that the goods be produced by Company A and that a certain component in the goods be produced by Company B. The laws, regulations, requirements or administrative practices of Country X prohibit the importation into Country X of goods manufactured by any company blacklisted by Country X. Company A and Company B are not blacklisted by Country X. Does Company C's action constitute an agreement, according to section 999(b)(3)(A)(ii)?

A: No. The existence of an agreement to refrain from doing business with a person blacklisted by Country X will not be inferred solely from the inclusion of a requirement in a contract that the goods or components be produced by a specific company that does not in fact appear on the blacklist. Accordingly, Company C's action does not constitute an agreement under section 999(b)(3)(A)(i), (ii) or (iii).

K. Refraining from Doing Business with any Company Whose Ownership or Management is Made up, in Whole or in Part, of Individuals of a Particular Nationality, Race or Religion (section 999(b)(3)(A)(iii)).

K–1. Q: Company C signs a contract with Country X for the export of certain goods to Country X. In the contract it is provided that the goods shall not bear any mark symbolizing Country Y or religion R. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(iii)?

A: No. Section 999(b)(3)(A)(iii) prohibits agreements to refrain from doing business on the basis of the nationality, race or religion of the owners or management of the organization and to refrain from selecting (or to remove) directors o. a particular nationality, race or religion. It does not prohibit agreements not to import goods bearing certain marks into a country. No part of section 999(b)(3) concerns refusals to purchase goods bearing marks symbolizing a certain country or religion.

K–2. Q: As a condition of doing business in Country X, Company C's subsidiary in Country X agrees that the board of directors of the subsidiary must consist of a specified number of nationals of Country X. Does such action constitute participation in or cooperation with an international boycott according to section 999(b)(3)(A)(iii)?

A: No. Such action will not be deemed to constitute an agreement to participate in or cooperate with an international boycott according to section 999(b)(3)(A)(iii).

K–3. Q: Company C is the leader of a syndicate of U.S. and foreign banks that is underwriting a public bond issue of Country X. Company D is a member of that syndicate. During the loan negotiations, Country X indicates that Company E, which is not a U.S. company, should be excluded from the syndicate because of the religion of some of its directors. Company C and Company D did not contemplate that Company E would be a member of the syndicate in any event and they agree to comply with the request of Country X. Does the action of Company C and Company D constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(iii)?

A: Yes. The action of Company C and Company D is an agreement to refrain from doing business with a company whose management are individuals of a particular religion. According to section 999(b)(3)(A)(iii) this constitutes participation in or cooperation with an international boycott.

K–4. Q: The facts are the same as in Question K–3, except that Country X indicates that Company E may be included only if it removes several of its directors who are of nationality Y. Does the action of Company C and Company D constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(iii)?

A: Yes. The action of Company C and Company D is an agreement to obtain the removal of corporate directors of a particular nationality as a condition of including Company E. This constitutes an agreement under section 999(b)(3)(A)(iii).

L. Refraining from Employing Individuals of a Particular Nationality, Race or Religion (section 999(b)(3)(A)(iv)).

L–1. Q: Company C signs a construction contract with Country X that provides that Company C is not to employ individuals of religion R to work on the project in Country X. Does such action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(iv)?

A: Yes. Company C has clearly agreed to refrain from employing individuals of religion R. Section 999(b)(3)(A)(iv) defines an agreement, made as a condition of doing business with the government of a country, to refrain from employing individuals of a particular religion, as participation in or cooperation with an international boycott.

L–2. Q: Company C signs a contract with Country X for a construction project in Country X. The contract specifies that only individuals who are nationals of the United States or Country X will be allowed to work on the project. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(iv)?

A: No. There is no evidence of an attempt to specifically exclude persons of a particular nationality. Persons of a number of different nationalities, including those from both friendly and unfriendly countries, have been evenhandedly excluded.

L–3. Q: As a condition of doing business in Country X, Company C agrees to employ a specified percentage of nationals of Country X or to employ increasing numbers of nationals of Country X. Does such action constitute participation in or cooperation with an international boycott according to section 999(b)(3)(A)(iv)?

A: No. Such action does not constitute an agreement to participate in or cooperate with an international boycott under section 999(b)(3)(A)(iv).

L–4. Q: Company C, incorporated under the laws of Country Z, signs a contract with Country X for the engineering and construction of an industrial plant in Country X. The contract excludes from working in Country X nationals of Country Z who are also nationals of Country Y or who were formerly nationals of Country Y. Does Company C's action constitute participation in or cooperation with an international boycott according to section 999(b)(3)(A)(iv)?

A: Yes. Any agreement to differentiate among citizens of Country Z on the basis of dual nationality or national origin for employment on a project constitutes participation in or cooperation with an international boycott, according to section 999(b)(3)(A)(iv).

L–5. Q: Company C signs a contract with Country X for the engineering and construction of an industrial plant in Country X. The contract provides that Company C is not to employ in its home office any individuals who are nationals of Country Y to work on the design of the plant. Does Company C's action constitute participation in or cooperation with an international boycott according to section 999(b)(3)(A)(iv)?

A: Yes. Company C has agreed to refrain from employing individuals who are nationals of Country Y, and such agreement constitutes participation in or cooperation with an international boycott according to section 999(b)(3)(A)(iv).

M. As a Condition of the Sale of a Product, Refraining from Shipping or Insuring That Product on a Carrier Owned, Leased, or Operated by a Person Who Does Not Participate In or Cooperate with an International Boycott (section 999(b)(3)(B)).

M–1. Q: Company C enters into a c.i.f. contract for the export of goods to Country X. The contract states that the goods are not to be shipped on a ship blacklisted by Country X. The blacklist contains the names of vessels that have called at ports in Country Y, vessels that are owned, leased or operated by the government, a company or a national of Country Y, and vessels that are owned, leased or operated by persons who engage in activities that are inconsistent with the boycott. Does Company C's action constitute an agreement described in section 999(b)(3)?

V 42 159 AUG 17 77 UM

A: Yes. Company C has entered into an agreement described in section 999(b)(3)(A)(i), (ii) and (iii) and section 999(b)(3)(B).

M–2. Q: Company C enters into a f.a.s. Port of New York contract with Country X for the sale of goods to Country X. While no overseas shipping or insurance provisions are contained in the contract, Company C has reason to believe that arrangements will be made by Country X to see that the goods are not shipped on a carrier owned, leased, or operated by a person who does not participate in or cooperate with Country X's boycott of Country Y. Does Company C's action constitute participation in or cooperation with an international boycott according to section 999(b)(3)(B)?

A: No. Company C has not agreed as a condition of sale to refrain from shipping on a carrier owned, leased or operated by a person who does not participate in or cooperate with an international boycott. It has not agreed to any shipping or insurance arrangements. Its action thus does not constitute participation in or cooperation with an international boycott according to section 999(b)(3)(B).

M–3. Q: Company C, having its place of business in Country Z, is requested by Country X to enter into a c.i.f. contract for the export of goods to Country X. However, to avoid participating in or cooperating with a international boycott, Company C successfully convinces Country X that the contract should specify shipment f.a.s. port of Country Z. The remainder of the circumstances are as described in Question M–2 above. Does Company C's action constitute participation in or cooperation with an international boycott according to section 999(b)(3)(B)?

A: No, for the reasons given in Answer M–2.

M–4 Q: Company C, a freight forwarding company having its place of business in Country Z, has a contract with Country X to make, as an agent of Country X, shipping and insurance arrangements for goods which Country X purchases in Country Z on a f.a.s. port of Country Z basis. The contract provides that no shipments will be made on a carrier owned, leased, or operated by a person who does not participate in or cooperate with an international boycott. Company C then makes shipping and insurance arrangements on that basis. Does Company C's action constitute participation in or cooperation with an international boycott according to section 999(b)(3)(B)?

A: Company C's agreement not to make shipping arrangements on a carrier of a person who does not participate in Country X's boycott of Country Y is not made as a condition of the sale of a product that is to be shipped to Country X. Therefore, Company C's action does not constitute participation in or cooperation with an international boycott according to section 999(b)(3)(B). However, Company C's agreement would constitute participation in or cooperation with an international boycott pursuant to section 999(b)(3)(A)(i), (ii) or (iii).

M–5. Q: Company C enters into a contract with Country X for the export of goods to Country X. As a precaution to protect against war risk or confiscation, the contract requires Company C not to ship the goods on a Country Y flag vessel or on a ship which during the voyage calls at Country Y enroute to Country X. Does Company C's action constitute participation in or cooperation with an international boycott?

A: No. The requirement in the contract is not a restrictive boycott practice. Rather, the requirement arises from the need to protect goods from damage or loss.

M–6. Q: Company C enters into a contract with Country X for the export of goods to Country X. The contract requires Company C to ship the goods only on a ship registered in Country X. Does Company C's action constitute participation in or cooperation with an international boycott, according to section 999(b)(3)(B)?

A: No. An agreement to ship the goods only on a ship registered in Country X does not constitute an agreement to refrain from shipping or insuring those goods on a carrier owned leased, or operated by a person who does not participate in or cooperate with an international boycott. Therefore, Company C's action does not constitute participation in or cooperation with an international boycott according to section 999(b)(3)(B).

M–7. Q: Company A signs a contract with Country X for the export of goods to Country X. The contract provides that the goods may not be shipped on a vessel that has been blacklisted by Country X because it has called at Country Y in the past. Does Company C's action constitute participation in or cooperation with an international boycott according to section 999(b)(3)(B)?

A: Yes. The reason for those vessels being blacklisted was that at some time in the past the owner, lessor or operator of the vessel did not comply with the requirement of Country X that the vessel not call at Country Y. Therefore, Company C's signing the contract constitutes participation in or cooperation with an international boycott, according to section 999(b)(3)(B).

M–8. Q: Company C signs a contract with Country X for the export of goods to Country X. The contract contains no requirement that the seller refrain from shipping the goods on a vessel that has been blacklisted by Country X. Company C does not ship the goods on a blacklisted vessel. Does Company C's action constitute participation in or cooperation with an international boycott according to section 999(b)(3)(B)?

A: No, an agreement to participate in or cooperate with an international boycott, according to section 999(b)(3)(B), will not be inferred from Company C's action.

M–9. Q: Company C signs a c.i.f. contract with Country X for the export of goods to Country X to be paid for by means of a letter of credit. The letter of credit for this transaction requires, as a condition of payment, Company C to certify as to the identity of the vessel and the identity of the insurer. Company C provides such a certificate to the paying bank. Does Company C's action constitute participation in or cooperation with an international boycott?

A: The existence of an agreement to participate in or cooperate with an international boycott will not be inferred solely on the basis of Company C's certification. However, repetitive certification by Company C identifying vessels and insurers that are not blacklisted by Country X may suggest that Company C chooses its shippers and insurers on the basis of Country X's blacklist (in anticipation of Country X's certification request). Such a course of conduct may be a sufficient basis from which to infer the existence of an agreement.

N. *Reduction of Foreign Tax Credit.*

N–1. Q: How is the reduction of the foreign tax credit for participation in or cooperation with an international boycott computed under section 908(a)?

A: The method of computation of the reduction of the foreign tax credit under section 908(a) differs depending on whether the person applying section 908(a) applies the international boycott factor under section 999(c)(1) or identifies specifically attributable taxes and income under section 999(c)(2).

If the person chooses to identify specifically attributable taxes and income, the person reduces the amount of foreign taxes paid (before the determination of the section 904 limitation) by the sum of the foreign taxes paid that the person has not clearly demonstrated are attributable to specific operations in which there has been no participation in or cooperation with an international boycott.

If the person applies the international boycott factor, the reduction of the foreign tax credit under section 908(a) is computed by first determining the foreign tax credit that would be allowed under section 901 for the taxable year if section 908(a) had not been enacted. The amount of credit allowed under 901 would, of course, reflect the credits allowable under sections 902 and 960, and would also reflect the limitations of both sections 904 and 907. The credit allowed under section 901 would then be reduced by the product of the section 901 credit (before the application of the section 908(a) reduction) multiplied by the international boycott factor.

N–2. Q: After the reduction of credit has been determined in accordance with the process described in Answer N–1, the taxes denied creditability may be deductible under section 908(b). If the taxes are deducted, is a new section 904 limitation, a new section 901 amount and a new section 908(a) reduction of credit computed based on the income reduced by the taxes deducted?

A: No. The process described in Answer N–1 is applied only once and the reduction of credit is determined as a result of that single application. If the taxes denied creditability are reduced, no further adjustment is made under sections 904, 901 or 908(a) as a result of the deduction.

N–3. Q: Company A owns 20 percent of the stock of Company C, a corporation organized under the laws of Country Z, a foreign country. Company C participates in an international boycott in connection with all its operations. Company C pays a dividend to Company A and Country Z withholds income tax on the dividend paid to Company A. Company A computes its loss of tax benefits by identifying specifically attributable taxes and income under section 999(c)(2). Will Company A be denied its section 901 direct foreign tax credit in respect of the income tax withheld by Country Z on the dividend paid by Company C?

A: If Company A can clearly demonstrate that its investment in Company C is a clearly separate and identifiable operation in connection with which Company A did not participate in or cooperate with an international boycott, Company A will not be denied its section 901 direct foreign tax credit in respect of the withholding tax on the dividend paid by Company C. On the other hand, even if Company C does not participate in an international boycott, if Company A agreed to participate in or cooperate with an international boycott in connection with its investment in Company C, Company A will lose its foreign tax credit in respect of the withholding tax on the dividend. Thus, whether Company C participates in an international boycott is not relevant to the determination of Company A's loss of foreign tax credit under the facts of this question. (To determine the denial of the section 902 indirect foreign tax credit for foreign income taxes paid by Company C, see Answer A–19.)

N–4. Q: As a result of participation in or cooperation with an international boycott and the application of section 908(a), Company A loses a portion of its foreign tax credit under both sections 901 and 902. Are the foreign taxes denied creditability under both sections 901 and 902 deductible under section 908(b)?

A: The section 901 taxes denied creditability by reason of section 908(a) are deductible, but the section 902 taxes are not. Section 908(b) merely renders sections 275(a)(4) and 78 inapplicable to taxes denied creditability under section 908(a). Since section 902 taxes are not otherwise deductible under the Code, and since no section 78 gross-up is required in respect of section 902 taxes denied creditability, no deduction is allowed for those section 902 taxes.

N–5. Q: Company A has foreign tax credits under both sections 901 and 902. Company A applies the international boycott factor to determine its loss of foreign tax credits under section 908(a). What portion of the taxes denied creditability will be deductible under section 908(b)?

A: Since the section 901 taxes denied creditability under section 908(a) are deductible but the section 902 taxes are not, Company A may deduct that portion of the total taxes denied creditability under section 908(a) that the total section 901 taxes (before application of section 908(a)) bear to the total section 901 and 902 taxes (before application of section 908(a)).

O. *Subpart F Income*

O–1. Q: In determining the amount of subpart F income included in gross income by reason of section 952(a)(3), may any deductions be taken into account?

A: Yes. In computing subpart F income included in gross income under section 952(a)(3), a reasonable allowance may be made for deductions properly allocable to that income.

Dated: August 12, 1977.

W. MICHAEL BLUMENTHAL,
Secretary.

[FR Doc.77-23821 Filed 8-15-77;8:45 am]

ROLLER CHAIN, OTHER THAN BICYCLE, FROM JAPAN

Antidumping; Tentative Determination to Modify or Revoke Dumping Finding

AGENCY: United States Treasury Department.

ACTION: Tentative Modification of Finding of Dumping.

SUMMARY: This notice is to advise the public that it appears that Honda Motor Co., Ltd., and Enuma Chain Manufacturing Co., Ltd., of Japan are not selling roller chain, other than bicycle, from Japan at less than fair value. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. In addition, Honda Motor Co., Ltd., and Enuma Chain Manufacturing Co., Ltd., have given assurances that future sales will not be at less than fair value. If this action is made final, entries of this merchandise from Honda Motor Co., Ltd., and from Enuma Chain Manufacturing Co., Ltd., on or after the effective date of this notice, will no longer be liable for special duties under the Antidumping Act, 1921. Interested persons are invited to make comments.

EFFECTIVE DATE: August 17, 1977.

FOR FURTHER INFORMATION CONTACT:

David Chapman, Operations Officer, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, 202–566–5492.

SUPPLEMENTARY INFORMATION: A finding of dumping with respect to roller chain, other than bicycle, from Japan was published as Treasury Decision 73–100 in the FEDERAL REGISTER of April 12, 1973 (38 FR 9226).

After due investigation, it has been determined that roller chain, other than bicycle, sold by Honda Motor Co., Ltd., of Saitama, Japan, and that produced and sold by Enuma Chain Manufacturing Co., Ltd., of Isikawa, Japan, are not being, nor are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

Statement of Reasons On Which This Tentative Determination Is Based. The investigation indicated that sales of roller chain, other than bicycle, by Honda Motor Co., Ltd., and by Enuma Chain Manufacturing Co., Ltd., have not been made at not less than fair value for a period of more than two years since the finding of dumping, and assurances have been given that future sales of such merchandise to the United States will not be made at less than fair value.

Accordingly, notice is hereby given that the Department of the Treasury intends to modify the finding of dumping with respect to roller chain, other than bicycle, from Japan to exclude such merchandise sold by Honda Motor Co., Ltd., of Saitama, Japan and that produced and sold by Enuma Chain Manufacturing Co., Ltd., of Isikawa, Japan.

In accordance with § 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, NW., Washington, D.C. 20229, in time to be received by his office no later than August 29, 1977. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than September 16, 1977.

This notice is published pursuant to § 153.44(c) of the Customs Regulations (19 CFR 153.44(c)).

HENRY C. STOCKELL, Jr.,
Acting General Counsel of the Treasury.

AUGUST 11, 1977.

[FR Doc.77-23638 Filed 8-16-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 451]

ASSIGNMENT OF HEARINGS

AUGUST 12, 1977.

Cases assigned for hearing, postponement cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 720 (Sub-No. 30), Bird Trucking Co Inc., application dismissed.

MC-C-9394, Tom E. Tucker, an Individual—Investigation and Revocation of Certificates, now assigned September 13, 1977, at Boise, Idaho is canceled and reassigned for September 13, 1977 (2 days), at the U.S. Courthouse, room 485, West 920 Riverside, Spokane, Wash.

MC 142496 (Sub-No. 1), Atlantic Charter Bus Service, Inc., now being assigned for continued hearing on October 12, 1977 (3 days), at Norfolk, Va., in a hearing room to be later designated.

MC 135684 (Sub-No. 37), Bases Transportation Co., Inc. now being assigned November 18, 1977 (1 day), at New York, N.Y. in a hearing room to be later designated.

MC 128273 (Sub-No. 260), Midwestern Distribution, Inc. now being assigned November 17, 1977 (1 day), at New York, N.Y., in a hearing room to be later designated.

MC 19227 (Sub-No. 227), Leonard Bros Trucking Co., Inc.

MC 32882 (Sub-No. 77), Mitchell Bros. Truck Lines.

MC 60014 (Sub-No. 43), Aero Trucking, Inc., MC 73165 (Sub-No. 394), Eagle Motor Lines, Inc., MC 74321 (Sub-No. 124), B. F. Walker, Inc.

MC 83539 (Sub-No. 449), C & H Transportation Co., Inc.

MC 106644 (Sub-No. 225), Superior Trucking Co., Inc.

MC 109397 (Sub-No. 330), Tri-State Motor Transit Co.

MC 111545 (Sub-No. 232), Home Transportation Co., Inc.

MC 112304 (Sub-No. 108), Ace Doran Hauling & Rigging Co.

MC 113855 (Sub-No. 366), International Transport, Inc.

MC 114211 (Sub-No. 298), Warren Transport, Inc., MC 117574 (Sub-No. 277), Dailey Express, Inc., MC 124211 (Sub-No. 286), Hilt Truck Line, Inc.

MC 124692 (Sub-No. 173), Sammons Trucking, MC 123048 (Sub-No. 355), Diamond Transportation System, Inc., MC 125433 (Sub-No. 89), F-B Truck Line Co., MC 128762 (Sub-No. 16), P. L. Lawton, Inc., and MC 142059 (Sub-No. 2), now being assigned November 7, 1977 (1 week), at San Francisco, Calif. and continued to November 14, 1977 (1 week), at Atlanta, Ga., in hearing rooms to be later designated.

MC 59856 (Sub-No. 72), Salt Creek Freightways, now being assigned December 12, 1977 (2 weeks), at Missoula, Mont., in a hearing room to be later designated.

V 42 N 159 AUG 17 77 UM

MC 142875, A. L. Gomes, d.b.a. A. Gomes Bus Lines Co., now assigned September 12, 1977, at Providence, R.I. and will be held in the LaSalle Room, Holiday Inn, 21 Atwells Avenue.

MC 13028 (Sub-No. 18), Bonanza Bus Lines, Inc. now assigned September 19, 1977, at Providence, R.I. and will be held in the LaSalle Room, Holiday Inn, 21 Atwells Avenue.

MC 108353 (Sub-No. 134), Little Audrey's Transportation Co., Inc., now assigned October 12, 1977, at Seattle, Wash., will be held in room 2866, Federal Building, 1915 Second Avenue.

MC 134068 (Sub-No. 31), Kodiak Refrigerated Lines, Inc., MC 138875 (Sub-No. 39), Shoemaker Trucking Co., MC 138875 (Sub-No. 53), Shoemaker Trucking Co. and MC 138875 (Sub-No. 54), Shoemaker Trucking Co., now assigned October 17, 1977, at Seattle, Wash., will be held in room 2866, Federal Building, 1915 Second Avenue.

MC 30844 (Sub-No. 568), Kroblin Refrigerated Xpress, Inc. now being assigned November 16, 1977 (1 day), at New York, N.Y. in a hearing room to be later designated.

MC 134323 (Sub-No. 97), Ja, Lines, Inc., now being assigned November 15, 1977 (1 day), at New York, N.Y. in a hearing room to be later designated.

MC 129455 (Sub-No. 18), Carretta Trucking, Inc., now being assigned November 14, 1977 (1 day), at New York, N.Y. in a hearing room to be later designated.

MC 142809, Don Penick and Harvey Keenan, d.b.a. Double Eagle Trucking, now being assigned November 1, 1977 (3 days), at Olympia Wash., in a bearing room to be later designated.

Ex Parte No. 308, Valuation of Common Carrier Pipelines, now assigned August 16, 1977, at Washington, D.C., is postponed to September 14, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

I & S M-29575, Commutation rules, Hudson Transit Lines, Inc., July 1977, now being assigned October 3, 1977 (1 week), at New York, N.Y., in a hearing room to be later designated.

Ex Parte 270 (Sub-9), Investigation of Railroad Freight Rate Structure Grain and Grain Products, now assigned September 13, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. FF-C-70, Imperial Air Freight Service, Inc.—Investigation of Operations, now assigned September 21, 1977 at New York, N.Y., has been postponed indefinitely.

MC 52464 (Sub-No. 8), Evans Trucking Co. Extension-New York, now being assigned November 29, 1977 (1 day), at Columbus, Ohio, in a hearing room to be later designated.

MC 124939 (Sub-No. 11, Food Haul, Inc., now being assigned November 30, 1977, at Columbus, Ohio, in a hearing room to be later designated.

MC 115730 (Sub-No. 31), the Mickow Corp., now being assigned December 1, 1977 (1 day), at Columbus, Ohio, in a room to be later designated.

MC 143056, Lancaster Poultry, Inc., now being assigned December 2, 1977 (1 day), at Columbus, Ohio, in a hearing room to be later designated.

AB 19 (Sub-No. 36), the Baltimore & Ohio Railroad Co., abandonment near Willard and Sandusky—and abandonment of operations—over line jointly owned with Norfolk & Western Railway—and trackage rights—over Consolidated Rail Corp. near Sandusky in Huron and Erie Counties, Ohio, now being assigned December 5, 1977 (1 week), at Sandusky, Ohio, in a hearing room to be later designated.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-23799 Filed 8-16-77;8:45 am]

[No. 38574]

SEVERE WINTER WEATHER

Petition of Railroads Seeking Authorization To Waive Demurrage Charges

At a Session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 3rd day of August, 1977.

Last winter, severe weather and fuel shortages affected certain areas of the country. Because of these adverse conditions, shippers and consignees were allegedly unable to load or unload railroad cars, industries were closed down, and railroad service in certain areas was curtailed. The National Industrial Traffic League (NITL), in late January 1977, initiated discussions with the Operating-Transportation Division, Operations of Maintenance Department, Association of American Railroads, with the objective of preventing the imposition of a portion of demurrage charges on railroad cars detained because of these unusual circumstances. As a result of these discussions, the 17 petitioner railroads (see Appendix A), all of which are parties to Freight Tariff 4–J, *Car Demurrage Rules and Charges, et al.*, J. F. Doyle, Agent, I.C.C. H–59, in their petition filed April 28, 1977, submitted the following proposal to the Commission for approval:

1. Only those shippers and receivers directly affected by the weather disability or fuel shortage can claim demurrage relief and for this emergency only;

2. Each shipper or receiver must pay his demurrage as rendered and then file for reclaim;

3. Each shipper or receiver must file individual claims at each location supported by justification, i.e., dates and reasons;

4. The claims will be processed informally, but will require ICC approval on each individual claim the exact procedure to be determined;

5. The relief requested due to this emergency will be limited to demurrage subject to the 4-series traiff rules;

6. Adjustments for demurrage subject to other than the 4-series tariff will be handled separately, i.e., unit trains, volume shipments, coal, etc.;

7. With respect to the 4-series tariff, after the expiration of free time and the four $10 debit days, the penalty rate of $20 will be reduced to $10 per day and the penalty rate of $30 will be reduced to $15 per day thereafter; and

8. Fuel shortage relief will be applicable as follows: allowance will be given for any cars on hand at time such interference began, but would not apply to inbound cars forwarded four days after the beginning of such interference.

During the involved period, demurrage charges, after the expiration of free-time, would have otherwise accrued at the rate of $10 per day for the first 4 days, $20 per day for each of the next 2 days, and $30 per day thereafter. According to petitioners, the $20 and $30 charges in the tariff have been considered in the nature of penalty charges.[1] These charges, it is argued, should not be imposed upon shippers and receivers in the areas affected by the extreme and unusual weather conditions or fuel shortages, if these conditions prevented the loading or unloading of cars. In addition, to facilitate the instant relief from these penalty charges, it is requested that the claims under the proposal be filed with the carrier within 90 days after the date of service of the Commission's order approving the proposal.

NITL in its reply filed May 9, 1977, supports the proposal, however, it contends that it should be modified to specify the emergency period when the reclaim will apply and that it should be extended to include claims for additional demurrage charges on trainload, unit trains and multiple car movements. NITL also requests that the order entered by the Commission indicate that other railroads will be granted leave to participate in the proposal upon notifying the Commission in writing.

Republic Steel Corporation, in its reply filed May 18, 1977, supports the concept of the proposal yet, it objects to certain of its procedures and the limited nature of the relief proposed. It suggests that (1) the Commission's order specify that the procedures and standards specified in the proposal are not exclusive; (2) a time period defining the period of the emergency conditions should be given; (3) the entire demurrage charge should be reclaimed; and (4) prepayment of the demurrage charges should not be required as a prerequisite to filing a claim.[2] Eastern Associated Coal Corp., in its reply filed July 5, 1977, requests that the emergency period should include December 1976 through March 1977, and submits graphs of temperature readings at Fairmont, Virginia for December through February.

The record in this proceeding and the general knowledge of the extreme and unusual weather conditions and shortages of energy support the approval of the petitioners' proposal to waive portions of the arbitrary demurrage charge. If other carriers, which are party to the specified tariff, desire to participate in the proposal, they will be permitted to do so upon notifying the Commission in writing of their intent. The extension of the proposal to demurrage charges not named in the involved tariff or in an

[1] It is noted that in Ex Parte No. 289, *Remittance of Demurrage Charges of Common Carriers of Property By Rail*, 353 I.C.C. 567 (1977), a $10 demurrage charge was generally sufficient to cover per diem, administrative and other expenses incurred by the delivering road.

[2] Under the Commission's credit regulations the applicable charge must be paid promptly within a specified period and there is no justification for waiving that requirement.

amount greater than that specified has not been substantiated. However, the approval of the instant proposal does not prejudice the filing of such proposals by the carriers or the filing of additional claims for greater relief by the shippers.[3] Furthermore, shippers or receivers will have the option of applying for the claim under the involved proposal, filing a claim under the proposal and in the event no binding settlement is made subsequently seeking relief from alleged unjust and unreasonable demurrage charges under the Commission's regular procedures, or by initially seeking relief from the Commission under its regular procedures.[4] Therefore, it is not unreasonable to require claims under the proposal to be filed with the carrier within a specific period of time. The time period in which claims should be filed is fixed at 90 days after date of publication in the FEDERAL REGISTER, of notice of this permissive order.

Certain modifications in the proposal are necessary, however, to insure that false claims will not be filed by shippers or receivers and that there will be no potentially discriminatory treatment by the carriers. Shipper or receivers will therefore be required to verify the justification statement and to indicate briefly therein, what efforts were taken to minimize the delay in the release of the cars subject to the claim. The period of severe weather and fuel shortages will also be limited to the period of December 28, 1976 through March 15, 1977, to eliminate the filing of claims for demurrage charges not caused by the emergency conditions.[5] Copies of claims granted or denied under the proposal are to be filed by the carrier with the Commission, and on the rejected claims, an explanatory note as to the reason for the denial should be given.[6] Certain other clarifying modifications in the proposal have also been made to avoid ambiguity, as set forth in Appendix B.

Approval of each of the filed claims will not be given by the Commission as suggested by petitioners since it would not be practical to verify each claim. However, the filing requirements ordered herein and the modifications in the proposal will minimize the possibilities of discriminatory or arbitrary treatment. Shippers and receivers are also encouraged to report to the Commission any discriminatory application of the proposal by the carriers.

It is ordered, That the carriers listed in Appendix A be, and they are hereby, authorized to adjust demurrage charges which accrued on cars held during the period specified to $10 or $15 a day, as set forth in Appendix B; that other carriers participating in the involved tariff, 4–J, I.C.C. H–59, upon notifying the Commission in writing of their intent to do so, may also participate in the modified proposal.

And it is further ordered, That the above-referred to carriers shall promptly file with the Commission copies of the claims upon which adjustments were made under authority of this order and those which were denied, with a brief explanation as to the reason for the denial.

By the Commission, Division 2, Commissioners Hardin, Murphy, and Clapp.

H. G. HOMME, JR.,
Acting Secretary.

APPENDIX A—PARTICIPATING CARRIERS

Aliquippa and Southern Railroad Company.
Bessemer and Lake Erie Railroad Company.
Chessie System.
Consolidated Rail Corporation
Cuyahoga Valley Railway Company.
Delaware and Hudson Railway Company.
Detroit, Toledo and Ironton Railroad Company.
Elgin, Joliet and Eastern Railway Company.
Family Lines System.[7]
Grand Trunk Western Railroad
Indiana Harbor Belt Railroad Company.
Manufacturers' Junction Railway Company.
Monongahela Connecting Railroad Company.
Norfolk and Western Railway Company.
Richmond, Fredericksburg and Potomac Railroad Company.
Southern Railway System.
Union Railroad Company

APPENDIX B—APPROVED PROPOSALS

1. Only those shippers and receivers directly affected by the weather disability or fuel shortage during the period of December 28, 1976 through March 15, 1977, can claim demurrage relief; (See Note)

2. Each shipper or receiver must pay his demurrage as rendered and then file for reclaim;

3. Each shipper or receiver must file individual verified claims at each location supported by justification, i.e., dates of detention, reasons therefore, and whether efforts were made to minimize the delay;

4. The relief requested due to this emergency will be limited to demurrage applicable, in accordance with Freight Tariff 4–J, J. F. Doyle, Agent, I.C.C. H–59;

5. Adjustments for demurrage subject to other than the above-specified tariff will be handled separately, i.e., unit trains, volume shipments, coal, etc.;

6. With respect to the above-specified tariff, after the expiration of free time and the four $10 debit days, the demurrage charge of $20 will be reduced to $10 per day and the demurrage charge of $30 will be reduced to $15 per day thereafter;

7. Fuel shortage relief will be applicable as follows: allowance will be given for any cars on hand at the time such interference began or on inbound cars on which forwarding directions were given within 3 days after the beginning of such interference;

8. Claims under this proposal must be filed with the carrier on or before November 15, 1977.

NOTE.—Shippers and receivers can elect to file a claim under this proposal or a formal docket with the Interstate Commerce Commission. The filing of a claim under this proposal also does not prevent the shipper from seeking additional relief from the Commission. In addition, special-docket applications can be filed by the carrier.

[FR Doc.77-23797 Filed 8-16-77;8:45 am]

[Amdt. No. 4]

MOVER'S & WAREHOUSEMEN'S ASSOCIATION OF AMERICA, INC.—AGREEMENT

Section 5a Application No. 4

AUGUST 9, 1977.

The Commission is in receipt of a supplemental application in the above-entitled proceeding for approval of amendments to the agreement therein approved.

Filed July 12, 1977 by: Carroll F. Genovese, Mover's & Warehousemen's Association of America, Inc., Suite 522, Munsey Bldg., Washington, D.C. 20006 (Executive Director).

Herbert Burstein, Esqu., Zelby, Burstein, Berstein & Hartmen, One World Trade Center, Suite 2373, New York, NY 10048 (Attorney for Applicants).

The amendment involves: Modify By-law Article VIII, Section 1, to provide 10 days advance notice of filing of a change under independent action.

The complete application may be inspected at the office of the Commission, in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing within 30 days from the date of publication of this notice to the FEDERAL REGISTER. As provided by the General Rules of Practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application, without further or formal hearing.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-23798 Filed 8-16-77;8:45 am]

[3] The waiver or reparation of the penalty portion of demurrage charges has been approved when neither the carrier nor shipper is at fault. *Ford Motor Co. v. Chesapeake & O. R. Co*, 311 I.C.C. 559 (1960); *Kelmbach-Burkett Co., Inc. v. Illinois Central R. Co.*, 289 I.C.C. 532 (1953); and *Myers, Myers & Goen v. Chicago, R. I. & P. Ry. Co.* 259 I.C.C. 51 (1944). The shipper, however, is required to make efforts if possible, to minimize the detention of the cars. Waiver of all of the applicable demurrage charges (including the compensatory portion), is generally not approved.

[4] Shippers and receivers are encouraged to file claims initially with the carrier. The procedures adopted and standards applied for settlement under the claim procedures will be strictly voluntary and will not bind individual shippers who either do not qualify for settlement thereunder or do not invoke the claim procedures under the proposal.

[5] The period will encompass the full period of extreme weather and energy shortages which occurred last winter, as noted in our order served April 18, 1977, in *Request for Certain Railroads for Authority to Waive Demurrage Charges*.

[6] The carrier is only required to indicate briefly its reasons for denying the claim, for example, insufficient information, demurrage accrued outside the emergency period, etc.

[7] The Family Lines include the Atlanta and West Point Railroad Company, Clinchfield Railroad Company, Durham and Southern Railway Company, Gainesville Midland Railroad Company, Georgia Railroad, Louisville Railroad, Seaboard Coast Line Railroad, and The Western Railway of Alabama.

V42 I59 AUG 17 77 UM

[Rule 19, Ex Parte No. 241; Exemption No. 139]

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD CO. AND ST. LOUIS-SAN FRANCISCO RAILWAY CO.

Exemption Under Provisions of the Mandatory Car Service Rules

It appearing, That the railroads named herein own numerous 40-ft. narrow-door, plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 404, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", with inside length 44-ft. 6-in. or less, equipped with doors less than 9-ft. wide; and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

Chicago, Milwaukee, St. Paul and Pacific Railroad Company. Reporting Marks: MILW.

St. Louis-San Francisco Railway Company. Reporting Marks: SLSF.

* * * * *

Effective 11:59 p.m., August 15, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., August 10, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

NOTE.—Soo Line Railroad Company deleted.

[FR Doc.77-23800 Filed 8-16-77;8:45 am]

[Amdt. No. 2 to I.C.C. order No. 32 under revised service order No. 1252]

REROUTING OF TRAFFIC

To all railroads:

Upon further consideration of I.C.C. Order No. 32 (The Straits Car Ferry Service Corporation) and good cause appearing therefor:

It is ordered, That: I.C.C. Order No. 32 be, and it is hereby, amended by substituting the following paragraph (c) for paragraph (c) thereof:

(c) *Traffic which may be rerouted.* (1) This order shall apply to traffic routed via the ferry from Mackinaw City to St. Ignace (northward or westward traffic) for movement on ferry trips, after July 14, 1977, to and including September 8, 1977.

(2) This order shall apply to traffic routed via the ferry from St. Ignace, Michigan, to Mackinaw City, Michigan, (southward or eastward traffic) for movement on ferry trips after July 21, 1977, to and including September 15, 1977: and

It is further ordered, That: I.C.C. Order No. 32 be, and it is hereby, amended by substituting the following paragraph (i) for paragraph (i) thereof:

(i) *Expiration date.* This order shall expire at 11:59 p.m., September 8, 1977, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., August 8, 1977, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the care service and care hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 4, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-23801 Filed 8-16-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Civil Rights Commission	9
Commodity Futures Trading Commission	4
Federal Power Commission	2, 5
Federal Reserve System	3, 8
International Trade Commission	1
Postal Rate Commission	7
Renegotiation Board	6

1

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, August 25, 1977.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Investigation AA1921-167 (Pressure-Sensitive Plastic Tape from Italy)—vote (if necessary).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary 202-523-0161.

[S-1111-77 Filed 8-12-77;2:16 pm]

2

AUGUST 12, 1977.

Upon the affirmative votes of Chairman Curtis and Commissioners Smith and Sheldon, taken on August 11, 1977, the administrative meeting following the Commission's regular public meeting on August 11, 1977, was closed.

Chairman Curtis and Commissioners Smith and Sheldon also voted that agency business required that such meeting be called with less than the week's notice required by the Government in the Sunshine Act, 5 U.S.C. 552b.

The meeting falls within the exemptions to the open meeting requirements inasmuch as the purpose of the meeting was to discuss pending civil litigation; the initiation, conduct or disposition of pending agency actions subject to the procedures of 5 U.S.C. 554 or otherwise involving a determination on-the-record after opportunity for a hearing.

The exemptions to the open meeting requirements include 5 U.S.C. 552b(c)(9)(B), and (10): 18 CFR § 1.3a(d)(ix)(B), and (x).

The following persons attended the meeting: Chairman Curtis; Commissioners Smith and Sheldon; Kenneth F. Plumb, Secretary; Emmett Gavin and Curt Moffatt, Assistants to the Chairman; Kim Clark, Assistant to Commissioner Smith; Charles Bullock, Assistant to Commissioner Sheldon; Robert W. Perdue, Acting General Counsel; Phillip R. Telleen, Office of the General Counsel; Kenneth E. Richardson, Chief, Office of Special Assistants; Kenneth A. Williams, Acting Chief, Bureau of Natural Gas; Lundy R. Wright, Bureau of Natural Gas; Leon Slavin, Bureau of Natural Gas.

KENNETH F. PLUMB,
Secretary.

[S-1112 Filed 8-12-77;2:16 pm]

3

FEDERAL RESERVE SYSTEM:

TIME AND DATE: 11:30 a.m., Friday August 12, 1977. The business of the Board required that this meeting be held with less than one week's notice to the public and no earlier announcement of the meeting was practicable.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open. However, because earlier announcement of this meeting was not practicable, the discussion was recorded and the recording is available at the Board's Freedom of Information Office.

MATTERS CONSIDERED:

1. Proposed purchase of computer peripherals by the Federal Reserve Bank of Richmond.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board: (202) 452-3204.

Dated: August 12, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-1113-77 Filed 8-15-77;8:45 am]

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., August 18, 1977.

PLACE: 2011 K Street NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public: Finalize FY 79 Operating Plan and Budget Request.

Portions closed to the public: Enforcement Matter.

CONTACT PERSON:

Jane Stuckey, 254-6314.

[S-1114 Filed 8-15-77;8:45 am]

5

FEDERAL POWER COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: (August 15, 1977).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: August 16, 1977 2 p.m.; August 17, 1977 2 p.m.

CHANGE IN THE MEETING: The Regular Commission meeting scheduled for Tuesday, August 16, 1977, has been cancelled. The Regular Commission meeting scheduled for Wednesday, August 17, 1977, at 2:00 p.m. has been changed to 10:00 a.m. The meeting for August 17 will consist of the following items:

Item 1—Docket No. RP76-38, Arizona Electric Power Cooperative, Inc. and the City of Wilcox, Arizona V. El Paso Natural Gas Company.

Item 2—Docket No. RP74-50-5, Florida Hydrocarbons Company and Florida Gas Transmission Company.

Item 3—Docket No. RP75-79, Lehigh Portland Cement Company, Complainant V. Florida Gas Transmission Company, Respondent.

Item 4—Docket Nos. CP75-131 and CP76-129, Mountain Fuel Supply Company.

Docket No. CP76-94, Phillips Petroleum Company.

Item 5—Docket No. CI77-306, Transco Exploration Company.

Item 6—Docket Nos. CP77-21, Et Al., Tennessee Gas Pipeline Company, Columbia Gulf Transmission Company, and Southern Natural Gas Company; Docket No. CI76-730, Mobil Oil Corporation, Docket No. CI77-120, Texaco Inc.

Item 7—Docket No. CP76-413, United Gas Pipe Line Company and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. Docket No. CP76-414, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. and Midwestern Gas Transmission Docket No. G-10632, Northern Illinois Gas Company.

Item 8—Docket No. CP77-504, Transcontinental Gas Pipe Line Corporation, Docket No. CP77-513, Tennessee Gas Pipeline Company.

Item 9—Docket No. CP77-478, Panhandle Eastern Pipe Line Company and Trunkline Gas Company.

Item 10—Docket Nos. RP77-31 and RP73-64 (PGA No. 77-2a), Southern Natural Gas Company.

Item 11—Docket No. RP77-110, Alabama-Tennessee Natural Gas Company.

Item 12—Docket No. E-8264, Maine Public Service Company.

V42159 AUG 17 77 UM

Item 13—Docket No. ER77-388, Superior District Power Company.
Item 14—Docket No. E-9593, Central Power & Light Company, Et Al.
Item 15—Project Nos. 233, 2106, 2165—California, Pacific Gas and Electric Company.
Item 16—Project No. 137—California, Pacific Gas and Electric Company.
Item 17—Project No. 137—California, Pacific Gas and Electric Company.
Item 18—Project No. 175—California, Pacific Gas and Electric Company.

KENNETH F. PLUMB,
Secretary.

[S-1115-77 Filed 8-15-77;8:54 am]

6

THE RENEGOTIATION BOARD.

DATE AND TIME: Monday, September 19, 1977; 9:30 a.m.

PLACE: Conference Room, 4th Floor, 2000 M St. NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTERS TO BE CONSIDERED:

Division Meeting concerning: ABC Management Services, Inc., Fiscal Year Ended June 30, 1974. ABC Management Services, Inc., Fiscal Year Ended June 30, 1975. ABC Food Service, Inc., Fiscal Year Ended June 30, 1975.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: August 12, 1977.

GOODWIN CHASE,
Chairman.

[S-1116-77 Filed 8-15-77 8:54 am]

7

POSTAL RATE COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, August 24, 1977.

PLACE: Conference Room, Room 500, 2000 L Street NW. Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Draft of Tentative Decision Concerning the Officer of the Commission's Proposal to Eliminate the Discrete Rate Structures for Books/Catalogs and Circulars in Both the Bulk Third-Class Regular-Rate and Nonprofit Subclasses, Docket No. MC76-3.

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, Telephone (202) 254-5614.

[S-1117-77 Filed 8-15-77;8:54 am]

8

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Monday, August 22, 1977.

PLACE: 20th Street and Constitution Avenue NW., Washington. D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed modifications of certain personnel practices. This matter was originally scheduled for a meeting on August 15, 1977.

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board: 202-452-3204.

Dated: August 12, 1977.

GRIFFITH H. GARWOOD,
Deputy Secretary of the Board.

[S-118-77 Filed 8-15-77;9:55 am]

9

COMMISSION ON CIVIL RIGHTS.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 CFR 40072, August 8, 1977.

CHANGES IN THE MEETING:

(1) Agenda item V, "Discussion of SAC Chairperson Conference and SAC Reorganization" of the meeting of 9 a.m. to 12 p.m., Monday, August 15, 1977, is amended to read "Discussion of SAC Chairperson Conference."

(2) The open meeting of 2:30-4:30 p.m., Monday, August 15, 1977, is changed to a closed meeting.

MATTERS TO BE CONSIDERED:

Reorganization of State advisory committees into regional advisory committees and advisory committee membership.

(3) The agenda item "Approval of Proposed FY 79 Budget", scheduled for the open meeting of 2:30-4:30 p.m. is carried over to an open meeting session of 2:30-4:30 p.m. on Tuesday, August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Barbara Brooks, Public Affairs Unit, 202-254-6697.

[S-1120 Filed 8-15-77;11:35 am]

federal register

WEDNESDAY, AUGUST 17, 1977
PART II



FEDERAL ENERGY ADMINISTRATION

■

ALASKA NORTH SLOPE CRUDE OIL PRICING AND ENTITLEMENTS TREATMENT

Mandatory Petroleum Price and Allocation Regulations

federal

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PARTS 211 AND 212—MANDATORY PETROLEUM PRICE AND ALLOCATION REGULATIONS

Alaska North Slope Crude Oil Pricing and Entitlements Treatment

AGENCY: Federal Energy Administration.

ACTION. Final rule.

SUMMARY: This action amends the price and allocation regulations of the Federal Energy Administration (FEA) to afford imported crude oil treatment to Alaska North Slope (ANS) crude oil for purposes of the entitlements program, as proposed in FEA's notice of proposed rulemaking. This final rule makes no change in FEA's pricing regulations (except to conform to the entitlements amendments), thereby reflecting FEA's decision that the upper tier price ceiling, as determined under existing price regulations, will, as proposed, apply to first sales of ANS crude oil. This notice also confirms FEA's decision, previously announced, not to seek exclusion of ANS wellhead prices from the statutory composite price computation at this time.

EFFECTIVE DATE: June 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams (FEA Reading Room), 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C. 20461, 202–566–9161.

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, 202–566–9833.

Edwin Mampe (Regulatory Programs), 2000 M Street NW., Room 2304E, Washington, D.C. 20461, 202–254–7200.

Richard S. Greene (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 5140A, Washington, D.C. 20461, 202–566–9567.

Douglas G. Robinson (Alaskan Oil Project Coordinator), 12th and Pennsylvania Avenue NW., Room 3344, Washington, D.C. 20461, 202–566–9698.

SUPPLEMENTARY INFORMATION:

A. Background

Detailed background information describing the FEA price and entitlement regulations and the unique circumstances relating to production and transportation of ANS crude oil was provided in FEA's Notice of Inquiry in this matter (42 FR 13116, March 9, 1977) and in the Notice of Proposed Rulemaking (42 FR 22889, May 5, 1977). It is not necessary, therefore, to repeat that information here. Basically, this rulemaking proceeding has been undertaken to determine what changes, if any, to FEA's price and entitlements regulations should be made to accommodate the substantial new domestic crude oil production which began flowing on the Alaska North Slope on June 20, 1977. Shipments of this oil to refineries on the West Coast of the United States have recently begun, and are anticipated to increase steadily until they reach a level of 1.2 million barrels per day in early 1978.

In response to FEA's Notice of Proposed Rulemaking, FEA received 16 written comments, including 8 late comments. In addition, a total of 14 oral presentations were made at the public hearings in this matter held in Washington, D.C., on May 25, in San Francisco on May 26, and in Anchorage on May 27, 1977. FEA considered all of these comments and presentations, as well as other information available to it, in arriving at the regulatory amendments adopted today.

B. Issues

1. *Pricing: Application of upper tier price ceiling to ANS first sales.* In its notice of proposed rulemaking, FEA explained that ANS crude oil, like any other domestic production from a property which commenced production after 1972, is permitted to be priced at the upper tier ceiling level under existing FEA price regulations applicable to first sales of domestic crude oil. FEA also pointed out that upper tier price treatment for ANS first sales appeared to be consistent with congressional intent under the Emergency Petroleum Allocation Act of 1973, as amended (EPAA). Thus, while recognizing that the actual wellhead price of ANS production will be significantly below the upper tier ceiling level, due to high pipeline and other transportation costs to bring ANS crude oil to domestic refineries, FEA proposed to reject suggestions that ANS production be made subject either to the lower tier price ceiling or exempted from price controls altogether.

Although some producers continue to advocate price exemption, most of the comments received supported FEA's analysis in this respect. Therefore, for the reasons outlined in the notice of proposed rulemaking, today's amendments contain no provisions which would alter the applicability of the upper tier ceiling price to ANS first sales under FEA's existing pricing system.

FEA also pointed out that the upper tier ceiling price applicable to a particular grade of crude oil in a particular field, where there was no posted price for transactions in that grade of crude oil in that field on the upper tier base date of September 30, 1975,[1] is based, under 10 CFR 212.74(b), on "the related price for that grade of domestic crude oil which is most similar in kind and quality in the nearest field for which prices were posted" on September 30, 1975, plus or minus the dollar amount set by FEA from time to time to reflect adjustments to the upper tier ceiling price.

Again, although the ANS first sale price will be constrained at least initially by market forces at levels significantly below the average upper tier price level, due to the high transportation factor, it is necessary to fix the specific upper tier ceiling price applicable to ANS production under § 212.74(b) so that there will be no doubt concerning the applicable lawful price ceiling in the event that market forces permit ANS first sale prices to rise to the ceiling level at some future date. FEA therefore requested comment on crude oil quality characteristics and field locations to determine the "imputed" highest posted price on September 30, 1975, based on the related price for the most similar grade of crude oil in the nearest field on September 30, 1975.

Based on the requirements of § 212.74(b) and the methodology outlined in the notice of proposed rulemaking, FEA has determined that the nearest field with crude oil quality characteristics most similar to ANS crude oil for which prices were posted on September 30, 1975, is the Cut Bank field in Glacier County, Montana. The reported gravity of such oil is 28.3° API and its sulfur content is 1.10%, compared to 27° API and .97% for Alaska North Slope oil. While there is a slight variation in quality between these two oils, they are sufficiently similar that they are virtually interchangeable in many refineries. (More detailed information concerning the selection of the Cut Bank field as the "nearest field most similar in kind and quality" under § 212.74(b) is set forth in the appendix to this notice.) The highest posted price on September 30, 1975, for transactions in the Cut Bank field for the crude oil concerned in September, 1975, appears to have been $12.52 per barrel. (This is the price which ANS producers should use in complying with the certification requirements of 10 CFR 212.131(a)(2)(ii)(B).) Under Price Adjustment Schedule No. 7, in effect until August 31, 1977, $1.70 per barrel is subtracted from the applicable highest posted price on September 30, 1975, to determine the upper tier ceiling price. Consequently, the current upper tier ceiling price applicable to ANS first sales (wellhead ceiling price) appears to be $10.82 per barrel under FEA regulations.[2]

Some producers suggested that it would be more appropriate to apply an upper tier ceiling price to ANS first sales based on the national average upper tier ceiling price. In FEA's view, this approach would be a feasible alternative to § 212.74(b) if the average upper tier ceiling price were computed using only upper tier ceiling prices applicable to crude oils with sulfur content and other quality characteristics similar to those of ANS crude oil, or if adjustments were made in the average to reflect the variation in quality between ANS crude oil and the average of all domestic upper tier oil. FEA does not, however, have sufficiently precise data to compute an accurate weighted average upper tier ceiling price for particular grades of crude oil or for determining the average quality of upper tier oil. Thus, it was impossible for FEA to adopt this suggestion without adopting a new information gathering system applicable to all domestic crude oil producers.

Moreover, based on the limited data that is available on average domestic crude oil weight and sulfur content (believed generally to be 35° API and .68% sulfur) an average upper tier price adjusted for quality differentials would yield a wellhead ceiling price range for ANS crude oil which roughly approximates the Cut Bank field base posted price. The appendix to this notice contains additional information concerning computation of the estimated average upper tier price adjusted to reflect quality differentials.

(2) *Entitlements: Treatment of ANS production as imported crude oil.* For the reasons set forth in detail in the notice of proposed rulemaking, FEA proposed that no entitlements obligation would apply to ANS production, i.e., that it be treated as imported or uncontrolled domestic crude oil for purposes of the entitlements program, which operates generally to equalize crude oil acquisition costs (including transportation) among refiners. FEA estimated that the amendment to extend such entitlements treatment to ANS production at the refinery level would still leave the ANS wellhead price roughly $5.00 per barrel below the estimated average upper tier price then projected for October, 1977, and below even the national weighted average or composite price of domestic crude oil. This estimate was based on the assumption made at that time that the Trans-Alaska Pipeline tariffs would be about $5.10 per barrel.

Operation of the initial pipeline tariffs filed by the pipeline owners (these ranged from $6.04 to $6.44 per barrel) was suspended by order of the Interstate Commerce Commission dated June 28, 1977, and the Commission's suspension order authorizing the filing of interim tariff rates not exceeding amounts ranging from $4.68 to $5.10 per barrel. Thus, FEA's original estimate of $5.10 per barrel coincides with the upper end of the range of tariffs now officially authorized on an interim basis. The relatively small increase in average wellhead prices which may result in consequence of tariffs between $4.68 and $5.10 per barrel, compared with the $5.10 per barrel used by FEA for purposes of analysis, does not alter the basis for any of the proposals put forth by FEA in this rulemaking proceeding. Even with an actual tariff rate about 27 cents per barrel below FEA's $5.10 estimate (the weighted average interim tariff rate as calculated by the ICC is $4.835 per barrel), the ANS wellhead price will still be below the statutory composite price and well below the average upper tier price nation-wide.

The reasons for the entitlements amendment adopted today may be summarized as follows:

(a) *Equity within overall statutory framework.* As noted, even with no entitlements obligation imposed with respect to the refining of ANS crude oil, wellhead prices for ANS crude oil will still be well below those for upper tier crude oil produced in the rest of the United States, even though ANS crude oil is in general more costly to find and produce. Because this relative difference in wellhead price levels results from the cost of transporting ANS crude oil to domestic refiners being higher than the cost of transporting other domestic crude oil, nothing can be done to eliminate this aspect of ANS crude oil pricing without a major restructuring of the regulatory program. But the wellhead price disparity would be even greater if an entitlements obligation were imposed with respect to the refining of ANS crude oil (i.e., if it were required to be treated as upper tier crude oil for purposes of the entitlements program). Thus, import tier entitlements treatment, while it leaves ANS producers at a wellhead price disadvantage compared to producers of upper tier crude oil in the rest of the U.S., is more in accord with the statutory mandate for equitable pricing of crude oil in various regions of the country than would be upper tier entitlements treatment.

(b) *Incentives for additional production.* FEA has not concluded that the entitlements treatment for ANS crude oil adopted herein is necessary to provide incentives to complete development of the main Prudhoe Bay Pool. Nor is it entirely clear that such treatment is necessary to provide an incentive to ANS producers to proceed with the development of the Lisburne and Kuparuk Pools, the other two proven reserves on the North Slope. But by providing ANS crude oil with wellhead prices that are as high as possible (consistent with the upper tier ceiling price, the remoteness of the area and the cost of the imported oil it is replacing), the maximum monetary and psychological incentives are provided for these and other producers to explore aggressively elsewhere in the Arctic and in other frontier regions.

FEA does not find it inconsistent with the policy and purpose of the entitlements program to amend that program to provide separate treatment at the refinery level for two categories of crude oil subject to the same upper tier ceiling price rule—i.e., crude oil produced on the Alaska North Slope and crude oil produced elsewhere in the United States. The entitlements program was not designed or intended to impact on wellhead prices. The purpose of the entitlements program is merely to equalize refiners' crude oil acquisition costs. It does so by issuance to refiners of entitlements with respect to all crude oil, without regard to the source of such crude oil, in proportion to the amount of price controlled crude oil being refined on a nation-wide basis. Crude oil acquisition costs are then equalized by requiring a refiner to have an entitlement for each barrel of price controlled crude oil it refines (a full entitlement for each barrel of lower tier crude oil and a fractional entitlement for each barrel of upper tier crude oil), and a refiner that is required to purchase entitlements in order to refine all of its price controlled crude oil is, in effect, having the price benefits of its access to a greater than average share of price controlled crude oil allocated to another refiner that has access to less than the national average of price controlled crude oil.

The amendment adopted today simply recognizes that at the current level of world market prices, no entitlement obligation is appropriate with respect to the refining of ANS crude oil because a refiner that incurs the transportation cost for such crude oil plus a wellhead price that is subject to the upper tier ceiling price rule does not thereby have access to a price benefit, as compared with imported crude oil or with uncontrolled domestic crude oil.

Most comments received supported FEA's proposed amendment to the entitlements program. Comment which opposed this action—chiefly from California producers—primarily reflected concern that, by failing to differentiate in the entitlements treatment given to ANS oil landed on the West Coast and the Gulf Coast, the proposal would increase the likelihood that ANS producers will engage in price discounting in West Coast markets to avoid paying the extra costs of transshipment of crude oil to mid-continent markets. Some California producers indicated that such price competition may reduce producer margins to the extent that some California production would no longer be economically feasible.

FEA requested specific comment in its notice of proposed rulemaking on the effect of ANS production on California price and production levels. Comment received in this respect reflected considerable differences of opinion both as to what the effects of ANS production will be in California and what FEA policy should be with respect to pricing, entitlements, Elk Hills production levels, and various alternative proposals to dispose of the projected short-term West Coast crude oil surplus. These conflicting views reflect to a significant degree the variables and uncertainties surrounding ANS production which FEA acknowledged in its notice of inquiry in this matter (42 FR 13116, March 9, 1977) and which continue to be present in large measure. In view of the continuing uncertainty concerning the potential effects of ANS crude oil on California price and production levels (or whether there will be any significant effect at all), FEA believes the more appropriate course of action at this time is not to change the rules to address a problem that may not exist, but instead to monitor the situation closely and to quickly implement appropriate regulatory adjustments if necessary.

For the reasons set forth above and in the notice of proposed rulemaking, the proposed amendments to the entitlements program are adopted in the form

[1] There were no such postings in the ANS "field" in September, 1975, since there were no ANS crude oil sales at that time.

[2] The foregoing posted price determination constitutes an administrative determination by FEA based on available data and information as indicated in the appendix to this notice. This determination may be appealed in accordance with 10 CFR Part 205, Subpart H, and for purposes of such appeal it will be deemed an order or interpretation issued by FEA.

V42 I159 AUG 17 77 UM

proposed, effective June 1, 1977, except as noted in Section C, below.

3. *Composite Price: Non-exclusion of ANS first sales from composite price calculations.* An ancillary issue in this rulemaking proceeding has been whether to seek congressional approval, pursuant to section 8(g) of the EPAA, of exclusion of ANS production from the statutory composite price computation. Such an action would require a prior finding by FEA that inclusion of ANS production under the composite price computation would lessen needed incentives for sustaining or enhancing crude oil production in the remainder of the U.S. (Inclusion of ANS production at price levels at or above the adjusted statutory composite price would require an offsetting reduction in prices applicable to other domestic production, in order to comply with statutory pricing limitations).

In its notice of proposed rulemaking, FEA took the following position on this issue:

> FEA has decided not to take any action at this time on whether to exclude ANS wellhead prices from the composite price calculation, although it in general is of the view that certainty should be introduced into future crude oil pricing levels to the extent that this is possible. Under the energy policy proposed by the President on April 20, 1977, such certainty would be introduced by allowing ceiling prices for various categories of domestic crude oil to rise at specified rates notwithstanding the composite average. Until that program is developed and implemented, it is not likely, as pointed out in the April 15 report, that ANS wellhead prices will exceed the composite price and therefore introduce disruption in production incentives for other domestic production.

FEA continues to believe that it would be inappropriate to seek exclusion of ANS production from the composite price computation at the present juncture in view of projected ANS wellhead prices at levels below the composite price level (at least for the short-term). However, section 8(g) does not preclude submission of an ANS exclusion amendment for congressional review at a later date if necessary.

Accordingly, ANS "first sale" (i.e., wellhead) prices will be included in the composite price computation under existing regulations.

C. Amendments

The regulatory amendments appended to the notice of proposed rulemaking are adopted as proposed, with the following revisions and additions.

The definition of "Alaska North Slope crude oil" proposed for inclusion in § 211.62, has been revised to adopt the preferable mode of reference to that crude oil used in section 8(g) of the EPAA—viz., "crude oil transported through the trans-Alaska pipeline."

Since no change in the upper tier status of first sales of ANS crude oil under the pre-existing regulatory framework was proposed in the notice of proposed rulemaking; FEA stated that no amendments to the pricing regulations (Part 212) appeared to be necessary. However, in the event that the actual composite price exceeds the adjusted statutory price at some time in the future (after current corrective actions are completed), FEA would need to have accurate data on the volume of ANS first sales, apart from the volume of other upper tier sales, in order to determine with the degree of accuracy necessary what corrective action should be taken to achieve compliance with the composite price restriction. This is because such corrective action (i.e., a temporary deferral of further increases in price ceilings or a rollback of price ceilings) would probably not impact upon ANS crude oil since ANS first sales are expected to be at price levels significantly below the applicable upper tier price ceiling under most assumptions. While corrective action might be specifically designed to apply to ANS first sale price levels as well as ceiling prices applicable to other production categories, the appropriateness of such action cannot be judged at this time and might depend on precise knowledge of ANS volume levels.

For this reason and in order to provide accurate production data for various other purposes relating to ANS price and allocation controls, FEA will require that purchasers separately report on Form FEA–P124–M–1 the volumes and prices of ANS crude oil purchased. FEA expects to issue in the near future a revised Form 124 which will include instructions to purchasers in this respect.

In view of the foregoing, it appears desirable to amend the crude oil category certification requirements imposed on producers under § 212.131 to assure that all purchasers will be supplied with source data for ANS production in addition to the price category data already required, in order to complete the Form FEA–P124–M–1. Accordingly, today's amendments include a revision of § 212.131 to require producers to certify separately with respect to the volume of upper tier crude oil exclusive of any crude oil transported through the trans-Alaska pipeline, and the volume, if any, of crude oil transported through the trans-Alaska pipeline.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385; E.O. 11790, 39 FR 23185.)

Issued in Washington, D.C., August 11, 1977.

Eric J. Fygi,
Acting General Counsel,
Federal Energy Administration.

In consideration of the foregoing, Parts 211 and 212 of Chapter II of Title 10 of the Code of Federal Regulations are amended as set forth below, effective June 1, 1977.

1. Section 211.62 is amended by adding a new definition of "Alaska North Slope (ANS) crude oil" in appropriate alphabetical order to read as follows:

§ 211.62 Definitions.

* * * * *

"Alaska North Slope (ANS) crude oil" means crude oil transported through the trans-Alaska pipeline. For purposes of this subpart, such crude oil shall not be considered as upper tier crude oil, as that term is hereinafter defined.

* * * * *

2. Section 211.66 is amended by revising paragraph (h) (5) to read as follows:

§ 211.66 Reporting requirements.

* * * * *

(h) *Monthly report.* * * *

(5) The weighted average costs for that refiner (including transportation costs to the refinery) of old oil, upper tier crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), other domestic crude oils the first sale of which is exempt from the provisions of Part 212 of this chapter, and imported crude oil included in that refiner's crude oil receipts. For refiners required to file transfer pricing report forms under § 212.84 of this chapter, the weighted average cost of imported crude oil reported under this subparagraph shall be derived from the landed costs set forth in such reports.

* * * * *

3. Section 211.67 is amended by revising paragraphs (b) (2), (g) (2), (l) (4) and (l) to read as follows:

§ 211.67 Allocation of domestic crude oil.

* * * * *

(b) *Required purchase of entitlements by refiners.* * * *

(2) To calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for purposes of the definition of national domestic crude oil supply ratio in § 211.62 of this subpart, paragraph (b) (1) of this section and paragraph (c) of this section, each barrel of old oil shall be equal to one barrel of deemed old oil and each of upper tier crude oil shall constitute that fraction of a barrel of deemed old oil the numerator of which is equal to the reported weighted average cost per barrel to refiners of ANS crude oil, imported crude oil, stripper well crude oil (as defined in Part 212 of this chapter) and other domestic crude oils the first sale of which is exempt from the provisions of Part 212 of this chapter for that month, less the sum of 21 cents and such weighted average cost per barrel to refiners of upper tier crude oil, and the denominator of which is the entitlement price for that month.

* * * * *

(g) *Exchanges of crude oil.* * * *

(2) Subject to the provisions of paragraph (g) (3) below, volumes of domestic crude oil deemed to be retained by a refiner under the provisions of paragraph (g) (1) above shall be (i) included in that refiner's crude oil receipts at the time the crude oil acquired pursuant to the related exchange or purchase and sale transaction constitutes a crude oil receipt under § 211.62 of this subpart to that refiner, or (ii) certified as old oil, upper tier crude oil, ANS crude oil, stripper well crude oil (as defined in part 212 of this chapter), or any other domestic crude oil the first sale of which is exempt from the provisions of Part 212 of this chapter, as the case may be, under the provisions of § 212.131 of Part 212 when the crude oil acquired pursuant to the related exchange or purchase and sale transaction is sold to another firm.

* * * * *

(l) *Issuance and transfer of entitlements.* * * *

(4) The price at which entitlements shall be sold and purchased shall be fixed by the FEA for each month and shall be the exact differential between the weighted average cost per barrel to refiners of old oil and such weighted average cost of imported crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter) and other domestic crude oils the first sale of which is exempt from the provisions of Part 212 of this chapter, less 21 cents, such costs to be equivalent to the delivered costs to the refinery.

* * * * *

(1) *Certification by non-refiners.* Within twenty-eight (28) days following each month, commencing with the month of September 1976, each firm other than a refiner that has delivered crude oil to a refiner for processing for the account of such firm pursuant to a processing agreement in that month shall certify to that refiner the respective volumes of and that firm's costs for old oil, upper tier crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), other domestic crude oils the first sale of which is exempt from Part 212 of this chapter, and imported crude oil contained in the crude oil so delivered to that refiner.

* * * * *

4. Section 212.131 is amended by revising paragraphs (a) (1) (2), (a) (3) (i), and (b) (1) to read as follows:

§ 212.131 Certification of domestic crude oil sales.

(a) (1) *Stripper well properties.*

* * * * *

(2) *Non-stripper well properties.* (i) With respect to each sale of crude oil from a property which has not qualified as a stripper well property, the producer shall certify in writing to the purchaser the number of barrels, if any, of—

(A) Lower-tier ("old") crude oil;

(B) Upper-tier ("new") crude oil, excluding any crude oil transported through the trans-Alaska pipeline; and

(C) Crude oil transported through the trans-Alaska pipeline.

With respect to any property which has not qualified as a stripper well property, and from which crude oil is only sold to one purchaser, the requirements of this paragraph (a) (2) (i) may be complied with by a one-time certification to the purchaser of the property's monthly base production control level determined pursuant to § 212.72, whether based upon production and sale of crude oil in 1972 or upon production and sale of old crude oil in 1975, and, if applicable, either the property's adjusted base production control level determined pursuant to § 212.76 or the information necessary to compute such adjusted base production control level pursuant to § 212.76.

* * * * *

(3) *Unitized properties.* (i) With respect to each sale of crude oil from a unitized property for which the producer has determined a unit base production control level, the producer shall certify in writing to the purchaser the number of barrels of—

(A) Lower-tier ("old") crude oil;

(B) Upper-tier ("new") crude oil, if any, including either "actual new crude oil" or "imputed new crude oil" determined pursuant to § 212.75(b), but excluding any crude oil transported through the trans-Alaska pipeline;

(C) Crude oil transported through the trans-Alaska pipeline, if any; and

(D) Imputed stripper well crude oil, if any, determined pursuant to § 212.75(b).

With respect to any unitized property for which the producer has determined a unit base production control level, and from which crude oil is only sold to one purchaser, the requirements of this paragraph (a) (3) (i) may be complied with by a one-time written certification to the purchaser of—

(1) The monthly unit base production control level, determined pursuant to § 212.75(b);

(2) The number of barrels of "imputed new crude oil," if any, determined pursuant to § 212.75(b), excluding any crude oil transported through the trans-Alaska pipeline;

(3) The number of barrels of crude oil transported the trans-Alaska pipeline, if any; and

(4) The number of barrels of imputed stripper well crude oil, if any, determined pursuant to § 212.75(b).

* * * * *

(b) (1) Each seller of domestic crude oil, other than a producer of domestic crude oil covered by paragraph (a) of this section, shall, with respect to each sale of domestic crude oil other than an allocation sale pursuant to § 211.65 of Part 211, or a sale in which no volumes of domestic crude oil are deemed to have been transferred pursuant to § 211.67(g) of Part 211, certify in writing to the purchaser the respective volumes of and respective per barrel prices for the—

(i) Lower-tier ("old") crude oil;

(ii) Upper tier ("new") crude oil, exclusive of any crude oil transported through the trans-Alaska pipeline;

(iii) Crude oil transported through the trans-Alaska pipeline;

(iv) Stripper well crude oil; and

(v) Other domestic crude oils the first sale of which is exempt from the provisions of this part—included in the volume of domestic crude oil so sold. The certification shall also contain a statement that the price charged for the domestic crude oil is no greater than the maximum price permitted pursuant to this part.

* * * * *

Appendix

DETERMINATION OF SEPTEMBER 30, 1975, POSTED PRICE FOR ANS CRUDE OIL UNDER 10 CFR 212.74(b)

For most refiners, the most significant determinants of "kind and quality" in crude oil are the gravity and sulfur content. The gravity of crude oil produced from fields in the U.S. ranges from about 11° to about 53° API. Low density crude oils have high API ratings. High API crudes yield greater amounts of gasoline and hence are more valuable than low API crude oils. The sulfur content of domestic crude oil varies from about .02 to about 6.0 percent. Sulfur affects the value of crude oil because of its many undesirable characteristics. Among these are its corrosiveness and its detrimental impact on air quality if retained in refinery products. Removal of sulfur is an expensive process. Therefore, high-sulfur crude oil is less valuable than low-sulfur crude oil.

The gravity and sulfur content of ANS crude oil are 27 degrees API and 0.97 percent (by weight) respectively. For the purposes of this analysis, fields with an API rating of 27° plus or minus 5° (i.e., 22 to 32° API) *and* a sulfur content of 0.97 percent plus or minus 0.5 percent (i.e., .47 to 1.47 percent sulfur) were deemed to be generally similar to ANS crude oil. Qualifying fields were selected from the United States Bureau of Mines (BOM) Report of Investigation No. 6819, (1966) on 616 samples from 546 important fields in 20 states, the most recent comprehensive report available. Additionally, FEA reviewed information on some fields through comments submitted in response to the notice of proposed rulemaking, and through subsequent investigations based on those submissions.

This process yielded a total of fifty-five fields west of 96° west longitude (western half of the U.S.) with crude oil generally similar in quality to ANS crude oil. These fields are listed at the end of this appendix. By narrowing the "similarity" range to an API rating of 27° plus or minus 2.5° (i.e., 24.5 to 29.5° API) and a sulfur content of 0.97 percent plus or minus 0.25 percent (i.e., .72 to 1.22 percent sulfur), FEA derived a list of 17 fields which it considers most similar in kind and quality to ANS crude oil. Of these fields, three are in Montana, the geographically closest oil-producing state to the ANS production zone, and the rest in such more distant states as Wyoming, Utah, California, and Texas. The qualifying Montana field which is nearest geographically to the ANS discovery well (near the center of the Prudhoe Bay Pool), is the Two Medicine Cut Bank Sand Unit ("Cut Bank") in Glacier County, Montana, 1,935 miles away, with a gravity of 28.3° and a sulfur content of 1.10 percent based on BOM samplings.

Thus, in accordance with 10 CFR 212.74(b), and the methodology explained in the notice of proposed rulemaking, Cut Bank is the nearest field which produces crude oil most similar in kind and quality to ANS crude oil.

As far as FEA is aware, only three purchasers posted prices for crude oil in the Cut Bank area for September, 1975: Phillips Petroleum Co., Union Oil Co., and Permian Corp.

The Phillips price bulletin for September, 1975 lists only the Cut Bank and Pondera Fields in Montana. The posted price for crude oil of 27–27.9° API was $12.36 per barrel for both of these fields.

The Union price bulletin applies in Montana to "Cut Bank, Darling, Reagan and Adjacent Fields." The Union bulletin lists a price of $12.39 per barrel for crude oil of 27.0–27.9° API for the Montana fields concerned.

The price bulletin issued by Permian for September, 1975, lists a price not to exceed $12.78 per barrel "for 40.0° API gravity and above, with gravity adjustments," applicable to "Northwestern Montana." The Permian Corp. has advised FEA that "Northwestern Montana" as thus referenced comprises a geographical area which includes the Cut Bank field, among others, and that the applicable gravity adjustment has been 2¢ per degree API since early 1975. Under Ruling 1977–1 (42 FR 3628, January 19, 1977) the Permian bulletin therefore appears to constitute a posting of $12.52 per barrel for 27° API crude oil in the Cut Bank and other fields in Northwestern Montana. According to information available to FEA, crude oil at various API degree levels other than 28.3° is sold from the Cut Bank field, including 27° API crude oil. FEA concludes that the Permian posting noted above appears to constitute the highest posted price on September 30, 1975, applicable to the Cut Bank field.

The Kevin-Sunburst field in Toole County, Montana is about 18 miles closer to the ANS discovery well than the Cut Bank field. Because its API rating in the table at the end of this appendix is 32°, it does not fall within the list of 17 fields found to be most similar in kind and quality to ANS crude oil. However, the fields in Northwestern Montana to which the Permian posting applies includes the Kevin-Sunburst field, which is only about 20 miles from the Cut Bank field. Because of this, and the fact that the sulfur differentials in Northwestern Montana are not great enough to affect the price in that area, the "highest posted price" as determined above would be the same with respect to 27° API crude oil no matter whether produced from Cut Bank or Kevin-Sunburst.

The northernmost active California field, Brentwood, is 2,450 miles from the ANS discovery well, over 500 miles farther away than Cut Bank. Furthermore, this field would not qualify as similar in quality, even within the wider range described above. One of the northernmost California fields of a quality generally similar to that of ANS is Ventura, with an API of 31.3° and sulfur content of .94 percent. Ventura, however is 2,721 miles from the North Slope, about 800 miles farther than Cut Bank.

In Wyoming, both Elk Basin and Dewey Dome are hundreds of miles farther away from the ANS than Cut Bank. They are also not as close in quality to the ANS crude as Cut Bank. Elk Basin has a gravity of 26.8 degrees API and a sulfur content of 1.50 percent, while Dewey Dome's gravity is 25.4° API and its sulfur content is 0.88 percent.

Several of those submitting comments suggested that FEA set aside the regulatory procedure in favor of adoption of the national average upper tier ceiling price as the ANS ceiling price. In its evaluation of this alternative FEA acknowledged that the value of crude oil to the refiner is largely dependent upon the gravity and sulfur content of the particular oil. Hence, it was determined that in order to set the upper tier price level of ANS crude based on a national average, adjustment would have to be made for the particular gravity and sulfur content of that oil. A weighted national average upper tier ceiling price is available, but the data necessary for the computation of a weighted national average for gravity and sulfur content are not. The closest gravity and sulfur approximations available were unweighted figures computed by FEA on the basis of the Bureau of Mines publication (which applied to only twenty states) cited above. Based on those approximations, it can be concluded that the average upper tire quality exceeds the average quality of ANS crude oil.

The average upper tier price of all domestic controlled crude oil in February 1977 was $11.39 per barrel. Therefore to obtain the average upper tier posted price on September 30, 1975 an additional $1.25 should be added, $11.39+$1.25=$12.64 to reflect corrections and roll-backs under the Emergency Petroleum Allocation Act, as amended. The estimated average gravity for domestic crude oil was determined to be 34.86 degrees API. ANS crude is 27 degrees API or 7.86 degrees API below the national average. The gravity penalty averages from 2 to 3 cents per degree API. Hence, the adjusted value for ANS crude oil would be from ($12.64—0.03×7.86)=$12.40 to ($12.64—0.02×7.86)=$12.48. In addition, a sulfur penalty is assessed on crude oils and reflected in the postings. The penalty has been determined to be from $0.15 to $0.35 for each percentage point sulfur content. The U.S. average sulfur content in crude oil was estimated to be 0.685 percent (data is lacking to make this estimate with sufficient precision for regulatory purposes). Therefore, the additional sulfur penalty would require ANS crude to be priced from [$12.40—$0.35 (0.97 percent—0.685 percent)]=$12.30 to [$12.48—$0.15 (0.97 percent—0.685 percent)]=$12.44.

In conclusion, the "nearest field most similar in kind and quality" approach yields a precise upper tier base posted price for ANS crude oil under § 212.74(b) of $12.52 per barrel. The "national average" approach yields an estimated range of base posted prices for ANS crude oil from $12.30 to $12.44 per barrel.

Fields west of 96° west longitude producing crude oil generally similar in quality to ANS crude oil (22° to 32° API, 0.47 to 1.47 pct sulfur)

State	County	Field	°API	Percent sulfur
California	Los Angeles	Inglewood [1]	29.4	1.08
		Dominguez	29.9	.88
		Signal Hill [1]	24.7	1.10
		Las Cienegas	28.8	.58
		Long Beach	22.6	1.29
		Montebello	26.3	.68
		San Sinemo [1]	28.6	.87
		Whittier	23.1	.53
	Orange	Belmont [1]	28.7	.90
		Brea Olinda	21.0	.75
		Coyote, east field	30.4	.95
		Seal Beach	31.7	.55
		Buena Vista	30.6	.59
	Kern	Edison [1]	25.2	.90
		Elk Hills	22.8	.68
		Midway Sunset	22.6	.94
		San Emidio, nose field	29.7	.83
	Fresno	Coalinga, east field [1]	28.8	.88
	Ventura	Oxnard	31.8	1.02
		Rincon	28.2	1.40
		Ventura	31.3	.94
Kansas	Russell	Gorham	31.0	.55
	Pratt	Iuka-Carmi	28.8	.59
	Rooks	Marcotte [1]	26.3	.77
	Graham	Morel	27.3	.67
	Harper	Spivey Grabs	23.5	.93
Montana	Wibaux	Pine	30.4	.54
	Richland	Bronson [1]	28.3	.87
	Rosebud	Sumatra	29.5	.65
	Toole	Kevin-Sunburst	32.0	1.20
	Glacier	Two Medicine Cut Bank Sand Unit [1]	28.3	1.10
	Carter	Repeat	24.2	.87
	Fallon	Penned (Mississippian)	31.5	.48
		Little Beaver, East [1]	29.3	1.06
New Mexico	Lea	Eunice Monument [1]	28.5	.97
North Dakota	Billings	Rocky Ridge [1]	27.1	1.16
Oklahoma	Hughes	Allen	29.3	.70
	Carter	Healdton [1]	28.9	.92
		Sho-Vel-Tum, camp area	28.0	1.41
	Stephens	Sho-Vel-Tum, Sholem Alechem area	27.0	1.34
		Sho-Vel-Tum, Velma area	29.1	1.36
Texas	Yoakum	Wasson (66, Clear Fork, Permian)	31.9	1.40
	Howard	Iatan, East Howard field	31.5	1.47
	Caldwell	Luling-Branyon [1]	28.6	.86
	Grayson	Sadler, west field (Huff, Pennsylvanian)	30.0	.82
	Cooke	Walnut Bend	31.0	.86
	Crockett	World	28.2	.70
	Andrews	McFarland	31.1	1.38
Utah	Uintah	Ashley Valley (Permian)	30.0	.89
		Ashley Valley (Pennsylvania)	30.8	.83
	Garfield	Upper Valley (Coconino) [1]	27.0	.91
	Washington	Anderson Junction [1]	27.0	.75
Wyoming	Campbell	Adon	30.6	1.20
	Johnson	Sussex unit A	31.5	1.35
	Weston	Dewey Dome [1]	25.4	.88

[1] Most similar fields, based on more restricted range of 24.5 to 29.5° API, and 0.72 to 1.22 pct sulfur.

[FR Doc.77-23607 Filed 8-12-77;2:30 pm]

federal register

WEDNESDAY, AUGUST 17, 1977

PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

FEDERAL ENERGY ADMINISTRATION

DOMESTIC CRUDE OIL PRODUCTION

Additional Price Incentives for Tertiary Enhanced Recovery Techniques

federal register

V 42 159 AUG 17 77 UM

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 212]

DOMESTIC CRUDE OIL PRODUCTION

Additional Price Incentives for Tertiary Enhanced Recovery Techniques

AGENCY: Federal Energy Administration.

ACTION: Notice of decision.

SUMMARY: On January 6, 1977, the Federal Energy Administration (FEA) issued a Notice of Proposed Rulemaking and Public Hearing, concerning proposed amendments to Subpart D of the Mandatory Petroleum Price Regulations to provide additional price incentives for the increased production of domestic crude oil through the application of tertiary enhanced recovery techniques. 42 FR 2646 (January 12, 1977).

The proposed incentives were intended to implement the provisions of section 122 of the Energy Conservation and Production Act ("ECPA"), Pub. L. 94-385 (August 14, 1976).

The purpose of this Notice is to set forth the basic decisions which the FEA has made with respect to the tertiary recovery incentive program, which will be implemented in final regulations to be issued in the near future.

DATES: Although the FEA may be requesting comments, limited to technical matters, in connection with the issuance of detailed regulations implementing the program, comments are not requested with respect to this Notice. The effective date of the regulations to implement the program will be announced when those regulations are issued. Accordingly, there are no applicable dates with respect to this Notice.

ADDRESSES: For the same reasons, there are no applicable addresses.

FOR FURTHER INFORMATION CONTACT:

F. Scott Bush (Policy and Program Evaluation), 12th & Pennsylvania Avenue, NW., Room 4109, Washington, D.C. 20461, 202-566-9193.

Edwin Mampe (Regulatory Programs), 2000 M Street, NW., Room 2304, Washington, D.C. 20461, 202-254-7200.

Cliff G. Russell (Office of General Counsel), 12th & Pennsylvania Avenue, NW., Room 5138, Washington, D.C. 20461, 202-566-9567.

SUPPLEMENTARY INFORMATION:

COMMENTS

Public hearings were held in Dallas, Texas, on February 28, 1977, and in Washington, D.C., on March 3 and 4, 1977, at which a total of 25 interested persons made oral statements. In addition, the FEA received a total of 35 written comments in response to its proposal.

OUTLINE OF THE PROGRAM

I. SUMMARY OF THE PROGRAM

A. PRINCIPAL FEATURES

1. Incentive Price;
2. Qualifying Projects:
   a. In General.
   b. Existing Projects.
3. Quantity of Crude Oil Entitled to the Incentive Price ("Incremental" Crude Oil).
4. Certification and Recertification Procedures.

B. EXPERIMENTAL NATURE OF THE PROGRAM

II. FURTHER DISCUSSION OF THE PROGRAM

A. INCENTIVE PRICE

B. CRITERIA FOR QUALIFICATION OF PROJECTS

1. In General;
2. Existing Projects.

C. CRUDE OIL ELIGIBLE FOR THE INCENTIVE PRICE-"INCREMENTAL" CRUDE OIL

D. CERTIFICATION AND RECERTIFICATION OF PROJECTS

1. Certification Procedures Generally.
2. Recertification Requirements.

E. POST-CERTIFICATION EVENTS

III. REGULATIONS IMPLEMENTING THE INCENTIVE

I. SUMMARY OF THE PROGRAM

A. PRINCIPAL FEATURES OF THE PROGRAM

Very generally, the program for implementing additional price incentives for the increased production of domestic crude oil through the application of tertiary enhanced recovery techniques will provide that incremental crude oil produced as a result of a qualified (and certified) tertiary enhanced recovery project may be sold at market level prices. More specifically, the program will have the following essential features:

1. Incentive Price.

The price permitted for qualifying incremental tertiary production will be the market clearing price. That is, the price of such crude oil will not be limited by a price ceiling, and in this sense will be "exempt" from price controls.

Based on current projections, there appears to be sufficient flexibility under the composite price requirements of the Energy Policy and Conservation Act ("ECPA," Pub. L. 94-163) to provide reasonable assurance that the prices for tertiary crude oil and other categories of crude oil will not be subject to future freezes or roll-backs. Accordingly, FEA does not propose to submit for Congressional approval an "energy action" pursuant to the procedures of section 551 of the EPCA in order to provide for any increase in the statutory composite price.

2. Qualifying Projects:

a. In General.

The crude oil entitled to the incentive price will be the incremental crude oil which is produced as the result of a "qualified tertiary enhanced recovery project." A "tertiary enhanced recovery project" is one which is within the definitions to be set forth in the regulations, and will include miscible fluid displacement, steam drive injection, cyclic steam injection, microemulsion (or micellar/emulsion) flooding, in situ combustion, polymer augmented waterflooding, alkaline (or "caustic") waterflooding, carbon dioxide augmented waterflooding, and immiscible carbon dioxide displacement. The definitions of these techniques will be substantially as set forth in the January Notice of Proposed Rulemaking (see 42 FR 2646, at 2662-63), with some minor modifications to include certain variations of the above basic techniques.

The above types of projects will be entitled to the incentive only if they are determined to qualify for the incentive on economic grounds, i.e., only if they are shown by the producer to be uneconomic in the absence of the incentive. The producer will be required to make this economic showing in *all* cases, regardless of which of the above techniques is to be utilized, and will be required to receive FEA certification that the project does qualify for the incentive on economic grounds prior to pricing any production at the incentive price level. Thus, there will not be two categories of techniques as orlginally proposed, one of which automatically qualifies for the incentive without a prior economic showing and one of which qualifies only upon such a showing. All projects must be qualified on the basis of a particularized showing of economic need for the incentive, regardless of the technique applied.

b. Existing Projects.

In general, only "new" projects (i.e., those commenced after the date of issuance of the final regulations), and expansions of existing projects, will be entitled to the incentive. However, an existing project may qualify for the incentive if the producer demonstrates that: (i) the project would be abandoned in the absence of the incentive because of a material change of circumstances since the initiation of the project; and (ii) viewed prospectively under the circumstances existing at the time FEA certification is sought, the project qualifies for the incentive on economic grounds. In determining whether an existing project qualifies on economic grounds, the FEA would generally disregard "sunk" investment and would focus principally on the marginal or variable costs of continuing. However, if such a project does qualify for the incentive under these criteria, it would prospectively receive the incentive on the same basis as a new project.

3. Quantity of Crude Oil Entitled to the Incentive Price ("Incremental" Crude Oil).

In order for crude oil produced from a qualified tertiary enhanced recovery project to receive the incentive price, it must also be incremental to that which would have been produced from the property or project area in the absence of the tertiary project. Only such incremental production—which is not necessarily equal to total production occurring after project implementation—will be entitled to the incentive price.

The basis for determining incremental production, and the projected amount of such production, will be established and certified prospectively by FEA, with the assistance of existing state and federal regulatory authorities having jurisdiction over the property in question. A non-incremental production baseline will be established for the property or project area in question which will consist of projected maximum feasible production from existing recovery efforts on the property or project area. Incremental production for any period after implementation of a project will be all production from the property or project area during that period which is in excess of the previously established and certified non-incremental volumes for that period. Providing for a non-incremental baseline consisting only of projected production from recovery efforts existing on the property on or prior to the date that certification is granted is in contrast to the proposal contained in the January Notice. Under the proposal, projected non-incremental production would have included imputed production from any non-tertiary techniques which might theoretically have been applied to the property but which had not in fact been so applied.

Incremental production will not be deemed to occur prior to the date, established in the certification, that the initial production response to the tertiary technique is projected to occur.

4. Certification and Recertification Procedures

To receive the incentive price, a producer must first apply for and receive certifications establishing: (1) that the project qualifies for the incentive on economic grounds; and (2) the basis for determining the amount of incremental crude oil which will be produced from the project.

Application for certification will be made to the FEA, which will generally be responsible for the processing of such applications and the final determinations made. However, it is the FEA's intention to utilize the expertise of existing state and federal regulatory agencies to the fullest extent feasible, particularly as regards the basis for determining the amount of incremental crude oil to be produced. Therefore, upon receipt and acceptance of an application, the FEA will contact the relevant agency and arrange with it a schedule for developing the necessary information and making the necessary determinations. It is the FEA's intention to permit this information to be developed in the context of existing state and federal agency procedures, to the extent feasible.

In connection with its issuance of detailed regulations, the FEA will publish guidelines, for the benefit of the producer and the relevant state and federal agencies, setting forth the nature of the information required to make the necessary determinations. In section II. D.1., below, is set forth a general statement of the type of information the FEA believes will be required.

The burden will be upon the producer to establish that the project qualifies for the incentive on economic grounds, and to establish the amount of incremental crude oil to be produced. Among other items, the producer must satisfactorily establish the territorial and economic scope and timing of the project, and must (particularly where the project does not coincide with property boundaries) undertake to measure production by means acceptable to the FEA in order to establish the actual amount of incremental production from the project area.

In recognition that there may be long lead-times between certification and the first production response from a project, and in recognition that any estimating errors or omissions occurring in the certification process can result in significant aberrations (particularly in future years) the FEA may require recertification of incremental and non-incremental production volumes if post-certification production history is substantially at variance with volumes projected in the certification process. A substantial variance would be deemed to exist if, in any 18-month period, actual incremental or non-incremental production for that period varies from the certified volumes by more than 20 percent or by more than an average of 50 barrels per day, whichever is greater. Although incremental production in any period would be all actual production in excess of the certified non-incremental volumes, in order to permit the FEA to re-evaluate original estimates a projected amount of incremental production would also be established at the time of initial certification.

The provision for recertification does not necessarily mean that incremental volumes will be adjusted. It means only that a substantial variance in production will be cause for an inquiry into the bases upon which the original estimates were made, in order to determine whether there were any material errors or omissions in making such estimates or whether there exists any other cause for revising the original certification. It should be emphasized that there would be no revision or revocation of the original certification merely because there is a substantial production variance; revision or revocation would occur only if the reasons for such variance are the existence of material errors or omissions in the original certification of which the producer knew or should have known. This provision for recertification is in addition to other grounds for revision or revocation of certifications discussed in the proposed rulemaking, such as a producer's failure to implement the project at the time and in the manner represented in the application for certification. In addition, this recertification procedure would not preclude a producer's seeking modification of the original certification at any time based upon changed circumstances since the time of the initial certification.

B. EXPERIMENTAL NATURE OF THE PROGRAM

In response to its January Notice, the FEA received a wide variety of responses on the large number of difficult issues presented by any effort to provide a specific incentive for tertiary enhanced recovery techniques. These comments ranged from the optimistic assessment that the proposed program was (with minor changes) adequate, to the pessimistic statements that the proposed program was essentially unworkable.

As indicated in section II., below, the FEA has modified parts of its proposed program in response to comments received, and in other respects it has adhered to its initial proposal. Also, in adopting this program the FEA has attempted to address certain related technical issues.

However, it is apparent that there is no single perfect means to resolve these difficult issues, and that there remain substantial unanswered questions as to how well the program outlined above will work in practice. Whether this program will elicit substantial producer response, and how it can best be administered, are questions which the FEA has determined should now be answered by actual experience in attempting to implement the program described.

Therefore, although the above-described program represents the FEA's best efforts to accommodate and balance the many competing considerations involved, the FEA will continue to review the operation of this program in light of the actual experience it acquires in administering it. For example, the FEA may find that it can develop reasonably refined criteria for establishing when a project may qualify for the incentive without the need for economic review, based upon the data it acquires in the course of reviewing a number of applications. There are many other examples, but in general it is the FEA's intention to undertake a thorough review of the pro- the FEA may issue further proposed rules to make any necessary revisions or improvements in the program.

The FEA also recognizes, however, that producers invest substantial time and money in determining whether to undertake projects of this nature, and that applications for certification pursuant to the present program will require such a substantial investment. Therefore, in order to provide the maximum feasible stability for producer planning, the FEA has determined that if an application for certification is received and accepted for processing under the present program at any time prior to the issuance of further proposed amendments to the program, the producer will not be affected adversely by any change in the basic scope of the incentive proposed by any such amendments. If application of

V 42 159 AUG 17 77 UM V

the new proposed rules would adversely affect the producer's position, it is the FEA's intention that the producer's application will to that extent be reviewed under the rules existing at the time the application is accepted. In addition, a certification given prior to the issuance of any proposed amendments will not be changed, by reason of the amendments, where the changes would adversely affect the producer. Revision or revocation of any such certification would be accomplished, if at all, only pursuant to the rules under which the particular certification was granted. For purposes of applying this policy, the FEA will provide formal notice to the producer at the time a particular application has been accepted. Of course, in order to be acceptable, the application must contain the required information and supporting data, and must not require substantial additional information in order to enable the FEA to commence the review process.

It is possible that, at least initially, the FEA will require monthly post-certification reports from producers receiving certifications. The purpose of such reports would be not only to monitor progress on specific projects that have received certifications, but also to keep the FEA advised with respect to the operation of its program generally.

II. Further Discussion of the Program

A. Incentive Price

The FEA has determined that qualifying tertiary production should receive a market-clearing price. It has determined at this time not to adopt the alternative, discussed in the January Notice, of limiting the incentive to an "upper tier" price, for several reasons.

First, the vast majority of comments received in the rulemaking, noting especially the high risks of tertiary recovery efforts, asserted that a market-clearing price was required in order to stimulate meaningful responses to the incentive. These assertions are supported in general by the Lewin Study on "The Potential and Economics of Enhanced Oil Recovery" (the "Lewin Study"), referred to in the January Notice and up-dated as of November 1976, which indicates that more enhanced production will result from market level oil prices than from upper tier prices. The Lewin Study also indicates that there are several reservoirs for which tertiary recovery efforts are marginally economic at current world oil prices; thus, tertiary recovery in these reservoirs would presumably be uneconomic at current upper tier prices.

The FEA recognizes that a number of those asserting the need for market-clearing prices also asserted the need to provide such prices for all production from a tertiary project, and not just for incremental production. The data presently available to FEA do not provide an adequate basis for quantifying precisely the difference, in terms of potential production response, between incremental and "full" pricing at either level. To some extent, the experience acquired by the FEA in administering the program described herein may provide a basis for assessing these differences. However, at this time the FEA believes that the Lewin Study and the comments received are generally indicative of the probability that more production will result by providing for a market level price than by limiting the incentive to the upper tier price.

In addition, the comments received by the FEA generally confirmed the observations, contained in the January Notice and in the Lewin Study, that pricing uncertainty is a major deterrent to investment in high-cost and high-risk projects of this nature. As noted in the January Notice, the lower tier price has been "frozen" for several months, and the upper tier price has been "rolled back" and "frozen" for the last several months, in order to comply with the composite price requirements of the EPCA. Many producers expressed the opinion that only a market price, relatively immune from these administrative actions, would justify the investment required in these projects.

Of course, as the FEA pointed out in the January Notice, under current legislation the incentive price received for tertiary production must be included in the EPCA composite price calculations, and to this extent is not "exempt" from potential control, because under the scheme the FEA must balance the effects of pricing actions for one category of production on the prices for other categories of production. Thus, many commenters conditioned their support of incentives for tertiary recovery projects upon the removal of the incentive price from the composite price limitations. However, based on current projections, there appears to be ample flexibility within the composite price limitations of EPCA to implement this program without any impact on other domestic crude oil prices. Should this not prove to be the case, an "energy action" could be submitted to the Congress pursuant to section 551 of EPCA which, if not disapproved by Congress, could provide any additional pricing flexibility necessary to continue incentives for qualified tertiary production.

Most commenters indicated that, although there may be some tertiary production response to the proposed price incentives before the May, 1979 terminatiodnal date of the composite price limitations of the EPCA crude oil price control program, the response is likely to be very small within that time period. However, most commenters favored providing current price incentives, because, as indicated in the January Notice, it would tend to promote earlier implementation of projects and would avoid loss of opportunities within that time period.

In addition, on April 29, 1977 (after issuance of the January Notice and hearings on the proposal) the President's National Energy Plan ("NEP") was issued. The NEP calls for an extension of crude oil price controls well beyond the expiration of the current mandatory control period of the EPCA, and it also provides for escalation of the prices of lower- and upper-tier crude oil from existing fields only to the extent necessary to keep pace with domestic inflation. Although the NEP has not yet been fully implemented, its existence clearly establishes that producers should assume generally the continuation of domestic crude oil price controls. Provision of a world market price incentive for qualified tertiary production is therefore likely to promote increased investment in tertiary enhanced recovery projects, and a consequent increase in domestic crude oil production, in a substantially greater degree than if controls were expected generally to be terminated in 1979. It should also be noted that the NEP also calls for the provision of specific incentives above the prices permitted for lower- and upper-tier crude oil, including the provision of world market prices for incremental tertiary crude oil. This is essentially the incentive described herein.

Finally, although the data available to the FEA are not sufficiently exact to permit precise quantification, the FEA believes that a substantial number of properties which may be candidates for tertiary recovery projects are currently producing "new," or upper-tier, crude oil. Providing only the upper tier price for incremental tertiary production would obviously provide no additional incentives to undertake tertiary projects in such cases, whereas providing for a market clearing price is more likely to stimulate projects which may be marginal at upper-tier prices.

For all of the foregoing reasons, the FEA has determined to permit market clearing prices to be charged for qualified tertiary production. Of course, in keeping with the experimental nature of this particular program, the FEA will be reviewing the appropriateness of this level of pricing in the course of implementing the program. However, as noted previously, a producer whose application is accepted prior to the issuance of any proposed changes in the program will not be adversely affected by any such changes.

B. Criteria for Qualification of Projects

1. In General.

In order to qualify for the tertiary incentive price, crude oil must be produced as a result of the application of certain defined techniques which are recognized to be "tertiary enhanced recovery techniques," and the project employing such technique or techniques must be shown to be uneconomic in the absence of the incentive.

The techniques which are eligible in principle for the incentive will be defined substantially as provided in the January Notice, with the major exception that all techniques will be subject to case-by-case economic review. Thus, there will be no distinction between techniques, wherein certain techniques would qualify automatically for the incentive and others would qualify only if shown to be uneconomic without the incentive. In short,

the FEA has determined not to adopt the "two-category" approach to qualifying techniques which it proposed in the January Notice. All defined techniques will be in one category, and all proposed projects will be subject to FEA review and certification on economic grounds, regardless of the particular technique employed. In connection with this decision, the originally proposed "quantitative thresholds," specifying the extent to which the relevant materials or processes must be applied in order for a "category one" technique to qualify automatically for the incentive, will be deleted. Such thresholds are now irrelevant, since each project will be reviewed to determine whether it qualifies for the incentive under the particular circumstances applicable to that project.

A large number of commenters challenged the existence of two categories with differing qualification criteria as being inherently arbitrary. Several also took issue with the qualitative and quantitative parameters proposed for determining whether a particular technique should qualify "automatically" for the incentive. While several commenters urged automatic qualification for all of the listed techniques, others simply pointed out that generalizations about which techniques would be uneconomic under what conditions are hazardous. Based upon its assessment of the comments and data available to it, the FEA has concluded that it is not appropriate at this time to establish categorical criteria and distinctions as to which techniques would be uneconomic, and under what conditions. However, the FEA does not believe that it would be appropriate to permit all of these techniques to qualify automatically, since there are clearly some projects which would be (and are now) economic without the incentive. It is the FEA's intention to provide the incentive only where it is in fact necessary to make the undertaking (or continuation) of a project economic, i.e., where the project would not be economic without the incentive, and thus to avoid windfalls to producers for production that could reasonably be expected to occur without the incentive. As pointed out in the January Notice, the EPCA describes most of these techniques as being of a kind entitled in principle to the incentive, but it mandates provision of the incentive only "to the extent that such techniques would be uneconomical without additional price incentives." Therefore, the FEA has determined to require that all projects receiving the incentive be shown by the producer and certified by the FEA to be uneconomic in the absence of the incentive.

It is possible that, in the course of administering this program, the FEA may be able to develop reasonably refined and precise criteria for determining when a project should qualify without detailed economic review. If it can and does develop these criteria, appropriate amendments may then be forthcoming.

The FEA has considered the administrative issues raised by such an economic review process, and it has at this time concluded that the objectives discussed above, together with the need to acquire specific experience with the economics of tertiary recovery projects, warrant the administrative costs involved. In this connection, it should be noted that the determination of the amounts of incremental crude oil entitled to the incentive price will require a review and certification process for each project in any case, so that the issue is not between requiring economic review and conducting no review at all. Furthermore, as some commenters pointed out, a producer will in any event have made detailed economic estimates and feasibility studies prior to seeking FEA certification of the amount of incremental crude oil. These studies will in turn necessarily be based upon technical production assumptions. Therefore, the additional administrative costs of conducting an economic review in connection with the technical review of the projected incremental production should not be great.

The economic analysis in which the FEA will be engaging, in determining whether to certify a project on economic grounds, will essentially be to determine whether the producer could reasonably be expected to undertake the project in the absence of the incentive. In general, this will depend upon whether the producer is likely to realize a sufficient return on his investment in the tertiary project without the incentive. In making this determination, the FEA will consider the investment required, the projected revenues from the incremental production at the applicable ceiling prices (or under any prior pricing relief provided the producer), and (in determining what rate of return would be adequate) the risks presented. (In considering the investment required, the FEA will look primarily to the amount of risk capital of the producer actually being committed to the project. To the extent that the project is being underwritten by research or demonstration grants, that amount would generally not be considered.) If the FEA determines that the project would be economic without the incentive, certification will be denied. However, if the FEA determines that the project would not be economic without the incentive, then the full incentive for all incremental production will be provided. For the reasons (essentially administrative in nature) discussed in the January Notice, the FEA will not limit the incentive to prices or volumes deemed necessary to provide an adequate rate of return; that is, it will not engage in ratemaking. Under the incremental approach, the producer will bear the risk of failure or production shortfalls; but the producer will be encouraged to undertake these risks, where otherwise justifiable, by having relative assurance that prices for incremental tertiary production will not thereafter be subject to prior administrative approval or revision.

As previously indicated, the qualitative definitions of the techniques which are considered "tertiary enhanced recovery techniques" potentially eligible for the incentive will be essentially as proposed in the January Notice. However, there will be some minor revisions in order to avoid the exclusion of certain variations of these basic techniques, which were inadvertently not included in the proposal. For example, the FEA has learned that nitrogen and flue gas could potentially be used as a miscible fluid in miscible fluid techniques. As another example, it has learned that drive injection might potentially be accomplished through means other than the use of existing wells for injection. Although these variations of the basic listed techniques could actually be more economic, in general, than the techniques meeting the literal wording of the proposed definitions, FEA has concluded that there is no reason to exclude these variations from consideration.

More generally, the regulations will provide that variations of the specifically listed techniques will be considered. It is not the FEA's intention to limit eligible techniques to those meeting every detail of the definitions, but rather to recognize that these are general definitions and that particular variations of these techniques are eligible in principle. Thus, new variations (which may represent technological improvements or refinements) will not be excluded.

The FEA has determined not to adopt the requirement, proposed in the January Notice, that producers establish the likelihood of recovery of a specified minimum of incremental crude oil (e.g., 5% of the original crude oil in place) in order to be eligible for the incentive. The purpose of this proposed requirement was to serve as a screening device to avoid drains on administrative resources where the project concerned might only marginally contribute to increased production. However, because the incentive price will be limited to incremental crude oil, the FEA has concluded that economics alone are likely to preclude producer applications for certification in cases in which there is not a prospect of substantial incremental recovery.

2. Existing Projects.

As proposed in the January Notice, projects existing on the effective date of the final regulations will not generally be entitled to receive the incentive, because their existence is presumptive evidence that the incentive was not and is not required in order to commence or continue the project. In general, only those projects commenced after the effective date of the regulations, and after receipt of the required certifications, or expansions of pre-existing projects after the effective date of the regulations and after receipt of the required certifications, will be eligible for the incentive. However, an existing project may receive the incentive if it is shown that the project would otherwise be abandoned because changed circumstances have rendered continuation of the project uneconomic. The FEA will certify such projects if the producer demonstrates that there has been a material change of circumstances since the initiation of

V 42 159 AUG 17 77 UM

the project and that, viewing the project prospectively under the circumstances existing at the time certification is sought, continuation of the project would be uneconomic without the incentive. In determining whether the project is uneconomic, the FEA will generally disregard unreasonable (or "sunk") investment, and will focus principally upon the costs of continuing. Also, the FEA will take into account the prior tertiary production history of the project in assessing the risks presented and the related rate of return necessary for the project to be economic.

If the required showing is made, however, the producer will be entitled to receive the full incentive, as is the case for new projects. That is, the entire amount of incremental tertiary production will be entitled to receive the market level price. Such incremental crude oil may include some current production in the case of existing projects, since there may already have been some tertiary production response to the project.

A possible alternative, which the FEA considered but is not adopting at the present time, would be to consider existing projects to be outside the scope of the program and to require that they obtain relief, if at all, through the exceptions process. Under the exceptions process, the FEA generally permits a producer to increase the price of crude oil to the extent determined to be necessary to permit a particular project to continue. Thus, requiring an existing project to obtain relief through this process would mean that the prices permitted would be only so much as, in FEA's judgment, were necessary to provide a reasonable rate of return. In contrast, existin projects under this program will receive the full incentive if they would be uneconomic without the incentive.

In reaching this conclusion, the FEA took into account the views of several commenters that different treatment of new and existing projects would unfairly discriminate against producers that had previously undertaken precisely the kind of effort for which the Congress intended the incentive. Moreover, providing the incentive for existing projects for which the required special showing is made will contribute to the ultimate objective of the incentive, viz., increased domestic crude oil production, since without the incentive the project would be abandoned as uneconomic. However, the FEA does not agree that it is inappropriate to consider the differing circumstances in which new and existing projects find themselves in determining whether they qualify for the incentive. Failure to take account of the special considerations applicable to existing projects might otherwise result in windfalls to producers for current production.

The FEA fully recognizes that, in some cases, provision of the full incentive to projects which would be uneconomic without the incentive might be more than sufficient to justify the project. This is as true, potentially, for new projects as for existing projects. However, the FEA has determined that the incentive should be "all or nothing," for two reasons. First, to attempt to "fine-tune" the incentive to FEA's judgment of what would constitute a reasonable rate of return would lead inevitably to ratemaking, with all of the administrative pitfalls inherent in that process and noted in the January Notice. As previously stated, the FEA believes that producers should assume the production risks, but that they should be encouraged to do so by the provision of prices not subject to undue administrative review and revision. Second, the FEA believes that it is within the spirit of the ECPA provisions for these incentives to err, if at all, on the side of liberality in this regard, without attempting at every stage to interpose administrative judgments as to what permissible prices should be.

However, the FEA will be reviewing this matter, as well as the other aspects of its current incentive program, in connection with its subsequent overall review of the program.

The requirement that an existing project be shown not only to be uneconomic, but also to have been affected by changed circumstances, is retained as proposed in the January Notice. However, the requirement that such changed circumstances have been unforeseeable has been deleted. The purpose of the "changed circumstances" requirement is to assure that the incentive is not given to projects which, even if not "economic" in terms of production revenues, represent corporate expenditures justified on grounds other than production revenues (such as research expenditures). In such cases, providing the incentive would represent a form of windfall since it would not be a necessary inducement for the project. On the other hand, if a producer can show, by reference to convincing objective evidence, that the original purposes of the project have been exhausted and that continuation of the project must now be justified on other grounds (viz., production revenues), then the FEA believes that the project should be eligible for the incentive, provided of course that the other required showings are made. Since this eventuality is "foreseeable," it appears that a requirement of unforeseeable changes in circumstances would be too stringent. Moreover, a requirement of unforeseeability might also preclude projects which have experienced a substantial production shortfall, since the risk of this occurring is certainly foreseeable. Accordingly, the requirement of unforeseeability of changes in circumstances has been removed.

C. CRUDE OIL ELIGIBLE FOR THE INCENTIVE "PRICE-INCREMENTAL" CRUDE OIL

The FEA has determined to permit the incentive price only for the incremental crude oil produced as a result of a qualified tertiary enhanced recovery project. Incremental crude oil entitled to the incentive price is that which is in excess of the amount of crude oil that would have been produced from the property or project area in question in the absence of the project. To determine the amount of incremental crude oil a "non-incremental" production baseline will be established, based upon projected maximum feasible production from the non-tertiary recovery methods which are or have been applied to the property or project area as of the date certification is granted. Incremental crude oil entitled to the incentive price will be all that produced above the certified non-incremental baseline amounts for the relevant period, beginning after implementation of the project.

Permitting the incentive price for incremental crude oil is in conformity with the proposal set forth by the FEA in the January Notice. In that Notice, the FEA recognized that there was concern as to whether the "incremental" approach provided an adequate incentive, and it identified several alternatives which it wished to consider. Many of the comments received expressed the opinion that the "incremental" approach was not adequate, and espoused the adoption of one or a combination of the alternatives discussed. These commenters generally adopted the arguments against the purely "incremental" approach which were recognized in the January Notice, viz., that such an approach imposes the entire risk of failure on the producer and may not permit the adequate formation or recovery of capital necessary for tertiary recovery projects.

The FEA appreciates the force of these contentions, and does not dismiss them lightly. However, in the difficult task of balancing competing objectives it is the FEA's present judgment that the program described herein will both provide a meaningful incentive for the undertaking of tertiary enhanced recovery projects and will also assure that the incentive does not promote inefficient or distorted economic behavior.

Limiting the incentive to incremental crude oil should prevent the application of tertiary recovery techniques in cases in which the prospect of incremental production alone (even if priced at market prices) would not justify the project, but where the producer might be induced to "go through the motions" of implementing a teritiary project if he could thus increase the prices of current production. In other words, by requiring each project to be self-supporting (with the incentive), the incentive will not induce distorted economic decisions. In addition, the incremental approach will tend to correlate increased production and production revenues with the level of effort and expense incurred by the producer in implementing the enhanced recovery effort, and will thus avoid any inducement to undertake nominal efforts at tertiary recovery in order to receive higher prices for non-tertiary production. Finally, under the incremental approach any higher prices for domestic crude oil will be directly correlated with increased domestic crude oil production, which it is the purpose of the incentive to promote. Under this approach, increased domestic crude oil prices will not be out of proportion to increased crude

oil production, as they might be if current production were to receive the incentive price. For all of these reasons, the FEA has rejected the alternative of permitting all production from a tertiary project to receive the incentive price.

The FEA has considered, but has for purposes of the present program rejected, the alternative of "releasing" a portion of current crude oil production based upon the level of capital committed to a tertiary project. This decision is based in part upon the reasons discussed above for not permitting increases in the prices of current crude oil production, in part for the administrtaive reasons noted in the January Notice, and in part because the FEA presently believes that the producer should in general bear the risks involved in these projects in return for the prospect of receiving the incentive price. Producers are in the best position to know whether and which of their properties are good prospects for substantial tertiary recovery, and the FEA believes that in general the public should not underwrite projects, through higher current crude oil prices, when the producer considers the prospect of obtaining incremental crude oil from such projects too risky even at market prices for such production, Otherwise, it is likely that domestic crude oil prices would escalate out of proportion to the benefits of increased production.

Moreover, underwriting a specific project through higher current crude oil prices may result in inefficient uses of capital. If, without such an underwriting, the producer would decide that a better use of capital were for other purposes, such as exploration for as yet undiscovered crude oil, providing a full or partial "guarantee" of capital recovery from a tertiary project would distort that decision. In proving incentives for tertiary projects, the FEA cannot ignore the potentially distorting effects on other decisions affecting fundamental national energy objectives.

The FEA also considered but rejected an alternative espoused by several commenters, viz., that "incremental" crude oil be deemed to have been produced in any period in the same percentage to total actual production in that period as the projected ultimately recoverable "tertiary reserves" bears to total ultimately recoverable reserves. The main difficulty with this approach is that, as indicated in several comments, it is difficult to estimate the amount of reserves recoverable from an untried technique within a reasonable range of accuracy. Therefore, this approach would be based upon a large amount of speculation, and may grossly overstate or understate the amount of incremental crude oil ultimately recovered. In this respect, this alternative too would not necessarily correlate increased prices with increased production.

Notwithstanding the foregoing observations, the FEA is not minmizing the concerns of those commenters expressing the opinion that the incremental approach provides an inadequate incentive. In the ensuing period during which the FEA is implementing the program described herein, it will carefully review producer responses to this program in an effort to determine whether this program is adequate. However, the FEA presently believes that this program will elicit producer response, as indicated in other comments received by the FEA. In this connection, the FEA notes that the NEP, and the prospect for continued crude oil controls which it presents, may well cause producers to undertake projects which they might not otherwise undertake if controls were anticipated to be removed within a few years. Under the NEP, producers should now be aware that, whenever incremental tertiary production occurs, it will be permitted to receive a price in excess of that allowed for most other domestic crude oil.

As indicated previously, the "non-incremental" baseline against which incremental production is to be measured would consist of projected maximum feasible production from non-tertiary techniques being applied to the property or project area on the date certification is granted. The FEA has determined not to adopt the proposed requirement that the non-incremental baseline include "imputed" production from other technically feasible non-tertiary techniques which might have been applied to the property or project area, but which have not been applied to the property or project area. A major reason for this is that, as noted previously, it is difficult to predict with reasonable accuracy the amount of production response from a technique for which there is no production history on the property. In addition, the imputation of production from techniques which are technically but not economically feasible would overstate realistically obtainable non-incremental production and understate incremental production; and the effort to separate economic theoretical techniques from uneconomic theoretical techniques would be likely to involve unacceptable administrative difficulties. Finally, the FEA believes that economics alone will probably prevent producers from seeking the incentives for quantities of crude oil which could be recovered economically through non-tertiary techniques, since producers are likely to exhaust economic techniques prior to considering the application of uneconomic tertiary techniques.

Of course, the non-incremental baseline will be projected based upon maximum feasible production from existing techniques. This will avoid projecting non-incremental production based upon production histories in which production has been artificially depressed for any reason.

It should be noted that non-incremental and incremental production will be established for a project area, where the project does not cover an entire property. This is because the production history and characteristics of different portions of the same property may be different, and in such cases it is appropriate to account for these differences so that the tertiary project itself is neither penalized nor benefitted by factors not affecting or affected by the project. Thus, if the non-tertiary decline curve for the tertiary project area is different than for the property as a whole, only the specific decline curve for that portion will be used. Similarly, the measurement of actual post-certification production must be accomplished separately for the project area and the remainder of the property. The purpose of this requirement is to assure that events occurring on the portion of the property unaffected by the project, such as "infill" drilling increasing production or reduced production occurring for any reason, are not credited or charged to tertiary production.

The FEA recognizes that the establishment of separate decline curves for separate portions of a property, and the separate measurement of production from these portions, will entail additional effort and expense. However, it has determined that it is necessary separately to account for production where the project does not cover an entire property, for the above reasons. Therefore, in seeking the certification the burden shall be upon the producer satisfactorily to establish the scope of the project area, and also to undertake the separate measurement of production from the affected and unaffected portions of the property. The FEA believes it is reasonable to impose such a requirement as a condition of certification, in order to assure that the incentive is operating as intended.

The "project area" will generally be defined on an "affected well" basis. That is, the producer will be required to show the wells from which production will be affected, positively or negatively, by reason of the application of the tertiary project. It is the subsequent production from these wells that will be utilized in determining the amount of incremental crude oil produced.

D. CERTIFICATION AND RECERTIFICATION OF PROJECTS

1. Certification procedures generally—As proposed in the January Notice, in order for a project to qualify for the incentive it must first be certified by the FEA. The essential objectives of the certification are two-fold: (1) to establish that the project qualifies on economic grounds to receive the incentive; and (2) to establish the amount of incremental crude oil which will be produced from the project. (As noted previously, the FEA has departed from its initial proposal to the extent that it now requires all projects to receive the above certifications, including the economic certification, regardless of the technique being employed.)

As proposed in the January Notice, the FEA will be relying upon the relevant existing State and Federal regulatory agencies in making the determinations concerning the amount of incremental crude oil to be produced. Insofar as concerns the willingness and ability of these agencies to undertake the necessary analyses, the responses received by the FEA were generally affirmative. The FEA ap-

preciates the cooperative spirit demonstrated by these authorities, and it intends to work closely with them in implementing this program.

However, the FEA has determined that, for the present at least, it will not formalize the relationship between it and the other agencies to the extent proposed in the January Notice. Comments received by the FEA indicate that the agencies are to some extent differently situated in terms of the review procedures currently applied and the kinds and amounts of information it is feasible to provide. Moreover, it is difficult to foresee precisely what information will be needed, and how best to develop that information, except in the context of specific producer applications and a specific agency's procedures.

For the above reasons, the FEA has determined that, for the present at least, all applications for certification will be submitted directly to the FEA. The FEA will thereupon contact the relevant agency to arrange with that agency a mutually agreeable schedule for making the necessary determinations. The producer will be advised of these arrangements. It is contemplated that the FEA will work closely with these agencies, and that FEA involvement will not necessarily be limited to post hoc review of the information developed by the agencies. In general, the FEA believes that actual experience in processing these applications will be beneficial not only to the FEA but also to the agencies assisting it. It may be that such experience will demonstrate how and where the relative processing functions can be formally assigned between the FEA and other existing agencies; but until that time the FEA believes that it would be unrealistic to attempt to provide for a formal delegation of specific functions and a formal review process.

Requiring that applications be submitted directly to the FEA should reduce the time involved in the certification procedure. For example, with respect to those matters which the relevant existing agency is not equipped to handle, the FEA can concurrently be performing its review (or making other arrangements for such review) of the producer's application. Thus, the FEA may be able to perform its economic review while the other agency assumes primary responsibility for the incremental crude oil determination. Of course, the FEA must retain ultimate responsibility for the final decision, and the authority to make that final decision. However, to the extent that the FEA is able to work closely with the relevant agency throughout the processing of an application, the need for a time-consuming formal review after the other agency has made or proposed its determinations should be minimized. It is a fundamenal objective of the FEA to avoid unduly lengthy certification proceedings.

In all cases, the burden will be upon the producer to establish entitlement to certification. FEA, as the certifying authority, will (together with the relevant State or Federal agency) exercise its independent judgment in making its determinations. However, the determinations will necessarily be based primarily upon the information submitted by the producer in connection with the application, together with such other information as the FEA or its assisting agency may require from the producer or may otherwise acquire from any source. The application must contain all of the information, together with supporting data and documentation, as is reasonably necessary to enable the FEA or other relevant agency to make the necessary determinations. As stated in section I.A.4., above, the FEA will establish guidelines for producers concerning the information required to be submitted. Although the following list is not necessarily exhaustive of all of the information required, it sets forth generally the type of information which the FEA believes will be required in order to make the necessary certifications:

INFORMATION REQUIRED FOR TERTIARY ENHANCED OIL RECOVERY INCENTIVE PRICING

(A) Property Information—(i) Property area (Acres); Location (bounds);
(ii) Characteristics of Wells: Producers; Injectors; Disposal Wells; Temporary abandonment;
(iii) Production history: All categories, 1972–Date, semi-annually;
(iv) BPCL;
(v) Average depth of wells, and
(vi) Average reservoir thickness: gross and net.
(B) Project Information—(i) Project area (Acres); Location (bounds);
(ii) Characteristics of Wells: Producers; Injectors; Disposal Wells; Temporary abandonments; New wells required;
(iii) Production history: All categories, 1972-Date, semi-annually;
(iv) Non-tertiary Production Baseline Projections: Projection base (including reservoir characteristics), Projection computation formula;
(v) Projection of all tiers other than tertiary recovery production;
(vi) Tertiary recovery method proposed: Description of operational procedures, Cost breakdown, Incremental oil production projections;
(vii) Investment plan: Financial arrangement, Timing of investment, Major items of expenditures; and
(viii) Operation plan: Work performance schedule, Major equipment installations, Injection and production procedures, In-field separation procedures.

The FEA recognizes that the certification procedures established will entail definite expenditures of time and money. It so stated in the January Notice, and it received several comments objecting to the proposed procedures. To some extent, as indicated above, the FEA believes that avoiding a formalized two-step system of review will reduce these expenditures. However, it has concluded that a certification procedure cannot be avoided altogether, because such a procedure is necessary to assure that the incentive is not misapplied. It will also contribute to relative producer certainty that the FEA will not subsequently deny the incentive after the producer has expended substantial sums in furtherance of the project. Although a certification, once given, remains subject to revision or revocation on the grounds discussed in section E., below, such certification would not be subject to revision or revocation simply because the FEA might subsequently disagree with the producer's original conclusions regarding the amount of incremental crude oil to be produced or whether the project would be economic without the incentive. Under the certification procedure, any disagreements will be made known to the producer prior to the expenditure of substantial sums in implementing the project.

2. Recertification requirements—The FEA has determined to impose an affirmative obligation upon producers to seek recertification of their projects in the event that post-certification incremental or non-incremental production varies substantially from that established in the certification. For these purposes, post-certification production will be deemed to vary substantially from certified volumes if they vary by more than 20 percent or 50 barrels per day, whichever is greater, over an 18-month period. For these purposes, also, the amount of incremental as well as non-incremental production for any period will be established in the certification. Thus, although incremental crude oil entitled to the incentive price for a given period will be all that over the non-incremental baseline for that period, if such amount exceeds the amount of incremental production established in the certification for that period by more than the above thresholds the producer will be required to establish the reasons for such variance and will be required to obtain recertification. (It should be noted that the FEA will necessarily be required to utilize incremental production estimates, based upon producer estimates except to the extent modified during certification by the FEA, in order to determine whether the project would be economic without the incentive. Therefore, it is appropriate to utilize these estimates to determine recertification (thresholds.)

It must be emphasized that the requirement to obtain recertification does not mean that the FEA will necessarily revise the original certification. It means merely that a variance in amounts above the established thresholds will be the occasion for FEA review of the original application and the data base for that application, and will require the producer to explain the reasons for the variance. The requirement for recertification is a response to several comments to the effect that is difficult to project production in periods far removed from the present time, and it is intended to provide the FEA with an opportunity to review those projections and the data on which they are based when actual production varies substantially from those projections. Also, in the case of new projects, the lead-times between certification and the initial tertiary production response may be as much as three years. The non-tertiary production history during that period may be greatly above or below that projected in the certification, so that revision of the non-incremental baseline may be appropriate prior to the initial tertiary production response.

It should also be emphasized that any revocation of certifications, or their revision in a manner adverse to the producer, would be predicated only upon the grounds discussed in section E., below, viz., that the producer is determined not to have sought or implemented the certification in good faith or as represented in the original application, or that the certification was based upon a material error or omission of which the producer knew or should have known. Thus, recertification of the project and the original volumes would be granted unless the FEA determines that the facts presented justify revision or revocation of the original certification. Under this approach, a producer would not be penalized for the success of his project, unless the reasons for such success are such that the producer knew or should have known, at the time of the original certification, that the production response was likely to be different than originally estimated by the producer. However, notwithstanding any recertification, all certifications or recertifications would remain subject to revision or revocation if the FEA should subsequently discover that such action is warranted on the above grounds.

The FEA understands that the establishment of any specific quantitative criteria for determining when recertification must be sought is to some degree subject to argument, because production projections are in their nature subject to large marking of error. It also understands that the specific 20% and 50 barrel criteria discussed above may prove to be unnecessarily low in practice, and it will therefore be reviewing the appropriateness of these criteria in connection with its overall review of the program. However, the FEA considers that some such criteria are necessary and appropriate, for the reasons discussed previously, and the specific criteria set forth herein represent the FEA's best present judgment concerning the amount of variance which would warrant review of the original certification.

E. POST-CERTIFICATION EVENTS

As indicated in the preceding section, a certification or recertification is subject to review, and modification or revocation, on certain grounds, i.e., the failure of the producer to have obtained certification or implemented the project in good faith, the failure of the producer to implement the tertiary project at the times and in the manner represented in his application for certification, or the granting of certification or recertification on the basis of a material error or omission of which the producer knew or should have known. The reasons for these provisions are essentially as stated in the January Notice. In brief, they are intended to assure that unwarranted incentive prices are not given to producers because of matters known to or within the control of the producer, and not known to or within the control of the FEA. Inasmuch as the producer is in the best position to known the facts regarding a particular project and to control the implementation of his project, the FEA believes that it is appropriate to impose the burden upon producers to make full disclosure of all relevant matters and to implement their projects as represented in their applications for certification, at the risk of losing their certification, retroactively or partially retroactively (where appropriate) as well as prospectively, if they do not do so.

The FEA recognizes the argument raised in several comments, that these provisions will not contribute to the kind of certainty required by producers if they are to implement tertiary recovery projects. However, it has been determined that these provisions are necessary to prevent potential abuses of the incentive. Moreover, the FEA does not believe that any fears about "second-guessing" are warranted. In the first place, any retroactive revocation or revision of a certification would be based upon the judgment (after investigation, where appropriate) that one of the foregoing grounds for such action exists. Second, in making this determination, the FEA will necessarily apply a standard of reasonableness. It is not possible to reduce the required judgments to a formula, but in general the FEA would put itself in the place of a reasonable producer seeking and applying the incentive in good faith.

In the January Notice, the FEA indicated that it was concerned that the requirement to implement the project at the times and in the manner set forth in the application for certification might induce inefficient behavior on the part of producers, where unforeseen circumstances made adherence to the original plan not sensible. The FEA's concern was that producers might continue to adhere to the original plan, for no other reason than that failure to do so might render them subject to the risk of revocation of their certification. It indicated that producers could seek recertification (modification of the original certification) in such cases, although it also recognized the administrative costs of doing so. The FEA has concluded that it is appropriate to impose the requirement upon producers to adhere to the plan upon which certification was based, or to seek recertification in the event that they determine they cannot adhere to their original plan, since the original certification will necessarily have been based upon the assumption that the producer would adhere to the plan. Although it is likely that many deviations from the original plan will not be of sufficient magnitude to affect the fundamental bases upon which the original certification was granted, it is not possible for the FEA to prescribe in advance what changes will be material to the certification and what will not. Therefore, it has determined that the primary obligation should be upon the producer to advise the FEA of any changes in the original plan, and to permit the FEA to determine whether and to what extent to revise the original certification.

The FEA is also aware that projects are not always implemented in toto at the one time, but that they may be phased in over a period of time. It recognizes that, in such cases particularly, it is difficult to predict the exact times of implementation or to predict the exact levels of expenditure at any given time; accordingly, the probabilities of change are considerable. However, for the reasons given above, the FEA presently believes that it will be necessary to require the producer to obtain recertification in the event of any changes. Of course, nothing prevents the producer from submitting ranges of times and ranges of expenditures within which the project will be implemented, and thus providing some degree of flexibility. In such cases, however, the FEA will generally adopt the most conservative end of that range in determining whether to certify the project.

III. REGULATIONS IMPLEMENTING THE INCENTIVE

As is apparent from the foregoing discussion, the implementation of an incentive program for the application of tertiary enhanced recovery techniques presents difficult technical issues as well as difficult issues of policy.

The FEA is presently formulating specific regulations intended to implement the decisions set forth herein, together with certain related matters such as entitlements treatment for tertiary crude oil, and it will be issuing such regulations in the near future. In view of the potential for unforeseen technical implications, these regulations, although intended to be final, may be given a delayed effective date, in order to permit comment on any perceived technical difficulties or omissions in such regulations. In setting forth the matters contained herein, it is the FEA's intention to advise the public of the nature of the program which will be implemented, so that producers desiring to apply for certification and to receive the incentive may be planning accordingly.

Issued in Washington, D.C., August 11, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-23610 Filed 8-12-77;2:32 pm]

V42 N159 AUG 17 77 UM

federal register

WEDNESDAY, AUGUST 17, 1977

PART IV

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

■

MILK IN THE NEW YORK-NEW JERSEY MARKETING AREA

Decision (Partial) on Proposed Amendments to Marketing Agreement and to Order

V 42 159 AUG 17 77 UM

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1002

[Docket No. AO-71-A71]

MILK IN THE NEW YORK-NEW JERSEY MARKETING AREA

Decision (Partial) on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This final decision proposes certain changes in the New York-New Jersey Federal milk marketing order (Order 2), based on industry proposals considered at a public hearing in February 1976. A referendum will be conducted to determine whether producers favor issuance of the proposed amended order.

The principal changes would adjust the prices for milk throughout the production area to more nearly reflect the costs incurred by handlers in assembling milk from farms and transporting it to plants for processing. Another change would institute a late-payment charge on overdue payments by handlers to the market administrator to encourage prompt payments for milk. Also, a number of minor changes would be made in the classification of milk according to its use to reflect current marketing practices.

FOR FURTHER INFORMATION CONTACT:

Willard H. Blanchard, Deputy Director, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-5661.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing—Issued January 9, 1976; published January 14, 1976 (41 FR 2092).

Extension of Time for Filing Briefs—Issued April 15, 1976; published April 21, 1976 (41 FR 16660).

Recommended Decision (Partial)—Issued April 5, 1977; published April 11, 1977 (42 FR 18950).

Extension of Time for Filing Exceptions to the Recommended Decision (Partial)—Issued May 6, 1977; published May 11, 1977 (42 FR 23841).

PRELIMINARY STATEMENT

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the New York-New Jersey marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at New York, New York, on February 17–20, 1976, and at Syracuse, New York, on February 23–26, 1976, pursuant to notice thereof.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Administrator, on April 5, 1977, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision (partial) containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended partial decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. The following changes are made under the heading "1. *Modification of transportation allowances.*":

a. Paragraph 6 is changed.

b. Under the subheading "a. *Summary of hearing proposals.*", paragraphs 23 and 25 are changed and a new paragraph is added after paragraph 25.

c. Under the subheading "b. *The need for order changes.*", two new paragraphs are added after paragraph 19.

d. Under the subheading "c. *Order modifications.*"—"*Pool transportation credit and truck service charge.*", paragraph 11 is changed, six new paragraphs are added after paragraph 9, and two new paragraphs are added after paragraph 12.

e. Under the subheading "c. *Order modifications.*"—"*Transportation differentials and Class I price differential.*", paragraphs 2, 8 and 15 are changed, seven new paragraphs are added after paragraph 10, paragraph 16 is deleted, and 30 new paragraphs are added at the end of the discussion.

f. Under the subheading "c. *Order modifications.*"—"*Direct delivery differential.*", paragraphs 1, 2, 6, 7 and 8 are changed and seven new paragraphs are added at the end of the discussion.

g. Under the subheading "c. *Order modifications.*"—"*Upstate fluid differential.*", three new paragraphs are added at the end of the discussion.

2. The following changes are made under the heading "2. *Changes in certain classification provisions.*":

a. Under the subheading "a. *Classification of milk moved between Order 2 pool plants and plants regulated under an order administered solely by the State of New York.*", a new paragraph is added at the end of the discussion.

b. Under the subheading "c. *Classification of milk dumped, disposed of for animal feed, or lost under extraordinary circumstances.*", a new paragraph is added at the end of the discussion.

3. Under the heading "4. *Charges on overdue accounts.*", paragraph 16 is revised, paragraph 17 is deleted, and two new paragraphs are added after paragraph 17 and five new paragraphs are added after paragraph 20.

The material issues on the record of the hearing relate to:

1. Whether changes should be made in the following provisions for purposes of permitting a more equitable competitive situation, on both an intramarket and intermarket basis, for Order 2 handlers:
   a. Class I price differential.
   b. Transportation differentials.
   c. Pool transportation credit to handlers for bulk tank milk.
   d. Tank truck service charge.
   e. Direct delivery differential.
2. Whether the classification provisions should be changed with respect to the following:
   a. Milk moved between Order 2 pool plants and plants regulated under an order administered solely by the State of New York.
   b. Bulk milk received at an Order 2 pool plant from a plant regulated under another Federal order.
   c. Milk dumped, disposed of for animal feed, or lost under extraordinary circumstances.
3. Whether the procedure for classifying shrinkage should be changed.
4. Whether the order should provide for charges on overdue accounts.

This decision deals with all issues except issue No. 3. The latter issue is reserved for a later decision.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Modification of transportation allowances.* For the purpose of permitting a more equitable competitive situation for regulated handlers, on both an intermarket and intramarket basis, and to provide a more stable market for producers, the New York-New Jersey order (Order 2) should be amended in the following manner:

The present Class I differential of $2.40 that is applicable at the 201–210 mile zone should be reduced to $2.25.

The transportation differential rate of 1.2 cents per hundredweight for each 10 miles that is now used to adjust the Class I and uniform prices for location should be increased to 1.5 cents for each 10-mile zone more distant than the 201–210 mile zone, and to 1.8 cents for each 10-mile zone less distant than the 201–210 mile zone. With the new base zone differential, this would result in a Class I differential at New York City of $2.61.

The current 10-cent per hundredweight pool transportation credit to handlers on receipts of bulk tank milk allocated to Class II uses should be replaced with a 15-cent pool credit on all farm bulk tank milk received by handlers.

Handlers should be permitted to negotiate with producers or their cooperatives a tank truck service charge of up to 15 cents per hundredweight (now limited to 10 cents) with respect to any farm-to-first plant hauling costs not recovered through the 15-cent pool transportation credit on farm bulk tank milk.

The present 5-cent direct delivery differential should be increased to 15 cents per hundredweight. The differential should continue to be applicable to all milk received from bulk tank producers located within the 1–70 mile zone or from producers who deliver their milk in cans to plants within such zone.

No provision should be made in the order for a "metropolitan transfer credit" or an "upstate fluid differential," as was proposed by several cooperatives, or for pricing milk at the plant where first received, as several handlers urged.

a. *Summary of hearing proposals.* The basic purpose of the hearing was to consider proposals that were designed to improve the competitive situation for Order 2 handlers located in or near the major metropolitan area of the market (New York City and nearby heavily populated areas) who are engaged in the distribution of Class I milk. Witnesses contended that in recent years the cost of hauling milk from farms to plants has increased substantially. They indicated that this has resulted in a significant deterioration in the ability of metropolitan area handlers to compete effectively with handlers in neighboring markets, particularly the Middle Atlantic Federal order market, and with various handlers in the Order 2 market.

With respect to the intermarket competition, witnesses claimed that the adverse situation is attributable largely to the unique procedure for pricing producer milk under Order 2 relative to other orders. It was pointed out that under Order 2 bulk tank milk from producers is priced essentially at the location of the farms where received by handlers. Witnesses alleged that this has caused the burden of the higher hauling costs to fall largely on handlers, including cooperatives operating in a handler capacity, who move the milk from the farms to the major consumption center of the market. The witnesses stressed that in contrast handlers in other markets have not borne the brunt of the increase in hauling costs. They pointed out that under other orders producer milk is priced at the first plant at which it is received. The witnesses claimed that in those cases where the producers deliver their milk directly to the city distributing plants, the higher hauling costs have been absorbed largely by the individual producers rather than by the handlers receiving their milk.

Witnesses contended that the disparity in the cost of milk to handlers under Order 2 and other orders has resulted in a substantial loss of Class I sales by Order 2 handlers to the other markets. They claimed that corrective action is essential to the long-run interests of producers in the New York-New Jersey market.

With respect to the alleged intramarket competitive problems, it was claimed that the impact of the increased hauling costs on Class I distributors in the major metropolitan area has varied, depending on each distributor's source of milk. Witnesses contended that the metropolitan area handlers who rely on supply plant milk are experiencing much higher procurement costs than those receiving milk at their distributing plants directly from farms. This, they claimed, is because of the costs associated with reloading milk at supply plants and moving it long distances to the metropolitan area, plus using a transportation differential rate under the order that does not reflect actual hauling costs.

Cooperative associations and proprietary handlers offered a number of proposals which they believed would minimize the competitive problems of which they complained. Six major proposals dealing with this issue were made by two principal producer organizations in the market. The basic thrust of the proposals was to shift the assembly and hauling costs for milk from handlers to producers. Various modifications of these proposals were proposed by several proprietary handlers to accommodate their individual operations. A number of other producer groups in the market, including a third major producer organization, opposed any changes in the order relative to this issue.

Two of the six major proposals relate to the recovery of costs associated with picking up farm bulk tank milk and moving it to the first plant of receipt. One proposal would provide handlers with a 15-cent per hundredweight pool credit on all such milk. A 10-cent pool credit currently applies just on Class II bulk tank milk. The other proposal would increase the maximum negotiable tank truck service charge, which is now 10 cents per hundredweight, to 25 cents. Together, these two proposals would make it possible for handlers to recover up to 40 cents per hundredweight of the farm-to-first plant hauling cost for bulk tank milk—15 cents through the pool credit and the remainder through negotiations with the producer or his cooperative.

Proponents supported a pool credit for handlers of farm bulk tank milk as an appropriate mechanism for recovering from producers a portion of the farm-to-plant hauling costs. They maintained that a 15-cent credit would reflect the minimum cost incurred by handlers in picking up bulk tank milk at the farm. They took the view that a pool credit could be easily administered, that it would avoid confusion among producers since it would affect all bulk tank producers uniformly, and that it would contribute to market stability.

Spokesmen for the proposals indicated that for most handlers the 15-cent pool credit would not sufficiently reimburse handlers for the farm-to-plant hauling costs incurred and that additional amounts should be recoverable through a negotiated charge to producers. It was contended that setting the maximum negotiable charge at 25 cents per hundredweight would permit handlers to recover most, if not all, of such costs. Witnesses stated that limiting negotiated deductions for hauling to 25 cents per hundredweight is necessary to ensure that handlers do not negotiate deductions in excess of actual hauling costs. Also, it was claimed that a limit, compared to unlimited deductions, would provide an incentive for handlers to assemble milk in the most efficient manner.

Two other major proposals relate to the recovery of costs for long-haul shipments of bulk milk. One proposal would increase the present 1.2-cent transportation differential rate to 1.5 cents per hundredweight for each 10-mile zone. The other would provide a 25-cent per hundredweight pool credit to handlers on Class I milk originating beyond the 1–140 mile zone and transferred in bulk, directly from farms or from plants, to plants located within the 1–65 mile zone. In combination, these proposals are intended to permit handlers to recover the average cost of shipping bulk milk from country locations to distributing plants in the major metropolitan area for Class I use.

In support of these proposals, witnesses claimed that the long-distance hauling rates now being charged in the market reflect a "variable" hauling cost of 1.8 cents per hundredweight per 10 miles, and "fixed" hauling costs totaling 19 cents per hundredweight.[1] Although supporting the 1.8-cent variable rate, proponents indicated that their proposal was couched in terms of a 1.5-cent variable rate since this is the rate commonly reflected in other orders. For a 200-mile shipment, such as from the base zone to the New York City area, witnesses indicated that a 1.5-cent transportation differential rate would cover 30 cents of the average 55-cent actual hauling cost for this distance.

Proponents contended that the total cost of long-distance shipments, and not just the variable cost, should be reflected in the order's pricing provisions if the metropolitan area handlers are to be competitive with handlers in other markets. Accordingly, it was proposed that handlers be given a 25-cent "metropolitan transfer credit" for the purpose of covering that portion of the 55-cent hauling cost for a 200-mile shipment not reflected in the adjustment of prices for location, i.e., 25 cents. The 25-cent credit would cover the remaining 6 cents of the actual 36-cent variable cost for 200 miles not covered by the 1.5-cent transportation differential rate, plus the 19-cent fixed cost. Proponents noted that if the zone differentials were to be established at 1.8 cents per 10 miles a metropolitan transfer credit reflecting only the 19-cent fixed cost would be appropriate.

At the hearing, proponents modified their initial proposal to provide for a "feathering" of the metropolitan transfer credit. They suggested that a credit of 10 cents per hundredweight be given for milk transferred to metropolitan area plants from the 91–100 mile zone, 15 cents for the 101–120 mile zone, 20 cents for the 121–140 mile zone, and 25 cents for milk shipped from more distant areas.

Another of the major proposals would increase the present 5-cent direct delivery differential to 10 cents per hundredweight and would extend the zone of application to include all pool milk received from farms within the 1–110 mile zone. Witnesses indicated that this proposed change is intended to more nearly equate the cost of nearby milk moved directly from farms to plants in the major metropolitan area for Class I use with the cost of Class I milk obtained by handlers from country plants. It was claimed that the handler receiving direct-ship milk avoids reloading costs that attach to supply plant milk. It was suggested that in view of current reloading costs the direct delivery differential perhaps should be as much as 13 cents per hundredweight. A witness also indi-

[1] "Fixed" hauling costs are the costs associated with the ownership of the trucking equipment and any related maintenance facilities. Such costs include depreciation, licenses, interest, taxes and insurance. "Variable" hauling costs are the costs associated with the over-the-road operation of the trucking equipment, such as gas, tires and repairs. The estimates of fixed and variable costs that were placed in the record were determined from a regression analysis of various hauling rates applicable in the New York-New Jersey market.

cated that a larger direct delivery differential payable to the nearby producers would partially offset the incentive that such producers now have for shifting to neighboring markets where higher blend prices are being paid.

The sixth major proposal would require distributing plants located outside the 1–65 mile zone to pay to the pool an "upstate fluid differential" of 10 cents per hundredweight on all Class I milk received from farms located outside the 1–110 mile zone. It was indicated that such distributing plants normally receive milk directly from producers and thus do not experience the reloading costs incurred by many of the distributors in the major metropolitan area of the market who rely on supply plant milk. The upstate fluid differential, it was claimed, would tend to equalize the procurement costs of those handlers in the outlying areas of the market with the cost incurred by competing handlers in the major metropolitan area.

At the hearing and in their briefs, proprietary handlers took varying positions with respect to the six major proposals of the producer groups. As would be expected, handlers generally supported those proposals—such as the 15-cent pool credit on bulk tank milk and the 25-cent negotiable tank truck service charge—that would lower their procurement costs and thus enhance their competitive position in the retail market. Some preference was expressed, however, for either holding the negotiable charge at the present maximum level of 10 cents or eliminating the charge and increasing the pool transportation credit to something more than the 15 cents proposed by cooperatives. It was claimed that negotiable charges are an unsatisfactory arrangement since not all handlers in the market negotiate such charges, thus causing disparate procurement costs among handlers, and because producers resist such charges.

Handlers also expressed support for a higher transportation differential rate under the order, although they were not in agreement on the specific rate. Some handlers urged the 1.8-cent rate proposed by cooperatives, while others favored a 1.5-cent rate on the basis that any higher rate would be out of line with location adjustment rates generally applicable under other Federal orders.

Several handlers opposed the adoption of an "upstate fluid differential" on the basis that the affected distributing plants were having no difficulties in attracting adequate milk supplies and that the differential thus would unjustifiably increase the cost of Class I milk at such plants. Opposition was expressed also against the use of a direct delivery differential. It was claimed that the differential adds to the misalignment of milk costs between Order 2 handlers and handlers in the Middle Atlantic Order 4 market.

There was considerable disagreement among handlers regarding the cooperatives' proposed "metropolitan transfer credit." This stemmed largely from the varying impact that such a credit would have on different handlers because of their location or method of operation. The various handler positions included having no such credit, having it apply to transfers of both packaged and bulk milk, "feathering" the credit, precluding the movement of any milk subject to the credit back into the outlying areas of the market, and reducing the Class I price to reflect transportation costs rather than applying a credit.

Several handlers took the position that the problems of intermarket competition arising from unequal procurement costs could best be resolved by replacing the Order 2 farm point pricing arrangement with the plant pricing concept used under the other orders. In this regard, one group of handlers proposed that milk from a producer be priced at the pool plant located nearest the producer's farm. A corollary proposal would permit handlers to negotiate with producers or their cooperatives a tank truck service charge of up to 30 cents per hundredweight.

Another handler, who operates a distributing plant in northern New Jersey, urged that milk from producers be priced at the first plant where it is received, as under the Middle Atlantic order. According to the handler's spokesman, such action, along with an increase in the transportation differential rate to 1.8 cents per 10 miles, would effectively deal with three major problems that he identified. The first was the misalignment of costs for Class I milk between Orders 2 and 4. He contended that the handler he was representing has had to lower prices to remain competitive with Order 4 handlers who distribute milk in the North Jersey area. Such reductions, he claimed, have spread to other areas of the Order 2 market and thus have resulted in chaotic conditions, reduced margins, elimination of profits, reduced volume, and higher unit costs for Order 2 plants. These conditions occurred, in his view, because the differing pricing provisions of the two orders have resulted in unequal changes in the cost of milk to handlers during the time of rapid inflation of milk transportation and handling costs.

A second problem that would be alleviated under plant pricing, according to the witness, is that inflation also has caused a misalignment of Class I prices within the Order 2 market. In this connection, he held that intramarket alignment should be achieved by fixing the basic Class I price at the major consumption area of the market and then reducing the price at outlying areas of the market to reflect the costs of hauling milk to the consumption center from country plants.

Third, the spokesman contended that inflation will continue, with milk transportation and handling costs thus increasing further in the future. Such future economic conditions, he claimed, would not be recognized under the cooperatives' proposals, and the adoption of the proposals thus would not prevent future price alignment problems.

Strong opposition to any changes in the order's transportation allowances was indicated at the hearing by a spokesman for a number of cooperatives, including one of the principal cooperatives in the market. The spokesman expressed the cooperatives' view that changing the order to impose additional transportation costs on producers, either directly through negotiable deductions or indirectly through pool credits for handlers, would undermine the principle of farm point pricing in this market and would lower returns to producers. The spokesman stressed the cooperatives' basic position that the costs of moving bulk milk from farms to plants are marketing costs that should be borne by the market and not by producers.

These cooperatives opposed any order changes that would provide for pricing milk at plant locations rather than at the farm. It was contended that such a change would subject producers and handlers alike to the abuses and administrative difficulties that prevailed prior to the adoption of farm point pricing. The cooperatives also opposed increasing the transportation differential rate from the present level of 1.2 cents per 10 miles on the basis that the data submitted by proponents to support the proposed increase were based on hauling charges higher than those that generally prevail in the market. The proposed metropolitan transfer credit also was opposed on the basis that it would impose an arbitrary cost on the pool and thus on producers. The cooperatives' spokesman also expressed the view that there are potential inequities in the application of the proposals with regard to the appropriate zone or zones to which the credit would apply. Moreover, the cooperatives held that order provisions covering only the variable costs of transportation, as provided in most orders, tend to provide a degree of restraint on unneeded movements of milk from supply plants and should be continued.

The spokesman for the opposing cooperatives contended that the proposed package of changes may not, in fact, improve the alignment of Class I prices between the Order 2 market and surrounding markets. He indicated that any savings in the cost of Class I milk that handlers might gain from the proposals would be used by labor unions as a basis for bargaining for higher benefits. Thus, he claimed, the handlers would not be able to pass the full Class I cost savings on to the marketplace, with the result that their ability to regain or expand Class I sales, which was the alleged purpose of the proposals, would be lost or greatly diminished. It was indicated that the risk of producers receiving lower returns without accomplishing the intent of the proposals is not one that the opposing cooperatives are willing to take.

In view of the position taken at the hearing by this group of cooperatives, it is appropriate that the decision reflect at this point the more recent posture of these cooperatives as indicated in their exceptions to the recommended decision. The cooperatives stated that with the possible exception of the increased direct

delivery differential they concurred with the Department's recommended modifications of the order's transportation allowances. They noted, however, that they continue to hold the position that the costs of assembling and transporting farm buly tank milk are "marketing costs which should be borne by the market and not by producers." The cooperatives indicated in their exceptions that changes in Order 2 are now necessary only because of the failure of neighboring markets to adopt farm point pricing and thereby preclude the passing of hauling costs back to the producers.

Thirty-six individual dairy farm operators testified during the course of the hearing. Only two indicated support for any of the proposals that would result in dairy farmers paying a higher portion of the milk transportation costs. The others strongly opposed such proposals. They claimed that dairy farmers cannot afford to pay more for milk hauling, and that handlers should bear the costs of transportation since the milk is under their control once it is picked up at the farm.

Spokesmen for two handlers also expressed opposition to any actions that would reduce returns to producers. Their concern was that such actions would jeopardize their producer milk supplies because dairy farmers would seek higher returns by shifting their milk to outlets in other markets.

It should be noted that two proposals included in the hearing notice were abandoned by the proponent, and no other support was offered at the hearing for such proposals. One would allow handlers to recover the full farm-to-first plant hauling cost on bulk tank milk if authorized by the producer. The other proposal would increase the transportation differential rate from 1.2 cents to 1.7 cents per each 10-mile zone.

b. *The need for order changes.* It is clear that the present provisions of the New York-New Jersey order are not compatible with current marketing conditions. Major increases in the costs of assembling and transporting milk during the last several years have occurred without corresponding changes in the various transportation allowances under the order. As a result, various handlers under Order 2 are experiencing a deteriorating competitive situation in the Class I (fluid milk) market. Corrective action is essential if the order is to fulfill its purpose of providing stable and orderly marketing conditions for producers and for the handlers through whom they market their milk.

A brief description of the New York-New Jersey market will help place the issue at hand in a better perspective. By any measure, the Order 2 market may be considered as large. In 1975, approximately 20,000 dairy farmers supplied about 786 million pounds of milk monthly for a marketing area population of more than 20 million persons.[2] Although the marketing area includes 39 counties and portions of 12 other counties in New York and New Jersey, nearly 80 percent of the population is concentrated in a relatively small area comprised of New York City and adjacent areas in New York and New Jersey. This heavily populated area extends outward roughly 60 to 70 miles from New York City, and constitutes the major milk consumption center in the Order 2 market.

Besides the major New York City metropolitan area, there are several other relatively large consumption centers at various locations in the New York portion of the marketing area. These include Elmira (metropolitan area population in 1975, 100,100), Binghamton (population 266,700), the Albany-Schenectady-Troy area (population 799,000), Syracuse (population 647,800), and the Utica-Rome area (population 334,900), all of which are located in the outlying production areas of the market. Milk processors that operate in these outlying areas compete with handlers in the major metropolitan area for milk supplies.

Processing plants, where milk is pasteurized and bottled, also are concentrated in the major metropolitan area. In March 1975, there were 28 processing plants located in the 1–10 mile zone. Within the 1–70 mile zone, 44 plants processed and distributed fluid milk, which was over half of the fluid milk processing plants on the Order 2 market. These 44 plants received from farms or other plants 81 percent of the producer milk utilized in the market for fluid purposes that month.

As would be expected, country supply plants are located primarily in the more distant areas of the milkshed. Only 7 such plants were located within 140 miles of New York City in March 1975, whereas 47 were located beyond 140 miles. Of these, 37 were located in the 141–240 mile zone, which gives an indication of the distance that milk must be moved in supplying the fluid milk requirements of the processors in the New York City area.

Dairy farmers who supply milk for the Order 2 market are widely dispersed over a large area. In March 1975, milk associated with this market was produced in the States of New York, New Jersey, Pennsylvania, and Maryland. Some producers' farms are located more than 400 miles from New York City.

Most of the Order 2 milk supply (more than 93 percent in 1975) originates in areas beyond the market's 1–100 mile zone. Practically all of the distant milk that is used in Class I at the metropolitan area distributing plants is first assembled at country plants and then hauled to the distributing plants in large over-the-road trucks. Metropolitan area plants also receive some milk directly from farms, most of which are located in the nearby production areas. In March 1975, 19 percent of the milk received for fluid use at these distributing plants moved directly from farms to such plants. The remainder was obtained through country plants.

Two basic concerns exist. One is the disparity in milk costs between those metropolitan area handlers using supply plant milk and those using direct-ship milk for meeting their Class I needs. The other concern is the disparity in Class I milk costs between metropolitan area handlers under Order 2 and handlers regulated under the Middle Atlantic order. In both cases, the increased assembly and transportation costs have seriously distorted the competitive relationships among the handlers involved. This may be shown through a brief description of the pricing arrangements for Class I milk that are applicable to such handlers.

Under Order 2, milk received from bulk tank producers is priced essentially at the location of the farm, with such pricing commonly referred to as "farm point pricing." Under this arrangement, all milk that originates in the same township is priced at the zone price applicable to that township. For pricing purposes, the township's location is based on the point in the township that is nearest the market's major consumption center. Such pricing applies to about 97 percent of the producer milk on the market. The remainder of the milk is shipped in cans and is priced at the location of the plant at which the milk is first received. Unless indicated otherwise, the discussion on transportation allowances will be in terms of farm bulk tank milk.

The Class I prices at the various farm locations vary basically according to the nearness of the farms to New York City. For example, the Class I price at farms in the 101–110 mile zone is 12 cents per hundredweight less than the Class I price at New York City. For farms in the 201–210 mile zone, the Class I price is 24 cents less. Prices are adjusted for location by the order's transportation differentials, which currently apply at a rate of 1.2 cents for each 10-mile zone. This rate is intended to reflect the "variable" cost of hauling milk over long distances.

The metropolitan area handler normally pays most of the costs associated with the collection of the milk at the farms and its movement to his processing plant. This is so whether he moves the milk himself or whether another handler, such as a cooperative, performs this service, since the latter customarily attempts to pass on all related costs to the processing handler. The current order does permit hauling deductions from producer payments of up to 10 cents per hundredweight on all farm bulk tank milk, if authorized by the producer or his cooperative association. In December 1975, authorized deductions were being made for about 75 percent of the bulk tank producers, in most cases probably at the maximum rate.[3] Thus, the basic

[2] Official notice is taken of CURRENT POPULATION REPORTS, Population Estimates and Projections, Series P–25, No. 631 (issued July 1976), and Series P–26, No. 75–30 (issued October 1976), published by the Bureau of the Census, U.S. Department of Commerce.

[3] Official notice is taken of The Market Administrator's Bulletin, Quarterly Statistical Issue (A), volume 36/1976, no. 4, issued by the Market Administrator for the New York-New Jersey Federal order.

V 42 159 AUG 17 77 UM

cost of Class I milk to metropolitan area handlers is the Class I price applicable at the farm (township) location plus the cost of moving the milk, either directly or through a supply plant, to the processing plant, less any hauling deduction. Although additional handling charges for other services usually apply in the case of milk received from cooperatives, such charges are disregarded for purposes of this discussion.

An additional cost applies in the case of those handlers who receive milk from farms located within the 1–70 mile zone. The order provides that handlers shall pay producers a so-called direct delivery differential of 5 cents per hundredweight on all such milk, whether in bulk or in cans.

It is readily apparent that under this pricing arrangement any increases in assembly and transportation costs will have a direct impact on the procurement costs of metropolitan area handlers. Because milk is priced at the farm location, and because the transportation allowances under the order are fixed, any additional assembly and transfer costs must be borne by the processing handler. Actually, even prior to the recent cost increases, the present order provisions did not permit metropolitan area handlers to recover through various price allowances the full cost of getting milk from the farm to their processing plants for Class I use. Although the farm-to-first plant hauling costs were higher, negotiable hauling deductions have been limited to 10 cents.[4] In addition, when the present Class I transportation differentials were adopted, the total cost of hauling milk over a 200-mile distance was about 34 cents per hundredweight.[5] Only 24 cents, which was considered to be the "variable" cost for this distance, was reflected in the transportation differentials. Also, reloading costs at supply plants have not been reflected in the price structure of the order except as they might be offset from a competitive standpoint by the direct delivery differential. Thus, the problem of recovering procurement costs has existed for some time. The recent increases in hauling costs, however, have greatly aggravated this problem for handlers.

The average farm-to-first plant hauling cost for bulk tank milk is now 30 cents per hundredweight. The maximum recovery of such costs for milk used in Class I is 10 cents, which must be negotiated with the producer or his cooperative. Until recently, relatively few deductions were being authorized. The supply plant transfer costs are now averaging 12 cents per hundredweight. These costs are borne by the metropolitan area handler who receives such milk. The only offsetting factor is the 5-cent direct delivery differential applicable to nearby direct-ship milk. The average cost of hauling milk between plants is 55 cents per hundredweight for a 200-mile distance. The order establishes a difference in Class I prices for this distance of only 24 cents. (These various costs will be described in greater detail at a later point in the decision.)

Metropolitan area handlers must either absorb these various costs not recoverable from producers through the order or pass them on to consumers. To the extent that competitive conditions permit, handlers can be expected to resort to the latter procedure. This point, however, leads to the crux of the entire issue.

Because of differences in their procurement arrangements, not all Order 2 handlers in the major metropolitan area experience the same raw milk costs. Such costs are substantially less for those handlers using nearby direct-ship milk than for those using supply plant milk. The handlers using direct-ship milk thus are in a favored position in competing for sales outlets.

On the basis of cost data presented at the hearing, a comparison of the average cost of Class I milk to metropolitan area handlers from various sources may be made. For this purpose, the costs are expressed in terms of the Class I differential plus other costs, rather than in terms of the Class I price (i.e., the basic formula price for the second preceding month plus the Class I differential) plus other costs. The exclusion of the basic formula price does not affect the validity of the cost comparisons (for either intramarket or intermarket purposes) since this cost factor is the same for all handlers.

Table 1 sets forth an example of the different procurement costs incurred by certain handlers. The average differential cost to a New York City handler for Class I bulk tank milk obtained directly from farms in the 51–60 mile zone is $2.98 per hundredweight. This consists of the present Class I differential of $2.58 that is applicable at the township pricing points in that zone, a 35-cent farm-to-plant hauling cost, and the 5-cent direct delivery differential that the handler must pay to the producers. By comparison, the average differential cost for Class I milk obtained by a city handler from a supply plant located in the 201–210 mile zone is $3.37 per hundredweight. The cost make-up in this case includes a base zone Class I differential of $2.40, a farm-to-first plant hauling cost of 30 cents, a supply plant transfer cost of 12 cents, and a long-distance hauling cost of 55 cents. In either situation, the cost of such milk can be reduced by 10 cents per hundredweight if the maximum hauling deduction is authorized by producers.

TABLE 1.—*Examples of Procurement Costs Incurred by New York City Handlers for Class I Bulk Tank Milk Obtained from Selected Sources (excluding basic formula price)*

[In dollars per hundredweight]

	Direct-ship from 51–60 mile zone	Supply plant in 201–210 mile zone
Class I differential at zone	2.58	2.40
Farm-to-first plant hauling cost	.35	.30
Supply plant transfer cost		.12
Over-the-road hauling cost		.55
Direct delivery differential	.05	
Total cost	2.98	3.37
Authorized hauling deduction	−.10	−.10
Net cost	2.88	3.27

Handlers obtaining milk from locations in the market different from those shown in Table 1 are experiencing slightly different procurement costs. However, the examples portrayed in Table 1 are representative of the general cost situation being faced by city handlers.

A handler contended in his exceptions to the recommended decision that the hauling costs portrayed in Table 1 were not representative of his costs that were described on the record. He claimed that the Acting Administrator thus failed to recommend a price structure for the market that properly reflected his procurement costs.

It is not possible, of course, to gear the order's pricing provisions to each handler's operating situation. Since each handler normally would experience somewhat different procurment costs, it is necessary that the order provisions be based on costs that are reasonably representative of the market in general. The cost data portrayed in Table 1 are representative of the costs being incurred by Order 2 handlers.

Although this difference between the cost of direct-ship milk and supply plant milk supposedly would induce handlers to rely more on direct-ship milk, this generally has not been the case. This may be attributed to the fact that metropolitan area distributors must obtain substantial quantities of milk from distant production areas since nearby milk supplies are inadequate. It is not feasible in most cases to move milk directly from farms in the distant areas to metropolitan area plants without any reloading. Generally, the trucks that must be used for picking up bulk tank milk at the farms are too small for economical long-distance hauling. Also, haulers who assemble milk from farms are limited in the distance they can move the milk since their trucks must be available each day for picking up milk at farms. Since Order 2 handlers currently must pay most of the cost of assembling and transporting milk, it must be presumed that

[4] Official notice is taken of the Assistant Secretary's decision on proposed amendments to the New York-New Jersey order and certain other orders that was issued on October 5, 1970 (35 FR 15927).

[5] Official notice is taken of the Assistant Secretary's decision on proposed amendments to the New York-New Jersey order that was issued on June 9, 1959 (24 FR 4836).

the handlers have been using the most economical procurement arrangements.

A comparable competitive problem exists for Order 2 handlers relative to Order 4 handlers in the Middle Atlantic market. A number of Order 4 handlers in the Philadelphia and southern New Jersey area distribute Class I milk in the northern New Jersey portion of the Order 2 market in competition with Order 2 metropolitan area handlers. The Order 4 Class I differential, which applies at the plant where the milk is first received, is $2.78 at Philadelphia. Handlers in the Philadelphia and South Jersey area also must pay producers a direct delivery differential of 6 cents. Thus, the differential cost of Class I milk under Order 4 for these handlers is $2.84 per hundredweight.

From the data in Table 1, it may be seen that the Order 2 metropolitan area handler using supply plant milk is in a relatively poor competitive posture in terms of his raw milk costs. Assuming that the 10-cent negotiable hauling deduction is being made, his milk cost is averaging 43 cents per hundredweight greater than the cost of milk for the Order 4 handlers. The Order 2 handler using direct-ship milk is in a much better position relative to Order 4 handlers, with the Order 2 cost averaging only 4 cents per hundredweight more. However, it should be noted that in terms of the class prices applicable at the two cities, which are about 100 miles apart, the Class I price at New York City is 14 cents lower than the Class I price at Philadelphia. Thus, the 4-cent cost difference, although appearing to be reasonably satisfactory, does not properly reflect the full cost difference that has been intended under the present pricing provisions.

Because of their lower raw milk costs, Order 4 handlers are in a position to establish lower resale prices for fluid milk than their competitors in the Order 2 market, particularly those metropolitan area handlers using supply plant milk. Thus, as in the intramarket competitive situation described earlier, Order 2 handlers using supply plant milk are, in this situation also, seriously disadvantaged in competing for fluid milk sales. As noted earlier, about 80 percent of the Class I milk used by Order 2 metropolitan area handlers is received from supply plants.

Although the record provides no specific data regarding hauling costs in the Order 4 market, it may be presumed that the increased costs experienced by haulers of milk in the Order 2 market have been experienced in the Middle Atlantic market as well. The inflationary trend in the economy that is associated with such increases has been a national phenomenon. However, handlers in the two markets have been affected in significantly different ways by these cost increases. This is because of the differences in the pricing arrangements and procurement methods in the two markets.

In the Order 4 market, producer milk is priced at the location of the plant where the milk is first received. Since most of the milk is moved to city processing plants directly from farms, most producers receive the city price for their milk. Under this pricing arrangement, however, the cost of getting the milk to the city is borne by the producers. Any increases in hauling costs likewise are absorbed by producers. Handlers' procurement costs are not affected by the hauling costs.

In the Order 2 market, the current pricing arrangement and the extensive reliance on supply plants have caused the burden of increased hauling costs to fall largely on handlers. The higher hauling costs have been reflected not in lower returns at the farm level, as in the case of the Order 4 market, but in higher costs for milk at the distribution center. As a result, Order 2 handlers in the metropolitan area are not able to compete on a comparable cost basis with handlers in the nearby Middle Atlantic market for Class I sales.

As already noted, there is substantial competition between Order 2 and Order 4 handlers for Class I sales in the North Jersey portion of the Order 2 market. This is a relatively heavily populated area located between New York City and Philadelphia. Total consumption of fluid milk products in this area in 1975 was estimated to be nearly 1.4 billion pounds, which was equivalent to 29 percent of the Order 2 Class I milk that year.

Data presented at the hearing indicate that handlers under other orders have substantially increased their Class I dispositions in North Jersey over the past several years. In 1969, such sales amounted to 194 million pounds. A preliminary estimate of such sales in 1975 was 349 million pounds, an increase of 79 percent. In 1975, such dispositions of fluid milk products by other order handlers comprised 25 percent of the estimated fluid milk consumption in North Jersey. This was up from 13 percent in 1969. It should be noted that total consumption in this area declined by 7.5 percent during this 1969–1975 period. Although the record does not indicate how many other orders were involved in these intermarket sales, data for 1973, 1974 and 1975 indicate that most of the other order sales were by Order 4 handlers. Because North Jersey adjoins the Middle Atlantic marketing area, it is reasonable to presume that most of the other order sales in this area in earlier years also were by such handlers.

This major shift of Class I sales in North Jersey from Order 2 handlers to Order 4 handlers cannot be attributed entirely to the rather significant advantage that Order 4 handlers have on their raw milk costs. Nevertheless, it is reasonable to conclude that this was a major contributing factor in the changing sales pattern for this area.

Although the increased hauling costs have been absorbed by handlers rather than producers, Order 2 producers nevertheless are having their returns reduced as a result of the shift in Class I sales in North Jersey to Order 4 handlers. This is because the lost sales mean less milk being used in Class I, which in turn results in lower blend prices.

The discussion on the need for order changes has been limited thus far to the impact of increased hauling costs on the cost of Class I milk. Because of the order's pricing system, the competitive position of those handlers processing Class II milk also is affected by the higher transportation costs. Although much less attention was focused on this issue at the hearing, handlers of Class II milk are always very much concerned that their cost of raw milk be comparable with that of competing processors. This is particularly important for processors of butter, nonfat dry milk and hard cheese. Such products are sold in a national market and the prices of these products are fairly uniform across the country. Thus, processors have little opportunity to pass on to the buyers of these products any procurement costs not generally experienced by all Class II processors.

Since most of the Class II milk is processed at country plants, the basic concern of handlers is the cost of moving Class II milk from the farms to these plants. Such cost is now averaging 30 cents per hundredweight. The order permits a maximum recovery from producers of 20 cents. As indicated, handlers may negotiate hauling deductions of up to 10 cents per hundredweight on all bulk tank milk. In addition, handlers receive a 10-cent transportation credit from the pool on all receipts of bulk tank milk used in Class II. Based on average costs, Class II processors thus must absorb at least 10 cents of the farm-to-plant hauling costs.

In conclusion, the record amply demonstrates that the pricing provisions of the order are not in harmony with the current market situation. Such provisions do not reflect the differences in value that milk currently has to handlers at various locations and under various handling arrangements. The value that the order attaches to milk affects, of course, the degree to which Order 2 handlers are able to compete effectively with each other and with handlers regulated under other orders. Thus, revision of the Order 2 pricing provisions is essential if orderly and stable marketing conditions for handlers and producers in the New York-New Jersey market are to exist.

A cooperative association urged in its brief that a decision on the proposals under consideration be delayed to permit further study of the existing marketing problems. The cooperative's position was that the only guaranteed result of the proposals would be a reduction in the prices that producers receive for their milk. This would be adverse to producers, it was claimed, in view of spiraling milk production costs.

A similar delay was requested in its brief by a County Board of Agriculture, which expressed opposition to the proposals "until such time that further study and better proposals (may) be made so that the farmers' blend price is not lowered to subsidize the cost of milk handling" by cooperatives. It was also

V42 I159 AUG 17 77 UM

claimed that the hearing was called without farmers having adequate time to determine the effect of the proposals.

A decision in this proceeding should not be delayed pending further study of the issues and the development of other proposals. The record indicates that there are significant marketing problems that require amendments to the order. The record provides an adequate basis for the proposed amendments adopted herein and any further delay in their implementation would not carry out the purposes of the Act.

c. *Order modifications.* As outlined earlier, hearing witnesses supported two basic approaches to resolving the competitive problems of Order 2 handlers. One is the continuation of farm point pricing plus a number of changes in the order's transportation allowances. The other approach is the replacement of farm point pricing with plant pricing and a revision of the transportation differentials.

Farm point pricing has been used as the basis for pricing milk in the New York-New Jersey market since 1961. In the absence of a compelling need for the use of plant pricing, it appears reasonable to recognize the broad support by producers for farm point pricing. As noted, support for plant pricing was limited to several proprietary handlers. Therefore, it is concluded that milk received from producers should continue to be priced under the order at the township location of their farms.

The continued use of farm point pricing must be accompanied, however, with major changes in the order's pricing provisions if the present disparity in procurement costs for various metropolitan area handlers is to be minimized. In the Order 2 market, the recent increases in assembly and transportation costs have not been passed back to producers as in the Middle Atlantic market where milk is priced at the plant of first receipt. Thus, relative to the milk received by Order 4 handlers, the milk of Order 2 producers is over-priced in terms of its value to Order 2 handlers in the market's major metropolitan area. Also, within the Order 2 market, procurement costs for supply plant milk have increased much more than for milk received directly from farms. Such increases have been borne by the metropolitan area handlers.

Thus, relative to the direct-ship milk, supply plant milk is over-priced in terms of its value to Order 2 metropolitan area handlers. Accordingly, in recognition of both situations, the price of milk throughout the Order 2 milkshed should be reduced to reflect the decline in the value of such milk to handlers in the metropolitan area. The order changes considered necessary to implement this concept are discussed under the following subheadings.

Pool transportation credit and tank truck service charge. The current 10-cent per hundredweight pool transportation credit to handlers of Class II bulk tank milk should be replaced with a 15-cent pool credit on all farm bulk tank milk received by handlers. In addition, handlers should be permitted to negotiate with producers or their cooperatives a tank truck charge of up to 15 cents per hundredweight, rather than 10 cents as at present, with respect to any farm-to-first plant hauling costs not recovered through the pool transportation credit.

Under farm point pricing, handlers must have an opportunity to recover the farm-to-first plant hauling costs for bulk tank milk if they are to be competitive with handlers in other markets on their sales of Class I and Class II products. Presently, the recovery of such costs is limited to the 10-cent negotiable hauling deduction, plus or minus whatever difference there is between the class prices applicable at the farm (township) pricing point and the plant. In the case of Class II milk, handlers recover an additional 10 cents per hundredweight through a pool credit. Although these provisions were intended to provide handlers with sufficient flexibility in pricing to recover farm-to-first plant assembly and hauling costs, the record indicates that under current conditions handlers are not able to do so.

One of the proponent cooperatives presented data showing the average costs incurred by the cooperative in hauling bulk milk from members' farms to different types of plants during the 12-month period of November 1974 through October 1975. Since the major portion of this milk was hauled by contract haulers, the data reflect actual hauling charges paid by the cooperative to haulers. About 2.5 billion pounds of milk were hauled, which represented 27 percent of the total producer milk on the market during that period.

For the 12-month period, the cooperative's average cost for picking up farm bulk tank milk and delivering it to 7 country reload stations was 26 cents per hundredweight. The average cost for deliveries to the cooperative's 5 manufacturing plants was 29 cents. The average hauling cost for milk moved directly from farms to 18 distributing plants of other handlers was 33 cents, while the cost for similar deliveries to 20 manufacturing plants of other handlers averaged 28 cents. The 12-month weighted average cost of hauling milk to all such plants was 29 cents. For the last four months of this 12-month period, the average monthly costs ranged from 29 to 31 cents per hundredweight.

Several proprietary handlers also presented data on farm-to-plant hauling costs. Such costs ranged from 22 cents to 70 cents per hundredweight, with most falling between 25 cents and 32 cents. These data reflect similar ranges of hauling costs for both handlers and the proponent cooperative.

It is readily apparent that under the present order provisions handlers are not able to recover all of their farm-to-first plant hauling costs. Although such costs vary among handlers, it is reasonable to conclude that such costs average, as proponents contend, about 30 cents per hundredweight. As indicated, the recovery of hauling costs is limited under the order essentially to 10 cents on Class I milk and 20 cents on Class II milk. Relatively limited amounts may be recovered through the transportation differentials if the milk is moved from farms in one price zone to plants in a higher price zone.

The order provisions should reflect the costs that handlers incur in assembling milk from farms and transporting it to the plant of first receipt. Accordingly, the cooperatives' proposed 15-cent pool credit on all receipts of farm bulk tank milk should be adopted. As noted, a pool credit is now applicable to bulk tank milk used in Class II. The application of this procedure to all bulk tank milk would merely extend a method for recovering hauling costs that appears to be operating satisfactorily in this market. This revised procedure will tend to place handlers in a more comparable competitive position relative to both their intramarket and intermarket sales.

The record does not indicate that a pool credit of 15 cents per hundredweight will result in handlers being over-compensated for hauling costs that they incur. Minimum farm-to-first plant hauling costs were described as being at least this amount. The hauling cost data referred to earlier indicate that charges to the cooperative by contract haulers in October 1975, a month for which detailed data were presented, were not less than 17 cents per hundredweight. There may be an occasion, of course, where a handler, in order to hold his milk supply, may not wish to pass his hauling costs back to his producers. Although the pool credit would still apply, there would be nothing to preclude a handler from making off-setting over-order payments to his producers.

As envisioned by the proponent producer groups, the transportation credit on bulk tank milk would be applied in such a way that it would result in a lower blend price not only for bulk tank shippers but for can shippers as well. Although the present pool credit on Class II bulk tank milk is applied in this manner, this procedure should not be used under the pricing changes adopted herein. Can shippers, whose milk is priced at the plant to which it is delivered, normally pay the farm-to-plant hauling costs themselves. When their blend price is reduced because of the pool transportation credit, they in effect are also paying a portion of the farm-to-plant hauling costs on bulk tank milk as well. Since only about 3 percent of the Order 2 producer milk is now shipped in cans, about 14.5 cents of the 15-cent transportation credit would, under the cooperatives' proposal, be passed back to bulk tank shippers through the lower blend price. Nevertheless, the can shippers would experience the same 14.5-cent blend price reduction. Although the record reflects a view that can shippers should subsidize the cost of getting bulk tank milk from farms to plants, the record does not provide a reasonable basis for this position.

In responding to the recommended decision, several handlers filed exceptions relative to the use of a pool credit.

One handler requested that instead of using the pool credit there be a 15-cent reduction in the Class I and Class II prices. With respect to the Class I price, such reduction would be in addition to the 15-cent reduction recommended in the initial decision. The handler claimed that this would simplify the accounting procedures for handlers and the market administrator and yet accomplish the same thing as the pool credit.

The request is denied. The 15-cent pool credit is intended to apply only to the handling of farm bulk tank milk. The requested reduction in class prices would also affect milk delivered to plants in cans. Handlers do not pay the farm-to-plant hauling costs on can milk and thus have no reason to recover any hauling costs on such milk through a reduction in the class prices.

Other handlers contended in their exceptions that although they do not incur farm-to-first plant hauling costs on can milk they do experience additional costs in receiving such milk at their plants that are not incurred on bulk tank milk. They argued that handlers receiving can milk should have an opportunity to offset such higher costs through a 15-cent pool credit comparable to the pool credit adopted herein for bulk tank milk. It was their position that without such relief handlers will not be inclined to continue receiving can milk and can shippers will no longer have a market for their milk.

A 15-cent pool credit on can milk should not be adopted. This matter was not explored at the hearing and the record provides no basis for determining whether the exceptors' contentions have merit or whether the amount of the suggested credit is commensurate with the additional receiving costs.

An additional point in the exceptions was that most of the can milk in the Order 2 market is received at plants located in those pricing zones where plus transportation differentials apply. It was claimed that with the adopted increase in such differentials handlers would be required to pay a higher Class I price than now for can milk without any compensating benefit.

Under the order changes adopted herein, the Class I price at all locations would be less, not more, than under the present pricing provisions. For those zones where plus transportation differentials apply, the price reductions would range from 3 to 14.4 cents per hundredweight. This is because the base zone Class I price to which the plus transportation differentials are added would be 15 cents lower than presently.

Most handlers will incur farm-to-first plant hauling costs in excess of the 15 cents that they would recover through the transportation credit on bulk tank milk. As indicated, the average cost is 30 cents per hundredweight. Handlers need to have the opportunity to recover at least some of these additional costs if the milk is to be competitive in the marketplace. Thus, they should be permitted to negotiate with a producer or his cooperative a tank truck service charge of up to 15 cents per hundredweight with respect to any farm-to-plant hauling costs not recovered through the 15-cent pool credit.

Numerous factors affect the cost of farm-to-plant hauling. These include the distance involved, terrain, types and condition of roads, weight limits on roads and bridges, volume of milk picked up at each farm, and size of tank truck used (often a function of the other factors). Thus, it is in the interest of both handlers and producers that the order provide some flexibility in pricing arrangements so that the varying conditions that affect the cost of collecting and hauling milk from farms to plants may be reflected in the prices paid to producers. Because of the relatively higher assembly costs involved, small producers, or those in somewhat isolated locations, for example, may find it necessary to authorize hauling deductions in order to be assured of continued tank truck service. Others may find handlers willing to absorb some of the farm-to-plant hauling in order to maintain conveniently located sources of supply. Such flexibility is provided in the present order provisions and should be continued.

The negotiable hauling deduction should be limited to 15 cents per hundredweight rather than 25 cents as proposed by cooperatives. In some cases, of course, farm-to-plant hauling costs will exceed the 30 cents that handlers would be permitted to recover through the pool credit and negotiable hauling deduction. However, the imposed limit recognizes that handlers can recover part of the hauling cost through the difference in zone prices when milk is procured from locations more distant from the city than their plant. Also, the limit will tend to encourage handlers to move milk as efficiently as possible.

Several handlers urged in their exceptions that the limit on the negotiable deduction be set at 25 cents. They contended that hauling costs are continuing to increase and that the recommended hauling allowances, which were based on hauling costs experienced in 1974 and 1975, are already out of date. The handlers claimed that since such allowances could not be increased without another hearing it is desirable that the higher 25-cent limit proposed at the hearing be adopted at this time.

Any limit in excess of the 15-cent limit adopted herein should be based on the cost experience developed at another hearing. Only in this way can there be any reasonable assessment of how much hauling costs have, in fact, changed since the time period for which cost data in this record were developed. Based on the record of this proceeding, the 15-cent limit is appropriate.

A brief from certain handlers requested the elimination of the order provision that allows a cooperative to authorize hauling deductions on behalf of its members. The handlers contended that the intent of the hearing proposals is to provide more comparable procurement costs among competing handlers, which would be achieved in part by permitting handlers to negotiate with producers to recover a portion of the hauling cost. The handlers indicated that this goal would not necessarily be achieved if cooperatives can act on behalf of their members and thus, as an organization, preclude the recovery of hauling costs by handlers that producers acting individually might be willing to authorize.

This request, although related to the issues under consideration, goes somewhat beyond the scope of the evidence presented on the basic issues. Any order change of this nature should be based on testimony directly related to this point. Accordingly, the request is denied.

Transportation differentials and Class I price differential. The transportation differential rate of 1.2 cents per hundredweight for each 10 miles that is now used to adjust the Class I and uniform prices for location should be increased to 1.5 cents for each 10-mile zone more distant than the 201–210 mile zone and to 1.8 cents for each 10-mile zone less distant than the 201–210 mile zone. Also, the present Class I differential of $2.40 that is applicable at the 201–210 mile zone should be reduced to $2.25.

The combination of the pool transportation credit and tank truck service charge adopted herein in itself will not place metropolitan area handlers in a comparable position with Order 4 handlers relative to their cost of Class I milk. As indicated, most of the milk in the Middle Atlantic market moves directly from farms to the city distributing plants, with producers paying the hauling costs. In the Order 2 market, about 80 percent of the milk received by the metropolitan area handlers for fluid use moves through supply plants. The costs of transferring this milk at supply plants and hauling it to the metropolitan area are borne by the distributors. Thus, comparable procurement costs for Order 2 and Order 4 handlers are possible only if the differences between the Class I prices at supply plants and at the distributing plants reflect the full cost of obtaining supply plant milk. Presently, such price differences under the order fall considerably short of this.

The proponent cooperative that presented data on farm-to-plant hauling costs also submitted data regarding its cost experience for 7 country reload stations which it operated. During the 12-month period of November 1974 through October 1975, over 597 million pounds of farm bulk tank milk were received at these stations and reloaded onto over-the-road tankers for shipment to other plants. No milk was received in cans, nor was there any milk processing at such facilities. The average operating costs at the individual plants ranged from 8.5 cents (84.6 million pounds of receipts) to 21 cents (60.3 million pounds) for this period. For all plants, the weighted average cost was 12 cents per hundredweight. Thus, on this basis, it is presumed that metropolitan area handlers must pay an average of 12 cents per hundredweight on supply plant milk to cover the cost of operating the transfer facilities.

The same cooperative also presented data regarding long-distance hauling rates that were applicable to interplant movements of milk. The hauling rates were those being charged by a major commercial hauler for transporting milk from 14 country plants to distributing plants in Queens, Nassau, Suffolk and Westchester Counties in New York State. The country plant locations varied from the 151–160 mile zone to the 391–400 mile zone. The rates were applicable to minimum loads of 49,000 pounds of milk. The cooperative's witness indicated that from time to time the cooperative had used the hauler's services for moving milk to the metropolitan area from these various country locations. Also, the witness indicated that the cooperative applied the same rates to milk which it moved in its own trucks.

An analysis of the hauling data indicates that "fixed" costs associated with long-distance shipments are 19 cents per hundredweight. The rates reflect a "variable" cost of 1.8 cents per hundredweight per 10 miles, or 36 cents for 200 miles. Thus, the total transportation cost for 200-mile shipments from the 201–210 mile zone to distributing plants in the major metropolitan area, for example, would be 55 cents per hundredweight (19 cents plus 36 cents).

A spokesman for several cooperative associations maintained at the hearing and in their brief that no change should be made in the transportation differential rate on the basis of data presented in this proceeding. The witness claimed that the hauling rates submitted as evidence were not representative of actual rates paid by most handlers in this market. However, the witness did not provide any detailed hauling cost data to substantiate his position. Several handler witnesses testified that the hauling cost data appeared to be reasonable. Since these were the only comprehensive hauling cost data presented at the hearing, they must be viewed as the best evidence available in considering whether a change in the transportation differentials is needed.

In view of the variable cost reflected in the hauling rates being charged for long-distance milk shipments, the present 1.2-cent transportation differential rate should be increased. For those zones less distant from the city than the 201–210 mile base zone, the rate should be increased to 1.8 cents, which is the full variable cost. For the more distant zones, the rate should be limited to 1.5 cents, which is the rate commonly used under other Federal orders.

Historically, the Upper Midwest has been the major source of alternative milk supplies for many of the markets throughout the United States. To reflect the variable cost of moving such milk to distant markets, the Class I prices for the various markets gradually increase the more distant the markets are from the Upper Midwest. Also, within each market the Class I prices is customarily adjusted to reflect the variable cost of hauling milk from distant points in the milkshed to the market center. The gradation of prices, both on an intermarket basis and an intramarket basis, reflects to a large degree a transportation rate of 1.5 cents per hundredweight per 10 miles. The widespread use of this rate has been prompted by the general need from an orderly marketing standpoint to maintain a coordinated Class I price structure throughout the country. The adoption of the 1.5-cent rate for at least the outer portion of the milkshed will tend to provide further coordination of Class I prices under milk orders.

With respect to the inner zones of the Order 2 market, however, a 1.8-cent transportation rate should be established in recognition of the pricing problems that are peculiar to this market and which are of particular concern in this proceeding. As indicated, the basic thrust of the proposals under consideration is the establishment of a Class I price structure under the order that will permit milk distributors in the major metropolitan area of the market to be competitive with distributors in the nearby Middle Atlantic market. Much of the milk obtained by these Order 2 handlers originates in those production areas between New York City and the 201–210 mile zone, the base price zone for the market. For this milk to be competitive with Order 4 milk, the cost of transporting such milk to the market outlets must be adequately reflected in the Order 2 price structure. As noted, the variable cost for hauling milk in this market is 1.8 cents per 10 miles. Reflection of this full amount in the order's transportation differentials for the inner pricing zones is needed in conjunction with other changes in the order's pricing provisions to overcome the severe competitive problems being experienced by certain Order 2 handlers.

Because of the geographic location of the area in which the 1.8-cent transportation differential rate would apply, the use of this rate, versus the 1.5-cent rate, should not result in problems of price alignment between markets, as might be the case if this rate were adopted for other markets. Only two markets are adjacent to the inner zones of the Order 2 market—Middle Atlantic and New England. As indicated, the 1.8-cent rate is being adopted to provide a better alignment of Class I prices between the Middle Atlantic and New York-New Jersey markets. In the New England market, the applicable location adjustments for the inner zones of that market are in effect providing handlers a transportation rate on supply plant milk of 2 cents per 10 miles. Since there are no other markets further east of the Order 2 market, this eliminates any concern for price coordination in that direction.

The producer organizations that proposed the major order changes contended in their exceptions to the recommended decision that the transportation differential rate should be 1.8 cents for all zones. It was their position that since the variable hauling cost in this market was 1.8 cents at all locations there should be no departure from this cost experience to accommodate the intermarket price coordination among orders in general.

The cooperatives' exceptions raise no new points not already considered in determining the appropriate transportation differentials for the market. No departure from the recommended decision should be made with respect to the differentials to be included in the revised order.

In other exceptions to the recommended decision, a handler argued that the transportation differential rate should be 1.5 cents for all pricing zones. The handler claimed that the use of the 1.8-cent rate for those zones between the 201–210 mile zone and New York City would not permit him to be competitive with handlers in the Middle Atlantic market. In support of his position, the handler pointed out that he operates supply plants located in the 151–160 mile zone and the 191–200 mile zone and receives milk at each plant from can and bulk tank producers who in most cases are located closer to the city than the plant to which the milk is delivered. It was contended by the handler that even with the 1.5-cent rate he would not be competitive with Order 4 handlers and that the higher 1.8-cent rate thus should not be adopted.

The handler also argued that increasing the plus transportation differentials was not a help to handlers as claimed in the recommended decision but instead would result in increased costs for handlers since they would have to pay a greater plus differential over the base zone Class I price. In this regard, other handlers complained in their exceptions of a 50 percent increase in the plus transportation differential rate without any offsetting benefit for handlers.

As indicated earlier, the increase in hauling costs has resulted in milk throughout the Order 2 milkshed being over-priced in terms of its value to Order 2 handlers in the metropolitan area. Accordingly, order changes are adopted herein that would reduce the Class I price throughout the milkshed relative to the metropolitan area Class I price. Under these changes, which include a 15-cent reduction in the Class I differential and an increase in the transportation differential rate, the Class I price at all locations would be less than under the present pricing provisions.

Handlers should bear in mind that the purpose of increasing the transportation differentials is to permit them to recover more of their hauling costs through lower prices to producers. The transportation differentials, whether they be plus or minus differentials, are, in essence, hauling allowances for handlers and are of direct benefit to them. Although the plus differentials adopted herein are greater than they are now, they would be added to a 15-cent lower Class I price. The net result would be lower Class I prices at all locations within the plus differential zones.

Although it is understandable why the supply plant operator objects to the 1.8-cent transportation differential rate, his arguments are without merit. The handler, in essence is seeking financial relief from what presumably is a costly procurement practice, i.e., receiving bulk

tank milk at his supply plants from farms located closer to the city than the plants. Under farm point pricing, there is normally an economic incentive for handlers to obtain bulk tank milk from farms located more distant from the city than their plants. Under this handler's operation, however, he, in short, presumably ends up paying more for the milk than it is worth in terms of its location value at the supply plant since he must pay the Class I price applicable at the farm locations rather than the lower Class I price applicable at his supply plants to which the milk is delivered. This difference in location values, and thus cost to the handler, would be less with a 1.5-cent transportation differential than a 1.8-cent differential.

Increasing the transportation differential rate to 1.8 cents will not in itself permit metropolitan area handlers to recover all of the procurement costs associated with supply plant milk. As indicated, there are the fixed costs for long-distance shipments, which are now 19 cents per hundredweight. Also, there is the cost of transferring milk at supply plants, which is now averaging 12 cents per hundredweight. Historically, these additional costs have not been reflected in the order's price structure. Nevertheless, they have a direct bearing on the metropolitan area handler's ability to be competitive in terms of his Class I procurement costs with handlers in the Middle Atlantic market, as well as Order 2 handlers receiving direct-ship milk, who are not experiencing such costs. It is necessary, then, that recognition be given to these costs. This should be done by lowering the Class I price differential at the 201–210 mile zone from $2.40 to $2.25.

The Class I price structure and transportation allowances under Order 2 should be such that the average cost of Class I milk to metropolitan area handlers does not exceed the approximate cost of Class I milk sold in the Order 2 North Jersey area by handlers under the Middle Atlantic order. As noted earlier, distributors in the Philadelphia-South Jersey area must pay a Class I differential of $2.78 plus a 6-cent direct delivery differential on milk received directly from producers' farms, or a total of $2.84. In addition, there is the cost of moving packaged products from Order 4 plants into the North Jersey area, although this is limited in some cases since there is relatively little distance between a number of Order 2 distributing plants in North Jersey and several Order 4 plants in South Jersey and southeastern Pennsylvania. In fact, one Order 4 distributing plant is located at Flemington, New Jersey, which is in the Order 2 marketing area and only a few miles from several Order 2 plants.[6] While it might be reasonable to use the Order 4 differential cost of $2.84 for intermarket price comparisons, it is concluded that this amount should be increased to $2.92 to reflect some additional costs that Order 4 handlers would experience in moving packaged milk into the North Jersey area.

Unless the base zone Class I differential is lowered, the cost of supply plant milk to Order 2 handlers in the major metropolitan area will continue to exceed the cost of Order 4 milk. If the base zone differential were maintained at $2.40, the transportation differential rate of 1.8 cents per 10 miles would result in a Class I differential at the 1–10 mile zone of $2.76. To this must be added the fixed hauling cost of 19 cents and the supply plant transfer cost of 12 cents, which totals $3.07. This is 15 cents higher than the approximate Order 4 differential cost of $2.92 against which Order 2 handlers are generally competing.

It might be argued by producers who obviously will be concerned about the impact of such a price reduction on their returns that the estimated Order 4 cost of $2.92 is too low and that a lesser reduction in the Order 2 Class I differential is needed to overcome the competitive problem at issue. On the other hand, handlers could argue that the present 14-cent difference in Class I prices at New York City and Philadelphia (in favor of Order 2 handlers) should be reflected in the new price structure. To have supply plant milk obtained from the 201–210 mile base zone cost no more to handlers than the present $2.64 Class I differential at New York City, the base zone differential would have to be reduced to $1.97. A price reduction of this magnitude would have, of course, a severe impact on the returns to Order 2 producers. It is concluded that although the 15-cent reduction adopted herein will not maintain the present intermarket price relationship reflected in the present Order 2 and Order 4 Class I pricing provisions, it will permit Order 2 handlers to be competitive with Order 4 handlers in the North Jersey area. At the same time, the 15-cent reduction can be considered as having only a moderate impact on producers relative to the seriousness of the loss of Class I sales that is the central theme of this proceeding.

Rather than using a Class I price reduction as a means for the recovery of transportation costs by handlers the proponent producer groups urged that a "metropolitan transfer credit" be adopted. Under their proposal, handlers would receive a 25-cent per hundredweight pool credit on receipts of Class I milk originating beyond the 1–140 mile zone and transferred in bulk, either directly from farms or from plants, to plants located within the 1–65 mile zone. The credit would be limited to 19 cents if the transportation differential rate were set at 1.8 cents per 10 miles rather than at 1.5 cents, the rate on which the proposed 25-cent credit was based.

The intent of the metropolitan transfer credit was to enable handlers to recover the "fixed" hauling costs on long-distance shipments plus any "variable" hauling costs not reflected in the transportation differential rate. The credit was designed to apply only to Class I milk that was actually moved in bulk to metropolitan area plants. No pool credit would apply to Class I milk processed at plants in the distant areas of the milkshed. Proponents contended that through such a credit arrangement provision could be made for the recovery of hauling costs for those handlers competing with Middle Atlantic handlers without disturbing the market's Class I price structure, particularly as it applies to distributing plants in the metropolitan area and in the northern areas of New York.

As already indicated, the increased transportation costs have made the value of milk in the more distant production areas of the milkshed less now than previously relative to its value at the major consumption center of the market. Under the metropolitan transfer credit provision, the returns to all producers throughout the more distant areas of the milkshed would be reduced uniformly, regardless of whether or not their milk was moved to metropolitan area plants, and thus subject to the pool credit. This is because the credits received by handlers on their long-distance shipments would be borne equally by all producers through the marketwide pooling mechanism. To the extent that the credit provision would result in reduced returns to all distant producers in the market, such an arrangement would be consistent with the need for pricing provisions that reflect the additional decline in value of distant milk supplies.

Serious question must be raised, however, with respect to other aspects of the proposed metropolitan transfer credit. Although all distant producers would have their returns reduced under this arrangement, the lower value of milk of all such producers would not be reflected uniformly in the prices that handlers would have to pay for Class I milk received from such producers. Milk from bulk tank producers located in the 151–160 mile zone, for example, could be transferred from their farms to a distributing plant in the metropolitan area and to one in the local production area for Class I use. Under the cooperatives' proposal, a 19-cent pool credit would apply to the milk moved to the metropolitan area plant. This, in essence, would represent a 19-cent reduction in the Class I price applicable to such milk. There would be no similar reduction for the milk moving from the same price zone to the nearby distributing plant. Thus, although milk might be obtained by the two plant operators from the same price zone, one would be paying, in essence, a 19-cent higher Class I price for the milk than the other.

Because of the nature of this market, the value of all producer milk in the distant areas of the milkshed should be related to the value of such milk to metropolitan area handlers. As pointed out earlier in this decision, nearly 80 percent of the 20 million persons in the Order 2 marketing area are concentrated in New York City and nearby adjacent areas in

[6] Official notice is taken of the list of pool handlers regulated under the Middle Atlantic order in December 1975, which was released to the industry on January 13, 1976, by the Market Administrator of that order.

V42 N159 AUG 17 77 UM

New York and New Jersey. This relatively small area constitutes by far the major consumption center in the Order 2 market. Also, about 80 percent of the Class I milk received at metropolitan area plants comes from supply plants located throughout the more distant areas of the milkshed. There is an obvious need, then, to relate the value of the distant milk to its worth to metropolitan area handlers.

There are also a number of secondary consumption centers in the Order 2 market. These are located mainly throughout the New York portion of the milkshed. Proponents of the metropolitan transfer credit argued that since distributors in these secondary markets usually obtain their milk supplies from nearby farms on a direct-ship basis they do not need to have their cost of Class I milk reduced in the same manner as for handlers involved in long-distance shipments. In fact, under the cooperatives' proposed "upstate fluid differential," which will be discussed later, handlers in these secondary markets would be required to pay 10 cents per hundredweight more than now for Class I milk.

The maintenance of the current Class I prices to the upstate distributors cannot be justified in view of the reduced value that most of the milk produced in the distant areas of the milkshed for shipment, or potential shipment, to the metropolitan area now has. Milk from these same milkshed areas that moves to Class I distributors in the secondary markets simply has no greater value at the farm location by virtue of moving to such outlets than milk moved to the metropolitan area for Class I use.

Moreover, the Act requires that the Class I prices under an order shall be uniform to all handlers, except for certain adjustments, such as for location and butterfat content. It is recognized that under the cooperatives' proposal all Class I milk received from bulk tank producers located in the same price zone, irrespective of its final destination, technically would be priced to the receiving handlers at the same Class I price. Nevertheless, the question must be raised as to whether the metropolitan transfer credit would, in fact, seriously undermine the concept of price uniformity mandated by the Congress. This becomes particularly critical in the case of handlers who choose to package Class I milk for sale in the metropolitan area at distributing plants located in the distant areas of the milkshed. Reducing the cost of Class I milk that is moved to the metropolitan area in bulk form without similarly reducing the cost of Class I milk received at distant plants and then moved to the metropolitan area in packaged form would place the upstate distributors at a clear competitive disadvantage because of the nonuniformity in pricing. This was recognized by handlers who proposed at the hearing that any metropolitan transfer credit on bulk milk apply also to packaged milk.

For these several reasons, the metropolitan transfer credit does not represent an appropriate pricing mechanism under the order.

Numerous exceptions were filed regarding the recommended 15-cent reduction in the Class I price differential. Proponents of the metropolitan transfer credit argued that their proposed credit would accomplish in a more precise manner than the Class I price reduction the adjustment in milk prices that is needed to provide competitive equity between Order 2 and Order 4 handlers. The cooperatives contended that the 15-cent Class I price reduction falls short of the needed adjustment on long-distance shipments from beyond the 1-90 mile zone and provides an unneeded windfall to metropolitan area handlers receiving direct-ship milk and to upstate distributors. Somewhat similar exceptions were filed by two Order 2 handlers who were particularly concerned that upstate distributors would have an undue cost advantage on packaged milk moved to the metropolitan area for distribution.

The points raised by exceptors were among the many facets of the overall problem that were considered in developing the initial recommendations. A further review of these points within the context of the specific exceptions provides no basis for concluding that the metropolitan transfer credit should be adopted in lieu of the 15-cent Class I price reduction.

A group of cooperatives in the Middle Atlantic market argued in their exceptions to the recommended decision that the record does not support a reduction in the Class I differential. Exceptors claimed that the record did not show that the cost of producing milk had declined in the Order 2 market but rather that it showed that such costs had increased and that returns to producers were not keeping pace with the rising costs. The cooperatives contended that a Class I price decrease would be contradictory to the higher production costs.

The resolution of the complex pricing issues involved in this proceeding cannot be contingent upon the maintenance of the current level of returns to Order 2 producers. Any action to make Order 2 milk more competitive with Order 4 milk necessarily requires some reduction in returns. The proponent cooperatives fully realized that their proposals would have this effect. In fact, proponents stated in their exceptions that "In view of the traditional opposition of procedures to decreases in the blend price, for whatever reason. Dairylea and NEDCO exhibited a high degree of statesmanship in risking known unpopularity with producers (members as well as non-members) in proposing adjustments that knowingly will reduce the blend price for the sake of correcting competitive misalignment in Class I cost between Order 2 and Order 4." Although some producers testified at the hearing that the maintenance of the present level of returns should be an overriding consideration, such testimony was presented on behalf of a relatively small segment of the market's producers. It is noted that while the Order 4 cooperatives objected to a reduction in the Class I price they did not oppose other provisions adopted herein that would reduce returns to Order 2 producers. No weight can be given to the cooperatives' exceptions on this point.

The Order 4 cooperatives also stated in their exceptions that if a 15-cent reduction in the Order 2 Class I price were to result in Order 2 handlers recapturing some of the Class I sales lost to Order 4 handlers, there would be a net loss in returns under the two orders. They contended that while the shift in sales would have an upward effect on the Order 2 blend price the net impact of the Class I price reduction on the blend price would be a slight decrease. At the same time, they argued, Order 4 producers would experience a significant drop in returns as a result of the loss in Class I sales to the Order 2 market. The cooperatives claimed that reducing returns to all producers while production costs are increasing would not be in the public interest. Also, the cooperatives argued that in view of the impact that the changes in Order 2 could have on Order 4 producers, the Department should have held a joint hearing involving both Orders 2 and 4 so that Order 4 producers could have been heard on this issue.

It is difficult to predict what impact the pricing provision adopted herein will have on the ability of Order 2 handlers to successfully compete for Class I outlets. Nevertheless, the main thrust of this decision, as has been amply noted, is to minimize the substantial competitive disadvantage that such handlers have relative to Order 4 handlers. The impact on producer blend prices, in either market, cannot be an overriding consideration in the effort to provide competitive equity.

The adoption of changes for Order 2 need not be contingent upon the holding of a joint hearing for Order 4 as well. In any amendment proceeding for a market, the effect of proposed order changes on neighboring markets must be taken into consideration by the Secretary to minimize any disruptive impact on such markets. However, this does not require that there be joint hearings. In any proceeding, interested parties from other markets may testify as to why proposed order changes should not be adopted without concurrent changes in the order applicable in thir own market. Although the Secretary would not be able to amend the other order on the basis of the single order proceeding, witnesses could attempt to convince the Secretary that no order changes should be made until the matter is considered at a joint hearing.

In this proceeding, a witness for the Middle Atlantic cooperatives testified relative to the proposals that were offered to deal with the Order 2-Order 4 competitive problem that was the main issue of the hearing. The witness did not contend that the hearing should have been a joint hearing with Order 4 or that Order 2 should not be changed unless corollary changes are made in Order 4. It cannot be concluded from the testimony of this witness or others that a joint Order 2-Order 4 hearing should be held before amending Order 2.

An additional point that the Order 4 cooperatives raised in their exceptions was that the Class I price should not be reduced at a time when the cost of hauling alternative milk supplies from the Minnesota-Wisconsin area is increasing. The cooperatives did not demonstrate, however, that the Class I price under the adopted order changes would not be reasonably coordinated with prices in the Midwest. Their concern in this regard is not persuasive.

Exceptions to the recommended 15-cent Class I price reduction were filed also by a number of interested parties in the New England market. Included were cooperatives, handlers, State Farm Bureaus, State Commissioners of Agriculture, and a United States Congressman. The New England parties took a unified position that the Order 2 Class I price should not be reduced. They contended that the order changes set forth in the recommended decision would significantly alter the present intermarket relationship of the Class I prices and blend prices of the New York-New Jersey and New England orders. Exceptors pointed out that the New England Class I and blend prices are already higher than such prices for the Order 2 market and that the recommended order changes would substantially widen such price differences. The parties claimed that this would have a disruptive impact on the marketing of milk in the New England Order 1 market by handlers and cooperatives in that market.

Basically, exceptors contended that New England handlers distributing milk in Connecticut and western Massachusetts would be competitively disadvantaged relative to Order 2 distributors located in eastern New York State, particularly in the Albany area. They indicated that the New England handlers would either lose Class I sales or seek lower-priced milk supplies from the Order 2 market so as to retain their competitive position. In either case, they claimed, there would be a loss of Class I outlets by New England producers and thus a lowering of their blend price. Also, exceptors argued that because the order changes would increase the difference in blend prices Order 2 producers would attempt to shift to the New England market, which would further lower the New England blend price.

The New England parties indicated that they fully recognized that there was a need to resolve the Order 2-Order 4 price relationship that was the central issue of the hearing. They argued, however, that the recommended Class I price reduction for Order 2, if implemented, would create new competitive problems as between the Order 2 and Order 1 markets. Exceptors claimed that the present price alignment between these two markets is acceptable and should be maintained.

In their exceptions, the New England cooperatives and handlers stated that either the proposed metropolitan transfer credit be adopted in lieu of the recommended Class I price reduction or that there be no final decision until the matter is reviewed further at another hearing session. They claimed that New England parties did not participate in the Order 2 hearing since there was no indication that a Class I price reduction was under consideration in this proceeding. For this reason, they asked that the hearing be reopened and expanded to include the New England and Middle Atlantic markets as well so that a further review of the price relationship of these three markets could be developed on the record. Handlers also indicated that should other requested actions not be taken the Department at least should call a hearing for the New England market to consider the intermarket price alignment issue. Also, cooperatives urged that at the very least the effective date of any Order 2 amendments be delayed until the effective date of any order changes that result from a December 1976–January 1977 hearing for the New England market.

As already indicated, it is essential that the reduced value of milk in the distant areas of the milkshed be reflected in the Order 2 price structure for the market. For the reasons previously noted, this should not be done through the adoption of the proposed metropolitan transfer credit. Instead, it is concluded that a 15-cent reduction in the Class I price differential, in combination with the other changes adopted herein, represents the best means of resolving the marketing problems portrayed on the record.

It is recognized that the pricing changes would increase the difference in the cost of Class I milk under the New York-New Jersey and New England orders. As pointed out in exceptions, the cost of Class I milk to Order 2 distributors in the Albany, New York, area could be reduced by at least 30 cents per hundredweight. It should be noted, however, that if the Class I price differential were not changed, as exceptors urged, the cost reduction could still be about 15 cents or so, which the New England parties apparently believe would be acceptable from a competitive standpoint.

For whatever reasons (the record is silent in this regard), there apparently is very little distribution of milk by Order 2 handlers in New England. Similarly, bulk shipments of Class I milk to New England handlers appear to be minimal. In view of this, it is questionable whether the adopted changes for Order 2 would encourage any substantial movement of Order 2 milk into the New England market as exceptors contended. Certainly, at the present time there is not the intermarket competition between Order 1 and Order 2 handlers that perhaps would make the concern of the New England parties more plausible. Cooperatives and handlers obviously have an interest in protecting their Class I market, and their concerns in this regard are understandable. However, the potential disruption that these parties attribute to the order changes initially recommended, and which are adopted herein, does not appear evident at this time.

There is no basis for reopening the hearing in this proceeding, or for holding a point hearing involving the New York-New Jersey, New England and Middle Atlantic orders, to explore further the intermarket alignment of prices. The New England parties undoubtedly were aware that major changes were being considered for Order 2 that could lower the cost of Class I milk to Order 2 handlers as well as lower the returns to producers. In the case of Class I milk costs, the proposals specifically set forth in the hearing notice could have resulted in nearly the same reduction in Class I milk costs to Order 2 handlers as the order changes set forth in the recommended decision. As described earlier, one of the proposals offered by Order 2 cooperatives would have increased the present 10-cent negotiable tank truck service charge to 25 cents per hundredweight. This was limited in the recommended decision to 15 cents. Nevertheless, the hearing proposals reflected the possible opportunity for at least some Order 2 handlers to have an additional 10-cent reduction in their Class I milk costs. This is within 5 cents of the total cost reduction that would be possible under the order changes adopted herein.

Also, New England parties should not have been unaware of a significant reduction in returns to Order 2 producers as a result of the proposals listed in the hearing notice. The potential impact of the proposals on producers was discussed at the hearing. The order changes adopted herein, although somewhat different from those proposed at the hearing, would result in about the same reduction in producer returns as the cooperatives' proposals.

It is thus difficult to be pursuaded that New England parties had reason to be unaware of the potential impact of the Order 2 hearing on their market.

With respect to the request for a hearing for the New England order, interested parties may file a hearing petition for any order at any time. Once received by the Department, the petition would be acted upon in the manner merited by the marketing situation at issue.

The New England cooperatives provided no valid basis for acceding to the request in their exceptions that implementation of the adopted Order 2 amendments be delayed until the effectuation of the amendments to Order 1 that might result from an earlier hearing for that order. There was no reasonable demonstration that a coordination of the two proceedings is essential to orderly marketing.

A Middle Atlantic handler claimed in his exceptions that the 15-cent Class I price reduction should not be adopted since it was not specifically listed as a proposal in the hearing notice. Although

V42N159 AUG 17 77 UM

this change was not considered at the hearing in these specific terms, it represents an alternative means of dealing with the concerns of the industry that were fully explored at the hearing. The Secretary cannot be restricted to adopting solely those changes that may have been proposed in specific terms at a hearing. If this were so, he could be in a position of having a record that demonstrates a need for order amendments to remedy certain marketing problems but not having before him specific industry proposals that would result in the corrective action needed. Within the scope of the hearing proposals and evidence received, he must have the latitude to propose those order changes that will best meet the marketing problems before him. In this proceeding, the 15-cent reduction in the Class I differential is found to be a necessary order change in meeting the marketing problems presented on the record.

Direct delivery differential. A direct delivery differential of 15 cents per hundredweight should be paid on all milk received from bulk tank producers located within the 1–70 mile zone or from producers who deliver their milk in cans to plants within such zone.

Under the Class I price structure adopted herein, the Class I differential at the 1–10 mile zone would be $2.61. Handlers in the 1–10 mile zone who receive bulk tank milk directly from farms should be able under the provisions adopted herein to obtain such milk at not more than this differential cost. If the cost of hauling such milk from the 51–60 mile zone, for example, were 35 cents, as the record suggests, the handler would recover 15 cents of this cost through the pool transportation credit. Another 9 cents would be recovered through the transportation differential. The remaining 11 cents of the 35-cent cost could be recovered by negotiating a hauling deduction with the producer or his cooperative. Similar cost portrayals could be set forth for other near-in zones from which direct-ship bulk tank milk is received by city handlers. However, it is reasonable to presume under these assumptions that the cost of such milk at plants in the 1–10 mile zone would approximate the $2.61 differential cost.

Under the adopted pricing arrangement, the differential cost of supply plant milk at city plants would average $2.92 per hundredweight. This would mean a 31-cent difference between the $2.92 cost of supply plant milk and the $2.61 cost of direct-ship milk at the city. The 31-cent difference represents the 19-cent fixed hauling cost on long-distance shipments and the 12-cent supply plant transfer cost. This difference suggests that direct-ship milk would be worth up to 31 cents per hundredweight more to city handlers than the adopted city Class I differential of $2.61. Accordingly, the present 5-cent direct delivery differential would not adequately reflect the additional value that direct-ship milk from nearby areas would have to city handlers under the new price structure relative to alternative milk supplies from distant supply plants.

The economic value of milk that metropolitan area handlers receive directly from producers is determined in part by the cost of alternative supplies. Only relatively limited quantities of milk are available to metropolitan area handlers on a direct-ship basis. Most of the Class I milk needed by such handlers must be obtained from distant supply plants. The procurement costs for such milk, however, are substantially higher than for nearby direct-ship milk, which enhances the value of the direct-ship milk. By making their milk available to the metropolitan area handlers, the nearby direct-ship producers are providing these handlers with an economic service of benefit to the handlers, since the handlers otherwise would have to incur the additional procurement costs associated with alternative milk supplies from supply plants. The direct-ship producers should be compensated for this service.

Although the direct-ship milk may have greater value to metropolitan area handlers, the increase in the present direct delivery differential should be limited to 15 cents per hundredweight for two basic reasons. First, the direct delivery differential would apply, as now, to all direct-ship milk used in Class II as well as to that used in Class I. Through the transportation differentials for Class II milk, the order already fixes the Class II price at plants in the 1–10 mile zone 8 cents higher than at the 201–210 mile zone. With the 15-cent direct delivery differential, the cost of Class II milk at New York City would be 23 cents per hundredweight over the base zone Class II price. Actually, relatively little milk is used in Class II at the city distributing plants. Nevertheless, in increasing the direct delivery differential, its impact on a handler's Class II milk cost should be recognized.

A second consideration is the general tendency for handlers not to negotiate any hauling deductions with producers located in those production areas near the major metropolitan area. There has been a gradual shift of producers in these areas from the Order 2 market to the nearby New England and Middle Atlantic Federal order markets. To hold their local supplies, Order 2 handlers have been reluctant to seek authorized hauling deductions from the near-in bulk tank producers. Because the blend prices in these neighboring markets can be expected to remain attractive to such producers, it is questionable whether handlers will negotiate any hauling deductions on direct-ship milk. This, of course, would offset some of the cost advantage that direct-ship milk might otherwise have relative to supply plant milk.

The direct delivery differential zone should continue to be the 1–70 mile zone, rather than in the 1–110 mile zone as was proposed. In March 1975, the only month for which such data are available in the record, all of the Class I producer milk originating on farms in the 1–70 mile zone was direct-shipped to plants located in this zone. With respect to the more distant zones, at least some of the Class I milk originating in these zones and moved to metropolitan area plants was reloaded. For the 71–80 mile zone, the amount was very limited—only 1 percent of the total Class I milk originating in that zone. With respect to the 81–90, 91–100, and 101–110 mile zones, however, the amounts of Class I milk reloaded for shipment to plants in the 1–70 mile zone ranged from 27 to 29 percent of the total Class I milk originating in each of these zones.

Under the current handling arrangements, an extension of the direct delivery differential zone would mean that the differential would be applicable not only to direct-ship milk, as intended, but also to milk that is reloaded before being delivered to metropolitan area plants. A handler could not afford to pay both the supply plant transfer cost and the direct delivery differential on the same milk. As long as the direct delivery differential is applied on the basis of where a bulk tank producer's farm is located rather than on the basis of such producer's milk actually being delivered directly from the farm to the plant, it is not feasible to extend the application of the differential as was proposed.

Several exceptions were filed relative to the recommended direct delivery differential. The Order 2 cooperatives that proposed increasing the present 5-cent differential to 10 cents claimed that the 15-cent differential recommended by the Acting Administrator, in conjunction with his recommended 15-cent reduction in the Class I price, would not result in the price structure for the market that is needed to resolve the Order 2–Order 4 competitive problems. They urged the adoption of their proposals as presented at the hearing. Also, two handlers in the market urged that the differential be limited to 7 cents. Another Order 2 handler claimed that a differential of 15 cents would provide too much difference in returns between producers just inside the 1–70 mile zone and producers just outside this zone. Concern was expressed, too, that handlers paying the direct delivery differential would be competitively disadvantaged relative to distributors in upsate New York. Apparently to accommodate his own situation, the handler asked that no direct delivery differential apply in the New York counties of Orange, Ulster, Putnam and Dutchess.

For the reasons already discussed, an increase in the direct delivery differential to 15 cents per hundredweight, with no change in the zones of application, should be adopted. The use of a lower rate, whether it be 10 cents or 7 cents, would mean a greater difference in the cost of supply plant milk and direct-ship milk at city plants. The adopted 15-cent differential would place the cost of Class I milk from the two sources in a better relationship. It is recognized that this would result in a greater difference than now in the returns to bulk tank producers located just inside and outside the outer limit of the 1–70 mile zone. However, relatively few producers are located in the 61–70 or 71–80 mile zones. In March 1975, there were only 37 producers in the 61–70 mile zone. Only 23 producers were in the 71–80 mile zone. Thus, any unrest among neighboring producers because of this difference in returns would be minimal.

The record provides no basis for excluding Orange, Ulster, Putnam, and Dutchess Counties in New York from the direct delivery differential zone. There was no showing that such a change, which was not proposed Partial Final Decision—New York-New Jersey at the hearing, is needed in response to some particular problem that involves just these four counties.

In his exceptions, a Middle Atlantic handler objected to the recommended 15-cent direct delivery differential on the basis that it was not proposed or discussed at the hearing. Although the 15-cent rate was not specifically proposed, a proposal to increase the present rate an additional 5 cents was listed in the hearing notice and fully discussed at the hearing. As discussed earlier, the Secretary must have the latitude to modify proposed order changes in response to the problems portrayed on the record.

A number of cooperatives in the Middle Atlantic market expressed concern in their exceptions that a 15-cent direct delivery differential, when applied on a geographical basis, would result in milk produced in the intermediate zones of the market and direct-shipped to metropolitan area plants being priced too low relative to milk produced within the 1–70 mile zone. The cooperatives claimed that there are substantial quantities of bulk tank milk produced between the 1–70 mile zone and the 201–210 mile zone that could be moved directly from farms to distributing plants in the metropolitan area for Class I use. With no direct delivery differential applying to such milk, they contended, metropolitan area handlers would have an incentive to obtain the more distant milk on a direct-ship basis rather than the milk in the 1–70 mile zone to which a direct delivery differential would apply. For this reason, the cooperatives urged that in addition to all milk produced within the 1–70 mile zone the direct delivery differential apply also to Partial Final Decision—New York-New Jersey all other milk delivered directly from farms to plants within the 1–70 mile zone.

An Order 2 handler also expressed the same concern in his exceptions. He claimed that the higher direct delivery differential would discourage handlers from purchasing milk from producers inside the 1–70 mile zone and that such producers would then have no market and would go out of business.

Actual operating experience under the adopted order changes must be obtained before it can be determined if such concerns are justified. Although there may be some incentive for metropolitan area handlers to seek direct-ship bulk tank milk from the intermediate zones, it is not likely that this would be at the expense of the near-in supplies. Under the adopted order changes, such near-in milk, even with the 15-cent direct delivery differential, would still be cheaper for such handlers than Class I milk obtained from distant supply plants. Also, a handler could recover only 30 cents of the farm-to-plant hauling cost for direct-ship bulk tank milk. While the record has somewhat limited information regarding the hauling costs for long-distance movements of direct-ship milk, it is evident, nevertheless, that such costs would exceed 30 cents per hundredweight by increasingly greater amounts the more distant the source of milk. In this circumstance, it would appear that any cost advantage on direct-ship milk supplies from the intermediate zones would diminish the further a handler went for milk. For these reasons, the exceptions are not persuasive.

Upstate fluid differential. A proposed "upstate fluid differential" of 10 cents per hundredweight to be applicable to Class I milk received at distributing plants located outside the 1–65 mile zone from farms beyond the 1–110 mile zone should not be adopted.

This proposal was intended to provide a certain cost relationship between distributing plants in upstate New York and distributing plants in the major metropolitan area for milk received at these plants for Class I use. It was pointed out that most upstate distributing plants receive milk directly from farms, thereby avoiding reloading costs that are incurred by the metropolitan area handlers who receive milk from supply plants. Proponents contended that the additional 10-cent charge to the upstate handlers would tend to equalize procurement costs among competing handlers. The extra 10 cents charged such upstate handlers would be pooled, which would result in a slightly higher uniform price to all producers in the market.

Although the thrust of the order changes adopted herein is to more nearly equate the procurement costs of competing handlers, the proposed 10-cent charge would go beyond what is necessary to meet the competitive problems portrayed on this record. Moreover, the proposal gives no consideration to the present adequacy of milk supplies at distributing plants in upstate New York. Although the Class I price would be lowered throughout the milkshed under the proposals adopted herein, there is no indication that any offsetting increase in the Class I price at such plants is necessary to attract adequate milk supplies to these plants for fluid use.

The cooperatives that proposed the upstate fluid differential argued in their exceptions to the recommended decision that the 10-cent differential is needed to provide a closer alignment of Class I milk costs between upstate New York distributors and distributors in the metropolitan area. The same position was taken in their exceptions by two Order 2 handlers.

As indicated, such a differential must be viewed in terms of the need for a higher price to attract milk supplies to the upstate plants. The record in no way suggests that such plants would be unable to obtain the milk supplies needed for their Class I operations under the pricing adopted herein.

Perhaps more basic to the issue is the fact that the proposed differential would fail to maintain uniform Class I prices among handlers, as required by the Act. An upstate distributing plant receiving bulk tank milk from producers in a nearby zone would have to pay 10 cents per hundredweight more for Class I milk than a supply plant obtaining Class I milk from the same zone. For this reason, also, the proposed upstate fluid differential should not be adopted.

2. *Changes in certain classification provisions.* Cooperatives and proprietary handlers proposed several changes in the provisions that set forth the manner in which milk shall be classified. The specific changes are discussed under the following subheadings.

a. *Classification of milk moved between Order 2 pool plants and plants regulated under an order administered solely by the State of New York.* A proposal to classify transfers of milk between an Order 2 pool plant and a plant regulated under a New York State order in the same manner as transfers between an Order 2 plant and a plant under another Federal order should not be adopted.

A handler organization proposed that milk moved between a plant regulated under the New York-New Jersey order and a plant regulated under a New York State order (other than the State counterpart of Federal Order 2) be accorded the same regulatory treatment now provided under Order 2 for milk moving between federally-regulated markets. Thus, the classification of milk transferred by an Order 2 handler to a plant regulated under a State order would be determined by the classification established for such milk under the State regulations. Packaged milk that is classified in Class I as defined under the State regulations could be transferred to an Order 2 plant without the receiving handler incurring any obligation under Order 2 on such milk. Receipts of bulk milk at the Order 2 plant would be classified pro rata to the plant's utilization unless a Class II classification were requested by both plant operators.

The witness for the proponent handlers indicated that the proposal was prompted by the experience of an Order 2 handler who also operates a plant in Rochester, New York, that is regulated under a separate State order. According to the witness, the Rochester plant has both a fluid milk operation and a manufacturing operation. Bulk milk pooled under Order 2 is moved to the Rochester plant for manufacturing. At the same time, the handler moves a very limited quantity of packaged fluid milk products from the Rochester plant to an Order 2 pool plant for the latter plant's employees.

The witness indicated that the State regulations require that fluid milk sales in the marketing area defined by the

State order be assigned first to milk of qualified dairy farmers who supply the fluid needs of that market. He stated that under the terms of Order 2, however, bulk milk transfers to the Rochester plant, although intended for manufacturing, are assigned to both Class I and Class II. This, he pointed out, results in the handler being charged twice for a portion of his fluid milk sales, i.e., once under the State order and again under the Federal order. The witness further stated that the packaged milk moved from the Rochester plant to the Order 2 plant is Class I under the State order but is prorated to Class I and Class II under the provisions of Order 2. He contended that the Federal order thus imposes a penalty on milk moved between plants regulated under a separate New York State order and plants regulated under Federal Order 2.

Although there was no opposition testimony concerning the proposal, its adoption was opposed in a brief submitted by two cooperatives. They expressed the view that the proposed change could result in a surplus classification for Order 2 milk that actually was shipped to a State regulated plant for fluid use. The cooperatives suggested that a more appropriate solution would be the amendment of the State order if some relief is considered necessary.

According the same regulatory treatment for milk movements between the Order 2 market and a State order market as is provided for milk movements between federally-regulated markets would imply that the State order is comparable with Order 2 in its regulatory effectiveness. This is not the case. Not only are the provisions of the State orders significantly different from those of Order 2 but the State orders cannot be effective in pricing milk received from out-of-state sources, since the State of New York has no pricing authority relative to such milk. Regulation of plants under the New York statutes therefore provides no assurance that the classification and pricing of milk received at such plants are compatible with the provisions of the New York-New Jersey order.

In their exceptions to the recommended decision, the proponent handlers objected to the Acting Administrator's recommendation that their proposals be denied. Their supporting arguments were essentially a reiteration of their testimony at the hearing, which has been fully considered. There is no basis for reaching a different conclusion on this issue.

b. *Classification of bulk milk received from other order plants.* Bulk milk received at an Order 2 pool plant from a plant regulated under another Federal order, if not classified as Class II milk by agreement, should be classified pro rata to the marketwide utilization of producer milk or the handler's total utilization, whichever results in the greater Class II classification. The classification of such receipts should be limited however, so that the quantity of milk assigned to Class II is not greater than the receiving handler's Class II use.

Such receipts are now classified pro rata to the utilization in each class at the plant where the milk was received.

The classification procedure adopted herein for receipts of other order milk was proposed by a number of cooperatives, although they urged that certain modifications be included. Certain cooperatives proposed that when prorating the other order milk the utilization of the receiving plant, rather than the receiving handler's total utilization in his system, be used whenever this would result in more of the milk being assigned to Class II. The other cooperatives suggested that the allocation of other order bulk milk to the receiving handler's utilization be carried out at an earlier point in the allocation procedure.

In supporting the proposals, spokesmen for proponents pointed out that other order bulk milk received at a Class I distributing plant operated by a multiple-plant handler is now assigned primarily to Class I, even if the handler's other pool plants are mainly Class II operations. This procedure, they asserted, gives the other order milk a priority claim on the handler's Class I use and results in more milk from local producers being assigned to Class II. According to the spokesmen, the intent of the proposals is to encourage handlers to use pool milk for fluid use and to minimize any displacement of local milk in Class I with other order milk. Witnesses contended, however, that the proposals would not prevent or impede interorder milk movements when additional milk is needed for fluid use. They also pointed out that the proposed classification conforms with the procedure followed under virtually all other Federal orders.

Receipts of other order bulk milk not assigned to Class II use by agreement presently are assigned pro rata to the utilization in each class at the Order 2 plant where the milk is received. Thus, in the case of a handler who, for example, operates a pool distributing plant and a pool plant at which the utilization is largely Class II, receipts of other order bulk milk at the distributing plant are assigned largely to Class I. At the same time, pool milk received from local producers at the handler's other pool plant is assigned largely to Class II. Although the handler's total operation utilizes milk from both local and other order producers, the economic burden of the handler's lower-valued reserve milk supplies is borne by the local producers. Thus, an equitable sharing of Class I and Class II utilization among the handler's supply sources is not achieved.

The provisions for dealing with interorder bulk shipments should be ones which assign a proportion of the Class I and Class II utilization of the receiving handler between the local producers and the other order producers in a way that accords recognition to each group's interest in, and contribution to, such utilization. As provided under other orders, interorder bulk milk shipments should share in the utilization of Order 2 handlers basically to the same extent that Order 2 producers share in the market's Class I and Class II utilization. Accordingly, the classification of bulk milk received from other order plants by handlers receiving both local and other order supplies should be determined by assigning the marketwide utilization to such milk, unless a Class II classification is requested. This would mean that when a handler calls upon another order market to furnish a part of his total supply his local producer milk would not be assigned the lower surplus return until the milk from the shipping market has been assigned a Class II utilization equal to the marketwide utilization of Class II milk in the receiving market.

The limit placed on the quantity of other order milk assigned to Class II (i.e., the actual quantity utilized as Class II by the receiving handler) assures that the order provisions themselves will not assess the handler an additional cost related to the assignment to Class II of milk in excess of a handler's own utilization in that class. It assures also that producers in the shipping market will have their milk classified as Class II milk in no greater quantity than that actually utilized by the handler to whom the milk was transferred.

The order should not provide for marketwide proration of bulk milk received from another order plant when the receiving handler has a greater proportion of milk in Class II than the average in the receiving market. Instead, such milk should be classified pro rata to the handler's total utilization in each class. Marketwide proration of receipts of milk from other markets is designed to deal primarily with milk received by a handler who is supplementing his local supply for Class I use. In the case of a handler with a higher proportion of milk in Class II than the market average, marketwide proration would tend to encourage unduly and uneconomically the importation of milk because it would assign a disproportionate share of the milk of local producers to Class II.

Other order milk may be imported by a handler who operates just a single plant. In such cases, the milk would be assigned to the particular plant's utilization within the limits described above. In other cases, however, the milk may be received at the distributing plant of a multiple-plant handler. The Class I utilization at such plant is likely to be higher than the average Class I utilization at all of his pool plants. It is possible that the handler would have supplies at his other pool plants which would be in lower-priced uses than the milk brought in from other regulated markets. If the milk imported by a multiple-plant handler is assigned in this case only to the receiving plant's utilization, such assignment could reduce the handler's percentage of producer milk in Class I in his system to a greater extent than if the assignment were applied over the whole system.

Assigning bulk receipts from other order plants to the handler's system utilization will prevent a handler with

more than one pool plant from discriminating against either his own producers or those supplying the other Federal order market by importing milk not filling a bona fide need for Class I use. The order should provide, therefore, that receipts of interorder bulk milk be prorated to the combined utilization of milk at all of the handler's pool plants in the receiving market.

At the hearing, producer groups proposed that the utilization of the receiving plant be used in those cases where this would result in a greater Class II classification of the other order milk than if the utilization of the handler's system were used. Their spokesman indicated that this procedure would generally preclude such milk from sharing in the receiving handler's Class I utilization at other plants when the milk is received at the handler's manufacturing plant for Class II use but a Class II classification is not requested by the receiving and shipping handlers.

This procedure should not be adopted. The order provides that a Class II classification may be requested by the two handlers involved when bulk milk is shipped from one market to another for surplus disposal. This arrangement facilitates the disposal of surplus milk through outlets in another market without disrupting intermarket blend price relationships. It is expected that when milk is received at an Order 2 plant for manufacturing the handlers will request the lower classification for the milk. In the absence of such request, it must be assumed that the Order 2 handler is supplementing his local supply for his Class I operation. In this case, the classification of the other order milk should reflect the handler's reliance on both local and other order producers for milk for fluid use.

In order to implement the procedure adopted herein for classifying other order bulk milk on the basis of the combined utilization at all of the handler's pool plants, it is necessary to modify the procedure for allocating a handler's milk receipts to his utilization. The changes establish a procedure whereby the milk from other order plants will be classified on the basis of the handler's total system, but will be assigned to classes at the pool plant of actual receipt. Under this procedure, a situation may arise where the quantity of other source milk to be subtracted from a specific class (as determined from receipts and utilization in his entire system) exceeds the utilization remaining in that class at the plant of actual receipt. In this case, an accounting technique is used for increasing the utilization in such class at the plant of actual receipt and making a corresponding reduction in the same class at one or more of his other pool plants in his system. Since such exchanges of utilization will be made in corresponding amounts as between plants, this technique will not change the amount of milk to be accounted for at each plant or the classification of milk within the handler's entire system. The order should specify that such utilization shifts be made first at the other pool plant of the handler located nearest to the plant of actual receipt, and then in sequence at each successively more distant pool plant of the handler.

The present sequence for allocating receipts from various sources to a handler's utilization should not be changed. A spokesman for several cooperatives asked that the allocation procedure be reviewed to determine whether the pro rata classification of other order bulk milk should be moved forward in the allocation sequence. The cooperatives' position was that such a shift, if appropriate, would increase the availability of Class II utilization for assignment to receipts of other order milk.

If other order milk were prorated earlier in the allocation sequence, some receipts from unregulated sources necessarily would be classified later in the sequence. Thus, receipts of other order milk would be assigned to Class II utilization before such receipts from unregulated sources. This could result in a greater quantity of unregulated milk being assigned to Class I uses than otherwise, and a corresponding increase in the handler's pool obligation. Such a change would not be appropriate on the basis of this record and should not be made.

As indicated, the marketwide utilization of producer milk for the Order 2 market will be one of the bases for classifying bulk milk received from other Federal order markets. However, the actual marketwide utilization for the month in which the milk is received cannot be determined until the other order milk is classified. This cannot be done until the marketwide utilization is known. To overcome this problem, the order should provide for the use of an estimated marketwide utilization. The estimate should be announced by the market administrator and should be final for this purpose.

c. *Classification of milk dumped, disposed of for animal feed, or lost under extraordinary circumstances.* Fluid milk products that a handler dumps, disposes of for animal feed, or loses due to extraordinary circumstances beyond his control should be classified as Class II milk.

Presently, such types of disposition are considered as part of a pool plant's shrinkage of milk. Under the current provisions, shrinkage is prorated to the plant's utilization in each class, except that the Class II assignment is limited to 2 percent of the plant's actual Class II use. Thus, the classification of these several types of disposition varies according to the type of plant operation involved.

A handler organization proposed that fluid milk products dumped or discarded, or destroyed or lost under extraordinary circumstances, be specified as Class II milk. The organization's spokesman indicated that a handler may dump milk because it is unsuitable for disposition as a fluid milk product. He cited instances where entire truck loads of milk have been dumped because strong odors or high acidity rendered the milk useless for fluid purposes. He pointed out that occasionally a manufacturing outlet can be located to take such milk, but that quite often outlets are not available or they may be so distant that such disposition is not economically feasible. With respect to milk destroyed or lost under extraordinary circumstances, the witness indicated that a Class II classification should be provided to cover situations where milk is destroyed through accidental contamination or is lost in a truck accident.

Classifying dumped milk in Class II was supported by another handler. The handler's witness pointed out that handlers ordinarily experience some spoilage in fluid milk products, particularly in the case of route returns. The witness stated that handlers must either dump such milk or dispose of it as animal feed, and urged that such disposition be priced as Class II milk. He claimed that such classification is justified because the handler receives virtually no monetary return for such milk. The witness also supported, on the same basis, a Class II classification for milk destroyed or lost under extraordinary circumstances, such as vehicular accidents, fire, flood, or similar catastrophic occurrences.

A number of cooperatives in the market opposed the classification changes urged by handlers. It was their position that dumpage and losses due to extraordinary circumstances are business risks and should be absorbed by the handler. They contended that milk lost under extraordinary circumstances should not be classified as Class II milk since handlers customarily insure against such losses.

"Shrinkage" should be considered as a disappearance of milk that cannot be acounted for in a handler's operations. When a handler finds it necessary to dump fluid milk products or dispose of fluid milk products for animal feed, it is possible to establish that such disposition actually occurred. Also, to the extent determinable from records, milk that is lost or destroyed can represent a known disposition. In these cases, the milk involved can be accounted for and should not be included with shrinkage as milk for which no disposition can be established. Moreover, since the handler receives virtually no return from such disposition, the handler's obligation under the order for such milk should be limited to the lowest class price under the order, which is the Class II price. Although the loss may be insured, it is reasonable to presume that any indemnification would be commensurate with whatever value is established for the milk under the order.

It is important that the market administrator have an opportunity to verify all dispositions of milk claimed by a handler. In the case of fluid milk products disposed of for animal feed, handlers should keep records suitable for the market administrator to determine that such dispositions actually occurred. When milk is dumped, however, the market administrator cannot later determine with certainty the quantities

involved through examination of handler records. Therefore, it will be necessary for the handler to provide the market administrator advance notice and opportunity to verify milk dumpages, as prescribed by the market administrator.

Milk destroyed or lost under extraordinary circumstances completely beyond the handler's control should be Class II milk to the extent that the quantity involved can be established from handler records satisfactory to the market administrator. Such Class II milk should include milk destroyed or lost as a result of such things as vehicular accidents, fire or floods. In such circumstances, it is impossible to provide advance notice to the market administrator. However, the quantities of fluid milk products involved can generally be established in a reasonable manner. The quantities of milk lost in a truck accident, for example, can frequently be verified from shipping invoices or from farm pickup records.

It is not intended that this provision shall be applicable to milk lost through faulty pipe connections, open or leaking valves, broken hoses, contamination and similar accidents that must be considered normal business hazards. Milk lost in such manner is part of the normal shrinkage experienced in any milk operation and such losses are adequately provided for under the shrinkage provisions.

At the hearing, proponent's witness indicated his intent that milk contaminated with antibiotics be considered as destroyed or lost under extraordinary circumstances. In the event such milk could not be otherwise disposed of, the dumpage provisions adopted herein should accommodate the disposition of such milk.

In their exceptions to the recommended decision, the opposing cooperatives reiterated several arguments presented at the hearing as to why these classification changes should not be adopted. The points raised provide no basis for now reaching a different conclusion on this issue.

4. *Charges on overdue accounts.* The order should provide for the application of a late-payment charge of 1 percent per month on handler obligations to the market administrator that are overdue. Such obligations would be those due the producer settlement fund and the administrative expense fund, both of which are maintained by the market administrator. Any such unpaid obligation should be increased by 1 percent on the first day after the due date of the obligation and on the same day of each succeeding month until the obligation is paid.

The institution of a late-payment charge under the order was proposed by a cooperative association.. It proposed that any unpaid obligation of a handler that is due the market administrator be increased on a daily basis, beginning the first day the obligation is overdue, by an amount reflecting the "prime rate" charged by banks plus 5 percentage points. Thus, if the prime rate (the interest charged by commercial banks on loans to their preferred business customers) were 7 percent, the annual charge would be 12 percent (7 percent plus 5 percentage points), or approximately 0.033 percent as applied on a daily basis.

As set forth in the hearing notice, the cooperative's proposal also would have applied a charge on any overdue payments by the market administrator from the producer settlement fund to handlers. At the hearing, however, the cooperative deleted this type of charge from its proposal.

The proposal, including the charge on overdue payments by the market administrator, was supported by a number of other cooperatives in the market.

Spokesmen for the proponent and supporting cooperatives indicated that the institution of a charge on overdue obligations of handlers is necessary to encourage prompt payments to the market administrator by regulated handlers. They cited the collection problems being experienced by the market administrator and indicated that producers have an interest in timely payments by handlers. It was pointed out that late payments can result in the market administrator having insufficient money in the producer settlement fund to make the necessary equalization payments to handlers, with handlers in turn being unable to pay their producers. It was also pointed out that late payments result in money due the market administrator not being available for investment by him to maximum advantage, such as during the heavy-production months when money from handlers is withheld under the "Louisville Plan" for later payment to producers during the short-production months. In addition, the spokesmen indicated that those handlers making late payments have a competitive advantage in their business operations relative to handlers making timely payments.

In support of the proposed late-payment charge, the witness for the proponent cooperative contended that the charge should be related to current interest rates since delinquent handlers are in effect borrowing money from producers. The spokesman indicated that a charge based on the prime rate plus 5 percentage points is in line with interest rates on business loans where more than a minimal credit risk is involved. In urging that the charge be apportioned on a daily basis, the witness contended that delinquent handlers should be assessed for only the number of days that the payment is actually late, rather than be assessed on the basis of a monthly charge as under other orders.

A number of handlers, although they did not testify at the hearing on this issue, submitted briefs in which they set forth varying positions on the proposed late-payment charge. Several suggested that a "grace" period be provided, with the charge not becoming applicable until 3 to 7 days after the due date for the payment. This, they claimed, is needed to accommodate weekends, holidays, and delays in mail delivery that could result in handlers' payments not reaching the market administrator by the payment deadline. One handler contended that the charge should be based on the prime rate plus 2 percentage points. Another urged a fixed charge of 0.75 percent per month. Several handlers held that if a late-payment charge is adopted the charge should apply not only to late payments from handlers to the market administrator but to late payments or refunds from the market administrator's office to handlers as well.

It is essential to the effective operation of the order that handlers make their payments to the market administrator on time. Under the present marketwide pooling arrangement, it is necessary that handlers with Class I utilization higher than the market average pay part of their total use value of milk to the producer settlement fund. Through this means, money is made available to handlers with lower than average Class I utilization so that all handlers in the market, irrespective of the way they use the milk, can pay their producers the uniform price. The success of this arrangement depends on the solvency of the producer settlement fund.

Also, the prompt payment of amounts due the administrative expense fund is essential to the performance by the market administrator of the various administrative functions prescribed by the order. Delinquent payments to this fund could impair the ability of the market administrator to carry out his duties in a timely and efficient manner.

Payment delinquency also results in an inequity among handlers. Handlers who pay late are, in effect, borrowing money from producers. In the absence of any late-payment charge that is at least as much as the cost of borrowing from commercial sources, handlers who are delinquent in their payments have a financial advantage relative to those handlers making timely payments.

Data placed in the record by a representative of the market administrator's office indicate a late-payment experience of a serious and continuing nature on the part of handlers in the New York-New Jersey market. For the 12-month period of January through December 1975, the market administrator issued 1,119 charge billings to handlers. These covered the monthly obligations of handlers to the producer settlement and administrative expense funds, all of which were due by the 18th day of the following month (i.e., payments were to be received by the market administrator by that date). For this period, only 216 payments were received by the market administrator on time. This payment delinquency probably can be attributed in part, however, to the relatively short time between the mailing of the billings to handlers, which was completed by the market administrator's office at the latest by the 15th of the month, and the date by which the payments were due. Nevertheless, even by the 21st day of the month, which should have been sufficient time for the transmission of the billings and payments through the mail, only 630 payments, or 56 percent of the payments due, were received by the market administrator. On a monthly basis, the percentage of payments received by the

21st ranged from 48 percent to 65 percent. For the year, 203 of the 1,119 payments due were still outstanding at the end of the month in which the billings were made.

In terms of money owed, the data indicate that for the 12-month period nearly one-fourth of the money due the market administrator had not yet been received by the 21st day of the month.

On the basis of this payment experience, it is appropriate to institute a late-payment charge on handler payments to the market administrator that are overdue. In the absence of a late-payment charge, handlers have little incentive to make their payments to the market administrator on time. Enforcement action may be taken, of course, to seek strict handler compliance with the payment dates. However, this is a cumbersome administrative route, and the practicalness of such action becomes questionable in the case of handlers who are only several days late. While the charge adopted herein may not result in strict compliance by all handlers, it should provide handlers a substantial inducement to make their payments to the market administrator on time.

The late-payment charge should be established at the rate of 1 percent per month of the unpaid balance. If the charge is to have any impact on handlers in terms of encouraging prompt payments, it must be an amount that is at least as much as what a delinquent handler would be charged by commercial banks for money borrowed for short-term purposes. If this is not so, handlers who may have financial problems would be encouraged to delay their payments, knowing that the charge under the order is cheaper than borrowing money commercially at a higher loan rate. Under present conditions, a monthly charge of 1 percent should provide reasonable assurance that producer funds do not represent the cheapest source of money.

As noted earlier, it was proposed that the late-payment charge be a variable charge that parallels the movements of the "prime rate." It also was proposed that the charge be apportioned on a daily basis so that a handler would be assessed for only the number of days he was actually late in making his payment. These procedures should not be adopted. If the late-payment charge were treated strictly as interest and computed on a daily basis, the order would merely represent a banking service for handlers who desire to use producer funds as an alternative source of money at the going interest rate. This is not the intended purpose of the late-payment charge. Rather, it is to be a penalty, in effect, that will induce handlers to pay their obligations to the market administrator on time.

In their brief, certain handlers contended that the Secretary has no authority under the Act to impose a "penalty" on a handler under the terms of a milk order. However, a late-payment charge, or "penalty," may be adopted under the statutory authority set forth in section 608c(7)(D) of the Act. This subsection specifies that an order may contain various terms that are incidental to, and not inconsistent with, the terms explicitly authorized by the Act if the incidental terms are found necessary to effectuate the other provisions of the order. The late-payment charge adopted herein is considered essential to the effectuation of the payment provisions of the order.

In their exceptions to the recommended decision, several handlers urged that there be no implication that the adopted late-payment charge is a "penalty." They claimed that the charge should be labeled as "interest" so that handlers could claim the charge as a business expense under the tax laws.

The purpose of the late payment charge is to encourage prompt payment of the handler's obligation, and whether it is to be construed as interest or a penalty so as to constitute a business expense under the tax laws is a matter to be determined by the taxing authorities.

No "grace" period should be provided in applying the late-payment charge, as several handlers urged in their briefs. It was their concern that the payment dates in the order would not accommodate the normal time required for billings to reach handlers and for the handlers to process the billings and have their payments reach the market administrator. For this reason, they asked that any late-payment charge not apply until several days after the due date of the payment.

On the basis of a hearing held in September 1976 for the New York-New Jersey market, several changes were made in the payment dates prescribed by the order.[7] These changes, in part, require that payments by handlers to the market administrator be received by the market administrator no later than the 21st day of the month rather than by the 18th day. This extended period should provide a reasonable time for billings to reach handlers and for handlers to get their payments to the market administrator. Moreover, the order changes resulting from the September 1976 hearing should accommodate those occasions when the date by which payments to the market administrator are due falls on a weekend or holiday. When this happens, the due date of the payment would be the next day that the market administrator's office is open for business.

Under these new arrangements, there would appear to be no necessity for a grace period before applying the late-payment charge. It must be recognized that with a grace period handlers actually would have little incentive to have their payments arrive at the market administrator's office prior to the end of the grace period, even though the due date actually was a few days earlier.

In their exceptions to the recommended decision, certain handlers continued to urge the use of a grace period before imposing a late-payment charge. It was argued that the effectiveness of the new late-payment charge should be measured with the use of a grace period rather than determining at the outset that a grace period is not feasible. Also, it was pointed out that the use of a grace period under other orders provides ample precedent for its use under Order 2.

As indicated, the September 1976 hearing for this market resulted in several changes in the dates by which certain actions must be taken, including a delay in the time when payments must be made to the market administrator. This additional time for the submission of payments should obviate the need for a grace period. This is particularly so in view of the special accommodation already noted for those occasions when the due date falls on a weekend or a holiday. While it is true that a grace period is provided under other orders, such provisions were adopted in response to the needs of the local markets. For the Order 2 market, conditions do not warrant the use of a grace period.

Handlers also urged in their exceptions that the timeliness of payments to the market administrator be based on the date the payment was postmarked rather than on the date that it was actually received by the market administrator. In view of the need for the market administrator to make timely payments to handlers from the producer settlement fund, it is essential that all monies due the market administrator be received by a certain date. At the same time, it is desirable to give handlers a reasonable amount of time for submitting their payments and the flexibility of using whatever payment means they wish. This can be achieved best by merely specifying the date by which the market administrator must receive payments from handlers. Handlers may then use whatever means of payment and payment schedule they desire that result in timely payments.

Certain handlers also urged in their exceptions that late-payment charges be limited to $100 for each violation. They argued that this amount would provide an adequate incentive for handlers to make timely payments.

This should not be adopted. Such a limit would tend to limit the full effectiveness of the late-payment charge only to those handlers who have delinquent obligations of $10,000 or less. The $100 limit would have much less meaning (in terms of the cost of alternative sources of money) for handlers with much larger overdue amounts. The larger handlers thus would not have as much incentive to make timely payments.

Under the provisions adopted herein, overdue handler obligations that are payable to the market administrator would be increased by 1 percent on the first day after the due date. Any remaining unpaid portion of the original obligation would be further increased by 1 percent on the same date of each succeeding month until the obligation is paid. The additional late-payment charge would apply not only to the original obligation but also to any unpaid late-payment charges previously assessed.

[7] Official notice is taken of the Assistant Secretary's decision on proposed amendments to the New York-New Jersey order that was issued on January 19, 1977 (42 FR 4471).

At the time the adopted provisions become effective, there may be handlers with obligations already overdue. To the extent of any remaining unpaid balance on the 22nd day of the month in which the amendments adopted herein become effective, the newly-adopted late-payment charge should apply even though the obligation was incurred prior to the institution of the charge under the order.

The order should not provide for any late-payment charge on payments to handlers from the producer settlement fund by the market administrator. There are no circumstances in which the market administrator would not promptly disperse payments to handlers from the producer settlement fund except when the fund is insolvent because of substantial delinquencies in payments to the fund by other handlers. The order provides that in this circumstance the market administrator shall reduce uniformly his payments to handlers and shall complete his payments as soon as the necessary funds are available. The order also provides that when a handler has not received full payment from the market administrator he in turn may reduce pro rata his payments to producers by the amount of the under-payment. Thus, under any situation in which the market administrator is late in paying handlers, the handlers are excused from paying the deficit to producers until the market administrator completes his payments. Hence, there is no reasonable basis for handlers to be the beneficiaries of a late-payment charge imposed upon the market administrator.

Certain handlers urged in their brief that the market administrator be required to pay interest on money that is refunded to handlers on the basis of legal proceedings, or for other reasons. Since the merits of this particular issue were not explored at the hearing, no action should be taken on the handlers' request.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Several handlers excepted to the Department's failure to recommend certain proposed changes in the present method of classifying shrinkage. It was stated in the recommended decision that this issue (Issue No. 3) was not being dealt with at that time and would be considered in a later decision. No recommendations have yet been formulated on this issue.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the New York-New Jersey marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Referendum Order To Determine Producer Approval; Determination of Representative Period; and Designation of Referendum Agent

It is hereby directed that a referendum be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure from the conduct of referenda (7 CFR 900.300 et seq.), to determine whether the issuance of the attached order as amended and as hereby proposed to be amended, regulating the handling of milk in the New York-New Jersey marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during the representative period were engaged in the production of milk for sale within the aforesaid marketing area.

The representative period for the conduct of such referendum is hereby determined to be March 1977.

The agent of the Secretary to conduct such referendum is hereby designated to be Norman K. Garber.

The Agricultural Marketing Service has determined that this document contains a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107 and certifies that an inflation impact statement has been prepared.

Signed at Washington, D.C., on August 12, 1977.

ROBERT H. MEYER,
Assistant Secretary for Marketing Services.

Order amending the order, regulating the handling of milk in the New York-New Jersey marketing area.

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the New York-New Jersey marketing area.

The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the New York-New Jersey marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision (partial) issued by the Acting Administrator on April 5, 1977, and published in the FEDERAL REGISTER on April 11, 1977 (42 FR 18950), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein:

1. In § 1002.22(m), a new subparagraph (3) is added to read as follows:

§ 1002.22 Additional duties of the market administrator.

* * * * * * *

(m) * * *

(3) For the purpose of allocating receipts from other Federal order plants under § 1002.45(a)(12) and the corresponding step of § 1002.45(b), his estimate of the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in pool milk of all handlers. Such estimate shall be final for such purpose.

2. In § 1002.41(c), subparagraphs (7) and (8) are revised and new subparagraphs (9), (10), and (11) are added to read as follows:

§ 1002.41 Classes of utilization.

* * * * * * *

(c) * * *

(7) In shrinkage allocated to Class II pursuant to § 1002.42;

(8) In skim milk represented by the nonfat solids added to a fluid milk product for fortification which is in excess of the volume included within the fluid milk product definition pursuant to § 1002.15;

(9) Contained in fluid milk products that are disposed of for animal feed;

(10) Contained in fluid milk products that are dumped, if the market administrator is notified in advance and is given the opportunity to verify such disposition; and

(11) Contained in fluid milk products that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond his control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator.

3. In § 1002.45(a), subparagraph (12) is revised to read as follows:

§ 1002.45 Allocation of skim milk and butterfat classified.

* * * * * * *

(a) * * *

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products from other order plants not previously assigned pursuant to paragraphs (2) and (10) of this paragraph:

(i) Subject to the provisions of subdivisions (ii), (iii), and (iv) of this subparagraph, such subtraction shall be pro rata to the pounds of skim milk in each class with respect to whichever of the following quantities represents the higher proportion of Class II milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1002.22(m)(3); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II milk exceeding the pounds of skim milk remaining in Class II milk at all such plants, the pounds of such excess shall be subtracted pro rata from the pounds of skim milk remaining in Class I-A milk and Class I-B milk after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in subdivision (ii) of this subparagraph, should the computations pursuant to subdivisions (i) or (ii) of this subparagraph result in a quantity of skim milk to be subtracted from Class II milk that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class II milk shall be increased (to the extent of available utilization in such class at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I-A milk and Class I-B milk combined shall be decreased by a like amount, pro rata to remaining utilization in each such class. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in subdivision (ii) of this subparagraph, should the computations pursuant to subdivisions (i) or (ii) of this subparagraph result in a quantity of skim milk to be subtracted from Class I-A milk or Class I-B milk that exceeds the pounds of skim milk remaining in that class, the pounds of skim milk in such class shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II milk shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made:

* * * * * * *

§ 1002.50a [Amended]

4. In § 1002.50a(a), the number "$2.40" is changed to "$2.25."

5. In § 1002.51, paragraph (c) is revised to read as follows:

§ 1002.51 Transportation differentials.

* * * * * * *

(c) The differential rates applicable at plants shall be as set forth in the following schedule:

---

* This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

[Cents per hundredweight]

A Freight zone (miles)	B Class I-A and I-B	C Class II
1-10	+36.0	+8
11-20	+34.2	+8
21-25	+32.4	+8
26-30	+32.4	+7
31-40	+30.6	+7
41-50	+28.8	+7
51-60	+27.0	+6
61-70	+25.2	+6
71-75	+23.4	+6
76-80	+23.4	+5
81-90	+21.6	+5
91-100	+19.8	+5
101-110	+18.0	+4
111-120	+16.2	+4
121-125	+14.4	+4
126-130	+14.4	+3
131-140	+12.6	+3
141-150	+10.8	+3
151-160	+9.0	+2
161-170	+7.2	+2
171-175	+5.4	+2
176-180	+5.4	+1
181-190	+3.6	+1
191-200	+1.8	+1
201-210	0	0
211-220	−1.5	0
221-225	−3.0	0
226-230	−3.0	−1
231-240	−4.5	−1
241-250	−6.0	−1
251-260	−7.5	−2
261-270	−9.0	−2
271-275	−10.5	−2
276-280	−10.5	−3
281-290	−12.0	−3
291-300	−13.5	−3
301-310	−15.0	−4
311-320	−16.5	−4
321-325	−18.0	−4
326-330	−18.0	−5
331-340	−19.5	−5
341-350	−21.0	−5
351-360	−22.5	−6
361-370	−24.0	−6
371-375	−25.5	−7
376-380	−26.5	−7
381-390	−27.0	−7
391-400	−28.5	−7
401 and over	−30.0	−8

6. Section 1002.55 is revised to read as follows:

§ 1002.55 Transportation credit on bulk unit pool milk.

For pool milk received by a handler in a pool or partial pool unit, a transportation credit at the rate of 15 cents per hundredweight shall be computed.

7. In § 1002.71, a new paragraph (b–1) is added to read as follows:

§ 1002.71 Computation of the uniform price.

* * * * *

(b–1) Subtract an amount computed by multiplying the quantity of pool milk delivered directly from farms to pool plants and partial pool plants that was not put into a tank truck prior to such delivery, by a rate per hundredweight that is equal to the rate specified in § 1002.55.

* * * * *

8. In § 1002.80(a), subparagraphs (2) and (3) are revised and a new subparagraph (4) is added to read as follows:

§ 1002.80 Time and rate of payments.

(a) * * *

(2) Proper deductions for the month that were authorized in writing by producers from whom the handler received milk;

(3) For milk received in a bulk tank unit and for which transportation was provided by the handler or at his expense, there may be deducted, as proper and as authorized in writing by the producer, or by a cooperative association authorized to act on behalf of such producer, a tank truck service (transportation) charge of up to 15 cents per hundredweight for any farm-to-first plant transportation costs for which the handler was not reimbursed through the transportation credit pursuant to § 1002.55, except that the deduction and the transportation credit combined shall not exceed the actual transportation costs incurred. Any such deduction must be made by the handler not later than the date on which the producer is required to be paid for such milk. If authorization for such deduction is canceled by the producer or by the cooperative by notifying the handler in writing, such cancellation shall be effective on the first day of the month following its receipt by the handler; and

(4) For pool milk delivered directly from a farm to a pool plant or a partial pool plant that was not put into a tank truck prior to such delivery, the handler shall pay to the producer an additional amount computed by multiplying the quantity of such milk by a rate per hundredweight that is equal to the rate specified in § 1002.55.

* * * * *

§ 1002.82b [Amended]

* * * * *

9. In § 1002.82(b), the word "five" is changed to "15."

10. In § 1002.87, paragraph (a) is revised to read as follows:

§ 1002.87 Handler's pool debit or credit.

* * * * *

(a) Add the amounts computed as follows:

(1) Multiply the quantity of pool milk received by each handler from dairy farmers by the uniform price; and

(2) Multiply the quantity of pool milk received by the handler at a pool plant or partial pool plant directly from farms that was not put into a tank truck prior to delivery by a rate per hundredweight that is equal to the rate specified in § 1002.55.

* * * * *

11. A new § 1002.88a is added to read as follows:

§ 1002.88a Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1002.85 and 1002.90 shall be increased 1 percent on the first day after the due date of such obligation and on the same day of each succeeding month until such obligation is paid.

[FR Doc.77-23833 Filed 8-16-77;8:45 am]

V 42 N 159 AUG 17 7 7 UM

Public Papers of the Presidents of the United States

Annual volumes containing the public messages and statements, news conferences, and other selected papers released by the White House.

Volumes for the following years are now available:

HERBERT HOOVER

1929	$13.30	1930	$16.00

HARRY S. TRUMAN

1945	$11.75	1949	$11.80
1946	$10.80	1950	$13.85
1947	$11.15	1951	$12.65
1948	$15.95	1952–53	$18.45

DWIGHT D. EISENHOWER

1953	$14.60	1957	$14.50
1954	$17.20	1958	$14.70
1955	$14.50	1959	$14.95
1956	$17.30	1960–61	$16.85

JOHN F. KENNEDY

1961	$14.35	1962	$15.35
		1963	$15.35

LYNDON B. JOHNSON

1963–64 (Book I)	$15.00	1966 (Book II)	$14.35
1963–64 (Book II)	$15.25	1967 (Book I)	$12.85
1965 (Book I)	$12.25	1967 (Book II)	$11.60
1965 (Book II)	$12.35	1968–69 (Book I)	$14.05
1966 (Book I)	$13.30	1968–69 (Book II)	$12.80

RICHARD NIXON

1969	$17.15	1972	$18.55
1970	$18.30	1973	$16.50
1971	$18.85	1974	$12.30

GERALD R. FORD

1974	$16.00

Published by Office of the Federal Register, National Archives and Records Service, General Services Administration

Order from Superintendent of Documents, U.S. Government Printing Office Washington, D.C. 20402

V 4 2 1 5 9 AUG 17 77 UMI

160

Vol.42—No.160
8–18–77
PAGES
41603–41812

federal register

THURSDAY, AUGUST 18, 1977

highlights

SUNSHINE ACT MEETINGS..... 41727

ENERGY MEASURES
FEA proposes revision to list; comments by 9–16–77..... 41645

INTERNATIONAL TRAFFIC IN ARMS
State establishes procedures for controlling sale and export of defense articles and services from U.S..... 41631

MIGRATORY BIRD HUNTING
Interior/FWS establishes early seasons, bag limits, and possession for contiguous U.S., Alaska, Hawaii, Puerto Rico, and the Virgin Islands; effective 8–18–77..... 41636

RIGHT-TURN-ON-RED AT SIGNALIZED INTERSECTIONS
DOT/FHWA deletes interim regulations; effective 8–23–77 41633

FISHERY CONSERVATION AND MANAGEMENT
State publishes foreign fishing permit applications from Germany and Spain (Part III of this issue)..... 41791

COTTON APPAREL FROM HAITI
CITA increases import levels; effective 8–19–77..... 41656

TREASURY SECURITIES
Treasury announces auction of Series T–1979 notes.... 41694

THIRD CLASS RATES
PS requires identification of mail of nonprofit organizations; effective 1–1–78..... 41634

NEW STATIONARY SOURCES
EPA revises detailed requirements used to measure emissions from affected facilities; effective 9–19–77 (Part II of this issue)..... 41753

OTC MARGIN STOCKS
FRS adopts list; effective 8–15–77..... 41604

REVIEW OF FEDERAL-AID HIGHWAY PROGRAM
DOT/FHWA solicits comments by 9–20–77 on improving delivery procedures study report..... 41651

FUNERAL INDUSTRY PRACTICES
FTC publishes presiding officer's report..... 41651

PUBLIC HEARINGS—
Commerce/NOAA: International Whaling Commission Regulation Prohibiting all take of Bowhead Whales, 9–8, 9–13 and 9–15–77..... 41655

CONTINUED INSIDE

V42 160 AUG 18 77 UMI

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202–523–5240.**

FEDERAL REGISTER, Daily Issue:
- Subscription orders (GPO) **202–783–3238**
- Subscription problems (GPO) **202–275–3050**
- "Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue). **202–523–5022**
- Scheduling of documents for publication. 523–5220
- Copies of documents appearing in the Federal Register. 523–5240
- Corrections 523–5286
- Public Inspection Desk 523–5215
- Finding Aids 523–5227

Public Briefings: "How To Use the Federal Register." 523–5282

Code of Federal Regulations (CFR) 523–5266
- Finding Aids 523–5227

PRESIDENTIAL PAPERS:
- Executive Orders and Proclamations. 523–5233
- Weekly Compilation of Presidential Documents. 523–5235
- Public Papers of the Presidents 523–5235
- Index 523–5235

PUBLIC LAWS:
- Public Law dates and numbers 523–5237
- Slip Laws 523–5237
- U.S. Statutes at Large 523–5237
- Index 523–5237

U.S. Government Manual 523–5230

Automation 523–5240

Special Projects 523–5240

HIGHLIGHTS—Continued

MEETINGS—
- Commerce/NOAA: New England Fishery Management Council, 9–7, 9–8, 10–12, 10–13, 11–9 and 11–10–77 ..... **41655**
- CRC: State Advisory Committees:
  - Connecticut, 9–26 and 9–27–77 ..... **41653**
  - Maine, 9–15–77 ..... **41653**
  - Massachusetts, 9–27–77 ..... **41654**
  - Vermont, 9–11–77 ..... **41654**
- DOD/Army: Armed Forces Epidemiological Board (2 documents), 9–15 and 9–29–77 ..... **41657**
- DOT/CG: National Boating Safety Advisory Council (3 documents), 9–27 through 9–29–77 ..... **41689, 41690**
- NHTSA: National Motor Vehicle Safety Advisory Council, 9–8 and 9–9–77 ..... **41693**
- Truck and Bus Safety Subcommittees, 9–7–77 ..... **41693**
- HEW: National Advisory Council on Education of Disadvantaged Children, 9–8 through 9–10–77 ..... **41668**
- Interior/NPS: Historic American Engineering Record Advisory Committee, 9–14 and 9–15–77 ..... **41670**
- SBA: Honolulu District Advisory Council, 9–19–77 ..... **41688**

SEPARATE PARTS OF THIS ISSUE
- Part II, EPA **41753**
- Part III, State **41791**

V42 160 AUG 18 77 UMI

contents

AGRICULTURAL MARKETING SERVICE

Rules

Milk marketing orders:
Southern Michigan 41603
Oranges (Valencia) grown in Ariz. and Calif 41603

Proposed Rules

Pears (Beurre D'Anjou, Bueurre Bosc, etc.) grown in Calif., Oreg. and Wash 41644
Prunes (dried) produced in Calif 41644

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Farmers Home Administration; Federal Grain Inspection Service; Forest Service.

ANTITRUST DIVISION, JUSTICE DEPARTMENT

Notices

Competitive impact statements and proposed consent judgments; U.S. versus listed companies:
Beatrice Foods Co. et al 41671

ARMY DEPARTMENT

Notices

Meetings:
Armed Forces Epidemiological Board (2 documents) 41657

CIVIL RIGHTS COMMISSION

Notices

Meetings, State advisory committees:
Connecticut 41653
Maine 41653
Massachusetts 41654
Vermont 41654

COAST GUARD

Rules

Boating safety:
Boats and associated equipment; electrical and gasoline fuel systems; standards; correction 41634
Hazardous materials incident reports and forms; tank vessels, unmanned barges, and vessel inspections 41636

Notices

Equipment, construction, and materials; approvals and terminations 41689
Meetings:
Boating Safety National Advisory Council (3 documents) 41689, 41690

COMMERCE DEPARTMENT

See Domestic and International Business Administration; Economic Development Administration; National Oceanic and Atmospheric Administration.

CUSTOMS SERVICE

Rules

Liquidation of duties; countervailing duties:
Handbags from Republic of China 41630

DEFENSE DEPARTMENT

See Army Department.

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Notices

Foreign air carriers; customs duties and taxes exemption:
Guyana, request for finding of reciprocity 41654
Japan, consideration of partial withdrawal of finding of exemption reciprocity 41654

DRUG ENFORCEMENT ADMINISTRATION

Notices

Registration applications, etc.; controlled substances:
Applied Science Laboratories, Inc. 41673

ECONOMIC DEVELOPMENT ADMINISTRATION

Notices

Import determination petitions:
Dauphin Shoe Co., Inc 41655

EDUCATION OF DISADVANTAGED CHILDREN, NATIONAL ADVISORY COUNCIL

Notices

Meetings 41668

ENVIRONMENTAL PROTECTION AGENCY

Rules

Air pollution; standards of performance for new stationary sources:
Reference methods 41753
Noise abatement programs:
Construction equipment; air compressors, portable 41635

FARMERS HOME ADMINISTRATION

Notices

Disaster and emergency areas:
California 41652

FEDERAL AVIATION ADMINISTRATION

Rules

Airworthiness directives:
Bell (2 documents) 41623
Bendix 41624
McDonnell Douglas 41625
Mooney 41622
Control zones and transition areas 41626
Standard instrument approach procedures 41627
Transition areas (3 documents) 41625, 41626, 41627

Proposed Rules

Air carrier certification and operation:
Air carriers, commercial operators, air travel clubs, and air taxi operators; temporary authority to operate certain aircraft; withdrawn 41649
Airworthiness directives:
McDonnell Douglas 41647
VOR Federal airways 41648

FEDERAL COMMUNICATIONS COMMISSION

Notices

Domestic public radio services; applications accepted for filing 41657
Satellite communications services; applications accepted for filing 41659
Television broadcast applications ready and available for processing 41659

FEDERAL ENERGY ADMINISTRATION

Proposed Rules

Energy measures and audits:
Air and water source heat pumps 41645

Notices

Consent orders:
Guam Oil & Refinery Co 41660

FEDERAL GRAIN INSPECTION SERVICE

Notices

Grain standards; inspection points:
Arizona 41652
Illinois 41652
Texas 41653

FEDERAL HIGHWAY ADMINISTRATION

Rules

Engineering and traffic operations:
Right-turn-on-red at signalized intersections 41633

Proposed Rules

Regulation review; inquiry 41651

FEDERAL POWER COMMISSION

Notices

Natural gas companies:
Certificates of public convenience and necessity; applications, abandonment of service and petitions to amend (2 documents) 41662, 41663
Small producer certificates, applications 41663
Hearings, etc.:
Carnegie Natural Gas Co 41660
Colorado Interstate Gas Co 41660
Georgia Power Co. (2 documents) 41661, 41662
Panhandle Eastern Pipe Line Co 41662
Public Service Co. of Oklahoma 41662

FEDERAL RESERVE SYSTEM

Rules

Securities credit, credit by brokers and dealers, credit by banks, etc.:
OTC margin stock list 41604

Notices

Applications, etc.:
Ark Valley Bankshares, Inc 41664
Caprice Corp 41664
Central Bancompany 41665
Metropolitan Bank & Trust Co., et al 41667
WISCUB, Inc 41667

FEDERAL TRADE COMMISSION

Proposed Rules

Consent orders:
East Providence Credit Union 41649
Funeral industry practices; report publication 41651

FISH AND WILDLIFE SERVICE

Rules

Hunting:
Lostwood National Wildlife Refuge, N. Dak 41642
Migratory bird hunting:
Seasons, limits, and shooting hours establishment 41636

FOREST SERVICE

Notices

Environmental statements; availability, etc.:
Wallowa-Whitman National Forest, Lower Minam Wilderness Study Area, Oreg 41653

GENERAL SERVICES ADMINISTRATION

Rules

Procurement:
Federal; unsolicited proposals; correction 41635

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Education of Disadvantaged Children, National Advisory Council.

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Land Management Bureau; National Park Service.

Notices

Environmental statements; availability, etc.:
Pacific Power & Light Co.; transmission line, Idaho to Oreg 41670

INTERSTATE COMMERCE COMMISSION

Notices

Motor carriers:
Transfer proceedings (2 documents) 41696
Petitions, applications, finance matters (including temporary authorities), railroad abandonments, alternate route deviations, and intrastate applications 41698
Petitions, applications, finance matters (including temporary authorities), railroad abandonments, alternate route deviations, and intrastate applications; correction 41697
Railroad car service rules, mandatory; exemptions 41696
Rerouting of traffic:
Consolidated Rail Corp 41696

JUSTICE DEPARTMENT

See Antitrust Division; Drug Enforcement Administration.

LAND MANAGEMENT BUREAU

Notices

Applications, etc.:
New Mexico 41669
Wyoming (4 documents) 41669, 41670
Opening of public lands:
California 41668
Withdrawal and reservation of lands, proposed, etc.:
Alaska 41668
California 41669

MANAGEMENT AND BUDGET OFFICE

Notices

Privacy Act; systems of records 41680

MATERIALS TRANSPORTATION BUREAU

Proposed Rules

Exemptions, individual; conversion to regulations of general applicability; correction 41651

Notices

Applications; exemptions, renewals, etc 41690

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Rules

Administrative authority and policy:
Airfield facilities; use by aircraft not operated for Federal government benefit; Wallops Flight Center and Kennedy Space Center 41628

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Notices

Meetings:
National Highway Safety Advisory Committee and National Motor Vehicle Safety Advisory Council, Truck and Bus Safety Subcommittees 41693
National Motor Vehicle Safety Advisory Council 41693

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Notices

Fishery management plans, preliminary; draft; environmental statements, meetings, etc.:
Whales, bowhead; Alaska 41655
Meetings:
New England Fishery Management Council 41655

NATIONAL PARK SERVICE

Notices

Meetings:
Historic American Engineering Record Advisory Committee 41670

NATIONAL TRANSPORTATION SAFETY BOARD

Notices

Safety recommendations and accident reports; availability, responses, etc 41679

NUCLEAR REGULATORY COMMISSION

Notices

International Atomic Energy Agency codes of practice and safety guides; availability of drafts 41677
Regulatory guides; issuance and availability: (3 documents) 41676, 41677, 41678
Safety analysis reports, receipt, availability, etc.:
Gibbs & Hill, Inc 41679
Applications, etc.:
Alabama Power Co. (3 documents) 41674
Allied Chemical Corp 41675
Baltimore Gas & Electric Co 41677
Duke Power Co 41678
Eberline Instrument Corp 41675
Florida Power Corp 41675
General Electric Co 41675
Northeast Nuclear Energy Co., et al 41678
Power Authority of State of New York 41676

POSTAL RATE COMMISSION

Notices

Mail classification schedule; minimum size prohibitions; correction 41680

POSTAL SERVICE

Rules

Nonprofit organizations, identification of mail; special bulk third-class rates 41634

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:
Allegheny Power System, Inc 41681
Arkansas Power & Light Co 41682
Investors' Corporate-Income Trust, et al 41683
Metropolitan Edison Co 41686
Philadelphia Stock Exchange, Inc 41687

SMALL BUSINESS ADMINISTRATION

Notices

Applications, etc.:
Continental Capital Corp 41688
Venture SBIC, Inc 41688
Disaster areas:
Kentucky 41687
North Carolina 41687
South Carolina 41687
Wisconsin 41688
Meetings, advisory councils:
Honolulu District 41688

STATE DEPARTMENT

Rules

International traffic in arms:
Sales proposals, major; approval 41631

Notices

Fishing permits, applications:
German Democratic Republic et al 41791

V 42 160 AUG 18 77 UM

CONTENTS

TEXTILE AGREEMENTS IMPLEMENTATION COMMITTEE

Notices

Cotton textiles:
Haiti ---- 41656

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration; Federal Highway Administration; Materials Transportation Bureau; National Highway Traffic Safety Administration.

TREASURY DEPARTMENT

See also Customs Service.

Notices

Antidumping:
Glass, clear sheet, from France ---- 41695

Notes, Treasury:
T-1979 series ---- 41694

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

7 CFR

908 ---- 41603
1040 ---- 41603

PROPOSED RULES:

927 ---- 41644
993 ---- 41644

10 CFR

PROPOSED RULES:

450 ---- 41645

12 CFR

207 ---- 41604
220 ---- 41604
221 ---- 41604
224 ---- 41604

14 CFR

39 (5 documents) ---- 41622–41625
71 (4 documents) ---- 41625–41627
97 ---- 41627
1204 ---- 41628

PROPOSED RULES:

39 ---- 41647
71 ---- 41648
121 ---- 41649
123 ---- 41649
135 ---- 41649

16 CFR

PROPOSED RULES:

13 ---- 41649
453 ---- 41650

19 CFR

159 ---- 41630

22 CFR

123 ---- 41631
124 ---- 41631

23 CFR

655 ---- 41633

PROPOSED RULES:

Chapter I ---- 41651

33 CFR

183 ---- 41634

39 CFR

111 ---- 41634

40 CFR

60 ---- 41754
204 ---- 41635

41 CFR

1-4 ---- 41635

46 CFR

2 ---- 41636
35 ---- 41636
151 ---- 41636

49 CFR

PROPOSED RULES:

173 ---- 41651
174 ---- 41651
178 ---- 41651
179 ---- 41651

50 CFR

20 ---- 41636
32 ---- 41642

CUMULATIVE LIST OF PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR

Ch. I ---- 38891

3 CFR

EXECUTIVE ORDERS:

12006 ---- 39081

MEMORANDUMS:

January 2, 1973 (Amended by Memorandum of August 1, 1977) ---- 40169
April 26, 1973 (See Memorandum of August 1, 1977) ---- 40169
December 13, 1973 (See Memorandum of August 1, 1977) ---- 40169
October 29, 1974 (See Memorandum of August 1, 1977) ---- 40169
May 20, 1975 (See Memorandum of August 1, 1977) ---- 40169
August 5, 1975 (See Memorandum of August 1, 1977) ---- 40169
March 25, 1976 (Superseded by Memorandum of August 1, 1977) ---- 40169
April 14, 1976 (See Memorandum of August 1, 1977) ---- 40169
November 5, 1976 (See Memorandum of August 1, 1977) ---- 40169
November 19, 1976 (Supplemented by Memorandum of July 21, 1977) ---- 41401
July 20, 1977 ---- 39083
July 21, 1977 ---- 41401
August 1, 1977 ---- 40169
August 5, 1977 ---- 40171

4 CFR

105 ---- 38891

5 CFR

213 ---- 39085, 39657, 40173–40175, 40215, 40866, 40867, 41265–41267
713 ---- 40175

7 CFR

2 ---- 39669
27 ---- 40677
68 ---- 40868
318 ---- 41267
354 ---- 41267
406 ---- 39953
409 ---- 39956
650 ---- 40114
725 ---- 40881
905 ---- 40882
908 ---- 38892, 39359, 39959, 40678, 41095, 41603
910 ---- 39085, 39359, 39669, 40882
918 ---- 40883
922 ---- 41268
926 ---- 40678
927 ---- 39670
929 ---- 40679
944 ---- 40885
945 ---- 40886
946 ---- 39671
947 ---- 41403
948 ---- 39360
958 ---- 39360
967 ---- 39361
980 ---- 40175
1011 ---- 40888
1040 ---- 41603

7 CFR—Continued

1205 ---- 41404
1421 ---- 40175–40185, 41269
1425 ---- 40187
1427 ---- 40421
1443 ---- 41269
1473 ---- 41269
1479 ---- 41269
1821 ---- 39085
1822 ---- 39361, 39362, 40679
1980 ---- 39362
2024 ---- 40680

PROPOSED RULES:

220 ---- 40911
780 ---- 39223
917 ---- 39989
919 ---- 41431
926 ---- 41130
927 ---- 41644
929 ---- 39989
945 ---- 39395
946 ---- 38913
967 ---- 39108, 41431
993 ---- 39672, 41644
1002 ---- 41582
1006 ---- 38913
1011 ---- 39108
1012 ---- 38913
1013 ---- 38913
1133 ---- 40216
1435 ---- 40216

8 CFR

242 ---- 38892

PROPOSED RULES:

108 ---- 39672

9 CFR

82 ---- 39658
325 ---- 39086

PROPOSED RULES:

51 ---- 40911

10 CFR

0 ---- 38893
71 ---- 39364
Ch. II ---- 41095
202 ---- 41263
210 ---- 39959
211 ---- 39959, 41566
212 ---- 38894, 39195, 39959, 41566
213 ---- 39087
430 ---- 39964
460 ---- 41270

PROPOSED RULES:

205 ---- 41242
210 ---- 40915
211 ---- 39914, 39395, 39990, 40448, 40915, 41242
212 ---- 39114, 40915, 41242, 41396, 41572
430 ---- 39114, 39673, 40217, 40701, 40826
450 ---- 41645

12 CFR

7 ---- 39969
202 ---- 39368, 40424
207 ---- 41604
220 ---- 41604
221 ---- 41604
224 ---- 41604

12 CFR—Continued

226 ---- 40424
329 ---- 40425
343 ---- 40891
505 ---- 39368
545 ---- 39088
563 ---- 39198
563b ---- 39088
701 ---- 39369

PROPOSED RULES:

308 ---- 41130
311 ---- 41130
564 ---- 39115

13 CFR

120 ---- 40900
123 ---- 39970
301 ---- 39970
317 ---- 38896

PROPOSED RULES:

107 ---- 39992

14 CFR

1 ---- 41101
39 ---- 38896–38900, 39373–39377, 39971, 39972, 41102–41106, 41622–41625
45 ---- 41101
71 ---- 38901, 39378, 39379, 39972–39976, 40690–40693, 41107–41113, 41625–41627
73 ---- 39379, 41113
75 ---- 39379
97 ---- 39380, 41114, 41627
1204 ---- 41628

PROPOSED RULES:

25 ---- 41236
39 ---- 38917, 41131–41133, 41647
71 ---- 38917, 39993, 39994, 40710, 40711, 41134–41137, 41648
75 ---- 38917, 40711
121 ---- 41649
123 ---- 41649
135 ---- 41649
241 ---- 39115
245 ---- 39115
246 ---- 39115
378 ---- 40450

15 CFR

46 ---- 39976
70 ---- 38901

PROPOSED RULES:

904 ---- 40711

16 CFR

2 ---- 39658
3 ---- 39658, 39977
13 ---- 39198, 40681
18 ---- 39660
22 ---- 39660
27 ---- 41270
35 ---- 39660
47 ---- 39660
66 ---- 39660
105 ---- 39660
138 ---- 39660
177 ---- 39660
191 ---- 39660
206 ---- 39660
226 ---- 39660

V 42 160 AUG 18 77 UMI

16 CFR—Continued

433 40426
702 39381
1025 39089
1026 39089
1201 40188

PROPOSED RULES:

13 ..... 40714, 41297, 41431, 41649
441 39995
453 41650
705 39223
801 ..... 39040, 39995
802 ..... 39040, 39995
803 ..... 39040, 39995
1500 39648
1605 39402

17 CFR

140 39033
200 ..... 40189, 40900
239 ..... 40900, 41405
240 ..... 38902, 39090, 40900, 41405
241 41022
249 40902
270 41405

PROPOSED RULES:

1 39036
210 41433
211 41433
231 41434
239 41139
240 ..... 41138, 41434
241 41434
270 41139
274 41139

18 CFR

1 40191
3 ..... 40191, 41276
4 40191
5 40191
6 40191
16 40191
35 ..... 39660, 41277
101 39661
104 39661
141 39661
154 ..... 41276, 41277
157 ..... 39090, 41276
201 39661
204 39661
260 39661

19 CFR

133 41278
153 ..... 39200, 41406
159 41630
205 40426
210 40428

PROPOSED RULES:

134 39227

20 CFR

416 ..... 39098, 40191
602 40192
901 ..... 39200, 41115
902 39200

PROPOSED RULES:

404 38918
405 39995

21 CFR

Ch. I 40904
6 39100

21 CFR—Continued

133 39101
193 41279
310 41374
522 39103
561 41279
700 41374
801 40215

PROPOSED RULES:

182 ..... 39117, 41299
184 ..... 39117, 41299
186 41299
312 41301
320 39675
500 40217
808 41301

22 CFR

123 ..... 39103, 41631
124 41631
202 40428

23 CFR

160 41279
655 ..... 41280, 41633

PROPOSED RULES:

Ch. I 41651

24 CFR

25 40193
203 40430
811 39209
880 39212
881 39212
883 39212

25 CFR

141 40194
221 41116
252 40904
258 40904

PROPOSED RULES:

54 41435

26 CFR

7 39104
11 39382

PROPOSED RULES:

1 ..... 38919, 39227, 39233, 39408 39997
301 ..... 39227, 39233, 39997
404 ..... 39227, 39233, 39997

27 CFR

178 41116

PROPOSED RULES:

181 ..... 39316, 40921

28 CFR

0 ..... 40433, 41407
2 ..... 39668, 39808, 41407
16 ..... 40905, 41408
17 39212
32 39386

PROPOSED RULES:

2 ..... 41435, 41436
540 41368
541 41368
548 41368
551 41368

29 CFR

102 41117
452 ..... 39105, 41280
1601 41280

29 CFR—Continued

1908 41388
1952 ..... 40194, 40195

PROPOSED RULES:

70a 39997
1910 39120
2608 39120

32 CFR

Ch. I 39213
199 41118
286b 39214
290 40433
806b 41409

PROPOSED RULES:

114 39234
143 41306
286 40552
865 39999

33 CFR

110 ..... 39386, 40693, 40694
117 ..... 38903, 39386, 41118
183 41634
204 ..... 40196, 41281
207 40908
274 41118

PROPOSED RULES:

117 ..... 38919, 38920
154 39408
155 39408
156 39408
157 39999

34 CFR

231 40694

35 CFR

69 40196

36 CFR

67 40438
200 40438
292 39387

37 CFR

PROPOSED RULES:

2 40450
4 40450
201 ..... 41437, 41438

38 CFR

2 ..... 41409, 41410
13 41410
14 41410

PROPOSED RULES:

8 40452
17 ..... 39409, 41439

39 CFR

111 ..... 38904, 41634

PROPOSED RULES:

111 ..... 39411, 40219, 40922

40 CFR

52 ..... 39389, 39664, 40695, 41121
55 41282
60 ..... 39389, 41122, 41424, 41754
61 41424
86 40697
136 39977
180 ..... 39977, 40909
204 41635

40 CFR—Continued

416 40697
610 40438

PROPOSED RULES:

20 39414
52 ..... 38920, 38921, 39235, 39415, 40220
61 40452
85 40221
180 ..... 40715, 40922
211 41139
700 39182
710 39182

41 CFR

1–4 ..... 39215, 41635
Ch. 9 41128
29–1 40197
29–2 40201
29–3 40201
29–12 40205
29–26 40206
29–61 40206
101–41 41128
101–42 40847
101–43 40847
101–44 40850
101–45 40852
101–46 40858
101–47 40698
105–63 40858
114–25 39978

PROPOSED RULES:

9–4 40923
60–4 41378

43 CFR

423 41122

PROPOSED RULES:

424 41440
1880 40000

45 CFR

100a 40207
173 40209
194 40207
196 39218
1015 41282

PROPOSED RULES:

11 41140
146a 40221
170 40926

46 CFR

2 41636
10 39978
35 41636
151 41636

PROPOSED RULES:

162 40000
502 40452

47 CFR

15 39979
73 ..... 38905, 39665, 39981, 39982, 40210, 41123–41125, 41283
76 ..... 41127, 41284
81 39666
87 38906

PROPOSED RULES:

1 40715
13 40939
43 40454
61 40002
63 39236
73 ..... 40003, 40454, 41141, 41302–41305
81 ..... 40223, 40224, 40455
83 40224
89 39560
90 39560
91 ..... 39560, 41143
93 39560

49 CFR

99 39220
529 39983
571 ..... 39983, 39984
580 38906
581 38909
1033 ..... 39221, 39389, 39985, 41424
1036 40444
1051 40860
1057 39666
1100 40698
1104 40860
1108 39222
1109 ..... 39390, 39985
1251 39667
1254 39390

PROPOSED RULES:

173 ..... 40003, 41651
174 ..... 40003, 41651
178 ..... 40003, 41651
179 ..... 40003, 41651
1047 40459
1082 40459
1106 39243
1307 41144

50 CFR

17 ..... 39985, 40682–40685
20 ..... 39106, 39667, 40211, 41636
26 ..... 40213, 41425
32 ..... 38909–38912, 39391–39394, 40214, 40445–40447, 40690, 40861–40865, 41127, 41426–41429, 41642
33 ..... 40214, 41426
216 ..... 39394, 41128
371 40866
611 ..... 39106, 41430

PROPOSED RULES:

17 ..... 38921, 39121, 40716, 40823
20 41145
23 40459
32 40465
260 41440

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	Date	Pages	Date	Pages	Date
38891–39080	Aug. 1	39953–40167	8	41095–41264	15
38081–39193	2	40169–40419	9	41265–41399	16
39195–39358	3	40421–40675	10	41401–41602	17
39359–39656	4	40677–40845	11	41603–41812	18
39657–39952	5	40847–41094	12		

V 42 160 AUG 18 77 7 UMI

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

CSC—Grants-in-aid; requirements for merit promotion programs....36989; 7–19–77

EPA—Air Quality Implementation Plan; Pima County, Arizona..... 36998; 7–19–77

Internation abbreviations of units of measure; use in general provisions. 37000; 7–19–77

Particulate Matter Control Strategy; Revision to the Louisiana State Implementation Plan..... 36999; 7–19–77

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

H.R. 1952..... Pub. L. 95–98
To amend the corporate name of AM VETS (American Veterans of World War II), and for other purposes. (Aug. 15, 1977; 91 Stat. 830). Price: $.—.

H.R. 4991..... Pub. L. 95–99
National Science Foundation Authorization Act, Fiscal Year 1978. (Aug. 15, 1977; 91 Stat. 831). Price: $.60.

H.R. 7589..... Pub. L. 95–101
Military Construction Appropriation Act, 1978. (Aug. 15, 1977; 91 Stat. 837). Price: $.50.

H.J. Res. 372..... Pub. L. 95–100
To authorize the President to issue a proclamation designating the week beginning on November 20, 1977, as "National Family Week". (Aug. 15, 1977; 91 Stat. 836). Price: $.50.

S. 1235..... Pub. L. 95–102
To authorize appropriations for the Peace Corps for fiscal year 1978. (Aug. 15, 1977; 91 Stat. 841). Price: $.50.

S. 1377..... Pub. L. 95–103
To amend the statute of limitations provisions in section 2415 of title 28, United States Code, relating to claims by the United States on behalf of Indians. (Aug. 15, 1977; 91 Stat. 842). Price: $.50.

S. 2001..... Pub. L. 95–104
Authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, water conservation, recreation, hydroelectric power and other purposes. (Aug. 15, 1977; 91 Stat. 843). Price: $.50.

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Regulation 569]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period Aug. 19–25, 1977. This regulation is needed to provide for orderly marketing of fresh Valencia oranges for the regulation period because of the production and marketing situation confronting the orange industry.

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: Findings. (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of Valencia oranges, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantities of Valencia oranges that may be marketed from District 1, District 2, or District 3 during the specified week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The Committee has submitted its recommendation for the quantities of Valencia oranges that should be marketed during the specified week. The recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors covered in the order. The committee further reports the fresh market demand for Valencia oranges continues to ease. Average f.o.b. price was $4.51 per carton on 642 cars for the week ended August 11, as compared with $4.34 per carton on 642 cars the previous week. Track and rolling supplies at 353 cars were down 17 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantities of Valencia oranges which may be handled should be established as provided in this regulation.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553, because the time intervening between the date when information become available upon which this regulation is based and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient. A reasonable time is permitted for preparation for such effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for Valencia oranges and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning such provisions and effective time has been provided to handlers of Valencia oranges. It is necessary, to effectuate the declared policy of the act, to make this regulation effective during the period specified. The committee meeting was held on August 16, 1977.

§ 908.869 Valencia Orange Regulation 569.

(a) Order. (1) The quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period August 19, 1977, through August 25, 1977, are hereby fixed as follows:

(i) District 1: 254,000 cartons;

(ii) District 2: 396,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: August 17, 1977.

CHARLES R. BRADER,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77–24163 Filed 8–17–77;11:33 am]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 40; Docket No. AO–225–A32]

PART 1040—MILK IN THE SOUTHERN MICHIGAN MARKETING AREA

Correction to Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Correction to final rule.

SUMMARY: This action rectifies a reference that was incorrectly printed in the order amending the Southern Michigan order that appeared in the July 29, 1977, FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Irving E. Sutin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–4829).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of hearing, issued November 11, 1976; published November 16, 1976 (41 FR 50453).

Emergency final decision (partial), issued February 9, 1977; published February 14, 1977 (42 FR 9027).

Final order, issued February 16, 1977; published February 23, 1977 (42 FR 10680).

Recommended Decision, issued June 6, 1977; published June 10, 1977 (42 FR 29881).

V42160 AUG 18 77 UMI

Final decision, issued July 18, 1977; published July 22, 1977 (42 FR 37562).

Final order, issued July 26, 1977; published July 29, 1977 (42 FR 38584).

In an amendment included in the order amending the Southern Michigan order, which was issued July 26, 1977 (42 FR 38584), the reference to § 1040.52 was incorrectly printed as § 1040.50, and should be corrected as follows:

§ 1040.52 [Amended]

3. In § 1040.52, paragraph (a)(1) is amended by changing "Zone II, 3 cents", "Zone III, 5 cents", "Zone IV, 7 cents", "Zone V, 9 cents", "Zone VI, 12 cents" and "Zone VII, 15 cents" to "Zone II, 5 cents", "Zone III, 7 cents", "Zone IV, 9 cents", "Zone V, 11 cents", "Zone VI, 14 cents" and "Zone VII, 17 cents", respectively.

Signed at Washington, D.C., on: August 12, 1977.

ROBERT H. MEYER,
Assistant Secretary for Marketing Services.

[FR Doc.77-23953 Filed 8-17-77;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Regs. G, T, U and X]

PART 207—SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS OR DEALERS

PART 220—CREDIT BY BROKERS AND DEALERS

PART 221—CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCKS

PART 224—RULES GOVERNING BORROWERS WHO OBTAIN SECURITIES CREDIT

List of OTC Margin Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Adoption of List of OTC Margin Stocks.

SUMMARY: The Board has adopted a new List of OTC Margin Stocks for purposes of Federal Reserve Regulations G, T, and U. This List supersedes the previous List of OTC Margin Stocks published in the FEDERAL REGISTER on January 4, 1977 (42 FR 968).

EFFECTIVE DATE: August 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Jamie Lenoci, Financial Analyst, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2781.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of section 7 of the Securities Exchange Act of 1934 (15 U.S.C. 78g) and in accordance with § 207.2(f)(2) of Regulation G, "Securities Credit by Persons other than Banks, Brokers or Dealers" (12 CFR 207), § 220.2(e)(2) of Regulation T, "Credit by Brokers and Dealers" (12 CFR 220), and § 221.3(d)(2) of Regulation U, "Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks" (12 CFR 221), and in accordance with the criteria specified in §§ 207.5 (d) and (e) of Regulation G, §§ 220.8 (h) and (i) of Regulation T, and §§ 221.4 (d) and (e) of Regulation U, there is set forth below the list of stocks traded over-the-counter, current as of August 15, 1977, that the Board of Governors has found meet the criteria specified above and thus have the degree of national investor interest, the depth and breadth of market, the availability of information respecting the stock and its issuer to warrant subjecting such stocks to the requirements of Regulations G, T, and U and Regulation X, "Rules Governing Borrowers Who Obtain Securities Credit" (12 CFR 224); the latter regulation makes Regulations G, T, and U applicable to borrowers of securities credit.

It is unlawful for any person to cause any representation to be made that inclusion of a security on this List indicates that the Board or the Securities and Exchange Commission has in any way approved such security or transaction therein. Also, any reference to the Board in connection with this List or any securities thereon in an advertisement or similar communication is unlawful.

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this List because following such requirements is unnecessary due to the objective character of the criteria for inclusion on the List, specified in 12 CFR §§ 207.5(d) and (e), 220.8(h) and (i), and 221.4(d) and (e). No additional useful information would be gained by public participation. The requirements of 5 U.S.C. § 553 with respect to deferred effective date have not been followed in connection with the issuance of this List because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of this List as soon as possible.

By order of the Board of Governors of the Federal Reserve System acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)), August 12, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

LIST OF OTC MARGIN STOCKS

as of August 15, 1977

This List of OTC Margin Stocks is comprised of stocks traded over-the-counter (OTC) that have been determined by the Board of Governors of the Federal Reserve System to be subject to margin requirements as of August 15, 1977, pursuant to Sections 207.2(f) of Federal Reserve Regulation G, "Securities Credit by Persons other than Banks, Brokers or Dealers, " 220.2(e) of Regulation T, "Credit by Brokers and Dealers," and 221.3(d) of Regulation U, "Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks."

The List is published from time to time by the Board as a guide for lenders subject to the regulations and the general public. Stocks will be added to the List, or deleted, in the interim between publications as deemed appropriate by the Board. This List supersedes the previous List of OTC Margin Stocks published as of December 30, 1976, including changes thereto.

CAUTION: It is unlawful for any person to cause any representation to be made that inclusion of a security on this List indicates that the Board or the Securities and Exchange Commission has in any way approved such security or transaction therein. Also, any references to the Board in connection with this List or any securities thereon in an advertisement or similar communication is unlawful.

Any inquiry relating to this List or to Regulations G, T, U or X should be addressed to the nearest Federal Reserve Bank.

(Prepared for Purposes of Regulations G, T, U and X)

BOARD OF GOVERNORS
OF THE FEDERAL RESERVE SYSTEM
WASHINGTON

V 42 160 AUG 18 77 UMI

ADA RESOURCES, INC.
$.10 par common

API TRUST
$1.00 par shares of beneficial interest

ASG INDUSTRIES, INC.
$1.00 par common

A-T-O, INC.
3rd series, $.40 par cumulative convertible preferred

AVN CORPORATION
$1.00 par common

ACADEMY INSURANCE GROUP, INC.
$.10 par common

*ACCELERATION CORPORATION
$1.00 par common

ACMAT CORPORATION
No par common

*ACME ELECTRIC CORPORATION
$1.00 par common

ACME UNITED CORPORATION
$2.50 par common

ADDISON-WESLEY PUBLISHING COMPANY, INC.
Class B, no par common

ADVANCE ROSS CORPORATION
$.10 par common

ADVANCED MICRO DEVICES, INC.
$.01 par common

ADVENT CORPORATION
$.10 par common

AFFILIATED BANKSHARES OF COLORADO, INC.
$5.00 par common

AG-MET, INC.
$.50 par common

ALABAMA BANCORPORATION
$1.00 par common

ALASKA INTERNATIONAL INDUSTRIES, INC.
$.10 par common

ALEXANDER & ALEXANDER SERVICES INC.
$1.00 par common

ALEXANDER & BALDWIN, INC.
No par common

ALICO, INC.
$1.00 par common

ALLEGHENY BEVERAGE CORPORATION
$1.00 par common

ALLIED BANCSHARES, INC.
$1.00 par common

ALLIED TELEPHONE COMPANY
$2.00 par common

ALLYN AND BACON, INC.
$.50 par common

ALTON BOX BOARD COMPANY
$5.00 par common

AMAREX, INC.
$1.00 par common

*AMCO ENERGY CORPORATION
No par common

*AMDAHL CORPORATION
$.05 par common

AMERICAN APPRAISAL ASSOCIATES, INC.
$1.00 par common

AMERICAN BANCSHARES INC.
$1.00 par common

AMERICAN BANK AND TRUST COMPANY OF PENNSYLVANIA
$5.00 par common-capital

AMERICAN BANKERS INSURANCE COMPANY OF FLORIDA
$1.00 par common

AMERICAN BANKERS LIFE ASSURANCE COMPANY OF FLORIDA
$1.00 par common

AMERICAN FIDELITY LIFE INSURANCE COMPANY
$1.00 par common

AMERICAN FILTRONA CORPORATION
$1.00 par common

AMERICAN FINANCIAL CORPORATION
No par common

AMERICAN FLETCHER CORPORATION
$5.00 par common

AMERICAN FOUNDERS LIFE INSURANCE COMPANY
$1.00 par common

AMERICAN FURNITURE COMPANY, INC.
$1.00 par common

AMERICAN GREETINGS CORPORATION
Class A, $1.00 par common

AMERICAN GUARANTY FINANCIAL CORPORATION
No par common

AMERICAN INCOME LIFE INSURANCE COMPANY
$1.00 par common

AMERICAN INTERNATIONAL GROUP, INC.
$2.50 par common

AMERICAN MICROSYSTEMS, INC.
$1.00 par common

AMERICAN NATIONAL FINANCIAL CORPORATION
$1.00 par common

AMERICAN NUCLEAR CORPORATION
$.04 par common

AMERICAN PACIFIC INTERNATIONAL INC.
$.01 par common

AMERICAN QUASAR PETROLEUM COMPANY
No par common

AMERICAN RE-INSURANCE COMPANY
$1.50 par capital

AMERICAN RESERVE CORPORATION
$2.00 par common

AMERICAN SAVINGS & LOAN ASSOCIATION (Utah)
$.33-1/3 par permanent reserve guarantee stock

AMERICAN SECURITY CORPORATION
$4.00 par common

AMERICAN TELECOMMUNICATIONS CORPORATION
$.10 par common

AMERICAN TELEVISION AND COMMUNICATI CORPORATION
$.75 par common

AMERICAN WELDING & MANUFACTURING COMPANY, THE
No par common

AMICOR INC.
$.02 par common

AMTERRE DEVELOPMENT INC.
$.01 par common

ANACOMP, INC.
$1.00 par common

ANADITE, INC.
No par common

ANALOG DEVICES, INC.
$.16-2/3 par common

ANDERSON JACOBSON, INC.
$.10 par common

ANHEUSER-BUSCH, INC.
$1.00 par common

ANTA CORPORATION
$1.00 par common

APPLIED DIGITAL DATA SYSTEMS INC.
$.01 par common

APPLIED MATERIALS, INC.
$.01 par common

ARDEN-MAYFAIR, INC.
$1.00 par common

ARGO PETROLEUM CORPORATION
$.10 par common

ARIZONA BANK, THE
$2.50 par common

ARKANSAS WESTERN GAS COMPANY
$2.50 par common

ASSOCIATED COCA-COLA BOTTLING COMPANY, INC.
$.50 par common

ASSOCIATED HOSTS, INC.
$.10 par common

ASSOCIATED MADISON COMPANIES, INC.
$.40 par common

ATLANTA GAS LIGHT COMPANY
$5.00 par common

ATLANTIC BANCORPORATION
$1.00 par common

ATLANTIC PEPSI-COLA BOTTLING COMPANY, INC.
$.25 par common

ATLANTIC STEEL COMPANY
$5.00 par common

ATWOOD OCEANICS, INC.
$1.00 par common

*AUTOTROL CORPORATION
$.10 par common

AZCON CORPORATION
$1.00 par common

BBDO INTERNATIONAL, INC.
$.10 par common

BAIRD & WARNER MORTGAGE AND REALTY INVESTORS
No par shares of beneficial interest

BAIRD-ATOMIC, INC.
$1.00 par common

BAKER, FENTRESS & COMPANY
$1.00 par common

BALDWIN & LYONS, INC.
No par common

BANCO CREDITO Y AHORRO PONCENO
$5.00 par common

BANCO DE PONCE
$5.00 par common

BANCO POPULAR DE PUERTO RICO
$10.00 par common

BANCOHIO CORPORATION
$6.66-2/3 par common

BANCOKLAHOMA CORPORATION
$4.00 par common

BANCSHARES OF NEW JERSEY
$5.00 par common

BANGOR HYDRO-ELECTRIC COMPANY
$5.00 par common

BANK BUILDING & EQUIPMENT CORPORATION OF AMERICA
$1.33-1/3 par common

BANK OF THE COMMONWEALTH
$.05 par common

BANKAMERICA REALTY INVESTORS
$1.00 par shares of beneficial interest

BANKERS SECURITY LIFE INSURANCE SOCIETY
$2.00 par common

BANKERS TRUST OF SOUTH CAROLINA
$10.00 par common

BANKS OF IOWA, INC.
No par common, $2.50 stated value

BANTA, GEORGE COMPANY, INC.
$.10 par common

BARBER-GREENE COMPANY
$5.00 par common

BARDEN CORPORATION, THE
$1.00 par common

BARNES MORTGAGE INVESTMENT TRUST
No par shares of beneficial interest

BARNETT BANKS OF FLORIDA, INC.
$2.00 par common

BASSETT FURNITURE INDUSTRIES, INC.
$5.00 par common

BAYBANKS, INC.
$7.50 par common

BAYLESS, A. J. MARKETS, INC.
$1.00 par common

*BEARD OIL COMPANY
$.10 par common

*BEEHIVE INTERNATIONAL
$.02 par common

BEELINE, INC.
$.10 par common

BEKINS COMPANY, THE
No par common

BELKNAP, INC.
No par common

BENEFICIAL STANDARD CORPORATION
Class A, $1.00 par common
Class B, $1.00 par common

BENTLEY LABORATORIES, INC.
$.10 par common

BETZ LABORATORIES, INC.
$.10 par common

BEVERAGE MANAGEMENT, INC.
$.10 par common

BI-LO, INC.
$.33-1/3 par common

BIBB COMPANY, THE
No par common

BILLY THE KID, INC.
$.10 par common

BIRD & SON, INC.
No par common

BLACK HILLS POWER AND LIGHT COMPANY
$1.00 par common

BLOCK DRUG COMPANY, INC.
Class A, $.10 par common

BLUE CHIP STAMPS
$1.00 par common

BLUEFIELD SUPPLY COMPANY
$2.00 par common

BOATMEN'S BANCSHARES, INC.
$10.00 par common

BOB EVANS FARMS, INC.
No par common

BOHEMIA INC.
No par common

BONANZA INTERNATIONAL, INC.
No par common

BOOTHE COURIER CORPORATION
$1.00 par common

*BOSTON COMPANY, THE
Class B, $1.00 par common

BRASS-CRAFT MANUFACTURING COMPANY
$1.00 par common

BRENCO, INC.
$1.00 par common

BRINK'S, INC.
$.50 par common

BROADVIEW FINANCIAL CORPORATION
No par common

* Addition to List

V 42 160 AUG 18 77 UMI

BROOKS FASHION STORES, INC.
$.10 par common

BROOKS-SCANLON, INC.
$1.00 par common

BROWNING
$1.00 par common

BUCKBEE-MEARS COMPANY
$.10 par common

*BUCKEYE FEDERAL SAVINGS & LOAN ASSOCIATION
$.05 par common

BUCKEYE INTERNATIONAL, INC.
No par common

BURNS, R. L. CORPORATION
$.10 par common

BURNUP & SIMS INC.
$.10 par common

BUSINESS MEN'S ASSURANCE COMPANY OF AMERICA
$2.00 par common

BUTLER MANUFACTURING COMPANY
No par common

CBT CORPORATION
$10.00 par common

CFS CONTINENTAL, INC.
$1.00 par common

*CPT CORPORATION
$.05 par common

*CAFETERIAS, INC.
$.40 par common

*CAL-MAINE FOODS, INC.
$1.00 par common

CALBIOCHEM
$.50 par common

CALIFORNIA FIRST BANK
$5.00 par common

*CALIFORNIA LIFE CORPORATION
Series A, $10.00 par convertible preferred

*CALIFORNIA MICROWAVE, INC.
$.25 par common

CALIFORNIA WATER SERVICE COMPANY
$12.50 par common

CAMERON IRON WORKS, INC.
$.62-1/2 par common

*CANANDAIGUA WINE COMPANY, INC.
$.01 par common

CANNON MILLS COMPANY
$5.00 par common

*CAPITAL SOUTHWEST CORPORATION
$1.00 par common

CARBOLINE COMPANY
$1.00 par common

CARDIAC PACEMAKERS INC.
$.01 par common

CEDAR POINT, INC.
$1.00 par common

CENCOR, INC.
$1.00 par common

CENTENNIAL CORPORATION
$1.00 par common

CENTRAL BANCORPORATION, INC., THE
$5.00 par common

CENTRAL BANCSHARES OF THE SOUTH, INC.
$2.00 par common

CENTRAL BANKING SYSTEM, INC.
$2.50 par capital

CENTRAL CAROLINA BANK & TRUST COMPANY
$5.00 par common

CENTRAL JERSEY BANK AND TRUST COMPANY, THE
$2.50 par capital

CENTRAL MORTGAGE AND REALTY TRUST
$1.00 par shares of beneficial interest

*CENTRAL NATIONAL BANCSHARES, INC.
$1.00 par common

CENTRAL NATIONAL CORPORATION (Virginia)
$5.00 par common

CENTRAL PENN NATIONAL CORPORATION
$1.00 par common

CENTRAL VERMONT PUBLIC SERVICE CORPORATION
$6.00 par common

CENTRAN CORPORATION
$8.00 par common

CENTURY BANKS, INC.
$1.00 par common

CENTURY TELEPHONE ENTERPRISES, INC.
$1.00 par common

*CHAMBERLAIN MANUFACTURING CORPORATION
$2.50 par common

CHAMPION PARTS REBUILDERS, INC.
$.10 par common

CHARLES RIVER BREEDING LABORATORIES, INC., THE
$1.00 par common

CHARMING SHOPPES, INC.
$.10 par common

CHART HOUSE INC.
No par common

CHATHAM MANUFACTURING COMPANY
$1.00 par common

CHEF PIERRE, INC.
$.50 par common

*CHEM-NUCLEAR SYSTEMS, INC.
$.10 par common

CHEMED CORPORATION
$1.00 par capital

CHEMICAL LEAMAN CORPORATION
$2.50 par common

*CHEMINEER, INC.
No par common

*CHICAGO & NORTH WESTERN TRANSPORTATION COMPANY
Class A, $50.00 par common

CHRISTIANA SECURITIES COMPANY
$1.25 par common

CHUBB CORPORATION, THE
$1.00 par common

CINCINNATI FINANCIAL CORPORATION
$2.00 par common

CIRCLE INCOME SHARES, INC.
$1.00 par common

CITIZENS AND SOUTHERN CORPORATION, THE (South Carolina)
$2.50 par common

CITIZENS AND SOUTHERN NATIONAL BANK, THE (Georgia)
$2.50 par common

*CITIZENS FIDELITY CORPORATION
$10.00 par common

CITIZENS UTILITIES COMPANY
Series A, $1.00 par common
Series B, $1.00 par common

CITY NATIONAL CORPORATION
$5.00 par common

CLARK, J. L. MANUFACTURING COMPANY
$1.00 par common

CLEVETRUST CORPORATION
$10.00 par common

CLEVETRUST REALTY INVESTORS
$1.00 par shares of beneficial interest

CLOW CORPORATION
$6.25 par common

COASTAL STATES CORPORATION
$1.00 par common

* Addition to List

COBE LABORATORIES, INC.
No par common

COCA-COLA BOTTLING COMPANY CONSOLIDATED
$1.00 par common

COCA-COLA BOTTLING COMPANY OF LOS ANGELES
No par common

COCA-COLA BOTTLING COMPANY OF MIAMI, INC., THE
$.10 par common

COHERENT, INC.
$.50 par common

COLLEGE/UNIVERSITY CORPORATION
No par common

COLONIAL BANCORP, INC.
$10.00 par common

COLONIAL GAS ENERGY SYSTEM
No par common

COLONIAL LIFE & ACCIDENT INSURANCE COMPANY
Class B, non-voting, $1.00 par common

COLONY FOODS, INC.
$.10 par common

*COLORADO NATIONAL BANKSHARES, INC.
No par common

COMBINED INSURANCE COMPANY OF AMERICA
$1.00 par common

COMMERCE BANCSHARES, INC.
$5.00 par common

COMMERCE CLEARING HOUSE, INC.
$1.00 par common

COMMERCIAL SHEARING, INC.
$1.00 par common

COMMERCIAL TRUST COMPANY OF NEW JERSEY
$5.00 par capital

*COMMONWEALTH NATIONAL BANK (Harrisburg)
$5.00 par capital

*COMMONWEALTH NATURAL RESOURCES, INC.
$5.00 par common

COMMONWEALTH TELEPHONE COMPANY
$6.66-2/3 par common

COMMUNICATIONS INDUSTRIES, INC.
$.50 par common

COMMUNICATIONS PROPERTIES, INC.
$1.00 par common

*COMPREHENSIVE CARE CORPORATION
$.10 par common

COMPUSCAN, INC.
$.10 par common

*COMPUSERVE, INC.
No par common

COMPUTER AUTOMATION, INC.
$.10 par common

*COMPUTER COMMUNICATIONS, INC.
$1.00 par common

COMPUTER ELECTION SYSTEMS, INC.
$.10 par common

*COMPUTER NETWORK CORPORATION
$.50 par common

*COMPUTER PRODUCTS, INC.
$.01 par common

COMPUTERVISION CORPORATION
$.05 par common

*COMSHARE, INC.
$1.00 par common

COMTECH LABORATORIES INC.
$.10 par common

COMTEN, INC.
$.05 par common

CONAIR CORPORATION
$.10 par common

CONNECTICUT FINANCIAL SERVICES CORPORATION
$5.00 par common

CONNECTICUT GENERAL INSURANCE CORPORATION
$2.50 par common

CONNECTICUT NATIONAL BANK
$5.00 par common

CONNECTICUT NATURAL GAS CORPORATION
$12.50 par common

*CONSOLIDATED CAPITAL REALTY INVESTORS
No par shares of beneficial interest

CONSOLIDATED PAPERS, INC.
$12.50 par capital

CONSUMERS WATER COMPANY
$1.00 par common

CONTINENTAL AMERICAN LIFE INSURANCE COMPANY
$5.00 par capital

CONTINENTAL BANK (Pennsylvania)
$5.00 par common

CONTINENTAL CONVEYOR & EQUIPMENT COMPANY
$1.00 par common

CONTINENTAL WESTERN INDUSTRIES, INC.
$1.00 par common

CONWED CORPORATION
$5.00 par common

COORS, ADOLPH COMPANY
Class B, no par common

CORDIS CORPORATION
$1.00 par common

COURIER CORPORATION
$1.00 par common

COUSINS PROPERTIES INC.
$1.00 par common

CRADDOCK-TERRY SHOE CORPORATION
$1.00 par common

CRAWFORD & COMPANY
$1.00 par common

*CRAY RESEARCH, INC.
$1.00 par common

CRITERION INSURANCE COMPANY
$2.00 par common

CROSS COMPANY, THE
$5.00 par common

CULLUM COMPANIES, INC.
$1.00 par common

*CYCLOTRON CORPORATION, THE
No par common

DANIEL INTERNATIONAL CORPORATION
$2.00 par common

*DANLY MACHINE CORPORATION
$5.00 par common

DART DRUG CORPORATION
Class A, $1.00 par common

DATA 100 CORPORATION
$.50 par common

*DATA CARD CORPORATION
$.10 par common

*DATA-DESIGN LABORATORIES
$.33-1/3 par common

*DATA RESOURCES, INC.
$.10 par common

DATASCOPE CORP.
$.01 par common

*DATA TERMINAL SYSTEMS, INC.
$.20 par common

DAUPHIN DEPOSIT CORPORATION
$10.00 par common

DAYTON MALLEABLE INC.
No par common

DEAN FOODS COMPANY
$1.00 par common

*DEBRON CORPORATION
$1.00 par common

DECISION DATA COMPUTER CORPORATION
$.10 par common

DECORATOR INDUSTRIES, INC.
No par common

* Addition to List

V42160 AUG 18 77 UMI

DEKALB AGRESEARCH, INC.
Class B, no par common

*DELAWARE VALLEY REALTY & MORTGAGE INVESTORS
$1.00 par shares of beneficial interest

DELUXE CHECK PRINTERS, INC.
$1.00 par common

DENVER REAL ESTATE INVESTMENT ASSOCIATION
No par shares of beneficial interest

DEPOSIT GUARANTY CORPORATION
No par common

DETREX CHEMICAL INDUSTRIES, INC.
$2.00 par common

DETROITBANK CORPORATION
$10.00 par common

DIAGNOSTIC DATA, INC.
$.50 par common

DIAMOND CRYSTAL SALT COMPANY
$2.50 par common

DIAMONDHEAD CORPORATION
$1.00 par common

*DIBRELL BROTHERS, INC.
$10.00 par common

DISTRIBUCO, INC.
$1.00 par common

DIXON, JOSEPH CRUCIBLE COMPANY, THE
$10.00 par common

DOCUTEL CORPORATION
$.10 par common

DOLLAR GENERAL CORPORATION
$.50 par common

DOMINION BANKSHARES CORPORATION
$5.00 par common

DONALDSON COMPANY, INC.
$5.00 par common

*DONOVAN COMPANIES, INC.
Class A, $1.00 par common

DORCHESTER GAS CORPORATION
$.10 par common

*DOUGLAS & LOMASON COMPANY
$2.00 par common

DOWNE COMMUNICATIONS, INC.
$1.00 par common

DOYLE DANE BERNBACH, INC.
$.50 par common

DUAL-LITE, INC.
No par common

DUCKWALL STORES, INC.
$2.50 par common

DUCOMMUN INC.
$2.00 par common

DUNKIN' DONUTS INC.
$1.00 par common

DURHAM LIFE INSURANCE COMPANY
$5.00 par common

DURIRON COMPANY, INC., THE
$1.25 par common

DURR-FILLAUER MEDICAL, INC.
$.50 par common

*DYCO PETROLEUM CORPORATION
$.01 par common

DYNASCAN CORPORATION
$.33-1/3 par common

ERC CORPORATION
$2.50 par common

ESL INC.
$.50 par common

*E-SYSTEMS, INC.
Warrants (expire 8/15/78)

EARTH SCIENCES, INC.
$.01 par common

EASTMET CORPORATION
$1.00 par common

EATON CORPORATION
Series A, $2.30 par convertible preferred

ECONOMICS LABORATORY, INC.
$1.00 par common

EL CHICO CORPORATION
No par common

EL PASO ELECTRIC COMPANY
No par common

ELECTRO-NUCLEONICS, INC.
$.02-1/2 par common

ELECTRONIC ARRAYS, INC.
$1.00 par common

ELIZABETHTOWN WATER COMPANY
No par common

ELLIS BANKING CORPORATION
$1.00 par common

EMERSON RADIO CORPORATION
$.10 par common

EMONS INDUSTRIES, INC.
$.01 par common

*EMPIRE FIRE AND MARINE INSURANCE COMPANY
$2.00 par common

EMPIRE GENERAL CORPORATION
$1.00 par common

ENERGY CONVERSION DEVICES, INC
$.01 par common

*ENERGY MINERALS CORPORATION
$.10 par common

ENERGY RESERVES GROUP, INC.
$.03-1/3 par common

ENERGY VENTURES INC.
$1.00 par common

*ENTEMANN'S, INC.
$.01 par common

ENVIRODYNE, INC.
$.10 par common

EQUITABLE BANCORPORATION
$5.00 par common

*EQUITABLE GENERAL CORPORATION
$3.00 par common

EQUITABLE LIFE INSURANCE COMPANY OF IOWA
$1.00 par common

EQUITABLE SAVINGS & LOAN ASSOCIATION
$2.00 par reserve fund capital stock

EQUITY OIL COMPANY
$1.00 par common

ETHAN ALLEN, INC.
Class A, $1.00 par common

EXCHANGE BANCORPORATION, INC.
$2.50 par common

EXTRACORPOREAL MEDICAL SPECIALTIES, INC.
No par common

*FAS INTERNATIONAL, INC.
$.02 par common

FAIR LANES, INC.
$1.00 par common

*FALSTAFF BREWING CORPORATION
$1.00 par common

FARINON CORPORATION
No par common

FARM HOUSE FOODS CORPORATION
$.05 par common

FARMER BROTHERS COMPANY
$1 00 par common

Addition to List

FARMERS GROUP, INC.
$1.00 par common

FARMERS NEW WORLD LIFE INSURANCE COMPANY
$1.00 par common

FEDERAL SCREW WORKS
$1.00 par common

FEDERATED INCOME & PRIVATE PLACEMENT FUND
$1.00 par capital

FIDELCOR, INC.
$1.00 par common

FIDELITY AMERICAN BANKSHARES, INC.
$5.00 par common

FIDELITY CORPORATION (Virginia)
$1.00 par common

FIDELITY UNION LIFE INSURANCE COMPANY
$1.00 par common

FIFTH THIRD BANCORP
$6.66-2/3 par common

*FINANCIAL SECURITY GROUP, INC
$.10 par common

FINGERHUT CORPORATION
$1.00 par common

FIRST & MERCHANTS CORPORATION
$7.50 par common

FIRST ALABAMA BANCSHARES, INC.
$2.50 par common

FIRST AMERICAN FINANCIAL CORPORATION, THE
$1.00 par common

FIRST AMTENN CORPORATION
$5.00 par common

*FIRST ARKANSAS BANKSTOCK CORPORATION
$6.25 par common

FIRST BANC GROUP OF OHIO, INC.
No par common, $5.00 stated value

FIRST BANCGROUP-ALABAMA, INC.
$4.00 par common

FIRST BANCSHARES OF FLORIDA, INC.
$1.00 par common

FIRST BANK (New Haven)
$5.00 par common

FIRST BANK SYSTEM, INC.
$2.50 par capital

*FIRST BANKERS CORPORATION OF FLORIDA
$1.00 par common

FIRST BOSTON, INC., THE
$1.66-2/3 par common

FIRST CAPITAL CORPORATION
$5.00 par common

FIRST COLONY LIFE INSURANCE COMPANY
$1.00 par common

FIRST COMMERCE CORPORATION
$5.00 par common

FIRST COMMERCE REALTY INVESTORS
No par shares of beneficial interest

FIRST COMMERCIAL BANKS INC.
$5.00 par common

FIRST CONNECTICUT BANCORP, INC.
$10.00 par common

FIRST CONTINENTAL REAL ESTATE INVESTMENT TRUST
$1.00 par shares of beneficial interest

FIRST EMPIRE STATE CORPORATION
$5.00 par common

FIRST EXECUTIVE CORPORATION
$2.00 par common

*FIRST FARWEST CORPORATION
$2.50 par common

FIRST FLORIDA BANKS, INC.
$1.00 par common

FIRST GREATWEST CORPORATION
$4.00 par common

FIRST HAWAIIAN, INC.
$5.00 par common

FIRST JERSEY NATIONAL CORPORATION
$5.00 par capital

*FIRST KANSAS FINANCIAL, INC.
$3.01 par common

*FIRST KENTUCKY NATIONAL CORPORATION
No par common, $2.50 stated value

*FIRST LINCOLN FINANCIAL CORPORATION
No par common

FIRST MARINE BANKS, INC.
$1.00 par common

FIRST MARYLAND BANCORP
$5.00 par common

FIRST MERCHANTS NATIONAL BANK (New Jersey)
$2.50 par common

FIRST NATIONAL BANCORPORATION, INC., THE
$10.00 par common

FIRST NATIONAL BANCSHARES INC.
$5.00 par common

FIRST NATIONAL CHARTER CORPORATION
$12.50 par common

FIRST NATIONAL CINCINNATI CORPORATION
$5.00 par common

FIRST NATIONAL HOLDING CORPORATION
$5.00 par common

FIRST OKLAHOMA BANCORPORATION, INC.
$5.00 par common

*FIRST RAILROAD & BANKING COMPANY OF GEORGIA
$.66-2/3 par common

FIRST SECURITY CORPORATION
$1.25 par common

FIRST SECURITY NATIONAL CORPORATION
$2.50 par common

*FIRST SURETY CORPORATION
$1.00 par capital

FIRST TENNESSEE NATIONAL CORPORATION
$2.50 par common

FIRST TEXAS FINANCIAL CORPORATION
$1.00 par common

FIRST UNION BANCORPORATION
$10.00 par common

FIRST UNION CORPORATION
$3.33-1/3 par common

FIRST UNITED BANCORPORATION, INC.
$10.00 par common

FIRST WESTERN FINANCIAL CORPORATION
$1.00 par common

FLAGSHIP BANKS INC.
$1.00 par common

FLEXSTEEL INDUSTRIES, INC.
$1.00 par common

FLICKINGER, S. M. COMPANY, INC.
$2.50 par common

FLORIDA COMMERCIAL BANKS, INC.
$1.00 par common

FLORIDA CYPRESS GARDENS, INC.
$.25 par common

*FLORIDA GULF REALTY TRUST
$.10 par shares of beneficial interest

* Addition to List

V42160 AUG 18 77 UMI

FLORIDA MINING & MATERIALS CORPORATION
$1.00 par common

FLORIDA NATIONAL BANKS OF FLORIDA, INC.
$12.50 par common

FOOD TOWN STORES, INC.
$.50 par common

*FOOTHILL GROUP, INC., THE
No par common

FOREST OIL CORPORATION
$1.00 par common

FOTOMAT CORPORATION
$.10 par common

FOUNDERS FINANCIAL CORPORATION
$1.00 par common

*FOUR-PHASE SYSTEMS, INC.
$.04 par common

FOURTH FINANCIAL CORPORATION
$5.00 par common

*FRANKLIN CORPORATION, THE
$1.00 par common

FRANKLIN ELECTRIC COMPANY, INC.
$.50 par common

FRANKLIN LIFE INSURANCE COMPANY, THE
$2.00 par common

FRASER MORTGAGE INVESTMENTS
No par shares of beneficial interest

FREDERICK & HERRUD, INC.
$.10 par common

FRIENDLY ICE CREAM CORPORATION
$1.00 par common

FROZEN FOOD EXPRESS INDUSTRIES, INC.
$1.50 par common

FULLER, H. B. COMPANY
$1.00 par common

FULTON NATIONAL CORPORATION, THE
$5.00 par common

FURR'S CAFETERIAS, INC.
No par common

*GRT CORPORATION
$.50 par common

*GALAXY OIL COMPANY
$.10 par common

*GALVESTON-HOUSTON COMPANY
$.50 par common

GATEWAY TRANSPORTATION COMPANY, INC.
$.62-1/2 par common

GELCO CORPORATION
$.50 par common

GELMAN INSTRUMENT COMPANY
$.10 par common

GENERAL AUTOMATION, INC.
$.10 par common

GENERAL AUTOMOTIVE PARTS CORPORATION
No par common

GENERAL BINDING CORPORATION
$.12-1/2 par common

GENERAL CARE CORPORATION
$.10 par common

GENERAL ENERGY CORPORATION
$1.00 par common

GENERAL HEALTH SERVICES, INC.
$1.00 par common

GENERAL OHIO S & L CORPORATION
$.50 par common

GENERAL REINSURANCE CORPORATION
$2.00 par common

GENERAL SHALE PRODUCTS CORPORATION
No par common

*GENESEE BREWING COMPANY, INC.
Class B, non-voting,
$.50 par common

GEORGE WASHINGTON CORPORATION
$1.00 par common

GILBERT ASSOCIATES, INC.
Class A, non-voting,
$1.00 par common

*GILBERT/ROBINSON, INC.
$1.00 par common

GILFORD INSTRUMENT LABORATORIES INC.
No par common

GIRARD COMPANY, THE
$1.00 par common

GLOBE LIFE AND ACCIDENT INSURANCE COMPANY
$1.00 par common

* GODFREY COMPANY
$5.00 par common

GOLDEN STATE FOODS CORPORATION
$.10 par common

GOULDS PUMPS, INC.
$1.00 par common

*GOVERNMENT EMPLOYEES FINANCIAL CORPORATION
$2.00 par common

GOVERNMENT EMPLOYEES INSURANCE COMPAI
$.10 par common
* $1.00 par convertible preferred
Warrants (expire 08/01/78)

GOVERNMENT EMPLOYEES LIFE INSURANCE COMPANY
$1.50 par common

GRACO INC.
$1.00 par common

GRAHAM MAGNETICS INC.
$.10 par common

*GRAHAM MANUFACTURING COMPANY, INC.
$.10 par common

*GRANTREE CORPORATION
$.10 par common

GRAPHIC CONTROLS CORPORATION
$1.00 par common

GRAPHIC SCANNING CORPORATION
$.01 par common

GREAT SOUTHERN CORPORATION
$2.00 par common

GREATER JERSEY BANCORP.
$5.50 par common

GREEN MOUNTAIN POWER CORPORATION
$3.33-1/3 par common

GREY ADVERTISING INC.
$1.00 par common

*GUARANTEE FINANCIAL CORPORATION OF CALIFORNIA
$2.00 par common

*GUARANTY NATIONAL CORPORATION
$1.00 par common-capital

*GUARDIAN PACKAGING CORPORATION
No par common

*GULF ENERGY & DEVELOPMENT CORPORATION
$.10 par common

*GULF INTERSTATE COMPANY
$1.00 par common

HNC MORTGAGE & REALTY INVESTORS
No par shares of beneficial interest

HACH CHEMICAL COMPANY
$1.00 par common

• Addition to List

HAHN, ERNEST W. INC.
$.56-2/3 par common

HAMILTON BROTHERS EXPLORATION COMPANY
$1.00 par common

HAMILTON BROTHERS PETROLEUM CORPORATION
$1.00 par common

HAMILTON INVESTMENT TRUST
$1.00 par shares of beneficial interest

HANOVER INSURANCE COMPANY, THE
$2.00 par capital

HARLEY CORPORATION
$.25 par common

HARPER & ROW, PUBLISHERS, INC.
$.10 par common

HARTFORD NATIONAL CORPORATION
$6.25 par capital

*HARTFORD STEAM BOILER INSPECTION AND INSURANCE COMPANY, THE
$5.00 par common

HAVATAMPA CORPORATION
$7.50 par common

HAWAII BANCORPORATION, INC.
$2.00 par common

HAWKEYE BANCORPORATION
$3.00 par common

HAWTHORNE FINANCIAL CORPORATION
$1.00 par capital

HEATH TECNA CORPORATION
No par common

HENREDON FURNITURE INDUSTRIES, INC.
$2.00 par common

HERITAGE BANCORPORATION
No par common

HEXCEL CORPORATION
$1.00 par common

HICKORY FARMS OF OHIO, INC.
No par common

HICKORY FURNITURE COMPANY
$.10 par common

*HIGBEE COMPANY, THE
$1.00 par common

HOLLYWOOD PARK, INC.
$1.00 par common

HOME BENEFICIAL CORPORATION
Class B, non-voting,
$2.50 par common

HON INDUSTRIES, INC.
$1.00 par common

HOOK DRUGS, INC.
No par common

HOOVER COMPANY, THE
$2.50 par common

HORIZON BANCORP
$4.00 par common

*HOSPITAL TRUST CORPORATION
$1.00 par common

HUDSON PULP & PAPER CORPORATION
$1.00 par common

HUGHES SUPPLY, INC.
$1.00 par common

*HUNT MANUFACTURING COMPANY
$.10 par common

HUNTINGTON BANCSHARES INC.
$10.00 par common

HY-GAIN ELECTRONICS CORPORATION
$.25 par common

HYATT CORPORATION
$.50 par common

HYATT INTERNATIONAL CORPORATION
Class A, $.10 par common

HYDRAULIC COMPANY, THE
No par common

HYSTER COMPANY
$.50 par common

I.M.S. INTERNATIONAL, INC.
$.01 par common

INDEPENDENCE SQUARE INCOME SECURITIES, INC.
$.10 par common

INDEPENDENT LIFE & ACCIDENT INSURANCE COMPANY, THE
Non-voting, $1.00 par common

INDIANA GROUP, INC.
$1.25 par common

INDIANA MORTGAGE & REALTY INVESTORS
$1.00 par shares of beneficial interest

INDIANA NATIONAL CORPORATION
No par common

INDIANAPOLIS WATER COMPANY
$7.50 par common

INDUSTRIAL NUCLEONICS CORPORATION
$1.00 par common

INDUSTRIAL VALLEY BANK AND TRUST COMPANY
$5.00 par common

INFOREX, INC.
$.25 par common

INFORMATION INTERNATIONAL, INC.
$.25 par common

INFORMATION MAGNETICS CORPORATION
$.40 par common

*INSTRUMENTATION LABORATORY INC.
$1.00 par common

INTEL CORPORATION
No par common

*INTER-REGIONAL FINANCIAL GROUP, INC.
$.12-1/2 par common

INTERCONTINENTAL ENERGY CORPORATION
$.40 par common

INTERFINANCIAL INC.
$1.00 par common

INTERMOUNTAIN GAS COMPANY
$1.00 par common

INTERNATIONAL BANK (Washington, D. C.)
$1.00 par common
Class A, $1.00 par common

INTERNATIONAL DAIRY QUEEN, INC.
$1.00 par common

INTERNATIONAL LIFE HOLDING CORPORATION
$.50 par common

INTERSIL, INC.
$.10 par common

INTEXT, INC.
No par common

INVESTMENT ANNUITY, INC.
No par common

IOWA SOUTHERN UTILITIES COMPANY
$10.00 par common

IVAC CORPORATION
$.10 par common

IVEY, J. B. & COMPANY
$2.50 par common

*JAMES RIVER CORPORATION OF VIRGINIA
$.10 par common

JAMESBURY CORPORATION
$1.00 par common

• Addition to List

V42160 AUG 18 77 UMI

JEFFERSON NATIONAL LIFE INSURANCE COMPANY
$1.00 par capital

JERRICO, INC.
No par common

JOSLYN MFG. AND SUPPLY CO.
$1.25 par common

JUSTIN INDUSTRIES, INC.
$2.50 par common

KDI CORPORATION
$.35 par common

KAISER STEEL CORPORATION
$1.46 par cumulative preferred

KALVAR CORPORATION
$.02 par common

KANAN CORPORATION
Class A, $1.00 par common

KAMPGROUNDS OF AMERICA, INC.
$.12-1/2 par common

KANSAS CITY LIFE INSURANCE COMPANY
$7.50 par common

KANSAS STATE NETWORK, INC.
$.50 par common

KEARNEY & TRECKER CORPORATION
$2.00 par common

KEARNEY-NATIONAL INC.
$.50 par common

KEITH CLARK, INC.
$.50 par common

KELLY SERVICES, INC.
$1.00 par common

KEMPER CORPORATION
$5.00 par common

KENNINGTON, LTD., INC.
$.10 par common

*KENT-MOORE CORPORATION
$1.00 par common

KENTUCKY CENTRAL LIFE INSURANCE COMPANY
Class A, non-voting, $1.00 par common

*KEWAUNEE SCIENTIFIC EQUIPMENT CORPORATION
$2.50 par common

KEYES FIBRE COMPANY
$1.00 par common

KEYSTONE CUSTODIAN FUNDS, INC.
Class A, non-voting, no par common

KEYSTONE FOODS CORPORATION
$.10 par common

KEYSTONE INTERNATIONAL, INC.
$1.00 par common

KEYSTONE OTC FUND, INC.
$1.00 par common

*KIMBALL INTERNATIONAL, INC.
Class b, $.62-1/2 par common

KNAPE & VOGT MANUFACTURING COMPANY
$2.00 par common

KNUDSEN CORPORATION
$1.00 par common

KOGER PROPERTIES, INC.
$.10 par common

KOSS CORPORATION
$.01 par common

*KRATOS INC.
No par common

KRUEGER, W. A. COMPANY
$5.00 par common

KUHLMAN CORPORATION
$1.00 par common

LMF CORPORATION
$.40 par common

LTV CORPORATION, THE
Warrants (expire 01/15/78)

LACLEDE STEEL COMPANY
$20.00 par common

*LAKE SUPERIOR DISTRICT POWER COMPANY
$10.00 par common

LANCASTER COLONY CORPORATION
$4.00 par common

LANCE, INC.
$1.25 par common

LANDMARK BANCSHARES CORPORATION
$5.00 par common

LANDMARK BANKING CORPORATION OF FLORIDA
$1.00 par common

LANE COMPANY, INC., THE
$5.00 par common

LAWRY'S FOODS, INC.
$2.00 par common

LAWSON PRODUCTS INC.
No par common, $1.00 stated value

LA-Z-BOY CHAIR COMPANY
$1.00 par common

*LEAR PETROLEUM CORPORATION
$.10 par common

LEGGETT & PLATT, INC.
$1.00 par common

*LEISURE DYNAMICS, INC.
$1.00 par common

LIBERTY HOMES, INC.
$1.00 par common

LIBERTY NATIONAL LIFE INSURANCE COMPANY
$2.00 par common

LIFE INSURANCE COMPANY OF GEORGIA
$2.50 par capital

LIFE INVESTORS INC.
$1.00 par common

LIMITED STORES, INC., THE
No par common

LIN BROADCASTING CORPORATION
$2.00 par common

LINCOLN FIRST BANKS INC.
$10.00 par common
$4.50 par cumulative preferred

LINCOLN TELEPHONE & TELEGRAPH COMPANY, THE
$6.25 par common

LINDBERG CORPORATION
$2.50 par common

LIQUID AIR CORPORATION OF NORTH AMERICA
No par common

LITCO CORPORATION OF NEW YORK
$5.00 par common

LITRONIX, INC.
$.05 par common

LOUISIANA LAND OFFSHORE EXPLORATION COMPANY, INC.
Class B, $1.00 par common

LOWE'S COMPANIES, INC.
$.50 par common

*LYON METAL PRODUCTS, INC.
$2.50 par common

M & T MORTGAGE INVESTORS
$1.00 par shares of beneficial interest

MFY INDUSTRIES, INC.
$.25 par common

*MGF OIL CORPORATION
$1.00 par common

* Addition to List

MSI DATA CORPORATION
$1.00 par common

*MTS SYSTEMS CORPORATION
$.25 par common

MACDERMID INC.
No par common

MADISON GAS AND ELECTRIC COMPANY
$8.00 par common

MAGMA POWER COMPANY
$.10 par common

MAGNETICS INTERNATIONAL, INC.
No par common

MAJOR REALTY CORPORATION
$.01 par common

MALLINCKRODT, INC.
$1.00 par common

MANAGEMENT ASSISTANCE INC.
$.40 par common

MANITOWOC COMPANY, INC., THE
$2.50 par common

*MANNING GAS & OIL COMPANY
No par common

MANUFACTURERS BANK (Los Angeles)
$3.75 par capital

MANUFACTURERS NATIONAL CORPORATION
$10.00 par common

*MANUFACTURING DATA SYSTEMS, INC.
$.01 par common

MARCUS CORPORATION, THE
$1.00 par common

MARINE COLLOIDS, INC.
$.56 par common

*MARINE CORPORATION, THE
$10.00 par common

*MARINERS FINANCIAL CORPORATION
$1.00 par capital

MARION CORPORATION
$1.00 par common

MARK TWAIN BANCSHARES, INC.
$5.00 par common

MARSH SUPERMARKETS, INC.
No par common

MARSHALL & ILSLEY CORPORATION
$2.50 par common

MARVIN JOSEPHSON ASSOCIATES, INC.
$.05 par common

MARYLAND NATIONAL CORPORATION
$2.50 par common

MAUI LAND & PINEAPPLE COMPANY, INC.
No par common

MAY PETROLEUM INC.
$.05 par common

*MAYFLOWER CORPORATION
No par common

*MAYNARD OIL COMPANY
$.10 par common

McCORMICK & COMPANY, INC.
Non-voting, no par common

McDOWELL ENTERPRISES, INC.
No par common

*McFARLAND ENERGY, INC.
No par common

McMORAN EXPLORATION COMPANY
No par common

McQUAY-PERFEX INC.
$1.00 par common

MEASUREX CORPORATION
No par common

MEDCOM, INC.
$.10 par common

MEDTRONIC, INC.
$.10 par common

MELLON NATIONAL CORPORATION
$1.00 par common

MERCANTILE BANCORPORATION INC. (Missouri)
$5.00 par common

MERCANTILE BANKSHARES CORPORATION (Maryland)
$2.00 par common
* No par cumulative convertible preferred

MERCANTILE TEXAS CORPORATION
$5.00 par common

MERCHANTS NATIONAL CORPORATION
No par common, $5.00 stated value

MERCURY GENERAL CORPORATION
$1.00 par common

MERIT CORPORATION, THE
$1.00 par common

MERVYN'S
$1.00 par common

MEYER, FRED INC.
Class A, no par common

MICHIGAN NATIONAL CORPORATION
$10.00 par common

MICRODATA CORPORATION
No par common

MICROFORM DATA SYSTEMS, INC.
$.20 par common

MICROWAVE SEMICONDUCTOR CORPORATION
$.50 par common

*MID-CONTINENT INDUSTRIES, INC.
$1.00 par common

MIDLANTIC BANKS INC.
$10.00 par common

*MIDLAND BANCORP, INC.
$5.00 par common

*MIDNITE MINES INC
$.10 par common

MIDWESTERN DISTRIBUTION, INC.
No par common

MIDWESTERN FIDELITY CORPORATION
$1.66-2/3 par common

MILLIPORE CORPORATION
$.08-1/3 par common

*MINE SAFETY APPLIANCES COMPANY
$3.33-1/3 par common

*MINI-COMPUTER SYSTEMS, INC.
$.10 par common

MINNESOTA FABRICS, INC.
$.05 par common

*MISSISSIPPI VALLEY GAS COMPANY
$5.00 par common

*MOBILE GAS SERVICE CORPORATION
$2.50 par common

MODERN MERCHANDISING, INC.
$.01 par common

MODULAR COMPUTER SYSTEMS, INC.
$.05 par common

*MOLEX INC.
$.05 par common

MONARCH CAPITAL CORPORATION
$1.00 par common

MONFORT OF COLORADO, INC.
$1.00 par common

MONUMENTAL CORPORATION
$3.50 par common

MOORE, SAMUEL AND COMPANY
No par common

MOORE PRODUCTS COMPANY
$1.00 par common

*MOR-FLO INDUSTRIES, INC.
$.50 par common

* Addition to List

V 42 160 AUG 18 77 UM V

MORRISON INC.
$2.00 par common

MORTGAGE INVESTORS OF WASHINGTON
$1.00 par shares of beneficial interest

*MOSINEE PAPER CORPORATION
$5.00 par common

MOSTEK CORPORATION
$.10 par common

MOTOR CLUB OF AMERICA
$.50 par common

*MULTIMEDIA, INC.
$1.00 par common

MYERS INDUSTRIES, INC.
No par common

NCNB CORPORATION
$2.50 par common

*NFC CORPORATION
$.10 par common

NN CORPORATION
$5.00 par common

NARRAGANSETT CAPITAL CORPORATION
$1.00 par common

*NATIONAL BANK OF GEORGIA, THE
$5.00 par common

*NATIONAL BY-PRODUCTS, INC.
$1.00 par common

NATIONAL CENTRAL FINANCIAL CORPORATION
$5.00 par common

NATIONAL CITY CORPORATION
$4.00 par common

NATIONAL COMMUNITY BANK OF NEW JERSEY
$6.25 par common

NATIONAL CONVENIENCE STORES INC.
$.83-1/3 par common

NATIONAL DATA CORPORATION
$.12-1/2 par common

*NATIONAL GAS & OIL CORPORATION
$1.00 par common

NATIONAL LIBERTY CORPORATION
$1.00 par common

NATIONAL LIFE OF FLORIDA CORPORATION
$1.00 par common

NATIONAL OLD LINE INSURANCE COMPANY
Class BB, non-voting,
$1.00 par common

*NATIONAL STUDENT MARKETING CORPORATION
$1.00 par common

NATIONAL UTILITIES & INDUSTRIES CORPORATION
$10.00 par common

NATIONAL WESTERN LIFE INSURANCE COMPANY
Class A, $1.00 par common

NATIONWIDE CORPORATION
Class A, $2.50 par common

NATIONWIDE REAL ESTATE INVESTORS
No par shares of beneficial interest

*NEVADA NATIONAL BANCORPORATION
$1.00 par common

NEVADA SAVINGS AND LOAN ASSOCIATION
$1.00 par permanent capital stock

NEW AMERICA FUND, INC.
$1.00 par common

NEW ENGLAND MERCHANTS COMPANY, INC.
$5.00 par common

NEW JERSEY NATIONAL CORPORATION
$5.00 par common

NEW JERSEY NATURAL GAS COMPANY
$5.00 par common

*NEW PLAN REALTY TRUST
No par shares of beneficial interest

NEWELL COMPANIES, INC.
$1.00 par common

NICOLET INSTRUMENT CORPORATION
$.25 par common

NIELSEN, A. C. COMPANY
Class A, non-voting,
$1.00 par common
Class B, voting,
$1.00 par common

NOBLE AFFILIATES, INC.
$3.33-1/3 par common

NOLAND COMPANY
$10.00 par common

*NORD RESOURCES CORPORATION
$01. par common

NORDSTROM, INC.
No par common

NORIN CORPORATION
$1.00 par common

NORTH CAROLINA NATURAL GAS CORPORATION
$2.50 par common

NORTH EUROPEAN OIL ROYALTY TRUST
No par units of beneficial interest

NORTHEAST BANCORP, INC.
$5.00 par common

NORTHERN CALIFORNIA SAVINGS AND LOAN ASSOCIATION
No par guarantee capital stock

NORTHERN STATES BANCORPORATION, INC.
$5.00 par common

NORTHWEST NATURAL GAS COMPANY
$3.06-1/6 par common

NORTHWEST OHIO BANCSHARES, INC.
$20.00 par common

NORTHWESTERN FINANCIAL CORPORATION
$1.00 par common

NORTHWESTERN NATIONAL LIFE INSURANCE COMPANY
$1.25 par common

NORTHWESTERN PUBLIC SERVICE COMPANY
$7.00 par common

NORTRUST CORPORATION
$10.00 par common

NOXELL CORPORATION
Class B, non-voting,
$1.00 par common

NUCLEAR DYNAMICS, INC.
$.10 par common

OCEAN DRILLING & EXPLORATION COMPANY
$.50 par common

OCEANEERING INTERNATIONAL, INC.
$.25 par common

OCEANIC EXPLORATION COMPANY
$.06-1/4 par common

OFFSHORE LOGISTICS, INC.
No par common

OGILVY & MATHER INTERNATIONAL INC.
$2.00 par common

OHIO CASUALTY CORPORATION
$.50 par common

* Addition to List

*OHIO CITIZENS TRUST COMPANY, THE
$10.00 par common

OHIO FERRO-ALLOYS CORPORATION
$1.00 par common

*OILGEAR COMPANY, THE
$1.00 par common

OLD NATIONAL BANCORPORATION
$5.00 par capital

OLD REPUBLIC INTERNATIONAL CORPORATION
$1.00 par common

*OLD STONE CORPORATION
$1.00 par common

OLYMPIA BREWING COMPANY
$10.00 par common

OMNI SPECTRA, INC.
$1.00 par common

OPTICAL COATING LABORATORY, INC.
No par common

ORBANCO, INC.
No par common

*OREGON PORTLAND CEMENT COMPANY
No par common

*ORION CAPITAL CORPORATION
$1.00 par common

ORMONT DRUG & CHEMICAL COMPANY, INC.
$.10 par common

*OSHMAN'S SPORTING GOODS, INC.
$1.00 par common

OTTER TAIL POWER COMPANY
$5.00 par common

OVERSEAS NATIONAL AIRWAYS, INC.
$1.00 par common

PVO INTERNATIONAL INC.
$5.00 par capital

PABST BREWING COMPANY
No par common

PACCAR INC.
$12.00 par common

*PACIFIC COAST HOLDINGS, INC.
$2.00 par common

*PACIFIC FAR EAST LINE, INC.
$1.00 par common

PACIFIC GAMBLE ROBINSON COMPANY
$5.00 par common

*PACIFIC-SOUTHERN MORTGAGE TRUST
$1.00 par shares of beneficial interest

PACIFIC STANDARD LIFE COMPANY
$1.00 par common

PAKO CORPORATION
$2.50 par common

PAN AMERICAN BANCSHARES, INC.
$1.00 par common

PANDICK PRESS, INC.
$.10 par common

PARK-OHIO INDUSTRIES INC.
$1.00 par common

*PATHCOM INC.
$.10 par common

PAUL REVERE INVESTORS INC.
$1.00 par common

PAULEY PETROLEUM INC.
$1.00 par common

PAY LESS DRUG STORES
No par common

PAY 'N PAK STORES, INC.
$.10 par common

PAY'N SAVE CORPORATION
No par common

PAYLESS CASHWAYS, INC.
$.50 par common

PEACHTREE DOORS, INC.
$1.00 par common

PEAVEY COMPANY
$2.50 par common

PEERLESS INSURANCE COMPANY
$2.50 par common

PEERLESS MANUFACTURING COMPANY
$1.00 par common

*PENN VIRGINIA CORPORATION
$6.25 par common

PENNSYLVANIA ENTERPRISES, INC.
No par common

PENNSYLVANIA LIFE COMPANY
$.50 par common

PENNZOIL LOUISIANA AND TEXAS OFFSHORE, INC.
$1.00 par common
6% convertible subordinated debentures

PENNZOIL OFFSHORE GAS OPERATORS, INC.
$1.00 par common

PENTAIR INDUSTRIES, INC.
$.16-2/3 par common

PETERSON, HOWELL & HEATHER, INC.
No par common

PETROLITE CORPORATION
No par common

PETTIBONE CORPORATION
$10.00 par common

PHILADELPHIA LIFE INSURANCE COMPANY
$1.00 par common

PHILADELPHIA NATIONAL CORPORATION
$1.00 par common

PHYSIO-CONTROL CORPORATION
$.33-1/3 par common

*PIC 'N' SAVE CORPORATION
$.50 par common

PIEDMONT AVIATION, INC.
$1.00 par common

PINKERTON'S, INC.
Class B, non-voting,
no par common

PIONEER FOOD INDUSTRIES, INC.
$1.00 par common

PIONEER HI-BRED INTERNATIONAL, INC.
$1.00 par common

PIONEER-STANDARD ELECTRONICS INC.
No par common

PIONEER WESTERN CORPORATION
$1.00 par common

PITTSBURGH NATIONAL CORPORATION
$5.00 par common

PIZZA INN, INC., THE
$1.00 par common

POPEIL BROTHERS, INC.
$.40 par common

*POSI-SEAL INTERNATIONAL, INC.
$.01 par common

POST CORPORATION
$1.00 par common

POTT INDUSTRIES INC.
$1.00 par common

POWERS REGULATOR COMPANY
$5.00 par common

PRATT, HENRY COMPANY
No par common

PRECIOUS METALS HOLDINGS, INC.
$1.00 par common

PREFERRED RISK LIFE INSURANCE COMPANY
$1.00 par common

* Addition to List

V 42 160 AUG 18 77 UM V

PRESTO PRODUCTS, INC.
$.10 par common

PRESTON TRUCKING COMPANY, INC.
$1.00 par common

*PREWAY INC.
$2.50 par common

PRIME COMPUTER, INC.
$.02-1/2 par common

PROGRESSIVE CORPORATION, THE (Ohio)
$1.00 par common

PROGROUP, INC.
$.50 par common

PROPERTY TRUST OF AMERICA
$1.00 par shares of beneficial interest

PROTECTIVE LIFE INSURANCE COMPANY
$2.00 par common

PROVIDENT LIFE AND ACCIDENT INSURANCE COMPANY
$3.00 par common

PROVIDENT LIFE INSURANCE COMPANY
$2.50 par common

PROVIDENT NATIONAL CORPORATION
$1.00 par common
$1.80 par convertible preferred

*PRUDENTIAL FEDERAL SAVINGS & LOAN ASSOCIATION
$1.00 par common

PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INC.
$1.00 par common

PULASKI FURNITURE CORPORATION
$5.00 par common

PURITAN-BENNETT CORPORATION
$1.00 par common

PUTNAM DUOFUND, INC.
$1.00 par capital shares
$1.00 par income shares

QUAKER CHEMICAL CORPORATION
$1.00 par common

QUALITY INNS INTERNATIONAL, INC.
$1.00 par common

*RLI CORPORATION
$1.00 par common

RPM, INC.
No par common

RAINBOW RESOURCES, INC.
$.10 par common

RAINIER BANCORPORATION
$2.50 par common

RAYNIER COMPANIES, INC., THE
$1.00 par common

RAYCHEM CORPORATION
No par common

RAYMOND CORPORATION, THE
$1.50 par common

REALTY & MORTGAGE INVESTORS OF THE PACIFIC
No par shares of beneficial interest
6-3/4% convertible subordinated debentures

RECOGNITION EQUIPMENT INC.
$.25 par common

REDKEN LABORATORIES, INC.
$.50 par common

REGENCY ELECTRONICS, INC.
No par common

REID-PROVIDENT LABORATORIES, INC.
$1.00 par common

RELIANCE UNIVERSAL INC.
$1.25 par common

*REPUBLIC AUTOMOTIVE PARTS, INC.
$.50 par common

REPUBLIC NATIONAL LIFE INSURANCE COMPANY
$1.00 par common

*RESEARCH INDUSTRIES CORPORATION
$1.00 par common

*RESERVE OIL & GAS COMPANY
Warrants (expire 01/20/81)

RESERVE OIL & MINERALS CORPORATION
$1.00 par common

REYNOLDS AND REYNOLDS COMPANY, THE
Class A, $1.25 par common

RIGGS NATIONAL BANK OF WASHINGTON, D.C., THE
$5.00 par common

RING AROUND PRODUCTS, INC.
$.20 par common

RIVAL MANUFACTURING COMPANY
$1.00 par common

ROADWAY EXPRESS, INC.
No par common

*ROBBINS & MYERS, INC.
No par common

*ROCHESTER INSTRUMENT SYSTEMS, INC.
$.05 par common

ROCKCOR, INC.
No par common

*ROLLINS BURDICK HUNTER COMPANY
$.50 par common

*ROLM CORPORATION
$.17 par common

*ROOSEVELT NATIONAL INVESTMENT COMPANY
Class A, $1.00 par common

*ROSPATCH CORPORATION
$5.00 par common

ROUSE COMPANY, THE
$.01 par common

*ROVAC CORPORATION, THE
$.01 par common

*ROWE FURNITURE CORPORATION
$1.00 par common

ROYSTER COMPANY
$.50 par common

RUCKER PHARMACAL COMPANY, INC.
No par common, $1.00 stated value

RUSSELL STOVER CANDIES, INC.
$1.00 par common

RYKOFF, S. E. & COMPANY
$.10 par common

RYLAND GROUP, INC., THE
$1.00 par common

*SBE, INC.
$1.00 par common

*SCI SYSTEMS, INC.
$.10 par common

SAFECO CORPORATION
$5.00 par common

ST. PAUL COMPANIES, INC., THE
$1.50 par common

SAN FERNANDO ELECTRIC MANUFACTURING COMPANY
$1.00 par common

SANTA ANITA CONSOLIDATED, INC.
No par common

SASLOW, D. L. COMPANY, INC.
$.50 par common

SCHERER, R. P. CORPORATION
$.33-1/3 par common

SCHOLL, INC.
$1.00 par common

*Addition to List

SCHULMAN, A., INC.
$1.00 par common

SCOPE INC.
$1.00 par common

*SCRIPPS-HOWARD BROADCASTING COMPANY
$1.00 par common

SEA WORLD, INC.
$.50 par common

SEAFIRST CORPORATION
$5.00 par common

SEALED AIR CORPORATION
$.01 par capital

*SEAWAY FOOD TOWN, INC.
No par common, $2.00 stated value

SECURITY-CONNECTICUT LIFE INSURANCE COMPANY
$1.00 par common

SECURITY LIFE AND ACCIDENT COMPANY
Series A, $2.00 par common

*SECURITY LIFE INSURANCE COMPANY OF GEORGIA
$1.00 par common

SECURITY NEW YORK STATE CORPORATION
$5.00 par common

*SECURITY OF AMERICA LIFE INSURANCE COMPANY
$1.00 par common

SECURITY PACIFIC CORPORATION
$10.00 par common

SEEBURG INDUSTRIES, INC.
Class A, $.50 par common

SEISCOM DELTA INC.
$.10 par common

SENECA FOODS CORPORATION
$1.00 par common

*SENSORMATIC ELECTRONICS CORPORATION
$.01 par common

SERVICE MERCHANDISE COMPANY, INC.
$1.00 par common

SERVICEMASTER INDUSTRIES INC.
$1.00 par common

SEVEN-UP COMPANY, THE
$1.00 par common

SHAKLEE CORPORATION
No par common

*SHARED MEDICAL SYSTEMS CORPORATION
$.01 par common

SHAWMUT CORPORATION
$5.00 par common

SHELDAHL, INC.
$.25 par common

SHONEY'S, INC.
$1.00 par common

SHOREWOOD CORPORATION, THE
$1.00 par common

SIGMA-ALDRICH CORPORATION
$1.00 par common

SIGMOR CORPORATION
Class A, $1.00 par common

SILICONIX INC.
$1.00 par capital

SILVER KING MINES, INC.
$1.00 par common

*SILVERCREST INDUSTRIES, INC.
$.10 par common

SIMPSON INDUSTRIES, INC.
$1.00 par common

SNAP-ON TOOLS CORPORATION
$1.00 par common

SOCIETY CORPORATION
$1.00 par common

SOLID STATE SCIENTIFIC INC.
$.40 par common

SOLID STATE TECHNOLOGY INC.
$.01 par common

SONOCO PRODUCTS COMPANY
$1.25 par common

SONOMA VINEYARDS
$.25 par common

*SOONER LIFE INSURANCE COMPANY
$1.00 par common

SOURCE CAPITAL, INC.
$1.00 par common
$2.40 par cumulative preferred

SOUTH CAROLINA INSURANCE COMPANY
$1.00 par common

SOUTH CAROLINA NATIONAL CORPORATION
$5.00 par common

SOUTHEAST NATIONAL BANK OF PENNSYLVANIA
$6.00 par common

SOUTHERN AIRWAYS, INC.
$2.00 par common

SOUTHERN BANCORPORATION OF ALABAMA
$5.00 par common

*SOUTHERN BANKSHARES, INC.
$10.00 par common

SOUTHERN CALIFORNIA WATER COMPANY
$5.00 par common

SOUTHERN CONNECTICUT GAS COMPANY, THE
$13.33-1/3 par common

SOUTHERN INDUSTRIES CORPORATION
No par common

SOUTHLAND EQUITY CORPORATION
$.16-2/3 par common

SOUTHLAND FINANCIAL CORPORATION
$1.00 par common

SOUTHLAND PAPER MILLS, INC.
No par common

SOUTHWEST GAS CORPORATION
$1.00 par common

*SOUTHWEST PETRO-CHEM INC.
No par common

SOUTHWESTERN DRUG CORPORATION
$1.00 par common

*SOUTHWESTERN ELECTRIC SERVICE COMPANY
$1.00 par common

SOUTHWESTERN LIFE CORPORATION
$2.50 par common

SOVEREIGN CORPORATION
$1.00 par common

SPECTRA-PHYSICS, INC.
$.20 par capital

SPECTRAL DYNAMICS CORPORATION OF SAN DIEGO
No par common

STA-RITE INDUSTRIES, INC.
$2.00 par common

STANADYNE, INC.
$5.00 par common

STANDARD LIFE INSURANCE COMPANY OF INDIANA
$1.50 par common

STANDARD REGISTER COMPANY, THE
$.50 par common

STANLEY HOME PRODUCTS, INC.
Non-voting, $1.00 par common

*STANWICK CORPORATION, THE
$.10 par common

STATE STREET BOSTON CORPORATION
$10.00 par common

STATESMAN GROUP, INC., THE
$1.00 par common

STEAK N SHAKE, INC.
$.50 par common

* Addition to List

V 42 160 AUG 18 77 UM V

STIECHER-TRAUNG-SCHMIDT CORPORATION
$5.00 par common

*STEWART & STEVENSON SERVICES, INC.
No par common

STEWART SANDWICHES, INC.
$1.00 par common

STRATFORD OF TEXAS, INC.
$.10 par common

STRAWBRIDGE & CLOTHIER
$5.00 par common

SUBARU OF AMERICA, INC.
$.01 par common

SUBURBAN BANCORPORATION
$5.00 par common

SULLAIR CORPORATION
No par common

SUMITOMO BANK OF CALIFORNIA, THE
$5.00 par common

*SUMMIT ENERGY, INC.
$.50 par common

SUMMIT PROPERTIES
No par shares of beneficial interest

SUN BANKS OF FLORIDA, INC.
$2.50 par common

*SUNSTAR FOODS, INC.
$.50 par common

SUPERIOR ELECTRIC COMPANY, THE
$1.00 par common

SUPREME EQUIPMENT & SYSTEMS CORPORATION
$.66-2/3 par common

SUPRON ENERGY CORPORATION
$1.00 par common

TACO BELL
$.10 par common

TALLY CORPORATION
$.16-2/3 par common

TAMPAX INC.
$.25 par common

*TANNETICS, INC.
$1.00 par common

*TECHNICAL PUBLISHING COMPANY
$.30 par common

TECUMSEH PRODUCTS COMPANY
$1.00 par common

*TEJAS GAS CORPORATION
$.33-1/3 par common

TELE-COMMUNICATIONS, INC.
$1.00 par common

TELECREDIT, INC.
$.01 par common

TELEMED CORPORATION
$.05 par common

TELEPHONE UTILITIES, INC.
$1.00 par common

TELESCIENCES, INC.
$.10 par common

*TELETRONICS INTERNATIONAL, INC.
$.01 par common

*TENNANT COMPANY
$.37-1/2 par common

TENNECO OFFSHORE COMPANY, INC.
$1.00 par common
6% convertible subordinated debentures

TENNESSEE NATURAL GAS LINES, INC.
$1.00 par common

TENNESSEE VALLEY BANCORP, INC.
$6.66-2/3 par common

TEXAS AMERICAN BANCSHARES, INC.
$5.00 par common

*TEXAS AMERICAN OIL CORPORATION
$.10 par common

THALHIMER BROTHERS, INC.
$2.50 par common

THERMO ELECTRON CORPORATION
$1.00 par common

*THETFORD CORPORATION
$.25 par common

THIRD NATIONAL CORPORATION
$10.00 par common

TIFFANY & COMPANY
$1.00 par common

TIME HOLDINGS, INC.
$2.00 par common

TIPPERARY CORPORATION
$.50 par common

TITAN GROUP, INC.
$1.00 par common

TOBIAS KOTZIN COMPANY
$.50 par common

TOLLEY INTERNATIONAL CORPORATION
$.25 par common

TOM BROWN, INC.
$.10 par common

*TONY LAMA COMPANY, INC.
$1.00 par common

TORO COMPANY, THE
$1.00 par common

TOSCO CORPORATION
$.15 par common

TOWLE MANUFACTURING COMPANY
No par common

TRANSCONTINENTAL OIL CORPORATION
$.10 par common

TRANSOCEAN OIL, INC.
$1.00 par common

TRANSPORT LIFE INSURANCE COMPANY
$1.00 par common

TREMCO INC.
$1.00 par common

TRI-CHEM, INC.
$.20 par common

TRIANGLE CORPORATION, THE
$.50 par common

TRICO PRODUCTS CORPORATION
No par common

TRITON OIL & GAS CORPORATION
$1.00 par common

TRUST COMPANY OF GEORGIA
$5.00 par common

*TYRONE HYDRAULICS, INC.
$1.00 par common

TYSON FOODS, INC.
$1.00 par common

UA-COLUMBIA CABLEVISION, INC.
$.05 par common

UB FINANCIAL CORPORATION
$5.00 par common

UNICAPITAL CORPORATION
$1.00 par common

UNICOA CORPORATION
$2.50 par common

UNIFI, INC.
$.10 par common

UNION ELECTRIC STEEL CORPORATION
$1.25 par common

*UNION NATIONAL BANK OF PITTSBURGH
$8.33-1/3 par capital

UNION PLANTERS CORPORATION
$5.00 par common

* Addition to List

UNION SPECIAL CORPORATION
$1.00 par common

*UNISHOPS, INC.
$.10 par common

UNITED ARTISTS THEATRE CIRCUIT, INC.
$1.00 par common

UNITED BANK CORPORATION OF NEW YORK
$5.00 par common

UNITED BANKS OF COLORADO, INC.
$5.00 par common

UNITED CABLE TELEVISION CORPORATION
$.10 par common

*UNITED CITIES GAS COMPANY
$3.33-1/3 par common

UNITED DIVERSIFIED CORPORATION
$2.50 par common

UNITED McGILL CORPORATION
No par common, $.25 stated value

UNITED MISSOURI BANCSHARES, INC.
$12.50 par common

UNITED SERVICES LIFE INSURANCE COMPANY
$1.00 par common

U. S. BANCORP
$5.00 par common

UNITED STATES SUGAR CORPORATION
$1.00 par common

UNITED STATES SURGICAL CORPORATION
$.10 par common

U. S. TRUCK LINES INC. OF DELAWARE
$1.00 par common

UNITED STATES TRUST COMPANY OF NEW YORK
$5.00 par capital

UNITED TENNESSEE BANCSHARES CORPORATION
$2.00 par common

UNITED VIRGINIA BANKSHARES INC.
$10.00 par common

UNIVERSAL INSTRUMENTS CORPORATION
$1.25 par common

*UNIVERSAL SECURITY INSTRUMENTS, INC.
$.01 par common

*UNIVERSAL VOLTRONICS CORPORATION
$.10 par common

UNIVERSITY PATENTS, INC.
No par common

UPPER PENINSULA POWER COMPANY
$9.00 par common

UPS 'N DOWNS, INC.
$.02-1/2 par common

UTILITIES & INDUSTRIES CORPORATION
$.10 par common

VAIL ASSOCIATES, INC.
No par common

VALLEY NATIONAL BANK OF ARIZONA, THE
$2.50 par common

*VALLEYLAB, INC.
No par common

VALMONT INDUSTRIES, INC.
$1.00 par common

*VALTEK INC.
$.20 par common

VAN DYK RESEARCH CORPORATION
$.10 par common

VAN SCHAACK & COMPANY
$1.00 par common

*VAPOR CORPORATION
Voting, $1.00 par common

VARCO INTERNATIONAL, INC.
No par capital

VAUGHAN-JACKLIN CORPORATION, THE
$.10 par common

VELO-BIND, INC.
$1.00 par common

VICO CORPORATION
$1.00 par common

VICTORIA STATION INC.
No par common

*VIRGINIA CHEMICALS INC.
$2.00 par common

VIRGINIA INTERNATIONAL COMPANY
$.50 par common

VIRGINIA NATIONAL BANKSHARES, INC.
$5.00 par common

VIRGINIA REAL ESTATE INVESTMENT TRUST
No par shares of beneficial interest

VOLUME SHOE CORPORATION
$.50 par common

*VOLUNTEER CAPITAL CORPORATION
$.05 par common

WD-40 COMPANY
No par common

WALDBAUM, INC.
$1.00 par common

*WALTER REALTY INVESTORS
$.10 par shares of beneficial interest

WARNER ELECTRIC BRAKE & CLUTCH COMPANY
$1.00 par common

WASHINGTON NATURAL GAS COMPANY
$5.00 par common

WATERS ASSOCIATES INC.
$.08-1/3 par common

WEATHERFORD INTERNATIONAL INC.
$.10 par common

WEBB RESOURCES, INC.
$.10 par common

WEEDEN HOLDING CORPORATION
$1.00 par common

WEIGHT WATCHERS INTERNATIONAL, INC.
$.25 par common

WELLINGTON MANAGEMENT COMPANY
Class A, $.10 par common

WELLTECH, INC.
Class A, voting, $.10 par common

*WENDY'S INTERNATIONAL, INC.
No par common, $.10 stated value

WEST COMPANY, INC., THE
$.25 par common

WESTERN CASUALTY AND SURETY COMPANY, THE
$1.25 par capital

WESTERN GEAR CORPORATION
$1.00 par common

WESTERN KENTUCKY GAS COMPANY
$5.00 par common

WESTMORELAND COAL COMPANY
$2.50 par common

WETTERAU INC.
$1.00 par common

* Addition to List

V 42 160 AUG 18 77 UM

WHITE SHIELD CORPORATION
$.05 par common

WIEN AIR ALASKA, INC.
$1.00 par common

WILLAMETTE INDUSTRIES, INC.
$.50 par common

WILSON, H. J. COMPANY, INC.
Class A, no par common

WINCORP
No par common

WINN'S STORES, INC.
$1.25 par common

WINTER PARK TELEPHONE COMPANY, THE
$1.25 par common

WISCONSIN REAL ESTATE INVESTMENT TRUST
$1.00 par shares of beneficial interest

WISER OIL COMPANY, THE
$10.00 par common

WIX CORPORATION
$1.00 par common

*WOLOHAN LUMBER COMPANY
$1.50 par common

WOLVERINE ALUMINUM CORPORATION
$1.00 par common

*WOODHEAD, DANIEL INC.
$1.00 par common

WOODWARD & LOTHROP INC.
$10.00 par common

WORCESTER BANCORP, INC.
$1.00 par common

*WORLD JAI-ALAI INC.
$.10 par common

WORLD SERVICE LIFE INSURANCE COMPANY
$1.00 par common

*WORLDWIDE ENERGY CORPORATION
$.20 par common

WORTHINGTON INDUSTRIES, INC.
No par common

WRIGHT, WILLIAM E. COMPANY
$.50 par common

WYMAN-GORDON COMPANY
No par common

XOMOX CORPORATION
No par common

YELLOW FREIGHT SYSTEM, INC.
$1.00 par common

YOUNKER BROTHERS, INC.
No par common

ZIEGLER COMPANY, INC., THE
$1.00 par common

ZIONS UTAH BANCORPORATION
No par common

* Addition to List

[FR Doc.77-23790 Filed 8-12-77;3:37 pm]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 77-SW-31; Amdt. 39-3006]

PART 39—AIRWORTHINESS DIRECTIVES

Mooney Models M20 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds an Airworthiness Directive (AD) requiring inspection and replacement (if required) of the control wheel shaft of Mooney M20 series airplanes. This inspection is to detect cracks in the shaft near or under the control wheel. Cracks in the control wheel shaft may cause total failure of the shaft, freeing of the control wheel from the shaft, and possible loss of control of the airplane.

DATES: Effective date August 18, 1977. Inspections are required within 30 days after the effective date.

ADDRESSES: Mooney aircraft Service Bulletins may be obtained from persons or offices noted in this AD.

FOR FURTHER INFORMATION CONTACT:

Robert T. Weaver, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone number (817) 624-4911, Extension 516.

SUPPLEMENTARY INFORMATION: There has been a complete failure of a control wheel shaft on a Mooney M20C that could result in loss of control of the airplane. Cracks have also been reported in other Mooney M20C's. Since this condition is likely to exist or develop in other airplanes of the same type design, an Airworthiness Directive (AD) is being issued to require inspection of the control wheel shaft and replacement if necessary on Mooney M20 series airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure herein are impracticable and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Robert T. Weaver, Aerospace Engineer, Flight Standards Division, and James O. Price, General Attorney, Southwest Region, FAA.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations, is amended by adding the following new airworthiness directive:

MOONEY. Applies to Models M20, M20A, M20B, M20C, M20D, M20E, M20F, and M20G airplanes, certificated in all categories with over 1,000 hours' time in service.

Compliance required within the next 30 days after the effective date of this AD, unless already accomplished within the last 250 hours' time in service and thereafter at intervals not to exceed 500 hours' time in service from the last inspection. To prevent failure of the control wheel shaft due to cracking with associated crack growth, accomplish the following:

(a) Remove the RH and LH control wheels and inspect the aft two inches of the control wheel shaft for cracks (particularly at the attachment holes for the wheel). Use visual and dye penetrant inspection methods.

(b) Replace any cracked shafts with serviceable shafts.

(c) Reinstall the RH and LH control wheels.

(d) Replacement of parts required by paragraph (b) will permit the establishment of new initial inspection times for the inspections of paragraph (a). The new initial inspection time is 1,000 hours' time in service after parts replacement.

(e) Equivalent methods of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region. (Mooney Service Bulletin M20-205 contains information concerning inspection and replacement of control wheel shafts. Copies of Service Bulletin M20-205 may be obtained upon request to the Service Manager, Mooney Aircraft Corporation, P.O. Box 72, Kerrville, Texas 78028.)

This amendment becomes effective August 18, 1977.

(Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); Section 6(c) Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Texas, on August 4, 1977.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.77-23725 Filed 8-17-77;8:45 am]

[Airworthiness Docket No. 77-SW-26; Amdt. 39-3009]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Models 205A-1 and 212 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) requiring repetitive inspections of certain tail rotor pitch horns that are susceptible to stress corrosion cracks. Failure of the pitch change horn as a result of a crack may result in loss of control of a tail rotor blade with loss of control of the helicopter.

DATES: Effective date: August 19, 1977. Compliance required within 25 hours' time in service after the effective date and thereafter at intervals not to exceed 100 hours.

ADDRESSES: Service information may be obtained from persons or offices noted in the AD.

FOR FURTHER INFORMATION CONTACT:

James H. Major, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone number (817) 624-4911, Extension 516.

SUPPLEMENTARY INFORMATION: A proposal was published in 42 FR 33342 to issue a new AD for certain Bell Models 205A-1 and 212 helicopters requiring a repetitive inspection for possible cracks, at 100-hour intervals, in tail rotor pitch change horns, P/N 212-010-716-5 and -9.

Interested persons were afforded the opportunity to participate in the making of the amendment. No comments were received in response to the proposal. The amendment is adopted as proposed.

DRAFTING INFORMATION

The principal authors of this document are James H. Major, Aerospace Engineer, Flight Standards Division, and James O. Price, General Attorney, Southwest Region, FAA.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, effective 1977, by adding the following new Airworthiness Directive:

BELL: Applies to Model 212 helicopters, S/N 30502 through 30804, 30806 through 30810, 30812, 30814, 30815, 30817, 30818, 30820 through 30825, 30827, 30828, 30829, and to Model 205A-1 helicopters, S/N 30001 through 30247, equipped with tail rotor blades, P/N 212-010-750, certificated in all categories.

Compliance required within 25 hours' time in service after the effective date of this AD unless already accomplished and thereafter at intervals not to exceed 100 hours' time in service from the last inspection.

To detect possible cracks in each tail rotor blade pitch change horn, P/N 212-010-716-5 and -9, accomplish the following:

(a) Remove the bolt and barrel nut of the control rod and clean the external surfaces of the pitch change horns.

(b) Inspect the horns for cracks, particularly in the barrel nut and bushing area using a dye penetrant or equivalent inspection method.

(c) If a crack is found, replace the affected pitch change horn before further flight in accordance with the Model 212 Overhaul Manual, paragraphs 65-58 and 65-63, or Models 205A/205A-1 Maintenance and Overhaul Instructions, paragraphs 3-41 and 3-43, as appropriate.

(d) Install the blade's control rod bolt and barrel nut as specified in the instructions in paragraphs 65-57 Model 212 Maintenance Manual or 3-40 Models 205/205A-1 Maintenance and Overhaul Instructions, as appropriate.

(e) After installation of pitch change horns, P/N 212-010-716-11, this AD is no longer applicable.

(f) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(g) The manufacturer's instructions identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Service Manager, Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101. These documents may also be examined at the Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas, and at FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the Southwest Regional Office in Fort Worth, Texas.

(Bell Helicopter Textron Service Bulletin Nos. 212-77-7 and 205-77-5 dated March 11, 1977, pertain to this subject.)

This amendment becomes effective August 19, 1977.

(Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Texas, on August 5, 1977.

HENRY L. NEWMAN,
Director, Southwest Region.

(The incorporation by reference in the preceding document was approved by the Director of the Federal Register on June 19, 1967.)

[FR Doc.77-23726 Filed 8-17-77;8:45 am]

[Airworthiness Docket No. 75-SW-69; Amdt. 39-3010]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Models 204B, 205A-1, 212, 214B, and 214B-1 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) requiring adjustment of the emergency exit latch pins and requiring inspection holes for the exit latch pin engagement in Bell Models 204B, 205A-1, 212, 214B, and 214B-1 helicopters. An exit may be lost in flight if the latch pins are not properly engaged. In addition, longer spacers must be installed under the exit handle covers to facilitate removal of the covers and access to the exit handles.

DATES: Effective date: August 19, 1977. Compliance required within 100 hours after the effective date, and thereafter certain inspections are required at 300-hour intervals.

ADDRESSES: Bell Helicopter Textron Service Information and Service Bulletins may be obtained from persons or offices noted in the AD.

FOR FURTHER INFORMATION CONTACT:

James H. Major, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone number (817) 624-4911, Extension 516.

SUPPLEMENTARY INFORMATION: A proposal was published in 42 FR 33341 to issue an AD, complementing Amendment 39-2451, AD 75-26-03, requiring compliance with the various Bell Helicopter Textron service bulletins that require adjustment of the exit latch pins, inspection holes for the latch pins, identification of these holes and proper length spacers for the exit handle covers on Bell Models 204B, 205A-1, 212, 214B, and 214B-1 helicopters. Compliance would be initially required within 100 hours' time in service after the effective date of the AD and thereafter at intervals not to exceed 300 hours.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received, and the amendment is issued as proposed.

DRAFTING INFORMATION

The principal authors of this document are James H. Major, Aerospace Engineer, Flight Standards Division, and James O. Price, General Attorney, Southwest Region, FAA.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, effective 1977,

V 4216 0 AUG 18 77 UM

by adding the following new Airworthiness Directive:

BELL: Applies to Models 204B, 205A-1, 212, 214B, and 214B-1 helicopters, certificated in all categories.

Compliance required as indicated.

To assure emergency exit latch pin engagement and to provide inspection holes for each exit retractable pin, accomplish the following:

(a) Within 100 hours' time in service after the effective date of this AD, accomplish the following one-time inspection and modification unless already accomplished.

(1) Inspect each exit internal and external handle cover installation and determine that NAS 43DD3-8 spacers, .12 inches long, are installed as illustrated in Bell Helicoper Textron Service Bulletin Nos. 204-77-2, 214-77-1, 212-77-11, or 205-77-9 or any revisions thereof.

(2) Add one-inch diameter inspection holes and provide a clear view of those holes through any interior lining in the right and left side passenger door assemblies in accordance with BHT Service Bulletin Nos. 205-77-6, 212-77-9, and 214-77-4 or later revision for the appropriate model helicopters.

For the Model 204B, locate the one-inch inspection hole center near the end of the fully-engaged latch pin, cut and debur the hole in the interior skin, and cut a one-inch hole in any interior lining, if installed.

(3) Label each of these inspection holes using stencils as noted in the service bulletins listed in paragraph (a)(2) of this AD; or use FAA approved equivalent placards, labels, or stencils located adjacent to each hole on the interior skin or lining, if installed.

(b) Within 100 hours' time in service after the effective date of this AD and thereafter at intervals not to exceed 300 hours' time in service from the last inspection, accomplish the following:

(1) Inspect the latch mechanism of each passenger exit and adjust as necessary to make each pin end flush with the exit frame edge, when the mechanism is in the fully unlatched position, as prescribed in Bell Helicopter Textron (BHT) Service Bulletin Nos. 205-76-12, 212-76-9, and 214-76-4 or later revision for the appropriate model helicopter. For the Model 204B, inspect and adjust the latch mechanism as noted but use appropriate procedures specified in Service Bulletin No. 205-76-12 or later revision.

(2) Inspect for and add as necessary a painted stripe around the cylinder part of each pin using white or other suitable color.

(c) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(d) The manufacturer's instructions identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Service Manager, Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101. These documents may also be examined at the Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas, and at FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C., and at the Southwest Regional Office in Fort Worth, Texas.

This amendment becomes effective August 19, 1977.

(Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); Section 6(c) Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Texas, on August 5, 1977.

HENRY L. NEWMAN,
Director, Southwest Region.

(The incorporation by reference provisions in this document was approved by the Director of the Federal Register on June 19, 1967.)

[FR Doc.77-23727 Filed 8-17-77;8:45 am]

[Docket No. 77-EA-16, Amdt. 39-3017]

PART 39—AIRWORTHINESS DIRECTIVES

Bendix

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) applies to the D-2000 and D-2200 series Bendix magnetos and corrects problems which have been causing magneto failure. The problem areas are rotor housing interference, overheated rotor bearings, capacitator failure and coil retaining screw loss.

EFFECTIVE DATE: August 23, 1977.

ADDRESSES: Bendix Service Bulletins may be acquired from the manufacturer at the Electrical Components Divsion, Sidney, New York 13838.

FOR FURTHER INFORMATION CONTACT:

A. T. Farrar, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2894.

SUPPLEMENTARY INFORMATION: Malfunction and defect reports have indicated magneto rotor housing interference which can cause rotor seizure; overheated rotor bearings, which can cause loss of both sets of points; capacitor terminal joint deterioration or capacitor internal failure which can cause loss of the related points; and hexagonal head coil screws backing out into the magneto causing loss of the magnetos. These problems can cause total or partial loss of the ignition system and thus engine stoppage. The rule will require an inspection and repair or alteration where necessary. In view of the effect on air safety, notice or public procedure hereon are impractical and good cause exists for making the rule effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are A. T. Farrar, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding a new airworthiness directive, as follows:

Applies to Bendix D-2000 and D-2200 series magnetos unless previously accomplished.

To preclude the loss of ignition, accomplish the following within the time specified below or 180 days after effective date of the A.D., whichever occurs first.

(a) *Rotor-Housing Interference.* Within the next 10 hours in service, for any of the following listed serial numbered magnetos having less than 50 hours total time in service on the effective date of this A.D., accomplish the, "Detailed Instructions," in Service Bulletin No. 590, or an approved equivalent.

(1) Red nameplate magnetos exhibiting 4 Hex. head socket cap screws as shown in Service Bulletin Figure 1, having S/N 5145 through 8200, not prefixed by the letters "A" nor "R".

(2) Blue nameplate magnetos exhibiting 4 Hex. head socket cap screws as shown in Service Bulletin Figure 1, having S/N 701001 or below, not prefixed by the letters "A" nor "R".

(b) *Rear Bearing Overheating.* Within the next 10 hours in service, for any of the following listed serial numbered magnetos having more than 100 hours in service, accomplish the "Detailed Instructions," in Part I or II and "Identification", Part I or II of Service Bulletin No. 589 or an approved equivalent.

(1) Red nameplate magnetos, S/N 2750 through 6600, not prefixed by the Letter "A".

(2) Blue nameplate magnetos, S/N 701001 and below, not prefixed by the Letter "A".

(3) If compliance by Part I is elected, compliance must be repeated every 1000 hours in service, until Part II is accomplished.

(c) *Capacitor Malfunction.* Within the next 25 hours in service for red nameplate magnetos below S/N 11744, accomplish Parts I and II of Service Bulletin No. 587 or an approved equivalent unless the stamped Letter "S" appears on the nameplate in or near the lower right corner. On 4 cylinder versions, S/N 8618 thru 9823 and on 6 cylinder versions, S/N 7544 through 9823, also accomplish Part III.

(d) *Coil Retainer Plug Migration.* Within the next 25 hours in service, for red nameplate magnetos below S/Nos. 4400, accomplish the instructions of Part I "Detailed Coil Screw Check Procedure," Item Numbers 1, 2 and 3 of Service Bulletin No. 584, or an approved equivalent.

(e) Equivalent inspections and procedures must be approved by the Chief of the Engineering & Manufacturing Branch, AEA-210, FAA, Eastern Region.

(f) As permitted by FARs 21.197 and 21.199, aircraft may be flown to a base where maintenance required by this Airworthiness Directive can be accomplished.

Effective date. This amendment is effective August 23, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of a Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, New York, on August 9, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77-23879 Filed 8-17-77;8:45 am]

[Docket No. 77-WE-19-AD; Amdt. 39-3015]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas DC-10-10, -10F, -30, -30F and -40 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) to require modification of certain early pitch guidance control panels on DC-10 airplanes. A failure in the electronic circuitry of the panel may result in inadvertent engagement of the autopilot actuators. Control surface movement, similar to a pitch and roll axis hardover, results. The pilot is required to overpower the autopilot forces while searching for the offending power source. The AD is intended to prevent the failure.

DATES: Effective—August 22, 1977. Initial compliance—Within 300 additional hours flight time, or thirty days from the effective date of this AD, whichever occurs earlier.

ADDRESSES: The applicable Douglas service bulletin may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846. Attention: L. A. Eisenberg, CI-750, 54-60.

The applicable Bendix service bulletin may be obtained from: The Bendix Corporation, Flight Systems Division, Teterboro, New Jersey, 07608.

A copy of the service bulletins for this amendment are contained in the Rules Docket in room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California, 90009. Telephone: 213-536-6351.

SUPPLEMENTARY INFORMATION: The FAA has learned of a service incident in which the DC-10 autopilot became inadvertently engaged shortly after takeoff with both autopilot switches "OFF." Investigation by the manufacturer revealed that this condition could be caused by a 28-volt direct current short-to-ground wire in either autopilot engage switch circuit.

McDonnell Douglas Alert Service Bulletin A22-96 was issued to correct this situation by modification or replacement of the pitch guidance control panels.

Since this condition is likely to occur in any DC-10 with a -5 or earlier pitch guidance control panel, corrective action is necessary to significantly reduce the probability of inadvertent 28-volt line fault to an actuator line.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in 30 days or less.

DRAFTING INFORMATION

The principal authors of this document are Herbert G. Peters, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

MCDONNELL DOUGLAS: Applies to DC-10-10, -10F, -30, -30F, and -40 series airplanes, certificated in all categories.

Compliance required as indicated.

To reduce the probability and severity of an inadvertent engagement of the autopilot actuators, accomplish the following:

a. Within 300 additional hours flight time, or thirty days from the effective date of this AD, whichever occurs earlier, unless already accomplished, modify the -5 or earlier pitch guidance control panels, P/N's 3759027, 3759028, 3759029 or 3759050, in accordance with McDonnell Douglas Alert Service Bulletin A22-96, Revision 1, dated July 8, 1977, or later FAA approved revisions. For panel modification and testing, the Douglas Alert Service Bulletin A22-96 refers the modifier to Bendix Alert Service Bulletins A3759027-5-SB7, A3759028-5-SB-7, A3759029-5-SB7 and A3759050-5-SB5 which are embodied into one document dated June 3, 1977. Approval of the Bendix Service Bulletins is delegated to the Bendix Corporation by the FAA via the TSO system. Approval for incorporation into the DC-10 is via the Douglas Alert Service Bulletin A22-96. For this AD, revisions to the Bendix Bulletins referred to herein must be approved by revisions of Douglas Service Bulletin A22-96.

b. Production equivalents or equivalent modifications may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

c. Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to operate airplanes to a base for accomplishment of the modification required by this AD.

This amendment becomes effective August 22, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Los Angeles, Calif., on August 8, 1977.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.77-23878 Filed 8-17-77;8:45 am]

[Airspace Docket No. 77-GL-08]

PART 71—DESIGNATION OF FEDERAL AIRWAYS AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Mineral Point, Wisconsin, to accommodate a new (NDB Rwy 22) instrument approach procedure into the Iowa County Airport.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Doyle Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircraft operating under visual conditions. The floor of the controlled airspace in this area will be lowered from 1,200' above ground to 700' above ground. The circumstance which created this action was a request from the Iowa County Airport to provide that facility with instrument approach capability. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

DRAFTING INFORMATION

The principal authors of this document are Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, and Joseph T. Brennan, Office of the Regional Counsel.

DISCUSSION OF COMMENTS

On page 30213 of the FEDERAL REGISTER dated June 13, 1977, the Federal Aviation

V 42 160 AUG 18 77 UM

Administration published a notice of proposed rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Mineral Point, Wisconsin. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective October 6, 1977, as follows:

In § 71.181 (42 FR 440), the following transition area is added:

MINERAL POINT, WISCONSIN

That airspace extending upward from 700' above the surface within a 5 statute-mile radius of the Iowa County Airport, Mineral Point, Wisconsin (latitude 42°53'12" N., longitude 90°13'52" W.) and within 3 statute miles either side of the 030° bearing from the Mineral Point RBN, extending from the 5-mile radius area to 8.5 statute miles northeast of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); § 11.81 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill., on August 8, 1977.

JOHN M. CYROCKI,
Director,
Great Lakes Region.

[FR Doc.77-23881 Filed 8-17-77;8:45 am]

[Airspace Docket No. 77-GL-19]

PART 71—DESIGNATION OF FEDERAL AIRWAYS AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate a transition area at Aitkin, Minnesota, to provide controlled airspace for aircraft executing instrument approach procedures to Aitkin Municipal Airport which are based on a Non-Directional Radio Beacon (NDB) navigational aid being installed at the airport.

EFFECTIVE DATE: October 6, 1977 .

FOR FURTHER INFORMATION CONTACT:

Doyle Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircraft operating under visual conditions. The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The circumstance which created this action was a request from the Aitkin Muncipial Airport to provide that facility with instrument approach capability. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

DRAFTING INFORMATION

The principal authors of this document are Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, and Joseph T. Brennan, Office of the Regional Counsel.

DISCUSSION OF COMMENTS

On page 30641 of the FEDERAL REGISTER dated June 16, 1977, the Federal Aviation Administration published a notice of proposed rulemaking which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Aitkin, Minnesota. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective October 6, 1977, as follows:

In § 71.181 (42 FR 440), the following transition area is added:

AITKIN, MINNESOTA

That airspace extending upward from 700 feet above the surface within a five (statute) mile radius of the Aitkin Municipal Airport (latitude 46°32'45" N, longitude 93°40'45" W) and within 3 miles (statute) each side of the 355° (true) bearing of the Aitkin NDB, extending from the five-mile radius to 8.5 miles (statute) north of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.81 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill., on August 8, 1977.

JOHN M. CYROCKI,
Director,
Great Lakes Region.

[FR Doc.77-23882 Filed 8-17-77;8:45 am]

[Airspace Docket No. 77-GL-20]

PART 71—DESIGNATION OF FEDERAL AIRWAYS AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to realign and redesignate the existing transition area and control zone at K. I. Sawyer Air Force Base, Michigan, to provide for adjustment of the controlled airspace to accommodate aircraft executing instrument approach procedures to K. I. Sawyer Air Force Base which approach procedures have been altered by the Air Force.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Doyle Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to realign and redesignate the control zone and transition area to insure segregation of aircraft using the various instrument approach procedures into K. I. Sawyer AFB in instrument weather conditions and other aircraft operating under visual conditions. The circumstance which created this action was an alteration by the Air Force of various instrument approach procedures at K. I. Sawyer AFB. These procedural changes will require the FAA to reorient the control zone extensions approximately one-half mile counter-clockwise and will allow for the return of approximately eight miles of 700' above the surface transition area to the south of the Air Force Base to the public for general aviation use. In addition, aeronautical maps and charts will reflect the revised area which will enable non-military aircraft to circumnavigate the area if required in order to comply with applicable visual flight rule requirements.

DRAFTING INFORMATION

The principal authors of this document are Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, and Joseph T. Brennan, Office of the Regional Counsel.

DISCUSSION OF COMMENTS

On page 30639 of the FEDERAL REGISTER dated June 16, 1977, the Federal Aviation Administration published a notice of proposed rulemaking which would amend §§ 71.181 and 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at K.I. Sawyer AFB, Michigan. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective October 6, 1977, as follows:

In § 71.181 (42 FR 440) the following transition area is amended to read:

K.I. SAWYER AFB, MICHIGAN

That airspace extending upward from 700' above the surface within an 8.5 statute (7.1 nautical) mile radius of the K.I. Sawyer Airport.

In § 71.171 (42 FR 355), the following control zone is amended to read:

K.I. SAWYER AFB, MICHIGAN

Within a 5 statute mile radius of the K.I. Sawyer Airport (latitude 46°21' N, longitude 87°24' W); within two statute miles each side of the extended center line of runway 01/19, extending from the 5-mile radius zone to 7.5 statute miles north and south of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.81 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill., on August 8, 1977.

JOHN M. CYROCKI,
Director,
Great Lakes Region.

[FR Doc.77-23883 Filed 8-17-77;8:45 am]

[Airspace Docket No. 77-GL-21]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate a transition area at Peebles, Ohio, to provide controlled airspace for aircraft executing instrument approach procedures to the General Electric Airport which are based on a Non-Directional Radio Beacon (NDB) navigational aid being installed at the airport.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Doyle Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircraft operating under visual conditions. The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The circumstance which created this action was a request from the General Electric Airport officials to provide that facility with instrument approach capability. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

DRAFTING INFORMATION

The principal authors of this document are Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, and Joseph T. Brennan, Office of the Regional Counsel.

DISCUSSION OF COMMENTS

On page 30642 of the FEDERAL REGISTER dated June 16, 1977, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Peebles, Ohio. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective October 6, 1977, as follows:

In § 71.181 (42 FR 440), the following transition area is added:

PEEBLES, OHIO

That airspace extending upward from 700 feet above the surface within a seven nautical mile radius of the Center (latitude 38°55'18" N, longitude 83°10'37" W) of General Electric Airport, Peebles, Ohio; excluding that portion which overlies the Salamon, Ohio, transition area.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.81 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill., on August 8, 1977.

JOHN M. CYROCKI,
Director, Great Lakes Region.

[FR Doc.77-23877 Filed 8-17-77;8:45 am]

[Docket No. 17126; Amdt. No. 1086]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed weekly, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The cur-

V42160 AUG 18 77 UM

rent annual subscription price is $150.00; add $30.00 for each additional copy mailed to the same address.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 9) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * Effective October 6, 1977.

Montague, CA—Siskiyou County, VOR-B, Amdt. 1.
Bogalusa, LA—Geo. R. Carr Memorial Air Field, VOR/DME-A, Original.
Petersburg, MI—Lada, VOR-A, Original.
Columbus, NE—Columbus Muni., VOR Rwy 14, Amdt. 9.
Columbus, NE—Columbus Muni., VOR Rwy 32, Amdt. 9.
Mt Olive, NC—Mt Olive Muni., VOR-A, Orig.
Block Island, RI—Block Island State, VOR-A, Amdt. 2.
Galveston, TX—Scholes Field, VOR Rwy 13 (TAC), Amdt. 12
Houston, TX—Lakeside, VOR-A, Amdt. 2.
Houston, TX—William P. Hobby, VOR Rwy 13, (TAC), Amdt. 9.
Houston, TX—William P. Hobby, VOR/DME Rwy 4 (TAC), Amdt. 11.
Houston, TX—William P. Hobby, VOR/DME Rwy 22 (TAC), Amdt. 16.
Houston, TX—William P. Hobby, VOR/DME Rwy 31 (TAC), Amdt. 6.
La Porte, TX—La Porte Municipal, VOR-A (TAC), Amdt. 7.
Pulaski, WI—Carter, VOR-A, Original.

* * * Effective September 22, 1977.

Hickory, NC—Hickory Muni., VOR Rwy 24, Amdt. 19.

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * Effective October 6, 1977.

Columbus, NE—Columbus Muni., LOC Rwy 14, Amdt. 1.
Indiana, PA—Indiana County Jimmy Stewart Field, LOC Rwy 28, Original, cancelled.
Indiana, PA—Indiana County Jimmy Stewart Field, LOC-B, Original.
Houston, TX—William P. Hobby, LOC (BC) Rwy 22, Amdt. 16.

* * * Effective September 22, 1977.

Hickory, NC—Hickory Muni., LOC Rwy 24, Amdt. 1, cancelled.

* * * Effective August 25, 1977.

Los Angeles, CA—Los Angeles Int'l, LOC (BC) Rwy 6R, Amdt. 2, cancelled.

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * Effective October 6, 1977.

Montague, CA—Siskiyou County, NDB-A, Amdt. 3.
Birmingham, MI—Grand Prix, NDB-A, Amdt. 3, cancelled.
Troy, MI—Troy Executive, NDB-A, Orig.
Mountain View, MO—Mills Memorial, NDB Rwy 27, Original.
Columbus, NE—Columbus Muni., NDB Rwy 14, Amdt. 8.
Indiana, PA—Indiana County Jimmy Stewart Field, NDB-A, Amdt. 3.
Selmer, TN—Robert Sibley, NDB Rwy 16, Amdt. 1.
Trenton, TN—Gibson County Airport, NDB Rwy 19, Amdt. 1.
Baytown, TX—Humphrey, NDB Rwy 31, Amdt. 2.
Houston, TX—Andrau Airpark, NDB Rwy 16, Amdt. 12.
Houston, TX—Hull Field, NDB Rwy 17, Amdt. 3.
Houston, TX—William P. Hobby, NDB Rwy 4, Amdt. 28.

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

* * * Effective October 6, 1977.

Galveston, TX—Scholes Field, ILS Rwy 13, Amdt. 1.
Houston, TX—Houston Intercontinental, ILS Rwy 26, Amdt. 2.
Houston, TX—William P. Hobby, ILS Rwy 4, Amdt. 29.
Houston, TX—William P. Hobby, ILS Rwy 13, Amdt. 1.
Charlotte Amalie, St. Thomas, V.I.—Harry S. Truman, ILS Rwy 9, Amdt. 1.

* * * Effective September 22, 1977.

Hickory, NC—Hickory Muni., ILS Rwy 24, Orig.

* * * Effective August 25, 1977.

Los Angeles, CA—Los Angeles International, ILS Rwy 6L, Original.

5. By amending § 97.33 RNAV SIAPs identified as follows:

* * * Effective October 6, 1977.

Houston, TX—Houston Intercontinental, RNAV Rwy 14, Amdt. 3.
Houston, TX—Houston Intercontinental, RNAV Rwy 26, Amdt. 2.
Houston, TX—Houston Intercontinental, RNAV Rwy 32, Amdt. 3.

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354 (a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 25 FR 6489 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

NOTE: The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on August 12, 1977.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

(The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.)

[FR Doc.77-23722 Filed 8-17-77;8:45 am]

CHAPTER V—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

Subpart 14—Use of NASA Airfield Facilities by Aircraft Not Operated for the Benefit of the Federal Government

AGENCY: National Aeronautics and Space Administration.

ACTION: Final Rule.

SUMMARY: This rule sets forth the procedures and requirements for the use of NASA airfield facilities by aircraft not operated for the benefit of the Federal Government. These procedures and regulations are needed to provide for the orderly and controlled use of NASA research facilities that have limited availability for aircraft owned and operated by and for private citizens or companies.

EFFECTIVE DATE: August 18, 1977.

FOR FURTHER INFORMATION CONTACT:

R. W. Sommer, Director, NASA Aircraft Office, NASA Headquarters, Washington, D.C. 20546, 202-755-2664.

SUPPLEMENTARY INFORMATION: This rule will replace and update the existing published regulations and procedures for the Wallops Station Airstrip to reflect a change in the official name to Wallops Flight Center, hours of operation, and the facilities available. This rule also includes the addition of similar regulations and procedures for the Shuttle Landing Facility at the Kennedy Space Center in Florida.

These procedures and requirements involve the use of public property and will be applied in agreements entered into by NASA. However, the notice and public procedures of 5 U.S.C. 553 were not followed since these procedures and requirements are determined to be exempt under 5 U.S.C. 553(a)(2) "as a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts."

1. Subpart 1204.14 is revised to read as follows:

Subpart 1204.14—Use of NASA Airfield Facilities by Aircraft Not Operated for the Benefit of the Federal Government

Sec.
1204.1400 Scope.
1204.1401 Definitions.
1204.1402 Policy.
1204.1403 Available airport facilities.
1204.1404 Requests for use of NASA airfield facilities.
1204.1405 Approving authority.
1204.1406 Procedures in the event of a declared inflight emergency.
1204.1407 Procedure in the event of an unauthorized use.

AUTHORITY: 42 U.S.C. 2473(c)(1) and 49 U.S.C. 1507.

Subpart 1204.14—Use of NASA Airfield Facilities by Aircraft Not Operated for the Benefit of the Federal Government

§ 1204.1400 Scope.

This subpart establishes the responsibility and sets forth the conditions and procedures for the use of NASA airfield facilities by aircraft not operated for the benefit of the Federal Government.

§ 1204.1401 Definitions.

For the purpose of this Subpart 1204.14 the following definitions apply:

(a) *NASA airfield facility.* Those aeronautical facilities owned and operated by NASA that consist of the following:

(1) *Shuttle Landing Facility.* The aeronautical facility which is a part of the John F. Kennedy Space Center, Kennedy Space Center, Fla., and is located at 80°41' west longitude and 28°37' north latitude.

(2) *Wallops Airport.* The aeronautical facility which is part of the Wallops Flight Center, NASA, Wallops Island, Va., and is located at 75°28' west longitude and 37°56' north latitude in the general vicinity of Chincoteague, Virginia.

(b) *Aircraft not operated for the benefit of the Federal Government.* Aircraft which are not owned by the United States Government or aircraft carrying crew members or passengers who do not have official business requiring the use of a NASA airfield facility in the particular circumstances in question.

(c) *Official Business.* Business, in the interest of the U.S. Government, which personnel aboard an aircraft must transact with U.S. Government personnel or organizations at or near a NASA facility. The use of a NASA airfield facility by transient aircraft to petition for U.S. Government business or to obtain clearance, servicing, or other items pertaining to itinerant operations is not considered official business.

(d) *User.* An individual, partnership, or corporation owning, operating, or using an aircraft not operated for the benefit of the Federal Government in whose name permission to use a NASA airfield facility is to be requested and granted.

(e) *Hold Harmless Agreement.* An agreement executed by the user by which the user acknowledges his awareness of the conditions of the permission to use a NASA airfield facility, assumes any risks connected therewith, and releases the U.S. Government from all liability incurred by his use of such facility.

(f) *Use Permit.* The written permission signed by the authorized approving official to land, take off, and otherwise use a NASA airfield facility. Such use permit may be issued for single or multiple occasions. The specific terms of the use permit and the provisions of this Subpart govern the use which may be made of the airport by aircraft not operated for the benefit of the Federal Government.

(g) *Certificate of Insurance.* A certificate signed by an authorized insurance company representative (or a facsimile of an insurance policy) evidencing that insurance is then in force with respect to any aircraft not operated for the benefit of the Federal Government, the user of which is requesting permission to use a NASA airfield facility (see § 1204.1404 (b)).

§ 1204.1402 Policy.

(a) NASA is not engaged in a public or quasi-public enterprise; and, hence, any use of airfield facilities by aircraft not operated for the benefit of the Federal Government shall be within the sole discretion of the approving authorities.

(b) Except in the event of a declared in-flight emergency (see § 1204.1406) or for other compelling reasons as determined by an approving authority, aircraft not operated for the benefit of the Federal Government are not permitted to land or otherwise use NASA airfield facilities.

(c) Any use of a NASA airfield facility by aircraft not operated for the benefit of the Federal Government shall be gratuitous and no consideration (monetary or otherwise) shall be exacted or received by NASA for such use. However, each user, as a condition of receiving permission to use such airfield facility, shall agree to familiarize himself with the physical condition of the airfield; abide by the conditions placed upon such use; subject his aircraft, himself, and those accompanying him to any requirements imposed by NASA in the interest of security and safety while the aircraft or persons are on a NASA facility; use the facilities entirely at his own risk; hold the Federal Government harmless with respect to any and all liabilities which may arise as a result of his use of the facilities; and carry insurance in an amount which is deemed adequate by NASA.

(d) Permission to use a NASA airfield facility will be granted only when there are compelling reasons for such use as determined by an approving authority and then only when such use will not compete with another airport in the vicinity which imposes landing fees or other user charges.

(e) In no event (except an in-flight emergency—see § 1204.1406) will permission to use NASA airfield facilities be granted to an aircraft arriving directly from, or destined for, any location outside the continental United States.

(f) Permission to use NASA airfields may be granted only to those users having the legal capacity to contract and whose aircraft are in full compliance with applicable Federal Aviation Administration or other cognizant regulatory agency requirements.

(g) Permission to use NASA airfields, except in connection with a declared in-flight emergency, will consist only of the right to land, park an aircraft, and subsequently take off. NASA is not equipped to provide any other services such as maintenance or fuel and such services will not be provided except following an in-flight emergency.

§ 1204.1403 Available airport facilities.

The facilities available vary at each NASA installation having an airfield. The airport facilities available are:

(a) *Shuttle Landing Facility*—(1) *Runways.* Runway 15-33 is 15,000 feet long and 300 feet wide with 1,000-foot overruns. The runway is grooved for improved braking under wet conditions.

(2) *Parking Area and Hangar Space.* No hangar space is available. Very limited concrete parking ramp space may be made available for short periods.

(3) *Control Tower.* There is no permanent control tower at the Shuttle Landing Facility; however, a temporary tower is planned to be operational at selected times. The FAA has reserved frequencies 126.3 and 296.8 MHz for that purpose. When the tower is in operation, FAA regulations pertaining to the operation of aircraft at airports with an operating control tower (§ 91.87 of this title) will apply. When the tower is not in operation, the FAA regulations pertain-

V 42 160 AUG 18 77 UM V

ing to the operation of aircraft at airports without an operating control tower (§ 91.89 of this title) will apply.

(4) *Navigation aids.* There are no radio navigation aids. Runway approach lighting (similar to Cat II ALSF-2), center-line lights, edge lights and touchdown zone lights are available by prior arrangement.

(5) *Hazards.* There are towers and buildings south and southeast of the facility that could pose hazards to air navigation. All are marked with obstruction lights.

(6) *Emergency Equipment.* Fire, crash and rescue equipment is available at Kennedy Space Center 24 hours per day, but will not be available at the runway except by prior arrangement.

(b) *Wallops Airport*—(1) *Runways.* There are three hard surfaced runways in satisfactory condition. The runways and taxiways are concrete and/or asphalt. Runway 10–28 is 8,000 feet long, 200 feet wide with maximum wheel load of 57,500 pounds; Runway 04–22 is 8,750 feet long, 150 feet wide with maximum wheel load of 57,500 pounds; and Runway 17–35 is 4,820 feet long, 150 feet wide with maximum wheel load of 14,700 pounds.

(2) *Parking Areas and Hangar Space.* No hangar space is available. However, concrete parking ramp space is available as directed by Tower.

(3) *Control Tower.* The control tower is normally manned from 0730–1730 local time, Monday through Friday *only*, legal holidays excluded. When the tower is manned and in operation at airports with operating control towers, § 91.87 of this title will apply. The tower may be contacted on 394.3 MHz or 126.5 MHz. At all times when the tower is not manned, FAA rules pertaining to the operation at airports without control towers (§ 91.89 of this title) will apply.

(4) *Navigation Aids.* Runway and taxiway lights on runway and taxiway 04–22 and 10–28 only. Specific request must be made of the control tower or Salisbury Flight Service Station to have these lights turned on. Lighted red obstruction lights on all airfield obstructions.

(5) *Physical Hazards.* Numerous towers in airport vicinity up to 241 feet above ground level.

(6) *Emergency Equipment.* Crash and fire equipment normally on duty from 0730–1730 local time, Monday through Friday only, legal holidays excluded.

(c) *Other Facilities.* No facilities or services other than those described above are available except on an individual emergency basis to any user.

(d) *Status of Facilities.* Change to the status of the above facilities will be published in the appropriate current aeronautical publications.

§ 1204.1404 Requests for use of NASA airfield facilities.

(a) Request for use of a NASA airfield, whether on a one-time or recurring basis, must be in writing and addressed to the appropriate airfield manager, namely:

(1) Shuttle Landing Facility—Manager, Shuttle Landing Facility, Director of Technical Support, John F. Kennedy Space Center, Kennedy Space Center, Florida 32899.

(2) Wallops Airport—Airport Manager, Wallops Flight Center, NASA, Wallops Island, Va. 23337.

(b) Such requests will: (1) Identify the prospective user and aircraft fully, including number of passengers and cargo on board,

(2) State the purpose of the proposed use and the reason why the use of the NASA airfield is proposed rather than a commercial airport,

(3) Indicate the number and approximate date(s) and time(s) of such proposed use, and

(4) State that the prospective user is familiar with the provisions of this Subpart 1204.14 and is prepared to fully comply with its terms and the use permit which may be issued.

(c) Upon receipt of the written request for permission to use the airport, the airfield manager will request additional information, if necessary, and forward the required Hold Harmless Agreement for execution by the requestor or forward, where appropriate, a denial of the request.

(d) The signed original of the Hold Harmless Agreement shall be returned to the airfield manager, and a copy retained in the aircraft at all times. Such copy shall be exhibited upon proper demand by any NASA official.

(e) At the same time that the prospective user returns the executed original of the Hold Harmless Agreement, he shall forward to the airfield manager the required Certificate of Insurance and waiver of rights to subrogation. Such certificate shall evidence that, during any period for which a permit to use is being requested, the prospective user has in force a policy of insurance covering liability to others in amounts not less than those listed in the Hold Harmless Agreement.

(f) When the documents (in form and substance) required by paragraphs (b) through (e) of this section have been received, they will be forwarded with a proposed use permit to the approving authority for action.

(g) The airfield manager will forward the executed use permit or notification of denial thereof to the prospective user after the approving authority has acted.

§ 1204.1405 Approving authority.

The authority to approve or disapprove the use of the NASA airfield facilities subject to the terms and conditions of this Subpart 1204.14 is vested in:

(a) Shuttle Landing Facility—Director of Technical Support, Kennedy Space Center, NASA.

(b) Wallops Airport—Director, Wallops Flight Center, NASA.

§ 1204.1406 Procedures in the event of a declared in-flight emergency.

(a) Any aircraft involved in a declared in-flight emergency that endangers the safety of its passengers and aircraft may land at a NASA airfield. In such situations, the requirements of this Subpart 1204.14 for advance authorizations, etc., do not apply.

(b) NASA personnel may use any method or means to clear the aircraft or wreckage from the runway after a landing following an in-flight emergency. Care will be taken to preclude unnecessary damage in so doing. However, the runway will be cleared as soon as possible for appropriate use.

(c) The emergency user will be billed for all costs to the Government that result from the emergency landing. No landing fee will be charged, but the charges will include the labor, materials, parts, use of equipment, tools, etc., required for any service rendered under these circumstances.

(d) In addition to any report required by the Federal Aviation Administration, a complete report covering the landing and the emergency will be filed with the airfield manager by the pilot or, if he is not available, any other crew member or passenger.

(e) Before an aircraft which has made an emergency landing is permitted to take off (if the aircraft can and is to be flown out) the owner or operator thereof shall make arrangements acceptable to the approving authority to pay any charges assessed for services rendered and execute a Hold Harmless Agreement. He may also be required to furnish a certificate of insurance, as provided in § 1204.1404, covering such take off.

§ 1204.1407 Procedure in the event of an unauthorized use.

Any aircraft not operated for the benefit of the Federal Government which lands at a NASA airfield facility without obtaining prior permission from the approving authority, except in a bona fide emergency, is in violation of this Subpart 1204.14. Such aircraft will experience delays while authorization for departure is obtained pursuant to this Subpart 1204.14 and may, contrary to the other provisions of this Subpart 1204.14, be required, in the discretion of the approving authority, to pay a user fee of not less than $100. Before the aircraft is permitted to depart, the approving authority will require full compliance with this Subpart 1204.14, including the filing of a complete report explaining the reasons for the unauthorized landing. When it appears that the violation of this Subpart 1204.14 was deliberate or is a repeated violation, the matter will be referred to NASA Headquarters, which will then grant any departure authorization.

RAYMOND A. KLINE,
Acting Associate Administrator for Center Operations.

[FR Doc.77-23866 Filed 8-17-77;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 77-203]

PART 159—LIQUIDATION OF DUTIES

Certain Handbags From Republic of China

AGENCY: United States Treasury Department.

ACTION: Modification of Final Countervailing Duty Order.

SUMMARY: This notice is to advise the public that the Treasury Department is revoking its order to impose countervailing duties on all entries for consumption or withdrawals from warehouse for consumption of handbags manufactured by Yashiro Wang Fuchi Company, Ltd., and Champion Industries, Ltd. (T.D. 77-151). It has been determined that these two firms do not receive benefits upon the manufacture, production or exportation of handbags from the Government of the Republic of China which are considered to be bounties or grants within the meaning of the U.S. Countervailing Duty Law.

EFFECTIVE DATE: August 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Donald W. Eiss, Office of Tariff Affairs, U.S. Treasury Department, 15th Street and Pennsylvania Avenue NW., Washington, D.C. 20220, 202-566-8256.

SUPPLEMENTARY INFORMATION: On June 3, 1977, Treasury Decision 77-151 was published in the FEDERAL REGISTER (42 FR 28531). In its decision, the Treasury Department found that the Taiwanese handbag industry had received de minimis aggregate benefits from the Government of the Republic of China but that three Taiwanese firms had received benefits considered to be bounties or grants within the meaning of the Countervailing Duty Law. The three firms, Yashiro Wang Fuchi Company, Ltd., International Handbags Industrial Company, Ltd., and Champion Industries, Ltd., were assessed countervailing duties of 0.8 percent, 2.0 percent and 2.0 percent respectively.

Additional information has now been received with respect to Yashiro Wang Fuchi Company, Ltd. (Yashiro) and Champion Industries, Ltd. (Champion Industries).

In the original investigation, it was found that Yashiro, which represented 5.5 percent of total Taiwanese handbag exports, received benefits under a tax holiday benefit program and through preferential export loan financing. It has been discovered that the termination date for the company's eligibility to receive tax holiday benefits was erroneously reported as August 4, 1977 when in fact the firm's eligibility ended on August 4, 1976. The only benefits this firm is now receiving are through the preferential export financing program which conferred a 0.35 percent ad valorem benefit during 1976. This remaining benefit is considered de minimis.

During the original investigation, it was found that Champion Industries received benefits under the tax holiday program but the Taiwanese submitted no information with respect to the actual benefits this company had received. A countervailing duty of 2.0 percent was chosen in that it represented the highest ad valorem benefit received by any Taiwanese firm. Information has now been supplied which shows that Champion no longer receives benefits under this program.

For the reasons stated above, it is hereby determined that no bounty or grant is being, or has been, paid or bestowed directly or indirectly, upon the manufacture, production or exportation of handbags from Taiwan produced by Yashiro Wang Fuchi Company, Ltd., and Champion Industries, Ltd. within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303), and T.D. 77-151 is hereby amended so as to exclude handbags from Taiwan produced by these two firms. No countervailing dutes will be collected upon the liquidation of entries of the subject merchandise manufactured by these two firms for consumption or withdrawal from warehouse for consumption for the period June 3, 1977 through August 18, 1977.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by deleting in the last entry for the Republic of China under the column headed "Commodity," which now reads "handbags exported by Yashiro Wang Fuchi Company, Ltd., International Handbag Industrial Company, Ltd., and/or Champion Industries, Ltd.," the words "Yashiro Wang Fuchi Company, Ltd. and/or Champion Industries, Ltd."; inserting in the column headed "Treasury Decision" the number of this Treasury Decision; and inserting the words "Bounty declared rate; Modified as to handbags manufactured by Yashiro Wang Fuchi Company, Ltd. and Champion Industries, Ltd." in the column headed "Action." (R.S. 251, sections 303, as amended 624; 46 Stat. 687, as amended, 759, 88 Stat. 2050; 19 U.S.C. 66, 1303, 1624).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 Revision 13, May 17, 1977, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47(d) of the Customs Regulations (19 CFR 159.47(d)), insofar as they pertain to the issuance of a countervailing duty order by the Commissioner of Customs, are hereby waived.

Dated: August 12, 1977.

HENRY C. STOCKELL, JR.,
Acting General Counsel of the Treasury.

[FR Doc.77-23908 Filed 8-17-77;8:45 am]

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

SUBCHAPTER M—INTERNATIONAL TRAFFIC IN ARMS

[Departmental Reg. 108.743]

PART 123—LICENSES FOR UNCLASSIFIED ARMS, AMMUNITION, AND IMPLEMENTS OF WAR

PART 124—MANUFACTURING LICENSE AND TECHNICAL ASSISTANCE AGREEMENTS

Approval of Major Sales Proposals

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This action amends the International Traffic in Arms Regulations to establish procedures that will enhance the Secretary of State's ability to control the sale and export of defense articles and services from the United States. Specifically, these amendments seek to ensure that the Department of State is given an opportunity to advise U.S. firms whether their efforts to sell significant combat equipment (in contracts of $7,000,000 or more), or to sell a manufacturing capability for such equipment, would be consistent with the national security and foreign policy of the United States. Existing regulations provide such an opportunity only when the sales effort itself involves the export of items on the United States Munitions List or related technical data. These amendments would require Department of State approval even in the absence of such exports at the time of the sales promotion effort.

EFFECTIVE DATE: This regulation shall apply to presentations and proposals made on or after September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

William Robinson, Office of Munitions Control, Department of State, Washington, D.C. 20520. Phone 202-235-9755.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of June 3, 1977, page 28551, the Department of State proposed amendments to Parts 123 and 124 of 22 CFR. Based on written comments received from the public and oral comments conveyed to the State Department at the public meeting on July 7, 1977, the Department has adopted the proposed amendments to the International Traffic in Arms Regulations with certain changes.

The amendment to Part 123 provides that the Department of State's approval is required before a proposal or presentation is made which is designed to constitute a basis for decision to purchase significant combat equipment valued at $7,000,000 or more for use by the armed forces of a foreign country. This approval would be required in any case where the proposed sale of significant combat equipment would involve the export from the United States of an item on the United States Munitions List or technical data relating to such an item.

A proposal, or presentation designed to constitute a basis for a decision to purchase is described as the communication of information in sufficient detail that the person communicating that information knew or should have known that it would permit an intended purchaser to decide to acquire the particular significant combat equipment in question. Examples are given of types of activity that would or would not meet this test. The language of the regulation has been made more specific in this regard than the proposal of June 3.

An application for an export license to implement a sales contract which meets the criteria established for the prior approval requirement must either cite a prior specific approval of the

V42160 AUG 18 77 UMI

transaction or certify that no proposal or presentation requiring prior approval has been made. The prior approval requirement of the regulation is satisfied by any of the following: (1) a written statement approving the proposed sale or approving the making of a proposal or presentation; (2) a license for the export of technical data to the country concerned; or (3) a temporary export license to the country concerned for a demonstration to the armed forces of the country of export.

The amendment to Part 124 prescribes similar prior approval requirements with respect to proposals and presentations for technical assistance and manufacturing license agreements involving the production or assembly of significant combat equipment.

The Department of State received approximately 25 written and oral comments on the proposed resolution. The following points out how they were incorporated into the final regulation or why they were not.

A number of comments focused attention on the point at which prior approval is required. With a view toward clarifying the regulation in this regard, the Department of State changed "any proposal, recommendation or presentation designed to induce a decision to purchase," to "any proposal or presentation designed to constitute a basis for a decision to purchase."

In consonance with this change the definition in § 123.16(b) of "a proposal or presentation designed to constitute a basis for a decision to purchase" has been amended. It now encompasses "the communication of information in sufficient detail that the person communicating that information knew or should have known that it would permit an intended purchaser to decide to acquire the particular significant combat equipment in question."

Finally, in this area, considerable comment suggested that the last sentence of § 123.16(b) be broadened to include other business activity. In response the State Department has added to that sentence all reporting in a publication of general circulation.

The second area of general concern was the presumption created by § 123.16 (c) which could be overcome by a certification that the company made no proposal or presentation for which prior approval is required under the regulation. In response to the generally unfavorable replies to the creation of such a presumption, the Department of State has deleted § 123.16(c) of the proposed rule and added a new subsection (c). This subsection requires that every application for an export license which meets the criteria of paragraph (a) must be accompanied by either evidence of a prior approval of the transaction or a certification that no proposal or presentation requiring prior approval has been made. The second part of this subsection permits the Department of State to require a similar statement from a Foreign Military Sales (FMS) contractor when a letter of offer for a sale meets the three criteria specified in subsection (a).

The comments also reflected a misunderstanding of what approval satisfied the regulation. Accordingly, a new subsection (d) was added in order to explicitly enumerate the alternative means of meeting the prior approval requirement of this section. These means are State Department approval of the proposed sale, the making of a proposal or presentation, a technical data license, or a temporary export license to the country concerned for demonstration to the armed forces of the country of export.

Section 123.16(d) of the proposed regulation remains unchanged and becomes § 123.16(e).

Public reaction to § 124.06 focused on the scope of the regulation which many considered too broad. In an effort to satisfy these concerns, the State Department has deleted technical assistance and manufacturing license agreements for the maintenance of significant combat equipment from the purview of the regulation. Therefore, the final regulation only applies to technical assistance and manufacturing license agreements for the production or assembly of significant combat equipment on the United States Munitions List. The other changes in § 124.06 merely reflect those made in § 123.16.

Other responses suggested that in view of President Carter's new arms sales policy, proposed sales to NATO, Japan, Australia and New Zealand should be exempt from the new regulation. The President's arms sales policy, however, only exempted these countries from the mandatory application of the specific limitations which he described in his statement of May 19, 1977. This exemption does not imply that arms transfers to the countries concerned are free of all controls. Therefore, this suggestion was not incorporated into the final rule.

Some respondents urged the State Department to adopt a mandatory response time during which the Department must review the sales proposals submitted to it. The State Department understands the public's concern in this area and will attempt to develop internal procedures to facilitate rapid responses.

A number of responses suggested raising the threshold in § 123.16(a)(1) above the $7,000,000 in the proposed regulation. Since the $7,000,000 figure allows the regulation to apply to all major sales and is derived from the Arms Export Control Act the State Department has retained that figure.

Other comments expressed concern over the protection of proprietary information submitted to Munitions Control in compliance with the regulation. In terms of its protection, information submitted pursuant to this regulation and that submitted for a normal export license pose the same problem. Accordingly, the State Department believes that a separate provision in this paragraph governing the protection of proprietary information is not necessary. In this regard, it should be noted that the State Department is considering an amendment applicable to the entire International Traffic in Arms Regulations addressing the question of the protection of proprietary information. It is the policy of the State Department to protect the confidentiality of proprietary information furnished to it under the International Traffic in Arms Regulations.

Finally, questions have arisen concerning the effective date of the regulation. The regulation shall be effective as of September 1, 1977 and shall apply to presentations and proposals that are made on or after that date.

In consideration of the foregoing 22 CFR Subchapter M (Parts 123 and 124) is amended as follows:

1. Part 123 is amended by adding a new § 123.16 to read as follows:

§ 123.16 Approval of proposals to sell significant combat equipment.

(a) The approval of the Department of State is required as a condition precedent to any proposal or presentation designed to constitute a basis for a decision to purchase, either through commercial or Foreign Military Sales procedures, made to any foreign government or foreign national if:

(1) The subject of the proposal or presentation is significant combat equipment on the United States Munitions List to be sold under a contract for $7,000,000 or more; and

(2) The equipment is intended for use by the armed forces of a foreign country; and

(3) The sale of the equipment would involve the export from the United States of any item on the United States Munitions List or of any technical data relating to an item on the United States Munitions List.

(b) A "proposal or presentation designed to constitute a basis for a decision to purchase" means the communication of information in sufficient detail that the person communicating that information knew or should have known that it would permit an intended purchaser to decide to acquire the particular significant combat equipment in question. For example, a presentation which described the equipment's performance characteristics, price, and probable availability for delivery would require prior approval in any case where the three criteria specified in paragraph (a) of this section were met. By contrast, advertising or other reporting in a publication of general circulation, preliminary discussions to ascertain market potential or merely calling attention to the fact that a company manufactures a particular item of significant combat equipment would not require prior approval.

(c)(1) Every application for an export license to implement a sale which meets the three criteria specified in paragraph (a) of this section must be accompanied by a statement from the applicant which either:

(i) Refers to a specific approval previously granted with respect to the transaction; or

(ii) Certifies that no proposal or presentation requiring prior approval has been made.

(2) The Department of State may require a similar statement from the Foreign Military Sales contractor concerned in any case where the United States Government receives a request for a letter of offer for a sale which meets the three criteria specified in subsection (a) of this section.

(d) The requirement of this section for prior approval is met by any of the following:

(1) A written statement approving the proposed sale or approving the making of a proposal or presentation.

(2) A license for the export of technical data relating to the proposed sale to the country concerned issued under §§ 125.04 or 125.05.

(3) A temporary export license relating to the proposed sale for a demonstration to the armed forces of the country of export issued under § 123.55.

(e) In addition to other remedies and penalties prescribed by law or this subchapter, a failure to obtain the approval required by paragraph (a) of this section may be considered to be a reason for disapproval of a license application or request for a letter of offer.

2. Part 124 is amended by adding a new § 124.06 to read as follows:

§ 124.06 Approval of proposals for technical assistance and manufacturing license agreements.

(a) The approval of the Department of State is required as a condition precedent to any proposal or presentation designed to constitute a basis for a decision to purchase, either through commercial or Foreign Military Sales procedures, made to any foreign government or foreign national if:

(1) The subject of the proposal or presentation is a technical assistance or manufacturing license agreement for the production or assembly of significant combat equipment on the United States Munitions List; and

(2) The equipment is intended for use by the armed forces of a foreign country; and

(3) The technical assistance or manufacturing license agreement would involve the export from the United States of any item on the United States Munitions List or of technical data relating to an item on the United States Munitions List.

(b) A "proposal or presentation designated to constitute a basis for a decision to purchase" means the communication of information in sufficient detail that the person communicating that information knew or should have known that it would permit an intended purchaser to decide to enter into the proposed technical assistance or manufacturing license agreement. For example, a presentation which described the price and probable schedule for performance would require prior approval in any case where the three criteria specified in paragraph (a) of this section were met. By contrast, advertising or other reporting in a publication of general circulation, preliminary discussions to ascertain market potential or merely calling attention to the fact that a company manufactures a particular item of significant combat equipment would not require prior approval.

(c)(1) Every request for an approval of a technical assistance or manufacturing license agreement which meets the three criteria specified in paragraph (a) of this section must be accompanied by a statement from the applicant which either:

(i) Refers to a specific approval previously granted with respect to the transaction; or

(ii) Certifies that no proposal or presentation requiring prior approval has been made.

(2) The Department of State may require a similar statement from the Foreign Military Sales contractor concerned in any case where the United States Government receives a request for a letter of offer for a sale which meets the three criteria specified in subsection (a) of this section.

(d) The requirements of this section for prior approval is met by any of the following:

(1) A written statement approving the proposed agreement or approving the making of a proposal or presentation relating to the proposed agreement.

(2) A license for the export of technical data to the country concerned issued under §§ 125.04 or 125.05 and specifying its relation to a technical assistance or manufacturing license agreement.

(3) A temporary export license relating to the proposed agreement for a demonstration to the armed forces of the country of export issued under § 123.04 and specifying its relation to a technical assistance or manufacturing license agreement.

(e) In addition to other remedies and penalties prescribed by law or this subchapter, a failure to obtain the approval required by paragraph (a) of this section may be considered to be a reason for disapproval of a proposed technical assistance or manufacturing license agreement.

(Sec. 38, as amended, 90 Stat. 744 (22 U.S.C. 2778), E.O. 11958, 42 FR 4311.)

LUCY WILSON BENSON,
Under Secretary for Security Assistance, Science and Technology.

AUGUST 11, 1977.

[FR Doc.77-23922 Filed 8-17-77;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

PART 655—TRAFFIC OPERATIONS

Right-Turn-On-Red at Signalized Intersections; Deletion of Interim Regulations

AGENCY: Federal Highway Administration, DOT.

ACTION: Deletion of interim regulation.

SUMMARY: The Federal Highway Administration (FHWA) issues this notice to indicate that the above-mentioned interim regulation has been deleted from 23 CFR Part 655 originally published at 41 FR 28477 on July 12, 1976, since similar provisions concerning right-turn-on-red (RTOR) at signaled intersections have been added to the Manual on Uniform Traffic Control Devices (MUTCD). In accordance with 23 CFR 625.3, the MUTCD is incorporated by reference into the CFR. Provisions for RTOR at signalized intersections similar to those originally included in the above-mentioned interim regulation may now be found in sections 2B–35 and 4B–5 of the MUTCD.

EFFECTIVE DATE: August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert E. Conner, Chief, Traffic Control Systems Division, Office of Traffic Operations (202/426–0411); or Mrs. Kathleen S. Markman, Office of the Chief Counsel (202/426–0790), Federal Highway Administration, 400 7th Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday–Friday.

SUPPLEMENTARY INFORMATION: This interim regulation was published for notice and comment at 41 FR 28477 on July 12, 1976, FHWA Docket No. 76–11. By virtue of this publication, FHWA issued an interim national policy adopting the generally permissive rule for RTOR. This rule permits RTOR except where prohibited by a NO TURN ON RED sign. As of March 1, 1977, 45 States have adopted this policy. Five other States currently allow drivers to turn on red when a sign permits this turn. At the present time the District of Columbia does not provide any form of RTOR. Also, New York City is excluded from the New York law which permits RTOR except where prohibited by sign.

Approximately 66 comments were received in response to the above-mentioned request for comments. Most of these comments favored the generally permissive rule of RTOR which has already been adopted by 45 States. The only major opposition to RTOR received in writing was from the State of Massachusetts and several of its cities. Their opposition was based primarily on their interpretation that signs prohibiting RTOR would be required at most of their signalized intersections where they use pedestrian signals. It should be noted that the interim regulation's guidelines referred only to those intersections where an exclusive pedestrian phase is used permitting pedestrians to cross all crosswalks simultaneously.

It is our present understanding that the States of Connecticut, Maine and Vermont and the District of Columbia are considering revised legislation to conform with the generally permissive policy adopted by the other 45 States. In Maryland legislation adopting the generally permissive policy to be effective January 1, 1978, has passed both the Senate and

V 42 160 AUG 18 77 UM

the House and is awaiting signature. It is believed that the generally permissive rule best conforms with the intent of the Energy Policy and Conservation Act of 1975 (Pub. L. 94–163) and the guidelines issued by Federal Energy Administration at 41 FR 48325 (Nov. 3, 1976).

The MUTCD provides, in part, for guidelines regarding traffic signs and signals. Consequently, the provisions concerning RTOR should be incorporated in that manual rather than in a separate place in the Code of Federal Regulations. In response to the comments received, the RTOR provisions to be cited as sections 2B–35 and 4B–5 of the MUTCD are more general than those originally presented in the above-cited interim regulation. Consequently, the States may develop their own detailed criteria to fit their particular needs.

In consideration of the foregoing, Subpart H of Part 655 of Title 23, Code of Federal Regulations, is vacated and reserved.

Issued on: August 8, 1977.

KARL S. BOWERS,
Deputy Administrator.

[FR Doc.77–23924 Filed 8–17–77;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77–98]

PART 183—BOATS AND ASSOCIATED EQUIPMENT

Safety Standards for Electrical and Gasoline Fuel Systems

Correction

In FR Doc. 77–20258 appearing at page 36252 in the issue for Thursday, July 14, 1977, in the 6th line from the top of the first column on page 36253, the number "38" should have read "36".

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Identification of Mail of Nonprofit Organizations

AGENCY: U.S. Postal Service.

ACTION: Final rule.

SUMMARY: The rule requires an organization authorized to mail at the special bulk third-class rates for qualified nonprofit organizations to put its own name either as a return address on the mailing piece or in a prominent location on the message. Such an organization may not use a pseudonym or bogus name of a person or organization on its mail. The purpose of the rule is to avoid the appearance of unqualified mailings, as would be the case if only the name of an individual or a commercial enterprise were to appear on the mailing piece or the message.

The rule will be new 134.58 of the Postal Service Manual.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

James F. Harding, 202–245–4512.

SUPPLEMENTAL INFORMATION: On February 4, 1977, the Postal Service published for comment in the FEDERAL REGISTER (42 FR 6841) a notice of proposed rulemaking which, among other things, would add in Part 134 of the Postal Service Manual a new .58 to require an organization authorized to mail at the special third-class rates to identify itself on the mailing piece and contents.

Interested persons were invited to submit written data, views or arguments concerning the proposed new requirement. Written comments were received from a total of 23 individuals and organizations. These comments were carefully considered in adopting the amendment to the regulation set forth below.

The general areas of concern of the commenters and the Postal Service analysis follow.

The proposed rule would require that the nonprofit organization put its own name on the envelope and letterhead of its mail. Some organizations commented that they do not have letterheads and some mailings are not enclosed in envelopes. This seems to be a valid comment. Accordingly we are changing the rule to require the organization to put its own name either on the "message" or as a return address on the "mailing piece".

Several commenters pointed out that their organizations were widely known by designations other than their correct names. For example, the American Federation of Labor and Congress of Industrial Organizations is almost always referred to as the AFL–CIO. The National Foundation is better known as "The March of Dimes". These too are legitimate considerations. Therefore, the language is changed to state that a well recognized alternative designation, such as the March of Dimes, or a well recognized abbreviation, such as AFL–CIO, may be used in place of the full name of the organization.

Numerous commenters objected to being required to place a return address on the mailing piece. The rationale centered around the contention that a plain envelope, with no return address, is more apt to be opened than one which is obviously a solicitation for a contribution. No studies or statistics were submitted. We have no knowledge as to whether a plain envelope might offer some psychological advantage or not, but it is the Postal Service position that the recipient must be made aware, either by the message or the mailing piece of the true nature of the sender. Therefore, the regulation is modified to require identification of the mailer either as a return address on the mailing piece or in a prominent location on the message, but if any return address is shown on the mailing piece, it must be that of the authorized permit holder. In the case of cooperative mailings, the name of one authorized permit holder would have to be indicated.

One commenter believes that a purpose of the proposed rule is to prevent commercial organizations such as travel agencies from mailing promotions at the nonprofit third-class rate, and states that the rule would have little impact on this practice since the cooperating nonprofit organization could simply permit the use of its name on the envelope and on one letter enclosed in the envelope. The commenter is mistaken in his belief of the purpose of the rule and in his assumption that a nonprofit organization can legitimately delegate or lend its permit to another person, organization or association. Cooperative mailings may not be made at the special bulk third-class rates if one or more of the cooperating organizations is not entitled itself to the special rates. See 134.57 of the Manual.

The same commenter believes that the proposed rule would, in violation of the protections of the First Amendment of the Constitution, burden messages which are not false, misleading or illegal, but are entirely truthful. This criticism appears to be without foundation. The proposed rule does not prohibit solicitations by qualified nonprofit organizations or censor the contents of mailings made at the special rates. It requires merely that those who mail at the special rates identify themselves either on the envelope or the message, in order to avoid the appearance of unqualified mailings.

Several commenters stated that if this requirement were made effective immediately, it would cause a financial hardship because of supplies of stationery items on hand. For this reason, we will adopt the rule at this time but with a delayed effective date of January 1, 1978, at which time supplies previously purchased should have been used.

Several commenters wanted to be able to use the so-called "celebrity" letter for solicitations. This is a public relations device whereby a well known person, usually from the theatre or sports world, makes a request for a charitable contribution to an organization on what appears to be his own personal letterhead, over his own (facsimile) signature, and with an envelope bearing his own name. From the promoter's standpoint this is supposed to be effective because the recipient is not aware that this is a request for a charitable contribution until the letter is read. The Postal Service has carefully considered this position and decided that this is not an acceptable practice, since this is the very thing that the regulation is designed to correct. It is necessary to avoid the appearance of mailings having been made by individuals or commercial enterprises, since neither individuals, whether celebrities or not, nor commercial enterprises are entitled to mail at the special rates. See 134.53 of the Postal Service Manual.

Four commenters unequivocally endorsed the change. As the Senior Vice President of an advertising agency said: "Let's sail under our own flag—no flags of convenience, certainly no jolly rogers."

In view of the considerations discussed above the Postal Service hereby adopts, as amended, the following revision of the Postal Service Manual:

PART 134—THIRD CLASS

In 134 of the Postal Service Manual add new .58 reading as follows:

134.58. *Identification.* In order to avoid the appearance of mailings having been made by individuals or commercial enterprises, which are not qualified to mail at the special bulk third-class rates, either the mailing piece must bear the name and return address of the authorized permit holder or the message must contain the name and return address of the authorized permit holder in a prominent location. Pseudonyms or bogus names of persons or organizations may not be used. If the mailing piece bears a name and return address, it must be that of the authorized permit holder. If the mailing piece does not bear a name and return address, the message must contain in a prominent location the name and return address of the authorized permit holder. A well recognized alternative designation or abbreviation such as "The March of Dimes" or the "AFL–CIO" may be used in place of the full name of the organization.

A Post Office Services (Domestic) transmittal letter making these changes in the pages of the Postal Service Manual will be published and will be transmitted to subscribers automatically. These changes will be published in the FEDERAL REGISTER as provided in 39 CFR 111.3.

(39 U.S.C. 401(2).)

W. ALLEN SANDERS,
Assistant General Counsel,
Legislative Division.

[FR Doc.77–23905 Filed 8–17–77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 779–6]

PART 204—NOISE EMISSION STANDARDS FOR CONSTRUCTION EQUIPMENT

Clarifying Amendments

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action makes certain administrative and clarifying changes in Subpart A, General Provisions, and Subpart B, Portable Air Compressors, of 40 CFR Part 204, Noise Emission Standards for Construction Equipment.

EFFECTIVE DATE: Date of promulgation.

FOR FURTHER INFORMATION CONTACT:

Richard G. Kozlowski, Director, Noise Enforcement Division, U.S. Environmental Protection Agency (EN–387), Washington, D.C. 20460 (703–557–7470)

SUPPLEMENTARY INFORMATION: All submittals that are required pursuant to these regulations are presently to be submitted to the Director, Mobile Source Enforcement Division. These submittals will now be sent to the Director, Noise Enforcement Division (EN–387). Also, in § 204.57–5, a new paragraph (d) is added to specify where the information required to be submitted to the Administrator pursuant to this section must be sent.

In § 204.4, paragraph (b) is amended to specify that the written authorization for inspection of a manufacturer's facilities will be signed by the Director, Noise Enforcement Division or his designee.

Additionally, in § 204.51, paragraph (k) is amended to clarify that a batch sample is a collection of compressors that are drawn from a batch. In § 204.57–1, paragraph (c) is amended to clarify that the test request will specify the batch from which sampling is to begin rather than the batch selected for testing.

The Administrator finds that notice and comment procedures are unnecessary in the case of these amendments, because they are non-substantive and have no potential for controversy.

(Secs. 6 and 13, Noise Control Act Pub. Law 92–574, 86 Stat. 1237 and 1244; (42 U.S.C. 4905 and 4912)).

Dated: August 8, 1977.

NORMAN D. SHUTLER,
Acting Assistant Administrator.

40 CFR Part 204 is amended as set forth below:

Subpart A—General Provisions

§ 204.4 [Amended]

1. Section 204.4, paragraph (b) is revised by deleting the words "Mobile Source Enforcement Division" and substituting the words "Noise Enforcement Division".

§ 204.5–7 [Amended]

2. Section 204.5–7 is revised by deleting the words "Mobile Source Enforcement Division (EN–340)" and substituting the words "Noise Enforcement Division (EN–387)".

Subpart B—Portable Air Compressors

§ 204.51 [Amended]

3. In § 204.51, paragraph (k) is amended by deleting the words "of the same category or configuration from which test samples are randomly drawn" and substituting the words "that are drawn from a batch".

§ 204.55–2 [Amended]

4. In § 204.55–2, paragraph (f) is amended by deleting the words "Mobile Source Enforcement Division" and substituting the words "Noise Enforcement Division".

§ 204.55–4 [Amended]

5. In § 204.55–4, paragraph (a) is amended by deleting the words "Mobile Source Enforcement Division (EN–340)" and substituting the words "Noise Enforcement Division (EN–387)".

§ 204.57–1 [Amended]

6. In § 204.57–1, paragraph (c) is revised by deleting the words "the batch selected for testing" and substituting the words "the batch from which sampling is to begin".

7. In § 204.57–5, a new paragraph (d) is added as follows:

§ 204.57–5 Reporting of test results.

* * * * * *

(d) All information required to be forwarded to the Administrator pursuant to this section shall be addressed to Director, Noise Enforcement Division (EN–387), U.S. Environmental Protection Agency, Washington, D.C. 20460.

§ 204.58–1 [Amended]

8. In § 204.58–1, paragraph (d) is revised by deleting the words "Mobile Source Enforcement Division (EN–340)" and substituting the words "Noise Enforcement Division (EN–387)".

§ 204.58–2 [Amended]

9. In § 204.58–2, paragraph (g) is revised by deleting the words "Mobile Source Enforcement Division (EN–340)" and substituting the words "Noise Enforcement Division (EN–387)".

§ 204.58–3 [Amended]

10. In § 204.58–3, paragraph (e) is revised by deleting the words "Mobile Source Enforcement Division (EN–340)" and substituting the words "Noise Enforcement Division (EN–387)".

(Sec. 6, 13 of the Noise Control Act of 1972 (42 U.S.C. 4905, 4912).)

[FR Doc.77–23941 Filed 8–17–77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 180]

PART 1–4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Unsolicited Proposals

Correction

In FR Doc. 77–22304 appearing at page 39215 in the issue for Wednesday, August 3, 1977, make the following corrections:

1. In the first line of § 1–4.900, third column, page 39215, delete the comma following "This subpart".

2. The comma at the end of the 12th line of § 1–4.906(c), third column, page 39216, should be a semicolon.

3. Preceding the paragraph beginning "Each agency shall establish uniform", which is the second full paragraph, first column, page 39217, add the following section heading:

§ 1–4.909 Receipt, review, and evaluation.

4. In the 10th line of § 1–4.909(d), first column, page 39217, insert an open parenthesis before "see § 1–4.913".

5. In the 13th line of § 1–4.909(d), top line, middle column, page 39217, "othe" should read "other".

V 42 160 AUG 18 77 UM

6. In the second line of § 1–4.909(d)(2), middle column, page 39217, "socio-economic" should read "socioeconomic".

7. In the fifth line of § 1–4.911, third column, page 39217, insert "of" between "notified" and "and".

8. The headings in the quoted clause in § 1–4.913(c), first column, page 39218, should read as follows:

UNSOLICITED PROPOSAL

USE OF DATA LIMITED

9. In the first paragraph of that quoted clause, the phrase "EXTREME CARE" in the second line, and the phrase "NOT DUPLICATED, USED, OR DISCLOSED" in the fifth line should be printed in capitals.

10. In the second line of the second paragraph of that clause, delete "the" which appears between "use" and "information".

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77-042]

DETAILED HAZARDOUS MATERIALS INCIDENT REPORTS

Reports and Forms

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the regulations governing the reports and forms used for incidents involving hazardous materials. These changes delete information requirements that are reported under other provisions of the Code of Federal Regulations. This change will eliminate reports of duplicate information.

EFFECTIVE DATE: This amendment is effective on August 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, (202) 426-1477.

SUPPLEMENTARY INFORMATION: Since these amendments are deleting superfluous reporting procedures, good cause exists for omitting notice and public procedure pursuant to 5 U.S.C. 553(b)(3)(B), and they can be made effective in less than 30 days after publication in the FEDERAL REGISTER under 5 U.S.C. 553(d)(3).

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Mr. Robert Query, Project Manager, Office of Merchant Marine Safety, and Lieutenant William R. Kerivan, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE REGULATION

The incidents being reported on Form 4752 are already covered under the casualty or accident reporting requirements of 46 CFR 35.15–1 and the procedures for notice of the discharge of oil, 33 CFR Part 153. Reports of incidents involving hazardous materials are also required in title 49 (49 CFR 171.15 and 171.16). Information received on Form 4752 is therefore superfluous, and the Coast Guard is cancelling the form.

In consideration of the foregoing, Chapter 1 of Title 46 of the Code of Federal Regulations is amended as follows:

PART 2—VESSEL INSPECTIONS

§ 2.20–65 [Deleted]

§ 2.20–70 [Deleted]

1. By deleting §§ 2.20–65 and 2.20–70.

PART 35—OPERATIONS

§ 35.15–13 [Deleted]

2. By deleting § 35.15–13.

PART 151—UNMANNED BARGES CARRYING CERTAIN BULK DANGEROUS CARGOES

§ 151.45–11 [Deleted]

3. By deleting § 151.45–11.

(R.S. 4405 as amended, R.S. 4462 as amended, R.S. 4417A as amended, R.S. 4472 as amended, Sec. 6(B)(1), 80 Stat. 937; 46 U.S.C. 170, 375, 391a, 416; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b)).

Dated: August 9, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc.77-23942 Filed 8-17-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 20—MIGRATORY BIRD HUNTING

Early Seasons, Bag Limits, and Possession of Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the open seasons, shooting hours, areas, bag limits, and possession of certain migratory game birds, i.e., mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules and teal in September in the contiguous United States; sea ducks in certain defined areas of the Atlantic Flyway; sandhill cranes in designated portions of North Dakota and South Dakota; and migratory game birds in Alaska, Hawaii, Puerto Rico and the Virgin Islands. The taking of the designated species of migratory birds is prohibited unless open hunting seasons are specifically provided. The rules will permit taking of the designated species within specified periods of time beginning as early as September 1, as has been the case in past years, and benefit the public by relieving existing restrictions.

EFFECTIVE DATE: Effective on August 18, 1977.

FOR FURTHER INFORMATION CONTACT:

John P. Rogers, Chief, Office of Migratory Bird Management, Department of the Interior, 18th and C Streets, NW., Washington, D.C., telephone 202–343–8827.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold purchased, shipped, carried, exported, or transported.

On March 10, 1977, the Service published for public comment in the FEDERAL REGISTER (42 FR 13311) proposals to amend 50 CFR Part 20, with a comment period ending May 18, 1977. That document dealt with minor modifications in § 20.11 of Subpart B, the addition of § 20.40 in Subpart D, and with establishment of seasons, limits and shooting hours for migratory game birds under §§ 20.101 through 20.107 of Subpart K. On May 25, 1977, the Service published for public comment in the FEDERAL REGISTER (42 FR 26669) a second document in the series consisting of supplemental proposed rulemaking dealing specifically with a number of supplemental or modified proposals and clarification or correction of minor portions of the earlier document. On July 5, 1977, the Service published in the FEDERAL REGISTER (42 FR 34305) a third document in the series consisting of final rulemaking dealing specifically with final frameworks from which wildlife conservation agency officials in Puerto Rico and the Virgin Islands could select season dates for hunting certain migratory birds in Puerto Rico and the Virgin Islands during the 1977–78 season. On July 5, 1977, the Service also published for public comment in the FEDERAL REGISTER (42 FR 34342) a fourth document in the series consisting of supplemental proposed rulemaking dealing specifically with proposed frameworks for early season migratory bird hunting regulations from which, when finalized, States could select season dates and daily bag and possession limits for the 1977–78 season. On July 22, 1977, the Service published in the FEDERAL REGISTER (42 FR 37552) a fifth document in the series consisting of final rulemaking dealing specifically with final frameworks (except shooting hours) for early season migratory bird hunting regulations in all States during the 1977–78 seasons from which States selected early season dates and daily bag and possession limits for the 1977–78 season. On July 15, 1977, the Service announced in a sixth document in the FEDERAL REGISTER (42 FR 36495) the availability of a draft environmental assessment on shooting hours and allowed a 10-day public comment period. On August 9, 1977, the Service published in the FEDERAL REGISTER (42 FR 40211 a seventh document in the series consisting of final rulemaking dealing specifically with final frameworks for shooting hours for early season migratory game bird hunting regulations in all States during the 1977–78 season. This document is the eighth in a series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with amending Subpart K of 50 CFR 20 to set open hunting seasons, certain closed areas, shooting hours, and bag and possession limits for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; September teal seasons; sea ducks in certain defined areas of the Atlantic Flyway; sandhill cranes in designated portions of North Dakota and South Dakota; and migratory game birds in Alaska, Hawaii, Puerto Rico and the Virgin Islands.

PUBLIC HEARING

A public hearing was held in Washington, D.C., on June 21, 1977, as announced in the FEDERAL REGISTER on May 25, 1977 (42 FR 26709), in which proposed early season regulations were discussed. The public was invited to participate in the hearing and/or submit written statements. The Service summarized the statements received at this hearing in the FEDERAL REGISTER dated July 5, 1977 (42 FR 34306), under "Comments on Proposed Rulemaking," and listed Monitor among the organizations represented in the statements. The Service has since been informed that although an officer of Monitor was present and made a statement, the statement was made on behalf of other organizations and not Monitor. The Service hereby deletes Monitor from the list of represented organizations.

ENVIRONMENTAL REVIEW

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the FEDERAL REGISTER on June 13, 1975 (40 FR 24241). The final environmental assessment on shooting hours (42 FR 40211; August 9, 1977) supplements the discussion on shooting hours in FES–75–54. Likewise, an environmental assessment on September dove hunting (42 FR 37552; July 22, 1977) supplements the discussion on dove hunting in FES–75–54.

COMPLIANCE WITH SECTION 7 OF THE ENDANGERED SPECIES ACT OF 1973

Compliance with the Endangered Species Act, insofar as early season regulations frameworks are concerned, was described in detail in the FEDERAL REGISTER dated July 22, 1977 (42 FR 37552). The Service's biological opinion resulting from its consultation under section 7 is considered a public document and is available for public inspection in the Office of Endangered Species at 1612 K Street, N.W., Room 1100, Washington, D.C., and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior Building, Room 2243, 18th and C Streets, NW., Washington D.C. 2240 or may be obtained by mail from the addresses listed.

REGULATIONS PROMULGATION

After analysis of the migratory game bird survey data obtained through investigations conducted by the Service State conservation agencies, and other sources, and consideration of all comments received on the early proposals (42 FR 13311; March 10, 1977; 42 FR 26669; May 25, 1977; and 42 FR 34342; July 5, 1977) the Service published in the FEDERAL REGISTER on July 5, 1977 (42 FR 34305) final frameworks for Puerto Rico and the Virgin Islands, and on July 22, 1977 (42 FR 37552) final early season frameworks (except shooting hours) for the contiguous United States, Alaska and Hawaii. Final shooting hours frameworks for early seasons were published in the FEDERAL REGISTER on August 9, 1977 (42 FR 40211). Copies of the final frameworks were also sent to the officials of the State conservation agencies and to conservation agency officials in Puerto Rico and the Virgin Islands who were invited to submit recommendations for hunting seasons which complied with the shooting hours, daily bag and possession limits, season lengths and areas specified in the frameworks.

The taking of the designated species of migratory birds is prohibited unless open hunting seasons are specifically provided. The amendments will permit taking of the designated species within specified time periods beginning as early as September 1, as has been the case in past years, and benefit the public by relieving existing restrictions.

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed rulemakings were published on March 10, May 25, July 5, and July 15, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the periods' close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the printing and distribution of Federal and State regulatory announcements and leaflets would be delayed to the extent that hunters would not have regulatory information available prior to the beginning of the hunting seasons. The Service has determined that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these regulations will, therefore, take effect immediately upon publication.

DRAFTING INFORMATION

This final rulemaking was authored by Dr. John P. Rogers, Chief, Office of Migratory Bird Management.

Accordingly, each State conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State on those species of migratory birds for which open seasons are now to be prescribed, and consideration having been given to all other relevant matters presented, it is determined that certain sections of Title 50, Chapter I, Subchapter B, Part 20, Subpart K, are amended as follows:

1. Section 20.101 is amended to read as follows:

§ 20.101 Seasons, limits and shooting hours for Puerto Rico and the Virgin Islands.

Subject to the applicable provisions of the preceding sections of this part, the open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) *Puerto Rico.*

	Doves	Pigeons
Daily bag limit	10 singly or in the aggregate of all permitted species.	5 singly or in the aggregate of all permitted species.
Possession limit	10 singly or in the aggregate of all permitted species.	5 singly or in the aggregate of all permitted species.
Season dates	Sept. 3 to Nov. 1, 1977.	
Shooting hours	Sunrise to sunset daily.	

Restrictions: Only the following species of doves and pigeons may be hunted during the open season: Zenaida dove (*Tortola cardosantera*); White-winged dove (*Tortola alibianca o cubanita*); Mourning dove (*Tortola rabilarga o rabiche*); Scaly-naped pigeon (*Paloma turca o torcaz*).

No season is prescribed for pigeons on Puerto Rico and Mona Islands in order to give the reduced population of white-crown pigeon (*Columba leucocephala*), known locally as *Paloma cabecibianca*, a chance to recover.

No season is prescribed for doves and pigeons on Culebra Island and in those areas of the Municipalities of Rio Grande and Loiza delineated as follows: (1) all lands lying east of Route 186 (from the town of El Verde in the north to the southernmost extent of Route 186) to the boundary of the

V 42 160 AUG 18 77 UM

Luquillo Experimental Forest; (2) all lands between Route 186 and Route 956 extending from an east-west line through the town of El Verde, south; (3) all lands lying west of Route 186 for one (1) kilometer from the juncture of Routes 186 and 956 south to the southernmost point on Route 186; and (4) all lands within the Caribbean National Forest boundary, whether private or public lands; nor is there a season prescribed for doves and pigeons of any species in the Municipality of Cidra, Puerto Rico, said Municipality being composed of the following Wards: Bayamon, Arenas, Monte Llano, Sud, Beatriz, Ceiba, Rio Abajo, Rincon, Tolta, Honduras, Rabanel, and Salto.

Check Commonwealth regulations for additional restrictions.

(b) *Puerto Rico.*

	Ducks	Coots	Common gallinules	Common (Wilson's) snipe
Daily bag limits	4	6	6	6
Possession limit	8	12	12	12

Season dates..... Dec. 3, 1977, through Jan. 25, 1978.
Shooting hours... Sunrise until sunset daily.

Restrictions: No open season for waterfowl on Culebra Island. The season is closed for ruddy ducks (*Oxyura jamaicensis*) and purple gallinules (*Porphyrula martinica*). The season on Bahama pintail (*Anas bahamensis*) is closed by Commonwealth law.

Check commonwealth regulations for additional restrictions.

NOTE.—Local names for game birds: Ruddy duck (*Oxyura jamaicensis*)—Pato rojo (protected); Purple gallinule (*Porphyrula martinica*)—Gallareta azul (protected).

(c) *Virgin Islands.*

Open seasons—ducks, geese, cranes and snipe

Area	
Northern	State game management units: 11 to 13 and 17 to 26 . Sept. 1 to Dec. 16.
Gulf coast	State game management units: 5 to 7, 9, 14 to 16, and Unimak Island. Sept. 1 to Dec. 16.
Southeast	State game management units 1 to 4 . Sept. 1 to Dec. 16.
Aleutians	State game management unit 10 (except Unimak Island). Oct. 8 to Jan. 22.
Kodiak	State game management unit 8 Sept. 10 to Oct. 9 and Nov. 5 to Jan. 20

Daily bag and possession limits

Area	Ducks [1]	Geese [1]	Emperor Geese [2]	Brant	Common (Wilson's) snipe	Lesser sandhill (little brown) cranes
Northern	10–30	6–12	6–12	4–8	8–16	2–4
Gulf coast	8–24	6–12	6–12	4–8	8–16	2–4
Southeast	7–21	6–12	6–12	4–8	8–16	2–4
Aleutians	7–21	[3] 6–12	6–12	4–8	8–16	2–4
Kodiak	7–21	6–12	6–12	4–8	8–16	2–4

[1] In addition to the basic daily bag and possession limits, a daily bag limit of 15 and a possession limit of 30 is permitted singly or in the aggregate of the following species: scoter, eider, oldsquaw, harlequin, and American and red breasted mergansers.
[2] The daily bag and possession limits may not include more than 4 daily and 8 in possession of white-fronted and Canada geese, singly or in the aggregate. In addition to the daily bag and possession limits on other geese, the daily bag limit is 6 and the possession limit is 12 on emperor geese.
[3] No Canada geese may be taken in the Aleutian Islands west of Unimak Pass.

3. Section 20.103 is amended to read as follows:

§ 20.103 Seasons, limits, and shooting hours for mourning and white-winged doves and wild pigeons.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) *Mourning Doves—Eastern Management Unit*

Daily bag limit	12
Possession limit	24

Shooting hours: 12 noon until sunset.

	Zenaida dove (entire Virgin Islands)	Scaly-naped pigeon (St. Thomas Island only)
Daily bag limits	10	5
Possession limits	10	5

Season dates..... Sept. 1 through Oct. 30, 1977.
Shooting hours..... ½ hour before sunrise until sunset daily.

Restrictions: No open season is prescribed for waterfowl, ground or quail doves, or pigeons (except scaly-naped pigeons on St. Thomas Island) in the Virgin Islands.

Check territorial regulations for additional restrictions.

NOTE.—Local names for game birds: Zenaida dove (*Zenaida aurita*)—mountain dove; Bridled quail dove (*Geotrygon mystacea*)—Perdiz, Barbary dove (protected); Ground dove (*Columbina passerina*)— stone dove, tobacco dove, rola, tortolita (protected); Scaly-naped pigeon (*Columba squamosa*)—red-necked pigeon, scaly pigeon.

2. Section 20.102 is amended to read as follows:

§ 20.102 Seasons, limits, and shooting hours for Alaska.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

Shooting hours: One-half hour before sunrise to sunset daily.

Check state regulations for additional restrictions, including area descriptions.

Check State regulations for additional restrictions, including area descriptions.

Seasons in:

Alabama:	
North zone [1]	Sept. 17–Nov. 2 and Dec. 23–Jan. 14.
South zone [1]	Oct. 8–Dec. 16.
Connecticut	Closed.
Delaware	Sept. 10–Oct. 1 and Nov. 21–Dec. 10 and Dec. 19–Jan. 14.
Florida	Oct. 1–Oct. 30 and Nov. 12–Nov. 27 and Dec. 17–Jan. 9.
Georgia:	
North zone [2]	Sept. 3–Oct. 8 and Dec. 12–Jan. 14.
South zone [2]	Oct. 1–Nov. 5 and Dec. 12–Jan. 14.
Illinois	Sept. 1–Nov. 9.
Indiana	Closed.
Kentucky	Sept. 1–Oct. 31 and Dec. 10–Dec. 18.
Louisiana:	
North zone [3]	Sept. 3–Sept. 18 and Oct. 15–Nov. 13 and Dec. 17–Jan. 9.
South zone [3]	Oct. 15–Nov. 27 and Dec. 17–Jan. 11.
Maine	Closed.
Maryland	Sept. 1–Oct. 15 and Nov. 16–Dec. 10.
Massachusetts	Closed.
Michigan	Closed.
Mississippi:	
North zone [4]	Sept. 3–Sept. 25 and Nov. 5–Nov. 27 and Dec. 10–Jan. 2.
South zone [4]	Sept. 24–Oct. 16 and Nov. 5–Nov. 27 and Dec. 10–Jan. 2.

[1] In Alabama, the south zone is defined as that area lying south of U.S. Highway 84 running east to the Covington County line, and including Coffee, Covington, Dale, Geneva, Henry, and Houston Counties. The north zone consists of the remainder of Alabama.
[2] In Georgia, the north zone is defined as that area lying north of U.S. Highway 280 east to Abbeville, thence along Ocmulgee and Altamaha Rivers to the Atlantic Ocean. The south zone consists of the remainder of Georgia.
[3] In Louisiana, the north zone is defined as that area lying north of Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell, and Interstate Highway 10 from Slidell to the Mississippi State line. The south zone consists of the remainder of Louisiana.
[4] In Mississippi, the north zone is defined as that area lying north of State Highway 12 from Arkansas line to Kosciusko, and State Highway 14 from Kosciusko to the Alabama State line. The south zone consists of the remainder of Mississippi.

Seasons in—Continued

New Hampshire	Closed.
New Jersey	Closed.
New York	Closed.
North Carolina	Sept. 3–Oct. 15 and Dec. 19–Jan. 14.
Ohio	Closed.
Pennsylvania	Sept. 1–Nov. 9.
Rhode Island	Sept. 19–Nov. 27.
South Carolina	Sept. 3–Oct. 8 and Nov. 19–Nov. 26 and Dec. 20–Jan. 14.
Tennessee	Sept. 1–Sept. 30 and Oct. 8–Oct. 16 and Dec. 16–Jan. 15.
Vermont	Closed.
Virginia	Sept. 10–Nov. 5 and Dec. 21–Jan. 2.
West Virginia	Sept. 1–Oct. 31 and Dec. 26–Jan. 3.
Wisconsin	Closed.

(b) Mourning doves—central management unit.

Daily bag limit	10
Possession limit	20

Shooting hours: One-half hour before sunrise until sunset daily except as noted otherwise.

Check state regulations for additional restrictions, including area descriptions.

Seasons in:

Arkansas	Sept. 1–Oct. 5 and Dec. 15–Jan. 8.
Colorado	Sept. 1–Oct. 30.
Iowa	Sept. 3–Sept. 25.
Kansas	Sept. 1–Oct. 30.
Minnesota	Closed.
Missouri	Sept. 1–Oct. 30.
Montana	Closed.
Nebraska (shooting hours—15 min. before sunrise until sunset)	Sept. 1–Oct. 15.
New Mexico [1]	Sept. 1–Sept. 30 and Nov. 24–Dec. 23.
North Dakota	Closed.
Oklahoma	Sept. 1–Sept. 30 and Dec. 1–Dec. 30.
South Dakota	Closed.

[1] In New Mexico, the daily bag limit is 10 and the possession limit is 20 white-winged and mourning doves, singly or in the aggregate of these species.

Seasons in—Continued

Texas: [2]	
North zone (Counties of Kinney, Val Verde, Terrell, Brewster, Presidio, Jeff Davis, Culberson, Hudspeth, and El Paso) shooting hours:	
12 noon until sunset	Sept. 3, 4, 10, 11.
½ hr before sunrise until sunset	Sept. 1–2, 5–9, Sept. 12–Oct. 30.
Remainder of north zone shooting hours: ½ hr. before sunrise until sunset	Sept. 1–Oct. 30.
South zone (Counties of Cameron, Willacy, Hidalgo, Starr, Zapata, Webb, and Maverick) shooting hours:	
12 noon until sunset	Sept. 3, 4, 10, 11.
½ hr before sunrise until sunset	Sept. 24–Nov. 2 and Dec. 31–Jan. 15.
Remainder of south zone shooting hours: ½ hr. before sunrise until sunset	Sept. 24–Nov. 6 and Dec. 31–Jan. 15.

[2] In Texas, the north zone consists of the Counties of Kinney, Uvalde, Medina, Bexar, Comal, Hays, Travis, Williamson, Milam, Robertson, Leon, Houston, Cherokee, Nacogdoches, and Shelby and all counties north and west thereof. The southern zone consists of all counties south and east of the north zone.

Seasons in—Continued

Wyoming	Sept. 1–Sept. 30.

(c) *Mourning Doves—Western Management Unit.*

Daily bag limit	10
Possession limit	20

Shooting hours: One-half hour before sunrise until sunset.

Check State regulations for additional restrictions, including area descriptions.

Seasons In:

Arizona	Sept. 1–Sept. 25 and Dec. 10–Jan. 3.
California [1]	Sept. 1–Sept. 30 and Nov. 19–Dec. 4.
Idaho	Sept. 1–Sept. 18.
Nevada [1]	Sept. 1–Oct. 20.
Oregon	Sept. 1–Sept. 30.
Utah	Sept. 1–Sept. 30.
Washington	Sept. 1–Sept. 30.

[1] In those counties of California and Nevada having an open season on white-winged doves, the daily bag limit is 10 and the possession limit is 20 mourning and white-winged doves, singly or in the aggregate of these species.

NOTICE.—Hawaii—Subject to the applicable provisions of the preceding sections of this part, mourning doves may be taken in accordance with State regulations.

(d) *White-winged Doves.*

Shooting hours: All States except Texas—One-half hour before sunrise until sunset. Texas only—12 noon until sunset.

Check State regulations for additional restrictions, including area descriptions.

	Season dates	Limits: Bag	Limits: Possession
Seasons in:			
Arizona	Sept. 1–Sept. 25	10	10
California: [1]			
Counties of Imperial, Riverside and San Bernardino	Sept. 1–Sept. 30 and Nov. 19–Dec. 4.		
Remainder of State	Closed		
Nevada: [1]			
Counties of Clark and Nye	Sept. 1–Oct. 20		
Remainder of State	Closed		
New Mexico [1]	Sept. 1–Sept. 30 and Nov. 24–Dec. 23.		
Texas:			
Counties of Brewster, Cameron, Culberson, El Paso, Hidalgo, Hudspeth, Jeff Davis, Kinney, Maverick, Presidio, Starr, Terrell, Val Verde, Webb, Willacy, and Zapata.	Sept. 3, 4, 10, and 11	10	20
Remainder of State	Closed		

[1] In California, Nevada, and New Mexico, the daily bag limit is 10 and the possession limit is 20 white-winged and mourning doves, singly or in the aggregate of both species.

V42 I160 AUG 18 77 UM V

(e) *Band-tailed Pigeons.*
Shooting hours: One-half hour before sunrise until sunset.
Check State regulations for additional restrictions, including area descriptions.

Seasons in:	Season dates	Limits: Bag	Limits: Possession
Arizona [1]	Oct. 12–Nov. 10.	5	10
California:			
Counties of Butte, Del Norte, Glen, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity.	Oct. 1–Oct. 16	6	6
Remainder of State	Dec. 10–Dec. 26.	6	6
Colorado [1]	Sept. 3–Oct. 2.	5	10
New Mexico: [1]			
North Zone [2]	Sept. 1–Sept. 20.	5	10
South Zone [2]	Oct. 1–Oct. 20	5	10
Oregon	Sept. 1–Sept. 30.	5	5
Utah [1]	Sept. 1–Sept. 30.	5	10
Washington	Sept. 1–Sept. 30.	5	5

[1] Every hunter must have been issued and carry on his person while hunting band-tailed pigeons a properly validated special band-tailed pigeon hunting permit issued by the State conservation agency of each respective State for the open season in that State. Such a special bandtailed pigeon hunting permit will be issued upon application to the State conservation agency of the State in which hunting is to be done. Permits issued by any State will be valid in that State only. This season shall be open only in the areas described, delineated, and designated as such by the States of Arizona, Colorado, New Mexico, and Utah in their respective hunting regulations.
[2] In New Mexico the North zone is defined as that area lying north and east of a line following U.S. Highway 60 from the Arizona State line east to Interstate Highway 25 at Socorro and then south along Interstate Highway 25 to the Texas State line. The South zone is defined as that area lying south and west of the North zone.

4. Section 20.104 is amended to read as follows:

§ 20.104 Seasons, limits, and shooting hours for rails, woodcock, and common (Wilson's) snipe.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (date inclusive), the shooting hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

	Rails (Sora and Virginia)	Rails (Clapper and King)	Woodcock	Common snipe (Wilson's)
Daily bag limits	[1] 25	See footnote 2	5	8
Possession limits	[1] 25	See footnote 2	10	16
Shooting Hours	½ hour before sunrise until sunset daily on all species, except as noted otherwise.			
Check State regulations for additional restrictions, including area descriptions				
Seasons in the Atlantic flyway:				
Connecticut	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Oct. 15-Dec. 3	Oct. 15-Dec. 3.
Delaware	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Oct. 22-Nov. 5 and Nov. 21-Jan. 7	Oct. 3-Nov. 5 and Nov. 21-Jan. 31.
Florida	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Dec. 17-Feb. 19	Nov. 12-Feb. 26.
Georgia	Sept. 10-Nov. 18	Sept. 10-Nov. 18	Nov. 10-Jan. 22	Nov. 19-Feb. 28.
Maine	Sept. 1-Nov. 9	Closed	Sept. 24-Nov. 15	Sept. 1-Dec. 16.
Maryland	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Oct. 5-Dec. 8	Sept. 17-Jan. 1.
Massachusetts	Sept. 1-Nov. 5	Closed	Deferred	Sept. 1-Dec. 10.
New Hampshire	Closed	Closed	Sept. 17-Nov. 20	Sept. 17-Nov. 20.
New Jersey: [3]				
North zone	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Oct. 3-Nov. 26	Deferred
South zone	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Nov. 5-Dec. 3 and Dec. 15-Jan. 9	Deferred
New York: [3]				
North zone	Sept. 1-Nov. 9	Closed	Sept. 20-Nov. 23	Sept. 1-Nov. 23
South zone and Long Island area	Sept. 1-Nov. 9	Closed	Oct. 1-Nov. 23	Sept. 1-Nov. 23.
North Carolina	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Nov. 19-Jan. 31	Nov. 14-Feb. 28.
Pennsylvania	Sept. 1-Nov. 9	Closed	Oct. 15-Dec. 17	Oct. 15-Dec. 17.
Rhode Island	Sept. 19-Nov. 27	Sept. 19-Nov. 27	Oct. 15-Dec. 9 and Dec. 19-Dec. 27.	Sept. 19-Dec. 9 and Dec. 19-Dec. 27.
South Carolina	Sept. 10-Nov. 18	Sept. 19-Nov. 18	Nov. 24-Jan. 27	Nov. 14-Feb. 28.
Vermont	Sept. 24-Nov. 27	Closed	Sept. 24-Nov. 27	Sept. 24-Nov. 27.
Virginia	Sept. 10-Nov. 18	Sept. 10-Nov. 18	Deferred	Deferred.
West Virginia	Oct. 15-Dec. 23	Closed	Oct. 15-Dec. 17	Sept. 12-Dec. 27.

See footnotes at end of table.

	Rails (Sora and Virginia)	Rails (Clapper and King)	Woodcock	Common snipe (Wilson's)
Seasons in the Mississippi flyway:				
Alabama	Nov. 12-Jan. 20	Nov. 12-Jan. 20	Nov. 28-Jan. 31	Nov. 14-Feb. 28.
Arkansas	Nov. 7-Jan. 15	Closed	Dec. 1-Feb. 3	Nov. 1-Feb. 15.
Illinois	Sept. 1-Nov. 9	Closed	Oct. 15-Dec. 19	Oct. 15-Jan. 29.
Indiana	Sept. 1-Nov. 9	Closed	Sept. 24-Nov. 27	Sept. 1-Nov. 27.
Iowa	Sept. 3-Nov. 11	Closed	Sept. 17-Nov. 20	Sept. 3-Dec. 18.
Kentucky	Closed	Closed	Oct. 8-Dec. 2 and Dec. 10-Dec. 18.	Oct. 8-Dec. 2 and Dec. 10-Dec. 18.
Louisiana	Sept. 17-Nov. 25	Sept. 17-Nov. 25	Dec. 3-Feb. 5	Nov. 5-Feb. 19.
Michigan: [3] [4]				
Zone 1	Sept. 15-Nov. 13	Closed	Sept. 15-Nov. 13	Sept. 15-Nov. 12.
Zone 2	Sept. 15-Nov. 13	Closed	Sept. 15-Nov. 14	Sept. 15-Nov. 13.
Zone 3	Sept. 15-Nov. 13	Closed	Oct. 20-Nov. 14	Sept. 15-Nov. 13.
Minnesota	Sept. 1-Nov. 4	Closed	Sept. 1-Nov. 4	Sept. 1-Nov. 4.
Mississippi	Oct. 29-Jan. 6	Oct. 29-Jan. 6	Dec. 10-Feb. 12	Nov. 24-Feb. 21.
Missouri	Sept. 1-Nov. 9	Closed	Oct. 1-Dec. 4	Oct. 1-Dec. 4.
Ohio	Sept. 2-Nov. 10	Closed	Sept. 30-Dec. 3	Sept. 2-Dec. 17.
Tennessee	Deferred	Closed	Oct. 22-Nov. 27 and Feb. 1-Feb. 28.	Nov. 19-Feb. 28.
Wisconsin	Deferred	Closed	Sept. 17-Nov. 20	Deferred.
Seasons in the central flyway:				
Colorado [5]	Sept. 1-Nov. 9	Closed	Closed	Sept. 1-Dec. 2.
Kansas	Sept. 10-Nov. 18	Closed	Oct. 8-Dec. 11	Sept. 10-Dec. 11.
Montana [5]	Closed	Closed	Closed	Deferred.
Nebraska (shooting hours—15 min before sunrise until sunset	Sept. 1-Nov. 9	Closed	Sept. 15-Nov. 18	Sept. 15-Nov. 18.
New Mexico [5]	Closed	Closed	Closed	Closed.
North Dakota	Closed	Closed	Closed	Sept. 17-Nov. 6.
Oklahoma	Sept. 1-Nov. 9	Closed	Nov. 20-Jan. 23	Oct. 22-Feb. 5.
South Dakota	Closed	Closed	Closed	Sept. 1-Oct. 31.
Texas	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Deferred	Deferred.
Wyoming [5]	Oct. 1-Dec. 9	Closed	Closed	Oct. 1-Jan. 8.
Seasons in the Pacific flyway:				
Colorado	Closed	Closed	Closed	Sept. 1-Dec. 2.
Wyoming	Closed	Closed	Closed	Oct. 1-Dec. 31.

No seasons are prescribed for rails and woodcock.
Snipe seasons have been deferred by all other States in the Pacific flyway. Consult waterfowl regulations to be published later for information concerning these seasons.

[1] The bag and possession limits for sora and Virginia rails apply singly or in the aggregate of these 2 species.
[2] In addition to the limits on sora and Virginia rails, in the States of Connecticut, Delaware, Maryland, New Jersey, and Rhode Island, there is a daily bag limit of 10 and possession limit of 20 clapper and king rails, singly or in the aggregate of these 2 species, and in the States of Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, there is a daily bag limit of 15 and possession limit of 30 clapper and king rails, singly or in the aggregate of these 2 species.
[3] For description of zones or management units within a State, see the State's regulations.
[4] In Michigan, in the Counties of Arenac, Bay, Huron, Macomb, Monroe, St. Clair, Tuscola, and Wayne, and adjacent Great Lakes and connecting waters, the snipe season shall open concurrently with the duck season and shall run continuously in all areas through November 13.
[5] Seasons apply to central flyway portion of State only.

NOTE.—Some States may select rail, woodcock, and snipe seasons at the time they select their duck seasons in August. Consult waterfowl regulations to be published later for information concerning these seasons.

5. Section 20.105 is amended to read as follows:

§ 20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) *Sea Ducks.* (1) An open season for taking scoter, eider, and oldsquaw ducks is prescribed according to the following table during the period between September 18, 1977, and January 20, 1978, in all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut; in those coastal waters of the State of New York lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Miamogue Point in the Town of Riverhead to Red Cedar Point in the Town of Southampton, including any ocean waters of New York lying south of Long Island; in any waters of the Atlantic Ocean and, in addition, in any tidal waters of any bay which are separated by at least one mile of open water from any shore, island, and emergent vegetation in the States of New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and/or in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in the States of Delaware, Maryland, North Carolina, and Virginia: *Provided*, That any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks.

(2) The daily bag limit is 7 and the possession limit 14, singly or in the aggregate of these species. During the regular duck season in the Atlantic Flyway, States may set in addition to the limits prescribed for such seasons a daily bag limit of 7 and possession limit of 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate of these species.

(3) Shooting hours are one-half hour before sunrise until sunset daily.

Check State regulations for additional restrictions.

Seasons in:	
Connecticut	Sept. 24–Nov. 22.
Delaware	Oct. 1–Jan. 14.
Georgia	Deferred.
Maine	Sept. 26–Jan. 10.
Maryland	Deferred.
Massachusetts	Sept. 24–Jan. 7.
New Hampshire	Sept. 18–Jan. 2.
New Jersey	Deferred.
New York	Sept. 22–Jan. 6.
North Carolina	Deferred.
Rhode Island	Deferred.
South Carolina	Deferred.
Virginia	Deferred.

(4) Notwithstanding the provisions of this Part 20, the shooting of *crippled* waterfowl from a motorboat under power will be permitted in the States of Maine, Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, Delaware, Virginia, and Maryland in those areas described, delineated, and designated in their respective hunting regulations as being open to sea duck hunting.

NOTE.—States with deferred seasons may select sea duck seasons at the time they select their waterfowl seasons in August. Consult waterfowl regulations to be published later for information concerning these later seasons.

(b) *Teal.* September season: An open season for teal ducks (blue-winged, green-winged and cinnamon) is prescribed according to the following table in those areas which are described, delineated, and designated in the hunting regulations of the following States:

Daily bag limit	4
Possession limit	8

Shooting hours: Sunrise until sunset daily.
Check State regulations for additional restrictions.

Seasons in the Mississippi flyway:	
Alabama	Sept. 10–Sept. 18.
Arkansas	Sept. 17–Sept. 25.
Illinois	Sept. 10–Sept. 18.
Indiana [1]	Sept. 10–Sept. 18.
Kentucky	Sept. 3–Sept. 11.
Louisiana	Sept. 17–Sept. 25.
Mississippi	Sept. 10–Sept. 18.
Missouri	Sept. 10–Sept. 18.
Ohio	Sept. 2–Sept. 10.
Tennessee	Sept. 17–Sept. 25.
Seasons in the Central flyway:	
Colorado [2]	Sept. 3–Sept. 11.

[1] In Indiana the shooting hours are from sunrise to 6 p.m., e.s.t. The Kankakee, LaSalle and portions of Jasper-Pulaski, Pigeon River, Hovey Lake and Atterbury Fish and Wildlife Areas are closed to teal hunting by State regulations.

V42160 AUG 18 77 UM

Seasons in the Central flyway—Continued	
Kansas [3]	Sept. 10–Sept. 18.
New Mexico [4]	Sept. 17–Sept. 25.
Oklahoma	Sept. 10–Sept. 18.
Texas	Sept. 10–Sept. 18.

[2] Only in Lake and Chaffee Counties, and that portion of Colorado east of U.S. Highway 85 from the Wyoming State line to Denver and Interstate Highway 25 from Denver to the New Mexico State line.

[3] The entire State is open except the Marais des Cygnes Waterfowl Management Area in Linn County and the Neosho Waterfowl Management Area in Neosho County.

[4] Central flyway portion only.

(c) *Gallinules.*

Daily bag limit	15
Possession limit	30

Shooting hours: One-half hour before sunrise to sunset.

Check State regulations for additional restrictions.

Seasons in the Atlantic flyway:	
Connecticut	Sept. 1–Nov. 9.
Delaware	Sept. 1–Nov. 9.
Florida [1]	Sept. 1–Nov. 9.
Georgia	Deferred.
Maine	Sept. 1–Nov. 9.
Maryland	Sept. 1–Nov. 9.
Massachusetts	Sept. 1–Nov. 5.
New Hampshire	Closed.
New Jersey	Sept. 1–Nov. 9.
New York	Sept. 1–Nov. 9.
North Carolina	Sept. 1–Nov. 9.
Pennsylvania	Sept. 1–Nov. 9.
Rhode Island	Sept. 19–Nov. 27.
South Carolina	Sept. 10–Nov. 18.
Vermont	Sept. 24–Nov. 27.
Virginia	Deferred.
West Virginia	Deferred.
Seasons in the Mississippi flyway:	
Alabama	Nov. 12–Jan. 20.
Arkansas	Nov. 7–Jan. 15.
Illinois	Deferred.
Indiana	Sept. 1–Nov. 9.
Iowa	Closed.
Kentucky	Nov. 12–Jan. 20.
Louisiana	Sept. 17–Nov. 25.
Michigan	Deferred.
Minnesota	Deferred.
Mississippi	Oct. 29–Jan. 6.
Missouri	Sept. 1–Nov. 9.
Ohio	Sept. 2–Nov. 10.
Tennessee	Deferred.
Wisconsin	Deferred.
Seasons in the Central flyway:	
Colorado [2]	Closed.
Kansas	Closed.
Montana [2]	Closed.
Nebraska	Closed.
New Mexico [2]	Deferred.
North Dakota	Closed.
Oklahoma	Sept. 1–Nov. 9.
South Dakota	Closed.
Texas	Sept. 1–Nov. 9.
Wyoming [2]	Closed.
Seasons in the Pacific flyway: All States and portions thereof	Deferred.

[1] The gallinule season in Florida applies to the common gallinule only. No open season on purple gallinules in Florida.

[2] Seasons apply to central flyway portion of State only.

NOTE.—States with deferred seasons may select gallinule seasons at the time they select their waterfowl seasons in August. Consult waterfowl regulations to be published later for information concerning these later seasons.

* * * * *

6. Section 20.106 is amended as follows:

§ 20.106 Seasons, limits, and shooting hours for lesser sandhill (little brown) cranes.

Subject to the applicable provisions of the preceding sections of this part, open seasons are prescribed for taking lesser sandhill (little brown) cranes with a daily bag limit of three and a possession limit of six, and with shooting hours from one-half hour before sunrise until sunset, in the following areas for the dates indicated:

* * * * *

(d) In the North Dakota counties of Kidder, Stutsman, Benson, Emmons, Pierce, McLean, Sheridan, and Burleigh, and in the South Dakota counties of Campbell, Walworth, Potter, Dewey, and Corson, the season dates are September 7 through September 11, 1977.

* * * * *

(g) Every hunter participating in the lesser sandhill (little brown) crane hunting season must obtain and carry in his possession while hunting lesser sandhill cranes a Federal lesser sandhill crane hunting permit available without cost from conservation agencies in the States where crane hunting seasons are allowed. The permit must be displayed to an authorized law enforcement official upon request.

* * * * *

7. Section 20.109 is added as follows:

§ 20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

Daily bag limits: [1]	
Waterfowl (ducks, geese, and mergansers)	2 singly or in the aggregate.
Coots, gallinules, rails, snipe, woodcock, doves and pigeons only	4 singly or in the aggregate.
Possession limits:	
Waterfowl (ducks, geese, and mergansers)	4 singly or in the aggregate.
Coots, gallinules, rails, snipe, woodcock, doves and pigeons only	8 singly or in the aggregate.

Hawking hours: One-half hour before sunrise until sunset daily.

Check State regulations for additional restrictions.

Seasons in:	
Maryland: Mourning doves only	Dec. 12–Jan. 15.
Virginia:	
Mourning doves	Nov. 26–Dec. 20 and Jan. 3–14.
Rails (Clapper, King, Sora and Virginia)	Nov. 19–Dec. 24.
Indiana:	
Ducks, coots, mergansers	Deferred.
Gallinules	Nov. 10–Dec. 16.
Rails	Nov. 10–Dec. 16.
Snipe	Nov. 28–Dec. 16.
Woodcock	Sept. 1–Sept. 23 and Nov. 28–Dec. 16.
Idaho: Mourning doves only	Sept. 19–Oct. 20.

[1] Daily bag and possession limits for falconry will vary depending upon whether the regular season for the species being sought is open at the time of hunting. Falconry is a permitted means of taking designated migratory game birds. When regular seasons are open, regular bag limits will apply to taking by falconry. When the regular season is closed for a species, but the special falconry season is open, bag limits set for the special falconry season will apply.

ECONOMIC IMPACT REVIEW

NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 5, 1977.

LYNN A. GREENWALT,
Director, U.S. Fish and Wildlife Service.

[FR Doc.24093 Filed 8-17-77;8:45 am]

PART 32—HUNTING

Opening of Lostwood National Wildlife Refuge, North Dakota, to Hunting of Sharp-Tailed Grouse and Hungarian Partridge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of sharp-tailed grouse and Hungarian partridge on a portion of Lostwood National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 17, 1977, through December 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles S. Peck, Project Leader, Des Lacs NWR, Kenmare, North Dakota 58746. (701-385-4046)

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuges.

Public hunting of sharp-tailed grouse and Hungarian partridge on the Lostwood National Wildlife Refuge, North Dakota, is permitted only on that area designated by signs as open to hunting during the 1977 State Game and Fish Department grouse and partridge season. The open area, comprising 4,720 acres during the period prior to deer gun season and 26,101 acres during the remainder of the grouse and partridge season following deer gun season, is delineated on maps available at the refuge headquarters, Kenmare, North Dakota, and from the Area Manager, U.S. Fish and Wildlife Service, Bismarck, North Dakota 58501. Hunting shall be in accordance with all applicable State regulations and the following special conditions.

1. Vehicle travel is restricted to public highways and the refuge entrance road from State Highway No. 8 to refuge headquarters. All other refuge roads and trails are closed to vehicles.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas, generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 11, 1977.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

ROLLAND J. KRIEGER,
Acting Project Leader, Des Lacs National Wildlife Refuge Complex.

AUGUST 11, 1977.

[FR Doc.77-23925 Filed 8-17-77;8:45 am]

V 42 160 AUG 18 77 UM

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 927]

BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF PEARS GROWN IN OREGON, WASHINGTON AND CALIFORNIA

Proposed Extension of Effective Period for Minimum Grade, Quality and Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice proposes to continue through June 30, 1978, the currently effective grade, quality, and size regulation on Beurre D'Anjou variety winter pears shipped from Oregon (except the Medford District), Washington, and California. These requirements are necessary to assure that pears shipped will be of suitable quality and size in the interest of consumers and producers.

EFFECTIVE DATE: Written comments must be received by September 9, 1977. Proposed effective date August 8, 1977, through June 30, 1978.

ADDRESSES: Comments may be addressed to: Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Two copies of all written comments should be submitted, and they will be made available for public inspection from the office of the Hearing Clerk during regular business hours (7 CFR 1.27 (b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250; 202-447-3545.

SUPPLEMENTARY INFORMATION: Pear Regulation 16 (§ 927.316; 42 FR 39670) sets forth the currently effective grade, quality, and size requirements on the handling of Beurre D'Anjou variety of winter pears. This regulation is effective through September 30, 1977. This proposal would continue that regulation through June 30, 1978, except a requirement relative to core temperature and pressure tests on pears shipped from designated districts would be continued only until November 1, 1977. Under the regulation Beurre D'Anjou pears must grade at least U.S. No. 2 and be not smaller than 165 size. However, any handler may ship a quantity of 180 size that grade at least U.S. No. 1, provided such quantity does not exceed 2 percent of his total shipment grading U.S. No. 1, or better. In addition, pears with unhealed skin punctures not exceeding 3/16 inches may be shipped.

The proposed regulation was recommended by the Control Committee under § 927.50 of the marketing agreement and Order No. 927 (7 CFR Part 927), regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne Du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposal is to amend § 927.316 (42 FR 39670) to read as follows:

§ 927.316 Pear Regulation 16.

(a) During the period August 8, 1977, through June 30, 1978, no handler shall ship any Beurre D'Anjou variety of pears, except such variety grown in the Medford District, unless such pears meet the following requirements or are handled in accordance with paragraph (b) of this section: *Provided*, That, any Beurre D'Anjou pears shipped from the Medford District shall meet the requirements of subparagraph (2) of this paragraph.

(1) Beurre D'Anjou pears shall be of a size not smaller than 165 size and shall grade at least U.S. No. 2 except that any handler may ship a quantity of Beurre D'Anjou pears that are not smaller than 180 size and not less than U.S. No. 1 grade which quantity shall not exceed 2 percent of the total U.S. No. 1 or better grades of such variety shipped by the handler, during the aforesaid period: *Provided*, That, pears of such variety which bear unhealed skin punctures not exceeding 3/16 of an inch in diameter may be shipped if they otherwise grade at least U.S. No. 1 and are of a size not smaller than 135 size: *Provided, Further*, That, pears of such variety which fail to meet the U.S. No. 2 grade requirements only because of serious damage but not very serious damage caused by healed hail marks or by frost, may be shipped if the shape of the pear is such that it will cut at least one good half;

(2) Buerre D'Anjou pears shipped from the Medford, Hood River-White Salmon-Underwood, Wenatchee, and Yakima Districts through November 1, 1977, shall have an appropriate certification by the Federal-State Inspection Service, issued prior to shipment, showing that the core temperature of such pears has been lowered to 35 degrees Fahrenheit or less and any such pears for domestic shipment shall have an average pressure test of 14 pounds or less.

(b) During the aforesaid period, each handler may ship on any one conveyance up to, but not to exceed, 200 standard western pear boxes of Beurre D'Anjou variety of pears, or an equivalent quantity of pears in other containers computed by weight to the nearest 5 pounds, without regard to the inspection requirements of § 927.60(a), under the following conditions:

(1) Each handler desiring to make shipments of Beurre D'Anjou variety of pears pursuant to this paragraph shall first apply to the committee, on forms furnished by the committee, for permission to make such shipments. At the time of any such shipment the handler shall report to the committee on forms furnished by the committee, the car or truck number and the destination of the shipment.

(2) On the basis of such individual reports the committee shall require spot check inspection of such shipments.

(c) When used herein, "U.S. No. 1" and "U.S. No. 2" shall have the same meaning as when used in the United States Standards for Winter Pears (7 CFR 51.1300–51.1323); "135 size," "165 size," and "180 size," shall mean that the pears of such designated sizes will pack, in accordance with the sizing and packing specifications of a standard pack as specified in said United States Standards, 135, 165, or 180 pears, respectively, in a standard western pear box (inside dimensions 18 inches long by 11½ inches wide by 8½ inches deep); and, except as otherwise specified, all other terms shall have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: August 15, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-23944 Filed 8-17-77;8:45 am]

[7 CFR Part 993]

DRIED PRUNES PRODUCED IN CALIFORNIA

Proposed Undersized Regulation and Salable and Reserve Percentages for the 1977–78 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would: (1) Establish salable and reserve percentages of 100 percent and 0 percent, respectively, for the 1977–78 crop year; and (2) establish an undersized prune regulation for prunes received by handlers from producers and dehydrators during the 1977–78 crop year. The intended effect of the proposal would be to remove the smallest and hence, the least desirable, prunes from the 1977 crop.

DATES: Written comments to this proposal must be received by September 9, 1977.

ADDRESSES: Written comments should be submitted in duplicate to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 202–447–3545.

SUPPLEMENTARY INFORMATION: This proposal was recommended by the Prune Administrative Committee. The Committee is established under the marketing agreement, as amended, and Order No. 993, as amended (7 CFR Part 993), regulating the handling of dried prunes produced in California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The Committee's recommendations are based on its estimate that California's 1977 dried prune production would approximate 156,560 tons (processed weight), and that carryin on August 1, 1977, the beginning of the 1977–78 crop year, of salable prunes from 1977 production would be about 25,000 tons.

The estimated 1977 production, coupled with the estimated carryin would result in a supply exceeding 1977–78 trade demand for prunes by about 11,560 tons. However, the Committee recommended no volume regulation for the 1977–78 crop year. Instead, it recommended establishment of an undersized regulation applicable to all prunes received by handlers from producers and dehydrators during that crop year. The objective of the undersized regulation would be to remove the smallest—i.e., the least desirable—prunes from the 1977 crop. Handlers cannot market undersized prunes for human consumption, but can dispose of them in nonhuman consumption outlets such as livestock feed. The Committee estimated that the proposed undersized regulation would reduce the apparent excess of about 11,560 tons by approximately 6,262 tons, still leaving sufficient prunes to fulfill foreign and domestic trade demand during the 1977–78 crop year, and provide an adequate carryout on July 31, 1978.

Under the proposal, French variety prunes which pass freely through a screet opening $^{23}/_{32}$ of an inch in diameter would be classified as undersized prunes. For non-French prunes, the opening would be $^{28}/_{32}$ of an inch in diameter.

§ 993.404 Undersized prune regulation for the 1977–78 crop year.

The proposals follow:

1. Salable and reserve percentages for the 1977–78 crop year.

§ 993.213 Salable and reserve percentages for prunes for the 1977–78 crop year.

The salable and reserve percentages for the 1977–78 crop year shall be 100 percent and 0 percent, respectively.

2. The proposed undersized prune regulation for the 1977–78 crop year is as follows:

§ 993.404 Undersized prune regulation for the 1977–78 crop year.

Pursuant to §§ 993.49(c) and 993.52, an undersized prune regulation for the 1977–78 crop year is hereby established. Undersized prunes are prunes which pass freely through round openings as follows: For French prunes, $^{23}/_{32}$ of an inch in diameter; for non-French prunes, $^{28}/_{32}$ of an inch in diameter.

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A–107.

Dated: August 15, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division.

[FR Doc.77-23943 Filed 8-17-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 450]

ENERGY MEASURES AND ENERGY AUDITS

Proposed Revision To The Energy Measures List

AGENCY: Federal Energy Administration.

ACTION: Notice of proposed rulemaking and comment period for revision of energy measures list.

SUMMARY: After consultation with the Secretary of Housing and Urban Development, the Federal Energy Administration (FEA) proposes to revise the list of energy conservation measures and renewable-resource energy measures published as a final rule in the FEDERAL REGISTER on July 25, 1977, by changing the designation of an air source heat pump and a water source heat pump from a renewable-resource energy measure to an energy conservation measure. FEA also proposes to reduce the numerical values for the Table of Climatic Factors for an air source heat pump without, however, changing the calculation procedure.

DATE: Comments by September 16, 1977, 4:30 p.m., e.d.t.

ADDRESS: Comments to: Room 3317, Federal Energy Administration, Box OR, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Comment Procedures: Bruce Hantke, FEA, Executive Communications, room 3317, 1200 Pennsylvania Ave., NW., Washington, D.C. 20461, 202–566–9437.

Media Relations: Jim Merna, FEA, Office of Communications and Public Affairs, room 3104, 1200 Pennsylvania Ave., NW., Washington, D.C. 20461, 202–566–9833.

Program Office For Energy Conservation Measures: Allen Jaisle, FEA, Office of Conservation, room 5317, 1200 Pennsylvania Ave., NW., Washington, D.C. 20461, 202–566–7263.

Program Office For Renewable-Resource Energy Measures: John Pulice, FEA, Office of Energy Resource Development, room 1433, 1200 Pennsylvania Ave., NW., Washington, D.C 20461, 202–566–6192.

SUPPLEMENTARY INFORMATION:

1. Explanation of Revisions.
2. Comment Procedures.
3. Coordination with Outside Parties and Environmental and Inflationary Review.

1. EXPLANATION OF REVISIONS

On July 15, 1977, the Federal Energy Administration (FEA) issued by final rule a list of energy conservation and renewable-resource energy measures (energy measures). This final rule amended Part 450, Chapter II of Title 10, Code of Federal Regulations (CFR) and was published in the FEDERAL REGISTER on July 25, 1977, 42 FR 37795. FEA developed this list, after consultation with the Secretary of Housing and Urban Development, in accordance with Section 432(d), 42 U.S.C. 6325(e)(1), of the Energy Conservation and Production Act (Act) Pub. L. 94–385, 90 Stat. 1125 et seq. Section 432 amends Part C of Title III of the Energy Policy and Conservation Act (EPCA), 42 U.S.C. 6321–6326.

FEA has reconsidered the designation of an air source heat pump and a water source heat pump as a renewable-resource energy measure, as provided in paragraphs (b) and (c) of § 450.33. Water and air source heat pumps were designated as renewable-resource energy measures because ambient air or water heated by solar energy provides a nondepletable source of energy for part of the energy consumed by a heat pump and, in proper applications, a heat pump can result in electricity savings sufficient to achieve cost recovery. Accordingly, both modifications satisfy the requirements of the Act pertaining to a renewable-resource energy measure. However,

V42160 AUG 18 77 UM

on the basis of further evaluation, FEA finds such a designation could be misleading to the public and discourage its use in appropriate applications.

FEA has determined that a necessary consideration for designating a modification as a renewable-resource energy measure is the proportion of energy derived from a nondepletable energy source relative to the total energy consumed in the renewable-resource operating mode, that is, excluding backup energy supplied from a depletable energy source.

For all the renewable-resource energy measures listed in § 450.33 with the exception of heat pumps, this proportion of nondepletable energy to total energy consumption in the renewable-resource operating mode is typically very high, above 80% to 90%. A typical heat pump with a coefficient of performance of 2.0 derives 50% of the total energy consumed from a nondepletable energy source when operating in the renewable-resource mode, not considering backup energy. This proportion can vary from 23% to 68% for coefficients of performance which range from 1.3 to 3.1 for commercially available heat pumps.

Because of their extent of dependence on depletable energy sources, FEA believes that designation of an air or water source heat pump as a renewable-resource energy measure deemphasizes the importance of encouraging development of modifications which utilize nondepletable energy in substitution for depletable energy sources. Although the Act authorizes FEA to classify a modification as a renewable-resource energy measure even if it replaces a depletable energy source only in part, FEA now considers the partial replacement provided by a heat pump to be insufficient.

To be considered as a renewable-resource energy measure, a modification should bring about a relatively large replacement of a depletable energy source. So that it will not prejudge the effectiveness of new technology, at the persent time, FEA will not establish a minimum replacement percentage for designating a renewable-resource energy measure. However, the performance of a heat pump in this regard is inadequate, and this determination can provide some guidance while permitting FEA to consider a modification employing renewable-resource energy on its own merits.

Heat pumps, however, are likely in appropriate applications to provide sufficient cost and energy savings to qualify for designation as an energy conservation measure. FEA has determined that with respect to an air or water source heat pump cost recovery is likely and, in appropriate applications, the primary purpose criteria for an energy conservation measure are satisfied. FEA also finds that proper use of a heat pump will not result in an ineligible fuel conversion, except that an oil or gas fired heat pump could not replace an electrical resistance heating system. This limitation does not extend to a renewable-resource energy measure. However, FEA believes it is unnecessary to address this issue in this proposal because, at the present time, there is no oil or gas fired heat pump commercially available. Also designation of a heat pump as an energy conservation measure does not alter the cost recovery calculation previously employed by FEA because FEA found its useful life to be limited to 15 years. However, should improvements in technology in the future increase the useful life of a heat pump to exceed 15 years, then this proposed redesignation would limit cost recovery to that achievable in 15 years, because the Act limits cost recovery to 15 years for an energy conservation measure although up to 25 years may be used for a renewable-resource measure.

As in the final rulemaking, FEA continues to require a verification energy audit for a water source heat pump. Again, FEA proposes to retain a formula calculation for specified applications of an electric air source heat pump as in the final rulemaking but all other applications still require a verification energy audit. Accordingly, FEA proposes to amend § 450.32 to include these provisions without changing their effect except in one respect.

More current information on the performance of the air source heat pump has been obtained from the Energy Research and Development Administration (ERDA) since the issuance of the final rulemaking. FEA has readjusted the seasonal coefficient of performance (SPF) downward based on this additional information. Thus, FEA proposes to revise the numerical values used in the Table of Climatic Factors in § 450.34(c) to reflect the most current estimate of the SPF.

The table below shows the SPF's by heating zone for the electric air source heat pump on which cost recovery calculations are based:

	Regulation	Proposed revision
Heating zone:		
0	2.50	2.00
1	2.42	1.64
2	2.13	1.58
3	2.09	1.40
4	1.60	1.18
5	1.51	1.05

FEA is particularly interested in receiving comments on the appropriate SPF's for air source heat pumps.

The procedure used to calculate the SPF's of air source heat pumps developed for the regulation is the method specified in the National Bureau of Standards publication entitled Unitary Heat Pump Specification for Military Housing (NBSIR 76–1029). This document uses the "bin method" of calculating heating season SPF for air source heat pumps. This procedure is also detailed in the Proceedings of the Conference on Improving Efficiency and Performance of HVAC Equipment and Systems for Commercial and Industrial Buildings, held April 12–14, 1976, at Purdue University, in an article by Charles W. Erlandson, entitled "A Method for Calculating Commercial Seasonal Performance Factors".

This method was applied by first determining the characteristics of a house representative of the existing housing stock in various cities throughout the country covering the six specified heating zones. A representative heat pump was sized for each house to satisfy the cooling requirements for each city. The performance data for the selected heat pump and weather data were used in the bin procedure to develop an SPF for each city. Heating zone SPF's were calculated by averaging the SPF's obtained for each city in the heating zone. This included consideration of variations in temperature and humidity.

The SPF's used for the proposed revision were obtained by extrapolating those provided in a report entitled Progress Report No. 5: Evaluation of New and Add-on Heat Pump Technology (April 29, 1977). This is a report of a recent investigation of heat pumps by Gordian Associates Inc. for ERDA under Contract No. E(49–18)–2121. The performance of heat pumps in the cities studies was used directly or extrapolated by FEA in consultation with ERDA to determine the performance for each heating zone.

FEA believes that SPF's determined by the ERDA study to be the latest and most definitive data on heat pumps available. While the SPF's in the regulation utilized a manual computation method for compensating for the variations in adjusting the coefficient of performance, the ERDA study uses a more complex computerized technique to adjust the coefficients of performance to a seasonal performance basis. Also, the ERDA study takes into account heat pump energy losses due to frost formation, start-stop losses and four-way valve heat transfer losses, for which the previous method did not compensate.

2. COMMENT PROCEDURES

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposals set forth in this notice to Executive Communications, Room 3317, Federal Energy Administration, Box OR, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation "Energy Measures." Fifteen copies should be submitted. All comments and all other relevant information received by September 16, 1977, before 4:30 p.m., e.d.t., will be considered by FEA before final action is taken regarding the proposed revision.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

3. COORDINATION WITH OUTSIDE PARTIES, AND ENVIRONMENTAL AND INFLATIONARY REVIEW

In preparing this proposed revision, it was reviewed not only internally by FEA but also by a representative of the Secretary of the Department of Housing and Urban Development. In accordance with FEA's obligations under the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.), an evaluation of the potential environmental impacts of the energy measures list was prepared by FEA for both the proposed (42 FR 29906 et seq.) and the final rulemaking (42 FR 37795 et seq.) FEA determined that the energy measures list would not have a significant effect upon the environment as provided by NEPA, and that publication of the list would not constitute a major Federal action. The proposed revision contains no changes which would affect FEA's analysis of environmental consequences.

As required by Section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93–275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator has no comments.

The proposed rulemaking for the energy measures list was reviewed in accordance with Executive Order 11821, as amended by Executive Order 11949 and OMB Circular A–107, and was determined not to be a major proposal requiring an evaluation of its economic impact. The proposed revision contains no changes which would alter this determination.

(Part B of Title IV of the Energy Conservation and Production Act, Pub. L. 94–385, 90 Stat. 1125 et seq.; also issued under Part C, Title III of the Energy Policy and Conservation Act, Pub. L. 94–163, 89 Stat. 871 et seq. (42 U.S.C. 6321 et seq.); Federal Energy Administration Act of 1974, as amended, Pub. L. 93–275, (15 U.S.C. 761 et seq.); E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, it is proposed to amend Part 450 of Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., August 12, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

PART 450—ENERGY MEASURES AND ENERGY AUDITS

§ 450.33 [Amended]

1. 10 CFR 450.33 (b) and (c) are redesignated as 10 CFR 450.31 (u) and (v) respectively.

2. 10 CFR 450.33 is amended to read in appropriate alphabetical sequence.

§ 450.34 [Amended]

3. 10 CFR 450.34 (a) is amended by deleting the words "paragraphs (b) or (c)" and substituting the words "paragraph (b)" instead.

4. 10 CFR 450.34 (c) is deleted.

5. 10 CFR 450.32 is amended by adding paragraphs (u) and (v) as follows—

§ 450.32 Requirements and limitations for energy conservation measures.

* * * * *

(u) An air source heat pump must be evaluated by a verification audit in accordance with the procedures in Subpart C of this part to determine whether cost savings in a specific application are sufficient to recover the costs of purchase and installation within its attributed life, unless it is a system which is—

(1) Installed in a residential building; and

(2) (i) An electric heat pump with only heating capability which replaces electric resistance space heating; or

(ii) An electric heat pump with both heating and cooling capability which replaces electric resistance space heating and air conditioning; and

(3) Purchased, installed, and maintained at a total cost which shall not exceed the maximum allowable cost which shall be computed by—

(i) Selecting the correct climatic zone factor for the Federal Region and heating zone in which the system will be installed using the following table—

Table of climatic factors

	Heating zones					
	0	1	2	3	4	5
Federal region:						
1	—	—	—	2.3	1.2	—
2	—	—	2.7	2.1	1.1	—
3	—	—	2.8	2.2	—	—
4	4.1	3.2	3.0	—	—	—
5	—	—	2.9	2.3	1.2	0.4
6	4.5	3.5	3.3	2.6	1.4	—
7	—	—	3.0	2.3	1.2	—
8	—	—	—	2.2	1.2	.4
9	—	3.3	3.0	2.4	1.3	—
10	—	—	3.3	2.6	1.4	—

NOTE.—Dashes in table correspond to points where a heating zone and a Federal region do not coincide.

(ii) Multiplying this factor by the previous year's heating cost for the user of the system to be installed.

(v) A water source heat pump must be evaluated by a verification audit in accordance with the procedures in Subpart C of this part to determine whether cost savings in a specific application are sufficient to recover costs of purchase and installation within its attributed life.

[FR Doc.77-23875 Filed 8-17-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 77–WE–20–AD]

McDONNELL DOUGLAS MODEL DC–9 SERIES AIRPLANES

Proposed Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to add an Airworthiness Directive (AD) that would modify the tail cone emergency exit release handle locating and operating markings on all McDonnell Douglas DC–9 airplanes. There has been one incident in which the inability to locate and operate the tail cone release handle has caused a delay in evacuating the airplane during an emergency.

DATES: Comments must be received on or before September 23, 1977. Proposed compliance date: Ninety days from the effective date of this AD.

ADDRESSES: Send comments on the proposal to:

Department of Transportation, Federal Aviation Administration, Office of Regional Counsel, AWE–7, Attention: Rules Docket, P. O. Box 92007, Worldway Postal Center, Los Angeles, California, 90009.

FOR FURTHER INFORMATION CONTACT:

Kyle I. Olsen, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Telephone: (213) 536–6351.

SUPPLEMENTARY INFORMATION: A key element in the DC–9 tail cone emergency exit system is the tail cone release handle. This handle must be pulled to release the tail cone and automatically deploy and inflate the emergency evacuation slide. Under night conditions with the emergency lights operating in the tail cone area, this release handle is difficult to locate and the required operating placard is difficult to read.

The National Transportation Safety Board issued Safety Recommendation A–77–29, dated May 23, 1977, as a result of the Texas International Airlines DC–9–14 accident at Denver, Colorado, on November 16, 1976, stating the flight attendant was unable to locate the tail cone release handle because it was poorly illuminated. The NTSB recommended a light source be located near the release handle or the handle be self-illuminating.

The tail cone emergency exit is required on all model DC–9 airplanes as stated in the Federal Aviation Administration Type Certificate Data Sheet No. A6WE. The FAA requires the identity, location, and means of opening the tail cone emergency exit be conspicuously marked. An alternate proposal to that which the NTSB recommended was made by the manufacturer consisting of additional placards in the tail cone area directing attention towards the release handle, adding additional placards at the release handle, and adding more obvious operating instructions on the handle itself. From this evaluation, the FAA has concluded that the modifications proposed by the manufacturer will meet the intent of the NTSB recommendation by insuring that the tail cone release handle can be located and operated by

crewmembers and passengers with the present emergency lights operating in the tail cone.

Since this condition is likely to exist in other products of the same type design, the proposed airworthiness directive would require the DC-9 tail cone emergency exit release handle locating and operating markings be changed in accordance with McDonnell Douglas Service Bulletin SB 53-134. Additional methods of marking the location and operation of the DC-9 tail cone release handle will be considered for installation if approved by the Chief, Aircraft Engineering Division, FAA Western Region.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Information on the economic impact that might result because of the adoption of the proposed rule is requested. Communication should identify the docket number and be submitted in duplicate to the address previously stated. All communications received on or before September 23, 1977 will be considered before taking action upon the proposed rule. The proposal may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

DRAFTING INFORMATION

The principal authors of this document are Robert M. Stacho, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

MCDONNELL DOUGLAS: Applies to all model DC-9 airplanes certificated in all categories.

Compliance within 90 days from the effective date of this AD, unless already accomplished.

To identify the location and operation of the tail cone emergency exit release handle, accomplish the following:

Modify the tail cone emergency exit release handle locating and operating markings in accordance with McDonnell Douglas Service Bulletin 52-134, dated July 12, 1977, or later FAA approved revision, or an equivalent modification approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 313(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on August 5, 1977.

FRANK HAPPY,
Acting Director,
FAA Western Region.

[FR Doc.77-23884 Filed 8-17-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-WA-14]

Proposed Alteration of Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign a segment of V-222 between Junction, Tex., and Industry, Tex., via the Stonewall, Tex., VORTAC and the INT of Stonewall 112°T(103°M) and Industry 269°T(260°M) radials, rather than as proposed in the FEDERAL REGISTER dated August 4, 1977 (42 FR 39401). This proposed action would cause V-222 to bypass the San Antonio, Tex., VORTAC and terminal area. This bypass route northeast of San Antonio would improve traffic handling capabilities by reducing the congestion near San Antonio.[1]

DATES: Comments must be received on or before September 5, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southwest Region, Attention: Chief, Air Traffic Division, Docket No. 77-WA-14, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before September 5, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

A segment of V-222 airway is presently designated from Junction, Tex., via an INT named Stonewall, Tex., thence via San Antonio, and an INT named LIPPY to Industry, Tex. In Airspace Docket No. 77-SW-27, NPRM, published in the FEDERAL REGISTER, August 4, 1977, the FAA proposed to redesignate V-222 from Junction to San Antonio over its present route via a VORTAC to be established at Stonewall. The action proposed herein would realign the segment of V-222 from Stonewall to Industry via the INT of Stonewall 112°T (103°M) and Industry 269°T (260°M) radials which would avoid San Antonio and thus help to expedite the flow of east/west traffic in this area.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) as follows:

In V-222 "Junction, Tex., INT Junction 112° and San Antonio, Tex., 334° radials; San Antonio; INT San Antonio, 074° and Industry, Tex., 264° radials; Industry;" is deleted and "Junction, Tex.; Stonewall, Tex.; INT Stonewall 112° and Industry, Tex., 269° radials; Industry;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

[1] Map filed as part of the original document.

Issued in Washington, D.C., on August 11, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-23724 Filed 8-17-77;8:45 am]

[14 CFR Parts 121, 123, and 135]

[Docket No. 15531; Reference Notice No. 76-7]

AIR CARRIERS, COMMERCIAL OPERATORS, AIR TRAVEL CLUBS AND AIR TAXI OPERATORS

Operation of Certain Large Airplanes Under the Rules Governing Air Taxi Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This notice withdraws Notice No. 76-7 (41 FR 13952; April 1, 1976) in which the Federal Aviation Administration proposed to permit temporarily, with certain exceptions, the operation of certain airplanes under the rules of Part 135 of the Federal Aviation Regulations. The intended effect is to terminate the rulemaking action proposed by Notice 76-7. This action is necessary because the FAA is developing a comprehensive rulemaking project applicable to Part 135 which will include the general philosophy of Notice 76-7. In addition, the FAA has determined that the proposals in Notice 76-7 would have little relevance to Part 121 or Part 123 certificate holders because they normally do not operate airplanes of the size specified in that notice.

DATE: Effective immediately.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION: The FAA received 78 comments from the public in response to Notice No. 76-7, including one from the National Transportation Safety Board. Of the 78 public comments, 50 were in favor of the proposal while 28 were in opposition.

The greatest number of comments in favor of the proposal, 33 of the 50, were received from Part 135 Air Taxi Commercial Operator certificate holders operating small airplanes. These comments generally reflected the views that (1) the 12,500 pound demarcation between large and small aircraft is no longer a relevant safety consideration in light of current aircraft being operated pursuant to Parts 121, 123, and 135, and (2) requiring the operator of an air taxi service using large aircraft to comply with the provisions of Part 121 applicable to supplemental air carriers places an undue economic burden on the certificate holder operating few aircraft.

Comments presenting an unfavorable view toward part or all of the proposal expressed a variety of opinions. Some stated that they believed Part 135 should be overhauled rather than adopt Notice No. 76-7. Other commentators asserted that if the proposal were adopted, it would cause chaos in the air taxi industry as the FAA would not have sufficient regulatory personnel to provide adequate supervision over the safety aspects of the industry. Several comments reflected the view that helicopters should not have been excluded from the proposal and recommended an amendment to Part 127, while others expressed the fear that safety may be compromised if the fuel load for an airplane certificated for more than one maximum certificated take-off weight must be limited to comply with a take-off weight of less than 12,500 pounds.

Other commentators, not in favor of Notice No. 76-7, stated that the intent of the proposal was an injustice to operators who have complied with the regulations in Part 121 applicable to supplemental air carriers, since FAA's rationale in adopting § 135.2 was based upon the need to provide increased protection for the public. The overall tenor of those comments in opposition to the proposal was that its adoption would lead to a reduced level of safety in turbojet air taxi operations and that the rules governing air taxi operations should be made more stringent, rather than eased as proposed in Notice No. 76-7.

Notice No. 76-7 proposed amending §§ 121.9, 123.5, and 135.2 to reflect the criteria contained in the proposal. Since Part 121 certificate holders are not normally engaged in the operation of airplans having passenger and payload capacities and a maximum zero fuel weight as set forth in Notice No. 76-7, the FAA believes that the proposal would have little relevance to operations presently being conducted pursuant to that part. Similarly, the proposal to amend § 123.5, affecting air travel clubs, is also unnecessary in light of the fact that there are no air travel clubs operating airplanes having passenger and payload capacities and a maximum zero fuel weight as proposed in Notice No. 76-7.

With respect to that part of the proposal which would have amended § 135.2, it is noted that the Part 135 Regulatory Review Program will result in a major overhaul of this part, and a provision reflecting the general philosophy of Notice No. 76-7 will be included as part of a notice of proposed rule making with respect to the revision of Part 135.

The FAA has determined that rulemaking action on Notice No. 76-7 is not warranted at this time. However, withdrawal of this notice does not preclude the FAA from issuing similar notices in the future due to a change in circumstances, nor does it commit the FAA to any course of action.

DRAFTING INFORMATION

The principal authors of this document are William T. Brennan, Air Carrier Regulations Branch, Flight Standards Service, and Marshall S. Filler, Office of the Chief Counsel.

Accordingly, Notice No. 76-7, published in the FEDERAL REGISTER on April 1, 1976 (41 FR 13952), is hereby withdrawn, effective immediately.

(Secs. 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1424); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 10, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77-23723 Filed 8-17-77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 752 3078]

EAST PROVIDENCE CREDIT UNION

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: This consent order, among other things, requires an East Providence, R.I. credit union to cease failing to provide consumers, in connection with the extension of credit, such material and disclosures as are required by Federal Reserve System regulations.

DATE: Comments must be received on or before October 17, 1977.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th and Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

William M. Gibson, Dir., Boston Regional Office, (Room 1301), Federal Trade Commission, 150 Causeway St., Boston, MA. 02114. (617) 223-6621.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the FTC Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will

be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[File No. 752 3078]

EAST PROVIDENCE CREDIT UNION

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of East Providence Credit Union, a corporation, and it now appearing that East Providence Credit Union, a corporation, hereinafter referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between East Providence Credit Union, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent East Providence Credit Union is a corporation organized, existing and doing business under and by virture of the laws of the State of Rhode Island and Providence Plantations, with its principal office and place of business located at 15 Circle Street, East Providence, Rhode Island.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives: (a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreements is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to-order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and understands that once the order has been issued, it will be required to file one or more compliance reports showing that proposed respondent has fully complied with the order, and that proposed respondent may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

It is ordered, That respondent East Providence Credit Union, a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of consumer credit or advertisement to aid, promote or assist, directly or indirectly, any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Pub. L. 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to disclose the sum of payments scheduled to repay the indebtedness, using the term "total of payments," as required by § 226.8(b)(3) of Regulation Z.

2. Failing to disclose the total amount of the finance charge, with description of each amount included, using the term "finance charge," as required by § 226.8(d)(3) of Regulation Z.

3. Failing to provide a description of any penalty charge that may be imposed for prepayment of the principal with an explanation of the method of computation of such penalty and the conditions under which it may be imposed, as required by § 226.8(b)(6) of Regulation Z.

4. Failing in any transaction in which respondent retains or acquires a security interest in real property which is used or expected to be used as the principal residence of the customer, to provide customers with two copies of the "Notice of Opportunity to Rescind" in the manner and form required by § 226.9 of Regulation Z.

5. Failing to use the term "amount financed" to describe the amount of credit extended, including all charges, individually itemized, which are included in the amount of credit extended but which are not part of the finance charge, as required by § 226.8(d)(1) of Regulation Z.

6. Representing in any advertisement directly or by implication, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless all of the following items are clearly and conspicuously stated, in terminology prescribed under § 226.8 of Regulation Z, as required by § 226.10(d)(2) of Regulation Z: (a) The amount of the loan;

(b) The number, amount and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

(c) The amount of the finance charge expressed as an annual percentage rate; and

(d) The total of payments.

7. Failing, in any consumer credit transaction or advertisement to make all disclosures determined in accordance with §§ 226.4 and 226.5 of Regulation Z at the time and in the manner, form and amount required by §§ 226.6, 226.8, and 226.10 of Regulation Z.

It is further ordered, That respondent deliver a copy of this order to cease and desist to all present and future personnel of respondent now or hereafter engaged in the consummation of any extension of consumer credit or in any aspect of the preparation, creation, or placing of advertising, and that respondent secure a signed statement acknowledging receipt of said order from each said person.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent herein shall within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

[File No. 752 3078]

EAST PROVIDENCE CREDIT UNION

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from East Providence Credit Union, 15 Circle Street, East Providence, R.I. 02914.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint that led to the proposed order to cease and desist alleged that the proposed respondent has violated the provisions of the Truth in Lending Act and Regulation Z promulgated thereunder by failing to disclose to consumers prior to the consummation of the promissory notes, the amount financed; a description of the penalty charged to be imposed for pre-payment of the obligation, the method by which it is computed and the conditions under which it will be imposed; failing in certain instances to provide consumers with the "Notice of Opportunity to Rescind" and to set out the "Effect of Rescission"; and failing to comply with all requirements of Regulation Z pertaining to the advertising of consumer credit.

The consent order requires the company to cease and desist failing to make the disclosures alleged in the complaint. It further requires that the company make the consumer credit transaction and advertising disclosures required under §§ 226.4 and 226.5 of Regulation Z and in the manner and form prescribed by the Regulation. The consent order also requires the company to deliver a copy of the order to all present and future personnel.

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-23865 Filed 8-17-77;8:45 am]

[16 CFR Part 453]

FUNERAL INDUSTRY PRACTICES

Publication of Presiding Officer's Report Regarding Proposed Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Publication of Presiding Officer's Report.

SUMMARY: On February 20, 1976 the Presiding Officer published in the FEDERAL REGISTER (41 FR 7787) final notice of the proposed trade regulation rulemaking proceeding. The Presiding Officer's Report, required by the Commission's Rules of Practice for rulemaking (16 CFR 1.13(f)) consisting of his summary, findings and conclusions with regard to the proposed rule and to those issues designated by him and such other findings and conclusions as he saw fit to make, has been made public and placed on Public Record No. 215-46. When completed, the staff's report on the rulemaking record and its recommendations to the Commission also will be made public and notice thereof published in the FEDERAL REGISTER. The Presiding Officer's Report has not been adopted or reviewed on the merits by the Bureau of Consumer Protection or reviewed or adopted by the Commission itself and its publication should not be interpreted as reflecting the present views of the Commission or any individual Commissioner.

DATE: The sixty-day period which the Rules of Practice for rulemaking (16 CFR 1.13(g)) provide for public comment on both the Presiding Officer's report and the staff's report will not commence until the staff's report has been made public and placed on the public record. Therefore, comment on the Presiding Officer's report alone would be considered premature at this time.

FOR FURTHER INFORMATION CONTACT:

Jack E. Kahn, Presiding Officer, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, 202-724-1152.

Issued: August 16, 1977.

ALBERT H. KRAMER,
Director, Bureau of Consumer Protection.

[FR Doc.77-24061 Filed 8-17-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Chapter I]

[FHWA Docket No. 76-21; Notice 3]

REVIEW OF REGULATIONS AND DIRECTIVES

Supplemental Advance Notice of Proposed Rulemaking

AGENCY: Federal Highway Administration, DOT.

ACTION: Supplemental advance notice of proposed rulemaking.

SUMMARY: The Federal Highway Administration has completed a report, including recommendations, on its regulations and directive requirements in order to improve the Federal-aid highway program delivery procedures. Comments are requested before the Administrator acts upon this study.

DATE: Comments must be received on or before September 20, 1977.

ADDRESS: FHWA Docket No. 76-21, Notice 3, Room 4230, Federal Highway Administration, U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Dennis Judycki, Office of the Federal Highway Administrator (202-426-0848), Federal Highway Administration; or Hugh T. O'Reilly, Office of the Chief Counsel (202-426-0761), Federal Highway Administration. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: In November 1976 the Federal Highway Administration (FHWA) undertook a review of its requirements, directive material and program management with a view to determining how its delivery procedures for Federal-aid for highways may be improved.

The FHWA on December 1, 1976, (41 FR 52703) and February 25, 1977 (42 FR 11023), published an Advance Notice of Proposed Rulemaking and Supplmental Advance Notice of Proposed Rulemaking, respectively, soliciting comments on this subject from interested persons.

A report, including recommendations which are directed at improving Federal-aid highway procedures and reducing to a minimum unnecessary requirements on all levels of government, was submitted to the Federal Highway Administrator on June 29, 1977. On August 15 this report was distributed within FHWA, to all State Departments of Transportation/Highway Agencies, and those cities, counties, and special interest groups involved in earlier phases of information gathering.

Prior to the Administrator taking action upon the study recommendations, public comment from interested persons is solicited. For the convenience of interested parties, the study report has been made available for inspection at each of FHWA's document inspection facilities (FHWA offices). Arrangements for inspection of this report may be made by contacting the nearest FHWA office which is located in each State and the Washington, D.C. Headquarters office. Addresses of these offices are published in Title 49 of the Code of Federal Regulations (49 CFR, Part 7, Appendix D). Where inspection is not convenient a limited number of copies of the report are available for distribution on a first come first serve basis from the Federal Highway Administration, HMS-10, Room 4428, 400 Seventh Street SW., Washington, D.C. 20590.

Those wishing to comment on the study report are asked to submit their views in writing. Comments should be addressed to FHWA Docket No. 76-21, Notice 3, Federal Highway Administration, 400 Seventh Street, SW., Room 4230, Washington, D.C. 20590. All comments received on or before September 20, 1977, will be considered. Comments received will be available for public inspection both before and after the closing date at the above address.

(23 U.S.C. 315 and 49 CFR 1.48.)

Issued on August 15, 1977.

L. P. LAMM,
Executive Director,
Federal Highway Administration.

[FR Doc.77-23940 Filed 8-17-77;8:45 am]

Materials Transportation Bureau

[49 CFR Parts 173, 174, 178, 179]

[Docket No. HM-139; Notice No. 77-7]

INDIVIDUAL EXEMPTIONS, CONVERSION TO REGULATION OF GENERAL APPLICABILITY

Transportation of Hazardous Materials

Correction

In FR Doc. 77-22603 appearing at page 40003 in the issue for Monday, August 8, 1977, the Authority reference was omitted and should be inserted on page 40006 following the table as follows:

(49 U.S.C. 1803, 1804, 1806; 49 CFR 1.53(e) and paragraph (a)(4) of App. A to Part 102)

V42 I160 AUG 18 77 UM

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A494]

CALIFORNIA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Placer County, California, as a result of a severe freeze occurring on March 27, 28 and 29, 1977.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.–3(b) including the recommendation of Governor Edmund G. Brown, Jr., that such designation be made.

Applications for emergency loans must be received by this Department no later than October 11, 1977, for physical losses and May 10, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance of proposed rulemaking and invite public participation.

Done at Washington, DC, this 11th day of August 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77-23891 Filed 8-17-77;8:45 am]

Federal Grain Inspection Service

GRAIN STANDARDS

Arizona Grain Inspection Point

Statement of considerations. On June 3, 1977, a notice was published in the FEDERAL REGISTER (42 FR 28563–28564) announcing that (1) the Agricultural Seed Laboratories, the official agency designated pursuant to section 7(f) of the U.S. Grain Standards Act as amended (7 U.S.C. 79(f)) for Phoenix, Arizona, requested that its designation be transferred to Mr. Thomas B. Storey, Chief Grain Inspector, Agricultural Seed Laboratories; and (2) Mr. Thomas B. Storey had filed an application in accordance with the U.S. Grain Standards Act to become the official agency at Phoenix, Arizona.

Intersted persons were given until July 5, 1977, to submit written views and comments on the requested transfer and/or to make application to become the official agency at Phoenix, Arizona.

No written views, comments, or additional applications have been received in response to the above notice.

After due consideration of all relevant matters, the official agency formerly owned by Mr. Harley M. Reeder, in Phoenix, Arizona, is hereby transferred to Mr. Thomas B. Storey to operate under the same name, the Agricultural Seed Laboratories, P.O. Box 6363, Phoenix, Arizona 85005.

As a point of clarification, it should be noted that the United States Grain Standards Act (7 U.S.C. 71 et seq.), hereinafter referred to as the "Act," has been amended by Pub. L. 94–582, effective November 20, 1976, to extensively modify the official inspection system. The amended Act provides that the Administrator of the newly-created Federal Grain Inspection Service (FGIS), after conducting investigations and other studies, will designate official agencies at the various interior points. In implementing these provisions, FGIS is currently in the process of reviewing the designations of all agencies or persons presently designated to provide official inspection services. The amended Act further provides that existing agencies may continue to operate without a designation under the new law until the Administrator either grants or denies such designation to them or sets a period of time for their termination, not to exceed two years from the effective date of the amended Act, provided such agencies pay any required fees to FGIS.

Accordingly, the transfer of designation, which is the subject of this notice, is on an interim basis and will continue until the Administrator of FGIS either grants or denies an official designation under the amended Act to the recipient or sets a period of time for its termination.

(Sec. 7, 82 Stat. 764, as amended 90 Stat. 2870 (7 U.S.C. 79); sec. 3A, 90 Stat. 2868, 7 U.S.C. 75a.)

Effective date. This notice shall become effective August 18, 1977.

Done in Washington, D.C., on August 12, 1977.

L. E. BARTELT,
Administrator.

[FR Doc.77-23892 Filed 8-17-77;8:45 am]

GRAIN STANDARDS

Illinois Grain Inspection Point

Statement of considerations. On June 14, 1977, a notice was published in the FEDERAL REGISTER (42 FR 30413–30414) announcing that (1) the Illinois State Department of Agriculture, Springfield, Illinois, requested that the asisgnment of inspection points under its designation be amended to revoke Fairfield, Casey, and Shawneetown, Illinois, as designated inspection points and to add Mt. Vernon and Marion, Illinois, as designated inspection points and (2) in order to continue availability of the service and to allow the Illinois State Department of Agriculture to provide more efficient official inspection services at centralized locations as soon as practicable, this amendment of assignment should be made on an interim basis for a period not to exceed 90 days from the publication of the proposal notice in the FEDERAL REGISTER, pending a determination of this matter under the Act.

No comments were received with respect to the June 14, 1977, notice in the FEDERAL REGISTER. After due consideration of market needs and circumstances and other material available to the Department, the designation of the Illinois State Department of Agriculture, Springfield, Illinois, is amended to revoke Fairfield, Casey, and Shawneetown, Illinois, as designated inspection points and to add Mt. Vernon and Marion, Illinois, as designated inspection points.

As a point of clarification, it should be noted that the United States Grain Standards Act (7 U.S.C. 71 et seq.), hereinafter referred to as the "Act," has been amended by Pub. L. 94–582, effective November 20, 1976, to extensively modify the official inspection system. The amended Act provides that the Administrator of the newly created Federal Grain Inspection Service (FGIS), after conducting investigations and other studies, will designate official agencies at the various interior points. In implementing these provisions, FGIS is currently in the process of reviewing the designations of all agencies or persons presently designated to provide official inspection services. The amended Act further provides that existing agencies may continue to operate without a designation under the new law until the Administrator either grants or denies such designation to them or sets a period of time for their termination, not to exceed 2 years from the effective date of the amended Act, provided such agencies pay any required fees to FGIS.

Accordingly, the amendment of designated inspection points, which is the subject of this notice, is made on an interim basis and will continue until the Administrator of FGIS either grants or denies an official designation under the amended Act to the recipient or sets a period of time for its termination.

(Sec. 7, 82 Stat. 764, as amended 90 Stat. 2870, 7 U.S.C. 79; sec. 3A, 90 Stat. 2868, 7 U.S.C. 75a.)

Effective date. This notice shall become effective August 18, 1977.

Done in Washington, D.C., on August 12, 1977.

L. E. BARTELT,
Administration.

[FR Doc.77-23893 Filed 8-17-77;8:45 am]

GRAIN STANDARDS

Texas Grain Inspection Areas

Statement of considerations. Pursuant to sections 7(e)(1) and 7A(c)(1) of the U.S. Grain Standards Act, as amended, (7 U.S.C. 71 et seq.), hereinafter the "Act," the Federal Grain Inspection Service (FGIS) is required to provide official inspection and weighing services for all grain required or authorized to be inspected and weighed by the Act, at those export port locations where a State is not delegated to perform these official services (7 U.S.C. 79(e)(1) and 7 U.S.C. 79a(c)(1)).

The Federal Grain Inspection Service is to assume performance of official inspection and weighing services at such export port locations on a date set by the Administrator of the Service not to exceed 18 months from November 20, 1976, effective date of the amended Act; provided that, subject to meeting certain requirements of the Act, existing official agencies may continue to function during such transition period.

The Federal Grain Inspection Service assumption of inspection and weighing services at the Galveston Cotton Exchange and Board of Trade was originally scheduled for May 8, 1977.

On April 21, 1977, four local unions associated with the International Longshoremen's Association, AFL–CIO, filed a civil suit in the District Court for the Southern District of Texas seeking an injunction to prevent FGIS from providing inspection and weighing service within the State of Texas. Pursuant to an agreement between FGIS officials and the representatives of the union, the implementation of Federal inspection and weighing in the Port of Galveston was rescheduled to July 1, 1977, in order to permit the Court to hear evidence in support of the union request for a preliminary injunction.

After hearing the union's evidence, the Court, on June 24, 1977, ruled that the union had not established the need for a preliminary injunction.

Accordingly, notice is hereby given that the Galveston Cotton Exchange and Board of Trade, Galveston, Texas, a designated official agency in Galveston County, Texas, ceased providing official inspection services effective midnight June 30, 1977, and effective July 1, 1977, the designation of the Galveston Cotton Exchange and Board of Trade, as an official agency, was canceled pursuant to the provisions of section 7(g)(2) (7 U.S.C. 79(g)(2) and (7 U.S.C. 74 note)) of the Act.

Effective July 1, 1977, the Federal Grain Inspection Service assumed provision of official grain inspection and weighing services at the areas previously serviced by the Galveston Cotton Exchange and Board of Trade, in accordance with sections 7(e)(1), 7A(c)(1), and 27 of the Act (7 U.S.C. 79(e)(1), 7 U.S.C. 79a(c)(1), and 7 U.S.C. 74 note). This inspection area is contained within the confines of Galveston County, Texas.

(Sec. 8, (PL–94–582) 90 Stat. 2870 (7 U.S.C. 79); sec. 7A, (Pub. L. 94–582) 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, (Pub. L. 94–582) 90 Stat. 2889 (7 U.S.C. 74 note).)

Effective date. This notice became effective July 1, 1977.

Done in Washington, D.C. on August 12, 1977.

L. E. BARTELT,
Administrator.

[FR Doc.77-23894 Filed 8-17-77;8:45 am]

Forest Service

LOWER MINAM WILDERNESS STUDY REPORT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Lower Minam Wilderness Study Report USDA–FS–DES(Leg)77–06.

The environmental statement concerns a proposal for the future management of the Lower Minam Wilderness Study Area comprised of approximately 34,000 acres within the Wallowa-Whitman National Forest in Union and Wallowa counties, State of Oregon. This draft environmental statement was transmitted to CEQ on August 11, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th St. and Independence Ave., SW., Washington, DC 20013.
USDA, Forest Service, Pacific Northwest Region, 319 S.W. Pine Street, Portland, OR 97204.
USDA, Forest Service, Wallowa-Whitman National Forest, Federal Building, 1550 Dewey Avenue, Baker, OR 97814.

A limited number of single copies are available upon request to Forest Supervisor, Wallowa-Whitman National Forest, P.O. Box 907, Baker, OR 97814.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to an environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor, Wallowa-Whitman National Forest, P.O. Box 907, Baker, OR 97814.

Comments must be received by November 15, 1977, in order to be considered in the preparation of the final environmental statement.

R. MAX PETERSON,
Deputy Chief.

AUGUST 11, 1977.

[FR Doc.77-23890 Filed 8-17-77;8:45 am]

COMMISSION ON CIVIL RIGHTS

CONNECTICUT ADVISORY COMMITTEE

Agenda of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Connecticut Advisory Committee (SAC) of the Commission will convene at 9 a.m. and will end at 5 p.m. on September 26, 1977 and at 9 a.m. to 5 p.m. on September 27, 1977, at the U.S. Post Office, Room 235, 141 Weston Street, Hartford, Connecticut.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss hearings domestic violence projects.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 15, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-23945 Filed 8-17-77;8:45 am]

MAINE ADVISORY COMMITTEE

Agenda of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 11 p.m. on September 15, 1977, at the Civic Center, Augusta, Maine.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss and next steps on SAC activities and projects.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

V42 I160 AUG 18 77 UM

Dated at Washington, D.C., August 15, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-23946 Filed 8-17-77;8:45 am]

MASSACHUSETTS ADVISORY COMMITTEE

Agenda of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Massachusetts Advisory Committee (SAC) of the Commission will convene at 12:00 noon and will end at 6:00 p.m. on September 27, 1977, Jewish Labor Committee, 27 School Street, Boston, Massachusetts.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss program activities and status of SAC projects.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 15, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-23947 Filed 8-17-77;8:45 am]

VERMONT ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Vermont Advisory Committee (SAC) of the Commission will convene at 7 p.m. and will end at 10 p.m. on September 11, 1977, at the Tavern Motor Inn, Montpelier, Vermont.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commisison, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss program activities for the SAC and next steps on projects.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 15, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-23949 Filed 8-17-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

EXEMPTION OF FOREIGN AIR CARRIERS FROM CUSTOMS DUTIES AND TAXES

Request for Finding of Reciprocity (Guyana)

Notice is hereby given that the Department of Commerce is undertaking to determine whether, pursuant to sections 309 and 317 of the Tariff Act of 1930, as amended (19 U.S.C. 1309 and 1317), and section 4221 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 4221), the Government of Guyana allows substantially reciprocal customs and tax exemptions to aircraft of U.S. registry in connection with international commercial operations to those exemptions granted to aircraft of foreign registry under the aforementioned statutes. The basis of this undertaking is a request on behalf of Guyana Airways Corporation for a finding of such reciprocity.

The above-cited statutes provide exemptions for aircraft of foreign registry from payment of import duties and certain internal revenue taxes on the import or purchase of supplies in the United States for such aircraft in connection with their international commercial operations. "Supplies" as used in this context includes a wide range of articles used by aircraft in international operations, including fuel and lubricants, spare parts, consumable supplies, and ground handling and support equipment. These exemptions apply upon a finding by the Secretary of Commerce, or her designee, and communicated to the Department of the Treasury, that such country allows, or will allow, "substantially reciprocal privileges" to aircraft of United States registry with respect to imports or purchases of such supplies in that country.

Interested parties are invited to submit their views and comments in writing concerning this matter to Mr. S. Stanley Katz, Deputy Assistant Secretary for International Economic Policy and Research, Room 3830, U.S. Department of Commerce, Washington, D.C. 20230. All submissions should be made in five copies and should be received no later than September 2, 1977.

Copies of all written comments received will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, in the Central Reference and Records Inspection Facility, Office of Organization and Management Systems, Room 5319, Department of Commerce, Washington, D.C.

It is suggested that those desiring additional information contact Ms. Elizabeth R. Grauman, Transportation and Insurance Division, Office of International Finance and Investment, Room 2036, Washington, D.C. 20230, or call area code 202-377-5012.

S. STANLEY KATZ,
Deputy Assistant Secretary for International Economic Policy and Research.

[FR Doc.77-23896 Filed 8-17-77;8:45 am]

EXEMPTION OF FOREIGN AIR CARRIERS FROM CUSTOMS DUTIES AND TAXES

Consideration of Partial Withdrawal of Finding of Exemption Reciprocity (Japan)

Pursuant to a request of a U.S.-flag air carrier, notice is hereby given that the Department of Commerce is undertaking a review to determine whether, pursuant to sections 309 and 317 of the Tariff Act of 1930, as amended (19 U.S.C. 1309 and 1317), and section 4221 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 4221) there should be a partial withdrawal of the Department's 1954 finding of exemption reciprocity with Japan (TD 53550). The basis for the request is a complaint that aircraft of U.S. registry are being assessed customs duties on ground handling and support equipment imported into Japan for use in international commercial operations.

The above-cited statutes provide exemptions for aircraft of foreign registry from payment of import duties and certain internal revenue taxes on the import or purchase of supplies in the United States for such aircraft in connection with their international commercial operations. "Supplies" as used in this context includes a wide range of articles used by aircraft in international operations, including fuel and lubricants, spare parts, consumable supplies, and ground handling and support equipment. These exemptions apply upon a finding by the Secretary of Commerce, or her designee, and communicated to the Department of the Treasury, that such country allows, or will allow, "substantially reciprocal privileges" to aircraft of United States registry with respect to imports or purchases of such supplies in that country. Such exemptions for aircraft of foreign registry may be subsequently withdrawn, in whole or in part, upon a finding by the Secretary of Commerce, or her designee, that such country has discontinued or will discontinue the allowance of "substantially reciprocal privileges" to aircraft of United States registry.

In its 1954 finding with respect to Japan the Department determined that Japan allowed substantially reciprocal privileges to aircraft of United States registry. The Department's review will be for the purpose of determining whether there should be a withdrawal, in part, of that finding with respect to ground handling and support equipment.

Interested parties are invited to submit their views and comments in writing concerning this matter to Mr. S. Stanley Katz, Deputy Assistant Secretary for International Economic Policy and Research, Room 3830, U.S. Department of Commerce, Washington, D.C. 20230. All submissions should be made in five copies and should be received no later than September 19, 1977.

Copies of all written comments received will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, in the Central Reference and Records Inspection Facility, Office of Organization and Management Systems, Room 5319, Department of Commerce, Washington, D.C.

It is suggested that those desiring additional information contact Ms. Elizabeth R. Grauman, Transportation and Insurance Division, Office of International Finance and Investment, Room 2036, Department of Commerce, Washington, D.C. 20230, or call area code 202-377-5012.

S. STANLEY KATZ,
Deputy Assistant Secretary for Interna ional Economic Policy and Research.

[FR Doc.77-23895 Filed 8-17-77;8:45 am]

Economic Development Administration

DAUPHIN SHOE COMPANY, INC.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Dauphin Shoe Company, Inc., 345 Carlisle Street, Harrisburg, Pennsylvania 17104, a producer of footwear for infants and children, was accepted for filing on August 12, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

CHARLES L. SMITH,
Acting Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-23904 Filed 8-17-77;8:45 am]

National Oceanic and Atmospheric Administration

INTERNATIONAL WHALING COMMISSION REGULATION PROHIBITING ALL TAKE OF BOWHEAD WHALES

Public Hearings and Availability of Draft Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 and Section 1500.7(d) of the Council on Environmental Quality Guidelines, informal public hearings have been scheduled and a Draft Environmental Impact Statement has been prepared to consider the environmental impact resulting from a decision to object to or accept the International Whaling Commission's regulation removing the provision under which native take of bowhead whales had previously been allowed.

To facilitate the presentation of comments from all interested persons informal hearings will be held in Washington, D.C., and Alaska, specifically:

Place: Department of Commerce, 14th Street and Constitution Avenue, NW., room B-841, Washington, D.C.
Date: September 8, 1977.
Time: 9 a.m.
Place: North Slope Borough Office, Barrow, Alaska.
Date: September 13, 1977.
Time: 1 p.m.
Place: City Hall, Kotzebue, Alaska.
Date: September 15, 1977.
Time: 10 a.m.

Copies of the Draft Environmental Impact Statement are available for review in the following offices:

National Marine Fisheries Service, 3300 Whitehaven Street, NW., room 410, Washington, D.C.
National Marine Fisheries Service, Box 1668, Juneau, Alaska 99801.
U.S. Fish and Wildlife Service, 1412 Airport Way, Fairbanks, Alaska 99701.

Comments concerning the Draft Environmental Impact Statement are invited and should be submitted by September 23, 1977, to the Director (F33), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, Phone 202/634-7283.

Purpose of hearing: Interested members of the public are invited to present comments and views concerning the impact on the human environment which can be expected to result from the decision of the Secretary of State, in concurrence with the Secretary of Commerce, to object to or to accept the resolution of the International Whaling Commission adopted at the 29th Annual Meeting, June 20-24, 1977, Canberra, Australia, which would prohibit all take of bowhead whales.

Some of the environmental factors considered relevant to this decision which have been addressed in the Draft Environmental Impact Statement include:

(1) The biology of the bowhead whale (distribution, reproduction, population, etc.);

(2) Description of the harvest by both foreign and Alaskan natives;

(3) Eskimo subsistence hunts affected by this decision;

(4) Factors possibly contributing to increased animal take;

(5) The relationship of the whale to Eskimo life (including the effects of the hunt on Eskimo life style, diet and health, economy, and relationship to the non-native world);

(6) Environmental impact if the United States does not object (including impact on bowhead whale, other species, Eskimos, and future research);

(7) Environmental impact if the United States does object (including impact on bowhead whale, other species, Eskimos, and the International Whaling Commission);

(8) Enforcement and management.

All public comments and views appropriate for assessing the effects upon the human environment caused by a U.S. decision regarding the International Whaling Commission's prohibition on the bowhead whale harvest are encouraged and are in no way limited to the information, insights, and/or issues currently addressed in the Draft Environmental Impact Statement.

The record will remain open to receive written comments and views until September 23, 1977, eight (8) days after the last public hearing. Such written comments, as well as any questions or other communications regarding the hearing or Draft Environmental Impact Statement should be directed to the Director (F33), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 Phone 202/634-7283.

Dated: August 15, 1977.

WINFRED H. MEIBOHM,
Acting Deputy Director, National Marine Fisheries Service.

[FR Doc.77-23880 Filed 8-17-77;8:45 am]

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Three Public Meetings

Notice is hereby given of three meetings of the New England Fishery Management Council established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub.L. 94-265).

The New England Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to fisheries within its area of authority, prepare comments on foreign fishing applications, and conduct public hearings.

The first of the three Council meetings will be held on September 7 and 8, 13977, from 10:000 a.m. to 5:00 p.m., and

V42160 AUG 18 77 UM

9:00 a.m. to 4:00 p.m., respectively, at the Holiday Inn, Junction of Routes 1 and 128, Peabody, Mass. The meeting may be extended or shortened depending on progress on the agenda.

PROPOSED AGENDA

1. Silver Hake Management Objectives.
2. Election of Council Officers.
3. Report on Development of Herring and Scallop Plans.
4. Other Management Business.

The second of these Council meetings will be held on October 12 and 13, 1977, from 10:00 a.m. to 5:00 p.m., and 9:00 a.m. to 4:00 p.m., respectively, at the Holiday Inn, Junction of Routes 1 and 128, Peabody, Mass. This meeting may be extended or shortened depending on progress on the agenda.

PROPOSED AGENDA

1. Red Hake and Ocean Perch Management Objectives.
2. Council Annual Budget.
3. Report of Development of Herring and Scallop Plans.
4. Other Management Business.

The third in this series of Council meetings will be held on November 9 and 10, 1977, from 10:00 a.m. to 5:00 p.m., and 9:00 a.m. to 4:00 p.m., respectively, at the Holiday Inn, Junction of Routes 1 and 128, Peabody, Mass. This meeting may be extended or shortened depending on progress on the agenda.

PROPOSED AGENDA

1. Red Hake and Ocean Perch Management Objectives.
2. Report on Development of Silver Hake Plan
3. Other Management Business.

These meetings are open to the public and there will be seating for approximately 30 members of the public available on a first-come, first-serve basis.

Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agendas, interested members of the public should contact on or about 10 days before each of these meetings:

Mr. Spencer Apollonio, Executive Director, New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Mass. 01960.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to provide written comments should do so by submitting them to Mr. Apollonio at the above address. To receive due consideration to facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the Council meeting.

Dated: August 12, 1977.

JOSEPH W. SLAVIN,
Acting Associate Director,
National Marine Fisheries Service.

[FR Doc.77-23845 Filed 8-17-77;8:45 a.m.]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON APPAREL FROM HAITI

Increasing Import Levels

AUGUST 16, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Combining the level of restraint established for men's and boys' trousers, slacks, and outer shorts in Category 50 with the level of restraint for women's, misses' and children's trousers, slacks and outer shorts in Category 51 during the agreement year which began on January 1, 1977.

(A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010), as amended on December 31, 1975 (40 FR 60220), December 30, 1976 (41 FR 56881), January 21, 1977 (42 FR 3888), and March 7, 1977 (42 FR 12898)).

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man Made Fiber Textile Agreement of March 22 and 23, as amended, between the Governments of the United States and Haiti, agreement has been reached to combine Categories 50 and 51 during the agreement year which began on January 1, 1977 at a level of restraint of 1.7 million square yards equivalent (95,522 dozen) during that period.

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Edmond Callahan, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION: On December 30, 1976, a letter of December 27, 1976 was published in the FEDERAL REGISTER (41 FR 56879) from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint applicable to certain specified categories of cotton and man-made fiber textile products, produced or manufactured in Haiti and exported to the United States during the twelve-month period which began on January 1, 1977. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Categories 50/51 in excess of 95,522 dozen during the agreement year which began on January 1, 1977.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

AUGUST 16, 1977.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: *This directive* further amends, but does not cancel, the directive issued to you on December 27, 1976 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain specified categories of cotton and man-made fiber textile products.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 22 and 23, 1976, as amended, between the Governments of the United States and Haiti, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on August 19, 1977, and for the twelve-month period which began on January 1, 1977 and extends through December 31, 1977, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 50/51 in excess of 95,522 dozen.[1] This level cancels the level previously established for Category 51 in the directive of December 27, 1976.

Cotton textile products in Category 50, produced or manufactured in Haiti, which have been exported to the United States before January 1, 1977, shall not be subject to this directive.

Cotton textile products in Category 50 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) before the effective date of this directive shall not be denied entry under this directive.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on February 3, 1975 (40 F.R. 5010), as amended on December 31, 1975 (40 F.R. 60220), December 30, 1976, (41 F.R. 56881), January 21, 1977 (42 F.R. 3888), and March 7, 1977 (42 F.R. 12898).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Haiti and with respect to imports of cotton textile products from Haiti have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT S. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.77-24082 Filed 8-17-77;8:45 am]

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1976.

DEPARTMENT OF DEFENSE

Department of the Army

ARMED FORCES EPIDEMIOLOGICAL BOARD

Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name of Committee: Ad hoc Study Team of the Subcommittee on Disease Control of the Armed Forces Epidemiological Board.

Date of Meeting: September 15, 1977.

Place: Conference Room 3092, Walter Reed Army Institute of Research, Washington, D.C.

Time: 0900-1700.

Proposed Agenda: The proposed morning agenda will include discussion of the epidemiology of meningococcal disease in the United States and in other countries, the current risk of group A meningoccal disease in military recruits and the possible use of bivalent group A and C vaccines for protection of recruits. The proposed afternoon agenda will include discussion of the administration of live virus vaccines to female recruits in Armed Forces Training Centers and the associated scientific, legal, ethical and operational considerations.

2. This meeting fill be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG-AFEB, Room 1B472 Pentagon, Washington, D.C. 20310.

Dated: August 8, 1977.

DUANE G. ERICKSON,
LTC, MSC, USA,
Executive Secretary.

[FR Doc.77-23847 Filed 8-17-77;8:45 am]

ARMED FORCES EPIDEMIOLOGICAL BOARD

Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name of Committee: Ad hoc subcommittee on Asbestos-Related Health Problems of the AFEB Subcommittee on Environmental Quality.

Date of Meeting: September 29, 1977.

Place: The Surgeon General's Conference Room, Building 3, U.S. Navy Bureau of Medicine and Surgery, 23rd and D Streets NW., Washington, D.C.

Time: 0900-1630.

Proposed Agenda: The proposed agenda will be devoted to a review of potential health hazards associated with asbestos in DOD work environments. The discussions will include current information on health risk assessment, DOD personnel medical surveillance programs, studies underway or planned to provide needed information, DOD programs for control of exposure to asbestos, and related matters.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG-AFEB, Room 1B472 Pentagon, Washington, D.C. 20310.

Dated: August 8, 1977.

DUANE G. ERICKSON,
LTC, MSC, USA,
Executive Secretary.

[FR Doc.77-23846 Filed 8-17-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 870]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

AUGUST 8, 1977.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See § 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. (See § 1.227(b)(3) and 21.30(b) of the Commission's Rules.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21829-CD-P-77 Mobile Phone of Texas, Inc. (KWU275), C.P. for additional facilities to operate on 152.15 MHz at Loc. No. 1: 1400 17th Street, Snyder, Texas.

21830-CD-MP-77 Chicago Communications Service, Inc. (KSD310), C.P. for additional facilities to operate on 454.025 MHz at Loc. No. 1: Sears Tower, Chicago, Illinois.

21831-CD-P-77 General Communications Service, Inc. (KSV965), C.P. to relocate facilities operating on 35.22 MHz to be located at 3990 Bankhead Highway (Loc. No 2), Douglasville, Georgia.

21832-CD-P-77 Harold Telephone Company, Inc. (new), C.P. for a new 2-way station to operate on 152.00 MHz to be located at 2800' NE of Betsey Lane P.O. on Highway 460, Harold, Kentucky.

21833-CD-P-77 Phone Depots of Connecticut, Inc. d b as Liberty Communications (KCI310), C.P. for additional facilities to operate on 35.58 MHz at a new site described as Loc. No. 7 to be located at 601 Main Street, Ridgefield, Connecticut.

21834-CD-P-(2)-77 Comex, Inc. (KCC797), C.P. for additional Repeater facilities to operate on 2114.0 MHz at Loc. No. 1: Uncanoonuc Mountain near Goffstown, and Control facilities 2164.0 MHz at a new site described as Loc. No. 7: 720 Union Street, Manchester, New Hampshire.

21835-CD-P-77 Miami Valley Radiotelephone (KIF577), C.P. for additional facilities to operate on 35.22 MHz at a new site described as Loc. No. 7 to be located at Bond and Brooks Road, Near Hooven, Ohio.

21837-CD-MP-77 Omni Communications, Inc. (KSV954), C.P. to relocate facilities operating on 158.70 MHz Loc. No. 3 to be located at Powwow Hill, Amesbury, Massachusetts.

21836-CD-MP-77 Omni Communications, Inc. (KCC786), C.P. to relocate facilities operating on 152.06 MHz Loc. No. 3 to be located at Powwow Hill, Amesbury, Massachusetts.

21838-CD-P-77 Southwestern Bell Telephone Company (KLB577), C.P. to change antenna system, replace transmitter and relocate facilities operating on 152.63 MHz to be located 6 miles SE of Mt. Pleasant, Texas.

21839-CD-P-77 Southwestern Bell Telephone Company (KKB392), C.P. to replace transmitter operating on 152.66 MHz located 1.5 miles NNW of Eureka, Texas.

21840-CD-P-77 Southwestern Bell Telephone Company (KKO342), C.P. to change antenna system, replace transmitter operating on 152.60 MHz located 7.6 miles East of Graham, Texas.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE:

21841-CD-P-77 Nashville Mobilphone, Inc. (KIY750), C.P. to change antenna system and replace transmitters operating on 454.025, 454.075, 454.275, and 454.300 MHz located at Boca Raton Hotel and Club and 1 mile west of Granny White Pike, Nashville, Tennessee (Loc. No. 2).

V 42 160 AUG 18 77 UM

21842-CD-P-(4)-77 Airsignal International, Inc. (KIF651), C.P. to relocate facilities operating on 35.58 MHz Loc. No. 2 to be located at Boca Raton Hotel and Club Camino Real Boulevard, Boca Raton: additional facilities to operate on 35.58 MHz to be located at a new site described as Loc. No. 3: 2780 N.E. 183rd Street, N. Miami Beach, and 72.06 MHz Control and Standby facilities to be located at a new site described as Loc. No. 4: 1 Financial Plaza, Ft. Lauderdale, Florida.

21843-CD-TC-77 Rock Hill Mobile Communications, Inc. Consent to Transfer of Control from Wade A. Green Transferor to Allen L. Guin Transferee. Station: KUS287, Rock Hill, South Carolina.

21749-CD-ML-77 Grants Radiotelephone Service, Inc. (KUD202), Modification of License to change frequency from 152.06 MHz to 152.15 MHz at Loc. No. 1: 0.33 miles North of Gallup, New Mexico.

CORRECTION

21758-CD-P-77 Empire Paging Corporation (KRS674), Correct entry to read: at a new Loc. No. 20 instead of Loc. No. 18. All other particulars remain as reported in PN No. 868, dated 7-25-77.

RURAL RADIO SERVICE

60376-CD-P-77 RCA Alaska Communications, Inc. (new), C.P. for a new Central Office to operate on 152.69 MHz to be located at Village on St. Paul Island, located 320 miles NW of Cold Bay, Alaska.

60377-CD-P-77 RCA Alaska Communications, Inc. (new), C.P. for a new Rural Subscriber station to operate on 157.95 MHz to be located U.S. Coast Guard Loran Station located on St. Paul Island 320 miles NW of Cold Bay, Alaska.

60378-CD-P/ML-77 The Mountain States Telephone and Telegraph Company (KPX44), C.P. for additional facilities to operate on 157.95 MHz. to be located 7 miles NW of Mack's Inn, Idaho.

60379-CD-P ML-77 The Mountain State Telephone and Telegraph Company (new), C.P. for a new Rural Subscriber station to operate on 157.77 MHz to be located 7.1 miles South-Southwest of Table Rock, Wyoming.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

MAJOR AMENDMENTS

20341-CD-MP-(2)-77 Tel-Air Communications, Inc. (KSW214), Amend to change antenna on 152.18 MHz to a Sinclair SRL-228 oriented at N 280° E. and change effective radiated power. All other particulars of operation remain as reported on PN No. 836, dated December 13, 1976.

INFORMATIVE

Far too many applications for new or modified Common Carrier Station Construction Permits under Part 21 (FCC Form 401) are being received with inadequate references to material stated to be On File at the FCC. Paragraph 7(c) of the Specific Instructions included with the Form 401 specifies that, in referring to material previously included in FCC station files or applications, call signs and file numbers are required. References to docketed proceedings should include the title of the proceeding and the docket number. One practice, among others, which has proven to be particularly wasteful of time, is to include a reference which, when researched, itself contains a reference to another application. These references have been found up to three times removed from the original source. Improperly referenced applications lead to excessive FCC man-hours researching files, often fruitlessly, and delay further processing of backlogged applications.

There are many applications being received that are incomplete in other important respects. Oftentimes, pages are left out, spaces are left blank, or necessary exhibits are not attached. Some of the more commonly missing items include the following:

1. Demonstration of transmitter site availability, see Section 21.15(a) of the Commission's Rules;

2. A copy of a state franchise or other required authorization, a statement that no authorization is needed, or a request for waiver of Section 21.13(f) for filing the application pending the outcome of proceedings at the state level (if a waiver of Section 21.13 (f) is requested, the application must include an affirmative statement indicating that an application for any necessary state authority has already been filed with the appropriate state or local authorities), see item 42 of FCC Form 401 and Section 21.13(f) of the Rules;

3. A copy of a balance sheet dated within 90 days of the filing of the application and copies of all loan or credit arrangements, see item 48 of FCC Form 401 and Section 21.17 of the Rules; and

4. An indication of which technical personnel, if any, have the requisite FCC licenses to perform the necessary maintenance work on transmitting equipment, see item 49 of FCC Form 401 and Section 21.205 of the Rules.

Applications that do not include complete information are defective under Section 21.20 of the Rules and are subject to being returned to the applicant as defective.

CORRECTION

Arch, A Joint Venture appeared on the Commission's Public notice No. 869 dated August 1, 1977 as Major Amendment under Call Sign KDS495 (Developmental). The heading for the Amendment is corrected to read Informative, and the Call Sign corrected to Read New (Developmental). All other particulars are to remain as reported on PN No. 869 dated August 1, 1977.

POINT TO POINT MICROWAVE RADIO SERVICE

3237-CF-MP-77 The Pacific Telephone and Telegraph Company (KMA37), Oat Mtn 5.5 miles SW of Newhall, California. Lat. 34°19'47" N., Long. 118°36'00" W. Modification of C.P. to increase output on frequencies 11305V, 11625V, 11225V, 11465V MHz toward Los Angeles.

3238-CF-MP-77 Same (KMA38), Los Angeles 420 S. Grand Ave., Los Angeles, California. Lat. 34°03'02" N., Long. 118°15'08" M. Modification of C.P. to increase output on frequencies 10895V, 10735V, 10815V, 11055V MHz toward Oat Mtn.

3241-CF-P-77 South Central Bell Telephone Company (KYS48), 232 W. Lexington Ave., Winchester, Kentucky. Lat. 37°59'35" N., Long. 84°11'02" W. C.P. to add frequency 3870V MHz toward Stanton.

3242-CF-P-77 Same (KIV63), 2.3 miles SE of Stanton, Kentucky. Lat. 37°48'52" N., Long. 83°50'41" W. C.P. to add frequencies 3990V, 3750V MHz toward Winchester and replace antenna on 3770H MHz toward Wellington.

3243-CF-P-77 Same (KIV64), 0.3 miles West of Wellington, Kentucky. Lat. 37°-54'55" N., Long 83°31'01" W. C.P. to add frequencies 4030V MHz toward Stanton 3710V MHz toward White Oak and replace antenna on frequencies 4050H MHz toward Stanton 3710H MHz toward White Oak.

3244-CF-P-77 Same (KIV65), 2.4 miles South of White Oak, Kentucky. Lat. 37°-50'55" N., Long. 83°10'25" W. C.P. to add frequencies 4070V MHz toward Wellington, 3750H MHz toward Hagerhill and replace antenna on 4090H MHz toward Wellington, 3770V MHz toward Hagerhill.

3245-CF-P-77 Same (KIV66), 1.5 miles SE of Paintsville, Kentucky. Lat. 37°47'45" N., Long. 82°48'05" W. C.P. to add frequencies 4030H MHz toward White Oak 11245H 11285V MHz toward Paintsville, to change frequency 11685V to 11565H MHz Paintsville and change polarization from horizontal to vertical on 11445V MHz toward Paintsville.

3246-CF-P-77 Same (KJW75), 217 W. Second Street, Paintsville, Kentucky. Lat. 37°-48'52" N., Long. 82°48'38" W. C.P. move and replace frequencies 10915V, 11075V MHz toward Hagerhill, to add frequencies 10795H, 10835V MHz, to change frequency 10755V to 11115H MHz Hagerhill and change polarization from horizontal to vertical on 11155 10995 MHz toward Hagerhill.

3247-CF-P-77 Southwestern Bell Telephone Company (KCM85), 125 N. of 3rd and Hamburg, St. Joseph, Missouri. Lat. 39°47'19" N., Long. 94°51'25" W. C.P. increase structure height, to add frequencies 2112.0V, 2118.4V and 2124.8V MHz toward Forest City.

3248-CF-P-77 Same (KCM86), 87 miles East on Oregon Rd., Forest City, Missouri. Lat. 39°59'18" N., Long. 95°10'22" W. C.P. to increase antenna height, to add frequencies 2162.0V, 2168.4V, 2174.8V MHz toward St. Joseph and add a new point of communication on 2171.6V MHz toward Mound City.

3249-CF-P-77 Southern New England Telephone and Telegraph Company (KCE85), 40 High Street, Willimantic, Connecticut. Lat. 41°42'50" N., Long. 72°1305" W. C.P. to replace antenna transmitter and change frequency 11265V MHz toward Lebanon, Connecticut.

3250-CF-P-77 Same (KCE85), South Street, Lebanon 142, Connecticut. Lat. 41°40'58" N., Long. 72°13'02" W. C.P. to replace antenna transmitter and change frequencies 10795V, 11035H to 11055V MHz toward Willimantic on azimuth 358.9° and 110-755H. 10995V to 11035V MHz toward Brooklyron on azimuth 64.9°

3251-CF-P-77 Same (KCJ74), Tatnic Hill Road. Lat. 41°46'06" N., Long. 71°58'20" W. C.P. to replace transmitters antenna and change frequencies 11405V, 11645H to 11485V MHz Danielson on azimuth 60.3° and 11445V, 11685H to 11485V MHz toward Lebanon on azimuth 245.1°.

3252-CF-P-77 Same (KCJ75), 140 Main Street, Danielson, Connecticut. Lat. 41°48'-23" N., Long. 71°52'59" W. C.P. replace antenna transmitter and change frequencies 10955V, 10715H to 11035V MHz toward Brooklyn on azimuth 240.3°.

3263-CF-P-77 New Jersey Bell Telephone Company (WHT85) Hamilton Sq., 2 miles SW of Hamilton, New Jersey. Lat. 40°12'32" N., Long. 74°41'12" W. C.P. to add a new point of communication on frequencies 10835V, 10995V, 10755V MHz toward Columbus, N.J. on azimuth 204.8°.

3264-CF-P-77 Same (new), n/n Burlington Columbus Rd., Columbus, New Jersey. Lat. 40°04'40" N., Long. 74°45'56" W. C.P. for a new station on frequencies 11525V, 11365V, 11605V MHz toward Hamilton Sq., N.J. on azimuth 24.8° and 11525H, 11365H, 11605H MHz toward New Albany, N.J. on azimuth 242.0°.

3265-CF-P-77 Same (new), New Albany, 1 mile South of Bridgeboro, New Jersey. Lat. 40°00'35" N., Long. 74°55'54" W. C.P. for a new station on frequencies 10835H, 10995H, 10755H MHz toward Columbus, N.J. on azimuth 61.9° and 10835V, 10995V, 10755V MHz toward Camden, N.J. on azimuth 245.5°.

3266-CF-P-77 Same (KEL55), 701 Federal Street, Camden, New Jersey. Lat. 39°56'39" N., Long. 75°07'05" W. C.P. to add a new point of communication on frequencies 11525V, 11365V, 11605V MHz toward New Albany, N.J. on azimuth 65.4°, move and replace antenna on 6286.2H MHz toward Hamilton Sq., N.J.

3279-CF-P-77 Southwestern Bell Telephone Company (new), 812 9th Street, Wichita Falls, Texas. Lat. 33°54'38" N., Long. 98°29'31" W. C.P. for a new station frequencies 11055V, 10895V MHz toward Wcfl Rie on azimuth 106.7°.

3280-CF-P-77 Same (new), Wcfl Rie. 4 miles North of Jolly, Texas. Lat. 33°52'29" N., Long. 98°20'58" W. C.P. for a new station on frequencies 11265V, 11585V MHz toward Henrietta on azimuth 115.2° and 11265V, 11585V MHz toward Wichita Fall on azimuth 286.8°.

3281-CF-P-77 Southwestern Bell Telephone Company (new) 315 S Bridge Henrietta, Texas. Lat. 33°48'51" N., Long. 98°11'44" W. C.P. for a new station on frequencies 11055V, 10895V MHz toward Hnrt Ris on azimuth 193.0° and 11055V, 10895V MHz toward Wcfl Rie on azimuth 295.3°.

3282-CF-P-77 Same (new) Hnrt Ris 2.4 miles SE of Deer Creek, Texas. Lat 33°37'-34" N., Long. 98°14'51" W. C.P. for a new station on frequencies 11265V, 11585V MHz toward Jcbo Rin on azimuth 164.7° and 11265V, 11585V MHz toward Henrietta on azimuth 13.0°.

3283-CF-P-77 Same (new) Jcbo Rin 3 miles SW of Postoak, Texas. Lat. 33°25'20" N., Long. 98°10'53" W. C.P. for a new station on frequencies 11055V, 10895V MHz toward Jacksboro, Texas on azimuth 174.3° and 11055V, 10895V MHz toward Hnrt Ris, Texas on azimuth 344.7°.

3284-CF-P-77 Same (new) 206 E Belknap Jacksboro, Texas. Lat. 33°13'04" N., Long. 98°09'25" W. C.P. for a new station on frequencies 11265V, 11585V MHz toward Jcbo Ris on azimuth 178.4° and 11265V, 11585V MHz toward Jcbo Rin on azimuth 354.3°.

3285-CF-P-77 Same (new) Jcbo Ris 5.6 miles South of Jacksboro, Texas. Lat. 38°-08'11" N., Long. 98°09'15" W. C.P. for a new station on frequencies 11055V, 10895V MHz toward MNWL Rin on azimuth 147.7° and 11055V, 10895V MHz toward Jacksboro on azimuth 358.6°.

3286-CF-P-77 Same (new) MNWL EIN .25 mile NW of Whitt, Texas. Lat. 32°58'20" N., Long. 98°01'51" W. C.P. for a new station on frequencies 11265V, 11585V MHz toward Weatherford on azimuth 125.6° and 11265V, 11585V MHz toward Jcbo Ris on azimuth 327.7°.

3287-CF-P-77 Same (new) 7 miles NW of Weatherford, Texas. Lat. 32°49'53" N., Long. 97°52'04" W. C.P. for a new station on frequencies 11055V, 10895V MHz toward FTWO. R2W on azimuth 102.9°, 11055V, 10895V MHz toward MNWL RIN on azimuth 315.7° and 10735V MHz toward Mineral Wel on azimuth 265.9°.

3288-CF-P-77 Same (new) NE 11th Ave and NE 11th St. Mineral Wells, Texas. Lat. 32°49'01" N., Long. 98°06'14" W. C.P. for a new station on frequency 11425V MHz toward Weatherford, Texas on azimuth 85.8°.

3289-CF-P-77 Same (new) FTWO R2W 6.5 miles NW of Aledo, Texas. Lat. 32°47'12" N., Long. 97°38'14" W. C.P. for a new station on frequencies 11265V, 11585V MHz toward FTWO RIN on azimuth 126.6° and 11265V, 11585V MHz toward Weatherford on azimuth 279.7°.

3290-CF-P-77 Same (new) FTWO RIW 2 miles South of Westland, Texas. Lat. 32°42'07" N., Long. 97°29'58" W. C.P. for a new station on frequencies 11055V, 10895V MHz toward Ft. Worth on azimuth 71.9° and 11055V, 10895V MHz toward FTWO on azimuth 306.1°.

3291-CF-P-77 Southwestern Bell Telephone Company (KKB37) 1116 Houston Street, Ft. Worth, Texas Lat. 32°44'57" N. Long. 97°19'43" W. C.P. to add a new point of communication on frequencies 11265V 11585V MHz toward FTWO RIW on azimuth 251.9°.

3259-CF-P-77 General Telephone Company of Wisconsin (new) 4.5 miles North of Harrison, Wisconsin Lat. 45°32'31" N., Long. 89°29'56" W. C.P. for a new station on frequencies 10875.0H MHz toward Rhinelander, Wisconsin on 32.4° and 10755V MHz toward Irma, Wisconsin on azimuth 210.4°.

3260-CF-P-77 Same (WDD49) 0.5 mile E of Irma, Wisconsin Lat. 45°21'09" N., Long. 89°29'22" W. C.P. to change frequencies 6360.3H to 6345.5H MHz toward Rib Mtn., add a new point of communication on 11405H MHz toward Harrison on azimuth 30.2° and add antenna on 6241.7H MHz toward Rib Mtn.

3261-CF-P-77 Same (WBP53) Rib Mtn. 3 miles SSW of Wausau, Wisconsin Lat. 44°55'11" N., Long. 89°40'45" W. C.P. to add frequencies 5989.7V MHz toward Irma and 10995.0V MHz toward Wausau.

3262-CF-P-77 Same (WBP52) 521 4th Street Wausau, Wisconsin Lat. 44°51'40" N., Long. 89°37'34" W. C.P. to add frequency 11525.0V MHz toward Rib Mtn.

3298-CF-P-77 American Telephone and Telegraph Company (KVU39) 723 Linden St., Allentown, Pennsylvania. Lat. 40°36'-13" N., Long. 75°28'26" W. C.P. to add frequency 4010.0V MHz toward Lanark.

3299-CF-P-77 Same (KGN36) 3.0 miles SE of Allentown, Pennsylvania. Lat. 40°33'59" N., Long. 75°26'11" W. C.P. to add frequency 3970.0V MHz toward Allentown.

3217-CF-R-77 Illinois Bell Telephone Company (WAN 84) temporary fixed-developmental 57 Units in any temporary fixed location within the state of Illinois. Received application for radio station license renewal.

3228-CF-P-77 Midwestern Relay Company (WLJ 52) 720 East Capitol Drive, Milwaukee, Wisconsin (Lat. 43°05'29" N., Long. 87°54'07" W.); Construction permit to change receive station location—11265 H, 11505H, and 11585H MHz toward WITI-TV, Wisconsin, on azimuth 333.2°.

3256-CF-R-77 Easter Microwave, Inc. (WBA 840) In any temporary fixed location in the territory of the grantee. Received application for radio station license renewal.

3297-CF-P/ML-77 Cerrache & Company, Inc. (KEG 51) Connecticut Hill, New York (Lat. 42°23'13" N., Long. 76°40'10" W.); Construction permit for new station—(reinstate) 6078.6H MHz toward Ithaca, Harris Hill and Montour Falls, via power split, and 6412.5H MHz toward Ithaca, all in New York, on azimuths 67°, 246° and 31.5° respectively.

3315-CF-MP-77 N-Triple-C, Inc (WOH57) 2.0 miles NE of Oregon, Ill. Modification of C.P. (3962-CF-P-76) to add 5945.2V towards Sterling, Ill. and 5945.2V towards Dekalb, Ill.

CORRECTION

2615-CF-P-77 Pacific Northwest Bell Telephone Company (KPC63) corrected to read increase antenna structure height. All other particular remain as reported on PN 861 dated June 6, 1977.

3164-CF-P-77 RCA Alaska Communications Inc. (WBA788) corrected to read Renewal of radio station license. PN 868 dated July 25, 1977.

3163-CF-P-77 Same (WBA787) corrected to read Renewal of radio station license PN 868 dated July 25, 1977.

3021-CF-P-77 The Bell Telephone Company of Pennsylvania (K1K88) corrected frequency to read 5974.8H MHz toward Scranton.

2812-CF-P-77 The Pacific Telephone and Telegraph Company (KMD40) Dakin 2.2 miles WNW of Avalon, California. Lat. 33°31'00" N., Long. 118°21'05" W. C.P. to change frequencies 6315.9V to 5945.2V MHz toward San Pedro, 6375.2V to 6004.5V MHz toward San Clemente Island, replace transmitters on frequencies 5945.2V and 6063.8V MHz toward San Pedro 6064.5V and 6129.1V MHz toward San Clemente Island.

2813-CF-P-77 Same (KMD39) San Clemente Island Lat. 32°58'48" N., Long. 118°32'46" W. C.P. to change frequencies 6004.5V to 6375.2V MHz toward Dakin 2, and replace transmitters 6256.5V and 6375.2V MHz toward Dakin 2, California.

2811-CF-P-77 Same (KMD41) 425 Fifth Street, San Pedro, California. Lat. 33°44'-22" N., Long. 118°17'08" W. C.P. to correct coordinates, change frequency 5945.2V to 6315.9V MHz toward Dakin 2 on azimuth 8.0° and replace transmitters frequencies 6197.2V and 6315.9V MHz toward Dakin, California correct heights of building and antennas.

3256-CF-P-77 Satellite Business Systems (new) this entry appearing on Public Notice of August 1, 1977 is corrected to show file number as 3296-CF-P-77 and to show **frequencies 2118 4V and 2124.8V** toward **Lloyd Hill. All other particulars remain the same.**

[FR Doc.77-23952 Filed 8-17-77;8:45 am]

[Report No. I-380]

INTERNATIONAL AND SATELLITE RADIO

Application Accepted for Filing

AUGUST 12, 1977.

The application listed herein has been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return this application if, upon further examination, it is determined it is defective and not in conformance with the Commission's Rules, Regulations and its Policies. Final action will not be taken on this application earlier than 20 days following the date of this notice. Section 309(d)(1).

For this application only

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

25-CSS-LA-77, Communications Satellite Corporation, 63.0° east longitude. Authority for the launch, positioning and in-orbit testing of the INTELSAT IV-A (F-5) communications satellite in the Indian Ocean Region Primary at a location of 63.0° east longitude, to replace the INTELSAT IV now serving as a Primary.

[FR Doc.77-23950 Filed 8-17-77;8:45 am]

TV BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Correction

AUGUST 11, 1977.

The following entry appeared on the Public Notice (87291) released August 4, 1977, listing commercial television broad-

V42N160 AUG 18 77 UM

cast applications which would be considered as ready and available for processing on September 13, 1977.

BPCT-5068, new, Tulsa, Okla., KOTV, Inc., Channel 6, Change ERP, Aur. 15kw, HAAT: 274 ft.

The entry is corrected to read as follows:

BPCT-5068, new, Tulsa, Okla., KOTV, Inc., Channel 6, Change ERP, Aur. 15kw, HAAT: 1867 ft.

FEDERAL COMMUNICATIONS COMMISSION.
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-23951 Filed 8-17-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

GUAM OIL AND REFINERY CO.

Action Taken on Consent Order

Pursuant to 10 CFR 205.197(c), the Federal Energy Administration (FEA) hereby gives notice of final action taken on a Consent Order.

On May 25, 1977, FEA published Notice of a Consent Order which was executed between Guam Oil and Refinery Co., (Guam) and FEA, on April 22, 1977 (42 FR 26, 693 (May 25, 1977)). The Notice of the Consent Order was amended on June 17, 1977, to include the date until which comments on the notice would be accepted by FEA (42 FR 30, 898 (June 17, 1977)). With that Notice and in accordance with 10 CFR 205.197(c) FEA invited interested persons to comment on the Consent Order.

During the period for comment, FEA received no comments regarding the Consent Order. Accordingly, FEA has concluded that the Consent Order as executed between FEA and Guam on April 22, 1977 is an appropriate resolution of the compliance proceedings described in the Notice published on May 25, 1977. FEA, therefore, pursuant to § 205.97(c) hereby gives notice that the Consent Order shall become effective as proposed without modification upon publication of this notice in the FEDERAL REGISTER.

Issued in Washington, D.C., August 12, 1977.

ERIC FYGI,
Acting General Counsel

[FR Doc.77-23820 Filed 8-17-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CP77-535]

CARNEGIE NATURAL GAS CO.

Application

AUGUST 11, 1977.

Take notice that on July 29, 1977, Carnegie Natural Gas Co. (Applicant), 3904 Main Street, Munhall, Pa. 15120, filed in Docket No. CP77-535, pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.7 (c)), an application for a declaratory order disclaiming Commission jurisdiction over certain gathering and compression services performed by Petitioner, or in the alternative an application, pursuant to Section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing said gathering and compression of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant says that it is a pipeline company which operates, inter alia, a natural gas production area of 39,002.51 acres in Mingo and Logan Counties, W. Va. Applicant asserts that under the terms of a 1956 agreement, it dedicated all gas production from the Mingo-Logan field to Hope Natural Gas Co., which was the predecessor to Consolidated Gas Supply Corp. (Consolidated). Gas produced from this Mingo-Logan field is now gathered and sold to Consolidated at the field compressor plant in Logan County, W. Va., says Applicant, under Rate Schedule S-6, First Revised Volume No. 1 of Applicant's tariff on file with the Commission. Applicant asserts that by an agreement dated February 21, 1974, it granted to Ramco Oil and Gas Corp. (Ramco) the right to drill wells in the Mingo-Logan field. According to Applicant, the production from the wells drilled by Ramco is sold by Ramco to Consolidated, but since this drilling is in an area remote from Consolidated's pipeline system, the agreement provides that Ramco will deliver the gas to Applicant's gathering pipeline system for redelivery to Consolidated.

Applicant says that its request for a declaratory order is prompted by a staff audit memorandum from the Commission containing preliminary findings by the Bureau of Natural Gas that the services being performed by Applicant required certificate findings because they involved new gas sold in the interstate market. It is the position of Applicant that its operation of gathering and compression facilities, even though performed for others, is within the "production and gathering" exemption of Section 1(b) of the Natural Gas Act and therefore beyond the Commission's jurisdiction. Applicant emphasizes that all of its services provided to effectuate the sales by Ramco to Consolidated take place behind the central point in the field, the Sweeny Compressor Plant, at which gas is delivered to Consolidated's single line. Consequently, Applicant requests the Commission to issue a declaratory order disclaiming jurisdiction over Applicant's compression and gathering of natural gas produced by others in the Mingo-Logan field.

In the event that the Commission determines it has jurisdiction over the aforementioned services, Applicant requests issuance of a certificate of public convenience and necessity authorizing the gathering and compression of natural gas hereinbefore described. Applicant says that it did not file for a certificate earlier because it believed that its gathering was nonjurisdictional. Applicant believes that its gathering and compression of Ramco's production is in the public interest because it obviates the necessity for duplicate facilities to be built by Ramco and reduces the unit cost of gathering and compressing Applicant's own production.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 6, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

In the event that the Commission should determine that the above described services are jurisdictional, take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on the application for a certificate if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23869 Filed 8-17-77;8:45 am]

[Docket Nos. CP66-299 and CP73-238]

COLORADO INTERSTATE GAS CO.

Petition To Amend

AUGUST 10, 1977.

Take notice that on July 25, 1977, Colorado Interstate Gas Co. (Petitioner), P.O. Box 1087, Colorado Springs, Colo. 80944, filed in Docket Nos. CP66-299 and CP73-238 a petition to amend the Commission's order of July 18, 1966 (36 FPC 116) as amended, and June 19, 1973 (49 FPC 1387) as amended, issued in the instant dockets respectively pursuant to Section 7(c) of the Natural Gas Act so as to permit (1) the orders in Docket No. CP66-299 to be further amended, as necessary and appropriate, to delete the volumes associated with the southern reservoir of the Fort Morgan Field, Colo., and to redesignated Well Nos. 3 and 6 as observation wells and (2) ordering paragraph (E) of the order issued in Docket No. CP73-238 to be amended to permit a maximum storage gas inventory of 14,140,355 Mcf and the maximum shut-in pressure be limited to 1,845 psig (north reservoir only), all as more fully set forth in the petition on file with the Commission and open to public inspection.

Petitioner indicates that pursuant to the Commission's order of July 18, 1966, as amended, it was authorized in Docket No. CP66-299 to develop the Fort Morgan Field in Northeast Colorado as an underground gas storage reservoir to render peaking service during the period November 1 through March 31 of each heating season. Petitioner states that the field was to consist of the northern and southern reservoirs, and that facilities associated with the development and operation of the field were authorized to be constructed over a four-year period beginning in 1966. Such facilities have been constructed, and the field has been in storage service since 1966, it is asserted.

Pursuant to the Commission's order of June 19, 1973, as amended, Applicant was granted authorization in Docket No. CP73-238 to limit the maximum storage inventory in the Fort Morgan Field to 17,500,000 Mcf and to limit the maximum wellhead shut-in pressure to 1,945 psig. Petitioner states that the storage volume consisted of approximately 14,140,355 Mcf in the northern reservoir and approximately 3,359,645 Mcf in the southern reservoir.

It is stated that Petitioner initially questioned the geological interpretation and reliability of Fort Morgan storage field in 1969, and that up to that time, the southern reservoir was believed to be a single structure and the north and south reservoirs were believed to be separate but connected. It is further stated that in 1969, Well No. 18 was drilled between two existing wells, Nos. 3 and 6, in the southern reservoir, and that Well No. 18 was found to be low structurally, water bearing, and in poorly developed sands. This caused a reevaluation of the geological interpretation of the southern reservoir, and it was tentatively identified as two separate reservoirs, it is indicated. Petitioner states that it was determined that the difficulty encountered in ascertaining a geological interpretation made further study and testing necessary in order to assess the southern reservoir's suitability for reliable storage service.

It is indicated that based on injections and withdrawals from 1966 through 1968, the gas in place in the southern reservoir was estimated to be approximately 3,441,540 Mcf as of January 1, 1969, and that approximately 150,000 Mcf was withdrawn during the period September 1969 through February 1970, although only Well No. 6 was productive. It is further indicated that the newly completed Well No. 18 and the existing Well No. 3 produced only water, and that the success of withdrawals from Well No. 6 encouraged continued testing operations in the belief that the other wells in the southern reservoir would eventually become fully productive. Consequently, during the summer of 1970, approximately 125,000 Mcf was injected into the one productive Well No. 6 and satisfactory withdrawals were achieved from early December 1970 through early February 1971 when the flow rate had to be increased to prevent freezing problems, it is said. Petitioner states that the increased flow caused Well No. 6 to water out, and that no further injections or withdrawals have been attempted because the water problems encountered indicated that continued operation of the southern reservoir was too risky and unreliable. Petitioner further states that constant monitoring of the pressure in the southern reservoir to day has confirmed Petitioner's opinion that it would be impractical to attempt any further development of the southern reservoir or to recover the volumes of gas therein.

Petitioner states that because of these factors, Wells Nos. 3 and 6 have been used for observation purposes since 1975. Consequently, Petitioner proposed herein that Well Nos. 3 and 6 be redesignated as observation wells and be continued in use for observation purposes to ensure that gas from the northern reservoir is not migrating.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 31, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23807 Filed 8-17-77;8:45 am]

[Project No. 2336]

GEORGIA POWER CO.

Application for Approval of Revised Recreation Plan (Exhibit R)

AUGUST 11, 1977.

Public notice is hereby given that an application was filed on May 2, 1977, under the Federal Power Act, 16 U.S.C. §§ 791a et seq., by Georgia Power Company (Applicant) (Correspondence to: Mr. I. S. Mitchell, Vice President and Secretary, Georgia Power Company, 270 Peachtree Street, P.O. Box 4545, Atlanta, Georgia 30302) for Commission approval of a revised recreation plan (Exhibit R) for its Lloyd Shoals Project, FPC No. 2336. The project is located on the Ocmulgee River in Butts, Jasper, and Newton Counties, Georgia, in the vicinity of the cities of Jackson and Monticello.

The plan for recreational development presented by the Exhibit R lists the following recreational facilities open to the general public: three areas with boat launching, docking, and storage facilities and restaurants or concession buildings; and two areas that, in addition to the above listed features, also have picnicking and camping facilities.

A Future Farmers of America group camp is located on the Alcovy River arm of the reservoir. Applicant proposes to convey 40 acres of project land on the Yellow River and 106 acres of non-project land to the Cooperative Extension Service of the University of Georgia to be used as a 4-H Club educational camp.

Turtle Cove is a recreational second home development located between Georgia Highway 221 and the reservoir. The development includes five access points to the reservoir for persons who do not have lake front lots. Each access point consists of a paved single lane boat ramp, docks, a beach and a picnic area.

Applicant proposes to donate 15 acres of project lands near Alcovy Shoals to the State for park purposes. Applicant also proposes to make 385 adjacent acres available to the State for park purposes. The State's preliminary plan for use of this area proposes to preserve the natural setting for the enjoyment of anglers, hikers, and white-water enthusiasts.

Applicant further proposes to reserve a 50-acre area near the east abutment of the project dam for future recreational development. A smaller area on the west side of the dam would be initially developed, facilities to include a paved dual lane boat launching ramp, parking, sanitary facilities, picnic area, play area, beach, and a tailrace launching area for canoes and small boats.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 10, 1977, file with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing in the proceeding must file a petition in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23870 Filed 8-17-77;8:45 am]

V 42 160 AUG 18 77 UM

[Project No. 2336]

GEORGIA POWER CO.

Application for Approval of Change in Land Rights

AUGUST 11, 1977.

Public notice is hereby given that an application was filed on October 20, 1976, under the Federal Power Act, 16 U.S.C. §§ 791a et seq., by Georgia Power Company (Correspondence to: Mr. I. S. Mitchell, III, Vice President and Secretary, Georgia Power Company, 270 Peachtree Street, Atlanta, Georgia 30302) for Commission approval of a proposed grant of 40 acres of land within the boundary of the Lloyd Shoals Project, FPC No. 2336, to the Board of Regents of the University of Georgia. Project No. 2336 is located on the Ocmulgee River in Butts, Jasper and Newton Counties, Georgia, near the cities of Monticello and Jackson.

The Cooperative Extension Service of the University of Georgia proposes to develop a 4-H Club educational camping site on a 106-acre tract owned by Georgia Power Company. The 40-acre parcel of project lands that the Company proposes to convey lies between the 106-acre tract and the Yellow River near the intersection of State Highways 36 and 162 in Newton County. According to the application, the 40 acres are to be used in conjunction with the 4-H camp, but will remain in an undeveloped state.

The application is on file with the Commission and is available for public inspection.

Any person desiring to be heard or to make any protest with referenee to said application should on or before October 3, 1977, file with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing in the proceeding must a file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23871 Filed 8-17-77;8:45 am]

[Docket No. RP75-102]

PANHANDLE EASTERN PIPE LINE

Further Extension of Time and Postponement of Hearing Procedures

AUGUST 10, 1977.

On August 1, 1977, Panhandle Eastern Pipe Line Company (Panhandle) filed a motion to defer operation of Ordering Paragraph (E) and compliance with OrderingParagraph (F) of the Commission Order issued June 30, 1977, in the above designated proceeding. The motion states that Staff Counsel does not oppose the requested relief.

In support of the instant motion, Panhandle maintains that in view of its concurrent filing of an application for rehearing of the June 30 Order, it would be unfair to require Panhandle to file the revised settlement rates required by Ordering Paragraph (F) until the Commission has had an opportunity to review and act on the application for rehearing.

Upon consideration, notice is hereby given that a further extension of time is granted to and including September 15, 1977, within which Panhandle shall file the revised settlement rates required by Ordering Paragraph (F) of the June 30, 1977, Order. Operation of Ordering Paragraph (E) will be deferred pending action on the August 1, 1977, application for rehearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23872 Filed 8-17-77;8:45 am]

[Docket No. ER77-513]

PUBLIC SERVICE COMPANY OF OKLAHOMA

Filing

AUGUST 10, 1977.

Take notice that Public Service Company of Oklahoma (PSO) on July 12, 1977 tendered for filing an electric Wholesale for Resale Contract with the City of Copan, Oklahoma (City).

PSO states that prior to the effective date of this Contract, PSO had been serving the City through PSO's transmission facilities for the account of Southwestern Power Administration (SPA). The City then, in effect, has been a customer of SPA.

PSO further states that the Contract makes provisions for a power supply in the event the City negotiates a contract with SPA for partial service. PSO indicates that it anticipates the City will purchase its full requirements from SPA for at least twelve months and revenues to PSO will be zero during that period.

PSO requests waiver of the Commission's notice requirements to allow an effective date of July 1, 1977.

According to PSO copies of the filing were served upon the City of Copan and the Oklahoma Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or about August 24, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23873 Filed 8-17-77;8:45 am]

[Docket No. RP77-117]

CARNEGIE NATURAL GAS CO.

Proposed Changes in FPC Gas Tariff

AUGUST 10, 1977.

Take notice that Carnegie Natural Gas Company (Carnegie), on July 29, 1977, tendered for filing Third Revised Sheet No. 15, Volume No. 1.

The proposed tariff sheet sets forth increased rates under Rate Schedule S-6. Rate Schedule S-6 provides for a 23.983 cents increase for each Mcf of gas produced or purchased for resale by Carnegie from the Mingo-Logan field, Mingo-Logan Counties, West Virginia, and an increase of 23.752 cents in the gathering and compression charge. The proposed effective date is September 1, 1977.

Copies of the filing were served upon the company's jurisdictional customer, Consolidated Gas Supply Corporation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 26, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23874 Filed 8-17-77;8:45 am]

[Docket No. CP77-534]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

AUGUST 11, 1977.

Take notice that on July 29, 1977, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77-534 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 18,000 Mcf (14.73 psia) of natural gas per day for United Gas Pipe Line Company (United), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport said gas on an interruptible basis which United would deliver or cause to be delivered into Applicant's existing facilities at the tailgate of Mobile Oil Corporation's Cameron Plant in Cameron Parish, Louisiana. It is said that Applicant would contemporaneously deliver a thermally equivalent quantity to United at an existing authorized interconnection between the two systems in Victoria County, Texas.

The proposed service is pursuant to a transportation agreement dated June 23, 1977, between Applicant and United. It is said that under such agreement United would pay Applicant initially a charge of 3.5 cents per dekatherm (dt) equivalent of gas delivered. It is further stated that no new facilities are required.

It is indicated that United is presently curtailing deliveries of gas to its customers and that the volumes of gas reflected would help to maintain as adequate and reliable service as possible on United's system.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 31, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23888 Filed 8-17-77;8:45 am]

[Docket Nos. CS71-377, et al.]

EXPANO OIL CO., ET AL.

Applications for "Small Producer" Certificates [1]

AUGUST 9, 1977.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 6, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Applicant
CS71-377	July 25, 1977	Expando Oil Co., 607 Hamilton Bldg., Wichita Falls, Tex. 76301.
CS72-393	Aug. 1, 1977	Vanderbilt Energy Corp., 1730 Colorado National Bldg., Denver, Colo. 80202.
CS72-452	July 18, 1977	Joan Chorney, 111 East 2d St., P.O. Box 114, Casper, Wyo. 82601.
CS77-459	June 24, 1977	Spartex Grain Co., P.O. Box 666, Spearman, Tex. 79081.
CS77-603	June 13, 1977	Pruitt Tool & Supply Co., P.O. Box 6085, Fort Smith, Ark. 72903.
CS77-604	June 14, 1977	Weaver Oil and Gas Corp., 5251 Westheimer, suite 800, Houston, Tex. 77056.
CS77-605	June 15, 1977	Priest & Hughes Co., 1111 Capital Towers, Jackson, Miss. 39201.
CS77-606	June 17, 1977 June 22, 1977	Columbus Petroleum Corp., 3 Park Central—suite 200, 1515 Arapahoe St., Denver, Colo. 80202.
CS77-607	June 16, 1977	Paulsen Petroleum Inc., 800 Sutton Pl., Wichita, Kans. 67202.
CS77-607	....do.....	E. G. McNeil Corp., 800 Sutton Pl., Wichita, Kans. 67202.
CS77-609	June 17, 1977	Richard E. Crawford and Sledfield West, Trustees, 2000 Midwest Plaza Bldg., Minneapolis, Minn. 55402.
CS77-610	June 20, 1977	Falow Oil Co., P.O. Box 5446, Lawndale Branch, Evansville, Ind. 47715.
CS77-611	....do.....	Walter & Jennings Payne dba., Payne Bros. Drilling, P.O. Box 15, Lawrenceville, Ill. 62439.
CS77-612	....do.....	Taylor Operating Co., P.O. Box 575, Bridgeport, Tex. 76026.
CS77-613	....do.....	Herman L. Loeb, P.O. Box 524, Lawrenceville, Ill. 62439.
CS77-614	....do.....	Imperial-American Energy, Inc., 1045 The Main Bld., Houston, Tex. 77002.
CS77-615	June 21, 1977	Dr. J. S. Shelby, Post Office Drawer B, Shreveport, La. 71161.
CS77-616	....do.....	Ray A. Barlow, Post Office Drawer B, Shreveport, La. 71161.
CS77-617	....do.....	C & S Oil Co., 2325 Cerritos Ave., Signal Hill, Calif. 90806.
CS77-618	....do.....	A. R. Sanchez, 500 National Bank of Commerce Bldg., San Antonio, Tex. 78205.
CS77-619	....do.....	Alsan Corp., 500 National Bank of Commerce Bldg., San Antonio, Tex. 78205.
CS66-620	....do.....	A. R. Sanchez, Jr., 500 National Bank of Commerce Bldg., San Antonio, Tex. 78205.
CS77-621	....do.....	A. R. Sanchez, Jr., Petroleum Corp., 500 National Bank of Commerce Bldg., San Antonio, Tex. 78205.
CS77-622	....do.....	Brian E. O'Brien, 500 National Bank of Commerce Bldg., San Antonio, Tex. 78205.
CS77-623	....do.....	Las Palmas Oil & Gas Corp., 500 National Bank of Commerce Bldg., San Antonio, Tex. 78205.
CS77-624	June 22, 1977	Falcon Oil & Gas Co., 1280 Holly Sugar Bldg., Colorado Springs, Colo. 80903.
CS77-625	....do.....	Joseph Robert Brown, 1280 Holly Sugar Bldg., Colorado Springs, Colo. 80903.
CS77-626	....do.....	Omni Drilling Partnership No. 1975-1, 1019 West 9th Ave., P.O. Drawer 609, King of Prussia, Pa. 19406.
CS77-627	....do.....	Do.
CS77-628	....do.....	Omni Drilling Partnership 1976-2, 1019 West 9th Ave., P.O. Drawer 609, King of Prussia, Pa. 19406.

V 42 160 AUG 18 77 UM

Docket No.	Date filed	Applicant
C877-629	do	Omni Drilling Partnership 1976-3, 1019 West 9th Ave., P.O. Drawer 609, King of Prussia, Pa. 19406.
C877-630	do	Omni Drilling Partnership 1977-1, 1019 West 9th Ave., P.O. Drawer 609, King of Prussia, Pa. 19406.
C877-631	do	James H. Rivers and Jack L. Rivers, 1201 Louisville Ave., Monroe, La., 71201.
C877-632	June 23, 1977	Melton, John Roy, P.O. Box 51735, OCS, Lafayette, La. 70505.
C877-633	do	C-M Investment Co., P.O. Box 51729, Lafayette, La. 70505.
C877-634	June 24, 1977	Mrs. Lucille B. Milstein, 6120 Brandywine Lane, Oklahoma City, Okla. 73116.
C877-635	do	Patrick L. McGee, 3810 Polomac Ave., Texarkana, Tex. 75501
C877-636	do	Gerald R. Childs, 501 Griffith St., Terrell, Tex. 75160.
C877-637	do	Charles E. Mayfield, Star Route Box 1128, Princeton, La. 71067.
C877-638	do	Dr. W. R. Selbold, No. 7 Northridge Circle, Texarkana, Tex. 75503.
C877-639	do	Jack King, P.O. Box 2013, Texarkana, Tex. 75501
C877-640	do	Dr. John G. Calhoun, 1101 Olive St., Texarkana, Tex. 75501
C877-641	do	C. B. Worlburn, P.O. Box 238, Texarkana, Tex. 75501.
C877-642	do	Lee E. Roberts, 320 Texas Blvd., Texarkana, Tex. 75501
C877-643	do	Carl M. Archer Farms Inc., P.O. Box 188, Spearman, Tex. 79081

[FR Doc.77-23696 Filed 8-17-77;8:45 am]

FEDERAL RESERVE SYSTEM

ARK VALLEY BANKSHARES, INC.

Order Approving Formation of Bank Holding Company

Ark Valley Bankshares, Inc., La Junta, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company by acquiring 83 percent of the voting shares of The La Junta State Bank, La Junta, Colorado ("La Junta Bank"), and 56 percent of the voting shares of The Empire State Bank, Rocky Ford, Colorado ("Empire Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a nonoperating corporation organized for the purpose of becoming a bank holding company. La Junta Bank and Empire Bank have aggregate deposits of $14.2 million, representing 0.17 percent of the total deposits in commercial banks in Colorado.[1] Approval of the application would not increase significantly the concentration of banking resources in Colorado.

La Junta Bank ($9.2 million in deposits) is the second largest of seven banks operating in the relevant market, which is approximated by Otero County, while Empire Bank ($5.0 million in deposits), located 11 miles away in Rocky Ford, is the sixth largest bank in that same market. Applicant, upon consummation, would control approximately 24 percent of total deposits in commercial banks in the relevant market, and would be the second largest of the six remaining banking organizations.

No existing competition would be eliminated by this proposal, however. Both banks are commonly owned and managed by principals of Applicant, who purchased a majority of the shares of both banks during 1975. In a case where a prior purchase by an applicant's principals eliminates substantial competition between two banks, the Board is reluctant to approve the formation of a bank holding company, even though such a formation, on its face, would appear to eliminate no existing competition.[2] However, in this instance, the two banks have been under common ownership and control since the formation of Empire Bank in 1949, and therefore the 1975 purchase of both banks by principals of Applicant was not anticompetitive. While approval of the proposal would further solidify the long-existing relationship between these two banks and reduce the likelihood that they would become independent competitors in the future, it is the Board's view that consummation of this proposal would not have any significant adverse effect on existing or potential competition in view of the small size of Empire Bank and the significant number of remaining banking alternatives given the size of the market. Several principals of Applicant are also principals of G. S. Bancshares, Inc., Goodland, Kansas, a one-Bank holding company; the bank controlled by that holding company does not compete in the Otero County banking market, and approval of this proposal would eliminate no existing competition among these three banks. Accordingly, on the basis of the facts of record, the Board concludes that consummation of the proposal would not have any significantly adverse effect on competition.

The financial and managerial resources and future prospects of Applicant and both banks are considered to be satisfactory and are consistent with approval of the application. Although Applicant will incur debt in connection with the proposal, it appears to have the necessary financial resources available to service the debt without impairing the financial condition of either bank. While there will be no immediate increase in the services offered by either bank as a result of the proposed transaction, the considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. It is the Board's judgment that the proposed transaction would be consistent with the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[3] effective AUGUST 10, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-23860 Filed 8-17-77;8:45 am]

CAPRICE CORP.

Order Approving Acquisition of Bank

Caprice Corporation, Red Lake Falls, Minnesota, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 93.33 percent or more of the voting shares of Plummer State Bank, Plummer, Minnesota ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the 203rd largest banking organization in Minnesota, controls one bank with total deposits of approximately $11.8 million, representing 0.07 per cent of total commercial bank deposits in Minnesota.[1] Acquisition of Bank ($2.1 million in deposits) would increase Applicant's share of Statewide commercial bank deposits by only 0.01 per cent and would have no appreciable effect upon the concentration of banking resources in the State.

Bank ranks seventh out of the eight commercial banking organizations operating in the Thief River Falls banking market (the relevant banking market),[2] and controls approximately 2.2 per cent of the total deposits in commercial banks in the market. Applicant's banking subsidiary, located 13½ miles west of Bank, is the third largest banking organization in the market and controls 12.3 per cent of market deposits. While consummation of the proposal would eliminate the existing competition between Applicant's subsidiary bank and Bank, the competitive effects are mitigated by the relatively small size of these two banks, by the small total amount of existing competition that would be eliminated, and by the fact that the two largest banks in the market control nearly 70 per cent of the market's deposits. In light of the above and other facts of record, the Board concludes that the proposed acquisition would have only a slightly adverse effect on existing competition.

The financial and managerial resources and future prospects of Bank, Applicant, and its bank subsidiary are regarded as satisfactory and consistent with approval. Affiliation with Applicant should enable Bank to expand and improve banking services currently being offered. Accordingly, the Board regards considerations relating to the convenience and needs of the community to be served as lending such weight toward approval of the application as to outweigh any slightly adverse competitive effects that might result from consummation of the proposal. Accordingly, it has been determined that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Minneapolis acting pursuant to delegated authority.

By order of the Board of Governors,[3] effective AUGUST 10, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-23861 Filed 8-17-77;8:45 am]

CENTRAL BANCOMPANY

Order Approving Acquisition of Bank

Central Bancompany, Jefferson City, Missouri, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares of The First National Bank of Mexico, Mexico, Missouri ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. In response to the large number of comments received in opposition to the application from various individuals including Bank's President ("Protestant"), the Board ordered an Oral Presentation which was held at the Federal Reserve Bank of St. Louis on June 14, 1977.[1] The Board has considered the application, all written comments received and the testimony presented at the Oral Presentation in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the eighth largest banking organization in Missouri, controls four banks with aggregate deposits of $374.4 million, representing 2 percent of the total deposits in commercial banks in the State.[2] Acquisition of Bank, which holds deposits of $15.2 million, would increase Applicant's share of Statewide commercial bank deposits by less than 0.1 percent and would have no appreciable effect upon the concentration of banking resources in the State.

Bank is the third largest of six banking organizations in the Mexico banking market and controls approximately 17.1 per cent of the total deposits in commercial banks in the market.[3] Applicant's nearest subsidiary bank is located approximately 40 miles west of Bank. In view of the distance between Bank and Applicant's nearest banking subsidiary, and other facts of record, no significant competition exists between Bank and Applicant's banking subsidiaries.[4] Furthermore, the Mexico banking market is not considered attractive for de novo entry in view of the declining population within the market.[5] The deposits per banking office ratio of $9.1 million for the market is substantially below the State average of $16.6 million. Thus, competition does not appear likely to develop in the future.

Protestant claims that consummation of the proposal would result in 83 per cent of the total bank assets in Audrain County and 100 per cent of the bank assets in Mexico being owned by bank holding companies. Protestant contends that this would amount to an undue concentration of banking resources and a loss of competition within the relevant market.[6] The Board has reviewed the submissions and testimony of Protestant and is unable to agree with this conclusion.

Section 3(c) of the Act requires the Board to consider whether a proposed acquisition would have adverse effects upon competition within a relevant banking market. This analysis relates primarily to the number of existing or potential banking organizations competing in a market. There is nothing in the legislative history of the Act in this regard that indicates that the Board is to consider whether a banking organization is independently owned or owned by a multibank holding company to be in and of itself a competitive factor. Ownership and management do, of course, enter into the convenience and needs factors, as discused below. It appears that the acquisition of Bank by Applicant would result in the introduction of a significant multibank holding company into the market and would stimulate competition between Bank and the two other banks in the market controlled by major bank holding companies.[7] Accordingly, the Board finds that consummation of the proposal would neither eliminate any significant existing or potential competition nor increase the concentration of banking resources in any relevant market and that competitive considerations are consistent with approval of the application.

Protestant maintains that the manner in which Applicant secured tender offers for a majority of Bank's stock reflects so adversely upon Applicant's management as to warrant denial of the application. As further support for a denial of the application due to managerial considerations, Protestant claims that the price Applicant offered for the shares of Bank was unconscionably low, that Applicant lacks the managerial resources to replace Bank's management which has threatened to resign if the application is approved, and that Applicant violated the Act when one of its subsidiary banks acquired sole discretionary authority to exercise voting rights with respect to 100 shares of Bank placed in trust with one of Applicant's subsidiary banks. On the basis of the complete record on the application, the Board makes the following findings.

---

[1] All banking data are as of December 31, 1976.

[2] See the Board's Order of May 11, 1977, denying the application of Mahaska Investment Company, Oskaloosa, Iowa, to become a bank holding company. (63 Fed. Res. Bull. 579 (1977)).

[3] Voting for this action: Chairman Burns and Governors Wallich, Coldwell, Jackson, Partee and Lilly. Absent and not voting: Governor Gardner.

[1] All banking data are as of December 31, 1976.

[2] The relevant banking market is approximated by Red Lake and Pennington Counties and the eastern two-thirds of Marshall County.

[3] Voting for this action: Chairman Burns and Governors Wallich, Coldwell, Jackson, Partee and Lilly. Absent and not voting: Governor Gardner.

[1] See the Board's Order of April 11, 1977 (63 Federal Reserve Bulletin 493).

[2] All banking data are as of December 31, 1976.

[3] The Mexico market is approximated by Audrain County plus the town of Auxvasse in adjoining Callaway County.

[4] At the Oral Presentation, Bank's President conceded that there was no significant competition between Bank and Applicant (Transcript p. 117–118).

[5] Population data and estimates from the Bureau of the Census show that the market population declined 2.7 per cent from 1960–70 relative to a gain of 8.3 per cent for the State and it is estimated that the market did not grow from 1970–74 (25,362 to 25,300), relative to an estimated gain of 2.1 per cent for the State during this period.

[6] Protestant contends that the fact that 83 per cent of the banking assets in the relevant market will be controlled by multibank holding companies constitutes an undue concentration of banking resources. This analysis is incorrect. The Board must consider the percentage of the market's banking deposits controlled by each banking organization, not by multibank holding companies as a group or independent banks as a group.

[7] We note as an aside that in any event, three independent banks will remain in the market as alternatives for those individuals who prefer to deal with a bank that is not affiliated with a holding company.

V 42 160 AUG 18 77 UM

The three largest shareholders of Bank are Bradford Brett, President of Bank and owner of 255 shares representing 25.5 per cent of Bank's stock; Ms. Anne Parry, a cousin of Bradford Brett and owner of 210 shares representing 21 per cent of Bank's stock, and Mrs. Miriam Edmonston, a sister of Anne Parry and owner of 240 shares representing 24 per cent of Bank's stock. During 1974 and 1975, Ms. Parry indicated to Mr. Brett that she and her sister, Mrs. Edmonston, were considering selling their Bank stock and requested Mr. Brett's assistance in facilitating a sale. Ms. Parry indicated that she needed more income than the dividends paid on Bank's stock were providing her at that time. Ms. Parry indicated her belief that $1,000 per share was an acceptable price for Bank's stock; however, Mr. Brett indicated to her that it was unlikely that he could obtain more than $600 per share for Bank's stock. Book value of the stock at that time was about $1,200 per share. It appears that neither Ms. Parry nor Mrs. Edmonston was successful in selling her Bank stock.

On July 27, 1976, Mrs. Edmonston mentioned to Mr. R. B. Price, the President of Applicant's subsidiary bank located in Columbia, Missouri, that she and her sister were considering an offer by an individual in Seattle, Washington, to purchase their Bank stock for $1,500 per share. On July 30, 1976, Mrs. Edmonston met with representatives of Applicant and Mr. Price to discuss a possible sale of her Bank stock to Applicant. Negotiations ensued and on August 1, Mrs. Edmonston, Ms. Parry, and another shareholder of Bank, Mr. Stephenson, tendered their shares representing a majority of Bank's stock to Applicant for $2,000 per share. Mr. Brett was not consulted until August 2, 1976, when Mr. Quigg, representing Applicant, informed Mr. Brett of the tender offer and offered to purchase his shares of Bank. Shortly after that meeting, Mr. Brett undertook a campaign to rally public support for his opposition to the proposed acquisition. On August 16, 1976, representatives of Applicant met with the Board of Directors of Bank. A copy of the statement made by Applicant's representatives at that meeting shows that they expressed a desire to operate Bank as a local bank, to retain the officers and employees of Bank, to retain the directors of Bank and to purchase the outstanding shares of Bank at the same price per share that Applicant had agreed to pay for the controlling block of stock already tendered. Bank's Board of Directors apparently rejected Applicant's offers and threatened to resign en masse if the proposal were approved.

The Board is unable to agree with Protestant that Applicant's acquisition of tender offers for a majority of Bank's stock reflects adversely on managerial factors. It appears that the initial contact was initiated by Bank's majority shareholders. Further, Bank's remaining shareholders were offered the opportunity to sell their shares at the same price as Bank's majority shareholders. Applicant had no legal duty to inform the management of Bank that an offer for a majority of Bank's stock was outstanding. The majority shareholders of a bank do not have an obligation to perpetuate the management of a bank or advise management of plans to sell their stock. On the contrary, the obligations and responsibilities run in the opposite direction; management owes a fiduciary duty to all of the shareholders of a bank.

With respect to Protestant's assertion that the price of $2000 per share is so low as to be unconscionable, the Board notes that at the Oral Presentation Mr. Brett estimated that the shares of Bank stock were worth a minimum of $2,500 (Transcript p. 98). This difference of $500 per share between Protestant's valuation and Applicant's offer does not appear to support Protestant's claim that $2,000 is an unconscionably low offer in light of the fact that the $2,000 per share price is 1.6 times the book value of Bank's stock and was freely arrived at by Bank's shareholders and Applicant after extensive negotiations.[8]

With respect to the threatened resignation of Bank's officers and directors, Applicant has indicated, and the Board finds, that Applicant has adequate experienced personnel to assume control of the daily operations and the management of Bank were such action necessary. Moreover, several of the directors who testified at the Oral Presentation, including Mr. Brett himself, indicated that they might remain as directors even if the application is approved and have indicated that they are aware of their fiduciary duties to the shareholders who elected them in the event minority shareholders remain.

Finally, Protestant contends that Applicant may have violated the Act when its subsidiary bank in Columbia, Missouri, established a trust for one of Bank's shareholders in December 1976, a part of the corpus of which was 100 100 shares of Bank. Applicant's subsidiary acquired sole discretionary voting authority over those Bank shares. Protestant contends alternatively that those shares of Bank were not acquired by Applicant's subsidiary bank in good faith, as required by section 3(a) of the Act, or if acquired in good faith, Applicant failed to make proper application to the Board within 90 days to retain the shares as required in section 3(a) of the Act. On the basis of a review of the facts surrounding the formation of the trust, the documents evidencing the trust and the affidavits of the parties to the transaction, it appears that the transaction was not an attempt to evade the Act, that the Federal Reserve Bank of St. Louis was made fully aware of the circumstances surrounding the creation of the trust within 90 days of Applicant's acquisition of sole discretionary voting authority over the shares of Bank, and that the shares of Bank were acquired in good faith in a fiduciary capacity. Applicant has indicated that if its present application is denied it will accept that determination by the Board as a determination that it may not retain the 100 shares of Bank's stock held in trust and will divest of those shares in compliance with the two-year statutory requirement in section 3(a) of the Act. In view of the foregoing, the Board finds that Applicant's conduct with respect to the shares held in trust has not been such as would require denial of this application.

Considerations relating to the financial resources of Bank and Applicant are consistent with approval of the application. The financial resources of Applicant and its subsidiaries are considered satisfactory. Although Applicant would incur some debt in connection with its acquisition of Bank, Applicant has stated that all indebtedness related to Bank's acquisition could be retired within four years.

Protestant contends that the future prospects of Bank and the convenience and needs of the community would be adversely affected by approval of this application. Protestant points to a petition signed by over 6000 local residents supporting Mr. Brett and his effort to keep Bank an "independent" bank. Protestant contends that the future prospects of Bank would be adversely affected by the combination of a loss of Bank's current management and a withdrawal of deposits by citizens opposing the acquisition. The Board has reviewed the complete record and finds that, although some of Bank's management may leave as a result of this acquisition, Applicant has sufficient managerial resources to fill any vacancies that may occur. Moreover, most of Bank's officers, including Mr. Brett, are over 65 years old and would be likely to retire soon in any case. Bank's management presently has no plans for management succession and to that end, Applicant's ability to provide successor management lends some weight toward approval of this application. In addition, the 6,000 signatures Protestant has collected do not indicate an intent on the part of the signatories to terminate their business relationships with Bank. The petitions do not name Applicant or the proposed acquisition. The petitions merely express support for Mr. Brett to do his best to keep Bank an independent bank.

Protestant alleges that independent banks serve their communities better than banks owned by bank holding companies. Moreover, Protestant contends that people within a community should have a choice between doing business with an independent bank and a subsidiary bank of a bank holding company.

[8] It appear that in early 1976, Mr. Brett proposed an exchange of stock with Ms. Parry. Mr. Brett's own valuation of Ms. Parry's Bank stock for purposes of an exchange for unrelated securities held by Mr. Brett was $600 per share. Mr. Brett stated at the hearing that there were no changes that would give rise to a significant increase in th value of Bank's stock in the 18 months since Mr. Brett's exchange offer. (Transcript p. 120–121.)

The Board regards these arguments as being relevant only to the extent that they reflect upon the convenience and needs of the relevant community to be served in each application. The record in this application shows that the Mexico banking market is not a highly competitive banking market.[9] The Comptroller of the Currency has noted in his comments upon this application that "Applicant appears to possess the financial and managerial resources necessary to aid Bank in becoming a more aggressive competitor and a more meaningful banking alternative."

Applicant has stated that it will provide a variety of new or expanded services, including $200 minimum balance free checking, maximum interest rates on customers' savings, expanded operating hours, improved drive-in facilities, trust services, improved data processing services for Bank, direct equipment leasing and an automobile leasing program. Thus, considerations relating to the convenience and needs of the community to be served lend some weight toward approval of the application. The Board finds that approval of the proposed application would be in the public interest and that the application should be approved.

On the basis of the complete record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of St. Louis pursuant to delegated authority.

By order of the Board of Governors,[10] effective AUGUST 11, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-23862 Filed 8-17-77;8:45 am]

METROPOLITAN BANK AND TRUST CO., PHILIPPINE SECURITIES CORP. AND TYTANA CORP.

Order Approving Formation of Bank Holding Companies

Metropolitan Bank and Trust Company ("Metropolitan"), Philippine Securities Corporation ("PSC"), and Tytana Corporation ("Tytana"); all of Makati, Rizal, Philippines (referred to collectively as "Applicants"), have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of bank holding companies by acquiring directly or indirectly up to 35 percent of the voting shares of International Bank of California, Los Angeles, California ("Bank").

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Metropolitan (deposits of approximately $165.3 million)[1] was organized in 1962 as a Philippine commercial bank. It presently operates 86 branches in the Philippines, a branch in Taiwan, and an agency in Los Angeles, California. PSC is principally engaged in the real estate business as a direct investor and dealer. PSC's application to become a bank holding company is necessitated by the fact that it exercises a controlling influence over the management or policies of Metropolitan.[2] Tytana is a Philippine investment company that directly or indirectly owns 27.7 percent of the voting shares of Metropolitan and thus is deemed to control Metropolitan pursuant to section 2(a)(2)(A) of the Act. With the exception of Metropolitan's Los Angeles agency, neither Metropolitan, PSC, nor Tytana is engaged in any activities directly or indirectly in the United States.

Bank (deposits of approximately $4.4 million)[3] ranks 96th out of 98 banking organizations in the relevant banking market and has only a .01 percent share of market deposits.[4] Metropolitan's Los Angeles agency is not authorized to accept domestic deposits, and it does not appear from the facts of record that any meaningful competition between Bank and the agency would be eliminated as a result of this proposal. In view of Bank's size and its rank in the market, the Board believes that its acquisition by Metropolitan, a major Philippine commercial bank, should have a salutary effect on competition by enhancing Bank's competitive capabilities relative to the other banks in the market. Therefore, on the basis of the record, the Board concludes that consummation of the proposal would not have a significant adverse effect on existing or potential competition, nor would it have a significant effect on the concentration of banking resources, in any relevant area. Competitive considerations are, therefore, consistent with approval of the applications.

The financial and managerial resources and future prospects of Applicants are considered generally satisfactory; and, in view of Applicants' intention to strengthen the management of Bank, the same considerations appear to be generally satisfactory with respect to Bank. Accordingly, banking factors are consistent with approval of the subject applications. Although there would be no immediate increase in the services offered by Bank as a result of the proposed transaction, the considerations relating to the convenience and needs of the community to be served are consistent with approval of the applications. In particular, Bank's affiliation with Metropolitan will result in another international banking link between the Philippines and the United States. It is the Board's judgment that the proposed transactions would be consistent with the public interest and that the applications should be approved.

On the basis of the record, the applications are approved for the reasons summarized above. The transactions shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of San Francisco pursuant to delegated authority.

By order of the Board of Governors,[5] effective August 10, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-23863 Filed 8-17-77;8:45 am]

WISCUB, INC.

Formation of Bank Holding Company

WISCUB, Inc., Milwaukee, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 780.5 (or more) of the voting shares of The Cleveland State Bank, Cleveland, Wisconsin. The factors that are considered in acting on the applica-

[9] It appears that the other bank located in Mexico is the only subsidiary bank of the third largest holding company in Missouri that does not offer free checking services. Bank does not offer free checking services to its customers either.

[10] Voting for this action: Chairman Burns and Governors Wallich, Coldwell, Jackson, Partee, and Lilly. Absent and not voting: Governor Gardner.

[1] As of January 31, 1977.

[2] PSC owns approximately 18.8 percent of the voting shares of Metropolitan. In addition, PSC's principals own approximately 35.6 percent of the voting shares of Metropolitan and three of PSC's officers or directors also serve as officers or directors of Metropolitan. PSC has previously been advised that in the view of the Board's staff the rebuttable presumption of control contained in § 225.2(b)(2) of Regulation Y 12 CFR 225.2(b)(2)) would apply to PSC's relationship with Metropolitan if Metropolitan were to become a bank holding company. By virtue of its filing the subject application to become a bank holding company, PSC acknowledges that it would exercise a controlling influence over Metropolitan and thereby waives the notice and opportunity for hearing requirements of section 2(a)(2)(C) of the Act. In connection with its consideration of PSC's application, the Board has determined that PSC exercises a controlling influence over the management or policies of Metropolitan and thus would become a bank holding company upon consummation of the subject proposal.

[3] As of December 31, 1976.

[4] The relevant banking market is approximated by Orange and Los Angeles Counties.

[5] Voting for this action: Chairman Burns and Governors Wallich, Coldwell, Jackson, Partee, and Lilly. Absent and not voting: Governor Gardner.

VOL 42 160 AUG 18 77 UM

tion are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 9, 1977.

Board of Governors of the Federal Reserve System, August 11, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-23864 Filed 8-17-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

Meeting

Notice is hereby given, pursuant to PL 92-463, that the next meeting of the National Advisory Council on the Education of Disadvantaged Children will be held on Thursday, September 8, Friday, Septemebr 9 and Saturday, September 10, 1977. The Committees on Successful Programs/Parent Involvement, Indian Education/Migrant, and Legislative Testimony will meet on Thursday from 7:00 p.m.–9:00 p.m. The regular Council meeting will be held from 9:00 a.m.–4:30 p.m. on Friday, and on Saturday from 9:00 a.m.–1:00 p.m. The three-day activities will be held at 425 Thirteenth Street, NW., Suite 1012, Washington, D.C. 20004.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The purpose of the committee meetings will be to discuss future activities and report on the status of individual committee draft outlines and reports. The full Council meeting is being held to review and comment on written draft materials of committee reports; discuss the implications of President Carter's Welfare Reform on Title I eligibility criteria; and to get a briefing from NIE on the Compensatory Education Study.

The entire meeting will be open to the public. Because of limited space, all persons wishing to attend should call for reservations by September 5, 1977, area code 202/382-6945.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children, located at 425 Thirteenth Street, NW., Suite 1012, Washington, D.C. 20004.

Signed at Washington, D.C. on August 15, 1977.

GLORIA STRICKLAND,
Acting Executive Director.

[FR Doc.77-23807 Filed 8-17-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

[F-22940]

Proposed Withdrawal and Reservation of Lands

AUGUST 10, 1977.

The U.S. Army Corps of Engineers, on February 3, 1976, filed application, Serial No. F-22940, for the withdrawal of the following described lands from settlement, sale, location, or entry, under all of the general land laws, including the mining and mineral leasing laws, subject to valid existing rights:

U.S. Survey 4290, containing 2.06 acres.

The applicant agency desires that the lands be withdrawn and reserved for use by the U.S. Air Force as a radio relay site.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management on or before September 22, 1977.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501, on or before September 22, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16 B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's, and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the secretary on the application will be published in the FEDERAL REGISTER. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752. The above-described lands are temporarily segregated from the operation of the public land laws, including the mining and leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. The segregative effect of this proposed withdrawal shall terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with this proposed withdrawal should be addressed to the Chief, Branch of Lands and Minerals Operations, Alaska State Office, Bureau of Land Management, Department of the Interior, 555 Cordova Street, Anchorage, Alaska 99501.

CLAIR M. WHITLOCK,
Acting State Director.

[FR Doc.77-23911 Filed 8-17-77;8:45 am]

[CA 2314]

CALIFORNIA

Order Providing For Opening of Lands

AUGUST 11, 1977.

By virtue of the authority contained in Section 24 of the Act of June 10, 1920, 41 Stat. 1075, as amended, 16 U.S.C. 818 (1970), and in accordance with the authority delegated to me by the State Director, California State Office, Bureau of Land Management, dated January 13, 1977 (42 FR 3901), as amended, and pursuant to the determination of the Federal Power Commission in DA-1117 California, May 11, 1977, it is ordered as follows:

1. In DA-1117 California the Federal Power Commission determined that the power withdrawal, as it affects that portion of the following described land lying outside the boundary of Power Project 2179 as shown on approved map Exhibit K, Sheet 1 of 17 (FPC No. 2179-116), is no longer needed for power purposes and is vacated:

MOUNT DIABLO MERIDIAN

T. 5 S., R. 15 E.,
Sec. 2, Lot 1.

The area aggregates approximately 51.8 acres in Mariposa County, California.

2. The Commission finds that the value of those portions of the followng described land lying within the boundary of Project No. 2179 as shown on approved map Exhibit K, Sheet 1 of 17 (FPC No. 2179-116) will not be injured or destroyed by conveyance subject to Section 24 of the Federal Power Act.

MOUNT DIABLO MERIDIAN

T. 5 S., R. 15 E.,
Sec. 2, Lot 1

The area aggregates approximately 6.1 acres in Mariposa County, California.

3. The State of California has waived its preference right of application for highway rights-of-way or material sites afforded it by Section 24 of the Federal Power Act.

4. The land shall be made immediately available for consummation of a pending Bureau of Land Management exchange, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, subject to the provisions of Section 24 of the Federal Power Act, supra.

VIOLA ANDRADE,
Acting Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc.77-23913 Filed 8-17-77;8:45 am]

[CA 4484]

CALIFORNIA

Proposed Withdrawal and Reservation of Lands

AUGUST 12, 1977.

The Bureau of Reclammation, Department of the Interior, on July 19, 1977, filed application, Serial No. CA 4484, for the amendment of its existing Colorado River Storage Project withdrawal created by Departmental Orders dated September 8, 1903, June 4, 1930, March 26, 1931, and October 16, 1931, to include the following described lands:

SAN BERNARDINO MERIDIAN

T. 4½ N., R. 24 E.,
Sec. 36, Lots 1, 2, 3, 4, and 5, S½SW¼, and SW¼SE¼.

The area aggregates approximately 320.38 acres.

This application for withdrawal from settlement, sale, location, or entry under all of the general land laws, including the mining laws, subject to valid existing rights, is required to conform to the survey of omitted land between Townships 4 and 5 North, Range 24 East of San Bernardino Meridian, California.

On or before September 21, 1977, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below, by September 21, 1977. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior, who will determine whether or not the lands will be withdrawn as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

For a period of two years from the date of publication of this notice in the FEDERAL REGISTER, the lands will be segregated from entry as specified above unless the application is rejected or the withdrawal is approved prior to that date. If the withdrawal is approved, the segregation will continue for a time period specified in the withdrawal notice.

All communications (except for public hearing requests) in connection with this withdrawal should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

VIOLA ANDRADE,
Acting Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc.77-23912 Filed 8-17-77;8:45 am]

[NM 31180]

NEW MEXICO

Application

AUGUST 10, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Chace Oil Company, Inc. has applied for seven 6-inch and 2-inch pipelines and a compressor site rights-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 22 N., R. 7 W.,
Sec. 11, S½NE¼ and SE¼SE¼;
Sec. 12, W½NW¼ and SE¼NW¼;
Sec. 13, W½NE¼, N½NW¼ and SW¼SW¼;
Sec. 14, E½E½.

The pipelines and compressor site will be used in connection with natural gas operations and will cross 3.066 miles and 0.057 acres of public land in Sandoval County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-23914 Filed 8-17-77;8:48 am]

[Wyoming 60313]

WYOMING

Application

AUGUST 10, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah, filed an application for a right-of-way to construct a 4½ inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T 27 N., R. 113 W.,
Sec. 8, SE¼NE¼.

The pipeline will transport natural gas within T. 27 N., R. 113 W., in Sublette County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Rock Springs District Office, Highway 187 North, P.O. Box 1869, Rock Springs, Wyoming 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-23915 Filed 8-17-77;8:45 am]

[Wyoming 60280]

WYOMING

Application

AUGUST 9, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado, filed an application for a right-of-way to construct a 4 inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

V 42 160 AUG 18 77 UM

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 98 W.,
Sec. 22, N½SW¼, SW¼NW¼.

The pipeline will transport natural gas from a well in sec. 22, T. 18 N., R. 98 W. to present facility in sec. 21, T. 18 N., R. 98 W., in Sweetwater County, Wyoming.

The purpose of this notice is to inform the public the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 North, Rock Springs, Wyoming 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-23916 Filed 8-17-77;8:45 am]

[Wyoming 60344]

WYOMING

Application

AUGUST 11, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Marathon Pipeline Company of Casper, Wyoming filed an application for a right-of-way to construct a 4 inch pipeline for the purpose of transporting oil and other synthetic liquid fuels across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 47 N., R. 92 W.,
Sec. 12, SE¼SW¼;
Sec. 13, NE¼NE¼.

The pipeline will transport oil and other synthetic liquid fuels, in section 12 and 13, T. 47 N., R. 92 W., in Washakie County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Worland District Office, 1700 Robertson Avenue, P.O. Box 119, Worland, Wyoming 82401.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Mineral Operations.

[FR Doc 77-23917 Filed 8-17-77;8:45 am]

[Wyoming 60301]

WYOMING

Application

AUGUST 10, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado, filed an application for a right-of-way to construct a 4 inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 98 W.,
Sec. 12, SE¼SE¼.

The pipeline will transport natural gas from a well in section 7, T. 18 N., R. 97 W., to a proposed line in section 13, T. 18 N., R. 98 W., in Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyoming 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-23918 Filed 8-17-77;8:45 am]

National Park Service

HISTORIC AMERICAN ENGINEERING RECORD ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Historic American Engineering Record Advisory Committee will be held on September 14 and 15, in Room 5125, 1100 L Street NW., Washington, D.C., between the hours of 10:00 a.m. and 4:00 p.m.

The purpose of the Historic American Engineering Record Advisory Committee is to render advice on matters relating to the task of recording the historic engineering and industrial monuments of the country.

The members of the Advisory Committee are as follows:

Professor Eugene S. Ferguson (Chairman), Curator, Hagley Museum, Greenville, Wilmington, Del. 19807.
Mr. Daniel J. Boorstin, Librarian of Congress, Library of Congress, Washington, D.C. 20560.
Dr. John G. Burke, University of California, Los Angeles, Calif. 90024.
Dr. Emory L. Kemp, West Virginia University, Morgantown, W. Va. 26505.
Mr. Neal FitzSimons, ASCE Committee on the History and Heritage of American Civil Engineering, Kensington, Md. 20795.
Mr. Jerry Rogers, Office of Archeology and Historic Preservation, National Park Service, Washington, D.C. 20240.

The matters to be discussed include the following:

HAER Editorial Projects and Publications Program, HAER Inventory, 1976-77 Projects, Discussion of Current Problems and Future Needs.

The meeting is open to the public, but facilities and space are limited. Any member of the public may file a written statement concerning the matters discussed. Persons wanting further information concerning this meeting or wishing to file written statements should contact the Historic American Engineering Record, Office of Archeology and Historic Preservation, National Park Service, Washington, D.C., 202-523-5460. Minutes of the meeting will be made available for public inspection 5 weeks after the meeting at the office of the Historic American Engineering Record, Room 5125, 1100 L Street NW., Washington, D.C.

Dated: August 9, 1977.

JERRY L. ROGERS,
Chief, Office of Archeology and Historic Preservation.

[FR Doc.77-23902 Filed 8-17-77;8:45 am]

Office of the Secretary

PROPOSED PACIFIC POWER AND LIGHT COMPANY 500 KV TRANSMISSION LINE BETWEEN MIDPOINT, IDAHO, AND MEDFORD, OREG.

[INT FES 77-28]

Availability of Final Environmental Statement

The final environmental statement for Pacific Power and Light Company's proposal to construct, operate, and maintain a 500 kV electric transmission line between Midpoint, Idaho, and Medford, Oreg., has been released for public inspection.

A limited number of copies of the environmental statement are available upon request at the Oregon State Office, Bureau of Land Management, P.O. Box 2965, Portland, Oreg. 97208, and the Idaho State Office, Bureau of Land Management, P.O. Box 042, Boise, Idaho 83724.

Public reading copies will be available for review at the following locations:

Office of Information, Bureau of Land Management, Room 5625, Interior Building, 18th and C Streets NW., Washington, D.C. 20240.
Idaho State Office, Bureau of Land Management, Room 398, Federal Building, 550 West Fort Street, Boise, Idaho 83724.
Oregon State Office, Bureau of Land Management, Room 100, 729 N.E. Oregon Street, Portland, Oreg. 97208.
Medford District Office, Bureau of Land Management, 310 W. 6th Street, Medford, Oreg. 97501.
Lakeview District Office, Bureau of Land Management, 230 Collins Road, Boise, Idaho Oreg. 97630.
Vale District Office, Bureau of Land Management, 365 "A" Street West, Vale, Oreg. 97918.
Fremont National Forest, 34 "D" Street N., Lakeview, Oreg. 97630.
Burns District Office, Bureau of Land Management, 74 S. Alvord Street, Burns, Oreg. 97720.
Boise District Office, Bureau of Land Management, 230 Collins Road, Boise, Idaho 83702.

Public libraries in Ashland and Portland, Oregon, and Boise, Idaho, also have reading copies available.

A limited number of single copies may be obtained by writing the Oregon State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: August 15, 1977.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc.77-23926 Filed 8-17-77;8:45 am]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES v. BEATRICE FOODS CO., OLSONITE CORPORATION, BEMIS MANUFACTURING COMPANY AND STANDARD TANK & SEAT CO.

Proposed Consent Judgment and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. Sections 16 (b) through (h), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the United States District Court for the Eastern District of Michigan, Detroit, in Civil Action No. 4-71922, *United States of America* v. *Beatrice Foods Co., Olsonite Corporation, Bemis Manufacturing Company, and Standard Tank & Seat Co.*

The complaint in this case alleges that the defendants, companies which manufacture and sell toilet seats, engaged in a conspiracy to raise, fix, maintain and stabilize the prices of popular priced wood flour toilet seats in the United States. The proposed judgment enjoins the defendants from entering into or adhering to any agreements or arrangements with any manufacturer of toilet seats to raise, fix, stabilize or maintain the price, discount, markup or any other term or condition with respect to the sale of any toilet seat to any third person and also grants certain additional relief.

Public comment is invited on or before October 17, 1977. Such comments and responses thereto will be published in the Federal Register and filed with the Court. Comments should be directed to Joseph H. Widmar, Chief, Trial Section, Antitrust Division, United States Department of Justice, Room 3266, Washington, D.C. 20530.

Dated: August 11, 1977.

BERNARD M. HOLLANDER,
Chief, Judgments and Judgment Enforcement Section.

UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

United States of America, Plaintiff, v. *Beatrice Foods Co.; Olsonite Corp.; Bemis Manufacturing Co; and Standard Tank & Seat Co.*, Defendants.
Civil No. 4-71922.
Filed: August 11, 1977.

STIPULATION

It is stipulated by and between the undersigned parties, plaintiff United States of America, and defendants Beatrice Foods Co., Olsonite Corporation, Bemis Manufacturing Company and Standard Tank & Co., by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16) and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event that plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to plaintiff and defendants in this or any other proceeding.

Dated: August 11, 1977.

For the Plaintiff: John H. Shenefield, *Acting Assistant Attorney General;* William E. Swope, Charles F. B. McAleer, Joseph H. Widmar, Arthur A. Feiveson, H. Arthur Rosenthal, and Kenneth L. Jost, *Attorneys, Department of Justice.*

For the Defendants: Beatrice Foods Co., Earl A. Jinkinson, *Winston & Strawn, Suite 5000, One First National Plaza, Chicago, Ill. 60603;* Olsonite Corp., A. Stewart Kerr, *Kerr, Wattles & Russell, 2100 Detroit Bank & Trust Bldg., Detroit, Mich. 48226;* Bemis Manufacturing Co., Robert G. Cutler, *Dykema, Gossett, Spencer, Goodnow & Trigg, 2700 City National Bank Building, Detroit, Mich. 48226;* and Standard Tank & Seat Co., Miles W. Kirkpatrick, *Morgan, Lewis & Bockius, 123 S. Broad Street, Philadelphia, Pa. 19109.*

UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

United States of America, Plaintiff, v. *Beatrice Foods Co.; Olsonite Corp., Bemis Manufacturing Co; and Standard Tank & Seat Co.*, Defendants.

Civil No. 4-71922.

Filed: August 11, 1977.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on June 19, 1974, and the plaintiff and the defendants, by their respective attorneys, having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or admission by any party with respect to any issue of fact or law herein:

Now, therefore, without any testimony being taken herein, and without trial or adjudication of any issue of fact or law herein, and upon the consent of all parties hereto, it is hereby

Ordered, adjudged and decreed:

I

This Court has jurisdiction of the subject matter herein and of the parties hereto. The complaint states a claim upon which relief may be granted against the defendants under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment:

(A) "Person" shall mean any individual, corporation, partnership, firm, association or other business or legal entity; and

(B) "Toilet seat" shall mean any toilet seat which is manufactured from any material and sold with or without the toilet seat cover as the case may be.

III

The provisions of this Final Judgment are applicable to all defendants herein and shall also apply to each of said defendants' officers, directors, agents, employees, subsidiaries, successors and assigns, and to those persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Each defendant is enjoined and restrained from:

(A) Entering into, adhering to, maintaining or claiming any rights under, directly or indirectly, any contract, agreement, understanding, plan, program, combination or conspiracy with any other manufacturer of toilet seats to raise, fix, stabilize or maintain the price, discount, markup or any other term or condition with respect to the sale of any toilet seat to any third person; and

(B) Furnishing to or requesting from any other manufacturer of toilet seats any information concerning any price, discount, markup, or any other term or condition with respect to the sale of any toilet seat, which sale occurs after the date of this Final Judgment, unless the information in question previously has been published and or announced and made generally available to the trade.

V

Nothing contained in Section IV (B) of this Final Judgment shall apply to any negotiation or communication between a defendant and any other defendant, or other manufacturer or seller of toilet seats, or any of their agents, distributors or representatives or any other person whose purpose is (1) a proposed or actual bona fide purchase or sale of toilet seats, or (2) the exchange of information between counsel in connection with bona fide prospective or actual legal proceedings.

VI

(A) Each defendant shall take affirmative steps (including written directives setting forth corporate compliance policies, distribution of this Final Judgment and meetings to review the terms and the obligations it imposes) to advise each of its officers, directors, managing agents and employees who have responsibility for or authority over the establishment of prices, bids, discounts or markups by which said defendant sells or proposes to sell toilet seats of its and their obligations under this Final Judgment and of the criminal penalties for violation of Section IV of this Final Judgment.

(B) In addition, each defendant shall, for a period of five (5) years from the date of this Final Judgment, cause a copy of this Final Judgment to be distributed at least once each year to each of the persons identified in subparagraph (A) above.

(C) Defendants are ordered and directed, within one hundred and twenty (120) days after the entry of this Final Judgment, to serve upon plaintiff affidavits concerning the fact and the manner of their compliance with the provisions of subparagraph (A) above.

V 4211 60 AUG 18 77 UM

VII

For a period of five (5) years from the date of entry of this Final Judgment, each defendant shall file with this Court and with plaintiff, on the anniversary date of this Final Judgment, a sworn statement by an officer or responsible executive, designated by that defendant to perform such duties, setting forth all steps it has taken during the preceding year to discharge its obligations under Paragraph VI (A) and (B) above. Said report shall be accompanied by copies of all written directives issued by said defendant during the prior year with respect to compliance with the terms of this Final Judgment.

VIII

(A) Each defendant is ordered to include with its next price list stating the terms and conditions of sale for toilet seats, or with any other document stating the terms and conditions of sale for toilet seats, a conspicuously placed notice acceptable to plaintiff which shall fairly and fully apprise the readers thereof of the substantive terms of this Final Judgment. This notice shall be sent by each defendant to all its usual toilet seat customers who would be sent such price lists in the normal course of business. The notice must also state that a copy of this Final Judgment may be obtained from the defendant upon request.

(B) The notice required by subsection (A) shall in no circumstances be sent later than one hundred and eighty (180) days after the effective date of this Final Judgment. If any defendant has not disseminated a new price list stating the terms and conditions of sale for toilet seats or any other document stating the terms and conditions of sale for toilet seats within said one hundred and eighty (180) days, then this defendant is required to send as a separate mailing the notice required by subsection (A) to all those customers who would be furnished notice of any price changes in the normal course of business.

(C) Each defendant shall submit an affidavit to the plaintiff within one hundred and ninety-five (195) days after the effective date of this Final Judgment setting forth the manner in which it has complied with this Section.

IX

(A) For the purpose of determining or securing compliance with this Final Judgment, and for no other purpose, any duly authorized representative of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(1) Access during the office hours of such defendant to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, directors, agents, partners or employees of such defendant, who may have counsel present, regarding any such matters.

(B) A defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

No information obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

XI

Entry of this Final Judgment is in the public interest.

Dated: ----------

United States District Judge.

UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

United States of America, Plaintiff v. *Beatrice Foods Co.; Olsonite Corporation; Bemis Manufacturing Company; and Standard Tank & Seat Co*., Defendants.

Civil No. 4-71922.
Filed: August 11, 1977.

STIPULATION

It is stipulated between the undersigned parties, Plaintiff United States of America, and Defendant Standard Tank & Seat Co., by their respective attorneys, that:

Standard Tank & Seat Co., having ceased to engage in the manufacture or selling of toilet seats, shall not be required to comply with the provisions of Paragraphs VI, VII and VIII of the Final Judgment entered in this action by this Court, so long as Standard Tank & Seat Co. is not engaged in the manufacture or selling of toilet seats.

Dated: August 11, 1977.

For the Plaintiff: John H. Shenefield, *Acting Assistant Attorney General*, William E. Swope, *Attorney, Department of Justice*, Arthur A. Feiveson, *Attorney, Department of Justice*, Joseph H. Widmar, *Attorney, Department of Justice*.

For the Defendant: Standard Tank & Seat Company, Miles W. Kirkpatrick, *Morgan, Lewis & Bockius, 2300 The Fidelity Building, 123 S. Broad Street, Philadelphia, Pennsylvania 19109*.

UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

United States of America, Plaintiff, v. *Beatrice Foods Co.; Olsonite Corporation; Bemis Manufacturing Company; and Standard Tank & Seat Co*., Defendants.

Civil No. 4-71922.
Filed: August 11, 1977.

COMPETITIVE IMPACT STATEMENT

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. §§ 16(b)-(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

NATURE OF THE PROCEEDING

On June 19, 1974, the United States filed a civil complaint under Section 4 of the Sherman Act (15 U.S.C. § 4), alleging that the defendants violated Section 1 of the Sherman Act (15 U.S.C. § 1). The Complaint alleges that the defendants and various co-conspirators engaged in a combination and conspiracy in unreasonable restraint of interstate commerce, i.e., to raise, fix, maintain and stabilize the prices of popular priced wood flour toilet seats in the United States.

Entry by the Court of the proposed Final Judgment will terminate the action, except that the Court will retain jurisdiction over the matter for possible further proceedings which might be required to interpret, modify, or enforce the Judgment or to punish alleged violations of any of the provisions of the Judgment.

II

DESCRIPTION OF PRACTICES INVOLVED IN THE ALLEGED VIOLATION

Wood flour toilet seats, including popular priced wood flour toilet seats, are manufactured and sold by the defendants. The popular priced wood flour toilet seats manufactured by the defendants are comparable products and are sold as new or replacement seats for residential or commercial purposes. The defendants sell these toilet seats through manufacturers' representatives to plumbing wholesalers and jobbers, plumbing contractors, general contractors, department stores, and discount houses located throughout the United States. The seats shipped to such customers are for use in specific projects or for resale.

Defendant Beatrice Foods Company has its principal place of business in Chicago, Illinois and its toilet seat manufacturing plant in Columbus, Mississippi. Defendant Olsonite Corporation, with its principal place of business in Detroit, Michigan, manufactures its toilet seats in Michigan, Georgia, and California. Defendant Bemis Manufacturing Company has its principal place of business and its toilet seat manufacturing plant in Sheboygan Falls, Wisconsin. Defendant Standard Tank & Seat Company is now out of business, having sold its assets in part to defendant Bemis. Its principal place of business and toilet seat manufacturing plant were in Camden, New Jersey.

The Complaint alleges that the defendants and co-conspirators engaged in a conspiracy to raise, fix, maintain and stabilize the prices of popular priced wood flour toilet seats in the United States. The defendants carried out the alleged conspiracy in several ways, including:

(a) Holding meetings at various times at different locales and during conventions of the Southern Wholesalers Association and American Supply Association at hotels, motels, apartments and clubs, at which time the defendants and co-conspirators:

(i) Agreed to increase the prices of popular priced wood flour toilet seats;

(ii) Agreed to issue identical price lists for popular priced wood flour toilet seats;

(iii) Agreed to stagger the date of letters announcing new price increases for popular priced wood flour toilet seats;

(iv) Policed adherence to the agreed upon published prices of popular priced wood flour toilet seats;

(b) Publishing price announcements and price lists which included the prices of popular priced wood flour toilet seats in accordance with the aforesaid agreements;

(c) Telephoning and otherwise contacting one another between meetings concerning:

(i) Increased prices on popular priced wood flour toilet sets; and

(ii) Deviations from agreed upon published prices of popular priced wood flour toilet seats.

According to the Complaint, the alleged conspiracy had the following effects: (a) prices of popular priced wood flour toilet seats sold by the defendants were raised, fixed, maintained and stabilized at non-competitive levels; and (b) customers of the defendants were deprived of the opportunity to purchase popular priced wood flour toilet seats in an open and competitive market.

III

EXPLANATION OF THE PROPOSED FINAL

The United States and the defendants have agreed in a Stipulation that a Final Judgment, in a form negotiated by the parties, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The Stipulation provides that there has been no admission by either party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procdeures and Penalties Act, entry of said Final Judgment by the Court is conditioned upon a determination by the Court that the proposed Final Judgment is in the public interest.

A. *Prohibited Conduct*—The proposed Final Judgment prohibits the defendants from entering into or adhering to any agreements or arrangements with any manufacturer of toilet seats to raise, fix, stablize or maintain the price, discounts, markup, or any other term or condition with respect to the sale of any toilet seat to any third person. The proposed Final Judgment also prohibits defendants from furnishing to or requesting from any other manufacturer of toilet seats any information concerning any price, discount, markup, term, or condition with respect to the sale of any toilet seat unless the information in question has been made generally available to the trade.

B. *Scope of the Proposed Judgment*—The proposed Final Judgment expressly provides the maximum coverage permitted by law. It is applicable to all defendants and to each of the defendants' officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who have received actual notice of the Final Judgment by personal service or otherwise.

Further, the proposed Final Judgment provides that each defendant shall take affirmative steps, including the issuance of written directives, distribution of the Final Judgment, and the holding of meetings to advise all of its personnel involved in establishing prices or bids for toilet seats of their obligations under the Final Judgment. The proposed Final Judgment provides that each defendant, for five years, shall cause a copy of the Final Judgment to be distributed at least once each year to personnel responsible for establishing prices. Such extensive service of the decree will effectively insure that all persons or entities who are in a position to act with the defendants in any future conduct prohibited by the proposed Final Judgment can be punished for violations of the decree.

A Stipulation filed with the proposed Final Judgment relieves defendant Standard Tank & Seat Co. of these affirmative steps since this defendant is no longer engaged in the manufacture or sale of toilet seats.

C. *Effect of the Proposed Final Judgment on Competition*—The relief encompassed in the proposed Final Judgment is aimed at preventing any recurrence of the activities alleged in the Complaint. Such activities interfere with the normal interplay of competitive forces in the marketplace, and accordingly result in artifically determined price levels. Entry of the proposed Final Judgment will insure that each defendant's prices, discount terms, and terms and conditions of sale for all toilet seats, not merely the type of seat mentioned in the Complaint, are arrived at independently. The proposed Final Judgment requires the defendants to submit sworn statements, for five years, outlining the steps they have taken to comply with the provisions of the proposed Final Judgment, and the Government is given access, upon reasonable notice, to the records of the defendants to monitor the defendants' compliance with the provisions of the proposed Final Judgment.

Moreover, the proposed Final Judgment requires each defendant to give notice to all its customers of entry of the Final Judgment, and of the terms of the Final Judgment. This provision will alert such customers to the existence of the Final Judgment, and will make it more likely that any violation of the Final Judgment will be brought to the attention of the United States.

Accordingly, it is the opinion of the Department of Justice that the proposed Final Judgment is fully adequate in terms of its prohibitory provisions, as well as its enforcement provisions, to insure that toilet seat prices are determined in a free and competitive market. It is also the opinion of the Department that disposition of the matter without further litigation is appropriate in view of the fact that the proposed Final Judgment includes the form and scope of relief equal to that which might be obtained after a full airing of the issues at trial.

IV

REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in Federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorney fees. Entry of the proposed Final Judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust actions. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuits which may be brought against these defendants.

V

PROCEDURES AVAILABLE FOR THE MODIFICATION OF THE PROPOSED FINAL JUDGMENT

As provided by the Antitrust Procedures and Penalties Act, any person who wishes to comment upon the proposed Final Judgement may submit written comments to Joseph H. Widmar, Chief, Trial Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530 within the 60-day period provided by the Act. These comments and the responses to them will be filed with the Court and published in the FEDERAL REGISTER. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judement at any time prior to its entry if it should determine that some modification of the Final Judgment is necessary.

VI

ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

This case does not involve any unusual or novel issues of fact or law which make litigation a more desirable alternative than entry of this consent decree. The Department considers the substantive language in the proposed Final Judgment to be of sufficient scope and effectiveness to make litigation on relief unnecessary as the proposed Final Judgment provides the substantive relief which was requested in the Complaint.

In negotiating this decree, the defendants sought to obtain additional exceptions in Paragraph V of the proposed Final Judgment to allow price discussions in negotiating patents and in petitioning regulatory bodies. The defendants also sought to restrict coverage of the proposed Final Judgment to wood flour toilet seats.

The United States originally sought to include longer time periods in the provisions which now terminate after five years. The United States also sought to enjoin the defendants from belonging to any trade association which engaged in activities forbidden by the proposed Final Judgment. These positions were abandoned as unnecessary in light of the relief obtained in the proposed Final Judgment. In addition, the Complaint in this case requested that, for ten years, each defendant be required to keep records of meetings between pricing personnel of itself and any other toilet seat manufacturer. The Complaint also requested that, for five years, the defendants be required to certify by affidavit with every change in the price of wood flour toilet seats that such change was arrived at independently. These requirements are considered unnecessary in light of the combination of restraints and affirmative obligations contained in the proposed Final Judgment. Finally, the Complaint requested that each defendant be required to withdraw its current price list and issue a new price list arrived at without collusion with other manufacturers. Such a requirement is not in the proposed Final Judgment because the current price lists are not believed to be the result of the conspiracy charged in 1974.

VII

OTHER MATERIALS

There are no materials or documents which the Government considered determinative in formulating this proposed Final Judgment. Therefore, none are being filed along with this Competitive Impact Statement.

Dated: August 11, 1977.

ARTHUR A. FEIVESON,
H. ARTHUR ROSENTHAL,
Attorneys, Department of Justice.

[FR Doc.77-23923 Filed 8-17-77;8:45 am]

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Withdrawal of Application

By notice dated July 13, 1977 and published in the FEDERAL REGISTER on July 21, 1977 (42 FR 37455), Applied Science Laboratories, Inc., 139 North Gill Street (Box 440), State College, Pennsylvania 16801, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug:	Schedule
Morphine-n-oxide	I
Normorphine	I
Codeine	II
Ecgonine	II
Methadone	II
Morphine	II

Notice is hereby given that by letter dated August 1, 1977, Applied Science

V42160 AUG 18 77 UM V

Laboratories, Inc., requested the withdrawal of their application for registration as a bulk manufacturer of the above substances.

Therefore, the notice dated July 13, 1977, soliciting comments and objections to the application of Applied Science Laboratories, Inc., to be registered as a bulk manufacturer of morphine-n-oxide, normorphine, codeine, ecgonine, methadone and morphine, is hereby cancelled.

Dated: August 10, 1977.

DONALD E. MILLER,
Acting Deputy Administrator, Drug Enforcement Administration.

[FR Doc.-23948 Filed 8-17-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-348]

THE ALABAMA POWER CO. (FARLEY NUCLEAR PLANT, UNIT NO. 1)

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission has issued Amendment No. 3 to Facility Operating License No. NPF-2, issued to the Alabama Power Company, which revised Technical Specifications for operation of the Farley Nuclear Plant, Unit No. 1 (the facility) located in Houston County, Alabama. The amendment is effective as of its date of issuance.

The amendment reflects the results of the testing of the residual heat removal system pumps and to clarify the meaning of the surveillance requirement for operability of the residual heat removal pumps.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1974, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Amendment No. 3 to License No. NPF-2 and (2) the Commission's related Safety Evaluation supporting Amendment No. 3 to License No. NPF-2. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the George S. Houston Memorial Library, 212 W. Vurdeshaw Street, Dothan, Alabama 36301. A copy of items 1 and 2 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda Maryland, this 5th day of August 1977.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc.77-23755 Filed 8-17-77;8:45 am]

[Docket No. 50-348]

ALABAMA POWER CO. (JOSEPH M. FARLEY NUCLEAR PLANT, UNIT 1)

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Facility Operating License No. NPF-2, issued to the Alabama Power Company which revised Technical Specifications for operation of the Joseph M. Farley Nuclear Plant, Unit 1 (the facility) located in Houston County, Alabama. The amendment was effective as of July 15, 1977.

The Amendment permits control rod drop time measurements for the purpose of testing in facility operational Modes 3, 4 and 5.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Amendment No. 1 to License No. NPF-2, and (2) the Commission's related Safety Evaluation Supporting Amendment No. 1 to License No. NPF-2. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the George S. Houston Memorial Library, 212 W. Vurdeshaw Street, Dothan, Alabama 36301. A copy of items 1 and 2 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland, this 29 day of July 1977.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc.77-23756 Filed 8-17-77;8:45 am]

[Docket No. 50-348]

ALABAMA POWER CO. (FARLEY NUCLEAR PLANT, UNIT NO. 1)

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 2 to Facility Operating License No. NPF-2, issued to the Alabama Power Company, for operation of the Farley Nuclear Plant, Unit No. 1 (the facility) located in Houston County, Alabama. The amendment is effective as of its date of issuance.

The amendment removes two temporary conditions to the license which restricted operation of the facility in a hot standby mode. The amendment also removes a temporary condition to the license relating to the completion of certain verification testing programs.

The amendment permits the Farley Nuclear Plant, Unit 1 to proceed to Operational Modes 2 and 1. The amendment complies with the standards and requirements of the Atomic Energy Act of 1974, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Amendment No. 2 to License No. NPF-2 and (2) the Commission's related Safety Evaluation supporting Amendment No. 2 to License No. NPF-2. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the George S. Houston Memorial Library, 212 W. Vurdeshaw Street, Dothan, Alabama 36301. A copy of items 1 and 2 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda Maryland, this 5th day of August, 1977.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc.77-23757 Filed 8-17-77;8:45 am]

[Docket No. 40-3392]

ALLIED CHEMICAL CORP.

Negative Declaration Regarding Renewal of License

The U.S. Nuclear Regulatory Commission (the Commission) is considering the renewal of Source Material License SUB-526 for the continued operation of the Metropolis Works Uranium Hexafluoride Conversion Facility at Metropolis, Illinois.

The Commission's Division of Fuel Cycle and Material Safety has prepared an environmental impact appraisal for the proposed renewal of Source Material License No. SUB-526. On the basis of this appraisal, the Commission has concluded that an environmental impact statement for this particular license renewal is not warranted because there will be no significant environmental impact attributable to the proposed action. The environmental impact appraisal is available for public inspection and copying at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20555.

Dated at Silver Spring, Maryland, this 10th day of August, 1977.

For the Nuclear Regulatory Commission.

LELAND C. ROUSE,
Chief, Fuel Processing and Fabrication Branch, Division of Fuel Cycle and Material Safety.

[FR Doc.77-23758 Filed 8-17-77;8:45 am]

[Docket No. PRM-70-6]

EBERLINE INSTRUMENT CORP.

Filing of Petition for Rule Making

Notice is hereby given that the Eberline Instrument Corporation, P.O. Box 2108, Santa Fe, New Mexico, by letter dated July 18, 1977, has filed with the Nuclear Regulatory Commission a petition for rule making.

The petitioner requests that the Nuclear Regulatory Commission approve of the air transport of calibration or reference sources which are generally licensed pursuant to 10 CFR 70.19 and manufactured pursuant to a specific license issued by the Commission under 10 CFR 70.39, or in accordance with the specifications contained in a specific license issued to the manufacturer by an Agreement State which authorizes manufacture of the sources for distribution to persons generally licensed by the Agreement State.

The petitioner states that:

These calibration or reference sources are limited by 70.19 to not more than 5 uCi of plutonium (0.00008 g). They can only be distributed by a manufacturer or importer who is specifically licensed under 70.39 of 10 CFR 70. Prior to issuance of such a license, the NRC requires the applicant to perform tests to demonstrate that the sources are safe for general license distribution. They are completely safe and can not be rendered unsafe by any possible accident condition. To obtain a license, each manufacturer must describe the storage container. Recognizing that the material involved is a diminutive quantity in terms of safeguard accountability and that safety is assured by the testing performed under 70.19 we believe that NRC can grant our petition to declare that the storage container is a suitable shipping container for air shipments of these calibration or reference sources.

Alternatively, the petitioner requests the Commission to declare that these calibration and reference sources represent "de minimis" quantities of plutonium for which container certification should not be required. Paragraph (a)(3) of § 70.39 provides that each source will contain no more than 5 microcuries of plutonium.

A copy of the petition for rule making is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All persons who desire to submit written comments or suggestions concerning the petition for rule making should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch by October 17, 1977.

Dated at Washington, D.C. this 11th day of August 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-23778 Filed 8-17-77;8:45 am]

[Docket No. 50-302]

FLORIDA POWER CORP., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 6 to Facility Operating License No. DPR-72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised Technical Specifications for operation of the Crystal River Unit No. 3 Nuclear Generating Plant located in Citrus County, Florida. The amendment is effective as of the date of issuance.

The amendment revises Technical Specification 4.8.1.1.2.c.4 to extend the interval for a demonstration of diesel generator operability from the date of this amendment until the next shutdown but no later that midnight, August 22, 1977.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 4, 1977, (2) Amendment No. 6 to License No. DPR-72, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Crystal River Public Library, Crystal River, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 5th day of August 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-23759 Filed 8-17-77;8:45 am]

[Docket No. 70-1308]

GENERAL ELECTRIC CO.

Consideration of Proposed Modification to GE Morris Operation Fuel Storage Facility

The Nuclear Regulatory Commission (the Commission) is considering an application for modification to the irradiated fuel storage facility of the GE Morris Operation currently licensed under Materials License No. SNM-1265. The activities take place in Grundy County near Morris, Illinois.

General Electric Company proposes to construct another fuel storage basin that will be connected to and be an integral part of the existing storage facility in accordance with the licensee's proposal dated April 30, 1977, as supplemented.

VOL 42 NO 160 AUG 18 77 UM

The capacity of the proposed basin is about 1100 TeU, which would provide a total storage capacity of about 1850 TeU. Storage capacity is expressed in terms of metric tons of Uranium (TeU) as contained in light water reactor fuel rods. A metric ton equals 1,000,000 grams. Designated as Basin No. 3, the new structure and associated equipment will essentially duplicate the existing facility designs.

A previous modification to increase the fuel storage capacity by the installation of new storage baskets and supporting grids was approved December 3, 1975.

Prior to a decision on the proposed modification, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The modification to the irradiated fuel storage facility will not be approved until the Commission has reviewed the proposal and has concluded that approval of the modification will not be inimical to the common defense and security and would not constitute an unreasonable risk to the health and safety of the public. The NRC will complete an environmental evaluation in accordance with 10 CFR 51 to determine if the preparation of an environmental impact statement, or negative declaration and environmental appraisal is warranted. The action will be the subject of a notice in the FEDERAL REGISTER.

Pursuant to 10 CFR § 2.105, by September 19, 1977, the licensee may file a request for a hearing; and, any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the approval or disapproval of the modification to the subject irradiated fuel storage facility. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed action. Such petitions must be filed in accordance with this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by September 19, 1977. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to A. A. Kerr, Esq., 175 Curtner Avenue, MC 823, San Jose, California 95125, attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions. In the event no request for a hearing or petition to intervene is filed by the above date, the Commission may upon satisfactory completion of all evaluations, issue a license amendment approving the modification without further prior notice.

In the event that a hearing is held and a person is permitted to intervene, he/she becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he/she may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the licensee's proposal dated April 30, 1977, and supplements thereto, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the local Public Document Room at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451. The amendment to the Commission's license and the Safety Evaluation Report, when issued, may be inspected at the above locations.

Dated at Silver Spring, Maryland, this 10th day of August, 1977.

For the Nuclear Regulatory Commission.

RICHARD W. STAROSTECKI,
Chief, Fuel Reprocessing and Recycle Branch, Division of Fuel Cycle and Material Safety.

[FR Doc.77-23760 Filed 8-17-77;8:45 am]

[Docket No. 50-333]

POWER AUTHORITY OF THE STATE OF NEW YORK

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 25 to Facility Operating License No. DPR-59, issued to Power Authority of the State of New York (the licensee), which revised Technical Specifications for operation of the James A. FitzPatrick Nuclear Power Plant (the facility) located in Oswego County, New York. The amendment is effective as of its date of issuance.

This amendment revises the provisions in the Technical Specifications relating to the relocation of temperature indicators from the condenser outlet to the plant outlet to allow more accurate measurements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment sworn to August 31, 1976, as supplemented April 8, 1977, and (2) Amendment No. 25 to License No. DPR-59. Both of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Oswego County Office Building, 46 East Bridge Street, Oswego, New York. A copy of Item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 2nd day of August 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-23761 Filed 8-17-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued two guides in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.84, Revision 10, "Code Case Acceptability—ASME Section III Design and Fabrication," and Regulatory Guide 1.85, Revision 10, "Code Case Acceptability—ASME Section III Materials," list those code cases that are generally acceptable to the NRC staff for implementation in the licensing of light-water-cooled nuclear power plants. These two guides were revised to update the listings of acceptable code cases and to reflect public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific devisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland this 10th day of August 1977.

For the Nuclear Regulatory Commission.

RAY G. SMITH,
Acting Director, Office of Standards Development.

[FR Doc.77-23762 Filed 8-17-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 4.13, Revision 1, "Performance, Testing, and Procedural Specifications for Thermoluminescence Dosimetry: Environmental Applications," provides minimum acceptable performance criteria for thermoluminescence dosimetry systems used to measure levels of radiation in the environs of NRC-licensed facilities. This guide endorses ANSI Std N545-1975, "Performance, Testing, and Procedural Specifications for Thermoluminescence Dosimetry (Environmental Applications)."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md. this 9th day of August 1977.

For the Nuclear Regulatory Commission.

RAY G. SMITH,
Acting Director, Office of Standards Development.

[FR Doc.77-23763 Filed 8-17-77;8:45 am]

WITHDRAWAL AND ISSUANCE

Regulatory Guide and Topical Reports

The Nuclear Regulatory Commission staff has withdrawn Regulatory Guide 5.35, "Calorimetric Assay of Plutonium." This guide was issued in June 1974 to describe procedures acceptable to the NRC staff for operating and calibrating heat flow calorimeters in measuring the power associated with plutonium decay in nondestructive determinations of the quantity of plutonium in certain types of materials. The guide is being withdrawn as the result of the publication of a topical report that includes the information contained in the guide along with considerable additional information useful to licensees. This report provides more useful guidance than Regulatory Guide 5.35 for tailoring a program of calorimetric assay of plutonium to the needs of a specific installation. The report is identified as NUREG-0228, "Calorimetric Assay for Plutonium."

The Commission is also issuing a topical report to supplement NUREG-0228 by providing numerical examples to show the practical way of calculating total error for the calorimetric assay of plutonium. This report is NUREG-0229, "Some Examples of the Estimation of Error for Calorimetric Assay of Plutonium-Bearing Solids."

Both reports are available for inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Copies may be purchased at current rates from the National Technical Information Service, Springfield, Va. 22161. (NUREG-0228—Paper Copy: $3.50, Microfiche: $3.00; NUREG-0229—Paper Copy: $4.00, Microfiche: $3.00)

(5 U.S.C. 552(a).)

Dated at Rockville, Md. this 8th day of August 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.77-23764 Filed 8-17-77;8:45 am]

[Docket Nos. 50-317 and 50-318]

BALTIMORE GAS AND ELECTRIC CO.

Issuance of Amendments to Facility Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 23 and 7 to Facility Operating License Nos. DPR-53 and DPR-69 (respectively), issued to Baltimore Gas and Electric Company (the licensee), which revised the Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant Unit Nos. 1 and 2 (the facilities) located in Calvert County, Md. The amendments are effective as of their date of issuance.

The amendments revised the existing individual Environmental Technical Specifications for the facilities as a single set of specifications common to both units since the units are similar and share the same site. The major changes in the revised specifications are that they (1) permanently remove the maximum limit and rate of change of the condenser discharge temperature for both units (which is consistent with the recently reinstated State of Maryland National Pollutant Discharge Elimination System permit), (2) change the allowable pH factor for discharge liquids, (3) remove some of the previously required environmental monitoring studies, and (4) change the frequency of the environmental monitoring program reports from semi-annual to annual.

The applications for the amendments comply with the standards and requirements of the Atomic Energy act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for the particular action is not warranted because there will be no significant environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facilities dated April 1973.

The above appraisal is the one referred to in the Commission's FEDERAL REGISTER Notice issued July 8, 1977 (published July 28, 1977, 42 FR 38439), relating to the issuance of Amendment No. 22 to License No. DPR–53.

For further details with respect to this action, see (1) the application for amendment dated January 3, 1977, as supplemented by a letter dated June 7, 1977, (2) Amendment No. 23 to License No. DPR–53, (3) Amendment No. 7 to License No. DPR–69, and (4) the Commission's Environmental Impact Appraisal. All of these items are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Calvert County Library, Prince Frederick, Md. 20678. A single copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 29th day of July, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-23515 Filed 8-17-77;8:45 am]

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operation and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA codes of practice and safety guides are developed in the following way. The IAEA receives and collates relevant existing information used by Member Countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft code of practice or safety guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the Member States. The Senior Advisory Group then considers the Member State comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide, SG–QA5, "Management Control and Quality Assurance for Operation of Nuclear Power Plants," has been developed. An IAEA Working Group, consisting of Mr. S. A. Bernsen (Bechtel Power Corporation), United States of America; Mr. J. Burtheret, France; and Mr. H. Simons, United Kingdom developed this draft from an IAEA collation during a meeting on July 11–15, 1977, and we are soliciting public comment on it. Comments on this draft received by September 2, 1977 will be useful to the U.S. representatives to the Technical Review Committee and Senior Advisory Group in evaluating its adequacy prior to the next IAEA discussion.

Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Rockville, Maryland this 27th day of July 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.77-23516 Filed 8-17-77;8:45 am]

[Docket Nos. STN 50–488, STN 50–489 & STN 50–490]

DUKE POWER CO. (PERKINS NUCLEAR STATION, UNITS 1, 2 & 3)

Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR § 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this construction permit proceeding:

Alan S. Rosenthal, Chairman; Dr. John H. Buck; Richard S. Salzman.

Dated: August 9, 1977.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.77-23517 Filed 8-17-77;8:45 am]

[Docket No. 50–423]

NORTHEAST NUCLEAR ENERGY COMPANY, ET AL.[1]

Receipt of Additional Antitrust Information; Time for Submission of Views or Antitrust Matters

Northeast Nuclear Energy Company, et al.,[1] pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed on April 18, 1977 and May 9, 1977, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information adds Central Maine Power Company as an owner of the Millstone Nuclear Power Station, Unit No. 3, and increases the ownership shares in the units for Massachusetts Municipal Wholesale Electric Company and Montaup Electric Company.

The information was filed by Northeast Nuclear Energy Company in connection with their application for a construction permit and operating license for a pressurized nuclear reactor. Northeast Nuclear Energy Company, et. al. was issued a construction permit on August 9, 1974 for the Millstone Nuclear Power Station, Unit No. 3. Construction is underway on a site located on the north shore of Long Island Sound, in the Town of Waterford, New London County, Connecticut.

The original antitrust portion of the application was submitted on October 31, 1972 and the Notice of Receipt of Application for a Construction Permit and Facility License; Time for Submission of Views on Antitrust Matters was published in the FEDERAL REGISTER on March 23, 1973 (38 FR 7595). The Notice of Hearing was also published in the FEDERAL REGISTER on March 23, 1973 (38 FR 7595).

A copy of all the above stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. Attn: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to the Central Maine Power Company and the Massachusetts Municipal Wholesale Electric Company presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before September 26, 1977.

Dated at Bethesda, Maryland, this 21st day of July, 1977.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc.77-21776 Filed 7-27-77;8:45 am]

[Docket No. STN 50–584]

GIBBS & HILL, INC.

Receipt of Standards Safety Analysis Report

Gibbs & Hill, Inc. has filed with the Nuclear Regulatory Commission (the Commission) its Standard Safety Analysis Report (GIBBSSAR). Following a preliminary review for completeness, the GIBBSSAR application was found to be acceptable and was docketed on May 10, 1977. The GIBBSSAR application was filed in response to Option 1 (Reference System) of the Commission's standardization policy for nuclear power plants, entitled "Methods for Achieving Standardization of Nuclear Power Plants," issued on March 5, 1973, and pursuant to Appendix 0 to 10 CFR Part 50. Docket No. STN 50–584 has been assigned to GIBBSSAR and should be referenced in any correspondence relating thereto.

Under the "Reference System" option, an entire facility design or major portions of it can be identified as a standard design to be used in multiple applications. GIBBSAR describes the balance-of-plant portion of a standard nuclear power plant and is based upon Gibbs & Hill, Inc.'s experience in the design of the balance-of-plant portion of nuclear power plants. It is intended that GIBBSSAR be referenced in conjunction with the Westinghouse RESAR–414 as part of a utility applicant's Preliminary Safety Analysis Report for a 3800 MWt Pressurized Water Nuclear Power Plant.

When its review of GIBBSSAR is complete, the Commission's Office of Nuclear Reactor Regulation (staff) will publish a Safety Evaluation Report documenting the results of the review. In addition, GIBBSSAR will be referred to the Advisory Committee on Reactor Safeguards (ACRS) for its review and a report thereon. Copies of the Safety Evaluation Report and the ACRS report will be made available to the public. A notice relating to the availability of these documents will be published in the FEDERAL REGISTER.

All interested persons who desire to submit written comments for consideration by the staff and ACRS during their review of GIBBSSAR should send them to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section by October 17, 1977.

A copy of the GIBBSSAR Standard Safety Analysis Report is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555. When available, the Safety Evaluation Report and the ACRS report will be made available for inspection by the public at the Commission's Public Document Room.

Dated at Bethesda, Maryland, this 12th day of August 1977.

For the Nuclear Regulatory Commission

STEVEN A. VARGA,
Chief, Light Water Reactors Branch 4, Division of Project Management.

[FR Doc.77-23957 Filed 8-17-77;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N–AR 77–33]

ACCIDENT REPORT; SAFETY RECOMMENDATIONS AND RESPONSES

Availability and Receipt

Aircraft Accident Report No. NTSB–AAR–77–4.—The National Transportation Safety Board has recently made public its report on the investigation of the crash of a Beechcraft Baron 58 after takeoff from the Chillicothe (Missouri) Municipal Airport on August 3, 1976.

The report indicates that the aircraft took off at 2115 from Runway 14. The sky was dark but clear, with 15 miles visibility. At an altitude between 50 and 100 feet above the runway, the left engine failed. The aircraft then turned to the left and descended abruptly into a field where it crashed and burned. All six occupants, including Congressman Jerry Litton of Missouri, were killed. The aircraft, owned by Rupp Automotive, Inc., was destroyed.

Probable cause of the accident, the Safety Board found, was the sudden failure of the airplane's left engine at a point on the takeoff flightpath where the airplane's single-engine performance in the takeoff configuration and its height above the ground combined to make the pilot's ability to sustain flight marginal. The pilot's failure to retract the landing gear and control the airplane to maintain a safe airspeed contributed to the accident and were factors in causing the high acceleration loads when the airplane struck the ground.

The investigation revealed evidence that the left engine failed shortly after takeoff when the crankshaft broke at the No. 7 crankcheek. The Board found that a preexisting fatigue crack had propagated through the crankcheek which could no longer withstand the operating stresses imposed by the takeoff power demand on the engine.

The Beechcraft Baron was equipped with two Teledyne Continental IO–520–C piston engines. During investigation of the Chillicothe crash, the Safety Board found that the Continental IO–520 engine had experienced 12 other crankshaft fractures in the No. 7 crankcheek area for reasons undetermined—a record sufficient to indicate that a problem exists with this particular crankshaft, over 15,000 of which had been installed in IO–520 engines as of August 1976.

As a result of the investigation of this accident, the Safety Board on June 20 recommended that the Federal Aviation Administration initiate a program for (1) inspecting the crankshafts from IO–520 series engines for cracks whenever the crankshafts are available for inspection, and (2) reviewing the results of these inspections to determine whether any deficiencies exist in these engines. (Recommendations A–77–43 and 44; see 42 FR 33391, June 30, 1977.)

Highway Safety Recommendations H–77–7 and 8.—The Safety Board continues to be concerned about the need for safe roadside traffic barrier design. In 1971 the Board made recommendations to the National Park Service (NPS) regarding the need for barriers that would prevent errant vehicles from penetrating bridge rails on the George Washington Memorial Parkway in Virginia. Subsequently, smooth-faced concrete barriers were constructed on several of the bridges. These barriers now bear marks which clearly show that they have successfully deflected vehicles.

In an effort to further enhance traffic barrier safety, the Board on August 11 recommended that the Department of Interior's National Park Service:

Request the assistance of the Federal Highway Administration in developing attractive and performance-designed and evaluated traffic barriers that minimize hazards to vehicle occupants when the barriers are struck by passenger vehicles or buses. (H–77–7)

Upon completion of the traffic barrier research, implement a program to improve existing and future roadside barriers under jurisdiction of the National Park Service consistent with the newly developed designs. (H–77–8)

In issuing these Class II (priority followup) recommendations, the Safety Board takes note of the fact that NPS recently repaired an earth retaining wall that also serves as a traffic barrier on the George Washington Memorial Parkway, about one-half mile north of Key Bridge. The surface of the barrier on the traffic side contains snags of heavy stone that are as much as 6 inches deep and which would contact the side or bumpers of any car moving 5 feet beyond the normal path of travel. The Board believes that these snags are a hazard not consistent with accepted standards and guidelines for barrier faces, such as those adopted by the Federal Highway Administration. Also, measurements of the barrier indicate that its finished height might not comply with minimum FHWA requirements.

The Board further notes that a rough surface can increase substantially the severity of impact by either causing the vehicle to snag and spin out or by sub-

[1] The following are the holders of Construction Permit No. CPPR–113: Ashburnham Municipal Light Plant, Boylston Municipal Lighting Plant, Central Maine Power Company, Central Vermont Public Service Corporation, Chicopee Municipal Lighting Plant, City of Burlington, Vermont, City of Holyoke, Massachusetts Gas and Electric Department, the Connecticut Light and Power Company, Fitchburg Gas and Electric Light Company, Green Mountain Power Corporation, The Hartford Electric Light Company, Marblehead Municipal Light Department, Massachusetts Municipal Wholesale Electric Company, Middleton Municipal Light Department, Montaup Electric Company, New England Power Company, North Attleborough Electric Department, Northeast Nuclear Energy Company, Paxton Municipal Light Department, Peabody Municipal Light Plant, Public Service Company of New Hampshire, Shrewsbury Light Plant, Templeton Municipal Lighting Plant, Town of South Hadley Electric Light Department, The United Illuminating Company, Vermont Electric Cooperative, Inc., Vermont Electric Power Company, Inc., Wakefield Municipal Light Department, West Boylston Municipal Lighting Plant, Western Massachusetts Electric Company, Westfield Gas and Electric Light Department.

V42N160 AUG 18 77 UM

stantially increasing vehicle property damage with a potentially hazardous result to vehicle occupants. The rough surface also enhances the ability of a vehicle to override the barrier; this is particularly true for larger vehicles, such as buses.

RESPONSES TO SAFETY RECOMMENDATIONS

Aviation: A-76-89.—Federal Aviation Administration's letter of August 2 advises the Safety Board that action on this recommendation has been completed and that Airworthiness Directive 77-13-01, Docket No. 76-SO-25, Amendment 39-2919, was issued June 7 and published in the FEDERAL REGISTER June 20 with an effective date of June 21. A-76-89 recommended that FAA prohibit occupancy of the jump seat and require a placard on each aircraft until that aircraft has been modified structurally so that the nose landing gear strut cannot penetrate the cockpit floor. FAA's initial response was made last August 18 (41 FR 37166, September 2, 1976).

Aviation: A-77-30 and 31.—Federal Aviation Administration's letter of August 4 is in response to recommendations issued after the Safety Board found that four accidents within the past year involving Enstrom helicopters were caused by material failures, fatigue failures in tail rotor spindle P/N 28-15202 causing three of the accidents. (See 42 FR 28194, June 2, 1977.)

Recommendation A-77-30 asked FAA to inspect Enstrom Helicopter Corporation's quality assurance program to insure that all materials, pieces, parts, and components used in the manufacture of helicopters comply with the certificating provisions of 14 CFR 21.33(b) (2) through (4). In answer, FAA said that the reference to that section does not apply to materials, pieces, parts, and components used in the manufacture of aircraft which have been certificated. "This rule applies to the certification process and provides for inspections and tests, as necessary, to prove compliance with airworthiness requirements," FAA stated. Once a type certificate has been issued, the materials, parts, pieces, etc., are produced under an FAA manufacturing authorization. FAA states that Enstrom has such an authorization in accordance with CFR 21, Subpart G.

Accordingly, FAA has assessed recommendation A-77-30 relative to compliance with Part 21, Subpart G. FAA further said that an intensive investigation and critical reexamination of Enstrom's quality control system, including a quality assurance system analysis conducted in March 1976 did not reveal any evidence of degradation in the quality assurance program. However, these improvements were made: (1) Part traceability of the tail rotor spindle was improved by identifying each spindle with a serial number, and (2) all purchased aluminum parts which were formerly accepted on Material Certification only are now required to be verified by physical hardness checks.

FAA reports that Enstrom's quality control system is being maintained in compliance with system procedures, instructions, and specifications approved by FAA in accord with CFR 21 Subpart G; further action is not considered by FAA to be necessary at this time.

Recommendation A-77-31 asked FAA to review the certification engineering data to insure that critical tolerance considerations are included in the fatigue replacement time evaluation of the tail rotor spindle as set forth in 14 CFR 27.571(c) and, in view of the low-time failures and possible fatal consequences, to require that tail rotor spindle P/N 28-15202 to be added to the critical parts list. FAA reports that the certification engineering data have been reviewed and are considered satisfactory, and that the tail rotor spindle life limits are being added to the critical parts list as recommended.

Aviation: A-77-40 through 42.—On July 19, Bell Helicopter Textron of Fort Worth, Texas, advised the Safety Board that Part Number 204-040-620-5, referred to the Board's letter of June 16 issuing these recommendations to the Federal Aviation Administration (42 FR 31851, June 23, 1977), was in error. Bell said that the correct part number is 204-040-620-7. These recommendations concern failures of the No. 4 section of the tail rotor drive shaft in Bell Model 212 helicopters.

The Safety Board on August 8 informed FAA that the static balanced 204-040-620-3 shaft was replaced with the dynamic balanced 204-040-620-7 shaft rather than the 204-040-620-5 shaft as printed in the Board's recommendation.

NOTE.—The above notice consists of summaries of Safety Board documents made available, and safety recommendation responses received, during the week preceding publication of this notice in the FEDERAL REGISTER. The accident report and the safety recommendation letter in their entirety are available to the general public; single copies are obtainable without charge. Copies of the full text of responses to recommendations and any Board correspondence may be obtained at a cost of $4.00 for service and 10¢ per page for reproduction. All requests must be in writing, identified by recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of the accident report may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

AUGUST 15, 1977.

[FR Doc.77-23921 Filed 8-17-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

PRIVACY ACT OF 1974

Reports on New Systems

The purpose of this notice is to list reports on new systems filed with the Office of Management and Budget to give members of the public the opportunity to make inquiries about them and to comment on them.

The Privacy Act of 1974 requires that agencies give advance notice to the Congress and the Office of Management and Budget of their intent to establish or modify systems of records subject to the Act (5 U.S.C. 552a(o)). During the period July 24, 1977 through August 5, 1977 the Office of Management and Budget received the following reports on new (or revised) systems of records.

DEPARTMENT OF COMMERCE

System Names:

(1) Participants in Clinical Dental Projects.

(2) Participants in Human Factors Studies.

(3) Participants in Psychoacoustic Experiments.

Report Date:

July 22, 1977.

Point-of-Contact:

Mr. Joseph O. Smiroldo, Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

Summary:

The National Bureau of Standards, Department of Commerce, proposes to combine three systems of records on research subjects.

PANAMA CANAL COMPANY

System Name:

Race and Ethnic Data.

Report Date

July 27, 1977.

Point-of-Contact:

Mr. Joseph J. Wood, Agency Records Officer, Panama Canal Company, Box M, Balboa Heights, Canal Zone.

Summary:

The National Bureau of Standards, Department of Commerce, proposes to combine three systems of records on research subjects.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc. 77-23901 Filed 8-17-77;8:45 am]

POSTAL RATE COMMISSION

[Docket No. MC77-2; Order No. 168]

MAIL CLASSIFICATION SCHEDULE

Minimum Size Prohibitions; Notice and Order Instituting Proceedings; Correction

AUGUST 12, 1977.

In FR Doc. 77-21513 issued July 21, 1977, appearing at 42 FR 38028-38029, Tuesday, July 26, 1977, the following change should be made:

1. On page 38029, Column 2: Change Ordering Paragraph (F) to read as follows:

"(F) The Commission will sit en banc in this proceeding. Commissioner Kieran O'Doherty is designated as Presiding Officer in this proceeding."

DAVID F. HARRIS,
Secretary.

[FR Doc.77-23876 Filed 8-17-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 20138 (70-6042)]

ALLEGHENY POWER SYSTEM, INC.

Proposed Issuance and Sale of Short-Term Notes to Banks and to Commercial Paper Dealer and Request for Exception From Competitive Bidding

AUGUST 12, 1977.

Notice is hereby given that Allegheny Power System, Inc. ("Allegheny"), 320 Park Avenue, New York, New York 10022, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Allegheny proposes to borrow funds during the period ending March 31, 1979, through the issuance and sale of short-term notes to banks and commercial paper dealer to a commercial paper dealer in an aggregate amount not to exceed $70,000,000 outstanding at any one time. It is stated that the notes and commercial paper will be issued and renewed from time to time as funds may be required prior to March 31, 1979, provided that no such notes or commercial paper will mature after September 30, 1979. Accordingly, Allegheny requests that, from the date of the granting of the application filed in this matter to March 31, 1979, the exemption from the provisions of Section 6(a) of the Act afforded to it by the first sentence of Section 6(b) thereof be increased to the extent necessary to permit the proposed program of short-term borrowing.

Each note payable to a bank will be dated as of the date of the borrowing which it evidences, will mature not more than two hundred-seventy (270) days after the date of issuance or renewal thereof, will bear interest at the prime or equivalent interest rate of the bank at which the borrowing is made in effect at the time of issuance, or in effect from time to time, and will be payable at any time without premium or penalty. The names of the banks from which such borrowings are proposed to be effected and the maximum amount of the borrowings to be outstanding from each bank at any one time are as follows:

Citibank, N.A., New York, N.Y.	$40,000,000
The Chemical Bank, New York, N.Y.	38,000,000
Mellon Bank, N.A., Pittsburgh, Pa.	45,000,000
Pittsburgh National Bank, Pittsburgh, Pa.	7,500,000
Manufacturers Hanover Bank, New York, N.Y.	45,000,000
Irving Trust Co., New York, N.Y.	5,000,000
Chase Manhattan Bank, New York, N.Y.	2,500,000
Total	183,000,000

No commitment or agreement has been made with respect to the proposed borrowings. The maximum amount of such borrowings at any one time outstanding will not, when taken together with any commercial paper then outstanding, be in excess of $70 million. Allegheny and its subsidiaries maintain balances to meet regular operating requirements at all of these banks which vary in amount from time to time. It is stated that such balances are generally either on the basis of a percentage of the line of credit extended by such bank (for example 10 pct), or a higher percentage of notes outstanding (for example 20 pct), whichever is greater, or a percentage of the line of credit (for example 10 pct) plus a percentage (for example 10 pct) of notes outstanding, in every case on an average annual basis. If such balances were maintained by Allegheny solely to fulfill compensating balance requirements for borrowings to be made by Allegheny, the effective interest cost to Allegheny of issuing and selling the notes would be no more than 8.75 pct on the basis of a prime commercial credit rate of 7 pct.

The proposed commercial paper will be in the form of promissory notes in denominations of not less than $50,000 nor more than $5,000,000, will be of varying maturities, with no maturity more than 270 days after the date of issue, and will not be prepayable prior to maturity. The commercial paper notes will be sold directly to the dealer, at a discount not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and of the particular maturity. The dealer may reoffer the commercial paper at a discount rate of $\frac{1}{8}$ of 1 pct per annum less than the discount rate to Allegheny. Allegheny may issue commercial paper notes if (1) the interest cost thereof is equal to or less than the effective interest cost at which Allegheny could borrow the same amount from the banks named herein at that time or (2) Allegheny cannot at that time borrow the same amount for the same period of time from the banks named herein. The dealer will reoffer the commercial paper notes to not more than 200 of its customers, identified and designated in a list (nonpublic) prepared in advance. It is expected that the commercial paper notes will be held by the dealer's customers to maturity, but if the customers wish to resell prior to maturity, the dealer, pursuant to a verbal repurchase agreement, will repurchase the notes and reoffer them to others on said list. Exception from the competitive bidding requirements of Rule 50 has been requested for the proposed issuance and sale of commercial paper pursuant to paragraph (a)(5) thereof, since it is not practicable to invite competitive bids for commercial paper and current rates for commercial paper for prime borrowers such as Allegheny are published daily in financial publications. Allegheny has also requested authority to file certificates under Rule 24 with respect to the issuance and sale of commercial paper on a quarterly basis.

It is stated that Allegheny will use the proceeds of the proposed short-term borrowings to make investments in its electric utility subsidiaries to assist them in financing their construction programs, such investments to be in the form of cash capital contributions or purchases of common stock, as may be appropriate from time to time, and for other corporate purposes. The presently estimated construction programs of the subsidiaries for 1977, 1978, and 1979 aggregate $311,000,000, $319,000,000, and $291,000,000, respectively. Presently projected investments by Allegheny in the subsidiaries aggregate $80,000,000 in 1977, $50,000,000 in 1978, and $51,000,000 in 1979.

It is stated that the fees and expenses to be incurred by Allegheny in connection with the proposed transaction are estimated to be approximately $10,400, including credit rating fees of $8,000. It is further stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than September 9, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the applicant, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77-23885 Filed 8-17-77;8:45 am]

[Release No. 20139 (70-6037)]

ARKANSAS POWER & LIGHT CO.

Proposal To Enter Into Installment Sales Agreements in Connection With the Issuance of Pollution Control Revenue Bonds

AUGUST 12, 1977.

Notice is hereby given that Arkansas Power & Light Company ("AP&L"), First National Building, Little Rock, Arkansas 72203, a wholly owned subsidiary company of Middle South Utilities, Inc., a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 9(a), 10 and 12(d) of the Act and Rule 44 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

In order to comply with prescribed federal, state and local standards with respect to air and water quality and the disposal of sewage and solid waste it has been and will be necessary to construct certain facilities for pollution control purposes at two 700 MW nominally rated coal fired generating units known as White Bluff Unit Nos. 1 and 2 ("White Bluff Plant") presently under construction in Jefferson County, Arkansas. AP&L has sold a 35 percent undivided interest in the White Bluff Plant to Arkansas Electric Cooperative Corporation (HCAR No. 20076) and plans to sell a 5 percent undivided interest in the White Bluff plant to the City of Jonesboro, Arkansas by September 1, 1977. AP&L now proposes to dispose of, and to contract to acquire, its anticipated 60 percent undivided interest ("Pollution Facilities") in certain of the pollution control facilities at the White Bluff Plant and its 60 percent undivided interest ("Industrial Facilities") in certain machinery, equipment and other facilities at the White Bluff Plant.

In order to effect such transactions, AP&L proposes to enter into two separate installment sale agreements ("Agreements") with Jefferson County, Arkansas ("County"), which will provide for the acquisition, construction and installation of the Pollution Facilities and the Industrial Facilities on behalf of the County. The Agreement relating to the Pollution Facilities will contemplate the issuance by the County under a trust indenture between the County and a trustee of not to exceed $35,000,000 aggregate principal amount of its Pollution Control Revenue Bonds, Series 1977 (Arkansas Power & Light Company Project) ("Pollution Bonds"). The net proceeds of the sale of Pollution Bonds will be used to defray the cost of construction of the Pollution Facilities. The Agreement relating to the Industrial Facilities will contemplate the issuance by the County under a trust indenture between the County and a trustee of $1,000,000 aggregate principal amount of its Industrial Development Revenue Bonds, Series 1977 (Arkansas Power & Light Company Project) ("Industrial Bonds"), the net proceeds of which would be used to defray the cost of construction of the Industrial Facilities. The operative terms and provisions of the two Agreements and the Pollution Bonds and the Industrial Bonds (collectively "Bonds") and the respective indentures ("Indentures") under which they are to be issued will be substantially identical.

The Agreements will provide for the sale of the Facilities by the County to AP&L, subject to a lien and security interest retained by the County and the payment by AP&L of the purchase price of the Facilities, together with interest thereon, in semi-annual installments over a term of years. In the Agreements AP&L will assent to the assignment and pledge to the trustees under the Indentures of the rights of the County in the Facilities and of the County's interest in, and of the moneys receivable by the County Under, the Agreements, except for certain rights to indemnification and reimbursement of expenses.

The Agreements will further provide that the purchase price of the Facilities payable by AP&L will be such amount as shall be sufficient (together with other moneys held by the trustees under the Indentures and available therefor) to pay the principal of the Bonds as the same becomes due and payable. AP&L under the Agreements will also agree to pay interest on the unpaid balance of the purchase price of the Facilities equal to the premium, if any, and interest on the Bonds. Under the Agreements AP&L will also be obligated to pay (i) the fees and charges of the trustee and any paying agent or agents under the Indentures, (ii) all expenses incurred by the County in connection with its rights and obligations under the Agreements, (iii) all expenses necessarily incurred by the County or the trustees under the Indentures in connection with the transfer or exchange of Bonds and (iv) all other payments which AP&L agrees to pay under the Agreements.

The Agreements will provide that AP&L may at any time prepay all or any portion of the unpaid balance of the purchase price of the Facilities, together with interest thereon, in whole or in part, such payment to be sufficient (together with other moneys held by the trustees under the Indentures and available therefor) to redeem on or after October 1, 1987, a specified principal amount of Bonds in the manner and to the extent provided in the Indentures, including any applicable premium, which will be 3 percent of the principal amount in the 11th year and which will reduce by ½ of 1 percent annually thereafter.

The Agreements will also provide that, upon occurrence of certain events relating to the operation of the White Bluff Plant or the Facilities, AP&L may at any time prepay the entire unpaid balance of the purchase price of the Facilities together with interest thereon. It will also provide that in the event of certain rulings of the Internal Revenue Service or certain court determinations relating to the taxability of the interest on the Bonds, AP&L shall be obligated to prepay the entire unpaid balance of the purchase price of the Facilities, together with accrued interest. The payments by AP&L in such circumstances shall be sufficient (together with other moneys held by the trustees under the Indentures and available therefor) to pay the principal of all Bonds together with interest accrued or to accrue to the redemption date.

It is proposed that the Bonds will be issued as either serial bonds ("Serial Bonds") or term bonds ("Term Bonds"), or a combination thereof. The Term Bonds will mature not later than 30 years from the first day of the month in which they are initially issued and will be subject to a mandatory cash sinking fund. Serial Bonds, if any, will mature at various times prior to the maturity of the Term Bonds. The effect of the mandatory cash sinking fund of the Term Bonds together with the serial maturities of the Serial Bonds, if any, will be calculated to retire no less than 25 percent of the aggregate principal amount of the Bonds prior to ultimate maturity on the first day of the month in which the Bonds are issued in the year 2007. The Indentures will provide for the application of such of the proceeds of the Bonds which, after completion of the Facilities, may remain unused for the redemption of purchase of the Bonds, at the direction of AP&L.

In order to provide security for the performance of AP&L's obligations under the Agreements, AP&L will grant to the County a lien on and security interest in ("County Lien") the Facilities. The County will assign the County Lien to the trustees pursuant to the Indentures.

The Agreements will provide that prior to the sale of the Facilities by the County to AP&L, AP&L will convey to the County such portions of the Facilities as have already been constructed or acquired by AP&L, subject to the lien of AP&L's Mortgage and Deed of Trust, dated as of October 1, 1944, made by the Company to Morgan Guaranty Trust Company of New York and John W. Flaherty, as Trustees, as supplemented and amended.

It is contemplated that the Bonds will be sold by the County pursuant to arrangements with a group of underwriters represented by Salomon Brothers, Goldman, Sachs & Co. and Stephens Inc. In accordance with the laws of the State of Arkansas, the interest rate to be borne by the Bonds will be fixed by the County. AP&L will not be party to the underwriting arrangements; however, the Agreements provide that the terms of the Bonds and their sale by the County, shall be satisfactory to AP&L. AP&L understands that interest payable on the Bonds will be exempt from federal income taxes under the provisions of the Internal Revenue Code. AP&L has been advised that the annual interest rates on obligations, interest on which is so tax exempt, historically have been and can be expected at the time of issuance of the Bonds to be 1% to 2% lower than the rates of obligations of like tenor and comparable quality, interest on which is fully subject to federal income tax.

A statement of the fees and expenses to be incurred in connection with the proposed transactions will be filed by amendment. AP&L has applied to the Arkansas Public Service Commission in connection with the proposed transactions. It is stated that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than September 8, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc 77-23886 Filed 8-17-77;8:45 am]

[Rel. No. 9888 (812-4157)]

INVESTORS' CORPORATE INCOME TRUST, SERIES 1 (AND SUBSEQUENT SERIES) VAN KAMPEN, SAVERMAN, INC, AND DAIN, KALMAN & QUAIL, INC.

Filing of Application for an Order Pursuant to Section 6(c) of the Act Granting Exemptions From the Provisions of Sections 14(a) and 22(d) of the Act and From Rules 19b-1 and 22c-1 Under the Act

AUGUST 12, 1977.

Notice is hereby given that Investors' Corporate-Income Trust, Series 1 (And Subsequent Series) ("Trust"), a unit investment trust registered under the Investment Company Act of 1940 ("Act") and its Sponsors, Van Kampen, Sauerman, Inc., 208 South LaSalle Street, Chicago, Illinois 60604, and Dain, Kalman & Quail, Inc., 100 Dain Tower, Minneapolis, Minnesota 55042, ("Sponsors") (hereinafter the Sponsors and the Trust are referred to collectively as "Applicants"), have filed an application on July 19, 1977, and amendments thereto on July 25, 1977, and August 9, 1977, pursuant to Section 6(c) of the Act for an order of the Commission exempting the Applicants from the provisions of Sections 14(a) and 22(d) of the Act, and Rules 19b-1 and 22c-1 under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Series 1 of the Trust is a unit investment trust, and is the first of a series of similar but separate trusts which the Sponsors intend to form (hereinafter all such subsequent Series are collectively referred to as the "Series"). The Series will be created under the laws of the Commonwealth of Massachusetts pursuant to separate trust agreements, such agreements containing certain standard terms and conditions of trust common to all the Series. The Applicants represent that the investment objective of each Series will be to seek a high level of current interest income and the conservation of capital through the investment in long-term debt obligations of corporations and other entities ("Debt Obligations") and, subject to certain limitations set forth in the application, Units of previously-issued Series of the Trust (the Debt Obligations and previously-issued Units are collectively called herein the "Trust Securities"). The Trust Securities which will constitute the portfolio of each Series will be selected in advance and will be identifiable in respect of each Series on the date of deposit with the Trustee.

The Sponsors have filed a Form S-6 Registration Statement under the Securities Act of 1933 ("1933 Act") covering fractional undivided interests in Series 1 to be offered to investors at a public offering price set forth in the prospectus included in the S-6 Registration Statement. The 1933 Act Registration Statement has not yet become effective. The Sponsors have also filed a Form N-8A Notification of Registration and a Form N-8B-2 Registration Statement under the Act relating to Series 1.

Each Series of the Trust will be governed by the provisions of a trust indenture and agreement ("Indenture") to be entered into by the Sponsors and a corporation organized and doing business under the laws of the United States or a state thereof, which is authorized under such laws to exercise corporate trust powers and having at all times an aggregate capital, surplus, and undivided profits of not less than $5,000,000 ("Trustee"). It is contemplated that the Bradford Trust Company will serve as Trustee for Series 1. It is also contemplated that Bradford Trust Company of Boston will serve as Co-Trustee for Series 1. Interactive Data Services, Inc. will serve as Evaluator for Series 1. A separate Indenture will be entered into each time a Series is created and activated and the Trust Securities which comprise its portfolio (or delivery statements relating to contracts for the purchase of such Trust Securities together with funds represented by cash or an irrevocable letter of credit issued by a major commercial bank in the amount required for their purchase) are deposited with the Trustee. Each Series will be substantially identical except as to size, number of Units and the individual Trust Securities in the portfolio.

When a Series of the Trust is created, the Sponsors and the Trustee will enter into an Indenture and the Trust Securities to constitute such Series of the Trust (or delivery statements relating thereto and funds for the purchase thereof as set forth above) will be delivered to and deposited with the Trustee by or on behalf of the Sponsors. Substantially concurrently, the Trustee will issue in the name of the Sponsors, or such other name or names as the Sponsors may direct, one or more certificates evidencing the ownership of all of the undivided interests in such Series of the Trust. These Units will be separately offered for sale to the public at prices based upon their then respective current net asset values after the registration statement filed in respect thereto under the 1933 Act has become effective.

Applicants state that Trust Securities will not be pledged or be in any other way subjected to any debt at any time after they are deposited with the Trustee. The Sponsors have been accumulating Trust Securities for the purpose of deposit in Series 1 and will follow a similar procedure of accumulating Trust Securities for each subsequent Series.

The assets of the Trust may consist of Debt Obligations initially deposited, such Debt Obligations as may continue to be held from time to time in exchange for or substitution of any of the Debt Obligations, accrued and undistributed interest, undistributed cash and Units of previously issued Series of the Trust. Certain of the Debt Obligations may from time to time be sold under the circumstances set forth in the Indenture, or may be redeemed or may mature in accordance with their terms. The proceeds from such dispositions may, at the discretion of the Sponsors, be reinvested in substitute obligations meeting specified criteria or may be distributed to the holders of Units of the Trust ("Unitholders") and not reinvested.

Each Unit of the Trust will represent a fractional undivided interest, the numerator of the fractional interest represented will be 1 and the denominator will be the number of Units issued and outstanding in any particular Series. Units are redeemable, and in the event that any Units are redeemed, the fractional undivided interest represented by each Unit will be increased accordingly. Units will remain outstanding until redeemed or until the termination of the Indenture. The Indenture may be terminated by 100% agreement of the Unitholders or, in the event that the value

V 42 160 AUG 18 77 UM

of Trust Securities shall fall below an amount specified, either upon direction of the Sponsors to the Trustee or by the Trustee without such direction. There is no provision in the Indenture for the issuance of any Units after the initial issuance and such activity will not take place (except to the extent that the secondary trading by the Sponsors in the Units is deemed the issuance of Units under the Act).

The Sponsors while under no obligation to do so, intend to maintain a market for Units of the Trust and to offer to purchase such Units at prices in excess of the redemption price as set forth in the Indenture. In the absence of such a market, Unitholders may only be able to dispose of their Units by redemption.

SECTION 14(a)

Section 14(a) of the Act, in substance, provides that no registered investment company and no principal underwriter for such a company shall make a public offering of securities of which such company is the issuer unless (1) the company has a net worth of at least $100,000; (2) at the time of a previous public offering it had a net worth of $100,000; or (3) provision is made that a net worth of $100,000 will be obtained from not more than twenty-five responsible persons within ninety days, or the entire proceeds received, including sales charge, will be refunded.

Applicants seek an exemption from the provisions of Section 14(a) in order that a public offering of Units of the Trust as described above may be made. In connection with the requested exemption from Section 14(a) the Sponsors agree (1) to refund, on demand and without deduction, all sales charges to purchasers of Units of a Series if, within ninety days from the time that a registration statement for a Series becomes effective under the Securities Act of 1933, the net worth of the Series shall be reduced to less than $100,000, or if such Series is terminated; (2) to instruct the Trustee on the date Trust Securities are deposited in each Series that in the event that redemption by the Sponsors of Units constituting a part of the unsold Units shall result in that Series having a net worth of less than 40% of the principal amount of Trust Securities originally deposited for such Series, the Trustee shall terminate the Series in the manner provided in the Indenture and distribute any Trust Securities or other assets deposited with the Trustee pursuant to the Indenture as provided therein; and (3) in the event of termination for the reasons described in (2) above, to refund any sales charges to any purchasers of Units purchased from the Sponsors on demand and without any deduction.

The Sponsors have further represented that no Series of the Trust will be created which will contain in the portfolio on the date of deposit, Trust Securities (or delivery statements relating thereto and funds for the purchase thereof) having a face amount of less than $3,000,000. In the event the value of such a Series should decrease to the greater of $1,000,000 or 20% of the amount of the Trust Securities initially deposited, for any reason, the Trustee may, and when so directed by the Sponsors shall, terminate and liquidate the Series. Thus, Applicants represent that it is highly unlikely that, except during the course of liquidation, the net worth of any Series would ever decline to $100,000 or less.

RULE 19b-1

Rule 19-1 provides in substance that no registered investment company which is a "regulated investment company" as defined in Section 851 of the Internal Revenue Code shall distribute more than one capital gain dividend in any one taxable year. Paragraph (b) of the Rule contains a similar prohibition for a company not a "regulated investment company" but permits a unit investment trust to distribute capital gains dividends received from a "regulated investment company" within a reasonable time after receipt.

Distributions of interest on each Series will be made to Unitholders semi-annually unless a Unitholder elects to receive them monthly or quarterly. Distributions of principal on each Series will be made to Unitholders semi-annually. Applicants represent that distributions of principal constituting capital gains to Unitholders may arise in the following instances: (1) If an issuing authority calls or redeems an issue of Debt Obligations held in the portfolio, the sums received by the Trust will be distributed on a pro-rata basis to each Unitholder on the next distribution date; (2) if Units are redeemed by the Trustee and Trust Securities from the portfolio are sold to provide the funds necessary for such redemption, each Unitholder will receive his pro-rata portion of the proceeds from the Trust Securities sold over the amount required to satisfy such redemption distribution; (3) if Trust Securities held in the portfolio must be disposed of in order to maintain the qualification of a Series as a regulated investment company under the Internal Revenue Code, the sums received by the Trust will be distributed on a pro-rata basis to each Unitholder on the next distribution date; and (4) if Debt Obligations held in the portfolio are sold to maintain the investment stability of a Series of the Trust, the sums received by the Trust may be distributed on a pro-rata basis to each Unitholder on the next distribution date. In such instances, a Unitholder may receive in his distribution funds which constitute capital gains, since in some cases the value of the Trust Securities redeemed or sold may have increased since the date of initial deposit.

As noted, Paragraph (b) of Rule 19b-1 provides that a unit investment trust may distribute capital gain dividends received from a "regulated investment company" within a reasonable time after receipt. Applicants assert that the purpose behind such provision is to avoid forcing unit investment trusts to accumulate valid distributions received throughout the year and distribute them only at year end, and that the operations of Applicants in this regard are squarely within the purpose of such provision. However, in order to comply with the literal requirements of the Rule, each Series of the Trust would be forced to hold any monies which would constitute capital gains upon distribution until the end of its taxable year. The application contends that such practice would clearly be to the detriment of the Unitholders.

In support of the requested exemption, Applicants state that the dangers against which Rule 19b-1 is intended to guard do not exist in the situation at hand since neither the Sponsors nor the Trust has control over events which might trigger capital gains, e.g., the tendering of Trust Units for redemption and the prepayment of portfolio Debt Obligations by the issuing authorities. In addition, it is alleged that any capital gains distribution will be clearly indicated as captial gains in the accompanying report by the Trustee to the Unitholder. Finally, Applicants assert that the sale of Debt Obligations in an effort to maintain the investment stability of a Series of the Trust is an activity designed generally to prevent or to retard deterioration of values when certain adverse factors exist. These factors include a default in the payment of principal or interest on Debt Obligations, an action involving the issuer thereof which will adversely affect its ability to continue payment of the principal and the interest on its Debt Obligations, or an adverse change in the market, revenue or credit factors affecting the investment stability of the Debt Obligations. However, Applicants also contend that sale of Debt Obligations in an effort to maintain investment stability of any Series is not expected to result in capital gains distributions to the Trust or its Unitholders because the above factors will normally have a depressing effect on the market value of the Debt Obligations.

RULE 22c-1

Applicants state that following the initial offering period, the Sponsors, while not obligated to do so, intend to offer to purchase the Units in the secondary market at prices based on the offering side evaluation of the Trust Securities in any Series, determined on the last business day of each week, effective for all sales made during the following week.

Applicants also state that the Sponsors have undertaken to adopt a procedure whereby the Evaluator, without a formal evaluation, will provide estimated evaluations on trading days. In the case of a repurchase, if the Evaluator cannot state that the previous Friday's price is at least equal to the current bid price, the Sponsors will order a full evaluaiton. The Sponsors agree that, in case of the resale of Units in the secondary market, if the Evaluator

cannot state that the previous Friday's price is not more than one-half point ($5.00 on a unit representing $1,000.00 principal amount of underlying Trust Securities) greater than the current offering price, a full evaluation will be ordered. Under these circumstances, the Applicants contend that the exemption of the Sponsors from the provisions of Rule 22c-1 will in no way affect the operations of the Trust and will benefit the Unitholders by providing a repurchase price for their Units which is in excess of the current net asset value of such Units as computed for redemption purposes.

Rule 22c-1 provides, in pertinent part, that no registered investment company issuing any redeemable security, and no dealer in any such security, shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Applicants state that Rule 22c-1 has two purposes: (1) to eliminate or to reduce any dilution of the value of outstanding redeemable securities of registered investment companies which might occur through the sale, redemption or repurchase of such securities at prices other than their current net asset values; and (2) to minimize speculative trading practices in the securities of registered investment companies.

The secondary market activities of the Sponsors and the manner for the acquisition by investors of new Units, may be deemed to violate Rule 22c-1 because of the absence of daily pricing. Applicants contend, however, that the purposes of Rule 22c-1 will not be offended by the Sponsors in the secondary market activities. Applicants assert that the pricing of Units by the Sponsors in the secondary market will in no way dilute the assets of the Trust, and that Unitholders will benefit from the Sponsors' pricing procedure in the secondary market since they will normally receive a higher repurchase price for their Units than they could be redeeming their Units at the current net asset value, and that this will be accomplished without the cost burden to the Trust of daily evaluations of the Unit redemption value.

Applicants also contend that speculation in Units of any Series is unlikely because price changes are limited in respect to the kind of Trust Securities which will be held by such Series.

To avoid the Sponsors receiving more than the specified sales charge on the resale of Units, the Sponsors have undertaken not to resell any Units which they may repurchase at a price below the offering side evaluation of the Trust Securities in any Series.

Applicants therefore request an exemption from the provisions of Rule 22c-1 for Series 1 and for all subsequently created Series insofar as the Rule may apply after completion of the primary distribution of Units of such Series.

SECTION 22(d)

Applicants propose to offer the right to participate in an automatic reinvestment option ("ARO Plan") to Unitholders of record in each of its Series who have selected the semi-annual plan of distribution. This ARO Plan will permit Unitholders to invest income and capital gains distributions made to them on a predecessor Series of the Trust into Units of a subsequent Series of the Trust ("Reinvestment Series") at a reduced sales charge. Applicants state that its Unitholders will be able to join the ARO Plan at any time by delivering to the Trustee an Authorization Form. Likewise, a participant may withdraw at any time upon written notice to the Trustee. To assist in withdrawals, the Trustee intends to establish a toll free telephone number. However, if notification of withdrawal has not been given to the Trustee prior to a particular semiannual distribution date, the participant will be deemed to have elected to participate in the ARO Plan with respect to that particular distribution, and his withdrawal will become effective for the next succeeding distribution. Each participant will have his interest and principal distributions reinvested on the corresponding distribution date in the appropriate Reinvestment Series of the Trust. Applicants represent that they intend to see to it that each Reinvestment Series will be declared effective by the Commission in sufficient time to allow distribution to Plan participants of final prospectuses relating to such Reinvestment Series. As presently contemplated, it is intended that each Reinvestment Series will become effective on or about each semi-annual record date for determining who is eligible to receive distributions on the related Distribution Date. Applicants state that if a Reinvestment Series has not been declared effective in such sufficient time, the ARO Plan will be suspended with respect to that Series and recommenced with the next succeeding Series. In such a case, a participant would receive his normal cash distribution. Applicants represent that fractional Units in the denomination of tenths will be purchased under the ARO Plan and any excess cash from each distribution not utilized to purchase such Units will be distributed to the respective Plan participants.

In order that distributions may be reinvested on the next succeeding Distribution Date, the Authorization Form must be received by the Trustee no later than the 15th day of the month preceding such Distribution Date. Any Authorization Form received after such date will result in the commencement of reinvestment on the second Distribution Date thereafter. Once delivered to the Trustee, an Authorization Form will, except in the following instance, constitute a valid election to participate in the Plan for each subsequent distribution as long as the Unitholder continues to participate in the Plan.

The Applicants have agreed that in the event any Reinvestment Series should materially differ from the particular Series of the Trust into which participants in the ARO Plan originally invested or the preceding Reinvestment Series, the Unitholders' authorization to participate in the ARO Plan will be voided, and, after the filing of a registration statement under the 1933 Act for such Reinvestment Series, participants will be provided with a prospectus meeting the requirements of Section 10(a) of the 1933 Act for such Reinvestment Series, a notice of the material change, and a new Authorization Form.

Unless a Unitholder notifies the Trustee in writing to the contrary, any Unitholder who has acquired Units through the ARO Plan will be deemed to have elected the semi-annual plan of distribution and to participate in the ARO Plan with respect to distributions made in connection with Units so purchased under the ARO Plan. A Unitholder may withdraw from the ARO Plan with respect to distributions related to Units purchased under the ARO Plan, and remain in the Plan with respect to Units acquired other than through the Plan. All such distributions made with respect to Units purchased under the Plan will be accumulated with distributions generated from the Units of the Series of the Trust used to purchase such additional ARO Plan Units, but no distributions generated from Units of other Series of the Trust will be accumulated with the foregoing distributions for ARO Plan purchases. Thus, if a person owns units in more than one Series of the Trust (which are not the result of purchases under the ARO Plan), distributions with respect thereto will not be aggregated for purchases under the ARO Plan. Any funds not utilized to purchase Units in the denomination of tenths in the Reinvestment Series will be automatically distributed by the Trustee on the Distribution Date. Confirmations of sales relating to Units purchased under the ARO Plan and certificates relating thereto will be provided in the normal course of business. Both the Sponsors and the Trustee reserve the right to suspend, modify, or terminate the Plan at any time. All participants will receive notice of any such suspension, modification or termination.

Units of each existing Series of the Trust will be offered at a public offering price of approximately $1,050 per Unit plus accrued interest. However, as noted above, it is the Sponsors' intention to permit purchases under the ARO Plan of fractional units in the denomination of tenths rather than require purchases of full units. The purpose of allowing purchases of fractional Units is to allow a minimum purchase requirement in the primary distribution of Trust Units, but at the same time permit maximum use of distributions for purchases through the reinvestment program.

Applicants propose to offer Reinvestment Series Units under the ARO Plan at a price reflecting a sales charge of 3½% of the underlying net asset value

V42160 AUG 18 77 UMI

of the Trust Securities in such Series rather than the customary 4½% sales charge which applies to all primary and secondary sales of Units in the various Series of the Trust including primary and secondary sales of Reinvestment Series Units other than through the ARO Plan).

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it except to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person, except a dealer, a principal underwriter or the issuer, except at a current public offering price described in the prospectus. Rule 22d–1 permits certain variations in sales load, none of which it is alleged are applicable to the proposed ARO Plan.

In support of the request, Applicants assert that applying a sales charge of less than the customary 4½% charge in the case of ARO Plan purchases is both beneficial to ARO Plan participants, and also warranted in light of the related cost savings. Applicants state that approximately 3½% of the customary 4½% sales charge is attributable to brokerage efforts to make the initial customer solicitation, to ascertain the customer's financial requirements and to counsel him on the Sponsors' specific product. Applicants represent that each Reinvestment Series will be substantially similar to the Series of the Trust which the ARO Plan participant originally purchased with the exception of the make-up of the Series portfolio and certain portfolio related information. Consequently, the support for that portion of the sales charge attributable to counselling the participant on the Sponsors' product is reduced, as is the selling effect relating to initial solicitations. It is the Applicants' belief that cost savings related thereto should be passed on to ARO Plan participants.

However, with respect to any particular Reinvestment Series, Applicants believe a participant may seek professional advice, and, thus, a reduced sales charge for such financial services is warranted. It is the Applicants' belief that a charge of 1½% of the net asset value of the underlying Trust Securities in each Reinvestment Series (or assuming a net asset value of approximately $1,000 per Unit a sales charge of $15.00 per Unit) is a reasonable and justifiable expense to be allocated to the soliciting broker for his professional assistance in connection with each Reinvestment Series.

Applicants further assert that implementation and continuation of the ARO Plan will create special out-of-pocket costs which should properly be borne by the Plan participants. It is the Sponsors' belief that the special out-of-pocket expenses related to the Plan (including such items as (a) maintaining Trustee records on participants, (b) mailing, shipping and miscellaneous delivery charges, (c) maintaining a toll free telephone number with knowledgeable operators, and (d) separate printing charges) will amount to $10.00 per unit (assuming the above net asset value, 1% of such value). Finally, prior experience indicates that the normal out-of-pocket costs for establishing each Series of the Trust approximate 1% of the underlying asset value of the Trust's portfolio. Applicants represent that all such costs will be covered in the proposed 3½% sales charge. Thus, Applicants conclude that the proposed 3½% sales charge for ARO Plan purchases not only passes through certain cost savings to ARO Plan participants but also charges such persons for reasonable expenses related to the creation of the ARO Plan, and for fees relating to periodic, professional, financial advice.

Section 6(c) of the Act provides, in pertinent part, that the Commission may, upon application, conditionally or unconditionally, exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given, That any interested person may, not later than September 6, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing, upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77–23887 Filed 8–17–77;8:45 am]

[Rel. No. 20137 (70–6038)]

METROPOLITAN EDISON CO.

Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding

AUGUST 12, 1977.

Notice is hereby given that Metropolitan Edison Company ("Met-Ed"), 2800 Pottsville Pike, Muhlenberg Township Berks County, Pennsylvania 19605, an electric utility subsidiary of General Public Utilities Corporation, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Met-Ed proposes to issue and sell for cash, after competitive bidding in accordance with the requirements of Rule 50 under the Act, up to $35,000,000 principal amount of first mortgage bonds, to be dated the date of their issue and to mature September 1, 2007 ("New Bonds"). The Bonds are to be issued under the Indenture dated November 1, 1944, between Med-Ed and Guaranty Trust Company of New York (now Morgan Guaranty Trust Company of New York), Trustee, as heretofore supplemented and amended and as to be further supplemented and amended by a Supplemental Indenture. The bidding procedures which Met-Ed will use with respect to the New Bonds will require that (1) the price specified in the bid shall be not less than 98 percent and not more than 101 percent of the principal amount of the New Bonds, plus accrued interest from September 1, 1977 to the date of delivery, and (2) the interest rate to be borne by the New Bonds, which shall be specified in such bids, shall be a multiple of ⅛th of 1 percent. The bidding procedure will not establish a minimum or maximum interest rate within which bids may be submitted. Prior to September 1, 1982, none of the New Bonds may be redeemed at the option of Met-Ed if the moneys for such redemption are obtained by Met-Ed borrowings at an interest cost less than the annual yield to maturity of the New Bonds, except under certain circumstances.

Met-Ed states that substantially all of the proceeds from the sale of the New Bonds will be applied to the payment at or before maturiay of a like amount of Met-Ed's approximately $87,000,000 of short-term bank loans expected to be outstanding at the date of sale of the New Bonds and the balance, if any, will be applied to reimburse Met-Ed's treasury for funds previously expended therefrom for construction purposes. The estimated cost of Met-Ed's 1977 and 1978 construction programs are approximately $58,000,000 and $6,000,000 respectively.

Met-Ed states that the Pennsylvania Public Utility Commission has jurisdiction with respect to the proposed issuance and sale of the New Bonds.

It is further stated that no other state commission and no federal commission, other than this Commission has jurisdiction with respect to the proposed transaction. It is stated that the fees and expenses to be incurred in connection with the proposed transaction are to be filed by amendment.

Notice is further given that any interested person may, not later than September 6, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, and reasons for such request, and the issue of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77–23888 Filed 8–17–77;8:45 am]

PHILADELPHIA STOCK EXCHANGE

Application for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 12, 1977.

In the matter of an application of the Philadelphia Stock Exchange, Inc. for unlisted trading privileges in a certain security. The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

International Couriers Corporation, File No. 7–4975, Common Stock—$1.00 Par Value.

Upon receipt of a request, on or before August 29, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77–23889 Filed 8–17–77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1311; Amdt. No. 3]

KENTUCKY

Declaration of Disaster Loan Area

The above numbered Declaration and Amendments thereto (see 42 FR 19538, 30459 and 31855) are amended by extending the filing date for applications for loans for physical damage until the close of business on September 30, 1977, and for economic injury until the close of business on May 1, 1978.

Dated: August 9, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77–23855 Filed 8–17–77;8:45 am]

[Declaration of Disaster Loan Area No. 1355]

NORTH CAROLINA

Declaration of Disaster Loan Area

The listing below of the 56 counties and adjacent counties within the State of North Carolina constitutes disaster area as a result of drought which caused severe crop losses during the 1976 crop year and continuing into the 1977 crop year:

Alamance	Mecklenburg
Alexander	Montgomery
Anson	Moore
Bladen	Nash
Cabarrus	Northampton
Caswell	Orange
Catawba	Person
Chatham	Pitt
Cleveland	Polk
Davidson	Randolph
Davie	Richmond
Duplin	Robeson
Durham	Rockingham
Edgecombe	Rowan
Forsyth	Rutherford
Franklin	Sampson
Gaston	Scotland
Granville	Stanly
Greene	Stokes
Guilford	Surry
Halifax	Union
Harnett	Vance
Hoke	Wake
Iredell	Warren
Johnston	Wayne
Lee	Wilson
Lenoir	Yadkin
Lincoln	

Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on October 11, 1977, and for economic injury until the close of business on May 9, 1978, at:

Small Business Administration, District Office, 230 South Tryon Street—Suite 700, Charlotte, N.C. 28202.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 9, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77–23856 Filed 8–17–77;8:45 am]

[Declaration of Disastater Loan Area #1357]

SOUTH CAROLINA

Declaration of Disaster Loan Area

The 33 counties and adjacent counties within the State of South Carolina, listed below, constitute a disaster area as a result of drought which caused severe crop losses during the 1976 crop year and continuing into the 1977 crop year:

Abbeyville	Jasper
Aiken	Kershaw
Allendale	Lancaster
Anderson	Laurens
Bamburg	Lexington
Barnwell	McCormick
Beaufort	Newberry
Calhoun	Oconee
Charleston	Orangeburg
Cherokee	Pickens
Chester	Richland
Chesterfield	Saluda
Edgefield	Spartanburg
Fairfield	Sumter
Greenville	Union
Greenwood	York
Hampton	

Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on October 11, 1977, and for eco-

V42160 AUG 18 77 UMI

nomic injury until the close of business on May 10, 1978, at:

Small Business Administration, District Office, 1801 Assembly Street, Columbia, S.C. 29201.

(Catalog of Federal Domestic Assistance Program Nos 59002 and 59008.)

Dated: August 10, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-23857 Filed 8-17-77;8:45 am]

[Declaration of Disaster Loan Area #1356]

WISCONSIN

Declaration of Disaster Loan Area

Burnett, Oneida, Price, Sawyer and Washburn Counties and adjacent counties within the State of Wisconsin constitute a disaster area because of physical damage resulting from severe wind storms and tornadoes which occurred on July 4, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 11, 1977, and for economic injury until the close of business on May 10, 1978, at

Small Business Administration, District Office, 122 West Washington Avenue, Room 700, Madison, Wis. 53703.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 10, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-23858 Filed 8-17-77;8:45 am]

[License No. 09/12-0002]

CONTINENTAL CAPITAL CORP.

Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Continental Capital Corporation (CCC), 555 California Street, San Francisco, California 94104, a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act), has filed with the Small Business Administration (SBA) an application pursuant to Section 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1977)), for approval of a conflict of interest transaction. CCC is also registered under the Investment Company Act of 1940, as a non-diversified, closed-end, management investment company.

CCC will purchase up to 6.667 common shares of Beaver Insurance Company (Beaver), Suite 440, 300 Montgomery Street, San Francisco, California 94104, at $52.50 per share for a total investment up to $350,017.50. The shares represent CCC's pro-rata interest in a 20,000 share stock offering by Beaver. The transaction falls within the purview of Section 107.1004(b)(1) of the Regulations and requires prior written approval by SBA because three associates of CCC, as defined in Section 107.3 of the Regulations, are also directors of Beaver. Two of the CCC associates are also shareholders of Beaver. Mr. Fred Parr Cox, Chairman of the Board of Directors of CCC and shareholder of CCC, owns 400 Beaver shares and is a Director of Beaver. Mr. D. Forrest Greene, a Director and shareholder of CCC, is a Director of Beaver. His children purchased 100 Beaver shares in 1975. Mr. William C. Tait, who is Cox's father-in-law, recently sold his shares of Beaver to Mr. Cox. Mr. Tait is also a director of Beaver. Mr. Cox and Mr. Greene intend to purchase 1,000 and 4,300, respectively, of the Beaver shares to be sold.

On July 14, 1977, the Securities and Exchange Commission published (Release No. 9849) a Notice of filing of this application pursuant to Sections 17(b) and 17(d) of the Investment Company Act of 1940 (ICA), and Rule 17d-1 thereunder for an order exempting this transaction from Section 17(a) of the ICA and permitting participation in said transaction. This exemption was granted on August 9, 1977.

CCC's original investment in Beaver was approved by SBA on February 18, 1970, as an exemption to Section 107.1001 (a), which deals with relending. A previous application for SBA approval of a conflict of interest transaction by CCC in Beaver was published in the FEDERAL REGISTER in July 28, 1976, and approved by SBA on August 17, 1976.

Notice is hereby given that any person may, not later than September 2, 1977 submit to SBA in writing, comments on the proposed transaction. Any such comments should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this Notice shall be published by CCC in newspapers of general circulation in Los Angeles and San Francisco, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 12, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-23933 Filed 8-17-77;8:45 am]

HONOLULU DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Honolulu District Advisory Council will hold a public meeting at 9 a.m., Monday, September 19, 1977, at the Ala Moana Hotel, 410 Atkinson Drive, Honolulu, Hawaii to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call David K. Nakagawa, District Director, U.S. Small Business Administration, 300 Ala Moana, Room 2213, P.O. Box 50207, Honolulu, Hawaii 96850, 808-546-8950.

Dated: August 12, 1977.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc.77-23931 Filed 8-17-77;8:45 am]

[Proposed License No. 02-02-0334]

VENTURE SBIC, INC.

Application for a License to Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (CFR 107.102 (1977)) under the name of Venture SBIC, Inc., 249-12 Jericho Turnpike, Bellerose, New York 11426, for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (the Act), and the rules and regulations promulgated thereunder.

The proposed officers, directors and shareholders are as follows:

Name and Title

Arnold Feldman, 209-39 23rd Avenue, Bayside, New York 11432, President and Director, 50 percent.

Jerome Feldman, 175-27 Wexford Terrace, Jamaica, New York 11432, Secretary and Director, 50 percent.

Arnold and Jerome Feldman are brothers. Each is a partner in a general accounting firm known as Feldman and Feldman. Arnold is a licensed public accountant and has been with the firm since 1956. Jerome is a certified public accountant and has been with the firm since March, 1948.

The applicant proposes to commence operations with capital of $510,000, of which $200,000 will be borrowed funds. It is the intention of the applicant to conduct its business primarily within the State of New York but may extend its range of operations to include the states of New Jersey, Connecticut, Pennsylvania, Massachusetts and California. Applicant further intends to provide a source of supplementary capital for businesses, which because of economic conditions, strict lending policies and relative newness of their enterprises, cannot qualify for loans from institutional investors. It is not the applicant's intention of using the services of an Investment Adviser; but will provide management consulting services to its clients, including business consulting.

Matters involved in SBA's consideration of the application include the general business reputation of the owner and management, and the probability of successful operations of the new company, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than September 2, 1977, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communications should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 12, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-23932 Filed 8-17-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 77-149]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from May 12, 1977 to June 5, 1977 (List No. 9-77). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to the approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

LIFE PRESERVERS, KAPOK, ADULT AND CHILD (JACKET TYPE), MODELS 3 AND 5

The Campco Ventures Company, A Division of American Recreation Group, 1891 Woolner Avenue, Fairfield, California 94533, no longer manufactures certain kapok life preservers and Approval Nos. 160.002/2/1 and 160.002/3/1 were therefore terminated effective May 18, 1977.

LIFE PRESERVERS; REPAIRING AND CLEANING

The Vacuum Sterilizing Company, 1354 York Street, San Francisco, California 94110, Approval No. 160.006/27/0 expired and was terminated effective June 3, 1977.

SEA ANCHORS, LIFEBOAT

The Samuel Fassman Company, 2776 Atlantic Avenue, Brooklyn, New York 11207, Approval No. 160.019 11 0 expired and was terminated effective June 5, 1977.

BUOYANT VESTS, KAPOK, OR FIBROUS GLASS

The Campco Ventures, Inc., P.O. Box 49, 1891 Woolner Avenue, Fairfield, California 94533, no longer manufactures certain kapok buoyant vests and Approval Nos. 160.047/300.0, 160.047 301/0 and 160.047/302/0 were therefore terminated effective May 18, 1977.

BUOYANT CUSHIONS, KAPOK, OR FIBROUS GLASS

The Campco Ventures, Inc., P.O. Box 49, 1891 Woolner Avenue, Fairfield, California 94533, no longer manufactures certain kapok buoyant cushions and Approval Nos. 160.048/3 0 and 160.048 5, 1 were therefore terminated effective May 18, 1977.

BUOYANT VESTS, UNICELLULAR PLASTIC FOAM

The Campco Ventures, Inc., P.O. Box 49, 1891 Woolner Avenue, Fairfield, California 94533, no longer manufactures certain unicellular plastic foam buoyant vests and Approval Nos. 160.052/119 1, 160.052/120/1 and 160.052/121/1 were therefore terminated effective May 18, 1977.

WORK VESTS, UNICELLULAR PLASTIC FOAM

The Campco Ventures, Inc., P.O. Box 49, 1891 Woolner Avenue, Fairfield, California 94533, no longer manufactures certain unicellular plastic work vests and Approval No. 160.053/4/1 was therefore terminated effective May 18, 1977.

LIFE PRESERVERS, UNICELLULAR PLASTIC FOAM, ADULT AND CHILD, FOR MERCHANT VESSELS

The Campco Ventures Company, A Division of American Recreation Group, (A Limited Partnership), P.O. 49, Fairfield, California 94533, no longer manufactures certain unicellular plastic foam life preservers and Approval Nos. 160.055/60/0 and 160.055/61/0 were therefore terminated effective May 18, 1977.

MARINE BUOYANT DEVICE

The Stearns Manufacturing Company, Division Street at Thirtieth, St. Cloud, Minnesota 56301, no longer manufactures certain marine buoyant devices and Approval Nos. 160.064/251, 0 and 160.064/252/0 were therefore terminated effective June 3, 1977.

The Stearns Manufacturing Company, Division Street at Thirtieth, St. Cloud, Minnesota 56301, Approval No. 160.064/253 0 expired and was terminated effective May 12, 1977.

The Campco Ventures, Inc., 1891 Woolner Avenue, Fairfield, California 94533, no longer manufactures certain marine buoyant devices and Approval Nos. 160.064 861/0, 160.064 862, 0, 160-064 863 0, 160.064 864 0 and 160.064 865 0 were therefore terminated effective May 18, 1977.

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

The J. P. Stevens & Company, Inc., 1460 Broadway, New York, New York 10036, Approval No. 164.009 148/0 expired and was terminated effective May 24, 1977.

Dated: August 10, 1977.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc 77-23934 Filed 8-17-77;8:45 am]

[CGD 77-151]

NATIONAL BOATING SAFETY ADVISORY COUNCIL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the National Boating Safety Advisory Council to be held on Wednesday and Thursday, September 28-29, 1977 in Room 2230, Nassif Building, 7th and "D" Streets SW., Washington, D.C. The meeting is scheduled to begin at 9 a.m. both days and adjourn at 10:45 p.m. on Wednesday, September 28th and in the early afternoon on Thursday, September 29th. The agenda for this meeting will be as follows:

1. Review of action taken at the sixteenth meeting of the Council.
2. Executive Director's Report.
3. Discussion and vote on proposed change to fixed fire extinguisher requirements for recreational boats.
4. Discussion and vote on proposed Capacity Label Regulation Amendment.
5. Discussion and technical vote on proposed ventilation requirement changes.
6. Progress Report on Navigation Light Project.
7. Discussion and vote on amendments to the Fuel and Electrical Standards.
8. Discusison on Hull Identification Problems.
9. Progress Report on Compliance Program.
10. Discussion on Start-In-Gear Protection.
11. Day-time and night-time Visual Distress Signals Demonstrations will be conducted September 28 at approximately 2 p.m. and 8 p.m., respectively, at the Maryland Marine Police Academy, Matapeake, MD.
12. Discussion and Vote on Proposed Visual Distress Signals Regulation.

V42160 AUG 18 77 UMI

13. Office of Boating Safety Report.
14. Members' Items.
15. Chairman's Session.

Attendance is open to the interested public. With approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from Cdr. M. Tubella, Jr., Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard (G-BA), Washington, D.C. 20590, or by calling 202-426-1080. Any member of the public may present a written statement of the Council at any time.

Issued in Washington, D.C. on August 5, 1977.

D. F. LAUTH,
Rear Admiral, U.S. Coast Guard, Chief, Office of Boating Safety.

[FR Doc.77-23935 Filed 8-17-77;8:45 am]

[77 152]

NATIONAL BOATING SAFETY ADVISORY COUNCIL; CAPACITY LABEL SUBCOMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the National Boating Safety Advisory Council's Capacity Label Subcommittee to be held on Tuesday, September 27, 1977, in Room 4119, Trans Point Building, 2100 Second Street SW., Washington, D.C. The meeting is scheduled to begin at 1:30 p.m. and adjourn at 5 p.m.

The purpose of this meeting is to review a Coast Guard technical proposal for an amendment to the Capacity Label Standards. Attendance is open to the interested public.

With the approval of the Chairman, members of the public may present oral statements at this meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from Commander M. Tubella, Jr., Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard (G-BA), Washington, D.C. 20590, or by calling 202-426-1080.

Issued in Washington, D.C. on August 5, 1977.

D. F. LAUTH,
Rear Admiral, U.S. Coast Guard, Chief, Office of Boating Safety.

[FR Doc.77-23936 Filed 8-17-77;8:45 am]

[77 153]

NATIONAL BOATING SAFETY ADVISORY COUNCIL; MARINE DEALERS RESPONSIBILITY SUBCOMMITTEE

Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the National Boating Safety Advisory Council's Marine Dealers Responsibility Subcommittee to be held on Tuesday, September 27, 1977 in Room 4317, Trans Point Building, 2100 Second Street SW., Washington, D.C. The meeting is scheduled to begin at 1 p.m. and adjourn at 5 p.m.

The purpose of this meeting is to review a draft of a proposed rule which will require certain actions by marine dealers to assist manufacturers in maintaining an accurate first purchasers list for boats and affected equipment.

With the approval of the Chairman, members of the public may present oral statements at this meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from Commander M. Tubella, Jr., Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard (G-BA), Washington, D.C. 20590, or by calling 202-426-1080.

Issued in Washington, D.C., on August 5, 1977.

D. F. LAUTH,
Rear Admiral, U.S. Coast Guard, Chief, Office of Boating Safety.

[FR Doc.77-23937 Filed 8-17-77;8:45 am]

Materials Transportation Bureau

HAZARDOUS MATERIALS REGULATIONS

Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted July 1977. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: (1) Motor vehicle, (2) Rail freight, (3) Cargo vessel, (4) Cargo-only aircraft, (5) Passenger-carrying aircraft.

Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWALS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
930-X	DOT-E 930	Callery Chemical Co., Callery, Pa....	49 CFR 172.101, 173.2, 173.34(d)(3), 173.328.	To ship a flammable, poisonous gas in DOT 3AA1800, DOT 3AA2015, and DOT 3AA 2400 specification cylinders. (Modes 1, 2, and 3.)
3109 X	DOT-E 3109	Raytheon Co., Lowell, Mass.; U.S. Department of Defense, Washi-	49 CFR 173.302(a).....	To ship nonflammable, nonliquefied compressed gas in a nonrefillable, non-DOT specification cylinder. (Modes 1, 2, 3, and 4.)
3780 X	DOT-E 3780	American Cyanamid Co., Wayne, N.J.	49 CFR 173.328(a)(2)...	To ship certain class A poisonous liquid in DOT 3AA180, 3AA180 or 3AA180 X cylinders. (Modes 1 and 2.)
4067-X	DOT-E 4067	Stauffer Chemical Co., Westport, Conn.	49 CFR 173.315.....	To ship hydrogen sulfide in DOT specification MC 331 cargo tanks. (Mode 1.)
4111 X	DOT E 4111	Container Corporation of America, Wilmington, Del.	49 CFR 173.34(e).....	To ship liquid paving material in a DOT specification 21P fiber drum overpack having an inside DOT specification 2U polyethylene container. (Modes 1 and 2.)
4490 X	DOT-E 4490	Air Products and Chemicals, Inc., Allentown, Pa.	49 CFR 173.30(a).....	To allow multiple partial unloading of a tank motor vehicle transporting liquefied hydrogen. (Modes 1 and 2.)
4575-P	DOT-E 4575	ICI United States, Wilmington, Del..	49 CFR 173.34(e), 173.315(a)(1).	To become a party to exemption 4575. See application No. 4575 X. (Modes 1 and 2.)
4608 X	DOT E 4608	American Bosch Arma Corp., Springfield, Mass.	49 CFR 173.302(a)(1), 175.3.	To ship certain liquefied compressed gases in welded or seamless, nonrefillable, non-DOT specification steel cylinders. (Modes 1, 2, 3, and 4.)
5112 X	DOT E 5112	Atlas Powder Co., Cleveland Ohio; E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.62(a), 177 C.F.R. 1, 3, 177.848(e).	To ship class A explosives in non-DOT specification steel portable tanks. (Mode 1.)
5206 P	DOT E 5206	Atlas Powder Co., Cleveland Ohio.	49 CFR 173.48(a).....	To become a party to exemption 5206. See application No. 5206 X. (Mode 1.)
5322 P	DOT-E 5322	San Diego Gas and Electric Co., San Diego, Calif.	49 CFR 172.101, 173.34(e).	To become a party to exemption 5322. See Application No. 5322 X. (Modes 1 and 2.)
5451 X	DOT E 5451	Union Carbide Corp., Tarrytown, N.Y.; Allied Chemical Corp., Morristown, N.J.; Air Products and Chemicals, Inc., Allentown, Pa.	49 CFR 173.301(d), 173.301(e).	To ship propellant low explosives in DOT specification 4A, 4AA, 4AA480, 4AA1800, and 4B240 cylinders. (Mode 1.)
5600 P	DOT E 5600	Atlantic Richfield Co., Houston, Tex.	49 CFR Part 171.....	To become a party to exemption 5600. See application No. 5600 X. (Modes 1, 2, and 3.)
5767 X	DOT E 5767	Dow Badische Chemicals, Cincinnati, Ohio; American Products, Inc., Ashley, Pac Mallinkrodt, Inc., St. Louis, Mo.; Oxy Metal Industries Corp., Mosher, Mich.	49 CFR 172.101, 173.245, 173.264, 173.272, 173.290.	To ship certain flammable liquids in a non-DOT specification steel tank car. (Modes 1 and 2.)
5972 X	DOT E 5972	Tridental Lines, Inc., New York, N.Y.	49 CFR 173.119(b), 173.125, 173.128, 46 CFR 98.35.	To ship certain flammable and combustible liquids in a non-DOT portable tank, comparing with DOT specification MC 306 or MC 307 with certain exceptions. (Modes 1 and 3.)
6016 P	DOT E 6016	KanKakee Welding Supply Co., KanKakee, Ill.; CryoDyne Corp., Danbury, Conn.; Moore Bros., Sacramento, Calif.; Virginia Welding Supply Co., Charleston, W. Va.; Welder Welding Co., Inc., Dayton, Ohio; Huber Supply Co., Mason City, Iowa.	49 CFR 172.101, 173.315(a).	To become a party to exemption 6016. (See application No. 6016 X.) (Mode 1.)
6145 X	DOT E 6145	The Kerr-McGee Chemical Corp., Oklahoma City, Okla.; Union Carbide Corp., Tarrytown, N.Y.; G. Frederick Smith Chemical Co., Columbus, Ohio.	49 CFR 173.34(e).....	To ship liquid [illegible] in DOT specification MC 306, MC 307, MC 311 or MC 312 cargo tanks. (Mode 1.)
6197-P	DOT-E 6197	Cities Transportation, Inc., North Hampton, N.H.	49 CFR 173.315(a)(1), 172.101.	To become a party to exemption 6197. (See application No. 6197 X.) (Mode 1.)
6205-P	DOT-E 6205	Chemplex Co., Rolling Meadows, Ill..	49 CFR 173.315(a)(1), 172.101.	To become a party to exemption 6205. (See application No. 6205 X.) (Mode 1.)
6231-X	DOT-E 6231	Lox Equipment Co., Livermore, Calif.	49 CFR 172.101, 178.314(c).	To ship liquefied ethylene in a non-DOT specification, vacuum insulated tank car designed and constructed to comply with the AAR proposed specification 113C120W or 113 C60W. (Mode 2.)
6403-X	DOT-E 6403	Ethyl Corp., Baton Rouge, La.; El Paso Products, Odessa, Tex.	49 CFR 172.101, 173.315(a).	To ship liquefied ethylene in a non-DOT specification cargo tank, designed and constructed in accordance with sec. VIII of the ASME code. (Mode 1.)
6432-X	DOT-E 6432	Chemetron Corp., Chicago, Ill.....	49 CFR 173.315(a).....	To ship certain nonflammable gases in a non-DOT specification vacuum insulated cargo tank designed and constructed in accordance with sec. VIII of the ASME code. (Mode 1.)
6443-X	DOT-E 6443	Montana Sulfur and Chemical Co., Billings, Mont.	49 CFR 173.315(a)(1), 172.504.	To ship hydrogen sulfide in DOT specification MC 331 cargo tank. (Mode 1.)
6484-X	DOT-E 6484	IMC Chemical Group, Inc., Terre Haute, Ind.; Dow Chemical Co., Midland, Mich.	49 CFR 172.101.....	To ship nitromethane mixtures in DOT specification MC 307 or MC 312 tank motor vehicles. (Mode 1.)
6538-P	DOT-E 6538	The Coleman Co., Wichita, Kan.; The Aladdin Industries, Inc., Nashville, Tenn.	49 CFR 173.304(b)(3)(ii), 178.33.	To become a party to exemption 6538. (See application No. 6538 X.) (Modes 1 and 3.)
6557 X	DOT E 6557	General Fire Extinguisher Corp., Northbrook, Ill.	49 CFR 173.3, 178.36-4(c), 178.37-4(c), 178.37a(c).	To ship certain nonflammable compressed gases in DOT specification 4, 4A, 4AA or 4B cylinders with certain exceptions. (Modes 1, 2, 3, 4, and 5.)
6608 X	DOT E 6608	California Liquid Gas Corp., Sacramento, Calif.	49 CFR 173.315(a)(1).....	To ship propane in non-DOT steel portable tank in compliance with DOT specification MC 331. (Modes 1 and 3.)
6672-X	DOT E 6672	Chandler Evans, Inc., West Hartford, Conn.	49 CFR 173.302(a)(4), 175.3.	To ship certain liquefied compressed gases in welded or seamless, nonrefillable, non-DOT specification steel cylinders. (Modes 1, 2, and 4.)
6724 X	DOT-E 6724	U.S. Department of Defense, Washington, D.C.	49 CFR 172.101, 173.89, 175.3.	To ship class C explosives in non-DOT inside fiberboxes overpacked in a non-DOT strong wooden box. (Modes 1 and 4.)
6733 X	DOT E 6733	Honeywell Inc., Lexington, Mass.....	49 CFR 173.21(a), 173.304(a), 175.3.	To ship nonflammable and flammable compressed gases in a non-DOT solid cryogen cooler. (Modes 1 and 4.)
6757-X	DOT E 6757	FMC Corp., Philadelphia, Pa.; Degussa Central Transport Department, Frankfort, West Germany.	49 CFR 173.266(b)(2).....	To ship hydrogen peroxide solution in a non-DOT specification aluminum portable tank. (Modes 1 and 3.)
6762-X	DOT-E 6762	Du Bois Chemicals, Cincinnati, Ohio.	49 CFR 173.286(b)(2), (c), 175.3.	To ship certain corrosive liquids in non-DOT chemical kits, overpacked in a non-DOT fiberboard box. (Mode 1, 2, and 4.)
6826-P	DOT-E 6826	Atlantic Research Corp., Gainesville, Va.; Vought Corp., Dallas, Tex.	49 CFR 173.92(b), 175.3.	To become a party to exemption 6826. (See application No. 6826-X.) (Modes 1 and 1.)
6917-X	DOT-E 6917	Atlas Powder Co., Dallas, Tex.....	49 CFR 173.239(a)(1).....	To ship a flammable solid in a DOT specification 21C fiber drum. (Modes 1 and 2.)
6919-P	DOT-E 6919	Chemplex Co., Rolling Meadows, Ill.	49 CFR 172.101, 173.315(a).	To become a party to exemption 6919. (See application No. 6919-X.) (Mode 1.)
6951-X	DOT-E 6951	HTL Industries, Inc., Monrovia, Calif.	49 CFR 173.302(a), 175.3.	To ship nitrogen in a non-DOT specification cylinder in compliance with DOT specification 3E with certain exceptions. (Modes 1, 2, 3, 4, and 5.)

V 42 160 AUG 18 77 UM

RENEWALS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7007-X	DOT-E 7007	Jones Chemicals, Inc., Caledonia, N.Y.; Allied Chlorine and Chemical Products, Inc., Miami, Fla.; Dixie Chemical Co., Houston, Tex. Tanques Tuaa Gas, S.A., Houston, Tex.; Delta Chemical Manufacturing Co., Baltimore, Md.; Van Waters and Rogers, San Francisco, Calif.	49 CFR 173.314(c), 179.3..	To ship chlorine in a non-DOT specification tank made in accordance with DOT specification 110A500W. (Modes 1 and 3.)
7019-X	DOT-E 7019	Hooker Chemicals Plastics Corp., Niagara Falls, N.Y.	49 CFR 173.235(b)(2), 178.252-1(b).	To ship phosphorus pentasulfide in DOT specification 56 metal portable tanks exceeding gross weight restriction. (Mode 1.)
7052-P	DOT-E 7052	GTE Laboratories, Waltham, Mass..	49 CFR 173.205(e) (1), 175.3.	To become a party to exemption 7052, (See Application No. 7052-X.) (Modes 1, 2, 3, and 4.)
7061-X	DOT-E 7061	Hercules Inc., Wilmington, Del.....	49 CFR 173.61....	To ship slurry type high explosives which have been identified to the Bureau in non-DOT specification polyethylene tubes in a non-DOT specification fiberboard box. (Mode 1.)
7097-X	DOT-E 7097	Fuller System, Inc., Woburn, Mass., Plant Products Corp., Blue Point, L.I., N.Y.	49 CFR 173.377 (f)	To ship certain class B poisonous solids under the specification packaging exception and conditions specified. (Mode 1.)
7266-X	DOT-E 7266	Airwick Industries, Inc., Carlstadt, N.J.	46 CFR 173.217(b)	To ship trichloroisocyanuric in accordance with 49 CFR 173.217(b). (Modes 1, 2, and 3.)
7285-X	DOT-E 7285	Ugine Kuhlmann, Paris, France.....	49 CFR 173.315(a)....	To ship monobromotrifluoromethane in a non-DOT specification portable uniform 4-ft tank. (Modes 1, 2, and 3.)
7470-P	DOT-E 7470	Phelps Dodge Corp., New York, N.Y.	49 CFR 173.211(a) (3), 173.272(i)(22), (27), 173.247(a)(13), 173.271-(a)(2), 173.283(a)(19), 173.299-18(b)(1), 173.-201-1(a), 179.201-7.	To become a party to exemption 7470. (See Application No. 7470-X.) (Mode 2.)
7480-X	DOT-E 7480	Air Products and Chemicals Inc., Wayne, Pa.	49 CFR 173.154.....	To ship an oxidizing material in DOT specification MC-307 and MC-311 insulated cargo tanks. (Modes 1 and 2).
7549-X	DOT-E 7549	Stauffer Chemical Co., Westport, Conn.	49 CFR 172.245a(a).....	To ship ethyl chlorothioformate in non-DOT portable tanks, constructed and in compliance with DOT specification 51 with certain exceptions. (Modes 1, 2, and 3.)
7565-X	DOT-E 7565	Phillips Petroleum Co., Lafayette, La.	46 CFR 90.05-35; 49 CFR 174.119.	To ship crude oil, petroleum in a non-DOT specification portable tank. (Mode 3.)
7604-X	DOT-E 7604	Nuclear Valve Div., Borg Warner Corp., Van Nuys, Calif.	49 CFR 172.302(a) (4), 175.3.	To ship certain nonliquefied compressed gases in a non-DOT welded or seamless, nonreclaimable, non-DOT specification steel cylinders made in compliance with DOT Specification 39 with certain exceptions. (Modes 1, 2, and 4.)
7721-X	DOT-E 7721	Applied Equipment Co., Van Nuys, Calif.	49 CFR 173.302(a)..	To ship nonliquefied compressed gases in a non-DOT welded or seamless, nonreclaimable, non-DOT specification steel cylinders made in compliance with DOT specification 39 with certain exceptions. (Modes 1, 2, and 4.)

NEW EXEMPTIONS

7531-N	DOT-E 7531	National Aeronautics and Space Administration, Washington, D.C.	49 CFR 173.88-(c)(2)(ii), 173.92(b).	To ship rocket motor with initiators installed and in a propulsive state. (Mode 1.)
7586-N	DOT-E 7586	Rockwell International, Downey, Calif.	49 CFR 173.88(c)(2)(ii), 173.92.	To ship a rocket motor, as part of a global positioning system, in a propulsive state. (Mode 1.)
7589-N	DOT-E 7589	Recordati, Milano, Italy.....	49 CFR 173.245(a)	To ship corro-ive liquids in a non-DOT specification cylindrical glass carboy overpacked in a steel drum wooden box packaging. (Modes 1 and 3.)
7599-N	DOT-E 7599	Martin Marietta Corp., Charlotte, N.C.	49 CFR 173.28(m), 173.-365(a)(2), 178.118.	To ship cla s B poisonous solids in non-DOT steel drums complying with DOT specification 17H with certain exceptions. (Mode 1.)
7600-N	DOT-E 7600	Lubbock Manufacturing Co., Lubbock, Tex.	49 CFR 172.101, 173.-315(a)(1).	To manufacture, mark and sell non-DOT specification insulated cargo tanks for use in the transportation of liquefied ethylene. (Mode 1.)
7632-N	DOT-E 7632	Enterprise Service Co., Houston, Tex.	49 CFR 173.315(a)(1), (c)(1).	To ship liquefied, flammable compressed ga es in a DOT specification MC-331 tank motor vehicle. (Mode 1.)
654-N	DOT-E 7654	Texas Eastman Co., Longview, Tex.	49 CFR 173.119(f).....	To ship acetaldehyde in a non-DOT 1 pt glass bottle overpacked in a DOT specification 12H fiberboard box. (Modes 1 and 2.)
7655-N	DOT-E 7655	Tennessee Eastman Co., Kingsport, Tenn.	49 CFR 173.119(m).....	To ship a flammable liquid in 1-gal polyethylene container packed in a DOT Specification 19A wooden box. (Mode 1.)
7685-N	DOT-E 7685	Cordova Chemical Co., Sacramento, Calif.	49 CFR 173.65(b).....	To ship certain class A explosives in 2 non-DOT 4 mil polyethylene film bags overpacked in a DOT specification 21C 250 fiber drum. (Mode 1.)
7711-N	DOT-E 7711	Illinois Central Gulf Railroad, Chicago, Ill.	49 CFR 174.25(a).....	To allow the use of other symbols to enclo-e the placard endorsement on carrier billing. (Mode 2.)
7711-N	DOT-E 7711	Suttons International, New Orleans, La.; W. R. Zanes and Co., New Orleans, La.	49 CFR 173.245, 46 CFR 90.05-35.	To ship certain corrosive and combustible liquids in a non-DOT steel portable tank built in accordance with section VIII of the ASME code. (Modes 1, 2, and 3.)
7730-N	DOT-E 7730	Western Company of North America, Fort Worth, Tex.	49 CFR 178.343-5(b)(2)(iii).	To ship certain corro-ive materials in a DOT specification MC 312 cargo tank with certain exceptions. (Mode 1.)

APPLICATIONS RECEIVED AND GRANTED

EE7801-N	DOT-E 7801	International Protein Corp.....	49 CFR 173.295.....	To ship fishmeal containing between 6 pct. and 12 pct. water in a standard 40-ft closed freight container. (Mode 3.)
EE7806-N	DOT-E 7806	Dow Chemical Co., Strongsville, Ohio.	49 CFR 173.272(a)(4)....	To ship bromine, transferred from a damaged cargo tank, in a DOT specification MC 310 or MC 312 tank motor vehicle loaded less than required. (Mode 1.)
EE7810-N	DOT-E 7810	Allied Chemical Corp., Morristown, N.J.	49 CFR 173.314(c).....	To ship dichlorodifluoromethane in DOT specification 106A500 or 106A500X tank car tanks. (Mode 3.)
EE7816-N	DOT-E 7816	Goldkist Inc., Atlanta, Ga.....	49 CFR 173.377(i).....	To ship a class B poisonous solid in a specified number of non-DOT specification paper bags. (Mode 1.)

DENIALS

3536-P Request by U.S. Energy Research & Development Administration, Washington, D.C.—To add three parties to DOT-E 3563, denied July 1, 1977.

5985-X Request by Nuclear Fuel Services, Inc., Erwin, Tenn.—To ship pyrophoric thorium metal powder or compacts in greater net quantities than permitted, denied July 29, 1977.

6231-P Request by Mobil Chemical Co., Beaumont, Tex.—To become a party to Exemption 6231 authorizing shipment of liquefied ethylene in non-DOT specification vacuum insulated tank car tank, denied July 11, 1977 as being unnecessary.

6231-P Request by Chemplex Co., Rolling Meadows, Ill.—To become a party to Exemption 6231 authorizing shipment of liquefied ethylene in non-DOT specification vacuum insulated tank car tank, denied July 11, 1977 as being unnecessary.

6516-P Request by Minerec Corp., Baltimore, Md.—To become a party to Exemption 6516 authorizing shipment of methyl chloroformate or ethyl chloroformates in prescribed DOT specification tank cars, denied July 27, 1977 as being unnecessary.

6531-P Request by Douglas Aircraft Co., Long Beach, Calif.—To become a party to Exemption 6531 authorizing shipment of a nonflammable gas in a non-DOT specification cylinder, denied July 26, 1977 as being unnecessary.

EE6563-P Request by Vital Air Oxygen Co., Cleveland, Ohio—To become a party to Exemption 6563 authorizing shipment of nonliquefied, nonflammable compressed gases in a non-DOT specification steel cylinder, denied July 19, 1977.

6720-P Request by Superintendence Co., Inc., New York, N.Y.—To become a party to Exemption 6720 authorizing shipment of hazardous materials in non-DOT specification portable tanks, denied July 11, 1977.

6972-X Request by Dow Chemical Co., Midland, Mich.—To authorize the use of hot melt glue to close the flaps on DOT Specification 12B fiberboard boxes, denied July 19, 1977 as being unnecessary. (Docket HM-139 obviates the need).

7521-P Request by Enthone Inc., New Haven, Conn.—To become a party to Exemption 7521 to ship chemical kits containing poisonous materials without the prescribed label, denied July 12, 1977.

7554-N Request by Varian and Associates, Palo Alto, Calif.—To ship by air chemical kits containing certain corrossive materials and certain other hazardous materials in glass bottles in the same outer shipping container, denied July 29, 1977.

7581-N Request by Mobay Chemical Corp., Pittsburgh, Pa.—To ship certain corrosive and poisonous liquids and poisonous solids in a non-DOT steel drums, denied July 19, 1977 as being unnecessary.

7612-N Request by Phillips Petroleum Co., Bartlesville, Okla.—To become a party to Exemption 7612-N authorizing retrofit Shelf E or Shelf F couplers in lieu of head shields on all uninsulated pressure tank cars, denied July 12, 1977.

7618-N Request by Koppers Company, Inc., Pittsburgh, Pa.—To authorize the product name "Wolmanac concentrate" as a proper shipping name, denied July 19, 1977.

7624-N Request by Standard Milling Co., Kansas City, Mo.—To authorize shipment of up to 60,000 lbs. of charcoal in one rail car, denied July 27, 1977 as being unnecessary.

7630-N Request by Palmer Chemical & Equipment Co., Inc., Douglasville, Ga.—To authorize shipment of excepted quantities of certain Class B poison liquids in unlabeled packages, denied July 29, 1977.

7705-N Request by The LEA Manufacturing Co., Waterbury, Conn.—To authorize shipment of packages of Class B poisons without the Class B poison label, denied July 15, 1977.

7736-N Request by Siegling America, Inc., Englewood, N.J.—To authorize shipment of a flammable and poisonous liquid in unlabeled non-DOT specification containers, denied July 27, 1977.

EE7804-N Request by Igloo Corp., Houston, Tex.—To authorize the manufacture of inside polyethylene containers, similar to DOT Specification 2SL, for use in the shipment of various hazardous materials, denied July 18, 1977.

EE7809-N Request by U.S. Rubber Reclaiming Co., Inc., Vicksburg, Miss.—For an emergency exemption to ship ground rubber in non-DOT specification polyethylene bags, denied July 25, 1977.

WITHDRAWALS

7718-X Request by Atlas Powder Co., Dallas, Tex.—To ship Class A explosives on board the M/V Sol Reefer, withdrawn June 6, 1977.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Operations.

[FR Doc.77-23938 Filed 8-17-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

NATIONAL MOTOR VEHICLE SAFETY ADVISORY COUNCIL

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the National Motor Vehicle Safety Advisory Council to be held on September 8 and 9, 1977 at the DOT Headquarters Building, 400 Seventh Street SW., Washington, D.C.

On September 8 from 8:30 a.m. to 1:00 p.m. in room 2230 the Congress Committee will meet to discuss recommendations from the Fifth International Congress on Automotive Safety held July 11-13 in Cambridge, Mass.

The Motorcycle Subcommittee will meet on September 8 from 2:00 p.m. to 5:00 p.m. to review recommendations from the Head and Neck Workshop and to discuss any proposed resolutions in connection with mopeds.

On September 9 from 9:00 a.m. to 4:00 p.m. the full Council will hold its last meeting. The Council will hear reports from the Congress Committee and the Motorcycle Subcommittee and discuss any pending old or new business.

The above meetings are subject to the approval of the National Highway Traffic Safety Administrator.

With the approval of the Chairman, members of the public may present oral statements at the meeting. Any member of the public may present a written statement to the Council at any time.

Additional information may be obtained from the NHTSA Executive Secretary, room 5215, 400 Seventh Street SW., Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C. on August 12, 1977.

ROBERT DOHERTY,
Assistant Executive Secretary.

[FR Doc.77-23839 Filed 8-17-77;8:45 am]

TRUCK AND BUS SAFETY SUBCOMMITTEES

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Truck and Bus Safety Subcommittees of the National Highway Safety Advisory Committee and the National Motor Vehicle Safety Advisory Council. The Subcommittees will meet on September 7 from 8:30 a.m. to 5:00 p.m. in room 2230 of the DOT Headquarters Building, 400 Seventh Street SW., Washington, D.C.

The full Subcommittees will meet to review drafts of a driver training pamphlet and a mechanic's maintenance manual and to discuss the findings from the August 16 and 17 technical meetings. Old and new business will also be discussed.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Any member of the public may present a written statement to the Subcommittees at any time. This meeting is subject to the approval of the appropriate DOT officials.

Additional information may be obtained from the NHTSA Executive Secretary, Room 5215, 400 Seventh Street SW., Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C. on August 12, 1977.

ROBERT DOHERTY,
Assistant Executive Secretary.

[FR Doc.77-23838 Filed 8-17-77;8:45 am]

V 42 160 AUG 18 77 UM

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circular Public Debt Series, No 20-77]

TREASURY NOTES OF AUGUST 31, 1979, SERIES T-1979

AUGUST 12, 1977.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,900,000,000 of U.S. securities, designated Treasury Notes of August 31, 1979, Series T-1979, (CUSIP No. 912827 GY 2). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated August 31, 1977, and will bear interest from that date, payable on a semiannual basis on February 28, 1978, and each subsequent 6 months on August 31 and February 28 until the principal becomes payable. They will mature August 31, 1979, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000 $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing U.S. securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, August 23, 1977. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, August 22, 1977.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full at the weighted average price (in three decimals) of accepted competitive tenders, and competitive tenders with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full or when the price is over par.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Wednesday, August 31, 1977, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing U.S. securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Friday, August 26, 1977, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Thursday, August 25, 1977, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

PAUL H. TAYLOR,
Deputy Fiscal Assistant Secretary.

[FR Doc.77-23859 Filed 8-15-77;10:36 am]

CLEAR SHEET GLASS, WEIGHING OVER 28 OUNCES PER SQUARE FOOT, FROM FRANCE

Antidumping; Tentative Determination To Modify or Revoke Dumping Finding

AGENCY: United States Treasury Department.

ACTION: Tentative Modification of Finding of Dumping.

SUMMARY: This notice is to advise the public that it appears that Saint-Gobain Industries of France is no longer selling clear sheet glass, weighing over 28 ounces per square foot, from France at less than fair value. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. In addition, Saint-Gobain has given assurances that it is not, and does not intend to resume selling clear sheet glass weighing over 28 ounces per square foot to the United States. If this action is made final, the finding of dumping covering the subject merchandise from France will be modified to exclude that merchandise produced and sold by Saint-Gobain. Interested persons are invited to comment on this action.

EFFECTIVE DATE: August 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Ms. Barbara Victor, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, Telephone (202) 566-5492.

SUPPLEMENTARY INFORMATION: A finding of dumping with respect to clear sheet glass weighing over 28 ounces per square foot from France was published at T.D. 71-293 in the FEDERAL REGISTER of December 9, 1971 (36 FR 23360).

After due investigation, it has been determined tentatively that clear sheet glass from France, weighing over 28 ounces per square foot, produced and sold by Saint-Gobain Industries is no longer being, nor likely to be, sold to the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

Statement of Reasons On Which This Tentative Determination Is Based. The investigation indicated that there have been no shipments of clear sheet glass, weighing over 28 ounces per square foot, by Saint-Gobain to the United States since 1972, and Saint-Gobain has given assurances that it does not intend to resume shipments of this merchandise to the United States.

Accordingly, notice is hereby given that the Department of the Treasury intends to modify the finding of dumping with respect to clear sheet glass weighing over 28 ounces per square foot from France to exclude such glass produced and sold by Saint-Gobain Industries.

In accordance with § 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, NW., Washington, D.C. 20229, in time to be received by his office not later than August 28, 1977. Requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than September 18, 1977.

This notice is published pursuant to § 153.44(c) of the Customs Regulations (19 CFR 153.44(c)).

HENRY C. STOCKELL, Jr.,
Acting General Counsel of the Treasury.

AUGUST 12, 1977.

[FR Doc.77-23907 Filed 8-17-77;8:45 am]

V 42 160 AUG 18 77 UM

INTERSTATE COMMERCE COMMISSION

[Rule 19, Ex Parte No. 241, 26th Rev. Exemption No. 12]

ATLANTA & SAINT ANDREWS BAY RAILWAY CO., ET AL.

Exemption Under Provision of Mandatory Car Service Rules

It appearing, that the railroads named herein own numerous plain boxcars; that under present conditions there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, that, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.–R.E.R. No. 404, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlanta & Saint Andrews Bay Railway Company
Reporting Marks: ASAB
Atlantic and Western Railway
Reporting Marks: ATW
Chicago & Illinois Midland Railway Company.
Reporting Marks: CIM
Fonda, Johnstown and Gloversville Railroad Company
Reporting Marks: FJG
Hartford and Slocomb Railroad Company
Reporting Marks: HS
Lackawaxen and Stourbridge Railroad Corporation.
Reporting Marks: LASB
Louisiana-Midland Railway Company
Reporting Marks: LOAM.
Manufacturers Railway Company
Reporting Marks: MRS.
Maryland and Pennsylvania Railroad Company.
Reporting Marks: MPA
Minneapolis, Northfield and Southern Railway.
Reporting Marks: MNS
Pickens Railroad Company.
Reporting Marks: PICK
Roscoe, Snyder and Pacific Railway Company.
Reporting Marks: RSP.
Wellsville, Addison & Galeton Railroad Corporation
Reporting Marks: WAG.

Effective August 15, 1977, and continuing in effect until further order of this Commission.

Addition

Issued at Washington, D.C., August 11, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-23929 Filed 8-17-77;8:45 am]

[I.C.C. Order No. 35-A; Rev. S. O. No. 1252]

CONSOLIDATED RAIL CORP.

Rerouting or Diversion of Traffic

Upon further consideration of I.C.C. Order No. 35 (Consolidated Rail Corporation) and good cause appearing therefor:

It is ordered, That:

I.C.C. Order No. 35 be, and it is hereby, vacated and set aside.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 11, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc 77-23930 Filed 8-17-77;8:45 am]

[Notice No. 209]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 15, 1977.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC 77257. By application filed August 8, 1977, MAGWIL TRANSPORT CORP., 1281 Viele Avenue, Bronx, N.Y. 10474, seeks temporary authority to transfer the operating rights of Duncan Petroleum Transport, Inc., 3170 College Point Causeway, Flushing, N.Y. 11352, under section 210a(b). The transfer to Magwil Transport Corp., of the operating rights of Duncan Petroleum Transport, Inc., is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc 77-23928 Filed 8-17-77;8:45 am]

[Notice No. 210]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before September 19, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77204 filed July 14, 1977. Transferee: CASK TRANSPORTATION, INC., 2927 41st Avenue, Long Island City, New York, 11104. Transferor: Spirit Deliveries, Inc., 799 Broadway, New York, New York, 10003. Applicants' representative: Morris Honig, 150 Broadway, New York, New York, 10038. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 63072, issued May 5, 1977, as follows: *candy and alcoholic and malt beverages*, between New York, N.Y., on the one hand, and, on the other, points in New Jersey within 25 miles of City Hall, New York, N.Y.; and *alcoholic beverages*, from Hoboken and Jersey City, N.J., to points in Westchester, Suffolk, and Nassau Counties, N.Y., within 25 miles of New York, N.Y. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77209 filed July 14, 1977. Transferee: CONTINENTAL TRAVEL SERVICES, INC., 6016 14th Street West Bradenton, Florida, 33507. Transferor: Frank S. Boyce, doint business as Boyce Travel Agency, 3399 Espanola Drive, Sarasota, Florida, 33580. Applicants' representative: Charles J. Williams, 1815 Front Street, Scotch Plains, New Jersey, 07076. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in License No. MC 130136, issued March 16, 1972, as follows: *Passengers and their baggage*, moving in round trip tours, by motor vehicle or by any combination of transportation, beginning and ending at points in Sarasota, Manatee, and Pinellas Counties, Fla., and extending between points in the United States (including Alaska and Hawaii) Transferor is authorized to engage in the above specified operations as a broker at Sarasota, Fla. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77238, filed July 29, 1977. Transferee: HOLMAN TRANSPORTATION, INC., Ft. Dodge Road, Dodge City, Kans. 67801. Transferor: Dahlsten Truck Line, Inc., 101 West Edgar St., Clay Center, Nebr. 68933. Applicants' representative: Clyde N. Christey, Attorney at Law, 514 Capitol Federal Bldg., Topeka, Kans. 66603. Authority sought for purchase by transferee of the portion of the operating rights of transferor set forth in Certificate No. MC 115669 (Sub-No. 1), issued November 15, 1974, as follows: Anhydrous ammonia, from the plant site of Farmland Industries, Inc., at Dodge City, Kans., to points in Colorado, Wyoming, Texas, Oklahoma, Missouri, Nebraska, and Iowa. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b) of the Act.

No. MC-FC-77243, filed August 4, 1977. Transferee: FRANK E. HICKS TRUCKING INC., P.O. Box 95, Somerset, CA 95684. Transferor: Frank E. Hicks, doing business as Frank E. Hicks Trucking, P.O. Box 95, Somerset, CA 95684. Applicants' representative: Michael S. Rubin, Attorney-at-Law, 256 Montgomery St., San Francisco, CA 94104. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificates Nos. MC 135679 (Sub-No. 1) and MC 135679 (Sub-No. 2), issued April 6, 1973, and August 19, 1976, respectively, as follows: Cement, in bulk, from Fernley, Nev., to points in Alpine, Amador, Calaveras, El Dorado, Madereo, Merced, Placer, Sacramento, San Joaquin, and Stanislaus Counties, Calif., and from Fernley, Nev., to points in Butte, Lassen, Plumas, Sierra, Nevada, and Yuba Counties, Calif. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b) of the Act.

No. MC-FC-77247, filed August 2, 1977. Transferee: ISAAC TRUCK LINE, INC., 402 Layton, Dodge City, Kans. 67801. Transferor: Evart Isaac, doing business as Isaac Truck Line, 402 Layton, Dodge City, Kans. 67801. Applicant's representative: Clyde N. Christey, Attorney-at-Law, Suite 514 Capitol Federal Bldg., 700 Kansas Ave., Topeka, Kans. 66603. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 115871 (Sub-No. 8), issued October 28, 1969, as follows: Liquid tallow, in bulk, in tank vehicles, from Dodge City, Garden City, Great Bend, and Pratt Kans., to points in Missouri, and those in that part of Arkansas on and west of U.S. Highway 65. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b) of the Act.

No. MC-FC-77251, filed August 5, 1977. Transferee: POINTS WEST TRUCKING, INC., P.O. Box 55085, Valencia, Calif. 91355. Transferor: Condor Contract Carriers, Inc., P.O. Box 1354, Garden Grove, Calif. 92642. Applicant's representative: Patrick E. Quinn, Bradford E. Kistler, Attorney-at-Law, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought for purchase by transferee of that portion of the operating rights of transferor set forth in Permit No. MC 138054, issued March 6, 1975, as follows: Electrical motors and component parts thereof (except commodities which because of size or weight, or length, require the use of special equipment or special handling), between Milford, Conn., Mena, Ark., St. Louis, Mo., Prescott, Ariz., Philadelphia, Miss., Chicago, Ill., and Los Angeles and Stanton, Calif., Memphis, Tenn., and Hastings, Nebr., restricted to a transportation service to be performed under a continuing contract or contracts with Emerson Electric Co., of St. Louis, Mo. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc 77-23927 Filed 8-17-77;8:45 am]

[Volume No. 28]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENT, ALTERNATE ROUTE DIVISIONS, AND INTRASTATE APPLICATIONS

Correction

In FR Doc. 77-22333 appearing at page 39425 in the issue for Thursday, August 4, 1977, at the bottom of the first column on page 39438, the Sub-No. for Kenan Transport Company, Incorporated now reading "3" should read "30"

V42160 AUG 18 77 UM V

[Volume No. 30]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

AUGUST 12, 1977.

PETITIONS FOR MODIFICATION, INTERPRETATION, OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

The Commission has recently provided for easier identification of substantive petition matters and all documents should clearly specify the "docket", "sub", and "suffix" (e.g. M1, M2) numbers identified by the FEDERAL REGISTER notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No. MC 109821 (Sub-No. 5), M1 (Notice of filing of petition to add an additional base point), filed July 12, 1977. Petitioner: H. W. TAYNTON COMPANY, INC., 40 Main St., Wellsboro, Pa. 16901. Petitioner's representative: Dewey Whitford (same address as applicant). Petitioner holds motor *common carrier* Certificate in No. MC 109821 (Sub-No. 5) issued May 9, 1957, authorizing transportation, as pertinent, over irregular routes, of: *Manufactured glass products* and *commodities and equipment* used in the manufacture, sale, and shipment of manufactured glass products, between Buffalo, Corning, Elmira, and Horseheads, N.Y., Boyertown, Bradford, Charleroi, Port Allegany, and Wellsboro, Pa., and Fairmont and Parkersburg, W. Va., on the one hand, and, on the other, points in Connecticut, Indiana, Kentucky, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and West Virginia (except that no traffic shall be transported between Bradford and Port Allegany, Pa., on the one hand, and, on the other, points in that part of New York on and west of a line beginning at Oswego, N.Y., and extending along New York Highway 57 to Syracuse, N.Y., and thence along U.S. Highway 11 to the New York-Pennsylvania State line).

By the instant petition, petitioner seeks to add Dale Summit, Pa., as an additional base point to the above authority.

No. MC 116254 (Sub-No. 108), M1 (Notice of filing of petition to clarify or modify certificate), filed July 20, 1977. Petitioner: CHEM-HAULERS, INC., P.O. Box 339, Florence, Ala. 35630. Petitioner's representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street, NW., Washington, D.C. 20005. Petitioner holds a motor *common carrier* Certificate in No. MC 116254 (Sub-No. 108), issued June 14, 1971, authorizing transportation over irregular routes, of *gravel, sand, clay, ore, slag, and products* composed of or produced from such commodities (except in bulk, tank vehicles), between points in Minnesota, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, Tennessee, Kentucky, West Virginia, Virginia, Maryland, Delaware, Pennsylvania, Ohio, Indiana, Illinois, Wisconsin, Michigan, New Jersey, New York, Vermont, New Hampshire, Maine, Massachusetts, Rhode Island, Connecticut, and the District of Columbia, restricted against the transportation of sand, clay, and clay products, in packages and containers, originating at (1) points in Aiken County, S.C.; (2) Guion, Ark.; and (3) the plant sites of Sewanee Silica Co., at or near Sewanee, Tenn., and Wyandotte Chemical Corp., in Tippah County, Miss.

By the instant petition, petitioner seeks a finding by the Commission that the phrase "products composed of or produced from such commodities" means products which have their origins in any one or more than one of the five base commodities, i.e., gravel, sand, clay, ore and slag, and which are not limited by the number of manufacturing processes from which they might evolve, or in the alternative, to modify the authority above so that the commodity description will read: "gravel, sand, clay, ore, slag, and products composed of or produced from such commodities, including metal and metal products, glass and glass products."

No. MC 129455 and (Sub-Nos. 2 and 3), M1 (notice of filing of petition to broaden commodity description). Petitioner: CARRETTA TRUCKING, INC., 301 Mayhill St., Saddle Brook, N.J. 07662. Petitioner's representative: Martin M. Geffon, P.O. Box 154, Willingboro, N.J. 08046. Petitioner holds motor *contract carrier* Permits in No. MC 129455 and (Sub-Nos. 2 and 3), issued July 10, 1970, November 10, 1969, and March 23, 1972, respectively, authorizing transportation (1) in No. MC 129455, as pertinent, over irregular routes of: *Swimming pools, garden sheds, and radiator enclosures*, from Paterson, N.J., and the plant site of Quaker City Industries located at Carlstadt, N.J., to points in Arkansas, California, Illinois, Indiana, Kentucky, Michigan, Minnesota, Missouri, New York, Ohio, Oklahoma, Virginia (except Arlington and Fairfax Counties), and those points in that part of Pennsylvania west of the Susquehanna River, under a continuing contract, or contracts with Quaker City Industries of Carlstadt, N.J.; (2) in No. MC 129455 (Sub-No. 2), as pertinent, over irregular routes, *of swimming pools, garden sheds, and radiator enclosures*, from Carlstadt and Paterson, N.J., to points in Georgia, Florida, South Carolina, North Carolina, Maryland, Delaware, Connecticut, Rhode Island, Massachusetts, Washington, Colorado, Utah, Arizona, Texas, Louisiana, Wisconsin, Tennessee, the District of Columbia, points in Arlington and Fairfax Counties, Va., and points in that part of Pennsylvania east of the Susquehanna River, under a continuing contract or contracts with Quaker City Industries, Inc., of Carlstadt, N.J.; (3) in No. MC 129455 (Sub-No. 3) over irregular routes, of: *Swimming pools, garden sheds, and radiator enclosures*, from Paterson, Carlstadt, and Saddle Brook, N.J., to points in Alabama, Idaho, Iowa, Kansas, Maine, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Oregon, South Dakota, Vermont, West Virginia, and Wyoming, under a continuing contract or contracts with Quaker City Industries, Inc., of Saddle Brook, N.J.

By the instant petition, petitioner seeks to broaden the commodity description of all three of the above Permits to include "redwood products."

No. MC 129455 and (Sub-Nos. 2, 5 and 6) M1 (Notice of filing of petition to Broaden Commodity Description and Add Origin Points), filed June 13, 1977. Petitioner: CARRETTA TRUCKING INC., 301 Mayhill Street, Saddle Brook, N.J. 07662. Petitioner's representative: Martin M. Geffon, P.O. Box 154, Willingboro, N.J. 08046. Petitioner holds motor *contract carrier* Permits in No. MC 129455 and (Sub-Nos. 2, 5 and 6) issued July 10, 1970; November 10, 1969; September 27, 1974 and November 11, 1975, respectively, authorizing transportation in (1) No. MC 129455, as pertinent, over irregular routes, of *Materials and supplies* used in the manufacture of swimming pools and garden sheds, from St. Louis, Mo., and Bakerstown, Pa., to Paterson, N.J., and the plant site of Quaker City Industries at Carlstadt, N.J., with no transportation for compensation on return except as otherwise authorized. Restriction: The operation authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Quaker City Industries of Carlstadt, N.J. (2) in MC 129455 (Sub-No. 2), as pertinent, over irregular routes of *Steel coils*, from McKeesport, Pa., to Paterson, N.J., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts with Quaker City Industries, Inc., of Carlstadt, N.J.; (3) in No. MC 129455 (Sub-No. 5) over irregular routes, of *Steel* used in the manufacture of garden sheds, (a) from Youngstown, Ohio, to Saddle Brook, N.J., with no transportation for compensation on return except as otherwise authorized; (b) from Wheeling, W.Va., to Lyndhurst and Saddle Brook, N.J., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Quaker City Industries, Inc.

(4) in MC 129455 (Sub-No. 6) over irregular routes of (A) *Steel* used in the manufacture of garden sheds, (1) from Yorkville, Ohio, to Lyndhurst and Saddle Brook, N.J., and Allentown and Morrisville, Pa., with no transportation for compensation on return except as otherwise authorized; and (2) from Morrisville and Allentown, Pa., to Saddle Brook, N.J., with no transportation for compensation on return except as otherwise authorized; (B) *Steel* in coils, from Philadelphia, Pa., to Allentown, Pa., and Lyndhurst and Saddle Brook, N.J., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Quaker City Industries, Inc., of Saddle Brook, N.J. By the instant petition, petitioner seeks to include *materials and supplies used in the manufacture of swimming pools and garden sheds* and to add the origins points of Pennsylvania, West Virginia and Ohio, in the above-named authorities, under a continuing contract, or contracts, with Quaker City Industries, Inc., of Saddle Brook, N.J.

No. MC 129742 (Sub-No. 9) M1 (Notice of Filing of Petition to Modify a Restriction), filed June 17, 1977. Petitioner: PUROLATOR COURIER, LTD., 302 The East Mall, Suite 303, Islington, Toronto, Ontario, Canada M9B 6C7. Petitioner's representative: Peter A. Greene, 900 17th St. NW., Washington, D.C. 20006. Petitioner holds a motor *common carrier* Certificate in No. MC 129742 (Sub-No. 9), issued September 27, 1976, authorizing transportation, over irregular routes, *General commodities* (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and such commercial papers, documents and written instruments as are used in the business of banks and banking institutions), (1) between ports of entry on the International Boundary line between the United States and Canada located at or near the St. Lawrence River and Rooseveltown, Ogdensburg, and Alexandria Bay, N.Y.; on the one hand, and, on the other, points in New York; (2) between ports of entry on the International Boundary line between the United States and Canada located at or near the Niagara River and Lewiston, Niagara Falls, and Buffalo, N.Y., on the one hand, and, on the other, points in New York; and (3) between ports of entry on the International Boundary line between the United States and Canada located at or near Detroit, Port Huron, and Sault Ste. Marie, Mich., on the one hand, and, on the other, points in Michigan, subject to several restrictions including the following: "Restricted against the transportation of package weighing more than 50 pounds and each package or article shall be considered a separate and distinct shipment." By the instant petition, petitioner seeks to modify the foregoing restriction by deletion of the phrase "with each package or article considered as a separate and distinct shipment." Petitioner states that the proposed modification will not effect the present weight restriction but will only eliminate unnecessary multiple documentation and assessment of multiple per shipment minimum charges.

No. MC 129808 (Sub-No. 10) M1 (Notice of Filing of Petition to Add an Additional Origin and Destination Point), filed July 5, 1977. Petitioner: GRAND ISLAND CONTRACT CARRIER, INC., West Highway No. 30, P.O. Box 2078, Grand Island, Nebr. 68801. Petitioner's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr. 68501. Petitioner holds motor *contract carrier* Permit in No. MC 129808 (Sub-No. 10), issued May 23, 1974, authorizing transportation over irregular routes, of (1) *Grain storage bins, grain drying bins, bulk feed tanks, metal buildings and parts, materials and supplies* used in connection therewith, automotive parts and accessories, ballast masters and hand carts, from the plant sites and storage facilities of Chief Industries, Inc., located at or near Grand Island, Nebr., Fort Dodge, Iowa and Rensselaer, Ind., to points in the United States (except Alaska and Hawaii); and (2) *Raw materials, parts supplies, and tools* used in connection with the manufacture, distribution and erection of the commodities named in (1) above, from points in the United States (except Alaska and Hawaii) to the plant sites and storage facilities of Chief Industries, Inc., located at or near Grand Island, Nebr., Fort Dodge, Iowa, and Rensselaer, Ind., restricted against the transportation of commodities in bulk, under a continuing contract or contracts with Chief Industries, Inc.

By the instant petition, petitioner seeks to include the facilities of the Caldwell Manufacturing Company, located at Kearney, Nebr., as both an additional origin and destination point to the above authority.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading shall comply with Special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 34975 (Sub-No. 9) (Republication), filed March 3, 1975, published in the FEDERAL REGISTER issue of March 26, 1975, and republished this issue. Applicant: TREDWAYS EXPRESS, INC., 512 Myrtle Avenue, Boonton, N.J. 07005. Applicants' representative: William J. Augello, 120 Main Street, P.O. Box Z, Huntington, N.Y. 11743. The Initial Decision of the Administrative Law Judge, dated April 30, 1976, and served May 11, 1976, finds that the present and future public convenience and necessity require the tacking or joinder by applicant of the operating rights presently held by applicant with the operating rights authorized to be acquired by said applicant in the directly-related finance proceeding in No. MC–F12334 (also republished in this same FEDERAL REGISTER issue). The operating rights sought in No. MC 34975 (Sub-No. 9) involve operations as a *common carrier* over irregular routes, of *general commodities* (except those of unusual value, livestock, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in New Jersey, Philadelphia, Allentown, Bethlehem, and Easton, Pa., and points in Nassau and Suffolk Counties, N.Y., on the one hand, and, on the other, points in Columbia, Dutchess, Orange, Ulster, and Westchester Counties, N.Y., and from points in New Jersey, Philadelphia, Allentown, Bethlehem, and Easton, Pa., and points in Nassau and Suffolk Counties, N.Y., to points in Putnam and Rockland Counties, N.Y. Applicant also requests authority to effect joinder of rights so as to render direct service between said points, and to eliminate the New York, N.Y. gateway in such joinder. The purpose of this republication is to give notice of the amendment of this application by the addition of Ulster County to the radial territory.

No. MC 35807 (Sub-No. 67) (republication), filed December 20, 1976, published in the FEDERAL REGISTER issue of February 10, 1977, and republished this issue.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

V 42 160 AUG 18 77 UM

Applicant: WELLS FARGO ARMORED SERVIC CORPORATION, P.O. Box 4313, 210 Baker Street, NW., Atlanta, Ga. 30302. Applicant's representative: Harry J. Jordan, 1000 16th Street, NW., Washington, D.C. 20036. An Order by the Commission, Review Board Number 1, dated June 23, 1977, and served July 14, 1977, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle over irregular routes, in the transportation of *Currency, coin, securities and other negotiable instruments* between Salt Lake City, Utah, Nyssa, Ontario, and Vale, Oreg., under a continuing contract, or contracts, with the Federal Reserve Bank of San Francisco, of San Francisco, Calif., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to include currency and coin" in the commodity description.

No. MC 94350 (Sub-No. 377) (Republication), filed January 24, 1977, published in the FEDERAL REGISTER issue of March 10, 1977, and republished this issue. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). An Order of the Commission, Review Board Number 3, dated July 20, 1977, and served August 2, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of (1) *trailers* designed to be drawn by passenger automobiles, in initial movements, and (2) *buildings*, in sections, mounted on wheeled undercarriages, from points in Montgomery County, Tenn., to points in Illinois, Indiana, Kentucky, Missouri, North Carolina, Tennessee, and West Virginia; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the modifications made to the commodity description in application's grant of authority.

No. MC 124964 (Sub-No. 27) (republication) filed July 2, 1976, published in the FEDERAL REGISTER issue of August 5, 1976, and republished this issue. Applicant: JOSEPH M. BOOTH, doing business as J. M. BOOTH TRUCKING, P.O. Box 907, Eustis, Fla. 32726. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. An Order of the Commission, Review Board Number 1, dated July 22, 1977, and served July 28, 1977, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, in the transportation of *bakery products*, from points in Dade County, Fla., to Bridgeport, Conn., under a continuing contract or contracts with the Grand Union Company, or East Patterson, N.J., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the subsitution of Dade County, Fla., as the origin in lieu of Hialeah, Fla., in applicant's grant of authority.

No. MC 129068 (Sub-No. 37) (republication), filed January 3, 1977, published in the FEDERAL REGISTER issue of February 10, 1977, and republished this issue. Applicant: GRIFFIN TRANSPORTATION, INC., 3002 S. Douglas Blvd., Oklahoma City, Okla. 73150. Applicant's representative: Jack L. Griffin (same address as applicant). An Order of the Commission, Review Board Number 3, dated July 14, 1977, and served August 1, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of (1) trailers, designed to be drawn by passenger automobiles, in secondary movements; and (2) *buildings*, complete or in sections, mounted in wheeled under carriages, from points in Kansas, to points in the United States (except Alaska, Hawaii, and Kansas) restricted against the transportation of camping trailers and travel trailers; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to give notice that those portions of the authority authorizing the transportation of buildings, complete or in sections, mounted on wheeled under carriages, are being granted without the restriction against the transportation of "modular units and prefabricated buildings" set forth in the prior publication.

No. MC 130248 (Sub-No. 1) (republication), filed December 6, 1976, published the FEDERAL REGISTER issue of January 13, 1977, and republished this issue. Applicant: EAST TENNESSEE AUTOMOBILE CLUB INCORPORATED, 100 West Fifth Avenue, Knoxville, Tenn. 39717. Applicant's representative: Morris J. Levin, 1620 Eye Street, NW., Washington, D.C. 20006. An Order of the Commission, Review Board Number 2, dated July 5, 1977, and served August 4, 1977, finds that operation by applicant as a *broker* at Bristol, Va., and Knoxville and Kingsport, Tenn., in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of passengers and their baggage, in round trip tours, in special or charter operations, (1) beginning and ending at points in Anderson, Blount, Bradley, Campbell, Carter, Claiborne, Cocke, Grainger, Green Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, McMinn, Meigs, Monroe, Morgan, Polk, Rhea, Roane, Scott, Sevier, Sullivan, Union, Unicoi, and Washington Counties, Tenn., and extending to points in the United States (including Alaska and Hawaii, but excluding Tennessee), and (2) between points in the United States, restricted to the transportation of tour parties beginning or ending at points in the counties specified in (1) above further restricted to the transportation of tour parties having an immediately prior or subsequent transportation by air, water, or rail, will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is (a) to indicate the addition of Hawaii in applicant's grant of authority; and (b) to indicate the authorization of brokerage of intermodal tours.

No. MC 130420 (Republication) filed November 1, 1976, published in the FEDERAL REGISTER issue of November 24, 1976, and republished this issue. Applicant: BRUCE THOMPSON, doing business as VIRGINIA SKI TRAVEL SERVICE, 701 Sir Walter Circle, Virginia Beach, Va. 23452. Applicant's representative: Willis J. Spaulding, 808 Maritime Tower, Norfolk, Va. 23510. An Order of the Commission, Review Board Number 2, dated July 19, 1977, and served August 2, 1977, finds that operation by applicant as a *broker* at Norfolk, Va., in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of *passengers and their baggage*, in ski tours, in special or charter operations, beginning and ending at Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, Virginia Beach, and Williamsburg, Va., and extending to points in Maine, Maryland, New Hampshire, New York, Pennsylvania, Vermont, and West Virginia, will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the grant of authority to operate as a broker at Norfolk, Va., in lieu of Virginia Beach, Va.

No. MC 142685 (Republication filed November 24, 1976, published in the FEDERAL REGISTER of December 23, 1976, and republished this issue. Applicant: JOHN R. VERDINO, doing business as J & S MOTOR SERVICE, 2038 North Keeler Street, Chicago, Ill. 60639. Applicant's representative: Robert W. Loser, II, 1009 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. An Order of the Commission, Review Board Number 2, dated July 21, 1977, and served August 4, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *packaging materials and supplies*, used in butcher shops, from the warehouse facilities of Kraft Paper Sales Co., at Harvey, Ill., to Goshen, Portage, and Valparaiso, Ind.; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the substitution of Harvey, Ill. in lieu of Chicago, Ill. in the origin point description, and the substitution of Goshen, Ind. as a destination point in lieu of Elkhart, Ind. in applicant's grant of authority.

No. MC–F–12334 (republication) filed October 9, 1974, published in the FEDERAL REGISTER issue of October 23, 1974, republished in part, as corrected, in the FEDERAL REGISTER issue of November 6, 1974, and republished this issue. Authority sought for purchase by TREDWAYS EXPRESS, INC., 512 Myrtle Avenue, Boonton, N.J. 07005, of a portion of the operating rights of Empire Carriers Corporation (Alfred A. Rosenberg, Trustee), 245 Fifth Avenue, New York, N.Y. 10016, and for acquistion by Trucking Enterprises, Inc., 744 Broad Street, Newark, N.J. 07102, Joseph E., Joseph A., and Albert M. Saldutti, all of Boonton, N.J. 07005, of control of such rights through the purchase. Applicant's attorney and representative: William J. Augello, 120 Main Street, Huntington, N.Y. 11743, and Alfred Rosenberg, Trustee, 16 Court Street, Brooklyn, N.Y. 11241. The Initial Decision of the Administrative Law Judge, dated April 30, 1976, and served May 11, 1976, orders that the purchase by Tredways Express, Inc., of the below described portion of the operating rights of Empire Carriers Corp., and the acquisition by Trucking Enterprises, Inc., Joseph E. Saldutti, Joseph A. Saldutti, and Albert M. Saldutti of control of said rights through the transaction, be approved and authorized. Said operating rights are as follows: *General commodities*, with the usual exceptions, as a *common carrier* over irregular routes, between New York, N.Y., on the one hand, and, on the other, points in Westchester, Dutchess, Columbia, Ulster, and Orange Counties, N.Y., and from New York, N.Y. to points in Putnam and Rockland Counties, N.Y. The purpose of this republication is to give notice of the amendment of the Tredways purchase application so as to include Columbia County within the radial territory to be served in conjunction with the New York, N.Y. base area.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR §1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if not representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 2421 (Sub-No. 14), filed July 1, 1977. Applicant: NEWTON TRANSPORTATION COMPANY, INC., P.O. Box 678, Lenoir, N.C. 28645. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue & 13th St., NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *flat glass*, from Crystal City, Missouri, to the plant sites of Lenoir Mirror Company in and/or near Lenoir, N.C.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Louis, Mo. or Washington, D.C.

No. MC 2860 (Sub-No. 163), filed July 5, 1977. Applicant: NATIONAL FREIGHT, INC., 71 West Park Avenue, Vineland, N.J. 08360. Applicant's representative: W. Randall Tye, 1400 Candler Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: such merchandise as is dealt in by wholesale and retail chain department and food stores, and equipment, material and supplies used in the conduct of such business: between the distribution center of S.S. Kresge Company or K Mart Stores, Inc. at or near Newman, Georgia on the one hand, and, on the other, points in Alabama, Arkansas, Connecticut, Florida, Kentucky, Louisiana, Maryland, Massachusetts, Mississippi, New Jersey, New York, North Carolina, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, Applicant requests that it be held at Atlanta, Georgia, Washington, D.C., or Detroit, Michigan.

No. MC 2960 (Sub-No. 14), filed June 24, 1977. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, INC., 2301 McKinney Street, Houston, Tex. 77023. Applicant's representative: E. Larry Wells Suite 1125 Exchange Park, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except liquid commodities in bulk, in tank vehicles), from the plantsite and storage facilities of Bel-Tex at Fort Worth, Tex., to Houston, Tex. Restricted to traffic moving in refrigerated containers and to traffic having a subsequent movement by water.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Dallas, or Houston, Tex.

No. MC 5470 (Sub-No. 126), filed: June 29, 1977. Applicant: TAJON, INC., R.D. 5, Mercer, Pa. 16137. Applicant's representative: Donald E. Cross, 918 16th Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in dump vehicles, from the port site and facilities of the Paducah-McCracken County River Port Authority located at Paducah, Kentucky to points in Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, New York, North Carolina, Ohio, Pennsylvania, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

V 42 160 AUG 18 77 UM

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Cincinnati, Ohio or Washington, D.C.

No. MC 5470 (Sub-No. 128), filed July 5, 1977. Applicant: TAJON, INC., R.D. 5, Mercer, Pa. 16137. Applicant's representative: Brian L. Troiano, 918 16th Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores and metals*, in dump vehicles, from Baltimore, Maryland, to points in Ohio on and east of U.S. Highway 23, points in Pennsylvania on and west of U.S. Highway 219, and points in West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pennsylvania.

No. MC 11207 (Sub-No. 395), filed June 21, 1977. Applicant: DEATON, INC., 317 Avenue W., P.O. Box 938, Birmingham, Alabama 35201. Applicant's representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *ground clay, floor sweeping compounds, and absorbents* (except in bulk), from the plantsite and warehouse sites of Oil-Dri Corporation of America, located at or near Ochlocknee, Georgia, to points in Alabama, Arkansas, Florida, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia; and (2) *floor sweeping compounds, and absorbents* (except in bulk), from the plantsite and warehouse sites of Oil-Dri Corporation of America located at or near Ripley, Mississippi to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Illinois.

No. MC 13569 (Sub-No. 33), filed July 5, 1977. Applicant: THE LAKE SHORE MOTOR FREIGHT COMPANY, a Corporation 1200 South State Street, Girard, Ohio 44420. Applicant's representative: John P. Tynan, P.O. Box 1409, 167 Fairfield Road, Fairfield, N.J. 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum, Sheet or Strip*, between the plant site of Matthiessen & Hegeler Zinc Co. located at or near LaSalle, Illinois and the plant site of Ekco Products, Inc., located at or near Clayton, N.J.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Chicago, Ill or Washington, D.C.

No. MC 19105 (Sub-No. 45), filed July 1, 1977. Applicant: FORBES TRANSFER COMPANY, INC., P.O. Box 3544, Wilson, N.C. 27893. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th St. NW., Washington, D.C. 20423. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plywood panels*, from the facilities of Plywood Panels, Inc., at Norfolk, Va., to points in North Carolina; and (2) *plywood, composition board, plastic articles and moulding*, from the facilities of Weyerhaeuser Company, at Chesapeake, Va., to points in North Carolina. The above authority is restricted to traffic originating at and destined to the named origins and destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Norfolk, Va., or Washington, D.C.

No. MC 20916 (Sub-No. 25), filed June 21, 1977. Applicant: JOHN T. SISK, Rt. 2, Box 182–B, Culpeper, Va. 22701. Applicant's representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, Va. 22611. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, (1) from points in Amelia, Albemarle, and Campbell Counties, Va., to points in New Jersey and points in Rockland, Nassau, Orange, Suffolk, Queens, and Westchester Counties, N.Y.; (2) from points in Louisa County, Va., to points in Rockland, Nassau, Orange, Suffolk, Queens, and Westchester Counties, N.Y.; and (3) from points in Culpeper County, Va., to points in Connecticut, Massachusetts, Ohio, and Vermont.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Richmond, Va. Applicant holds contract carrier authority in MC 134427 and Sub No. 2 thereunder, therefore dual operations may be involved.

No. MC 31389 (Sub-No. 229), filed July 1, 1977. Applicant: McLEAN TRUCKING COMPANY (a corporation), 617 Waughtown Street, Winston-Salem, N.C. 27107. Applicant's representative: David F. Eshelman, P.O. Box 213, Winston-Salem, N.C. 27102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the site of United Gas Pipe Line Company Compressor Station near Vinton, La., as an off-route point in conjunction with applicant's regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Houston, Tex or Washington, D.C.

No. MC 33433 (Sub-No. 2), filed June 22, 1977. Applicant: FRANK STEFANELLI TRUCKING, 1297 Van Houten Ave., Clifton, N.J. 07013. Applicant's representative: Frank Stefanelli (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *Plastic materials, aggregates of plastics materials and equipment and supplies* used in the manufacture of Plastics, in packages, between points in Middlesex County, N.J., on the one hand, and, on the other, New York, N.Y., and points in Westchester, Nassau, and Suffolk Counties, N.Y.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Newark, N.J., or Trenton, N.J.

No. MC 35334 (Sub-No. 80), filed June 29, 1977. Applicant: COOPER-JARRETT, INC., Hanover Plaza, Morristown, N.J. 07960. Applicant's representative: Irving Klein, 371 Seventh Avenue, New York, N.Y. 10001. Authority sought to operate as a *common carrier* by motor vehicle over regular routes transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment). Route 1—Between Cincinnati, Ohio and Lexington, Ky.: From Cincinnati, Ohio via Interstate Highways 71/75 to junction Interstate Highways 71 and 75, thence via Interstate Highway 75 to Lexington, Ky. and return over the same route. Route 2—Between Cincinnati, Ohio and Louisville, Ky.: From Cincinnati, Ohio via Interstate Highways 71 75 to junction Interstate Highways 71 and 75, thence via Interstate Highway 71 to Louisville, Ky. and return over the same route. Route 3—Between Louisville, Ky. and Lexington, Ky.: From Louisville, Ky. via Interstate Highway 64 to junction Interstate Highways 64 and 75, thence via Interstate Highway 75 to Lexington, Ky. and return over the same route. Route 4—Between Lexington, Ky. and Catlettsburg, Ky.: From Lexington, Ky. via Interstate Highway 75 to junction Interstate Highways 64 and 75, thence via Interstate Highway 64 to junction Interstate Highway 64 and U.S. Highway 23, thence via U.S. Highway 23 to Catlettsburg, Ky. and return over the same route.

Route 5—Between Catlettsburg, Ky. and South Portsmouth, Ky.: From Catlettsburg, Ky. via U.S. Highway 23 to South Portsmouth, Ky. and return over the same route. Route 6—Between Lexington, Ky. and Jellico, Ky.: From Lexington, Ky. via Interstate Highway 75 to junction Interstate Highway 75 and U.S. Highway 25W, thence via U.S. Highway 25W to Jellico, Ky. and return over the same route. Route 7—Between Lexington, Ky. and Elizabethtown, Ky.: From Lexington, Ky. via U.S. Highway 60 to junction U.S. Highway 60 and 62, thence via U.S. Highway 62 to Elizabethtown, Ky. and return over the same route. Route 8—Between Louisville, Ky. and Henderson, Ky.: From Louisville, Ky. via U.S. Highways 31W 60 to junction U.S. Highway 60, thence via U.S. Highway 60 to Henderson, Ky. and return over the same route. Route 9—Between Louisville, Ky. and Bowling Green, Ky.: From Louisville, Ky. via U.S. Highways 31W/60 to junction U.S. Highway 31W and U. S. Highway 60, thence via U.S. Highway 31W to Bowling Green, Ky. and return over the same route.

Route 10—Between Louisville, Ky. and Paducah, Ky.: From Louisville, Ky. via U.S. Highways 31W/60 to junction U.S. Highway 31W and U.S. Highway 60, thence via U.S. Highway 31W to Elizabethtown, Ky., thence via U.S. Highway 62 to Paducah, Ky. and return over the same route. Route 11—Between Bowling Green, Ky. and Owensboro, Ky.: From Bowling Green, Ky. via U.S. Highway 231 to Owensboro, Ky. and return over the same route. Route 12—Between Bowling Green, Ky. and the junction of Interstate Highway 65 and U.S. Highway 31W: From Bowling Green, Ky. via U.S. Highway 231 to junction Interstate Highway 65, thence via Interstate Highway 65 to junction Interstate Highway 65 and U.S. Highway 31W and return over the same route. Route 13—Between Bowling Green, Ky. and the junction of U.S. Highway 41 and U.S. Highway 62 at or near Nortonville, Ky.: From Bowling Green, Ky. via U.S. Highway 68 to Hopkinsville, Ky., thence via U.S. Highway 41 to junction U.S. Highway 41 and U.S. Highway 62 at or near Nortonville, Ky. and return over the same route. Route 14—Between Henderson, Ky. and the junction of U.S. Highways 41 and 62 at or near Nortonville, Ky.: From Henderson, Ky. via U.S. Highway 41 to junction U.S. Highways 41 and 62 at or near Nortonville, Ky. and return over the same route.

Route 15—Between Paducah, Ky. and Fulton, Ky.: From Paducah, Ky. via U.S. Highway 45 to Fulton, Ky. and return over the same route. Route 16—Between Cincinnati, Ohio and Maysville, Ky.: From Cincinnati, Ohio via Interstate Highways 71/75 to junction Kentucky State Highway 8, thence via Kentucky State Highway 8 to Maysville and return over the same route. Route 17—Between Lexington, Ky. and Maysville, Ky.: From Levington, Ky. via U.S. Highways 27/68 to junction U.S. Highways 27 and 68, thence via U.S. Highway 68 to Maysville, Ky. and return over the same route. Route 18—Between Bowling Green, Ky. and Somerset, Ky.: From Bowling Green, Ky. via U.S. Highway 31W to junction U.S. Highway 68/Kentucky State Highway 80, thence via U.S. Highway 68/Kentucky State Highway 80 to junction U.S. Highway 68, thence via Kentucky State Highway 80 to Somerset, Ky. and return over the same route. Route 19—Between Lexington, Ky. and the junction of U.S. Highway 27 and the Kentucky-Tennessee State Line at or near Strunk, Ky.: From Lexington, Ky. via U.S. Highway 27 to junction U.S. Highway 27 and the Kentucky-Tennessee State Line at or near Strunk, Ky. and return over the same route.

Route 20—Between Henderson, Ky. and Paducah, Ky.: From Henderson, Ky. via U.S. Highway 60 to junction U.S. Highway 62, thence via U.S. Highway 62 to Paducah, Ky., and return over the same route. Service is authorized to and from all intermediate points and off-route points in Kentucky.

Restriction: The operations authorized on all of the above routes are subject to the following conditions: Said operations are restricted against the transportation of traffic originating at, destined to, or received from or delivered to connecting carriers at Cincinnati, Ohio, and points in its commercial zone as defined by the Commission. Said operations are restricted to the transportation of traffic moving from, to, or through junction Interstate Highways 79 and 80 at or near Mercer, Pa. No authority herein is granted to serve any points in the commercial zones of any city in Kentucky located outside the State of Kentucky unless otherwise authorized.

No. MC 42487 (Sub-No. 866), filed July 1, 1977. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, California 94025. Applicant's representative: V. R. Oldenburg, P.O. Box 5138, Chicago, Illinois 60680. Authority is sought to operate as a *common carrier*, by motor vehicle, over regular routes transporting: General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), serving the plantsite and warehouse facilities of Rheem Manufacturing Company located at or near Milledgeville, Georgia as an off-route point in connection with carrier's authorized regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Atlanta, Ga.

No. MC 51004 (Sub-No. 8), filed July 1, 1977. Applicant: PAUL H. LISKEY, Kearneysville, West Virginia 25430. Applicant's representative: Daniel B. Johnson, 1123 Munsey Building, 1329 E Street N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural lime*, from Jefferson County, West Virginia to points in Delaware. (2) *Sand*, (a) from Adams County, Pennsylvania to points in Berkeley and Jefferson Counties, West Virginia; Clarke, Frederick and Loudoun Counties, Virginia; and Washington and Frederick Counties, Maryland, (b) from Howard, Prince Georges and Baltimore Counties and Baltimore City, Maryland, to points in Berkeley and Jefferson Counties, West Virginia; and Clarke, Frederick and Loudoun Counties, Virginia. (3) *Feed and feed supplement and ingredients*, (a) from Camp Hill and York, Pennsylvania to points in Jefferson and Berkeley Counties, West Virginia; Frederick, Clarke and Loudoun Counties, Virginia; and Frederick, Washington and Montgomery Counties, Maryland, (b) from Charles Town, West Virginia to points in Jefferson and Berkeley Counties, West Virginia; Frederick, Clarke and Loudoun Counties, Virginia; and Washington, Frederick and Montgomery Counties, Maryland.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Charles Town, West Virginia or Martinburg, West Virginia.

No. MC 52323 (Sub-No. 2), filed July 7, 1977. Applicant: E. I. BRANDT TRUCKING CO., INC., 576 No. George Washington Blvd., P.O. Box 125, Yuba City California 95991. Applicant's representative: E. I. Brandt, 576 No. George Washington Blvd., Yuba City, California 95991. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Canned goods and preserved fruit products from Yuba City, California to Roseville, Sacramento, Stockton, Oakland and San Francisco, California.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at San Francisco or Sacramento, California.

No. MC 54444 (Sub-No. 8), filed July 1, 1977. Applicant: MAIN EXPRESS & STORAGE CO., a Corporation, 5938 South 13th St., Milwaukee, Wisc. 53221. Applicant's representative: Rolfe E. Hanson, 121 West Doty Street, Madison, Wisc. 53703. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *Such merchandise* as is dealt in by retail radio and electronic equipment stores, between Milwaukee, Wisc., on the one hand, and, on the other, points in Wisconsin, restricted to traffic originating at or destined to retail stores of Radio Shack division of Tandy Corporation, in Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests it be held at either Madison or Milwaukee, Wisc. Common control may be involved.

No. MC 56679 (Sub-No. 93), filed June 27, 1977. Applicant: BROWN TRANSPORT CORP., 352 University Avenue, S.W., Atlanta, Georgia 30315. Applicant's representative: John T. Coon (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General Commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment):

(1) Between Atlanta, Georgia and Columbus, Georgia, serving all intermediate points; From Atlanta, Georgia over U.S. Highway 41 to its junction with Georgia Highway 54, thence over Georgia Highway 54 to Fayetteville, Georgia, thence over Georgia Highway 85 to Woodbury, Georgia, thence over Georgia Highway 85E to Manchester, Georgia, thence over Georgia Highway 85 (U.S. 27A) to Columbus, Georgia, and return over the same route, serving the off-route points of Turin, Sharpsburg, Brooks and Woodland, Georgia.

From Atlanta, Georgia over U.S. Highways 41 and 19 to Griffin, Georgia, thence over Georgia Highway 19 to Zebulon, Georgia, thence over Georgia Highway 18 to Woodbury, Georgia, connecting with the route next above to Columbus, Georgia, and return over the same route and between Hampton and Zebulon, Georgia.

(2) Between Columbus, Georgia and Abbeville, Georgia, for operating convenience only, serving no intermediate points except Cordele, Georgia and Ab-

V42 N160 AUG 18 77 UM

beville, Georgia, for purposes of joinder only. From Columbus, Georgia over U.S. Highway 280 to Abbeville, Georgia, and return over the same route.

(3) Between Dothan, Alabama and Columbus, Georgia, for operating convenience only, serving no intermediate points. From Dothan, Alabama over U.S. Highway 431 to Columbus, Georgia, and return over the same route.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Georgia or Washington, D.C. Common control may be involved.

No. MC 56679 (Sub-No. 94), filed June 30, 1977. Applicant: BROWN TRANSPORT CORP., 352 University Avenue, S.W., Atlanta, Ga. 30315. Applicant's representative: John T. Coon (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen Foodstuffs* or *Frozen Foodstuffs when in mixed shipments with Foodstuffs*, (not frozen) from Dade City, Fla. to points in Virginia, Maryland, Delaware, District of Columbia, New Jersey, Pennsylvania, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont and Maine.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Georgia or Washington, D.C. Common control may be involved.

No. MC 61396 (Sub-No. 333), filed June 21, 1977. Applicant: HERMAN BROS. INC., 2565 St. Marys Avenue, P.O. Box 189, Omaha, Nebr. 68191. Applicant's representative: John E. Smith, II (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

Liquid fertilizer, in bulk, in tank vehicles, from the plantsite and storage facilities of Agriculture Chemicals, Inc., located at or near Old Monroe, Mo., to points in Illinois.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Omaha, Nebr.

No. MC 61592 (Sub-No 403), filed July 5, 1977. Applicant: JENKINS TRUCK LINE, INC., Post Office Box 697, Jeffersonville, Ind. 47130. Applicant's representative Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes transporting such commodities as are dealt in, or used by, agricultural equipment, industrial equipment and lawn and leisure products manufacturers and dealers (except commodities in bulk), (1) Between the facilities of, or used by International Harvester Company at East Moline, Moline and Rock Island, Ill., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia and the District of Columbia. (2) Between the facilities of, or used by, International Harvester Company at Louisville, Ky., and Memphis, Tenn., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). (3) Between the facilities of, or used by, International Harvester Company at Canton, Ill., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont and the District of Columbia. (4) From the facilities used by International Harvester Company at the Port of New Orelans, La., and points in its commercial zone, to points in Arkansas, Kentucky, Louisiana, Mississippi, New Mexico, Oklahoma, Tennessee, and Texas.

Restrictions: The authorities in paragraphs (1), (2) and (3) above are restricted to the transportation of traffic (a) originating at the facilities of, or used by, International Harvester Company at the points named in each of said respective paragraphs and destined to points in the States named in said paragraphs and the District of Columbia, or (b) originating at points in the States named in each of said respective paragraphs and the District of Columbia and destined to the facilities of, or used by, International Harvester Company at the points named in said paragraphs, except that the restrictions in (a) and (b) above shall not apply to traffic moving in foreign commerce; and the authorities in paragraph (4) above are restricted to the transportation of traffic (a) having a prior movement by water and (b) destined to the facilities or dealers of International Harvester Company.

NOTE.—Applicant seeks authority to serve Ports of Entry on the International Boundary Line between the United States and Canada located in the involved States bordering on Canada and to participate in traffic moving from and to Canadian Provinces which can be served in connection therewith. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. or Chicago, Ill. Common control may be involved.

No. MC 61592 (Sub No. 404), filed July 5, 1977. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, Ind. 47130. Applicant's representative: E. A. DeVine, 101 First Avenue, P.O. Box 737, Moline, Ill. 61265. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings, equipment, supplies and building materials* (except commodities in bulk); Between the plantsite of Arkansas Log Homes, Inc. located in Polk County, Arkansas on the one hand, and, on the other, points in the United States in and east of Colorado, Montana, New Mexico and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Memphis, Tennessee.

No. MC 71459 (Sub-No. 66), filed July 5, 1977. Applicant: O.N.C. FREIGHT SYSTEMS, 4030 Fabian Street, Palo Alto, Calif. 94303. Applicant's representative: Henry O. Barnhart, P.O. Box 10280, Palo Alto, Calif. 94303. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): between the junction of U.S. Highways 87 and 285 and the junction of U.S. Highways 160 and 285: From the junction of U.S. Highways 87 and 285 over U.S. Highway 87 to the junction of U.S. Highway 160, thence over U.S. Highway 160 to the junction of U.S. Highway 285 and return over the same route, serving no intermediate points and serving the junction of U.S. Highways 160 and 285 for purposes of joinder only.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant does not specify a location.

No. MC 78687 (Sub-No. 48), filed July 1, 1977. Applicant: LOTT MOTOR LINES, INC., P.O. Box 751, West Cayuga St., Moravia, N.Y. 13118. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street, N.W., Washington, D.C. 20001. Authority is sought by applicant to operate in interstate or foreign commerce as a *common carrier*, by motor vehicle over irregular routes, transporting: *Salt*, in bulk, from points in St. Lawrence County, N.Y., to points in Massachusetts, New York and Vermont.

NOTE.—If a hearing is held, applicant requests that it be held in Chicago, Ill., or Washington, D.C. Applicant holds contract carrier authority in MC 2505, therefore dual operations may be involved. Common Control may also be involved.

No. MC 82063 (Sub-No. 81), filed June 29, 1977. Applicant: KLIPSCH HAULING CO. (a corporation), 10795 Watson Road, Sunset Hills, St. Louis, Mo. 63127. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Liquid Chemicals, in bulk, in tank vehicles, from Monticello, Arkansas, to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Memphis, Tenn., or Little Rock, Ark.

No. MC 82658 (Sub-No. 9), filed July 1, 1977. Applicant: ECONOMY FREIGHT LINES, INC., 6357 N. Normandy Avenue, Chicago, Ill., 60631. Applicant's representative: Donald S. Mullins, 4704 W. Irving Park Road, Chicago, Ill., 60641. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass Bottles*, from Streator, Illinois, to the plant site of G. Heileman Brewing Company, Inc., at La Crosse, Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, IL.

No. MC 82841 (Sub-No. 211), filed June 23, 1977. Applicant: HUNT TRANSPORTATION INC., 10770 "I" Street, Omaha, Nebr., 68127. Applicant's representative: Donald Stern, 530 Univac Bldg., 7100 W. Center Road, Omaha, Nebr., 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *used irrigation systems and accessories* between points within the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Omaha, Nebr.

No. MC 83539 (Sub-No. 461), filed July 5, 1977. Applicant: C & H TRANSPORTATION CO., INC., 1936-2010 West Commerce Street, P.O. Box 5976, Dallas, Tex. 75222. Applicants representative: Mr. Thomas E. James, P.O. Box 5976, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-cut log buildings and materials and supplies* used in or incidental to the erection thereof. From points in Rogers County, Oklahoma to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Tulsa, Oklahoma or Dallas, Texas.

No. MC 83539 (Sub-No. 462), filed July 5, 1977. Applicant: C & H TRANSPORTATION CO., INC., 1936-2010 West Commerce Street, P.O. Box 5976, Dallas, Tex. 75222. Applicants representative: Mr. Thomas E. James, P.O. Box 5976, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Self-propelled articles*, (except in driveway service), and related machinery, tools, parts and supplies moving in connection therewith. (2) *Parts, materials, equipment and supplies*, used in the manufacture and distribution of (1) above. Between points in King County, Washington, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Seattle, Wash.

No. MC 87909 (Sub-No. 27), filed June 23, 1977. Applicant: ARROW MOTOR FREIGHT LINE, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: John P. Rhodes, P.O. Box 5000, Waterloo, Iowa 50704. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and articles distributed by meat packing houses*, as described in Sections A and C of Appendix I to the report, in Descriptions in Motor Carrier Certificate, 61 M.C.C. 209 and 766, except hides and commodities in bulk, from St. Paul, and South St. Paul, Minn. to Chicago, Ill.

NOTE.—Common control may be involved. If a hearing is deemed necessary the applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 94430 (Sub-No. 43), filed July 5, 1977. Applicant: WEISS TRUCKING COMPANY, INC., Box 7, Mongo, Ind. 46711. Applicant's representative: John L. Alden, 1396 West Fifth Avenue, Columbus, Ohio 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in tank vehicles, from ports of entry on the International Boundary line between the United States and Canada located at or near Ft. Erie, Queenston and Niagara Falls, Canada, to points in New York on and west of New York Highway 14.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Detroit, Mich. or Washington, D.C.

No. MC 94597 (Sub-No. 3), filed July 1, 1977. Applicant: HENRY LAMBERT TRUCKING CO., INC., 101 First Ave. NE., Minneapolis, Minn. 55413. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Trap rock*, in bulk, in dump vehicles from Dresser, Wisconsin to points in Michigan, Illinois, Kansas, Nebraska, Missouri and Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Minneapolis, Minnesota.

No. MC 95540 (Sub-No. 988), filed July 1, 1977. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, Lakeland, Fla. 33802. Applicant's representative: Benjy W. Fincher, P.O. Box 1636, Lakeland, Fla. 33802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay and Clay products* (except in bulk), from points in Scott and Stoddard Counties, Missouri to points in the United States, except Alaska, Hawaii, Kansas, Nebraska, Oklahoma, Missouri, Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Detroit, Mich., Washington, D.C. or Tampa, Fla.

No. MC 100449 (Sub-No. 75), filed June 30, 1977. Applicant: MALLINGER TRUCK LINE, INC., Rural Route No. 4, Fort Dodge, Iowa 50501. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats*, from the plantsite and warehouse facilities of Jack Polen Beef Co. at or near Kansas City, Kansas to Eau Claire and Whitehall, Wisc. and Buffalo Lake and St. Paul, Minn.; (2) *Foodstuffs*, from Kansas City, Mo. to points in Indiana, New York, and Pennsylvania; and (3) *Foodstuffs*, from Independence, Mo. to points in Iowa and Nebraska.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Kansas City, Mo. or Omaha, Nebr.

No. MC 100666 (Sub-No. 351), filed July 5, 1977. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 N.W. 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in, or used by, agricultural equipment, industrial equipment, and lawn and leisure product dealers (except commodities in bulk), (a) from the facilities of Deere and Company, located in Black Hawk, Dubuque, Polk, Wapello and Scott Counties, Iowa, Rock Island County, Ill., and Dodge County, Wis., to points in Alabama on and north of Interstate Highway 59, and Butler, Cape Girardeau, Dunklin, Mississippi, New Madrid, Pemiscot, Scott, and Stoddard Counties, Mo.; (b) from the facilities of Deere and Company located in Black Hawk, Dubuque, and Scott Counties, Iowa, and Dodge County, Wis., to points in Tennessee; (c) from the facilities of Deere and Company located in Black Hawk, Dubuque, Polk, and Wapello Counties, Iowa, to points in Oklahoma, and (d) from the facilities of Deere and Company located in Black Hawk, and Dubuque Counties, Iowa, and Dodge County, Wis., to points in Mississippi, restricted in (a), (b), (c) and (d) to the transportation of traffic (except moving in foreign commerce) originating at the named facilities of Deere & Company, and destined to the destination points named; (2) Return shipments of the commodities described in (1) above, (a) from points in Alabama on and North of Interstate Highway 59 and Butler, Cape Girardeau, Dunklin, Mississippi, New Madrid, Pemiscot, Scott and Stoddard Counties, Missouri to facilities of Deere & Company located at Black Hawk, Dubuque, Polk, Wapello and Scott Counties, Iowa and Rock Island County, Illinois, and Dodge County, Wisconsin (b) from points in Tennessee to facilities of Deere & Company located at Black Hawk, Dubuque and Scott Counties, Iowa and Dodge County, Wisconsin (c) from points in Mississippi to facilities of Deere & Company located at Black Hawk and Dubuque Counties, Iowa, and Dodge County, Wisconsin, and (d) from points in Oklahoma to facilities of Deere & Company located at Black Hawk, Dubuque, Polk and Wapello Counties, Iowa, restricted in the 4 paragraphs next-above to the transportation of traffic destined to the named facilities of Deere & Company.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Dallas, Texas or Chicago, Illinois.

No. MC 100666 (Sub-No. 352), filed July 6, 1977. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 N.W. 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Precut log buildings, and materials and supplies* used in the construction, installation and erection thereof, from Polk County, Ark., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 103051 (Sub-No. 399), filed July 5, 1977. Applicant: FLEET TRANSPORT COMPANY, INC., 934-44th Avenue, North, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone, P.O. Box 90408 ,Nashville, Tenn. 37209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Activated Carbon*, in bulk, in tank or hopper-type vehicles, from Romeo, Florida to points in North Carolina, Kentucky, Virginia, Maryland, Delaware, Illinois, Indiana, Ohio, Pennsylvania, New Jersey, Iowa, Minnesota, Wisconsin, Michigan, New York and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Atlanta, Georgia or Nashville, Tennessee.

No. MC 103051 (Sub-No. 400), filed July 5, 1977. Applicant: FLEET TRANSPORT COMPANY, INC., 934-44th Avenue, North, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone, P.O. Box 90408, Nashville, Tenn. 37209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable Oils*, and *blends* thereof, in bulk, in tank vehicles, from Chattanooga, Tennessee to Louisville, Kentucky.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Nashville, Tennessee or Atlanta, Georgia.

No. MC 103051 (Sub-No. 401), filed July 5, 1977. Applicant: FLEET TRANSPORT COMPANY, INC., 934-44th Avenue, North Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone, P.O. Box 90408, Nashville, Tenn. 37209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal oil, vegetable oil, and blends thereof*, in bulk, in tank vehicles, from Savannah, Georgia, to points in Florida.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Nashville, Tennessee or Atlanta, Georgia.

No. MC 103051 (Sub-No. 402), filed July 5, 1977. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue, North, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone, P.O. Box 90408, Nashville, Tenn. 37209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid tallow, animal oils, animal fats, animal greases and animal oils blended with vegetable oils*, in bulk, in tank vehicles, from Dothan, Alabama and Thomasville and Quitman, Georgia, to points in Missouri, Illinois, Texas and Oklahoma.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Atlanta, Georgia or Nashville, Tennessee.

No. MC 106707 (Sub-No. 11), filed July 1, 1977. Applicant: ADAMS TRUCKING, INC., 1711 W. Second Street, Webster City, Iowa 50595. Applicant's representative: Ronald Adams (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in, or used by, agricultural equipment, industrial equipment and lawn and leisure products manufacturers and dealers* (except commodities in bulk), between the facilities of, or used by, International Harvester Company at Canton, East Moline, Moline, and Rock Island, Ill., on the one hand, and, on the other, points in Indiana, Iowa, Kentucky, Michigan, and Missouri. Restrictions: The above authority is restricted to the transportation of traffic (a) originating at the facilities of, or used by, International Harvester Company named therein and destined to points in the states named therein, or (b) originating at points in the states named therein and destined to the facilities of, or used by, International Harvester Company named therein, except that the restrictions in (a) and (b) shall not apply to traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. or Chicago, Ill.

No. MC 107012 (Sub-No. 243), filed June 27, 1977. Applicant: North American Van Lines, Inc., Lincoln Highway East and Meyer Road, P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representatives: Gerald A. Burns, P.O. Box 988, Fort Wayne, Ind. 46801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Doors, windows, door frames, window frames, and door and window hardware*, from the plantsite and storage facilities of The Malta Company—Division of Philips Industries, Inc., at or near Malta, Ohio to points in the United States (except Alaska and Hawaii).

NOTE.— Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Columbus, Ohio or Washington, DC.

No. MC 107295 (Sub-No. 856), filed July 1, 1977. Applicant: PRE-FAB TRANSIT CO. (a corporation), 100 South Main St., Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, Ill. 62707. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Gypsum, gypsum products and building materials* (except in bulk) and such materials and supplies as are used in the manufacture, installation and distribution of the aforementioned commodies (except commodities in bulk), between the facilities of the United States Gypsum Company, located at Southard, Oklahoma, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Chicago, Ill.

No. MC–107515 (Sub-No. 1086), filed July 1, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road, N.E., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned, bottled and prescrved foodstuffs*, other than frozen (except commodities in bulk), from the plantsite and warehouse facilities of Vlasic Foods, Inc., located at or near Greenville, Miss., to points in the United States (except Alaska and Hawaii), restricted to traffic originating at and destined to the points named.

NOTE.—Applicant controls Refrigerated Transport, Inc., which has contract carrier authority in MC 126436 (Sub-No. 2) and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 107515 (Sub-No. 1087), filed July 1, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC. Post Office Box 308, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road, N.E., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Magazines, periodicals, and parts and sections thereof*, from the plantsite and storage facilities of U.S. News and World Report, at Chicago, Ill., to Memphis, Tenn.; Atlanta, Ga.; and Jacksonville, Fla.

NOTE.—Applicant controls Refrigerated Transport, Inc., which has contract carrier authority in MC 126436 (Sub-No. 2) and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill., or Atlanta, Ga.

No. MC 107515 (Sub-No. 1088), filed July 1, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road, N.E., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen pizza crust*, in vehicles equipped with mechanical refrigeration, from the facilities of Food Products, Inc., located at or near Greenville, S.C., to Jackson, Tenn.

NOTE.—Applicant controls Refrigerated Transport, Inc., which has contract carrier authority in MC 126436 (Sub-No. 2) and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Greenville, S.C., or Atlanta, Ga.

No. MC 107515 (Sub-No. 1089), filed July 1, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, Ga. 30050.

Applicant's representative: Alan E. Serby, 3379 Peachtree Road, N.E., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery products*, in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities of Charms Company, at Covington, Tenn., to points in Alabama, Florida, Georgia, North Carolina and South Carolina.

NOTE.—Applicant controls Refrigerated Transport, Inc., which has contract carrier authority in MC 126436 (Sub-No. 2) and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 108006 (Sub-No. 23), filed July 1, 1977. Applicant: MAISLIN TRANSPORT LTD., 7401 Newman Boulevard, LaSalle, Quebec, Canada H8N 1X4. Applicant's representative: Edward L. Nehez, P.O. Box 1409, Fairfield, N.J. 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in or used by agricultural equipment, industrial equipment and lawn care product dealers* (except commodities in bulk), from ports of entry on the International Boundary line between the United States and Canada on the Niagara River, to points in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia, restricted to shipments originating at the facilities of John Deere Welland Works, Welland, Ontario, Canada.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y., or Washington, D.C.

No. MC 108341 (Sub-No. 64), filed July 1, 1977. Applicant: MOSS TRUCKING COMPANY, INC., P.O. Box 8409, Charlotte, N.C. 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cooling towers, and accessories, materials, and supplies for cooling towers* (except commodities in bulk), from the plantsite and facilities of E. D. Goodfellow, Inc., located at or near Tulsa, Oklahoma, to points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Tulsa, Okla., or Washington, D.C.

No. MC 108393 (Sub-No. 123), filed June 24, 1977. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 E. Ogden Ave., Rm. 126, Hinsdale, Ill. 60521. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *parts of electrical and gas appliances and equipment, materials and supplies* used in the manufacture, distribution and repair of electrical and gas appliances, between Belvidere, Ill., on the one hand, and, on the other, Clyde, Ohio and St. Joseph, Mich., under continuing contract or contracts with Whirlpool Corporation.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held in Washington, D.C.

No. MC 108835 (Sub-No. 41), filed July 5, 1977. Applicant: HYMAN FREIGHTWAYS INC., 1745 University Ave., St. Paul Minn. 55104. Applicant's representative: Rodney L. Trocke, 2690 N. Prior Ave., Roseville, Minn. 55113. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General Commodities* (except those of unusual value, Class A & B explosives, household goods as defined by the Commission, Commodities in bulk and those requiring special equipment), from Hutchinson, Minn., to Minneapolis-St. Paul, Minn., restricted to traffic which originates or is destined to the plant, storage or other facilities of the Minnesota Mining and Manufacturing Co., at the above named points and further restricted against the tacking with any other authority: from Hutchinson, Minn., to Minneapolis-St. Paul, Minn., over Minnesota Highway 7.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Paul, Minn.

No. MC 109708 (Sub-No. 71), filed June 29, 1977. Applicant: INDIAN RIVER TRANSPORT CO., doing business as INDIAN RIVER TRANSPORT, INC., P. O. Box AG, 2580 Executive Road, Dundee, Fla. 33828. Applicant's representative: James E. Wharton, Metcalf Building, Suite 811, 100 South Orange Avenue, Orlando, Fla. 32801. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *Vinegar*, in bulk in tank vehicle, from points in Massachusetts to points in South Carolina.

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held at Columbia, S.C.

No. MC 110683 (Sub-No 110), filed June 29, 1977. Applicant: SMITH'S TRANSFER CORPORATION, Post Office Box 1000, Staunton, Va. 24401. Applicant's representative: Thomas N. Willess, 1000 Sixteenth Street, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), Serving the plantsite and distribution facilities of the K-Mart Corporation, located at Coweta County, Georgia as an off-route point in connection with applicant's authorized regular route operations to serve Atlanta, Georgia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga. or Washington, D.C.

No. MC 111045 (Sub-No. 145), filed June 23, 1977. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, Fla. 33601. Applicant's representative: L. W. Fincher (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bulk, from points in Florida, to Montgomery, Ala.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Montgomery, Ala. or Washington, D.C.

No. MC 111231 (Sub-No. 214) (partial correction), filed May 25, 1977, published in the FEDERAL REGISTER issue of July 14, 1977, republished as corrected this issue. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, Ark. 72764. Applicant's representative: Douglas C. Wynn, P.O. Box 1295, Greenville, Mo. 38701. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment): (1) Between Homer, La., and Little Rock, Ark.: From Homer via Louisiana Highway 9 to its junction with U.S. Highway 167 at or near Junction City, La. Ark.; thence via U.S. Highway 167 to its junction with U.S. Highway 65; thence via U.S. Highway 65 to Little Rock, and return over the same route; serving all intermediate points.

NOTE.—The purpose of this partial republication is to correct the territorial description. The rest remains the same.

No. MC 111289 (Sub-No. 6), filed June 22, 1977. Applicant: RICHARD D. FOLTZ, P.O. Box 161, Orwinsburg, Pa. 17961. Applicant's representative: S. Berne Smith, 100 Pine Street, P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from Derry Township (Dauphin County), Pa., to those points in New York on and north and west of a line following U.S. Highway 44, from the New York-Connecticut State Boundary line west to the junction of U.S. Highway 209, thence south on U.S. Highway 209, to the New York-Pennsylvania State Boundary line; and (2) *Materials and supplies* used in the production of foodstuffs (except in bulk) and *return shipments of foodstuffs*, from points in New York as described above, to Derry Township (Dauphin County), Pa., under a continuing contract or contracts with Hershey Foods Corporation, Hershey, Pa.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Harrisburg, Pa., or at Washington, D.C.

No. MC 111545 (Sub-No. 238), filed June 30, 1977. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30065. Applicant's representative: Robert E. Born (same as above), Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *trailers designed to be drawn by passenger automobiles* (except travel trailers and camping trailers), and buildings, complete or in sections, mounted on wheeled undercarriages, from points in Texas, to points in the United States in and east of Texas, Oklahoma, Kansas, Nebraska, Iowa and Minnesota.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Houston, Tex.

No. MC 111710 (Sub-No. 9), filed June 30, 1977. Applicant: ARKANSAS TRANSIT CO., INC., P.O. Box 287, Springdale, Ark. 72764. Applicant's representative: Michael H. Mashburn, P.O. Box 869, Springdale, Ark. 72764. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers, metal container closures and materials, equipment and supplies* used in the manufacture, sales and distribution of metal containers and metal container closures, between points in Missouri and Arkansas, on the one hand, and other other, points in Tennessee and Mississippi.

NOTE.—If a hearing is deemed necessary, the applicant request it be held in Kansas City, Mo.

No. MC 112520 (Sub-No. 341), filed June 24, 1977. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, Fla. 32302. Applicant's representative: Thomas F. Panebianco (same address as applicant). Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: Paints, Varnishes, Lacquers, Resins, Stains, and Paint materials, in bulk, in tank vehicles, from Covington, Georgia to points in South Carolina.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga.

No. MC 113388 (Sub-No. 119), filed June 22, 1977. Applicant: LESTER C. NEWTON TRUCKING CO., a corporation, P.O. Box 618, Seaford, Del. 19973. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *frozen vegetables*, from Ridgely, Md., to points in Virginia, North Carolina, South Carolina, Georgia, and Florida.

NOTE.—If a hearing is deemed necessary the applicant requests that it be held in Washington, D.C. Common control may be involved.

No. MC 113459 (Sub-No. 110), filed July 5, 1977. Applicant H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, Okla. 73109. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Bldg., Dallas, Tex. 75224. Authority sought to operate as a *common carrier* motor vehicle, over irregular routes, transporting: (1) *Buildings*, complete, knocked down, or in sections; (2) *building sections and building panels;* (3) *parts and accessories* used in the installation and completion of commodities in (1) and (2) above; and (4) metal prefabricated structural components and panels and accessories used in the installation and completion thereof, from the plant site of Marathon Metallic Building Company, located at Fort Collins, Colo., to points in Arizona, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, South Dakota, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Dallas or Houston, Tex.

No. MC 113622 (Sub-No. 19), filed June 29, 1977. Applicant: SAMPSON HAULING CORP., Pavilion, N.Y. 14525. Applicant's representative: Kenneth T. Johnson, Bankers Trust Building, Jamestown, N.Y. 14701. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *Rip-rap, conglomerate aggregate, sand, gravel and stone*, in dump vehicles, from points in Tioga County, Pa. to points in Steuben County, N.Y.

NOTE.—Common control may be involved. If a hearing is deemed necessary, Applicant requests it to be held at Buffalo, N.Y.

No. MC 113678 (Sub-No. 676), filed June 27, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80022. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy, confectionary, and confectionary products* (except commodities in bulk), in vehicles equipped with mechanical refrigeration. From Reading, Pa. and points in Massachusetts to Arizona, Arkansas, California, Colorado, Louisiana, Missouri, Oklahoma, Oregon, Tennessee, Texas, and Washington.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa. or Washington, D.C.

No. MC 113678 (Sub-No. 677), filed June 27, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80022. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *coffee and coffee products* (except commodities in bulk in tank vehicles). From Edgewater, N.J., to points in Arizona, California, Idaho, Montana, Nevada, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at San Francisco or Los Angeles, Calif.

No. MC 113678 (Sub-No. 678), filed June 27, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80022. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aquariums, household pet cages, aquarium accessories, supplies and equipment, and materials and supplies* used in the manufacture of aquariums and household pet cages (except commodities in bulk). From Canton, Ga., to points in Arizona, California, Colorado, Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming restricted to traffic originating at the named origin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga. or Washington, D.C.

No. MC 113678 (Sub-No. 680), filed June 27, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80022. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Granular molding compounds* (except commodities in bulk in tank, hopper, or dump vehicles), in vehicles equipped with mechanical refrigeration. From Los Angeles, Calif., to points in the United States (except Alaska, California, and Hawaii), restricted to traffic originating at Los Angeles, Calif., or having a prior movement by a transportation mode other than motor carrier.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., or Phoenix, Ariz.

No. MC 113678 (Sub-No. 681, filed June 27, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80022. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in sections A & C of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, hides, skins, and pieces thereof). From the plantsite and storage facilities of Land O'Frost, Inc. at Searcy, Ark., to points in Arizona, California, Colorado, Idaho, Nevada, Oregon, Utah, and Washington, restricted to traffic originating at the named origins.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark. or Washington, D.C.

No. MC 113678 (Sub-No. 685), filed June 29, 1977. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, Colo. 80022. Aplicant's representative: Roger M. Shaner, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as dscribed in Section A of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk, hides, skins, and pieces thereof), from the plant and warehouse facilities of Webster City Custom Meats, located at or near Webster City, Iowa, to points in Arizona, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming, restricted to traffic originating at and destined to, the named points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Kansas City, Mo.

No. MC 113678 (Sub-No. 686), filed June 29, 1977. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, Colo. 80022. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk, hides, skins, and pieces thereof), from Eau Claire, Wis., to points in Arizona, California, Colorado, Idaho, Montana, New Mexico, Oregon, Utah, and Washington, restricted to traffic originating at the named origin point.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn., or Chicago, Ill.

No. MC 113678 (Sub-No. 687), filed June 29, 1977. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, Colo. 80022. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities of Stouffer Foods, Division of The Stouffer Food Corp., located at Cleveland and Solon, Ohio, to points in California, Colorado, Idaho, Nevada, Oregon, Utah, and Washington, restricted to traffic originating at, and destined to the named points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Cleveland or Columbus, Ohio.

No. MC 113678 (Sub-No. 688), filed June 29, 1977. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, Colo. 80022. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk), from Traverse City, Mich., to points in Arizona, California, Nevada, New Mexico, Oregon, Utah, and Washington, restricted to traffic originating at Traverse City, Mich.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Chicago, Ill.

No. MC 113678 (Sub-No. 689), filed June 29, 1977. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, Colo. 80022. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulated wire*, loose, on spools, reels, or carriers, and in containers, in vehicles equipped with mechanical refrigeration (except in bulk in tank vehicles), from Los Angeles and San Mateo, Calif., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., or Phoenix, Ariz.

No. MC 113678 (Sub-No. 691), filed July 1, 1977. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, Colo. 80022. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, frozen (except commodities in bulk in tank vehicles), between Laramie, Wyo., on the one hand, and, on the other, points in Connecticut, Delaware, Florida, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, West Virginia, Virginia, restricted to traffic originating at, and destined to, the named points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Omaha, Nebr.

No. MC 113678 (Sub-No. 693), filed June 30, 1977. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, Colo. 80022. Applicant's representative: Roger M. Shaner (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk and except frozen bakery products to Denver, Colo.), from Albuquerque, N. Mex., to points in Arizona, Colorado, Kansas, Oklahoma, and Utah.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Denver, Colo., or Phoenix, Ariz.

No. MC 113678 (Sub-No. 694), filed July 5, 1977. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, Colo. 80022. Applicant's representative: Roger M. Shaner (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk in tank vehicles), from City of Industry, Calif., to points in Oregon, Washington, and Idaho.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Los Angeles, Calif., or Portland, Oreg.

MC 113855 (Sub-No. 382), filed June 24, 1977. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: *Lift trucks and parts and attachments* for lift trucks from points in Fresno County, Calif., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at San Francisco, or Los Angeles, Calif.

MC 113855 (Sub-No. 383), filed July 5, 1977. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: *Trailer-mounted chippers* and *debarkers* in tow-away service, between points in King County, Wash., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii.)

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Seattle, Wash.

No. MC 114045 (Sub-No. 470), filed July 1, 1977. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, Tex. 75261. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, toilet preparations, chemicals, and all materials* used in the manufacture, sale, packaging, and distribution of same (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the Philadelphia, Pa., Lewes and Seaford, Del., Commercial Zones, to points in Arkansas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 114457 (Sub-No. 315), filed July 5, 1977. Applicant: DART TRANSIT CO., a corporation, 2102 University Ave., St. Paul, Minn. 55114. Applicant's representative: James H. Wills, 2102 University Ave., St. Paul, Minn. 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk) from the plantsites and warehouse facilities of Jeno's Inc., at Duluth, Minn., and Superior, Wis., to points in Alabama, Geogia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, restricted to traffic originating at and destined to the above named points.

NOTE.—If hearing is deemed necessary, applicant requests that it be held at St. Paul, Minn., or Chicago. Ill.

No. MC 114632 (Sub-No. 115), filed June 24, 1977. Applicant: APPLE LINES,

VOL 42 NO 160 AUG 18 77 UM

INC., P.O. Box 287, Madison, S. Dak. 57042. Applicant's representative. Andrew Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products including returned or refused shipments* from International Falls, Minn. to points in Arkansas, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin.

NOTE.—Applicant holds motor contract carrier authority in No. MC 129736, therefore dual operations may be involved. If a hearing is deemed necessary, applicant request it be held at Minneapolis, Minn.

No. MC 115162 (Sub-No. 369), filed June 28, 1977. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and composition board*, from Maysville, Ala. to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at either Birmingham, Ala. or Atlanta, Ga.

No. MC 115162 (Sub-No. 370), filed June 30, 1977. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as applicant), Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper bags and paper bag products*, from the plantsite of Masonite Corp., Southern Bag Division, located at Yazoo City, Miss., to points in Alabama, Georgia, Florida, Louisiana, Texas, Arkansas, Missouri, Tennessee, Kentucky, Indiana, and Ohio; and (2) *Materials and supplies used in the manufacture of paper bags and paper bag products* (except commodities in bulk, in tank vehicles), from Arkansas, Florida, Louisiana and Texas, to the plant site of the Masonite Corp., Southern Bag Division, located at Yazoo City, Miss.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at either Jackson, Miss. or Washington, D.C.

No. MC 115162 (Sub-No. 371), filed July 6, 1977. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate, Post Office Drawer 500, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board*, from the facilities of Champion International Corp. at or near Oxford, Miss. to points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Iowa, Arkansas, Louisiana, Michigan, Indiana, Tennessee, Kentucky, Virginia, West Virginia, North Carolina, South Carolina, Maryland, Pennsylvania, New York, New Jersey, District of Columbia, Delaware, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at either Cincinnati, Ohio or Washington, D.C.

No. MC 115311 (Sub-No. 229), filed July 1, 1977. Applicant: J. & M. TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Mr. Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Roofing materials, composition shingles, rolled compounds and accessories and materials* used in the installation thereof (except in bulk), from the plant site and storage facilities of Elk Corp. at or near Stephens and Camden, Ark., to points in Alabama, Louisiana, Mississippi, Tennessee, Texas, Oklahoma, Kentucky and Missouri.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Memphis, Tenn.

No. MC 115311 (Sub-No. 230), filed June 30, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Mr. Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (1) *Building materials, gypsum and gypsum products* (except liquid commodities in bulk) and such materials and supplies as are used in the manufacture, installation and distribution of the aforementioned commodities (except liquid commodities in bulk) between New Orleans, La., on the one hand, and, on the other, points in Texas. (2) *Materials and supplies* used in the manufacture, installation and distribution of building materials, gypsum and gypsum products (except liquid commodities in bulk) from points in Alabama, Arkansas, Florida, Georgia, Louisiana, and Mississippi to New Orleans, La. Restriction: 1 and 2 restricted to the transportation of traffic originating at or destined to the facilities of United States Gypsum Co., New Orleans, La.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at New Orleans, La.

No. MC 116273 (Sub-No. 210), filed June 27, 1977. Applicant: D & L TRANSPORT, INC., a corporation, 3800 South Laramie Avenue, Cicero, Ill. 60650. Applicant's representative: William R. Lavery (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *dry plastics* in bulk, in tank vehicles, from Ypsilanti, Mich., to points in Indiana, Ohio, and Pennsylvania.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 116319 (Sub-No. 10), filed June 30, 1977. Applicant: WASHINGTON TRUCKING, INC., P.O. Box 107, Darrington, Wash. 98241. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry plastic*, in bulk, between points in Washington, restricted to shipments having prior movement by rail or water.

NOTE. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 116763 (Sub-No. 386) filed June 29, 1977. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters, P.O. Box 81, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Frozen foodstuffs*, from Downers Grove, Ill. to points in Florida, Georgia, and South Carolina.

NOTE.—If hearing is deemed necessary, the applicant requests it to be held at Boston, Mass.

No. MC 117088 (Sub-No. 6), filed July 7, 1977. Applicant: ASPHALT TRANSPORT, INC., P.O. Box 26204, New Orleans, La. 70126. Applicant's representative: Edward A. Winter, 235 Rosewood Drive, Metairie, La. 70005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Blasting sand*, in bags, and in bulk, from the plant site of Stan-Blast Abrasives Co., Inc., located at or near Harvey, La., to Mobile, Ala., Beaumont and Houston, Tex., and Pasacagoula and Vicksburg, Miss.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New Orleans or Baton Rouge, La.

No. MC 117119 (Sub-No. 643), filed June 24, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: M. M. Geffon, P.O. Box 154, Willingboro, N.J. 08046. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Chemicals, Drugs, Medicines, and Toilet Preparations* (except in bulk) in vehicles equipped with mechanical refrigeration from points in New Jersey, New York, Connecticut, and Massachusetts to points in California, Oklahoma, Texas, Mississippi, Utah, and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y. or Washington, D.C.

MC 117165 (Sub-No. 43), filed July 5, 1977. Applicant: ST. LOUIS FREIGHT LINES, INC., 413 U.S. Highway 20 West, Michigan City, Ind. 46360. Applicant's representative: Walter G. Bay (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction Materials* (except commodities in bulk), from the plantsite and warehouse facilities of the Johns-Manville Sales Corp. located at or near Natchez, Miss., to the plantsite and warehouse facilities of the Celotex Corp. located at or near Elizabethtown, Ky., restricted to shipments originating at and destined to points as named above.

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held in either Chicago, Ill. or Indianapolis, Ind.

No. MC 117344 Sub-No. 260, filed June 30, 1977. Applicant: THE MAXWELL CO., a Corporation, 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: James R. Stiverson, 1396 West Fifth Avenue, Columbus, Ohio 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except petroleum products listed in Appendix XIII to the report in Description in Motor Carrier Certificates, 61 M.C.C. 209), in bulk, in tank vehicles, from the plant site of W. R. Grace and Co., located at or near Owensboro, Ky., to Omaha, Nebr.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 117439 (Sub-No. 51), filed June 24, 1977. Applicant: BULK TRANSPORT, INC., 5500 Florida Boulevard, P.O. Box 1429, Baton Rouge, La. 70821. Applicant's representative: John Schwab, 617 North Boulevard, P.O. Box 3036, Baton Rouge, La. 70821. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Fabricated or manufactured cement and concrete products on flatbed equipment only;* from points in Louisiana to points in Mississippi and Alabama.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either New Orleans, La., or Houston, Tex.

No. MC 117589 (Sub-No. 41), filed July 5, 1977. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 Seventh Avenue South, Seattle, Wash. 98108. Applicant's representative: Michael D. Duppenthaler, 515 Lyon Building, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible packinghouse products*, fresh or frozen, unfit for human consumption, in vehicles equipped with mechanical refrigeration (except in bulk, in tank vehicles), from Denver, Grand Junction, Greeley, Lamar, Pueblo, and Rocky Ford, Colo., Albuquerque, N. Mex., and El Paso, Tex., to Forest Grove and Tualatin, Oreg.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Denver, Colo., or Seattle, Wash.

No. MC 118159 (Sub-No. 216), filed June 24, 1977. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366—Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Warren Taylor (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured and distributed by manufacturers and distributors of office supplies; and *equipment, materials*, and *supplies* used in the manufacture and distribution of the above described commodities between the plantsites and warehouse facilities of National Blank Book Co., Inc. at Holyoke and Springfield, Mass., and Meridian, Miss., on the one hand and, on the other, points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119619 (Sub-No. 111), filed July 1, 1977. Applicant: DISTRIBUTORS SERVICE CO. (A corporation), 2000 West 43rd St., Chicago, Ill. 60609. Applicant's representative: Piken & Piken, Esqs., One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* from Cleveland and Solon, Ohio to points in Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 119765 (Sub-No. 45), filed June 30, 1977. Applicant: EIGHT WAY XPRESS, INC., 5402 South 27th Street, Omaha, Nebr. 68107. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* (except hides and commodities in bulk), from the plantsites and facilities of Dugdale Packing Co. located at or near Darr, Nebr., to points in Georgia, Tennessee, North Carolina, South Carolina, Alabama, Mississippi, Florida, Louisiana, Virginia, West Virginia, and Kentucky.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Omaha, Nebr.

No. MC 119789 (Sub-No. 361), filed July 6, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from Idaho, Oregon, Utah, and Washington to Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, and West Virginia.

NOTE.—If an oral hearing is deemed necessary, applicant requests that it be held at Portland, Oreg. or Seattle, Wash.

No. MC 120251 (Sub-No. 3), filed June 29, 1977. Applicant: MINOT VAN & STORAGE CO., INC., 710–20th Avenue SW., Minot, N. Dak. 58701. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Adams, Benson, Billings, Bottineau, Bowman, Burke, Burcigh, Divide, Dunn, Eddy, Emmons, Foster, Golden Valley, Grant, Hettinger, Kidder, Logan, McHenry, McIntosh, McKenzie, Mercer, Morton, Mountrail, Oliver, Pierce, Renville, Rolette, McLean, Sheridan, Sioux, Slope, Stark, Stutsman, Towner, Ward, Wells and Williams Counties, N. Dak., restricted to the transportation of traffic having a prior or subsequent movement in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating and decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minot, N. Dak.

No. MC 120257 (Sub-No. 37), filed June 29, 1977. Applicant: K. L. BREEDEN & SONS, INC., 401 Alamo Street, Terrell, Tex. 75160. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed kaolin clay*, in bags, from Hackleburg, Ala., to points in Alabama, Arkansas, Louisiana, Mississippi, Tennessee and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Dallas, Tex.

No. MC 120737 (Sub-No. 46), filed July 6, 1977. Applicant: STAR DELIVERY & TRANSFER, INC., South Fourth Avenue, P.O. Box 39, Canton, Ill. 61520. Applicant's representative: James C. Hardman, Suite 2108, 33 North La Salle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in, or used by, agricultural equipment, industrial equipment and lawn and leisure products manufacturers and dealers (except commodities in bulk), (1) Between the facilities of, or

V 42 N 160 AUG 18 77 UM

used by, International Harvester Company at East Moline, Moline and Rock Island, Ill., on the one hand, and, on the other, points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, Wyoming and the District of Columbia. (2) Between the facilities of, or used by, International Harvester Company at Canton, Ill., on the one hand, and, on the other, points in Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin and Wyoming, and District of Columbia. (3) Between the facilities of, or used by, International Harvester Company at Memphis, Tenn., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, Wyoming and District of Columbia. (4) Between the facilities of, or used by, International Harvester Company at Louisville, Ky., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

(5) From the facilities used by International Harvester Company at the Port of New Orleans, La., and points in its commercial zone to points in Arkansas, Illinois, Iowa, Kentucky, Louisiana, Mississippi and Tennessee. (6) From the facilities used by International Harvester Company at the Port of Philadelphia, Pa., and points in its commercial zone to points in Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Ohio, Pennsylvania, Tennessee and West Virginia. (7) From the facilities used by International Harvester Company at the Port of Savannah, Ga., and points in its commercial zone to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia. RESTRICTION: The authorities in paragraph (1), (2), (3) and (4) above are restricted to the transportation of traffic (a) originating at the facilities of, or used by, International Harvester Company at the points named in each of said respective paragraphs and destined to points in the States named in said paragraphs and the District of Columbia, or (b) originating at points in the States named in each of said respective paragraphs and the District of Columbia and destined to the facilities or, or used by, International Harvested Company at the points named in said paragraphs, except that the restrictions in (a) and (b) above shall not apply to traffic moving in foreign commerce: and the authorities in paragraphs (5), (6), and (7) above are restricted to the transportation of traffic (a) having a prior movement by water and (b) destined to the facilities or dealers of International Harvester Company.

NOTE.—Applicant seeks authority to serve Ports of Entry on the International boundary line between the United States and Canada located in the involved States bordering on Canada and to participate in traffic moving from and to Canadian Provinces which can be served in connection therewith. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C. or Chicago, Ill.

No. MC 121060 (Sub-No. 44), filed June 22, 1977. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, Ala. 35201. Applicant's representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board*, from South Boston, Va., to points in Kentucky, Ohio, and Michigan.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 121649 (Sub-No. 4), filed June 8, 1977. Applicant: MILAN EXPRESS, INC., P.O. Box 439, Milan, Tennessee 38358. Applicant's representative: Walter Harwood, P.O. Box 15214, Nashville, Tennessee 37215. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting, *general commodities*, except household goods, Classes A and B explosives, and commodities requiring special equipment, 1. Between Atwood and Memphis, Tenn.: (a) From Atwood via U.S. Highway 79 to Memphis, and return over the same route, (b) From Atwood via U.S. Highway 79 to junction with U.S. Highway 45–E; thence via U.S. Highway 45–E to junction with U.S. Highway 45; thence via U.S. Highway 45 to junction with I–40; thence via I–40 to Memphis, and return over the same route, serving the intermediate points of Milan and Gibson on both routes.

2. From Milan to Jackson, Tenn.: From Jackson via U.S. Highway 45–E; thence via U.S. Highway 45–E to junction with U.S. Highway 45; thence via U.S. Highway 45 to Jackson, and return over the same route, serving all intermediate points.

Restriction: Restricted against the handling of traffic which originates at or interlined at Memphis, Tenn., destined to Jackson or points beyond, or originating at, or interlined at Jackson, Tenn., destined to Memphis, Tenn., or points beyond.

3. Between Jackson and Milan, Tenn.: From Jackson via U.S. Highway 45 to junction with U.S. Highway 45–E; thence via U.S. Highway 45–E to Milan and return, serving as off-route points Savannah, and all points on and in an area bounded as follows: Beginning at Rutherford, Tenn., eastwards via Tenn. Highway 105 to junction with Tenn. Highway 54; thence via Tenn. Highway 54 to Greenfield; thence via Tenn. Highway 124 to McKenzie; thence via Tenn. Highway 22 to Lexington; thence via Tenn. Highway 20 to Parsons; thence via Tenn. Highway 69 to Adamsville; thence via U.S. Highway 64 to Selmer; thence via U.S. Highway 45 to Eastview; thence via Highway 57 to Middleton; thence via Tenn. Highway 125 to Bolivar; thence U.S. Highway 64 to Whiteville; thence via Tenn. Highway 100 to Somerville; thence via unnumbered road to Stanton; thence via U.S. Highway 70 to Brownsville; thence via Tenn. Highway 19 to Ripley; thence via U.S. Highway 51 to junction with Tenn. Highway 77; thence via Tenn. Highway 77 to Dyer; thence via U.S. Highway 45W to Rutherford.

Restriction: (a) Restricted against tacking; (b) Restricted against service at Dyersburg, Tenn., and points within 3 miles thereof;

(c) Restricted against the interchange of traffic with other motor carriers at Jackson, Tenn., and points within 4 miles thereof;

(d) Restricted against the interlining of traffic originating at or destined to Jackson, Tenn., from either Nashville or Memphis, Tenn.

(e) Restricted against service at Newbern, Tenn., and points in its commercial zone.

4. Between Jackson, Tenn., and Paduach, Ky., from Jackson, Tenn., via U.S. Highway 45–E to Fulton, Ky., thence via U.S. Highway 45 to Paducah, Ky., and return over the same route, serving the intermediate point of Fulton, Ky., and serving as off route points, Savannah, Tenn., and all points on and in an area bounded as follows: Beginning at Rutherford, eastwards via Tenn. Highway 105 to junction with Tenn. Highway 54; thence via Tenn. Highway 54 to Greenfield; thence via Tenn. Highway 124 to McKenzie; thence via Tenn. Highway 22 to Lexington; thence via Tenn. Highway 20 to Parsons; thence via Tenn. Highway 69 to Adamsville; thence via U.S. Highway 64 to Selmer; thence via U.S. Highway 45 to Eastview thence via Tenn. Highway 57 to Middleton; thence via Tenn. Highway 125 to Bolivar; thence via U.S. Highway 64 to Whiteville; thence via Tenn. Highway 100 to Somerville; thence via unnumbered road to Stanton; thence via U.S. Highway 70 to Brownsville; thence via Tenn. Highway 19 to Ripley; thence via U.S. Highway 51 to junction with Tenn. Highway 77; thence via Tenn. Highway 77 to Dyer; thence via U.S. Highway 45W to Rutherford.

Restriction: (Restricted against serving Dyersburg and Newbern, Tenn., and points in their respective commercial zones, and (2) restricted against the handling of traffic which originates at, is destined to, or interlined at Memphis, Tenn., and points in its commercial zone, on the one hand, and, on the other, that which originates at, is destined to, or interlined at Fulton, Ky., and points in its commercial zone.

5. Between Paducah, Ky., and Nashville, Tenn., from Paducah via U.S. Highway 62 to junction with Ky. Highway 91; thence via Ky. Highway 91 to Hopkinsville; thence via U.S. Highway 41–A to Nashville, Tenn., and return over the same route, serving no intermediate points.

Restriction: Authority sought to serve Memphis, Tenn., is restricted against serving that part of its commercial zone which lies in Arkansas and Mississippi; the sought authorities in (4) and (5) above are restricted against tacking with each other.

NOTE.—Routes 1 through 3 represent presently held registered authority which applicant seeks to convert to an interstate certificate of public convenience and necessity. The request for authority in routes 1 through 3 above has been redrafted to conform with Commission practice. No additional authority is sought in routes 1 through 3 above. Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Memphis, Nashville, Jackson, Tenn.; and Paducah, Ky.

No. MC 123090 (Sub-No. 4), filed June 30, 1977. Applicant: FRANK MARCELLO and PAUL R. MARCELLO doing business as MARCELLO'S SERVICE, 431 Portzer Road, Quakertown, Pa.18951.Applicant's representative: Paul F. Gilligan, 330 So. Berks St., Allentown, Pa. 18104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Shirts*, on hangers and in boxes, from Abbeville S.C., to Richland Township, Bucks County, Pa.; (2) *Shirts*, on hangers, from the plantsite of Salisbury Manufacturing Co., at Salisbury, Md., and the plantsite of Gaylor Manufacturing Co., at Ashland, Va., to Richland Township, Bucks County, Pa.; and (3) *buttons, paper boxes, set up, and trimmings and hangers*, from Richland Township, Bucks County, Pa. to Abbeville, S.C.

NOTE.—If a hearing is deemed necessary applicant requests that it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 123233 (Sub-No. 76) (Correction), filed June 6, 1977, published in FEDERAL REGISTER issued July 14, 1977, and republished this issue. Applicant: PROVOST CARTAGE INC., 7887 Grenache Street, Ville d'Anjou, Que., Canada, H1J 1C4. Applicant's representative: J. P. Vermette (same address as applicant). Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Corn syrup*, in bulk, in tank vehicles, from Buffalo, NY; Chicago, IL and its commercial zone; Cleveland, OH; Clinton, IA; Detroit, MI; Lakeville, NY; Muscatine, IA; Montezuma, NY; and Syracuse, NY to the Ports of Entry on the International Boundary Line between the United States and Canada located in Michigan and New York. Restricted to the trnsportation of traffic having an immediate subsequent movement in foreign commerce in through local single-line service.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Albany, NY or Montpelier, VT. The purpose of this republication is to show points of origin omitted in the original publication.

No. MC 123407 (Sub-No. 389), filed June 24, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Indiana 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products* from the facilities of Cambria Forest Products at or near Newcastle, Wyoming, to Indiana, Kentucky, Missouri, Ohio, and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Rapid City, South Dakota.

No. MC 123407 (Sub-No 390), filed June 24, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Indiana 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass* from the facility of Ford Motor Company at or near Dearborn, Michigan, to Iowa and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Detroit, Michigan, or Lansing, Michigan.

No. MC 123407 (Sub-No. 391), filed June 24, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority to operate as a *common carrier*, by motor vehicle, over irregular routes, transport: *Lumber, lumber products, wood products, and millwork* from points in Washington and Oregon to points in Oklahoma and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Portland, Oreg., or Dallas, Tex.

No. MC 124211 (Sub-No. 295), filed June 24, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) Reclaimed polyurethane, prime urethane, carpet and rug cushioning, plastic or rubber articles, and cellular products; and (2) materials, equipment, supplies and accessories used in the manufacture, distribution, sale, and installation of the commodities described in (1) above, except commodities in bulk, between points in Los Angeles and Orange Counties, California, Cook DuPage, Lake, and Will Counties, Illinois, Yalobusha County, Mississippi, Cape Girardeau County, Missouri, Hamblen, County, Tennessee, and Norfolk County, Virginia, on the one hand, and, on the other, points in the United States, except Alaska and Hawaii.

NOTE.—If oral hearing is deemed necessary, applicant requests it be held at Boston, Mass. Common control may be involved.

No. MC 124296 (Sub-No. 1), filed July 6, 1977. Applicant: GEORGE L. BIGELOW, P.O. Box 421, Delavan, Wisc. 53115. Applicant's representative: Richard A. Wesley, 4506 Regent Street, Suite 100, Madison, Wisc. 53705. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of *Fertilizer, dry, in bags and in bulk*, from Whitewater, Wisc. to points in Minnesota under a continuing contract or contracts with Kaiser Agricultural Chemicals Division of Kaiser Aluminum & Chemical Corp., Savannah, Ga.

NOTE.—Applicant holds motor common carrier authority in No. MC 135208 (Sub-No 2), therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 124679 (Sub-No. 80), filed July 5, 1977. Applicant: C. R. ENGLAND & SONS, INC., 975 West 2100 South, Salt Lake City, Utah 84119. Applicant's representative: Daniel E. England, P.O. Box 2465, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: Cheese and cheese products, from Logan, Utah, to points in Connecticut, Maryland, Massachusetts, New Jersey, New York and Pennsylvania.

NOTE.—Applicant holds contract authority in MC 128813 (Sub-No. 2) and other subs, therefore dual operation may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Salt Lake City, Utah or Green Bay, Wisc.

No. MC 125433 (Sub-No. 105), filed June 24, 1977. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: Michael J. Norton, Suite 404, Boston Building, P.O. Box 2135, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, buildings, knocked down, or in sections, and equipment, supplies and component parts used in the construction, erection and completion of such buildings, from the plantsite and shipping facilities of Marathon Metallic Building Company, located at or near Fort Collins, Colorado to points in California, Oregon, Washington, Idaho, Nevada, Arizona, Utah, Montana, Wyoming and New Mexico.

VOL 42 NO 160 AUG 18 77 UM

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Denver, Colo., or Salt Lake City, Utah.

No. MC 128746 (Sub-No. 32), filed July 6, 1977. Applicant: D'AGATA NATIONAL TRUCKING COMPANY, a corporation, 3240 South 61st Street, Philadelphia, Pa. 19153. Applicant's representative: Edward J. Kiley, Suite 501, 1730 M Street, N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from the facilities of the Henry F. Ortlieb Brewing Company, located at or near Philadelphia, Pa., to points in Illinois, Indiana, and Michigan.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Washington, D.C., or Philadelphia, Pa.

No. MC 129063 (Sub-No. 14), filed July 6, 1977. Applicant: JIMMY T. WOOD, P.O. Box 248, Ripley, Tenn. 38063. Applicant's representative: Thomas A. Stroud, 2003 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural lime and lime stone*, in bulk, in dump vehicles, from points in Crittenden County, Ark.; Cape Girardeau, Perry, Bolinger, Stoddard, Scott, Mississippi, New Madrid, Pemiscot, Dunklin, Butler, and Wayne Counties, Mo.; Gallatin, Saline, Williamson, Jackson, Randolph, Union, Johnson, Pope, Hardin, Alexander, Pulaski, and Massac Counties, Ill.; Christian, Hopkins, Webster, Henderson, Union, Crittenden, Caldwell, Trigg, Lyon, Livingston, Marshall, Calloway, Graves, McCracken, Ballard, Carlisle, Hickman, and Fulton Counties, Ky., to points in Henry, Benton, Decatur, Hardin, McNairy, Chester, Henderson, Carroll, Weakley, Gibson, Madison, Hardeman, Fayette, Haywood, Crockett, Obion, Lake, Dyer, Lauderdale, Tipton, and Shelby Counties, Tenn.; and Fulton, Ky.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Memphis, Tenn.

No. MC 129645 (Sub-No. 63), filed June 21, 1977. Applicant: BASIL J. SMEESTER AND JOSEPH G. SMEESTER, a partnership, d.b.a. SMEESTER BROS. TRUCKING, 1330 South Jackson Street, Iron Mountain, Mich. 49801. Applicant's representative: John M. Nader, Attorney at Law, Route 3, Box 4, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Copper bars, billets, cakes, ingots, and slabs;* and (2) *materials, equipment, and supplies* used or useful in the mining or manufacture of the commodities named in (1), above (except commodities which, because of size or weight, require the use of special equipment and except commodities in bulk), between points in Ontonagon County, Mich., on the one hand, and, on the other, points in Arizona, California, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Milwaukee, Wis., Minneapolis, Minn., or Chicago, Ill.

No. MC 129759 (Sub-No. 19), filed June 29, 1977. Applicant: TRIANGLE TRUCKING CO., a corporation, P.O. Box 490, McKees Rocks, Pa. 15136. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by a manufacturer of pipe, tubing, conduit, plastic materials and materials, equipment, and supplies used in the conduct of such business between the plants and warehouses of Triangle PWC, Inc., at Houston, Tex., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with Triangle PWC, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 133095 (Sub-No. 164), filed July 5, 1977. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, Tex. 76039. Applicant's representative: HUGH T. MATTHEWS, 2340 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle over Irregular routes, transporting: *Plastic articles*, from Temple, Tex., to points in California, New Mexico, Arizona, Illinois, Oregon, and Washington.

NOTE.—Applicant holds motor contract carrier authority in No. MC 136032 and subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Dallas, Tex.

No. MC 133119 (Sub-No. 121), filed July 6, 1977. Applicant: HEYL TRUCK LINES, INC., 200 Norka Dr., Akron, Iowa 51001. Applicant's representative: A. J. Swanson, 521 South 14th St., P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Nemaha County, Nebr., to ports of entry on the International Boundary between the United States and Canada located at or near Noyes, Minn.; Pembina and Portal, N. Dak.; Sweetgrass and Raymond, Mont.; and Blaine, Wash. Restriction: Restricted to the transportation of traffic having a movement in foreign commerce to points in the Provinces of Manitoba, Saskatchewan, Alberta, and British Columbia, Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr., or Dallas, Tex.

No. MC 133703 (Sub-No. 7), filed July 6, 1977. Applicant: WISCONSIN CHEESE SERVICE, INC., 770 North Springdale Rd., Waukesha, Wis., 53186. Applicant's representative: David V. Purcell, 1330 Marine Plaza, 111 East Wisconsin Ave., Milwaukee, Wis. 53202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned fruits and vegetables* from points in Wisconsin to points in the United States (except Alaska and Hawaii) under a continuing contract or contracts with The Larsen Co. located at Green Bay, Wis.

NOTE:—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Green Bay or Milwaukee, Wis.

No. MC 133703 (Sub-No. 8), filed July 6, 1977. Applicant: WISCONSIN CHEESE SERVICE, INC., 770 North Springdale Rd., Waukesha, Wis. 53186 Applicant's representative: David V. Purcell, 1330 Marine Plaza, 111 East Wisconsin Ave., Milwaukee, Wis. 53202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned vegetables* from New Richmond, Coleman, Eden, Gillett, and Oakfield, Wis., to points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with Friday Canning Corp., located at New Richmond, Wis.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Milwaukee, Wis., or Minneapolis or St. Paul, Minn.

No. MC 134090 (Sub-No. 4), filed July 5, 1977. Applicant: ALL BEST TRANSFER & WAREHOUSE, INC., 405 Division St., Elizabeth, N.J. 07201. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, N.J. 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lawn and garden products*, in boxes and bags, from O. M. Scott & Sons Distribution Center, located at Elizabethport, N.J., to points in Connecticut, Delaware, Maryland, Massachusetts, New York, Pennsylvania, and the plantsite of O. M. Scott & Sons Co., located at Marysville, Ohio, under a continuing contract or contracts with O. M. Scott & Sons Co., Marysville, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y., or Washington, D.C.

No. MC 134467 (Sub-No. 21), filed July 1, 1977. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, Ark. 72764. Applicant's representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St., Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and storage facilities utilized by Monfort of Colorado, Inc., its divisions and subsidiaries, at or near Greeley and Denver, Colo., to points in Maine, New

Hampshire, Vermont, New York, Massachusetts, Rhode Island, Connecticut, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, Illinois, Indiana, Ohio, Michigan, and the District of Columbia, restricted to transportation of shipments originating at the named origins and destined to the named destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Denver, Colo.

No. MC 134716 (Sub-No. 8), filed June 30, 1977. Applicant: RUSH TRUCKING, INC., 200 Southwest 19th St., Fort Lauderdale, Fla. 33315. Applicant's representative: John P. Bond, 2766 Douglas Rd., Miami, Fla. 33133. Applicant seeks authority to operate as a *contract carrier* over irregular routes in the transportation of *radio and electronic component parts and accessories*, between the Miami International Airport on the one hand, and, on the other, points in Dade and Broward Counties, Fla., all shipments restricted to having a prior or subsequent movement by air, under a continuing contract or contracts with Motorola Communications Division.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Fort Lauderdale or Miami, Fla.

No. MC 134755 (Sub-No. 109), filed June 24, 1977. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from Ford County, Kans., to points in Wisconsin, Illinois, Michigan, Indiana, Ohio, Kentucky, Tennessee, South Carolina, North Carolina, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, and the District of Columbia.

NOTE.—Applicant holds contract carrier authority in No. MC 138398 and subs thereunder, therefore, dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 134768 (Sub-No. 2), filed June 10, 1977. Applicant: LEXINGTON-PARIS MOTOR FREIGHT, INC., P.O. Box 439, Milan, Tennessee 38358. Applicant's representative: WALTER HARWOOD, Attorney, P.O. Box 15214, Nashville, Tennessee 37214. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *general commodities*, except household goods, Classes A and B explosives, and commodities requiring special equipment,

1. Between Paris, Tenn., and the Kentucky State line, via Tennessee Highway 54, serving all intermediate points.

2. Between Memphis and Centerville, Tenn.: From Memphis via U.S. Highway 70 to Jackson; thence via Tennessee Highway 20 to junction with Tennessee Highway 100 near Linden, Tenn.; thence via Tennessee Highway 100 to Centerville and return over the same route, serving all intermediate points.

Restriction: Restricted against the handling of traffic which originates at, is destined to, or interlined at Memphis, on the one hand, and, on the other, which originates at, is destined to, or interlined at Jackson, and points between Jackson and Memphis; and against the handling of traffic which originates at, is destined to, or interlined at Memphis, on the one hand, and, on the other, which originates at, is destined to, or interlined at Nashville.

3. Between Nashville and Whiteville, Tenn., over the following routes: (a) From Nashville to Whiteville via Tenn. Highway 100, and return over the same route.

(b) From Nashville via Tenn. Highway 100 to junction with Tenn. Highway 22; thence via Tenn. Highway 22 to Adamsville; thence via Tenn. Highway 15 to Whiteville, and return over the same route.

(c) From Nashville via Tenn. Highway 100 to junction with Tenn. Highway 69; thence via Tenn. Highway 69 to junction with Tenn. Highway 15; thence via Tenn. Highway 15 to Whiteville, and return over the same route.

(d) From Nashville via Tenn. Highway 100 to junction with Tenn. Highway 69; thence via Tenn. Highway 69 to junction with Tenn. Highway 22; thence via Tenn. Highway 22 to Adamsville; thence via Tenn. Highway 15 to junction with Tenn. Highway 5; thence via Tenn. Highway 5 to Tenn. Highway 100; thence via Tenn. Highway 100 to Whiteville, and return over the same route.

Serving intermediate points on all four routes west of the Tennessee River and with the right to tack all of such routes. All four routes shall be construed as conferring a single operating right.

Restriction: Restricted against the handling of traffic which is consigned from Memphis to Jackson: Nashville to Jackson: Nashville to Memphis; and Memphis to Nashville.

4. Between Memphis and McKenzie, Tenn., via U.S. Highway 79, serving all intermediate points between Atwood (but not including Atwood and points within 2 miles thereof) and McKenzie.

5. Between Lexington and McKenzie, Tenn., via Tenn. Highway 22, serving all intermediate points, and Yuma as an off-route point.

6. Between Nashville and Memphis, Tenn.; from Nashville via Tenn. Highway 100 to its junction with U.S. Highway 64 at or near Whiteville; thence via U.S. Highway 64 to Memphis, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only.

7. Between Memphis and Paris, Tenn.: From Memphis via I-40 to junction with Tenn. Highway 22; thence over Tenn. Highway 22 to junction with U.S. Highway 79; thence over U.S. Highway 79 to Paris, and return over the same route, serving no intermediate points, but said authority may be tacked with carrier's other existing authority to serve Memphis, Tenn.

8. (a) Between Jackson and Henderson, Tenn., via U.S. Highway 45, serving all intermediate points.

(b) Between Memphis and Henderson, Tenn.: From Memphis via I-40 to junction with U.S. Highway 45; thence via U.S. Highway 45 to Henderson, and return over the same route, serving all intermediate points between Jackson and Henderson.

(c) Between Nashville and Henderson, Tenn.: From Nashville via I-40 to junction with U.S. Highway 45; thence via U.S. Highway 45 to Henderson, serving all intermediate points between Jackson and Henderson.

(d) Between Nashville and Pinson, Tenn.: From Nashville via I-40 to junction with Tenn. Highway 22; thence via Tenn. Highway 22 to junction with Tenn. Highway 22-A; thence over Tenn. Highway 22-A to junction with Tenn. Highway 100; thence via Tenn. Highway 100 to junction with U.S. Highway 45 at Henderson; thence over U.S. Highway 45 to Pinson, and return over the same route, serving all intermediate points between Henderson and Pinson.

Restriction: Restricted against tacking with the carrier's present authority so as to provide a through service between Davidson County, on the one hand, and, on the other hand, Humboldt, Milan, Huntingdon, McKenzie, and Paris, Tenn., and points within 3 miles of each of the said points. Further restricted against any service at Jackson and points within 4 miles thereof, so as to provide a through service between points in Davidson County, Tenn., and Memphis, Tenn., and points within 5 miles of Memphis.

All four routes shall be construed as conferring a single operating right.

9. Between Nashville, McKenzie and Paris, Tenn., over the following routes:

(a) From Nashville via I-40 to junction with Tenn. Highway 22, thence over Tenn. Highway 22 to McKenzie; thence over U.S. Highway 79 to Paris, and return over the same route, serving McKenzie and all intermediate points between McKenzie and Paris.

(b) From Nashville via U.S. Highway 41-A to Clarksville; thence via U.S. Highway 70 to McKenzie, and return over the same route, serving Paris and all intermediate points between Paris and McKenzie.

Restriction: Restricted against the handling of traffic which originates at, is destined to, or interchanged at points in Davidson County, on the one hand, and, on the other, that which originates at, is destined to, or interchanges at Humboldt and Huntington, Tenn., and points within 3 miles of each said point, and

Clarksville, Tenn., and points within 4 miles thereof.

Restriction: All of the foregoing routes 1 through 9 are restricted against the through transportation of shipments between points in Davidson County, Tenn., and Memphis, Tenn., and points within 5 miles of Memphis.

Restriction: Authority sought to serve Memphis, Tenn., is restricted against service in that part of its commercial zone which lies in Mississippi.

NOTE.—By this instant application, applicant seeks to convert its Certificate of Registration in No. MC 134768 (Sub-No. 1) to a Certificate of Public Convenience and Necessity. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Jackson, Tenn.

No. MC 134884 (Sub-No. 10), filed July 1, 1977. Applicant: FARWEST FURNITURE TRANSPORT, INC., 6840—112th Avenue, S.E., Renton, Wash. 98055. Applicant's representative: Bruce E. Mitchell, 3379 Peachtree Road, N.E., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture;* and (2) *new fixtures*, uncrated, between points in California, Nevada and Arizona.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Los Angeles, Calif., or Seattle, Wash.

No. MC 135284 (Sub-No. 6), filed June 29, 1977. Applicant: FLEETWOOD TRANSPORTATION CORP., 1030 Reeves Street, Dunmore, Pa. 18512. Applicant's representative: Michael R. Werner, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between points in Franklin County, Ohio, on the one hand, and, on the other points in Indiana, Pennsylvania and West Virginia, under a continuing contract or contracts with The Nestle Co., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y. Common control may be involved.

No. MC 135530 (Sub-No. 6), filed: June 30, 1977. Applicant: LAKE CENTER INDUSTRIES TRANSPORTATION, INC., 111 Market Street, Winona, Minn. 55987. Applicant's representative: Bruce A. Rasmussen, 1110 Northwestern Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal screws, nuts, bolts, shafts, castings, springs, clips and other metal piece parts*, between the plantsite of Winona Heat Treating Incorporated, located at or near Winona, Minn., on the one hand, and, on the other hand, points in Wisconsin, Iowa and Illinois, under contract with Winona Heat Treating Incorporated.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, St. Paul or Winona, Minn.

No. MC 135633 (Sub-No. 12), filed June 30, 1977. Applicant: NATIONWIDE AUTO TRANSPORTERS, INC., 2175 Lemoine Avenue, Fort Lee, New Jersey 07024. Applicants representative: David L. Steinhagen, 333 Chipill Drive, Northbrook, Illinois 60062. Authorization sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: buses in driveaway service between Fort Valley, GA; Buena Vista, VA; Mt. Pleasant, Iowa; and the international boundary line between the United States and Canada, at Buffalo, Niagara Falls, and Champlain, N.Y.; and Detroit, Michigan, on the one hand, and, on the other, points in the United States (including Alaska, but excluding Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Atlanta, Ga. or Washington, D.C.

No. MC 135895 (Sub-No. 14), filed July 7, 1977. Applicant: DON RAY BOYD and JACKIE ROGERS, PARTNERS, d.b.a. B & R DRAYAGE COMPANY, North Bierdman Road, Jackson, Miss. 39206. Applicant's representative: Douglas C. Wynn, P.O. Box 1295, Greenville, Miss. 38701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pre-cast concrete products* and (2) *equipment, materials, supplies, machinery and parts* used in the manufacture or installation of pre-cast concrete products between the plant sites and warehouses of Jackson Ready-Mix Concrete Co. in Hinds and Madison Counties, Miss., on the one hand, and on the other, points in Alabama, Arkansas, Louisiana and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Jackson, Miss.

No. MC 136343 (Sub-No. 112), filed July 5, 1977. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, in interstate commerce, over irregular routes transporting: *Paper and Paper Products*, from the plant site and warehouse facilities of the International Paper Company located at or near Jay and Livermore Falls, Maine, to points in Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Mexico, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin, District of Columbia; points in New York on and West of U.S. Highway 81; Pennsylvania on and west of U.S. Highway 15 and Emigsville, Pa.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either New York, N.Y., or Washington, D.C.

No. MC 136828 (Sub-No. 18), filed July 5, 1977. Applicant: COOK TRANSPORTS, INC., 214 South Tenth Street, Birmingham, Ala. 35233. Applicants representative: Robert M. Pearce, P.O. Box 1899, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials and supplies* used in, or in connection with, the installation, operation, and maintenance of safety and traffic control systems, except commodities in bulk, from points in the United States, except Alaska and Hawaii, to points in Alabama, Florida, Georgia, Mississippi and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant request it be held at either Birmingham, Ala. or Nashville, Tenn.

No. MC 138235 (Sub-No. 14), filed June 24, 1977. Applicant: DECKER TRANSPORT COMPANY, INCORPORATED, 412 Route 23, Pompton Plains, N.J. 07444. Applicant's representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hardware, conveyors* and *conveyor equipment, furniture, power equipment, wheel goods*, and *bicycles and parts* thereof and *attachments* and *accessories* therefor and *materials, equipment* and *supplies* used in the manufacture and distribution thereof, between the plantsites and storage facilities of MTD Products, Inc. at or near Cleveland, Strongsville, Willard and Shelby, Ohio, on the one hand, and, on the other, points in Alabama, Georgia, South Carolina, North Carolina, Tennessee and Florida, under contract with MTD Products, Inc., restricted against the transportation of any of above named commodities in bulk, and further restricted against the transportation of commodities which by reason of size or weight require the use of special equipment.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Dallas, Tex.

No. MC 138308 (Sub-No. 31), filed July 1, 1977. Applicant: KLM, INC., 2102 Old Brandon Road, P.O. Box 6098, Jackson, Miss. 39208. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *pole and transmission line construction materials* (except commodities which by reason of size or weight require the use of special equipment), from the facilities of McGraw-Edison Company at or near Vicksburg, Mississippi to Visalia, California and Lake Oswego, Oregon.

NOTE.—Applicant holds motor contract authority in No. MC 128562 and subnumbers thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Jackson, Miss.

No. MC 138941 (Sub-No. 23), filed July 5, 1977. Applicant: COUNTRY WIDE TRUCK SERVICE, INC., 1110 South

Reservoir, Pomona, Calif. 91766. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Kitchen accessories, gum, gum and food dispensing machines, and exhibition equipment for same*, from San Dimas, California, to points in the United States (except Alaska and Hawaii), (2)(a) *exhibition equipment for kitchen accessories, gum, gum and food dispensing machines*, (b) *materials and supplies used in the manufacture of kitchen accessories, gum, gum and food dispensing machines*, and (c) *damaged, refused, rejected or returned shipments of kitchen accessories, gum, gum and food dispensing machines*, from points in the United States, including Alaska and Hawaii, to San Dimas, Calif., under a continuing contract or contracts with Knock On Wood Corporation, located at Covina, Calif.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, Calif.

No. MC 139294 (Sub-No. 1), filed June 24, 1977. Applicant: H.T.L., INC., Post Office Box 122, Fairfield, Ala. 35064. Applicant's representative: Robert E. Tate, Post Office Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, plywood, and particleboard* from the plant and warehouse facilities of MacMillan Bloedel, Inc. at Pine Hill and Opelika, Ala. to points in Florida, Georgia, Mississippi, Louisiana, North Carolina, South Carolina, Virginia, West Virginia, Kentucky and Tennessee.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at either Birmingham, Ala. or Atlanta, Ga. Applicant holds contract carrier authority under MC-135867 (Sub-No. 1) therefore dual operations may be involved.

No. MC 139495 (Sub-No. 246), filed June 17, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, Suite 1030, 1819 H Street, N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motors, generators, controllers, power transmission equipment and machinery, and parts and accessories thereof* from Lawrenceburg, Ky. to points in Arizona, California, Colorado, Connecticut, Massachusetts, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Texas, Utah, Vermont, and Washington.

NOTE.—Applicant holds contract carrier authority in MC-133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139495 (Sub-No. 249), filed June 24, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, Suite 1030, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: steel wire and springs from Oxford, Mass. and Milldale, Conn. to points in California, Colorado, Illinois, Indiana, Kentucky, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, Ohio, Oklahoma, Tennessee, Texas, and Wisconsin.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 140000 (Sub-No. 3), filed June 30, 1977. Applicant: FIELD VIEW FARM TRANSPORTATION, INC., 707 Derby Avenue, Orange, Conn. 06477. Applicant's representative: William J. Meuser, 86 Cherry Street, P.O. Box 507, Milford, Conn. 06460. Authority sought to operate as a *contract carrier*, by motor vehicle, over *irregular routes*, transporting: Manufactured fertilizers, insecticides, weed killing compound, hand sprayers, birdseed and outdoor bird feeders, in mixed shipments, in bottles, bags or boxes, between Cranbury, N.J. on the one hand and on the other points in N.Y., Pa., Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut and Maryland, under a continuing contract or contracts with Chamberlin & Barclay, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Hartford, Conn., or New York, N.Y.

No MC 140033 (Sub-No. 263, filed June 30, 1977. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, Tex. 75220. Applicant's representative: Lawrence A. Winkle, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastics and plastic products*, from Troup, Texas, to points in the United States (except Hawaii and Alaska); and (2)(a) *plastics, plastic products and rubber articles* (except *sponge, foam or cellular*); and (b) games and toys, from Jacksonville, Tex., to points in the United States (except Hawaii and Alaska).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Dallas, Tex., or Washington, D.C.

No. MC 140134 (Sub-No. 7) (amendment), filed September 2, 1976, published in the FEDERAL REGISTER issue of October 21, 1976, republished as amended this issue. Applicant: CALDARULO TRADING CO., a corporation, 2840 South Ashland, Chicago, Ill. 60608. Applicant's representative: Richard A. Kerwin, 180 North La Salle Street, Chicago, Ill. 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *Toilet preparations, toilet articles, germicides, buffing and polishing compounds, cleaning, scouring, and washing compounds, drugs, janitorial supplies*, and *advertising materials*, from Chicago, Melrose Park, and Carol Stream, Ill.; Sparks, Nev.; Glendale, Calif; Piscataway, N.J.; Atlanta, Ga.; Dallas, Tex.; and Jacksonville, Fla., to points in the United States (except Alaska and Hawaii); (2) *Foodstuffs* (except frozen), in containers, from Chicago and Carol Stream, Ill.; Sparks, Nev., and Atlanta, Ga., to points in the United States (except Alaska and Hawaii); (3) *Acrosol products*, from Chicago, Ill.; Sparks, Nev.; Piscataway, N.J., and Atlanta, Ga., to points in the United States (except Alaska and Hawaii); (4) *Materials, equipment, and supplies* utilized in the manufacture, distribution and sale of the commodities described in (1), (2), and (3) above, and *returned shipments* of the commodities described in (1) and (2) above, from the above-named destination points, to the named origin points; restricted in (1), (2), (3), and (4) above to the transportation of shipments originating at or destined to the facilities of Masury Columbia Company, a subsidiary of Alberto-Culver Company, and (5) *Sweetening compounds*, from Morris Plain, N.J., to Sparks, Nev., Piscataway, N.J., and Atlanta, Ga.; restricted in (1), (2), (3), (4), and (5) above against the transportation of commodities in bulk and further restricted to a transportation service to be performed, under a continuing contract, or contracts, with Masury Columbia Company, a subsidiary of Alberto-Culver Company.

NOTE.—The purpose of this republication is to amend the request for authority by substituting Masury Columbia Company in lieu of Capitol Packaging Company. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 140469 (Sub-No. 9), filed June 27, 1977. Applicant: FUNCTIONAL MARKETING SYSTEM, INC., 147-02 Liberty Avenue, Jamaica, N.Y. 11435. Applicant's Attorney: Larsh B. Mewhinney, 235 Mamaroneck Avenue, White Plains, N.Y. 10605. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Books and educational materials, equipment and supplies*, between New York, N.Y., and points in New Jersey, on the one hand, and, on the other, points in Fairfield County, Conn.; New Castle County, Del.; Putnam County, N.Y., and Bucks, Chester, Delaware, Montgomery and Philadelphia Counties, Pa., under a continuing contract or contracts with Field Enterprises Educational Corporation located at Chicago, Ill.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 140829 (Sub-No. 49), filed June 17, 1977. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 55 Madison Ave., Morristown,

N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from the plantsite and storage facilities utilized by Royal Packing Company, located at or near National Stockyards, Ill., and St. Louis, Mo., to points in Connecticut, Massachusetts, Maryland, New Jersey, New York, Pennsylvania, Rhode Island, and Washington, D.C., restricted to the transportation of traffic originating at the named origins and destined to points in the above named destination states.

NOTE.—Applicant holds contract carrier authority in various subs under MC 136408, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 140829 (Sub-No. 52), filed June 21, 1977. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 55 Madison Ave., Morristown, N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products and articles distributed by meat packinghouses*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from the plantsite and storage facilities utilized by Krey Packing Company located at or near St. Louis, Mo., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Vermont, the District of Columbia, and Rhode Island, restricted to the transportation of traffic originating at the named origin and destined to points in the above named destination states.

NOTE.—Applicant holds contract carrier authority in various subs under MC-136408, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 140829 (Sub-No. 53) filed June 29, 1977. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206 U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 55 Madison Ave., Morristown, N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plantsite and warehouse facilities utilized by Anderson Clayton Foods, located at or near Jacksonville, Ill., to points in Maryland, Massachusetts, New Jersey, New York and Pennsylvania, restricted to the transportation of traffic originating at the named origin and destined to points in the above named destination states.

NOTE.—Applicant holds contract carrier authority in MC-136408 (Sub-No. 7) and other subs thereunder; therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it to be held in Washington, D.C.

No. MC 141034 (Sub-No. 4), filed July 7, 1977. Applicant: MARGIN LEASING, INC., 21 Baltic Road, Worcester, Mass. 01607. Applicant's representative: Ronald I. Shapss, 450 Seventh Avenue, New York 10001. Authority sought to operate as a *Contract Carrier*, by motor vehicle, over Irregular routes, transporting: *Malt beverages, and empty beverage containers*, between Holliston, Mass., on the one hand, and, on the other, Merrimack, N.H., Newark, N.J., Fogelsville, Pa., and Williamsburg, Va., restricted to a service to be performed under a continuing contract or contracts with Mooney and Company, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Boston, Mass., or New York, N.Y.

No. MC 141076 (Sub-No. 12), filed July 7, 1977. Applicant: ROGERS MOTOR LINES, INC., R.D. No. 2, Box 388 D2, Hackettstown, N.J. 07840. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, from the plantsite and shipping facilities of Heinz U.S.A., Division of H. J. Heinz Company, located at Fremont and Toledo, Ohio, to points in New Jersey on and north of New Jersey Highway 33; and points in that part of New York State on and south of Interstate Highway 84; and King of Prussia, Oaks and Philadelphia, Pa. Restricted to traffic originating at the named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, Applicant requests that it be held at either Washintgon, D.C., or Harrisburg, Pa.

No. MC 141424 (Sub-No. 4), filed July 1, 1977. Applicant: P–Y TRANSPORT, INC., 50 S. Williams Street, York, Pa. 17404. Applicant's representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street, NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and building and insulating materials* (except iron and steel articles and commodities in bulk), from the plantside and warehouse facilities of Certain-Teed Corporation located in Erie County, Ohio, to points in Indiana, Kentucky and Michigan.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 141570 (Sub-No. 8), filed June 30, 1977. Applicant: ELECTRONICS TRANSPORT, INC., 3213 Eighth Avenue, North, P.O. Box 31103, Birmingham, Ala. 35222. Applicant's representative: M. Craig Massey, 202 East Walnut Street, Post Office Drawer J, Lakeland, Fla. 33802. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Copying machines, and parts, materials and supplies*, used in the manufacture, installation or sale of such commodities, between Louisville, Ky., and its Commercial Zone on the one hand, and, on the other, points in Indiana and Illinois on and south of U.S. Highway 40, under contract with Zerox Corporation.

NOTE.—Applicant holds common carrier authority in MC 136269 (Sub-No. 2), therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Chicago, Ill.

No. MC 141641 (Sub-No. 6), filed July 5, 1977. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 717, Marshall, Mo. 65340. Applicant's representative: Donald L. Stern, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New Furniture and new furniture parts*, (1) from Munster, Indiana to Kansas City, Kansas; Columbus, Ohio; Detroit, Michigan and St. Louis, Missouri; (2) from Kansas City, Kansas, to Denver, Colorado; St. Louis, Missouri; and points in Montana; (3) from Columbus, Ohio, to Detroit and Lansing, Michigan; Pittsburgh, Pennsylvania; and Louisville, Kentucky; and (4) from Charlotte, North Carolina, to points in the United States (except Alaska, Hawaii, and North Carolina), restricted in (1) through (4) to traffic originating at the facilities of the Simmons Company.

NOTE.—Applicant holds contract carrier authority in MC 136168 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Omaha, Nebr. or Dallas, Tex. Common control may be involved.

No. MC 142310 (Sub-No. 2), filed June 30, 1977. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, Wis. 54458. Applicant's representative: Wayne W. Wilson, 329 W. Wilson St., P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Frozen foodstuffs* (except commodities in bulk, in tank vehicles); and (2) *frozen meats and meat by-products*, unfit for human consumption (except commodities in bulk, in tank vehicles) from the facilities of Wiscold, Inc., located at or near Beaver Dam and Milwaukee, Wis., to points in Kentucky, Georgia, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Beaver Dam or Milwaukee, Wis.

No. MC 142423 (Sub-No. 3), filed July 7, 1977. Applicant: BIG D CARTAGE, INC., 28091 Kingsberry Drive, Mt. Clemens, Mich. 48043. Applicant's representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, Mich. 48084. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *Malt beverages*, (1) from Milwaukee, Wisconsin, to points in Macomb County, Michigan, with empty containers on return; and (2) from Fulton, New York, to points in Macomb County, Michigan, with empty containers on return.

NOTE.—If a hearing is deemed necessary, the Applicant requests it be held at Detroit, Michigan, or Chicago, Illinois.

No. MC 142693 (Sub. No. 1), filed June 24, 1977. Applicant: CUSTOM DELIVERIES, INC., 24680 Mound Road, Warren, Mich. 48091. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicle parts and accessories, and related publications, advertising material and packaging and shipping supplies*, between Chrysler Corporation, Service and Parts Division, distribution and consolidation facilities located at Cook County, Illinois; Cuyahoga County, Ohio; Marion County, Indiana; New Castle County, Delaware; Rockland County, New York; Middlesex County, Massachusetts; Allegheny County, Pennsylvania; Wayne County, Michigan; and Franklin County, Ohio, on the one hand, and, on the other, points in Michigan; Wisconsin; Illinois; Indiana; Ohio; Kentucky; West Virginia; Virginia; Maryland; Delaware; Pennsylvania; New Jersey; New York; Connecticut; Rhode Island; Massachusetts; New Hampshire; Vermont; Maine; and the District of Columbia under continuing contract or contracts with Chrysler Corporation. Restriction: The service authorized herein is restricted to shipments not to exceed 10,000 pounds.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held in Washington, D.C.

No. MC 142816 (Sub-No. 2), filed July 1, 1977. Carrier name: RICHARD ATCHLEY, doing business as ATCHLEY TRUCKING, 12116 Marigold Street, Sunnymead, Calif. 92388. Applicants representative: Richard Atchley (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed* in containers on its own chassis, from the plant sites of Bell Grain and Milling, Inc., located at or near Edgemont, and Escondido, Calif., to points in the Los Angeles Harbor commercial zone, Calif., under a continuing contract or contracts with Bell Grain & Milling, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Los Angeles or Riverside, Calif.

No. MC 142858 (Sub-No. 1), filed June 27, 1977. Applicant: RHINELANDER TRANSFER & STORAGE, INC., 323 Thayer Street, Rhinelander, Wis. 54501. Applicant's representative: Richard E. Bruso, Route 3, Rhinelander, Wis. 54501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Rhinelander, Wis., and points in Oneida, Vilas, Forest, Iron, Price, Lincoln, and Langlade Counties, Wis., a non-radial movement, restricted to shipments having prior or subsequent movement by rail.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Wausau, Wis.

No. MC 142896 (Sub-No. 1), filed July 6, 1977. Applicant: CENTURY TRUCKING, 3740 North Golden State Blvd., Turlock, Calif. 95380. Applicant's representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, Calif. 90010. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass tanks, pipe and ducting*, uncrated, *including all necessary dunnage, cradles, blocks and tiedowns*, from the plantsites of Century Fiberglass, Inc., at Anaheim and Chowchilla, Calif., to points in Arizona, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, Oregon, Texas, Utah, Washington and Wyoming, under a continuing contract or contracts with Century Fiberglass, Inc., located at Anaheim and Chowchilla, Calif.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Los Angeles, Calif.

No. MC 142927 (Sub-No. 1), filed July 1, 1977. Applicant: DAVID C. LINDSEY, doing business as APOLLO TRUCKING, 11805 Arliss Way, Grand Terrace, Calif. 92324. Applicant's representative: William J. Monheim, P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic, paper, and pulpboard articles* moving in ocean containers for subsequent movement by water, from Riverside, Calif., to points in the Los Angeles Harbor Commercial Zone as defined by the Commission, under a continuing contract, or contracts, with Lily Division of Owens-Illinois, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Los Angeles, Calif.

No. MC 142958 (Sub-No. 1), filed July 7, 1977. Applicant: EMERGENCY MEDICAL DELIVERIES, INCORPORATED, 3135 Copland Boulevard, Toledo, Ohio 43614. Applicant's representative: Michael M. Briley, 300 Madison Avenue, Toledo, Ohio 43604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Medicinal intravenous solutions and dialysis patient treatment kits and materials and supplies used in connection therewith including mineral water and liquid formaldehyde, between Toledo, Ohio on the one hand and, on the other, points in Indiana; lower peninsula of Michigan; counties of Cook, Will, DuPage and Lake, Illinois; and counties of Erie, Crawford, Mercer, Lawrence, Butler, Warren and Venango, Pennsylvania. Restricted against transportation in bulk in tank vehicles.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Toledo, Ohio or Washington, D.C.

No. MC 143000 (Sub-No. 5), filed June 24, 1977. Applicant: HIGH PLAINS GRAIN COMPANY, INC., East Highway 40, PO. Box 7, Hays, Kansas, 67601. Applicant's representative: Erle W. Francis, Suite 197, 700 Kansas Avenue, Topeka, Kansas, 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed* in bulk and bags, using self-unloading equipment with auger discharge, from the facilities of Cargill, Inc. at McPherson, and Kansas City, Kans., and Springdale, Ark., to the facilities of Farmers Hybrid Research Ranch, Division of Monsanto Chemical Company, at or near Warner, Okla.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Lincoln, Nebraska or Kansas City, Missouri.

No. MC 143004 (Sub-No. 1), filed June 24, 1977. Applicant: GORDON L. PETERSEN and GWYNETH A. PETERSEN, doing business as CLOVIS MOVING & STORAGE, 700 East Tatum Avenue, Clovis, New Mexico 88101. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used Household Goods* between points in Guadalupe, Quay, De Baca, Curry and Roosevelt Counties, N. Mex. Restricted to the transportation of traffic having a prior or subsequent movement in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating and decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Clovis or Albuquerque, N. Mex.

No. MC 143049, filed June 30, 1977. Applicant: JERRY STEED, 1880 North Main Street, Lima, Ohio 45801. Applicant's representative: Earl N. Merwin, 85 East Gay Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scrap material*, between points in Ohio, on the one hand, and no the other, points in Indiana, Michigan, and Pennsylvania, under a continuing contract or contracts with Luntz Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Columbus, Ohio.

No. MC 143168 (Sub-No. 1), filed July 5, 1977. Applicant: TREASURE STATE TRANSPORT, INC., P.O. Box

V 42 160 AUG 18 77 UM

1441, Great Falls, Montana 59403. Applicant's representative: Ray F. Koby, 314 Montana Building, Great Falls, Montana 59403. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Such commodities (except in bulk) as are usually dealt in by wholesale or retail lumber yards or flour mills, between points in California, Idaho, Montana, North Dakota, Oregon and Washington, under continuing contract with Peavey Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at any city in Montana.

No. MC 143175 (Sub-No. 1), filed June 24, 1977. Applicant: JERRY BAUMFELD, doing business as, CONTINENTAL VAN LINE, 7332 Ethel Avenue, No. Hollywood, CA 91605. Applicant's representative: William J. Monheim, 15942 Whittier Blvd., P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, uncrated, *and lamps and shades*, from points in Los Angeles County, Calif. to points in Clark County, Nev.

NOTE.—If a hearing is deemed necessary, applicant request it be held at Los Angeles, Calif.

No. MC 143206 (Sub-No. 2), filed June 20, 1977. Applicant: PRIVATE COURIERS, INC., 4661 North 25th Ave., Schiller Park, Ill. 60176. Applicant's representative: Donald S. Mullins, 4704 West Irving Park Rd., Chicago, Ill. 60641. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Medicines, drugs, supplies, equipment, and equipment parts, medical isotopes, test kits and radiopharmaceuticals used in the operation of a hospital or medical clinic*, between the facilities of air carriers and air freight forwarders located in the commercial zones of Chicago and Wheeling, Ill., and Milwaukee, Wisc., on the one hand, and on the other, points in Illinois, Indiana, and Wisconsin, restricted to traffic having a prior or subsequent movement by air.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill.

No. MC 143387 (Sub-No. 1), filed June 29, 1977. Applicant: ASSOCIATED COURIERS, INC., 3309 Lightfoot, St. Charles, Mo. 63301. Applicant's representative: Paul R. Bergant, 10 South LaSalle St., Suite 1600, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes transporting: *Radioactive pharmaceuticals, radioactive isotopes, and medical testing kits*, between points in St. Louis County, Mo., on the one hand, and, on the other, points in Nebraska, Kansas, Oklahoma and Texas, under contract with Mallinckrodt, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 143431, filed June 28, 1977. Applicant: BALL TIRE & GAS, INC., 612 Ripley Blvd., Alpena, Mich. 49707. Applicant's representative: James W. Ball, Jr., 2083 Bear Point Rd., Alpena, Mich. 49707. Authority sought to operate as a *contract carrier* by motor vehicle over irregular routes transporting: *rubber tires* from Cincinnati, Ohio, to Gaylord, Mich., under a continuing contract, or contracts with Upper Lakes Tire Distributors, Inc., located at Gaylord, Mich.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Lansing, Detroit, or Jackson, Mich.

MC 143434, filed June 28, 1977. Applicant: CHARLES McALPIN d.b.a. CHARLES McALPIN TRUCKING, 1420 Danville Rd. SW., Decatur, Ala. 35601. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies, and equipment used in the production of eggs and poultry* (except commodities in bulk, in tank vehicles) from Morgan County, Ala., to points in Virginia, West Virginia, Kentucky, Illinois, Missouri, Kansas, Nebraska, Montana, Wyoming, Washington, Oregon, California, Idaho, Nevada, Utah, Arizona, New Mexico, Texas, Oklahoma, Arkansas, Louisiana, Mississippi, Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, and Colorado; and *materials and supplies used in the manufacture of materials, supplies, and equipment used in the production of eggs and poultry* (except commodities in bulk, in tank vehicles) from points in Virginia, West Virginia, Kentucky, Illinois, Missouri, Kansas, Nebraska, Montana, Wyoming, Washington, Oregon, California, Idaho, Nevada, Utah, Arizona, New Mexico, Texas, Oklahoma, Arkansas, Louisiana, Mississippi, Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, and Colorado to Morgan County, Ala.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at either Birmingham, Ala., or Huntsville, Ala.

No. MC 143443, filed July 5, 1977. Applicant: D. J. KIRBY, INC., P.O. Box, 79, Gilberts, Ill. 60136. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebr. 68509. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel*, between Houston, Tex., Hialeah, Fla., Itasca, Ill., and Los Angeles, Calif., restricted to traffic either originating at or destined to the facilities of New Process Steel Corp.

NOTE.—If a hearing is deem necessary, applicant requests that it be held at Chicago, Ill., or Omaha, Nebr.

No. MC 143460, filed July 1, 1977. Applicant: B.A.L. TRANSFER, INC., 7926 East Baltimore St., Baltimore, Md. 21224. Applicant's representative: William J. Little, 1212 W. R. Grace Bldg., Baltimore, Md. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Containers, container chassis and trailers;* and (2) *general commodities* (except commodities of unusual value, commodities requiring special equipment, commodities in bulk, and Classes A and B explosives), between points in Baltimore, Md., and is commercial zone and terminal area.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Baltimore, Md., or Washington, D.C.

No. MC 143461, filed July 5, 1977. Applicant: R. ROGERS LEASING, INC., 257 E. 6th St., Clifton, N.J. 07011. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foam packaging materials, equipment and supplies and materials*, used in the manufacture and sale of Foam Packaging Materials, between the facilities of Alta-Pak East, Carlstadt, N.J., on the one hand, and, on the other, points in Virginia, Maine, Pennsylvania, Ohio, New York, New Jersey, Connecticut, Massachusetts, New Hampshire, Rhode Island, Vermont, Delaware, Maryland, and the District of Columbia, under a continuing contract or contracts with Alta-Pak East, located at Carlstadt, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y., or Washington, D.C.

No. MC 143462, filed July 5, 1977. Applicant: ERWIN TRUCKING, INC., 7176 North 50th St., Omaha, Nebr. 68152. Applicant's representative: Donald L. Stern, Suite 530 Univac Bldg., 7100 West Center Rd., Omaha, Nebr. 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (1) from Salisbury, Md., to points in Michigan and Ohio; and (2) between Omaha, Nebr., on the one hand, and, on the other, Salisbury, Md., restricted to a contract or contracts with Campbell Soup Co.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Omaha, Nebr.

No. MC 143463, filed July 1, 1977. Applicant: SECURITY INC., 492 Marquette Mall Bldg., Michigan City, Ind 46360. Applicant's representative: Lee W. Dabagia, 709 Franklin Sq., P.O. Box 769, Michigan City, Ind. 46360. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Non-negotiable bank and commercial documents, checks, notes, employee payroll data and related instruments*, between points in Berrien County, Mich.; Elkhart, LaPorte, Porter, and Lake Counties, Ind.; and Cook County, Ill.; under a continuing contract or contracts with The First National Bank of Elkhart, Indiana; The Musikantow Corp.; Citizens Bank of Michigan City, Indiana; Inter-City Bank of Benton Harbor, Michigan; and The First-Merchants National Bank of Michigan City, Michigan City, Ind.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Chicago, Ill., Hammond, Gary, Michigan City, or South Bend, Ind.

No. MC 143489 (Sub-No. 1), filed June 30, 1977. Applicant: R. B. HUMPHREYS, INC., P.O. Box 736, New Hartford, N.Y. 13413. Applicant's representative: S. Michael Richards, P.O. Box 225, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *cotton knit goods*, from New York Mills, N.Y., to Arizona City, Ariz., under a continuing contract or contracts with Lally Mfg. Corp., of New York Mills, N.Y.

NOTE.—Applicant has motor common carrier authority pending in No. MC 143396, and subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Syracuse or Albany, N.Y.

PASSENGERS

No. MC 1515 (Sub-No. 222) (Amendment), filed March 8, 1977, published in the FEDERAL REGISTER issue of April 21, 1977, and republished as amended this issue. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Ariz. 85077. Applicant's representative: W. L. McCracken (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, (1) Between Interchange No. 11 of the New Jersey Turnpike and Atlantic City, N.J., serving no intermediate points: From Interchange No. 11 of the New Jersey Turnpike over access highway to junction Garden State Parkway, thence over the Garden State Parkway to junction Atlantic City Expressway, thence over Atlantic City Expressway to Atlantic City and return over the same route; (2) Between Philadelphia, Pa. and the junction of the Atlantic City Expressway and the Garden State Parkway at Interchange 7 of the Atlantic City Expressway serving no intermediate points: From Philadelphia over Interstate Highway 76 across the Walt Whitman Bridge to Camden, N.J., thence over New Jersey State Highway 42 to junction Atlantic City Expressway, thence over the Atlantic City Expressway to junction Garden State Parkway and return over the same route; (3) Between the junction of U.S. Highway 130 and U.S. Highway 40 south of Deep Water, N.J., and Atlantic City, N.J. serving no intermediate points: From the junction of U.S. Highway 40 and U.S. Highway 130 over U.S. Highway 40 to junction U.S. Highway 322, thence over U.S. Highways 40 and 322 to Atlantic City, N.J. and return over the same route; (4) Between the junction of U.S. Highway 206 and the New Jersey Turnpike at Interchange No. 7 and the Atlantic City Expressway serving no intermediate points: From the junction of U.S. Highway 206 and the New Jersey Turnpike over U.S. Highway 206 to junction Atlantic City Expressway and return over the same route; (5) Between the junction of U.S. Highway 13 and U.S. Highway 113 near Pocomoke City, Md., and the junction of Garden State Parkway and the Atlantic City Expressway serving all intermediate points within the states of Maryland and Delaware, and serving no intermediate points within the State of New Jersey but serving the junction of the Garden State Parkway and U.S. Highways 40 and 322 for the purpose of joinder only; From the junction of U.S. Highway 13 and U.S. Highway 113 over U.S. Highway 113 to its junction with U.S. Highway 9 near Georgetown, Del., thence over U.S. Highway 9 to its junction with Business Route U.S. Highway 9, thence over Business Route U.S. Highway 9 to Lewes, Del., thence by ferry to Cape May, N.J., thence over the Garden State Parkway to its junction with the Atlantic City Expressway and return over the same route; (6) Between the junction of U.S. Highway 113 and U.S. Highway 50 near Berlin, Md., and Lewes, Del., serving all intermediate points: From the junction of U.S. Highway 113 and U.S. Highway 50 over U.S. Highway 50 to Ocean City, Md., thence over Maryland Highway 528 to the Maryland-Delaware State Line, thence over Delaware Highway 14 to its junction with U.S. Highway 9, thence over U.S. Highway 9 to Lewes, Del., and return over the same route; and (7) Between the junction of U.S. Highway 9 and Business Route U.S. Highway 9, and the junction of U.S. Highway 9 and Delaware Highway 14, serving no intermediate points: From the junction of U.S. Highway 9 and Business Route U.S. Highway 9 over U.S. Highway 9 to its junction with Delaware Highway 14 and return over the same route.

NOTE.—The purpose of this republication is to amend applicant's request for authority by the addition of (5) through (7) above. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.; Philadelphia, Pa.; and Washington, D.C.

No. MC 66505 (Sub-No. 5), filed July 5, 1977. Applicant: PEERLESS STAGES, Inc., 2040 Castro Street, Oakland, California. Applicant's representative: Irwin J. Borof, Attorney at Law, 111 Broadway, Oakland, California 94607. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *passengers and their baggage*, in the same vehicle with passengers, in special or charter operations, in special or charter parties, in round-trip, sightseeing, or pleasure tours, beginning and ending at points in the counties of Alameda, Santa Clara, and Contra Costa, California, and extending to points in and within the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Oakland or San Francisco, Calif.

No. MC 106733 (Sub-No. 2), filed June 24, 1977. Applicant: MAPLES & OGLE TRANSPORTATION CO., INC., 805 Parkway, Gatlinburg, Tenn. 37738. Applicant's representative: Blaine Buchanan, 1024 James Building, Chattanooga, Tenn. 37402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers in special operations in one-way and in round-trip sightseeing and pleasure tours, between points in Sevier County, Tennessee, on the one hand, and, on the other, points in the United States, (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Gatlinburg, Tenn. or Knoxville, Tenn. Common control may be involved.

No. MC 107638 (Sub-No. 3) (correction), filed April 29, 1977, published in the FEDERAL REGISTER issue of June 9, republished as corrected this issue. Applicant: EVERGREEN TRAILS, INC., 1936 Westlake Ave., Seattle, WA 98101. Applicant's representative: Elwood Arneson (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting passengers and their baggage, express, newspapers and mail in the same vehicle with passengers, in round-trip special or charter operations, between Seattle on the one hand, and on the other hand, Anacortes, Washington, for traffic moving to and from Victoria, B.C., Canada, via the Washington State International Ferry between Anacortes, Washington, and Sidney, B.C., Canada, crossing the International Boundary between the United States and Canada near Sidney, B.C.

(1) Between Seattle and Anacortes, Washington, via Mukilteo, Whidbey Island and Fidalgo Island, and (2) between Seattle and Anacortes via I-5 to Mt. Vernon, State Highway 536 to Anacortes (with no service at Mt. Vernon, Washington.

NOTE.—The purpose of this republication is to correct the territorial description in this proceeding. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Seattle, Wash.

No. MC 134295 (Sub-No. 1), filed June 30, 1977. Applicant: CASCADE CHARTER SERVICE LTD., 44255 Yale Road West, R.R. 1, Sardis, B.C., Canada VOX 1YO. Applicant's representative: Henry Winters, 15 South Grady Way No. 235, Renton, Wash. 98055. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting *Passengers and their baggage*, in charter operations, beginning and ending at ports of entry on the International Boundary line between the United States and Canada located in Washington (except Blaine) and extending to points in Oregon, Montana, Wyoming, South Dakota, Utah, Colorado, Arizona, New Mexico, Texas, Arkansas, Tennessee, Mississippi, Alabama, Georgia, Louisiana, and Florida.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Seattle, Wash.

No. MC 143427, filed June 27, 1977. Applicant: WINSTON LIMOUSINE SERVICE, INC., Box 43. Stony Brook, N.Y. 11790. Applicant's representative: Sidney J. Leshin, 575 Madison Avenue, New York, N.Y. 10022. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, in non-scheduled door to door service, limited to the transportation of not more than eleven passengers in any one vehicle, between Nassau and Suffolk County, N.Y., on the one hand, and, on the other Atlantic City, N.J.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Hauppauge, N.Y., or New York, N.Y.

No. MC 143444, filed June 30, 1977. Applicant: BOB L. HUNDEN, doing business as WHEELS EXPRESS, P.O. Box 8202, Anaheim, Calif. 92802. Applicant's representative: R. Y. SCHUREMAN, 1545 Wilshire Boulevard, Los Angeles, California 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting *passengers and their baggage*, in special operations, between Bishop, Mammoth Lakes and Lee Vining, California, on the one hand, and on the other, Hawthorne, Nevada, as follows: From Bishop, California over U.S. Highway 395 to junction California Highway 203; thence over California Highway 203 to Mammoth Lakes, California; thence over California Highway 203 to junction U.S. Highway 395; thence over U.S. Highway 395 to junction California Highway 167; thence over California Highway 167 and Nevada Highway 31 to Hawthorne, Nevada, and return over the same route.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Carson City, Nevada.

No. MC 143459 (Sub-No. 1), filed July 1, 1977. Applicant: ARROW-POCONO LINES, INC., 81-14 Baxter Ave., Elmhurst, N.Y. 11373. Applicant's representative: Thomas F. X. Foley, P.O. Box 1409, 167 Fairfield Rd., Fairfield, N.J. 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Passengers and their baggage*, and unaccompanied baggage in the same vehicle with passengers in special and charter operations, in vehicles having a seating capacity not exceeding 11 passengers, and not including the driver, between New York, N.Y. and its commercial zone, and points in Carbon, Lehigh, Luzerne, Monroe, Northampton and Pike Counties, Pa., and South Sterling, Pa.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Newark, N.J. or New York, N.Y.

FREIGHT FORWARDERS

No. FF 459 (Sub-No. 1), filed June 28, 1977. Applicant: RICHARDSON FORWARDING COMPANY, a corporation, 992 East Artesia Boulevard, Long Beach, California 90805. Applicant's representative: Alan F. Wohlstetter, 1700 K Street, N.W., Washington, D.C. 20006. Authority sought to engage in operation, in interstate and foreign commerce, as a *freight forwarder*, through the use of the facilities of common carriers by rail, motor, water and express, in the transportation of (a) *Used household goods and unaccompanied baggage*, and (b) *used automobiles*, between points in the United States (including Hawaii but excluding Alaska). Restricted in (b) to the transportation of export-import traffic.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Los Angeles, California. The purpose of this application is to remove the import-export restriction with respect to used household goods and unaccompanied baggage in applicant's present Permit No. FF 459. Common control may be involved.

No. FF 499, filed August 1, 1977. Applicant: CAROLINA-PUERTO RICO, INC., 11521 Granite Street, Charlotte, N.C. 28217. Applicant's representative: William Q. Keenan, 277 Park Avenue, New York, N.Y. 10017. Authority sought to engage in operation, in interstate commerce, as a *freight forwarder*, through use of the facilities of common carriers by railroad and motor vehicle, in the transportation of *general commodities* (except Classes A and B explosives, used household goods as defined by the Commission, commodities in bulk, unaccompanied baggage, motor vehicles and commodities requiring refrigeration), between points in North Carolina, points in South Carolina in and north of McCormick, Greenwood, Saluda, Lexington, Calhoun, Clarendon, Florence, Marion and Horry Counties, points in Tennessee in and east of Bradley, McMinn, Loudon, Anderson, Knox, Grainger, Hawkins and Hancock Counties, points in Virginia in and south of Lee, Wise, Russell, Smyth, Wythe, Pulaski, Montgomery, Roanoke, Bedford, Campbell and Halifax Counties, on the one hand, and, on the other, all ports along the East Coast of the United States between (and including) Baltimore, Md., and Miami, Fla.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Charlotte, N.C.

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, or rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-13022 (Amendment) (ONEIDA MOTOR FREIGHT, INC.—Purchase (Portion) — EASTERN FREIGHT WAYS, INC.), published in the December 2, 1976 issue of the FEDERAL REGISTER. Prior publication inadvertently omitted part of the authority to be purchased, and should be modified to reflect the operating rights as follows: General commodities, with exceptions as a common carrier over regular routes between North Bennington, Vt., and Albany, N.Y., serving the intermediate point of Bennington, Vt., and intermediate and off-route points in New York within 25 miles of Albany, N.Y. Between New York, N.Y., on the one hand, and, on the other, Buffalo, N.Y., the intermediate points of Albany, Amsterdam, Fonda, Rochester, St. Johnsville, Schenectady, Scotia, Syracuse, and Utica, N.Y., and the off route points of Canajoharie, Fort Plain, Fultonville, Gloversville, and Johnstown, N.Y. Bewteen Albany, N.Y., on the one hand, and, on the other, Rochester, N.Y., the intermediate point of St. Johnsville, N.Y., and the off route point of Johnstown, N.Y. Between Waterford, N.Y., and the intermediate point of Cohoes, N.Y., on the one hand, and, on the other, New York, N.Y. From Niagara Falls, N.Y., and the off route point of Solvay (Onondaga County), N.Y., to New York, N.Y. From New York, N.Y., to Binghamton, N.Y. Between Schenectady, N.Y., and Troy, N.Y., serving all intermediate points. Between Rensselaer, N.Y., and Troy, N.Y., serving all intermediate points. Between Rensselaer, N.Y., and Cohoes, N.Y., serving all intermediate points. Between Watervliet, N.Y., and Troy, N.Y., serving all intermediate points. Between points in New York, serving all intermediate points; and the off route points of Clinton, Oriskany Falls, Waterville, Franklin Springs, Manlius, Solvay, Honeoye Falls, Munnsville, Hamilton, Leonardsville, Union Springs, Owasco, Ovid, Lodi, Willard, Cedarville, Delmar, and Glenmont, N.Y. Between Lafayette, N.Y. and Binghamton, N.Y., serving all intermediate points; and the off route points of McGraw, East Homer, Cincinnatus, Moravia, Locke, Windsor, Chenango Bridge, Conklin, Hawleyton, and Deposit, N.Y. Between Little Falls, N.Y., and Schuylerville, N.Y., serving all intermediate points. Between Johnstown, N.Y., and Fort Johnson, N.Y., serving all intermediate points. Between Amsterdam, N.Y., and Gloversville, N.Y., serving all intermediate points; and the off route point of Hagaman, N.Y. Between Amsterdam, N.Y., and Saratoga Springs, N.Y., serving all intermediate points. Between Rome, N.Y., and Antwerp, N.Y., serving all intermediate points.

Between Utica, N.Y. and Antwerp, N.Y., serving all intermediate points. Between Boonville, N.Y., and Watertown, N.Y., serving all intermediate points. Between Junction New York Highways 5 and 365, and Rome, N.Y., serving all intermediate points; and the off route

points of Sacketts Harbor, Brownville, Marcy, Old Forge, Poland, and Canastota, N.Y. Between Buffalo, N.Y. and Ripley, N.Y., serving all intermediate points; and the off route points of Angola, Iroquois, Brant, and Cassadega, N.Y. Between Syracuse, N.Y., and Colosse, N.Y., serving all intermediate points. Between Syracuse, N.Y., and Oswego, N.Y., serving all intermediate points. Between Fulton, N.Y., and Pulaski, N.Y., serving all intermediate points. Between Mexico, N.Y., and Maple View, N.Y., serving all intermediate points. Between Syracuse, N.Y., and junction New York Highway 370 and U.S. Highway 104, serving all intermediate points. Between Williamson, N.Y., and Palmyra, N.Y., serving all intermediate points. Between Cato, N.Y., and Weedsport, N.Y., serving all intermediate points. Between Rochester, N.Y., and Oswego, N.Y., serving all intermediate points. Between Baldwinsville, N.Y., and Junction New York Highways 46 and 5, serving all intermediate points. Between Oneida Valley, N.Y., and Vernon, N.Y., serving all intermediate points; and the off route points of Arrowhead, West Webster, Sodus Center, Red Creek, and Fairport, N.Y. Between Buffalo, N.Y., and Jamestown, N.Y., serving all intermediate points; and the off route points of Arcade, Strykerville, and Holmuth, N.Y. Between Victor, N.Y., and junction New York Highways 20C and 5, serving all intermediate points. Between Canandaiqua, N.Y., and Junction New York Highways 332 and 96, serving all intermediate points. Between Rochester, N.Y., and Niagara Falls, N.Y., serving all intermediate points. Between Middleport, N.Y., and junction New York Highways 31A and 31, serving all intermediate points; and the off route points of Barker, Wilson, Sanborn, Lyndonville, and Kendall, N.Y.

Between Batavia, N.Y., and junction New York Highways 93 and 5, serving all intermediate points. Between Oakfield, N.Y. and junction New York Highways 237 and 33, serving all intermediate points. Between Lockport, N.Y., and Olcott, N.Y., serving all intermediate points; and the off route point of Echota, N.Y. Between Jamestown, N.Y., and Schenectady, N.Y., serving all intermediate points; and the off route points of Richburg, Altamont, Stamford, Middleburg, and Chenango Bridge, N.Y. Between Hamburg, N.Y., and Salamanca, N.Y., serving all intermediate points. Between Dayton, N.Y., and Salamanca, N.Y., serving all intermediate points. Between Buffalo, N.Y., and Olean, N.Y., serving all intermediate points; and the off route point of Arcade, N.Y. Between Avon, N.Y., and Wellsville, N.Y., serving all intermediate points. Between Belfast, N.Y., and Scotts Corner, N.Y., serving all intermediate points; and the off route points of Friendship, and Hume, N.Y. Between Batavia, N.Y. and Dansville, N.Y., serving all intermediate points. Between Leicester, N.Y., and Dansville, N.Y., serving all intermediate points. Between Pavilion, N.Y., and Jasper, N.Y., serving all intermediate points; and the off route points of Nunda, Almond, Troupsburg, and Bliss, N.Y. Between East Avon, N.Y., and Painted Post, N.Y., serving all intermediate points; and the off route points of Rheims, Campbell, and Atlanta, N.Y. Between Geneva, N.Y., and Cohocton, N.Y., serving all intermediate points.

Between Elmira, N.Y., and Rushville, N.Y., serving all intermediate points. Between Cortland, N.Y. and junction New York Highways 13 and 224, serving all intermediate points; and the off route point of Freeville, N.Y. Between Herkimer, N.Y., and Oneonta, N.Y., serving all intermediate points; and the off route points of Sidney, Norwick, Morris, and Gilbertsville, N.Y. Between points in New York, serving all intermediate points, except those in Warren and Washington Counties; and the off route point of Green Island. Between points in New York, serving the intermediate points of Ossining, and Hudson, N.Y., and intermediate points between Hudson, and Albany, N.Y.; and the off-route points of Rensselaer, Nassau, Cropseyville, Chatham, Stottville, Copake Falls, Ravena, Coxsackie, West Coxsackie, and New Paltz, N.Y. General commodities, including commodities requiring refrigerated service, but excluding those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment (except those requiring refrigerated service), and those injurious or contaminating to other lading. Between Philadelphia, Pa., and Binghamton, N.Y., serving the intermediate point of Bartonsville, Pa.; and the off route points of Johnson City, and Endicott, N.Y. General commodities, with exceptions as a common carrier over irregular routes between Watertown, N.Y., on the one hand, and, on the other, points within five miles of Messena, N.Y. Between Niagara Falls, N.Y., on the one hand, and, on the other, points in Niagara, Erie, and Orleans Counties, N.Y. Between Buffalo, N.Y., on the one hand, and, on the other, points in Erie, Genesee, Niagara, and Wyoming Counties, N.Y. Between Batavia, N.Y., on the one hand, and, on the other, points in Genesee, and Monroe Counties, N.Y. Between Rochester, N.Y., on the one hand, and, on the other, points in Monroe, Genessee, Livingston, Orleans, Ontario, Seneca, Wayne, and Wyoming Counties, N.Y.

Between Auburn, N.Y., on the one hand, and, on the other, points in Cayuga, Onondaga, and Seneca Counties, N.Y. Between Syracuse, N.Y., on the one hand, and, on the other, points in Onondaga, Cayuga, Cortland, Madison, Oswego, Seneca, Tompkins, and Wayne Counties, N.Y. Between Utica, N.Y., on the one hand, and, on the other, points in Oneida, Madison, and Montgomery Counties, N.Y., and points in Herkimer County, N.Y., south of Adirondack Mountains Preserve. Between Amsterdam, N.Y., on the one hand, and, on the other, points in Schenectady County, N.Y., and points in Fulton and Herkimer Counties, N.Y., south of Adirondack Mountains Preserve. Between Binghamton, N.Y., on the one hand, and, on the other, points in Broome County, N.Y. Between Rensselaer, N.Y., on the one hand, and, on the other, points in Rensselaer, Albany, Montgomery, Saratoga, and Schenectady Counties, N.Y. From New York, N.Y., to Binghamton, Buffalo, Fulton, Rochester, Syracuse, and Waverly, N.Y., with no transportation for compensation on return except as otherwise authorized. From Buffalo, Lockport, Syracuse, Solvay, and Phoenix, N.Y., to New York, N.Y., with no transportation for compensation on return except as otherwise authorized. From Buffalo, N.Y., to Tarrytown, N.Y., with no transportation for compensation on return except as otherwise authorized. Between Bennington, and North Bennington, Vt., on the one hand, and, on the other, Albany, N.Y., and points in New York within 25 miles of Albany. Between New York, N.Y., Newark, N.J., and points in New Jersey within 15 miles of Newark, on the one hand, and, on the other, points in Rennselaer, and Albany Counties, N.Y. Between New York, N.Y., on the one hand, and, on the other, points in Westchester County, N.Y. Between Athens, and Sayre, Pa., on the one hand, and, on the other, points in New York. Between points in New York except points in New York, N.Y., and Nassau and Suffolk Counties, N.Y., on the one hand, and, on the other, points in New Jersey.

No. MC-F-13295. Authority sought for purchase by CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025, of a portion of the operating rights of Eastern Express, Inc., 1415 Wabash Avenue, Terre Haute, IN 47808, and for acquisition by Consolidated Freightways, Inc., 601 California Street, San Francisco, CA 94108, of control of such rights through the purchase. Applicants' attorneys: Eugene T. Liipfert, 1660 L Street, NW., Washington, D.C., 20036, and Roland Rice, 1111 E Street, NW., Washington, D.C. 20004. Operating rights sought to be transferred: General commodities with exceptions as a common carrier over regular routes between Jacksonville, Florida, and Ponte Vedra, Florida, over Florida Highway 10 and A1A; serving the intermediate points and off-route points of Mayport and Seminole Beach, Florida; between Jacksonville and Jacksonville Beach, Florida, over U.S. Highway 90 and between Jacksonville and Atlanta Beach, Florida, over Florida Highway 105 and A1A, serving all intermediate points; between Jacksonville and Miami, Florida, over U.S. Highway 1 and over Interstate Highway 10, U.S. Highway 301, U.S. Highway 441, Sunshine State Parkway and access roads to U.S. Highway 1, serving all intermediate points: between Jacksonville and Sarasota, Florida, over Interstate Highway 10 and U.S. Highway 301, serving all

V42N160 AUG 18 77 UM

intermediate points; between Jacksonville and Tampa, Florida, over U.S. Highway 17 and Interstate Highway 4, serving all intermediate points; also as off-route points, the plant sites of General Motors Parts Division and National Cash Register Company on U.S. Highway 1 approximately six miles south of Jacksonville, and Cape Kennedy, Umatilla, Eustis, Groveland and Florida points within 25 miles of Jacksonville, Orlando, Haines City and Tampa; between Atlanta, Georgia, and Jacksonville over U.S. Highways 41, 341 and 1, serving all intermediate points and off-route points of Dinsmore, Florida, and those within 5 miles of Atlanta, not including Decatur, Georgia; and between Macon, Georgia, and Warner Robins, Georgia, over U.S. Highway 41 and Georgia Highway 247, serving no intermediate points, serving Macon for joinder only, and restricted against traffic originating at or interchanged at or destined to Atlanta. Vendee is authorized to operate as a common carrier in all the states in the United States (except Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC–F–13296. Authority sought for control by LYONS TRANSPORTATION LINES, INC., 138 East 26th Street, Erie, PA 16512, of MODERN TRUCK LINES, INC., 7845 Hall Street, St. Louis, Mo. 63147, of control of such rights through the transaction. Applicants' attorney: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Operating rights sought to be controlled: *General commodities*, with exceptions, as a *common carrier*, over irregular routes, between points within one mile of Paducah, Kentucky, not including Paducah, on the one hand, and, on the other, points in Kentucky on Kentucky Highway 286, not including Wickliffe, Kentucky; between St. Louis, Missouri, on the one hand, and on the other, points in Ballard County, Kentucky; Between Paducah, Kentucky; Memphis, Tennessee; Cairo, Illinois, and points in Illinois within five miles of Cairo, Illinois, and points in Tennessee located on U.S. Highway 51, on the one hand, and, on the other, points in Kentucky within 35 miles of La Center, Kentucky, excluding La Center and those in said area on or within one mile of U.S. Highways 45, 51, and 60; and Between East St. Louis, Illinois, and points in Illinois within 25 miles thereof, on the one hand, and, on the other, La Center, Kentucky, and points in Kentucky within 35 miles of La Center, other than those on or within one mile of U.S. Highways 45, 51, or 60. *Cheese, feed, roofing materials, wire-fencing, lard cans,* and *packinghouse products and by-products*, including fresh meats, from East St. Louis, Illinois to points in Ballard and McCracken Counties, Kentucky, with no transportation for compensation on return except as otherwise authorized: *Livestock*, between points in Ballard and McCracken Counties, Kentucky, on the one hand, and, on the other, East St. Louis, Illinois. Lyons Transportation Lines, Inc., is authorized to operate as a *common carrier* in Illinois, Indiana, Kentucky, Michigan, New York, Ohio, Pennsylvania, Tennessee, Arkansas, Connecticut, Missouri, New Jersey, and West Virginia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–13297. Authority sought for purchase by MATERIALS TRANSPORT SERVICE, INC., 693 Knox Road, Wayne, PA 19087, of a portion of the operating rights of PROVAN TRANSPORT CORP., 210 Mill Street, Newburgh, N.Y. 12550, and for acquisition by E. E. TAYLOR, 693 Knox Road, Wayne, PA 19087 of control of such rights through the purchase. Applicants' attorneys: Christian V. Graf, Esquire, 407 North Front Street, Harrisburg, PA 17101 and Morton E. Kiel, Esquire, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Operating rights sought to be purchased: *Cement*, in bulk, in tank vehicles, as a *common carrier* over irregular routes from points in Ulster County, N.Y., to New York, N.Y., and points in Connecticut, Massachusetts, Rhode Island, Maine, Vermont, New Hampshire and New Jersey, with no transportation for compensation on return except as otherwise authorized; *Cement* and *lime*, in bags, from the village of Rosendale, N.Y., and points within two miles of Rosendale, to points in Connecticut, New Jersey, New York and Massachusetts, within 150 miles of Rosendale, N.Y., with no transportation for compensation on return except as otherwise authorized. Vendee is authorized to operate as a common carrier in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia. Application has not been filed for temporary authority under section 210a(b). No. MC–118816 (Sub-No. 8) is a directly related matter.

No. MC–F–13298. Authority sought for purchase by DAYTON & SOUTHEASTERN LINES, INC., 2600 Willowburn Avenue, P.O. Box 26040, Dayton, OH 45426, of a portion of the operating rights of VIRGINIA STAGE LINES, INC., 310 W. Main Street, Charlottesville, VA 22902, and for acquisition by CARL SCHAEFER, JR., 321 Stuckhardt Drive, Trotwood, OH 45426, of control of such rights through the purchase. Applicants' attorneys: Earl N. Merwin, 85 East Gay Street, Columbus, OH 43215. Operating rights sought to be purchased: *Passengers and their baggage, and newspapers in the same vehicle with passengers*, as a *common carrier* over regular routes between Huntington, West Virginia and Catlettsburg, Kentucky over U.S. Highway 60; between Bluefield and Holden, West Virginia over U.S. Highway 52, West Virginia Highway 16, West Virginia Highway 10; between Charleston and Gilbert Junction, West Virginia over U.S. Highway 119; *Passengers and their baggage*, between Catlettsburg, Ky., and Ashland, Ky., serving all intermediate points, with service at Ashland, Ky., and intermediate points restricted to the pick-up or discharge of passengers originating at or destined to points east of Catlettsburg, Ky., or west of Russell, Ky.; *Passengers and their baggage in the same vehicle with passengers* between Portsmouth, Ohio, and South Shore, Ky., serving all intermediate points in Kentucky; *Passengers and their baggage, and express and newspapers in the same vehicle with passengers*, between Ashland, Ky., and Cincinnati, Ohio, serving all intermediate points, with service to intermediate points on U.S. Highway 23 between Ashland and Russell, Ky., including Ashland, Ky., restricted to the pick-up or discharge of passengers originating at or destined to points east of Catlettsburg, Ky., or west of Russell, Ky.; between Portsmouth, Ohio and King's Addition, Ky., serving all intermediate points; between Fullerton, Ky., and Carter, Ky., serving all intermediate points; Between Portsmouth, Ohio, and New Boston, Ohio, serving no intermediate points, and service at New Boston is restricted to the pick-up or discharge of passengers and their baggage, and express moving over carrier's lines to or from points in Kentucky; Between Maysville, Ky., and Fort Thomas, Ky., serving all intermediate points. Vendee is authorized to operate as a common carrier in District of Columbia, Kentucky, Ohio, Virginia, and West Virginia. Application has not been filed for temporary authority under section 210a(b).

MOTOR CARRIER OF PASSENGERS

No. MC–F–13299. Authority sought for purchase by DAYTON & SOUTHEASTERN LINES, INC., 2600 Willowburn Avenue, P.O. Box 26040, of a portion of the operating rights of American Bus Lines, Inc., 1501 South Central Avenue, Los Angeles, CA 90021, and for acquisition by Carl Schaeffer, Jr., 321 Stuckhardt Drive, Trotwood, OH 45426, of control of such rights through the transaction. Applicants' attorney: Earl N. Merwin, 85 East Gay Street, Columbus, OH 43215. Operating rights sought to be purchased: *Passengers and their baggage, and express, newspapers and mail, in the same vehicle with passengers*, as a *common carrier* over regular routes between Fort Wayne, Ind., and Toledo, Ohio, serving all intermediate points; Between junction Ohio Highway 2 and unnumbered highway south of Holland, Ohio, and Toledo, Ohio, serving all intermediate points. Vendee is authorized to operate as a *common carrier* in Arizona, California, Colorado, District of Columbia, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Nebraska, Nevada, New Mexico, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Texas, Utah, and Wyoming. Application has been filed for temporary authority under section 210a(b).

No. MC–F–13302. Authority sought for control by HOLLAND INDUSTRIES, INC., a noncarrier, 104 East 40th Street, New York, N.Y. 10016 of Sandusky Rapid Transit, Inc. and Ashland City Lines, Inc., both of 166 West 6th Street, Mansfield, OH 44902 and for acquisition by John Capozzi, also of New York, N.Y. 10016 address and Richard Crandell, 900 West Central Avenue, Toledo, OH 43610 of control of Sandusky Rapid Transit, Inc. and Ashland City Lines, Inc., through the acquisition by Holland Industries, Inc. Applicants' attorneys: Arthur Wagner, 600 Madison Avenue, New York, N.Y., and Russell Gertmenian, P.O. Box 1008, 52 East Gay Street, Columbus, OH 43216. Operating rights sought to be controlled: Under Docket No. MC–124855 and Sub Nos. thereunder, Sandusky Rapid Transit, Inc., is authorized as a common carrier over irregular routes: Passengers and their baggage, in the same vehicle with passengers, in roundtrip charter operations. Beginning and ending at points in Erie and Huron Counties, Ohio, and extending to points in Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. Under Docket No. MC–118926 and Sub Nos. thereunder, Ashland City Lines, Inc. is authorized to operate as a common carrier over regular routes: Passengers and their baggage, and express and newspapers in the same vehicle with passengers, between Cleveland, Ohio and Mansfield, Ohio serving all intermediate points: From Cleveland over city streets and U.S. Highway 42 via Parma, Middleburg Heights, Strongsville, Brunswick, Medina, Lafayette, Lodi, West Salem, Ashland, and Five Points, Ohio, to Mansfield, and return over the same route. Between Medina, Ohio, and Wooster, Ohio, serving all intermediate points: From Medina over Ohio Highway 3 via Seville, Creston, Jackson, and Madisonburg, Ohio to Wooster, and return over the same routes. Between Wooster Ohio, and Ashland, Ohio, serving all intermediate points: From Wooster over U.S. Highway 250 via New Pittsburg and Rowsburg, Ohio, to Ashland, and return over the same route. Irregular routes: Passengers and their baggage in charter operations, beginning and ending at points in Ashland County, Ohio, and extending to points in Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, Holland Industries, Inc., holds no authority from this Commission. However, it owns all of the outstanding stock of Buckeye Charter Corp. who is authorized to operate as a common carrier in Ohio. Holland Industries, Inc., also has temporary control of Short Way Lines, Inc. in conjunction with separately filed application for permanent control. Short Way Lines, Inc. is authorized to operate as a common carrier in Ohio, Michigan and Indiana. Application has been filed for temporary authority under Section 210a(b).

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 118816 (Sub-No. 8), filed August 2, 1977. Applicant: MATERIALS TRANSPORT SERVICE, INC., 693 Knox Road, Wayne, Pa. 19087. Applicant's representative: Christian V. Graf, Esquire, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Cement, in bulk, in tank vehicles*, (1) from the plantsite of The Whitehall Cement Manufacturing Company at Cementon, Pa., to New York, N.Y., and points in Connecticut, Massachusetts, Rhode Island, Maine, Vermont and New Hampshire; (2) from the plantsite of Coplay Cement Manufacturing Company at or near the Borough of Coplay, Pa., to New York, N.Y., and points in Connecticut, Massachusetts, Rhode Island, Maine, Vermont and New Hampshire; (3) from the plantsite of Coplay Cement Manufacturing Company (formerly Giant Portland Cement Company) at Egypt, Pa., to points in Connecticut, Massachusetts, Rhode Island, Maine, Vermont and New Hampshire; (4) from the plantsite of the Keystone Portland Cement Company in East Allen Township, Northampton County, Pa., to points in Connecticut, Massachusetts, Rhode Island, Maine, Vermont and New Hampshire; (5) from the plantsite of Hercules Cement Comany at Stockertown, Pa., to points in Connecticut, Massachusetts, Rhode Island, Maine, Vermont and New Hampshire; (6) from the plantsites of Penn-Dixie Cement Corporation near Nazareth, Pa., at or near Penn Allen, Pa., and near Bath, Pa., to points in Connecticut, Massachusetts, Rhode Island, Maine, Vermont and New Hampshire; (7) from the plantsite of Coplay Cement Manufacturing Company (formerly Nazareth Cement Comany), Nazareth, Pa., to points in Connecticut, Massachusetts, Rhode Island, Maine, Vermont and New Hampshire; (8) from the plantsite of Dragon Cement Company Division of Martin Marietta Company, at Northampton, Pa., to points in Connecticut, Massachusetts, Rhode Island, Maine, Vermont and New Hampshire; and (B) *cement, in bags*, from the aforementioned plantsites to points in Connecticut, New York and Massachusetts within one hundred fifty (150) miles of Rosendale, N.Y.

NOTE.—The instant Application is directly related to the Application in No. MC–F–13297, seeking approval of the purchase by Applicant of Certificate No. MC 103490, Sub 36, Sheet 5, issued to Provan Transport Corp. The purpose of the instant Application is to eliminate Ulster County, N.Y., on part (A) of the Application and the Village of Rosendale, N.Y., and points within two (2) miles of Rosendale as to part (B) of the Application. This is a gateway elimination Application in connection with the combined operations of Applicant and Provan Transport Corp. and is to receive direct authorization from and to the points involved in connection therewith. If a hearing is deemed necessary, Applicant requests it be held at Harrisburg, Pa. Notice of the application filing in MC–F–13297 appears in a prior section of this Federal Register issue.

MOTOR CARRIER ALTERNATE ROUTES DEVIATIONS

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PROPERTY

No. MC 2202 (Deviation No. 161), ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, Ohio 44309, filed August 4, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Hillsboro, Ill., over Illinois Highway 127 to junction Illinois Highway 185, thence over Illinois Highway 185 to Vandalia, Ill., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Hillsboro,

V42 N160 AUG 18 77 UM

Ill., over Illinois Highway 16 to junction U.S. Highway 45, thence over U.S. Highway 45 to junction U.S. Highway 40, thence over U.S. Highway 40 to Vandalia, Ill., and return over the same route.

No. MC 35628 (Deviation No. 30), INTERSTATE MOTOR FREIGHT SYSTEM, 134 Grandville Ave., S.W., Grand Rapids, Mich. 49502, filed December 13, 1976, as amended. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From E. St. Louis, Ill., over Interstate Highway 64 to junction Illinois Highway 1, thence over Illinois Highway 1 to junction U.S. Highway 460 (also designated as Illinois Highway 14) at Crossville, Ill., thence over U.S. Highway 460 to junction U.S. Highway 41, thence over U.S. Highway 41 to junction Kentucky Pennyrile Parkway, thence over Kentucky Pennyrile Parkway to junction Kentucky Audubon Parkway, thence over Kentucky Audubon Parkway to junction U.S. Highway By-Pass 60, thence over U.S. Highway By-Pass 60 to junction Kentucky Green River Parkway, thence over Kentucky Green River Parkway to junction U.S. Highway 231 near Bowling Green, Ky., thence over U.S. Highway 231 to junction U.S. Highway 31W at Bowling Green, Ky., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From St. Louis, Mo-E. St. Louis, Ill., over U.S. Highway 50 to Vincennes, Ind., thence over U.S. Highway 150 to Louisville, Ky., thence over U.S. Highway 31W to Bowling Green, Ky., and return over the same route.

No. MC 35628 (Deviation No. 31), INTERSTATE MOTOR FREIGHT SYSTEM, 134 Grandville Ave., S.W., Grand Rapids, Mich. 49502, filed December 17, 1976, as amended. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From E. St. Louis, Ill., over Interstate Highway 64 to junction Illinois Highway 1, thence over Illinois Highway 1 to junction U.S. Highway 460 (also designated as Illinois Highway 14) at Crossville, Ill., thence over U.S. Highway 460 to junction U.S. Highway 41, thence over U.S. Highway 41 to junction Kentucky Pennyrile Parkway, thence over Kentucky Pennyrile Parkway to junction U.S. Highway 41 near Hopkinsville, Ky., thence over U.S. Highway 41 to junction U.S. Highway 79, thence over U.S. Highway 79 to junction Interstate Highway 24, thence over Interstate Highway 24 to junction U.S. Highway 31 in Nashville, Tenn., and (2) From E. St. Louis, Ill., over the routes described in (1) above to junction Interstate Highway 24, thence over Interstate Highway 24 to junction Tennessee Highway 49, thence over Tennessee Highway 49 to junction U.S. Highway 41A, thence over U.S. Highway 41A to junction U.S. Highway 31 in Nashville, Tenn., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From St. Louis, Mo.-E. St. Louis, Ill., over U.S. Highway 50 to Vincennes, Ind., thence over U.S. Highway 150 to Louisville, Ky., thence over U.S. Highways 31E or 31W to Washville, Tenn., and return over the same route.

No. MC 35628 (Deviation No. 32), INTERSTATE MOTOR FREIGHT SYSTEM, 134 Grandville Ave., SW., Grand Rapids, Mich. 49502, filed January 11, 1977, as amended. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From E. St. Louis, Ill., over Interstate Highway 64 to junction Interstate Highway 75, thence over Interstate Highway 75 to Knoxville, Tenn., (2) From E. St. Louis, Ill., over Interstate Highway 64 to junction ByPass Interstate Highway 264, thence over ByPass Interstate Highway 264 around Louisville, Ky., to junction Interstate Highway 64, thence over Interstate Highway 64 to junction Interstate Highway 75, thence over Interstate Highway 75 to Knoxville, Tenn., and (3) From Nashville, Tenn., over Interstate Highway 40 to Knoxville, Tenn., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From St. Louis, Mo.-E. St. Louis, Ill., over U.S. Highway 50 to Vincennes, Ind., thence over U.S. Highway 150 to Louisville, Ky., thence over U.S. Highway 31E to Bardstown, Ky., thence over U.S. Highway 62 to Versailles, Ky., thence over U.S. Highway 60 to Lexington, Ky., thence over U.S. Highway 25 to Livingston, Ky., thence over Kentucky Highway 490 to junction U.S. Highway 25, thence over U.S. Highway 25 to Corbin, Ky., thence over U.S. Highway 25W to Knoxville, Tenn., and (2) From Nashville, Tenn., over U.S. Highway 41 to Chattanooga, Tenn., thence over U.S. Highway 11 to Knoxville, Tenn., and return over the same routes.

No. MC 76032 (Deviation No. 36), NAVAJO FREIGHT LINES, INC., 1205 S. Platte River Drive, Denver, Colo. 80223, filed July 26, 1977. Carrier proposes to operate as a *common carrier* by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Los Angeles, Calif., over U.S. Highway 101 to junction Interstate Highway 8, thence over Interstate Highway 8 to junction Interstate Highway 10, thence over Interstate Highway 10 to El Paso, Tex., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Los Angeles, Calif., over U.S. Highway 60 to Wickenburg, Ariz., thence over U.S. Highway 89 to junction Alternate U.S. Highway 89, thence over Alternate U.S. Highway 89 to junction U.S. Highway 66 at Flagstaff, Ariz., thence over U.S. Highway 66 to junction U.S. Highway 84, thence over U.S. Highway 84 to Ft. Sumner, New Mexico, thence over New Mexico Highway 20 to junction U.S. Highway 285, thence over U.S. Highway 285 to Roswell, N. Mex., thence over U.S. Highway 70 to Tularosa, N. Mex., thence over U.S. Highway 54 to El Paso, Tex., and return over the same route.

By the Commission,

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-23796 Filed 8-17-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Civil Aeronautics Board	1, 2
Federal Deposit Insurance Corporation	3, 4, 5
Federal Power Commission	6
Indian Claims Commission	7
Interstate Commerce Commission	8
Railroad Retirement Board	9, 10

1

[MA-24 amending M-43 8/12/77]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from August 16, 1977 meeting agenda; revised agenda.

TIME AND DATE: 10 a.m., August 16, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 20. Docket 28196, California-Alberta Route Proceeding, Order on Discretionary Review (Memo No. 7332, OGC, BE).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Vice Chairman O'Melia and Member West have expressed an interest in item 20 on the August 16, 1977 meeting. However, these Members will not be able to attend this meeting. This item will be rescheduled at a time which permits the attendance of Vice Chairman O'Melia and Member West. The following Board Members have voted that agency business requires the deletion of item 20, Docket 28196, California-Alberta Route Proceeding, order on discretionary review, from the agenda of the August 16, 1977 meeting and that no earlier announcement of the deletion was possible.

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West

[S-1129-77 Filed 8-15-77;3:45 pm]

2

[MA-23 amending M-43 8/12/77]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from August 16, 1977 meeting agenda; revised agenda.

TIME AND DATE: 10 a.m., August 16, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 19. Docket 30182, Iowa Illinois-Atlanta Route Proceeding. Order on reconsideration and consolidation (Memo No. 6950-A, BLJ, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: At the August 11, 1977 Board Meeting the following Members voted that agency business requires the deletion of Item 19, Docket 30182, order on reconsideration and consolidation in the Iowa/Illinois-Atlanta Route Proceeding, from the August 16, 1977 Meeting agenda because one Member suggested substantial revisions to the draft order:

Chairman Alfred E. Kahn
Member G. Joseph Minetti
Member Elizabeth E. Bailey

[S-1128-77 Filed 8-15-77;3:45 pm]

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10:30 a.m., August 22, 1977.

PLACE: Room 6135, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Application for Federal deposit insurance:

Lewis County Industrial Financing Corporation, an operating industrial loan company, located at 119 East Second Street, Weston, West Virginia.

Application for consent to establish a branch:

Bank of A. Levy, Oxnard, California, in the vicinity of the intersection of Lakeview Canyon and Agoura Roads, Westlake Village (Unincorporated), California.

Application for consent to move main office and existing branch by interchange of designations:

Southern Bank of Lauderdale County, Anderson, Alabama, to move its main office from State Highway 207, Anderson, Alabama, to 1534 Florence Boulevard, Florence, Alabama, and its existing branch at 1554 Florence Boulevard, Florence, Alabama, to State Highway 207, Anderson, Alabama.

Application for consent to exercise limited trust powers:

Case No. 43,154-SR—American Bank & Trust Company, New York: New York.
Case No. 43,160-L—Franklin National Bank, New York, New York.
Case No. 43,161-L—American Bank & Trust, Orangeburg, South Carolina.
Case No. 43,164-L—Franklin National Bank, New York, New York.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-1124-77 Filed 8-15-77;3:14 pm]

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10:45 a.m., August 22, 1977.

PLACE: Room 6135, FDIC Bldg., 550 17th St. NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Application for Federal deposit insurance:

Lewis County Industrial Financing Corporation, an operating industrial loan company, located at 119 East Second Street, Weston, West Virginia.

Application for consent to establish a branch:

Bank of A. Levy, Oxnard, California, in the vicinity of the intersection of Lakeview Canyon and Agoura Roads, Westlake Village (Unincorporated), California.

Application for consent to move main office and existing branch by interchange of designations:

Southern Bank of Lauderdale County, Anderson, Alabama, to move its main office from State Highway 207, Anderson, Alabama, to 1534 Florence Boulevard, Florence, Alabama, and its existing branch at 1554 Florence Boulevard, Florence, Alabama, to State Highway 207, Anderson, Alabama.

Application for consent to exercise limited trust powers:

V 42 N 160 AUG 18 77 UM

The Farmers Bank, Union Point, Georgia.

Application for consent to merge:

Denver Savings Bank, Denver, Iowa, for consent to merge under its charter and title with Denver Realty Company, Inc., Denver, Iowa, its wholly-owned bank premises subsidiary.

Applications for consent to merge and establish branches:

Barnett Bank of Daytona Beach, Daytona Beach, Florida, for consent to merge under its charter and title with Barnett Bank at Ormond Beach, Ormond Beach, Florida, and to establish the sole office of Barnett Bank at Ormond Beach as a branch of the resultant bank.

Barnett Bank of Tallahassee, Tallahassee, Florida, for consent to merge under its charter and title with Barnett Bank of Tallahassee North, Tallahassee, Florida, and to establish the sole office of Barnett Bank of Tallahassee North as a branch of the resultant bank.

Citizens Bank and Trust Company of Maryland, Riverdale, Maryland, for consent to merge under its charter and title with Chevy Chase Bank and Trust Company, Chevy Chase, Maryland, and to establish the three offices of Chevy Chase Bank and Trust Company as branches of the resultant bank.

Anchor Savings Bank, New York (P.O. Brooklyn), New York, an insured mutual savings bank, for consent to merge with North New York Savings Bank, White Plains, New York, also an insured mutual savings bank, under the charter and title of Anchor Savings Bank, and to establish the five offices of North New York Savings Bank as branches of the resultant bank.

The New York Bank for Savings, New York (Manhattan), New York, for consent to merge under its charter and title with First Federal Savings and Loan Association of Syracuse, Syracuse, New York, upon the latter's conversion to a State-chartered savings and loan association, and to establish the four offices of First Federal Savings and Loan Association of Syracuse as branches of the resultant bank.

Recommendations regarding the liquidation of assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,145-L—Franklin National Bank, New York, New York.

Case No. 43,155-L—International City Bank and Trust Company, New Orleans, Louisiana.

Case No. 43,162-L—The Monroe Bank & Trust Company, Monroe, Connecticut.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings or termination-of-insurance proceedings against certain insured banks:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8), (c)(9)(A)(ii), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(10)).

The meeting will be held in Room 6135 of the FDIC Building located at 550, 17th Street NW., Washington, D.C.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-1125-77 Filed 8-15-77;3:15 pm]

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 11:00 a.m., August 22, 1977.

PLACE: Board Room, Sixth Floor, FDIC Bldg., 550 17th St. NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Application for consent to establish a branch (conversion from existing public accommodation office):

East River Savings Bank, New York, New York, at 230 World Trade Center Concourse, New York, New York.

Applications for consent to establish remote service facilities (electronic branches):

The Dime Savings Bank of New York, New York (Brooklyn), New York, within the Pathmark Supermarket located at 90 Northern Boulevard, Greenvale (Unincorporated Area), Town of North Hempstead, New York.

The Schenectady Savings Bank, Schenectady, New York, in Carl Company stores at 1300 Altamont Avenue, Rotterdam, New York, and at 300 Saratoga Road, Glenville, New York.

Application for consent to establish a remote service facility (25 point-of-sale terminals):

The Greenwich Savings Bank, New York, New York, within the Alexander's Department Store, Garden City, Town of Hempstead (Unincorporated Area), New York.

Application for consent to establish an unmanned remote service facility and a night depository:

Englewood Bank and Trust, Englewood, Florida, at 530 Palm Plaza, Palm Plaza Shopping Center, Englewood, Florida.

Recommendations with respect to payment for legal services rendered and expenses in curred in connection with receivership and liquidation activities:

Parsons, Canzona, Blair and Warren, Red Bank, New Jersey, in connection with the liquidation of First State Bank of Hudson County, Jersey City, New Jersey.

Kaye, Scholer, Fierman, Bays & Randler, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Studio Legal Ardito, Rome, Italy, in connection with the liquidation of Franklin National Bank, New York, New York.

Squire, Sanders & Dempsey, Cleveland, Ohio, in connection with the liquidation of Northern Ohio Bank, Cleveland, Ohio.

J. Randolph Pelzer, North Charleston, South Carolina, in connection with the liquidation of American Bank & Trust, Orangeburg, South Carolina.

Sutherland, Asbill & Brennan, Atlanta, Georgia, in connection with the liquidation of The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.

Recommendation with respect to the amendment of the Corporation's rules and regulations:

Memorandum and resolution proposing the publication for comment of amendments to Part 308 of the Corporation's rules and regulations, entitled "Rules of Practice and Procedures," to prescribe procedures and standards applicable to proceedings by the Board of Directors to suspend and/or prohibit from participation in a bank's affairs any officer or director or other person who is charged with a felony involving dishonesty or a breach of trust.

Memorandum proposing the relocation of the Atlanta Regional Office.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Division of Liquidation on the status of the Deposit Insurance National Bank of the Virgin Islands, Charlotte Amalie, Virgin Islands, as of July 31, 1977.

Report of the Chief, Accounting and Budget Branch, Office of the Controller, on the status, as of May 31, 1977, of a loan made by the Corporation to Five Points National Bank of Miami, Miami, Florida, on January 12, 1966.

Reports with respect to security transactions authorized by the Chairman.

Memorandum proposing the conduct and funding of a joint Federal Deposit Insurance Corporation/Federal Home Loan Bank Board "Home Mortgage Disclosure Act" Study.

Memorandum and resolution proposing the conduct and funding of a study of State and Federal regulation of banks.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller Executive Secretary, (202) 389-446.

[S-1126-77 Filed 8-15-77;3:16 pm]

6

FEDERAL POWER COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (pub. 8/15/77 42 FR 41211, pub 8/15/77 42 FR 41212).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: August 16, 1977. 2 p.m., August 17, 1977, 2 p.m.

CHANGE IN THE MEETING:

There will be a regular Commission meeting on August 16, 1977 at 2 p.m. The following items will be considered:

1. Docket No. RP76-38, *Arizona Electric Power Cooperative, Inc.* and *The City of Willcox, Arizona* v. *El Paso Natural Gas Company.*
2. Docket No. RP-450-5, Florida Hydrocarbons Company and Florida Gas Transmission Company.
3. Docket No. RP75-79, *Lehigh Portland Cement Company,* Complainant v. *Florida Gas Transmission Company,* Respondent.
4. Docket No. CP77-306, Transco Exploration Company.
5. Docket No. CP77-21, *et al.,* Tennessee Gas Pipeline Company, Columbia Gulf Transmission Company and Southern Natural Gas Company. Docket No. CI76-730, Mobile Oil Corporation. Docket No. CI77-120, Texaco Inc.
6. Docket No. RP77-31 and RP73-64 (PGA 77-2a), Southern Natural Gas Company.
7. Docket No. RP77-110, Alabama-Tennessee Natural Gas Company.
8. Docket No. E-9593, Central Power & Light Company, et al.

There will be a regular Commission meeting on August 18, 1977 at 2 p.m. The following items will be considered:

1. Docket No. ER77-388, Superior District Power Company.
2. Project Nos. 233, 2106, and 2155-California, Pacific Gas and Electric Company.
3. Project No. 137-California, Pacific Gas and Electric Company.
4. Project No. 137-California Pacific Gas and Electric Company.
5. Project No. 175-California, Pacific Gas and Electric Company.
6. Docket Nos. CP75-131 and CP76-129, Montana Fuel Supply Company, Docket No. CP76-94, Phillips Petroleum Company.
7. Docket No. CP76-413, United Gas Pipe Line Company and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. Docket No. CP76-414, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. and Midwestern Gas Transmission Company, Docket No. G-10632, Northern Illinois Gas Company.
8. Docket No. CP77-504, Transcontinental Gas Pipe Line Corporation. Docket No. CP77-513, Tennessee Gas Pipeline Company.
9. Docket No. CP77-478, Panhandle Eastern Pipe Line Company and Trunkline Gas Company.
10. Docket No. CP76-106, Northwest Pipeline Corporation.

KENNETH F. PLUMB, *Secretary.*

[S-1123-77 Filed 8-15-77;1:53 pm]

7

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., August 24, 1977.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the Public.

Dockets 74 and 332-C, Sioux.
Docket 182, Fort Sill Apache.

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006 Tel: 202-653-6184.

[S-1127-77 Filed 8-15-77;3:16 pm]

8

AUGUST 15, 1977.

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 2:30 p.m., Monday, August 22, 1977.

PLACE: Room 5124, Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C.

STATUS: Notice of Open Meeting.

MATTER TO BE CONSIDERED:

Division 3, Division Chairman Brown and Commissioners MacFarland and Christian voted unanimously to hold a meeting to consider the following agenda:

1. Review of present Division workload.

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Hildred Hersman, Confidential Assistant to Commissioner Brown, telephone 202-275-7535.

[S-1130-77 Filed 8-15-77;3:58 pm]

9

U.S. RAILROAD RETIREMENT BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: August 12, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., August 18, 1977.

CHANGE IN THE MEETING: Additional item to be considered at the portion of the meeting open to the public:

(16) Designation of Board personnel to serve as Chairman and Vice Chairman of the Combined Federal Campaign for the National Capital Area.

[S-1122-77 Filed 8-15-77;1:54 pm]

10

RAILROAD RETIREMENT BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 41006, August 12, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., August 18, 1977.

CHANGES IN THE MEETING: Additional item to be considered at the portion of the meeting closed to the public:

(13) Appeal to the Board of denial of annuity application, Gertrude Lane.

Additional items to be considered at the portion of the meeting open to the public:

(14) Merit system abuse complaint made by the President, Council of AFGE Locals in the Board.

(15) Agreement with the Union on multi-grade postings.

[S-1121-77 Filed 8-15-77;12:43 pm]

V 42 160 AUG 18 77 UM V

federal register

THURSDAY, AUGUST 18, 1977
PART II



ENVIRONMENTAL PROTECTION AGENCY

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Revision to Reference Method 1-8

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 754-5]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Revision to Reference Methods 1–8

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: This rule revises Reference Methods 1 through 8, the detailed requirements used to measure emissions from affected facilities to determine whether they are in compliance with a standard of performance. The methods were originally promulgated December 23, 1971, and since that time several revisions became apparent which would clarify, correct and improve the methods. These revisions make the methods easier to use, and improve their accuracy and reliability.

EFFECTIVE DATE: September 19, 1977.

ADDRESSES: Copies of the comment letters are available for public inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit (EPA Library), Room 2922, 401 M Street, S.W., Washington, D.C. 20460. A summary of the comments and EPA's responses may be obtained upon written request from the EPA Public Information Center (PM–215), 401 M Street, S.W., Washington, D.C. 20460 (specify "Public Comment Summary: Revisions to Reference Methods 1–8 in Appendix A of Standards of Performance for New Stationary Sources").

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone No. 919–541–5271.

SUPPLEMENTARY INFORMATION: The amendments were proposed on June 8, 1976 (40 FR 23060). A total of 55 comment letters were received during the comment period—34 from industry, 15 from governmental agencies, and 6 from other interested parties. They contained numerous suggestions which were incorporated in the final revisions.

Changes common to all eight of the reference methods are: (1) the clarification of procedures and equipment specifications resulting from the comments, (2) the addition of guidelines for alternative procedures and equipment to make prior approval of the Administrator unnecessary and (3) the addition of an introduction to each reference method discussing the general use of the method and delineating the procedure for using alternative methods and equipment.

Specific changes to the methods are:

METHOD 1

1. The provision for the use of more than two traverse diameters, when specified by the Administrator, has been deleted. If one traverse diameter is in a plane containing the greatest expected concentration variation, the intended purpose of the deleted paragraph will be fulfilled.

2. Based on recent data from Fluidyne (Particulate Sampling Strategies for Large Power Plants Including Nonuniform Flow, EPA–600/2–76–170, June 1976) and Entropy Environmentalists (Determination of the Optimum Number of Traverse Points: An Analysis of Method 1 Criteria (draft), Contract No. 68–01–3172), the number of traverse points for velocity measurements has been reduced and the 2:1 length to width ratio requirement for cross-sectional layout of rectangular ducts has been replaced by a "balanced matrix" scheme.

3. Guidelines for sampling in stacks containing cyclonic flow and stacks smaller than about 0.31 meter in diameter or 0.071 m^2 in cross-sectional area will be published at a later date.

4. Clarification has been made as to when a check for cyclonic flow is necessary; also, the suggested procedure for determination of unacceptable flow conditions has been revised.

METHOD 2

1. The calibration of certain pitot tubes has been made optional. Appropriate construction and application guidelines have been included.

2. A detailed calibration procedure for temperature gauges has been included.

3. A leak check procedure for pitot lines has been included.

METHOD 3

1. The applicability of the method has been confined to fossil-fuel combustion processes and to other processes where it has been determined that components other than O_2, CO_2, CO, and N_2 are not present in concentrations sufficient to affect the final results.

2. Based on recent research information (Particulate Sampling Strategies for Large Power Plants Including Nonuniform Flow, EPA–600/2–76–170, June 1976), the requirement for proportional sampling has been dropped and replaced with the requirement for constant rate sampling. Proportional and constant rate sampling have been found to give essentially the same result.

3. The "three consecutive" requirement has been replaced by "any three" for the determination of molecular weight, CO_2 and O_2.

4. The equation for excess air has been revised to account for the presence of CO.

5. A clearer distinction has been made between molecular weight determination and emission rate correction factor determination.

6. Single point, integrated sampling has been included.

METHOD 4

1. The sampling time of 1 hour has been changed to a total sampling time which will span the length of time the pollutant emission rate is being determined or such time as specified in an applicable subpart of the standards.

2. The requirement for proportional sampling has been dropped and replaced with the requirement for constant rate sampling.

3. The leak check before the test run has been made optional; the leak check after the run remains mandatory.

METHOD 5

1. The following alternatives have been included in the method:

a. The use of metal probe liners.

b. The use of other materials of construction for filter holders and probe liner parts.

c. The use of polyethylene wash bottles and sample storage containers.

d. The use of desiccants other than silica gel or calcium sulfate, when appropriate.

e. The use of stopcock grease other than silicone grease, when appropriate.

f. The drying of filters and probe-filter catches at elevated temperatures, when appropriate.

g. The combining of the filter and probe washes into one container.

2. The leak check prior to a test run has been made optional. The post-test leak check remains mandatory. A method for correcting sample volume for excessive leakage rates has been included.

3. Detailed leak check and calibration procedures for the metering system have been included.

METHOD 6

1. Possible interfering agents of the method have been delineated.

2. The options of: (a) using a Method 8 impinger system, or (b) determining SO_2 simultaneously with particulate matter, have been included in the method.

3. Based on recent research data, the requirement for proportional sampling has been dropped and replaced with the requirement for constant rate sampling.

4. Tests have shown that isopropanol obtained from commercial sources occasionally has peroxide impurities that will cause erroneously low SO_2 measurements. Therefore, a test for detecting peroxides in isopropanol has been included in the method.

5. The leak check before the test run has been made optional; the leak check after the run remains mandatory.

6. A detailed calibration procedure for the metering system has been included in the method.

METHOD 7

1. For variable wave length spectrophotometers, a scanning procedure for determining the point of maximum absorbance has been incorporated as an option.

METHOD 8

1. Known interfering compounds have been listed to avoid misapplication of the method.

2. The determination of filterable particulate matter (including acid mist) simultaneously with SO_2 and SO_3 has been allowed where applicable.

3. Since occassionally some commercially available quantities of isopropanol have peroxide impurities that will cause erroneously high sulfuric acid mist measurements, a test for peroxides in isopropanol has been included in the method.

4. The gravimetric technique for moisture content (rather than volumetric) has been specified because a mixture of isopropyl alcohol and water will have a volume less than the sum of the volumes of its content.

5. A closer correspondence has been made between similar parts of Methods 8 and 5.

MISCELLANEOUS

Several commenters questioned the meaning of the term "subject to the approval of the Administrator" in relation to using alternate test methods and procedures. As defined in § 60.2 of subpart A, the "Administrator" includes any authorized representative of the Administrator of the Environmental Protection Agency. Authorized representatives are EPA officials in EPA Regional Offices or State, local, and regional governmental officials who have been delegated the responsibility of enforcing regulations under 40 CFR 60. These officials in consultation with other staff members familiar with technical aspects of source testing will render decisions regarding acceptable alternate test procedures.

In accordance with section 117 of the Act, publication of these methods was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies.

(Secs. 111, 114 and 301(a) of the Clean Air Act, sec. 4(a) of Pub. L. No. 91–604, 84 Stat. 1683; sec. 4(a) of Pub. L. No. 91–604, 84 Stat. 1687; sec. 2 of Pub. L. No. 90–148, 81 Stat. 504 [42 U.S.C. 1857c–6, 1857c–9, 1857g(a)].)

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A–107.

Dated: August 10, 1977.

DOUGLAS M. COSTLE,
Administrator.

Part 60 of Chapter I of Title 40 of the Code of Federal Regulations is amended by revising Methods 1 through 8 of Appendix A—Reference Methods as follows:

APPENDIX A—REFERENCE METHODS

The reference methods in this appendix are referred to in § 60.8 (Performance Tests) and § 60.11 (Compliance With Standards and Maintenance Requirements) of 40 CFR Part 60, Subpart A (General Provisions). Specific uses of these reference methods are described in the standards of performance contained in the subparts, beginning with Subpart D.

Within each standard of performance, a section titled "Test Methods and Procedures" is provided to (1) identify the test methods applicable to the facility subject to the respective standard and (2) identify any special instructions or conditions to be followed when applying a method to the respective facility. Such instructions (for example, establish sampling rates, volumes, or temperatures) are to be used either in addition to, or as a substitute for procedures in a reference method. Similarly, for sources subject to emission monitoring requirements, specific instructions pertaining to any use of a reference method are provided in the subpart or in Appendix B.

Inclusion of methods in this appendix is not intended as an endorsement or denial of their applicability to sources that are not subject to standards of performance. The methods are potentially applicable to other sources; however, applicability should be confirmed by careful and appropriate evaluation of the conditions prevalent at such sources.

The approach followed in the formulation of the reference methods involves specifications for equipment, procedures, and performance. In concept, a performance specification approach would be preferable in all methods because this allows the greatest flexibility to the user. In practice, however, this approach is impractical in most cases because performance specifications cannot be established. Most of the methods described herein, therefore, involve specific equipment specifications and procedures, and only a few methods in this appendix specify performance criteria.

Changes to the reference methods should not necessarily affect the validity of the results and it is recognized that alternative and equivalent methods exist. Section 60.8 provides authority for the Administrator to specify or approve (1) equivalent methods, (2) alternative methods, and (3) minor changes in the methodology of the reference methods. It should be clearly understood that unless otherwise identified all such methods and changes must have prior approval of the Administrator. Anyone employing such methods or deviations from the reference methods without obtaining prior approval does so at the risk of subsequent disapproval and retesting with approved methods.

Within the reference methods, certain specific equipment or procedures are recognized as being acceptable or potentially acceptable and are specifically identified in the methods. The items identified as acceptable options may be used without approval but must be identified in the test report. The potentially approvable options are cited as "subject to the approval of the Administrator" or as "or equivalent." Such potentially approvable techniques or alternatives may be used at the discretion of the owner without prior approval. However, detailed descriptions for applying these potentially approvable techniques or alternatives are not provided in the reference methods. Also, the potentially approvable options are not necessarily acceptable in all applications. Therefore, an owner electing to use such potentially approvable techniques or alternatives is responsible for: (1) assuring that the techniques or alternatives are in fact applicable and are properly executed; (2) including a written description of the alternative method in the test report (the written method must be clear and must be capable of being performed without additional instruction, and the degree of detail should be similar to the detail contained in the reference methods; and (3) providing any rationale or supporting data necessary to show the validity of the alternative in the particular application. Failure to meet these requirements can result in the Administrator's disapproval of the alternative.

METHOD 1—SAMPLE AND VELOCITY TRAVERSES FOR STATIONARY SOURCES

1. *Principle and Applicability*

1.1 Principle. To aid in the representative measurement of pollutant emissions and/or total volumetric flow rate from a stationary source, a measurement site where the effluent stream is flowing in a known direction is selected, and the cross-section of the stack is divided into a number of equal areas. A traverse point is then located within each of these equal areas.

1.2 Applicability. This method is applicable to flowing gas streams in ducts, stacks, and flues. The method cannot be used when: (1) flow is cyclonic or swirling (see Section 2.4), (2) a stack is smaller than about 0.30 meter (12 in.) in diameter, or 0.071 m^2 (113 $in.^2$) in cross-sectional area, or (3) the measurement site is less than two stack or duct diameters downstream or less than a half diameter upstream from a flow disturbance.

The requirements of this method must be considered before construction of a new facility from which emissions will be measured; failure to do so may require subsequent alterations to the stack or deviation from the standard procedure. Cases involving variants are subject to approval by the Administrator, U.S. Environmental Protection Agency.

2. *Procedure*

2.1 Selection of Measurement Site. Sampling or velocity measurement is performed at a site located at least eight stack or duct diameters downstream and two diameters upstream from any flow disturbance such as a bend, expansion, or contraction in the stack, or from a visible flame. If necessary, an alternative location may be selected, at a position at least two stack or duct diameters downstream and a half diameter upstream from any flow disturbance. For a rectangular cross section, an equivalent diameter (D_e) shall be calculated from the following equation, to determine the upstream and downstream distances:

$$D_e = \frac{2LW}{L+W}$$

V 42 160 AUG 18 77 UM

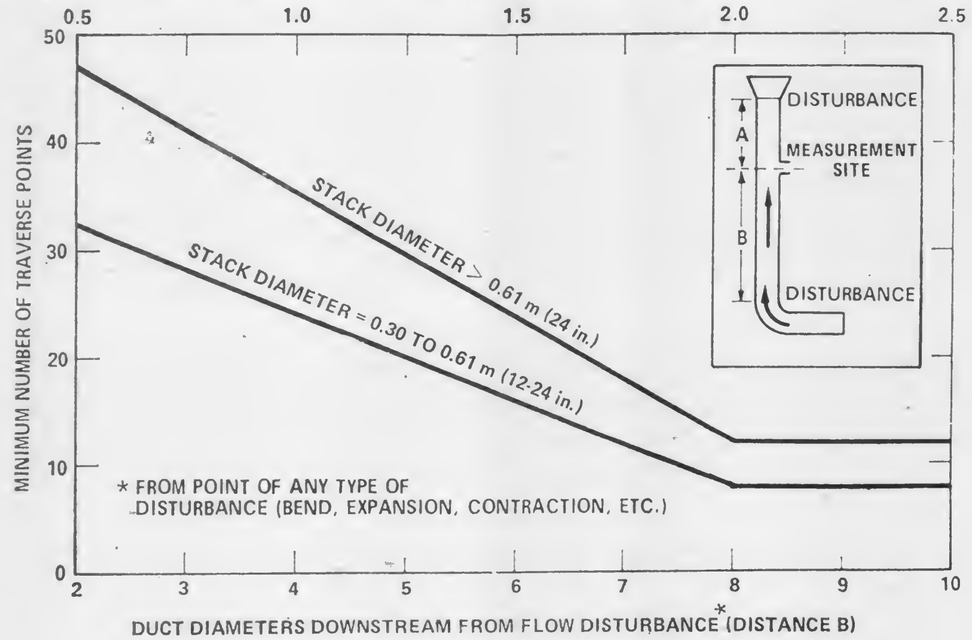


Figure 1-1. Minimum number of traverse points for particulate traverses.

where L=length and W=width.

2.2 Determining the Number of Traverse Points.

2.2.1 Particulate Traverses. When the eight- and two-diameter criterion can be met, the minimum number of traverse points shall be: (1) twelve, for circular or rectangular stacks with diameters (or equivalent diameters) greater than 0.61 meter (24 in.); (2) eight, for circular stacks with diameters between 0.30 and 0.61 meter (12-24 in.); (3) nine, for rectangular stacks with equivalent diameters between 0.30 and 0.61 meter (12-24 in.).

When the eight- and two-diameter criterion cannot be met, the minimum number of traverse points is determined from Figure 1-1. Before referring to the figure, however, determine the distances from the chosen measurement site to the nearest upstream and downstream disturbances, and divide each distance by the stack diameter or equivalent diameter, to determine the distance in terms of the number of duct diameters. Then, determine from Figure 1-1 the minimum number of traverse points that corresponds: (1) to the number of duct diameters upstream; and (2) to the number of diameters downstream. Select the higher of the two minimum numbers of traverse points, or a greater value, so that for circular stacks the number is a multiple of 4, and for rectangular stacks, the number is one of those shown in Table 1-1.

TABLE 1-1. *Cross-sectional layouts for rectangular stacks*

Number of traverse points	Matrix layout
12	3×4
16	4×4
20	5×4
25	5×5
30	6×5
35	6×6
42	7×6
49	7×7

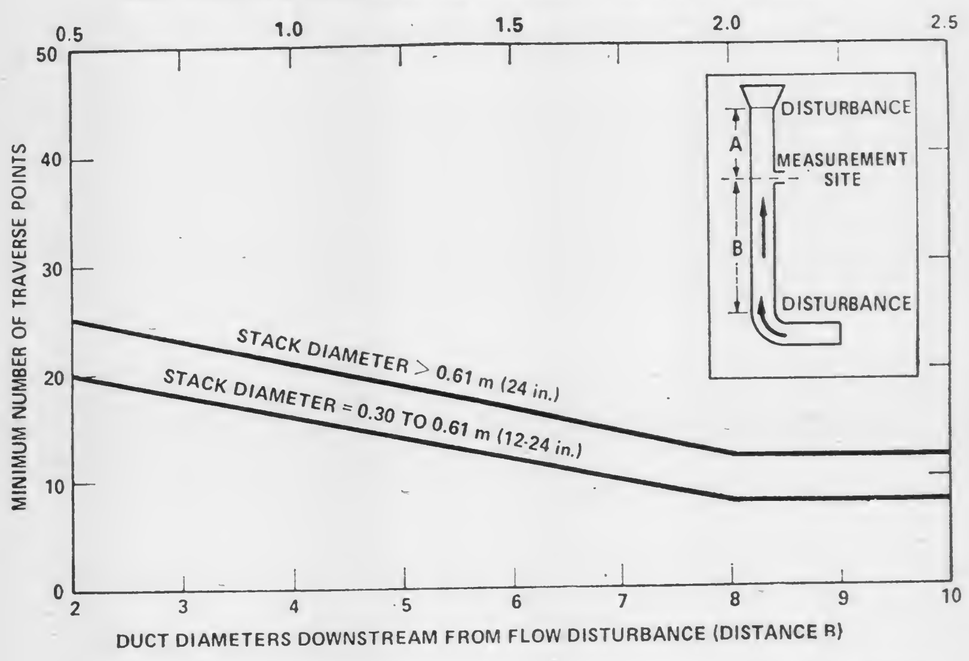


Figure 1-2. Minimum number of traverse points for velocity (nonparticulate) traverses.

2.2.2 Velocity (Non-Particulate) Traverses. When velocity or volumetric flow rate is to be determined (but not particulate matter), the same procedure as that for particulate traverses (Section 2.2.1) is followed, except that Figure 1-2 may be used instead of Figure 1-1.

2.3 Cross-Sectional Layout and Location of Traverse Points.

2.3.1 Circular Stacks. Locate the traverse points on two perpendicular diameters according to Table 1-2 and the example shown in Figure 1-3. Any equation (for examples, see Citations 2 and 3 in the Bibliography) that gives the same values as those in Table 1-2 may be used in lieu of Table 1-2.

For particulate traverses, one of the diameters must be in a plane containing the greatest expected concentration variation, e.g., after bends, one diameter shall be in the plane of the bend. This requirement becomes less critical as the distance from the disturbance increases; therefore, other diameter locations may be used, subject to approval of the Administrator.

In addition, for stacks having diameters greater than 0.61 m (24 in.) no traverse points shall be located within 2.5 centimeters (1.00 in.) of the stack walls; and for stack diameters equal to or less than 0.61 m (24 in.), no traverse points shall be located within 1.3 cm (0.50 in.) of the stack walls. To meet these criteria, observe the procedures given below.

2.3.1.1 Stacks With Diameters Greater Than 0.61 m (24 in.). When any of the traverse points as located in Section 2.3.1 fall within 2.5 cm (1.00 in.) of the stack walls, relocate them away from the stack walls to: (1) a distance of 2.5 cm (1.00 in.); or (2) a distance equal to the nozzle inside diameter, whichever is larger. These relocated traverse points (on each end of a diameter) shall be the "adjusted" traverse points.

Whenever two successive traverse points are combined to form a single adjusted traverse point, treat the adjusted point as two separate traverse points, both in the sampling (or velocity measurement) procedure, and in recording the data.

TRAVERSE POINT	DISTANCE, % of diameter
1	4.4
2	14.7
3	29.5
4	70.5
5	85.3
6	95.6

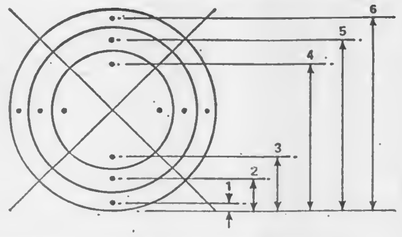


Figure 1-3. Example showing circular stack cross section divided into 12 equal areas, with location of traverse points indicated.

Table 1-2. LOCATION OF TRAVERSE POINTS IN CIRCULAR STACKS
(Percent of stack diameter from inside wall to traverse point)

Traverse point number on a diameter	Number of traverse points on a diameter											
	2	4	6	8	10	12	14	16	18	20	22	24
1	14.6	6.7	4.4	3.2	2.6	2.1	1.8	1.6	1.4	1.3	1.1	1.1
2	85.4	25.0	14.6	10.5	8.2	6.7	5.7	4.9	4.4	3.9	3.5	3.2
3		75.0	29.6	19.4	14.6	11.8	9.9	8.5	7.5	6.7	6.0	5.5
4		93.3	70.4	32.3	22.6	17.7	14.6	12.5	10.9	9.7	8.7	7.9
5			85.4	67.7	34.2	25.0	20.1	16.9	14.6	12.9	11.6	10.5
6			95.6	80.6	65.8	35.6	26.9	22.0	18.8	16.5	14.6	13.2
7				89.5	77.4	64.4	36.6	28.3	23.6	20.4	18.0	16.1
8				96.8	85.4	75.0	63.4	37.5	29.6	25.0	21.8	19.4
9					91.8	82.3	73.1	62.5	38.2	30.6	26.2	23.0
10					97.4	88.2	79.9	71.7	61.8	38.8	31.5	27.2
11						93.3	85.4	78.0	70.4	61.2	39.3	32.3
12						97.9	90.1	83.1	76.4	69.4	60.7	39.8
13							94.3	87.5	81.2	75.0	68.5	60.2
14							98.2	91.5	85.4	79.6	73.8	67.7
15								95.1	89.1	83.5	78.2	72.8
16								98.4	92.5	87.1	82.0	77.0
17									95.6	90.3	85.4	80.6
18									98.6	93.3	88.4	83.9
19										96.1	91.3	86.8
20										98.7	94.0	89.5
21											96.5	92.1
22											98.9	94.5
23												96.8
24												98.9

2.3.1.2 Stacks With Diameters Equal to or Less Than 0.61 m (24 in.). Follow the procedure in Section 2.3.1.1, noting only that any "adjusted" points should be relocated away from the stack walls to: (1) a distance of 1.3 cm (0.50 in.); or (2) a distance equal to the nozzle inside diameter, whichever is larger.

2.3.2 Rectangular Stacks. Determine the number of traverse points as explained in Sections 2.1 and 2.2 of this method. From Table 1-1, determine the grid configuration. Divide the stack cross-section into as many equal rectangular elemental areas as traverse points, and then locate a traverse point at the centroid of each equal area according to the example in Figure 1-4.

The situation of traverse points being too close to the stack walls is not expected to arise with rectangular stacks. If this problem should ever arise, the Administrator must be contacted for resolution of the matter.

2.4 Verification of Absence of Cyclonic Flow. In most stationary sources, the direction of stack gas flow is essentially parallel to the stack walls. However, cyclonic flow may exist (1) after such devices as cyclones and inertial demisters following venturi scrubbers, or (2) in stacks having tangential inlets or other duct configurations which tend to induce swirling; in these instances, the presence or absence of cyclonic flow at the sampling location must be determined. The following techniques are acceptable for this determination.

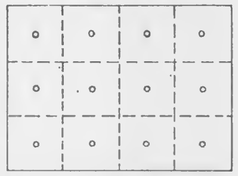


Figure 1-4. Example showing rectangular stack cross section divided into 12 equal areas, with a traverse point at centroid of each area.

Level and zero the manometer. Connect a Type S pitot tube to the manometer. Position the Type S pitot tube at each traverse point, in succession, so that the planes of the face openings of the pitot tube are perpendicular to the stack cross-sectional plane; when the Type S pitot tube is in this position, it is at "0° reference." Note the differential pressure (Δp) reading at each traverse point. If a null (zero) pitot reading is obtained at 0° reference at a given traverse point, an acceptable flow condition exists at that point. If the pitot reading is not zero at 0° reference, rotate the pitot tube (up to ±90° yaw angle), until a null reading is obtained. Carefully determine and record the value of the rotation angle (α) to the nearest degree. After the null technique has been applied at each traverse point, calculate the average of the absolute values of α; assign α values of 0° to those points for which no rotation was required, and include these in the overall average. If the average value of α is greater than 10°, the overall flow condition in the stack is unacceptable and alternative methodology, subject to the approval of the Administrator, must be used to perform accurate sample and velocity traverses.

3. *Bibliography*

1. Determining Dust Concentration in a Gas Stream. ASME. Performance Test Code No. 27. New York. 1957.

2. Devorkin, Howard, et al. Air Pollution Source Testing Manual. Air Pollution Control District. Los Angeles, CA. November 1963

3. Methods for Determination of Velocity, Volume, Dust and Mist Content of Gases. Western Precipitation Division of Joy Manufacturing Co. Los Angeles, CA. Bulletin WP–50. 1968.

4. Standard Method for Sampling Stacks for Particulate Matter. In: 1971 Book of ASTM Standards, Part 23. ASTM Designation D–2928–71. Philadelphia, Pa. 1971.

5. Hanson, H. A., et al. Particulate Sampling Strategies for Large Power Plants Including Nonuniform Flow. USEPA, ORD, ESRL, Research Triangle Park, N.C. EPA–600/2–76–170. June 1976.

6. Entropy Environmentalists, Inc. Determination of the Optimum Number of Sampling Points: An Analysis of Method 1 Criteria. Environmental Protection Agency. Research Triangle Park, N.C. EPA Contract No. 68–01–3172, Task 7.

METHOD 2—DETERMINATION OF STACK GAS VELOCITY AND VOLUMETRIC FLOW RATE (TYPE S PITOT TUBE)

1. *Principle and Applicability*

1.1 Principle. The average gas velocity in a stack is determined from the gas density and from measurement of the average velocity head with a Type S (Stausscheibe or reverse type) pitot tube.

1.2 Applicability. This method is applicable for measurement of the average velocity of a gas stream and for quantifying gas flow.

This procedure is not applicable at measurement sites which fail to meet the criteria of Method 1, Section 2.1. Also, the method cannot be used for direct measurement in cyclonic or swirling gas streams; Section 2.4 of Method 1 shows how to determine cyclonic or swirling flow conditions. When unacceptable conditions exist, alternative procedures, subject to the approval of the Administrator, U.S. Environmental Protection Agency, must be employed to make accurate flow rate determinations; examples of such alternative procedures are: (1) to install straightening vanes; (2) to calculate the total volumetric flow rate stoichiometrically, or (3) to move to another measurement site at which the flow is acceptable.

2. *Apparatus*

Specifications for the apparatus are given below. Any other apparatus that has been demonstrated (subject to approval of the Administrator) to be capable of meeting the specifications will be considered acceptable.

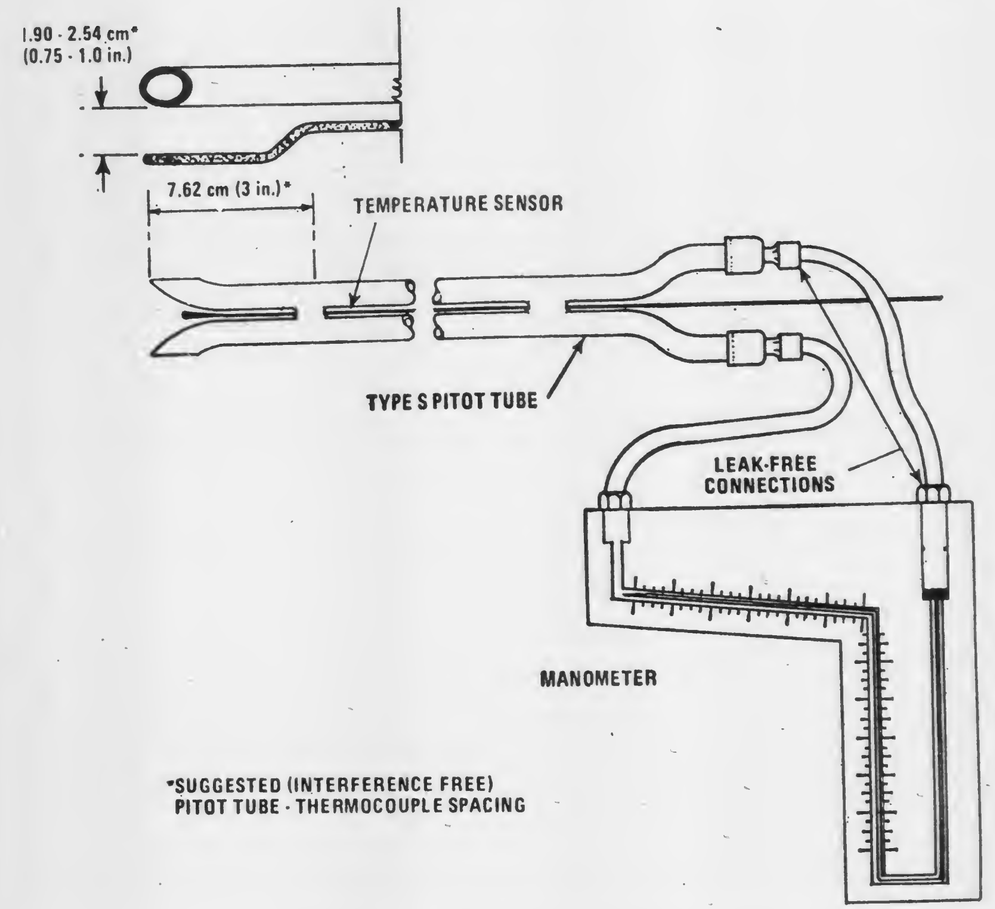
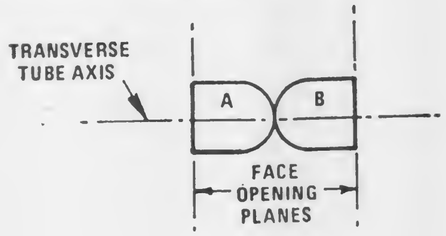


Figure 2-1. Type S pitot tube manometer assembly.

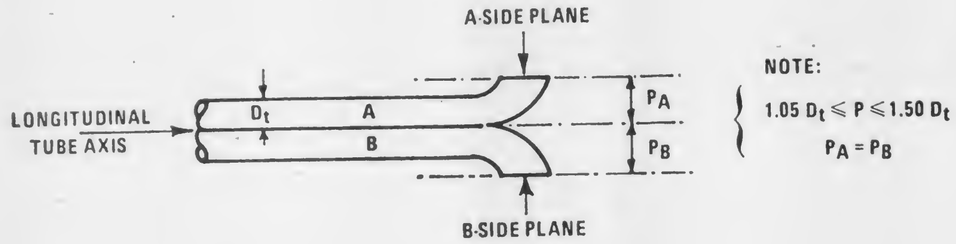
2.1 Type S Pitot Tube. The Type S pitot tube (Figure 2-1) shall be made of metal tubing (e.g., stainless steel). It is recommended that the external tubing diameter (dimension D_t, Figure 2-2b) be between 0.48 and 0.95 centimeters (3/16 and 3/8 inch). There shall be an equal distance from the base of each leg of the pitot tube to its face-opening plane (dimensions P_A and P_B, Figure 2-2b); it is recommended that this distance be between 1.05 and 1.50 times the external tubing diameter. The face openings of the pitot tube shall, preferably, be aligned as shown in Figure 2-2; however, slight misalignments of the openings are permissible (see Figure 2-3).

The Type S pitot tube shall have a known coefficient, determined as outlined in Section 4. An identification number shall be assigned to the pitot tube; this number shall be permanently marked or engraved on the body of the tube.

V 42 160 AUG 18 77 UM



(a)

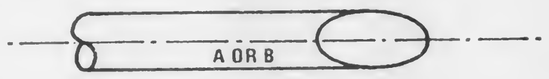


NOTE:

$1.05\ D_t \leq P \leq 1.50\ D_t$

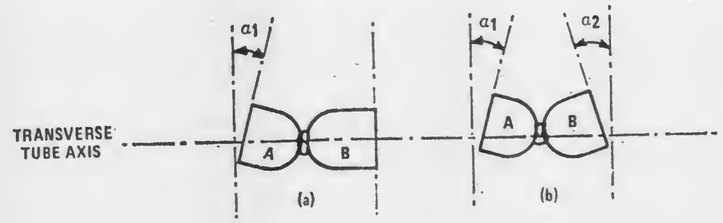
$P_A = P_B$

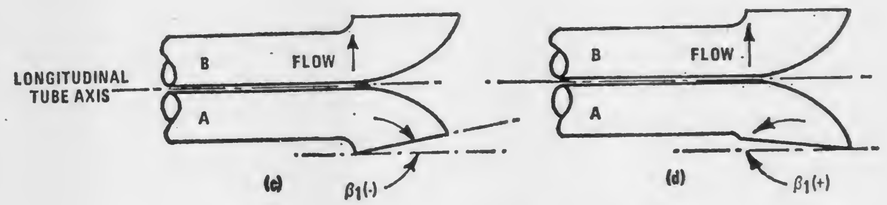
(b)

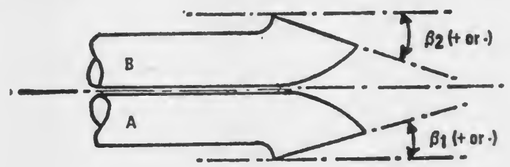


(c)

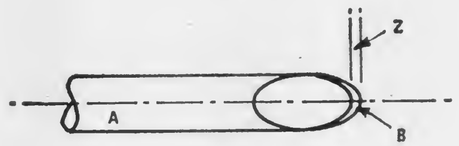
Figure 2-2. Properly constructed Type S pitot tube, shown in: (a) end view; face opening planes perpendicular to transverse axis; (b) top view; face opening planes parallel to longitudinal axis; (c) side view; both legs of equal length and centerlines coincident, when viewed from both sides. Baseline coefficient values of 0.84 may be assigned to pitot tubes constructed this way.



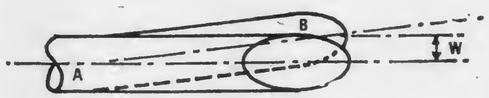




(e)



(f)



(g)

Figure 2-3. Types of face-opening misalignment that can result from field use or improper construction of Type S pitot tubes. These will not affect the baseline value of $\bar{C}p(s)$ so long as α_1 and $\alpha_2 < 10^o$, β_1 and $\beta_2 < 5^o$. $z < 0.32$ cm (1/8 in.) and $w < 0.08$ cm (1/32 in.) (citation 11 in Section 6).

V42160 AUG 18 77 UM

A standard pitot tube may be used instead of a Type S, provided that it meets the specifications of Sections 2.7 and 4.2; note, however, that the static and impact pressure holes of standard pitot tubes are susceptible to plugging in particulate-laden gas streams. Therefore, whenever a standard pitot tube is used to perform a traverse, adequate proof must be furnished that the openings of the pitot tube have not plugged up during the traverse period; this can be done by taking a velocity head (Δp) reading at the final traverse point, cleaning out the impact and static holes of the standard pitot tube by "back-purging" with pressurized air, and then taking another Δp reading. If the Δp readings made before and after the air purge are the same (± 5 percent), the traverse is acceptable. Otherwise, reject the run. Note that if Δp at the final traverse point is unsuitably low, another point may be selected. If "back-purging" at regular intervals is part of the procedure, then comparative Δp readings shall be taken, as above, for the last two back purges at which suitably high Δp readings are observed.

2.2 Differential Pressure Gauge. An inclined manometer or equivalent device is used. Most sampling trains are equipped with a 10-in. (water column) inclined-vertical manometer, having 0.01-in. H_2O divisions on the 0- to 1-in. inclined scale, and 0.1-in. H_2O divisions on the 1- to 10-in. vertical scale. This type of manometer (or other gauge of equivalent sensitivity) is satisfactory for the measurement of Δp values as low as 1.3 mm (0.05 in.) H_2O. However, a differential pressure gauge of greater sensitivity shall be used (subject to the approval of the Administrator), if any of the following is found to be true: (1) the arithmetic average of all Δp readings at the traverse points in the stack is less than 1.3 mm (0.05 in.) H_2O; (2) for traverses of 12 or more points, more than 10 percent of the individual Δp readings are below 1.3 mm (0.05 in.) H_2O; (3) for traverses of fewer than 12 points, more than one Δp reading is below 1.3 mm (0.05 in.) H_2O. Citation 18 in Section 6 describes commercially available instrumentation for the measurement of low-range gas velocities.

As an alternative to criteria (1) through (3) above, the following calculation may be performed to determine the necessity of using a more sensitive differential pressure gauge:

$$T = \frac{\sum_{i=1}^{n} \sqrt{\Delta p_i + K}}{\sum_{i=1}^{n} \sqrt{\Delta p_i}}$$

where:

Δp_i = Individual velocity head reading at a traverse point, mm H_2O (in. H_2O).

n = Total number of traverse points.

K = 0.13 mm H_2O when metric units are used and 0.005 in H_2O when English units are used.

If T is greater than 1.05, the velocity head data are unacceptable and a more sensitive differential pressure gauge must be used.

NOTE.—If differential pressure gauges other than inclined manometers are used (e.g., magnehelic gauges), their calibration must be checked after each test series. To check the calibration of a differential pressure gauge, compare Δp readings of the gauge with those of a gauge-oil manometer at a minimum of three points, approximately representing the range of Δp values in the stack. If, at each point, the values of Δp as read by the differential pressure gauge and gauge-oil manometer agree to within 5 percent, the differential pressure gauge shall be considered to be in proper calibration. Otherwise, the test series shall either be voided, or procedures to adjust the measured Δp values and final results shall be used, subject to the approval of the Administrator.

2.3 Temperature Gauge. A thermocouple, liquid-filled bulb thermometer, bimetallic thermometer, mercury-in-glass thermometer, or other gauge capable of measuring temperature to within 1.5 percent of the minimum absolute stack temperature shall be used. The temperature gauge shall be attached to the pitot tube such that the sensor tip does not touch any metal; the gauge shall be in an interference-free arrangement with respect to the pitot tube face openings (see Figure 2-1 and also Figure 2-7 in Section 4). Alternate positions may be used if the pitot tube-temperature gauge system is calibrated according to the procedure of Section 4. Provided that a difference of not more than 1 percent in the average velocity measurement is introduced, the temperature gauge need not be attached to the pitot tube; this alternative is subject to the approval of the Administrator.

2.4 Pressure Probe and Gauge. A piezometer tube and mercury- or water-filled U-tube manometer capable of measuring stack pressure to within 2.5 mm (0.1 in.) Hg is used. The static tap of a standard type pitot tube or one leg of a Type X pitot tube with the face opening planes positioned parallel to the gas flow may also be used as the pressure probe.

2.5 Barometer. A mercury, aneroid, or other barometer capable of measuring atmospheric pressure to within 2.5 mm Hg (0.1 in. Hg) may be used. In many cases, the barometric reading may be obtained from a nearby national weather service station, in which case the station value (which is the absolute barometric pressure) shall be requested and an adjustment for elevation differences between the weather station and the sampling point shall be applied at a rate of minus 2.5 mm (0.1 in.) Hg per 30-meter (100 foot) elevation increase, or vice-versa for elevation decrease.

2.6 Gas Density Determination Equipment. Method 3 equipment, if needed (see Section 3.6), to determine the stack gas dry molecular weight, and Reference Method 4 or Method 5 equipment for moisture content determination; other methods may be used subject to approval of the Administrator.

2.7 Calibration Pitot Tube. When calibration of the Type S pitot tube is necessary (see Section 4), a standard pitot tube is used as a reference. The standard pitot tube shall, preferably, have a known coefficient, obtained either (1) directly from the National Bureau of Standards, Route 270, Quince Orchard Road, Gaithersburg, Maryland, or (2) by calibration against another standard pitot tube with an NBS-traceable coefficient. Alternatively, a standard pitot tube designed according to the criteria given in 2.7.1 through 2.7.5 below and illustrated in Figure 2-4 (see also Citations 7, 8, and 17 in Section 6) may be used. Pitot tubes designed according to these specifications will have baseline coefficients of about 0.99 ± 0.01.

2.7.1 Hemispherical (shown in Figure 2-4), ellipsoidal, or conical tip.

2.7.2 A minimum of six diameters straight run (based upon D, the external diameter of the tube) between the tip and the static pressure holes.

2.7.3 A minimum of eight diameters straight run between the static pressure holes and the centerline of the external tube, following the 90 degree bend.

2.7.4 Static pressure holes of equal size (approximately 0.1 D), equally spaced in a piezometer ring configuration.

2.7.5 Ninety degree bend, with curved or mitered junction.

2.8 Differential Pressure Gauge for Type S Pitot Tube Calibration. An inclined manometer or equivalent is used. If the single-velocity calibration technique is employed (see Section 4.1.2.3), the calibration differential pressure gauge shall be readable to the nearest 0.13 mm H_2O (0.005 in. H_2O). For multivelocity calibrations, the gauge shall be readable to the nearest 0.13 mm H_2O (0.005 in H_2O) for Δp values between 1.3 and 25 mm H_2O (0.05 and 1.0 in. H_2O), and to the nearest 1.3 mm H_2O (0.05 in. H_2O) for Δp values above 25 mm H_2O (1.0 in. H_2O). A special, more sensitive gauge will be required to read Δp values below 1.3 mm H_2O [0.05 in. H_2O] (see Citation 18 in Section 6).

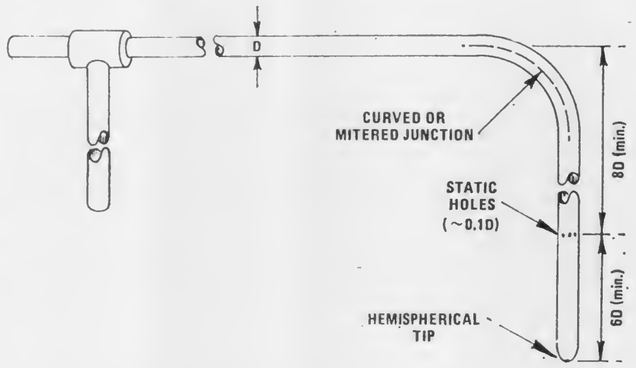


Figure 2-4. Standard pitot tube design specifications.

3. *Procedure*

3.1 Set up the apparatus as shown in Figure 2-1. Capillary tubing or surge tanks installed between the manometer and pitot tube may be used to dampen Δp fluctuations. It is recommended, but not required, that a pretest leak-check be conducted, as follows: (1) blow through the pitot impact opening until at least 7.6 cm (3 in.) H_2O velocity pressure registers on the manometer; then, close off the impact opening. The pressure shall remain stable for at least 15 seconds; (2) do the same for the static pressure side, except using suction to obtain the minimum of 7.6 cm (3 in.) H_2O. Other leak-check procedures, subject to the approval of the Administrator, may be used.

3.2 Level and zero the manometer. Because the manometer level and zero may drift due to vibrations and temperature changes, make periodic checks during the traverse. Record all necessary data as shown in the example data sheet (Figure 2-5).

3.3 Measure the velocity head and temperature at the traverse points specified by Method 1. Ensure that the proper differential pressure gauge is being used for the range of Δp values encountered (see Section 2.2). If it is necessary to change to a more sensitive gauge, do so, and remeasure the Δp and temperature readings at each traverse point. Conduct a post-test leak-check (mandatory), as described in Section 3.1 above, to validate the traverse run.

3.4 Measure the static pressure in the stack. One reading is usually adequate.

3.5 Determine the atmospheric pressure.

PLANT _____

DATE _____ RUN NO. _____

STACK DIAMETER OR DIMENSIONS, m(in.) _____

BAROMETRIC PRESSURE, mm Hg (in. Hg) _____

CROSS SECTIONAL AREA, $m^2(ft^2)$ _____

OPERATORS _____

PITOT TUBE I.D. NO. _____

AVG. COEFFICIENT, C_p = _____

LAST DATE CALIBRATED _____

SCHEMATIC OF STACK CROSS SECTION

Traverse Pt. No.	Vel. Hd., Δp mm (in.) H_2O	Stack Temperature t_s, °C (°F)	Stack Temperature T_s, °K (°R)	P_g mm Hg (in.Hg)	$\sqrt{\Delta p}$
			Average		

Figure 2-5. Velocity traverse data.

3.6 Determine the stack gas dry molecular weight. For combustion processes or processes that emit essentially CO_2, O_2, CO, and N_2, use Method 3. For processes emitting essentially air, an analysis need not be conducted; use a dry molecular weight of 29.0. For other processes, other methods, subject to the approval of the Administrator, must be used.

3.7 Obtain the moisture content from Reference Method 1 (or equivalent) or from Method 5.

3.8 Determine the cross-sectional area of the stack or duct at the sampling location. Whenever possible, physically measure the stack dimensions rather than use blueprints.

4. *Calibration*

4.1 Type S Pitot Tube. Before its initial use, carefully examine the Type S pitot tube in top, side, and end views to verify that the face openings of the tube are aligned within the specifications illustrated in Figure 2-2 or 2-3. The pitot tube shall not be used if it fails to meet these alignment specifications.

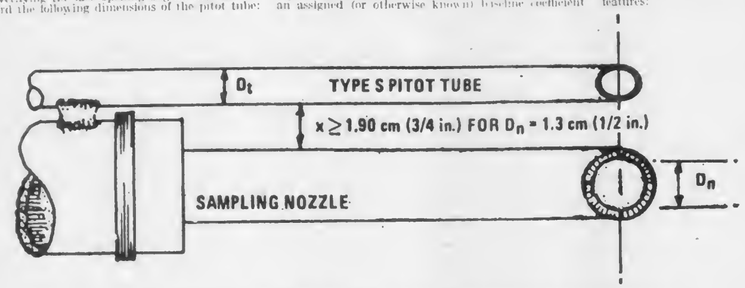
After verifying the face opening alignment, measure and record the following dimensions of the pitot tube: (a) the external tubing diameter (dimension D_t, Figure 2-2b); and (b) the base-to-opening plane distances (dimensions P_A and P_B, Figure 2-2b). If D_t is between 0.48 and 0.95 cm (3/16 and 3/8 in.) and if P_A and P_B are equal and between 1.05 and 1.50 D_t, there are two possible options: (1) the pitot tube may be calibrated according to the procedure outlined in Sections 4.1.2 through 4.1.5 below, or (2) a baseline (isolated tube) coefficient value of 0.81 may be assigned to the pitot tube. Note, however, that if the pitot tube is part of an assembly, calibration may still be required, despite knowledge of the baseline coefficient value (see Section 4.1.1).

If D_t, P_A, and P_B are outside the specified limits, the pitot tube must be calibrated as outlined in 4.1.2 through 4.1.5 below.

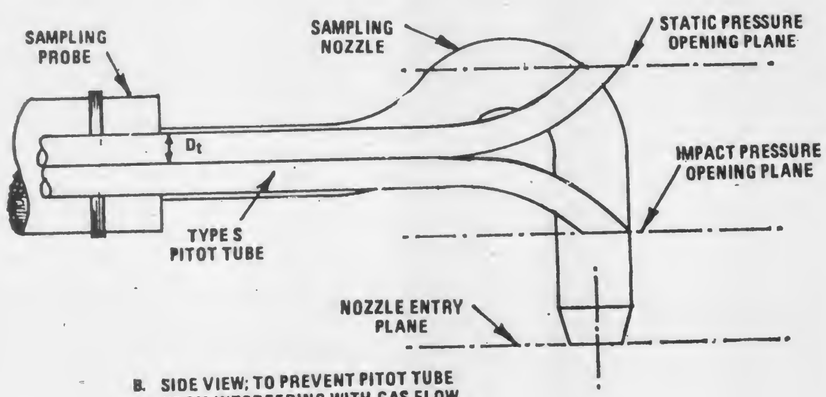
4.1.1 Type S Pitot Tube Assemblies. During sample and velocity traverses, the isolated Type S pitot tube is not always used; in many instances, the pitot tube is used in combination with other source-sampling components (thermocouple, sampling probe, nozzle) as part of an "assembly." The presence of other sampling components can sometimes affect the baseline value of the Type S pitot tube coefficient (Citation 9 in Section 6); therefore an assigned (or otherwise known) baseline coefficient value may or may not be valid for a given assembly. The baseline and assembly coefficient values will be identical only when the relative placement of the components in the assembly is such that aerodynamic interference effects are eliminated. Figures 2-6 through 2-8 illustrate interference-free component arrangements for Type S pitot tubes having external tubing diameters between 0.48 and 0.95 cm (3/16 and 3/8 in.). Type S pitot tube assemblies that fail to meet any or all of the specifications of Figures 2-6 through 2-8 shall be calibrated according to the procedure outlined in Sections 4.1.2 through 4.1.5 below, and prior to calibration, the values of the intercomponent spacings (pitot-nozzle, pitot-thermocouple, pitot-probe sheath) shall be measured and recorded.

NOTE.—Do not use any Type S pitot tube assembly which is constructed such that the impact pressure opening plane of the pitot tube is below the entry plane of the nozzle (see Figure 2-6b).

4.1.2 Calibration Setup. If the Type S pitot tube is to be calibrated, one leg of the tube shall be permanently marked A, and the other, B. Calibration shall be done in a flow system having the following essential design features:



A. BOTTOM VIEW; SHOWING MINIMUM PITOT-NOZZLE SEPARATION.



B. SIDE VIEW; TO PREVENT PITOT TUBE FROM INTERFERING WITH GAS FLOW STREAMLINES APPROACHING THE NOZZLE, THE IMPACT PRESSURE OPENING PLANE OF THE PITOT TUBE SHALL BE EVEN WITH OR ABOVE THE NOZZLE ENTRY PLANE.

Figure 2-6. Proper pitot tube - sampling nozzle configuration to prevent aerodynamic interference; buttonhook - type nozzle; centers of nozzle and pitot opening aligned; D_t between 0.48 and 0.95 cm (3/16 and 3/8 in.).

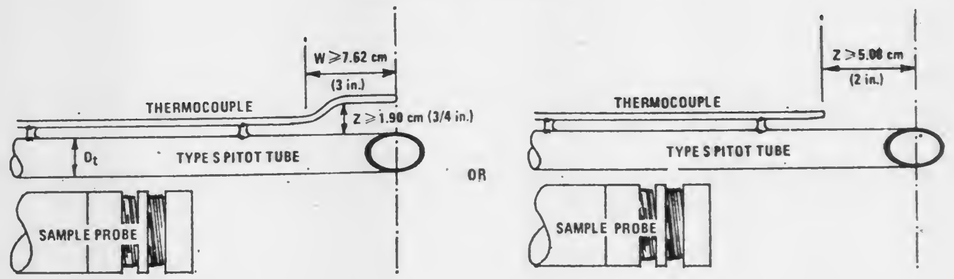


Figure 2-7. Proper thermocouple placement to prevent interference; D_t between 0.48 and 0.95 cm (3/16 and 3/8 in.).

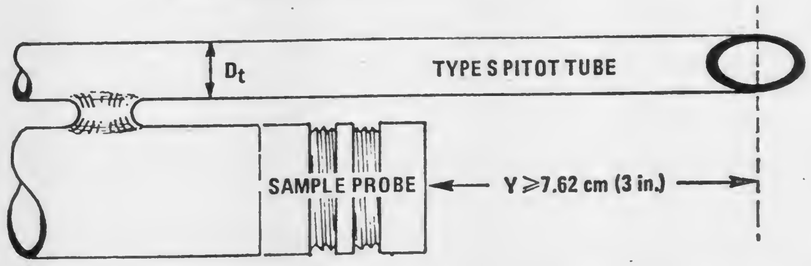


Figure 2-8. Minimum pitot-sample probe separation needed to prevent interference; D_t between 0.48 and 0.95 cm (3/16 and 3/8 in.).

4.1.2.1 The flowing gas stream must be confined to a duct of definite cross-sectional area, either circular or rectangular. For circular cross-sections, the minimum duct diameter shall be 30.5 cm (12 in.); for rectangular cross-sections, the width (shorter side) shall be at least 25.4 cm (10 in.).

4.1.2.2 The cross-sectional area of the calibration duct must be constant over a distance of 10 or more duct diameters. For a rectangular cross-section, use an equivalent diameter, calculated from the following equation, to determine the number of duct diameters:

$$D_e = \frac{2LW}{(L+W)} \qquad \text{Equation 2-1}$$

where:
D_e = Equivalent diameter
L = Length
W = Width

To ensure the presence of stable, fully developed flow patterns at the calibration site, or "test section," the site must be located at least eight diameters downstream and two diameters upstream from the nearest disturbances.

NOTE.—The eight- and two-diameter criteria are not absolute; other test section locations may be used (subject to approval of the Administrator), provided that the flow at the test site is stable and demonstrably parallel to the duct axis.

4.1.2.3 The flow system shall have the capacity to generate a test-section velocity around 915 m/min (3,000 ft/min). This velocity must be constant with time to guarantee steady flow during calibration. Note that Type S pitot tube coefficients obtained by single-velocity calibration at 915 m/min (3,000 ft/min) will generally be valid to within ±3 percent for the measurement of velocities above 305 m/min (1,000 ft/min) and to within ±5 to 6 percent for the measurement of velocities between 180 and 305 m/min (600 and 1,000 ft/min). If a more precise correlation between C_p and velocity is desired, the flow system shall have the capacity to generate at least four distinct, time-invariant test-section velocities covering the velocity range from 180 to 1,525 m/min (600 to 5,000 ft/min), and calibration data shall be taken at regular velocity intervals over this range (see Citations 9 and 14 in Section 6 for details).

4.1.2.4 Two entry ports, one each for the standard and Type S pitot tubes, shall be cut in the test section; the standard pitot entry port shall be located slightly downstream of the Type S port, so that the standard and Type S impact openings will lie in the same cross-sectional plane during calibration. To facilitate alignment of the pitot tubes during calibration, it is advisable that the test section be constructed of plexiglas or some other transparent material.

4.1.3 Calibration Procedure. Note that this procedure is a general one and must not be used without first referring to the special considerations presented in Section 4.1.5. Note also that this procedure applies only to single-velocity calibration. To obtain calibration data for the A and B sides of the Type S pitot tube, proceed as follows:

4.1.3.1 Make sure that the manometer is properly filled and that the oil is free from contamination and is of the proper density. Inspect and leak-check all pitot lines; repair or replace if necessary.

4.1.3.2 Level and zero the manometer. Turn on the fan and allow the flow to stabilize. Seal the Type S entry port.

4.1.3.3 Ensure that the manometer is level and zeroed. Position the standard pitot tube at the calibration point (determined as outlined in Section 4.1.5.4), and align the tube so that its tip is pointed directly into the flow. Particular care should be taken in aligning the tube to avoid yaw and pitch angles. Make sure that the entry port surrounding the tube is properly sealed.

4.1.3.4 Read Δp_{std} and record its value in a data table similar to the one shown in Figure 2-9. Remove the standard pitot tube from the duct and disconnect it from the manometer. Seal the standard entry port.

4.1.3.5 Connect the Type S pitot tube to the manometer. Open the Type S entry port. Check the manometer level and zero. Insert and align the Type S pitot tube so that its A side impact opening is at the same point as was the standard pitot tube and is pointed directly into the flow. Make sure that the entry port surrounding the tube is properly sealed.

4.1.3.6 Read Δp_A and enter its value in the data table. Remove the Type S pitot tube from the duct and disconnect it from the manometer.

4.1.3.7 Repeat steps 4.1.3.3 through 4.1.3.6 above until three pairs of Δp readings have been obtained.

4.1.3.8 Repeat steps 4.1.3.3 through 4.1.3.7 above for the B side of the Type S pitot tube.

4.1.3.9 Perform calculations, as described in Section 4.1.4 below.

4.1.4 Calculations.

4.1.4.1 For each of the six pairs of Δp readings (i.e., three from side A and three from side B) obtained in Section 4.1.3 above, calculate the value of the Type S pitot tube coefficient as follows:

V 42 160 AUG 18 77 UM V

PITOT TUBE IDENTIFICATION NUMBER: _____ DATE: _____

CALIBRATED BY: _____

	"A" SIDE CALIBRATION			
RUN NO.	Δp_{std} cm H_2O (in. H_2O)	$\Delta p_{(s)}$ cm H_2O (in. H_2O)	$C_{p(s)}$	DEVIATION $C_{p(s)} - \bar{C}_p$(A)
1				
2				
3				
		$\bar{C}_p$ (SIDE A)		

	"B" SIDE CALIBRATION			
RUN NO.	Δp_{std} cm H_2O (in. H_2O)	$\Delta p_{(s)}$ cm H_2O (in. H_2O)	$C_{p(s)}$	DEVIATION $C_{p(s)} - \bar{C}_p$(B)
1				
2				
3				
		$\bar{C}_p$ (SIDE B)		

$$\text{AVERAGE DEVIATION} = \sigma\,(\text{A OR B}) = \frac{\sum_{1}^{3} \left| C_{p(s)} - \bar{C}_p(\text{A OR B}) \right|}{3} \longleftarrow \text{MUST BE} \leq 0.01$$

$$\left| \bar{C}_p\,(\text{SIDE A}) - \bar{C}_p\,(\text{SIDE B}) \right| \longleftarrow \text{MUST BE} \leq 0.01$$

Figure 2-9. Pitot tube calibration data.

$$C_{p(s)} = C_{p(std)} \sqrt{\frac{\Delta p_{std}}{\Delta p_s}}$$

Equation 2-2

where:

$C_{p(s)}$ = Type S pitot tube coefficient

$C_{p(std)}$ = Standard pitot tube coefficient; use 0.99 if the coefficient is unknown and the tube is designed according to the criteria of Sections 2.7.1 to 2.7.5 of this method.

Δp_{std} = Velocity head measured by the standard pitot tube, cm H_2O (in. H_2O)

Δp_s = Velocity head measured by the Type S pitot tube, cm H_2O (in. H_2O)

4.1.4.2 Calculate $\bar{C}_p$ (side A), the mean A-side coefficient, and $\bar{C}_p$ (side B), the mean B-side coefficient; calculate the difference between these two average values.

4.1.4.3 Calculate the deviation of each of the three A-side values of $C_{p(s)}$ from $\bar{C}_p$ (side A), and the deviation of each B-side value of $C_{p(s)}$ from $\bar{C}_p$ (side B). Use the following equation:

$$\text{Deviation} = C_{p(s)} - \bar{C}_p(\text{A or B})$$

Equation 2-3

4.1.4.4 Calculate σ, the average deviation from the mean, for both the A and B sides of the pitot tube. Use the following equation:

$$\sigma\,(\text{side A or B}) = \frac{\sum_{1}^{3} \left| C_{p(s)} - \bar{C}_p(A \text{ or } B) \right|}{3}$$

Equation 2-4

4.1.4.5 Use the Type S pitot tube only if the values of σ (side A) and σ (side B) are less than or equal to 0.01 and if the absolute value of the difference between $\bar{C}_p$ (A) and $\bar{C}_p$ (B) is 0.01 or less.

4.1.5 Special considerations.

4.1.5.1 Selection of calibration point.

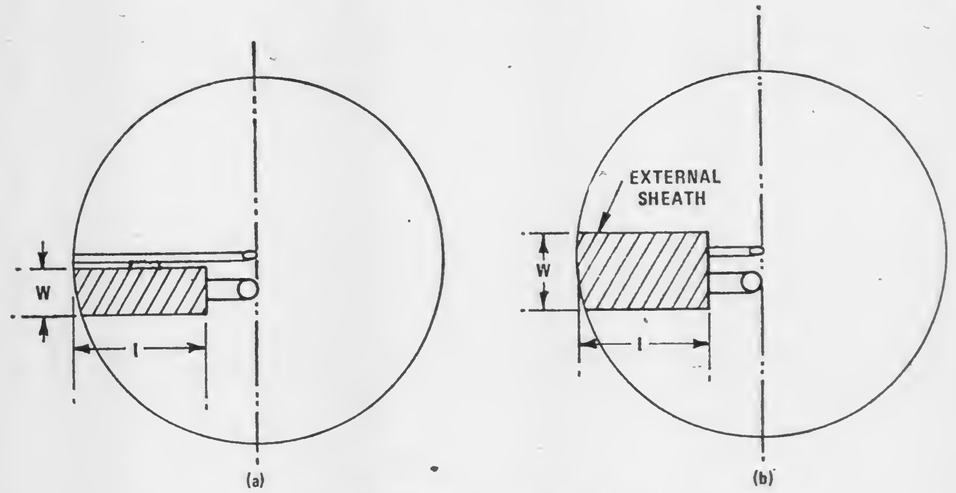
4.1.5.1.1 When an isolated Type S pitot tube is calibrated, select a calibration point at or near the center of the duct, and follow the procedures outlined in Sections 4.1.3 and 4.1.4 above. The Type S pitot coefficients so obtained, i.e., $\bar{C}_p$ (side A) and $\bar{C}_p$ (side B), will be valid, so long as either: (1) the isolated pitot tube is used; or (2) the pitot tube is used with other components (nozzle, thermocouple, sample probe) in an arrangement that is free from aerodynamic interference effects (see Figures 2-6 through 2-8).

4.1.5.1.2 For Type S pitot tube-thermocouple combinations (without sample probe), select a calibration point at or near the center of the duct, and follow the procedures outlined in Sections 4.1.3 and 4.1.4 above. The coefficients so obtained will be valid so long as the pitot tube-thermocouple combination is used by itself or with other components in an interference-free arrangement (Figures 2-6 and 2-8).

4.1.5.1.3 For assemblies with sample probes, the calibration point should be located at or near the center of the duct; however, insertion of a probe sheath into a small duct may cause significant cross-sectional area blockage and yield incorrect coefficient values (Citation 9 in Section 6). Therefore, to minimize the blockage effect, the calibration point may be a few inches off-center if necessary. The actual blockage effect will be negligible when the theoretical blockage, as determined by a projected-area model of the probe sheath, is 2 percent or less of the duct cross-sectional area for assemblies without external sheaths (Figure 2-10a); and 3 percent or less for assemblies with external sheaths (Figure 2-10b).

4.1.5.2 For those probe assemblies in which pitot tube-nozzle interference is a factor (i.e., those in which the pitot-nozzel separation distance fails to meet the specification illustrated in Figure 2-6a), the value of $C_{p(s)}$ depends upon the amount of free-space between the tube and nozzle, and therefore is a function of nozzle size. In these instances, separate calibrations shall be performed with each of the commonly used nozzle sizes in place. Note that the single-velocity calibration technique is acceptable for this purpose, even though the larger nozzle sizes (>0.635 cm or ¼ in.) are not ordinarily used for isokinetic sampling at velocities around 915 m/min (3,000 ft/min), which is the calibration velocity; note also that it is not necessary to draw an isokinetic sample during calibration (see Citation 19 in Section 6).

4.1.5.3 For a probe assembly constructed such that its pitot tube is always used in the same orientation, only one side of the pitot tube need be calibrated (the side which will face the flow). The pitot tube must still meet the alignment specifications of Figure 2-2 or 2-3, however, and must have an average deviation (σ) value of 0.01 or less (see Section 4.1.4.4).



$$\text{ESTIMATED SHEATH BLOCKAGE (\%)} = \left[\frac{l \times W}{\text{DUCT AREA}}\right] \times 100$$

Figure 2-10. Projected-area models for typical pitot tube assemblies.

4.1.6 Field Use and Recalibration.

4.1.6.1 Field Use.

4.1.6.1.1 When a Type S pitot tube (isolated tube or assembly) is used in the field, the appropriate coefficient value (whether assigned or obtained by calibration) shall be used to perform velocity calculations. For calibrated Type S pitot tubes, the A side coefficient shall be used when the A side of the tube faces the flow, and the B side coefficient shall be used when the B side faces the flow; alternatively, the arithmetic average of the A and B side coefficient values may be used, irrespective of which side faces the flow.

4.1.6.1.2 When a probe assembly is used to sample a small duct (12 to 36 in. in diameter), the probe sheath sometimes blocks a significant part of the duct cross-section, causing a reduction in the effective value of $\bar{C}_{p(s)}$. Consult Citation 9 in Section 6 for details. Conventional pitot-sampling probe assemblies are not recommended for use in ducts having inside diameters smaller than 12 inches (Citation 16 in Section 6).

4.1.6.2 Recalibration.

4.1.6.2.1 Isolated Pitot Tubes. After each field use, the pitot tube shall be carefully reexamined in top, side, and end views. If the pitot face openings are still aligned within the specifications illustrated in Figure 2-2 or 2-3, it can be assumed that the baseline coefficient of the pitot tube has not changed. If, however, the tube has been damaged to the extent that it no longer meets the specifications of Figure 2-2 or 2-3, the damage shall either be repaired to restore proper alignment of the face openings or the tube shall be discarded.

4.1.6.2.2 Pitot Tube Assemblies. After each field use, check the face opening alignment of the pitot tube, as in Section 4.1.6.2.1; also, remeasure the intercomponent spacings of the assembly. If the intercomponent spacings have not changed and the face opening alignment is acceptable, it can be assumed that the coefficient of the assembly has not changed. If the face opening alignment is no longer within the specifications of Figures 2-2 or 2-3, either repair the damage or replace the pitot tube (calibrating the new assembly, if necessary). If the intercomponent spacings have changed, restore the original spacings or recalibrate the assembly.

4.2 Standard pitot tube (if applicable). If a standard pitot tube is used for the velocity traverse, the tube shall be constructed according to the criteria of Section 2.7 and shall be assigned a baseline coefficient value of 0.99. If the standard pitot tube is used as part of an assembly, the tube shall be in an interference-free arrangement (subject to the approval of the Administrator).

4.3 Temperature Gauges. After each field use, calibrate dial thermometers, liquid-filled bulb thermometers, thermocouple-potentiometer systems, and other gauges at a temperature within 10 percent of the average absolute stack temperature. For temperatures up to 405° C (761° F), use an ASTM mercury-in-glass reference thermometer, or equivalent, as a reference; alternatively, either a reference thermocouple and potentiometer (calibrated by NBS) or thermometric (two points, e.g., ice bath and boiling water corrected for barometric pressure) may be used. For temperatures above 405° C (761° F), use an NBS-calibrated reference thermocouple-potentiometer system or an alternate reference, subject to the approval of the Administrator.

If, during calibration, the absolute temperatures measured with the gauge being calibrated and the reference gauge agree within 1.5 percent, the temperature data taken in the field shall be considered valid. Otherwise, the pollutant emission test shall either be considered invalid or adjustments (if appropriate) of the test results shall be made, subject to the approval of the Administrator.

4.4 Barometer. Calibrate the barometer used against a mercury barometer.

5. Calculations

Carry out calculations, retaining at least one extra decimal figure beyond that of the acquired data. Round off figures after final calculation.

5.1 Nomenclature.

A = Cross-sectional area of stack, m^2 (ft^2).

B_{ws} = Water vapor in the gas stream (from Method 5 or Reference Method 4), proportion by volume.

C_p = Pitot tube coefficient, dimensionless.

K_p = Pitot tube constant,

$$34.97 \frac{\text{m}}{\text{sec}} \left[\frac{(g/g\text{-mole})(\text{mm Hg})}{(°\text{K})(\text{mm } H_2O)}\right]^{1/2}$$

for the metric system and

$$85.49 \frac{\text{ft}}{\text{sec}} \left[\frac{(\text{lb/lb-mole})(\text{in. Hg})}{(°\text{R})(\text{in. } H_2O)}\right]^{1/2}$$

for the English system.

M_d = Molecular weight of stack gas, dry basis (see Section 3.6) g/g-mole (lb/lb-mole).

M_s = Molecular weight of stack gas, wet basis, g/g-mole (lb/lb-mole).

$$= M_d(1 - B_{ws}) + 18.0\,B_{ws} \qquad \text{Equation 2-5}$$

P_{bar} = Barometric pressure at measurement site, mm Hg (in. Hg).

P_g = Stack static pressure, mm Hg (in. Hg).

P_s = Absolute stack gas pressure, mm Hg (in. Hg).

$$= P_{bar} + P_g \qquad \text{Equation 2-6}$$

P_{std} = Standard absolute pressure, 760 mm Hg (29.92 in. Hg).

Q_{sd} = Dry volumetric stack gas flow rate corrected to standard conditions, dscm/hr (dscf/hr).

t_s = Stack temperature, °C (°F).

T_s = Absolute stack temperature, °K (°R).

$$= 273 + t_s \text{ for metric} \qquad \text{Equation 2-7}$$

$$= 460 + t_s \text{ for English} \qquad \text{Equation 2-8}$$

T_{std} = Standard absolute temperature, 293°K (528° R).

v_s = Average stack gas velocity, m/sec (ft/sec).

Δp = Velocity head of stack gas, mm H_2O (in. H_2O).

3,600 = Conversion factor, sec/hr.

18.0 = Molecular weight of water, g/g-mole (lb-lb-mole).

5.2 Average stack gas velocity.

$$v_s = K_p C_p (\sqrt{\Delta p})_{ave} \sqrt{\frac{T_{s(ave)}}{P_s M_s}}$$

Equation 2-9

5.3 Average stack gas dry volumetric flow rate.

$$Q_{sd} = 3{,}600(1 - B_{ws}) v_s A \left(\frac{T_{std}}{T_{s(ave)}}\right)\left(\frac{P_s}{P_{std}}\right)$$

Equation 2-10

6. Bibliography

1. Mark, L. S. Mechanical Engineers' Handbook. New York, McGraw-Hill Book Co., Inc. 1951.

2. Perry, J. H. Chemical Engineers' Handbook. New York. McGraw-Hill Book Co., Inc. 1960.

V 42 160 AUG 18 77 UM

3. Singehara, R. T., W. F. Todd, and W. S. Smith. Significence of Errors in Stack Sampling Measurements. U.S. Environmental Protection Agency, Research Triangle Park, N.C. (Presented at the Annual Meeting of the Air Pollution Control Association, St. Louis, Mo., June 14-19, 1970.)
4. Standard Method for Sampling Stacks for Particulate Matter. In: 1971 Book of ASTM Standards, Part 23. Philadelphia, Pa. 1971. ASTM Designation D 2928-71.
5. Vennard, J. K. Elementary Fluid Mechanics. New York. John Wiley and Sons, Inc. 1947.
6. Fluid Meters—Their Theory and Application. American Society of Mechanical Engineers, New York, N.Y. 1959.
7. ASHRAE Handbook of Fundamentals, 1972, p. 208.
8. Annual Book of ASTM Standards, Part 26. 1974. p. 648.
9. Vollaro, R. F. Guidelines for Type S Pitot Tube Calibration. U.S. Environmental Protection Agency, Research Triangle Park, N.C. (Presented at 1st Annual Meeting, Source Evaluation Society, Dayton, Ohio, September 18, 1975.)
10. Vollaro, R. F. A Type S Pitot Tube Calibration Study. U.S. Environmental Protection Agency, Emission Measurement Branch, Research Triangle Park, N.C. July 1974.
11. Vollaro, R. F. The Effects of Impact Opening Misalignment on the Value of the Type S Pitot Tube Coefficient. U.S. Environmental Protection Agency, Emission Measurement Branch, Research Triangle Park, N.C. October 1976.
12. Vollaro, R. F. Establishment of a Baseline Coefficient Value for Properly Constructed Type S Pitot Tubes. U.S. Environmental Protection Agency, Emission Measurement Branch, Research Triangle Park, N.C. November 1976.
13. Vollaro, R. F. An Evaluation of Single-Velocity Calibration Techniques as a Means of Determining Type S Pitot Tube Coefficients. U.S. Environmental Protection Agency, Emission Measurement Branch, Research Triangle Park, N.C. August 1975.
14. Vollaro, R. F. The Use of Type S Pitot Tubes for the Measurement of Low Velocities. U.S. Environmental Protection Agency, Emission Measurement Branch, Research Triangle Park, N.C. November 1976.
15. Smith, Marvin L. Velocity Calibration of EPA Type Source Sampling Probe. United Technologies Corporation, Pratt and Whitney Aircraft Division, East Hartford, Conn. 1975.
16. Vollaro, RAF. Recommended Procedure for Sample Traverses in Ducts Smaller than 12 Inches in Diameter. U.S. Environmental Protection Agency, Emission Measurement Branch, Research Triangle Park, N.C. November 1976.
17. Ower, E. and R. C. Pankhurst. The Measurement of Air Flow, 4th Ed., London, Pergamon Press. 1966.
18. Vollaro, R. F. A survey of Commercially Available Instrumentation for the Measurement of Low-Range Gas Velocities. U.S. Environmental Protection Agency, Emission Measurement Branch, Research Triangle Park, N.C. November 1976. (Unpublished Paper)
19. Gnyp, A. W., C. C. St. Pierre, D. S. Smith, D. Mozzon, and J. Steiner. An Experimental Investigation of the Effect of Pitot Tube-Sampling Probe Configurations on the Magnitude of the S Type Pitot Tube Coefficient for Commercially Available Source Sampling Probes. Prepared by the University of Windsor for the Ministry of the Environment, Toronto, Canada. February 1975.

METHOD 3—GAS ANALYSIS FOR CARBON DIOXIDE, OXYGEN, EXCESS AIR, AND DRY MOLECULAR WEIGHT

1 *Principle and Applicability*

1.1 Principle. A gas sample is extracted from a stack, by one of the following methods: (1) single-point, grab sampling; (2) single-point, integrated sampling; or (3) multi-point, integrated sampling. The gas sample is analyzed for percent carbon dioxide (CO_2), percent oxygen (O_2), and, if necessary, percent carbon monoxide (CO). If a dry molecular weight determination is to be made, either an Orsat or a Fyrite [1] analyzer may be used for the analysis; for excess air or emission rate correction factor determination, an Orsat analyzer must be used.

1.2 Applicability. This method is applicable for determining CO_2 and O_2 concentrations, excess air, and dry molecular weight of a sample from a gas stream of a fossil-fuel combustion process. The method may also be applicable to other processes where it has been determined that compounds other than CO_2, O_2, CO, and nitrogen (N_2) are not present in concentrations sufficient to affect the results.

Other methods, as well as modifications to the procedure described herein, are also applicable for some or all of the above determinations. Examples of specific methods and modifications include: (1) a multi-point sampling method using an Orsat analyzer to analyze individual grab samples obtained at each point; (2) a method using CO or O_2 and stoichiometric calculations to determine dry molecular weight and excess air; (3) assigning a value of 30.0 for dry molecular weight, in lieu of actual measurements, for processes burning natural gas, coal, or oil. These methods and modifications may be used, but are subject to the approval of the Administrator.

2 *Apparatus*

As an alternative to the sampling apparatus and systems described herein, other sampling systems (e.g., liquid displacement) may be used provided such systems are capable of obtaining a representative sample and maintaining a constant sampling rate, and are otherwise capable of yielding acceptable results. Use of such systems is subject to the approval of the Administrator.

2.1 Grab Sampling (Figure 3-1).

2.1.1 Probe. The probe should be made of stainless steel or borosilicate glass tubing and should be equipped with an in-stack or out-stack filter to remove particulate matter (a plug of glass wool is satisfactory for this purpose). Any other material inert to O_2, CO_2, CO, and N_2 and resistant to temperature at sampling conditions may be used for the probe; examples of such material are aluminum, copper, quartz glass and Teflon.

2.1.2 Pump. A one-way squeeze bulb, or equivalent, is used to transport the gas sample to the analyzer.

2.2 Integrated Sampling (Figure 3-2).

2.2.1 Probe. A probe such as that described in Section 2.1.1 is suitable.

[1] Mention of trade names or specific products does not constitute endorsement by the Environmental Protection Agency.

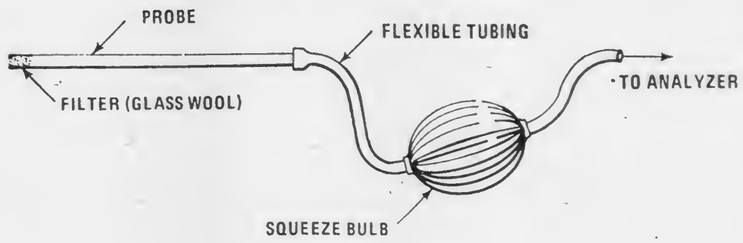


Figure 3-1. Grab sampling train.

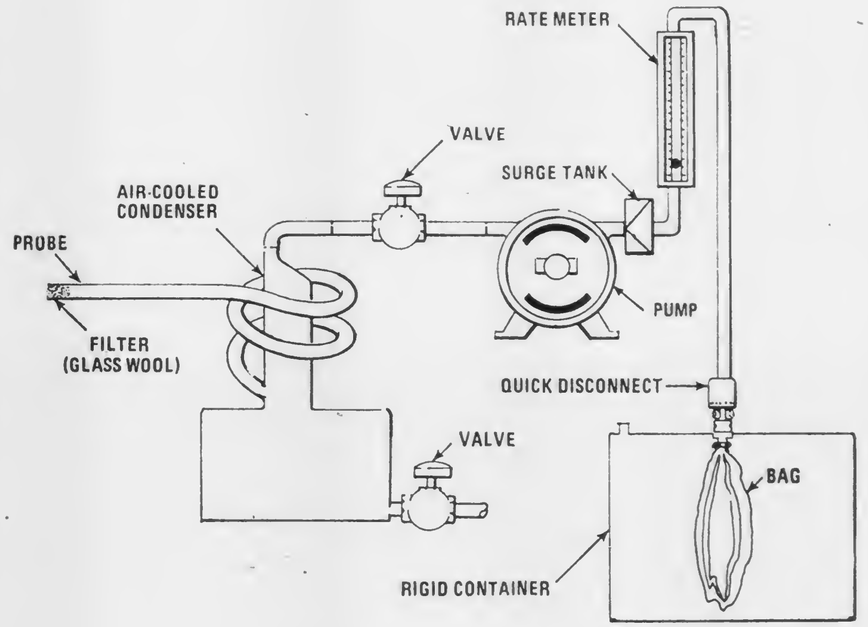


Figure 3-2. Integrated gas sampling train.

V 42 160 AUG 18 77 UM

2.2.2 Condenser. An air-cooled or water-cooled condenser, or other condenser that will not remove O_2, CO_2, CO, and N_2, may be used to remove excess moisture which would interfere with the operation of the pump and flow meter.

2.2.3 Valve. A needle valve is used to adjust sample gas flow rate.

2.2.4 Pump. A leak-free, diaphragm-type pump, or equivalent, is used to transport sample gas to the flexible bag. Install a small surge tank between the pump and rate meter to eliminate the pulsation effect of the diaphragm pump on the rotameter.

2.2.5 Rate Meter. The rotameter, or equivalent rate meter, used should be capable of measuring flow rate to within ±2 percent of the selected flow rate. A flow rate range of 500 to 1000 cm³/min is suggested.

2.2.6 Flexible Bag. Any leak-free plastic (e.g., Tedlar, Mylar, Teflon) or plastic-coated aluminum (e.g., aluminized Mylar) bag, or equivalent, having a capacity consistent with the selected flow rate and time length of the test run, may be used. A capacity in the range of 25 to 50 liters is suggested.

To leak-check the bag, connect it to a water manometer and pressurize the bag to 5 to 10 cm (H_2O) (2 to 4 in. H_2O). Allow to stand for 10 minutes. Any displacement in the water manometer indicates a leak. An alternative leak-check method is to pressurize the bag to 5 to 10 cm (H_2O) (2 to 4 in. H_2O) and allow to stand overnight. A deflated bag indicates a leak.

2.2.7 Pressure Gauge. A water-filled U-tube manometer, or equivalent, of about 28 cm (12 in.) is used for the flexible bag leak-check.

2.2.8 Vacuum Gauge. A mercury manometer, or equivalent, of at least 760 mm Hg (30 in. Hg) is used for the sampling train leak-check.

2.3 Analysis. For Orsat and Fyrite analyzer maintenance and operation procedures, follow the instructions recommended by the manufacturer, unless otherwise specified herein.

2.3.1 Dry Molecular Weight Determination. An Orsat analyzer or Fyrite type combustion gas analyzer may be used.

2.3.2 Emission Rate Correction Factor or Excess Air Determination. An Orsat analyzer must be used. For low CO_2 (less than 4.0 percent) or high O_2 (greater than 15.0 percent) concentrations, the measuring burette of the Orsat must have at least 0.1 percent subdivisions.

3. Dry Molecular Weight Determination.

Any of the three sampling and analytical procedures described below may be used for determining the dry molecular weight.

3.1 Single-Point, Grab Sampling and Analytical Procedure.

3.1.1 The sampling point in the duct shall either be at the centroid of the cross-section or at a point no closer to the walls than 1.00 m (3.3 ft), unless otherwise specified by the Administrator.

3.1.2 Set up the equipment as shown in Figure 3-1, making sure all connections ahead of the analyzer are tight and leak-free. If an Orsat analyzer is used, it is recommended that the analyzer be leaked-checked by following the procedure in Section 5; however, the leak-check is optional.

3.1.3 Place the probe in the stack, with the tip of the probe positioned at the sampling point; purge the sampling line. Draw a sample into the analyzer and immediately analyze it for percent CO_2 and percent O_2. Determine the percentage of the gas that is N_2 and CO by subtracting the sum of the percent CO_2 and percent O_2 from 100 percent. Calculate the dry molecular weight as indicated in Section 6.3.

3.1.4 Repeat the sampling, analysis, and calculation procedures, until the dry molecular weights of any three grab samples differ from their mean by no more than 0.3 g/g-mole (0.3 lb/lb-mole). Average these three molecular weights, and report the results to the nearest 0.1 g/g-mole (lb/lb-mole).

3.2 Single-Point, Integrated Sampling and Analytical Procedure.

3.2.1 The sampling point in the duct shall be located as specified in Section 3.1.1.

3.2.2 Leak-check (optional) the flexible bag as in Section 2.2.6. Set up the equipment as shown in Figure 3-2. Just prior to sampling, leak-check (optional) the train by placing a vacuum gauge at the condenser inlet, pulling a vacuum of at least 250 mm Hg (10 in. Hg), plugging the outlet at the quick disconnect, and then turning off the pump. The vacuum should remain stable for at least 0.5 minute. Evacuate the flexible bag. Connect the probe and place it in the stack, with the tip of the probe positioned at the sampling point; purge the sampling line. Next, connect the bag and make sure that all connections are tight and leak free.

3.2.3 Sample at a constant rate. The sampling run should be simultaneous with, and for the same total length of time as, the pollutant emission rate determination. Collection of at least 30 liters (1.00 ft³) of sample gas is recommended, however, smaller volumes may be collected, if desired.

3.2.4 Obtain one integrated flue gas sample during each pollutant emission rate determination. Within 8 hours after the sample is taken, analyze it for percent CO_2 and percent O_2 using either an Orsat analyzer or a Fyrite-type combustion gas analyzer. If an Orsat analyzer is used, it is recommended that the Orsat leak-check described in Section 5 be performed before this determination; however, the check is optional. Determine the percentage of the gas that is N_2 and CO by subtracting the sum of the percent CO and percent O_2 from 100 percent. Calculate the dry molecular weight as indicated in Section 6.3.

3.2.5 Repeat the analysis and calculation procedures until the individual dry molecular weights for any three analyses differ from their mean by no more than 0.3 g/g-mole (0.3 lb/lb-mole). Average these three molecular weights, and report the results to the nearest 0.1 g-mole (0.1 lb/lb-mole).

3.3 Multi-Point, Integrated Sampling and Analytical Procedure.

3.3.1 Unless otherwise specified by the Administrator, a minimum of eight traverse points shall be used for circular stacks having diameters less than 0.61 m (24 in.), a minimum of nine shall be used for rectangular stacks having equivalent diameters less than 0.61 m (24 in.), and a minimum of twelve traverse points shall be used for all other cases. The traverse points shall be located according to Method 1. The use of fewer points is subject to approval of the Administrator.

3.3.2 Follow the procedures outlined in Sections 3.2.2 through 3.2.5, except for the following: traverse all sampling points and sample at each point for an equal length of time. Record sampling data as shown in Figure 3-3.

TIME	TRAVERSE PT.	Q 1pm	% DEV.[a]
		AVERAGE	

[a] % DEV = $\left(\frac{Q - Q\ avg}{Q\ avg}\right) 100$ (MUST BE ≤10%)

Figure 3-3. Sampling rate data.

4. Emission Rate Correction Factor or Excess Air Determination

NOTE.—A Fyrite-type combustion gas analyzer is not acceptable for excess air or emission rate correction factor determination, unless approved by the Administrator. If both percent CO_2 and percent O_2 are measured, the analytical results of any of the three procedures given below may also be used for calculating the dry molecular weight.

Each of the three procedures below shall be used only when specified in an applicable subpart of the standards. The use of these procedures for other purposes must have specific prior approval of the Administrator.

4.1 Single-Point, Grab Sampling and Analytical Procedure.

4.1.1 The sampling point in the duct shall either be at the centroid of the cross-section or at a point no closer to the walls than 1.00 m (3.3 ft), unless otherwise specified by the Administrator.

4.1.2 Set up the equipment as shown in Figure 3-1, making sure all connections ahead of the analyzer are tight and leak-free. Leak-check the Orsat analyzer according to the procedure described in Section 5. This leak-check is mandatory.

4.1.3 Place the probe in the stack, with the tip of the probe positioned at the sampling point; purge the sampling line. Draw a sample into the analyzer. For emission rate correction factor determination, immediately analyze the sample, as outlined in Sections 4.1.4 and 4.1.5, for percent CO_2, O_2, and CO; (2) determine the percentage of the gas that is N_2 by subtracting the sum of the percent CO_2, percent O_2, and percent CO from 100 percent; and (3) calculate percent excess air as outlined in Section 6.2.

4.1.4 To ensure complete absorption of the CO_2, O_2, or if applicable, CO, make repeated passes through each absorbing solution until two consecutive readings are the same. Several passes (three or four) should be made between readings. (If constant readings cannot be obtained after three consecutive readings, replace the absorbing solution.)

4.1.5 After the analysis is completed, leak-check (mandatory) the Orsat analyzer once again, as described in Section 5. For the results of the analysis to be valid, the Orsat analyzer must pass this leak test before and after the analysis. NOTE.—Since this single-point, grab sampling and analytical procedure is normally conducted in conjunction with a single-point, grab sampling and analytical procedure for a pollutant, only one analysis is ordinarily conducted. Therefore, great care must be taken to obtain a valid sample and analysis. Although in most cases only CO_2 or O_2 is required, it is recommended that both CO_2 and O_2 be measured, and that Citation 5 in the Bibliography be used to validate the analytical data.

4.2 Single-Point, Integrated Sampling and Analytical Procedure.

4.2.1 The sampling point in the duct shall be located as specified in Section 4.1.1.

4.2.2 Leak-check (mandatory) the flexible bag as in Section 2.2.6. Set up the equipment as shown in Figure 3-2. Just prior to sampling, leak-check (mandatory) the train by placing a vacuum gauge at the condenser inlet, pulling a vacuum of at least 250 mm Hg (10 in. Hg), plugging the outlet at the quick disconnect, and then turning off the pump. The vacuum shall remain stable for at least 0.5 minute. Evacuate the flexible bag. Connect the probe and place it in the stack, with the tip of the probe positioned at the sampling point; purge the sampling line. Next, connect the bag and make sure that all connections are tight and leak free.

4.2.3 Sample at a constant rate, or as specified by the Administrator. The sampling run must be simultaneous with, and for the same total length of time as, the pollutant emission rate determination. Collect at least 30 liters (1.00 ft³) of sample gas. Smaller volumes may be collected, subject to approval of the Administrator.

4.2.4 Obtain one integrated flue gas sample during each pollutant emission rate determination. For emission rate correction factor determination, analyze the sample within 4 hours after it is taken for percent CO_2 or percent O_2 (as outlined in Sections 4.2.5 through 4.2.7). The Orsat analyzer must be leak-checked (see Section 5) before the analysis. If excess air is desired, proceed as follows: (1) within 4 hours after the sample is taken, analyze it (as in Sections 4.2.5 through 4.2.7) for percent CO_2, O_2, and CO; (2) determine the percentage of the gas that is N_2 by subtracting the sum of the percent CO_2, percent O_2, and percent CO from 100 percent; and (3) calculate percent excess air, as outlined in Section 6.2.

4.2.5 To ensure complete absorption of the CO_2, O_2, or if applicable, CO, make repeated passes through each absorbing solution until two consecutive readings are the same. Several passes (three or four) should be made between readings. (If constant readings cannot be obtained after three consecutive readings, replace the absorbing solution.)

4.2.6 Repeat the analysis until the following criteria are met:

4.2.6.1 For percent CO_2, repeat the analytical procedure until the results of any three analyses differ by no more than (a) 0.3 percent by volume when CO_2 is greater than 4.0 percent or (b) 0.2 percent by volume when CO_2 is less than or equal to 4.0 percent. Average the three acceptable values of percent CO_2 and report the results to the nearest 0.1 percent.

4.2.6.2 For percent O_2, repeat the analytical procedure until the results of any three analyses differ by no more than (a) 0.3 percent by volume when O_2 is less than 15.0 percent or (b) 0.2 percent by volume when O_2 is greater than 15.0 percent. Average the three acceptable values of percent O_2 and report the results to the nearest 0.1 percent.

4.2.6.3 For percent CO, repeat the analytical procedure until the results of any three analyses differ by no more than 0.3 percent. Average the three acceptable values of percent CO and report the results to the nearest 0.1 percent.

4.2.7 After the analysis is completed, leak-check (mandatory) the Orsat analyzer once again, as described in Section 5. For the results of the analysis to be valid, the Orsat analyzer must pass this leak test before and after the analysis. Note: Although in most instances only CO_2 or O_2 is required, it is recommended that both CO_2 and O_2 be measured, and that Citation 5 in the Bibliography be used to validate the analytical data.

4.3 Multi-Point, Integrated Sampling and Analytical Procedure.

4.3.1 Both the minimum number of sampling points and the sampling point location shall be as specified in Section 3.3.1 of this method. The use of fewer points than specified is subject to the approval of the Administrator.

4.3.2 Follow the procedures outlined in Sections 4.2.2 through 4.2.7, except for the following: Traverse all sampling points and sample at each point for an equal length of time. Record sampling data as shown in Figure 3-3.

5. Leak-Check Procedure for Orsat Analyzers

Moving an Orsat analyzer frequently causes it to leak. Therefore, an Orsat analyzer should be thoroughly leak-checked on site before the flue gas sample is introduced into it. The procedure for leak-checking an Orsat analyzer is:

5.1.1 Bring the liquid level in each pipette up to the reference mark on the capillary tubing and then close the pipette stopcock.

5.1.2 Raise the leveling bulb sufficiently to bring the confining liquid meniscus onto the graduated portion of the burette and then close the manifold stopcock.

5.1.3 Record the meniscus position.

5.1.4 Observe the meniscus in the burette and the liquid level in the pipette for movement over the next 4 minutes.

5.1.5 For the Orsat analyzer to pass the leak-check, two conditions must be met.

5.1.5.1 The liquid level in each pipette must not fall below the bottom of the capillary tubing during this 4-minute interval.

5.1.5.2 The meniscus in the burette must not change by more than 0.2 ml during this 4-minute interval.

5.1.6 If the analyzer fails the leak-check procedure, all rubber connections and stopcocks should be checked until the cause of the leak is identified. Leaking stopcocks must be disassembled, cleaned, and regreased. Leaking rubber connections must be replaced. After the analyzer is reassembled, the leak-check procedure must be repeated.

6. Calculations

6.1 Nomenclature.

M_d = Dry molecular weight, g-mole/lb-mole).
%EA = Percent excess air.
$\%CO_2$ = Percent CO_2 by volume (dry basis).
$\%O_2$ = Percent O_2 by volume (dry basis).
%CO = Percent CO by volume (dry basis).
$\%N_2$ = Percent N_2 by volume (dry basis).
0.264 = Ratio of O_2 to N_2 in air, v/v.
0.280 = Molecular weight of N_2 or CO, divided by 100.
0.320 = Molecular weight of O_2 divided by 100.
0.440 = Molecular weight of CO_2 divided by 100.

6.2 Percent Excess Air. Calculate the percent excess air (if applicable), by substituting the appropriate values of percent O_2, CO, and N_2 obtained from Section 4.1.3 or 4.2.4 into Equation 3-1.

$$\%EA = \left[\frac{\%O_2 - 0.5\%CO}{0.264\%N_2 - \%O_2 - 0.5\%CO}\right] 100$$

Equation 3-1

NOTE.—The equation above assumes that ambient air is used as the source of O_2 and that the fuel does not contain appreciable amounts of N_2 (as do coke oven or blast furnace gases). For those cases when appreciable amounts of N_2 are present (coal, oil, and natural gas do not contain appreciable amounts of N_2) or when oxygen enrichment is used, alternate methods, subject to approval of the Administrator, are required.

6.3 Dry Molecular Weight. Use Equation 3-2 to calculate the dry molecular weight of the stack gas.

$$M_d = 0.440(\%CO_2) + 0.320(\%O_2) + 0.280(\%N_2 + \%CO)$$

Equation 3-2

NOTE.—The above equation does not consider argon in air (about 0.9 percent, molecular weight of 37.7). A negative error of about 0.4 percent is introduced. The tester may opt to include argon in the analysis using procedures subject to approval of the Administrator.

7. Bibliography

1. Altshuller, A. P. Storage of Gases and Vapors in Plastic Bags. International Journal of Air and Water Pollution. 6:75–81. 1963.

2. Conner, William D. and J. S. Nader. Air Sampling Plastic Bags. Journal of the American Industrial Hygiene Association. 25:291–297. 1964.

3. Burrell Manual for Gas Analysis, Seventh edition. Burrell Corporation, 2223 Fifth Avenue, Pittsburgh, Pa. 15219. 1951.

4. Mitchell, W. J. and M. R. Midgett. Field Reliability of the Orsat Analyzer. Journal of Air Pollution Control Association 26:491–495. May 1976.

5. Shigehara, R. T., R. M. Neulicht, and W. S. Smith. Validating Orsat Analysis Data from Fossil Fuel-Fired Units. Stack Sampling News. 4(2):21–26. August, 1976.

METHOD 4—DETERMINATION OF MOISTURE CONTENT IN STACK GASES

1. Principle and Applicability

1.1 Principle. A gas sample is extracted at a constant rate from the source; moisture is removed from the sample stream and determined either volumetrically or gravimetrically.

1.2 Applicability. This method is applicable for determining the moisture content of stack gas.

Two procedures are given. The first is a reference method, for accurate determinations of moisture content (such as are needed to calculate emission data). The second is an approximation method, which provides estimates of percent moisture to aid in setting isokinetic sampling rates prior to a pollutant emission measurement run. The approximation method described herein is only a suggested approach; alternative means for approximating the moisture content, (e.g., drying tubes, wet bulb-dry bulb techniques, condensation techniques, stoichiometric calculations, previous experience, etc.), are also acceptable.

The reference method is often conducted simultaneously with a pollutant emission measurement run, when it is, calculation of percent isokinetic, pollutant emission rate, etc., for the run shall be based upon the results of the reference method or its equivalent; these calculations shall not be based upon the results of the approximation method, unless the approximation method is shown, to the satisfaction of the Administrator, U.S. Environmental Protection Agency, to be capable of yielding results within 1 percent H₂O of the reference method.

NOTE.—The reference method may yield questionable results when applied to saturated gas streams or to streams that contain water droplets. Therefore, when these conditions exist or are suspected, a second determination of the moisture content shall be made simultaneously with the reference method, as follows: Assume that the gas stream is saturated. Attach a temperature sensor (capable of measuring to ±1° C (2° F)) to the reference method probe. Measure the stack gas temperature at each traverse point (see Section 2.2.1) during the reference method traverse; calculate the average stack gas temperature. Next, determine the moisture percentage, either by: (1) using a psychrometric chart and making appropriate corrections if stack pressure is different from that of the chart, or (2) using saturation vapor pressure tables. In cases where the psychrometric chart or the saturation vapor pressure tables are not applicable (based on evaluation of the process), alternate methods, subject to the approval of the Administrator, shall be used.

2. Reference Method

The procedure described in Method 5 for determining moisture content is acceptable as a reference method.

2.1 Apparatus. A schematic of the sampling train used in this reference method is shown in Figure 4-1. All components shall be maintained and calibrated according to the procedure outlined in Method 5.

V 42 160 AUG 18 77 UM

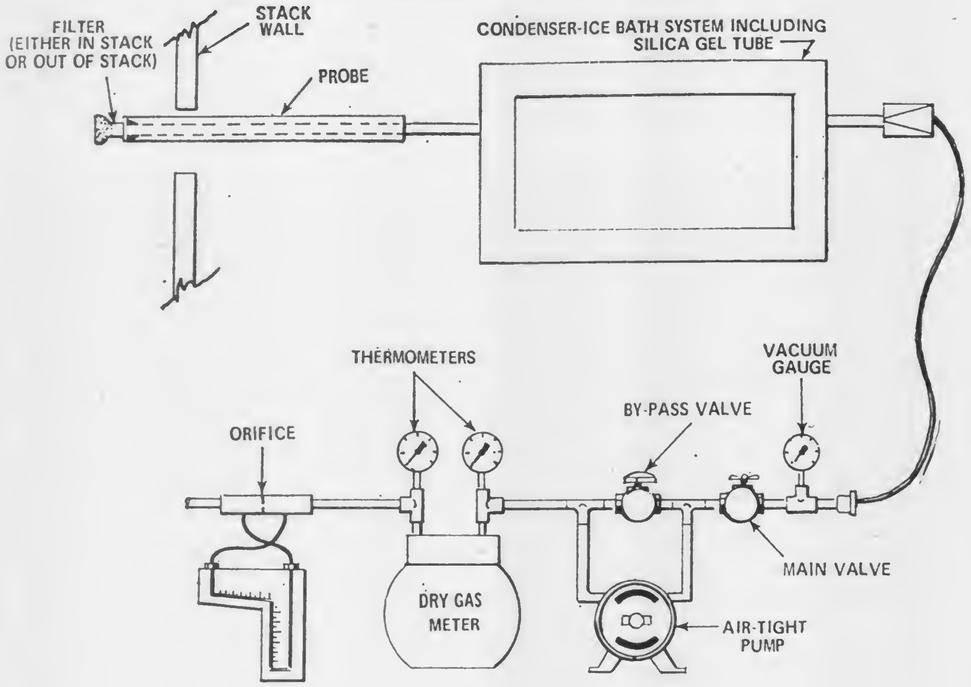


Figure 4-1. Moisture sampling train-reference method.

2.1.1 Probe. The probe is constructed of stainless steel or glass tubing, sufficiently heated to prevent water condensation, and is equipped with a filter, either in-stack (e.g., a plug of glass wool inserted into the end of the probe) or heated out-stack (e.g., as described in Method 5), to remove particulate matter.

When stack conditions permit, other metals or plastic tubing may be used for the probe, subject to the approval of the Administrator.

2.1.2 Condenser. The condenser consists of four impingers connected in series with ground glass, leak-free fittings or any similarly leak-free non-contaminating fittings. The first, third, and fourth impingers shall be of the Greenburg-Smith design, modified by replacing the tip with a 1.3 centimeter (½ inch) ID glass tube extending to about 1.3 cm (½ in.) from the bottom of the flask. The second impinger shall be of the Greenburg-Smith design with the standard tip. Modifications (e.g., using flexible connections between the impingers, using materials other than glass, or using flexible vacuum lines to connect the filter holder to the condenser) may be used, subject to the approval of the Administrator.

The first two impingers shall contain known volumes of water, the third shall be empty, and the fourth shall contain a known weight of 6- to 16-mesh indicating type silica gel, or equivalent desiccant. If the silica gel has been previously used, dry at 175° C (350° F) for 2 hours. New silica gel may be used as received. A thermometer, capable of measuring temperature to within 1° C (2° F), shall be placed at the outlet of the fourth impinger, for monitoring purposes.

Alternatively, any system may be used (subject to the approval of the Administrator) that cools the sample gas stream and allows measurement of both the water that has been condensed and the moisture leaving the condenser, each to within 1 ml or 1 g. Acceptable means are to measure the condensed water, either gravimetrically or volumetrically, and to measure the moisture leaving the condenser by: (1) monitoring the temperature and pressure at the exit of the condenser and using Dalton's law of partial pressures, or (2) passing the sample gas stream through a tared silica gel (or equivalent desiccant) trap, with exit gases kept below 20° C (68° F), and determining the weight gain.

If means other than silica gel are used to determine the amount of moisture leaving the condenser, it is recommended that silica gel (or equivalent) still be used between the condenser system and pump, to prevent moisture condensation in the pump and metering devices and to avoid the need to make corrections for moisture in the metered volume.

2.1.3 Cooling System. An ice bath container and crushed ice (or equivalent) are used to aid in condensing moisture.

2.1.4 Metering System. This system includes a vacuum gauge, leak-free pump, thermometers capable of measuring temperature to within 3° C (5.4° F), dry gas meter capable of measuring volume to within 2 percent, and related equipment as shown in Figure 4-1. Other metering systems, capable of maintaining a constant sampling rate and determining sample gas volume, may be used, subject to the approval of the Administrator.

2.1.5 Barometer. Mercury, aneroid, or other barometer capable of measuring atmospheric pressure to within 2.5 mm Hg (0.1 in. Hg) may be used. In many cases, the barometric reading may be obtained from a nearby national weather service station, in which case the station value (which is the absolute barometric pressure) shall be requested and an adjustment for elevation differences between the weather station and the sampling point shall be applied at a rate of minus 2.5 mm Hg (0.1 in. Hg) per 30 m (100 ft) elevation increase or vice versa for elevation decrease.

2.1.6 Graduated Cylinder and/or Balance. These items are used to measure condensed water and moisture caught in the silica gel to within 1 ml or 0.5 g. Graduated cylinders shall have subdivisions no greater than 2 ml. Most laboratory balances are capable of weighing to the nearest 0.5 g or less. These balances are suitable for use here.

2.2 Procedure. The following procedure is written for a condenser system (such as the impinger system described in Section 2.1.2) incorporating volumetric analysis to measure the condensed moisture, and silica gel and gravimetric analysis to measure the moisture leaving the condenser.

2.2.1 Unless otherwise specified by the Administrator, a minimum of eight traverse points shall be used for circular stacks having diameters less than 0.61 m (24 in.), a minimum of nine points shall be used for rectangular stacks having equivalent diameters less than 0.61 m (24 in.), and a minimum of twelve travers points shall be used in all other cases. The traverse points shall be located according to Method 1. The use of fewer points is subject to the approval of the Administrator. Select a suitable probe and probe length such that all traverse points can be sampled. Consider sampling from opposite sides of the stack (four total sampling ports) for large stacks, to permit use of shorter probe lengths. Mark the probe with heat resistant tape or by some other method to denote the proper distance into the stack or duct for each sampling point. Place known volumes of water in the first two impingers. Weigh and record the weight of the silica gel to the nearest 0.5 g, and transfer the silica gel to the fourth impinger; alternatively, the silica gel may first be transferred to the impinger, and the weight of the silica gel plus impinger recorded.

2.2.2 Select a total sampling time such that a minimum total gas volume of 0.60 scm (21 scf) will be collected, at a rate no greater than 0.021 m³/min (0.75 cfm). When both moisture content and pollutant emission rate are to be determined, the moisture determination shall be simultaneous with, and for the same total length of time as, the pollutant emission rate run, unless otherwise specified in an applicable subpart of the standards.

2.2.3 Set up the sampling train as shown in Figure 4-1. Turn on the probe heater and (if applicable) the filter heating system to temperatures of about 120° C (248° F), to prevent water condensation ahead of the condenser; allow time for the temperatures to stabilize. Place crushed ice in the ice bath container. It is recommended, but not required, that a leak check be done, as follows: Disconnect the probe from the first impinger or (if applicable) from the filter holder. Plug the inlet to the first impinger (or filter holder) and pull a 380 mm (15 in.) Hg vacuum; a lower vacuum may be used, provided that it is not exceeded during the test. A leakage rate in excess of 4 percent of the average sampling rate or 0.00057 m³/min (0.02 cfm), whichever is less, is unacceptable. Following the leak check, reconnect the probe to the sampling train.

2.2.4 During the sampling run, maintain a sampling rate within 10 percent of constant rate, or as specified by the Administrator. For each run, record the data required on the example data sheet shown in Figure 4-2. Be sure to record the dry gas meter reading at the beginning and end of each sampling time increment and whenever sampling is halted. Take other appropriate readings at each sample point, at least once during each time increment.

2.2.5 To begin sampling, position the probe tip at the first traverse point. Immediately start the pump and adjust the flow to the desired rate. Traverse the cross section, sampling at each traverse point for an equal length of time. Add more ice and, if necessary, salt to maintain a temperature of less than 20° C (68° F) at the silica gel outlet.

2.2.6 After collecting the sample, disconnect the probe from the filter holder (or from the first impinger) and conduct a leak check (mandatory) as described in Section

2.2.3 Record the leak rate. If the leakage rate exceeds the allowable rate, the tester shall either reject the test results or shall correct the sample volume as in Section 6.3 of Method 5. Next, measure the volume of the moisture condensed to the nearest ml. Determine the increase in weight of the silica gel (or silica gel plus impinger) to the nearest 0.5 g. Record this information (see example data sheet, Figure 4-3) and calculate the moisture percentage, as described in 2.3 below.

2.3 Calculations. Carry out the following calculations, retaining at least one extra decimal figure beyond that of the acquired data. Round off figures after final calculation

PLANT _____

LOCATION _____

OPERATOR _____

DATE _____

RUN NO. _____

AMBIENT TEMPERATURE _____

BAROMETRIC PRESSURE _____

PROBE LENGTH m(ft) _____

SCHEMATIC OF STACK CROSS SECTION

TRAVERSE POINT NUMBER	SAMPLING TIME (θ), min.	STACK TEMPERATURE °C (°F)	PRESSURE DIFFERENTIAL ACROSS ORIFICE METER · (ΔH), mm(in.) H_2O	METER READING GAS SAMPLE VOLUME m^3 (ft^3)	ΔV_m m^3 (ft^3)	GAS SAMPLE TEMPERATURE AT DRY GAS METER		TEMPERATURE OF GAS LEAVING CONDENSER OR LAST IMPINGER, °C (°F)
						INLET ($T_{m_{in}}$), °C (°F)	OUTLET ($T_{m_{out}}$), °C (°F)	
TOTAL						Avg.	Avg.	
AVERAGE						Avg.		

Figure 4-2. Field moisture determination-reference method.

V 42 160 AUG 18 77 UM V

	IMPINGER VOLUME, ml	SILICA GEL WEIGHT, g
FINAL		
INITIAL		
DIFFERENCE		

Figure 4-3. Analytical data - reference method.

2.3.1 Nomenclature.

B_{ws} = Proportion of water vapor, by volume, in the gas stream.
M_w = Molecular weight of water, 18.0 g/g-mole (18.0 lb/lb-mole).
P_m = Absolute pressure (for this method, same as barometric pressure) at the dry gas meter, mm Hg (in. Hg).
P_{std} = Standard absolute pressure, 760 mm Hg (29.92 in. Hg).
R = Ideal gas constant, 0.06236 (mm Hg) (m³)/(g-mole) (°K) for metric units and 21.85 (in. Hg) (ft³)/(lb-mole) (°R) for English units.
T_m = Absolute temperature at meter, °K (°R).
T_{std} = Standard absolute temperature, 293° K (528° R).
V_m = Dry gas volume measured by dry gas meter, dcm (dcf).
ΔV_m = Incremental dry gas volume measured by dry gas meter at each traverse point, dcm (dcf).
$V_{m(std)}$ = Dry gas volume measured by the dry gas meter, corrected to standard conditions, dscm (dscf).
$V_{w(std)}$ = Volume of water vapor condensed corrected to standard conditions, scm (scf).
$V_{w(soln)}$ = Volume of water vapor collected in silica gel corrected to standard conditions, scm (scf).
V_f = Final volume of condenser water, ml.
V_i = Initial volume, if any, of condenser water, ml.
W_f = Final weight of silica gel or silica gel plus impinger, g.
W_i = Initial weight of silica gel or silica gel plus impinger, g.
Y = Dry gas meter calibration factor.
ρ_w = Density of water, 0.9982 g/ml (0.002201 lb/ml).

2.3.2 Volume of water vapor condensed

$$V_{w(std)} = \frac{(V_f - V_i)\rho_w R T_{std}}{P_{std} M_w} = K_1 (V_f - V_i)$$

Equation 4-1

where:
K_1 = 0.001333 m³/ml for metric units
= 0.04707 ft³/ml for English units

2.3.3 Volume of water vapor collected in silica gel

$$V_{w(soln)} = \frac{(W_f - W_i) R T_{std}}{P_{std} M_w} = K_2 (W_f - W_i)$$

Equation 4-2

where:
K_2 = 0.001335 m³/g for metric units
= 0.04715 ft³/g for English units

2.3.4 Sample gas volume.

$$V_{m(std)} = V_m \frac{(P_m)(T_{std})}{(P_{std})(T_m)} = K_1 Y \frac{V_m P_m}{T_m}$$

Equation 4-3

where:
K_1 = 0.3858 °K/mm Hg for metric units
= 17.64 °R/in. Hg for English units

NOTE: If the post-test leak rate (section 2.3.4) exceeds the allowable rate, correct the value of V_m in Equation 4-3, as described in section 6.3 of Method 5.

2.3.5 Moisture Content.

$$B_{ws} = \frac{V_{w(std)} + V_{w(soln)}}{V_{w(std)} + V_{w(soln)} + V_{m(std)}}$$

Equation 4-4

NOTE: In saturated or moisture droplet-laden gas streams, two calculations of the moisture content of the stack gas shall be made, one using a value based upon the saturated conditions (see Section 1.2), and another based upon the results of the impinger analysis. The lower of these two values of B_{ws} shall be considered correct.

2.4 Verification of constant sampling rate. For each time increment, determine the ΔV_m. Calculate the average. If the value for any time increment differs from the average by more than 10 percent, reject the results and repeat the run.

3. *Approximation Method*

The approximation method described below is presented only as a suggested method (see Section 1.2).

3.1 Apparatus.

3.1.1 Probe. Stainless steel or glass tubing, sufficiently heated to prevent water condensation and equipped with a filter (either in-stack or heated out-stack) to remove particulate matter. A plug of glass wool, inserted into the end of the probe, is a satisfactory filter.

3.1.2 Impingers. Two midget impingers, each with 30 ml capacity, or equivalent.

3.1.3 Ice Bath. Container and ice, to aid in condensing moisture in impingers.

3.1.4 Drying Tube. Tube packed with new or regenerated 6- to 16-mesh indicating-type silica gel (or equivalent desiccant), to dry the sample gas and to protect the meter and pump.

3.1.5 Valve. Needle valve, to regulate the sample gas flow rate.

3.1.6 Pump. Leak-free, diaphragm type, or equivalent, to pull the gas sample through the train.

3.1.7 Volume meter. Dry gas meter, sufficiently accurate to measure the sample volume within 2%, and calibrated over the range of flow rates and conditions actually encountered during sampling.

3.1.8 Rate Meter. Rotameter, to measure the flow range from 0 to 3 l/min (0 to 0.11 cfm).

3.1.9 Graduated Cylinder. 25 ml.

3.1.10 Barometer. Mercury, aneroid, or other barometer, as described in Section 2.1.5 above.

3.1.11 Vacuum Gauge. At least 760 mm Hg (30 in. Hg) gauge, to be used for the sampling leak check.

3.2 Procedure.

3.2.1 Place exactly 5 ml distilled water in each impinger. Assemble the apparatus without the probe as shown in Figure 4-4. Leak check the train by placing a vacuum gauge at the inlet to the first impinger and drawing a vacuum of at least 250 mm Hg (10 in. Hg), plugging the outlet of the rotameter, and then turning off the pump. The vacuum shall remain constant for at least one minute. Carefully release the vacuum gauge before unplugging the rotameter end.

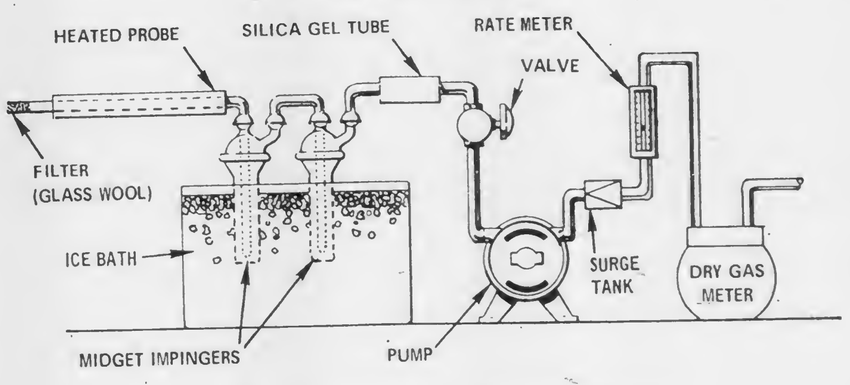


Figure 4-4. Moisture-sampling train - approximation method.

LOCATION _____ COMMENTS

TEST _____

DATE _____

OPERATOR _____

BAROMETRIC PRESSURE _____

CLOCK TIME	GAS VOLUME THROUGH METER, (Vm), m^3 (ft^3)	RATE METER SETTING m^3/min. (ft^3/min.)	METER TEMPERATURE, °C (°F)

Figure 4-5. Field moisture determination - approximation method.

V 42 160 AUG 18 77 UM V

3.2.2 Connect the probe, insert it into the stack, and sample at a constant rate of 2 lpm (0.071 cfm). Continue sampling until the dry gas meter registers about 30 liters (1.1 ft³) or until visible liquid droplets are carried over from the first impinger to the second. Record temperature, pressure, and dry gas meter readings as required by Figure 4-5.

3.2.3 After collecting the sample, combine the contents of the two impingers and measure the volume to the nearest 0.5 ml.

3.3 Calculations. The calculation method presented is designed to estimate the moisture in the stack gas; therefore, other data, which are only necessary for accurate moisture determinations, are not collected. The following equations adequately estimate the moisture content, for the purpose of determining isokinetic sampling rate settings.

3.3.1 Nomenclature.

B_{ws} = Approximate proportion, by volume, of water vapor in the gas stream leaving the second impinger, 0.025.

B_{wa} = Water vapor in the gas stream, proportion by volume.

M_w = Molecular weight of water, 18.0 g/g-mole (18.0 lb/lb-mole)

P_m = Absolute pressure (for this method, same as barometric pressure) at the dry gas meter.

P_{std} = Standard absolute pressure, 760 mm Hg (29.92 in. Hg).

R = Ideal gas constant, 0.06236 (mm Hg) (m³)/(g-mole) (°K) for metric units and 21.85 (in. Hg) (ft³)/lb-mole) (°R) for English units.

T_m = Absolute temperature at meter, °K (°R)

T_{std} = Standard absolute temperature, 293° K (528° R)

V_f = Final volume of impinger contents, ml.

V_i = Initial volume of impinger contents, ml.

V_m = Dry gas volume measured by dry gas meter, dcm (dcf).

$V_{m(std)}$ = Dry gas volume measured by dry gas meter, corrected to standard conditions, dscm (dscf).

$V_{wc(std)}$ = Volume of water vapor condensed, corrected to standard conditions, scm (scf).

ρ_w = Density of water, 0.9982 g/ml (0.002201 lb/ml).

3.3.2 Volume of water vapor collected.

$$V_{wc} = \frac{(V_f - V_i)\rho_w RT_{std}}{P_{std} M_w} = K_1 (V_f - V_i)$$

Equation 4-5

where:

K_1 = 0.001333 m³/ml for metric units
= 0.04707 ft³/ml for English units.

3.3.3 Gas volume.

$$V_{m(std)} = V_m \left(\frac{P_m}{P_{std}}\right)\left(\frac{T_{std}}{T_m}\right) = K_2 \frac{V_m P_m}{T_m}$$

Equation 4-6

where:

K_2 = 0.3858 °K/mm Hg for metric units
= 17.64 °R/in. Hg for English units

3.3.4 Approximate moisture content.

$$B_{ws} = \frac{V_{wc}}{V_{wc} + V_{m(std)}} + B_{wm} = \frac{V_{wc}}{V_{wc} + V_{m(std)}} + (0.025)$$

Equation 4-7

Calibration

4.1 For the reference method, calibrate equipment as specified in the following sections of Method 5: Section 5.3 (metering system); Section 5.5 (temperature gauges); and Section 5.7 (barometer). The recommended leak check of the metering system (Section 5.6 of Method 5) also applies to the reference method. For the approximation method, use the procedures outlined in Section 5.1.1 of Method 6 to calibrate the metering system, and the procedure of Method 5, Section 5.7 to calibrate the barometer.

5. Bibliography

1. Air Pollution Engineering Manual (Second Edition). Danielson, J. A. (ed.). U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards. Research Triangle Park, N.C. Publication No. AP-40. 1973.

2. Devorkin, Howard, et al. Air Pollution Source Testing Manual. Air Pollution Control District, Los Angeles, Calif. November, 1963.

3. Methods for Determination of Velocity, Volume, Dust and Mist Content of Gases. Western Precipitation Division of Joy Manufacturing Co., Los Angeles, Calif. Bulletin WP-50. 1968.

METHOD 5—DETERMINATION OF PARTICULATE EMISSIONS FROM STATIONARY SOURCES

1. Principle and Applicability

1.1 Principle. Particulate matter is withdrawn isokinetically from the source and collected on a glass fiber filter maintained at a temperature in the range of 120±14° C (248±25° F) or such other temperature as specified by an applicable subpart of the standards or approved by the Administrator, U.S. Environmental Protection Agency, for a particular application. The particulate mass, which includes any material that condenses at or above the filtration temperature, is determined gravimetrically after removal of uncombined water.

1.2 Applicability. This method is applicable for the determination of particulate emissions from stationary sources.

2. Apparatus

2.1 Sampling Train. A schematic of the sampling train used in this method is shown in Figure 5-1. Complete construction details are given in APTD-0581 (Citation 2 in Section 7); commercial models of this train are also available. For changes from APTD-0581 and for allowable modifications of the train shown in Figure 5-1, see the following subsections.

The operating and maintenance procedures for the sampling train are described in APTD-0576 (Citation 3 in Section 7). Since correct usage is important in obtaining valid results, all users should read APTD-0576 and adopt the operating and maintenance procedures outlined in it, unless otherwise specified herein. The sampling train consists of the following components:

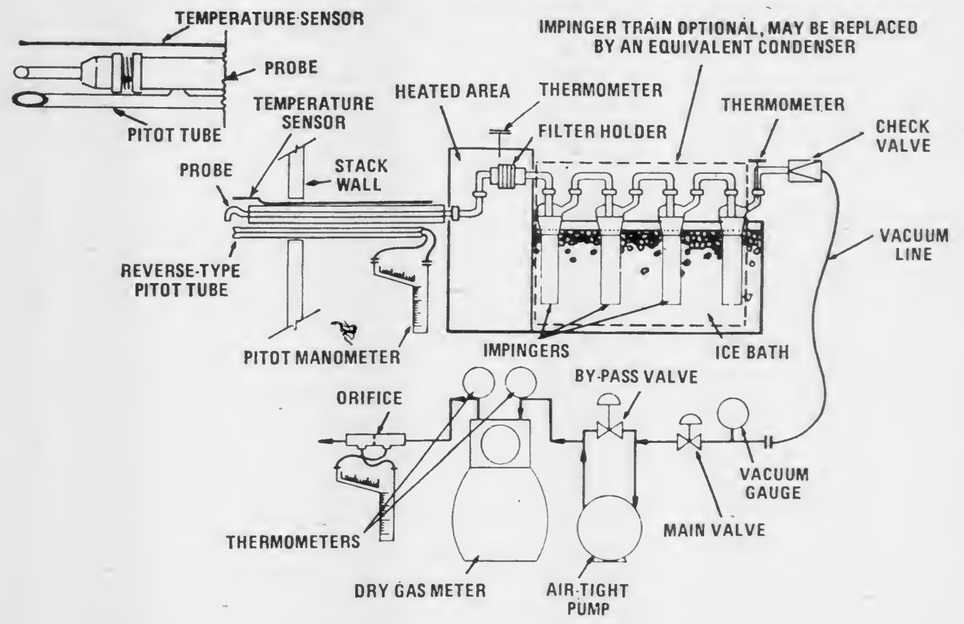


Figure 5 1. Particulate sampling train.

2.1.1 Probe Nozzle, Stainless steel (316) or glass with sharp, tapered leading edge. The angle of taper shall be ≤30° and the taper shall be on the outside to preserve a constant internal diameter. The probe nozzle shall be of the button-hook or elbow design, unless otherwise specified by the Administrator. If made of stainless steel, the nozzle shall be constructed from seamless tubing; other materials of construction may be used, subject to the approval of the Administrator.

A range of nozzle sizes suitable for isokinetic sampling should be available, e.g., 0.32 to 1.27 cm (⅛ to ½ in.)—or larger if higher volume sampling trains are used—inside diameter (ID) nozzles in increments of 0.16 cm (1/16 in.). Each nozzle shall be calibrated according to the procedures outlined in Section 5.

2.1.2 Probe Liner. Borosilicate or quartz glass tubing with a heating system capable of maintaining a gas temperature at the exit end during sampling of 120±14° C (248±25° F), or such other temperature as specified by an applicable subpart of the standards or approved by the Administrator for a particular application. (The tester may opt to operate the equipment at a temperature lower than that specified.) Since the actual temperature at the outlet of the probe is not usually monitored during sampling, probes constructed according to APTD-0581 and utilizing the calibration curves of APTD-0576 (or calibrated according to the procedure outlined in APTD-0576) will be considered acceptable.

Either borosilicate or quartz glass probe liners may be used for stack temperatures up to about 480° C (900° F); quartz liners shall be used for temperatures between 480 and 900° C (900 and 1,650° F). Both types of liners may be used at higher temperatures than specified for short periods of time, subject to the approval of the Administrator. The softening temperature for borosilicate is 820° C (1,508° F), and for quartz it is 1,500° C (2,732° F).

Whenever practical, every effort should be made to use borosilicate or quartz glass probe liners. Alternatively, metal liners (e.g., 316 stainless steel, Incoloy 825,[2] or other corrosion resistant metals) made of seamless tubing may be used, subject to the approval of the Administrator.

2.1.3 Pitot Tube, Type S, as described in Section 2.1 of Method 2, or other device approved by the Administrator. The pitot tube shall be attached to the probe (as shown in Figure 5-1) to allow constant monitoring of the stack gas velocity. The impact (high pressure) opening plane of the pitot tube shall be even with or above the nozzle entry plane (see Method 2, Figure 2-6b) during sampling. The Type S pitot tube assembly shall have a known coefficient, determined as outlined in Section 4 of Method 2.

2.1.4 Differential Pressure Gauge. Inclined manometer or equivalent device (two), as described in Section 2.2 of Method 2. One manometer shall be used for velocity head (Δp) readings, and the other, for orifice differential pressure readings.

2.1.5 Filter Holder. Borosilicate glass, with a glass frit filter support and a silicone rubber gasket. Other materials of construction (e.g., stainless steel, Teflon, Viton) may be used, subject to approval of the Administrator. The holder design shall provide a positive seal against leakage from the outside or around the filter. The holder shall be attached immediately at the outlet of the probe (or cyclone, if used).

2.1.6 Filter Heating System. Any heating system capable of maintaining a temperature around the filter holder during sampling of 120±14° C (248±25° F), or such other temperature as specified by an applicable subpart of the standards or approved by the Administrator for a particular application. Alternatively, the tester may opt to operate the equipment at a temperature lower than that specified. A temperature gauge capable of measuring temperature to within 3° C (5.4° F) shall be installed so that the temperature around the filter holder can be regulated and monitored during sampling. Heating systems other than the one shown in APTD-0581 may be used.

2.1.7 Condenser. The following system shall be used to determine the stack gas moisture content: Four impingers connected in series with leak-free ground glass fittings or any similar leak-free non-contaminating fittings. The first, third, and fourth impingers shall be of the Greenburg-Smith design, modified by replacing the tip with 1.3 cm (½ in.) ID glass tube extending to about 1.3 cm (½ in.) from the bottom of the flask. The second impinger shall be of the Greenburg-Smith design with the standard tip. Modifications (e.g., using flexible connections between the impingers, using materials other than glass, or using flexible vacuum lines to connect the filter holder to the condenser) may be used, subject to the approval of the Administrator. The first and second impingers shall contain known quantities of water (Section 4.1.3), the third shall be empty, and the fourth shall contain a known weight of silica gel, or equivalent desiccant. A thermometer, capable of measuring temperature to within 1° C (2° F) shall be placed at the outlet of the fourth impinger for monitoring purposes.

Alternatively, any system that cools the sample gas stream and allows measurement of the water condensed and moisture leaving the condenser, each to within 1 ml or 1 g may be used, subject to the approval of the Administrator. Acceptable means are to measure the condensed water either gravimetrically or volumetrically and to measure the moisture leaving the condenser by: (1) monitoring the temperature and pressure at the exit of the condenser and using Dalton's law of partial pressures; or (2) passing the sample gas stream through a tared silica gel (or equivalent desiccant) trap with exit gases kept below 20° C (68° F) and determining the weight gain.

If means other than silica gel are used to determine the amount of moisture leaving the condenser, it is recommended that silica gel (or equivalent) still be used between the condenser system and pump to prevent moisture condensation in the pump and metering devices and to avoid the need to make corrections for moisture in the metered volume.

NOTE.—If a determination of the particulate matter collected in the impingers is desired in addition to moisture content, the impinger system described above shall be used, without modification. Individual States or control agencies requiring this information shall be contacted as to the sample recovery and analysis of the impinger contents.

2.1.8 Metering System. Vacuum gauge, leak-free pump, thermometers capable of measuring temperature to within 3° C (5.4° F), dry gas meter capable of measuring volume to within 2 percent, and related equipment, as shown in Figure 5-1. Other metering systems capable of maintaining sampling rates within 10 percent of isokinetic and of determining sample volumes to within 2 percent may be used, subject to the approval of the Administrator. When the metering system is used in conjunction with a pitot tube, the system shall enable checks of isokinetic rates.

Sampling trains utilizing metering systems designed for higher flow rates than that described in APTD-0581 or APTD-0576 may be used provided that the specifications of this method are met.

2.1.9 Barometer. Mercury, aneroid, or other barometer capable of measuring atmospheric pressure to within 2.5 mm Hg (0.1 in. Hg). In many cases, the barometric reading may be obtained from a nearby national weather service station, in which case the station value (which is

[2] Mention of trade names or specific products does not constitute endorsement by the Environmental Protection Agency.

the absolute barometric pressure) shall be requested and no adjustment for elevation differences between the weather station and sampling point shall be applied at a rate of minus 2.5 mm Hg (0.1 in. Hg) per 30 m (100 ft) elevation increase or vice versa for elevation decrease.

2.4.10 Gas Density Determination Equipment. Temperature sensor and pressure gauge, as described in Sections 2.3 and 2.4 of Method 2, and gas analyzer, if necessary, as described in Method 3. The temperature sensor shall, preferably, be permanently attached to the pitot tube or sampling probe in a fixed configuration, such that the tip of the sensor extends beyond the leading edge of the probe sheath and does not touch any metal. Alternatively, the sensor may be attached just prior to use in the field. Note, however, that if the temperature sensor is attached in the field, the sensor must be placed in an interference-free arrangement with respect to the Type S pitot tube openings (see Method 2, Figure 2-7). As a second alternative, if a difference of not more than 1 percent in the average velocity measurement is to be introduced, the temperature gauge need not be attached to the probe or pitot tube. (This alternative is subject to the approval of the Administrator.)

2.5 Sample Recovery. The following items are needed.

2.5.1 Probe-Liner and Probe-Nozzle Brushes. Nylon bristle brushes with stainless steel wire handles. The probe brush shall have extensions (at least as long as the probe) of stainless steel, Nylon, Teflon, or similarly inert material. The brushes shall be properly sized and shaped to brush out the probe liner and nozzle.

2.5.2 Wash Bottles—Two. Glass wash bottles are recommended; polyethylene wash bottles may be used at the option of the tester. It is recommended that acetone not be stored in polyethylene bottles for longer than a month.

2.5.3 Glass Sample Storage Containers. Chemically resistant, borosilicate glass bottles, for acetone washes, 500 ml or 1000 ml. Screw cap liners shall either be rubber-backed Teflon or shall be constructed so as to be leak-free and resistant to chemical attack by acetone. (Narrow mouth glass bottles have been found to be less prone to leakage.) Alternatively, polyethylene bottles may be used.

2.5.4 Petri Dishes. For filter samples, glass or polyethylene, unless otherwise specified by the Administrator.

2.5.5 Graduated Cylinder and/or Balance. To measure condensed water to within 1 ml or 1 g. Graduated cylinders shall have subdivisions no greater than 2 ml. Most laboratory balances are capable of weighing to the nearest 0.5 g or less. Any of these balances is suitable for use here and in Section 2.3.4.

2.5.6 Plastic Storage Containers. Air-tight containers to store silica gel.

2.5.7 Funnel and Rubber Policeman. To aid in transfer of silica gel to container; not necessary if silica gel is weighed in the field.

2.5.8 Funnel. Glass or polyethylene, to aid in sample recovery.

2.6 Analysis. For analysis, the following equipment is needed.

2.6.1 Glass Weighing Dishes.

2.6.2 Desiccator.

2.6.3 Analytical Balance. To measure to within 0.1 mg.

2.6.4 Balance. To measure to within 0.5 g.

2.6.5 Beakers. 250 ml.

2.6.6 Hygrometer. To measure the relative humidity of the laboratory environment.

2.6.7 Temperature Gauge. To measure the temperature of the laboratory environment.

3. *Reagents*

3.1 Sampling. The reagents used in sampling are as follows:

3.1.1 Filters. Glass fiber filters, without organic binder, exhibiting at least 99.95 percent efficiency (≤0.05 percent penetration) on 0.3-micron dioctyl phthalate smoke particles. The filter efficiency test shall be conducted in accordance with ASTM standard method D 2986-71. Test data from the supplier's quality control program are sufficient for this purpose.

3.1.2 Silica Gel. Indicating type, 6 to 16 mesh. If previously used, dry at 175° C (350° F) for 2 hours. New silica gel may be used as received. Alternatively, other types of desiccants (equivalent or better) may be used, subject to the approval of the Administrator.

3.1.3 Water. When analysis of the material caught in the impingers is required, distilled water shall be used. Run blanks prior to field use to eliminate a high blank on test samples.

3.1.4 Crushed Ice.

3.1.5 Stopcock Grease. Acetone-insoluble, heat-stable silicone grease. This is not necessary if screw-on connectors with Teflon sleeves, or similar, are used. Alternatively, other types of stopcock grease may be used, subject to the approval of the Administrator.

3.2 Sample Recovery. Acetone—reagent grade, ≤0.001 percent residue, in glass bottles—is required. Acetone from metal containers generally has a high residue blank and should not be used. Sometimes, suppliers transfer acetone to glass bottles from metal containers; thus, acetone blanks shall be run prior to field use and only acetone with low blank values (≤0.001 percent) shall be used. In no case shall a blank value of greater than 0.001 percent of the weight of acetone used be subtracted from the sample weight.

3.3 Analysis. Two reagents are required for the analysis:

3.3.1 Acetone. Same as 3.2.

3.3.2 Desiccant. Anhydrous calcium sulfate, indicating type. Alternatively, other types of desiccants may be used, subject to the approval of the Administrator.

4. *Procedure*

4.1 Sampling. The complexity of this method is such that, in order to obtain reliable results, testers should be trained and experienced with the test procedures.

4.1.1 Pretest Preparation. All the components shall be maintained and calibrated according to the procedure described in APTD-0576, unless otherwise specified herein.

Weigh several 200 to 300 g portions of silica gel in air-tight containers to the nearest 0.5 g. Record the total weight of the silica gel plus container, on each container. As an alternative, the silica gel need not be preweighed, but may be weighed directly in its impinger or sampling holder just prior to train assembly.

Check filters visually against light for irregularities and flaws or pinhole leaks. Label filters of the proper diameter on the back side near the edge using numbering machine ink. As an alternative, label the shipping containers (glass or plastic petri dishes) and keep the filters in these containers at all times except during sampling and weighing.

Desiccate the filters at 20±5.6° C (68±10° F) and ambient pressure for at least 24 hours and weigh at intervals of at least 6 hours to a constant weight, i.e., <0.5 mg change from previous weighing; record results to the nearest 0.1 mg. During each weighing the filter must not be exposed to the laboratory atmosphere for a period greater than 2 minutes and a relative humidity above 50 percent. Alternatively (unless otherwise specified by the Administrator), the filters may be oven dried at 105° C (220° F) for 2 to 3 hours, desiccated for 2 hours, and weighed. Procedures other than those described, which account for relative humidity effects, may be used, subject to the approval of the Administrator.

4.1.2 Preliminary Determinations. Select the sampling site and the minimum number of sampling points according to Method 1 or as specified by the Administrator. Determine the stack pressure, temperature, and the range of velocity heads using Method 2; it is recommended that a leak-check of the pitot lines (see Method 2, Section 3.1) be performed. Determine the moisture content using Approximation Method 4 or its alternatives for the purpose of making isokinetic sampling rate settings. Determine the stack gas dry molecular weight, as described in Method 2, Section 3.6; if integrated Method 3 sampling is used for molecular weight determination, the integrated bag sample shall be taken simultaneously with, and for the same total length of time as, the particulate sample run.

Select a nozzle size based on the range of velocity heads, such that it is not necessary to change the nozzle size in order to maintain isokinetic sampling rates. During the run, do not change the nozzle size. Ensure that the proper differential pressure gauge is chosen for the range of velocity heads encountered (see Section 2.2 of Method 2).

Select a suitable probe liner and probe length such that all traverse points can be sampled. For large stacks, consider sampling from opposite sides of the stack to reduce the length of probes.

Select a total sampling time greater than or equal to the minimum total sampling time specified in the test procedures for the specific industry such that (1) the sampling time per point is not less than 2 min (or some greater time interval as specified by the Administrator), and (2) the sample volume taken (corrected to standard conditions) will exceed the required minimum total gas sample volume. The latter is based on an approximate average sampling rate.

It is recommended that the number of minutes sampled at each point be an integer or an integer plus one-half minute, in order to avoid timekeeping errors.

In some circumstances, e.g., batch cycles, it may be necessary to sample for shorter times at the traverse points and to obtain smaller gas sample volumes. In these cases, the Administrator's approval must first be obtained.

4.1.3 Preparation of Collection Train. During preparation and assembly of the sampling train, keep all openings where contamination can occur covered until just prior to assembly or until sampling is about to begin.

Place 100 ml of water in each of the first two impingers, leave the third impinger empty, and transfer approximately 200 to 300 g of preweighed silica gel from its container to the fourth impinger. More silica gel may be used, but care should be taken to ensure that it is not entrained and carried out from the impinger during sampling. Place the container in a clean place for later use in the sample recovery. Alternatively, the weight of the silica gel plus impinger may be determined to the nearest 0.5 g and recorded.

Using a tweezer or clean disposable surgical gloves, place a labeled (identified) and weighed filter in the filter holder. Be sure that the filter is properly centered and the gasket properly placed so as to prevent the sample gas stream from circumventing the filter. Check the filter for tears after assembly is completed.

When glass liners are used, install the selected nozzle using a Viton A O-ring when stack temperatures are less than 260° C (500° F) and an asbestos string gasket when temperatures are higher. See APTD-0576 for details. Other connecting systems using either 316 stainless steel or Teflon ferrules may be used. When metal liners are used, install the nozzle as above or by a leak-free direct mechanical connection. Mark the probe with heat resistant tape or by some other method to denote the proper distance into the stack or duct for each sampling point.

Set up the train as in Figure 5-1, using (if necessary) a very light coat of silicone grease on all ground glass joints, greasing only the outer portion (see APTD-0576) to avoid possibility of contamination by the silicone grease. Subject to the approval of the Administrator, a glass cyclone may be used between the probe and filter holder when the total particulate catch is expected to exceed 100 mg or when water droplets are present in the stack gas.

Place crushed ice around the impingers.

4.1.4 Leak-Check Procedures.

4.1.4.1 Pretest Leak-Check. A pretest leak-check is recommended, but not required. If the tester opts to conduct the pretest leak-check, the following procedure shall be used.

After the sampling train has been assembled, turn on and set the filter and probe heating systems at the desired operating temperatures. Allow time for the temperatures to stabilize. If a Viton A O-ring or other leak-free connection is used in assembling the probe nozzle to the probe liner, leak-check the train at the sampling site by plugging the nozzle and pulling a 380 mm Hg (15 in. Hg) vacuum.

NOTE.—A lower vacuum may be used, provided that it is not exceeded during the test.

If an asbestos string is used, do not connect the probe to the train during the leak-check. Instead, leak-check the train by first plugging the inlet to the filter holder (cyclone, if applicable) and pulling a 380 mm Hg (15 in. Hg) vacuum (see Note immediately above). Then connect the probe to the train and leak-check at about 25 mm Hg (1 in. Hg) vacuum; alternatively, the probe may be leak-checked with the rest of the sampling train, in one step, at 380 mm Hg (15 in. Hg) vacuum. Leakage rates in excess of 4 percent of the average sampling rate or 0.00057 m³/min (0.02 cfm), whichever is less, are unacceptable.

The following leak-check instructions for the sampling train described in APTD-0576 and APTD-0581 may be helpful. Start the pump with bypass valve fully open and coarse adjust valve completely closed. Partially open the coarse adjust valve and slowly close the bypass valve until the desired vacuum is reached. Do not reverse direction of bypass valve; this will cause water to back up into the filter holder. If the desired vacuum is exceeded, either leak-check at this higher vacuum or end the leak check as shown below and start over.

When the leak-check is completed, first slowly remove the plug from the inlet to the probe, filter holder, or cyclone (if applicable) and immediately turn off the vacuum pump. This prevents the water in the impingers from being forced backward into the filter holder and silica gel from being entrained backward into the third impinger.

4.1.4.2 Leak-Checks During Sample Run. If, during the sampling run, a component (e.g., filter assembly or impinger) change becomes necessary, a leak-check shall be conducted immediately before the change is made. The leak-check shall be done according to the procedure outlined in Section 4.1.4.1 above, except that it shall be done at a vacuum equal to or greater than the maximum value recorded up to that point in the test. If the leakage rate is found to be no greater than 0.00057 m³/min (0.02 cfm) or 4 percent of the average sampling rate (whichever is less), the results are acceptable, and no correction will need to be applied to the total volume of dry gas metered; if, however, a higher leakage rate is obtained, the tester shall either record the leakage rate and plan to correct the sample volume as shown in Section 6.3 of this method, or shall void the sampling run.

Immediately after component changes, leak-checks are optional; if such leak-checks are done, the procedure outlined in Section 4.1.4.1 above shall be used.

4.1.4.3 Post-test Leak-Check. A leak-check is mandatory at the conclusion of each sampling run. The leak-check shall be done in accordance with the procedures outlined in Section 4.1.4.1, except that it shall be conducted at a vacuum equal to or greater than the maximum value reached during the sampling run. If the leakage rate is found to be no greater than 0.00057 m³/min (0.02 cfm) or 4 percent of the average sampling rate (whichever is less), the results are acceptable, and no correction need be applied to the total volume of dry gas metered. If, however, a higher leakage rate is obtained, the tester shall either record the leakage rate and correct the sample volume as shown in Section 6.3 of this method, or shall void the sampling run.

4.1.5 Particulate Train Operation. During the sampling run, maintain an isokinetic sampling rate (within 10 percent of true isokinetic unless otherwise specified by the Administrator) and a temperature around the filter of 120±14° C (248±25° F), or such other temperature as specified by an applicable subpart of the standards or approved by the Administrator.

For each run, record the data required on a data sheet such as the one shown in Figure 5-2. Be sure to record the initial dry gas meter reading. Record the dry gas meter readings at the beginning and end of each sampling time increment, when changes in flow rates are made, before and after each leak check, and when sampling is halted.

Take other readings required by Figure 5-2 at least once at each sample point during each time increment and additional readings when significant changes (20 percent variation in velocity head readings) necessitate additional adjustments in flow rate. Level and zero the manometer. Because the manometer level and zero may drift due to vibrations and temperature changes, make periodic checks during the traverse.

Clean the portholes prior to the test run to minimize the chance of sampling deposited material. To begin sampling, remove the nozzle cap, verify that the filter and probe heating systems are up to temperature, and that the pitot tube and probe are properly positioned. Position the nozzle at the first traverse point with the tip pointing directly into the gas stream. Immediately start the pump and adjust the flow to isokinetic conditions. Nomographs are available, which aid in the rapid adjustment of the isokinetic sampling rate without excessive computations. These nomographs are designed for use when the Type S pitot tube coefficient is 0.85±0.02, and the stack gas equivalent density (dry molecular weight) is equal to 29±4. APTD-0576 details the procedure for using the nomographs. If C_p and M_d are outside the above stated ranges do not use the nomographs unless appropriate steps (see Citation 7 in Section 7) are taken to compensate for the deviations.

PLANT _____
LOCATION _____
OPERATOR _____
DATE _____
RUN NO. _____
SAMPLE BOX NO. _____
METER BOX NO. _____
METER ΔH@ _____
C FACTOR _____
PITOT TUBE COEFFICIENT, C_p _____

SCHEMATIC OF STACK CROSS SECTION

AMBIENT TEMPERATURE _____
BAROMETRIC PRESSURE _____
ASSUMED MOISTURE, % _____
PROBE LENGTH, m (ft) _____
NOZZLE IDENTIFICATION NO. _____
AVERAGE CALIBRATED NOZZLE DIAMETER, cm (in.) _____
PROBE HEATER SETTING _____
LEAK RATE, m³/min. (cfm) _____
PROBE LINER MATERIAL _____
STATIC PRESSURE, mm Hg (in. Hg) _____
FILTER NO. _____

TRAVERSE POINT NUMBER	SAMPLING TIME (θ), min.	VACUUM mm Hg (in. Hg)	STACK TEMPERATURE (T_s) °C (°F)	VELOCITY HEAD (ΔP_s), mm(in.)H_2O	PRESSURE DIFFERENTIAL ACROSS ORIFICE METER mm H_2O (in. H_2O)	GAS SAMPLE VOLUME m^3 (ft^3)	GAS SAMPLE TEMPERATURE AT DRY GAS METER		FILTER HOLDER TEMPERATURE, °C (°F)	TEMPERATURE OF GAS LEAVING CONDENSER OR LAST IMPINGER, °C (°F)
							INLET °C (°F)	OUTLET °C (°F)		
TOTAL							Avg.	Avg.		
AVERAGE							Avg.			

Figure 5-2. Particulate field data.

When the stack is under significant negative pressure (height of impinger stem), take care to close the coarse adjust valve before inserting the probe into the stack to prevent water from backing into the filter holder. If necessary, the pump may be turned on with the coarse adjust valve closed.

When the probe is in position, block off the openings around the probe and porthole to prevent unrepresentative dilution of the gas stream.

Traverse the stack cross-section, as required by Method 1 or as specified by the Administrator, being careful not to bump the probe nozzle into the stack walls when sampling near the walls or when removing or inserting the probe through the portholes; this minimizes the chance of extracting deposited material.

During the test run, make periodic adjustments to keep the temperature around the filter holder at the proper level; add more ice and, if necessary, salt to maintain a temperature of less than 20° C (68° F) at the condenser/silica gel outlet. Also, periodically check the level and zero of the manometer.

If the pressure drop across the filter becomes too high, making isokinetic sampling difficult to maintain, the filter may be replaced in the midst of a sample run. It is recommended that another complete filter assembly be used rather than attempting to change the filter itself. Before a new filter assembly is installed, conduct a leak-check (see Section 4.1.4.2). The total particulate weight shall include the summation of all filter assembly catches.

A single train shall be used for the entire sample run, except in cases where simultaneous sampling is required in two or more separate ducts or at two or more different locations within the same duct, or, in cases where equipment failure necessitates a change of trains. In all other situations, the use of two or more trains will be subject to the approval of the Administrator.

Note that when two or more trains are used, separate analyses of the front-half and (if applicable) impinger catches from each train shall be performed, unless identical nozzle sizes were used on all trains, in which case, the front-half catches from the individual trains may be combined (as may the impinger catches) and one analysis of front-half catch and one analysis of impinger catch may be performed. Consult with the Administrator for details concerning the calculation of results when two or more trains are used.

At the end of the sample run, turn off the coarse adjust valve, remove the probe and nozzle from the stack, turn off the pump, record the final dry gas meter reading, and conduct a post-test leak-check, as outlined in Section 4.1.4.3. Also, leak-check the pitot lines as described in Method 2, Section 3.1; the lines must pass this leak-check, in order to validate the velocity head data.

4.1.6 Calculation of Percent Isokinetic. Calculate percent isokinetic (see Calculations, Section 6) to determine whether the run was valid or another test run should be made. If there was difficulty in maintaining isokinetic rates due to source conditions, consult with the Administrator for possible variance on the isokinetic rates.

4.2 Sample Recovery. Proper cleanup procedure begins as soon as the probe is removed from the stack at the end of the sampling period. Allow the probe to cool.

When the probe can be safely handled, wipe off all external particulate matter near the tip of the probe nozzle and place a cap over it to prevent losing or gaining particulate matter. Do not cap off the probe tip tightly while the sampling train is cooling down as this would create a vacuum in the filter holder, thus drawing water from the impingers into the filter holder.

Before moving the sample train to the cleanup site, remove the probe from the sample train. Wipe off the silicone grease, and cap the open outlet of the probe. Be careful not to lose any condensate that might be present. Wipe off the silicone grease from the filter inlet where the probe was fastened and cap it. Remove the umbilical cord from the last impinger and cap the impinger. If a flexible line is used between the first impinger or condenser and the filter holder, disconnect the line at the filter holder and let any condensed water or liquid drain into the impingers or condenser. After wiping off the silicone grease, cap off the filter holder outlet and impinger inlet. Either ground-glass stoppers, plastic caps, or serum caps may be used to close these openings.

Transfer the probe and filter-impinger assembly to the cleanup area. This area should be clean and protected from the wind so that the chances of contaminating or losing the sample will be minimized.

Save a portion of the acetone used for cleanup as a blank. Take about 200 ml of this acetone directly from the wash bottle being used and place it in a glass sample container labeled "acetone blank."

Inspect the train prior to and during disassembly and note any abnormal conditions. Treat the samples as follows:

Container No. 1. Carefully remove the filter from the filter holder and place it in its identified petri dish container. Use a pair of tweezers and/or clean disposable surgical gloves to handle the filter. If it is necessary to fold the filter, do so such that the particulate cake is inside the fold. Carefully transfer to the petri dish any particulate matter and/or filter fibers which adhere to the filter holder gasket, by using a dry nylon bristle brush and/or a sharp-edged blade. Seal the container.

Container No. 2. Taking care to see that dust on the outside of the probe or other exterior surfaces does not get into the sample, quantitatively recover particulate matter or any condensate from the probe nozzle, probe

V 4216 0 AUG 18 77 UM V

fitting, probe liner, and front half of the filter holder by washing these components with acetone and placing the wash in a glass container. Distilled water may be used instead of acetone when approved by the Administrator and shall be used when specified by the Administrator; in these cases, save a water blank and follow the Administrator's directions on analysis. Perform the acetone rinses as follows:

Carefully remove the probe nozzle and clean the inside surface by rinsing with acetone from a wash bottle and brushing with a nylon bristle brush. Brush until the acetone rinse shows no visible particles, after which make a final rinse of the inside surface with acetone.

Brush and rinse the inside parts of the Swagelok fitting with acetone in a similar way until no visible particles remain.

Rinse the probe liner with acetone by tilting and rotating the probe while squirting acetone into its upper end so that all inside surfaces will be wetted with acetone. Let the acetone drain from the lower end into the sample container. A funnel (glass or polyethylene) may be used to aid in transferring liquid washes to the container. Follow the acetone rinse with a probe brush. Hold the probe in an inclined position, squirt acetone into the upper end as the probe brush is being pushed with a twisting action through the probe; hold a sample container underneath the lower end of the probe, and catch any acetone and particulate matter which is brushed from the probe. Run the brush through the probe three times or more until no visible particulate matter is carried out with the acetone or until none remains in the probe liner on visual inspection. With stainless steel or other metal probes, run the brush through in the above prescribed manner at least six times since metal probes have small crevices in which particulate matter can be entrapped. Rinse the brush with acetone, and quantitatively collect these washings in the sample container. After the brushing, make a final acetone rinse of the probe as described above.

It is recommended that two people be used to clean the probe to minimize sample losses. Between sampling runs, keep brushes clean and protected from contamination.

After ensuring that all joints have been wiped clean of silicone grease, clean the inside of the front half of the filter holder by rubbing the surfaces with a nylon bristle brush and rinsing with acetone. Rinse each surface three times or more if needed to remove visible particulate. Make a final rinse of the brush and filter holder. Carefully rinse out the glass cyclone, also (if applicable). After all acetone washings and particulate matter have been collected in the sample container, tighten the lid on the sample container so that acetone will not leak out when it is shipped to the laboratory. Mark the height of the fluid level to determine whether or not leakage occurred during transport. Label the container to clearly identify its contents.

Container No. 2. Note the color of the indicating silica gel to determine if it has been completely spent and make a notation of its condition. Transfer the silica gel from the fourth impinger to its original container and seal. A funnel may make it easier to pour the silica gel without spilling. A rubber policeman may be used as an aid in removing the silica gel from the impinger. It is not necessary to remove the small amount of dust particles that may adhere to the impinger wall and are difficult to remove. Since the gain in weight is to be used for moisture calculations, do not use any water or other liquids to transfer the silica gel. If a balance is available in the field, follow the procedure for container No. 3 in Section 4.3.

Impinger Water. Treat the impingers as follows: Make a notation of any color or film in the liquid catch. Measure the liquid which is in the first three impingers to within ±1 ml by using a graduated cylinder or by weighing it to within ±0.5 g by using a balance (if one is available). Record the volume or weight of liquid present. This information is required to calculate the moisture content of the effluent gas.

Discard the liquid after measuring and recording the volume or weight, unless analysis of the impinger catch is required (see Note, Section 2.1.7).

If a different type of condenser is used, measure the amount of moisture condensed either volumetrically or gravimetrically.

Whenever possible, containers should be shipped in such a way that they remain upright at all times.

4.3 Analysis. Record the data required on a sheet such as the one shown in Figure 5-3. Handle each sample container as follows:

Container No. 1. Leave the contents in the shipping container or transfer the filter and any loose particulate from the sample container to a tared glass weighing dish. Desiccate for 24 hours in a desiccator containing anhydrous calcium sulfate. Weigh to a constant weight and report the results to the nearest 0.1 mg. For purposes of this Section, 4.3, the term "constant weight" means a difference of no more than 0.5 mg or 1 percent of total weight less tare weight, whichever is greater, between two consecutive weighings, with no less than 6 hours of desiccation time between weighings.

RULES AND REGULATIONS

Plant _____

Date _____

Run No. _____

Filter No. _____

Amount liquid lost during transport _____

Acetone blank volume, ml _____

Acetone wash volume, ml _____

Acetone blank concentration, mg/mg (equation 5-4) _____

Acetone wash blank, mg (equation 5-5) _____

CONTAINER NUMBER	WEIGHT OF PARTICULATE COLLECTED, mg		
	FINAL WEIGHT	TARE WEIGHT	WEIGHT GAIN
1			
2			
TOTAL			
		Less acetone blank	
		Weight of particulate matter	

	VOLUME OF LIQUID WATER COLLECTED	
	IMPINGER VOLUME, ml.	SILICA GEL WEIGHT, g
FINAL		
INITIAL		
LIQUID COLLECTED		
TOTAL VOLUME COLLECTED		g* ml

* CONVERT WEIGHT OF WATER TO VOLUME BY DIVIDING TOTAL WEIGHT INCREASE BY DENSITY OF WATER (1g/ml):

$$\frac{\text{INCREASE, g}}{\text{1 g/ml}} = \text{VOLUME WATER, ml}$$

Figure 5-3. Analytical data.

Alternatively, the sample may be oven dried at 105° C (220° F) for 2 to 3 hours, cooled in the desiccator, and weighed to a constant weight, unless otherwise specified by the Administrator. The tester may also opt to oven dry the sample at 105° C (220° F) for 2 to 3 hours, weigh the sample, and use this weight as a final weight.

Container No. 3. Note the level of liquid in the container and confirm on the analysis sheet whether or not leakage occurred during transport. If a noticeable amount of leakage has occurred, either void the sample or use methods, subject to the approval of the Administrator, to correct the final results. Measure the liquid in this container either volumetrically to ±1 ml or gravimetrically to ±0.5 g. Transfer the contents to a tared 250-ml beaker and evaporate to dryness at ambient temperature and pressure. Desiccate for 24 hours and weigh to a constant weight. Report the results to the nearest 0.1 mg.

Container No. 4. Weigh the spent silica gel (or silica gel plus impinger) to the nearest 0.5 g using a balance. This step may be conducted in the field.

"Acetone Blank" Container. Measure acetone in this container either volumetrically or gravimetrically. Transfer the acetone to a tared 250-ml beaker and evaporate to dryness at ambient temperature and pressure. Desiccate for 24 hours and weigh to a constant weight. Report the results to the nearest 0.1 mg.

NOTE.—At the option of the tester, the contents of Container No. 2 as well as the acetone blank container may be evaporated at temperatures higher than ambient. If evaporation is done at an elevated temperature, the temperature must be below the boiling point of the solvent; also, to prevent "bumping," the evaporation process must be closely supervised, and the contents of the beaker must be swirled occasionally to maintain an even temperature. Use extreme care, as acetone is highly flammable and has a low flash point.

5. Calibration

Maintain a laboratory log of all calibrations.

5.1 Probe Nozzle. Probe nozzles shall be calibrated before their initial use in the field. Using a micrometer, measure the inside diameter of the nozzle to the nearest 0.025 mm (0.001 in.). Make three separate measurements using different diameters each time, and obtain the average of the measurements. The difference between the high and low numbers shall not exceed 0.1 mm (0.004 in.). When nozzles become nicked, dented, or corroded, they shall be reshaped, sharpened, and recalibrated before use. Each nozzle shall be permanently and uniquely identified.

5.2 Pitot Tube. The Type S pitot tube assembly shall be calibrated according to the procedure outlined in Section 4 of Method 2.

5.3 Metering System. Before its initial use in the field, the metering system shall be calibrated according to the procedure outlined in APTD-0576. Instead of physically adjusting the dry gas meter dial readings to correspond to the wet test meter readings, calibration factors may be used to mathematically correct the gas meter dial readings to the proper values. Before calibrating the metering system, it is suggested that a leak-check be conducted. For metering systems having diaphragm pumps, the normal leak-check procedure will not detect leakages within the pump. For these cases the following leak-check procedure is suggested: make a 10-minute calibration run at 0.00057 m³/min (0.02 cfm); at the end of the run, take the difference of the measured wet test meter and dry gas meter volumes, divide the difference by 10, to get the leak rate. The leak rate should not exceed 0.00057 m³/min (0.02 cfm).

After each field use, the calibration of the metering system shall be checked by performing three calibration runs at a single, intermediate orifice setting (based on the previous field test), with the vacuum set at the maximum value reached during the test series. To adjust the vacuum, insert a valve between the wet test meter and the inlet of the metering system. Calculate the average value of the calibration factor. If the calibration has changed by more than 5 percent, recalibrate the meter over the full range of orifice settings, as outlined in APTD-0576.

Alternative procedures, e.g., using the orifice meter coefficients, may be used, subject to the approval of the Administrator.

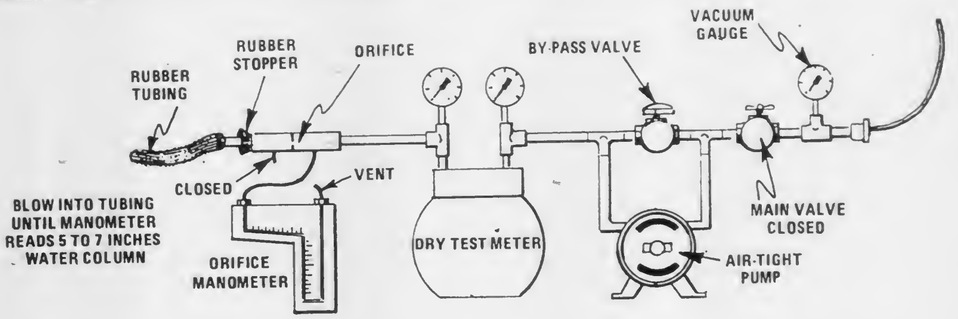


Figure 5-4. Leak check of meter box.

NOTE.—If the dry gas meter coefficient values obtained before and after a test series differ by more than 5 percent, the test series shall either be voided, or calculations for the test series shall be performed using whichever meter coefficient value (i.e., before or after) gives the lower value of total sample volume.

5.4 Probe Heater Calibration. The probe heating system shall be calibrated before its initial use in the field according to the procedure outlined in APTD-0576. Probes constructed according to APTD-0581 need not be calibrated if the calibration curves in APTD-0576 are used.

5.5 Temperature Gauges. Use the procedure in Section 4.3 of Method 2 to calibrate in-stack temperature gauges. Dial thermometers, such as are used for the dry gas meter and condenser outlet, shall be calibrated against mercury-in-glass thermometers.

5.6 Leak Check of Metering System Shown in Figure 5-4. That portion of the sampling train from the pump to the orifice meter should be leak checked prior to initial use and after each shipment. Leakage after the pump will result in less volume being recorded than is actually sampled. The following procedure is suggested (see Figure 5-4): Close the main valve on the meter box. Insert a one-hole rubber stopper with rubber tubing attached into the orifice exhaust pipe. Disconnect and vent the low side of the orifice manometer. Close off the low side orifice tap. Pressurize the system to 13 to 18 cm (5 to 7 in.) water column by blowing into the rubber tubing. Pinch off the tubing and observe the manometer for one minute. A loss of pressure on the manometer indicates a leak in the meter box; leaks, if present, must be corrected.

5.7 Barometer. Calibrate against a mercury barometer.

6. Calculations

Carry out calculations, retaining at least one extra decimal figure beyond that of the acquired data. Round off figures after the final calculation. Other forms of the equations may be used as long as they give equivalent results.

6.1 Nomenclature

A_n = Cross-sectional area of nozzle, m² (ft²).
B_{ws} = Water vapor in the gas stream, proportion by volume.
C_a = Acetone blank residue concentration, mg/g.
c_s = Concentration of particulate matter in stack gas, dry basis, corrected to standard conditions, g/dscm (g/dscf).
I = Percent of isokinetic sampling.
L_a = Maximum acceptable leakage rate for either a pretest leak check or for a leak check following a component change; equal to 0.00057 m³/min (0.02 cfm) or 4 percent of the average sampling rate, whichever is less.
L_i = Individual leakage rate observed during the leak check conducted prior to the "i^{th}" component change (i=1, 2, 3 . . . . n), m³/min (cfm).
L_p = Leakage rate observed during the post-test leak check, m³/min (cfm).
m_a = Total amount of particulate matter collected, mg.
M_w = Molecular weight of water, 18.0 g/g-mole (18.0 lb/lb-mole).
m_a = Mass of residue of acetone after evaporation, mg.
P_{bar} = Barometric pressure at the sampling site, mm Hg (in. Hg).
P_s = Absolute stack gas pressure, mm Hg (in. Hg).
P_{std} = Standard absolute pressure, 760 mm Hg (29.92 in. Hg).
R = Ideal gas constant, 0.06236 mm Hg-m³/°K-g-mole (21.85 in. Hg-ft³/°R-lb-mole).
T_m = Absolute average dry gas meter temperature (see Figure 5-2), °K (°R).
T_s = Absolute average stack gas temperature (see Figure 5-2), °K (°R).
T_{std} = Standard absolute temperature, 293° K (528° R).
V_a = Volume of acetone blank, ml.
V_{aw} = Volume of acetone used in wash, ml.
V_{lc} = Total volume of liquid collected in impingers and silica gel (see Figure 5-3), ml.
V_m = Volume of gas sample as measured by dry gas meter, dcm (dcf).
$V_{m(std)}$ = Volume of gas sample measured by the dry gas meter, corrected to standard conditions, dscm (dscf).
$V_{w(std)}$ = Volume of water vapor in the gas sample, corrected to standard conditions, scm (scf).
V_s = Stack gas velocity, calculated by Method 2, Equation 2-9, using data obtained from Method 5, m/sec (ft/sec).
W_a = Weight of residue in acetone wash, mg.
Y = Dry gas meter calibration factor.
ΔH = Average pressure differential across the orifice meter (see Figure 5-2), mm H_2O (in. H_2O).
ρ_a = Density of acetone, mg/ml (see label on bottle).
ρ_w = Density of water, 0.9982 g/ml (0.002201 lb/ml).
θ = Total sampling time, min.
θ_i = Sampling time interval, from the beginning of a run until the first component change, min.
θ_i = Sampling time interval, between two successive component changes, beginning with the interval between the first and second changes, min.
θ_p = Sampling time interval, from the final (n^{th}) component change until the end of the sampling run, min.
13.6 = Specific gravity of mercury.
60 = Sec/min.
100 = Conversion to percent.

6.2 Average dry gas meter temperature and average orifice pressure drop. See data sheet (Figure 5-2).

6.3 Dry Gas Volume. Correct the sample volume measured by the dry gas meter to standard conditions (20° C, 760 mm Hg or 68° F, 29.92 in. Hg) by using Equation 5-1.

$$V_{m(std)} = V_m Y \left(\frac{T_{std}}{T_m}\right)\left[\frac{P_{bar} + \frac{\Delta H}{13.6}}{P_{std}}\right]$$

$$= K_1 V_m Y \frac{P_{bar} + (\Delta H/13.6)}{T_m}$$

Equation 5-1

V42160 AUG 18 77 UM

where:
m_1=0.3858 °K mm Hg for metric units
=17.64 °R/in. Hg for English units

NOTE.—Equation 5-1 can be used as written unless the leakage rate observed during any of the mandatory leak checks (i.e., the post-test leak check or leak checks conducted prior to component changes) exceeds L_a. If L_p or L_i exceeds L_a, Equation 5-1 must be modified as follows:

(a) Case I. No component changes made during sampling run. In this case, replace V_m in Equation 5-1 with the expression:

$$V_m-(L_p-L_a)\theta]$$

(b) Case II. One or more component changes made during the sampling run. In this case, replace V_m in Equation 5-1 by the expression:

$$\left[V_m-(L_i-L_a)\theta_1 - \sum_{i=2}^{n}(L_i-L_a)\theta_i-(L_p-L_a)\theta_p\right]$$

and substitute only for those leakage rates (L_i or L_p) which exceed L_a.

6.4 Volume of water vapor.

$$V_{w(std)}=V_{lc}\left(\frac{\rho_w}{M_w}\right)\left(\frac{RT_{std}}{P_{std}}\right)=K_2V_{lc} \qquad \text{Equation 5-2}$$

where:
K_2=0.001333 m³/ml for metric units
=0.04707 ft³/ml for English units.

6.5 Moisture Content.

$$B_{ws}=\frac{V_{w(std)}}{V_{m(std)}+V_{w(std)}} \qquad \text{Equation 5-3}$$

6.11.2 Calculation From Intermediate Values.

$$I=\frac{T_sV_{m(std)}P_{std}100}{T_{std}\theta A_nP_s60(1-B_{ws})}$$

$$K_4=\frac{T_sV_{m(std)}}{P_sV_sA_n\theta(1-B_{ws})} \qquad \text{Equation 5-8}$$

where:
K_4=4.320 for metric units
=0.09450 for English units.

6.12 Acceptable Results. If 90 percent $\leq I \leq$110 percent, the results are acceptable. If the results are low in comparison to the standard and I is beyond the acceptable range, or, if I is less than 90 percent, the Administrator may opt to accept the results. Use Citation 4 to make judgments. Otherwise, reject the results and repeat the test.

7. *Bibliography*

1. Addendum to Specifications for Incinerator Testing at Federal Facilities. PHS, NCAPC, Dec. 6, 1967.
2. Martin, Robert M. Construction Details of Isokinetic Source-Sampling Equipment. Environmental Protection Agency. Research Triangle Park, N.C. APTD-0581. April, 1971.
3. Rom, Jerome J. Maintenance, Calibration, and Operation of Isokinetic Source Sampling Equipment. Environmental Protection Agency. Research Triangle Park, N.C. APTD-0576. March, 1972.
4. Smith, W. S., R. T. Shigehara, and W. F. Todd. A Method of Interpreting Stack Sampling Data. Paper Presented at the 63d Annual Meeting of the Air Pollution Control Association, St. Louis, Mo. June 14-19, 1970.
5. Smith, W. S., et al. Stack Gas Sampling Improved and Simplified With New Equipment. APCA Paper No. 67-119. 1967.
6. Specifications for Incinerator Testing at Federal Facilities. PHS, NCAPC. 1967.
7. Shigehara, R. T. Adjustments in the EPA Nomograph for Different Pitot Tube Coefficients and Dry Molecular Weights. Stack Sampling News 2:4-11. October, 1974.

NOTE.—In saturated or water droplet-laden gas streams, two calculations of the moisture content of the stack gas shall be made, one from the impinger analysis (Equation 5-3), and a second from the assumption of saturated conditions. The lower of the two values of B_{ws} shall be considered correct. The procedure for determining the moisture content based upon assumption of saturated conditions is given in the Note of Section 1.2 of Method 4. For the purposes of this method, the average stack gas temperature from Figure 5-2 may be used to make this determination, provided that the accuracy of the in-stack temperature sensor is ± 1° C (2° F).

6.6 Acetone Blank Concentration.

$$C_a=\frac{m_a}{V_{a}\rho_a} \qquad \text{Equation 5-4}$$

6.7 Acetone Wash Blank.

$$W_a=C_aV_{aw}\rho_a \qquad \text{Equation 5-5}$$

6.8 Total Particulate Weight. Determine the total particulate catch from the sum of the weights obtained from containers 1 and 2 less the acetone blank (see Figure 5-3). NOTE.—Refer to Section 4.1.5 to assist in calculation of results involving two or more filter assemblies or two or more sampling trains.

6.9 Particulate Concentration.

$$c_s=(0.001\ g/mg)\ (m_n/V_{m\ (std)}) \qquad \text{Equation 5-6}$$

6.10 Conversion Factors:

From	To	Multiply by
scf	m³	0.02832
g/ft³	gr/ft³	15.43
g/ft³	lb/ft³	2.205×10⁻³
g/ft³	g/m³	35.31

6.11 Isokinetic Variation.

6.11.1 Calculation From Raw Data.

$$I=\frac{100\ T_s[K_3V_{lc}+(V_m/T_m)(P_{bar}+\Delta H/13.6)]}{60\theta v_sP_sA_n} \qquad \text{Equation 5-7}$$

where:
K_3=0.003454 mm Hg-m³/ml-°K for metric units.
=0.002669 in. Hg-ft³/ml-°R for English units.

8. Vollaro, R. F. A Survey of Commercially Available Instrumentation For the Measurement of Low-Range Gas Velocities. U.S. Environmental Protection Agency, Emission Measurement Branch, Research Triangle Park, N.C. November, 1976 (unpublished paper).
9. Annual Book of ASTM Standards. Part 26. Gaseous Fuels; Coal and Coke; Atmospheric Analysis. American Society for Testing and Materials. Philadelphia, Pa. 1974. pp. 617-622.

METHOD 6—DETERMINATION OF SULFUR DIOXIDE EMISSIONS FROM STATIONARY SOURCES

1. *Principle and Applicability*

1.1 Principle. A gas sample is extracted from the sampling point in the stack. The sulfuric acid mist (including sulfur trioxide) and the sulfur dioxide are separated. The sulfur dioxide fraction is measured by the barium-thorin titration method.

1.2 Applicability. This method is applicable for the determination of sulfur dioxide emissions from stationary sources. The minimum detectable limit of the method has been determined to be 3.4 milligrams (mg) of SO_2/m³ (2.12×10⁻⁷ lb/ft³). Although no upper limit has been established, tests have shown that concentrations as high as 50,000 mg/m³ of SO_2 can be collected efficiently in two midget impingers, each containing 15 milliliters of 3 percent hydrogen peroxide, at a rate of 1.0 lpm for 20 minutes. Based on theoretical calculations, the upper concentration limit in a 20-liter sample is about 94,390 mg/m³.

Possible interferents are free ammonia, water-soluble cations, and fluorides. The cations and fluorides are removed by glass wool filters and an isopropanol bubbler, and hence do not affect the SO_2 analysis. When samples are being taken from a gas stream with high concentrations of very fine metallic fumes (such as in inlets to control devices), a high-efficiency glass fiber filter must be used in place of the glass wool plug (i.e., the one in the probe) to remove the cation interferents.

Free ammonia interferes by reacting with SO_2 to form particulate sulfite and by reacting with the indicator. If free ammonia is present (this can be determined by knowledge of the process and noticing white particulate matter in the probe and isopropanol bubbler), alternative methods, subject to the approval of the Administrator, U.S. Environmental Protection Agency, are required.

2. *Apparatus*

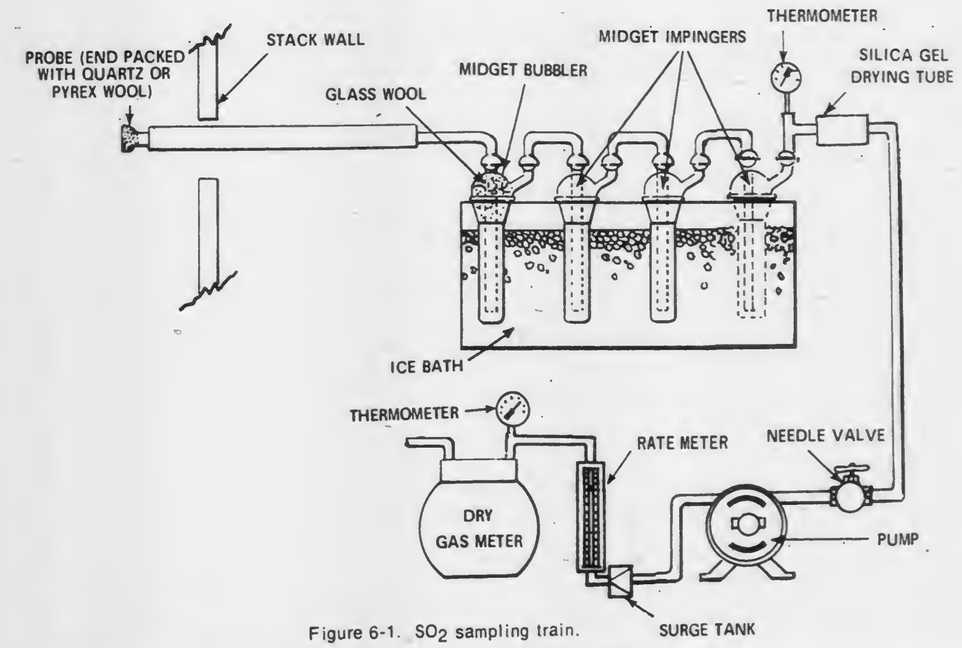


Figure 6-1. SO_2 sampling train.

2.1 Sampling. The sampling train is shown in Figure 6-1, and component parts are discussed below. The tester has the option of substituting sampling equipment described in Method 8 in place of the midget impinger equipment of Method 6. However, the Method 8 train must be modified to include a heated filter between the probe and isopropanol impinger, and the operation of the sampling train and sample analysis must be at the flow rates and solution volumes defined in Method 8. The tester also has the option of determining SO_2 simultaneously with particulate matter and moisture determinations by (1) replacing the water in a Method 5 impinger system with 3 percent perioxide solution, or (2) by replacing the Method 5 water impinger system with a Method 8 isopropanol-filter-peroxide system. The analysis for SO_2 must be consistent with the procedure in Method 8.

2.1.1 Probe. Borosilicate glass, or stainless steel (other materials of construction may be used, subject to the approval of the Administrator), approximately 6-mm inside diameter, with a heating system to prevent water condensation and a filter (either in-stack or heated out-stack) to remove particulate matter, including sulfuric acid mist. A plug of glass wool is a satisfactory filter.

2.1.2 Bubbler and Impingers. One midget bubbler, with medium-coarse glass frit and borosilicate or quartz glass wool packed in top (see Figure 6-1) to prevent sulfuric acid mist carryover, and three 30-ml midget impingers. The bubbler and midget impingers must be connected in series with leak-free glass connectors. Silicone grease may be used, if necessary, to prevent leakage. At the option of the tester, a midget impinger may be used in place of the midget bubbler.

Other collection absorbers and flow rates may be used, but are subject to the approval of the Administrator. Also, collection efficiency must be shown to be at least 99 percent for each test run and must be documented in the report. If the efficiency is found to be acceptable after a series of three tests, further documentation is not required. To conduct the efficiency test, an extra absorber must be added and analyzed separately. This extra absorber must not contain more than 1 percent of the total SO_2.

2.1.3 Glass Wool. Borosilicate or quartz.

2.1.4 Stopcock Grease. Acetone-insoluble, heat-stable silicone grease may be used, if necessary.

2.1.5 Temperature Gauge. Dial thermometer, or equivalent, to measure temperature of gas leaving impinger train to within 1° C (2° F.)

2.1.6 Drying Tube. Tube packed with 6- to 16-mesh indicating type silica gel, or equivalent, to dry the gas sample and to protect the meter and pump. If the silica gel has been used previously, dry at 175° C (350° F) for 2 hours. New silica gel may be used as received. Alternatively, other types of desiccants (equivalent or better) may be used, subject to approval of the Administrator.

2.1.7 Valve. Needle valve, to regulate sample gas flow rate.

2.1.8 Pump. Leak-free disphragm pump, or equivalent, to pull gas through the train. Install a small tank between the pump and rate meter to eliminate the pulsation effect of the diaphragm pump on the rotameter.

2.1.9 Rate Meter. Rotameter, or equivalent, capable of measuring flow rate to within 2 percent of the selected flow rate of about 1000 cc/min.

2.1.10 Volume Meter. Dry gas meter, sufficiently accurate to measure the sample volume within 2 percent, calibrated at the selected flow rate and conditions actually encountered during sampling, and equipped with a temperature gauge (dial thermometer, or equivalent) capable of measuring temperature to within 3°C (5.4°F).

2.1.11 Barometer. Mercury, aneroid, or other barometer capable of measuring atmospheric pressure to within 2.5 mm Hg (0.1 in. Hg). In many cases, the barometric reading may be obtained from a nearby national weather service station, in which case the station value (which is the absolute barometric pressure) shall be requested and an adjustment for elevation differences between the weather station and sampling point shall be applied at a rate of minus 2.5 mm Hg (0.1 in. Hg) per 30 m (100 ft) elevation increase or vice versa for elevation decrease.

2.1.12 Vacuum Gauge. At least 760 mm Hg (30 in. Hg) gauge, to be used for leak check of the sampling train.

2.2 Sample Recovery.

2.2.1 Wash bottles. Polyethylene or glass, 500 ml, two.

2.2.2 Storage Bottles. Polyethylene, 100 ml, to store impinger samples (one per sample).

2.3 Analysis.

2.3.1 Pipettes. Volumetric type, 5-ml, 20-ml (one per sample), and 25-ml sizes.

2.3.2 Volumetric Flasks. 100-ml size (one per sample) and 100-ml size.

2.3.3 Burettes. 5- and 50-ml sizes.

2.3.4 Erlenmeyer Flasks. 250 ml-size (one for each sample, blank, and standard).

2.3.5 Dropping Bottle. 125-ml size, to add indicator.

2.3.6 Graduated Cylinder. 100-ml size.

2.3.7 Spectrophotometer. To measure absorbance at 352 nanometers.

3. *Reagents*

Unless otherwise indicated, all reagents must conform to the specifications established by the Committee on Analytical Reagents of the American Chemical Society. Where such specifications are not available, use the best available grade.

3.1 Sampling.

3.1.1 Water. Deionized, distilled to conform to ASTM specification D1193-74, Type 3. At the option of the analyst, the $KMnO_4$ test for oxidizable organic matter may be omitted when high concentrations of organic matter are not expected to be present.

3.1.2 Isopropanol, 80 Percent. Mix 80 ml of isopropanol with 20 ml of deionized, distilled water. Check each lot of isopropanol for peroxide impurities as follows: shake 10 ml of isopropanol with 10 ml of freshly prepared 10 percent potassium iodide solution. Prepare a blank by similarly treating 10 ml of distilled water. After 1 minute, read the absorbance at 352 nanometers on a spectrophotometer. If absorbance exceeds 0.1, reject alcohol for use.

Peroxides may be removed from isopropanol by redistilling or by passage through a column of activated alumina; however, reagent grade isopropanol with suitably low peroxide levels may be obtained from commercial sources. Rejection of contaminated lots may, therefore, be a more efficient procedure.

3.1.3 Hydrogen Peroxide, 3 Percent. Dilute 30 percent hydrogen peroxide 1:9 (v/v) with deionized, distilled water (30 ml is needed per sample). Prepare fresh daily.

3.1.4 Potassium Iodide Solution, 10 Percent. Dissolve 10.0 grams KI in deionized, distilled water and dilute to 100 ml. Prepare when needed.

3.2 Sample Recovery.

3.2.1 Water. Deionized, distilled, as in 3.1.1.

3.2.2 Isopropanol, 80 Percent. Mix 80 ml of isopropanol with 20 ml of deionized, distilled water.

3.3 Analysis.

3.3.1 Water. Deionized, distilled, as in 3.1.1.

3.3.2 Isopropanol, 100 percent.

3.3.3 Thorin Indicator. 1-(o-arsonophenylazo)-2-naphthol-3,6-disulfonic acid, disodium salt, or equivalent. Dissolve 0.20 g in 100 ml of deionized, distilled water.

3.3.4 Barium Perchlorate Solution, 0.0100 N. Dissolve 1.95 g of barium perchlorate trihydrate [$Ba(ClO_4)_2$·$3H_2O$] in 200 ml distilled water and dilute to 1 liter with isopropanol. Alternatively, 1.22 g of [$BaCl_2$·$2H_2O$] may be used instead of the perchlorate. Standardize as in Section 5.5.

V 42 160 AUG 18 77 UMI

3.3.5 Sulfuric Acid Standard, 0.0100 N. Purchase or standardize to ±0.0002 N against 0.0100 N NaOH which has previously been standardized against potassium acid phthalate (primary standard grade).

4. *Procedure.*

4.1 Sampling.

4.1.1 Preparation of collection train. Measure 15 ml of 80 percent isopropanol into the midget bubbler and 15 ml of 3 percent hydrogen peroxide into each of the first two midget impingers. Leave the final midget impinger dry. Assemble the train as shown in Figure 6-1. Adjust probe heater to a temperature sufficient to prevent water condensation. Place crushed ice and water around the impingers.

4.1.2 Leak-check procedure. A leak check prior to the sampling run is optional; however, a leak check after the sampling run is mandatory. The leak-check procedure is as follows:

With the probe disconnected, place a vacuum gauge at the inlet to the bubbler and pull a vacuum of 250 mm (10 in.) Hg; plug or pinch off the outlet of the flow meter, and then turn off the pump. The vacuum shall remain stable for at least 30 seconds. Carefully release the vacuum gauge before releasing the flow meter end to prevent back flow of the impinger fluid.

Other leak check procedures may be used, subject to the approval of the Administrator, U.S. Environmental Protection Agency. The procedure used in Method 5 is not suitable for diaphragm pumps.

4.1.3 Sample collection. Record the initial dry gas meter reading and barometric pressure. To begin sampling, position the tip of the probe at the sampling point, connect the probe to the bubbler, and start the pump. Adjust the sample flow to a constant rate of approximately 1.0 liter/min as indicated by the rotameter. Maintain this constant rate (±10 percent) during the entire sampling run. Take readings (dry gas meter, temperatures at dry gas meter and at impinger outlet and rate meter) at least every 5 minutes. Add more ice during the run to keep the temperature of the gases leaving the last impinger at 20° C (68° F) or less. At the conclusion of each run, turn off the pump, remove probe from the stack, and record the final readings. Conduct a leak check as in Section 4.1.2. (This leak check is mandatory.) If a leak is found, void the test run. Drain the ice bath, and purge the remaining part of the train by drawing clean ambient air through the system for 15 minutes at the sampling rate.

Clean ambient air can be provided by passing air through a charcoal filter or through an extra midget impinger with 15 ml of 3 percent H_2O_2. The tester may opt to simply use ambient air, without purification.

4.2 Sample Recovery. Disconnect the impingers after purging. Discard the contents of the midget bubbler. Pour the contents of the midget impingers into a leak-free polyethylene bottle for shipment. Rinse the three midget impingers and the connecting tubes with deionized, distilled water, and add the washings to the same storage container. Mark the fluid level. Seal and identify the sample container.

4.3 Sample Analysis. Note level of liquid in container, and confirm whether any sample was lost during shipment; note this on analytical data sheet. If a noticeable amount of leakage has occurred, either void the sample or use methods, subject to the approval of the Administrator, to correct the final results.

Transfer the contents of the storage container to a 100-ml volumetric flask and dilute to exactly 100 ml with deionized, distilled water. Pipette a 20-ml aliquot of this solution into a 250-ml Erlenmeyer flask, add 80 ml of 100 percent isopropanol and two to four drops of thorin indicator, and titrate to a pink endpoint using 0.0100 N barium perchlorate. Repeat and average the titration volumes. Run a blank with each series of samples. Replicate titrations must agree within 1 percent or 0.2 ml, whichever is larger.

(NOTE.—Protect the 0.0100 N barium perchlorate solution from evaporation at all times.)

5. *Calibration*

5.1 Metering System.

5.1.1 Initial Calibration. Before its initial use in the field, first leak check the metering system (drying tube, needle valve, pump, rotameter, and dry gas meter) as follows: place a vacuum gauge at the inlet to the drying tube and pull a vacuum of 250 mm (10 in.) Hg; plug or pinch off the outlet or the flow meter, and then turn off the pump. The vacuum shall remain stable for at least 30 seconds. Carefully release the vacuum gauge before releasing the flow meter end.

Next, calibrate the metering system (at the sampling flow rate specified by the method) as follows: connect an appropriately sized wet test meter (e.g., 1 liter per revolution) to the inlet of the drying tube. Make three independent calibration runs, using at least five revolutions of the dry gas meter per run. Calculate the calibration factor, Y (wet test meter calibration volume divided by the dry gas meter volume, both volumes adjusted to the same reference temperature and pressure), for each run, and average the results. If any Y value deviates by more than 2 percent from the average, the metering system is unacceptable for use. Otherwise, use the average as the calibration factor for subsequent test runs.

5.1.2 Post-Test Calibration Check. After each field test series, conduct a calibration check as in Section 5.1.1 above, except for the following variations: (a) the leak check is not to be conducted, (b) three, or more revolutions of the dry gas meter may be used, and (c) only two independent runs need be made. If the calibration factor does not deviate by more than 5 percent from the initial calibration factor (determined in Section 5.1.1), then the dry gas meter volumes obtained during the test series are acceptable. If the calibration factor deviates by more than 5 percent, recalibrate the metering system as in Section 5.1.1, and for the calculations, use the calibration factor (initial or recalibration) that yields the lower gas volume for each test run.

5.2 Thermometers. Calibrate against mercury-in-glass thermometers.

5.3 Rotameter. The rotameter need not be calibrated but should be cleaned and maintained according to the manufacturer's instruction.

5.4 Barometer. Calibrate against a mercury barometer.

5.5 Barium Perchlorate Solution. Standardize the barium perchlorate solution against 25 ml of standard sulfuric acid to which 100 ml of 100 percent isopropanol has been added.

6. *Calculations*

Carry out calculations, retaining at least one extra decimal figure beyond that of the acquired data. Round off figures after final calculation.

6.1 Nomenclature.

C_{so_2} = Concentration of sulfur dioxide, dry basis corrected to standard conditions, mg/dscm

N = Normality of barium perchlorate titrant, milliequivalents/ml.

P_{bar} = Barometric pressure at the exit orifice of the dry gas meter, mm Hg (in. Hg).

P_{std} = Standard absolute pressure, 760 mm Hg (29.92 in. Hg).

T_m = Average dry gas meter absolute temperature, °K (°R).

T_{std} = Standard absolute temperature, 293° K (528° R).

V_a = Volume of sample aliquot titrated, ml.

V_m = Dry gas volume as measured by the dry gas meter, dcm (dcf).

$V_{m(std)}$ = Dry gas volume measured by the dry gas meter, corrected to standard conditions, dscm (dscf).

V_{soln} = Total volume of solution in which the sulfur dioxide sample is contained, 100 ml.

V_t = Volume of barium perchlorate titrant used for the sample, ml (average of replicate titrations).

V_{tb} = Volume of barium perchlorate titrant used for the blank, ml.

Y = Dry gas meter calibration factor.

32.03 = Equivalent weight of sulfur dioxide.

6.2 Dry sample gas volume, corrected to standard conditions.

$$V_{m(std)} = V_m Y \left(\frac{T_{std}}{T_m}\right)\left(\frac{P_{bar}}{P_{std}}\right) = K_1 Y \frac{V_m P_{bar}}{T_m}$$

Equation 6-1

where:

K_1 = 0.3858 °K/mm Hg for metric units.
= 17.64 °R/in. Hg for English units.

6.3 Sulfur dioxide concentration.

$$C_{SO_2} = K_2 \frac{(V_t - V_{tb})\, N \left(\frac{V_{soln}}{V_a}\right)}{V_{m(std)}}$$

Equation 6-2

where:

K_2 = 32.03 mg/meq. for metric units.
= 7.061 × 10^{-2} lb/meq. for English units.

7. *Bibliography*

1. Atmospheric Emissions from Sulfuric Acid Manufacturing Processes. U.S. DHEW, PHS, Division of Air Pollution. Public Health Service Publication No. 999-AP-13. Cincinnati, Ohio. 1965.

2. Corbett, P. F. The Determination of SO_3 and SO_2 in Flue Gases. Journal of the Institute of Fuel. *24*: 237-243, 1961.

3. Matty, R. E. and E. K. Diehl. Measuring Flue-Gas SO_3 and SO_2. Power. *101*: 94-97. November 1957.

4. Patton, W. F. and J. A. Brink, Jr. New Equipment and Techniques for Sampling Chemical Process Gases. J. Air Pollution Control Association. *13*: 162. 1963.

5. Rom, J. J. Maintenance, Calibration, and Operation of Isokinetic Source-Sampling Equipment. Office of Air Programs, Environmental Protection Agency. Research Triangle Park, N.C. APTD-0576. March 1972.

6. Hamil, H. F. and D. E. Camann. Collaborative Study of Method for the Determination of Sulfur Dioxide Emissions from Stationary Sources (Fossil-Fuel Fired Steam Generators). Environmental Protection Agency, Research Triangle Park, N.C. EPA-650/4-74-024. December 1973.

7. Annual Book of ASTM Standards, Part 31; Water, Atmospheric Analysis. American Society for Testing and Materials. Philadelphia, Pa. 1974. pp. 40-42.

8. Knoll, J. E. and M. R. Midgett. The Application of EPA Method 6 to High Sulfur Dioxide Concentrations. Environmental Protection Agency. Research Triangle Park, N.C. EPA-600/4-76-038. July 1976.

METHOD 7—DETERMINATION OF NITROGEN OXIDE EMISSIONS FROM STATIONARY SOURCES

1. *Principle and Applicability*

1.1 Principle. A grab sample is collected in an evacuated flask containing a dilute sulfuric acid-hydrogen peroxide absorbing solution, and the nitrogen oxides, except nitrous oxide, are measured colorimetrically using the phenoldisulfonic acid (PDS) procedure.

1.2 Applicability. This method is applicable to the measurement of nitrogen oxides emitted from stationary sources. The range of the method has been determined to be 2 to 400 milligrams NO_x (as NO_2) per dry standard cubic meter, without having to dilute the sample.

2. *Apparatus*

2.1 Sampling (see Figure 7-1). Other grab sampling systems or equipment, capable of measuring sample volume to within ±2.0 percent and collecting a sufficient sample volume to allow analytical reproducibility to within ±5 percent, will be considered acceptable alternatives, subject to approval of the Administrator, U.S. Environmental Protection Agency. The following equipment is used in sampling:

2.1.1 Probe. Borosilicate glass tubing, sufficiently heated to prevent water condensation and equipped with an in-stack or out-stack filter to remove particulate matter (a plug of glass wool is satisfactory for this purpose). Stainless steel or Teflon [3] tubing may also be used for the probe. Heating is not necessary if the probe remains dry during the purging period.

[3] Mention of trade names or specific products does not constitute endorsement by the Environmental Protection Agency.

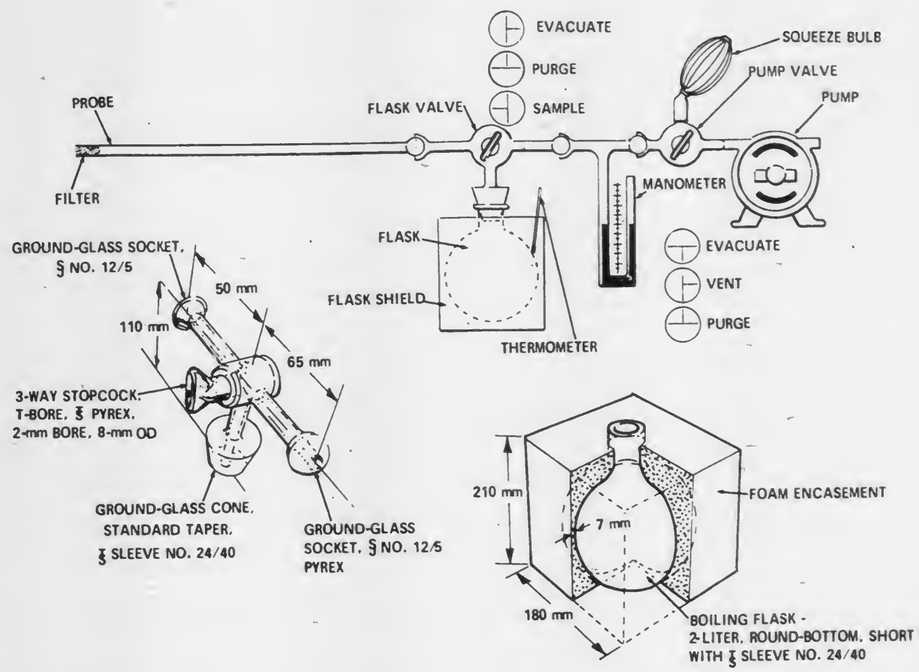


Figure 7-1. Sampling train, flask valve, and flask.

2.1.2 Collection Flask. Two-liter borosilicate, round bottom flask, with short neck and 24/40 standard taper opening, protected against implosion or breakage.

2.1.3 Flask Valve. T-bore stopcock connected to a 24/40 standard taper joint.

2.1.4 Temperature Gauge. Dial-type thermometer, or other temperature gauge, capable of measuring 1° C. (2° F) intervals from −5 to 50° C (25 to 125° F).

2.1.5 Vacuum Line. Tubing capable of withstanding a vacuum of 75 mm Hg (3 in. Hg) absolute pressure, with "T" connection and T-bore stopcock.

2.1.6 Vacuum Gauge. U-tube manometer, 1 meter (36 in.), with 1-mm (0.1-in.) divisions, or other gauge capable of measuring pressure to within ±2.5 mm Hg (0.10 in. Hg).

2.1.7 Pump. Capable of evacuating the collection flask to a pressure equal to or less than 75 mm Hg (3 in. Hg) absolute.

2.1.8 Squeeze Bulb. One-way.

2.1.9 Volumetric Pipette. 25 ml.

2.1.10 Stopcock and Ground Joint Grease. A high-vacuum, high-temperature chlorofluorocarbon grease is required. Halocarbon 25-5S has been found to be effective.

2.1.11 Barometer. Mercury, aneroid, or other barometer capable of measuring atmospheric pressure to within 2.5 mm Hg (0.1 in. Hg). In many cases, the barometric reading may be obtained from a nearby national weather service station, in which case the station value (which is the absolute barometric pressure) shall be requested and an adjustment for elevation differences between the weather station and sampling point shall be applied at a rate of minus 2.5 mm Hg (0.1 in. Hg) per 30 m (100 ft) elevation increase, or vice versa for elevation decrease.

2.2 Sample Recovery. The following equipment is required for sample recovery:

2.2.1 Graduated Cylinder. 50 ml with 1-ml divisions.

2.2.2 Storage Containers. Leak-free polyethylene bottles.

2.2.3 Wash Bottle. Polyethylene or glass.

2.2.4 Glass Stirring Rod.

2.2.5 Test Paper for Indicating pH. To cover the pH range of 7 to 14.

2.3 Analysis. For the analysis, the following equipment is needed:

2.3.1 Volumetric Pipettes. Two 1 ml, two 2 ml, one 3 ml, one 4 ml, two 10 ml, and one 25 ml for each sample and standard.

2.3.2 Porcelain Evaporating Dishes. 175- to 250-ml capacity with lip for pouring, one for each sample and each standard. The Coors No. 45006 (shallow-form, 195 ml) has been found to be satisfactory. Alternatively, polymethyl pentene beakers (Nalge No. 1203, 150 ml), or glass beakers (150 ml) may be used. When glass beakers are used, etching of the beakers may cause solid matter to be present in the analytical step, the solids should be removed by filtration (see Section 4.3).

2.3.3 Steam Bath. Low-temperature ovens or thermostatically controlled hot plates kept below 70° C (160° F) are acceptable alternatives.

2.3.4 Dropping Pipette or Dropper. Three required.

2.3.5 Polyethylene Policeman. One for each sample and each standard.

2.3.6 Graduated Cylinder. 100 ml with 1-ml divisions.

2.3.7 Volumetric Flasks. 50 ml (one for each sample), 100 ml (one for each sample and each standard, and one for the working standard KNO_3 solution), and 1000 ml (one).

2.3.8 Spectrophotometer. To measure absorbance at 410 nm.

2.3.9 Graduated Pipette. 10 ml with 0.1-ml divisions.

2.3.10 Test Paper for Indicating pH. To cover the pH range of 7 to 14.

2.3.11 Analytical Balance. To measure to within 0.1 mg.

3. *Reagents*

Unless otherwise indicated, it is intended that all reagents conform to the specifications established by the Committee on Analytical Reagents of the American Chemical Society, where such specifications are available; otherwise, use the best available grade.

3.1 Sampling. To prepare the absorbing solution, cautiously add 2.8 ml concentrated H_2SO_4 to 1 liter of deionized, distilled water. Mix well and add 6 ml of 3 percent hydrogen peroxide, freshly prepared from 30 percent hydrogen peroxide solution. The absorbing solution should be used within 1 week of its preparation. Do not expose to extreme heat or direct sunlight.

3.2 Sample Recovery. Two reagents are required for sample recovery:

3.2.1 Sodium Hydroxide (1N). Dissolve 40 g NaOH in deionized, distilled water and dilute to 1 liter.

3.2.2 Water. Deionized, distilled to conform to ASTM specification D1193-74, Type 3. At the option of the analyst, the $KMnO_4$ test for oxidizable organic matter may be omitted when high concentrations of organic matter are not expected to be present.

3.3 Analysis. For the analysis, the following reagents are required:

3.3.1 Fuming Sulfuric Acid. 15 to 18 percent by weight free sulfur trioxide. HANDLE WITH CAUTION.

3.3.2 Phenol. White solid.

3.3.3 Sulfuric Acid. Concentrated, 95 percent minimum assay. HANDLE WITH CAUTION.

3.3.4 Potassium Nitrate. Dried at 105 to 110° C (220 to 230° F) for a minimum of 2 hours just prior to preparation of standard solution.

3.3.5 Standard KNO_3 Solution. Dissolve exactly 2.198 g of dried potassium nitrate (KNO_3) in deionized, distilled water and dilute to 1 liter with deionized, distilled water in a 1,000-ml volumetric flask.

3.3.6 Working Standard KNO_3 Solution. Dilute 10 ml of the standard solution to 100 ml with deionized distilled water. One milliliter of the working standard solution is equivalent to 100 µg nitrogen dioxide (NO_2).

3.3.7 Water. Deionized, distilled as in Section 3.2.2.

3.3.8 Phenoldisulfonic Acid Solution. Dissolve 25 g of pure white phenol in 150 ml concentrated sulfuric acid on a steam bath. Cool, add 75 ml fuming sulfuric acid, and heat at 100° C (212° F) for 2 hours. Store in a dark, stoppered bottle.

4. *Procedure*

4.1 Sampling.

4.1.1 Pipette 25 ml of absorbing solution into a sample flask, retaining a sufficient quantity for use in preparing the calibration standards. Insert the flask valve stopper into the flask with the valve in the "purge" position. Assemble the sampling train as shown in Figure 7-1 and place the probe at the sampling point. Make sure that all fittings are tight and leak-free, and that all ground glass joints have been properly greased with a high-vacuum, high-temperature chlorofluorocarbon-based stopcock grease. Turn the flask valve and the pump valve to their "evacuate" positions. Evacuate the flask to 75 mm Hg (3 in. Hg) absolute pressure, or less. Evacuation to a pressure approaching the vapor pressure of water at the existing temperature is desirable. Turn the pump valve to its "vent" position and turn off the pump. Check for leakage by observing the manometer for any pressure fluctuation. (Any variation

greater than 10 mm Hg (0.4 in. Hg) over a period of 1 minute is not acceptable, and the flask is not to be used until the leakage problem is corrected. Pressure in the flask is not to exceed 75 mm Hg (3 in. Hg) absolute at the time sampling is commenced.) Record the volume of the flask and valve (V_f), the flask temperature (T_f), and the barometric pressure. Turn the flask valve counterclockwise to its "purge" position and do the same with the pump valve. Purge the probe and the vacuum tube using the squeeze bulb. If condensation occurs in the probe and the flask valve area, heat the probe and purge until the condensation disappears. Next, turn the pump valve to its "vent" position. Turn the flask valve clockwise to its "evacuate" position and record the difference in the mercury levels in the manometer. The absolute internal pressure in the flask (P_f) is equal to the barometric pressure less the manometer reading. Immediately turn the flask valve to the "sample" position and permit the gas to enter the flask until pressures in the flask and sample line (i.e., duct, stack) are equal. This will usually require about 15 seconds; a longer period indicates a "plug" in the probe, which must be corrected before sampling is continued. After collecting the sample, turn the flask valve to its "purge" position and disconnect the flask from the sampling train. Shake the flask for at least 5 minutes.

4.1.2 If the gas being sampled contains insufficient oxygen for the conversion of NO to NO_2 (e.g., an applicable subpart of the standard may require taking a sample of a calibration gas mixture of NO in N_2), then oxygen shall be introduced into the flask to permit this conversion. Oxygen may be introduced into the flask by one of three methods: (1) Before evacuating the sampling flask, flush with pure cylinder oxygen, then evacuate flask to 75 mm Hg (3 in. Hg) absolute pressure or less; or (2) inject oxygen into the flask after sampling; or (3) terminate sampling with a minimum of 50 mm Hg (2 in. Hg) vacuum remaining in the flask, record this final pressure, and then vent the flask to the atmosphere until the flask pressure is almost equal to atmospheric pressure.

4.2 Sample Recovery. Let the flask set for a minimum of 16 hours and then shake the contents for 2 minutes. Connect the flask to a mercury filled U-tube manometer. Open the valve from the flask to the manometer and record the flask temperature (T_f), the barometric pressure, and the difference between the mercury levels in the manometer. The absolute internal pressure in the flask (P_f) is the barometric pressure less the manometer reading. Transfer the contents of the flask to a leak-free polyethylene bottle. Rinse the flask twice with 5-ml portions of deionized, distilled water and add the rinse water to the bottle. Adjust the pH to between 9 and 12 by adding sodium hydroxide (1 N), dropwise (about 25 to 35 drops). Check the pH by dipping a stirring rod into the solution and then touching the rod to the pH test paper. Remove as little material as possible during this step. Mark the height of the liquid level so that the container can be checked for leakage after transport. Label the container to clearly identify its contents. Seal the container for shipping.

4.3 Analysis. Note the level of the liquid in container and confirm whether or not any sample was lost during shipment; note this on the analytical data sheet. If a noticeable amount of leakage has occurred, either void the sample or use methods, subject to the approval of the Administrator, to correct the final results. Immediately prior to analysis, transfer the contents of the shipping container to a 50-ml volumetric flask, and rinse the container twice with 5-ml portions of deionized, distilled water. Add the rinse water to the flask and dilute to the mark with deionized, distilled water; mix thoroughly. Pipette a 25-ml aliquot into the porcelain evaporating dish. Return any unused portion of the sample to the polyethylene storage bottle. Evaporate the 25-ml aliquot to dryness on a steam bath and allow to cool. Add 2 ml phenoldisulfonic acid solution to the dried residue and triturate thoroughly with a polyethylene policeman. Make sure the solution contacts all the residue. Add 1 ml deionized, distilled water and four drops of concentrated sulfuric acid. Heat the solution on a steam bath for 3 minutes with occasional stirring. Allow the solution to cool, add 20 ml deionized, distilled water, mix well by stirring, and add concentrated ammonium hydroxide, dropwise, with constant stirring, until the pH is 10 (as determined by pH paper). If the sample contains solids, these must be removed by filtration (centrifugation is an acceptable alternative, subject to the approval of the Administrator), as follows: filter through Whatman No. 41 filter paper into a 100-ml volumetric flask; rinse the evaporating dish with three 5-ml portions of deionized, distilled water; filter these three rinses. Wash the filter with at least three 15-ml portions of deionized, distilled water. Add the filter washings to the contents of the volumetric flask and dilute to the mark with deionized, distilled water. If solids are absent, the solution can be transferred directly to the 100-ml volumetric flask and diluted to the mark with deionized, distilled water. Mix the contents of the flask thoroughly and measure the absorbance at the optimum wavelength used for the standards (Section 5.2.1), using the blank solution as a zero reference. Dilute the sample and the blank with equal volumes of deionized, distilled water if the absorbance exceeds A_4, the absorbance of the 400-μg NO_2 standard (see Section 5.2.2).

5 Calibration

5.1 Flask Volume. The volume of the collection flask-flask valve combination must be known prior to sampling. Assemble the flask and flask valve and fill with water, to the stopcock. Measure the volume of water to ±10 ml. Record this volume on the flask.

5.2 Spectrophotometer Calibration.

5.2.1 Optimum Wavelength Determination. For both fixed and variable wavelength spectrophotometers, calibrate against standard certified wavelength of 410 nm, every 6 months. Alternatively, for variable wavelength spectrophotometers, scan the spectrum between 400 and 415 nm using a 200-μg NO_2 standard solution (see Section 5.2.2). If a peak does not occur, the spectrophotometer is probably malfunctioning, and should be repaired. When a peak is obtained within the 400 to 415 nm range, the wavelength at which this peak occurs shall be the optimum wavelength for the measurement of absorbance for both the standards and samples.

5.2.2 Determination of Spectrophotometer Calibration Factor K_c. Add 0.0, 1.0, 2.0, 3.0, and 4.0 ml of the KNO_3 working standard solution (1 ml=100 μg NO_2) to a series of five porcelain evaporating dishes. To each, add 25 ml of absorbing solution, 10 ml deionized, distilled water, and sodium hydroxide (1N), dropwise, until the pH is between 9 and 12 (about 25 to 35 drops each). Beginning with the evaporation step, follow the analysis procedure of Section 4.3, until the solution has been transferred to the 100 ml volumetric flask and diluted to the mark. Measure the absorbance of each solution, at the optimum wavelength, as determined in Section 5.2.1. This calibration procedure must be repeated on each day that samples are analyzed. Calculate the spectrophotometer calibration factor as follows:

$$K_c = 100\,\frac{A_1 + 2A_2 + 3A_3 + 4A_4}{A_1^2 + A_2^2 + A_3^2 + A_4^2}$$

Equation 7–1

where:

K_c = Calibration factor
A_1 = Absorbance of the 100-μg NO_2 standard
A_2 = Absorbance of the 200-μg NO_2 standard
A_3 = Absorbance of the 300-μg NO_2 standard
A_4 = Absorbance of the 400-μg NO_2 standard

5.3 Barometer. Calibrate against a mercury barometer.

5.4 Temperature Gauge. Calibrate dial thermometers against mercury-in-glass thermometers.

5.5 Vacuum Gauge. Calibrate mechanical gauges, if used, against a mercury manometer such as that specified in 2.1.6.

5.6 Analytical Balance. Calibrate against standard weights.

6. Calculations

Carry out the calculations, retaining at least one extra decimal figure beyond that of the acquired data. Round off figures after final calculations.

6.1 Nomenclature.

A = Absorbance of sample.
C = Concentration of NO_x as NO_2, dry basis, corrected to standard conditions, mg/dscm (lb/dscf).
F = Dilution factor (i.e., 25/5, 25/10, etc., required only if sample dilution was needed to reduce the absorbance into the range of calibration).
K_c = Spectrophotometer calibration factor.
m = Mass of NO_x as NO_2 in gas sample, μg.
P_f = Final absolute pressure of flask, mm Hg (in. Hg).
P_i = Initial absolute pressure of flask, mm Hg (in. Hg).
P_{std} = Standard absolute pressure, 760 mm Hg (29.92 in. Hg).
T_f = Final absolute temperature of flask, °K (°R).
T_i = Initial absolute temperature of flask, °K (°R).
T_{std} = Standard absolute temperature, 293° K (528° R).
V_{sc} = Sample volume at standard conditions (dry basis), ml.
V_f = Volume of flask and valve, ml.
V_a = Volume of absorbing solution, 25 ml.
25/5, 25/10, etc., the aliquot factor. (If other than a 25-ml aliquot was used for analysis, the corresponding factor must be substituted).

6.2 Sample volume, dry basis, corrected to standard conditions.

$$V_{sc} = \frac{T_{std}}{P_{std}}\,(V_f - V_a)\left[\frac{P_f}{T_f} - \frac{P_i}{T_i}\right]$$

$$= K_1 (V_f - 25\text{ ml})\left[\frac{P_f}{T_f} - \frac{P_i}{T_i}\right]$$

Equation 7–2

where:

$$K_1 = 0.3858\ \frac{°\text{K}}{\text{mm Hg}}\ \text{for metric units}$$

$$= 17.64\ \frac{°\text{R}}{\text{in. Hg}}\ \text{for English units}$$

6.3 Total μg NO_2 per sample.

$$m = 2\,K_c A f$$

Equation 7–3

NOTE.—If other than a 25-ml aliquot is used for analysis, the factor 2 must be replaced by a corresponding factor.

6.4 Sample concentration, dry basis, corrected to standard conditions.

$$C = K_2\,\frac{m}{V_{sc}}$$

Equation 7–4

where:

$K_2 = 10^3\ \frac{\text{mg/m}^3}{\mu\text{g/ml}}$ for metric units

$= 6.243 \times 10^{-5}\ \frac{\text{lb/scf}}{\mu\text{g/ml}}$ for English units

7. Bibliography

1. Standard Methods of Chemical Analysis. 6th ed. New York, D. Vna Nostrand Co., Inc. 1962. Vol. 1, p. 329–330.

2. Standard Method of Test for Oxides of Nitrogen in Gaseous Combustion Products (Phenoldisulfonic Acid Procedure). In: 1968 Book of ASTM Standards, Part 26. Philadelphia, Pa. 1968. ASTM Designation D–1608–60, p. 725–729.

3. Jacob, M. B. The Chemical Analysis of Air Pollutants. New York. Interscience Publishers, Inc. 1960. Vol. 10, p. 351–356.

4. Beatty, R. L., L. B. Berger, and H. H. Schrenk. Determination of Oxides of Nitrogen by the Phenoldisulfonic Acid Method. Bureau of Mines, U.S. Dept. of Interior. R. I. 3687. February 1943.

5. Hamil, H. F. and D. E. Camann. Collaborative Study of Method for the Determination of Nitrogen Oxide Emissions from Stationary Sources (Fossil Fuel-Fired Steam Generators). Southwest Research Institute report for Environmental Protection Agency. Research Triangle Park, N.C. October 5, 1973.

6. Hamil, H. F. and R. E. Thomas. Collaborative Study of Method for the Drtermination of Nitrogen Oxide Emissions from Stationary Sources (Nitric Acid Plants). Southwest Research Institute report for Environmental Protection Agency. Research Triangle Park, N.C. May 8, 1974.

METHOD 8—DETERMINATION OF SULFURIC ACID MIST AND SULFUR DIOXIDE EMISSIONS FROM STATIONARY SOURCES

1. Principle and Applicability

1.1 Principle. A gas sample is extracted isokinetically from the stack. The sulfuric acid mist (including sulfur trioxide) and the sulfur dioxide are separated, and both fractions are measured separately by the barium-thorin titration method.

1.2 Applicability. This method is applicable for the determination of sulfuric acid mist (including sulfur trioxide, and in the absence of other particulate matter) and sulfur dioxide emissions from stationary sources. Collaborative tests have shown that the minimum detectable limits of the method are 0.05 milligrams/cubic meter (0.03×10⁻⁷ pounds/cubic foot) for sulfur trioxide and 1.2 mg/m³ (0.74 10⁻⁷ lb/ft³) for sulfur dioxide. No upper limits have been established. Based on theoretical calculations for 200 milliliters of 3 percent hydrogen peroxide solution, the upper concentration limit for sulfur dioxide in a 1.0 m³ (35.3 ft³) gas sample is about 12,500 mg/m³ (7.7×10⁻⁴ lb/ft³). The upper limit can be extended by increasing the quantity of peroxide solution in the impingers.

Possible interfering agents of this method are fluorides, free ammonia, and dimethyl aniline. If any of these interfering agents are present (this can be determined by knowledge of the process), alternative methods, subject to the approval of the Administrator, are required.

Filterable particulate matter may be determined along with SO_3 and SO_2 (subject to the approval of the Administrator); however, the procedure used for particulate matter must be consistent with the specifications and procedures given in Method 5.

2. Apparatus

2.1 Sampling. A schematic of the sampling train used in this method is shown in Figure 8-1; it is similar to the Method 5 train except that the filter position is different and the filter holder does not have to be heated. Commercial models of this train are available. For those who desire to build their own, however, complete construction details are described in APTD-0581. Changes from the APTD-0581 document and allowable modifications to Figure 8-1 are discussed in the following subsections.

The operating and maintenance procedures for the sampling train are described in APTD-0576. Since correct usage is important in obtaining valid results, all users should read the APTD-0576 document and adopt the operating and maintenance procedures outlined in it, unless otherwise specified herein. Further details and guidelines on operation and maintenance are given in Method 5 and should be read and followed whenever they are applicable.

2.1.1 Probe Nozzle. Same as Method 5, Section 2.1.1.

2.1.2 Probe Liner. Borosilicate or quartz glass, with a heating system to prevent visible condensation during sampling. Do not use metal probe liners.

2.1.3 Pitot Tube. Same as Method 5, Section 2.1.3.

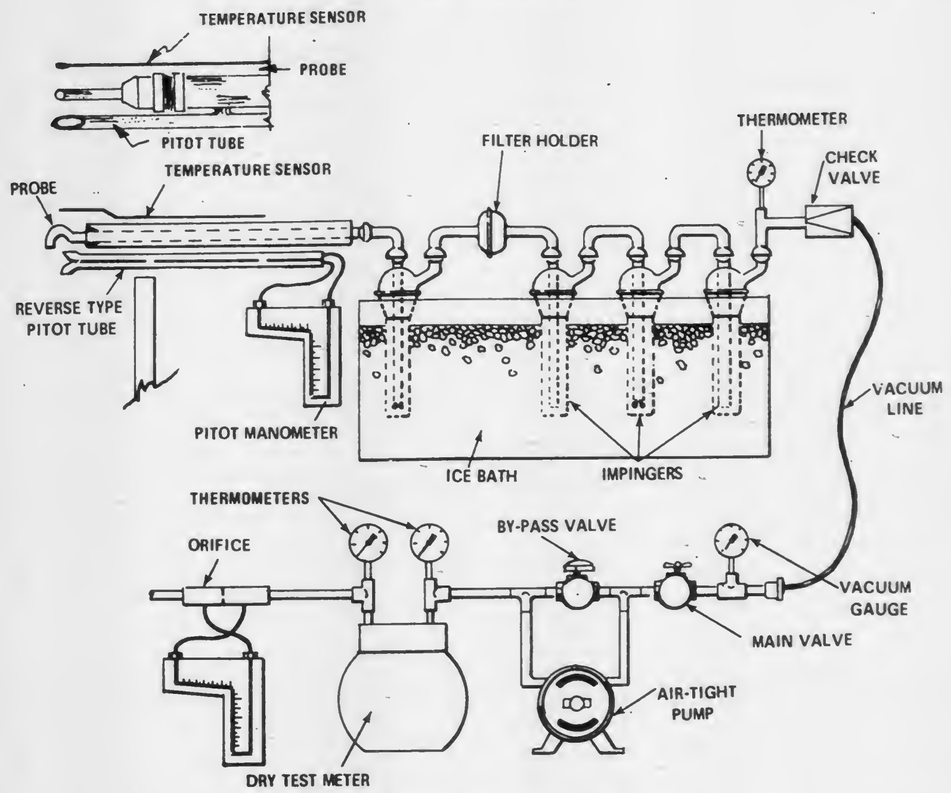


Figure 8-1. Sulfuric acid mist sampling train.

2.1.4 Differential Pressure Gauge. Same as Method 5, Section 2.1.4.

2.1.5 Filter Holder. Borosilicate glass, with a glass frit filter support and a silicone rubber gasket. Other gasket materials, e.g., Teflon or Viton, may be used subject to the approval of the Administrator. The holder design shall provide a positive seal against leakage from the outside or around the filter. The filter holder shall be placed between the first and second impingers. Note: Do not heat the filter holder.

2.1.6 Impingers—Four, as shown in Figure 8-1. The first and third shall be of the Greenburg-Smith design with standard tips. The second and fourth shall be of the Greenburg-Smith design, modified by replacing the insert with an approximately 13 millimeter (0.5 in.) ID glass tube, having an unconstricted tip located 13 mm (0.5 in.) from the bottom of the flask. Similar collection systems, which have been approved by the Administrator, may be used.

2.1.7 Metering System. Same as Method 5, Section 2.1.8.

2.1.8 Barometer. Same as Method 5, Section 2.1.9.

2.1.9 Gas Density Determination Equipment. Same as Method 5, Section 2.1.10.

2.1.10 Temperature Gauge. Thermometer, or equivalent, to measure the temperature of the gas leaving the impinger train to within 1° C (2° F).

2.2 Sample Recovery.

2.2.1 Wash Bottles. Polyethylene or glass, 500 ml. (two).

2.2.2 Graduated Cylinders. 250 ml, 1 liter. (Volumetric flasks may also be used.)

2.2.3 Storage Bottles. Leak-free polyethylene bottles, 1000 ml size (two for each sampling run).

2.2.4 Trip Balance. 500-gram capacity, to measure to ±0.5 g (necessary only if a moisture content analysis is to be done).

2.3 Analysis.

2.3.1 Pipettes. Volumetric 25 ml, 100 ml.

2.3.2 Burrette. 50 ml.

2.3.3 Erlenmeyer Flask. 250 ml. (one for each sample blank and standard).

2.3.4 Graduated Cylinder. 100 ml.

2.3.5 Trip Balance. 500 g capacity, to measure to ±0.5 g.

2.3.6 Dropping Bottle. To add indicator solution, 125-ml size.

3. Reagents

Unless otherwise indicated, all reagents are to conform to the specifications established by the Committee on Analytical Reagents of the American Chemical Society, where such specifications are available. Otherwise, use the best available grade.

3.1 Sampling.

3.1.1 Filters. Same as Method 5, Section 3.1.1.

3.1.2 Silica Gel. Same as Method 5, Section 3.1.2.

3.1.3 Water. Deionized, distilled to conform to ASTM specification D1193-74, Type 3. At the option of the analyst, the $KMnO_4$ test for oxidizable organic matter may be omitted when high concentrations of organic matter are not expected to be present.

3.1.4 Isopropanol. 80 Percent. Mix 800 ml of isopropanol with 200 ml of deionized, distilled water.

NOTE.—Experience has shown that only A.C.S. grade isopropanol is satisfactory. Tests have shown that isopropanol obtained from commercial sources occasionally has peroxide impurities that will cause erroneously high sulfuric acid mist measurement. Use the following test for detecting peroxides in each lot of isopropanol: Shake 10 ml of the isopropanol with 10 ml of freshly prepared 10 percent potassium iodide solution. Prepare a blank by similarly treating 10 ml of distilled water. After 1 minute, read the absorbance on a spectrophotometer at 352 nanometers. If the absorbance exceeds 0.1, the isopropanol shall not be used. Peroxides may be removed from isopropanol by redistilling, or by passage through a column of activated alumina. However, reagent-grade isopropanol with suitably low peroxide levels is readily available from commercial sources; therefore, rejection of contaminated lots may be more efficient than following the peroxide removal procedure.

3.1.5 Hydrogen Peroxide, 3 Percent. Dilute 100 ml of 30 percent hydrogen peroxide to 1 liter with deionized, distilled water. Prepare fresh daily.

3.1.6 Crushed Ice.

3.2 Sample Recovery.

3.2.1 Water. Same as 3.1.3.

3.2.2 Isopropanol, 80 Percent. Same as 3.1.4.

3.3 Analysis.

3.3.1 Water. Same as 3.1.3.

3.3.2 Isopropanol, 100 Percent.

3.3.3 Thorin Indicator. 1-(o-arsonophenylazo)-2-naphthol-3, 6-disulfonic acid, disodium salt, or equivalent. Dissolve 0.20 g in 100 ml of deionized, distilled water.

3.3.4 Barium Perchlorate trihydrate ($Ba(ClO_4)_2{\cdot}3H_2O$) in 200 ml deionized, distilled water, and dilute to 1 liter with isopropanol; 1.22 g of barium chloride dihydrate ($BaCl_2{\cdot}2H_2O$) may be used instead of the barium perchlorate. Standardize with sulfuric acid as in Section 5.2. This solution must be protected against evaporation at all times.

V 42 160 AUG 18 77 UM

3.3.5 Sulfuric Acid Standard (0.0100 N). Purchase or standardize to ±0.0002 N against 0.0100 N NaOH that has previously been standardized against primary standard potassium acid phthalate.

4. *Procedure*

4.1 Sampling.

4.1.1 Pretest Preparation. Follow the procedure outlined in Method 5, Section 4.1.1; filters should be inspected, but need not be desiccated, weighed, or identified. If the effluent gas can be considered dry, i.e., moisture free, the silica gel need not be weighed.

4.1.2 Preliminary Determinations. Follow the procedure outlined in Method 5, Section 4.1.2.

4.1.3 Preparation of Collection Train. Follow the procedure outlined in Method 5, Section 4.1.3 (except for the second paragraph and other obviously inapplicable parts) and use Figure 8-1 instead of Figure 5-1. Replace the second paragraph with: Place 100 ml of 80 percent isopropanol in the first impinger, 100 ml of 3 percent hydrogen peroxide in both the second and third impingers; retain a portion of each reagent for use as a blank solution. Place about 200 g of silica gel in the fourth impinger.

NOTE.—If moisture content is to be determined by impinger analysis, weigh each of the first three impingers (plus absorbing solution) to the nearest 0.5 g and record these weights. The weight of the silica gel (or silica gel plus container) must also be determined to the nearest 0.5 g and recorded.

4.1.4 Pretest Leak-Check Procedure. Follow the basic procedure outlined in Method 5, Section 4.1.4.1, noting that the probe heater shall be adjusted to the minimum temperature required to prevent condensation, and also that verbage such as, "• • • plugging the inlet to the filter holder • • •," shall be replaced by, "• • • plugging the inlet to the first impinger • • •." The pretest leak-check is optional.

4.1.5 Train Operation. Follow the basic procedures outlined in Method 5, Section 4.1.5, in conjunction with the following special instructions. Data shall be recorded on a sheet similar to the one in Figure 8-2. The sampling rate shall not exceed 0.030 m³/min (1.0 cfm) during the run. Periodically during the test, observe the connecting line between the probe and first impinger for signs of condensation. If it does occur, adjust the probe heater setting upward to the minimum temperature required to prevent condensation. If component changes become necessary during a run, a leak-check shall be done immediately before each change, according to the procedure outlined in Section 4.1.4.2 of Method 5 (with appropriate modifications, as mentioned in Section 4.1.4 of this method); record all leak rates. If the leakage rate(s) exceed the specified rate, the tester shall either void the run or shall plan to correct the sample volume as outlined in Section 6.3 of Method 5. Immediately after component changes, leak-checks are optional. If these leak-checks are done, the procedure outlined in Section 4.1.4.1 of Method 5 (with appropriate modifications) shall be used.

PLANT _____
LOCATION _____
OPERATOR _____
DATE _____
RUN NO. _____
SAMPLE BOX NO. _____
METER BOX NO. _____
METER ΔH@ _____
C FACTOR _____
PITOT TUBE COEFFICIENT, Cp _____

SCHEMATIC OF STACK CROSS SECTION

STATIC PRESSURE, mm Hg (in. Hg). _____
AMBIENT TEMPERATURE _____
BAROMETRIC PRESSURE _____
ASSUMED MOISTURE, % _____
PROBE LENGTH, m (ft) _____
NOZZLE IDENTIFICATION NO. _____
AVERAGE CALIBRATED NOZZLE DIAMETER, cm (in.) _____
PROBE HEATER SETTING _____
LEAK RATE, m³/min, (cfm) _____
PROBE LINER MATERIAL _____
FILTER NO. _____

TRAVERSE POINT NUMBER	SAMPLING TIME (θ), min.	VACUUM mm Hg (in. Hg)	STACK TEMPERATURE (Ts), °C (°F)	VELOCITY HEAD (ΔPs), mm H_2O (in. H_2O)	PRESSURE DIFFERENTIAL ACROSS ORIFICE METER, mm H_2O (in. H_2O)	GAS SAMPLE VOLUME, m^3 (ft^3)	GAS SAMPLE TEMPERATURE AT DRY GAS METER		TEMPERATURE OF GAS LEAVING CONDENSER OR LAST IMPINGER, °C (°F)
							INLET, °C (°F)	OUTLET, °C (°F)	
TOTAL							Avg	Avg	
AVERAGE							Avg		

Figure 8-2. Field data.

After turning off the pump and recording the final readings at the conclusion of each run, remove the probe from the stack. Conduct a post-test (mandatory) leak-check as in Section 4.1.4.3 of Method 5 (with appropriate modification) and record the leak rate. If the post-test leakage rate exceeds the specified acceptable rate, the tester shall either correct the sample volume, as outlined in Section 6.3 of Method 5, or shall void the run.

Drain the ice bath and, with the probe disconnected, purge the remaining part of the train, by drawing clean ambient air through the system for 15 minutes at the average flow rate used for sampling.

NOTE.—Clean ambient air can be provided by passing air through a charcoal filter. At the option of the tester, ambient air (without cleaning) may be used.

4.1.6 Calculation of Percent Isokinetic. Follow the procedure outlined in Method 5, Section 4.1.6.

4.2 Sample Recovery.

4.2.1 Container No. 1. If a moisture content analysis is to be done, weigh the first impinger plus contents to the nearest 0.5 g and record this weight.

Transfer the contents of the first impinger to a 250-ml graduated cylinder. Rinse the probe, first impinger, all connecting glassware before the filter, and the front half of the filter holder with 80 percent isopropanol. Add the rinse solution to the cylinder. Dilute to 250 ml with 80 percent isopropanol. Add the filter to the solution, mix, and transfer to the storage container. Protect the solution against evaporation. Mark the level of liquid on het container and identify the sample container.

4.2.2 Container No. 2. If a moisture content analysis is to be done, weigh the second and third impingers (plus contents) to the nearest 0.5 g and record these weights. Also, weigh the spent silica gel (or silica gel plus impinger) to the nearest 0.5 g.

Transfer the solutions from the second and third impingers to a 1000-ml graduated cylinder. Rinse all connecting glassware (including back half of filter holder) between the filter and silica gel impinger with deionized, distilled water, and add this rinse water to the cylinder. Dilute to a volume of 1000 ml with deionized, distilled water. Transfer the solution to a storage container. Mark the level of liquid on the container. Seal and identify the sample container.

4.3 Analysis.

Note the level of liquid in containers 1 and 2, and confirm whether or not any sample was lost during shipment; note this on the analytical data sheet. If a noticeable amount of leakage has occurred, either void the sample or use methods, subject to the approval of the Administrator, to correct the final results.

4.3.1 Container No. 1. Shake the container holding the isopropanol solution and the filter. If the filter breaks up, allow the fragments to settle for a few minutes before removing a sample. Pipette a 100-ml aliquot of this solution into a 250-ml Erlenmeyer flask, add 2 to 4 drops of thorin indicator, and titrate to a pink endpoint using 0.0100 N barium perchlorate. Repeat the titration with a second aliquot of sample and average the titration

values. Replicate titrations must agree within 1 percent or 0.2 ml, whichever is greater.

4.3.2 Container No. 2. Thoroughly mix the solution in the container holding the contents of the second and third impingers. Pipette a 10-ml aliquot of sample into a 250-ml Erlenmeyer flask. Add ml of isopropanol, 2 to 4 drops of thorin indicator, and titrate to a pink endpoint using 0.0100 N barium perchlorate. Repeat the titration with a second aliquot of sample and average the titration values. Replicate titrations must agree within 1 percent or 0.2 ml, whichever is greater.

4.3.3 Blanks. Prepare blanks by adding 2 to 4 drops of thorin indicator to 100 ml of 80 percent isopropanol. Titrate the blanks in the same manner as the samples.

5. *Calibration*

5.1 Calibrate equipment using the procedures specified in the following sections of Method 5: Section 5.3 (metering system); Section 5.5 (temperature gauges); Section 5.7 (barometer). Note that the recommended leak-check of the metering system, described in Section 5.6 of Method 5, also applies to this method.

5.2 Standardize the barium perchlorate solution with 25 ml of standard sulfuric acid, to which 100 ml of 100 percent isopropanol has been added.

6. *Calculations*

Note.—Carry out calculations retaining at least one extra decimal figure beyond that of the acquired data. Round off figures after final calculation.

6.1 Nomenclature.

A_n = Cross-sectional area of nozzle, m^2 (ft^2).
B_{ws} = Water vapor in the gas stream, proportion by volume.
$C_{H_2SO_4}$ = Sulfuric acid (including SO_3) concentration, g/dscm (lb/dscf).
C_{SO_2} = Sulfur dioxide concentration, g/dscm (lb/dscf).
I = Percent of isokinetic sampling.
N = Normality of barium perchlorate titrant, g equivalents/liter.
P_{bar} = Barometric pressure at the sampling site, mm Hg (in. Hg).
P_s = Absolute stack gas pressure, mm Hg (in. Hg).
P_{std} = Standard absolute pressure, 760 mm Hg (29.92 in. Hg).
T_m = Average absolute dry gas meter temperature (see Figure 8-2), °K (°R).
T_s = Average absolute stack gas temperature (see Figure 8-2), °K (°R).
T_{std} = Standard absolute temperature, 293° K (528° R).
V_a = Volume of sample aliquot titrated, 100 ml for H_2SO_4 and 10 ml for SO_2.
V_{lc} = Total volume of liquid collected in impingers and silica gel, ml.
V_m = Volume of gas sample as measured by dry gas meter, dcm (dcf).
$V_{m(std)}$ = Volume of gas sample measured by the dry gas meter corrected to standard conditions, dscm (dscf).
v_s = Average stack gas velocity, calculated by Method 2, Equation 2-9, using data obtained from Method 8, m/sec (ft/sec).
V_{soln} = Total volume of solution in which the sulfuric acid or sulfur dioxide sample is contained, 250 ml or 1,000 ml, respectively.
V_t = Volume of barium perchlorate titrant used for the sample, ml.
V_{tb} = Volume of barium perchlorate titrant used for the blanl ml.
Y = Dry gas meter calibration factor.
ΔH = Average pressure drop across orifice meter, mm (in.) H_2O.
θ = Total sampling time, min.
13.6 = Specific gravity of mercury.
60 = sec/min.
100 = Conversion to percent.

6.2 Average dry gas meter temperature and average orifice pressure drop. See data sheet (Figure 8-2).

6.3 Dry Gas Volume. Correct the sample volume measured by the dry gas meter to standard conditions (20° C and 760 mm Hg or 68° F and 29.92 in. Hg) by using Equation 8-1.

$$V_{m(std)} = V_m Y \left(\frac{T_{std}}{T_m}\right) \frac{P_{bar} + \left(\frac{\Delta H}{13.6}\right)}{P_{std}}$$

$$= K_1 V_m Y \frac{P_{bar} + (\Delta H/13.6)}{T_m}$$

Equation 8-1

where:
K_1 = 0.3858 °K/mm Hg for metric units.
= 17.64 °R/in. Hg for English units.

NOTE.—If the leak rate observed during any mandatory leak-checks exceeds the specified acceptable rate, the tester shall either correct the value of V_m in Equation 8-1 (as described in Section 6.3 of Method 5), or shall invalidate the test run.

6.4 Volume of Water Vapor and Moisture Content. Calculate the volume of water vapor using Equation 5-2 of Method 5; the weight of water collected in the impingers and silica gel can be directly converted to milliliters (the specific gravity of water is 1 g/ml). Calculate the moisture content of the stack gas, using Equation 5-3 of Method 5. The "Note" in Section 6.5 of Method 5 also applies to this method. Note that if the effluent gas stream can be considered dry, the volume of water vapor and moisture content need not be calculated.

6.5 Sulfuric acid mist (including SO_3) concentration.

$$C_{H_2SO_4} = K_2 \frac{N(V_t - V_{tb})\left(\frac{V_{soln}}{V_a}\right)}{V_{m(std)}}$$

Equation 8-2

where:
K_2 = 0.04904 g/milliequivalent for metric units.
= 1.081×10^{-4} lb/meq for English units.

6.6 Sulfur dioxide concentration.

$$C_{SO_2} = K_2 \frac{N(V_t - V_{tb})\left(\frac{V_{soln}}{V_a}\right)}{V_{m(std)}}$$

Equation 8-3

where:
K_2 = 0.03203 g/meq for metric units.
= 7.061×10^{-4} lb/meq for English units.

6.7 Isokinetic Variation.

6.7.1 Calculation from raw data.

$$I = \frac{100\, T_s [K_4 V_{lc} + (V_m/T_m) P_{bar} + \Delta H/13.6)]}{60\, \theta V_s P_s A_n}$$

Equation 8-4

where:
K_4 = 0.003464 mm Hg-m³/ml-°K for metric units.
= 0.002676 in. Hg-ft³/ml-°R for English units.

6.7.2 Calculation from intermediate values.

$$I = \frac{T_s V_{m(std)} P_{std} 100}{T_{std} v_s \theta A_n P_s 60 (1 - B_{ws})}$$

$$= K_5 \frac{T_s V_{m(std)}}{P_s v_s A_n \theta (1 - B_{ws})}$$

Equation 8-5

where:
K_5 = 4.320 for metric units.
= 0.09450 for English units.

6.8 Acceptable Results. If 90 percent ≤I ≤110 percent, the results are acceptable. If the results are low in comparison to the standards and I is beyond the acceptable range, the Administrator may opt to accept the results. Use Citation 4 in the Bibliography of Method 5 to make judgments. Otherwise, reject the results and repeat the test.

7. *Bibliography*

1. Atmospheric Emissions from Sulfuric Acid Manufacturing Processes. U.S. DHEW, PHS, Division of Air Pollution. Public Health Service Publication No. 999-AP-13. Cincinnati, Ohio. 1965.

2. Corbett, P. F. The Determination of SO_3 and SO_2 in Flue Gases. Journal of the Institute of Fuel. 24:237-243. 1961.

3. Martin, Robert M. Construction Details of Isokinetic Source Sampling Equipment. Environmental Protection Agency. Research Triangle Park, N.C. Air Pollution Control Office Publication No. APTD-0581. April, 1971.

4. Patton, W. F. and J. A. Brink, Jr. New Equipment and Techniques for Sampling Chemical Process Gases. Journal of Air Pollution Control Association. 13:162. 1963.

5. Rom, J. J. Maintenance, Calibration, and Operation of Isokinetic Source-Sampling Equipment. Office of Air Programs, Environmental Protection Agency. Research Triangle Park, N.C. APTD-0576. March, 1972.

6. Ilamil, H. F. and D. E. Camann. Collaborative Study of Method for Determination of Sulfur Dioxide Emissions from Stationary Sources (Fossil Fuel-Fired Steam Generators). Environmental Protection Agency. Research Triangle Park, N.C. EPA-650/4-74-024. December, 1973.

7. Annual Book of ASTM Standards. Part 31; Water, Atmospheric Analysis. pp. 40-42. American Society for Testing and Materials. Philadelphia, Pa. 1974.

(Secs. 111, 114, 301(a), Clean Air Act, sec. 4(a) of Pub. L. 91-604, 84 Stat. 1683; sec. 4(a) of Pub. L. 91-604, 84 Stat. 1687; sec. 2 of Pub. L. 90-148, 81 Stat. 504 [42 U.S.C. 1857c-6, 1857c-9, 1857g(a)].)

[FR Doc.77-13608 Filed 8-17-77;8:45 am]

V 42 160 AUG 18 77 UM V A

federal register

THURSDAY, AUGUST 18, 1977
PART III



DEPARTMENT OF STATE

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits To Fish Off the Coasts of the United States

V42 160 AUG 18 77 UM V

DEPARTMENT OF STATE

[Public Notice 562]

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits To Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that all applications for such permits be published in the FEDERAL REGISTER.

Applications for fishing during 1977 have been received from the Government of the German Democratic Republic and the Government of Spain, and are published herewith.

Dated: August 12, 1977.

LARRY L. SNEAD,
Acting Director, Office of Fisheries Affairs.

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0044

Permit Period Applied For: 1977 — Application No. For Use of Issuing Office: _____

State: SPAIN

1. Name of Vessel: VIEIRASA CUATRO
2. Vessel No.: Hull No. VI-5-8681 Registracion No. 8681
3. Name and Address of Owner: Name: S.A EDUARDO VIEIRA; Address: AVDA.ORILLAMAR, 1, VIGO; Cable Address: VIEIRASA
   Name and Address of Charterer: _____
4. Homeport and State of Registry: VIGO
5. Type of Vessel: O.T.B. STERN TRAWLER
6. Tonnage (Gross) 440,3 (Net) 169
7. Length 44,2 M. 8. Breadth 8,3 M. 9. Draft 4,4 M.
10. Horsepower 1200 shp. 11. Maximum Speed 11,33 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other _____
13. Date Built 1.967
14. Number and Nationality of Personnel 120 spanish
    Officers 2 Crew 18 Other (Specify) _____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph (X). Other _____
    International Radio Call Sigo E.E.X.K
    Radio Frequencies Monitored 500 - 2,182 - 156,8
    Other Working Frequencies 2122 - 2274 - 2083
    Schedule 24 HOURS

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer (X), Other _____
17. Cargo Capacity (MT)

Salted Fish	
Fresh Fish	
Frozen Fish	400
Fish Meal	
Other	

18. Cargo Space

Number	Name
Freezer	
Dry Hold	
Tanks 204 m^3	
Other	

19. Processing Equipment (indicate daily capacity,MT)
    14 Tons for day
    FREEZER
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 / 31-12-77	Squid, Loligo, Ilex, Other	270	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    ~~INTERNATIONAL TRADING & SHIPPING AGENCY, INC.~~
    25 BROADWAY
    NEW YORK, NEW YORK 10004

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0045

Permit Period Applied For: 1977 — Application No. For Use of Issuing Office: _____

State: SPAIN

1. Name of Vessel: PERCA
2. Vessel No.: Hull No. VI-5-9340 Registration No. 9.340
3. Name and Address of Owner: Name: PESQUERA CIES, S.A.; Address: _____; POUZA - VIGO; Cable Address: _____
   Name and Address of Charterer: _____
4. Homeport and State of Registry: VIGO
5. Type of Vessel: O.T.B. STERN TRAWLER
6. Tonnage (Gross) 415,7 (Net) 126
7. Length 42 M. 8. Breadth 9,5 M. 9. Draft 4,3 M.
10. Horsepower 1200 shp. 11. Maximum Speed 12 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other _____
13. Date Built 1.973
14. Number and Nationality of Personnel 24 Spanish
    Officers 4 Crew 20 Other (Specify) _____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph (X). Other _____
    International Radio Call Sign E.A.E.C
    Radio Frequencies Monitored 500 - 2,182 - 156,8
    Other Working Frequencies 2122 - 2272 - CHANNELS 12-16
    Schedule 24 HOURS

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other _____
17. Cargo Capacity (MT)

Salted Fish	
Fresh Fish	
Frozen Fish	480
Fish Meal	
Other	

18. Cargo Space

Number	Name
Freezer	
Dry Hold	
Tanks 233 m^3	
Other	

19. Processing Equipment (Indicate daily capacity,MT)
    12 Tons for day
    FREEZER
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 / 31-12-77	Squid, Loligo, Ilex, Other	370	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    INTERNATIONAL TRADING & SHIPPING AGENCY, INC.
    25 BROADWAY
    NEW YORK, N.Y. 10004

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0046

Permit Period Applied For: 1.977

Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel FRAGATA
2. Vessel No.: Hull No. VI-5-9565 Registration No. 9.565
3. Name and Address of Owner / Name and Address of Charterer

Name JUANA (VDA [illegible])

Address AVDA. SAN FRANCISCO, 29

VIGO

Cable Address

4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 350,3 (Net)
7. Length 40,4 M. 8. Breadth 8,5 M. 9. Draft 4,05 M.
10. Horsepower 1220 shp. 11. Maximum Speed 10,72 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),

Other

13. Date Built 1,975
14. Number and Nationality of Personnel 20 spanish

Officers 5 Crew 15 Other (Specify)

15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy ( )

Other

International Radio Call Sign E.C.Y.I

Radio Frequencies Monitored : 2182-2122-2272

Other Working Frequencies 2296-2283-Channels 12-16

Schedule 24 horas

SP-77-0046

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ),

Other

17. Cargo Capacity (MT)

Salted Fish	
Fresh Fish	
Frozen Fish	420
Fish Meal	
Other	

18. Cargo Space

Number	Name
	Freezer
	Dry Hold
	Tanks 127 m^3
	Other

19. Processing Equipment (Indicate daily capacity,MT)

8 Tons for day

FREEZER

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 / 31-12-77	Squid	290	Otter trawl
ICNAF	5 and 6	Loligo		
		Ilex		
		Other		

21. Name and Address of Agent appointed to receive any leg process issued in the United States:

INTERNATIONAL TRADING & SHIPPING AGENCY, INC.
25 Broadway
New York, N.Y. 10004

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0047

Permit Period Applied For: 1.977

Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel CONBARQUA III
2. Vessel No.: Hull No. VI-5-9499 Registration No. 9.499
3. Name and Address of Owner / Name and Address of Charterer

Name BARCONOYA, S.A.

Address AVDA. SAN FRANCISCO, 29

VIGO

Cable Address

4. Homeport and State of Registry: LAS PALMAS
5. Type of Vessel O.T.B STERN TRAWLER
6. Tonnage (Gross) 314,1 (Net) 229,95
7. Length 39,4 M. 8. Breadth 8,5 M. 9. Draft 3,50 M.
10. Horsepower 1160 shp. 11. Maximum Speed 11 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),

Other

13. Date Built 1,974
14. Number and Nationality of Personnel 20 spanish

Officers 5 Crew 15 Other (Specify)

15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy ( )

Other

International Radio Call Sign E.G.N.Y

Radio Frequencies Monitored 2122-2182-2272

Other Working Frequencies CHANNEL 12-16-1670

Schedule 24 hrs.

SP-77-0047

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ),

Other

17. Cargo Capacity (MT)

Salted Fish	
Fresh Fish	
Frozen Fish	390
Fish Meal	
Other	

18. Cargo Space

Number	Name
	Freezer
	Dry Hold
	Tanks 148,9 m^3
	Other

19. Processing Equipment (Indicate daily capacity,MT)

12 Tons for day

FREEZER

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 / 31-12-77	Squid	290	Otter trawl
ICNAF	5 and 6	Loligo		
		Ilex		
		Other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

INTERNATIONAL TRADING & SHIPPING AGENCY, INC.
25 Broadway
New York, N.Y. 10004

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0048

Permit Period Applied For: 1.977

Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel NOGUEIROSA
2. Vessel No.: Hull No. VI-5-8614 Registration No. 8.614
3. Name and Address of Owner / Name and Address of Charterer
   Name: PESCANOVA, S.A.
   Address: APARTADO, 124
   VIGO
   Cable Address: PESCANOVA
4. Homeport and State of Registry: LAS PALMAS
5. Type of Vessel: O.T.B. SIDE TRAWLER
6. Tonnage (Gross) 749,1 (Net) 346
7. Length 53,4 M. 8. Breadth 9,3 M. 9. Draft 4 M.
10. Horsepower 1500 shp. 11. Maximum Speed 12.30 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built 1.965
14. Number and Nationality of Personnel 31 spanish
    Officers 5 Crew 26 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy (X),
    Other
    International Radio Call Sign E.E.Q.S
    Radio Frequencies Monitored 500 - 2.182 - 156,8
    Other Working Frequencies 2122 - 2272 - CHANNEL 13
    Schedule 24 hrs.

SP-77-0048

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ),
    Other

17. Cargo Capacity (MT)		18. Cargo Space Number	Name
Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	637	Tanks	250 m^3
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
    24 Tons for day
    FREEZER

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 31-12-77	squid, Loligo, Ilex, Other	400	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    INTERNATIONAL TRADING & SHIPPING AGENCY, INC.
    25 BROADWAY
    NEW YORK, N.Y. 10004

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0049

Permit Period Applied For: 1.977

Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel FARPESCA CHARCO
2. Vessel No.: Hull No. VI-5-9422 Registration No. 9422
3. Name and Address of Owner / Name and Address of Charterer
   Name: FARPESCA, S.A.
   Address: APARTADO, 1077
   VIGO
   Cable Address:
4. Homeport and State of Registry: VIGO
5. Type of Vessel: O.T.B. STERN TRAWLER
6. Tonnage (Gross) 471 (Net) 250
7. Length 43,9 M. 8. Breadth 9,5 M. 9. Draft 4,3 M.
10. Horsepower 1200 shp. 11. Maximum Speed 12.1 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built 1.974
14. Number and Nationality of Personnel 24 spanish
    Officers 4 Crew 20 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy (X),
    Other
    International Radio Call Sign E.G.J.V
    Radio Frequencies Monitored 500 - 2,182 - 156,8
    Other Working Frequencies 2206 - 2172 - 2274
    Schedule 24 hours

SP-77-0049

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ),
    Other

17. Cargo Capacity (MT)		18. Cargo Space Number	Name
Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	720	Tanks	250 m^3
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
    8 Tons for day
    FREEZER

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 31-12-77	squid, Loligo, Ilex, Other	440	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    INTERNATIONAL TRADING & SHIPPING AGENCY, INC.
    25 BROADWAY
    NEW YORK, N.Y. 10004

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0050

Permit Period Applied For: 1.977

Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel NUEVO NUEVO
2. Vessel No.: Hull No. VI-5-9381 Registration No. 9.381
3. Name and Address of Owner / Name and Address of Charterer
   Name S.A PESQUERA INDUSTRIAL GALLEGA
   Address AVD. DE LAS CAMELIAS
   58, VIGO
   Cable Address
4. Homeport and State of Registry: HUELVA
5. Type of Vessel O.T.B. STERN TRAWLER
6. Tonnage (Gross) 667,3 (Net) 422
7. Length 51,8 M. 8. Breadth 9,5 M. 9. Draft 4,4 M.
10. Horsepower 1400 shp. 11. Maximum Speed 12 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built 1.966
14. Number and Nationality of Personnel 34 spanish
    Officers 5 Crew 29 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy (X),
    Other
    International Radio Call Sign E.F.H.O
    Radio Frequencies Monitored 500 - 2.182 - 156,8
    Other Working Frequencies 2122 - 2272 - CHANNEL 12-16 -13-
    Schedule 24 hours

SP-77-0050

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (X), Fathometer ( ),
    Other

17. Cargo Capacity (MT)		18. Cargo Space Number	Name
Salted Fish			Freezer
Fresh Fish			Dry Hold
Frozen Fish	700	Tanks	256 m³
Fish Meal			Other
Other			

19. Processing Equipment (Indicate daily capacity,MT)
    24 Tns for day
    FREEZER

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 / 31-12-77	squid, Loligo, Ilex, Other	440	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    INTERNATIONAL TRADING & SHIPPING AGENCY, INC.
    25 BROADWAY
    NEW YORK, N.Y. 10004

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0051

Permit Period Applied For: 1.977

Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel VILLA DE MARIN
2. Vessel No.: Hull No. VI-5-9507 Registration No. 9507
3. Name and Address of Owner / Name and Address of Charterer
   Name MANUEL NORES GONZALEZ
   Address CALVO SOTELO, 70
   MARIN (PONTEVEDRA)
   Cable Address
4. Homeport and State of Registry: MARIN
5. Type of Vessel O.T.B. STERN TRAWLER
6. Tonnage (Gross) 314,1 (Net) 229,95
7. Length 39,4 M. 8. Breadth 8,5 M. 9. Draft 3,50 M.
10. Horsepower 1000 shp. 11. Maximum Speed 10 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built 1.975
14. Number and Nationality of Personnel 20 spanish
    Officers 4 Crew 16 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy ( ),
    Other
    International Radio Call Sign E.F.S.U
    Radio Frequencies Monitored 2122 - 2182 -
    Other Working Frequencies 2272 - 2013 - 2083
    Schedule 24 HOURS

SP-77-0051

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (X), Fathometer ( ),
    Other

17. Cargo Capacity (MT)		18. Cargo Space Number	Name
Salted Fish			Freezer
Fresh Fish			Dry Hold
Frozen Fish	390	Tanks	195 m³
Fish Meal			Other
Other			

19. Processing Equipment (Indicate daily capacity,MT)
    10 Tons for day FREEZER

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 / 31-12-77	squid, Loligo, Ilex, Other	280	Otter Trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    INTERNATIONAL TRADING & SHIPPING AGENCY, INC.
    25 BROADWAY
    NEW YORK, N.Y. 10004

NOTICES
NOTICES
NOTICES

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0052

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel: PUENTE TORALLA
2. Vessel No.: Hull No. VI-5-9508 Registration No. 9508
3. Name and Address of Owner / Name and Address of Charterer
   Name: PESQUERIAS BALLINO FREIRE
   Address: AVDA. ORILLAMAR, s/n
   BOUZA - VIGO
   Cable Address: [illegible]
4. Homeport and State of Registry: VIGO
5. Type of Vessel: O.T.B. STERN TRAWLER
6. Tonnage (Gross) 287,4 (Net) 197
7. Length 38 M. 8. Breadth 8,4 M. 9. Draft 3,70 M.
10. Horsepower 1160 shp. 11. Maximum Speed 11.25 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built 1.975
14. Number and Nationality of Personnel 15 spanish
    Officers 3 Crew 12 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph ( ),
    Other
    International Radio Call Sign E.G.U.H
    Radio Frequencies Monitored 2182-2122-2222
    Other Working Frequencies 2013-2191-3381
    Schedule 24 horas
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (X), Fathometer ( ),
    Other
17. Cargo Capacity (MT) / 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	56	Tanks	120,8 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity, MT)
    6 Tons for day
    FREEZER
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 / 31-12-77	squid		
ICNAF	5 and 6	Loligo	240	Otter trawl
		Ilex		
		Other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    INTERNATIONAL TRADING & SHIPPING AGENCY, INC.
    25 BROADWAY
    NEW YORK, N.Y. 10004

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0053

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel: ZAMANES
2. Vessel No.: Hull No. VI-5-8741 Registration No. 8741
3. Name and Address of Owner / Name and Address of Charterer
   Name: PESQUEROS TARIRONES, S.A.
   Address: AVDA. ORILLAMAR, 1
   VIGO
   Cable Address:
4. Homeport and State of Registry: VIGO
5. Type of Vessel: O.T.B. STERN TRAWLER
6. Tonnage (Gross) 494, (Net) 249
7. Length 49,3 M. 8. Breadth 8,3 M. 9. Draft 4,4 M.
10. Horsepower 1200 shp. 11. Maximum Speed 11.92 kt.
11. Propulsion: Diesel XX), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built 1.967
14. Number and Nationality of Personnel 29 spanish
    Officers 5 Crew 24 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph (X),
    Other
    International Radio Call Sign E.F.N.I
    Radio Frequencies Monitored 500 - 2.182 - 156,8
    Other Working Frequencies 2122-2272-2791
    Schedule 24 horas
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (X), Fathometer ( ),
    Other
17. Cargo Capacity (MT) / 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	490	Tanks	200 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity, MT)
    16 Tons for day
    FREEZER
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 / 31-12-77	squid		
ICNAF	5 and 6	Loligo	350	Otter trawl
		Ilex		
		Other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    INTERNATIONAL TRADING & SHIPPING AGENCY, INC.
    25 BROADWAY
    NEW YORK, N.Y. 10004

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0055

Permit Period Applied For: 1.977

Application No. ____ For Use of Issuing Office

State: SPAIN

1. Name of Vessel COSTA DE NOVANDIA
2. Vessel No.: Hull No. SP - 4-2475 Registration No. 2.475
3. Name and Address of Owner / Name and Address of Charterer
   Name PESQUERA OJEDA, S.A.
   Address Apartado, 252
   GIJON
   Cable Address
4. Homeport and State of Registry: CADIZ
5. Type of Vessel O.T.B STERN TRAWLER
6. Tonnage (Gross) 411,8 (Net)
7. Length 46,2 M. 8. Breadth 9 M. 9. Draft 4 M.
10. Horsepower 1200 shp. 11. Maximum Speed 11 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built 1.974
14. Number and Nationality of Personnel 22 spanish
    Officers 4 Crew 18 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy (X),
    Other
    International Radio Call Sign E.A.P.S
    Radio Frequencies Monitored 500 - 2.182 - 156, 8
    Other Working Frequencies 2122-2272-3370-2206
    Schedule 24 hrs.

SP-77-0055

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (X), Fathometer ( ),
    Other
17. Cargo Capacity (MT)

Salted Fish	
Fresh Fish	
Frozen Fish	290
Fish Meal	
Other	

18. Cargo Space

Number	Name
	Freezer
	Dry Hold
Tanks	165 m³
	Other.

19. Processing Equipment (Indicate daily capacity,MT)
    12 Tons for day
    Freezer

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 31-12-77	squid		
		Loligo		
ICNAF	5 and 6	Ilex	250	Otter trawl
		other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    INTERNATIONAL TRADING & SHIPPING AGENCY, INC.
    25 Broadway
    New York, N.Y. 10004

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0055

Permit Period Applied For: 1.977

Application No. ____ For Use of Issuing Office

State: SPAIN

1. Name of Vessel MAR DE CALILEA
2. Vessel No.: Hull No. VI-5-956 Registration No. 9.516
3. Name and Address of Owner / Name and Address of Charterer
   Name PESQUERA [illegible], S. A.
   Address AVDA [illegible], 60
   MARIN (PONTEVEDRA)
   Cable Address
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B STERN TRAWLER
6. Tonnage (Gross) 257,3 (Net) 185,60
7. Length 35,4 M. 8. Breadth 8 M. 9. Draft 3.85 M.
10. Horsepower 1000 shp. 11. Maximum Speed 11 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built 1.975
14. Number and Nationality of Personnel 20 spanish
    Officers 4 Crew 16 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy ( ),
    Other
    International Radio Call Sign E.G.S.G
    Radio Frequencies Monitored 2206-2211-2414
    Other Working Frequencies (4100) (4104) 3376-3387
    Schedule 24 hrs

SP-77-0055

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (X), Fathometer ( ),
    Other
17. Cargo Capacity (MT)

Salted Fish	
Fresh Fish	
Frozen Fish	200
Fish Meal	
Other	

18. Cargo Space

Number	Name
	Freezer
	Dry Hold
Tanks	150 m³
	Other

19. Processing Equipment (Indicate daily capacity,MT)
    12 MT
    FREEZER

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 31-12-77	squid		
		Loligo		
ICNAF	5 and 6	Ilex	210	Otter trawl
		Other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    INTERNATIONAL TRADING & SHIPPING AGENCY, INC.
    25 Broadway
    New York, N.Y. 10004

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-C057

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel ANA MARIA GAMDON
2. Vessel No.: Hull No. VI-3-933 Registration No. 9334
3. Name and Address of Owner / Name and Address of Charterer
   Name: VENCESALO GAMDON
   Address: CASAL -
   ALDAN - VIGO
   Cable Address
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B STERN TRAWLER
6. Tonnage (Gross) 358,1 (Net)
7. Length 39,7 M. 8. Breadth 8,5 M. 9. Draft 4,127 M.
10. Horsepower 800 shp. 11. Maximum Speed 10 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built 1.973
14. Number and Nationality of Personnel 19 spanish
    Officers 4 Crew 15 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph X
    Other
    International Radio Call Sign E.F.Y.K
    Radio Frequencies Monitored 500 ~~2.182~~ 156,8
    Other Working Frequencies 2122 - 2272 - 2206
    Schedule 24 HORAS

SP-77-C057

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other

17. Cargo Capacity (MT) / 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	315	Tanks	196 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity, MT)
    ~~42 Tons for day~~
    FREEZER

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 / 31-12-77	squid		
		Loligo		
ICNAF	5 and 6	Ilex	280	Otter trawl
		Other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    INTERNATIONAL TRADING & SHIPPING AGENCY, INC.
    25 BROADWAY
    NEW YORK, NEW YORK 10004

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-C058

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel PREI-PREI
2. Vessel No.: Hull No. GI-4-1738 Registration No. 1738
3. Name and Address of Owner / Name and Address of Charterer
   Name: PESCANOVA, S.A.
   Address: APARTADO, 424
   VIGO
   Cable Address: PESCANOVA
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B STERN TRAWLER
6. Tonnage (Gross) 1.045,5 (Net) 549
7. Length 57,5 M. 8. Breadth 10,5 M. 9. Draft 4,9 M.
10. Horsepower 1.910 shp. 11. Maximum Speed 13 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built 1.967
14. Number and Nationality of Personnel 46 spanish
    Officers 7 Crew 39 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph X
    Other
    International Radio Call Sign E.F.O.P
    Radio Frequencies Monitored 500 - 2.182 - 156,8
    Other Working Frequencies 2122 - 2272 - 2206 Channel 13
    Schedule 24 hrs.

SP-77-C058

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other

17. Cargo Capacity (MT) / 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	850	Tanks	245 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate ~~daily capacity, MT~~)
    20 Tons for day
    FREEZER

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 / 31-12-77	squid		
		Loligo		
ICNAF	5 and 6	Ilex	500	Otter trawl
		Other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    INTERNATIONAL TRADING & SHIPPING AGENCY, INC.
    25 BROADWAY
    NEW YORK, N.Y. 10004

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0059

Permit Period Applied For: 1.977

Application No. ____ For Use of Issuing Office

State: SPAIN

1. Name of Vessel SUEMAR UNO
2. Vessel No.: Hull No. VI-5-9594 Registration No. 9594
3. Name and Address of Owner / Name and Address of Charterer

   Name SUEMAR, S.L.

   Address PILIPINAS, 29

   VIGO

   Cable Address

4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B. STERN TRAWLER
6. Tonnage (Gross) 315,9 (Net) 229,95
7. Length 38,3 M. 8. Breadth 8,5 M. 9. Draft 4,05 M.
10. Horsepower 1160 shp. 11. Maximum Speed 12 Kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),

    Other ____

13. Date Built 1.975
14. Number and Nationality of Personnel 20 spanish

    Officers 8 Crew 12 Other (Specify) ____

15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy ( ),

    Other ____

    International Radio Call Sign E.G.X.P

    Radio Frequencies Monitored 2182-2122-2272

    Other Working Frequencies Channels 12-16

    Schedule 24 hrs.

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other ____

17. Cargo Capacity (MT) / 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	376	Tanks	148 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity, MT)

    12 Tons for day

    FREEZER

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 / 31-12-77	squid		
		Loligo		
ICNAF	5 and 6	Illex	290	Otter trawl
		Other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

    INTERNATIONAL TRADING & SHIPPING AGENCY, INC.
    25 BROADWAY
    NEW YORK, N.Y. 10004

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0061

Permit Period Applied For: 1.977

Application No. ____ For Use of Issuing Office

State: SPAIN

1. Name of Vessel GLACIAR
2. Vessel No.: Hull No. GI-4-1966 Registration No. 1.966
3. Name and Address of Owner / Name and Address of Charterer

   Name CONSTANTINO VALLEJO

   Address SAN FRANCISCO, 29

   VIGO

   Cable Address

4. Homeport and State of Registry:
5. Type of Vessel O.T.B. STERN TRAWLER
6. Tonnage (Gross) 281,4 (Net) 220,29
7. Length 37,6 M. 8. Breadth 8 M. 9. Draft 3,70 M.
10. Horsepower 980 shp. 11. Maximum Speed 11,37 Kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),

    Other ____

13. Date Built 1.975
14. Number and Nationality of Personnel 18 spanish

    Officers 2 Crew 16 Other (Specify) ____

15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy ( ),

    Other ____

    International Radio Call Sign E.G.W.H

    Radio Frequencies Monitored 2416

    Other Working Frequencies 3370-3381-W100) V200

    Schedule 24 hours

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other ____

17. Cargo Capacity (MT) / 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	54	Tanks	186 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity, MT)

    7 tons for day

    FREEZER

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 / 31-12-77	squid		
		Loligo		
ICNAF	5 and 6	Illex	200	Otter trawl
		Other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

    INTERNATIONAL TRADING & SHIPPING AGENCY, INC.
    25 Broadway
    New York, N.Y. 10004

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-C062

Permit Period Applied For: 1.977

Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel FGUSSUTA
2. Vessel No.: Hull No. VI-Y-163 Registration No. 9584
3. Name and Address of Owner
   Name ONDARRUTABRA, S.A.
   Address PRIMO DE RIVERA, 21
   ONDARROA (VIZCAYA)
   Cable Address
   Name and Address of Charterer
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B. STEAN TRAWLER
6. Tonnage (Gross) 439 (Net) 311,75
7. Length 47,2 M. 8. Breadth 9,5 M. 9. Draft 4,26 M.
10. Horsepower 1.600 shp. 11. Maximum Speed 11.5 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built 1.975
14. Number and Nationality of Personnel 25 spanish
    Officers 3 Crew 22 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph ( ),
    Other
    International Radio Call Sign E.N.C.S
    Radio Frequencies Monitored 4.136,3 - 8.268,4 - 12.403,5
    Other Working Frequencies 22.094,5 - 17.421,0 - 4.133,5
    Schedule 24 hrs.
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (X), Fathometer ( ),
    Other
17. Cargo Capacity (MT)

Salted Fish	
Fresh Fish	
Frozen Fish	503
Fish Meal	
Other	

18. Cargo Space (Number / Name)

Freezer	
Dry Hold	
Tanks	257 m³
Other	

19. Processing Equipment (Indicate daily capacity,MT)
    15 Tons for day
    FREEZER
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 / 31-12-77	squid		
		Loligo	370	Otter trawl
		Ilex		
ICNAF	5 and 6	Other		

21. Name and address of Agent appointed to receive any legal process issued in the United States:
    INTERNATIONAL TRADING & SHIPPING AGENCY, INC.
    25 BROADWAY
    NEW YORK, N.Y. 10004

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-C063

Permit Period Applied For: 1.977

Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel MARGREO
2. Vessel No.: Hull No. VI-5-8739 Registration No. 8739
3. Name and Address of Owner
   Name JOSE PUERTA CUIDO
   Address ORILLAMAR, 28 Travesia
   VIGO
   Cable Address
   Name and Address of Charterer
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B. STERN TRAWLER
6. Tonnage (Gross) 249,7 (Net) 122
7. Length 35,4 M. 8. Breadth 7,1 M. 9. Draft 3.01 M.
10. Horsepower 620 shp. 11. Maximum Speed 10-35 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built 1.967
14. Number and Nationality of Personnel 14 spanish
    Officers 2 Crew 12 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph ( ),
    Other
    International Radio Call Sign E.F.R.C
    Radio Frequencies Monitored 2182 - 2172 - 2049 -
    Other Working Frequencies 8272 - CHANNELS 12-16
    Schedule 24 hrs.
16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (X), Fathometer ( ),
    Other
17. Cargo Capacity (MT)

Salted Fish	
Fresh Fish	
Frozen Fish	150
Fish Meal	
Other	

18. Cargo Space (Number / Name)

Freezer	
Dry Hold	
Tanks	67 m³
Other	

19. Processing Equipment (Indicate daily capacity,MT)
    8 tons for day
    FREEZER
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 / 31-12-77	squid		
		Loligo	150	otter trawl
		Ilex		
ICNAF	5 and 6	Other		

21. Name and address of Agent appointed to receive any legal process issued in the United States:
    INTERNATIONAL TRADING & SHIPPING AGENCY, INC.
    25 BROADWAY
    NEW YORK, N.Y. 10004

Anlage 1

GC-77-003

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: ____

Application No. GC-77-003/1 For Use of Issuing Office

State: German Democratic Republic

1. Name of Vessel Robert Koch
2. Vessel No.: Hull No. ROS 314 Registration No. 2259
3. Name and Address of Owner / Name and Address of Charterer

Name VEB Fischkombinat Rostock

Address VEB Fischkombinat Rostock

GDR, 251 Rostock 5

Cable Address 31121 Fiko dd

4. Homeport and State of Registry: Rostock, GDR
5. Type of Vessel Crew Transport Vessel
6. Tonnage (Gross) 1.092,72 (Net) 320,33
7. Length 66,13 M. 8. Breadth 9,72 M. 9. Draft 5,20 M.
10. Horsepower 2x1.170 shp. 11. Maximum Speed 13 kt.
11. Propulsion: Diesel (2), Steam (-), Diesel/Electric (-),

Other -

13. Date Built 1956
14. Number and Nationality of Personnel 28, GDR

Officers 10 Crew 18 Other (Specify) -

15. Communications: VHF-FM (x), AM/SSB, Voice (x), Telegraphy (x),

Other ____

International Radio Call Sign DHUO

Radio Frequencies Monitored 500, 2182

Other Working Frequencies 425,454,468,512,2046,2191,2099

Schedule zone time:08.00-10.00;18.00-20.00 o' clock

16. Navigation Equipment: Loran C (-), Loran A (1), Omega (-), Decca (1), Navsat (-), Radar (2), Fathometer (1),

Other ____

17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish	-		Freezer
Fresh Fish	-		Dry Hold
Frozen Fish	-		Tanks
Fish Meal	-		Other
Other	-		

19. Processing Equipment (Indicate daily capacity,MT)

-

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Georges-Bank	1.12.-31.12.77	-	-	-

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

Faulkner & Schmidt, Attorney at Law

9 East, 40th Street

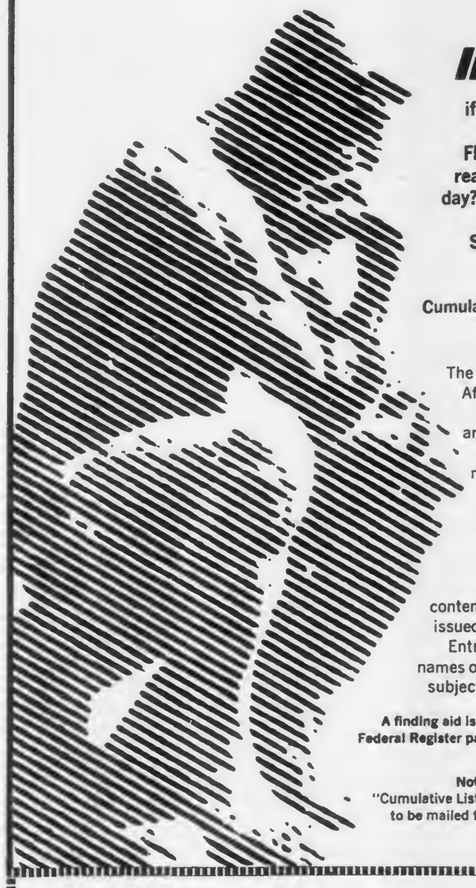
New York, N.Y. 100 16, USA

Anlage 2

Ocean area	Name of vessel	Typ of vessel	Period from - to	Species	Contemplated catch (mt)	Gear to be used	Permit Number	Remarks
Long Island/ Georgesbank	ROS 319 "Lütten Klein"	transport vessel	14.8.- 31.12.77 (14 AUG - 31 DEC)	-	no catch	-	GC-77-0026	to extend the period of the old application
Long Island/ Georgesbank	ROS 320 "Eversbagen"	transport vessel	15.8.- 31.12.77 (15 AUG - 31 DEC)	-	no catch	-	GC-77-0027	to extend the period of the old application
Long Island	ROS 314 "Robert Koch"	crew-transport vessel	1.12.- 31.12.77 (1 DEC - 31 DEC)	-	no catch	-	-	new application
Georgesbank		transport vessel	1.9.- 1.10.77 (1 SEPT - 1 OCT		no catch	-	-	transport vessel in charter, with still unknown name
Long Island/ Georgesbank	ROS 318 "Breitling"	transport vessel	21.8.- 31.12.77 (21 AUG - 31 DEC)	-	no catch	-	GC-77-0012	to extend the period of the old application

Ocean area	Name of vessel	Typ of vessel	Period from - to	Species	Contemplated catch (mt)	Gear to be used	Permit Number	Remarks
Long Island/ Georgesbank	ROS 319 "Lütten Klein"	transport vessel	14.8.- 31.12.77	-	no catch	-	GC-77-0026	to extend the period of the old application
Long Island/ Georgesbank	ROS 320 "Evershagen"	transport vessel	15.8.- 31.12.77	-	no catch	-	GC-77-0027	to extend the period of the old application
Long Island	ROS 314 "Robert Koch"	crew-transport vessel	1.12.- 31.12.77	-	no catch	-	-	new application
Georgesbank		transport vessel	1.9.- 1.10.77		no catch	-	-	transport vessel in charter, with still unknown name
Long Island/ Georgesbank	ROS 318 "Breitling"	transport vessel	21.8.- 31.12.77	-	no catch	-	GC-77-0012	to extend the period of the old application

[FR Doc.77-23900 Filed 8-17-77;8:45 am]



would you like to know

if any changes have been made in certain titles of the CODE OF FEDERAL REGULATIONS without reading the Federal Register every day? If so, you may wish to subscribe to the "Cumulative List of CFR Sections Affected," the "Federal Register Index," or both.

Cumulative List of CFR Sections Affected
$10.00
per year

The "Cumulative List of CFR Sections Affected" is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register, and is issued monthly in cumulative form. Entries indicate the nature of the changes.

Federal Register Index **$8.00**
per year

Indexes covering the contents of the daily Federal Register are issued monthly, quarterly, and annually. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

Note to FR Subscribers: FR Indexes and the "Cumulative List of CFR Sections Affected" will continue to be mailed free of charge to regular FR subscribers.

Mail order form to:
Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

There is enclosed $_____ for _____ subscription(s) to the publications checked below:

..... **CUMULATIVE LIST OF CFR SECTIONS AFFECTED ($10.00 a year domestic; $12.50 foreign)**
..... **FEDERAL REGISTER INDEX ($8.00 a year domestic; $10.00 foreign)**

Name _____

Street Address _____

City _____ **State** _____ **ZIP** _____

Make check payable to the Superintendent of Documents

V42160 AUG 18 77 UMI

161

Vol.42—No.161
8–19–77
PAGES
41813–42183

federal register

FRIDAY, AUGUST 19, 1977

highlights

SUNSHINE ACT MEETINGS..... 41950

BUDGET DEFERRALS
OMB reports one new deferral for ERDA's Intense Neutron Source Facility, and revises deferral for the Anti-recession Financial Assistance Fund of the Treasury Department (Part VII of this issue]..... 42055

MINIMUM WAGES
Labor/ESA publishes general wage determination decisions for Federal and federally assisted construction projects (Part VIII of this issue)..... 42061

EQUAL EMPLOYMENT OPPORTUNITY
EEOC publishes proposed procedural regulations; comments by 9–8–77 (Part V of this issue)..... 42021

FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM
CSC proposes to extend open enrollment season; comments by 9–19–77..... 41866

DISASTER LOANS
USDA/FmHA reduces interest rates on emergency loans for actual loses, and amends regulations to accept applications for soil and water loans (2 documents); effective 8–19–77 41815

EMERGENCY LIVESTOCK LOANS
USDA/FmHA revises regulations; effective 8–19–77..... 41816

REVENUE SHARING FUNDS
Treasury/RSO amends procedural regulations; effective 10–1–77 41859

FEDERAL PRISONERS
Justice/Parole proposes to establish new category of offense severity ratings..... 41878

FEDERAL GRANTS
HEW/HSA sets 11–17–77 as application deadline for health maintenance organizations..... 41925

INDOCHINESE REFUGEES
HEW/OE implements grant program for agencies providing educational services for children (Part III of this issue) 42006
HEW/OE amends regulations concerning grant program for agencies providing educational services for adults (Part IV of this issue)..... 42015

CONTINUED INSIDE

V42161 AUG 19 77 7 UM

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202–523–5240.**

FEDERAL REGISTER, Daily Issue:	
Subscription orders (GPO)	**202**–783–3238
Subscription problems (GPO)	**202**–275–3050
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	**202**–523–5022
Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227

PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235
PUBLIC LAWS:	
Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

MEXICAN NATIONALS
Justice/INS amends regulations concerning issuance of arrival-departure cards; effective 8–19–77 ..... **41847**

TAX REFORM ACT OF 1976
Treasury/IRS provides temporary regulations relating to filing of annual return for foreign trust with U.S. beneficiary **41856**

IMPORTED ANIMALS
USDA/APHIS establishes procedures for issuance of special permits; effective 8–19–77 ..... **41848**

NEW DRUGS
HEW/FDA announces combination product containing meprobamate 200 mg and aspirin 325 mg is eligible for abbreviated applications **41915**
HEW/FDA announces effectiveness classification for meglumine iothalamate, and sodium iothalamate injections **41916**
HEW/FDA proposes to withdraw approval of certain gastrointestinal drug products; hearing requests on or before 9–19–77 ..... **41917**
HEW/FDA amends previous notice on progestational drugs to specify location of box warning statement in labeling **41919**

MARINE MAMMALS
USDA/APHIS proposes standards for humane handling, care, treatment and transportation, under Animal Welfare Act; comments by 10–18–77 (Part VI of this issue) **42043**

COMMERCIAL FISHING OPERATIONS
Commerce/NOAA announces public hearing on 8–22–77 on proposed rules regarding taking of marine mammals .. **41879**

TOMATO PASTE
USDA/FSQS changes grading standards; effective 9–19–77 ..... **41843**

MILK AND MILK PRODUCTS
USDA/FSQS amends sediment standards; effective 9–1–77 ..... **41846**

POULTRY SLAUGHTERING PRACTICES
USDA/FSQS proposes to amend inspection requirements; comments by 10–18–77 ..... **41873**

AGAR-AGAR
HEW/FDA proposes to affirm GRAS status; comments by 10–18–77 ..... **41876**

MEDICAL DEVICES
HEW/FDA proposes to establish banning procedures; comments by 10–18–77 (Part II of this issue) **41999**

MEETINGS—
Commerce/DIBA: Computer Systems Technical Advisory Committee, Hardware Subcommittee, 9–7–77 ..... **41892**
Computer Systems Technical Advisory Committee, Technology Transfer Subcommittee 9–8–77 ..... **41893**
NOAA: New England Fishery Management Council, 9–12 thru 9–16, and 9–19–77 ..... **41893**
DOT/FHWA: Construction Zone Safety, 8–26–77 ..... **41942**
ERDA: Low-Head Hydroelectric Energy Workshop, 9–6 thru 9–10–77 ..... **41906**
FCC: Radio Technical Commission for Marine Services, 9–7 and 9–8–77 ..... **41908**
HEW/ADAMHA: Advisory Committees, 8–22 thru 8–24, 9–29, and 9–30–77 ..... **41915**
HSA: Interagency Committee on Emergency Medical Services, 9–14–77 ..... **41925**
Interior/BLM: California Desert Conservation Area Advisory Committee, Organizational Subcommittee, 9–12–77 ..... **41926**
Justice/INS: Hispanic Advisory Committee on Immigration and Naturalization, 9–7 and 9–8–77 ..... **41932**

V 42 161 AUG 19 77 UM V

State/AID: International Food and Agricultural Development Board, 9–12–77 41942
VA: Educational Allowances Station Committee, 9–19–77 41942

AMENDED MEETING—

HEW/HRA: National Advisory Council on Nurse Training, 8–29 thru 9–1–77 41925

CANCELLED MEETINGS—

Commerce/NOAA: South Atlantic Fishery Management Council, 8–30–77 41894
HEW/HCFA: Pharmaceutical Reimbursement Advisory Committee 9–6 thru 9–8–77 41923

CANCELLED HEARING—

Commerce/NOAA: Preliminary Fishing Management Plan, Atlantic Foreign Pelagic Longline Fishery, 8–30–77 41894

SEPARATE PARTS OF THIS ISSUE

Part II, HEW/FDA 41999
Part III, HEW/OE 42005
Part IV, HEW/OE 42015
Part V, EEOC 42021
Part VI, USDA/APHIS 42043
Part VII, OMB 42055
Part VIII, Labor/ESA 42061

contents

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notices

Meetings:
International Food and Agricultural Development Board. 41942

AGRICULTURAL MARKETING SERVICE

Rules

Lemons grown in Ariz. and Calif.. 41814

Proposed Rules

Milk marketing orders:
Central Arkansas; Fort Smith, Ark., and Memphis, Tenn.; extension of time 41873
Pears (Bartlett) grown in Oreg. and Wash. 41866
Raisins grown in Calif 41867

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Farmers Home Administration; Federal Grain Inspection Service; Food Safety and Quality Service.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

Notices

Advisory Committees; September 41915

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Rules

Animal and poultry import restrictions:
Import permit protocol; Fleming Key Animal Import Center; lottery basis 41848
Veterinarians, accreditation 41850
Viruses, serums, toxins, etc.:
Packaging and labeling; special licenses; elimination of references 41849

Proposed Rules

Animal welfare:
Marine mammals 42044

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM

Notices

Procurement list, 1977; additions and deletions (3 documents) .. 41902, 41903

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:
Baltimore-Detroit nonstop proceeding 41891
P.T. Merpati Nusantara Airlines 41892
Transatlantic, Transpacific and Latin American service mail rates investigation 41892

CIVIL SERVICE COMMISSION

Rules

Excepted service:
Agriculture Department (2 documents) 41813, 41814
Community Services Administration (2 documents) 41813
Federal Energy Administration.. 41814
Housing and Urban Development Department 41813
Interior Department 41813

Proposed Rules

Health benefits program, Federal employees:
Open season; extension of dates 41866

Notices

Noncareer executive assignments:
Agriculture Department 41892
Environmental Protection Agency 41892
Export-Import Bank 41892

COMMERCE DEPARTMENT

See Domestic and International Business Administration; National Oceanic and Atmospheric Administration.

CUSTOMS SERVICE

Notices

Index to regulations; availability.. 41942

DELAWARE RIVER BASIN COMMISSION

Notices

Comprehensive plan, sewage treatment plant projects; hearings.. 41906

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Notices

Meetings:
Computer Systems Technical Advisory Committee (2 documents) 41892, 41893
Scientific articles; duty free entry:
Northwestern University et al.; correction 41893

EDUCATION OFFICE

Rules

Adult education programs, State: Indochinese refugees, emergency program 42015
Indochinese refugee children; public educational services grants to State educational agencies 42006

Notices

Applications and proposals, closing dates:
Follow Through program; correction 41926

EMPLOYMENT AND TRAINING ADMINISTRATION

Notices

Comprehensive Employment and Training Act programs:
Unemployed and underemployed; skill training improvement; correction 41933
Employment transfer and business competition determinations; financial assistance applications 41932
Indian and Native American economic stimulus program; fund allocation, 1977 FY 41933

EMPLOYMENT STANDARDS ADMINISTRATION

Notices

Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions 42061

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Notices

Hydroelectric energy resources, low-head; workshop 41906

ENVIRONMENTAL PROTECTION AGENCY

Notices

Pesticide applicator certification and interim certification; State plans:
Pennsylvania 41907
Pesticides, restricted use; certification of Federal employees 41907

ENVIRONMENTAL QUALITY COUNCIL

Notices

Environmental statements; availability, etc 41903

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Proposed Rules

Procedural regulations:
Reorganization of regulations.. 42022

FARMERS HOME ADMINISTRATION

Rules

Emergency loans:
Interest rates; reduction for actual losses 41815
Farm purchase and development loans:
Soil and water loans; drought conditions; acceptance of applications 41815
Guaranteed loans:
Emergency livestock loans; portions sold in secondary markets 41816

Notices

Disaster and emergency areas:
Nebraska 41890

FEDERAL COMMUNICATIONS COMMISSION

Proposed Rules

Television broadcast stations:
Transmitters, use of subcarrier frequencies in aural baseband; inquiry; extension of time 41879

Notices

FM quadraphonic broadcasting; inquiry; extension of time 41908
Meetings:
Marine Services Radio Technical Commission 41908

FEDERAL ENERGY ADMINISTRATION

Notices

Appeals and applications for exception, etc.; cases filed with Exceptions and Appeals Office:
List of applicants, etc 41909
Powerplants burning natural gas or petroleum products, prohibition orders:
Kansas Power & Light Co 41910
Iowa Power & Light Co 41911

FEDERAL GRAIN INSPECTION SERVICE

Notices

Grain standards; inspection points:
Tennessee 41891

FEDERAL HIGHWAY ADMINISTRATION

Notices

Construction zone safety; meeting 41942

FEDERAL MARITIME COMMISSION

Notices

Freight forwarder licenses:
Thompson, Aurora Laura, et al.. 41913
Oil pollution; certificates of financial responsibility 41911
Agreements filed, etc.:
Costa Line, Inc., et al 41912
Richmond, City of, Calif., et al.. 41913

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
American Natural Gas Production Co 41881
Cities Service Gas Co. (2 documents) 41881
Interior Department, et al 41882
El Paso Natural Gas Co. (2 documents) 41883, 41884
Equitable Gas Co 41884
Florida Power Corp 41885
Gulf Power Co 41885
Gulf States Utilities Co 41885
Iowa Electric Light & Power Co.. 41885
Kansas City Power & Light Co... 41885
Minnesota Power & Light Co.... 41886
Northern Natural Gas Co 41886
Northwest Pipeline Corp 41886
Oklahoma Gas & Electric Co.... 41887
Pacific Gas & Electric Co 41887
Pasadena, city of 41882
Potomac Edison Co 41887
Public Service Co. of Indiana, Inc 41888
Southwest Gas Corp 41888
Texas Eastern Transmission Corp 41888
Transcontinental Gas Pipe Line Corp. (2 documents) 41889
Union Electric Co 41889
United Gas Pipe Line Co 41889

FEDERAL RESERVE SYSTEM

Notices

Applications, etc.:
Crystal State Agency, Inc 41913
First National Financial Corp.. 41913
Florida Coast Banks, Inc.; correction 41914
Kelly Field Bancshares Corp.... 41914
Republic Bancorporation, Inc.. 41914
Royal Trust Co. et al 41914
United Missouri Bancshares, Inc. 41914

FEDERAL TRADE COMMISSION

Proposed Rules

Consent orders:
Public Relations Society of America, Inc 41874
Mergers and acquisitions; financial transactions and institutions; premerger notification:
Coverage, exemption, and transmittal; correction 41875

Notices

Cigarette testing results; tar and nicotine content; correction.. 41914

FISH AND WILDLIFE SERVICE

Rules

Hunting:
Barnegat National Wildlife Refuge, N.J 41861
Brigantine National Wildlife Refuge, N.J 41862
Chincoteaque National Wildlife Refuge, Va 41862
Erie National Wildlife Refuge, Pa. (3 documents) 41863
Iroquois National Wildlife Refuge, N.Y. (2 documents) 41864
Savannah National Wildlife Refuge, S.C 41865
Valentine National Wildlife Refuge, Nebr 41864

FOOD AND DRUG ADMINISTRATION

Rules

Animal drugs, feeds, and related products:
Amprolium, ethopabate, bacitracin methylene disalicylate; correction 41855
Amprolium crumbles 41854
Disophenol sodium 41855
Phenylbutazone 41855
Poloxalene 41854
Food additives:
Paper and paperboard components; aqueous and fatty foods (2 documents) 41852, 41853
Paper and paperboard components; slimicides 41853
Hearings, public:
Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drugs Review Panel; terminated 41851
Diagnostic Products Advisory Committee; terminated 41851
Laxative, Antidiarrheal, Emetic, and Antiemetic Drugs Review Panel; terminated 41851
Sedative, Tranquilizer and Sleep Aid Drugs Review Panel; terminated 41851

Proposed Rules

GRAS or prior-sanctioned ingredients:
Agar-agar 41876
Medical devices:
Banned devices; procedures 42000

Notices

Animal drugs:
Hexederm and fun-jex ointments; approval withdrawn.. 41921
Color additives, petitions filed or withdrawn:
Cosmetic, Toiletry & Fragrance Association, Inc 41920
Committees; establishment, renewals, etc.:

V 42 161 AUG 19 77 UM V

Contraceptives and Other Vaginal Drug Products Review Panel ---- 41920
Dermatology Advisory Committee ---- 41920
Human drugs:
Anticholinergic / antispasmodic, combination drugs; approval withdrawn ---- 41917
Meglumine iothalamate and sodium iothalamate ---- 41916
Meprobamate and aspirin; combination drug ---- 41915
Meprobamate and promazine hydrochloride; combination drug ---- 41920
Progestagens; physician and patient labeling ---- 41919
Potassium aminobenzoate (2 documents) ---- 41921, 41922
Packaging and labeling:
Anti-human serum guidelines ---- 41920

FOOD SAFETY AND QUALITY SERVICE

Rules
Milk and milk products; sediment standards ---- 41846
Tomato paste; grade standards ---- 41843
Notices
Authority delegations:
Administrator et al.; transfer of authority ---- 41891
Proposed Rules
Poultry products, inspection:
Slaughtering practices ---- 41873

GENERAL ACCOUNTING OFFICE

Notices
Regulatory reports review; proproposals, approvals, etc ---- 41914

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Alcohol, Drug Abuse, and Mental Health Administration; Education Office; Food and Drug Administration; Health Care Financing Administration; Health Resources Administration; Health Services Administration.

HEALTH CARE FINANCING ADMINISTRATION

Notices
Meetings:
Pharmaceutical Reimbursement Advisory Committee ---- 41923
Professional Standards Review Organizations; nominations, designations, etc.:
Arizona ---- 41923
North Carolina ---- 41923
Pennsylvania ---- 41924
Virginia ---- 41924

HEALTH RESOURCES ADMINISTRATION

Notices
Meetings:
Advisory Committees; August and September ---- 41925

HEALTH SERVICES ADMINISTRATION

Notices
Health maintenance organizations:
Grant applications, etc ---- 41925
Meetings:
Advisory Committees; September ---- 41925

IMMIGRATION AND NATURALIZATION SERVICE

Rules
Immigration regulations:
Inspection of persons applying for admission; issuance of arrival-departure cards to Mexican nationals ---- 41847
Notices
Meetings:
Hispanic Advisory Committee ---- 41932

INTERIOR DEPARTMENT

See Fish and Wildlife Service; Land Management Bureau; Reclamation Bureau.

INTERNAL REVENUE SERVICE

Rules
Income taxes:
Pension plans; minimum funding standards; correction ---- 41856
Procedure and administration:
Foreign trust annual return with U.S. beneficiary ---- 41856

INTERSTATE COMMERCE COMMISSION

Notices
Fourth section applications for relief ---- 41948
Hearing assignments (2 documents) ---- 41943
Motor carriers:
Temporary authority applications ---- 41944
Petitions filing:
Aliquippa & Southern Railroad Co., et al ---- 41948

JUSTICE DEPARTMENT

See also Immigration and Naturalization Service; Parole Commission.

Notices
Pollution control; consent judgments; U.S. versus listed companies, etc.:
Tenneco Oil Co ---- 41931

LABOR DEPARTMENT

See also Employment and Training Administration; Employment Standards Administration; Occupational Safety and Health Administration.

Notices
Committees; establishment, renewals, etc.:
Employee Welfare and Pension Benefit Plans Advisory Council ---- 41933
Adjustment assistance:
Anaconda Co., et al ---- 41934
Apollo Dyeing & Finishing Co., Inc ---- 41934
Belle-Moc, Inc ---- 41935
Harris Corp ---- 41935
Irving Wenger, Inc ---- 41936
Optel Corp ---- 41937
R & M Fashions ---- 41937
Republic Steel Corp ---- 41938
Wheeling - Pittsburgh Steel Corp ---- 41938
White Pine School District, Mich ---- 41939

LAND MANAGEMENT BUREAU

Notices
Alaska native selections; applications, etc.:
Eklutna, Inc ---- 41928
Seldovia Native Association, Inc ---- 41929
Applications, etc.:
New Mexico (2 documents) ---- 41927
Wyoming (2 documents) ---- 41931
Meetings:
California Desert Conservation Area Advisory Committee ---- 41926
Motor vehicles, off-road; road closures; area designations:
Oregon ---- 41927
Outer Continental Shelf:
Official protraction diagrams; availability, etc ---- 41928
Withdrawal and reservation of lands, proposed, etc.:
Montana (2 documents) ---- 41926

MANAGEMENT AND BUDGET OFFICE

Notices
Budget rescissions and deferrals ---- 42055
Clearance of reports; list of requests ---- 41939

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Proposed Rules
Marine mammals:
Importation and taking; commercial fishing operations; quotas establishment, enforcement policy, etc.; hearings ---- 41879
Notices
Meetings:
New England Fishery Management Council ---- 41893
South Atlantic Fishery Management Council, and Pelagic Longline Fishery hearing cancelled ---- 41894

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Rules
State plans for enforcement of standards:
California ---- 41857

PAROLE COMMISSION

Proposed Rules
Prisoners, youth offenders, and juvenile delinquents; parole, release, etc.:
Offense severity ratings ---- 41878

PENSION BENEFIT GUARANTY CORPORATION

Rules
Annual report and declaration and payment of premiums; extension of form data ---- 41858
Plan benefits valuation ---- 41858

RECLAMATION BUREAU

Notices
Environmental statements; availability, etc.:
San Juan Powerplant, N. Mex ---- 41931

REVENUE SHARING OFFICE

Rules
Fiscal assistance to State and local governments:
Fiscal procedures and auditing ---- 41859

SECURITIES AND EXCHANGE COMMISSION

Proposed Rules
Securities Act:
Advertising by investment companies; extension of time; correction ---- 41875
Notices
Self-regulatory organizations; proposed rule changes:
Midwest Stock Exchange, Inc ---- 41941
National Association of Securities Dealers, Inc ---- 41941
Hearings, etc.:
Cumulo Alternate Fund, Inc ---- 41940
Cumulo Fund, Inc ---- 41940
Sigma Tax-Free Income Fund, Inc. ---- 41941

STATE DEPARTMENT

See Agency for International Development.

TEXTILE AGREEMENTS IMPLEMENTATION COMMITTEE

Notices
Cotton and man-made textiles:
Korea, Republic of ---- 41902
Tariff Schedules of U.S. Annotated; seven digit item list ---- 41894

TRANSPORTATION DEPARTMENT

See Federal Highway Administration.

TREASURY DEPARTMENT

See Customs Service; Internal Revenue Service; Revenue Sharing Office.

VETERANS ADMINISTRATION

Notices
Meetings:
Educational Allowances Station Committee ---- 41942

WATER RESOURCES COUNCIL

Notices
Water resource policy study; hearings; extension of time ---- 41943

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

5 CFR
213 (7 documents) ---- 41813, 41814
PROPOSED RULES:
890 ---- 41866

7 CFR
910 ---- 41814
1821 ---- 41815
1832 ---- 41815
1980 ---- 41816
2852 ---- 41843
2858 ---- 41846
PROPOSED RULES:
931 ---- 41866
989 ---- 41867
1097 ---- 41873
1102 ---- 41873
1108 ---- 41873

8 CFR
235 ---- 41847

9 CFR
92 ---- 41848
112 ---- 41849
160 ---- 41850
161 ---- 41850

9 CFR—Continued
PROPOSED RULES:
1 ---- 42044
3 ---- 42044
381 ---- 41873

16 CFR
PROPOSED RULES:
13 ---- 41874
801 ---- 41875
802 ---- 41875
803 ---- 41875

17 CFR
PROPOSED RULES:
230 ---- 41875

21 CFR
14 (4 documents) ---- 41851
176 (3 documents) ---- 41852, 41853
510 ---- 41854
520 ---- 41854
522 ---- 41855
558 ---- 41855
PROPOSED RULES:
182 ---- 41876
184 ---- 41876
895 ---- 42000

26 CFR
11 ---- 41856
404 ---- 41856

23 CFR
PROPOSED RULES:
2 ---- 41878

29 CFR
1952 ---- 41857
2602 ---- 41858
2606 ---- 41858
2610 ---- 41858
PROPOSED RULES:
1601 ---- 42022

31 CFR
51 ---- 41859

45 CFR
122a ---- 42005
166 ---- 42016

47 CFR
PROPOSED RULES:
73 ---- 41879

50 CFR
32 (10 documents) ---- 41861–41865
PROPOSED RULES:
216 ---- 41879

V 42 161 AUG 19 77 UM V

CUMULATIVE LIST OF PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR

Ch. I 38891

3 CFR

EXECUTIVE ORDERS:

12006 39081

MEMORANDUMS:

January 2, 1973 (Amended by Memorandum of August 1, 1977) 40169
April 26, 1973 (See Memorandum of August 1, 1977) 40169
December 13, 1973 (See Memorandum of August 1, 1977) 40169
October 29, 1974 (See Memorandum of August 1, 1977) 40169
May 20, 1975 (See Memorandum of August 1, 1977) 40169
August 5, 1975 (See Memorandum of August 1, 1977) 40169
March 25, 1976 (Superseded by Memorandum of August 1, 1977) 40169
April 14, 1976 (See Memorandum of August 1, 1977) 40169
November 5, 1976 (See Memorandum of August 1, 1977) 40169
November 19, 1976 (Supplemented by Memorandum of July 21, 1977) 41401
July 20, 1977 39083
July 21, 1977 41401
August 1, 1977 40169
August 5, 1977 40171

4 CFR

105 38891

5 CFR

213 ..... 39085, 39657, 40173–40175, 40215, 40866, 40867, 41265–41267, 41813, 41814
713 40175

PROPOSED RULES:

890 41866

7 CFR

2 39669
27 40677
68 40868
318 41267
354 41267
406 39953
409 39956
650 40114
725 40881
905 40882
908 ..... 38892, 39359, 39959, 40678, 41095, 41603
910 ..... 39085, 39359, 39669, 40882, 41814
918 40883
922 41268
926 40678
927 39670
929 40679
944 40885
945 40886
946 39671
947 41403
948 39360
958 39360
967 39361

7 CFR—Continued

980 40175
1011 40888
1040 41603
1205 41404
1421 ..... 40175–40185, 41269
1425 40187
1427 40421
1443 41269
1473 41269
1479 41269
1821 ..... 39085, 41815
1822 ..... 39361, 39362, 40679
1832 41815
1980 ..... 39362, 41816
2024 40680
2852 41843
2858 41846

PROPOSED RULES:

220 40911
780 39223
917 39989
919 41431
926 41130
927 41644
929 39989
931 41866
945 39395
946 38913
967 ..... 39108, 41431
989 41867
993 ..... 39672, 41644
1002 41582
1006 38913
1011 39108
1012 38913
1013 38913
1097 41873
1102 41873
1108 41873
1133 40216
1435 40216

8 CFR

235 41847
242 38892

PROPOSED RULES:

108 39672

9 CFR

82 39658
92 41848
112 41849
160 41850
161 41850
325 39086

PROPOSED RULES:

1 42044
3 42044
51 40911
381 41873

10 CFR

0 38893
71 39364
Ch. II 41095
202 41269
210 39959
211 ..... 39959, 41566
212 ..... 38894, 39195, 39959, 41566
213 39087

10 CFR—Continued

430 39964
460 41270

PROPOSED RULES:

205 41242
210 40915
211 ..... 39914, 39395, 39990, 40448, 40915, 41242
212 ..... 39114, 40915, 41242, 41396, 41572
430 ..... 39114, 39673, 40217, 40701, 40826
450 41645

12 CFR

7 39969
202 ..... 39368, 40424
207 41604
220 41604
221 41604
224 41604
226 40424
329 40425
343 40891
505 39368
545 39088
563 39198
563b 39088
701 39369

PROPOSED RULES:

308 41130
311 41130
564 39115

13 CFR

120 40900
123 39970
301 39970
317 38896

PROPOSED RULES:

107 39992

14 CFR

1 41101
39 ..... 38896–38900, 39373–39377, 39971, 39972, 41102–41106, 41622–41625
45 41101
71 ..... 38901, 39378, 39379, 39972–39976, 40690–40693, 41107–41113, 41625–41627
73 ..... 39379, 41113
75 39379
97 ..... 39380, 41114, 41627
1204 41628

PROPOSED RULES:

25 41236
39 ..... 38917, 41131–41133, 41647
71 ..... 38917, 39993, 39994, 40710, 40711, 41134–41137, 41648
75 ..... 38917, 40711
121 41649
123 41649
135 41649
241 39115
245 39115
246 39115
378 40450

15 CFR

46 39976
70 38901

PROPOSED RULES:

904 40711

16 CFR

2 39658
3 ..... 39658, 39977
13 ..... 39198, 40681
18 39660
22 39660
27 41270
35 39660
47 39660
66 39660
105 39860
138 39660
177 39660
191 39660
206 39660
226 39660
433 40426
702 39381
1025 39089
1026 39089
1201 40188

PROPOSED RULES:

13 ..... 40714, 41297, 41431, 41649, 41874
441 39995
453 41651
705 39223
801 ..... 39040, 39995, 41875
802 ..... 39040, 39995, 41875
803 ..... 39040, 39995, 41875
1500 39648
1605 39402

17 CFR

140 39033
200 ..... 40189, 40900
239 ..... 40900, 41405
240 ..... 38902, 39090, 40900, 41405
241 41022
249 40902
270 41405

PROPOSED RULES:

1 39036
210 41433
211 41433
230 41875
231 41434
239 41139
240 ..... 41138, 41434
241 41434
270 41139
274 41139

18 CFR

1 40191
3 ..... 40191, 41276
4 40191
5 40191
6 40191
16 40191
35 ..... 39660, 41277
101 39661
104 39661
141 39661
154 ..... 41276, 41277
157 ..... 39090, 41276
201 39661
204 39661
260 39661

19 CFR

133 41278
153 ..... 39200, 41406
159 41630
205 40426
210 40428

PROPOSED RULES:

134 39227

20 CFR

416 ..... 39098, 40191
602 40192
901 ..... 39200, 41115
902 39200

PROPOSED RULES:

404 38918
405 39995

21 CFR

Ch. I 40904
6 39100
14 41851
133 39101
176 ..... 41852, 41853
193 41279
310 41374
510 41854
520 41854
522 ..... 39103, 41855
558 41855
561 41279
700 41374
801 40215

PROPOSED RULES:

182 ..... 39117, 41299, 41876
184 ..... 39117, 41299, 41876
186 41299
312 41301
320 39675
500 40217
808 41301
895 42000

22 CFR

123 ..... 39103, 41631
124 41631
202 40428

23 CFR

160 41279
655 ..... 41280, 41633

PROPOSED RULES:

Ch. I 41651

24 CFR

25 40193
203 40430
811 39209
880 39212
881 39212
883 39212

25 CFR

141 40194
221 41116
252 40904
258 40904

PROPOSED RULES:

54 41435

26 CFR

7 39104
11 ..... 39382, 41856
404 41856

26 CFR—Continued

PROPOSED RULES:

1 ..... 38919, 39227, 39233, 39408 39997
301 ..... 39227, 39233, 39997
404 ..... 39227, 39233, 39997

27 CFR

178 41116

PROPOSED RULES:

181 ..... 39316, 40921

28 CFR

0 ..... 40433, 41407
2 ..... 39668, 39808, 41407
16 ..... 40905, 41408
17 39212
32 39386

PROPOSED RULES:

2 ..... 41435, 41436, 41878
540 41368
541 41368
548 41368
551 41368

29 CFR

102 41117
452 ..... 39105, 41280
1601 41280
1908 41386
1952 ..... 40194, 40195, 41857
2602 41858
2606 41858
2610 41858

PROPOSED RULES:

70a 39997
1061 42022
1910 39120
2608 39120

31 CFR

51 41859

32 CFR

Ch. I 39213
199 41118
286b 39214
290 40433
806b 41409

PROPOSED RULES:

114 39234
143 41306
286 40552
865 39999

33 CFR

110 ..... 39386, 40693, 40694
117 ..... 38903, 39386, 41118
183 41634
204 ..... 40196, 41281
207 40908
274 41118

PROPOSED RULES:

117 ..... 38919, 38920
154 39408
155 39408
156 39408
157 39999

34 CFR

231 40694

35 CFR

69 40196

V 42 161 AUG 19 77 UM

36 CFR

67 40436
200 40438
292 39387

37 CFR

PROPOSED RULES:
2 40450
4 40450
201 ..... 41437, 41438

38 CFR

2 ..... 41409, 41410
13 41410
14 41410

PROPOSED RULES:
8 40452
17 ..... 39409, 41439

39 CFR

111 ..... 38904, 41634

PROPOSED RULES:
111 ..... 39411, 40219, 40922

40 CFR

52 ..... 39389, 39664, 40695, 41121
55 41282
60 ..... 39389, 41122, 41424, 41754
61 41424
86 40697
136 39977
180 ..... 39977, 40909
204 41635
416 40697
610 40438

PROPOSED RULES:
20 39414
52 ..... 38920, 38921, 39235, 39415, 40220
61 40452
85 40221
180 ..... 40715, 40922
211 41139
700 39182
710 39182

41 CFR

1-4 ..... 39215, 41635
Ch. 9 41128
29-1 40197
29-2 40201
29-3 40201
29-12 40205
29-26 40206
29-61 40206

41 CFR—Continued

101-41 41128
101-42 40847
101-43 40847
101-44 40850
101-45 40852
101-46 40858
101-47 40698
105-63 40858
114-25 39978

PROPOSED RULES:
9-4 40923
60-4 41378

43 CFR

423 41122

PROPOSED RULES:
424 41440
1880 40000

45 CFR

100a 40207
122a 42005
166 42016
173 40209
194 40207
196 39218
1015 41282

PROPOSED RULES:
11 41140
146a 40221
170 40926

46 CFR

2 41636
10 39978
35 41636
151 41636

PROPOSED RULES:
162 40000
502 40452

47 CFR

15 39979
73 ..... 38905, 39665, 39981, 39982, 40210, 41123-41125, 41283
76 ..... 41127, 41284
81 39666
87 38906

PROPOSED RULES:
1 40715
13 40939
43 40454

47 CFR—Continued

PROPOSED RULES—Continued
61 40002
63 39236
73 ..... 40003, 40454, 41141, 41302-41305, 41879
81 ..... 40223, 40224, 40455
83 40224
89 39560
90 39560
91 ..... 39560, 41143
93 39560

49 CFR

99 39220
529 39983
571 ..... 39983, 39984
580 38906
581 38909
1033 ..... 39221, 39389, 39985, 41424
1036 40444
1051 40860
1057 39666
1100 40698
1104 40860
1108 39222
1109 ..... 39390, 39985
1251 39667
1254 39390

PROPOSED RULES:
173 ..... 40003, 41651
174 ..... 40003, 41651
178 ..... 40003, 41651
179 ..... 40003, 41651
1047 40459
1082 40459
1106 39243
1307 41144

50 CFR

17 ..... 39985, 40682-40685
20 ..... 39106, 39667, 40211, 41636
26 ..... 40213, 41425
32 ..... 38909-38912, 39391-39394, 40214, 40445-40447, 40690, 40861-40865, 41127, 41426-41429, 41642, 41861-41865
33 ..... 40214, 41426
216 ..... 39394, 41128, 41879
371 40866
611 ..... 39106, 41430

PROPOSED RULES:
17 ..... 38921, 39121, 40716, 40823
20 41145
23 40459
32 40465
260 41440

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	*Date*	*Pages*	*Date*	*Pages*	*Date*
38891-39080	Aug. 1	39953-40167	8	41095-41264	15
38081-39193	2	40169-40419	9	41265-41399	16
39195-39358	3	40421-40675	10	41401-41602	17
39359-39656	4	40677-40845	11	41603-41812	18
39657-39952	5	40847-41094	12	41813-42183	19

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

HEW/FDA—Annatto; permanent listing for use in external drugs and cosmetics.
36993; 7-19-77

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

V 42 161 AUG 19 77 UM V

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of the Interior

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment changes the title of the position of Special Assistant to the Assistant Secretary—Administration and Management to Special Assistant to the Assistant Secretary—Policy, Budget, and Administration because this title reflects the new title of the supervisor.

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3312(a)(30) is amended as set out below:

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* • • •

(30) One Special Assistant to the Assistant Secretary—Policy, Budget and Administration.

• • • • • • •

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-24050 Filed 8-18-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Agriculture

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This amendment excepts under Schedule C one position of Confidential Assistant to the Director of Agricultural Economics because the position is confidential in nature.

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3313(n)(4) is amended as set out below:

§ 213.3313 Department of Agriculture.

• • • • • • •

(n) *Agricultural Economics.* • • •

(4) Two Confidential Assistants to the Director.

• • • • • • •

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218).

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-24051 Filed 8-18-77;8:45 am]

PART 213—EXCEPTED SERVICE

Community Services Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment changes the headnote title of the Office of Legislative Relations to the Office of Legislative Affairs because it reflects an organizational redesignation. Also, the position of Confidential Secretary (Typing) to the Associate Director for Legislative Affairs is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3373(d) is amended and (d)(4) is added as set out below:

§ 213.3373 Community Services Administration.

• • • • • • •

(d) *Office of Legislative Affairs.* • • •

(4) One Confidential Secretary (Typing) to the Associate Director.

• • • • • • •

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-24052 Filed 8-18-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: The position of Secretary to the Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3384(b)(24) is added as set out below:

§ 213.3384 Department of Housing and Urban Development.

• • • • • • •

(b) *Office of the Assistant Secretary for Housing—Federal Housing Commissioner.* • • •

(24) One Secretary to the Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

• • • • • • •

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-24053 Filed 8-18-77;8:45 am]

PART 213—EXCEPTED SERVICE

Community Services Administration

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: The position of Confidential Secretary to the Assistant Director for Policy, Planning, and Evaluation is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3373(j) is added as set out below:

§ 213.3373 Community Services Administration.

• • • • • • •

(j) *Office of Policy, Planning, and Evaluation.*

(1) One Confidential Secretary to the Assistant Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-24098 Filed 8-18-77;8:45 am]

V 42 161 AUG 19 77 UM V

PART 213—EXCEPTED SERVICE
Federal Energy Administration

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: (1) The following positions are excepted under Schedule C because they are confidential in nature: One position of Staff Assistant to the General Counsel, one position of Confidential Assistant to the Assistant Administrator for Energy Information and Analysis, and one position of Confidential Assistant for Legislation, Office of Energy Resource Development. (2) The position of Executive Assistant to the Administrator is revoked in accordance with the provisions of the automatic revocation system.

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3388 (e) (3) and (k) (3) are added, (j) (2) is amended, and (k) (1) is revoked as set out below:

§ 213.3388 Federal Energy Administration.

* * * * * *

(e) *Office of the General Counsel.* * * *

(3) One Staff Assistant to the General Counsel.

* * * * * *

(j) *Office of the Assistant Administrator for Energy Resource Development.* * * *

(2) Two Confidential Assistants for Legislation. * * *

(k) *Office of the Assistant Administrator for Energy Information and Analysis.*

(1) (Revoked) * * *

(3) One Confidential Assistant to the Assistant Administrator.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218).

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–24099 Filed 8–18–77;8:45 am]

PART 213—EXCEPTED SERVICE
Department of Agriculture

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule A seasonal positions of supervisory cotton classers, GS–11, and supervisory clerks, GS–4, in the cotton classing offices of the Agricultural Marketing Service, U.S. Department of Agriculture. This exception is granted because it is impractical to examine for these intermittent positions since the skills and abilities needed are developed by the unique and specialized experience received in lower graded seasonal positions involved in cotton classing work.

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3113(f) (1) is amended to read as follows:

§ 213.3113 Department of Agriculture.

* * * * * *

(f) *Agricultural Marketing Service.*

(1) Positions of supervisory cotton classers GS–11, cotton classers GS–9 and below, clerks GS–2, supervisory clerks GS–3 and GS–4, and laborers, employed on a seasonal basis in cotton-classing offices outside the Washington, D.C. metropolitan area. Employment under this authority (or under a combination of this authority and any other excepting authority) shall not exceed 1,280 hours a year in the case of supervisory cotton classers, cotton classers and laborers, and 1,040 hours a year in the case of clerks; except that a GS–5 cotton classer may be employed as a trainee during his first appointment for an initial period of 6 months for training purposes without regard to the above time limitation.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–24055 Filed 8–18–77;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 106]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA
Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period August 21–27, 1977. This regulation is needed to provide for orderly marketing of fresh lemons for the regulation period because of the production and marketing situation confronting the lemon industry.

EFFECTIVE DATE: August 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202–447–3545).

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of such lemons, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the specified week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation for the quantity of lemons it considers advisable to be handled during the specified week. The recommendation resulted from consideration of the factors covered in the order. The committee further reports the demand for lemons is good on size 140's and smaller, but poorer on larger sizes. Average f.o.b. price was $6.63 per carton the week ended August 13, 1977, compared to $6.89 per carton the previous week. Track and rolling supplies at 170 cars were down 55 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be established as provided in this regulation.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for lemons and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of lemons. It is necessary, to effectuate the declared policy of the act, to make this regulation effective as specified. The committee meeting was held on August 16, 1977.

§ 910.406 Lemon Regulation 106.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period August 21, 1977, through August 27, 1977, is established at 270,000 cartons.

(2) As used in this section, "handled" and "carton(s)" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 17, 1977.

CHARLES R. BRADER,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77–24299 Filed 8–18–77;11:54 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 443.2]

PART 1821—FARM PURCHASE AND DEVELOPMENT LOANS TO INDIVIDUALS
Soil and Water Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to accept applications for soil and water loans when work was started or completed between April 7, 1977, and August 2, 1977. This action is necessary because of the extreme drought in some states and is intended to help this situation.

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Denton E. Sprague, 202–447–4597.

SUPPLEMENTAL INFORMATION: Subpart B of Part 1821; Title 7, Code of Federal Regulations is amended in Exhibit B to authorize accepting of applications for work started or completed between April 7, 1977, and August 2, 1977. Because of the extreme drought, early expectations of irrigation water shortages, the urgency to develop a water supply, and the competition for development services and irrigation equipment, many farmers obtained interim short-term financing to drill wells or made other arrangements for water prior to the issuance of Exhibit B. This situation has placed such farmers in a precarious financial position. We believe it will be possible by this amendment to assist most of those farmers under the provisions of the Emergency Drought Act of 1977 Because of this situation, any delay in giving this assistance by reason of the publication of this change in proposed rulemaking form would be contrary to the public interest.

As amended, Exhibit B to Subpart B, paragraph I, is revised to add the following to the end of the paragraph as follows:

EXHIBIT B—BUREAU OF RECLAMATION LOANS TO IRRIGATORS ADMINISTERED BY FARMERS HOME ADMINISTRATION

I. *General.* * * *

County Supervisors are authorized to accept applications and consider loans for applicants whose development work was started or completed prior to issuance of Exhibit B but after enactment of the Emergency Drought Act of 1977 on April 7, 1977, under the following conditions:

1. The development work is for an authorized purpose as stated in Attachment I of this Exhibit.

2. The work is or has been completed in accordance with the requirements of Subpart B of Part 1821 of this Chapter.

3. All the other requirements of this exhibit apply.

* * * * * *

(7 U.S.C. 1989; 31 U.S.C. 686; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: August 9, 1977.

DENTON E. SPRAGUE,
Acting Administrator, Farmers Home Administration.

[FR Doc.77–24026 Filed 8–18–77;8:45 am]

SUBCHAPTER N—OTHER LOAN PROGRAMS

[FmHA Instruction 441.2]

PART 1832—EMERGENCY LOANS
Emergency Loan Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations to add provisions authorizing a reduction of interest rates on emergency loans for actual losses. This is a result of Pub. L. 95–89, which was enacted August 4, 1977, authorizing new interest rates for emergency loans for actual losses for disasters occurring on or after July 1, 1976, and prior to October 1, 1978. This is intended to further aid disaster victims.

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Jesse C. Joyner, 202–447–6257.

SUPPLEMENTARY INFORMATION: Sections 1832.21 and 1832.30 of Subpart A, Part 1832, Title 7, Code of Federal Regulations (40 FR 42321) are amended. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since the change is mandated by Pub. L. 95–89. Proposed rulemaking is therefore unnecessary. Pub. L. 95–89 provides that interest rates on emergency loans for actual losses be set in the following manner:

(a) For repair or replacement of the primary residence and personal property, 1 percent on the first $10,000, 3 percent on the balance not to exceed $40,000, and 5 percent above $40,000.

(b) For other actual loss loans, 3 percent up to $250,000 and 5 percent above $250,000.

For disasters occurring prior to July 1, 1976, the interest rate for actual losses will remain at 5 percent. The law further provides that when a loan bears interest at different rates repayment of principal and interest on the lowest interest rate portion of the loan will be scheduled for repayment before principal payments on those portions of the loan bearing higher interest rates.

Sections 1832.21 and 1832.30 are amended as follows:

1. In § 1832.21, paragraph (a) is amended as set forth below, a new paragraph (b) is added as set forth below and the current paragraphs (b) and (c) are redesignated as (c) and (d) respectively.

§ 1832.21 Rates and terms.

(a) *Interest rates.* Interest rates on the initial advance will accrue from the date of the promissory note. Interest on other advances will accrue from the date of the loan check for each such advance. Interest rates are as follows:

(1) Except for disasters occurring on or after July 1, 1976, and prior to October 1, 1978, EM loans for actual losses will be 5 percent.

(2) For disasters occurring on or after July 1, 1976, and prior to October 1, 1978, EM loans for actual losses will be as follows:

(i) For repair or replacement of the primary residence and personal property, 1 percent on the first $10,000, 3 percent on the balance not to exceed $40,000, and 5 percent above $40,000.

(ii) For other actual loss loans, 3 percent up to $250,000 and 5 percent above $250,000.

(3) The interest rate for EM loans made under § 1832.20 paragraphs (b) and (c) (2) (Subtitle B purposes), and § 1832.20 paragraphs (c) (1) (Subtitle A purposes) will be the interest rate prevailing in the private market for similar loans, as determined by the Secretary of Agriculture. The prevailing market rates are specified in Part 1810 Subpart A of this Chapter. These interest rates, for other than actual losses, will be reviewed in June and December of each year with new interest rates established on July 1 and January 1 of each year by the Secretary.

(b) *Establishing repayment terms and delay of principal payments.* EM loans for actual losses where different interest rates are authorized as set forth in § 1832.21(a) (2) will be scheduled for repayment of the principal and interest on that portion of the loan bearing the lowest interest rate before principal pay-

V 42 161 AUG 19 77 UMI

ments are scheduled for portions of the loan bearing higher interest rates. However, interest must be collected on the portion of the principal deferred during the period principal payments are not scheduled. The portion of the loan bearing the lower interest rate should be repaid as soon as possible, consistent with the applicant's repayment ability. This deferral of principal does not apply to EM Annual Production or Major Adjustment Loans.

* * * * *

2. Paragraphs (a) and (b) of 1832.30 are amended as set forth below to clarify the internal procedures which will accompany the new interest rate structure.

§ 1832.30 Loan docket forms.

(a) *Promissory Note(s).* A separate note will be prepared for each Form FmHA 440–1, "Request for Obligation of Funds," used in obligating the total amount of the EM loan. Each scheduled installment will include interest in addition to principal unless deferment of principal is authorized in accordance with § 1832.21 (b) and (d). The first installment may not be less than the amount equal to interest on the loan from the estimated date or actual date of closing to installment due date.

(1) Form FmHA 441–1, "Promissory Note," will be used when a loan is scheduled for payment in unequal annual installments, or within one full crop year after loan closing.

(2) Form FmHA 440–16, "Promissory Note," will be used when a loan is scheduled for payment in equal annual installments of three years or more. Also, this note may be used when the first two installments are unequal and the balance consists of equal installments.

(3) When the applicant is partnership, the promissory note(s) will be executed so as to evidence the liability of the partnership as well as each partner as an individual. This will be accomplished by typing the name of the partnership above the space provided for signatures and having the note executed by each member of the partnership both as a partner and as an individual. To evidence the liability of the partnership, the words "As Partners" will be typed immediately beneath the name of the partnership and each partner will sign thereunder. To evidence the partners' liability as individuals, the words "As Individuals" will be typed at the top of the blank space to the left of the lines for signatures, and each partner will sign thereunder, along with his spouse if required by State Instructions or loan closing instructions.

(4) When the applicant is a corporation, the promissory note(s) will be executed by the corporation acting through its appropriate officials and, in order to evidence their personal liability for the debt, by the principal stockholders as individuals. To evidence the principal stockholders' liability as individuals each principal stockholder will sign the note(s) except in unusual circumstances including legal disability, absence from the country, or legal justification. Their spouses will also sign the note if required by State Instructions or loan closing instructions.

(b) *Form FmHA 440–1, "Request for Obligations of Funds."* This form is used to obligate loan funds to provide certain statistical information about the loan and applicant and to request all or part of the loan funds obligated.

(1) A separate Form FmHA 440–1 will be prepared for each amount of the total loan which is at a different interest rate or repayment period as established in accordance with § 1832.21 (a) and (c). The full amount of the loan as obligated on the Form FmHA 440–1 will be rounded to the nearest $10.

(2) EM loans approved for borrowers presently indebted for an EM loan, but having NEW qualifying losses from a subsequent major or natural disaster for which a MDDN, PEDN, SDDN, or SDAN has been assigned, will show the new appropriate disaster designation number. This number will be used for all subsequent EM loans approved unless the borrower has new qualifying losses from a different disaster for which another disaster designation number has been assigned.

(3) The Finance Office will not process Form FmHA 440–1 for EM loans that are not coded with a disaster designation number.

* * * * *

(7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: August 13, 1977.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc.77–24025 Filed 8–18–77;8:45 am]

[FmHA Instructions 440.1 and 1980–C]

PART 1980—GUARANTEED LOAN PROGRAMS

Subpart C—Emergency Livestock Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule, revision and redesignation.

SUMMARY: The Farmers Home Administration adds and revises regulations as part of a general administrative restructuring of all guaranteed loan regulations. This addition and revision is intended to enable lenders to make more guaranteed loans from the funds received from secondary market sales, and to redesignate, clarify, and revise the regulations concerning Emergency Livestock loans. This Subchapter C will apply only to loans made on and after August 19, 1977. Line of credit guarantees issued before August 19, 1977, will be administered under the provisions of Part 1845, Subchapter D, Chapter XVIII, Title 7, Code of Federal Regulations.

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Denton E. Sprague, 202–447–4597.

SUPPLEMENTAL INFORMATION: On May 23, 1977, there was published in the FEDERAL REGISTER (42 FR 26358–26376) a notice of proposed rulemaking involving the addition of Subpart C, "Emergency Livestock Loans" of Part 1980, Subchapter N, Chapter XVIII, Title 7, Code of Federal Regulations. This Subpart C (§§ 1980.201–1980.299) redesignates, clarifies, and revises various sections of the regulations now contained in Subchapter D, Part 1845, "FmHA Emergency Livestock Line of Credit Guarantees," published at 40 FR 30623, and amended at 41 FR 7494; 41 FR 39005; 41 FR 55173; 41 FR 55321; 42 FR 2308. Part 1845 is to be retained, however, for servicing and liquidation of Contracts of Guarantee issued under that Part. Interested parties were given the opportunity to submit on or before June 23, 1977, all comments, suggestions, or objections regarding the proposed addition.

Comments have been received and considered and appropriate changes have been incorporated. The incorporated changes plus the major changes originally proposed will:

1. Implement FmHA's secondary market provisions contained in Subpart A of Part 1980 and published at 41 FR 47462, by providing two lending approaches for lenders to choose from. If a lender desires to sell notes in the secondary market it will receive a Loan Note Guarantee from FmHA. Such a guarantee constitutes full faith and credit to holders. On the other hand, if a lender desires a guarantee on a line of credit, FmHA will issue a Contract of Guarantee. Notes constituting a line of credit may not be sold in the secondary market with full faith and credit to holders.

2. Increase emphasis on loan analysis, and participation by FmHA County Supervisors and District Directors in the issuance of guarantees.

3. Increase FmHA County Supervisor and District Director responsibility in monitoring lender's servicing actions.

4. Strengthen and clarify existing procedures dealing with making and servicing these guarantees, and abolish the requirement of a County Committee certification.

5. Provide the means for converting Contract of Guarantee cases to Loan Note Guarantee cases when lenders desire to enjoy the benefits of the secondary market. A one percent conversion fee will be charged lenders for this servicing action. However, a lender may obtain a new guarantee without payment of a fee for a borrower who can qualify by refinancing the unpaid balance on his existing guaranteed loan(s) with a new guaranteed loan. This will require the lender to prepare and present a completely new guarantee request to FmHA for consideration.

Subpart C of Part 980, as added, is set forth below:

Subpart C—Emergency Livestock Loans

Sec.
1980.201 Introduction.
1980.202–1980.206 [Reserved]
1980.207 Definitions.
1980.208 Program objective.
1980.209 Eligible lenders.
1980.210 Case and identification (ID) numbers.
1980.211–1980.214 [Reserved]
1980.215 Types of guarantees.
1980.216 Full faith and credit.
1980.217 Guarantee limits.
1980.218–1980.219 [Reserved]
1980.220 Eligibility.
1980.221 Loan purposes.
1980.222 Prohibited loan purposes.
1980.223 Limitations and special provisions.
1980.224 Loan rates and terms.
1980.225 Collateral requirements.
1980.226 Promissory notes, security instruments, and financing statements.
1980.227 Relationship with other FmHA insured or guaranteed loans.
1980.228 Charges and fees by lender.
1980.229–1980.245 [Reserved]
1980.248 Receiving and processing applications.
1980.247 FmHA evaluation of applications.
1980.248 [Reserved]
1980.249 Review of requirements.
1980.250 Conditions precedent to issuance of the guarantee.
1980.251 Issuance of guarantee instruments.
1980.252–1980.259 [Reserved]
1980.260 Substitution of lenders.
1980.261–1980.268 [Reserved]
1980.269 Extension of guarantees issued before December 20, 1976.
1980.270 Changeover of loans covered by 80 percent loss guarantees to line of credit guarantees without sale to holder(s).
1980.271 Conversion of existing EL loans so the guaranteed portions can be sold as permitted by Subpart A of Part 1980.
1980.272 Refinancing existing EL loans so that the guaranteed portion can be sold through the Loan Note Guarantee system.
1980.273–1980.276 [Reserved]
1980.277 Change from livestock to farming operation after guarantee is issued.
1980.278 Transfer and assumption of loans.
1980.279 Loan servicing.
1980.280 Protective advances.
1980.281 Termination of guarantee.
1980.282 Defaults by borrower.
1980.283 Liquidation.
1980.284–1980.289 [Reserved]
1980.290 Graduation.
1980.291 Appeal procedure.
1980.292 Access to records of lender.
1980.293 County and State Office files.
(a) County Office files.
(b) State Office files.
1980.294 FmHA forms.
1980.295–1980.299 [Reserved]
Appendices A, B, C, D, E, and F.

AUTHORITY: Sec. 10 of Pub. L. 93–357 88 Stat. 392; delegation of authority Secretary of Agriculture (7 CFR 2.23); delegation of authority by Assistant Secretary for Rural Development (7 CFR 2.70).

Subpart C—Emergency Livestock Loans

§ 1980.201 Introduction.

(a) *Policy.* This Subpart contains regulations for making and servicing Emergency Livestock (EL) loans made after August 19, 1977, and applies to lenders, holders, borrowers, Farmers Home Administration (FmHA) personnel, and other parties involved in making, guaranteeing, holding, servicing, or liquidating such loans. In addition, Subpart A of this part applies to EL loans only to the extent that sections of Subpart A are specifically referred to in this Subpart.

(b) *Program administration.* This program like other FmHA programs is administered by the FmHA Administrator through the State Director serving each State through the District Director to the County Supervisor. The County Supervisor is the focal point for the program and the local contact person for guarantee processing and servicing activities even though this Subpart refers in various places to the duties and responsibilities of other FmHA employees.

(c) *Administrative provisions.* Throughout this subpart there appear administrative provisions for the State Director, District Director, and County Supervisor. These provisions establish the internal duties, responsibilities and procedures to carry out the requirements of the program and are identified as "ADMINISTRATIVE" and follow the appropriate sections of this Subpart.

§§ 1980.202–1980.206 [Reserved]

§ 1980.207 Definitions.

The following general definitions are applicable to the terms used in this Subpart. Additional definitions may be found in § 1980.6 of Subpart A, except that those contained in § 1980.6(a) (2), (4), (7), (9), (13) and (14) are not applicable to cases in which a lender requests a Contract of Guarantee.

(a) *Act.* The Emergency Livestock Credit Act of 1974 (P. L. 93–357); as amended by Public Laws 94–35, and 94–517.

(b) *Applicant.* The person or entity carrying on the farming or ranching operation and desiring EL loan assistance from a lender.

(c) *Approval officials.* These are field officials who have been delegated loan and grant approval authorities within applicable loan programs, subject to the dollar limitations contained in Tables available in any FmHA State or County Office, or from the National Office, 14th Street and Independence Avenue, SW, Washington, D.C. 20250. Field officials having loan and grant approval authorities are State Directors, District Directors, County Supervisors, and Assistant County Supervisors. Refer to Subpart A of Part 1901 of this Chapter for authorities and responsibilities delegated to field officials for all programs of FmHA.

(d) *Guaranteed line of credit.* EL loan advances made and serviced by a lender subject to a maximum amount agreed to by the lender and FmHA which is specified in a Form FmHA 449–27, "Contract of Guarantee (Emergency Livestock Loan)."

(e) *Livestock.* The term "livestock" means beef cattle, dairy cattle, including dairy cattle raised and maintained for the primary purpose of marketing dairy products, swine, sheep, goats, chickens, and turkeys.

(f) *Loan.* This term includes both a fixed amount loan to which a Loan Note Guarantee will be attached and an advance(s) made pursuant to a line of credit guaranteed by a Contract of Guarantee.

(g) *Loan servicing.* All actions that are necessary after loan closing to collect the indebtedness and to protect the security and security rights. The term "servicing" also includes transfer and assumption and liquidation.

(h) *Mortgage.* The term "mortgage" includes any form of instrument used to obtain a security interest or lien upon any rights or interest in real property of any kind. In Louisiana and Puerto Rico the term "mortgage" also refers to the instrument granting any security interest in chattel property.

(i) *Protective advances.* Payments made by the lender to third parties to protect or preserve security property.

(j) *Security.* The term "security" (sometimes referred to as collateral or security property) includes any rights or interests in property of any kind subject to a real or personal property lien.

(1) *Basic security.* All real estate and fixtures and personal property such as foundation herds, flocks, machinery, and equipment serving as security and crops when crops are the only security.

(2) *Normal income security.* All normal income security property planned to be marketed in the regular course of business unless liquidation is approved. If liquidation is approved, such security becomes basic security.

(k) *State.* Any of the fifty States, Puerto Rico, or the Virgin Islands.

(l) *United States.* The term "United States" means the United States itself, any of the 50 States, Puerto Rico, and the Virgin Islands, as appropriate in the context in which the term is used.

§ 1980.208 Program objective.

The basic objective is to make more credit available during the period authorized by Public Law 93–357 as amended, (authority expires September 30, 1978) in the form of loans guaranteed by FmHA for bona fide farmers and ranchers who are primarily and directly engaged in agricultural production and who have substantial livestock operations, so that they may continue their normal farming or ranching operations.

§ 1980.209 Eligible lenders.

See § 1980.13 of Subpart A except that in Contract of Guarantee cases, the form that will apply in §§ 1980.13 (g) and (h) will be Form FmHA 449–38, "Lenders Agreement (Emergency Livestock Loan—Contract of Guarantee)."

§ 1980.210 Case and identification (ID) numbers.

Refer to § 1980.12 of Subpart A.

§§ 1980.211–1980.214 [Reserved]

§ 1980.215 Types of guarantees.

(a) *Loan Note Guarantee.* Lenders desiring to sell the guaranteed portion of

V 42 161 AUG 19 77 UM V

fixed amount loans may use the method contained in Subpart A of this Part. In accordance with that method, loans may be made by a lender and guaranteed by issuance of Form FmHA 449–34, "Loan Note Guarantee," or

(b) *Contract of Guarantee.* Lenders desiring a guarantee on a "line of credit" may use the method contained in this Subpart. Line of credit loans are guaranteed by Form FmHA 449–27. The amount of loan advances outstanding at any one time under a Contract of Guarantee may not exceed the line of credit ceiling set forth in the contract.

(c) *Program termination date.* Neither a Loan Note Guarantee nor a Contract of Guarantee will be executed after September 30, 1978.

§ 1980.216 Full faith and credit.

The Loan Note Guarantee and Contract of Guarantee constitute obligations supported by the full faith and credit of the United States and are incontestable except for fraud or misrepresentation of which the lender or holder has actual knowledge at the time it becomes such lender or holder or which lender or holder participates in or condones. The guarantee and right to require purhase in Loan Note Guarantee cases will be directly enforceable by holder notwithstanding any fraud or misrepresentation by the lender or any unenforceability of the Loan Note Guarantee by lender. The Loan Note Guarantee and Contract of Guarantee will be unenforceable by the lender to the extent any loss is occasioned by violation of usury laws, use of loan funds for unauthorized purposes, negligent servicing, or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing.

§ 1980.217 Guarantee limits.

The maximum loss covered under Form FmHA 449–34 or Form FmHA 449–27 will not exceed ninety percent of the principal and accrued interest on the indebtedness represented by the borrower's guaranteed loan promissory note(s) or assumed under an assumption agreement. Lenders and applicant will propose the percentage of guarantee. The lender and applicant will be informed in writing on Form FmHA 449–14, "Title" or Form FmHA 449–15, "Title" by FmHA of any percentage of guarantee less than proposed by the lender and applicant, and the reasons, therefor, FmHA will determine the percentage of guarantee after considering all credit factors involved, including but not limited to those provisions contained in paragraphs (a), (b), (c), (d) and (e) of § 1980.20 of Subpart A.

§§ 1980.218–1980.219 [Reserved]

§ 1980.220 Eligibility.

To be eligible for an EL loan, an applicant must: (a) *Citizen.* Be a citizen of the United States or a person who has been legally admitted for permanent residence in the United States. If a partnership, the principal partners must be citizens or such permanent residents of the United States. If a corporation, it must be incorporated under the laws of the United States, its principal stockholders must be citizens or such permanent residents of the United States, and the corporation must be authorized to carry on farming or ranching operations in the State in which the EL operation is being conducted. See § 1980.207 for definition of "State" and "United States." Any partner or stockholder owning or controlling a 20 percent or more interest in a partnership or corporation will be considered a principal partner or stockholder. If no person owns or controls as much as 20 percent, all partners and stockholders will be considered principal partners or stockholders.

(b) *Bona fide farmer or rancher.* Be a *bona fide* farmer or rancher (owner-operator, or tenant), (1) doing business in the United States either as an individual, corporation, or partnership, which is recognized in the community as one whose chief occupation is farming or ranching, (2) primarily and directly engaged in agricultural production, and (3) having substantial operations in breeding, raising, fattening, or marketing livestock, including dairy cattle raised and maintained for the primary purpose of marketing dairy products (hereinafter referred to as a livestock operation). *In the case of an individual loan applicant* the term "primarily and directly engaged in agricultural production" means that he derives more than 50 percent of his gross income from *his own* agricultural production or devotes more than 50 percent of his time to such production. The term "substantial operations in livestock" means that he derives not less than 25 percent of his gross farm income from his own livestock operation, or devotes not less than 25 percent of his time to such operation, or has not less than 25 percent of his total capital investment in such operation. *In the case of a corporation or partnership loan applicant,* the term "primarily and directly engaged in agricultural production" means that the corporation or partnership derives more than 50 percent of its gross income from agricultural production, and the shareholders or partners owning or controlling a majority interest in such corporation or partnership derive more than 50 percent of their gross income from their own or the corporation's or partnership's agricultural production, *and* devote more than 50 percent of their time to such production. The term "substantial operations in livestock" means that the corporation or partnership derives not less than 25 percent of its gross farm income from its own livestock operation, or devotes not less than 25 percent of its time to such operation, or has not less than 25 percent of its total capital investment in such operation.

(1) Bona fide farmers and ranchers must be actually engaged in the livestock operations to be financed by the EL loan. If the applicant is an individual, he must manage such livestock operation. If the applicant is a partnership or corporation, it must be managed by one or more of the partners or stockholders. An applicant who does not devote full time to the livestock operation may be considered the manager provided he (or the managing partners or stockholders) visits the farm at sufficiently frequent intervals to exercise control and see that the livestock operation is being carried on properly. Any livestock operation that involves a full-time hired manager or management service does not qualify irrespective of the number of visits made by the partners or stockholders. In addition, bona fide farmers or ranchers do not include those commencing livestock operations or reentering such operations after July 25, 1974, or those engaged in farming ranching; or livestock operations as a hobby or for tax shelter purposes; or those chiefly engaged in other business or employment.

(2) An applicant conducting livestock operations as an individual in different counties or locations may be considered for more than one EL guarantee when more than one lender is involved, if each lender is financing a separate enterprise, provided (a) identifiable separate security is given to each lender and (b) the combined total principal balance outstanding at any one time on guaranteed loans for all lenders involved does not exceed $350,000.

(3) Individual members of a partnership, or individuals doing business jointly or as partners, will not receive individual loans to finance their interest in the joint or partnership livestock operation. The partnership or joint operation will be considered for one loan to cover the livestock operation being conducted jointly or as a partnership.

(4) An estate or trust; a corporation owned primarily by an estate, trust, other corporations, or other partnerships; a partnership composed primarily of an estate, trust, corporation or other partnerships; or an applicant operating under an order of a bankruptcy court, is not considered to be a bona fide farmer or rancher for EL loan purposes.

(c) *Legal capacity.* Possess legal capacity to contract for the loan.

(d) *Ability and experience.* Possess the ability, industry, and experience necessary to carry out the proposed livestock operations to assure a reasonable prospect of success with the assistance of the loan, and honestly endeavor to carry out the undertakings and obligations required of the applicant in connection with the loan.

(e) *Credit elsewhere.* Certify that he is unable to obtain financing without the guarantee. Furthermore, no loan shall be guaranteed unless the lender certifies that the lender is unwilling to provide the needed credit to the applicant without the guarantee.

(f) *Change in the form of an applicant.* Have conducted its livestock operations before July 25, 1974. A change in the form of an applicant from an individual, partnership, or corporation in existence before July 25, 1974, to another form of legal entity will not disqualify

the new entity if it is conducting basically the same operation as was conducted before July 25, 1974, and is primarily owned by substantially the same people that owned the operation before July 25, 1974. If the change in the legal entity has been accompanied by a substantial change in the type(s) of livestock, it will not be financed.

(1) When an individual that was engaged in a livestock operation before July 25, 1974, later forms a partnership or corporation which continues to carry on basically the same livestock operation, the operation's application may still receive consideration provided such individual owns at least 50 percent of the new partnership assets or corporation's voting stock and continues to manage or control the livestock operation.

(2) When a partnership that was engaged in a livestock operation before July 25, 1974, later dissolves but basically the same livestock operation is continued an application from the new legal entity may receive consideration provided:

(i) The assets of the prior partnership are now owned by an individual applicant who as a partner in the prior partnership had owned at least 50 percent of the partnership assets; or

(ii) The assets of the prior partnership are now owned by a new partnership applicant and the partners who had owned at least 50 percent of the assets of the prior partnership are now partners owning at least 50 percent of the assets of the new partnership applicant; or

(iii) The assets of the prior partnership are now owned by a new corporation applicant, and the partners of the prior partnership who had owned at least 50 percent of those assets now own at least 50 percent of the voting stock of the new corporation applicant.

(iv) One or more of the partners who managed the livestock operation for the prior partnership must now manage the operation for the applicant.

(3) When a corporation that was engaged in a livestock operation before July 25, 1974, dissolves but basically the same livestock operation is continued, the application from the new legal entity may receive consideration provided:

(i) The assets of the dissolved corporation are now owned by an individual who had owned at least 50 percent of the voting stock of the former corporation;

(ii) The assets of the former corporation are now owned by a new partnership applicant and the stockholders who had owned at least 50 percent of that corporation are now partners owning at least 50 percent of the assets of the new partnership applicant;

(iii) The assets of the former corporation are now owned by a new corporation applicant and the stockholders who had owned at least 50 percent of the voting stock of the former corporation are now stockholders owning at least 50 percent of the voting stock of the new corporation applicant;

(iv) One or more of the stockholders who managed the livestock operation for the prior corporation must now manage the operation for the new applicant.

§ 1980.221 Loan purposes.

EL loans may be guaranteed for purposes which are essential to carrying on livestock operations related to breeding, raising, fattening, or marketing livestock. These purposes are:

(a) Purchase of livestock for replacement or restocking purposes, but not to permit expansion of livestock operations beyond a level (represented by numbers of livestock) equal to the highest level reached during the eighteen months immediately preceding July 25, 1974. When operations have been expanded beyond that level, the cost of financing the total operation will be determined and a percentage of this amount equal to the current number of livestock in the applicant's operation divided into the highest 18 month livestock number level will be used in arriving at the amount of EL loan.

(b) Purchase of production of livestock feed.

(c) Payment of customary and equitable charges for grazing permits and for the use of farm or ranch buildings, pasture land, and land for the production of feed crops.

(d) Hire, repair, or replace fixtures, farm machinery, and equipment necessary for livestock production and marketing.

(e) Transportation of livestock, normally incurred in the livestock operation.

(f) Building or repair of fences and holding pens.

(g) Refinancing of secured and unsecured debts incurred for the livestock operation, when:

(1) Such refinancing is essential for the applicant to remain in business.

(2) The lending agency would not refinance the loan in the absence of a guarantee, and

(3) The lending agency is not currently refinancing similar loans to others without such a guarantee.

(h) Payment of real estate or personal property taxes and water or drainage taxes or assessments that must be paid to permit continuation of the livestock operation.

(i) Payment of premiums on insurance necessary to obtain or secure the loan.

(j) Repair or essential improvement of livestock water supplies, and provide any pollution abatement facilities which are necessary to comply with the requirements of Federal, State or local governments.

(k) Repair of existing irrigation systems necessary for livestock production.

(l) Payment of veterinary fees and charges for livestock medicines.

(m) Cost of hired labor used in livestock production.

(n) Cost of construction or repair and normal maintenance of farm and ranch buildings essential to continuance of the authorized level of operation including silos and other feed storage facilities necessary for livestock production.

(o) Purchase of fuel, seed, fertilizer, insecticides, farm supplies, and payment of other operating expenses that are essential to continuation of the livestock operations.

(p) Purchase any stock in a cooperative lending agency that is necessary to obtain the loan.

(q) Payment of a loan fee and costs incident to consummation of the loan as authorized in § 1980.22.

(r) Payment of essential family living expenses.

(s) Payment of not more than 1 year's installment(s) (principal and interest) on debts secured by liens on chattels or real estate related to the livestock operation when a deferment on such obligations cannot be obtained.

§ 1980.222 Prohibited loan purposes.

No EL loan may be guaranteed which will: (a) Establish or reestablish an applicant in livestock operations, or to permit an expansion of such operations beyond the level set forth in § 1980.221(a).

(b) Be used to finance livestock or poultry feeding operations when the applicant does not maintain ownership of the feeders through the normal feeding period or is only performing a service for others.

(c) Be used to finance or refinance anything not essential to the continuation of livestock enterprise.

(d) Be used by a landlord to furnish credit, equipment, or supplies to his tenant operators, whether share, cash, or standing rent is paid by the tenants.

(e) Enable an applicant to make major changes or adjustments in his livestock operation.

(f) Be used to pay Federal or State income taxes or to pay Social Security taxes payable by the borrower in his own behalf.

(g) Be used to pay for labor performed by the borrower or members of his immediate family.

(h) Be used to purchase passenger automobiles or any other vehicles, machinery, or equipment that is not essential to the livestock operation.

(i) Be used to purchase machinery or equipment, or for supplies or labor, which will be used in the handling, processing, or marketing of livestock products such as milk, eggs, wool, and mohair. However, this does not prohibit refinancing debts which have already been created for these purposes when they are part of an "overall" livestock operation indebtedness being refinanced with an EL loan under the conditions set forth in § 1980.221(g).

§ 1980.223 Limitations and special provisions.

(a) *Total loans to applicants.* The total principal balance outstanding at any one time on an EL loan(s) made to assist a livestock operation shall not exceed $350,000. If an individual owns or controls 20 percent or more of a corporation or partnership and they are engaged in the same or different livestock operations, or if an individual owns or controls less than 20 percent of a corporation or partnership and they are engaged in the same livestock operations, the individual and the corporation or partnership will be considered as one entity for application of the $350,000 ceiling. If an individual owns or controls less than 20 percent

V 42 161 AUG 19 77 UM V

of a corporation or partnership and the individual and corporation or partnership are engaged in separate livestock operations, the individual and the corporation or partnership will be considered as separate entities for application of the $350,000 ceiling.

(b) *County Committee certification.* A County Committee certification is not required.

§ 1980.224 Loan rates and terms.

(a) *Interest rate to borrower.* The interest rate to be paid by the borrower to the lender will be any legal rate agreed upon between the lender and the borrower. It may be a variable or fixed rate.

(b) *Variable interest rate.* (1) A variable interest rate must be a rate that is tied to a base rate published periodically in a financial publication specifically agreed upon by the lender and borrower. It must rise and fall with the selected base rate and changes can be made no more often than quarterly. There will be no floor or ceiling on variable interest rates.

(2) Any change in the interest rate between the date of issuance of the Form FmHA 449-14 or Form FmHA 449-15 and before the issuance of the Loan Note Guarantee or Contract of Guarantee must be approved by the State Director. Approval of such change will be shown on an amendment to Form FmHA 449-14 or 449-15.

(3) It is permissible to have one interest rate on the guaranteed portion of the loan and another interest rate on the unguaranteed portion of the loan, provided the lender and borrower agree, and

(i) The rate on the unguaranteed portion does not exceed that currently being charged on loans of similar size and purpose for borrowers under similar circumstances.

(ii) The rate on the guaranteed portion of the loan will not exceed the rate on the unguaranteed portion. Fixed and variable interest rates cannot be used on the same loan.

(4) When multi-rates are used the lender will provide FmHA with the overall effective interest rate for the entire loan.

(c) *Loan terms for Loan Note Guarantee and Contract of Guarantee.* Each loan will be scheduled for repayment over a period not to exceed 7 years from the date of the guarantee or such shorter period as may be necessary to assure that the loan will be adequately secured. The borrower's needs, repayment ability and type of security he has to offer will be taken into consideration when scheduling loans for repayment. Generally, amounts advanced for annual recurring operating expenses should be scheduled for repayment from that year's income. Use of a note with a "payment on demand" feature is not permissible.

(d) *Repayment schedules.* In order for notes to be acceptable to holders in Loan Note Gpuarantee cases, the principal and interest repayment schedules will have to be clearly shown in the note(s).

(e) *Advances under a Contract of Guarantee—line of credit.* Prior to September 30, 1978, a lender may pay off an outstanding guaranteed advance before the end of its term with funds from a new guaranteed advance, provided the line of credit ceiling is not exceeded. However, no advance may be made for a term which exceeds the period remaining in the original line of credit term. The original line of credit term may be up to seven years, but it is limited to the term established in the "Line of Credit Agreement." After September 30, 1978, no new advances may be made, but advances outstanding at that time may be renewed with FmHA consent at the end of the original term for a period not exceeding three additional years as set forth in § 1980.224(f) below.

(f) *Renewal authority.* When a lender determines that a renewal will assist in orderly collection of an EL loan which has reached the final maturity date, it may renew notes covering such loan one time only and not for more than 3 additional years, provided the lender and FmHA agree that: (1) the borrower meets the eligibility and security requirements for an initial loan as contained in Sections 1980.220 and 1980.225, and (2) the renewal will not be used in lieu of liquidation. Such renewal may not exceed 3 years from the date of the renewal. Renewal will be accomplished by obtaining a replacement note setting forth the new repayment schedule. Any renewal must be approved in writing by FmHA and when a Loan Note Guarantee is renewed, by any holder(s).

§ 1980.225 Collateral requirements.

(a) *Collateral.* (1) The lender is responsible for seeing that proper and adequate collateral is obtained and maintained in existence and of record to protect the interest of the lender, the holder, and FmHA.

(2) Collateral must be of such a nature that repayment of the loan is reasonably assured considering the integrity and ability of the applicant's management, soundness of the operation, and the applicant's prospective earnings. Collateral may include, but is not limited to, the following: Land, buildings, machinery, equipment, furniture, fixtures, inventory, accounts receivable, cash or special cash collateral accounts, personal and corporate guarantees, marketable securities, and cash surrender value of life insurance. Collateral may also include assignments of leases or leasehold interest, revenues, patents, and copyrights.

(3) All collateral must secure the entire loan. The lender may not take separate collateral to secure only that portion of the loan or loss not covered by the guarantee. The lender may not require compensating balances or certificates of deposit as a means of eliminating the lender's exposure on the unguaranteed portion of the loan. However, compensating balances or certificates of deposit as used in the ordinary course of business may be used.

(b) *Personal and corporate guarantees.* (1) Personal guarantees from principal stockholders in a corporation and all partners of partnerships usually will be required. Guarantees of parent, subsidiaries, or affiliated companies may also be required. Guarantees will be required in sufficient amounts depending on the credit factors in each loan to reasonably assure repayment of the loan and provide adequate security.

(2) The requirements for personal guarantees or corporate guarantees may be waived by FmHA if the proposed guarantors cannot provide such guarantee due to other existing contractual obligations or legal restrictions. For those applicants providing documented evidence of successful operations for the past three years, guarantees will be obtained as determined by FmHA.

(3) If a review of all credit factors indicates the need for additional security, FmHA may require additional personal and corporate guarantees. FmHA also may require that such guarantees be secured. Any collateral referred to in paragraph (a)(2) of this section may be used to secure the guarantees.

(4) *Guarantors of applicants will:* (i) In the case of personal guarantees, provide current financial statements (not over 60 days old at time of filing), signed by the guarantors and disclosing community or homestead property.

(ii) In the case of corporate guarantees, provide current financial statements (not over 90 days old at time of filing), certified by an officer of the corporation.

(iii) Provide written evidence through the lender to FmHA of their inability to provide a guarantee because of existing contractual arrangements or legal restrictions.

(c) *Security.* (1) The security property must be adequate in the opinion of the lender and FmHA to assure repayment of each loan. If the present market value of the security is not in an amount at least equal to the amount of the loan and the lender and FmHA agree, the applicant's repayment ability may be considered as security, provided:

(i) Such security property has depreciated in value due to temporary economic conditions;

(ii) The applicant's first full year's operating plans indicate ability to pay the loan in full in a period not exceeding 7 years, and;

(iii) The applicant will give a lien on all available security property.

(2) Any extension of credit by the lender on or after October 1, 1978, will be outside the guarantee and, if it is to be secured, the lien position must be junior to any liens taken for the guaranteed EL advances or by a lien on other collateral.

(3) *Separate loans.* When the same lender is involved in an EL guaranteed loan and a separate loan and there will be like security for each, the EL guaranteed loan must be adequately secured by (1) a lien on separate security property that is clearly identifiable, or (2) a lien of a higher priority if the same property is used to secure both loans. In the latter case when the same security secures both loans the lender must agree in writing that the scheduled installments on the EL guaranteed loan will be paid first.

(4) *Escrow accounts.* The use of escrow accounts by lenders to maintain ongoing livestock operations after the September 30, 1978, cutoff may continue provided any funds placed in such an account are assigned as collateral for the guaranteed loan made by the lender and provided further that the security and lien position of such loan is maintained.

(d) *Other requirements.* (1) The lender must ascertain that there are no claims or liens of laborers, materialmen, contractors, subcontractors, suppliers of machinery and equipment or other parties against the collateral of the borrower, and that no suits are pending or threatened that would adversely affect the collateral of the borrower when the security instruments are filed.

(2) Hazard insurance with a standard mortgage clause naming the lender as beneficiary will be required on every loan in an amount that is at least the lesser of the depreciated replacement value of the property being insured or the amount of the loan. Hazard insurance includes fire, windstorm, lightning, hail, business interruption, explosion, riot, civil commotion, aircraft, vehicle, marine, smoke, builder's risk, public liability, property damage, flood or mudslide, or any other hazard insurance that may be required to protect the collateral.

(3) Ordinarily, life insurance, which may be decreasing term insurance, is required for the principals and key employees of the borrower and will be assigned or pledged to the lender. A schedule of life insurance available for the benefit of the loan will be included as part of the application.

(4) Workmen's compensation insurance is required in accordance with State law.

Administrative: The County Supervisor will review and determine whether the lender has required the necessary security to be taken. If necessary, he will seek the advice and assistance of the District Director.

§ 1980.226 Promissory notes, security instruments, and financing statements.

(a) *Promissory notes, mortgages, and security agreements.* The lender may use its forms or promissory notes, real estate mortgages (including deeds of trust and similar instruments), and security agreements (including chattel mortgages in Louisiana and Puerto Rico), provided such forms do not contain any provisions that are in conflict or are inconsistent with the provisions of this subpart or Subpart A of this Part.

(b) *Financing statements.* Commercial financing statement forms that comply with State laws and regulations may be used. They must be adapted to meet FmHA requirements by inserting provisions: (1) Covering the "proceeds and products" of the collateral described, and

(2) Stating that "disposition of the collateral is not authorized hereby."

§ 1980.227 Relationship with other FmHA insured or guaranteed loans.

If an applicant for FmHA assistance will qualify for another type or types of FmHA insured or guaranteed loans and an EL guarantee for the same purpose, it will be the policy to process an EL guarantee for that purpose if the repayment and security requirements for the EL guarantee will not preclude furnishing the credit necessary to enable the applicant to carry on sound farming or ranching operations. However, if the applicant qualifies for an Emergency (EM) loan in a designated disaster area, he should be first considered for an EM loan. An EL guarantee may be processed to continue his livestock operation(s) even though the applicant receives an EM loan.

§ 1980.228 Charges and fees by lender.

For both Loan Note Guarantee and Contract of Guarantee cases, see § 1980.22 of Subpart A for these requirements.

§ 1980.246 Receiving and processing applications.

Applicant and/or lenders may file either a preliminary application or complete application. A preliminary application may be used when applicant or lender wants a determination from FmHA on eligibility, feasibility or availability of guaranteed authority before proceeding with a completed application. The County Supervisor will cooperate with the lender and applicant and provide appropriate assistance in connection with loan application processes. The degree of this assistance will be guided by the lender's experience with FmHA guaranteed loan processing, the lender's farm lending experience, and the complexity of the proposal. The lender and applicant should contact the local FmHA office serving the area where the livestock operation is conducted for guidance and assistance in preparing the request and for obtaining the guarantee. The County Supervisor will provide copies of all applicable FmHA forms and regulations. See "Appendix A" for list of these FmHA forms.

(a) *Preliminary application.* This will consist of: (1) Form FmHA 449-6, "Application for Guaranteed Loan (Farmer Programs)."

(2) Verification of off-farm employment, if any.

(3) Credit report.

(4) Form FmHA 440-32, "Request for Statement of Debts and Collaterals."

(5) Form FmHA 449-26, "Certificates of Lender and Loan Applicant (Emergency Livestock Loan)."

(6) Form FmHA 449-25, "Request for Guarantee (Emergency Livestock Loan)".

(7) A record of livestock production for each calendar year beginning with 1973 through the most recent completed calendar year.

(8) Proposed "Line of Credit Agreement" for Contract of Guarantee cases. See § 1980.246(c)(4).

(b) *Preliminary determination by FmHA.* If the preliminary application indicates the proposal will not meet FmHA's minimum credit standards for a sound loan, or the applicant appears to be ineligible, or funds or guarantee authority are not available, the County Supervisor will so inform the lender using Form FmHA 449-13, "Denial Letter." The lender will notify the applicant in writing of all the reasons for the decision indicated. If it appears that the proposal is economically feasible, the applicant is eligible, and loan guarantee authority is available, the County Supervisor will inform the lender in writing and request that the formal application be prepared.

(c) *Completed application.* This will consist of: (1) Those items listed in § 1980.246(a).

(2) Applicable items required by §§ 1980.40, 1980.41, 1980.42, 1980.43, 1980.44, and 1980.45 of Subpart A of this Part.

(3) A copy of the lease agreement between tenant applicants and their landlords. When a lease is not obtainable a statement will be included in the loan docket.

(4) Proposed loan agreements (or line of credit agreement when a Contract of Guarantee is requested) between the borrower and lender. (See paragraph VIII of Form FmHA 449-35, "Lender's Agreement", in Loan Note Guarantee cases or Form FmHA 449-38, in Contract of Guarantee cases.) Ordinarily, agreements will include information such as the following: (i) Improved management practices to be implemented, if any.

(ii) Requirements for accounting and recordkeeping and periodic financial reporting.

(iii) A list of security property for the loan and periodic accounting of security property (at least annually).

(iv) Prohibitions against assuming liabilities or obligations of others.

(v) Restrictions on dividend payments if a corporate entity.

(vi) Limitations on purchase or sale of equipment and/or fixed assets.

(vii) Limitations on compensation of officers and/or owners if applicant is a corporation or partnership.

(viii) Minimum working capital requirements.

(ix) Minimum debt to net worth ratio.

(x) Restrictions concerning consolidation, mergers or other circumstances of a corporate entity.

(xi) Repayment schedule for the loan, including for line of credit agreements, the ceiling and duration of the line of credit.

(xii) Purposes for which loan funds can be used.

V 42 161 AUG 19 77 UM

(xiii) Interest rate.

(5) *Appraisal report.* (i) Real estate or chattel property that will serve as collateral for loans will be appraised by a qualified appraiser selected by the lender. A real estate appraisal report will be based on at least two comparable sales. Appraisal reports may be on forms approved by the lender and/or Form FmHA 422–1, "Appraisal Report (Farm Tract)" and Form FmHA 440–21, "Appraisal of Chattel Property." However, for real estate security, an acceptable appraisal not over 3 years old may be used in lieu of a new appraisal providing the appraisal was completed by FmHA or another similarly qualified appraiser.

(ii) A current chattel appraisal will be required when chattels are taken as security.

(iii) The lender will be responsible for determining that appraisers have the necessary qualifications and experience to make appraisals. If the lender has any questions in this regard, it should consult with FmHA before having an appraisal made.

(6) *Notices of compliance with the Privacy Act of 1974.* (i) If the applicant is acting in a personal capacity and not as a representative of a partnership, or corporation, and FmHA solicits personal information from him, the individual will be provided Form FmHA 410–9, "Statement Required by the Privacy Act."

(ii) If FmHA desires to obtain information concerning an individual from any source, FmHA will provide such source with Form FmHA 410–10, "Privacy Act Statement to References."

§ 1980.247 FmHA evaluation of applications.

When the County Supervisor receives a completed application, he will make the proper independent investigations, inspections, and appraisal reviews necessary to determine whether the applicant is eligible, the proposed loan is for an eligible purpose, there is reasonable assurance of repayment ability, and there is sufficient collateral and equity. The County Supervisor's determinations will be recorded on Form FmHA 449–23, "Guaranteed Loan Evaluation Farmer Programs."

(a) *Indication of unacceptability.* If the evaluation indicates that the guarantee cannot be approved, the County Supervisor will inform the lender on Form FmHA 449–13 of the reasons and will discuss with the lender the items necessary to overcome any objections and will record such discussion in the County Office file.

(b) *Indication of acceptability.* If the evaluation is favorable, the County Supervisor will take the Administrative actions set forth in B and C in addition to those set forth in A of the Administrative section which follows.

Administrative: The County Supervisor will: 1. Determine if the material and information submitted is complete. If he determines that the lender's appraisal(s) of security property is inadequate or questionable, he will make a formal appraisal of the required security property.

2. Determine that the supporting items and forms listed in §§ 1980.40 through 1980.45 of Subpart A of this Part are a part of the application, and the conditions of each section are being complied with when applicable.

3. Review Form FmHA 449–10, "Applicant's Environmental Impact Evaluation," submitted by the applicant and follow the requirements of Subpart G of Part 1901 of this Chapter.

B. If the evaluation is favorable, the County Supervisor will: 1. Prepare Form FmHA 449–14 for Loan Note Guarantee cases; or Form FmHA 449–15 for Contract of Guarantee cases. If it is within his approval authority, he will list any special conditions of approval in the space provided on the form, including requirements for security, improved management practices, and type and frequency of financial reports required but not proposed by the lender. The County Supervisor is authorized to execute Forms FmHA 449–14 and 449–15.

2. Prepare and distribute Form FmHA 440–1, "Request for Obligation of Funds," in accordance with the Forms Manual Insert (FMI). The Finance Office will obligate funds and so notify the County Supervisor by forwarding the original and one copy of Form FmHA 440–57, "Acknowledgement of Obligated Funds/Check Request." When the County Supervisor receives notice that funds have been obligated, he will notify the lender by providing him a copy of Form FmHA 449–14 or 449–15 as appropriate. The County Supervisor will record the actual date of lender notification on the remaining copy of Form FmHA 440–1 and make such copy a permanent part of the County Office loan file.

3. Determine if the operation is located in a special flood or mudslide hazard area. (Refer to Subpart B of Part 1806 of this Chapter, FmHA Instruction 426.2)

4. Assure that equal opportunity and nondiscrimination requirements are met. (Refer to § 1980.41 of Subpart A)

5. Contract the District Director if he needs any assistance.

6. Forward the loan docket to the appropriate approval official if above his approval authority.

C. If the evaluation is favorable, the appropriate approval official within his authority whether County Supervisor, District Director, or State Director will: 1. Set forth any special conditions of approval, including requirements for security, improved management practices, type and frequency of financial reports required but not proposed by the lender in the space provided in Form FmHA 449–14 or 449–15 and return the form to the County Supervisor for execution and proper distribution.

2. Sign original and one copy of Form FmHA 440–1 and distribute copies in accordance with the Forms Manual Insert being sure the lender receives a signed copy.

3. Forward the loan docket to the National Office when assistance in handling any complaints of noncompliance is needed.

§ 1980.248 [Reserved]

§ 1980.249 Review of requirements.

The lender and applicant, after reviewing approval conditions and security requirements as set forth in Form FmHA 449–14 or 449–15 should complete and execute the "Acceptance or Rejection of Conditions" and return a copy to the County Supervisor. If the conditions cannot be met, the lender and applicant may propose alternate conditions to the County Supervisor. These alternatives will be considered by the County Supervisor and the lender will be advised of his decision. If altered conditions are acceptable, Form FmHA 449–14 or 449–15 will be revised.

§ 1980.250 Conditions precedent to issuance of the guarantee.

Refer to § 1980.60 of Subpart A for conditions precedent to the issuance of either a Loan Note Guarantee or a Contract of Guarantee except:

(a) The provisions of § 1980.60(a)(2) are not applicable to Loan Note Guarantee cases;

(b) The provisions of §§ 1980.60 (a)(2), and (d) are not applicable to Contract of Guarantee cases, and

(c) To meet the requirements of § 1980.60(c) in Contract of Guarantee cases, the lender will execute and deliver to FmHA, Form FmHA 449–38.

Administrative: The County Supervisor will: 1. Negotiate with the lender and applicant any changes made to the initially issued or proposed Form FmHA 449–14 or Form FmHA 449–15. For purposes of this Instruction, the State Director's approval of a change in interest rates required by Form FmHA 449–14 may be accomplished by the County Supervisor. A copy of the completed form and any amendments thereto will be included in the loan file.

2. Review the loan agreement or line of credit agreement between the borrower and lender. It should provide for the frequency of submission of financial statements to the County Supervisor. Quarterly financial statements should be required on new loans needing close monitoring. However, an annual analysis report will always be required.

3. Review plans for inspection made on any construction projects.

4. Review cost overruns, if any, and how they will be met.

5. Review basic credit requirements of all loans.

§ 1980.251 Issuance of guarantee instruments.

Events from issuance of a conditional commitment through issuance of the guarantee instruments may all occur at loan closing in their proper sequence.

(a) *Loan Note Guarantee cases.* Refer to § 1980.61 of Subpart A, except that paragraphs § 1980.61(b)(2) and § 1980.61(f) as well as the "guarantee fee" in paragraph § 1980.61(a) shall not apply.

(b) *Contract of Guarantee cases.* (1) If FmHA finds that all requirements have been met, FmHA will execute Form FmHA 449–38. The original will be delivered to FmHA and a signed duplicate original retained by the lender. There will be a Form FmHA 449–38 executed for all lines of credit guaranteed by FmHA. The Lender's Agreement will be executed not later than the time the Contract of Guarantee is signed.

(2) Upon receipt of the Form FmHA 449–38 and after all requirements have been met, FmHA will execute Form FmHA 449–27. An original will be provided to the lender. A conformed copy will be retained by FmHA.

(3) *Refusal to execute contract.* If FmHA determines that it cannot execute the Contract of Guarantee because all requirements have not been met, it will promptly inform the lender on Form FmHA 449–13 of the reasons, and give the lender a reasonable period within which to satisfy FmHA objections. If the lender writes FmHA within the period allowed requesting additional time to satisfy the objections, FmHA may, in writing, grant such additional time as it considers necessary and reasonable under the circumstances. If the lender satisfies the objections within the time allowed, the guarantee will be issued.

(4) *Cancellation of obligations.* If the conditions for the loan are rejected or cannot be met after completion of any appeal, FmHA will prepare and submit to the Finance Office, Form FmHA 440–10, "Cancellation of Loan or Grant Check and/or Obligation."

(c) *Authorized FmHA representatives to execute forms.* State Directors, District Directors, and County Supervisors are authorized to execute the Lender's Agreement, Loan Note Guarantee, Contract of Guarantee, and Assignment Guarantee Agreement.

Administrative: A. The original Form FmHA 449–35 of Form FmHA 449–38 will be kept in the County Office. A copy may be retained in the State Office.

B. Copies of Form FmHA 449–34 and Form FmHA 449–27 will be kept in the County Office. Additional copies may be retained by the State Office. Copies of issued guarantees will be kept in each borrower's loan file.

C. For reporting purposes when multinotes are issued, the loan to the borrower will be counted as one loan regardless of the number of notes issued.

D. The County Supervisor completes Form FmHA 449–31, "Emergency Livestock Loan Analysis," executes the original and conforms the copies. This will be done on the same date the guarantee instrument is executed. The original will be sent to the Finance Office and a copy transmitted to the State Office.

E. *Time limitation.* The guarantee processing actions required for an EL loan will be completed within fifteen days if possible, but in no case more than thirty days after FmHA receives a lender's formal written request for an EL guarantee, unless unusual circumstances are involved.

F. *State Office and Finance Office Actions.*

1. *State Office.* The State Director will maintain a daily record of all Forms FmHA 449–31 received. The record will provide the name of the borrower, his county code number, amount of loan or line of credit ceiling, and State subtotals.

2. *Finance Office.* Upon receipt of Form FmHA 449–31, the Finance Office will charge the loan amount or line of credit ceiling (as appropriate for the type of guarantee) against any allocation for the particular state. The Finance Office will submit a State summary report on loan obligations to the National Office weekly.

§§ 1980.252–1980.59 [Reserved]

§ 1980.260 Substitution of lenders.

With prior FmHA written approval, a new lender may be substituted for the original lender in either Loan Guarantee cases or Contract of Guarantee cases provided the new lender agrees to assume all servicing responsibilities and acquires the unguaranteed portion of the loan. In Loan Note Guarantee cases, such substitution may be made without holders' consent but not without notice to the holders by the substituted lender. The new lender will execute Form FmHA 449–35 for Loan Note Guarantee cases or Form FmHA 449–38 for Contract of Guarantee cases contemporaneously with the substitution. After FmHA approval of the new lender, Form FmHA 471–7, "Notice and Acknowledgment of Sale of Insured or Guaranteed Loan," will be completed by the old lender and mailed to the FmHA Finance Office.

§§ 1980.269–1980.28 [Reserved]

§ 1980.269 Extension of guarantees issued before December 20, 1976.

New loan advances made after December 31, 1976, will not be automatically covered by "line of credit" guarantees issued before December 20, 1976, under terms of the Emergency Livestock Credit Act of 1974, as amended by Pub. L. 94–35. Any advance(s) under these guarantees after December 1, 1976, requires an extension of the guarantee.

(a) When lenders desire to continue making new advances to borrowers indebted under a guarantee issued prior to December 20, 1976, it will not be necessary to issue a new contract of guarantee, provided the lender will certify in writing that:

(1) The borrower meets eligibility requirements including a statement that he (the lender) is unable to extend the additional credit without a guarantee,

(2) The outstanding balance is current,

(3) Collateral for the new advance(s) will be sufficient to meet EL security requirements,

(4) The borrower has reasonable repayment ability for the overall guaranteed indebtedness, and

(5) The advance(s) will be within the terms of the existing line of credit ceiling previously approved by FmHA.

(b) For cases meeting the criteria stated in § 1980.269(a) the County Supervisor will change the date "December 31, 1976," in the second line of item "a" of the existing Contract of Guarantee to "September 30, 1978," and initial the change. If the County Supervisor questions the proposal and needs supporting information in addition to that previously furnished by the lender, he will obtain it before initialing the change in the Contract of Guarantee.

(c) When a lender desires to make advance(s) above the previously approved line of credit ceiling, or when the advance(s) will not be within the limits of the "Line of Credit Agreement," or the line of credit loan advances are not paid current, the above method will not be used. In such cases it will be necessary for the lender to prepare a completely new guarantee request with all the supporting forms and information required by this Subpart for a Contract of Guarantee on a new line of credit. If the loan approval official determines that all the requirements for a new guarantee are met, the existing line of credit will be refinanced by the new line of credit, and a new Contract of Guarantee will be issued. To complete the transaction, the lender must surrender the previous Contract of Guarantee to the County Supervisor who will mail it to the Finance Office with a new Form FmHA 449–31. The County Supervisor will indicate in his transmittal letter to the Finance Office that the previous contract is being replaced and that the Finance Office records should be adjusted to reflect only the new line of credit guarantee.

§ 1980.270 Changeover of loans covered by 80 percent loss guarantees to line of credit guarantees without sale to holder(s).

(a) When a lender desires to change from an 80 percent loss guarantee (one issued by FmHA prior to July 14, 1975) to a guarantee not exceeding 90 percent of unpaid principal and interest on a line of credit for a borrower who qualifies for this and other provisions of the Emergency Livestock Credit Act of 1974 as amended, the lender must prepare and present to FmHA a request for a new Contract of Guarantee. The unpaid balance on the existing loan will be refinanced by the new line of credit loan. The request must contain all the FmHA forms required for a new Contract of Guarantee on a line of credit. If the request is approved by the loan approval official, a new Contract of Guarantee will be issued using Form FmHA 449–27. The previous Contract of Guarantee (old Form FmHA 449–27) must be surrendered by the lender and mailed to the Finance Office by the County Supervisor with a new Form FmHA 449–31. The County Supervisor will indicate in his transmittal letter to the Finance Office that the old contract is being replaced and that the Finance Office records should be adjusted to reflect only the new line of credit contract.

(b) The provisions of §§ 1980.246 through 1980.251 will be complied with.

§ 1980.271 Conversion of existing EL loans so the guaranteed portions can be sold as permitted by Subpart A of Part 1980.

(a) Conversion does not constitute a new guarantee. Rather, the process is a substitution of documents which confer additional rights to lenders but does not change what is being guaranteed.

(b) Existing EL loans covered by 80 percent loss guarantees issued by FmHA before July 14, 1976, and existing advances constituting an EL guaranteed line of credit may be converted to Loan Note Guarantee loans and structured and sold according to Subparts A and C of this Part. The percentage guaranteed must be the same as the percentage guaranteed in the old guarantee.

(c) Before the Loan Note Guarantee system can be used, the lender must notify FmHA of the option it has elected to use for sale of the guaranteed portion(s). Where necessary, existing notes must be constituted so that all regulations pertaining to the options found in Paragraph III of Form FmHA 449–35 will be complied with.

(d) For conversion of existing 80 percent guaranteed FL loans of a fixed amount, if a new note(s) has to be issued in order to meet the requirements of Subparts A and C of this Part, the provisions of this new note(s) must be identical to the terms and conditions of the note(s) being retired.

V 42 161 AUG 19 77 UM

(e) A conversion fee of 1 percent of the principal and interest owed on the loan at the time of the conversion must be paid by the lender to FmHA before a Loan Note Guarantee will be issued.

(f) The lender must certify in writing and FmHA must agree that the loan is in good standing and adequately secured.

(g) The lender's request for conversion will be transmitted to the County Supervisor with the following items: (1) A narrative of the proposal.

(2) Original Contract of Guarantee. If the lender does not want to deliver his original Contract of Guarantee with his request for a conversion to a Loan Note Guarantee, the County Supervisor will accept a copy of the Contract of Guarantee and proceed as set forth above. However, the Loan Note Guarantee will be delivered only upon receipt of the Contract of Guarantee.

(3) Copies of note(s) with lender's identification number(s).

(4) Certification that the loan is current and in good standing.

(5) Certification of outstanding principal and interest owed on the loan account.

(6) Executed Lender's Agreement.

(7) Current market value appraisals of loan collateral.

Administrative: A. The County Supervisor may approve all conversions to Loan Note Guarantee.

B. The original loan must be paid current at the time the Loan Note Guarantee is issued.

C. The County Supervisor will: 1. Check to see that the note or notes presented by the lender for sale in the Loan Note Guarantee system are structured to meet all requirements in the regulations.

(i) If the lender has selected the multi-note system, the note representing the unguaranteed portion must not mature before the other notes. If the lender is converting a line of credit represented by seperate notes for each advance, these existing, partially amortized notes may be used provided that; if the notes have different maturities, the note with the latest maturity date must represent the unguaranteed portion. The amount represented by this note must be exactly the unguaranteed portion of the face amount of all notes composing the loan which is to be converted to the Loan Note Guarantee system. If both these requirements cannot be met, the lender must get the borrower to execute new notes which do not exceed the limitations of the existing guaranteed line of credit.

(ii) If the lender has elected to sell the guaranteed portions through the assignment route, and is converting a line of credit, only one note may be presented for attachment to a Loan Note Guarantee. The face amount of the note must be equal to the entire amount of the loan.

2. Review all requirements of § 1980.271.

3. Arrange to inspect the livestock operation with the lender and the borrower. The inspection will include an observation of the farming or ranching facilities, any growing crops, and livestock and chattel security.

4. Reach a mutual understanding concerning the operating plans for the farming and ranching enterprises, plans for loan repayment, and the appraised value of the loan collateral.

5. Verify the submitted request and if in order complete the Loan Note Guarantee, date and sign the instrument. Before the form is signed the following statement will be entered at the top of the form: "This Loan Note Guarantee is issued in substitution of the Contract of Guarantee dated ----------." The County Supervisor will transfer from the outstanding Contract of Guarantee all pertinent information pertaining to the substitute Loan Note Guarantee.

6. Execute the Lender's Agreement either before or contemporaneously with execution of the Loan Note Guarantee.

7. Cancel the Contract of Guarantee being replaced.

8. Transmit to the lender the original of the Loan Note Guarantee, and a copy of the executed Lender's Agreement, and retain in the County Office file copies of the Loan Note Guarantee and attached canceled forms.

9. Notify the Finance Office of the substitution and cancellation by letter enclosing the conversion fee collected from the lender. The notification will indicate the date and amount of the Loan Note Guarantee and that it is not to be considered as a new loan for record keeping purposes.

§ 1980.272 Refinancing existing EL loans so that the guaranteed portion can be sold through the Loan Note Guarantee system.

(a) Lenders with existing EL loans covered by 80 percent loss guarantees issued by FmHA before July 14, 1975, or with existing guaranteed EL lines of credit, who desire to obtain a Loan Note Guarantee without payment of the fee provided in § 1980.271 may apply for a new Loan Note Guarantee under the regular procedure of this Subpart. All provisions including §§ 1980.246 through 1980.251 will be complied with. If all of the requirements of Subparts A and C of this Part are met, a new Loan Note Guarantee will be issued. The unpaid balance on the existing loan will be refinanced by the new loan guaranteed by the Loan Note Guarantee.

(b) The previous Contract of Guarantee must be surrendered by the lender and mailed to the Finance Office by the County Supervisor with a new Form FmHA 449-31. The County Supervisor will indicate in his transmittal letter to the Finance Office that the old guarantee is being replaced and that the Finance Office records should be adjusted to reflect only the new Loan Note Guarantee.

§§ 1980.273–1980.276 [Reserved]

§ 1980.277 Change from livestock to farming operation after guarantee is issued.

(a) When a borrower ceases to carry on a livestock operation, but will continue farming, he is not eligible to receive any more loan advances under the guarantee. In such cases the lender may continue with the loan(s) and reamortize it within the original term provided FmHA and the lender determine that:

(1) There is a reasonable chance for the guaranteed loan advance(s) to be paid in full.

(2) The remaining collateral plus any to be obtained will be sufficient to meet EL security requirements.

(3) Proceeds from livestock sales properly have been paid on the guaranteed loan advance(s) or released for authorized EL purposes, and

(4) Any holders consent to the reamortization and that the reamortization documents are attached to all documents evidencing the guarantee.

§ 1980.278 Transfer and assumption of loans.

(a) If the borrower can no longer continue with the loan, the lender may consider transfering the loan to an eligible transferee with the concurrence of fmHA. If the transferor has any equity in the loan the transferee will pay to the transferor this equity either in the form of cash, or by obtaining a loan with or without a guarantee or a combination of cash and a loan. The total security will be transferred unless unusual circumstances prevail in which case National Office approval will be required. Assumption and transfer of security property agreements, notes, or assumption forms provided by the lender will be executed by the transferee. An "eligible transferee" is one that, after the assumption, meets the eligibility requirements specified in § 1980.220. No applicant shall be deemed "eligible" after September 30, 1978. The transferee's application will be processed by the lender as prescribed in § 1980.246 and the following: (1) The priorities of the existing lien(s) securing the guarantee will not be adversely affected.

(2) Any cash down payment (other than an equity payment) or proceeds from the sale of any security property will be credited on the transferor's guaranteed loan before the transfer and assumption transaction is closed.

(3) The transferor may be released from personal liability with FmHA concurrence provided the total outstanding indebtedness is assumed and providing the collateral being transferred is at least equal to the amount of the loan being assumed and further provided all holders, if any, consent.

(4) *The existing guarantee will continue.* The existing guarantee will continue in effect, so a new guarantee instrument will not be issued. However, as soon as the transfer and assumption have been completed, the lender will so indicate on the original Loan Note Guarantee or Contract of Guarantee by inserting a check in the assumption agreement box and inserting the name of the assuming party for those purposes on the Loan Note Guarantee or Contract of Guarantee.

(b) *Change in loan terms.* All changes in loan terms must be approved in writing by the loan approval official, the borrower, and lender, and all holders if any, and a copy of the changed terms attached to each portion (both guaranteed and unguaranteed) of the loan.

Administrative: A. *Loan approval officials, consistent with their authority to approve guarantees, may consent:*

1. To all transfer and assumption cases.

2. To the releases of the transferor and guarantor(s) from liability on the loan and will notify the lender and the transferor and guarantors of the decision in writing.

3. To any changes in the loan terms provided the holder(s), if any and lender agree.

B. The Loan Note Guarantee or Contract of Guarantee will be endorsed in the space provided on the form.

C. A copy of the Assumption Agreement will be retained in the County Office file. The County Supervisor will notify the Finance Office of all approved Transfer and Assumption cases so that Finance Office records may be adjusted accordingly.

D. When all the security is not transferred the State Director will submit to the National Office the full facts and justification for his recommendation and the County Office files.

§ 1980.279 Loan servicing.

The lender is responsible for loan servicing. Refer to paragraph X of Form FmHA 449-35 for Loan Note Guarantee cases, and to paragraph IX of Form FmHA 449-38 for Contract of Guarantee cases.

Administrative: A. While the lender has the primary responsibility for loan servicing and protecting the collateral, the County Supervisor is responsible for seeing that required servicing is properly accomplished. Loan servicing is a preventive rather than a curative action. Prompt follow-up on delinquent payments and early recognition and solution of problems are keys to resolving many delinquent loan cases.

B. *The County Supervisor will:* 1. Make timely investigations during acquisition or development and at least annually thereafter to determine whether any security property that was to be acquired or constructed after issuance of the Contract of Guarantee or Loan Note Guarantee has been acquired or constructed, and whether the guaranteed loan is being properly serviced. If a problem develops the County Supervisor will promptly contact the lender to resolve it.

2. Review all EL borrowers financial statements furnished by the lender with the District Director, and will take appropriate servicing action reminding the lender of his servicing responsibilities. Refer to paragraph X of Form FmHA 449-35, or paragraph IX of Form FmHA 449-38.

3. Immediately contact the District Director when notified by the lender of borrower's failure to fulfill any of the loan approval conditions to determine the action to be taken.

4. Notify the District Director in writing upon receipt of notice from the lender when any guaranteed loan is delinquent more than 30 days or when the loan otherwise appears to be developing into a problem case. Refer to paragraph XI of Form FmHA 449-35, or paragraph X of Form FmHA 449-38.

5. Establish an office management system for guaranteed loans in accordance with applicable FmHA regulations (FmHA Instruction 405.1) to ensure timely followup on all required financial statements, and any special requirements for loan servicing conditions.

6. Notify the Finance Office when the lender makes any approved protective advances.

7. Submit to the Finance Office semiannually the lender's statement required in paragraph X B 10 of Form FmHA 449-35, or paragraph IX of Form FmHA 449-38, reflecting the unpaid principal balances on the loan.

C. *District Director will:* 1. Assure that the County Supervisor carries out his responsibilities.

2. Accompany the County Supervisor on initial field visits to the borrower's place of business and at least annually thereafter. Such visits should be coordinated with the lender.

3. Provide guidance and assistance to the County Supervisor if a loan develops into a problem case.

4. Review all Field Visit Reports and make recommendations or comments and transmit them to the State Director, if necessary.

D. *FmHA servicing authorizations.* For loans in amounts not in excess of their loan approval authority, FmHA officials are authorized to approve or concur in:

1. Alterations in the loan approval conditions which will not prejudice the Government's interest.

2. Any replacement of collateral for the loan.

3. All lien coverage and lien priorities on the collateral established by the lender before issuance of the Contract of Guarantee or Loan Note Guarantee.

4. Any renewal of loan notes in concurrence with the lender.

5. Use of proceeds from disposition of collateral meeting the provisions of paragraph X of Form FmHA 449-35, or paragraph IX of Form FmHA 449-38.

E. *National Office assistance.* State Directors may consult with the National Office on any servicing problem, and if it cannot be handled at the State level, the file will be forwarded to the National Office with proposed recommendations.

§ 1980.280 Protective advances.

Refer to paragraph XIII of Form FmHA 449-35 or paragraph XII of Form FmHA 449-38 as appropriate.

Administrative: A. It is not intended that protective advances be made in lieu of additional loans.

B. The County Supervisor is authorized to approve protective advances and will consider the following when approving such advances:

1. The total amount of outstanding advances, the amount of those for which approval is requested, the outstanding loan balance, whether the account is current, and, if not, the extent of the delinquencies.

2. The borrower's ability to pay the remaining loan balance and any future advances in accordance with the existing repayment schedule.

§ 1980.281 Termination of guarantee.

Refer to paragraph XII of Form FmHA 449-34 for termination of Loan Note Guarantees, and to Form FmHA 449-27 for termination of Contracts of Guarantee.

Administrative: The County Supervisor will advise Finance Office when a Loan Note Guarantee, or Contract of Guarantee is terminated.

§ 1980.282 Defaults by borrower.

(a) Refer to paragraph XI of Form FmHA 449-35 for Loan Note Guarantee cases and to paragraph X of Form FmHA 449-38 for Contract of Guarantee cases.

(b) The lender will arrange a meeting with the County Supervisor and the borrower to resolve the problems.

(c) The lender will summarize the meeting in a memorandum listing the individuals who attended, and describing the problems, and the proposed solutions. The original will be retained in the lender's loan file and a copy will be submitted to the County Supervisor.

Administrative: A. The County Supervisor monitoring the loan will coordinate and process any request for FmHA to purchase when the holder(s) are located in close proximity of the local lender. If several holders are located outside the area, the State Director will handle the transaction and notify the County Supervisor.

B. The County Supervisor will review the material submitted, verify the amounts due the holder(s) and transmit the request by memorandum to the State Director. Copies of evidence of ownership will be included. Any original evidence of ownership will be retained in the County Office. A proposed payment date will be established in order to calculate the interest due the holder(s).

C. The County Supervisor will verify the amounts payable to the holder and assure that all necessary material has been obtained. The County Supervisor will request a check to pay the holder(s) on the appropriate date entry form. The Finance Office will forward the check to the County Supervisor within 10 days after receipt of the request.

D. Any evidence of ownership retained in the County Office will be considered in any future report of loss calculations. A record of any purchase will be maintained in the loan file.

§ 1980.283 Liquidation.

Refer to paragraph XII of Form FmHA 449-35 for Loan Note Guarantee cases, and to paragraph XI of Form FmHA 449-38 for Contract of Guarantee cases.

Administrative: A. The District Director determines which FmHA personnel will attend meetings with the lender.

B. *Form FmHA 449-35, or Form FmHA 449-38, paragraphs XII B or XI B respectively.* FmHA will exercise the option to liquidate only when there is reason to believe the lender's liquidation plan will likely not result in maximum recovery. District Directors are authorized to approve lender liquidation plans or exercise the FmHA option to liquidate.

C. *Form FmHA 449-35, or Form FmHA 449-38, paragraphs XII D or XI D respectively.* County Supervisors are responsible for seeing that the lender complies with the requirements of paragraph XII D or paragraph XI D as appropriate. The concurrence of the District Director will be necessary before the County Supervisor may accept the accounting reports as submitted by the lender and before submission of such reports to lenders when FmHA is conducting liquidation.

D. *Form FmHA 449-35, or Form FmHA 449-38, paragraphs XII E 2 or XI E 2 respectively.* County Supervisors are authorized to accept Report of Loss determinations for both Loan Note Guarantee and Contract of Guarantee cases on Form FmHA 449-30 "Loan Note Guarantee Report of Loss," in those cases where loss will not exceed $35,000; District Directors for loss not to exceed $100,000; and State Directors for all others. The State Director will submit to the Finance Office for payment any losses claimed on Form FmHA 449-30. The Finance Office will forward loss payment checks within 10 days of receipt of the claim to the County Supervisor for delivery to the lender.

E. *Form FmHA 449-35, or Form FmHA 449-38, paragraphs XII E 3 or XI E 3 respectively.* Final loss payments will be made within the 60 days required but only after a review has been made to accurately determine FmHA liability. State Directors are responsible to see that such reviews are accomplished in time to be evaluated and accepted or otherwise resolved within the 60-day period. County Supervisors may con-

V 42 161 AUG 19 77 UM

duct such reviews when the loss does not exceed $35,000; District Directors when the loss does not exceed $100,000; and State Directors for amounts not to exceed their loan approval authority. If the State Director wishes National Office assistance in the conduct of the review, he may request it.

§§ 1980.284–1980.289 [Reserved]

§ 1980.290 Graduation.

There is no "graduation" requirement for EL loans. Therefore, these loans will not be reviewed by FmHA to determine whether lenders should be in position to carry them without a guarantee.

§ 1980.291 Appeal procedure.

See § 1980.80 of Subpart A for the method of having adverse decisions of County Supervisors, District Directors, and State Directors reveiwed in both Loan Note Guarantee and Contract of Guarantee cases.

§ 1980.292 Access to records of lenders.

See § 1980.81 of Subpart A for this requirement in both Loan Note Guarantee and Contract of Guarantee cases.

§ 1980.293 County and State Office files.

(a) *County Office files.* County Offices having charge of loan guarantees are not expected to maintain complete case files. However, the County Office case file for each loan guarantee should contain originals or copies of forms and other material which is needed to monitor the lender's loan servicing actions.

(b) *State Office files.* State Directors may maintain files on cases which require special servicing attention.

§ 1980.294 FmHA forms.

(a) See Appendix A for list of applicable FmHA forms, number to be prepared, signatures required, and manner of distribution.

(b) Forms FmHA 449–27, FmHA 449–38, FmHA 449–15, FmHA 449–25, and FmHA 449–26, appear as appendixes B, C, D, E, and F in the FEDERAL REGISTER. Copies of the forms may be obtained from any FmHA office.

§§ 1980.295–1980.299 [Reserved]

General Administrative: A. *Office of the General Counsel (OGC):* In performing the FmHA functions with respect to EL loans, the advice and assistance of OGC may be sought and followed on any legal matter. However, in loan making, it is the responsibility of the lender to ascertain that all requirements for making, securing, and servicing the loan are duly met. If FmHA has any questions concerning the lender's resolution of these matters it should consult with OGC.

B. *Delegation of Authority.* The State Director may delegate to his staff those administrative duties and responsibilities stipulated in the Administrative sections of this Subpart.

FmHA Forms

(a) The following chart lists applicable FmHA forms, number to be prepared, signatures required, and manner of distribution. Any of these FmHA forms and others needed by lenders or applicants may be obtained from FmHA.

FmHA form No.	Name of form	Total number	Signed by [1]	Distribution
	Forms needed by a lender for use in preparing the EL guarantee request			
400-1	Equal opportunity agreement	3	B-O	O-L, CB C-FmHA.
400-3	Notice to contractors and applicants	4	L-O	O-Con, C-B, C-L, C-FmHA.
400-6	Compliance statement	4	L & Con 3-O	O-L, C-Con, C-B, C-FmHA.
449-6	Application for guaranteed loan (farmer programs).	2	B-O	O-L, C-FmHA.
449-25	Request for guarantee (emergency livestock loan).	2	L-O	O-FmHA, C-L.
449-26	Certificates of lender and loan applicant (emergency livestock loan).	3	L & B-O.	O-FmHA, C-L, C-B.
449-35	Lender's agreement	2	L & FmHA	O-FmHA, C-L.
449-36	Assignment guarantee agreement	3	L, H & FmHA	O-H, C-L, C-FmHA.
449-38	Lender's agreement (emergency livestock loan—contract of guarantee).	2	L & FmHA (O & C).	O-FmHA, C-L.
	Forms used by FmHA in processing and handling the guarantee request			
440-1	Request for obligation of funds	4	FmHA-O	OLC-FC, C-County Office, C-State Director.
449-13	Denial letter	2	FmHA-O	O-L, C-FmHA.
449-14	Conditional commitment for guarantee	2	FmHA-O	Do.
449-15	Conditional commitment for emergency livestock loan guarantee.	2	FmHA-O	Do.
449-27	Contract of guarantee (emergency livestock loan).	2	FmHA-O	Do.
449-31	Emergency livestock loan analysis	3	FmHA-O	O-FC, C-FmHA, C-State Director.
449-34	Loan note guarantee	2	FmHA-O	O-L, C-FmHA.
	Forms used jointly by lender and FmHA			
449-30	Loan note guarantee report of loss	3	L-O	O-FmHA, C-L, C-FmHA.

[1] Signature and distribution "L"—lender; "H"—holder; "B"—borrower or assumptor; "FC"—finance office; "FmHA"—authorized FmHA official; "Con"—contractor; "O"—original; "C"—copy.

(b) *Other forms and information.* Any needed forms not furnished by FmHA will be provided by the lender. The lender may obtain information from FmHA and copies of other FmHA forms that may be helpful in various aspects of loan making, construction and development, and loan servicing.

(c) *Racial code.* Some FmHA forms contain space for coding the race of the applicant for the loan or assumption. In the code, "W" means "White," "N/B" means "Negro (Black)," "S" means "Spanish-American," "AI" means "American Indian," and "O" means any other race. The lender is responsible for completing this code on all forms on which it appears, in accordance with his best judgment as to the race involved.

(d) *Revision of existing forms.* Until the present supply is exhausted, the forms described below will be revised on an individual case basis as follows:

(1) *Form FmHA 400–1, "Equal Opportunity Agreement."* In the second paragraph after the word "Recipient" insert "or to Recipient's lender." In subparagraph 1(e), change the word "or" to "issued."

(2) *Form FmHA 400–6, "Compliance Statement."* In the first paragraph between "with" and "assistance," insert "loan guarantee."

(3) *Form FmHA 449–6, "Application for Guaranteed Loan (Farmer Programs)."* The crop and livestock production tables on the face of the form may be omitted.

Appendix B

USDA-FmHA Form FmHA 449-15 (7-29-77)	CONDITIONAL COMMITMENT FOR EMERGENCY LIVESTOCK LOAN CONTRACT OF GUARANTEE	*CASE NO.*
		State
TO: Lender		County
Lender's Address		Line of Credit Ceiling $
Borrower		Principal Amount of Initial Loan $

From an examination of information supplied by the Lender on the above proposed loan, the county committee certification or recommendation, if required, and other relevant information deemed necessary, it appears that the transaction can properly be completed.

Therefore, the United States of America acting through the Farmers Home Administration (FmHA) hereby agrees that, in accordance with applicable provisions of the FmHA regulations published in the Federal Register and related forms, it will execute Form FmHA 449-27, "Contract of Guarantee (Emergency Livestock Loan)," subject to the conditions and requirements specified in said regulations and below.

The interest rate for the loan is ____%. 1/ If a variable rate is used, it must be tied to a base rate which cannot change more often than quarterly and must be published periodically in a financial publication specifically agreed to by the Lender and Borrower. Any change in interest rates from date of issuance of this form must be approved by the FmHA County Supervisor. Such related information may be ascertained from any FmHA office or by consulting the Federal Register.

A Contract of Guarantee will not be issued until the Lender certifies that it has no knowledge of any adverse change, financial or otherwise, in the Borrower, his business, or any parent, subsidiaries, or affiliates since it requested a Contract of Guarantee.

Additional Conditions and Requirements: 2/

This conditional commitment will expire on _____ 3/ unless the time is extended in writing by FmHA, or upon the Lender's earlier notification to FmHA that it does not desire to obtain an FmHA guarantee.

UNITED STATES OF AMERICA

By: _____

Date: _____ FmHA: _____ *(Title)*

Position 2

Appendix B
Page 2

Acceptance or Rejection of Conditions

To Farmers Home Administration (FmHA) 4/

The condition of Form FmHA 449-15 on the other side of this page:

1. ☐ are acceptable and the undersigned Lender intends to proceed with the loan transaction and to request issuance of a Contract of Guarantee at the appropriate time
2. ☐ are acceptable, but for other reasons the undersigned Lender does not desire a Contract of Guarantee.
3. ☐ are not acceptable and for that reason the undersigned Lender does not desire a Contract of Guarantee.
4. ☐ are not acceptable, but would be acceptable if the following changes were made.

If block number "1" above is checked:

(a) It is understood that the following information may now be released upon request: Name and address of Applicant, name and address of Lender, amount of loan, and general purpose of the loan.

(b) It is anticipated that the Contract of Guarantee will be requested in approximately _____ days.

_____
(Name of Lender)

_____ By: _____
(Date) *(Signature of Lender)*

1/ Insert fixed interest rate or, as authorized by regulations, variable interest rate followed by "V."

2/ Insert any additional conditions or requirements in this space or on an attachment referred to in this space; otherwise insert "NONE".

3/ Insert expiration date. (Allow sufficient time for processing and issuance of the Contract of Guarantee.)

4/ Return completed and signed copy of this form to FmHA office from which it was received.

NOTE TO LENDER Complete and execute the Acceptance or Rejection of Conditions as indicated above on the copy of this form and return it to FmHA.

Appendix C
Form Approved
OMB No. 40-R3931

USDA-FmHA
Form FmHA 449-25
(Rev. 7-29-77)

REQUEST FOR GUARANTEE
(Emergency Livestock Loan)

CASE NO.

TO: Farmers Home Administration (FmHA) | State | County

Applicant's Name	Applicant's Address
Lender Requests a Loan Note Guarantee	Lender Requests a Contract of Guarantee
	Line of Credit Ceiling $ _____
Principal Amount of Loan $ _____	Principal Amount of Initial Loan $ _____

The undersigned Lender hereby requests issuance of a guarantee in the subject case.

THE FOLLOWING INFORMATION AND DOCUMENTS ARE SUBMITTED FOR YOUR CONSIDERATION:

1. Copy of Application for Loan with enclosures.
2. Cash flow sheet, if used by Lender.
3. Any drawings and specifications for: ☐construction ☐major repairs ☐major land development
4. Appraisal report on any real estate security.
5. Certificates of Lender and Loan Applicant (Emergency Livestock Loan).
6. Purposes for which guarantee loan funds for the first full operating year will be used and the amounts to be used for such purposes are:

Purposes	Amounts
	$

7. Interest rate to borrower is _____% per annum.
8. Loan fee payable by loan applicant is _____% of principal amount of loan or $ _____. a/
9. Repayment period for the initial loan is _____ year(s).
10. Proposed loan guarantee is _____% of the principal and interest.
11. Escrow account is required for: ☐Taxes ☐Insurance premiums ☐Other (Specify) _____
12. The undersigned Lender is subject to examination and supervision by

_____
(Insert name of agency of United States or State, or "None")

a/ Insert "None," or if Lender charges a loan fee, insert percentage of dollars.

V 42 161 AUG 19 77 UM

Appendix C
2

13. Loan(s) will be ☐ made, and/or ☐ serviced, by the undersigned's.

☐ Main office address: _____

☐ Branch office: _____
(Name of office)

Branch office address: _____

☐ Agent: _____
(Name of Agent)

Agent's address: _____

14. Initial loan is scheduled for repayment: _____
(Dates of monthly, annual, or other installments)

15. Late payment charges, if any, are made on the following basis pursuant to a written agreement between the applicant and the undersigned Lender as required by 7 CFR 1980.22: _____

16. Types and amounts of insurance required are:

Types	Amounts
	$
	$

17. List of Required Security Property
(Including That on Hand and to be Acquired)

DESCRIPTION OF PROPERTY A. ON HAND*	APPRAISED VALUE $	AMT. ANY PRIOR LIENS $	EL LOAN EQUITY $
	$	$	$

Appraiser's Certificate on Personal Property

Personal property listed above, if any, was appraised by me at the values set forth opposite the description thereof.

_____ _____
(Date) *(Appraiser)*

B. TO BE ACQUIRED*	ESTIMATED VALUE
	$
TOTAL	$

* Quantity and brief description. For example: "Smith farm 160 acres," (based on separate appraisale report) "1 - 1972 John Deere 2520 Tractor," "25 Hereford range cows, 3-6 years."

Appendix C
3

18. Plan of Operation agreed upon by Lender and loan applicant for first full operating year

a. PLANNED CROPS, PASTURE, ETC. - PRODUCTION AND SALES

CROPS, PASTURE, ETC.	ACRES	YIELD PER ACRE	OPERATOR'S SHARE	OPERATOR'S SHARE FOR SALE AMOUNT	OPERATOR'S SHARE FOR SALE VALUE
					$
				TOTAL	$

b. PLANNED LIVESTOCK AND PRODUCTS PRODUCTION AND SALES

KIND	PRODUCTION PER ANIMAL	NUMBER	OPERATOR'S SHARE	OPERATOR'S SHARE FOR SALE AMOUNT	OPERATOR'S SHARE FOR SALE VALUE
					$
				TOTAL	$

19. CASH OPERATING EXPENSES

	TOTAL CREDIT NEEDED	TOTAL PLANNED EXPENSES
Hired Labor	$	$
Machinery Repair	$	$
Interest	$	$
Cash Rent	$	$
Feed	$	$
Seed	$	$
Fertilizer	$	$
Pesticides & Spray Materials	$	$
Livestock Expense	$	$
Machinery Hire	$	$
Fuel and Oil	$	$
Personal Prop. Tax	$	$
Real Estate Taxes	$	$
Water Charges	$	$
Property Insurance	$	$
Auto & Truck Expense (Farm)	$	$
Utilities	$	$
Feeder Livestock (Bought & sold during year)	$	$
Family Living Expenses	$	$
Other	$	$
TOTAL	$	$

V 42 161 AUG 19 77 UM V

Appendix C
4

20. Financial Summary of First Full Years Operation

A. Livestock Income	$ _____
B. Crop Income	$ _____
C. Other Farm Income	$ _____
D. Off-Farm Income (net)	$ _____
E. Total Gross Income (A+B+C+D)	$ _____
F. Total Cash Expenses (Table 19)	$ _____
G. Net Cash Income (E minus F)	$ _____
H. Loans and Other Credit	$ _____
I. Interest	$ _____
J. Balance Available for Debt Payment (G+H+I)	$ _____

21. DEBT REPAYMENT

TO WHOM OWED	AMOUNT DUE FIRST YEAR (PRIN. & INT.)	PLAN		
		PRIN. & INT. TO BE PAID	DATE	SOURCE OF FUNDS
_____	$_____	$_____	_____	_____
_____	$_____	$_____	_____	_____
_____	$_____	$_____	_____	_____
_____	$_____	$_____	_____	_____
_____	$_____	$_____	_____	_____
_____	$_____	$_____	_____	_____
_____	$_____	$_____	_____	_____
_____	$_____	$_____	_____	_____
_____	$_____	$_____	_____	_____
_____	$_____	$_____	_____	_____
Income and Social Security Taxes	$_____	$_____		
TOTAL	$_____	$_____		_____

22. The loan will be properly closed and the required security will be obtained.

23. The borrower has title marketable in fact to security property now owned (and will obtain such title to any additional property to be acquired with loan funds), subject only to the instruments securing the loan to be guaranteed and any other exceptions set forth below:

24. Security property now owned (any to be acquired) is considered adequate security for the loan to be guaranteed, or if inadequate state in item 29 of this form, why you believe the borrower's farm or ranch operating plans will permit him to pay the guaranteed EL loan in full within a period not exceeding 7 years. The security instruments will be properly filed or recorded prior to the issuance of the guarantee; except that if security property is yet to be acquired in a jurisdiction in which an after acquired property clause is not valid, a security instrument covering such property will be obtained as soon as appropriate and legally permissible.

25. Truth in Lending requirements will be met.

26. All Equal Opportunity and Nondiscrimination requirements will be met (or any that cannot yet be met will be met at the appropriate time).

Appendix C
5

27. The undersigned (a) considers the proposed loan to be sound and within the borrower's repayment ability, and (b) believes that all applicable requirements in Subparts A and C of Part 1980, 7 CFR have been or will be met.

28. Lender's Planned Loan Servicing:

29. Other Relevant Information:

_____
(Name of Lender)

_____
(Date)

BY: _____

TITLE: _____

_____
(Lender's IRS ID Tax No.)

V 42 161 AUG 19 77 UM

Appendix D

USDA-FmHA
Form FmHA 449-26
(Rev. 7-29-77)

CERTIFICATES OF LENDER AND LOAN APPLICANT
(Emergency Livestock Loan)

Lender — Lender's IRS Tax No.	CASE NO.
	State
Lender's Address	County
Loan Applicant's Name & Address	Principal Amount of Loan $; or
	Line of Credit Ceiling $

To induce the United States of America acting through the Farmers Home Administration of the United States Department of Agriculture (herein called "FmHA"), to execute a Loan Note Guarantee or Contract of Guarantee with respect to Emergency Livestock (EL) loan(s) pursuant to the Emergency Livestock Credit Act of 1974 as amended, and the regulations in 7 CFR Part 1980, Subparts A and C:

A. LENDER'S CERTIFICATE. The above-named lender hereby certifies that:

1. Lender has received an application from the above-named applicant for an EL loan or line of credit in the amount stated above for use for the purposes and in the amounts set forth in Form FmHA 449-25, to which this certificate is attached.
2. Lender is unwilling to make such loan or line of credit advances without an FmHA guarantee.
3. Loan applicant was engaged in particular livestock operation(s) on July 25, 1974, the effective date of said Act, and was engaged in said operation(s) continuously for a period of _____ immediately prior to July 25, 1974. *(months or years)*
4. Loan applicant is a bona fide farmer or rancher (a) doing business in the United States either as an individual, corporation, or partnership, which is recognized in the community as one whose chief occupation is farming or ranching, (b) primarily and directly engaged in agricultural production, and (c) having substantial operations in breeding, raising, fattening or marketing livestock, including dairy cattle raised and maintained for the primary purpose of marketing dairy products hereinafter referred to as a livestock operation). In the case of an individual loan applicant the term "primarily and directly engaged in agricultural production" means that he derives more than 50 percent of his gross income from his own agricultural production or devotes more than 50 percent of his time to such production. The term "substantial operations in livestock" means that he derives not less than 25 percent of his gross farm income from his own livestock operation, or devotes not less than 25 percent of his time to such operation, or has not less than 25 percent of his total capital investment in such operation. In the case of a corporation or partnership loan applicant, the term "primarily and directly engaged in agricultural production" means that the corporation or partnership derives more than 50 percent of its gross income from agricultural production, and that the shareholders or partners owning or controlling a majority interest in such corporation or partnership derive more than 50 percent of their gross income from their own or the corporation's or partnership's agricultural production, and devote more than 50 percent of their time to such production. The term "substantial operations in livestock" means that the corporation or partnership derives not less than 25 percent of its gross farm income from its own livestock operation, or devotes not less than 25 percent of its time to such operation, or has not less than 25 percent of its total capital investment in such operation.
5. The loan or line of credit requested by the loan applicant is to be used for purposes which are essential to carrying on livestock operations related to breeding, raising, fattening, or marketing livestock of the following type(s):
   ☐ Beef Cattle ☐ Dairy Cattle ☐ Swine ☐ Sheep ☐ Goats ☐ Chickens ☐ Turkeys
6. The requested loan or line of credit is for the purpose of maintaining said livestock operation(s), and will not exceed the amount necessary to permit the loan applicant to continue said livestock operation(s) at a level equal to the highest number at which the loan applicant conducted said livestock operation(s) during the 18 months immediately preceding July 25, 1974.
7. If any loan advance is to be used to refinance indebtedness incurred in conducting said livestock operation(s).
   (a) That part for refinancing is essential in order for the applicant to continue said livestock operation(s).
   (b) Lender will not refinance the existing loan without an FmHA guarantee, and
   (c) Lender is not currently refinancing similar loans to others without such guarantees.

_____ *(Name of Lender)*

_____ *(Date)*

BY _____ *(Authorized Official)*

TITLE _____

Appendix D
Page 2

B. LOAN APPLICANT'S CERTIFICATE. The above-named loan applicant hereby certifies that:

1. Loan applicant, if an individual (or its officials who execute this certificate in its behalf, if it is a legal entity) state(s) that (he has) (they have) read the within and foregoing Lender's Certificate and that the contents thereof are all true and correct to the best of his or their knowledge and belief.
2. Loan applicant will be unable to obtain the financing requested without an FmHA guarantee under said Act and regulations.
3. Loan applicant, if an individual, does not own or control as much as 20% interest in any corporation or partnership that is applying for or has received an Emergency Livestock loan or, if he has or does, the total of the loans applied for and/or received by all of them does not exceed $350,000. If the loan applicant is a corporation or a partnership, no person who owns or controls as much as 20% interest in it has applied for or received an Emergency Livestock loan or, if he has or does, the total of the loans applied for and/or received by all of them does not exceed $350,000. Ownership or control of less than 20% interest in a corporation or partnership does not affect the individual stockholder's, partner's, corporation's, or partnership's qualifications for an Emergency Livestock loan.
4. Loan applicant, if an individual, is a citizen of the United States or a person who has been legally admitted for permanent residence in the United States. If a corporation or partnership, the principal stockholders or partners are citizens or such permanent residents of the United States, and the corporation or partnership is authorized to carry on livestock operations in the State involved. For the purpose of meeting citizenship requirements, any partner or stockholder owning or controlling as much as 20 percent interest in a partnership or corporation will be considered a principal partner or stockholder. If no person owns or controls as much as 20 percent, all partners and stockholders will be considered principal partners or stockholders.
5. The loan may be accelerated if I cease to be a farmer or rancher.
6. Loan applicant has no FmHA guaranteed EL loan(s) except in the amount of $_____.

_____ *(Individual)* _____ *(Individual)*

_____ *(Name of Corporation)*

_____ *(Secretary)* BY _____ *(President)*

(Corp. Seal) _____ *(Date)*

_____ *(Partner)* _____ *(Date)* _____ *(Name of Partnership)*

_____ *(Partner)* _____ *(Date)* BY _____ *(Partner)*

_____ *(Partner)* _____ *(Date)* _____ *(Date)*

V 42 161 AUG 19 77 UM V

Appendix E

USDA-FmHA
Form FmHA 449-27
(Rev. 7-29-77)

CONTRACT OF GUARANTEE
(Emergency Livestock Loan)

	CASE NO.
	State
	County
Lender — Lender's IRS Tax No.	Date of Line of Credit Agreement
Lender's Address	Line of Credit Ceiling $
Borrower's Name and Address	

The guaranteed portion of this loan is _____ % of the principal balance owed at any one time on advances made within an approved line of credit before September 30, 1978 by the above-named Lender to the above-named Borrower.

In consideration of making loan advance(s) by the Lender within the line of credit ceiling pursuant to the Line of Credit Agreement, the United States of America acting through the Farmers Home Administration of the United States Department of Agriculture (herein called "FmHA"), pursuant to the Emergency Livestock Credit Act of 1974 (P. L. 93-357), as amended, does hereby agree that in accordance with and subject to the conditions and requirements herein, it will pay to the Lender who holds note(s) for said advance(s) (or assumption agreement) covered by this contract the lesser of 1. or 2. below:

1. Any loss sustained by such Lender on the guaranteed portion including:
   a. Principal and interest indebtedness as evidenced by said note(s) or by assumption agreement(s), and
   b. Principal and interest indebtedness on secured protective advances for protection and preservation of collateral made with FmHA's authorization, including but not limited to, advances for taxes, annual assessments, any ground rents, and hazard or flood insurance premiums affecting the collateral; or
2. The guaranteed principal advanced to or assumed by the Borrower under said note(s) or assumption agreement(s) and any interest due thereon.

If FmHA conducts the liquidation of the loan, loss occasioned to a Lender by accruing interest after the date FmHA accepts responsibility for liquidation will not be covered by this Contract of Guarantee. If Lender conducts the liquidation of the loan, accruing interest shall be covered by this Contract of Guarantee to date of final settlement when the Lender conducts the liquidation expeditiously in accordance with the liquidation plan approved by FmHA.

CONDITIONS OF GUARANTEE

1. Loan Servicing

Lender will be responsible for servicing the entire loan, and Lender will remain mortgagee and/or secured party of record.

2. Priorities

The entire loan will be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. The unguaranteed portion of the loan will not be paid first nor given any preference or priority over the guaranteed portion.

3. Full Faith and Credit

The Contract of Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which Lender has actual knowledge at the time it became such Lender or which Lender participates in or condones. In addition, the Contract of Guarantee will be unenforceable by Lender to the extent any loss is occasioned by the violation of usury laws, use of loan funds for unauthorized purposes, negligent servicing, or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing.

4. Protective Advances

Protective advances made by Lender pursuant to the regulations will be guaranteed against a percentage of loss to the same extent as provided in this Contract of Guarantee.

5. When Guarantee terminates

This Contract of Guarantee will terminate automatically (a) upon full payment of the guaranteed loan; or (b) upon full payment of any loss obligation hereunder; or (c) upon written notice from the Lender to FmHA that the guarantee will terminate 30 days after the date of notice.

Appendix E
Page 2

6. Settlement

The amount due under this instrument will be determined and paid as provided in the applicable Subpart of Part 1980 of Title 7 CFR in effect on the date of this instrument.

7. Notices

All notices and actions will be initiated through the FmHA County Supervisor for _____ (County) _____ (State with mailing address at the date of this instrument:

UNITED STATES OF AMERICA

FARMERS HOME ADMINISTRATION

By: _____

Title: _____

_____
Date

Assumption Agreement by _____ dated _____, 19 ___

Assumption Agreement by _____ dated _____, 19 ___

V42161 AUG 19 77 UM

Appendix F

USDA-FmHA
Form FmHA 449-38
(7-29-77)

FmHA Loan Ident. No.

LENDER'S AGREEMENT
(Emergency Livestock Loan -- Contract of Guarantee)

Applicable 7 CFR Part 1980, Subpart C

_____(Lender) of _____

has established a line of credit to _____(Borrower) for the fiscal period ending

_____, 19 ___, for the purpose of _____

_____

in the maximum sum of $ _____ as evidenced by a "Line of Credit Agreement" dated _____,

19 ___.

The United States of America, acting through Farmers Home Administration (FmHA) has entered into a "Contract of Guarantee" (Form FmHA 449-27) or has issued a "Conditional Commitment for Guarantee" (Form FmHA 449-15) to enter into a Contract of Guarantee with the Lender applicable to such line of credit to participate in a percentage of any loss on the loan advances not to exceed _____% of the amount of the principal and any accrued interest. The terms of the Contract of Guarantee are controlling. As a condition for obtaining a guarantee of the loan advances the Lender enters into this agreement.

THE PARTIES AGREE:

I. The maximum loss covered under the Contract of Guarantee will not exceed _____ percent of the principal and accrued interest owed on any Emergency Livestock loan advances made within the line of credit ceiling and the terms and conditions of the Contract of Guarantee.

II. Full Faith and Credit.

The Contract of Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which the Lender has actual knowledge at the time it became such Lender or which Lender participates in or condones. The Contract of Guarantee will be unenforceable by the Lender to the extent any loss is occasioned by violation of usury laws, use of loan funds for unauthorized purposes, negligent servicing, or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing.

III. Lender's Sale of Guaranteed Loan by Participation.

A. The Lender may obtain participation in its loan under its normal operating procedures. Participation means a sale of an interest in the loan wherein the Lender retains the note, collateral securing the note, and all responsibility for loan servicing and liquidation.

B. The Lender may retain or sell any amount of the unguaranteed portion of the loan as provided in this section only through participation. However, the Lender will retain the responsibility for loan servicing and liquidation.

IV. The Lender agrees loan funds will be used for the purposes authorized in Subpart C of Title 7 CFR Part 1980 in accordance with the terms of Form FmHA 449-15.

V. The Lender certifies that it is a citizen of the United States of America, or, if an organization, that the ownership of at least 51 percent of any outstanding interests of the Lender is owned by citizens of the United States. Further, such Lender certifies that any guarantees received shall be only on loans made by it, operating for itself and not on behalf of foreign citizens or organizations.

VI. The Lender certifies that none of its officers or directors, stockholders or other owners has a substantial financial interest in the borrower. The Lender certifies that neither the borrower nor its officers or directors, stockholders or other owners has a substantial financial interest in the Lender.

VII. The Lender certifies that it has no knowledge of any material adverse change, financial or otherwise, in the Borrower, his business or any parent, subsidiaries, or affiliates since it requested a Contract of Guarantee.

Appendix F
2

VIII. Lender certifies that the Line of Credit Agreement and/or loan instruments concurred in by FmHA has been or will be signed with the Borrower.

IX. Servicing.

A. The Lender will service the entire loan and will remain mortgagee and/or secured party of record. The entire loan will be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. The unguaranteed portion of a loan will not be paid first nor given any preference or priority over the guaranteed portion of the loan.

B. It is the Lender's responsibility to see that all construction is properly planned before any work proceeds; that any required permits, licenses or authorizations are obtained from the appropriate regulatory agencies; that the Borrower has obtained contracts through acceptable procurement procedures; that periodic inspections during construction are made and that FmHA's concurrence on the overall development schedule is obtained.

C. Lender's servicing responsibilities include, but are not limited to:

1. Obtaining compliance with the covenants and provisions in the note, loan agreement, security instruments, and any supplemental agreements. None of the aforesaid instruments will be altered without FmHA's prior written concurrence.

2. Receiving all payments on principal and interest on the loan advances as they fall due.

3. Inspecting the collateral as often as necessary to properly service the loan.

4. Assuring that adequate insurance is maintained. This includes hazard insurance obtained and maintained with a loss payable clause in favor of the Lender as the mortgagee or secured party.

5. Assuring that: taxes, assessment or ground rents against or affecting collateral are paid; the loan and collateral are protected in foreclosure, bankruptcy, receivership, insolvency, condemnation, or other litigation; insurance loss payments, condemnation awards, or similar proceeds are applied on debts in accordance with lien priorities on which the guarantee was based, or to rebuilding or otherwise acquiring needed replacement collateral with the written approval of FmHA; proceeds from the sale or other disposition of collateral are applied in accordance with the lien priorities on which the guarantee is based, except that proceeds from the disposition of collateral, such as machinery, equipment, furniture or fixtures, may be used to acquire property of similar nature in value up to $ _____ without written concurrence of FmHA; the Borrower complies with all laws and ordinances applicable to the loan, the collateral and or operation of the farm or ranch.

6. Assuring that if personal or corporate guarantees are part of the collateral, current financial statements from such loan guarantors will be obtained and copies provided to FmHA at such time and frequency as required by the loan agreement or Conditional Commitment for Guarantee. In the case of guarantees secured by collateral, assuring the security is properly maintained.

7. Obtaining the lien coverage and lien priorities specified by the Lender and agreed to by FmHA, properly recording or filing lien or notice instruments to obtain or maintain such lien priorities during the existence of the guarantee by FmHA.

8. Assuring that the borrower obtains title marketable in fact to the collateral.

9. Assuring that the Borrower (any party liable) is not released from liability for all or any part of the loan, except in accordance with FmHA regulations.

10. Providing FmHA a statement certified by an officer of the Lender of the unpaid principal balance of the guaranteed loan semiannually as of June 30 and December 31.

11. Obtaining from the Borrower periodic financial statements under the following schedule: _____

_____.

Lender is responsible for analyzing the financial statements, taking any servicing actions needed, and providing copies of statements and record of actions to the County Supervisor.

X. Defaults by Borrower.

A. The Lender will notify FmHA when a Borrower is thirty (30) days past due on a payment and is unlikely to bring its account current within sixty (60) days, or if the Borrower has not met its responsibilities of providing the required financial statements to the Lender or is otherwise in default. A meeting will be arranged by the Lender with the Borrower and FmHA to resolve the problem. Actions taken by the Lender with concurrence of FmHA may include but are not limited to any curative actions contained in Subpart C of Part 1980, or liquidation.

B. The Lender will negotiate in good faith in an attempt to resolve any problem and to permit the Borrower to cure a default, where reasonable.

V42161 AUG 19 77 UMI

XI. Liquidation.

If the Lender concludes that liquidation of a guaranteed loan account is necessary because of one or more defaults or third party actions that the Borrower cannot or will not cure or eliminate within a reasonable period of time, a meeting will be arranged by the Lender with FmHA. When FmHA concurs with the Lender's conclusion or at any time concludes independently that liquidation is necessary, it will notify the Lender and the matter will be handled as follows.

The Lender will liquidate the loan unless FmHA, at its option, decides to carry out liquidation.

A. Lender's proposed method of liquidation. Within 30 days after the decision to liquidate is made, the Lender will advise FmHA of its proposed method of liquidation and will provide FmHA with:

1. Such proof as FmHA requires to establish the Lender's ownership of the guaranteed loan promissory note(s) and related security instruments.

2. Information lists concerning the Borrower's assets including real and personal property, fixtures, claims, contracts, inventory (including perishables), accounts receivable, personal and corporate guarantees, and other existing and contingent assets, advice as to whether or not each item is serving as collateral for the guaranteed loan.

3. A proposed method of making the maximum collection possible on the indebtedness.

4. If the outstanding principal balance including accrued interest is less than $200,000, the Lender will obtain an estimate of the market and potential liquidated value of the collateral. On principal balances in excess of $200,000, and all other loans, the Lender will obtain an independent appraisal report on all collateral securing the loan, which will reflect the current market value and potential liquidation value. The appraisal report is for the purpose of permitting the Lender and FmHA to determine the appropriate liquidation actions. Any independent appraiser's fee will be shared equally by FmHA and the Lender.

B. FmHA's response to Lender's liquidation proposal. FmHA will inform the Lender whether it concurs in the Lender's proposed method of liquidation within 30 days after receipt of such notification from the Lender. If FmHA needs additional time to respond to the liquidation plan, it will advise the Lender of a definite time for such response. Should FmHA and the Lender not agree on the Lender's liquidation proposal, FmHA will proceed with the liquidation as follows:

1. The Lender will transfer to FmHA all its rights and interests necessary to allow FmHA to liquidate the loan. In this event, the Lender will not be paid for any loss until after the collateral is liquidated and the final loss is determined by FmHA.

2. FmHA will attempt to obtain the maximum amount of proceeds from liquidation.

3. Options available to FmHA include any one or combination of the usual commercial methods of liquidation.

C. Acceleration. The Lender or FmHA, if it liquidates, will proceed as expeditiously as possible when acceleration of the indebtedness is necessary including giving any notices and taking any other legal actions required by the security instruments. A copy of the acceleration notice or other acceleration document will be sent to FmHA or the Lender, as the case may be.

D. Liquidation: Accounting and Reports. When the Lender conducts the liquidation, it will account for funds during the period of liquidation and will provide FmHA with periodic reports on the progress of liquidation, disposition of collateral, resulting costs, and additional procedures necessary for successful completion of liquidation. When FmHA liquidates, the Lender will be provided with similar reports on request.

E. Determination of Loss and Payment. In all liquidation cases, a final settlement will be made with the Lender after the collateral is liquidated. FmHA will have the right to recover losses paid under the guarantee from any party liable.

1. Form FmHA 449-30, "Loan Note Guarantee Report of Loss," will be used for calculations of all estimated and final determinations.

2. When the Lender is conducting the liquidation, he may request a tentative loss estimate by submitting to FmHA an estimate of the loss that will occur in connection with liquidation of the loan. Such estimate will be prepared on Form FmHA 449-30, using the basic formula as provided on the report except that the appraisal value will be used in lieu of the amount received from the sale of collateral.

After the Report of Loss Estimate has been approved by FmHA, and within 30 days, thereafter, FmHA will send the original Report of Loss Estimate to FmHA Finance Office for issuance of a Treasury check in payment of the estimated amount due the Lender.

After liquidation has been completed, a final loss report will be submitted on Form FmHA 449-30 by the Lender to FmHA.

3. After the Lender has completed liquidation FmHA, upon receipt of the final accounting and report of loss, may audit and will determine the actual loss. If FmHA has any questions regarding the amounts set forth in the Final Report of Loss, it will investigate the matter. The Lender will make its records available to and otherwise assist FmHA in making the investigation. If FmHA finds any discrepancies, it will contact the Lender and arrange for the necessary corrections to be made as soon as possible. When FmHA finds the Final Report of Loss to be proper in all respects, it will be tentatively approved in the space provided on the form for that purpose.

4. When the Lender has conducted liquidation and after the Final Report of Loss has been tentatively approved:

a. If the loss is greater than the estimated loss payment, FmHA will send the original of the Final Report Loss to the Finance Office for issuance of a Treasury check in payment of the additional amount owed by FmHA to the Lender.

b. If the loss is less than the estimated loss, the Lender will reimburse FmHA for the overpayment plus interest at the note rate from date of payment.

5. If FmHA has conducted liquidation, it will provide an accounting and report of loss to the Lender and will pay the Lender in accordance with the Contract of Guarantee.

6. In those instances where the Lender has made authorized protective advances, it may claim recovery for the guaranteed portion of any loss of monies advanced as protective advances and interest resulting from such protective advances as provided above, and such payment will be made by FmHA when the final Report of Loss is approved.

F. Maximum amount of interest loss payment. Notwithstanding any other provisions of this agreement, the amount payable by FmHA to the Lender cannot exceed the limits set forth in the Contract of Guarantee. If FmHA conducts the liquidation, loss occasioned by accruing interest will be covered by the guarantee only to the date FmHA accepts this responsibility. Loss occasioned by accruing interest will be covered to the extent of the guarantee to the date of final settlement when the liquidation is conducted by the Lender provided it proceeds expeditiously with the liquidation plan approved by FmHA. The balance of accrued interest payable to the Lender, if any, will be calculated on the final Report of Loss form.

G. Application of FmHA loss payment. The total amount of the loss payment remitted by FmHA will be applied by the Lender on the guaranteed loan debt. At time of final loss settlement the Lender will notify the Borrower that the loss payment has been so applied.

H. Income from collateral. Any net rental or other income that has been received by the Lender from the collateral will be applied on the guaranteed loan debt.

I. Liquidation costs. Certain liquidation costs will be allowed during the liquidation process. Such costs will be deducted from gross proceeds from the disposition of collateral. The amount allowed will be the amount agreed upon by FmHA and the Lender as being reasonable under the circumstances and should be determined prior to liquidation.

J. Foreclosure. The parties owning the guaranteed portion and unguaranteed portions of the loan will join to institute foreclosure action or, in lieu of foreclosure, to take a deed of conveyance to such parties. When the conveyance is received and liquidated, net proceeds will be applied to the guaranteed loan debt.

K. Payment. Such loss will be paid by FmHA within 60 days after the Lender has submitted the final Report of Loss form.

XII. Protective advances.

Protective advances must constitute an indebtedness of the Borrower to the Lender and be secured by the security instrument(s). FmHA written authorization is required on all protective advances in excess of $500. Protective advances include, but are not limited to, advances for taxes, annual assessments, ground rent, hazard or flood insurance premiums effecting the collateral, and other expenses necessary to preserve or protect the security.

XIII. Additional Loans or Advances.

The Lender will not make additional expenditures or new loans without first obtaining the written approval of FmHA even though such expenditures or loans will not be guaranteed.

XIV. Future Recovery.

After a loan has been liquidated and a final loss has been paid by FmHA, any future funds which may be recovered by the Lender, will be pro-rated between FmHA and the Lender. FmHA will be paid such amount recovered in proportion to the percentage it guaranteed for the loan and the Lender will retain such amounts in proportion to the percentage of the unguaranteed portion of the loan.

V 42 161 AUG 19 77 UMI

Appendix F
5

XV. Transfer and Assumption Cases.
Refer to Subpart C of Title 7 of CFR Part 1980.

XVI. Other Requirements.
This agreement is subject to all the requirements of Subpart C of Title 7 CFR Part 1980, and any future amendments of these regulations not inconsistent with this agreement. Interested parties may agree to abide by future FmHA regulations not inconsistent with this agreement.

XVII. Execution of Agreements.
If this agreement is executed prior to the execution of the Contract of Guarantee, this agreement does not impose any obligation upon FmHA with respect to execution of such contract. FmHA in no way warrants that such a contract has been or will be executed.

XVIII. Notices.
All notices and actions will be initiated through the FmHA County Supervisor for _____(County) _____ (State) with mailing address at the date of this instrument: _____.

Dated this _____ day of _____, 19 ___.

LENDER:

ATTEST: _____ SEAL By _____

Title _____

UNITED STATES OF AMERICA

Department of Agriculture

Farmers Home Administration

By _____

Title _____

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: August 5, 1977.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77-23428 Filed 8-18-77;8:45 am]

CHAPTER XXVIII—FOOD SAFETY AND QUALITY SERVICE, DEPARTMENT OF AGRICULTURE

PART 2852—PROCESSED FRUITS, VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—United States Standards for Grades of Tomato Paste [1]

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This rule will change the grading standards for tomato paste. This action was initiated at the request of the industry. The effect of the change will be to provide an alternative method of determining the color of the product.

EFFECTIVE DATE: September 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Dale C. Dunham, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4693.

SUPPLEMENTARY INFORMATION: Notice of a proposal to amend § 2852.5048 (formerly § 52.5048) of the United States Standards for Grades of Tomato Paste was published in the FEDERAL REGISTER of July 12, 1976 (41 FR 28527). Interested persons were allowed until December 31, 1976 in which to submit written data, views, or arguments concerning the proposed amendment.

Three letters were received in response to the notice. Brief summaries of the comments received along with the USDA's views and comments thereto and the reasons for such responses follow.

One comment was received in opposition to the adoption of the amendment for the following reasons: (1) The lack of published data which adequately established the relationship between visual and colorimetric evaluations of the color of tomato paste;

(2) A reference was made to the fact that some of the instruments used in accumulating data which would permit color determinations by electronic measurements were not universally accepted and recognized as colorimeters or spectrophotometers; and,

(3) A single specific color order system was not advocated nor designated.

Response. The USDA, University of California at Davis, and the Canners League of California expended substantial time and effort to obtain representative expert visual color judgments of tomato paste over the past several years. Electronically derived values from instruments made by several manufacturers which had been carefully calibrated and standardized were obtained on the same samples that had been visually evaluated. The resultant volume of data that was accumulated and the analyses thereof precluded publication in the FEDERAL REGISTER of all of the data which established the meaningful relationships between visual and instrumental evaluations of the colors of tomato paste.

However, all of the data and analyses thereof relating to the formal studies are available for review from the Statistics and Technical Support Staff of the Food Safety and Quality Service. For further information call William J. Franks; phone (202) 447-7081.

The Department concurs that some of the instruments used to derive values that were and can be used to evaluate the color of tomato paste are not universally accepted as being either colorimeters or spectrophotometers. In recognition of this fact and in the interest of technical accuracy, the phrase "electronic color meters" is used in lieu of the term "colorimeters" in this amendment.

The Department acknowledges the existence of different color order systems. However, the Department believes that the recommendation of or limitation to a single specified color order system at this time could be considered as restrictive or discriminatory to any other present or future systems that may be used to accurately describe or evaluate the color of tomato paste. Therefore, the Department can not recommend any one given color space system or electronic color meter. Any system will be approved by the USDA which has been adequately demonstrated and documented to be sufficiently accurate to evaluate tomato paste color.

A second submittal, while acknowledging the proposed amendment as "positive and directionally appropriate changes," recommended "a delay in a final amendment until tomato color space is properly recognized as a three dimensional system and can be properly related to USDA Standard and Fancy Tomato Paste Color."

In the same submittal, additional comments were made regarding the following: (1) The reliance that the USDA system for color measurement is interconvertible with other color measurement systems and that the USDA system should relate to consumer-perceived color "goodness" of the product;

(2) A recommendation for the use "of the best (electronically and optically) colorimeters available";

(3) A suggestion to the effect that whatever colorimeter is used be "standardized" to a standard, white tile rather than to a changeable tomato product; and

(4) The recommendation that the analysis be made on "as is" samples: that is, not diluted or modified in any way.

Response. The Department acknowledges that, in a purely technical and scientific sense, color is presented in a three dimensional concept. Specifically this concept (or color space) is often expressed in terms of hue, value and chroma or other synonymous terms. However, the Department believes that reference to a given color in absolute terms does not immediately and easily convey an accurate mental image of such color to average consumers or marketers of tomato paste.

Further, the Department believes that simple and descriptive expressions which effectively set forth the parameters by which the "degree of goodness" of tomato paste color can be judged are in the best interests of the consumers, users and processors of the product.

The amendment in no way intends to limit the design or the manner in which any electronic color meter may be used to determine values which are mathematically convertible to an accurate color ranking of the product. Such ranking in the USDA grade standards is expressed in terms of score points.

It is the intention of the USDA that, at this time, any satisfactory color measurement system may be used; provided such system is approved by the USDA. The system used shall be convertible to an index or ranking that simply and easily conveys a "consumer-perceived color 'goodness' of the product." Further, the perceived color must meet the requirements of the objective and descriptive provisions relating to color set forth in the USDA grade standards for tomato paste.

The USDA cannot recommend any given electronic color meter over any other similar or equivalent instruments which provide adequate and sufficiently accurate data that can be used to effectively evaluate the color of tomato paste. The USDA's concern is that all of the instruments of a given model manufactured by any company yield essentially identical instrumental values for any given sample in the color system chosen for use.

The data used to develop the mathematical conversions which establish the rankings of tomato paste were derived from electronic color meters that had been carefully standardized to specific references that approximated the spectral characteristics of the product. Also, all visual evaluations of the color of tomato paste are based on specific references which occupy the same approximate color spaces as the product. Therefore, all data-gathering procedures used to establish the relationship between visual and electronic color meter measurements utilized color references that appeared somewhat similar to the product that was evaluated. In other words, a "red" reference was used to evaluate a "red" product. Such related color references helped to improve the accuracy of the color measurements.

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

V 42 161 AUG 19 77 UMI

Since judgments of the color of tomato paste involve, primarily, the dark red area of the spectrum, the USDA believes at this time that electronic color meters that have been "standardized" to this area would be more reproducible and accurate in providing the values necessary to evaluate tomato paste color.

However, standardizing of a color meter to a "standard" white tile or reference is not precluded in this amendment. Any system, instrument or standardizing procedure may be used; provided documented data are provided to guarantee that sufficient instrument accuracy and reproducibility exists to warrant its approval by the USDA, and to permit the USDA to establish the necessary mathematical equations.

Tomato paste is processed to various degrees of concentration—from a minimum of 24.0 percent Natural Tomato Soluble Solids (NTSS) to well in excess of 45.0 percent NTSS. Although processed to this range of concentrations as a convenience, tomato paste is always diluted with other liquid (usually water) when used.

Because the color appearance of tomato paste varies with the concentration, the color evaluations are done on the product which are diluted with water to 8.5 percent ±0.1 percent NTSS. Such dilution permits the tomato paste color to be judged independently of its original concentration—that such judgments evaluate the product on an equal comparative basis.

For example, without dilution to a given constant, it is acknowledged that tomato paste of 24.0 percent NTSS concentration would visually appear "less red" than tomato paste having a concentration of 35.0 percent NTSS concentration even though the raw tomato quality, product preparation, and processing procedures were virtually identical. This is primarily because the more concentrated product has a somewhat lower value (less light, darker) and a higher chroma (greater degree of saturation) than the less concentrated product. The products would be noticeably different (appearance-wise) and would have appreciably different readouts when instrumentally measured for color.

However, when carefully diluted to a more limited range of concentration, the visual color impact due solely to product concentration is minimized and variations in instrumental readouts are not as great. Too, dilution appears to permit better color discrimination of tomato paste having indications of "yellowness," "browning," or dullness. These conditions are considered undesirable in the color of tomato paste since they are usually indicative of the use of lesser quality raw product, improper processing, or prolonged storage.

Generally tomato paste made from mature, sound, average field-ripened tomatoes which have been properly processed will usually produce a product having middle Grade A color. However, the use of better quality, riper tomatoes, along with better preparation and processing will usually produce a product having close to optimum (top Grade A) color. Use of poor raw product (green, under-colored, sunscald or yellow tomatoes) and/or improper processing will usually give rise to tomato paste of Grade C or Substandard color. Dilution to a given constant makes visual and instrumental distinctions between these color appearances possible, while still maintaining the established relationship.

A third comment was received from the Canners League of California. This organization represents processors who produce well over 75 percent of the tomato paste manufactured in the United States. The Canners League of California supports the proposed amendment. They recommend one modification—that all color evaluations (visual and/or instrumental) of tomato paste be made on the product after it has been carefully diluted with water to 8.5 ±0.1 percent natural tomato soluble solids

A second suggestion involved a representation of the text of the proposed amendment. These editorial changes do not alter in any manner the original intent of the proposed amendment.

Response. The USDA concurs that a dilution of tomato paste to a more restrictive range (8.5 ±0.1 percent NTSS) would minimize any apparent variation between visual color observations that were made at 9.0 percent NTSS and then at 8.0 percent NTSS which is permitted in the current standards.

Because this modification will provide increased accuracy and reduce the variation of color evaluation for a given sample, the Department hereby incorporates this modification in this amendment.

After careful review the Department concurs that the suggested changes in text more clearly and understandably present the provisions of the amendment. Therefore, in the interest of brevity and clarity of presentation, the modified text to the amendment proposed on July 12, 1976, is hereby adopted and is incorporated into the U.S. Standards for Grades of Tomato Paste (7 CFR 2852.5041 through 2852.5051) that are set forth as follows.

Subpart—United States Standards for Grades of Tomato Paste

Sec.
2852.5041 Product description.
2852.5042 Concentration.
2852.5043 Texture.
2852.5044 Grades.
2852.5045 Recommended fill of container.
2852.5046 Determining the grade of a sample unit.
2852.5047 Determining the rating for the factors which are scored.
2852.5048 Color.
2852.5049 Defects.
2852.5050 Determining the grade of a lot.
2852.5051 Scoresheet.

AUTHORITY: Agricultural Marketing Act of 1946, secs. 202–208, 60 Stat. 1087, as amended (7 U.S.C. 1621–1627).

Subpart—United States Standards for Grades of Tomato Paste

§ 2852.5041 Product description.

(a) "Tomato Paste" is the clean, sound, wholesome product as defined in the Standard of Identity for Tomato Paste (21 CFR 155.191) issued pursuant to the Federal Food, Drug, and Cosmetic Act and contains not less than 24.0 percent of natural tomato soluble solids.

(b) The standards in this subpart cover canned tomato paste processed by heat to assure preservation in hermetically sealed containers as well as tomato paste which may be preserved by other means.

§ 2852.5042 Concentration.

The degree of concentration is not considered a factor of quality for the purposes of these standards but the following designations of concentration may be used in connection with these standards for the applicable natural tomato soluble solids group:

Natural Tomato Soluble Solids	
Extra heavy concentration.	39.3 pct or more.
Heavy concentration.	32 pct or more, but less than 39.3 percent.
Medium concentration.	28 pct or more, but less than 32 percent.
Light concentration.	24 pct or more, but less than 28 percent.

§ 2852.5043 Texture.

(a) *General.* Texture is the degree of fineness or coarseness of the product. Texture is classified when the product is diluted with water to between 8 percent and 9 percent, inclusive, of natural tomato soluble solids.

(b) *Kinds of texture.*—(1) *"Fine"* texture means a smooth, uniform finish.

(2) *"Coarse"* texture means a coarse, slightly granular finish.

§ 2852.5044 Grades.

(a) *"U.S. Grade A"* (or *"U.S. Fancy"*) is the quality of tomato paste that: (1) Has a good flavor and odor,

(2) Has a good color,

(3) Is practically free from defects, and

(4) Scores not less than 90 points when scored in accordance with the scoring system outlined in this subpart.

(b) *"U.S. Grade C"* (or *"U.S. Standard"*) is the quality of tomato paste that: (1) Has at least a fairly good flavor and odor,

(2) Has at least a fairly good color,

(3) Is at least fairly free from defects, and

(4) Scores not less than 80 points when scored in accordance with the scoring system outlined in this subpart.

(c) *"Substandard"* is the grade of tomato paste that fails to meet the requirements of "U.S. Grade C."

§ 2852.5045 Recommended fill of container.

It is recommended that containers of tomato paste be filled as full as practicable without impairment of quality.

§ 2852.5046 Determining the grade of a sample unit.

(a) *General.* The grade of a sample unit of tomato paste is determined by considering the factor of flavor and odor which is not scored, the ratings for the factors of color and defects which are scored, the total score, and the limiting rules which apply.

(b) *Factors not rated by score points.*—(1) *Flavor and odor.* (i) The flavor and odor of the product is determined on undiluted samples and also after dilution with water to between 8 percent and 9 percent, inclusive, of natural tomato soluble solids.

(ii) *"Good flavor and odor"* means a distinct tomato paste flavor characteristic of ripe, good quality tomatoes and inclusive of any optional ingredient which may have been added. Such flavor and odor may be no more than slightly affected by any one or combination of the following: Stems, sepals, leaves, crushed seeds, cores; by immature, soured, or overripe tomatoes; from the effects of unsatisfactory preparation, processing, or storage; or from any other factor not specifically mentioned.

(iii) *"Fairly good flavor and odor"* means a characteristic tomato paste flavor and inclusive of any optional ingredient which may have been added. Such flavor and odor may be affected, but not to a serious degree, by any one or combination of the following: stems, sepals, leaves, crushed seeds, cores; by immature, soured, or overripe tomatoes; from the effects of unsatisfactory preparation, processing, or storage; or from any other factor not specifically mentioned.

(iv) *"Off flavor and odor"* means tomato paste flavor that fails to meet the requirements of "fairly good flavor and odor" or which has a flavor and/or odor which is seriously objectionable.

(c) *Factors rated by score points.* The relative importance of each scoring factor is expressed numerically on the scale of 100. The maximum number of points that may be given each factor is:

Factors:	Points
Color	50
Defects	50
Total score	100

§ 2852.5047 Determining the rating for the factors which are scored.

The essential variations within each factor which is scored are so described that the value may be determined numerically. The numerical range within each factor is inclusive. (For example, "45 to 50 points" means 45, 46, 47, 48, 49 or 50 points.)

§ 2852.5048 Color.

(a) *General.* The amount of red in tomato paste is determined by comparing the color of the product, diluted with water to 8.5 percent (±0.1 percent) of natural tomato soluble solids (N.T.S.S.), with that produced by spinning a combination of the following Munsell color discs:

Disc 1—Red (5R2.6/13) (glossy finish).
Disc 2—Yellow (2.5YR5/12) (glossy finish);
Disc 3—Black (N1) (glossy finish);
Disc 4—Grey (N4) (mat finish).

Such comparison is made under a diffused light source of approximately 250 footcandle (candela) intensity and having a spectral quality approximating that of daylight under a moderately overcast sky, and a color temperature of 7,500 degrees Kelvin ±200 degrees. With the light source directly over the disc and diluted product, observation is made at an angle of 45 degrees and at a distance of 12 or more inches from the product.

(b) *Availability of color reference.* The colors referred to in this section are available from the approved supplier under license from the U.S. Department of Agriculture:

Munsell Color Company, 2441 North Calvert Street, Baltimore, Md. 21218.

(c) *Use of electronic color meters.* (1) Values that may be used for conversion to a numerical score point color evaluation of the product, diluted to 8.5 percent (±0.1 percent) natural tomato soluble solids, may be determined by any electronic color meter system approved by the United States Department of Agriculture.

(2) The values derived with the approved electronic color meter system shall be resolvable into a calculated numerical score point by use of any appropriate conversion formula that has been approved by the USDA.

(d) *Grade A classification.* (1) Tomato paste that has a good color may be given a score of 45 to 50 points. "Good color" means a bright, typical, red tomato paste color. Such color, when the product is diluted and observed as specified in this section, is as red as, or more red than, that produced by spinning the Munsell color discs in the following combinations or an equivalent of such composite color:

65 percent of the area of Disc 1; 21 percent of the area of Disc 2, and 14 percent of the area of either Disc 3 or Disc 4; or
7 percent of the area of Disc 3 and 7 percent of the area of Disc 4, whichever most nearly matches the appearance of the diluted sample.

(2) Any calculated numerical score of 45 points for a diluted product shall be equivalent to a visually evaluated color score of 45 points produced under the conditions specified in paragraph (d)(1) of this section. Proportionately higher calculated numerical scores or visually assigned score points may be assigned to diluted products which show more redness.

(e) *Grade C classification.* (1) Tomato paste that has at least a fairly good color may be given a score of 40 to 44 points. Tomato paste that falls into this classification shall not be graded above U.S. Grade C regardless of the total score for the product (this is a limiting rule). "Fairly good color" means a typical red tomato paste color which may be slightly dull or may have a slightly brownish cast. Such color, when the product is diluted and observed as specified in this section, is as red as, or more red than, that produced by spinning the Munsell color discs in the following combinations or an equivalent of such composite color:

53 percent of the area of Disc 1;
28 percent of the area of Disc 2;
19 percent of the area of either Disc 3 or Disc 4; or
9½ percent of the area of Disc 3 and 9½ percent of the area of Disc 4, whichever most nearly matches the appearance of the diluted sample.

(2) Any calculated numerical score of 40 points for a diluted product shall be equivalent to a visually evaluated color score of 40 points produced under the conditions specified in paragraph (e) (1) of this section. Proportionately higher calculated numerical scores or visually assigned score points may be assigned to diluted products which show more redness.

(f) *Substandard classification.* Tomato paste that fails to meet the requirements of paragraph (e) of this section may be given a score of 0 to 39 points and shall not be graded above Substandard regardless of the total score for the product (this is a limiting rule).

§ 2852.5049 Defects.

(a) *General.* This factor is concerned with the degree of freedom from defects such as dark specks or scale-like particles, seeds or objectionable particles of seeds, objectionable tomato peel, harmless extraneous material, or any other similar substances.

(b) *Grade A classification.* Tomato paste that is practically free from defects may be given a score of 45 to 50 points. "Practically free from defects" means that any defects present do not more than slightly affect the appearance or usability of the product.

(c) *Grade C classification.* Tomato paste that is fairly free from defects may be given a score of 40 to 44 points. Tomato paste that falls into this classification shall not be graded above U.S. Grade C regardless of the total score of the product (this is a limiting rule). "Fairly free from defects" means that any defects present may be noticeable but are not so large, so numerous, nor of such contrasting color or nature as to seriously affect the appearance or usability of the product.

(d) *Substandard classification.* Tomato paste that fails to meet the requirements of paragraph (c) of this section may be given a score of 0 to 39 points and shall not be graded above Substandard regardless of the total score for the product (this is a limiting rule).

§ 2852.5050 Determining the grade of a lot.

The grade of a lot of tomato paste covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (§§ 2852.1 to 2852.83).

§ 2852.5051 Scoresheet.

Size and kind of container _____
Label _____
Container mark or identification _____
Net weight _____
Vacuum (inches) _____
Texture (fine or coarse) _____
Natural tomato soluble solids (percent) _____

V 42161 AUG 19 77 UMI

Factors		Score points	
Color	50	(A)	45-50
		(C)	[1] 40-44
		(SStd)	[1] 0-39
Defects	50	(A)	45-50
		(C)	[1] 40-44
		(SStd)	[1] 0-39
Total score	100		

[1] Indicates limiting rule.

Flavor and odor ------ Good, fairly good, off.

Grade ---------- ----------

NOTE.—The Food Safety and Quality Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: August 12, 1977.

ROBERT ANGELOTTI,
Administrator, Food Safety and Quality Service.

[FR Doc.77-23840 Filed 8-18-77;8:45 am]

PART 2858—GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED PLANTS, AND STANDARDS FOR GRADES OF DAIRY PRODUCTS [1]

Subpart T—United States Sediment Standards For Milk and Milk Products

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: The amended U.S. sediment standards for milk and milk products will provide sediment standards for use with the "universal" sample sizes (4 ounces, 2 ounces, and 1 ounce) that are being utilized by the industry in their milk quality programs. A "universal sample" is taken from each producers milk when collected from the farm for use in determining quality and composition. The sediment standard for the universal sample will eliminate the need of larger special samples for determining sediment in milk. Also it will be equivalent to those presently used for the one pint mixed sample.

EFFECTIVE DATE: September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard W. Webber, Dairy Standardization, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7473.

SUPPLEMENTARY INFORMATION: On May 26, 1977, a notice was published in the FEDERAL REGISTER (42 FR 27011) to amend the U.S. sediment standards for milk and milk products to provide for sediment standards for use with the "universal" sample sizes (4 ounces, 2 ounces, and 1 ounce) that are being utilized by the industry in their milk quality programs. Interested parties were given the opportunity to submit, not later than July 15, 1977, data, comments, and recommendations regarding the proposed amendment.

Five responses were received to the proposed amendment. Three responses were from industry and two from State regulatory agencies. One industry response simply requested a copy of the proposed amendment. Three responses method. This was provided to the respondent. The other two industry responses supported the proposal.

One State regulatory agency strongly favored the proposal. However, it expressed a concern as to test procedures, accuracy, or limitations. The agency was provided a copy of the collaborative study which determined the feasibility of using "universal" samples to determine sediment. The results of this study were previously published in the January 1977 issue of the "Journal of Food Protection." The State regulatory agency also was provided a copy of the chapter "Sediment in Fluid Milk" which has been approved and accepted for inclusion in the next revision of "Standard Methods for the Examination of Dairy Products" (SMEDP). This chapter provides the sampling and testing methodology. These documents satisfied the concern of this agency.

The other State agency opposed any sediment standard that utilizes a filtering area of less than .20 inch diameter. The collaborative study referenced in the preceding paragraph was accepted unanimously by the committee responsible for the chapter in SMEDP for determining sediment in milk. The committee is composed of an industry representative, a trade association representative, a representative of a professional society, a representative of a State regulatory agency, and a Federal agency representative. The chapter on sediment in SMEDP, which was written by this committee, will include all three universal sample sizes. The chapter has been accepted by the Intersociety Council, the governing body of SMEDP, for inclusion in the next revision of SMEDP which will be published in the near future.

Each State regulatory agency has the privilege of specifying test procedures that are acceptable to it. The Department has no objection to this. In proposing the amendment the Department was responding to the needs and practices of industry based on acceptable studies and testing procedures.

On its own initiative the Department is making certain editorial changes in the United States Sediment Standards for Milk and Milk Products to be consistent with the new recodification designations established in the FEDERAL REGISTER, June 27, 1977 (42 FR 3514).

It is hereby further found that good cause exists for not postponing the effective date of these standards until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) these standards are equivalent to those presently used except the sample size has been reduced, (2) the industry has expressed a demand for the standards as soon as possible, (3) the industry will not have to make special preparations to use the standards, (4) the use of the standards are optional, and (5) notice of the proposed standards and the effective date has been given to the industry and such notice also was published in the FEDERAL REGISTER of May 26, 1977.

Therefore, under the authority of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621) Subpart T is amended; and republished in its entirety as follows:

Subpart T—United States Sediment Standards for Milk and Milk Products

Sec.

2858.2726 United States standards for milk and milk products.
2858.2728 United States sediment standards for milk and milk products: six 1⅛" diameter filtering area (coarse sediment).
2858.2729 United States sediment standards for milk and milk products: three 1¼" diameter filtering area (coarse sediment).
2858.2730 United States sediment standards for milk and milk products: six 0.40" diameter filtering area (fine sediment).
2858.2731 United States sediment standards for milk and milk products: three 0.40" diameter filtering area (fine sediment).
2858.2732 United States sediment standards for milk and milk products: for 0.10", 0.14", and 0.20" diameter filtering areas (fine sediment).

AUTHORITY: The Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; (7 U.S.C. 1621)).

Subpart T—United States Sediment Standard for Milk and Milk Products

§ 2858.2726 United States sediment standards for milk and milk products.

(a) The standards contained in this section consist of ten (10) sediment discs, prepared as hereinafter indicated, each of which represents one of the following:

0 mg. of sediment.
0.025 mg. of sediment.
0.050 mg. of sediment.
0.075 mg. of sediment.
0.10 mg. of sediment.
0.20 mg. of sediment.
0.30 mg. of sediment.
0.50 mg. of sediment.
1.00 mg. of sediment.
2.50 mg. of sediment.

(b) Each sediment disc was prepared in accordance with the procedure set forth in paragraph 9.04 of the publication "Standard Methods for the Examination of Dairy Products," Ninth Edition, 1948, published by the American Public Health Association, 1790 Broadway, New York, New York. To facilitate the use and availability of these standards, a composite photograph of the ten (10) sediment discs is made a part hereof; [2] and a copy of the photograph may be obtained, upon request, from Dairy Standardization, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250.

[1] Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act.

§ 2858.2728 United States sediment standards for milk and milk products: six 1⅛" diameter filtering area (coarse sediment).

(a) The standards contained in this section consist of six (6) sediment discs prepared as hereinafter indicated, each of which is numbered consecutively 0 to 5 representing one of the following amounts of sediment on a 1⅛" diameter filtering area.

0–0.0 mg.
1–0.5 mg.
2–1.5 mgs.
3–2.5 mgs.
4–3.0 mgs.
5–6.0 mgs.

(b) Each sediment disc was prepared from "coarse" sediment in accordance with the procedure set forth in paragraph 15.06 of "Standard Methods for the Examination of Dairy Products," Eleventh Edition 1960, published by the American Public Health Association, 1790 Broadway, New York, New York. To facilitate the use and availability of these standards, a composite photograph of the six (6) sediment discs is attached hereto and made a part hereof.[2]

§ 2858.2729 United States sediment standards for milk and milk products: three 1¼" diameter filtering area (coarse sediment).

The standards contained in this section are those most commonly used for the examination of raw milk by the "off-the-bottom method," and are the same three (3) sediment discs numbered as 1, 2 and 3 showing 0.5 mg., 1.5 mgs., and 2.5 mgs. of sediment, respectively, as designated in § 2858.2728. To facilitate the use and availability of these standards, a composite photograph of these three (3) sediment discs is attached hereto and made a part hereof.[2]

§ 2858.2730 United States sediment standards for milk and milk products: six 0.40" diameter filtering area (fine sediment).

(a) The standards contained in this section consist of six (6) sediment discs prepared as hereinafter indicated, each of which is numbered 0 to 5 representing one of the following amounts of sediment on a 0.40 inch diameter filtering area and is equivalent to the respective amounts of sediment on the 1⅛ inch diameter filtering area as described in § 2858.2728:

0–0.0 mg. (0.0 mg. equivalent).
1–0.0625 mg. (0.5 mg. equivalent).
2–0.1875 mg. (1.5 mgs. equivalent).
3–0.3125 mg. (2.5 mgs. equivalent).
4–0.3750 mg. (3.0 mgs. equivalent).
5–0.7500 mg. (6.0 mgs. equivalent).

(b) Each sediment disc was prepared from "fine" sediment in accordance with the procedure set forth in paragraph 15.07 of "Standard Methods for the Examination of Dairy Products," Eleventh Edition 1960. To facilitate the use and availability of these standards, a composite photograph of the six (6) sediment discs is attached hereto and made a part hereof.[2]

§ 2858.2731 United States sediment standards for milk and milk products: three 0.40" diameter filtering area (fine sediment).

The standards contained in this section are those most commonly used for the examination of raw milk by the "stirred sample method" and are the same three (3) sediment discs numbered as 1, 2 and 3 showing 0.0625 mg., 0.1875 mg. and 0.3125 mg. of sediment, respectively, as designated in § 2858.2730. To facilitate the use and availability of these standards, a composite photograph of these three (3) sediment discs is attached hereto and made a part hereof.[2]

§ 2858.2732 United States sediment standards for milk and milk products: for 0.10", 0.14", and 0.20" diameter filtering areas (fine sediment).

(a) The standards contained in this section consist of three series of four (4) sediment discs prepared as hereinafter indicated, each of which is numbered 0 to 3 representing one of the following amounts of sediment on a 0.10 inch, 0.14 inch, and 0.20 inch filtering area and is equivalent to the respective amounts of sediment on the 1⅛ inch diameter filtering area as described in § 2858.2728:

0.10 inch diameter filtering area.
0–0.0 mg. (0.0 mg. equivalent).
1–0.0039 mg. (0.50 mg. equivalent).
2–0.0118 mg. (1.50 mgs. equivalent).
3–0.0196 mg. (2.50 mgs. equivalent).

0.14 inch diameter filtering area.
0–0.0 mg. (0.0 mg. equivalent).
1–0.0078 mg. (0.50 mg. equivalent).
2–0.0235 mg. (1.50 mgs. equivalent).
3–0.0391 (2.50 mgs. equivalent).

0.20 inch diameter filtering area.
0–0.0 mg. (0.0 mg. equivalent).
1–0.0156 mg. (0.50 equivalent).
2–0.0469 mg. (1.50 mgs. equivalent).
3–0.0781 mg. (2.50 mgs. equivalent).

(b) Each sediment disc was prepared from "fine" sediment in accordance with the procedure set forth in paragraph 15.07 of "Standard Methods for the Examination of Dairy Products," Eleventh Edition, 1960 and paragraph 17.4, thirteenth edition, 1972. To facilitate the use and availability of these standards, a composite visual aid of the three series of four (4) sediment discs is attached hereto and made a part hereof.[2]

Done at Washington, D.C., this 13th day of August 1977.

ROBERT ANGELOTTI,
Administrator.

[FR Doc.77-23955 Filed 8-18-77;8:45 am]

[2] Filed as part of the original document.

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

Issuance of Arrival-Departure Cards (Forms I–94) to Mexican Nationals

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This order contains amendments of the regulations of the Immigration and Naturalization Service concerning the issuance of Arrival-Departure Cards (Forms I–94) to Mexican nationals. These amendments are the result of consultations between the Department of State and the Service respecting the immigration documentation which should be issued to Mexican nationals entering the United States, and are intended to facilitate travel and expedite immigration inspection.

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536. Telephone 202-376-8373.

SUPPLEMENTARY INFORMATION: The amendments contained in this order are issued in accordance with section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93-502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (66 Stat. 173; 8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1.

Existing 8 CFR 235.1(f)(1) provides that a completely executed Form I–94, Arrival-Departure Card, endorsed to show date and place of admission, period of admission and nonimmigrant classification, shall be issued to each nonimmigrant alien admitted to the United States except for certain specified classes of nonimmigrants set forth in the regulation.

This order amends 8 CFR 235.1(f)(1) in two respects: First, it divides the existing exempted classes into alphabetical subgroups for purposes of clarity. Secondly, it adds a new subgroup (D) setting forth an exemption from issuance of Form I–94 for a Mexican national in possession of a valid Mexican passport and multiple-entry nonimmigrant visitor for pleasure or business visa, admitted at a Mexican border port of entry as a border crosser or as a nonimmigrant visitor for a period of not more than 15 days to visit within the States of Texas, New Mexico, Arizona, or California. On the initial entry, an alien coming under the purview of this subparagraph will be issued a Form

V 4216161 AUG 19 77 UMI

I–94. On subsequent applications for admission, if the applicant is entering for less than 72 hours at a Mexican border port of entry and will proceed only within the 25 mile zone, the applicant may be allowed to enter without the issuance of either Form I–94 or Form SW–434. This amendment will extend to Mexican nationals in possession of valid Mexican passports and multiple-entry nonimmigrant visitor's visas the same privileges respecting documentation and entry into the United States now enjoyed by holders of Mexican Border Crossing Cards. The I–94 is required to be issued on the first entry to comply with section 290 of the Immigration and Nationality Act which requires the Service to keep a record of all aliens admitted to the United States.

Existing 8 CFR 235.1(g) provides that the holder of a Mexican Border Crossing Card (Form I–186) who wishes to enter the United States as a visitor for business or pleasure for more than 72 hours but not more than 15 days, or to proceed beyond 25 miles from the U.S.–Mexican border but within the four state area of Texas, New Mexico, Arizona or California shall be issued Form SW–434 endorsed to show date and place of admission, period of admission and nonimmigrant classification. This amendment provides that a Mexican national holding a valid Mexican passport and multiple-entry nonimmigrant visa authorizing entry for business or pleasure shall also be issued Form SW–434 under the same conditions.

8 CFR 235.1(g) is being further amended to provide that a Mexican national in possession of a valid Mexican passport and visa valid for limited applications to enter the United States shall be issued Form I–94 on his initial entry, and either Form I–94 or SW–434 on each subsequent entry. Also, the passport shall be endorsed on each admission until the allowable number of entries on the visa has been exhausted. This regulation is necessary to insure compliance with the terms of the limited-entry visa.

Since these amendments relate to Service procedure, compliance with the provisions of section 553 of Title 5 of the United States Code respecting notice of proposed rulemaking and delayed effective date is not required.

In the light of the foregoing, the following amendments are hereby prescribed to Title 8 of Chapter I of the Code of Federal Regulations:

In Part 235, §§ 235.1(f) (1), (2), and § 235.1(g), are revised to read as follows:

§ 235.1 Scope of examination.

* * * * *

(f) *Arrival-Departure Card, Form I–94*—(1) *Nonimmigrant applicants.* A completely executed Form I–94 endorsed to show date and place of admission, period of admission, and nonimmigrant classification shall be issued to each nonimmigrant alien admitted to the United States, except:

(i) A nonimmigrant alien coming within the purview of § 212.1(a) of this chapter and 22 CFR 41.129(a), who is admitted as a visitor for business or pleasure or to proceed in direct transit through the United States;

(ii) A nonimmigrant alien who has his residence in the British Virgin Islands and was admitted only to the United States Virgin Islands as a visitor for business or pleasure under the provision of § 212.1(b) of this chapter;

(iii) A Mexican national in possession of a valid Form I–186 who is admitted at a Mexican border port of entry as a border crosser or as a nonimmigrant visitor for a period of not more than 15 days to visit within the States of Texas, New Mexico, Arizona, or California. (See paragraph (g) of this section as to when SW–434 is required to be issued.)

(iv) A Mexican national in possession of a valid Mexican passport and multiple-entry nonimmigrant visitor for pleasure or business visa, and is admitted at a Mexican border port of entry as a border crosser or as a nonimmigrant visitor for a period of not more than 15 days to visit within the States of Texas, New Mexico, Arizona, or California, except on the initial entry, when an alien coming under the purview of this paragraph will be issued a Form I–94. On subsequent applications for admission, if he is entering for less than 72 hours at a Mexican border port of entry and will proceed only within the 25-mile zone the applicant may be allowed to enter without the issuance of either Form I–94 or Form SW–434.

A Form I–94 valid for any number of entries during a specified 6-month period may be issued to a nonimmigrant alien who will have occasion to make frequent entries into the United States over the land borders.

(2) *Paroled aliens.* An alien paroled into the United States pursuant to the provisions of Section 212(d)(5) of the Act, including an alien crewman, shall be issued a completely executed Form I–94 endorsed to show the date and place of parole, the period for, and conditions under which the alien was paroled into the United States.

(g) *Mexican Border Visitors Permit (SW–434).* A Mexican national described in paragraph (f)(1)(iv) of this section applying for a second or subsequent admission, and the rightful holder of a valid Form I–186, who is admitted as a visitor for business or pleasure at a Mexican border port of entry for a period of more than 72 hours but not more than 15 days in the immediate border area, or to proceed beyond 25 miles into the United States but within the States of Texas, New Mexico, Arizona, or California, for not more than 15 days, shall be issued Form SW–434 endorsed to show date and place of admission, period of admission, nonimmigrant classification, and place of destination. A Mexican national in possession of a valid passport and visa valid for limited applications to enter the United States shall be issued a Form I–94 on the initial entry and Form SW–434 or Form I–94 on each admission thereafter. The passport shall be endorsed on each admission until the number of entries allowed by the nonimmigrant visa has been exhausted.

* * * * *

(Sec. 103; 66 Stat. 173; 8 U.S.C. 1103.)

Effective date: The amendments contained in this order become effective on August 19, 1977.

Dated: August 11, 1977.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc.77-23994 Filed 8-18-77;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Issuance of Import Permits for Animals on a Lottery Basis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: These amendments establish procedures to be used for the issuance of special permits for animals to be imported into the United States through the Fleming Key Animal Import Center, Fleming Key, Fla. Due to space limitations at the Center there is a need for a method of issuing permits which will insure fairness and equality to all importers requesting such permits.

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. D. E. Herrick, USDA, Veterinary Services, Federal Building, Room 815, Hyattsville, Md. 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION: On April 30, 1975, a notice was published in the FEDERAL REGISTER (40 FR 18821) which solicited comments and suggestions from the general public on methods and procedures to be used by the Department in the issuance of permits for animals to be imported through the Animal Import Center at Fleming Key, Fla. Because of space limitations at the Fleming Key facility and the number of applications for permits expected, the Department wished to develop a method to be used in issuing these permits which would insure fairness and equality to all importers requesting such permits and at the same time insure maximum utilization of space available without discrimination to anyone. A total of 120 days was allowed for comments.

A total of 36 comments were received, 35 of which favored establishing some system for the issuance of import permits with 24 of these suggesting use of a lottery. Two of these suggested that the

public be notified 90 days in advance of a public drawing.

After due consideration of all comments received and all other relevant information available to the Department, it was determined that further consideration should be given to the issuance of import permits on a lottery type selection basis.

On February 18, 1977, a second notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 10013) which proposed procedures for use in the issuance of special import permits for animals to be imported through the Fleming Key Animal Import Center.

This proposal provided for public notification at least 90 days prior to the date of public drawing with the names of applicants for permits to be selected through consecutive drawings until all spaces available for 400 cattle for each quarantine period are allotted. If less than 400 applications were received, it was proposed to issue one permit for one animal to each applicant, with the names of applicants wishing to import more than one animal, selected through consecutive drawings until all spaces available for each quarantine period were allotted.

The method proposed was believed to be the most equitable means available to insure that each applicant had an opportunity to import at least one animal. A period of 60 days was allowed for comments. No comments were received.

After due consideration of all relevant information available to the Department, the proposal as published is adopted without change. Accordingly, Part 92, Title 9, Code of Federal Regulations is amended in the following respects:

In § 92.4, the section heading is amended; in paragraph (a)(2) the exception is amended; in paragraph (b) the first sentence is revised and a new paragraph (e) is added to read as follows:

§ 92.4 Import permits for ruminants, swine, poultry, animal semen, animal specimens for diagnostic purposes,[5] and special permits for cattle entering Fleming Key Animal Import Center.

(a) * * *

(2) * * *, except as provided in paragraphs (d) and (e) of this section.

* * * * *

(b) *Permit.* Except as provided in paragraph (e) of this section, when a permit is issued the original and two copies will be sent to the importer. * * *

* * * * *

(e) *Special permits required for quarantine of cattle at Fleming Key, Florida Animal Import Center.* Because of the extended period of time required to process cattle intended for importation from foot-and-month disease infected countries through the Animal Import Center at Fleming Key, Florida, special permits shall be required before any animal may enter such facility for quarantine. Such permits will be issued on a lottery basis in accordance with the following procedures:

(1) *Public notification of drawing.* For each importation of animals into the Fleming Key facility, a drawing will be held of the names of applicants who desire to import animals into the facility at that particular time. Each applicant shall complete an application for importing animals into the Fleming Key facility at least 15 days prior to the date of the drawing.[5a] The applicant shall state on the application the number of animals which he desires to import into the Fleming Key facility. At least 90 days prior to any drawing, notice will be given in the FEDERAL REGISTER of the date, time, and place of such event.

(2) *Drawing for permits.* At least 6 months before the proposed date of entry of cattle into the Fleming Key Animal Import Center and at the time, date, and places specified in the Notice of Drawing, a Department employee shall consecutively draw the names of applicants until a maximum of 400 names have been selected to receive one special permit for one animal each. In the event that there are less than 400 applicants for a particular drawing, each applicant shall initially receive one special permit to import one animal into the Fleming Key Animal Import Center. The remaining available special permits shall be issued by consecutive drawings of the names of those applicants who desire to import more than one animal into the Fleming Key Animal Import Center. The procedure for the consecutive drawings shall be as follows: A drawing will be held of the names of those applicants seeking to import at least two animals into the center. If, after these names have been selected, available space in the center still exists, a drawing will be held of the names of those applicants seeking to import at least three animals into the center. This selection process shall continue in the same manner until no available space exists for importing animals into the Fleming Key Animal Import Center. Within a reasonable time after the conclusion of the drawing, all applicants will be notified in writing by the Department as to whether or not the applicant has received a special permit. Any applicant who has not received a permit for any animal for which he has filed an application, may resubmit an application at any future drawing which is held.

(3) *Areas of origin; limitations.* All applications for special permits received will be carefully reviewed prior to the public drawing. In the event applications are received for the importation of cattle which originate from areas in which conditions are considered to be unacceptable as specified in § 92.4(a)(3), the applicant will be so advised, and the application for permit received will be returned.

(4) *Handling of permits.* Applicants selected to receive special permits for cattle to be imported through the Fleming Key Animal Import Center will be so advised in writing and corresponding permits will be distributed as soon as possible following the public drawing. Applicants so advised of their selection to receive permits should notify the Deputy Administrator if their permits are not received three weeks following the announced date of the drawing held. Special permits shall not be assigned or transferred, nor shall any interest in the special permit be assigned or transferred.

(Sec. 2, 32 Stat. 792, as amended; secs. 2, 3, 4, and 11, 76 Stat. 129, 130, 132, sec. 1, 84 Stat. 202 (21 U.S.C. 111, 134a, 134b, 134c, 134f, and 135); 37 FR 28464, 28477; 38 FR 19141.)

These amendments establish procedures to be used for the issuance of special permits for animals to be imported into the United States through the Fleming Key Animal Import Center, Fleming Key, Florida, and should be made effective promptly in order to be of maximum benefit to affected persons.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 16th day of August 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

NORVAN L. MEYER,
Acting Deputy Administrator Veterinary Services

[FR Doc.77-24124 Filed 8-18-77;8:45 am]

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS; ORGANISMS AND VECTORS

PART 112—PACKAGING AND LABELING

Miscellaneous Amendments

AGENCY: Animal and Plant Health Inspection Service (APHIS).

ACTION: Final rule.

SUMMARY: This amendment deletes the usage of the term "U.S. Standard of Potency" which presently appears in the regulations. Such term is not defined in the regulations, and the usage of such term with respect to veterinary biologics has now become unnecessary.

EFFECTIVE DATE: This amendment becomes effective August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. R. J. Price, 201–436–8245.

SUPPLEMENTARY INFORMATION: Section 112.2(a)(10) of the regulations

[5] For other permit requirements for birds, the regulations issued by the U.S. Department of the Interior (Part 17, Title 50, Code of Federal Regulations) and the regulations issued by the U.S. Department of Health, Education, and Welfare (Subpart J–1 of Part 71, Title 42, Code of Federal Regulations) should be consulted.

[5a] Application forms may be obtained upon request, from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, Md. 20782.

V42161 AUG 19 77 UMI

makes reference to the term "U.S. Standard of Potency". A "No U.S. Standard of Potency" statement is prescribed by that section for certain products when adequate tests for serial-to-serial release are not available. In products containing multiple fractions, the label must list those fractions for which a "U.S. Standard of Potency" has been established, since this requirement was published in the regulations, many of the products which do not have an established "U.S. Standard of Potency" have been removed from the market and tests have been developed for the balance.

During this same period, new products have been licensed only if an acceptable test could be conducted to evaluate the potency of the product. These tests have either been codified in 9 CFR, or written into the filed Outline of Production for the product, or both.

The reference to the term, "U.S. Standard of Potency," has served its purpose and is no longer needed.

Section 112.2(a)(10) is amended by revising the introductory paragraph and deleting paragraphs (a)(10)(i) and (ii) to read:

§ 112.2 Final container label, carton label, and enclosure.

* * * * * * *

(a) * * *

(10) In the case of a product which contains an antibiotic added during the production process, the statement "Contains _____ as a preservative," or an equivalent statement indicating the antibiotic added shall appear on cartons and enclosures if used: *Provided*, That if cartons are not used, such information shall appear on the final container label;

* * * * * * *

(21 U.S.C. 151 and 154; 37 FR 28477, 28646; 38 FR 19141.)

This amendment makes administrative changes to remove from the regulations a label requirement which has served its purpose and is no longer needed. In order for these changes to be of maximum benefit, it must be made effective immediately.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure concerning this amendment are impracticable and unnecessary, and good cause is found for making this amendment effective less than 30 days after publication in the FEDERAL REGISTER.

The foregoing amendment shall become effective upon issuance.

Done at Washington, D.C., this 12th day of August 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

NORVAN L. MEYER,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc.77-23954 Filed 8-18-77;8:45 am]

SUBCHAPTER I—ACCREDITATION OF VETERINARIANS AND SUSPENSION OR REVOCATION OF SUCH ACCREDITATION

PART 160—DEFINITION OF TERMS

PART 161—REQUIREMENTS AND STANDARDS FOR ACCREDITED VETERINARIANS AND SUSPENSION OR REVOCATION OF SUCH ACCREDITATION

Disciplinary Action by Secretary

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This action authorizes the Secretary of Agriculture to suspend or to revoke accreditation of a veterinarian, instead of the "Deputy Administrator", as required by the Department's rules of practice, when it is determined that any accredited veterinarian has not complied with the "Standards for Accredited Veterinarians." A definition of the term "Secretary" is also included. The effect of this action will be to authorize the Administrative Law Judges and the Judicial Officer of the Department, as well as the Deputy Administrator, to take disciplinary action in accordance with the provisions of the Department's rules of practice and the applicable supplemental rules of practice.

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. H. L. Arnold, USDA, APHIS, VS, 6505 Belcrest Road, Federal Building, Room 867, Hyattsville, Md. 20782, 301-436-8684.

SUPPLEMENTARY INFORMATION: On January 4, 1977, the Department of Agriculture promulgated rules of practice, published in the FEDERAL REGISTER at 42 FR 743-749, governing inter alia, formal adjudicatory, administrative proceedings under the Animal Quarantine and Related Laws (21 U.S.C. 111 et seq.) for the suspension or revocation of accreditation of veterinarians (9 CFR Parts 160, 161). The Department's rules of practice became effective on February 1, 1977, and superseded all rules of practice and regulations which were in conflict with such rules. The Department's rules of practice require the Administrator of each agency administering the programs involved to publish documents revoking any rules or regulations superseded by the new rules and promulgating new, amended or supplemental rules and regulations pursuant to such new rules.

Section 161.3(a) of the regulations governing the suspension or revocation of veterinary accreditation (9 CFR 161.3(a)) provides that the Deputy Administrator may suspend or revoke a veterinarian's accreditation when he determines that the accredited veterinarian has not complied with the "Standards for Accredited Veterinarians." The regulations in this respect are inconsistent with the Department's rules of practice which authorize such actions, after opportunity for a hearing by an Administrative Law Judge, and upon appeal from a decision of such Judge, by the Judicial Officer of this Department. Therefore, the regulations are being amended to provide for such actions by those officials in accordance with the rules of practice by (1) deleting the term "Deputy Administrator" the first time it appears in § 161.3(a) of the regulations (9 CFR 161.3(a)) and inserting in lieu thereof the term "Secretary"; and (2) adding a new definition for "Secretary" as § 160.1(h)) to mean any officer or employee of the Department to whom authority has heretofore been delegated or to whom authority may hereafter be delegated to act in his stead.

Accordingly, Parts 160 and 161, Title 9, Code of Federal Regulations, are amended in the following respects:

1. A new paragraph (h) of § 160.1 of the regulations (9 CFR 160.1(h)) is added to read as follows:

§ 160.1 Definitions.

* * * * * * *

(h) *"Secretary."* The Secretary of Agriculture or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

§ 161.3 [Amended]

2. Section 161.3(a) of the regulations (9 CFR 161.3(a)) is amended by deleting the term "Deputy Administrator" the first time it appears in said paragraph and by substituting the term "Secretary" in lieu thereof.

(23 Stat. 32 as amended; 26 Stat. 417; 32 Stat. 791, 792, as amended; 33 Stat. 1265, as amended; 41 Stat. 699; 58 Stat. 734, as amended; 65 Stat. 693; 78 Stat. 130, 132; 84 Stat. 1406 (15 U.S.C. 1828; 21 U.S.C. 105, 111-114, 114a-1, 116, 120, 121, 125, 134b, 134f).)

These amendments do not impose or relieve any restrictions but amends the regulations to conform with the Department's rules of practice.

It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and unnecessary and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 15th day of August 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

J. K. ATWELL,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc.77-24027 Filed 8-18-77;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

Panel on Review of Sedative, Tranquilizer, and Sleep Aid Drugs; Termination

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: Pursuant to § 14.55 (21 CFR 14.55) of the public advisory committee procedures, the Food and Drug Administration announces the termination of the Panel on review of Sedative, Tranquilizer, and Sleep Aid Drugs and amends the regulations to delete it from the list of standing advisory committees. The panel was terminated on July 17, 1977 because it was no longer needed.

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael D. Kennedy,
Bureau of Drugs (HFD-510),
Food and Drug Administration,
Department of Health, Education, and Welfare,
5600 Fishers Lane,
Rockville, Md. 20857,
301-443-4960.

SUPPLEMENTARY INFORMATION: The panel's function were to review the data and information submitted and to prepare a report on the safety, effectiveness, and labeling of OTC products containing sedative, tranquilizer, sleep aid, and stimulant ingredients. The conclusions and recommendations in the panel's report were published in the FEDERAL REGISTER of December 8, 1975 (40 FR 57292).

Accordingly, the usefulness of the panel had been served and the panel was no longer needed. On July 17, 1977, the Secretary of Health, Education, and Welfare terminated the Committee's charter.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371 (a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 14 is amended in § 14.100 list of standing advisory committees by deleting paragraph (c)(20)(i)(*d*) and marking it reserved.

Effective date: Since this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be effective immediately upon publication in the FEDERAL REGISTER, August 19, 1977.

Dated: August 12, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-23976 Filed 8-18-77;8:45 am]

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

Panel on Review of Laxative, Antidiarrheal, Emetic, and Antiemetic Drugs; Termination

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: Pursuant to § 14.55 (21 CFR 14.55) of the public advisory committee procedures, the Food and Drug Administration announces the termination of the Panel on Review of Laxative, Antidiarrheal, Emetic, and Antiemetic Drugs and amends the regulations to delete it from the list of standing committees. The panel was terminated on July 17, 1977 because it was no longer needed.

EFFECTIVE DATE: August 19. 1977.

FOR FURTHER INFORMATION CONTACT:

John T. McElroy, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs appointed the panel to review the data and information submitted, and to prepare a report on the safety, effectiveness and labeling of OTC laxative, antidiarrheal, emetic, and antiemetic drug products pursuant to § 330.10(a)(1) (21 CFR 330.10(a)(1)). The conclusions and recommendations contained in the panel's report were published in the FEDERAL REGISTER of March 21, 1975 (40 FR 12902).

The Commissioner concluded that the panel's usefulness had been served and there was no longer a need for it. On July 17, 1977, the Secretary of Health, Education, and Welfare terminated the Committee's charter.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 14 is amended in § 14.100 List of standing advisory committees by deleting paragraph (c)(20)(i)(*c*) and marking it reserved.

Effective date: Since this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be effective immediately upon publication in the FEDERAL REGISTER, August 19, 1977.

Dated: August 12, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-23977 Filed 8-18-77;8:45 am]

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

Panel on Review of Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drugs; Termination

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: Pursuant to § 14.55 (21 CFR 14.55) of the public advisory committee procedures, the Food and Drug Administration announces the termination of the Panel on Review of Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drugs and amends the regulations to delete it from the list of standing advisory committees. The panel was terminated on July 17, 1977 because it was no longer needed.

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Thomas D. DeCillis, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: The panel's functions were to review the data and information submitted and to prepare a report on the safety, effectiveness, and labeling of OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug ingredients. The conclusions and recommendations in the panel's report were published in the FEDERAL REGISTER of September 9, 1976 (41 FR 38312). Accordingly, the panel's usefulness had been served and the panel was no longer needed. On July 17, 1977, the Secretary of Health, Education, and Welfare terminated the Committee's charter.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 14 is amended in § 14.100 List of standing advisory committees by deleting paragraph (c)(20)(i)(*c*) and marking it reserved.

Effective date: Since this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be effective immediately upon publication in the FEDERAL REGISTER, August 19, 1977.

Dated: August 12, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-23978 Filed 8-18-77;8:45 am]

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

Diagnostic Products Advisory Committee; Termination

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: Pursuant to § 14.55 (21 CFR 14.55) of the public advisory committee procedures, the Food and Drug Administration announces the termination of the Diagnostic Products Advisory Committee and amends the regulations to delete it from the list of standing advisory committees. This committee was ter-

V 42 161 AUG 19 77 UMI

minated on July 17, 1977, because its functions were assumed by advisory panels created under authority of the Medical Device Amendments of 1976 (Pub. L. 94-295).

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert S. Kennedy, Bureau of Medical Devices (HFK-1), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7900.

SUPPLEMENTARY INFORMATION: The Diagnostic Product Advisory Committee's functions were to review and evaluate available data concerning the safety and effectiveness of devices currently in use and make recommendations for their regulation. On July 17, 1977, the Secretary of Health, Education, and Welfare terminated the committee's charter because its functions were assumed by advisory panels created under the Medical Device Amendments of 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 14 is amended in § 14.100 List of standing advisory committees by deleting paragraph (d)(1)(xx) and marking it reserved.

Effective date: Since this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be effective immediately upon publication in the FEDERAL REGISTER, August 19, 1977.

Dated: August 15, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-23979 Filed 8-18-77;8:45 am]

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket Nos. 76F-0150; 76F-0194]

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

Components of Paper and Paperboard in Contact with Aqueous and Fatty Foods

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency is amending the food additive regulations to provide for the use of two resins as drainage and/or retention aids in the manufacture of paper and paperboard for food-contact use. This amendment is based on evaluation of data contained in food additive petitions submitted by Calgon Corp.

DATES: Effective August 19, 1977; objections by September 19, 1977.

ADDRESS: Written objections to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Notices were given by publication in the FEDERAL REGISTER of May 12, 1976 (41 FR 19362) and June 14, 1976 (41 FR 23989) that petitions (FAP 6B3193 and FAP 6B3199, respectively) had been filed by Calgon Corp., Calgon Center, Box 1346, Pittsburgh, PA 15230, proposing that § 176.170 Components of paper and paperboard in contact with aqueous and fatty foods (21 CFR 176.170, formerly § 121.2526 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), be amended to provide for safe use of two resins produced by copolymerizing acrylamide, diallyldiethylammonium chloride, and diallyldimethylammonium chloride in two different weight ratios.

The Commissioner of Food and Drugs, having evaluated the data in the petitions and other relevant material, concludes that § 176.170 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 176 is amended in § 176.170(a)(5) by revising the listed substance (first listing) "Diallyldiethylammonium chloride * * *" in a weight ratio of 50-2.5-47.5, respectively * * *" to provide for two additional weight ratios of monomers in the production of resins to be used as retention and/or drainage aids, to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * * * *

(a) * * *

(5) * * *

List of substances	*Limitations*
* * *	* * *
Diallyldiethylammonium chloride polymer with acrylamide and diallyldimethylammonium chloride, produced by copolymerizing acrylamide, diallyldiethylammonium chloride and diallyldimethylammonium chloride, respectively, in the following weight ratios and having viscosities determined at 22° C by LVF-series Brookfield viscometer using a No. 1 spindle at 60 r.p.m. (or by other equivalent method), as follows:	
1. Weight ratio: 50-2.5-47.5. The finished resin in a 1 percent by weight aqueous solution has a minimum viscosity of 22 centipoises.	For use only as a retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard and limited to use at a level not to exceed 0.05 percent by weight of the finished paper and paperboard.
2. Weight ratio: 25-2.5-72.5. The finished resin in a 0.20 percent by weight aqueous solution has a minimum viscosity of 20 centipoises.	For use only as a drainage and/or retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard and limited to use at a level not to exceed 0.075 percent by weight of the finished paper and paperboard.
3. Weight ratio: 80-2.5-17.5. The finished resin in a 0.30 percent by weight aqueous solution has a minimum viscosity of 20 centipoises.	For use only as a drainage and/or retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard and limited to use at a level not to exceed 0.075 percent by weight of the finished paper and paperboard.
* * * * *	* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 19, 1977 submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective August 19, 1977.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: August 12, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-23981 Filed 8-18-77;8:45 am]

[Docket No. 76F-0387]

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

Components In Contact with Aqueous and Fatty Food

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations to provide for safe use of a chemical as a component of paper and paperboard intended for food-contact use. This amendment is based on a petition filed by Buckman Laboratories, Inc.

DATES: Effective August 19, 1977; objections by September 19, 1977.

ADDRESSES: Written objections to this regulation may be filed with the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the FEDERAL REGISTER of September 29, 1976 (41 FR 42970) announced that a food additive petition (FAP 6B3184) had been filed by Buckman Laboratories, Inc., 1256 North McLean Blvd., Memphis, TN 38108, proposing that § 176.170 (21 CFR 176.170, formerly § 121.2526, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) be amended to provide for safe use of epichlorohydrin polymer with monomethylamine, reaction product with N,N,N',N'-tetramethylethylenediamine as a component of paper and paperboard intended for use in contact with aqueous and fatty foods.

The Commissioner of Food and Drugs, having evaluated data in the food additive petition and other relevant material, concludes that § 176.170 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 176 is amended in § 176.170(a)(5) by alphabetically inserting in the list of substances a new item, to read as follows:

§ 176.170 Components of paper and paperboard to contact with aqueous and fatty foods.

* * * * * * *

(a) * * *

(5) * * *

List of substances	*Limitations*
* * *	* * *
Polyamine-epichlorohydrin resin produced by reaction of epichlorohydrin with monomethylamine to form a prepolymer and further reaction of this prepolymer with N,N,N',N'-tetramethylethylenediamine such that the finished resin having a nitrogen content of 11.6 to 14.8 percent and a chlorine content of 20.8 to 26.4 percent and a minimum viscosity, in 25 percent by weight aqueous solution, of 500 centipoises at 25° C, as determined by LV-series Brookfield viscometer using a No. 2 spindle at 12 r.p.m. (or by other equivalent method).	For use only as a flocculant, drainage aid, formation aid, retention aid, or strength additive employed prior to the sheet-forming operation in the manufacture of paper and paperboard, and used at a level not to exceed 0.12 percent by weight of dry paper and paperboard fibers.
* * * * *	* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 19, 1977 submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective August 19, 1977.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: August 12, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc 77-23982 Filed 8-18-77;8:45 am]

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 75F-0173]

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

Slimicides

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The food additive regulations are amended to provide for safe use of a chemical mixture as a component of slimicides in the manufacture of paper and paperboard intended to contact food. This amendment is based on evaluation of data contained in a food additive petition submitted by Rohm and Hass Co.

EFFECTIVE DATE: August 19, 1977; objections by September 19, 1977.

ADDRESS: Written objections to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5690

SUPPLEMENTARY INFORMATION: A notice published in the FEDERAL REGISTER of August 18, 1975 (40 FR 34624) announced that a food additive petition (FAP 5H3107) had been filed by Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105, proposing that §176.300 (21 CFR 176.300, formerly § 121.2505 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), be amended to provide for the safe use of 5-chloro-2-

V 42 161 AUG 19 77 UMI

methyl - 4 - isothiazolin - 3 - one calcium chloride and 2-methyl-4-isothiazolin-3-one calcium chloride as components of a slimicide in the manufacture of paper and paperboard intended to contact food.

The Commissioner of Food and Drugs, having evaluated the data in the food additive petition and other relevant material, concludes that § 176.300 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 176 is amended in § 176.300(c) by alphabetically inserting a new item in the list of substances, to read as follows:

§ 176.300 Slimicides.

(c) * * *

List of substances	*Limitations*
* * *	* * *
5-Chloro-2 - methyl - 4 - isothiazolin-3-one calcium chloride and 2-methyl-4-isothiazolin-3-one calcium chloride mixture at a ratio of 3 parts to 1 part.	At a level of 2.5 pounds per ton of dry weight fiber.
* * *	* * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 19, 1977 submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 19, 1977.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: August 12, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77–24148 Filed 8–18–77;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 510—NEW ANIMAL DRUGS

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Poloxalene

AGENCY: Food and Drug Administration, HEW.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect an approved new animal drug application filed by A. E. Staley Manufacturing Co. The amendment provides for a medicated block for control of legume bloat in feeding cattle.

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

David N. Scarr, Bureau of Veterinary Medicine (HFV–214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3183.

SUPPLEMENTARY INFORMATION: In accordance with section 512(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(i)), Parts 510 and 520 (21 CFR 510 and 520) are amended to reflect an approved new animal drug application (NADA 33–773V) filed by A. E. Staley Manufacturing Co., 2200 Eldorado St., Decatur, IL 62525. The regulation reflecting this approval was originally published in the FEDERAL REGISTER of March 14, 1967 (32 FR 4019). The sponsor is incorrectly listed in the current regulations.

Publication of this approval has not required a reevaluation of the parent NADA and does not constitute a reaffirmation of the drug's safety and effectiveness.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Parts 510 and 520 are amended as follows:

1. In Part 510, § 510.600 is amended in paragraph (c)(1) by adding a new sponsor alphabetically, and in paragraph (c)(2) by adding a new sponsor numerically, as follows:

§ 510.600 Names, addresses, and code numbers of sponsors of approved applications.

(c) * * *

(1) * * *

Firm name and address:	*Drug listing No.*
* * * * *	*
A. E. Staley Manufacturing Co., 2200 Eldorado St., Decatur, IL 62525.	012315
* * * * *	*

(2) * * *

Drug listing No.:	*Firm name and address*
* * * * *	*
012315--------	A. E. Staley Manufacturing Co., 2200 Eldorado St., Decatur, IL 62525.
* * * * *	*

2. In Part 520, § 520.1840 is amended by revising paragraph (c)(2) and adding new paragraph (c)(3), to read as follows:

§ 520.1840 Poloxalene.

* * * * *

(c) * * *

(2) See No. 000007 in § 510.600(c) of this chapter for sponsor of usage provided by paragraph (d)(3) of this section.

(3) See No. 012315 in § 510.600(c) of this chapter for sponsor of usage provided by paragraph (d)(2) of this section.

* * * * *

Effective date: August 19, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: August 9, 1977.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.77–23618 Filed 8–18–77;8:45 am]

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Amprolium Crumbles

AGENCY: Food and Drug Administration, HEW.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a supplemental new animal drug application (NADA) filed by Merck Sharp & Dohme Research Laboratories for use of amprolium crumbles as an aid in prevention and treatment of coccidiosis in calves.

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV–149), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, (301–443–4913).

SUPPLEMENTARY INFORMATION: In accordance with section 512(i) of the act (21 U.S.C. 360b(i)), Part 520 (21 CFR Part 520) is amended to reflect approval of a supplemental NADA (12–350V) filed by Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., Rahway, NJ 07065. The crumbles contain 1.25 percent amprolium that is top-dressed on or mixed in the daily feed ration of calves as an aid in prevention and treatment of coccidiosis.

Approval of this application has not required a reevaluation of the parent NADA and does not constitute a reaffirmation of the drug's safety and effectiveness.

In accordance with the Freedom of Information Regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of the safety data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC–20), Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday, except on Federal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioned of Food and Drugs (21 CFR 5.1), Part 520 is amended by adding new § 520.100c Amprolium crumbles to read as follows:

§ 520.100c Amprolium crumbles.

(a) *Specifications.* Amprolium crumbles contain 1.25 percent amprolium.

(b) *Sponsor.* See No. 000006 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.50 of this chapter.

(d) *Conditions of use.* It is top-dressed on or thoroughly mixed in the daily feed ration of calves as follows:

(1) *Amount.* 1.6 ounces of crumbles per 250 pounds of body weight per day (5 milligrams per kilogram of body weight).

(i) *Indications for use.* As an aid in the prevention of coccidiosis caused by *Eimeria bovis* and *E. zurnii.*

(ii) *Limitations.* Administer for 21 consecutive days during periods of exposure or when experience indicates that coccidiosis is likely to be a hazard. Withdraw 24 hours before slaughter. Use as sole source of amprolium.

(2) *Amount.* 3.2 ounces of crumbles per 250 pounds of body weight per day (10 milligrams per kilogram of body weight).

(i) *Indications for use.* As an aid in the treatment of coccidiosis caused by *Eimeria bovis* and *E. zurnii.*

(ii) *Limitations.* Administer for 5 consecutive days. For satisfactory diagnosis, a microscopic fecal examination should be done by a veterinarian or diagnostic laboratory before treatment. When treating outbreaks, the drug should be administered promptly after diagnosis is determined. Withdraw 24 hours before slaughter. Use as sole source of amprolium.

Effective date: August 19, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: August 11, 1977.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.77–23620 Filed 8–18–77;8:45 am]

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Phenylbutazone Tablets

AGENCY: Food and Drug Administration (FDA), HEW.

ACTION: Rule.

SUMMARY: FDA approves a new animal drug application (NADA 102–823V) filed by Norden Laboratories, Inc., Lincoln, NE 68501, proposing safe and effective use of phenylbutazone tablets to treat horses for the management of inflammatory conditions associated with the musculo-skeletal system. The Commissioner of Food and Drugs is amending § 520.1720a (21 CFR 520.1720a) to reflect this approval.

DATES: Effective August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert A. Baldwin, Bureau of Veterinary Medicine (HFV–114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of the safety and effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC–20), Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, Monday through Friday from 9 a.m. to 4 p.m., except on Federal legal holidays.

Norden Laboratories, Inc., currently holds an approved NADA for use of phenylbutazone tablets for treating dogs, which is provided for in § 520.1720a(h) (21 CFR 520.1720a(h)). The firm will now have NADA approvals for use in dogs and horses. Accordingly, § 520.1720a is being amended to delete paragraph (h), which references the use for dogs only, and to insert the approvals under paragraph (g), which indicates uses for both animals.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1), § 520.1720a is amended by revising paragraph (g)(2) and by deleting and reserving paragraph (h) as follows:

§ 520.1720a Phenylbutazone tablets and boluses.

* * * * *

(g)(1) * * *

(2) *Sponsor.* See Nos. 000031, 000864, and 011519 in § 510.600(c) of this chapter.

* * * * *

(h) [Reserved]

* * * * *

Effective date: This regulation becomes effective August 19, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: August 9, 1977.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.77–23617 Filed 8–18–77;8:45 am]

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Disophenol Sodium Injection

AGENCY: Food and Drug Administration, HEW.

ACTION: Final rule.

SUMMARY: This document provides for safe and effective use of an injection for treating hookworm infections in dogs and cats. American Cyanamid Co. filed an application for this use. The Commissioner of the Food and Drug Administration is amending the animal drug regulations to reflect this approval.

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Henry C. Hewitt, Bureau of Veterinary Medicine (HFV–112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: A supplemental new animal drug application (12–598V), filed by the American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540, provides for the use of a 0.9 percent disophenol sodium injection for treating hookworm infections in puppies, "toy" breeds, and cats.

In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of the safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC–20), Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, during regular working hours.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)), and under authority delegated to the Commissioner (21 CFR 5.1), Part 522 is amended by revising paragraph (b) of § 522.740 to read as follows:

§ 522.740 Disophenol sodium injection.

* * * * *

(b) *Specifications.* The drug is sterile and contains the equivalent of 0.9 or 4.5 percent disophenol in polyethylene glycol 400 and distilled water.

* * * * *

Effective date: August 19, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 306b(i)))

Dated: August 10, 1977.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.77–23619 Filed 8–18–77;8:45 am]

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Amprolium, Ethopabate, Bacitracin Methylene Disalicylate; Correction

AGENCY: Food and Drug Administration.

V 42161 AUG 19 77 UMI

ACTION: Correction.

SUMMARY: A document published in the FEDERAL REGISTER of April 29, 1977 did not properly enumerate an addition to the amprolium and ethopabate regulation. This document corrects the error.

EFFECTIVE DATE: April 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert S. Brigham, Bureau of Veterinary Medicine (HFV-238), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of April 29, 1977 (42 FR 21771), the regulation for amprolium and ethopabate (21 CFR 558.58) was amended by adding new item (iv) to the table in paragraph (e)(1). This amendment did not reflect the FEDERAL REGISTER publication of April 8, 1977 (42 FR 18616) which also added an item (iv) to the table. This document changes the item added on April 29, 1977 to (v). Accordingly, § 558.58 *Amprolium and ethopabate* is corrected in paragraph(e)(1) in the table by changing item "(iv) Amprolium 136.2 (0.015 pct) and ethopabate 3.6 (0.0004 pct)" to item "(v) * * *".

Dated: August 15, 1977.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc 77-24144 Filed 8-18-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7499]

PART 11—TEMPORARY INCOME TAX REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Minimum Funding Standards for Pension Plans

Correction

In FR Doc. 77-22050 appearing at page 39382 in the issue for Thursday, August 4, 1977, make the following corrections:

(1) On page 39383, first column, the 5th line of § 11.412(c)(1)-1(b) should be completed to read as follows: "* * * each specific method of computation used in applying * * *".

(2) In the same column, the first and second lines of § 11.412(c)(1)-2 are reversed and should be switched.

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7502]

PART 404—TEMPORARY REGULATIONS ON PROCEDURE AND ADMINISTRATION UNDER THE TAX REFORM ACT OF 1976

Annual Return for Foreign Trust With United States Beneficiary

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to the filing of an annual return for a foreign trust having a United States beneficiary. Provisions providing for the filing of such a form were added to the tax law by the Tax Reform Act of 1976. The temporary regulations provide the time, place and manner of filing the form and affect some United States persons who are transferors to or grantors of foreign trusts having United States beneficiaries.

DATE: The temporary regulations are effective for tax years ending on or after December 31, 1976.

FOR FURTHER INFORMATION CONTACT:

J. Douglas Sorensen of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3478).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 6048 (c) was added to the Internal Revenue Code of 1954 by section 1013 (d) of the Tax Reform Act of 1976 to enable the Secretary of the Treasury to prescribe an annual return for foreign trusts with one or more United States beneficiaries. The temporary regulations contained in this document require an annual return (Form 3520-A) to be filed by a grantor or transferor subject to tax under section 679 of the Code. The temporary regulations provided by this document will remain in effect until superseded by the adoption of final regulations.

Generally, the return is required to be filed by the 15th day of the fourth month following the end of the tax year of the grantor or transferor. Special due dates are provided for taxable periods ending before July 1, 1977.

DRAFTING INFORMATION

The principal author of these regulations was J. Douglas Sorenson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE TEMPORARY REGULATIONS

Accordingly, the temporary regulations on procedure and administration under the Tax Reform Act of 1976 (26 CFR Part 404) are amended by adding the following new section in the appropriate place.

§ 404.6048-1 **Annual returns for foreign trusts with a United States beneficiary.**

(a) *Return required*—(1) *In general.* Each taxpayer subject to tax under section 679 with respect to a foreign trust having one or more United States beneficiaries must file Form 3520-A, Annual Return of Foreign Trust with U.S. Beneficiaries, together with any additional schedules or other information required by the form or the instructions to the form. Form 3520-A must be filed even if the taxpayer is treated as the owner of a foreign trust under both section 679 and some other provision of Subpart E of Part I of Subchapter J.

(2) *Joint returns.* If the taxpayer's spouse is also subject to tax under section 679 with respect to the same foreign trust for the same taxable year, and if both taxpayer and spouse file a joint return of income tax for that year, a single Form 3520-A may be filed jointly with respect to such trust for the year.

(b) *Period covered by return.* The period covered by the return required by this section is the taxable year of the taxpayer required to file the return, regardless of the period used by the trust for accounting or any other purpose.

(c) *Time for filing*—(1) *In general.* The return required by this section must be filed no later than the 15th day of the fourth month following the end of the taxable period covered by the return.

(2) *Transitional rule.* In the case of a return required by this section for a taxable period ending on or before June 30, 1977, the return must be filed no later than—

(i) October 15, 1977, in the case of a taxpayer treated as an owner with respect to the trust under both section 679 and a provision of sections 672 through 678, or

(ii) December 31, 1977, in all other cases.

(3) *Extensions of time for filing.* For rules relating to extensions of time for filing, see section 6081 and the regulations thereunder.

(d) *Place for filing.* The return required by this section must be filed with the Director, Internal Revenue Service Center, 11601 Roosevelt Boulevard, Philadephia, Pennsylvania 19155.

(e) *Effective date.* This section is effective for taxable periods ending on or after December 31, 1976.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Secs. 6048(c), 7805, Internal Revenue Code of 1954 (90 Stat. 1616, 68A Stat. 917; 26 U.S.C. 6048(c), 7805)

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: August 13, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

[FR Doc.77-24097 Filed 8-18-77;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Certification of Completion of Developmental Steps for California Plan

AGENCY: Occupational Safety and Health Administration.

ACTION: Final Rule.

SUMMARY: This Amendment to Subpart K of Part 1952 of Chapter XVII of Title 29 certifies that the State of California has completed all of the developmental steps specified in its occupational safety and health plan as approved on April 24, 1973 (38 FR 10717) and commencing with this certification, operations under the plan will be subject to at least one year of intensive evaluation to determine whether Federal occupational safety and health standards development and enforcement authority will be relinquished within the State pursuant to section 18(e) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(e)).

EFFECTIVE DATE: August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Daniel C. Hoeschen, Office of State Programs, Occupational Safety and Health Administration, room N-3608, 200 Constitution Avenue, NW., Washington, D.C. 20210.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Subpart D of Part 1902 of Title 29, Code of Federal Regulations, sets out procedures under which the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) will make a determination under section 18(e) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) whether, on the basis of actual operations under a State plan, the criteria of section 18(c) of the Act are being applied under the plan. Such determination may not be made until at least three years after commencement of operations under the plan and, in the case of a developmental plan, until the State has satisfactorily completed all developmental steps and the Assistant Secretary has had at least one additional year to evaluate the plan on the basis of actual operations. Upon making a determination under section 18(e) that the requirements of section 18(c) are being applied, Federal enforcement of standards and Federal standards (except with regard to ongoing cases) cease to apply in the State with respect to any occupational safety and health issue covered under the determination.

Section 1902.34 of Subpart D provides that the evaluation of a State's fully operational program, preparatory to an 18(e) determination, shall commence upon publication in the FEDERAL REGISTER of a certification that all developmental steps have been completed. Such certification must list the developmental steps, including approved amendments thereto, and the dates their approvals were published in the FEDERAL REGISTER; approved substantive changes in the State plan and dates published in the FEDERAL REGISTER; documentation that the State merit system has been approved and found acceptable; and a description of the occupational safety and health issues covered by the certification. If the Assistant Secretary finds that the State has completed all the developmental steps specified in the plan, he shall give notice of same by publishing the certification in the FEDERAL REGISTER and amend the appropriate Subpart of Part 1952 of this Chapter to reflect that finding. During the period following commencement of operations under the California plan and ending June 1, 1976, Rose Elizabeth Bird, Secretary of the California Agriculture and Services Agency, submitted documentation attesting to the completion of each State developmental commitment for review and approval as provided in 29 CFR Part 1953 with the exception of standards covering temporary labor camps which was submitted after review of earlier proposals, on March 11, 1977. Following Departmental review, opportunity for public comment, and subsequent modification of the State's submissions, as deemed appropriate, the Assistant Secretary has approved the completion of all individual California developmental steps.

CONTENTS OF CERTIFICATION OF COMPLETION OF DEVELOPMENTAL STEPS UNDER THE CALIFORNIA PLAN

In accordance with the provisions of 29 CFR 1902.34, notice is given that the California occupational safety and health plan is hereby certified effective as having completed all of the developmental steps specified in the plan as approved April 24, 1973 on or before June 1, 1976, except for the promulgation and enforcement of temporary labor camp standards, which was completed, after review and modification, on March 11, 1977, as follows:

1. All developmental steps specified in the plan and amendments thereto have been completed.

(a) The California enabling legislation became effective on October 2, 1973, as indicated in a supplement submitted by the State on December 23, 1973, and approved by the Assistant Secretary on April 18, 1975 (40 FR 18420);

(b) Amendments to the enabling legislation correcting certain errors and inconsistencies in enabling legislation enacted by the California legislature were submitted on November 7, 1974, and approved by the Assistant Secretary on August 27, 1975 (40 FR 40155);

(c) Occupational safety and health standards have been promulgated and subsequently amended to reflect changes in Federal standards and were found by the Regional Administrator for Occupational Safety and Health to be at least as effective as the comparable Federal standards on June 25, 1976 (41 FR 40241), September 17, 1976 (41 FR 40241), March 11, 1977 (42 FR 13612), and April 8, 1977 (42 FR 18671);

(d) Rules of Procedure for the California Occupational Safety and Health Appeals Board were submitted on September 11, 1974, and were approved by the Assistant Secretary on August 27, 1975 (40 FR 40155);

(e) The California Occupational Safety and Health Standards Board began operations and regulations pertaining to its responsibilities were submitted on September 11, 1974, and approved by the Assistant Secretary on August 27, 1975 (40 FR 40155);

(f) A voluntary compliance program has been developed and implemented as indicated in a supplement submitted on September 11, 1974, and approved by the Assistant Secretary on August 27, 1975 (40 FR 40155);

(g) Recordkeeping regulations pertaining to private employers within the State became effective on July 1, 1975, were submitted on September 5, 1975, and approved by the Assistant Secretary on September 28, 1976 (41 FR 43404);

(h) Recordkeeping regulations pertaining to State and local public agencies within the State became effective on July 1, 1974, were submitted on September 11, 1974, and were approved by the Assistant Secretary on August 27, 1975 (40 FR 40155);

(i) The State's management information system was implemented in January 1974, as indicated in a supplement submitted by the State on November 7, 1974, and approved by the Assistant Secretary on August 27, 1975 (40 FR 40155);

(j) The State poster notifying public and private employees of their protections and obligations under the California plan was submitted by the State on March 13, 1975, and approved by the Assistant Secretary on August 27, 1975 (40 FR 40155);

(k) Inter-agency agreements to provide technical support to the program were entered into between the Agriculture and Services Agency and the State Department of Health on June 28, 1973, as indicated in a supplement submitted on December 7, 1973, and approved by the Assistant Secretary on April 18, 1975 (40 FR 18426);

(l) The State's program for on-site consultation services became fully functional in January 1974, as indicated in a supplement submitted on December 7, 1973, and approved by the Assistant Secretary on April 18, 1975 (40 FR 18426);

(m) Regulations concerning enforcement activities such as inspection procedures, citation procedures and penalty procedures were submitted on June 17, 1975, and approved by the Assistant Secretary on September 28, 1976 (41 FR 43404);

(n) The State's inspection scheduling system was fully implemented and in operation by June 1975, as indicated in a supplement submitted on October 1, 1975, and approved by the Assistant Secretary on September 28, 1976 (41 FR 43404);

V 42 161 AUG 19 77 UMI

(o) The State's compliance manual for use by California compliance personnel was submitted on October 9, 1975, and approved by the Assistant Secretary on September 28, 1976 (41 FR 43404);

(p) In-service training programs for safety and health enforcement personnel were implemented within 18 months of plan approval as indicated in the semi-annual reports conducted by the Occupational Safety and Health Administration and grant applications submitted by the State. The completion of this developmental step was approved by the Assistant Secretary on November 19, 1976 (41 FR 51012);

(q) An inter-agency agreement was entered into between the Agriculture and Services Agency and the California Department of Housing and Community Development for the development and enforcement of standards pertaining to temporary labor camps on March 10, 1977, as indicated in a supplement submitted on March 11, 1977, and approved by the Assistant Secretary on July 22, 1977 (42 FR 37548).

2. The personnel operations of the California Agriculture and Services Agency and the State personnel agency have been found to be in substantial conformity with the Standards for a Merit System of Personnel Administration by the U.S. Civil Service Commission by a letter dated January 19, 1976.

3. This certification covers all occupational safety and health issues covered under the Federal program with the exception of those working conditions subject to exclusive Federal maritime jurisdiction.

LOCATION OF THE PLAN AND ITS SUPPLEMENTS FOR INSPECTION AND COPYING

A copy of the approved supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Technical Data Center, Occupational Safety and Health Administration, room S–6212, 200 Constitution Avenue, NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, room 9470, 450 Golden Gate Avenue, San Francisco, Calif. 94102; and the California Occupational Safety and Health Administration, 455 Golden Gate Avenue, room 3052, San Francisco, Calif. 94102.

EFFECT OF CERTIFICATION

The operation of the California occupational safety and health program will be monitored and evaluated for a period of not less than one year after publication of this certification to determine whether the State program in operation is at least as effective as operations under the Federal program in order to make a determination under section 18(e) of the Act that Federal enforcement authority and standards should cease to apply in issues covered under the plan.

In accordance with 29 CFR 1902.35 Federal enforcement authority under Sections 5(a)(2), 8, 9, 10, 13 and 17 of the Act (29 U.S.C. § 654(a)(2), 657, 658, 659, 662 and 666) and Federal standards authority under section 6 of the Act (29 U.S.C. 655) will not be relinquished during this evaluation period. However, the terms of the operational agreement entered into with the State on September 30, 1975 (41 FR 1904, January 13, 1976), continue to apply, unless amended.

In accordance with this certification, 29 CFR 1952.114 is hereby amended to reflect the successful completion of the developmental period by changing the title of the section and by adding a paragraph (p) as follows:

§ 1952.174 Completion of developmental steps and certification.

* * * * *

(p) In accordance with § 1903.34 of this chapter, the California occupational safety and health plan was certified, effective August 12, 1977, as having completed all developmental steps specified in the plan as approved on April 24, 1973, on or before June 1, 1976, with the exception that temporary labor camp standards development and enforcement program was completed on March 11, 1977.

(Sec. 18 Pub. L. 91–596, 84 Stat 1608 (29 U.S.C. 667).)

Signed at Washington, D.C. this 12th day of August 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77–24102 Filed 8–18–77;8:45 am]

CHAPTER XXVI—PENSION BENEFIT GUARANTY CORPORATION

PART 2602—PAYMENT OF PREMIUMS

PART 2606—ANNUAL REPORT

Extension of Form PBGC–1's Expiration Date

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Extension of expiration date of Form PBGC–1.

SUMMARY: Notice is hereby given that the expiration date of Form PBGC–1 (Rev. August 1976), prescribed for use by the Pension Benefit Guaranty Corporation's premium payment regulation (41 FR 32740) and annual report regulation (41 FR 32741), has been extended from September 1, 1977 to December 31, 1977.

EFFECTIVE DATE: Effective August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Barry S. Levine, Deputy Assistant General Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, 2020 K Street NW., Washington, D.C. 20006, telephone 202–254–3010.

Dated: August 15, 1977.

MATTHEW M. LIND,
Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc.77–24040 Filed 8–18–77;8:45 am]

PART 2610—INTERIM REGULATION ON VALUATION OF PLAN BENEFITS

Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Amendment to the Interim Regulation.

SUMMARY: This amendment to the interim regulation on valuation of plan benefits prescribes the rates and factors to be used for valuing plan benefits under Title IV of the Employee Retirement Income Security Act of 1974 for plans that terminated on or after December 1, 1976, but before March 1, 1977. It is necessary to finalize the valuation rates and factors for plans that terminated during the period covered by the amendment. The amendment's effect is to provide notice of the rates and factors that will be used to value benefits provided under such plans.

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

William E. Seals, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006, 202–254–4895.

SUPPLEMENTARY INFORMATION: On November 3, 1976, the Pension Benefit Guaranty Corporation (the "PBGC") issued an interim regulation establishing the methods for valuing plan benefits under Title IV of the Employee Retirement Income Security Act of 1974 (the "Act") (41 FR 48484 et seq.). The regulation included an appendix containing rates and factors to be used to value benefits in plans that terminated on or after September 2, 1974, but before October 1, 1975. Subsequently the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after October 1, 1975, but before December 1, 1976. (42 FR 2678 et seq., 42 FR 32777 et seq.).

On June 8, 1977, the PBGC published for comment in the FEDERAL REGISTER additional rates and factors for valuing benefits in plans that terminated on or after December 1, 1976, but before March 1, 1977 (42 FR 29318 et seq.). No comments were received regarding that proposed amendment to the interim regulation, and accordingly the PBGC hereby adopts the proposed interest rates and factors without change.

Because of the need to provide immediate guidance for the valuation of benefits in plans that terminated on or after December 1, 1976, but before March 1, 1977, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making this amendment to the interim regulation effective immediately.

In consideration of the foregoing, Part 2610 of Chapter XXVI, Code of Federal Regulations, is amended by adding a new Table VIII to Appendix B as set forth below.

Issued at Washington, D.C., on this 10th day of August 1977.

RAY MARSHALL,
Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above, pursuant to a resolution of the Board of Directors authorizing its Chairman to issue same.

HENRY ROSE,
Secretary, Pension Benefit Guaranty Corporation.

APPENDIX B [AMENDED]

The following table is added to Appendix B of 29 CFR, Part 2610:

* * * * *

VII. The following interest rates and quantities used to value benefits shall be effective for plans that terminate on or after December 1, 1976, but before March 1, 1977.

TABLE I.—INTEREST RATE FOR VALUING IMMEDIATE ANNUITIES

An interest rate of 7 percent shall be used to value immediate annuities, to compute the quantity "G" in § 2610.6, and for valuing both portions of a cash refund annuity.

TABLE II.—INTEREST RATE FOR VALUING DEATH BENEFITS

An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a cash refund annuity pursuant to § 2610.8.

TABLE III.—INTEREST RATES AND QUANTITIES USED TO VALUE DEFERRED ANNUITIES

The following factors shall be used to value deferred annuities pursuant to § 2610.6:

k1 = 1.0625
k2 = 1.0475
k3 = 1.0375
n1 = 7
n2 = 10

(Authority: Secs. 4002(b)(3), 4041(b), 4044, 4062(b)(1)(A), Pub. L. 93–406, 88 Stat. 1004, 1020, 1025–27, 1029 (29 U.S.C. 1302(b)(3)), 1341(b), 1344, 1362(b)(1)(A)).)

[FR Doc.77–24041 Filed 8–18–77;8:45 am]

Title 31—Money and Finance: Treasury

CHAPTER I—MONETARY OFFICES, DEPARTMENT OF THE TREASURY

PART 51—FISCAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

Fiscal Procedures and Auditing

AGENCY: Office of Revenue Sharing, Treasury Department.

ACTION: Final rule.

SUMMARY: This final rule amends the interim regulations setting forth the fiscal procedures that must be followed by recipient governments in the expenditure of revenue sharing funds. The purpose of the final rule is to clarify certain provisions of the existing regulations about which concern was expressed in the comments received. The final rule will further effectuate the provisions of the Revenue Sharing Act as amended by the 1976 Amendments.

DATE: This final rule is effective October 1, 1977 to cover entitlement periods beginning on or after October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

William H. Sager, Chief Counsel, Office of Revenue Sharing, 2401 E St., N.W., Columbia Plaza Highrise, Room 1545, Washington, D.C. 20226, Telephone No. 202–634–5182.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On October 21, 1972, the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92–512) was enacted. The State and Local Fiscal Assistance Act, commonly known as the Revenue Sharing Act, established the General Revenue Sharing Program. On October 10, 1976, the State and Local Fiscal Assistance Amendments of 1976 (Pub. L. 94–488) were enacted. The Revenue Sharing Amendments necessitated the amendment of the revenue sharing regulations set forth in 31 CFR part 51. The first step in the process was the publication of interim rules in the Federal Register on January 11, 1977 to amend subpart F entitled Fiscal Procedures and Auditing (42 FR 2422). Comments were requested on the interim regulations. Seventeen were received prior to the promulgation of this final rule. Those comments will be discussed below as part of the section by section analysis of the changes made.

SECTION 51.101 AUDITING AND EVALUATION

Most of the comments received objected to the requirement in § 51.101(a) in the interim regulations that an independent audit be performed not less often than once every three years covering the three year period. The comments suggested that the revenue Sharing Act requires an audit of a recipient government's accounts once every three years as opposed to each year. The Director accepted this interpretation of § 123(c) of the Revenue Sharing Act and has therefore amended § 51.101(a) to require an audit not less often than once every three years. Similarly §§ 51.101(d)(3), and 51.101(f) are amended to delete any reference to the requirement of an audit each year.

Many comments requested clarification concerning the definition of independent audit contained in § 51.101(b), and pointed out a type of independent audit that was overlooked. A State or local auditor appointed by the chief executive officer and reporting to the legislative body can perform an independent audit so long as he is not responsible for the maintenance of the accounts being audited. Section 51.101(b)(1) is therefore amended by the addition of subsection (C) to provide that an audit shall be considered to meet the requirements of an independent audit if the principal audit officer is appointed by the Governor and confirmed by and reports to the legislature. Similarly § 51.101(b)(3) is amended to add a new § (C) to accept as independent audits, those audits conducted by auditors appointed by the executive body of the local recipient government and reporting to the governing body of the local recipient government or a committee thereof.

The definition of generally accepted auditing standards in paragraph 51.101(c)(1) has been amended in response to comments to mean those auditing standards pronounced by the American Institute of Certified Public Accountants and incorporated in its Statements on Auditing Standards, or those in the financial and compliance element of the Standards for Audit of Governmental Organizations, Programs, Activities and Functions, issued by the Comptroller General of the United States in 1972. Several comments objected to § 51.101(c)(2) as defining independent public accountant too narrowly. The Director has decided not to amend that section because it is the defintion provided in the Standards for Audit of Governmental Organizations, Programs, Activities & Functions mentioned above.

Several comments suggested that § 51.101(e) be amended to provide that audits conducted by recipient governments cover only those accounts under the control of the recipient government. We did not accept these comments because Section 106, Scope of Audits, provides that only those accounts audited under State or local law shall be audited for revenue sharing purposes.

Section 51.101(e) was amended in response to a comment that a series of audits did not make the audit requirement inapplicable. Section 51.101(e)(1) was therefore deleted. Section 51.101(e)(2) is redesignated § 51.101(e). Section 51.101(e)(1) is redesignated § 51.101(f).

SECTION 51.103 AUDIT OF SECONDARY RECIPIENTS

A new § 51.103 has been added to provide that a recipient government which transfers $25,000 or more of revenue sharing funds to a secondary recipient is responsible for the audit of the transferred funds.

SECTION 51.104 RELIANCE UPON OTHER FEDERAL AUDIT AGENCIES

Current § 51.103 is redesignated § 51.104.

SECTION 51.105 AUDIT OPINIONS

Current § 51.104 is redesignated § 51.105 and is amended in response to comments to provide additional guidance concerning the nature of audit opinions.

SECTION 51.106 SCOPE OF AUDITS

Current § 51.105 is redesignated § 51.106 and is amended in response to comments to provide additional guidance concerning what funds are to be included in an audit, namely those funds which are required to be audited under State or local law or procedures. The Director will accept the recipient government's Attorney General or other official legal opinion as to what funds are to be included in an audit.

SECTION 51.107 RETENTION OF AUDIT WORKPAPERS

Current § 51.106 is redesignated § 51.107.

V 42 161 AUG 19 77 UMI V

SECTION 51.108 REQUIREMENT TO SUBMIT AUDIT PAPERS

Current § 51.107 is redesignated § 51.108.

ECONOMIC IMPACT

The Department of the Treasury has determined that these final rules do not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949, and OMB Circular A-107.

AUTHORITY

These final rules are issued under the authority of the State and Local Fiscal Assistance Act of 1972, as amended, Title I, Pub. L. 92-512 and the State and Local Fiscal Assistance Amendments of 1976, Pub. L. 94-488, (31 U.S.C. 1221-1263), and Treasury Department Order No. 224, dated January 26, 1973 (38 FR 3342) as amended by Treasury Department Order No. 242 (Revision 1) dated May 17, 1977.

31 CFR, Part 51, subpart F, is therefore amended in the manner set forth below:

Date: August 16, 1977.

BERNADINE DENNING,
Director,
Office of Revenue Sharing.

Approved:

ROGER C. ALTMAN,
Assistant Secretary.

Subpart F—Fiscal Procedures and Auditing

Sec.

51.100 Procedures applicable to the use of funds.
51.101 Auditing and evaluation.
51.102 Waiver of auditing provisions where financial accounts are unauditable.
51.103 Audit of secondary recipients.
51.104 Reliance upon audits under other Federal laws.
51.105 Audit opinions.
51.106 Scope of audits.
51.107 Retention of audit workpapers.
51.108 Requirement to submit audit reports.

Subpart F—Fiscal Procedures and Auditing

§ 51.100 Procedures applicable to the use of funds.

A recipient government which receives entitlement funds under the Act shall:

(a) Establish a trust fund and deposit all entitlement funds received and all interest earned thereon in that trust fund. The trust fund may be established on the books and records as a separate set of accounts, or a separate bank account may be established.

(b) Use, obligate, or appropriate such funds within 24 months from the end of the entitlement period to which the entitlement payment is applicable. Such use, obligation or appropriation of entitlement funds shall be consistent with State or local law requiring a legislative enactment in ordinance or resolution form. Any interest earned on such funds while in the trust fund shall be used, obligated, or appropriated within 24 months from the end of the entitlement period during which the interest was received or credited. An extension of time in which to act on the funds, or interest earned thereon, shall be obtained by application to the Director. Such application will set forth the facts and circumstances supporting the need for more time and the amount of additional time requested. The Director may grant such extensions of time as in his judgment appear necessary or appropriate.

(c) Provide for the expenditure of entitlement funds in accordance with the laws and procedures applicable to the expenditure of its own revenues.

(d) Maintain its fiscal accounts in a manner sufficient to:

(1) Permit the reports required by the Director to be prepared therefrom, and

(2) Permit the tracing of entitlement funds to a level of expenditure adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of this part. Such tracing requires that vouchers in support of expenditures funded by the Act shall be identified. Such identification can be made in any one of three ways as follows:

(i) Maintain a separate set of fund accounts; or,

(ii) Maintain a separate bank account; or,

(iii) Keep a memorandum record of the voucher numbers and amounts for the expenditures funded by entitlements received under the Act.

The accounting for entitlement funds shall at a minimum employ the same fiscal accounting and internal audit procedures as are used with respect to expenditures from revenues derived from the recipient government's own sources.

(e) Provide to the Director and to the Comptroller General of the United States, on reasonable notice, access to and the right to examine such books, documents, papers or records as the Director may reasonably require for the purpose of reviewing compliance with the Act and the regulations of this part or, in the case of the Comptroller General, as the Comptroller General may reasonably require for the purpose of reviewing compliance and operations under the Act.

§ 51.101 Auditing and evaluation.

(a) *In general.* Each recipient government which expects to receive entitlement funds for entitlement periods beginning on or after January 1, 1977, shall have an independent audit of its financial statements conducted for the purpose of determining compliance with the provisions of the Act, in accordance with generally accepted auditing standards, not less often than once every three years.

(b) *Independent audit—defined.* For purposes of this section an independent audit is an audit conducted by independent public accountants, or by independent qualified accountants or examiners from a State or local agency. An independent public accountant or independent qualified accountant or examiner is one who has no personal interest directly or indirectly in the financial affairs of the government being audited, or in the financial affairs of any of the officers of the government being audited.

(1) In those States in which an audit is required by State law to be made of the State government by a State office or official, such audit shall be considered to meet the requirements of an independent audit provided the principal officer of the State audit agency is not responsible for the maintenance of the accounting records being audited and does not report to the officer responsible for maintenance of such accounting records, and is:

(i) Elected by the citizens of the State; or

(ii) Elected or appointed by and reports to the State legislature or a committee thereof; or

(iii) Appointed by the Governor and confirmed by and reports to the legislature or a committee thereof.

(2) In those States in which an audit is made of local governments (or certain categories of local government) by a State office or official, such audit shall be considered to meet the requirements of an independent audit.

(3) Audits of local recipient governments made by a permanent (internal) auditing office or officer employed on a full-time basis shall be considered to meet the requirements of an independent audit provided the principal officer of the audit agency is not responsible for the maintenance of the official accounting records being audited and does not report to the officer responsible for maintenance of official accounting records, and is:

(i) Elected by the citizens of the local recipient government; or,

(ii) Reports to the governing body of the local recipient government or a committee thereof; or

(iii) Appointed by the executive officer of the local recipient government and reports to the governing body of the local recipient government or a committee thereof.

(4) Audits other than those specified in subparagraphs (1), (2), and (3) of this paragraph shall not be considered to be independent audits.

(c) *Generally accepted auditing standards and independent public accountant—defined.* (1) As used in paragraph (a) of this section, and as defined in § 51.2(h) of this part, "generally accepted auditing standards" means those auditing standards pronounced by the American Institute of Certified Public Accountants and incorporated in its Statements on Auditing Standards, or those in the financial and compliance element of the Standards for Audit of Governmental Organizations, Programs, Activities & Functions, issued in 1972 by the Comptroller General of the United States.

(2) As used in paragraph (b) of this section and as defined in § 51.2(j) of this part "independent public accountant" means independent certified public accountants, and licensed public accountants licensed on or before December 31, 1970, certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

(d) *Election by recipient government.* A recipient government may elect to have the requirements of paragraph (a) of this section not applicable to that government upon the filing of a written assurance by the chief executive officer that:

(1) The financial statements of the recipient government are audited by independent public accountants as defined in § 51.2(j) of this part, or by independent auditors as defined in paragraph (b) of this section, and that such financial statements are audited in accordance with State or local law; and

(2) The audits of the recipient government are conducted in accordance with generally accepted auditing standards; and

(3) The audits of the recipient government will be conducted not less often than every three years.

(e) *Inapplicability of audit requirement.* The requirement of paragraph (a) of this section shall not apply where the recipient government's entitlement for any of its fiscal years is less than $25,000, except where there is a State or local law requiring an audit of such government's financial statements which must be complied with in accordance with § 51.100(c) of this part.

(f) *Series of audits.* A series of independent audits may be used as an alternative to the provisions of paragraph (a) if they are conducted in accordance with generally accepted auditing standards, over a period not to exceed three fiscal years, and cover, in the aggregate, all of the accounts of a recipient government.

§ 51.102 Waiver of auditing provisions where financial accounts are unauditable.

The Director may, upon written application of the chief executive officer of the recipient government on or before March 31, 1978, waive the provisions of § 51.101 of this part for any fiscal period if in the course of determining compliance with § 51.101, the independent auditor renders an opinion that the financial accounts of such recipient government are not auditable, and the chief executive officer of such recipient government assures the Director that the accounts are not auditable and clearly sets forth the arrangements which have been made or taken toward making such financial accounts auditable. The Director shall satisfy himself by investigation or injury that the recipient government is achieving substantial progress toward making its financial accounts auditable. A recipient government which fails to apply to the Director on or before March 31, 1978 that its financial accounts are not auditable shall not be entitled to the waiver provisions of this section.

§ 51.103 Audit of secondary recipients.

Where a primary recipient government transfers during its fiscal year $25,000 or more of revenue sharing funds to a single secondary recipient, the primary recipient government shall be responsible for an audit of the revenue sharing funds transferred to the secondary recipient pursuant to the regulations of this subpart and to the Audit Guide and Standards for Revenue Sharing Recipients published by the Office of Revenue Sharing and available to each recipient government.

§ 51.104 Reliance upon audits under other Federal laws.

The Director may rely upon audits of the financial statements of recipient governments conducted in accordance with other Federal laws, for any fiscal period, provided that such audits substantially satisfy the requirements for audits contained in § 51.101(a) of this part.

§ 51.105 Audit Opinions.

(a) *In general.* Opinions made with respect to audits must be rendered as a part of the audit report and shall be in accordance with the opinion in general use for attesting to financial statements, as defined in paragraph 51.101 (c) (1). Examples of opinions are set out in the appendix of the Audit Guide and Standards for Revenue Sharing Recipients published by the Office of Revenue Sharing and available to each recipient government.

(b) *Nature of opinions.* Audit opinions may be unqualified, qualified, adverse, or a disclaimer of an opinion (provided the accounts are auditable). Audit opinions may be expressed on cash basis statements.

(c) *Expression of unqualified opinions.* The expression of an unqualified opinion shall include the statement that the financial statements are in accordance with generally accepted accounting principles. Generally accepted accounting principles are defined as those pronouncements of the National Committee on Governmental Accounting as set forth in its publication Governmental Accounting, Auditing and Financial Reporting published in 1968, or any subsequent revisions thereof.

§ 51.106 Scope of audits.

(a) *In general.* The scope of each audit required under § 51.101 (a) of this part shall include each separate fund which is defined as a self-balancing group of accounts required under State or local law and procedures (as determined by the State Attorney General or the legal counsel of a unit of local government) to be maintained by the recipient government. The audit shall be of the financial and compliance type described in The Standards for Audit of Governmental Organizations, Programs, Activities & Functions as issued in 1972 by the Comptroller General of the United States, and as described further in the Audit Guide and Standards for Revenue Sharing Recipients published by the Office of Revenue Sharing. The audit for compliance shall pertain only to entitlement funds of the recipient government received under the Act.

(b) *Verification of fiscal data reported to the Bureau of the Census.* The scope of the audit shall include also a verification of the recipient government's fiscal data as reported by it to the Bureau of the Census.

§ 51.107 Retention of audit workpapers.

Audit workpapers and related audit reports shall be retained for three years after the issuance of the audit report, and shall be available upon request to the Director and the Comptroller General or to their representatives.

§ 51.108 Requirement to submit audit reports.

The Director may require the chief executive officer of a recipient government to submit a copy of its audit reports at such times as he may request.

[FR Doc.77-24054 Filed 8-18-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Barnegat National Wildlife Refuge, New Jersey, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Barnegat National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1, 1977, through February 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Gaylord Inman, Brigantine National Wildlife Refuge, Great Creek Road, P.O. Box 72, Oceanville, New Jersey 08231, Telephone No. 609-652-1665.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations: migratory game birds: for individual wildlife refuge areas.

Public hunting of rails, gallinules, waterfowl and coots on the Barnegat National Wildlife Refuge, New Jersey, is permitted during established State and Federal seasons on only those areas designated by signs as open to hunting.

These open areas are delineated on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

Hunting shall be in accordance with State and Federal regulations covering the hunting of migratory game birds subject to the following special conditions:

1. On opening days, Saturdays and holidays a Federal permit will be required.

V 42 161 AUG 19 77 UMI

2. No permanent blinds or pit blinds may be constructed.

3. The use of steel shot ammunition on the refuge hunting area is required—shotshell limit 25 rounds per hunter per day. No person may have more than 25 steel shotshells or any lead shotshells in their possession while hunting waterfowl.

4. Hunters, when requested by Federal or State enforcement officers must display for inspection all game, hunting equipment, and ammunition.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: August 10, 1977.

WILLIAM C. ASHE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

[FR Doc.77–23984 Filed 8–18–77;8:45 am]

PART 32—HUNTING

Opening of Brigantine National Wildlife Refuge, New Jersey, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Brigantine National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1, 1977, through February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Gaylord Inman, Brigantine National Wildlife Refuge, Great Creek Road, P.O. Box 72, Oceanville, New Jersey 08231, Telephone No. 609–652–1665.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; individual wildlife refuge areas.

Public hunting of rails, gallinules, waterfowl, and coots on the Brigantine National Wildlife Refuge, New Jersey, is permitted during established State and Federal seasons on those areas designated by signs as open to hunting.

These open areas are delineated as Hunting Units 1, 2 and 3 on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

Hunting shall be in accordance with State and Federal regulations covering the hunting of migratory game birds subject to the following special conditions:

1. Steel shotshells are required for 12 gauge shotguns used to hunt migratory waterfowl during the State waterfowl hunting season. Persons may not possess 12 gauge lead shotshells during the State waterfowl hunting season. Lead shotshells of all other gauges may be used to hunt migratory waterfowl. Lead shot in any gauge may be used to hunt rails, coots and gallinules prior to the waterfowl hunting season in accordance with State laws.

2. Hunters when requested by Federal or State enforcement officers, must display for inspection all game, hunting equipment and ammunition.

3. Hunting on Unit 3 during the waterfowl season is restricted to certified Young Waterfowler Program Trainees only, from designated blind sites.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: August 10, 1977.

WILLIAM C. ASHE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

[FR Doc.77–23985 Filed 8–18–77;8:45 am]

PART 32—HUNTING

Opening of Chincoteaque National Wildlife Refuge, Virginia, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Chincoteaque National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 15, 1977 through January 5, 1978.

FOR FURTHER INFORMATION CONTACT:

J. C. Appel, Chincoteaque National Wildlife Refuge, Box 62, Chincoteaque, Va. 23336. Telephone No. 804–336–6122.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer is permitted only on designated areas shown on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center. Suite 700, Newton Corner, Mass. 02158. Hunting shall be in accordance with all State regulations subject to the following special conditions:

1. Species to be taken: (a) Archery Hunt—Sika and Whitetail deer. (b) Stag Hunt—Sika and Whitetail deer.

2. Bag Limits: (a) Archery Hunt—One per day three per license year. At least one of the three must be a female which will be tagged with a Virginia nuisance deer tag. (b) Stag Hunt—One per day, three per license year. The first deer must be an adult female or buck with unbranched antlers which will be tagged with a State of Virginia nuisance deer tag. The second and third may be either an adult female, buck with unbranched antlers or a trophy stag (five points or better) but bag limit of three may not include more than one trophy stag or more than two adult females.

3. Season: (a) Archery—Will coincide with the State archery deer season. (b) Stag Hunt—Six 5-day hunts (November 14–18, November 28–December 2, December 5–9, December 12–16, December 19–23, December 26–30 and one 4-day hunt—January 2–5, 1978.

4. Method of taking: (a) Archery—Long bow, Recurve, or Compound bow and arrows (cross bow prohibited). Archers must use broadheads with blades at least ¾ inches wide and bows capable of propelling any arrow in their possession 125 yards. All arrows in an archers possession while hunting must be permanently marked with hunters name and address. Archers may not have firearms or illegal archery equipment in their possession while hunting. (b) Stag Hunt firearms—All firearms must function as a single shot only. Modern firearms may be used if modified to hold only one round. Rifles of .23 caliber or larger and shotguns of 20 guage or larger will be permitted. Slugs only will be permitted in shotguns. Possession of firearms or ammunition not stipulated above is prohibited.

5. Dogs are prohibited.

6. Hunting hours—One half hour before sunrise to one half hour after sunset. All hunters must leave their hunting areas within two and one half hours after sunset.

7. Carrying loaded firearms or nocked arrows in or on vehicles is prohibited.

8. Camping and fires on refuge are prohibited.

9. All hunters under 18 years of age must be accompanied by an unarmed adult.

10. One other individual may accompany each hunter, but only one gun will be allowed per area.

11. All wounded deer will be reported to refuge personnel immediately, so that data on wounded deer can be gathered. All deer taken on the area must be brought to the maintenance area to be checked out. Jawbones may be removed by refuge personnel.

12. There are two species of endangered wildlife found on the refuge: Delmarva Fox Squirrel and Peregrine Falcon. Shooting at wildlife other than deer is prohibited.

13. Before any hunter is issued a permit, he/she must meet all the following qualification requirements:

(a) All firearm hunters must provide proof of passing a State hunter safety course.

(b) Archery hunters must provide proof of passing the National Field Archery Association Bowhunters Education Program or equivalent course. This course is required to be taken only once, but shooting qualification is required each year.

(c) Hunters/applicants must present written Certification from a range officer (civilian or military), police officer, or refuge personnel that they have performed the following qualification test or tests.

(1) Archery: Place three out of five shots in the 9" x 14" chest area of a standard size deer target at 25 yards.

(2) Shotgun with slugs, muzzleloader, and rifle: From the standing firing position, place three out of three rounds in a 12" target at a distance of 50 yards.

(3) All hunters are required to wear a minimum of 400 square inches of safety florescent color material on the head, chest, and back.

(4) Youths who have not reached their 18th birthday must hunt under the control of a qualified adult hunter or a legal guardian.

The provisions of this Special Regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: August 10, 1977.

WILLIAM C. ASHE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

[FR Doc.77–23986 Filed 8–18–77;8:45 am]

PART 32—HUNTING

Opening of Erie National Wildlife Refuge, Pennsylvania, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Erie National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1977 through January 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Allen Hundley, Erie National Wildlife Refuge, RD 2, Box 191, Guys Mills, Pa. 16327. Telephone No. 814–789–3585.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer on the Erie National Wildlife Refuge, Pennsylvania, is permitted. The open hunting area is shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.

Hunting shall be in accordance with all State and Federal regulations covering the hunting of deer, subject to the following special condition: All hunters, except archery hunters, shall be required to wear a minimum of 400 total square inches of a safety fluorescence color material on the head, chest and back.

The provisions of this special regulation supplement the regulations governing hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: August 10, 1977.

WILLIAM C. ASHE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

[FR Doc.77–23987 Filed 8–18–77;8:45 am]

PART 32—HUNTING

Opening of Erie National Wildlife Refuge, Pennsylvania, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Erie National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 8, 1977 through March 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Allen Hundley, Erie National Wildlife Refuge, RD 2, Box 191, Guys Mills, Pa. 16327. Telephone No. 814–789–3585.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of migratory game birds on the Erie National Wildlife Refuge is permitted in accordance with all State and Federal regulations. Such hunting is permitted only on the designated area, as shown on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.

The provisions of this special regulation supplement the regulations governing hunting on wildlife areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: August 10, 1977.

WILLIAM C. ASHE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

[FR Doc.77–23988 Filed 8–18–77;8:45 am]

PART 32—HUNTING

Opening of Erie National Wildlife Refuge, Pennsylvania, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Erie National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 15, 1977 through March 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Allen Hundley, Erie National Wildlife Refugee, RD 2, Box 191, Guys Mills, Pa. 16327. Telephone No. 814–789–3585.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of hares, rabbits, woodchucks, raccoons, squirrels, grouse, quail, pheasants, skunks, opossums, and foxes is permitted on portions of the Erie National Wildlife Refuge, Pennsylvania. Copies of a map showing the open hunting areas are available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.

Hunting shall be in accordance with all State regulations governing hunting of small game, furbearers, and foxes, subject to the following special condition: That portion of the refuge situated between Pennsylvania Routes 27 and 173 is closed to hunting with firearms from

V 42 161 AUG 19 77 UMI

September 30, 1977 through November 25, 1977.

The provisions of this special regulation supplement the regulations governing hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 10, 1977.

WILLIAM C. ASHE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

[FR Doc.77-23989 Filed 8-18-77;8:45 am]

PART 32—HUNTING

Opening of Iroquois National Wildlife Refuge, New York, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Iroquois National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 15, 1977 through December 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Edwin Chandler, Iroquois National Wildlife Refuge RFD I, Basom, N.Y. 14013. Telephone No. 716-948-5445.

SUPPLEMENTARY INFORMATION:

§ 32.32 **Special regulations; big game; for individual wildlife refuge areas.**

Public hunting of deer on the Iroquois National Wildlife Refuge, New York, is permitted during the regular State seasons except on areas designated by signs as closed. This open area is shown on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Newton Corner, Mass. 02158. Hunting shall be in accordance with all State regulations covering the hunting of deer.

The provisions of the special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 10, 1977.

WILLIAM C. ASHE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

[FR Doc.77-23990 Filed 8-18-77;8:45 am]

PART 32—HUNTING

Opening of Iroquois National Wildlife Refuge, New York, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Iroquois National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1977 through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Edwin Chandler, Iroquois National Wildlife Refuge RFD I, Basom, N.Y. Telephone No. 716-948-5445.

SUPPLEMENTARY INFORMATION:

§ 32.12 **Special regulations; migratory game birds; for individual wildlife refuge areas.**

Public hunting of migratory waterfowl on the Iroquois National Wildlife Refuge, New York, is permitted in designated areas. Information on this program is available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158. Hunting shall be in accordance with all State and Federal regulations covering the hunting of migratory waterfowl subject to the following special conditions:

(1) Waterfowl hunting is by permit only.

(2) Hunting is permitted on Monday, Tuesday, Thursday, and Saturday.

(3) Prior registration is required for opening day and the first two Saturdays. On other hunt days permits are issued on the basis of a daily drawing held prior to legal opening time. On prior registration days, hunters will draw for hunting sites on the morning of the hunt. On other hunt days, hunters will have a choice of available hunting sites as their names are drawn.

(4) All hunting ends each day at 12 noon local time, and all hunters must check out and present harvested game at the permit station on Casey Road, not later than 1 p.m. local time.

(5) No loaded guns are permitted beyond a 50-foot radius of the hunting stand marker and no more than two hunters are permitted to each stand.

(6) Hunters will be limited to 15 steel shotshells not larger than #1 with the exception of participants in the Young Waterfowlers Program (see No. 12 below). Possession of lead shotshells is not permitted.

(7) Disorderly conduct, intoxication, "sky busting" or otherwise unsportsmen-like conduct will not be tolerated and the permittee will be ejected from the area.

(8) A hunter who leaves his stand must have permission from official personnel to return.

(9) Hunters who have completed the New York State Waterfowl Hunter Training Course will be given preference for permits on Tuesdays.

(10) No person shall use or hunt from a boat.

(11) Hunters, when requested by Federal or State enforcement officers must display for inspection all game, hunting equipment, and ammunition.

(12) Participants in the Young Waterfowlers Program may use lead shotshells only in shotguns smaller than 12 gauge. Possession of more than 15 shotshells is not permitted.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 10, 1977.

WILLIAM C. ASHE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

[FR Doc.77-23991 Filed 8-18-77;8:45 am]

PART 32—HUNTING

Opening of Valentine National Wildlife Refuge, Nebraska, to the Hunting of Migratory Game Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule opens Valentine National Wildlife Refuge for the hunting of migratory game birds. National wildlife refuges are closed to hunting unless the Director determines that the opening of the area is compatible with the principles of sound wildlife management and is in the public interest. Migratory game bird hunting will be permitted subject to special regulations issued at a later date.

EFFECTIVE DATE: September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Ralph H. Town, Division of National Wildlife Refuges, U.S. Fish and Wildlife Service, Washington, D.C. 20250, telephone number 202-343-4307.

SUPPLEMENTARY INFORMATION: Ralph H. Town is the principal author of this final rule.

On June 15, 1977, there was published (42 FR 30524) a notice of proposed rulemaking adding Valentine National Wildlife Refuge, Nebraska, to the list of refuge areas which are open for the hunting of migratory game birds. As a general rule, most areas within the National Wildlife Refuge System are closed to hunting until officially opened by regulation. The public was provided a 30-day comment period and was advised that an environmental assessment had been prepared on the proposal and was available for public inspection. No comments were received on the proposed rulemaking.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Accordingly, 50 CFR 32.11 is amended as follows:

§ 32.11 **List of open areas: migratory game birds.**

NEBRASKA

Valentine National Wildlife Refuge

Dated: August 16, 1977.

KEITH M. SCHREINER,
Acting Director, United States
Fish and Wildlife Service.

[FR Doc.77-24029 Filed 8-18-77;8:45 am]

PART 32—HUNTING

Opening of Savannah National Wildlife Refuge, South Carolina, to the Hunting of Big Game

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule adds Savannah National Wildlife Refuge to the list of refuge areas open for the hunting of big game, which is published in 50 CFR 32.31. The Director has determined that a harvestable surplus of big game exists, that there is public demand for additional recreational opportunity, and that this action is compatible with the major purposes for which this refuge was established. Hunting will provide for the harvest of a renewable resource and for additional public recreational opportunity.

EFFECTIVE DATE: September 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Ralph H. Town, Division of National Wildlife Refuges, U.S. Fish and Wildlife Service, Washington, D.C. 20250, telephone number 202-343-4307.

SUPPLEMENTARY INFORMATION: Ralph H. Town is the principal author of this final rule.

On July 7, 1977, there was published (42 FR 34898) a notice of proposed rulemaking adding Savannah National Wildlife Refuge, South Carolina, to the list of refuge areas which are open for the hunting of big game. As a general rule, most areas within the National Wildlife Refuge System are closed to hunting until officially opened by regulation.

The public was provided a 30-day comment period and was advised that an environmental assessment had been prepared on the proposal and was available for public inspection. One comment, favorable to the proposal, was received.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Accordingly, 50 CFR 32.3. is amended by the addition of Savannah National Wildlife Refuge as follows:

§ 32.31 **List of open areas: big game.**

SOUTH CAROLINA

Savannah National Wildlife Refuge

Dated: August 16, 1977.

KEITH M. SCHREINER,
Acting Director, United States
Fish and Wildlife Service.

[FR Doc.77-24028 Filed 8-18-77;8:45 am]

V 42 161 AUG 19 77 UMI

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

CIVIL SERVICE COMMISSION

[5 CFR Part 890]

FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Opportunities To Register To Enroll and Change Enrollment; Open Season

AGENCY: Civil Service Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Civil Service Commission proposes to extend the dates of the 1977 Federal Employees Health Benefits (FEHB) Program open season from approximately two weeks in length to four work weeks. The FEHB open season is a time during which all eligible employees may enroll in the Program, and enrolled employees and annuitants may change plans, options, types of enrollment, or a combination of these changes. This extension is necessary to enable the Commission to ensure that all employees receive 1977 open season materials timely, as well as to permit employees enough time to carefully study the benefits or services offered by all available plans before deciding what action, if any, they want to take during the open season. In addition, during past FEHB open seasons the Commission has received numerous requests from agencies, employees and insurance carriers, asking that open season extensions be granted. The proposed amendment will change the dates of the 1977 FEHB open season from November 15–30 to November 14–December 9.

DATE: Comments must be received on or before September 19, 1977.

ADDRESS: Comments should be directed to: Thomas A. Tinsley, Director, Bureau of Retirement, Insurance, and Occupational Health, Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

Edward G. Borchers—202–632–4684. Bureau of Retirement, Insurance, and Occupational Health, Office of Policy Development and Technical Services, Room 4334, 1900 E Street NW., Washington, D.C. 20415.

It is proposed to amend § 890.301(d)(1) of Part 890, Title 5, Code of Federal Regulations, to read as follows:

§ 890.301 Opportunities to register to enroll and change enrollment.

* * * * *

(d) *Open season.* (1) During the period November 14, 1977 through December 9, 1977, an employee who is not registered to be enrolled may register to be enrolled, and an enrolled employee or annuitant may change his or her enrollment from one plan or option to another, or from self only to self and family, or both.

NOTE.—The Civil Service Commission has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A–107.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SRY,
Executive Assistant to the Commissioners.

[FR Doc.77-24100 Filed 8-18-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 931]

HANDLING OF FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

Minimum Grade, Size and Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would continue through June 30, 1978, current minimum grade, size and container requirments applicable to fresh shipments of Bartlett pears grown in Oregon (except the Medford District) and Washington. The proposal is designed to provide for orderly marketing in the interest of producers and consumers.

DATE: Comments must be received on or before September 5, 1977.

ADDRESS: Send comments to: Hearing Clerk, Room 1077, South Building, USDA, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202–447–3545).

SUPPLEMENTARY INFORMATION: The proposed amendment was submitted by the Northwest Fresh Bartlett Pear Marketing Committee, established pursuant to the marketing agreement and Order No. 931 (7 CFR Part 931) regulating the handling of fresh Bartlett pears grown in Oregon and Washington. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Bartlett Pear Regulation 12 is currently effective during the period August 1, 1977, through September 15, 1977. This regulation specifies grade and size requirements for fresh Bartlett pears grown in Oregon, except the Medford District, and Washington. The requirements are that Bartlett pears, other than Red Bartlett pears, when packed in any of the authorized containers except the western lug or containers of 14–15 pounds net weight, shall grade at least U.S. No. 1 and be not smaller than 165 size except such pears grading U.S. No. 2 may be shipped if they are 150 size or larger. Red Bartlett pears shall grade at least U.S. No. 1 and be not smaller than 180 size except such pears grading U.S. No. 2 may be shipped if they are 165 size or larger. Bartlett pears of any variety packed in the western lug must grade at least U.S. No. 2 and be not smaller than 2¼ inches in diameter, except that pears may be handled in such container which fail to meet the requirements of U.S. No. 2 grade only because of serious, but not very serious, damage caused by hail marks or frost if the shape of the pear is such that it will cut at least one good half. Bartlett pears of any variety packed in containers of 14–15 pounds net weight must grade at least U.S. No. 2 and be at least 2⅛ inches in diameter, except that pears may be handled in such containers if they grade Washington C Grade and are not smaller than 2⅜ inches in diameter. Several containers and packs are prescribed. The proposed extension of the effective period of Bartlett Pear Regulation 12 is designed to provide for orderly marketing in the interest of producers and consumers. Committee reports indicate that fresh shipments of Washington-Oregon Bartlett pears will total about 2.4 million standard box equivalents in 1977, compared to 1.9 million standard box equivalents in 1976. The proposed amendment is consistent with the quality and size composition of the estimated crop of Washington-Oregon Bartlett pears.

All persons who desire to submit written data, views, or arguments for consideration in connection with Bartlett Pear Regulation 12, as published in the FEDERAL REGISTER on July 29, 1977 (42 FR 38578), or the proposed amendment published herein, shall file the same, in duplicate, with the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, not later than September 5, 1977. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Under the proposal, the provisions of Bartlett Pear Regulation 12 (§ 931.312; 42 FR 38578) are revised to read as follows:

§ 931.312 Bartlett Pear Regulation 12.

(a) During the period August 1, 1977, through June 30, 1978, no handler shall handle any lot of Bartlett pears, except Bartlett pears grown in the Medford District, unless such pears meet the following applicable requirements or are handled in accordance with subparagraphs (4) or (5) of this paragraph:

(1) *Minimum Grade and Size.* (i) Bartlett pears of varieties other than Red Bartletts, when packed in the standard western pear box, the "L.A. lug", or their carton equivalents, in halfcartons (containers with inside dimensions of 19¼ x 11½ x 5½ inches), in master containers containing overwrapped consumer packages of pears, or in "tight-filled" containers shall be of a size not smaller than 165 size and shall grade at least U.S. No. 1: *Provided,* That Bartlett pears of such varieties may be handled in such containers if they grade at least U.S. No. 2 and are of a size not smaller than 150 size. Red Bartlett variety pears, when packed in any of the containers specified in this subdivision, shall be of a size not smaller than 180 size and shall grade at least U.S. No. 1: *Provided,* That pears of such variety may be handled in such containers if they grade at least U.S. No. 2 and are of a size not smaller than 165 size;

(ii) Bartlett pears of any variety, when packed in the "western lug", shall grade at least U.S. No. 2 and be not less than 2¼ inches in diameter: *Provided,* That such pears of any variety which fail to meet the requirements of U.S. No. 2 grade only because of serious, but not very serious, damage caused by hail marks and/or frost may be shipped if the shape of the pear is such that it will cut at least one good half; and

(iii) Bartlett pears of any variety, when packed in containers containing at least 14 pounds but not more than 15 pounds net weight, shall grade at least U.S. No. 2 grade and measure not less than 2⅛ inches in diameter: *Provided,* That such pears may be handled in such containers if they meet the minimum requirements of Washington C Grade and are not less than 2⅜ inches in diameter.

(2) *Pack or Container Requirements.* Bartlett pears of any variety shall be packed in one of the following types of containers:

(i) "Standard western pear box" or "L.A. lug" or their carton equivalents;

(ii) "Western lug" or containers having a capacity equal to or greater than said lug;

(iii) "Half-carton" containers;

(iv) Containers of at least 14 pounds but not more than 15 pounds net weight;

(v) "Tight-filled" containers; or

(vi) Master containers containing overwrapped consumer packages.

(3) *Special inspection requirements for minimum quantities.* During the aforesaid period any handler may ship on any conveyance up to, but not in excess of, an amount equivalent to 200 "standard western pear boxes" of pears without regard to the inspection requirements of § 931.55 under the following conditions: (i) Each handler desiring to make shipment of pears pursuant to this subparagraph shall first apply to the committee on forms furnished by the committee for permission to make such shipments. The application form shall provide a certification by the shipper that all shipments made thereunder during the marketing season shall meet the marketing order requirements, that he agrees such shipments shall be subject to spot check inspection, and that he agrees to report such shipments at time of shipment to the committee on forms furnished by the committee, showing the car or truck number and destination; and (ii) on the basis of such individual reports, the committee shall require spot check inspection of such shipments.

(4) *Special purpose shipments.* Notwithstanding any other provision of this section, any shipment of pears in gift packages may be handled without regard to the provisions of this paragraph and of §§ 931.41 and 931.55.

(5) Notwithstanding any other provision of this section, any individual shipment of pears which meets each of the following requirements may be handled without regard to the provisions of this paragraph and of §§ 931.41 and 931.55:

(i) The shipment consists of pears sold for home use and not for resale;

(ii) The shipment does not, in the aggregate, exceed 500 pounds net weight of pears; and

(iii) Each container is stamped or marked with the handler's name and address and with the words "not for resale" in letters at least one-half inch in height.

(b) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order; "U.S. No. 1, "U.S. No. 2", and "size" shall have the same meaning as when used in the United States Standards for Summer and Fall Pears (7 CFR 51.1260–51.1280); "150 size", "165 size", and "180 size" shall mean that the pears are of a size which pack, in accordance with the sizing and packing specifications of a standard pack, as specified in said United States Standards, 150, 165, or 180 pears, as the case may be, in a standard western pear box (inside dimensions 18 inches by 11½ by 8½ inches); the term "tight-filled" shall mean that the pears in any container shall have been well settled by vibration according to approved and recognized methods; the term "master container" shall mean those containers containing overwrapped consumer packages of pears; the term "very serious damage" shall mean any injury or defect which very seriously affects the appearance or the edible or shipping quality of the pears, "Washington C Grade" shall have the same meaning as when used in the State of Washington Department of Agriculture Permanent Order 103 (Effective November 10, 1966); the term "Western lug" shall mean a container with inside dimensions of 18 by 11½ by 7 inches and the term "L.A. lug" shall mean a container with inside dimensions of 16⅛ by 13½ by 5¾ inches.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: August 16, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-24122 Filed 8-18-77;8:45 am]

[7 CFR Part 989]

RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Proposed Changes to Improve Administrative Operating Procedures

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice of proposed rulemaking invites written comments on changes to improve administrative operating procedures, and organizational changes to facilitate reference in certain provisions established under the Federal marketing order for California raisins. Some of the changes are needed to bring the procedures and provisions in line with recent order amendments. Other changes update provisions so they are more reflective of current industry operating practices. The changes are based on a recommendation by the Raisin Administrative Committee, and would facilitate operations under, administration of, and compliance with the requirements of the amended marketing order.

DATES: Comments must be received prior to September 9, 1977.

ADDRESSES: Comments should be addressed to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Two copies of all written comments should be submitted, and they will be available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: This proposed amendment is to revise Subpart—Administrative Rules and Regulations (7 CFR 989.101–989.176), Subpart—Supplementary Regulations (7 CFR 989.201–989.231), Subpart—Schedule of Payments (7 CFR 989.401), Subpart—Conversion Factors (7 CFR 989.601), and to add a new Subpart—Quality Control (7 CFR 989.701–989.702). The subparts are pursuant to the marketing agreement, as amended, and Order No.

V 42 161 AUG 19 77 UMI

989, as amended (7 CFR 989; 42 FR 37200), regulating the handling of raisins produced from grapes grown in California (hereinafter referred to collectively as the "order"). The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The terms "Order" and "Terms in the order" as defined in §§ 989.101 and 989.103, respectively, are proposed to be deleted because they are superfluous. The administrative rules and regulations are operative pursuant to the order, and terms used in the administrative rules and regulations have the same meaning as in the order.

The August 1, 1977, amendment of the order reduced the extensive number of varietal type categories to simplify classification of raisins used in regulating the volume and quality of raisins moved to market. Seven varietal types were established incorporating those in § 989.110. These are now set forth in § 989.10 of the order, as amended August 1. Thus, the list of varietal types in § 989.110 is obsolete and should be deleted.

The list of varietal types with conversion factors for converting packed weight to natural condition weight in § 989.601 is proposed to be revised to reflect the changes in varietal type categories. The categories Dipped Seedless and Golden Seedless were not changed by the amendment and need not be changed in the table. All of the other varietal types in the list are proposed to be changed according to the varietal types in § 989.10.

The 1977 amendment of the order also provided for the deletion of § 989.96, containing provisions dealing with Raisin Administrative Committee grower districts and representation per district, and the transferral of these provisions from the order to the rules and regulations to facilitate reference. Producer representation is required to be reviewed every three years for equitable representation and any necessary changes made. Pursuant to this, changes were made in district boundaries and representation in 1973 and set forth in §§ 989.125 and 989.126, respectively. However, this format requires a reader to refer to the order and the rules and regulations to find the applicable provisions. To facilitate reference, the provisions in § 989.96 on districts are proposed to be combined with the provisions of § 989.125 in a new § 989.122, and § 989.125 is proposed to be deleted. Section 989.122 would be made applicable to the Raisin Administrative Committee, not the Raisin Advisory Board, because the Board was abolished and replaced with the Committee on August 4, 1976. The provisions in new § 989.122 would be slightly different from those in § 989.96 in that they would serve the purpose only of defining district areas and would not deal with the membership per district.

The number of members per district and provisions pertaining to change for equitable representation would continue to be specified in § 989.126. The provisions of § 989.126 are the same as the current provisions except for minor wording and conforming changes made necessary because of the proposed establishment of § 989.122, and the establishment of the Raisin Administrative Committee in place of the Raisin Advisory Board.

The provisions in § 989.138 relating to producer districts and § 989.139 relating to producer representation per district on the Raisin Administrative Committee are proposed to be moved to §§ 989.142 and 989.143, respectively, so that the numbering of these provisions conforms with the numbering of the corresponding provisions in the order. It is also proposed that the provisions be made applicable to the Executive Operations Committee, rather than the Raisin Administrative Committee. Effective August 4, 1976, the membership provisions of the order applicable to the Raisin Administrative Committee were made applicable to an Executive Operations Committee. Also, the references to "§ 989.125" in paragraphs (a) (1), (2), and (3) of § 989.138 are proposed to be changed to "§ 989.122" because of the proposal to transfer the provisions in § 989.125 to § 989.122. The reference to "board" in § 989.129 relating to voting in nomination meetings is proposed to be changed to "Committee".

Provisions relating to handler and dehydrator representation on the abolished Raisin Advisory Board are contained in §§ 989.127 and 989.128. These provisions are obsolete and are proposed to be deleted because similar provisions were added to § 989.26 applicable to the Raisin Administrative Committee in August 1976. Handler representation provisions on the abolished Raisin Administrative Committee in § 989.140 were moved to § 989.43 of the order and made applicable to the Executive Operations Committee by the August 1976 order amendment. Hence, § 989.140 is obsolete and is proposed to be deleted. The mail and telegraph voting provisions in § 989.152 of the rules and regulations are proposed to be deleted because the corresponding order provisions were deleted by the 1976 order amendment.

The provisions currently in § 989.148 on compensation for attendance at committee meetings are proposed to be moved to § 989.139 so the numbering of this provision conforms with the corresponding order provisions. The title of revised § 989.139 would be the same as current § 989.148, but the provisions would contain minor changes clarifying that alternates of both the Raisin Administrative Committee and Executive Operations Committee are covered, and the reference to "§ 989.48" at the end of these provisions is changed to "§ 989.39".

The most recent amendment of the order provides for grading requirements on natural condition raisins in § 989.97 (Exhibit B) and for packed raisins in § 989.59(a) to be transferred from the order to the rules and regulations to facilitate reference. Numerous changes have been made in these requirements by rulemaking, and consequently the applicable requirements are in the order and/or Subpart—Supplementary Regulations. As a result, this format requires reference to the order and that subpart to find all applicable grading requirements.

Therefore, it is proposed that the grading requirements on natural condition raisins in § 989.97 (Exhibit B) and the changes in these requirements pursuant to § 989.58(b) and §§ 989.201, 989.203, and 989.211 be combined and included in a new Subpart—Quality Control for better organization. The requirements would be placed in § 989.701 titled "Minimum grade and condition standards for natural condition raisins". Except for the addition of requirements on water dipped, vine sprayed, or similarly treated Muscats (including other raisins with seeds), the grade and condition requirements prescribed for the individual varietal types would be essentially the same as currently prescribed.

The requirements in § 989.59(a) for packed raisins and the changes pursuant to § 989.59(b), in §§ 989.204, and 989.212 are proposed to be combined and placed in § 989.702, titled "Minimum grade standards for packed raisins" for the same reasons that the relocation of the natural grade and condition requirements are proposed to be made. The requirements are the same as currently prescribed, and minor wording changes reflecting the varietal type changes are proposed.

Because of this change combining provisions on grading requirements, §§ 989.201, 989.203, 989.204, 989.211, and 989.212 are obsolete and are proposed to be deleted.

The desirable free tonnage concept of volume control was eliminated August 4, 1976. With the elimination of this concept § 989.224 is no longer needed and it is proposed to be deleted.

Also proposed is a revision of § 989.158 (a) (8) prescribing rules and procedures on fumigation. This is to implement the authority added to § 989.58(d) (1) by the August 1977 amendment giving handlers the option of eliminating the initial inspection check for infestation at the time of receipt. To the extent that handlers take advantage of this option, the unnecessary delay in completion of the inspection and certification process would be eliminated, because these activities would not be interrupted by the fumigation process. If the handler elects not to take advantage of this option, and have the raisins inspected for infestation upon receipt, he would continue to be given the opportunity to fumigate lots prior to the completion of the inspection and certification process.

Currently, §§ 989.159(g) (2) and 989.173 (d) (2) contain parenthetical references to the definitions of off-grade raisins, and other failing raisins which had been contained in § 989.59(f). The most recent amendment of the order moved these definitions from § 989.59(f) to § 989.24. Section 989.24 is in that portion of the order devoted to definitions. Therefore, these references are no longer needed and are proposed to be deleted. Also, included in paragraph (g) (2) of § 989.159 is a parenthetical expression defining raisin residual material.

The definition of this term was also moved to § 989.24. Thus, it is not needed in § 989.159(g) (2) and is proposed to be deleted.

Section 989.166(c) (2) provides that normal and natural deterioration and shrinkage of raisins stored in portable containers be judged as if they had been stored in sweat boxes or picking boxes. Bins are now the common storage containers used by the industry. This requirement is obsolete and proposed to be deleted because deterioration and shrinkage experienced with bins has been no different from that experienced with sweat boxes or picking boxes.

Section 989.166(c) (3) is proposed to be revised to bring it into conformity with the corresponding order provisions on substitutions of reserve tonnage raisins. The 1977 amendment of the order brought provisions in § 989.66(c) (3) relating to the substitution of reserve tonnage raisins in line with the method of Committee application by deleting the requirement that the raisins substituted for the reserve raisins by "like quality".

A literal application of this requirement was never adopted because reserve tonnage raisins only have to be standard raisins, i.e.—raisins at least meeting the effective minimum grade and condition Standards. Section 989.166(d) pertains to the delivery of reserve tonnage raisins by a handler to the Committee in the quantity and quality for which he has become obligated. Since a handler is obligated to deliver only standard raisins to the Committee it is proposed that § 989.166(d) be revised to clarify this fact.

In the August 4, 1976, amendment, the crop year was changed from a September 1-August 31 period to an August 1-July 31 period. Because of this change, the provisions in § 989.173 should be amended by changing the August 31 and September 6 dates for submission of inventory reports to July 31 and August 6, respectively. The reports would be submitted by handlers for each varietal type held by him.

Another proposal deals with the revision of § 989.210 to include Golden Seedless and Dipped Seedless under the weight dockage system for immaturity the same as Natural (sun-dried) Seedless have been for several years. This would permit handlers to acquire lots of natural condition Golden Seedless and Dipped Seedless raisins with more than the permitted level of immature raisins. As is now done on Natural (sun-dried) Seedless raisins, the creditable weight of such lots would be computed by multiplying the net weight of the lot by a dockage factor. The factor would reduce the weight of the lot by an amonut about equal to the weight of the immature raisins needed to be removed from the lot to bring it up to the permitted maturity level.

Although there is more control of maturity in selecting grapes for dehydration than in sun-drying, makers of Golden Seedless and Dipped Seedless raisins encounter maturity problems, especially in a year of poor grape maturity. Permitting handlers to acquire low maturity Golden Seedless and Dipped Seedless raisins as standard raisins under this system would lessen the handlers' inspection costs on such lots.

The provisions in § 989.401 deal with compensation of raisin handlers for services performed on reserve tonnage raisins held for the account of the Committee during and beyond the crop year of acquisition. Because the crop period was changed, minor wording changes are proposed in paragraphs (a) (1), (b) and (c) of § 989.401. Also, the next-to-the-last sentence in § 989.401(c) is proposed to be amended by changing the word "box" to "container" wherever it appears, to clarify that the sentence deals with the weight of raisins in both boxes and bins.

The proposal is as follows:

Subpart—Administrative Rules and Regulations

§§ 989.101, 989.103, 989.110 [Deleted]

1. Section 989–101 is deleted.
2. Section 989.103 is deleted.
3. Section 989.110 is deleted.
4. The center heading "RAISIN ADVISORY BOARD" immediately following § 989.110 is changed to "RAISIN ADMINISTRATIVE COMMITTEE", and a new § 989.122 is added to read:

RAISIN ADMINISTRATIVE COMMITTEE

§ 989.122 Producer districts for representation on Raisin Administrative Committee.

Commencing with the term of office beginning May 1, 1977, producer member districts are as follows:

(a) *District No. 1—Clovis-Sanger.* All of T. 12S., R. 20E. in Fresno County; all of T.11S., R.20E. in Fresno County; all of T.11S., R.21E. in Fresno County; all of T.12S., R.21E; all of T.12S., R.22E; Secs. 1, 2, 11, 12, 13, and 14 of T.13S., R.20E; Secs. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, and 36 of T.13S., R.21E; and Secs. 4, 5, 6, 7, 8, 9, 18, 19, 30, and 31 of T.13S., R.22E. The east one-half and Secs. 16, 17, 20, 21, 28, 29, 32, and 33, T.13S., R.22E; all of T.13S., R.23E. lying north and west of the east channel of Kings River; all of T.14S., R.23E. lying west of the each channel of Kings River; and Secs. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 35 and 36, T.14S., R.22E; all of Secs. 5 and 6, T.15S., R.23E., lying north of Kings River.

District No. 2—Kerman. All of T.13S., R.14E. in Fresno County; all of T.13S., R.15E. in Fresno County; all of T.13S., R.16E. in Fresno County; all of T.13S., R.17. in Fresno County; Secs. 30 and 31 of T.13S., R.18E; all of T.14S., R.14E; all of T.14S., R.15E; all of T.14S., R.16E; all of T.14S., R.17E; all of T.14S., R.18E; the west two-thirds of T.14S., R.19E; all of T.15S, R.14E; all of T.15S., R.15E; all of T.15S., R.16E; all of T.15S., R.17E; and all of T.15S., R.18E.

District No. 3—Biola. All of T.13S., R.18E. in Fresno County, except Secs. 30 and 31; all of T.12S., R.19E. in Fresno County; and all of T.13S., R.19E., except Secs. 25, 26, 27, 28, 33, 34, 35, and 36.

District No. 4—Fresno. Secs. 25, 26, 27, 28, 33, 34, 35, and 36, T.13S., R.19E; all of T.13S., R.20E., except Secs. 1, 2, 11, 12, 13 and 14; Secs. 19, 20, 29, 30, 31 and 32 of T.13S., R.21E; the east one-third of T.14S., R.19E; all of T.14S., R.20E; and Secs. 5, 6, and 7 of T.14S., R.21E.

District No. 5—Lone Star. All of T.14S., R.21E., except Secs. 5, 6, 7, and 36.

District No. 6—Easton-Oleander. The north one-half of T.15S., R.19E; the north two-thirds of T.15S., R.20E., except Sec. 19; and Secs. 6, 7, 18, and 19, T.15S., R.21E.

District No. 7—Fowler. The south one-half of Sec. 1, and Secs. 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 26, 27, 28 29, and 33, T.15S., R.21E; and Sec. 18, T.15S., R.22E.

District No. 8—Del Rey. Secs. 29, 30, 31, 32, 33 and 34, T.14S., R.22E; Sec. 36, T.14S, R.21E; the north one-half of Sec. 1, T.15S., R.21E; and Secs. 2, 3, 4, 5, 6, 7, 8, 9, 10, 16, and 17, T.15S., R.22E.

District No. 9—Parlier. All of Secs. 4, 9, 16 and 21 lying west of Kings River, and all of Secs. 5 and 6 lying west and south of Kings River, and Secs. 7, 8, 17, 18, 19, 20, 29, 30, 31, and 32, T.15S., R.23E; Secs. 1, 11, 12, 13, 14, 15, 21, 22, 23, 24, 25, 26, 27, 35 and 36, T.15S., R.22E; and Secs. 5 and 6, T.16S., R.23E.

District No. 10—Reedley. All of T.13S., R.24E., lying east and south of the east channel of Kings River; all of T.13S., R.23E., lying east and south of the east channel of Kings River; all of T.14S., R.23E., lying east and south of the east channel of Kings River; T.14S., R.24E; T.14S., R.25E; all of T.15S., R.23E., lying east of the east channel of Kings River; all of Secs. 28 and 34, T.15S., R.23E., lying west of Kings River; Sec. 33, T.15S., R.23E; all of Sec. 4, T.16S., R.23E. in Fresno County; and T.15S., R.24E.

District No. 11—Kingsburg. Secs. 11, 12, 13, 14, 15, 21, 22, 23, 27, 28, and 33, T.16S., R.22E; those portions of Secs. 24, 26 and 34, T.16S., R.22E. within Fresno County; Sec. 7, T.16S., R.23E; those portions of Secs. 8 and 18, T.16S., R.23E. within Fresno County; and those portions of Secs. 4, 5, 8, 9, and 17, T.17S., R.22E within Fresno County.

District No. 12—Selma. Secs. 25, 34, 35 and 36, T.15S., R.21E; Secs. 19, 20, 28, 29, 30, 31, 32, 33 and 34, T.15S., R.22E; Secs. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 16, 17, 18, 19, 20, 29, 30, 31 and 32, T.16S., R.22E; the east one-half of T.16S., R.21E; Secs. 1 to 23, both inclusive, T.17S., R.21E., and that part of Secs. 24 to 30, both inclusive, T.17S., R.21E., within Fresno County; Secs. 6 and 7, T.17S, R.22E; and those portions of Secs. 18 and 19, T.17S., R.22E. within Fresno County.

District No. 13—Monmouth. Secs. 25, 26, 27, 34, 35 and 36, T.15S., R.20E; Secs. 30, 31 and 32, T.15S., R.21E; and the west one-half of T.16S., R.21E.

District No. 14—Caruthers. The south one-half of T.15S., R.19E; Secs. 19, 28, 29, 30, 31, 32 and 33, T.15S., R.20E; T.16S., R.15E; T.16S., R.16E; T.16S, R17E; T.16S., R.18E; T.16S., R.19E; T.16S., R.20E; T.17S., R.16E; T.17S., R.17E; T.17S., R.18E; T.17S., R.19E; T.17S., R.20E; T.18S., R.16E; T.18S., R.17E; T.18S., R.18E; T.19S., R.17E; T.19S., R.18E; T.20S., R.17E; and all of T.20S., R.1E within Fresno County.

(b) *District No. 15—The Counties of (Kings, Monterey and San Benito).*

(c) *District No. 16—The Counties of (Tulare and Inyo).*

(d) *District No. 17—The Counties of (Kern, San Bernardino, Riverside, Imperial, San Diego, Orange, Los Angeles, Ventura, Santa Barbara and San Luis Obispo).*

(e) *District No. 18—The Counties of (Madera and Mono).*

(f) *District No. 19—The Counties of (Merced, Tuolumne, Mariposa, Stanislaus,*

V42161 AUG 19 77 UMI

San Joaquin, Santa Clara, San Francisco, San Mateo, Santa Cruz, Alameda, Contra Costa, Calaveras, Alpine, Marin, Solano, Sacramento, Amador, Eldorado, Placer, Nevada, Sutter, Yolo, Napa, Sonoma, Mendocino, Lake, Colusa, Yuba, Sierra, Plumas, Butte, Glenn, Tehama, Shasta, Lassen, Modoc, Siskiyou, Del Norte, Humboldt and Trinty).

§§ 989.125–989.126 [Deleted]

5. Section 989.125 is deleted.

6. Section 989.126 is revised to read:

§ 989.126 Producer representation on Raisin Administrative Committee.

(a) Commencing with the term of office beginning May 1, 1977, apportionment of the 35 producer members of the Raisin Administrative Committee among the 19 districts set forth in § 989.122 shall be as provided in this section.

(b) Each district shall have one producer member for each quantity of raisins produced therein that represents, as nearly as possible, one thirty-fifth of the total tonnage of raisins produced in all districts; *Provided*, That each district shall have at least one member. The producer representation on the Committee shall be reviewed every 3 years after 1976 and any necessary changes made to continue such representation on the basis of one thirty-fifth of the total tonnage of raisins produced. The raisin production to be used shall be that of the then preceding crop year.

(c) Whenever any change causes a reduction in the number of producer members to represent a particular district in the ensuing terms of office, the appointment theretofore made of all incumbent producer members representing that district shall be terminated. The reduced number of such members and the new members for districts gaining representation shall be nominated and selected, consistent with § 989.28(a), for the ensuing term of office.

(d) Apportionment of the 35 producer members of the Raisin Administrative Commitee among the 19 districts set forth in § 989.122 on the basis of the quantity of raisins produced, as provided in paragraph (b) of this section, shall be as follows:

(1) One member for each of the 19 districts.

(2) One additional member for each of the following districts: No. 6—Easton-Oleander; No. 7—Fowler; No. 8—Del Rey; and No. 16—Tulare and Inyo Counties.

(3) Two additional members for each of the following districts; No. 2—Kerman; No. 3—Biola; No. 12—Selma; and No. 18—Madera and Mono Counties.

(4) Four additional members for District No. 14—Caruthers.

§§ 989.127—989.128 [Deleted]

7. Section 989.127 is deleted.

8. Section 989.128 is deleted.

§ 989.129 [Amended]

9. In the first sentence of § 989.129, the word "board" is changed to the "Committee".

§§ 989.138, 989.140 [Deleted]

10. Sections 989.138 and 989.140 are deleted, and § 989.139 is revised to read:

§ 989.139 Compensation for attendance of alternates at committee meetings.

Whenever a member of the Raisin Administrative Committee or Executive Operations Committee has reason to believe that he will be unable to attend a Committee meeting and has so notified his alternate or the Committee manager, such notification or a request from the manager shall be held to be a request for the alternate to attend and he shall be reimbursed for reasonable expenses subject to the limitations contained in § 989.39.

11. The center heading "RAISIN ADMINISTRATIVE COMMITTEE" immediately following § 989.129 is changed to "EXECUTIVE OPERATIONS COMMITTEE" and inserted after revised § 989.139.

12. A new § 989.142 is added to read:

EXECUTIVE OPERATIONS COMMITTEE

§ 989.142 Producer districts for representation on Executive Operations Committee.

(a) As used in § 989.143, the term "group of districts" means any one of the following:

(1) Group I districts means Districts No. 1 through 14 as set forth in § 989.122;

(2) Group II districts means Districts No. 15, 16 and 17 as set forth in § 989.122; and

(3) Group III districts means Districts No. 18 and 19 as set forth in § 989.122.

13. A new § 989.143 is added to read:

§ 989.143 Producer representation on Executive Operations Committee.

(a) Commencing with the term of office beginning June 1, 1977, apportionment of the eight producer members of the Executive Operations Committee among the three groups of districts set forth in § 989.142 shall be as provided in this section.

(b) Each group of districts shall have one producer member for each quantity of raisins produced in such districts that represents, as nearly as possible, one-eighth of the total tonnage of raisins produced in all districts; *Provided*, That each group of districts shall have at least one member. The producer representation on the Executive Operations Committee shall be reviewed every three years after 1976 and any necessary changes made to continue such producer member representation on the basis of one-eighth of the total tonnage of raisins produced. The raisin production to be used in such review or change shall be that of the then preceding crop year.

(c) Apportionment of the eight producer members of the Executive Operations Committee among the three groups of districts (as set forth in § 989.142) on the basis of the quantity of raisins produced, as provided in paragraph (b) of this section, is as follows:

(1) Six members for Group I districts;

(2) One member for Group II districts; and

(3) One member for Group III districts.

§§ 989.148, 989.152 [Deleted]

14. Section 989.148 is deleted.

15. Section 989.152 is deleted.

16. The center heading "GRADE AND CONDITION STANDARDS" immediately preceding § 989.158 is changed to "QUALITY CONTROL" and § 989.158 (a)(8) is revised to read:

QUALITY CONTROL

§ 989.153 Natural condition raisins.

(a) * * * (8) With respect to any lot of natural condition raisins being received and inspected at a handler's inspection point pursuant to paragraph (a)(3) of this section, the handler shall notify the inspection service if he elects to have the raisins inspected for infestation. If the handler elects not to have the raisins inspected for infestation, he shall: (i) Fumigate promptly all raisins he receives; (ii) notify the inspection service in advance of the time he plans to fumigate such raisins; (iii) permit the inspection service to monitor the fumigation; and (iv) permit the inspection service to make periodic incubation checks of his packed raisins. The inspection service shall certify the raisins received as standard raisins if they meet all other grade and condition standards. If the handler elects to have the raisins inspected for infestation, the inspector shall afford such handler the opportunity to fumigate such raisins during the inspection and certification process. Such raisins shall remain under the supervision of the inspector during the fumigation. The inspection certificate shall not be issued until the fumigation is completed: *Provided*, That the inspection certificate shall be issued, whether or not the fumigation is completed, not later than five business days after the date the inspection and certification process is suspended by the inspector to permit fumigation.

* * * * *

17. In § 989.159(g), the undesignated paragraph beginning with the words "Except as authorized in this part, no handler shall ship or otherwise" following paragraph (g)(1)' is corrected by placing the heading "(2) Disposition. (i)" immediately before the word "Except"; in that paragraph, the parenthetical reference "(as defined in § 989.59 (f))" and the parenthetical expression "(including defective raisins, stemmer waste, sweepings, and other residue)" are deleted; and the reference to paragraph "(g)(1)(iii)" in subdivision (e) adn (ii) of that undesignated paragraph are changed to paragraph "(g)(2)(iii)".

18. In § 989.166, paragraphs (c)(2) and (3) are revised, and the second sentence of paragraph (d) is amended by deleting the words "and quality" immediately following the word "quantity". As revised, paragraphs (c)(2) and (3) read as follows:

§ 989.166 Reserve tonnage generally.

* * * * *

(c) * * * (2) *Conditions.* Each handler shall store reserve tonnage raisins in storage and under conditions which protect them from rain and which reasonably can be expected to maintain the raisins free of any biological or other infestation or contamination. Each handler shall, pursuant to § 989.66(b)(2), store each varietal type of reserve tonnage raisins held by him for the account of the Committee, separate and apart from all other raisins. Storage of such raisins shall be deemed "separate and apart" if the containers are so marked and placed as to be capable of ready and clear identification as to the category in which they are held. Reserve tonnage raisins shall be stored in sweatboxes, picking boxes, or other portable containers not exceeding one ton capacity.

(3) *Substitution of reserve tonnage.* A handler may, pursuant to § 989.66(b)(3), after giving the Committee reasonable advance notice in writing and under its direction and supervision, substitute standard raisins for reserve tonnage raisins.

* * * * *

§ 989.173 [Amended]

19. In § 989.173, paragraph (a) is amended by changing the dates August 31 and September 6 to July 31 and August 6, respectively, and paragraph (d)(2) is amended by deleting the words "(as defined in § 989.59(f))".

Subpart—Supplementary Regulations

§§ 989.201, 989.203, 989.204, 989.211, 989.212, 989.224 [Deleted]

20. Sections 989.201, 989.203, 989.204, 989.211, 989.212 and 98.224 are deleted.

21. In § 89.210, paragraphs (a) through (f) are revised to read:

§ 989.210 Handling of natural (sun-dried) seedless, golden seedless, and dipped seedless raisins acquired pursuant to a weight dockage system.

(a) *General.* Subject to prior agreement between handler and tenderer, a handler may acquire as standard raisins any lot of Natural (sun-dried) Seedless, Golden Seedless, and Dipped Seedless raisins containing more than 8 percent, by weight, of substandard raisins under a weight dockage system. The creditable weight of such lot acquired shall be that obtained by multiplying the net weight of the raisins in the lot by the applicable dockage factor from the dockage table prescribed in paragraph (g) of this section.

(b) *Free and reserve tonnage percentages.* Whenever free and reserve percentages are designated for Natural (sun-dried) Seedless, Golden Seedless, and Dipped Seedless raisins for a crop year, such percentages shall be applicable to the creditable weight of any lot of such raisins acquired by a handler pursuant to a weight dockage system.

(c) *Reserce tonnage.* A handler may hold as reserve tonnage raisins any lot, or portion thereof, of Natural (sun-dried) Seedless, Golden Seedless, and Dipped Seedless raisins acquired pursuant to a weight dockage system: *Provided*, That only the creditable weight of such lot, or portion thereof, may be applied by the Committee against the handler's reserve tonnage obligation.

(d) *Assessments.* Assessments on any lot of Natural (sun-dried) Seedless, Golden Seedless, and Dipped Seedless raisins acquired by a handler pursuant to a weight dockage system shall be applicable to the free tonnage portion of the creditable weight of such lot.

(e) *Payments for services on reserve tonnage.* Payment to a handler for services performed by him with respect to reserve tonnage Natural (sun-dried) Seedless, Golden Seedless, and Dipped Seedless raisins acquired pursuant to a weight dockage system shall be made on the basis of the creditable weight of such lot and at the applicable rate specified for such services in § 989.401 of Subpart—Schedule of Payments.

(f) *Identification.* Any lot of Natural (sun-dried) Seedless, Golden Seedless, and Dipped Seedless raisins acquired by a handler pursuant to a weight dockage system shall be so identified by the inspection service by affixing to one container on each pallet, or to each bin, in such lot, a prenumbered RAC control card (to be furnished by the Committee) which shall remain affixed to the container or bin until the raisins are processed or disposed of as natural condition raisins. The control card shall only be removed by, or under the supervision of, an inspector of the inspection service or authorized Committee personnel.

* * * * *

Subpart—Schedule of Payments

22. In § 989.401, the date "September 1, 1975" in paragraph (a)(1) is changed to "August 1, 1977" and paragraphs (b) and (c) are revised to read:

§ 989.401 Payments for services performed with respect to reserve tonnage raisins.

* * * * *

(b) *Additional payment for raisins held beyond crop year of acquisition.* Additional payment for reserve tonnage raisins held beyond the crop year of acquisition shall be made in accordance with this paragraph. Each handler holding such raisins for the account of the Committee on August 15 and the following September 1 shall be compensated for storing, handling, and fumigating such raisins at the rate of 85 cents per ton per month, or any part thereof, for each month of the 3-month period ending November 30, and 42½ cents per ton per month, or any part thereof for each month of the next 9 months. Such services shall be completed so that the Committee is assured that the raisins are maintained in good condition.

(c) *Payment of rental on boxes and bins containing raisins held beyond crop year of acquisition.* Payment of rental on boxes and bins containing reserve tonnage raisins held beyond the crop year of acquisition shall be made in accordance with this paragraph. Each handler, producer, dehydrator, and other person who furnishes boxes or bins in which such raisins are held for the account of the Committee on August 15 and the following September 1 shall be compensated for the use of such boxes and bins. The rate of compensation shall be: For boxes, one and two-thirds cents per day, not to exceed a total payment of 50 cents per box per year, per average net weight of raisins in a sweatbox, with the equivalent rates for raisins in boxes other than sweatboxes; and for bins, thirteen and one-third cents per day per bin, not to exceed a total of $4 per bin per year. For purposes of this paragraph, box means any container with a capacity of less than 1,000 pounds and bin means any container with a capacity of 1,000 pounds, or more. The average net weight of raisins in each type of container shall be the industry average as computed by the Committee for the container in which the raisins are so held. No further compensation shall be paid unless the raisins are so held in the boxes or bins on the succeeding September 1.

* * * * *

Subpart—Conversion Factors

23. The table in § 989.601 is revised to read:

§ 989.601 Conversion factors for raisin weight.

* * * * *

Varietal type	Weight taken after— Passing through stemmer and blower	Weight taken after— Completion of processing
Natural (sun-dried) seedless	0.94	0.92
Golden seedless	.96	.95
Dipped seedless	.96	.95
Muscats (including other raisins with seeds):		
Seeded		.80
Unseeded	.94	.92
Sultana	.94	.92
Zante currant	.93	.91

* * * * *

Subpart—Quality Control

24. The center heading "Subpart—Quality Control" is added after § 989.601 and a new § 989.701 is added to read:

§ 989.701 Minimum grade and condition standards for natural condition raisins.

Effective pursuant to § 989.58, raisins meeting the varietal standards set forth hereinafter shall be considered as standard raisins and those failing to meet such standards shall be considered as off-grade raisins. Where the raisins in any lot consist of two or more varietal types commingled within their containers, the lot shall be considered as a mixed lot and as standard raisins if they meet for each defect the most restrictive requirements for the defect pro-

V 42 161 AUG 19 77 UMI

vided in this section for the varietal types of raisins comprising the lot: *Provided,* That in the event layered Muscats (including other raisins with seeds) are commingled within their containers with loose Muscats (including other raisins with seeds) the entire lot shall be considered as loose Muscats (including other raisins with seeds) and as standard raisins if the lot as a whole meets the minimum standards for loose Muscats (including other raisins with seeds): *Provided further,* That with respect to the requirements peculiar to a varietal type such as possessing characteristic color, flavor, or odor, the raisins shall be considered as meeting such requirement if they have been properly prepared as raisins. In each category, only those raisins which have been properly dried and cured in original natural condition, are free from active infestation and are in such condition that they are capable of being received, stored and packed without undue deterioration or spoilage, shall be considered as storable raisins.

(a) *Natural (sun-dried) Seedless Raisins.* Natural condition Natural (sun-dried) Seedless Raisins shall have been prepared from sound, wholesome, matured grapes properly dried and cured, and shall meet the following additional requirements: (1) Shall be fairly free from damage by sugaring, mechanical injury, sunburn, or other similar injury; (2) shall have a normal characteristic color, flavor, and odor of properly prepared raisins; (3) shall contain not more than 8 percent by weight of substandard raisins (raisins that show development less than that characteristics of raisins prepared from fairly well matured grapes); (4) shall not exceed 16 percent moisture as determined by the dried fruit moisture tester method; and (5) the raisings shall be of such quality and condition as can be expected to withstand storage as provided in the marketing agreement and order and that when processed in accordance with good commercial practice will meet the minimum standards for processed raisins established by the Committee.

(b) *Dipped Seedless.* Natural condition Dipped Seedless raisins shall have been prepared from sound, wholesome, matured grapes properly dried and cured, and shall meet the following additional requirements: (1) Shall be fairly free from damage by sugaring, mechanical injury, sunburn, or other similar injury; (2) shall have a normal characteristic flavor and odor of properly prepared raisins; (3) shall contain not more than 8 percent by weight of substandard raisins (raisins that show development less than that characteristic of raisins prepared from fairly well matured grapes); (4) shall not exceed 14 percent moisture as determined by the dried fruit moisture tester method, and (5) the raisins shall be of such quality and condition as can be expected to withstand storage as provided in the marketing agreement and order and that when processed in accordance with good commercial practice will meet the minimum standards for processed raisins established by the Committee.

(c) *Golden Seedless.* Natural condition Golden Seedless raisins shall have been prepared from sound, wholesome, matured grapes properly dried and cured, and shall meet the following additional requirements: (1) Shall be fairly free from damage by sugaring, mechanical injury, sunburn or other similar injury; (2) shall have a normal characteristic flavor and odor of properly prepared raisins; (3) shall contain not more than 8 percent by weight of substandard raisins (raisins that show development less than that characteristic of raisins prepared from fairly well matured grapes); (4) shall not exceed 14 percent moisture as determined by the dried fruit moisture tester method (5) the raisins shall be of such quality and condition as can be expected to withstand storage as provided in the marketing agreement and order and that when processed in accordance with good commercial practice will meet the minimum standards for processed raisins established by the Committee; and (6) shall possess a color varying from yellowish green to dark amber or dark greenish amber with not more than 15 percent, by weight, of all the raisins being definitely dark berries. "Definitely dark berries" means raisins which are definitely darker than dark amber and characteristic of "naturally" raisined grapes.

(d) *Muscats (including other raisins with seeds).* Natural condition Muscat raisins (including other raisins with seeds) shall have been prepared from sound, wholesome, matured grapes properly dried and cured, and shall meet the following additional requirements:

(1) Shall be fairly free from damage by surgaring, mechanical injury, sunburn or other similar injury; (2) shall be fairly free from immature (skinny) raisins and shall have a normal characteristic color, flavor, and odor of properly prepared raisins; (3) shall not exceed 16 percent moisture as determined by the dried fruit moisture tester method, except that water dipped, vine sprayed or similarly treated Muscats (including other raisins with seeds) shall not exceed 14 percent moisture, and that there shall be no maximum moisture content for layered Muscats (including other raisins with seeds); (4) the raisins shall be of such quality and condition as can be expected to withstand storage as provided in the marketing agreement and order, and that when processed in accordance with good commercial practice will meet the minimum standards for processed raisins established by the Committee, and that with respect to layered Muscats (including other raisings with seeds), in addition to the above requirements the raisins shall be fairly free from shattered (or loose end) berries; uniformly cured; 30 percent or more "3 Crown" or larger size; of such quality and condition that when processed in accordance with good commercial practice will, except for moisture content, meet the minimum standards for processed raisins established by the Committee.

(e) *Sultana Raisins.* Natural condition Sultana raisins shall have been prepared from sound, wholesome, matured grapes properly dried and cured, and shall meet the following additional requirements: (1) Shall be fairly free from damage by sugaring, mechanical injury, sunburn, or other similar injury; (2) shall be fairly free from immature (skinny) raisins and shall have a normal characteristic color, flavor, and odor of properly prepared raisins; (3) shall not exceed 16 percent moisture as determined by the dried fruit moisture tester method; and (4) the raisins shall be of such quality and condition as can be expected to withstand storage as provided in the marketing agreement and order, and that when processed in accordance with good commercial practice will meet the minimum standards for processed raisins established by the Committee.

(f) *Zante Currant Raisins.* Natural condition Zante Currant raisins shall have been prepared from sound, wholesome, matured grapes properly dried and cured, and shall meet the following additional requirements; (1) Shall be fairly free from damage by sugaring, mechanical injury, sunburn, or other similar injury; (2) shall be fairly free from immature (skinny) raisins and shall have a normal characteristic color, flavor, and odor of properly prepared raisins for the varietal type; (3) shall not exceed 16 percent moisture as determined by the dried fruit moisture tester method; and (4) the raisins shall be of such quality and condition as can be expected to withstand storage as provided in the marketing agreement and order, and that when processed in accordance with good commercial practice will meet the minimum standards for processed raisins established by the Committee.

25. A new §989.702 is added to read:

§ 989.702 Minimum grade standards for packed raisins.

Effective pursuant to § 989.59, the minimum grade standards for packed raisins shall be as follows: (a) With respect to Natural (sun-dried) Seedless, Dipped Seedless, Golden Seedless, Muscats (including other raisins with seeds), and Sultana raisins, "U.S. Grade C" as defined in effective United States Standards for Grades of Processed Raisins (§§ 52.1841–52.1858 of this title); (b) with respect to Golden Seedless raisins, the color requirements for "colored" as defined in the said standards; (c) with respect to layered Muscats (including other raisins with seeds), "U.S. Grade B" as defined for "Layer or Cluster Raisins With Seeds" in the said standards, except the provisions therein relating to moisture content; and (d) with respect to Zante Currant raisins, "U.S. Grade B" as defined in the said standards. A handler may grind raisins, which do not meet these minimum grade standards be-

cause of mechanical damage or sugaring, into a raisin paste.

Dated: August 16, 1977.

CHARLES R. BRADER,
Acting Director,
Fruit and Vegetable Division.

[FR Doc.77-24024 Filed 8-18-77;8:45 am]

[7 CFR Parts 1097, 1102, 1108]

[Docket Nos. AO-24-A32, AO-237-A28, AO-219-A34, AO-243-A32-RO-31, AO-237-A28-RO1, AO-219-A34-RO1]

MILK IN THE CENTRAL ARKANSAS, FORT SMITH, ARKANSAS AND MEMPHIS, TENNESSEE MARKETING AREAS

Extension of Time for Filing Exceptions to the Recommended Decision on Proposed Amendments to Tentative Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing exceptions.

SUMMARY: This notice extends the time for filing exceptions to the July 21, 1977, decision recommending a merger of the Central Arkansas, Fort Smith and Memphis orders (7 CFR Parts 1108, 1102 and 1097) and expansion of the marketing area to include additional areas in Arkansas, Tennessee and Mississippi.

DATE: Comments now are due on or before August 30, 1977.

ADDRESS: Exceptions (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4824.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notices of Hearing: Issued November 19, 1976, published November 24, 1976 (41 FR 51819); issued February 11, 1977, published February 17, 1977 (42 FR 9674); issued March 3, 1977, published March 8, 1977 (42 FR 13024); and issued March 25, 1977, published March 31, 1977 (42 FR 17130).

Extension of time for filing briefs: Issued May 18, 1977, published May 23, 1977 (42 FR 26217).

Recommended Decision: Issued July 21, 1977, published July 26, 1977 (42 FR 38070).

Notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Central Arkansas, Fort Smith, Arkansas and Memphis, Tennessee marketing areas which was issued July 21, 1977 (42 FR 38070) is hereby extended to August 30, 1977.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C., on August 12, 1977.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.77-24070 Filed 8-18-77;8:45 am]

Food Safety and Quality Service

[9 CFR Part 381]

POULTRY SLAUGHTERING PRACTICES

Notice of Proposed Rulemaking

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the poultry products inspection regulations by adding provisions containing new procedures and criteria for reprocessing poultry carcasses accidentally contaminated during slaughter with digestive tract contents. Recent information indicates that newer technology makes unsuitable present procedures that require the removal of internal contamination with digestive tract contents from carcasses by trimming only. The new procedures would permit the reprocessing of such contaminated carcasses by using various combinations of trimming, vacuuming, and washing, and then treating all surfaces of the carcasses with a chlorine solution.

DATE: Comments must be received on or before October 18, 1977.

ADDRESSES: Written Comments to: Hearing clerk, U.S. Department of Agriculture, Washington, D.C. 20250. Oral Comments to: Dr. J. P. Lyons, 202-447-3219.

FOR ADDITIONAL INFORMATION ON COMMENTS AND CONFIDENTIALITY SEE SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT:

Dr. J. P. Lyons, Chief Staff Officer, Inspection Standards and Regulations Staff, Technical Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C., 202-447-3219.

SUPPLEMENTARY INFORMATION:

COMMENTS

Interested persons are invited to submit comments concerning this proposal. Written comments must be sent in duplicate to the Hearing Clerk. Comments should bear a reference to the date and page number of this issue of the FEDERAL REGISTER. Any person desiring opportunity for oral presentation of views must make such request to Dr. J. P. Lyons so that arrangements may be made for such views to be presented. A transcript shall be made of all views orally presented. All comments submitted pursuant to this notice will be made available for public inspection in the Office of the Hearing Clerk during regular hours of business.

BACKGROUND

Due to the nature of the evisceration process of poultry, an occasional spillage on edible tissue of digestive tract contents (opened crops, material from the vent and broken intestines, etc.) is unavoidable even when the best dressing techniques are used. The cleaning up of product so contaminated has evolved over the years into set patterns, each dependent upon the nature and location of the contaminant. Spilled digestive tract contents are permitted to be removed only by trimming, if found on the inside of the carcass or on an outside surface that has been cut. Spilled digestive tract contents are permitted to be removed by washing, if found on an uncut surface on the outside of a carcass. (Such practices are contained in a manual of instruction for inspectors—the Meat and Poultry Inspection Manual. These instructions may be viewed in the Office of the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. Additionally, copies will be provided free upon request to Dr. J. P. Lyons, Inspection Standards and Regulations Staff, Technical Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250.) These practices appear to be authorized under section 6 of the Poultry Products Inspection Act (21 U.S.C. 455) which provides, among other things, that carcasses and parts which may be made not to be adulterated by reprocessing, need not be condemned and destroyed if reprocessed under the supervision of an inspector and thereafter found to be not adulterated.

WHY IS THIS PROPOSAL NEEDED?

It appears that the proposal would strengthen the regulations by spelling out specific procedures and criteria for reprocessing digestive tract contents. Also, the poultry industry believes that the recent availability of newer technology makes unsuitable the present policy that requires the removal of internal contamination with digestive tract contents from carcasses by trimming. This occasionally results in the unnecessary loss of carcass parts and consequent downgrading of product. The technology is essentially the reprocessing of such contaminated carcasses, first using various combinations of trimming, vacuuming and washing, and then treating all surfaces of the carcass with a chlorine solution. They point out that all losses due to unnecessary trimming and downgrading must eventually be borne by consumers. The proposed regulations would permit this type of reprocessing, but under strict inspection controls.

V42161 AUG 19 77 UMI

WHAT STUDIES WERE MADE TO SUPPORT THIS CHANGE?

A recent USDA, Agricultural Research Service study found that it was possible to wash internally contaminated carcasses to the degree that their microbiological profile was equal to noncontaminated carcasses. In response to this research and following some feasibility studies, the Food Safety and Quality Service set up a study to see if equal results could be obtained by reprocessing carcasses internally contaminated with visible particles of digestive tract contents. This has been the historical criterion for disposition of contaminated product by inspectors in poultry slaughter plants. Both of these studies may be viewed in the Office of the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. Additionally, copies will be provided free upon request to Dr. J. P. Lyons, Inspection Standards and Regulations Staff, Technical Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Four broiler plants were selected for the test. A reprocessing station was set up in each plant. While not identical, they all had facilities for trimming, vacuuming, washing, and reinspection. During the test period, the usual procedure for reprocessing was one of trimming off all contaminated cut surfaces and fat, vacuuming, and internal washing. A variety of nozzles and spray heads were utilized, as were variations in water pressure and volume.

Following the reprocessing, carcasses were examined by a plant representative to assure that they were visually clean. During the test period, carcasses passed by the plant examiner were visually reinspected by inspection personnel. Additionally, 10 percent of the acceptable, visually clean carcasses were cut open and subjected to minute scrutiny by a USDA inspector to make sure that nothing was overlooked. The criterion used for the reinspection during the test was extremely tight—any visible speck called for rejection.

Analysis of the test results indicated that, when a carefully designed reprocessing procedure is applied with diligence by plant management, practically all contaminated carcasses can be reprocessed into an acceptable product without significant downgrading, and that the remainder of the carcass may be salvaged.

HOW WOULD THE INSPECTION SERVICE CONTROL THE REPROCESSING?

Reprocessing of contaminated inner surfaces other than by trimming alone would be permitted only at reprocessing stations found by the Administrator to be capable of being operated in accordance with the poultry products inspection regulations and of providing operations capable of removing all visible specks of contamination on the inner surface of a carcass. This appears to be necessary to assure that such reprocessing operations would be feasible and not contaminate other processing areas.

The inspection service would reinspect sufficient completed carcasses to assure that all visible specks have been removed. Carcass examinations and inspections that call for visual searches would be made without additional openings. Any visible particles would be cause for further reprocessing. All carcasses reprocessed under this program would be treated with chlorinated water at a level of 50 ppm before being returned to production. This would give additional assurance of product wholesomeness.

The proposal also contains provisions and criteria for the withdrawal of approval of a reprocessing station.

Accordingly, it is proposed to amend § 381.91 of the poultry products inspection regulations (9 CFR 381.91) by designating the first two sentences as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 381.91 Contamination.

* * * * *

(b)(1) Any carcass of poultry accidentally contaminated during slaughter with digestive tract contents shall not be condemned if promptly reprocessed under the supervision of an inspector and thereafter found not be be adulterated. Contaminated surfaces that are cut shall be removed only by trimming. Contaminated inner surfaces that are not cut may be cleaned by trimming alone, or at an approved reprocessing station, by any method that will remove the contamination, such as vacuuming, washing, and trimming, singly or in combination. All visible specks of contamination must be removed, and if the inner surfaces are reprocessed other than solely by trimming, all surfaces of the carcass shall be treated with chlorinated water at a level of 50 ppm.

(2) An area will be designated as an approved reprocessing station only if the Administrator determines that reprocessing operations can be conducted in that area in accordance with all of the requirements of this Part and that the reprocessing methods to be utilized are capable of removing all visible specks of contamination on the inner surface of a carcass. Requests for such approval shall be submitted to the Inspector in Charge and shall describe the proposed area, proposed methods of reprocessing, and proposed equipment to be utilized. Whenever the Administrator finds that reprocessing operations cannot be conducted in such area in accordance with all of the requirements of this Part or that the reprocessing methods utilized are not capable of removing all visible specks of contamination on the inner surface of a carcass, he may withdraw approval of such area, effective upon oral or written notification, whichever is earlier, to the operator of the establishment. In the event of oral notification, a written confirmation thereof shall be given to the operator as promptly as circumstances permit. The notification shall specify the reasons for such withdrawal and shall afford the operator of the establishment an opportunity to present his views. In any instance where there is a conflict as to the facts, a hearing shall be held to resolve such conflict.

NOTE: The Food Safety and Quality Service has determined that this proposal does not require preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., on August 16, 1977.

ROBERT ANGELOTTI,
Administrator, Food Safety and Quality Service.

[FR Doc.77-24123 Filed 8-18-77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 771 0025]

PUBLIC RELATIONS SOCIETY OF AMERICA, INC.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent order, among other things, would require a New York City trade association to cease promulgating rules that affect fee arrangements or business solicitations between members of the association and their clients and prospective clients.

DATE: Comments must be received on or before October 17, 1977.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Ronald J. Dolan, Assistant Director, Bureau of Competition, Federal Trade Commission, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580, 202-634-4397.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the FTC Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with

§ 4.9(b) (14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

PUBLIC RELATIONS SOCIETY OF AMERICA, INC.

[File No. 771 0025]

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of the Public Relations Society of America, Inc., a corporation, and it now appearing that the Public Relations Society of America, Inc., hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between the Public Relations Society of America, Inc., by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Public Relations Society of America, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 845 Third Avenue, New York, New York 10022.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to-order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and it understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order and that it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

I

It is ordered, That respondent, respondent's officers, directors, agents, employees, successors and assigns, cease and desist from adopting, disseminating, continuing or otherwise having in effect any code of ethics, rule, bylaw, resolution, policy statement, or interpretation thereof, which prohibits or limits in any way the manner in which members may arrange their fees with clients or prospective clients for payment of service; or which prohibits or restricts any communication to clients or prospective clients with respect to the arrangement of fees.

II

It is further ordered, That respondent, respondent's officers, directors, agents, employees, successors and assigns, cease and desist from adopting, disseminating, continuing, or otherwise having in effect any code of ethics, rule, bylaw, resolution, policy statement, or interpretation thereof, which prohibits or restricts a member from soliciting, negotiating, or entering into a business relationship with a prospective client.

III

It is further ordered, That the respondent corporation shall within sixty (60) days from the date of service of this order, send a copy of this order to each chapter of the society in the United States, and cause the publication of this order in the "PRSA National Newsletter" and send a copy thereof to each current member of respondent.

IV

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent herein shall within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement containing a proposed consent order from Public Relations Society of America, Inc. ("PRSA").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during the period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make the final the agreement's proposed order.

Public Relations Society of America is a corporation representing approximately 8,400 members engaged in public relations. The proposed complaint alleges that since 1959, PRSA has promulgated and enforced a code of professional standards containing restrictions on the use of contingent fee arrangements and on the encroachment of other members' clients. Contingent fees are fees charges for services rendered that are conditioned on or measured by the happening of some future event. According to the proposed complaint, the "non-encroachment" rule restricts members from soliciting clients of other members.

The proposed complaint also charged that the aforementioned restrictions have the effect of tampering, stabilizing, fixing or otherwise interfering with the fees members charge for services; suppressing price competition among members; hindering, restraining, foreclosing or frustrating competition in that industry; raising barriers to the entry of new public relations practitioners; and depriving clients of the benefits of free and open competition in the sale of public relations services in violation of Section 5 of the Federal Trade Commission Act.

In the agreement reached between PRSA and the staff, PRSA has agreed to be bound by an order to delete the challenged code restrictions, to cease from promulgating rules in the future affecting members' arrangements of fees with clients or prospective clients, to cease from promulgating rules in the future effecting members' solicitation, negotiation or entering into a business relationship with prospective clients, and to distribute a copy of the order to each member.

To ensure that the order is obeyed, PRSA must, within sixty (60) days after the effective date of the order, file with the Commission a written report showing in detail the manner and form of its compliance.

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-24042 Filed 8-18-77;8:45 am]

[16 CFR Parts 801, 802, 803]

HART-SCOTT-RODINO ANTITRUST IMPROVEMENTS ACT OF 1976

Premerger Notification; Reporting and Waiting Period Requirements

Correction

In FR Doc. 77-21767, appearing at page 39040 in the issue for Monday, August 1, 1977, on page 39054, in the first column, in § 802.51(a)(1), the figure in the pennultimate line should be "$110 million".

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 230]

[Release Nos. 33-5845; IC-9864; File No. S7-705]

ADVERTISING BY INVESTMENT COMPANIES

Extension of Comment Period for Proposed Rulemaking

Correction

In FR Doc. 77-21597 appearing at page 38187 in the issue for Wednesday, July

V42161 AUG 19 77 UMI

27, 1977, change the last sentence of the "SUMMARY" paragraph to read as follows: "These proposals would permit inclusion of more information in such advertisements than permitted under existing laws and rules."

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 182, 184]

[Docket No. 77N-0043]

AGAR-AGAR

Proposed Affirmation of GRAS Status With Specific Limitations as Direct Human Food Ingredient

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: This is a proposal to affirm the generally recognized as safe (GRAS) status of agar-agar as a direct human food ingredient with specific limitations. The safety of this ingredient has been evaluated pursuant to the comprehensive safety review being conducted by the agency. The proposal would list the ingredient as a direct food substance affirmed as GRAS.

DATES: Comments by October 18, 1977.

ADDRESSES: Written comments to Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration is conducting a comprehensive safety review of direct and indirect human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20040), initiating this review. Pursuant to this review, the safety of agar-agar has been evaluated. In accordance with provisions of § 170.35 (formerly § 121.40, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), the Commissioner proposes to affirm the GRAS status of this ingredient with specific limitations.

Agar-agar is a complex high molecular weight polysaccharide extracted from several commercially available genera of red algae, notably *Gelidum, Gracilaria, Suhria,* and from at least 14 other genera used as commercial sources. Agar-agar consists of linear sulfated polysaccharide chains having alternate alpha and beta linkages. Structural components and charge may vary for each genus, depending upon the time of harvest and stage of growth. In general the extremes of structure of agar are: (a) Neutral agarose consisting of alternating (1-4)-linked, 3,6-anhydro-alpha-L-galactose and (1-3)-linked beta-D-galactose containing no charge; (b) pyruvated agarose with little sulfation (approximately 2 percent); and (c) sulfated galactan with neutral components almost completely replaced by galactose sulfate. Gelling potency decreases from (a) type to (c) type. The molecular weight varies with the grade, being 5,000 to 30,000 in the usual form but up to 160,000 in laboratory extracted types. Agar-agar is listed in § 182.7115 (formerly § 121.101 (d)(7)), prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), as GRAS for use in food as a stabilizer and thickener pursuant to regulations published in the FEDERAL REGISTER of November 20, 1959 (24 FR 9369), and subsequently recodified. It has been available in the United States since late in the 19th century but has enjoyed wide use in the food industry only in recent years.

A representative cross section of food manufacturers was surveyed to determine the specific foods in which agar-agar was used and at what levels. Information from surveys of consumer consumption was obtained and combined with the manufacturing information to obtain an estimate of consumer exposure to agar-agar. The total amount of agar-agar used in food in 1970 was reported to be approximately 350,000 pounds, about twice the reported poundage for 1960.

Agar-agar has been the subject of a search of the scientific literature from 1920 to the present. The parameters used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 298 abstracts on agar-agar was reviewed and 28 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (hereinafter referred to as the Select Committee), selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

The digestibility of agar-agar has been estimated in a number of studies. Nilson and Schaller fed groups of six male, weanling rats diets containing 0 to 30 percent agar-agar for 10 weeks. Irrespective of levels fed, the digestibility was estimated to be 28 percent. In a similar study, Booth et al. found the digestibility to be 21 percent in rats when agar-agar was fed at a level of 15 percent in the diet. By contrast, Ariyama and Takahasi reported that agar-agar had no nutritive value for the rat. No direct information is available concerning the form in which agar-agar is absorbed or the nature of its digestive products. It is likely, however, that the complex polysaccharide is first digested to simple sugars in the intestine prior to absorption.

While no acute oral toxicity studies have been reported, it should be noted that agar-agar has been used for many years as a gelling and bulking agent in semisynthetic diets for animal feeding studies. In most studies the agar-agar is present as 2 to 5 percent of the diet. No significant effects have been observed on growth, reproduction, or cytopathology. Because this material is often used in experimental diets, including controls, pathological disturbances are likely to have been noted if they occurred.

In studies in which agar-agar was fed to rats at dietary levels up to 30 percent, no significant pathological effects have been reported. In one experiment, male weanling rats were fed levels of agar-agar up to 30 percent of the diet for 10 weeks with no observable effect on growth. Ershoff and McWilliams fed weanling female rats diets containing 10 percent agar-agar and noted only a slight depression in growth rate. However, Wierda observed a thickening of the small intestine and an increase in length of the large intestine in rats fed high levels of agar-agar. In one study, 10 to 30 percent diets where fed to rats for 40 weeks; in a subsequent study, 50 weanling rats were fed a 30 percent agar-agar diet for 44 weeks. In both cases, the only change noted was an increase in intestinal weight and length. Increases in intestinal weight, due to mucosal rather than to muscular growth, also occurred at high levels of agar-agar after shorter feeding times; such changes were observed when a 25 percent agar-agar diet was fed to rats for four weeks. These changes are presumably related to the low digestibility and gelling properties of agar-agar. The increased bulk would cause these effects, and concentrations of 25 percent or more of agar-agar in the diet appear to be needed to produce them.

Schulz and Thomas found that 25 percent of agar-agar in the diet of rats had no effect on the retention of lipids when compared to sucrose feeding. Thus it appears that the bulking effect of agar-agar does not prevent lipid absorption.

Other experimental animal studies yield analogous data. For example, rabbits showed increased growth rates, compared to controls, when fed 20 percent agar-agar diets for 40 days. At 2 percent of the diet, chicks showed no effect after 20 days. Cats grew at a normal rate and no gross pathological changes were observed when they were fed 5 percent agar-agar in the diet for one year beginning at 4 weeks of age.

No evidence of fetal toxicity was noted when 0.2 ml of a one percent agar-agar solution was administered intraperitoneally to mice each day from the 11th to the 15th day of gestation. Similar treatments during the 4th to 8th days of gestation increased resorptions by 15 percent. Oral administration of solutions containing one percent and 10 percent agar-agar from day 11 to day 15 of gestation produced no effect on the fetus and did not increase the rate of fetal resorption.

However, teratologic evaluations of agar-agar conducted recently by the Food and Drug Research Laboratories have provided some evidence of maternal toxicity in two of the four species tested. Oral administration of up to 1140 mg per kg daily in rats (day 6 through day 15 of gestation), and up to 650 mg per kg daily in hamsters (day 6 through day 10 of gestation), had no clearly discernible effect on nidation or on maternal or fetal survival. The number of abnormalities seen in soft and skeletal tissues of the test groups did not differ from the number occurring spontaneously in the sham-treated controls. Oral administration of up to 329 mg per kg daily in mice (day 6 through day 15 of gestation), and up to 118.5 mg per kg daily in rabbits (day 6 through day 18 of gestation), also elicited no discernible effect on nidation or on maternal or fetal survival, and resulted in no increase in the number of abnormalities in the soft or skeletal tissues of the offspring. However, when the dose was increased to 1570 mg per kg in mice and to 400 mg per kg in rabbits, there was a significant increase in mortality among the treated dams and a decrease in the pregnancy rate of surviving dams. In the case of mice, there was also a marked increase in the number of resorption sites in females examined at term, and the live fetuses showed significant retardation in maturation. There was no evidence of a teratogenic effect of agar-agar on mice or rabbits even at the highest dose level. The Food and Drug Research Laboratories' report indicated that the behavior of agar-agar in their teratologic tests was similar to that found previously with other high molecular weight polysaccharides. In their opinion, the administration of a dose of agar-agar amounting essentially 'to an LD_{50} dose even though distributed over a 10-day period,' resulted 'in a predictable effect on both the pregnant animals and on the embryos present in the uterus'.

Feeding studies designed to elicit evidence of mutagenicity have not been reported.

No specific studies of agar-agar are available in which the material was fed for more than one year to determine toxicity. However, it has been general practice to use agar-agar in animal diets as a gelling and bulking agent at levels ranging from 2 to 5 percent, and no adverse effects appear to have been reported in the numerous life-time animal studies that have been conducted over the past several decades. Moreover, agar-agar has been used in basal diets fed to animals in numerous carcinogencity studies, and the Select Committee is not aware of any reports of increased tumor incidence. Based upon the normal food intake of the rat, a concentration of 5 percent agar-agar in the diet is equivalent to 3 g per kg per day, a level considerably greater than that consumed by man on a body weight basis.

Since agar-agar serves as the gelling agent for media used in bacteriological investigations, the effect on this material on the growth of microorganisms has been intensively studied. For example, De and Guha reported that an 82 percent agar-agar diet provided a favorable medium for the growth of intestinal microflora. On the other hand, variable results were found in studies performed in vitro in which the effect of agar-agar on the inhibition of microbial growth by various antibiotics was reported. However, at levels generally used in foods, there is no evidence that agar-agar affects microbial metabolism in the alimentary tract.

Since 1905, agar-agar has been used by man as a laxative, in doses ranging from 4 to 15 g per day with no apparent adverse effect. These doses are equivalent to 67 to 250 mg per kg per day, levels that are considerably above those estimated as the daily intake from food.

All of the available safe information on agar-agar has been carefully evaluated by qualified scientists of the Select Committee. It is the opinion of the Select Committee that:

Agar-agar has relatively little effect when added to the diets of animals in amounts considerably greater than those present in the human diet. The observed increases in intestinal weight and length in animals appear to be related to the bulking and hydrocolloidal properties of the material, and these changes occur only at relatively high concentrations of agar-agar.

Although no specific studies of the carcinogenicity or other long-term investigations of agar-agar have been made, this material has a long history of use as a gelling agent and bulk component of experimental animal diets. Because 2 to 5 percent of this material has been used routinely in control diets in numerous studies without reported significant effects, it is reasonable to conclude that even at these high levels, agar-agar produces no significant chronic effects.

However, there is one report that agar-agar, fed at relatively high levels (400 to 1570 mg per kg per day), is lethal to many pregnant mice and rabbits but not to pregnant rats and hamsters fed at equivalent levels (650 to 1140 mg per kg per day). Significant numbers of maternal deaths occurred in pregnant mice and rabbits fed agar-agar at levels 119 fold greater (mice) and 30 fold greater (rabbits), than the maximum level estimated to be consumed by adults (13.2 mg per kg per day) in the daily diet, but no toxic effects were observed in pregnant mice and rabbits fed levels 25 fold greater (mice) and 9 fold greater (rabbits) than the estimated adult human intake level. With respect to these comparisons it should be emphasized that the Select Committee believes the intake estimate of 13.2 mg per kg per day is overstated by a considerable margin, which could make the foregoing differences in each case even larger.

It is noteworthy that similar toxic effects have been observed in identical tests on a number of other polysaccharides (gum arabic, sterculia gum, carob bean gum, guar gum, gum ghatti, gum tragacanth, carrageenan, propylene glycol alginate, and methyl cellulose) fed at very high levels. The relative sensitivity of the several animal species to these effects varies depending on the particular polysaccharide tested, but in all cases very large doses are required. Until these effects have been adequately explained, it appears to be inappropriate to conclude that unrestricted use of such substance in food would be without hazard.

Agar-agar is a product extracted from marine algae. The possibility exists that harmful concentrations of certain metals such as mercury, may be accumulated in the commercial product if algae are harvested from coastal waters contaminated with significant levels of such heavy metals. Current specifications for food grade agar-agar place a limitation on the content of "heavy metals as lead." Because modern methods of analysis are capable of distinguishing between and measuring the amounts of several metal elements, it would appear advisable to make the specifications for agar-agar more specific with respect to allowable concentrations of potentially toxic heavy metals, such as mercury.

It is the conclusion of the Select Committee that there is no evidence in the available information on agar-agar that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when it is used at levels that are now current and in the manner now practiced. However, it is not possible to determine without additional data, whether a significant increase in consumption would constitute a dietary hazard. Based upon his own evaluation of available information on agar-agar (including a report of mutagenic tests which was not available when the Select Committee formed its conclusion), the Commissioner concurs with this conclusion. The Commissioner therefore concludes that continued safe use of agar-agar requires regulation of this GRAS ingredient with specific limitations to preserve present conditions of use.

The Commissioner shares the concern of the Select Committee in that harmful concentrations of certain heavy metals may be accumulated in commercial agar-agar, particularly if the algae are harvested from coastal waters contaminated with significant levels of heavy metals. Heavy metals such as mercury have been found in aquatic animal life at levels exceeding those which are considered safe for human ingestion. The present limitation of "heavy metals" such as lead lacks the element specificity that modern analytical methods can provide. Therefore, the Commissioner will investigate the background levels of individual heavy metals (arsenic, cadmium, lead, mercury, selenium, and zinc) in samples of agar-agar during this comment period. If this investigation indicates that specific heavy metal specifications need to be adopted for the continued safe use of this ingredient, these specifications will be adopted as part of the final regulation. All available data and information on the heavy metal content of agar-agar are also solicited as comments on this proposal.

The levels of use adopted in this proposal for the various categories of food are the maximum levels reported to the National Academy of Sciences/National Research Council in their survey of food manufacturers. Use of the ingredient in any manner not permitted by the proposed regulation results in it becoming a food additive for which no regulation currently exists.

Copies of the scientific literature review, reports of teratogenic and mutagenic tests, and the report of the Select Committee on agar-agar are available for review at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22151, as follows:

V 42 161 AUG 19 77 UMI

Title	Order number	Price code	Price [1]
Agar-agar (scientific literature review)	PB-221 225	A04	$4.00
Agar-agar (teratology tests)	PB-225-820/AS	A04	4.50
Agar-agar (mutagenic tests)	PB-245-443/AS	A07	6.00
Agar-agar (select committee report)	PB 265-702/AS	A02	3.50

[1] Price subject to change.

This proposed action does not affect the present use of agar-agar for pet food or animal feed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788, as amended (21 U.S.C. 321(s), 348, 37(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.7115 [Deleted]

1. By deleting § 182.7115 Agar-agar.

Maximum usage levels permitted

Foods (as served)	Percent	Functions
Baked goods and baking mixes, sec. 170.3(n)(1) of this chapter.	0.8	Drying agent, sec. 170.3(o)(7) of this chapter; flavoring agent, sec. 170.3(o)(12) of this chapter; stabilizer, thickener, sec. 170.3(o)(28) of this chapter.
Confections and frostings, sec. 170.3(n)(9) of this chapter.	.05	Flavoring agent, sec. 170.3(o)(12) of this chapter; stabilizer, thickener, sec. 170.3(o)(28) of this chapter; surface finisher, sec. 170.3(o)(30) of this chapter.
All other food categories	.25	Flavoring agent, sec. 170.3(o)(12) of this chapter; formulation aid, sec. 170.3(o)(11) of this chapter; humectant, sec. 170.3(o)(16) of this chapter; stabilizer, thickener, sec. 170.3(o)(28) of this chapter.

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of this ingredient in food under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Part 181 (21 CFR Part 181), incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before October 18, 1977, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably in quadruplicate) regarding this proposal. Received comments may be seen in the above office during working hours, 9 a.m. to 4 p.m., Monday through Friday.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. In Part 184 by adding new § 184.1115 to read as follows:

§ 184.1115 Agar-Agar.

(a) Agar-agar (CAS Reg. No. PM 9002–18–0) is a dried, hydrophyllic, colloidal polysaccharide extracted from one of a number of related species of red algae (class *Rhodophyccae*).

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(c) The ingredient is used in food under the following conditions:

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107.

Dated: August 12, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-23980 Filed 8-18-77;8:45 am]

DEPARTMENT OF JUSTICE

Parole Commission

[28 CFR Part 2]

PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS AND JUVENILE DELINQUENTS

Proposed Rulemaking

AGENCY: United States Parole Commission, Justice.

ACTION: Proposed rule.

SUMMARY: This proposal is to establish a new category of offense severity ratings in the Commission's guidelines for decision-making. The proposal is to set specific time ranges for several types of offenses presently contained in the "greatest" severity category, a category

in which specific ranges have not previously been set due to the infrequency with which such cases occur and the extreme variations possible in each instance.

DATES: Comments must be received on or before September 21, 1977.

ADDRESS: Send comments to the United States Parole Commission, Federal Home Loan Bank Board Building, 320 First Street NW., Washington, D.C. 20537; Attention: Rulemaking Committee.

FOR FURTHER INFORMATION, CONTACT:

Michael A. Stover, Office of the General Counsel, United States Parole Commission, Telephone: 202–724–3092.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of 18 U.S.C. 4203(a)(1) and 4204(a)(6), notice is hereby given that the United States Parole Commission intends to consider the adoption of a proposed regulation as set forth below. All interested persons who wish to comment on this proposal should send their written statements and suggestions to the United States Parole Commission, Federal Home Loan Bank Board Building, 320 First Street NW., Washington, D.C. 20537, Attention: Rulemaking Committee. All comments must be received by September 21, 1977.

The text of the proposed rule is as follows:

§ 2.20 **Paroling policy guidelines; statement of general policy.**

* * * * *

Guidelines for decisionmaking

	Parole prognosis			
	Very good	Good	Fair	Poor
ADULT				
Greatest I Aggravated felony (e.g., robbery: Weapon fired—no serious injury). Explosive detonation (involving potential risk of physical injury to person(s)—no serious injury occurred). Robbery (multiple instances (2–3)). Hard drugs (possession with intent to distribute/sale—large scale (e.g., over $100,000)). Sexual act—force (e.g., forcible rape).	40–55	55–70	70–85	85–110
Greatest II Aggravated felony—serious injury (e.g., injury involving substantial risk of death, or protracted disability, or disfigurement). Aircraft hijacking. Espionage. Kidnaping. Homicide (intentional or committed during other crime).	Greater than above—however, specific ranges are not given due to the limited number of cases and the extreme variation possible within the category.			
YOUTH/NARA				
Same as above, except that the suggested ranges are as follows:				
Greatest I	30–40	40–50	50–60	60–78
Greatest II	Greater than above—however, specific ranges are not given due to the limited number of cases and the extreme variation possible within the category.			

NOTE.—Adoption of this proposal would affect the very high severity category as follows: "sexual act—force"—delete.

Dated: August 15, 1977.

GEORGE J. REED,
Acting Vice Chairman, United States Parole Commission.

[FR Doc.77-23995 Filed 8-18-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21323; RM-2836]

TELEVISION TRANSMITTERS

Use of Subcarrier Frequencies in Aural Baseband; Order Extending Time for Filing Comments and Reply Comments; Inquiry

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments to a Notice of Inquiry concerning the use of subcarrier frequencies in the aural baseband of television transmitters. Consumer Electronics Group of the Electronic Industries Association states the additional time is necessary so that it can schedule necessary meetings between broadcasters and television receiver manufacturers to aid it in preparing useful comments.

DATES: Comments must be filed on or before November 25, 1977, and reply comments must be filed on or before December 9, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202–632–7792.

SUPPLEMENTARY INFORMATION:

In the matter of the use of subcarrier frequencies in the aural baseband of television transmitters, Docket No. 21323, RM–2836.

Adopted: August 12, 1977.

Released: August 16, 1977.

1. *Notice of Inquiry* in this proceeding was adopted July 1, 1977, 42 FR 38606. The present dates for filing comments and reply comments are August 18, and August 29, 1977, respectively.

2. On August 4, 1977, the Consumer Electronics Group of the Electronic Industries Association ("EIA/CEG") filed a request seeking a 90-day extension of time for filing comments and reply comments. EIA/CEG states that it represents all the major domestic manufacturers of television receivers as well as several Japanese companies that have manufacturing facilities in the United States. EIA/CEG notes that the Commission is inquiring into a broad range of possible uses for television aural transmiter subcarriers which would directly affect television receiver manufacturers. It states that additional time is required in order to schedule necessary meetings between broadcasters and television receiver manufacturers so that intelligent comments can be prepared.

3. We believe the requested additional time is warranted in order to assure development of a sound and comprehensive record on which to base a decision in this proceeding. *Accordingly, it is ordered*, That the dates for filing comments and reply comments in Docket 21323 are extended to and including November 25, and December 9, 1977, respectively.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-24126 Filed 8-18-77;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 216]

TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS

Public Hearing on Proposed Rules

AGENCY: National Marine Fisheries Service, Commerce.

ACTION: Notice of public hearing.

SUMMARY: On July 20, 1977, the Director, National Marine Fisheries Service, published a proposal to amend regulations regarding the take of marine mammals incidental to commercial tuna purse seine operations and to establish limits on marine mammals which would be taken during 1978, 1979, and 1980 (42 FR 37217, July 20, 1977). That proposal will be the subject of the public hearings which this notice is announcing.

DATES: The hearings will begin on Monday, August 22, 1977, and will continue until completed.

V 42 161 AUG 19 77 UM

ADDRESSES: Public hearings will begin at 9:30 a.m. local time in Room 4519, Tax Court, Federal Building, San Diego, California.

FOR FURTHER INFORMATION CONTACT:

William P. Jensen, Marine Mammal Program Manager, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235. Telephone: 202-634-7461.

SUPPLEMENTARY INFORMATION: The presiding officer will be the Honorable Frank W. Vanderheyden, Administrative Law Judge, U.S. Department of Commerce. The hearing will be conducted in accordance with procedural rules published on July 13, 1977 (42 FR 35967).

Dated: August 16, 1977.

WINFRED H. MEIBOHM,
Acting Deputy Director, National Marine Fisheries Service.

[FR Doc.77-23965 Filed 8-18-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

FEDERAL POWER COMMISSION

[Docket No. CI77-657]

AMERICAN NATURAL GAS PRODUCTION CO.

Application

AUGUST 15, 1977.

Take notice that on July 20, 1977, American Natural Gas Production Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CI77-657 an application pursuant to Section 7(c) of the Natural Gas Act, as amended, and Section 2.75 of the Commission's General Policy and Interpretations, Optional Procedure For Certificating New Producer Sales Of Natural Gas, for a certificate of public convenience and necessity authorizing the sale of natural gas from West Cameron Block 504, offshore Louisiana to Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), all as more fully set forth in the application, which is on file with the Commission and open to public inspection. Applicant is a wholly owned subsidiary of Michigan Wisconsin.

The application indicates that as a result of exploratory drilling in West Cameron Block 504, offshore Louisiana, Applicant has calculated total reserves (all interests) of 42.9 Bcf for said tract. Applicant estimates that initial deliveries from its interest could approximate 3.6 MMcf per day.

Applicant states that pursuant to a gas sales contract dated as of June 23, 1977, it has agreed to sell all gas produced from and attributable to its interests in wells proposed to be drilled in West Cameron Block 504 (14.524 percent working interest) to Michigan Wisconsin at an initial rate of $2.389 per Mcf at 15.025 psia. The rate is proposed to escalate $0.01 quarterly.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 9, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23966 Filed 8-18-77;8:45 am]

[Docket No. CP77-552]

CITIES SERVICE GAS CO.

Application

AUGUST 15, 1977.

Take notice that on August 4, 1977, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP77-552 an application pursuant to Section 7(b) of the Natural Gas Act and Section 157.7 (e) of the Regulations thereunder (18 CFR 157.7(e)) for permission and approval to abandon during the calendar year 1978, direct sale service and facilities no longer required for deliveries of natural gas to Applicant's customers, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act reasonable dispatch in abandoning service and removing direct sale measuring, regulating, and related facilities. Applicant states that it would abandon service and facilities only when deliveries to any one direct sale customer would not exceed 100,000 Mcf of Natural gas during the last year of service.

The application states that Applicant would not abandon any service unless it would have received a written request or written permission from the customer to terminate service. In the event such request or permission could not be obtained, a statement certifying that the customer has no further need for service would be filed with the Commission it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23967 Filed 8-18-77;8:45 am]

[Docket No. CP77-549]

CITIES SERVICE GAS CO.

Application

AUGUST 15, 1977.

Take notice that on August 4, 1977, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 71325, filed in Docket No. CP77-549 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7 (g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission for and approval of the abandonment, during the calendar year 1978, and operation of field gas compression and related

V 42 161 AUG 19 77 UMI

metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction and abandonment of facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment would not exceed $2,000,000 and the cost of any single project would not exceed $500,000. These costs would be financed by Applicant from treasury cash, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24014 Filed 8-18-77;8:45 am]

[Docket No. ER76-912]

CITY OF PASADENA

Cancellation

AUGUST 11, 1977.

Take notice that the City of Pasadena (City) on July 5, 1977, tendered for filing a notice of cancellation of the Power Sales Contract between City and the Puget Sound Power and Light Company (Puget Sound). City indicates that cancellation is in accordance with Section 10 of the Power Sales Contract.

City requests waiver of the Commission's notice requirements to allow for the cancellation to become effective upon Puget Sound's receipt of the filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 26, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24018 Filed 8-18-77;8:45 am]

[Docket No. E-9566]

DEPARTMENT OF THE INTERIOR BUREAU OF RECLAMATION

Order Confirming and Approving Rates

AUGUST 12, 1977.

Pursuant to the provisions of the Falcon Dam Act of 1954 (68 Stat. 255, as amended by 77 Stat 475), the Department of the Interior (Interior) on behalf of the Bureau of Reclamation (Reclamation), submitted on August 20, 1976, a request for Commission confirmation and approval of a contract for the sale of power and energy from the Falcon Project and for additional power and energy from proposed new generating facilities at the Amistad Project. The contract provides for the sale of excess power and energy at both sites to South Texas Electric Cooperative, Inc. and Medina Electric Cooperative, Inc., (Cooperatives). Approval of the contract is requested for a 50 year period, beginning when the Falcon-Amistad System becomes operational.

Following conferences between Interior and the Commission staff, Interior on July 12, 1977, submitted an amended filing, consisting of a revised copy of the proposed contract for the sale of power and energy from the Falcon-Amistad System to the Cooperatives and a separate contract for the sale of power and energy generated at the Falcon Project to Central Power and Light Co. for the period beginning January 1, 1978, through December 31, 1982, or to the initial commercial operation of the power facilities at the Amistad Project, whichever occurs first.[1] On August 10, 1977, Interior submitted an executed copy of the contract with the Cooperatives.

The Falcon and Amistad Dams are two international storage projects on the Rio Grande constructed jointly by the United States and Mexico under the provisions of the Treaty of 1944, which provides for the utilization of water of the Colorado and Tijuana Rivers and of the Rio Grande. The Treaty vests the International Boundary and Water Commission (IBWC) with the responsibility of constructing, operating and maintaining the Falcon and Amistad Dams.

The Falcon Dam, located about 130 miles upstream from Brownsville, Texas was completed in 1954. Its primary purpose was water conservation of the Rio Grande. Storage was provided for domestic, municipal, industrial, and irrigation purposes but not for the generation of hydroelectric power. However, both the United States and Mexico have added hydroelectric power plants on their respective sides of the dam. Each plant contains generating capacity of 31,500 kilowatts. Annual generation at the United States power plant has been estimated at 87.5 million kilowatt hours by Reclamation.

Power and energy generated at Falcon Dam is marketed pursuant to the Falcon Dam Act of 1954. The Act provides that power and energy generated at the Falcon Dam:

> • • • be delivered to the Secretary of the Interior (hereinafter referred to as the Secretary) who shall transmit and dispose of such power and energy in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles, the rate schedules to become effective upon confirmation and approval by the Federal Power Commission. Rate schedules shall be drawn having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of the project) of the cost of producing and transmitting such electric energy, including the amortization of the capital investment allocated to power by the Secretary, in collaboration with the Secretary of State, over a reasonable period of years. Preference in the sale of such power and energy shall be given to public bodies and cooperatives.

The Amistad Dam, located about 300 miles upstream from the Falcon Dam, was completed in 1968 by the IBWC. Amistad, like Falcon, was primarily constructed for conservation of Rio Grande waters. Other project purposes are flood control, increased fishery resources, and recreation; hydroelectric power generation is a secondary purpose. The act authorizing the construction of the Amistad Dam (P.L. 86-605) provided for hydroelectric power at the project subject to the conditions contained in the following section:

> Sec. 2. If agreement is concluded pursuant to Section 1 of this Act for the construction of a major international storage dam the Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized to conclude with the appropriate official or officials of Mexico an agreement consistent with article 7 of the treaty of February 3, 1944, for the construction, operation, and maintenance on a self-liquidating basis, for the United States share, of facilities for generating hydroelectric energy at said dam.

In 1963 Congress amended the Falcon Dam Act of 1954 to include the marketing of power from the Amistad Dam (P.L. 88-237). In addition to the power marketing provisions, Congress added a new Section 4 to the Act further limiting both projects' use of water for power purposes as follows:

> Sec. 4. The release of United States water from the Falcon and Amistad Dams for the production of hydroelectric energy shall be such as not to interfere with United States vested rights to the use of water for municipal, domestic, irrigation, and industrial purposes or with storage of water for these purposes.

At the time Amistad was constructed, feasibility studies indicated that hydroelectric facilities could not be constructed on a self-liquidating basis. However, some power generating features were included in the Amistad Project for possible power production in the future: power intakes, trashrocks, penstocks, excavation of an approach channel leading to the power intakes upstream of the dam and excavation for a powerhouse and tailrace channel downstream of the dam were included in the original construction. It is estimated that these power related facilities constructed at Amistad cost the United States $2,887,751.

The current rates for the sale of power and energy generated at the Falcon Project to Central Power & Light Co. were confirmed and approved by the Commission by order issued December 29, 1972, in Docket No. E-6577. Commission approval of these rates, which average about 3 mills per kWh, extends through December 31, 1977. By order issued August 1, 1977, in this docket, the Commission confirmed and approved rates for the sale of Falcon Dam power and energy to Central Power & Light beginning January 1, 1978, through December 31, 1982 or when the Falcon-Amistad System becomes operational, whichever occurs first. These rates will average about 14 mills per kWh.

Interior's filing of August 20, 1976, requested Commission confirmation and approval of a proposed contract for the sale of power and energy from a combined Falcon-Amistad System to the Cooperatives. Power and energy sold pursuant to the contract would be produced from the existing power facilities at Falcon Dam and from the power facilities to be constructed at the Amistad Dam.

The proposed contract provides that all the excess power and energy generated by the Falcon-Amistad System would be sold to the Cooperatives, who would pay the following:

(1) The amount necessary to amortize the remaining investment costs of the power facilities at Amistad over a 50 year period;

(2) The amount necessary to amortize the remaining investment costs of the power facilities at Falcon; and

(3) The annual projects' operation, maintenance, replacement costs, and the administrative costs of the IBWC and Reclamation.

[1] Public notice of Intervenor's amended filing was issued on July 19, 1977, with comments or suggestions due on or before July 25, 1977. No comments have been received.

On July 12, 1977, Interior submitted an amended filing which included a revised proposed contract with the Cooperatives, agreeing as in the previous contract, to pay all project operating, maintenance and investment costs of the two projects over a 50 year period. In addition, the Cooperatives would repay the interest on the initial power facilities built into Amistad Dam as discussed above.

Reclamation estimates that the average generation of the System will be 244 million kilowatt hours annually. The annual cost to the Cooperatives under the proposed contract is estimated to be $2,800,000, or an average cost of 11.5 mills per kilowatt hour. Provisions in the proposed contract require an annual review of the payment level and an annual adjustment of the payment as required to meet the System payout.

A combined power repayment study was provided in the amended filing which includes the repayment of both the Falcon and Amistad Dams. The study shows the expected on-line date for the Falcon-Amistad System to be October 1, 1982. The estimated investment to be repaid as of that date is shown below:

Investment	Interest rate (In percent)	Amount
Power investment at Falcon	2½	$4,980,613
Initial power investment at Amistad	2½	2,887,751
Interest on initial Amistad power investment	2½	900,626
New Amistad construction costs	7	27,980,000
Total investment to be repaid		36,767,030

The proposed contract, in practical effect, guarantees the repayment of the System power investment and costs over a 50 year period. The annual payments which would be required of the Cooperatives are not dependent on the amount of power being made available from the System for any year; nor is there any power storage in either project. The daily demands for water from these projects for other purposes will dictate when and how much water will be available for power purposes. Consequently, the flow available for power will experience large daily and seasonal fluctuations.

The Falcon Dam Act of 1954, as amended, provides that the rate schedule for the sale of power and energy generated at Falcon and Amistad Dams be confirmed and approved by the Commission. Section 2 of the act authorizing the construction of the Amistad Dam (P.L. 86-605) provides that hydroelectric power generating facilities at the project must be constructed, operated and maintained on a self-liquidating basis.

The contract obligates the Cooperatives to repay all of the costs allocated to power of the Falcon and Amistad Projects, as well as the operation, maintenance, and administrative costs associated therewith. Because of the statutory restrictions on the use of the water from the Falcon and Amistad Dams, it is doubtful that the power from the projects could be independently marketed and still fulfill the repayment requirement of the Falcon Dam Act of 1954 and the self-liquidating requirement of the Amistad authorization act.

Review of the contract indicates that the procedures for collection of the costs of operating the projects will enable the Government to recover its investment in power facilities over a reasonable period of time. However, to insure that result, we will require Interior to file with this Commission or any other agency having jurisdiction over this matter, a request for approval of any change in the rates or procedures for the recovery of the Government's investment or at the conclusion of each 5 year period, whichever occurs first.

The Commission finds: 1. Good cause exists to confirm and approve the rates and charges contained in Reclamation's contract with the Cooperatives.

2. Good cause exists to require further future requests for confirmation and approval of Reclamation's rates and charges to the Cooperatives as hereinafter ordered.

The Commission orders: (A) The rates and charges contained in Interior's filings submitted to this Commission on August 20, 1976, July 12, 1977, and August 10, 1977, are hereby confirmed and approved.

(B) The confirmation and approval of the rates and charges in Paragraph (A) above are hereby effective for the period from the commencement of service of the Falcon-Amistad System for 5 years or until Interior proposes to change the rates, whichever occurs first.

(C) At the conclusion of each 5 year period or prior to any proposed rate change, Interior shall submit to this Commission a request for confirmation and approval of its rates and charges to the Cooperatives.

By the Commission.[2]

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-24013 Filed 8-18-77;8:45 am]

[Docket No. RP72-6]

EL PASO NATURAL GAS CO.

Order Denying Motion for Stay, Granting Rehearing, Modifying Curtailment Plan, Establishing Further Hearings, Consolidating Hearings, and Requiring Action to Obtain Remand of Record; Correction

AUGUST 1, 1977.

Page 40029, Paragraph (E), line 15: change "requirements the foregoing" to

[2] Before Commissioners: Charles B. Curtis, Chairman; Don S. Smith, and Georgiana Sheldon.

V42161 AUG 19 77 UMI

"requirements. The foregoing". Published in the FEDERAL REGISTER on August 8, 1977, 42 FR (40026).

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24001 Filed 8-18-77;8:45 am]

[Docket No. CP77-553]

EL PASO NATURAL GAS CO.

Application

AUGUST 15, 1977.

Take notice that on August 5, 1977, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP77-553 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the retention in place of the existing loop pipeline, meter and dehydration facilities located in Washita County, Oklahoma, for use as the need may arise, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that by letter dated June 16, 1977, Applicant notified the Commission that on June 6, 1977, it had completed the construction and commenced operation of approximately 5.83 miles of $6^5/_8$-inch O.D. pipeline, with appurtenances, looping the existing $4^1/_2$ inch O.D. South Zybach area Supply Lateral C-6 pipeline, $4^1/_2$ inch O.D. and $6^5/_8$ inch O.D. meter runs located at the existing authorized Washita Exchange Point and a 20 Mcf per day capacity central dehydration unit.

Said loop pipeline, meter and dehydration facilities were required to be immediately constructed and placed in operation due to the emergency conditions encountered upon completion of the Floyd Niece No. 1 well located in Washita County, Oklahoma, it is said. It is indicated that in drilling the Floyd Niece No. 1 well, Applicant encountered fluctuating high pressures and, in order to prevent the well from blowing out, had to flare immediately the gas produced from the well on an emergency basis, commencing April 29, 1977. Subsequently, on May 2, 1977, the flaring of natural gas produced from said well was terminated by the connection of the well into Applicant's existing Supply Lateral C-6 pipeline, it is indicated. Applicant states that gas volumes produced from the Floyd Niece No. 1 well are delivered to Natural Gas Pipeline Company of America (Natural) at the Washita Exchange Point in accordance with the authorized Gas Exchange Agreement dated September 24, 1973, as amended, between Applicant and Natural. It is indicated that due to the limited capacity available to Applicant through utilization of the $4^1/_2$ inch O.D. Supply Lateral C-6 pipeline, production of the immediate gathering system area form other wells was required to be reduced to permit the uncontrolled production from the Floyd Niece No. 1 well to enter such pipeline and to alleviate high operating pressures occurring on the pipeline in transporting volumes of gas to the Washita Exchange Point during the emergency conditions.

Applicant states that as an expedient means of eliminating the high pressure problems incurred with the attachment of the Floyd Niece No. 1 well and to assure that additional flaring would not be required, Applicant, on May 5, 1977, commenced the construction of approximately 5.83 miles of $6^5/_8$-inch loop pipeline, $4^1/_2$-inch O.D. and $6^5/_8$-inch O.D. meter runs and a 20 Mcf per day capacity central dehydration unit. Applicant further states that during the construction period, the flowing pressure and volume decrease on the Floyd Niece No. 1 well allowing normal, controlled production and gathering operations to be continued. Applicant asserts that although stabilized production from said well was established much more rapidly than anticipated, there was no assurance that a reoccurence of uncontrolled production from the well would not occur; therefor, Applicant completed the installation of the said loop pipeline, meter and dehydration facilities.

It is stated that the requested authorization would permit Applicant to retain the additional flexibility, initially provided by the installation of emergency facilities, available for the transportation of volumes of gas which it has contracted to purchase in the immediate gathering area without the construction of additional facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 8, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24008 Filed 8-18-77;8:45 am]

[Docket No. CP76-464]

EQUITABLE GAS CO.

Amendment

AUGUST 15, 1977.

Take notice that on July 29, 1977, Equitable Gas Company (Equitable), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP76-464 an amendment to its application filed in this docket pursuant to Section 7 of the Natural Gas Act proposing the renewal of 7.5 miles of 16-inch pipeline with new 16-inch pipe in lieu of the 20-inch pipe originally proposed, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Equitable states that by the application in this proceeding it seeks authorization to renew and replace certain transmission lines in Greene and Washington Counties, Pennsylvania, and in Monongalia County, West Virginia, and to abandon certain minor sections of its transmission facilities also located in those counties. Equitable states that the purpose of its proposals is to achieve compliance with Department of Transportation Regulations, to provide it with a more efficient transmission system, to reduce maintenance costs, to maintain delivery capacity, and to improve reliability and safety.

Equitable asserts that because of a proposed interconnection with Columbia Gas Transmission Corporation at Waynesburg, Pennsylvania, it will be feasible to replace the existing 16-inch lines with new 16-inch pipe in lieu of 20-inch pipe as originally proposed. Additionally, it is indicated that only 4.0 miles, instead of 4.6 miles, of Line H-117 would be renewed because the additional 0.6 mile of pipeline is not to be used to transport high pressure gas.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 9, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the

Commission's Rules. Persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23998 Filed 8-18-77;8:45 am]

[Docket No. ER77-196]

FLORIDA POWER CORP.

Certification of Settlement Agreement and Motion for Reassessment of Filing Fee

AUGUST 11, 1977.

Take notice that Presiding Administrative Law Judge Samuel Kanell on June 27, 1977 certified to the Commission a Settlement Agreement, dated June 23, 1977, among Florida Power Corporation (Florida) and 13 intervening wholesale customers (Customers). Florida indicates that the Settlement Agreement provides for new rate schedules containing revised rate levels and revised terms and conditions.

Along with the Settlement Agreement, Florida and Customers submitted a Motion requesting that the Secretary reassess the filing fee, which Florida and Customers purport to be excessive because said fee is based on an inflated statement of the amount of the rate increase.

Comments on the Settlement Agreement and the Motion will be taken into consideration in the Commission's determination of the proceeding. Comments may be filed with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C., 20426, on or before August 26, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24020 Filed 8-18-77;8:45 am]

[Docket No. ER77-545]

GULF POWER CO.

Initial Rate Filing

August 15, 1977.

Take notice that Gulf Power Company (Gulf), on August 8, 1977 tendered for filing as an Initial Rate Schedule a contract between it and the Southeastern Power Administration (SEPA), United States Department of the Interior. Gulf states that the contract provides for exchange of electric power between Gulf and SEPA, including provision of capacity and energy for the account of SEPA to Gulf's REA Electric Cooperative wholesale customers.

Gulf Power requests waiver of the Commission's notice requirements to allow an effective date of August 1, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 31, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23999 Filed 8-18-77;8:45 am]

[Docket No. E-8121]

GULF STATES UTILITIES CO.

Compliance Filing

AUGUST 11, 1977.

Take notice that Gulf States Utilities Company (Gulf) on July 29, 1977 tendered for filing rate schedules and billing information regarding the settlement agreement between Gulf and Sam Rayburn Dam Electric Cooperative, Inc. Gulf indicates that the filing is in compliance with the Commission order in the above-noted docket, dated June 27, 1977.

Comments will be considered by the Commission in determining action taken in the proceeding. Comments may be filed with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before August 26, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24021 Filed 8-18-77;8:45 am]

[Docket No. ES77-51]

IOWA ELECTRIC LIGHT AND POWER CO.

Application

AUGUST 11, 1977.

Take notice that on August 4, 1977, the Iowa Electric Light and Power Company (Applicant) filed an application pursuant to Section 204 of the Federal Power Act with the Federal Power Commission seeking authority to issue 150,000 shares of Common Stock.

Applicant is incorporated under the laws of the State of Iowa and is authorized to do business in the States of Iowa, Minnesota, Colorado and Nebraska with its principal business office at Cedar Rapids, Iowa. Applicant is engaged primarily in the generation, transmission and sale at retail of electric energy in 55 counties in the State of Iowa.

The Common Stock is to be issued commencing on approximately September 15, 1977 pursuant to the Company's Employee Stock Ownership Plan. The Common Stock is subject to the prior rights and preferences of the existing outstanding classes of Cumulative Preferred Stock and to the prior rights and preferences of the existing outstanding classes of Cumulative Preference Stock. The price to the Company for the Common Stock will be the market value as determined in the Plan.

According to the Applicant, the purpose for which the Common Stock is to be issued is to provide without cost to the employees shades in the Company's Common Stock as an additional benefit to such employees in an amount equal to the additional amount of Federal investment tax credit available to the Company (and affiliates) solely by reasons of the Company's contribution of an amount to the Plan.

Any person desiring to be heard or to make any protest with reference to this Application should on or before August 26, 1977, file with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The Application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24017 Filed 8-18-77;8:45 am]

[Docket No. ER77-543]

KANSAS CITY POWER & LIGHT CO.

Filing of Contract

AUGUST 11, 1977.

Take notice that on August 8, 1977, Kansas City Power & Light Company ("KCPL") tendered for filing a Cooperative Wholesale Firm Power Contract dated July 7, 1977, between KCPL and United Electric Cooperative, Inc. KCPL requests an effective date thirty (30) days after filing. KCPL indicates that the Contract terminates the Cooperative Firm Power Contract, dated April 2, 1968, KCPL Rate Schedule FPC No. 68, and provides for rates and charges for wholesale firm power service by KCPL to United Electric Cooperative, Inc.

KCPL states that the proposed rates are KCPL's rates and charges for similar service under schedules previously filed by KCPL with the Federal Power Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 31, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commis-

V 42 161 AUG 19 77 UM V

sion and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24019 Filed 8-18-77;8:45 am]

[Docket No. ER77-427]

MINNESOTA POWER & LIGHT CO.

Order Accepting for Filing and Suspending Proposed Rate Increase Filing, Initiating Hearing and Establishing Procedures; Correction

The second sentence, page 35689, should be changed to read as follows: MPL also filed a rate increase for transmission service applicable to one transmission service customer.[1]

Footnote 4 of page 35689 should be changed to read as follows:

[1] The transmission service customer is the City of Wadena which is served under Rate Schedule FPC No. 120.

Published in the FEDERAL REGISTER on July 11, 1977, 42 FR (35689).

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24004 Filed 8-18-77;8:45 am]

[Docket No. CP77-545]

NORTHERN NATURAL GAS CO.

Application

AUGUST 15, 1977.

Take notice that on August 4, 1977, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska, filed in Docket No. CP77-545, an application to the Federal Power Commission pursuant to Section 7(c) of the Natural Gas Act, as amended, for a Certificate of Public Convenience and Necessity authorizing Applicant to construct and operate a pipeline interconnect, measuring station and compressor station between pipeline facilities of Columbia Gulf Transmission Company (Columbia Gulf) and Trunkline Gas Company (Trunkline) to be located in Arcadia Parish, Louisiana. Northern also requests the Commission to grant a Temporary Certificate for the proposed construction and operation, all as more fully set forth in the Application on file with the Commission and open to public inspection.

Northern and Columbia Gulf are parties to certain transportation agreements covering the transportation of Applicant's Offshore Louisiana reserves to onshore facilities of Columbia Gulf near Egan, Louisiana. Under terms of a transportation agreement presently being negotiated between Northern and Trunkline, Trunkline will transport offshore gas for the account of Northern from Egan to a point near Longville, Louisiana.

The proposed facilities, to be designated as the Egan Interconnect and Compressor Station, will consist of 2,800 feet of 16-inch pipeline, a measuring station and 1,000 H.P. electric motor driven compressor. The Egan Interconnect and Compressor Station will provide the means necessary for transference of Northern's offshore gas from Columbia Gulf to Trunkline for further transportation and eventual redelivery to Northern by Panhandle Eastern Pipe Line Company at Mullinville, Kansas. The estimated cost of the facilities is $926,850.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 9, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24005 Filed 8-18-77;8:45 am]

[Docket Nos. CP75-341, CP75-342]

NORTHWEST PIPELINE CORP.

Petition To Amend

AUGUST 12, 1977.

Take notice that on July 29, 1977, Northwest Pipeline Corporation (Petitioner), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket Nos. CP75-341 and CP75-342 a petition to amend pursuant to Section 3 of the Natural Gas Act the Commission's order of December 17, 1976 (56 FPC ——) issued in the instant dockets so as to authorize the continued importation of natural gas from Canada at a price of $2.16 (U.S.) per Mcf, effective September 21, 1977, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is indicated that the gas is purchased by Petitioner from Westcoast Transmission Company Limited (Westcoast), and that Petitioner has been authorized to import from Canada 809,200 Mcf per day of gas at the Sumas, Washington (Sumas) import point under an agreement dated October 10, 1969, and 151,732 Mcf per day at the Kingsgate, British Columbia (Kingsgate) import point under an agreement dated September 23, 1960.

It is stated that Westcoast exports said volumes of gas pursuant to Export Licenses issued to it by the National Energy Board of Canada (NEB) and that such licenses have been amended to reflect various directives of the NEB as to the pricing provisions of such licenses. In accordance with the NEB price changes the Commission by various orders has authorized Petitioner to continue the subject imports at the increased border prices of $1.40 and $1.60 per Mcf, $1.80 per Mcf and $1.94 per Mcf, it is indicated.

It is asserted that the NEB announced that Order-In Council P.C. 1977-1915 dated July 7, 1977, established an increase in the export price for natural gas to $2.16 (U.S.), effective September 21, 1977. Petitioner states that without the grant of the authorization requested and the corresponding rate relief, Petitioner would be financially incapable of paying its Canadian supplier and thereby face the loss of its entire Canadian gas supply which would result in an adverse impact on those states in the Rocky Mountain and Pacific Northwest areas relying on Petitioner for all or a portion of their natural gas requirements.

Accordingly, Petitioner requests authorization to continue the importation of said volumes of natural gas from Canada at the Sumas and Kingsgate import points at an increased cost of $2.16 (U.S.) per Mcf.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 31, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24016 Filed 8-18-77;8:45 am]

[Docket Nos. ER77-127, ER77-306, ER77-215, and ER77-502]

OKLAHOMA GAS & ELECTRIC CO.

Order Accepting for Filing and Suspending Rate Increases, Granting Intervention, Setting Price-Squeeze Issue for Hearing, and Consolidating Proceedings

AUGUST 11, 1977.

On July 8, 1977, Oklahoma Gas and Electric Company (OG&E) tendered for filing a proposed Electric Service Agreement for the City of Geary (Geary) and for the City of Prague, Oklahoma (Prague). These Agreements are to supersede existing Agreements providing wholesale electric service to these municipalities.

Notice of the filing was issued on July 20, 1977, with protests or petitions to intervene due on or before July 29, 1977. On July 28, 1977, Prague filed a Protest, Petition to Intervene, Motion to Reject Rate Filing Pursuant to Section 205 of the Federal Power Act and Motion To Consolidate.

The Agreements follow the form of those filed by OG&E in Docket No. ER77-127, for service to its municipal customers. Prague's Motion to Reject contains the same argument that it made in Docket No. ER77-127, namely that OG&E may not proceed simultaneously under Sections 205 and 206 of the Federal Power Act. By order issued March 24, 1977, in Docket No. ER77-127, the Commission granted rehearing in order to reconsider, inter alia, the same argument. Therefore, we shall defer discussion of Prague's contention pending a further order in Docket No. ER77-127. Docket No. ER77-127 shall be consolidated with this docket as hereinafter ordered. The Commission shall accept for filing and suspend OG&E's submittal as hereinafter ordered.

OG&E requested effective dates of August 8, 1977 for Geary and September 4, 1977, for Prague. By letter filed August 8, 1977, OG&E requested that the proposed effective date for Geary be postponed until August 12, 1977.

Several other outstanding dockets exist relating to OG&E's service to wholesale customers. We shall order consolidation of all these dockets to promote the efficiency of the administrative process.

Prague raises a "price-squeeze" allegation[1] in its filing. We will direct the Administrative Law Judge to convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the petitioner's request for data necessary to present its prima-facie showing on the price-squeeze issue.

The Commission finds:

(1) Good cause exists to accept for filing the proposed agreements submitted by OG&E, and suspend the rates contained therein as hereinafter ordered and conditioned.

(2) Good cause exists to accept the Petition to Intervene of the City of Prague.

(3) Good cause exists to establish "price-squeeze" procedures to effectuate the Commission's policy announced in Order No. 563.

(4) Good cause exists to consolidate Docket No. ER77-127, ER77-306, ER77-215, and ER77-502.

The Commission orders:

(A) Pursuant to the authority contained in the Federal Power Act, The Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act, a public hearing shall be held concerning the justness and reasonableness of the rates proposed by OG&E in Docket No. ER77-502.

(B) Pending a hearing and decision thereon, proposed rates tendered in Docket No. ER77-502 are hereby accepted for filing and suspended to be come effective subject to refund for the City of Geary on August 13, 1977, and for the City of Prague on September 5, 1977.

(C) The proceedings in Docket Nos. ER77-127, ER77-306, ER77-215, and ER77-502 are hereby consolidated for purposes of hearing and decision.

(D) The petition to intervene of the City of Prague in Docket No. ER77-502 is hereby granted; *Provided, however,* that participation of such intervenors shall be limited to matters set forth in the petitions to intervene; and *Provided, further,* that the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(E) The Administrative Law Judge shall convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the Prague's request for data required to present its case, including a prima facie showing, on the price-squeeze issue. OG&E shall also be required to respond to the discover requests authorized by the Administrative Law Judge within 30 days and the Prague shall file its case-in-chief on the price-squeeze issue within 30 days after OG&E's response.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.[2]

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24012 Filed 8-18-77;8:45 am]

[1] *F.P.C. v. Conway Corporation*, 426 U.S. 271 (1976).

[2] Before Commissioners: Charles B. Smith, Chairman; Don S. Smith, and Georgiana Sheldon.

[Docket No. ER77-544]

PACIFIC GAS & ELECTRIC CO.

Proposed Changes in Rates and Charges

AUGUST 15, 1977.

Take notice that on August 8, 1977, Pacific Gas and Electric Company (PG&E) tendered for filing proposed changes in rates and charges for electric resale service to the City and County of San Francisco in its FPC Electric Tariff, Original Volume No. 1. PG&E indicates that the proposed rate change is intended only to offset changes resulting from certain modifications to PG&E's fuel cost adjustment as proposed in FPC Docket No. ER76-319. PG&E states that the change in rates will result in no net change in revenues from jurisdictional sales and services. PG&E requests waiver of the Commission's notice requirements to allow for an effective date of January 1, 1977, concurrent with the effective date of the settlement rates in Docket No. ER76-319.

According to PG&E copies of the filing were served upon the Public Utilities Commission of the City and County of San Francisco and the California Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 31, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-23996 Filed 8-18-77;8:45 am]

[Docket No. ER76-221]

POTOMAC EDISON CO.

Compliance Filing

AUGUST 11, 1977.

Take notice that the Potomac Edison Company (Edison) on May 2, 1977, tendered for filing revisions to Original Sheets No. 9, 12, 15, and 21 to FPC Electric Tariff, First Revised Volume No. 1. Edison also tendered for filing Amendment No. 2 to the Electric Service Agreement between Edison and the Town of Front Royal, Amendment No. 5 to the Electric Service Agreement between Edison and the Borough of Chambersburg, and Amendment No. 7 to the Electric Service Agreement between Edison and the City of Hagerstown.

Edison states that all of the aforementioned revised sheets and contract amendments are being filed in conformance with the Commission's Order Accepting Settlement and Resolving Dispute in the above-noted proceeding, dated March 21, 1977.

Comments will be considered by the Commission in determining the outcome of the proceeding. Any person desiring to comment should file on or before August 24, 1977, with the Federal Power

V 42 161 AUG 19 77 UM V

Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77 24015 Filed 8-18-77;8:45 am]

[Docket No. ER76-739]

PUBLIC SERVICE COMPANY OF INDIANA, INC.

Order Accepting Notice of Termination of Pooling Agreement for Filing, Granting Waiver of Notice Requirements, Instituting Investigation, Denying Motion To Suspend or To Reject and Granting Interventions; Correction

AUGUST 8, 1977.

On page 39716 the last sentence should read:

In addition, the Commission needs to know the economic impact on the various members of the pool since it regulates wholesale rates of three of these utilities under Section 205 of the Federal Power Act.

Published in the FEDERAL REGISTER on 8-5-77, 42 FR (39714).

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24003 Filed 8-18-77;8:45 am]

[Docket No. CP-77-546]

SOUTHWEST GAS CORP.

Application

AUGUST 15, 1977.

Take notice that on August 4, 1977, Southwest Gas Corporation (Applicant), P.O. Box 15015, Las Vegas, Nevada 89114, filed in Docket No. CP77-546 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of two tap facilities at Franktown Road on the North Lake Tahoe Lateral of Applicant's northern Nevada transmission system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to construct and operate a minor tap on its North Lake Tahoe Lateral known as Shaheen Tap. It is stated that this tap, with appurtenant facilities, would enable Applicant to deliver volumes of gas to one residential customer on Franktown Road. Facilities downstream of the tap would be constructed, and actual sales of gas would be made pursuant to Applicant's existing State of Nevada authorization, it is said.

Applicant also seeks authorization to construct and operate a minor tap on its North Lake Tahoe Lateral known as Loeb Tap. Applicant states that this tap, with appurtenant facilities, would enable it to deliver volumes of gas to one residential customer on Franktown Road, and facilities downstream of the tap would be constructed, and actual sales of gas would be made pursuant to Applicant's existing State of Nevada authorization.

It is stated that the volumes of gas to be delivered to each residential unit would be approximately .45 Mcf on an average day with peak day requirements of 1.26 Mcf, equalling about 167 Mcf annually and that the volumes of gas delivered to each residential unit would be solely for Priority 1 uses. Applicant states that its pipeline facilities presently have adequate capacity to make the contemplated deliveries.

Applicant indicates that the cost of the Shaheen Tap with appurtenant facilities would be approximately $2,000 and that the cost of the Loeb Tap with appurtenant facilities would be approximately $1,729. Both taps would be financed by refundable advances made to Applicant by the residents, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 8, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24009 Filed 8-18-77;8:45 am]

[Docket No. CP77-548]

TEXAS EASTERN TRANSMISSION CORP.

Application

AUGUST 15, 1977.

Take notice that on August 5, 1977, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP77-458 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 30 dekatherms (dths) equivalent of natural gas per day for NCNG Exploration Corporation (NCNG Exploration), a wholly owned subsidiary of North Carolina Natural Gas Corporation (North Carolina) a direct customer of Transcontinental Gas Pipe Line Corporation (Transco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport for NCNG Exploration up to 30 dt equivalent of natural gas per day pursuant to proposed Rate Schedule TS-2. Applicant states that under the terms of proposed Rate Schedule TS-2, it would transport on an interruptible, best efforts basis, a maximum daily transportation quantity (MAXDTQ) to be agreed upon by a service agreement dated July 7, 1977, between Applicant and NCNG Exploration.

Applicant states that North Carolina has acquired from its producing subsidiary gas supplies of approximately 30 dths per day in the South Gist Field, Newton County, Texas which gas would be delivered to Applicant at its existing interconnection located in Newton County, Texas for redelivery to Transco at the existing point of interconnection in Beauregard Parish, Louisiana for delivery to North Carolina.

Applicant indicates that the transportation rate which it proposes to charge for transportation service under the TS-2 rate is an amount equal to Applicant's rate for deliveries in the particular zone at which the proposed delivery would be made, based on the 100 percent DCQ load factor level rate, less applicant's purchased gas costs and fuel cost and is identical to Applicant's Rate Schedule TS rate. Applicant states that the deliver volumes would be reduced 3 percent to offset volumes used by Applicant in the performance of the transportation service, and pursuant to the proposed Rate Schedule, NCNG Exploration would reimburse Applicant for any cost of construction that may be required to receive the gas supplies.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to

the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24010 Filed 8-18-77;8:45 am]

[Docket No. CP77-547]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

AUGUST 15, 1977.

Take notice that on August 4, 1977, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP77-547 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the rendition of an additional 3,000,000 dekatherms (dt) equivalent of temporary natural gas storage service to its customers during the 1977-78 winter heating season, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that additional storage service on a best efforts basis is available for the coming winter from two of Applicant's storage fields; (1) 2,000,000 dt of authorized but unallocated capacity would be available from Applicant's newly-acquired Hester-Storage Field; and (2) an additional 1,000,000 dt is available from the Washington Storage Field in excess of both the presently authorized service under the Rate Schedule WSS and the Rate Schedule TSS-1 service due to the fact that experience so far this summer indicates that the existing field facilities are capable of injecting such additional quantity. No field facilities other than those presently authorized, and no additional base gas, would be required to render the proposed service, Applicant indicates.

It is stated that the proposed TSS-2 storage service is to be subordinate to Applicant's obligations under authorized storage services from the two fields; that is, the Storage and Exchange Agreement between Applicant and Mid Louisiana in the Hester Field, and Rate Schedule WSS and TSS-1 in the Washington Field, and would also be subordinate to Applicant's system flexibility requirements associated with the Hester Field. Applicant states that injections into storage are contemplated to commence upon receipt of the requisite authorization and continue until November 1, 1977, and that withdrawals are to commence at that time and would terminate March 31, 1978, but may continue for an additional fifteen days if necessary to effectuate redelivery of the temporary storage quantities.

It is indicated that Applicant has offered the proposed temporary storage service to its customers at a rate of 30.0 cents per dt, and that such rate is divided equally into injection and withdrawal charges, and Applicant would be provided a total of 2 percent (1.5 percent on injection and 0.5 percent on withdrawal) of the quantities as fuel.

Applicant indicates that the customers desiring this temporary storage service and the proposed storage quantity allocation for each customer (based upon a proration of its respective requested quantity to the total requested quantities) are as follows:

Customer:	*Storage quantity dekatherms*
City of Alexander City, Ala	27,000
Atlanta Gas Light Co	893,000
CNG Transmission Co	156,000
Eastern Shore Natural Gas Co	18,000
City of Lexington, N.C	12,000
Pennsylvania Gas & Water Co	447,000
Philadelphia Gas Works	179,000
Public Service Co. of North Carolina, Inc	134,000
Public Service Electric & Gas Co	893,000
City of Shelby, N.C	22,000
City of Union, S.C	9,000
Union Gas Co	210,000
Total	3,000,000

Any person desiring to be heard or to make any protest with reference to said application should on or before September 8, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24007 Filed 8-18-77;8:45 am]

[Docket Nos RP74-48 and RP75-3]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Further Extension of Time

AUGUST 10, 1977.

On August 3, 1977, Transcontinental Gas Pipe Line Corp. (Transco) filed a motion to further extend the time for filing the information required by Ordering Paragraph (B) of Commission Opinion No. 801, issued May 31, 1977, in the above designated proceeding.

By Opinion No. 801-A, opinion and order on rehearing, issued July 29, 1977, Transco was granted an extension of time to and including August 13, 1977.

Upon consideration, notice is hereby given that a further extension of time is granted to and including September 15, 1977, within which Transco shall comply with Ordering Paragraph (B) of Opinion No. 801.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77 24022 Filed 8-18-77;8:45 am]

[Docket No. ER77-509]

UNION ELECTRIC CO.

Filing of Wholesale Electric Agreement; Correction

AUGUST 10, 1977.

The second paragraph of this notice should read:

Union proposes an effective date of 30 days after the filing date.

Published in the FEDERAL REGISTER on 8-8-77, 42 FR (40044).

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24002 Filed 8-18-77;8:45 am]

[Docket No. RP72-133 (PGA77-2)]

UNITED GAS PIPE LINE CO.

Order Accepting Revised PGA Rates for Filing, Initiating Hearing, Granting Intervention, and Establishing Procedures

AUGUST 11, 1977.

On May 16, 1977, United Gas Pipe Line Co. (United) tendered for filing proposed increased PGA rates to become effective on July 1, 1977. On June 30, 1977, the Commission suspended the proposed

V42161 AUG 19 77 UM

rates for one day until July 2, 1977, and required United to file revised rates excluding certain claimed costs found by the Commission not to be justified. United on July 12, 1977, filed revised rates in accordance with the order of June 30.

On July 12, 1977, Brooklyn Union Gas Co. (Brooklyn Union) and Elizabethtown Gas Co. (Elizabethtown) jointly filed an untimely petition to intervene in the proceeding and requested that "an investigation of United's proposed PGA rate increase be undertaken promptly in order to correct the unduly discriminatory method by which United has allocated its emergency gas purchase costs, both as between its jurisdictional and non-jurisdictional markets, and as among its individual jurisdictional customers." A petition to intervene was also filed on July 15, 1977, by Public Service Electric and Gas Co. (Public Service).

In support of its request for an investigation, Brooklyn Union states as follows:

"In ordering paragraphs B through E of its order of June 30, 1977, the Commission has required United to make certain adjustments to the rates proposed to be charged, placed conditions upon its acceptance of the filing and directed United to supply certain additional information with respect to the cost of emergency purchases. At this time, Brooklyn Union and Elizabethtown take no position with respect to these matters. However, Petitioners desire to bring to the Commission's attention another aspect of United's proposed PGA treatment of emergency purchases which does not appear to have been expressly addressed by June 30 order, and which we believe is unduly discriminatory and in violation of the Natural Gas Act.

As part of its PGA filing, United proposes to recover the costs of emergency purchases made by it during the period October 1, 1976 through March 31, 1977.

* * * * *

Petitioners are informed and believe that United proposes to recoup a disproportionately large share of these costs from all of its jurisdictional customers, notwithstanding the fact that Texas Eastern (and, therefore, Texas Eastern's customers, including Petitioners) and, we believe, several other jurisdictional customers of United received little or no additional gas as a result of United's emergency purchases.

Under United's current curtailment plan, the principal gas supply beneficiaries of these emergency purchases have apparently been United's nonjurisdictional direct sale customers. However, Petitioners believe that under United's filing, these nonjurisdictional customers have been allocated a disproportionately small share of the cost of United's emergency purchases. Petitioners submit that United's attempt to confer the gas supply benefits of emergency purchases upon its nonjurisdictional customers while shifting the cost burden of such purchases to its jurisdictional customers constitutes undue discrimination and is unlawful under the Natural Gas Act.

Petitioners, as indirect distributor customers of United, do not have the resources to secure and analyze the information necessary to a determination of the matters adressed herein. However, Petitioners believe that a substantial number of direct and indirect customers of United will be adversely affected if United's unlawful rate and cost allocation practices are permitted to stand."

On July 29, 1977, United filed an answer in opposition to Brooklyn Union's request for an investigation. United argues that Brooklyn Union's request represents a collateral attack on United's PGA clause, that the Commission's policy is to permit emergency gas costs to be flowed through by means of PGA rate adjustments computed on a rolled-in basis, and that Brooklyn Union's position is inequitable and unreasonable because it would require the emergency costs to be allocated on an incremental basis.

It is true that the Commission's general policy is to permit the flow through of the cost of emergency gas suppliers under pipeline PGA clauses on a rolled-in basis. However this procedure contemplates that there is a reasonable correlation between service received by a pipeline's customers in relation to their cost responsibility. Brooklyn Union argues that its cost responsibility under United's proposal is greatly in excess of any benefit it received from the availability to United of the subject emergency suppliers.

The Commission is not able to establish the necessary relationship between costs and benefits solely by reference to the present pleadings and representations of the parties. The Commission finds that a hearing should be held for the purpose of investigating the allegations made by Brooklyn Union in its filing of July 12th. United shall provide all necessary data for purposes of the subject investigation and hearing. Pending the hearing and decision, the Commission shall accept the revised rates filed by United on July 12, 1977, to be effective on July 2, 1977, subject to refund.

The Commission finds that Brooklyn Union, Elizabethtown, and Public Service have demonstrated an interest in this proceeding and that good cause exists to grant their petitions to intervene.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that a hearing be held for the purpose of investigating the allegations made against United by Brooklyn Union.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 14, 15, and 16 thereof, and the Commission's rules and regulations, a hearing shall be held in this proceeding for the purpose of investigating and determining the allegations contained in Brooklyn Union's filing of July 12, 1977.

(B) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge pursuant to 18 CFR 3.5(d), shall convene a prehearing conference in this proceeding on September 8, 1977, at 10:00 a.m. EST, in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, for the purpose of establishing procedures for the investigation and hearing to be held pursuant to this order. The Presiding Judge shall be authorized to modify all procedural dates and to establish further procedures as may in his judgment be required for purposes of the investigation and hearing pursuant to this order. The Presiding Judge shall also be authorized to rule upon all motions except motions to consolidate, sever, or dismiss, as provided for in the rules of practice and procedure.

(C) Pending hearing and decision, the revised rates filed herein by United on July 12, 1977, are accepted for filing and permitted to become effective on July 2, 1977, subject to refund.

(D) Brooklyn Union, Elizabethtown, and Public Service are permitted to intervene in this proceeding, subject to the Commission's rules and regulations.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.[1]

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24011 Filed 8-18-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Designation Number A493]

NEBRASKA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Nebraska Counties as a result of adverse weather conditions shown on the attached sheet:

Box Butte	Garden
Brown	Morrill
Cheyenne	Rock
Deuel	Scotts Bluff
Fillmore	

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94-68, and the provisions of 7 CFR 1832.3 (b) including the recommendation of Governor J. James Exon that such designation be made.

Applications for emergency loans must be received by this Department no later than October 3, 1977, for physical losses and May 3, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

[1] Before Commissioners: Charles B. Curtis, Chairman; Don S. Smith, and Georgiana Sheldon.

Done at Washington, D.C., this 16th day of August, 1977.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

Nebraska (9 counties)

County	Type of disaster	Incidence periods
Box Butte	Hail, rain, flood and wind	May 6, 25, 1977, and June 8, 20, 1977.
Brown	Hail, wind, and flood	July 9, 1977.
Cheyenne	Hailstorms	May 14 and 26, 1977, June 9, 20, and 28, 1977.
Deuel	Hailstorms	May 18 and July 7 and 9, 1977.
	Flood and heavy rains	May 20, 1977.
Fillmore	Hailstorms	June 12 and 17, 1977.
Garden	Hailstorms, high winds, and heavy rains.	May 18, June 22 and July 9, 1977.
Morrill	Hailstorms	May 6, June 8, 13, 14, 18, and 22, 1977, and July 9, 1977.
	Heavy rains and flood	May 26, 1977, and July 9, 1977.
	Tornado	June 14, 1977.
Rock	Hail, wind, and flood	July 9, 1977.
Scotts Bluff	High winds, severe hail, and heavy rains.	June 9, 14, 18, and 20, 1977.
	Tornado	June 14, 1977.

[FR Doc.77-24112 Filed 8-18-77;8:45 am]

Federal Grain Inspection Service

GRAIN STANDARDS

Tennessee Grain Inspection Point

Statement of considerations. On June 20, 1977, a notice was published in the FEDERAL REGISTER (42 FR 31178-31179) announcing that (1) the Chattanooga Grain Inspection Department requested that its designation under section 7(f) of the U.S. Grain Standards Act (7 U.S.C. 79(f)) to operate as an official agency at Chattanooga, Tennessee, be canceled, and (2) Richard G. Lyons applied for designation in accordance with the Act and section 26.96 of the regulations (7 CFR 26.96) to operate the official agency at Chattanooga, Tennessee.

Interested persons were given until July 20, 1977, to submit written views and comments on the requested cancellation and/or to make application to become the official agency at Chattanooga, Tennessee.

No comments or additional applications were received with respect to the June 20, 1977, notice in the FEDERAL REGISTER.

After due consideration of all relevant matters, the designation of the Chattanooga Grain Inspection Department to operate as an official agency at Chattanooga, Tennessee, is canceled and Mr. Richard G. Lyons is hereby designated on an interim basis to operate the official agency at Chattanooga, Tennessee.

As a point of clarification, it should be noted that the United States Grain Standards Act (7 U.S.C. 71 et seq.), hereinafter referred to as the Act, has been amended by Public Law 94-582, effective November 20, 1976, to extensively modify the official inspection system. The amended Act provides that the Administrator of the newly created Federal Grain Inspection Service (FGIS), after conducting investigations and other studies, will designate official agencies at the various interior points. In implementing these provisions, FGIS is currently in the process of reviewing the designations of all agencies or persons presently designated to provide official inspection services. The amended Act further provides that existing agencies may continue to operate without a designation under the new law until the Administrator either grants or denies such designation to them or sets a period of time for their termination, not to exceed 2 years from the effective date of the amended Act, provided such agencies pay any required fees to FGIS.

Accordingly, the designation which is the subject of this notice, is on an interim basis and will continue until the Administrator of FGIS either grants or denies an official designation under the amended Act to the recipient or sets a period of time for its termination.

(Sec. 7, 82 Stat. 764, as amended 90 Stat. 2870, 7 U.S.C. 79; Sec. 3A, 90 Stat. 2868, 7 U.S.C. 75a.)

Effective date: This notice shall become effective August 19, 1977.

Done in Washington, D.C., on: August 11, 1977.

D. R. GALLIART,
Acting Administrator.

[FR Doc.77-24111 Filed 8-18-77;8:45 am]

Food Safety and Quality Service

DELEGATION OF AUTHORITIES

By order dated March 14, 1977, notice of which was published in the FEDERAL REGISTER April 18, 1977, (42 FR 20165) the Secretary of Agriculture established the Food Safety and Quality Service in the Department of Agriculture and assigned to it the functions and responsibilities formerly assigned to the Animal and Plant Health Inspection Service relating to meat and poultry inspection activities, including voluntary inspection programs under the Agricultural Marketing Act of 1946, as amended (except with respect to animal byproducts), and functions under the Humane Slaughter Act; and functions and responsibilities formerly assigned to the Agricultural Marketing Service relating to meat and poultry grading and standardization; the inspection and grading of dairy products; standardization and inspection for fresh and processed fruit and vegetable products; and those functions authorized by the Egg Products Inspection Act, by Section 32 of the Act of August 24, 1935, as supplemented by the Act of June 28, 1937, and related legislation.

By order effective July 11, 1977, (42 FR 35626) the Secretary of Agriculture delegated to the Assistant Secretary for Food and Consumer Services certain listed functions and responsibilities.

By order effective July 11, 1977, (42 FR 35631) the Assistant Secretary for Food and Consumer Services delegated to the Administrator, Food Safety and Quality Service, certain of these functions and responsibilities.

For the purpose of providing for the orderly exercise of the functions and responsibilities so delegated to the Administrator, Food Safety and Quality Service, officials occupying positions which were formerly delegated authority to carry out the above stated functions by the Administrator of the Animal and Plant Health Inspection Service and the Administrator of the Agricultural Marketing Service, which were transferred to the Food Safety and Quality Service, are hereby delegated authority on a temporary basis to perform the same functions formerly delegated.

This delegation shall also apply to the successor in office of such persons. All actions heretofore taken by such persons or their successors in accordance with this delegation are hereby ratified.

This action shall become effective upon issuance.

Done at Washington, D.C., this 12th day of August 1977.

ROBERT ANGELOTTI,
Administrator,
Food Safety and Quality Service.

[FR Doc.77-24023 Filed 8-18-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 31212]

BALTIMORE-DETROIT NONSTOP PROCEEDING

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on September 28, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C. before Administrative Law Judge Arthur S. Present.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements

V 42 161 AUG 19 77 UM V

of positions; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before September 6, 1977, and the other parties on or before September 19, 1977. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., August 12, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-24114 Filed 8-18-77;8:45 am]

[Docket 30826]

P.T. MERPATI NUSANTARA AIRLINES

Hearing for Amendment of Foreign Air Carrier Permit

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding is assigned to be held on August 30, 1977, at 9:30 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., August 11, 1977.

MARVIN H. MORSE,
Administrative Law Judge.

[FR Doc 77-24115 Filed 8-18-77; 8:45 am]

[Docket 29487]

TRANSATLANTIC, TRANSPACIFIC AND LATIN AMERICAN SERVICE MAIL RATES INVESTIGATION

Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on September 14, 1977, at 10 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., August 15, 1977.

HENRY M. SWITKAY,
Acting Chief,
Administrative Law Judge.

[FR Doc.77-24116 Filed 8-18-77;8:45 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF AGRICULTURE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary for Land Use Policies and Environmental Matters, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.77 23897 Filed 8-18-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Environmental Protection Agency to fill by noncareer executive assignment in the excepted service the position of Associate Administrator for International Activities, Office of the Administrator.

UNITED STATES CIVIL SERVICE COMMISSION.
JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.77-23898 Filed 8-18-77;8:45 am]

EXPORT-IMPORT BANK

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Export-Import Bank to fill by noncareer executive assignment in the excepted service the position of Senior Vice President—Exporter Credits, Guarantees and Insurance.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.77 23899 Filed 8-18-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

HARDWARE SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, September 7, 1977, at 9 a.m. in Room 3708, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Hardware Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (a) Maintenance of the processor performance tables and further investigation of total systems performance; and (b) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

The Subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that matters to be discussed in Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because Executive Sessions will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee in Executive Session have been properly classified under the Executive Order. All Subcommittee members have appropriate security clearances.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International

Business Administraton, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close meetings or portions of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: August 15, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, United States Department of Commerce.

[FR Doc.77-23967 Filed 8-18-77;8:45 am]

TECHNOLOGY TRANSFER SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Technology Transfer Subcommittee of the Computer Systems Technical Advisory Committee will be held on Thursday, September 8, 1977, at 9 a.m. in Room 3708, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Technology Transfer Subcommittee of the Computer Systems Technical Advisory Committee was initially established on April 10, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Technology Transfer Subcommittee was formed to examine the impact of transferring Automatic Data Processing technology to Communist destinations.

The Subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that matters to be discussed in Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because Executive Sessions will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee in Executive Session have been properly classified under the Executive Order. All Subcommittee members have appropriate security clearances.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close meetings or portions of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: August 15, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, United States Department of Commerce.

[FR Doc.77-23966 Filed 8-18-77;8:45 am]

NORTHWESTERN UNIVERSITY, ET AL.

Application For Duty-Free Entry of Scientific Articles; Correction

In FR Doc. 77-23462 appearing at page 41161 in the FEDERAL REGISTER of August 15, 1977, line 6 is corrected to read: 77-00222 (University of Florida).

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77 24095 Filed 8-18-77;8:45 am]

National Oceanic and Atmospheric Administration

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Public Meetings

Notice is hereby given of public informational meetings to inform the New England fishing industry of the status of catch quotas for cod, haddock, and yellowtail flounder.

Early in 1977 the New England Fishery Management Council held a series of public meetings to receive public comment on proposed fishing quotas for 1977 for these species. The comments received at those meetings were considered in the development of final fishing regulations for cod, haddock and yellowtail flounder.

After the public meetings were held and after the regulations went into effect, the United States and Canada entered into a reciprocal fishing agreement for 1977. As a result of that and other fishing agreements with Canada, the quotas for U.S. fishermen were reduced by significant amounts below those proposed by the Council at the public meetings and incorporated in the Council's groundfish management plan and the Council's proposed groundfish regulations.

The Council therefore will hold public meetings in an attempt to provide full information and explanation to the public on the U.S.-Canadian fishing agreements and the causes of the reduction of U.S. quotas for cod, haddock, and yellowtail flounder. Representatives of the New England Fishery Management Council and the U.S. Department of State will answer all questions that may arise on any issue associated with the quotas for these species, and the U.S.-Canadian fishing agreements. Comments and recommendations from the public on this issue will be welcomed at the meetings.

The meetings will be from 7:30-9:30 p.m. at the following dates and locations:

September 12—Dutch Inn, Great Island Road, Galilee, Rhode Island.
September 13—Holiday Inn, Hathaway Road, New Bedford, Massachusetts.
September 14—New England Aquarium, Central Wharf, Boston, Massachusetts.
September 15—Gloucester City Hall, Dale Avenue, Gloucester, Massachusetts.
September 16—Holiday Inn, 81 Riverside Street, Exit 8, Portland, Maine.
September 19—Federal Building, Corner of Main and Water Streets, Ellsworth, Maine.

Dated: August 15, 1977.

JOSEPH W. SLAVIN,
Acting Associate Director,
National Marine Fisheries Service.

[FR Doc.77-24056 Filed 8-18-77;8:45 am]

V 42 161 AUG 19 77 UM V

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

Public Meeting and Public Hearing Cancellation

Notice is hereby given that the public meeting for the purpose of providing an opportunity for public input and to serve as a factfinding mechanism relative to development of a fishery management plan for the domestic and foreign billfish fishery on August 30, 1977 in Ft. Fisher, North Carolina as announced on July 18, 1977 (42 FR 36857) has been cancelled. Other meetings announced in the cited notice remain unchanged.

Notice is also given that the public hearing for the purpose of providing an opportunity for public comment on a draft environmental impact statement for the proposed implementation of a preliminary fishery management plan for the Atlantic Foreign Pelagic Longline Fshery (billfishes and sharks) scheduled on August 30, 1977 in Ft. Fisher, North Carolina has been cancelled. The hearing notice was published on July 22, 1977 (42 FR 37583). Other hearings announced in the cited notice remain unchanged.

Dated: August 15, 1977.

JOSEPH W. SLAVIN,
Acting Associate Director,
National Marine Fisheries Service.

[FR Doc.77-24057 Filed 8-18-77;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

TEXTILE AGREEMENTS PROGRAM

Review of TSUSA Numbers

August 16, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Review of the Need for Certain 7-Digit TSUSA Numbers in Relation to the Textile Agreements Program.

SUMMARY: The Committee for the Implementation of Textile Agreements, in response to a request from the Chairman, Committee for Statistical Annotation of Tariff Schedules, is developing a list of 7-digit items of the Tariff Schedules of the United States Annotated (TSUSA) which have either insignificant trade or which could be combined without eliminating detailed import data required to implement the bilateral textile agreements.

Published below is a list of the TSUSA numbers which CITA proposes for combination. This list provides a brief description of the item, the applicable textile category, and the 1975 import value. Combinations of the listed TSUSA numbers are designed to reduce annotations in the TSUSA by approximately 175, simplify the entry of textile items, and maintain adequate category coverage under the bilateral textile agreements.

Interested parties are invited to submit their written views and comments concerning these proposals to Mr. Robert E. Shepherd, Chairman of the Committee for the Implementation of Textile Agreements and Deputy Assistant Secretary for Resources and Trade Assistance, Room 3826, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230. All submissions should be made in ten copies. Because of the necessity to incorporate any changes in the 1978 edition of the TSUSA which is now being prepared, such submissions should be received no later than September 1, 1977.

Copies of all written comments received will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, in the Office of Textiles, Room 2815, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

Leonard A. Mobley, Director, Trade Analysis Division, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-4212).

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

TSUSA NUMBERS RECOMMENDED FOR COMBINING DUE TO LOW IMPORT LEVELS

TSUS	Annotation	Description	Category	1975 Imports $1000
336.50		Wool Fabric		
	24	Over 10-12 oz	104	
	26	Over 12 oz	104	
336.55		Wool Fabric		
	24	Over 10-12 oz	104	
	26	Over 12 oz	104	13 / 13
337.50		Wool Fabric		
	12	Over 6-8 oz	104	154
	14	Over 8-10 oz	104	154
	16	Over 10-12 oz	104	
	18	Over 12 oz	104	
	22	Over 6-8 oz	104	36
	24	Over 8-10 oz	104	1 / 5 / 1
	26	Over 10-12 oz	104	5
	28	Over 12 oz	104	13 / 8
338.10		MMF - 17% Wool		
	12	Over 8 oz	210	17
	14	Over 8-10 oz	210	19 / 36
	16	Over 10-12 oz	210	3
	18	Over 12 oz	210	6 / 9
339.10		Other Fabrics		
	20	Paper yarn		1
	40	Other		60 / 61
346.30		Terry Fabrics		
	20	Carded	26	33
	40	Combed	27	11 / 44

TSUSA NUMBERS RECOMMENDED FOR COMBINING DUE TO LOW IMPORT LEVELS

TSUS	Annotation	Description	Category	1975 Imports $1000
351.44		Lace		
	30	Veg. fiber	126	
	40	Wool		
351.46		Lace		
	50	Silk		
	90	Other		
351.50		Lace		
	30	Veg. fiber	126	
	40	Wool		
	50	Silk		
	90	Other		
351.70		Lace		
	40	Wool	126	
	50	Silk		
	90	Other		
351.80		Lace		
	50	Silk		
	90	Other		13 / 13
351.90		Lace		
	10	Cotton	64	1
	30	Veg. fiber		
	40	Wool	126	
	50	Silk		
	90	Other		1
352.10		Netting		
	10	Cotton	64	3
	30	Veg. fiber		3

TSUSA NUMBERS RECOMMENDED FOR COMBINING DUE TO LOW IMPORT LEVELS

TSUS	Annotation	Description	Category	1975 Imports $1000
346.32		Terry Fabrics		
	20	Carded	26	151
	40	Combed	27	19 / 170
346.40		Chenille Fabrics		
	20	Carded	26	71
	40	Combed	27	5 / 76
346.45		Other Pile Fabrics		
	20	Carded	26	9
	40	Combed	27	2 / 11
348.00		Tubular Braids		
	10	Cotton		4
	30	Veg. fiber		
	40	Wool	126	
	50	Silk		2
	90	Other		4 / 10
349.10		Elastic Yarns		
	10	Yarns & cordage	64	27
	12	Other	64	12 / 39
350.00		Webbing		
	10	Cotton	64	
	30	Veg. fiber	126	
	40	Wool		
	90	Other		
351.40		Lace		
	30	Veg. fiber	126	13
	40	Wool		
	50	Silk		
	90	Other		13

V42161 AUG 1977 UM V

TSUSA NUMBERS RECOMMENDED FOR COMBINING
DUE TO LOW IMPORT LEVELS

TSUS	Annotation	Description	Category	1975 Imports $1000
352.20		Netting		
	40	Wool	126	1
	50	Silk		4
	90	Other		8
352.30		Quilling		
	10	Cotton	64	
	30	Veg. fiber		
	40	Wool	126	
	50	Silk		
	60	MMF	213	4
	90	Other		4
352.40		Netting		
	10	Cotton	64	
	30	Veg. fiber		
	40	Wool	64	
	50	Silk		
	60	MMF	213	2
	90	Other		2
352.80		Netting		
	30	Veg. fiber		
	40	Wool	126	
	50	Silk		29
	90	Other		5
				34
353.10		Lace		
	10	Cotton	64	2
	30	Veg. fiber		
	40	Wool	126	
	50	Silk		
	60	MMF	213	1
	90	Other		3

TSUSA NUMBERS RECOMMENDED FOR COMBINING
DUE TO LOW IMPORT LEVELS

TSUS	Annotation	Description	Category	1975 Imports $1000
353.50		Orn. Fabrics, Woven		
	22	Veg. fiber		3
	42	Silk		26
	62	Other		20
				49
353.50		Orn. Fabrics, Knit		
	24	Veg. fiber		
	44	Silk		
	64	Other		
353.50		Orn. Fabrics, Other		
	26	Veg. fiber		1
	46	Silk		1
	66	Other		30
				32
356.10		Oilcloth		
	30	Veg. fiber		
	40	Wool	128	
	60	MMF	213	
	90	Other		
356.15		Tracing Cloth		
	30	Veg. fiber		
	40	Wool	128	
	50	Silk		
	60	MMF	213	
	90	Other		
357.60		Tucked Fabric		
	10	Cotton	64	
	30	Veg. fiber		
	50	Silk		
	90	Other		2

NOTICES

TSUSA NUMBERS RECOMMENDED FOR COMBINING
DUE TO LOW IMPORT LEVELS

TSUS	Annotation	Description	Category	1975 Imports $1000
357.70		Edgings, Etc.		
	30	Veg. fiber		5
	50	Silk		5
	90	Other		12
				22
359.20		Fabrics, N.E.S., Subject to Restraints, Woven		
	21	Cotton	64	
	26	Wool	128	
	31	MMF	213	
	36	Other		358
				358
359.20		Fabrics, N.E.S., Subject to Restraints, Knit		
	41	Cotton	64	
	46	Wool	128	
	51	MMF	213	
	56	Other		5
	60	Other		2
				7
359.30		Fabrics, N.E.S., Wool		
	20	Woven	128	4
	40	Knit	128	
	60	Other	128	
				4
360.		Floor Coverings		
20		Chenille	64	
30		Other	64	52
				52

TSUSA NUMBERS RECOMMENDED FOR COMBINING
DUE TO LOW IMPORT LEVELS

TSUS	Annotation	Description	Category	1975 Imports $1000
361.05		Floor Coverings, Braided		
	22	Cotton	64	
	42	Cotton	64	3
				3
	25	Veg. fiber		22
	45	Veg. fiber		9
	55	Silk		1
	65	Other		2
				44
361.20		Floor Coverings, Other Braided		
	10	Cotton		
	20	Veg. fiber		82
	40	Silk		
	60	Other		10
				92
363.05		Lace Bedding, Veg. Fiber		
	40	Blankets		
	45	Bedspreads		11
	50	Coverlets, etc		
	55	Other		
				11
363.15		Lace Bedding, Wool		
	20	Baby Carriage robes, etc.	104	6
	40	Other	104	21
				27
363.40		Blankets, Cotton & Veg. Fibers		
	20	Jacquard	64	
	40	Other	64	
	60	Veg. Fiber		
363.45		Blankets, Cotton		
	20	Jacquard	64	3
	40	Other	64	82
				85

NOTICES

TSUSA NUMBERS RECOMMENDED FOR COMBINING DUE TO LOW IMPORT LEVELS

TSUS	Annotation	Description	Category	1975 Imports $1000
363.51		Bedspreads, Cotton		
	20	Tufted	36	1
	40	Other	36	1,906
				1,907
363.55		Bedspreads, Cotton		
	20	Tufted	36	1
	40	Other	36	569
				570
363.65		Blankets, Wool		
	20	Baby Carriage Robes, etc.	107	84
	40	Other	106	954
				1,038
363.70		Blankets, Wool		
	20	Baby Carriage Robes, etc.	104	
	40	Other	104	32
				32
365.15		Lace Furnishings, Ov. $50 Lb.		
	10	Cotton	64	
	30	Veg. fiber		
	40	Wool	126	
	50	Silk		
	60	MMF	242	
	90	Other		
365.25		Machine Lace Furnishings		
	10	Cotton	64	
	30	Veg. fiber		
	40	Wool	126	
	50	Silk		
	90	Other		11
				11

TSUSA NUMBERS RECOMMENDED FOR COMBINING DUE TO LOW IMPORT LEVELS

TSUS	Annotation	Description	Category	1975 Imports $1000
365.29		Machine Lace Furnishings		
	30	Veg. fiber		
	40	Wool	126	
365.31		Machine Lace Furnishings		
	10	Cotton		
	50	Silk		
	90	Other		
365.35		Machine Lace Furnishings		
	10	Cotton		
	30	Veg. fiber		3
	40	Wool	126	
	50	Silk		1
	90	Other		5
365.45		Machine Lace Furnishings		
	40	Wool	126	
	50	Silk		
	90	Other		1
				10
365.50		Machine Lace Furnishings		
	30	Veg. fiber		6
	40	Wool	126	
	50	Silk		4
	90	Other		4
				14
365.70		Burnt-Out Lace Furnishings		
	10	Cotton		
	30	Veg. fiber		
	40	Wool	126	
	50	Silk		
	90	Other		

NOTICES

TSUSA NUMBERS RECOMMENDED FOR COMBINING DUE TO LOW IMPORT LEVELS

TSUS	Annotation	Description	Category	1975 Imports $1000
365.75		Lace, Etc.		
	05	H.L. & Folklore		
	30	Veg. fiber		5
	40	Wool	126	
	50	Silk		
	90	Other		3
365.78		Net Furnishings, Lace		
	15	Dish towels	30	
	35	Other		932
				932
370.04		Lace Handkerchiefs		
	20	Cotton	32	
	40	Cotton	32	8
				8
370.16		Lace Handkerchiefs		
	20	Cotton	32	
	40	Cotton	32	40
				40
370.17		Lace Handkerchiefs		
	20	Other		
	40	Other		180
				189
370.		Handkerchiefs		
28		Cotton	32	
32		Cotton	32	1
				1
370.		Handkerchiefs		
40		Cotton	32	2
44		Cotton	32	6
				8

TSUSA NUMBERS RECOMMENDED FOR COMBINING DUE TO LOW IMPORT LEVELS

TSUS	Annotation	Description	Category	1975 Imports $1000
372.08		Veils		
	20	Veg. fibers		
	40	Wool	126	1
	60	Silk		2
	80	Other		3
				6
372.10		Mufflers, Knit		
	15	Veg. fiber		86
	35	Other		3
				89
372.10		Mufflers, Woven		
	45	Veg. fiber		1
	65	Other		7
				8
373.05		Neckties, Orn., Knit		
	15	Veg. fiber		
	35	Other		
373.05		Neckties, Other, Orn.		
	45	Veg. fiber		
	65	Other		1
				1
373.10		Neckties		
	10	Cotton	62	45
	55	Cotton	63	5
				50
373.10		Neckties		
	30	Veg. fiber		
	55	Veg. fiber		2
				2

NOTICES

TSUSA NUMBERS RECOMMENDED FOR COMBINING
DUE TO LOW IMPORT LEVELS

TSUS	Annotation	Description	Category	1975 Imports $1000
373.30		Neckties, Other		
	20	Knit		
	40	Not Knit		1
				1
374.35		Hosiery		
	20	Silk		6
	60	Other		2
				8
378.05		Lace Underwear		
	34	Veg. fiber		
	39	Other		
	55	Veg. fiber		3
	59	Other		3
	62	Cotton	59	
	64	Cotton	59	
	66	MMF	239	
	68	MMF	239	
	73	Veg. fiber		
	74	Wool	125	
	79	Other		10
				10
378.10		Underwear		
	12	Cotton	62	1
	14	Cotton	56	15
	16	Cotton	57	26
	29	Cotton	56	28

TSUSA NUMBERS RECOMMENDED FOR COMBINING
DUE TO LOW IMPORT LEVELS

TSUS	Annotation	Description	Category	1975 Imports $1000
378.10 (Cont.)		Underwear (Cont.)		
	32	Cotton	58	
	34	Cotton	57	47
	36	Cotton	58	6
				123
	50	Veg. fiber		
	60	Veg. fiber		
378.15		Underwear		
	50	Veg. fiber		
	60	Veg. fiber		1
				1
378.20		Underwear		
	12	Cotton	57	104
	18	Cotton	59	1
				104
378.25		Underwear		
	12	Cotton	57	1
	18	Cotton	59	5
				6
378.30		Underwear		
	10	Veg. fiber		
	30	Veg. fiber		
378.65		Underwear		
	12	MMF	239	3
	18	MMF	239	3
				6

NOTICES

TSUSA NUMBERS RECOMMENDED FOR COMBINING
DUE TO LOW IMPORT LEVELS

TSUS	Annotation	Description	Category	1975 Imports $1000
380.05		Other Apparel, Subject to Restraints		
	01	Cotton, knit	62	
	41	Cotton, woven	63	2
				2
	06	Wool, knit	117	
	46	Wool, woven	125	
	16	MMF, knit	224	2
	56	MMF, woven	240	5
				7
385.60		Labels		
	20	Cotton	64	5
	40	Veg. fiber		
				5
385.61		Labels		
	20	MMF, woven	243	1,704
	40	MMF, Other	243	12
				1,716
385.63		Labels		
	20	Silk		4
	40	Other		6
				10
385.80		Corset Lacings		
	20	Cotton	64	
	40	Veg. fiber		
704.05		Gloves, Lace, Subject to Restraints, Woven		
	65	Wool	112	
	75	MMF	214	
	85	Other		

TSUSA NUMBERS RECOMMENDED FOR COMBINING
DUE TO LOW IMPORT LEVELS

TSUS	Annotation	Description	Category	1975 Imports $1000
704.10		Gloves, Lace, Subject to Restraints, Not Woven		
	65	Wool	112	
	85	Other		19
				19
704.15		Gloves, Lace, Subject to Restraints, Other		
	65	Wool	112	
	75	MMF	214	1
	85	Other		
				1
704.50		Gloves, Subject to Restraints, Not Lace		
	65	Wool	112	
	85	Other		

NOTICES

NOTES:
1) Category number specified where applicable.
2) Value of 1975 imports specified where trade exceeded $500 in 1975.

[FR Doc.77-24058 Filed 8-18-77;8:45 am]

ADJUSTING IMPORT RESTRAINT LEVELS FOR CERTAIN COTTON, WOOL AND MAN-MADE FIBER TEXTILE PRODUCTS FROM THE REPUBLIC OF KOREA

Notice

AUGUST 16, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Granting increases for flexibility in Categories 22/23 (twill and sateen) and 238 (trousers, not knit) during the agreement year which began on October 1, 1976.

(A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010), as amended on December 31, 1975 (40 FR 60220), December 30, 1971 (41 FR 56881), January 21, 1977 (42 FR 3888), and March 7, 1977 (42 FR 12898).))

SUMMARY: Paragraph 5(b) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, as amended, between the Governments of the United States and the Republic of Korea, provides, for percentage increases in certain specific category ceilings for flexibility during an agreement year. Pursuant to paragraph 5(b) of the bilateral agreement, as amended, the import restraint levels for Categories 22/23 and 238 are being adjusted for the agreement year which began on October 1, 1976 and extends through September 30, 1977.

EFFECTIVE DATE: August 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert C. Woods, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION: On October 1, 1976, a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the FEDERAL REGISTER (41 FR 43440), which established import restraint levels for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea and exported to the United States during the twelve-month period which began on October 1, 1976. A correction in certain of the levels of restraint was published in the FEDERAL REGISTER on November 5, 1976 (41 FR 48765).

In the letter published below the Commissioner of Customs is directed, in accordance with the provisions of the bilateral agreement, to adjust the twelve-month levels of restraint previously established for Categories 23/23 and 238 to the designated amounts.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

AUGUST 16, 1977.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: On September 29, 1976, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption or withdrawal from warehouse for consumption during the twelve-month period beginning on October 1, 1976 and extending through September 30, 1977 of cotton, wool and man-made fiber textile products in certain specified categories, produced or manufactured in Korea, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to paragraphs 5(b) and 7(a) (ii) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, as amended, between the Governments of the United States and the Republic of Korea, and in accordance with the provisions of Executive Order 11651, you are directed to amend, effective on August 17, 1977, the twelve-month levels of restraint previously established for Categories 22/23 and 238 to the following amounts:

Category:		*Amended 12-mo. level of restraint* [2]
22/23	square yards	3,964,780
238	dozen	221,020

[2] The levels of restraint have not been adjusted to reflect any imports after September 30, 1976.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool and man-made fiber textile products from Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, as amended, between the Governments of the United States and the Republic of Korea which provide, in part, that: (1) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[FR Doc.77-24084 Filed 8-18-77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1977 a commodity to be produced by and a service to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: August 19, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703) 557-1145

SUPPLEMENTARY INFORMATION: On April 22, 1977 and June 24, 1977 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (42 FR 20844) and (42 FR 32288) of proposed additions to Procurement List 1977, November 18, 1976 (41 FR 50975).

After consideration of the relevant matter presented, the Committee has determined that the commodity and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following commodity and service are hereby added to Procurement List 1977:

Class 8470

Headband, Ground Troop, Helmet Liner (IB), 8470-00-153-6671. (For Mechanicsburg, Pa. and Richmond, Va. only.)

SIC 7399

Affix Labels—U.S. Patent Documents (SH), U.S. Department of Commerce, Patent and Trademark Office, Crystal City, Arlington, Va.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-24084 Filed 8-18-77;8:45 am]

PROCUREMENT LIST 1977

Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Deletion from procurement list.

SUMMARY: The Committee has received a proposal to delete from Procurement List 1977 commodities produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: August 19, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher (703) 557-1145

SUPPLEMENTARY INFORMATION: On May 13, 1977 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (42 FR 24302) of proposed deletion from Procurement List 1977, November 18, 1976 (41 FR 50975).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following commodities are hereby deleted from Procurement List 1977:

Class 7920

Brush, Floor Sweeping, 7920-00-238-2442, 7920-00-238-2443, 7920-00-263-9848, 7920-00-292-2366.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-24085 Filed 8-18-77;8:45 am]

PROCUREMENT LIST 1977

Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received a proposal to add to Procurement List 1977 commodities to be produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 22, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION:

This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities to Procurement List 1977, November 18, 1976 (41 FR 50975):

Class 8430

Shoes, Men's Black Oxford (about 22.5% of requirements):

8430-00-559-4136	8430-00-559-4243
8430-00-559-4137	8430-00-559-4244
8430-00-559-4138	8430-00-559-4245
8430-00-559-4139	8430-00-559-4246
8430-00-559-4140	8430-00-559-4247
8430-00-559-4141	8430-00-559-4248
8430-00-559-4142	8430-00-559-4249
8430-00-559-4143	8430-00-559-4250
8430-00-559-4194	8430-00-559-4251
8430-00-559-4195	8430-00-559-4252
8430-00-559-4196	8430-00-559-4253
8430-00-559-4197	8430-00-559-4254
8430-00-559-4198	8430-00-559-4255
8430-00-559-4199	8430-00-559-4256
8430-00-559-4200	8430-00-559-4257
8430-00-559-4201	8430-00-559-4258
8430-00-559-4202	8430-00-559-4259
8430-00-559-4203	8430-00-559-4260
8430-00-559-4204	8430-00-559-4261
8430-00-559-4205	8430-00-559-4262
8430-00-559-4206	8430-00-559-4263
8430-00-559-4207	8430-00-559-4264
8430-00-559-4208	8430-00-559-4265
8430-00-559-4209	8430-00-559-4266
8430-00-559-4210	8430-00-559-4267
8430-00-559-4211	8430-00-559-4268
8430-00-559-4212	8430-00-559-4269
8430-00-559-4213	8430-00-559-4270
8430-00-559-4214	8430-00-559-4271
8430-00-559-4215	8430-00-559-4272
8430-00-559-4216	8430-00-559-4273
8430-00-559-4217	8430-00-559-4274
8430-00-559-4218	8430-00-559-4275
8430-00-559-4219	8430-00-559-4276
8430-00-559-4220	8430-00-559-4277
8430-00-559-4221	8430-00-559-4278
8430-00-559-4222	8430-00-559-4279
8430-00-559-4223	8430-00-559-4280
8430-00-559-4224	8430-00-559-4281
8430-00-559-4225	8430-00-559-4282
8430-00-559-4226	8430-00-559-4283
8430-00-559-4227	8430-00-559-4284
8430-00-559-4228	8430-00-559-4285
8430-00-559-4229	8430-00-559-4286
8430-00-559-4230	8430-00-559-4287
8430-00-559-4231	8430-00-559-4288
8430-00-559-4232	8430-00-559-4289
8430-00-559-4233	8430-00-559-4290
8430-00-559-4234	8430-00-559-4291
8430-00-559-4235	8430-00-559-4292
8430-00-559-4236	8430-00-559-4293
8430-00-559-4237	8430-00-559-4294
8430-00-559-4238	8430-00-559-4295
8430-00-559-4239	8430-00-559-4296
8430-00-559-4240	8430-00-559-4297
8430-00-559-4241	8430-00-559-4298
8430-00-559-4242	

C. W. FLETCHER,
Executive Director.

[FR Doc.77-24036 Filed 8-18-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Availability

The following is a list of environmental impact statements received by the Council on Environmental Quality from August 8 to August 12, 1977. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (October 3, 1977.) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Errett Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 307A, Washington, D.C. 20250, 202-447-6827.

FOREST SERVICE

Draft

Great Bear Wilderness Proposal, Montana, August 8: Proposed is the addition to the wilderness system of two separate units in northwestern Montana: the 289,400 acre western portion is on the Flathead National Forest and the 9,600 acre eastern portion is on the Lewis and Clark National Forest. Both areas are adjacent to the northern boundary of the Bob Marshall Wilderness. The wilderness quality of the Study Area is very high and although most of the Study Area is suitable for wilderness, 26,440 acres are not recommended because of the need for a more manageable wilderness boundary. (ELR Order No. 70959.)

Silvies-Malheur Unit, Malheur, Ochoco National Forest, several counties in Oregon, August 8: Proposed is a land management plan for the Silvies-Malheur Planning Unit in the Malheur and Ochoco National Forests. Approximately 57% of the unit is in Harney County, 43% in Grant County and 5% in Baker County, with the remainder in Crook and Malheur Counties. The Preferred Alternative calls for the allocation of land for purposes of resource management, recreation, and optimum resource management with timber and range emphasis. (ELR Order No. 70963.)

Lower Minam Wilderness Study Area, Oregon, August 12: This statement recommends that the 34,000 acre Lower Minam Wilderness Study Area in the Minam River Drainage area be allocated to a pattern of use as follows: management to maintain scenic quality; management that emphasizes the primitive nature of the Lower Minam; management that protects the Rocky Mountain elk and cougar habitat; timber management; and management that would preserve the values that caused the Minam River to be included in the State Scenic Waterways System. This plan would preserve the area's potential for inclusion in the National Wild and Scenic River System. (ELR Order No. 70989.)

Naches-Tieton-White River Unit Plan, several counties in Washington, August 8: Proposed is a land management plan for the Naches-Tieton-White River Planning Unit within the Snoqualmie and Gifford Pinchot National Forests in King, Pierce, Lewis, Yakima and Kittitas Counties, Washington. The proposed action recommends the allocation of 12,746 acres as Additional Wilderness Study Area; 58,610 acres as Management Units primarily for dispersed recreation; and 420,024 acres for the production of a full range of commodity and amenity values. Adverse effects may be expected in

V 42 161 AUG 19 77 UM

the areas of potential recreation use, potential mineral utilization, and effect on communities. (ELR Order No. 70967.)

Final

St. Francis Unit Plan, Ozark-St. Francis National Forest, Lee and Phillips Counties, Ark., August 11: The proposed action is to manage the 20,946 acre St. Francis Unit, St. Francis National Forest, in accordance with the 10 year management direction continued in the Unit Plan. It is proposed that this Unit be managed for a wide range of multiple-use benefits, including water, wildlife, recreation, range, minerals, and timber. Adverse environmental effects will include soil movement, temporary increases in stream turbidity, and changes in the characteristic landscape. There will be a slightly increased yield of wood products harvested from the unit. Comments made by: TVA, USDA, COE, DOI, DOT, EPA, State agencies, concerned groups, and individuals. (ELR Order No. 70980.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202–377–4335.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Draft

Pacific Billfishes and Sharks—preliminary management plan, August 11: Proposed is a preliminary management plan for Pacific billfishes and sharks to be in effect until superseded by an approved Regional Fisheries Management Council fishery management plan. The proposed action would specify restrictions on the take, possession, and retention of billfishes by foreign fishers fishing in the U.S. Fishery Conservation Zone seaward of the mainland west coast, Hawaii, Guam, and American Samoa. Foreign fishers would be required to obtain from the U.S. a permit for fishing in a manner which could reasonably be expected to result in a taking of billfishes and/or sharks. (ELR Order No. 70978.)

Deletion of Exemption for Harvest of Bowhead Whale, August 11: Proposed is a recommendation by the International Whaling Commission which would delete the native exemption from the Commission's ban on the killing of bowhead whales. Bowhead whales have been completely protected from commercial whaling by the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, and Convention on International Trade in Endangered Species of Wild Fauna and Flora. Conventions and Acts have allowed for native harvest of these whales. Deletion of this native exemption was recommended at the 29th Annual Meeting of the commission. This action will allow for the recovery of the species, if recovery is possible. (ELR Order No. 70987.)

Marine Mammals Incidental to Yellowfin Tuna Purse, August 11: Proposed is the promulgation of amendments to the existing marine mammal regulations which would authorize the issuance of a general permit to allow the take of marine mammals incidental to yellowfin tuna purse seine fishing for a three-year period (1978–1980). Individual porpoise species and stock quotas would be established for U.S. vessels in the regulations for 1987, 1979, and 1980 at progressively decreasing levels. An enforcement policy regarding accidental takings of prohibited species is also proposed in the regulations. (ELR Order No. 70988.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attention: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202–693–6795.

Draft

Kekaha Beach Erosion Control, Kauai, Hawaii, August 8: Proposed is the Kekaha Beach erosion control project, designed to reduce or eliminate erosion of shoreline and damage to the Kaumualii Highway. The alternatives proposed include Protective Beach and Shoreline Revetment. The protective beach plan would provide a beach with berm width of 50 feet and a length of 5,200 feet, and would require using 480,000 cubic yards of sand; the shoreline revetment plan would use 21,500 cubic yards of rock to build a permanent 5,800 foot long revetment. Either alternative would create temporary water turbidity, and traffic and noise inconveniences. (Honolulu District.) (ELR Order No. 70964.)

Bowline Point Generating Station, several counties in New York, August 8: This statement contains an evaluation by the New York District, Corps of Engineers of the environmental impacts of the Bowline Point and Roseton Generating Stations. The District has legal obligations to evaluate the impacts and to determine the appropriate course of action regarding the continued operation of the stations. Alternatives available to the District are 1) to retain unaltered, 2) to modify, 3) to suspend or 4) to revoke the permits issued by the District. Continued operation would result in the release of airborne and waterborne contaminants and the generation of noise and small quantities of solid wastes. (New York District.) (ELR Order No. 70960.)

Arcadia Lake, Deep Fork River (2), Okla., August 9: Proposed is the construction of a multipurpose lake on the Deep Fork River, 1½ miles west of Arcadia, Oklahoma, and six miles east of Edmond. The lake will provide 27,570 acre-feet for conservation storage and 64,430 acre-feet for flood control storage, and after 100 years, 62,510 acre-feet. Water-oriented recreation facilities are also planned. Adverse effects include the acquisition of 6,500 acres in fee which include 3,300 acres in agricultural lands and 3,200 acres of rural homesite lands. (Tulsa District.) (ELR Order No. 70971.)

Final

Little Bay Maintenance Dredging, Aransas County, Tex., August 8: Proposed is the periodic maintenance dredging of the Little Bay, Texas project. The Little Bay project is a shallow draft channel and turning basin in Arkansas Bay adjacent to Fulton, Texas. The project includes a channel 8 feet deep, 200 feet wide, and 1,400 feet long. Adverse effects include the removal or disturbance of mottle and bottom dwelling organisms from the channel, turning basin, and disposal area. (Galveston District.) Comments made by: EPA, DOC, DOI, USDA, DOT, USCG, AHP, State and local agencies. (ELR Order No. 70965.)

DEPARTMENT OF DEFENSE

NAVY

Contact: Mr. Ed Johnson, Head, Environmental Impact Statement/RDT&E Branch, Office of the Chief of Naval Operations, Department of the Navy, Washington, D.C. 20350, 202–697–3689.

Final

AICUZ, NAS Cecil Field OLF Whitehouse Cecil and Clay Counties, Fla. August 10: Proposed is the acquisition in fee of approximately 935 acres of unimproved land and restrictive use easements on approximately 270 acres of land. Both acquisition areas are located adjacent to NAS Cecil Field, north of 103rd St. Also proposed is the acquisition in fee of 97.69 acres of land located within the clear zone at both ends of the runway at OLF Whitehouse. These acquisitions are designed to implement a portion of the Navy's Air Installation Compatible Use Zone Program at NAS Cecil Field and OLF Whitehouse. Comments made by: State and local agencies, concerned groups and individuals. (ELR Order No. 70975.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202–755–6308.

Final

Kensington Park Apartments, Denver Colo., August 8: Proposed is the sale by HUD of Kensington Park Phases I and II in Denver, Colorado. The project, which consists of 32 buildings containing 628 living units, was constructed under mortgages insured by HUD. Concerns regarding disposition are mainly in regard to the development's location within the Denver Air Quality Control Region, which exceeds State and Federal Standards; the lack of storm drainage in Phase II; and the high incidence of sewer backups in Phase I. Comments made by: FEA, COE, USDA, AHP, EPA, State and local agencies. (ELR Order No. 70968.)

Section 104(h)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD.)

Draft

Tarrant County Water Project, Tarrant County, Tex., August 11: Proposed is the Trinity River Authority's Tarrant County Water Project designed to serve Bedford, Euless, Colleyville, Grapevine, and North Richland Hills. Implementation of the proposed project will entail expansion of the existing water treatment plant, along with completion of the following items: raw water storage and booster pump facility; 9 miles of raw water transmission line; 11 miles of treated water transmission line; and approximately 110 acres of right-of-way with 28 acres of easements. Adverse environmental effects include alteration of the land use character, erosion, siltation, sedimentation, noise and air pollution, and public inconvenience. (ELR Order No. 70981.)

Final

Stockton, Calif., West End II Redevelopment, San Joaquin County, Calif., August 8: Proposed is the expansion of the West End Redevelopment Area located in central Stockton. The project would consist of property acquisition, demolition, business and residential relocation, and project improvements. The project site is to be made available for commercial, tourist, and recreational uses in compliance with an overall channel plan as adopted by the city. Adverse impacts of the project include the relocation of residents and businesses and the general decline of the channel (water and aesthetic quality) due to overutilization. Comments made by: EPA. (ELR Order No. 70966.)

Great Alamance Creek Water Supply Project, Alamance and Guilford Counties, N.C., August 9: Proposed is the Great Alamance Creek Water Supply Project, which represents a complete new water supply source and treatment facility for the city of Burlington. The project includes an impoundment dam, a raw water intake and pump station, a water filter plant, finished water

storage facilities and pump station, a finished water transmission main, reservoir construction, and highway and bridge relocation. The major impact will result from the inundation of 1,060 acres of land presently used for agricultural purposes, forest resources, wildlife habitat, and residential development. Comments made by: COE, DOI, USDA, HEW, EPA. (ELR Order No. 70969.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, 202–343–3891.

BUREAU OF LAND MANAGEMENT

Draft

Proposed Foothills Project, several counties of Colorado, August 11: Proposed is the construction, operation, and maintenance of water diversion facilities on federally managed lands on the South Platte River 25 miles southwest of Denver, Colo. as a part of the proposed Foothills Project. The project would also include a water treatment plant with an ultimate capacity of 500 million gallons per day and a conduit distribution system extending into the Denver metropolitan area. Sources of water would include both the South Platte River and the Blue River via Dillon Reservoir and the Harold D. Roberts Tunne. Adverse effects include the loss of 1.7 miles of free-flowing river. (ELR Order No. 70979.)

INTERSTATE COMMERCE COMMISSION

Contact: Mr. Richard I Chais, Chief, Section of Energy and Environment, Room 3378, 12th and Constitution Ave. NW., Washington, D.C. 20423, 202–275–7692.

Draft

Harrison County RR Line, Southern Mississippi Transportation Co., Harrison County, Miss., August 11: Proposed is the granting of authority to the Southern Mississippi Transportation Co. to construct and operate a line of railroad between a connection to an Illinois Central Gulf RR main-line located approximately 1,500 feet south of Interstate Route 10 in Gulfport, Miss., and property of E. I. du Pont de Nemours, Inc., near De Lisle, Miss., a distance of 13.5 miles. While initially being constructed to serve a new Du Pont chemicals plant the line could potentially provide rail access to an undeveloped area of 20,000 acres. Development of the rail line would require the commitment of approximately 200 acres of rural land. (ELR Order No. 70985.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, P–518, Washington, D.C. 20555, 301–492–8446.

Draft

Indian Point Unit No. 3, Cooling System, Westchester County, N.Y., August 9: This statement relates to the selection of the preferred closed cycle cooling system at Indian Point Unit No. 3. Proposed is the issuance of an amendment to the Facility Operating License No. DPR–64 for Indian Point Unit No. 3, which is owned by the Power Authority of the State of New York and operated by the Consolidated Edison Co. This statement considers the information provided in an environmental report dated Jan. 1, 1976, and amendments as well as other information developed by the staff in making its independent evaluation and analysis of alternative closed cycle cooling systems. (ELR Order No. 70970.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202–426–4357.

FEDERAL AVIATION ADMINISTRATION

Final

Kalamazoo Airport, Runway Extension, Kalamazoo County, Mich., August 8: Proposed is runway extension and associated contruction at Kalamazoo Municipal Airport, Mich. The project calls for extension of the north-south runway to a total length of 6,500 feet by adding 800 feet at the north end and 400 feet at the south end of the existing 5,300 foot runway. Plans also include extension of runway and taxiway lighting system, relocation of Instrument Landing System localizer at the north end of the runway, and construction of parallel taxiways to the extended runway segments. Adverse effects include increased noise and air pollution. (240 pages.) Comments made by: USDA, DOC, HUD, EPA, DOI, DOT, COE, AHP, WRC, State and local agencies, concerned groups and individuals. (ELR Order No. 70986.)

Erie International Airport Runway Extension, Erie County, Pa., August 10: Proposed is the construction of a 500 foot x 150 foot flexible pavement extension of Runway 6–24 to the east, Erie International Airport, Pa. Plans also call for the installation of medium intensity runway lighting along the extension, the realignment of Powell Road, and the relocation of threshold lighting at the 24 end of the runway. Adverse effects include the dislocation of 12 families, and the conversion of approximately 3.6 acres of residential property to commercial airport use. Comments made by: DOT, FPC, COE, USDA, HEW, State and local agencies, and interest groups. (ELR Order No. 70972.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

Ofu-Olosega Vehicular Connection, American Samoa, August 11: Proposed is the construction of a vehicular connection between the Islands of Ofu and Olosega, Manus' Island Group, American Samoa. The connection would cross Asaga Strait between Asagatal Point on Ofu and Tamatupa Point on Olosega, a distance of about five hundred feet. The proposed connection is a 2-lane multi-span structure. Adverse effects include increased air, noise, and water pollution and increased vehicular traffic on Olosega Island. There are presently only two vehicles on Olosega Island. (ELR Order No. 70982.)

Sunshine Skyway (I–275) Upgrade, Manatee, Hillsborough, and Pinellas Counties, Fla., August 11: Proposed is the upgrading of the Sunshine Skyway Causeway and Bridges to standards acceptable for the Interstate System beginning 0.5 miles east of the southern toll plaza in Manatee County northward to the vicinity of the north toll plaza, a distance of approximately 10.7 miles. The Sunshine Skyway (U.S. 19), a four-lane divided toll facility, would be upgraded as a part of Interstate 275 by widening and replacing bridges, limiting access, constructing interchanges, providing frontage roads and upgrading the present rest areas to interstate type rest area facilities. Few adverse effects are anticipated. (Region 4) (ELR Order No. 70976.)

Final

U.S.–36 Improvement, Kansas-Missouri State Line West, Brown and Doniphan Counties, Kans., August 10: Proposed is the improvement of U.S.–36, extending from the Kansas-Missouri State Line at St. Joseph, Missouri, to a point one mile east of the Brown-Doniphan County Line and one mile south of the existing U.S.–36. Adverse effects include the removal of 1,600 acres of cropland from production, the acquisition of private residences with resultant displacement of people, and increases in noise and air pollution. Comments made by: USDA, HEW, EPA, DOI, HUD, COE, and State agencies. (ELR Order No. 70973.)

KY 80 (Somerset-London Road), Pulaski & London Co., Pulaski and Laurel Counties, Ky., August 8: The proposed consruction of KY 80, a 4-lane highway, begins near Rockcastle River (Pulaski County) and terminates 4.3 miles eastward near existing KY 80 and Bernstadt (Laurel County). Adverse effects include increased noise levels along the new route, loss of 140 acres of wildlife habitat and some vegetation, displacement of 4 homes, limited erosion and sedimentation during construction, and the relocation of a 30-grave cemetary, and temporary construction disruption. Comments made by: HEW, EPA, DOC, DOI, USDA, ARC, and State agencies. (ELR Order No. 70962.)

South Knoxville Boulevard, U.S. 441 to State Route 158, Knox County, Tenn., August 10: Proposed is the construction of a multilane freeway from Chapman Highway (U.S. Route 441) near the south city limits of Knoxville that would extend through South Knoxville, cross the Tennessee River and connect into the CBD Loop. Project length is approximately five miles. Adverse effects include the commitment of 35 to 45 acres of undeveloped land for right-of-way, and increased concentrations of automobile-produced air pollutants. The proposed facility will displace 191 households and 12 businesses. Comments made by: HUD, DOI, USDA, DOT, HEW, USCG, COE, local agencies and interest groups. (ELR Order No. 70974.)

Supplement

Interchange at U.S. 280 Business 280 U.S. 431(S–2), Russell County, Ala., August 11: Project F–422 is the improvement of U.S. 280 from Opelika to Phenix City in Lee and Russell Counties, a distance of approximately 23 miles. It is the purpose of this supplement to set forth a proposal to acquire sufficient right-of-way at the Phenix City terminus of the project at the present time in order to construct an interchange at some future date. The interchange would be located at the intersection of U.S. 280, Business 280, and U.S. 431 in Phenix City, Alabama. (Region 4) (ELR Order No. 70983.)

I–275 Construction, St. Petersburg (S–1), Pinellas County, Fla., August 11: This statement supplements a final EIS filed with CEQ in 1972. The proposed project involves the construction of a proposed Interstate I–275 (formerly I–75) in St. Petersburg. The project parallels U.S. 19 (State Road 55) from the vicinity of 54th Avenue South Interchange, a distance of approximately 1.2 miles. An approved final EIS/Section 4(f) statement prepared for I–75 allowed for the taking of 11.7 acres of Maximo Park land. Further design studies have indicated that a location avoiding the park land is possible. The segment of Interstate proposed for realignment is approximately 1 mile and is located in the city of St. Petersburg. (ELR Order No. 70977.)

Louisa-Catlettsburg Road (U.S. 23), Boyd and Lawrence Counties, Ky., August 11: This statement supplements a final EIS filed with CEQ in 1973. The supplement was necessary because the northern 4.45 mile portion of the project was excluded from the original EIS to allow time for the area along the

V 42 161 AUG 19 77 UM

proposed relocation to be surveyed by a professional archaeologist. The project consists of the construction of a 4-lane divided highway (U.S. 23) that begins at the White Creek Road (Ky. 757) and extends northward to a terminal point near the junction of existing U.S. 23 and Ky. 3, two miles south of Cattlettsburg. Adverse impacts include the displacement of families, loss of land suitable for wildlife habitat, and construction-related pollution. (ELR Order No. 70984.)

NICHOLAS C. YOST,
Acting General Counsel.

[FR Doc.77 24119 Filed 8-18 77;8:45 am]

DELAWARE RIVER BASIN COMMISSION

COMPREHENSIVE PLAN

Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, August 24, 1977, commencing at 2:00 p.m. The hearing will be held in the Hall of Flags (West) of the Sheraton Hotel, 1725 John F. Kennedy Boulevard, Philadelphia. The subject of the hearing will be applications for approval of the following projects as amendments to the Comprehensive Plan pursuant to Article 11 of the Compact and/or as project approvals pursuant to Section 3.8 of the Compact:

1. *Rohm and Haas Co. (D-75-30).* A cooling water discharge at the company's plant in Philadelphia, Pa. Approximately nine million gallons per day of cooling water will discharge through a series of outfalls to Frankford Creek and directly into the Delaware River.

2. *City of Newark (D-77-15 CP).* A well water supply project to augment public water supplies in the City of Newark, New Castle County, Del. Designated as Wells No. 8 and 9, the two new facilities are expected to produce a combined yield of 198,000 gallons per day.

3. *North Penn Water Authority (D-77-57 CP).* A well water supply project to augment public water supplies in the Authority's service area in Montgomery County, Pa. Designated as NP 14, 42, and 46, one of the new wells is located in Lower Salford Township and two are located in Towamencin Township. The three facilities have an estimated combined yield of 720,000 gallons per day.

4. *Fairmount Park Commission (D-77-40 CP).* Construction of a fishway at Fairmount Dam, Philadelphia, Pa., to provide passage for anadromous and catadromous fish to their natural spawning and rearing areas in the upper Schuylkill River.

5. *The Estaugh T/A Medford Leas (D-77-46).* An increased withdrawal from two existing wells supplying Medford Leas Retirement Community in Medford, Burlington County, N.J. Up to 200,000 gallons per day will be used for irrigation and domestic purposes.

6. *Borough of Bellmawr (D-76-123 CP).* A well water supply project to augment public water supplies in the Borough of Bellmawr, Camden County, N.J. Designated as Well No. 5, the new facility is expected to yield one million gallons per day.

7. *W. L. Wheatley Co., Inc. (D-77-29).* A well water supply project at the company's Campbell Soup plant in Clayton, Kent County, Del. The project involves reconstruction of an existing well that is designed to yield about 500,000 gallons per day.

8. *Artesian Water Co. (D-76-92 CP).* A well water supply project to augment public water supplies in the company's franchise area in Glasgow, New Castle County, Del. Designated as the Caravel Farms well, the new facility is expected to yield 360,000 gallons per day.

9. *Village of Hobart (D-76-94 CP).* A well water supply project to augment public water supplies in the Village of Hobart in Delaware County, N.Y. The new well is expected to yield 190,000 gallons per day.

10. *City of Lewes (D-77-70 CP).* A well water supply project to augment public water supplies in the City of Lewes, Sussex County, Del. Designated as Well No. 1, the new facility is expected to yield 200,000 gallons per day.

11. *West Chester Area Municipal Authority (D-75-19 CP).* An increased surface water withdrawal to augment public water supplies in East Bradford Township and several adjacent municipalities in Chester County, Pa. An average of six million gallons per day will be withdrawn from the East Branch Brandywine Creek.

12. *B. F. Goodrich Co. (D-76-31).* A cooling water discharge at the company's Oaks plant in Upper Providence Township, Montgomery County, Pa. About 3.9 million gallons per day of uncontaminated cooling water is discharged to Perkiomen Creek.

13. *Dow Chemical Company (D-75-128).* A bulk chemical storage and distribution facility proposed to be located on the Delaware River in Bordentown Township, Burlington County, N.J. Construction would involve 65 storage tanks. Pier and marginal berthing facilities would extend a maximum of 500 feet channelward from the existing mean high water line. About 307,000 cubic yards of sand, gravel and river silt would be removed to provide adequate channel depth and berthing area for tankers of up to 36,000 deadweight tons. A draft environmental impact statement on this project has been prepared by the Commission and was released for public review on July 15, 1977. (This project will not be acted upon by the Commission on August 24. It is scheduled for public hearing only.)

Documents relating to the above-listed projects may be examined at the Commission's offices. Persons wishing to testify are requested to notify the Secretary prior to the hearing.

W. BRINTON WHITALL,
Secretary.

AUGUST 10, 1977.

[FR Doc.77-23968 Filed 8-18-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

LOW-HEAD HYDROELECTRIC ENERGY

Public Meeting

The U.S. Energy Research and Development Administration has awarded a contract to the University of New Hampshire to conduct a workshop to identify and assess constraints to the commercial development of low-head hydroelectric resources. The objective of the workshop is to provide advice to the Division of Geothermal Energy, Energy Research and Development Administration, for use in the formulation of an appropriate program of Federal research, development and demonstration.

The workshop, to be held on September 7, 8, and 9, 1977, at the New England Center for Continuing Education, Durham, New Hampshire, is open to the public on a space available basis. The workshop is organized into the following panels: Resource Assessment; Engineering Development; Institutional and Legal Barriers; Environment and Safety; and, Demonstrations.

AGENDA

TUESDAY, SEPTEMBER 6

3:00 p.m.–9:30 p.m., Registration.

WEDNESDAY, SEPTEMBER 7

8:30 a.m., Call to order.
8:40 a.m., Current status of ERDA program.
9:30 a.m., Background Address—David Lilienthal.
10:00 a.m., Status, Canada and Japan.
10:30 a.m.–3:30 p.m., Panel meetings.
3:15 p.m., Status, Europe.

THURSDAY, SEPTEMBER 8

8:30 a.m., General Discussion.
10:15 a.m.–2:00 p.m., Panel Meetings.
2:00 p.m.–5:00 p.m., Visits to hydroelectric sites.

FRIDAY, SEPTEMBER 9

8:30 am.–1:00 p.m., Panel Meetings.
1:15 p.m.–2:45 p.m., General Sessions—presentation of panel reports.
3:30 p.m.–6:00 p.m., Panel chairmen discussion.

SATURDAY, SEPTEMBER 10

9:00 a.m.–11:30 a.m., Panel chairman discussion of workshop reports.

Practical considerations may dictate alterations to the above agenda. This will be a working meeting and the Workshop Chairman and Panel Chairmen are empowered to conduct the general sessions and panel meetings in a manner that in their judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items, scheduled above, the following requirements shall apply:

(a) Persons wishing to submit written statements on agenda items may do so by mailing 12 copies thereof, postmarked no later than September 2, 1977, to the Director, Division of Geothermal Energy, U.S. Energy Research and Development Administration, 20 Masachusetts Avenue N.W., Washington, D.C. 20545. Comments shall be directly relevant to the above agenda items.

(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call on September 2, 1977, to Ms. Betty Kitterman on (202) 376-4581 between 8:30 a.m. and 5:00 p.m. (EDT).

(c) Questions at the general session and panel meetings may be raised by the public only when recognized to do so by the general session chairman or panel chairmen.

(d) Seating to the public will be made available on a first-come, first-served basis.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the workshop, will be permitted before and after each day's activities and during any recess. The use of such equipment will not, however, be allowed during the general sessions or panel meetings.

(f) Copies of the final report prepared by the University of New Hampshire will be available at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue NW., Washington, D.C. 20545, upon payment of all charges required by law.

Dated at Washington, D.C., this 12th day of August 1977.

DONALD A. BEATTIE,
Acting Assistant Administrator for Solar, Geothermal and Advanced Energy Systems.

[FR Doc.77-24096 Filed 8-18-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 779-8 and OPP-42011C]

COMMONWEALTH OF PENNSYLVANIA

State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides; Approval Status

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators to submit a plan for such purpose, subject to approval by the Environmental Protection Agency (EPA). On April 15, 1976, the Pennsylvania State Plan was approved contingent upon promulgation of necessary regulations implementing the legislation. Notice of contingent approval was published in the FEDERAL REGISTER on May 25, 1976 (41 FR 21402). On July 2, 1977, regulations necessary to implement the Pennsylvania legislation were promulgated. Having reviewed these regulations and finding that all requisite legal authorities required by FIFRA and 40 CFR Part 171 are now enacted and promulgated, the Regional Administrator, EPA, Region III, hereby gives notice that the Pennsylvania State Plan is now a fully approved State Plan.

Dated: August 8, 1977.

ALVIN R. MORRIS,
Acting Regional Administrator, Region III.

[FR Doc.77-24121 Filed 8-18-77;8:45 am]

[FRL 779-7 and OPP-40005]

FEDERAL AGENCY CERTIFICATION OF FEDERAL EMPLOYEES TO APPLY RESTRICTED USE PESTICIDES

Intent to Recognize Under Section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act

Notice is hereby given that the Administrator of the Environmental Protection Agency intends to review for approval Federal agency plans for the certification of Federal employees as pesticide applicators. Such plans may be submitted by the heads of Federal agencies pursuant to Section 4(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended [FIFRA] [7 U.S.C. 136b (a)(1)].

I. BACKGROUND

FIFRA, as amended in 1972 and 1975, directs the Administrator to classify certain uses of particularly hazardous pesticides as restricted to use only by "certified" applicators and persons working under their direct supervision. Pesticide products with uses so classified are termed "restricted use pesticides". In addition, the Administrator is directed to establish standards for the "certification" of applicators of restricted use pesticides. Section 4(a)(1) of FIFRA, which requires the Administrator to prescribe these standards, also implicitly authorizes the Administrator to provide for certification of individuals who wish to use restricted use pesticides.

Under Section 4 of FIFRA, the Administrator may approve individal State Plans for the certification of applicators. Similarly, Section 4 may be implemented through Federal certification programs approved by EPA. At this date, the Administrator has approved a number of State certification plans. In addition, the Administrator intends to exercise his authority to review for approval Federal agency plans for certification of Federal employees to use and supervise the use of restricted use pesticides. Such approved certifications, however, will be valid only for Federal employees engaged in the performance of their official duties.

This notice describes the terms and conditions under which EPA will approve the certification programs of other Federal agencies. (For purposes of uniformity of language, such Federal agency certification programs shall be referred to as "Federal agency plans.")

On March 12, 1975, the Agency published in the FEDERAL REGISTER final regulations governing the content of State plans for certification of pesticide applicators (40 FR 11698, codified at 40 CFR 171.7–171.10). Those regulations contain at 40 CFR 171.9 the description of a joint State/Federal mechanism for granting State certification to Federal employees. Under this mechanism, a Government Agency Plan (GAP) was to be developed. Upon completion of the GAP program, a Federal employee would become "qualified." The Federal employee would then use this "qualification" as the basis for State certification, in addition to meeting any other requirements imposed by individual States. Under Section 171.7(e)(4), States with approved certification plans are expected to respond to the GAP within 60 days of its final approval, either by accepting GAP "qualifications" or by describing additional State requirements necessary for State certification.

Although a GAP mechanism was favored under conditions prevailing at the time 40 CFR Part 171 was written, it was nevertheless envisioned that other alternative approaches to Federal employee certification might be developed in the future. The Agency intends to adopt such an alternative approach, partly in response to two Supreme Court decisions which raise questions concerning the Agency's authority under FIFRA to require Federal agency employees to obtain State certification. (*Hancock v. Train*, 426 U.S. 167 (1976), and EPA v. *California*, 426 U.S. 200 (1976).) While Federal employees may still voluntarily obtain a State certification in order to comply with the Federal certification requirement, the Agency now considers it appropriate to accept certifications provided by Federal agencies, provided that the certifying agencies develop certification plans which meet the Federal minimum standards for approval of such programs.

II. APPROVAL CRITERIA FOR FEDERAL AGENCY PLANS TO CERTIFY FEDERAL EMPLOYEES TO USE RESTRICTED USE PESTICIDES

The Administrator, in considering approval of Federal agency plans, or any modification thereof, will weigh the following factors, as well as any additional criteria which may be established in the future.

(a) The standards for determining and attesting to the competence of restricted use pesticide applicators established by the Administrator pursuant to Section 4(a)(1) of FIFRA are codified at 40 CFR 171.1–171.6. These standards apply, as a matter of law, to all applicator certification plans, regardless of whether the certifying authority is the Federal Government or a State. Accordingly, all Federal agency plans for employee certification must satisfy these standards.

(b) It is the position of EPA that requirements for the submission, review and approval of individual Federal agency plans should be essentially equal to, or more stringent than, those requirements which are in effect for review and approval of State plans. Accordingly, the criteria established in 40 CFR Sections 171.7 and 171.8 for submission, approval and maintenance of State plans will be applied, as appropriate, to Federal agency plans.

(c) It is the position of EPA that the Federal government has and should exercise, through its various agencies, the same or equivalent enforcement authorities, in regard to Federal employees, as are expected of States as a condition of State Plan approval under 40 CFR 171.7 (b)(1)(iii)(A)–(E).

In particular, Federal agencies will be expected to exercise the same administrative controls over agency employees as States exercise with regard to private citizens under approved State certification plans. Agencies will be expected, therefore, to give assurances that they will exercise their administrative authority, where appropriate, to deny, suspend or revoke certificates of employees who misuse pesticides, falsify records, or violate relevant provisions of FIFRA.

Similarly, EPA will expect assurances to be given that Federal agency employees will be required to keep and maintain for a period of at least two years routine operational records containing information on kinds, amounts, uses, dates, and places of application of restricted use pesticides.

As Federal agencies will be imposing these administrative controls over agency employees only, no distinct authority, by statute or regulation, is required as

V42161 AUG 1977 UM

in the case of State or Federal regulatory control over private citizens. Such administrative authorities are inherent in the employer-employee relationship.

Such authorities, available to the Federal government in the regulation of Federal employees using restricted use pesticides, are equivalent to those authorities which the Agency expects of States before approving State plans for State regulation of private citizens who use restricted use pesticides. (See 40 CFR 171.7 (b)(1)(iii)(A)-(E)).

(d) Although private contractors who apply restricted use pesticides for Federal agencies are not, as such, Federal employees and do not therefore qualify for certification by Federal agencies, it is expected that Federal agencies will, at the minimum, report instances of pesticide misuse or record falsification to the certifying State agencies for purposes of denial, suspension or revocation of the contractor's State certification, as may be appropriate in each individual case.

(e) In the interest of encouraging cooperative State and Federal efforts toward the control of environmental pollution, EPA restates the policy of Executive Order 11752 as a condition for approval of Federal agency certification plans.

Specifically, under Executive Order 11752, Federal agencies will be expected to adhere to State substantive standards affecting pesticide use. As a condition of EPA approval of agency plans, therefore, other agencies will be asked to provide assurance of their intent to comply with State substantive requirements.

In determining whether a given State requirement is procedural or substantive, EPA will arbitrate any differences of opinion between a State and a certifying agency over the question whether a given State requirement is substantive in nature or merely procedural.

III. Approval Procedures

If any Federal agency, at any time, desires to certify its own employees to apply restricted use pesticides in the conduct of official duties, the head of that Agency may submit a Plan for that purpose to the Administrator of EPA for approval. If the Administrator determines that an agency plan for the certification of its employees as pesticide applicators meets the criteria set forth in this notice, he will publish a notice of intent to approve such an agency plan in the Federal Register. In keeping with Agency policy to give notice and to seek public comment prior to approval of State certification plans, the Administrator also intends to seek public comment prior to final approval of Federal agency plans.

IV. Public Comment

The Administrative Procedure Act [5 U.S.C. 553(b)] provides that the solicitation of comments is not required of Federal agencies for "interpretative rules, general statements of policy, or rules of agency organization, procedure or practice." EPA has determined that this Notice falls within this exemption from the requirement to solicit public comment. Accordingly, the Agency is not soliciting public comment regarding matters published in this notice.

However, interested persons may submit written comments regarding the policy set forth herein to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Three copies of all comments should be submitted to facilitate the work of the EPA and others interested in inspecting such documents. All comments filed pursuant to this Notice will be available for public inspection in the Federal Register Section, Office of Pesticide Programs, from 8:30 a.m. to 4 p.m., Monday through Friday.

Dated: August 12, 1977.

Douglas M. Costle,
Administrator.

[FR Doc.77-24120 Filed 8-18-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Public Law 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

The 7th meeting of RTCM Special Committee No. 70: "Minimum Performance Standards (MPS)—Marine Loran-C Receiving Equipment" was originally scheduled for Thursday, September 1. A Technical Specifications Working Group meeting had been scheduled for Wednesday, August 31.

Both meetings (September 7 and September 8) have been cancelled. The 7th meeting of Special Committee No. 70 and the Working Group meeting will be held on September 8 and September 7 respectively. Details of these rescheduled meetings follow.

Special Committee No. 70 "Minimum Performance Standards (MPS)—Marine Loran-C Receiving Equipment," notice of 7th meeting, Thursday, September 8, 1977—10 a.m. (all-day meeting), Conference Room (second floor), U.S. Coast Guard Marine Inspection Office, Battery Park Building, Battery Park at South Ferry, New York, New York.

Technical Specs Working Group, full-day meeting, September 7, 10 a.m. Same location as September 1 meeting.

Agenda

1. Call to Order; Chairman's Report.
2. Confirmation of Secretary; Adoption of Agenda.
3. Acceptance of SC-70 Summary Records.
4. Reports on Work Assignments.
5. Approval of Receiver Specifications.
6. Other Business.
7. Establishment of possible meeting date.

Captain Alfred E. Fiore, Chairman, SC-70, U.S. Merchant Marine Academy, Kings Point, New York 11024. Phone: 516-482-8200.

To comply with the advance notice requirements of Public Law 92-463, a comparatively long interval of time occurs between publication of this notice and the actual meeting. Consequently, there is no absolute certainty that the listed meeting room will be available on the day of the meeting. Those planning to attend the meeting should report to the room listed in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Agendas, working papers, and other appropriate documentation for the meeting is available at that meeting. Those desiring more specific information may contact either the designated Chairman or the RTCM Secretariat. Phone 202-632-6490.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees and the final report is approved by the RTCM Executive Committee. All RTCM meetings are open to the public. Written statements are preferred but by previous arrangement, oral presentations will be permitted within time and space limitations.

Federal Communications Commission,
Vincent J. Mullins,
Secretary.

[FR Doc.77-24071 Filed 8-18-77;8:45 am]

[Docket No. 21310; RM-1847; RM-1984; RM-2742]

FM QUADRAPHONIC BROADCASTING

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments to a Notice of Inquiry concerning FM quadraphonic broadcasting. Consumer Electronics Group of the Electronic Industries Association states the additional time is necessary so that it can develop a response to the various questions raised in this proceeding.

DATES: Comments must be filed on or before December 16, 1977, and reply comments must be filed on or before January 16, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

In the Matter of FM Quadraphonic Broadcasting (Docket No. 21310, RM-1847, RM-1984, RM-2742), an *Order extending time for filing comments and reply comments.*

Adopted: August 12, 1977.

Released: August 16, 1977.

By the Chief, Broadcast Bureau:

1. On June 22, 1977, the Commission adopted a Notice of Inquiry in the above-entitled proceeding. The dates for filing comments and reply comments are September 15, and October 17, 1977, respectively.

2. On August 5, 1977, the Consumer Electronics Group of the Electronic Industries Association ("EIA CEG") filed a request seeking a 90-day extension of time for filing comments and reply comments.

3. EIA CEG states that a critical aspect of the response will deal with subjective considerations for quadraphonic sound. EIA/CEG notes that the National Quadraphonic Radio Committee reported the results of subjective listening tests, as did the Commission's Laboratory Division. It adds that because of the relationship of subjective considerations to the initial objective of the Notice, which is to determine if there is sufficient interest to warrant the Commission's adoption of additional standards for quadraphonic broadcasting, preparation of the EIA/CEG response will be extremely difficult to begin until the Commission's report has been evaluated and the test results compared with those of the National Quadraphonic Radio Committee. It states that to develop a response will take a length of time which cannot be predicted with accuracy.

4. We are of the view that the public interest would be served by this extension so that EIA/CEG may file any information which may be helpful to the Commision in resolving the issue before it.

5. Accordingly, it is ordered, That the dates for filing comments and reply comments in Docket 21310 are extended to and including December 16, 1977, and January 16, 1978, respectively.

6. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amedned, and Section 0.281 of the Commission's Rules.

Federal Communications Commission,
Wallace E. Johnson,
Chief, Broadcast Bureau.

[FR Doc.77-24117 Filed 8-18-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of July 29 Through August 5, 1977

Notice is hereby given that during the week of July 29 through August 5, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

Eric J. Fygi,
Acting General Counsel.

August 12, 1977.

Appendix.—*List of cases received by the Office of Exceptions and Appeals, week of July 29 through Aug. 5, 1977*

Date	Name and location of applicant	Case No.	Type of submission
July 29, 1977	Beacon Oil Co., Hanford, Calif. (If granted: Beacon Oil Co. would receive an exception from 10 CFR 211.67 and would be permitted to include crude oil blended to fuel at their Hanford Refinery in their runs to stills.	FEE-4458	Allocation exception (211.67).
Do	Damson Oil Corp., Houston, Tex. (If granted: Damson Oil Corp. would receive an extension of the relief granted in the FEA's Feb. 24, 1977, decision and order and Damson Oil Corp. would be permitted to sell 100 bpd of the crude oil produced from the city of Los Angeles lease No. 135 (Venice Beach lease) at upper tier ceiling prices for the benefit of the working interest owners.)	EXE-4461	Extension of the relief granted in *Damson Oil Corp.*, 5 FEA par. 83,073 (Feb. 24, 1977).
Do	Texas Gas Exploration Corp., Houston, Tex. (If granted: Texas Gas Exploration Corp. would receive an exception which would permit the firm to recover in future prices those revenues which it did not recover during the period Jan. 1, 1975, to Feb. 28, 1977, because of its interpretation of the May 15 transaction prices for propane.)	EEE-4440	Price exception (212.54(c)(1)(K)).
Aug. 1, 1977	American Hoeclist Corp., Delaware City, Del. (If granted: American Hoeclist Corp. would be assigned a new, lower priced supplier of propane to replace its base period supplier, Pyrofax Gas Corp.)	EEE-4458	Exception to change suppliers.
Do	Little America Refining Co., Washington, D.C. (If granted: The FEA's June 28, 1977, decision and order would be rescinded and Little America Refining Co. would not be required to purchase entitlements that are equal in value to $73,250 during the period July 1, 1977, through June 30, 1978.)	FXA-1411 FES-1411	Appeal of the FEA's decision and order in *Little America Refining Co.*, 6 FEA par. ------ (June 28, 1977). Stay request.
Do	Little America Refining Co., Washington, D.C. (If granted: Little America Refining Co. would receive an extension of the relief granted in the FEA's Mar. 11, 1977, decision and order and would continue to receive a reduction in the value of entitlements which the firm is required to purchase.)	FXE-4462	Extension of the relief granted in *Little America Refining Co.*, 5 FEA par. 83,063 (Mar. 11, 1977).
Do	M. J. Mitchell, Dallas, Tex. (If granted: The FEA's July 8, 1977, decision and order would be rescinded and M. J. Mitchell would be permitted to sell the crude oil produced from the Mitchell State Mamelsa sand unit in the South Rozet field, Campbell County, Wyo., at upper tier ceiling prices.)	FXA-1410	Appeal of the decision and order in *M. J. Mitchell*, 6 FEA par. ------ (July 8, 1977).
Do	Texaco, Inc., Los Angeles, Calif. (If granted: Texaco, Inc., would be permitted to sell crude oil produced from platform A in the Cook Inlet, Alaska, at exempt prices on a retroactive basis.)	EEE-4457	Price exception (212.73).
Aug. 2, 1977	Berry Holding Co., Fresno, Calif., (If granted: Berry Holding Co. would receive a stay of the refund requirements as stated in the remedial order issued by FEA region IX on June 10, 1977, pending a determination on its appeal.	FRS-1394	Stay of the remedial order issued by FEA region IX on June 10, 1977.
Do	Department of Defense, Washington, D.C. (If granted: The FEA's May 7, 1976, decision and order would be modified to increase the Department of Defense's pricing flexibility with regard to its retail sales of motor gasoline.)	FMR-0118	Modification of the decision and order in *Department of Defense*, 3 FEA par. 87,021 (May 7, 1976).
Do	Joint Venture (Grand Coulee field), Atlanta, Ga. (If granted: Joint Venture would be permitted to sell the crude oil produced from the Lester Reed unit, Grand Coulee field in Acadia Parish, La., at upper tier ceiling prices.)	FEE-4465	Price exception (sec. 212.73).
Do	MacKellar, Inc., Oklahoma City, Okla. (If granted: MacKellar, Inc., would receive an extension of time in which to fulfill the requirements of the FEA's June 8, 1977, decision and order.)	FEX-0179	Supplemental order in *MacKellar, Inc.*, 5 FEA par. ------ (June 8, 1977).
Do	P&M Petroleum Management, Denver, Colo. (If granted: P&M Petroleum Management would be permitted to sell crude oil produced from the Track lease, Tule Creek south field in Roosevelt County, Mont., at upper tier ceiling prices.)	FEE-4464	Price exception (sec. 212.73).
Do	San Joaquin Refining Co., Newport Beach, Calif. (If granted: The FEA would review the entitlements exception relief which was granted to San Joaquin Refining Co. during its 1977 fiscal year in order to determine whether the level of exception relief approved was appropriate.)	FEX-0180	Entitlements review.
Do	Sun Gas Co., Dallas, Tex. (If granted: The FEA's June 30, 1977, decision and order would be rescinded and Sun Gas Co. would receive an additional increase in its prices to reflect nonproduct cost increases in excess of $0.0635/gal for natural gas liquid products produced at its Mayfield plant.)	FXA-1412	Appeal of the FEA's decision and order in *Sun Gas Co.*, 6 FEA par. ------ (June 30, 1977).
Aug. 3, 1977	Coline Gasoline Corp. (If granted: Coline Gasoline Corp. would receive an extension of the exception relief approved in the FEA's Mar. 22, 1977, decision and order and would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at its Rincon plant.)	FXE-4463	Extension of the relief granted in *Coline Gasoline Corp.*, case No. FXE-3895 (decided Mar. 22, 1977) (unreported decision).

V 42 161 AUG 19 77 UM V

Date	Name and location of applicant	Case No.	Type of submission
Aug. 4, 1977	Barber Oil Exploration, Inc., Houston, Tex. (If granted: Barber Oil Exploration, Inc., would be permitted to sell crude oil produced from the Condon-Federal lease located in Mae field, Campbell County, Wyo., at upper tier ceiling prices for the benefit of the working interest owners.)	FEE-4469	Price exception (sec. 212.-73).
Do	El Paso Natural Gas Co., El Paso, Tex. (If granted: El Paso Natural Gas Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at its Jal, Midkiff, and San Juan processing plants.)	FEE-4466—FEE-4468	Price exception (sec. 212.-169).
Aug. 5, 1977	Temneco Oil Co., Houston, Tex. (If granted: The FEA's July 15, 1977, decision and order would be modified and the Temneco Oil Co. would be permitted to sell additional quantities of crude oil at upper tier ceiling prices.)	FEX-0181	Supplemental order.
Do	Colonial Oil Co., Jacksonville, Fla. (If granted: The FEA's July 8, 1977, decision and order would be rescinded and the Colonial Oil Co. would receive an extension of relief granted in an Apr. 7, 1977, decision and order which would permit the firm to be assigned a new, lower priced supplier of motor gasoline to replace its base period supplier, American Petrolina, Inc.)	FXA-1409	Appeal of decision and order in *Colonial Oil Co.*, 6 FEA par. ——— (July 8, 1977).

[FR Doc.77-23844 Filed 8-18-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Issuance of Notice of Effectiveness To Make Effective Previously Issued Prohibition Order

Pursuant to Section 2 of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), 15 U.S.C. 791 et seq., and 10 CFR 303.37(d), the Federal Energy Administration (FEA) hereby gives notice that on August 5, 1977, it issued a Notice of Effectiveness making effective the Prohibition Order previously issued on June 30, 1975 (40 FR 28430, July 3, 1975), to the below listed powerplants. The Notice of Effectiveness was issued under the authorities granted to FEA by Section 2 of the Energy Supply and Environmental Coordination Act of 1974, as amended, and pursuant to 10 CFR Parts 303 and 305.

Docket No.	Owner	Powerplant number	Generating station	Location
OFU-020 OFU-021 OFU-022	Kansas Power and Light Co.	3, 4, and 5	Lawrence	Lawrence, Kans.

The Prohibition Order issued by FEA on June 30, 1975, to the above listed powerplants prohibits the powerplants from burning natural gas or petroleum products as their primary energy source. In accordance with the requirements of 10 CFR Parts 303 and 305, however, the order provided it would not become effective until FEA had considered the environmental impact of the order and until FEA had served the affected powerplants with a Notice of Effectiveness.

Subsequent to issuance of the Prohibition Order, FEA performed an analysis pursuant to 10 CFR 305.9 and 208.3, of the environmental impact of the issuance of the Notice of Effectiveness, including an assessment of the EPA Certification dated November 19, 1976, pursuant to Section 119(d)(1)(B) of the Clean Air Act, that December 31, 1977, was the earliest date that powerplants Number 3 and 5 could burn coal and comply with the applicable regional limitation, and that November 30, 1977, was the earliest date that powerplant Number 4 could burn coal and comply with the applicable regional limitation. That analysis resulted in a determination that it is clear that issuance of the Notice of Effectiveness making this Prohibition Order effective is not a "major Federal action significantly affecting the quality of the human environment" within the meaning of Section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C). Public notice of the negative determination and of the availability for inspection of this analysis was given in the FEDERAL REGISTER published July 1, 1977, in accordance with 10 CFR 208.4(c) and 208.15(a).

Upon completion of this environmental analysis, FEA issued a Notice of Effectiveness of the June 30, 1975, Prohibition Order to the above listed powerplants and served the Notice on the powerplants by registered mail on the same day. The Notice makes effective the Prohibition Order prohibiting the powerplants from burning natural gas or petroleum products as their primary energy source.

Any person aggrieved by the now effective Prohibition Order may file an appeal with the FEA Office of Exceptions and Appeals in accordance with 10 CFR Part 303, Subpart H. The appeal shall be filed within 30 days after service of the Notice of Effectiveness. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of Part 303, and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Application may be made for modification or rescission of the Prohibition Order in accordance with the provisions of 10 CFR Part 303, Subpart J. An application for modification or rescission of a Prohibition Order based on "significantly changed circumstances," which circumstances occurred during the interval between issuance of the order and service of the Notice of Effectiveness, shall be filed within 30 days of service of such Notice. An application for modification or rescission of a Prohibition Order based on significantly changed circumstances occurring after that interval may be filed at any time after service of the Notice of Effectiveness.

All terms and conditions of the Prohibition Order and the Notice of Effectiveness may be the subject of either an appeal or an application for modification or rescission.

The order made effective by this Notice of Effectiveness is effective against any persons that, as of the date of service of such Notice, own, lease, operate, or control the above listed powerplants and against any successors-in-interest or assignees of such persons.

The above listed powerplants have been served the Notice of Effectiveness by registered mail. In addition, copies of the document will be available for inspection by any interested members of the public at the FEA public docket room located in Room B-120, 2000 M Street NW., Washington, D.C., from 1-5 p.m., Monday-Friday. Copies will also be available in the appropriate FEA regional office. The negative determination and environmental analyses are available upon request from the FEA National Energy Information Center, Room 1404, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of the documents are also available for public review in the FEA Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C.

Any questions regarding this notice should be directed to the Director, Office of Coal Utilization, Federal Energy Administration, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. 20461. (202) 566-7941.

Issued in Washington, D.C., August 15, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.24059 Filed 8-18-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Issuance of Notice of Effectiveness To Make Effective Previously Issued Prohibition Order

Pursuant to Section 2 of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), 15 U.S.C. 791 et seq., and 10 CFR 303.37(d), the Federal Energy Administration (FEA) hereby gives notice that on August 5, 1977, it issued a Notice of Effectiveness making effective the Prohibition Order previously issued on June 30, 1975 (40 FR 28430, July 3, 1975), to the below listed powerplants. The Notice of Effectiveness was issued under the authorities granted to FEA by Section 2 of the Energy Supply and Environmental Coordination Act of 1974, as amended, and purusant to 10 CFR Parts 303 and 305.

Docket No.	Owner	Powerplant number	Generating station	Location
OFU-005 OFU-006	Iowa Power and Light Co.	11 and 10	Des Moines	Des Moines, Iowa.

The Prohibition Order issued by FEA on June 30, 1975, to the above listed powerplants prohibits the powerplants from burning natural gas or petroleum products as their primary energy source. In accordance with the requirements of 10 CFR Parts 303 and 305, however, the order provided it would not become effective until FEA had considered the environmental impact of the order and until FEA had served the affected powerplants with a Notice of Effectiveness.

Subsequent to issuance of the Prohibition Order, FEA performed an analysis pursuant to 10 CFR 305.9 and 208.3, of the environmental impact of the issuance of the Notice of Effectiveness, including an assessment of the EPA Notifications dated December 22, 1975, for Number 11 and March 9, 1976, for Number 10 pursuant to Section 119(d)(1)(B) of the Clean Air Act, that these powerplants could burn coal immediately and comply with all applicable air pollution requirements. That analysis resulted in a determination that it is clear that issuance of the Notice of Effectiveness making this Prohibition Order effective is not a "major Federal action significantly affecting the quality of the human environment" within the meaning of Section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C). Public notice of the negative determination and of the availability for inspection of this analyis was given in the FEDERAL REGISTER published May 6, 1977, in accordance with 10 CFR 208.4(c) and 208.15(a).

Upon completion of this environmental analysis, FEA issued a Notice of Effectiveness of the June 30, 1975, Prohibition Order to the above listed powerplants and served the Notice on the powerplants by registered mail on the same day. The Notice makes effective the Prohibition Order prohibiting the powerplants from burning natural gas or petroleum products as their primary energy source.

Any person aggrieved by the now effective Prohibition Order may file an appeal with the FEA Office of Exceptions and Appeals in accordance with 10 CFR Part 303, Subpart H. The appeal shall be filed within 30 days after service of the Notice of Effectiveness. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of Part 303, and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Application may be made for modification or rescission of the Prohibition Order in accordance with the provisions of 10 CFR Part 303, Subpart J. An application for modification or rescission of a Prohibition Order based on "significantly changed circumstances," which circumstances occurred during the interval between issuance of the order and service of the Notice of Effectiveness, shall be filed within 30 days of service of such Notice. An application for modification or rescission of a Prohibition Order based on significantly changed circumstances occurring after that interval may be filed at any time after service of the Notice of Effectiveness.

All terms and conditions of the Prohibition Order and the Notice of Effectiveness may be the subject of either an appeal or an application for modification or rescission.

The order made effective by the Notice of Effectiveness is effective against any persons that, as of the date of service of such Notice, own, lease, operate, or control the above listed powerplants and against any successors-in-interest or assignees of such persons.

The above listed powerplants have been served the Notice of Effectiveness by registered mail. In addition, copies of the document will be available for inspection by any interested members of the public at the FEA public docket room located in Room B-120, 2000 M Street NW., Washington, D.C., from 1-5 p.m., Monday-Friday. Copies will also be available in the appropriate FEA regional office. The negative determination and environmental analyses are available upon request from the FEA National Energy Information Center, Room 1404, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of the documents are also available for public review in the FEA Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C.

Any questions regarding this notice should be directed to the Director, Office of Coal Utilization, Federal Energy Administration, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461. (202) 566-7941.

Issued in Washington, D.C., August 15, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-24060 Filed 8-18-77;8:45 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to Part 542 of Title 46 CFR and Section 311(p)(1) of the Federal Water Pollution Control Act, as amended.

V 42 161 AUG 19 77 UM

Certificate No.	Owner/operator and vessels
01019---	HAGB. WAAGE: *Raila, Radny, Ranja, Synia, Songa.*
01077---	H. M. Wrangell & Co. A S: *Hoegh Meling.*
01255---	Skjelbreds Rederi A/S: *Pytheas.*
01229---	Belships Co. Ltd. Skibs A/S: *Belnor.*
01306---	Shaw Savill & Albion Co.: *Amalric.*
01361---	Transportacion Maritima Mexicana, S.A.: *Gina Maria.*
01423---	Charente Steamship Co. Ltd.: *Discoverer, Statesman, Philosopher.*
01426---	Kuwait Shipping Co. (S.A.K.): *Al Solaibiah, Ibn Battotah, Ibn Al Nafees, Al Kadisiah, Ibn Duraid, Al Farwaniah, Ibn Hayyan, Al Mubarakiah, Ibn Al-Athcer, Ibn Al Haitham, Ibn Alroomi.*
01439---	Cory Maritime Ltd.: *Corchester.*
01574---	Fearnley & Eger: *Fernriver.*
01637---	Sidarma Societa Italiana di Armamento S.P.A.: *Enrico Dandolo.*
01713---	Egeria S.P.A.—Palermo: *Egeria.*
01819---	King Line Ltd.: *King William.*
01890---	A/S Billabong: *Star Dieppe.*
01935---	Partnership Between Steamship Company Sverdborg Ltd. and Steamship Co. of 1912 Ltd.: *Lexa Maersk, Leda Maersk, Prima Maersk.*
01982---	AB Svenska Ostasiatiska Kompaniet: *Hirado.*
02194---	Compagnie Generale Maritime: Fort Josephine, *Fort Trinite.*
02253---	Aktieselskabet Ocean: *Dagfred.*
02457---	John Swire & Sons Ltd.: *Eriskay.*
02458---	The China Navigation Co. Ltd.: *Chengtu.*
02508---	Taiyo Gyogyo K.K.: *Azuma Maru No. 26.*
02601---	Caraibische Sheepvaart Maatschappli N.V.: *Toloa, Talamanca.*
02734---	Italia Societa per Azioni di Navigazione: *Cristoforo Colombo.*
02836---	The Scindia Steam Navigation Co. Ltd.: *Jalavikram, Jaljawahar.*
02877---	Nippon Yusen K.K.: *Saikyo Maru, Takachiho Maru.*
03136---	Transeastern Shipping Corp.: *Transeastern.*
03163---	Saint Elrene Maritime Co. Ltd.: *St. Fotini.*
03215---	Rederiaktiebolaget Salenia: *Argonaut.*
03234---	Primula Compania Naviera S.A.: *Virginia.*
03436---	Lino Kaiun K.K.: *Toyosu, Toyosu Maru.*
03453---	Kyosei Kisen K.K.: *Seizan Maru.*
03482---	Ryutsu Kaiun K.K.: *Mikata Maru.*
03484---	Sanko Kisen K.K.: *Hazel Prosperity.*
03489---	Sanwa Shosen K.K.: *Shinko Maru.*
03508---	Taiyo Gyogyo K.K.: *Azuma Maru No. 14, Azuma Maru No. 18, Azuma Maru No. 21, Naniwa Maru, Nisshin Maru.*
03613---	Western Transportation Co.: *No. 35.*
03632---	A/S Turid: *Mildrid.*
03658---	Ocean Tankships Corp. New York: *Overseas Natalie.*
03717---	Warrior & Gulf Navigation Co.: *D-6, D-5, D-4, D-3, D-2, D-1.*
04050---	A/S Uglands Rederi: *Senorita.*
04161---	A & S Transportation Co.: *Witwater II.*
04228---	Compagnie Maritime Belge (Lloyd Royal) S.A.: *Mineral Ougree.*
04253---	Marine Tankers Inc.: *Nepco Energy.*
04255---	Nepco Dauntless Corp.: *Nepco Dauntless.*
04289---	Dixie Carriers, Inc.: *B-27.*
04768---	Texaco Overseas Tankship Ltd.: *Texaco Newcastle.*
04803---	Brent Towing Co., Inc.: *Magnolia.*
04874---	Bana Navigation Co., Ltd.: *Bana Grande.*
04884---	Hall Corp. Shipping Ltd.: *Bay Transport, River Transport, Inland Transport, Coniscliffe Hall, Scotiacliffe Hall.*
04933---	The Revilo Corp.: *Revillo No. 5.*
04939---	Panocean Shipping & Terminals Ltd.: *Post Rover.*
05027---	Westwind Africa Line Ltd.: *Sophie C.*
05092---	Esso Belgium S.A.: *Esso Ghent, Esso Antwerp.*
05732---	Tank Masters, Inc.: *Mildred.*
05847---	Lundeberg Maryland Seamanship School, Inc.: *Defiant.*
05930---	Onepark Shipping Co. Ltd.: Troll River.
05998---	Navarino Shipping & Transport Co. Ltd.: *Tenacity.*
06064---	Trailer Marine Transport Corp.: *TMT San Juan, TMT Puerto Rico.*
06165---	Soponata-Sociedade Portuguesa De Navios Tanques, Limitada, *Dondo.*
06435---	Dampskibsaktieselskabet Den Norske Afrika-OG Australielinie, Wilhelmsens Dampskibsaktieselskabet A/S Tonsberg, A/S Tankfart I, A/S Tankfart IV, A/S Tankfart V, A/S Tankfart VI: *Tarantel.*
06493---	Lockheed Shipbuilding & Construction Co.: *Columbia, Sugar Islander.*
06586---	Tabard Shipping Co.: *Olympic Defender.*
07075---	Federal Off-Shore Services Ltd.: *Federal 7.*
07326---	Universal Marines Lines Inc., S.A.: *Universal King.*
07550---	Erato Shipping Inc.: *Narcissus.*
07623---	Hawaiian Tug and Barge Co., Ltd.: *HTB-33, HTB-29, HTB-27, HTB-35, HTB-9, HTB-10, HTB-39, HTB-35.*
07832---	William B. Patton Towing Co.: *PC-2901, PC-2902.*
08222---	Rail and Water Terminal (Quebec) Inc.: *Mont St. Martin.*
08329---	Compania Naviera Aguila S.A. de C.V.: *Morazan.*
08529---	Partrederiet Nopal Sand: *Nopal Sand.*
08818---	Venus Carriers Corp. S.A.: *Rose Acacia.*
08929---	Elmo Navigation, Inc.: *Stolt Victor.*
09279---	Transmarittima Sarda Italnavi Flotte Riuntie S.P.A.: *Bonassola.*
09283---	New Northern Processors, Inc.: *Aleutian Fjord.*
09285---	Statheros Shipping Corp. of Monrovia, Liberia: *Statheros.*
09335---	Petro Barge, Inc.: *Offshore Fueler.*
09385---	Leland Towing Corp.: *Mary Jane, Joey Kulbeth, Glenda S.*
09389---	Triangle Shifting and Fleeting Service Inc.: *ST-122, TC-17, ST-123.*
09505---	Sung Yang Fisheries Co., Ltd.: *No. 2 Sung Yang, No. 1 Sung Yang.*
09618---	Ernest C. Schindler: *LCT-55, LCT-54.*
09671---	I/S 422: *Jorgen J. Lorentzen.*
09760---	Amoco Transport Co.: *Ocean Challenger.*
10252---	Taiwan Maritime Transportation Co., Ltd., *Triumph No. 1.*
10318---	Tolmiros Shipping Corp.: *Tolmiros.*
10561---	Loong Hwa Shipping Co., S.A.: *Loong Hwa.*
10699---	Sagitario Internacional S.A.: *Maria Monica.*
11111---	Trade Wind Marine Ltd. of Cayman Island: *Aquamar.*
11287---	Carlton Steamship Co. Ltd.: *Federal 400-1.*
11357---	Universe Star Shipping Co. Ltd.: Good Explorer.
11427---	S.I.T.R.O.M.—Sicula Transporti Oil Minerali S.P.A.: *Centuripe.*
11466---	Lee-Vac, Ltd.: *Tide-Mar 21.*
11527---	International Carrier Steamship Co., Ltd.: *Incas Mary.*
11767---	Interessentskapet Wind Enterprise: *Wind Enterprise.*
11810---	Brinknes Schiffahrts-Gesellschaft Franz Lange G.m.b.H. & Co. KG: *Midiboy.*
12292---	St. Christopher Maritime Inc.: *St. Christopher.*
12586---	Amer-Yhtyma Oy: *Finnamer.*
12626---	Reunion Tanker Corp.: *Reunion.*
12674---	All Trading Co., Ltd.: *Linda.*
12852---	Sun Eagle Marine Maritime S.A.: *Sun Deneb.*
12923---	*Stork Marine Corp.: Sanko Hope.*

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-24090 Filed 8-18-77;8:45 am]

COSTA LINE, INC. AND ITALIA CROCIERE INTERNAZIONALI S.P.A.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Filed Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573 by September 8, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement, (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed for Approval by:

Mr. R. J. Lanzoni, Costa Line, Inc., 245 Park Avenue, New York, New York 10017.

Agreement No. 10074 between Costa Line, Inc. and Italia Crociere Internazionali S.p.A. provides for the appointment by Italia Crociere Internazionali S.p.A. of Costa Line, Inc. as its General Passenger Agent in the United States, Canada and Mexico, for its vessel, the T/S *Leonardo da Vinci*, to perform services enumerated in the Agreement under covenants, conditions and terms set forth in the Agreement. Among other things, the Agreement provides for the spacing of sailings of their passenger vessels from the United States and foreign ports and publication of sailing schedules, rate sheets, advertising and promotional material relating to the *Leonardo da Vinci* in her service.

By order of the Federal Maritime Commission.

Dated: August 15, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-24087 Filed 8-18-77;8:45 am]

CITY OF RICHMOND, CALIF. AND MATSON TERMINALS, INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by September 8, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Captain Thomas R. Eddy, Port Director, City of Richmond, City Hall, Richmond, California 94804.

Agreement No. T-3501, between the City of Richmond, California, (Port) and Matson Terminals, Inc., (Matson) provides for Matson to operate and manage the Port's container terminal to be constructed and equipped by the Port at the south end of 10th Street, Richmond, California. The agreement provides for a term of ten years (with an additional 10-year renewal option). Matson will collect and pay the Port all charges assessed in accordance with the Port's container terminal tariff. All expenses incurred in and revenues derived from the operation of the container terminal shall be shared by the Port and Matson as outlined in the agreement.

Matson will collect and pay to the Port revenues derived from: (1) Tariff charges assessed against vessel and merchandise for facilities, equipment, and services provided or performed by the Port and Matson as outlined in the agreement; (2) terminal tariff charges for wharfage, dockage, wharf demurrage, wharf storage and charges for equipment used to provide terminal services; (3) container handling charges, including charges for equipment used in container handling; and (4) investment income earned from investment by Matson of amounts received from customers under paragraph 2.b(3)(f) of the agreement. If container handling expenses exceed container handling revenues under the agreement, the Port will reimburse Matson for the excess expenses.

The rates named by the Port in the tariff shall be published after consultation with Matson and shall be established from time-to-time at levels intended to cover the expenses and the management fee designated in the agreement. Agreement No. T-3501 supersedes FMC Agreement No. T-3379, as amended by T-3379-1.

By Order of the Federal Maritime Commission.

Dated: August 16, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-24090 Filed 8-18-77;8:45 am]

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSE

Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to Section 44(a) of the Shipping Act, 1916, (Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Aurora Laura Thompson, 9133½ East Haven, Houston, TX 77075.

Jose Garcia de los Salmones, 2335 Northwest 27th Avenue, Miami, FL 33942.

Unitrans International Corporation, 9450 South La Cienega Blvd., Bldg. 8, Inglewood, CA 90301. Officers: Fred E. Saxer, President, H. Rudy Ehrat, Vice President, John B. Laviaguerre, Vice President, Richard E. Segesser, Vice President, Harold H. Kitay, Director.

Kopak, Incorporated, 4471 N.W. 36th Street, Room 227, Miami Springs, FL 33166. Officer: John A. Knowles, President.

Continental Crating & Forwarding, Inc., 9821 Clinton Drive, Houston, TX 77029. Officers: Randall H. Kerth, President, Judith L. Kerth, Secretary.

Edward R. Thomas, 109-45 124th Street, Jamaica, NY 11420.

Jan Shipping Co. (Jean Catanzaro, dba), 2343 E. 29th Street, Brooklyn, NY 11229.

By the Federal Maritime Commission.

Dated: August 16, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-24089 Filed 8-18-77;8:45 am]

FEDERAL RESERVE SYSTEM

CRYSTAL STATE AGENCY, INC.

Acquisition of Bank

Crystal State Agency, Inc., Minneapolis, Minnesota, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 94.1 percent of the voting shares of Wayzata Bank and Trust Company, Wayzata, Minnesota. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 12, 1977.

Board of Governors of the Federal Reserve System, August 15, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-24043 Filed 8-18-77;8:45 am]

FIRST NATIONAL FINANCIAL CORP.

Acquisition of Bank

First National Financial Corporation, Kalamazoo, Michigan, has applied for the Board's approval under § 3(a)(5) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(5)) to merge with American Bankcorp, Inc., Lansing, Michigan. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

V 42 161 AUG 19 77 UM

The application may be inspected at the offices of the Board of Governors of the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 12, 1977.

Board of Governors of the Federal Reserve System, August 15, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-24044 Filed 8-18-77;8:45 am]

FLORIDA COAST BANKS, INC.

Correction

In FR document 77-23001 appearing at page 40484 of the issue for Wednesday, August 10, 1977, the location of Florida Coast Bank of South Palm Beach County, N.A., should have read Boca Raton, Florida.

Board of Governors of the Federal Reserve System, August 12, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-24045 Filed 8-18-77;8:45 am]

KELLY FIELD BANCSHARES CORP.

Formation of Bank Holding Company

Kelly Field Bancshares Corporation, San Antonio, Texas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of Kelly Field National Bank of San Antonio, San Antonio, Texas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 17842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 6, 1977.

Board of Governors of the Federal Reserve System, August 12, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-24046 Filed 8-18-77;8:45 am]

REPUBLIC BANCORPORATION, INC.

Formation of Bank Holding Company

Republic Bancorporation, Inc., Englewood, Colorado, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of Republic National Bank of Englewood, wood, Englewod, Colorado. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 11, 1977.

Board of Governors of the Federal Reserve System, August 15, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-24048 Filed 8-18-77;8:45 am]

ROYAL TRUST CO. AND ROYAL TRUST BANK CORP.

Acquisition of Bank

The Royal Trust Company, Montreal, Quebec, Canada, and its wholly-owned subsidiary, Royal Trust Bank Corp., Miami, Florida, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 51 percent or more of the voting shares of The American Bank of Orange County, Orlando, Florida. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 9, 1977.

Board of Governors of the Federal Reserve System, August 12, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.24049 Filed 8-18-77;8:45 am]

UNITED MISSOURI BANCSHARES, INC.

Proposed Acquisition of United Missouri Insurance Company

United Missouri Bancshares, Inc., Kansas City, Missouri, has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire voting shares of United Missouri Insurance Company, Phoenix, Arizona, a proposed de novo subsidiary. Notice of the application was published on July 3, 1977, in The Kansas City Star, a newspaper circulated in Kansas City, Missouri.

Applicant states that the proposed subsidiary would engage in the activity of underwriting, as reinsurer, credit life and credit disability insurance in connection with extensions of credit by the bank holding company's subsidiaries in Missouri. Such activity has been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statemcnt summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 12, 1977.

Board of Governors of the Federal Reserve System, August 15, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-24047 Filed 8-18-77;8:45 am]

FEDERAL TRADE COMMISSION

CIGARETTE TESTING RESULTS

Tar and Nicotine Content

Correction

In FR Doc. 23362 appearing at page 41180 in the issue for Monday, August 15, 1977 in the table, in the column for milligrams per cigarette of nicotine, the entry for "Kent, 100mm, filter, menthol" now reading "1.2" should read "1.1".

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on August 11 and 12, 1977 (FCC), and August 15, 1977 (FMC). See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC and FMC requests are invited from

all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before September 6, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL COMMUNICATIONS COMMISSION

The FCC requests clearance of an extension no change reinstatement of Form 336, Report of Overseas Telecommunications Circuit Traffic. Form 336 is required by Section 43.61 of the Commission's Rules and Regulations. Common carriers engaged in furnishing telecommunications service between the United States and overseas points must file this form annually. The FCC estimates there are approximately nine respondents and that burden averages 30 hours per response.

The FCC requests clearance of an extension no change reinstatement of Form 349-L, Application for an FM Booster Station License. Form 349-L is required by Section 325(a) of the Communications Act of 1934, as amended, and Section 1.536 of the FCC Rules and Regulations. The form is used by applicants applying for an FM Broadcast Booster Station. FM radio broadcast stations are authorized only to licensees or permittees of FM radio broadcast stations whose signals the booster station will rebroadcast. A license for an FM broadcast translator station may be issued to any qualified individual, organized group of individuals, broadcast station licensee, or local civil government body. The FCC estimates approximately two applications are received anually and that reporting budden averages one and one-half hours per response.

The FCC requests clearance of an extension no change reinstatement of Form 349-P, Application for Authority to Construct or Make Changes in an FM Booster Station. Form 349-P is required by Sections 1.531 and 1.533 of the Commission's Rules and Regulations. The form is used by applicants applying for authority to construct or make changes in an FM Booster Station. The FCC estimates approximately two applications are filed annually and that reporting burden averages 14 hours per application.

The FCC requests an extension no change reinstatement of Form 349-R, Application for Renewal of FM Booster Station License. Form 349-R is required by Section 1.539 of the Commission's Rules and Regulations. The form is used for renewing FM Booster Station Licenses. The FCC estimates approximately one application is received annually and that reporting burden averages seven hours per application.

FEDERAL MARITIME COMMISSION

The FMC requests an extension without change clearance of General Order 15 (46 CFR 533). Filing of Tariffs by Terminal Operators, which requires every person performing marine terminal services in connection with common carriers by water to file with the Commission a schedule or tariff showing all its rates, charges, rules, and regulations relating to or connected with the receiving, handling, storing, and/or delivering of property at its terminal facilities.

The information is used by the Commission to fulfill its regulatory responsibility by keeping informed of the practices, rates and charges instituted by terminal operators, and by keeping the public informed of such practices. The FMC estimates that there is a universe of approximately 570 respondents filing 11 tariff pages per year, with an estimated reporting burden of 15 minutes per page.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-24069 Filed 8-18-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Notice of Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory bodies scheduled to assemble during the month of September 1977:

MENTAL HEALTH SMALL GRANT COMMITTEE

Date and time: September 22-24, 1 p.m.
Place: The Oak Room and Parlor A, Burlington Hotel, 1120 Vermont Avenue, NW., Washington, D.C.
Type of Meeting: Open—September 22, 4-5 p.m. Closed—Otherwise.
Contact: Mary E. Enyart, Room 10C-14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4337.
Purpose: The Committee is charged with the initial review of small grant applications for Federal assistance in all disciplines relevant to the National Institute of Mental Health and for small grant projects submitted for support to the other Institutes of the Alcohol, Drug Abuse, and Mental Health Administration, and makes recommendations to the National Advisory Councils of the respective Institutes for final review.
Agenda: From 4 p.m. to 5 p.m., on September 22, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

SOCIAL SCIENCES TRAINING REVIEW COMMITTEE

Date and time: September 29-30; 9 a.m.
Place: Conference Room B, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Type of meeting: Open—September 29, 9-11 a.m. Closed—Otherwise.
Contact: Barbara Friedland, Room 9C-09, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3857.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to social science training and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 a.m. to 11 a.m., September 29, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact person listed above. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mr. Edwin Long, Deputy Director, Division of Scientific and Public Information, NIMH, Room 15-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3600.

Dated: August 12, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77-23848 Filed 8-18-77;8:45 am]

Food and Drug Administration

[Docket No. 77N-0188; DESI 5597]

COMBINATION DRUG CONTAINING MEPROBAMATE AND ASPIRIN

Drugs for Human Use; Drug Efficacy Study Implementation

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice states the conditions for marketing the combination drug product containing meprobamate 200 milligrams and aspirin 325 milligrams for the indication for which it is regarded as effective, and allows for the submission of abbreviated new drug applications.

V42161 AUG 19 77 UM

DATE: Supplements to approved new drug applications due on or before October 18, 1977.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 5597, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Supplements (identify with NDA number): Division of Neuropharmacological Drug Products (HFD-120), Rm. 10B-34, Bureau of Drugs.

Original abbreviated new drug applications or supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

William R. Durbin, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857. (301-443-3650).

SUPPLEMENTARY INFORMATION: In a notice (DESI 5597) published in the FEDERAL REGISTER of July 10, 1974 (39 FR 25375), the Director of the Bureau of Drugs announced the agency's conclusion that the following reformulated product is effective in providing additional relief of pain not obtained when aspirin is administered alone, and additional relief of anxiety or tension.

NDA 11-702; that part pertaining to Equagesic-M Tablets containing meprobamate and aspirin; Wyeth Laboratories, Division of American Home Products Corp., P.O. Box 8299, Philadelphia, Pa. 19101.

Wyeth Laboratories had supplemented its new drug application to provide for reformulated Equagesic-M Tablets containing meprobamate 200 milligrams and aspirin 325 milligrams. This product was approved on April 22, 1975, through the supplemental new drug application procedures. Based on all data and information available, the Director concludes that an abbreviated new drug application is acceptable for such a product, as stated below.

Other notices concerning ethoheptazine citrate alone and in combination with meprobamate and aspirin will be published in the FEDERAL REGISTER at a later date.

The notice that follows pertains only to the combination product containing meprobamate 200 milligrams and aspirin 325 milligrams.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical to the drug product named above. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufacturers or distributes that may be identical to the drug product named in this notice by writing to the Food and Drug Administration, Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indication in the labeling conditions below.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug is in tablet form suitable for oral administration.

2. *Labeling conditions.* (a) The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

(b) The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indication is as follows:

As an adjunct in the short-term treatment of pain accompanied by tension and/or anxiety in patients with musculoskeletal disease. Clinical trials have demonstrated that in these situations, relief of pain is somewhat greater than with aspirin alone.

3. *Marketing status.* (a) Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before October 18, 1977, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)), and (iii) bioavailability/bioequivalence data obtained from dissolution testing of the product using the U.S.P. XIX method for meprobamate tablets.

(b) Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Such abbreviated new drug application is required to contain data obtained from dissolution testing of the product using the U.S.P. XIX method for meprobamate tablets. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: August 5, 1977.

CARL M. LEVENTHAL,
Acting Director Bureau of Drugs.

[FR Doc.77-23851 Filed 8-18-77;8:45 am]

[Docket No. 76N—0211; DESI 13295]

MEGLUMINE IOTHALAMATE AND SODIUM IOTHALAMATE INJECTIONS

Drugs for Human Use; Drug Efficacy Study Implementation; Announcement

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice classifies meglumine iothalamate and sodium iothalamate injections as effective for their labeled indications, and sets forth the conditions for marketing the drugs for those indications. The drugs are used as diagnostic agents.

DATES: Supplements to approved NDA's due on or before October 18, 1977.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 13295, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Supplements (identify with NDA number): Division of Oncology and Radiopharmaceutical Drug Products (HFD-150), Rm. 17B-34, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, (301-443-3350).

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of July 9, 1966 (31 FR 9426), each holder of a new drug application that became effective prior to October 10, 1962, was requested to submit to the Food and Drug Administration reports containing the best data available in support of the effectiveness of each such product for the claimed indications. That information was needed to facilitate a determination by the Food and Drug Administration, with the assistance of the National Academy of Sciences-National Research Council (NAS-NRC), whether each claim in the labeling is supported by substantial evidence of effectiveness, as required by the Drug Amendments of 1962. The sponsor of Conray and Angio-Conray described below, submitted clinical data in support of effectiveness prior to the July 9, 1966 notice but did not respond to that notice and thus these products were not reviewed by NAS-NRC. The data were reviewed by FDA and found to provide substantial evidence of effectiveness.

NDA 13-295; Conray Injection, containing meluminе iothalamate 60 percent; and

NDA 13-319; Angio-Conray Injection, containing sodium iothalamate 80 percent; both marketed by Mallinckrodt Pharmaceuticals, Division Mallinckrodt Inc., 2nd and Mallincrodt Sts., St. Louis, Mo. 63147.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufacturers or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Division of Drug Labeling Compliance at the address given above.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drugs are effective for the indications in the labeling conditions below.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drugs are in sterile aqueous solution form suitable for parenteral administration.

2. *Labeling conditions.* (a) The labels bears the statement. "Caution: Federal law prohibits dispensing without prescription."

(b) The drugs are labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The indications are as follows:

Meglumine iothalamate: For use in intravenous urography, cerebral angiography, peripheral arteriography, and venograph.

Sodium iothalamate: For use in angiocardiography and aortography.

3. *Marketing status.* (a). Marketing of such drug products which are now subject of an approved or effective new drug application may be continued provided that, on or before October 18, 1977, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide full updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)).

(b) Approval of an abbreviated new drug application (21 CFR 314.1(f)), must be obtained prior to marketing such products. The applications shall contain full information with respect to items 6 (components), 7 (composition) and 8 (methods, facilities, and controls) of new drug application form FD-356H (31 CFR 314.1(c)). Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: August 8, 1977.

CARL M. LEVENTHAL,
Acting Director Bureau of Drugs.

[FR Doc.77-23852; Filed 8-18-77;8:45 am]

[Docket No. 75N-0184; DESI 597 et al.]

CERTAIN DRUG PRODUCTS CONTAINING AN ANTICHOLINERGIC/ANTISPASMODIC IN COMBINATION WITH A SEDATIVE/TRANQUILIZER; ANTISPASMODIC DRUGS ALONE

Notice of Opportunity For Hearing on Proposal To Withdraw Approval of New Drug Applications

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: The Director of the Bureau of Drugs proposes to withdraw approval of certain drug products for which the sponsors have neither provided substantial evidence of effectiveness nor complied with the conditions for continued marketing while additional studies are undertaken.

DATES: Any request for a hearing must be submitted on or before September 19, 1977. In support of such request, all data and information relied upon to justify a hearing must be submitted on or before October 18, 1977.

ADDRESSES: Communications forwarded in response to this notice should be identified with the appropriate DESI number, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Request for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Robert H. Hahn, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20852, (301-443-3650).

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of November 11, 1975 (40 FR 52644), the Commissioner of Food and Drugs specified the conditions under which certain drug products containing an anti-spasmodic drug alone and certain drug products containing an anticholinergic/antispasmodic in combination with a sedative tranquilizer, may remain on the market pending completion of scientific studies to determine effectivness. The notice required that protocols for studies to determine effectiveness be submitted to the Division of Cardio-Renal Drug Products (HFD-110), Bureau of Drugs on or before February 9, 1976. The notice stated that failure of any manufacturer or distributor of such drug products, whether or not his drug is the subject of a new drug application, to comply with the requirements of the notice or to progress satisfactorily toward completion of his studies will result in regulatory action to remove the drug from the market.

The holders of the new drug applications listed below under the respective DESI notices with which they are associated are not in compliance with the notice of November 11, 1975 in that they either failed to submit the required protocols or later decided not to pursue the studies further. Accordingly, these products are no longer eligible to remain on the market pending completion of scientific studies to determine effectiveness.

V 42 16 1 AUG 19 77 UM

DESI 597 (37 FR 15026; JULY 27, 1972)

The notice of July 27, 1972, classified these products as lacking substantial evidence of effectiveness for certain indications and possibly effective for their other labeled indications. No data supporting effectiveness having been submitted, all indications now lack substantial evidence of effectiveness. The notice below offers opportunity for a hearing concerning them.

NDA 8-910; Tricoloid and Phenobarbital Tablets, containing tricyclamol chloride 50 mg and phenobarbital 16 mg; formerly marketed by Burroughs Wellcome & Co., Inc., 3030 Cornwallis Rd., Research Triangle Park, NC 27709.

NDA 0-597; Phenobarbital and Atropine Tablets, containing phenobarbital ¼ grain and atropine sulfate 1/150 grain; The Vale Chemical Co., Inc., 1201 Liberty St., Allentown, PA 18102.

NDA 9-427; That part of the NDA pertaining to Piptal-PHB Tablets, containing pipenzolate bromide 5 mg and phenobarbital 16 mg; Merrell-National Laboratories, Division of Richardson-Merrell, Inc., Cincinnati, OH 45215.

NDA 8-919; That part of the NDA pertaining to Co-Elorine 100 Pulvules containing tricyclamol chloride 100 mg and amobarbital 16 mg; formerly marketed by Eli Lilly & Co., P.O. Box 618, Indianapolis, IN 46206.

NDA 9-288; Centrine Tablets with Phenobarbital, containing aminopentamide sulfate 0.5 mg and phenobarbital 15 mg; formerly marketed by Bristol Laboratories, Division of Bristol-Myers Co., P.O. Box 657, Syracuse, NY 13201.

NDA 8-885; Centrine Elixir with Phenobarbital, containing in each 5 cc, aminopentamide sulfate 0.5 mg and phenobarbital 20 mg; formerly marketed by Bristol Laboratories.

NDA 7-390; That part of the NDA pertaining to Banthine with Phenobarbital Tablets containing methantheline bromide 50 mg and phenobarbital 15 mg; formerly marketed by G. D. Searle & Co., P.O. Box 5110, Chicago, IL 60680.

NDA 9-032; Monomeb Tablets, containing penthienate bromide 5 mg and mephobarbital 32 mg; formerly marketed by Winthrop Laboratories, 90 Park Ave., New York, NY 10016. The firm has requested that approval of the application be withdrawn.

NDA 4-298; Metropine with Phenobarbital Tablets, containing methylatropine nitrate 1 mg and phenobarbital 15 mg; formerly marketed by Pennwalt Prescription Products Division; 755 Jefferson Rd., Rochester, NY 14623. The firm has requested that approval of the application be withdrawn.

NDA 12-741; Nactisol Tablets, containing poldine methylsulfate 4 mg and sodium butabarbital 15 mg; formerly marketed by McNeil Laboratories, Inc., Camp Hill Rd., Fort Washington, PA 19034.

NDA 6-471; That part of the NDA pertaining to Profenil Phenobarbital Tablets, containing alverine citrate 120 mg and phenobarbital 15 mg; Chemical Management Services, Division of Chemetron Corp., 111 E. Wacker Dr., Chicago, IL 60601.

NDA 8-492; That part of the NDA pertaining to Antrenyl-Phenobarbital Tablets, containing oxyphenonium bromide 5 mg and phenobarbital 15 mg; Ciba Pharmaceutical Co., Division of Ciba-Geigy Corp., 556 Morris Ave., Summit, NJ 07901.

NDA 10-599; That part of the NDA pertaining to Tral with Phenobarbital Tablets, containing hexocyclium methylsulfate 25 mg and phenobarbital 15 mg; Abbott Laboratories, 14th and Sheridan Rd., N. Chicago, IL 60064.

NDA 8-942; That part of the NDA pertaining to Pamine PB Tablets, containing methscopolamine bromide 2.5 mg and phenobarbital 15 mg; The Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49002.

NDA 6-098; That part of the NDA pertaining to Trocinate with Phenobarbital Tablets, containing thiphenamil hydrochloride 100 mg and phenobarbital 16 mg; formerly marketed by Wm. P. Poythress & Co., Inc., Box 26946, Richmond, VA 23261.

DESI 4681 (35 FR 16422; OCTOBER 21, 1970)

The notice of October 21, 1970, classified this product as lacking substantial evidence of effectiveness for certain indications and possibly effective for its other labeled indications. No data support effectiveness having been submitted, all indications now lack substantial evidence of effectiveness. The notice below offers the opportunity for a hearing concerning them.

NDA 8-829; Prantal with Phenobarbital Tablets, containing diphemanil methylsulfate 100 mg and phenobarbital 16 mg; Schering Corp., 1011 Morris Ave., Union, NJ 07083.

DESI 10837 (36 FR 11875; JUNE 22, 1971)

The notice of June 22, 1971, classified this product as possibly effective for certain indications and lacking substantial evidence of effectiveness for its other labeled indications. No data supporting effectiveness having been submitted, all indications now lack substantial evidence of effectiveness. The notice below offers the opportunity for hearing concerning them.

NDA 12-070; Daritran Tablets, containing oxyphencyclimine hydrochloride 5 mg and meprobamate 250 mg; formerly marketed by Pfizer Laboratories, Division Pfizer, Inc., 235 E. 42d St., New York, NY 10017. The firm has requested that approval of the application be withdrawn.

DESI 3265 (INITIAL NOTICE PUBLISHED JUNE 18, 1971; 36 FR 11754; AND FOLLOWUP NOTICE PUBLISHED NOVEMBER 11, 1975; 40 FR 52649)

Both of the notices offered opportunity for hearing concerning the indications classified therein as lacking substan evidence of effectiveness. With one exception, no person requested a hearing and those indications are no longer allowable in labeling, and the notice of opportunity for hearing below does not concern those indications. Knoll Pharmaceutical Co. requested a hearing concerning the migraine headache indication for Octin (NDA 6-420) and may continue to use that indication in labeling pending resolution of the request for hearing. In that no data were submitted supporting the effectiveness of following drugs for the indications classified as probably effective in the followup notice of November 11, 1975, those indications now lack substantial evidence of effectiveness. (One study of the effectiveness of thiphenamil in diarrhea was submitted. This was not, however, a study of the irritable bowel syndrome; moreover, the results did not show a statistically significant benefit of thiphenamil and cannot be used to support effectiveness.) The notice below offers the opportunity for a hearing concerning them.

NDA 5-695; That part of the NDA pertaining to Profenil Tablets, containing alverine citrate 120 mg; Chemical Management Services, Division of Chemetron Corporation.

NDA 6-098; That part of the NDA pertaining to Trocinate Tablets, containing thiphenamil hydrochloride 100 mg; Wm. P. Poythress and Co., Inc.

NDA 6-420; Octin Tablets, containing isometheptene mucate 2 gr, and Octin Solution, containing isometheptene hydrochloride 100 mg per cc; Knoll Pharmaceutical Co., 30 North Jefferson Rd., Whippany, NJ 07981.

ANDA 80-634; Spacolin Tablets, containing alverine citrate 120 mg; Philips Roxane Laboratories, Inc., 330 Oak St., Columbus, OH 43216.

ANDA 83-179; Dicyclomine Hydrochloride Capsules, 10 mg; Bolar Pharmaceutical Co., Inc., 130 Lincoln St., Copiaqui, NY 11726.

ANDA 84-361; Dicyclomine Hydrochloride Tablets, 20 mg; Bolar Pharmaceutical Co., Inc.

ANDA 83-860; Dicyclomine Hydrochloride Capsules, 10 mg; J. Davis Laboratories, Inc., 433 Commercial Ave., Palisades Park, NJ 07650.

ANDA 83-924; Dicyclomine Hydrochloride Tablets, 20 mg; J. Davis Laboratories, Inc.

ANDA 84-285; Dicyclomine Hydrochloride Capsules, 10 mg; The Lannett Co., Inc., 9000 State Rd., Philadelphia, PA 19136.

ANDA 84-600; Dicyclomine Hydrochloride Tablets, 20 mg; Barr Laboratories, Inc., Northvale, NH 07647.

ANDA 84-505; Dicyclomine Hydrochloride Capsules, 10 mg; Barr Laboratories, Inc.

ANDA 85-082; Dicyclomine Hydrochloride Capsules, 10 mg; Chelsea Laboratories, Inc., Inwood, NY 11696.

ANDA 85-223; Dicyclomine Hydrochloride Tablets, 20 mg; Chelsea Laboratories, Inc.

ANDA 84-347; Dicyclomine Hydrochloride Capsules, 10 mg; Danbury Pharmacal, Inc., 131 West St., Danbury CN 06810.

ANDA 84-479; Dicyclomine Hydrochloride Syrup, 10 mg per 5 cc; National Pharmaceutical Manufacturing Co., Inc., 4128 Hayward Ave., Baltimore, MD 21215.

On the basis of all of the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5) and 21 CFR 300.50 demonstrating the effectiveness of the drugs.

Therefore, notice is given to the holders of the new drug applications and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug applications (or, if indicated above, those parts of the applications providing for the drug products or indications listed above) and all amendments and supplements thereto on the ground that new information before him with respect to the drug products, evaluated together with the evidence available to him at the time of approval of the applications, shows there is a lack of substantial evidence that the drug products will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

The persons who are subject to this notice are not only the holders of the new drug applications named above, but also all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6, for which the requirements for continued marketing provided for in the notice of November 11, 1975 were not met. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20857.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it, e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicants and all other persons subject to this notice are hereby given an opportunity for a hearing to show why approval of the new drug applications should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all drug products subject to this notice.

If an applicant or any other person subject to this notice elects to avail himself of the opportunity for a hearing, he shall file (1) on or before September 19, 1977, a written notice of appearance and request for hearing, and (2) on or before October 18, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate. Such submissions except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: August 9, 1977.

CARL M. LEVENTHAL,
Acting Director,
Bureau of Drugs.

[FR Doc.77-23853 Filed 8-18-77;8:45 am]

[Docket No. 77N-0098; DESI Nos. 9238 and 11839]

PHYSICIAN LABELING AND PATIENT LABELING FOR PROGESTATIONAL DRUG PRODUCTS; WARNINGS AND CONTRAINDICATIONS; AMENDMENT

Drugs for Human Use; Drug Efficacy Study Implementation

AGENCY: Food and Drug Administration.

ACTION: Amendment.

SUMMARY: This document amends a notice (DESI 9238 and 11839) published in the FEDERAL REGISTER of July 22, 1977 (42 FR 37646), by stating where in the physician labeling of progestational drug products the box warning and references are to be placed.

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: The notice of July 22, 1977 (Docket No. 77N-0098), "Physician Labeling and Patient Labeling for Progestational Drug Products," did not state where in the physician labeling the box warning and references should be placed. It is therefore amended to specify that the box warning is to be placed at the beginning of the labeling, before the Description section, and that the references are to be placed after the Dosage and Administration section.

The date for submitting supplements containing appropriate revision of the physician labeling is not changed by this amendment; supplements are to be submitted on or before September 20, 1977.

The July 22, 1977 notice stated that it was issued under the authority of sections 502 and 503 of the Federal Food, Drug, and Cosmetic Act. The reference to section 503 was in error and the citation is hereby corrected by changing "503" to "505."

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: August 9, 1977.

CARL M. LEVENTHAL,
Acting Director,
Bureau of Drugs.

[FR Doc.77-23854 Filed 8-18-77;8:45 am]

V 42 161 AUG 19 77 UM

Food and Drug Administration

[Docket No. 77C-0233]

COSMETIC, TOILETRY, AND FRAGRANCE ASSOCIATION, INC.

Filing of Color Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Cosmetic, Toiletry, and Fragrance Association has filed a petition proposing that the color additive regulations be amended to provide for the safe use of bismuth oxychloride as a color additive in drugs and cosmetics.

FOR FURTHER INFORMATION CONTACT:

Gerad McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, (202-472-5740).

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706 (d), 74 Stat. 402 (21 U.S.C. 376(d)), notice is given that a color additive petitition (CAP 6C0119) has been filed by the Cosmetic, Toiletry, and Fragrance Association, Inc., 1133 15th St. NW., Washington, D.C. 20005, proposing the issuance of color additive regulations under Part 73 (21 CFR Part 73) to provide for the safe use and exemption from certification of the color additive bismuth oxychloride to be used in coloring externally applied drugs and in cosmetics generally, including those intended for use in the area of the eye.

The petition proposes the "permanent" listing of a color that is currently provisionally listed. The agency has previously reviewed such actions and has determined under § 25.1(f)(6) (21 CFR 25.1(f)(6)) that they will not have a significant environmental impact.

Dated: August 10, 1977.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.77-23962 Filed 8-18-77;8:45 am]

DERMATOLOGY ADVISORY COMMITTEE

Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Dermatology Advisory Committee by the Secretary, Department of Health, Education, and Welfare.

DATE: Authority for this committee will expire on October 31, 1977, unless the Secretary formally determines that continuance is in the public interest.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Officer (HFS-20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, (301-443-2765).

Dated: August 12, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-23963 Filed 8-18-77;8:45 am]

PANEL ON REVIEW OF CONTRACEPTIVES, AND OTHER VAGINAL DRUG PRODUCTS

Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Panel on Review of Contraceptives and Other Vaginal Drug Products by the Secretary, Department of Health, Education, and Welfare.

DATE: Authority for this committee will expire on October 31, 1977, unless the Secretary formally determines that continuance is in the public interest.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Officer (HFS-20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, (301-443-2765).

Dated: August 12, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77 23964 Filed 8-18-77;8:45 am]

[Docket No. 77D-0219]

ANTI-HUMAN SERUM LABELING, ETC.

Availability of Guidelines

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the availability of guidelines for Anti-Human Serum labeling, recommended laboratory test procedures, and lot release requirements.

DATE: Written comments by September 19, 1977.

ADDRESS: Requests for a copy of the guidelines may be addressed to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Al Rothschild, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20014, (301-443-1920).

SUPPLEMENTARY INFORMATION: Notice is hereby given that guidelines for labeling, laboratory test procedures, and lot release requirements for Anti-Human Serum are on display at the office of the Hearing Clerk, Food and Drug Administration. Copies of the guidelines are being furnished to persons known to be interested in manufacturing blood products. Other persons interested in obtaining copies of the guidelines may contact the office of the Hearing Clerk, Food and Drug Administration.

Interested persons may, on or before submit written comments (preferably in quadruplicate and identified with the Hearing Clerk Docket Number found in brackets in the heading of this document) regarding these guidelines.

Dated: August 12, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc. 77-24137 Filed 8-18-77;8:45 am]

[Docket No. 77N-0204; DESI 11723]

COMBINATION DRUG PRODUCT CONTAINING MEPROBAMATE AND PROMAZINE HYDROCHLORIDE

Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug application (NDA 11-723) for Prozine Capsules containing meprobamate and promazine hydrochloride. The drug product has been used for the relief of anxiety and tension.

DATE: Effective August 29, 1977.

ADDRESSES: Requests for opinion of the applicability of this notice to a specific product should be directed to: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, (301-443-3650).

SUPPLEMENTARY INFORMATION: In a notice of opportunty for hearing (DESI 11723; Docket No. FDC-D-624 (now Docket No. 77N-0204)) published in the FEDERAL REGISTER of April 25, 1973 (38 FR 10170), the Commissioner of Food and Drugs proposed to issue an order withdrawing approval of the new drug application for Prozine Capsules containing meprobamate and promazine hydrochloride. The basis of the proposed order was that the drug lacks substantial evidence of effectiveness for its labeled indications. In response to the April 25, 1973 notice, Wyeth Laboratories requested a hearing, but subsequently withdrew that request, stating that marketing of the product had been discontinued. Approval of the following new drug application is now being withdrawn:

NDA 11-723; Prozine Capsules containing meprobamate and promazine hydrochloride; formerly marketed by Wyeth Laboratories, Division of American Home Products Corp., Box 8299, Philadelphia, PA 19101.

Any drug product that is identical, related, or similar to the drug product named above, not the subject of an approved new drug application, is covered by the new drug application reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write the Division of Drug Labeling Compliance (address given above).

No other person filed a written appearance of election as provided by the April 25, 1973 notice. The failure to file an appearance constitutes election by such persons not to avail themselves of the opportunty for a hearing.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.82), finds that on the basis of new information before him with respect to the drug product, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of new drug application 11-723, and all amendments and supplements applying thereto, is withdrawn, effective August 29, 1977.

Shipment in interstate commerce of the above product or of any identical, related, or similar product, not the subject of an approved new drug application, will then be unlawful.

Dated: August 8, 1977.

CARL M. LEVENTHAL,
Acting Director, Bureau of Drugs.

[FR Doc.77-24140 Filed 8-18-77;8:45 am]

PHILIPS ROXANE, INC.

Hexederm and Pets' Best Fun-Jex Ointments; Withdrawal of Approval of New Animal Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration withdraws approval of a new animal drug application (NADA) providing for use of certain anti-infective ointments as an aid in the treatment of dogs, cats, and horses for certain skin disorders. This action is taken at the request of the applicant.

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Louis L. Nangeroni, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the following notice is issued:

NADA 12-914V held by Philips Roxane, Inc., 2621 North Belt Highway, St. Joseph, Mo. 64502, provides for the use Hexederm and Pets' Best Fun-Jex Ointments on dogs, cats, and horses as an aid in the treatment of ringworm, otitis externa, primary and secondary skin infections caused by or complicated by susceptible bacteria and fungi, as well as nonspecific skin infections. These ointments contain the drug hexetidine.

Philips Roxane, Inc., has requested, by letter dated February 10, 1977, that approval of the NADA be withdrawn and has waived an opportunity for a hearing because the product is no longer being marketed.

Therefore, in accordance with § 514.-115 (21 CFR 514.115), notice is given that approval of NADA 12-914V and all supplements thereto are hereby withdrawn, effective August 19, 1977.

Dated August 15, 1977.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.77-24139 Filed 8-18-77;8:45 am]

[Docket No. 77N-0187; DESI 7663]

POTASSIUM AMINOBENZOATE ORAL PREPARATIONS

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice reclassifies the drug potassium aminobenzoate to lacking substantial evidence of effectiveness and offers an opportunity for a hearing on a proposal to withdraw approval of the new drug application. The drug has been used as a antifibrotic.

DATES: Hearing requests due on or before September 19, 1977.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 7663, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Requests for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang,
Bureau of Drugs (HFD-32),
Food and Drug Administration,
Department of Health, Education, and Welfare,
5600 Fishers Lane,
Rockville, Md. 20857,
301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 7663) published in the FEDERAL REGISTER of August 28, 1970 (35 FR 13756), the Food and Drug Administration announced its conclusion that the drug products described below containing potassium aminobenzoate are possibly effective in the treatment of scleroderma, dermatomyositis, morphea, linear scleroderma, pemphigus, and Peyronie's disease, and lacking substantial evidence of effectiveness for their other labeled indications.

NDA 7-663; Potaba Tablets, Capsules, Powder, and Envules containing potassium aminobenzoate; Glenwood Laboratories, 83 Summit St., Tenafly, N.J. 07676.

A notice of opportunity for hearing on the proposal to withdraw approval of the new drug application (Docket No. FDC-D-413 (now Docket No. 77N 0137)) was published in the FEDERAL REGISTER of February 4, 1972 (37 FR 2689). A notice published in the FEDERAL REGISTER of December 14, 1972 (37 FR 26623) stated that the drug could remain on the market pending completion of scientific studies to determine effectiveness, thus rendering moot the notice of opportunity for hearing of February 4, 1972.

Data providing substantial evidence of effectiveness from at least two adequate and well-controlled studies have not been provided. Glenwood Laboratories had submitted reprints from the literature, and a report of an animal study. That information contributed nothing new in support of the drug and, on its face, failed to meet the requirements for adequate and well-controlled clinical studies required by 21 CFR 314.111(a)(5)(ii). The firm also submitted a brief abstract of a controlled study by Dr. Walter J. Bushnell, "The Treatment of Progres-

V 42 161 AUG 19 77 UM

sive Systemic Sclerosis: A Comparison of Para-Aminobenzoate and Placebo in a Double Blind Study", with a brief evaluation of the study by Dr. C. J. D. Zarafonetis of the University of Michigan, who is a consultant for Glenwood Laboratories, and various other communications. Glenwood Laboratories was requested to submit the detailed protocol and patient records for the Bushnell study. Such information was not submitted.

On October 22, 1976, Dr. Zarafonetis made an oral and slide presentation to the FDA Arthritis Advisory Committee on his experience with the use of Potaba in the treatment of scleroderma. This evidence and previous material submitted were evaluated and, with the exception of the Bushnell study, which involved only 12 patients, were determined to be mostly anecdotal. The committee concluded that the information presented did not provide substantial evidence of effectiveness.

No other person has submitted data or protocols or has expressed an intention to perform clinical studies on potassium aminobenzoate. Accordingly, in a notice appearing elsewhere in this issue of the FEDERAL REGISTER, the Commissioner of Food and Drugs is revoking the exemption granted in the December 14, 1972 notice for continued marketing of the drug. The drug is now reclassified to lacking substantial evidence of effectiveness.

On the basis of all of the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drug.

Therefore, notice is given to the holder of the new drug application and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application and all amendments and supplements thereto on the ground that new information before him with respect to the drug products, evaluated together with the evidence available to him at the time of approval of the application, shows there is a lack of substantial evidence that the drug products will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holder of the new drug application specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Division of Drug Labeling Compliance (address given above).

In addition to the ground(s) for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201 (p) of the act, or pursuant to section 107 (c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons subject to this notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all identical, related, or similar drug products.

If an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before September 19, 1977, a written notice of appearance and request for hearing, and (2) on or before October 17, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)), and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: August 2, 1977.

CARL M. LEVENTHAL,
Acting Director,
Bureau of Drugs.

[FR Doc.77-24145 Filed 8-18-77;8:45 am]

[Docket No. 77N-0187; DESI 7663]

POTASSIUM AMINOBENZOATE ORAL PREPARATIONS

Drugs for Human Use; Drug Efficacy Study Implementation; Revocation of Exemption

AGENCY: Food and Drug Administration.

ACTION: Revocation notice.

SUMMARY: This notice revokes the exemption that allowed potassium aminobenzoate to remain on the market beyond the time limit established for implementation of the Drug Efficacy Study to allow for its continued study.

EFFECTIVE DATE: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice appearing elsewhere in this issue of the FEDERAL REGISTER, the Food and Drug Administration is reclassifying the possibly effective indications for potassium aminobenzoate (DESI 7663) to lacking substantial evidence of effectiveness and offering an opportunity for hearing on a proposal to withdrawal approval of the new drug application for it.

The drug, described below, has been allowed to remain on the market beyond the time limit established for implementation of the Drug Efficacy Study on the condition that additional clinical studies be undertaken to determine its effectiveness. The temporary exemption to permit continued marketing was announced in a notice published in the FEDERAL REGISTER of December 14, 1972 (37 FR 26623).

NDA 7-663; Potaba Tablets, Capsules, Powder, and Envules containing potassium aminobenzoate; Glenwood Laboratories, 83 Summit St., Tenafly, N.J. 07676.

Since the required additional studies have not been undertaken, the exemption granted by the December 14, 1972 notice is hereby revoked.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under authority delegated to the Commissioner of Food and Drugs, (21 CFR 5.1).

Dated: August 12, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-24138 Filed 8-18-77;8:45 am]

Health Care Financing Administration

PHARMACEUTICAL REIMBURSEMENT ADVISORY COMMITTEE

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Pharmaceutical Reimbursement Advisory Committee previously scheduled September 6, 7, and 8, 1977, Auditorium, HEW South Portal Building, 200 Independence Avenue SW., Washington, D.C. 20201, which was published in the FEDERAL REGISTER on July 27, 1977 (42 FR 21571). This meeting will be rescheduled and noticed at a later date.

Dated: August 11, 1977.

PETER J. RODLER,
(Acting) Executive Secretary,
Pharmaceutical Reimbursement Advisory Committee.

[FR Doc.77-23093 Filed 8-18-77;8:45 am]

PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Physicians Regarding Intention to Enter Into Agreement Designating Professional Standards Review Organization for PSRO Area II of the State of Arizona

Notice is hereby given, in accordance with Section 1152(f) of the Social Security Act (42 U.S.C. 1320c-1(f)) and 42 CFR 101.104, that the Secretary of the Department of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Greater Southern Arizona PSRO, Inc. for PSRO Area II of the State of Arizona, which area is designated a Professional Standards Review Organization area in 42 CFR 101.5.

The Secretary has determined that the Greater Southern Arizona PSRO, Inc., is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Arizona, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area II of the State of Arizona.

As stipulated in its Articles of Incorporation, the principal officers of the Greater Southern Arizona PSRO, Inc. are:

NAME AND OFFICE HELD

1. Lloyd S. Epstein, M.D., Chairman
2. Clifford J. Hoffman, M.D. Vice Chairman
3. Joseph S. Whaley, M.D., Secretary
4. Seymour I. Shapiro, M.D., Treasurer

The official address of the corporation is 2343 East Broadway, Suite 204, Tucson, Arizona 85719.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area II of the State of Arizona who objects to the Secretary entering into an agreement with the Greater Southern Arizona PSRO, Inc., on the grounds that this organization is not representative of the doctors in such area may, on or before September 19, 1977, mail such objection in writing to the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office(s), his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in a medical facility, or other health related institutions, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 1,295 doctors of medicine and/or osteopathy are engaged in active practice in PSRO Area II of the State of Arizona. In the event that more than 10 percentum of the doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Greater Southern Arizona PSRO, Inc. is representative of such doctors in the area; Provided that pursuant to Section 108(b) of Pub. L. 94-182, the provisions of Section 1152(f) (42 U.S.C. 1320c-1(f)), relating to notification and polling, as described above, shall not apply where: (1) The membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review; or (2) the organization proposed to be designated by the Secretary under Section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f)(2) thereof.

Dated: August 12, 1977.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

[FR Doc.77-24034 Filed 8-18-77;8:45 am]

PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Physicians Regarding Intention to Enter Into Agreement Designating Professional Standards Review Organization for PSRO Area VII of the State of North Carolina

Notice is hereby given, in accordance with Section 1152(f) of the Social Security Act (42 U.S.C. 1320c-1(f)) and 42 CFR 101.104, that the Secretary of the Department of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Metrolina Medical Peer Review Foundtion, Inc. for PSRO Area VII of the State of North Carolina, which area is designated a Professional Standards Review Organization area in 42 CFR 101.37.

The Secretary has determined that the Metrolina Medical Peer Review Foundation, Inc. is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of North Carolina, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area VII of the State of North Carolina.

As stipulated in its Articles of Incorporation, the principal officers of the Metrolina Medical Review Foundation, Inc. are:

NAME AND OFFICE HELD

1. Edwin M. Tomlin, M.D., President
2. T. Reginald Harris, M.D., Vice President
3. J. Dewey Dorsett, Jr., M.D., Secretary
4. William H. Kouri, M.D., Treasurer

The official address of the corporation is 1 Charlottetown Center, Suite 150, Charlotte, North Carolina 28204.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area VII of the State of North Carolina who objects to the Secretary entering into an agreement with the Metrolina Medical Peer Review Foundation, Inc., on the grounds that this organization is not representative of the

V 42 161 AUG 19 77 UM

doctors in such area may, on or before September 19, 1977, mail such objection in writing to the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office(s), his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in a medical facility, or other health related institutions, and/or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 1178 doctors of medicine and/or osteopathy are engaged in active practice in PSRO Area VII of the State of North Carolina. In the event that more than 10 percentum of the doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Metrolina Medical Peer Review Foundation, Inc. is representative of such doctors in the area; Provided that pursuant to Section 108(b) of Pub. L. 94–182, the provisions of Section 1152(f) (42 U.S.C. 1320c–1(f)), relating to notification and polling, as described above, shall not apply where: (1) The membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review; or (2) the organization proposed to be designated by the Secretary under Section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f) (2) thereof.

Dated: August 12, 1977.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

[FR Doc.77-24035 Filed 8-18-77;8:45 am]

PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Physicians Regarding Intention to Enter Into Agreement Designating Professional Standards Review Organization for PSRO Area V of the State of Pennsylvania

Notice is hereby given, in accordance with Section 1152(f) of the Social Security Act (42 U.S.C. 1320c–1(f)) and 42 CFR 101.104, that the Secretary of the Department of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Midwestern Pennsylvania PSRO for PSRO Area V of the State of Pennsylvania, which area is designated a Professional Standards Review Organization area in 42 CFR 101.42.

The Secretary has determined that the Midwestern Pennsylvania PSRO is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Pennsylvania, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area V of the State of Pennsylvania.

As stipulated in its Articles of Incorporation, the principal officers of the Midwestern Pennsylvania PSRO are:

NAME AND OFFICE HELD

1. Raymond J. Salcom, D. O., Chairman
2. L. C. Lippert, M.D., Vice Chairman

The official address of the corporation is 118½ South Broad Street, Grove City, Pennsylvania 16127.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area V of the State of Pennsylvania who objects to the Secretary entering into an agreement with the Midwestern Pennsylvania PSRO, on the grounds that this organization is not representative of the doctors in such area may, on or before September 19, 1977, mail such objection in writing to the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office(s), his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in a medical facility, or other health related institutions, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 813 doctors of medicine and/or osteopathy are engaged in active practice in PSRO Area V of the State of Pennsylvania. In the event that more than 10 per centum of the doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Midwestern Pennsylvania PSRO is representative of such doctors in the area; Provided that pursuant to Section 108(b) of Pub. L. 94–182, the provisions of Section 1152(f) (42 U.S.C. 1320c–1(f)), relating to notification and polling, as described above, shall not apply where: (1) the membership association or organization representing the largest numbers of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review; or (2) the organization proposed to be designated by the Secretary under Section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f) (2) thereof.

Dated: August 12, 1977.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

[FR Doc.77-24036 Filed 8-18-77;8:45 am]

PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Physicians Regarding Intention to Enter Into Agreement Designating Professional Standards Review Organization for PSRO Area I of the State of Virginia

Notice is hereby given, in accordance with Section 1152(f) of the Social Security Act (42 U.S.C. 1320c–1(f)) and 42 CFR 101.104, that the Secretary of the Department of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Shenandoah PSR Foundation for PSRO Area I of the State of Virginia, which area is designated a Professional Standards Review Organization area in 42 CFR 101.52.

The Secretary has determined that the Shenandoah PSR Foundation is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Virginia, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area I of the State of Virginia.

As stipulated in its Articles of Incorporation, the principal officers of the Shenandoah PSR Foundation are:

NAME AND OFFICE HELD

1. John C. Hortenstine, M.D. President.
2. George E. Broman, Jr., M.D. Vice President.
3. Beverly J. Loesch, M.D. Secretary.
4. Thomas H. Bain, M.D. Treasurer.

The official address of the corporation is Towers Office Building, Suite 500, 1224 West Main Street, Charlottesville, Virginia 22903.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area I of the State of Virginia who objects to the Secretary entering into an agreement with the Shenandoah PSR Foundation, on the grounds that this organization is not representative of the doctors in such area may, on or before September 19, 1977, mail such objection in writing to the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physicians address, the location(s) of his office(s), his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in a medical facility, or other health related institutions, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 1270 doctors of medicine and/or osteopathy are engaged in active practice in PSRO Area I of the State of Virginia. In the event that more than 10 per centum of the doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Shenandoah PSR Foundation is representative of such doctors in the area; Provided that pursuant to Section 108(b) of Pub. L. 94–182, the provisions of Section 1152(f) (42 U.S.C. 1320c–1(f)), relating to notification and polling, as described above, shall not apply where: (1) The membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review; or (2) the organization proposed to be designated by the Secretary under Section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f) (2) thereof.

Dated: August 12, 1977.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

[FR Doc.77-24037 Filed 8-18-77;8:45 am]

Health Resources Administration

NATIONAL ADVISORY COUNCIL ON NURSE TRAINING

Change in Meeting Place

In the FEDERAL REGISTER Document 77–19211, appeared at page 35224 in the issue for Friday, July 8, 1977, the meeting of the National Advisory Council on Nurse Training was announced as for August 29 to September 1, 1977. The location for this meeting has been changed from Conference Room No. 4 to Conference Room No. 10, NIH–31C Building, Bethesda, Maryland 20014. All other information is correct as appears.

Dated: August 11, 1977.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc.77-23849 Filed 8-18-77;8:45 am]

Health Services Administration

ADVISORY COMMITTEE

Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of September 1977:

INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES

Date and Time: September 14, 1977, 9:00 a.m.

Place: Conference Rooms G & H, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

Open for entire meeting.

Purpose: The Committee will provide for the communication and exchange of information necessary to maintain the coordination and effectiveness among such Federal programs and activities and make recommendations to the Secretary respecting the administration of grants and contracts under Title XII, including making regulations for the emergency medical services systems program.

Agenda: Proposed agenda items for this meeting include: Report on grant awards—Title XII and 789, revision of Emergency Medical Services regulations, report of Mississippi EMS Satellite Communication Experiment, and potential training of handicapped as control dispatchers.

The meeting is open to the public for observation. Anyone wishing to attend, obtain the roster of members, minutes of meeting, or other relevant information should contact Mr. Lee Shuck, Division of Emergency Medical Services, Bureau of Medical Services, Suite #320, 6525 Belcrest Road, Hyattsville, Md. 20782, Telephone (301) 436–6290. Public seating is limited to forty (40). Please contact at least 72 hours before the meeting.

Agenda items are subject to change as priorities dictate.

Dated: July 29, 1977.

WILLIAM H. ASPDEN, Jr.,
Associate Administrator for Management.

[FR Doc.77-23850 Filed 8-18-77;8:45 am]

HEALTH MAINTENANCE ORGANIZATIONS

Notice

The Department has, in the past, published Notices announcing the availability of Federal financial assistance for the development and initial operation of Maintenance Organizations pursuant to Title XIII of the Public Health Service Act (42 U.S.C. 300 et seq.) and setting deadlines for submission of applications. The last Notice was published in the FEDERAL REGISTER (40 FR 29916) on July 16, 1975.

This notice establshes the date for submission of new grant applications to expand the geographic distribution of health maintenance organizations, establishes procedures for expansion grant applications from qualified health maintenance organizations and repeats the modified procedures for previously funded projects.

NEW GRANT APPLICATIONS

Based on the assumption that funds will be available for fiscal year 1978, new applications may be submitted to the appropriate Department of Health, Education, and Welfare (DHEW) Regional Office by organizations meeting the requirements of sections 1303 and 1304 of the Act and 42 CFR Part 110.

Deadline for Submission of Application	*Anticipated Date of Award*
Feasibility, Planning and Initial Development — 90 days after publication.	90 days after deadline for submission of applications.

It is anticipated that a 90-day review period will be required between receipt of such applications and final action on their disposition.

EXPANSION APPLICATIONS FROM QUALIFIED HMOS

Organizations qualified under Title XIII of the Public Health Service Act may submit applications as soon as possible for funding for significant expansion of their operation. Applications may be made irrespective of whether the health maintenance organization previously received financial support under the Health Maintenance Organization Act. Individual application requests will be accepted for grant or loan guarantee support. It is estimated that a 90-day period will be required between the receipt of such applications and final action on their disposition. Expansion grants will be considered for feasibility and planning and initial development while loan guarantees are available for planning and initial development by private (other than nonprofit private) qualified health maintenance organizations which intend to serve medically underserved areas.

OFFICE OF MANAGEMENT AND BUDGET CIRCULAR NO. A–95 REQUIREMENT

It should be noted that applicants requesting Federal financial assistance under Title XIII of the Public Health Service Act are subject to the Office of Management and Budget Circular No. A–95 requirements. Any agency of State or local government or any organization or individual undertaking to apply for assistance to a project or major substantive modification thereto under a Federal program covered by the OMB Circular A–95 will be required to notify both the State and areawide planning and development clearinghouse in the jurisdiction of which the project is to be located, of its intent to apply for assistance at such time as it determines it will develop an application. Clearing-

V 42 161 AUG 19 77 UM

houses may take a total of 60 days to consider the applicant's notification of intent or completed application or both. All health maintenance organization applications must contain clearinghouse comments before a competitive review is made by DHEW of the application. Applicants are advised to submit such notification and completed application at the earliest possible date in order to be able to meet the schedule for grant review.

Dated: August 15, 1977.

JOHN H. KELSO,
Acting Administrator,
Health Services Administration.

[FR Doc.77-24038 Filed 8-18-77;8:45 am]

Office of Education

FOLLOW THROUGH PROGRAM

Closing Date for Receipt of Applications (By Invitation Only) for Additional Fiscal Year 1977 Funds

Correction

In the document appearing at page 41326 in the issue for Tuesday, August 16, 1977, designated as FR Doc. 77-23570, the FR Doc. number was incorrect and should have read "FR Doc. 77-23524".

Also, in the second column, in the third line of the first full paragraph, the date given as "September 12, 1977" should have been "September 7, 1977".

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA DESERT CONSERVATION AREA ADVISORY COMMITTEE; ORGANIZATION SUBCOMMITTEE

Meeting

Notice is hereby given in accordance with Pub. L. 92-463 and 92-579 that the ad hoc subcommittee on organization of the California Desert Conservation Area Advisory Committee to the Bureau of Land Management, U.S. Department of the Interior, will meet in Riverside, California, September 12, 1977. The purpose of the meeting is to consider whether the charter of the advisory committee should be amended to provide for standing subcommittees, to review the charter for any other possible amendments, and to consider the number, dates and locations of committee meetings for calendar year 1978.

The meeting will be held at 2 p.m. in the Conference Room, Desert Planning Staff, Bureau of Land Management, 1695 Spruce Street, Riverside, California 92507. The meeting will be open to the public, and public participation is invited.

Dated: August 10, 1977.

ED HASTEY,
State Director.

[FR Doc.77-23969 Filed 8-18-77;8:45 am]

[M 21218]

MONTANA

Opportunity For Public Hearing and Republication of Notice of Proposed Withdrawal

AUGUST 11, 1977.

The Department of Agriculture filed application, Serial No. M 21218, on April 21, 1972, for a withdrawal in relation to the following described lands:

PRINCIPAL MERIDIAN, MONTANA

LOLO NATIONAL FOREST

Blue Slide Campground

T. 23 N., R. 30 W.,
Sec. 27, Lots 5 and 6, SW¼ and W½SE¼.

All those parts of the above subdivisions which lie northwesterly of the Northern Pacific Railway right-of-way and southwesterly of the following described line:

Beginning at a point on the west line of Section 27 lying N. 0°13' W. 3,446.1 feet from the southwest corner of said Section 27; thence; S. 56°33' E. 250.6 feet; thence S. 78°10' E. 191.0 feet; thence S. 87°35' E. 116.7 feet; thence N. 79°38'E.193.8 feet; thence S. 83°09' E. 283.0 feet; thence N. 73°43' E. 151.7 feet; thence N. 73°43' E. 147.9 feet; thence S. 75°13' E. 263.1 feet; thence S. 68°51' E. 197.8 feet; thence S. 39°10' E. 548.3 feet; thence S. 35°37' E. 488.1 feet; thence S. 51°26' E. 469.6 feet; thence S. 46°50' E. 208.7 feet; thence S. 35°26' E. 216.7 feet; thence S. 11°37' E. 199.9 feet; thence S. 0°08' E. 711.2 feet; thence S. 3°43' E. 361.0 feet; thence S. 19°58' E. 550.3 feet to a point on the south line of said Section 27 lying N. 89°36' E. 577.3 feet from the south quarter corner of said Section 27.

The area described contains 122.6 acres in Sanders County, Montana.

The applicant desires that the land be reserved for a public compground.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on May 17, 1972, Volume No. 37, Page No. 9791, Document No. 72-7469.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, on or before September 21, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 21, 1977.

The above-described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, P.O. Box 30157, Billings, Montana 59107.

EDGAR D. STARK,
Acting Chief, Branch of
Lands and Minerals Operations.

[FR Doc.77-23970 Filed 8-18-77;8:45 am]

[M 20510]

MONTANA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

AUGUST 10, 1977.

The Department of Agriculture filed application, Serial No. M 20510, on January 5, 1972, for a withdrawal in relation to the following described lands:

PRINCIPAL MERIDIAN, MONTANA

LOLO NATIONAL FOREST

White Mountain Lookout

T. 12 N., R. 24 W.,
Sec. 20, W½SW¼SW¼NE¼ and E½SE¼SE¼NW¼.

Baldy Lookout

T. 22 N., R. 25 W.,
Sec. 32, W½NE¼NW¼SE¼ and E½NW¼NW¼SE¼.

Patrick's Knob Lookout

T. 19 N., R. 26 W.,
Sec. 25, E½NE¼SW¼SW¼ and W½NW¼SE¼SW¼.

Big Hole Peak Lookout

T. 21 N., R. 27 W.,
Sec. 4, NE¼SW¼SW¼.

Eddy Mountain Lookout

T. 21 N., R. 28 W.,
Sec. 33, W½NW¼NE¼NE¼ and E½NE¼NW¼NE¼.

Priscilla Peak Lookout

Unsurveyed, but which probably will be when surveyed:

T. 22 N., R. 28 W.,
Sec. 2, SW¼SW¼SW¼.

Clark Mountain Lookout

T. 21 N., R. 29 W.,
Sec. 28, S½SE¼SE¼SE¼; and
Sec. 33, N½NE¼NE¼NE¼.

Cougar Peak Lookout

T. 23 N., R. 30 W.,
Sec. 24, W½NE¼NW¼NE¼ and E½NW¼NW¼NE¼.

Driveway Peak Lookout

Unsurveyed, but which probably will be when surveyed:

T. 21 N., R. 31 W.,
Sec. 9, SW¼NE¼SW¼SE¼, SE¼NW¼SW¼SE¼, NE¼SW¼SW¼SE¼, and NW¼SE¼SW¼SE¼.

The areas described aggregate 90 acres located in Sanders and Mineral Counties, Montana.

The applicant desires that the lands be reserved for fire lookout towers.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on January 28, 1972, Volume No. 37, Page No. 1413, Document No. 72-1273.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, on or before September 21, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 21, 1977.

The above-described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, P.O. Box 30157, Billings, Montana 59107.

EDGAR D. STARK,
Acting Chief, Branch of
Lands and Minerals Operations.

[FR Doc.77-23971 Filed 8-18-77;8:45 am]

[NM 31276]

NEW MEXICO

Application

AUGUST 12, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 12¾-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 8 W.,
Sec. 8, SW¼SE¼;
Sec. 15, S½SW¼;
Sec. 17, N½NE¼ and SE¼NE¼.

This pipeline will convey natural gas across 1.156 miles of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands
and Minerals Operations.

[FR Doc.77-23972 Filed 8-18-77;8:45 am]

[NM 31249, 31251, 31253, 31266, 31267, 31269, 31271, and 31274]

NEW MEXICO

Applications

AUGUST 10, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for eight 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 25 N., R. 7 W.,
Sec. 28, E½SW¼ and SW¼SW¼;
Sec. 33, N½NW¼.
T. 27 N., R. 8 W.,
Sec. 25, SW¼NE¼ and SW¼SE¼;
Sec. 35, N½NE¼ and SW¼NE¼.
T. 29 N., R. 8 W.,
Sec. 6, lots 8 and 9.
T. 30 N., R. 8 W.,
Sec. 31, lot 18.
T. 32 N., R. 8 W.,
Sec. 12, lots 5, 6, 11, 12, and 14.
T. 31 N., R. 10 W.,
Sec. 24, lots 4 and 5.
T. 26 N., R. 12 W.,
Sec. 19, NE¼NE¼;
Sec. 20, N½NW¼.

These pipelines will convey natural gas across 2.236 miles of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands
and Minerals Operations.

[FR Doc.77-23973 Filed 8-18-77;8:45 am]

OREGON

Temporary Closure of Lands to Motorized Vehicle Use

Notice is hereby given that certain public lands under the administration of the Bureau of Land Management described below are closed to off-road motorized vehicles and motor vehicle use in accordance with provisions of 43 CFR 6010.4. This closure does not apply to emergency, law enforcement and federal or other government vehicles while being used for official or emergency purposes, or to any vehicle whose use is expressly authorized by permit, lease, license, agreement, or contract issued by the authorized officer of the Bureau of Land Management.

The area affected by this closure is located approximately nine air miles north of Marcola, Oregon and is known as Horse Rock Ridge. The area is more specifically described as:

WILLAMETTE MERIDIAN

T. 15 S., R. 2 W.,
Sec. 1, SW¼ Lot 3, S½ Lot 4, S½NW¼, W½SW¼NE¼, E½NE¼SW¼, W½E½NW¼SE¼, W½NW¼SE¼, NW¼SW¼SE¼.

The described area aggregates approximately 190 acres in Linn County, Oregon.

The use of motorized vehicles on this public land is damaging the shallow soil mantle and fragile vegetative resources and threatens damage to rare and endangered plant species as well as an identified archeological site. It is concluded that closure of the area is necessary to prevent further damage to the soil and vegetation and to protect rare and endangered plants as well as the aforementioned archeological site.

The closure shall become effective on August 19, 1977. A decision as to whether the closure shall be permanent will be made through the Bureau of Land

Management land use planning process. Public comment will be accepted through scheduled public participation in the formulation of those land use plans.

Common points of vehicular access to the area will be posted. Maps showing the area described above are available for examination at the Bureau of Land Management, Eugene District Office, 1255 Pearl Street, Eugene, Oregon.

DWIGHT L. PATTON,
District Manager.

AUGUST 11, 1977.

[FR Doc.77-23974 Filed 8-18-77;8:45 am]

OUTER CONTINENTAL SHELF OFFICIAL PROTRACTION DIAGRAMS

Approval

1. Notice is hereby given that, effective with this publication, the following OCS Official Protraction Diagrams approved on the date indicated, are available, for information only, in the New York Outer Continental Shelf Office, Bureau of Land Management, New York, N.Y. 10048. In accordance with Title 43, Code of Federal Regulations, the protraction diagrams are the basic record for the description of mineral and oil and gas lease offers in the geographic area they represent.

OUTER CONTINENTAL SHELF OFFICAL PROTRACTION DIAGRAMS

Description	*Approval date*
NJ 18-11 Virginia Beach	Revised June 22, 1977.
NJ 19-1, Block Canyon	Do.
NK 19-3	June 11, 1975.
NK 19-10, Block Island Shelf	Revised June 22, 1977.

2. Copies of these diagrams are for sale at two dollars ($2.00) per sheet by the Manager, New York Outer Continental Shelf Office, 6 World Trade Center, Room 600D, New York, N.Y. 10048. Checks or money orders should be made payable to the Bureau of Land Management.

JUDITH B. GRESHAM,
Acting Manager, New York, Outer Continental Shelf Office.

[FR Doc.77-23975 Filed 8-18-77;8:45 am]

[AA-6661-C]

ALASKA NATIVE CLAIMS SELECTIONS

Notice

On July 17, 1974, Eklutna, Inc. filed selection application AA-6661-C under the provisions of section 12(a) (1) of the Alaska Native Claims Settlement Act of December 18, 1971, (85 Stat. 688, 701; 43 U.S.C. 1601, 1613 (Supp. V, 1975)), hereinafter ANCSA, for the surface estate of lands located in the vicinity of Eagle River, Alaska which included lands in the W½ of section 36, T. 15 N., R. 2 W., Seward Meridian.

On February 23, 1909, Presidential Proclamation 852 reserved lands including the W½ of section 36, T. 15 N., R. 2 W., Seward Meridian as part of the Chugach National Forest. This townships was surveyed July 14, 1917, and excluded from the national forest by Proclamation 1741 of May 29, 1925. These lands were reserved for the War Department on March 12, 1943, by Public Land Order (PLO) 95. That order was revoked in part by PLO 689 of November 20, 1950, which withdrew the land for use of the Alaska Railroad for explosives storage.

On March 4, 1915, the State land grant was enacted by Congress, reserving sections 16 and 36 in support of an agricultural college and school of mines. 38 Stat. 1214–1215; 48 U.S.C. 353. This reservation did not attach to the lands in the W½ section 36, T. 15 N., R. 2 W., Seward Meridian upon its exclusion from the national forest in 1925 because the lands were appropriated for national forest purposes at the time the land was surveyed. The 1915 act did not provide for the attachment of any right upon extinguishment of an appropriation. In this act, *supra.*, Congress provided for lieu selections:

• • • where the same may have been sold or otherwise appropriated • • • other lands may be designated and reserved in lieu thereof • • •.

Although the 1915 act, supra, was amended by the act of March 5, 1952, 66 Stat. 14, that provided for the attachment of the State's right upon cancellation of an appropriation, the lands in the W½ section 36, T. 15 N., R. 2 W., Seward Meridian were reserved by PLO 689, at the time ANCSA was enacted.

On January 12, 1973, the Alaska Railroad filed a Notice of Intent to Relinquish a portion of the lands withdrawn by PLO 689, including those lands herein described for conveyance to Eklutna, Inc. These lands have been determined to be public lands as defined by section 3(e) of ANCSA.

Therefore, the village selection application AA-6661-C for the lands described below was properly filed and has been found to meet the requirements of the Departmental regulations issued pursuant to ANCSA. The lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands is considered proper for acquisition by Eklutna, Inc., subject to valid existing rights, and is hereby approved for interim conveyance pursuant to section 14(a) of ANCSA.

T. 15 N., R. 2 W., SEWARD MERIDIAN (UNSURVEYED)

A tract of land situated in the W½ of section 36, T. 15 N., R. 2 W., Seward Meridian, Alaska and more particularly described as follows:

Beginning at the southwest corner of said section 36; thence northerly along the westerly line of said section 36, 589.79 feet to the westerly right-of-way line of the Eagle River to Peters Creek Highway; thence along said right-of-way line N. 44°56'35" E., 2,951.06 feet to a point of curve; thence along a 2°09'00" curve to the left (radius equals 2,664.79 feet) through an arc of 21°45'47" a distance of 1,012.19 feet to a point on the easterly line of the W½ of said section 36; thence southerly along said easterly line a distance of 3,524.24 feet more or less to the south line of said section 36; thence westerly along said south line, 2,640 feet more or less to the point of beginning, except Tracts "A" and "B" as described below:

Tract A—Beginning at the northeast corner of the SW¼SW¼ of said section 36, T. 15 N., R. 2 W., Seward Meridian; thence easterly along the northerly line of the SE¼SW¼ of said section 36, a distance of 662.85 feet to the northwesterly right-of-way line of the old existing Glenn Highway; thence S. 37°28'47" W. along last said line a distance of 664.13 feet; thence along a 1°54'02" curve to the left (radius equals 3,014.79 feet) through an arc of 9°24'52" a distance of 495.37 feet; thence N. 60°55'25" W. a distance of 727.26 feet; thence N. 2°56'29" E. a distance of 102.90 feet to the southeasterly right-of-way line of said Alaska Highway Project F-042-1(1); thence N. 44°56'35" E. along the last said line a distance of 819.38 feet; thence southerly along the easterly line of NW¼SW¼ of said section 36 a distance of 171.70 feet to the point of beginning. Containing 14.131 acres, more or less.

Tract B—Beginning at the southwest corner of said section 36, T. 15 N., R. 2 W., Seward Meridian; thence S. 89°56'13" E. along the south line of said section 36 a distance of 1,137.25 feet to the northwesterly right-of-way line of the old existing Glenn Highway; thence N. 27°23'47" E. along the last said line a distance of 312.81 feet; thence N. 60°55'25" W. a distance of 732.92 feet; thence S. 88°13'51" W. a distance of 180.17 feet to the southeasterly right-of-way line of said Alaska Highway Project F-042-1(1); thence S. 44°56'35" W. along the last said line a distance of 651.47 feet to the west line of said section 36; thence S. 0°07'50" W. along the last said line a distance of 166.04 feet to the point of beginning. Containing 13.041 acres, more or less.

The tract to be conveyed contains 71.95 acres, more or less.

The interim conveyance to Eklutna, Inc. for the surface estate of the lands described above shall contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. A right-of-way thereon for the construction of railroads, telegraph and telephone lines as prescribed and directed by the act of March 12, 1914, 38 Stat. 305; 43 U.S.C. 975d.

3. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said subsurface estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 688, 704; 43 U.S.C. 1601, 1613 (Supp. V, 1975).

4. A right-of-way, AA-2559, Parcel A-27, for a Federal Aid Highway. Act of August 27, 1958, as amended, 23 U.S.C. 317.

5. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 688, 708; 43 U.S.C. 1601, 1616 (Supp. V, 1975), the following easements, referenced by easement identification number (EIN) on the easement map in case file AA-6661-EE, are reserved to the United States and subject to further regulation thereby:

a. (EIN 3 C1, D9, D1, L) An easement for a historic access trail twenty-five (25) feet in width for the Iditarod Trail as it crosses the selected lands between Eagle River and Eklutna. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

b. (EIN 52 C) The right of the United States to enter upon the lands herein granted for cadastral, geodetic, or other survey purposes is reserved together with the right to do all things necessary in connection therewith.

c. (EIN 53 C) Easements for the transportation of energy, fuel, and natural resources which are the property of the United States or which are intended for delivery to the United States or which are produced by the United States. These easements also include the right to build any related facilities necessary for the exercise of the right to transport energy, fuel, and natural resources including those related facilities necessary during periods of planning, locating constructing, operating, maintaining or terminating transportation systems. The specific location of these easements shall be determined only after consultation with the owner of the servient estate. Whenever the use of such easements will require removal or relocation of any structure owned or authorized by the owner of the servient estate, such use shall not be initiated without the consent of the owner of such improvement; provided, however, that the United States may exercise the right of eminent domain if such consent is not given. Only those portions of these easements that are actually in use or that are expressly authorized on March 3, 1996, shall continue to be in force.

The grant of the above-described lands is subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands.

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act, 72 Stat. 339, 341; 48 U.S.C. 11719, 11720), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him.

3. The easement as established by Public Land Order 1613 (23 F.R. 2376), pursuant to the act of August 1, 1956, 70 Stat. 898, for highway purposes, including appurtenant protective, scenic and service areas.

4. Requirements of section 14(c) of the Alaska Native Claims Settlement Act, 85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975), that the grantee hereunder convey those portions, if any, of the land hereinabove granted, as are prescribed in said section.

5. The terms and conditions of the agreement dated January 18, 1977, between the Secretary of the Interior, Cook Inlet Region, Inc., Eklutna, Inc., and other Cook Inlet Region village corporations. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in Bureau of Land Management easement case file, AA-6661-EE. Any person wishing to examine the agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

There is excepted and reserved any element of ownership from the lands hereby conveyed, including but not restricted to any estate or interest in property, or permit, or other right, transferred by the United States pursuant to the Alaska Communications Disposal Act approved November 14, 1967 (81 Stat. 441–444; 40 U.S.C. 771–792).

Conveyance of the remaining entitlement to Eklutna, Inc. will be made at a later date. Interim conveyance of the subsurface estate of the land described above will be simultaneously granted to Cook Inlet Region, Inc., pursuant to sections 14(f) and 22(j) of ANCSA, and will be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in the Anchorage Daily Times. Any party claiming a property interest in land affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision by mail shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until September 19, 1977 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

4. If Eklutna, Inc., or Cook Inlet Region, Inc., objects to any easement which is identified herein for reservation in the conveyance and which is subject to the discretion of the State Director and not reserved pursuant to an express Secretarial directive, a petition for reconsideration must be filed within 30 days from receipt of service with the State Director, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501. A copy of the petition should be served upon the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. If a petition for reconsideration is not filed, it will be deemed that the right to contest any such easement has been waived.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal.

Further information on the manner of, and requirements for, filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

SUE R. WOLF,
Acting Chief, Branch of Lands, and Minerals Operations.

[FR Doc.77-24104 Filed 8-18-77;8:45 am]

[A-057388 and AA-6701-A]

ALASKA NATIVE CLAIMS SETTLEMENT ACT

Notice

On February 11, 1974, Seldovia Native Association, Inc. filed selection application AA-6701-A under the provisions of section 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611, (Supp. V, 1975)), for the surface estate of lands located in T. 8 S., R. 14 W., Seward Meridian.

The village application described lands withdrawn by sections 11(a)(1) and 11(a)(2) of the Alaska Native Claims Settlement Act. Section 11(a)(2) of the act, supra., specifically withdrew, subject to valid existing rights, all lands within the townships withdrawn by section 11(a)(1) that have been selected by, or tentatively approved to, but not yet patented to the State of Alaska under the Alaska Statehood Act of July 7, 1958 (72 Stat. 339–343; 48 U.S.C. Ch. 2, Sec. 6(g) (1970)). Section 26 of the Alaska Native Claims Settlement Act further provides that to the extent that there is a conflict between any provisions of that act and any other Federal laws applicable to Alaska, the provisions of the Alaska Native Claims Settlement Act shall govern.

Therefore, in view of the above, selection application A-057388, filed by the State of Alaska on June 13, 1962, as amended, under the provisions of section 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1970)), is rejected as to the lands described below:

T. 8 S., R. 14 W., Seward Meridian, Alaska (Surveyed),
Sec. 20, SE¼SW¼SE¼, W½SE¼SE¼, W½E½SE¼SE¼, NE¼NE¼SE¼SE¼, SE¼SE¼SE¼SE¼.
U.S. Survey 3378, lot 2.
U.S. Survey 4651, lots 1, 3, and 7.
U.S. Survey 4601, lot 1.

By decision dated January 3, 1964, the State of Alaska received tentative approval to approximately 6,917 acres of unsurveyed lands in T. 8 S., R. 14 W., Seward Meridian. This decision is hereby rescinded in part and the State selection application A-057388 is hereby rejected as to the following lands described in said decision as follows:

T. 8 S., R. 14 W., Seward Meridian, Alaska (Unsurveyed),
Sec. 13, all, excluding A-049072, A-048910, A-049123, A-049101, A-051263, A-042197, A-032845, A-030919, A-048909;
Sec. 14, all;
Sec. 15, all, excluding U.S. Survey 3378, A-048864;
Sec. 16, all;
Sec. 21, all;
Sec. 22, all, excluding U.S. Survey 3378;
Sec. 23, all;
Sec. 24, all, excluding patented U.S. Surveys 3373, 3907, 3253, A-051258, A-032427, A-030919, A-032845;
Secs. 25 to 28, all;
Sec. 30, all unsurveyed portion, excluding patented U.S. Survey 3108;

V 42 161 AUG 19 77 UM

Sec. 31, all unsurveyed portion, excluding patented U.S. Survey 3374, A–052282;
Secs. 34, 35 and 36, all.

The selection applications of Seldovia Native Association, Inc. as to the lands described below are properly filed and meet the requirements of the act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, aggregating approximately 7,061.73 acres is considered proper for acquisition by Seldovia Native Association, Inc. and is hereby approved for conveyance pursuant to section 14(a) of the Alaska Native Claims Settlement Act:

T. 8 S., R. 14 W., Seward Meridian, Alaska (Surveyed),
Sec. 20, SE¼SW¼SE¼, W½SE¼SE¼, W½E½SE¼SE¼, NE¼NE¼SE¼SE¼, SE¼SE¼SE¼SE¼.
U.S. Survey 4651, lots 1, 3 and 7, located on MacDonald Spit on the southerly shore of Kachemak Bay.
U.S. Survey 3378, lot 2, located at Barbara Point on the southerly shore of Kachemak Bay, approximately 4 miles northeast of Seldovia.
U.S. Survey 4601, lot 1, located on the southerly shore of Kasitsna Bay.
T. 8 S., R. 14 W., Seward Meridian, Alaska (Unsurveyed),
Sec. 14 (fractional), excluding Native allotments AA–5945 and AA–7361;
Sec. 15 (fractional), excluding Native allotment AA–5945, U.S. Survey 3378 lots 1 and 2, and U.S. Survey 4751;
Sec. 16 (fractional), all;
Sec. 21 (fractional), all;
Sec. 22, all;
Sec. 23, excluding Native allotment AA–7361;
Sec. 24 (fractional), excluding U.S. Surveys 3253 lots 1 and 2, 3373, 3906, 3907, 4530 lots 1 and 2, 4601 lots 1 and 2;
Secs. 25 to 28, inclusive, all;
Sec. 30 (fractional), W½, excluding U.S. Survey 3108 lots 1 and 2;
Sec. 31 (fractional), W½ excluding U.S. Survey 3374;
Secs. 34, 35 and 36, all.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, as prescribed and directed by the act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945;

2. A right-of-way thereon for the construction of railroads, telegraph and telephone lines, as prescribed and directed by the act of March 12, 1914, 38 Stat. 305; 43 U.S.C. 975d;

3. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613 (Supp. V, 1975)); and,

4. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616 (Supp. V, 1975)), the following public easements referenced by easement identification number (EIN) on the easement map in case file AA–6701–EE are reserved to the United States and subject to further regulation thereby:

(a) (EIN 1 D9 (D9 1)) An easement sixty (60) feet in width for the existing Seldovia to Windy Bay road from section 20 easterly to the east boundary of section 24, T. 8 S., R. 14 W., Seward Meridian. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

(b) (EIN 3 D9 (D9 3)) An easement for an existing access trail twenty-five (25) feet in width from section 21, T. 8 S., R. 14 W., Seward Meridian, easterly along the coast to section 19, T. 8 S., R. 13 W., Seward Meridian. The usage of roads and trails will be controlled by applicable State or Federal law or regulation. This trail provides access from Seldovia to public lands and waters.

(c) (EIN 7 D9 (D9 33)) An easement for a proposed access trail twenty-five (25) feet in width generally following the left bank of Barbara Creek within section 15, T. 8 S., R. 14 W., Seward Meridian. The usage of roads and trails will be controlled by applicable State or Federal law or regulation. This trail provides access from road EIN 1 D9 (D9 1) to the coastline and public waters.

(d) (EIN 8 C7 (L1 3)) A stream gaging site easement in the SW¼ of section 15, T. 8 S., R. 14 W., Seward Meridian.

(e) (EIN 9 C7 (L1 3)) An easement for an existing access trail twenty-five (25) feet in width from EIN 1 D9 (D9 1) to the stream gaging site easement EIN 8 C7 (L1 3). The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

(f) (EIN 10 C7 (L2 1)) An easement for an existing seismic site in sec. 24, T. 8 S., R. 14 W., Seward Meridian. Reserved is the right of access by a twenty-five (25) foot trail to the site and of operating and maintaining the site and improvements on the site for seismological data collection and research.

(g) (EIN 11 D9 (D9 39)) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation, and other similar uses. Deviations from the waterline are permitted when specific conditions so require, i.e., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.

(h) (EIN 12 C (C 42)) The right of the United States to enter upon the lands herein granted for cadastral, geodetic or other survey purposes is reserved together with the right to do all things necessary in connection therewith.

(i) (EIN 13 C (C 43)) Easements for the transportation of energy, fuel, and natural resources which are the property of the United States or which are intended for delivery to the United States or which are produced by the United States. These easements also include the right to build any related facilities necessary for the exercise of the right to transport energy, fuel, and natural resources, including those related facilities necessary during periods of planning, locating, constructing, operating, maintaining, or terminating transportation systems. The specific location of these easements shall be determined only after consultation with the owner of the servient estate. Whenever the use of such easement will require removal or relocation of any structure owned or authorized by the owner of the servient estate, such use shall not be initiated without the consent of the owner of such improvement; provided, however, that the United States may exercise the right of eminent domain if such consent is not given. Only those portions of these easements that are actually in use or that are expressly authorized on March 3, 1996, shall continue to be in force.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him;

3. Requirements of section 14(c) of the Alaska Native Claims Settlement Act (85 Stat. 688, 703; 43 U.S.C. 1601, 1613 (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section;

4. The terms and conditions of the agreement dated January 18, 1977, between the Secretary of the Interior, Cook Inlet Region, Inc., Seldovia Native Association, Inc. and other Cook Inlet village corporations. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for Seldovia Native Association, Inc., serialized AA–6701–EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

5. The following third party interests, created and identified by the State of Alaska, as provided by section 14(g) of ANCSA, all of which are located in T. 8 S., R. 14 W., Seward Meridian:

(a) Open-to-entry leases, each approximately 5 acres in size.
(1) ADL 46883, located in NW¼SW¼ of section 15.
(2) ADL 41022, located in SE¼SW¼ of section 14 and NE¼NW¼ of section 23.
(3) ADL 42103, located in NW¼NE¼ of section 23 and SW¼SE¼ of section 14.
(4) ADL 42910 located in NW¼NE¼ of section 23.
(5) ADL 47663 located in NE¼NE¼ of section 23.
(6) ADL 47154 located in NE¼NE¼ of section 23.
(7) ADL 50791 located in NE¼NE¼ of section 23 and NW¼NW¼ of section 24.
(8) ADL 50863 located in NW¼NW¼ of section 24.
(9) ADL 46402 located in NW¼NW¼ of section 24.
(10) ADL 46398 located in SE¼SW¼ of section 14.
(11) ADL 41023 located in SE¼SW¼ of section 14 and NE¼NW¼ of section 23.

(b) Right-of-way-permits:
(1) ADL 25085 traversing selected lands in sections 15, 20, 21, 22, 23 and 24.
(2) ADL 57987 (section 15 and U.S. Survey 3378).

(c) Letter permit ADL 39789 for entry to construct Pioneer Access Road.
(d) Water appropriations:
(1) ADL 40037 located in SE¼SW¼ of section 28.
(2) ADL 40034 located in NW¼NW¼ of section 24.
(3) ADL 62282, ADL 44802, ADL 40038, and ADL 59302 located in NE¼NW¼ of section 24.
(e) Borough approvals:
(1) ADL 46806 located in sections 14, 15, 16, 21, 22 and 23.
(2) ADL 54619 located in U.S. Survey 4651, lot 3.

There are no inland water bodies considered to be navigable within the lands described.

Conveyance of the remaining entitlement to Seldovia Native Association, Inc. shall be made at a later date. When conveyance is granted to Seldovia Native Association, Inc. for the surface estate, conveyance of the subsurface estate of the lands described above shall be granted to Cook Inlet Region, Inc., pursuant to section 14(f) of ANCSA, and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in the Anchorage Daily Times. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501; also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until September 19, 1977, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

4. If Seldovia Native Association, Inc. or Cook Inlet Region, Inc. objects to any easement which is identified herein for reservation in the conveyance which is subject to the discretion of the State Director and not reserved pursuant to an express Secretarial directive, a petition for reconsideration must be filed within 30 days with the State Director, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501. A copy of the petition should be served upon the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. If a petition for reconsideration is not filed, it will be deemed that the right to contest any such easement has been waived.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of, and requirements for, filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

SUE A. WOLF,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-24105 Filed 8-18-77;8:45 am]

[Wyoming 60314]

WYOMING

Application

AUGUST 11, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct a 4 inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 94 W.,
sec. 6, lots 16, 21, 22, 23.

The pipeline will transport natural gas from a point in section 5, T. 18 N., R. 94 W., to the existing pipeline in section 6, T. 18 N., R. 94 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-24073 Filed 8-18-77;8:45 am]

[Wyoming 60315]

WYOMING

Application

AUGUST 12, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct a 4 inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 94 W.,
sec. 32, NW¼SW¼.

The pipeline will transport natural gas from an existing well in Section 31, T. 18 N., R. 94 W., to a point in section 32, T. 18 N., R. 94 W., in Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-24072 Filed 8-18-77;8:45 am]

Bureau of Reclamation

[INT FES 77–29]

SAN JUAN POWERPLANT, NEW MEXICO

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the proposed expansion of the San Juan Powerplant and associated coal mines and transmission systems in New Mexico.

The Public Service Company of New Mexico and Tucson Gas and Electric Company plan to complete construction and to operate three additional operating units at the existing San Juan Powerplant, 12 miles northwest of Farmington, New Mexico.

Copies are available for inspection at the following locations:

Office of Assistant to the Commissioner, Ecology, Room 7622, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, telephone 202–343–4991.
Division of Engineering Support, Technical Services Branch, E&R Center, Denver Federal Center, Denver, Colorado 80225, telephone 303–234–3022.
Office of the Regional Director, Bureau of Reclamation, Federal Building, 125 South State Street, Salt Lake City, Utah 84147, telephone 801–524–5580.
Project Construction Engineer, P.O. Box 28, 1006 Municipal Drive, Farmington, New Mexico 87401, telephone 505–325–1704.

Single copies of the final statement may be obtained on request from the Commissioner of Reclamation or the Regional Director. Please refer to the statement number above.

Dated: August 16, 1977.

LARRY E. MEIEROTTO,
Deputy Assistant, Secretary of the Interior.

[FR Doc.77-24030 Filed 8-18-77;8:45 am]

DEPARTMENT OF JUSTICE

ACTION TO ENFORCE COMPLIANCE WITH TERMS OF NPDES PERMIT AND TO IMPOSE PENALTIES FOR VIOLATION OF THAT PERMIT

Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 10029, notice

V42161 AUG 19 77 UM V

is hereby given that on August 1, 1977, a proposed consent decree in *United States* v. *Tennneco Oil Company*, was lodged with the United States District Court for the Eastern District of Louisiana. The proposed decree would require defendant to comply with the terms of its NPDES permit by January 1, 1978, and would impose a civil penalty of $140 per day for each day that the permit limitations are violated between July 1, 1977 and January 1, 1978.

The Department of Justice will receive for a period of thirty (30) days from the date of the notice written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *"United States* v. *Tennneco Oil Company"*, D.J. Ref. 90-5-1-1-803.

The proposed consent decree may be examined at the office of the United States Attorney, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130, at the Region VI Office of the Environmental Protection Agency, Enforcement Division, 1600 Patterson Street, Dallas, Texas 75201; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

JAMES W. MOORMAN,
Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc.77-24083 Filed 8-18-77;8:45 am]

Immigration and Naturalization Service

HISPANIC ADVISORY COMMITTEE ON IMMIGRATION AND NATURALIZATION

Meeting

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of Meeting.

SUMMARY: This notice announces the Meeting of the Hispanic Advisory Committee on Immigration and Naturalization to be held in New York, New York, on September 7-8, 1977.

FOR FURTHER INFORMATION CONTACT:

E. B. Duarte, Special Assistant to the Commissioner of Immigration and Naturalization for Hispanic Liaison, Room 7058, 425 Eye Street, N.W., Washington, D.C. 20536 Telephone (202) 376-8211

SUPPLEMENTARY INFORMATION AND MEETING AGENDA: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Hispanic Advisory Committee on Immigration and Naturalization to be held from 9:00 a.m. to 5:30 p.m. Wednesday, September 7, 1977 and continuing from 8:30 a.m. to 1:00 p.m. Thursday, September 8, 1977, in the Madison Room, Roosevelt Hotel, Madison Avenue at 45th Street, New York, New York 10017.

SEPTEMBER 7, 1977

I. Call to order by the Chairperson.
II. Welcoming remarks by the New York District Director, INS.
III. Approval of Minutes, Meeting of May 19-20, 1977.
IV. Review of Agenda Topics.
V. Briefings: A. Overview of Eastern Region, INS. B. Administration Legislative Package on Immigration. C. INS Policy on Temporary Workers.
VI. Public Commentary.
VII. Briefings, (Continued). D. U.S. Commission on Civil Rights Study on Undocumented Aliens. E. Immigration Problems of Haitians. F. Recruitment, Training and Affirmative Action Subcommittee Report. G. Proposed Charter Revisions, INS Hispanic Advisory Committee. H. Subcommittee Meetings.
VIII. Recess.

SEPTEMBER 8, 1977

IX. Meeting Reconvenes.
X. Remarks by the Commissioner, INS.
XI. Subcommittee Reports.
XII. Old/New Business.
XIII. Formal Recommendations to the Commissioner.
XIV. Meeting Adjourns.

Attendance is open to the interested public, but is limited to the space available.

Dated: August 11, 1977.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc.77-23993 Filed 8-18-77;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there s not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St. NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 15th day of August 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

Applications received during the week ending Aug. 12, 1977

Name of applicant	Location of enterprise	Principal product or activity
Skylands Farm Corp.	West Milford, N.J.	Breeding farm for registered quarter horses with boarding facilities and ancillary services.
Colonial Farms, Inc.	Norma, N.J.	Processing of chicken and chicken products.
White's Inc.	Glendenin, W.Va.	Grocery store.
Bemis Coal Co.	Webster Springs, W.Va.	Coal mining.
Copeland Corp.	Hartselle, Ala.	Manufacturing of air-conditioning compressors and matkeying.
L. D. Webb.	Calhoun City, Miss.	A medical office building.
Blackwelder Furniture Co. of Statesville, Inc.	Statesville, N.C.	Retail furniture sales.
S. Paul Ramsey.	Bluffton, S.C.	Public warehouse and consolidated freight delivery system.
Ag Industries Manufacturing Corp.	Houston County, Ala.	Manufacturing of sulfur-coated urea.
Carriage Carpet Mills, Inc.	Calhoun, Ga.	Manufacturing of carpet.
Burlington Garment Manufacturing, Inc.	Burlington, N.C.	Manufacturing of children's and women's lingerie.
National Fence Manufacturing Co., Inc.	Rock Hill, S.C.	Manufacturing of chain link fencing.
Burton Block & Concrete Co., Inc.	Burton, S.C.	Manufacturing and sale of ready-mix concrete products.
S & E Tool Co., Inc.	Flora, Ill.	Manufacturing of 3-cone button bits for the mining industry.
Guy D. Parr.	Shelbyville, Ill.	Restaurant.
East Texas Farmers Cooparative, Inc.	Rusk, Tex.	Farm supply co-op business.
Walls Industries, Inc. (tenant of city of Hamilton).	Hamilton, Tex.	Manufacturing of insulated 1-piece suit.
Dawson Cabinet Co., Inc.	Carterville, Mo.	Manufacturing of household furniture.
Ackerman Investment Co.	Ames, Iowa	Rental of motel units.
Grande Ronde Commodities, Inc.	LaGrande, Oreg.	Sorting and packaging potatoes.
Jumpoff Joe Ranch.	Grants Pass, Oreg.	Guest ranch resort and conference center.
Grandeur Furniture Industries, Inc.	Rising Sun, Ind.	Manufacturing of furniture.

[FR Doc.77-23906 Filed 8-18-77;8:45 am]

Employment and Training Administration

INDIAN AND NATIVE AMERICAN ECONOMIC STIMULUS PROGRAM

Plans for Allocating Funds—Supplemental Information

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice provides application procedures for eligible nonprofit organizations under the Fiscal Year 1977 Indian and Native American Economic Stimulus Program. This program was announced earlier in the FEDERAL REGISTER.

DATES: Proposals must be received in the manner indicated below, by 4:45 p.m. on September 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Alexander S. MacNabb, Director, Division of Indian and Native American Programs, Room 6402, 601 D Street NW., Washington, D.C. 20213.

SUPPLEMENTARY INFORMATION: Basic plans for the Indian and Native American Economic Stimulus Program were announced on Tuesday, July 26, 1977, at 42 FR 38022. As stated in that announcement, fully accredited nonprofit medical institutions may submit proposals for paramedical training funds, fully accredited nonprofit law schools may submit proposals for paralegal training funds and nonprofit management organizations may submit proposals for management training funds.

Eligible nonprofit organizations may request in writing or by telephone that copies of the Solicitation for Grant Applications (SGA) be mailed to them. The SGA contains instructions for completing the grant application package, and also contains evaluation criteria and individual Statements of Work. Telephone requests should be made to Eric Rudert on 202-376-7620.

The deadline for proposal reciept in all six program areas, including the three for which certain nonprofit organizations are eligible to apply, is 4:45 p.m. on September 12, 1977. This deadline also affects other eligible applicants, which are Division of Indian and Native American Programs prime sponsors who are eligible for Comprehensive Employment and Training Act funds under title VI. The September 12, 1977, date supersedes the deadline of August 31, 1977, which is contained in the SGA.

Signed in Washington, D.C. this 16th day of August, 1977.

LAMOND GODWIN,
Administrator, Office of National Programs.

[FR Doc.77-24101 Filed 8-18-77;8:45 am]

SKILL TRAINING IMPROVEMENT PROGRAM

Correction

AGENCY: Employment and Training Administration, Labor.

ACTION: Correction.

SUMMARY: This notice revises the notice which announced the plans of the Department of Labor for implementing the Skill Training Improvement Program.

CORRECTION: In FR 38022, Vol., 42 No. 143—Tuesday, July 26, 1977, the date by which applications for funding must be received is revised to October 17, 1977.

Signed in Washington, D.C., this 12th day of August 1977.

ROBERT J. MCCONNON,
Deputy Assistant Secretary for Employment and Training.

[FR Doc.77-24118 Filed 8-18-77;8:45 am]

Office of the Secretary

ADVISORY COUNCIL ON EMPLOYEE WELFARE AND PENSION BENEFIT PLANS

Announcement of Vacancies; Request for Nominations

Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA, 88 Stat. 895, 29 U.S.C. 1142) provides for the establishment of an "Advisory Council on Employee Welfare and Pension Benefit Plans" (the Council) which is to consist of 15 members to be appointed by the Secretary of Labor (the Secretary) as follows: three representatives of employee organizations (at least one of whom shall be representative of an organization whose members are participants in a multiemployer plan); three representatives of employers (at least one of whom shall be representative of employers maintaining or contributing to multiemployer plans); one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, investment management, and accounting; and three representatives from the general public (one of whom shall be a person representing those receiving benefits from a pension plan). Not more than eight members of the Council shall be members of the same political party.

Members shall be persons qualified to appraise the programs instituted under ERISA. Appointments are for terms of three years.

The prescribed duties of the Council are to advise the Secretary with respect to the carrying out of his functions under ERISA, and to submit to the Secretary recommendations with respect thereto. The Council will meet at least four times each year, and recommendations of the Council to the Secretary will be included in the Secretary's annual report to the Congress on ERISA.

The terms of five members of the Council expire on November 14, 1977. The groups or fields represented are as follows: Employee organizations, employers, insurance, accounting, and the general public. Also, due to the resignation of the Council member representing the general public (those receiving benefits from a pension plan) who was appointed on November 15, 1976 to a three-year term, a vacancy exists to represent this group for the remainder of that term.

Accordingly, notice is hereby given that any person or organization desiring to recommend one or more individuals for appointment to the ERISA Advisory Council on Employee Welfare and Pension Benefit Plans to represent any of the groups or fields specified in the preceding paragraph may submit recommendations to the Secretary of Labor, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210. Recommendations must be delivered or mailed by October 5, 1977. Recommendations may be in the form of a letter, resolution, or petition, signed by the person making the recommendation, or, in the case of a recommendation by an organization, by an authorized

V42N161 AUG 19 77 UM

representative of the organization. Each recommendation shall identify the candidate by name, occupation or position, and address. It shall include a brief description of the candidate's qualifications and shall specify the group or field which the candidate would represent for the purposes of section 512 of ERISA, the candidate's political party affiliation, and whether the candidate is available and would accept.

Signed at Washington, D.C., this 8th day of August 1977.

IAN D. LANOFF,
Administrator of Pension and Welfare Benefit Programs.

[FR Doc.77-23910 Filed 8-15-77;2:54 pm]

ANACONDA CO., ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221 (a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 29, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 29, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 2nd day of August 1977.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
The Anaconda Co., General Mining Division, Victoria Mine (UHEW).	Victoria, Nev....	Aug. 2, 1977	July 26, 1977	TA-W-2,235	Copper cathodes.
Bethlehem Steel Corp. (USWA).	Seattle, Wash....	July 28, 1977	July 25, 1977	TA-W-2,236	Structural, angle, plate, round and flats Steel.
Brown Shoe Co. (workers)..	Pittsfield, Ill....	Aug. 1, 1977	....do.....	TA-W-2,237	Men's dress shoes.
Eastside Sportswear, Inc. (workers).	Paterson, N.J.....	....do.....	July 28, 1977	TA-W-2,238	Ladies' coats.
Techron Corp. (workers)....	Randolph, Mass.	July 29, 1977	July 26, 1977	TA-W-2,239	Printed circuits.

[FR Doc.77-23779 Filed 8-18-77;8:45 am]

[TA-W-1984]

APOLLO DYEING AND FINISHING CO., INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1984: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 18, 1977 in response to a worker petition received on April 18, 1977 which was filed by the Machine Printers and Engravers Association on behalf of workers and former workers printing and dyeing fabric at the Paterson, New Jersey plant of Apollo Dyeing and Finishing Company, Incorporated.

The notice of investigation was published in the FEDERAL REGISTER on April 29, 1977 (42 FR 21872). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Apollo Dyeing and Finishing Company, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Company employment increased 13 percent from 1974 to 1975 and increased 7 percent from 1975 to 1976. Employment declined 7 percent in the last six months of 1976 and declined 25 percent in the first quarter of 1977 when compared to the like periods of the previous year.

SALES, PRODUCTION, OR BOTH HAVE DECREASED ABSOLUTELY

Sales of printed fabric, adjusted for price changes, increased 165 percent from 1974 to 1975 and then declined 29 percent from 1975 to 1976. Sales declined 57 percent in the last six months of 1976 and declined 78 percent in the first quarter of 1977 when compared to the like period of the previous year.

Sales of dyed fabric, adjusted for price changes, declined 6 percent from 1974 to 1975 and then increased 8 percent from 1975 to 1976. Sales declined 3 percent in the last quarter of 1976 and declined 16 percent in the first quarter of 1977 when compared to the like quarters of the previous year.

Apollo finishes fabric on a commission basis. Therefore, production is equivalent to sales.

INCREASED IMPORTS

Imports of cotton broadwoven printcloth declined absolutely from 1972 to 1973, increased from 1973 to 1974, declined 10.5 percent from 1974 to 1975 and then increased 55.6 percent from 1975 to 1976. Imports declined in the first quarter of 1977 compared to the first quarter of 1976. The ratios of imports to domestic production and consumption increased from 13.5 percent and 12.9 percent, respectively, in 1975 to 20.6 percent and 19.8 percent, respectively, in 1976.

Imports of man-made woven printed fabric declined absolutely from 1972 to 1973, increased from 1973 to 1974, declined 0.8 percent from 1974 to 1975 and then increased 23.5 percent from 1975 to 1976. The ratios of imports to domestic production and consumption remained less than one percent from 1972 through 1976.

Imports of bleached and dyed man-made woven fabrics declined absolutely from 1972 to 1973 and from 1973 to 1974. Imports then increased from 1974 to 1975 and increased 8 percent from 1975 to 1976. The ratios of imports to domestic production and consumption declined from 3.9 percent for each in 1975 to 3.7 percent for each in 1976.

CONTRIBUTED IMPORTANTLY

Customers of Apollo Dyeing and Finishing Company are fabric converters who buy greige goods and commission Apollo to finish the fabric, by dyeing and printing it in accordance with apparel manufacturers' specifications. During the course of the investigation it was established that some domestic converters purchase imports of finished fabric. Approximately 50 percent of Apollo's customers, who were surveyed, purchase imported finished (dyed or printed) fabric. In general, the converters maintained that orders with Apollo were reduced because the converters were experiencing declining sales.

The Department's survey of apparel manufacturers, who are customers of the converters, revealed that manufacturers are importing printed or finished fabric for use in the production of men's and women's wearing apparel. The converters reported a growing trend toward manufacturers bypassing converters and purchasing finished fabric offshore or purchasing the imported finished fabric domestically, through foreign trading companies.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports like or directly competitive with dyed and printed fabric produced at Apollo Dyeing and Finishing Company, Incorporated, Paterson, New Jersey contributed importantly to the total or partial separation of the workers of the plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Apollo Dyeing and Finishing Company, Incorporated, Paterson, New Jersey and the company sales office in New York, New York who became totally or partially separated from employment on or after June 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-23780 Filed 8-18-77;8:45 am]

[TA-W-2023]

BELLE-MOC, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2023: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 25, 1977 in response to a worker petition received on that date which was filed by the Lewiston Auburn Shoeworkers Protective Association on behalf of workers and former workers producing men's footwear at Belle-Moc., Inc., Lewiston, Maine.

The Notice of Investigation was published in the FEDERAL REGISTER on May 10, 1977 (42 FR 23656). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Belle-Moc., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations; or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a caues which is important but not necessarily more important than any other cause.

The Department's investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment at Belle-Moc, Inc. declined 30.6 percent in 1976 compared to 1975 and declined 44.6 percent in the first three months of 1977 compared to the same period in 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at Belle-Moc, Inc. declined by 49.5 percent in 1976 compared to 1975 and declined 53.0 percent in the first three months of 1977 compared to the same period in 1976.

Sales at Belle-Moc, Inc. declined 52.6 percent in 1976 compared to 1975 and declined 44.1 percent in the first three months of 1977 compared to the same period in 1976.

INCREASED IMPORTS

Imports of men's dress and casual footwear increased both in absolute terms and relative to domestic production and consumption from 1972 to 1973, decreased from 1973 to 1974 and increased again from 1974 to 1975. Imports rose from 47.5 million pairs in 1975 to 58.7 million pairs in 1976, an increase of 23.6 percent. The ratio of imports to domestic production increased from 58.7 percent in 1975 to 68.5 percent in 1976. Imports rose from 15.2 million pairs in the first quarter of 1976 to 15.7 million pairs in the first quarter of 1977. The ratio of imports to domestic production increased from 63.9 percent in the first quarter of 1976 to 76.6 percent in the first quarter of 1977.

CONTRIBUTED IMPORTANTLY

Customers surveyed indicated either that purchases from Belle-Moc decreased while purchases of imports increased, or that purchases from Belle-Moc decreased relative to purchases of imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's dress and casual nonrubber footwear produced by Belle-Moc, Inc. contributed importantly to the total or partial separations of the workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Belle-Moc, Inc., Lewiston, Maine who became totally or partially separated from employment on or after April 18, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 3rd day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-23781, Filed 8-18-77,8:45 am]

[TA-W-1847]

HARRIS CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1847: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 22, 1976 in response to a worker

V 42 161 AUG 19 77 UM

petition received on that date which was filed on behalf of workers and former workers producing matrices for hot-metal typesetting machines at the Winchester, Virginia facility of Harris Composition Systems Division.

The Notice of Investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18156). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Harris Composition Systems Division, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Total employment of workers at the Winchester, Virginia facility of Harris Composition Systems Division declined 18 percent in 1976 from 1975 and declined 8 percent during January–April 1977 compared to January–April 1976. Employment of workers engaged in the production of typesetting matrices declined 15 percent in 1976 from 1975 and declined 13 percent during the first quarter of 1977 compared to the first quarter of 1976. The Winchester facility operated on a shortened work week from January through mid-March 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total dollar sales by the Winchester facility declined two percent in 1976 from 1975 and declined 9 percent during January–March 1977 compared to January–March 1976. Production of typesetting matrices declined 50 percent in 1975 from 1974 and declined one percent in 1976 from 1975.

Company officials at Harris Composition Systems Division have announced their intention to close the Winchester manufacturing facility by the fall of 1977.

INCREASED IMPORTS

Imports of matrices for hot-metal type setting machines amounted to 82.2 percent of U.S. production in 1974, 154.4 percent of U.S. production in 1975, and 136.3 percent of production in 1976. Imports increased 60 percent in value during the first quarter of 1977 compared to the same period in 1976.

CONTRIBUTED IMPORTANTLY

From January 1975 to March 1977 the number of major domestic manufacturers of matrices for hot-metal typesetting machines has declined from five to one. During the past several years many domestic firms have transferred their manufacturing facilities from the United States to Europe. The majority of the U.S. matrix market is currently being supplied by European manufacturing facilities.

Company officials of Harris Composition Systems Division plan to close the manufacturing operations at the Winchester facility in August 1977. Production of matrices for hot-metal typesetting machines will be transferred to the Harris manufacturing facility in Slough, England. Production of glass discs will be transferred to Melbourne, Florida in August, 1977. Company officials stated that this transfer would not have taken place had production of matrices (80 percent of total plant production in 1976) not been transferred abroad.

Customers of the Winchester, Virginia facility indicate that the majority of their suppliers produce matrices at foreign manufacturing facilities.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with matrices for hot-metal typesetting machines produced at the Winchester, Virginia facility of Harris Composition Systems Division contributed importantly to the total or partial separations of workers of that facility. In accordance with the provisions of the Act, I make the following certification:

All workers of the Winchester, Virginia facility of Harris Composition Systems Division who became totally or partially separated from employment on or after March 16, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-23782 Filed 8-18-77;8:45 am]

[TA-W-2067]

IRVING WENGER, INC.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2067: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 11, 1977 in response to a worker petition received on May 11, 1977 which was filed on behalf of workers and former workers producing women's dresses at Irving Wenger, Inc., Philadelphia, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on May 24, 1977 (42 FR 26481). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Irving Wenger, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, criterion (4) has not been met.

Evidence developed in the investigation revealed that Irving Wenger is a contractor producing women's dresses primarily for two clothing manufacturers. Sales by the manufacturer accounting for 70 percent of Irving Wenger's sales increased in both 1975 and 1976. Customers of that manufacturer who were surveyed either increased purchases from the manufacturer or indicated that they do not purchase imported dresses. The manufacturer accounting for 15–20 percent of Irving Wenger's sales did not purchase imported garments.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's dresses produced by Irving Wenger, Inc. did not contribute importantly to the decline in sales or production or separations of workers of that firm.

Signed at Washington, D.C. this 3rd day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-23783 Filed 8-18-77;8:45 am]

[TA-W-1819]

OPTEL CORP.

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1819: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 21, 1977 in response to a worker petition received on March 16, 1977 which was filed on behalf of workers and former workers producing electronic digital watches at Optel Corporation, Princeton, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18158). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Optel Corporation, its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met for electronic digital watches. Furthermore, without regard to whether any of the other criteria have been met, criterion (2) has not been met with regard to liquid crystal display (LCD) readouts.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers increased 42.0 percent in 1975 compared to 1974 but declined 36.7 percent in 1976 compared to 1975. Employment for the first quarter 1977 was 69.0 percent less than the same period in 1976. Optel employed 4.8 percent more salaried workers in 1975 than 1974. Salaried employment declined 17.4 percent in 1976 compared to 1975. Optel's decision to discontinue production of electronic digital watches resulted in permanent layoffs beginning March 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

A. ELECTRONIC DIGITAL WATCHES

Sales of digital watches in terms of value increased 118.8 percent in 1975 compared to 1974 but decreased 55 percent in 1976 compared to 1975.

B. LIQUID CRYSTAL DISPLAY READOUTS

Optel began sales of the LCD units exclusively in 1976.

Sales of LCD's in terms of quantity increased 39.3 percent in the first quarter of 1977 compared to the fourth quarter of 1976, the first quarter for which LCD sales data were available. Company officials stated that production of LCD's closely parallels sales.

INCREASED IMPORTS

Imports of nonconventional watches increased from 29,000 units in 1973 to 134,000 units in 1974, an increase of 362.1 percent. Imports increased 1066.4 percent in 1975 to 1,563,000 units from 1974. United States imports increased again in 1976 to 5,158.000 units, an increase of 230 percent. The ratio of import to domestic production increased from 11.3 percent in 1974 to 60.4 percent in 1975 and decreased 55.7 percent in 1976.

CONTRIBUTED IMPORTANTLY

Customers indicated that they did switch purchases of digital watches from Optel to foreign sources. Customers cited price as the most important factor in purchasing decisions. The low price of imports and their availability make them desirable to domestic watch manufacturers.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with electronic digital watches produced at the three plants at Optel Corporation contributed importantly to the separations of workers of that firm.

In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of electronic digital watches at the three plants of Optel Corporation located in Princeton, New Jersey and the sales offices in New York, New York and Stamford, Connecticut who became totally or partially separated from employment on or after March 14, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that sales or production, or both, of LCD readouts at the Princeton plants of Optel Corporation did not decrease absolutely and therefore employees engaged in production of LCD readouts should not be certified as eligible to apply for adjustment assistance under the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-23784 Filed 8-18-77;8:45 am]

[TA-W-1821]

R&M FASHIONS

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1821: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 18, 1977 in response to a worker petition received on March 18, 1977 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's dresses and sportswear at R & M Fashions, Wilkes-Barre, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18158). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of R & M Fashions, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, criterion (4) has not been met.

The Department's investigation has revealed that the only apparel manu-

V42161 AUG 19 77 UM

facturer for which R & M Fashions produced women's dresses and sportswear (which includes blouses and shirts, skirts, slacks and shorts) does not import finished products for sale to its retail customers and does not contract with firms outside the United States. This manufacturer increased contracts with R & M Fashions from 1975 to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with women's dresses, blouses and shirts, skirts and slacks and shorts produced by R & M Fashions have not contributed importantly to the decline in sales or production of the firm or to the total or partial separations of workers of that firm as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 3rd day of August 1977.

JAMES F. TAYLOR,
Director, Office Management, Administration, and Planning.

[FR Doc.77-23785 Filed 8-18-77;8:45 am]

[TA-W-1492, 1493, and 1488]

REPUBLIC STEEL CORP. AND CANTON STEEL

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1492, 1493, and 1488: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1976 in response to worker petitions received on December 15, 1976 which were filed by the United Steelworkers of America on behalf of workers and former workers producing various steel products at the Canton Steel, Canton South Division, and Massillon, Ohio plants of the Central Alloy District of Republic Steel Corporation, Cleveland, Ohio.

The notice of investigation was published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2378 and 2379). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Republic Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974, must be met:

(1) that a significant number or proportion of the workers in the workers' firm, or appropriate subdivision thereof, have become totally or partially separated;

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) that articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) that such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to any of the other criteria, criterion three (3) was not met for carbon steel bars and criterion four (4) was not met for alloy steel bars.

FINDINGS OF THE INVESTIGATION

Republic Steel Corporation was incorporated in New Jersey in 1899 as the Republic Iron and Steel Company. The name was changed in 1930. Republic, a major integrated steel company in the United States, produces a diversified line of steel mill products and a variety of fabricated steel products. Republic operates within six districts and a number of divisions with plants throughout the country.

The Central Alloy District includes the Canton Steel, Canton South Division, and Massillon, Ohio plants (Massillon plants 1 and 3). The Central Alloy District produces carbon and alloy steel bars.

Imports of carbon hot and cold rolled steel bars declined both absolutely and relative to domestic shipments in each year from 1972 through 1976. The ratio of imports to domestic shipments declined from 7.7 percent in 1975 to 6.6 percent in 1976.

Customers of the Central Alloy District were surveyed regarding their purchases of alloy steel bars. Over 85 percent of the customers contacted did not purchase imported alloy steel bars in 1976. From 1973 through 1976 the ratio of imports of alloy steel bars to domestic shipments did not exceed the 1972 level of 3.4 percent.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports like or directly competitive with carbon steel bars produced at the Canton Steel, Canton South Division, and Massillon, Ohio, plants (plants 1 and 3) of the Central Alloy District of Republic Steel Corporation did not increase as required for certification under Section 222 of the Trade Act of 1974.

I further conclude that increases of imports like or directly competitive with alloy steel bars produced at the Canton Steel, Canton South Division and Massillon, Ohio plants (plants 1 and 3) of the Central Alloy District of Republic Steel Corporation did not contribute importantly to the total or partial separation of workers of those plants.

Signed at Washington, D.C. this 4th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-23786 Filed 8-18-77;8:45 am]

[TA-W-1468, 1469, 1471]

WHEELING-PITTSBURGH STEEL CORP.

Notice of Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1468, 1469 and 1471: investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing carbon steel hot and cold rolled sheets at the Steubenville, Ohio plant of Wheeling-Pittsburgh Steel Corporation, which includes facilities in Steubenville and Mingo Junction, Ohio and Follansbee, West Virginia.

The notice of investigations was published in FEDERAL REGISTER on January 7, 1977 (42 FR 1543 and 1544). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Wheeling Pittsburgh Steel Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analyst, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigations have revealed that without regard as to whether or not any of the other criteria have been met, criterion two (2) has not been met.

Production, in quantity and value, of carbon steel hot and cold rolled sheets at the Steubenville, Ohio plant of Wheeling-Pittsburgh Steel Corporation, which includes facilities in Steubenville and Mingo Junction, Ohio and Follansbee, West Virginia increased 25 and 43 percent, respectively, in 1976 from 1975. Production increased in each quarter of 1976 compared to the same quarter of 1975.

Sales, in quantity and value, of carbon steel hot and cold rolled sheets at the Steubenville, Ohio plant of Wheeling-Pittsburgh Steel Corporation, which includes facilities in Steubenville and Mingo Junction, Ohio and Follansbee, West Virginia increased 26 percent and 42 percent, respectively, in 1976 from 1975. Sales increased in each quarter of 1976 compared to the same quarter of 1975.

CONCLUSION

After careful review of the facts obtained in the investigations, I conclude that sales and production at the Steubenville, Ohio plant of Wheeling-Pittsburgh Steel Corporation, which includes facilities in Steubenville and Mingo Junction, Ohio and Follansbee, West Virginia have not declined as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.23787 Filed 8-18-77;8:45 am]

[TA-W-1983]

WHITE PINE SCHOOL DISTRICT, WHITE PINE, MICHIGAN

Negative Determination Regarding Eligibility To Apply for Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1983: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 13, 1977 in response to a worker petition received on April 11, 1977 which was filed by the Michigan Education Association on behalf of workers and former workers of the White Pine School District, White Pine, Michigan.

The Notice of Investigation was published in the FEDERAL REGISTER on April 29, 1977 (42 FR 21874). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the White Pine School District and from officials of the Michigan Education Association. In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

If any of the above criteria is not satisfied, a negative determination must be made.

The White Pine School District, White Pine, Michigan, does not produce an "article" within the meaning of Section 222 (3) of the Act, and this Department has already determined that the performance of services is not covered by the adjustment assistance program. See Notice of Determination in Pan American World Airways, Incorporated (TA-W-153, 40 FR 54639). The only question in this case is whether the White Pine Copper Company, i.e., a firm which produced an article, namely refined copper, and for whom the services are provided, can be considered the "workers' firm." The Department has also previously determined that an independent firm for whom such services are provided cannot be considered the "workers' firm." See Notice of Determination in Nu-Car Driveaway, Incorporated (TA-W-393, 41 FR 12749).

The White Pine School District is a public school system, is run by an elected board of private area citizens, and is completely financed by public tax revenues. White Pine School District does not produce any finished goods. Workers of the White Pine School District are engaged in employment related to teaching students from kindergarten through high school. Workers are employed on a contract basis with and can be discharged from such employment by the White Pine School District. Neither the White Pine School District nor its workers has any direct relationship with the White Pine Copper Company.

CONCLUSION

After careful review of the issues and facts involved, I have determined that services of the kind provided by White Pine School District, White Pine, Michigan, are not "articles" within the meaning of Section 222 (3) of the Trade Act of 1974, and that the White Pine Copper Company cannot be considered the "workers' firm." The petition for trade adjustment assistance is, therefore, denied.

Signed at Washington, D.C., this 3rd day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-23788 Filed 8-18-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on August 15, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Questionnaire to small utilities, single-time, small electric utilities, Energy and Science Division, 395-3810.

VETERANS ADMINISTRATION

Application for home loan guaranty—Refinancing Loan, 26-1802B, on occasion, Veterans, Warren Topelius, 395-5872.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary, President's Federal Planning Requirements Review, OS-9-77, single time, human service personnel in 50 States and 100 local governments, Lowry, R. L., 395-3772.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Administrative Cost Study—WIC Program, single time, State and local health agencies, Human Resources Division, Warren Topelius, 395-3532.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, Survey of Disability and Work, SSA-3567, single time, persons 18-64 in noninstitutions and recent disability applicants, Human Resources Division, Sunderhauf, M. B., 395-3532.

DEPARTMENT OF THE TREASURY

Departmental and other:
Reporting Bank's Own Liabilities to "Foreigners"—Payable in Dollars, BL-1 1(A), BL-1(SA), monthly U.S. banks, Gaylord Worden, 395-4730.
Custody Liabilities of Reporting Banks, Brokers, and Dealers to "Foreigners"—Payable in Dollars, BL-2, 2(A), 2(SA), monthly, U.S. banks and brokers, Gaylord Worden, 395-4730.

V42161 AUG 19 77 UM

Reporting Bank's Own Claims on "Foreigners"—Payable in Dollars, BC, BC(A), monthly, U.S. banks, Gaylord Worden, 395–4730.

Reporting Bank's Own Claims on Foreigners and Claims of Reporting Bank's Domestic Customers on Foreigners, BQ–1, 1A, quarterly, U.S. Banks, Gaylord Worden, 395–4730.

Reporting Bank's own Liabilities to and Claims on Foreigners and Claims of Reporting Bank's Domestic Customers on Foreigners, BQ–2,2A, quarterly, U.S. banks, Gaylord Worden, 395–4730.

REVISIONS

DEPARTMENT OF THE INTERIOR

Bureau of Mines, sulfur and sulfuric acid, 6–1569–A, annually, producers and consumers, C. Louis Kincannon, 395–3211.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Manufacturing Grade Milk Price—Minnesota and Wisconsin, monthly, manufacturing grade milk buyers, Gaylord Worden, 395–4730.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-24168 Filed 8-18-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 9891]

CUMULO ALTERNATE FUND, INC.

Filing of Application For Order Declaring That Company Has Ceased to Be An Investment Company

AUGUST 12, 1977.

In the matter of Cumulo Alternate Fund, Inc., 523 West Sixth Street, Los Angeles, Calif. 90014 (811–1945).

Notice is hereby given that Cumulo Alternate Fund, Inc. ("Applicant"), an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on June 10, 1977, and and amendment thereto on July 18, 1977, pursuant to Section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

Applicant was incorporated under the laws of the State of California on August 28, 1969 and registered with the Commission under the Act on September 29, 1969.

Applicant states that on February 3, 1977, its shareholders approved a plan of liquidation and dissolution ("Plan"). A cash reserve of $1,425.51 was established in accordance with the Plan to discharge any unpaid liabilities and to pay the expenses of dissolution. All remaining assets were liquidated and distributed to Applicant's shareholders pro rata on May 2, 1977. At the time of liquidation Applicant had net assets of $74,136.25 and 15,243.72 shares outstanding. Applicant represents that any monies remaining in the reserve will be distributed to former shareholders pro rata in January 1978.

Applicant states that on May 24, 1977, a Certificate of Dissolution was filed with the Secretary of State of California and that Applicant has ceased to be an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 6, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-24076 Filed 8-18-77;8:45 am]

[Rel. No. 9892]

CUMOLO FUND, INC.

Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

AUGUST 12, 1977.

In the matter of Cumulo Fund, Inc., 523 West Sixth Street, Los Angeles, Calif. 90014 (811–1708).

Notice is hereby given that Cumulo Fund, Inc. ("Applicant"), an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on June 10, 1977, and an amendment thereto on July 18, 1977, pursuant to Section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

Applicant was incorporated under the laws of the State of Delaware on July 22, 1968, and registered with the Commission under the Act on August 9, 1968.

Applicant states that on February 3, 1977, its shareholders approved a plan of liquidation and dissolution ("Plan"). A cash reserve of $1,294.09 was established in accordance with the Plan to discharge any unpaid liabilities and to pay the expenses of dissolution. All remaining assets were liquidated and distributed to Applicant's shareholders pro rata on May 2, 1977. At the time of liquidation Applicant had net assets of $161,720.03 and 47,325.17 shares outstanding.

Applicant represents that in June of 1977, $622.26 was returned to Applicant by a bank acting as agent for a shareholder in settlement of an outstanding claim. This amount and any additional such assets that may be recovered, together with any monies remaining in the reserve, will be distributed to former shareholders pro rata in January 1978.

Applicant states that on May 26, 1977, a Certificate of Dissolution was filed with the Secretary of State of Delaware and that Applicant has ceased to be an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 6, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-24077 Filed 8-18-77;8:45 am]

[Rel. No. 13859]

MIDWEST STOCK EXCHANGE INC.

Order Approving Proposed Rule Change

AUGUST 15, 1977.

In the matter of Midwest Stock Exchange, Incorporated, 120 South LaSalle Street, Chicago, Illinois 60603, (SR–MSE–77–19).

On June 22, 1977, the Midwest Stock Exchange, Incorporated filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b–4 thereunder, copies of a proposed rule change to require that the Chairman of the Committee on Specialist Assignment and Evaluation not be affiliated with a broker-dealer and to delete the requirement that such Chairman be a public governor of the Exchange.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13702 (June 29, 1977)) and by publication in the FEDERAL REGISTER (42 FR 35718 (July 11, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on June 22, 1977, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-24078 Filed 8-18-77;8:45 am]

[Rel. No. 34–13860]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Filing of Proposed Rule Change

AUGUST 15, 1977.

In the matter of the National Association of Securities Dealers, Inc., 1735 K Street NW., Washington, D.C. 20006 SR–NASD–77–10.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), as amended by Pub. L. No. 94–29, § 16 (June 4, 1975), notice is hereby given that the National Association of Securities Dealers, Inc. (the "NASD") filed with the Commission on June 20, 1977, copies of a proposal to amend Section 1(a) of Schedule G under Article XVIII of the NASD By-Laws. That proposal, as amended by a letter dated July 8, 1977 (the "Proposal"), is to permit any member of the NASD to become a so-called "Designated Reporting Member" upon request, provided the member executes over-the-counter transactions in listed securities required to be reported on the Consolidated Tape and maintains transaction reporting capability through the NASDAQ Transaction Reporting System.

Interested persons are invited to submit written data, views and arguments concerning the Proposal within 30 days of the date of this publication. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–NASD–77–10.

Copies of the submission and of all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of the filing will also be available at the principal office of the NASD.

The Commission finds that the Proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities associations and, in particular, the requirements of Section 15A of the Act and the rules and regulations thereunder.

The Commission finds good cause for approving the Proposal prior to the thirtieth day after the date of publication of notice of filing thereof. Adoption of the Proposal would eliminate a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the Proposal be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-24080 Filed 8-18-77;8:45 am]

[Rel. No. 9890]

SIGMA TAX-FREE INCOME FUND, INC.

Filing of Application for an Order Declaring That Company Has Ceased To Be an Investment Company

AUGUST 12, 1977.

In the matter of Sigma Tax-Free Income Fund, Inc., Greenville Center, 3801 Kennett Pike, Wilmington, Delaware, 19807 (811–2724).

Notice is hereby given that Sigma Tax-Free Income Fund, Inc. ("Applicant"), an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on May 26, 1977, and an amendment thereto on August 4, 1977, pursuant to Section 8(f) of the Act for an order of the Commission declaring that the Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized as a corporation under the laws of Delaware on January 25, 1977. On that same date, Applicant registered under the Act as an investment company and filed a Form S–5 under the Securities Act of 1933 to register 500,000 shares of its common stock. Since the date of its incorporation, Applicant has engaged in no business activity, has had no stockholders, has never raised its initial capital pursuant to Section 14 of the Act, and has never had any assets. The application contends that after consideration of existing market conditions and for other business reasons, Applicant's board of directors decided to seek an order providing that Applicant's registration as an investment company shall cease to be in effect. On June 16, 1977, a Certificate of Dissolution was filed with the Secretary of State of Delaware, and, pursuant to Rule 477 promulgated under the Securities Act of 1933, an application requesting withdrawal of Form S–5 was filed on May 26, 1977.

Section 8(f) of the Act provides in part that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 6, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether

V 42 161 AUG 19 77 UM

a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-24079 Filed 8-18-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the eleventh meeting of the Board for International Food and Agricultural Development on September 12, 1977.

The purpose of this meeting is: To receive a progress report on prior Board requested actions including actions taken to strengthen American Universities capabilities in agricultural development and in the development of guidelines for the Joint Research Committee; to consider expansion of the provisional roster of American Universities eligible for participation in Title XII programs; to receive reports from the chairmen of the Joint Research Committee and Joint Committee on Agricultural Development; and to receive a briefing on the study on Food and Nutrition by the National Academy of Sciences, National Research Council.

The meeting will begin at 8:30 a.m. and will adjourn at 4:30 p.m. and will be held in Room 1107 in the State Department Building, 21st and C Streets NW., Washington, D.C. The meeting is open to the public. Any interested person may attend, may file written statements with the Board before or after the meeting, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meeting permits.

Dr. Erven J. Long, Associate Assistant Administrator, Technical Assistance Bureau, is designated as A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (703) 235-9001.

Dated: August 10, 1977.

ERVEN J. LONG,
A.I.D. Advisory Committee Representative, Joint Research Committee, Board for International Food and Agricultural Development.

[FR Doc.77-24074 Filed 8-18-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

CONSTRUCTION ZONE SAFETY

Meeting

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice.

SUMMARY: Officials of the Federal Highway Administration (FHWA) will meet with interested parties on August 26, 1977, to discuss the subject of construction zone safety. Interested individuals and groups are invited to attend and participate in the discussion.

DATE: August 26, 1977.

TIME: 9:30 a.m.

PLACE: Room 3200, Department of Transportation, 400 Seventh Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Paul Oyler, Contract Administration and Safety Branch, Office of Highway Operations 202-426-4847, or Stan Abramson, Office of the Chief Counsel 202-426-0791, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Representatives of various interested parties, including the Building and Construction Trades Department, AFL-CIO, and the Center for Auto Safety, have requested a meeting with FHWA officials to discuss the status of ongoing agency activities relating to safety in work zones on Federal-aid highway projects. The FHWA has decided that it is in the public interest to provide all interested parties an opportunity to attend and participate in this discussion.

FHWA expects that a number of its ongoing activities will be discussed including: The current rulemaking proceeding on construction zone safety (Docket No. 76-14, 41 FR 41712); training in proper traffic control techniques sponsored by FHWA; reviews of traffic safety conditions at highway construction sites; modifications of regulations, directives and standards relating to carrying traffic safely through construction zones; and FHWA-sponsored research on traffic control devices for use in construction zones.

Issued on: August 16, 1977.

WILLIAM M. COX,
Federal Highway Administrator.

[FR Doc.77-24130 Filed 8-18-77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

INDEX TO THE CUSTOMS REGULATIONS

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: General Notice.

SUMMARY: This notice informs the public that the Customs Service has recently revised the index to its regulations A single copy of the revised index may be obtained free of charge by writing to the Customs Service.

EFFECTIVE DATE: August 19, 1977.

ADDRESS: Requests for a copy of the revised index should be addressed to the United States Customs Service, P.O. Box 7188, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT:

Norman W. King, Attorney, Regulations and Legal Publications Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-8237.

SUPPLEMENTARY INFORMATION: To assist both the public and Government personnel, the Customs Service has recently revised the index to its regulations. The revised index will be included in the April 1, 1978, printing of Title 19, Code of Federal Regulations, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

A copy of the revised index is being distributed as part of the 164th set of revised pages to the loose-leaf reprint of the Customs Regulations of the United States, which is available from the Superintendent of Documents on a subscription basis only. Present subscribers to this publication, including Depository Libraries, will automatically receive a copy of the revised index.

For those persons who use the Customs Regulations and are not now subscribers to the loose-leaf reprint, the Customs Service has printed a limited quantity of extra copies of the revised index. As a public service, a single copy may be obtained free of charge by writing to Headquarters, United States Customs Service, P.O. Box 7188, Washington, D.C. 20044. Once this limited supply is exhausted, the only source for the index will be the Superintendent of Documents by purchase of Title 19, Code of Federal Regulations, or by subscription to the loose-leaf reprint.

LEONARD LEHMAN,
Assistant Commissioner, Regulations and Rulings.

[FR Doc.77-24103 Filed 8-18-77;8:45 am]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to Section V, Procedure and Hearing Rules, Station Committee on Educational Allowances that on September 19, 1977, at 10:00 a.m., the Veterans Administration Regional Office, Louisville, Ky., Station Committee on Educational Allowances shall at the Veterans Administration Regional Office, 600 Federal Place, Room 472, Louisville, Ky., conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Owensboro Business College, Owensboro, Ky., should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

KENNETH E. MCDONALD,
Director, VA Regional Office.

[FR Doc.77-24075 Filed 8-18-77;8:45 am]

WATER RESOURCES COUNCIL

WATER RESOURCE POLICY STUDY

Extension of Public Comment Date

Secretary Cecil D. Andrus, in his capacity as Chairman of the Water Resources Council, announced on August 4, 1977 that the time for completion of the water resources policy review ordered by the President in his environmental message of May 23 has been extended 90 days. (See previous issues: July 6 (42 FR 34563); July 15 (42 FR 36788); July 25 (42 FR 37940); and July 28 (42 FR 38463)). The extension was granted in response to comments made at the nine hearings throughout the Nation and at the request of U.S. Senators, Congressmen, and Governors who said insufficient time had been provided for proper consideration of the issues and options. Pursuant to the decision to extend the time of the review, the closing date for public comment on the option papers published in the FEDERAL REGISTER on July 15 and 25, 1977 is now September 15, 1977.

GUY R. MARTIN,
Alternate to the Chairman, Water Resources Council Chairman, Water Resources Policy Committee.

AUGUST 15, 1977.

[FR Doc.77-23992 Filed 8-18-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 461]

ASSIGNMENT OF HEARINGS

AUGUST 16, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

CORRECTION [1]

MC-C 9687, Greyhound Lines, Inc. v. Sway Seymour Invidually and Swan Seymour, d.b.a. Swan Seymour Bus Lines Now assigned September 8, 1977 at Memphis, Tennessee and will be held in Room 978, Federal Office Building, 167 North Main Street.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-24106 Filed 8-18-77;8:45 am]

[Notice No. 460]

ASSIGNMENT OF HEARINGS

AUGUST 16, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 42710 (Sub 13), Ben's Transfer & Storage Co., Inc., now being assigned November 8, 1977 (3 days) at Boise, Idaho, in a hearing room to be later designated.

MC 106497 (Sub 141), Parkhill Truck Company, now being assigned November 1, 1977 (1 day) at Louisville, Kentucky, in a hearing room to be later designated.

MC 112304 (Sub 116), Ace Doran Hauling & Rigging Co., now being assigned November 2, 1977 (1 day) at Louisville, Ky., in a hearing room to be later designated.

MC 83835 (Sub 137), Wales Transportation, Inc., now being assigned November 3, 1977 (2 days) at Louisville, Kentucky, in a hearing room to be later designated.

MC-C 9687, Greyhound Lines, Inc. v. Sway Seymour Individually and Swan Seymour d.b.a. Swan Seymour Bus Lines now assigned September 8, 1977 at Memphis, Tennessee and will be held in Room 978, Federal Office Building, 167 North Main Street.

AB-43 (Sub 25), Illinois Central Gulf Railroad Company Abandonment Between Elizabethtown and Hodgenville in Hardin and Larue Counties, Kentucky, now being assigned November 7, 1977 (1 week) at Hodgenville, Kentucky in a hearing room to be later designated.

MC 142672 Sub 3, David Beneux Produce and Trucking, Inc. now being assigned October 6, 1977 (1 day) at Philadelphia, Pennsylvania in a hearing room to be later designated.

MC 129631 Sub-No. 54 Pack Transport, Inc., now being assigned November 3, 1977 (1 day) for hearing in Salt Lake City, Utah in a hearing room to be later designated.

MC 138875 Sub-No. 52 Shoemaker Trucking Company, now being assigned November 4, 1977 (1 day) for hearing in Salt Lake City, Utah, in a hearing room to be later designated.

[1] This notice corrects the docket number to MC-C 9687 instead of MC-C 9684.

MC 142236 Sub-No. 1 Atkinson Wrecker & Supply Corp., now being assigned November 7, 1977 (1 day) for hearing in Salt Lake City, Utah, in a hearing room to be later designated.

MC 83538 Sub-No. 456 C & H Transportation Co., Inc., MC 109397 Sub-No. 349 Tri State Motor Transit Co., MC 113855 Sub-No. 370 International Transport, Inc., MC 125433 Sub-No. 97 F-B Truck Line Company, now being assigned November 8, 1977 (2 days) for hearing in Salt Lake City, Utah, in a hearing room to be later designated.

MC 142895 Sub-No. 2 Eighty Eight Enterprises, Inc. now being assigned November 10, 1977 (2 days) for hearing in Salt Lake City, Utah, in a hearing room to be later designated.

MC 2860 Sub 151, National Freight, Inc. now assigned September 14, 1977 at New York, New York and will be held in Room No. E-2222, Federal Building, 26 Federal Plaza.

AB 19 Sub 20, Washington County Railroad Company and Baltimore and Ohio Railroad Company Abandonment Portion Hagerstown Branch Between Weverton and Hagerstown, Also Portion of the Antietam Branch, Near Security, All in Washington County, Maryland and FD 28348, Westrn Maryland Railway Company—Lease and Operate—Washington County Railroad Company, Subsidiary of Baltimore and Ohio Railroad Company in Washington County, Maryland now assigned Septmber 12, 1977 at Hagerstown, Maryland and will be held in the Washington County Courthouse, Conference Room, Summitt Avenue.

MC 142699, Maple Leaf Export and Import, Inc. now assigned September 22, 1977 at New York, New York, and will be held in Room 3105, Federal Building, 26 Federal Plaza.

MC 142766 Sub 2, White Tiger Transportation, Inc. now assigned September 20, 1977 at New York, New York and will be held in Room 3105, Federal Plaza, 26 Federal Plaza.

MC-C 9645, Manhattan Transit Company, et al V. S.I. Transit Co., Inc., now assigned Sentember 19, 1977 at New York, New York and will be held in Room 3105, Federal Building, 26 Federal Plaza.

MC 22179 Sub 19, Freeman Truck Line, Inc. now being assigned September 13, 1977 (3 days) for continued hearing at Kosciusko, Mississippi and will be held at the Attalla County Library, 201 South Huntington.

MC 113678 (Sub-No. 631), Curtis, Inc., MC 115331 (Sub-No. 413), Truck Transport, Inc., MC 116763 (Sub-No. 348), Carl Subler Trucking, Inc., MC 118989 (Sub-No. 141), Container Transit, Inc., MC 123048 (Sub-No. 343), Diamond Transportation System, Inc., MC 124211 (Sub-No. 281), Hilt Truck Line, Inc., MC 128273 (Sub-No. 240), Midwestern Distribution, Inc., MC 135732 (Sub-No. 25), Aubry Freight Lines, Inc., now being assigned for continued hearing on October 25, 1977 (9 days), at Milwaukee, Wis., in a hearing room to be later designated.

MC 143173, Dependable Delivery Service, Inc. now assigned October 6, 1977 at Philadelphia, Pennsylvania is cancelled.

AB-1 (Sub-56), Chicago and North Western Transportation Company Abandonment Between Marshall Junction and Vesta, In Lyon and Redwood Counties, Minnesota, now being assigned November 9, 1977 (3 days) at Marshall, Minnesota, in a hearing room to be later designated.

MC 114569 (Sub-159), Shaffer Trucking, Inc.; MC 133689 (Sub-99), Overland Express, Inc. and MC 134477 (Sub-133), Schanno Transportation, Inc., now being assigned November 14, 1977 (2 days) at St. Paul, Minnesota, in a hearing room to be later designated.

MC 135231 (Sub-22), North Star Transport, Inc., now being assigned November 16, 1977 (3 days) at St. Paul, Minnesota, in a hearing room to be later designated.

MC 107678 (Sub-61), Hill & Hill Truck Line, Inc.; MC 5623 (Sub-29), Arrow Trucking Co.; MC 13250 (Sub-136), J. H. Rose Truck Line, Inc.; MC 14743 (Sub-28), E. L. Powell & Sons Trucking Co., Inc.; MC 19227 (Sub-332), Leonard Bros. Trucking Co., Inc.; MC 19416 (Sub-14), Dunn Bros., Inc.; MC 23618 (Sub-24), McAlister Trucking Company, d.b.a. MATCO; MC 42011 (Sub-31), D. Q. Wise & Co., Inc.; MC 43867 (Sub-32), A. Leander McAlister Trucking Company; MC 54847 (Sub-12), Intracoastal Truck Line, Inc.; MC 60157 (Sub-25), C. A. White Trucking Company; MC 63792 (Sub-27), Tom Hicks Transfer Company; MC 66886 (Sub-53), Belger Cartage Service, Inc.; MC 68100 (Sub-18), D. P. Bonham Transfer, Inc.; MC 74321 (Sub-127), B. F. Walker, Inc.; MC 83835 (Sub-136), Wales Transportation, Inc.; MC 93318 (Sub-18), Joe D. Hughes, Inc.; MC 99214 (Sub-6), Patterson Truck Line, Inc.; MC 102181 (Sub-8), O. H. & F., Inc.; MC 103926 (Sub-56), W. T. Mayfield Sons Trucking Co.; MC 105984 (Sub-17), John B. Barbour Trucking Company; MC 106407 (Sub-31), T. E. Mercer Trucking Co.; MC 106775 (Sub-42), Atlas Truck Line, Inc.; MC 107993 (Sub-51), J. J. Willis Trucking Company; MC 108341 (Sub-59), Moss Trucking Company, Inc.; MC 109064 (Sub-32), Tex-O-Ka-N Transportation Company, Inc.; MC 110817 (Sub-22), E. L. Farmer & Company; MC 112304 (Sub-115), Ace Doran Hauling & Rigging Co.; MC 113459 (Sub-108), H. J. Jeffries Truck Line, Inc.; MC 116603 (Sub-13), Turner Bros. Trucking Company, Inc.; MC 117574 (Sub-282), Daily Express, Inc.; MC 119176 (Sub-15), The Squaw Transit Company; MC 119774 (Sub-91), Eagle Trucking Company; MC 120257 (Sub-33), K. L. Breeden & Sons, Inc.; MC 120675 (Sub-3), Acme Truck Lines, Inc.; MC 120761 (Sub-19), Newman Bros. Trucking Company; MC 124947 (Sub-57), Machinery Transports, Inc., and MC 138322 (Sub-4), BHY Trucking, Inc., continued to December 6, 1977 (9 days) at New Orleans, Louisiana, in a hearing room to be later designated.

MC 29120 Sub No. 196 All-American, Inc., now assigned September 19, 1977 in Des Moines, Iowa is cancelled and application dismissed.

MC 114274 Sub No. 38 Vitalis Truck Lines, Inc., now being assigned November 8, 1977 (1 day) for hearing in Chicago, Illinois, in a hearing room to be later designated.

MC 142460 Sub No. 1 Cemco Heavy Haulers, Inc., now being assigned November 9, 1977 (1 day) for hearing in Chicago, Illinois, in a hearing room to be later designated.

MC 124211 Sub No. 285 Hilt Truck Line, Inc., now being assigned November 10, 1977 (2 days) for hearing in Chicago, Illinois, in a hearing room to be later designated.

MC 138446 Sub No. Murray's Transfer & Storage, Inc., now being assigned November 14, 1977 (1 day) for hearing in Chicago, Illinois, in a hearing room to be later designated.

MC 4405 Sub No. 550 Dealers Transit, Inc., now being assigned November 15, 1977 (1 day) for hearing in Chicago, Illinois, in a hearing room to be later designated.

MC 2484 Sub No. 51 E & L Transport Co., now being assigned November 16, 1977 (1 day) for hearing in Chicago, Illinois, in a hearing room to be later designated.

MC 113561 Sub No. 204 Indiana Refrigerator Lines, Inc., now being assigned November 17, 1977 (2 days) for hearing in Chicago, Illinois, in a hearing room to be later designated.

MC-F-12967, Graves Truck Line, Inc.—Purchase—Diamond Freightways, Inc. and MC 85696 Sub 8, Diamond Freightways, Inc. now assigned September 13, 1977 at Omaha, Nebraska and will be held at the Embassy Room, Holiday Inn, 655 North 100th and 8th Avenue.

MC 2900 Sub 296, Ryder Truck Lines, Inc. now assigned September 26, 1977 at Charleston, West Virginia is being postponed indefinitely.

MC 129631 Sub 55, Pack Transport, Inc. now being assigned November 15, 1977 (3 days) at Salt Lake City, Utah in a hearing room to be later designated.

MC 130438, Delores P. Larson, d.b.a. American Motor Coach Tours, now being assigned November 1, 1977 (3 days) at St. Paul, Minnesota in a hearing room to be later designated.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-24107 Filed 8-18-77;8:45 am]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

[Notice No. 103TA]

AUGUST 15, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 19778 (Sub-No. 96TA), filed August 2, 1977. Applicant: MILWAUKEE MOTOR TRANSPORTATION COMPANY, Suite 508-516 W. Jackson Boulevard, Chicago, Ill. 60606. Applicant's representative: W. E. Gallagher (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete products*, from the plantsite of Gage Bros. Concrete Products, Inc., at or near Sioux Falls, S. Dak., to Tulsa, Okla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gage Bros. Concrete Products, Inc., Albert C. Gage, President, P.O. Box 1526, Sioux Falls, S. Dak. 57101. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 52323 (Sub-No. 3TA), filed August 2, 1977. Applicant: E. I. BRANDT TRUCKING CO., INC., 576 No. George Washington Blvd., P.O. Box 125, Yuba City, Calif. 95991. Applicant's representative: E. I. Brandt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and preserved fruit products, and canned goods and preserved fruit products* in mixed loads with commodities except under 203 (b) 6 of the Act, from Yuba City, Calif., to Roseville, Sacramento, Stockton, Oakland and San Francisco, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Diamond/Sunsweet, Inc., P.O. Box 1727, Stockton, Calif. 95201. Send protests to: District Supervisor A. J. Rodriguez, 211 Main, Suite 500, San Francisco, Calif. 94501.

No. MC 56679 (Sub-No. 100TA), filed TRANSPORT CORP., 352 University August 2, 1977. Applicant: BROWN TRANSPORT CORP., 352 University Avenue SW., Atlanta, Ga. 30315. Applicant's representative: John T. Coon (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery, advertising matter and related articles*, from Covington, Tennessee, to Florida, Georgia, North Carolina, South Carolina, Ohio, Alabama, and Illinois, for 180 days. Supporting shipper: Charms Co., Freehold, N.J. 07728. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 1252 W. Peactree St. NW., Rm. 300, Atlanta, Ga. 30309.

No. MC 105016 (Sub-No. 9TA), filed August 2, 1977. Applicant: PELLISSIER TRUCKING, INC., P.O. Box 192, 1002 Hostetler, The Dalles, Oreg. 97058. Applicant's representative: Russell M. Allen, 1200 Jackson Tower, Portland, Oreg. 97205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured livestock and pet feed*, from Spokane, Wash., to points in Sherman and Wasco Counties, Oreg., for 180 days. Supporting shipper: Mid Columbia Grain Growers, Inc., P.O. Box 344, Moro, Oreg. 97039. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission,

114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 106674 (Sub-No. 248TA), filed August 2, 1977. Applicant: SCHILLER MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Linda J. Sundy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit or pipe, cement, containing asbestos fibre and fittings therefor*, from the plantsite of Cement Asbestos Products Company (subsidiary of ASARCO Incorporated), at or near Ragland, Ala., to all points in the states of Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shipper: Cement Asbestos Products Company, Subsidiary of ASARCO Incorporated, 611 Olive Street, Suite 1755, St. Louis, Mo. 63101. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 107403 (Sub-No. 1027TA), filed August 2, 1977. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium salt solutions*, in bulk, in tank vehicles, from the plantsite of Merichem Co. and/or storage facilities of Merichem Co., in Houston, Tex., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi and Oklahoma, for 180 days. Supporting shipper: Merichem Company, 1914 Haden Road, Houston, Tex. 77015. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 107403 (Sub-No. 1028TA), filed August 2, 1977. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium phosphates*, in bulk, in tank vehicles, from Kearny, N.J., to the International Boundary Line, between the United States and Canada located at Buffalo and Niagara Falls, N.Y., for 180 days. Supporting shipper: Monsanto Company, 800 North Lindbergh Blvd., St. Louis, Mo. 63166. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 109397 (Sub-No. 366TA), filed July 25, 1977. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: Anthony N. Jacobs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, from Navajo, N. Mex., to Illinois, Indiana, and Michigan, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Navajo Forest Products Industries, P.O. Box 1280, Navajo, N. Mex. 87328. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission—BOp, 600 Federal Building, 311 Walnut Street, Kansas City, Mo. 64106.

No. MC 114457 (Sub-No. 324TA), filed July 29, 1977. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James H. Wills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Newsprint paper and groundwood paper, in rolls*, from the plantsite and shipping facilities of Bowater Southern Paper Corp., Calhoun, Tenn., to points in Illinois, Iowa, Minnesota and Wisconsin, restricted to traffic originating at and destined to the above-named origins and destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bowater Southern Paper Corp., Calhoun, Tenn. 37309. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 115716 (Sub-No. 18TA), filed July 29, 1977. Applicant: DENVER-LIMON-BURLINGTON TRANSFER COMPANY, 3650 Chestnut Place, Denver, Colo. 80216. Applicant's representative: Edward C. Hastings, 666 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, commodities in bulk, commodities requiring special equipment, and household goods as defined by the Commission; between Pueblo, Colo., and the Colorado-Kansas state line serving all intermediate points: From Pueblo, Colo., over Colorado Highway 96 to Colorado-Kansas state line and return over the same route, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately thirteen (13) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, Denver, Colo. 80202.

No. MC 119577 (Sub-No. 22TA), filed August 2, 1977. Applicant: OTTAWA CARTAGE, INC., P.O. Box 458, Routes 80 and 71, Ottawa, Ill. 61350. Applicant's representative: Robert H. Levy, 29 S. La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground fire brick*, in bulk in tank and/or hopper-type vehicles, from Andersonville, Ga., to Niles, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Buntrock Industries, Kermit A. Buntrock, President, 1971A West 111th Street, Chicago, Ill. 60643. Send protests to: Transportation Assistant, Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 124211 (Sub-No. 56TA), filed July 29, 1977. Applicant: OHIO EASTERN EXPRESS, INC., P.O. Box 2297, 300 West Perkins Ave., Sandusky, Ohio 44870. Applicant's representative: David A. Turano, Columbus Center, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities* exempt from economic regulation under Section 203(b)(6) of the I.C.C. Act, when transported in mixed loads with bananas, from: Phila., Pa., and points in the Philadelphia, Pa. Commercial zone, as defined by the Commission, to St. Louis, Mo., and points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, Wisconsin and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Castle & Cooke Foods, Inc., 350 Vanderbilt Highway, Hauppauge, L.I., N.Y. 11787. Pacific Fruit Company, 19 Rector St., New York, N.Y. 10006. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 125358 (Sub-No. 23TA), filed August 1, 1977. Applicant: MID-WEST TRUCK LINES, LTD., 1216 Fife Street, Winnipeg, Manitoba, Canada. Applicant's representative: James E. Ballenthin, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Parts, equipment and materials* (except commodities in bulk, in tank vehicles), used in the manufacture, assembly and repair of automotive buses, from Henderson, Ky., and Danville, Ill., to Pembina, N. Dak., under a continuing contract, or contracts, with Motor Coach Industries, Inc., for 180 days. Supporting shipper: Motor Coach Industries, Inc., 1149 St. Matthews, Winnipeg, Manitoba,

VOL 42 NO 161 AUG 19 77 UM

Canada. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 127539 (Sub-No. 58TA), filed August 1, 1977. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108 54th Ave. East, Tacoma, Wash. 98421. Applicant's representative: Michael D. Duppenthaler, 515 Lyon Building, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Margarine and dessert topping*, from the plant site and facilities utilized by Lever Brothers Company, located at or near Los Angeles, Calif., to Portland, Oreg., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lever Brothers Company, 6300 East Sheila Street, Los Angeles, Calif. 90022. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

No. MC 127625 (Sub-No. 23TA), filed August 1, 1977. Applicant: SANTEE CEMENT CARRIERS, INC., P.O. Box 638, Holly Hill, S.C. 29059. Applicant's representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, Va. 22611. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Lumber*, from plant sites of Holly Hill Lumber Company located at Holly Hill and Walterboro, S.C., to points in Alabama, Indiana, Kentucky, Maryland, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Holly Hill Lumber Corporation, Holly Hill, S.C. 29059. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens St., Columbia, S.C. 29201.

No. MC 129387 (Sub-No. 24TA), filed August 1, 1977. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, S. Dak. 57350. Applicant's representative: Scott E. Daniel, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail and wholesale department and hardware stores (except commodities in bulk), from points in that part of the United States in and east of Alabama, Illinois, Missouri, Tennessee, and Wisconsin, to the facilities of Coast to Coast Stores Central Organization, Inc., at or near Brookings, South Dakota, and Springfield, Oregon. Restriction: Restricted to traffic destined to the facilities of Coast to Coast Stores Central Organization, Inc. located at or near Brookings, South Dakota, and Springfield, Oregon, for 180 days. Supporting shipper: Coast-to-Coast Central Organization, Inc., P.O. Box 80, Minneapolis, Minn. 55440. D. P. Gerber, Traffic Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, S. Dak. 57501.

No. MC 129624 (Sub-No. 10TA), filed August 2, 1977. Applicant: ROUTE MESSENGERS OF PENNSYLVANIA, INC., 2425 Bainbridge St., Philadelphia, Pa. 19146. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household and industrial cleaning products, toilet preparations, insect control products, air fresheners, brooms, brushes, mops, and advertising material related to the foregoing* from Philadelphia, Pa., to points in Berks, Bucks, Chester, Delware, Lehigh, Montgomery, Northampton, and Philadelphia Counties, Pa., and New Castle County, Del., Restriction: Restricted to traffic having a prior movement by motor carrier for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority Supporting shipper: The Fuller Brush Company, 1000 Skokie Blvd. Willmette, Ill. 60091. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., room 3238, Philadelphia, Pa. 19106.

No. MC 134884 (Sub-No. 12TA), filed August 1, 1977. Applicant: FARWEST FURNITURE TRANSPORT, INC., 6840 112th Avenue SE., Renton, Wash. 98055. Applicant's representative: Bruce E. Mitchell and Richard M. Tertelbaum, Suite 375, 3379 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture* from: Missoula, Mont., to points in Arizona, California, Colorado, New Mexico, Nevada, Utah, and Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sirco Manufacturing, 1919 N. Avenue West, Missoula, Mont. 59801. Send portests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

No. MC 138991 (Sub-No. 22TA), filed August 1, 1977. Applicant: K. J. TRANSPORTATION, INC., 100 Jefferson Road, P.O. Box 9764, Rochester, N.Y. 14623. Applicant's representative: S. Michael Richards/Raymond A. Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carbonated beverages*, from the plantsite of Shasta Beverage Co., Division of Consolidated Foods, at Columbus, Ohio to the counties of Cattaraugus, Chautauqua, and Erie, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Shasta Beverages, 4685 Groveport Road, Columbus, Ohio 43207. Send protests to: Mr. Morris H. Gross, District Supervisor, Interstate Commerce Commission, 100 S. Clinton St., room 1259, U.S. Courthouse and Federal Bldg., Syracuse, N.Y. 13202.

No. MC 140022 (Sub-No. 3TA), filed July 27, 1977. Applicant: DONOVAN P. RODRIGUEZ, d.b.a., WEST MICHIGAN TRUCKING SERVICE, 4630 Benzie Highway, Benzonia, Mich. 49616. Applicant's representative: James R. Davis, 1018 Michigan National Tower, Lansing, Mich. 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pallets* and other shipping and storage devices made of wood and materials used in the manufacture of the above, between points in Michigan, Indiana, and Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Budres Lumber Company, Grand Rapids, Mich. 49509. Snyder Sales, Watervliet, Mich. 49098. Send protests to: C. R. Flemming District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 140363 (Sub-No. 8TA) (correction), filed May 3, 1977, published in the FEDERAL REGISTER issue of June 10, 1977, and republished as published as corrected this issue. Applicant: CHAMPS TRUCK SERVICE, INC., P.O. Box 1233, Meraux, La. 70075. Applicant's representative: Edward A. Winter, 235 Rosewood Drive, Metairie, La. 70005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal and coke*, in bulk, in dump vehicles, between points in Louisiana, on the one hand, and, on the other, points in Mississippi and Alabama, for 180 days. Supporting shipper: Atlantic & Gulf Stevedores, Inc., P.O. Box 26187, New Orleans, La. 70186. Send protests to: District Supervisor Ray C. Armstrong, Jr., 701 Loyola Ave., 9038 Federal Bldg., New Orleans, La. 70113. The purpose of this republication is to indicate the state of Mississippi in lieu of Missouri, that was previously published in error.

No. MC 140363 (Sub-No. 9TA) (correction), filed May 3, 1977, published in the FEDERAL REGISTER issue of June 10, 1977, and republished as corrected this issue. Applicant: CHAMPS TRUCK SERVICE, INC., P.O. Box 1233, Meraux, La. 70075. Applicant's representative: Edward A. Winter, 235 Rosewood Drive, Metairie, La. 70005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys and ores*, in bulk, in dump trucks, between points in Louisiana, on the one hand, and, on the other, points in Mississippi and Alabama, for 180 days. Supporting shipper: Atlantic & Gulf Stevedores, Inc., P.O. Box 26187, New Orleans, La. 70186. Send protests to: District Supervisor Ray C. Armstrong, Jr., 701 Loyola Ave., 9038 Federal Bldg., New Orleans, La. 70113. The purpose of this republication is to indicate the state of Missouri, that was previously published in error.

No. MC 141914 (Sub-No. 11TA) (Correction), filed June 20, 1977, published in the FEDERAL REGISTER issue of July 19, 1977, and republished as corrected this issue. Applicant: FRANKS & SON, INC., P.O. Box 108A, Route 1, Big Cabin, Okla. 74332. Applicant's representative: Gary Brasel, Mezzanine Floor, Beacon Bldg., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water* (in containers), *and return bottling machinery, glass bottles, plastic bottles, plastic pouches to be filled with water, corrugated cardboard, styrofoam, bottle caps, bottle seals, returned wood or plastic pallets, advertising and promotional material, machine repair parts, steel banding material for palletizing purposes, printed labels and any other items* used in the bottling and distribution of water, between Poland Spring, Maine, on the one hand, and, on the other, all points in the United States (except Hawaii and Alaska), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Poland Spring Bottling Co., P.O. Box 19628, Las Vegas, Nev. 89118. Send protests to: District Supervisor Joe Green, Room 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102. The purpose of this republication is to indicate (1) in containers in lieu of (not in bulk); and (2) to indicate on the one hand, and, on the other, which was previously omitted.

No. MC 142059 (Sub-No. 11TA), filed August 2, 1977. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, Ill. 60436. Applicant's representative: Jack Riley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* (except commodities which because of size or weight require specialized transportation equipment), from Mishawaka, Ind., to points in Alabama, Arkansas, Iowa, Louisiana, Mississippi, Oklahoma, and Texas, for 180 days. Supporting shipper(s): Midwest Steel Hauling & Sales, Inc. Mr. John P. Sally President, 925 E. Rand Road, Arlington Hts., Ill. 60004. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 142368 (Sub-No. ITA), filed August 1, 1977. Applicant: DANNY HERMAN TRUCKING, INC., 15626 Rausch Road, City of Industry, Calif. 01744. Applicant's representative: William J. Monheim, 15942 Whittier Blvd., P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides and skins*, from Amarillo, Tex., to points in Arizona, California, Maine, Massachusetts, Michigan, Minnesota, New York, Tennessee and Wisconsin for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: A. J. Hollander & Company, Inc., 102 Beefco, P.O. Box 31658, Amarillo, Tex. 79129. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 142780 (Sub-No. 1TA), filed July 29, 1977. Applicant: MARINE DISTRIBUTORS OF VIRGINIA, INC., 1505 Sherbrook Road, Chesapeake, Va. 23323. Applicant's representative: Blair P. Wakefield, Suite 1001 First & Merchants Bank Bldg., Norfolk, Va. 23510. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Boats*, in straight loads or in mixed loads with their parts, equipment and supplies therefor, from the plant site of Coloso Boat Corporation, Dania, Fla., to points in the States of Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, Rhode Island, South Carolina, Vermont and Va., under a continuing contract, or contracts with Coloso Boat Corporation, for 180 days. Supporting shipper(s): Coloso Boat Corporation, 1980 Tiger Tail Road, Dania, Fla. 33004. Send protests to: Paul D. Collins District Supervisor, Bureau of Operations, Room 10–502 Federal Bldg., 400 North 8th Street Richmond, Va. 23240.

No. MC 143463 (Sub-No. 1TA), filed August 2, 1977. Applicant: MINERAL CARRIERS, INC., P.O. Box 110, Bound Brook, N.J. 08805. Applicant's representative: Charles F. Crenger, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Activated carbon, spent or deactivated carbon, and water-treating chemicals*, in bulk, in dump truck, between Catlettsburg, Ky., and Pittsburgh, Pa., and their commercial zones, on the one hand, and, on the other, points in Pennsylvania, New Jersey, New York, Delaware, Connecticut, Massachusetts, Maryland, Virginia, Texas, Rhode Island, Kentucky, Louisiana, Tennessee, Alabama, West Virginia and the District of Columbia, for 180 days. Supporting shipper(s): Calgon Corporation General Traffic Manager, Box 1346, Pittsburgh, Pa. 15230. Send protests to: Robert S. H. Vance, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 143544TA, filed August 1, 1977. Applicant: N & N BLASTING, INC., 4011 East Nebraska, Spokane, Wash. 99207. Applicant's representative: Rolland L. Nice (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Light construction machinery and equipment*, more specifically, portable air compressors, track mounted drills, light compactors and related equipment, from Spokane, Wash., to points in that part of Whatcom, Skagit, Snohomish, King, Pierce, Skamania Counties, the State of Idaho and to points in that part of Montana lying West of Blaine, Phillips, Petroleum, Rosebut and Powder River Counties, for 180 days. Supporting shipper: George M. Philpott Company, Ltd., East 3920 Boone Avenue, Spokane, Wash. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

No. MC 143548TA, filed August 2, 1977. Applicant: LARRY VITITOW, 300 Lee Street, Sulphur Springs, Tex. 75482. Applicant's representative: Lawrence A. Winkle and D. Paul Stafford, 1125 Exchange Park, P.O. Box 45538, Dallas, Tex 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphur*, in bags and in bulk, from the plantsite and warehouse facilities of Agri-Sul, Inc., at or near Mineola, Tex., to points in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Agri-Sul, Inc., P.O. Drawer 629, Mineola, Tex. 75773. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75212

No. MC 143549TA, filed August 2, 1977. Applicant: E-TOWN TRUCKING COMPANY, INC., 3371 Mills Street, North Bend, Ohio 45052. Applicant's representative: Thoms J. Kumpel, Suite 660, 602 Main Street, Cincinnati, Ohio 45202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from Morgan, Johnson, Breathett and Magoffin Counties, Ky., to Kanawha, Cabell and Wayne Counties, W. Va.; Dearborn, Shelby, and Fayette Counties, Ind.; and Lawrence, Scioto, Hamilton, Montgomery, Butler, Clark, Fairfield, Richland, Hancock and Franklin Counties, Ohio, under a continuing contract, or contracts, with E-Town Supply, for 180 days. Supporting shipper(s): E-Town Supply, 5700 Dry Fork Road, Cleves, Ohio 45002. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 143550TA, filed August 2, 1977. Applicant: G & C FREIGHT SERVICE, 647 S. W. 143, Seattle, Wash. 98166. Applicant's representative: Gary Parish (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials*, between points in California, on the one hand, and, on the other, points in Washington, for 180 days. Supporting shippers: Washington Cedar & Supply Co., 223 W. Smith St., Kent, Wash. 98031. Cosi Cedar & Supply Co., Box 649, Cosmopolis, Wash.

V 42 161 AUG 19 77 UM

98537. Lumber & Plywood Services, 11524 15th Avenue NE., Seattle, Wash. 98125. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

PASSENGER APPLICATION

No. MC 143490 (Sub-No. 1TA), filed July 21, 1977. Applicant: VENISE COACH LINE INC., McArthur Road, Valleyfield, Quebec, Canada J6S 4V4. Applicant's representative: Guy Poliquin, Room 140, 580 east Grande-Allee, Quebec City, Quebec, Canada G1R 2K3. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicles, in round trip charter and special operations, beginning and ending at ports of entry on the International Boundary line, between the United States and Canada located in Maine, New Hampshire, Vermont, New York and Michigan, and extending to points in the United States (except Alaska and Hawaii), restricted to traffic originating at Valleyfield, Quebec, Canada, for 180 days. Supporting shipper: Voyage Atou, 139 Victoria, Valleyfield, Quebec, Canada J6T 1A4. Send protests to: District Supervisor, David A. Demers, Interstate Commerce Commission, P.O. Box 548, 87 State Street, Montpelier, Vt. 05602.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc 77 24109 Filed 8-18-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

AUGUST 16, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the Federal Register.

FSA No. 43412—*Joint Water-Rail Container Rates—A. P. Moller-Maersk Line.* Filed by A. P. Moller-Maersk Line, (No. 7), for itself and interested rail carriers.

Rates on general commodities, from Persian Gulf and Red Sea ports, to rail terminals on the U.S. Pacific Coast, by way of U.S. Atlantic Coast ports, and U.S. Gulf Coast ports in Louisiana and Texas.

Grounds for relief—Water competition.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-24108 Filed 8-18-77;8:45 am]

[No. 36574]

DEMURRAGE CHARGES CAUSED BY SEVERE WINTER WEATHER

Petition of Railroads Seeking Authorization to Waive

AUGUST 12, 1977.

At a Session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 3rd day of August 1977.

Last winter, severe weather and fuel shortages affected certain areas of the country. Because of these adverse conditions, shippers and consignees were allegedly unable to load or unload railroad cars, industries were closed down, and railroad service in certain areas was curtailed. The National Industrial Traffic League (NITL), in late January 1977, initiated discussions with the Operating-Transportation Division, Operations to Maintenance Department, Association of American Railroads, with the objective of preventing the imposition of a portion of demurrage charges on railroad cars detained because of these unusual circumstances. As a result of these discussions, the 17 petitioner railroads (see Appendix A), all of which are parties to Freight Tariff 4–J, Car Demurrage Rules and Charges, et al., J. F. Doyle, Agent, I.C.C. H–59, in their petition filed April 28, 1977, submitted the following proposal to the Commission for approval:

1. Only those shippers and receivers directly affected by the weather disability or fuel shortage can claim demurrage relief and for this emergency only;

2. Each shipper or receiver must pay his demurrage as rendered and then file for reclaim;

3. Each shipper or receiver must file individual claims at each location supported by justification, i.e., dates and reasons;

4. The claims will be processed informally, but will require ICC approval on each individual claim the exact procedure to be determined;

5. The relief requested due to this emergency will be limited to demurrage subject to the 4-series tariff rules;

6. Adjustments for demurrage subject to other than the 4-series tariff will be handled separately, i.e., unit trains, volume shipments, coal, etc.;

7. With respect to the 4-series tariff, after the expiration of free time and the four $10 debit days, the penalty rate of $20 will be reduced to $10 per day and the penalty rate of $30 will be reduced to $15 per day thereafter; and

8. Fuel shortage relief will be applicable as follows: allowance will be given for any cars on hand at time such interference began, but would not apply to inbound cars forwarded four days after the beginning of such interference.

During the involved period, demurrage charges, after the expiration of free-time would have otherwise accrued at the rate of $10 per day for the first 4 days, $20 per day for each of the next 2 days, and $30 per day thereafter. According to petitioners, the $20 and $30 charges in the tariff have been considered in the nature of penalty charges.[1] These charges, it is argued, should not be imposed upon shippers and receivers in the areas affected by the extreme and unusual weather conditions or fuel shortages, if these conditions prevented the loading or unloading of cars. In addition, to facilitate the instant relief from these penalty charges, it is requested that the claims under the proposal be filed with the carrier within 90 days after the date of service of the Commission's order approving the proposal.

NITL in its reply filed May 9, 1977, supports the proposal, however, it contends that it sould be modified to specify the emergency period when the reclaim will apply and that it should be extended to include claims for additional demurrage charges on trainload, unit trains and multiple car movements. NITL also requests that the order entered by the Commission indicate that other railroads will be granted leave to participate in the proposal upon notifying the Commission in writing.

Republic Steel Corporation, in its reply filed May 18, 1977, supports the concept of the proposal yet, it objects to certain of its procedures and the limited nature of the relief proposed. It suggests that (1) the Commission's order specify that the procedures and standards specified in the proposal are not exclusive; (2) a time period defining the period of the emergency conditions should be given; (3) the entire demurrage charge should be reclaimed; and (4) prepayment of the demurrage charges should not be required as a prerequisite to filing a claim.[2] Eastern Associated Coal Corp., in its reply filed July 5, 1977, requests that the emergency period should include December 1976 through March 1977, and submits graphs of temperature readings at Fairmont, Virginia for December through February.

The record in this proceeding and the general knowledge of the extreme and unusual weather conditions and shortages of energy support the approval of the petitioners' proposal to waive portions of the arbitrary demurrage charge. If other carriers, which are partly to the specified tariff, desire to participate in the proposal, they will be permitted to do so upon notifying the Commission in writing of their intent.

The extension of the proposal to demurrage charges not named in the involved tariff or in an amount greater than that specified has not been substantiated. However, the approval of the instant proposal does not prejudice the filing of such proposals by the carriers or the filing of additional claims for

[1] It is noted that in Ex Parte No. 289, Remittance of Demurrage Charges of Common Carriers of Property By Rail, 353 I.C.C. 567 (1977), a $10 demurrage charge was generally sufficient to cover per diem, administrative and other expenses incurred by the delivering road.

[2] Unde the Commission's credit regulations the applicable charge must be paid promptly within a specified period and there is no justification for waiving that requirement.

greater relief by the shippers.[3] Furthermore, shippers or receivers will have the option of applying for the claim under the involved proposal, filing a claim under the proposal and in the event no binding settlement is made subsequently seeking relief from alleged unjust and unreasonable demurrage charges under the Commission's regular procedures, or by initially seeking relief from the Commission under its regular procedures.[4] Therefore, it is not unreasonable to require claims under the proposal to be filed with the carrier within a specific period of time. The time period in which claims should be filed is fixed at 90 days after date of publication in the FEDERAL REGISTER, of notice of this permissive order.

Certain modifications in the proposal are necessary, however, to insure that false claims will not be filed by shippers or receivers and that there will be no potentially discriminatory treatment by the carriers. Shipper or receivers will therefore be required to verify the justification statement and to indicate briefly therein, what efforts were taken to minimize the delay in the release of the cars subject to the claim. The period of severe weather and fuel shortages will also be limited to the period of December 28, 1976 through March 15, 1977, to eliminate the filing of claims for demurrage charges not caused by the emergency conditions.[5] Copies of claims granted or denied under the proposal are to be filed by the carrier with the Commission, and on the rejected claims, an explanatory note as to the reason for the denial should be given.[6] Certain other clarifying modification in the proposal have also been made to avoid ambiguity, as set forth in Appendix B.

Approval of each of the filed claims will not be given by the Commission as suggested by petitioners since it would not be practical to verify each claim. However, the filing requirements ordered herein and the modifications in the proposal will minimize the possibilities of discriminatory or arbitrary treatment. Shippers and receivers are also encouraged to report to the Commission any discriminatory application of the proposal by the carriers.

It is ordered, That the carriers listed in Appendix A be, and they are hereby, authorized to adjust demurrage charges which accrued on cars held during the period specified to $10 or $15 a day, as set forth in Appendix B; that other carriers participating in the involved tariff, 4–J, I.C.C. H–59, upon notifying the Commission in writing of their intent to do so, may also participate in the modified proposal.

And it is further ordered, That the above-referred to carriers shall promptly file with the Commission copies of the claims upon which adjustments were made under authority of this order and those which were denied, with a brief explanation as to the reason for the denial.

By the Commission, Division 2, Commissioners Hardin, Murphy, and Clapp.

H. G. HOMME, JR.,
Acting Secretary.

APPENDIX A

PARTICIPATING CARRIERS

Aliquippa and Southern Railroad Company
Bessemer and Lake Erie Railroad Company
Chessie System
Consolidated Rail Corporation
Cuyahoga Valley Railway Company
Delaware and Hudson Railway Company
Detroit, Toledo and Ironton Railroad Company
Elgin, Joliet and Eastern Railway Company
Family Lines System [7]
Grand Trunk Western Railroad
Indiana Harbor Belt Railroad Company
Manufacturers' Junction Railway Company
Monongehela Connecting Railroad Company
Norfolk and Western Railway Company
Richmond, Fredericksburg and Potomac Railroad Company
Southern Railway System
Union Railroad Company

APPENDIX B

APPROVED PROPOSAL

1. Only those shippers and receivers directly affected by the weather disability or fuel shortage during the period of December 28, 1976 through March 15, 1977, can claim demurrage relief; (see Note).

2. Each shipper or receiver must pay his demurrage as rendered and then file for reclaim;

3. Each shipper or receiver must file individual verified claims at each location supported by justification, i.e., date of detention, reasons therefore, and whether efforts were made to minimize the delay;

4. The relief requested due to this emergency will be limited to demurrage applicable, in accordance with Freight Tariff 4–J, J. F. Doyle, Agent, I.C.C. H–59;

5. Adjustments for demurrage subject to other than the above-specified tariff will be handled separately, i.e., unit trains, volume shipments, coal, etc.;

6. With respect to the above-specified tariff, after the expiration of free time and the four $10 debit days, the demurrage charge of $20 will be reduced to $10 per day and the demurrage charge of $30 will be reduced to $15 per day thereafter;

7. Fuel shortage relief will be applicable as follows: allowance will be given for any cars on hand at the time such interference began or on inbound cars on which forwarding directions were given within 3 days after the beginning of such interference;

8. Claims under this proposal must be filed with the carrier within 90 days after publication of notice of this permissive order in the FEDERAL REGISTER.

NOTE.—Shippers and receivers can elect to file a claim under this proposal or a formal docket with the Interstate Commerce Commission. The filing of a claim under this proposal also does not prevent the shipper from seeking addition relief from the Commission. In addition, special-docket applications can be filed by the carrier.

[FR Doc.77-24110 Filed 8-18-77;8:45 am]

[3] Shippers and receivers are encouraged to file claims initially with the carrier. The procedures adopted and standards applied for settlement under the claim procedures will be strictly voluntary and will not bind individual shippers who either do not qualify for settlement thereunder or do not invoke the claim procedures under the proposal.

[4] The period will encompass the full period of extreme weather and energy shortages which occurred last winter, as noted in our order served April 18, 1977, in *Request for Certain Railroads for Authority to Waive Demurrage Charges.*

[5] The carrier is only required to indicate briefly its reasons for denying the claim, for example, insufficient information, demurrage accrued outside the emergency period, etc.

[6] The waiver or reparation of the penalty portion of demurrage charges has been approved when neither the carrier nor shipper is at fault. *Ford Motor Co. v. Chesapeake & O. R. Co.*, 311 I.C.C. 559 (1960); *Kalmbach-Burkett Co. Inc., v. Illinois Central R. Co.*, 289 I.C.C. 532 (1953); and *Myers, Myers & Goen v. Chicago, R. I. & P. Ry. Co.*, 259 I.C.C. 51 (1944) The shipper, however, is required to make efforts if possible, to minimize the detention of the cars Waiver of all of the applicable demurrage charges (including the compensatory portion), is generally not approved.

[7] The Family Lines include the Atlanta and West Point Railroad Company, Clinchfield Railroad Company, Durham and Southern Railway Company, Gainesville Midland Railroad Company, Georgia Railroad, Louisville Railroad, Seaboard Coast Line Railroad, and The Western Railway of Alabama.

V 42 161 AUG 19 77 UM

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Civil Aeronautics Board	1
Commodity Credit Corporation	2
Equal Employment Opportunity Commission	3, 4
Federal Home Loan Bank Board	5, 6
Federal Maritime Commission	7
Federal Reserve System	8
International Trade Commission	9
Securities and Exchange Commission	10

1

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10:00—August 23, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1. Ratification of items Adopted by Notation.*

2. Docket 31075, Continental's Request for an Exemption to Transport Burbank-Denver/Chicago Passengers (Memo No. 7154C, BOR).

3. Docket 30470, Delta's Application to Suspend Service at Montego Bay, Jamaica. (Memo No. 6893B, BOR, BLJ, OGC).

4. Docket 30241 and 29580, Wright Airlines' Application for a new Cincinnati-Cleveland Segment; Allegheny Airlines' Subpart M Application to Remove its one-stop restriction in the Cincinnati-Cleveland Market (Not. No. 6288A, BOR).

5. Docket 29707, Petition of the Commuter Airline Association of America Inc., for the establishment in domestic markets of through services, joint fares, and divisions of fares between certificated and connecting commuter air carriers, (Memo No. 7303A, BE).

6. Dockets 27918; and 27918-1, Pan American and TWA Petitions for reconsideration of Order 77-7-4, dated July 1, 1977, North Atlantic Fares Investigation; and Order 77-7-5, dated July 1, 1977, North Atlantic Fares Investigation-Part Charter Phase. (Memo No. 6327F, BE).

7. Dockets 31053, 31054, 31055 and 31058, "SimpleSaver" fares proposed by Allegheny. (Memo No. 7262B, BE).

8. Dockets 31187 and 31196, System excursion fare proposed by Eastern (Memo No. 7334, BE).

9. Docket 31191, Liberalization of existing individual tour-basing fares to Florida proposed by Eastern. (Memo No. 7342, BE).

10. Docket 31198, National's application for an exemption to carry passengers to Miami which do not meet all the applicable tariff requirements. (Memo No. 7340A, BE).

11. Docket 30985, Application of Pan American for an extension of its embargo on freight shipments to Caracas until such time as construction at its freight terminal facility is completed. (Memo No. 7341, BE).

12. Docket 27813, Petition for reconsideration of Order 77-5-133, May 24, 1977. (Memo No. 6056D, BIA).

13. Docket 30332, IATA agreements on ancillary cargo matters. (Memo No. 7344, BE, BIA).

14. Docket 29123, Petition for reconsideration of Order 77-2-32 which disapproved proposed South Pacific fare increases filed by Pan American. (Memo No. 6700B, BE, BIA).

15. Docket 30654, Petition of National Air Carrier Association for a rulemaking to exempt air carriers from filing passenger charter rate tariffs; Draft Notice of Proposed Rulemaking. (Memo No. 7350, OGC).

16. Docket 20830, Discretionary review on Board initiative of the decision of the Director, BOE, declining to institute an enforcement proceeding in the complaint of *Aviation Consumer Action Project* v. *United Air Lines, Inc.* (Memo No. 7347, OGC).

17. Docket 30829, Discretionary review on Board initiative of the decision of the Director, BOE, declining to institute an enforcement proceeding in the complaint of *Aviation Consumer Action Project* v. *Members of the Air Transport Association of America*, (Memo No. 7348, OGC).

18. Docket 30056, Discretionary review on Board initiative of dismissal letter by Director, BOE, in *American Airlines* v. *Trans World Airlines*, (Memo No. 7351, OGC).

19. Docket 28807, Discretionary review of the initial decision in the *Trans International Airlines, Inc. Enforcement Proceeding* (Memo No. 7339, OGC).

20. Docket 26907, *Long-Haul Motor/Railroad Carrier Freight Forwarder Authority Case*, Petition for Reconsideration. (Memo No. 4689D, OGC).

21. Docket 30240, Aviation Consumer Action Project Petition for Rulemaking to Amend Part 241. (Memo No. 7337, OGC, BE, BAS, BOE).

22. Docket 29806, Notice of Proposed Rulemaking, EDR-304/SPDR-49; Amendment of minimum seat size for "split" charters (Memo No. 7338, OGC, BOR, BE, BIA).

23. Docket 30250, Rulemaking to permit the offering of rental cars as part of the OTC ground package. (Memo No. 7343, OGC, BE, BIA, BOR, BOE).

24. European Rules Affecting ABC Charters (Memo No. 7353, BIA, OCA, BOR, OI).

25. Docket 29926, Notice of Proposed Rulemaking, SPDR-56—OTC Advance Purchase Period (For Information Memo 8/3, BIA, OGC, BOE, BE, BOR).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

NOTE.—The ratification process provides an entry in the Board's Minutes of items already adopted by the Board through the written Notation process (memoranda circulated to the Members sequentially). A list of items ratified at this meeting will be available in the Board's Public Reference Room (Room 710, 1825 Connecticut Avenue NW., Washington, D.C. 20428) following the meeting.

[S-1133-77 Filed 8-16-77;4:32 pm]

2

COMMODITY CREDIT CORPORATION.

"FEDERAL REGISTER CITATION" OF PREVIOUS ANNOUNCEMENT: 42 FR 41348, August 16, 1977.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Tuesday, August 23, 1977, 2 p.m.

STATUS: Open except for discussion of new agenda item 10 which will be closed to the public.

CHANGES IN THE MEETING: Additional agenda item: 10. CCC policy determination.

CONTACT PERSON FOR MORE INFORMATION:

Bill Cherry, Acting Secretary, Commodity Credit Corporation, Room 202-W, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20013, Telephone 202-447-7583.

[S-1141-77 Filed 8-17-77;11:22 am]

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (Eastern Time), Tuesday, August 23, 1977.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: A part of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portion open to the public:

Freedom of Information Act Appeal 77-6-FOIA-132. Request by an attorney, on behalf of an employer charged with discrimination, for documents in the Commission's investigative file.

Portion closed to the public:

Litigation Authorization: General Counsel Recommendations. Matters closed to the public under Sec. 1612.13(a) of the Commission's regulations. (142 FR 13830, March 14, 1977)

NOTE: Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This Notice Issued August 16, 1077.

[S-1110-77 Filed 8-16-77;2:58 pm]

4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 4 p.m. (Eastern Time), Tuesday, August 16, 1977

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Closed to the public

MATTER TO BE CONSIDERED:

Proposed Procurement; Contract for the Development and Execution of an Executive Level Assessment Center. A majority of the entire membership of the Commission determined by recorded vote, on August 16, 1977, that the business of the Commission required that this meeting be held and that no earlier announcement was possible.

The vote was as follows:

In favor of holding closed meeting: Eleanor Holmes Norton, Chair; Ethel Bent Walsh, Commissioner; Daniel E. Leach, Commissioner.

Opposed: None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued August 16, 1977.

[S-1137-77 Filed 8-17-77;9:45 am]

5

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: August 18, 1977, at the conclusion of the open meeting to be held at 9:30 a.m.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-376-3012.

MATTERS TO BE CONSIDERED:

Consideration of Recommendation to Terminate Financial Assistance Agreement at a Cost Equal to 20.5% of Remaining Assets.

No. 60, August 16, 1977.

Announcement is being made at the earliest practicable time.

[FR Doc.S-1134-77 Filed 8-17-77;8:56 am]

6

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: August 18, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-376-3012.

MATTERS TO BE CONSIDERED:

Application for Increase Accounts of an Insurable Type, Cancellation of Bank Membership and Insurance of Accounts, Transfer of Bank Stock and Approval to Maintain Branch Office—Cedarville Federal Savings and Loan Association, Cederville, Ohio into Home Federal Savings and Loan Association, Xenia, Ohio.

Remote Service Unit Application—Baltimore Federal Savings and Loan Association, Baltimore, Maryland.

Branch Office Application and Redesignation as Home Office; Redesignation of Existing Home Office as a Branch Office—Guaranty Federal Savings and Loan Association of Wyandotte, Wyandotte, Michigan.

Electronic Funds Transfer System—Remote Service Unit Application—Fulton Federal Savings and Loan Association, Atlanta, Georgia.

Preliminary Conversation Application—Plattsmouth Savings and Loan Association, Plattsmouth, Nebraska.

Application for Permission to Organize a Federal Savings and Loan Association—Idollo Valdes, et al., Hialeah, Florida.

Application for Change of Office Location—Greater Pottsville Federal Savings and Loan Association, Pottsville, Pennsylvania.

Consideration of Proposed Amendment Relating to State Housing Corporations.

Consideration of Privacy Act of 1974 Systems of Records Amendments.

Remote Service Unit Application—First Federal Savings and Loan Association of Oakland, Pontiac, Michigan.

Association Request for Amendment of Charter—Change of Name—First Federal Savings and Loan Association of Great Falls, Great Falls, Montana.

Satellite Office Application—First Federal Savings and Loan Association of Fort Myers, Fort Myers, Florida.

No. 59, August 16, 1977, Page One.

Satellite Office Application—Florida Federal Savings and Loan Association, St. Petersburg, Florida.

Branch Office Application—Perpetual Federal Savings and Loan Association, Washington, D.C.

Applications for Bank Membership and Insurance of Accounts—First Women's Savings and Loan Association, San Francisco, California.

Branch Office Application—San Diego Federal Savings and Loan Association, San Diego, California.

Limited Facility Application—Pomona First Federal Savings and Loan Association, Pomona, California.

Limited Facility Application—Beverly Hills Federal Savings and Loan Association, Beverly Hills, California.

Consideration of Association Request for Extension of Time for Completion of Organization—Sierra Federal Savings and Loan Association, Denver, Colorado.

Reconsideration of Request for Commitment of Insurance of Accounts—Grand County Savings and Loan Association, Granby, Colorado.

Announcement is being made at the earliest practicable time.

[S-1135-77 Filed 8-17-77;8:56 am]

7

FEDERAL MARITIME COMMISSION.

TIME AND DATE: August 24, 1977, 10 a.m.

PLACE: Room 12126—1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Report of Notation Items disposed of during July, 1977.

2. Report on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during July, 1977.

3. Report on Applications for Admission to Practice approved during the month of July, 1977.

4. Assignment of Informal Dockets during July, 1977.

5. Petition by the Department of Defense to Reject International Maritime Freight Tariff No. 5 (FMC No. 5) issued by Household Goods Forwarders Association of America, Inc., Agent.

6. Special Docket No. 484—Louis Furth Inc., v. Sea-Land Service, Inc., (Request for Permission to Waive Freight Charges); Determination Whether to Review Initial Decision of Administrative Law Judge.

V 42 161 AUG 19 77 UM

Portions closed to the public:

1. Docket No. 76-53—Agreements Nos. 10040-2 and 10153—Working Arrangements in the United States/Guatemala Trade between Flota Mercante Gran Centroamericana, S.A., and Pan American Mail Line, Inc., and between Flota Mercante Gran Centroamericana, S.A., and Coordinated Caribbean Transport, Inc.; Determination Whether to Review Discontinuance of Proceeding.

2. Docket No. 76-42—Heavy Lift Practices and Charges of Hapag/Lloyd, A. G., et al.—Disposition of Settlement Offer Certified by Administrative Law Judge.

3. Ala-Mar Shipping Co., Inc.—Application for Freight Forwarder License—Appeal of the Managing Director's Letter of Intent to Deny Application.

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Acting Secretary, 202-523-5727.

[FR Doc.S 1131-77 Filed 8-16-77;1 12 pm]

8

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wedesday, August 24, 1977.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Possible amendments to Section 23A of the Federal Reserve Act to be submitted to the Congress. This matter was originally scheduled for a meeting on August 17, 1977.

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: August 17, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S 1136-77 Filed 8-17-77;9:04 am]

9

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, August 23, 1977.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:
1. Reorganization.
2. Agenda.
3. Minutes.
4. Ratifications.
5. Petitions and complaints (if necessary).
6. Investigation TA-201-25 (Cattle and Beef)—briefing.
7. Investigation AA1921-167 (Pressure-Sensitivve Plastic Tape from Italy)—vote.
8. Any items left over from previous agenda.

Portions closed to the public:
1. Reorganization (portions regarding the selections of personnel).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1132-77 Filed 8-16-77;4:12 pm]

10

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of August 22, 1977, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Wednesday, August 24, 1977, at 3 p.m. and on Thursday, August 25, 1977, after the open meeting schduled for 2:30 p.m. Open meetings will be held on Tuesday August 23, 1977, at 9 a.m. and on Thursday, August 25, 1977, at 10 a.m. and at 2:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4) (8) (9) A and (10) and 17 CFR 200.402 (a) (4) (8) (9) (i) and (10).

Chairman Williams, Commissioners Loomis, Evans, and Pollack voted to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Wednesday, August 24, 1977, at 3 p.m. will be:

Formal orders of investigation.

Institution of injunctive actions.

Institution of administrative proceedings.

Settlement of administrative proceedings.

Simultaneous institution and settlement of injunctive action and administrative proceeding.

Referral of investigative files to Federal, State or Self Regulatory authorities.

Regulatory matter arising from or bearing enforcement implications.

Dismissal of injunctive action.

Freedom of Information Act Appeal.

Consideration of amicus curiae matter.

Other litigation matters.

The subject matter of the closed meeting scheduled for Thursday, August 25, 1977, after the open meeting at 2:30 p.m. will be:

Post-oral argument discussion.

The subject matter of the open meeting scheduled for Tuesday, August 23, 1977, at 9 a.m. will be:

1. Consideration of an interpretive release concerning the bearing of distribution expenses by mutual funds.

The subject matter of the open meeting scheduled for Thursday, August 25, 1977, at 10 a.m. will be:

1. Consideration of an application filed by Lakelands Racing Association, Inc. for an exemption from certain reporting requirements under Section 12(g) of the Securities Exchange Act of 1934.
2. Consideration of an extension of the comment period regarding the offer and sale of certain contractual arrangements issued by life insurance companies.
3. Consideration of a request by Citicorp Person-to-Person Investments, Inc. for an exemption from Rule 15b10-9, the self-underwriting rule for SECO broker-dealers, under the Securities Exchange Act of 1934.
4. Consideration of the adoption of proposed rules to conform the Commission's lease accounting and disclosure requirements to those standards recently adopted by the Financial Accounting Standards Board.
5. Consideration of a release to proposed rules and amendments relating to the accounting practices of producers of oil and gas, which would incorporate provisions of the Financial Accounting Standards Board's exposure draft, "Financial Accounting and Reporting in the Extractive Industries".
6. Consideration of proceedings in the matter of Todd and Company, Inc., et al. regarding an Opinion of Court of Appeals for the Third Court directing remand of proceedings to the Board of Governors of the National Association of Securities Dealers, Inc.

The subject matter of the open meeting scheduled for Thursday, August 25, 1977, at 2:30 p.m. will be:

1. Oral argument on an application filed by William E. Brandow for a review of the disciplinary action taken against him by the National Association of Securities Dealers, Inc.

FOR FURTHER INFORMATION CONTACT:

Linda Jarett at 202-755-1183 or Kathy Malfa at 202-755-1977.

AUGUST 17, 1977.

[S-1140-77 Filed 8-17-77;11:17 am]

federal register

FRIDAY, AUGUST 19, 1977
PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

MEDICAL DEVICES

Establishment of Procedures to Make a Device a Banned Device

V 42 161 AUG 19 77 UM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 895]

[Docket No. 77N-0144]

DEVICES

Establishment of Procedures to Make a Device a Banned Device

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule prescribes the procedures by which the Commissioner of Food and Drugs may institute proceedings to make a device intended for human use that presents substantial deception or an unreasonable and substantial risk of illness or injury a banned device. This proposal is issued pursuant to expanded authority of the Commissioner to protect the American public from dangerous or fraudulent medical devices.

DATES: Written comments to the Hearing Clerk by October 17, 1977. It is proposed that the final regulation based on this proposal become effective 60 days after the date of its publication in the FEDERAL REGISTER. In the interim, this proposal would be used as a guideline for making a device a banned device under the provisions of section 516 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360f).

ADDRESS: Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Dan R. Beardsley, Bureau of Medical Devices (HFK-114), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910 (301-427-7218).

SUPPLEMENTARY INFORMATION: Section 516 of the act authorizes the Commissioner to ban, by regulation, and after opportunity for informal regulatory hearing, any device intended for human use if he finds, based on all available data and information, and after consultation with the appropriate classification panel, that such device presents a substantial deception or an unreasonable and substantial risk of illness or injury. If the Commissioner determines that the deception or risk presents an unreasonable, direct, and substantial danger, he may, after notifying the manufacturer, distributor, importer, or owner of such a device, declare a proposed regulation banning the device effective upon its publication in the FEDERAL REGISTER pending informal regulatory hearing and final action on the proposed regulation. If the Commissioner determines that the deception or risk can be corrected by labeling or changes in labeling, he must first provide written notice to the device manufacturer, distributor, importer, or owner specifying the labeling changes necessary. If the labeling or changes in labeling are not made within a reasonable time after such notice, the Commissioner may institute a proceeding to ban the device.

STATUTORY BACKGROUND

Section 516 of the act (21 U.S.C. 360f) provides:

(a) Whenever the Secretary finds, on the basis of all available data and information and after consultation with the appropriate panel or panels under section 513, that—

(1) A device intended for human use presents substantial deception or an unreasonable and substantial risk of illness or injury; and

(2) In the case of substantial deception or an unreasonable and substantial risk of illness or injury which the Secretary determined could be corrected or eliminated by labeling or change in labeling and with respect to which the Secretary provided written notice to the manufacturer specifying the deception or risk of illness or injury, the labeling or change in labeling to correct the deception or eliminate or reduce such risk, and the period within which such labeling or change in labeling was to be done, such labeling or change in labeling was not done within such period; he may initiate a proceeding to promulgate a regulation to make such device a banned device. The Secretary shall afford all interested persons opportunity for an informal hearing on a regulation proposed under this subsection.

SPECIAL EFFECTIVE DATE

(b) The Secretary may declare a proposed regulation under subsection (a) to be effective upon its publication in the FEDERAL REGISTER and until the effective date of any final action taken respecting such regulation if (1) he determines, on the basis of all available data and information, that the deception or risk of illness or injury associated with the use of the device which is subject to the regulation presents an unreasonable, direct, and substantial danger to the health of individuals, and (2) before the date of the publication of such regulation, the Secretary notifies the manufacturer of such device that such regulation is to be made so effective. If the Secretary makes a proposed regulation so effective, he shall, as expeditiously as possible, give interested persons prompt notice of his action under this subsection, provide reasonable opportunity for an informal hearing on the proposed regulation, and either affirm, modify, or revoke such proposed regulation.

The purpose of this provisions is to expand the Commissioner's authority to protect the American public from dangerous or fraudulent medical devices. Before enactment of this section, the Commissioner's formal statutory authority was limited to initiating injunction and seizure actions, as provided in sections 302 and 304 of the act (21 U.S.C. 332 and 334), respectively. To sustain an action against such devices under the injunction or seizure provisions of the act, the government has the burden of proving in court each of the elements necessary to show that the device is misbranded or adulterated and throughout the usually lengthy court proceeding the device manufacturer, distributor, importer, or owner may continue to market his product.

The provisions of section 516 of the act enable the Commissioner to move expeditiously to remove fraudulent or hazardous medical devices from commerce. Once the Commissioner makes a device a banned device in accordance with section 516 of the act, in subsequent regulatory proceedings to remove the device from commerce the government need only show that the device has been banned; the Commissioner is not required to participate in further evidentiary proceedings in court to establish any of the elements usually required to prove that the device is adulterated or misbranded. Although this provision does not cover devices intended for animal use that present deception or risk of illness or injury, manufacturers, distributors, importers, or owners of a device that is banned cannot avoid the ban by relabeling the device for veterinary use.

SECTION-BY-SECTION ANALYSIS OF PROPOSED REGULATION

SCOPE

Proposed § 895.1 describes the scope of the regulation. The regulation would only apply to a device, as defined in section 201(h) of the act (21 U.S.C. 321(h)), that is intended for human use and presents substantial deception or an unreasonable and substantial risk of illness or injury. A device that is made a banned device would be considered to be adulterated under section 501(g) of the act (21 U.S.C. 351(g)) and subject to regulatory action to remove it from commerce.

PROCEDURE FOR BANNING A DEVICE

Proposed § 895.21 is the principal provision in the regulation. This section sets out the procedures by which the Commissioner makes the determinations to begin proceedings to make a device a banned device, and the procedures by which the banning is accomplished.

Proposed § 895.21(a) provides that before initiating a proceeding to make a device a banned device, the Commissioner must find that the continued marketing of a medical device presents a substantial deception or an unreasonable and substantial risk of illness or injury. The legislative history of section 516 indicates that in determining whether the deception or risk of illness is substantial, Congress intended that the Commissioner would make a determination that the deception or risk incurred through continued marketing of the device is important, material, or significant. Also, in determining whether the device is deceptive, it is not necessary for the Commissioner to find that there was an intent to mislead or to otherwise harm users of the device, and the question of deception is to be determined independent of the motives of the manufacturer, distributor, importer, or owner. Nor is actual proog of deception or injury to an individual required. In determining whether a device presents deception or risk of illness or injury, the Commissioner shall consider, among other

things, all available data and information, including information which the Commissioner may obtain under other provisions of the act, and information which may be supplied by the manufacturer, distributor, importer, or owner. The procedures involved are considered in the discussion of proposed § 895.22.

Proposed § 895.21(b) provides that the Commissioner, before proposing a banned-device regulation, would consult with the appropriate panel or panels that have expertise with respect to the type of device proposed to be banned. The panels in question are those established under section 513 of the act (21 U.S.C. 360c) to review all devices and to make recommendations to the Commissioner with respect to classification. Although consultation with a panel is a prerequisite to initiating proceedings to ban a device, Congress did not intend the consultation to delay the banning process. Thus, section 516 of the act does not establish a timetable for panel review or a requirement that a panel approve a proposed action. The intent of section 516 of the act is that the Commissioner solicit the expertise of panel members on the question and that the panel members be provided an opportunity to respond to a proposal to ban a device. Generally, the consultation with the panel would occur at a regularly scheduled panel meeting that is announced in the FEDERAL REGISTER in accordance with the agency's regulations relating to advisory committees (21 CFR Part 14). The Commissioner could, however, call a special panel meeting to consider the matter or he could consult with the panel by mail or by telephone to obtain the views of the panel members on the pending action. The Commissioner could request that the panel present its views in writing and the Commissioner could record oral communications made with the panel or its members.

Proposed § 895.21(c) provides that the Commissioner could, in lieu of initiating a proceeding to ban the device, require the manufacturer, distributor, importer or owner to institute labeling or make changes in labeling for the device. The requirements with respect to labeling or change in labeling are considered in the discussion of proposed § 895.25.

Proposed § 895.21(d) establishes the procedures the Commissioner would follow if he decides to initiate a proceeding to make a device a banned device. This would be done after his determinations with respect to deception and risk as provided in proposed § 895.21(a), the consultation with the panel as provided in proposed § 895.21(b), and the labeling or any change in labeling as provided in proposed §§ 895.21(c) and 895.25.

A notice of proposed rule making to make a device a banned device would be published in the FEDERAL REGISTER. This notice would include a reference to the following: The findings required with respect to risk and deception, the reasons that the Commissioner initiated the proceeding, evaluation of data and information submitted by the manufacturer, distributor, importer, or owner, the consultation with the panel, and a determination with respect to labeling. The notice would afford all interested persons an opportunity to submit written comments and an opportunity to request an informal regulatory hearing before the Food and Drug Administration within 30 days after the date of publication of the proposed regulation. If a request for a regulatory hearing is granted, such hearing shall be held pursuant to Part 16 of the agency's regulations relating to administrative functions, practices and procedures (21 CFR Part 16). This informal hearing would generally occur after the publication of the notice of proposed regulation and before final action on the regulation, and the device would not be removed from the market until the effective date of the final regulation. As discussed in proposed § 895.30, expedited proceedings to make a device a banned device would be conducted only if the Commissioner determines that deception or risk of illness or injury associated with the use of the device presents an unreasonable, direct, and substantial danger to the health of individuals. In such instances, the Commissioner could require that the device be removed from the market upon publication of the proposed regulation and before the informal hearing.

Proposed § 895.21(e) provides that if after reviewing the administrative record of the regulatory hearing, if any, any written comments received on the proposed regulation, and any additional available data or information, the Commissioner determines to ban a device he would issue a final regulation to this effect in the FEDERAL REGISTER. When issuing a final regulation to make a device a banned device, the device and or a description of the device would be added to the list of banned devices in proposed Subpart B. If the Commissioner determined, after the conclusion of the requisite preliminary proceedings, that the device should not be banned, he would publish in the FEDERAL REGISTER a notice of withdrawal and termination of rule making proceedings, including the reasons therefor.

Proposed § 895.21(f) provides that the effective date of a final regulation to make a device a banned device generally would be the date of publication of the final regulation in the FEDERAL REGISTER. The Commissioner could, for reasons stated in the FEDERAL REGISTER notice, determine that a later effective date should be adopted. The FEDERAL REGISTER notice announcing the final regulation also would specify whether the banning of the device applied to devices already in commercial distribution and/or sold to ultimate users.

Proposed § 895.21(g) provides that a final regulation issued pursuant to proposed § 895.21(e) constitutes final agency action subject to judicial review in accordance with section 517 of the act (21 U.S.C. 360g).

Proposed § 895.21(h) provides that the Commissioner could institute proceedings to amend or revoke a regulation making a device a banned device if he finds that the conditions that constituted the basis for the regulation banning the device are no longer applicable. Any interested person could request that the Commissioner institute such procedings by filing a petition in accordance with the provisions of § 10.30 (21 CFR 10.30) of the agency's regulations relating to administrative functions, practices and procedures. In his consideration of a request to amend or revoke a regulation to make a device a banned device, the Commissioner would employ the procedures in proposed § 895.21 to the extent that they were applicable and to the extent that they could be applied in an expeditious manner.

SUBMISSION OF DATA AND INFORMATION BY THE MANUFACTURER, DISTRIBUTOR, IMPORTER, OR OWNER

Proposed § 895.22(a) would require a manufacturer, distributor, or importer of a device to submit any available data and information to the Commissioner that are necessary to assist him in determining whether the device presents substantial deception, an unreasonable and substantial risk of illness or injury, an unreasonable and direct and substantial danger to the health of individuals, or is otherwise adulterated or misbranded. This requirement is authorized by section 519 of the act (21 U.S.C. 360i), which provides that the Commissioner, by regulation, may require every person who is a manufacturer, importer, or distributor of a device intended for human use to establish and maintain records and to submit such reports or information as the Commissioner may require to assure that the device is not adulterated or misbranded, or to assure its safety and effectiveness. The data and information required by the Commissioner may include scientific or test data, reports, records, or other information, including data and information on whether the device is safe and effective for its intended use and/or when used as directed, whether the device performs according to the claims made for it by the manufacturer, distributor, importer, or owner.

Proposed § 895.22(b) provides that those persons required to submit such also advise the person of the purpose for data would be notified in writing by FDA. The written notification would the request and would, when possible, identify with specificity the required data and information.

Proposed § 895.22(c) provides that the data and information would be required to be submitted to FDA no more than 30 days after the date of receipt of the written notification unless the Commissioner establishes some other date of submission, in which instance the person would be advised.

Proposed § 895.22(d) provides that if the data and information submitted to FDA are sufficient to persuade the Commissioner that the deception or risk presented by the device could be corrected or eliminated by labeling or change in labeling, he shall proceed in accordance with the provisions of § 895.25.

Proposed § 895.22(e) provides that if the data or information submitted pursuant to a request from the Commissioner is insufficient to show that the

V 42 161 AUG 19 77 UM V

device does not present a substantial deception or an unreasonable and substantial risk of illness or injury or an unreasonable, direct, and substantial danger to the health of individuals, or if the person required to submit the information fails to submit it, this insufficiency or failure to submit the required information could be considered by the Commissioner in his determination to initiate a proceeding to make the device a banned device, including the determination to make such ban effective upon publication in accordance with proposed § 895.30.

LABELING

Under section 516 of the act, the Commissioner must make a positive determination that labeling changes would not be sufficient to correct or eliminate the substantial deception or an unreasonable and substantial risk of illness or injury, or the unreasonable, direct, and substantial danger to the health of individuals associated with the use of the device. As provided in proposed § 895.-25(a), if he determined that labeling changes would be sufficient, the Commissioner would notify the manufacturer, distributor, importer, or owner of the device in writing specifying the deception or risk of illness or injury or danger to the health of individuals involved and the labeling or change in labeling necessary to correct the deception or eliminate or reduce the risk or danger and the period in which such labeling or change in labeling is to be done. If the manufacturer does not take the required action within the specified time, the Commissioner could initiate a proceeding to make the device a banned device.

If the device in question is a restricted device within the meaning of section 520(e) of the act (21 U.S.C. 360j(e)), the Commissioner could also require that advertising relating to the restricted device be changed to correct the deception or eliminate or reduce the risk involved with the use of the device. Section 502(r) of the act (21 U.S.C. 352(r)) authorizes the Commissioner to take corrective action with respect to advertisements involving restricted devices when such action is necessary to protect the public health and where necessary to prevent the device being misbranded. This authority extends to a requirement that any advertisement contain a statement of the intended use of the device and relevant warnings, precautions, side effects, and contraindications. Proposed § 895.25(b) implements this authority.

The Commissioner, in accordance with proposed § 895.25(c), would allow a reasonable time, considering the deception, risk, or danger presented by the device, within which the required labeling, change in labeling, and, if the device is a restricted device, any change in advertising is to be accomplished by the manufacturer, distributor, importer, or owner. The Commissioner could, however, require that no additional devices be introduced into commerce until the labeling, change in labeling, or change in advertising is accomplished by such person. The Commissioner, in accordance with proposed § 895.25(d), may consider the failure of a manufacturer, distributor, importer, or owner to accomplish the required labeling, change in labeling, or change in advertising as a basis for initiating a proceeding to make the device a banned device or to establish a special effective date as provided in proposed § 895.30.

SPECIAL EFFECTIVE DATE

The Commissioner may immediately invoke the banned device provisions of section 516 of the act to remove a device from the market if the deception or risk represents an unreasonable, direct, and substantial danger to the health of individuals. Under proposed § 895.30(a), the Commissioner may declare a proposed regulation under proposed § 895.-21(d) to be effective upon its publication in the FEDERAL REGISTER and until the effective date of any final action taken with respect to such regulation if: (1) He determines, on the basis of all available data and information, that the deception or injury associated with the device presents the requisite danger to the health of the individuals; and (2) before the date of publication of such regulation, he notifies the manufacturer, distributor, importer, or owner that the regulation is to be made effective upon its publication as a proposed regulation in the FEDERAL REGISTER.

Proposed § 895.30(b) provides that this procedure may be used when the Commissioner determines that the actual or potential injury involved is a serious one that he believes will endanger the health of individuals who have been, or will be, exposed to the device. While the injury involved must be a serious one and one the Commissioner believes will endanger the health of individuals exposed to the device, the danger need not be imminent, and may involve a serious long-term risk. The relevant consideration is the degree of danger, not whether injury is likely to occur immediately.

Proposed § 895.30(c) provides that if the Commissioner determined that the deception or risk involved is so serious that the device should be removed from the market effective upon the date of publication of the proposed regulation banning the device, he would as expeditiously as possible give interested persons prompt notice of his action by publication in the FEDERAL REGISTER and would provide an opportunity for an informal regulatory hearing.

Proposed § 895.30(d) provides that after the hearing, if any, and after considering any written comments submitted on the proposal and any additional available data and information, the Commissioner shall either affirm, modify, or revoke the proposed regulation making the device a banned device.

Proposed § 895.30(e) provides that the Commissioner could use the special date procedures of proposed § 895.30 in proceedings that were initiated under the normal banning procedures set out in proposed § 895.21(d). This would likely occur when the Commissioner, based on new information or reconsideration of existing information, determines that a device under consideration for banning is subjecting persons to unnecessary risks and the accelerated effective date is now necessary to protect public health. In such circumstances, the Commissioner would make the determinations and provide notice in accordance with proposed § 895.30 (a) and (b).

Proposed § 895.30(f) provides that these devices that have been named banned devices under § 895.30, which have already been sold to the public, may be subject to relabeling by the manufacturer, distributor, importer, or owner and/or may be subject to the provisions of section 518(a) and/or 518(b) of the act relating to notification, repair, replacement, or refund concerning devices that are determined to present an unreasonable risk of substantial harm to the public health.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502(r), 516, 519, 701, 52 Stat. 1055–1056 as amended, 90 Stat. 560, 564–565, 577–578 (21 U.S.C. 352(r), 360f, 360i, 371)) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that new Part 895 be added to Subchapter H of Chapter I of Title 21 of the Code of Federal Regulations, to read as follows:

PART 895—BANNED DEVICES

Subpart A—General Provisions

Sec.

895.1 Scope.
895.20 General.
895.21 Procedure for banning a device.
895.22 Submission of data and information by the manufacturer, distributor, importer, or owner.
895.25 Labeling.
895.30 Special effective date.

Subpart B—Listing of Banned Devices [Reserved]

AUTHORITY: Secs. 502(r), 516, 519, 701, 52 Stat. 1055–1056 as amended, 90 Stat. 560, 564–565, 577–578 (21 U.S.C. 352(r), 360f, 360i, 371).

Subpart A—General Provisions

§ 895.1 Scope.

(a) This part describes the procedures by which the Commissioner may institute proceedings to make a device intended for human use that presents substantial deception or an unreasonable and substantial risk of illness or injury a banned device.

(b) This part applies to any device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act, that is intended for human use.

(c) A device that is made a banned device in accordance with this part is regarded as an adulterated device that is subject to regulatory action.

(d) Although this part does not cover devices intended for animal use that present substantial deception or an unreasonable and substantial risk of illness or injury, the manufacturer, distributor, importer, or owner of a device that is banned cannot avoid the ban by relabeling the device for veterinary use.

§ 895.20 General.

The Commissioner may initiate a proceeding to make a device a banned device whenever he finds, on the basis of all available data and information, and after consultation with the appropriate device panel, that the device presents substantial deception or an unreasonable and substantial risk of illness or injury, which the Commissioner determined could not be, or has not been, corrected or eliminated by labeling or by a change in labeling.

§ 895.21 Procedures for banning a device.

(a) Before initiating a proceeding to make a device a banned device, the Commissioner must find that the continued marketing of the device presents a substantial deception or an unreasonable and substantial risk of illness or injury.

(1) In determining whether the deception or risk of injury or illness is substantial, the Commissioner shall consider whether the deception or risk posed by continued marketing of the device, or continued marketing of the device as presently labeled, is important, material, or significant in relation to the benfit to the public health from its continued marketing.

(2) In determining whether a device is deceptive, the Commissioner shall consider whether users of the device may be deceived or otherwise harmed by the device. The Commissioner is not required to determine that there was an intent on the part of the manufacturer, distributor, importer, or owner of the device to mislead or otherwise harm users of the device or that there exists any actual proof of deception of, or injury to, an individual.

(3) In determining whether a device presents deception or risk of illness or injury, the Commissioner shall consider, among other things, all available data and information, including information which the Commissioner may obtain under other provisions of the act, and information which may be supplied by the manufacturer, distributor, importer, or owner pursuant to § 895.22.

(b) Before initiating a proceeding to make a device a banned device, the Commissioner shall consult with the classification panel established under section 513 of the act that has expertise with respect to the type of device under consideration. The consultation with the panel may occur at a regular or specially scheduled panel meeting or may be accomplished by correspondence or telephone conversation with panel members. The Commissioner may request that the panel submit in writing any advice on the device under consideration. The Commissioner may record in written memoranda any oral communications with the panel or its members.

(c) The Commissioner may, in lieu of initiating a proceeding to ban a device, require labeling or change in the labeling for the device in accordance with § 895.-25.

(d) If the Commissioner decides to initiate a proceeding to make a device a banned device, a notice of proposed rulemaking shall be published in the FEDERAL REGISTER to this effect. Such notice shall reference:

(1) The Commissioner's finding under paragraph (a) of this section that the device presents substantial deception or an unreasonable and substantial risk of illness or injury;

(2) The reasons that the Commissioner initiated the proceeding;

(3) The evaluation of data and information obtained under other provisions of the act, or submitted by the manufacturer, distributor, importer, or owner of a device pursuant to paragraph (a)(3) of this section, if any;

(4) The consultation with the classification panel pursuant to paragraph (b) of this section;

(5) The determination of whether the required labeling or change of labeling, if any, has been made in accordance with paragraph (c) of this section.

The notice shall afford all interested persons an opportunity to submit written comments and an opportunity to request an informal regulatory hearing before the Food and Drug Administration within 30 days after the date of publication of the proposed regulation. If a request for a regulatory hearing is granted, such hearing shall be held pursuant to Part 16 of this chapter.

(e) (1) If, after reviewing the administrative record of the regulatory hearing before the Food and Drug Administration, if any, the written comments received on the proposed regulation, and any additional available data and information, the Commissioner determines to ban a device, a final regulation to this effect shall be published in the FEDERAL REGISTER. Such final regulation shall amend Subpart B by adding the device and/or the description of the device to the list of banned devices.

(2) If the Commissioner determines not to ban the device, a notice of withdrawal and termination of rulemaking proceedings and reasons therefor shall be published in the FEDERAL REGISTER.

(f) The effective date of a final regulation to make a device a banned device promulgated pursuant to paragraph (e) of this section shall be the date of publication of the final regulation in the FEDERAL REGISTER unless the Commissioner, for reasons stated, determines that such effective date should be later than the date of such publication and specifies that date in the notice. Each such regulation shall specify whether devices already in commercial distribution and/or sold to ultimate users are banned.

(g) A regulation promulgated pursuant to paragraph (e) of this section is final agency action, subject to judicial review pursuant to section 517 of the act.

(h) Upon petition of any interested person submitted in accordance with § 10.30 of this chapter, or at his own discretion, the Commissioner may institute proceedings to amend or revoke a regulation that made a device a banned device if he finds that the conditions that constituted the basis for the regulation banning the device are no longer applicable. Where appropriate, the procedures in this section shall be employed in such proceedings.

§ 895.22 Submission of data and information by the manufacturer, distributor, importer, or owner.

(a) A manufacturer, distributor, or importer of a device may be required to submit to the Food and Drug Administration all available data and information to enable the Commissioner to determine whether the device presents substantial deception; and unreasonable and substantial risk of illness or injury; and unreasonable, direct, and substantial danger to the health of individuals; or is otherwise adulterated or misbranded. The data and information required by the Commissioner may include scientific or test data, reports, records, or other information, including data and information on whether the device is safe and effective for its intended use and/or when used as directed, whether the device performs according to the claims made for the device.

(b) A manufacturer, distributor, importer, or owner of a device required to submit data and information as provided in paragraph (a) of this section shall be notified in writing by the Food and Drug Administration that such data and information shall be submitted. The written notification shall advise the manufacturer, distributor, importer, or owner of the device that the purpose for the request is to enable the Commissioner to determine if any of the conditions listed in paragraph (a) of this section or § 895.30(a)(1) exist with respect to the device such that a proceeding should be initiated to make the device a banned device. When the required data and information can be identified by the Food and Drug Administration at the time of such notification, the manufacturer, distributor, importer or owner of the device shall be so informed.

(c) The required data and information shall be submitted to the Food and Drug Administration no more than 30 days after the date of receipt of the request, unless the Commissioner determines that the data and information must be submitted by some other date and so informs the manufacturer, distributor, importer, or owner.

(d) If the data or information submitted to the Food and Drug Administration are sufficient to persuade the Commissioner that the deception or risk presented by a device could be corrected or eliminated by labeling or change in labeling, the Commissioner shall proceed in accordance with § 895.25.

(e) If the data or information submitted to the Food and Drug Administration are insufficient to show that the device does not present a substantial deception or an unreasonable and substantial risk of illness or injury or an unreasonable, direct, and substantial danger to the health of individuals, or if the manufacturer, distributor, importer, or owner fails to submit the required information, the Commissioner may rely upon this insufficiency or failure to submit the required information as a basis

V 42 161 AUG 19 77 UM V

for initiating a proceeding to make the device a banned device pursuant to § 895.21(d) and, where appropriate, to make such ban effective upon publication in accordance with § 895.30. The Commissioner also may initiate other regulatory action as provided in the act and this chapter.

§ 895.25 Labeling.

(a) If the Commissioner determines that the substantial deception or unreasonable or substantial risk of illness or injury, or the unreasonable, direct, and substantial danger to the health of individuals presented by a device can be corrected or eliminated by labeling or change in labeling, the Commissioner shall provide written notice to the manufacturer, distributor, importer, or owner specifying the deception or risk of illness or injury or the danger to the health of individuals, the labeling, change in labeling, or change in advertising if the device is a restricted device, necessary to correct the deception or eliminate or reduce such risk or danger; and the period of time within which such labeling, change in labeling, or change in advertising must be done.

(b) In specifying the labeling or change in labeling to correct the deception or eliminate or reduce the risk or danger, the Commissioner may require the manufacturer to include in labeling for a device, and in advertising if the device is a restricted device, a statement acknowledging that the device is previously labeled had been found by the Food and Drug Administration to present substantial deception or an unreasonable and substantial risk of illness or injury, or an unreasonable, direct, and substantial danger to the health of individuals, or otherwise to be in violation of the act, and that the labeling was changed pursuant to the direction of the Food and Drug Administration.

(c) The Commissioner shall allow a manufacturer, distributor, importer, or owner a reasonable time, considering the deception or risk presented by the device, within which to accomplish the required labeling, change in labeling, and, if the device is a restricted device, any change in advertising. The Commissioner may, however, require that no additional devices be introduced into commerce until the labeling, change in labeling, or change in advertising is accomplished by the manufacturer, distributor, importer, or owner.

(d) The Commissioner may consider the failure of a manufacturer, distributor, importer, or owner to accomplish the required labeling, change in labeling, or change in advertising in accordance with this section as a basis for initiating a proceeding to make a device a banned device in accordance with § 895.21(d) or to establish a special effective date in accordance with § 895.30.

§ 895.30 Special effective date.

(a) The Commissioner may declare a proposed regulation under § 895.21(d) to be effective upon its publication in the FEDERAL REGISTER and until the effective date of any final action taken respecting such regulation if (1) he determines, on the basis of all available data and information, that the deception or risk of illness or injury associated with use of the device which is subject to the regulation presents an unreasonable, direct, and substantial danger to the health of individuals; and (2) before the date of the publication of such regulation, he notifies the manufacturer, distributor, importer, or owner of such device that such regulation is to be made so effective.

(b) This procedure may be used when the Commissioner determines that the potential or actual injury involved is a serious one that he believes will endanger the health of individuals who have been, or will be, exposed to the device. In assessing the degree of danger, the Commissioner need not find that the danger is imminent, and it shall be sufficient for the Commissioner to determine that the danger may involve a serious long-term risk.

(c) If the Commissioner makes a proposed regulation effective in accordance with this section, he shall, as expeditiously as possible, give interested persons prompt notice of his action in the FEDERAL REGISTER and shall provide an opportunity to request an informal regulatory hearing in accordance with Part 16 of this chapter.

(d) After the hearing, if any, and after considering any written comments submitted on the proposal and any additional available information and data, the Commissioner shall either affirm, modify, or revoke the proposed regulation making the device a banned device. If the Commissioner decides to affirm or modify the proposed regulation to make a device a banned device, he shall amend Subpart B by adding the device and/or description of the device to the list of banned devices. If the Commissioner decides to revoke a regulation making a device a banned device, a notice of termination of rulemaking proceedings and reasons therefor shall be published in the FEDERAL REGISTER.

(e) The Commissioner may declare the special effective date provided by this section to be in effect subsequent to the publication of a proposed regulation under § 895.21(d), if, based on new information, or reconsideration of existing information, the Commissioner makes the determinations and provides notice in accordance with paragraphs (a) and (b) of this section.

(f) Those devices that have been named banned devices under § 895.30, which have already been sold to the public, may be subject to relabeling by the manufacturer, distributor, importer, or owner and/or may be subject to the provisions of section 518(a) and/or 518(b) of the act.

Subpart B—Listing of Banned Devices
[Reserved]

Interested persons may, on or before October 18, 1977, submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: August 12, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc.77–23983 Filed 8–18–77;8:45 am]

Federal register

FRIDAY, AUGUST 19, 1977
PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

INDOCHINESE REFUGEE CHILDREN

Grants to State Educational Agencies to Provide Educational Services

V 42 161 AUG 19 77 UM

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 122a—STATE ADMINISTERED PROGRAMS—GRANTS TO STATE EDUCATIONAL AGENCIES TO PROVIDE EDUCATIONAL SERVICES TO INDOCHINESE REFUGEE CHILDREN

AGENCY: Office of Education, HEW.

ACTION: Final regulation.

SUMMARY: The Commissioner is issuing a regulation establishing rules and procedures to implement Title II of "The Indochina Refugee Children Assistance Act of 1976." Title II establishes a program for Federal grants to State educational agencies. The purpose of that program is to assist local educational agencies in providing public educational services for Indochinese refugee children.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232 (d)), this regulation has been transmitted to the Congress concurrently with its publication in the FEDERAL REGISTER. That section provides that rules subject thereto shall become effective on the 45th day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

FOR FURTHER INFORMATION CONTACT:

Mr. James H. Lockhart, Acting Director, Indochinese Refugee Assistance Program, USOE, Room 2189, 400 Maryland Avenue SW., Washington, D.C. 20202. (Telephone 202-245-3081).

SUPPLEMENTARY INFORMATION:

A. PUBLIC PARTICIPATION

On November 23, 1976, the Commissioner of Education published in the FEDERAL REGISTER (41 FR 51652) a notice of intent to publish regulations. This notice described the program, identified some potential issues and problems in administering the program and invited interested persons to submit comments or suggestions to the Office of Education on or before December 23, 1976. The Office of Education received and considered several written comments submitted in response to the notice of intent.

Subsequently, on June 3, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 28706–28713) proposing a regulation governing the operation of the program. The Commissioner invited interested persons to submit comments concerning the proposed regulations. Additionally, meetings were held in July, 1977 in various locations throughout the country for the purpose of soliciting comments and discussion from State and local personnel who are concerned with the administration and operation of the program.

B. BACKGROUND

The following discussion may help readers to better understand the program and certain provisions of the proposed regulations.

1. *Scope of program.* The program enacted by Title II of Pub. L. 94–405 is essentially a continuation of the program enacted on May 23, 1975, by Pub. L. 94–23, "The Indochina and Migration Refugee Assistance Act of 1975," and implemented by the regulations in 45 CFR Part 122. That program provided for grants by the Commissioner directly to local educational agencies to defray the cost of providing public educational services to Indochinese refugee children. It was designed as a transition measure to assist local educational agencies to absorb Indochinese refugee children into their regular educational program, and in addition to enable them to meet the supplementary educational needs of these children while these needs were particularly acute. Public Law 94–23 authorized grants for Federal fiscal year 1976 and fiscal year 1977. Congress appropriated funds to implement Pub. L. 94–23 in fiscal year 1976. Congress has appropriated $18.5 million to implement Title II of Pub. L. 94–405, the program to which these regulations are addressed.

Title II of Pub. L. 94–405 establishes a program for the period from July 1, 1976, through September 30, 1977. The paramount differences between this new program and the program established by Pub. L. 94–23 are:

(a) The program is State administered, whereas under Pub. L. 94–23 program funds were granted directly by the Commissioner to local educational agencies;

(b) In this program, each participating State educational agency is entitled to funds for the costs of administering the program in an amount not to exceed one percent of the amount to which it is entitled to receive for making funds available to local educational agencies in that State for carrying out the program. Under Pub. L. 94–23, each State educational agency, although not charged with administering the program, was entitled to an amount not to exceed five percent of the total of the amounts to which local educational agencies in that State were entitled.

(c) In this program, participation of non-public school children is mandatory, and the enabling statute authorizes the Commissioner to arrange to serve the children if the State is prohibited by law from providing public educational services for children enrolled in non-public schools. Under Pub. L. 94–23, local educational agencies were permitted, but were not required, to serve children enrolled in non-public schools.

2. *Entitlement.* The regulations provide for grants to be made by the Commissioner of Education to State educational agencies, and through them to local educational agencies which are providing public educational services for Indochinese refugee children. These grants are non-discretionary. A local educational agency will qualify for a subgrant if, during the grant period, it is providing public educational services to at least one Indochinese refugee child aged 5 through 17, and if, during the period for obligation of funds, it makes available public educational services for all refugee children for whom it receives funds.

It should be noted that local educational agencies may provide services to children who meet the definitions of "child" and "Indochinese refugee child" under § 122a.3. In regard to providing services, "child" may include a broader age range than is used in reference to "Indochinese refugee child" in the statute and the regulations for computing entitlements. For the purpose of computing entitlements, the counting of refugee children is limited to the age range of 5 through 17.

In this program, funds will be "flowed through" State educational agencies to local education agencies based on the same formula which was provided under Pub. L. 94–23, i.e.:

(a) $300 per child for the first 100 Indochinese refugee children aged 5 to 17 enrolled in the schools of the school district, or for the number of such children comprising one percent of the agency's total enrollment, whichever is less; and

(b) $600 for each such child in excess of 100 or in excess of a number of such children comprising one percent of the agency's total enrollment, as the case may be. (Although the statutory language in Pub. L. 94–405 prescribing the formula is somewhat different from the language used in 45 CFR Part 122 governing the program under Pub. L. 94–23, the formula is the same.)

Funds are generated by children enrolled in schools in the State during the period from July 1, 1976, through September 30, 1977, who received or will receive public educational services from local educational agencies during the period from July 1, 1976, through September 30, 1978. There is one exception: Grant applicants must count non-public school children who would be provided services, but for a State law prohibiting the applicant from serving those children. This exception enables non-public school children who are not served by the local educational agencies because of a legal prohibition, to generate funds so that they may be served by arrangement by the Commissioner. Without this type of provision, it will be difficult to give effect to the statutory requirement that the Commissioner arrange for services to non-public school children in the event that the State is prohibited by law from serving the children.

(3) *Use of funds.* Generally, funds provided under this program may be used by local educational agencies for providing both basic and supplementary educational services to Indochinese refugee children. However, in keeping with the customary Congressional understanding of legislation such as section 205(a)(6) of Pub. L. 94–405, the use of funds for non-public school children is limited to supplementary services.

(4) *Accountability.* Grant recipients are not required to obtain Federal approval for proposed educational projects as they are in the various existing programs of categorical aid for elementary and secondary education, and they are not required to account for the use of Federal funds by relating them to specific expenditure items. (However, Pub. L. 94–405 does prohibit commingling of funds provided for the use of non-public school children with State and local funds.) The regulation provides that, during the period for obligation of funds (July 1, 1976–September 30, 1978), a subgrant recipient is required to make public educational services available to the same number of children which it counted for purposes of entitlement to a subgrant.

This provision is designed to ensure proper accountability, i.e., that the grant funds are used to provide public educational services to Indochinese refugee children.

(5) *Comparable services for children enrolled in public schools.* A local educational agency must, as a condition of eligibility, make public educational services available to Indochinese refugee children enrolled in public schools on a basis comparable to that which it provides other children residing in the areas where the Indochinese refugee children are being served. This is another requirement intended to ensure that all of the funds received by subgrantees are used to serve Indochinese refugee children.

(6) *Periods for obligation of funds.* Funds for this program must be obligated at the Federal level no later than September 30, 1977. The authorization for this program expires at the end of September 30, 1977. (Congress has specified that section 414 of the General Education Provisions Act (20 U.S.C. 1226a), which automatically extends for an additional year the duration or authorization for Federal education programs which otherwise would terminate, does not apply to this program (Pub. L. 94–482, section 327, October 10, 1976)). State educational agencies and local educational agencies may reimburse themselves for expenses incurred during the period from July 1, 1976, through September 30, 1977, for providing public educational services for Indochinese refugee children. The "Tydings Amendment" (section 412(b) of the General Education Provisions Act (20 U.S.C. 1225(b)), which applies to this program, extends the period of obligation for State and local educational agencies through September 30, 1978.

C. DISCUSSION OF MAJOR COMMENTS

SECTION 122a.7 REDUCTION FOR AMOUNTS RECEIVED UNDER 1975 ACT

Comment. Several commenters indicated that this section was confusing because it appeared to require State entitlements to be offset by amounts received for the fiscal year 1975 under Pub. L. 94–23. A related comment questioned the necessity for § 122a.19, pointing out that the duplication of funding to which these provisions are addressed has not occurred.

Response. Sections 122a.7 and 122a.19 have been modified, and a comment added, to make it clear that the intended offset was for any amounts appropriated and received under Pub. L. 94–23 for the period July 1, 1976 through September 30, 1977. As the comment explains, Congress has appropriated nothing under Pub. L. 94–23 for that period. It is, therefore, not expected that the section will affect entitlements under this part, unless Congress should extend Pub. L. 94–23 and appropriate funds under the statute for the period now covered by Pub. L. 94–405.

SECTION 122a.10 STATE ENTITLEMENT FOR ADMINISTRATION

Comment. A commenter questioned why State entitlement for administration is limited to one percent of the State's program entitlement, despite the fact that the State's administrative role is larger than it was under Pub. L. 94–23.

Response. The State's entitlement for administration is mandated by the enabling statute. This provision was therefore a matter of Congressional judgment, which the Commissioner lacks authority to modify.

SECTION 122a.12 STATE APPLICATION FOR USE OF UNOBLIGATED FUNDS

Comment. A commenter questioned the necessity for a separate application for the use of carry-over funds, and suggested that the grant award expressly state a termination date of September 30, 1978, rather than requiring another application by the State.

Response. Section 122a.12 has been modified to make it clear that the State application for use of carry-over funds is not required to contain entitlement data pertaining to numbers of children enrolled in and being served by local educational agencies.

One legal consequence of the fact that this program is State-administered is that applications are governed by section 434(b) of the General Education Provisions Act. That section requires that in the case of "any State which applies for participation in any applicable program in which Federal funds are made available for assistance to local educational agencies through, or under the supervision of the State educational agency of that State" the State must submit to, and have approved by the Commissioner an annual program plan, which means an application for each fiscal year in which the program is operated. Furthermore, the enabling statute contemplates grants to States by the Commissioner "for the period beginning July 1, 1976 and ending September 30, 1977." The grant for the latter period would not cover use of funds by the States during the carry-over period. Although the Tydings Amendment permits carry-over of these funds, the States would not be accountable to the Commissioner for their use of funds during the carry-over period unless a separate document is submitted covering the time period during which the funds are proposed to be used, stating the purpose for which funds are to be used during that period, and repeating the assurances pertaining to use of the funds, which were made in the State's 1976–1977 application.

It should be noted that the State may, in its application for use of carry-over funds, incorporate by reference the assurances and purpose statements made in its 1976–1977 application. See § 100b.18 (c) of the Office of Education General Provisions Regulations, 45 CFR 100b.18 (c).

SECTION 122a.17 ELIGIBILITY OF LOCAL EDUCATIONAL AGENCIES FOR SUBGRANTS

Comment. A commenter recommended that the regulation be changed to permit a combination of local educational agencies to apply for a subgrant.

Response. Section 122a.17 has been modified to permit a combination of local educational agencies to apply for a subgrant. However, language has been added to § 122a.18 to the effect that local educational agencies may not augment their entitlements (under § 122a.18(a)(2)) by combining to apply for a subgrant.

SECTIONS 122a.18 AND 122a.21 COUNTING CHILDREN FOR THE PURPOSE OF LOCAL EDUCATIONAL AGENCY ENTITLEMENTS

Comment. Several commenters asked whether a child must be enrolled in the school of a local educational agency for any prescribed time period in order for that child to be counted for the purpose of computing entitlement. A related question was whether one local educational agency could count the same child more than once, e.g., if the child were enrolled during the regular school year and again in a summer school. Another related question was whether the same child could be counted by different local educational agencies, in the case of a child which was enrolled in more than one local educational agency during the period July 1, 1976 through September 30, 1977. In this connection, it was suggested that the regulation require that the count for all local educational agencies be based on enrollments as of a single date, e.g., May 1, 1977.

Response. Section 122a.18 has been modified to state clearly that no local educational agency may count the same child more than once. The regulation imposes no minimum period of time during which a child must be enrolled and does not establish a single date for counting purposes. The relevant statutory language permits "double counting," in the sense of permitting different local educational agencies in a State to count the same child if that child is enrolled in different local educational agencies during the relevant period. The proposed single date could be unfair, because a local educational agency which had enrolled that child at a different time would not be able to count that child, even though that local educational agency has served that child for a much longer period than had the local educational agency which had enrolled the child at that particular date.

A new § 122a.18a has been added to emphasize that the entitlement defined

VOL 42 NO 161 AUG 19 1977 UM

by § 122a.18 is a maximum entitlement, and that, if a local educational agency does not need funds for all children counted, it should not aply for or retain funds it does not need. The allowance for counting the same child by different local educational agencies within a State is not an authorization for any local educational agency to apply for or spend more funds than it can reasonably use for Indochinese refugee children to whom it has provided or will provide public educational services.

A new § 122a.20a has been added, which authorizes reallocation of funds by a State educational agency among local educational agencies within a State, when a local educational agency or agencies, because of an underestimate of the number of children to be served, would otherwise be deprived of payments to which they would be entitled.

SECTION 122a.21(b) APPLICATION PROCEDURE—COUNTING NON-PUBLIC SCHOOL CHILDREN FOR THE PURPOSE OF COMPUTING LOCAL EDUCATIONAL AGENCY ENTITLEMENT

Comment. A commenter questioned how the information required by § 122a.21(b)(2) differed from that of § 122a.21(b)(4), and suggested that the intent of the regulation would be more clearly expressed by eliminating the words "Indochinese refugee" from § 122a.21(b)(4).

Response. The regulation has not been changed. The purpose of paragraph (b)(2) of the section is to enable the State educational agency to determine whether the local educational agency will serve Indochinese refugee children "to the extent consistent with the number of Indochinese refugee children enrolled in the elementary or secondary non-public schools within the district served by a local educational agency" (Section 205(a)(6)(1) of Title II). The information required by § 122a.21(b)(4) of the regulation is the data which is essentially the basis for the local educational agency's requesting funds to serve non-public school children, i.e., data on the numbers of Indochinese children in non-public schools who will be served by the agency.

SUBPART G USE OF FUNDS

Comment. A commenter suggested that Congress intended that funds made available under Pub. L. 94-405, Title II, be used only to pay for providing supplemental services, and that this restriction should therefore apply equally to the use of funds for public school children as well as for non-public school children.

Response. The regulation has not been changed. The Office of Education considers that Congress intended that funds under Title II be used in essentially the same manner that funds under Pub. L. 94-23 were used, i.e., to assist local educational agencies to absorb the impact of Indochinese refugee enrollment by assisting those agencies to provide basic or supplemental programs for those children. The services to non-public school children must be supplemental, in keeping with customary Congressional understanding of legislation such as section 205(a)(6) of Pub. L. 94-405.

SECTION 122a.31 USE OF FUNDS FOR NON-PUBLIC SCHOOL CHILDREN

Comment. A commenter asked whether the prohibition against commingling of funds referred to in Title II of Pub. L. 94-405, section 205(a)(6), applies only to those funds to be used for the benefit of non-public school children, or whether it applies to all funds made available under Title II.

Response. The applicable prohibition against commingling of funds applies only to funds to be used for the benefit of non-public school children.

OBLIGATION PERIOD—COMMENT ON NOTICE OF INTENT

Comment. A comment on the notice of intent published November 23, 1976, asked at what time obligations at the local level occur in a case where a local subgrant recipient contracts for services. In the introduction to the notice of proposed rulemaking published June 3, 1977, it was stated that this question would be discussed more fully in the introduction to the final regulation.

Response. Under the Office of Education General Provisions Regulations, 45 CFR 100b.55(c), which governs this program, where work is performed by an independent contractor rather than by employees of the grant or subgrant recipient, the obligation takes place at the time the contract is entered into. When personal services are performed by employees of a grant or subgrant recipient, the obligation takes place at the time the services are performed.

OTHER CHANGES

The only other changes to the regulation have been minor technical or clarifying changes.

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Program No. 13.596, Educational Services for Indochinese Refugee Children.)

Dated: August 1, 1977.

ERNEST L. BOYER,
Commissioner of Education.

Approved: August 15, 1977.

HALE CHAMPION,
Acting Secretary of Health, Education and Welfare.

Part 122a of Title 45 of the Code of Federal Regulations is amended to read as follows:

Subpart A—General

Sec.
122a.1 Scope of part.
122a.2 Applicability of General Provisions Regulations for Office of Education Programs.
122a.3 Definitions.

Subpart B—Eligibility of State Educational Agencies for Grants and Amount of Entitlement

Sec.
122a.4 Eligibility.
122a.5 Maximum entitlement; States other than American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.
122a.6 Entitlements for American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.
122a.7 Reduction for amounts received under 1975 Act.
122a.8 Allocation of appropriations.
122a.9 Data for computing State entitlements.
122a.10 State entitlement for administration of programs.

Subpart C—State Educational Agency Applications

122a.11 Application procedure.
122a.12 State application for use of unobligated funds.
122a.13 Approval by the Commissioner of State applications.
122a.14 Amendments to State applications for the period July 1, 1976 through September 30, 1977 based on a net increase or redistribution in number of children.
122a.15 State administration.
122a.16 Withholding payments for noncompliance.

Subpart D—Eligibility of Local Educational Agencies for Subgrants and Amounts of Entitlement

122a.17 Eligibility.
122a.18 Maximum entitlements.
122a.18a Wasteful obligation of funds prohibited.
122a.19 Reductions for amount received under Pub. L. 94-23.
122a.20 Ratable reduction.
122a.20a Reallocation of funds among local educational agencies.

Subpart E—Local Educational Agency Applications

122a.21 Application procedure.
122a.22 Non public elementary and secondary school children to be counted.
122a.23 State educational agency's review of applications.

Subpart F—Records and Reports Required by the Commissioner

122a.24 Records required of State and local educational agencies.
122a.25 Retention of records.
122a.26 Annual performance report by State educational agency.

Subpart G—Use of Funds

122a.27 General.
122a.28 Public educational services to be provided during period of obligation.
122a.29 Use of funds for public school children.
122a.30 Comparable services required for children enrolled in public schools.
122a.31 Use of funds for nonpublic school children.
122a.32 Waiver of requirement for participation of nonpublic school children.

AUTHORITY: Title II, Pub. L. 94-405, unless otherwise noted.

Subpart A—General

§ 122a.1 Scope of part.

This part governs projects for which funds are provided under Title II of the Indochina Refugee Children Assistance Act of 1976, Pub. L. 94-405, Sections 201-208 (hereafter referred to as Title II).

for financial assistance made available through State educational agencies to local educational agencies to be used for public educational services for Indochinese refugee children. (The text of Title II is contained in full in the appendix to this part.)

(Pub. L. 94-405, Title II)

§ 122a.2 Applicability of general provisions regulations for Office of Education programs.

The following provisions contained in Subchapter A of this Chapter apply to assistance under this part:

(a) Part 100, § 100.1 (except as otherwise provided in this section); and

(b) Part 100b (except § 100b.35(b), and Subparts H, L and M).

(Pub. L. 94-405, Title II; 20 U.S.C. 1221e-3(a)(1); 1232c (a) and (b); 1232d; 31 U.S.C. 200; 42 U.S.C. 2000d)

§ 122a.3 Definitions.

As used in this part:

"Child" means any child who is within the age limits for which the applicable State is required or permitted to provide free public elementary and secondary school education in grades kindergarten through 12, except that "child" does not include a person enrolled only in adult education courses.

(Pub. L. 94-405, Sections 201, 203)

"Free public education" means education which is provided at public expense, under public supervision and direction without tuition charge, and which is provided as elementary or secondary school education in grades kindergarten through 12 in the applicable State.

(Pub. L. 94-405, Section 203)

"Public educational services" means:

(a) Free public education in the case of children enrolled in elementary or secondary public schools, and

(b) Publicly supported educational services in the case of children enrolled in elementary or secondary non-public schools.

(Pub. L. 94-405, Sections 203, 205)

As used in this part, the following terms have the meaning given to them in section 201(b) of Pub. L. 94-405 (see Appendix):

Commissioner
Elementary school
Indochinese refugee children
Local educational agency
Secondary school
State
State educational agency
Elementary or secondary nonpublic schools

(Pub. L. 94-405, Section 201(b))

Subpart B—Eligibility of State Educational Agencies for Grants and Amount of Entitlement

§ 122a.4 Eligibility.

A State educational agency of any State is eligible to apply for a grant under this part for the period from July 1, 1976 to September 30, 1977, if the Commissioner determines that during that period there are or were one or more Indochinese Refugee children aged 5 to 17 receiving public educational services under the supervision of a local educational agency or local educational agencies in that State.

(Pub. L. 94-405, Section 202)

§ 122a.5 Maximum entitlement: States other than American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

The maximum amount to which a State educational agency of each State other than American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands is entitled under this part is the amount prescribed by section 202(b) of Pub. L. 94-405.

(Pub. L. 94-405, Section 202(b))

§ 122a.6 Entitlements for American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

The maximum amount to which each of the jurisdictions of American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands is entitled is the same as the amount prescribed for other States by section 202(b) of Pub. L. 94-405. However, the aggregate entitlements for these jurisdictions may not exceed an amount equal to 1 percent of the aggregate entitlements of other States under § 122a.5. If the aggregate maximum entitlements for these jurisdictions exceeds the 1 percent limitation, the entitlement of each of those jurisdictions is reduced proportionately until that aggregate entitlement of those jurisdictions does not exceed the 1 percent limitation.

(Pub. L. 94-405, Section 202(c))

§ 122a.7 Reduction for amounts received under 1975 Act.

Despite any other provision of this subpart, no State educational agency is entitle to receive a grant for any period in excess of the amount to which that agency would otherwise be entitled under this subpart minus the sum of the amounts received by the local educational agencies of that State and by that State educational agency from an appropriation made for that same period under the Indochina Migration and Refugee Assistance Act of 1975 (Pub. L. 94-23).

Comment. This section is not expected to affect State entitlement under this part. Congress has not appropriated any funds under the 1975 Act for the period covered by Title II of Pub. L. 94-405 (e.g., July 1, 1976 through September 30, 1977).

(Pub. L. 94-405, Section 202(a), 202(b))

§ 122a.8 Allocation of appropriations.

The Commissioner allocates sums appropriated for payments under Title II in accordance with the provisions of section 204 of Title II governing ratable reductions and increases necessitated by appropriations.

(Pub. L. 94-405, Section 204)

§ 122a.9 Data for computing State entitlements.

The Commissioner determines State educational agency entitlements under this subpart in accordance with the data requirements of section 202(a) of Title II.

(Pub. L. 94-405, Section 202(e))

§ 122a.10 State entitlement for administration of programs.

The Commissioner is authorized to pay to each State educational agency an additional amount equal to the amount expended by it for the proper and efficient administration of its functions. However, the total of these payments for any period may not exceed 1 percent of the amount which that State educational agency is entitled to receive for that period.

(Pub. L. 94-405, Section 206(b))

Subpart C—State Educational Agency Applications

§ 122a.11 Application procedure.

(a) *Required submittals.* Any State wishing to participate in Title II shall submit through its State educational agency to the Commissioner no later than August 15, 1977;

(1) The general application required by section 434(b)(1)(A) of the General Education Provisions Act and Part 100b, § 100b.17 of this chapter; and

(2) The application required by section 205 of Title II. The application required by section 205 of Title II (hereinafter referred to as "State application") constitutes the annual program plan required by section 434(b) of the General Education Provisions Act and by Part 100b, § 100b.18 of this chapter.

(b) *Content of State application.* The State educational agency shall include in its State application:

(1) The information and assurances required by section 205(a) of Title II;

(2) An assurance that the State educational agency will comply with Title II, the regulations in this part and the applicable provisions of Part 100b of this chapter;

(3) A statement describing the purpose for which Federal funds will be expended under Title II during the fiscal year for which the State application is submitted;

(4) A certificate by the appropriate State legal officer to the effect that the agency submitting the application has the authority under State law to perform the duties and functions of a State educational agency; and

(5) Information showing, for each local educational agency which has applied or is expected to apply to the State educational agency for a subgrant under Subpart D of this part:

(i) The name of the local educational agency;

(ii) The total number of children enrolled in the public elementary and secondary schols of that agency;

(iii) The number of Indochinese refugee children age 5 to 17 enrolled in the elementary and secondary schools in that agency who have received, or who will receive, public educational services under the supervision of that agency in the period from July 1, 1976 through September 30, 1978 (including children en-

rolled in elementary and secondary non-public schools who are counted by the local educational agency under §§ 122a.21 (b) (5) and 122a.22(b)); and

(iv) The amount of funds which the State educational agency is requesting for use in each local educational agency.

The State educational agency shall base the information required by (ii), (iii), and (iv) on actual satisfactory data, to the extent that this data is available at the time the State educational agency submits its application. If this data is not available at the time the State educational agency submits its application, it may base its information on reliable estimates.

(Pub. L. 94-405, Sections 202(b), 205(a); 20 U.S.C. 1232(b))

§ 122a.12 State application for use of unobligated funds.

In cases where the entire amount of funds made available to a State educational agency under this part for the period July 1, 1976 through September 30, 1977, have not been obligated by educational agencies in that State by the end of September 30, 1977, those funds may be obligated during the period from October 1, 1977, through September 30, 1978, but only if the State educational agency submits to the Commissioner a separate State application for the use of those funds, no later than October 30, 1977, and the Commissioner approves that application. The State educational agency shall conform this application to all the requirements of this part governing State applications, except that the State educational agency is not required to include the information required by § 122a.11(b)(5).

(Pub. L. 94-405, Sections 202(b), 205(a); 20 U.S.C. 1225(b)); 20 U.S.C 1232c(b))

§ 122a.13 Approval by the Commissioner of State applications.

(a) *General.* The Commissioner shall approve a State application submitted under this part if the Commissioner determines that the application meets the requirements of Title II, the regulations of this part, and applicable regulations of Part 100b of this chapter.

(Pub. L. 94-405, Section 205(b); 20 U.S.C. 1221e-3(a)(1))

(b) *Notice and opportunity for hearing.* The Commissioner may not finally disapprove (in whole or in part) a State application of a State educational agency submitted under this part, except after reasonable notice and opportunity for a hearing on the record to that agency.

(Pub. L. 94-405, Section 205(b))

(c) *Effective date of State application.* A State application approved by the Commissioner under this part is effective from the first day on which an Indochinese refugee child or children received public educational services under the supervision of a local educational agency or agencies in that State except that no State application approved under this part is effective earlier than July 1, 1976.

(Pub. L. 94-405, Section 202(a); 20 U.S.C. 1221e-3(a)(1))

§ 122a.14 Amendments to State applications for the period July 1, 1976 through September 30, 1977 based on a net increase or redistribution in number of children.

The State educational agency shall no later than August 15, 1977 amend its State application for the period July 1, 1976 through September 30, 1977 for the following purposes:

(a) To provide actual data for the purpose of computing entitlements under this subpart in cases where its original State application had provided estimates, or

(b) To provide appropriate data reflecting a new increase in the number of Indochinese refugee children aged 5 to 17 which have received, or will receive, public educational services under the supervision of the local educational agencies of that State, or a redistribution of those Indochinese refugee children in the State.

(Pub. L. 94-405, Section 202; 20 U.S.C. 1221e-3(a)(1))

§ 122a.15 State administration.

The State educational agency for a State for which the Commissioner has approved a State application under this part is responsible for the proper and efficient performance of the duties of that agency under Title II, including compliance with its assurances to the Commissioner, and the review and approval of local educational agency applications in accordance with Subparts D and E of this part.

(Pub. L. 94-405, Section 205(a))

§ 122a.16 Withholding payments for noncompliance.

The Commissioner shall, subject to the requirements of section 207 of Pub. L. 94-405, withhold payments under this part to any State educational agency if the Commissioner finds that there has been a failure to meet the requirements of Title II.

(Pub. L. 94-405, Section 207)

Subpart D—Eligibility of Local Educational Agencies for Subgrants and Amounts of Entitlement

§ 122a.17 Eligibility.

A local educational agency or combination of local educational agencies in any participating State is eligible to apply for a subgrant under this part for a fiscal year if the State educational agency determines on the basis of satisfactory information that:

(a) The local educational agency is providing public educational services to at least one Indochinese refugee child aged 5 to 17; and

(b) The local educational agency (except as provided in § 122a.22 (b)) is providing or will provide in the period of obligation for State and local funds, public educational services to the same number of Indochinese refugee children who are counted under § 122a.21(b) for the purpose of computing its entitlement.

(Pub. L. 94-405, Sections 202(b)(1) and 205(a)(3))

§ 122a.18 Maximum entitlements.

(a) The maximum amount of the subgrant to which a local educational agency is entitled under this part for the period beginning July 1, 1976, and ending September 30, 1977, is equal to the sum of:

(1) The number of Indochinese refugee children aged 5 to 17 inclusive who have received, or who will receive, public educational services under the supervision of that local educational agency in the period from July 1, 1976 through September 30, 1978; multiplied by the lesser of:

(i) $300 for each of the first one hundred of these children who are furnished public educational services under the supervision of that agency; or

(ii) If the number of these children equals or exceeds 1 percent of the total number of children enrolled in the schools of that agency, $300 for each child in that 1 percent who is furnished such services under the supervision of that agency; and

(2) $600 for each additional child in excess of one hundred such children, or in excess of such 1 percent, as the case may be, being furnished public educational services under the supervision of that agency.

(b) No local educational agency may count the same child more than once under this section.

(c) If an applicant for a subgrant is a combination of local educational agencies, then that applicant's entitlement under this section is the aggregate of what the entitlements of each local educational agency covered by the application would be if each such local educational agency applied separately for a subgrant.

(Pub. L. 94-405, sections 202(b)(1) and 205(a)(3))

§ 122a.18a Wasteful obligation of funds prohibited.

No local educational agency may obligate funds under this subpart in an amount which is more than it can reasonably use for the purposes described in Subpart G of this part.

(Pub. L. 94-405, section 203)

§ 122a.19 Reductions for amounts received under Pub. L. 94-23.

Despite the provisions of § 122a.18, no local educational agency is entitled to receive a grant for any period in excess of the amount equal to the amount to which that agency would otherwise be entitled under this subpart for that period minus the sum of the amount received by that agency from an appropriation made for that same period under the Indochina Migration and Refugee Assistance Act of 1975 (Pub. L. 94-23).

Comment. This section is not expected to affect local educational agency entitlements under this part. See comment for § 122a.7.

(Pub. L. 94-405, Sections 202(b)(1), 202(d), and 205(a)(3).)

§ 122a.20 Ratable reduction.

The State educational agency shall ratably reduce the amounts to which local educational agencies are entitled under § 122a.18 to the extent necessary to bring the aggregate of those amounts within the limits of the State educational agency's entitlement.

(Pub. L. 94-405, Sections 202(b)(1), 202(c)(2) and 205(a)(3))

§ 122a20a Reallocation of funds among local educational agencies.

A State educational agency may reallocate funds to eligible local educational agencies in the State (consistent with the rules in this subpart governing local educational agency entitlements), when it appears that a local educational agency or agencies in the State would otherwise, because of an underestimate of the number of children to be counted under § 122a.18, be deprived of payments to which it is entitled. A State educational agency may reallocate funds to a local educational agency only pursuant to an application (or an amendment to an application) which satisfies the requirements of Subpart E of this Part.

(Pub. L. 94-405, Section 202(b)(1) and 205(a)(3))

Subpart E—Local Educational Agency Applications

§ 122a.21 Application procedure.

(a) *General.* A local educational agency which wishes to receive a subgrant under this part shall file an application for a subgrant with the State educational agency.

(b) *Content of application.* The State educational agency shall require each local educational agency applying for a subgrant under this part to include in its application sufficient information and assurances to enable the State educational agency to make the assurances required by section 434(b)(1)(A) of the General Education Provisions Act and assurances required by section 205(a) of Pub. L. 94-405. In addition the State educational agency shall require the local educational agency to include in its application the following data:

(1) The total number of children enrolled in the public elementary and secondary schools of that agency;

(2) The total number of Indochinese refugee children aged 5 to 17 in the applicant's district who are enrolled in non-public elementary and secondary schools;

(3) The total number of Indochinese refugee children aged 5 to 17 enrolled in the public elementary and secondary schools of that agency to whom the agency is providing, or will provide, public educational services in the period from July 1, 1976 through September 30, 1978;

(4) The total number of Indochinese refugee children enrolled in elementary and secondary non-public schools in the applicant's district to whom that agency has provided or will provide public educational services during the period July 1, 1976 through September 30, 1978; and

(5) The number of Indochinese refugee children (including nonpublic school children) for whom funds are being requested pursuant to this section.

(Pub. L. 94-405, Sections 202 (b), (c), and (e) and 205(a) (3) and (6); 20 U.S.C. 1232 c(b)(1)(A))

§ 122a.22 Nonpublic elementary and secondary school children to be counted.

(a) For the purpose of § 122a.21(b)(5), a local educational agency shall include those children enrolled in the elementary and secondary non-public schools of its agency:

(1) For whom it is required by section 205(a)(6) of Pub. L. 94-405 to provide an opportunity to receive services under this part; and

(2) For whom the local educational agency has planned after consultation with appropriate officials of non-public schools to actually provide these services in the period from July 1, 1976 through September 30, 1978.

(b) If the local educational agency is prohibited by law from providing for public educational services for children enrolled in elementary and secondary non-public schools, as required by section 205(a)(6) of Pub. L. 94-405, the local educational agency shall include under § 122a.21(b)(5) those children to whom it would actually provide these services but for the legal prohibition. The local educational agency shall clearly state on its application the number of non-public school children referred to in the preceding sentence, and shall state that it is prohibited by law from providing these services to those children.

(Pub. L. 94-405, Sections 205(a)(6) and 206(c).)

§ 122a.23 State educational agency's review of applications.

(a) *Approval of applications.* The State educational agency shall approve an application from a local agency only if it determines that the application satisfies the requirements of Pub. L. 94-405, the regulations in this part and in Part 100b of this chapter.

(b) *Effective date of approved applications.* A local educational agency application approved by a State educational agency under this part is effective from the first day on which:

(1) Any Indochinese refugee child received public educational services under the supervision of the applicant agency; and

(2) The State educational agency's application to the Commissioner under this part was effective.

(c) *Notice and opportunity for hearing.* The State educational agency may not finally disapprove a local educational agency's application in whole or in part without first affording the local educational agency reasonable notice and opportunity for a hearing with respect to its action in accordance with the requirements of section 425(a) of the General Education Provisions Act. The State educational agency shall include in its notice the reasons for the proposed disapproval. The State educational agency shall hold a hearing within 30 days after it receives a written request from the local educational agency. If the State educational agency decides not to rescind its final action, it shall give notice of the decision to the local educational agency in writing, stating its reasons and indicating the local educational agency's right to appeal to the Commissioner under section 425(b) of the General Education Provisions Act within 20 days of the receipt of the notice.

(Pub. L. 94-405, Section 202(a); 20 U.S.C. 1231b-2.)

Subpart F—Records and Reports Required by the Commissioner

§ 122a.24 Records required of State and local educational agencies.

(a) *State educational agencies.* A State educational agency which has received a grant under this part shall maintain adequate written records showing that it has satisfied the requirements of § 122a.10 regarding the use of funds paid to it for the administration of the program.

(b) *Local educational agencies.* The State educational agency shall require each local educational agency which has received a subgrant under this part to maintain adequate written records to substantiate that it has satisfied the requirements governing eligibility, entitlement, and use of funds, which are contained in Subparts D and G, including those requirements arising from the assurances given. These records must document on an individual basis that each Indochinese refugee child counted and served under this part is an Indochinese refugee child as defined in Pub L. 94-405, Title II. The records must reflect the identity of the children by name, address and alien registration number or copy of the immigration document displaying this number.

(20 U.S.C. 1232c(a).)

§ 122a.25 Retention of records.

State and local educational agencies receiving payments under this part are required to keep all records supporting the application until the completion of the administrative reviews which are regularly conducted by Federal agencies, or for five years following the fiscal year to which the application relates. The records involved which have been questioned must be further maintained until necessary adjustments have been made, and the adjustments have been reviewed and cleared by the Federal agencies making these reviews.

(20 U.S.C. 1232c(a).)

§ 122a.26 Annual performance report by State educational agency.

Each State educational agency receiving financial assistance under this part shall make the annual performance report as required by § 100b.432 of Part

V 42 N 161 AUG 19 77 UM

100b of this chapter to the Commissioner, within 90 days after the end of the grant period. The State educational agency, in its report shall include (in addition to the information required by Part 100b) information showing:

(a) The number of Indochinese refugee children who during the grant period, received public educational services in each local educational agency in the State, including both public and non-public school children;

(b) A description of the services provided by the local educational agencies to Indochinese refugee children through the use of funds received under this part; and

(c) Other information the Commissioner may require.

(20 U.S. 1232c(b)(1)(A)(III).)

Subpart G—Use of Funds

§ 122a.27 General.

Each educational agency shall use payments made to it under this part in accordance with an application approved under Pub. L. 94-405 section 205 for public educational services for Indochinese refugee children enrolled in the schools of the local educational agency and enrolled in elementary and secondary non-public schools within the district served by that local educational agency.

(Pub. L. 94-405, Sections 203 and 205.)

§ 122a.28 Public educational services to be provided during period of obligation.

Each application by a local educational agency to a State educational agency for a subgrant under this part must contain an assurance that the applicant has or will (as a condition of receiving the grant) in the period from July 1, 1976 through September 30, 1978 make available public educational services to all Indochinese refugee children who are counted under § 122a.21(b)(5), including the non-public school children who are counted.

(Pub. L. 94-405, Section 203.)

§ 122a.29 Use of funds for public school children.

The public educational services provided under this part to Indochinese refugee children enrolled in public elementary and secondary schools may include basic educational services and such supplementary English language instruction and other educational services as are necessary to enable the children to achieve a satisfactory level of educational performance.

(Pub. L. 94-405, Section 203.)

§ 122a.30 Comparable services required for children enrolled in public schools.

The State educational agency shall require a local educational agency, as a condition of entitlement to payments under this part, to assure the State educational agency in its application that all Indochinese refugee children to whom it provides public educational services under this part have access during the grant period to all publicly funded instructional services provided by that agency on a basis comparable to that which the local educational agency provides to other children residing in the area or areas where the Indochinese refugee children are being served.

(Pub. L. 94-405, Section 203; 20 U.S.C. 1232c(b)(1)(A)(IV).)

§ 122a.31 Use of funds for non-public school children.

(a) *Supplemental services authorized.* The public educational services provided under this part to Indochinese refugee children enrolled in non-public schools must consist of such supplemental English language instruction and other supplemental educational service as are necessary to enable those children to achieve a satisfactory level of educational performance.

(b) *Restrictions on use of funds.* The use of funds provided under this part for children enrolled in non-public schools is subject to the restrictions set forth in section 205(a)(6) of Pub. L. 94-405, and in addition to the following restrictions:

(1) The use of these funds may not include financing the basic level of instruction which is provided by the non-public school to its students, but is limited to financing the supplemental services referred to in paragraph (a) of this section;

(2) The use of these funds may not include the payment of salaries for teachers or other employees of non-public schools except for services performed outside their regular hours of duty and under public supervision and control;

(3) The use of these funds may not include acquisition or use of equipment other than mobile or portable equipment on non-public school premises, or the construction of non-public school facilities.

(Pub. L. 94-405, Section 205(a)(6); *Lemon v. Kurtzman*, 403 U.S. 602 (1971).)

§ 122a.32 Waiver of requirement for participation of non-public school children.

(a) *Conditions for waiver.* If a State is prohibited by law from providing public educational services to Indochinese refugee children enrolled in elementary and secondary non-public schools, as required by Pub. L. 94-405, section 205(a)(6) and the relevant provisions of this part, the Commissioner may waive this requirement and shall arrange for the provision of services to those children through arrangements which are subject to the requirements of Title II of Pub. L. 94-405, and of this part. For the purpose of determining whether a State is prohibited by law from providing public educational services for Indochinese refugee children enrolled in non-public schools, the Commissioner may require the State educational agency to furnish an opinion of the Attorney General of the State with regard to the status of State law governing participation.

(b) *Cost of arrangements by Commissioner.* When the Commissioner arranges for services pursuant to this section, the Commissioner may after consultation with the appropriate public and non-public school officials, use to defray the cost of the arrangement, the amount to which the State educational agency of that State would have been entitled to obligate under this part if the children to be served by the arrangement had been counted and afforded the opportunity to be served by the local educational agencies of that State in accordance with the requirements of Pub. L. 94-405, section 206(c).

(Pub. L. 94-405, Section 206(c).)

APPENDIX—TITLE II—PROGRAM FOR THE TRANSITION PERIOD AND THE 1977 FISCAL YEAR

APPLICABILITY; DEFINITIONS

Sec. 201. (a) The provisions of this title shall be applicable for the period beginning July 1, 1976, and ending September 30, 1977.

(b) As used in this title—

(1) The term "Commissioner" means the Commissioner of Education.

(2) The term "elementary schools" means a day or residential school which provides elementary education, as determined under State law.

(3) The term "Indochinese refugee children" means children who are refugees within the meaning of that term as defined in section 3 of the Indochina Migration and Refugee Assistance Act of 1975.

(4) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(5) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law.

(6) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(7) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(8) The term "elementary or secondary nonpublic schools" means schools which comply with the compulsory education laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

STATE ENTITLEMENTS

Sec. 202. (a) The Commissioner shall, in accordance with the provisions of this title, make payments to State educational agencies for the period July 1, 1976, through September 30, 1977, for the purposes set forth in section 203.

(b)(1) Expect as provided in subsection (d) of this section, the maximum amount of the grant to which a State educational agency is entitled under this title, for the period beginning July 1, 1976, and ending September 30, 1977, shall be equal to the sum of—

(A) The number of Indochinese refugee children aged 5 to 17, inclusive, receiving public educational services under the supervision of each local educational agency within that State during the period for which the determination is made; multiplied by—

(B) The lesser of—

(i) $300 for each of the first one hundred such children who are furnished such services under the supervision of each local educational agency within such State, or

(ii) If the number of such children equals or exceeds 1 per centum of the total number of children enrolled in the schools of that agency, $300 for each such child in such 1 per centum who is furnished such services under the supervision of each local educational agency within such State; and

(C) $600 for each additional such child in excess of one hundred such children, or in excess of such 1 per centum, as the case may be, being furnished such services under the supervision of that agency.

(2) For the purpose of this subsection, the term "State" does not include American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(c) (1) The jurisdictions to which this subsection applies are American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(2) Each jurisdiction to which this subsection applies shall be entitled to a grant for the purposes set forth in section 203 in an amount equal to an amount determined by the Commissioner in accordance with criteria established by him, except that the aggregate of the amount to which such jurisdictions are so entitled for any period shall not exceed an amount equal to 1 per centum of the aggregate of the amounts to which all States are entitled under subsection (b) of this section for that period. If the aggregate of hte amounts, determined by the Commissioner pursuant to the preceding sentence, to be so needed for any period exceeds an amount equal to such 1 per centum limitation, the entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such 1 per centum limitation.

(d) Notwithstanding any other provision of this section, no State educational agency shall be entitled to receive a grant for any period in excess of the amount equal to the amount to which such agency would otherwise be entitled under this section for that period minus the sum of the amounts received by the local educational agencies of that State and by that State educational agency for that period under the Indochina Migration and Refugee Assistance Act of 1975.

(e) Determinations with respect to the number of Indochinese refugee children by the Commissioner under this section for any period shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate, because of an underestimate, to deprive any State educational agency of its entitlement to any payment (or the amount thereof), under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

USES OF FUNDS

Sec. 203. Payments made under this title to any State may be used in accordance with applications approved under section 205 for public educational services for Indochinese refugee children in the schools of the local educational agencies of that State and in elementary and secondary nonpublic schools of that State.

ALLOCATION OF APPROPRIATIONS

Sec. 204. (a) If the sums appropriated for the period from July 1, 1976, to September 30, 1977, for making the payments provided for in this title are not sufficient to pay in full the total amounts which State educational agencies are entitled to receive under this title for such period, the allocations to such State educational agencies shall be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated.

(b) In the event that funds become available for making payments under this title for such period after allocations have been made under subsection (a) for that period, the amounts reduced under subsection (a) shall be increased on the same basis as they were reduced.

APPLICATIONS

Sec. 205. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Commissioner at such time, in such manner, and containing or accompanied by such information, as the Commissioner may reasonably require. Each such application shall—

(1) Provide that the educational programs, services, and activities for which payments under this title are made will be administered by or under the supervision of the agency;

(2) Provide that payments under this title will be used for purposes set forth in section 203;

(3) Provide assurances that such payments will be distributed among local educational agencies within that State in accordance with sections 202(b)(1) and 202(d);

(4) Provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

(5) Provide for making periodic reports to the Commissioner evaluating the effectiveness of the payments made under this title, and such other reports as the Commissioner may reasonably require to perform his functions under this title; and

(6) Provide assurances—

(i) That to the extent consistent with the number of Indochinese refugee children enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children;

(ii) That the control of funds provided under this paragraph and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property; and

(iii) That the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization; and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds.

(b) The Commissioner shall approve an application which meets the requirements of subsection (a). The Commissioner shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

PAYMENTS

Sec. 206. (a) The Commissioner shall pay to each State educational agency having an application approved under section 205 the amount which that State is entitled to receive under this title.

(b) The Commissioner is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this title, except that the total of such payments for any period shall not exceed 1 per centum of the amounts which that State educational agency is entitled to receive for that period under this title.

(c) If a State is prohibited by law from providing public educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 205(a)(6), the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this title.

WITHHOLDING

Sec. 207. Whenever the Commissioner, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of this title, the Commissioner shall notify that agency that further payments will not be made to the agency under this title, or in his discretion, that the State educational agency shall not make further payments under this title to specified local educational agencies (whose actions cause or are involved in such failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State educational agency under this title or payments by the State educational agency under this title shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

AUTHORIZATION OF APPROPRIATIONS

Sec. 208. There are authorized to be appropriated for the period beginning July 1, 1976, and ending September 30, 1977, such sums as may be necessary to make payments to which State educational agencies are entitled under this title and payments for administration under section 206(b).

[FR Doc 77-24031 Filed 8-18-77;8:45 am]

FRIDAY, AUGUST 19, 1977
PART IV



Federal

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

INDOCHINA REFUGEES

Emergency Adult Education Program

V 42 16 1
AUG 19 77
UM
V

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 166—STATE ADULT EDUCATION PROGRAMS

Emergency Adult Education Program for Indochina Refugees

AGENCY: Office of Education, HEW.

ACTION: Final regulation.

SUMMARY: This regulation amends regulations under the Adult Education Act and governs the award of grants to State and local educational agencies for the purpose of operating special adult education programs for adult Indochina refugees to facilitate their integration into American society and to contribute to their employability.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232 (d)), these regulations have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning congressional action and adjournment.

FOR FURTHER INFORMATION CONTACT:

Paul V. Delker, U.S. Office of Education, 7th and D Streets, SW., Room 5056, Washington, D.C. (202–245–2278).

SUPPLEMENTARY INFORMATION:

(a) BACKGROUND

Section 315 of the Adult Education Act, as added by section 301 of Pub. L. 94–405, the Indochina Refugee Children Assistance Act, authorizes a one-year program of discretionary grants to State and local educational agencies to provide emergency adult education programs and educational support services for Indochina refugees.

The special adult education services provided under this subpart are to be delivered to the area of greatest need to assist in the resettlement and integration of the refugees into American society. The purpose of providing direct application by both State and local educational agencies, as indicated in the legislative history, is to assure rapid implementation of the special programs uniquely designed to meet the needs of adult Indochina refugees and to allow flexibility to the local educational agencies (S. Rept. No. 94–432, 94th Cong., 2d Sess. at 7).

The Congress has appropriated $10,250,000 to carry out the Emergency Adult Education Program for Indochina Refugees in Fiscal Year 1977. The Commissioner will issue grants by September 30, 1977 to operate the following types of programs for adult Indochina refugees during Fiscal Year 1978:

(1) Programs of instruction in English as a second language, basic reading, mathematics, the promotion of language and literacy skills in English, and the development and enhancement of necessary skills;

(2) Special adult education projects operating in conjunction with Federal and non-Federal occupational programs to develop occupational and related skills;

(3) Educational support services, including tutoring in geographically isolated areas, counseling, job placement, and followup; and

(4) Any combination of programs and services described in (1), (2), and (3) above.

The goals of the special adult Indochina refugee program to be funded under this subpart are to:

(1) Facilitate the integration of adult Indochina refugees into American society; and

(2) Contribute to the employability of adult Indochina refugees through development of basic educational and occupational skills.

With regard to the suggested combined adult educational-occupational program, it is evident that many adult Indochina refugees have received basic skills instruction but could benefit from adult education instruction as a component of an occupational training program which teaches new occupational skills and/or the transferability of existing skills to the new work environment. For example, adult Indochina refugees who were auto mechanics in Cambodia might attend an adult education course through which they could acquire literacy and adaptive skills to greatly enhance their chances of securing employment as mechanics.

Adult education programs related to occupational skills could be an integral component of existing Federal or non-Federal occupational training programs, such as the Comprehensive Employment and Training Act of 1973, as amended, and the Vocational Education Act of 1963, as amended. However, where it is documented in the application that occupational education and training for refugees is unavailable or insufficient, a program funded under this subpart may provide a combined occupational-adult education program to enable refugees to acquire necessary job and language skills to obtain employment.

(b) PUBLIC COMMENT TO THE NOTICE OF PROPOSED RULEMAKING

A notice of proposed rulemaking was published on May 2, 1977, in 42 FR 22336–22339. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed rule. Also, copies of the notice of proposed rulemaking were distributed to State Directors of Adult Education and local educational agencies which were recipients of grants under the Indochina Refugee and Immigration Assistance Act.

Written comments were received from 12 respondents, all of whom were in general agreement with the purpose of the one-year program. Several commenters, while agreeing in principle with the proposed rule, raised questions or made suggestions that convinced the Commissioner of Education that changes from the proposed rule are warranted. Each of the comments is summarized below with a response setting forth the changes which have been made in the rule or the reasons why no change is necessary. The comments are grouped based on the subject areas.

Certain minor changes are made in order to correct omissions and typographical errors printed in the proposed rule. Any significant change is noted under item (14) *Other Changes*.

SUMMARY OF COMMENTS AND CHANGES

(1) APPLICANT ELIGIBILITY

Comment. One commenter stated that grants should be made to State educational agencies with provisions for subgrants to local educational agencies.

In contrast, one commenter expressed a preference to have all grants under this program made directly to local educational agencies without State involvement.

A third respondent expressed a desire to expand the field of eligible applicants to include organizations which have already been involved with educating adult Indochina refugees.

Response. No change has been made in the proposed rule. Section 315(a) of the authorizing legislation clearly provides that State and local educational agencies are the only eligible applicants, and that the grants must be direct. Thus, the Commissioner is unable to expand the eligible applicants or to transform this direct grant program into a State-operated program. To allow for coordination and leadership by the State, § 166.74(b) of the regulation provides that a State and one or more local educational agencies may submit a joint application to operate a program under this subpart.

With regard to participation of private organizations or agencies, § 166.75 (a) provides that a State or local educational agency may enter into a service contract for a portion of program activities.

(2) SERVICE CONTRACTS

Comment. One commenter expressed concern that a service contract to carry out only "a portion" of the grant is too limiting. Often, private organizations have more expertise in carrying out a program, for example, the provision for guidance and placement services.

Response. In accordance with the statute, § 100a.30(b) of the General Educational Provisions Regulations, and § 166.75(c) of this regulation, the State and local educational agencies as direct grantees must retain full responsibility for the operation of the program and cannot transfer significant portions of their responsibilities. Thus, no change has been made in the regulation.

(3) ELIGIBLE PARTICIPANTS

Comment. One commenter noted that, in communities where there are not many refugees, non-Indochinese should be allowed to participate in the programs under this subpart.

Response. Section 315 of the Adult Education Act, as amended, provides for special adult education programs for Indochina refugees. The purpose of the programs to be funded under this authorization is to provide special services to adult Indochinese. Thus, the target population of programs under this subpart is the Indochinese and, in describing the need for the program, only the target population is to be taken into consideration. However, participation of a very limited number of adults other than Indochina refugees is not precluded where the special needs of the Indochinese as set forth in the application are being met. Section 166.76 has been changed accordingly.

(4) COMBINED PROGRAMS

Comment. One commenter expressed concern that provisions of specialized services solely for adult Indochina refugees fosters segregation of the refugees from the society. This commenter urged that these refugees be integrated into ongoing, regular adult education programs.

Response. There is no intention to segregate the Indochina refugees from the rest of society. Rather, the whole thrust of this special temporary program is to provide the refugees with basic skills to facilitate their assimilation into American society. Legislative history indicates that the Congress intended this one-year program to meet the special emergency needs of these refugees, with regular federally and non-federally supported adult education programs meeting the longer range needs after the one-year period (S. Rept. No. 94–432, 94th Cong., 2d Sess. at 6). It is expected that, to a great extent, these special programs for Indochinese will be operated in coordination with existing State, local, and private programs, specifically aimed at assisting Indochina refugees in resettlement, or regular adult education, employment training programs. The authorizing statute and implementing regulation, § 166.77(b), specifically require coordination with occupational programs. Further, § 166.78(g) requires that each application describe its plans for coordination with other Federal and non-Federal programs and agencies.

It should be noted that, where Indochina programs under this subpart are operated in conjunction with other programs, independent accountability shall be made of funds used under this subpart, and § 166.76 of the regulation has been changed to reflect this requirement.

(5) ENGLISH LANGUAGE SKILLS

Comment. One commenter noted that the use of the term "literacy" in the preamble and in § 166.77 was unclear and suggested that "English as a second language" be substituted for this term.

Response. The Commissioner agrees that the term "literacy" is misleading, as many adult Indochina refugees are literature in their own language, but not in English. Accordingly, this section has been amended to provide that a grantee may use funds for programs which promote "literacy and language skills in English." Also "English as a second language" has been added to the types of permissible instructional programs under this subpart.

(6) BILINGUAL INSTRUCTION AND MATERIALS

Comment. Two comments were received covering the absence of specific reference to bilingual instruction in the proposed rule. One of these commenters also suggested the need for continued production of bilingual educational materials.

Response. The authorizing legislation provides programs of instruction for the purpose of enabling refugees to become productive members of American society and emphasizes the development of literacy and language skills in the English language. Bilingual instruction is not explicitly required in the legislation and thus is not required in the regulation. However, the regulations do not prohibit the use of bilingual instruction where this instruction is essential to learning English or to acquiring skills which will make adult refugees more employable. The limitation on costs for developing curriculum materials, including those for bilingual instruction, is covered in this preamble under paragraph, Curriculum Materials.

(7) PROFESSIONAL AND TECHNICAL RETRAINING

Comment. One comment was received favoring programs which aim to utilize the existing skills and knowledge of Indochina refugees; and which train refugees in skills marketable in the relevant labor market.

Response. It is expected that applicants, guided by the application requirements of § 166.78(c), identification of needs of the target population, and (d), description of objectives and design of program in relation to these needs, as well as the criteria set forth in § 166.80 (a), (b), and (c), will develop a program which will build on the skills and aptitudes of the Indochinese target population and also provide marketable occupational training for the refugees. No change has been made in the regulation.

(8) COORDINATION OF PROGRAMS WITH UNIONS

Comment. One commenter called attention to the absence of labor union participation in local training programs for Indochina refugees, and urged that unions be included as a source of cooperative programs in § 166.78(g).

Response. To maximize the impact of the program and to ensure non-duplication, the proposed rule provided for coordination of services and resources with Federal and non-Federal occupational skill training programs and other community programs providing services to the refugees. In light of this comment, §§ 166.78(g) and 166.80(f) are revised to include labor unions in the suggested listing of sources of coordination.

(9) STATE REVIEW

Comment. A commenter agreed with the regulation requiring State review and assurance of non-duplication of program efforts. However, that commenter did not agree with the provision for disqualifying an applicant because of late response from the State or mail delays.

Response. The Commissioner is required under the statute to obtain the State's review of a local educational agency's application. In the event no comments are received from the State, the Division of Adult Education, Office of Education, before eliminating a local educational agency application, will contact the appropriate State educational agency to check on the status of the application review. The Commissioner believes that his procedure will insure that a local educational agency application will receive every consideration and safeguard against disqualification because of late response from the State or mail delays. No change in the regulation is necessary.

(10) COOPERATIVE ARRANGEMENTS

Comment. One commenter pointed out the need for cooperative arrangements to provide higher quality services for the refugees, and that these cooperative arrangements should not be made a complicated issue.

Response. The Commissioner agrees that entering into cooperative arrangements with both public and private community organizations and agencies at State and local levels is an efficient and valuable means of providing educational services and will award up to 15 points to applicants who submit proposals which promise effective implementation of these cooperative arrangements.

(11) CHILD CARE COSTS

Comment. Section 166.81(c) of the proposed rule stated that the cost of child care would not be allowable, and that grantees were encouraged to use the services of volunteers or other community agencies for child care services. Several commenters requested that the Commissioner reconsider this rule, as the lack of available child care is a serious deterrent to regular class attendance for many adult Indochina refugees.

Response. In light of these comments, § 166.81(c) is amended to include child care as an allowable cost in special cases where need is demonstrated, but not to exceed 5 percent of the total grant award.

(12) TRANSPORTATION COSTS

Comment. One comment was received suggesting that a flat rate for transportation be allowed for each participant in a program under this subpart.

Response. Section 166.81(d) of the proposed rule provided that transportation costs are allowable only where need is demonstrated. The final regulation does not provide for a flat rate per par-

V 42161 AUG 19 77 UM

ticipant for transportation. However, it has been determined that up to one percent of the grant award may be used for transportation of participants without justification in the application. If more than one percent is necessary, an applicant must include a justification of this need in its application. The regulation, as changed, does not prevent an applicant from proposing a justification for a flat rate or other method of payment of transportation costs where need is demonstrated.

(13) CURRICULUM MATERIALS

Comment. Two commenters took exception to § 166.81(e) of the proposed rule, which provided that the development of curriculum materials is not a priority for this one-year emergency program and represented an allowable cost only where need is demonstrated.

Response. It has been determined that up to one percent of the grant award may be used for the development of curriculum materials without justification in the application. If more than one percent is needed, a justification demonstrating that necessary materials do not exist or cannot be obtained from existing sources shall be contained in the application. Section 166.81(e) of the regulation has been amended to reflect this change.

(14) OTHER CHANGES

(i) Section 166.80(f), Cooperative arrangements, is changed to add Federal educational, employment, and training programs to the types of program which should be coordinated, and for which an applicant will receive points in the criteria. This language was inadvertently omitted in the proposed rule. The change will bring the criteria into conformity with the application requirements under § 166.78(g).

(ii) Section 166.81(g), Independent accountability. Programs combining funds under this subpart with other State, Federal, or local adult education funds shall contain provisions of independent accountability.

(iii) Section 166.81(f), Pre-service or in-service training. No public comment was received concerning allowable costs for pre-service or in-service training of personnel. However, it has been determined that up to one percent of the grant award may be used for pre-service or in-service training without justification in the application. If more than one percent is to be used for this training, an applicant must demonstrate that the required competence is not otherwise available on a cost-effective basis. Section 166.81(f), which addresses the issue of pre-service and in-service training as an allowable cost, has been amended to reflect this change.

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Program No. 13.579, Emergency Adult Education Program for Indochina Refugees.)

Dated: July 8, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: August 10, 1977.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

Subpart H—Emergency Adult Education Program for Indochina Refugees

Sec.

166.71 Scope and purpose.
166.72 Applicability of General Education Provisions Regulations
166.73 Definitions.
166.74 Eligible applicants.
166.75 Grantee responsibilities
166.76 Eligible participants.
166.77 Eligible activities.
166.78 Application requirements.
166.79 State review of applications
166.80 Criteria for evaluation of applications.
166.81 Allowable costs.
166.82 Records and reports.

AUTHORITY: Pub. L. 94-405, 20 U.S.C. 1211b.

Subpart H—Emergency Adult Education Program for Indochina Refugees

§ 166.71 Scope and purpose.

(a) *Scope.* The regulations in this subpart govern the Emergency Adult Education Program for Indochina Refugees for which Federal funds are authorized by section 315 of the Adult Education Act (20 U.S.C. 1211b), as added by section 301 of Pub. L. 94-405, the Indochina Refugee Children Assistance Act of 1976, 20 U.S.C. 1211b. These funds are authorized for the period beginning July 1, 1976, and ending September 30, 1977.

(b) *Purpose.* The purpose of this program is to provide grants to State and local educational agencies to operate special adult education programs for adult Indochina refugees, as defined in section 3 of the Indochina Migration and Refugee Assistance Act of 1975, as amended.

(20 U.S.C. 1211b(a); 22 U.S.C. 2601 note.)

§ 166.72 Applicability of General Education Provisions Regulations.

(a) Subchapter A of this Chapter, entitled "General Provisions for Office of Education Programs" and commonly referred to as the General Education Provisions Regulations, pertains to fiscal, administrative, property management and other matters. Parts 100 and 100a of the General Education Provisions Regulations (45 CFR Parts 100 and 100a) apply to assistance under this subpart except for the following provisions which do not apply:

(1) Section 100a.16 (relating to project description);

(2) Section 100a.19(b) (relating to cooperative management); and

(3) Section 100a.26(b) (relating to criteria for review of applications).

(b) The General Education Provisions Regulations are referred to in this subpart as "GEPR".

(20 U.S.C. 1211b; 45 CFR Parts 100, 100a.)

§ 166.73 Definitions.

(a) The terms "adult education", "local educational agency", "State", and "State educational agency", as used in this subpart, are defined in section 303 of the Adult Education Act (20 U.S.C. 1202).

(b) "Adult" means any individual who has attained the age of sixteen.

(c) The term "Indochina Refugee", as defined in the Indochina Migration and Refugee Assistance Act of 1975, as amended by Pub. L. 94-313 and used in this subpart, means an alien who:

(1) Because of persecution or fear of persecution on account of race, religion, or political opinion, fled from Cambodia, Vietnam, or Laos;

(2) Cannot return there because of fear of persecution on account of race, religion, or political opinion; and

(3) Is in urgent need of assistance for the essentials of life.

(20 U.S.C. 1201, 1211b; 22 U.S.C. 2601 note.)

§ 166.74 Eligible applicants.

(a) *General.* Only the following are eligible to apply for grants under this subpart:

(1) State educational agencies; and

(2) Local educational agencies.

(b) *Joint applications.* Two or more local educational agencies or a State educational agency and one or more local educational agencies may submit a joint application under § 100a.19(a) of the GEPR to provide programs of adult education to meet the needs of adult Indochina refugees.

(20 U.S.C. 1211b(a); 20 U.S.C. 1221c(b)(1), 1232c(b)(1).)

§ 166.75 Grantee responsibilities.

(a) A State or local educational agency which applies for a grant under this subpart must establish that it is prepared to operate the programs of adult education for adult Indochina refugees for which it requests assistance.

(b) A recipient of a grant under this subpart may not award a sub-grant to another entity or person.

(c) A recipient of a grant under this subpart may, in accordance with § 100a.30 of the GEPR, enter into a service contract to carry out a portion of the grant activities, subject to the provisions of § 100a.30(b) of the GEPR (prohibiting transfer of responsibility) and subpart I of Part 100a of the GEPR (relating to procurement by grantees).

(d) No State or local cost sharing is required.

(Implements 20 U.S.C. 1211b.)

§ 166.76 Eligible participants.

(a) Only adult Indochina refugees who possess a form (I.N.S. Form I-94) issued by the United States Immigration and Naturalization Service, indicating that they have been paroled into the United States or have been granted voluntary departure status may participate in a program assisted under this subpart, except as provided in paragraph (b) of this section.

(b) Participation of a very limited number of adults other than Indochina refugees is not precluded where the special needs of the Indochina refugees as set forth in the application are being met. This participation of non-Indochina adults shall not result in dilution of services to the target population as described in paragraph (a) of this section.

(Implements 20 U.S.C. 1211b; 22 U.S.C. 2601 note.)

§ 166.77 Eligible activities.

A grantee may use funds under this subpart only for:

(a) Programs of instruction (including administrative costs of planning and operating these programs) for adult Indochina refugees in English as a second language, basic reading, mathematics, the promotion of language and literacy skills in English, and the development and enhancement of necessary skills (such as consumer, social, survival, occupational, and communication skills) for the purpose of enabling the adult refugees to become employable and productive members of the American society.

(b) (1) Adult education programs designed to operate in conjunction with existing Federal and non-Federal programs and activities to develop occupational and related skills for adult Indochina refugees, particularly programs authorized under the Comprehensive Employment and Training Act of 1973 (20 U.S.C. 801) or under the Vocational Education Act of 1963, as amended (20 U.S.C. 1241).

(2) Where occupational skills programs are otherwise unavailable or insufficient, combined occupational-adult education programs to provide adult Indochina refugees with skills necessary to their obtaining employment;

(c) Programs providing educational support services which meet the needs of adult refugees, including but not limited to (1) tutoring (in the case of geographically isolated refugees) and (2) guidance and counseling with regard to educational, career, and employment opportunities (such as job placement and job follow-up services); or

(d) Any combination of programs described in paragraphs (a), (b), and (c) of this section.

(Implements 20 U.S.C. 1211b(a).)

§ 166.78 Application requirements.

(a) *General.* To receive consideration for assistance under this subpart, an applicant (as described in § 166.74) must submit to the Commissioner an application which meets the requirements of paragraphs (b) through (h) of this section. The Commissioner does not consider applications proposing a program of more than 12 months in duration.

(b) *Nature and purpose of program.* An application under this section must contain information sufficient to satisfy the Commissioner that the proposed program will serve, through activities described in § 166.77, the special adult education needs of adult Indochina refugees who are in or near the area served by the applicant.

(c) *Need for program; assurance of participation.* An application under this section must:

(1) Identify the needs of the target population to be addressed by the proposed program, and supply documentation of those needs; and

(2) Provide reasonable assurance that the adult Indochina refugees to whom the program is addressed will participate in the program if it is available.

(d) *Program description.* An application under this section must:

(1) Describe the objectives and design of the program in relation to the needs set forth under paragraph (c) of this section;

(2) In the case of a joint application, specify the parts of the program to be carried out by each of the applicants.

(e) *Budget.* An application under this section must:

(1) Set forth a detailed budget by program component showing any non-Federal sources of funds; and

(2) Include separate budgets in the case of joint applications corresponding to programs, services, and activities of each of the applicants.

(f) *Applicant qualifications.* An application under this section must contain sufficient information to enable the Commissioner to determine qualifications of the applicant for receiving an award. The application must include information about key professional personnel regarding such matters as their education, training, and experience in areas of adult and/or occupational education and qualifications for the proposed position, together with a description of the applicant's available facilities and other resources for the program.

(g) *Coordination.* An application under this section must describe plans for coordination of services and resources under the proposed program with Federal or non-Federal employment training programs such as those carried out under the Comprehensive Employment and Training Act of 1973, as amended, or the Vocational Education Act of 1963, as amended. The application must also describe plans for such coordination with programs carried out by voluntary agencies, sponsor groups, public assistance agencies, social/vocational rehabilitation services, labor unions, business and industry, social organizations, health services, legal aid, and with other Federal, State and local educational activities.

(h) *Additional information.* An application under this section should include other information which is responsive to the applicable criteria set forth in § 166.80 in sufficient detail to permit review of the application in accordance with these criteria. Information which relates to a particular criterion should identify that criterion.

(Implements 20 U.S.C. 1211b(c).)

§ 166.79 State review of applications.

(a) The Commissioner may not approve an application under this subpart from a local educational agency unless the State educational agency (for the State in which that local educational agency is located) assures the Commissioner that the program proposed in the application will not duplicate existing and available (Federal and non-Federal) adult education programs which meet the needs of adult Indochina refugees.

(b) To facilitate review by the State educational agency, a local educational agency applying for assistance under this subpart shall:

(1) Send a copy of its application to the State educational agency at the same time that it sends the application to the Commissioner, and

(2) Notify the Commissioner that it has sent the application to the State educational agency by furnishing the Commissioner a copy of its transmittal letter.

(c) The State educational agency has 30 days from the receipt of the application from the local educational agency to notify the Commissioner in writing whether the application duplicates existing and available programs. If the Commissioner does not, within that period, receive this notification, the Commissioner need not give further consideration to the application.

(Implements 20 U.S.C. 1211b(b).)

§ 166.80 Criteria for evaluation of applications.

The Commissioner evaluates applications which meet the requirements of this subpart only according to the following criteria. Each criterion is weighted and includes the maximum score that can be given for that criterion with the total number of points equaling 100. Applications will be judged on the basis of the extent to which each criterion is met. An application which receives a score of less than 30 points will not be approved.

(a) *Need.* (Maximum 10 points.) The application:

(1) Describes the need for the proposed adult Indochina educational program;

(2) Provides specific evidence of the need; and

(3) Describes, where appropriate, ongoing and planned activities in the community relative to the need.

(b) *Objectives.* (Maximum 10 points.) The objectives:

(1) Are significant and meet clearly identified needs of adult Indochina refugees;

(2) Clearly describe the proposed project outcomes; and

(3) Are capable of being measured and attained.

(c) *Program design.* (Maximum 15 points.) The application clearly describes how:

(1) The overall design relates to the objectives; and

V 42 N 161 AUG 19 77 UM

(2) Each segment of the design relates to one or more objectives.

(d) *Applicant's staff competencies and experience.* (Maximum 25 points.) The application clearly describes:

(1) The names and qualifications (including project management qualifications) of the project director and key professional staff and the qualifications and, to the extent feasible, the names of consultants and advisory groups;

(2) Time commitments planned for the project director, staff, advisory groups, and any consultants;

(3) Past and successful experiences of the proposed project director and key staff members in similar or related projects; and

(4) Staff competencies that are essential to understand the cultures of the adult Indochina refugees and to assist them in becoming self-sufficient members of the American society.

(e) *Evaluation plan.* (Maximum 5 points.) The application includes valid and reliable procedures for assessing and documenting the progress of participants.

(f) *Cooperative arrangements.* (Maximum 15 points.) The application clearly describes arrangements and support services to be provided by existing agencies in order to maximize the impact of the proposed program. The types of agencies with which cooperative arrangements are encouraged include but are not limited to voluntary agencies, sponsor groups, public assistance agencies, social vocational rehabilitation service, labor unions, business and industry, social organizations, health services, legal aid, and existing Federal, State, and local education, employment, and training programs.

(g) *Budget and cost effectiveness.* (Maximum 5 points.) The application provides a justifiable and itemized statement of cost which is substantiated by line items in the proposed budget and is cost effective.

(h) *Facilities and equipment.* (Maximum 5 points.) The application describes adequate facilities, equipment, and materials for the operation of the proposed program.

(i) *Reaching the geographically isolated.* (Maximum 5 points.) The application provides for meeting the educational needs of previously unserved adult Indochina refugees living in isolated geographic areas.

(j) *Support services.* (Maximum 5 points). The application provides for support services for adult Indochina refugees, including but not limited to guidance and counseling.

(Implements 20 U.S.C. 1211b.)

§ 166.81 Allowable costs.

(a) Allowable costs under grants awarded under this subpart are determined in accordance with the applicable cost principles subject to the limitations in this section. See § 100a.81 of the GEPR.

(b) Stipends and/or dependency allowances are not allowable.

(c) The cost of child care, not to exceed 5 percent of the grant award, may be allowed only if the applicant can demonstrate that (1) the absence of this service is a barrier to providing effective educational services, and (2) the services of volunteers or other community agencies are not available for this purpose. Under no circumstances shall payments for child care be made directly to participants.

(d) Transportation costs of participants are allowable up to one percent of the grant award. If more than one percent is necessary, a justification demonstrating need shall be contained in the application.

(e) The development of curriculum materials is allowable up to one percent of the grant award. If more than one percent is necessary, a justification demonstrating that appropriate materials do not exist or cannot be obtained from existing sources shall be contained in the application.

(f) The cost of pre-service or in-service training of personnel is allowable up to one percent of the grant award. If more than one percent is necessary, a justification demonstrating that the required competence is not otherwise available on a cost-effective basis shall be contained in the application.

(g) Programs combining funds under this subpart with other Federal, State, or local adult education funds shall contain provisions for independent accountability.

(Implements 20 U.S.C. 1211b.)

§ 166.82 Records and reports.

(a) Each grantee shall report to the Commissioner on all programs and services provided adult Indochina refugees from Federal funds granted under this subject.

(b) A grantee shall submit these reports as part of the financial and narrative reporting requirements set forth in subparts P and Q of Part 100a of the GEPR.

(c) In addition to reporting the information required under §100a.432 of the GEPR, a grantee shall include the following in the performance report:

(1) Total number of adult Indochina refugees that participated in adult education programs which were funded from a Federal grant awarded under this subpart by:

(i) Type of program (basic skills program of instruction, adult education program operating in conjunction with occupational skills program, and support services program); and

(ii) Nature of instruction (English as a second language, bilingual education, adult education, and occupational training);

(2) Total number of participants under this subpart who:

(i) Gained employment;

(ii) Obtained a better job; and

(iii) Were removed from public assistance; and

(3) A list of those agencies and resources that participated in meeting the objectives of this grant and the extent of their participation.

(Implements 20 U.S.C. 1211b.)

[FR Doc 77-24032 Filed 8-18-77 8:45 am]

federal register

FRIDAY, AUGUST 19, 1977

PART V

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PROCEDURAL REGULATIONS

Notice of Proposed Rulemaking

V 42 161 AUG 19 77 UM

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

[29 CFR Part 1601]

PROCEDURAL REGULATIONS

Notice of Proposed Rulemaking

AGENCY: Equal Employment Opportunity Commission.

ACTION: Proposed Rulemaking.

SUMMARY: The Equal Employment Opportunity Commission is publishing its proposed procedural regulations for notice and comment by the public. The Commission is planning a major reorganization and has decided it would be useful to obtain public comment. The reorganization will improve the agency's administration and enforcement of Title VII of the Civil Rights Act of 1964, as amended.

DATES: Comments on the proposed regulations must be received on or before September 8, 1977. The Commission proposes to consider the submissions for a period of at least ten days and thereafter to adopt final regulations.

ADDRESSES: Interested persons are invited to submit written comments regarding the proposed revisions to Eleanor Holmes Norton, Chair, Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, D.C. 20506. Copies of the comments submitted by the public will be available for review at the Social Sciences Library, Room 3024, EEOC, 2401 E Street, NW., Washington, D.C. 20506, between the hours of 9:30 a.m. and 5:00 p.m. from Monday, August 29, 1977, until such time as the Commission adopts final regulations.

FOR FURTHER INFORMATION CONTACT:

Constance L. Dupre, Associate General Counsel, Legal Counsel Division, Office of the General Counsel, room 2224, EEOC, 2401 E Street, N.W., Washington, D.C. 20506, area code (202) 634-6460.

SUPPLEMENTARY INFORMATION: Section 713(a) of Title VII of the Civil rights Act of 1964, as amended, gives the Equal Employment Opportunity Commission authority to "issue, amend, or rescind suitable procedural regulations to carry out the provisions of (Title VII)."

At this time the Commission intends to promulgate major amendments to Part 1601 of its regulations. This Part contains the Commission's procedures for administering and enforcing Title VII.

The amendment of Part 1601 is the culmination of a major intra-agency review of this part. This review was made with reference to (1) a program for the reorganization of the agency and its functions outlined in a resolution adopted by the Commission on July 20, 1977, and published herein as Appendix A. This reorganization plan was explicated in the statement of Eleanor Holmes Norton, Chair, before the House Subcommittee on Employment Opportunities on July 27, 1977, published herein as Appendix B; and (2) other changes in the regulations deemed necessary or desirable by the Commission.

The reorganization plan, developed to improve the enforcement of Title VII, includes the following features: (1) Introduction of a new Rapid Case Processing System with emphasis on expanded intake procedures, face-to-face fact-finding and early settlement; (2) a separate backlog case processing system to give systematic and priority attention to presently backlogged cases; (3) direct, service, consumer-oriented structure patterned after the National Labor Relations Board, introduced through model offices in three locations: Baltimore, Chicago and Dallas; (4) integration of investigation, conciliation and litigation functions; (5) establishment of a program to deal with systemic discrimination addressing first those whose actions have demonstrated clear disregard for the purposes of Title VII; (6) a new Program Office to place the Commission in an affirmative posture for administering Title VII through guidelines, interpretations, and other rulings; (7) a new management accountability and information system to insure that the above programs are fully implemented; (8) national training programs and standards, centrally managed to assure that the staff will effectively administer the new systems.

This plan will be fully implemented initially in the above identified three Model Offices. Such offices, reporting directly to Commission Headquarters, will operate under special new procedures to be incorporated in the agency's Compliance Manual, and will be staffed by both equal opportunity specialists and by attorneys. The Commission contemplates the later implementation by all District Offices of new procedures. Upon implementation of the Model Office procedures by each District Office, notice will be published in the FEDERAL REGISTER.

The Commission anticipates that it will further reorganize its operations. Pending such reorganization, these regulations allocate responsibility and authority to certain officers of the Commission, including the General Counsel and the Director, Office of Compliance Programs. These functions may be reassigned and redelegated by the Commission if it adopts further reorganization proposals.

Because the Commission's Regulations are procedural in nature, the notice and comment provisions of the public rulemaking process are not required. Because the Commission believes that it would be useful to solicit public comment with regard to some of the contemplated changes, the Commission chooses to utilize the notice and comment procedure in this instance.

The precise nature of the proposed changes to the Commission's Procedural Regulations is described below.

1. Section 1601 is amended to reflect that the Act itself was amended in 1972 (by the Equal Employment Opportunity Act, PL 92-261, approved March 24, 1972).

2. Section 1601.2 is republished without change.

3. Section 1601.3 is amended to delete the words "as amended" which are surplusage and to add definitions for the terms "706 Agency" and "verified." The Commission intends to establish units for the processing of charges under Sec. 707 of Title VII in the model offices. In addition, further Commission reorganization may affect the processing of Sec. 707 charges. Sections 1601.3 and 1601.5 are therefore amended to provide for the processing of Sec. 707 charges by the model offices.

4. Section 1601.4 is former § 1601.3a, republished without change.

5. Section 1601.5 is former § 1601.4 which was revised and published at 41 FR 34745 (August 7, 1976). The section is amended to indicate that the Commission's model offices are not subject to the authority of the regional offices.

6. Section 1601.6, formerly § 1601.5 is amended to change "will" to "shall" in the first and second sentences in order to make explicit the Commission's position that it is mandatory that the Commission accept information concerning alleged violations and render assistance in the filing of a charge where the information discloses that the person claiming to be aggrieved is entitled to file a charge. In addition, the section indicates that persons of organizations may request the issuance of Commissioner charges.

7. Section 1601.7 is former § 1601.6 amended to reflect that the person claiming to be aggrieved may request that his or her identity be kept confidential; however such request shall not prevent the Commission from disclosing the identity to any federal, state or local agency which has agreed to keep the identity of that person confidential. The section is further amended to delete the last sentence of the present regulation as unnecessary, and to add a new subpart (b) which requires the person claiming to be aggrieved to keep the Commission informed of his/her current address.

8. Section 1601.8 is former § 1601.7 amended to reflect that charges may be made either in person or by mail. Field offices are designated as district and regional offices to conform with the current practice of the Commission. A cross reference to 29 CFR 1610.4 (listing Commission district and regional offices) is added.

9. Section 1601.9 is former § 1601.8 amended to reflect that charges may be either sworn to or affirmed, or supported by a statement under penalty of perjury as permitted by Pub. L. 94-550. This change accords with the language of Sec. 706(b) of Title VII. The Section is further amended by the deletion of information regarding the availability of charge forms, as unnecessary, and information regarding assistance in the submission of information, since this now appears in § 1601.6.

10. Section 1601.10 is former § 1601.9 amended to reflect a delegation of authority to District Directors and the Director of the Office of Compliance Programs to consent, on behalf of the Commission, to the withdrawal of a charge other than Commissioner charges in appropriate circumstances, where to do so would not be detrimental to the purposes of Title VII.

11. Section 1601.11 is the first sentence of former § 1601.10 amended to reflect that charges filed by Commissioners must be signed and sworn to or affirmed, or supported by a statement under penalty of perjury as permitted by Pub. L. 94-550.

12. Section 1601.12 is former § 1601.11 amended to reflect that subsection (a) (1) provides for confidentiality in "on behalf of" charges in conformance with § 1601.7. Subsection (b) is amended to reflect that an amended charge need not be redeferred.

13. Section 1601.13 contains portions of § 1601.12 incorporated as published at 40 FR 3210 M (Jan. 20, 1975). Subsection (a) is added to clarify that charges are filed for purposes of Sec. 706(e) of Title VII when received. Previous regulations failed to state this proposition expressly. Subsection (b)(1) is former § 1601.12(a) and subsections (b)(2) and (b)(3) are new. These provisions describe the deferral process and state that it is applicable when the State or local law prohibits the practice alleged to be unlawful. The provisions are intended to apply to any basis of discrimination or employer covered by State or local law, even though that law does not cover all bases of discrimination or employers covered by Title VII. Subsection (c) contains the provisions of former § 1601.12(b), and provides for deferral of a complaint perfected in accordance with the requirements of § 1601.12(a). A new subsection (c)(2) is intended to clarify the instances in which a charge is filed with the Commission for the purposes of Sec. 706(c) of Title VII. These instances were not expressly addressed in former § 1601.12(b).

Subsection (d) is new. This provision restates current Commission practice in entering into contracts and cooperative agreements with State and local agencies. In accordance with new Commission procedures, these contracts and agreements are intended to achieve maximum utilization and integration of Commission efforts with State and local agencies' efforts. One major innovation, which is stated in this provision, is a worksharing agreement which, where appropriate, will provide for processing of charges by either the Commission or by the State or local agency as to avoid duplicative efforts. Subsetcion (e) in former § 1601.12(d) is unchanged.

Subsection (f) is the second and third sentence of former § 1601.10, providing for deferral of Commissioner charges where appropriate. The word "refer" has been deleted and the word "defer" inserted in its place. Reference to Sec. 704 (a) was deleted because of the amendment to former § 1601.11.

14. Section 1601.14 remains unchanged as revised and published at 41 FR 34745 (August 17, 1976) as § 1601.13. It was, at that time, amended to provide for service on the respondent charged with an unlawful employment practice of a copy of the charge itself within 10 days of filing of the charge. Where the Commission determines that such service within the 10-day notice period provided by Sec. 706(b) of Title VII would impede the law enforcement function of the Commission, it will, instead, serve only a notice of the charge. Subsection (b) clarifies the delegation of authority to serve the notice described in subsection (a). Prior to amendment, § 1601.13 provided that the Commission furnish the respondent only notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) within the 10-day period.

15. Section 1601.15 is former § 1601.14 amended to reflect the fact that, as part of each investigation, the Commission will accept any information proffered by the parties. The section clarifies that the investigators and other representatives designated by the Commission are authorized to make investigations of charges. The section is further amended by new subsections (b), (c) and (d) to provide for major innovations in Commission charge processing procedures: (b) outlines the specificity requirements imposed on charging parties; (c) authorizes fact-finding conferences; (d) reserves other investigative means to the Commission.

16. Section 1601.16 is derived from former § 1601.15. Section 1601.16(a) is revised to permit a subpoena to issue to obtain access to evidence for the purpose of examination and the right to copy. This subsection was amended to make explicit the authority of the Commission to conduct on-site inspections. The amendment is intended to conform the language of the regulations to Sec. 709 of Title VII of the Civil Rights Act of 1964 as amended, 42 U.S.C. 2000e-8, and the investigatory powers under the National Labor Relations Act which apply to the Equal Employment Opportunity Commission pursuant to Section 710 of Title VII, 42 U.S.C. 2000e-9. This subsection is also amended to provide for issuance of a subpoena by a member of the Commission, a District Director or any representative designated by the Commission. Prior to amendment, the regulations provided for issuance of a subpoena by a member of the Commission, the District Director or the Deputy District Director. This amendment is intended to facilitate the issuance of a subpoena where the charge is being investigated by an office other than a District Office.

Section 1601.16(b) is amended to specify that the 5-day period for requesting revocation or modification of a subpoena excludes Saturdays, Sundays, and holidays. This conforms with the Federal Rules of Civil Procedure. This amendment is intended to conform the regulations to the present practice. The period within which the Director of the Office of Compliance Programs should submit a recommended determination has been changed from 5 to 8 days to conform with the time period of § 1601.56.

Former Sec. 1601.15(c) is unchanged but renumbered § 1601.16(c). Section 1601.16(d) is amended to provide that witnesses subpoenaed pursuant to the section shall be entutled to the payment of fees and mileage.

17. Section 1601.17 is derived from § 1601.16 and is amended to permit any Commissioner, upon approval of the Commission, to summon a person to appear and testify at a public hearing. Prior to amendment, the section provided that a demand for appearance and testimony would come from the Commission. The amendment is intended to clarify that the section shall be used to compel testimony at a public hearing. Section 1601.16 may be used for the same purpose although it will generally be used to compel testimony for the purpose of investigating a charge of discrimination.

Section 1601.17(b) is former § 1601.17 and applies only to § 1601.17. A comparable section has been added as § 1601.16(d). Prior to the revision § 1601.17 was ambiguous as to its application.

18. Section 1601.18 remains as § 1601.18. The content of the section is unchanged.

19. Section 1601.19 has been revised. All procedures relating to the dismissal of charges are now contained in Section 1601.19. Prior to amendment, dismissals and reasonable cause determinations were intertwined in §§ 1601.19 and 1601.19b.

Subsection 1601.19(a) specifies that charges may be dismissed either before or after investigation when the charge is not timely filed or fails to raise a claim under Title VII. Charges raising a claim under Section 717 of Title VII, which relates to federal employers, will be dismissed. The amended section requires that a charge on its face or as amplified by the statements of the charging party need only raise a claim under Title VII. This is intended to eliminate any legalistic standard, which might have been inferred from prior language, that a charging party properly had to plead a claim rather than merely allege or raise a claim of discrimination. This conforms the regulation to actual practice of the Commission.

Subsection 1601.19(b) provides that where the Commission determines after investigation that there is not reasonable cause to believe that Title VII has been violated, the charge will be dismissed. This is a change from the current language which indicates that a charge will be dismissed when there is not reasonable cause to believe the charge is true. The change conforms to the current practice of not dismissing a charge when nonalleged violations are discovered although a finding of no reasonable cause is found on the specific allegations in the charge.

Subsection 1601.19(c) adds a provision to the regulations to authorize dismissal of a charge when the charging party

VOL 42 NO 161 AUG 19 1977 UM

fails or refuses to provide requested information, to be available for interviews, to attend a fact-finding conference or otherwise refuses to cooperate to the extent that the Commission is unable to resolve the charge. Additionally, the section provides that the Commission must give charging party 30 days in which to respond before dismissal of the charge for failure to cooperate can be effected. This change will allow the Commission to grapple with the situation of a charging party who will not cooperate with the Commission, but who is also unwilling to withdraw his or her charge.

The subsection does not extend to those cases in which the charging party cannot be located.

Section 1601.19(d) provides that the Commission may dismiss the charge when the person claiming to be aggrieved cannot be located after reasonable efforts have been made. The dismissal may be effected 30 days after the mailing of a notice to the party's last known address.

Section 1601.19(e) provides that the Commission may dismiss a charge upon the refusal of the person claiming to be aggrieved to accept an offer from the respondent which provides full relief for each harm alleged.

Section 1601.19(f) provides that the person claiming to be aggrieved or the person making the charge on beh..lf of a person claiming to be aggriev. l and the respondent, if notice of the charge has been served, will be notified when a charge is dismissed pursuant to §§ 1601.-19 (a), (b), (c), (d) or (e). The section adds to the current regulations by providing that a Notice of Right to Sue will be issued to the person claiming to be aggrieved pursuant to § 1601.28. This is intended to clarify that a Notice of Right to Sue will issue for charges when they are dismissed by the Commission. This conforms to Section 706(f)(1) of Title VII and the current practice as specified in Section 40 of the "EEOC Compliance Manual."

Section 1601.19(g) clarifies the delegation of authority from the Commission to the District Directors and the Director of the Office of Compliance Programs to dismiss charges and issue notices of Right to Sue pursuant thereto. The subsection also restates inherent Commission review authority, i.e., to review dimissals just as it may review determinations under § 1601.21.

20. Section 1601.20 replaces former § 1601.19a to confer authority on Commission officials to sign any settlement agreement acceptable to the parties, but retains Commission authority to process all similar charges. This section also indicates withdrawal of a charge as an alternative.

21. Section 1601.21 contains a part of former § 1601.19b, and is amended to add that a reasonable cause determination is limited to matters addressed. That portion of former § 1601.19b which relates to the dismissal of a charge was transferred to § 1601.19. Section 1601.21 (a) clarifies the second sentence of former § 1601.19b. This subsection provides that a reasonable cause determination is made after the Commission's investigative efforts where a charge has not been settled or dismissed, and is limited to the allegations addressed in the determination.

Section 1601.21(b) clarifies what is presently stated in former § 1601.19(b). The subsection provides that the Commission shall promptly notify the respondent, the person claiming to be aggrieved or where applicable, the person making the charge on behalf of the person claiming to be aggrieved of the determination as to reasonable cause. In the case of a Commissioner charge, the Commission will notify the person or persons named in the charge or third party certificate and the respondent.

The subsection further clarifies that the Commission when exercising its reconsideration authority will notify the concerned parties after a decision or determination has been amended, revoked or altered.

The subsection contains a change in language to specify that amendment, alteration, and revocation are the types of reconsideration action which trigger notice to the parties.

Implicit in the right to reconsider a determination is the right to reinvestigate a charge.

This subsection does not change the inherent right and the current practice of the Commission, on its own motion, to reconsider letters of determination issued by authorized delegates as well as Commission decisions. The section does not provide a right to invoke Commission review by a person claiming to be aggrieved or a respondent.

Subsection 1601.21(c) is unchanged from revised § 1601.19b(c) published at 42 FR 10315 (Feb. 22, 1977) which substituted the word "abstain" for "not participate." This change was intended to make clearer that a Commissioner's presence could be counted for quorum purposes although such Commissioner did not vote on the particular charge because of having been the one who filed such charge.

Section 1601.21(d) clarifies the delegation of authority from the Commission to the District Directors and the Director of the Office of Compliance Programs to dismiss a charge, make a determination, issue a letter of determination and serve a copy thereof upon the parties, in those cases in which the Commission or previous Commission Decisions serve as authority or as precedent.

The reconsideration portion of the subsection is substantially unchanged from former § 1601.19b(d) except that the Director of the Office of Compliance Programs has been substituted for "other designated officers." Reference to the words "amend, alter, or revoke" were added to conform to the new language in § 1601.21(b). See comment to that subsection, supra. Delegation of authority to discuss conciliation and sign conciliation agreements has been removed to § 1601.24.

Section 1601.21(e) is substantially unchanged from former § 1601.19b(e). The references in § 1601.19(e)(1) to public hearings and enforceability in court of consent decrees entered into by a 706 agency are deleted from the definition of final findings and orders to which substantial weight will be accorded. This comports with the requirements envisioned by 706 (b), (c), and (d) of Title VII. Subsection 1601.21(e)(2) is amended to state that substantial weight will be accorded the final findings of a 706 agency when the proceedings were fair and regular, the practices prohibited by the federal law, and the findings serve the interest of effective enforcement of Title VII. Giving substantial weight does not include according weight to the agency's conclusion of law. The requisites for according substantial weight are the same as those prior to amendment except comparability of the practices prohibited is substituted for comparability of the remedies and relief granted to make clear that the Commission accords substantial weight in instances when no relief is appropriate.

22. Section 1601.22 is unchanged from former Sec. 1601.20 except that the attorneys representing the charging party and respondent are specifically included as persons to whom disclosure of information prior to the institution of litigation may be permitted where such disclosure is deemed necessary for securing appropriate relief. In this revision interested Federal and State agencies are discussed in a separate sentence. Disclosures to governmental agencies serve similar but not identical purposes.

23. Section 1601.23 incorporates the provisions of former § 1601.25a. The section sets forth the procedures to be followed by the Commission in seeking preliminary relief pursuant to Sec. 706(f)(2) of Title VII. The delegation of authority provision formerly appearing at § 1601.25a is included in this section and is amended to provide authority to the Director of the Office of Compliance Programs to propose preliminary relief actions. Pursuant to Sec. 705(b)(1) of Title VII the General Counsel is authorized to initiate such actions. A sentence has been added in recognition of the private right of individuals to seek injunctive relief on their own motion. It is implicit in this section that no Notice of Right to Sue is required when preliminary relief is sought.

24. Section 1601.24 is derived from former § 1601.22 and has been revised and reorganized into paragraph format. Paragraph (a) incorporates the provisions of the second sentence of former § 1601.19b(a) and former § 1601.22 covering conciliation efforts and the requirement that settlement agreements be in writing. A sentence has been added to require that copies of the conciliation agreement be sent to all signatories thereto. Although this was Commission practice, the former provision appeared to require only notice to the parties that settlement had been effected.

New paragraph (b) provides a delegation of authority to conciliate and sign settlement agreements. A sentence has been added to authorize the General Counsel to negotiate and sign conciliation agreements when proceedings in a

suit brought by the Commission are stayed, pursuant to Section 706 (f)(1) of Title VII, pending further Commission efforts towards voluntary compliance. This provision is added to ensure expedited efforts towards settlement rather than sending the charge back to the District Office for conciliation.

Paragraph (c) contains provisions from former §§ 1601.22 and 1601.25b(a) covering the rights of aggrieved persons when settlement is reached in a case.

25. Section 1601.25 derives from former § 1601.23. As revised, the section requires issuances of notice of failure of conciliation only to the respondent. Such notice will be sent where the Commission is unable to obtain voluntary compliance and where the Commission has determined that further efforts to do so would be futile or non-productive. The final sentence of former § 1601.23 has been deleted as being an unnecessary procedural step. This revised section as well as revised § 1601.26 resolves misunderstandings arising from former §§ 1601.23 and 1601.25 concerning the controversy over the "two letter" problem. See *Tuft* v. *McDonnel Douglas Corp.*, 517 F. 2d 1301 (8th Cir. 1975).

26. Section 1601.26(a) carries over, without change, former § 1601.24. New paragraph (b) provides that investigative information which the Commission could obtain under Sec. 709 of Title VII, even if obtained during informal endeavors, is to be treated for disclosure purposes under the provisions of § 1601.22.

27. Section 1601.27 contains all of the first sentence of former § 1601.25b(a) but is amended to add a clause clarifying that the Commission may seek injunctive relief under Sec. 706(f)(2) of Title VII. A cross-reference to § 1601.23 has been added.

28. Section 1601.28 contains the provisions for issuing Notices of Right to Sue and conditions under which such notices shall be given. Subsection (a)(1) corresponds to former § 1601.25b(c) except that dismissals are removed to § 1601.28 (b)(2). Additionally, subsection (a)(1) states more simply that a person claiming to be aggrieved may request a right to sue notice 180 days after any period of reference described in Sec. 706(d) of Title VII rather than "180 days after filing." No change in meaning is intended.

Subsection (a)(2) is new. It provides that a person claiming to be aggrieved may request a Notice of Right to Sue prior to the expiration of 180 days from the date of filing when the appropriate Commission official attaches a written certification that the Commission will be unable to complete its administrative processing of the charge within 180 days from filing. This interpretation of Sec. 706(f)(1) of Title VII accords with recent case law which has sanctioned such interpretation. See, e.g., *Bauman* v. *Union Oil Corp.*, 400 F. Supp. 1021 (N.D. Calif. 1973).

Subsection (a)(3) corresponds to former § 1601.25(D) except that the section has been amended to delete the authority of the parties concerned, other than the Commission, to require the Commission to continue processing a charge after a notice of right to sue has been issued. Continued processing of a charge will be within the sole discretion of a Commission official, such as the appropriate District Director, or in appropriate cases the Director of the Office of Compliance Programs or the General Counsel. Any one of these officials may, at any time, reopen any file closed or set aside or otherwise commence the further investigation or reprocessing of any charge.

Subsection (a)(4) is added to make explicit that the Commission reserves the right to render assistance consistent with the effective enforcement of Title VII to any person who receives a Notice of Right to Sue. Such assistance might include, for example, amicus curiae participation.

Subsection (b)(1) adds a new provision to the regulations. It requires the Commission to issue a notice of right to sue after the Commission has completed the administrative processing of a charge, i.e., has decided not to file a civil action after failure of consiliation. Further, subsection (b)(1) includes portions of the requirements of former § 1601.25c (a) and (c) regarding notices of right to sue for Commissioner charges. Notices will be issued to any person who is actually named in a charge, identified by a Commissioner in a third-party certificate or otherwise identified by the Commission as a member of the class. The section is not intended to require the Commission to give notice, as former § 1601.25c (c) and (d) appeared to require, to all possibly identifiable members but only to those who are actually identified when a Commissioner charge is filed or during a Commission investigation.

Subsection (b)(2) states that notices of right to sue will be issued when a charge is dismissed under § 1601.19. Notice will be issued to the same members of a class as under § 1601.28(b)(1).

Subsection (b)(3) parallels subsection (a)(4) and makes explicit that the Commission reserves the right to render certain kinds of assistance even in instances where the Commission has found no cause.

Subsection 1601.28(c) corresponds to the delegation of authority approved by the Commission in former regulation § 1601.25(b).

Subsection 1601.28(d) provides that notices of right to sue in cases involving respondent governments or governmental agencies will be referred to the Attorney General.

Subsection 1601.28(e) is derived from former § 1601.25(a) and describes the contents of a Notice of Right to Sue. The times at which such notices issue are contained in § 1601.28 (a)(1), (a)(2), (b)(1), and (b)(2). This will avoid confusion regarding the "notice of notice" problem.

29. Section 1601.29 derives from former § 1601.26. References to referral of Sec. 707 cases to the Department of Justice has been deleted because of the transfer of Sec. 707 authority, except for suits against governments, to the Commission under the Equal Employment Opportunity Act of 1972. The reference in § 1601.26 to "making public" was deleted.

30. Section 1601.30 is former § 1601.27 amended by changing the Commission's street address and adding the former poster footnote to the text.

31. Former §§ 1601.28 through 1601.33 have been renumbered and are now §§ 1601.31 through 1601.36, respectively, of the revised regulations. Section 1601.-31 has been amended to indicate issuance of interpretations or opinions is discretionary.

32. Sections 1601.50 through 1601.55 of the former regulations are unchanged in number or content except as explained below:

(a) A phrase defining the five-day period for petitions to revoke or modify a subpoena as exclusive of Saturdays, Sundays and Holidays, has been added to § 1601.56(b) and parallels the amended definition of the five-day period appearing at § 1601.16 of the revised regulations.

(b) Section 1601.59 of the former regulations, covering cases designated for processing under Section 707 of Title VII, has been amended by deletion of the provision requiring notification to persons who have filed charges on behalf of the aggrieved persons. Cross-references to former §§ 1601.25 and 1601.25c have been changed to refer to revised § 1601.28.

33. Sections 1601.70 through 1601.74 contain the provisions of former § 1601.13 (f) through (m) incorporated as published at 40 FR 3210 M (Jan. 20, 1975). The provisions remain substantially unchanged, but with appropriate cross-references revised. These provisions concerning the 706 agency designation process are separated from the charge deferral procedures in § 1601.13 in order to provide a more logical and sequential picture of the Commission's charge processing procedures in Subpart E of the regulations. Section 1601.72 was the former § 1601.13(j) and is amended to reflect that the 706 status of an agency having criminal enforcement authority alone will be evaluated on the basis of the agency's effective utilization of its criminal authority. The section has also been modified by deleting the ambiguous phrase "where state or local law allows" which appeared to permit continued certification of an agency which could not under its law provide for back-pay or other compensation to the victims of unlawful discrimination.

NOTE.—It is hereby certified that the revised regulation has been assessed for the need of an Inflationary Impact Statement. Because of the nature of the changes this revision does not require an Inflationary Impact Statement.

Dated: August 15, 1977.

ELEANOR HOLMES NORTON,
Chair, Equal Employment Opportunity Commission.

It is proposed to revise 29 CFR Part 1601 to read as follows:

V 42 161 AUG 19 77 UM

PART 1601—PROCEDURAL REGULATIONS

Sec
1601.1 Purpose.

Subpart A—Definitions

1601.2 Terms defined in Title VII of the Civil Rights Act of 1964, as amended.
1601.3 Other definitions.
1601.4 Vice Chairman's functions.
1601.5 Region; district; supervisory authority.

Subpart B—Procedure for the Prevention of Unlawful Employment Practices

1601.6 Submission of information.
1601.7 Charges by or on behalf of persons claiming to be aggrieved.
1601.8 Where to make a charge.
1601.9 Form of charge.
1601.10 Withdrawal of a charge by a person claiming to be aggrieved.
1601.11 Charges by members of the Commission.
1601.12 Contents of charge; amendment of charge.
1601.13 Filing; deferrals to State and local agencies.
1601.14 Service of a notice of charge.

Investigation of a Charge

1601.15 Investigative authority.
1601.16 Access to and production of evidence; testimony of witnesses: Procedure and authority.
1601.17 Witnesses for public hearings.
1601.18 Right to inspect or copy data.

Procedure Following Filing of a Charge

1601.19 Dismissal: Procedure and authority.
1601.20 Negotiated settlement.
1601.21 Reasonable cause determination: Procedure and authority.
1601.22 Confidentiality.

Procedure To Rectify Unlawful Employment Practice

1601.23 Preliminary or temporary relief.
1601.24 Conciliation: Procedure and authority.
1601.25 Failure of conciliation; notice.
1601.26 Confidentiality of endeavors.

Procedure Concerning the Institution of Civil Actions

1601.27 Civil Actions by the Commission.
1601.28 Notice of right to sue: Procedure and authority.
1601.29 Referral to the Attorney General.

Subpart C—Notices to Employees, Applicants for Employment and Union Members

1601.30 Notices to be posted.

Subpart D—Interpretations and Opinions by the Commission

1601.31 Request for interpretation or opinion.
1601.32 Contents of request; where to file.
1601.33 Issuance of interpretation or opinion.

Subpart E—Construction of Rules

1601.34 Rules to be liberally construed.

Subpart F—Issuance, Amendment or Repeal of Rules

1601.35 Petitions.
1601.36 Action on petition.

Subpart G—Case Processing Under Section 707 of Title VII

1601.50 Purpose.
1601.51 Delegation of authority.
1601.52 Initiation of section 707 charge.
1601.53 Service of notice of charge.
Sec.
1601.54 Deferral.
1601.55 Investigation.
1601.56 Issuance of subpoenas; petitions to revoke subpoenas; enforcement of subpoenas.
1601.57 Commission reasonable cause finding.
1601.58 Voluntary compliance; settlements; Commission authority to file suit.
1601.59 Notice to persons claiming to be aggrieved and persons filing charges on behalf of such persons.

Subpart H—706 Agency Designation Procedures

1601.70 706 Agency designation.
1601.71 Commission determinations on 706 Agency applications.
1601.72 706 Agency performance standards.
1601.73 706 Agency conference.
1601.74 Designated 706 and Notice Agencies.

Appendix A—Resolution Adopted At Commission Meeting of July 20, 1977

Appendix B—Statement of Eleanor Holmes Norton, Equal Employment Opportunity Commission

Authority: Sec. 713(a), Civil Rights Act of 1974.

§ 1601.1 Purpose.

The regulations set forth in this part 1601 contain the procedures established by the Equal Employment Opportunity Commission for carrying out its responsibilities in the administration and enforcement of Title VII of the Civil Rights Act of 1964, as amended. Based upon its experience in the administration of the Act and upon its evaluation of suggestions and petitions for amendments submitted by interested persons in accordance with § 1601.35, the Commission may from time to time amend and revise these procedures.

Subpart A—Definitions

§ 1601.2 Terms defined in Title VII of the Civil Rights Act of 1964, as amended.

The terms "person," "employer," "employment agency," "labor organization," "employee," "commerce," "industry affecting commerce," "State" and "religion" as used herein shall have the meanings set forth in section 701 of Title VII of the Civil Rights Act of 1964, as amended.

§ 1601.3 Other definitions.

For the purposes of this Part, the term "Title VII" or "the Act" shall mean Title VII of the Civil Rights Act of 1964 as amended by the Equal Employment Opportunity Act of 1972; the term "Commission" shall mean the Equal Employment Opportunity Commission or any of its designated representatives; the term "706 Agency" shall mean a state or local agency which the Commission has determined satisfies the criteria stated in section 706(c) of Title VII; and the term "verified" shall mean sworn to or affirmed before a notary public, designated representative of the Commission, or other person duly authorized by law to administer oaths and take acknowledgements, or supported by an unsworn declaration in writing under penalty of perjury.

The delegations of authority in subpart B of this part are applicable to charges filed pursuant to either section 706 or section 707 of Title VII.

§ 1601.4 Vice Chairman's functions.

The member of the Commission designated by the President to serve as Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

§ 1601.5 Region; district; supervisory authority.

The term "region" as used herein shall mean that part of the United States or any territory thereof fixed by the Commission as a particular region. The term "regional director" shall refer to that person designated as the Commission's chief officer in each region. The term "district" shall mean that area within a region fixed by the Commission as a particular sub-unit of a region. The term "district director" shall refer to that person designated as the Commission's chief officer in each district. The regional director is hereby delegated all of the authority granted in this part to district directors to be exercised within the scope of his or her supervisory authority over each district director in his or her region, except with regard to model offices. The term "model office" refers to a district office which, although located within a region, has been designated by the Commission to operate under the direct supervision of the Executive Director and the General Counsel. The Executive Director is hereby delegated all of the authority granted in this part to directors of model offices to be exercised within the scope of his or her authority over such model offices. The regional offices of the General Counsel are under direct control of the Commission's General Counsel.

Subpart B—Procedure for the Prevention of Unlawful Employment Practices

§ 1601.6 Submission of information.

The Commission shall receive information concerning alleged violations of Title VII from any person. Where the information discloses that a person is entitled to file a charge with the Commission, the appropriate office shall render assistance in the filing of a charge. Any person or organization may request the issuance of a Commissioner charge for an inquiry into individual or systematic discrimination. Such request, with any pertinent information, should be submitted to the nearest District Office.

§ 1601.7 Charges by or on behalf of persons claiming to be aggrieved.

(a) A charge that any person has engaged in or is engaging in an unlawful employment practice within the meaning of Title VII may be made by or on behalf of any person claiming to be aggrieved. A charge on behalf of a person claiming to be aggrieved may be made by any person, agency, or organization. The written charge need not identify by name the person on whose behalf it is made. The person making the charge, however, must

provide the Commission with the name, address and telephone number of the person on whose behalf the charge is made. During the Commission investigation, Commission personnel shall verify the authorization of such charge by the person on whose behalf the charge is made. Any such person may request that the Commission shall keep his or her identity confidential. However, such request for confidentiality shall not prevent the Commission from disclosing the identity to federal, state or local agencies that have agreed to keep such information confidential. If this condition is violated by a recipient agency, the Commission may decline to honor subsequent requests for such information.

(b) The person claiming to be aggrieved has the responsibility to provide the Commission with notice of any change in address and with notice of any prolonged absence from that current address so that he or she can be located when necessary during the Commission's consideration of the charge.

§ 1601.8 Where to make a charge.

A charge may be made in person or by mail at the offices of the Commission in Washington, D.C., or any of its district or regional offices or with any designated representative of the Commission. The addresses of the Commission's district and regional offices appear in § 1610.4.

§ 1601.9 Form of charge.

A charge shall be in writing and signed and shall be verified.

§ 1601.10 Withdrawal of a charge by a person claiming to be aggrieved.

A charge filed by or on behalf of a person claiming to be aggrieved may be withdrawn only by the person claiming to be aggrieved and only with the consent of the Commission. The Commission hereby delegates authority to District Directors and the Director of the Office of Compliance Programs as appropriate, to grant consent to a request to withdraw a charge, other than a Commissioner charge, where the withdrawal of the charge will not defeat the purposes of Title VII.

§ 1601.11 Charges by members of the Commission.

Any member of the Commission may file a charge with the Commission. Such charge shall be in writing and signed and shall be verified.

§ 1601.12 Contents of charge; amendment of charge.

(a) Each charge should contain the following: (1) The full name, address and telephone number of the person making the charge except as provided in § 1601.7;

(2) The full name and address of the person against whom the charge is made, if known (hereinafter referred to as the respondent);

(3) A clear and concise statement of the facts, including pertinent dates, constituting the alleged unlawful employment practices: See § 1601.15(b);

(4) If known, the approximate number of employees of the respondent employer or the approximate number of members of the respondent labor organization, as the case may be; and

(5) A statement disclosing whether proceedings involving the alleged unlawful employment practice have been commenced before a State or local agency charged with the enforcement of fair employment practice laws and, if so, the date of such commencement and the name of the agency.

(b) Notwithstanding the provisions of paragraph (a) of this section, a charge is sufficient when the Commission receives from the person making the charge a written statement sufficiently precise to identify the parties and to describe generally the action or practices complained of. A charge may be amended to cure technical defects or omissions, including failure to verify the charge, or to clarify and amplify allegations made therein. Such amendments and amendments alleging additional acts which constitute unlawful employment practices related to or growing out of the subject matter of the original charge will relate back to the original filing date. A charge that has been so amended shall not be required to be redeferred.

§ 1601.13 Filing; deferrals to State and local agencies.

(a) The timeliness of a charge shall be measured for purposes of complying with section 706(e) of Title VII by the date on which the charge is received by the Commission.

(b) Deferral policy. (1) In order to give full weight to the policy of section 706(c) of the Act, which affords State and local fair employment practice agencies that come within the provisions of that section an opportunity to remedy alleged discrimination concurrently regulated by Title VII and State or local law, the Commission adopts the following procedures with respect to allegations of discrimination filed with the Commission where there is no evidence that such allegations were earlier presented to an appropriate 706 Agency. It is the intent of the Commission to thereby encourage the maximum degree of effectiveness in the State and local agencies. The Commission shall endeavor to maintain close communication with the State and local agencies with respect to all matters forwarded to such agencies and shall provide such assistance to State and local agencies as is permitted by law and as is practicable. It is the experience of the Commission that because of the present procedures, persons who seek the aid of the Commission are often confused and even risk loss of the protection of the Act. Accordingly, it is the intent of the Commission to simplify filing procedures for parties in deferral States and localities and thereby avoid the accidental forfeiture of important Federal rights.

(2) Section 706(c) of Title VIII grants States and their political subdivisions the exclusive right to process allegations of discrimination filed by a person other than a Commissioner for a period of sixty days or 120 days during the first year after the effective date of the qualifying State or local law. This right exists where pursuant to Subpart I of this part it has been demonstrated to the Commission that a State or local law prohibits the employment practice alleged to be unlawful and a State or local agency has been authorized to enforce and does enforce that law through civil or criminal proceedings. After the expiration of the exclusive processing period, the Commission may commence processing of the allegation of discrimination.

(3) A 706 Agency may waive its right to the period of exclusive processing of charges provided under section 706(c) of Title VII with respect to any charge or category of charges. Where a 706 Agency has waived its right to the exclusive processing period with respect to any category of charges, the Commission will assume jurisdiction over charges within that category. Copies of such charges shall be forwarded to the appropriate 706 Agency.

(c) The following procedures shall be followed with respect to cases arising in the jurisdiction of "706 Agencies."

(1) Where any document, whether or not verified, is received by the Commission as provided in § 1601.8 which may constitute a charge cognizable under Title VII, and where the 706 Agency has not waived its right to the period of exclusive processing with respect to that document, that document shall be deferred to the appropriate 706 Agency as provided in the procedures set forth below:

(i) All such documents shall be dated and time stamped upon receipt.

(ii) If the original document does not meet the requirements of § 1601.12(a), the Commission shall endeavor to obtain a perfected complaint meeting those requirements. A copy of the original document and of the perfected complaint, if applicable, shall be transmitted by registered mail, return receipt requested, to the appropriate State or local agency, or, where the State or local agency has consented thereto, by certified mail, by regular mail or by hand delivery. State or local proceedings are deemed to have commenced on the date such document is mailed or hand delivered.

(iii) The person claiming to be aggrieved and any person filing a charge on behalf of such person shall be notified, in writing, that the document which he or she sent to the Commission has been forwarded to the State or local agency pursuant to the provisions of section 706(c).

(2) For purposes of satisfying the filing requirement of section 706(c) of Title VII, the Commission shall assume jurisdiction over a document described in paragraph (c)(1) of this section as follows:

(i) Where the document on its face constitutes a charge within a category of charges over which the 706 Agency has waived its right to the period of exclusive processing referred to in paragraph (b)(3) of this section, the Com-

V 42 161 AUG 19 77 UM

mission will assume jurisdiction over the charge upon receipt of the document;

(ii) Where the document is submitted to the Commission within 180 days from the date of the alleged violation but beyond the period of limitation of the appropriate 706 Agency, the Commission shall assume jurisdiction on receipt of the document;

(iii) Where the proceedings of a 706 Agency have been commenced pursuant to paragraph (c)(1) of this section, the Commission shall assume jurisdiction sixty (or where appropriate 120) days after the 706 Agency proceedings have been commenced, except where the Commission is earlier notified of the termination of State proceedings, it shall immediately assume jurisdiction upon receipt of such notice.

(iv) Where the proceedings of a 706 Agency have been commenced less than sixty (or, where appropriate, 120) days prior to the time the Commission receives the document and those proceedings have not previously been terminated, the Commission shall assume jurisdiction 60 (or, where appropriate, 120) days after the 706 Agency proceedings have been commenced, except where the Commission is earlier notified of the termination of state proceedings, it shall immediately assume jurisdiction upon receipt of such notice.

(d) In addition to the provisions in paragraphs (a), (b) and (c) of this section and pursuant to section 705(g)(1) and section 709(b) of Title VII, the Commission shall endeavor to enter into agreements with 706 Agencies and other fair employment practice agencies to establish effective and integrated resolution procedures. Such agreements may include, but need not be limited to, cooperative arrangements to provide for processing of certain charges by the Commission, rather than by the 706 Agency during the period specified in section 706(c) and section 706(d) of Title VII.

(e) Notwithstanding the deferral provisions of this section, the Commission may commence judicial action for immediate, temporary or preliminary relief pursuant to section 706(f)(2) of Title VII.

(f) The Commission will notify a 706 Agency when an allegation of discrimination is made by a member of the Commission concerning an employment practice occurring within the jurisdiction of the 706 Agency. The 706 Agency will be entitled to process the charge exclusively for a period of not less than sixty days if the 706 Agency makes a written request to the Commission within ten days of receiving notice that the allegation has been filed. The sixty day period shall be extended to one hundred and twenty days during the first year after the effective date of the qualifying State or local law.

§ 1601.14 Service of a notice of charge.

(a) Within ten days after the filing of a charge in the appropriate Commission office, the Commission shall serve respondent a copy of the charge, by mail or in person, except when it is determined that providing a copy of the charge would impede the law enforcement functions of the Commission. Where a copy of the charge is not provided, the respondent will be served with a notice of the charge within ten days after the filing of the charge (including the date, place, circumstances and identity of the person filing the charge, or, in the case of a charge filed on behalf of any individual, the identity of the person or organization so filing).

(b) The District Directors, the Director of the Office of Compliance Programs, and the designated representative of each are hereby delegated the authority to issue the notice described in paragraph (a) of this section.

INVESTIGATION OF A CHARGE

§ 1601.15 Investigative authority.

(a) The investigation of a charge shall be made by the Commission, its investigators, or any other representative designated by the Commission. During the course of such investigation, the Commission may utilize the services of State and local agencies which are charged with the administration of fair employment practice laws or appropriate Federal agencies, and may utilize the information gathered by such authorities or agencies. As part of each investigation, the Commission will accept any statement of position or evidence with respect to the allegations of the charge which the person claiming to be aggrieved, the person making the charge on behalf of such person, if any, or the respondent wishes to submit.

(b) As part of the Commission's investigation, the Commission may require the person claiming to be aggrieved to provide a statement which includes: (1) A statement of each specific harm that the person has suffered and the date on which each harm occurred;

(2) For each harm, a statement specifying the act, policy or practice which is alleged to be unlawful;

(3) For each act, policy, or practice alleged to have harmed the person claiming to be aggrieved, a statement of the facts which lead the person claiming to be aggrieved to believe that the act, policy or practice is discriminatory.

(c) The Commission may require a fact-finding conference with the parties prior to a determination on a charge of discrimination. The conference is primarily an investigative forum intended to define the issues, to determine which elements are undisputed, to resolve those issues that can be resolved and to ascertain whether there is a basis for negotiated settlement of the charge.

(d) The Commission's authority to investigate a charge is not limited to the procedures outlined in paragraphs (a), (b) and (c) of this section.

§ 1601.16 Access to and production of evidence; testimony of witnesses; Procedure and authority.

(a) To effectuate the purposes of Title VII, any member of the Commission shall have the authority to sign and issue a subpoena requiring: (i) The attendance and testimony of witnesses;

(ii) The production of evidence including, but not limited to; books, records, correspondence, or documents, in the possession or under the control of the person subpoenaed; and

(iii) Access to evidence for the purposes of examination and the right to copy.

Any District Director or any representatives designated by the Commission may sign and issue a subpoena on behalf of the Commission. The subpoena shall state the name and address of its issuer, identify the person subpoenaed, the person to whom and the place, date, and the time at which it is returnable or the nature of the evidence to be examined or copied, and the date and time when access is requested. A subpoena shall be returnable to a duly authorized investigator or other representative of the Commission. Neither the person claiming to be aggrieved nor the respondent shall have the right to demand that a subpoena be issued.

(b) Any person served with a subpoena who intends not to comply therewith shall, within five days (excluding Saturdays, Sundays and Federal legal holidays) after the date of service of the subpoena upon him or her, petition the Director of the Office of Compliance Programs by mail to revoke or modify the subpoena. Such petition shall be mailed to 2401 E Street NW., Washington, D.C. 20506, and a copy thereof shall be served on the person who issued the subpoena. The petition shall separately identify each portion of the subpoena with which the petitioner does not intend to comply and shall state, with respect to each such portion, the grounds upon which the petitioner relies. A copy of the subpoena shall be attached to the petition and shall be designated "Attachment A." Within eight days after receipt thereof, or as soon thereafter as practicable, the Director of the Office of Compliance Programs, shall make a determination upon the petition, stating reasons, and shall submit the petition and determination to the Commission for its review. The Commission shall review the petition and make a final determination. A Commissioner who has issued a subpoena shall abstain from reviewing any petition to modify or revoke the subpoena. The Commission shall serve a copy of the final determination of the petition upon the petitioner. For purposes of this section, service shall be made and proof thereof established pursuant to section 11(4) of the National Labor Relations Act, as amended, 29 U.S.C. 161(4), as made applicable to Commission hearings and investigations by section 710 of Title VII.

(c) Upon the failure of any person to comply with a subpoena issued under this section, the Commission may utilize the procedures of section 11(2) of the National Labor Relations Act, as amended, 29 U.S.C. 161(2), to compel enforcement of the subpoena.

(d) Witnesses who are subpoenaed pursuant to § 1601.16(a) shall be entitled

to the same fees and mileage that are paid witnesses in the courts of the United States.

§ 1601.17 Witnesses for public hearings.

(a) To effectuate the purposes of Title VII, any Commissioner, upon approval of the Commission, may demand in writing that a person appear at a stated time and place within the State in which such person resides, transacts business, or is served with the demand, for the purpose of testifying under oath before the Commission or its representative. If there be noncompliance with any such demand, the Commission may utilize the procedures of section 710 of Title VII to compel such person to testify. A transcript of testimony may be made a part of the record of each investigation.

(b) Witnesses who testify as provided in paragraph (a) of this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

§ 1601.18 Right to inspect or copy data.

A person who submits data or evidence to the Commission may retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that a witness may for good cause be limited to inspection of the official transcript of his or her testimony.

PROCEDURE FOLLOWING FILING OF A CHARGE

§ 1601.19 Dismissal: Procedure and authority.

(a) Where a charge on its face, or as amplified by the statements of the person claiming to be aggrieved discloses, or where after investigation the Commission determines, that the charge and every portion thereof is not timely filed, or otherwise fails to state a claim under Title VII, the Commission shall dismiss the charge: *Provided, however*, That a charge which raises a claim exclusively under section 717 of Title VII shall also be dismissed.

(b) Where the Commission determines after investigation that there is not reasonable cause to believe that Title VII has been violated, the Commission shall dismiss the charge.

(c) Where the person claiming to be aggrieved fails to provide requested necessary information, fails or refuses to appear or to be available for interviews or conferences as necessary, fails or refuses to provide information requested by the Commission pursuant to § 1601.15(b), or otherwise refuses to cooperate to the extent that the Commission is unable to resolve the charge, and after due notice, the charging party has had thirty days in which to respond, the Commission may dismiss the charge.

(d) Where the person claiming to be aggrieved cannot be located, the Commission may dismiss the charge: *Provided*, That reasonable efforts have been made to locate the charging party and the charging party has not responded within 30 days to a notice sent by the Commission to the person's last known address.

(e) Where a respondent has made a settlement offer which is in writing and specific in its terms, the Commission may dismiss the charge if the person claiming to be aggrieved refuses to accept the offer: *Provided*, That the offer would afford full relief for the harm alleged by the person claiming to be aggrieved and the person claiming to be aggrieved fails to accept such an offer within 30 days after actual notice of the offer.

(f) A written notice of disposition, pursuant to paragraphs (a), (b), (c), (d), or (e) of this section, shall be issued to the person claiming to be aggrieved and to the person making the charge on behalf of such person, where applicable; in the case of a Commissioner charge, to all persons specified in § 1601.28(b)(2); and to the respondent. Such notice shall be issued together with the reasons therefor, and appropriate notices of right to sue shall be issued pursuant to § 1601.28.

(g) The Commission hereby delegates authority to its District Directors and to the Director of the Office of Compliance Programs, as appropriate, to dismiss charges, as limited by § 1601.21(d). The authority of the Commission to reconsider decisions and determinations as set forth in § 1601.21 (b) and (d) shall be applicable to this section.

§ 1601.20 Negotiated settlement.

(a) Prior to the issuance of a determination as to reasonable cause, the Commission will encourage the parties to settle the charge on terms that are mutually agreeable. District Directors and the Office of Compliance Programs shall have the authority to sign any settlement agreement which is agreeable to both parties. The Commission shall limit its undertaking in such settlements to an agreement not to process that charge further. Such settlements shall note that the Commission has made no judgment on the merits of the charge and the appropriateness of the settlement. Such an agreement shall not affect the processing of any other charge, including, but not limited to, a Commissioner charge or a charge, the allegations of which are like or related to the individual allegations settled.

(b) In the alternative, the Commission may facilitate a settlement between the person claiming to be aggrieved and the respondent by permitting withdrawal of the charge pursuant to § 1601.10.

§ 1601.21 Reasonable cause determination: Procedure and authority.

(a) Where a charge has not been settled or dismissed, the Commission shall, after making investigative efforts, determine whether reasonable cause exists to believe that Title VII has been violated. A determination as to reasonable cause is based on, and limited to, evidence obtained by the Commission and does not reflect any judgment on the merits of allegations not addressed in the determination.

(b) The Commission shall provide prompt notification of its determination under paragraph (a) of this section to the person claiming to be aggrieved, the person making the charge on behalf of such person, if any, and the respondent, or in the case of a Commissioner charge, the person named in the charge or identified by the Commissioner in the third-party certificate, if any, and the respondent. The Commission's determination is final when issued. The Commission may, however, on its own initiative reconsider its decision or the determination of any of its designated officers who have authority to issue Letters of Determination. When it does reconsider, the Commission shall provide prompt notification of its decision to amend, alter or revoke such decision or Letter of Determination to the person claiming to be aggrieved, the person making the charge on behalf of such person, if any, and the respondent, or in the case of a Commissioner charge, the person named in the charge or identified by the Commissioner in the third-party certificate, if any, and the respondent.

(c) Where a member of the Commission has filed a Commissioner charge, he or she shall abstain from making a determination in that case.

(d) The Commission hereby delegates to District Directors and to the Director of the Office of Compliance Programs the authority, in those cases in which previously issued Commission Decisions serve as precedent for the determination and in those cases in which the Commission's Guidelines provide a statement of policy which serves as authority for the determination, upon completion of an investigation, to dismiss a charge, make a determination, issue a Letter of Determination and serve a copy thereof upon the parties. Such determination is final when the Letter of Determination is issued. However, the Director of the Office of Compliance Programs and each District Director for determinations issued by his or her office may on his or her own initiative reconsider determinations. When he or she has done so, the issuing Director shall promptly notify the person claiming to be aggrieved, the person making the charge on behalf of such person, if any, and the respondent, or in the case of a Commissioner charge, the person named in the charge or identified by the Commissioner in the third-party certificate, if any, and the respondent of his or her decision to amend, alter or revoke such Letter of Determination.

(e) In making a determination as to whether reasonable cause exists, substantial weight shall be accorded final findings and orders made by designated 706 Agencies to which the Commission defers charges pursuant to § 1601.13. For the purposes of this section, the following definitions shall apply:

(i) "Final findings and orders" shall mean: (i) The findings of fact and order incident thereto issued by a 706 Agency on the merits of a charge; or

(ii) The consent order or consent decree entered into by the 706 Agency on the merits of a charge.

Provided, however, That no findings and order of a 706 Agency shall be considered final for purposes of this section unless

V 42 161 AUG 19 77 UM

the 706 Agency shall have served a copy of such findings and order upon the Commission and upon the person claiming to be aggrieved and shall have informed such person of his or her rights of appeal or to request reconsideration, or rehearing or similar rights; and the time for such appeal, reconsideration, or rehearing request shall have expired or the issues of such appeal, reconsideration or rehearing shall have been determined.

(2) "Substantial weight" shall mean that such full and careful consideration shall be accorded to final findings and orders, as defined above, as is appropriate in light of the facts supporting them when they meet all of the prerequisites set forth below:

(i) The proceedings were fair and regular; and

(ii) The practices prohibited by the State or local law are comparable in scope to the practices prohibited by Federal law; and

(iii) The final findings and order serve the interest of the effective enforcement of Title VII: *Provided*, That giving substantial weight to final findings and orders of a 706 Agency does not include according weight, for purposes of applying Federal law, to such Agency's conclusions of law.

§ 1601.22 Confidentiality.

Neither a charge, nor information obtained pursuant to section 709(a) of Title VII, nor information obtained from records required to be kept or reports required to be filed pursuant to section 709 (c) and (d) of Title VII, shall be made matters of public information by the Commission prior to the institution of any proceedings under this Title involving such charge or information. This provision does not apply to such earlier disclosures to charging parties or their attorneys, respondents or their attorneys, or witnesses where disclosure is deemed necessary for securing appropriate relief. This provision also does not apply to such earlier disclosures to representatives of interested Federal, State, and local authorities as may be appropriate or necessary to the carrying out of the Commission's function under Title VII, nor to the publication of data derived from such information in a form which does not reveal the identity of charging parties, respondents, or persons supplying the information.

Procedure To Rectify Unlawful Employment Practices

§ 1601.23 Preliminary or temporary relief.

(a) In the interest of the expeditious procedure required by section 706(f)(2) of Title VII, the Commission hereby delegates to the Director of the Office of Compliance Programs and each District Director the authority, upon the basis of a preliminary investigation, to make the initial determination on its behalf that prompt judicial action is necessary to carry out the purposes of the Act and recommend such action to the General Counsel. The Commission authorizes the General Counsel to institute an appropriate action on behalf of the Commission in such a case not involving a government, governmental agency, or political subdivision.

(b) In a case involving a government, governmental agency, or political subdivision, any recommendation for preliminary or temporary relief shall be transmitted directly to the Attorney General by the Director of the Office of Compliance Programs or the District Director. Nothing in this section shall be construed to prohibit private individuals from exercising their rights to seek temporary or preliminary relief on their own motion.

§ 1601.24 Conciliation: Procedure and authority.

(a) Where the Commission determines that there is reasonable cause to believe that an unlawful employment practice has occurred or is occurring, it shall endeavor to eliminate such practice by informal methods of conference, conciliation, and persuasion. In conciliating a case in which a determination of reasonable cause has been made, the Commission shall attempt to achieve a just resolution of all violations found and to obtain agreement that the respondent will eliminate the unlawful employment practice and provide appropriate affirmative relief. Where such conciliation attempts are successful, the terms of the conciliation agreement shall be reduced to writing and shall be signed by the Commission's designated representative and the parties. A copy of the signed agreement shall be sent to the respondent and the person claiming to be aggrieved who are signatories thereto.

(b) District Directors, the Director of the Office of Compliance Programs and their designated representatives are hereby delegated authority to enter into informal conciliation efforts. District Directors and the Director of the Office of Compliance Programs are hereby delegated the authority to sign conciliation agreements. When a suit brought by the Commission is in litigation, the General Counsel is hereby delegated the authority to negotiate and sign conciliation agreements where, pursuant to section 706(f)(1) of Title VII, a court has stayed proceedings in the case pending further efforts of the Commission to obtain voluntary compliance.

(c) Proof of compliance with Title VII in accordance with the terms of the agreement shall be obtained by the Commission before the case is closed. In those instances in which a person claiming to be aggrieved or a member of the class claimed to be aggrieved by the practices alleged in the charge is not a party to such an agreement, the agreement shall not extinguish or in any way prejudice the rights of such person to proceed in court under section 706(f)(1) of Title VII.

§ 1601.25 Failure of conciliation; notice.

Where the Commission is unable to obtain voluntary compliance as provided by Title VII and it determines that further efforts to do so would be futile or nonproductive, it shall, through the appropriate District Director, the Director of the Office of Compliance Programs, or their designated representatives, so notify the respondent in writing.

§ 1601.26 Confidentiality of endeavors.

(a) Nothing that is said or done during and as part of the informal endeavors of the Commission to eliminate unlawful employment practices by informal methods of conference, conciliation, and persuasion may be made a matter of public information by the Commission, its officers or employees, or used as evidence in a subsequent proceeding without the written consent of the parties concerned. This provision does not apply to such disclosures to the representatives of Federal, State or local agencies as may be appropriate or necessary to the carrying out of the Commission's functions under Titile VII: *Provided however*, That the Commission may refuse to make disclosures to any such agency which does not maintain the confidentiality of such endeavors in accord with this section or in any circumstances where the disclosures will not serve the purposes of the effective enforcement of Title VII.

(b) Factual information obtained by the Commission during such informal endeavors, if such information is otherwise obtainable by the Commission under section 709 of Title VII, for disclosure purposes will be considered by the Commission as obtained during the investigatory process.

Procedure Concerning the Institution of Civil Actions

§ 1601.27 Civil actions by the Commission.

The Commission may bring a civil action against any respondent named in a charge not a government, governmental agency or political subdivision, after thirty (30) days from the date of the filing of a charge with the Commission unless a conciliation agreement acceptable to the Commission has been secured: *Provided, however*, That the Commission may seek preliminary or temporary relief pursuant to section 706(f)(2) of Title VII, according to the procedures set forth in § 1601.23 hereof, at any time.

§ 1601.28 Notice of right to sue: Procedure and authority.

(a) Issuance of notice of right to sue upon request. (1) When a person claiming to be aggrieved requests, in writing, that a notice of right to sue be issued and the charge to which the request relates is filed against a respondent other than a government, governmental agency or political subdivision, the Commission shall promptly issue such notice as described in § 1601.28(e) to all parties, at any time after the expiration of one hundred eighty (180) days from the date of filing of the charge with the Commission, or in the case of a Commissioner charge 180 days after the filing of the charge or 180 days after the expiration of any period of rerefence under Section 706(d) of Title VII as appropriate.

(2) When a person claiming to be aggrieved requests, in writing, that a notice of right to sue be issued, and the charge to which the request relates is filed against a respondent other than a government, governmental agency or political subdivision, the Commission may issue such notice as described in § 1601.28(e) with copies to all parties, at any time prior to the expiration of 180 days from the date of filing the charge with the Commission: *Provided*, That the District Director or the Director of the Office of Compliance Programs has determined that it is probable that the Commission will be unable to complete its administrative processing of the charge within 180 days from the filing of the charge and has attached a written certificate to that effect.

(3) Issuance of a notice of right to sue shall terminate further processing of any charge not a Commissioner charge unless the Director of the Office of Compliance Programs, the appropriate District Director, or the General Counsel, determines at that time or at a later time that it would effectuate the purposes of Title VII to further process the charge. Issuance of a notice of right to sue shall not terminate the processing of a Commissioner charge.

(4) The issuance of a notice of right to sue does not preclude the Commission from offering such assistance to a person issued such notice as the Commission deems necessary or appropriate.

(b) Issuance of notice of right to sue following Commission disposition of a charge. (1) Where the Commission has found reasonable cause to believe that the Act has been violated, has been unable to obtain voluntary compliance with Title VII, and where the Commission has decided not to bring a civil action against the respondent, it will issue a notice of right to sue on the charge as described in § 1601.28(e) to:

(i) The person claiming to be aggrieved, or,

(ii) In the case of a Commissioner charge, to any member of the class who is named in the charge, identified by the Commissioner in a third-party certificate, or otherwise identified by the Commission as a member of the class,

and provide a copy thereof to all parties.

(2) Where the Commission has dismissed a charge pursuant to § 1601.19, it shall issue a notice of right to sue as described in § 1601.28(e) to:

(i) The person claiming to be aggrieved, or,

(ii) In the case of a Commissioner charge, to any member of the class who is named in the charge, identified by the Commissioner in a third-party certificate, or otherwise identified by the Commission as a member of the class,

and provide a copy thereof to all parties.

(3) The issuance of a notice of right to sue does not preclude the Commission from offering such assistance to a person issued such notice as the Commission deems necessary or appropriate.

(c) The Commission hereby delegates authority to District Directors and the Director of the Office of Compliance Programs to issue notices of right to sue, in accordance with this section, on behalf of the Commission.[1]

(d) Notices of right to sue for charges against Governmental respondents. Requests for notices of right to sue in cases where the respondent is a government, governmental agency, or a political subdivision thereof, shall be referred to the Attorney General, who has the authority to issue such notices.

(e) Content of notice of right to sue. The notice of right to sue shall include:

(1) Authorization to the aggrieved person to bring a civil action pursuant to section 706(f)(1) of the Act within 90 days from receipt of such authorization;

(2) Advice concerning the institution of such civil action by the person claiming to be aggrieved, where appropriate;

(3) A copy of the charge and a copy of the Commission's decision, determination, or dismissal, where appropriate.

§ 1601.29 Referral to the Attorney General.

If the Commission is unable to obtain voluntary compliance in a charge involving a government, governmental agency or political subdivision, it shall inform the Attorney General of the appropriate facts in the case with recommendations for the institution of a civil action by him or her against such respondent or for intervention by him or her in a civil action previously instituted by the person claiming to be aggrieved.

Subpart C—Notices to Employees, Applicants for Employment and Union Members

§ 1601.30 Notices to be posted.

(a) Every employer, employment agency, labor organization, and joint labor-management committee controlling an apprenticeship or other training program, as the case may be, shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment, members, and trainees, are customarily posted the following notice:

Equal Employment Opportunity is the Law

Discrimination is prohibited

By the Civil Rights Act of 1964, as amended, and by Executive Order Numbers 11246 and 11375.

Title VII of the Civil Rights Act of 1964, as amended, administered by the Equal Employment Opportunity Commission prohibits discrimination because of Race, Color, Religion, Sex, or National Origin, by employers with 15 or more employees, by Labor Organizations having a hiring hall or 15 or more members, by Employment Agencies, and by Joint Labor-Management Committees for Apprenticeship or Training

Any person who believes he or she has been discriminated against should contact:

The Equal Employment Opportunity Commission, 2401 E Street N.W., Washington, D.C. 20506 or any of its district offices.

Executive Order Numbers 11246 and 11375 administered by the Office of Federal Contract Compliance Programs prohibits discrimination because of Race, Color, Religion, Sex or National Origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment by all Federal Government Contractors and Subcontractors, and by contractors and subcontractors performing work under a Federally assisted construction contract regardless of the number of employees in either case.

Any person who believes he or she has been discriminated against should contact:

The Office of Federal Contract Compliance Programs, U.S. Department of Labor, Washington, D.C. 21210.

(b) Copies of such notice may be obtained on request from the Commission.

(c) Section 711(b) of Title VII makes failure to comply with this section punishable by a fine of not more than $100 for each separate offense.

Subpart D—Interpretations and Opinions by the Commission

§ 1601.31 Request for interpretation or opinion.

Any interested person desiring a written interpretation or opinion from the Commission may make a request therefor. However, issuance of such interpretations or opinions is discretionary.

§ 1601.32 Contents of request: where to file.

A request for an "opinion letter" shall be in writing, signed by the person making the request, addressed to the Chairman, Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C., 20506, and shall contain:

(a) The names and addresses of the person making the request and of other interested persons.

(b) A statement of all known relevant facts.

(c) A statement of reasons why the interpretation or opinion should be issued.

§ 1601.33 Issuance of interpretation or opinion.

Only (a) a letter entitled "opinion letter" and signed by the General Counsel on behalf of the Commission or (b) matter published and specifically designated as such in the Federal Register may be relied upon as "written interpretation or opinion of the Commission" within the meaning of section 713 of Title VII

Subpart E—Construction of Rules

§ 1601.34 Rules to be liberally construed.

These rules and regulations shall be liberally construed to effectuate the purpose and provisions of Title VII.

Subpart F—Issuance, Amendment, or Repeal of Rules

§ 1601.35 Petitions.

Any interested person may petition the Commission, in writing, for the issuance, amendment, or repeal of a rule or regulation. Such petition shall be

[1] *Formal Ratification*—Notice is hereby given that the EEOC at a Commission meeting on March 12, 1974, formally ratified the acts of the District Directors of EEOC District Offices in issuing notices of right to sue pursuant to Commission practice instituted on October 15, 1969, and continued through March 18, 1974. 39 FR 10178 (March 18 1974).

V 42161 AUG 19 77 UM

filed with the Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C. 20506, and shall state the rule or regulation proposed to be issued, amended, or repealed, together with a statement of grounds in support of such petition.

§ 1601.36 Action on petition.

Upon the filing of such petition, the Commission shall consider the same and may thereupon either grant or deny the petition in whole or in part, conduct an appropriate proceeding thereon, or make other disposition of the petition. Should the petition be denied in whole or in part, prompt notice shall be given of the denial, accompanied by a simple statement of the grounds unless the denial be self-explanatory:

Subpart G—Case Processing Under Section 707 of Title VII

§ 1601.50 Purpose.

The General Counsel shall process charges designated for processing under the Commission's authority as set forth in Section 707 of the Act in accordance with this subpart. The provisions of this subpart shall not apply when such charges are processed under Subpart B of this part.

§ 1601.51 Delegation of authority.

The General Counsel is hereby delegated authority to give notice of and to defer charges to State and local 706 Agencies as defined in § 1601.3, to give notice of charges to respondents, to investigate charges, to sign and issue subpoenas, and to conciliate charges of employment discrimination.

§ 1601.52 Initiation of Section 707 charge.

Any member of the Commission may designate a charge for Section 707 processing under this subpart. Any related charge shall be processed under this subpart if the General Counsel determines that it should be consolidated with the charge designated for Section 707 processing by a member of the Commission.

§ 1601.53 Service of notice of charge.

Within 10 days of the filing of a charge, the General Counsel shall furnish the respondent with a notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) by mail or in person. The General Counsel need not furnish such notice if, prior to the designation of the charge for Section 707 processing, the notice has been furnished pursuant to § 1601.14.

§ 1601.54 Deferral.

(a) Where the alleged unlawful employment practice occurs in a State or political subdivision of a State which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local agency to grant or seek relief from such practice (or to institute criminal proceedings), the General Counsel shall notify, on behalf of the Commission, the appropriate State or local 706 Agency, as defined in § 1601.3, before taking any action with respect to a Commissioner charge.

(b) The General Counsel, on behalf of the Commission, shall not defer such Commissioner charge unless the State or political subdivision notified in paragraph (a) of this section within 10 days of receipt of such notice requests submission of the charge to its jurisdiction.

(c) Where deferral is made by the General Counsel in paragraph (b) of this section, the deferral shall be for no less than 60 days, unless a shorter period is requested.

(d) Charges filed by individuals shall be deferred pursuant to the provisions of § 1601.13, except that they shall be deferred by the General Counsel.

§ 1601.55 Investigation.

The General Counsel shall investigate any charge designated for Section 707 processing or any charges consolidated with that charge pursuant to § 1601.52.

§ 1601.56 Issuance of subpoenas; petitions to revoke subpoenas; enforcement of subpoenas.

(a) To effectuate the purposes of Title VII the General Counsel of the Commission shall have the authority to sign and issue a subpoena requiring:

(1) The attendance and testimony of witnesses;

(2) The production of evidence including, but not limited to books, records, correspondence, or documents, in the possession or under the control of the person subpoenaed; and

(3) Access to evidence for the purposes of examination and the right to copy.

The subpoena shall state the name and address of the issuer; and identify the person or evidence subpoenaed, and the person to whom and the place, date, and time at which it is returnable or the nature of the evidence to be examined or copied, or the date and time when access is requested. A subpoena may be returnable to any attorney designated in the subpoena. The General Counsel shall not issue a subpoena upon the request of a person filing a charge, a person on whose behalf a charge was filed or a respondent.

(b) Any person served with a subpoena who intends not to comply with the subpoena shall, within five days (excluding Saturdays, Sundays and Federal legal holidays) of the service of the subpoena, petition the Commission in writing to revoke or modify the subpoena. The petition shall be served on the Director of the Office of Compliance Programs by mail at the Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, D.C. 20506, and a copy shall be served on the Commission attorney to whom the subpoena is returnable. The petition shall separately identify each portion of the subpoena with which the petitioner does not intend to comply and shall state, with respect to each portion, the grounds upon which petitioner relies. A copy of the subpoena shall be attached to the petition and shall be designated "Attachment A." Within eight days of receipt, or as soon thereafter as practicable, the Commission shall pass on the petition and shall serve a copy of its determination on the petitioner. For the purposes of this section, service shall be made and proof thereof established pursuant to Section 11(4) of the National Labor Relations Act, as amended, 29 U.S.C. Section 161(4), as made applicable to the proceeding hereunder by Section 710 of Title VII, 42 U.S.C. (Supp. II) 2000e9.

(c) If any person fails to comply with a subpoena, the General Counsel may institute enforcement proceedings in the appropriate district court pursuant to Section 11(2) of the National Labor Relations Act, as amended, 29 U.S.C. 161(2).

(d) Witnesses who are subpoenaed pursuant to Section 1601.56(a) shall be entitled to the same fees and mileage that are paid witnesses in the courts of the United States.

§ 1601.57 Commission reasonable cause finding.

Upon completion of the investigation, the Commission shall determine whether there exists reasonable cause to believe that the respondent is engaged in a pattern or practice of unlawful discrimination within the meaning of section 707 (a) of Title VII. A finding of no reasonable cause shall constitute dismissal of the charge.

§ 1601.58 Voluntary compliance; settlements; Commission authority to file suit.

A finding of reasonable cause by the Commission shall be deemed to authorize the General Counsel to endeavor to eliminate the alleged unlawful employment practices by informal methods of conference, conciliation and persuasion. Should such endeavors fail to produce a conciliation agreement satisfactory to the General Counsel, the General Counsel may commence litigation upon approval by the Commisison.

§ 1601.59 Notice to persons claiming to be aggrieved and persons filing charges on behalf of such persons.

In any charge designated for processing under this subpart, the General Counsel shall issue the notice as required by § 1601.28.

Subpart H—706 Agency Designation Procedures

§ 1601.70 706 Agency Designation.

(a) Because of the large number of State and local fair employment practice agencies, only those agencies which notify the Commission of their qualifications under section 706(c) of Title VII and this section and request designation as "706 Agencies" or "Notice Agencies" or both will be eligible for such designation. Such notification must be submitted by written request to the Director of the Office of Compliance Programs. The request shall include the following materials and information:

(1) A copy of the agency's fair employment practices law and any rules, regulations and guidelines of general interpretation issued pursuant thereto.

(2) A chart of the organization of the agency responsible for administering and enforcing said law.

(3) The amount of funds made available to or allocated by the agency for fair employment purposes.

(4) The identity and telephone number of the agency attorney whom the Commission may contact in reference to any legal questions that may arise in the process of its review of the agency's application.

(5) A statement certifying the following:

(i) That the State or political subdivision has a fair employment practice law;

(ii) That such law authorizes the applicant agency to grant or seek relief from employment practices found to be illegal under such law or that it authorizes the agency to institute criminal proceedings; and

(iii) That such agency has been established and is operational and processing charges filed under such law.

(b) Where both State and local 706 Agencies exist, the Commission reserves the right to defer to the State 706 Agency only. However, if the Commission determines that it would best serve the purposes of the Act, it may defer to either or both State and local 706 Agencies.

(c) The continued designation of a 706 Agency for certain bases of discrimination will be dependent upon the 706 Agency's continuing operation and ability to grant or seek relief or to institute criminal proceedings with respect to those bases of discrimination.

§ 1601.71 Commission determinations on 706 agency applications.

The Commission, after examining the materials and application required in § 1601.70(a) and after applying criteria outlined in section 706(c) of Title VII, shall make a determination.

(1) If the Commission determines that an agency shall be designated as a 706 Agency, it shall notify the agency that it proposes to issue such designation. Such proposed designation shall be published in the FEDERAL REGISTER and shall provide any person or organization not less than 15 days in which to file written comments with the Commission. If after evaluating any comments so received, the Commission is still of the opinion that issuance of the proposed designation as published in the FEDERAL REGISTER is appropriate, it shall effect such designation by issuance and publication of an amendment to § 1601.74. Thereafter, the procedure in § 1601.13(c) and § 1601.13(f) shall be followed for charges in the jurisdiction of the 706 Agency, except as modified by agreement pursuant to § 1601.13(d).

(2) If the Commission determines that any agency shall not be designated as a 706 Agency, it shall notify the applicant agency of its decision and such notice shall provide the reason(s) why it proposes not to designate the agency and shall grant it not less than 15 days to request a conference concerning the matter in accordance with § 1601.73.

(3) Where the Commission determines that a State or local agency does not come within the definition of a 706 Agency for purposes of a particular basis of discrimination or where the agency applies for designation as a Notice Agency, the Commission shall notify that agency of the filing of charges for which the agency is not a 706 Agency. For such purposes the State or local agency will be deemed a Notice Agency.

§ 1601.72 706 Agency performance standards.

(a) The continued designation of a 706 Agency will be dependent upon the 706 Agency's willingness and ability to administer its law in such a manner that, in fact, the practices prohibited are comparable in scope to those practices prohibited under Federal law and satisfy the performance standards set forth below:

(1) In all cases where the 706 Agency finds cause to credit the allegations of a charge, it shall effectively eliminate the discrimination and provide for full compensatory and prospective relief consistent with applicable Federal law, except where State or local law authorizes no relief except to allow the agency to institute criminal proceedings. Where State or local law does no more than authorize the agency to institute criminal proceedings, the agency must utilize its authority effectively to eliminate the discrimination.

(2) In all cases where the 706 Agency enters into a conciliation agreement, consent order, or order after public hearing, it shall include in any such agreement or order mechanisms for monitoring compliance with the terms thereof and mechanisms for enforcing compliance in the event any terms thereof are not implemented.

(b) The Commission may upon its own motion, withdraw the designation as a 706 Agency previously issued to any agency based upon:

(1) Reconsideration of the request and materials and the information referenced in § 1601.70; or,

(2) consideration of the agency's performance as set forth in paragraph (a) of this section.

Whenever the Commission has reason to believe that such designation as a 706 Agency no longer serves the interest of effective enforcement of Title VII, it may, after following the procedures below, including the opportunity for a conference provided for in § 1601.73, withdraw such designation. Before taking such action it shall notify the 706 Agency of its proposed withdrawal of such designation. Such notification shall set forth the reasons for the proposed withdrawal and provide the agency not less than 15 days to submit data, views, and arguments in opposition and to request a conference in accordance with § 1601.73. Such proposed withdrawal of designation shall also be published in the FEDERAL REGISTER and shall provide any persons or organizations who take an interest at least 15 days in which to file written comments on the proposal with the Commission and to request a conference. If a request for a conference in accordance with § 1601.73 is not received within the time period provided, the Commission shall evaluate any arguments or comments it has received from the agency and from any persons and organizations who take an interest. If, after such evaluation, the Commission still is of the opinion that designation should be withdrawn because it has determined that such designation no longer serves the interest of effective enforcement of Title VII, the Commission shall so notify the Agency. The withdrawal shall be effected by the issuance and publication of an amendment to § 1601.74.

§ 1601.73 706 Agency Conference.

In order to provide a State or local agency full opportunity to present its views whenever, pursuant to § 1601.71 or § 1601.72(b), a conference is requested within the time allowed by said section for making such request, the Executive Director or his or her designee shall hold such a conference. Said conference official shall issue a pre-conference order. The order shall indicate the issues to be resolved and any initial procedural instructions which might be appropriate for the particular conference. It shall fix the date, time, and place of the conference. The date shall not be less than 20 days after the date of the order. The date and place shall be subject to change for good cause.

(1) A copy of such pre-conference order shall be served on the State or local agency. After service of the order or of a notice designating a conference officer, and until such officer submits his or her recommended determination, all communications relating to the subject matter of the conference shall be addressed to him or her. The conference officer shall have authority to regulate the course and conduct of the conference. A transcript shall be made of the proceedings at the conference. The transcript and all comments and petitions relating to the proceedings shall be made available for inspection by interested persons.

(2) The conference officer shall prepare his or her proposed findings and recommended determination, a copy of which shall be served on the agency. Within 20 days after such service the agency may file written exceptions. After the expiration of the period for filing exceptions, the conference officer shall certify the entire record, including his or her proposed findings, and recommended determination and exceptions thereto to the Commission, which shall review the record and issue a final determination.

(3) Such determination shall become effective by the issuance and publication of an amendment to § 1601.74.

§ 1601.74 Designated 706 and notice agencies.

(a) The designated 706 Agencies are:

Alaska Commission for Human Rights.
Alexandria Human Rights Office.
Allentown Human Relations Commission.
Arizona Civil Rights Division.

V 42161 AUG 19 77 UM V

Baltimore Community Relations Commission.
Bloomington Human Rights Commission.
California Fair Employment Practices Commission.
Charleston Human Rights Commission.
Colorado Civil Rights Commission.
Connecticut Commission on Human Rights and Opportunities.
Dade County Fair Housing and Employment Commission.
Delaware Department of Labor.
District of Columbia Office of Human Rights
East Chicago Human Relations Commission.
Evansville (Indiana) Human Relations Commission.
Fairfax County Human Rights Commission.
Fort Wayne (Indiana) Metropolitan Human Relations Commission.
Fort Worth (Texas) Human Relations Commission.
Gary Human Relations Commission.
Howard County (Maryland) Human Rights Commission.
Hawaii Department of Labor and Industrial Relations.
Idaho Commission on Human Rights.
Illinois Fair Employment Practices Commission.
Indiana Civil Rights Commission.
Iowa Commission on Civil Rights.
Kansas Commission on Civil Rights.
Kentucky Commission on Human Rights.
Lexington-Fayette Urban County Human Rights Commission.
Madison (Wisconsin) Equal Opportunities Commission.
Maine Human Relations Commission.
Maryland Commission on Human Relations.
Massachusetts Commission Against Discrimination.
Michigan Civil Rights Commission.
Minneapolis Department of Civil Rights.
Minnesota Department of Human Rights.
Missouri Commission on Human Rights.
Montana Commission for Human Rights.
Montgomery County Human Relations Commission.
Nebraska Equal Opportunity Commission.
Nevada Commission on Equal Rights of Citizens
New Hampshire Commission for Human Rights.
New Jersey Division on Civil Rights, Department of Law and Public Safety.
New York City Commission on Human Rights.
New York State Division of Human Rights.
Ohio Civil Rights Commission.
Oklahoma Human Rights Commission.
Omaha Human Relations Department.
Oregon Bureau of Labor.
Orlando (Florida) Human Relations Department.
Pennsylvania Human Relations Commission.
Philadelphia Commission on Human Relations.
Pittsburgh Commission on Human Relations.
Prince Georges County (Maryland) Human Relations Commission.
Rhode Island Commission for Human Rights.
Rockville (Maryland) Human Rights Commission.
St. Paul Department of Human Rights.
Seattle Human Rights Commission.
Sioux Falls (South Dakota) Human Relations Commission.
South Bend (Indiana) Human Rights Commission.
South Carolina Human Affairs Commission.
South Dakota Human Relations Commission.
Springfield (Ohio) Human Relations Department.
Tacoma Human Rights Commission.
Utah Industrial Commission.
Vermont Attorney General's Office, Civil Rights Division.
Virgin Island Department of Labor.
Washington State Human Rights Commission.
West Virginia Human Rights Commission.
Wheeling Human Rights Commission.
Wichita Commission on Civil Rights.
Wisconsin Equal Rights Division, Department of Industry, Labor and Human Relations.
Wyoming Fair Employment Practices Commission.

(b) The designated Notice Agencies are:

Arkansas Governor's Committee on Human Resources.
Florida Commission on Human Relations.
Georgia Governor's Council on Human Relations.
Montana Department of Labor and Industry.
North Dakota Commission on Labor.
Ohio Director of Industrial Relations.
Raleigh (North Carolina) Community Relations Commission.

APPENDIX A.—RESOLUTION ADOPTED AT COMMISSION MEETING OF JULY 20, 1977

CHANGES IN THE PROCEDURES, PRACTICES AND ORGANIZATION OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

I. Purpose

The Commission reaffirms its commitment to the full, fair and effective implementation of rights created by Congress in Title VII of the Civil Rights of 1964 and expanded in the Equal Employment Opportunity Act of 1972. The broad and sympathetic interpretation of these rights by the courts and by the Commission, was ratified by the Congress in 1972 when it gave additional enforcement powers to the Commission. Experience dictates that the practices and procedures of the Commission be revised to improve our capacity to carry out the mission of the agency.

Accordingly, the Commission hereby revises its overall programs, and authorizes the necessary modifications of practices, procedures and organization as set forth below.

II. "Model Office" Approach Implementation

The program outlined below is to be initiated through a "model office" approach. Selected offices, not to exceed five in the first instance, shall be chosen to be organized in accordance with the plan submitted to the Commission on July 20, 1977. The experience gained in these model offices will be applied to successive offices until the entire field structure of the Commission has been shaped in accordance with the principles outlined below. The existing regional office and litigation center structure will continue until a phasing plan has been approved.

III. Modification of Charge-Processing Practices and Procedures to Establish a National Uniform Charge-Processing System

(1) *Rapid Charge-Processing.* A comprehensive intake and counseling procedure, face-to-face fact-finding conferences, and emphasis on early settlement procedures shall be utilized in the processing of individual charges.

(2) *Systematic Approach to Backlog.* A systematic program to evaluate, stabilize and reduce the backlog shall be implemented by specialized personnel in every district office on a continuing basis. The program shall include management review of all cases where the investigation has not been completed, charging party contact, consolidation of charges, and an attempt to settle every case.

(3) *Reasonable Cause Decision to be a Litigation Decision.* The reasonable cause decision shall constitute a determination that the claim has sufficient merit to warrant litigation if the matter is not thereafter conciliated by the Commission or the charging Party. Decisions authorizing litigation will be made by the Commission.

(4) *Integration of Compliance and Litigation Functions.* District offices shall report directly to headquarters. Litigation shall normally be conducted in the district office in which the charge was filed. General Counsel and administrative functions shall be organized in accordance with the chart dated July 20, 1977. This shall be subject to Paragraph II.

(5) *Systemic Discrimination Program.* A Systemic Discrimination staff shall be established in each district office and shall function in accordance with a Systemic Discrimination Program developed in headquarters. This program shall be based on information contained in EEO reports and other information available, and shall be designed to identify and correct employment practices which have excluded or restricted employment opportunities of minorities and women.

IV. Training Programs

Training programs to implement the new system shall be developed and managed centrally in order to insure uniform standards.

V. Management Accountability

The Performance Management System shall be redesigned to measure and monitor the new procedures and to evaluate staff performance. This new management system shall be applied to all operations of the Commission.

VI. Affirmative Implementation of Title VII

A headquarters unit shall be established with the function of aiding the Commission in setting policies, issuing guidelines, regulations, other general rulings, holding hearings and otherwise seeking to implement Title VII through the affirmative use of administrative process.

VII. Implementation Procedure

The Commission hereby authorizes the implementation of the above principles. The Chair shall report monthly on the progress of implementation. Changes in regulations or manuals necessary to the implementation of the principles shall be submitted to the Commission for its approval.

APPENDIX B.—STATEMENT OF ELEANOR HOLMES NORTON, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, WEDNESDAY, JULY 27, 1977

Mr. Chairman, distinguished members of the Committee, I am pleased to be here today to present to you the first results of our efforts to reshape the Equal Employment Opportunity Commission. I shall be presenting a comprehensive plan—much of it already being implemented—that can only be characterized as the total redesign of the Commission and its functions. It represents the most extensive overhaul of the agency structure and processes since the establishment of the Commission in 1965. Among its purposes are to integrate the litigation powers Congress gave the Commission in 1972 with the pre-existing investigative and conciliation functions of the agency to overcome a much criticized dual agency structure where investigators work at cross purposes with lawyers instead of in partnership to fruitfully develop cases.

But I stress that the plan is much more than a reorganization or structural redesign, as important as that is. Its chief purpose is functional: to improve the enforcement of Title VII. For it is the operations of the Commission where the most serious problems exist—in case processing, litigation of significant cases, internal management and information systems, and the like. Thus, structure has been addressed only as a means of improving specific functions.

I am pleased to announce that this plan was drawn with the explicit cooperation of the sitting commissioners, Vice Chair Ethel Bent Walsh, Commissioner Daniel Leach, and the General Counsel Abner Sibal, utilizing their staffs alongside my own. The Commission unanimously approved the plan last Wednesday. The development and approval of such fundamental changes in so short a time could simply not have been accomplished otherwise. I have been at EEOC only six weeks. Only the most disciplined self-analysis drawing all parties into the process could have produced this result in that brief time. Thus, in this first important effort of my term, I believe I have reversed the long-existing situation where commissioners were inadequately informed and utilized and insufficiently involved in policy-making, a result which in the past contributed to internal conflict that has taken its toll at the agency. We believe the intensive cooperation of Vice Chair Walsh, Commissioner Leach, and General Counsel Sibal in producing this plan in itself represents a significant accomplishment. I intend to pursue reform of the agency on each and every issue in this collegial fashion.

With your permission, I should like to insert into your record a copy of the resolutions unanimously adopted by the Commission on July 20, 1977, setting the reform of the Commission in motion. The changes which we have adopted and are now implementing include: [1]

(1) Introduction of a new Rapid Case Processing System with emphasis on expanded intake procedures, face-to-face fact-finding and settlement.

(2) A separate backlog case processing system to give systematic and priority attention to presently back-logged cases.

(3) A "direct service" consumer oriented structure patterned after the National Labor Relations Board, introduced through a model office approach in three to five locations now being selected.

(4) Integration of litigation, investigation and conciliation functions.

(5) Establishment of a program to deal with systemic discrimination, addressing first those whose actions have demonstrated clear disregard for the purpose of Title VII.

(6) A new Program Office to place the Commission in an affirmative posture for developing Title VII through guidelines, interpretations, and other rulings.

(7) A new management accountability and information system to insure that the above programs take hold and are implemented.

(8) A national training program and standards to assure that the staff will be able to effectively administer the new systems.

This set of changes was hammered out in intensive and detailed discussions during the last six weeks, but they did not spring full blown in that short period of time. Rather they build upon studies made by the staff of this Committee, by the General Accounting Office, by the Commission on Civil Rights and by other analysts over a number of years, reflecting a growing concern over the quality of the implementation of Title VII. Thus we are able to move confidently ahead knowing that these first steps follow the direction that most studies of the Commission agree are appropriate to improve the performance of the agency.

I would like to make one important point before I proceed. We are deeply concerned to mitigate problems that change will bring to our employees. The installation of new systems will inevitably involve the unfamiliar and some dislocation among staff can be expected. We have already had, and will continue to have, appropriate discussions with the representatives of the employees concerning these matters. I come to the EEOC with a record of deep respect for the rights of employees and am confident that the necessary changes can be installed with the cooperation and understanding of the present staff. This is especially important in an agency which in the past has had serious personnel problems We will do everything possible to minimize hardship on our employees that may come out of the effort to better serve the public.

I would like to discuss the principles and the basic plan which we have adopted to reform Commission activities.

(1) *Rapid Charge Processing System.* The first principle that has received priority is the need for expedited charge resolution. I am determined that we will no longer deny justice by delaying it. We are therefore instituting a rapid charge processing system to handle new complaints as they come in.

This will involve a much more detailed pre-charge counseling and interviewing process than took place under the old system. There has been inadequate analysis of the problems of complainants at the time they seek aid of the EEOC. As a consequence we take many cases which are clearly outside our jurisdiction, or where detailed inquiry of the complainant would establish that he or she did not have a viable Title VII claim. For example, a Black person was rejected on the basis of his resume alone but the resume provided no direct or indirect indication of race through name, address, schools, work history, or other information. Intake officers will be trained to make meaningful referrals elsewhere to parties whose claims should not become a part of our caseload.

At the same time we fail to seek emergency relief for those complainants who may be entitled to it. The old system makes it difficult to secure temporary restraining orders in situations where an employee is about to be fired, or to be disciplined for filing a charge, or where acts of overt discrimination are continuing, or in similar situations. The new system will correct both of these problems.

The detailed intake interview with the complainant will enable the drafting of a precise charge and the preparation of a request for information from the respondent directed to the specific issues in the case. This interrogatory will be sent to the respondent along with a copy of the charge within 10 days. The respondent will be on notice as to what precisely is involved in the charge of discrimination.

In the history of the Commission, there have been periods when charges were not served in a timely manner upon respondents. Originally the practice of serving the charge only when the investigator arrived at the respondent's establishment was developed for fear of possible retaliation against those who filed charges with the Commission. Very few episodes of retaliation under Title VII have occurred. I do not believe that the delayed service of charge is any longer appropriate. Congress in 1972 indicated that employers should receive a notice of the charge within ten days of its filing. I now believe that it is appropriate to serve the charge itself as part of our rapid processing system and intend to so recommend to the Commission. Our rapid charge processing system will be possible only if respondents are promptly served with the complaint. When a respondent becomes aware that a charge has been filed, it will have the option to secure a just resolution of the grievance without further processing. The respondent will be encouraged to settle early in the process.

The importance of encouraging settlement of Title VII claims cannot be overstated. The Congressional intent to encourage settlement is clear in the statutory language mandating conciliation. But the practical imperative is even more demanding: With a filing rate this year projected at more than 80,000 charges, no formal process can avoid being swamped. Therefore if the system is to function, it must use resolution techniques which do not require exhausting the entire process. Swamping of the process harms complainants and respondents alike and threatens the very existence of charge-processing as a system.

Thus we must vigorously pursue settlement as the primary method of administrative enforcement of the law and as the only technique which can secure a remedy for a significant number of complainants in a timely fashion. All of our procedures are being shaped with the objective of encouraging prompt and fair conciliations.

We believe that early settlement practice will produce fair results for individual complainants. During my tenure at the New York City Commission on Human Rights, almost 50% of complainants chose to settle in the first three months after the case was filed. Many of these cases could not have survived the rigor of the more formal parts of the case process and would have gotten no remedy at all if settlement had not been introduced as a possibility early and aging of the case foreclosed. At the same time, we will continue to recognize the individual right to pursue Title VII claims through litigation.

If initial attempts at settlement fail, the case moves to the next step in the process: a fact-finding conference. This is a new investigative technique for the Commission. It has been used to good effect in New York City and some other Sec. 706 deferral agencies. We believe this new technique will: (1) Substantially reduce the time it takes to investigate a case; (2) improve the quality of the information which the Commission obtains; and (3) enhance the possibility of settlement. Prior to the conference, information which has been requested as a result of the initial intake interview with the charging party is supplied to an investigator by the respondent. The investigator presides at the fact-finding conference. Both charging party and respondent are present. The investigator questions both parties to develop a clear understanding of the factual background and the nature of the particular dispute. At the same time, the fact-finding conference provides a way for the parties to develop a deeper understanding of each other's position, which in turn provides a realistic atmosphere conducive to serious settlement discussions. The settlement effort may be concluded at the fact-finding conference, or within a short time thereafter. If settlement is not achieved the facts developed at the conference may be sufficient to allow an early decision that the case does not have merit or that reasonable cause should be found.

However, if the facts developed through the fact-finding conference do not clearly establish that there is "no cause" or that the respondent has violated the statute, further in-depth investigation will take place. The familiar techniques of interrogatories, field visits, witness interviews and document examination will be utilized. But the time required for this investigation will be substantially reduced because of information de-

[1] While the general outline of the programs discussed here have been submitted to the Commission, detailed regulations and manual changes including some of the details discussed in this testimony will be submitted for specific approval pursuant to Paragraph VI of the Resolution of July 20, 1977.

V 42 161 AUG 19 77 UM V

veloped and issues defined at the fact-finding conference and at intake.

There is another matter which I wish to touch upon in connection with the new method of taking charges and conducting the investigation. In the past the Commission has tended to construe charges of discrimination broadly and has sometimes encouraged complainants to file charges that contain broad and general allegations of discrimination. The purpose of the Commission in encouraging and accepting such charges was clearly laudatory. It was to use the individual charges to secure evidence concerning possible discrimination against any employee. This was a necessary approach because the Commission did not have any other effective program to deal with systemic discrimination. Under those conditions, the broadening of the charge to deal with discrimination made sense.

History, however, has demonstrated that this approach has had an adverse effect on individual complainants. The broad investigation has turned out to be long and delayed and has contributed substantially to the build-up of aging cases in the backlog. Very few of these cases have resulted in "cause" findings, conciliation agreements, or Commission-initiated litigation. The aging of the case while the broad investigation was conducted has, in turn, made it more difficult to obtain relief for the individuals who initially filed charges.

Thus the effort of the agency to secure justice as quickly as possible to those who sought the aid of the Commission was frustrated by the long and involved investigation. Since many of these investigations did not prove fruitful, the result was that neither the complainant's interest nor the general public interest in eliminating employment discrimination was served.

We will better serve both the complainant's interest and the larger public interest in eliminating discrimination by separating insofar as possible the processing of the individual complaint and the elimination of systemic discrimination. Thus we will construe complaints as relating to the harm that the individual has suffered. We will investigate that harm. In that investigation, of course, we will examine the extent to which the employers' restriction or exclusion of minorities or women as a class may have contributed to a particular individual employment decision. However, we will do this by a sharply focused investigation of the general statistics of the employer and the activities in the particular unit in which the discrimination is alleged to have occurred. Thus individuals will no longer be able to automatically invoke a systemic investigation by the Commission. However, individuals or organizations will be able to formally petition for a systemic inquiry. This petition will then be considered by the systemic program, which I will discuss shortly.

We realize that there cannot be a rigid separation of individual and systemic matters and that there will be circumstances in which it is desirable to expand the individual complaint investigation into "like and related" matters and conduct a full scale investigation of the respondent's operations. But this will be done only after a careful analysis and conclusion that such a step would further the overall purposes of Title VII.

This represents an important policy change. By affirmatively developing systemic or class cases we expect to maximize our impact. The Commission has been unable to deploy its resources to target the most serious instances of discrimination. Instead, it has allowed individual complainants to randomly choose targets and issues. This has diverted the use of the Commission's own expertise and policy-making responsibility to affirmatively, rationally, and fairly choose class-action targets. The result has been to dilute the impact of the Commission on discrimination against minorities and women. The decision to separate individual from class claims is therefore an important corrective.

(2) *Backlog Case Processing System.* The next principle that underlies this plan, one that necessarily has high priority, is to systematically reduce the backlog of cases. We will give effective priority treatment on a systematic and continuous basis to the cases that are presently in the system until the inventory is at a reasonable and manageable level. Alongside the rapid charge processing system will be an independently staffed backlog charge processing system. This new system utilizes a positive management approach to the backlog. It involves grouping files by respondent and selecting those with the largest number of charges for first review. A special management review team in each office will oversee the endeavor and will move each case forward with the next steps delineated, staff assignments made and time frames set. After special referral of cases with litigation potential, we will inquire of every charging party concerning his or her desire to proceed with the case. Some charges will be closed at this point. We will then contact by phone or visit every respondent to encourage it to engage in no-fault settlement discussions. If settlement fails, investigative interrogatories will be sent immediately with mandated follow-up to conclude the case as quickly as possible.

These cases will be processed under current Commission policies and procedures except that we will limit the scope of the case to individual matters unless we make a conscious decision that a systemic approach is required. As mentioned earlier, many charging parties whose cases are in the backlog have been denied justice in part by the very breadth of the charges which the Commission itself sometimes had encouraged them to file.

I reemphasize that this approach to the backlog will be continuous and systematic. This distinguishes this effort from the crash programs of the past that temporarily increased productivity by disposing of large numbers of charges. While certain defects in procedures were criticized, those efforts have generally been praised. Unfortunately, many of the sound management innovations were not carried over into permanent streamlining of the Commission's overall processes.

It is important to note that the backlog figure of nearly 130,000 cases is deceptive and misleading. Worse, it is useless for operational and managerial purposes. It appears that EEOC has allowed "backlog", a term meaning old cases, to be used synonymously with "inventory", a reference to all cases received. Cases that were filed years ago and cases that were filed yesterday are reported to the Congress and the public as "backlog". Current subcategories make no sense and do not measure the work of the agency. The Commission is designing a reporting-measurement system which will enable it to know the stage of the charge and how long it has been there as against how long it should be there under management goals and standards for charge processing. The information systems we have found at the Commission must be totally revised to make such information available. For example, charges categorized under "pending assignment" may have been substantially investigated but moved back into the category upon the departure or transfer of the investigator previously handling the case. We are moving to redesign this information system to reflect the location of the cases in the various processes of the agency. We will draw upon the experience of the National Labor Relations Board which uses "time in stage" standards rather than gross numbers. This approach gives precise information on the age of cases rather than lumping all cases together as part of an undifferentiated backlog.

The systematic approach to backlog through a separate charge processing system has several advantages. It allows immediate conversation to a new system with rapid charge processing staff. It assures special and priority treatment of the backlog in a systematic way. It avoids the total absorption of personnel in backlog cases allowing instead for planned allocation of staff among all the priorities of the system.

(3) *Headquarters-to-Field Service Oriented Model Offices.* The third principle which has guided reform is direct service to those who have been discriminated against through a lean rather than a multi-tiered model. This will mean the adoption of direct headquarters-to-field model offices and, I would propose, the eventual elimination of intermediate regional offices and regional litigation centers. In the new model offices, investigators and lawyers will work together, handling cases. We are introducing a new technique, a formal investigator-lawyer conference, to eliminate the much publicized conflict over standards between the legal and investigative staffs.

In adopting a direct service model, we have drawn heavily upon the experience provided by the National Labor Relations Board. The Board has had forty years of experience in complaint processing using a direct headquarters-to-field office system. We intend to move carefully toward such a system because it will involve all staff in service delivery, where the emphasis of our operations must be to meet mounting workload requirements.

Under the present structure cases are litigated from five regional centers while the 32 district offices are supervised by seven regional offices. Thus, there are situations in which the Commission has three separate offices—a district office, a regional office and a regional litigation center in the same city—but they often are not in the same building and too often have little communication. The difficulty of communication created by the fact that litigators are physically separated from investigators means that there is frequently a wide gap between what the investigators secure and what the lawyers require. We believe that the integration of litigation and investigation functions in a single field office will not only enable the more rapid processing of cases but will improve the ability among the staff to achieve effective enforcement.

As we establish this unified field office system we recognize that there will be many problems that cannot be foreseen and we intend to introduce the system very carefully. We will begin in 3 to 5 offices now being selected to test the new process. As we move forward to successive offices we will build on the experience we have gained in instituting the procedures in the first set of offices.

During the period the new structure is being phased in, we will maintain the existing structure to provide continuity of management and case handling to allow adequate planning for reassignment of staff, and to provide advance and adequate training and sufficient time to adapt to the new model.

The designation of the model offices has been put on the Commission agenda for next Tuesday, August 2, 1977.

(4) *Integration of Litigation, Investigation, and Conciliation Functions.* The fourth principle of reform has been that there must be an integration of the investigation and conciliation processes with the power to litigate given to the Commission by Congress in 1972. Virtually all who have studied the Commission's processes have made this recommendation, including this Subcommittee. In the last six weeks we believe we have solved the difficult technical problem of how to accomplish the integration. The integration will take place as Chart A (attached) indicates at the point of the decision that there is reasonable cause to believe that there may be discrimination.

Historically the finding of reasonable cause meant only that there was sufficient evidence to attempt to settle the case. This definition was developed when the Commission first went into operation in 1965. At that time there was a great uncertainty as to the legal concept of discrimination and hence a need for a finding by the Commission before conciliation was attempted. An attempt to settle a case without a reasonable cause finding back in 1965 would have left the parties in confusion as to what the law required. Thus it was appropriate that the standard for reasonable cause be sufficient evidence to warrant settlement efforts.

Today the vast expansion, strength, and definition of the law concerning discrimination and the widespread knowledge of Title VII among those who deal in employment matters mean that we no longer need a reasonable cause decision as a predicate for settlement efforts. The high settlement rate of the New York City Commission, discussed earlier was almost all obtained before the finding stages. It is time EEOC moved to dispose of cases before a finding to get maximum justice for complainants before cases are allowed to deteriorate through aging.

The Commission continued to define reasonable cause to mean that conciliation should be attempted even after Congress gave it the power to litigate in 1972. Since this standard required less evidence than that necessary to go to litigation, few cases in which reasonable cause was found were taken to court. This meant that the Commission did not secure leverage in settlement from the prospect of litigation, and that there was a double standard—one for conciliation and one for litigation.

As we move into our new system we will redefine reasonable cause to mean that the case is worthy of litigation. The attorneys and investigators—now located into the same office—will participate in a litigation-investigation conference before the finding of reasonable cause. With the knowledge that the reasonable cause decision means the case is litigation-worthy, conciliation efforts will be much more successful. Those cases which do not meet the new standard of reasonable cause will be "no cause" and a notice of right-to-sue issued. We will explain that the standard of reasonable cause has been upgraded so as not to disable those whose cases are rejected from having a fair opportunity to litigate if they wish to do so.

Cases in which conciliation has failed may be taken by private attorneys or referred to the General Counsel for recommendation to the Commission for litigation. If the Commission approves the recommendation the case will be sent back to the district office and the litigation will be conducted in that office under the direction of the General Counsel.

There need be no fear that this new and tighter standard of evidence for finding reasonable cause will adversely affect remedies for complainants. Based on actual experience from other agencies, the tightened standard of reasonable cause should (1) Increase the rate of remedies at earlier stages; and (2) increase the likelihood of successful conciliation after the reasonable cause decision. Under our rapid charge processing system, cases will move much more quickly to the reasonable cause stage, and cause may be found in cases which, under the old system, would have been dismissed as stale. Thus I am confident that the Commission will do justice for more people than under the old system.

(5) *Systemic Discrimination Program.* The next principle is the necessity to establish an effective program to attack systemic discrimination. As I stated to the Senate Committee on Human Resources at my confirmation hearing, I am convinced that only by an effective attack on entire systems that discriminate can we have any significant impact on discrimination and ultimately achieve the objectives which Congress established in Title VII. Only an organized program can cope with patterns of employment discrimination. The primary vehicle for our systemic program will be use of Commissioner charges.

I am aware that the filing of a Commissioner's charge alleging discrimination will require considerable time, effort, and expense by respondents. It is only fair that the initiation of these charges of discrimination be organized on a rational basis before the government imposes such costs on respondents. We intend to develop a rational and sensible basis for proceeding on systemic discrimination matters. A first indicator will be a poor statistical profile of minorities and women. The Supreme Court in the Hazelwood School case indicated that, where relevant statistics demonstrate an employer has fallen significantly below comparable employers, there exists a prima facie case of discrimination. This decision provides support for aggressive action to correct discriminatory patterns.

We have already begun an analysis of our own statistical data to identify appropriate subjects for further inquiry. While we will emphasize the statistics, the net judgment as to whether to proceed will be based not only on the statistics but on all other information available to us and to other government agencies, as well as on an analysis of petitions for a systemic inquiry filed by individuals and organizations.

Settlement will be as important in systemic cases as in individual cases. At all stages we will be prepared to settle with respondents with an agreement which ends the past discrimination, to take affirmative action to assure that there will not be discrimination in the future and to provide appropriate compensation for identifiable victims of discrimination. Strict monitoring of agreements and assistance to employers in meeting Commission requirements will be important elements in the program. My experience in New York is an indication of the high impact systemic work can have. Last year in a particularly entrenched economy, the New York City Commission secured new jobs and promotions for women and minorities, of the value of $20 million.

Generally, the systemic program will be developed in headquarters and executed in the district offices except for those matters which transcend district boundaries.

(6) *Affirmative Enforcement of Title VII.* The next principle is that the Commission must make affirmative use of the wide range of administrative powers available to it to enforce Title VII. By advising those subject to the law of our interpretation of it, we hope to reduce dependency on the litigation of individual cases in achieving compliance with Title VII, the slowest and most arduous way to achieve conformity with law. We have already begun this process. Before the Commission secured the power to litigate, it engaged in very effective, creative administrative activities, particularly in issuing guidelines and publishing reasonable cause decisions. In this fashion, the Commission played a major role in developing the law of Title VII. For example, the Commission shaped the interpretation of the "bona fide occupational qualification" exemption and the concept that selection procedures which adversely affect minorities or women were required to be job related.

The Commission will formally establish its activities in the field of interpretations and guidelines, in order to secure wide-scale conformity to Title VII with a minimum of specific individual proceedings. We began this function on July 12, 1977 when we issued our interpretation of the decision of the Supreme Court in *Teamsters* v. *United States* and *Evans* v. *United Airlines*. To assure that this activity continues we will establish a headquarters program to support on an ongoing basis the affirmative enforcement aspects of the administrative process. This program will consider and recommend to the Commission the adoption of interpretations, guidelines and the holding of hearings, as well as other Commission-initiated activities.

(7) *Management Accountability and Information System.* The next underlying principle is the need for sound and careful management in order to balance the three priorities described above—the processing of old cases in the backlog, converting to a new rapid case processing system and developing a systemic program. Balancing these priorities in district offices will require a highly effective management system. That system will be modeled after the system which I installed in New York, whose results were so effective that the New York City Commission on Human Rights became the first agency in city government to win decentralized authority over important personnel and budget decisions. A system which holds managers of all functions at the Commission accountable for their performance will be instituted. The Management System will have four major parts: (a) A prioritized and detailed statement of the agency's missions and program objectives within each mission; (b) a performance and resource plan with objectives and goals jointly developed by line managers and the executive director; (c) a systematic way to identify and correct specific operational deficiencies with deadlines for accomplishment; and (d) a system for anticipating critical issues which must be faced during each quarter, thus avoiding management by crisis. Agency managers will be held accountable for meeting the objectives of the management plan and will be evaluated accordingly.

Our computerized and manual information systems are already being revised to assure that the new case processing system is measured from the first day of implementation. Both management and planning depend on good and timely information. We have found several independent and uncoordinated information systems at the Commission, and this fragmentation makes effective planning and management virtually impossible. We are transforming them into a unified information network so that management and planning can take place effectively. Within this information network we will be able to encompass all the operations of the Commission and of the 706 deferral agencies along with as much information about private Title VII litigation as possible.

(8) *Uniform Staff Training and Standards.* The final principle is that systematic training of staff will be necessary if the reforms I have described are to take hold and prove effective. The Commission resolution of July 20th has centralized in headquarters responsibility for training. This will facilitate the development of uniform and high quality standards of staff performance. Already in progress are ten training modules. These are to be used not only to introduce the new

V 42 161 AUG 19 77 UM

programs, but also to train new personnel who come to the Commission after the new programs are in effect. Thus they will afford an ongoing training capability which the Commission has not had before. They will also be available for use by state and local civil rights agencies. Examples of training modules in preparation include materials to assist lawyers and investigators in working together under the new standard of reasonable cause; to develop investigative skills necessary to conduct a fact-finding conference; and to train personnel for in-depth interviewing of complainants and the drafting of more precise charges as part of the new comprehensive intake procedures.

• • • • •

PROGRESS ON OTHER ISSUES

In addition to fundamental issues of organizational and procedural reform, which I have just discussed, I have also addressed a number of basic issues and operational matters that have long concerned this Committee and the public. I should like briefly to report on progress concerning them.

These issues include the dual set of selection guidelines, the problem of centralized line authority at EEOC, financial responsibility, vacancies and hiring control, grievance procedures, union relationships, state and local agencies, the private bar and the role of other Commissioners.

1. *Selection Guidelines.* First, on the morning I took office on June 6th, I set in motion the process of resolving the separate and competing federal selection guidelines. This most exasperating dilemma had been under negotiation for four years, ending with an impossible situation in which employers are confronted with two sets of standards from the federal government. I am most pleased to report now that there has been excellent cooperation among the Assistant Attorney General for Civil Rights, Drew Days, Civil Service Commissioners Campbell, Poston and Sugarman and the Assistant Secretary of Labor, Don Elisberg; that the staffs of the agencies have been directed to develop unified guidelines; that an informal draft prepared by Justice and EEOC has been developed; and that comments on this draft have served to sharpen and narrow the issues, to the point where I am now hopeful that we will shortly produce draft uniform guidelines for public comment.

2. *Orderly Line of Reporting at EEOC.* Second, we have met the criticism of diffuse authority within EEOC by establishing a reporting line of command directly through my newly appointed Executive Director to me. I moved immediately on arrival to consolidate the fragmentation and the separate and often competing efforts among staff units. In the first week of my administration, headquarters offices were ordered to go through the Executive Director on all matters that were to come before the Commission, and this is being uniformly adhered to. In the second week, line authority was reestablished directly from the regional offices to the office of the Executive Director. Weekly meetings were organized with all office directors to coordinate activities, report on new developments, and review all matters affecting more than one office.

3. *Installation of New Financial System.* Third, I moved to clarify a tangled financial situation and to establish fiscal responsibility. Immediately upon coming to EEOC I found a difference of opinion between the financial office and the Internal Audit unit, on an over-obligation matter that had previously been raised by the General Accounting Office. A special investigation, which I ordered immediately, has now resolved the issue, revealing that there was no over-obligation, but that the former fiscal system was in such poor repair, that it was virtually impossible to make a proper accounting. An improved system, fully accountable had since been developed and we are working on the computer capability to make functional. We have reported fully to the General Accounting Office. A copy of our final report is being made available to this Subcommittee. We are now moving on target toward a completely reliable financial system to be operational by the beginning of the new fiscal year.

4. *Vacancy Rate Corrected.* Fourth, we have corrected the situation in which we were carrying a large number of vacancies without appropriate personnel action. Today the opposite situation obtains. A new vacancy control unit has been established which is not only approving vacancies but must control them so that jobs are filled only when absolutely required and only when consonant with projected reorganization.

5. *Employee Use of Internal Grievance Processes.* Fifth, I am taking action on a distressing grievance situation in which an unprecedented number of complaints were brought against management either through the standard labor-management grievance machinery or through the equal opportunity discrimination apparatus. This has produced an unfortunate climate in which some managers hesitate to make difficult decisions and evaluations. I have ordered a study of the various grievance mechanisms to see where and how this might be approached. I have also informed all managers that their job is to manage and that I will stand behind them firmly if they demand accountability and are fair in their evaluations. I believe that the climate of charge and counter-charge is already being reversed.

6. *Labor-Management Relations.* Sixth, I sought a meeting with the union at the agency during my first week in office in order to establish a relationship that will minimize tension in labor-management affairs. Any difficulties flowing from reorganization can be dealt with through open consultation and exchange of opinion. We have already begun to consult with union officials on a regular basis to provide them with information and to receive the benefit of their thinking.

7. *Sec. 706 Deferral Agencies, Private Bar, Law School, and Legal Organizations.* I am moving to use available outside resources to help the Commission in its operations. Heretofore, these groups and agencies, which receive grants from the Commission, have often had no systematic relationship to the workload of EEOC but operated entirely independently. As the 706 agencies, the law schools, the public interest legal organizations and the private bar begin to handle an increased case load, it becomes apparent that we need to view them as an integral part of the overall equal opportunity machinery. We are beginning to fashion improved and uniform standards for national intake and charge notification forms, procedures for the efficient sharing of work and a formula for a fair and rational allocation of funds. The 706 agencies will be brought into our training system, and in the next round of negotiations we will build in quality case processing standards, not contracts based on numbers of cases processed alone. Contracts with the law schools, will similarly emphasize the need to produce programs responsive to, and integrated with, on-going EEOC operations.

I view the state and local 706 and 709 agencies as associates in a national anti-discrimination effort. They are neither adjuncts of the EEOC nor unrelated institutions. At our request, Congress recommended in its most recent appropriations bill for EEOC, that we establish a system of improved and uniform standards for the more expeditious processing of charges for FEP agencies. We are establishing a national case processing system with national standards, universal forms and procedures, and standardized reporting. State and local agencies will be better used in case processing. Currently over 60% of the charges filed with EEOC are deferred to these agencies. Yet they process only 22% of the annual resolutions. The reasons for the fall-off are varied. Many of these agencies are backlogged. Large numbers of charges are sent back or not filed with the local agencies, with the loss of 60 days of valuable processing time. And, the lack of clearly articulated uniform standards for investigation and charge resolution may result in the rejection of local agency findings. The EEOC has the responsibility to address these problems and is currently doing so. Of course, we will fully consult with the state agencies as these plans and programs are being worked out.

The law schools and legal organizations are another important resource which has not been used to the maximum benefit of the Commission. We are currently renegotiating all private bar funding contracts so they will contain provisions ensuring the promotion of a national litigation system.

8. *Development of Collegial System to better use Commissioners in operations and policy-making.* Eighth, I am working to correct the criticism of this agency that commissioners have been underutilized, thus diminishing the Commission's overall capability. I am working with the commissioners to establish new roles, specific responsibilities and a collegial decision-making system, I have instituted weekly briefings for commissioners and their staffs to familiarize them with issues as they emerge so that they are involved and contributing well before an issue appears on the Commission agenda. Formal commission meetings are to be used for extensive reporting on agency operations and programs to get maximum participation from commissioners in the formation of policy and programs.

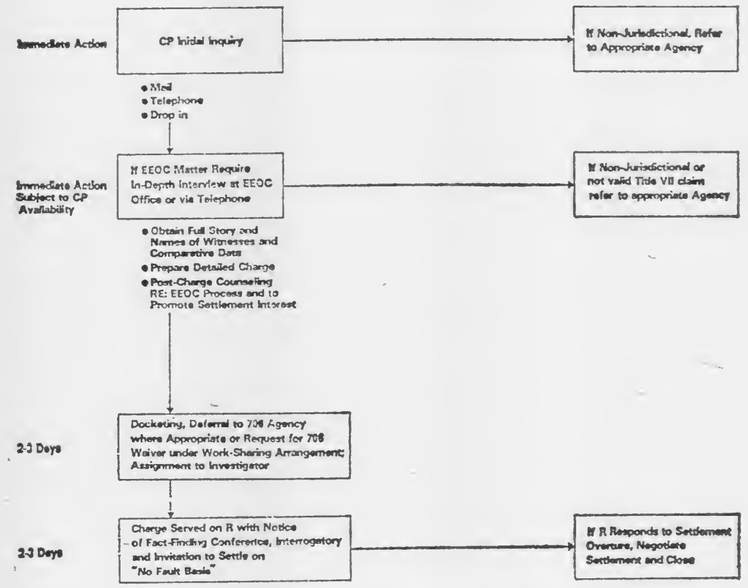
• • • • •

CONCLUSION

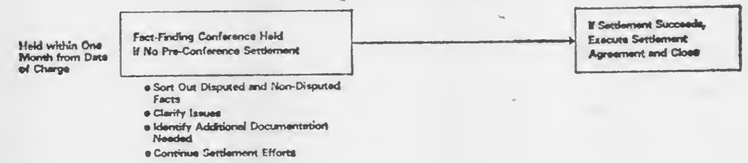
We believe that structural and procedural reforms I have described here today and the work being done to meet specific problem areas will correct the major deficiencies of the Equal Employment Opportunity Commission and make the Commission the effective instrumnet for eliminating discrimination that Congress intended it to be. This Committee over the years has done an outstanding job in focusing on the problems of the Commission and pointing it in new directions. I welcome your oversight and suggestions. I hope you will allow me to come back on a regular basis to report on our problems and progress.

RAPID CHARGE PROCESSING SYSTEM

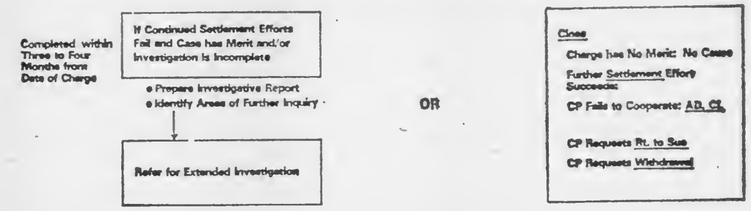
INTAKE/INVESTIGATION: STEP I



FACT FINDING CONFERENCE: STEP II INVESTIGATION/SETTLEMENT

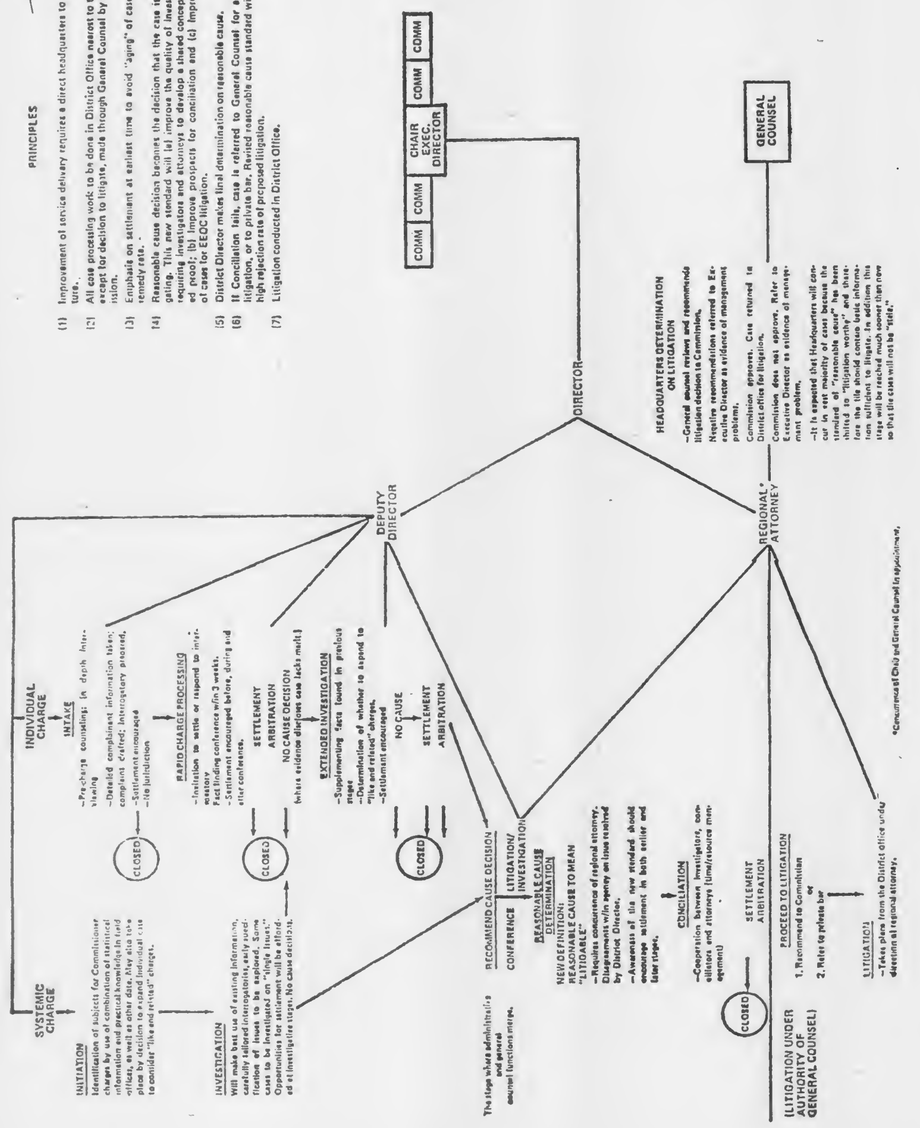


POST-CONFERENCE ACTIONS: STEP III

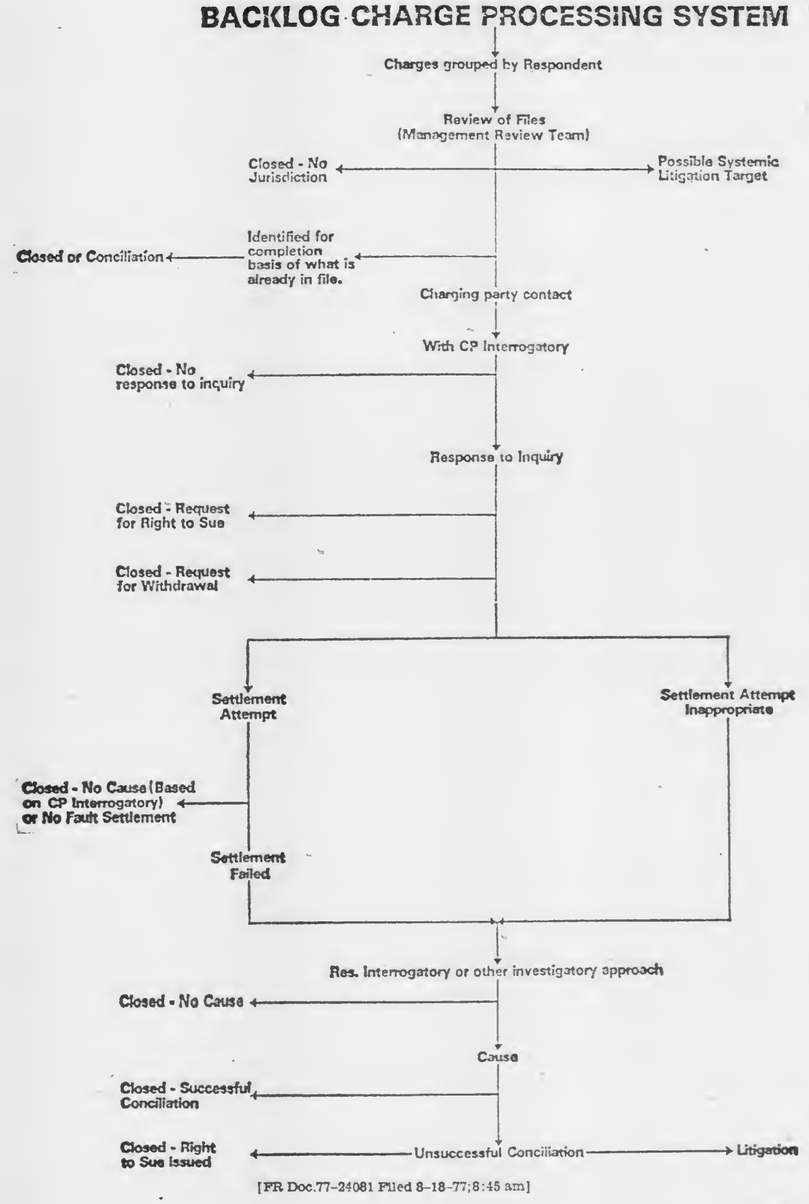


V 42 161 AUG 19 77 UM

MODEL FOR IMPROVED CHARGE PROCESSING IN SELECTED EEOC FIELD OFFICES



BACKLOG CHARGE PROCESSING SYSTEM



[FR Doc.77-24081 Filed 8-18-77;8:45 am]

V 42 161 AUG 19 77 UM V

FEDERAL REGISTER

FRIDAY, AUGUST 19, 1977

PART VI



DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

■

ANIMAL WELFARE ACT

Proposed Standards and Regulations for Humane Handling, Care, Treatment, and Transportation of Marine Mammals

V 42 161 AUG 19 77 UM V

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Parts 1, 3]

ANIMAL WELFARE ACT

Proposed Standards and Regulations for the Humane Handling, Care, Treatment, and Transportation of Marine Mammals

AGENCY: Animal and Plant Health Inspection Service (USDA).

ACTION: Proposed rule.

SUMMARY: This document proposes regulations and standards under the Animal Welfare Act to remove marine mammals from the list of exempt species of warmblooded animals and to bring them under the jurisdiction and protection of the Animal Welfare Act. The Marine Mammal Commission has recommended that the Secretary of Agriculture adopt certain standards under the Animal Welfare Act to govern the humane handling, care, treatment, and transportation of marine mammals. This Department has evaluated the recommendations and data supplied in support thereof and has used such recommendations and data as a basis for proposing the following amendments to the regulations and standards under the Animal Welfare Act to govern the humane handling, care, treatment, and transportation of marine mammals.

DATE: Comments on or before October 18, 1977.

ADDRESSES: Comments to Deputy Administrator, USDA, APHIS, VS, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments available for inspection at the above address during regular hours of business (8 a.m. to 4:30 p.m. Monday through Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Dr. Dale F. Schwindaman, Senior Staff Veterinarian, Animal Care Staff, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, telephone number (301) 436-8271.

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the administrative provisions in 5 U.S.C. 553, that, pursuant to the provisions of the Animal Welfare Act (7 U.S.C. 2131 et seq.), the Department of Agriculture is proposing (1) to amend the regulations under the Act (9 CFR 1.1) to revise the definitions for "animal" to include marine mammals, for "primary enclosure" to add the term "pool", and to add a new definition for "minimum horizontal dimension"; and (2) to provide new standards (9 CFR 3.1 et seq.) regarding the humane handling, care, treatment, and transportation of marine mammals.

The Animal Welfare Act requires the Secretary to promulgate standards for the humane handling, care, treatment, and transportation of any live or dead dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, rabbit, or such other warmblooded animals as the Secretary may determine are being used or intended for use, for research, testing, experimentation, or for exhibition purposes or for use as a pet.

Section 1(b) of the Animal Welfare Act (7 U.S.C. 2131) contains the following Congressional statement of policy;

> The Congress finds that animals and activities which are regulated under this Act are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof, and that regulation of animals and activities as provided in this Act is necessary to prevent and eliminate burdens upon such commerce and to effectively regulate such commerce, in order—
>
> (1) To insure that animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatment;
>
> (2) To assure the humane treatment of animals during transportation in commerce; and
>
> (3) To protect the owners of animals from the theft of their animals by preventing the sale or use of animals which have been stolen.
>
> The Congress further finds that it is essential to regulate, as provided in this Act, the transportation, purchase, sale, housing, care, handling, and treatment of animals by carriers or by persons or organizations engaged in using them for research or experimental purposes or for exhibition purposes or holding them for sale as pets or for any such purpose or use.

Under provisions of the Marine Mammal Protection Act of 1972 (Pub. L. 92-522) the administrative responsibility for regulating marine mammals in the wild was given by Congress to the Departments of Commerce and Interior. Those Departments prescribe the regulations that apply to free ranging marine mammals found in the wild, but the authority to promulgate regulations and to set standards for the humane handling, care, treatment, and transportation of captive marine mammals by dealers, research facilities, exhibitors and operators of auction sales was given to the Secretary of Agriculture by the 1970 Amendments to the Animal Welfare Act (Pub. L. 91-579). Such authority of the Secretary was extended to cover carriers and intermediate handlers by the Animal Welfare Act Amendments of 1976 (Pub. L. 94-279). The Marine Mammal Commission, created by the Marine Mammal Protection Act of 1972, was given the responsibility to study and recommend to the Secretaries of Commerce and the Interior and to other Federal officials, such steps as it deems necessary or desirable for the protection and conservation of marine mammals. The Marine Mammal Commission recommended that the Secretary of Agriculture adopt certain standards for the humane handling, care, treatment, and transportation of marine mammals under the Animal Welfare Act. Such recommendations and supporting technical data have been used as the basis for proposing the following amendments to the regulations and standards under the Animal Welfare Act.

Although the Secretary of Agriculture was given authority under the Animal Welfare Act to promulgate standards for the humane handling, care, treatment, and transportation of warmblooded animals, aquatic or marine mammals were exempted by regulations due to a lack of sufficient information upon which to base minimum standards for marine mammals. Based on the recommendations of the Marine Mammal Commission and discussions with their committee of scientific advisors and other experts on marine mammals, the Secretary is now proposing that marine mammals be covered by the Animal Welfare Act and proposes certain regulations and standards to govern their humane handling, care, treatment, and transportation in commerce.

The proposed standards are intended to assure the humane handling, care, treatment, and transportation of marine mammals which are bought, held, sold, or transported in commerce, for purposes of research, testing, experimentation, exhibition or for use as pets. This should enhance their health and increase their life-span, thereby reducing the need to capture additional marine mammals from the wild population. The proposed standards apply to many orders and species of marine mammals which have significant differences with respect to their biological and behavioral requirements. In all cases, the goal of the proposed standards is to provide each individual marine mammal with at least minimum acceptable conditions consistent with its good health and well-being, in reference to its physical requirements and behavioral needs.

The Animal Welfare Act directs the Secretary of Agriculture to promulgate minimum standards governing the humane handling, care, treatment, and transportation of warmblooded animals, aquatic or marine mammals, exempted by regulations due to a lack of sufficient information upon which to base minimum standards for marine mammals. Based on the recommendations of the Marine Mammal Commission and discussions with their committee of scientific advisors and other experts on marine mammals, the Secretary is now proposing that marine mammals be covered by the Animal Welfare Act and proposes certain regulations and standards to govern their humane handling, care, treatment, and transportation in commerce.

The proposed standards are intended to assure the humane handling, care, treatment, and transportation of marine mammals which are bought, held, sold, or transported in commerce, for purposes of research, testing, experimentation, exhibition or for use as pets. This should enhance their health and increase their life-span, thereby reducing the need to capture additional marine mammals from the wild population. The proposed standards apply to many orders and species of marine mammals which have significant differences with respect to their biological and behavioral requirements. In all cases, the goal of the proposed standards is to provide each individual marine mammal with at least minimum acceptable conditions consistent with its good health and well-being, in reference to its physical requirements and behavioral needs.

The Animal Welfare Act directs the Secretary of Agriculture to promulgate minimum standards governing the humane handling, care, treatment, and transportation of warmblooded animals covered by the Act. Such standards include requirements with respect to handling, housing, feeding, watering, sanitation, ventilation, transportation, shelter from extremes of weather and temperature, adequate veterinary care, and separation by species.

The standards relating to the humane handling, care, treatment, and transportation of animals currently covered by the Animal Welfare Act are contained in 9 CFR Part 3, Subparts A, B, C, D, and E. The individual subparts are oriented to similar kinds or classes of animals and have many sections which are equally applicable to the humane handling, care and treatment of all animals. It is proposed that subpart E of the standards be redesignated as Subpart F and be renumbered accordingly, and that a new Subpart E be added to the standards containing the minimum standards for marine mammals.

The proposed minimum standards for marine mammals take into consideration that this group of animals have much

greater environmental requirements than nonaquatic species of animals. The physical plant necessary to maintain marine mammals is, therefore, much greater than for other species of animals. Since marine mammals spend all or most of their time in the water, minimum standards are proposed for both the quantity and quality of the water which shall be available to them. In most instances, this requires pumps for circulating the water, water filtration systems, and special equipment for monitoring and controlling the chemical content of the water.

It appears that there are certain general requirements that must be provided to meet the basic needs of both the marine mammals and the viewing public. Therefore, it is proposed that the facility should be constructed of such materials and be of such strength to safely contain the various species of marine mammals involved. It is also proposed that surfaces of the primary enclosure pool, ramps for entering or leaving the pool, resting areas and any other surfaces immediately surrounding the primary enclosure pool should be constructed from materials which provide a nonporous, waterproof finish, free of cracks or imperfect junctures. This proposed standard is to allow for thorough cleaning of the primary enclosure, with no cracks or crevices that would allow any bacterial buildup that could be a health hazard to the marine mammals contained therein.

The facilities must be safe not only for the marine mammals, but also for person attending to them, and to the viewing public. Therefore, it is proposed that the housing facilities should be structurally sound and should be maintained in good repair to protect the marine mammals from injury, to contain the marine mammals, and to restrict the entrance of other animals.

Captive marine mamals should be provided protection from public harassment, potential communicable human pathogens and possible ingestion of foreign bodies which may be intentionally or accidentally introduced into the primary enclosure. Therefore, it is proposed that, in the absence of effective physical barriers to such hazards (fences, walls, glass partitions, distance), constant supervision of persons who are or may come in contact with the marine mammals should be maintained.

A reliable source of water and power must be available. Therefore, it is proposed that auxiliary sources of water and power must be available in those instances where failure of the primary source of water or power may occur and the marine mammals' good health and well-being are dependent upon a continuous source of water or power to maintain the quality or exchange of water or air.

Proper drainage must be provided in order to maintain cleanliness and sanitary conditions. It is proposed that such drainage, especially if it is contaminated with animal and food wastes, must be disposed of in a manner consistent with all applicable local, State, and Federal laws.

It is proposed that food for marine mammals be stored in designated areas and, if it is subject to deterioration at warm temperatures, it shall be kept under proper refrigeration to maintain its palatability and nutritive value. It is proposed that food for marine mammals not be stored with other materials of any kind which might contaminate the food with substances harmful to marine mammals or which might otherwise affect the wholesomeness of the food. It is also proposed that non-food storage areas must also be designated or located so as not to pose a threat of contamination to food storage, food preparation, or other food handling areas.

Proper waste disposal is essential in maintaining the cleanliness and sanitary conditions of a facility housing marine mammals and directly affects the good health and well-being of such captive marine mammals. It is proposed that food and animal wastes, as well as dead animals, trash and debris, must be disposed of in a suitable manner to comply with environmental and public health standards. It is proposed that washrooms and bathroom facilities be provided for employees so that they can maintain cleanliness and good personal hygiene so as not to be a source of contagion to the marine mammals.

Maintaining appropriate ambient air and water temperatures is vital to the good health and well-being of marine mammals. Therefore, it is proposed that indoor facilities for marine mammals be equipped to control the ambient air and water temperature in which the marine mammals are housed. It is proposed that the air temperature in an indoor housing facility for marine mammals not be allowed to fall below 7.2°C. (45°F.) in order to prevent freezing of the water in the pool or in the filtration and circulating systems as well as providing an environment that would not hamper or impede employees in caring for such marine mammals.

While certain marine mammals can tolerate air and water temperatures in excess of 30°C. (85°F.) it is not in the best interests of their good health and well-being to so house them, especially if they have not been so acclimated. Therefore, it is proposed that the ambient air and water temperatures in an indoor housing facility for marine mammals not be allowed to exceed 30°C. (85°F.) It is also proposed that the water temperature in the pool of water should approximate those found in the subject marine mammals' natural habitat or other temperatures to which it has been acclimated and which are compatible with the good health and well-being of the subject marine mammal. However, such water temperatures shall not be allowed to fall below 1.7°C. (35°F.) in order to prevent freezing of the water in the pool or in the filtration and circulating systems as well.

Marine mammals are air breathing animals and ventilation is very important to assure that they are provided adequate fresh air for their respiratory needs in both quantity and quality. Therefore, it is proposed that a minimum air space of 2.44 meters (8 feet) be maintained over all pools of water and that ventilation of indoor housing facilities must be adequate to provide a flow of fresh air for the marine mammals. Any less air space above the pool would not seem to be adequate to allow sufficient space for normal servicing of the pool and would tend to concentrate volatile chemicals and odors that may be detrimental to the marine mammals housed therein.

It is proposed that indoor facilities for marine mammals must have sufficient light through natural or artificial means so that animal caretakers can observe the marine mammals both in and out of the primary enclosure pool of water to determine their general health and condition and so that they can observe and maintain good sanitary conditions. Lighting also appears necessary to simulate the approximate lighting conditions in the natural environment, allowing certain periods of darkness and daylight.

Marine mammals come from a great variety of climatic conditions, from equatorial waters to the polar ice caps. There is also a great temperature range of climatic conditions within the United States. Outdoor facilities are completely dependent upon the local environmental conditions. Therefore, it is proposed that captive marine mammals housed in outdoor facilities must be able to adapt to the variations of climatic conditions which exist in that geographical area during the period they are so housed. If the local climatic conditions of the outdoor facility vary from the conditions in which they were previously housed, the marine mammals must be acclimated to their new environment before being placed in such outdoor housing facilities.

It is proposed that marine mammals housed in outdoor facilities have shaded areas in their primary enclosure at all times to provide them with shelter from excessive sunlight which may cause overheating or sunburn. It is also proposed that shelter be available to protect marine mammals from inclement weather, when such inclement weather is likely to cause discomfort to such animals.

It is proposed that the pools of water in outdoor facilities shall be kept free of ice. Iced over pools could deny marine mammals access to such pool for both excercise and drinking or obstruct their free access to sufficient air for normal breathing.

Space requirements for the wide variety of marine mammals is quite variable. The Marine Mammal Commission has furnished this Department with information concerning the research it has conducted into the space requirements for marine mammals. Such information appears to be reasonable and was used as the basis for the proposed minimum standards on space requirements for marine mammals. The proposed minimum space requirements appear to be adequate and necessary to assure the

V 42 161 AUG 19 77 UM V

health and well-being of marine mammals based on the information which the Department now has available to it.

Since cetaceans (e.g. whales, porpoises, and dolphins) spend all of their time in the water, it is proposed that their primary enclosure need consist of only a pool of water. It is proposed that cetaceans must be provided a pool of water with a minimum horizontal dimension (MHD) of two times the length of the longest cetacean contained therein as measured from the tip of its nose to the tip of its fluke.

It is proposed that "minimum horizontal dimension" means the diameter of a circular pool or in the case of a square, rectangular, oblong or other shape pool, the diameter of the largest circle that can be inserted within the confines of such a pool of water. The MHD for each marine mammal is calculated to give it adequate freedom of movement in the pool horizontally. Regardless of the number of cetaceans housed in a primary enclosure pool, the MHD cannot be less than the MHD required for the longest cetacean contained therein.

The minimum horizontal dimension (MHD) of the pool, which is proposed as two times the length of the longest cetacean contained therein has been recommended as giving adequate space to the cetacean for freedom of horizontal movement, which would allow the cetacean to turn about and swim without touching any limiting lateral structure. There would appear to be a sufficient volume of water in such a pool to allow two cetaceans, of equal length, in the pool to have adequate freedom of movement due to the large amount of communal space available to each.

The minimum depth of a primary enclosure pool for cetaceans should be at least one-half the length of the longest cetacean housed therein as measured from the tip of its nose to the tip of its fluke. The body height of cetaceans even with a dorsal fin completely extended, if present, is less than one-half the length of the cetacean. Therefore, computing proper depth, using this criteria, would allow the cetacean to be completely covered with water and still allow for vertical freedom of movement. It is therefore proposed that the minimum depth of a pool housing cetaceans shall not be less than 1.52 meters (5 feet) or one-half the length of the longest cetacean housed therein, whichever is greater. Regardless of the total number of cetaceans to be housed in the pool, the minimum depth cannot be less than the minimum determined for the longest cetacean housed therein. Such a pool of water has a sufficient volume of water for one or two cetaceans.

When more than two cetaceans are housed in a primary enclosure pool, the volume of the pool must be increased to accommodate the additional cetaceans. It is proposed that the required increase in the volume be based on the actual length of the cetacean computed in the same manner as for the first two cetaceans. This method would appear to give volume sufficient for two cetaceans, therefore, the computed volume needs to be divided by two to give the volume required for each additional cetacean. It is proposed that for each additional cetacean added to the pool, after the first two, that the minimum volume of water for the pool be increased by squaring the length of each such additional cetacean multiplied by π (3.14) and the sum thereof multiplied by the minimum depth required for such cetacean and divide the results by two. A table has been prepared (Table I) and included in the standards to give the exact volume of water which would be required for each cetacean to be added to the primary enclosure pool, more than two, based on the actual length of each such additional cetacean.

Sirenians (e.g. the dugong and the manatee) are slow moving, sluggish marine mammals that spend all of their time in the water. Therefore, it is proposed that their primary enclosure need only consist of a pool of water. Space requirements for sirenians would appear to be similar to the needs of cetaceans, and, therefore, it is proposed that their pool size be at least two times the length of the longest sirenians, as measured from the tip of its nose to the tip of its fluke, as the MHD, and that the minimum depth shall be 1.52 meters (5 feet) or one-half the length of the longest sirenian contained therein, whichever is greater. This size pool appears to be sufficient to house two sirenians. When more than two sirenians are housed in the same pool, the minimum volume of water in the pool must be increased to accommodate each such additional sirenian, more than two, in the pool must be known to determine the minimum required additional volume of water which would be computed in the same manner as previously described for cetaceans.

The space requirements for a primary enclosure housing pinnipeds (e.g. seals, sea lions, and walruses) should include a dry area for resting and social activities and a pool of water, as they spend much of their time out of the water. The space allowed for each pinniped for freedom of movement, mating, postural adjustments and sleep would be determined by their size and by the number of pinnipeds sharing the same enclosure. The size of the pinniped is important and the largest pinniped should have the greatest allotment of space. One pinniped appears to require a minimum dry area at least 50 percent larger than its own length squared. As more pinnipeds are added to the primary enclosure less space should be allotted per animal because of the greater amount of communal space available. This would be accomplished by reducing the multiplier of 50 percent for the first animal by 10 percentage points until more than five animals are housed together. However, no pinniped would ever be given less space of dry surface area for resting and social activity than its own length squared.

It is therefore proposed, that to compute the minimum dry space requirements for pinnipeds, the length of each pinniped housed in the primary enclosure shall be ascertained by measuring them from the tip of their nose to the tip of their hind flipper in a horizontal or extended position. The pinniped should then be arranged in descending order from the largest pinniped which would be animal number one, to the smallest pinniped at the end. It is proposed that the largest pinniped be given a minimum dry space of its own length squared, plus fifty percent, or its length squared times 1.5. The second largest pinniped would be given a minimum dry space of its own length squared, plus forty percent, or its length squared times 1.4. The third largest pinniped would be given a minimum dry space of its own length, plus thirty percent, or its own length squared times 1.3. This would be continued to the fifth largest pinniped which would receive a minimum dry space equal to its own length squared, plus ten percent, or its own length squared times 1.1. For all other pinnipeds (more than five) added to the primary enclosure, the space would be determined by giving each such pinniped a minimum dry space equal to its own length squared. The sum of such figures for each pinniped in a primary enclosure would be the minimum dry resting and social activity area required for such pinniped.

Pinnipeds appear to need a pool of water whose MHD is twice the length of the longest pinniped contained therein. Such a pool of water would appear to have sufficient surface area for two pinnipeds. However, additional surface area would be required when more than two pinnipeds are housed in the same primary enclosure. Pinnipeds spend one-half or less of their time in the water, and therefore, rarely would all pinnipeds in a primary enclosure be in the pool of water at one time. It is proposed that when more than two pinnipeds are housed in the same primary enclosure that the minimum surface area of the pool be two-thirds of the dry resting area required for such pinnipeds. It is further proposed that the minimum depth of the pool shall not be less than 1.52 meters (5 feet) or one-half the length of the longest pinniped contained therein, whichever is greater. The MHD of the pool shall not be less than two times the length of the longest pinniped contained therein.

The primary enclosure for polar bears appears to need open space, a den, and a pool of water. While polar bears spend much of their time out of water, the pool appears especially necessary in hot or temperate climates for polar bears to cool themselves. A den appears necessary to provide shade, privacy, and a means of escaping inclement weather. A den is also necessary to a pregnant female, which should have extreme privacy before parturition and for several months after the birth of young. It is proposed that a shaded area, other than the den, be provided for other polar bears in the same primary enclosure with a pregnant female. Polar bears are much more mobile on land than other marine

mammals. They are less gregarious than other marine mammals especially females in season, and therefore, require more dry space for adequate freedom of movement and social activities. Objective data concerning the minimum space requirements for polar bears is not available at this time to the Department's knowledge. However, it is the belief of experts on marine mammals, and it has been recommended by the Marine Mammal Commission that the following minimum space requirements be proposed. This Department has no information that would indicate that such proposals are not reasonable, necessary, appropriate or adequate for polar bears, and, therefore, has decided to issue such proposed minimum space requirements for polar bears as recommended by the Marine Mammal Commission.

It is proposed that a minimum dry resting area of 37.16 square meters (400 square feet) be provided for one or two polar bears and an additional 3.72 square meters (40 square feet) for each additional polar bear contained in a primary enclosure. It is also proposed that the den shall be at least 1.83 meters (6 feet) in width, depth and height, which would allow sufficient space for one polar bear to make normal postural adjustments. A separate den would be required for each adult female as a private enclosure. It is also proposed that sufficient shade, other than the den, be provided for all polar bears contained in the same primary enclosure. It is proposed that the pool in any primary enclosure for polar bears be a minimum of 2.44 meters (8 feet) be 3.66 meters (12 feet) and at least 1.52 meters (5 feet) deep.

Sea otters appear to need a dry resting area and a pool of water in their primary enclosures. It is necessary for sea otters to have a pool of water to keep their hair coat wet at all times for proper grooming and for insulation of the body, as they spend most of their time in the water. Sea otters cannot regulate their body temperature properly if the hair coat is allowed to dry. Sea otters will usually die of exposure or hypothermia if the hair coat becomes soiled or is allowed to dry. Objective data concerning the minimum space requirements for sea otters is not available at this time to the Department's knowledge. However, it is the belief of experts on marine mammals, and it has been recommended by the Marine Mammal Commission that the following minimum space requirements be proposed. This Department has no information that would indicate that such proposals are not reasonable, necessary, appropriate or adequate for sea otters and, therefore, has decided to issue such proposed minimum space requirements for sea otters as recommended by the Marine Mammal Commission.

It is proposed that the minimum horizontal dimensions (MHD) of a pool of water for sea otters be at least twice the length of the longest sea otter contained therein, as measured from the tip of its nose to the tip of its tail. It is also proposed that the minimum depth of the pool shall not be less than 0.91 meters (3 feet). The volume of water in such a pool would appear to be sufficient for one or two sea otters. It is proposed that the minimum dry resting area for one or two sea otters be equal to the minimum surface area of the pool required for such sea otters.

When more than two sea otters are housed in the same primary enclosure, both the dry resting area and the pool volume must be increased, based on the actual length of the sea otters, more than two, contained therein. It is therefore proposed that such additional space be computed by measuring the length of the sea otters (more than the two longest) from the tips of their noses to the tips of their tails. When the length of the sea otters has been determined, the surface area of the pool is calculated and that figure multiplied by 0.91 meters (3 feet), divided by two; and the result is the additional minimum volume of water the pool must contain for such sea otters. It is proposed that the minimum dry resting area for a primary enclosure housing more than two sea otters be increased by one-half the square of the length of each such additional sea otter times π (3.14). To assist in calculating the additional minimum dry resting area and the increased minimum water volume for each sea otter, more than two in the primary enclosure, Table II has been prepared based upon the length of such additional sea otters.

Most facilities housing marine mammals are not located where they can receive fresh food daily for their marine mammals. Therefore, these facilties are dependent upon frozen food supplies to feed their animals. Therefore, it is proposed that the storage, thawing, handling, and feeding of such frozen foodstuff be accomplished in a manner which will minimize bacterial and chemical contamination and maintain the wholesomeness, nutritive value and palatability of the food. Thawing food fish is especially difficult, because if it is not done properly, the center of the fish can still be frozen while enzymatic and bacterial decomposition has started on the surface and peripheral parts of the fish. Therefore, it is proposed that the thawed fish, or other foodstuffs, must be kept iced or refrigerated until fed to the marine mammals and that thawed foodstuffs shall be fed to such marine mammals within 18 hours after being removed from the freezer.

Water quality is extremely important for marine mammals and at least minimum water quality standards need to be maintained for the good health and well-being of the animals. Marine mammals are air breathing mammals and it is not necessary for the water to contain sufficient oxygen for respiratory functions as there is no gaseous exchange between marine mammals and the water. Therefore, it is proposed that the purity of the water be assured by keeping the coliform bacteria count below 1000 MPN (most probable number) per 100 ml. of water and that filtration systems be used to filter out particulate material. Cetaceans, sirenians, and to some degree pinnipeds, defecate in the water of their pool and the filtration system must be able to circulate the water through the filters to keep the water free of excrement, nitrogenous wastes, as well as dirt or other debris that gains entry to the pool. It is proposed that the filtration of recirculated water, or the addition of new water, be at a rate equal to the volume of the pool of water every 4 hours. Salinity of the water is essential for some marine mammals and desirable for others; however, many do very well in fresh water. Therefore, it is proposed that when salinized water is used, it be within the range of salinity of normal sea water. It is also proposed that the pH of the water be monitored to assure that it approximates the pH of normal sea water. Chemicals that are added to the pool to control bacteria or algae must not be so strong as to adversely affect the quality of the water to the point that it might be harmful or cause discomfort to the marine mammals.

Sanitation standards are proposed to assure that the facility which houses marine mammals is maintained in a clean and sanitary condition so as not to pose a health hazard to the marine mammals contained therein, or to the employees who work at the facility, or to the viewing public.

It is proposed that the primary enclosure be cleaned daily to keep animal and food wastes from accumulating in both the pool and any dry areas surrounding the pool. It is proposed that the water be circulated through the pool so that fecal material, as well as any trash or debris that enters the pool is filtered out or in some manner not allowed to reenter the pool. It is also proposed that the wall and bottom surfaces of pools of water be cleaned as necessary to remove accumulations of algae in order to maintain the required water quality.

It is proposed that food storage, food handling, and food preparation areas must be routinely cleaned and sanitized to prevent any bacterial buildup, and that utensils and other equipment involved in any way with the feeding of marine mammals must also be routinely cleaned and sanitized. This is essential to ensure the wholesomeness of the foodstuffs fed to the marine mammals and to their continued good health.

Housekeeping and general practices used in maintaining buildings and grounds at any facility are very important to the good health and well-being of marine mammals housed therein. It is proposed that buildings and grounds must be clean and in good repair and that loose objects lying about, or objects with sharp points or edges must be eliminated to prevent injury or trauma to the marine mammals.

Pest control must be done safely and efficiently. Avian and mammalian pests as well as flying insects must be controlled throughout the facility. A program to keep ectoparasites from infesting the marine mammals is also necessary. Therefore, it is proposed that when insecticides, rodenticides, or other chemicals are used to control pests, it shall be done with the attending veterinarian's knowledge and permission, as the choice

V 42161 AUG 19 77 UM

of the therapeutic agent used in case of accidental poisoning of any marine mammal would depend on his knowledge of the type of chemical involved.

It is proposed that a sufficient number of employees be present daily at the facility to adequately take care of the marine mammals and to do other supportive functions necessary to maintain the animals in good health and to provide for their needs. It is proposed that employees who actually are responsible for the care and feeding of the marine mammals must have a background in marine mammal care or be supervised by a person who has had training in marine mammal husbandry and care. It is proposed that marine mammals being trained for performing acts, shall be trained by experienced trainers and that physical punishment or abuse to the marine mammals shall not be allowed to occur during the training process.

It is proposed that marine mammals that are not compatible must not be housed in the same primary enclosure. Not only incompatible species shall be separated, but also animals of the same species must be separated if the good health and well-being of any animal contained therein is in jeopardy. It is also proposed that marine mammals that are incompatible shall not be placed in adjacent primary enclosures if any resulting frustration, fear, or anxiety will affect the good health of any of the marine mammals involved.

It is proposed that each facility which houses marine mammals must have a complete program of veterinary care under the direction of a veterinarian who is a graduate of an approved school of veterinary medicine. This program can be a written or an oral one, but both the facility management and the veterinarian must be knowledgable of the preventive medicine procedures adopted and how routine and emergency procedures will be conducted. It is proposed that the marine mammals must be observed daily by an animal caretaker knowledgeable about marine mammals and that any sick, diseased, stressed, lame, or injured marine mammal, or any marine mammal exhibiting any other deviation from its normal state of good health, be promptly reported to the facility's veterinarian for his professional evaluation.

It is proposed that marine mammals used in research, tests, or experiments shall be afforded the same protection in the use of anesthetics, analgesics, and tranquilizing drugs as other animals covered by the Animal Welfare Act.

It is proposed that newly acquired marine mammals which are to be added to the existing collection, shall go through a period of quarantine to determine their health status before they can be added to the collection. If an infectious or communicable disease condition is observed in a new marine mammal, the condition must be corrected before such new marine mammal is introduced to the collection so as not to expose the other marine mammals to any such condition or disease. It is proposed that any primary enclosure that has contained a marine mammal with an infectious or contagious disease must be cleaned and sanitized, as directed by the facility's veterinarian, before other marine mammals can again be housed in that primary enclosure, in order to prevent the spread of any such disease.

Handling marine mammals is difficult because of the huge size of some of these animals. The handling of marine mammals, especially out of water, their natural environment, can cause overheating and discomfort to the animal and may cause emotional stress or physical harm. Therefore, it is proposed that isolation and treatment and handling devices of a proper design for marine mammals so as to minimize overheating and discomfort to the animal and to prevent injury to the marine mammal or its handlers. As these animals are generally large and powerful, it is proposed that care shall also be taken to protect the attendants and handlers from injury by the marine mammals.

It is proposed that the handling and displaying of performing marine mammals be consistent with their good health and not cause them a discomfort. It is proposed that sufficient distance be allowed, or barriers placed between, the marine mammals and the viewing public to assure the safety of both the marine mammals and the viewing public. It is also proposed that a period of rest be provided performing marine mammals between performances at least equal to the time required for one performance.

Section 13 of the Animal Welfare Act (7 U.S.C. 2143) requires the Secretary to promulgate standards to govern the humane handling, care, treatment, and transportation of animals by dealers, research facilities, and exhibitors. Provisions of the Animal Welfare Act Amendments of 1976, enacted on April 22, 1976 (Pub. L. 94-279), also require the Secretary of Agriculture to promulgate standards to govern the transportation in commerce, and the handling, care, and treatment in connection therewith, by intermediate handlers and carriers of animals consigned by any dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States or of any State or local government, for transportation in commerce. The Secretary was also given authority to promulgate such rules and regulations as he determines necessary to assure humane treatment of animals in the course of their transportation in commerce, including requirements such as those wth respect to containers feed, water, rest, ventilation, temperature, and handling

The proposed transportation standards contained herein have been written to provide marine mammals with the same general protection and care as that proposed for all other species of animals covered by the Animal Welfare Act, and published in the FEDERAL REGISTER on March 18, 1977, at 42 FR 15210.

Some marine mammals, however, do have different transportation requirements than most other animals. The size of some marine mammals, such as killer whales, require very special handling and care. These animals are out of their natural environmental element while being transported; therefore, an artificial environment must be created that will sustain life and not cause the marine mammal undue injury or discomfort. This is true primarily with marine mammals in the order cetaceans and sirenia. Pinnipeds and marine carnivores (polar bears and sea otters) would not appear to require quite such elaborate transporting methods, and, therefore, their proposed transportation standards are more in line with the proposed transportation standards for other warmblooded animals covered by the Animal Welfare Act.

Most shipments or marine mammals will be consigned to private transporting concerns that specialize in transporting marine mammals. These business concerns should have the experience and the equipment to assure the safe delivery of the marine mammals to their destinations. It appears that very few marine mammals would be transported by the normal common carrier or intermediate handler. However, the proposed transportation standards for marine mammals would apply to all dealers, exhibitors, research facilities, carriers, and intermediate handlers.

Requirements for primary enclosures for transportation of the different orders of marine mammals are divided into two categories in this proposal. Pinnipeds and the marine carnivores (polar bears and sea otters) are in one category, and it is proposed that they can be shipped in crates similar to those that are used in transporting other zoo animals. It is important that these animals be given sufficient space in the primary enclosure used for transportation to assure that they have room to move or lie down in normal postural positions without impeding their appendages. The second category includes the cetaceans and sirenians, and it is proposed that they be transported in devices which are designed to support their body weight and provide easy accessibility to the animals for employees to administer to their needs in transit. Without the buoyancy of water on their bodies, these marine mammals move with great difficulty. Therefore, it is proposed that cetaceans and sirenians be transported in well padded straps, slings, harnesses, or other devices for body support that are designed to protect the animal while in transit and to allow attendants to administer to their needs. The proposed standards for transporting cetaceans and sirenians take into account the need for these animals to be supported and protected from injury during transportation.

Marine mammals are generally not fed while in transit and, in most cases, it is an accepted practice to actually fast the animals for a short period prior to

shipment. The sea otter is an exception to this general rule in that they should have food available to them while in transit.

The water intake of marine mammals generally needs to be sufficient prior to starting their transportation to allow them to reach their destination without requiring water while in transit. Every precaution, however, should be taken to prevent dehydration of the animals while in transit and they should be closely observed for evidence of dehydration. Therefore, it is proposed that marine mammals be watered within 4 hours prior to transportation and that water must be offered to the marine mammals during transportation whenever indicated by dehydration. If it is not practical to water the animals sufficiently while in transit, and dehydration appears to be excessive, it is proposed that the transportation must be ended, before the good health and well-being of the marine mammal is jeopardized. In such instances, water must be provided the marine mammal to satisfy its needs.

The transportation of marine mammals can be very exacting and only knowledgable people can assess the physical needs of the animals and properly administer the necessary intransit care. Therefore, it is proposed that an attendant be required to accompany shipments of cetaceans, sirenians, walruses, and sea otters, because of the problems associated with their size, or required special handling, feeding, and watering requirements. The skin of cetaceans and sirenians needs to be kept moist in transit or protected by some substance such as lanolin to keep the skin from drying. It is important that the pectoral fins of both cetaceans and sirenians have full mobility as these animals cannot breath properly if pectoral fins are not free to move about. Positional adjustments must be made for cetaceans and sirenians transported in straps, slings, harnesses, or other body supportive devices to prevent pressure necrosis of the skin over bony prominences or other points where extreme pressure is concentrated from the weight of the animals. It is proposed that retaining straps, securing the cetacean or sirenian to the sling, harness or other device, shall be tight enough to restrain the marine mammal, but not so tight that they become irritating to the animal. Struggling and thrashing about should be minimized to prevent overheating of the marine mammal.

Sea otters must keep their hair coat wet for proper insulation and temperature control of their body. They will not groom their fur if it dries or becomes soiled with feces. It is proposed that a primary enclosure used to transport sea otters shall have a small pool of water contained therein for the animal to keep its fur wet or a spray of water be provided for such purposes. It is also proposed that a dry area be available in the primary enclosure used to transport a sea otter so the animal can get out of the pool or spray of water for resting or grooming purposes.

It is possible to encounter a wide variation of temperature ranges during transportation and the ambient temperature extremes need to be designated to prevent discomfort to the marine mammal or to be detrimental to its good health and well-being. Marine mammals are generally more susceptible to hot temperatures than they are to cool or cold temperatures. It is therefore proposed that the ambient temperature around the marine mammal during transportation shall not exceed 35° C. (95° F.) for a period of more than 45 minutes nor fall below 7.2° C. (45° F.) for a period of more than 45 minutes unless the person transporting the marine mammal knows that it is acclimated to such higher or lower temperatures. These temperatures appear to be in a range that all marine mammals can tolerate without undue discomfort or lasting harmful effects.

PART 1—DEFINITION OF TERMS

Accordingly, it is proposed that the regulations and standards (9 CFR 1.1 et seq.) be amended as follows:

§ 1.1 [Amended]

1. It is proposed that the second sentence in § 1.1(n) of the regulations (9 CFR 1.1(n)) be amended to delete the words "aquatic animals," following the word "birds" and before the word "rats".

2. It is proposed that § 1.1(cc) of the regulations (9 CFR 1.1(cc)) would be amended by inserting a comma after the word "compartment" and adding the word "pool" immediately thereafter and before the word "or".

3. It is proposed that a new definition for minimum horizontal dimension (MHD) be added to the end of § 1.1 of the regulations (9 CFR 1.1) as follows:

• • • • •

(mm) "Minimum horizontal dimension" (MHD) means the diameter of a circular pool of water, or in the case of a square, rectangular, oblong or other shape pool, the diameter of the largest circle that can be inserted within the confines of such a pool of water.

PART 3—STANDARDS

4. It is proposed that the Table of Contents in Part 3—STANDARDS of Title 9, Code of Federal Regulations, be amended by making present Subpart E of the Table of Contents, Subpart F, and renumbering §§ 3.11 to 3.114 thereof to §§ 3.125 through 3.138, respectively, and by adding a new Subpart E as follows:

Subpart E—Specifications for the Humane Handling, Care, Treatment, and Transportation of Marine Mammals

FACILITIES AND OPERATING STANDARDS

3.100 Facilities general.
3.101 Facilities, indoor.
3.102 Facilities, outdoor.
3.103 Space requirements.

ANIMAL HEALTH AND HUSBANDRY STANDARDS

3.104 Feeding.
3.105 Water quality.
3.106 Sanitation.
3.107 Employees.
3.108 Separation.
3.109 Veterinary care.
3.110 Handling.

TRANSPORTATION STANDARDS

3.111 Consignments to carriers and intermediate handlers.
3.112 Primary enclosures used to transport live animals.
3.113 Primary conveyances (motor vehicle, rail, air, and marine).
3.114 Food and water requirements.
3.115 Care in transit.
3.116 Terminal facilities.
3.117 Handling.
3.118 Ambient temperature.

5. It is proposed that present Subpart E of Part 3—STANDARDS (9 CFR Part 3, Subpart E) would be redesignated as Subpart F and §§ 3.100 to 3.114 thereof would be renumbered as §§ 3.125 through 3.138, respectively, and a new Subpart E would be added to read as follows:

Subpart E—Specifications for the Humane Handling, Care, Treatment, and Transportation of Marine Mammals

§ 3.100 Facilities, general.

(a) *Construction requirements.* (1) Housing facilities for marine mammals shall be structurally sound and shall be maintained in good repair, to protect the animals from injury, to contain the animals, and to restrict the entrance of other animals.

(2) All marine mammals shall be provided with reasonable protection from abuse and harassment by the viewing public by the use of a sufficient number of employees to supervise the viewing public, or physical barriers, such as fences, walls, glass partitions, or distance, or both.

(3) Any primary enclosure pool, including ramps for entering or leaving the pool, resting areas, and any other surfaces immediately surrounding the primary enclosure pool, shall be constructed of materials which provide a nonporous, waterproof finish, that is free of cracks or imperfect junctures.

(b) *Water and power supply.* Reliable and adequate sources of water and electric power shall be provided. Alternate emergency sources of adequate water and electric power shall be available in order to assure compliance with the standards in this subpart whenever failure of the primary adequate source of water or power supply may occur.

(c) *Drainage.* (1) Adequate drainage shall be provided for all primary enclosure pools and shall be located so as to rapidly eliminate all of the water contained in such pools when necessary for cleaning the pool or for other purposes. Drainage effluent from primary enclosure pools shall be disposed of in a manner that complies with all applicable Federal, State, and local pollution control laws.

(2) Drainage shall be provided for the primary enclosure and the area immediately surrounding the pool. Drains shall be located so as to rapidly eliminate excess water (except in pools). Drainage, except from ramps for entering or leaving the pool, shall be away from the pool towards the drains. Such drainage effu-

V 42 161 AUG 19 77 UM

ent shall be disposed of in a manner that complies with all applicable Federal, State, and local pollution control laws.

(d) *Storage.* Supplies of food shall be stored in facilities which adequately protect such supplies from deterioration, molding, or contamination by vermin. Refrigerators and freezers shall be provided for perishable food. No substances which are or may be toxic or harmful to marine mammals shall be stored or maintained in the marine mammal food storage or food preparation areas.

(e) *Waste disposal.* Provision shall be made for the removal and disposal of animal and food wastes, dead animals, trash, and debris. Disposal facilities shall be so provided and operated as to minimize vermin infestation, odors, and disease hazards. All waste disposal procedures must comply with all applicable Federal, State, and local laws pertaining to pollution control or protection of the environment.

(f) *Washroom facilities.* Facilities such as washrooms, basins, showers, or sinks, shall be provided to maintain cleanliness among the marine mammal caretakers.

§ 3.101 Facilities, indoors.

(a) *Ambient temperature.* (1) The air temperature in indoor facilities shall be sufficiently regulated by heating or cooling to protect the marine mammals from extremes of temperature, to provide for their good health and well-being and to prevent their discomfort. The ambient air temperature shall not be allowed to fall below 7.2° C. (45° F.) nor allowed to exceed 30° C. (85° F.). Rapid changes in air temperatures within such maximum and minimum temperatures shall be avoided.

(2) The water temperature in pools in primary enclosures housing marine mammals shall approximate the water temperature of such marine mammals' natural habitat or to temperature ranges to which they have been acclimated. Such temperature ranges must be compatible with the good health and well-being of the species involved.

(3) The water temperature in pools in primary enclosures housing marine mammals shall not be allowed to fall below a minimum temperature of 1.7° C. (35° F.) nor exceed a maximum temperature of 29.4° C. (85° F.). Rapid changes in water temperatures within such maximum and minimum temperatures shall be avoided.

(b) *Ventilation.* Indoor housing facilities shall be ventilated by natural or artificial means to provide a flow of fresh air for the marine mammals and to minimize the accumulation of chlorine fumes or other objectionable odors. A vertical air space of at least 2.44 meters (8 feet) shall be maintained in all primary enclosures housing marine mammals, including over their pools of water.

(c) *Lighting.* Indoor housing facilities for marine mammals shall have ample lighting, by natural or artificial means, or both, of good quality, distribution, and duration, as appropriate for the species involved, to permit adequate observation and cleaning of all parts of the primary enclosure including any den areas. Lighting of primary enclosures shall be designed to prevent overexposure of the marine mammals contained therein to excessive illumination.

§ 3.102 Facilities, outdoors.

(a) *Environmental temperatures.* Marine mammals shall not be housed in outdoor facilities unless the ambient air and water temperature ranges which they may encounter during the period they are so housed are compatible with the health and comfort of such marine mammal. A marine mammal shall not be introduced to an outdoor housing facility until it is acclimated to the ambient air and water temperature ranges which it will encounter therein. Water in pools in outdoor primary enclosures shall be kept free of ice.

(b) *Shelter from sunlight.* Sufficient shade, by natural or artificial means, shall be provided to allow all marine mammals kept outdoors to protect themselves from overheating or discomfort due to direct sunlight.

(c) *Shelter from inclement weather.* Natural or artificial shelter which is appropriate to the local climatic conditions for the species concerned, shall be provided for all marine mammals kept outdoors to afford them protection and to prevent discomfort to such animals due to inclement weather.

§ 3.103 Space requirements.

(a) *General.* Primary enclosures, including pools of water housing marine mammals, shall be constructed and maintained so as to provide sufficient space, both horizontally and vertically, to allow each marine mammal contained therein, to make normal postural and social adjustments with adequate freedom of movement, in or out of the water, or both, as the case may be.

(b) *Cetaceans.* (1) Primary enclosure housing cetaceans shall contain a pool of water and may consist entirely of the pool of water. The pool of water for cetaceans shall have a minimum horizontal dimension (MHD) of at least twice the length of the longest cetacean contained therein, as measured from the tip of its nose to the tip of its fluke. The minimum depth of the pool shall be at least one-half the length of the longest cetacean contained therein, or 1.52 meters (5 feet), whichever is greater. A pool of water for cetaceans meeting the MHD and minimum depth for the longest cetacean contained therein, as computed above, has a sufficient volume of water for two cetaceans. However, the minimum volume of water necessary for a pool of water containing more than two cetaceans shall be determined in the following manner:

(i) The length of all cetaceans contained in the same pool of water shall be ascertained, as measured from the tip of their noses to the tip of their flukes and listed in order from the largest to the smallest cetacean contained therein.

(ii) The minimum volume of water necessary for the largest two cetaceans shall be determined by squaring the length of the larger cetacean and multiplying that figure by π (3.14), and such result shall be multiplied by one-half of the length of the larger cetacean or 1.52 meters (5 feet), whichever is greater.

(iii) The additional minimum volume of water necessary for each additional cetacean, more than the two largest cetaceans, shall be one-half the sum of the square of the length of each such additional cetacean contained therein multiplied by π (3.14), and each such total shall be multiplied by one-half of the length of each such additional cetacean or 1.52 meters (5 feet), whichever is greater.

(2) The following formulas are to be used in determining the space requirements for cetaceans:

Minimum horizontal dimension (MHD) = 2× the length of the longest cetacean.

Minimum depth = ½ the length of the longest cetacean or 1.52 meters (5 feet), whichever is greater.

For 1 or 2 cetaceans: Minimum volume of water = square the length × π (3.14) × minimum depth

For each cetacean more than 2: Minimum volume of water = $\frac{\text{square the length}}{2} \times \pi$ (3.14) × minimum depth

TABLE I[1]

Length of cetacean		MHD		Minimum required depth		Additional volume of water required per cetacean, over—	
Meters	Feet	Meters	Feet	Meters	Feet	$2m^3$	$2ft^3$
1.83	6	3.66	12	1.52	5	7.99	282.60
2.13	7	4.26	14	1.52	5	10.83	384.65
2.44	8	4.88	16	1.52	5	14.21	502.40
2.74	9	5.48	18	1.52	5	17.92	635.85
3.05	10	6.10	20	1.52	5	22.20	785.00
3.66	12	7.32	24	1.83	6	38.49	1,356.48
4.27	14	8.54	28	2.14	7	61.26	2,154.04
4.88	16	9.76	32	2.44	8	91.23	3,215.36
5.49	18	10.98	36	2.75	9	130.13	4,578.12
6.10	20	12.20	40	3.05	10	178.18	6,280.00
6.71	22	13.42	44	3.36	11	237.51	8,358.68
7.32	24	14.64	48	3.66	12	307.89	10,851.84
7.92	26	15.84	52	3.96	13	389.98	13,797.16

[1] All calculations are rounded off to the nearest hundreth. A conversion factor of 1 ft equals .3048 m is used in converting the length of cetaceans from feet to meters. Due to rounding of meter figures as to the length of the cetacean, the correlation of meters to feet in subsequent calculations of MHD and additional volume of water required per cetacean, over 2, may vary slightly from a strict feet to meters ratio.

(c) *Sirenians.* Primary enclosures housing sirenians shall contain a pool of water and may consist entirely of a pool of water. The minimum size requirements for such a pool of water for sirenians is calculated by using the same formulas as used for cetaceans in subsection (b) of this section, based on the length of such sirenians as measured from the tips of their noses to the tips of their flukes.

(d) *Pinnipeds.* (1) Primary enclosures housing pinnipeds shall contain a pool of water, a dry resting or social activity area and a ramp for entering or leaving the pool. (2) The minimum size of the dry resting or social activity area of the primary enclosure for pinnipeds (exclusive of the pool of water and the ramp for entering or leaving the pool) shall be based on the length of each pinniped contained therein, as measured in a horizontal or extended position, from the tip of its nose to the tip of its hind flipper. The minimum size of the dry resting and social activity area shall be computed using the following method:

Measure all pinnipeds and arrange them by length in descending order from the longest pinniped to the shortest pinniped. Square the length of each pinniped. Multiply the length squared of the longest pinniped by 1.5, the second longest by 1.4, the third longest by 1.3, etc. The sixth pinniped an[illegible] each, etc., shall have space equal to their length and social activity area required for such pinnipeds:

1 pinniped (length × 1.5) = total for resting and social activity area
2 pinniped (length × 1.4) = total for resting and social activity area
3 pinniped (length × 1.3) = total for resting and social activity area
4 pinniped (length × 1.2) = total for resting and social activity area
5 pinniped (length × 1.1) = total for resting and social activity area
Over 5 (length × 1.0) = total for resting and social activity area

Sum total for minimum dry resting and social activity area

(3) The minimum surface area of the pool of water for pinnipeds (exclusive of the ramp area) shall be at least two-thirds of the minimum dry resting and social activity area required for the pinnipeds contained therein. The pool of water shall be at least 1.52 meters (5 feet) deep or one-half the length of the longest pinniped contained therein, whichever is greater. The MHD of the pool of water shall not be less than two times the length of the longest pinniped contained therein.

(e) *Polar bears.* Primary enclosures housing polar bears shall consist of a pool of water, a dry resting and social activity area, and a den. A minimum of 37.16 square meters (400 square feet) of dry resting and social activity area shall be provided for one or two polar bears, with an additional 3.72 square meters (40 square feet) of dry resting and social activity area for every polar bear more than two. The dry resting and social activity area shall be provided with a shaded area large enough to accommodate all polar bears contained in such primary enclosure at the same time. The pool of water shall be at least 2.44 meters (8 feet) by 3.66 meters (12 feet) with a minimum depth of 1.52 meters (5 feet). The den shall be at least 1.83 meters (6 feet) in width, depth and height. The interior of the den shall not be in sight of the viewing public. A separate den shall be provided for each adult female in the same primary enclosure.

(f) *Sea otters.* (1) Primary enclosures for sea otters shall consist of a pool of water and a dry resting area. The minimum horizontal dimension (MHD) of the pool of water for sea otters shall be at least twice the length of the longest sea otter contained therein as measured from the tip of its nose to the tip of its tail and not less than 0.91 meters (3 feet) deep. When more than two sea otters are housed in the same primary enclosure, additional dry resting area, as well as pool volume is required to accommodate the additional sea otters.

(2) The minimum volume of water in the pool required for a primary enclosure for sea otters shall be based on the length of each sea otter contained therein, as measured from the tip of its nose to the tip of its tail. The minimum volume of water required in the pool shall be computed using the following method. Measure all sea otters in the primary enclosure and arrange them by length in descending order from the longest sea otter to the shortest sea otter. Multiply the square of the length of the longest sea otter by 3.14 and multiply the total by 0.91 meters (3 feet). This space is satisfactory for one or two sea otters. For more than two sea otters, multiply one-half of the square of the length of the third sea otter, and each additional sea otter (more than two) in the primary enclosure, by 3.14 times 0.91 meters (3 feet).

(3) The minimum dry resting area required for more than two sea otters (exclusive of the ramp for entering and leaving the pool) shall be based on the length of each sea otter contained therein, as measured from the tip of its nose to the tip of its tail. The minimum dry resting area shall be computed using the following method: Measures all sea otters in the primary enclosure and arrange them by length in descending order from the longest sea otter to the shortest sea otter. Square the length of the longest sea otter and multiply the total by 3.14. Add one-half of the square of the length of the third sea otter, and each additional sea otter (more than two sea otters) in the primary enclosure, and multiply that sum by 3.14.

TABLE II—*Additional space required for each sea otter more than 2 in a primary enclosure*

Length of sea otter		Resting area		Pool Volume	
Meters	Feet	Square meters	Square feet	Cubic meters	Cubic feet
0.91	3.0	1.30	14.13	1.18	42.30
1.07	3.5	1.80	19.28	1.54	55.70
1.22	4.0	2.31	25.12	2.13	75.36
1.37	4.5	2.95	31.75	2.68	95.38
1.52	5.0	3.63	39.25	3.30	117.75
1.68	5.5	4.43	37.19	4.03	142.48

NOTE.—All calculations are rounded off to the nearest hundreth. A conversion factor of 1 ft equals .3048 m is used in converting the length of the sea otter from feet to meters. Due to rounding of meter figures as to the length of the sea otter, the correlation of meters to feet in subsequent calculations of additional resting area and pool volume required per sea otter, more than 2, may vary slightly from a strict feet to meter ratio.

§ 3.104 Feeding.

(a) The food for marine mammals shall be wholesome, palatable, and free from contamination, and be of sufficient quantity and nutritive value to maintain all of the marine mammals in a state of good health. The diet shall be prepared with consideration for the age, species, condition, size, and type of marine mammal being fed. Marine mammals shall be offered food at least once a day, except as directed by veterinary treatment, normal fasts, or other professionally accepted practices.

(b) Food receptacles, if used, shall be located so as to be accessible to all marine mammals in the same primary enclosure and shall be placed so as to minimize contamination of the food contained therein. Such food receptacles shall be cleaned and sanitized after each use.

(c) Food, when given to each marine mammal individually, shall be given by a competent employee who has the knowledge to assure that each marine mammal receives an adequate quantity of food to maintain the marine mammal in good health. This employee shall have the ability to recognize any deviation from a normal state of good health in each marine mammal and can adjust the food intake accordingly.

(d) Food preparation and handling shall be conducted so as to minimize bacterial or chemical contamination and to assure the wholesomeness and nutritive value of the food. Frozen fish or other frozen food shall be stored in freezers which are maintained at a temperature of at least −15° C. (5° F.) Thawing of the frozen food shall be conducted in a manner to minimize contamination and to retain nutritive value and wholesome quality. The thawed product shall be kept iced or refrigerated until feeding time which shall be within 18 hours following the removal of such food from the freezers.

§ 3.105 Water quality.

(a) *General.* Water supplied to the primary enclosure pool shall be of good quality in order to maintain the marine mammals in a state of good health. The Water quality in such pools is unacceptable if the marine mammals using such pools exhibit eye infections, poor condition of the skin or hair coat, or contaminated surface wounds.

(b) *Bacterial standards.* (1) The coliform bacteria count of the primary enclosure pool shall not exceed 1,000 MPN (most probably number) per 100 ml. of water.

(2) When the water is chemically treated, the chemicals shall be added so as not to cause harm or discomfort to the marine mammals.

(3) Water samples must be taken and tested at least weekly for coliform count and at least daily for chemical additives (chlorine and copper). Records must be kept concerning when all such samples were taken and the result thereof. All such tests shall be made available for inspection purposes.

V 42 161 AUG 19 77 UM

(c) *Salinity.* Primary enclosure pools of water shall be salinized for all marine mammals which require salinized water for their good health and well-being. The salinity of the water in such pools shall be maintained within a range of 15–30 parts per thousand.

(d) *pH Standards.* The hydrogen ion concentration of the water in any primary enclosure pool shall be maintained between a pH of 7.3 and 8.5.

(e) *Filtration and water flow.*—(1) *Marine mammals, except polar bears.* The water in primary enclosure pools for marine mammals, except polar bears, shall not be stagnant. Water entering pools in the primary enclosure shall be filtered to remove visible particulate matter, or be from a source that is as clear as normal sea water. New water or recirculated water shall be added or filtered at a rate that at least equals the volume of such pool of water in every 4 hours.

(2) *Polar bears.* The water in pools for polar bears shall be completely drained and the pool cleaned as often as necessary maintain the required water quality, but at least once every two weeks.

§ 3.106 Sanitation.

(a) *Primary enclosures.* (1) Animal and food wastes in areas other than the pool of water shall be removed from the primary enclosure at least twice per week or more often as is necessary to prevent contamination of the marine mammals contained therein, to minimize disease hazards, and to reduce odors.

(2) Particulate animal and food wastes, trash or debris that enter the primary enclosure pool of water shall be removed as often as necessary to maintain the required water quality and to prevent health hazards to the marine mammals contained therein.

(3) The wall and bottom surfaces of the primary enclosure pool of water shall be cleaned as often as necessary to remove algae accumulations.

(b) *Food preparation areas and food receptacles.* Containers, such as buckets, tubs, and tanks, as well as utensils, such as knives and cutting boards, or any other equipment which has been used for holding, thawing or preparing food for marine mammals shall be cleaned and sanitized after each feeding, if the marine mammals are fed once a day, and at least daily if the marine mammals are fed more than once a day. Kitchens and other food handling and preparation areas shall be cleaned at least once daily and sanitized at least once every week. Sanitizing shall be accomplished by washing with hot water 82° C. (180° F.) and soap or detergent as in a mechanical dishwasher, or by washing all soiled surfaces with a detergent solution followed by a safe and effective disinfectant, or by cleaning all soiled surfaces with live steam.

(c) *Housekeeping.* Buildings and grounds as well as exhibit areas shall be kept clean and in good repair. Fences shall be maintained in good repair. Primary enclosures housing marine mammals shall not have any loose objects, sharp projections, and/or edges which may cause injury or trauma to the marine mammals contained therein.

(d) *Pest control.* A safe and effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained. Insecticides or other such chemical agents shall not be applied in a primary enclosure housing marine mammals except when deemed essential by an attending veterinarian.

§ 3.107 Employees.

A sufficient number of adequately trained employees shall be utilized to maintain the prescribed level of husbandry practices set forth in this subpart. Such practices shall be under the supervision of a marine mammal caretaker who has a background in marine mammal husbandry or care. Training of marine mammals shall be done by experienced trainers without physical punishment or abuse being used or inflicted upon the marine mammals.

§ 3.108 Separation.

Marine mammals housed in the same primary enclosure shall be compatible. Marine mammals shall not be housed near animals that interfere with their health or cause them discomfort.

§ 3.109 Veterinary care.

(a) Programs of disease prevention, parasite control, euthanasia, and adequate veterinary care shall be established and maintained for all marine mammals, under the supervision of an attending veterinarian.

(b) Marine mammals shall be observed daily by the person in charge of the care of the marine mammals or by someone working under his direct supervision. Sick or diseased, stressed, injured, or lame marine mammals shall be provided with adequate veterinary care or humanely destroyed, unless such action is inconsistent with the research purposes for which the marine mammal was obtained and is being held.

(c) (1) In the case of a research facility, the program of adequate veterinary care shall include the appropriate use of anesthetic, analgesic, or tranquilizing drugs, when such use would be proper in the opinion of the attending veterinarian of the research facility. The use of these three classes of drugs shall be in accordance with the currently accepted veterinary medical practice as cited in appropriate professional journals or reference guides which shall produce in the individual subject animal a high level of tranquilization, anesthesia, or analgesia consistent with the protocol or design of the experiment.

(2) It shall be incumbent upon each research facility through its Animal Care Committee and attending veterinarian to provide guidelines and consultation to research personnel with respect to the type and amount of tranquilizers, anesthetics, or analgesics recommended as being appropriate for each species of marine mammals used by that institution.

(3) The use of tranquilizers, anesthetics, or analgesics shall effectively minimize the pain and discomfort of the marine mammal while under experimentation.

(d) Newly acquired marine mammals shall be isolated from resident marine mammals until such newly acquired marine mammals can be reasonably determined to be in good health. Any communicable disease condition in a newly acquired marine mammal must be remedied before it is placed with other resident marine mammals.

(e) Any primary enclosure which has contained a marine mammal with an infectious or contagious disease shall be cleaned and sanitized in the manner prescribed in § 3.106 of the standards before any other animal is again housed in that primary enclosure.

(f) Adequately and properly designed restraining devices or primary enclosures shall be provided for isolation, medication, and treatment of all marine mammals.

§ 3.110 Handling.

(a) Handling marine mammals shall be done as expeditiously and carefully as possible in a manner that does not cause unnecessary discomfort, overheating, behavioral stress, or physical harm to the marine mammal. Care should also be exercised to avoid harm to the handlers of such marine mammals.

(b) Marine mammals, to which the public is afforded direct contact, shall only be displayed for periods of time and under conditions consistent with the animals' good health and not leading to their discomfort.

(c) During public display, all marine mammals must be handled so that there is minimal risk of harm to the public or the marine mammal, with sufficient distance allowed, or barriers placed between the marine mammal and the viewing public to assure safety to both the public and the marine mammal. Performing marine mammals shall be allowed a rest period between performances equal to the time for one performance.

§ 3.111 Consignments to carriers and intermediate handlers.

(a) Carriers and intermediate handlers shall not accept any marine mammal presented by any dealer, research facility, exhibitor, operator of an auction sale or other person or any department, agency, or instrumentality of the United States or of any State or local government for transportation, in commerce, more than 4 hours prior to the scheduled departure of the primary conveyance on which it is to be transported.

(b) Carriers and intermediate handlers shall attempt to notify the consignee at least once in every 6 hour period following the arrival of any live marine mammal at destination. The time, date, and method of notification to the consignee and the person notifying the consignee shall be noted on one of the documents accompanying the marine mammal.

§ 3.112 Primary enclosures used to transport marine mammals.

(a) Primary enclosures used to transport marine mammals, other than cetaceans and sirenians, shall be constructed in such a manner that (1) the structural strength of the enclosure shall be sufficient to contain the marine mammals and to withstand the normal rigors of transportation; (2) the interior of the enclosure shall be free from any protrusions that could be injurious to the marine mammals contained therein; (3) no part of the marine mammal shall be exposed outside of the primary enclosure which may cause injury to the animal or to persons who are nearby or who handle the primary enclosure; (4) the openings which provide access into the primary enclosure shall be secured with locking devices capable of preventing accidental opening; (5) the openings of such primary enclosure are easily accessible at all times for emergency removal of any live marine mammal contained therein; (6) there are ventilation openings located on at least both ends of the primary enclosure which are at least 8 percent of the total surface area of each such end; (7) projecting rims or other devices shall be placed on the ends and sides of any primary enclosure which has ventilation openings to provide a minimum air circulation space of 1.9 centimeters (0.75 inches) between the primary enclosure and any adjacent cargo or conveyance wall; and (8) adequate handholds or other devices for lifting shall be provided on the exterior of the container to enable the primary enclosure to be lifted without unnecessary tilting and to ensure that the persons handling the primary enclosure will not come in contact with any marine mammal contained therein.

(b) Live marine mammals transported in the same primary enclosure shall be of the same species and maintained in compatible groups. Marine mammals which have not reached puberty shall not be transported in the same primary enclosure with adult marine mammals other than their dams. Female marine mammals in season (estrus) shall not be transported in the same primary enclosure with any male marine mammals.

(c) Primary enclosures used to transport live marine mammals shall be large enough to assure that (1) each polar bear and sea otter contained therein has sufficient space to turn about freely in a stance whereby all four feet are on the floor and it can sit in an upright position and lie in a natural position; (2) each pinniped contained therein has sufficient space to lie in a natural position whereby all extended flippers shall not be in contact with any walls of the primary enclosure, and (3) each cetacean and sirenian contained therein has sufficient space for support of its body in slings, harnesses or other supporting devices (as prescribed in subparagraph (d) of this subsection) without being in contact with the supporting framework, adjacent walls, floor or ceiling, or other solid materials capable of causing contact injury to such cetacean or sirenian.

(d) Straps, slings, harnesses, or other devices for body support, used to transport cetaceans and sirenians shall be (1) designed to provide access to such mammal by attendants during transportation to administer intransit care; (2) designed to allow special padding to prevent trauma or injury at critical weight pressure points on the body of the marine mammal; and (3) designed so that straps or other restraining devices are provided to keep the animal from thrashing about and causing injury to itself or it its attendants, and so that such straps or other restraining devices are padded or otherwise protected so as not to cause injury, or be an irritant to the animal.

(e) Before being used to transport live marine mammals, primary enclosures, if previously used, shall be cleaned and sanitized in the manner prescribed in § 3.106 of the standards.

(f) Primary enclosures used to transport live marine mammals shall be clearly marked on the top and on one or more sides with the words "Wild Animal" in letters not less than 2.5 cm. (1 inch) in height, and with arrows or other markings, to indicate the correct upright position of the container.

(g) Documents accompanying the shipment shall be attached in an easily accessible manner to the outside of a primary enclosure which is part of such shipment.

§ 3.113 Primary conveyances (motor vehicle, rail, air and marine).

(a) The animal cargo space of primary conveyances used in transporting live marine mammals shall be designed and constructed to protect the health and assure the safety and comfort of the marine mammals contained therein at all times.

(b) The animal cargo space shall be constructed and maintained in a manner to prevent the ingress of engine exhaust fumes and gases.

(c) No marine mammal shall be placed in an animal cargo space that does not have a supply of air sufficient for normal breathing for each live animal contained therein, and the primary enclosures shall be positioned in the animal cargo space of the primary conveyance in such a manner that each marine mammal contained therein has access to sufficient air for normal breathing.

(d) Primary enclosures shall be positioned in the primary conveyance in such a manner that in an emergency the live marine mammals can be removed from the primary conveyance within a 5 minute time period.

(e) The interior of the animal cargo space shall be kept clean.

(f) Live marine mammals shall not be transported with any material, substance or device which may be injurious to the health and well-being of such marine mammals unless proper precaution is taken to prevent such injury.

§ 3.114 Food and water requirements.

(a) All marine mammals shall be offered potable water within 4 hours prior to being transported in commerce or offered for transportation in commerce. Marine mammals shall be watered as often as necessary and appropriate to the species involved to prevent excessive dedhydration which would jeopardize the good health and well-being of the marine mammal.

(b) Marine mammals shall not be transported for more than a period of 24 hours without being offeredd food. When an attendant is required to accompany a shipment of a marine mammal, as provided in § 3.115 of the standards, such marine mammal shall be fed during transit as often as necessary to provide for the good health and well-being of such marine mammal.

§ 3.115 Care in transit.

(a) An attendant or other employee of the shipper or receiver of any marine mammal being transported, in commerce, knowledgeable about the subject marine mammal being transported, shall accompany cetaceans, walruses, sirenians and sea otters during periods of transportation to provide for their good health and well-being, to observe such marine mammals and to determine whether they need veterinary care and to obtain any needed veterinary care as soon as possible. No cetacian, sirenian or walrus in need of veterinary care shall be transported in commerce.

(b) An attendant or other employee of the shipper or receiver of any marine mammal being transported, in commerce, shall provide for cetaceans and sirenians during periods of transport by (1) keeping the skin moist with intermittant spraying of water or protected by applying a nontoxic emollient, such as lanolin, to prevent drying of the skin; (2) assuring that the pectoral flippers shall be allowed freedom of movement at all times; (3) making adjustments in the position of such marine mammals at 30 minute intervals to prevent necrosis of the skin at weight pressure points; and (4) calming such marine mammals to avoid struggling, thrashing, and other unnecessary activity which may cause overheating or physical trauma to such marine mammals.

(c) Primary enclosers used to transport sea otters shall have sufficient water for each sea otter contained therein to immerse its body or such sea otters shall receive sufficient intermittent spraying with water to allow each such sea otter to maintain its hair coat and to prevent drying of its hair coat. No sea otter in need of veterinary care shall be transported in commerce.

(d) Live polar bears and pinnipeds, other than walruses, need not be accompanied by an attendant or other employee of the shipper or receiver, unless the period of transportation will exceed 12 hours in duration. During surface transportation, it shall be the responsibility of the driver or employee to inspect polar bears and pinnipeds, other than walruses, unaccompanied by an attendant, at least every 2 hours to determine whether they need veterinary care and to provide any needed veterinary care as soon as possible. When transported by air, live polar bears and pinnipeds, other than walruses, unac-

V 42 161 DG 19 77 UM A V

companied by an attendant, shall be inspected by the carrier at least every 2 hours if the animal cargo space is accessible during flight. If the animal cargo space is not accessible during flight, the air carrier shall inspect such live unattended marine mammals whenever loaded and unloaded and whenever the animal cargo space is otherwise accessible to determine whether such unattended live marine mammals need veterinary care, and the carrier shall provide any needed veterinary care as soon as possible. No polar bear or pinniped in need of veterinary care shall be transported in commerce.

(e) During the course of transportation, in commerce, live marine mammals shall not be removed from their primary enclosure unless placed in another primary enclosure or other facility conforming to the requirements provided in this subpart.

§ 3.116 Terminal facilities.

(a) *Indoor facilities.* Carriers and intermediate handlers shall provide a designated indoor animal holding area which shall not be used for general cargo, but may be located within the general cargo area. The indoor animal holding area shall be provided with fresh air either by means of windows, doors, vents, or air conditioning and shall be ventilated so as to minimize drafts, odors, and moisture condensation. The ambient temperature shall neither be allowed to fall below 7.2°C (45°F.) nor be allowed to exceed 29.5°C (85°F.) at any time. The indoor animal holding area shall be cleaned and santized in the manner prescribed in § 3.106 of the standards often enough to prevent an accumulation of debris, or excreta, minimize vermin infestation, and to prevent a disease hazard.

(b) *Outdoor facilities.* Carriers and intermediate handlers in transporting live marine mammals from the indoor animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the indoor animal holding area of the terminal facility, including loading and unloading procedures, shall provide the following:

(1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live marine mammals from the direct rays of the sun.

(2) *Shelter from snow.* Transporting devices shall be covered to provide protection for live marine mammals during snow.

(3) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live marine mammals when the atmosphere temperature falls below 10° C. (50° F.)

§ 3.117 Handling.

(a) Carriers and intermediate handlers are responsible for moving live marine mammals from the indoor animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the indoor animal holding area of the terminal facility as expeditiously as possible.

(b) Care shall be exercised to avoid handling of the primary enclosure in such a manner that may cause physical or emotional trauma to the live marine mammal contained therein.

(c) Primary enclosures housing live marine mammals shall not be tossed, dropped, or needlessly tilted and shall not be stacked in a manner which may result in their falling.

§ 3.118 Ambient temperature.

The ambient temperature within the primary enclosure used to transport live marine mammals shall not exceed 35° C. (95° F.) for a period of more than 45 minutes and shall not fall below 7.2° C. (45° F.) for a period of more than 45 minutes unless the person transporting such live marine mammals knows that such live marine mammals are acclimated to such lower or higher temperatures.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 703, Hyattsville, Maryland, during regular hours of business (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27 (b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 16th day of August 1977. The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107. However, an economic impact statement has been drafted and a copy of said draft statement may be obtained by writing to the Deputy Administrator, USDA, APHIS, VS, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782.

NORVAN L. MEYER,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc 77-24125 Filed 8-18-77;8:45 am]

federal register

FRIDAY, AUGUST 19, 1977
PART VII



OFFICE OF MANAGEMENT AND BUDGET

■

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION AND DEPARTMENT OF THE TREASURY

Budget Deferral

V 42 161 AUG 19 77 UM V

OFFICE OF MANAGEMENT AND BUDGET

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION AND DEPARTMENT OF THE TREASURY

Budget Deferral

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I herewith report one new deferral of budget authority amounting to $11.3 million for the Energy Research and Development Administration's Intense Neutron Source Facility. In addition, I am reporting a revision to a previously transmitted deferral for the anti-recession financial assistance fund in the Office of the Secretary of the Treasury.

The details of each deferral are contained in the attached reports.

Jimmy Carter

THE WHITE HOUSE, August 16, 1977.

D77-57A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D77-57 transmitted to the Congress on April 28, 1977, and printed as House Document 95-135.

This revision of a deferral for the Antirecession financial assistance fund in the Office of the Secretary of the Treasury increases the previously reported deferral from $6,030,000 to $8,453,000. This increase of $2,423,000 is the net effect of releases, adjustments, and additional budgetary resources made available to this account in P.L. 95-29.

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral #	Item	Budget Authority
D77-57A	Department of the Treasury: Office of the Secretary Antirecession financial assistance fund....	8,453
D77-64	Energy Research and Development Administration: Plant and capital equipment.....	11,300
	Total, deferrals.....	19,753

SUMMARY OF SPECIAL MESSAGES
FOR FY 1977
(in thousands of dollars)

	Rescissions	Deferrals
Eighteenth special message:		
New items.....	---	11,300
Changes to amounts previously submitted.....	---	2,423
Effect of the eighteenth special message.....	---	13,723
Previous special messages.....	1,831,930	7,470,657
Total amount proposed in special messages.....	1,831,930 (in 120 rescission proposals)	7,484,380 (in 64 deferrals)

NOTE: All amounts listed represent budget authority except for $134,807,092 consisting of two general revenue sharing deferrals of outlays only (D77-26 and D77-27A). Reports for D77-26 and D77-27A are included in the special messages of October 1, 1976, and December 3, 1976, respectively.

V42161 AUG 1977 UM V

Deferral No: D77-57A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Treasury	New budget authority (P.L. 94-447 & 95-29): $1,570,000,000*
Bureau: Office of the Secretary	Other budgetary resources: 312,500,000
Appropriation title & symbol: Antirecession Financial Assistance Fund 207/80108 1/	Total budgetary resources: 1,882,500,000*
	Amount to be deferred: Part of year: $; Entire year: 8,453,000*
OMB identification code: 20-0108-0-1-852	Legal authority (in addition to sec. 1013): [X] Antideficiency Act; [X] Other P.L. 94-369
Grant program: [X] Yes [ ] No	
Type of account or fund: [ ] Annual; [X] Multiple-year September 30, 1978 (expiration date); [ ] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

*Justification

The Secretary of the Treasury must hold a portion of this account in reserve to meet valid claims from State and local governments that past antirecession financial assistance payments to them were too small. Because the total amount appropriated for all governments is fixed, the alternative to such a reserve is recurring recomputations of entitlements of 39,000 governments for prior entitlement periods. Accordingly, the Office of Revenue Sharing has withheld from obligation an amount equal to one-half of one percent of the amounts appropriated for the transition quarter and FY 1977.

This cumulative unobligated reserve, totaling $8.5 million, is available to the Secretary of the Treasury to satisfy legitimate claims against the fund for prior entitlement periods. The unobligated amount retained in the fund will be reduced whenever the Secretary determines that a lesser amount is adequate to meet foreseeable liabilities against the fund. The reduction will be made by paying the additional amount to recipients as part of a regular distribution.

Estimated Effect

This action will postpone distribution of the amount of the reserve until necessary adjustments and corrections have been identified. It will also avoid substantial confusion and complexities in the administration of the program.

1/ This account is the subject of another deferral, D77-60.
* Revised from previous report.

* Outlay Effect (estimated in millions of dollars)

Comparison with President's 1978 Budget:

1. Budget outlay estimate for FY 1977	$1,250.0
2. Outlay savings, if any, included in the budget outlay estimate	-0-

Current Outlay Estimates for FY 1977:

3. Without deferral	1,707.0
4. With deferral	1,698.5
5. Current outlay savings (line 3 - line 4)	+8.5
Outlay savings for FY 1978	-8.5
Outlay savings for FY 1979	-0-

* Revised from previous report.

Deferral No: D77-64

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: U.S. Energy Research and Development Administration	New budget authority (P.L. 94-355 & 94 - 373): $1,634,630,000
Bureau:	Other budgetary resources: 106,534,747
Appropriation title & symbol: Plant and Capital Equipment 1/ 89X0103	Total budgetary resources: 1,741,164,747
	Amount to be deferred: Part of year: $; Entire year: 11,300,000
OMB identification code: 89-0103-0-1-999	Legal authority (in addition to sec. 1013): [ ] Antideficiency Act; [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual; [ ] Multiple-year (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification: The Administration has determined that project 76-5-a, 14 MEV Intense Neutron Source Facility, Los Alamos Scientific Laboratory, New Mexico, is not required as part of its Magnetic Fusion Energy Program. The Administration's proposed FY 1978 authorization bill for the Energy Research and Development Administration (ERDA) includes a provision to eliminate the existing authorization for appropriations for this project. Pending final congressional action on the ERDA FY 1978 authorization bill, funds not required to maintain ongoing project activities will be deferred. The purpose for this deferral is to minimize the use of additional funds while the authorization bill is being considered.

Estimated Effects: This deferral will have no effect on current project activities. If the authorization for the project is not eliminated, the total cost and completion date of the project will not be significantly affected by this deferral since the deferral will terminate not later than the end of FY 1977, a period of less than two months.

Outlay Effect:

There is no outlay effect resulting from the deferral since it will be in effect for only a brief time.

1/ This account is the subject of another deferral, D77-56.

[FR Doc.77-24167 Filed 8-17-77;11:41 am]

federal register

FRIDAY, AUGUST 19, 1977

PART VIII

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

V42 161 AUG 19 77 UM

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

Arkansas	AR77-4173
Indiana	IN77-2129

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

Delaware:		
	DE77-3042	Apr. 1, 1977.
Florida:		
	FL77-1003	Jan. 21, 1977.
	FL77-1049	Apr. 29, 1977.
Illinois:		
	IL76-2141	Oct. 29, 1976.
	IL77-2068	June 10, 1977.
Kentucky:		
	KY76-1112; KY76-1113	Oct. 1, 1976.
	KY76-1114	Oct. 8, 1976.
	KY76-1128	Nov. 12, 1976.
Louisiana:		
	LA77-4169; LA77-4170	July 29, 1977.
Oklahoma:		
	OK77-4073	Apr. 1, 1977.
	OK77-4163	July 15, 1977.
	OK77-4171	July 29, 1977.
Pennsylvania:		
	PA77-3031	Apr. 8, 1977.
	PA77-3032	Mar. 25, 1977.
	PA77-3102	July 22, 1977.
Tennessee:		
	TN77-1080	July 22, 1977.
Virginia:		
	VA77-3091	July 1, 1977.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Massachusetts:		
	MA76-2130 (MA77-3072)	Sept. 20, 1976.
New York:		
	NY77-3004 (NY77-3115)	July 1, 1977.
	NY77-3011 (NY77-3114)	May 13, 1977.
Texas:		
	TX77-4070 (TX77-4194); TX77-4071 (TX77-4198).	Apr. 1, 1977.
	TX77-4097 (TX77-4197)	May 6, 1977.
	TX77-4101 (TX77-4193); TX77-4102 (TX77-4199).	May 13, 1977.
	TX77-4105 (TX77-4196)	May 20, 1977.
	TX77-4108 (TX77-4205)	June 3, 1977.
	TX77-4111 (TX77-4191)	June 10, 1977.
	TX77-4118 (TX77-4174); TX77-4119 (TX77-4175); TX77-4120 (TX77-4176); TX77-4121 (TX77-4177); TX77-4122 (TX77-4178); TX77-4123 (TX77-4179); TX77-4124 (TX77-4180); TX77-4125 (TX77-4181); TX77-4126 (TX77-4182); TX77-4127 (TX77-4183); TX77-4128 (TX77-4184); TX77-4129 (TX77-4185); TX77-4130 (TX77-4186); TX77-4131 (TX77-4187); TX77-4132 (TX77-4188); TX77-4133 (TX77-4189).	June 24, 1977.
	TX77-4144 (TX77-4201)	July 1, 1977.
	TX77-4151 (TX77-4192); TX77-4152 (TX77-4190); TX77-4153 (TX77-4195); TX77-4154 (TX77-4200); TX77-4156 (TX77-4202); TX77-4156 (TX77-4203); TX77-4157 (TX77-4204); TX77-4158 (TX77-4206); TX77-4159 (TX77-4207).	July 8, 1977.
Washington:		
	WA77-5055 (WA77-5076)	June 17, 1977.
Wisconsin:		
	WI76-2155 (WI77-2121)	Nov. 26, 1976.
	WI76-2165 (WI77-2118)	Dec. 3, 1976.
	WI76-2164 (WI77-2117)	Dec. 10, 1976.
	WI76-2167 (WI77-2120); WI76-2168 (WI77-2122).	Dec 17, 1977.
	WI76-2169 (WI77-2124)	Dec. 28, 1977.

Signed at Washington, D.C., this 12th day of August 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

DECISION NO: AR77-4173 Page 2

LABORERS CLASSIFICATION DEFINITIONS (CONT'D)

Group II - Semi-skilled laborer; Pipelayers, concrete, clay and mechanical tool, cement mixer, wet or dry finishers and plasterers, mason tenders, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tenders

Group III - Steelform setters, curb and gutters, grout and cement muckers

Group IV - Swing scaffold, Barco 90 lb pavement breaker, and burners

Group V - Nozzleman (Gunite, Grout and sandblasting; concrete pump (nozzle placer)

Group VI - Powderman and blasterers

Group VII - Wagon drill

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$ 8.85				.02
LINE CONSTRUCTION:					
Linemen & Operators	10.85		3%		3/8%
Cable splicers	10.975		3%		3/8%
Groundman (Advanced)	65%JR		3%		3/8%
Groundman (1st 6 months)	49%JR		3%		3/8%
Winch truck	73%JR		3%		3/8%
MARBLE, TERRAZZO & TILE WORKERS	7.95				
MARBLE, TERRAZZO & TILE FINISHERS	5.35				
PAINTERS:					
Painters, paperhangers & steam cleaners, sheetrock finishers	7.80		.35		.02
4 way all cover hangers			.35		.02
Spray gun operators and sand blasterers	8.40				
All skeleton steel and all work on stages, structural steel over 30 feet high	8.05		.35		.02
PLASTERERS	8.35				.02
PLUMBERS:					
0 to 9 miles from Jefferson County Courthouse	9.55	.50	.30		.10
9 to 45 miles from Jefferson County Courthouse	10.15	.50	.30		.10
45 miles and over from Jefferson County Courthouse	10.70	.50	.30		.10
POWER EQUIPMENT OPERATORS:					
Group I	9.44	.35	.35		
Group II	8.76	.35	.35		
Group III	8.36	.35	.35		
Group IV	6.92	.35	.35		

NEW DECISION

STATE: Arkansas COUNTY: Jefferson

DECISION NO. AR77-4173 DATE: Date of Publication

DESCRIPTION OF WORK: BUILDING CONSTRUCTION - Includes construction of sheltered enclosures, with walk-in access for the purpose of housing persons, machinery, equipment or supplies; includes, in all construction of such structures, the installation inside the building of utilities and equipment, both above and below ground level, as well as excavation and foundation, includes site preparation and incidental paving and utilities outside the building. Also includes high rise residential apartment and housing units of more than four stories.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.40	.45	.60		.02
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS	8.70	.40	.35		.04
CARPENTERS:					
Work in excess of $1,000,000.					
Carpenters	8.63	.45	.35		.04
Millwrights & Piledrivermen	9.13	.45	.35		.04
Work under $1,000,000.					
Carpenters	7.93	.45	.35		.04
Millwrights & Piledrivermen	8.43	.45	.35		.04
CEMENT MASONS	8.67	.25			.03
ELECTRICIANS:					
Electricians	10.45	.40	3%		1/4%
Cable splicers	10.575	.40	3%		1/4%
ELEVATOR CONSTRUCTORS:					
Journeymen	8.88	.545	.35	4%+6%	.02
Helpers	70%JR	.545	.35	4%+6%	.02
Helpers - Probationary	50%JR				
GLAZIERS	7.90	.45	.40		.04
IRONWORKERS	9.50				
LABORERS:					
Group I	6.00	.25	.52		
Group II	6.25	.25	.52		
Group III	6.40	.25	.52		
Group IV	6.50	.25	.52		
Group V	6.65	.25	.52		
Group VI	6.90	.25	.52		
Group VII	6.70	.25	.52		

LABORERS CLASSIFICATION DEFINITIONS

Group I - Construction laborers, concrete labor, wrecking labor, mechanic's labor, excavating labor, plumber's labor, electricians labor, green cutter, blowpipe, and concrete pump hose placer

V 4216161 AUG 19 77 UM

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group I -- Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all tower, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics and/or welders

Group II -- Hydraulic Cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturer, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradealls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

Group III - - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all tranching machines, regardless of size or motive power, all backfillers, all central mixing plants, 10S and larger, finishing machines, all boiler fireman high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool, core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator

Group IV -- LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespectibe of motive power, winch or A frame trucks, forklifts, rollers of all types, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material, Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, end dump Paelid, pump-crete, spray machines and pressure grout machine, air compressors, regardless of size. All light equipment, welding m achines, light plants, pumps, all well point system dewatering and portable pumps, space heaters, irrespective of size, and motive power, equipment greaser, oiler, mechanic helper, drilling machine helper, asphalt distributor, and like equipment, safety boat operator and deckhand

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	$ 7.95		.10		
SHEET METAL WORKERS	9.65	.40	.40		.02
SPRINKLER FITTERS	10.12	.65	.95		.08

FOOTNOTES:

a. 6 paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who had worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

PAID HOLIDAYS: FOR ELEVATOR CONSTRUCTORS ONLY
A- New Years' Day; B-Memorial Day; C-Independence Day: D-Labor Day; E-Thanksgiving Day; F-Christmas Day

NEW DECISION

STATE: INDIANA COUNTY: WAYNE
DECISION NO.: IN77-2129 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & HEATING MECHANICS	$6.00				
BRICKLAYERS	6.00				
CARPENTERS	5.74				
CEMENT MASONS	4.87				
DRYWALL HANGERS	5.71				
ELECTRICIANS	5.50				
INSULATION INSTALLERS	4.50				
LABORERS	4.43				
PAINTERS	4.43				
PLUMBERS	6.00				
ROOFERS	5.06				
SHEET METAL WORKERS	6.00				
SOFT FLOOR LAYERS	5.00				
TRUCK DRIVERS	7.61				
POWER EQUIPMENT OPERATORS:					
Backhoe	11.00	.40	.55		.08
Bulldozer	11.00	.40	.55		.08

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #DE77-3042 - Mod. #4 (42 FR-17756 - April 1, 1977) State of Delaware					
Change:					
Carpenters - Building & Heavy: New Castle & Kent Counties	$10.10	1.29	.74		.02
Carpenters - Highway Construction: New Castle & Kent Counties	9.20	1.29	.74		.02
Soft Floor Layers: New Castle & Kent Counties	10.10	1.29	.74		.02
Truck Drivers - Building Construction:					
Group 1	7.96	.7175	.70	f	
Group 2	7.86	.7175	.70	f	
Group 3	7.71	.7175	.70	f	
Truck Drivers - Heavy & Highway Construction:					
Group 1	7.11	.7175	.70	f	
Group 2	7.01	.7175	.70	f	
Group 3	6.86	.7175	.70	f	
Cement masons - Building Construction	9.05	1.28	.82		
Cement masons - Heavy & Highway Construction	8.75	1.28	.82		
Decision # FL77-1003 - Mod. # 2 (42 FR-4081 - January 21, 1977) Dade County, Florida					
Change:					
Carpenters	6.50	.70	.55		.02
Add:					
Sheet metal workers, up to 3 stories	5.50	.75	.50		.10
Decision # FL77-1049 - Mod. # 3 (42 FR-22080 - April 29, 1977) Leon County, Florida					
Add:					
Piledrivermen	8.92	.52	.50		.05

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL76-2141 - Mod. #4 (41 FR 47733 - October 29, 1976) Boone, DeKalb, DuPage, Kane, Kendall, Lake, McHenry & Will Counties, Illinois					
CHANGE:					
Truck Drivers:					
Lake County					
2-3 Axle Trucks	$9.725	a29.00	a30.00		
4-Axle Trucks	9.875	a29.00	a30.00		
5-Axle Trucks	10.075	a29.00	a30.00		
6-Axle Trucks	10.275	a29.00	a30.00		
Boone County					
2-3 Axle Trucks	9.75	.40	.90		
4-Axle Trucks	9.90	.40	.90		
5-Axle Trucks	10.10	.40	.90		
6-Axle Trucks	10.30	.40	.90		
Remainder of District #1					
2-3 Axle Trucks	9.80	a26.00	a30.00		
4-Axle Trucks	9.95	a26.00	a30.00		
5-Axle Trucks	10.15	a26.00	a30.00		
6-Axle Trucks	10.35	a26.00	a30.00		
DECISION #IL77-2068 - Mod. #3 (42 FR 30108 - June 10, 1977) DuPage, Grundy, Kane, Kendall, Lake, McHenry & Will Counties, Illinois					
OMIT:					
Under Truck Drivers - Lake County					
ADD:					
Under Truck Drivers - Lake County					
2-3 Axle Trucks	9.725	a29.00	a30.00		
4-Axle Trucks	9.875	a29.00	a30.00		
5-Axle Trucks	10.075	a29.00	a30.00		
6-Axle Trucks	10.275	a29.00	a30.00		

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KY76-1112 - Mod. #1 (41 FR 43579 - October 1, 1976) Adair, Barren, Bell, Breathitt, Casey, Clay, Clinton, Cumberland, Estill, Floyd, Garrard, Green, Harlan, Hart, Jackson, Knott, Knox, Laurel, Lee, Leslie, Letcher, Lincoln, McCreary, Magoffin, Martin, Menifee, Metcalfe, Monroe, Owsley, Perry, Pike, Powell, Pulaski, Rockcastle, Russell, Taylor, Wayne, Whitley, and Wolfe Counties, Kentucky					
CHANGE:					
Power Equipment Operators - Heavy Construction:					
Class A	$10.25	.40	.45		.05
Class B	7.95	.40	.45		.05
Class C	7.29	.40	.45		.05
DECISION #KY76-1113 - Mod. #1 (41 FR 43582 - October 1, 1976) Boone, Campbell, Kenton, and Pendleton Counties, Kentucky					
CHANGE:					
Power Equipment Operators - Heavy & Highway Construction:					
Class A	11.04	.56	1.00		.15
Class B	10.92	.56	1.00		.15
Class C	9.88	.56	1.00		.15
Class D	9.45	.56	1.00		.15
Class E	7.64	.56	1.00		.15
Master Mechanic	11.29	.56	1.00		.15

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KY76-1114 - Mod. #1 (41 FR 44633 - October 8, 1976) Anderson, Bath, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Carroll, Carter, Clark, Elliott, Fayette, Fleming, Franklin, Gallatin, Grayson, Grant, Greenup, Hardin, Harrison, Henry, Jefferson, Jessamine, Johnson, Larue, Lawrence, Lewis, Madison, Marion, Mason, Meade, Mercer, Montgomery, Morgan, Nelson, Nicholas, Oldham, Owens, Robertson, Rowan, Scott, Shelby, Spencer, Trimble, Washington and Woodford Counties, Kentucky					
CHANGE:					
Power Equipment Operators - Heavy Construction:					
Class A	$10.25	.40	.45		.05
Class B	7.95	.40	.45		.05
Class C	7.29	.40	.45		.05
DECISION #KY76-1128 - Mod. #2 (41 FR 50144 - November 12, 1976) Allen, Ballard, Butler, Caldwell, Calloway, Carlisle, Christian, Crittenden, Daviess, Edmonson, Fulton, Graves, Hancock, Henderson, Hickman Hopkins, Livingston, Logan, Lyon, McCracken, McLean, Marshall, Muhlenberg, Ohio, Simpson, Todd, Trigg, Union, Warren and Webster Counties, Kentucky					
CHANGE:					
Power Equipment Operators - Heavy Construction:					
Class A	10.25	.40	.45		.05
Class B	7.95	.40	.45		.05
Class C	7.29	.40	.45		.05

MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #LA77-4169 - Mod. #2 (42 FR 38850 - July 29, 1977) Statewide Louisiana					
Change:					
Carpenters:					
Zone 5	$ 9.92	.45	.30		.04
Zone 6	9.755	.45	.30		.04
Electricians:					
Electricians - Zone 7	10.60	1.00	3%		1%
Cable splicers - Zone 7	11.10	1.00	3%		1%
Line Construction:					
Zone 1:					
Linemen	10.95	.35	3%+.30		.03
Operator hole digging equipment; operator, tractor with winch & derrick; operator line truck with winch & derrick working hot lines	75%JR	.35	3%+.30		.03
Operator using holo truck & trailer, or pole hauling & setting truck (not in energized lines)	65%JR	.35	3%+.30		.03
Operator using truck without winch; Groundmen (starting rate to 1½ years service)	45%JR	.35	3%+.30		.03
Groundmen (1½ years service or over)	50%JR	.35	3%+.30		.03
Millwrights - Zone 2	10.31	.45	.30		.04
Piledrivermen - Zone 3	10.02	.45	.30		.04
Soft floor layers:					
Zone 2	9.92	.45	.30		.04
Zone 3	9.755	.45	.30		.04
Truck drivers (Building Construction):					
Zone 2:					
Group 1	6.20				
Group 2	6.45				
Group 3	7.00				
Group 4	6.85				
Group 5	7.30				
Group 6	7.40				
Group 7	7.70				
Group 8	7.85				

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #LA77-4170 - Mod. #1 (42 FR 38870 - July 29, 1977) Bossier, Caddo & Calcasieu Parishes, Louisiana					
Change:					
Electricians:					
Bossier & Caddo Parishes:					
Electricians	$10.60	1.00	3%		1%
Cable splicers	11.10	1.00	3%		1%

MODIFICATIONS P. 7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. OK77-4073 - Mod. #2 (42 FR 17777 - April 1, 1977) Statewide (except heavy construction within the city of Muskogee, Oklahoma)					
CHANGE:					
ZONE III					
TRACTORS - Crawler, over 80 HP	$3.625				
DECISION NO. OK77-4163 - Mod. #2 (42 FR 36764 - July 15, 1977) Garfield County, Oklahoma					
CHANGE:					
ELECTRICIANS:					
Zone I	$10.05	.50	3%+.50		1%
Zone II	10.30	.50	3%+.50		1%
Zone III	10.55	.50	3%+.50		1%
CABLE SPLICERS:					
Zone I	10.30	.50	3%+.50		1%
Zone II	10.55	.50	3%+.50		1%
Zone III	10.80	.50	3%+.50		1%
DECISION NO. OK77-4171 - Mod. #2 (42 FR 38887 - July 29, 1977) Oklahoma, Cleveland, Caddo, Kingfisher, Canadian, Grady, Logan, Lincoln, McClain, Seminole and Pottawatomie Counties, Oklahoma					
CHANGE:					
ELECTRICIANS:					
Zone I	$10.05	.50	3%+.50		1%
Zone II	10.30	.50	3%+.50		1%
Zone III	10.55	.50	3%+.50		1%
CABLE SPLICERS:					
Zone I	10.30	.50	3%+.50		1%
Zone II	10.55	.50	3%+.50		1%
Zone III	10.80	.50	3%+.50		1%

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA77-3031 - Mod. # 6 (42 FR 18339 - April 8, 1977) Lebanon County, Pennsylvania					
Change:					
Cement masons					
West of Route #501	$10.035	.55	.40		
DECISION #PA77-3032 - Mod. # 5 (42 FR 16373 - March 25, 1977) Lycoming County, Pennsylvania					
Change:					
Bricklayers & Stonemasons	$9.75	.65	.50		.015
DECISION #PA77-3102 - Mod. # 1 (42 FR 37754 - July 22, 1977) Clinton, Centre, Huntingdon, Mifflin & Centre Counties, Pa.					
Change:					
Roofers					
Zone 2					
Composition & Kettleman	9.65	.85	.80		
Bricklayers & Stonemasons					
Zone 2	9.75	.65	.50		.015

MODIFICATIONS P. 10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. VA77-3091-Mod. #2 (42 FR 34266-July 1, 1977) YORK COUNTY AND THE CITIES OF HAMPTON AND NEWPORT NEWS (including Langley AFB, Fort Eustis and Fort Monroe), Virginia					
ADD:					
Ironworkers:					
Riggers	$9.60	.60	.85		.08

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Suffolk
DECISION NO.: MA77-3072 DATE: Date of Publication
Supersedes Decision No. MA76-2130, dated September 20, 1976 in 41 FR 35377.
DESCRIPTION OF WORK: Building Construction, (including residential), heavy and highway construction and marine construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	10.26	.80	.80		.01
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS AND STONEMASONS	9.90	.85	1.10		.09
CARPENTERS AND SOFT FLOOR LAYERS	10.20	.60	1.00		.07
CEMENT MASONS	10.45	.95	.50		.10
ELECTRICIANS	11.25	.75	1%+1.55		.05
ELEVATOR CONSTRUCTORS	11.445	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	10.40	.57	.64		.03
IRONWORKERS:					
Ornamental, reinforcing and structural	10.49	.70	1.50		.06
LABORERS (BUILDING):					
Laborers, carpenter tenders, wrecking laborers	7.50	.60	.70		.10
Jackhammer op.; pavement breakers, asphalt rakers, carbide core drilling machine, chain saw op., pipelayer, baro type jumping tampers; laser beam, concrete pump, mason tenders, motorized mixers, ride-on motorized buggy, fence and beam rail erectors	7.75	.60	.70		.10
Air track, block pavers, rammers curb setter	8.00	.60	.70		.10
Blasterers, powdermen	8.25	.60	.70		.10
Open air caisson, cylindrical work & boring crew:					
Laborer; top man	7.50	.60	.70		.10
Helper	7.62	.60	.70		.10
Bottom men	8.25	.60	.70		.10
Driller	8.37	.60	.70		.10
LATHERS	9.25	.45	.55		
LEADBURNERS	9.25	.35		c	.01

DECISION NO. MA77-3072	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen	11.50	.65	1%+.50	d	3/8 of 1%
Equipment Operators	10.78	.65	1%+.50	d	3/8 of 1%
Driver groundman	8.53	.65	1%+.50	d	3/8 of 1%
Groundman	7.18	.65	1%+.50	d	3/8 of 1%
MARBLE & TILE SETTERS, TERRAZZO WORKERS	9.80	.85	1.10		
MARBLE SETTERSHELPERS	8.71	.85	.25		
MILLWRIGHTS	10.20	.60	1.00		.07
PAINTERS:					
Brush, New Construction	9.76	.72	1.05		.04
Structural Steel	11.88	.72	1.05		.04
Spray & sandblasting	10.76	.72	1.05		.04
Repaint, alterations					
Residential					
Brush	8.61	.72	1.05		.04
Structural steel	11.88	.72	1.05		.04
Spray	9.61	.72	1.05		.04
PILEDRIVERMEN	10.15	.60	1.00		
PLASTERERS	9.25	.45	1.30		.02
VENEER PLASTERERS	8.05	.45	.30		.02
PLASTERERS' TENDERS	7.75	.60	.70		.10
PLUMBERS	11.20	1.02	1.28		.05
ROOFERS:					
Journeyman mechanic	9.75	.70	.80		.05
Reroofing & repair	9.20	.70	.80		.05
Pitch work	10.75	.70	.80		.05
SHEET METAL WORKERS	10.23	1.16	1.10		.06
SPRINKLER FITTERS	12.01	.60	.90		.02
STEAMFITTERS	11.76	.94	1.20		.07
TERRAZZO WORKERS' HELPERS	9.95		.25		
TILE SETTERS HELPERS	8.71	.85	.25		

DECISION NO. MA77-3072

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES

a. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. Holidays: A through F

c. Holidays: A through F, Washington's Birthday, Good Friday & Christmas eve provided employee has worked at least 45 full days during the 120 calendar days immediately prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

d. Holidays: A through F, Bunker Hill Day, provided the employee has been employed 5 working days prior to any one of the listed holidays.

DECISION NO. MA77-3072	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CLASS I	7.50	.60	.70		.10
CLASS II	7.75	.60	.70		.10
CLASS III	8.00	.60	.70		.10
CLASS IV	8.25	.60	.70		.10

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

DECISION NO. MA77-3072

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	10.61	1.10	.80	a	.02
CLASS II	10.49	1.10	.80	a	.02
CLASS III	8.86	1.10	.80	a	.02
CLASS IV	9.67	1.10	.80	a	.02
CLASS V	7.84	1.10	.80	a	.02
CLASS VI	8.32	1.10	.80	a	.02

CLASSIFICATIONS

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills,post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour

CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paying screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)

CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pullsometers, concrete mixers, values controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragn pump, lighting plants

CLASS IV Assistant engineers (firemen)

CLASS V Oilers (other than truck cranes and gradalls)

CLASS VI Oilers on truck cranes and gradalls

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.

DECISION NO. MA77-3072

HEAVY & HIGHWAY CONSTRUCTION:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	10.61	1.10	.80	a	.02
Hourly premium for boom lengths including jib					
Over 150 feet + $ .45					
Over 185 feet + .80					
Over 210 feet + 1.15					
Over 250 feet + 1.75					
Over 295 feet + 2.50					
GROUP 2	10.49	1.10	.80	a	.02
GROUP 3	8.86	1.10	.80	a	.02
GROUP 4	9.67	1.10	.80	a	.02
GROUP 5	7.84	1.10	.80	a	.02
GROUP 6	8.32	1.10	.80	a	.02

CLASSIFICATIONS

GROUP 1 Power shovels, cranes, truck cranes, derricks, pile drivers, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines,three drum machines, pumpcrete machines, uke loaders, shovel dozers, front end loaders, mucking machines, shaft hoists, steam engines, backhoe, gradalls, cable ways, fork lifts, cherry pickers, boring machines, rotary drills, post hole hammers, port hole diggers, asphalt plant on job site, concrete batching and/or mixing plant on job site, crusher plant on job site, paving concrete mixers, timber jacks

GROUP 2 Sonic or vibratory hammers, graders, scrapers, tandem scrapers, bulldozer, tractors, mechanic maintenance, York rakes, mulching machines paving screed machines, stationary steam boilers, paving concrete finishing machine, grout pumps, portable steam boilers, portable steam generators, rollers, spreaders. asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulators, rail anchor machines, switch tampers

GROUP 3 Pump (1-3 grouped), compressors, welding machine (1-3 grouped), generators, lighting plants, heaters (power driven) (1-5), syphons-pulsometers, concrete mixers, valves controlling permanent plant air steam, conveyors, wellpoint system (operating and installing)

DECISION NO. MA77-3072

CLASSIFICATIONS CONT'D

GROUP 4 Assistant engineers (firemen)

GROUP 5 Oilers (other than truck cranes & gradalls)

GROUP 6 Oilers (on truck cranes & gradalls)

FOOTNOTES:

a. Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

DECISION NO. MA77-3072

MARINE CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP I	10.61	1.10	.80	a	.02
GROUP II	11.61	1.10	.80	a	.02
GROUP III	10.56	1.10	.80	a	.02
GROUP IV	10.49	1.10	.80	a	.02
GROUP V	8.86	1.10	.80	a	.02
GROUP VI	9.67	1.10	.80	a	.02
GROUP VII	7.84	1.10	.80	a	.02
GROUP VIII	8.32	1.10	.80	a	.02

CLASSIFICATIONS

GROUP I - Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers two or more drum machines, lighters, derricks boats, trenching, mechanics hoists pavement breakers, cement concrete pavers, draglines, hoisting engines, pumpcrete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant, (on site, paving concrete mixers; Booms over 150' including jib - additional $.45 per hour - Booms over 185' including jib - additional $.80 per hour; Booms over 210' including jib - additional $1.15 per hour; Booms over 250' including jib - additional $1.75 per hour; Booms over 295' including jib additional $2.50 per hour

GROUP II - Master Mechanic

GROUP III - Swinger Engines

GROUP IV - Portable steam boilers, portable steam generators, sonic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bulldozers, tractors york rakes, mulching machines, rollers, spreaders, tamper self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanics - maintenance, cal tracks, ballast, regulator, switch tampers, rail anchor machines, tire trucks

GROUP V - Pumps, compressors, welding machines, heaters (power driven), valves controlling permanent plan air or steam, well point systems, augers - powered by independence engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphons-pulsometers, concrete mixers, conveyors

DECISION NO. MA77-3072

CLASSIFICATIONS

GROUP VI - Assistant engineers (firemen)

GROUP VII - Oilers and apprentices (other than truck cranes and gradalls)

GROUP VIII - Oilers and apprentices on truck cranes and gradalls

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. 10 paid holidays: A Through F; Washington's Birthday; Patriots' Day; Columbus Day & Veterans' Day

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: BROOME
DECISION NO.: NY77-3114 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY77-3011 dated May 13, 1977 in 42 FR 24621
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.15	.81	.35		.04
BOILERMAKER	11.50	.75	10%		.02
BRICKLAYERS:					
Bricklayers, cement masons plasterers and stone mason	9.36	.45	.35		
CARPENTERS, (BUILDING):					
Carpenters and soft floor layers	8.96	.35	.50		
Millwrights and piledrivermen	9.21	.35	.50		
CARPENTERS & PILEDRIVERMEN, (HEAVY & HIGHWAY)	9.87	.35	.50	e	
CEMENT MASONS, (HEAVY AND HIGHWAY)	9.19	.56	.45		
ELECTRICIANS	10.36	.75	3%+.52	.47	.05
ELEVATOR CONSTRUCTORS	9.425	.495	.32	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	6.60	.495	.32	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	4.71				
GLAZIERS	7.18	.35	.30		.01
IRONWORKERS, STRUCTURAL, ORNAMENTAL AND REINFORCING	9.75	.56	.72		
LABORERS, (BUILDING):					
Laborers & wreckers	7.98	.70	.70		
Sewer pipelayers, tunnel laborers, rockmen & drillers, powdermen, pneumatic tool, electric tool, jackhammers and similar mechanical tools with 3/4" bits and over	8.26	.70	.70		
Hod carriers, mortar mixers (hand or machine), asphalt rakers, asphalt levelers, vibrator operator	8.15	.70	.70		
Mason tenders, scaffold builder, bootmen working in concrete	8.09	.70	.70		
LATHERS	9.03	.325	.25		.05
LEAD BURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION:					
Linemen	11.10	.65	1%+.60	d	½%
Cable splicer	12.21	.65	1%+.60	d	½%
Groundman digging machine operator	9.99	.65	1%+.60	d	½%
Groundman mobile equipment operator	8.88	.65	1%+.60	d	½%

DECISION NO. NY77-3114	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
Groundman truck driver	8.325	.65	1%+.60	d	½%
Groundman dynamite man & mechanic	8.88	.65	1%+.60	d	½%
MARBLE SETTERS, TERRAZZO WORKERS AND TILE SETTERS	9.36	.45	.35		
PAINTERS:					
Painters and Tapers	8.05	.35	.30		.03
Rollers over 10", sandblasting, swing scaffold, steam cleaning spray helper	8.55	.35	.30		.03
Structural steel, building, steeple jack and spray	9.05	.35	.30		.03
PLUMBERS and STEAMFITTERS:					
Total project cost under $500,000	8.22	.72	.55		.21
Total project cost over $500,000	10.03	.72	.55		.21
ROOFERS	8.30	.64	1.20		
SHEET METAL WORKERS	9.60	3%+.60	.70		.02
SPRINKLER FITTER	11.86	.65	.95		.08
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. NY77-3114

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F- Christmas Day; G-Labor Day & Memorial Day

FOOTNOTES:
a. Holidays: A through F.

b. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years as Vacation Pay Credit.

c. Holidays: A through F; Washington's Birthday, X-Mas Eve, and Goud Friday, providing employee has worked 30 full days during the 90 calendar days prior to the holiday, and the regular scheduled work daya immediately preceding and following the holiday.

d. Holidays: A through F; Washington's Birthday, Election Day for President of the United States and Election of Governor of New York (provided employee works the day before and the day after the holiday).

e. Holidays: Labor Day and Independence Day.

DECISION NO. NY77-3114

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr
CLASS A	$8.04	.70	.70	a	
CLASS B	8.24	.70	.70	a	
CLASS C	8.44	.70	.70	a	
CLASS D	8.64	.70	.70	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; E-Christmas Day.

FOOTNOTE:
a. Paid Holidays A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill helper, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphragm), nozzle (asphalt, gunnite, seeding and sand blasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drilling machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setters, stone or granite curb setters.

DECISION NO. NY77-3114

POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App Tr
CLASS I	$ 9.75	.50	.90	a	.10
CLASS II	9.50	.50	.90	a	.10
CLASS III	9.25	.50	.90	a	.10
CLASS IV	9.00	.50	.90	a	.10
CLASS V	8.70	.50	.90	a	.10
CLASS VI	7.33	.50	.90	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Holidays: A through F; (provided an employee works the day before and the day after the holiday).

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION

Class I - Cranes with boom and jib, 175 feet and over.

Class II - Cranes with boom and jib, 130 feet and over.

Class III - Cranes with boom and jib 100 feet and over.

Class IV - Automatic fine grader, backhoe, cableway, caisson auger, cherry picker (straddle mobile type), cherry picker (hydralic crane) over 5 ton, compressor, pump, generator or welding machines (when used in a battery or not more than four (4), crane derrick, diesel power unit, dragline, excavators (gradall type, hydraulically operated), front end loader (4 cubic yards and over), high speed conveyors (in one line), piledriver, shovel, two and three drum hoist, vibra or sonic hammer controls (when not mounted by rig operator), tower crane.

Class V - "A" frame truck (when used in setting of installation of material), bulldozer, carry-all scraper, cherry picker (5 ton or under), compressor (300 cubic feet and over), concrete paver and mixer, (16S and over), concrete pump, core boring machine, machine, crop dryer (when used as heater), dinkey locomotive, elevator cage hoist, fork lift, full time welder on maintenance, front end loader (under 4 cubic yard), grease truck, high pressure boiler, one drum hoist, maintenance engineer, post hole digger, power grader, pumps (4 inch and over), roller, side boom, test boring machine, tractor mounted backhoe, trenching machine, two cage elevator hoist, tugger hoist, vibro tamp, well drill, well point system.

Class VI - Concrete mixer (under 16S), conveyor, (over 12 foot), firemen, hydraulic pumps, oiler, mechanical heaters (more than two (2) mechanical heaters), power driven welding machine

DECISION NO. NY77-3114

POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
GROUP I	$9.59	.55	1.00	a	.10
GROUP II	9.27	.55	1.00	a	.10
GROUP III	8.59	.55	1.00	a	.10
GROUP IV	7.00	.55	1.00	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays A through F; providing the employee works the working day before and after the holiday

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

Group I - Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity) concrete pump (5" c over) crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factor rated 15 ft. and over), front end loader 4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt type loader, truck crane, tunnel shovel.

Group II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 5"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lobs. and over), hoist (one drum) Kelcan plant loader and similar type loaders (if another can is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/grease man/welder, mixer (for stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trenching, tugger-hoist, winch, winch cat.

NOTICES
42076
42077
42079

DECISION NO. NY77-3114

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D.

Group III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

Group IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler parapet- (concrete or pavement grinder), power broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor.

DECISION NO. NY77-3114

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CLASS 1	$8.04	.65	.70	a	
CLASS 2	8.09	.65	.70	a	
CLASS 3	8.14	.65	.70	a	
CLASS 4	8.29	.65	.70	a	
CLASS 5	8.44	.65	.70	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays A through F, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS 1
Warehouseman, yardmen, truck helpers, pickups, panel trucks, flatboy material trucks (straight jobs), single axel dump trucks, dumpsters, material checkers and receivers, greasers, truck firemen, mechanic helpers and parts chaser.

CLASS 2
Tandems, batch trucks, mechanics and dispatcher.

CLASS 3
Semi-trailers, low-boy trucks, asphalt distributor trucks, agitator, mixer trucks and dumperete type vehicles, truck mechanic.

CLASS 4
Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5
Off-highway tandem back-dump, twin engine equipment and double-hitched equipment where not self loaded.

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: MONROE
DECISION NO.: NY77-3115 DATE: DATE OF PUBLICATION
Supercedes Decision No NY77-3004 dated July 1, 1977 in 42 FR 34208
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$11.62	1.30	.60		.04
Boilermakers	11.15	.90	1.25		.02
Bricklayers, Cement Masons, Plasterers, and Stone Masons	11.265	.75	.85		.04
Carpenters, Building	10.00	.75	.90		.03
Carpenters, Heavy and Highway	8.88	.85	.99	g	.025
Cement Masons, Heavy and Highway	9.30	.75	.85		
Electricians	11.55	.70	3%+1.25		½%
Elevator Constructors	11.55	.545	.35	3%+a+b	.02
Elevator Constructors helpers	8.085	.545	.35	3%+a+b	.02
Elevator Constructors helpers (Prob.)	5.775				
Glaziers	9.95	1.02	.61		.05
Ironworkers: Ornamental, Reinforcing, and Structural	10.63	.90	.92		.10
Sheeter	10.88	.90	.92		.10
Sheeter, Bucker-up	10.755	.90	.92		.10
Laborers, Building: Laborers	8.00	1.65	.99		
Blasters	9.37	1.65	.99		
Air track, Wagon Drills, Asphalt Rakers	8.40	1.65	.99		
Jackhammers, Mortar Mixers, Concrete vibrator, Pipelayers, Barco Tampers, Jumping Jacks, Burners and Cutters for wrecking and demolition	8.30	1.65	.99		
New Chimney Work: From base to 100 feet	9.00	1.65	.99		
From 100 feet to 150 feet	9.25	1.65	.99		
From 150 feet to 200 feet	9.50	1.65	.99		
From 200 feet to 250 feet	9.75	1.65	.99		
Lathers	10.78		.50		.01
Leadburners	10.75	.40	.25	c	.01
LINE CONSTRUCTION: Linemen	11.10	.65	1%+.60	d	5%
Cable splicer	12.21	.65	1%+.60	d	5%
Groundman digging machine op.	9.99	.65	1%+.60	d	5%
Groundman mobile equipment op.	8.88	.65	1%+.60	d	5%
Groundman truck driver	8.325	.65	1%+.60	d	5%
Groundman dynamite man & mechanic	8.88	.65	1%+.60	d	5%

DECISION NO. NY77-3115

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Marble, Tile, and Terrazzo Workers	12.36				
Marble, Tile, and Terrazzo Finishers	9.45	.55	.89		
Painters: Brush and Roller	8.95	.60	.87		.04
Swing Scaffold	9.45	.60	.87		.04
Structural Steel: Up to 40 feet	9.45	.60	.87		.04
Over 40 feet	9.65	.60	.87		.04
Spray	9.55	.60	.87		.04
Piledrivermen and Millwrights: Building	10.72	1.18	.96		.005
Piledrivermen and Millwrights: Heavy and Highway	8.58	.85	1.29	g	.025
Plumbers and Steamfitters	10.99	2.365	.82	.80+e	.16
Roofers	11.21	.66	.66	f	
Sheet Metal Workers	11.79	.70	1.01		
Soft Floor Layers	9.87	.75	.66		.005
Sprinkler Fitters	11.56	.65	.95		.08
Truck Drivers, Building	9.20	.45	.50		
Welders-receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. NYT7-3115

PAID HOLIDAYS:
A-New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day

FOOTNOTES:

a. Paid Holidays: A through F.

b. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay.

c. Paid Holidays: A through F, Washington's Birthday, Good Friday, and Christmas Eve providing the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceeding and following the holiday.

d. Paid Holidays: A through F, Washington's Birthday, Election Day for President and Election of Governor of New York, provided the employee works the day before and the day after the holiday.

e. Paid Holidays: A,C,D,E,F.

f. On any election day workmen will be given sufficient time off with pay for the purpose of voting in compliance with New York State Law.

g. Paid Holidays: C and D.

DECISION NO. NYT7-3115

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers					
Heavy Construction: Excavating & Paving:					
Laborers & chuck tenders	$7.45	1.65	.99	a	
Asphalt rakers, air track, wagon drill op., curb stone setters, powder monkeys	7.70	1.65	.99	a	
Curb cockmen, pipe layers, layers of conduit and all air, electric gas and deisel motor driven tool op.	7.65	1.65	.99	a	
Relining of all types of pipe	7.85	1.65	.99	a	
Blasters	9.20	1.65	.99	a	
Meter setters and meter changers	7.75	1.65	.99	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays A through F, providing employee works the working day before and the working day after the holiday.

DECISION NO. NYT7-3115

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers, Tunnel Rock:					
Top Men	$8.51	1.65	.99		
Concrete Bottom Man, Bull Gang, Cage Men, Bottom Man, Track Man, Car Pushers, Compress Air Lines, Fan Lines, and Water Lines	8.81	1.65	.99		
Mucking Machine Tender, Shaft Mucker, Shaft Driller Tender, Air Track Driller Tender	8.91	1.65	.99		
Air Track Driller, Chuck Tender (heading), Shaft Driller, Powder Monkey	9.01	1.65	.99		
Burning and Welding	9.21	1.65	.99		
Rod Men Form Work (metal), Pile-driving (wood or metal)	9.31	1.65	.99		
Set-up Men, Slusher Men, Heading Driller (jack leg), Electrical Blaster, Form Work (wood), Cement Finishing	9.41	1.65	.99		
	9.51	1.65	.99		

DECISION NO. NYT7-3115

LABORERS: HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr
CLASS A	$ 6.80	1.65	.99	a	
CLASS B	7.00	1.65	.99	a	
CLASS C	7.20	1.65	.99	a	
CLASS D	7.40	1.65	.99	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; E-Christmas Day.

FOOTNOTE:
a. Paid Holidays A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill helper, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphragm), nozzle (asphalt, gunnite, seeding and sand blasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drilling machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setters, stone or granite curb setters.

DECISION NO. NY77-3115

BUILDING CONSTRUCTION - POWER EQUIPMENT OPERATORS :

GROUP I - Cranes (cable and hydraulic, climbing and tower)
I - A 121 ft. and under
I - B 121 ft. and 151 ft.
I - C 151 ft. and 201 ft.
I - D 201 ft. and 251 ft.
I - E 251 ft. and 301 ft.
I - F 301 ft. and 351 ft.
I - G 351 ft. and 401 ft.
I - H 401 ft. and 451 ft.

GROUP II - Air tugger, derrick, dredge, big generator plant, cableway, backhoe, clamshell, dragline, shovel and similar machines over 3/8 cubic yards capacity (factory rating), bridge crane (all types), caisson auger and similar type machine, forklift (with factory rating of 15 ft. or more of lift), hoist (on steel erection), mucking machines, rose carrier (and similar types), three drum hoist (when all three drums are in use)

GROUP III - A frame truck, backfilling machine, hoist (1 or 2 drums), barber green and similar type machine, maintenance engineer (mechanic), mechanical slurry machines (all kinds), belt crete and similar type machines, bituminous spreading machine, post hole digger, bulldozer, carry all type scraper, core drill, pumps, (regardless of motive power) no more than (4) in number not to exceed .20 inches in total capacity), fine grade and finish rollers, side boom tractor, stone crusher, compressors: 4 not to exceed 2000 cfm combined capacity 3 or less with more than 1200 CFM, but not to exceed 2000 CFM, concrete mixer, concrete placer, concrete pumps, tournadozer and similar types, crane-hoe-shovel 3/8 yd. capacity or less (factory rating), tournapull and similar types, dinky locomotives (all types), tower-mobile and similar types, elevating grader, elevator trenching machines, fine grade machines (all kinds), welder, front end loader, forklift, with factory rating of less than 15 feet of lift, well drill, well point system, high pressure boiler, side boom, Exception: single electric pumps up to and including 4 inches not be manned.

GROUP IV - Any combination (not to exceed 3 pieces of equipment), welding, machine or mechanical conveyor (over 12 ft in length), fireman, belt creto generator, mechanical heater, roller (fill & grade), pumps (regardless of motive power) no more than (3) in number, not to exceed twelve inches total capacity, rubber tired tractor, compressor 3 or less, not to exceed 1200 CFM combined capacity, longitudinal float, Exception: single gasoline driven welding machines up to 300 amps need not be manned.

DECISION NO. NY77-3115

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I:					
I-A	$ 11.45	.50	.50+.30	a	.10
I-B	11.70	.50	.50+.30	a	.10
I-C	11.95	.50	.50+.30	a	.10
I-D	12.20	.50	.50+.30	a	.10
I-E	12.70	.50	.50+.30	a	.10
I-F	13.20	.50	.50+.30	a	.10
I-G	13.70	.50	.50+.30	a	.10
I-H	14.20	.50	.50+.30	a	.10
GROUP II	11.45	.50	.50+.30	a	.10
GROUP III	11.27	.50	.50+.30	a	.10
GROUP IV	10.18	.50	.50+.30	a	.10

FOOTNOTES:
a. PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day regardless of the day of the week in which the holiday may fall.

DECISION NO. NY77-3115

EXCAVATING FOR SITE PREPARATION SEWER AND WATER LINES POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	$9.65	.80	.50	a	.10
GROUP II	9.45	.80	.50	a	.10
GROUP III	9.15	.80	.50	a	.10
GROUP IV	8.40	.80	.50	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F, provided employee works the working day before the working day after the holiday.

DECISION NO. NY77-3115

EXCAVATING FOR SITE PREPARATION SEWER AND WATER LINES - POWER EQUIPMENT OPERATORS:

GROUP I: Automatic fine grader, backhoe (except tractor mounted, rubber tired), black-top plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker-over 5 ton capacity, crane cranes and derricks (steel erection), dragline, dual drum paver, excavator purpose hydraulically operated, front end loader (4 c. y. and over), hoist, two or three drum, pile driver, power grader with elevating loader attachment, quarry master (or equivalent), shovel, slip form paver (if a second man is needed, he shall be an oiler), tractor drawn belt-type loader, truck crane, tunnel shovel.

GROUP II: Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, black-top plant (non-automated), boring machine, cage hoist, central mix plant (non-automated) and all concrete batching plants, cherry picker-5 tons and under, compressors (4 or less) exceeding 2,000 c.f.m. combined capacity, concrete paver over 16S, concrete pump, crusher, drill rigs, tractor mounted, front end loader (under 4 c.y.), hi-pressure boiler (15 lbs. and over), hoist, one drum, Kolman plant loader and similar type loaders (if employer requires another man to clean the screen or to maintain the equipment, he shall be an oiler), maintenance engineer, maintenance grease man, mixer for stabilized base self-propelled, nonrail machine, plant engineer power grader, pump crete, ready mix concrete plant road widener, roller (all above sub-grader), side boom, tractor scraper, tractor with dozer and/or pusher, trencher, winch, mechanical slurry machine, power broom,

GROUP III: Compressors: 4 not to exceed 2,000 c.f.m. combined capacity; or 3 or less with more than 1,200 c.f.m. but not to exceed 2,000 c.f.m., compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (four of any type or combinations), concrete pavement spreaders and finishers, conveyors, drill, core, drill well electric pump used in conjunction with well point system, farm tractor with accessories, fine grade machine fork lift, gunite machine, hammer-hydraulic-self propelled, locomotive, post hole digger and post driver, roller, (grader and fill), tractor with towed accessories, vibrator compactor, vibro tamp, well point, pumps, regardless of motive power, no more than 4 in number not to exceed 20" in total capacity, submersible electric pumps when used in lieu of well points.

GROUP IV: Compressors (any size, but subject to other provisions for compressors, dust collectors, generators, welding machine (three or less of any type or combination) concrete mixer (16S or under), concrete saw self propelled, foreman, form tamper, mulching machine, oiler, power heater-man, revibut widener, steam cleaner, tractor, pumps regardless of motive power, no more than 3 in number not to exceed 12" in total capacity

DECISION NO. NY77-3115

POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	A.
GROUP I	$10.15	.90	.60	a	.15
GROUP II	9.82	.90	.60	a	.15
GROUP III	9.10	.90	.60	a	.15
GROUP IV	8.27	.90	.60	a	.15

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays A through F; providing the employee works the working d. before and after the holiday

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

Group I - Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (6" or ov crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar) fork lift (factor rated 15 ft. and over), front end loader 4 c.y. and over head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt type loader, truck crane, tunnel shovel.

Group II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacit concrete paver (over 16S), concrete pump (under 5"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lobs. and over), hoist (one drum) Kolman plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/greaseman/welder, mixer (for stablized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road wildener, roller (all above subgrade), tractor with dozer and/or pusher,

DECISION NO. NY77-3115

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D.

Group III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

Group IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler parapet- (concrete or pavement grinder), power broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor.

DECISION NO. NY77-3115

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CLASS 1	$8.04	.65	.70	a	
CLASS 2	8.09	.65	.70	a	
CLASS 3	8.14	.65	.70	a	
CLASS 4	8.29	.65	.70	a	
CLASS 5	8.44	.65	.70	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays A through F, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS 1
Warehouseman, yardmen, truck helpers, pickups, panel trucks, flatboy material trucks (straight jobs), single axel dump trucks, dumpsters, material checkers and receivers, greasers, truck tiremen, mechanic helpers and parts chaser.

CLASS 2
Tandems, batch trucks, mechanics and dispatcher.

CLASS 3
Semi-trailers, low-boy trucks, asphalt distributor trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4
Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5
Off-highway tandem back-dump, twin engine equipment and double-hitched equipment where not self loaded.

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Archer, Armstrong, Baylor, Briscoe, Carson, Castro, Childress, Clay, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, Lipscomb, Montague, Moore, Archiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita & Wilbarger

DECISION NO.: TX77-4174

DATE: Date of Publication

Supersedes Decision No. TX77-4118, dated June 24, 1977, in 42 FR 32642

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams) and Highway (does not include building structures in rest area projects) Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asphalt Heaterman	$ 3.25				
Asphalt Raker	4.10				
Batching Plant Scaleman	4.90				
Carpenter	4.80				
Carpenter Helper	3.75				
Concrete Finisher (Paving)	4.70				
Concrete Finisher Helper (Paving)	3.00				
Concrete Finisher (Structures)	5.05				
Concrete Finisher Helper (Structures)	3.95				
Form Builder (Structures)	4.75				
Form Builder Helper (Structures)	4.50				
Form Liner (Paving and Curb)	4.00				
Form Setter (Paving and Curb)	4.00				
Form Setter Helper (Paving and Curb)	3.50				
Form Setter (Structures)	5.05				
Form Setter Helper (Structures)	4.40				
Laborer, Common	3.00				
Laborer, Utility Man	3.45				
Manhole Builder, Brick	4.00				
Mechanic	5.05				
Mechanic Helper	3.50				
Oiler	4.00				
Serviceman	3.90				
Painter (Structures)	5.00				
Pipelayer	3.75				
Pipelayer Helper	3.25				
Powderman	4.20				
Reinforcing Steel Setter (Paving)	4.35				
Reinforcing Steel Setter (Structures)	4.75				
Reinforcing Steel Setter Helper	3.25				

DECISION NO. TX77-4174

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sign Erector	$ 3.50				
Spreader Box Man	3.75				
Swamper	3.25				
Power Equipment Operators:					
Asphalt Distributor	4.45				
Asphalt Paving Machine	4.65				
Broom or Sweeper Operator	3.25				
Bulldozer, 150 HP and Less	4.20				
Bulldozer, over 150 HP	4.25				
Concrete Paving Curing Machine	3.75				
Concrete Paving Finishing Machine	4.80				
Concrete Paving Form Grader	3.75				
Concrete Paving Mixer	4.30				
Concrete Paving Saw	4.30				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.55				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	5.05				
Crusher or Screening Plant Op.	4.75				
Foundation Drill Operator (Crawler Mounted)	5.50				
Foundation Drill Operator (Truck Mounted)	5.35				
Foundation Drill Operator Helper	4.30				
Front End Loader (2½ CY & Less)	4.30				
Front End Loader (Over 2½ CY)	4.75				
Mixer (Over 16 CF)	4.55				
Motor Grader Operator, Fine Grade	5.05				
Motor Grader Operator	4.55				
Roller, Steel Wheel (Plant-Mix Pavements)	3.50				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.35				
Roller, Pneumatic (Self-Propelled)	3.70				
Scrapers (17 CY and Less)	4.15				
Scrapers (Over 17 CY)	4.50				
Side Boom	4.30				

DECISION NO. TX77-4174

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Tractor (Crawler Type) 150 HP and Less	$ 3.75				
Tractor (Crawler Type) over 150 HP	4.25				
Tractor (Pneumatic) 80 HP and Less	3.75				
Tractor (Pneumatic) over 80 HP	4.25				
Traveling Mixer	4.35				
Trenching Machine, Light	4.00				
Trenching Machine, Heavy	4.00				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.75				
Truck Drivers:					
Single Axle, Light	3.45				
Single Axle, Heavy	3.45				
Tandem Axle or Semitrailer	3.45				
Lowboy-Float	3.55				
Transit-Mix	3.50				
Vibrator Man (Hand Type)	3.05				
Weighman (Truck Scales)	3.50				
Welder	5.05				

UMI

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Bailey, Borden, Cochran, Cottle, Crosby, Dawson, Dickens, Fisher, Floyd, Foard, Gaines, Garza, Hale, Haskell, Hockley, Jones, Kent, King, Knox, Lamb, Lubbock, Lynn, Motley, Scurry, Shackelford, Stephens, Stonewall, Terry, Throckmorton, Yoakum & Young

DECISION NO.: TX77-4175

DATE: Date of Publication

Supersedes Decision No. TX77-4119, dated June 24, 1977, in 42 FR 32484

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams) and Highway (does not include building structures in rest area projects) Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 3.00				
Asphalt Heaterman	3.40				
Asphalt Raker	3.70				
Asphalt Shoveler	3.00				
Batching Plant Scaleman	4.25				
Batterboard Setter	3.00				
Carpenter	4.45				
Carpenter Helper	3.85				
Concrete Finisher (Paving)	4.50				
Concrete Finisher Helper (Paving)	3.35				
Concrete Finisher (Structures)	4.20				
Concrete Finisher Helper (Structures)	3.75				
Electrician	6.25				
Electrician Helper	3.80				
Form Builder (Structures)	3.75				
Form Setter (Paving and Curb)	4.50				
Form Setter Helper (Paving and Curb)	3.75				
Form Setter (Structures)	5.05				
Form Setter Helper (Structures)	3.75				
Laborer, Common	3.00				
Laborer, Utility Man	3.50				
Mechanic	4.50				
Mechanic Helper	3.75				
Oiler	3.75				
Serviceman	3.80				
Pipelayer	4.00				
Pipelayer Helper	3.50				
Powderman	4.15				
Reinforcing Steel Setter (Structures)	4.25				
Spreader Box Man	4.00				
Swamper	3.00				

DECISION NO. TX77-4175

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Asphalt Distributor	$ 3.95				
Asphalt Paving Machine	4.10				
Broom or Sweeper Operator	3.00				
Bulldozer, 150 HP and Less	3.85				
Bulldozer, over 150 HP	4.00				
Concrete Paving Finishing Machine	4.35				
Concrete Paving Saw	4.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.25				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	5.05				
Crusher or Screening Plant Op.	4.40				
Elevating Grader	4.00				
Foundation Drill Operator (Crawler Mounted)	5.85				
Foundation Drill Operator (Truck Mounted)	6.00				
Foundation Drill Operator Helper	4.00				
Front End Loader (2½ CY & Less)	3.50				
Front End Loader (Over 2½ CY)	4.20				
Motor Grader Operator, Fine Grade	5.00				
Motor Grader Operator	4.50				
Roller, Steel Wheel (Plant-Mix Pavements)	3.50				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.40				
Roller, Pneumatic (Self-Propelled)	3.00				
Scrapers (17 CY and Less)	3.75				
Scrapers (Over 17 CY)	4.00				
Side Boom	3.25				
Tractor (Crawler Type) 150 HP and Less	3.40				
Tractor (Crawler Type) over 150 HP	4.25				
Tractor (Pneumatic) 80 HP & Less	3.25				
Tractor (Pneumatic) over 80 HP	3.70				

DECISION NO. TX77-4175

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Traveling Mixer	$ 3.25				
Trenching Machine, Light	3.00				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.75				
Truck Drivers:					
Single Axle, Light	3.00				
Single Axle, Heavy	3.50				
Tandem Axle or Semitrailer	3.25				
Lowboy-Float	3.00				
Weighman (Truck Scales)	3.00				
Welder	5.05				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Andrews, Brown, Callahan, Coke, Coleman, Comanche, Concho, Crane, Crockett, Eastland, Ector, Erath, Glasscock, Howard, Irion, Kimble, Loving, Martin, McCulloch, Menard, Midland, Mills, Mitchell, Nolan, Reagan, Runnels, San Saba, Schleicher, Sterling, Sutton, Taylor, Tom Green, Upton, Ward & Winkler

DECISION NO.: TX77-4176

DATE: Date of Publication

Supersedes Decision No. TX77-4120, dated June 24, 1977, in 42 FR 32485.

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams) and Highway (does not include building structures in rest area projects) Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 2.75				
Asphalt Heaterman	3.25				
Asphalt Raker	3.65				
Asphalt Shoveler	2.75				
Batching Plant Scaleman	3.75				
Batterboard Setter	3.65				
Carpenter	4.20				
Carpenter Helper	2.75				
Concrete Finisher (Paving)	4.25				
Concrete Finisher Helper (Paving)	3.25				
Concrete Finisher (Structures)	4.35				
Concrete Finisher Helper (Structures)	3.25				
Electrician	4.00				
Form Builder (Structures)	4.50				
Form Builder Helper (Structures)	4.00				
Form Setter (Paving and Curb)	4.15				
Form Setter Helper (Paving and Curb)	2.75				
Form Setter (Structures)	5.05				
Form Setter Helper (Structures)	3.60				
Laborer, Common	2.50				
Laborer, Utility Man	3.30				
Manhole Builder, Brick	3.00				
Mechanic	4.00				
Mechanic Helper	3.45				
Oiler	3.60				
Serviceman	3.65				
Painter (Structures)	3.50				
Pipelayer	3.50				
Pipelayer Helper	2.90				
Powderman	4.00				
Powderman Helper	2.75				

DECISION NO. TX77-4176

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Reinforcing Steel Setter (Structures)	$ 4.35				
Reinforcing Steel Setter Helper	3.50				
Spreader Box Man	3.65				
Power Equipment Operators:					
Asphalt Distributor	3.75				
Asphalt Paving Machine	4.00				
Broom or Sweeper Operator	3.25				
Bulldozer, 150 HP and Less	4.00				
Bulldozer, over 150 HP	4.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.25				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	5.05				
Crusher or Screening Plant Op.	4.00				
Elevating Grader	4.10				
Foundation Drill Operator (Crawler Mounted)	4.60				
Foundation Drill Operator (Truck Mounted)	5.50				
Front End Loader (2½ CY & Less)	3.80				
Front End Loader (Over 2½ CY)	4.00				
Motor Grader Operator, Fine Grade	4.80				
Motor Grader Operator	4.30				
Roller, Steel Wheel (Plant-Mix Pavements)	3.50				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.00				
Roller, Pneumatic (Self-Propelled)	3.00				
Scrapers (17 CY and Less)	3.80				
Scrapers (Over 17 CY)	4.00				
Self-Propelled Hammer	3.50				
Side Boom	3.50				
Tractor (Crawler Type) 150 HP and Less	3.10				
Tractor (Crawler Type) over 150 HP	3.50				
Tractor (Pneumatic) 80 HP and Less	3.00				

DECISION NO. TX77-4176

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Tractor (Pneumatic) over 80 HP	$ 3.50				
Traveling Mixer	2.75				
Trenching Machine, Light	3.70				
Trenching Machine, Heavy	3.80				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.50				
Truck Drivers:					
Single Axle, Light	3.00				
Single Axle, Heavy	3.35				
Tandem Axle or Semitrailer	3.25				
Lowboy-Float	3.35				
Winch	3.40				
Weighman (Truck Scales)	2.95				
Welder	4.00				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Pecos, Presidio, Reeves & Terrell

DECISION NO.: TX77-4177

DATE: Date of Publication

Supersedes Decision No. TX77-4121, dated June 24, 1977, in 42 FR 32487

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams) and Highway (does not include building structures in rest area projects) Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asphalt Heaterman	$ 3.00				
Asphalt Raker	3.10				
Asphalt Shoveler	2.50				
Batching Plant Scaleman	3.50				
Batterboard Setter	2.50				
Carpenter	4.25				
Carpenter Helper	3.60				
Concrete Finisher (Paving)	4.00				
Concrete Finisher Helper (Paving)	3.00				
Concrete Finisher (Structures)	3.75				
Concrete Finisher Helper (Structures)	2.75				
Concrete Rubber	2.95				
Electrician	6.60				
Electrician Helper	5.10				
Form Builder (Structures)	3.40				
Form Builder Helper (Structures)	3.00				
Form Liner (Paving and Curb)	2.85				
Form Setter (Paving and Curb)	3.80				
Form Setter Helper (Paving and Curb)	3.25				
Form Setter (Structures)	3.80				
Form Setter Helper (Structures)	3.00				
Laborer, Common	2.50				
Laborer, Utility Man	3.00				
Mechanic	4.25				
Mechanic Helper	3.35				
Oiler	3.00				
Serviceman	3.60				
Painter (Structures)	5.50				
Painter Helper (Structures)	3.70				
Piledriverman	4.40				
Pipelayer	3.15				
Pipelayer Helper	2.75				
Powderman	4.50				
Powderman Helper	3.30				
Reinforcing Steel Setter (Paving)	3.50				
Reinforcing Steel Setter (Structures)	3.60				

DECISION NO. TX77-4177

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Reinforcing Steel Setter Helper	$ 3.00				
Sign Erector	3.50				
Spreader Box Man	3.25				
Swamper	3.10				
Power Equipment Operators:					
Asphalt Distributor	3.10				
Asphalt Paving Machine	3.35				
Broom or Sweeper Operator	3.30				
Bulldozer, 150 HP and Less	3.75				
Bulldozer, over 150 HP	4.00				
Concrete Paving Curing Machine	4.25				
Concrete Paving Finishing Machine	4.65				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.10				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.60				
Crusher or Screening Plant Op.	3.80				
Front End Loader (2½ CY and Less)	3.55				
Front End Loader (Over 2½ CY)	3.75				
Hoist (Double Drum and Less)	3.10				
Motor Grader Operator, Fine Grade	4.70				
Motor Grader Operator	4.00				
Roller, Steel Wheel (Plant-Mix Pavements)	3.35				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.30				
Roller, Pneumatic (Self-Propelled)	3.30				
Scrapers (17 CY and Less)	3.75				
Scrapers (Over 17 CY)	4.00				
Tractor (Crawler Type) 150 HP and Less	3.35				
Tractor (Crawler Type) over 150 HP	3.80				

DECISION NO. TX77-4177

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Tractor (Pneumatic) 80 HP and Less	$ 3.00				
Tractor (Pneumatic) over 80 HP	3.25				
Traveling Mixer	4.15				
Trenching Machine, Light	3.50				
Trenching Machine, Heavy	4.25				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.75				
Truck Drivers:					
Single Axle, Light	2.75				
Single Axle, Heavy	3.00				
Tandem Axle or Semitrailer	3.10				
Lowboy-Float	3.00				
Transit-Mix	3.10				
Weighman (Truck Scales)	2.85				
Welder	4.35				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Atascosa, Bandera, Bexar, Comal, Dimmit, Edwards, Frio, Guadalupe, Kendall, Kerr, Kinney, LaSalle, Maverick, McMullen, Medina, Real Uvalde, Val Verde, Wilson & Zavala

DECISION NO.: TX77-4178

DATE: Date of Publication

Supersedes Decision No. TX77-4122, dated June 24, 1977, in 42 FR 32489

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams) and Highway (does not include building structures in rest area projects) Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 2.75				
Asphalt Heaterman	3.25				
Asphalt Raker	3.30				
Asphalt Shoveler	2.50				
Batching Plant Scaleman	3.60				
Batterboard Setter	3.65				
Carpenter	4.00				
Carpenter Helper	3.20				
Concrete Finisher (Paving)	3.75				
Concrete Finisher Helper (Paving)	3.25				
Concrete Finisher (Structures)	3.85				
Concrete Finisher Helper (Structures)	3.25				
Concrete Rubber	3.00				
Electrician	6.50				
Electrician Helper	3.60				
Form Builder (Structures)	4.25				
Form Builder Helper (Structures)	3.20				
Form Liner (Paving and Curb)	4.00				
Form Setter (Paving and Curb)	3.75				
Form Setter Helper (Paving and Curb)	3.45				
Form Setter (Structures)	4.00				
Form Setter Helper (Structures)	3.10				
Laborer, Common	2.50				
Laborer, Utility Man	2.75				
Manhole Builder, Brick	3.00				
Mechanic	4.05				
Mechanic Helper	3.50				
Oiler	3.40				
Serviceman	3.25				
Painter (Structures)	4.90				
Painter Helper (Structures)	3.00				
Piledrivermen	4.75				
Pipelayer	3.50				
Pipelayer Helper	2.85				

DECISION NO. TX77-4178

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Pneumatic Mortarman	$ 2.65				
Powderman	3.75				
Powderman Helper	2.50				
Reinforcing Steel Setter (Paving)	4.00				
Reinforcing Steel Setter (Structures)	4.15				
Reinforcing Steel Setter Helper	3.40				
Steel Worker (Structural)	3.50				
Sign Erector	3.35				
Spreader Box Man	3.80				
Swamper	3.25				
Power Equipment Operators:					
Asphalt Distributor	3.50				
Asphalt Paving Machine	3.90				
Broom or Sweeper Operator	3.00				
Bulldozer, 150 HP and Less	3.75				
Bulldozer, over 150 HP	4.00				
Concrete Paving Mixer	3.25				
Concrete Paving Spreader	4.35				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	3.90				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.90				
Crusher or Screening Plant Op.	3.75				
Elevating Grader	3.50				
Form Loader	3.25				
Foundation Drill Operator (Crawler Mounted)	6.00				
Foundation Drill Operator (Truck Mounted)	5.50				
Foundation Drill Operator Helper	3.75				
Front End Loader (2½ CY & Less)	3.60				
Front End Loader (Over 2½ CY)	4.00				
Motor Grader Operator, Fine Grade	5.00				
Motor Grader Operator	4.25				

DECISION NO. TX77-4178

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Roller, Steel Wheel (Plant-Mix Pavements)	$ 3.00				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.00				
Roller, Pneumatic (Self-Propelled)	3.05				
Scrapers (17 CY and Less)	3.50				
Scrapers (Over 17 CY)	3.75				
Self-Propelled Hammer	3.00				
Tractor (Crawler Type) 150 HP and Less	2.85				
Tractor (Crawler Type) over 150 HP	4.00				
Tractor (Pneumatic) 80 HP and Less	3.00				
Tractor (Pneumatic) over 80 HP	3.25				
Traveling Mixer	3.50				
Trenching Machine, Light	3.50				
Trenching Machine, Heavy	4.25				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.50				
Truck Drivers:					
Single Axle, Light	2.90				
Lowboy-Float	3.35				
Winch	3.50				
Welder	4.25				
Welder Helper	3.90				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Kenedy, Starr, Webb, Willacy & Zapata

DECISION NO.: TX77-4179

DATE: Date of Publication

Supersedes Decision No. TX77-4123, dated June 24, 1977, in 42 FR 32491.

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams) and Highway (does not include building structures in rest area projects) Construction and Shore Work.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 2.75				
Asphalt Heaterman	3.25				
Asphalt Raker	3.25				
Asphalt Shoveler	3.50				
Batching Plant Scaleman	3.40				
Carpenter	4.00				
Carpenter Helper	2.80				
Concrete Finisher (Paving)	3.35				
Concrete Finisher Helper (Paving)	2.75				
Concrete Finisher (Structures)	3.50				
Concrete Finisher Helper (Structures)	3.35				
Electrician	7.50				
Form Builder (Structures)	4.00				
Form Builder Helper (Structures)	3.50				
Form Liner (Paving and Curb)	3.00				
Form Setter (Paving and Curb)	3.75				
Form Setter Helper Paving and Curb)	2.85				
Form Setter (Structures)	3.75				
Form Setter Helper (Structures)	3.00				
Laborer, Common	2.65				
Laborer, Utility Man	3.30				
Manhole Builder, Brick	3.50				
Mechanic	4.05				
Mechanic Helper	3.60				
Oiler	3.15				
Serviceman	3.25				
Piledrivermen	3.45				
Pipelayer	2.85				
Pipelayer Helper	2.65				
Powderman	3.75				
Reinforcing Steel Setter (Paving)	3.80				
Reinforcing Steel Setter (Structures)	4.05				
Reinforcing Steel Setter Helper	2.65				
Spreader Box Man	3.55				

DECISION NO. TX77-4179

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Asphalt Distributor	$ 3.25				
Asphalt Paving Machine	3.50				
Broom or Sweeper Operator	2.85				
Bulldozer, 180 HP and Less	3.75				
Bulldozer, over 150 HP	4.00				
Concrete Paving Saw	3.50				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	3.70				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.70				
Crusher or Screening Plant Op.	3.00				
Foundation Drill Operator (Truck Mounted)	4.50				
Foundation Drill Operator Helper	3.75				
Front End Loader (2½ CY and Less)	3.45				
Front End Loader (Over 2½ CY)	3.80				
Mixer (16 CP and Less)	3.75				
Motor Grader Operator, Fine Grade	4.50				
Motor Grader Operator	3.50				
Roller, Steel Wheel (Plant-Mix Pavements)	3.35				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.75				
Roller, Pneumatic (Self-Propelled)	3.00				
Scrapers (17 CY and Less)	3.50				
Scrapers (Over 17 CY)	3.75				
Self-Propelled Hammer	3.15				
Tractor (Crawler Type) 150 HP and Less	2.80				
Tractor (Crawler Type) over 150 HP	4.10				
Tractor (Pneumatic) 80 HP and Less	3.00				
Tractor (Pneumatic) over 80 HP	3.65				
Traveling Mixer	3.30				
Trenching Machine, Light	3.75				

DECISION NO. TX77-4179

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Drivers:					
Single Axle, Light	$ 2.65				
Single Axle, Heavy	2.75				
Lowboy-Float	3.50				
Winch	3.50				
Welder	3.75				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Aransas, Bee, Calhoun, DeWitt, Goliad, Jackson, Jim Wells, Karnes, Kleberg, Lavaca, Live Oak, Nueces, Refugio, San Patricio & Victoria

DECISION NO.: TX77-4160

DATES: Date of Publication

Supersedes Decision No. TX77-4124, dated June 24, 1977, in 42 FR 32493

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams) and Highway (does not include building structures in rest area projects) Construction and Shore Work

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 2.50				
Asphalt Heaterman	3.25				
Asphalt Raker	3.50				
Asphalt Shoveler	2.90				
Batching Plant Scaleman	3.25				
Batterboard Setter	3.80				
Carpenter	4.00				
Carpenter Helper	3.30				
Concrete Finisher (Paving)	4.05				
Concrete Finisher Helper (Paving)	2.50				
Concrete Finisher (Structures)	4.00				
Concrete Finisher Helper (Structures)	3.25				
Concrete Rubber	3.10				
Electrician	7.65				
Electrician Helper	3.15				
Form Builder (Structures)	4.00				
Form Builder Helper (Structures)	3.75				
Form Liner (Paving and Curb)	3.50				
Form Setter (Paving and Curb)	3.70				
Form Setter Helper (Paving and Curb)	3.00				
Form Setter (Structures)	4.10				
Form Setter Helper (Structures)	3.40				
Laborer, Common	2.50				
Laborer, Utility Man	3.00				
Manhole Builder, Brick	3.75				
Mechanic	4.25				
Mechanic Helper	3.90				
Oiler	3.25				
Serviceman	3.50				
Painter (Structures)	4.00				
Painter Helper (Structures)	3.50				
Piledrivermen	3.75				
Pipelayer	3.50				
Pipelayer Helper	3.25				
Reinforcing Steel Setter (Structures)	3.65				
Reinforcing Steel Setter Helper	3.50				
Spreader Box Man	3.60				

DECISION NO. TX77-4180

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Asphalt Distributor	$ 3.75				
Asphalt Paving Machine	4.25				
Broom or Sweeper Operator	3.60				
Bulldozer, 150 HP and Less	4.00				
Bulldozer, over 150 HP	4.50				
Concrete Paving Curing Machine	3.50				
Concrete Paving Finishing Machine	3.00				
Concrete Paving Form Grader	3.50				
Concrete Paving Gang Vibrator	3.50				
Concrete Paving Grinder	3.50				
Paving Sub Grader	3.50				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.60				
Crusher or Screening Plant Op.	3.50				
Elevating Grader	4.00				
Front End Loader (2½ CY and Less)	3.50				
Front End Loader (Over 2½ CY)	4.00				
Mixer (Over 16 CF)	4.25				
Motor Grader Operator, Fine Grade	5.00				
Motor Grader Operator	4.25				
Roller, Steel Wheel (Plant-Mix Pavements)	3.50				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.00				
Roller, Pneumatic (Self-Propelled)	3.00				
Scrapers (17 CY and Less)	3.50				
Scrapers (Over 17 CY)	4.00				
Tractor (Crawler Type) 150 HP and Less	3.00				
Tractor (Crawler Type) over 150 HP	3.90				
Tractor (Pneumatic) 80 HP and Less	3.00				
Tractor (Pneumatic) over 80 HP	3.15				

DECISION NO. TX77-4160

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Traveling Mixer	3.25				
Trenching Machine, Light	3.25				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.75				
Truck Drivers:					
Single Axle, Light	2.90				
Single Axle, Heavy	3.00				
Tandem Axle or Semitrailer	3.00				
Lowboy-Float	3.50				
Winch	3.15				
Vibrator Man (Hand Type)	2.50				
Welder	3.90				
Welder Helper	3.50				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Austin, Bastrop, Blanco, Burnet, Caldwell, Colorado, Fayette, Gillespie, Gonzales, Hays, Lee, Llano, Mason, Travis, & Williamson

DECISION NO.: TX77-4181

DATE: Date of Publication

Supersedes Decision No. TX77-4125, dated June 24, 1977, in 42 FR 32495.

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams) and Highway (does not include building structures in rest area projects) Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 3.30				
Asphalt Heaterman	3.25				
Asphalt Raker	4.00				
Batching Plant Scaleman	3.75				
Carpenter	4.20				
Carpenter Helper	3.55				
Concrete Finisher (Paving)	4.75				
Concrete Finisher Helper (Paving)	3.75				
Concrete Finisher (Structures)	4.10				
Concrete Finisher Helper (Structures)	3.75				
Concrete Rubber	2.85				
Electrician	7.75				
Electrician Helper	2.75				
Form Builder (Structures)	4.00				
Form Builder Helper (Structures)	3.75				
Form Liner (Paving and Curb)	3.75				
Form Setter (Paving and Curb)	4.00				
Form Setter Helper (Paving and Curb)	3.50				
Form Setter (Structures)	4.00				
Form Setter Helper (Structures)	3.00				
Laborer, Common	2.50				
Laborer, Utility Man	3.00				
Mechanic	4.70				
Mechanic Helper	4.00				
Oiler	3.75				
Serviceman	3.60				
Painter (Structures)	4.25				
Pipelayer	3.30				
Pipelayer Helper	3.00				
Powderman	4.40				
Powdermen Helper	3.75				
Reinforcing Steel Setter (Structures)	4.60				
Reinforcing Steel Setter Helper	3.60				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Steel Worker (Structural)	$ 4.50				
Steel Worker Helper (Structural)	3.70				
Sign Erector	3.50				
Sign Erector Helper	2.95				
Spreader Box Man	3.10				
Power Equipment Operators:					
Asphalt Distributor	3.75				
Asphalt Paving Machine	4.00				
Broom or Sweeper Operator	3.10				
Bulldozer, 150 HP and Less	3.65				
Bulldozer, over 150 HP	4.00				
Concrete Paving Curing Machine	4.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.80				
Foundation Drill Operator (Crawler Mounted)	5.75				
Foundation Drill Operator (Truck Mounted)	5.50				
Foundation Drill Operator Helper	4.00				
Front End Loader (2½ CY and Less)	3.55				
Front End Loader (Over 2½ CY)	4.00				
Motor Grader Operator, Fine Grade	4.50				
Motor Grader Operator	4.25				
Roller, Steel Wheel (Plant-Mix Pavements)	3.55				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.00				
Roller, Pneumatic (Self-Propelled)	3.00				
Scrapers (17 CY and Less)	3.75				
Scrapers (Over 17 CY)	4.00				
Tractor (Crawler Type) 150 HP and Less	2.75				
Tractor (Crawler Type) over 150 HP	3.50				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Tractor (Pneumatic) 80 HP and Less	$ 3.25				
Tractor (Pneumatic) over 80 HP	3.75				
Trenching Machine, Light	3.25				
Trenching Machine, Heavy	4.50				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.55				
Truck Drivers:					
Single Axle, Light	3.00				
Single Axle, Heavy	3.00				
Tandom Axle or Semitrailer	3.00				
Vibrator Man (Hand Type)	3.00				
Welder	5.00				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Bell, Bosque, Coryell, Falls, Freestone, Hamilton, Hill, Lampasas, Limestone, McLennan & Navarro

DECISION NO.: TX77-4182

DATE: Date of Publication

Supersedes Decision No. TX77-4126, dated June 24, 1977, in 42 FR 32497

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams) and Highway (does not include building structures in rest area projects) Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 3.25				
Asphalt Heaterman	3.40				
Asphalt Raker	4.00				
Batching Plant Scaleman	4.40				
Carpenter	4.00				
Carpenter Helper	3.00				
Concrete Finisher (Paving)	4.50				
Concrete Finisher Helper (Paving)	3.50				
Concrete Finisher (Structures)	4.50				
Concrete Finisher Helper (Structures)	3.00				
Concrete Rubber	3.35				
Electrician	6.00				
Electrician Helper	4.00				
Form Builder (Structures)	4.00				
Form Builder Helper (Structures)	3.50				
Form Setter (Paving and Curb)	4.20				
Form Setter (Structures)	4.30				
Form Setter Helper (Structures)	3.50				
Laborer, Common	2.90				
Laborer, Utility Man	3.00				
Mechanic	4.55				
Mechanic Helper	4.10				
Oiler	3.25				
Serviceman	3.50				
Painter (Structures)	5.25				
Piledriverman	4.00				
Pipelayer	3.85				
Pipelayer Helper	3.00				
Powderman	4.40				
Reinforcing Steel Setter (Structures)	4.20				
Reinforcing Steel Setter Helper	3.00				
Sign Erector	3.25				
Sign Erector Helper	3.00				
Spreader Box Man	4.00				
Swamper	3.30				

DECISION NO. TX77-4182

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Asphalt Distributor	$ 3.85				
Asphalt Paving Machine	3.85				
Broom or Sweeper Operator	3.85				
Bulldozer, 150 HP and Less	4.00				
Bulldozer, over 150 HP	4.50				
Concrete Paving Curing Machine	4.00				
Concrete Paving Saw	4.75				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.50				
Crusher or Screening Plant Op.	4.15				
Foundation Drill Operator (Truck Mounted)	5.50				
Foundation Drill Operator Helper	3.50				
Front End Loader (2½ CY & Less)	4.00				
Front End Loader (Over 2½ CY)	4.25				
Motor Grader Operator, Fine Grade	5.00				
Motor Grader Operator	4.00				
Roller, Steel Wheel (Plant-Mix Pavements)	3.25				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.55				
Roller, Pneumatic (Self-Propelled)	3.40				
Scrapers (17 CY and Less)	3.75				
Scrapers (Over 17 CY)	4.00				
Tractor (Crawler Type) 150 HP and Less	3.25				
Tractor (Crawler Type) over 150 HP	3.75				
Tractor (Pneumatic) 80 HP & Less	3.25				
Tractor (Pneumatic) over 80 HP	3.75				
Traveling Mixer	3.60				
Trenching Machine, Light	3.25				
Trenching Machine, Heavy	4.05				

DECISION NO. TX77-4182

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Wagon Drill, Boring Machine or Post Hole Driller Operator	$ 3.80				
Truck Drivers:					
Single Axle, Light	3.40				
Tandem Axle or Semitrailer	3.45				
Lowboy-Float	3.95				
Welder	4.50				
Welder Helper	3.25				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Cooke, Denton, Hood, Jack, Johnson, Palo Pinto, Parker, Somervell, Tarrant (does not include Dallas-Fort Worth Regional Airport) & Wise

DECISION NO.: TX77-4183

DATE: Date of Publication

Supersedes Decision No. TX77-4127, dated June 24, 1977, in 42 FR 32499

DESCRIPTION OF WORK: Heavy (does not include tunnels, dams & work performed on the site of water or sewage treatment facilities) and Highway (does not include building structures in rest area projects) Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 3.00				
Asphalt Heaterman	3.50				
Asphalt Raker	3.75				
Asphalt Shoveler	3.25				
Batching Plant Scaleman	4.25				
Carpenter	4.25				
Carpenter Helper	3.80				
Concrete Finisher (Paving)	4.65				
Concrete Finisher Helper(Paving)	3.75				
Concrete Finisher (Structures)	4.75				
Concrete Finisher Helper (Structures)	4.00				
Concrete Rubber	3.50				
Electrician	6.75				
Electrician Helper	4.00				
Form Builder (Structures)	4.25				
Form Builder Helper (Structures)	4.00				
Form Liner (Paving and Curb)	4.50				
Form Setter (Paving and Curb)	4.50				
Form Setter Helper (Paving and Curb)	3.65				
Form Setter (Structures)	4.50				
Form Setter Helper (Structures)	3.00				
Laborer, Common	3.00				
Laborer, Utility Man	3.30				
Mechanic	4.50				
Mechanic Helper	3.85				
Oiler	3.95				
Serviceman	3.75				
Piledrivermen	4.50				
Pipelayer	4.00				
Pipelayer Helper	3.50				
Powderman	4.75				
Reinforcing Steel Setter(Paving)	3.30				
Reinforcing Steel Setter (Structures)	4.25				
Reinforcing Steel Setter Helper	3.00				

DECISION NO. TX77-4183

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Steel Worker (Structural)	$ 4.15				
Steel Worker Helper (Structural)	3.75				
Sign Erector	4.00				
Sign Erector Helper	3.90				
Spreader Box Man	4.00				
Power Equipment Operators:					
Asphalt Distributor	4.25				
Asphalt Paving Machine	4.00				
Broom or Sweeper Operator	3.50				
Bulldozer, 150 HP and Less	4.00				
Bulldozer, over 150 HP	4.50				
Concrete Paving Curing Machine	4.35				
Concrete Paving Finishing Machine	4.30				
Concrete Paving Longitudinal Float	4.50				
Concrete Paving Mixer	4.00				
Concrete Paving Saw	3.40				
Concrete Paving Spreader	3.85				
Paving Sub Grader	4.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.55				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.75				
Form Loader	3.25				
Foundation Drill Operator (Truck Mounted)	4.75				
Foundation Drill Operator Helper	3.75				
Front End Loader (2½ CY and Less)	3.95				
Front End Loader (Over 2½ CY)	4.75				
Mixer (Over 16 CF)	3.75				
Mixer (16 CF and Less)	3.75				
Motor Grader Operator, Fine Grade	4.50				
Motor Grader Operator	4.25				
Roller, Steel Wheel (Plant-Mix Pavements)	4.00				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.85				

DECISION NO. TX77-4183

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Roller, Pneumatic (Self-Propelled)	$ 3.70				
Scrapers (17 CY and Less)	4.00				
Scrapers (Over 17 CY)	4.50				
Self-Propelled Hammer	4.25				
Tractor (Crawler Type) 150 HP and Less	3.80				
Tractor (Crawler Type) over 150 HP	4.75				
Tractor (Pneumatic) 80 HP and Less	3.60				
Tractor (Pneumatic) over 80 HP	3.90				
Traveling Mixer	3.95				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.80				
Truck Drivers:					
Single Axle, Light	3.35				
Single Axle, Heavy	3.50				
Tandem Axle or Semitrailer	3.50				
Lowboy-Float	4.50				
Weighman (Truck Scales)	3.00				
Welder	4.65				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Collin, Dallas (does not include Dallas-Fort Worth Regional Airport), Ellis, Grayson & Rockwall

DECISION NO.: TX77-4184

DATE: Date of Publication

Supersedes Decision No. TX77-4128, dated June 24, 1977, in 42 FR 32501

DESCRIPTION OF WORK: Heavy (does not include tunnels, dams & work performed on the site of water or sewage treatment facilities) and Highway (does not include building structures in rest area projects) Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 3.15				
Asphalt Heatorman	3.75				
Asphalt Raker	4.45				
Asphalt Shoveler	3.25				
Batching Plant Scaleman	4.00				
Carpenter	4.60				
Carpenter Helper	3.60				
Concrete Finisher (Paving)	4.75				
Concrete Finisher Helper (Paving)	3.50				
Concrete Finisher (Structures)	4.40				
Concrete Finisher Helper (Structures)	3.75				
Concrete Rubber	3.25				
Electrician	6.75				
Electrician Helper	4.25				
Form Builder (Structures)	4.25				
Form Builder Helper (Structures)	3.75				
Form Liner (Paving and Curb)	4.10				
Form Setter (Paving and Curb)	4.50				
Form Setter Helper (Paving and Curb)	3.00				
Form Setter (Structures)	4.25				
Form Setter Helper (Structures)	3.25				
Laborer, Common	3.00				
Laborer, Utility Man	3.00				
Manhole Builder, Brick	4.50				
Mechanic	5.00				
Mechanic Helper	3.25				
Oiler	3.90				
Serviceman	3.50				
Painter (Structures)	5.50				
Painter Helper (Structures)	4.50				
Pipelayer	3.85				
Pipelayer Helper	3.30				
Powderman	4.50				
Reinforcing Steel Setter (Paving)	3.35				

DECISION NO. TX77-4184

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Reinforcing Steel Setter (Structures)	$ 4.00				
Steel Worker (Structural)	3.75				
Steel Worker Helper (Structural)	3.25				
Sign Erector	4.50				
Sign Erector Helper	4.00				
Spreader Box Man	3.65				
Swamper	3.30				
Power Equipment Operators:					
Asphalt Distributor	4.25				
Asphalt Paving Machine	4.45				
Broom or Sweeper Operator	3.50				
Bulldozer, 150 HP and Less	4.00				
Bulldozer, over 150 HP	4.75				
Concrete Paving Curing Machine	4.50				
Concrete Paving Finishing Machine	3.70				
Concrete Paving Form Grader	4.00				
Concrete Paving Joint Sealer	4.00				
Concrete Paving Mixer	4.00				
Concrete Paving Saw	4.00				
Paving Sub Grader	4.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.40				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.75				
Crusher or Screening Plant Op.	4.50				
Form Loader	3.25				
Foundation Drill Operator (Truck Mounted)	4.55				
Foundation Drill Operator Helper	3.35				
Front End Loader (2½ CY & Less)	4.00				
Front End Loader (Over 2½ CY)	4.50				
Mixer (16 CF and Less)	3.75				
Motor Grader Operator, Fine Grade	5.00				
Motor Grader Operator	4.00				

DECISION NO. TX77-4184

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Roller, Steel Wheel (Plant-Mix Pavements)	$ 4.45				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.75				
Roller, Pneumatic (Self-Propelled)	3.50				
Scrapers (17 CY and Less)	4.00				
Scrapers (Over 17 CY)	4.75				
Tractor (Crawler Type) 150 HP and Less	3.25				
Tractor (Crawler Type) over 150 HP	4.00				
Tractor (Pneumatic) 80 HP & Less	3.00				
Tractor (Pneumatic) over 80 HP	3.75				
Traveling Mixer	3.75				
Trenching Machine, Light	3.75				
Trenching Machine, Heavy	3.85				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.35				
Truck Drivers:					
Single Axle, Light	3.25				
Single Axle, Heavy	3.75				
Tandem Axle or Semitrailer	3.50				
Lowboy-Float	4.00				
Transit-Mix	3.50				
Winch	3.50				
Vibrator Man (Hand Type)	3.00				
Weighman (Truck Scales)	3.00				
Welder	4.50				
Welder Helper	3.50				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Bowie, Camp, Cass, Delta, Fannin, Franklin, Gregg, Harrison, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Rains, Red River, Rusk, Smith, Titus, Upshur, Van Zandt & Wood

DECISION NO.: TX77-4185

DATE: Date of Publication

Supersedes Decision No. TX77-4129, dated June 24, 1977, in 42 FR 32503

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams) and Highway (does not include building structures in rest area projects) Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asphalt Heaterman	$ 3.00				
Asphalt Raker	3.50				
Asphalt Shoveler	3.00				
Batching Plant Scaleman	4.00				
Carpenter	4.50				
Carpenter Helper	3.75				
Concrete Finisher (Paving)	4.75				
Concrete Finisher Helper (Paving)	4.10				
Concrete Finisher (Structures)	4.35				
Concrete Finisher Helper (Structures)	3.75				
Concrete Rubber	3.10				
Electrician	5.75				
Form Builder (Structures)	4.25				
Form Builder Helper (Structures)	3.25				
Form Liner (Paving and Curb)	4.60				
Form Setter (Paving and Curb)	4.00				
Form Setter Helper (Paving and Curb)	3.25				
Form Setter (Structures)	4.25				
Form Setter Helper (Structures)	3.10				
Laborer, Common	3.00				
Laborer, Utility Man	3.35				
Mechanic	4.50				
Mechanic Helper	4.00				
Oiler	3.75				
Serviceman	3.50				
Painter (Structures)	4.50				
Piledrivermen	5.25				
Pipelayer	3.25				
Pipelayer Helper	3.00				
Powderman	4.25				
Powderman Helper	3.25				
Reinforcing Steel Setter (Paving)	3.75				

DECISION NO. TX77-4185

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Reinforcing Steel Setter (Structures)	$ 3.75				
Reinforcing Steel Setter Helper	3.50				
Steel Worker (Structural)	4.75				
Spreader Box Man	3.75				
Swamper	3.30				
Power Equipment Operators:					
Asphalt Distributor	4.00				
Asphalt Paving Machine	4.20				
Broom or Sweeper Operator	3.75				
Bulldozer, 150 HP and Less	4.00				
Bulldozer, over 150 HP	4.50				
Concrete Paving Curing Machine	5.00				
Concrete Paving Finishing Machine	4.50				
Concrete Paving Mixer	4.50				
Concrete Paving Saw	4.40				
Concrete Paving Spreader	4.00				
Paving Sub Grader	4.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.50				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.75				
Crusher or Screening Plant Op.	4.50				
Form Loader	3.75				
Foundation Drill Operator (Crawler Mounted)	5.75				
Foundation Drill Operator (Truck Mounted)	5.75				
Foundation Drill Operator Helper	4.00				
Front End Loader (2½ CY & Less)	4.00				
Front End Loader (Over 2½ CY)	4.50				
Mixer (Over 16 CF)	4.50				
Motor Grader Operator, Fine Grade	5.00				
Motor Grader Operator	4.50				
Pump Crete	3.60				
Roller, Steel Wheel (Plant-mix Pavements)	3.85				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.50				

DECISION NO. TX77-4185

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Roller, Pneumatic (Self-Propelled)	$ 3.00				
Scrapers (17 CY and Less)	4.00				
Scrapers (Over 17 CY)	4.50				
Tractor (Crawler Type) 150 HP and Less	3.60				
Tractor (Crawler Type) over 150 HP	3.95				
Tractor (Pneumatic) 80 HP & Less	3.25				
Tractor (Pneumatic) over 80 HP	3.50				
Traveling Mixer	4.50				
Wagon Drill, Boring Machine or Post Hole Driller Operator	4.50				
Truck Drivers:					
Single Axle, Light	3.00				
Single Axle, Heavy	3.00				
Tandem Axle or Semitrailer	3.35				
Lowboy-Float	3.00				
Vibrator Man (Hand Type)	3.00				
Weighman (Truck Scales)	3.00				
Welder	4.60				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Anderson, Angelina, Cherokee, Henderson, Houston, Jasper, Nacogdoches, Newton, Panola, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity & Tyler

DECISION NO.: TX77-4186

DATE: Date of Publication

Supersedes Decision No. TX77-4130, dated June 24, 1977, in 42 FR 32505

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams) and Highway (does not include building structures in rest area projects) Construction and Shore Work.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 2.75				
Asphalt Heaterman	3.00				
Asphalt Raker	3.70				
Asphalt Shoveler	3.10				
Batching Plant Scaleman	2.75				
Carpenter	4.50				
Carpenter Helper	3.45				
Concrete Finisher (Paving)	4.50				
Concrete Finisher Helper (Paving)	3.65				
Concrete Finisher (Structures)	4.00				
Concrete Finisher Helper (Structures)	3.75				
Electrician	5.00				
Fireman	2.90				
Form Builder (Structures)	4.30				
Form Builder Helper (Structures)	3.20				
Form Liner (Paving and Curb)	3.75				
Form Setter (Paving and Curb)	3.50				
Form Setter Helper (Paving and Curb)	3.25				
Form Setter (Structures)	4.50				
Form Setter Helper (Structures)	3.50				
Laborer, Common	2.50				
Laborer, Utility Man	3.30				
Mechanic	4.85				
Mechanic Helper	3.50				
Oiler	3.75				
Serviceman	3.75				
Pipelayer	4.00				
Pipelayer Helper	2.75				
Reinforcing Steel Setter (Structures)	4.00				
Reinforcing Steel Setter Helper	3.00				
Spreader Box Man	3.75				

DECISION NO. TX77-4186

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Asphalt Distributor	$ 4.00				
Asphalt Paving Machine	4.00				
Broom or Sweeper Operator	2.75				
Bulldozer, 150 HP and Less	4.00				
Bulldozer, over 150 HP	4.75				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.50				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.90				
Foundation Drill Operator (Crawler Mounted)	3.50				
Foundation Drill Operator (Truck Mounted)	5.75				
Front End Loader (2½ CY and Less)	4.00				
Front End Loader (Over 2½ CY)	4.75				
Motor Grader Operator, Fine Grade	5.00				
Motor Grader Operator	4.30				
Roller, Steel Wheel (Plant-Mix Pavements)	4.00				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.55				
Roller, Pneumatic (Self-Propelled)	3.80				
Scrapers (17 CY and Less)	4.00				
Scrapers (Over 17 CY)	4.60				
Side Boom	3.35				
Tractor (Crawler Type) 150 HP and Less	3.40				
Tractor (Crawler Type) over 150 HP	4.75				
Tractor (Pneumatic) 80 HP & Less	3.00				
Tractor (Pneumatic) over 80 HP	3.50				
Traveling Mixer	3.50				
Truck Drivers:					
Single Axle, Light	3.45				
Lowboy-Float	4.50				
Welder	4.50				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Brazos, Burleson, Grimes, Leon, Madison, Milam, Robertson, Walker & Washington

DECISION NO.: TX77-4187

DATE: Date of Publication

Supersedes Decision No. TX77-4131, dated June 24, 1977, in 42 FR 32506

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams) and Highway (does not include building structures in rest area projects) Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 2.75				
Asphalt Raker	3.35				
Batching Plant Scaleman	2.85				
Carpenter	4.50				
Carpenter Helper	4.00				
Concrete Finisher (Paving)	4.50				
Concrete Finisher Helper (Paving)	4.00				
Concrete Finisher (Structures)	4.50				
Concrete Finisher Helper (Structures)	3.85				
Electrician	6.75				
Electrician Helper	3.50				
Fireman	3.00				
Form Builder (Structures)	4.65				
Form Builder Helper (Structures)	3.80				
Form Setter (Structures)	4.25				
Form Setter Helper (Structures)	3.75				
Laborer, Common	2.75				
Laborer, Utility Man	3.00				
Mechanic	4.60				
Mechanic Helper	3.80				
Oiler	3.75				
Serviceman	3.25				
Pipelayer	3.50				
Pipelayer Helper	2.75				
Powderman	3.40				
Reinforcing Steel Setter (Structures)	3.25				
Spreader Box Man	3.75				
Power Equipment Operators:					
Asphalt Distributor	3.10				
Asphalt Paving Machine	3.90				
Broom or Sweeper Operator	3.25				
Bulldozer, 150 HP and Less	3.75				
Bulldozer, over 150 HP	4.50				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.50				

DECISION NO. TX77-4187

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Crusher or Screening Plant Op.	$ 3.75				
Foundation Drill Operator (Truck Mounted)	6.00				
Foundation Drill Operator Helper	4.40				
Front End Loader (2½ CY & Less)	3.50				
Front End Loader (Over 2½ CY)	4.15				
Motor Grader Operator, Fine Grade	5.00				
Motor Grader Operator	4.00				
Roller, Steel Wheel (Plant-Mix Pavements)	3.80				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.25				
Roller, Pneumatic (Self-Propelled)	3.00				
Scrapers (17 CY and Less)	3.90				
Scrapers (Over 17 CY)	4.00				
Tractor (Crawler Type) over 150 HP	3.75				
Tractor (Pneumatic) 80 HP & Less	3.00				
Traveling Mixer	3.00				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.00				
Truck Drivers:					
Single Axle, Light	3.15				
Weighman (Truck Scales)	2.95				
Welder	3.60				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Brazoria, Fort Bend, Galveston, Harris, Matagorda, Montgomery, Waller & Wharton

DECISION NO.: TX77-4188

DATE: Date of Publication

Supersedes Decision No. TX77-4132, dated June 24, 1977, in 42 FR 32507

DESCRIPTION OF WORK: Heavy (does not include tunnels, dams & work performed on the site of water or sewage treatment facilities) and Highway (does not include building structures in rest area projects) Construction and Shore Work

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Air Tool Man	$ 3.85				
Asphalt Heaterman	3.75				
Asphalt Raker	4.05				
Asphalt Shoveler	4.00				
Batching Plant Scaleman	4.75				
Batterboard Setter	4.15				
Carpenter	5.50				
Carpenter Helper	4.25				
Concrete Finisher (Paving)	5.45				
Concrete Finisher Helper (Paving)	3.95				
Concrete Finisher (Structures)	4.85				
Concrete Finisher Helper (Structures)	3.95				
Concrete Rubber	4.25				
Electrician	7.50				
Electrician Helper	3.60				
Form Builder (Structures)	4.95				
Form Builder Helper (Structures)	4.00				
Form Liner (Paving and Curb)	5.25				
Form Setter (Paving and Curb)	5.20				
Form Setter Helper (Paving and Curb)	4.15				
Form Setter (Structures)	4.80				
Form Setter Helper (Structures)	3.75				
Laborer, Common	3.60				
Laborer, Utility Man	3.90				
Manhole Builder, Brick	5.50				
Mechanic	5.40				
Mechanic Helper	3.60				
Oiler	4.50				
Serviceman	4.00				
Painter (Structures)	6.50				
Painter Helper (Structures)	3.60				
Piledriverman	6.00				
Pipelayer	4.80				
Pipelayer Helper	3.60				

DECISION NO. TX77-4188

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Reinforcing Steel Setter (Paving)	$ 4.25				
Reinforcing Steel Setter (Structures)	4.75				
Reinforcing Steel Setter Helper	3.60				
Steel Worker (Structural)	5.00				
Steel Worker Helper (Structural)	3.60				
Sign Erector	3.60				
Spreader Box Man	4.00				
Power Equipment Operators:					
Asphalt Distributor	4.50				
Asphalt Paving Machine	4.75				
Broom or Sweeper Operator	3.60				
Bulldozer, 150 HP and Less	4.75				
Bulldozer, over 150 HP	5.25				
Concrete Paving Curing Machine	4.25				
Concrete Paving Finishing Machine	5.00				
Concrete Paving Form Grader	4.25				
Concrete Paving Joint Machine	5.25				
Concrete Paving Longitudinal Float	4.75				
Concrete Paving Saw	5.00				
Concrete Paving Spreader	4.75				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.70				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	5.50				
Crusher or Screening Plant Op.	3.60				
Form Loader	3.80				
Foundation Drill Operator (Crawler Mounted)	6.00				
Foundation Drill Operator (Truck Mounted)	4.50				
Front End Loader (2½ CY & Less)	4.10				
Front End Loader (Over 2½ CY)	5.00				
Hoist (Double Drum and Less)	3.60				
Mixer (Over 16 CF)	5.00				
Mixer (16 CF and Less)	4.00				

DECISION NO. TX77-4188

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Motor Grader Operator, Fine Grade	$ 5.50				
Motor Grader Operator	5.00				
Roller, Steel Wheel (Plant-Mix Pavements)	4.00				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	4.00				
Roller, Pneumatic (Self-Propelled)	4.00				
Scrapers (17 CY and Less)	4.50				
Scrapers (Over 17 CY)	4.85				
Tractor (Crawler Type) 150 HP and Less	3.60				
Tractor (Crawler Type) over 150 HP	4.90				
Tractor (Pneumatic) 80 HP & Less	3.60				
Tractor (Pneumatic) over 80 HP	3.85				
Traveling Mixer	4.50				
Trenching Machine, Light	3.75				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.60				
Truck Drivers:					
Single Axle, Light	3.65				
Single Axle, Heavy	3.95				
Lowboy-Float	4.15				
Weighman (Truck Scales)	3.60				
Welder	5.50				
Welder Helper	4.40				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Chambers, Hardin, Jefferson, Liberty & Orange

DECISION NO.: TX77-4189

DATE: Date of Publication

Superseded Decision No. TX77-4133, dated June 24, 1977, in 42 FR 32502

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams and not to be used for Heavy Construction in Jefferson & Orange Counties) and Highway (does not include building structures in rest area projects) Construction and Shore Work (Not to be used for Shore Work in Jefferson & Orange Counties).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asphalt Heaterman	$ 3.60				
Asphalt Raker	4.00				
Batching Plant Scaleman	4.00				
Carpenter	5.00				
Carpenter Helper	4.50				
Concrete Finisher (Paving)	5.25				
Concrete Finisher Helper (Paving)	4.50				
Concrete Finisher (Structures)	4.75				
Concrete Finisher Helper (Structures)	4.50				
Electrician	6.75				
Form Builder (Structures)	4.25				
Form Setter (Paving and Curb)	4.50				
Form Setter (Structures)	5.50				
Form Setter Helper (Structures)	3.50				
Laborer, Common	3.40				
Laborer, Utility Man	4.50				
Mechanic	5.00				
Mechanic Helper	4.00				
Oiler	4.00				
Serviceman	4.00				
Piledrivermen	5.00				
Pipelayer	3.75				
Reinforcing Steel Setter (Structures)	4.75				
Spreader Box Man	4.50				
Power Equipment Operators:					
Asphalt Distributor	5.00				
Asphalt Paving Machine	4.60				
Broom or Sweeper Operator	3.50				
Bulldozer, 150 HP and Less	4.50				
Bulldozer, over 150 HP	5.00				
Concrete Paving Curing Machine	4.50				
Concrete Paving Finishing Machine	4.50				

DECISION NO. TX77-4189

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Concrete Paving Form Grader	$ 4.50				
Concrete Paving Joint Machine	4.50				
Concrete Paving Longitudinal Float	4.50				
Concrete Paving Spreader	4.75				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.75				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	5.00				
Front End Loader (2½ CY & Less)	3.75				
Front End Loader (Over 2½ CY)	5.00				
Motor Grader Operator, Fine Grade	5.00				
Motor Grader Operator	4.50				
Roller, Steel Wheel (Plant-Mix Pavements)	4.50				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	4.50				
Roller, Pneumatic (Self-Propelled)	4.75				
Scrapers (17 CY and Less)	4.45				
Scrapers (Over 17 CY)	5.00				
Tractor (Crawler Type) over 150 HP	4.50				
Tractor (Pneumatic) 80 HP & Less	3.50				
Tractor (Pneumatic) over 80 HP	4.50				
Traveling Mixer	4.50				
Truck Drivers:					
Single Axle, Light	3.40				
Single Axle, Heavy	3.40				
Tandem Axle or Semitrailer	4.00				
Lowboy-Float	5.50				
Welder	5.50				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler

DECISION NO.: TX77-4190

DATE: Date of Publication

Superseded Decision No. TX77-4152, dated July 8, 1977, in 42 FR 35602.

DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). Building Construction includes construction of shelter & enclosures with walk-in access for the purpose of housing persons, machinery, equipment or supplies. It includes all construction of such structures, the installation of utilities & the installation of equipment, both above & below ground level, as well as excavation & foundations.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.00	.65	.55		.07
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAY ERS & STONEMASONS	9.70		.30		
CARPENTERS:					
ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties:					
Carpenters	9.39		.20		.01
Millwrights	9.74		.20		.01
ZONE 2 - Childress County:					
Carpenters	9.07	.43	.40		.07
Millwrights	9.57	.43	.40		.07
CEMENT MASONS:					
Cement masons	8.70				
Machine operators	8.55				
ELECTRICIANS:					
ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties:					
Electricians	10.13	.60	3%		1/2%
Cable splicers	11.10	.60	3%		1/2%
ZONE 2 - Childress County:					
Electricians	10.35	.40	3%		1/10%
Cable splicers	10.60	.40	3%		1/10%

DECISION NO. TX77-4190

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS	$ 6.75				
IRONWORKERS	9.00	.55	1.00	a	.10
LABORERS:					
GROUP 1 - Construction laborers, including excavation, pouring concrete, carpenter tenders, reinforcing, shoring, digging, loading & unloading materials, wrecking buildings & all structures & all unskilled laborers	4.99	.53	.27		
GROUP 2 - Air tool operator (jackhammer, tamper, brush hammer, chipping hammer, air or electric), sand blasterer, power buggy man, pipelayer (concrete & clay & all non-metallic pipe) & pipe wrappers; mortar mixers, mason tenders, plasterer tenders, cement finisher tenders, lather tenders, asphalt rakers, tampers, well drillers, hell hole men, dumpers, spotters, signal man	5.14	.53	.27		
LATHERS	9.55				.01
LINE CONSTRUCTION:					
ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties:					
Lineman	10.13	.60	3%		1/2%
Cable splicer	11.16	.60	3%		1/2%
Groundman, more than 1 year experience	6.61	.60	3%		1/2%
Groundman, less than 1 year experience	5.76	.60	3%		1/2%
Operator-hole digger, line truck	7.71	.60	3%		1/2%
Flat bed truck driver	5.76	.60	3%		1/2%

DECISION NO. TX77-4100

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
ZONE 2 - Childress County:					
Lineman; Operator	$11.52		3%		1/2%
Cable splicer	12.67		3%		1/2%
Groundman, 1st 6 months	6.91		3%		1/2%
Groundman, 2nd 6 months	7.49		3%		1/2%
Groundman, 1 year & over	8.06		3%		1/2%
MARBLE MASONS (EXTERIOR)	9.70		.30		
PAINTERS:					
GROUP 1 - Brush & roller; paper-hangers; perfa-tapers	8.20		.40		
GROUP 2 - Structural steel painters; swinging stage or chair below 50 ft.	8.32		.40		
GROUP 3 - Spray painters & sand blasters	8.95		.40		
GROUP 4 - Perfa-tape machine operator	8.45		.40		
PLASTERERS	9.55				.01
PLUMBERS & PIPEFITTERS:					
ZONE 1 - shall extend a distance of 25 road miles from the police station in either Amarillo or Borger	9.21	.45	.65	.60	
ZONE 2 - shall extend a distance of 25 to 50 road miles from either Amarillo or Borger	9.46	.45	.65	.60	
ZONE 3 - shall extend a distance of 50 road miles & over from either Amarillo or Borger	9.71	.45	.65	.60	
ROOFERS	4.50				
SHEET METAL WORKERS	10.17	.35	.33		.10
SPRINKLER FITTERS	11.15	.65	.95		.08
TRUCK DRIVERS:					
1/2 ton to 3 tons	2.88				
3 to 5 tons	3.13				
5 tons and over	3.38				
Ready mix concrete to 3 yds.	2.88				
Ready mix concrete over 3 yds.	3.13				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. TX77-4100

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
FOOTNOTE:					
a - Paid Holidays A thru F					
PAID HOLIDAYS A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 8.75	.40	.50		.10
GROUP 2	8.25	.40	.50		.10
GROUP 3	6.30	.40	.50		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Blade Grader, self-propelled; Clam Shells; Cable Ways; Cranes, power operated (all types); Air Compressors, Pumps, Welding Machines & Light Plants (7 to 12 machines); Derricks, power operated (all types); Dragline; Elevating Graders, self-propelled; Hoist, 2 drum or more; Locomotive; Mixerrobiles; Paving Mixers, all types; Pile Drivers; Scrapers; Bulldozers; Side Boom; Cherry Pickers - 12½ ton & over; Shovels; Heavy Duty Backhoes; All Welders; All Tractors with power attachments; Ditching Machines - crawler type; Farm type Tractor (Loader, 1 yd. & over) with Backhoe; All other equipment of similar nature coming within the Heavy Equipment Classification, when power operated

GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants (3 to 6 machines); Cherry Pickers - under 12½ tons; Ditch Witch - J30 and under; Farm type Tractor (Loader under 1 yd.) with Backhoe; Go-Devil; Mixers, 14 cu. ft. or over; Rollers over 10 tons; Air Compressor and one Tugger; Rollers, 2 or more; Winch Trucks; Front End Scoopmobile, Loader and PayLoader; Blade Grader, towed; Elevators, Building; Fork Lifts; Hoist, single drum or 1 line hoisting (1 Elevators, Building); Mixers less than 15 cu. ft.; Rollers; Screening Plants; Crushing Plants; Tractors - Wheel type except when hauling material; All other equipment of similar nature coming within the Light Equipment Classification, when power operated

GROUP 3 - Oiler-Fireman-Greaser

SUPERSEDEAS DECISION

STATE: Texas
COUNTIES: Bee, Kleberg & Nueces
DECISION NO.: TX77-4191
DATE: Date of Publication
Supersedes Decision No. TX77-4111, dated June 10, 1977, in 42 FR 30141.
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to 6 including 6 stories). Building Construction includes construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment or supplies. It includes all construction of such structures, the installation of utilities & the installation of equipment, both above & below ground level, as well as excavation & foundation.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.20	.50	.50		
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS:					
Bee County	5.50				
Kleberg & Nueces Counties	8.56	.28	.30		.04
CARPENTERS:					
Carpenters	7.59	.46	.30		.04
Millwrights	9.05				1%
CEMENT MASONS	8.25				
ELECTRICIANS:					
Electricians	10.55	.60	3%		1/2%
Cable splicers	10.675	.60	3%		1/2%
GLAZIERS (excluding Kleberg Co.)	6.85		.20		
IRONWORKERS	7.74	.55	1.00		.04
LABORERS:					
GROUP 1 - General laborer (any work not specifically defined herein)	4.80	.28	.10		
GROUP 2 - Craft tenders: Bricklayers, plasterers, tile setters, concrete & mortar mixers, pipelayers, lathers, finish carpenters, slip form operators, scaffolding, water proofers, cement finishers; Power tool operators - includes paving breaker, jackhammer, chipping gun, air tamper, barie tamper, electric vibrator, air or gasoline driven vibrator or drills, sump pumps and any and all power driven equipment operated by laborers	5.00	.28	.10		
GROUP 3 - Pipe wrappers & dopers	5.15	.28	.10		
GROUP 4 - Gunite nozzlemen; Toodercman or blaster	5.25	.28	.10		
LATHERS	7.75	.30	.20	1.00	.01
LINE CONSTRUCTION:					
Lineman	10.75	.40	3%		1/2%
Cable splicer	10.875	.40	3%		1/2%
Groundman (1st year)	5.38	.40	3%		1/2%
Groundman	5.91	.40	3%		1/2%

DECISION NO. TX77-4191

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS	$ 7.93				.02
MARBLE SETTERS' FINISHERS	5.37				
PAINTERS:					
Brush	7.53	.25	.25		2/10%
Spray	7.93	.25	.25		2/10%
Sign	7.78	.25	.25		2/10%
PLASTERERS	9.60				.01
PLUMBERS & STEAMFITTERS	8.565	.335	.35		.035
ROOFERS:					
Roofers; Kettleman; Waterproofers; Deckmen	6.575		.25		
SHEET METAL WORKERS	8.67	.23	.275		.01
SOFT FLOOR LAYERS	7.59	.46	.30		.04
SPRINKLER FITTERS	11.15	.65	.95		.08
TERRAZZO WORKERS	7.93				.02
TERRAZZO WORKERS' FINISHERS					
Terrazzo finishers	5.37				
Floor machine operators	5.57				
Base machine operators	5.72				
TILE SETTERS	7.93				.02
TILE SETTERS' FINISHERS	5.37				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. TX77-4191

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 8.15	.18	.45		
GROUP 2	7.025	.18	.45		
GROUP 3	6.225	.18	.45		
GROUP 4	6.375	.18	.45		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Air Compressor over 125 CFM, gasoline or diesel powered; Asphalt Plant Mixer; Back Filler; Back Hoe; Batch Plant (concrete); Blade Grader; Boring Machine (foundation, horizontal or waterwell); Bull Clam; Bull Dozer; Cableway; Clamshell; Crane, power operated (all types); Crusher; Derrick, power operated (all types); Dragline; Elevating Grader; Elevator, outside the building; Euclids, and similar type machines; Forklift (on construction except in warehouses); Grade-All; Hi-Lift; Hoist (2 drums or more); Locomotive and Switch Engines; Mixer (paving); Mixer (concrete); Pile Driver; Pumps (2) over 3 inches; Pump-crete Machine; Push Cat or Pull Cat; Roller (pneumatic, flatwheel); Scraper (all types); Shovel (power); Scoopmobile; Trench Machine, Tugboat (on construction); Turn-a-pulls and similar machines; Welding Machines (7 to 13) other than electric; Wellpoint; Winch Truck; Mechanic; Lubrication Engineer (required on grease racks and service trucks); All other equipment of similar nature coming within the Heavy Equipment Class when power operated

GROUP 2 - Air Compressor (1 or 2) 125 CFM or less, gasoline or diesel powered; Blade Grader (towed); Conveyor; Elevator, inside the building, permanent type; Fireman (required on any boiler, steam locomotive, steam crane, etc.); Flex-plane; Form Grader; Generator (gas, diesel over 1500 watts); Hoist (1 drum); Mixer (less than 14 cu. ft.); Pulsometer; Pumps (1) over 3 inches; Pumps (1 or 2) 3 inches or under; Roller (towed); Tractor (wheel type); Driver-oiler (required on tractor or truck cranes on which controls of crane and those of tractor or truck are operated from different seats or stations, mobile type grade all, etc.); Wagon Drill; Welding Machine (3 to 6) other than electric; All other equipment of similar nature coming within the Light Equipment Class when power operated

GROUP 3 - Oilers, 1st year

GROUP 4 - Oilers, 2nd year

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Bell, Bosque, Coryell, Falls, Hill & McLennan

DECISION NO.: TX77-4192

DATE: Date of Publication

Supersedes Decision No. TX77-4141, dated July 8, 1977, in 42 FR 35605.

DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). Building Construction includes construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment or supplies. It includes all construction of such structures, the installation of utilities & the installation of equipment, both above & below ground level, as well as excavation & foundation.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
ZONE 1 - Bell, Coryell & Falls Counties	$10.35	.60	.60		.08
ZONE 2 - Bosque, Hill & McLennan Counties	10.03	.40	.76		.025
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS	9.70		.55		.03
CARPENTERS:					
ZONE 1 - Bell & Coryell Counties:					
Carpenters	8.20				
Millwrights	8.45				
ZONE 2 - Bosque, Falls, Hill & McLennan Counties:					
Carpenters	8.45				
Millwrights	8.85				
CEMENT MASONS	8.69	.40	.30		
ELECTRICIANS:					
ZONE 1 - Bell (that part which is nearer to Waco than Austin but excluding that part of Fort Hood, the boundary which presently is located approximately 2 miles inside the Bell Co. line & the City of Killeen), Bosque, Coryell (except that part of Fort Hood south of Cowhouse Creek), Falls, Hill & McLennan Counties	9.55		1%		1/4%
ZONE 2 - Bell (that part which is nearer to Austin than Waco & not to extend more than 2 miles into Bell Co. from the southeast boundary line of Coryell Co., Gray Field & the City of Killeen) & Coryell (that part south of Cowhouse Creek) Counties	10.60	"	1%		.8%
ELEVATOR CONSTRUCTORS:					
Mechanics	9.73	.545	.35	4%+sh	.02
Helpers	70%JR	.545	.35	4%+sh	.02
Helpers (Probationary)	50%JR				

DECISION NO. TX77-4192

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
GLAZIERS	$ 6.90				
IRONWORKERS	9.45	.55	.80		.12
LABORERS:					
Unskilled	2.97				
Mason tenders	3.55				
Mortar mixers	3.55				
LATHERS	9.30			.80	.05
LINE CONSTRUCTION:					
Lineman; Lineman operators	11.52		3%		1/2%
Cable splicers	12.67		3%		1/2%
Groundman, 1st 6 months	6.91		3%		1/2%
Groundman, 2nd 6 months	7.49		3%		1/2%
Groundman, 1 year & over	8.06		3%		1/2%
PAINTERS:					
GROUP 1 - Brush	7.15				.04
GROUP 2 - Boiler pipes & steel, structural steel, window jacks, roofs, stage work, smoke stack, water towers, boatswain chair	7.65				.04
GROUP 3 - Ames tools for dry walls	7.75				.04
GROUP 4 - Spray work & self feeding rollers	7.90				.04
GROUP 5 - Steam cleaning, sand-blasting & hazardous work	8.25				.04
PLASTERERS	9.54	.45	.40		.01
PLUMBERS & PIPEFITTERS:					
ZONE 1 - Area within a 35 mile radius of Waco, including Temple, Marlin, Clifton & Hillsboro	8.70	.30	.33		.03
ZONE 2 - All other areas	9.10	.30	.33		.03
ROOFERS:					
GROUP 1 - Slate, tile, asbestos, roofing & siding	6.95				.03
GROUP 2 - Composition, built-up, damp & waterproofing	6.80				.03
GROUP 3 - Kettlemen	5.10				.03

DECISION NO. TX77-4192

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
[illegible]:					
[illegible] 1 - Within a radius of 20 miles from the Bohannan County Court House, Duco	$ 9.26		.39		.05
[illegible] 2 - over 20 miles but less than 45 miles including; the towns of Hillsboro, Temple, Marlin, Gatesville & Clifton	9.76		.39		.05
[illegible] 3 - over 45 miles	10.26		.39		.05
[illegible] PITTERS	11.15	.65	.95		.08
[illegible]	2.80				

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2¢; over 5 yrs. - 4¢ of basic hourly rate
b - Paid Holidays A thru F

PAID HOLIDAYS
A- New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

DECISION NO. TX77-4192

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 8.63		.40		
GROUP 2	7.56		.40		
GROUP 3	6.34		.40		
GROUP 4	6.23		.40		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy Duty Mechanic; Blade Grader - Self-propelled; Bull Clam; Back Filler; Derricks, power operated (all types); Dragline; Push Cat Operator; Euclid Operator; Bull Dozer and all types of Cat Tractors; Cable-Way; Back Hoe; Crane, Power Operated (all types); Elevating Grader, self-propelled; Hoist, Motor-Driver, two drums or more; Mix Mobile; High-Lifts & Loaders, over 1/3 cu. yd. capacity; Winch Truck; Locomotive; Mixer, 14 cu. ft. or over; Paving Mixer (all sizes); Scraper; Trenching Machine (all sizes); Gradall; Foundation Boring Machine; Scoopmobile; Shovel, power operated; Pump Crete Machines; Clam Shell Operator; Rock Crusher Operated on Job; Welding Machine, 6 to 12; Two 125 cu. ft. Compressors; Well points, including installations
GROUP 2 - Blade Grader, Towed; Flex Plane; Form Grader; Mixer, less than 14 cu. ft.; Pulsometer; Truck Crane Driver & Oiler, Combination man; Gasoline or Diesel Driven Welding Machine, 3 to 6; Hoist, Single Drum; Pump, 2½ in. or larger; Pneumatic Roller; High-Lifts & Loaders, 1/3 cu. yd. or less; Forklift, 1500 lbs. capacity or less; Air Compressors, anytime there are two or more attachments operating on a 125 cu. ft. compressor, a light equipment operator shall be employed. One 125 cu. ft. air compressor and one welding machine requires no operator. One 125 cu. ft. compressor and two welding machines or any 2 air compressors equivalent to a 125 cu. ft. air compressor requires a light equipment operator
GROUP 3 - Fireman
GROUP 4 - Oiler

[illegible] DECISION

STATE: Texas
DECISION NO.: TX77-4193
Supersedes Decision No. TX77-4101, dated May 13, 1977, in 42 FR 24705.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden apartments up to 4 stories). Building Construction includes construction of shelters with walk-in access for the purpose of housing personnel, machinery, equipment or supplies. It includes all construction of [illegible], the installation of utilities & the installation of equipment, both above & below ground level, as well as excavation & foundation.

COUNTY: Bexar
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ACOUSTICAL WORKERS	$10.35	.60	.60		.08
ASBESTOS WORKERS	8.00	.50	.76		.02
BRICKLAYER-STONEMASONS	9.27	.45	.30	.25	.05
CARPENTERS:					
Carpenters	8.14	.43	.40	.40	.05
Millwrights	8.44	.43	.40	.40	.05
CEMENT MASONS	6.68				
ELECTRICIANS:					
Electrician	10.60	.44	5%		1%
Cable splicers	10.85	.44	5%		1%
ELEVATOR CONSTRUCTORS:					
Mechanics	7.99	.445	.29	3%+a+b	.02
Helpers	70%JR	.445	.29	3%+a+b	.02
Helpers (Probationary)	50%JR				
GLAZIERS	6.80				
IRONWORKERS	7.85	.55	1.00	.50	.07
LABORERS:					
GROUP 1 - General Laborers	5.34	.33	.30		.02
GROUP 2 - All power tools & equipment operators; cutting torch man; power buggy ops; wagon drill ops; well driller; drilling rig tender; cement finisher tender; handling creosoted material; scale man on batch plants; asphalt raker; concrete & clay & all non-metallic pipe layers; plasterer tender; brick tender; lather tender	5.59	.33	.30		.02
GROUP 3 - Mortar mixer man; grout machines; concrete machines; concrete mixing machines; running sand dryer & loader; operator; sand blaster; bell hole man; blaster powderman; gunnite nozzleman	5.69	.33	.30		.02
LATHERS	9.26				.01
LINE CONSTRUCTION:					
Lineman	8.25%	.28	1%		1/2%
Groundman	5.58	.28	1%		1/2%
Groundman, 1st. year	4.12	.28	1%		1/2%

DECISION NO. TX77-4193

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS	$ 6.99	.35	.30	.25	
MARBLE SETTERS' HELPERS	4.87				
PAINTERS:					
Brush; Paperhanger; Taper & floater	8.30		.20		.05
Spray; Structural steel	8.55		.20		.05
Spray on structural steel; Sandblasting	8.80		.20		.05
PLASTERERS	9.76				.01
PLUMBERS-PIPEFITTERS	10.86	.40	.55		.10
ROOFERS:					
Roofers	5.50				
Kettlemen	4.83				
Waterproofers	5.14				
SHEET METAL WORKERS	9.08	3%+.30	.50		.07
SOFT FLOOR LAYERS	4.55				
SPRINKLER FITTERS	10.10	.50	.80		.08
TERRAZZO WORKERS	6.99	.35	.30	.25	
TERRAZZO WORKERS' HELPERS:					
Terrazzo helpers	4.87				
Floor machine operators	5.07				
Base machine operators	5.22				
TILE SETTERS	6.99	.35	.30	.25	
TILE SETTERS' HELPERS	4.87				
TRUCK DRIVERS	3.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2¢; over 5 yrs. - 4% of basic hourly rate.
b - Paid Holidays A thru F

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	$ 8.32	.35	.75		
GROUP 2	7.44	.35	.75		
GROUP 3	6.27	.35	.75		
GROUP 4	6.03	.35	.75		

CLASSIFICATION DEFINITIONS

GROUP 1 - All foundation drilling rigs; All rollers (5 tons or over); Backfiller; Backhoe; Blade graders (self-propelled); Bull clam; Bulldozers; Cableway; Clamshell operator; Crane (power operated, all types); Derricks (power operated, all types); Dragline; DW-10 caterpillar and similar tractors; Elevating graders (self-propelled); Euclid; Fork lift used on construction; Gasoline or diesel-driven welding machines (7 to 12); Gradall; Heavy duty mechanic; High lifts; Hoist (two drums or more); Locomotive; Mixer (14 cu. ft. or over); Mixermobile; Paving mixers (all sizes); Piledrivers; Pumpcrete machine operator; Rock crusher operator on job; Scoopmobile; Screeners; Shovel (power operated); Turnapulls; Trenching machines (all sizes); Winch truck; All other equipment of similar nature, coming within the heavy equipment class, when power operated

GROUP 2 - Air compressor (any time there are three or more attachments operating on a 125 cu. ft. air compressor or less, a light equipment operator shall be employed. Any compressor over 125 cu. ft. shall have a light equipment operator); Blade graders (motor); Building elevator used on construction; Flex planer; Form grader; Hoist (single drum); Mixer (less than 14 cu. ft.); Pneumatic roller; Putzmeisters; Pump (4" or larger shall require a light equipment operator); Three to six welding machines or any three pieces or equipment of equal or similar nature, coming within the light equipment class when power operated; Roller (under 5 tons); Truck crane drivers

GROUP 3 - Fireman

GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: TX77-4194
Supersedes Decision No. TX77-4070, dated April 1, 1977, in 42 FR 17785.
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). Building Construction includes construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment or supplies. It includes all construction of such structures, the installation of utilities & the installation of equipment, both above & below ground level, as well as excavation & foundation.

COUNTY: Bowie
Date: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.03	.40	.76		.025
BOILERMAKERS	10.90	.50	1.00		.02
BRICKLAYERS & STONEMASONS	8.75		.25		
CARPENTERS:					
Carpenters	8.20				.01
Millwrights	10.35				.04
Piledrivermen	8.85				.01
CEMENT MASONS	8.67	.25			.03
ELECTRICIANS	9.80	.60	3%		1/4%
ELEVATOR CONSTRUCTORS:					
Mechanics	9.33	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				
IRONWORKERS	10.20	.45	.50		.04
LABORERS, UNSKILLED	2.85				
LINE CONSTRUCTION:					
Lineman	10.40		3%		1/2%
Cable splicer	10.71		3%		1/2%
Hole digger operator, Heavy equipment operators (or pole cat equivalent); pouderman	9.46		3%		1/2%
Line truck driver (+inch operator)	8.53		3%		1/2%
Jackhammer man	7.60		3%		1/2%
Groundman	6.97		3%		1/2%
Groundman, 1st year	5.20		3%		1/2%
Truck driver (flat bed, ton & half & under)	7.38		3%		1/2%
PAINTERS:					
GROUP 1 - Brush	6.05				
GROUP 2 - Spray	8.35				
GROUP 3 - Painters brush working from window jacks	8.00				
GROUP 4 - Brush structural steel iron & galvanized pipe	8.25				

DECISION NO. TX77-4194

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D):					
GROUP 5 - Brush, structural steel iron & galvanized pipe over 40 ft. up & down to ground	$ 8.65				
GROUP 6 - Brush swinging stage & chair work	8.50				
GROUP 7 - Brush swinging stage & chair work over 40 ft. up & down to ground	8.80				
GROUP 8 - Spray, sandblasters & power tools	9.35				
GROUP 9 - Spray, sandblasters & power tools over 40 ft. up & down to ground	9.60				
PLUMBERS & PIPEFITTERS	10.25	.50	.55		.05
ROOFERS	4.50				
SHEET METAL WORKERS	9.945	3%+.45	.66		.055
SOFT FLOOR LAYERS	8.20				.01
SPRINKLER FITTERS	11.15	.65	.95		.08
TRUCK DRIVERS	2.45				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays A thru F

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

DECISION NO. TX77-4194

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 7.79	.40	.875		.10
GROUP 2	8.575	.40	.875		.10
GROUP 3	8.975	.40	.875		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler-Fireman
GROUP 2 - Air Compressor, Pumps, Welding Machines, Throttle Valves, Light Plants; Conveyor; Dragon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor including blade and mower on rear; Mixers, less than 14 cubic feet; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 feet); Concrete Pumps (all types); Bobcat type equipment; All other equipment of similar nature coming under the Light Equipment Classification, when power operated
GROUP 3 - Ford Tractor or like with any attachment (except blade and mower on rear); Drilling Machine (all types); Scoopmobile; Hoists, two drums or more; Forklifts (over 25 ft.); Winch Truck; Six Wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cubic ft. or over; Blade Graders, self-propelled; Cableways; Cranes-power operated to 100 ft.; Derricks, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving Mixers (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractovators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressor & Air Tugger; Foilers, two or more fired by one man; Heavy Duty Mechanic; All other equipment of similar nature coming under the Heavy Equipment Classification, when power operated

SUPPLEMENTAL DECISION

STATE: Texas COUNTY: Brazos
DECISION NO. TX77-4195 DATE: Date of Publication
Supersedes Decision No. TX77-4153, dated July 8, 1977, in 42 FR 35612.
DESCRIPTION OF WORK: Building Construction (does not include single family houses & garden type apartments up to 4 including 4 stories). Building Construction includes construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment or supplies. It includes all construction of such structures, the installation of utilities & the installation of equipment, both above & below ground level, as well as excavation & foundation.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.00	.70	.70		.06
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS	10.53	.63	.60		.06
CARPENTERS	9.25				
CEMENT MASONS	9.86	.52	.55		.08
ELECTRICIANS	11.05	.55	7%		.06
ELEVATOR CONSTRUCTORS:					
Mechanics	9.33	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				
GLAZIERS	11.17	.60	.425		.01
IRONWORKERS	10.28	.55	1.00		.10
LABORERS:					
GROUP 1	4.78	.33	.27		.02
GROUP 2	4.88	.33	.27		.02
GROUP 3	4.96	.33	.27		.02
GROUP 4	4.93	.33	.27		.02
GROUP 5	5.03	.33	.27		.02
GROUP 6	5.18	.33	.27		.02

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - Construction labor, including excavation, concrete work, reinforcing, mason handler and wheeler (stock pile), asphalt ironer and raker, water proofing tender, pipe layer (non-metallic), pump crete pipe (handling and laying) and all building construction labor excepting that hereinafter classified; window washer, carpenters tender, cement mason tender, vibrator operator, other mechanic tender (except as otherwise classified); Dumper & spotter
GROUP 2 - Air tool operator
GROUP 3 - Well driller
GROUP 4 - Cutting torch man; mason tender; mason handler & wheelers handling material from first stock pile; concrete pipe (handling and laying); Sand blaster; Power buggy operator; plasterer tender & hod carrier; lather tender; well driller tender
GROUP 5 - Tool room tender; mortar mixer (hoe and otherwise); Blaster, powder man; gunite worker
GROUP 6 - Gunite nozzleman

DECISION NO. TX77-4195

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Lineman & cable splicer	$11.62	.40	3%		1/2%
Groundman (1st 6 months)	4.07	.40	3%		1/2%
Groundman (2nd 6 months)	4.88	.40	3%		1/2%
Groundman	6.74	.40	3%		1/2%
MARBLE MASONS	10.46				
PAINTERS:					
GROUP 1 - All brush painting, hand roller, steam cleaning, all pneumatic tools	9.795	.565	.45	.40	.04
GROUP 2 - All spray painting, sandblasting, waterblasting	10.17	.565	.45	.40	.04
GROUP 3 - Tape, float & drywall	9.92	.565	.45	.40	.04
GROUP 4 - Steeple jack work, hot materials	10.42	.565	.45	.40	.04
PIPEFITTERS	10.85	.45	.65		.045
PLASTERERS	10.50	.77	.30		.02
PLUMBERS	10.72	.55	.70		.12
SHEET METAL WORKERS	10.48	.275	.665	.42	.06
SOFT FLOOR LAYERS	9.17	.35	.45		.09
TERRAZZO WORKERS	10.46				
TILE SETTERS	10.46				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays A thru F

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

DECISION NO. TX77-4195

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 9.87	.35	.65		.06
GROUP 2	8.36	.35	.65		.06
GROUP 3	7.84	.35	.65		.06
GROUP 4	7.66	.35	.65		.06

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy Duty Mechanic; Blade Grader, Self-propelled; Bull Clam; Back Filler; Derrick-power operated (all types); Clam shell; Draglines; Push Cat Operator; Bull Dozer & all types Cat Tractors; Cable-Way; Backhoe; Shovel, power operated; Crane, power operated (all types); Elevating Grader, Self-propelled; Hoist, Motor-Driven, Two Drums or more; Mix Mobile; Water Well Drilling Machines, used on construction; Building Elevator, used on construction; Tug Boat Operator, assigned to construction; Winch Truck; Locomotive Crane; Concrete Mixer, 14 cubic feet or more; Paving Mixer (all types); Pile Driver; Scraper, heavy type, over 3 cubic yards; Trenching Machine (all sizes); Gradall; High-Lift; Foundation Boring Machine; Gasoline or Diesel-Driven Welding Machines, 7 or more; Pumcrete Machine Operator; Turnapulls; DW-10 Caterpillar, S-18 Euclid and similar tractors; Asphalt Plant Mixer Operator on job; Crusher Operator on job; Scoopmobiles; Forklift used on construction (not including warehousing); Well Point Pump; Concrete Batch Plant Operator; Pneumatic Rollers, self-propelled; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated
GROUP 2 - Air Compressors; Blade Grader, Towed; Flex Plane; Form Grader; Concrete Mixer, less than 14 cubic feet; Pumps; Pulsometer; Truck Crane Driver; Gasoline or diesel driven welding machines (on 3 or more, up to 6 machines); Hoist, Single Drum; Scraper, 3 cubic yards or less; Wagon Drill Operator; Conveyor; Generator, Gasoline or diesel driven, over 150+ watts; Rubber Tired Farm Tractor with attachments; A light equipment operator may run 1 or 2 105 cfm compressors; All other equipment of similar nature coming under the Light Equipment Class, when power operated
GROUP 3 - Fireman
GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: Texas
COUNTIES: Grayson, Hudson, Kerr & Willacy

DECISION NO.: TX77-4196
DATE: Date of Publication
Supersedes Decision No. TX77-4105, dated May 20, 1977, in 42 FR 26182
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). Building construction includes construction of shelter and enclosure with walk-in access for the purpose of housing persons, machinery, equipment or supplies. It includes all construction of such structures, the installation of utilities & the installation of equipment, both above & below ground level, as well as excavation and foundation.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.29	.50	.50		
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS	6.00				
CARPENTERS	5.11				
CEMENT MASONS	3.50				
ELECTRICIANS	5.50				
GLAZIERS	3.55				
IRONWORKERS:					
Structural & ornamental	3.50				
Reinforcing	4.02				
LABORERS:					
Common laborers	2.30				
Air tool operators	2.30				
Mason tenders	2.30				
Mortar mixers	2.30				
Plasterers' tenders	2.30				
PAINTERS	4.19				
PLASTERERS	7.00				
PLUMBERS & PIPEFITTERS	8.08	.32	.15		.05
ROOFERS:					
Roofers	4.06				
Kettlemen	4.40				
SHEET METAL WORKERS	4.23				
SPRINKLER FITTERS	11.15	.65	.95		.08
TILE SETTERS	3.75				
TRUCK DRIVERS	2.30				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. TX77-4197

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D):					
ZONE 2 - Collin, Dallas, Ellis, Grayson, Hunt, Kaufman & Rockwall Counties:					
Electricians	$10.43	6%	7%		.70 of 1%
Cable splicers	11.47	6%	7%		.70 of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	9.33	.565	.35	4%+a+b	.02
Helpers	70%JR	.565	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				
GLAZIERS:					
Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties	8.94	.40	.55		.025
IRONWORKERS	9.25	.55	1.00		.07
LABORERS:					
ZONE 1 - Grayson County:					
GROUP 1 - Unskilled laborers	6.42	.275	.30		
GROUP 2 - Air tool operator (jackhammer, vibrator), mason tenders & mortar mixers, pipelayers	6.67	.275	.30		
ZONE 2 - Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties:					
GROUP 1	6.42	.275	.30		.02
GROUP 2	6.57	.275	.30		.02
GROUP 3	6.67	.275	.30		.02
GROUP 4	6.82	.275	.30		.02

SUPERSEDEAS DECISION

STATE: Texas
COUNTIES: Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise

DECISION NO.: TX77-4197
DATE: Date of Publication
Supersedes Decision No. TX77-4007, dated May 6, 1977, in 42 FR 23470.
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories) and also does not include Dallas-Fort Worth Regional Airport. Building Construction includes construction of shelter and enclosure with walk-in access for the purpose of housing persons, machinery, equipment or supplies. It includes all construction of such structures, the installation of utilities & the installation of equipment, both above & below ground level, as well as excavation and foundation.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.03	.40	.76		.025
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS:					
ZONE 1 - Grayson County	6.80				
ZONE 2 - Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties	9.17	.45	.50		.04
CARPENTERS:					
ZONE 1 - Grayson County:					
Carpenters	9.825	.30	.30		.005
Millwrights	10.225	.30	.30		.005
Piledrivermen	10.325	.30	.30		.005
ZONE 2 - Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties:					
Carpenters	9.81	.30	.30		.03
Millwrights	10.44	.30			.04
CEMENT MASONS:					
ZONE 1 - Grayson County	6.16				
ZONE 2 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Counties	9.245	.40	.60		
ZONE 3 - Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties	9.135	.55	.55		.01
ELECTRICIANS:					
ZONE 1 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Counties:					
Electricians	10.23	.60	5%		7/10%
Cable splicers	10.48	.60	5%		7/10%

DECISION NO. TX77-4197

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - all hand digging dirt work and backfilling; firing of salamanders, handling and unloading of materials to and from hoist or cages; loading and unloading of tools and equipment; shoveling, placing and pouring of concrete; all excavation; handling of buckets, steel, cement; distribution of all materials; flagging; clean-up trucks; miscellaneous job clean-up; wrecking and razing of buildings and all structures; cleaning and clearing of all debris; handling of broken concrete or other damaged or undamaged materials; removing, moving, handling and greasing of forms, wrecking forms; storing materials to storage place; slip form jacks, scaffold builders, checking materials and tools in and out of receiving lots and sheds; tool house men; landscaper; asphalt raker and roller; waterproofing tender; dusper; spotter; concrete pumpcrete pipe (handling and laying); carpenter tender

GROUP 2 - All power tool and equipment operators (gas, electric or air); cutting torch man; concrete grademan; power buggy operator; wagon drill operator, well driller, drilling rig tender; cement finisher tender; metal pan and steel form men; handling creosoted materials; liquid acids or like materials when injurious to health, eyes, skin or clothes; all newly developed equipment which replaces wheelbarrows or buggies previously used by laborers, scale man on batch plants; concrete flagman

GROUP 3 - Concrete and clay pipe (handling & laying); mason handler; scaffold builder; mason tender; hod carriers mortar mixers; lather tenders, plaster tenders; water pump operators up to four inches; cement mason tenders; mortar mixers; hod carriers; dry mixers; tank cleaning; all pipe doping, treating and wrapping, including all men working with dope, mortar and plaster mixing machines, grout machines; pump crete machines, gunite mixing machines, including placing and cleaning of pipe and conduits used in placing of concrete, handling and placing of gunite materials from stockpiles, screening sand, running sand dryer and loading and operating sand blaster, except nozzle, conveying, stocking and handling of all materials for brick masons, lathers, cement finishers, plasterers; ditch work over 6 feet and cleaning out drill piers

GROUP 4 - Sand blaster, blaster powderman; Gunite worker; gunite nozzle man and terrazzo grinder

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$10.38				.04

DECISION NO. TX77-4197

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen; linemen operators	$11.52		3%		1/2%
Cable splicers	12.67		3%		1/2%
Groundman, 1st 6 months	6.91		3%		1/2%
Groundman, 2nd 6 months	7.49		3%		1/2%
Groundman, 1 year & over	8.06		3%		1/2%
MARBLE, TILE & TERRAZZO WORKERS:					
Collin, Dallas, Denton, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties	9.10		.30		
MARBLE & TILE FINISHERS:					
Collin, Dallas, Denton, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties	7.40				
PAINTERS:					
ZONE 1 - Collin, Dallas, Denton, Ellis, Grayson, Hunt, Kaufman & Rockwall Counties:					
GROUP 1 - Brush	9.325	.35	.40		.04
GROUP 2 - All wall covering work: paper, fabric, sheeting, flexwood, etc.	9.575	.35	.40		.04
GROUP 3 - Amos tools operator	9.45	.35	.40		.04
GROUP 4 - Structural steel, stage work, boson chair, spray gun, sandblasting & window jacks, fire escapes	9.70	.35	.40		.04
ZONE 2 - Hood, Johnson, Palo Pinto, Tarrant & Wise Counties:					
GROUP 1	9.895		.20		.02
GROUP 2	10.145		.20		.02
GROUP 3	9.895		.20		.02
GROUP 4	11.145		.20		.02

DECISION NO. TX77-4197

CLASSIFICATION DEFINITIONS

GROUP 1 - Brush

GROUP 2 - Spray; Wallcovering; Pressure roller; Sandblasting; Structural steel; Boson chair, Window jack & window sill; Stage; Fire escape; Steel storage tanks; Stilts; Mittens; Amos tools; Drywall finishing

GROUP 3 - On jobs requiring less than six 250 feet rolls of joint tape, or less than eight man hours of bedding time the drywall finishing; rate will be

GROUP 4 - Steeple jack rate (radio and TV towers, smoke stacks, chimneys and water towers, and similar facilities and flag poles atop buildings located closer to the edge of the building than the height of the pole); Toxic material rate (creosote, coal tar products or similar materials injurious to the skin)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
ZONE 1 - Grayson County	$ 6.05				
ZONE 2 - Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Cos.	9.44	.45		.50	.03
ZONE 3 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Cos.	10.41				.01
PLUMBERS & PIPEFITTERS	10.23	.43	1.00		.10
ROOFERS:					
ZONE 1 - Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties:					
GROUP 1 - Work within the jurisdiction and building permits, Class A roofers & kettlemen (asbestorfers)	9.215				
GROUP 2 - Supervision, helpers, class B roofers & kettlemen	9.065				
ZONE 2 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Counties:					
GROUP 1 - Class A, tile, and metal roofing & siding	9.165				.05
GROUP 2 - Supervision, helpers, class B roofers & kettlemen	9.015				.05
SHEET METAL WORKERS:					
ZONE 1 - Collin, Dallas, Ellis, Grayson, Hunt, Kaufman & Rockwall Counties	10.275	.45	.66		.055
ZONE 2 - Denton, Hood, Johnson & Tarrant Counties	10.175	.45	.33		.055
ZONE 3 - Palo Pinto & Wise Cos.	9.96				.07

DECISION NO. TX77-4197

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS	$ 9.18	.40	.40		.03
SPRINKLER FITTERS	11.15	.65	.95		.08
TRUCK DRIVERS:					
ZONE 1 - Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Cos.	4.25				
ZONE 2 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Cos.	4.00				
WELDERS - receive rate prescribed for craft-performing operation to which welding is incidental					

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays A thru F

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

Page 7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr
[illegible]:					
[illegible]	$ 8.05	.40	.70		
[illegible]	8.65	.40	.70		
[illegible]	9.05	.40	.70		

POWER EQUIPMENT OPERATORS (ZONE 1) CLASSIFICATION DEFINITIONS

GROUP 1 - Oilers
GROUP 2 - Air compressor, water pumps, welding machines (2 to 6 machines) & generators; Blade Grader, towed; Mix. plant; Form grader; Concrete mixer, less than 14 cu. ft.; Pulsometer; Wagon drill operator; Conveyor; Hoist, single drum; Scraper, 2 cu. yd. or less; Pob cat with loader; All other equipment of similar nature coming under the light equipment class, when power operated
GROUP 3 - Heavy duty mechanic; Asphalt mixer operator on job; Blade grader, self-propelled; bull clam; Backfiller; Bulldozer & all cat type tractors; Backhoe Concrete mixers, over 14 cu. ft.; Crusher operator on job; Concrete batch plant operator; Man shell; Cranes (all types); Truck mounted or crawler requires oiler including cranes (hydraulic) or similar type over 12½ ton capacity; Escalated rate on crane and derrick hoist .7% per hour, per foot over 90' including jib; draglines; derricks, power operated (all types); HW-10 caterpillar, S-8 Euclid and similar tractors; Elevating grader, self-propelled; Foundation drilling machine (all); Forklifts, used in handling machinery on construction; Gradeall; Hoist, motor driven, 2 drums or more; Locomotive crane; Mixmobile; Paving mixers (all types); Pile drivers; Pumcrete machines; Pneumatic rollers, self-propelled; Shovels, power operated; Scrapers, over 3 cu. yds.; Scoopmobile; Trenching machine, all types; Winch trucks, when pole and winch in used; Water well drilling machines, used on construction; Well point pumps; Welding machines (7 to 13 machines); All other equipment of similar nature coming under heavy equipment class, when power operated

DECISION NO. T477-4197

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (CONT'D):					
ZONE 2 - Collin, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties:					
GROUP 1	$7.79	.40	.875		.10
GROUP 2	8.575	.40	.875		.10
GROUP 3	8.975	.40	.875		.10

POWER EQUIPMENT OPERATORS (ZONE 2) CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler-Fireman
GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants; Conveyor; Wagon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor including blade and mower on rear; Mixers less than 14 cubic feet; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 feet); Concrete Pumps (all types); Bobcat type equipment; All other equipment of similar nature coming under the Light Equipment Classification, when power operated
GROUP 3 - Ford Tractor or like with any attachments (except blade and mower on rear); Drilling Machines (all types); Scoopmobiles; Hoists, two drums or more; Forklifts (over 25 ft.); Winch Truck; Six Wheel Truck, when used continuously for 5 days; Mixmobile; Locomotives; Mixers, 14 cubic ft. or over; Blade Graders, self-propelled; Cableways; Cranes-power operated to 100 ft.; Derricks, power operated (all types); Gradall; Hy-lo; Hop-To; Paving Mixers (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractovators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressor & Air Tugger; Boilers, two or more fired by one run; Heavy Duty Mechanic; All other equipment of similar nature coming under the Heavy Equipment Classification, when power operated

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: T477-4195
Superseding Decision No. T477-4071, dated April 1, 1977, in 42 FR 17787.
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to 4 stories; & 8 stories). Building Construction includes construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment or supplies. It includes all construction of such structures, the installation of utilities & the installation of equipment, both above & below grade level, as well as excavation & foundations.

COUNTY: El Paso
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 7.96	.50	1.27(a)		.05
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYING; BLOCKLAYERS; ROCK MASONS; STONEMASONS	7.41	.57	.20		.05
CARPENTERS:					
Carpenters	7.75	.67			.02
Millwrights	8.22	.67			.02
Stationary radial arm power saw operator	7.81	.67			.02
Floor layers	7.75	.67			.02
CEMENT MASONS	6.51	.68			.03
DRYWALL:					
GROUP 1 - Tapers	7.03	.30	.10		.02
GROUP 2 - Ames tools	7.25	.30	.10		.02
GROUP 3 - Texture spray	7.73	.30	.10		.02
ELECTRICIANS:					
Electricians	9.10	.30	3%		1/10%
Cable splicers	9.35	.30	3%		1/10%
ELEVATOR CONSTRUCTORS	8.17	.545	.35	4%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	6.94	.30	.10		.02
IRONWORKERS	8.30	.55	1.00		.10
LABORERS:					
GROUP 1 - Powderman or blasterer	6.12	.42	.35		
GROUP 2 - Outside wagon drill; wagon drill tenders; miner	5.87	.42	.35		
GROUP 3 - Cement gun or gunite; mason tender; mortar mixer; machine man; track man; chuck tender	5.62	.42	.35		
GROUP 4 - Pipelayer, main sewer and drainage	5.50	.42	.35		
GROUP 5 - Jackhammer operator, asphalt raker; kettlemen; asphalt or pot man	5.37	.42	.35		
GROUP 6 - Common, flag man	5.22	.42	.35		
LATHERS	8.55				.01

DECISION NO. T477-4198

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Lineman-Technician; Equipment operators	$ 9.10	.30	3%		1/10%
Cable splicers	9.35	.30	3%		1/10%
Groundman	75%JR	.30	3%		1/10%
Groundman (less than 6 months)	50%JR	.30	3%		1/10%
MARBLE MASONS	6.40	.57	.20		.05
PAINTERS:					
GROUP 1 - Brush & roller, paperhanger; tapers	7.13	.30			.02
GROUP 2 - Steel after erection, steam cleaning, power driven tools	7.54	.30			.02
GROUP 3 - Spray, sandblasting, waterblasting & swing stage, stripping machine	7.835	.30			.02
GROUP 4 - Ames tools	7.35	.30			.02
GROUP 5 - Water tanks, smoke stacks, tower from 70 - 100 ft.	8.49	.30			.02
PLASTERERS	7.88	.67			.03
PLUMBERS & STEAMFITTERS	8.54	.59	.44		.05
ROOFERS:					
Roofers; Waterproofers; Pipewrappers	6.65				
SHEET METAL WORKERS	9.17	3%+.51	.585		.025
SOFT FLOOR LAYERS	6.88	.30	.10		.02
SPRINKLER FITTERS	11.15	.65	.95		.09
TERRAZZO WORKERS	6.40	.57	.20		.05
TERRAZZO WORKERS' HELPERS	4.78	.57	.20		
TILE SETTERS	6.40	.57	.20		.05
TILE SETTERS' HELPERS	4.78	.57	.20		
TRUCK DRIVERS:					
GROUP 1 - Up to and including 2 tons	3.50	.26			
GROUP 2 - Flat bed dump trucks, mechanically	3.60	.26			
GROUP 3 - Tank trucks, up to 2500 gallons	3.50	.26			

UMI

DECISION NO. TX77-4102

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (CONT'D):					
GROUP 4 - Standard dump trucks, up to and including 4 cu. yds.	$ 3.60	.26			
GROUP 5 - Dump trucks, over 4 cu. yds.; Trucks over 4 tons including transit mix, all semitruck, etc.; Lowboy	3.75	.26			
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a - Includes $0.07 contribution to Occupational Health Fund
b - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate.
c - Paid Holidays A thru F

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

DECISION NO. TX77-4198

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 6.74	.60	.60		.10
GROUP 2	7.32	.60	.60		.10
GROUP 3	7.41	.60	.60		.10
GROUP 4	7.46	.60	.60		.10
GROUP 5	7.56	.60	.60		.10
GROUP 6	7.70	.60	.60		.10
GROUP 7	7.94	.60	.60		.10
GROUP 8	7.41	.60	.50		.10
GROUP 9	7.64	.60	.60		.10
GROUP 10	7.94	.60	.60		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Fireman, Oiler; Mechanic, Grease Truck and Welder's Helpers; Screedman, Pneumatic roller towed by farm type tractor or truck; Scale Operator and such as bin-a-batch; Rubber-tired farm type tractors and tractors under 35 HP without attachments
GROUP 2 - Air Compressors, Power Plants, pumps and welding machines; Concrete mixers, under 1 yd. & concrete batch plants, under 1 yd., gunnite & pumpcrete machine, mechanical bull floats, spreading & finishing machines. Screening Plants. Drilling machines, Diamond, rotary, core & cable drilling; Well under 6". Hoists, scoopmobiles, A-frame Air tugger; Hydrolift, Hydrocranes, winch truck. Loaders: Elevating, belt type loader, front end loader (under 7 yds.) & over head loaders; forklift & lumber stacker on construction job site. Motor man & Industrial locomotive. Tractors under 35 HP with attachments
GROUP 3 - Concrete mixers 1 yd. & over and batch plants 1 yd. & over, single drum paving machines, Crushing plant. Drilling Machine, 6" & over; Front end loaders, 2 yds. & over; Paving: Asphalt plants, boiler or retort heater, distributor, lay down machine, pug mill, breakdown & tandem rollers. Steam Engineer. Trenching Machines. Patrol, rough, not required to blue top or finish
GROUP 4 - Tractor Equipment: Athey & Barber Green Loader, Bulldozer, DH10, DH20, DH21, Dumor, Elevating Grader; Euclid, Highlander, Scraper, Transexcavator, Turnapull, Turnarocker & Tractors 35 HP & up & farm type tractors with backhoe & shovel type attachments
GROUP 5 - Concrete paving machines, double drum. Caterpanes, Hysters, Cherry Pickers, Attachments cranes, side & swing boom tractors; Mechanic, Welder, Patrol, Finish; Grease Truck Operator (Head Oiler). Building Hoist, 1 drum. Concrete Pump (Shorlie Type Trailer Mounted)
GROUP 6 - Shovel, backhoe, clam & dragline 3/4 yds. & under; Cranes 25 tons & under; Building Hoist, 2 drums & up. Concrete pump (Shorlie Type Truck Mounted)
GROUP 7 - Guy & stiff leg derrick, Piledrivers; Crawler or skid rig, Shovel, Backhoe, clam & dragline over 3/4 yds.; Crane over 25 tons. Pecco type cranes
GROUP 8 - Refrigeration, slusher, Jumbo form operators
GROUP 9 - Mucking machines
GROUP 10 - Mine hoists

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: TX77-4199
Supersedes Decision No. TX77-4102, dated May 13, 1977, in 42 FR 24707.
DESCRIPTION OF WORK: Building Construction (does not include single family houses & garden type apartments up to & including 4 stories). Building Construction includes construction of enclosures with wall-in access for the purpose of housing persons, machinery, equipment or supplies. It includes all construction of such structures, the installation of utilities & the installation of equipment, both above & below ground level, as well as excavation & foundation.

COUNTIES: Galveston & Harris
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.00	.70	.70		.06
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS:					
Galveston County	10.53	.63	.60		.06
Harris County	10.53	.63	.60		.06
CARPENTERS:					
Carpenters	10.00	.75	.70		.05
Millwrights	10.36	.75	.70		.05
Piledrivermen	10.00	.75	.70		.05
CEMENT MASONS:					
Galveston County	9.86	.52	.55		
Harris County	9.86	.52	.55		.08
ELECTRICIANS:					
Galveston County	11.34	.40	3%+.40		.06
Harris County	11.05	.55	7%		.06
ELEVATOR CONSTRUCTORS:					
Mechanics	9.76	.565	.35	4%+a+b	.02
Helpers	70%JR	.565	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS	11.17	.60	.425		.01
IRONWORKERS	10.28	.55	1.00		.10
LABORERS:					
GROUP 1 - Common	7.45	.33	.53		.02
GROUP 2 - Air tool operator (jackhammer-vibrator); Mason tenders; Pipelayers (concrete & clay); Sandblasters; Power buggy operator	7.625	.33	.53		.02
GROUP 3 - Lather tender; Mortar mixer; Plaster tenders & hod carriers	7.725	.33	.53		.02
GROUP 4 - Well driller	8.00	.33	.53		.02
GROUP 5 - Well driller tender	7.575	.33	.53		.02
GROUP 6 - Blaster, powderman	7.875	.33	.53		.02
LATHERS (Harris County only)	9.92	.50	.35		.02
LINE CONSTRUCTION:					
Lineman & cable splicer	11.62	.40	3%		1/2%
Groundmen (1st 6 mos.)	4.07	.40	3%		1/2%
Groundmen (2nd 6 mos.)	4.88	.40	3%		1/2%
Groundmen	6.74	.40	3%		1/2%

DECISION NO. TX77-4199

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE MASONS:					
Galveston County	$ 9.26				
Harris County	10.46				
MARBLE MASONS' FINISHERS	7.90				
PAINTERS:					
East Harris County:					
GROUP 1 - All brush painting, hand rolling and all other work other than that below	10.46				
GROUP 2 - All pneumatic and electric tools and steam cleaning	10.815				
GROUP 3 - All tape and float on drywall	10.585				
GROUP 4 - All paper and vinyl hanging	10.71				
GROUP 5 - All spray painting, sandblasting & waterblasting	10.855				
GROUP 6 - Steeple jack work, hot materials	11.12				
Remainder of Harris County:					
GROUP 1 - All brush painting, hand roller, steam cleaning, all pneumatic tools	9.795	.565	.45	.40	.04
GROUP 2 - All spray painting, sandblasting, waterblasting	10.17	.565	.45	.40	.04
GROUP 3 - Taps, float & drywall	9.92	.565	.45	.40	.04
GROUP 4 - Steeple jack work, hot materials	10.42	.565	.45	.40	.04
Galveston County:					
GROUP 1 - Painters on new work	9.00	.55	.45	.665	.02
GROUP 2 - Painters on swinging stage work or using materials injurious to the skin	9.25	.55	.45	.665	.02
GROUP 3 - Painters on rework & repaint	8.245	.55	.45	.665	.02
PIPEFITTERS:					
That part of Galveston County east of the Trinity River:					
Commercial work up to $50,000	10.55	.645	.50		.03
Commercial work $50,000 & over	11.005	.645	.50		.03

DECISION NO. TX77-4109

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PIPEFITTERS (CONT'D):					
Harris County and that part of Galveston County west of the Trinity River	$10.85	.45	.65		.045
PLASTERERS	10.50	.77	.30		.02
PLUMBERS:					
Galveston County:					
Commercial work up to $50,000	10.55	.445	.50		.03
Commercial work $50,000 & over	11.005	.445	.50		.03
Harris county	10.72	.55	.70		.12
PAINTERS	8.89	.20	.25	.25	.03
SHEET METAL WORKERS:					
Galveston County	10.12	.70	.50	.50	.10
Harris County	10.48	.275	.645	.42	.06
SOFT FLOOR LAYERS	9.17	.35	.45		.09
SPRINKLER FITTERS	11.15	.65	.95		.08
TERRAZZO WORKERS:					
Galveston County	9.26				
Harris County	10.46				
TERRAZZO WORKERS' FINISHERS:					
Terrazzo workers' finishers	7.90				
Terrazzo floor machinemen	8.05				
Terrazzo base machinemen	8.20				
TILE SETTERS:					
Galveston County	9.26				
Harris County	10.46				
TILE SETTERS' FINISHERS	7.90				
TRUCK DRIVERS:					
GROUP 1 - Under 1½ tons; wash, grease, tireman, fuel pump operator when used on construction jobs	7.84				
GROUP 2 - 1½ thru 2½ tons; dump truck less than 7 yds.	8.23				
GROUP 3 - Over 2½ tons; farm tractors; fork lifts, floats	8.45				

DECISION NO. TX77-4109

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (CONT'D):					
GROUP 4 - Euclids (not self-loading	$ 8.61				
GROUP 5 - Warehousemen	8.10				
GROUP 6 - Material checkers; pick-up drivers	9.14				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rates
b - Paid Holidays A thru F

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

DECISION NO. TX77-4109

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 9.87	.35	.65		.06
GROUP 2	8.38	.35	.65		.06
GROUP 3	7.84	.35	.65		.06
GROUP 4	7.66	.35	.65		.06

POWER EQUIPMENT OPERATING CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy Duty Mechanic; Blade Grader, Self-propelled; Bull Clam; Back Filler; Derrick - power operated (all types); Clam Shell; Dragline; Push Cat Operator; Bull Dozer & all types Cat Tractors; Cable-Way; Backhoe; Shovel, power operated; Crane, power operated (all types); Elevating Grader, Self-propelled; Hoist, Motor-Driven, Two Drums or more, Mix Mobile; Water Well Drilling Machines, Used on Construction; Building Elevator, used on Construction; Tug Boat Operator, Assigned to Construction; Winch Truck; Locomotive Crane; Concrete Mixer, 14 cu. ft. or more; Paving Mixer (all types); Pile Driver; Scraper, Heavy Type, over 3 cu. yds.; Trenching Machines (all sizes); Cradall; High-Lift; Foundation Boring Machine; Gasoline or Diesel Driven Welding Machines, 7 or more; Pumpcrete Machine Operator; Turnapulls; DW-10 Caterpillar, 6-19 Euclid and similar Tractors; Asphalt Plant Mixer Operator on job; Crusher Operator on job; Scraper-Pull or Forklift used on construction (not including ware-housing); Well Point Pump; Concrete Batch Plant Operator; Pneumatic Rollers, Self-propelled; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated

GROUP 2 - Air Compressors; Blade Grader, Towed; Flex Plane; Form Grader, Concrete Mixer, less than 14 cu. ft.; Pumps; Pulsometer; Truck Crane Driver; Gasoline or diesel Driven Welding Machines (on 3 or more, up to 6 machines); Hoist, Single Drum; Scraper, 3 cu. yds. or less; Wagon Drill Operator; Conveyor; Generator, Gasoline or Diesel-driven, over 1500 watts; Rubber Tired Farm Tractor with attachments; A Light Equipment Operator may run 1 or 2 175 cfm/ compressors; All other equipment of similar nature coming under the Light Equipment Class, when power operated

GROUP 3 - Fireman

GROUP 4 - Oiler

NOTICES
42134
42135
42137

STATE: Texas
DECISION NO.: TX77-4209

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$7.60				
BOILERMAKERS	6.10				
CARPENTERS	5.00				
CEMENT MASONS	7.60	.30	1%		1/1%
ELECTRICIANS:					
Inside wiremen, maintenance & construction	8.23	.55	1.00		.10
LABORERS:					
Laborers	3.06				
Mason tenders	3.50				
PAINTERS	4.50				
PLASTERERS	4.26				
PLUMBERS & PIPEFITTERS	4.00				
ROOFERS	5.25				
SHEET METAL WORKERS	4.00				
TILE SETTERS	2.50				
TRUCK DRIVERS					
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

Page 2

DECISION NO.: TX77-4202

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$ 6.75	.20			.01
LINE CONSTRUCTION:					
Lineman	9.55	.60	3%		
Operators	8%JR	.60	3%		
Groundmen (more than 1 year experience)	5%JR	.60	3%		
Groundmen (less than 1 year experience)	5%JR	.50	3%		
Flat bed truck operator	7%JR	.60	3%		
PAINTERS:					
Brush	6.95	.30	.20		.04
Spray	7.70	.30	.20		.04
PLASTERERS	7.00				
PLUMBERS & STEAMFITTERS	9.26	.39	.45		.04
ROOFERS	3.50				
SHEET METAL WORKERS	10.17	.35	.33		.10
SPRINKLER FITTERS	11.15	.65	.95		.03
TRUCK DRIVERS	3.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

STATE: Texas
DECISION NO.: TX77-4204

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.03	.40	.76		.025
BOILERMAKERS	10.00	.50	1.00		.02
CARPENTERS:	9.10		.35		.05
Carpenters	8.00				.015
Millwrights	10.25				.015
Piledrivermen	8.50				.015
CEMENT MASONS	6.50				
ELECTRICIANS:					
Electricians	8.60	.60	3%		1/4%
Cable splicers	9.00	.60	3%		1/4%
GLAZIERS	5.80				
IRONWORKERS	8.95	.35	.35		.04
LABORERS:					
Laborers	3.40				
Mason tenders	3.80				
Plasterers' tenders	4.40				
LATHERS	6.875	.20	.10		.01
PAINTERS, BRUSH	6.75				
PLASTERERS	7.68				
PLUMBERS & PIPEFITTERS	7.79	.43	.90		.10
ROOFERS	6.40				
SHEET METAL WORKERS	8.455	3%+.35	.50		.055
TILE SETTERS	6.90				
TILE SETTERS' HELPERS	3.65				
TRUCK DRIVERS	3.50				
POWER EQUIPMENT OPERATORS:					
Backhoes	4.50				
Blade graders	4.50				
Bulldozers	4.75				
Cherry pickers	4.50				
Drilling machine operators	3.75				
Loaders	4.50				
Motor graders	5.00				
Rollers	4.87				
Scrapers	4.28				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

SUPERSEDES DECISION

STATE: Texas
DECISION NO.: TX77-4155

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.00	.65	.55		.07
BOILERMAKERS	10.00	.50	1.00		.02
CARPENTERS	9.60		.30		.03
CEMENT MASONS	8.67	.48	.40		.01
ELECTRICIANS:	7.10				
Electricians	9.55	.60	3%		1/1%
Cable splicers	9.80	.60	3%		1/1%
IRONWORKERS:					
Structural; Ornamental; Reinforcing	8.23	.55	1.00		.10
All ironworkers on jobs 30 miles or more from the city of Lubbock	8.355	.55	1.00		.10
LABORERS:					
GROUP 1 - Construction laborers. Includes, excavation, pouring concrete, carpenter tenders, reinforcing, shoring, aligning, loading & unloading materials, wrecking buildings & all structures & all construction laborers except those named below	4.025	.275	.20		
GROUP 2 - Air tool operator (Jackhammer, vibrator, tamper, brush hammer, chipping hammer, air or electric), power buggy man, pot layer (concrete & clay & all non-metallic pipe); handling, laying & cleaning pumpcrete pipe	5.20	.275	.20		
GROUP 3 - Mortar mixers, mason tenders, plasterer tenders, cement finisher tenders, lather tenders	5.125	.275	.20		
GROUP 4 - Vapor drill	5.275	.275	.20		
GROUP 5 - Blasters & potmen make-up men	5.525	.275	.20		

V 42 161 AUG 19 77 V UMI

DECISION NO. TX77-4202

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 7.20	.30	.50		.10
GROUP 2	8.10	.30	.50		.10
GROUP 3	8.50	.30	.50		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler-Fireman

GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants (3 to 6 machines); Conveyor; Vapor Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor including Blade and mower on rear; Mixers less than 14 cubic feet; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 feet); Concrete Pumps (all types); Bobcat type equipment; Ford tractor or like with any attachments (except Blade and mower on rear); All other equipment of similar nature coming under the Light Equipment Class, when power operated

GROUP 3 - Backhoe; Drilling Machines (all types); Scoopmobiles; Hoist, two drums or more; Fork Lifts (over 25 feet); Winch Truck; Six Wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cubic feet or over; Blade Graders, self-propelled; Cableways; Cranes-power operated (to 100 feet of boom); Derricks, power operated (all types); Grudall; Hy-lo; Hop-To; Paving Mixer (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractorvators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressors, Pumps, Welding Machines and Light Plants (7 to 12 machines); Air Compressor & Air Tugger; Boilers, two or more fired by one man; Heavy Duty Mechanic; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated

STATE: Texas COUNTY: Smith
DECISION NO.: TX77-4203 DATE: Date of Publication
Supersedes Decision No. TX77-4203, dated July 8, 1977, 42 FR 35617.
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to 4 stories). Building Construction includes construction of sheltered enclosures with walls or roofs for the purpose of housing persons, machinery, equipment or supplies. It includes all construction of these structures, the installation of utilities and equipment, both above & below ground level, as well as incidental grading.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$ 6.63				
BOILERMAKERS	7.75				
CARPENTERS	7.90				
CEMENT MASON	5.92				
ELECTRICIANS:					
Electricians	8.60	.60	3%		1/4%
Cable splicers	9.03	.60	3%		1/4%
GLAZIERS	5.25				
IRONWORKERS	8.50	.30	.35		.04
LABORERS:					
Laborers	5.00				
Mason tenders	4.60				
Power mixers	4.10				
Plasterer tenders	4.40				
LATHERS	7.15	.30	.10		.01
PAINTERS	4.50				
PLASTERERS	8.075				.05
PLUMBERS:					
On projects of $200,000 or less	7.50				.03
On projects in excess of $200,000	6.76				.03
ROOFERS	4.50				
SHEET METAL WORKERS	7.75	.42	.50		.03
SPRINKLER FITTERS	6.60	.40	.15		
STEEL WORKERS	11.15	.65	.95		.08
TERRAZZO WORKERS	9.75				
TILE SETTERS					
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

STATE: Texas COUNTY: Taylor
DECISION NO.: TX77-4204 DATE: Date of Publication
Supersedes Decision No. TX77-4157, dated July 8, 1977, 42 FR 35617.
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to 4 stories). Building Construction includes construction of sheltered enclosures with walls or roofs for the purpose of housing persons, machinery, equipment or supplies. It includes all construction of these structures, the installation of utilities and equipment, both above & below ground level, as well as incidental grading.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$ 4.00				
ASBESTOS WORKERS	10.03	.40	.76		.025
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS	7.20				
CARPENTERS	6.00	.25	.30		
CEMENT MASONS	5.41				
ELECTRICIANS:					
Electricians	8.65	.60	3%		1/4%
Cable splicers	8.90	.60	3%		1/4%
GLAZIERS	4.50				
IRONWORKERS	6.65	.55	.50		.10
LABORERS:					
Laborers	3.70				
Mason tenders	3.80				
LINE CONSTRUCTION:					
Lineman	8.65	.60	3%		1/4%
Cable splicers	8.90	.60	3%		1/4%
Groundman (over 1 year of experience)	6.40	.60	3%		1/4%
Groundman (under 1 year of experience)	5.19	.60	3%		1/4%
Equipment operator	7.09	.60	3%		1/4%
Pilot bed truck driver	5.30	.60	3%		1/4%
PAINTERS:					
Brush, tape & bedding, paperhanger	7.30		.25		
Spray	8.175		.25		
PLASTERERS	6.60				
PLUMBERS & PIPEFITTING	8.20	.30	.65		.05
POWER EQUIPMENT OPERATORS:					
Backhoes	4.75				
Cranes, derricks, draglines	5.575				
Drilling	5.575				
Oilers	4.65				
ROOFERS	3.94				
SHEET METAL WORKING	6.76				
SOFT FLOOR LAYERS	3.75				
TILE SETTERS	4.00				
TRUCK DRIVERS	3.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
GROUP 1 - Brush; Taping & floating of sheetrock	$ 7.95				
GROUP 2 - Paperhangers; Chlorer, burner, torch; Skeleton steel-work erected	8.20				
GROUP 3 - Spray; Steam cleaning, sand blast & other powered equipment	8.45				
Swinging scaffold, boson chair, window jack or scaffold (above 2nd floor) - 25¢ per hour above all base rates					
PLASTERERS	9.54	.45	.40		.01
PLUMBERS & STEAMFITTERS	10.05	.35	.35		.05
ROOFERS:					
Roofers	5.23				.01
Kettlemen	5.98				.01
SHEET METAL WORKERS	10.35		.66		.07
SOFT FLOOR LAYERS	9.17	.35	.45		.09
SPRINKLER FITTERS	11.15	.45	.45		.06
TERRAZZO WORKERS:	7.96	.45			.04
Terrazzo finishers	5.37				
Floor machine operators	5.57				
Base machine operators	5.72				.04
TILE SETTERS	7.96	.45			
TILE SETTERS' HELPERS	5.37				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays A thru F

PAID HOLIDAYS
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

---

DECISION NO. TX77-4006

STATE: Texas

COUNTIES: Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, Waller and Wharton Counties in Texas.

DATE: Date of Publication

Decision No. TX77-4006, dated July 8, 1977, in 42 FR 35614.

MODIFICATIONS: Building Construction (does not include single family homes and apartments up to 4 floors); Building Construction (does not include single family homes and apartments up to & including 4 stories); Building Construction including construction of apartments with wall-to-wall carpeting for the purpose of heating, ventilating, refrigerant or sprinklers. It includes all construction of new structures, both above and below ground, and all incidental appurtenant items, such as parking lots, utilities, streets and sewers, water, gas, electrical, waterworks, steam, and other lines constructed as a part of the project.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.35	.60	.60		.08
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS	9.64	.50	.40		.04
CARPENTERS					
Carpenters	9.86	.43	.40		.04
Millwrights	10.11	.43	.40		.04
CEMENT MASONS	8.60	.40	.30		
ELECTRICIANS & CABLE SPLICERS	10.60		12%		.8%
Mechanics	9.29	.565	.35	4%+ab	.02
Helpers (Probationary)	5%.18	.565	.35	4%+ab	.02
GLAZIERS	8.31	.55	.20		.01
IRONWORKERS	9.65		.80		.12
LABORERS:					
GROUP 1 - General laborer and pipelayer	5.655	.275	.40		.02
GROUP 2 - Jackhammer; Pipelayer (concrete & clay); General first year tenders; Scaffold builders; Gunite & cement worker; Power tool operator	5.805	.275	.40		.02
GROUP 3 - Blaster & powder; Skilled laborer; Mortar mixers; Laborer tenders; Vibrator operators; Concrete saw operators	5.955	.275	.40		.02
GROUP 4 - Concrete finisher; Machine operators & laborer	6.055	.275	.40		.02
LATHERS	9.835				.01
PILEDRIVERMEN	10.30	.40	3%		1/2%
PLASTERERS	5.67	.40	3%		1/2%
PLUMBERS & PIPEFITTERS	9.15	.40	3%		1/2%
ROOFERS	7.96	.45			.04
SHEET METAL WORKERS	5.37				

V42161 AUG 19 77 UMI

DECISION NO. TX77-4207

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 8.63		.40		
GROUP 2	7.56		.40		
GROUP 3	6.34		.40		
GROUP 4	6.23		.40		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy Duty Mechanic; Blade Grader - Self-propelled; Bull Clam; Back Filler; Derricks, power operated (all types); Dragline; Push Cat Operator; Euclid Operator; Bull Dozer and all types of Cat Tractors; Cable-Way; Back Hoe; Crane, Power Operated (all types); Elevating Grader, self-propelled; Hoist, Motor Driven, two drums or more; Hix Mobile; High-Lifts & loaders, over 1/3 cu. yd. capacity; Winch Truck; Locomotive; Mixer, 14 cu. ft. or over; Paving Mixer (all sizes); Scraper; Trenching Machine (all sizes); Gradall; Foundation Boring Machine; Scoopmobile; Shovel, Power Operated; Pump Crete Machine; Clam Shell Operator; Rock Crusher, Operated on Job; Welding Machine, 6 to 12, Two 125 cu. ft. Compressors; Well Points, including installations

GROUP 2 - Blade Grader, Towed; Flex Plane; Form Grader; Mixer, less than 14 cu. ft.; Pulsometer; Truck Crane Driver & Oiler, Combination man; Gasoline or Diesel Driven Welding Machine, 3 to 6; Hoist, Single Drum; Pump, 2½ in. or larger; Pneumatic Roller; High-Lifts & Loader, 1/3 cu. yd. or less; Forklift, 1500 lbs. capacity or less; Air Compressors, anytime there are two or more attachments operating on a 125 cu. ft. compressor, a light equipment operator shall be employed. One 125 cu. ft. air compressor and one welding machine requires no operator. One 125 cu. ft. compressor and two welding machines or any 2 air compressors equivalent to a 125 cu. ft. air compressor requires a light equipment operator

GROUP 3 - Firemen

GROUP 4 - Oiler

SUPPLEMENTAL DECISION

STATE: Texas COUNTY: Wichita

DECISION NO. TX77-4207 DATE: Date of Publication

Supersedes Decision No. TX77-4159, dated July 8, 1977, in 42 FR 35620.

DESCRIPTION OF WORK: Building Construction (does not include single family houses & garden type apartments up to 6 including 4 stories). Building Construction includes construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment or supplies. It includes all construction of such structures, the installation of utilities & the installation of equipment, both above & below ground level, as well as excavation & foundation.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.03	.40	.76		.025
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS	9.64		.30		.05
CARPENTERS:					
Carpenters	9.07	.43	.40		.07
Millwrights	9.57	.43	.40		.07
CEMENT MASONS	8.55				
ELECTRICIANS:					
ZONE 1 - Work performed within a road mile radius from the Local Union 601 business office up to 30 miles:					
Electricians	10.00	.40	3%		1/10%
Cable splicers	10.25	.40	3%		1/10%
ZONE 2 - All work performed beyond Zone 1:					
Electricians	10.35	.40	3%		1/10%
Cable splicers	10.60	.40	3%		1/10%
ELEVATOR CONSTRUCTORS:					
Mechanics	9.33	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				
GLAZIERS	4.97				
IRONWORKERS:					
Structural; Ornamental; Reinforcing	8.23	.55	1.00		.10
Ironworkers on jobs 30 miles or more from the city of Wichita Falls	8.355	.55	1.00		.10
LABORERS:					
GROUP 1 - General laborers	5.025	.275	.27		
GROUP 2 - Pipelayer (concrete & clay); Power buggy operator; Gunite mixer; Cement work mixer; Power tool operator; Bell hole man (mfrs)	5.15	.275	.27		
GROUP 3 - Mason tender; Mason mortar mixer; Plasterer tender; Hod carrier; Plasterer mortar mixer; Gunite over 1½" thick; Nozzleman & machine operator	5.275	.275	.27		
GROUP 4 - Powderman, blaster	5.525	.275	.27		

DECISION NO. TX77-4207

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$ 7.65				.01
LINE CONSTRUCTION:					
Lineman; Lineman operator	11.52		3%		1/2%
Cable splicer	12.67		3%		1/2%
Groundman, 1st 6 months	6.91		3%		1/2%
Groundman, 2nd 6 months	7.49		3%		1/2%
Groundman, 1 year & over	8.06		3%		1/2%
MARBLE SETTERS	8.61				
PAINTERS:					
Brush	7.50				
Spray	8.50				
PLASTERERS	9.07				.01
PLUMBERS & PIPEFITTERS:					
ZONE 1 - Within 25 miles of Wichita Falls City limits	9.55	.35	.55		.02
ZONE 2 - Between 25 & 40 miles of Wichita Falls City limits	10.05	.35	.55		.02
ZONE 3 - Between 40 & 70 miles of Wichita Falls City limits	10.35	.35	.55		.02
ZONE 4 - Between 70 & 100 miles of Wichita Falls City limits	10.65	.35	.55		.02
ZONE 5 - Over 100 miles of Wichita Falls City limits	10.95	.35	.55		.02
ROOFERS	5.42				
SHEET METAL WORKERS	9.96				.07
SOFT FLOOR LAYERS	5.50				
TERRAZZO WORKERS	7.50				
TILE SETTERS	6.50				
TRUCK DRIVERS	2.30				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:

a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate

b - Paid Holidays A thru F

PAID HOLIDAYS

A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

DECISION NO. WA77-5207

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 7.20	.30	.50		.10
GROUP 2	8.10	.30	.50		.10
GROUP 3	8.50	.30	.50		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler-Fireman

GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants (3 to 6 machines); Conveyor; Wagon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor including blade and mower on rear; Mixers less than 14 cubic feet; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 feet); Concrete Pumps (all types); Bobcat type equipment; Ford tractor or like with any attachments (except blade and mower on rear); All other equipment of similar nature coming under the Light Equipment Class, when power operated

GROUP 3 - Backhoe; Drilling Machines (all types); Scoopmobiles; Hoists, two drums or more; Fork Lifts (over 25 feet); Winch Truck; Mix Mixer Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cubic feet or over; Blade Graders, self-propelled; Cableways; Cranes-power operated (to 100 feet of boom); Derricks, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving Mixer (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractovators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressors, Pumps, Welding Machines and Light Plants (7 to 12 Machines); Air Compressor & Air Tugger; Boilers, two or more fired by one man; Heavy Duty Mechanic; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated

SUPERSEDEAS DECISION

STATE: Washington COUNTIES: Statewide
DECISION NUMBER: WA77-5076 DATE: Date of Publication
Supersedes Decision No. WA77-5055 dated June 17, 1977, in 42 FR 31115.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments, up to and including 4 stories), heavy and highway construction and dredging.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Chelan, Clallam, Douglas, Grays Harbor, Island, Jefferson, King, Kitsap, Kitttias, Lewis, Mason, Okanogan, Pacific (Northern portion), Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom and Yakima Counties	$ 12.95	.51	$ 1.20		.06
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties	11.91	.56	.95		.12
Remaining Counties	11.75	.51	.95		
BOILERMAKERS	11.60	.75	1.00	.50	.02
BRICKLAYERS:					
Adams (except City of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Grand Coulee Dam area in Okanogan County	11.01	.65	.70		.04
Benton, Franklin and Walla Walla Counties	10.68	.55	.50		
Chelan, Douglas and Okanogan (except area of Grand Coulee Dam)	9.50	.55	.50		
Clallam, Island, Jefferson, King, Kitsap, Snohomish and Skagit (south of the Cities of Burlington, Sedro-Woolley and Concrete) Counties	11.22	.65	.65		.11

DECISION NO. WA77-5076 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
BRICKLAYERS: (Cont'd)					
Clark, Cowlitz, Pacific (Southern portion), Skamania, Wahkiakum Counties and ten mile strip bordering the Columbia River in Klickitat County	$ 11.03	.65	.75		.10
Grant County and that portion of Adams County including the City of Othello	10.50	.40			
Kittitas, Yakima and Klickitat (except a ten mile strip bordering the Columbia River) Counties	10.10	.65	.75		
Grays Harbor, Lewis, Mason, Thurston and northern portion of Pacific County	9.20	.55	.30		
Pierce County	11.03	.65	.75		.06
San Juan, Skagit (including the Cities of Burlington, Sedro-Woolley, Concrete and north thereof), and Whatcom Counties	10.35	.55	.45		
CARPENTERS:					
All Counties and parts of Counties east of the 120th Meridian (except those parts of Kittitas, Klickitat and Yakima east of the 120th Meridian) Carpenters	9.74	.60	.55		.05
Piledriver; Floor Sanders; Saw Filers; Stationary Power Woodworking Tool Operator	9.89	.60	.55		.05
Shingler (wood or composition)	9.94	.60	.55		.05
Boom Men; Carpenters (Creosoted material)	9.99	.60	.55		.05
Piledriver (creosoted material)	10.14	.60	.55		.05
Millwright and Machine Erector	10.24	.60	.55		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
All Counties and parts of Counties west of the 120th Meridian except Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties					
Carpenters and Drywall Applicators	$ 9.75	.50	.70		.02
Carpenters on Creosoted material	9.85	.50	.70		.02
Sawfilers; Stationary power saw; Floor Finisher; Floor Layer; Shingles; Floor Sander and other stationary power woodworking tools	9.88	.50	.70		.02
Millwrights and Machine Erectors	10.25	.50	.70		.02
Piledrivers; Bridge, dock and wharf builders	9.90	.50	.70		.02
Acoustical Workers	9.91	.50	.70		.02
Boommen	9.95	.50	.70		.02
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties					
Carpenters; Form Strippers; Manhole Builders; Acoustical Applicators, Drywall Applicators	10.65	.55	.85	.50	.03
Piledrivermen, bridge, dock and wharf builders	10.75	.55	.85	.50	.03
Floor Layers; Floor Finishers; Stationary Power Saw Operator	10.80	.55	.85	.50	.03
Boomman	10.85	.55	.85	.50	.03
Millwrights; Machine Erectors	10.90	.55	.85	.50	.03

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CEMENT MASONS:					
Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas (except for western portion lying one mile west of City of Easton), Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima Counties	$ 9.64	.50	.75		.04
Clallam, Grays Harbor, Island, Jefferson, King, (except City of Auburn), Kitsap, Kittitas, (western portion lying one mile west of the City of Easton), Mason, Pacific (Northern portion), San Juan, Skagit, Snohomish and Whatcom Counties	9.97	.55	.90		.01
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties					
Cement Masons	10.37	.75	.70	.60	.10
Composition materials and power machinery	10.52	.75	.70	.60	.10
Lewis, Pierce, Thurston and the City of Auburn in King County	9.80	.55	1.00		.02
ELECTRICIANS:					
Adams, Ferry, Lincoln, Pend Oreille, Spokane, Stevens and Whitman Counties					
Electricians	12.13	.57	3%+.40		.02
Cable Splicers	12.53	.57	3%+.40		.02
Asotin, Benton, Columbia, Franklin, Garfield, Kittitas, Walla Walla and Yakima Counties					
Electricians	12.13	.57	3%+.40		.02
Cable Splicers	13.34	.57	3%+.40		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Cont'd)					
Chelan, Douglas, Grant and Okanogan Counties					
Electricians	$ 12.13	.57	3%+.40		.02
Cable Splicers	13.34	.57	3%+.40		.02
Clallam, Jefferson, King and Kitsap Counties					
Electricians	13.20	.70	3%+.65		.03
Cable Splicers	14.52	.70	3%+.65		.03
Clark, Klickitat and Skamania Counties					
Electricians	12.80	.65	3%+1.00		.05
Cable Splicers	13.55	.65	3%+1.00		.05
Cowlitz and Wahkiakum Counties					
Electricians	11.91	.65	3%	5%	.02
Cable Splicers	13.10	.65	3%	5%	.02
Grays Harbor, Lewis, Mason, Pierce, Pacific and Thurston Counties					
Electricians	11.51	.45	3%+.55	.92	.04
Cable Splicers	12.66	.45	3%+.55	.92	.04
Island, San Juan, Skagit, Snohomish and Whatcom Counties					
Electricians	13.52	.65	3%+.40		.04
Cable Splicers	14.87	.65	3%+.40		.04
ELECTRONIC TECHNICIANS: (Installation and repair of low-voltage communication and alarm systems, excluding any work under the jurisdiction of a journeyman wireman)					
Adams, Ferry, Lincoln, Pend Oreille, Spokane, Stevens, and Whitman Cos.					
Journeyman Installer	7.30	.43			.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Adams, Asotin, Benton, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla and Whitman Counties					
Elevator Constructors	$11.95	.545	.35	4%+a	.02
Elevator Constructors' Helpers	70%JR	.545	.35	4%+a	.02
Elevator Constructors' Helpers (Prob.)	50%JR				
Chelan, Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, Mason Pacific, (Northern portion), Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom and Yakima Counties					
Elevator Constructors	12.445	.545	.35	3%+a	.02
Elevator Constructors' Helpers	70%JR	.545	.35	3%+a	.02
Elevator Constructors' Helpers (Prob.)	50%JR				
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties					
Elevator Constructors	12.205	.745	.35	4%+a	.02
Elevator Constructors' Helpers	70%JR	.745	.35	4%+a	.02
Elevator Constructors' Helpers (Prob.)	50%JR				

DECISION NO. WA77-5076 Page 8

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Adams, Antolin, Benton, Chelan, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima Counties	$ 9.95	.70	.85		
Clallam, Island, Jefferson, King, Kitsap, Lewis, Pacific (Northern portion), Pierce, San Juan, Skagit, Snohomish and Whatcom Counties	10.90	.55	1.00		.04
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Cos.	9.30	.50	.80		.01
MARBLE SETTERS:					
Adams (except that portion including the City of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens and Whitman Counties, and Grand Coulee Dam Area in Okanogan County	11.01	.65	.70		.04
Benton, Franklin and Walla Walla Counties	10.68	.55	.50		
Chelan, Douglas and Okanogan Counties (except area of Grand Coulee Dam)	9.50	.55	.50		
Clallam, Island, Jefferson, King, Kitsap, Snohomish and Skagit (south of the Cities of Burlington, Sedro-Woolley and Concrete) Counties	11.22	.65	.65		.11
Clark, Cowlitz, Pacific (Southern portion), Skamania, Wahkiakum Counties and a ten mile strip bordering the Columbia River in Klickitat County	11.03	.65	.75		.10

DECISION NO. WA77-5076 Page 7

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS:					
Adams (northeastern portion), Lincoln (east half), Pend Oreille, Spokane and Whitman Counties	$ 9.75	.35	.10	b1.43	
Adams (southwestern portion), Benton, Franklin and Walla Walla Counties	8.96	.40	.45	.58	
Chelan, Douglas, Grant, Lincoln, (western half) and Okanogan Counties	7.92	.40	.70	.57	.02
Asotin, Garfield and Whitman Counties	8.03	.31	.25	b+.28	
Clallam, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, (Northern portion), Pierce, San Juan, Snohomish and Thurston Counties	9.59	.30	.65	b	
Yakima and Kittitas Counties	8.76	.35	.40		
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Cos.	9.75	.41	.65	6.8%	.01
IRONWORKERS:					
Statewide except Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties					
Reinforcing; Structural; Rigger and Signalman	11.00	.73	1.00		.05
Fence Erector; Ornamental; Rigger; Signalman	11.00	.73	1.00		.05

DECISION NO. WA77-5076 Page 10

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Steel; Spray, Steam Cleaning; Roller Over 10' or 10' handle; Drywall Taper	$10.77	.40	.80		.02
Swing Stage Work or High Elevator	10.67	.40	.80		.02
Blasting; Sandblasting; Bridge; Tanks on legs; Towers; Stacks; Steeples	10.92	.40	.80		.02
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Cos.					
Brush	9.53	.55	.60	.50	.10
Spray	9.93	.55	.60	.50	.10
Bridges, High work over 50' (brush)	10.28	.55	.60	.50	.10
Bridges, High work over 50' (spray)	10.68	.55	.60	.50	.10
Drywall Finishers	10.65	.65	.60	.50	.06
Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pierce, San Juan, Skagit, Snohomish, Thurston, Pacific (northern portion) and Whatcom Counties					
Brush; Roller; Drywall Tapers	10.53	.60	.70		.04
Paperhangers					
Spray; Structural Steel; Bridge; Sandblasting; Stacks; Steam Cleaning; Steeples; Swing Stage; Tanks on legs; Toxic Material	10.77	.60	.70		.04
Tower Painters	10.88	.60	.70		.04
Statewide except Wahkiakum, Cowlitz and Skamania Counties					
Striper	10.43	.44	.31		

DECISION NO. WA77-5076 Page 9

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
[illegible] (Cont'd)					
[illegible] except that portion including the City of Othello	$10.50	.40			
[illegible] Mason, Thurston and northern half of Pacific Counties	9.20	.55	.30		.06
[illegible] except Skagit (including the Cities of Burlington, Sedro-Woolley, Concrete and north to Mt. Vernon) Counties	11.03	.65	.75		
[illegible]	10.35	.55	.45		
[illegible]:					
All Counties west of the Cascade Mountain Range (except Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties (including tenders to plasterers, bricklayers, tile setters, marble setters [illegible]	9.52	.65	.30		
[illegible]	9.19	.90	1.10		.10
[illegible]					
[illegible]	10.52	.40	.80		.02

V42N161 AUG 19 77 UMI

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Adams, Asotin, Benton, Columbia, Ferry, Franklin, Garfield, Grant, Kittitas (including the City of Ellensburg and south thereof); Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima Counties	$10.13	.70	.85		
Chelan, Douglas, Kittitas (north of the City of Ellensburg), and Okanogan Counties	9.98	.50	.65		
Clallam, Island, Jefferson, King (except the City of Kent), Kitsap, Pacific (Northern portion), San Juan, Skagit and Snohomish Counties	10.90	.55	1.00		.06
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Cos.	10.50	.55	.80		.01
Grays Harbor, King (City of Kent), Lewis, Mason, Pierce and Thurston Counties	9.80	.55	1.00		
PLASTERERS' TENDERS:					
All Counties and portions of Counties East of the 120th Meridian	8.60	.65	.70		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS:					
Chelan, Clallam, King, Kittitas (north of 47°15' N. Lat.), Douglas (west of the 119°30' W. Long.), Jefferson and Okanogan (except the area lying east of 119°30' W. Long., North to 48°30' N. Lat. Township lines) Counties	$12.80	.89	$ 1.41	$ 1.10	.07
Adams (except area between a line drawn south from the western boundary of Ferry County to Highway #10 eastward to Whitman County), Asotin, Benton, Columbia, Franklin, Garfield, Grant, Klickitat, Walla Walla, Yakima, Douglas (east of 119°30' W. Long.), Ferry (west of a line drawn frpm Creston in Lincoln County northward to the Canadian Border), Kittitas (south of 47°15' N. Lat.), Lincoln (west of a line drawn from Schrag in Adams County northward to the Ferry County County Line), and Okanogan (east of 119°30' west Long. and south of 48°30' N. Lat.) Counties	12.77	.65	1.55	1.20	.11

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS: (Cont'd)					
Adams (area between a line drawn south from the western boundary of Ferry County to Highway #10 and eastward to Whitman County), Asotin, Cowlitz, Ferry (east of a line drawn from Creston in Lincoln County northward to the Canadian Border), Grays Harbor, Kitsap, Lewis, Lincoln (east of a line drawn from Schrag in Adams County northward to the Ferry County Line), Mason, Pend Oreille, Pierce, Skagit, Snohomish, Spokane, Stevens, Thurston, Wahkiakum, Whatcom, Whitman and Clark and Skamania (those portions lying north of an east-west line drawn through Woodland eastward to the Klickitat County Line) Counties	$12.66	.75	$ 1.26	$ 1.25	.12
Clark and Skamania Counties south of an east-west line drawn through Woodland eastward to the Klickitat County Line	13.12	1.21	1.60		.13
ROOFERS:					
Adams, Chelan, Douglas, Ferry, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens and Whitman Counties	8.94	.66	.50		.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS: (Cont'd)					
Benton, Franklin, Kittitas, Klickitat and Yakima Counties					
Roofers; Kettlemen; Waterproofers; Shinglers; Spraying	$ 9.65	.47	.30		
Clallam, Cowlitz, Grays Harbor, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, Snohomish Thurston and Wahkiakum Cos.					
Roofers; Waterproofers	9.45	.60	.40		
Slate and Tile Roofers	9.70	.60	.40		
Island, San Juan, Skagit and Whatcom Counties					
Roofers and Waterproofers	8.55	.50	.40		
Slate and Tile Roofers	9.05	.50	.40		
Clark and Skamania Counties					
Roofers	10.45	.65	.80		
Handling of irritating material (coal, tar or epoxy) in unconfined area	10.95	.65	.80		
Handling of irritating material (coal, tar or epoxy) in confined area	11.20	.65	.80		
Roofers Helpers:					
Under 800 hours experience	70%JR				
800 - 1600 hours experience	75%JR				
Over 1600 hours experience	80%JR				
SHEET METAL WORKERS:					
Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima Counties	12.70	3%+.61	1.14		.14

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS: (Cont'd)					
Clallam, Jefferson, Kitsap and Mason Counties	$11.99	3%+.37	.82	$ 1.50	.03
Clark and Skamania Counties	11.13	3%+.81	.93	1.00	.04
Cowlitz, Grays Harbor, Lewis, Pacific, Pierce, Thurston and Wahkiakum Counties	13.25	3%+.56	.90		.02
King, Kittitas, Island and Snohomish Counties	13.15	3%+.56	.99		.05
Whatcom, Skagit and San Juan Counties	11.18	.61	.83		.04
SOFT FLOOR LAYERS:					
Adams (N.E. portion), Ferry, Lincoln (E.½), Pend Orielle, Spokane and Stevens Counties	9.79	.40	.60		
Adams (S.E. portion), Benton, Columbia, Franklin and Walla Walla Counties	9.09	.40	.70	1.21	
Adams (S.W. portion), Chelan, Douglas, Grant, Lincoln (Western ½), and Okanogan Cos.	10.25	.40	.70	.40	
Asotin, Garfield, and Whitman Counties	8.67	.40	.25	.33	
Clallam, Island, Jefferson, Lewis, San Juan, Skagit, Whatcom, King, Kitsap and Snohomish Counties	10.61	.56	.75		.05
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Cos.	9.435	.50	.90	c	.08
Grays Harbor, Mason, Pacific (Northern portion), Pierce and Thurston Counties	10.16	.56	.75		.05
Yakima and Kittitas Counties	9.44	.40	.35		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS:					
Skagit, Snohomish, King, Island, Kitsap, Pierce and Thurston Counties	$14.12	.65	$1.45		.10
Remaining Counties	11.65	.65[a]	.95		.00
TERRAZZO WORKERS:					
Adams (except that portion including the City of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, Whitman and Grand Coulee Dam area in Okanogan County	10.20	.55	.40		
Benton, Franklin and Walla Walla Counties	10.01	.55	.50		
Chelan, Douglas, Okanogan (except area of Grand Coulee Dam)	9.50	.55	.50		
Clallam, Island, Jefferson, King, Kitsap, Skagit (south of the Cities of Burlington, Sedro-Woolley and Concrete) and Snohomish Counties	11.46	.65	.75		.05
Grant County and that portion of Adams County including the City of Othello	10.50	.40			
Grays Harbor, Lewis, Mason and Thurston Counties	9.20	.55	.30		
Pierce County	11.47	.65	.80		.05
San Juan, Skagit (including the Cities of Burlington, Sedro-Woolley, Concrete and north thereof) and Whatcom Counties	10.35	.55	.45		
TILE SETTERS:					
Adams (except that portion including the City of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, Whitman and Grand Coulee Dam area in Okanogan County	10.20	.55	.40		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TILE SETTERS: (Cont'd)					
Benton, Franklin and Walla Walla Counties	$10.01	.55	.50		
Chelan, Douglas, Okanogan (except area of Grand coulee Dam)	9.50	.55	.50		
Clallam, Island, Jefferson, King, Kitsap, Skagit (south of the Cities of Burlington, Sedro-Woolley and Concrete) and Snohomish Counties	11.46	.65	.75		.05
Clark, Cowlitz, Pacific (Southern portion), Skamania, Wahkiakum and a ten-mile strip bordering the Columbia River in Klickitat County	9.69	.50	.55		.10
Grant County and that portion of Adams County including the City of Othello	10.50	.40			
Grays Harbor, Lewis, Mason and Thurston Counties	9.20	.55	.30		
Pierce County	11.47	.65	.80		.05
San Juan, Skagit (including the Cities of Burlington, Sedro-Woolley, Concrete and north thereof) and Whatcom Cou.	10.35	.55	.45		

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

*Where Pacific County is stated as "Northern Portion" or "Southern Portion" such areas are defined as follows:

Pacific (Northern portion) - North of Wahkiakum County Northern boundary extended due West to the Pacific Ocean

Pacific (Southern portion) - South of Wahkiakum County Northern boundary extended due west to the Pacific Ocean

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

b. Two weeks' vacation with pay after 1 year of employment. Also seven Paid Holidays: A through F plus Washington's Birthday.

c. 4% of all gross wages to be placed to the credit of the employee with less than one year's service - 6% of all gross wages to be placed to the credit of the employee with more than one year of service.

NOTICES 42152 42153 42155

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Cable Splicers, Loadman Pole Sprayer	$12.78	.45	1%	.10	1/2%
Lineman, Pole Sprayer, Heavy Line Equipment Man, Certified Lineman Welder	11.54	.45	1%	.10	1/2%
Tree Trimmer	10.42	.45	1%	.10	1/2%
Line Equipment Man	9.95	.45	1%	.10	1/2%
Head Groundman (chipper), Head Groundman, Powderman, Jackhammer Man	8.69	.45	1%	.10	1/2%
Groundman, Tree Trimmer Helper	8.18	.45	1%	.10	1/2%

ZONE PAY

Each classification will receive the base rate plus Zone A - $1.25, Zone B - $2.00, Zone C - $2.75, Zone D - $4.00

BASE ZONE - 0 to 3 miles from geographical center of towns listed below

ZONE A - 3 to 20 miles radius from geographical center of towns listed below.

ZONE B - 20 to 35 miles radius from geographical center of towns listed below.

ZONE C - 35 to 50 miles radius from geographical center of towns listed below

ZONE D - in excess of 50 miles.

Base hourly rate will be paid to all men working out of employers' permanent shop.

Spokane	Ellensburg	Asotoria	Portland	Couer D' Alene
Tacoma	Ephrata	Baker	Pendleton	Kellog
Walla Walla	Everett	Burns	Salem	Lewiston
Wenatchee	Kennewick	Bend	Roseburg	Orofino
Yakima	Longview	Eugene	The Dalles	San Point
Wilbur	Olympia	Klamath Falls	Umatilla	
Bellingham	Seattle	Lakeview	Corvallis	
		Medford		

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Area 1) (All Counties and portions of Counties East of the 120th Meridian)					
Group 1	$ 8.10	.65	.70		.02
Group 2	8.25	.65	.70		.02
Group 3	8.35	.65	.70		.02
Group 4	8.40	.65	.70		.02
Group 5	8.45	.65	.70		.02
Group 6	8.50	.65	.70		.02
Group 7	8.55	.65	.70		.02
Group 8	8.75	.65	.70		.02
Group 9:					
Class A	8.15	.65	.70		.02
Class B	8.20	.65	.70		.02
Class C	8.60	.65	.70		.02
Class D	8.65	.65	.70		.02

LABORERS (Area 1)
All Counties and portions of Counties East of the 120th Meridian

Group 1: Brush Hog Feeder; Carpenter Tender; Concrete Crewman (to include stripping of forms, hand operating jacks on slip form construction, application of concrete curing compounds, pumpcrete machine, handling the nozzle of squeezecrete or similar machine 6" and smaller); Concrete Signalman; Crusher Feeder; Demolition (to including clean-up, burning, loading, wrecking and salvage of all material); Driller Helper; Dumpman; Fence Erector to (include guard rails, guide and reference posts, sign posts, and right-of-way markers); General Laborer; Grout Machine Header Tender; Nipper; Riprap Man; Scaleman; Stake Jumper; Structural Mover (to include separating foundation preparation, cribbing, shoring, jacking and unloading of structure); Tailhoseman (water nozzle); Track Laborer (RR); Truck Loader; Timber, Bucker and faller (by hand); Window Cleaner (prior to completion of construction)

Group 2: Cement Finisher Tender; Cement Handler; Demolition Torch; Dope Pot Fireman, non-mechanical; Form Cleaning Machine - Feeder, Stacker; Form Setter, paving; Driller Helper (when required to move position machine); Nozzleman, water and air or steam; Pipe Layer, corrugated metal culvert; Pipewrapper; Pot Tender; Powderman Helper; Power Tool Operator, gas, electric, pneumatic; Sandblast Tailhoseman; Scaffold Erector, wood or steel; Railroad Equipment, power driven, except dual mobile power spiker or puller; Rodder and Spreader; Wheelbarrow, power driven; Well-point Man; Vibrator up to 4"

Group 3: Asphalt Raker; Asphalt Roller, walking; Chain Saw Operator with attachments; Concrete Saw Walking; Grade Checker, using level; Jackhammer Operator; Multi-section Pipe Layer; Nozzleman (to include squeeze and flowcrete nozzle); Pavement Breaker; Power Buggy Operator; Railroad Power Spiker or Puller, dual mobile; Tamper (to include operation of Barco, Essex and similar tamper and pavement breakers); Trencher, Shanwee; Water Pipe Liner; Wagon Drills

Group 4: Chain Saw (faller); Laser Beam Operator; Pipe Layer (Caulker, Collarman, Jointer, Mortarman, Rigger, Jacker, Shorer and Lagger but not including laying corrugated metal culvert pipe)

LABORERS (Area 1) (Cont'd)
All Counties and portions of Counties East of the 120th Meridian

Group 5: Concrete Stack; Mortar Mixer

Group 6: Caisson Worker, free air; High Scaler

Group 7: Brush Machine (to include hoirzontal construction joint clean-up Bruch Machine, power propelled); Drills (to include down-the-hole drills with 3 inch piston or larger and out-of-the-hole drills with 4 inch piston or larger); Gunnite (to include operation of machine and nozzle); Rod Carrier; Monitor Operator, Air Track or similar mounting; Nozzleman (to include jet blasting nozzleman over 1200 pounds, Jet Blast Machine, power propelled, Sand Blast Nozzle); Vibrator, 4 inches and over

Group 8: Air Track Drills with dual mants and Drills; Powderman

Group 9: Tunnel and Shaft, free air
Class A: Bull Gang, Pump Crete Crewman including distribution Pipe, Assembling and dismantle and nipper
Class B: Brakeman, Dumpman
Class C: Miner and Nozzleman for concrete and laser beam operator on tunnels
Class D: Raise and Shaft Miner and Laser Beam Opsrator on Raises and Shafts

42156 NOTICES 42154 NOTICES 42157 NOTICES 42155

LABORERS (Area 2) (All Counties West of the 120th Meridian (except those enumerated in Areas 3 and 4) and the Northern portion of Pacific County)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and or Appr. Tr.
Group 1	$ 8.94	.90	$1.10		.08
Group 2	9.28	.90	1.10		.08
Group 3	9.42	.90	1.10		.08
Group 4	9.52	.90	1.10		.08

LABORERS (Area 2)

All Counties West of the 120th Meridian (except those enumerated in Areas 3 and 4)

Group 1: General Laborers; Asphalt Laborers; Batch Weighman; Broomers; Brush Cutter; Brush Hog Feeder; Burners; Car and Truck Loader; Carpenter Helper; Cement Handler; Changehouse or Dry Shack; Chocker Setter; Clean Up Laborer; Concrete Form Stripper; Concrete and Monolithic Laborer; Crusher Feeder; Curing Laborer; Demolition: Wrecking and Moving (including charred material); Ditch Digger; Driftman; Dumpman; Elevator Feeders; Envoy Technician; Faller and Bucker: Hand; Fence Laborer; Fine Graders; Flagman; Form Setter; Grout Machine Header Tender; Header Laborer and Guardrail Erector; House Wrecker; Landscaping or Planting; Material Yard Man (including electrical); Nipper-Swamper; Pilot Car; Pitman; Pot Tender; Rip Rap Man; Scaleman; Signalman; Skipman; Sloper Sprayman; Stockpiler; Toolroom Man (at job site); Track Laborer; Truck Spotter; Window Cleaner

Group 2: Air, Gas or Electric Vibrating Screed; Anchor Machines; Ballast Regulator Machines; chippers; chocker Splicer; Chuck Tender; Clary Power Spreader and others; Concrete Saw Operator; Gabian Basket Builder; Grinders; Groutman (pressure), including Post Tension Beams; Jackhammer; Multiple Tampers; Pipe Pot Tender; Pipe Wrapper; Powderman's Helper; Power Jacks; Power Wheelbarrow or Buggy; Railroad Spike Puller; Ribbon Setter, head; Rip Rap Man, head; Rodder; Sloper (over 20'); Stake Hopper; Swinging Scaffold or Boatswain Chair over water or 25' in height; Tamper (multiple and self propelled); Tamper and similar electric and air operated tools; Topman - Tailman; Track Liners; Vibrator; Wagon Driller and Air Trac Helper; Well Point Laborer

Group 3: Bit Grinder and Drill Doctor; Cement Dumper - paving; Cement Finisher Helper; Faller and Bucker - Chain Saw; Grade Checker and Transit Man; High Scaler; Laser Beam Operator; Manhole Builder; Mortarman and Hodcarrier; Nozzleman (concrete pump, green cutter when using combination of high pressure air and water on concrete and rock, sandblast, gunnite, shotcrete); Water Blaster; Pipe Layer and Caulker; Powderman; Raker - asphalt; Spreader (carries grade with rodder); Timberman - sewer; Tugger Operator; Vibrator 4" and over; Wagon Driller and Air Trac Operator

Group 4: Caisson Worker; Laser Beam Operator (tunnel); Miner; Spader (tunnel); Powderman; Re-timberman; Maintenance Man

LABORERS (Area 3)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

Group No.	ZONE A	ZONE B	ZONE C	ZONE D	ZONE E	ZONE F
1	$8.29	$8.69	$9.04	$9.29	$9.54	$9.79
2	8.64	9.04	9.39	9.64	9.89	10.14
3	8.94	9.34	9.69	9.94	10.19	10.44
4	9.19	9.59	9.94	10.19	10.44	10.69

FRINGE BENEFITS:

Health and Welfare	$ .90
Pension	1.10
Vacation	.65
Apprenticeship Tr.	.10

LABORERS (Area 3)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

Group 1: Asphalt Plant Laborers; Asphalt Spreaders; Batch Weighman; Broomers; Brush Burners and Cutters; Car and Truck Loaders; Carpenter Tender; Changehouse Man or Dry Shack Man; Choke Setter; Clean-up Laborers; Concrete Laborers; Culvert, hand labor; Curing, concrete; Demolition, wrecking and moving Laborers; Drillers Helpers; Dumpers, road oiling crew; Dumpman (for grading crew); Elevator Feeders; Fence Builder (including guard rail, median rail, reference post, guide post, right-of-way marker); Fine Graders; Form Strippers (not swinging stages); Landscaping or Planting Laborers; Leverman or Aggregate Spreader (Flaherty and similar types); Loading Spotters; Material Yard Man (including electrical); Powderman Helper; Pittsburgh Chipper Operator or similar types Railroad Track Laborers; Ribbon Setters (including steel forms); Rip Rap Man (hand placed); Road Pump Tender; Sewer Labor; Signalman; Skipmen; Slopers Spraymen; Stake Chaser; Stockpiler; Timber Faller and Bucker (hand labor); Toolroom Man (at job site); Tunnel Bull Gang (above ground); Weight Man - Crusher (aggregate when used)

Group 2: Applicator (including pot tender for same); Applying protective Material by hand or nozzle on utility lines or storage tanks on project; Brush Cutters (power saw); Burners; Choker Splicer; Clary, Power Spreader and similar types: Clean-up Nozzleman-Greencutter (concrete, rock, etc.); Concrete Power Buggyman; Crusher Feeder; Demolition and Wrecking charred materials; Grade Checker; Gunite Nozzleman Tender; Gunite and Sand Blasting Pont Tender; Handlers or Mixers of all materials of an irritating nature (including cement and lime); Power Tool Operators, includes but not limited to: Dry Pack Machine, Jackhammer, Chipping Guns, Paving Breakers, Vibrators (less than 4" in diameter); Post Hole Digger, air, gas or electric; Vibrating Screed; Tampers, Ribbon Setter, head, Rip Rap Man (head) hand placed, Sand Blasting (wet), Stake Setter, Tunnel-Muckers, Brakemen, Concrete Crew, Bull Gang (underground)

Group 3: Asphalt Rakers; Bit Grinder; Drill Doctor; Drill Operators, Air Tracks, Cat Drills, Wagon Drills, Rubber-mounted Drills, and other similar typed; Concrete Saw Operator; Gunite Nozzleman; High Scalers, Strippers and Drillers (covers work in swinging stages, chairs or belts, under extreme conditions unusual to normal drilling, blasting, barring-down or sloping and stripping); Laser Beam (pipe laying) - Applicable when employee assigned to move, set up, align Laser Beam; Manhole Builder; Powdermen; Power Saw Operators (bucking and falling); Pumpcrete Nozzleman; Sandblasting (dry); Sewer Pipe Layers; Sewer Timberman; Track Liners; Anchor Machines, Ballast Regulators, Multiple Tampers, Power Jacks; Tugger Operator; Tunnel Chuck Tenders, Nippers and Timbermen; Vibrators (4" and larger); Water Blaster; Welder

Group 4: Laser Beam (Tunnel) - Tunnel Miners; Tunnel Powderman

LABORERS (Area 4) (Those portions of Chelan, Douglas, Kittitas, Okanogan and Yakima Counties lying West of the 120th Meridian)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 8.74	.90	$ 1.10		.08
Group 2	9.00	.90	1.10		.08
Group 3	9.22	.90	1.10		.08
Group 4	9.32	.90	1.10		.08

LABORERS (Area 4)
Those portions of Chelan, Douglas, Kittitas, Okanogan and Yakima Counties lying West of the 120th Meridian

Group 1: General Laborer: Asphalt Laborers; Batch Weighman; Broomers; Brush Cutter; Brush Hog Feeder; Burners; Car and Truck Loader; Carpenter Helper; Cement Handler; Changehouse or Dry Shack; Checker Setter; Clean Up Laborer; Concrete Form Stripper; Concrete and Monolithic Laborer; Crusher Feeder; Curing Laborer; Demolition: wrecking and moving (including charred material); Ditch Digger; Drierman; Dumpman; Elevator Feeders; Epoxy Technician; Feller and Bucker: hand; Fence Laborer; Fine Graders; Flagman; Form Setter; Grout Machine Header Tender; Header Laborer and Guardrail Erector; House Wrecker; Landscaping or Planting Material Yard Man (including electrical); Nipper-Swamper; Pilot Car; Pitman; Pot Tender; Rip Rap Man; Scaleman; Signalman; Skipman; Sloper Sprayman; Stockpiler; Toolroom Man (at job site); Track Laborer; Truck Spotter; Window Cleaner

Group 2: Air, Gas or Electric Vibrating Screed; Anchor Machines; Ballast Regulator Machines; Chippers; Chocker Splicer; Chuck Tender; Clary Power Spreader and others; Concrete Saw Operator; Gabian Basket Builder; Grinders; Groutman (pressure), including Post Tension Beams; jackhammer; Multiple Tampers; Pavement Breaker; Pit Pot Tender; Pipe Wrapper; Powderman's Helper; Power Jacks; Power Wheelbarrow or Buggy; Railroad Spike Puller; Ribbon Setter, head; Rip Rap Man, head; Rodder; Sloper (over 20'); Stake Hopper; Swinging Scaffold or Boatswain Chair over water or 25' in height; Tamper (multiple and self propelled); Tamper and similar Electric and air operated tools; Topman- Tailman; Track Liners; Vibrator; Wagon Driller and Air Trac Helper; Well Point Laborer

Group 3: Bit Grinder and Drill Doctor; Cement Dumper - paving; Cement Finisher Helper; Faller and Bucker, chain saw; Grade checker and Transit Man; High Scaler; Laser Beam Operator; Manhole Builder; Mortarman and Hodcarrier; Nozzleman (concrete Pump, green cutter when using combination of high pressure air and water on concrete and rock, sandblast, gunnite, shotcrete); Water Blaster; Pipe Layer and Caulker; Powderman; Raker - asphalt; Spreader (carries grade with rodder); Timberman - sewer; Tugger Operator; Vibrator 4" and over; Wagon Driller and Air Trac Operator

Group 4: Caisson Worker; Laser Beam Operator (tunnel); Miner; Spader (tunnel); Powderman; Re-Timberman; Maintenance Man

POWER EQUIPMENT OPERATORS (Area 1)
(All Counties and portions of Counties East of the 120th Meridian)

Group No.	Zone 1	Zone 2	Zone 3
1	$8.70	$9.20	$9.65
2	9.00	9.50	9.95
3	9.55	10.05	10.50
4	9.70	10.20	10.65
5	9.85	10.35	10.80
6	10.10	10.60	11.05
7	10.35	10.85	11.30

FRINGE BENEFITS:
Health & Welfare $.80
Pension .90
Apprenticeship Training .03

*ZONE 1: Within a 15 mile radius from the center of the following Cities: Moses Lake, Pasco, Spokane and Walla Walla in Washington - and Coeur d' Alene and Lewiston in Idaho

*ZONE 2: From a 15 to 45 mile radius from the center of the above named Cities, except Coeur d' Alene and Walla Walla which are limited to a 15 mile zone only

*ZONE 3: Over a 45 mile radius from the center of the above named Cities except Coeur d' Alene and Walla Walla which are limited to a 15 mile zone only.

POWER EQUIPMENT OPERATORS (Area 1)
All Counties and portions of Counties East of the 120th Meridian

Group 1: Bit Grinders; Bolt Threading Machine; Compressors, under 2,000 cu. ft. per minute gas, diesel or electric power; Crusher Feeder (mechanical); Deckhand; Driller's Helper; Fireman and Heater Tender; Grade Checker; Helper (mechanic or welder, H.D.); Oiler; Oiler and Cable Tender, Mucking Machine; Pumpman; Rollers, all types on subgrade (farm type, Case, John Deere and similar - or compacting or vibrator) except when pulled by dozer with operal blade; Steam Cleaner; Welding Machine

Group 2: A-Frame Truck (single-drum); Assistant Refrigeration Plant (under 1,000 tons); Assistant Plant Operator, Fireman or Pugmixer (asphalt); Bagley or Stationary Scraper; Batch Plant and Wet Mix Operator, single unit (concrete); Belt Finishing Machine; Blending Machine (pipeline); Blower Operator (cement); Cement Hot; Cospresn (2,000 cu. ft. or over, 2 or more - gas, diesel or electric power) Concrete Saw (multiple cut); Distributor Leverman; Elevator Hoisti Materials; Dope Posts (power agitated); Fork Lift or Lumber Stacke Hydra-lift and similar; Gin Trucks (pipeline); Hoist, single drums Loader (bucker elevator and conveyors); Longitudinal Float; Mixer Post Hole Auger or Punch; Power Broom; Railroad Ballast Regulation Operator (self-propelled); Railroad Power Tamper Operator (self-propelled); Railroad Power Tamper Jack Operator (self-propelled); Spray Curing Machine (concrete); Spreader Jack Operator (self-propelled); Straddle Buggy (Ross and similar on construction job site Tractor (farm type R/T with attachments except backhoe); Tugger Operator; Ditch Witch or similar

42160 NOTICES 42158 NOTICES 42161 NOTICES 42159

POWER EQUIPMENT OPERATORS (Area 1) (Cont'd)
All Counties and portions of Counties East of the 120th Meridian

Group 3: A-Frame Truck (2 or more drums); Assistant Refrigeration Plant and Chiller Operator (over 1,000 tons); Backfillers (Cleveland and similar); Beltcrete Conveyors with power pack or similar; Belt Loader (Kocal or similar); Blade Operator (motor patrol and attachments); Boat Operators; Boom Cats (side); Boring Machine (earth); Boring Machine (rock under 8" bit) (Quarry Master, Joy or similar); Bump Cutter (Wayne, Saginaw or similar); Canal Lining Machine (concrete); Chipper (without crane); Cleaning and Doping Machine (pipeline); Concrete Pumps (squeeze-crete, flow-crete, pump-crete, Whitman and similar); Drills (Churn, Core, Calyx, or Diamond); Elevating Belt-type Loader (Euclid, Barber Green or similar); Elevating Grader-type Loader (Dumor, Adams or similar); Equipment Serviceman, Greaser and Oiler; Generator Plant Engineers (diesel, electric); Gunite Combination Mixer and Compressor; Hoist (2 or more drums or tower hoist); Loader (Overhead and Front-end under 4 yards, R/T); Locomotive Engineer; Mixermobile; Mucking machines; Paver or Curb Extruder (asphalt and concrete); Pump (grout or jet); Rollerman (finishing pavement); Rubber-tired Scraper (one motor with one scraper, under 40 yards); Screed Operator, Soil Stabilizer (P & H or similar); Spreader Machine; Tractor (Crawler, including Dozer, Scraper, Drills, Booms, Rollers, etc.); Traverse Finishing Machine; Trenching Machines (under 7 feet depth capacity); Turnhead Operator; Vacuum Drill (reverse circulation drill, under 8")

Group 4: Asphalt Plant Operator; Crusher, Grizzle and Screening Plant Operator; H.D. Mechanic; H.D. Welder; Refrigeration Plant Engineer (under 1,000 ton); Rubber-tired Scraper, Multi-engine power, with one Scraper (Euclid, TS-24 and similar); Rubber-tired Scrapers, one motor with one scraper (40 yards and over); Surface Heater and Planer Machine; Turnhead (with re-screening)

POWER EQUIPMENT OPERATORS (AREA 1) Cont'd)
All Counties and portions of Counties East of the 120th Meridian

Group 5: Automatic subgrader (ditches and trimmers) (Autograde, ABC, R.A. Hansen and similar on grade wire); Backhoes (under 3 yards); Batch and Wet Mix Operator - multiple units (2 and including 4); Chipper (with crane); Clamshell Operator (under 3 yards); Concrete Slip Form Paver; Cranes all (under 3 yards); Drilling Equipment (8" bit and over) (Robbins' reverse circulation and similar); Loader Operator (Front end and Overhead 4 yards to 8 yards); Pile-driving Engineers; Paver (dual drum); Quad-track or similar equipment; Railroad Track Liner Operator (self-propelled); Rubber-tired Scrapers, multi-engine, power with one scraper (Euclid, TS-24 and similar); Push Pull or Help Mate in use; Rubber-tired Scrapers, multiple engines with tow scrapers; Shovels (under 3 yards); Refrigeration Plant Engineer (1,000 tons and over); Signalmen (Whirleys, Highline Hammerheads or similar); Trenching Machines (7 feet depth and over); Multiple Dozer units with single blade

Group 6: Backhoes (3 yards and over); Batch Plant (over 4 units); Cableway Controller - Dispatcher; Cableway Operator; Clamshell Operator (3 yards and over); Cranes, all - 65 gons and over; Derricks and Stiffleys (65 tons and over); Draglines (3 yards and over); Elevating Belt (Holland type); Loader 360 degrees revolving Koehring Scooper or similar); Loaders (overhead and Front-end over 8 to 12 yards); Rubber-tired Scrapers (multiple engine with three or more scrapers); Shovels (3 yards and over); Tower Crane; Whirleys and Hammerheads (all)

Group 7: Helicopter Pilot; Loaders (Overhead and Front-end - over 12 yards)

POWER EQUIPMENT OPERATORS (Area 2) (All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$11.02	.85	.90		.11
Group 2	11.12	.85	.90		.11
Group 3	11.23	.85	.90		.11
Group 4	11.28	.85	.90		.11
Group 5	11.30	.85	.90		.11
Group 6	11.35	.85	.90		.11
Group 7	11.36	.85	.90		.11
Group 8	11.40	.85	.90		.11
Group 9	11.42	.85	.90		.11
Group 10	11.55	.85	.90		.11
Group 11	11.58	.85	.90		.11
Group 12	11.61	.85	.90		.11
Group 13	11.71	.85	.90		.11
Group 14	11.68	.85	.90		.11
Group 15	11.70	.85	.90		.11
Group 16	11.73	.85	.90		.11
Group 17	11.76	.85	.90		.11
Group 18	11.80	.85	.90		.11
Group 19	11.87	.85	.90		.11
Group 20	11.88	.85	.90		.11
Group 21	11.93	.85	.90		.11
Group 22	11.98	.85	.90		.11
Group 23	12.20	.85	.90		.11
Group 24	12.24	.85	.90		.11
Group 25	12.29	.85	.90		.11
Group 26	12.37	.85	.90		.11
Group 27	12.59	.85	.90		.11
Group 28	12.79	.85	.90		.11
Group 29	12.90	.85	.90		.11
Group 30	12.92	.85	.90		.11
Group 31	13.20	.85	.90		.11

POWER EQUIPMENT OPERATORS (Area 2)
All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) and including the Northern portion of Pacific County

Group 1: Mechanics' Helpers (heavy duty)

Group 2: Oilers, Grade Checkers and Stakemen and/or Brakemen

Group 3: Firemen; Firemen (drier and hot plant)

Group 4: Rollers, Tampers and Vibrators (other than plant, road mix or multi-lift materials); Tractor (farmall type, 60 h.p. and under); Compressor (excavating and general purposes)

Group 5: Oiler Driver on Truck Cranes (over 45 tons up to 100)

Group 6: Blower Distributors and Mulch Seeding Operator; Oil Distributors

Group 7: Locomotive (Dinkey-air, diesel, electric, gas, steam)

Group 8: Equipment Service Oiler; Oiler Driver on Truck Cranes (100 tons and over)

Group 9: Pump (water); Tractors (Farmall type, over 60 h.p.)

Group 10: Post Hole Diggers (mechanical)

Group 11: Brooms (power, Wayne, Saginaw and similar types); Bulldozers (under D9 or similar); Loaders (Fork Lifts or Lumber Stacker - on construction job site - Drott Travel Lift); Rollers, Tampers and Vibrators (twin engine); Saw (concrete); Scrapers (carry-all type, single)

Group 12: Batch Plant (batch and mixer, 200 yards per hour and under); Cranes ("A" Frame Trucks, single power drum); Conveyors; Crusher (rock); Washing and Screening Plants; Finishing Machine Operator, Concrete Paving; Hoists, Air Tuggers, Strato Tower Bucket, Elevators and Dick Winches (power); Loaders (Elevating-Athey, Barber Greene and similar types, and Overhead and Front-end, under 2½ yards); Mixers (asphalt up to 4 tons per batch, and concrete mixer and batch - 200 yards per hour and under); Power Plant Operators; Pumps (Fuller Kenyon and Concrete and Pumpcrete); Rollers, Tampers and Vibrators (on plant, road mix or multi-lifts materials); Screed Man; Spreaders (Blaw Knox, Cedarapids, Jaeger, Flarrety or similar types); Trenching Machine (under 16 inches)

POWER EQUIPMENT OPERATORS (Area 2) (Cont'd)
All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) and including the Northern portion of Pacific County

Group 13: Mechanics or Welder (heavy duty)

Group 14: Motor Patrol Graders (including Model 14 and similar); Tournapulls, Caterpillar, Euclid Scrapers and similar type equipment (25 yards and under)

Group 15: Compressor (steel erection including sandblasting, painting of the same); Hoists on steel erection, Air Tuggers and Towermobiles; Loaders (fork lifts with tower)

Group 16: Cement Hogs; Loaders (Elevating Grader type, Dumor and similar); Locomotive (geared or rod engine); Mixers (paving); Scraper (carryall type, double)

Group 17: Tractors (farmall type, used as Backhoes, Rubber-tired, Ford, Ferguson, Case and similar type 60 h.p. and under)

Group 18: Bull Dozer (D-9 or similar)

Group 19: Trenching Machines (16 inches and over)

Group 20: Bump Cutter (Concut, Christianson or similar types)

Group 21: Batch Plant (batch and mixer, over 200 yards per hour through 400 yards per hour); Conveyors (Beltcrete with power pack and similar types); Loaders (elevating belt type - Euclid and similar types); Mixer (asphalt, 4 tons and over, per batch, and concrete mixers and batch - over 200 yards per hour through 400 yards per hour, and paving dual)

Group 22: Bulldozer equipped in Yo Yo Operating (while clearing and scaling); Cableways (3 yards and under); Cranes ("A" Frame Trucks, double power drum and Crawler, truck type, floating, Locomotive, Whirley, either 3 yards and under, or 150' of boom including jibs and under, or 45 tons and under: and Hydralifts, Hyster Cat Cranes and attachments and Chipper, wood with boom attachment); Derricks, all; Drilling Machine (Core, Cable Rotary and Exploration); Loader (fork lift with power boom and swing attachment, and overhead and front end, 2½ yards and up to 4 yards); Mixers (mobile type with hoist combination); Motor Patrol Graders (over Model 14 and similar); Mucking Machines (Mole, Tunnel Drill, and/or Shield); Paydozer and Linker Pusher (Quad-9 and similar); Piledriver Engineer, (L.B. Foster Puller or similar, Paving Breaker); Shovels (Crawler and truck types, all attachments, 3 yards and under); Sub Grader (Gurries, CMI and similar types); Tractors (Farmall type, used as Backhoes, Rubber-tired - Ford, Ferguson, Case and similar types - over 60 h.p.); Tournapulls, Caterpillar, Euclid Scrapers and similar type equipment over 25 yards through 40 yards

POWER EQUIPMENT OPERATORS (Area 2) (Cont'd)
All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) and including the Northern portion of Pacific County

Group 23: Loaders (overhead and front end, 4 yards up to 8 yards)

Group 24: Mixer (concrete mixers and batch over 400 yards per hour through 600 yards per hour)

Group 25: Tournapulls, Caterpillar, Euclid, Scrapers and similar type(over 40 yards through 55 yards)

Group 26: Cableways (over 3 yards); Crane (Crawler, truck type, floating, Locomotive, Whirley, either over 3 yards, or over 150' of boom including jibs or over 45 tons up to 100 tons: and, Tower Cranes, Pecco, Lorraine, Bucyrus and similar types); Helicopter Winch Operator; Remote Control Operator on Rubber-tired Earth Moving Equipment; Shovels (Crawler and truck type, all attachments, over 3 yards up to 6 yards); Slip Form Paver (Zimmerman, CMI and similar types)

Group 27: Tournapulls, Caterpillar, Euclid, Scrapers and similar type equipment (over 55 yards through 70 yards)

Group 28: Loaders (overhead and front end 8 yards and over)

Group 29: Tournapulls, Caterpillar, Euclid, Scrapers and similar type equipment (over 70 yards through 85 yards)

Group 30: Cranes (Crawler, Truck type, floating, Locomotive, Whirley, either 5 yards and over 200' of boom including jibs and over, or 100 tons and over); Shovel (Crawler and Truck type, all attachments, 6 yards and over)

Group 31: Tournapulls, Caterpillar, Euclid, Scrapers and similar type equipment (over 85 yards through 100 yards)

POWER EQUIPMENT OPERATORS (Area 3)
Clark, Cowlitz, Klickitat, Skamania, Wahkaikum, and the Southern portion of Pacific, Counties

Group No.	ZONE A	ZONE B	ZONE C	ZONE D	ZONE E	ZONE F
1	$9.79	$10.19	$10.54	$10.79	$11.04	$11.29
2	9.93	10.33	10.60	10.93	11.18	11.43
3	10.03	10.43	10.70	11.03	11.20	11.53
4	10.19	10.59	10.94	11.19	11.44	11.69
5	10.21	10.61	10.96	11.21	11.46	11.71
6	10.29	10.69	11.04	11.29	11.54	11.79
7	10.35	10.75	11.10	11.35	11.60	11.85
8	10.45	10.85	11.20	11.45	11.70	11.95
9	10.51	10.91	11.26	11.51	11.76	12.01
10	10.57	10.97	11.32	11.57	11.82	12.07
11	10.59	10.99	11.34	11.59	11.84	12.09
12	10.65	11.05	11.40	11.65	11.90	12.15
13	10.73	11.13	11.48	11.73	11.98	12.23
14	10.69	11.29	11.64	11.89	12.14	12.39
15	11.05	11.45	11.80	12.05	12.30	12.55
16	11.23	11.63	11.98	12.23	12.48	12.73
17	11.37	11.77	12.12	12.37	12.62	12.87
18	11.55	11.95	12.30	12.55	12.80	13.05
19	11.69	12.09	12.44	12.69	12.94	13.19

FRINGE BENEFITS:

Health and Welfare	$ 1.00
Pension	1.00
Vacation	.50
Apprenticeship Training	.05

POWER EQUIPMENT OPERATORS (Area 3)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

Group 1: Oiler, including Plant, Crane, Crusher, Guardrail equipment, and Trenching Machine; Assistant Conveyor Operator; Crusher Feederman; Deckhand; Self-propelled Scaffolding Operator; Guardrail Punch Oiler; Pump Operator, under 4"; Brakeman; Switchman; Parts Man (tool room)

Group 2: Blade Operator, pulled type; Truck Crane Oiler-driver, 25 ton capacity or over; Crane Fireman, (all equipment except floating); A-Frame Truck Operator, single drum; Tugger or Coffin type Hoist Operator; Driller Helper; Auger Oiler; Boatman; Fork Lift or Lumber Stacker Operator (on job site); Oiler, combination Guardrail Machines; Temporary Heating Plant Operator; Grade Oiler, required to check grade; Grade Checker; Tar Pot Fireman; Tar Pot Fireman (power agitated); H.D. Repairman Helper; Welder's Helper; Helicopter Radioman (ground); Roller Operator, grading of base rock (not asphalt)

Group 3: Asphalt Plant Fireman; Pugmill Operator (any type); Truck mounted Asphalt Spreader, with Screed; Compressor Operator (any power), under 2,250 cu. ft. total capacity; Conveyor Operator; Mixer Box Operator (C.T.B., Dry Batch, etc.); Cement Hog; Concrete Saw; Concrete Curing Machine (riding type); Wire Mat or Brooming Machine; Ross Carrier Operator (on job site); Bucket Elevator Loader, Barber-Greene and similar types; Hydraulic Pipe Press; Pump Operator (any power), 4" and over; Hydrostatic Pump; Motorman; Ballast Jack Tamper; Bell Boy phones, etc.; Tamping Machine, mechanical self-propelled; Hygrographic Seeder Machine, straw, pulp or seed; Broom Operator, self-propelled (on job site); Air Filtration Equipment; Welding Machine Operator

POWER EQUIPMENT OPERATORS (Area 3) (Cont'd)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

Group 4: Screed Operator; Compactor, including Vibratory; Compressor (any power) over 1,250 cu. ft. total capacity; Combination Mixer and Compressor, Gunnite work; Concrete Mixer Operator, single drum, under five bag capacity; Helicopter Hoist Operator; Floating Equipment Fireman; Lull Hi-lift Operator or similar type; Fork Lift, over 5 ton; Service Oiler (greaser); Hydra Hammer or similar types; Pavement Breaker; Pump Operator, more than 5 (any size); Locomotive, under 40 tons; Roller Operator, Oiling, C.T.B.

Group 5: Extrusion Machine; Wagner Factor or similar type (without blade); Concrete Batch Plant Quality Control Operator; Power Jumbo, Setting Slip Forms, etc. in tunnels; Slip Form Pumps, Power driven Hydraulic Lifting Device for concrete forms; Hoist, single drum; Elevator Operator; Pulvamixer or similar types; Chip Spreading Machine Operator; Lime Spreading (on job site); Sweeper (Wayne type) Self-propelled (on job site); Tractor, rubber-tired 50 H.P. Flywheel and under; Trenching Machine, maximum digging capacity 3 ft. depth

Group 6: Asphalt Burner and Reconditioner; Pavement Grinder and/or Grooving Machine (riding type); Cast-in-place Pipe Laying Machine; Maginnis Internal Full Slab Vibrator; Concrete Finishing Machine, Clary, Johnson, Bidwell, Burgess Bridge Deck or similar type; Curb Machine, Mechanical Berm, Curb and/or Curb and Gutter; Concrete Joint Machine; Concrete Planer; Concrete Paving Machine; Concrete Spreader; Loaders, rubber-tired type, 2½ cu. yds. and under; Rock Spreaders, self-propelled.

Group 7: Roller(any asphalt mix); Beltcrete; Pumperete Operator (any type); Cement Pump, Fuller-Kenyon and similar; Concrete Pump; Grouting Machine; Concrete Mixer, single drum, five bag capacity and over; Tower Mobile Operator; A-Frame Truck double drum; Boom Truck; Churn Drill and Earth Boring Machine; Hydraulic Backhoe, wheel type 3/8 cu. yds. and under with or without front end attachments 2½ cu. yds. and under (Ford, John Deere, Case type); Elevating Grader, Tractor towed requiring operator or grader; Pot Rammer; Ballast Regulator; Ballast Tamper, Multiple-purpose; Track Liner; Tie Spacer; Shuttle Car; Locomotive, 40 tons and over

POWER EQUIPMENT OPERATORS (Area 3) (Cont'd)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

Group 8: Diesel-Electric Engineer, Plant, Crusher, Generator, Floating; Batch Plant and/or wet mix, one and two drum; Generator Operator; Belt Loaders, Kolman and Ko Cal types; Asphalt Paver Operator

Group 9: Bulldozer; Drill Cat Operator; Side-boom Cat; Compactor, with blade; Concrete Cooling Machine; Chicago Boom and similar types; Lift Slab Machine; Boom type Lifting Device, 5 ton capacity or less; Cherry Picker or similar type Crane-hoist, 5 ton capacity or less; Grizzley Crusher; Crusher Plant; Drill Doctor; Boring Machine; Guardrail Punch and Auger (all types); Surface Heater and Planer; Hydraulic Backhoe, track type 3/8 cu. yd.; Loader, front end and overhead, 2½ cu. yds. and under 4 cu. yds.; Hammer Operator; Pipe Cleaning, Doping, Bending and Wrapping Machines; Bolt-threading Machine; Drill Doctor (bit grinder); H.D. Mechanic and Welder; Machine Tool Operator; Stationary Drag Scraper; Tractor, rubber-tired over 50 H.P. flywheel; Tractor with boom attachment; Trench Machine, maximum digging capacity over 3 ft. depth; Asphalt Plant Operator

Group 10: Bulldozer, twin engine (TC12 and similar); Cable Plow (any type); Compactor, multi-engine; Jack Operator, Elevating Barges; Barge Operator, self-unloading; Combination H.D. Mechanic-Welder, when dispatched and/or when required to do both; Rubber-tired dozers and Pushers (Michigan, Cat, Hough type); Driller Percussion, Diamond, Core, Cable, Rotary and similar type

Group 11: Mixer Mobile; Concrete Breaker; Crane Operator, 25 tons and under; Combination Guardrail Machines, i.e., Punch, Auger, etc.; Shovel; Dragline; Clamshell, Hoe, etc., under 1 cu. yd.; Grade-alls, under 1 cu. yd.; Mucking Machine (tunnel)

Group 12: Blade Operator; Batch Plant and/or Wet Mix, 3 units or more; Reinforced Tank Banding Machine (K-17 or similar); Hoist, two or more drums; Elevating Loader, Athey and similar; Piledriver (not crane type); Rubber-tired Scraper, single and twin engine, Single Scraper, with Push-pull attachments, self-loader, Paddle Wheel, Auger type; Blade mounted Spreaders, Ulrich and similar types; Shield Operator

POWER EQUIPMENT OPERATORS (Area 3) (Cont'd)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

Group 13: Blade Operator, finish; Blade, externally controlled by electronic, mechanical hydraulic means; Blade, Multi-engines; Concrete Paving Road Mixer; Derrick, under 100 tons; Hoist, Stiff Leg, Guy Derrick or similar, 50 tons and over; Cableway Operator 25 ton and over; Crane, over 25 ton and including 50 tons; Piledriver Operator; Floating Clamshell, etc. under 3 cu. yds.; Floating Crane (derrick barge), less than 30 ton; Elevating Grader, operated by tractor operator, Sierra, Euclid, or similar; Back Filling Machine; Shovel, etc. 1 cu. yd. and less than 3 cu. yds.; Grade-all, 1 cu. yd. and over; Bridge Crane Operator, Locomotive Crane, Gantry and Overhead

Group 14: Tower Crane Operator; Rubber-tired Scraper, with Tandem Scrapers, self-loading, Paddle Wheel, Auger type, Finish and/or 2 or more units

Group 15: Rock Hound Operator; Loader, 4 cu. yds., but less than 6 cu. yds.

Group 16: Autograder or "Trimmer"; Tandem Bulldozer, Quad-nine and similar; Automatic Concrete Slip Form Paver; Concrete Canal Line; Cableway, 25 ton and over; Crane, over 40 ton and including 100 ton; Whirley, 80 ton and under; Floating Clamshell, etc., 3 cu. yds. and over; Floating Crane (derrick barge) 30 ton but less than 80 ton; Loader, 6 cu. yds., but less than 12 cu. yds.; Rubber-tired Scraper, with Tandem Scrapers, Multi-engine; Shovel, etc., 3 cu. yds. but less than 5 cu. yds.; Wheel Excavator, under 750 cu. yds. per hour

Group 17: Crane over 100 ton and including 200 ton; Whirley over 80 ton and including 150 ton; Floating Crane (derrick barge) 80 ton less than 150 ton; Loader, 12 cu. yds. and over; Shovel, etc., 5 cu. yds. and over; Canal Trimmer

Group 18: Crane, over 200 ton; Whirley, 150 ton and over; Floating Crane 150 ton but less than 250 ton; Wheel Excavator, over 750 cu. yds. per hour; Band Wagons, in conjunction with Wheel Excavator

Group 19: Helicopter, when used in erecting work; Floating Crane 250 ton and over; Remote Controlled Earth Moving Equipment; Underwater Equipment, remote or otherwise

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (DREDGING) (Area 1) (All Counties and portions of Counties East of the 120th Meridian)					
Group 1	$10.04	.75	.90		.11
Group 2	10.14	.75	.90		.11
Group 3	10.48	.75	.90		.11
Group 4	10.53	.75	.90		.11
Group 5	10.58	.75	.90		.11
Group 6	10.90	.75	.90		.11
Group 7:					
(a)	11.29	.75	.90		.11
(b)	11.84	.75	.90		.11
DREDGING (Area 2) (All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) and including the Northern portion of Pacific County)					
Group 1	10.04	.75	.90		.11
Group 2	10.14	.75	.90		.11
Group 3	10.48	.75	.90		.11
Group 4	10.53	.75	.90		.11
Group 5	10.58	.75	.90		.11
Group 6	10.90	.75	.90		.11
Group 7:					
(a)	11.29	.75	.90		.11
(b)	11.84	.75	.90		.11
DREDGING (Area 3) (Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties)					
Group 1	10.15	1.00	1.00	.50	.05
Group 1A	10.81	1.00	1.00	.50	.05
Group 2	9.79	1.00	1.00	.50	.05
Group 3	9.55	1.00	1.00	.50	.05
Group 4	9.29	1.00	1.00	.50	.05

NOTICES 42164
NOTICES 42165
NOTICES 42167

POWER EQUIPMENT OPERATORS (Areas 1 and 2)
(DREDGING)

Group 1: Assistant Mate (deckhand)

Group 2: Fireman; Oiler

Group 3: Assistant Engineer (Electric, Diesel, Steam or Booster pump); Mates and Boatmen

Group 4: Engineer Welder; Craneman

Group 5: Assistant Engineer (Electric Generator Operator for primary pump, power barge or dredge)

Group 6: Leverman, Hydraulic

Group 7: Leverman, Dipper:
(a) 5 yards and under
(b) Over 5 yards

POWER EQUIPMENT OPERATORS (Area 3)
(DREDGING)

Group 1: Leverman, Hydraulic

Group 1A: Leverman, Dipper

Group 2: Assistant Engineer (including Watch Engineer, Welder, Mechanic, and Machinist) and Mate

Group 3: Tenderman (Boatman, Attending Dredge Plant); Fireman

Group 4: Assistant Mate (Deckhand), Oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (Area 1) (All Counties and portions of Counties East of the 120th Meridian)					
Group 1	$ 9.28	$ 1.02	.75		
Group 2	9.32	1.02	.75		
Group 3	7.38	1.02	.75		
Group 4	9.47	1.02	.75		
Group 5	9.68	1.02	.75		
Group 6	9.72	1.02	.75		
Group 7	9.78	1.02	.75		
Group 8	9.82	1.02	.75		
Group 9	9.93	1.02	.75		
Group 10	9.97	1.02	.75		
Group 11	10.28	1.02	.75		
Group 12	10.42	1.02	.75		
Group 13	10.58	1.02	.75		
Group 14	10.72	1.02	.75		

TRUCK DRIVERS (Area 1)
All Counties and portions of Counties East of the 120th Meridian

Group 1: Flat Bed Truck, single rear axle; Escort Driver; Fish Truck; Fork Lift, 3,000 pounds and under; Fuel Truck Driver (Steam Cleaner and Washer); Helper and Swamper; Leverperson loading Trucks at Bunkers; Pick-up hauling material; Seeder and Mulcher; Stationary Fuel Operator; Team Driver; Tractor (small rubber tired pulling trailer or similar equipment); Water Tank Truck 1,800 gallons.

Group 2: Bus Driver or Employeehaul Driver; Flat Bed Truck, dual rear axle; Power Boat hauling employees or material; Tireperson No. 1; Warehouseperson

Group 3: Buggy Mobile and similar; Bulk Cement Tanker; Oil Tank Driver; Power operated Sweeper; Semi-trailer, Low Bed, Truck and Trailer; Straddle Carrier (Ross Hyster and similar); Transit Mixers and Trucks hauling concrete (3 yards and under); Trucks, side, end, and bottom dump (under 6 yards); Water Tank Truck (1,801 - 4,000 gallons)

Group 4: Auto Crane - 2,000 pounds capacity; Bulk Cement Spreader; Dumptor (56 yards and under); Flaherty Spreader, Box Driver; Flat Bed Truck (using power take off); Fork Lift (over 3,000 pounds); Oil Distributor Driver (road, bootperson, leverperson helper); Rubber-tired tunnel jumbo; Scissor Truck; Slurry Truck Driver; Transit Mixers and Trucks hauling concrete (over 3 yards to 6 yards); Water Tank Truck (4,001 - 6,000 gallons); Wrecker and Tow Trucks

Group 5: Low Boy (under 50 tons); Service Greaser; Tireperson No. 2; Truck, side, end, and bottom dump (over 6 yards to 12 yards)

Group 6: A-Frame (Swedish Crane, Iowa 3,000, Hydrolift); Water Tank Truck (6,001 - 8,000 gallons)

Group 7: Dumptor (over 6 yards); Transit Mixers and Trucks hauling concrete (6 yards to 10 yards); Trucks, side, end, and bottom dump (over 12 yards including 20 yards)

TRUCK DRIVERS (Area 1) (Cont'd)
All Counties and portions of Counties East of the 120th Meridian

Group 8: Low Boy (over 50 tons); Water Tank Truck (8,001 - 10,000 gallons); Tractor with Steer Trailer

Group 9: Transit Mixers and Trucks hauling concrete (10 yards to 15 yards); Trucks, side, end and bottom dump (over 20 yards including 30 yards); Water Tank Truck (10,001 - 12,000 gallons)

Group 10: Mechanic, Field

Group 11: Tournarocker, D.W.'s and similar, with 2 or 4 wheel power tractor with trailer, gallonage or yardage scale, which is greater; Transit Mixers and Trucks hauling concrete (15 yards to 20 yards); Trucks, side, end and bottom dump (over 30 yards to 40 yards); Water Tank Truck (12,001 - 14,000 gallons)

Group 12: Transit Mixers and Trucks hauling concrete (over 20 yards); Trucks, side, end and bottom dump (over 40 yards to 50 yards)

Group 13: Truck, side, end and bottom dumps (over 50 yards to 100 yards)

Group 14: Helicopter Pilot hauling employees or material; Trucks, side, end and bottom dump (over 100 yards)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (Area 2) (All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) and including the Northern portion of Pacific County and all of Kittitas and Yakima Counties)					
Group 1	10.34	.80	.65		.09
Group 2	10.39	.80	.65		.09
Group 3	10.44	.80	.65		.09
Group 4	10.55	.80	.65		.09
Group 5	10.61	.80	.65		.09
Group 6	10.65	.80	.65		.09
Group 7	10.66	.80	.65		.09
Group 8	10.72	.80	.65		.09
Group 9	10.77	.80	.65		.09
Group 10	10.79	.80	.65		.09
Group 11	10.82	.80	.65		.09
Group 12	10.92	.80	.65		.09
Group 13	10.94	.80	.65		.09
Group 14	10.98	.80	.65		.09
Group 15	11.10	.80	.65		.09
Group 16	11.14	.80	.65		.09
Group 17	11.26	.80	.65		.09
Group 18	11.31	.80	.65		.09
Group 19	11.47	.80	.65		.09
Group 20	11.63	.80	.65		.09
Group 21	11.79	.80	.65		.09

TRUCK DRIVERS (Area 2)
All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) and including the Northern portion of Pacific County and including all of Kittitas and Yakima Counties

Group 1: Leverman and Loaders at bunkers and batch plants; Pickup Truck, Escort or Pilot Car; Warehouseman and Checkers

Group 2: Team Drivers

Group 3: Bull Lifts and similar equipment used in loading and unloading trucks, transporting materials on job site, warehousing; Dumpsters, and similar equipment (including Tournarockers, Tournawagon, Turnatrailer, Cat DW series, Terra Cobra, LeTourneau, Westinghouse, Athey Wagon, Euclid, two and four-wheeled power tractor with trailer and similar top-loaded equipment transporting material: Dump Trucks - side, end and bottom dump, including Semi-trucks and Trains or combinations thereof) - up to and including 5 yards; Flatbed, single rear axle; Fuel Truck; Grease Truck; Greaser, Battery Service Man and/or Tire Service Man; Scissor Truck; Spreader, Flaherty; Tractor (small, rubber-tired); Vacuum Truck; Water Wagon and Tank Truck (up to 1,600 gallons); Winch Truck, single rear axle; Wrecker, tow truck and similar equipment

Group 4: Flatbed, dual rear axle

Group 5: Buggymobile; Hyster Operators; Straddle Carrier (Ross, Hyster, and similar equipment); Water Wagon and Tank Truck, 1,600 gallons to 3,000 gallons)

Group 6: Transit-mix, 0 to and including 41 yards

Group 7: Dumpsters and similar equipment (as listed in Group 3) - over 5 yards to and including 12 yards; Explosive Truck (field mix) and similar equipment; Lowbed and Heavy Duty Trailer, under 50 tons gross; Road Oil Distributor Driver; Slurry Truck; Sno-go and similar equipment; Winch Truck, dual rear axle

Group 8: Dumpster and similar equipment (as listed in Group 3) - over 12 yards to and including 16 yards

Group 9: Bulk Cement Tanker; Dumpsters and similar equipment (as listed in Group 3) - over 16 yards to and including 20 yards; Water Wagon and Tank Truck, over 3,000 gallons

TRUCK DRIVERS (Area 2) (Cont'd)
All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) and including the Northern portion of Pacific County and including all of Kittitas and Yakima Counties

Group 10: Bull Lifts or similar equipment used in loading or unloading trucks transporting materials on job site, other than warehousing

Group 11: Transit-mix, over 4½ yards to and including 6 yards

Group 12: "A" Frame or Hydralift Trucks or similar equipment

Group 13: Dumpsters and similar equipment (as listed in Group 3) - over 20 yards to and including 30 yards; Lowbed and Heavy Duty Trailer, over 50 tons gross to and including 100 tons gross

Group 14: Transit-mix, over 6 yards, to and including 8 yards

Group 15: Dumpsters and similar equipment (as listed in Group 3) - over 30 yards to and including 40 yards; Lowbed and Heavy Duty Trailer, over 100 tons gross

Group 16: Transit-mix, over 8 yards to and including 10 yards

Group 17: Dumpsters and similar equipment (as listed in Group 3) - over 40 yards to and including 55 yards

Group 18: Transit-mix, over 10 yards to and including 12 yards

Group 19: Transit-mix, over 12 yards to and including 16 yards

Group 20: Transit-mix, over 16 yards to and including 20 yards

Group 21: Transit-mix, over 20 yards

TRUCK DRIVERS (Area 3)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

Group No.	ZONE A	ZONE B	ZONE C	ZONE D	ZONE E	ZONE F
1	$9.81	$10.21	$10.56	$10.81	$11.06	$11.31
2	9.86	10.26	10.61	10.86	11.11	11.36
3	9.91	10.31	10.66	10.91	11.16	11.41
4	9.96	10.36	10.71	10.96	11.21	11.46
5	10.01	10.41	10.76	11.01	11.26	11.51
6	10.11	10.51	10.86	11.11	11.36	11.61
7	10.21	10.61	10.96	11.21	11.46	11.71
8	10.31	10.71	11.06	11.31	11.56	11.81
9	10.41	10.81	11.16	11.41	11.66	11.91
10	10.58	10.98	11.33	11.58	11.83	12.08
11	10.68	11.08	11.43	11.68	11.93	12.18
12	10.78	11.18	11.53	11.78	12.03	12.28
13	10.88	11.28	11.63	11.88	12.13	12.38
14	10.98	11.38	11.73	11.98	12.23	12.48

FRINGE BENEFITS:

Health & Welfare	$ .68
Pension	.70
Vacation	.60
Apprenticeship Training	.05

42170 NOTICES 42168 NOTICES 42171 NOTICES 42169

TRUCK DRIVERS (Area 3)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

Group 1: Battery Rebuilders; Bus or Manhaul Driver; Concrete Buggies (power operated); Dump Trucks, side, end and bottom dumps, including Semi-trucks and Trains or combinations thereof: 6 cu. yds. and under, Lift Jitneys, Fork Lifts (all sizes in loading, unloading and transporting material on job site); Loader and/or Loverman on concrete dry batch plant (manually operated); Pilot Car; Solo Flat Bed and misc. Body Trucks, 0-10 tons; Truck Helper; Truck Mechanic Helper; Warehouseman (warehouse parts, tool men and parts chaser, checkers and receivers); Water Wagons (rated capacity) - up to 1,600 gallons

Group 2: "A" Frame of Hydra-lift Truck with load bearing surface; Lubrication Man, Fuel Truck Driver, Tireman, Wash Rack, Steam Cleaner or combinations; Team Drivers

Group 3: Dump Trucks, side, end and bottom dumps, including Semi-trucks and Trains or combinations thereof: over 6 cu. yds. and including 10 cu. yds.; Slurry Truck Driver or Leverman; Transit Mix, and wet or dry mix trucks; 5 cu. yds. and under; Tireman (full-time basis); Water Wagons (rated capacity) - 1,600 to 3,000 gallons

Group 4: Flaherty Spreader Driver or Leverman; Lowbed Equipment, Flat Bed Semi-trailer, Truck and Trailers of doubles transporting equipment or wet or dry materials; Lumber Carrier Driver - Straddle Carrier (used in loading, unloading and transporting of materials on job site); Oil Distributor Driver or Leverman; Water Wagons (rated capacity) - 3,000 to 5,000 gallons

Group 5: Dumpsters of similar equipment, all sizes; Transit Mix and wet or dry trucks, over 5 cu. yds. and including 7 cu. yds.

Group 6: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains of combinations thereof: over 10 cu. yds. and including 20 cu. yds.; Transit Mix and wet or dry mix truck, over7 cu. yds. and including 9 cu. yds.; Truck Mechanic-Welder - Body Repairman; Water Wagons (rated capacity 5000 to 7000 gallons

TRUCK DRIVERS (Area 3) (Cont'd)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

Group 7: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 20 cu. yds. and including 30 cu. yds.; Transit Mix and wet or dry mix trucks, over 9 cu. yds. and including 11 cu. yds.; Water Wagons (rated capacity), over 7000 gallons to 10,000 gallons

Group 8: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinatins thereof: over 30 cu. yds. and including 40 cu. yds.; Transit Mix and wet or dry mix trucks, over 11 cu. yds. and including 15 cu. yds.; Water Wagons (rated capacity), over 10,000 gallons to 15,000 gallons

Group 9: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combination thereof: over 40 cu. yds. and including 50 cu. yds.; Transit Mix and wet or dry mix trucks, over 13 cu. yds. and including 15 cu. yds.

Group 10: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 50 cu. yds. and including 60 cu. yds.

Group 11: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 60 cu. yds. and including 70 cu. yds.

Group 12: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 70 cu. yds. and including 80 cu. yds.

Group 13: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 80 cu. yds. and including 90 cu. yds.

Group 14: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 90 cu. yds. and including 100 cu. yds.

Drivers and Helpers (handling sacked cement - add $.15 per hour)

Winch Truck - takes classification of Truck on which Winch is mounted.

ZONE WAGE SCALE (AREA 3) ONLY

LABORERS
Goldendale, Longview and Vancouver

POWER EQUIPMENT OPERATORS
Astoria, Goldendale, Hood River, Longview
The Dalles and Vancouver

TRUCK DRIVERS
Astoria, Goldendale, Longview, the Dalles and Vancouver

ZONE A: All jobs or projects located within 10 miles of the respective City Hall

ZONE B: More than 10 miles but less than 25 miles from the City Hall

ZONE C: More than 25 miles but less than 35 miles from the respective City Hall

ZONE D: More than 35 miles but less than 45 miles from the City Hall

ZONE E: More than 45 miles but less than 75 miles from the respective City Hall

ZONE F: More than 75 miles from the respective City Hall

SUPPLEMENTAL DECISION

STATE: Wisconsin

COUNTIES: Green Lake, Marquette, Waupaca, Waushara, & Winnebago

DECISION NUMBER WI77-2117

DATE: Date of Publication

Supersedes Decision WI76-2164, dated December 10, 1976 in 41 FR 54154

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.66	.45	.20	.55+e	.06
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	9.20	.65	.40		.02
CARPENTERS	9.32	.45	.50		.03
CEMENT MASONS	8.70	.65	.40		.02
ELECTRICIANS	10.43	.60	3%		
ELECTRICAL CONTRACTORS:					
Constructors	10.17	.545	.35	4%a+b	.02
Helpers	70%JR	.545	.35	4%a+b	.02
Helpers (Prob.)	50%JR				
IRONWORKERS:					
Entire east part of Co. Inc.					
Lake Winnebago, Kenosha & Neenah	10.06	.95	.70	1.15	.15
Remainder of County	10.22	.50	.25		.03
LATHERS	9.75			.50	
MARBLE SETTERS	9.20	.65	.40		.02
MILLWRIGHTS	9.72	.45	.50		.03
PAINTERS:					
Brush & Structural Steel	8.80	.70	.10		.03
Paperhanging	8.80	.70	.10		.03
Spray & Sandblasting	9.30	.70	.10		.03
PILEDRIVERS	9.72	.45	.50		.03
PLASTERERS	9.20	.65	.40		.02
PLUMBERS AND STEAMFITTERS:					
Townships of Kenosha & Neenah	9.94	.82	1.00	.80	.04
Remainder of County	9.80	.80	.94	.70	.03
ROOFERS	7.46	.60	.45		
SHEET METAL WORKERS	9.87	.60	.44	1.10	.02
SOFT FLOOR LAYERS	9.32	.45	.50		.03
SPRINKLER FITTERS	11.40	.60	.90		.08
TERRAZZO WORKERS	9.20	.65	.40		.02
TILE SETTERS	9.20	.65	.40		.02

DECISION NO. WI77-2117

71 - Wisconsin

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years, and 2% of regular rate for employee who has worked less than 5 years.

e. Includes .04 holidays pay.

DECISION NO. WI77-2117

Wisconsin 15 - Lab

BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
CLASS I	7.88	.30	.30		.02
CLASS II	7.93	.30	.30		.02
CLASS III	8.00	.30	.30		.02

CLASS I - Construction laborers, form stripper, form oiler, form cleaner, dumpmen, pit men, building trucker, plumbers laborer, motorized buggy operator, concrete laborer, air spade and chipping hammer, drag tender and signal man, concrete pump and nozzle man, bituminous worker.

CLASS II - Plasterer tender, hod carrier, dry cement handler, kettlemen, vibrator operator, slacking line, tile setter-helper, core drill operator

CLASS III - Jackhammer operator, drill, gunnitemen, burner on wrecking, air operated concrete/bricaker, sheeting driver, power tamper, fork lift operator jumping jack, terrazzo worker, mortar and plaster mixer, creosote worker, bob cat operator, sand blaster, welder, mud jack operator, precast erector bituminous raker and luteman

DECISION NO. WI-77-2117

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.67	.75	.90		.10
GROUP II	10.42	.75	.90		.10
GROUP III	10.12	.75	.90		.10
GROUP IV	10.02	.75	.90		.10
GROUP V	9.81	.75	.90		.10
GROUP VI	9.57	.75	.90		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, skid rig, derrick operator and traveling crane (bridge type), Concrete paver (over 27E), Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic backhoes Tractor or truck mounted hydraulic crane (5 tons or under), Manlift, tractor (over 40 h.p.), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, tractor, Bulldozer, Endloader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and fireman (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type), Assistant engineer, "A" frame and winch trucks, concrete auto breaker, hydro-hammer (skull), Power street sweeper, Hoists (tuggers), stump chipper (large), Boats, safety work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3" Augers (vertical and horizontal), combination small equipment operator, Air, electric hydraulic jacks, (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

SUPERSEDEAS DECISION

STATE: Wisconsin COUNTY: Juneau
DECISION NUMBER: WI77-2118 DATE: Date of Publication
Supersedes Decision No. WI76-2165, dated December 3, 1976 in 41 FR 53261
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

29-Wisconsin

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
ASBESTOS WORKERS	$10.57	.60	.70	1.00	.01
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	9.70	.40	.25		
CARPENTERS:					
So. of Hwy. #21 & E. of County Trunk SSD					
Carpenters	9.77	.45	.50		.03
Millwrights	10.17	.45	.50		.03
Piledrivermen	10.17	.45	.50		.03
Soft Floor layers	9.77	.45	.50		.03
Camp Douglas, Hustler, Elroy & Vic.:					
Carpenters	9.32	.45	.50		.03
Millwrights	9.72	.45	.50		.03
Piledrivermen	9.72	.45	.50		.03
Soft floor layers	8.30			e	
N.E. section of Co. above Camp Douglas					
Carpenters	9.32	.45	.50		.03
Millwrights & Piledrivermen	9.72	.45	.50		.03
CEMENT MASONS	9.18	.45	.25		
ELECTRICIANS	10.40	.55	1%		
ELEVATOR CONSTRUCTORS (Western ½ of Co.)	10.345	.545	.35	4%+a+b	.02
Elevator Constructors' Helpers (Western ½)	7.24	.545	.35	4%+a+b	.02
Elevator Consructors' Helpers (Prob.)	50%JR				
Elevator Constructors (Eastern ½ of Co.)	10.175	.545	.35	4%+a+b	.02
Elevator Constructors' Helpers	7.12	.545	.35	4%+a+b	.02
Elevator Constructors' Helpers (Prob.)	50%JR				
GLAZIERS	9.15	.40	.30	.45	.01
IRONWORKERS, Structural, ornamental & Reinforcing	10.22	.50	.25		.03
LATHERS	9.05	.45	.20	.50	.01
PAINTERS:					
Brush	7.78		.45		
Structural Steel	8.05		.45		
Swing stage, bos'n chair	8.10		.45		
Spray	8.47		.45		

DECISION NO. WI77-2118

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	9.55				
PLUMBERS & STEAMFITTERS	10.80	.55	.60		.05
ROOFERS	9.32				
SHEET METAL WORKERS	9.82	.50	.30		
TILE SETTERS	8.55	.40	.25		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 2 years

b. Holidays: A through F

d. Employee with 1 year's service - 1 week paid vacation; 3 year's service 2 week paid vacation; 10 year's service - 3 weeks & 20 year's or more service - 4 weeks.

e. Holidays: A through F, providing employee works one year, and the day before and after the holiday. With one year of service employee also received a one-week paid vacation.

DECISION NO. WI77-2118 Wisconsin 16 LAB 1.

LABORERS (BUILDING CONSTRUCTION)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	7.83	.30	.25		.02
GROUP II	7.98	.30	.25		.02
GROUP III	8.08	.30	.25		.02
GROUP IV	8.30	.30	.25		.02
GROUP V	7.50	.30	.25		.02

GROUP I - Building laborers, caisson top men helpers, cement & concrete workers, hand handling of pre-cast concrete decking products, wire, ironworker & blacksmith laborers, wreckers & house movers, form oiler, form cleaner, concrete, dump men, pit men, signal, scaffold builder, clean-up work, railroad work, material conveyor, roofers hoist, powered sweeper, power buggie operation for concrete, tile & Terrazzo worker, for stripper

GROUP II - Drill, jackhammer & all types vibrators, hand carrier hod, handling hot tar & asphalt, kettlemen, mortar & plaster mixer, fork lift operator (masonry work), plaster & concrete pump, roofers, welder & torch work, nozzle man, gunnite man, creosote worker, sandblaster, concrete planer, concrete saw, mudjack, side grinders, wire brushers, roto hammers, air spades & other similar pieces of equipment (gas, electric or air)

GROUP III - Swinging scaffold & chimney work up to 40' above solid-base structure

GROUP IV - Drill operators (tunnel and caisson), tunnel and sewer miners

GROUP V - Flagmen, watchmen & waterboys

DECISION NO. WI77-2118 WIS 1 MED D

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.67	.75	.90		.10
GROUP II	10.42	.75	.90		.10
GROUP III	10.12	.75	.90		.10
GROUP IV	10.02	.75	.90		.10
GROUP V	9.81	.75	.90		.10
GROUP VI	9.57	.75	.90		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile drivers, skid rigs, derrick operator and traveling crane (bridge type), Concrete paver (over 27E), Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p.), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, tractor, Bulldozer, Endloader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type), Assistant engineer, "A" frame and winch trucks, concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, Safety Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3" Augers (vertical and horizontal), combination small equipment operator, Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

NOTICES
42177
42175

SUPERSEDEAS DECISION

STATE: Wisconsin COUNTY: Kenosha
DECISION NUMBER: WI77-2120 DATE: Date of Publication
Supersedes Decision No. WI76-2167, dated December 17, 1976 in 41 FR 55301
DESCRIPTION OF WORK: Building Construction (Including Residential)

30 - Wisconsin

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.57	.60	.70	1.00	.04
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	10.05	.50	.50	.50	
CARPENTERS	10.10	.60	.85		.05
CEMENT MASONS (BUILDING)	8.76	.40	.60	.50	
ELECTRICIANS	12.07	.51	3%	.25	.75%
ELEVATOR CONSTRUCTORS:					
Constructors	11.17	.545	.35	4%+a+b	.02
Helpers	7.82	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
IRONWORKERS: Structural & Ornamental & reinforcing	10.06	.95	.70	1.15	.15
MILLWRIGHTS	10.36	.60	.85		.05
LATHERS	8.23	.40	1.45		
PAINTERS:					
Brush & Roller	9.025	.40	.40		
Structural Steel	9.175	.40	.40		
Spray	9.77	.40	.40		
Swing Stage	9.225	.40	.40		
PILEDRIVERMEN	10.18	.60	.85		.05
PLASTERERS	8.80	.40	.40		
PLUMBERS & STEAMFITTERS	10.97	.50	.40	.95+c	
ROOFERS	9.62	.40	.15		
SOFT FLOOR LAYERS-Resilient floor layers	10.10	.60	.85		.05
TERRAZZO WORKERS	9.42	.80	.60	.47	
TILE SETTERS	8.58	.50	.50	.50	
SHEET METAL WORKERS	9.93	.40	.77	1.15	.02
Welders - receive rate prescribed for operation to which welding is incidental.					

DECISION NO. WI77-2120

PAID HOLIDAYS:
a-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holiday, A through F

b. Employer contributes 4% of regular hourly rate to Vacaitpn Pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years

c. Holidays: A through F plus Christmas Eve, the day after Thanksgiving and Good Friday.

Wisconsin 20 - LAB-1

BUILDING CONSTRUCTION LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers, Mason Tenders	$ 8.10	.50	.70	.70	
Plaster tender	8.25	.50	.70	.70	
Air, electric & gas tool operator	8.40	.50	.70	.70	
Jack hammer, fork lift, buggies	8.80	.50	.70	.70	

DECISION NO. WI77-2120

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.67	.75	.90		.10
GROUP II	10.42	.75	.90		.10
GROUP III	10.12	.75	.90		.10
GROUP IV	10.02	.75	.90		.10
GROUP V	9.81	.75	.90		.10
GROUP VI	9.57	.75	.90		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, skid rigs, derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor.

GROUP II - Material hoists, Tractor or truck mounted hydraulic backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p.), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete hatch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, tractor, Bulldozer, End-loader (under 40 h.p.), Pumps (well points), Trenchet (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type), Assistant engineer, "A" frame and winch trucks, concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, safety Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3" Augers (vertical and horizontal), combination small equipment operator, Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

SUPERSEDEAS DECISION

STATE: WISCONSIN — COUNTIES: La Crosse, Monroe & Vernon
DECISION NUMBER WI77-2121 — DATE: Date of Publication
Supersedes Decision No. WI76-2155, dated November 26, 1976 in 41 FR 52280
DESCRIPTION OF WORK: Building Construction and Residential Construction in Lacrosse County Only.

32 - Wisconsin A

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.57	.60	.70	1.00	.04
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONMASNS	9.70	.40	.25		
CARPENTERS:					
Carpenters	9.32	.45	.50		.03
Millwrights & Piledrivermen	9.72	.45	.50		.03
Carpenters (Residential)	5.55	.45	.30		.03
CEMENT MASONS	9.18	.45	.25		
ELECTRICIANS	10.40	.55	1%		
ELEVATOR CONSTRUCTORS:					
Constructors	10.345	.545	.35	4%+b+c	.02
Helpers	7.24	.545	.35	4%+b+c	.02
Helpers (Prob.)	50%JR				
GLAZIERS	9.15	.40	.30	.45	.01
IRONWORKERS (all but N.W. corner of Co.):					
Structural, ornamental & reinforcing	10.22	.50	.25		.03
LATHERS	9.55		.15		.01
LEAD BURNERS	10.50	.35			.01
PAINTERS:					
Brush	7.78		.45		
Structural Steel	8.05		.45		
Swing Stage	8.10		.45		
Spray and Sandblasting	8.47		.45		
PLASTERERS	9.55				
PLUMBERS:					
Plumbers & Steamfitters	10.80	.55	.60		.05
ROOFERS:					
Roofers	10.07			3%+.10	
SHEET METAL WORKERS	9.82	.50	.30		
SOFT FLOOR LAYERS	8.30				
TERRAZZO WORKERS & TILE SETTERS	8.70	.40	.25		

DECISION NO. WI77-2121

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Building	$ 7.37	e			
Dump truck drivers on excava. & grading	6.72	e			
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day: D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays; A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years, and 2% of rate for employee who has worked less than 5 years.

c. Holidays, A thru F plus Washington's Birthday, Good Friday and Christmas eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regularly scheduled work days immdiately

d. Holidays: A through f, providing employee works one year, and the day before and after the holiday. With one year of service employee also receives a one-week paid vavation.

e. $64.00 a month welfare.

DECISION NO. WI77-2121

Wisconsin 16 LAB

LABORERS (BUILDING CONSTRUCTION)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	7.83	.30	.25		.02
GROUP II	7.98	.30	.25		.02
GROUP III	8.08	.30	.25		.02
GROUP IV	8.38	.30	.25		.02
GROUP V	7.50	.30	.25		.02

GROUP I - Building laborers, caisson top men helpers, cement & concrete workers, handling of pre-cast concrete decking products, wire ironworkers & blacksmith laborers, wreckers & house movers, form oiler, form cleaner, concrete, dump men, pit men, signal men, scaffold builder, clean-up work, railroad work, material conveyor, roofers hoist, powered sweeper, power buggie operation for concrete, tile & terrazzo laborer, form stripper
GROUP II - Drill, jackhammer & all types vibrators, hand carrier hod, operator (masonry work), plaster & concrete pump, roofers, welders & torch work, nozzle man, gunnite man, creosote worker, sandblaster, concrete planer, concrete saw operator, side grinders, wire brushers, roto hammers, air spades & other similar pieces of equipment (gas, electric or air)
GROUP III - Swinging scaffold & chimney work up to 40' above solid-base structure
GROUP IV - Drill operators (tunnel and caisson), tunnel and sewer miners
GROUP V - Flagmen, watchmen & waterboys

DECISION NO. WI77-2121

WIS 1 PEO

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.67	.75	.90		.10
GROUP II	10.42	.75	.90		.10
GROUP III	10.12	.75	.90		.10
GROUP IV	10.02	.75	.90		.10
GROUP V	9.81	.75	.90		.10
GROUP VI	9.57	.75	.90		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, Skid rigs, Derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor
GROUP II - Material hoists, Tractor or truck mounted hydraulic Backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tonn), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)
GROUP III - Concrete and grout pumps, Backfillers, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (145 or over), Screw type pumps, and gypsum pumps, Tractor, Bulldozer, Endloader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and Firemen (pile drivers and derricks)
GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type), Assistant engineer, "A" frame and winch trucks, Concrete auto breaker, hydro-hammer (small)), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, Safety, Work, Barges and launch)
GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), Air compressor (300 CFM or over)
GROUP VI - Generators over 15 KW, Pumps over 3", Augers (vertical and horizontal), combination small equipment operator; Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and greaser, Boiler operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

UMI

SUPERSEDEAS DECISION

STATE: Wisconsin COUNTIES: Langlade, Lincoln & Marathon
DECISION NO.: WI77-2122 DATE: Date of Publication
Supersedes Decision No. WI76-2166, dated December 17, 1976 in 41 FR 55303
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories)

37 - Wisconsin

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.00	.60	.50	.65+c	.05
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	9.30	.65	.30		.04
CARPENTERS	9.32	.45	.50		.03
Millwrights & Piledrivermen	9.72	.45	.50		.03
CEMENT MASONS	8.80	.65	.30		.04
ELECTRICIANS	10.20	.45	3%	0%	1/0%
ELEVATOR CONSTRUCTORS:					
Construction	10.04	.545	.35	4%+a+b	.02
Helpers	7.03	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
IRONWORKERS: Structural, Ornamental and Reinforcing	10.22	.50	.25		.03
LABORERS:					
Laborers	7.88	.30	.30		.02
Air tool op. (jackhammer, vibrator)	8.08	.30	.30		.02
Mason tender and concrete worker	7.93	.30	.30		.02
Mortar mixers	7.93	.30	.30		.02
Building wrecker, form stripper and scaffold builder	7.88	.30	.30		.02
Kettle, concrete buster & gunnite men	8.08	.30	.30		.02
LATHERS (Southeastern corner of County)	8.35	.40	.50	.50	
Lathers (Western ½ of County)	10.00				
Lathers (Remainder of County)	8.15	.50		.50	
PAINTERS:					
Brush	9.00				
Spray & Structural Steel	9.50				
PLASTERERS	9.30	.65	.30		.04
PLUMBERS	11.18	.70	.35	b	
ROOFERS	9.00				
SHEET METAL WORKERS	10.48	.45	.38		.02
SOFT FLOOR LAYERS - Resilient floor layers	9.32	.45	.50		.03
SPRINKLER FITTERS	11.65	.65	.95		.08
STEAMFITTERS	11.18	.70	.35	b	
TERRAZZO WORKERS	9.05	.65	.30		.04
TILE SETTERS	9.05	.65	.30		.04

PAGE 2 PAGE 3

DECISION NO. WI77-2122

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% of regular hourly rate to vacation pay credit for employer who has worked in business more than 5 years. Employer contributes 2% of regularhourly rate to vacation pay credit for employee who has worked in business less than 5 years.

b. Holidays: A through F

c. Includes .15 Holiday pay.

d. 1 week's vacation after 1 year's employment

e. $30.67 per month for each employee

DECISION NO. WI77-2122

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.67	.75	.90		.10
GROUP II	10.42	.75	.90		.10
GROUP III	10.12	.75	.90		.10
GROUP IV	10.02	.75	.90		.10
GROUP V	9.81	.75	.90		.10
GROUP VI	9.57	.75	.90		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, Skid rigs, Derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor
GROUP II - Material hoists, Tractor or truck mounted hydraulic Backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)
GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, Tractor, Bulldozer, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)
GROUP IV - Hoists (automatic); Forklift (12' to 25'), Tampers-compactors riding type),Assistant engineer, "A" frame and winch trucks, Concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, Safety, Work, Barges and launch)
GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), Air compressor (300 CFM or over)
GROUP VI - Generators over 15 KW, Pumps over 3", Augers (vertical and horizontal), combination small equipment operator; Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric),Oiler and greaser, Boiler operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

SUPERSEDEAS DECISION

STATE: Wisconsin COUNTY: Racine
DECISION NO.: WI77-2124 DATE: Date of Publication
Supersedes Decision No. WI76-2169, dated December 28, 1976, in 41 FR 56620
DESCRIPTION OF WORK: Building and Residential Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.57	.60	.70	1.00	.04
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	10.05	.50	.50	.50	.02
CARPENTERS (West of Hwy. #75)					
Carpenters and Soft Floor Layers	10.28	.50	.50		.07
Millwrights	10.80	.50	.50		.07
Carpenters (Residential) West of Hwy. #75	6.92	.50	.50		.07
CARPENTERS (Balance of County)					
Carpenters and Soft Floor Layers	10.10	.60	.85		.03
Millwrights	10.36	.60	.85		.03
Piledrivermen	10.18	.60	.85		.03
CEMENT MASONS	9.26	.50	.50		.02
ELECTRICIANS (Burlington)	10.70	.45	3%	7%	4%
Electricians (Burlington) Residential	6.80	.45	3%	7%	.25%
ELECTRICIANS (Blance of county)	12.27	.55	3%		3/4 of 1%
ELEVATOR CONSTRUCTORS:					
Constructors	11.17	.545	.35	4%+a+b	.02
Helpers	7.82	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
IRONWORKERS	10.06	.95	.70	1.15	.15
LABORERS:					
Laborers	8.10	.40	.60	.20	
Air Tool Operators (Jackhammer)	8.42	.40	.60	.20	
Mason Tender	8.23	.40	.60	.20	
Mortar Mixer and Plasterers' Tender	8.23	.40	.60	.20	
Vibrator Operator	8.42	.40	.60	.20	
LATHERS	8.23	.40	1.45		.01
PAINTERS:					
Brush	9.20	.40	.60		.05
Structural Steel	9.35	.40	.60		.05
Spray	9.95	.40	.60		.05
PLASTERERS	9.55	.40	.50		
PLUMBERS AND STEAMFITTERS	10.93	.40	.60	.89	
ROOFERS	9.62	.40	.15		
PILEDRIVERMEN (West of Hwy #75)	10.43	.50	.50		.04
SHEET METAL WORKERS	9.93	.40	.77	1.15	
SPRINKLER FITTERS	11.65	.65	.95		.08
TERRAZZO WORKERS	9.42	.80	.60	.47	.07
TILE SETTERS	8.88	.40	.40		.02

PAGE 2 PAGE 3

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employer who has worked in business more than 5 years. Employer contributes 2% if regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Holidays, A thru F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the Holiday, and the regularly scheduled work days immediately preceding and following the holidays.

DECISION NO. WI77-2124

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.67	.75	.90		.10
GROUP II	10.42	.75	.90		.10
GROUP III	10.12	.75	.90		.10
GROUP IV	10.02	.75	.90		.10
GROUP V	9.81	.75	.90		.10
GROUP VI	9.57	.75	.90		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, Skid rigs, Derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor
GROUP II - Material hoists, Tractor or truck mounted hydraulic backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p.), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)
GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, tractor, Bulldozer, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)
GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type), Assistant engineer, "A" frame and winch trucks, concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, Safety Work, Barges and launch)
GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), air compressor (300 CFM or over)
GROUP VI - Generators over 15 KW, Pumps over 3" Augers (vertical and horizontal), combination small equipment operator, Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

[FR Doc.77-23789 Filed 8-18-77;8:45 am]

dial·a·reg



For an advance "look" at the FEDERAL REGISTER, try our new information service. A recording will give you selections from our highlights listing of documents to be published in the next day's issue of the FEDERAL REGISTER.

AREA CODE 202

523·5022

V42 1 61 AUG 19 77 UMI

162

Vol.42—No.162
8–22–77
PAGES
42185–42297

federal register

MONDAY, AUGUST 22, 1977

highlights

SUNSHINE ACT MEETINGS 22288

MILITARY ASSISTANCE FOR AFRICAN COUNTRIES
Presidential determination 42185

VOCATIONAL REHABILITATION RESEARCH AND DEMONSTRATION GRANTS
HEW/OHD announces new closing date of 9–15–77 for receipt of applications 42253

DOMESTIC PASSENGER FARES
CAB solicits views on need for modification of investigation policies; comments by 9–21–77; reply comments by 10–6–77 42229

CURRENCY AND FOREIGN TRANSACTIONS
Treasury modifies reporting requirement 42276

LOW INCOME HOUSING
HUD amends New Construction and Substantial Rehabilitation Program regulations; effective 8–22–77 (Part II of this issue) 42291

FLIGHT OPERATIONS
DOT/FAA amends altitude alerting system requirements; effective 9–21–77 42187

TRANSPORTATION OF HAZARDOUS MATERIALS
DOT/MTB amends shipping and packaging regulations; effective 8–22–77 42206

LNG FACILITIES
DOT/MTB extends comment period to 12–1–77 on Federal safety standards 42235

ENDANGERED SPECIES
Endangered Species Scientific Authority issues policy statement on imports (Part III of this issue) 42295

SMALL BUSINESS SET-ASIDES
HUD proposes increase in range; comments by 9–22–77 .. 42234

NUCLEAR REACTORS
NRC issues new guide on equipment for light-water-cooled plants 42228

FLIGHT AND COCKPIT VOICE RECORDERS
DOT/FAA lifts requirements for certain large airplanes; effective 9–21–77 42194

CONTINUED INSIDE

V42 162 AUG 22 77 UM

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202–523–5240.**

FEDERAL REGISTER, Daily Issue:	
Subscription orders (GPO)	202–783–3238
Subscription problems (GPO)	202–275–3050
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	202–523–5022
Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227

PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235
PUBLIC LAWS:	
Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

1977 COD QUOTA
Interior/FWS announces closing of commercial directed fishery outside Gulf of Maine ... 42243

INTERNATIONAL TRADE IN NON-RUBBER FOOTWEAR
Office of Special Representative for Trade Negotiations publishes letters on agreements between U.S. and Republics of China and Korea ... 42268

FEDERAL TRADE NEGOTIATIONS
FTC abolishes informal enforcement procedure; effective 8–22–77 ... 42195

PRIVATE LAND MOBILE BROADCASTING SERVICES
FCC allocates several 150–174 MHz band "splints" and "offset" channels for remote control and telemetry operations; effective 9–6–77 ... 42200

AIR BRAKE SYSTEMS STANDARD
DOT/NTHSA adds certain oversized and specialized vehicles to list of exclusions; effective 8–22–77 ... 42208

U.S./CANADA RECIPROCAL FISHERIES AGREEMENT
Commerce/NOAA adopts catch data maintenance and availability requirements; effective 8–17–77 ... 42216

FEDERAL ADP STANDARDS
Commerce/NBS solicits comments by 10–21–77 on I/O Channel Interface standard ... 42242

INCOME TAX
Treasury/IRS issues temporary regulations relating to amounts at risk with respect to certain activities ... 42197

LABELING AND ADVERTISING OF WINE
Treasury/ATF proposes standards of fill; comments by 10–21–77 ... 42230

MEETINGS—
DOD/AF: USAF Scientific Advisory Board, 9–14 and 9–27–77 (2 documents) ... 42243
DOT/CG: Chemical Transportation Industry Advisory Committee, Subcommittee on Ships' Stores, 9–7–77 ... 42275
FAA: Radio Technical Commission for Aeronautics (RCTA) Executive Committee, 9–16–77 ... 42275
Radio Technical Commission for Aeronautics (RTCA) Special Committee 133, 9–28–77 ... 42275
HEW: Federal Council on Aging, 9–14 thru 9–16–77 ... 42253
OE: National Advisory Council on Vocational Education, 9–22–23 ... 42253
NRC: Advisory Committee on Reactor Safeguards, 9–8 through 9–10–77 ... 42266
Advisory Committee on Reactor Safeguards, Subcommittee on Reactor Safety Research, 9–7–77 ... 42262
Advisory Committee on Reactor Safeguards Working Group 6 of the Subcommittee on Reactor Safety Research, 9–7–77 ... 42263
Advisory Committee on Reactor Safeguards Subcommittee on Regulatory Activities, 9–7–77 ... 42264
State: Advisory Committee on the Law of the Sea, 9–9–77 ... 42274
Shipping Coordinating Committee Subcommittee on Safety of Life at Sea, 9–13–77 (2 documents) ... 42274, 42275
Study Group 5 of the U.S. National Committee of the International Telegraph and Telephone Consultative Committee (CCITT), 9–15–77 ... 42274
USDA/AMS: Shippers Advisory Committee, 9–8–77 ... 42239

SEPARATE PARTS OF THIS ISSUE
Part II, HUD ... 42291
Part III, Endangered Species Scientific Authority ... 42295

V 42 162 AUG 22 77 UM

contents

THE PRESIDENT

Memorandums

African countries; military assistance ---------- 42185

EXECUTIVE AGENCIES

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notices

Pest management program; interim procedures, etc ---------- 42272

AGRICULTURAL MARKETING SERVICE

Proposed Rules

Almonds grown in Calif. (2 documents) ---------- 42227
Hops, domestic ---------- 42227

Notices

Meetings:
Shippers Advisory Committee ---------- 42239

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Soil Conservation Service.

AIR FORCE DEPARTMENT

Notices

Meetings:
Scientific Advisory Board (2 documents) ---------- 42243

ALCOHOL, TOBACCO AND FIREARMS BUREAU

Proposed Rules

Explosives, commerce in:
Recordkeeping and storage requirements, etc.; correction ---------- 42233
Wine labeling and advertising:
Fill standards ---------- 42230

ANTITRUST DIVISION, JUSTICE DEPARTMENT

Notices

Competitive impact statements and proposed consent judgments; U.S. versus listed companies:
Alameda County Veterinary Medical Association ---------- 42258

CIVIL AERONAUTICS BOARD

Proposed Rules

Policy statements:
Domestic passenger-fare structure; inquiry ---------- 42229

Notices

Handicapped transportation; joint air carrier discussion petition ---------- 42241

Hearings, etc.:
Alaska fares investigation ---------- 42239
Cleveland/San Diego nonstop proceeding ---------- 42240
Daetwyler Airfreight Corp ---------- 42239

COAST GUARD

Rules

Drawbridge operations:
New York ---------- 42199

Proposed Rules

Drawbridge operations:
Michigan ---------- 42234

Notices

Meetings:
Chemical Transportation Industry Advisory Committee ---------- 42275

COMMERCE DEPARTMENT

See Maritime Administration; National Oceanic and Atmospheric Administration.

CONSUMER PRODUCT SAFETY COMMISSION

Rules

Architectural glazing materials; safety standards; laminated glass; temporary stay of effective date ---------- 42195

DEFENSE DEPARTMENT

See Air Force Department.

EDUCATION OFFICE

Notices

Applications and proposals, closing dates:
Pinpoint disaster assistance; correction ---------- 42253
Meetings:
Vocational Education National Advisory Council ---------- 42253

ENDANGERED SPECIES SCIENTIFIC AUTHORITY

Notices

Animal and plant imports:
International Trade in Endangered Species of Wild Fauna and Flora, Convention; general findings ---------- 42295

ENVIRONMENTAL PROTECTION AGENCY

Rules

Air quality implementation plans; various States, etc.:
California ---------- 42219
Massachusetts ---------- 42218

Notices

Air quality criteria for atmospheric lead; External Review Draft No. 3, availability ---------- 42244
Pesticide applicator certification and interim certification; State plans:
Nebraska ---------- 42244

FEDERAL AVIATION ADMINISTRATION

Rules

Air carriers certification and operations:
Domestic, flag, and supplemental air carriers and commercial operators of large aircraft; flight recorders and cockpit voice recorders ---------- 42194
Air traffic operating and flight rules and definitions:
Altitude alerting system; aural warning ---------- 42187
Airworthiness directives:
AiResearch ---------- 42190
Avco Lycoming ---------- 42192
British Aircraft ---------- 42188
Hartzell ---------- 42191
McCauley ---------- 42189
Control zones ---------- 42194
Transition areas (3 documents) ---------- 42192–42194

Proposed Rules

Transition areas ---------- 42228

Notices

Meetings:
Aeronautics Radio Technical Commission (2 documents) ---------- 42275
Organization and functions:
Flight service station, Livingston, Mont.; reduction of hours ---------- 42275

FEDERAL COMMUNICATIONS COMMISSION

Rules

Public safety radio services and industrial radio services:
"Splinter" and "offset" channels for remote control and telemetry operations ---------- 42200

FEDERAL MARITIME COMMISSION

Notices

Freight forwarder licenses:
Brie International ---------- 42244
Agreements filed, etc.:
Compagnie Generale Maritime et al ---------- 42245

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
Consolidated Gas Supply Corp.; correction ---------- 42245
Sun Oil Co ---------- 42245
Westerman, H. G., et al ---------- 42246

FEDERAL RAILROAD ADMINISTRATION

Notices

Petitions for exemptions, etc.:
Consolidated Rail Corp ---------- 42275

FEDERAL RESERVE SYSTEM

Notices

Board actions; applications and reports ---------- 42247
Applications, etc.:
Manchester Financial Corp ---------- 42249
Royal Trustco Ltd ---------- 42251

FEDERAL TRADE COMMISSION

Rules

Procedures and practice rules:
Non-adjudicative procedures; informal enforcement ---------- 42195

FISH AND WILDLIFE SERVICE

Rules

Hunting:
Ankeny National Wildlife Refuge, Oreg., et al ---------- 42213
Browns Park National Wildlife Refuge, Colo. (2 documents) ---------- 42210, 42211
Conboy Lake National Wildlife Refuge, Wash., et al ---------- 42211
Deer Flat National Wildlife Refuge, Idaho, et al ---------- 42215
J. Clark Salyer National Wildlife Refuge, N. Dak ---------- 42212
Quivera National Wildlife Refuge, Kans. (2 documents) ---------- 42213, 42215

Notices

Endangered and threatened species permits; applications ---------- 42256

GENERAL ACCOUNTING OFFICE

Notices

Regulatory reports review; proposals, approvals, etc ---------- 42252

GENERAL SERVICES ADMINISTRATION

Notices

Property management regulations, temporary:
Authority delegation to Defense Department Secretary (3 documents) ---------- 42252

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Education Office; Human Development Office; National Institute of Education.

Notices

Information collection and data acquisition activity, description; inquiry ---------- 42253
Meetings:
Aging Federal Council ---------- 42253

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Rules

Low income housing:
Housing assistance payments; new construction and substantial rehabilitation programs ---------- 42291

Proposed Rules

Procurement; contracts, construction; small business setasides ---------- 42234

HUMAN DEVELOPMENT OFFICE

Notices

Vocational rehabilitation, research and demonstrations; applications and closing dates; extension of time ---------- 42253

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Land Management Bureau.

Notices

Financial interest statements:
Collins, Harley L ---------- 42256
Cooper, Winston M ---------- 42256
Galanes, Carlos V ---------- 42257
Garlinghouse, Lester E ---------- 42257
Hale, Kenneth M ---------- 42257
Henne, William P ---------- 42257
Hulsey, Bill C ---------- 42257
Kent, Maurice H ---------- 42257
Loveless, Leon ---------- 42257
Marchetti, Robert J ---------- 42257
Spencer, Keith E ---------- 42257
Treffinger, Fred M ---------- 42257
Whitmire, Charles N ---------- 42258
Winfree, Robert W ---------- 42258

INTERNAL REVENUE SERVICE

Rules

Income taxes:
Amounts at risk respecting certain activities ---------- 42197
Foreign base company shipping income ---------- 42198

INTERSTATE COMMERCE COMMISSION

Notices

Hearing assignments ---------- 42276
Motor carriers:
Temporary authority applications (2 documents) ---------- 42276, 42281
Transfer proceedings ---------- 42285

JUSTICE DEPARTMENT

See Antitrust Division.

LAND MANAGEMENT BUREAU

Rules

Public land orders:
California ---------- 42199

Notices

Withdrawal and reservation of lands, proposed, etc.:
Florida ---------- 42255

MARITIME ADMINISTRATION

Notices

Applications, etc.:
Equity Carriers, Inc ---------- 42242
Foreign construction cost computations:
Self-propelled barge vessel; MA design C2-MTR-125a ---------- 42242
Trustees, applicants approved:
Republic National Bank of Dallas, Tex ---------- 42241

MATERIALS TRANSPORTATION BUREAU

Rules

Shippers and shipping container specifications:
Exemptions, individual; conversion to regulations of general applicability ---------- 42206

Proposed Rules

Liquefied natural gas facilities; Federal safety standards; inquiry; listing of source material and extension of time ---------- 42235

MONETARY OFFICES

Notices

Currency and foreign transactions; financial recordkeeping and reporting, modified filing procedure ---------- 42276

NATIONAL BUREAU OF STANDARDS

Notices

Information processing standards, Federal:
I/O channel interface; specifications and inquiry ---------- 42242

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Rules

Motor vehicle safety standards:
Brake systems, air; additions to category of exclusions from standard applicability ---------- 42208

NATIONAL INSTITUTE OF EDUCATION

Notices

Committees; establishment, renewals, etc.:
Laboratory and Center Operations Review Panel ---------- 42255

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Rules

Fishery conservation and management:
International agreements; Canadian agreement ---------- 42216
Regional Fishery Management Councils and fishery management plans development, etc.; extension of time ---------- 42216

Notices

Season closures; commercial directed fisheries:
Cod; U.S. quota reached ---------- 42243

NUCLEAR REGULATORY COMMISSION

Proposed Rules

Plants and materials, physical protection:
Nuclear material, fuel cycle facilities, transportation, etc.; performance oriented safeguards; extension of time ---------- 42228

Notices

Meetings:
Reactor Safeguards Advisory Committee (5 documents) ---------- 42262–42264, 42266, 42267
Regulatory guides; issuance and availability (2 documents) ---------- 42261, 42262

Applications, etc.:
Baltimore Gas & Electric Co ---------- 42264
Commonwealth Edison Co ---------- 42262
Florida Power & Light Co ---------- 42261
Indiana & Michigan Electric Co ---------- 42265
Nebraska Public Power District ---------- 42265
Power Authority of State of New York ---------- 42261
Toledo Edison Co. et al ---------- 42261

RAILROAD RETIREMENT BOARD

Notices

Railroad retirement supplemental annuity program; determination of quarterly rate of excise tax ---------- 42271

SECURITIES AND EXCHANGE COMMISSION

Rules

Securities Act and Investment Company Act:
Interpretative releases; withdrawal of undertaking required ---------- 42196

V 42 162 AUG 22 77 UM

CONTENTS

Notices

Self-regulatory organizations; proposed rule changes:
National Association of Securities Dealers, Inc. (2 documents) ---- 42272
Hearings, etc.:
Central power & Light Co---- 42271
Midwest Stock Exchange, Inc-- 42272

SOIL CONSERVATION SERVICE

Notices

Environmental statements on watershed projects; availability, etc.:
Mate Creek, W. Va---- 42239

STATE DEPARTMENT

See also Agency for International Development.

Notices

Meetings:
International Telegraph and Telephone Consultative Committee ---- 42274
Law of the Sea Advisory Committee ---- 42274
Meetings:
Shipping Coordinating Committee (2 documents) ---- 42274, 42275

TRADE NEGOTIATIONS, OFFICE OF SPECIAL REPRESENTATIVE

Notices

Marketing agreements; U.S. and listed countries:
Footwear, non-rubber; Republics of China and Korea---- 42268

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration; Federal Railroad Administration; Materials Transportation Bureau; National Highway Traffic Safety Administration.

TREASURY DEPARTMENT

See Alcohol, Tobacco and Firearms Bureau; Internal Revenue Service; Monetary offices.

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR

Memorandums:
August 12, 1977---- 42185

7 CFR

PROPOSED RULES:
981 (2 documents)---- 42227
991---- 42227

10 CFR

PROPOSED RULES:
73---- 42228

14 CFR

1---- 42187
39 (5 documents)---- 42188–42192
71 (4 documents)---- 42192–42194
91---- 42187
121---- 42194
135---- 42194
PROPOSED RULES:
71---- 42228
399---- 42229

16 CFR

2---- 42195

16 CFR—Continued

4---- 42195
1201---- 42195

17 CFR

231---- 42196
271---- 42196

24 CFR

880---- 42292
881---- 42292

26 CFR

7---- 42197
9---- 42198

27 CFR

PROPOSED RULES:
4---- 42230
181---- 42233

33 CFR

117---- 42199
PROPOSED RULES:
117---- 42234

40 CFR

52 (2 documents)---- 42218, 42219

41 CFR

PROPOSED RULES:
24–1---- 42234

43 CFR

PUBLIC LAND ORDERS:
5622---- 42199

47 CFR

2---- 42203
89---- 42203
91---- 42203

49 CFR

173---- 42206
178---- 42206
571---- 42208
PROPOSED RULES:
193---- 42235

50 CFR

32 (8 documents)---- 42210–42215
601---- 42216
602---- 42216
680---- 42216

CUMULATIVE LIST OF PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR

Ch. I---- 38891

3 CFR

EXECUTIVE ORDERS:
12006---- 39081

MEMORANDUMS:
January 2, 1973 (Amended by Memorandum of August 1, 1977)---- 40169
April 26, 1973 (See Memorandum of August 1, 1977)---- 40169
December 13, 1973 (See Memorandum of August 1, 1977)---- 40169
October 29, 1974 (See Memorandum of August 1, 1977)---- 40169
May 20, 1975 (See Memorandum of August 1, 1977)---- 40169
August 5, 1975 (See Memorandum of August 1, 1977)---- 40169
March 25, 1976 (Superseded by Memorandum of August 1, 1977)---- 40169
April 14, 1976 (See Memorandum of August 1, 1977)---- 40169
November 5, 1976 (See Memorandum of August 1, 1977)---- 40169
November 19, 1976 (Supplemented by Memorandum of July 21, 1977)---- 41401
July 20, 1977---- 39083
July 21, 1977---- 41401
August 1, 1977---- 40169
August 5, 1977---- 40171
August 12, 1977---- 42185

4 CFR

105---- 38891

5 CFR

213---- 39085, 39657, 40173–40175, 40215, 40866, 40867, 41265–41267, 41813, 41814
713---- 40175
PROPOSED RULES:
890---- 41866

7 CFR

2---- 39669
27---- 40677
68---- 40868
318---- 41267
354---- 41267
406---- 39953
409---- 39956
650---- 40114
725---- 40881
905---- 40882
908---- 38892, 39359, 39959, 40678, 41095, 41603
910---- 39085, 39359, 39669, 40882, 41814
918---- 40883
922---- 41268
926---- 40678
927---- 39670
929---- 40679
944---- 40885
945---- 40886
946---- 39671
947---- 41403
948---- 39360
958---- 39360
967---- 39361

7 CFR—Continued

980---- 40175
1011---- 40888
1040---- 41603
1205---- 41404
1421---- 40175–40185, 41269
1425---- 40187
1427---- 40421
1443---- 41269
1473---- 41269
1479---- 41269
1821---- 39085, 41815
1822---- 39361, 39362, 40679
1832---- 41815
1980---- 39362, 41816
2024---- 40680
2852---- 41843
2858---- 41846
PROPOSED RULES:
220---- 40911
780---- 39223
917---- 39989
919---- 41431
926---- 41130
927---- 41644
929---- 39989
931---- 41866
945---- 39395
946---- 38913
967---- 39108, 41431
981---- 42227
989---- 41867
991---- 42227
993---- 39672, 41644
1002---- 41582
1006---- 38913
1011---- 39108
1012---- 38913
1013---- 38913
1097---- 41873
1102---- 41873
1108---- 41873
1133---- 40216
1435---- 40216

8 CFR

235---- 41847
242---- 38892
PROPOSED RULES:
108---- 39672

9 CFR

82---- 39658
92---- 41848
112---- 41849
160---- 41850
161---- 41850
325---- 39086
PROPOSED RULES:
1---- 42044
3---- 42044
51---- 40911
381---- 41873

10 CFR

0---- 38893
71---- 39364
Ch. II---- 41095
202---- 41269
210---- 39959
211---- 39959, 41566
212---- 38894, 39195, 39959, 41566
213---- 39087

10 CFR—Continued

430---- 39964
460---- 41270
PROPOSED RULES:
73---- 42228
205---- 41242
210---- 40915
211---- 39914, 39395, 39990, 40448, 40915, 41242
212---- 39114, 40915, 41242, 41396, 41572
430---- 39114, 39673, 40217, 40701, 40826
450---- 41645

12 CFR

7---- 39969
202---- 39368, 40424
207---- 41604
220---- 41604
221---- 41604
224---- 41604
226---- 40424
329---- 40425
343---- 40891
505---- 39368
545---- 39088
563---- 39198
563b---- 39088
701---- 39369
PROPOSED RULES:
308---- 41130
311---- 41130
564---- 39115

13 CFR

120---- 40900
123---- 39970
301---- 39970
317---- 38896
PROPOSED RULES:
107---- 39992

14 CFR

1---- 41101, 42187
39---- 38896–38900, 39373–39377, 39971, 39972, 41102–41106, 41622–41625, 42188–42192
45---- 41101
71---- 38901, 39378, 39379, 39972–39976, 40690–40693, 41107–41113, 41625–41627, 42192–42194
73---- 39379, 41113
75---- 39379
91---- 42187
97---- 39380, 41114, 41627
121---- 42194
135---- 42194
1204---- 41628
PROPOSED RULES:
25---- 41236
39---- 38917, 41131–41133, 41647
71---- 38917, 39993, 39994, 40710, 40711, 41134–41137, 41648, 42228
75---- 38917, 40711
121---- 41649
123---- 41649
135---- 41649
241---- 39115
245---- 39115
246---- 39115

V 42 162 AUG 22 77 UM

14 CFR—Continued

PROPOSED RULES—Continued
- 378 — 40450
- 399 — 42229

15 CFR
- 46 — 39976
- 70 — 38901

PROPOSED RULES:
- 904 — 40711

16 CFR
- 2 — 39658, 42195
- 3 — 39658, 39977
- 4 — 42195
- 13 — 39198, 40681
- 18 — 39660
- 22 — 39660
- 27 — 41270
- 35 — 39660
- 47 — 39660
- 66 — 39660
- 105 — 39660
- 138 — 39660
- 177 — 39660
- 191 — 39660
- 206 — 39660
- 226 — 39660
- 433 — 40426
- 702 — 39381
- 1025 — 39089
- 1026 — 39089
- 1201 — 40188

PROPOSED RULES:
- 13 — 40714, 41297, 41431, 41649, 41874
- 441 — 39995
- 453 — 41651
- 705 — 39223
- 801 — 39040, 39995, 41875
- 802 — 39040, 39995, 41875
- 803 — 39040, 39995, 41875
- 1500 — 39648
- 1605 — 39402

17 CFR
- 140 — 39033
- 200 — 40189, 40900
- 231 — 42196
- 239 — 40900, 41405
- 240 — 38902, 39090, 40900, 41405
- 241 — 41022
- 249 — 40902
- 270 — 41405
- 271 — 42196

PROPOSED RULES:
- 1 — 39036
- 210 — 41433
- 211 — 41433
- 230 — 41875
- 231 — 41434
- 239 — 41139
- 240 — 41138, 41434
- 241 — 41434
- 270 — 41139
- 274 — 41139

18 CFR
- 1 — 40191
- 3 — 40191, 41276
- 4 — 40191
- 5 — 40191
- 6 — 40191
- 16 — 40191
- 35 — 39660, 41277
- 101 — 39661

18 CFR—Continued
- 104 — 39661
- 141 — 39661
- 154 — 41276, 41277
- 157 — 39090, 41276
- 201 — 39661
- 204 — 39661
- 260 — 39661

19 CFR
- 133 — 41278
- 153 — 39200, 41406
- 159 — 41630
- 205 — 40426
- 210 — 40428

PROPOSED RULES:
- 134 — 39227

20 CFR
- 416 — 39098, 40191
- 602 — 40192
- 901 — 39200, 41115
- 902 — 39200

PROPOSED RULES:
- 404 — 38918
- 405 — 39995

21 CFR
- Ch. I — 40904
- 6 — 39100
- 14 — 41851
- 133 — 39101
- 176 — 41852, 41853
- 193 — 41279
- 310 — 41374
- 510 — 41854
- 520 — 41854
- 522 — 39103, 41855
- 558 — 41855
- 561 — 41279
- 700 — 41374
- 801 — 40215

PROPOSED RULES:
- 182 — 39117, 41299, 41876
- 184 — 39117, 41299, 41876
- 186 — 41299
- 312 — 41301
- 320 — 39675
- 500 — 40217
- 808 — 41301
- 895 — 42000

22 CFR
- 123 — 39103, 41631
- 124 — 41631
- 202 — 40428

23 CFR
- 160 — 41279
- 655 — 41280, 41633

PROPOSED RULES:
- Ch. I — 41651

24 CFR
- 25 — 40193
- 203 — 40430
- 811 — 39209
- 880 — 39212, 42292
- 881 — 39212, 42292
- 883 — 39212

25 CFR
- 141 — 40194
- 221 — 41116
- 252 — 40904
- 258 — 40904

25 CFR—Continued

PROPOSED RULES:
- 54 — 41435

26 CFR
- 7 — 39104, 42197
- 9 — 42198
- 11 — 39382, 41856
- 404 — 41856

PROPOSED RULES:
- 1 — 38919, 39227, 39233, 39408 39997
- 301 — 39227, 39233, 39997
- 404 — 39227, 39233, 39997

27 CFR
- 178 — 41116

PROPOSED RULES:
- 4 — 42230
- 181 — 39316, 40921, 42233

28 CFR
- 0 — 40433, 41407
- 2 — 39668, 39808, 41407
- 16 — 40905, 41408
- 17 — 39212
- 32 — 39386

PROPOSED RULES:
- 2 — 41435, 41436, 41878
- 540 — 41368
- 541 — 41368
- 548 — 41368
- 551 — 41368

29 CFR
- 102 — 41117
- 452 — 39105, 41280
- 1601 — 41280
- 1908 — 41386
- 1952 — 40194, 40195, 41857
- 2602 — 41858
- 2606 — 41858
- 2610 — 41858

PROPOSED RULES:
- 70a — 39997
- 1061 — 42022
- 1910 — 39120
- 2608 — 39120

31 CFR
- 51 — 41859

32 CFR
- Ch. I — 39213
- 199 — 41118
- 286b — 39214
- 290 — 40433
- 806b — 41409

PROPOSED RULES:
- 114 — 39234
- 143 — 41306
- 286 — 40552
- 865 — 39999

33 CFR
- 110 — 39386, 40693, 40694
- 117 — 38903, 39386, 41118, 42199
- 183 — 41634
- 204 — 40196, 41281
- 207 — 40908
- 274 — 41118

PROPOSED RULES:
- 117 — 38919, 38920, 42234
- 154 — 39408
- 155 — 39408

33 CFR—Continued

PROPOSED RULES—Continued
- 156 — 39408
- 157 — 39999

34 CFR
- 231 — 40694

35 CFR
- 69 — 40196

36 CFR
- 67 — 40436
- 200 — 40438
- 292 — 39387

37 CFR

PROPOSED RULES:
- 2 — 40450
- 4 — 40450
- 201 — 41437, 41438

38 CFR
- 2 — 41409, 41410
- 13 — 41410
- 14 — 41410

PROPOSED RULES:
- 8 — 40452
- 17 — 39409, 41439

39 CFR
- 111 — 38904, 41634

PROPOSED RULES:
- 111 — 39411, 40219, 40922

40 CFR
- 52 — 39389, 39664, 40695, 41121, 42218, 42219
- 55 — 41282
- 60 — 39389, 41122, 41424, 41754
- 61 — 41424
- 86 — 40697
- 136 — 39977
- 180 — 39977, 40909
- 204 — 41635
- 416 — 40697
- 610 — 40138

PROPOSED RULES:
- 20 — 39414
- 52 — 38920, 38921, 39235, 39415, 40220
- 61 — 40452
- 85 — 40221
- 180 — 40715, 40922
- 211 — 41139
- 700 — 39182
- 710 — 39182

41 CFR
- 1–4 — 39215, 41635
- Ch. 9 — 41128
- 29–1 — 40197
- 29–2 — 40201
- 29–3 — 40201

41 CFR—Continued
- 29–12 — 40205
- 29–26 — 40206
- 29–61 — 40206
- 101–41 — 41128
- 101–42 — 40847
- 101–43 — 40847
- 101–44 — 40850
- 101–45 — 40852
- 101–46 — 40858
- 101–47 — 40698
- 105–63 — 40858
- 114–25 — 39978

PROPOSED RULES:
- 9–4 — 40923
- 24–1 — 42234
- 60–4 — 41378

43 CFR
- 423 — 41122

PUBLIC LAND ORDERS:
- 5622 — 42199

PROPOSED RULES:
- 424 — 41440
- 1880 — 40000

45 CFR
- 100a — 40207
- 122a — 42005
- 166 — 42016
- 173 — 40209
- 194 — 40207
- 196 — 39218
- 1015 — 41282

PROPOSED RULES:
- 11 — 41140
- 146a — 40221
- 170 — 40926

46 CFR
- 2 — 41636
- 10 — 39978
- 35 — 41636
- 151 — 41636

PROPOSED RULES:
- 162 — 40000
- 502 — 40452

47 CFR
- 2 — 42203
- 15 — 39979
- 73 — 38905, 39665, 39981, 39982, 40210, 41123–41125, 41283
- 76 — 41127, 41284
- 81 — 39666
- 87 — 38906
- 89 — 42203
- 91 — 42203

PROPOSED RULES:
- 1 — 40715
- 13 — 40939

47 CFR—Continued

PROPOSED RULES—Continued
- 43 — 40454
- 61 — 40002
- 63 — 39236
- 73 — 40003, 40454, 41141, 41302–41305, 41879
- 81 — 40223, 40224, 40455
- 83 — 40224
- 89 — 39560
- 90 — 39560
- 91 — 39560, 41143
- 93 — 39560

49 CFR
- 99 — 39220
- 173 — 42206
- 178 — 42206
- 529 — 39983
- 571 — 39983, 39984, 42208
- 580 — 38906
- 581 — 38909
- 1033 — 39221, 39389, 39985, 41424
- 1036 — 40444
- 1051 — 40860
- 1057 — 39666
- 1100 — 40698
- 1104 — 40860
- 1108 — 39222
- 1109 — 39390, 39985
- 1251 — 39667
- 1254 — 39390

PROPOSED RULES:
- 173 — 40003, 41651
- 174 — 40003, 41651
- 178 — 40003, 41651
- 179 — 40003, 41651
- 193 — 42235
- 1047 — 40459
- 1082 — 40459
- 1106 — 39243
- 1307 — 41144

50 CFR
- 17 — 39985, 40682–40685
- 20 — 39106, 39667, 40211, 41636
- 26 — 40213, 41425
- 32 — 38909–38912, 39391–39394, 40214, 40445–40447, 40690, 40861–40865, 41127, 41426–41429, 41642, 41861–41865, 42210–42215
- 33 — 40214, 41426
- 216 — 39394, 41128, 41879
- 371 — 40866
- 601 — 42216
- 602 — 42216
- 611 — 39106, 41430
- 680 — 42216

PROPOSED RULES:
- 17 — 38921, 39121, 40716, 40823
- 20 — 41145
- 23 — 40459
- 32 — 40465
- 260 — 41440

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	Date	Pages	Date	Pages	Date
38891–39080	Aug. 1	40169–40419	9	41265–41399	16
38081–39193	2	40421–40675	10	41401–41602	17
39195–39358	3	40677–40845	11	41603–41812	18
39359–39656	4	40847–41094	12	41813–42183	19
39657–39952	5	41095–41264	15	42185–42297	22
39953–40167	8				

V 42 162 AUG 22 77 UM

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

GSA—Mailgrams; Telegraphic bids, proposals, withdrawals; acceptability. 33736; 7–1–77

HEW/FDA—Guanine, and Zinc Oxide; permanent listing for use in externally applied drugs and cosmetics, (2 documents)..... 37536; 7–22–77

FDA—Inhalation anesthetic drug products; proscribed studies for carcinogenic and teratogenic potential. 37538; 7–22–77

DOT/FAA—Morane Saulnier (SOCATA), British Aircraft Corp., and Avions-Marcel Dassault-Beguet Aviation, (various models); Airworthiness directives, [3 documents]..... 37356–9; 7–21–77

Interior/FWS—Final endangered status; Giant Anole..... 37371; 7–21–77

Labor/OSHA—California plan; approval of supplement..... 37548; 7–22–77

Treasury/CS—Customs seals; use when transporting carlots of bonded merchandise..... 21784; 4–29–77

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

H.R. 6179..... Pub. L. 95–108
"Arms Control and Disarmament Act Amendments of 1977". (Aug. 17, 1977; 91 Stat. 871). Price: $.50.

H.R. 6370..... Pub. L. 95–106
To authorize appropriations to the United States International Trade Commission, to provide for greater efficiency in the administration of the Commission, and for other purposes. (Aug. 17, 1977; 91 Stat. 867). Price: $.50.

H.R. 6689..... Pub. L. 95–105
"Foreign Relations Authorization Act, Fiscal Year 1978". (Aug. 17, 1977; 91 Stat. 844). Price: $1.00.

S. 1935..... Pub. L. 95–107
To amend Public Law 95–18, providing for emergency drought relief measures. (Aug. 17, 1977; 91 Stat. 870). Price: $.50

presidential documents

Title 3—The President

Memorandum of August 12, 1977

Waiver of the Limitation on the Aggregate of Military Assistance Granted Under the Foreign Assistance Act of 1961, and of Credits Extended and Loans Guaranteed Under the Arms Export Control Act for African Countries in Fiscal Year 1977

[Presidential Determination No. 77–19]

Memorandum for the Secretary of State

THE WHITE HOUSE,
Washington, August 12, 1977.

Pursuant to the authority vested in me by Section 33(b) of the Arms Export Control Act, as amended, I hereby determine that the waiver of the limitations of Section 33(a) of the Arms Export Control Act, as amended, for fiscal year 1977 is important to the security of the United States.

You are requested, on my behalf, to report this determination promptly to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, as required by law.

This determination shall be published in the FEDERAL REGISTER.

Jimmy Carter

[FR Doc.77–24332 Filed 8–18–77;3:10 pm]

V 42 162 AUG 22 77 UM V A

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 15904; Amdt. Nos. 1-28 and 91-142]

PART 1—DEFINITIONS AND ABBREVIATIONS

PART 91—GENERAL OPERATING AND FLIGHT RULES

Altitude Alerting System—Required Aural Warning

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment gives an operator the option of using an alerting system which emits both aural and visual signals upon approaching a pre-selected altitude in ascent or descent, or a system which instead provides only a sequence of visual signals when approaching a pre-selected altitude and provides the aural warning only when a deviation from a pre-selected altitude occurs. This regulatory action was initiated in response to a petition filed with the FAA on behalf of certain interested persons.

EFFECTIVE DATE: September 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone 202-755-8716.

SUPPLEMENTARY INFORMATION: Interested persons have been afforded an opportunity to participate in the making of these regulations by a Notice of Proposed Rulemaking (Notice No. 76-15) issued June 30, 1976, and published in the FEDERAL REGISTER on July 12, 1976 (41 FR 28535). Due consideration has been given to all comments received in response to the Notice.

The FAA issued Notice No. 76-15 in response to a petition received from the Air Transport Association (ATA). In the Notice the FAA stated that it believes the present aural signal requirement should be amended substantially as proposed by the ATA petition. As explained in the Notice, the aural signal currently required by the regulations now sounds during the altitude acquisition phase of flight for each preselected setting of the altitude alerter. This requirement, combined with the numerous clearances for change of flight altitudes associated with turbojet operations, causes the flight crew to be exposed to the aural signal to the extent that their reaction to the signal may become conditioned indifference. As stated in the Notice the FAA believes an amendment to the current regulation which will allow an operator to use an alerting system that gives an aural warning only when a deviation from a preselected altitude occurs will make the alerting signal more effective.

Most of the 26 public comments received in response to the Notice were generally favorable to adoption of the proposed amendment. Comments from those opposed to the proposal generally expressed concern that the alternative alerting system it would allow to be used may allow altitude overruns to occur and result in possible high "g" maneuvers being used to return to the selected altitude. Concern was also expressed that the operation of turbojet-powered aircraft at high rates of ascent and descent in the low altitude airway structure, where 1,000 feet separation is employed, may be hazardous if only a visual warning is used. The FAA does not agree that the proposed alternative alerting system will create a safety hazard as suggested in these comments. They will be approved by the FAA only if they are developed in accordance with criteria similar to that currently specified in AC 91-22A and the FAA is satisfied that they provide flight crewmembers with an appropriate and effective alert. It should also be pointed out that installation of the system allowed under the proposal is optional and those operators who do not favor its use may elect to continue using the altitude alerting system as currently provided for under § 91.51.

In addition to the amendment proposed in Notice No. 76-15, the FAA considers it appropriate to amend the flush paragraph following § 91.51(b)(5) to make it clear that for operations below 3,000 feet above ground level (AGL) a radio altimeter may be used that provides only one signal, either visual or aural, if the operator has an approved procedure for the use of the radio altimeter to determine decision height (DH) or minimum descent altitude (MDA), as appropriate. Also for purposes of clarification, the abbreviation "AGL" and its meaning is added to Part 1 of the Federal Aviation Regulations by this amendment.

Since the amendments to the flush paragraph and Part 1 are clarifying in nature and impose no additional burden on any person, the Administrator finds that notice and public procedure thereon are unnecessary.

REGULATORY EVALUATION

In accordance with the Department of Transportation regulatory reform policy, an evaluation of the anticipated impacts of this amendment has been made. It has been determined that it is probable that only minor maintenance and capital investment costs will be incurred as a result of this amendment. In any event, any costs incurred will be more than offset by the enhancement of safety which is expected to result from the amendment. Accordingly, it has been determined that this amendment is expected to be neither costly nor controversial and will not impose a significant burden on the private sector, on consumers, or on the Federal, state, or local governments.

PRINCIPAL AUTHORS

The principal authors of this document are William T. Brennan, Air Carrier Regulations Branch, Flight Standards Service, and Robert G. Leary, Office of the Chief Counsel.

Accordingly, Parts 1 and 91 of the Federal Aviation Regulations are amended and revised, effective September 21, 1977, as follows:

1. By amending § 1.2 and inserting in alphabetical order the following abbreviation:

§ 1.2 Abbreviations and symbols.

• • • • • •

"AGL" means above ground level.

• • • • • •

2. By revising § 91.51(b)(1) and the flush paragraph at the end of § 91.51(b)(5) to read as follows:

§ 91.51 Altitude alerting system or device; turbojet-powered civil airplanes.

• • • • • •

(b) Each altitude alerting system or device required by paragraph (a) of this section must be able to:

(1) Alert the pilot: (i) Upon approaching a preselected altitude in either ascent or descent, by a sequence of both aural and visual signals in sufficient time to establish level flight at that preselected altitude; or

(ii) Upon approaching a preselected altitude in either ascent or descent, by a sequence of visual signals in sufficient time to establish level flight at that preselected altitude, and when deviating above and below that preselected altitude, by an aural signal;

• • • • • •

(5) • • •

However, for operations below 3,000 feet AGL, the system or device need only provide one signal, either visual or

V 42 162 AUG 22 77 UM

aural, to comply with this paragraph. A radio altimeter may be included to provide the signal, if the operator has an approved procedure for its use to determine DH or MDA, as appropriate.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 12, 1977.

J. W. COCHRAN,
Acting Administrator.

[FR Doc.77-24149 Filed 8-19-77;8:45 am]

[Docket No. 15959; Amdt. 39-3021]

PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corporation BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Amendment adopts a new airworthiness directive (AD) which requires repetitive inspection and replacement, repair, or overhaul, as necessary, of the flap secondary drive shafting and support bearings on British Aircraft Corporation BAC 1-11 200 and 400 series airplanes. This action is necessary to prevent a flap secondary drive shaft failure, which could result in the inability to operate the flaps in the event of a failure in the flap primary drive system.

DATES: Effective September 21, 1977. Compliance required as indicated in the AD.

ADDRESSES: The applicable BAC service bulletin may be obtained from British Aircraft Corporation, Inc., 399 Jefferson Davis Highway, Arlington, Virginia 22202, telephone 703-979-1400. The applicable Hobson Overhaul Manual may be obtained from Lucas Aerospace Limited, Hobson Works, Fordhouses, Wolverhampton W10 7EH, England.

A copy of the BAC service bulletin is contained in the Rules Docket Rm. 916, 800 Independence Avenue SW., Washington D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513-38-30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring repetitive inspection and replacement or overhaul, as necessary, of the flap secondary drive shafting and support bearings on British Aircraft Corporation BAC 1-11 200 and 400 series airplanes was published in the FEDERAL REGISTER at 41 FR 30655. The proposal was prompted by reports of failed and missing flap secondary drive shafts, which could result in the inability to operate the flap in the event of a failure in the primary drive system.

Interested persons have been afforded an opportunity to participate in the making of the amendment. One commentator contended that the requirement to replace the drive shaft when chafing exceeds .005 inch in depth applies only to the torque tube and not the fairlead (chafe strip). British Aircraft Corporation (hereinafter referred to as BAC) confirmed that the chafing limit is not intended to apply to fairleads, but only to torque tubes and end fittings. BAC also advised that if chafing of a torque tube exceeds 0.005 inch, the torque tube is repairable in accordance with Hobson Overhaul Manual 27-50-52. The FAA agrees with these comments and the proposed amendment has been changed accordingly.

The commentator also contended that the requirement to overhaul the secondary shafts at 30,000 hours total time in service should exclude shaft P/N CHA493-1345, since this shaft has not been subject to failure. BAC confirmed this. The FAA agrees with the comment and the proposed amendment has been changed accordingly.

The commentator further contended, for shafts which have accumulated 30,000 hours total time in service, that the requirement to replace the tubing within 50 hours after the effective date of this AD appears inconsistent with the provision that permits the shaft to remain in service to 35,000 hours if inspected every 1,000 hours upon reaching 30,000 hours. The FAA agrees and the proposed amendment has been changed to require repetitive inspection every 1,000 hours upon reaching 30,000 hours, and to require replacement of the tubing, which is part of the required overhaul procedure, upon accumulating 35,000 hours.

The FAA has reevaluated the need for the proposed amendment and determined that it should be adopted.

DRAFTING INFORMATION

The principal authors of this document are F. J. Karnowski, Europe, Africa, and Middle East Region, E. S. Newberger, Flight Standards Service, and R. N. Lane, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following Airworthiness Directive:

BRITISH AIRCRAFT CORPORATION. Applies to BAC 1-11 200 and 400 series airplanes, certificated in all categories.

Compliance is required as indicated.

To detect and prevent possible failure of the flap secondary drive shafting, accomplish the following:

(a) Inspect the spanwise secondary drive shafts between wing ribs (L.H. and R.H.) 6 and 15 for 200 series airplanes, and between wing ribs (L.H. and R.H.) 1 and 15 for 400 series airplanes, for failure or damage in accordance with paragraph 2.4 of the accomplishment instructions of British Aircraft Corporation Alert Service Bulletin 27-A-PM5341, issue 1, dated November 28, 1975, or an FAA-approved equivalent, as follows:

(1) For flap secondary drive shafts with less than 24,000 hours total time in service on the effective date of this AD, within the next 1000 hours time in service or prior to exceeding 3000 hours total time in service, whichever occurs later, unless already accomplished within the preceding 2000 hours time in service.

(2) For flap secondary drive shafts with 24,000 or more hours total time in service on the effective date of this AD, within the next 1000 hours time in service, unless already accomplished within the preceding 1000 hours time in service.

(b) Repeat the inspection required by paragraph (a) of this AD as follows:

(1) For flap secondary drive shafts with more than 3000 but less than 24,000 hours total time in service, at intervals not to exceed 3000 hours time in service from the last inspection.

(2) For flap secondary drive shafts with 24,000 or more hours total time in service, at intervals not to exceed 2000 hours time in service from the last inspection.

(c) The repetitive inspections required by paragraphs (b) and (f) of this AD may be discontinued when the flap secondary drive shaft is replaced, repaired, or overhauled in accordance with paragraph (d) or (e) of this AD.

(d) If, during an inspection required by this AD, a flap secondary drive shaft is found missing, failed, or distorted, or if a torque tube or end fitting is chafed in excess of 0.005 inch in depth, or if any looseness or separation is found at the end riveted joint, before further flight, replace the shaft with a new shaft of the same part number and comply with paragraph (g) of this AD. In lieu of replacement, a torque tube chafed in excess of 0.005 inch in depth may be repaired in accordance with Hobson Overhaul Manual 27-50-52, Figure 402, or an FAA-approved equivalent, after which comply with paragraph (g) of this AD.

(e) Except as provided in paragraph (f) of this AD, prior to exceeding 30,000 hours total time in service on the flap secondary drive shafts listed in paragraph (a) of this AD, or within 1000 hours time in service after the effective date of this AD, whichever occurs later, overhaul the flap secondary drive shafts listed in paragraph (a) of this AD, with the exception of shaft P/N CHA493-1345, in accordance with paragraph 2.3 of the accomplishment instructions of British Aircraft Corporation Alert Service Bulletin 27-A-PM5341, issue 1, dated November 28, 1975, or an FAA-approved equivalent, and comply with paragraph (g) of this AD. During overhaul the shaft tubing must be scrapped but serviceable end fittings may be re-used.

(f) The overhaul of the flap secondary drive shafts and inspection of the adjacent shaft support bearings, required by paragraph (e) of this AD, may be accomplished upon the accumulation of 35,000 hours total time in service if, upon the shafts reaching 30,000 hours total time in service, the inspection required by paragraph (a) of this AD is repeated at intervals not to exceed 1000 hours from the last inspection.

(g) When replacing or repairing a flap secondary drive shaft in accordance with paragraph (d) of this AD or overhauling a flap secondary drive shaft in accordance with paragraph (e) of this AD, inspect the adjacent shaft support bearings of shafts replaced, repaired, or overhauled for excessive radial play in accordance with paragraph 2.5 of the accomplishment instructions of British Aircraft Corporation Alert Service Bulletin 27-A-PM 5341, issue 1, dated November 28, 1975, or an FAA-approved equivalent.

(h) If, during an inspection required by paragraph (g) of this AD, the support bearing is found to have radial play in excess of 0.020 inches Total Indicated Reading (T.I.R.), replace the bearing with a serviceable bearing of the same part number within the next 500 hours time in service.

(i) Operators who have not kept records of hours time in service on individual flap secondary drive shafts shall substitute airplane hours time in service in lieu thereof.

This amendment becomes effective September 21, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 12, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77-24152 Filed 8-19-77;8:45 am]

[Docket No. 77-GL-6; Amdt. 39-3020]

PART 39—AIRWORTHINESS DIRECTIVES

McCauley Propellers Model ()2D34C53-() Constant Speed Series

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), which replaces AD 75-24-12. The new AD requires hub inspection, and rework or replacement of McCauley 2D34C53/74E and 2D34C53-A/74E propellers installed on Lycoming O-360 series engines which are subjected to ground strikes or other incidents resulting in bent blades. This AD also requires replacement of some Model B2D34C53-N/74E propellers used on Lycoming I0-360 series engines, as the result of an inflight failure and findings of several cracked hubs of a certain lot. Furthermore, due to service experience, additional periodic inspections of the affected Model 2D34C53-() and B3D 34C53-() series propeller hubs are required until the propellers have been modified to, or replaced by McCauley oil-filled series hubs containing a dyed oil crack detection system.

DATE: Effective date—August 26, 1977. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: Information relating to the service documents referenced in the body of the AD may be obtained from McCauley Accessory Division, Cessna Aircraft Company, Box 7, Roosevelt Station, Dayton, Ohio 45417.

Copies of the service information incorporated in this AD are contained in the Rules Docket, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois 60018; and at FAA Headquarters, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Henry L. Weiss, Engineering and Manufacturing Branch, Flight Standards Division, AGL-214, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone 312-694-4500, extension 308.

SUPPLEMENTARY INFORMATION: Amendment 39-2434, AD 75-24-12, superseded Amendment 39-940 (35 FR 3108), AD 70-04-02, as amended by Amendment 39-1013 (35 FR 10106), effective November 26, 1975. AD 75-24-12 required an improved hub replacement for their earlier McCauley 2D34C53/74E and 2D34C53-A/74E propeller models. Also, certain Model B2D34C53-N/74E propellers were recalled for replacement of a certain lot of hubs due to some failures which were experienced in service.

Thereafter, a proposal to amend Part 39 of the Federal Aviation Regulations was published in 42 FR 17138, March 31, 1977. The proposal, which requires further periodic inspection and rework, or replacement of the affected McCauley Model ()2D34C53-() series propeller hubs, was issued in conjunction with the National Transportation Safety Board's (NTSB) Safety Recommendations of September 21, 1976. These recommendations were based in part on NTSB's metallurgical laboratory examination of five failed propeller hubs four of which were different models having certain design improvements intended to decrease fatigue type failures.

The only comments received about the proposal concerned minor corrections to some of the propeller model designations and the suggestion to likewise include the phrase, "or later Federal Aviation Administration approved revisions," after the reference to McCauley Service Letter Number 1974-3, dated March 29, 1974. These recommendations were adopted in the new airworthiness directive which is being issued.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

In accordance with Departmental Regulatory Reform, dated March 23, 1976, we have determined that the expected impact of this final regulation is so minimal that it does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are H. L. Weiss, Flight Standards Division, Great Lakes Region, and J. K. McLaughlin, Office of the Regional Counsel, Great Lakes Region.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

MCCAULEY PROPELLERS. Applies to the following two-bladed constant speed propellers installed on but not limited to Mooney M20C, M20D, M20G, and Fuji FA-200-180 type aircraft.

PROPELLER MODEL
2D34C53, -XM, or -XMN
2D34C53-A, -AM, or -AMN
2D34C53-K, -KM, or -KMN
2D34C53-M, or -MN
2D34C53-NM
2D34C53-N
B2D34C53-J, -JM, or -JMN
B2D34C53-K, -KM, or -KMN
B2D34C53-M, or -MN
B2D34C53-NM
B2D34C53-N

Compliance required as indicated, unless already accomplished. To detect propeller hub cracks and prevent possible hub failures, accomplish Paragraphs (a), (b), or (c) as applicable:

(a) All Models 2D34C53 and 2D34C53-A propellers.

(1) Within 25 hours time in service after the propeller has been involved in a ground strike, it must be removed, inspected and reworked, or replaced in accordance with Paragraph (d)(1).

(2) Within 100 hours time in service after the effective date of this Airworthiness Directive, all other Model 2D34C53 and 2D34C-53-A must be removed, inspected and reworked, or replaced in accordance with Paragraph (d)(1).

(b) Model B2D34C53-N/74E propellers having hub serial numbers 705516 through 705560.

(1) Propellers with less than 975 hours time in service as of the effective date of this Airworthiness Directive must be inspected and modified in accordance with Paragraph (d)(2) prior to the accumulation of 1000 hours time in service.

(2) Propellers with 975 or more hours time in service, or whose total time in service is unknown, must be inspected and modified in accordance with Paragraph (d)(2) within the next 25 hours time in service after the effective date of this Airworthiness Directive.

(c) All Model 2D34C53, 2D34C53-( ), B2D34C53-( ) series propellers listed above (excluding Model B2D34C53-N/74E propellers with hub serial numbers 705516 through 705560 cited in preceding Paragraph (b)).

(1) Propellers with less than 500 total hours time in service as of the effective date of this Airworthiness Directive inspect in accordance with Paragraph (d)(3) within 525 total hours time in service, unless already accomplished within the last 25 hours, and reinspect in accordance with Paragraph (d)(3) every 100 hours time in service from the last inspection until 1200 hours time in service is reached at which time compliance with Paragraph (d)(4) is required.

(2) Propellers with 525 or more total hours in service but less than 1175 hours in service as of the effective date of this Airworthiness Directive inspect in accordance with Para-

V 42162 AUG 22 77 UM

graph (d)(3) within the next 25 hours time in service, unless already accomplished within the last 25 hours, and reinspect in accordance with Paragraph (d)(3) every 100 hours time in service from the last inspection until 1200 hours time in service is reached at which time compliance with Paragraph (d)(4) is required.

(3) Propellers with 1200 or more hours time in service or whose total time in service is unknown, as of the effective date of this Airworthiness Directive, inspect in accordance with Paragraph (d)(4) within the next 25 hours time in service, unless already accomplished within the last 300 hours time in service from the last inspection, and reinspect in accordance with Paragraph (d)(4) every 300 hours time from the last inspection.

(d) *Action Required:*

(1) Remove propeller from the aircraft, disassemble, inspect components, rework or replace hub in accordance with McCauley Service Bulletin Number 121, dated February 15, 1977, and Service Manual Number 720415, or later Federal Aviation Administration approved revisions, or an equivalent procedure approved by the Chief, Engineering and Manufacturing Branch, Great Lakes Region.

(2) Remove propeller from the aircraft, disassemble, inspect components and replace hub in accordance with McCauley Service Bulletins No. 115 dated September 30, 1975, and No. 121, dated February 15, 1977, and Service Manual No. 720415, or later Federal Aviation Administration approved revisions, or an equivalent procedure approved by the Chief, Engineering and Manufacturing Branch, Great Lakes Region.

(3) Inspect all external surfaces of the propeller hub for cracks by dye penetrant method. Replace before further flight any cracked hub with an oil-filled Model 2D34C53-XMNO, -AMNO, -KMNO, -MNO, -NMO, -NO, -O, or B2D34C53-JMNO, -KMNO, -MNO, -NMO, -NO, or -O hub, as applicable, in accordance with McCauley Service Bulletin No. 121 dated February 15, 1977, or later Federal Aviation Administration approved revisions.

(4) Remove propeller from the aircraft, disassemble to allow complete inspection of the hub. Inspect all internal and external hub surfaces for cracks by dye penetrant method in accordance with McCauley Service Letter No. 1974-3 dated March 29, 1974, or later Federal Aviation Administration approved revisions. Replace before further flight any cracked hub with an oil-filled Model 2D34C53-XMNO, -AMNO, -KMNO, -MNO, -NMO, -NO, -O, or B2D34C53-JMNO, -KMNO, -MNO, -NMO, -NO, or -O hub, as applicable, in accordance with McCauley Service Bulletin No. 121 dated February 15, 1977, and Service Manual No. 720415, or later Federal Aviation Administration approved revisions.

(e) *Exemption.* The foregoing inspections may be discontinued after the replacement of Model 2D34C53, 2D34C53-(), or B2D34C53-() series hubs with an oil-filled Model 2D34C53-XMNO, -AMNO, -KMNO, -MNO, -NMO, -NO, -O, or B2D34C53-JMNO, -KMNO, -MNO, -NMO, -NO, or -O hub, as applicable, in accordance with McCauley Service Bulletin No. 121 dated February 15, 1977, and Service Manual 720415, or later Federal Aviation Administration approved revisions.

(McCauley Service Bulletin Nos. 77B and 88 also pertain to this subject.)

The manufacturer's specifications and procedures identified in this Directive are incorporated herein and made part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by the directive who have not already received these documents from the manufacturer, may obtain copies upon request to McCauley Accessory Division, Cessna Aircraft Company, Box 7, Roosevelt Station, Dayton, Ohio 45417. These documents may also be examined at the Great Lakes Regional Office, 2300 East Devon Avenue, Des Plaines, Illinois 60018, and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20591. A historical file on this airworthiness directive which includes incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and the Great Lakes Region.

This supersedes Amendment 39-940 (35 FR 3108) AD 70-4-2, as amended by Amendment 39-1013, (35 FR 10106); and Amendment 39-2434 (40 FR 53548), AD 75-24-12.

This amendment becomes effective: August 26, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Illinois, on August 11, 1977.

JOHN M. CYROCKI,
Director, Great Lakes Region.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.77-24153 Filed 8-19-77;8:45 am]

[Docket No. 77-WE-21-AD; Amdt. 39-3016]

PART 39—AIRWORTHINESS DIRECTIVES

AiResearch Model TSCP700 -4B and -5 APU's

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This airworthiness directive (AD) requires an initial and recurring inspection of the AiResearch Model TSCP700 -4B and -5 Auxiliary Power Units (APU). This AD is required because low cycle fatigue cracks have developed in parts which could result in failure of a segment of the rim and possible release of high energy fragments or parts of the compressor assembly.

DATE: Effective date—August 24, 1977. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from AiResearch Manufacturing Company of Arizona, P.O. Box 5217, Phoenix, Arizona 85010, telephone 602-267-3011.

A copy of the service bulletin for this amendment is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Kye L. Olsen, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: Uncontained separations of the compressor first stage disc of the AiResearch Model TSCP700 Series APU's have occurred in service. In at least one case, failure of this part in an APU installed in an Aerospatiale Model A-300B aircraft resulted in the compressor assembly becoming unstacked and the second stage compressor disc was ejected through the APU compartment and trajected from the aircraft during ground operation. Primary cause of the failure of the first stage disc is development of low cycle fatigue cracks in the blade dove tail slots. Propagation of these cracks can result in tensile overload separation of a segment of two to five blades span of the disc rim. Failures of this nature pose a safety hazard to persons near the aircraft, e.g. ground crews or persons in the terminal buildings. In addition, high energy disc fragments could also cause secondary damage to aircraft fuel, hydraulic and electrical systems and corresponding fire hazard to passengers during ground operations.

Since this condition is likely to exist or develop on APU's of the same TSO design, this AD requires the initial and recurring inspection of the suspect compressor discs to insure that those discs which already have detectable cracks are promptly removed from service.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are John A. Kenworthy, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations, is amended by adding the following new airworthiness directive:

AIRESEARCH MANUFACTURING COMPANY OF ARIZONA: Applies to AiResearch Model TSCP700 -4B and -5 Auxiliary Power Units (APUs) which have first stage compressor discs P/Ns 969600 -1 or -2 installed.

Compliance required before accumulating a total of more than 3000 cycles on the first stage compressor discs, or within the next 300 cycles after the effective data of this AD, whichever occurs later, unless already accomplished within the last 1700 cycles, and thereafter at intervals not to exceed 2000 cycles since the last inspection.

To prevent a high energy release of first stage compressor blades and disc parts due to the possible fatigue failure of the disc, accomplish the following:

(a) Remove the first stage disc from the compressor section of the APU and inspect the blade dove tail slots of the disc in accordance with either of the following methods or an equivalent method approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(1) Use an eddy current probe made in accordance with instructions contained in paragraph 2.B.(4) of AiResearch Service Bulletin TSCP700-49-A3912, dated May 16, 1977, and a visual display instrument Nortec Model No. NDT-6D. In addition to this test apparatus, P/N 969600 -1 or -2 compressor disc, or segment thereof, known to be free of cracks and a corresponding disc, or segment thereof, which has been verified to contain a detectable crack must be available to calibrate the inspection test apparatus. These sample disc(s) may be obtained from the AiResearch Manufacturing Company or, subject to the acceptance of the assigned FAA maintenance inspector, furnished by the operator.

An acceptable procedure for calibrating and using this test equipment is provided in paragraph 2.A., 2.B.(1), 2.B.(2), 2.B.(3), 2.B.(5) and 2.B.(8) of AiResearch Service Bulletin TSCP700-A3912, dated May 16, 1977, supplemented by AiResearch Gage Operating Instructions MSC-4769, MSC-4770 or MSC-4771, as appropriate.

(2) Use tooling described in paragraphs 1.G and procedures prescribed in paragraph 2. of AiResearch Service Bulletin TSCP700-49-A3912, Revision 2, dated June 27, 1977, or later FAA approved revisions.

(b) All discs found to not meet the inspection criteria covered by the procedure described in paragraphs (a)(1) or (a)(2) must be removed from service. Except as provided in paragraph (c)(4), replacement discs of P/Ns 969600 -1 or -2 must be inspected in accordance with paragraph (a) before being installed in the APU for service, unless already inspected within the last 3000 cycles in service, and thereafter at intervals not to exceed 2000 cycles since the last inspection.

(c) For purposes of this AD:

(1) A cycle is defined as a start and acceleration to at least 95% high pressure spool (N_2) rpm followed by a shutdown, during which low pressure spool (N_1) rpm reaches, or exceeds 97% rpm nominal. If, in any start, operating and shutdown sequence, the low pressure spool (N_1) is prevented from exceeding 91% rpm nominal, only one half of a cycle must be recorded.

(2) Operators who have not kept a record of operating starts on individual discs may assume two starts have occurred for each recorded APU operating hour of service, or any other cycle per hour ratio approved by the operator's assigned FAA maintenance inspector, provided the request contains substantiating data to justify the alternative ratio.

(3) Operators who have not kept a record of APU operating hours of service shall estimate hours of APU operation by equating APU operation to airplane hours time in service using a ratio approved by the operators' assigned FAA maintenance inspector and justified by substantiating data.

(4) Unused replacement discs installed per (b) above may be assumed to have zero cycles and need not be inspected prior to installation.

NOTE.—AiResearch Model TSCP700 -4B and -5 APU are known to be installed in McDonnell Douglas Model DC-10 series aircraft and Aerospatiale Model A-300B aircraft.

This amendment becomes effective August 24, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Los Angeles, California, on August 9, 1977.

ROBERT H. STANTON,
Director,
FAA Western Region.

[FR Doc.77-24155 Filed 8-19-77;8:45 am]

[Docket No. 76-GL-21, Amdt. 39-3018]

PART 39—AIRWORTHINESS DIRECTIVES

Hartzell Compact Series Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule and correction.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which amends AD 77-12-06 to clarify the compliance schedule outlines in Paragraphs (a) and (d). Comments received from the public have suggested that this compliance schedule as originally written could be incorrectly interpreted. The clarification incorporated in this amendment is intended to prevent erroneous interpretation of the schedule.

This amendment also includes a correction to AD 77-12-06 that was made effective June 29, 1977, and copies of which were concurrently air mailed to all known users of the propellers referenced by this AD. The correction was required because of an oversight in the prescription of compliance times in Paragraph (c)(2).

DATE: Effective date—August 26, 1977.

FOR FURTHER INFORMATION CONTACT:

M. J. Walker, Engineering and Manufacturing Branch, Flight Standards Division, AGL-214, Federal Aviation Administration, 2300 E. Devon Avenue, Des Plaines, Illinois 60018, telephone 312-694-4500, extension 309.

SUPPLEMENTARY INFORMATION: Since the issuance of Amendment 39-2922, 42 FR 31152, AD 77-12-06, the FAA has received comments indicating that it is possible to misinterpret the compliance schedule prescribed in Paragraphs (a) and (d) of the amendment. To clarify these paragraphs and prevent misinterpretation of the compliance that is intended, AD 77-12-06 is being amended.

This amendment also offers an opportunity to publicly correct an oversight in Paragraph (c)(2) of the original amendment which did not allow certain aircraft time to comply with the AD, and as a result unintentionally grounded those aircraft. All known users of the propellers reference in this AD were notified of the error by an air-mail letter dated June 29, 1977. This document will serve to notify all others.

Since this amendment provides a clarification, includes a correction, and imposes no additional burden on any person, notice and public procedures are unnecessary and the amendment may be made effective in less than 30 days.

In accordance with Departmental Regulatory Reform dated March 23, 1976, we have determined that the expected impact of this final regulation is so minimal that it does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are M. J. Walker, Flight Standards Division, Great Lakes Region, and J. McLaughlin, Office of the Regional Counsel, Great Lakes Region.

CORRECTION

Amendment 39-2922, 42 FR 31152, AD 77-12-06, Paragraph (c)(2), is corrected by replacing Paragraph (c)(2) with the following new paragraphs:

(c)(2)(i) Propeller Models ()HC-C2YK-()()()/()()7666A-() with less than 500 hours time in service since last inspection and rework in accordance with AD 75-07-05 as of the effective date of this correction, remove, inspect and rework, or replace if necessary in accordance with Hartzell Bulletin 118A or later FAA approved revision(s) prior to the accumulation of 600 hours time in service since last compliance with AD 75-07-05.

(c)(2)(ii) Propeller Models ()HC-C2YK-()()()/()()7666A-() with 500 or more total hours in service, or whose time in service is unknown, since last inspection and rework in accordance with AD 75-07-05, as of the effective date of this correction, remove, inspect and rework, or replace if necessary in accordance with Hartzell Bulletin No. 118A, or later FAA approved revision(s) within the next 100 hours or 60 days after the effective date of this correction, whichever occurs first.

(c)(2)(iii) Reinspect and if necessary rework propellers cited under preceding paragraphs (c)(2)(i) and (c)(2)(ii) in accordance with Hartzell Service Letter 61B, or later FAA approved revision(s).

ADOPTION OF THE AMENDMENT

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-2922, 42 FR 31152, AD 77-12-06, is hereby amended by deleting Paragraphs (a)(1) and (d)(2) and substituting the following:

(a)(1) All propellers not specified in paragraph (b), (c), or (d) of this AD, prior to the accumulation of 1300 hours total time in service, or within the next 300 hours if time in service is over 1000 hours or unknown, or within one year after the effective date of this AD, whichever occurs first; remove, inspect and rework, or replace if necessary in accordance with Hartzell Bulletin 118A dated February 15, 1977. Reinspect and, if necessary, rework in accordance with Hartzell Bulletin 118A at intervals specified in Hartzell Service Letter 61B (Overhaul Periods for Hartzell Propellers) dated September 10, 1976 or later FAA approved revision(s).

(d)(2) Propeller Models ()HC-C2YK-()()()/F()8475()-() or-F()8477()-() used on but not limited to Aero Commander 200B and 200D, Aerostar, Mooney M22, Britten Norman BN-2, BN-2A, and BN-2A-6, Bellanca 17-31, Embraer EMB-200A, Piper PA32-260 and PA32-300, and Sial Marchetti S-208 series aircraft; compliance the same as in Paragraph (a)(1) preceding.

V 42 162 AUG 22 77 UM

This clarifying amendment becomes effective August 26, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Illinois, on August 10, 1977.

JOHN M. CYROCKI,
Director,
Great Lakes Region.

[FR Doc.77-24157 Filed 8-19-77;8:45 am]

[Docket No. 77-NE-15; Amdt. 39-3019]

PART 39—AIRWORTHINESS DIRECTIVES

Avco Lycoming T53 Series Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment requires filling the T53 series engine fuel regulator with damping fluid to prevent vibration leading to fatigue failure of the P1 multiplier lever.

DATES: Effective date August 31, 1977. Compliance required by September 15, 1977.

ADDRESSES: To obtain copies of the service bulletin referenced in the AD, contact Avco Lycoming Division, 550 South Main Street, Stratford, Connecticut 06497.

FOR FURTHER INFORMATION CONTACT:

Donald F. Perrault, Propulsion Section, ANE-214, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone 617-273-7337.

SUPPLEMENTARY INFORMATION: There have been failures of the T53 engine fuel regulator P1 multiplier lever resulting in engine flameout. Investigation by the engine and fuel regulator manufacturers indicated the failure was due to fatigue. The vibration of the P1 multiplier lever was excited by output shaft unbalance within a specific range of compressor rotor speed. Further testing showed that this vibration condition was eliminated by filling the P1 multiplier sense cavity with a damping fluid.

Based upon the results of this investigation, the P1 sense cavity of affected fuel regulators is required to be fluid-damped and the regulator assemblies reidentified.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Donald F. Perrault, Engineering and Manufacturing Branch, Flight Standards Division, and George L. Thompson, Associate Regional Counsel.

ADOPTION OF THE AMENDMENT

Pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

AVCO LYCOMING. Applies to Avco Lycoming T53 series engine models equipped with fuel regulators P/N 1-170-240-52, P/N 1-170-240-58, or P/N 1-170-240-59.

Compliance required by September 15, 1977.

To preclude possible failure of the fuel regulator P1 multiplier lever resulting in flameout of the engine, perform the following in accordance with Avco Lycoming Service Bulletin No. 0048, dated July 28, 1977, or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region:

1. Fill the fuel regulator P1 multiplier cavity with silicone oil, General Electric P/N SF96-100, or equivalent.

2. Reidentify the fuel regulator, from P/N 1-170-240-52 to P/N 1-170-240-61, or from P/N 1-170-240-58 to P/N 1-170-240-60, or from P/N 1-170-240-59 to P/N 1-170-240-62.

The Manufacturer's Service Bulletin identified and described in this directive is incorporated herein and made a part hereof pursuant to 5 U.S.C. 522(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Avco Lycoming Division, 550 South Main Street, Stratford, Connecticut 06497. These documents may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C.

A historical file on this A.D. which includes the incorporated material in full is maintained by the FAA at its Headquarters in Washington, D.C., and at New England Region.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)) and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular 107.

Issued in Burlington, Massachusetts, on August 11, 1977.

WILLIAM E. CROSBY,
Acting Director,
New England Region.

NOTE.—The incorporation by reference provisions of this document were approved by the Director of the Federal Register on June 16, 1967.

[FR Doc.77-24169 Filed 8-19-77;8:45 am]

[Airspace Docket No. 77-GL-22]

PART 71—DESIGNATION OF FEDERAL AIRWAYS AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate additional controlled airspace, a transition area, near Belvidere, Illinois, to accommodate a new instrument approach procedure to the Belvidere Airport.

EFFECTIVE DATE: December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Doyle Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone 312-694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircraft operating under visual conditions. The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The circumstance which created this action was a request from the Belvidere Airport officials to provide that facility with instrument approach capability. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

DRAFTING INFORMATION

The principal authors of this document are Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, and Joseph T. Brennan, Office of the Regional Counsel.

DISCUSSION OF COMMENTS

On page 33344 of the FEDERAL REGISTER dated June 30, 1977, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Belvidere, Illinois. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective December 30, 1977, as follows:

In Section 71.181 (42 FR 440), the following transition area is added:

BELVIDERE, ILLINOIS

That airspace extending upward from 700' above the surface with a five statute mile radius of the Belvidere Airport (latitude 42°19'25" N, longitude 88°50'25" W), Belvidere, Illinois, and within two statute miles either side of a 255° bearing from the airport, extending from the five-mile radius area to six and one-half statute miles southwest of the airport.

(This amendment is made under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.81 of the Federal Aviation Regulations (14 C.F.R. 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Illinois, on August 10, 1977.

JOHN M. CYROCKI,
Director, Great Lakes Region.

In § 71.181 (42 FR 440), the following transition area is added:

BELVIDEAE, ILLINOIS

That airspace extending upward from 700' above the surface within a five statute mile radius of the Belvidere Airport (latitude 42°19'25" N., longitude 88°50'25" W.), Belvidere, Illinois, and within two statute miles either side of a 255° bearing from the airport, extending from the five-mile radius area to six and one-half statute miles southwest of the airport.

[FR Doc.77-24170 Filed 8-19-77;8:45 am]

[Airspace Docket No. 76-PC-10]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Hawaiian Islands Transition Areas and Controlled Airspace

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Hawaiian Islands transition area by establishing an outer transition area with a base of 5,500 feet above the surface and an inner transition area with a base of 1,200 feet above the surface. This amendment establishes a common floor of controlled airspace between oceanic/domestic areas surrounding the entire State of Hawaii. A review of the controlled airspace in the vicinity of the Hawaiian Islands indicated a need for simplification of the Hawaiian Islands transition area.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On June 13, 1977, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Hawaiian Islands transition area by establishing an outer transition area with a base of 5,500 feet above the surface and an inner transition area with a base of 1,200 feet above the surface (42 FR 30210). Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. We received no comments on the NPRM. Section 71.181 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 440), and amended on May 23, 1977, and June 9, 1977, (42 FR 20621, 29476).

THE RULE

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (FARs) alters the Hawaiian Islands transition area from a maze of control areas with arbitrary boundaries and nonstandard bases of 700 feet, 1,200 feet, 2,500 feet, 3,500 feet, 5,000 feet and 14,500 feet to a standard outer transition area with a base of 5,500 feet above the surface and a standard inner transition area with a base of 1,200 feet above the surface. The outer transition area establishes a common floor of controlled airspace between oceanic/domestic areas and the inner transition area provides controlled airspace for low altitude flights close to the islands. This amendment adopts the airspace action proposed in the NPRM and in addition deletes the Zaney transition area which was established on May 23, 1977. Since the Zaney transition area has the same 1,200 foot floor as the inner transition area established by this amendment, it is being absorbed in that transition area under this amendment and separate notice and public procedure for such action is unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished and amended (42 FR 440, 20621 and 29476) is amended, effective 0901 G.m.t., October 6, 1977, as follows:

In § 71.181, the following transition areas are amended as follows:

1. In the Hawaiian Islands transition area, the text is deleted and "The airspace extending upward from 5,500 feet above the surface within the area bounded by a line beginning at Lat. 24°03' N., Long. 156°19' W., to Lat. 23°32' N., Long. 155°29' W., to Lat. 23°00' N., Long. 154 39' W., to Lat. 22°22' N., Long. 153°53' W., to Lat. 21°43' N., Long. 153°09' W., to Lat. 20°16' N., Long. 152°14' W., to Lat. 19°13' N., Long. 151°52' W., to Lat. 17°40' N., Long. 155°49' W., to Lat. 18°28' N., Long. 158°55' W., to Lat. 18°57' N., Long. 159°55' W., to Lat. 19°35' N., Long. 160°36' W., to Lat. 22°19' N., Long. 162°29' W., to Lat. 23°07' N., Long. 162°13' W., to Lat. 23°49' N., Long. 161°39' W., to Lat. 24°17' N., Long. 160°52' W., to the point of beginning; and the airspace upward from 1,200 feet above the surface within the area described above bounded by a line beginning at Lat. 22°28' N., Long. 155°48' W., to Lat. 21°00' N., Long. 153°51' W., thence clockwise along the arc of a 115-mile radius circle of the HILO VORTAC (Lat 19°43'26" N., Long. 155°00'49" W.), to Lat. 19°00' N., Long. 153°23' W., to Lat 19°00' N., Long. 157°40' W., to Lat. 20°28' N., Long. 160°29' W., thence clockwise along the arc of a 115-mile radius circle of the South Kauai VORTAC (Lat. 21°54'13" N., Long. 159°31'54" W.), to Lat. 23°30' N., Long. 159°02' W., to the point of beginning." is substituted therefor.

2. In the Hilo, Hawaii, transition area all after "the HILO VORTAC 099° radial;" is deleted.

3. In the Honolulu, Hawaii, transition area all after "extending from 13 miles to 14 miles southwest of the VORTAC;" is deleted.

4. In the Kahului, Hawaii, transition area all after "extending from 14 miles to 17 miles northeast of the VORTAC;" is deleted.

5. In the Kaneohe, Hawaii, transition area all after "the 8-mile radius area to 12 miles N of the TACAN;" is deleted.

6. In the Kona, Hawaii, transition area all after "to 17.5 miles north of the VORTAC;" is deleted.

7. In the Lihue, Hawaii, transition area all after "10.5 miles southeast of the Lihue VORTAC;" is deleted.

8. In the Molokai, Hawaii, transition area all after "to a point 7 miles east of this intersection;" is deleted.

9. North Hilo, Hawaii, transition area is deleted.

10. Sunrise, Hawaii, transition area is deleted.

11. Swordfish, Hawaii, transition area is deleted.

12. Upolu, Hawaii, transition area is deleted.

13. In the Waimea-Kohala, Hawaii, transition area all after "11.5 miles northeast of the Kamuela VOR;" is deleted.

14. Zaney, Hawaii, transition area is deleted.

(Secs. 307(a), 313(a) and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510; Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 15, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc.77-24151 Filed 8-19-77;8:45 am]

V 42 162 AUG 22 77 UM

[Airspace Docket No. 77-EA-68]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area: Charlottesville, Va.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Charlottesville, Va. Control Zone and Transition Area, by changing the name of the Charlottesville, Va., radio beacon in the description to Azalea Park radio beacon.

EFFECTIVE DATE: 0901 GMT October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart F and G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the Charlottesville, Va., Control Zone and Transition Area.

In view of the editorial nature of the amendment, notice or public procedure hereon are unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F and G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT October 6, 1977, as follows:

1. Amend Section 71.171 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Charlottesville, Va. control zone by deleting, "Charlottesville, Va., RBN" and by inserting, "Azalea Park RBN" in lieu thereof.

2. Amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Charlottesville, Va., 700-foot floor transition area by deleting, "Charlottesville, Va., RBN" and by inserting "Azalea Park RBN" in lieu thereof.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, New York, on August 8, 1977.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc.77-24171 Filed 8-19-77;8:45 am]

[Airspace Docket No. 77-EA-64]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Revocation of Control Zone: Hazleton, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes the Hazleton, Pa., Control Zone. This all results from a closing of the Supplementary Aviation Weather Reporting Station (SAWRS) at the Hazleton Municipal Airport.

EFFECTIVE DATE: August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to revoke the Hazleton, Pa., Control Zone. With the closing of the SAWRS at the airport, the weather observations required to support the control zone are no longer available. Thus, the zone must be revoked.

Since this amendment decontrols airspace and is therefore relieving, notice or public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective August 25, 1977, as follows:

1. Revoke the Hazleton, Pa., Control Zone.

(Sec. 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, New York, on August 9, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77-24156 Filed 8-19-77;8:45 am]

[Docket Nos. 16388 and 16389; Special Federal Aviation Regulation No. 33-1]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT

Flight Recorders and Cockpit Voice Recorders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment removes a provision which excluded certain large airplane flight recorder and cockpit voice recorder installations from the relief provided by Special Federal Aviation Regulation No. 33 ("SFAR No. 33"). The intended effect of this amendment is to allow certain large airplanes, which had a flight recorder and cockpit voice recorder installed on the effective date of SFAR No. 33, to be operated without a flight recorder or cockpit voice recorder for a temporary period. This change is needed in order to relieve certificate holders of the continued use and maintenance of flight recorder and cockpit voice recorder installations on certain large airplanes.

EFFECTIVE DATE: September 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. D. A. Schroeder, (AFS-901), Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-755-8517.

SUPPLEMENTARY INFORMATION:

HISTORY

This amendment is based on a notice of proposed rulemaking (Notice 76-29) published in the FEDERAL REGISTER on December 30, 1976 (41 FR 56827). That notice invited comments by all persons interested in the making of the proposed rule. All interested persons have been afforded an opportunity to participate in the making of this amendment and due consideration has been given to all matters presented. Eight commenters responded to Notice 76-29. Except as specifically discussed hereinafter, this amendment and the reasons therefor are the same as those in Notice 76-29.

By way of background, it should be noted that SFAR No. 33 was adopted to avoid possible adverse economic impact which might result from continuation of the flight recorder and cockpit voice recorder requirements during development of new rules in the Part 135 Regulatory Review Program. SFAR No. 33 did not apply to the designated large airplanes which had a flight recorder and cockpit voice recorder installed on the effective date of SFAR No. 33. Notice 76-29 proposed to amend SFAR No. 33 to make it applicable to those airplanes in order to relieve certificate holders of expenses resulting from continued use of the recorders during the time anticipated to be required for completion of rulemaking in the Part 135 Regulatory Review Program.

DISCUSSION OF COMMENTS

Three commenters opposed the proposal and another commenter supported that part of the proposal relating to the flight recorder and opposed the proposal as it related to the cockpit voice recorder. Three commenters supported the proposal and another stated that it did not oppose the proposal. One of the commenters supporting the proposal, an industry association, stated that the flight recorder and cockpit voice recorder do not enhance the safety of a particular flight and the economic detriment resulting from inspections and maintenance is significant. An operator supporting the proposal commented that the proposal would permit standardization of equipment in its fleet of airplanes. That operator noted that under SFAR No. 33 it is necessary to maintain recorder installations in existence on the effective date of SFAR No. 33, but it is not necessary to make recorder installations on its airplanes acquired after that date. Another operator supporting the proposal commented that it had been necessary to repair the flight data recorder frequently which resulted in significant loss of airplane utilization.

Opposition to the proposal centered on the contention that the cockpit voice recorder and flight recorder are useful tools in aircraft accident investigations. It should also be noted that the one comment received on SFAR No. 33 emphasized accident investigation usefulness. However, none of the commenters opposing the proposal on this basis cited any accidents involving airplanes having a maximum passenger capacity of 30 seats or less, a maximum payload capacity of 7,500 pounds or less, and a maximum zero fuel weight of 35,000 pounds or less, operated by a Part 121 or 135 certificate holder, in which the probable cause could not have been determined without cockpit voice recorder and flight recorder information. In addition, although some commenters opposing the proposal minimized the economic impact of maintenance and servicing of the recorders, none submitted any economic data to support its contentions.

One commenter suggested that flight recorder and cockpit voice recorder costs could be reduced to reasonable levels if smaller recorders would be developed. While this suggestion is beyond the scope of the proposal in Notice 76-29 and consequently has not been discussed herein, it is appreciated.

The FAA has carefully considered all of the comments received in response to Notice 76-29, including those which stressed the accident investigation usefulness of the flight recorder and cockpit voice recorder. The FAA has also considered maintenance and servicing expenses and has concluded that safety and the public interest do not require continued use of flight recorder and cockpit voice recorder installations on airplanes described in paragraph (b)(2) of section 1 of SFAR No. 33, during the period until June 30, 1978, which is the time anticipated to be required for completion of rulemaking in the Part 135 Regulatory Review Program.

DRAFTING INFORMATION

The principal authors of this document are Thomas G. Walenta, Flight Standards Service, and Richard C. Beitel, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, Special Federal Aviation Regulation No. 33 is amended, effective September 21, 1977, by revising paragraph (b) of section 1 to read as follows:

1. *Applicability.* • • •

(a) • • •

(b) This regulation does not apply to Convair 240, 340, and 440; Martin 202 and 404; Fairchild F-27 and FH-227; and Hawker Siddeley 748 airplanes.

(Secs. 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1424); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 15, 1977.

LANGHORNE BOND,
Administrator.

[FR Doc.77-24150 Filed 8-19-77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER A—ORGANIZATION, PROCEDURES AND RULES OF PRACTICE

PART 2—NONADJUDICATIVE PROCEDURES

PART 4—MISCELLANEOUS RULES

Informal Enforcement Procedure; Rescission

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: This change abolishes the Commission's informal enforcement procedure (voluntary assurances of compliance). It is designed to speed up the negotiating process by eliminating the possibility of recourse to this procedure.

EFFECTIVE DATE: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Barry R. Rubin, Office of General Counsel, Federal Trade Commission, Washington, D.C. 20580 (202-523-3865).

Accordingly, 16 CFR is amended as follows:

1. By revising § 2.14(a) to read as follows:

§ 2.14 **Disposition.**

(a) When the facts disclosed by an investigation indicate that corrective action is warranted, and the matter is not subject to a consent settlement pursuant to Subpart C of this part, further proceedings may be instituted pursuant to the provisions of Part 3 of this chapter.

• • • • • •

2. By revoking and reserving Part 2 Subpart B to read as follows:

Subpart B—[Reserved]

3. By revising § 4.9(b) (10) and (12) to read as follows:

§ 4.9 **Public records.**

• • • • • •

(b) • • •

(10) Agreements containing orders after acceptance by the Commission pursuant to §§ 2.34 and 3.25(d) of this chapter:

• • • • • •

(12) Reports of compliance and supplemental materials in connection therewith filed pursuant to the rules in this chapter or to a provision in an order of the Commission, except as provided in § 2.33 and in § 4.9(b)(13), shall be available at the principal office of the Commission for inspection and copying by the public when received, unless at such time of filing the filing party requests confidentiality in whole or in part and submits satisfactory reasons therefor, and the Commission, with due regard for statutory restrictions, its rules and the public interest, grants the requests; and

• • • • • •

(15 U.S.C. 46(g).)

By direction of the Commission dated August 12, 1977.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-24221 Filed 8-19-77;8:45 am]

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER B—CONSUMER PRODUCT SAFETY ACT REGULATIONS

PART 1201—SAFETY STANDARD FOR ARCHITECTURAL GLAZING MATERIALS

Temporary Stay For Laminated Glass In Category II Products

AGENCY: Consumer Product Safety Commission.

ACTION: Temporary stay of the standard for architectural glazing materials as it applies to laminated glass used in category II products.

SUMMARY: The Commission temporarily stays the application of the consumer product safety standard for architectural glazing materials as it applies to laminated glass used in "category II" products that comply with the voluntary industry standard in order to allow completion of impact testing. The results of these impact tests should enable the Commission to determine if the allegation that laminated glass cannot qualify for use in category II products is correct.

DATES: The stay for laminated glass in category II products is effective from July 6, 1977 through December 3, 1977.

V 42162 AUG 22 77 UM

FOR FURTHER INFORMATION CONTACT:

Allen Brauninger, Directorate of Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, 301–492–6629.

SUPPLEMENTARY INFORMATION:

On January 6, 1977, the Consumer Product Safety Commission promulgated a standard for architectural glazing materials (16 CFR Part 1201) designed to eliminate or reduce the unreasonable risks of injury associated with architectural glazing materials (42 FR 1428). The standard is designed to insure that the glazing materials used in certain architectural products either do not break when impacted with a specified energy, or break with such characteristics that they are less likely than other glazing materials to present an unreasonable risk of injury.

On June 27, 1977, the Laminators Safety Glass Association (LSGA) filed with the Commission, among other documents, a petition to stay the effective date of the architectural glazing standard as it applies to laminated glass. LSGA alleged in its petition that laminated glass used in category II products may not meet the requirements of the standard. It submitted preliminary test data in support of its petition and advised that impact testing of laminated glass would be completed in late August or early September. LSGA also submitted a petition under section 10 of the Consumer Product Safety Act, 15 U.S.C. 2059, requesting in part that the standard be amended to exclude laminated glass. A copy of the petition to stay the standard and petition to amend the standard (CP 77–16) is available for review in the Office of the Secretary, 1111 18th Street, NW., Third Floor, Washington, D.C. 20207.

The Commission, in view of the allegations of LSGA, which if correct could have a significant adverse economic effect on the laminated glass industry and on consumers' ability to obtain replacement glazing, on July 28, 1977 granted a temporary stay of the standard as it applies to laminated glass used in category II products when such glazing complies with American National Standards Institute Standard, "Performance Specifications and Methods of Test for Safety Glazing Material used in Buildings," 1975, ANSI Z97.1–75. The stay applies for a period of 150 days beginning on the effective date of the standard, July 6, 1977, and ending December 3, 1977. The stay will allow the LSGA to complete its testing of laminated glass. The Order of the Commission is set forth below:

BEFORE THE UNITED STATES CONSUMER PRODUCT SAFETY COMMISSION

In The Matter of Laminators Safety Glass Association

ORDER

On consideration of the Laminators Safety Glass Association's (LSGA) request that the Commission stay the Standard for Architectural Glazing Materials as it applies to laminated glass used in "Category II" products, pending completion of impact tests to determine if laminated glass can comply with the Standard, the Commission grants a temporary stay of the Standard as set forth below. The temporary stay is granted in order to allow the laminated glass industry an opportunity to complete impact testing of laminated glass now underway. The results of this testing should enable the Commission to determine if the allegation by LSGA that laminated glass cannot consistently "pass" the requirements of the Standard is correct. The stay will also provide the Commission time to address the petition submitted by LSGA under section 10 of the Consumer Product Safety Act, 15 U.S.C. 2059, to amend the Standard to exempt laminated glass from the impact test requirements for Category II products, or to enlarge the size of the panels included within category II products, or to create a third classification of architectural products to be impacted at an energy level between 150 and 400 foot pounds, or to provide such other relief as may be appropriate.

The Standard for Architectural Glazing Materials, 16 CFR 1201, is stayed as it applies to laminated glass, as defined below, used in category II products (also defined below) only, when such glazing complies with American National Standards Institute Standard, "Performance Specifications and Methods of Test for Safety Glazing Material Used in Buildings," 1975, ANSI Z97.1–75. The stay shall apply for a period of 150 days beginning on the effective date of the Standard, July 6, 1977 and ending December 3, 1977.

Laminated glass is defined in the Standard as meaning:

Glazing material composed of two or more pieces of glass, each piece being either tempered glass, heat strengthened glass, annealed glass or wired glass, bonded to an intervening layer or layers of resilient plastic material. 16 CFR § 1201.2(a)(13).

Category II products mean any of the following architectural products:

(i) Shower doors and enclosures.
(ii) Bathtub doors and enclosures.
(iii) Sliding glass doors (patio type).
(iv) Storm doors or combination doors that contain any piece of glazing material greater than 9 square feet (0.83 square meters) in surface area of one side of the piece of glazing material.
(v) Doors that contain any piece of glazing material greater than 9 square feet (0.83 square meters) in surface area of one side of the piece of glazing material.
(vi) Glazed panels that contain any piece of glazing material greater than 9 square feet (0.83 square meters) in surface area of one side of the piece of glazing material. 16 CFR 1201.2(a)(4).

Decided: July 28, 1977.

Dated: August 17, 1977.

For the Commission,

RICHARD E. RAPPS, *Secretary.*

(Secs. 7, 9, Pub. L., 92–573, 86 Stat. 1215; 15 U.S.C. 2056, 2058.)

Effective date: This stay applies between July 6, 1977 and December 3, 1977.

Dated: August 17, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-24219 Filed 8-19-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5854; IC-9889]

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 271—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT COMPANY ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER

Withdrawal of Undertaking Required of Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Amendment of guidelines.

SUMMARY: Because the expense of having a shareholder meeting to satisfy the undertaking applicable to certain investment companies to have a shareholders meeting within 180 days of the effectiveness of a registration statement under the Securities Act of 1933 for the purpose of electing directors may not result in significantly increasing the protection of investors, the Commission announces an amendment to the Guidelines to delete the undertaking.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT:

Walter R. McEwen, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202–755–4866).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Securities and Exchange Commission is hereby publishing an amendment made to the Guidelines for the Preparation of Forms S–4 and S–5 Including the Prospectus for a Management Investment Company (the "Guidelines") (IC 7220, 33–5259, June 14, 1972 (37 FR 12790) to delete the requirement that newly formed management investment companies registering securities under the Securities Act of 1933 (the "Securities Act") (15 U.S.C. 77a et seq.) as amended by Pub. L. No. 94–29 (June 4, 1975)) on Forms S–4 or S–5 (17 CFR 239.14, 239.15) undertake to have a meeting of shareholders no later than 180 days after the effective date of the registration statement under the Securities Act for the purpose of electing directors. This undertaking, coupled with a second undertaking to seek shareholder approval of the advisory contract at the first annual or special meeting, has the effect of requiring an approval of the contract and election of directors within such 180 day period. In its program to reexamine its regulation of investment companies, the staff has become convinced that the operation of the undertaking causes investment companies to incur the not insignificant cost of an annual or special meeting without significantly increasing the protection of investors. The staff believes that the continued applicability of the undertaking in the Guidelines which requires such investment companies to have shareholders vote on the advisory contract at the first annual or special meeting will serve as sufficient protection of the rights of investors.

Given that the withdrawal of the 180 day requirement may result in a longer period before shareholder approval, directors of the investment company, notably independent directors, should pay particular heed to their responsibilities under the Investment Company Act of 1940 (the "1940 Act") with respect to approval and monitoring of the advisory contract in the period prior to such shareholder approval.

Further, in view of the 1940 Act requirements as to shareholder approval, the staff believes that such annual or special meeting should occur as soon as is possible in order to receive public shareholder approval while accommodating reasonable business planning. The staff believes that such meeting normally would be scheduled to occur within a year from commencement of the public offering contemplated by the registration statement.

Should persons wish to comment on or seek further information regarding the foregoing staff position, they may do so by contacting Walter R. McEwen whose address appears above, by telephone or in writing.

By the Commission.

Dated: August 12, 1977.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77-24127 Filed 8-19-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7504]

PART 7—TEMPORARY REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Amounts at Risk With Respect to Certain Activities

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to the determination of the amount at risk for activities begun prior to the effective date of the at risk provisions and continued after the effective date. Changes to the applicable tax law were made by the Tax Reform Act of 1976. These regulations provide necessary guidance to the public for compliance with the at risk provisions, and affect most persons who engage in activities covered by those provisions which were begun, but not completed, prior to the effective date.

DATE: The regulations are effective for taxable years beginning after December 31, 1975, except as otherwise provided.

FOR FURTHER INFORMATION CONTACT:

David Jacobson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) 202–566–3923.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains amendments to the Temporary Regulations under the Tax Reform Act of 1976 (26 CFR Part 7) under section 465 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 204 of the Tax Reform Act of 1976 (90 Stat. 1531).

EXPLANATION OF THE REGULATIONS

Section 204 of the Tax Reform Act of 1976 (90 Stat. 1531) amended the Internal Revenue Code by adding section 465. Section 465 provides that losses from certain activities will be allowed only to the extent the taxpayer is at risk with respect to the activity. In general, section 465 applies to holding, producing or distributing motion picture films or video tapes; farming; leasing tangible personal property (section 1245 property); and exploring for, or exploiting, oil and gas resources. Section 465 generally applies to losses attributable to amounts paid or accrued in taxable years beginning after December 31, 1975.

These temporary regulations provide rules for determining amounts at risks as of the first day of the first taxable year section 465 is applicable. They apply to activities begun, but not completed, prior to the effective date of section 465.

DRAFTING INFORMATION

The principal author of this regulation was David Jacobson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, 26 CFR Part 7 is amended as follows:

The following sections are inserted in the appropriate place:

§ 7.465–1 Amounts at risk with respect to activities begun prior to effective date; in general.

Section 465 provides that a taxpayer (other than a corporation which is not a subchapter S corporation or a personal holding company) engaged in certain activities may not deduct losses from such activity to the extent the losses exceed the amount the taxpayer is at risk with respect to the activity. For the types of activities to which section 465 applies and for determining what constitutes a separate activity, see section 465(c). Section 465 generally applies to losses attributable to amounts paid or incurred in taxable years beginning after December 31, 1975. For the purposes of applying the at risk limitation to activities begun before the effective date of the provision (and which were not excepted from application of the provision), it is necessary to determine the amount at risk as of the first day of the first taxable year beginning after December 31, 1975. The amount at risk in an activity as of the first day of the first taxable year of the taxpayer beginning after December 31, 1975, (for the purposes of § 7.465–1 through 7.465–5 such first day shall be referred to as the effective date) shall be determined according to the rules provided in sections 7.465–2 through 7.465–5.

§ 7.465–2 Determination of amount at risk.

(a) *Initial amount.* The amount a taxpayer is at risk on the effective date with respect to an activity to which section 465 applies shall be determined in accordance with this section. The initial amount the taxpayer is at risk in the activity shall be the taxpayer's initial basis in the activity as modified by disregarding amounts described in section 465(b) (3) or (4) (relating generally to amounts protected against loss or borrowed from related persons).

(b) *Succeeding adjustments.* For each taxable year ending before the effective date, the initial amount at risk shall be increased and decreased by the items which increased and decreased the taxpayer's basis in the activity in that year as modified by disregarding the amounts described in section 465(b) (3) or (4).

(c) *Application of losses and withdrawals.* (1) Losses described in section 465(d) which are incurred in taxable years beginning prior to January 1, 1976 and deducted in such taxable years, will be treated as reducing first that portion of the taxpayer's basis which is attributable to amounts not at risk. On the other hand, withdrawals made in taxable years beginning before January 1, 1976, will be treated as reducing the amount which the taxpayer is at risk.

(2) Therefore, if in a taxable year beginning prior to January 1, 1976 there is a loss described in section 465(d), it shall reduce the amount at risk only to the extent it exceeds the amount of the taxpayer's basis which is not at risk. For the purposes of this paragraph, the taxpayer's basis which is not at risk is that portion of the taxpayer's basis in the activity (as of the close of the taxable year and prior to reduction for the loss) which is attributable to amounts described in section 465(b) (3) or (4).

(d) *Amount at risk shall not be less than zero.* If, after determining the

V42N162 AUG 22 77 UM

amount described in paragraph (a), (b), and (c) of this section, the amount at risk (but for this paragraph) would be less than zero, the amount at risk on the effective date shall be zero.

§ 7.465–3 Allocation of loss for different taxable years.

If the taxable year of the entity conducting the activity differs from that of the taxpayer, the loss attributable to the activity for the first taxable year of the entity ending after the beginning of the first taxable year of the taxpayer beginning after December 31, 1975, shall be allocated in the following manner. That portion of the loss from the activity for such taxable year of the entity which bears the same ratio as the number of days in such taxable year before January 1, 1976, divided by the total number of days in the taxable year, shall be attributable to taxable years of the taxpayer beginning before January 1, 1976. Consequently, that portion shall be treated in accordance with § 7.465–2.

§ 7.465–4 Insufficient records.

If sufficient records do not exist to accurately determine under § 7.465–2 the amount which a taxpayer is at risk on the effective date, the amount at risk shall be the taxpayer's basis in the activity reduced (but not below zero) by the taxpayer's share of amounts described in section 465(b) (3) or (4) with respect to the activity on the day before the effective date.

§ 7.465–5 Examples.

The provisions of § 7.465–1 and § 7.465–2 may be illustrated by the following examples:

Example (1). J and K, as equal partners, form partnership JK on January 1, 1975. Partnership JK is engaged solely in an activity described in section 465(c)(1). On January 1, 1975, each partner contributes $10,000 in cash from personal assets to JK. On July 1, 1975, JK borrows $40,000 (of which J's share is $20,000) from a bank under a nonrecourse financing arrangement secured only by the new equipment (for use in the activity) purchased with the $40,000. On September 1, 1975, JK reduces the amount due on the loan to $36,000 (of which J's share is $18,000). On October 1, 1975, JK distributes $3,000 to each partner. For taxable year 1975, JK has no income or loss. Although J's basis in the activity is $25,000 ($10,000+$18,000−$3,000) J's amount at risk on the effective date is $7,000 determined as follows:

Initial amount at risk	$10,000
Plus: Items which increased basis other than amounts described in sec. 465(b) (3) or (4)	0
Total	10,000
Less: Distribution	3,000
J's amount at risk on effective date	7,000

Example (2). Assume the same facts as in Example (1) except that JK has a loss (as described in section 465(d)) for 1975 of which J's share is $12,000. Although J's basis in the activity is $13,000 ($10,000+$18,000−($3,000+$12,000)) J's amount at risk on the effective date is $7,000 determined as follows:

Initial amount at risk	$10,000
Plus: Items which increased basis other than amounts described in sec. 465(b) (3) or (4)	0
Total	10,000
Less: Distribution	3,000
Portion of loss ($12,000) in excess of portion of basis not at risk ($18,000)	0
	3,000
J's amount at risk on effective date	7,000

Example (3). Assume the same facts as in Example (1) except that JK has a loss (as described in section 465(d)) for 1975, and J's share is $23,000. J's basis in the activity is $2,000 ($10,000+$18,000−($3,000+$23,000)). The amount at risk on the effective date is determined as follows:

Initial amount at risk	$10,000
Plus: Items which increased basis other than amounts described in sec. 465(b) (3) or (4)	0
	$10,000
Less: Distribution	3,000
Portion of loss ($23,000) in excess of portion of basis not at risk ($18,000)	6,000
	8,000
J's amount at risk on the effective date	2,000

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

NOTE.—This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Approved: August 13, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc.77-24186 Filed 8-19-77;8:45 am]

[T.D. 7503]

PART 9—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REDUCTION ACT OF 1975

Foreign Base Company Shipping Income

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to an election permitted to United States shareholders of controlled foreign corporations by the Tax Reduction Act of 1975. These regulations provide necessary guidance for making the election.

DATE: The regulations are effective for taxable years of foreign corporations beginning after December 31, 1975, and for taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

FOR FURTHER INFORMATION CONTACT:

Benjamin J. Cohen of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T), 202–566–4454.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On August 9, 1976, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 955 of the Internal Revenue Code of 1954, 41 FR 33285. The amendments were proposed to conform the regulations to section 602 of the Tax Reduction Act of 1975 (89 Stat. 58). No public hearing has been held. After consideration of all relevant comments, the rules in §§ 1.954–7(b) and 1.955A–4 are temporarily adopted by this Treasury decision.

DRAFTING INFORMATION

The principal author of this regulation was Benjamin J. Cohen of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, 26 CFR Part 9 is amended by adding a new § 9.2 to read as follows:

§ 9.2 Election as to date of determining qualified investment in foreign base company shipping operations.

The rules in §§ 1.954–7(b) and 1.955A–4 (as published with notice of proposed rulemaking in the FEDERAL REGISTER for Monday, August 9, 1976 (41 FR 33285)) shall apply until superseded by final regulations.

(Secs. 955(b) and 7805, Internal Revenue Code of 1954 (89 Stat. 63 and 68A Stat. 917; 26 U.S.C. 955 and 7805).)

WILLIAM E. WILLIAMS,
Acting Commissioner of Internal Revenue.

Approved: August 13, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

[FR Doc.77-24187 Filed 8-19-77;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER 1—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 75–222]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Lake Champlain, N.Y.

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: This amendment changes the regulations governing the operation of the Vermont Department of Highways drawbridge between Sandy Point, Grand Isle (South Hero Island) and Knight Point, North Hero Island to provide periods when the draw need not open for the passage of vessels. The data submitted demonstrated that full-time attendance on a year-round basis and during evenings was not justified. The amendment relieves the state of the obligation of maintaining a full-time drawtender.

EFFECTIVE DATE: This amendment is effective on September 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G–WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202–426–0942.

SUPPLEMENTARY INFORMATION: On December 8, 1975, the Coast Guard published a proposed rule (40 FR 57222) concerning this amendment. The Commander, Third Coast Guard District, also issued a public notice on December 10, 1975. Interested persons were given until January 9, 1976, to submit comments.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

Seven responses were received regarding the highway bridge between Sandy Point, Grand Isle and Knight Point, North Hero Island (§ 117.191(c)). Three had no comment or supported the proposal. Four objected to the proposed change and recommended extending the periods when the draw would open on signal. The applicant was informed of these objections and agreed to extend these periods from June 1 through September 30 to May 15 through October 15. The Coast Guard feels that this change will provide for the reasonable needs of navigation. If navigation increases or decreases, these regulations may be amended to reflect this change.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended as follows:

§ 117.190 [Amended]

1. By deleting § 117.190(f) (3) and (4).

2. By adding a new § 117.191 immediately after § 171.190 to read as follows:

§ 117.191 Navigable waters in the State of Vermont and their tributaries: bridges when constant attendance of draw tenders is not required.

(a) Lake Champlain; Vermont Department of Highways bridge across entrance to Missisquoi Bay, between Alburg Tongue and Hog Island, at East Alburg. The draw shall open on signal if at least 24 hours notice is given.

(b) Lake Champlain; Missisquoi Bay, Central Vermont railroad bridge. The draw shall open on signal from June 1 through September 30 from 7 a.m. to 11 p.m. At all other times the draw shall open on signal if at least 24 hours notice is given to Central Vermont Railway, Inc., St. Albans, Vermont 05478.

(c) Lake Champlain; Vermont Department of Highways bridge between Sandy Point, Grand Isle (South Hero Island) and Knights Point, North Hero Island.

(1) From May 15 through October 15, the draw shall open on signal from 7 a.m. to 9 p.m.

(2) From May 15 through October 15, the draw shall open on signal from 9 p.m. to 7 a.m. if at least four hours notice is given.

(3) From October 16 through May 14, the draw shall open on signal if at least 24 hours notice is given.

(4) During periods of advance notice requirements, the draw shall open as soon as possible for public vessels of the United States.

(d) The owners of or agencies controlling these bridges shall keep a copy of the regulations in this section pertaining to each bridge, and a notice stating how the advance notices required by this section, are to be given. This notice shall be conspicuously posted on both the upstream and downstream sides of the bridge.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).)

The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended and OMB Circular A–107.

Dated: August 15, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc.77-24295 Filed 8-19-77;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5622]

[Riverside 597]

CALIFORNIA

Revocation of Air Navigation Site Withdrawal

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This order will restore a small parcel of public land to the operation of public land laws, including the mining laws.

DATE EFFECTIVE: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Eldon G. Hayes, 202–343–8731.

By virtue of the authority contained in section 204 of the Act of October 21, 1976, 43 U.S.C. 1701, et seq., it is ordered as follows:

1. Air Navigation Site withdrawal of September 26, 1957, which withdrew the following described lands for use of the Corps of Engineers, United States Army, for the Silver Mountain Beacon Site, is hereby revoked as to the following described lands:

SAN BERNARDINO MERIDIAN

T. 6 N., R. 4 W.,
Sec. 10, commencing at the center of said sec. 10, S. 56°58' W., 1,869 feet; S. 10°15' E., 165 feet to the true point of beginning; S. 79°45' W., 40 feet; S. 10°15' E., 50 feet; N. 79°45' E., 40 feet; S. 10°15' E., 90 feet, more or less, to the south line of said SE¼NW¼SW¼;
Thence easterly along said south line 10.2 feet; N. 10°15' W., 142 feet, more or less, to a point distant N. 79°45' E., 10 feet from the true point of beginning; S. 79°45' W., 10 feet to the true point of beginning.
Sec. 15, A square parcel of land, measuring 50 feet on each side, said sides bearing due north, east, south and west, the center point of said square parcel being described as follows: Commencing at a point on an existing powerline running approximately east and west from which point the center of sec. 10, said township and range, bears N. 56°58' E., 1,869 feet, thence S. 10°15' E., 3,412.50 feet to a point, said point being the center point of said square parcel of land.

The tracts as described contain approximately 0.114 acre in San Bernardino County.

2. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, at 10 a.m. on September 20, 1977, the lands shall be open to operation of the public land laws generally. All valid applications received at or prior to 10 a.m. on September 20, 1977, shall be considered as simultaneously filed at that time. The lands will be open to location under the United States mining laws and to applications and offers under the mineral leasing laws at 10 a.m. on September 20, 1977.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, Room E–2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

GUY R. MARTIN,
Assistant Secretary of the Interior.

AUGUST 15, 1977.

[FR Doc.77-24224 Filed 8-19-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20149; FCC 77-518]

LOCAL GOVERNMENT AND MANUFACTURERS RADIO SERVICES

Making Available Four 173 MHz Splinter Frequencies for Telemetry and Remote Control Operations; Second Report and Order, (Proceeding Terminated)

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates several 150–174 MHz band "splinter" and "offset" channels for remote control and telemetry operations in the private land mobile services. The action is expected to alleviate the congestion on the presently allocated splinter channels.

EFFECTIVE DATE: September 6, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mr. Herb Zeiler or Mr. Tom Tycz, Industrial and Public Safety Rules Division, Safety and Special Radio Services Bureau, 202-632-6497.

In the matter of amendment of Parts 89 and 91 of the Commission's Rules and Regulations to make available four 173 MHz splinter frequencies to the Local Government and Manufacturers Radio Services for telemetry and remote control operations (Docket No. 20149); Second Report and Order (Proceeding Terminated).

Adopted: July 21, 1977.

Released: August 4, 1977.

I

Background Statement

1. We initiated this rule making proposing to make four 173-MHz "splinter" channels available for remote control and telemetry operations in the Local Government and Manufacturers Radio Service.[1] Following, in July 1975, the proposal, essentially as made, was adopted.[2] In the proceeding, however, a number of parties urged us to explore further the possibilities for allocating additional "narrow-band frequencies" for use in simiiar "non-voice signalling" operations; and, in response, we issued the Further Notice with which we are concerned here.[3]

2. In the Further Notice, we proposed to make available seven channels in the 150–174 MHz range for use in remote control and telemetry systems.[4] As in our earlier proceeding, these channels were to be allocated to the Local Government and to the same Industrial Radio Services group. In addition, we asked for suggestions from the parties as to any other narrow band frequencies they thought could be employed similarly. The objective here was to explore all possibilities for using any remaining bandages and "splinter" bandwidths in this very crowded part of the radio spectrum. Further, it had come to our attention that certain telemetry systems might require a wider bandwidth than could be used on the 7.5 kHz splinter frequencies; and comments on this were also requested.[5]

3. The comments and replies of interested parties have been filed.[6] We have considered them, and our disposition of the various views and recommendations follows.

II

Recommendation of the Parties In General

4. Our proposal to allocate the seven 152–158 MHz "splinter" frequencies for telemetry and remote control operations in the Local Government and Industrial Services group was supported, on major respects, by API, NABER, NAM, SIRSA, and UTC.[7] However, use of three of these channels (those adjacent to allocations in the Part 21, Domestic Public Radio Services)[8] was opposed to strongly by AT&T, GTE, NARS, and Motorola. FEA expressed the view that there was a need for additional frequencies for "load management" operations by power utilities, but it did not comment specifically on the particular frequencies proposed in the Further Notice. In addition, a number of parties expressed the need for more spectrum for non-voice use at 150 MHz and some urged allocation of frequencies at 450 MHz and 900 MHz for this purpose.[9] UTC specifically recommended use of six "offset" channels in the 173–174 MHz range;[10] and it also suggested seven additional VHF channels as ones which might possibly be employed in narrow-band telemetry operations.[11]

III

Discussion and Conclusions

The Frequencies 154.45625, 154.46375, 154.47125 and 154.47875 MHz

5. The frequency 154.45625 MHz (in the 154.4525–154.4600 MHz band) is presently allocated in the Local Government Radio Service for emergency call box service. See Sections 89.259(f) and (g) (1) and (2). As pointed out in the Further Notice, the channel is in use by a very limited number of licensees. Interest in using it for call boxes has been minimal for several years, and there are other frequencies available for call box operations. Except for UTC, there were no arguments against reallocation of the band for shared use for telemetry and remote control operations. UTC pointed out that this channel (154.45625 MHz) would only be 7.5 kHz removed from 154.46375 MHz, a frequency allocated in the Power Radio Service and used there in relatively high-powered systems for electricity "load shedding." See Sections

[1] Notice of Proposed Rulemaking, Docket No. 20149, Telemetry and Remote Control Operations, 48 FCC 2d 568 (1974). The channels (173.20375 MHz; 173.2100 MHz; 173.3906 MHz; and 173.39625 MHz) were available up to then solely in the Power, Petroleum, Special Industrial, Forest Products, and Business Radio Services. The proposal called for their use in the Local Government and Manufacturers Radio Services where there had developed a need for air, noise, and water quality monitoring systems.

[2] First "Report and Order," Docket No. 20149, 173 MHz Splinter Frequencies, 54 FCC 2d 612 (1975).

[3] Further Notice of Proposed Rulemaking, Docket No. 20149, 173 MHz Splinter Frequencies, 54 FCC 2d 618 (1975).

[4] The seven channels referred to are: 152.25875 MHz; 152.85875 MHz; 154.45625 MHz; 154.46375 MHz; 154.47125 MHz; 154.47875 MHz; and 157.75125 MHz. See 173 MHz Splinter Frequencies, cited supra fn. 4, at pages 618–619.

[5] See op. cit., supra fn. 6. The parties did not address themselves to the possible requirement for wider bandwidth channels (greater than 7.5 kHz) for telemetry operations. Accordingly, we will not explore this subject further at this time. However, recommendations of additional channels for "narrow-band" usages were made; and these proposals will be discussed in our opinion, below.

[6] American Telephone and Telegraph Company (AT&T); GTE Service Corporation (GTE); Motorola, Inc.; Telecommunications Committee of the National Assocation of Manufacturers (NAM); Special Industrial Radio Service Association, Inc. (SIRSA); Central Committee on Telecommunications of the American Petroleum Institute (API); National Association of Radiotelephone Systems (NARS); Utilities Telecommunications Council (UTC); Federal Energy Administration (FEA). Reply comments were filed by: Telephone and Data Systems, Inc. (TDS); American Telephone and Telegraph Company; Motorola; Central Committee on Telecommunications of the American Petroleum Institute; Special Industrial Radio Service Association; Utilities Telecommunications Counsel; National Association of Business and Educational Radio, Inc. (NABER); National Association of Radiotelephone Systems; and GTE Service Corporation.

[7] The reference, here, is to 152.25875, 152.85875, 154.45625, 154.46375, 154.47125, 154.47875, and 157.75125 MHz, the proposed allocation as set forth in our Further Notice. UTC did express opposition to "shared use" of 154.46375 MHz which, at the time, was available only to eligibles in the Power Radio Service.

[8] These channels are: 152.25875, 152.85875, and 157.75125.

[9] Since this proceeding was intended to deal with VHF bandedges and offset channels, the request concerning frequencies at the 450 and 900 MHz bands will not be disposed of here.

[10] The six "offsets" proposed were 173.2375, 173.2625, 173.2875, 173.3125, 173.3375, and 173.3625. These frequencies are 12.5 kHz offset from 173.225, 173.275, 173.325 MHz, and 173.375 MHz, allocated for base/mobile operation in the Motion Picture and Relay Press Radio Service; and from 173.250, 173.300, and 173.350 MHz, allocated for base/mobile operation in the Power, Petroleum, and Forest Products Radio Services.

[11] The suggested channels were: 152.465, 152.495, 157.725, 158.115, 158.475, 158.715, and 161.625 MHz. This recommendation is discussed below.

91.254(b)(17), (18), and (19). In those circumstances, UTC suggested that the channel would be of little use due to the potential for interference from Power Radio Service operations. While we agree that operations on this frequency would not be compatible with operations on 154.46375 MHz in the same area, we feel that the frequency could be used effectively in many parts of the country in view of the narrow-band technical requirements on both frequencies and the requirement for frequency coordination. Accordingly 154.45625 MHz will be reallocated.[12]

6. The frequency 154.47875 MHz is in the band 154.4750–154.4825 MHz. It is presently unassigned; and there were no comments in opposition to its proposed allocation. However, both 154.45625 MHz (just discussed) and this channel, 154.47875 MHz, are only 11.25 kHz removed from regularly assigned base/mobile frequencies.[13] Using present "off-the-shelf" equipment, from the standpoint of adjacent channel, base/mobile operations, the signals transmitted on the splinter channels must be treated on a par with co-channel interference potentials, and it is important that restrictions be imposed designed to keep potential interference to mobile voice systems to a minimum. To accomplish this, in addition to other antenna limitations now prescribed for these frequencies, we will limit stations operating in a fixed mode on the channels to a maximum ERP of 20 watts with antenna height restricted to 50 feet above ground. Mobile operations on these two frequencies will be limited to 2 watts ERP; and both mobile and fixed stations will be authorized only on a secondary basis to adjacent channel, base/mobile operations. Further, interservice coordination with adjacencies will be required. With these conditions, then, 154.47875 MHz is being reallocated as planned.

7. The frequency 154.46375 MHz (in the band 154.4600–154.4675 MHz) is presently allocated in the Power Radio Service primarily for assignment to multiple address fixed stations used for electricity "peak load shaving," or "shedding," or electricity load management. In areas 75 miles or more from the urban areas of 200,000 or more population, this frequency may also be assigned in the Power Radio Service for the type of remote control and telemetry we are concerned with here. In the Notice, we proposed to make it available in Local Government and in several Industrial services for remote control and telemetry in the same remote areas (e.g. 75 miles from some urban centers). UTC opposed the proposal. It argued that load management operations (i.e. peak load shedding by power utilities are not confined to large urbanized areas so that use of that frequency for other purposes outside the Power Radio Service would not be practical. Further, UTC says, this channel fulfills a "high priority" need; and that our proposal comes at a time when the electric utility industry is making plans for more extensive programs for load management. In these circumstances, UTC concludes, that the availability of this channel should not be expanded as proposed.

8. We are aware of the fact that 154.46375 MHz is employed in the power field for high priority, load management functions and of the importance of such usage. Nevertheless, we believe the channel can be made available in rural areas on a shared but secondary basis in radio services in addition to Power (e.g. Local Government and the Industrial group). Thus, we would limit such assignments to areas outside a 120.7 km (75 miles) from the "centers"[14] of urbanized areas of 200,000 or more population (U.S. Census of population, 1970).[15] With this condition, and with coordination and the use of directional antennas and "tone-coded" transmission techniques, we believe shared use of the channel is feasible; and we are accordingly allocating it essentially as proposed.

9. The final channel in this group, 154.47125 MHz (in the band 154.4675–154.4750 MHz) is presently shared between the Petroleum and Special Industrial Radio Services. API and SIRSA state, generally, that sharing with eligibles in the other five services involved is feasible and, hence, concur in it. They do feel that interservice coordination should be required; but we intend this to be the case and appropriate rules for that purpose are being adopted. With this, the splinter channel 154.47125 MHz will be allocated as proposed.

10. In summary, the frequencies 154.45625, 154.46375, 154.47125, and 154.47875 MHz are allocated for shared use for remote control and telemetry operations, with the restrictions specified in the rules, in the Local Government and in the mentioned Industrial Services (Power, Petroleum, Forest Products, Special Industrial, Manufacturers, and Business for mobile only). We plan to assign the center frequency only and that will be required. Paging systems (including tone paging) or other voice emissions will not be authorized. With the technical standards prescribed in detail in the rules, we believe that these frequencies would be useful in many applications and would be effectively shared.

The Frequencies 152.95875, 152.85875, and 157.75175 MHz

11. The other three splinter frequencies proposed in the Notice are located within the 30 kHz bandeges between frequencies allocated in the Domestic Public Land Mobile Radio Service and frequencies allocated in the private land mobile radio services. In all three cases, each proposed frequency is 18.75 kHz removed from the domestic public adjacency, and 11.25 kHz from the private land mobile adjacency. Two of the three domestic public adjacencies, namely 152.240 MHz and 152.840 MHz, are used for one-way paging operations. The third, 157.770 MHz, is not a paging channel, but the other adjacency 157.740 MHz, 11.25 kHz removed, is a paging channel, 157.740 MHz, in the Business Radio Service. We asked for comments specifically on the interference potential of this proposal since the planned remote control and telemetry or load management systems would be interfaced with radio paging systems.

12. Comments filed by AT&T, NARS, GTE, and Motorola, Inc., urged that we not adopt this proposal because, it was argued, operation of control or telemetry stations on the above-mentioned splinter frequencies would cause serious interference to paging operations on the adjacencies. The basic reasons advanced relate to interference, particularly interference to paging operations. Motorola, a leading manufacturer of paging equipment, as well as AT&T stated that the selectivity (that is, the discrimination against adjacent channels signals) of a typical paging receiver is about 60 dB for 30 kHz separation, drops down to about 35 dB for 15 kHz, and to about 25 dB when the separation is only 11.25 kHz, as it would be the case with the Business paging channel 157.740 MHz. Accordingly, it argued that, unless the stations on the adjacent frequencies are co-located, there would be some portion of the paging service area in which the interfering signal would be stronger than the desired signal. Depending on the power used, AT&T suggests that the interference area could be from one to two and a half miles in radius around the interfering transmitter site, or even greater near the fringe area of the paging station's coverage. Even if a station on the splinter frequency were located up to more than one mile outside the service area of the paging station, it is claimed that interference would be caused inside the service area. This interference would be multiplied if more stations were to be authorized on the proposed splinter frequency.

13. Further, it is claimed, the selectivity of paging receivers now in the market is state-of-the-art, and cannot be significantly improved unless new equipment designs are developed and tested. New equipment designs would result in costlier equipment, and would not, they point out, be immediately helpful in view of the vast number of existing equipment now in the hands of the public.

[12] Also as proposed, the few existing systems on this frequency will be "grandfathered."

[13] The regularly assigned base/mobile frequencies are: 154.445 MHz, allocated in the Fire Radio Service (See Sections 89.359 (f) and (g)); and 154.490 MHz, allocated in the Special Industrial Radio Service (See Sections 91.504 (a) and (b)).

[14] The "center" of urbanized areas are determined from the Appendix, page 226, of the U.S. Commerce publication, "Air Line Distances Between Cities in the United States."

[15] The urbanized areas involved are listed at Appendix A to this Second Report and Order.

V42162 AUG 22 77 UM

14. We have considered those comments carefully and in light of the equipment in use today it appears that the interference potential of our proposal would be significant and the impact could be felt by a substantial number of radio users. In reaching this conclusion, we have also considered carefully the arguments of those who supported our proposal. But even the supporters of this proposal, namely UTC, API, SIRSA, and NAM, acknowledge its interference potential but argued that it could be overcome by close, interservice coordination. However, even if we were to assume that coordination would avoid most interference problems, we point out that there is no available mechanism for interservice coordination. There is no frequency coordination body, as such, for the Domestic Public Land Mobile Service and the requirement for frequency coordination in the Business Radio Service applies only to frequencies above 450 MHz. Thus, this possible method of avoiding interference problems is not available [16]. We have also considered making these frequencies available on a secondary, non-interference basis. However, this approach also presents similar problems and, in view of the nature of the systems involved, interference, though serious, would be difficult to detect and identify and, when identified, adjustments would be disruptive and difficult to enforce. For all these reasons, we have concluded that the public interest would not be served by the adoption of this proposal at this time.

15. We have also considered the possibility suggested by UTC, that we utilize the frequencies 152.495, 158.115, and 158.475 MHz, which are also within the bandedges between Domestic Public and private land mobile radio allocations; the frequencies 152.465 and 157.725 MHz, situated between Taxicab and Business paging frequencies; and the frequency 161.625 MHz, which is a bandedge between Maritime and Broadcast Remote Pickup allocations. However, we have also concluded that use of these frequencies for the purposes of this proceeding would not be practically feasible. The frequencies 152.465 and 157.725 MHz are the subject of the rule making proceeding in Docket 20685 and their future use, if any, would be decided there. While it might be possible to make some use of the frequency 161.625 MHz, the fact that it is situated between Maritime and Remote Pickup allocations makes its usefulness for industrial telemetry doubtful. The Maritime and Remote Pickup Services are administered differently and are governed by rules and standards that are different from those applicable to the Public Safety and Industrial Radio Services; and this would make it difficult to properly coordinate the use of the channel and to have easy access to records sufficient to eliminate possible conflicts which could arise. We feel that the problem that would be generated would negate the value of the allocation and, accordingly, we have decided not to reallocate that frequency 161.625 MHz.

16. The potential for interference discussed in paragraphs 12–14, above, would exist if the frequencies 152.495, 158.115, and 158.475 MHz were made available. The frequencies 152.495 and 158.475 MHz are 15 KHz removed from the frequencies 152.480 and 158.460 MHz, respectively, which are allocated for paging service in the Business Radio Service and for two-way base/mobile service in the Special Industrial and in the Forest Products Radio Services in rural areas. Also, the frequency 158.100 MHz is primarily a paging frequency in the Domestic Public Land Mobile Service. The selectivity limitations of today's paging receivers and the heavy use of the frequencies for Business paging in urban areas, the extensive use of these same adjacencies in rural areas by Special Industrial and Forest Products licensees, as well as the potential for interference to Domestic Public paging operations on the other adjacencies dictate, in our view, that we not adopt UTC's proposal. However, 15 kHz separation, even where paging receivers are not involved, require geographic separation and close interservice coordination, the mechanism for which is not now available.

17. For all of these reasons, we have concluded that further use of the bandege frequencies mentioned is not feasible for the purposes of this proceeding at the present time.

The Offset Frequencies in the 173 MHz Band

18. On the other hand, we agree with UTC that some use can be made of the frequency spectrum between the assignable frequencies allocated for private land mobile radio systems in the 173 MHz band. In that band, there are seven assignable frequencies for private systems, four of which are allocated for shared use in the Relay Press and Motion Picture Radio Services and the remaining three are allocated for shared use in the Power, Petroleum, and Forest Products Radio Services. These frequencies are spaced at 25 KHz. UTC proposed that 6 kHz splinters be interspersed, centered at 12.5 kHz from the regularly assigned frequencies, and be made available in the Power Radio Service, principally for multiple address, load management operations with 300 watt output power. While, as we have said, we think that some use of these offset "splinters" can be made, 300-watt omni-directional systems suggested by UTC would not be compatible with land mobile operations on the regularly assignable frequencies.[17] But with suitable restrictions, comparable to these applicable to the use of "off-sets" in the Business Radio Service allocations in the 450–470 MHz band, these frequencies may be made available. However, the limited use possible also dictates that these should also be made available in Local Government and in the Industrial group of services for environmental monitoring, remote control and for telemetry, in addition to the Power Radio Service.

19. As to the restrictions, use would be limited to fixed nonvoice operation; paging will not be permitted; and all fixed station operation on these channels will be limited to a maximum ERP of 20 watts, with antenna height above ground not to exceed 50 feet. Fixed stations will be required to have directional antennas with a front-to-back ratio of at least 20 dB. However, provisions have been made for authorizing the use of omni-directional antennas with unity gain when a need is shown to transmit to at least three receiving locations separated by a total of 160 degrees in azimuth. Narrow band emission commensurate with the existing 173 MHz splinter operations will be required. In particular, for FM transmitters, the sum of the highest modulating frequency and the amount of frequency deviation may not exceed 2.8 kHz. For AM transmitters, the highest modulating frequency may not exceed 2000 Hz. The carrier frequency must be maintained with 0.0005 percent of the center of the frequency band, and the authorized bandwidth may not exceed 6 KHz. Finally, interservice coordination for co-channel and adjacent channel purposes will be required, and operations on the off-set splinters will be authorized on a secondary basis to adjacent channel users.

Summary

20. In summary, we have decided to allocate four channels in the 154 MHz range for remote control and telemetry operations; and six channels at 173 MHz for use in similar types of systems. All of the frequencies are being made available on a limited and conditioned basis

[16] In the private land mobile radio services, where the separation between assignable frequencies in the 150–162 MHz band is 15 kHz, the rules require a minimum geographic separation of 10 miles (7 in some cases) and close coordination if stations on adjacent frequencies are to be separated by more than 10 but less than 35 miles. Thus, as AT&T argued, use of these frequencies would place limits on future uses of the regularly assigned adjacent frequencies for domestic public land mobile purposes, a consequence not contemplated in this proceeding.

[17] A 12.5 KHz separation provides adjacent channel attenuation only on the order of 20 dB to land mobile operations. With high power, gain antennas, and substantial antenna height, the area of possible interference to 12.5 KHz adjacent channel mobile operations would be quite large. For instance, a 300 watt (ERP) transmitted signal with unity gain antenna (omnidirectional) and with an antenna height of only 200 feet (AAT) would provide a calculated 20 dBu signal to a 30-foot receiving antenna at a distance of approximately 46 miles from the transmitter basel on F (50,50) propogation curves. This same transmitter would provide a 34 dBu signal to a 30-foot receiving antenna at distances up to approximately 38 miles using F (50,10) curves. This 34 dBu signal level would be equivalent to a 14 dBu signal level 12.5 KHz removed which just maintains a desired-to-undesired signal ratio of 6 dB. Since the 173 MHz band in question is primarily a base/mobile band, it is clear that restrictions must be imposed to preserve the basic land mobile priority of the band.

with more stringent requirements applicable to some of the channels in order to avoid possible interference to adjacent channel base/mobile operations. Overall, in this rulemaking, we have carefully examined what we feel are all feasible potentials for the present use of bandedge frequencies and off-sets in the 150–174 VHF band. While there may be some additional bandedge channels or off-sets that might be used in certain remote areas under some conditions, we do not believe that such usage should be permitted on a regular basis and we are satisfied at least for the present, that additional VHF channels are not reasonably available for remote control and telemetry purpose. Accordingly, we feel that this proceeding should be terminated insofar as reallocation of additional bandedge channels in this part of the spectrum are concerned.[18] The further requirements for remote control and telemetry, which the comments reflect exist, will have to be satisfied using the frequencies presently available for these purposes and will be further considered in other pending proceedings.

21. One further matter, UTC in its comments suggested two minor editorial changes. The first, involves deletion of the term "load shedding" and "peak shaving" and using the term "load management" in their place. (See Section 91.254(b)(17).) We agree with the clarification asked. We also agree with UTC to clarify Section 91.254(17) to make clear that multiple address directional as well as omni-directional antennas may be employed. We point out, however, that the possible antenna gain is much greater for a directional antenna than for an omni-directional antenna, and, therefore, licensees should take this gain factor into account when designing a system and power values.

22. Also, as we suggested in the Notice, full and complete cooperation among the various industry frequency advisory committees which must coordinate, on an interservice basis the selection of these frequencies. Thus, it seems to us that responses to coordination requests should be made as promptly as possible, and that the absence of a reply with specific objections within a reasonable period of time, such as three weeks, may be taken to be an affirmative response.

23. Finally, we are taking this opportunity to change our current practice for licensing VHF splinter frequencies. Under our present procedure a separate application must be submitted for each fixed transmitter contemplated. In the past, this has not been a problem because the number of transmitters to be operated by individual entities was small. Hence, an applicant was required to prepare a few separate applications. Recently, however, the number of transmitters requested by a single entity has increased dramatically. According to our records, requests now routinely involve more than 10 and sometimes approach 100 or more units. Following the present procedure in licensing these new large systems, in our opinion would be burdensome to both the applicant and the Commisssion without any apparent value to either. Therefore, we are initiating the following new procedure for licensing fixed operations on the VHF splinter and offset frequencies. Only one application per system would be filed (for transmitters to be considered in a system, they must interact or be related to each other in some way). While more than one splinter frequency is permitted on each license, only one call sign will be assigned. Attached to the license application, on a separate sheet, will be a list of the location by geographical coordinates, power (ERP), and antenna height (above ground) and direction of each transmitter and associated antenna in the system. If after a license is granted, and the licensee wishes to add additional transmitters to the system, the license could be modified with just a listing similar to that submitted with the original application, of all transmitters, attached to the application for modification.

24. In view of the foregoing the Commission concludes that the public interest will be served by adopting the rule amendments set forth below. Accordingly, *it is ordered*, That pursuant to authority contained in Section 4(i) and 303 of the Communications Act of 1934, as amended; that Parts 2, 89, and 91 of the Commission's Rules and Regulations are amended effective September 6, 1977, as shown below.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303).

Federal Communications Commission,
Vincent J. Mullins,
Secretary.

[18] Our decision here has been based in large measure on the limitations of radio receivers, particularly paging receivers, now in use in the 150–174 MHz band. However, we expect the new generations of receivers to have significantly improved selectivity and stability characteristics which would allow us to revisit the bandedges and make some use of them at that time.

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

I. Part 2 of Chapter I of Title 47 of the Code of Federal Regulations, § 2.106 is amended as follows:

§ 2.106 Table of frequency allocations.

Band (Megahertz)	Service	Class of station(s)	Frequency (Megahertz)	Nature of service; nature of stations
7	8	9	10	11
• • • •	• • • •	• • • •	• • • •	• • • •
153.7325 to 154.4825...	Land mobile.	Base land mobile fixed..	154.2	Industrial, public safety (NG26) (NG57) (Earth telecommand).
154.4825 to 154.6375.....	do.....	Base land mobile.....		Industrial.
• • • •	• • • •	• • • •	• • • •	• • • •

PART 89—PUBLIC SAFETY RADIO SERVICES

II. Part 89 of the Commission's Rules is amended as follows:

1. Section 89.259(f) Table and Paragraph (g) are amended as follows:

§ 89.259 Frequencies available to the local government radio service.

• • • • • •

(f) • • •

Frequency or band	Class of station(s)	Limitations
MHz		
• • • •	• • • •	•
154.115	Base and mobile	19
154.43625	Fixed and mobile	15,16,17,19
154.46375	do	13,15,16, 17,18
154.47125	do	13,15,16,17
154.47875	do	15,16,17,19
154.965	Base and mobile	
• • • •	• • • •	•
173.210	Fixed and mobile	13,14,16,17
173.2375	do	15,16,17,19
173.2625	do	15,16,17,19
173.2875	do	15,16,17,19
173.3125	do	15,16,17,19
173.3375	do	15,16,17,19
173.3625	do	15,16,17,19
173.3900	do	13,14,16,17
• • • •	• • • •	•

(g) • • •

(1) reserved

(2) reserved

• • • • • •

(13) The maximum power output of the transmitter may not exceed 50 watts for fixed stations and 1 watt for mobile stations. A1, A2, A9, F1, F2, or F9 emission may be authorized.

• • • • • •

(16) This frequency is available on a shared basis with the Power, Petroleum, Forest Products, Special Industrial, Business and Manufacturers Radio Services for remote control and telemetry operations. Evidence of interservice coordination is required.

• • • • • •

(18) Use of this frequency is limited to stations located at least 120.7 km (75 miles) from the center of any urbanized area of 200,000 or more population (U.S. Census of Population 1970). Operation is on a secondary basis to that in the Power Radio Service.

(19) The maximum effective radiated power (ERP) may not exceed 20 watts for fixed stations and 2 watts for mobile stations. The height of the antenna system may not exceed 15.24 meters (50 feet) above ground. All such operation is on a secondary basis to adjacent channel land mobile operations.

• • • • • •

PART 91—INDUSTRIAL RADIO SERVICES

III. Part 91 of the Commission's Rules is amended as follows:

V42162 AUG 22 77 UM

1. Section 91.254(a) Table and Paragraph (b) are amended as follows:

§ 91.254 Frequencies available.

(a) * * *

POWER RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
MHz		
* * *	* * *	* * *
153.725	Base or mobile	
154.45625	Fixed or mobile	16,18,22,23
154.46375	do	17,18,19,23
154.47125	do	18,20,22,23
154.47875	do	16,18,22,23
158.130	Base or mobile	
* * *	* * *	* * *
173.2100	Fixed or mobile	20,21,22,23
173.2375	do	16,18,22,23
173.240	Base or mobile	12
173.2625	Fixed or mobile	16,18,22,23
173.2875	do	16,18,22,23
173.300	Base or mobile	12
173.3125	Fixed or mobile	16,18,22,23
173.3375	do	16,18,22,23
173.340	Base or mobile	12
173.3625	Fixed or mobile	16,18,22,23
173.3900	do	20,21,22,23
* * *	* * *	* * *

(b) * * *

(16) The maximum effective radiated power (ERP) may not exceed 20 watts for fixed stations and 2 watts for mobile stations. The height of the antenna system may not exceed 15.24 meters (50 feet) above ground. All such operation is on a secondary basis to adjacent channel land mobile operations.

(17) This frequency is available primarily for assignment to multiple address fixed stations employing either omni-directional antennas or multiple address directional antennas used for power utility multiple address load management applications and to mobile stations used for the remote control of objects and devices. The maximum power that may be authorized to fixed stations is 300 watts output and maximum power that may be authorized for mobile stations is 1 watt output. A1, A2, A9, F1, F2, F9 emission may be authorized.

* * * * *

(19) This frequency may also be assigned to operational fixed stations employing directional antenna systems (front-to-back ratio of 20 db) when such stations are located at least 120.7 kM (75 miles) from the center of any urbanized area of 200,000 or more population (Census of Population 1960). The maximum power output of the transmitter for such fixed stations may not exceed 50 watts.

(20) The maximum output power of the transmitter may not exceed 50 watts for fixed stations and 1 watt for mobiles. A1, A2, A9, F1, F2, or F9 emission may be authorized.

* * * * *

(23) This frequency is available on a shared basis with the Local Government, Petroleum, Forest Products, Special Industrial, Business and Manufacturers Radio Services for remote control and telemetry operations. Evidence of interservice coordination is required.

* * * * *

2. Section 91.304(a) Table and Paragraph (b) are amended as follows:

§ 91.304 Frequencies available.

(a) * * *

PETROLEUM RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
MHz		
* * *	* * *	* * *
153.680	Base or mobile	9,10
154.45625	Fixed or mobile	20,24,25,26
154.46375	do	21,22,24, 25,26
154.47125	do	21,24,25,26
154.47875	do	20,24,25,26
154.585	Mobile	41,43
* * *	* * *	* * *
173.2100	Fixed or mobile	21,23,25,26
173.2375	do	20,24,25,26
173.240	Base or mobile	10,15
173.2625	Fixed or mobile	20,24,25,26
173.2875	do	20,24,25,26
173.300	Base or mobile	10,15
173.3125	Fixed or mobile	20,24,25,26
173.3375	do	20,24,25,26
173.350	Base or mobile	10,15
173.3625	Fixed or mobile	20,24,25,26
173.3900	do	21,23,25,26
* * *	* * *	* * *

(b) * * *

(20) The maximum effective radiated power (ERP) may not exceed 20 watts for fixed stations and 2 watts for mobile stations. The height of the antenna system may not exceed 15.24 meters (50 feet) above ground. All such operation is on a secondary basis to adjacent channel land mobile operations.

(21) The maximum output power of the transmitter may not exceed 50 watts for fixed stations and 1 watt for mobile stations. A1, A2, A9, F1, F2, or F9 emission may be authorized.

(22) Use of this frequency is limited to stations located at least 120.7 km (75 miles) from the center of any urbanized area of 200,000 or more population (U.S. Census of Population, 1970). Operation is on a secondary basis to that in the Power Radio Service.

* * * * *

(25) This frequency is available on a shared basis with the Local Government, Power, Forest Products, Special Industrial, Business and Manufacturers Radio Services for remote control and telemetry operations. Evidence of interservice coordination is required.

* * * * *

3. Section 91.354(a) Table and Paragraph (b) are amended as follows:

§ 91.354 Frequencies available.

(a) * * *

FOREST PRODUCTS RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
MHz		
153.680	Base or mobile	9,11
154.45625	do	20,22,25,26
154.46375	do	19,22,24,25 26
154.47125	do	22,24,25,26
154.47875	do	20,22,25,26
154.57	Mobile	10
173.2100	Fixed or mobile	23,24,25,26
173.2375	do	20,22,25,26
173.250	Base or mobile	11,16
173.2625	Fixed or mobile	20,22,25,26
173.2875	do	20,22,25,26
173.300	Base or mobile	11,16
173.3125	Fixed or mobile	20,22,25,26
173.3375	do	20,22,25,26
173.350	Base or mobile	11,16
173.3625	Fixed or mobile	20,22,25,26
173.3900	do	23,24,25,26

(b) * * *

(19) Use of this frequency is limited to stations located at least 120.7 km (75 miles) from the center of any urbanized area of 200,000 or more population (U.S. Census of Population, 1970). Operation is on a secondary basis to that in the Power Radio Service.

(20) The maximum effective radiated power (ERP) may not exceed 20 watts for fixed stations and 2 watts for mobile stations. The height of the antenna system may not exceed 15.24 meters (50 feet) above ground. All such operation is on a secondary basis to adjacent land mobile operations.

* * * * *

(24) The maximum output power of the transmitter may not exceed 50 watts for fixed stations and 3 watts for mobile stations. A1, A2, A9, F1, F2, or F9 emission may be authorized.

* * * * *

(26) This frequency is available on a shared basis with the Local Government, Power, Petroleum, Special Industrial, Business and Manufacturers Radio Services for remote control and telemetry operations. Evidence of interservice coordination is required.

* * * * *

4. Section 91.504(a) Table and Paragraph (b) are amended as follows:

§ 91.504 Frequencies available.

(a) * * *

SPECIAL INDUSTRIAL RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	General reference	Limitations
MHz			
* * *	* * *	* * *	* * *
153.035	Base or mobile	Permanent use	9
154.45625	Fixed or mobile	do	18,21,24,25
154.46375	do	do	20,21,23,24,25
154.47125	do	do	21,23,24,25
154.47875	do	do	18,21,24,25
154.49	Base or mobile	do	11
* * *	* * *	* * *	* * *
173.210	Fixed or mobile	Permanent use	22,23,24,25
173.2375	do	do	18,21,24,25
173.2625	do	do	18,21,24,25
173.2875	do	do	18,21,24,25
173.3125	do	do	18,21,24,25
173.3375	do	do	18,21,24,25
173.3625	do	do	18,21,24,25
173.3900	do	do	22,23,24,25
* * *	* * *	* * *	* * *

(b) * * *

(18) The maximum effective radiated power (ERP) may not exceed 20 watts for fixed stations and 2 watts for mobile stations. The height of the antenna system may not exceed 15.24 meters (50 feet) above ground. All such operation is on a secondary basis to adjacent channel land mobile operations.

* * * * *

(20) Use of this frequency is limited to stations located at least 120.7 km (75 miles) from the center of any urbanized area of 200,000 or more population (U.S. Census of Population, 1970). Operation is on a secondary basis to that in the Power Radio Service.

* * * * *

(23) The maximum output power of the transmitter may not exceed 50 watts for fixed stations and 1 watt for mobile stations. A1, A2, A9, F1, F2, or F9 emission may be authorized.

* * * * *

(25) This frequency is available on a shared basis with the Local Government, Power, Petroleum, Forest Products, Business, and Manufacturers Radio Services for remote control and telemetry operations. Evidence of interservice coordination is required.

* * * * *

5. Section 91.554(a) Table and Paragraph (b) are amended as follows:

§ 91.554 Frequencies available.

(a) * * *

BUSINESS RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	General reference	Limitations
MHz			
* * *	* * *	* * *	* * *
152.480	Base	1-way paging	25,28
154.45625	Mobile	Permanent use	29,30,52
154.46375	do	do	29,30,51,53
154.47125	do	do	29,30,51
154.47875	do	do	29,30,52
154.515	Base or mobile	do	10,11
173.2100	Mobile	do	29,31
173.2375	do	do	29,30,52
173.2625	do	do	29,30,52
173.2875	do	do	29,30,52
173.3125	do	do	29,30,52
173.3375	do	do	29,30,52
173.3625	do	do	29,30,52
173.3900	do	do	29,31
* * *	* * *	* * *	* * *

(b) * * *

(29) This frequency is available on a shared basis with the Local Government, Power, Petroleum, Forest Products, Special Industrial, and Manufacturers Radio Services for remote control and telemetry operations.

* * * * *

(51) The maximum output power of the transmitter may not exceed 1 watt. A1, A2, A9, F1, F2 or F9 emission may be authorized.

(52) The maximum effective radiated power (ERP) may not exceed two watts. All operation is on a secondary basis to adjacent channel land mobile operations. All stations will be licensed as a mobile, however, such stations may be used to provide the operational functions of a base or fixed station. When performing such functions, the height of the antenna system may not exceed 15.24 meters (50 feet) above ground.

(53) Use of this frequency is limited to stations located at least 120.7 km (75 miles) from the center of any urbanized area of 200,000 or more population (U.S. Census of Population 1970). Operation is on a secondary basis to that in the Power Radio Service.

* * * * *

6. Section 91.730(a) Table and Paragraph (b) are amended as follows:

§ 91.730 Frequencies available

(a) * * *

MANUFACTURERS RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
MHz		
* * *	* * *	* * *
153.395	Base or mobile	1
154.45625	Fixed or mobile	23,26, 27,28
154.46375	do	23,24,26, 27,29
154.47125	do	23,24, 26,27
154.47875	do	23,26, 27,28
158.280	Base or mobile	1
173.2100	Fixed or mobile	24,25, 26,27
173.2375	do	23,26, 27,28
173.2625	do	23,26, 27,28
173.2875	do	23,26, 27,28
173.3125	do	23,26, 27,28
173.3375	do	23,26, 27,28
173.3625	do	23,26, 27,28
173.3900	do	24,25, 26,27
* * *	* * *	* * *

(b) * * *

(24) The maximum output power of the transmitter may not exceed 50 watts for fixed stations and 1 watt for mobile stations. A1, A2, A9, F1, F2, or F9 emission may be authorized.

* * * * *

(26) This frequency is available on a shared basis with the Local Government, Power, Petroleum, Forest Products, Special Industrial and Business Radio Services for remote control and telemetry operations. Evidence of interservice coordination is required.

* * * * *

(28) The maximum effective radiated power (ERP) may not exceed 20 watts for fixed stations and 2 watts for mobile stations and the height of the antenna system may not exceed 15.24 meters (50 feet) above ground. All such operation is on a secondary basis to adjacent channel land mobile operations.

(29) Use of this frequency is limited to stations located at least 120.7 km (75 miles) from the center of any urbanized area of 200,000 or more population (U.S. Census of Population, 1970). Operation is on a secondary basis to that in the Power Radio Service.

* * * * *

APPENDIX A.—*Urbanized areas protected*

Rank	*Urbanized area*
1	New York, N.Y.-northeastern New Jersey.
2	Los Angeles-Long Beach, Calif.
3	Chicago, Ill.-northwestern Indiana.
4	Philadelphia, Pa.-New Jersey.
5	Detroit, Mich.
6	San Francisco-Oakland, Calif.
7	Boston, Mass.
8	Washington, D.C.-Maryland, Virginia.
9	Cleveland, Ohio.
10	St. Louis, Mo.-Illinois.
11	Pittsburgh, Pa.
12	Minneapolis-St. Paul, Minn.
13	Houston, Tex.
14	Baltimore, Md.
15	Dallas, Tex.
16	Milwaukee, Wis.

V 42 162 AUG 22 77 UM

17 Seattle-Everett, Wash.
18 Miami, Fla.
19 San Diego, Calif.
20 Atlanta, Ga.
21 Cincinnati, Ohio-Kentucky.
22 Kansas City, Mo.-Kansas.
23 Buffalo, N.Y.
24 Denver, Colo.
25 San Jose, Calif.
26 New Orleans, La.
27 Phoenix, Ariz.
28 Portland, Oreg.-Washington.
29 Indianapolis, Ind.
30 Providence-Pawtucket-Warwick, R.I.-Massachusetts.
31 Columbus, Ohio.
32 San Antonio, Tex.
33 Louisville, Ky.-Indiana.
34 Dayton, Ohio.
35 Fort Worth, Tex.
36 Norfolk-Portsmouth, Va.
37 Memphis, Tenn.-Mississippi.
38 Sacramento, Calif.
39 Fort Lauderdale-Hollywood, Fla.
40 Rochester, N.Y.
41 San Bernardino-Riverside, Calif.
42 Oklahoma City, Okla.
43 Birmingham, Ala.
44 Akron, Ohio.
45 Jacksonville, Fla.
46 Springfield-Chicopee-Holyoke, Mass.-Connecticut.
47 St. Petersburg, Fla.
48 Omaha, Nebr.-Iowa.
49 Toledo, Ohio-Michigan.
50 Albany-Schenectady-Troy, N.Y.
51 Salt Lake City, Utah.
52 Hartford, Conn.
53 Nashville-Davidson, Tenn.
54 Honolulu, Hawaii.
55 Richmond, Va.
56 Bridgeport, Conn.
57 Youngstown-Warren, Ohio.
58 Syracuse, N.Y.
59 Tulsa, Okla.
60 Wilmington, Del.-New Jersey.
61 Tampa, Fla.
62 Allentown-Bethlehem-Easton, Pa.-New Jersey.
63 Grand Rapids, Mich.
64 New Haven, Conn.
65 El Paso, Tex.
66 Tacoma, Wash.
67 Flint, Mich.
68 Orlando, Fla.
69 Wichita, Kans.
70 Albuquerque, N. Mex.
71 Tuscon, Ariz.
72 South Bend, Ind.-Mich.
73 West Palm Beach, Fla.
74 Charlotte, N.C.
75 Trenton, N.J.-Pa.
76 Newport News-Hampton, Va.
77 Davenport-Rock Island-Moline, Iowa-Ill.
78 Austin, Tex.
79 Fresno, Calif.
80 Mobile, Ala.
81 Des Moines, Iowa.
82 Baton Rouge, La.
83 Worcester, Mass.
84 Peoria, Ill.
85 Oxnard - Ventura - Thousand Oaks, Calif.
86 Canton, Ohio.
87 Columbia, S.C.
88 Harrisburg, Pa.
89 Las Vegas, Nev.
90 Shreveport, La.
91 Aurora-Elgin, Ill.
92 Spokane, Wash.
93 Lansing, Mich.
94 Charleston, S.C.
95 Fort Wayne, Ind.
96 Chattanooga, Tenn.-Ga.
97 Wilkes-Barre, Pa.
98 Little Rock-North Little Rock, Ark.
99 Corpus Christi, Tex.
100 Columbus, Ga.-Ala.
101 Rockford, Ill.
102 Madison, Wis.
103 Colorado Springs, Colo.
104 Scranton, Pa.
105 Lawrence-Haverhill, Mass.-N.H.

[FR Doc.77-23956 Filed 8-19-77;8:45 am]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-139; Amdt. Nos. 173-107, 178-43]

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

PART 178—SHIPPING CONTAINER SPECIFICATIONS

Conversion of Individual Exemptions to Regulations of General Applicability

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: Final rule.

SUMMARY: This action is being taken to incorporate into the Department's Hazardous Materials Regulations a number of changes based on the data and analysis supplied in selected exemption applications, or from existing special permits and exemptions. The need for this action has been created by the public demand to make available new packaging and shipping alternatives that have proven themselves safe under the Department's special permit and exemption programs. The intended effect of these amendments is to provide wider access to the benefits of transportation innovations recognized and shown to be effective and safe.

EFFECTIVE DATE: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Alan I. Roberts, Director, Office of Hazardous Materials Operations, 2100 2nd Street, SW., Washington, D.C. 20590 202-426-0656.

SUPPLEMENTARY INFORMATION: On April 7, 1977, the Materials Transportation Bureau (MTB) published a Notice of Proposed Rule Making, Docket HM-139; Notice 77-3 (42 FR 18409) which proposed these amendments. The background and the basis for incorporating these exemptions into the regulations were discussed in that notice. Interested persons were invited to give their views prior to the closing date of May 5, 1977. The primary drafters of this document are Darrell L. Raines and John C. Allen of the Office of Hazardous Materials Operations, Exemptions Branch, and George W. Tenley of the Assistant General Counsel for Materials Transportation Law.

Several changes were made in response to public comments received by the Bureau. Notice 77-3 proposed to add a paragraph (b)(11) to § 173.119 to authorize DOT Specification 12P fiberboard boxes with inside 2U polyethylene containers for flammable liquids n.o.s., with flash points above 20° F. Several commenters pointed out that the 12P/2U composite packaging is already authorized under § 173.119(m)(8) for flammable liquids, regardless of flash point, which have a secondary hazard. It is argued that this packaging should also be authorized for flammable liquid n.o.s. commodities which have no secondary hazard classification but have flash points below 20° F. The Bureau agrees and consequently the 12P/2U packaging is added as a new paragraph § 173.119 (a)(27) instead of § 173.119(b)(11).

Several objections were received concerning the addition of the DOT-56 portable tank as an authorized container for magnesium powder in § 173.220(b). One commenter suggests the inclusion of other safety features that are now contained in the exemption. Upon further evaluation, the Bureau has decided to withdraw the proposed amendment to § 173.220(b) until further experience is gained with the portable tanks under exemption.

A new sentence is added at the end of the proposed change to § 173.276(a)(9) which authorizes hydrazine in DOT Specification 12B fiberboard boxes with an inside Specification 2E polyethylene container. The new sentence restricts this packaging to hydrazine solution only. This change is based on a comment received from the holder of DOT-SP 6561, the permit upon which the rule change is based.

The Bureau does not agree with the views of a commenter on the rule change to § 178.33a-2(b) which increases the maximum capacity of the DOT Specification 2Q container from 50 cubic inches to 55 cubic inches. The commenter suggested that the maximum capacity authorized for both the 2P and 2Q containers be increased to 62 cubic inches or approximately one liter to forestall future requests for capacity increases. It was also suggested that the criteria for qualifying containers for limited quantities for compressed gases in § 173.306(a)(3)(i) and (b)(1) and for ORM-D commodities in § 173.1200(a)(8)(ii)(A) be increased to 62 cubic inches. These suggestions go far beyond the proposal in Notice 77-3 and the Bureau has no experience through its exemption and special permit program to warrant making such changes under Docket HM-139 at this time.

The only other change in the proposals contained in Notice 77-3 concerns the redesignation of the rule change to § 173.276 to incorporate the DOT-34 container as an authorized container for hydrazine solution based upon DOT-SP 6561. Notice 77-3 identified the new paragraph to § 173.276 as (a)(9). However, the DOT-34 will be added as paragraph (a)(10) since another rule change to authorize the 12B/2E composite packaging has been added as § 173.276(a)(9).

Analysis of these amendments and comments thereon indicate that the costs of regulatory enforcement will not be significantly affected, nor will additional costs be imposed on the private sector, consumers, or Federal, State, or local governments, since these amendments will authorize the general use of shipping alternatives previously available to only a few users under exemptions. The safety record or analysis of shipments under the exemptions, identified in Notice 77-3, demonstrate that significant environmental impacts will not result from any of these amendments.

Since these amendments are relaxations of existing rules, and place no additional burden on any person, they are being made effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, 49 CFR Parts 173 and 178, are amended as follows:

1. In § 173.66 paragraphs (c), (d) and (d)(1) are revised to read as follows:

§ 173.66 Blasting caps, blasting caps with safety fuse, blasting caps with metal clad mild detonating fuse, and electric blasting caps.

* * * * * *

(c) Blasting caps containing not more than 50 grains of explosive composition each must be placed in strong inside containers, in which they fit snugly. When caps are loaded vertically in inside metal containers, they must be covered by suitable elastic material placed over the caps. Not more than 100 such blasting caps may be packed in a single container. All inside containers, except polyethylene plastic bags not subject to static generation, must then be packed snugly in cartons or wrapping made of paper or pasteboard.

(d) Not more than 5000 blasting caps, containing not more than 50 grains of explosive composition each, packed in inside containers as prescribed in paragraph (c) of this section, must be packed in outside containers complying with the following specifications:

(1) Specification 14, 15A or 16A (§178.165, 178.168, 178.185 of this subchapter) wooden boxes (see § 173.67(a)(1), Note 1) or Specification 12H, 23F, or 23H (§ 178.209, 178.214, 178.219 of this subchapter) fiberboard boxes. Inside containers must be cartons or wrappings with further inside containers as prescribed in paragraph (c) of this section. Polyethylene plastic bags may be used as the only inside containers provided the bags are not subject to static generation and fit snugly in the outside box. Inside containers, except the polyethylene plastic bags, must be separated from the outside box by at least 1-inch of tightly packed sawdust, excelsior, or equivalent cushioning material. Gross weight of the completed package shall not exceed 150 pounds.

* * * * * *

2. In § 173.107 paragraph (d)(1) is added to read as follows:

§ 173.107 Primers, percussion caps, grenades, empty, primed, and cartridge cases, empty, primed.

* * * * * *

(d) * * *

(1) Specification 12B (§ 178.205 of this subchapter). Fiberboard box. Caps must be packed in inside metal cans containing not more than 100 caps each. Can must then be packed in a chipboard box with not more than 10 cans per box. Not more than 5 chipboard boxes shall be packed in the 12B fiberboard box. The completed package must be such that the explosion of a part of the caps will not cause the explosion of all the caps.

* * * * * *

3. In § 173.119 paragraph (a)(27) is added to read as follows:

§ 173.119 Flammable liquids not specifically provided for.

(a) * * *

(27) Specification 12P (§ 178.211 of this subchapter). Fiberboard boxes with inside Specification 2U (§ 178.24 of this subchapter) polyethylene containers not over 5-gallon capacity each. Authorized only for material which will not react dangerously with or cause decomposition of polyethylene. Not authorized for transportation by air.

* * * * * *

4. In § 173.208 paragraph (b)(4) is added to read as follows:

§ 173.208 Titanium metal powder, wet or dry.

* * * * * *

(b) * * *

(4) Specification 17C (§ 178.115 of this subchapter). Metal drums (single trip) not over 30-gallon capacity.

5. In § 173.239 paragraph (a)(2) is added to read as follows:

§ 173.239 Barium azide—50 percent or more water wet.

(a) * * *

(2) Specification 21C (§ 178.224 of this subchapter). Fiber drum with inside glass bottle not over 1-pound capacity each. Bottles must have rubber stoppers wire-tied for securement. If shipment is to take place at a time freezing weather is to be anticipated, a suitable antifreeze solution must be used to prevent freezing.

6. In § 173.245b paragraph (a)(6) is revised to read as follows:

§ 173.245b Corrosive solids not specifically provided for.

(a) * * *

(6) Plastic drum or pail not exceeding 80 pounds net weight and not over 7-gallon capacity.

* * * * * *

7. In § 173.247 paragraph (a)(2) is revised to read as follows:

§ 173.247 Acetyl bromide, acetyl chloride, acetyl iodide, antimony pentachloride, benzoyl chloride, boron trifluoride-acetic acid complex, chromyl chloride, dichloroacetyl chloride, diphenylmethyl bromide solution, pyro sulfuryl chloride, silicon chloride, sulfur chloride (mono and di), sulfuryl chloride, thionyl chloride, tin tetrachloride (anhydrous), titanium tetrachloride, and trimethyl acetyl chloride.

(a) * * *

(2) Specification 6D (§ 178.102 of this subchapter) Cylindrical steel overpack with inside Specification 2S or 2SL (§§ 178.35, 178.35a of this subchapter) polyethylene packaging. Polyethylene used must be Type III as set forth in Appendix B—Specifications for Plastics to Part 178 of this Title. Authorized for acetyl chloride, dichloroacetyl chloride, sulfuryl chloride and trimethyl acetyl chloride only.

* * * * * *

8. In § 173.264 paragraph (b)(1) is amended by changing the first sentence to read as follows:

§ 173.264 Hydrofluoric acid: white acid.

* * * * * *

(b) * * *

(1) Specification 3', 3A, 3AA, 3B, 3C, 3E, 4, 4A, 25', or 38' (§§ 178.36, 178.37, 178.38, 178.40, 178.42, 178.48, 178.49 of this subchapter); also specification 4B, 4BA, 4BW or 4C (§§ 178.50, 178.51, 178.61, 178.52, of this subchapter) if not brazed. * * *.

* * * * * *

9. In § 173.272 paragraphs (d) and (j)(6) are revised and paragraph (j)(28) is added to read as follows:

§ 173.272 Sulfuric acid.

* * * * * *

(d) *Sulfuric acid concentration of greater than 51 percent to not over 65.25 percent:* Authorized packaging is described in paragraphs (1) through (16), (27) and (28) of paragraph (j) of this section.

* * * * * *

(j) * * *

(6) Specification 6D or 37M (nonreusable container) (§§ 178.102, 178.134 of this subchapter). Cylindrical steel overpacks with an inside specification 2S, 2SL, or 2T (§§ 178.35, 178.35a, 178.21 of this subchapter) polyethylene container. Overpack of over 30-gallon capacity must be constructed of at least 16-gauge steel throughout when used for sulfuric acid of 93 percent or greater concentration.

* * * * * *

(28) Specification MC 310, MC 311 or MC 312 (§ 178.340, 178.343 of this subchapter). Tank motor vehicles having steel cargo tanks equipped with a phenolic lining impervious to the lading. Not authorized for transportation by water.

V42I162 AUG 22 77 UMI

10. In § 173.275 paragraph (a)(5) is added to read as follows:

§ 173.275 Difluorophosphoric acid, unhydrous, monofluorophosphoric acid, anhydrous, hexafluorophosphoric acid, and mixtures thereof.

(a) * * *

(5) Specification 6D (§ 178.102 of this subchapter). Cylindrical steel overpack with inside specification 2S or 2SL (§§ 178.35, 178.35a of this subchapter) polyethylene packaging. Net weight may not exceed 550 pounds.

* * * * *

11. In § 173.276 paragraphs (a) (9) and (a)(10) are added to read as follows:

§ 173.276 Anhydrous hydrazine and hydrazine solution.

(a) * * *

(9) Specification 12B (§ 178.205 of this subchapter). Fiberboard box with one inside Specification 2E (§ 178.24a of this subchapter) polyethylene bottle not over 4½-quart capacity. Polyethylene bottle must be of Type III high density polyethylene having a minimum wall thickness of 30 mils and bottle must be securely closed with a screw cap. Authorized for hydrazine solution only.

(10) Specification 34 (§ 178.19 of this subchapter) polyethylene container without overpack, not over 30-gallon capacity. Authorized for hydrazine solution only.

12. In § 173.304 the Table in paragraph (a)(2) is amended by revising the entry for sulfuryl fluoride to read as follows:

§ 173.304 Charging of cylinders with liquefied compressed gas.

(a) * * *

(2) * * *

Kind of gas	Maximum permitted filling density (see note 1)	Containers marked as shown in this column or of the same type with higher service pressure must be used except as provided in sec. 173.34 (a), (b), sec. 173.301(j) (see notes following table)
*	*	*
(Revise)		
Sulfuryl fluoride..	106	DOT-3A480; DOT-3AA480; DOT-3E1800; DOT-4B480; DOT-4BA480; DOT-4BW480.
*	*	*

* * * * *

13. In § 173.377 paragraph (b)(6) is revised to read as follows:

§ 173.377 Hexaethyl tetraphosphate mixtures; methyl parathion mixtures; organic phosphorus compound mixtures; organic phosphate compound mixtures; parathion mixtures; tetraethyl dithio pyrophosphate mixtures; and tetraethyl pyrophosphate mixtures, dry.

* * * * *

(b) * * *

(6) Specification 12B (§ 178.205 of this subchapter). Fiberboard box with inside Specification 2D (§ 178.23 of this subchapter) paper bags not over 4-pound capacity each and having an additional foil liner. The mixture may be further packed in water soluble 1½ mil polyvinyl alcohol film pouches of not more than 8-ounce capacity each with not more than 10 pouches per specification bag. Completed package may not exceed 65 pounds gross weight and must meet the test requirements of paragraphs (d) and (e) of this section. Authorized only for mixtures in which the liquid is absorbed in concentrations no greater than 67 percent.

* * * * *

14. In § 178.33a, § 178.33a–2(b) is revised to read as follows:

§ 178.33a Specification 2Q, inside nonrefillable metal containers.

* * * * *

§ 178.33a–2 Type and size.

* * * * *

(b) The maximum capacity of containers in this class shall not exceed 55 cubic inches (30.5 fluid ounces). The maximum inside diameter shall not exceed 3 inches.

* * * * *

EFFECTIVE DATE: This amendment is effective August 22, 1977.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e).)

NOTE.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Issued in Washington, D.C. on August 17, 1977.

JOHN J. FEARNSIDES,
Acting Director,
Materials Transportation Bureau.

[FR Doc.77-24184 Filed 8-19-77;8:45 am]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75–16; Notice 15]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS, AIR BRAKE SYSTEMS

Exclusions From Standard's Applicability

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule.

SUMMARY: This amendment adds a small number of vehicles to the category of oversize and specialized vehicles that are permanently excluded from the applicability of Standard No. 121, Air Brake Systems, extends the existing temporary exclusion of heavy hauler trailers and auto transporters until January 1, 1979, and eliminates the "no lockup" requirement in the case of trailers designed exclusively for harvesting lumber or pulpwood, and in the case of inboard wheels on trailers with more than four wheels on an axle system. The amendment responds to manufacturer petitions for exclusion from some or all of the requirements of the standard because of the vehicles' distinctive configurations and functions.

DATE: Effective date August 22, 1977.

ADDRESS: Petitions for reconsiderations should refer to the docket number and be submitted to: Room 5108, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Duane Perrin, Office of Crash Avoidance, National Highway Traffic Safety Administration, Washington, D.C. 20509, 202–426–2153.

SUPPLEMENTARY INFORMATION: Standard No. 121 (49 CFR 571.121) regulates the braking system performance of air-braked trucks, buses, and trailers, and has been in effect for trailers since January 1, 1975, and for trucks and buses since March 1, 1975. Certain vehicles were excluded from the standard's applicability because their functions or construction dictate oversize or distinctive operational characteristics that result in restricted highway operation (e.g., low speed, permit requirements, daytime operation) which limits hazards and the possibility of accidents. Also their distinctive configurations and low production volumes increase compliance costs.

Because of unavailability of components and other constraints, certain other vehicle categories were excluded from all or some of the standard's requirements for a temporary period. The temporary exclusions that remain in effect are scheduled to end on September 1, 1977.

Several vehicle manufacturers and trade associations petitioned for extension of some of the temporary exclusions, or conversion of them into permanent exclusions. The Truck and Bus Safety Subcommittees of the National Motor Vehicle Safety Advisory Council and National Highway Safety Advisory Committee recommended to the Secretary of Transportation that particular vehicle types be granted full or partial exclusions from the standard.

Based on consideration of the petitions and on the recommendations of the Truck and Bus Safety Subcommittees, the NHTSA proposed several new permanent exclusions from the standard. The 108-inch-width exclusion was proposed for expansion to include vehicles with a width of more than 102 inches. In all States other than Hawaii, vehicles of this width are allowed on the highway only in permit operation. The agency finds that these vehicles are operated with the same level of care as vehicles of 108 inches in overall width. No adverse comment

was received on the proposal and it is accordingly made final.

The agency proposed permanent exclusion of vehicles whose gross vehicle weight rating (GVWR) exceeds 120,000 pounds, under the assumption that such vehicles always operate under restrictions of State motor vehicle administrations. Comments were solicited on whether such vehicles exist that are not already excluded from the standard under another category, and whether such vehicles ever operate in unrestricted highway use. Fruehauf, Rogers Brothers, and Talbert Trailers pointed out that Michigan allows unrestricted highway operation of certain trailers in excess of 120,000 lbs. GVWR. These trailers may be flatbeds, tankers, or dump bodies with 8 or more axles and are currently being built to conform to the standard. Low bed heavy hauler trailers, on the other hand, must have their axles aft of the load, and do not have room for as many as eight axles without exceeding the State length limit requirements, and hence are still subject to restricted operation. It is apparent that the exclusion should be narrowed so that its language reaches only those vehicles originally intended for exclusion. It appears that only low bed "heavy hauler" trailers in this weight range fall under State operating restrictions. As made final, therefore, the exclusion is narrowed to cover only a trailer that has a GVWR of more than 120,000 pounds and a body that conforms to the height limitation for heavy hauler trailers of 40 inches. Fruehauf suggested a 44-inch deck height criterion, but offered no supporting information, and the NHTSA sees no reason to change from the 40 inches presently specified for heavy hauler trailers.

The third proposed permanent exclusion was for "load divider" dollies that are designed exclusively for use with the larger trailers that are already excluded from all the requirements of the standard. This addition was supported, but the Truck Trailer Manufacturers Association (TTMA) and others requested a correction in the description of the vehicle. The agency referred to the "fifth wheel plate" of the dolly which improperly described the connecting or mating devices employed. The proposal is made final, with an appropriately broader statement of vehicle description.

Several commenters argued for additional permanent exclusions from the standard. Schwartz Manufacturing Company asserted that the "heavy hauler" trailers that are currently excluded from the standard for a limited period should all be permanently excluded because of their off highway use and their typical ownership by a small company with limited maintenance resources. The agency has proposed and is making final an extension of the existing temporary exclusion while it develops more data on the difficulty encountered by manufacturers in constructing these vehicles to comply with the standard. Information requests have been issued by the agency and replies have been received which are presently undergoing analysis. Until analysis is completed, it would be premature to act on the Schwartz request, and it is therefore declined.

Master Truck, the City of San Diego, and the Lake Disposal Corporation supported the Truck and Bus Safety Subcommittees' suggestion to exclude refuse trucks from Standard No. 121 entirely, or at least from the "no lockup" provision. The commenters pointed out that the duty cycle of these vehicles differs from that for highway tractor-trailer combinations and that much of the travel is at low speeds between pick-ups. The City of San Diego pointed out that it must purchase from the low bidder, which can result in having to service several of the commercially available antilock systems, thereby compounding maintenance problems. The agency does not dispute these points, but also does not view them as peculiar to the brake systems of these vehicles. Refuse collection and hauling presumably does put distinctive strains on a vehicle, and the problem of low-bid contracting does occur in municipal fleet maintenance. It is assumed that such problems with braking and other vehicle systems occurred prior to implementation of Standard No. 121 and that adaptive steps were taken to compensate for them. It is conceivable in fact, that some of the adaptations (such as the use of longer wearing but less effective brake linings) may have reduced somewhat the braking capability of some refuse haulers in relation to vehicles of comparable size that serve other functions. It is the agency's considered judgment that the duty cycle of a particular vehicle type should not be fully determinative of its braking capability or general safety characteristics. For this reason, the agency declines to act on requests for exclusion of these vehicles but will continue to give consideration to this and other proposed adjustments in the standard's applicability.

Zieman Manufacturing Company asked that trailers with a GVWR of 10,000 pounds or less with air-over-hydraulic brakes be excluded from the standard's applicability. Such an exclusion was proposed in June 1975 (40 FR 24915, June 11, 1975) in response to the petition of Altec Industries. On the basis of comments received, particularly those of the California Highway Patrol, it was decided not to provide such an exclusion because of the potential for abuse of the category. The Zieman request is therefore not adopted.

No comment was received from any mobile crane manufacturer on the wisdom of continuing the present limits for these vehicles: exclusion of larger categories only, unless top speed is restricted to 45 mph. In the absence of comment, the agency has decided to leave the present exclusions affecting mobile cranes unchanged, except for the over 102-inch width exclusion previously discussed.

It is noted that the existing permanent exclusion of non-cargo-carrying trailers was inadvertently restated in the proposal in exactly the opposite form from that intended. The error is corrected in this amendment.

As a general matter, the continuation of temporary exclusions for heavy hauler trailers and auto transporters was supported. Little information was provided in the comments on the readiness of manufacturers to implement the standard by January 1, 1979. Information requests have been sent to the affected manufacturers to develop additional data. Freightliner Corporation, as the manufacturer of incomplete truck tractors for auto transporter combinations, argued for the indefinite exclusion of these combinations from the standard.

Freightliner's first argument was that the high center-of-gravity characteristics of the towing vehicle (car carried over the cab) and the unique load transfer characteristics of the articulation point on some auto transporters can produce effects which combine to offset the advantages of imposition of the standard on these vehicles. The agency understands that these factors can make compliance for auto transporters more difficult, and has acknowledged this fact by proposing an effective date for auto transporters that is four years after the initial effective date for other highway vehicles. However, the agency is also aware that auto transporters can be (and have been) built to comply fully with the present requirements of the standard. If Freightliner or any other interested party has data to show that the present requirements are insufficient to ensure a safe braking system for auto transporters, the agency solicits their suggestions for improvements.

As a practical matter, the agency has stated (May 5, 1975, NHTSA letter to E. Hammond, Trailmobile Tech. Center) that it will use the chassis manufacturer's load limitations, both weight and center-of-gravity, for purposes of determining compliance. Thus Freightliner's "envelope" of specifications in its incomplete vehicle document would be the outside limit for loading the completed tractor for compliance test purposes. The only limitation on this method would be an "envelope" of specifications so conservative that the braking characteristics of the vehicle as completed would constitute a safety-related defect.

The second point raised by Freightliner is that the testing procedures in the standard may need to be modified before tractors and trailers of the auto transporter combination can be tested separately. During the period of continued delay, the NHTSA intends to call a public meeting to discuss this problem with the affected chassis-cab manufacturers and the auto transporter industry. Freightliner's suggestion for indefinite delay appears unnecessary and, accordingly, is declined.

Freightliner's third argument was that, assuming the incompatibility between the tractor and trailer portions of an auto transporter is great, the agency should not require their compliance with the standard until all incompatibility is removed from all air-braked

V 42162 AUG 22 77 UMI

vehicle combinations subject to the standard. Actually, the compatibility problems between tractor and trailer are probably less in the case of auto transporters than other combinations because there is more pairing of tractors and trailers in this industry than in the case of dry freight vans. The NHTSA tests mentioned by Freightliner will be completed prior to the January 1, 1979 effective date for auto transporters.

PACCAR, Inc., and Mack Trucks, Inc., both commented favorably on the American Trucking Association's request to continue the exclusion of vehicles equipped with an axle with a gross axle weight rating (GAWR) of 24,000 pounds or more. The agency did not propose continuation because no vehicle or axle manufacturer had petitioned for delay, and because there was strong evidence that the exclusion was being abused by manufacturers who would provide a higher-than-normal rating to avoid the requirements of the standard. PACCAR's expectation that few such vehicles are built because permits are required for loads of more than 24,000 pounds on an axle is not to the point. It is not the gross vehicle weight on the highway that is controlling here, but simply the capacity of the axle installed by the manufacturer. In other words, the vehicle could obtain complete exclusion by the installation of heavy axles, whether or not they are ever used on the highway at full capacity requiring permit operation.

Mack noted the many truck types (e.g., cement mixers, dump trucks) whose permits, if any, do not closely control the actual operation of the vehicle. As a practical matter, these vehicles operate in unrestricted operation with extremely heavy, and often high center-of-gravity loads, that necessitate extremely good braking. The agency continues to believe that an exclusion at this GAWR level is unjustified. The 29,000-pound exclusion reflects the larger vehicles with truly distinctive configuration and more specialized operation that justify special treatment.

Mack, PACCAR, and the ATA also recommended extension of the exclusion for vehicles with two or more front steerable axles with a GAWR of 16,000 pounds or more for each axle. No supporting data was presented and no other comments were received. In the absence of any supporting data the request is denied.

The partial exclusion from the "no lockup" requirement in the case of "wheels other than the outermost on an axle system with more than four wheels" was supported without comment and is therefore made final. Rogers Brothers suggested that use of "axle system" to describe the row of wheels across the vehicle could be misleading. The agency's use of the term as part of its certification requirement to state "axle system" GAWR has not proved troublesome. On the basis of this experience, the terminology is made final as proposed.

The TTMA suggested that the exclusion of certain logging and pulpwood trailers from the "no lockup" requirement be expanded to permit them the same parking brake option as is provided to agricultural commodity trailers. While not within the scope of this notice, the agency will consider this suggestion in its next parking brake proposal.

While the Truck and Bus Safety Subcommittees did not take a position on the proposal, it is noted that their June 23, 1977, letter to Secretary Adams reaffirmed their earlier recommendations for revision of Standard No. 121.

The economic impact of this rule has been considered and has been determined to be minimal. This is due primarily to the low production volume both collectively and by individual firms and the brief leadtime remaining to make considerable design changes. This could even cause substantial adverse economic and financial impacts if these manufacturers were forced to comply by the September 1, 1977, effective date. However, it has also been determined that the additional leadtime provided by this Final Rule should be sufficient to modify production lines which would incorporate the necessary design changes to accommodate the FMVSS 121 hardware.

§ 571.121 [Amended]

In consideration of the foregoing, Standard No. 121, (49 CFR 571.121) is amended as follows:

1. Section S3 (Application) is amended to read:

S3 *Application.* This standard applies to trucks, buses, and trailers equipped with air brake systems. However, it does not apply to:

(a) Any vehicle that has an overall vehicle width of more than 102 inches with extendable equipment in the fully retracted position;

(b) Any vehicle equipped with an axle that has a gross axle weight rating (GAWR) of 29,000 pounds or more;

(c) Any truck or bus that has a speed attainable in 2 miles of not more than 33 mph;

(d) Any truck that has a speed attainable in 2 miles of not more than 45 mph, an unloaded vehicle weight that is not less than 95 percent of its GVWR, and no capacity to carry occupants other than the driver and operating crew;

(e) Any trailer that has a gross vehicle weight rating (GVWR) of more than 120,000 pounds and whose body conforms to that described in the definition of "Heavy hauler trailer" set forth in S4;

(f) Any trailer that has an unloaded vehicle weight which is not less than 95 percent of its GVWR; and

(g) Any load divider dolly.

In addition, the standard does not apply to a heavy hauler trailer manufactured before January 1, 1979; any vehicle manufactured before January 1, 1979, that, in combination with another vehicle, constitutes a part of an auto transporter and any vehicle manufactured before September 1, 1977, that has a GAWR for any axle of 24,000 pounds or more, or two or more front steerable axles with a GAWR of 16,000 pounds or more for each axle.

2. Section S4 (Definitions) is amended by the addition of the following definition, between the definitions of "Auto transporter" and "Speed attainable in 2 miles":

"Load divider dolly" means a trailer composed of a trailer chassis and one or more axles, with no solid bed, body, or container attached, and which is designed exclusively to support a portion of the load on a trailer or truck excluded from all the requirements of this standard.

3. The date "September 1, 1977" in the first paragraph of S5.3 is changed to "January 1, 1979."

4. Section S5.3.2 is amended by replacing the period at the end of paragraph (b) with ", or" and by the addition of a new paragraph (c) to read:

S5.3.2 * * *

(c) In the case of an axle system having more than four wheels, lockup of any wheel other than the outermost wheel at each end of the axle system.

5. A new section S5.3.2.2 is added to read:

S5.3.2.2 When stopped in accordance with S5.3.2., any trailer designed exclusively for harvesting logs or pulpwood and constructed with a skeletal frame with no means for attachment of a solid bed, body, or container, and with an arrangement of air control lines and reservoirs designed to minimize damage in off-road operations, need not meet the requirements relating to wheel lockup, but must nevertheless meet the requirements of staying within the 12-foot lane.

Effective date finding. Because these amendments relieve a restriction and do not create additional responsibilities for any person, it is found that an immediate effective date that advises manufacturers of the new requirements as soon as possible is in the public interest.

The program official and lawyer principally responsible for this rulemaking document are Duane Perrin and Tad Herlihy, respectively.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on August 16, 1977.

HOWARD DUGOFF,
Acting Administrator.

[FR Doc.77-24091 Filed 8-16-77;3:40 pm]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Browns Park National Wildlife Refuge, Colorado, to Upland Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to upland game hunting of Browns Park National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Cottontail rabbit season, October 1, 1977, through February 28, 1978, inclusive.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Browns Park National Wildlife Refuge, Greystone Route, Maybell, Colorado 81640, telephone: 303-365-3695.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of cottontail rabbits is permitted on the Browns Park National Wildlife Refuge, Colorado, except in those areas designated by signs as closed to hunting. These areas are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 10597 West 6th Avenue, P.O. Box 25486, Denver, Colorado 80215. Upland game hunting shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

JAMES A. CREASY,
Refuge Manager, Browns Park National Wildlife Refuge.

AUGUST 1, 1977.

[FR Doc.77-24228 Filed 8-19-77;8:45 am]

PART 32—HUNTING

Opening of Browns Park National Wildlife Refuge, Colorado, to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to big game hunting of Browns Park National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Archery deer season, September 3 through September 25, 1977, inclusive. Antique firearm deer season, September 10 through September 18, 1977, inclusive. Rifle deer season, October 15 through October 19, 1977, inclusive.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Browns Park National Wildlife Refuge, Greystone Route, Maybell, Colorado 81640, telephone: 303-365-3695.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer is permitted on the Browns Park National Wildlife Refuge, Colorado, except in those areas designated by signs as closed to hunting. These areas are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 10597 West 6th Avenue, P.O. Box 25486, Denver, Colorado 80215. Big game hunting shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

JAMES A. CREASY,
Refuge Manager, Browns Park National Wildlife Refuge.

AUGUST 1, 1977.

[FR Doc.77-24229 Filed 8-19-77;8:45 am]

PART 32—HUNTING

National Wildlife Refuges in Washington

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of certain National Wildlife Refuges in Washington is compatible with the objectives for which these areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming hunting seasons for migratory game birds, upland game, and big game.

DATE: September 1, 1977 to June 30, 1978.

ADDRESS: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT:

Joseph R. Blum, Area Office Manager, U.S. Fish and Wildlife Service, Building "A", 2625 Parkmont Lane, Olympia, Washington 98502. Telephone: FTS 434-9578 or 9579, Com'l 206-753-9578 or 79.

SUPPLEMENTARY INFORMATION: Hunting is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR Part 32 and the following Special Regulations. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. No vehicle travel is permitted except on maintained roads and trails. Special conditions applying to individual refuges are listed on the reverse side of maps available at refuge headquarters and from the office of the Regional Director, Fish and Wildlife Service, P.O. Box 3737, Portland, Oregon 97208. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

1. Migratory game birds may be hunted on the following refuge areas:

Conboy Lake National Wildlife Refuge, Box 5, Glenwood, Washington 98619. Contact Refuge Manager at 509-364-3410.

Special Condition: No Canada goose hunting permitted.

2. Migratory game birds except doves and pigeons may be hunted on the following refuge areas:

Columbia National Wildlife Refuge, P.O. Drawer F, Othello, Washington 99344. Contact Refuge Manager at 509-488-3831.

Special Condition: Hunters using field 226-227 near Royal Lake must register before hunting and may shoot from designated sites only. Hunters are required to provide and use a minimum of one dozen waterfowl decoys while hunting from designated sites.

Toppenish National Wildlife Refuge, Route 1, Box 1300, Toppenish, Washington 98948. Contact Refuge Manager at 509-865-2405.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882. Contact Refuge Manager at 503-922-3232.

Columbian White-Tailed Deer National Wildlife Refuge, Route 1, Box 376C, Cathlamet, Washington 98612. Contact Refuge Manager at 206-795-4915.

Ridgefield National Wildlife Refuge, P.O. Box 467, Ridgefield, Washington 98642. Contact Refuge Manager at 206-887-8276.

Special Conditions: (1) Hunting will be allowed on Saturdays, Sundays, and Wednesdays during the regular waterfowl season. Hunting will not be allowed on Federal holidays.

(2) A Federal permit, available from the refuge office, is required to enter the public hunting area. Permits will be issued by mail, only on a first-come, first-served basis. Only one regular permit may be held by a hunter at any one time.

(3) Hunters may shoot only from blinds assigned by drawing at the checking station. A recreational use fee of $3 will be charged for each hunter's use of a blind. Fee for holders of Golden Age Passport is $1.50.

(4) Steel shot only may be possessed or used on the refuge hunting area.

V42162 AUG 22 77 UMI

(5) Hunters may possess and use not more than twenty (20) shells on the north hunting area or twelve (12) shells on the south hunting area per hunter per day.

3. Migratory game birds except snipe and pigeons and doves may be hunted on the following refuge areas:

McNary National Wildlife Refuge, P.O. Box 308, Burbank, Washington 99323. Contact Refuge Manager at 509–547–4942.

Special Conditions: (1) Hunters are required to park vehicles in designated parking areas only.

(2) On Burbank Slough, hunting will be permitted on Wednesday, Saturday, Sunday and Thanksgiving Day only. No additional hunting will be permitted during the State extended goose-hunting season. In the north and south one-thirds of hunting area, hunting is from marked sites only. Reservations are required for use of goose-hunting sites in fields 5 and 6.

(3) On the Hanford Island Division, hunting is permitted only on the five upstream islands from opposite the Hanford 300 area-Sagemoor Road upstream to BPA power line crossing. The Hanford Island offshore from the Graduate Center, Sprout Road is closed to hunting.

(4) All public use on the Strawberry Island Division is prohibited.

Willapa National Wildlife Refuge, Ilwaco, Washington 98624. Contact Refuge Manager at 206–484–3482.

LEWIS AND LEADBETTER POINT UNITS

Special Conditions: Hunter registration is required. Leadbetter Point is the only refuge unit open to black brant hunting after close of general season.

RIEKKOLA UNIT

Special Conditions: (1) Hunter registration is required.

(2) Hunting will be permitted on Wednesdays and Saturdays only.

(3) Hunting will not be permitted on Federal holidays.

(4) Hunting will be from designated blinds only with no more than three (3) hunters per blind. Blind selection is by drawing each hunt morning at check station.

(5) Hunters may possess and use not more than ten (10) shells per hunter per day.

(6) This area closes at the end of the regular waterfowl season. No extension of the season is provided for the hunting of black brant.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Upland game may be hunted on the following refuge areas:

Columbia National Wildlife Refuge, P.O. Drawer F, Othello, Washington 99344. Contact Refuge Manager at 509–488–3831.

Special Conditions: (1) Open to the hunting of rabbits in addition to game birds.

(2) Upland game birds may be hunted during State seasons running concurrently with the waterfowl season.

(3) Hunters using field 226–227 near Royal Lake must register before hunting and may shoot from designated sites only.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882. Contact Refuge Manager at 503–922–3232.

Special Condition: Only those areas posted "Public Hunting Area" are open to upland game bird hunting.

Conboy Lake National Wildlife Refuge, Box 5, Glenwood, Washington 98619. Contact Refuge Manager at 509–364–3410.

Special Condition: Cottontail rabbit and snowshoe hare may also be hunted during the State season concurrent with the waterfowl season.

Toppenish National Wildlife Refuge, Route 1, Box 1300, Toppenish, Washington 98948. Contact Refuge Manager at 509–865–2405.

Special Condition: Rabbits and upland game may only be hunted during that part of the State season concurrent with the waterfowl hunting season.

Willapa National Wildlife Refuge, Ilwaco, Washington 98624. Contact Refuge Manager at 206–484–3282.

LONG ISLAND UNIT

Special Conditions: (1) Archery hunting for blue and ruffed grouse only.

(2) Permits for the opening weekend will be limited and obtained in advance. Applications are available from the Refuge Manager.

(3) After opening weekend, hunters must possess regular hunting permit available at refuge headquarters and at the Nahcotta Dock.

McNary National Wildlife Refuge, P.O. Box 308, Burbank, Washington 99323. Contact Refuge Manager at 509–547–4942.

Special Conditions: (1) Pheasants only may be hunted during the first half of the State's split season or through November 6, whichever is earlier.

(2) Pheasant hunting will be restricted to Wednesdays, Saturdays, and Sundays.

(3) Hunters are required to park vehicles in designated parking areas only.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

1. Big game hunting is permitted on the following refuge area:

Little Pend Oreille National Wildlife Refuge, Route 1, Colville, Washington 99114. Contact Refuge Manager at 509–684–2821.

2. Deer hunting only is permitted on the folowing refuge areas:

Columbia National Wildlife Refuge, P.O. Drawer F, Othello, Washington 99344. Contact Refuge Manager at 509–488–3831.

Conboy Lake National Wildlife Refuge, Box 5, Glenwood, Washington 98619. Contact Refuge Manager at 509–364–3410.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882. Contact Refuge Manager at 503–922–3232.

3. Bear, deer and elk may be hunted on the following refuge areas:

Willapa National Wildlife Refuge, Ilwaco, Washington 98624. Contact Refuge Manager at 206–484–3482.

LONG ISLAND UNIT

Special Conditions: (1) Archery hunting only is permitted.

(2) Permits for opening weekend will be limited and obtained in advance. Applications are available from the Refuge Manager.

(3) After opening weekend, hunters must possess regular hunting permit available at refuge headquarters and at the Nahcotta Dock.

(4) Use of bait/or baiting for bears is prohibited.

These provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

The primary author of this document is Joseph R. Blum, Area Office Manager; Telephone FTS 434–9578 or 9579, Com'l 206–753–9578 or 9579.

Dated: August 15, 1977.

R. KAHLER MARTINSON,
Regional Director,
Regional Office, FTS: 429–4050.

[FR Doc.77–24230 Filed 8–19–77;8:45 am]

PART 32—HUNTING

Opening of the J. Clark Salyer National Wildlife Refuge, North Dakota, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to hunting of J. Clark Salyer National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 17, 1977, through December 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Jon M. Malcolm, J. Clark Salyer National Wildlife Refuge, Upham, N. Dak. 58789, Telephone No. 701–768–3223.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; upland game; for individual wildlife refuge areas.

Hunting of Hungarian partridge and sharp-tailed grouse is permitted on the J. Clark Salyer National Wildlife Refuge, North Dakota, from sunrise to sunset September 17, 1977 through December 11, 1977, only on the area designated by

signs as open to hunting. This open area comprising of approximately 25,500 acres, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. All hunters must exhibit their hunting license, game and vehicle contents to Federal and State officers upon request.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: August15,1977.

JON M. MALCOLM,
Refuge Manager.

[FR Doc.77–24231 Filed 8–19–77;8:45 am]

PART 32—HUNTING

Opening of Quivira National Wildlife Refuge, Kansas, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to hunting of Quivira National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1, 1977, through January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Darling, Refuge Manager, Quivira National Wildlife Refuge, P.O. Box G, Stafford, Kansas 67578. A/C 316–486–2393.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Hunting is permitted on the Quivira National Wildlife Refuge, Kansas, only on the areas designated by signs as being open to hunting. These areas comprising 7,990 acres are delineated on maps available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, Federal Building, Room 1748, 601 East 12th Street, Kansas City, Mo. 64196. Hunting of migratory waterfowl, mourning doves, snipe, rails and woodcock shall be in accordance with all applicable State regulations subject to the following conditions:

1. Blinds—only temporary blinds constructed above ground of natural vegetation are permitted.

2. Dogs—not to exceed two per hunter may be used only for retrieving.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

AUGUST 5, 1977.

LAURENCE R. VEIKLEY,
Acting Refuge Manager, Quivira National Wildlife Refuge, Stafford, Kansas.

[FR Doc.77–24232 Filed 8–19–77;8:45 am]

PART 32—HUNTING

National Wildlife Refuges in Oregon

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determined that the opening to hunting of certain National Wildlife Refuges in Oregon is compatible with the objectives for which these areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming hunting seasons for migratory game birds, upland game, and big game.

DATES: August 27, 1977 through June 30, 1978.

ADDRESSES: Contact the Refuge Manager at the address and or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT:

Philip B. Aus, Area Office Manager, U.S. Fish and Wildlife Service, 4620 Overland Road, Boise, Idaho 83705, Telephone: FTS 554–1960, Com'l 208–384–1960.

SUPPLEMENTARY INFORMATION: Hunting is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR Part 32 and the following Special Regulations. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. No vehicle travel is permitted except on maintained roads and trails. Special conditions applying to individual refuges are listed on the reverse side of maps available at refuge headquarters and from the office of the Regional Director, Fish and Wildlife Service, P.O. Box 3737, Portland, Oreg. 97208. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

1. Migratory game birds may be hunted on the following refuge areas:

Ankeny National Wildlife Refuge, Route 1, Box 198, Jefferson, Oreg. 97532. Contact Refuge Manager at 503–327–2444.

Special Conditions: (1) All hunters must check in and out of the refuge daily by use of self-service permits.

(2) Hunting is permitted on Wednesdays, Saturdays, and Sundays from opening shooting time until 12:00 noon during the authorized season.

(3) A Federal permit is required and will be issued on an advance reservation basis. Application for reservation will be accepted between September 15 and October 15.

(4) Steel shot only may be possessed or used on the refuge hunting area.

(5) Hunters are limited to the possession and use of twenty (20) shells per day.

Deer Flat National Wildlife Refuge, Snake River Islands Sector (Headquarters: Deer Flat National Wildlife Refuge, Route 1, Box 1457, Nampa, Idaho 83651). Contact Refuge Manager at 208–467–5245.

Special Conditions: (1) Doves may be hunted on the Snake River Islands sector only.

(2) Waterfowl hunting blinds are on a first-come, first-served basis.

Malheur National Wildlife Refuge, P.O. Box 113, Burns, Oreg. 97720. Contact Refuge Manager at 503–493–2323.

Special Conditions: (1) Doves may be of the refuge in Blitzen Valley west of Highway 205 south of Diamond Lake will be open to hunting as posted.

(2) Use of motors on boats is prohibited.

(3) The hunting areas will be closed if Malheur Lake Marsh recedes to 15,000 acres by September 1, 1977.

William L. Finley National Wildlife Refuge, Route 2, Box 208, Corvallis, Oreg. 97330. Contact Refuge Manager at 503–753–8056

Special Conditions: (1) All hunters must check in and out of the refuge daily by use of self-service permits.

(2) Hunting is permitted on Wednesdays, Saturdays, and Sundays from opening shooting time each day until 12 noon, during the authorized season only.

(3) A Federal permit is required and will be issued on an advance reservation basis. Application for reservation will be accepted between September 15 and October 15.

(4) In the designated goose hunting area "A", hunters may shoot from assigned blind sites only and are limited to the use of ten (10) shells per day.

(5) Hunters are limited to the possession and use of twenty (20) shells per day on area "B".

(6) Steel shot only may be possessed or used on the refuge hunting area.

V 42 162 AUG 22 77 UMI

2. Migratory game birds except snipe and pigeons and doves may be hunted on the following refuge areas:

Baskett Slough National Wildlife Refuge, Route 1, Box 709, Dallas, Oreg. 97338. Contact Refuge Manager at 503–623–2749.

Special Conditions: (1) Hunting is permitted on Wednesdays, Saturdays, and Sundays from opening shooting time until 12:00 noon during the authorized season.

(2) A Federal permit is required and will be issued on an advance reservation basis. Application for reservation will be accepted between September 15 and October 15.

(3) Steel shot only may be possessed or used on the refuge hunting area.

(4) Hunters are limited to the possession and use of twenty (20) shells per day.

Cold Springs National Wildlife Refuge, Hermiston, Oreg. (Headquarters: Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oreg. 97882. Contact Refuge Manager at 305–922–3232).

Klamath Forest National Wildlife Refuge (Headquarters: Klamath Basin National Wildlife Refuge, Route 1, Box 74, Tulelake, California 96134). Contact Refuge Manager at 916–667–2231).

Special Conditions: (1) Boats with or without motors are permitted. Air-thrust and inboard water-thrust boats are prohibited.

(2) All decoys, boats and other personal property must be removed from the refuge at the close of each day.

(3) No person may possess any weapon or ammunition that may not be legally used for taking waterfowl.

Lewis and Clark National Wildlife Refuge, Route 1, Box 376C, Cathlamet, Wash. 98612. Contact Refuge Manager at 206–795–4915.

Special Condition: Posted portions of the Lewis and Clark National Wildlife Refuge in Clatsop County will be closed to waterfowl hunting.

Lower Klamath National Wildlife Refuge (those portions in Oregon), Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Calif., 96134). Contact Refuge Manager at 916–667–2231.

Special Conditions: (1) Posted retrieving zones are established on certain hunting units. Possession of firearms in these retrieving zones is prohibited except, unloaded firearms may be taken through these zones when necessary to reach or leave hunting areas. Decoys may not be set in retrieving zones.

(2) Boats with or without motors are permitted. Air-thrust and inboard water-thrust boats are prohibited.

(3) All decoys, boats, and other personal property must be removed at the close of each day.

McKay Creek National Wildlife Refuge, Pendleton, Oreg. (Headquarters: Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oreg. 97882). Contact Refuge Manager at 503–922–3232.

Special Condition: Hunting will be permitted on Wednesdays, Saturdays, Sundays and State holidays.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oreg. 97882. Contact Refuge Manager at 503–922–3232.

Special Conditions: (1) Waterfowl hunting is permitted during open hours each Wednesday, Saturday, Sunday and State holiday (except Dec. 25) during waterfowl season.

(2) Hunting is by permit only. Successful applicants may bring one unnamed guest and must arrive at the checking station no later than ONE hour before shooting time or the reservation is cancelled. Checking station will open one to one and one-half hours before shooting time. "No-show" vacancies will be filled from a waiting line after reservations have been accommodated and just prior to shooting time.

(3) Applications will be accepted during two sign-up periods. Permits are nontransferable.

(4) The use of steel shot will be mandatory. It will be unlawful to possess lead shot while hunting ducks, geese, and coots.

(5) Waterfowl hunting will be from blinds only. Details will be available at the check stand.

Upper Klamath National Wildlife Refuge, (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, Calif. 96134). Contact Refuge Manager at 916–667–2231.

Special Conditions: (1) Boats with or without motors are permitted. Air-thrust and inboard water-thrust boats are prohibited.

(2) All decoys, boats and other personal property must be removed from the refuge at the close of each day.

(3) No person may possess any weapon or ammunition that may not be legally used for taking waterfowl.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Ankeny National Wildlife Refuge, Route 1, Box 198, Jefferson, Oreg. 97352. Contact Refuge Manager at 503–327–2444.

Special Conditions: (1) No hunting permitted after November 6, 1977. (2) All hunters must check in and out of the refuge daily by use of self-service permits. (3) Hunters on the area served by each registration station will be limited to 50 at any one time.

Baskett Slough National Wildlife Refuge, Route 1, Box 709, Dallas, Oreg. 97338. Contact Refuge Manager at 503–623–2749.

Special Conditions: (1) No hunting permitted after November 6, 1977.

(2) All hunters must check in and out of the refuge daily by use of self-service permits.

(3) Hunters on the area served by each registration station will be limited to 50 at any one time.

Cold Springs National Wildlife Refuge, Hermiston, Oreg. (Headquarters: Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oreg. 97882). Contact Refuge Manager at 503–922–3232.

Deer Flat National Wildlife Refuge, Snake River Islands Sector (Headquarters: Deer Flat National Wildlife Refuge, Route 1, Box 1457, Nampa, Idaho 83651). Contact Refuge Manager at 208–467–5245.

Hart Mountain National Wildlife Refuge, P.O. Box 111, Lakeview, Oreg. 97630. Contact Refuge Manager at 503–947–3315.

Malheur National Wildlife Refuge, P.O. Box 113, Burns, Oreg. 97720. Contact Refuge Manager at 503–493–2323.

Special Condition: Hunting will be permitted during the last nine days of the State season on the upland game hunting area and during State seasons running concurrently with the waterfowl season on the waterfowl hunting area, and that portion of the refuge in the Blitzen Valley west of Highway 205 as posted.

McKay Creek National Wildlife Refuge, Pendleton, Oreg. (Headquarters: Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oreg. 97882). Contact Refuge Manager at 503–922–3232.

Special Condition: Hunting is permitted on Wednesdays, Saturdays, Sundays, and State holidays.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oreg. 97882. Contact Refuge Manager at 503–922–3232.

Special Conditions: (1) Hunting will be permitted from 12 noon until closing time on Wednesdays, Saturdays, Sundays, and State holidays.

(2) Pheasant hunters must check in and out of the refuge daily at the refuge check stations.

William L. Finley National Wildlife Refuge, Route 2, Box 208, Corvallis, Oreg. 97330. Contact Refuge Manager at 503–753–8056.

Special conditions: (1) No hunting permitted after November 6, 1977.

(2) All hunters must check in and out of the refuge daily by use of self-service permits.

(3) Hunters on the area served by each registration station will be limited to 100 at any one time.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

1. Big game hunting is permitted on the following refuge area:

Hart Mountain National Wildlife Refuge, P.O. Box 111, Lakeview, Oreg. 97630. Contact Refuge Manager at 503–947–3315.

Special Conditions: (1) Hunters are required to check in and out of refuge.

(2) Antelope and sheep hunters are required to attend a pre-hunt indoctrination session.

2. Deer hunting only is permitted on the following refuge areas:

Baskett Slough National Wildlife Refuge, Route 1, Box 709, Dallas, Oreg. 97338. Contact Refuge Manager at 503–623–2749.

Special Conditions: (1) No hunting after November 6, 1977.

(2) All hunters must check in and out of refuge daily by use of self-service permits.

(3) The use of rifles is prohibited.

Deer Flat National Wildlife Refuge, Snake River Islands Sector, Headquarters: Deer Flat National Wildlife Refuge, Route 1, Box 1457, Nampa, Idaho 83651. Contact Refuge Manager at 208–467–5245.

Malheur National Wildlife Refuge, P.O. Box 113, Burns, Oreg. 97720. Contact Refuge Manager at 503–493–2323.

Special Conditions: (1) That portion of the refuge in the Blitzen Valley west of Highway 205 will be open as posted to deer hunting in accordance with regular State season.

(2) The special archery area (bow and arrow only) will be opened for hunting from September 7 through September 18, 1977.

(3) The archery area will be closed to hunting if hazardous fire conditions cause a State closure of their archery areas.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

The primary author of this document is Philip B. Aus, Area Office Manager; Telephone FTS 554–1960, Com'l 208–384–1960.

Dated: August 15, 1977.

R. KAHLER MARTINSON,
Regional Director,
Regional Office, FTS: 429–4050.

[FR Doc.77-24226 Filed 8-19-77;8:45 am]

PART 32—HUNTING

National Wildlife Refuges in Idaho

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of certain National Wildlife Refuges in Idaho is compatible with the objectives for which these areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming hunting seasons for migratory game birds, upland game, and big game.

DATES: September 1, 1977 through June 30, 1978.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT:

Philip B. Aus, Area Office Manager, U.S. Fish and Wildlife Service, 4620 Overland Road, Boise, Idaho 83705, Telephone: FTS 554–1960 Com'l 208–384–1960.

SUPPLEMENTARY INFORMATION: Hunting is permitted on the National Wildlife Refuge indicated below in accordance with 50 CFR 32 and the following Special Regulations. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. No vehicle travel is permitted except on maintained roads and trails. Special conditions applying to individual refuges are listed on the reverse side of maps available at refuge headquarters and from the office of the Regional Director, Fish and Wildlife Service, P.O. Box 3737, Portland, Oreg. 97208. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

§ 32.12 Special regulations: migratory game birds; for individual wildlife refuge areas.

1. Migratory game birds may be hunted on the following refuge area:

Deer Flat National Wildlife Refuge, Route 1, Box 1457, Nampa, Idaho 83651. Contact Refuge Manager at 208–467–5245.

Special Conditions: (1) Dove and snipe hunting is permitted on the Snake River Islands sector only.

(2) Goose hunting is prohibited on the Lake Lowell sector.

2. Migratory game birds except doves and pigeons may be hunted on the following refuge area:

Kootenai National Wildlife Refuge, Star Route No. 1, Box 160, Bonners Ferry, Idaho 83805. Contact Refuge Manager at 509–267–3888.

Special Conditions: (1) Hunting permitted on Saturdays, Sundays, Tuesdays, Thursdays.

(2) The use of steel shotshells is required.

3. Migratory game birds except snipe and pigeons and doves may be hunted on the following refuge areas:

Bear Lake National Wildlife Refuge, P.O. Box 9, Montpelier, Idaho 83254. Contact Refuge Manager at 208–847–1757.

Special Conditions: Air-thrust boats are prohibited. Other boats are permitted from one week prior to the opening of migratory waterfowl hunting until the close of the season.

Camas National Wildlife Refuge, Hamer, Idaho 83425. Contact Refuge Manager at 208–662–5423.

Grays Lake National Wildlife Refuge, P.O. Box 837, Soda Springs, Idaho 83216. Contact Refuge Manager at 208–547–4996.

Special Conditions: (1) The use of air-thrust boats is prohibited. Other boats are permitted from the opening of migratory waterfowl hunting until the close of the season.

(2) Entry to hunting area is by foot travel only.

Minidoka National Wildlife Refuge, Route 4, Rupert, Idaho 83350. Contact Refuge Manager at 208–436–3589.

§ 32.22 Special regulations: upland game; for individual wildlife refuge areas.

Upland game may be hunted on the following refuge areas:

Bear Lake National Wildlife Refuge, P.O. Box 9, Montpelier, Idaho 83254. Contact Refuge Manager at 208–847–1757.

Camas National Wildlife Refuge, Hamer, Idaho 83425. Contact Refuge Manager at 208–662–5423.

Deer Flat National Wildlife Refuge, Route 1, Box 1457, Nampa, Idaho 83651. Contact Refuge Manager at 208–467–5245.

Minidoka National Wildlife Refuge, Route 4, Rupert, Idaho 83350. Contact Refuge Manager at 208–436–3589.

Special Condition: Upland game birds and cottontails may be hunted during the waterfowl hunting season.

§ 32.32 Special regulations: big game; for individual wildlife refuge areas.

1. Big game hunting is permitted on the following refuge area:

Grays Lake National Wildlife Refuge, P.O. Box 837, Soda Springs, Idaho 83216. Contact Refuge Manager at 208–547–4966.

Special Conditions: (1) Deer and moose only may be hunted.

(2) Entry to hunting area is by foot travel only.

(3) Horses may be used only to retrieve big game animals.

2. Deer hunting only is permitted on the following refuge areas:

Deer Flat National Wildlife Refuge, Route 1, Box 1457, Nampa, Idaho 83651. Contact Refuge Manager at 208–467–5245.

Special Condition: Deer hunting is permitted on the Snake River Islands sector only.

Kootenai National Wildlife Refuge, Star Route No. 1, Box 160, Bonners Ferry, Idaho 83805. Contact Refuge Manager at 509–267–3888.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

The primary author of this document is Philip B. Aus, Area Office Manager; Telephone FTS 554–1960, Com'l 208–384–1960.

Dated: August 15, 1977.

R. KAHLER MARTINSON,
Regional Director,
Regional Office, FTS: 429–4050.

[FR Doc.77-24227 Filed 8-19-77;8:45 am]

PART 32—HUNTING

Opening of Quivira National Wildlife Refuge, Kansas, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Quivira National Wildlife Refuge is com-

V 42 162 AUG 22 77 UM

patible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1, 1977, through January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Darling, Refuge Manager, Quivira National Wildlife Refuge, P.O. box G, Stafford, Kans. 67578. 316-486-2393.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Hunting is permitted on the Quivira National Wildlife Refuge, Kansas, only on the areas designated by signs as being open to hunting. These areas comprising 7,990 acres are delineated on maps available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, Federal Building, Room 1748, 601 East 12th Street, Kansas City, Mo. 64106. Hunting of ring-necked pheasants, bobwhite, squirrel and rabbits shall be in accordance with all applicable State regulations subject to the following conditions:

1. The use of rifles is prohibited for taking squirrel and rabbits.

2. The hunting of any species after sunset is prohibited.

3. The hunting of all upland game will close at the end of the ring-necked pheasant and/or bobwhite seasons.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

LAURENCE R. VEIKLEY,
Acting Refuge Manager, Quivira National Wildlife Refuge, Stafford, Kans.

AUGUST 5, 1977.

[FR Doc.77-24225 Filed 8-19-77;8:45 am]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 601—REGIONAL FISHERY MANAGEMENT COUNCILS

PART 602—GUIDELINES FOR DEVELOPMENT OF FISHERY MANAGEMENT PLANS

Interim Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce

ACTION: Extension of Period for Public Comment Upon Interim Regulations

SUMMARY: Interim Regulations under the Fishery Conservation and Management Act were published in the FEDERAL REGISTER July 18, 1977, (42 FR 36980) to provide the Regional Fishery Management Councils with needed guidance for their effective operation. At the request of the Pacific Fishery Management Council, the comment period is extended from September 16 to September 30, 1977.

DATES: Comments must be submitted by September 30, 1977.

ADDRESSES: All submissions received by the Director, National Marine Fisheries Service, Washington, D.C., 20235, on or before that date will be considered prior to the publication of final regulations.

Dated: August 16, 1977.

WINFRED H. MEIBOHM,
Acting Deputy Director, National Marine Fisheries Service.

[FR Doc.77-24233 Filed 8-19-77;8:45 am]

PART 680—INTERNATIONAL AGREEMENTS

Canadian Agreement

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final regulations.

SUMMARY: These regulations require U.S. fishermen fishing for species regulated under the U.S.-Canada Reciprocal Fisheries Agreement for 1977, and dealers who buy fish from them, to maintain catch data and make it available to the NMFS or authorized officials of a State agency which has entered into an agreement with NMFS to collect this data. This document is necessary to implement provisions of the Agreement which require the two parties to exchange appropriate fishery statistics on a timely and regular basis.

EFFECTIVE DATE: August 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard Schaefer, Fisheries Management Operations Division, National Marine Fisheries Service, Washington, D.C. 20235, 202-634-7454.

SUPPLEMENTARY INFORMATION: On July 26, 1977, the President signed Public Law 95-73, an amendment to the Fishery Conservation Zone Transition Act, which gives effect during 1977 to the Reciprocal Fisheries Agreement between the Government of the United States and the Government of Canada (Agreement) signed on February 24, 1977.

Article 13 of the Agreement provides that the two parties agree to exchange appropriate fishery statistics on a timely and regular basis where necessary to permit an accurate determination to be made of the time at which an allocation or catch level is reached.

The regulations describe the requirements and procedures for:

(1) Owners or operators of fishing vessels of the United States that fish in the Atlantic or Pacific Canadian fishery zone to maintain an accurate log of fishing operations.

(2) Dealers that purchase or receive species listed in sections 680.4(b) and 680.7(b) of this part to furnish a complete record of each purchase of any species taken in the Atlantic or Pacific Canadian fishery zone to an authorized official of the United States.

The regulations set forth involve a foreign affairs function of the United States, and are exempt from the rulemaking procedures of the Administrative Procedure Act. Formal notice of proposed rulemaking is therefore not required.

Signed at Washington, D.C., on August 16, 1977.

JOSEPH W. SLAVIN,
Acting Associate Director, National Marine Fisheries Service.

Sec.
680.1 Purpose.
680.2 Definitions.
680.3 General.
680.4 Atlantic areas and species.
680.5 Reports and records.
680.6 [Reserved]
680.7 Pacific areas and species.
680.8 Reports and records.

AUTHORITY: Fishery Conservation Zone Transition Act, Pub. L. 95-6.

§ 680.1 Purpose.

The purpose of these regulations is to implement Public Law 95-73, an amendment to the Fishery Conservation Zone Transition Act, P.L. 95-6, which provides for the collection of catch and effort statistics of U.S. fishermen fishing in Canadian waters in the Atlantic and Pacific Ocean under Article XIII of the Reciprocal Fisheries Agreement between the United States and Canada signed on February 24, 1977.

§ 680.2 Definitions.

(a) *Agreement* means the Reciprocal Fisheries Agreement Between the United States of America and the Government of Canada, signed February 24, 1977, that entered into force on July 26, 1977.

(b) *Authorized official means:*

(1) Any commissioned, warrant or petty officer of the Coast Guard;

(2) Any agent of the National Marine Fisheries Service;

(3) Any officer designated by the head of any State agency which has entered into an agreement with the Secretary of Commerce to carry out the provisions of these regulations; and

(4) Any Coast Guard personnel accompanying and acting under the direction of any person described in (1) of this paragraph.

(c) *By catch* means the fish of any species other than the directed fishery species that are caught during a directed fishery.

(d) *Directed fishery* means a fishery conducted for the purpose of catching one or more designated species.

(e) *Persons* means any individual, partnership, corporation, or association

subject to the jurisdiction of the United States.

(f) *Regulatory area.* The term "Regulatory Area" means and includes the whole of those portions of the convention of the International Convention for the Northwest Atlantic Fisheries (ICNAF) area which are separately described as follows:

(1) *Subarea 1.* The term "subarea 1" means that portion of the Convention area, including all waters except territorial waters, which lies to the north and east of a rhumb line from a point in 75°00′ north latitude and 73°30′ west longitude to a point in 69°00′ north latitude and 50°00′ west longitude; east of 59°00′ west longitude; and to the north and east of a rhumb line from a point in 61°00′ north latitude and 59°00′ west longitude to a point in 52°15′ north latitude and 42°00′ west longitude.

(2) *Subarea 2.* The term "Subarea 2" means that portion of the Convention area, including all waters except territorial waters, lying to the south and west of Subarea 1, as defined in subparagraph (1) of this paragraph, and to the north of the parallel of 52°15′ north latitude.

(3) *Subarea 3.* The term "Subarea 3" means that portion of the Convention area, including all waters except territorial waters, lying south of the parallel of 52°15′ north latitude; and to the east of a line extending due north from Cape Bauld on the north coast of Newfoundland to 52°15′ north latitude; to the north of the parallel of 39°00′ north latitude; and to the east and north of a rhumb line extending in a northwesterly direction which passes through a point in 42°30′ north latitude, 55°00′ west longitude in the direction of a point in 47°50′ north latitude 60°00′ west longitude, until it intersects a straight line connecting Cape Ray, on the coast of Newfoundland, with Cape North on Cape Breton Island; thence in a northeasterly direction along said line to Cape Ray.

(4) *Subarea 4.* The term "Subarea 4" means that portion of the Convention area, including all waters except territorial waters, lying to the west of Subarea 3 as described in subparagraph (3) of this paragraph, and to the east of a line described as follows: Beginning at the terminus of the international boundary between the United States of America and Canada in Grand Manan Channel, at point 44°46′35.34″ north latitude, 66°54′11.23″ west longitude; thence due south to the parallel of 43°50′ north latitude; thence due west to the meridian of 67°40′ west longitude; thence due south to the parallel of 42°40 north latitude; thence due east to a point in 66°00 west longitude; thence along a rhumb line in a southeasterly direction to a point in 42°00′ north latitude, 65°40′ west longitude; thence due south to the parallel to 39°00′ north latitude.

§ 680.3 General.

(a) Any violation of these regulations by any person shall be deemed to be an act prohibited by section 307 of the Fishery Conservation and Management Act of 1976 and such person shall be liable to the United States for a civil penalty as provided for in section 308 of the Act.

(b) Information submitted pursuant to these regulations shall be disclosed consistent with Part 603 of Title 50.

§ 680.4 Atlantic areas and species.

(a) All U.S. fisheries for species and stocks found off Canada in Subareas 2, 3, and 4 of the Regulatory Area and regulated in accordance with the Agreement are subject to the reporting requirements in section 680.5.

(b) The species and subarea include:

Species	*Subarea*
Cod	4VSW
Cod	4X[1]
Haddock	4VW
Do	4X
Silver Hake	4VWX
Redfish	2+3K
Do	4VWX
Pollock	4VWX
Flounders	4VWX
Herring	4XW

[1] Offshore.

In addition, any bycatch of species not listed above taken while fishing for the above species in accordance with the Agreement is subjected to the reporting requirements set forth below.

§ 680.5 Reports and records.

(a) *Owner or master.* In case of a U.S. vessel fishing for any of the species regulated under the Agreement, the owner or master of such vessel must maintain in an official logbook an accurate log of fishing operations showing date, type, and size of gear used, area fished, duration of fishing time or tow, and the estimated weight in pounds of each species taken at 12-hour intervals. The official logbook may be obtained upon request from the:

Regional Director, National Marine Fisheries Service, NOAA, 14 Elm Street, Gloucester, Massachusetts 01930.

(b) The logbook must be presented for examination and subsequent return to the owner or master of the vessel upon proper demand by any authorized official at any time during or at the completion of a fishing trip. Such required documentation must be maintained by the owner or master of the vessel for 1 year subsequent to the date of the last entry in the logbook and made available to any authorized official upon demand.

(c) *Dealers.* All persons, individuals firms or corporations, at any port or place within the United States, that buy from U.S. flag vessels or from a carrier licensed as a common carrier engaged in either interstate or intrastate commerce, any species taken by any U.S. fishing vessel and regulated in accordance with the Agreement must furnish to the Regional Director at the address in paragraph (a), within 72 hours of sale or within 72 hours after buying or receiving, or upon the vessel's return to any port of the United States, a complete and accurate record of each purchase, on forms supplied by the National Marine Fisheries Service at the address indicated in paragraph (a) of this section.

(d) All persons purchasing or receiving any regulated species caught by U.S. vessels under the Agreement for transport to any port of the United States must maintain records identical to those required under paragraph (a) of this section.

§ 680.6 [Reserved]

§ 680.7 Pacific areas and species.

(a) All U.S. fisheries for species and stocks found off Canada in Pacific Marine Fisheries Commission Groundfish Statistical Areas 3C, 3D, 5A, and 5B, regulated in accordance with the Agreement, are subject to the reporting requirements in section 680.8.

(b) The species and areas include:

Species	*Area*
Blackcod	3C, 3D, 5A, 5B
Pacific Ocean perch	3C, 3D, 5A, 5B
Rockfishes other than Pacific Ocean perch	3C, 3D, 5A, 5B
Other groundfish	3C, 3D, 5A, 5B
Shrimp	3C

§ 680.8 Reports and records.

(a) *Owner or master.* In case of a U.S. vessel fishing for any of the species regulated under the Agreement, the owner or master of such vessel must maintain in an official logbook an accurate log of fishing operations showing date, type, and size of gear used, area fished, effort in hours trawled, or number of longline units and duration of soaking time, and the estimated weight in pounds of each species taken from these areas by each gear type. The official logbook may be obtained from the NMFS or the State agency which has entered into an agreement with the Secretary of Commerce to carry out the provision of these regulations.

(b) The logbooks must be presented for examination and subsequent return to the owner or master of the vessel upon proper demand by any authorized official at any time during or at the completion of a fishing trip. Such required documentation must be maintained by the owner or master of the vessel for 1 year subsequent to the date of the last entry in the logbook and made available to any authorized official upon demand.

(c) *Dealers.* All persons, individual, firms or corporations, at any port or place within the United States, that buy from U.S. flag vessels or from a carrier licensed as a common carrier engaged in either interstate or intrastate commerce, any species taken by any U.S. fishing vessel and regulated in accordance with the Agreement must furnish to an authorized official within 72 hours a complete and accurate record of each purchase, on forms supplied by the National Marine Fisheries Service or furnished by a State agency which has entered into an agreement with the Secretary of Commerce to carry out the provisions of these regulations.

(d) All persons purchasing or receiving any regulated species caught by U.S.

V 42162 AUG 22 77 UM

vessels under the Agreement for transport to any port of the United States must maintain records identical to those required under paragraph (a) of this section.

[FR Doc.77-24113 Filed 8-19-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 779-4]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Massachusetts Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: A revision to the State Implementation Plan (SIP), changing the expiration date of Regulation 5.1, "Sulfur Content of Fuels and Control Thereof," from July 1, 1977 to July 1, 1978, is approved. The regulation, which was approved by EPA on December 5, 1975 as a revision to the original SIP, relaxes the sulfur limitations for fossil fuels burned by large sources in the Metropolitan Boston Intrastate Air Quality Control Region.

EFFECTIVE DATE: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Wallace Woo, Air Branch, EPA Region I, Room 2113, JFK Federal Building, Boston, Massachusetts 02203, 617-223-5609.

SUPPLEMENTARY INFORMATION: On May 31, 1972 (37 FR 10872), pursuant to Section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved, with exceptions, the Massachusetts Implementation Plan for the attainment of National Ambient Air Quality Standards (NAAQS).

On December 5, 1975 (40 FR 56889) the Administrator approved a revision to the State Implementation Plan (SIP) for the Metropolitan Boston Intrastate Air Quality Control Region (AQCR), which relaxed the sulfur in fuel limitations contained in Regulation 5.1, "Sulfur Content of Fuels and Control Thereof," until July 1, 1977. Fossil fuel utilization facilities located in the cities and towns of Arlington, Belmont, Boston, Brookline, Cambridge, Chelsea, Everett, Malden, Medford, Newton, Somerville, Waltham, and Watertown having an energy input capacity of two and one-half billion Btu per hour or greater are permitted to burn fossil fuel with a sulfur content not in excess of 0.55 pound per million Btu heat release potential (approximately equivalent to 1.0% sulfur content residual fuel oil by weight). All other consumers of residual fuel oil located in these cities and towns must continue to burn fuel with a sulfur content not in excess of 0.28 pound per million Btu heat release potential (approximately equivalent to 0.5% sulfur content residual fuel oil by weight), in accordance with the original SIP regulation. For other towns in the AQCR, facilities having an energy input capacity of one hundred million Btu per hour or greater are permitted to burn fossil fuel with a sulfur content not in excess of 1.21 pounds per million Btu heat release potential (approximately equivalent to 2.2% sulfur content residual fuel oil by weight), and all other consumers of residual fuel oil are limited to burning fuel with a sulfur content not in excess of 0.55 pound per million Btu heat release potential (approximately equivalent to 1.0% sulfur content residual fuel oil by weight), in accordance with the original SIP regulation.

On April 1, 1977, the Commissioner of the Massachusetts Department of Environmental Quality Engineering (the Massachusetts Department) submitted a revision to the SIP which would change the expiration date of Regulation 5.1 from July 1, 1977 to July 1, 1978. The proposed one-year extension gives the regulation an effective life of 2 years and 7 months, from December 5, 1975 to July 1, 1978. No other provisions of the regulation are changed.

The regulation requires that each source be reviewed by the Massachusetts Department and be granted a permit prior to burning the higher sulfur content fuel. The Massachusetts Department has the authority to set conditions of approval to insure that the NAAQS are not violated. A violation of the applicable NAAQS within the area of impact of a facility, or of other applicable SIP regulations, including the opacity and particulate emission limitations, will result in a mandatory return by that source to a lower sulfur fuel.

On June 13, 1977 the Regional Administrator published a proposed rulemaking notice (42 FR 30218) proposing approval of the revision and soliciting comments on the effects of continued burning of higher sulfur fuel. Comments were submitted by the Greater Boston Chamber of Commerce and the Boston Edison Company. Both expressed support of the proposed time extension and urged approval of the revision, based on the economic benefits to be gained and on the demonstration that burning higher sulfur fuel would not cause NAAQS violations.

The twenty-eight sources in the AQCR in the size categories affected by the regulation were approved by EPA in a December 5, 1975 final rulemaking notice. However, several of the sources that converted to higher sulfur fuel failed to meet the opacity and/or particulate emission limitations when burning the higher sulfur fuel. These sources will not receive a permit to burn higher sulfur fuel during the extended effective period of the regulation unless they demonstrate to the Massachusetts Department their ability to meet the applicable regulations.

Eastman Gelatin Corporation of Peabody, Massachusetts is being disapproved on the basis of the Massachusetts Department's submittal, which shows that the source may have contributed to violations of the NAAQS for total suspended particulates (TSP) recorded at an ambient monitoring station in Peabody. This source must burn fuel in accordance with the original SIP regulation.

Since use of higher sulfur content fuels may result in increased particulate emissions, the Massachusetts Department will be using the time during the extended effective period to continue development of a plan to attain TSP ambient standards and to develop a long-term plan to permit the burning of higher sulfur fuel, providing that such can be done without causing or contributing to TSP standards violations. This revision is thus an interim measure, allowing time to complete the studies required for the development of a TSP attainment plan and for evaluating the consistency of this sulfur in fuel strategy with TSP standards attainment/maintenance.

There have been no violations of the NAAQS for sulfur dioxide in the AQCR since the regulation has been in effect, and the Massachusetts Department's analysis shows that none are predicted to occur.

After evaluation of the State's submittal, the Administrator has determined that the Massachusetts revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Massachusetts Implementation Plan.

(Section 110(a) of the Clean Air Act, as amended, 42 U.S.C. § 1857c-5(a).)

Dated: August 17, 1977.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart W—Massachusetts

1. In § 52.1120(c), Subparagraph (6) is revised to read as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified. * * *

(6) Revisions to Regulation No. 5, increasing allowable sulfur content of fuels in the Boston Air Pollution Control District submitted on July 11, 1975 by the Secretary of Environmental Affairs, and on April 1, 1977 by the Commissioner of the Massachusetts Department of Environmental Quality Engineering.

2. In § 52.1126, a new paragraph (f) is added as follows:

§ 52.1126 Control Strategy: Sulfur Oxides.

* * * * *

(f) Massachusetts Regulation 5.1 for the Metropolitan Boston Air Pollution Control District is approved except as to the following source which remains subject to the applicable originally approved requirement of Regulation 5 which stipulates that sources outside the Boston "core area" are permitted to burn fossil

fuel having a sulfur content not in excess of 0.55 pounds per million Btu heat release potential (approximately equivalent to 1.0 percent sulfur content residual oil by weight):

Eastman Gelatin Corporation, Peabody, Massachusetts.

[FR Doc.77-24265 Filed 8-19-77;8:45 am]

[FRL 772-8]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval/Disapproval of Revisions to the Rules and Regulations of Various Air Pollution Control Districts in State of California

EDITOR'S NOTE: The following document contains multiple separate preambles although the amendments to 40 CFR Part 52 are contained in a single regulatory text that follows the preambles. EPA submitted the document in this form because the amendatory action is based on separate proposed rulemaking actions.

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: The purpose of this preamble is to introduce a series of preambles explaining the Agency's actions in approving, disapproving, and amending various existing or newly submitted portions of California's State Implementation Plan. The preambles covering the various Air Pollution Control Districts (APCD) involved are followed by a single regulatory text that relates to these Counties. In addition, the regulatory text also contains corrections of various clerical errors in certain approvals which have previously been published.

EFFECTIVE DATE: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn: David R. Souten, Chief, California SIP Section, Air Programs Branch, 100 California Street, San Francisco, California 94111, 415-556-7288.

SUPPLEMENTARY INFORMATION: Following this introductory preamble are the preambles for the following APCD's in the State of California: Colusa County, Fresno County, Kern County, Kings County, Lake County, Madera County, Mariposa County, San Joaquin County, Shasta County, Tulare County, and Tuolumne County. A single regulatory text covering the regulatory actions for all these Counties follows the preambles.

The regulatory package also contains corrections of various clerical errors in the previously published regulatory texts affecting the following APCDs: Bay Area, Butte County, Calaveras County, Glenn County, Great Basin Unified, Imperial County, Lassen County, Modoc County, Sacramento County, San Diego County, Sierra County, Siskiyou County, Stanislaus County, Sutter County, Tehama County, and Yuba County.

It should also be noted that regulations for the Counties incorporated in the Great Basin Unified APCD have been listed in the Identification of Plan section where such rules were revoked through the unification process.

(Secs. 110, 301, Clean Air Act, as amended, (42 U.S.C. 1857c-5, 1857g).)

Dated: August 9, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FRL 773-1]

Approval of Revisions to Colusa County Air Pollution Control Rules and Regulations in State of California

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: It is the purpose of this action to promulgate final approval of revisions to the Colusa County Air Pollution Control District's Rules and Regulations with the exception of regulations concerning malfunction, new source review, and certain exemptions from agricultural burning prohibitions which will be addressed in separate FEDERAL REGISTER notices.

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions. The Administrator finds good cause for making this rulemaking effective immediately since the regulations being approved are currently being enforced by the State and local air pollution control agencies, and therefore pose no further requirement on any affected facility.

EFFECTIVE DATE: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, Attn: David R. Souten, Chief, California SIP Section, Air Programs Branch, 100 California Street, San Francisco, California 94111, 415-556-7288.

SUPPLEMENTARY INFORMATION: On November 1, 1976 (41 FR 47949), EPA proposed approval/disapproval of revisions to the Colusa County Air Pollution Control District's Rules and Regulations submitted on July 25, 1973, January 10, 1975, and February 10, 1976. These revisions were submitted by the California Air Resources Board for inclusion in the California State Implementation Plan (SIP). The Proposed Rulemaking Notice provided for a 30-day public comment period. No comments were received on the changes being acted on in this final rulemaking notice. A description of the regulations being acted on in this rulemaking is available in the Proposed Rulemaking Notice. Although EPA proposed to disapprove the malfunction rule, final action will be taken in a separate FEDERAL REGISTER notice.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110, 301, Clean Air Act, as amended, (42 U.S.C. 1857c-5, 1857g).)

[FRL-773-2]

Approval of Revisions to the Fresno County Air Pollution Control District's Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: It is the purpose of this action to promulgate final approval of revisions to the Fresno County Air Pollution Control District's Rules and Regulations with the exception of regulations concerning incinerators which are disapproved, and new source review, malfunction, exceptions from opacity, emergency episode, gasoline vapor recovery, and certain exemptions from agricultural burning prohibitions which will be handled in separate FEDERAL REGISTER notices.

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions. The administrator finds good cause for making this rulemaking effective immediately since the regulations being approved are currently being enforced by the State and local air pollution control agencies, and therefore pose no further requirement on any affected facility.

EFFECTIVE DATE: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn: David R. Souten, Chief, California SIP Section, Air Programs Branch, San Francisco, California 94111, 415-556-7288.

SUPPLEMENTARY INFORMATION: On November 1, 1976 (41 FR 47950), EPA proposed approval of revisions to the Fresno County Air Pollution Control District's Rules and Regulations submitted on July 25, 1973, October 23, 1974, January 10, 1975, and February 10, 1976. These revisions were submitted by the California Air Resources Board for inclusion in the California State Implementation Plan (SIP). The Proposed Rulemaking Notice provided for a 30-day public comment period. The Fresno County Department of Health commented that the total contribution to particulate ambient air quality from small incinerators was small and that Rule 407 should be approved. No other comments were received. EPA is not aware of documentation to support this statement.

V 42 162 AUG 22 77 UM

A description of the regulations being acted on in this rulemaking is available in the Proposed Rulemaking Notice. Although EPA proposed to disapprove the malfunction rule, final action will be taken in a separate FEDERAL REGISTER notice.

In 41 FR 47950, the EPA proposed to disapprove Rule 407 Disposal of Solid or Liquid Wastes. This rule is disapproved by this notice. A discussion of the basis for the disapproval is found in 41 FR 47950. For Federal enforcement purposes Rule 407.1, Disposal of Solid or Liquid Wastes, submitted on June 30, 1972 and approved as part of the SIP, will remain in effect.

The EPA is approving Rules 422 and 423 for new source performance standards and hazardous air pollutants, as proposed. This does not constitute delegation of these programs, which will be handled in a separate FEDERAL REGISTER notice.

In 41 FR 47950 the EPA proposed to approve the addition of paragraphs (f) and (g) to Rule 402, Exceptions, which were submitted on October 23, 1974. This rule provides additional exemptions from opacity regulations for sources which exceed the regulations due to equipment breakdown or acts of God. The EPA has determined that the proposed approval was in error and, therefore, is not approving Rule 402. This rule will be acted on in a separate FEDERAL REGISTER notice. Therefore, paragraphs (a) through (e) of Rule 402, submitted on June 30, 1972 and approved under 40 CFR 52.223, remain in effect for Federal enforcement purposes.

In 41 FR 47950 the EPA proposed to approve Rule 103. Confidential Information, to rescind the Federal regulation in 40 CFR 52.224(b) for Fresno County, and to rescind the current disapproval notice in 40 CFR 52.224(a). These are approved/disapproved as proposed.

In 41 FR 47950, the EPA proposed approval of Rule 409, Organic Solvents, as being consistent with the Federally promulgated regulations in 40 CFR 52.254. At that time it was proposed to eliminate Fresno County from 40 CFR 52.254. The EPA has determined that Rule 409 does not provide for hourly emission limitations for organic solvents. Therefore, EPA is retaining the hourly emission rates in 40 CFR 52.254 (b), (c) and (d), and other portions of § 52.254 needed for interpretation or enforcement of these limitations, while approving Rule 409, which contains daily emission limitations, and Rules 409.1 and 409.2 which are adequate.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110, 301, Clean Air Act, as amended, (42 U.S.C. 1857c–5, 1857g).)

[FRL 773–3]

Approval of Revisions to the Lake County Air Pollution Control District's Rules and Regulations in State of California

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: It is the purpose of this action to promulgate final approval of revisions to the Lake County Air Pollution Control District's Rules and Regulations with the exception of regulations concerning malfunction and new source review, as well as certain exemptions from agricultural burning prohibitions, which will be addressed in a separate FEDERAL REGISTER notice.

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions. The Administrator finds good cause for making this rulemaking effective immediately since the regulations being approved are currently being enforced by the State and local air pollution control agencies, and therefore pose no further requirement on any affected facility.

EFFECTIVE DATE: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn: David R. Souten, Chief, California SIP Section, Air Programs Branch, 100 California Street, San Francisco, California 94111, 415–556–7288.

SUPPLEMENTARY INFORMATION: On November 1, 1976 (41 FR 47951), the EPA proposed approval of revisions to the Lake County Air Pollution Control District's Rules and Regulations submitted on July 25, 1973; July 19, 1974; October 23, 1974; July 22, 1975; November 3, 1975; and February 10, 1976. These revisions were submitted by the California Air Resources Board for inclusion in the California State Implementation Plan (SIP). The Proposed Rulemaking Notice provided for a 30-day public comment period. No comments were received. A description of the regulations being acted on in this rulemaking is available in the Proposed Rulemaking Notice. Although EPA proposed to disapprove the malfunction rule, final action will be taken in a separate FEDERAL REGISTER notice.

Part II, Authorization and Disclosure (submitted October 23, 1974), now allows emission data to be made available to the public, which provision is consistent with 40 CFR 51.10(e). Therefore, 40 CFR 52.224 is being amended to exempt the Lake County APCD from the requirements of § 52.224.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110, 301, Clean Air Act, as amended (42 U.S.C. 1857c–5 and 1857g).)

[FRL 773–4]

Approval of Revisions to the Kern County Air Pollution Control District's Rules and Regulations in State of California

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: It is the purpose of this action to promulgate final approval of revisions to the Kern County Air Pollution Control District's Rules and Regulations with the exception of regulations concerning incinerators and scavenger plants which are disapproved, and malfunction, gasoline vapor recovery, emergency episode, new source review, and certain exemptions from agricultural burning prohibitions, which will be handled in separate FEDERAL REGISTER Notices.

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions. The Administrator finds good cause for making this rulemaking effective immediately since the regulations being approved are currently being enforced by the State and local air pollution control agencies, and therefore pose no further requirement on any affected facility.

EFFECTIVE DATE: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn: David R. Souten, Chief, California SIP Section, Air Programs Branch, San Francisco, Calif. 94111, 415–556–7288.

SUPPLEMENTARY INFORMATION: On November 1, 1976 (41 FR 47950), EPA proposed approval of revisions to the Kern County Air Pollution Control District's Rules and Regulations submitted on July 25, 1973, July 19, 1974, January 10, 1975, and July 22, 1975. These revisions were submitted by the California Air Resources Board for inclusion in the California State Implementation Plan (SIP). The Proposed Rulemaking Notice provided for a 30-day public comment period. Kern County APCD opposes disapproval of the scavenger plant rule because construction of new scavenger plants (which reduce SOx emissions) could be discouraged. They oppose disapproval of the change in the incinerator regulation because this change will not have a significant effect on ambient particulate concentrations in Kern County. No other comments were received on the changes being acted on in this final rulemaking notice. EPA is not aware of documentation to support these comments.

A description of the regulations being acted on in this rulemaking is available in the Proposed Rulemaking Notice. Although EPA proposed to disapprove the malfunction rule, final action will be taken in a separate FEDERAL REGISTER notice.

In 41 FR 47950, the EPA proposed to disapprove Rule 407.1 Disposal of Solid or Liquid Wastes and Rule 407.3 Scavenger Plants. These are disapproved by this notice. A discussion of the basis for this disapproval is found in 41 FR 47950.

For Federal enforcement purposes Rule 407.1, Disposal of Solid or Liquid Wastes, submitted on June 30, 1972 and approved under 40 CFR 52.223, will remain in effect.

For Federal enforcement purposes, Rule 407, Sulfur Compounds, submitted on June 30, 1972 and approved under 40 CFR 52.223, will continue to remain in effect for sulfur scavenger plants.

The EPA is approving Rules 422 and 423 for new source performance standards and hazardous air pollutants, as proposed. This does not constitute delegation of these programs, which will be handled in a separate FEDERAL REGISTER Notice.

In 41 FR 47950 the EPA proposed to approve Rule 103, Confidential Information, to rescind the Federal regulation in 40 CFR 52.224(b) for Kern County, and to rescind the current disapproval notice in 40 CFR 52.224(a). These are approved/disapproved as proposed.

In 41 FR 47950, the EPA proposed approval of Rules 410, 410.1, and 410.2, Organic Solvents, as being consistent with the Federally promulgated regulations in 40 CFR 52.254. At that time it was proposed to eliminate Kern County from 40 CFR 52.254. The EPA has determined that Rule 410 does not provide for hourly emission limitations for organic solvents. Therefore, EPA is retaining the hourly emission rates in CFR 52.254 (b), (c), and (d) and other portions of § 52.254 needed for interpretation or enforcement of these limitations, while approving Rule 410, which contains daily emission limitations, and Rules 410.1 and 410.2, which are adequate.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Sec. 110, Clean Air Act, as amended, (42 U.S.C. 1857c–5).)

[FRL 773–5]

Approval of Revisions to the Kings County Air Pollution Control District's Rules and Regulations in State of California

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: It is the purpose of this action to promulgate final approval of revisions to the Kings County Air Pollution Control District's Rules and Regulations with the exception of regulations concerning malfunction, new source review, emergency episode, gasoline vapor recovery, and certain exemptions from agricultural burning prohibitions which will be handled in separate FEDERAL REGISTER notices.

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions. The Administrator finds good cause for making this rulemaking effective immediately since the regulations being approved are currently being enforced by the State and local air pollution control agencies, and therefore pose no further requirement on any affected facility.

EFFECTIVE DATE: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn: David R. Souten, Chief, California SIP Section, Air Programs Branch, San Francisco, California 94111, 415–556–7288.

SUPPLEMENTARY INFORMATION: On November 23, 1976 (41 FR 51619), EPA proposed approval of revisions to the Kings County Air Pollution Control District's Rules and Regulations submitted on July 25, 1973, July 22, 1975, and April 21, 1976. These revisions were submitted by the California Air Resources Board for inclusion in the California State Implementation Plan (SIP). The Proposed Rulemaking Notice provided for a 30-day public comment period. No comments were received on the changes being acted on in this final rulemaking notice.

A description of the regulations being acted on in this rulemaking is available in the Proposed Rulemaking Notice. Although EPA proposed to disapprove the malfunction rule, final action will be taken in a separate FEDERAL REGISTER notice.

In 41 FR 51619 the EPA proposed to disapprove Rule 405, Process Weight. This rule is disapproved by this notice. A discussion of the basis for this disapproval is found in 41 FR 51619.

For Federal enforcement purposes Rule 405, Process Weight, submitted on June 30, 1972 and approved under 40 CFR 52.223, will remain in effect.

In 41 FR 51619, the EPA proposed approval of Rule 410, Organic Solvents, as being consistent with the Federally promulgated regulations in 40 CFR 52.254. At that time it was proposed to eliminate Kings County from 40 CFR 52.254 (a) through (l). The EPA has determined that Rule 410 does not provide for hourly emission limitations for organic solvents. Therefore, EPA is retaining only the hourly emission rates in 40 CFR 52.254 (b), (c) and (d) and all of paragraphs (m) and (n) such that these limitations can continue to be Federally enforced, while approving Rule 410, Organic Solvents.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Sec. 110, Clean Air Act, as amended, (42 U.S.C. 1857c–5).)

[FRL 773–6]

Approval of Revisions to the Madera County Air Pollution Control District's Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: It is the purpose of this action to promulgate final approval of revisions of the Madera County Air Pollution Control District's Rules and Regulations with the exception of regulations concerning scavenger plants and process weight which are disapproved, and malfunction, exceptions from opacity, new source review, emergency episode, gasoline vapor recovery, and certain exemptions from agricultural burning prohibitions which will be handled in separate FEDERAL REGISTER notices.

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions. The Administrator finds good cause for making this rulemaking effective immediately since the regulations being approved are currently being enforced by the State and local air pollution control agencies, and therefore pose no further requirement on any affected facility.

EFFECTIVE DATE: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency Attn: David R. Souten, Chief, California SIP Section, Air Programs Branch, 100 California Street, San Francisco, California 94111 415–556–7288.

SUPPLEMENTARY INFORMATION: On November 23, 1976 (41 FR 51620), EPA proposed approval of revisions to the Madera County Air Pollution District's Rules and Regulations submitted on July 25, 1973, July 19, 1974, and January 10, 1975. These revisions were submitted by the California Air Resources Board for inclusion in the California State Implementation Plan (SIP). The Proposed Rulemaking Notice provided for a 30-day public comment period. No comments were received.

A description of the regulations being acted on in this rulemaking is available in the Proposed Rulemaking Notice. Although EPA proposed to disapprove the malfunction rules, final action will be taken in a separate FEDERAL REGISTER notice.

V 42162 AUG 22 77 UMI

In 41 FR 51620, the EPA proposed to disapprove Rule 405, Process Weight and Rule 407.3, Scavenger Plants. These are disapproved by this notice. A discussion of the basis for the disapproval is found in 41 FR 51620.

For Federal enforcement purposes Rule 405, Process Weight, submitted on June 30, 1972 and approved under 40 CFR 52.223, will remain in effect.

Rule 407, Sulfur Compounds, submitted on June 30, 1972 and approved under 40 CFR 52.223, remains in effect for sulfur scavenging plants.

In 41 FR 51620, the EPA proposed to approve Rule 103, Confidential Information, to rescind the Federal regulation in 40 CFR 52.224(b) for Madera County, and to rescind the current disapproval notice in 40 CFR 52.224(a). These are approved/disapproved as proposed.

In 41 FR 51620, the EPA proposed approval of Rules 409, 409.1, and 409.2, Organic Solvents, as being consistent with the Federally promulgated regulations in 40 CFR 52.254. At that time it was proposed to eliminate Madera County from 40 CFR 52.254. The EPA has determined that Rule 409 does not provide for hourly emission limitations for organic solvents. Therefore, EPA is retaining the hourly emission rates in 40 CFR 52.254 (b), (c), and (d), and other portions of § 52.254 needed for interpretation or enforcement of these limitations, while approving Rule 409, which contains daily emission limitations, and Rules 409.1 and 409.2, which are adequate.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Sec. 110, Clean Air Act, as amended, (42 U.S.C. 1857c-5).)

[FRL 773-7]

Approval of Revisions to Mariposa County Air Pollution Control District's Rules and Regulations in State of California

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: It is the purpose of this action to promulgate final approval of revisions to the Mariposa County Air Pollution Control District's Rules and Regulations with the following exceptions: Regulations concerning new source review, exceptions to agricultural burning rules, and malfunction will be addressed in a separate FEDERAL REGISTER package; and Rule 209, Fossil Fuel-Steam Generator Facility, is disapproved. It is also the purpose of this action to rescind the current disapproval notices in 40 CFR 52.224(a) and 40 CFR 52.234(a) for Mariposa County and to rescind the substitute regulations in 40 CFR 52.224 (b) and 40 CFR 52.224(d) for Mariposa County.

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions. The Administrator finds good cause for making this rulemaking effective immediately since the regulations being approved are currently being enforced by the State and local air pollution control agencies, and therefore pose no further requirement on any affected facility.

EFFECTIVE DATE: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attention: David R. Souten, Chief, California SIP Section, Air Programs Branch, San Francisco, California 94111, 415-556-7288.

SUPPLEMENTARY INFORMATION: On November 1, 1976 (41 FR 47952) EPA proposed approval of revisions to the Mariposa County Air Pollution Control District's Rules and Regulations submitted on July 25, 1973 and January 10, 1975. These revisions were submitted by the California Air Resources Board for inclusion in the California State Implementation Plan (SIP). The Proposed Rulemaking Notice provided for a 30-day public comment period. No comments were received on the changes being acted on in this final rulemaking notice. A description of the regulations being acted on in this rulemaking is available in the Proposed Rulemaking Notice. Although EPA proposed to disapprove the malfunction rules, final action will be taken in a separate FEDERAL REGISTER notice.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110, 301, Clean Air Act, as amended, (42 U.S.C. 1857c-5, 1857g).)

[FRL 773-8]

Approval of Revisions to San Joaquin County Air Pollution Control District's Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: It is the purpose of this action to promulgate final approval of revisions to the San Joaquin County Air Pollution Control District's Rules and Regulations with the exception of regulations concerning malfunction, new source review, in-stack monitoring, emergency episodes, gasoline vapor recovery, and certain exemptions from agricultural burning prohibitions.

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions. The Administrator finds good cause for making this rulemaking effective immediately since the regulations being approved are currently being enforced by the State and local air pollution control agencies, and therefore pose no further requirement on any affected facility.

EFFECTIVE DATE: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attention: David R. Souten, Chief, California SIP Section, Air Programs Branch, San Francisco, California 94111, 415-556-7288.

SUPPLEMENTARY INFORMATION: On November 1, 1976 (41 FR 47953), EPA proposed approval of revisions to the San Joaquin County Air Pollution Control District's Rules and Regulations submitted on July 25, 1973, October 23, 1974, and February 10, 1976. These revisions were submitted by the California Air Resources Board for inclusion in the California State Implementation Plan (SIP). The Proposed Rulemaking Notice provided for a 30-day public comment period. No comments were received on the changes being acted on in this final rulemaking notice. A description of the regulations being acted on in this rulemaking is available in the Proposed Rulemaking Notice. Although EPA proposed to disapprove the malfunction rule, final action will be taken in a separate FEDERAL REGISTER notice.

In 41 FR 47953, the EPA proposed to disapprove Rule 407.1, Disposal of Solid or Liquid Wastes and Rule 407.3, Scavenger Plants. These regulations are disapproved in this notice. A discussion of the basis for this disapproval is found in 41 FR 47953.

For Federal enforcement purposes, Rule 407, Sulfur Compounds, submitted June 30, 1972 and approved as part of the SIP, is retained and will continue to remain in effect for sulfur scavenger plants.

For Federal enforcement purposes, Rule 407.1, Disposal of Solid or Liquid Waste, submitted on June 30, 1972 and approved as part of the SIP, is retained and will continue to remain in effect, while the revised rule 407.1 submitted on February 10, 1976 is disapproved.

In 41 FR 47953, the EPA proposed approval of Rule 409, Organic Solvents, as being consistent with the Federally promulgated regulations in 40 CFR 52.254, Organic solvent usage. At that time, it was proposed to eliminate San Joaquin County from 40 CFR 52.254 requirements. Subsequently, the EPA has determined that the proposed approval was in error in that Rule 409, unlike 40 CFR 52.254, did not provide for hourly emission limitations for organic solvents. Therefore, EPA is retaining the hourly

emission limitations contained in paragraphs (b), (c), and (d) of Federal Regulations § 52.254, and approving Rule 409, and retaining portions of 40 CFR 52.254 needed for interpretation of the hourly emission limitation.

The EPA is approving Rules 422 and 423 for new source performance standards and hazardous air pollutants, as proposed. This does not constitute delegation of these programs, which is handled in a separate FEDERAL REGISTER notice.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Sec. 110, Clean Air Act, as amended (42 U.S.C. 1857c-5).)

[FRL 774-1]

Approval of Revisions to Shasta County Air Pollution Control District's Rules and Regulations in State of California

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: It is the purpose of this action to promulgate final approval of revisions to the Shasta County Air Pollution Control District's Rules and Regulations with the exception of regulations concerning malfunction, new source review, and certain exemptions from agricultural burning prohibitions which will be addressed in a separate FEDERAL REGISTER notice.

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions. The Administrator finds good cause for making this rulemaking effective immediately since the regulations being approved are currently being enforced by the State and local air pollution control agencies, and therefore pose no further requirement on any affected facility.

EFFECTIVE DATE: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn: David R. Souten, Chief, California SIP Section, Air Programs Branch, Region IX, 100 California Street, San Francisco, California 94111 (415-556-7288).

SUPPLEMENTARY INFORMATION: On November 1, 1976, (41 FR 47949 et seq.), EPA proposed approval of revisions to the Shasta County Air Pollution Control District's Rules and Regulations submitted on July 25, 1973, July 19, 1974, January 10, 1975, and July 22, 1975. These revisions were submitted by the California Air Resources Board for inclusion in the California State Implementation Plan (SIP). The Proposed Rulemaking Notice provided for a 30-day public comment period. No comments were received on the changes being acted on in this final rulemaking notice. A description of the regulations being acted on in this rulemaking is available in the Proposed Rulemaking Notice. Although EPA proposed to disapprove the malfunction rules, final action will be taken in a separate FEDERAL REGISTER notice.

This action rescinds the current disapproval notice and substitute regulation for Shasta County APCD in 40 CFR 52.224 (a) and (b).

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Sec. 110 Clean Air Act, as amended, (42 U.S.C. 1857c-5).)

[FRL 774-2]

Approval of Revisions to the Tulare County Air Pollution Control District's Rules and Regulations in State of California

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: It is the purpose of this action to promulgate final approval/disapproval of revisions to the Tulare County Air Pollution Control District's Rules and Regulations with the exception of regulations concerning malfunction, organic solvents, new source review, emergency episodes, gasoline vapor recovery, exceptions, in-stack monitoring, and certain exceptions to the agricultural burning prohibitions which are not included here and will be addressed in separate FEDERAL REGISTER packages.

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions. The Administrator finds good cause for making this rulemaking effective immediately since the regulations being approved are currently being forced by the State and local air pollution control agencies, and therefore pose no further requirement on any affected facility.

EFFECTIVE DATE: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn: David R. Souten, Chief, California SIP Section, Air Programs Branch, 100 California Street, San Francisco, California 94111, 415-556-7288.

SUPPLEMENTARY INFORMATION: On November 1, 1976 (41 FR 47955), EPA proposed approval of revisions to the Tulare County Air Pollution Control District's Rules and Regulations submitted on July 25, 1973, October 23, 1974, and January 10, 1975. These revisions were submitted by the California Air Resources Board for inclusion in the California State Implementation Plan (SIP). The Proposed Rulemaking Notice provided for a 30-day public comment period. No comments were received on the changes being acted on in this final rulemaking notice. A description of the regulations being acted on in this rulemaking is available in the Proposed Rulemaking Notice. Although EPA proposed to disapprove the malfunction rules, final action will be taken in a separate FEDERAL REGISTER notice.

In 41 FR 47955, the EPA proposed to disapprove Rule 407.3, Scavenger Plants. This regulation is disapproved in this notice. A discussion of the basis for this disapproval is found in 41 FR 47955.

For Federal enforcement purposes, Rule 407, Sulfur Compounds, submitted June 30, 1972 and approved as part of the SIP, is retained and will continue to remain in effect for sulfur scavenger plants.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Sec. 110, Clean Air Act, as amended (42 U.S.C. 1857c-5)).

[FRL 774-3]

Approval of Revisions to the Tuolumne County Air Pollution Control District's Rules and Regulations in State of California

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: It is the purpose of this action to promulgate final approval of revisions to the Tuolumne County Air Pollution Control District's Rules and Regulations with the following exceptions: Rules involving new source review, exception to agricultural burning, emergency episodes, and malfunction will be addressed in separate FEDERAL REGISTER packages; the additions are disapproved involving Rule 207, Particulate Matter, and Rule 209, Fossil Fuel-Steam Generator Facility; the revocations are disapproved concerning Rule 414, Effluent Oil Water Separators, and Rule 413, Organic Liquid Loading. For Federal enforcement purposes, Rules 404, 407(b), 408 (Fuel Burning Equipment), 412, and 413 submitted on June 30, 1972 and approved as part of the California State Implementation Plan (SIP) remain in effect as a portion of the approved SIP. It is also the purpose of this action to rescind the current disapproval notice in 40 CFR 52.224(a) for Tuolumne County and to rescind the substitute regulation in 40 CFR 52.224(b) for Tuolumne County.

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions. The Administrator finds good cause for making this rulemaking effective immediately since the regulations being approved are currently being enforced by the State and local air pollution control

V 42 162 AUG 22 77 UM

agencies, and therefore pose no further requirement on any affected facility.

EFFECTIVE DATE: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn: David R. Souten, Chief, California SIP Section, Air Programs Branch, San Francisco, California 94111, 415–556–7288.

SUPPLEMENTARY INFORMATION: On November 1, 1976 (41 FR 47956), EPA proposed approval of revisions to the Tuolumne County Air Pollution Control District's Rules and Regulations submitted on July 25, 1973 and July 22, 1975. These revisions were submitted by the California Air Resources Board for inclusion in the California State Implementation Plan (SIP). The Proposed Rulemaking Notice provided for a 30-day public comment period. No comments were received on the changes being acted on in this final rulemaking notice. A description of the regulations being acted on in this rulemaking is available in the Proposed Rulemaking Notice. Although EPA proposed to disapprove the malfunction rule, final action will be taken in a separate FEDERAL REGISTER notice.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Sec. 110, Clean Air Act, as amended (42 U.S.C. 1857c-5).)

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

1. In § 52.220 the following changes are made:

a. Paragraph (c)(20) is deleted and reserved.

b. Paragraphs (c)(21)(i)–(v) and (vii)–(xii) are revised; and (xiv)–(xxviii) are deleted.

c. Paragraph (c)(22)(i) is revised.

d. Paragraphs (c)(23)(i)(A) are revised and (c)(23)(ii) and (iii) are deleted.

e. Paragraphs (c)(24)(iv)–(viii) are revised.

f. Paragraphs (c)(25) introductory text and (c)(25)(i)–(iv) are added.

g. Paragraphs (c)(26)(iii)–(v) are revised and (vi)–(xiii) are added.

h. Paragraphs (c)(27)(i) and (iii) are revised.

i. Paragraphs (c)(28)(iii), (iv), and (ix) are revised and (v)–(viii) are added.

j. Paragraph (c)(29) introductory text is added; (c)(29)(i) and (ii)(B) are added.

k. Paragraphs (c)(30)(iii) and (viii) are revised and (iv), (v), (vi)(A), and (vii) are added.

l. Paragraphs (c)(31)(i)(C), (D), (E) are added and (31)(v)(A) is added.

m. Paragraph (c)(32)(ii) is revised.

§ 52.220 **Identification of plan.**

* * * * *

(c) * * *

(20) [Reserved]

(21) * * *

(i) Lassen County APCD.

(A) Appendix A (Implementation Plan for Agricultural Burning) and Appendix B (Enforcement).

(ii) Modoc County APCD.

(A) Rule 3:10A and Regulation V (Rules 5:1 to 5:7).

(iii) Siskiyou County APCD.

(A) Rules 2.13, 4.5, 4.12, 4.13, 4.14, and Implementation Plan for Agricultural Burning.

(iv) Bay Area APCD.

(A) Regulation 1.

(1) Division 1, Sections 1000–1010.

(2) Division 2, Section 2000.

(3) Division 3, Sections 3000–3004, 3100–3111, 3115–3118, 3120, and 3200–3500.

(4) Division 4.

(B) Regulation 4.

(1) Sections 1–2.

(v) Butte County APCD.

(A) Sections 1–1 to 1–35, 2–8, 2–10 to 2–11, 2A–1 to 2A–18, 3–2 to 3–2.1, 3–6, 3–9, 3–10.1, 3–11.1, 3.14, and 3.16.

* * * * *

(vii) Tehama County APCD.

(A) Rules 1:2, 3:1–3:3, 3:3a, 3:3b, 3:4–3:5, 3:5a, 3:6–3:14, 4:6, and Implementation Plan for Agricultural Burning.

(viii) Yuba County APCD.

(A) Rules 1.1, 2.1–2.2, 2.10, 4.11, and Agricultural Burning Regulations, Sections 1 to 6.

(ix) Kings County APCD.

(A) Rules 102, 105–108, 110, 404–406, 409, 417–I, II, IV, and 510.

(x) Colusa County APCD.

(A) Rule 6.5 and Amendment Number 3.

(xi) Imperial County APCD.

(A) Agricultural Burning Implementation Plan (Rules 200–206).

(xii) Sacramento County APCD.

(A) Rules 72, 90, 91, and 92.

(22) * * *

(i) Bay Area APCD.

(A) Regulation 2.

(1) Division 1, Section 1222.

(2) Division 3, Section 3211.

(3) Division 4, Section 4113.

(4) Division 8, Sections 8414–8416.

(5) Division 9, Sections 9613, 9615, 9711.3, and 9711.5.

(6) Division 11, Section 11101.

* * * * *

(23) * * *

(i) Sacramento County APCD.

(A) Rule 30.

(24) * * *

(iv) Stanishlaus County APCD.

(A) Rules 103, 108, 108.1, 113, 401, 402, 403, 404, 405, 409.1, 409.2, 418, 421, 505, 518, and 401.1.

(v) Tehama County APCD.

(A) Rules 3:14 and 4:18.

(vi) Shasta County APCD.

(A) Rules 1:1 to 1:2, 2:6(1.)(a), 2:6(1.)(b)(i–ii and iv–vii) 2:6(1.)(c)(i–vi), 2:6(1.)(d-e), 2;6(2-4), 2:7, 2:8(a-c), 2:9, 2:11, 2:14 2:25, 3:1 to 3:9, 3:11 to 3:12, and 4:1 to 4:23.

(vii) Kern County APCD.

(A) Rules 102, 103, 108, 108.1, 110, 113, 114, 301, 305, 401, 404, 405, 407.3, 409, 411, 413, 414, 417–I and II, 504, 516, and 518.

(viii) Sacramento County APCD.

(A) Rules 11, 39, 44, 70, 73, and 111.

* * * * *

(25) Revised regulations for the following APCD's submitted on October 23, 1974 by the Governor's designee.

(i) Fresno County APCD.

(A) Rules 102, 103, 108, 108.1, 111–114, 401, 404–406, 408, 409.1, 409.2, 416, 416.1 a, b, c(2), c(3), d, e(2), and f, 505 and 518.

(ii) San Joaquin County APCD.

(A) Rules 102, 103, 108, 108.1, 108.2, 113, 305, 404–406, 407.2, 407.3, 408, 408.1, 409.1, 409.2, 410, 413, 414, 416, 416.1.A to C. and D.3. to E., 417, 420, 420.1, 421, 504, 505, and 510–520.

(iii) Lake County APCD.

(A) Parts II–V, Sections 3–7 of Part VI, Parts XI–XIII, Appendix A (Agricultural Burning Definitions A–M, Burning Regulations/Agricultural Burning (Farm) 1–9, /Farm 1–3, /Range 1–2), Appendix B (Parts I–II, Part IV–1, 2, 5 and 6, Part V–1, 4, 5 and 6, Parts VI–VII, Part VIII–1–7 and 9, Parts IX–X), Tables I–IV.

(iv) Tulare County APCD.

(A) Rules 102, 103, 108.1, 110, 112–114, 302, 401, 404–406, 407.3, 408, 410, 410.1, 410.2, 411, 420, 503–505, and 515.

(26) * * *

(iii) Butte County APCD.

(A) Sections 3–11, 3–12, and 3–12.1.

(iv) Glenn County APCD.

(A) Sections 2, 3.1, 10–14.3, 16, 17, 21, 21.1, 24, 57, 58, 81, 85, 86, 95.1, 118, 122.1–122.3, 154 and 155.

(v) Yuba County APCD.

(A) Agricultural Burning Regulations, Sections 1 and 3.

(vi) Colusa County APCD.

(A) Rules 6.2 and 6.4.d. (1–2).

(vii) Fresno County APCD.

(A) Rules 409, 416.1, 417, 503, 507, 513, and 515 (viii) Mariposa County APCD.

(A) Rules 101, 102, 201, 202, 203 (a–f, h, i, and k), 204–216, 301–303, 305–306, 308–313, 315–323, 401–403, 405–409, and 600–618.

(ix) Sierra County APCD.

(A) Rules 101, 102, 201–216, 301–323, 405–409, 601–620, 6, 27, 29, and 51–56.

(x) Shasta County APCD.

(A) Rules 2:6(5)(b), 3:1, 3:2, 4:6, and 4:14.

(xi) Tulare County APCD.

(A) Rules 417 and 417.1a. thru d., e.2., and f.

(xii) Kern County APCD.

(A) Rules 410 and 503.

(xii) Madera County APCD.

(A) Rules 102, 103, 105, 108, 112–114, 301, 305, 401, 402 (a–e, and g), 404–406, 407.2, 407.3, 408, 409, 409.1, 409.2, 412, 416, 416.1a, b, c(2), c(3), d, e(2), f, 504, 505, and 516.

(27) * * *

(i) Stanislaus County APCD.

(A) Rule 409.

* * * * *

(iii) Sacramento County, APCD.

(A) Rules 12, 22a, 22b, 25, 32–34, and 40.

* * * * *

(28) * * *

(iii) Yuba County APCD.

(A) Rule 1.1.

(iv) Calaveras County APCD.

(A) Rules 102, 201–215, 301–323, 401–403, 405–408, 409 (Public Records), 601–604, 700–717, 105, 106, 110, 407(b), 409 (Organic Solvents), 409.1 (Architectural Coatings), 409.2 (Disposal and Evaporation of Solvents), 412, and 413.

(v) Tuolumne County APCD.

(A) Rules 102, 201, 202, 203 (a–f, h, i, and k), 204–216, 301–303, 305–306, 308–313, 315–323, 400–403, 405–408, 409 (Public Records), 600–618, 105–110, 301–304, 409 (Fuel Burning Equipment, Oxides of Nitrogen), 410, and 412–414.

(vi) Kings County APCD.

(A) Rule 410.

(vii) Shasta County APCD.

(A) Rule 2.8(e).

(viii) Kern County APCD.

(a) Rules 115, 407.1, 422, and 423.

(ix) Sacramento County APCD.

(A) Rule 93.

(29) Revised regulations for the following APCD's submitted on November 3, 1975 by the Governor's designee.

(i) Lake County APCD.

(A) Part III, Number 59a.

(ii) Sacramento County APCD.

* * * * *

(B) Rules 71, 112, and 113.

* * * * *

(30) * * *

(iii) Yuba County APCD.

(A) Agricultural Burning Regulations, Sections 1 and 3.

(iv) Colusa County APCD.

(A) Rule 6.6A.I and 6.6A.II–1. (a–f).

(v) Fresno County APCD.

(A) Rules 115, 422, 423, and 407.

(vi) San Joaquin County APCD.

(A) Rules 114, 401, 402, 407.1, 409, 411, 422 and 423.

* * * * *

(vii) Lake County APCD.

(A) Table V.

(viii) Sacramento County APCD.

(A) Rules 94–97.

* * * * *

(31) * * *

(i) Great Basin Unified APCD.

* * * * *

(C) Alpine County APCD: Rules 1.4, 3.1, 4.2–1, 4.7, 4.7–1, 4.8, 4.10, 4.11, and 5.18.

(D) Inyo County APCD: Rules 1.3, 3.1, 4.1, 4.10, 4.11, 4.12, and 5.1.

(E) Mono County APCD: Rules 1.4, 3.1, 4.2–1, 4.7, 4.7–1, 4.8, 4.10, 4.11, 5.1, and 5.18.

* * * * *

(v) Kings County APCD.

(A) Rule 411.

* * * * *

(32) * * *

(ii) Stanislaus County APCD.

(A) Rules 102, 104, 105, 111, 112, 114, 301, 305, 407.1, 416, 416.1, 422, 423, 501, 504, and 511.

* * * * *

2. In § 52.224 the following changes are made:

(a) Paragraph (a)(1)(ii) is added.

(b) Paragraph (a)(2)(v) is added.

(c) Paragraph (a)(4)(ii) is added.

(d) Paragraph (a)(5)(ii) is added and (iv)–(ix) are added.

(e) Paragraph (a)(6) is added.

§ 52.224 **General requirements.**

(a) * * *

(1) * * *

(ii) Shasta County APCD.

(2) * * *

(v) Shasta County APCD.

* * * * *

(4) * * *

(ii) Kern County APCD.

(5) * * *

(ii) Fresno County APCD.

* * * * *

(iv) Tuolumne County APCD.

(v) San Joaquin County APCD.

(vi) Mariposa County APCD.

(vii) Tulare County APCD.

(viii) Kern County APCD.

(ix) Madera County APCD.

(6) North Coast Intrastate:

(i) Siskiyou County APCD.

(ii) Lake County APCD.

* * * * *

3. Section 52.226, paragraph (b) is added as follows:

§ 52.226 **Control strategy and regulations: Particulate matter, San Joaquin Valley Intrastate Region.**

* * * * *

(b) The following regulatory changes represent a relaxation of previously submitted regulations and an adequate control strategy has not been submitted showing that the relaxation will not interfere with attainment and maintenance of the National Ambient Air Quality Standards for particulate matter:

(1) Kings County APCD.

(i) Rule 405, Process Weight, submitted on July 25, 1973 is disapproved; and Rule 405, submitted on June 30, 1972 and previously approved in 40 CFR 52.223 is retained.

(2) Calaveras County APCD.

(i) The revocation of Rule 407(b), Combustion Contaminants, is disapproved; and Rule 407(b), submitted on June 30, 1972 and previously approved in 40 CFR 52.223 is retained.

(ii) The revocation of Rule 408, Fuel Burning Equipment, is disapproved; and Rule 408, submitted on June 30, 1972 and previously approved in 40 CFR 52.223 is retained.

(iii) The addition of Rule 209, Fossil Fuel-Steam Generator Facility, is disapproved; and Rule 408, submitted on June 30, 1972 and previously approved in 40 CFR 52.223 is retained.

(3) Tuolumne County APCD.

(i) Rule 207, Particulate Matter, submitted on July 22, 1975 is disapproved; and Rules 404 and 407(b), submitted on June 30, 1972 and previously approved in 40 CFR 52.223 are retained.

(ii) Rule 209, Fossil Fuel-Steam Generator Facility, submitted on July 22, 1975 is disapproved; and Rule 408, submitted on June 30, 1972 and previously approved in 40 CFR 52.223 is retained.

(4) Fresno County APCD.

(i) Rule 407, Disposal of Solid or Liquid Wastes, submitted on February 10, 1976 is disapproved; and Rule 407.1, submitted on June 30, 1972 and previously approved in 40 CFR 52.223 is retained.

(5) San Joaquin County APCD.

(i) Rule 407.1, Disposal of Solid or Liquid Wastes, submitted on February 10, 1976 is disapproved; and Rule 407.1, submitted on June 30, 1972 and previously approved in 40 CFR 52.223 is retained.

(6) Mariposa County APCD.

(i) Rule 209, Fossil Fuel-Steam Generator Facility, submitted on January 10, 1975 is disapproved; and Rule 6.4, submitted on June 30, 1972 and previously approved in 40 CFR 52.223 is retained.

(7) Kern County APCD.

(i) Rule 407.1, Disposal of Solid or Liquid Wastes, submitted on July 22, 1975 is disapproved; and Rule 407.1, submitted on June 30, 1972 and previously approved in 40 CFR 52.223 is retained.

(8) Madera County APCD.

(i) Rule 405, Process Weight, submitted on January 10, 1975 is disapproved; and Rule 405, submitted on June 30, 1972 and previously approved in 40 CFR 52.223 is retained.

4. Section 52.231 is added as follows:

§ 52.231 **Regulations: Sulfur oxides, San Joaquin Valley Intrastate Region.**

(a) The following regulations are disapproved since neither they nor the plan provide for the degree of control needed for the attainment and/or maintenance of the national standards for sulfur oxides in the San Joaquin Valley Intrastate Region:

(1) San Joaquin County APCD.

(i) Rule 407.3, Scavenger Plants, submitted on October 23, 1974, is disapproved; and Rule 407, Sulfur Compounds, submitted on June 30, 1972, and previously approved in 40 CFR 52.223, is retained and will continue to remain in effect for sulfur scavenger plants.

(2) Tulare County APCD.

(i) Rule 407.3, Scavenger Plants, submitted on October 23, 1974, is disapproved; and Rule 407, Sulfur Compounds, submitted on June 30, 1972, and previously approved in 40 CFR 52.223, is retained and will continue to remain in effect for sulfur scavenger plants and other sulfur compound emitting sources.

(3) Kern County APCD.

(i) Rule 407.3, Scavenger Plants, submitted on July 19, 1974, is disapproved; and Rule 407, Sulfur Compounds, submitted on June 30, 1972, and previously approved in 40 CFR 52.223, is retained and will continue to remain in effect for sulfur scavenger plants.

(4) Madera County APCD.

(i) Rule 407.3, Scavenger Plants, submitted on January 10, 1975, is disap-

V 42 162 AUG 22 77 UM

proved; and Rule 407, Sulfur Compounds, submitted on June 30, 1972, and previously approved in 40 CFR 52.223, is retained and will continue to remain in effect for sulfur scavenging plants and other sulfur compound emitting sources.

5. Section 52.234, paragraph (a)(2)(ii) is added as follows:

§ 52.234 Source surveillance.

(a) * * *

(2) * * *

(ii) Mariposa County APCD.

* * * * *

6. Section 52.246, paragraph (b) is revised as follows:

§ 52.246 Control of dry cleaning solvent vapor losses.

* * * * *

(b) This section is applicable in the Metropolitan Los Angeles, Sacramento Valley, San Joaquin Valley, and San Francisco Bay Area Intrastate Air Quality Control Regions (the "Regions"), except as follows:

(1) In the following portions of the Sacramento Valley Region, this section is rescinded:

(i) Sacramento County APCD.

* * * * *

7. Section 52.252, paragraph (b) is revised as follows:

§ 52.252 Control of degreasing operations.

* * * * *

(b) This section is applicable in the Metropolitan Los Angeles, Sacramento Valley, San Joaquin Valley, and San Francisco Bay Area Air Quality Control Regions (the "Regions"), except as follows:

(1) In the following portions of the Sacramento Valley Region, this section is rescinded:

(i) Sacramento County APCD.

* * * * *

8. In § 52.254, paragraphs (a)(1)(ii)–(v) and (a)(2) are added as follows:

§ 52.254 Organic solvent usage.

(a) * * *

(1) * * *

(ii) Kern County APCD.

(iii) Fresno County APCD.

(iv) San Joaquin County APCD.

(v) Madera County APCD.

(2) In the following portions of the San Joaquin Valley Region, only the hourly emission limitations contained in paragraphs (b), (c), and (d) of this section and the architectural coatings and solvent disposal emission limitations contained in paragraphs (m) and (n) of this section are in effect; the following paragraphs, needed for interpretation and enforcement of these emission limitations, are also in effect: Paragraphs (e) through (l) and (o) through (q) of this section.

(i) Kings County APCD.

* * * * *

9. In § 52.269, paragraphs (b)(1)(i) and (ii) are added as follows:

§ 52.269 Control strategy: Photochemical oxidants (hydrocarbons) and carbon monoxide.

* * * * *

(b) * * *

(1) * * *

(i) Calaveras County APCD.

(A) The revocation of Rule 412, Organic Liquid Loading, is disapproved; and Rule 412 submitted on June 30, 1972 and previously approved in 40 CFR 52.223 is retained.

(B) The revocation of Rule 413, Effluent Oil Water Separators, is disapproved; and Rule 413 submitted on June 30, 1972 and previously approved in 40 CFR 52.223 is retained.

(ii) Tuolumne County APCD.

(A) The revocation of Rule 413, Organic Liquid Loading, is disapproved; and Rule 413 submitted on June 30, 1972 and previously approved in 40 CFR 52.223 is retained.

(B) The revocation of Rule 414, Effluent Oil Water Separators, is disapproved; and Rule 414 submitted on June 30, 1972 and previously approved in 40 CFR 52.223 is retained.

* * * * *

10. Section 52.272 is added as follows:

§ 52.272 Research operations exemptions.

(a) The requirements of § 51.22 of this chapter are not met because the following regulations allow exemptions to be granted from the applicable emission limitations, thereby potentially rendering the applicable limitations unenforceable. Furthermore, the regulations are inconsistent with the Clean Air Act, because the regulations could permit violations of the National Ambient Air Quality Standards under some circumstances.

(1) Sacramento Valley Intrastate Region.

(i) Sacramento County APCD.

(A) Rule 30, Exceptions, submitted on January 22, 1974 is disapproved.

[FR Doc.77-23642 Filed 8-19-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 981]

HANDLING OF ALMONDS GROWN IN CALIFORNIA

Proposed Salable and Reserve Percentages for the 1977–78 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would establish marketing percentages for California almonds for the 1977–78 crop year. Under the proposal, 100 percent of the marketable almonds would be salable, and handlers could ship almonds freely to all markets. The anticipated marketable supply is expected to equal the market needs.

DATE: Written comments to this proposal must be received by September 7, 1977.

ADDRESS: Written comments should be submitted in duplicate to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: This proposal was unanimously recommended by the Almond Board of California. The Board is established under the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

In arriving at its recommendation, the Board estimated production, handler carryover as of July 1, 1977, and other factors as prescribed in § 981.49 related to the establishing of salable and reserve percentages. The Board also considered the domestic industry's need to maximize sales in both the domestic and export markets in view of current world market conditions.

The Board, therefore, recommended that the percentages for the 1977–78 crop year be established at 100 percent salable and 0 percent reserves.

The proposal is as follows:

§ 981.227 Salable and reserve percentages for almonds during the crop year beginning July 1, 1977.

The salable and reserve percentages during the crop year beginning July 1, 1977, shall be 100 and 0 percent, respectively.

Dated: August 16, 1977.

CHARLES R. BRADER,
Acting Director,
Fruit and Vegetable Division.

[FR Doc.77-24180 Filed 8-19-77;8:45 am]

[7 CFR Part 981]

ALMONDS GROWN IN CALIFORNIA

Proposed Expenses of the Board and Rate of Assessment for the 1977–78 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on proposed expenses of $6,401,620 and a rate of assessment of 2.18 cents per pound (kernelweight basis), for the maintenance and functioning of the Almond Board of California. This regulation would enable the Board to collect assessments from handlers on all almonds handled and use the resulting funds for its expenses.

DATE: Comments due September 7, 1977.

ADDRESS: Comments should be sent to: Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written materials shall be submitted, and they shall be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: 202–447–3545.

SUPPLEMENTARY INFORMATION: The marketing agreement, and Order No. 981, both as amended, regulate the handling of almonds grown in California. They are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Board, established under the order, is responsible for its local administration.

The proposal is as follows:

§ 981.327 Expenses of the Board and rate of assessment for the 1977–78 crop year.

(a) *Expenses.* Expenses in the amount of $6,401,620 are reasonable and likely to be incurred by the Board during the crop year beginning July 1, 1977, for its maintenance and functioning and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for said crop year, payable by each handler in accordance with § 981.81, less any amount credited pursuant to § 981.41 but not to exceed 2 cents per pound of almonds (kernelweight basis), is fixed at 2.18 cents per pound of almonds (kernelweight basis).

Dated: August 17, 1977.

CHARLES R. BRADER,
Acting Director,
Fruit and Vegetable Division.

[FR Doc. 77-24181. Filed 8-19-77; 8:45 am]

[7 CFR Part 991]

HOPS OF DOMESTIC PRODUCTION

Proposed Expenses of the Hop Administrative Committee and Rate of Assessment for the 1977–78 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on proposed expenses of $195,230 and a rate of assessment of 0.3 cent per pound of salable hops handled, for the maintenance and functioning of the Hop Administrative Committee. This regulation would enable the Committee to collect assessments from handlers on all hops handled and use the resulting funds for its expenses.

DATE: Comments due September 7 1977.

ADDRESS: Comments should be sent to: Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written materials shall be submitted, and they shall be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

V 42 162 AUG 22 77 UM

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: 202–447–3545.

SUPPLEMENTARY INFORMATION: The order, Order No. 991, as amended, regulates the handling of hops of domestic production, and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Committee, established under the order, is responsible for its local administration.

The proposal is as follows:

§ 991.312 Expenses of the Hop Administrative Committee and rate of assessment for the 1977–78 marketing year.

(a) *Expenses.* Expenses in the amount of $195,230 are reasonable and likely to be incurred by the Hop Administrative Committee during the marketing year beginning August 1, 1977, for its maintenance and functioning and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for said marketing year, payable by each handler in accordance with § 991.56, is fixed at 0.3 cent per pound of salable hops.

Dated: August 17, 1977.

CHARLES R. BRADER,
Acting Director,
Fruit and Vegetable Division.

[FR Doc.77-24182 Filed 8-19-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 73]

PHYSICAL PROTECTION OF PLANTS AND MATERIALS

Performance Oriented Safeguards Requirements; Extension of Comment Period

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Extension of comment period to September 19, 1977.

SUMMARY: On July 5, 1977, NRC published a proposed rule to improve control and protection of nuclear materials at NRC licensed fuel cycle facilities (42 FR 34310). Comments were requested by August 19, 1977. Several Federal Agencies and affected licensees have requested more time to comment. In view of the complexity of the rule and the concerns expressed by commentors, the NRC is hereby extending the comment period to expire September 19, 1977.

DATE: Comments must be received on or before September 19, 1977.

ADDRESSES: Comments or suggestions for consideration in connection with the proposed amendments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. L. J. Evans, Jr., Chief, Requirements Analysis Branch, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301–427–4043 or Mr. R. J. Jones, Chief, Material Protection Standards Branch, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301–443–6973.

Dated at Washington, D.C., this 18th day of August 1977.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc.77-24334 Filed 8-18-77;3:13 pm]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 77-Ea-69]

TRANSITION AREA, WURTSBORO, N.Y.

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a Wurtsboro, N.Y., Transition Area, over Wurtsboro-Sullivan County Airport, Wurtsboro, N.Y. This designation will provide protection to aircraft executing a new instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATE: Comments must be received on or before September 22, 1977.

ADDRESS: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, AEA–530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA–530, Air Traffic Division, Federal Aviation Administration, Federal Building, J. F. K. International Airport, Jamaica, N.Y. 11430. Telephone 212–995–3391. The docket may be examined at the following location: FAA, Office of the Regional Counsel, AEA–7, Federal Building, J. F. K. International Airport, Jamaica, N.Y. 11430.

COMMENTS INVITED

Interested parties may participate in the proposed rulemaking by submitting such writen data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430. All communications received on or before September 22, 1977, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, AEA–530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430, or by calling 212–995–3391. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area over Wurtsboro-Sullivan County Airport, Wurtsboro, N.Y. The area will commence at 700 feet above the surface and add controlled airspace to that already in existence of from approximately 5 miles to the south around to 10 miles to the northwest; 8 miles to the north around to the east.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Section 71.181 of Part 71 of the Federal Aviation regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a Wurtsboro, N.Y., 700-foot floor transition area as follows:

WURTSBORO, N.Y.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center, 41°35'52" N., 74°27'32" W., of Wurtsboro-Sullivan County Airport, Wurtsboro, N.Y.; within a 9.5-mile radius of the center of the center of the airport, extending clockwise from a 352° bearing to a 016° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 016° bearing to a 025° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 025° bearing to a 036° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 036° bearing to a 070° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 070° bearing to a 086° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 169° bearing to a 192° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 192° bearing to a 238° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 238° bearing to a 310° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 310° bearing to a 385° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 335° bearing to a 352° bearing from the airport; within 4.5 miles north and 6.5 miles south of the Stewart VOR (41°30'30" N., 74°-05'51" W.) 228° radial, extending from 2.5 miles west to 19.5 miles west of the Stewart VOR; excluding the portions that coincide with the Newburgh, N.Y., and Monticello, N.Y., transition areas. This transition area is effective from sunrise to sunset, daily.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A–107.

Issued in Jamaica, N.Y., on August 9, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77-24154 Filed 8-19-77;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 399]

[PSDR–49; Docket No. 31290]

DOMESTIC PASSENGER-FARE LEVEL POLICIES AND STRUCTURE POLICIES

Advance Notice of Proposed Rulemaking

AUGUST 17, 1977.

AGENCY: Civil Aeronautics Board.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The regulatory policies and ratemaking standards developed by the Board in the Domestic Passenger Fare Investigation (DPFI) were designed to ensure the lowest cost transportation possible, with a reasonable quality of service in a regulated industry characterized generally by service rather than normal-fare price competition and a lack of entry by new carriers. The basic characteristics of the industry appear to be changing as several new entrants seek certification to provide low price service in certain markets and the existing carriers have begun to compete in their normal fares. The Board has, therefore, decided to solicit public views on whether any of the Board's DPFI policies need to be modified to accommodate these changes, and to encourage a better performance by the domestic airline passenger system.

DATES: Comments due by September 21, 1977. Reply comments due by October 6, 1977. Requests to be placed on the service list by September 1, 1977.

ADDRESSES: Comments should be sent to Docket 31290, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Docket comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Norman D. Schwartz, Legal Division, Bureau of Economics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202–673–5056).

SUPPLEMENTARY INFORMATION: The DPFI, which the Board instituted in January 1970,[1] was a comprehensive inquiry into the passenger fares charged for scheduled services within the 48 contiguous States. As a result of this examination, the Board developed a detailed set of regulatory policies and ratemaking standards against which to test the lawfulness of passenger fares in interstate air transportation, including load factor,[2] seating configuration, fare structure, discount fare dilution, joint fares and rate of return on investment standards.

Under the Board's ratemaking policies, normal fares are based on industry average costs, as adjusted by the Board's standards, and on a mileage-related formula that establishes equal fares for trips of equal distances. Although the Board permitted the carriers pricing flexibility through the use of discount fares[3] and off-peak fares,[4] it rejected proposals that the carriers be allowed the flexibility to set normal fares within a zone ranging both above and below the levels found reasonable in the investigation. The Board pointed out that the carriers had historically not engaged in price competition in normal fares, even though they had been free before the DPFI to propose changes upward or downward in these fares. The Board noted that the absence of such price competition was directed attributable to the economic structure of the industry. Carriers showed little inclination to engage in price competition in normal fares because competitors were free to match any reductions, with the result that a carrier could expect a fare decrease only to dilute its yields and not to improve its market position. Moreover, because entry or the threat of entry into major domestic markets by new airlines proposing new types of service at lower fares was virtually nonexistent, the incumbent carriers had no need to compete on the basis of price.[5] Thus, the Board concluded that fare flexibility within a zone of reasonableness would not lead to price competition, but would simply allow the carriers to raise their fares above cost, which would lead in turn to additional service competition.[6]

The conditions that led the Board to reject the concept of fare flexibility may no longer prevail. The Board is currently conducting two route proceedings which involve applications for new and innovative low-price service, as well as applications for initial licenses by new airlines.[7] Additionally, the incumbent carriers have begun to engage in price competition in normal fares.[8]

These developments provide the occasion for the Board to reevaluate its policies on entry and price competition. It is our tentative view that both new entry based upon low-fare proposals and increased price competition among incumbent carriers are in the public interest and should be encouraged. This view calls into question the decisions we reached in the DPFI on the subject of pricing flexibility and fare structure, and make it necessary for us to reexamine those decisions to see how, if at all, the DPFI standards should be modified. We have not decided what modifications in the DPFI standards, if any, might be advisable to accomplish these objectives; before we do so, we are interested in receiving the views of all interested persons on this issue.

To guide the responses, we list below a number of questions to which we ask the public to respond. This list should not be regarded as exhaustive; the Board is receptive to all suggestions on how increased price competition within the industry can and should be encouraged. Interested persons will have the opportunity also to file reply comments. Once these comments and reply comments are received and analyzed, the Board will issue a notice of proposed rulemaking

[1] Order 70–1–147 (January 29, 1970).

[2] The DPFI load-factor standard is currently being reexamined in Docket 27417.

[3] Under the Board's policies, the carriers are permitted to offer discount fares which are not unjustly discriminatory and which will be profitable in the short run. This latter policy is being reexamined in Docket 30891.

[4] Domestic Night Coach Fares Investigation, Opinion and Order on Discretionary Review, Order 77–4–133 (April 26, 1977) (Docket 26510).

[5] Two new entrants—Air New England and Air Midwest—requested that their limited operations be governed by the Board's DPFI determinations. These requests were granted by Orders 74–10–101 and 74–10–102 (October 18, 1974) for Air New England; and by Orders 76–11–3 (November 2, 1976) and 76–12–22 (December 6, 1976) for Air Midwest.

[6] Although the Board rejected the "zone of reasonableness" proposals, it did encourage the carriers to offer new types of low-cost services at fares below the coach level, reflecting those lower costs.

[7] Chicago-Midway Low-Fare Route Proceeding (Docket 30277); Transcontinental Low Fare Route Proceeding (Docket 30356).

[8] E.g., TWA's "Super Coach" fares approved by Order 77–7–29 (July 11, 1977).

V 42162 AUG 22 77 UM V

setting forth such specific modifications to the DPFI standards as may be necessary to achieve these goals.

ISSUES WHICH SHOULD BE ADDRESSED:

I. FARE UNIFORMITY

A. Should the Board continue to require uniform fares for individual markets of the same distance? If so, on what costs should these fares be established:

1. Industry average costs (current DPFI procedure);
2. Individual carrier costs:
3. Other?

B. Should the fare level and structure reflect such factors as:

1. Peak-load principles (by market or system-wide);
2. Market and/or station density;
3. Load factor, seating and aircraft utilization standards (by market or system-wide);
4. Other?

C. If the Board regulates fares according to any of the above criteria, how can low-fare services of incumbents or new entrants in individual markets be accommodated? Should it establish upper and/or lower limits? How, if at all, should DPFI standards be modified?

II. FARE FLEXIBILITY

A. Should the Board permit fare flexibility, as a means of encouraging new entry and increasing price competition?

1. How should the Board establish maximum fares? Should it use:
(a) Industry average costs under current DPFI methodology or as adjusted to reflect those factors in I.B. above;
(b) Individual carrier costs;
(c) Other?

2. Should the Board establish minimum fare levels? If so, should such minimums be based upon:
(a) Industry average noncapacity costs;
(b) Individual carrier capacity and/or noncapacity costs;
(c) Some other form or proxy for marginal costs, either short-run or long-run;
(d) Some arbitrary percentage of the maximum;
(e) Other?

B. If any of the above alternatives were adopted, how should the following problems be handled:

1. What methods or standards should be employed to detect and prevent predatory pricing?
2. Within the maximum and minimum standards, should there be restrictions on a carrier's ability to adjust fares? If so, what type of restrictions should be adopted? For example, should the restrictions differ between a carrier initiating a lower fare and one responding; or should carriers in competitive markets be allowed to match lower fares based upon the costs of the lowest cost carrier?
3. How should joint fares and joint fare dilution be handled?
4. In evaluating low-fare proposals, how should circuity for multistop and connecting services be treated? For example, should fares for such services be based upon segment local fares or shortest authorized/direct mileage?
5. What methods should be adopted to measure and prevent cross-subsidization, if any, as between:
(a) Competitive and monopoly markets:
(b) Dense and thin markets;
(c) Short-haul and long-haul markets;
(d) Other?
6. How should the carriers' overall revenue need be determined? What restrictions, if any, are needed to ensure that fares based upon short-run marginal costs do not encourage investment and scheduling which result in long-run incremental costs exceeding revenues from such fares (e.g., the normalization method now used by the Board in determining the industry rate of return)?
7. In computing the costs against which low fares are to be tested, how should the Board consider the effects of the additional traffic on the quality of service available (e.g., inability to obtain a seat on the flight of one's choice)? Should these additional costs be reduced by adopting such devices as increased fares for certain reservations; discounts and/or boarding priority rules?

Interested persons may take part in this rulemaking by submitting 20 copies of written data, views, or arguments on the subjects discussed. All relevant material received by the dates shown at the beginning of this notice will be considered by the Board before taking final action on the proposed rules.

Those persons planning to file comments or reply comments who wish to be served with such comments filed by others, and are willing to serve their own comments on others, shall file with the Docket Section, at the address and by the date shown at the beginning of this notice, a request to be placed on the Service List. The Service List will be prepared by the Docket Section and sent to the persons named on it. Those persons are to serve each other with comments or reply comments at the time of filing, and are to include proof of service (Rule 8(e), 14 CFR 302.8(e)) with each filing.

Individual members of the general public who wish to express their interest as consumers by informally taking part in this proceeding may do so by submitting comments in letter form to the Docket Section, without having to file additional copies.

(Sec. 204, 403, 404, and 1002, Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, 760, and 788, as amended; (49 U.S.C. 1324, 1373, 1374; and 1482; 5 U.S.C. 553).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-24239 Filed 8-19-77;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Part 4]

[Notice No. 310]

LABELING AND ADVERTISING OF WINE

Standards of Fill for Wine

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Proposed rule.

SUMMARY: The proposed rules would permit use of a greater variety of wine containers larger than 3 liters, would redefine a "liter" of wine at a reference temperature of 20 degrees celsius, and would permit the Director to grant exemptions to the bottles per case requirement in certain instances. The Director is proposing these changes in response to industry and consumer comments that the present metric standard of fill regulations are more restrictive than the former requirements concerning the U.S. or "customary" bottle sizes.

DATE: Written comments, or requests to hold or testify at a public hearing must be received by October 21, 1977.

ADDRESS: Written comments and requests for hearing may be addressed to: Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226. Attention: Regulations and Procedures Division. Written comments, may be inspected by any person in Room 6213, Ben Franklin Post Office Building, 1200 Pennsylvania Avenue NW., Washington, D.C. between 8:30 a.m. and 5 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Charles N. Bacon, Research and Regulations Branch, at 202-566-7626.

SUPPLEMENTARY INFORMATION:

THE METRIC STANDARDS OF FILL

The metric wine bottle sizes which the Bureau authorized for optional use beginning January 1, 1975, range in size from 100 milliliters (3.4 fluid ounces) to 3 liters (101 fluid ounces). These metric sizes will replace the customary U.S. sizes for all wine bottle after December 31, 1978. One objective we expect to accomplish by adopting the metric standards of fill is to reduce the number of bottle sizes while providing a logical sequence of metric sizes which consumers can easily compare and unit price. Another objective in adopting metric sizes is to promote international wine trade by changing to bottle sizes which are used in many of the world's wine producing nations.

The largest metric standard of fill for wine is 3 liters (101 fl. oz.) which nearly equals ¾ gallon (102.4 fl. oz.). Since the U.S. standards of fill includes sizes of 1 gallon (128 fl. oz.), 3 gallons, and 4.9 gallons, the largest metric size, 3 liters, represents a significant decrease in the size of large containers of wine available to consumers. The Bureau did not adopt a size larger than 3 liters since at the time we considered the metric standards of fill in 1974, there was almost no interest expressed in sizes larger than one gallon. We concluded that public interest was not sufficient to justify the inclusion of larger metric sizes.

Since adopting the metric standards of fill, one consumer and several industry members have requested the Director to reexamine the possibility of authorizing the use of larger wine containers. As a result, the Director is proposing to authorize additional large wine sizes by using one of two alternate proposals. The first, proposal "A", would add either a 4 or a 5 liter size to the metric standards of fill and would permit use of any container of 10 liters or larger for packaging wine. The second, proposal "B", would permit use of any wine container larger than 3 liters as long as the containers were filled and labeled in even liter amounts (4 liters, 5 liters, 6 liters, etc.).

REPLACEMENT FOR THE GALLON

Several petitioners, including the Wine Institute, a trade association representing the California wine industry; Heublein Wines; Inc., and a consumer have petitioned for a 4 liter standard of fill to replace the gallon. The consumer petition points out that the 3 liter size is 21% smaller than a gallon and that many consumers may prefer the larger size for both convenience and economy. For example, wine bottled in a large size such as 4 liters would probably cost less per milliliter than would wine in a 1.5 or 3 liter bottle. Similarly, a 4 liter size might prove more convenient for use at picnics or large social gatherings.

The Director agrees that a 4 liter wine bottle might have certain advantages when compared to the 3 liter bottle. We also recognize that other large sizes such as 5 liters might satisfy the same needs as the 4 liter size; i.e., to replace the gallon "jug". Five liters is 32% larger than a gallon and would offer the consumer a wider size spread from 3 liters than the 4 liter size would offer. The 5 liter size might also be more acceptable in international trade since the European Economic Community has recognized it for trade among member nations.

The Director, therefore, proposes to amend § 4.73 to authorize a replacement for the gallon wine container. Either of the two alternatives outlined above would accomplish this: proposal "A", which would add either a 4 or a 5 liter standard of fill; or proposal "B", which would permit any even liter size larger than 3 liters such as 4 liters, 5 liters, 6 liters, etc. We particularly solicit comments which would enable us to select either (or none) of these proposals for the gallon replacement (under proposal "A" there would only be one additional size of 4 or 5 liters while under proposal "B" there would be several new sizes).

As part of proposal "A", the Director would also amend § 4.37(b) by specifying the equivalent U.S. fluid ounces required to appear on labels in conjunction with the proposed metric sizes; this required statement would read either "4 liters (135 fl. oz.)," or "5 liters (169 fl. oz.)." The Director further proposes to amend § 4.74 to specify that 4 or 5 liter bottles be packed 4 per case. We welcome comments concerning these case requirements since we realize that the size of these proposed cases, 16 liters (4.23 gallons) or 20 liters (5.28 gallons), might pose packaging problems or might be too heavy to transport easily. Under proposal "B" there would be no case packing requirements for the new sizes.

WINE CONTAINERS LARGER THAN 10 LITERS

Several persons requesting large wine containers sought either very large standards of fill (12 or 18 liters), or the use of any size bottle which exceeds a certain size. For example, the present exemption from the standards of fill permits the use of any size container of 5 gallons (18.93 liters) or larger. If this exemption were lowered to 12 liters, wine bottlers could use containers of 10, 12, 15, or 18 liters.

The Wine Institute's petition requested new standards of fill of 12 and 18 liters. These sizes roughly correspond to the U.S. standards of fill of 3 gallons (11.36 liters) and 4.9 gallons (18.55 liters) which bottlers may no longer use after December 31, 1978. Traditionally, these sizes have been large demijohns or wooden casks used primarily for bulk sales of wine to restaurants or hotels. Recent innovations in technology, however, permit the packaging of wine in large containers made of steel or various plastics. These new containers now make the sale, storage and use of large wine containers practical for many households.

Large stainless steel canisters (similar to those used for dispensing soft drinks) are used by many hotels, restaurants, and taverns for dispensing wine by the glass. These canisters are reusable since they may be refilled by the winery many times. Although consumers do not generally use them, hotels, restaurants, wineries, and other companies have substantial investments in these canisters and their related dispensing apparatus. Without a change in the standard of fill regulations, wineries would be unable to fill these containers after December 31, 1978.

The second new container type is a collapsible plastic bag, filled with wine and encased in cardboard, wood, or rigid plastic. These lightweight containers are easy to dispense wine from and will not break like glass. They also permit the storage of wine for relatively long periods of time since, as wine is dispensed from the plastic bag, the bag collapses forming a vacuum which prevents air from coming into contact with the wine. Storage of these containers in a home refrigerator is possible due to their compact nature; a typical 3 gallon plastic wine pack in a cardboard box measures 9 by 9 by 10 inches and weighs 25 pounds. Additionally, a container made of these plastic materials is cheaper to produce than a traditional glass bottle containing a similar quantity of wine. The compact size, lightweight, and lower production cost all contribute to making wine in large plastic containers potentially less expensive per milliliter than wine packed in large glass bottles.

The Director agrees that some large container sizes for wine are necessary and desirable. Although we have received petitions requesting several large sizes, the Director proposes to authorize additional large sizes by either of the proposals already mentioned. Proposal "A" would amend § 4.70 to exempt containers of 10 liters (2.64 gallons) or larger from the standards of fill, thus allowing use of any container of 10 liters or larger. Proposal "B" would allow use of any wine containers larger than 3 liters as long as they were in even liter amounts, thus allowing use of 10, 11, 12, 18 or other even-liter sizes.

Although one objective of "going metric" was to reduce the large number of wine bottle sizes, we feel that permitting use of several container sizes over 10 liters will not promote consumer confusion. It seems likely that the demand for these large containers would limit the number of sizes actually produced. Moreover, it would permit the continued use of reusable canisters similar to the current standards of fill of 3 gallons and 4.9 gallons, and would permit the introduction of new economy sizes such as 10 or 15 liters.

Proposal "A" would not only exempt wine containers of 10 liters or larger from the standards of fill, but also from the standard design, headspace and case requirements. Similarly, proposal "B" is worded to exclude containers of 10 liters or larger from the standard design, headspace, and case requirements. However, due to the nontraditional materials used for many of these containers, i.e., wood, steel, cardboard, and plastic, and their nontraditional construction (wine packed in a plastic bag encased in an opaque outer box), the usual headspace and design requirements are impractical since the wine usually is not visible upon examination of the container.

DEFINITION OF THE LITER

Section 4.10 defines a "liter" or "litre" as the volume of 1000 cubic centimeters at 4 degrees Celsius (39.4 degrees Fahrenheit) and equivalent to 33.814 U.S. fluid ounces. This definiiton recognizes that the liter is derived from a basic metric unit, the meter. Also, since the volume of a liquid changes with the temperature, § 4.10 defines the liter at a specified reference temperature, 4 degrees Celsius, the temperature at which water is densest.

The American Society of Enologists has petitioned the Director to raise the reference temperature for a liter of wine from 4 degrees to 20 degrees Celsius (68 degrees Fahrenheit). In their petition, the Society of Enologists points out that

V 42 16 2 AUG 22 77 UM V

4 degrees Celsius refers to a liter of water but that that temperature is not used as a reference for a liter of alcoholic beverage. They also note that the International Organization of Weights and Measures no longer defines the liter with reference to any temperature; therefore the definition at § 4.10 is not current.

Raising the reference temperature for a liter of wine to 20 degrees Celsius would bring this closer to the temperature at which winery bottling operations are conducted. All liquids change in volume somewhat with temperature changes, and wine increases in volume slightly as the temperature is raised. Although this increase is insignificant for most wines, the volume of wines over 14% alcohol, such as sherry or port, increases about 3% as the temperature increases from 4 degrees to 20 degrees Celsius. Proprietors of wineries might need to compensate for this volume change in these wines during bottling since a measured liter at 20 degrees Celsius, approximate bottling room temperature, would not equal the defined liter at 4 degrees Celsius. However, this correction would be unnecessary if the liter were defined at 20 degrees Celsius.

Twenty degrees Celsius is an internationally used reference temperature for a liter of alcoholic beverage. The European Economic Community and numerous individual nations use this reference temperature for a liter of wine. The United States has already taken a significant step toward international trade in wine by adopting metric standards of fill; adoption of an internationally used reference temperature for the liter should further benefit international trade.

The Director, therefore, proposes to amend the definition of "liter" or "litre" appearing at § 4.10 by raising the reference temperature from 4 degrees to 20 degrees Celsius (68 degrees Fahrenheit).

WINE BOTTLES PER CASE

At the time of adoption of metric standards of fill, the Bureau also adopted § 4.74 which prescribes a standard number of metric bottles per case. This requirement was imposed to simplify marketing of wine by retailers, and to simplify packaging, handling, inventorying and recordkeeping of wine by producers and wholesalers.

Although most bottles can be easily packed as required, some bottles cannot because of their unusual or distinctive shapes. These bottles often require more packaging materials resulting in a case which is either too bulky or too heavy to be easily handled. Another reason some producers cannot pack the prescribed number of bottles per case is that some states may require case sizes which differ from those required by § 4.74.

In order to avoid any potential problems resulting from unusual bottles or differing state requirements, the Director proposes to further amend § 4.74 by adding paragraph (b) which would allow a wine bottler or importer to vary from the prescribed bottles per case requirement if, upon application to the Director, he or she could demonstrate good cause.

NONSTANDARD BOTTLES AND CASES OF IMPORTED WINE

Section 4.46, Certificate of nonstandard fill, allows the importation of bottled wine in containers not conforming to the metric standards of fill if the wine is bottled before January 1, 1979. The Director now proposes to permit the importation of metric wine bottles in cases not conforming to the bottles per case requirement of § 4.74, after December 31, 1978, if the importer furnishes to Customs a copy of the approved application exempting the wine from those requirements. (This is the application proposed at § 4.74(b) which the Director would approve if good cause were demonstrated.)

A further proposed addition to § 4.46 would be an exemption allowing importation of wine which is not required to conform to the standard wine bottle regulations. These exemptions provided at § 4.70(b) include sake and wine in containers of 5 gallons or larger (it is elsewhere proposed to lower this exemption to 10 liters). The Director also proposes to change the title of § 4.46 to read "Nonstandard bottles and cases" to reflect the exemptions for nonstandard cases.

EQUIVALENT FLUID OUNCE STATEMENT

Section 4.37(b) now requires that when net contents are stated in metric measure, the equivalent volume accurate to the nearest one-tenth fluid ounce will also appear on the label. This requirement is intended to provide the consumer a means of determining the approximate content of a metric bottle of wine if the consumer is unfamiliar with the metric system.

The Director proposes to amend § 4.37 (b) by requiring the equivalent volume statement in excess of 100 fluid ounces to be expressed to the nearest full ounce; for example, 5 liters (169 fl. oz.). We feel that the significance of the tenth of a fluid ounce is lost when the volume of the container exceeds 100 fluid ounces. Moreover, this U.S. fluid ounce equivalent is an approximate quantity used only to inform the consumer of the approximate size of a metric bottle. It is not for keeping wholesale or retail records or for determining the appropriate gallonage taxes; therefore, it is unnecessary for this quantity to be precisely accurate.

The Director also notes that it has been the Bureau's policy to require that equivalent fluid ounces be expressed to the nearest full ounce for volumes over 100 ounces. Section 4.37(b) now specifies the equivalent of 3 liters as 101 fluid ounces. With the proposed addition of large standards of fill, the Bureau desires to reaffirm its present policy on equivalent volume statements.

DEFINITION OF "PACKER"

Section 4.10 currently defines a "bottler" as any person who places wine in containers of a capacity of 1 gallon or less, and a "packer" as any person who places wine in containers larger than 1 gallon. With the proposed addition of either a 4 or a 5 liter standard of fill, or of even liter sizes larger than 3 liters, the Director proposes to change "1 gallon" to "4 liters" in these definitions since the 4 (or 5) liter container is expected to replace the gallon.

DRAFTING INFORMATION

The principal author of this regulation is Charles N. Bacon of the Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, personnel from other offices of the Bureau and from the Treasury Department participated in developing the regulation, both on matters of substance and style.

AUTHORITY AND ISSUANCE

The proposed regulations are to be issued under the authority contained in Section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended (27 U.S.C. 205)).

In view of the above, the Director is amending 27 CFR Part 4 as follows:

PARAGRAPH 1. Amend § 4.10 by: (1) changing in paragraph (i), the term "1 gallon" to read "4 liters"; and (2) changing in paragraph (o) the reference temperature for the liter from 4 degrees Celsius to 20 degrees Celsius and by adding the phrase "of wine" in the definition. As amended, § 4.10 (i) and (o) read as follows:

§ 4.10 Meaning of terms.

* * * * * * *

(i) *Container.* Any bottle, barrel, cask or other closed receptacle irrespective of size or of the material from which made for use for the sale of wine at retail. "Bottler" means any person who places wine in containers of 4 liters or less; and "packer" means any person who places wine in containers in excess of 4 liters.

* * * * * * *

(o) *Liter or litre.* A metric unit of capacity equal to 1000 cubic centimeters of wine at 20° Celsius (68° Fahrenheit), and equivalent to 33.814 U.S. fluid ounces. For purposes of this part, a liter is subdivided into 1000 milliliters (ml).

* * * * * * *

PAR. 2. Amend § 4.37 by: (1) adding subtitles to each of the lettered paragraphs; (2) specifying the U.S. equivalent volumes for the proposed 4 or 5 liter standards of fill (under proposal "A"); and (3) requiring that equivalent net volume statements for containers of 100 U.S. fluid ounces or larger be expressed to the nearest whole ounce. The amended portions of § 4.37 read as follows:

§ 4.37 Net contents.

(a) *Statement of metric net contents.* * * *

(b) *Statement of U.S. equivalent net contents.* * * *

(1) For the metric standards of fill:

5 liters (169 fl. oz.) or 4 liters (135 fl. oz.), 3 liters (101 fl. oz.), 1 liter (33.8 fl. oz.), 750 milliliters (25.4 fl. oz.), 375 milliliters (12.7 fl. oz.), 187 milliliters (6.3 fl. oz.) and 100 milliliters (3.4 fl. oz.).

(2) Equivalent volumes of less than 100 fluid ounces will be stated in fluid ounces only, accurate to the nearest one-tenth of a fluid ounce; for example, 700 ml (23.7 fl. oz.).

(3) Equivalent volumes of 100 fluid ounces or more will be stated in fluid ounces only, accurate to the nearest whole fluid ounce; for example, 10 liters (338 fl. oz.).

(c) *Exceptions.* * * *

(d) *Net contents marked in bottle.* * * *

(e) *Tolerances.* * * *

(f) *Unreasonable shortages.* * * *

PAR. 3. Revise § 4.46 by: (1) adding a paragraph permitting the release from customs custody of metric bottles of wine in nonstandard cases if the Director has granted an exemption; (2) cross referencing the exemption from standards of fill granted by § 4.70 (b)(1) and (b)(2); and (3) dividing the section into paragraphs and retitling the section. As revised, § 4.46 reads as follows:

§ 4.46 Nonstandard bottles and cases.

(a) *Exemptions from standards of fill.* After December 31, 1978, a person may import wine in containers not conforming to the metric standards of fill prescribed at § 4.73 if the wine is—

(1) Accompanied by a statement signed by a duly authorized official of the appropriate foreign country, stating that the wine was bottled or packed before January 1, 1979;

(2) Being withdrawn from a Customs bonded warehouse into which it was entered before January 1, 1979; or

(3) Exempt from the standard of fill requirements as provided by § 4.70(b)(1) or (b)(2).

(b) *Exemption from standard cases.* After December 31, 1978, a person may import wine in containers conforming to the metric standards of fill and in cases not conforming to the bottles per case requirements of §4.74 if the wine is—

(1) Accompanied by a copy of the application approved by the Director as provided in § 4.74(b);

(2) Being withdrawn from a Customs bonded warehouse into which it was entered before January 1, 1979; or

(3) Exempt from the standard wine container regulations as provided by § 4.70(b)(1) or (b)(2).

PAR. 4. Amend § 4.70 by lowering the exemption from standard wine container regulations from 5 wine gallons to 10 liters and by making certain editorial changes to improve the clarity of the section. The amend portions of § 4.70 read as follows:

§ 4.70 Application.

(a) * * *

(b) Sections 4.70–4.74 will not apply to—

(1) Sake;

(2) Wine packed in containers of 10 liters or more;

(3) Imported wine in the original containers in which entered customs custody if the wine was bottled or packed before January 1, 1979; or

(4) Wine domestically bottled or packed, either in or out of customs custody, before October 24, 1943, if the container, or the label on the container, bears a conspicuous statement of the net contents, and if the actual capacity of the container is not substantially less than the apparent capacity upon visual examination under ordinary conditions of purchase or use.

(c) Sections 4.73–4.74 will not apply to wine domestically bottled or packed, either in or out of customs custody, before January 1, 1979, if the wine was bottled or packed according to the standards of fill prescribed by § 4.72.

PAR. 5. Amend § 4.73 by: (1) adding either 4 or 5 liters to the metric standards of fill (proposal "A") or adding a paragraph permitting use of any container larger than 3 liters if it is an even liter amount (proposal "B"); (2) adding subtitles to each of the lettered paragraphs; and (3) making editorial changes to improve the clarity of the section. As amended, § 4.73 reads as follows:

§ 4.73 Metric standards of fill.

(a) *Authorized standards of fill.* The standards of fill for wine are the following:

5 liters or 4 liters, 3 liters, 1.5 liters, 1 liter, 750 milliliters, 375 milliliters, 187 milliliters, and 100 milliliters.

(b) *Sizes larger than 3 liters.* Wine may be bottled or packed in containers of 4 liters or larger if the containers are filled and labeled in quantities of even liters (4 liters, 5 liters, 6 liters, etc.). Containers of less than 10 liters are subject to the standard wine container requirements of § 4.71.

(c) *Tolerances.* The tolerances in fill are the same as are allowed by § 4.37 in respect to statement of net contents on labels.

(d) *Completeness of conversion.* Once a bottler has discontinued bottling a given type or style of bottle (for example: burgundy bottle, champagne bottle, etc.) corresponding to a standard of fill prescribed by § 4.72, and has begun bottling in a replacement standard of fill prescribed by this section, the bottler may not revert back for that particular type or style of bottle, to the standard of fill prescribed by § 4.72.

(e) *Effective date.* The effective date of paragraphs (a) through (c) of this section is January 1, 1979, except that the standards of fill prescribed by this section may be applied in lieu of those listed at § 4.72 on or after January 1, 1975. When the metric standards of fill are applied prior to January 1, 1979, the equivalent volume in U.S. measure will also be stated as specified in § 4.37(b).

PAR. 6. Amend § 4.74 by: (1) adding a paragraph providing an exception to the bottles per case requirement in instances when the bottler or importer can demonstrate good cause; and (2) by requiring the proposed 4 or 5 liter bottles to be packed 4 per case.

As amended, § 4.74 reads as follows:

§ 4.74 Bottles per shipping case.

(a) *General.* Wines bottled subject to the standards of fill prescribed by § 4.73 will be packed with the following number of bottles per shipping case or shipping container—

Bottle sizes:	Bottles per case
5 or 4	4
3	4
1.5	6
1	12
750 ml	12
375 ml	24
187 ml	48
100 ml	60

(b) *Exception.* The Director may waive the bottles per case requirement set forth in paragraph (a) of this section if the bottler or importer can prove good cause. The bottler or importer shall make written application, in duplicate, to the Director and shall not introduce wine in nonstandard cases into interstate or foreign commerce or remove the wine from customs custody until the Director approves the application.

Signed: July 15, 1977.

REX D. DAVIS,
Director.

Approved: August 3, 1977.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc.77-24256 Filed 8-19-77;8:45 am]

[27 CFR Part 181]

EXPLOSIVE MATERIALS REGULATIONS

Correction

In FR Doc. 77-22016 appearing at page 39316 as the Part II of the issue of Wednesday, August 3, 1977, and corrected on page 40921 in the issue of Friday, August 12, 1977, the following changes should be made:

1. The correction which appeared on page 40921 in the issue of Friday, August 12, 1977 should be deleted in its entirety.

2. In the first column on page 39322 in the issue of Wednesday, August 3, 1977, in the second and last lines of the Note, the date, "August 3, 1979" should be deleted and the following should be inserted in lieu thereof: "(two years from the date these regulations are published in the FEDERAL REGISTER)".

3. In the second column of this same page 39322, in the last line of the Note, the date "August 3, 1977" should be deleted and the following should be inserted: "(two years from the date these regulations are published in the FEDERAL REGISTER)".

4. On page 39326 in the table in § 181.218:

(a) Under the entry "Inhabited Buildings", the second number under "Unbarricaded", now reading "160" should read "180".

(b) Under the entry "Separations of Magazines", under "Unbarricaded", the forty-second number reading "230" should read "238".

V 42162 AUG 22 77 UMI

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 77-094]

GRAND RIVER, MICHIGAN

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Michigan Department of State Highways and Transportation, the Coast Guard is considering amending the regulations for the U.S. Highway 31 drawbridge across the Grand River, mile 2.9, near Grand Haven, Michigan. These amendments would provide for more restrictive opening periods than presently exist. The purpose of these regulations is to relieve congestion caused by heavy vehicular traffic in the area of the bridge, particularly, during the periods of greatest use (midspring to midfall). Regulations presently in force for the railroad bridges across the Grand River, mile 2.8, and at the mouth of Spring Lake mile 0.2, will be included without change in this section for clarity.

DATES: Comments must be received on or before September 23, 1977.

ADDRESSES: Comments should be submitted to and are available for examination at the office of the Commander (obr), Ninth Coast Guard District, 1240 East Ninth Street, Cleveland Ohio 44199.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: Each person submitting comments should include his name and address, identify the bridge, an give reasons for any recommended change in the proposal.

The Commander, Ninth Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend final action on this proposal to the Commandant, U.S. Coast Guard. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

Presently, the highway bridge at mile 2.9 of the Grand River opens on signal for the passage of vessels from March 16 through December 15. From December 15 through March 15, the draw opens on signal if at least 24 hours notice is given. The proposed operation regulations would require the draw to open on signal from March 16 through May 14, and from October 15 through December 14. From May 15 through October 14, the draw would open on signal from 9:03 p.m. until 6:03 a.m. From 6:03 a.m. until 9:03 p.m. the draw would open from three minutes before to three minutes after the hour and half-hour. From December 15 through March 15 the draw would open on signal if at least 24 hours notice is given.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by:

1. Revoking § 117.641(f) (3) and (4).
2. Revising § 117.685 to read as follows:

§ 117.685 Grand River and the channel at the mouth of Spring Lake, Michigan, bridges.

(a) Grand Trunk Western Railroad bridge, mile 2.8.

(1) The draw shall open on signal from March 16 through December 14.

(2) The draw shall open on signal from December 15 through March 15 if at least 24 hours notice is given.

(3) The opening signal is one blast of a whistle, horn, or by shouting.

(b) U.S. Highway 31 bridge, mile 2.9.

(1) From March 16 through May 14, and from October 15 through December 14, the draw shall open on signal.

(2) From May 15 through October 14, the draw shall open on signal from 9:03 p.m. until 6:03 a.m. From 6:03 a.m. until 9:03 p.m., the draw shall open on signal from three minutes before to three minutes after the hour and half-hour

(3) From December 15 through March 15, the draw shall open on signal if at least 24 hours notice is given.

(4) Commercial vessels, public vessels of the United States, vessels in distress, and state or local government vessels used for public safety shall be passed through the draw as soon as possible at any time even though the closed periods may be in effect.

(5) The owner of or agency controlling this bridge shall keep a copy of these regulations conspicuously posted both upstream and downstream, either on the bridge or elsewhere in such a manner that it can easily be read from an approaching vessel at all times, with a notice stating exactly how notice is to be given to the authorized representative of the bridge owner to effect an opening.

(6) The opening signal for this bridge is one long blast followed by one short blast of a whistle, horn, or by shouting.

(c) Railroad drawbridge across the mouth of Spring Lake.

(1) The draws shall open on signal from March 16 through December 14. From December 15 through March 15 the draws shall open on signal if at least 24 hours notice is given.

(2) The opening signal is two blasts of a whistle, horn, or by shouting.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).)

The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: August 15, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.77-24293 Filed 8-19-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[41 CFR Part 24-1]

[Docket No. R-77-460]

PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Small Business Set-Asides

AGENCY: Office of Administration, HUD.

ACTION: Notice of proposed rulemaking.

SUMMARY: HUD proposes to increase the range of construction contracts routinely set-aside for small businesses from a range of $10,000 to $500,000 to a range of $2,000 to $1,000,000. This action is proposed to aid small businesses competing for HUD construction contracts, including repair and reconditioning contracts.

DATE: Public comments must be received by September 22, 1977.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

William F. Grigg, 202-382-5391.

SUPPLEMENTARY INFORMATION: The Department of Housing and Urban Development proposes to revise 41 CFR 24-1.709.50 to increase the range of proposed procurement contracts subject to a class set-aside for small businesses. If the contracting officer determines that a particular procurement falling within the class set-aside is unsuitable for set-aside in whole or in part, the set-aside may be withdrawn or modified in accordance with 41 CFR 24-1.709. The change in the dollar range for class set-asides to small businesses is being proposed to broaden the opportunities for small businesses.

Interested persons may participate in this rulemaking by submitting written data, views, or arguments to the Rules Docket Clerk at the address listed above. Each person submitting a comment should include his or her name and address, refer to this proposal by the docket number indicated in the heading and give reasons for any recommendations. Copies of comments received by the date

indicated above will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk at the address listed above. The proposal may be changed in the light of the comments received.

The Department has determined that an Environmental Impact Statement is not required with respect to this rule. A copy of the Finding of Inapplicability is available for inspection at the above address.

It is hereby certified that the economic and inflationary impacts of this proposed rule have been carefully evaluated in accordance with OMB Circular A-107 and Executive Order 11821.

Accordingly, it is proposed to amend 24 CFR 24-1.709.50 to read as follows:

§ 24-1.709.50 Small business class set-aside for construction, including repair and reconditioning.

A class set-aside is hereby made for each proposed procurement for construction, including repair and reconditioning, in an amount ranging from estimates of $2,000 to $1,000,000. Accordingly, contracting officers shall set-aside for small business each proposed procurement in this range. If a contracting officer determines that any particular procurement falling within the class set-aside requirements of this Section is unsuitable for such a set-aside in whole or in part, the set-aside may be withdrawn or modified in accordance with HUDPR 24-1.709. Proposed procurements for construction which exceed an estimate of $1,000,000 shall be considered for set-aside on a case-by-case basis.

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).)

Issued at Washington, D.C. August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary, Department of
Housing and Urban Development.

[FR Doc.77-24183 Filed 8-19-77;8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Part 193]

[Notice No. 77-4A; Docket No. OPSO-46]

LNG FACILITIES; FEDERAL SAFETY STANDARDS

Extension of Comment Period and Listing of Supplementary Sources of Background Materials

AGENCY: Materials Transportation Bureau; Office of Pipeline Safety Operations, DOT.

ACTION: Supplement to Advance Notice of Proposed Rulemaking, and extension of time for comments.

SUMMARY: This supplemental notice of proposed rulemaking lists sources of background materials used to develop draft safety regulations included in the advanced notice of proposed rulemaking, and extends the time for filing comments. The Supplemental notice is needed because of requests from some of the commenters that we supply source information that they say will be useful in making complete and helpful comments. The deadline for comments has been extended to allow commenters additional time to procure copies and to refer to the copies before commenting further.

DATE: The comment period of Notice No. 77-4 is extended to December 1, 1977.

ADDRESS: Comments should be sent to: Director, Office of Pipeline Safety Operations, Department of Transportation, Trans Point Building, 2100 Second Street, SW., Washington, D.C. 20590.

All comments received will be available for inspection and copying at Docket Room 6500, Trans Point Building.

FOR FURTHER INFORMATION CONTACT:

Peggy Hammond, 202-426-0135.

SUPPLEMENTARY INFORMATION: The Materials Transportation Bureau (MTB) published an Advance Notice of Proposed Rulemaking (ANPRM) (42 FR 20776) on April 21, 1977, concerning Federal safety standards for LNG facilities. The ANPRM contains a comprehensive set of draft regulations which are intended to serve as a basis for public comment and participation in identification of LNG safety problems and the development of appropriate regulatory solutions to those problems, considering all reasonable alternatives. Since the ANPRM was published, MTB has received requests to identify any sources of information used to develop the draft safety regulations included in the ANPRM which were not mentioned in the preamble. Persons making the requests have indicated that background material would be useful in making comprehensive comments on the ANPRM, especially in areas which are significantly different from the present standards in NFPA 59A.

It is MTB's policy to solicit the greatest possible participation by the public in the rulemaking process at any early stage and to ensure, to the extent possible, that the public is aware of the issues upon which it is asked to comment. Therefore, MTB is publishing the following list of the principal information among sources which have either general or specific relation to the draft regulations published in the ANPRM. To the best of MTB's knowledge, items on the list are available from the addresses given.

While the draft regulations are in general based upon the National Fire Protection Association Standard 59A (1975 edition) and the other listed materials, the use of the material and its application in developing the draft regulations was determined by MTB's staff. Materials used may have been modified based upon personal expertise, experience, and engineering judgment.

The following information sources are applicable to the board body of the draft regulations.

CODES, STANDARDS, AND REGULATIONS

(Items 1-7, National Fire Protection Association (NFPA).)

1. Storage and Handling of Liquefied Natural Gas, NFPA 59A, 1971, 1972, and 1975 editions—Applicability—Basic, general reference.

2. Flammable and Combustible Liquids Code, NFPA 30—Applicability—Subpart E.

3. Installation Maintenance and Use of Portable Fire Extinguishers, NFPA 10—Applicability—Subpart N (incorporated § 193.1207 and 193.1307(c)(1)).

4. Stationary Combustion Engines and Gas Turbines, NFPA 37—Applicability—Subpart D (incorporated § 193.329).

5. Fire Prevention in Use of Cutting and Welding Processes, NFPA 51B—Applicability—Subpart N (incorporated § 193.1305(b)(4)).

6. National Electrical Code, NFPA 70—Applicability—Subparts D and N (incorporated §§ 193.323(a)(2) and 193.1305(a)(2)).

7. Recommended Practice on Static Electricity, NFPA 77—Applicability—Subparts D, F, and H (incorporated § 193.1305(a)(2)).

8. Regulations Covering the Design, Operation, Maintenance, and Repair of Liquefied Natural Gas (LNG) Plants and Systems—DPU—11725 F. Massachusetts Gas Distribution Codes, Section 5—Department of Public Utilities, Commonwealth of Massachusetts—Applicability—General background.

9. Proposed N.Y. Administrative Code 16 NYCRR, Part 259, Liquefied Natural Gas, New York Public Service Commission—Applicability—Subparts B, E, and K and General background.

10. Proposed Chapter 377, Liquefied Natural Gas of Title 12 NJAC, Department of Labor and Industry, State of New Jersey—Applicability—Subpart B and General background.

11. Cryogenics Safety Manual—A Guide to Good Practice, British Cryogenics Council—Applicability—Subpart L and General background.

12. Safety Recommendations, IGE SR 11, Liquefied Natural Gas, Parts 1 and 2, Communications 763, 776, and 856, The Institution of Gas Engineers—Applicability—Subpart F and General background.

13. Liquefied Flammable Gases, Storage and Handling—Imperial Chemical Industries Limited—Applicability—General background.

14. Building Standard Law, EHS, Law Bulletin Series, ERS Vol. III, No. 3,600, Elburn-Horei-Sha, Inc. — Applicability — General background.

(ITEMS 15-21, AMERICAN PETROLEUM INSTITUTE (API))

15. Pipeline Valves, API Spec. 6D—Applicability—Subparts C, D, and G.

16. Recommended Practice for Electrical Installations in Petroleum Processing Plants, API RP 540—Applicability—Subpart D.

17. Centrifugal Compressors for General Refinery Services, API 617—Applicability—Subparts D and I.

18. Heat Exchangers for General Refinery Service, API 660—Applicability—Subpart H.

19. Air-Cooled Heat Exchangers for General Refinery Services, API 661—Applicability—Subpart H.

20. Recommended Practice for Protection Against Ignitions Arising Out of Static, Lightning, and Stray Currents, API RP 2003—Applicability—Subpart D.

21. Recommended Rules for Design and Construction of Large, Welded, Low Pressure Storage Tanks, API 620—Applicability—Subparts F and K (incorporated §§ 193.529(a), 193.1027(b), 193.1033, and 193.1033(a)).

V 42 162 AUG 22 77 UM

(ITEMS 22–25, AMERICAN NATIONAL STANDARDS INSTITUTE, INC. (ANSI))

22. Steel Pipe Flanges, Flanged Valves, and Fittings, ANSI B16.5—Applicability—Subpart D.

23. Power Piping, ANSI B31.1—Applicability—Subpart D.

24. Fuel Gas Piping, ANSI B31.2—Applicability—Subpart D.

25. Petroleum Refinery Piping, ANSI B31.3—Applicability—Subparts C, D, and K (incorporated §§ 193.307(e)(1), 193.307(3)(2), and 193.1025(b)).

(Items 26–32, American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code)

26. Section II, Part A, Ferrous Materials—Applicability—Subpart C.

27. Section II, Part B, Nonferrous Materials—Applicability—Subpart C.

28. Section II, Part C, Welding Rods, Electrodes and Filler Metals—Applicability—Subparts C and K.

29. Section V, Nondestructive Examination—Applicability—Subpart K.

30. Section VIII, Division 1, Pressure Vessels—Applicability—Subparts D, F, H, and K (incorporated §§ 193.327, 193.529(b), 193.705, and 193.1025(c)).

31. Section VIII, Division 2, Alternative Rules, Pressure Vessels—Applicability—Subparts D, F, and K (incorporated §§ 193.327, 193.529(b), and 193.1025(c)).

32. Section IX, Welding and Brazing Qualifications—Applicability—Subpart K (incorporated § 193.1017(a)(1)).

33. Uniform Building Code—International Conference of Building Officials—Applicability—Subpart B (incorporated § 193.111(c)(1)).

(Items 34 & 35, American Insurance Association)

34. National Building Code—Applicability—Subpart B.

35. Fire Prevention Code—Applicability—Subparts B and N.

36. The BOAC Basic Building Code, Building Officials and Code Administrators International, Inc.—Applicability—Subparts B, F, K and reference other design and construction standards.

(Items 37–43, American Concrete Institute (ACI))

37. Recommended Practice for Concrete Floors and Slab Construction (ACI 302)—Applicability—Subparts D, E, F, and K.

38. Recommended Practice for Measuring, Mixing, Transporting, and Placing Concrete (ACI 304)—Applicability—Subpart K.

39. Recommended Practice for Concrete Inspection (ACI 311)—Applicability—Subpart K (incorporated § 193.1011(b)).

40. Building Code Requirements for Reinforced Concrete (ACI 318)—Applicability—(§ 193.531(a)).

41. Recommended Practice for Shotcreting (ACI 506)—Applicability—Subparts D, E, F, and K.

42. Minimum Requirements for Thin-Section Precast Concrete Construction (ACI 525)—Applicability—Subparts D, E, F, and K.

43. Design and Construction of Circular Prestressed Concrete Structures (Title No. 67-40)—Applicability—Subparts D, E, F, and K (incorporated § 193.531(a)).

44. Standard Marking System for Valves, Fittings, Flanges, and Unions (MSS SP-25)—Manufacturers Standardization Society of the Valves and Fittings Industry—Applicability—Subparts D and F.

45. Aluminum Standards and Data 1972–73—Aluminum Association—Applicability—Subparts C, D, F, and K.

46. Tentative Standard Insulated Tank Truck Specification CGA-341 for Cold Liquefied Gases, 1970 (CGA-341), Compressed Gas Association, Inc., New York—Applicability—Subparts E, F, and G.

GENERAL TECHNICAL INFORMATION AND DATA

47. Final Report Technology and Current Practices for Processing, Transferring, and Storing Liquefied Natural Gas—NTIS PB-241048—Applicability—Basic, general reference.

48. Risk Management Technique for Design and Operation of Liquefied Natural Gas Facilities and Equipment—NASA CR-139183—Applicability—General background.

49. Risk Management Technique for Design and Operation of Facilities and Equipment (75-WA/Aero), American Society of Mechanical Engineers.

60. Alaska Natural Gas Transportation Systems, DEIS, El Paso Alaska System, Vol. II, Federal Power Commission—Applicability—Subparts B, C, D, E, F, G, J, and General background.

51. Alaska Natural Gas Transportation Systems, DEIS, Western LNG Point Conception Terminal, Federal Powcr Commission—Applicability—Subparts B, C, D, E, F, G, J, and General background.

52. Cryogenic Safety Review, Western LNG Terminal Co., National Bureau of Standards for the Federal Power Commission—Applicability—Subparts D, E, F, G, and J.

53. Draft Environmental Impact Report for the Proposed Oxnard LNG Facilities (Executive Summary)—Socio Economic Systems, Inc.—Applicability—Subparts B, D, E, F, and G.

54. Design Considerations for the Cove Point LNG Terminal, R. C. Van Meerbeke, AGA Transmission Conference, May 1976—Applicability—Subparts B, E, and G.

55. ERC LNG Task Force Draft Report on Task 1: LNG Safety, ERC—Applicability—Subpart B and General background.

56. Thermodynamics Properties of a Lean Natural Gas at Cryogenic Conditions, American Gas Association—Applicability—General background.

57. Safety and Reliability of LNG Facilities, American Society of Mechanical Engineers—Applicability—General background.

58. Process Techniques and Hardware Uses Outlined for LNG Regasification, Oil and Gas Journal, May 13, 1974—Applicability—General background.

59. LNG Importation and Terminal Safety, National Academy of Sciences—Applicability—General background.

60. LNG Information Book, American Gas Association—Applicability—General background.

61. Hazards of Chemical Rockets and Propellants Handbook, Vol. III, Liquid Propellant Handling, Storage, and Transportation (DOD), NTIS AD 870259 CPIA 194—Applicability—General background.

62. Operating Section Proceeding, 1968, 1970, 1971, 1973, American Gas Association—Applicability—Subparts B, D, E, F, G, H, I, J, K, L, M, N, and General background.

63. Gaseous Fuels, L. Schnidman, American Gas Association—Applicability—Subparts E and M.

64. Gas Engineers Handbook, American Gas Association (Industrial Press)—Applicability—Subpart M.

The following information sources are primarily applicable to specific subparts.

SUBPART B.

65. Supplement Task III, Summary of LNG Safety Research, 1974, Arthur D. Little, Inc.

66. Technical Support Service Memoranda 1976, Arthur D. Little, Inc.

67. LNG Safety Program, Interim Report on Phase II Work, IS-3-7 1974, American Gas Association.

68. LNG Safety Program, Interim Final Report, IS-128-1 1976, American Gas Association.

69. Vulnerability Model 1975, U.S. Coast Guard, NTIS AD-A015 245.

70. Explosion Hazards Associated with Spills of Large Quantities of Hazardous Materials, Phase I 1974, U.S. Coast Guard, NTIS AD-A001242. NOTE.—Preliminary data on subsequent phases has been reviewed, but has not yet been published.

71. Evaluation of LNG Vapor Control Methods, American Gas Association.

72. Review of LNG Spill Vapor Dispersion and Fire Hazard Estimation and Control Methods (E. M. Drake, A. D. Little, Inc., and H. R. Wesson, Wesson and Associates, Inc.), AGA Transmission Conference, May 1976.

73. Fire and Explosion Hazards Associated with Liquefied Natural Gas, D. Burgess and M. Zabetakis, Bureau of Mines, U.S. Department of the Interior.

74. Special Hazards Bulletin, American Insurance Association.

75. Supplement to the Final Environmental Impact Statement for the Construction and Operation of an LNG Import Terminal at Providence, R.I., 1976, Federal Power Commission.

76. Environmental Factors in Siting LNG Facilities, Special Technical Supplement, The NUS Letter, November 1974.

77. Hazards Associated with the Importation of Liquefied Natural Gas, June 1976, Rand Corp.

78. Safety Considerations in Siting Housing Projects, U.S. Department of Housing and Urban Development.

79. Studies on Explosives and Explosions, Bureau of Mines, U.S. Department of the Interior.

80. Gas Explosions in Buildings: Their Cause and Prevention, U.S. Department of the Interior.

81. Report on the Investigation of the Fire at the Liquefaction, Storage, and Regasification Plant of the East Ohio Gas Co., Cleveland, Ohio, October 20, 1944, U.S. Department of the Interior.

82. Pipeline Accident Report, Phillips Pipeline Company, Propane Gas Explosion, Franklin County, Mo., December 9, 1970, National Transportation Safety Board, NTSB PAR-72-1.

83. Hazards of Spillage of LNG into Water, 1972, Bureau of Mines, U.S. Coast Guard, NTIS AD 754498.

84. Cold Cargo (J. A. Fay and James MacKenzie), Environment, November 1972, Hackett Publishing Co.

85. How LNG Boils on Soils, E. Drake, A. D. Little, Inc., and R. Reid, MIT, Hydrocarbon Processing, May 1975.

86. Code of Federal Regulations, Title 10, Energy, Part 100, U.S. Government Printing Office.

87. Seismic Risk Studies in the United States, 1969 (U.S. Department of Commerce), Geological Survey, U.S. Department of the Interior.

88. A Probablistic Estimate of Maximum Acceleration in Rock in the Contiguous United States, 1976, S. Algermissen and D. Perkins, Geological Survey, U.S. Department of the Interior.

89. Seismic Safety Considerations for Buried Pipe, Lawrence Livermore Laboratory, University of California.

90. Response of Buried Piping to Earthquake Ground Motion, Proposal, 1972, Mechanical Engineering Department, Lawrence Livermore Laboratory.

91. Building Standards and the Earthquake Hazard for the Puget Sound Basin, 1974, Department of Civil Engineering, University of Washington.

92. Special Study, Protection of Transportation Facilities against Earthquakes

1972, National Transportation Safety Board, NTSB STS-72-1.

93. Earthquake Instrumentation Criteria for Nuclear Power Plants, Draft 1972, American Nuclear Society.

94. Guidelines for Determining the Operating Basis for Earthquake and Associated Vibratory Ground Motion, Draft 1972, American Nuclear Society.

95. The Great Alaska Earthquake of 1964, 1973, National Academy of Sciences.

96. Engineering Report on the Managua Earthquake of December 23, 1972, 1975, National Academy of Sciences.

97. Earthquake Prediction—Opportunity to Avert Disaster, 1975, U.S. Department of the Interior.

98. Predicting Earthquakes, A Scientific Technical Evaluation—with Implication for Society, 1976, National Academy of Sciences.

99. Earthquake Prediction and Public Policy, 1975, National Academy of Sciences.

100. Assessment of Research on Natural Hazards, 1975, G. White and J. Hass, The MIT Press.

SUBPARTS C, D, F, AND K

101. Cryogenic Materials Data Handbook (Revised), Volumes I and II, Sections A, B, and C, 1970, Martin Marietta Corp. for the U.S. Department of Commerce, NTIS 713 619 and 713 620.

102. Thermal Insulation Systems, A Survey, 1967, National Aeronautics and Space Administration (NASA SP 5027, U.S. Government Printing Office).

(Items 103–111, The International Nickel Co., Inc. (Materials and Design))

103. Steels for Containment of Liquefied Gas Cargoes.

104. Standard Wrought Austenitic Stainless Steels (Manual 252).

105. Specification and Foreign Equivalents for Austenitic Chromium Nickel Stainless Steels.

106. Low Temperature Data Sheet, Types 304 and 3042, Stainless Steels.

107. Cast Stainless Steels (Bull. A).

108. Mechanical and Physical Properties of the Austenitic Chromium Nickel Steels at Subzero Temperatures (Bull. C).

109. Mechanical and Physical Properties of the Austenitic Chromium Nickel Stainless Steels at Elevated Temperatures.

110. Mechanical and Physical Properties of the Austenitic Chromium Nickel Stainless Steels at Ambient Temperatures.

111. Effects of High Temperature Steam Exposure in the Properties of Superheater Alloys.

(Items 112 and 113, American Society of Mechanical Engineers)

112. Fatigue and Fracture Toughness Properties of 9 Percent Nickel Steel at LNG Temperatures, (Paper No. 73, Pet. 4).

113. Prestressed Concrete for the Transport of Liquefied Natural Gas (Paper No. 73, Pet. 37).

(Items 114–119, the Aluminum Association)

114. Section 3, Engineering Data for Aluminum Structures.

115. Section 1, Specifications for Aluminum Structures.

116. Welding Aluminum.

117. Aluminum Welders Training Manual.

118. Aluminum Brazing Handbook.

119. Aluminum Soldering Handbook.

(Items 120–125, The International Nickel Co., Inc. (Design and Fabrication))

120. Matching the Austenitic Chromium Nickel Stainless Steels.

121. Structural Stainless Steel, Guidelines for Design.

122. Fabrication of Chromium Nickel Stainless Steel, 300 Series.

123. Welding of Austenitic Chrominum Nickel Stainless Steels-Techniques and Properties.

124. Standard Recommended Practive for Cleaning and Descaling Stainless Steel Parts, Equipment, and Systems.

125. The Joining of Light Wall Stainless Steel Piping.

126. Reinforced Concrete Design Handbook (ACI SP-3), American Concrete Institute.

127. Piping Handbook, Crocker Book Co., McGraw-Hill.

128. Pipe Manufacturing Defects, Moody International, Inc.

129. New Developments and Applications in Manual Plasma Arc Welding, Linde Division, Union Carbide Corp.

130. Plasma Needle Arc for Very Low Current Work, Linde Division, Union Carbide Corp.

SUBPART F

131. NBS Technical Note 608, Study of Cryogenic Storage Tank Fatigue Life, 1971, U.S. Department of Commerce, U.S. Government Printing Office.

132. LNG Tank Discussions 1976 Gas Operations School, Bentley College, Waltham, Mass., 1976, Stone and Webster Engineering Corp.

133. Land Storage Reservoirs for Liquefied Natural Gas, 1972, American Society of Mechanical Engineers (Paper No. 72, Pet. 62).

(Items 134 and 135, Chicago Bridge and Iron Co.)

134. New Developments in Above Ground Metal LNG Containers, 1968.

135. Cryogenic Storage Facilities (Bull. No. 8650).

(Items 136 and 137, Preload Technology Inc.)

136. Preload Tanks for LNG Service, A Status Report, 1975.

137. Safety Assessment of LNG Containers and Protective Systems.

138. Purging, Cooldown, Performance Testing of Prestressed Concrete LNG Containers, 1976 (AGA Transmission Conference, May 1976).

139. Theoretical Advantages of Pressure Stored LNG, D. W. Linscott and Associates.

140. Drilled Pier Foundations, McGraw-Hill Book Co.

141. LNG Stratification and Rollover, J. Sarsten, Presented at Midyear meeting of the American Petroleum Institute's Division of Refining, May 1973 (American Petroleum Institute).

142. Mixing and Rollover in LNG Storage Tanks, J. Smith, J. Lewis, G. Randall, J. Moldon, Cryogenic Engineering Conference, August 1973 (Distrigas Corp.).

143. LNG Rollover-Update, E. Drake, Hydrocarbon Processing, Vol. 55, No. 1, January 1976.

144. 600,000 bbl Tank to use Internal Insulation, Flexible Liner, A. Duffy, A. Shoup, The Oil and Gas Journal, August 1, 1966.

NOTE.—A comprehensive survey of LNG technical literature which also could serve as a basis for public comment is available in "Liquefied Natural Gas," issued quarterly and compiled by the National Bureau of Standards for the American Gas Association. Address: Cryogenic Data Center, Attn. Ms. Debbie Frizen, National Bureau of Standards, Boulder, Colorado 80302.

ADDRESSES FOR SOURCES OF REFERENCE MATERIAL

Items 1 thru 7

National Fire Protection Association, 470 Atlantic Avenue, Boston, Mass. 02210.

Item 8

Commonwealth of Massachusetts, Department of Public Utilities, 100 Cambridge Street, Boston, Mass. 02202.

Item 9

New York Public Service Commission, 44 Holland Avenue, Albany, N.Y. 12208.

Item 10

State of New York, Department of Labor and Industry, Bureau of Engineering and Safety, Trenton, N.J.

Item 11

British Cryogenics Council, 16 Belgrave Square, London, England SW1.

Item 12

The Institution of Gas Engineers, 17 Grosvenor Crescent, London, England SW1.

Item 13

The Royal Society for the Prevention of Accidents, 52 Grosvenor Gardens, London, England SW1.

Item 14

Elburn-Horei-Sha, Inc., 13-14 Higashinakano, 4 Chrome Nakano-ku, Tokyo, Japan.

Items 15–21, and 141

American Petroleum Institute, 1801 K Street NW., Washington, D.C. 20006.

Items 22–25

American National Standards Institute, Inc., 1430 Broadway, New York, N.Y. 10018.

Items 26–32, 49, 57, 112, 113, and 133

American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, N.Y. 10017.

Item 33

International Conference of Building Officials, 5360 S. Workman Mill Road, Whittier, Calif. 90601.

Items 34 and 35

American Insurance Association, 85 John Street, New York, N.Y. 10038.

Item 36

Building Officials and Code Administrators International, Inc., 1313 E. 60th Street, Chicago, Ill. 60637.

Items 37–43 and 126

American Concrete Institute, Box 19150, Redford Station, Detroit, Mich. 48219.

Item 44

Manufacturer's Standardization Society of the Valve and Fittings Industry, 1815 No. Ft. Meyer Drive, Arlington, Va. 22209

Items 45, 46 and 114–119

The Aluminum Association, 750 Third Avenue, New York, N.Y. 10017

Items 47, 61, 69, 70, 83 and 101

National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Va. 22151.

VOL 42 NO 162 AUG 22 1977 UM

Item 48

National Aeronautics and Space Administration, Design Directorate, Kennedy Space Center, Fla.

Items 50, 51, 52 and 75

Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

Item 53

Socio Economic Systems, Inc., 6420 Wilshire Boulevard, Los Angeles, Calif. 90048.

Items 54, 56, 60, 62, 63, 64, 67, 68, 71 and 72

American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.

Item 55

Energy Resources Council, Executive Office Building, Washington, D.C. 20500.

Items 58 and 144

Oil and Gas Journal, P.O Box 1260, Tulsa, Okla. 74101.

Items 59, 95, 96, 98 and 99

National Academy of Sciences, 2101 Constitution Avenue NW., Washington, D.C. 20418.

Items 65 and 66

Arthur D. Little, Inc., Acorn Park, Cambridge, Mass. 02140.

Items 73, 79, 80 and 81

Bureau of Mines, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

Item 76

NUS Corporation, 4 Research Place, Rockville, Md. 20850.

Item 77

The Rand Corporation, Santa Monica, Calif. 90406.

Item 78

Department of Housing & Urban Development, Office of Policy Development and Research, Energy, Building Technology, and Standards Division, 451 Seventh Street SW., Washington, D.C. 20410.

Items 82 and 92

National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

Item 84

Environment, Hackett Publishing Co., Inc., 4047 North Penn Street, Indianapolis, Ind. 46205.

Items 85 and 143

Hydrocarbon Processing, Gulf Publishing Co., Box 2608, Houston, Tex. 77001.

Items 86, 102 and 131

Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Items 87, 88 and 97

Geological Survey, Department of the Interior, National Center, Reston, Va. 22092.

Items 89 and 90

Lawrence Livermore Laboratory, University of California, Livermore, Calif. 94550.

Item 91

University of Washington, Department of Civil Engineering, Seattle, Wash. 98195.

Items 93 and 94

American Nuclear Society, 244 East Ogden Avenue, Hinsdale, Ill. 60521.

Item 100

The MIT Press, Massachusetts Institute of Technology, Cambridge, Mass. 02142.

Items 103-111, and 120-125

The International Nickel Co., Inc., One New York Plaza, New York, N.Y. 10004.

Item 127

McGraw-Hill Book Co., 330 West 42d Street, New York, N.Y. 10036.

Items 128 and 140

Moody International, Inc., 227 Friendship Plaza Bldg., 5937 Broad Street Mall, Pittsburgh, Pa. 15206.

Items 129 and 130

Linde Division, Union Carbide Corporation, 270 Park Avenue, New York, N.Y. 10017.

Item 132

Stone and Webster Engineering Corp., Process Industries Group, One Penn Plaza, New York, N.Y. 10001.

Items 134 and 135

Chicago Bridge and Iron Co., Oak Brook, Ill. 60521.

Items 136-138

Preload Technology Inc., 839 Stewart Avenue, Garden City, N.Y. 11530.

Item 139

D. W. Linscott and Associates, 116 Elberon Avenue, Allenhurst, N.J.

Item 142

Distrigas Corporation, 125 High Street, Boston, Mass. 02110

To permit sufficient time for the public to acquire the listed source materials, to review them, and submit their comments, the comment period is hereby extended to December 1, 1977.

AUTHORITY: Sec. 3, Pub. L. 90-481, 82 Stat. 721 (49 U.S.C. 1672); 49 CFR 1.53(a) and paragraph (b)(2) of Appendix A to Part 102.

Issued in Washington, D.C. on August 17, 1977.

CESAR DELEON,
Acting Director, Office of Pipeline Safety Operations.

[FR Doc.77-24304 Filed 8-19-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

SHIPPERS ADVISORY COMMITTEE MEETING

Public Meeting

Pursuant to the provisions of § 10(a)(2) of the Federal Advisory Committee Act (86 Stat. 770), notice is hereby given of a meeting of the Shippers Advisory Committee established under Marketing Order No. 905 (7 CFR Part 905). This order regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida and is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The committee will meet in the A.B. Michael Auditorium of the Florida Citrus Mutual Building, 302 South Massachusetts Avenue, Lakeland, Florida, at 10:30 a.m., on September 8, 1977.

The meeting will be open to the public and a brief period will be set aside for public comments and questions. The agenda of the committee includes analysis of current information concerning market supply and demand factors, and consideration of recommendations for regulation of shipments of the named fruits.

The names of committee members, agenda, summary of the meeting and other information pertaining to the meeting may be obtained from Frank D. Trovillion, Manager, Growers Administrative Committee, P.O. Box R, Lakeland, Florida 33802; telephone 813-682-3103.

Dated: August 17, 1977.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.77-214162 Filed 8-19-77;8:45 am]

Soil Conservation Service

MATE CREEK WATERSHED PROJECT, WEST VIRGINIA

Availability of Negative Declaration

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for work remaining to be done in the Mate Creek Watershed Project, Mingo County, West Virginia. Since the negative declaration was widely distributed to organizations and individuals prior to the publication of the Soil Conservation Service Guidelines issued August 8, 1977 (42 FR 40114 through 40118 inclusive), we have interpreted that our prior guidelines are appropriate.

The environmental assessment of this Federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Craig M. Right, State Conservationists, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection, flood prevention, and water oriented public recreation. The planned works of improvement remaining to be installed include conservation land treatment supplemented by three single purpose floodwater retarding structures, and one multiple purpose floodwater retarding and recreation structure with associated recreation facilities. The floodwater retarding structures, recreation facilities, and land treatment measures are independent of other measures from an engineering, economic, or environmental standpoint. The remaining channel work is not included in the negative declaration and is subject to other National Environmental Policy Act of 1969 documentation.

The negative declaration is being filed with the Council on Environmental Quality and copis are being sent to various Federal, State, and local agencies. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the office of the Soil Conservation Service, Federal Building, 75 High Street, Morgantown, West Virginia 26505. A limited number of copies of the negative declaration is available from the same address to fill single copy requests.

No administrative action on implementation of the proposal will be taken until September 21, 1977.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 USC 1001-1008.)

Dated August 12, 1977.

JAMES W. MITCHELL,
Director, Watersheds Division, Soil Conservation Service.

[FR Doc.77-24129 Filed 8-19-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 29198]

ALASKA FARES INVESTIGATION

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on September 20, 1977, at 9:00 a.m. (local time), in Hearing Room C, 1875 Connecticut Avenue NW., Washington, D.C.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report, served January 3, 1977, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C. August 15, 1977.

STEPHEN J. GROSS,
Administrative Law Judge.

[FR Doc.77-24235 Filed 8-19-77;8:45 am]

[Order 77-8-70; Docket 29873]

DAETWYLER AIRFREIGHT CORP. (SWISS) d./b./a. INTERAMERICAN AIRFREIGHT CORP. (U.S.A.)

Order to Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of August 1977.

Daetwyler Airfreight Corp. (Swiss), d.b.a. Interamerican Airfreight Corp. (U.S.A.), (Airfreight), is the holder of a foreign air carrier permit[1] authorizing it to engage in the indirect air transportation of property from any point or points within the United States to any point or points outside the United States.

By application filed on October 4, 1976, Airfreight requests renewal of its foreign air carrier permit for a period of five years.[2] On March 30, 1977, Airfreight

[1] By Order E-21914, approved March 16, 1965, a foreign indirect air carrier permit was issued to Willy Peter Daetwyler (Switzerland) d.b.a. Interamerican Airfreight Co. (U.S.A.). By Order 71-10-114, served October 28, 1971, the permit was renewed for a five year period. In Order 75-3-104, the Board authorized a name change and a transfer of permits to the instant applicant.

[2] The applicant's current permit expired on October 23, 1976, and the applicant is now operating pursuant to section 9(b) of the Administrative Procedures Act.

Pursuant to section 801 of the Act, a copy of the application has been forwarded to the President.

V 42 162 AUG 22 77 UM V

filed a Petition for an Order to Show Cause why its application should not be granted. The applicant states that it is a Swiss citizen; that all of its stock is owned by Swiss citizens; and that neither the government of Switzerland nor any other government has any interest, beneficial or otherwise, in the applicant nor exercises any control over it. Airfreight also claims that it is an ongoing, profitable enterprise meeting a public need. No answers to the application or the petition have been received.

Upon consideration of the foregoing and the Board's prior findings concerning the renewal of Airfreight's (and the predecessor's) authority, the Board has tentatively determined to renew the carrier's permit for a period of five years.

The Board tentatively finds:

1. That Airfreight is substantially owned and effectively controlled by nationals of Switzerland;

2. That it is in the public interest to renew the foreign air carrier permit of Daetwyler Airfreight Corp. (Swiss), d.b.a. Interamerican Airfreight Corp. (U.S.A.), authorizing the carrier to engage in the indirect air transportation of property from any point or points in the United States to any point or points outside the United States;

3. That the public interest requires that the exercise of the privileges granted by the permit shall be subject to the terms, conditions, and limitations contained in the specimen form of permit attached to this order, those set forth below in paragraphs a, b, c, and d, and to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board:

(a) The holder, with respect to the use of aircraft, shall be subject to the provisions of sections 296.21, 296.22, and 296.41 of the Board's Economic Regulations, or as amended;

(b) The holder shall comply with the insurance coverage provisions of section 296.52 of the Board's Economic Regulations, or as amended, except that it shall not be necessary for the holder to provide public liability insurance for its operation outside th United States;

(c) In using the authority granted herein (1) the name Daetwyler Airfreight Corp. (Swiss) d.b.a. Interamerican Airfreight Corp. (U.S.A.) shall appear on all of the holders advertising, airwaybills, stationery and the like; (2) the above name will always be used in its entirety; and (3) the name Daetwyler Airfreight Corp. (Swiss) shall be displayed at least as prominently as the name Interamerican Airfreight Corp. (U.S.A.);

(d) The holder shall comply with the applicable record retention provisions of Part 249B and with section 9 of Part 244 of the Board's Economic Regulations, and shall file such other reports regarding the activities authorized by its permit, or activities reasonably related thereto, as the Board may from time to time require.

4. That Daetwyler Airfreight Corp. (Swiss) d.b.a. Interamercian Airfreight Corp. (U.S.A.) is fit, willing, and able properly to perform the above-described foreign air transportation, and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder;

5. That an evidentiary hearing is not required in the public interest; and

6. That the renewal of the applicant's permit is not a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, and will not be inconsistent with the policy objectives of the Energy Policy and Conservation Act of 1975 (EPACA).[3]

Accordingly, it is ordered, that: 1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions, and why the foreign air carrier permit issued to Daetwyler Airfreight Corp. (Swiss) d.b.a. Interamerican Airfreight Corp. (U.S.A.), by Order 75-3-104 should not, subject to the approval of the President pursuant to section 801 of the Act, be renewed for a period of five years;

2. Any interested person having objection to the issuance, without hearing, of an order making final the tentative findings and conclusions stated here shall file a statement of objections supported by evidence within 21 days after the adoption of this order. If an evidentiary hearing is requested the objector should state in detail why such hearing is considered necessary and what relevant and material facts he would expect to establish through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, further consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board.[4]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth here;

5. Copies of this order shall be served upon Daetwyler Airfreight Corp. (Swiss) d.b.a. Interamerican Airfreight Corp. (U.S.A.), and the Ambassador of Switzerland in Washington, D.C.

This order will be published in the FEDERAL REGISTER and will be transmitted to the President.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

PERMIT TO FOREIGN INDIRECT AIR CARRIER
(AS AMENDED)

DAETWYLER AIRFREIGHT CORP. (SWISS) d.b.a. INTERAMERICAN AIRFREIGHT CORP. (U.S.A.) is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage indirectly in foreign air transportation of property from any point or points in the United States to any point or points outside the United States.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting the right to engage in indirect air transportation of property now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Switzerland shall be parties.

This permit shall be subject to the condition that in the event that any practice develops which the Board regards as inimical to sound economic conditions, the holder and the Board will consult with respect thereto and will use their best efforts to agree upon modifications thereof satisfactory to the Board and the holder.

The exercise of the privileges granted hereby shall be subject to the terms, conditions and limitations set forth in Order ------ dated ---------- and to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

By accepting this permit the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The holder shall comply with the applicable record retention provisions of Part 249B and with section 9 of Part 244 of the Board's Economic Regulations, and shall file such other reports regarding the activities authorized by its permit, or activities reasonably related thereto, as the Board may from time to time require.

This permit shall become effective on ---------- and shall terminate five years thereafter: *Provided, however*, that if during said period the operation of the foreign air transportation herein authorized becomes the subject of any treaty, convention, or agreement to which the United States and Switzerland are or shall beccome parties, then and in that event this permit shall continue in effect during the period provided in such treaty, convention, or agreement.

In witness whereof, the Civil Aeronautics Board has caused this permit to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the -- day of ----------

———, ———,
Secretary.

[FR Doc.77-24238 Filed 8-19-77;8:45 am]

[Order 77-8-68; Docket 30236]

UNITED AIR LINES, INC.

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of August 1977.

On December 20, 1976, United Air Lines filed an application, pursuant to Subpart N of Part 302 of the Board's Procedural Regulations, for amendment of its certificate of public convenience and necessity for Route 1 so as to permit it to provide nonstop service between Cleveland, Ohio, and San Diego, California. United currently possesses one-stop authority in the market. American Airlines filed a statement requesting dismissal of the application.[1] By Order 77-2-100, February 22, 1977, the Board found that United's application was not in compliance with the substantive requirements of Subpart N, and directed the carrier to submit revised exhibits in support of its application.[2]

On April 12, 1977 United filed a supplement to its application, and submitted additional supporting exhibits. American filed a supplemental statement requesting dismissal. United filed a reply, together with a motion to file an unauthorized document. Revised exhibits were submitted with the reply. American filed a reply to United's reply, together with a motion for leave to file an otherwise unauthorized document.[3]

Upon consideration of the above pleadings, we have determined that United's application is now in compliance with the provisions of Subpart N, and is appropriate for processing under it. Accordingly, we shall order further proceedings with respect to United's application pursuant to sections 302.1406–1410 of the Board's Procedural Regulations.

Accordingly, it is ordered, That: 1. The application of United Air Lines, Inc., in Docket 30236, be set for further proceedings pursuant to Rules 1406–1410 of the Board's Procedural Regulations; and

2. The motions of United Air Lines, Inc., and American Airlines, Inc., to file an unauthorized document, be granted.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-24237 Filed 8-19-77;8:45 am]

[Order 77-8-66; Docket 30904]

ALASKA AIRLINES ET AL.

Petition for Prior Board Approval to Hold Joint Air Carrier Discussions on Matters Relating to the Transportation of the Handicapped; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of August 1977.

Certain certificated route air carriers filed a petition on May 19, 1977, requesting Board approval for all air carriers to hold joint discussions relating to the air transportation of handicapped persons.[1] The carriers request that the discussion authority be granted for a sixty day period from the date of the Board's order. The carriers state that discussion authority is necessary due to the issuance of new and revised regulations by the Federal Aviation Administration (FAA) and the Department of Health, Education and Welfare (HEW), relating to handicapped persons.

The FAA regulations, effective May 16, 1977, amended Title 14 of the Code of Federal Regulations, Parts 121, 123, and 135 (42 FR 18392, April 7, 1977) and require the carriers to establish procedures for the on-line and interline carriage of handicapped persons.

The HEW regulations, effective June 3, 1977, added Part 84 to Title 45 of the Code of Federal Regulations (42 FR 22676, May 4, 1977) and require equality of treatment for all handicapped persons in all programs funded by HEW and other U.S. government agencies.

The carriers state that the adoption of procedures pursuant to the new FAA regulations which are appropriate for each individual carrier will not present any particular problem. However, due to the carriers' fleet mix, the same cannot be said of interline transfer and handling procedures. The carriers state that it is therefore of vital importance for the carriers to discuss interline procedures and to facilitate adoption of uniform joint, procedures relating to the air transportation of handicapped persons.[2] The carriers state that the HEW regulations signal that every effort must be made to provide safe and equal air transportation to handicapped persons.

Upon consideration of the petition, and all other relevant matters, it is clear that authorization of these discussions should result in improved procedures for the transportation of handicapped persons and thus is in the public interest. Therefore the Board will approve the request.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 412, and 414 thereof,

It is ordered, That: 1. The petition of certain certificated air carriers to authorize joint carrier discussions is approved and all air carriers are authorized to engage in joint discussions with respect to implementing procedures relating to the air transportation of handicapped persons for a period of sixty days from the date of this order, subject to the conditions that:

(a) Such discussions shall not include any matters which directly or indirectly affect the fares, rates, or charges paid by the consumer;

(b) An agenda of matters to be discussed shall be filed with the Board in this docket at least 15 calendar days in advance with respect to any meeting called pursuant to this order; [3] and

(c) Any interested persons may advise the carriers that they are interested in these discussions, and all meeting notices, agendas, minutes, and any agreements reached shall be mailed to such persons with notices to include an invitation to submit comments on the agenda matters, and/or to request appointments for personal appearances at the carriers' meetings;

2. The Board reserves the right to have one or more observers in attendance at all meetings of the carriers;

3. Complete and accurate minutes shall be kept of all meetings, and a true copy thereof filed with the Board's Docket Section not later than 15 days after the conclusion of each meeting;

4. Any agreement or agreements reached as a result of such discussions shall be filed with the Board in accordance with section 412 of the Act and approved by the Board prior to being placed into effect; and

5. This order shall be served upon all U.S. air carriers.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-24236 Filed 8-19-77;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

REPUBLIC NATIONAL BANK OF DALLAS

Approval of Applicant as Trustee

Notice is hereby given that Republic National Bank of Dallas, whose mailing address is P.O. Box 2964, Dallas, Tex., has been approved as Trustee pursuant to Pub. L. 89-346 and 46 CFR 221.21-221.30.

[1] American has unrestricted authority in the Cleveland-San Diego market.

[2] United was also directed to submit revised exhibits in support of its Subpart N applications in Dockets 30167 (Pittsburgh-Denver) and 30291 (Columbus/Dayton-Denver). This order pertains only to United's application in Docket 30236.

[3] We will grant the motions of United and American.

[1] Alaska Airlines, Inc., Allegheny Airlines, Inc., American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Frontier Airlines, Inc., National Airlines, Inc., Northwest Airlines, Inc., Ozark Air Lines, Inc., Piedmont Aviation, Inc., Southern Airways, Inc., Texas International Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., and Wien Air Alaska, Inc.

[2] The FAA also issued an Advisory Circular, AC No. 120-32, dated March 25, 1977, predicated on the comments and hearings conducted in FAA Docket No. 12881. The circular suggests additional measures which may assist air carriers in the safe transportation of handicapped persons. The carriers also request authority to discuss the circular to facilitate uniformity in the adoption of the suggestions contained in the circular.

[3] If the air carriers so desire, they may appoint a secretary to represent them for the purposes of preparing meeting notices, agendas, minutes of meetings, and the filing of agreements.

V 42 162 AUG 22 77 UM

Dated: August 17, 1977.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-24260 Filed 8-19-77;8:45 am]

CONSTRUCTION OF ONE SELF-PROPELLED ROLL-ON/ROLL-OFF BARGE VESSEL MA DESIGN C2-MTR-125a FOR CUMBERLAND SHIPPING CO., INC.

Computation of Foreign Cost

Notice is hereby given of the intent of the Maritime Subsidy Board pursuant to the provisions of Section 501(a) of the Merchant Marine Act, 1936, as amended, to compute the estimated foreign cost of the construction of one self-propelled, roll-on/roll-off barge vessel, MA Design C2-MTR-125a, for Cumberland Shipping Co., Inc.

Any person, firm or corporation having any interest (within the meaning of Section 501(a)) in such computations may file written statements by the close of business on September 15, 1977, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Dated: August 17, 1977.

By Order of the Maritime Subsidy Board, Martime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-24261 Filed 8-19-77;8:45 am]

[Docket No. S-568]

EQUITY CARRIERS, INC.

Application

Notice is hereby given that Equity Carriers, Inc., 227 Park Avenue, New York, New York 10017, has filed an application with the Maritime Subsidy Board (Board) pusuant to Title VI (46 U.S.C. 1171-1183) of the Merchant Marine Act, 1936, as amended (the Act), dated August 9, 1977, for a long-term Operating Differential Subsidy Agreement to aid in the operation of five new dry cargo bulk carrier type vessels of approximately 37,000 deadweight tons, in the world-wide carriage of dry bulk cargoes, excluding cargo subject to the presently existing cargo preference statutes of the United States, including, but not limited to, 10 U.S.C. § 2631, 46 U.S.C. § 1241 and 15 U.S.C. § 616a, unless the agencies administering such statutes determine that the cargoes involved would be otherwise waived to, or allocated for, foreign flag carriage. This application supersedes an earlier application by Falcon Cargo Ships, Inc.

Any person having an interest in the granting of the application and who would contest a finding of the Board that the service now provided by vessels of U.S. registry for the world-wide carriage of dry bulk cargoes in the foreign oceanborne commerce of the United States is inadequate, must on or before September 6, 1977, notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 C.F.R. Part 201). Each statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Act and, with as much specificity as possible, the facts that the intervenor would undertake to prove at such a hearing.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to the subject application, the purpose of such hearing will be to receive evidence relevant to whether the service already provided by vessels of U.S. registry for world-wide movement of dry bulk cargoes in the foreign oceanborne commerce of the United States is inadequate, and whether in the accomplishment of the purposes and policy of the Act, additional vessels should be operated thereon.

If no request for a hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

So ordered by the Maritime Subsidy Board, Maritime Administration.

Dated: August 17, 1977.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-24262 Filed 8-19-77;8:45 am]

National Bureau of Standards

I/O CHANNEL INTERFACE

Proposed Federal Information Processing Standard

Under the provisions of Public Law 89-306 and Executive Order 11717, the Secretary of Commerce is authorized to establish uniform Federal Automatic Data Processing (ADP) Standards. The proposed standard for I/O Channel Interface is being recommended for Federal use. This proposed standard is a revision of the proposal orighnally published in the Federal Register of December 30, 1976 (41 FR 56877), and takes into account comments received from the public and private sectors based on the earlier notice. Significant changes have been made in this revision to more explicitly reflect the Government's intent to promote the competitive consideration by Federal agencies of alternative sources of supply of I/O peripheral subsystems. These changes are reflected in the expansion of the Explanation and Applicability sections, deletion of the Exception section, and revision of the Implementation and Waivers sections.

Prior to the submission of this proposal to the Secretary of Commerce for approval as a Federal standard, it is essential to assure that proper consideration is given to the needs and views of the public, state and local governments, and manufacturers. In view of the changes outlined above, it is considered appropriate once again to solicit such views.

This proposed standard is the first of a family of I/O interface standards. NBS has also proposed adoption of an accompanying channel level power control interface standard in the FEDERAL REGISTER of March 4, 1977 (42 FR 12452) and subsequent correction of March 25, 1977 (42 FR 16169). NBS intends to propose the adoption of at least one operational specification standard, also to accompany this proposed I/O channel interface standard, in fiscal year 1978.

The technical specifications contained in this proposed standard were developed under the auspices of the American National Standards Institute, Technical Subcommittee X3T9, and have been published in ANSI document number X3T9/600, Rev. 2, "Draft Proposed American National Standard Specifications for I/O Channel Interface."

The proposed Federal Information Processing Standard contains two basic sections: (1) An announcement section which provides information concerning the applicability and implementation of the standard and (2) a specification section which defines the technical parameters of the standard. Only the announcement section is provided in this notice.

Interested parties may obtain copies of the specification section from and submit their comments to the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. Comments to be considered must be received on or before October 21, 1977.

Dated: August 17, 1977.

ERNEST AMBLER,
Acting Director.

FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATION ------

(Date)

ANNOUNCING THE STANDARD FOR I/O CHANNEL INTERFACE

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. I/O Channel Interface (FIPS PUB ------).

Category of Standard. Hardware Standard, Interface.

Explanation. This standard is one of a family that defines the functional, electrical, and mechanical interface specifications for attaching computer peripheral devices through their control units to the ADP system. This standard does not include definitions of other interface parameters, such as power control and operational specifications, that may be needed to achieve full plug-to-plug interchangeability at the I/O channel interface level; these other specifications as well as standards for other interfaces are presently being developed and will be considered for future adoption as Federal Information Processing Standards.

The Government's intent in employing this I/O Channel Interface standard is to minimize the cost of satisfying its data processing requirements through increasing its available alternative sources of supply for I/O peripheral subsystems, both at the time of initial system acquisition and when a system is modified through augmentation or replacement of I/O perpheral subsystems.

In the acquisition of ADP systems and components, Federal agencies shall cite this standard to specify the interface for attaching I/O peripheral subsystems as a part of ADP systems.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index. American National Standards Institute document X3T9/600, Rev. 2, Draft Proposed American National Standard Specifications for I/O Channel Interface.

Applicability. This Federal Information Processing Standard for the I/O Channel Interface is applicable to the acquisition of all Automatic Data Processing (ADP) systems by the Federal Government except those minicomputer, microcomputer and other small scale systems which are specifically excluded by the National Bureau of Standards (NBS). A list of such excluded systems will be developed and maintained by NBS and will be periodically distributed to all Federal agencies and be publicly available upon request.

Specifically, this standard is applicable to:

(1) *New Systems or Replacement of Systems.* Whenever a new or replacement ADP system is acquired by the Government the system shall support, at a minimum, one interface conforming to this standard for the connection of I/O peripheral subsystems. The required number of such interfaces may be increased up to a maximum of four for each system acquisition. All such interfaces shall be specified as separate mandatory options, the cost of which will be considered in the evaluation conducted as a part of the system or system component selection process.

Verification of the operation of these interfaces in conformance with this standard, through demonstration or other means acceptable to the Government, shall be provided prior to the Government's commitment to acquire the system.

In selecting from among acquisition alternatives so as to satisfy the Government's data processing requirements at least cost, the Government may initially acquire a system that does not include any interfaces conforming to this standard, providing that the Government obtains contractual assurance that the required number of interfaces conforming to this standard can and will be supplied at any time during the designated life of the system at specified cost to the Government.

(2) *Modification of Systems.* Whenever an ADP system that was acquired on or after the effective date of this standard is being modified through addition or replacement of I/O peripheral subsystems, acquisition alternatives that comply with this standard shall be considered competitively with other alternatives, so as to meet the Government's data processing requirements at least cost. Acquisition alternatives considered shall include those available through exercising the contractual options for interfaces conforming to this standard which were established at the time of initial system acquisition.

Specifications. This standard incorporates by reference the technical specifications of ANSI document X3T9 600, Rev. 2, affixed.

Implementation. The provisions of this standard are effective ninety days after date of publication. All applicable equipment ordered on or after the effective date, or for which formal procurement action has not already been initiated by that date, must conform to the provisions of this standard unless a waiver has been granted in accordance with the procedure described elsewhere in this publication.

Regulations concerning the specific use of this standard in Federal procurements will be issued by the General Services Administration to be a part of the Federal Property Management Regulations.

This standard shall be subject to review by NBS within five years after its effective date, taking into account technological trends and other factors, to determine whether the standard should be reaffirmed, revised, or withdrawn.

Waivers. Heads of agencies are permitted to waive the requirements stated in this publication. However, such waivers shall be coordinated in advance with NBS. These should be addressed to the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. They should describe the nature of the waiver and set forth the reasons therefor. The supporting documentation should include:

a. Factors considered by the head of the agency in authorizing the waiver.

b. Detailed technical specifications of the hardware and software components for which the waiver is required.

c. Possible recommendations for improvement or additional development of computer peripheral interface standards.

Thirty days should be allowed for review and response by NBS. However, the final decision for approving the waiver is the responsibility of the agency head.

Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. When ordering, refer to Federal Information Processing Standards Publication ------ (NBSFIPSPUB------), title, and Accession Number. When microfiche is desired, this should be specified. Payment may be made by check, money order, or deposit account.

[FR Doc.77-24194 Filed 8-19-77;8:45 am]

National Oceanic and Atmospheric Administration

COD FISHING

Closing of the Commercial Directed Fishery For Cod in Areas Other Than the Gulf of Maine

Notice is hereby given pursuant to 50 CFR 651.8(a)(2) that the Director, National Marine Fisheries Service, has determined that United States vessels fishing in areas other than the Gulf of Maine have reached the accumulative and estimated prospective 20,000 metric ton commercial quota of Cod for 1977. The quota is described in § 651.3 of the FEDERAL REGISTER published on June 10, 1977, page 29877.

This 20,000 metric ton quota was originally assigned solely to United States vessels. However, the United States-Canadian Reciprocal Fisheries Agreement, signed into law by the President on July 26, 1977, allocated 3,350 metric tons of this quota to Canadian fishing vessels. Accordingly, the United States quota was reduced by this Act to 16,650 metric tons. Canada announced closure of its directed cod fishery in this area as well as within its own waters on August 9. Canada harvested 2,430 metric tons of its 3,350 metric ton quota in our zone, reserving the remaining 920 metric tons for by-catch.

I hereby announce that the season for taking the commercial catch of Cod in areas other than the Gulf of Maine in a directed fishery by persons and vessels subject to the jurisdiction of the United States will terminate on August 22, 1977, this restriction will remain in effect until 0001 hours, local time, January 1, 1978.

During such time as the directed fishery is closed no person or vessel in the commercial fishery shall land more than 5,510 pounds (2.5 metric tons) or 10 percent by weight of all other fish on board, per trip, whichever is greater of Cod taken in areas other than the Gulf of Maine.

Issued at Washington, D.C., and dated August 16, 1977.

JOSEPH W. SLAVIN,
Acting Associate Director,
National Marine Fisheries Service.

[FR Doc.77-24146 Filed 8-19-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

AUGUST 10, 1977.

The USAF Scientific Advisory Board Aeromedical-Biosciences Panel will hold a meeting on September 27, 1977 from 8:30 a.m. to 4:30 p.m. at Aerospace Medical Division, Brooks AFB, TX.

The Panel will review the USAF plans to monitor and modify, where possible, the risk factors identified with heart attacks.

The meeting will be open to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-4648.

FRANKIE S. ESTEP,
Air Force Federal Register,
Liaison Officer, Directorate of Administration.

[FR Doc.77-24201 Filed 8-19-77;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

AUGUST 10, 1977.

The USAF Scientific Advisory Board Electronics Panel Group to review

Space Systems will hold a meeting on September 14, 1977 from 8:30 a.m. to 5 p.m. in the Pentagon, Room 5D982.

The purpose of the meeting will be to conduct a special review of space systems at the request of the Secretary of the Air Force.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly the meeting will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-4648.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-24202 Filed 8-19-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 780-2]

AIR QUALITY CRITERIA FOR ATMOSPHERIC LEAD

Effects Document Availability of External Review Draft

On August 22, 1977 External Review Draft No. 3 of Air Quality Criteria for Atmospheric Lead will be available from the Criteria and Special Studies Office, Health Effects Research Laboratory, EPA, Research Triangle Park, North Carolina 27711. Telephone No. (919) 549-8411 ext. 2266 or 2267.

STEPHEN J. GAGE,
Acting Assistant Administrator for Research and Development.

AUGUST 17, 1977.

[FR Doc.77-24263 Filed 8-19-77;8:45 am]

[OPP-42049; FRL 780-3]

NEBRASKA

Intent to Disapprove the State Plan for the Certification of Pesticide Applicators

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 et seq.) and the implementing regulations of 40 CFR Part 171, require each State desiring to certify pesticide applicators to submit a plan to the U.S. Environmental Protection Agency (EPA) for its certification program. On June 28, 1977, the Honorable J. James Exon, Governor of the State of Nebraska, submitted a State Plan for the Certification of Pesticide Applicators of Restricted Use Pesticides to the Environmental Protection Agency for approval. On July 29, 1977, Charles V. Wright, then Acting EPA Regional Administrator, informed Governor Exon of his intent to disapprove the Nebraska State Plan on the basis that the State does not have adequate statutory and regulatory authority as required by Section 4(a) of FIFRA, as amended, and 40 CFR 171.7.

The entire plan, together with all attached appendices and related documents (except for sample examinations), may be examined during normal business hours at the following locations:

Nebraska Department of Agriculture, 301 Centennial Mall South, 4th Floor, Lincoln, Nebraska 68509.

EPA—Region VII, Pesticides Branch, Air and Hazardous Materials Division, Room 110, 1735 Baltimore, Kansas City, Missouri 64108.

EPA—Office of Pesticide Programs, Operations Division, Regional Support Branch, Room 2709, Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

The Acting Regional Administrator's letter of July 29, 1977, to Governor Exon stated in part:

There are many legal deficiencies in the plan. This letter does not contain an exhaustive listing of all elements which must be complied with before it can be approved. The following are the more significant requirements which must be met:

1. Section 4(a)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, requires that a State plan for certification of pesticide applicators contain satisfactory assurances that the State agency designated by the Governor for administration of the pesticide program, "has or will have the legal authority * * * to carry out the plan." The minimum legal authorities so required are specified at 40 CFR 171.7(b)(1)(iii), and are addressed individually in the following comments:

a. Title 40 CFR 171.7(b)(1)(iii)(A) requires that the plan indicate by citation to specific laws and/or regulations, whether enacted and promulgated or pending, the

"Provisions for and listing of the acts which constitute grounds for denying, suspending, and revoking certification of applicators, and for assessing criminal and/or civil penalties. Such grounds should include, at a minimum, misuse of a pesticide and falsification of any records required to be maintained by the certified applicator."

The State has no expressed statutory or regulatory authority to deny a certification on the grounds of pesticide misuse and falsification of records, or, as the plan itself indicates on page 6, to suspend or revoke certification under any conditions.

b. Title 40 CFR 171.7(b)(1)(iii)(D) requires the State to have legal

"Provisions making it unlawful for persons other than certified applicators or persons working under their direct supervision to use restricted use pesticides".

As the plan indicates on page 7, the Nebraska statutes contain no specific prohibition against the use of restricted use pesticides by noncertified applicators.

c. Title 40 CFR 171.7(b)(1)(iii)(E) requires the State to have legal

"Provisions requiring certified commercial applicators to keep and maintain for the period of at least two years routine operational records containing information on kinds, amounts, uses, dates, and places of application of restricted use pesticides; and for ensuring that such records will be available to appropriate State officials".

As the Nebraska State Plan indicates on page 7, no such legal authority exists.

2. Section 4(a)(2)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, requires "that the State agency will make such reports to the Administrator in such form and containing such information as the Administrator may from time to time require." Title 40 CFR 171.7(d)(1) and (2) itemize the minimum acceptable data the reports must contain.

The plan indicates on page 10 that under existing legislation there are no provisions requiring or authorizing reports from the lead agency or the cooperating agencies to the Administrator of the Environmental Protection Agency.

3. Section 4(a)(2)(E) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, requires the State Plan to "contain satisfactory assurances that State standards for the certification of applicators of pesticides conform with standards prescribed by the Administrator." The standards are set forth in Title 40 CFR 171.1—171.6.

As stated in the "Opinion of the Department Legal Counsel," page 4 of the Nebraska State Plan, and in Section 2-2615 of the Nebraska Statute, a private applicator shall not be required "to attend any training session or to take any examination to establish competency in the use of any pesticide. If such private applicator has not received any prior instruction, he shall at the time of purchasing any restricted use pesticide complete a certificate stating that he is knowledgeable in the use and application of such pesticide." This method of determining competency does not meet the federal standards stated in the previous paragraph.

On August 5, 1977, Governor Exon requested a hearing to review the basis of this proposed disapproval in accordance with Section 4(b) of FIFRA, as amended. Notice is hereby given of the intent of the Regional Administrator, EPA Region VII, to disapprove this plan and to hold a public hearing in accordance with Governor Exon's request. The hearing will be held in the West Ballroom of the Radisson Cornhusker Hotel, 301 South 13th Street, Lincoln, Nebraska 68508, on September 27, 1977, at 9 a.m. Although the hearing will be transcribed, it is for the gathering of public information only and not adversary in nature. No witnesses will be sworn or cross-examined.

All interested persons are invited to attend and testify, or to submit written comments on the Regional Administrator's intent to disapprove the Nebraska State Plan to the Chief, Pesticides Branch, Region VII, U.S. Environmental Protection Agency, 1735 Baltimore, Kansas City, Missouri 64108. The comment period will remain open until seven (7) days after date of the hearing. All written comments filed pursuant to this notice will be available for public inspection at the above-mentioned EPA Region VII location between 8:30 a.m. and 3:30 p.m., Monday through Friday.

CHARLES V. WRIGHT,
Acting Regional Administrator, Environmental Protection Agency, Region VII.

[FR Doc.77-24264 Filed 8-19-77;8:45 am]

FEDERAL MARITIME COMMISSION

[License No. 1289]

BRIE INTERNATIONAL

Order of Revocation

By letter dated July 15, 1977, Mrs. Betty R. Irby, Brie International, P.O. Box 19735 AMF, Columbus, OH 43219 was advised by the Federal Maritime

Commission that Independent Ocean Freight Forwarder License No. 1289 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before August 14, 1977.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Brie International has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) Section 5.01 (c) dated June 30, 1975;

It is ordered, That Independent Ocean Freight Forwarder License No. 1289 issued to Brie International be returned to the Commission for cancellation.

It is further ordered, That Independent Ocean Freight Forwarder License No. 1289 be and is hereby revoked effective August 14, 1977.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Brie International.

LEROY F. FULLER,
Director, Bureau of Certification and Licensing.

[FR Doc.77-24241 Filed 8-19-77;8:45 am]

COMPAGNIE GENERALE MARITIME AND NAVALE ET COMMERCIALE HAVRAISE PENINSULAIRE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 12, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Charles DiMaria, French Line, Compagnie Generale, Maritime, 25 Broadway, New York, N.Y. 10004.

Agreement No. 10308, between Compagnie Generale Maritime and Navale Et Commerciale Havraise Peninsulaire, covers the establishment of a ratemaking arrangement in conjunction with a rationalization of sailing by the parties in the trade, eastbound and westbound, between United States Atlantic and Gulf ports and ports in the Red Sea, Gulf of Aden and Arabian/Persian Gulf, excluding Karachi. The arrangement is to expire December 31, 1982, unless sooner terminated by written notice given by one party to the other.

By Order of the Federal Maritime Commission.

Dated: August 17, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-24240 Filed 8-19-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. RP73-107, RP74-90 and RP75-91]

CONSOLIDATED GAS SUPPLY CORP.

Order Approving Settlement Agreement Subject to Conditions and Prescribing Reasonable Rate of Return; Correction

AUGUST 8, 1977.

Delete the following phrase from the sixth line in the last paragraph on page 36033.

"* * * (allowed in Docket No. RP73-107 and RP74-90) * * *"

Published in the FEDERAL REGISTER on July 13, 1977, 4242 FR (page 36030).

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24254 Filed 8-19-77;8:45 am]

[Docket Nos. G-15791 and CI77-367]

SUN OIL CO.

Application for Abandonment Authorization [1]

AUGUST 15, 1977.

Take notice that the Applicant listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said applications should on or before August 23, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time herein, if the Commission on its own review of the matter finds that an abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be necessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft [1]	Pressure base
G 1572 D 1-3-77	Sun Oil Co., P.O. Box 20, Dallas, Tex. 75221.	Transwestern Pipeline Co., Panhandle area, Lipscomb County, Tex.	(1)	(1)
C177-367 (C177-367) B 3-4-77	Sun Oil Co	Tennessee Gas Pipeline Co., Lower Mud Lake Field, Cameron Parish, La.	(1)	(1)

[1] Well was plugged and abandoned.

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[FR Doc.77-24255 Filed 8-19-77;8:45 am]

H. G. WESTERMAN, ET AL.

[Docket Nos. CS77-644, et al.]

Applications for "Small Producer" Certificates [1]

AUGUST 15, 1977.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 9, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Applicant
CS77-644	June 24, 1977	H. G. Westerman, 508 Praetorian Bldg., Dallas, Tex. 75201.
CS77-645	do	J. O. J. Mason, P.O. Box 954, Spearman, Tex. 79081.
CS77-646	do	Justiss-Mears Oil Co., Inc., P.O. Drawer N, Jena, La. 71342.
CS77-647	June 27, 1977	Tobco Inc., P.O. Box 26, Hardinsburg, Ky. 40004.
CS77-648	do	Robert A. Magowan, Vinson & Elkins, 2500 First City National Bank Bldg., Houston, Tex. 77002.
CS77-649	do	Wayne Whatley, 407 Curtis Dr., New Iberia, La. 70560.
CS77-650	do	Lee H. Meltzer, suite 924, 234 Loyola Bldg., New Orleans, La. 70112.
CS77-651	do	Harry Hague, 1635 South Bay Shore Dr., Miami, Fla. 33133.
CS77-652	June 30, 1977	Hardin Trust No. 1, 1710 Ordway Bldg., 2150 Valdez St., Oakland, Calif. 94612.
CS77-653	do	Wilson Drilling Co., 220 North Washington, El Dorado, Kans. 67042.
CS77-654	do	Rick Buck, 1220 Liberty Tower, Oklahoma City, Okla. 73102.
CS77-655	do	L&M Drilling Co., box A, Canton, Ohio 44708.
CS77-656	do	L&M Petroleum Co., box A, Canton, Ohio 44708.
CS77-660	July 1, 1977	Melton, Virginia Stafford, 110 Greenbriar Circle, Lafayette, La. 70503.
CS77-661	do	W. T. Carter & Bro.,[2] 715 Capital National Bank Bldg., Houston, Tex. 77002.
CS77-662	do	Mary Dixon, P.O. Box 747, Spearman, Tex. 79081.
CS77-663	July 5, 1977	Roland C. Smith, 1910 Beck Bldg., Shreveport, La. 71101.
CS77-664	do	M. R. McCoy, Jr., 825 Beck Bldg., Shreveport, La. 71101.
CS77-665	do	Dol Resources Inc., P.O. Box 1167, Cheyenne, Wyo. 82201.
CS77-666	do	D. L. Cook, 2700 Flora St., Dallas, Tex. 75201.
CS77-667	do	James C. Alexander, Jr., 625 Garrison Ave., Fort Smith, Ark. 72901.
CS77-668	do	H. D. Campbell, d.b.a. The Campbell Co., suite 540, Entex Bldg., Houston, Tex. 77002.
CS77-669	do	Tumbleweed Production Co., Box 3362, Borger, Tex. 79007.
CS77-670	do	Carla Gumfory, P.O. Box 668, Gruver, Tex. 79040.
CS77-671	do	Boo-Ker Oil & Gas Corp., 1800 Hibernia Bank Bldg., New Orleans, La. 70112.
CS77-672	do	Adco Oil & Gas, Box 664, Shamrock, Tex. 79079.
CS77-673	do	Todd Exploration, Inc., Box 604, Shamrock, Kans. 79079.
CS77-674	do	Robert Donnell, No. 15 Oaklawn Park, Midland, Tex. 79701.
CS77-675	do	Jack D. Alexander, 625 Garrison Ave., Fort Smith, Ark. 72901.
CS77-676	do	Darnell, Ltd., 444 17th St., suite 700, Denver, Colo. 80202.
CS77-677	do	Paul M. Haywood, Jr., 1705 North Elm, Denton, Tex. 76201.
CS77-678	July 7, 1977	Thomas J. Jeffrey, 2610 Republic National Bank Bldg., Dallas, Tex. 75201.
CS77-679	June 30, 1977	Alf M. Landon, P.O. Box 1280, Topeka, Kans. 66601.
CS77-680	July 8, 1977	Delta Pacific Exploration Corp., P.O. Box 534, Richardson, Tex. 75080.
CS77-681	July 11, 1977	Snider Oil Co., drawer 710, Borger, Tex. 79007.
CS77-682	do	Meredith Mallory, Jr., 105-D Petroleum Center, San Antonio, Tex. 78209.
CS77-683	do	Christine Currie, 1030 Capital Towers, Jackson, Miss. 39201.
CS77-684	do	Luther P. Currie, 1030 Capital Towers, Jackson, Miss. 39201.
CS77-685	do	B&B Farm Industries, Inc., P.O. Box 638, Spearman, Tex. 79081.
CS77-686	do	J. W. Snider Oil Co., drawer 710, Borger, Tex. 79007.
CS77-687	July 13, 1977	B&M Producers, 3031 Wallace Circle, Huntington, W. Va. 25705.
CS77-688	July 14, 1977	Leta H. Hargraves, No. 1 Lake Pierremont, 300 Pierremont Rd., Shreveport, La. 71105.
CS77-689	do	Tracy Anne Hargraves, No. 1 Lake Pierremont, 300 Pierremont, Rd., Shreveport, La. 71105.
CS77-690	do	Ginger R. Hargraves Bahm, 603 Marie St., Ruston, La. 71270.
CS77-691	July 15, 1977	Hufo Oils, P.O. Box 974, Midland, Tex. 79702.
CS77-692	July 18, 1977	Walter T. Kant, Lance Creek, Wyo. 82222.
CS77-693	do	Elizabeth Dimple Neuenschwander, administrator, 3559 Edwards Rd., Cincinnati, Ohio 45208.
CS77-694	do	William B. Collister, 3100 Security Life Bldg., Denver, Colo. 80202.
CS77-695	do	Dunne Equities, Inc., 200 North Rock Rd., suite 140, Wichita, Kans. 67206.
CS77-696	do	Komanche Oil & Gas, box 420, Pampa, Tex.
CS77-697	do	Seneca Gas Ltd., 3333 South Bannock St., suite 640, Englewood, Colo. 80110.
CS77-698	do	Irene Wakefield & William C. Wakefield Co., administrator of the estate, Earl F. Wakefield, deceased, suite 500, 300 West Douglas, Wichita, Kans. 67202.
CS77-699	July 21, 1977	Annie Moroney, box 430, Okmulgee, Okla. 74447.
CS77-700	do	Boothbay Royalty Co., a partnership, 826 West First National Center, Oklahoma City, Okla. 73102.
CS77-701	July 22, 1977	Walter Duncan, III, 100 Park Avenue Bldg., suite 1213, Oklahoma City, Okla. 73102.
CS77-702	do	Dunway Investment Co., 100 Park Avenue Bldg., suite 1213, Oklahoma City, Okla. 73102.
CS77-703	do	Electra Energy Co., 100 Park Avenue Bldg., suite 1213, Oklahoma City, Okla. 73102.
CS77-704	do	Lewis Turner, 812 5th Ave., New York, N.Y. 10021.
CS77-705	do	Duncan Energy Co., 100 Park Avenue Bldg., Oklahoma City, Okla. 73102.
CS77-706	July 28, 1977	Fred L. Snipes, 1501 Shields, Sherman, Tex. 75090.
CS77-707	July 22, 1977	Hartford H. Prewett, trustee (Joe D. Havens trust), suite 2090, 1100 Milam Bldg., Houston, Tex. 77002.
CS77-708	do	Leonard Rosenberg, trustee, (Dan L. Duncan trust), suite 2900, 1100 Milam Bldg., Houston, Tex. 77002.
CS77-709	July 25, 1977	CAVC, Inc., 4700 1 Shell Sq., New Orleans, La. 70139.
CS77-710	do	Capital Investment Co., 100 Park Avenue Bldg., suite 1213, Oklahoma City, Okla. 73102.
CS77-711	July 29, 1977	Gallery Oil Co., Route 1, Wann, Okla. 74083.
CS77-712	July 28, 1977	Robert J. Foley, P.O. Box 1465, Natchez, Miss. 39120.
CS77-713	do	Cavalla Energy Exploration Co., 600 Jefferson Bldg., suite 508, Houston, Tex. 77002.
CS77-714	Aug. 1, 1977	Bovaird Inc., 823 South Detroit, Tulsa, Okla. 74120.
CS77-715	July 29, 1977	J. C. Dudley, Route No. 7, box 750, Ocala, Fla. 32670.
CS77-716	do	B. M. Heath, box 813, Ocala, Fla. 32670.
CS77-717	July 28, 1977	Richard P. George, 2301 Reba Dr., Houston, Tex. 77019.
CS77-718	do	Logan & Sheets Exploration Co., 212 West Williams, Breckenridge, Tex.
CS77-719	Aug. 1, 1977	Gilbert J. Mueller, 1077 Race St., Denver, Colo. 80206.
CS77-720	do	Wilcoy Petroleum Co., Route 1, Granite, Okla. 73547.
CS77-721	do	Celt Oil, Inc., P.O. Box 5757, Shreveport, La. 71105.
CS77-722	do	Richard L. Tresonit, Sr., P.O. Box 507, Natchez, Miss. 39120.
CS77-723	do	Hunter Parks Enterprises, Inc., 800 Oil and Gas Bldg., Wichita Falls, Tex. 76301.
CS77-724	July 29, 1977	James Hutton Nobles, 205 Armstrong Bldg., El Dorado, Ark. 71730.

[1] This application also covers jurisdictional sales to be made by Camden Timber Co. Camden Timber Co. and W. T. Carter & Bro. operate jointly in the acquisition and development of certain oil and gas properties.

[FR Doc.77-24000 Filed 8-19-77;8:45 am]

FEDERAL RESERVE SYSTEM

[H.2, 1977 No. 30]

APPLICATIONS AND REPORTS RECEIVED DURING THE WEEK ENDING JULY 23, 1977

ACTIONS OF THE BOARD

Amendment to Regulation Z, effective immediately, to clarify provisions that permit discounts for cash customers.

Report on bill S. 1726, the Small Business Economic Policy and Advocacy Reorganization Act of 1977, response to request for Board's views sent to Senator Thomas J. McIntyre.

SWB Corporation, Oklahoma City, Oklahoma, extension of time to September 20, 1977, within which to consummate the acquisition of Southwestern Bank and Trust Company, Oklahoma City, Oklahoma.[1]

Utah Bancorporation, Salt Lake City, Utah, extension of time to October 21, 1977, within which to acquire shares of Utah Valley Bank, Orem, Utah.[1]

[1] Application processed on behalf of the Board of Governors under delegated authority.

Yoakum County Bancshares, Inc., Denver City, Texas, extension of time to August 22, 1977, within which to consummate the acquisition of Yoakum County State Bank, Denver City, Texas.[1]

Du Quoin State Bank, Du Quoin, Illinois, to make an additional investment in bank premises.[1]

Merchants-Produce Bank, Kansas City, Missouri, extension of time to December 17, 1977, within which to complete the sales of subordinated capital notes.[1]

Mainland Bank, Linwood, New Jersey, proposed acquisition by First Peoples National Bank of New Jersey, Westmont, New Jersey; report to the Comptroller of the Currency on competitive factors.[1]

New City National Bank of Bryan, Bryan, Texas, proposed merger with The City National Bank of Bryan, Bryan, Texas, report to the Comptroller of the Currency on competitive factors.[1]

Sun Bank of Fort Pierce, Fort Pierce, Florida, proposed merger with Sun Bank of St. Lucie County, Fort Pierce, Florida; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Sun Bank of Holly Hill, Holly Hill, Florida, and Sun Bank of Daytona Beach Shores, Daytona Beach Shores, Florida, proposed merger with Sun Bank of Volusia County, Daytona Beach, Florida; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

To establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act

APPROVED

The Sylvania Savings Bank Company, Sylvania, Ohio. Branch to be established at 3204 Tremainsville Road, Toledo, Lucas County.[2]

The Detroit Bank & Trust Company, Detroit, Michigan. Branch to be established at 660 Jones Street.[2]

The Bank of Neosho, Neosho, Missouri. Branch to be established at 528 Neosho Boulevard, Neosho, Missouri.[2]

Tyler Bank and Trust Company, Tyler, Texas. Branch to be established on the Northwest Corner of College and Locust Streets.[2]

• • • • •

International Investments and Other Actions Pursuant to Sections 25 and 25(a) of The Federal Reserve Act and Sections 4(c)(9) and 4(c)(13) of The Bank Holding Company Act of 1956, as amended

APPROVED

Bamerical International Financial Corporation: Investment—to acquire the remaining five percent of the shares of Bankamerica Finance Limited, Reading, England.

Bank of America N.T. and S.A.: Investment—to restructure the holdings of International Mexican Bank, Limited, London.

• • • • •

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

WITHDRAWN

Farmbanc Company, Chattanooga, Tennessee, for approval to acquire 95.7 percent of the voting shares of Farmers National Bank, Winchester, Tennessee.

Citizens Bankers, Inc., Baytown, Texas for approval to acquire 100 percent (less directors' qualifying shares) of Citizens National Bank & Trust Company of Baytown and Baytown State Bank, both of Baytown, Texas.

APPROVED

Bankstock One, Inc., Ozark, Arkansas, for approval to acquire 80 percent of the voting shares of Bank of Ozark, Ozark, Arkansas.[2]

Berbanc, Inc., Salina, Kansas, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of The Gypsum Valley National Bank of Gypsum, Gypsum, Kansas.

Marble Falls Financial Corporation, Marble Falls, Texas, for approval to acquire 81 percent or more of the voting shares of Home State Bank, Marble Falls, Texas.[2]

• • • • •

To expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956

APPROVED

Berco, Inc., Bennington, Kansas, for approval to acquire 24 percent of the voting shares of Berbanc, Inc., Salina, Kansas.

• • • • •

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956

RETURNED

Great American Corporation, Baton Rouge, Louisiana, notification of intent to engage in de novo activities (making and acquiring for its own account, loans, discounts, acceptances and other extensions of credit and such other business as is customarily engaged in by consumer credit or finance company, and acting as insurance agent or broker in selling insurance to borrowers from such finance subsidiary to include credit life insurance, accident and health insurance and property insurance for collateral supporting loans made by said finance subsidiary) at 3204 Ryan Street, Lake Charles, Louisiana, through a subsidiary, Ambank Acceptance Corporation d/b/a American Acceptance Associates (7/18/77)[2]

DELAYED

United Bancorp, Roseburg, Oregon, notification of intent to engage in de novo activities (to provide bookkeeping or data processing services for the internal operations of the holding company and its subsidiaries; to store and process other banking, financial or related economic data, such as performing payroll accounts receivable or payable, or billing services) at S. E. Oak and Kane Streets, Roseburg, Oregon, through its subsidiary, United D.P. Co. (7/21/77)[2]

V42162 AUG 22 77 UM

REACTIVATED

Valley Bancorporation, Rexburg, Idaho, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans secured by real property and related fixtures, and/or personal property and servicing such loans for any other person, corporation, firm or legal entity) at 110 East Main, Rexburg; 1625 Northgate Mile, Idaho Falls; 1 Riverside Plaza, Blackfoot; 910 Yellowstone Avenue, Pocatello; 30 West Main, St. Anthony; 503 Main, Ashton; and 15 North Main, Driggs; all located in Idaho, through its subsidiary, Mountain Mortgage Company (7/23/77)[3]

PERMITTED

Hartford National Corporation, Hartford, Connecticut, notification of intent to continue to engage de novo in activities (origination, negotiation, making and collection of loans secured by real estate) from an existing office located at 830 Post Road East (formerly known as 830 East State Street), Westport, Connecticut, which was established in June, 1970, and will also be conducted from a new location at 777 Main Street, Hartford, Connecticut through its subsidiary, HNC Realty Company (7/20/77)[3]

Industrial National Corporation, Providence, Rhode Island, notification of intent to form de novo, a wholly-owned subsidiary under the name of MAI Corporation and to transfer to such subsidiary all of the stock of Mortgage Associates, Inc., therefore continuing to engage through (MAI Corporation and Mortgage Associates, Inc. in de novo activities origination and sale of **residential and commercial** mortgages; origination and sale of loans for the purchase of mobile homes; consumer finance; servicing of mortgage loans and mobile home loans; and insurance agency for any insurance for the holding company and its subsidiaries and for any insurance directly related to an extension of credit or provision of other financial services or otherwise sold as a matter of convenience to the purchase) through Mortgage Associates, Inc., at the sole office of MAI Corporation, located at the main office of Mortgage Associates, Inc., at 125 East Wells Street, **Milwaukee, Wisconsin (7/21/77)** [3]

Florida National Banks of Florida, Inc., Jacksonville, Florida, notification of intent to relocate de novo activities (to engage in data processing services to Commercial Banks and/or other financial institutions and their corporate clients) from 169E Flagler Street, Miami, Florida to 7550 N.W. 26th Street, Miami, Florida, through a department of the company known as Miami Computer Services Facility (7/17/77)[3]

Mercantile Bancorporation, Inc., St. Louis, Missouri, notification of intent to engage in de novo activities (operating as an industrial loan company in the manner authorized by the laws of West Virginia and will not both accept deposits and make commercial loans; and insurance agency or brokerage in connection with selling to borrowers credit life insurance and credit accident and health insurance) at 300 Carolina Avenue, Chester, West Virginia, through a subsidiary, Franklin Finance Company, through its wholly-owned subsidiary, Franklin Thrift and Loan Company of **Chester, Inc. (7/18/77)** [3]

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

Mercantile Bancorporation, Inc., St. Louis, Missouri, notification of intent to relocate de novo activities (making, acquiring or servicing loans or other extensions of credit for personal, family or household purposes such as are made by a finance company; and insurance agency or brokerage in connection with selling to consumer finance borrowers credit life insurance and credit accident and health insurance) from 537 9th Street, Huntington, West Virginia, to 3201 U.S. 60 East, Huntington, West Virginia, through its subsidiary Franklin Finance Company with a name change to Franklin Thrift and Loan Company of **Huntington, Inc. (7/21/77)** [3]

Mercantile Bancorporation, Inc., St. Louis, Missouri, notification of intent to relocate *de novo* activities (operating as an industrial loan company in the manner authorized by the laws of West Virginia and will not both accept deposits and make commercial loans; and insurance agency or brokerage in connection with selling to borrowers credit life insurance and credit accident and health insurance) from 541 9th Street, Huntington, West Virginia, to 3203 U.S. 60 East, Huntington, West Virginia, through a subsidiary, Bond Industrial Loan Company of Huntington, Inc. (7/21/77)[3]

First Security Corporation, Salt Lake City, Utah, notification of intent to engage in *de novo* activities (making or acquiring, for its own account or for the account of others, loans and other extension of credit such as are normally made by a mortgage company and the servicing of such loan accounts for itself and for others including loans on improved and unimproved residential and commercial properties) at 300 South 4th Street, Las Vegas, Nevada, through its subsidiary, First Security Mortgage Co. (7/17/77)[3]

Valley Bancorporation, Rexburg, Idaho, notification of intent to engage in *de novo* activities (making or acquiring, for its own account or for the account of others, loans secured by real property and related fixtures and/or personal property, and servicing such loans for any other person, corporation, firm or legal entity) at seven locations in southeastern Idaho: 110 East Main, Rexburg; 1625 Northgate Miles, Idaho Falls; 1 Riverside Plaza, Blackfoot; 910 Yellowstone Avenue, Pocatello; 30 West Main, St. Anthony; 503 Main Street, Ashton; and 15 North Main Street, Driggs, through its subsidiary, Mountain Mortgage Company (7/23/77)[3]

* * * * *

Certifications Issued Pursuant to the Bank Holding Company Tax Act of 1976

Westland Banks, Inc., Lakewood, Colorado (formerly Weerva, Inc.), prior certification pursuant to Section 6158(a) of the Internal Revenue Code, that the sale of substantially all of the assets of its travel agency, Westland Travel Service, to Westland Travel Service, Inc. on June 1, 1976, was necessary or appropriate to effectuate Section 4 of the Bank Holding Company Act. (Legal Division Docket TCR 76-113)[4]

APPLICATIONS RECEIVED

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act

[4] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

[4] Processed on behalf of the Board of Governors under delegated authority.

Valley Bank & Trust Company, Salt Lake City, Utah. Branch to be established in the vicinity of 8600 South and 1300 East, Sandy, Salt Lake County.

Walker Bank & Trust Company, Salt Lake City, Utah. Branch to be established in the vicinity of Downtown Roosevelt, Duchesne County.

National Bank of Richmond, Richmond, Virginia. Branch to be established at 1900 Lauderdale Drive, Henrico County.

Long Island Trust Company, Garden City, New York. Branch to be established at 206 Terminal Drive, Plainview, unincorporated area of Town of Oyster Bay, Nassau County.

The Oberlin Savings Bank Company, Oberlin, Ohio. Branch to be established at 56 South Pleasant Street, Oberlin, Lorain County.

Citizens Bank of Hattiesburg, Hattiesburg, Mississippi. Branch to be established at The Lincoln Road Square Shopping Center on the Corner of Lincoln Road and South 28th Avenue, Hattiesburg.

* * * * *

To Become a Member of The Federal Reserve System Pursuant to Section 9 of The Federal Reserve Act

Freeport State Bank, Freeport, Illinois.

* * * * *

To Merge Pursuant to Section 18(c) of the Federal Deposit Insurance Act

The Central Trust Company, Reynoldsburg, Ohio for prior approval to merge with the Newark Trust Company, Newark, Ohio.

Freeport State Bank Freeport, Freeport, Illinois, for prior approval to merge with the State Bank of Freeport, Freeport, Illinois.

To Establish an Overseas Branch of a Member Bank Pursuant to Section 25 of The Federal Reserve Act.

Citibank, National Association: Branch—Shell in Victoria, Seychelles.

Manufacturers and Traders Trust Company: Branch—Nassau, Bahamas.

Bank of America, National Trust & Savings Association: Branch—San Juan, Puerto Rico.

* * * * *

Thirty Day Notice by a Member Bank of Intention to Establish an additional Branch in a Foreign Country.

The First National Bank of Boston: Branch—Additional in Brasilia, Brazil.

Bank of America, National Trust & Savings Association Branch—Additional in Pusan, Korea.

* * * * *

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

First of Iowa Bank Shares, Inc., Delhi, Iowa, for approval to acquire 80 percent or more of the voting shares of Delhi Savings Bank, Delhi, Iowa.

Northwest Illinois Bancorp, Inc., Freeport, Illinois, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to the State Bank of Freeport, Freeport, Illinois.[2]

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

Barnett Banks of Florida, Inc., Jacksonville, Florida for approval to acquire 100 percent of the voting shares of Amelia Island Bank, Fernandina Beach, Florida.

First Charter Financial Corporation, Syracuse, Indiana, for approval to retain 882 shares of the voting shares of State Bank of Syracuse, Syracuse, Indiana.

First Texas Bancorp, Inc., Georgetown, Texas, for approval to acquire 80 percent or more of the voting shares of The First National Bank in Belton, Belton, Texas.[2]

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

Fidelity Union Bancorporation, Newark, New Jersey, notification of intent to engage in de novo activities (the business of making loans in the present maximum amount of $5,000 or less under the provisions of the Pennsylvania Consumer Discount Company Act; and making available to customers, credit life insurance and disability insurance covering the unpaid balance of loans outstanding) at 344 West Street Road, Feasterville, Pennsylvania, through a subsidiary of its subsidiary, Suburban Finance Company, known as Sentry Discount Company (7/18/77).[3]

First Commercial Banks, Inc., Albany, New York, notification of intent to relocate an office engaging in the following de novo activities (in the business of providing investment advice to persons other than mortgage or real estate investment trusts and investment companies registered under the investment company act of 1940) from 290 Madison Avenue, New York, New York to 321 Mantoloking Road, Township of Brick, New Jersey, through its subsidiary, FCB Advisory Services, Inc. (7/15/77).[3]

Citizens and Southern Holding Company, Atlanta, Georgia, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit, including specifically (but without limitation upon the foregoing) the making of loans secured by second mortgages upon residential and other real property; and servicing loans and other extensions of credit) at 487 Cherry Street, Macon (Bibb County), Georgia through a subsidiary, Citizens and Southern Equity Mortgage Company (7/22/77)[3]

BancOklahoma Corp., Tulsa, Oklahoma, notification of intent to engage through BankOklahoma Agri-Service Corp., a wholly-owned subsidiary, in a general partnership known as Agbanc of Oklahoma and thereby engage in de novo activities (to make, acquire, sell participations, and or service for its own account or for the account of others, loans or other extensions of credit for agricultural and agricultural related purposes), at Highway 54 East, Guyman, Oklahoma (7/21/77)[3]

Mountain Financial Services, Inc., Denver, Colorado, notification of intent to engage in de novo activities (in the business of servicing, brokering, making or acquiring, for its own account or for the account of others, loans, mortgages and other extensions of credit, including first or second commercial real estate loans and mortgages; first or second residential real estate loans and mortgages; guaranteed veterans administration loans and mortgages; insured federal housing administration loans and mortgages; and construction loans and mortgages) at 3600 South Yosemite, Denver, Colorado (7/18/77)[3]

Jefferson Bankshares of Colorado, Inc., Denver, Colorado, notification of intent to engage in de novo activities (leasing personal property or acting as agent, broker or advisor in leasing such property, and leasing real property or acting as agent, broker or advisor in leasing such property) at 7590 West Colfax Avenue at Wadsworth, Denver, Colorado (7/21/77)[3]

Scottsbluff National Corporation, Scottsbluff, Nebraska, notification of intent to engage in de novo activities (operating an industrial loan and investment company pursuant to the laws of the State of Nebraska, including the issuance of installment and paid-up certificates of indebtedness and making consumer installment loans and agricultural equipment loans secured by the property purchased and making second mortgage loans secured by real estate; sale of all types of credit life and credit accident and health insurance related solely to extension of credit) at 702 East 27th Street, Scottsbluff, Nebraska, through a subsidiary, Scotts Bluff Savings Co. (7/22/77)[3]

Bankamerica Corporation, San Francisco, California, notification of intent to engage in de novo activities (making or acquiring, for its own account loans and other extensions of credit such as would be made or acquired by a finance company and servicing loans and other extensions of credit; such activities will include but not be limited to making consumer instalment loans, purchasing instalment sales finance contracts, making loans and other extensions of credit to small businesses, and making loans secured by real and personal property; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance in connection with extensions of credit made or acquired by FinanceAmerica Corporation) at 37777 Paseo Padre Parkway, Fremont, California, through its indirect subsidiary FinanceAmerican Corporation (A California Corporation) (7/14/77)[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to relocate de novo activities (the financing of personal property and equipment and real property and the leasing of such property or the acting as an agent, broker or advisor in the leasing and or financing of such property, where at the inception of the initial lease the effect of the transaction (and, with respect to governmental entities only, reasonably anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease, and the servicing of such financings and or leases) from 505 Northern Boulevard, Great Neck, New York to 150 East 58th Street, New York, New York, through its subsidiary, Security Pacific Leasing Corporation (7/13/77)[3]

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(12) of the Bank Holding Company Act of 1956.

The Jacobus Company, Milwaukee, Wisconsin, notification of intent to acquire Madison Fuel Company, Madison, Wisconsin, a residential and commercial heating fuel oil business (7/18/77)[3]

N L Industries, Inc., New York, New York, notification of intent to acquire all of the outstanding stock of Ashton Supply Co., Inc., a Utah Corporation (7/18/77)[3]

Sterling Precision Corporation, West Palm Beach, Florida, notification of intent to acquire the outstanding stock of the following automotive replacement parts distributors, having corporate headquarters in Bangor, Main: Automotive Jobbers Warehouse, Ellsworth Auto Parts Company, American Auto Parts Company, and American Gear & Auto Parts Company (7/20/77)[3]

For Certification Pursuant to the Bank Holding Company Tax Act of 1976.

Searco Investment Company, Prairie Village, Kansas, to divest shares of Southgate Bank and Trust Company, Prairie Village Kansas. (Legal Division Docket TCR 76-143)[4]

* * * * *

REPORTS RECEIVED

Current Report Filed Pursuant to Section 13 of the Securities Exchange Act.

The Bank of Eden, Eden, North Carolina. Citizens Commercial & Savings Bank, Flint, Michigan. Hempstead Bank, Hempstead, New York.

* * * * *

Proxy Statement (Special Meeting) Filed Pursuant to Section 14(a) of the Securities Exchange Act.

The Ohio Citizens Trust Company, Toledo, Ohio.

* * * * *

PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, August 15, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-24178 Filed 8-19-77;8:45 am]

MANCHESTER FINANCIAL CORP.

Order Approving Acquisition of Bank

Manchester Financial Corp., St. Louis, Missouri, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under § 3(a)(3) of the Act (12 U.S.C. § 1842(a)(3) to acquire all of the voting shares, less directors' qualifying shares, of Manchester Bank West County, Maryland Heights, Missouri ("Bank"), a proposed de novo bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received including those of the Plaza Bank of West Port, St. Louis, Missouri ("Plaza Bank"), and of the Missouri Association of Community Organizations for Reform Now, in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant controls two banks with total deposits of $140.9 million, representing approximately 0.7 percent of the total deposits in commercial banks in Missouri.[1] Since the application involves the acquisition of a proposed de novo bank, consummation of the proposal would not immediately increase Applicant's share of commercial bank deposits in Missouri.

[1] All deposit data are as of December 31, 1976.

V 42 162 AUG 22 77 UM

Bank is to be located in the St. Louis banking market,[2] the same market in which Applicant's two existing subsidiary banks are located. Applicant is the thirteenth largest banking organization in the St. Louis banking market, with 1.7 percent of total deposits in commercial banks in the market. Applicant's share in this banking market would not change initially as a result of approval. The proposed site of Bank is Maryland Heights, a suburban area in west St. Louis County, with the closest banking office of any subsidiary of Applicant[3] located approximately 17 miles southeast of Bank. The expected primary service area ("PSA") of Bank does not include any portion of the PSA's of Applicant's subsidiary banks, although the subsidiaries currently do derive some business from Bank's expected PSA. One other bank, Plaza Bank ($38.2 million in deposits), is located in Bank's PSA and seven other banks (none of them subsidiaries of Applicant) are located within six miles of Bank. Since Bank is a de novo bank, there will be no elimination of existing or potential competition. There would appear to be, therefore, no adverse competitive effects that would derive from consummation of this proposal.

The financial and managerial resources and future prospects of Applicant and its subsidiary banks are regarded as satisfactory. Bank, as a proposed de novo bank, has no financial or operating history; however, its prospects as a subsidiary of Applicant appear favorable.

Establishment of Bank would provide an additional source of banking service to the community. Bank would offer a full range of banking services, including data processing, commercial and consumer loans, construction and real estate loans, and savings plans. Bank will have access to Applicant's financial and managerial resources and the capability of selling loan participations in excess of $1,000,000 to Applicant's subsidiary banks, thereby meeting the larger credit needs of the community.

The Board has received comments in opposition to the proposal that relate to convenience and needs factors. Plaza Bank, the only other commercial bank located in Bank's projected primary service area, suggests that the growth of the proposed service area has leveled off since 1970 and that, therefore, the area cannot support a de novo bank at the present time. In support of this, Plaza Bank submitted economic statistics that forecast slower rates of growth for the proposed service area of the new bank by 1980.

Bank will be located in the St. Louis County portion of the St. Louis banking market. This area has been one of the fastest growing counties in the St. Louis Standard Metropolitan Statistical Area ("SMSA"). During the 1960–70 decade, the population of St. Louis County increased 35.3 percent relative to an increase of 11.2 percent for the St. Louis SMSA and 8.0 percent for the State.[4]

For the period 1970–75, the population of St. Louis County increased approximately 3.9 percent relative to a 1.8 percent increase for the population of the State. St. Louis County is projected to grow an additional 3.8 percent in population by 1980.

The population growth of the proposed PSA of Bank exceeded that of St. Louis County from 1960 to 1975. For example, population for the PSA increased 168.3 percent (12,300 to 33,000) from 1960 to 1970 and an additional 30.3 percent (33,000 to 43,000) from 1970 to 1975. As Plaza Bank suggests, it may be difficult for this area to maintain this high rate of population growth in future years; however, there is nothing in the record to indicate that this area will not continue to experience growth or that the area is unable to support a new bank.

Bank will be located in a new shopping center, one mile west of the largest industrial district in northwest St. Louis County. It is estimated that there are approximately 1,100 firms in the PSA, employing 17,000 persons. In addition, a multifaceted business, retail, and entertainment complex lies within the PSA. There are no local conditions apparent at this time that would adversely affect the future of Bank.

From 1970 to 1976, total deposits increased 78.1 percent for the banks in St. Louis County relative to 56.5 percent deposit growth for all the banks in the SMSA and 66.6 percent for the State. In addition, Plaza Bank moved to its present location in April, 1975, presumably finding that relocation, which is near the site of Bank and within Bank's PSA, to be responsive to a need for banking services in that area. From June, 1975 to December, 1976 in this new location, Plaza Bank's deposit base increased substantially and at a greater rate than the aggregate deposit growth of all banks in St. Louis County. In the Board's view, this area can support an additional bank and the Board, therefore, agrees with the Missouri Commissioner of Banking that the formation of a new bank in this area would significantly enhance the convenience and serve the needs of the community.

The Board has received the views of the Missouri Association of Community Organizations for Reform Now ("ACORN") relating to the convenience and needs of the communities to be served. ACORN asserts that Applicant's larger subsidiary bank, Manchester Bank of St. Louis, St. Louis, Missouri ("Manchester Bank", total deposits of $126.6 million) follows a practice of disinvestment in the city of St. Louis. Specifically, ACORN alleges that in 1975, the Manchester Bank made only 11 mortgage loans in the entire City of St. Louis, totalling $78,000 or 7.6 percent of the total mortgage dollars lent by Manchester Bank, while "three wealthy suburbs received $539,000 in mortgage loans or 52.8 percent of the 1975 total."

ACORN further alleges that during the period from January to June, 1976, Manchester Bank made 20 home mortgage loans totalling $889,000, only four of which were made in the city, totalling $51,000, or less than 6 per cent of the total. From July to December of 1976, $851,100 in mortgage loans were made by Manchester Bank, nine of which (comprising 13 per cent of the total dollars) were made within the city, according to ACORN. Yet, during the year only two mortgage loans totalling $10,500 were made in "the Manchester Tower Grove area" in which Manchester Bank is located, according to ACORN.

Finally, ACORN asserts that from July to December of 1976, Manchester Bank made 100 home improvement loans totalling $216,433 and that only two of these loans—totalling $8,976—were made in the Bank's immediate area. ACORN urges the Board to consider the alleged community disinvestment practices of Manchester Bank in its decision on this application.

Applicant has responded to ACORN's assertions by citing Manchester Bank's "extensive involvement in recent years in efforts to redevelop areas of the City of St. Louis, including the area immediately surrounding the Bank * * *."

In evaluating ACORN's comments, it is significant that it relates to only one type of banking service. An examination of one service alone does not produce an accurate view of a bank's overall ability to meet the convenience and needs of its community. ACORN focuses primarily upon the origination of residential real estate loans, and ignores the many other types of services and loans offered by Manchester Bank. As of December 31, 1976, 11.5 per cent ($7.7 million) and 1.0 per cent ($0.7 million) of Manchester Bank's total loan portfolio were loans secured by mortgages on 1–4 family residential properties and home improvement loans, respectively. It appears from the record that Manchester Bank emphasizes loans to businesses, that is, commercial real estate loans ($8.7 million, 12.9 per cent of total loans) and commercial and industrial loans ($36.8 million, 54.5 per cent of total loans) over residential mortgage loans. The balance of Manchester Bank's loans are in the consumer area (approximately $13.6 million, 20.1 per cent). As the Board has indicated on previous occasions, commercial banks are multiproduct firms that offer a broad range of services to the community. As the Board has previously stated:

"Bank managements should and do have a range of discretion as to the types of loans they will make and the degree of risk they will assume." AS&T may reasonably choose to minimize or to emphasize a particular type of lending, and it would not be appropriate to assess AS&T's performance in satisfying the convenience and needs of the community by focusing on only two of the many services it offers.[5]

To evaluate a bank's performance with respect to serving the convenience and needs of the community solely on the basis of only one of the services a bank may offer overlooks entirely the interests of the many other customers a bank may serve through a broad range of services denominated as "commercial banking." For instance, it appears that Manchester Bank has invested more funds in redevelopment bonds than its total mortgage lending volume during the July to December 1976 period cited by ACORN. These bonds, issued by the Planned Industrial Expansion Authority of the City of St. Louis, Missouri, are earmarked for commercial development in the very area as to which ACORN has alleged disinvestment. Instead of this focus on a limited area, the Board looks to the aggregate of all the commercial banking services provided by a bank in evaluating what weight should be accorded the convenience and needs considerations in connection with a particular application.

In this case, the data submitted to the Board by ACORN, when considered in the context of Manchester Bank's aggregate investment and loan portfolio and the variety of other services offered by that institution, do not, in the Board's judgment, establish probable cause to believe that Manchester Bank has failed to serve the needs of the community in which it operates, nor that Bank, as a subsidiary of Applicant, will not be in a position to serve the convenience and needs of the community in which it will be operating.

Finally, Plaza Bank has argued here that the method of Bank's incorporation represents a violation of a provision of Missouri State law[6] that should prevent the Board from approving the proposal. Plaza's argument rests on two premises: (1) That the Board is required to consider issues of State law such as that presented by this proposal in deciding whether to approve or deny the subject application; and (2) that the chartering of Bank was invalid under § 362.015 of the Statutes of Missouri.[7]

[2] The St. Louis banking market includes all of the city of St. Louis and St. Louis County, portions of St. Charles and Jefferson Counties in Missouri, and portions of Madison and St. Claire Counties in Illinois.

[3] The National Bank of Affton, Affton, Missouri.

[4] All population data are from the Bureau of the Census. Population projections are from the St. Louis Chapter, American Statistical Association.

[5] Board's Order of February 19, 1976 approving the application of American Security Corporation, to acquire the successor by merger to American Security and Trust Company, both of Washington, D.C., 62 Fed. Res. Bull. 255, 258 (1976), citing the Board's Order of November 19, 1975, approving the acquisition and merger applications of Marine Midland Bank, Inc., Buffalo, New York, 61 Fed. Res. Bull. 890, 893 (1975).

[6] MO. ANN. STAT. § 362.015 (Vernon 1968).

[7] Section 362.015 of the Statutes of Missouri (MO. ANN. STAT. § 362.015 (Vernon 1968)) provides that "any five or more persons who shall have associated themselves by articles of agreement in writing, as provided by law, for the purpose of establishing a bank or trust company may be incorporated under any name or title designating such business." This provision has been interpreted by Missouri State courts as prohibiting a corporation from acting as the principal named incorporator of a bank. *Mark Twain Cape Girardeau Bank v. State Banking Board*, 528 S.W. 2d 443 (MO. App. 1975); *Mark Twain Bancshares, Inc., v. Kostman*, 541 S.W. 2d (MO. App. 1975). Plaza Bank contends that the five individual incorporators of Bank (who presently serve in the capacity of officers and/or directors in Applicant and/or Applicant's subsidiary banks) are not "persons" within the meaning of § 362.015 because, Plaza Bank argues, the individuals are acting in the capacity of agents of Applicant and a corporation should not be able to do indirectly what it is prohibited from doing directly.

[8] 379 U.S. 411 (1965).

[9] Id. at 419.

[10] See Intermountain Bankshares Co., 61 Fed. Res. Bull. 442 (1975) (West Virginia statute arguably prohibiting the formation of bank holding companies in the State); Northwest Bancorporation, 38 FR 21530 (1973) (Iowa statute restricting acquisition of Iowa Bank by out-of-state bank holding companies); and Valley View Bancshares, Inc., 61 Fed. Res. Bull. 676 (1975) (Kansas statute prohibiting formation of multi-bank holding companies).

Pursuant to the Supreme Court's holding in Whitney National Bank of Jefferson Parish v. Bank of New Orleans and Trust Company,[8] the Board may "not approve a holding company arrangement involving the organization and opening of a new bank if the opening of the bank, by reason of its ownership by a bank holding company, would be prohibited by a valid state law."[9]

The Whitney case involved a bank holding company acquisition of a new bank that, the plaintiff contended, would in actuality function as a branch bank in a State in which branch banking was prohibited by State law. Thus, it was asserted, Board approval of an application to acquire such a bank would have enabled the bank holding company to enter into a de facto branch banking arrangement that was prohibited by State law and, in effect, would have constituted Board approval of unlawful conduct. Since the holding in Whitney, the Board has resolved issues of State law where they directly pertain to the question of whether the acquisition of a bank by a bank holding company would result in a violation of State law.[10] In the facts prsented by the instant application, however, the violation, if any, of Missouri law occurred upon the issuance of the charter for Bank by the Missouri Commissioner of Finance. Approval of the instant application would constitute an approval of Applicant's acquisition of shares of Bank, not approval of the chartering of Bank. Thus, the Board, by approving the instant application, would not approve assertedly unlawful conduct.

The Board has never presumed to review the incorporation or chartering procedures defined by State statutes and administered by State banking officials. Instead, the Board merely requires evidence of the issuance of the necessary charter or its conditional or preliminary approval and solicits the comments of the appropriate banking authority.[11] Here, Bank's charter has been granted by the Missouri Finance Commissioner and, absent a judicial determination to the contrary, the Board presumes that the charter was granted lawfully. Since the effectiveness of the chartering action has not been stayed, the pending litigation in the Missouri State courts does not act as a bar to the Board's action on this application.[12]

Based on the foregoing and the facts of record, the Board concludes that there would be no adverse competitive effects resulting from consummation of the proposal and that considerations relating to banking factors and convenience and needs of the community to be served are consistent with approval of the application. It is the Board's judgment that the proposed acquisition is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after that date, and (c) Manchester Bank of West County, Maryland Heights, Missouri, shall be opened for business not later than 6 months after the effective date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of St. Louis, pursuant to delegated authority.

By order of the Board of Governors,[13] effective August 15, 1977.

ROBERT E. MATTHEWS,
Assistance Secretary of the Board.

[FR Doc.77-24176 Filed 8-19-77;8:45 am]

[11] The Board's practice of not examining the validity of State banking charters is consistent with Missouri State law which provides that the exclusive proceeding by which competing banks may challenge a bank charter is by appealing the issuance of that charter in State court, pursuant to §§ 361.094 and 361.095, Missouri Statutes.

[12] Plaza Bank has challenged the charter in several State Administrative and judicial actions, some of which are still pending; however, to date the Bank's charter has not been stayed. The Board's approval, of course, does not preclude Plaza Bank from continuing to pursue its remedies in the Missouri State courts.

[13] Voting for this action: Governors Wallich, Coldwell, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns and Governor Gardner.

ROYAL TRUSTCO LIMITED

Formation of Bank Holding Company

Royal Trustco Limited, Ottawa, Ontario, Canada, has applied for the Board's approval under § 3(a)(1) of the

V 42162 AUG 22 77 UM V

Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of all the voting shares of Royal Trust Bank Corp., Miami, Florida, a bank holding company. The factors that are considered in acting on the application are set forth in §3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 12, 1977.

Board of Governors of the Federal Reserve System, August 15, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-24177 Filed 8-19-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following request for clearance of reports intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on August 16, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CFTC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before September 9, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street, NW.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

COMMODITY FUTURES TRADING COMMISSION

The CFTC requests clearance of two new voluntary single-time questionnaires: one to be sent to all commodity trading advisors registered with the Commission, Form CTA-Q-1; and the other to be sent to all registered commodity pool operators; Form CPO-Q-1. The questionnaires are intended to aid the CFTC in obtaining more information about these registrants, particularly their operating policies and relationships with clients, subscribers and participants. The replies will prove helpful to the Commission in carrying out its rulemaking authority in these areas. Among other things, the Commission hopes to be able to assess from the replies the additional workload that may be imposed upon commodity trading advisors and pool operators by the regulations which the Commission proposed on February 15, 1977 (42 FR 9266 and 9278).

CFTC estimates the questionnaires will be mailed to the approximately 850 commodity trading advisors and 500 commodity pool operators currently registered with the Commission. CFTC believes that most of the information requested will be readily available to the respondents from their normal management reports and records and that reporting burden will average 8 hours per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-24159 Filed 8-19-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. F-435]

SECRETARY OF DEFENSE

Revocation of Delegations of Authority

1. *Purpose.* This regulation revokes certain delegations of authority granted to other agencies to represent the consumer interests of the executive agencies of the Federal Government in utility proceedings which have been terminated.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires on August 31, 1977.

4. *Revocation.* This revocation identifies those delegations which are no longer in force due to completion of the proceedings for which they were issued. Accordingly the following FPMR temporary regulations are hereby revoked:

Number	Date	Subject
F-161	Nov. 14, 1972	Delegation of authority to the Secretary of Defense—regulatory proceedings.
F-200	Nov. 28, 1973	Do.
F-213	Mar. 22, 1974	Do.
F-225	July 12, 1974	Do.
F-306	Oct. 11, 1974	Do.
F-323	Jan. 3, 1975	Do.
F-326	Jan. 20, 1975	Do.
F-347	June 27, 1975	Do.

Dated: August 14, 1977.

JOEL W. SOLOMON,
Administrator of General Services.

[FR Doc.77-24131 Filed 8-19-77;8:45 am]

[Federal Property Management Regs.; Temporary Reg. F-437]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent in conjunction with the Administrator of General Services the interests of the executive agencies of the Federal Government in a telecommunications rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Alaska Public Utilities Commission involving the application of RCA Alaska Communications, Inc. for interim and permanent increases in its rates and charges for telecommunications service. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated August 8, 1977.

JOEL W. SOLOMON,
Administrator of General Services.

[FR Doc.77-24132 Filed 8-19-77;8:45 am]

[Federal Property Management Regs.; Temporary Reg. F-436]

SECRETARY OF DEFENSE

Revocation of Delegations of Authority

1. *Purpose.* This regulation revokes certain delegations of authority granted to other agencies to represent the consumer interests of the executive agencies of the Federal Government in communications proceedings which have been terminated.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires on August 31, 1977.

4. *Revocation.* This revocation identifies those delegations which are no longer in force due to completion of the proceedings for which they were issued. Accordingly, the following FPMR temporary regulations are hereby revoked:

Number	Date	Subject
F-338	May 20, 1976	Delegation of authority to the Secretary of Defense—regulatory proceedings.
F-108	Jan. 3, 1977	Do.

Dated: August 8, 1977.

JOEL W. SOLOMON,
Administrator of General Services.

[FR Doc.77-24133 Filed 8-19-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FEDERAL COUNCIL ON THE AGING

Meeting

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 93-29) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging, and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to Pub. L. 92-463 that the Federal Council on the Aging will meet on September 14, 15, and 16, 1977, Wednesday, Thursday, and Friday, from 9:30 a.m. to 5 p.m. each day in the Snow Room 5051, HEW-North Building, 330 Independence Ave. SW., Washington, D.C. 20201. The agenda will consist of: Position on Energy/Weather Crisis and the Elderly; Impact of President's Proposals for Welfare Reform; Review of FCA Study of Assets; Review of Background Paper on National Health Policy for the Elderly; Review of Evaluation of Federal Council on the Aging; Review of FCA Project on Frail Elderly; Status of Council Studies on Health Manpower and Minority Elderly; Position on Mandatory Retirement; FCA Policy on Endorsement of Activities of Non-Governmental Organizations and Prospective FCA Program Developments.

This meeting will be open for public observation.

Further information on the Council may be obtained from: Cleonice Tavani, Executive Director, Federal Council on the Aging, Washington, D.C. 20201. telephone: 202-245-0441.

Dated: August 16, 1977.

CLEONICE TAVANI,
Executive Director, Federal Council on the Aging.

[FR Doc.77-24173 Filed 8-19-77;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

Meeting

AGENCY: National Avisory Council on Vocational Education.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meetings of the National Advisory Council on Vocational Education. It also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(a)). This document is intended to notify the general public of their opportunity to attend.

DATES: Visitation by the Council and Staff to five selected sites of vocational-technical education in the Chicago area on September 22, 1977 from 8:30 a.m. to 5 p.m. Meeting of the National Advisory Council on Vocational Education on September 23, 1977 from 8:30 a.m. to 4 p.m.

ADDRESS: Hyatt Regency O'Hare, 9300 Bryn Mawr, Rosemont, Ill.

FOR FURTHER INFORMATION CONTACT:

Virginia Solt, NACVE Staff, 425 13th Street NW., Suite 412, Washington, D.C. 20004, 202-376-8873.

The National Advisory Council on Vocational Education is established under Section 104 of the Vocational Education Amendments of 1968, Pub. L. 90-576. The Council is directed to:

(A) Advise the Commissioner concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof

The meeting on September 23, 1977 will be open to the public from 8:30 a.m. to 4 p.m. This meeting will be held at the Hyatt Regency O'Hare Hotel, Rosemont, Ill.

The proposed meeting of the National Advisory Council on Vocational Education on September 23, 1977 includes:

Reports of the Chairman and Executive Director.
Welcome to guests.
Approval of August Minutes
Review of Year-end Budget
Committee/Task Force Reports
Energy Report.
Budget Discussion.
Mechanism for Reviewing State Plans and Annual Evaluation Reports.
Planning for meeting at AVA Convention.

Records shall be kept of all Council proceedings and shall be available 14 days after the meeting for public inspection at the office of the National Advisory Council on Vocational Education, located at 425 13th Street NW., Suite 412, Washington, D.C. 20004.

Signed at Washington, D.C., on August 17, 1977.

REGINALD E. PETTY,
Executive Director, National Advisory Council on Vocational Education.

[FR Doc.77-24188 Filed 8-19-77;8:45 am]

PINPOINT DISASTER ASSISTANCE

Claosing Closing for Receipt of Applications

Correction

In FR Doc. 77-23547 appearing at page 41327 in the issue for Tuesday, August 16, 1977 in the third column, second paragraph, 5th line, the word "• • • application • • •" should have read "• • • publication • • •".

Office of Human Development

RESEARCH AND DEMONSTRATIONS IN VOCATIONAL REHABILITATION

Extension of Deadline for Grant Application

The Rehabilitation Services Administration, Office of Human Development, announces that it is extending the due date for receipt of applications under its Rehabilitation Research and Demonstration Program. New and competing extension applications will now be accepted until September 15, 1977 for the following funding priority area: (1) Universe of Needs. Objective: To review current research efforts on conceptualization of disability based on functional limitations; categorize current efforts; identify approaches which have the greatest promise for assisting in the planning and delivery of vocational rehabilitation services; and prioritize gaps in research so that future efforts may address them.

Funding Priority: Priority will be given to those applications which address the above objective in terms of: Functional limitations: State of the Art Review (A-3). (A conference of investigators who are researching functional limitations will be organized as a part of the project effort.)

The program was originally announced in the FEDERAL REGISTER, Vol. 42, No. 93, 42 FR 24331, Friday, May 13, 1977, as Program Announcement Number 13627-772.

Application kits which contain the prescribed forms, the project description and information for the application may be obtained by making a request, containing the funding priority and number, to: Division of Grants and Contract Management, Office of Human Development, Room 1427, Mary E. Switzer Building, 330 "C" Street SW., Washington, D.C. 20201, Attention: (13627-772).

(Catalog of Federal Domestic Assistance Program Number: 13.627 Rehabilitation Research and Demonstration.)

Dated: August 15, 1977.

JOSEPH MOTTOLA,
Acting Commissioner of Rehabilitation Services.

Approved: August 16, 1977.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development.

[FR Doc.77-24174 Filed 8-19-77;8:45 am]

Office of the Secretary

COMMENTS ON COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

Pursuant to Section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The U.S. Office of Education, and the Office for Civil Rights have proposed col-

lections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquistion activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before September 21, 1977, and should be addressed to Administrator, National Center for Education Statistics, Attention: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: August 17, 1977.

IRIS GARFIELD,
Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Application for Grant Under Teacher Corps Programs.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Immediate Office of the Commissioner, Teacher Corps.

3. AGENCY FORM NUMBER

OE Form 298.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Sec. 511. The purpose of this subpart is to strengthen the educational opportunities available to children in areas having concentrations of low-income families and to encourage colleges and universities to broaden their programs of teacher preparation and to encourage institutions of higher education and local educational agencies to improve programs of training and retraining for teachers and teacher aides. • • •

Sec. 512. In order to carry out the purposes of this subpart, there is hereby established in the Office of Education a Teacher Corps.

Sec. 513. (a) For the purpose of carrying out this subpart, the Commissioner is authorized to • • • enter into arrangements, through grants or contracts, with institutions of higher education or local educational agencies • • • State educational agencies. • • •" (Pub. L. 89-329, 20 U.S.C. 1101, 1102, 1103.)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain or maintain benefits.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

Information collected will be used to make awards to eligible applicants.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: Spring.
c. Frequency: Annually.

8. RESPONDENTS

a. Type: College and Universities.
b. Number: 250.
c. Estimated average man-hours per respondent: 20.
a. Type: Local Education Agencies.
b. Number: 250.
c. Estimated average man-hours per respondent: 20.
a. Type: State Education Agencies.
b. Number: 250.
c. Estimated average man-hour per respondent: 20.

9. INFORMATION TO BE COLLECTED

All respondents will be required to provide information requested on the standard non-construction application for Federal assistance. Special emphasis will be given in the program narrative to the identification of local needs and how they relate to strengthening educational opportunities available to children from low-income families and broadening programs of teacher preparation; clearly stated principal and subordinate project objectives; collaborative development of the proposal; reference to staffing and facilities; and the methods of evaluating and documenting the project.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Evaluation of ESEA Title I Programs for Institutionalized Neglected or Delinquent Children.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Office of Planning, Budgeting and Evaluation.

3. AGENCY FORM NUMBERS

OE 518-1 through -7.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"Sec. 151.(a) The Commissioner shall provide for independent evaluations which describe and measure the impact of programs and projects under this title." . . . (Pub. L. 93-380; 20 USC 241o.)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED

The information will be used to guide management decisions about program operations and to determine the need for legislative changes.

7. DATA ACQUISITION PLAN

a. Method of collection: Interview.
b. Time of collection: Winter, 1977-78.
c. Frequency: Single time.

8. RESPONDENTS

a. Type: Directors of State correctional facilities.
b. Number: 40.
c. Estimated average man-hours per respondent: 0.50.
a. Type: Education program administrator in State correctional facilities.
b. Number: 40.
c. Estimated average man-hours per respondent: 1.25.
a. Type: Fiscal officers in State correctional facilities.
b. Number: 40.
c. Estimated average man-hours per respondent: 1.0.
a. Type: Teachers in State correctional facilities.
b. Number: 147.
c. Estimated average man-hours per respondent: 2.5.
a. Type: Students in State correctional facilities.
b. Number: 2200.
c. Estimated average man-hours per respondent: 5.5.

9. INFORMATION TO BE COLLECTED

Respondent type: Directors of State correctional facilities.

Characteristics of facility staff: numbers per role and turnover.

Residents: number by race, age, length-of-stay.

Respondent type: Education program administrator.

Characteristics of facility education program: numbers of students in different programs, staffing of programs, and relative importance of each.

Respondent type: Fiscal officers in State correctional facilities.

Expenditures from difference sources: Federal and State by different programs.

Respondent type: Teachers in State correctional facilities.

Characteristics of educational approaches, techniques and grouping practices.

Student receipt of services; in various subject matters in groupings, with equipment.

Teacher background and attitudes: education, experience, preferred practices.

Respondent type: Students in state correctional facilities.

Data on background, length of time in institution, reason.

Data on school experience, preferred subjects, progress.

Data on achievement levels in reading and mathematics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Supplemental information for local education agency grants under the Emergency School Aid Act. (Annual pre-grant clearance review.)

2. AGENCY/BUREAU/OFFICE

Office of the Secretary, Office for Civil Rights.

3. AGENCY FORM NUMBERS

OS/CR 532-1; 532-2.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

The provisions of the Emergency School Aid Act require in Section 710 that:

"Any local educational agency desiring to receive assistance under this title for any fiscal year shall submit to the Assistant Secretary an application therefore for that fiscal year at such time in such form, and containing such information as the Assistant Secretary shall require by regulation . . ."

The introduction to the regulation of this Act in the FEDERAL REGISTER (Tuesday, February 6, 1973, p. 3452) states that:

"Federal financial assistance provided pursuant to the Emergency School Aid Act is subject to the regulation in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare and approved by the President, to effectuate the provisions of section 601 of the Civil Rights Act of 1964 (42 U.S.C. 2000d)...."

Pursuant to the record keeping requirements for enforcement of Title VI of the Civil Rights Act of 1964, the pertinent regulation (Section 80.6(b)) says:

"• • • Each recipient shall keep such records and submit to the responsible Department official or his/her designee timely, complete, and accurate compliance reports at such time, and in such form and containing such information, as the responsible Department official or his/her designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part"• • •

Section 13 (k) of the Emergency School Aid Act's implementing regulation (45 CFR Part 185) includes under the application provisions for any fiscal year, the following reports and information:

"An assurance that the applicant will submit such reports containing such information in such form as the Secretary or the Assistant Secretary may require in order to carry out their functions under the Act . . ."

Subpart (3) of Section 13(k) further specifies:

"Reports and records required to be kept and made available to the Assistant Secretary under this paragraph shall include information as to the matters set out in 185.43 (Limitations on Eligibility) and 185.44 (Waiver of Ineligibility), including but not limited to:

• • • (iii) Records relating to assignment of children to or within classes and to any ability grouping practiced by the applicant, as such grouping is defined in 185.43(c) (Classroom segregation); and (iv) Records relating to the practices or procedures referred to in 185.43(d), including specific information as to disciplinary sanctions (corporal punishment, suspension, expulsion, and the like) imposed upon minority and nonminority group children in every school operated by the applicant."

The Associate Commissioner for Equal Educational Programs, in conjunction with the Office for Civil Rights, to whom OE has delegated its compliance responsibilities under ESAA, has determined that there must be current data to make a determination of eligibility for ESAA each year.

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain benefits.

6. HOW INFORMATION COLLECTED WILL BE USED

Each application for a LEA grant under the Emergency School Aid Act will be subject to an OCR pre-grant clearance review.

A. *School language services.*—The difference between the number of students who need language-related programs and the number who actually receive such services identifies potential problems in this area.

B. *Discipline and assignment to programs or classrooms.*—Racial assignment or treatment patterns which differ in a significant manner from that which would be statistically expected are indicators of potential exception children, special education and gifted programs, as well as assignment to regular classrooms, either over- or under-inclusion of various groups is an indicator of a possible compliance problem. The racial/ethnic enrollment in the school generally provides the norm against which the discipline and assignment information is compared. In special education, however, some programs draw their students from a broader area than the regular school attendance area. In such cases, the school district enrollment figures serve as the norm for the comparisons.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: January.
c. Frequency: Biennially.

8. RESPONDENTS

a. Type: Local education agencies
b. Number: Approximately 700 districts.
c. Estimated average man-hours per respondent: .25.

a. Type: Public elementary and secondary schools.
b. Number: Approximately 10,500 schools in the LEA's.
c. Estimated average man-hours per respondent: 5.

9. INFORMATION TO BE COLLECTED

Applicants for local educational agency (LEA) grants, including basic grants, pilot projects, bilingual projects, emergency special projects, territories, special arts, special student concerns projects, magnet schools and University/Business Cooperation projects, and neutral site planning projects are required to submit, in addition to the OE 116-1 form, the following information for each school broken down into the official racial/ethnic categories:

a. The enrollment;
b. The number of pupils who use or speak a language other than English more frequently than English;
c. The number of pupils who are provided services related to their limited English speaking ability;
d. The presence of special education programs and their attendance area;
e. The number of pupils who were suspended for various periods of time as well as the number expelled, administered corporal punishment, referred to court or juvenile authorities, and referred to alternative education programs as a formal disciplinary measure during the preceding year;
f. The number of pupils participating in programs for the educable mentally retarded, trainable mentally retarded, seriously emotionally disturbed, specific learning disabled and gifted or talented; and
g. The number of pupils in a sample of eighteen classrooms.

[FR Doc.77-24158 Filed 8-19-77;8:45 am]

National Institute of Education

PANEL FOR THE REVIEW OF LABORATORY AND CENTER OPERATIONS

Notice of Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463), the National Institute of Education announces the chartering by the Secretary, HEW, of the Panel for the Review of Laboratory and Center Operations.

Designation: Panel for the Review of Laboratory and Center Operations.

Purpose: The Panel will assist the Director in the assessment of the plans and capabilities of the educational laboratories and research and development centers funded by the Institute.

Authority: Section 405(f)(3) of the General Education Provisions Act, as amended by Section 403 of the Education Amendments of 1976, 20 USC 1221e(f)(3).

Dated: August 16, 1977.

JOHN CHRISTENSEN,
Acting Director

[FR Doc.77-24242 Filed 8-19-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES 14330]

FLORIDA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

The Fish and Wildlife Service, U.S. Department of the Interior, filed application ES 14330 on September 3, 1974, for withdrawal of the following described lands in Lee County, Florida:

TALLAHASSEE MERIDIAN

T. 44 S., R. 21 E.,
Sec. 6: lot 4;
Sec. 7: lot 10.

Containing an aggregate of 57.87 acres.

The applicant desires to preserve the wildlife habitat and estuarine environment of these contiguous lots on Punta Blanca Island by including them in the J. N. "Ding" Darling National Wildlife Refuge.

A notice of proposed withdrawal was previously published as FR Document No. 76-20093 in 41 FR 28808 on July 13, 1976.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2754) notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request with the undersigned officer of the Bureau of Land Management on or before September 24, 1977.

If a public hearing is scheduled, a notice will be published in the FEDERAL REGISTER giving the time and place of such hearing. All previous comments of record concerning the proposed withdrawal will be considered in making a final determination on the application. In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned officer of the Bureau of Land Management on or before September 24, 1977.

The above-described land is temporarily segregated from all forms of appropriation under the public land laws. Current administrative jurisdiction over the segregated land will not be affected by the temporary segregation. In accordance with Section 204(g) of the aforementioned Act of October 21, 1976, the segregative effect of the pending withdrawal will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

V 42 16 2 AUG 22 77 UM V

All communications in connection with this proposed withdrawal should be addressed to the Director, Eastern States, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Maryland 20910.

LOWELL J. UDY,
Director, Eastern States.

[FR Doc 77-24218 Filed 8-19-77;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Request for Amendment

A permit authorizing certain work of the Patuxent Center's Endangered Wildlife Research Program was not included in the Endangered Species Permit and/or Amendment Nos. 1, 2, 3, 4, and 5 when issued. This proposed Amendment No. 6 would update and correct our permit.

A notice containing the application for the permit was published in the FEDERAL REGISTER on August 4, 1975 (40 FR 32766–68–69–70–71), soliciting public comments for a period of 30 days.

A notice of the issuance of the permit was published on March 9, 1976 (41 10103–04).

Under date of July 8, 1977, the Patuxent Wildlife Research Center submitted a request for changes in the conditions of this permit. Published herewith is a copy of the request for changes which will be considered as an amendment to this permit. This request is being considered pursuant to § 13.23, Title 50 Code of Federal Regulations (See 39 FR 1162).

JULY 8, 1977.

To: Chief, Federal Wildlife Permit Office.
From: Director, Patuxent Wildlife Research Center.
Subject: Amendment No. 6 to Permit No. PRT 8–86–B–C.

The Attachment represents our justification for the issuance of Amendment No. 6 to authorize continuation of intensive studies of the Yellow-shouldered Blackbird, a species of the Family Icteridae, which has recently been classified as endangered by our Service. Because we have instructed our biologist in Puerto Rico to suspend those research activities for which this Amendment is proposed, and which will continue to result in the loss of meaningful information until resumption of the studies can be approved, your earliest possible attention to this request will be appreciated.

LUCILLE F. STICKEL.

PATUXENT WILDLIFE RESEARCH CENTER
ENDANGERED SPECIES PERMIT APPLICATION

ATTACHMENT

17.22 (a). (1) Common and scientific name of the species sought to be covered:

Yellow-shouldered blackbird (*Agelaius xanthomus*). Number, age, and sex: as many of various age and both sexes as can be studied, captured, and banded. Activities sought to be authorized in continuation of this study, initiated before species was assigned endangerment status, include:

(a) County breeding populations, and assess productivity of yellow-shouldered blackbirds on Puerto Rico and adjacent islands and cays and factors influencing productivity.

(b) Collect non-viable eggs and dead young in numbers as present for postmortem examination and other warranted studies.

(c) Live-trap adults wiah standard blackbird traps equipped with food and water and mark birds with standard USFWS aluminum bands and color bands (color-coding as approved by the Bird Banding Laboratory).

(d) Retrieve carcasses of yellow-shouldered blackbirds found dead in order to study them for disease and to analyze them for residues of environmental contaminants.

(e) Transport or ship eggs, carcasses, and body tissues from their point of collection to the Patuxent Wildlife Research Center, or to other appropriate laboratories.

(f) Hold eggshells, skins, skulls, and body parts at the Puerto Rico Field Station.

(2) The Wildlife sought to be covered is in the wild. There will be no collection of yellow-shouldered blackbird specimens other than salvage of dead birds or non-viable eggs for chemical analysis.

(3) Banding of yellow-shouldered blackbirds will be accomplished in standard blackbird decoy traps containing food and water and tended at least twice daily. Such traps, which are operated with minimal risk to the bird, will also be used to capture and control shiny cowbirds which parasitize the nests of this endangered blackbird. Any captured blackbirds will be examined, banded, color-marked, if warranted, and released unharmed to the wild.

(4) Not applicable.

(5) No live birds or viable eggs will be taken. Samples that are salvaged for study will be maintained at the Patuxent Wildlife Research Center, Laurel, Maryland, at the Puerto Rico Field Station at Palmer, Puerto Rico, or sent to the National Fish and Wildlife Laboratory, Smithsonian Institute, Washington, D.C., or sent to contract laboratories for chemical analysis.

(6) See (2) above.

(7) This permit is necessary to continue certain activities in investigations of the factors which have caused endangerment of the yellow-shouldered blackbird and which are likely to prevent its restoration to safer status in Puerto Rico and adjacent islands and cays. Nest parasitism by the shiny cowbird, as with the brown-headed cowbird's parasitism of Kirtland's warbler nests, is a severe depressant on productivity of this blackbird; control of the shiny cowbird may be necessary where nearly all blackbird nests in some localities are now being parasitized. In the few areas where cowbird presence is low or non-existent, especially in offshore cays, blackbird nesting success is good. Our biologist has been studying this species for the past two years before it was classified as endangered and he is well-qualified to continue this study.

Activities will be carried out as follows:

(a) As time from his studies of the endangered Puerto Rican parrot and other endangered species permit, the biologist and assistants will visit the blackbird populations to make observations of blackbird numbers, sex ratios, breeding behavior, territorial defence, blackbird/cowbird relations, and use of various artificial nest structures by blackbirds and cowbirds in order to develop structural designs which will be attractive and useful to blackbirds but unattractive to cowbirds. He and his assistants will check for health problems, trap and band blackbirds and cowbirds to reveal territory size, relation between feeding and breeding areas, roost sites, nest-site preferences, optimum breeding densities, predators of nests, eggs, young, and adult birds, nesting success, egg and nest loss and cause of loss, feeding habits through the seasons, and attempt to complete delineation of critical habitat for the yellow-shouldered blackbird.

(b) Some blackbird tissues and egg contents will be destroyed during the analysis and necropsies. Others, as well as skins, skulls, and eggshells will be maintained in collections for future study.

In keeping with the spirit of the Endangered Species Act of 1973 this notice is being published to allow public comment on the request for an amendment. Interested persons may comment on this amendment by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 8–86–B,C. Please refer to this number when submitting comments. All relevant comments received on or before September 21, 1977, will be considered.

Dated: August 17, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc.77-24166 Filed 8-19-77;8:45 am]

Office of the Secretary

HARLEY L. COLLINS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 1, 1977.

Dated: July 1, 1977.

HARLEY L. COLLINS.

[FR Doc.77-24204 Filed 8-19-77;8:45 am]

WINSTON M. COOPER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 1, 1977.

Dated: June 17, 1977.

WINSTON M. COOPER.

[FR Doc.77-24205 Filed 8-19-77;8:45 am]

CARLOS V. GALANES

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of July 19, 1977.

Dated: June 23, 1977.

CARLOS V. GALANES.

[FR Doc.77-24206 Filed 8-19-77;8:45 am]

LESTER E. GARLINGHOUSE

Statement of Changes in Financial Interests

In accordance with the requirements of section 710 (b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 1, 1977.

Dated: June 20, 1977.

LESTER E. GARLINGHOUSE.

[FR Doc.77-24207 Filed 8-19-77;8:45 am]

KENNETH M. HALE

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) Trustee of Frances McCone Trust No. 1.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 1, 1977.

Dated: June 17, 1977.

KENNETH M. HALE.

[FR Doc.77-24208 Filed 8-19-77;8:45 am]

WILLIAM P. HENNE

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 11, 1977.

Dated: June 16, 1977.

WILLIAM P. HENNE.

[FR Doc.77-24209 Filed 8-19-77;8:45 am]

BILL C. HULSEY

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) None.
(2) Middle South Utilities Inc.
(3) None.
(4) None.

This statement is made as of July 28, 1977.

Dated: July 1, 1977.

BILL C. HULSEY.

[FR Doc 77-24210 Filed 8-19-77;8:45 am]

MAURICE H. KENT

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 1, 1977.

Dated: June 17, 1977.

MAURICE H. KENT.

[FR Doc 77-24211 Filed 8-19-77;8:45 am]

LEON LOVELESS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 1, 1977.

Dated: June 16, 1977.

LEON LOVELESS.

[FR Doc.77-24212 Filed 8-19-77;8:45 am]

ROBERT J. MARCHETTI

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 1, 1977.

Dated: January 27, 1977.

ROBERT J. MARCHETTI.

[FR Doc.77-24213 Filed 8-19-77;8:45 am]

KEITH E. SPENCER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 1, 1977.

Dated June 21, 1977.

KEITH E. SPENCER.

[FR Doc 77-24214 Filed 8-19-77;8:45 am]

FRED M. TREFFINGER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) Add Weyerhauser Company.
(3) No change.
(4) No change.

This statement is made as of July 1, 1977.

Dated: June 17, 1977.

FRED M. TREFFINGER.

[FR Doc.77-24215 Filed 8-19-77;8:45 am]

CHARLES N. WHITMIRE

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) Delete Jack Eckerd.
(3) No change.
(4) No change.

This statement is made as of July 28, 1977.

Dated: July 5, 1977.

C. N. WHITMIRE.

[FR Doc.77-24216 Filed 8-19-77;8:45 am]

ROBERT W. WINFREE

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of **July 11**, 1977.

Dated: July 5, 1977.

ROBERT W. WINFREE.

[FR Doc.77-24217 Filed 8-19-77;8:45 am]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES v. ALAMEDA COUNTY VETERINARY MEDICAL ASSOCIATION

Proposed Consent Judgment and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b) through (h), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the United States District Court for the Northern District of California in Civil No. 75-2398-CBR, *United States* v. *Alameda County Veterinary Medical Association*.

The complaint in this case alleges that an association of veterinarians and its members have conspired to fix fees for veterinary services. The proposed judgment prohibits the defendant and its members from having any agreement or understanding to fix fees for veterinary services. The judgment also prohibits the defendant from punishing or discouraging its members from accepting referrals from animal welfare organizations for low cost spay and neutering operations.

Public comment is invited on or before October 15, 1977. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Anthony E. Desmond, Chief, Antitrust Division, U.S. Department of Justice, 450 Golden Gate Avenue, Box 36046, San Francisco, California 94102.

Dated: August 8, 1977.

CHARLES F. B. MCALEER,
Assistant Chief, Judgments and Judgment Enforcement Section.

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Alameda County Veterinary Medical Association,* Defendant.

Civil No. 75-2398-CBR.
Filed: August 8, 1977.

STIPULATION

It is stipulated by and between the undersigned parties, plaintiff United States of America, and defendant, Alameda County Veterinary Medical Association, by their respective attorneys, that:

1. The parties consent that a final judgment in the form hereto attached may be filed and entered by the Court upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16) and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent which it may do at any time before the entry of the proposed final judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to plaintiff and defendant in this or any other proceeding.

Dated: August 8, 1977.

For the plaintiff: John H. Shenefield, Acting Assistant Attorney General; William E. Swope, Charles F. B. McAleer, Anthony E. Desmond, Christopher S. Crook, Stephen F. Sonnett, Attorneys, Department of Justice.

For the defendant: Sullivan Jones & Archer, Hallidie Building, 130 Sutter Street, San Francisco, Calif. 94104, Richard J. Archer, Attorney for Defendant.

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Alameda County Veterinary Medical Association,* Defendant.

Civil No. 75-2398-CBR.
Filed: August 8, 1977.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on November 14, 1975 and defendant, Alameda County Veterinary Medical Association, having appeared by its counsel, and both parties by their respective attorneys having consented to the making and entry of this Final Judgment without admission by any party in respect to any issue;

Now, therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby Ordered, Adjudged and Decreed, as follows:

I

This Court has jurisdiction over the subject matter of this action and the parties hereto. The complaint states claims upon which relief may be granted against the defendant under Section 1 of the Sherman Act.

II

As used in this Final Judgment:

(A) "Person" shall mean any individual, partnership, firm, association, corporation or other business or legal entity;

(B) "Defendant" means the defendant Alameda County Veterinary Medical Association;

(C) "Fee" or "Fees" means any fee, price charge, markup, quotation, discount, or other compensation for any veterinary service or drug or combination of veterinary services and drugs;

(D) "Fee Schedule" means any list of veterinary services showing a fee, range of fees, or method of computing fees for such services;

(E) "Fee Survey" means the results of a survey of fees charged by veterinarians for particular services and lists tabulating or summarizing the results of such surveys;

(F) "Animal welfare agency" means any nonprofit organization which acts to refer animal owners to veterinarians for veterinary services.

III

The provisions of this Final Judgment shall apply to the defendant and to each of its officers, directors, agents, employees, successors and assigns, and to all persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

Defendant is enjoined and restrained from directly or indirectly:

(A) Fixing, establishing, maintaining, or stabilizing any fee for veterinary services;

(B) Advocating, suggesting, urging, advising, inducing or recommending that any veterinarian adhere to or otherwise base his or her fees on any particular fee, fee schedule or fee survey;

(C) Conducting, publishing, or distributing any fee survey or fee schedule which relates to fees or ranges of fees for services;

(D) Adopting, formulating, adhering to, maintaining, enforcing, suggesting, disseminating, or claiming any rights under any bylaw, rule, statement of policy, resolution, canon of ethics, plan or program which discourages, hinders, limits, prevents or prohibits any veterinarian from accepting or agreeing to accept referrals from animal welfare agencies for veterinary services at ordinary, reduced or discounted fees;

(E) Making any individual contact, devising or putting into effect any procedure, or taking any disciplinary action with reference to any member because of the fees charged or person from whom said member accepts referrals.

V

Nothing in paragraph IV of this Final Judgment shall be construed to prevent:

(A) The Association from negotiating on behalf of its members concerning the fee prescribed by a governmental agency for rabies vaccinations or rabies clinics;

(B) The Animal Care Foundation operated by the Association from accepting donation pledges representing an amount of veterinary services, supplies and drugs, or from accepting a donating member's valuation of such veterinary services rendered, including supplies and drugs, to be deducted from the member's pledge; provided that said valuation must be determined by the donating member independently, without consultation with the Association; and provided further that information concerning fees received by said Foundation shall not be disseminated to other veterinarians;

(C) The Association's Ethics Committee from considering complaints of members' clients, provided that the Ethics Committee may not consider, recommend or suggest a specific fee for veterinary services in any case. With regard to any fee charged for veterinary services, the Ethics Committee's action shall be limited to a recommendation to the member and the client that they consult further regarding the matter, and the Ethics Committee shall not consider the matter further. In any such case, the Ethics Committee shall make and retain for five years a written summary of the proceedings setting forth the name of the complainant, the name of the veterinarian, a concise statement of the complaint and of the veterinarian's response and any action taken by the Committee. Said summary shall not mention the amount of any fee involved; or

(D) The Association from sponsoring programs or disseminating materials advising veterinarians generally regarding the economics of practice. Such programs and materials may discuss factors veterinarians consider in setting their fees independently; provided that no such program or materials use or suggest amounts, ranges of figures, markups, margins or other percentage figures or any other quantification to be applied to such factors, and provided further that no such programs or materials may incorporate, refer or relate to any fee survey or fee schedule, or any other information which would tend to stabilize fees.

VI

Defendant is ordered and directed:

(A) Within sixty (60) days from the entry of this Final Judgment, to send a copy of this Final Judgment together with a letter identical in text to that attached to this Final Judgment as Appendix A, to each member and to cause the publication of this Final Judgment in defendant's newsletter.

(B) To serve a copy of this Final Judgment together with a letter identical in text to that attached to this Final Judgment as Appendix A, upon all of its future members at such time as they become members.

(C) To direct its members to return to defendant all fee schedules and fee surveys distributed or mailed to members by defendant and to mail or deliver to plaintiff all fee schedules and fee surveys received from members in response thereto.

(E) To file with this Court and serve upon the plaintiff within sixty (60) days after the date of entry of this Final Judgment an affidavit as to the fact and manner of compliance with subsections (A) and (C) of this Section VI.

VII

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted:

(1) Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees and agents of such defendant, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section VII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law. If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which that defendant is not a party.

VIII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

IX

Entry of this Final Judgment is in the public interest.

Dated: --------

United States District Judge

APPENDIX A

Re: Final Judgment in *United States* v. *Alameda County Veterinary Medical Association*, Civil No. 75-2398 CBR

DEAR SIR: Enclosed herewith is a copy of a Final Judgment entered --------, 1977 in *United States* v. *Alameda County Veterinary Medical Association*, Civil No. 75-2398 CBR. The terms of the Final Judgment require that a copy of the Judgment as well as this letter be sent to you. You should read the terms of the Final Judgment carefully and note that you, as an individual, under certain circumstances are bound by its provisions. The purpose of this letter is to help you understand those provisions.

The essence and intent of the Final Judgment is that the Alameda County Veterinary Medical Association may not in any way prepare, publish, adopt, sponsor, or distribute any minimum, recommended, suggested, or advisory fee schedule or fee survey. The principal purpose of the Judgment is to prohibit the association and its members from engaging in fee activity of any sort except as specifically permitted by subsections (A), (B), (C), and (D) of Section V of the Judgment. Under the law and this decree, you or your veterinary hospital must set your own veterinary fees independently without consultation or agreement with the Association or with any other veterinarians.

The Judgment also prohibits the Association and its members from agreeing on a rule of ethics or policy which inhibits you from deciding to accept referrals from animal welfare agencies for veterinary services at reduced fees. You must decide independently whether to accept such referrals.

The Association is required to collect all fee schedules, results of fee surveys, and similar documents (including copies thereof) you may have received from the Association. Accordingly, you are instructed to return any such fee schedules to the secretary of the association within seven (7) days of your receipt of this letter.

UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

United States of America, plaintiff, v. Alameda County Veterinary Medical Association, defendant Civil No. 75-2398-CBR; filed: August 8, 1977.

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act [15 U.S.C. § 16(b)], the United States hereby submits this Competitive Impact Statement relating to the proposed Consent Judgment submitted for entry in this civil antitrust proceeding.

I. NATURE OF THE PROCEEDING

On November 14, 1975, the United States filed a Civil Complaint under Section 4 of the Sherman Act (15 U.S.C. § 4) alleging that defendant, Alameda County Veterinary Medical Association (ALVMA), violated Section 1 of the Sherman Act (15 U.S.C. § 1). The complaint alleges that ALVMA and its coconspirator members of ALVMA combined and conspired to restrain trade and commerce in the fees charged for veterinary services, including the use of anesthetics, antibiotics, vaccines, and other drugs and surgical supplies in violation of § 1 of the Sherman Act.

In its complaint, the Government requested that the defendant and its members be enjoined from continuing or renewing the agreement or any other similar agreement and that the defendant furnish any final judgment to its members. The relief which the Government requested has been obtained in the Final Judgment.

Entry by the Court of the Proposed Consent Judgment will terminate the action except that the Court will retain jurisdiction over the matter for possible further proceedings which might be required to interpret, modify or enforce the judgment or to punish alleged violation of any of the provisions of the judgment.

II. DESCRIPTION OF PRACTICES INVOLVED IN THE ALLEGED VIOLATION

The defendant ALVMA is a non-profit corporation having its principal place of business in Oakland, California. It is an association of doctors of veterinary medicine en-

V 42 162 AUG 22 77 UM

gaged in the business of providing veterinary services. The complaint alleges that the defendant and co-conspirators engaged in a conspiracy to raise, fix, stabilize and maintain the fees charged by members of ALVMA for providing veterinary services.

The Government was prepared to show at trial that the conspiracy alleged was carried out in several ways. Under the auspices of ALVMA, meetings were held at which fee schedules were adopted. These schedules were then published and followed by members of ALVMA. These fee schedules established minimum suggested prices to be charged by the veterinarian for the services described on the fee schedule. The defendant also conducted fee surveys and published the results of such surveys showing a range of suggested fees.

The government was also prepared to show at trial that ALVMA hindered efforts of some veterinarians who desired to accept referrals from animal welfare agencies for low cost spay and neutering operations. This was done through formal resolutions of ALVMA calling participation in such a low cost spay or neuter operation an unethical practice.

III. EXPLANATION OF THE PROPOSED CONSENT JUDGMENT

The United States and the defendant have agreed that the consent judgment, in a form negotiated by the parties, may be entered by the court at any time after compliance with the Antitrust Procedures and Penalties Act. The proposed Judgment provides there has been no admission by either party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the judgment by the court is conditioned upon a determination of the court that the proposed judgment is in the public interest.

A. *Prohibited Conduct.*—The proposed judgment applies to ALVMA and its directors, agents and employees. Other persons, including ALVMA members are also subject to the terms of the judgment when they are in concert with ALVMA and have notice of the judgment.

The judgment prohibits the defendant, under penalty of contempt of court, from fixing, establishing or stabilizing fees for veterinary services. The defendant is enjoined from urging, recommending or suggesting that any of its members use or adhere to any fee schedule or fee survey, and is restrained from conducting, publishing, or distributing any survey or study relating to fees or ranges of fees charged for veterinary services.

The second major effect of the proposed final judgment is to prevent the defendant ALVMA and its members from discouraging or punishing ALVMA members for providing veterinary services of any type at lower than their normal rates. The defendant is specifically enjoined and restrained from formulating, maintaining, enforcing, suggesting or disseminating any rule, by-law, canon of ethics or statement of policy of ALVMA which would prohibit or limit the right of any ALVMA member to set any fees for veterinary services in accordance with his or her own business judgment. In addition, ALVMA is restrained from contacting or punishing any member because of his fees or because of the person from whom he accepts referrals.

B. *Exemptions.*—There are three significant exemptions from the prohibitory provisions of this decree which are discussed below.

1. V Nothing in Paragraph IV of this Final Judgment shall be construed to prevent: (A) The Association from negotiating on behalf of its members concerning the fee prescribed by a governmental agency for rabies vaccinations or rabies clinics.

This exemption is primarily intended to allow ALVMA to negotiate with the State of California concerning costs of State mandated rabies control programs. Alameda County is a rabies area within the meaning of state law (California Health and Safety Code § 1901.2). The state code requires that dogs in rabies areas must be vaccinated with a canine anti-rabies vaccine. Further, it is the duty of each city and county in a rabies area to arrange for dog vaccinations at clinics operated by veterinary associations. Such vaccinations must be provided for no more than their actual cost. (California Health & Safety Code § 1920). The California State Deparment of Health is charged with responsibility for supervision of these rabies code provisions. The Department of Health determines the "actual cost" to be charged by the state mandated rabies clinics. This exemption V (A) allows the association to continue to apply to and negotiate with the Department of Health concerning its decision in setting the "actual cost" to be charged for rabies vaccinations at the state mandated clinics.

A secondary purpose of this exemption is to allow the ALVMA to continue to contract with local governments to vaccinate dogs in their pounds. According to attorneys for ALVMA, on occasion, city governments within Alameda County have contracted for a period of time with ALVMA to vaccinate dogs in pounds of such local governments. This provision would allow ALVMA to continue to offer this vaccination service to local governments who want the ALVMA to administer rabies vaccinations.

2. V Nothing in Paragraph IV of this Final Judgment shall be construed to prevent: (B) The Animal Care Foundation operated by the Association from accepting donation pledges representing an amount of veterinary services, supplies and drugs, or from accepting a donating member's valuation of such veterinary services rendered, including supplies and drugs, to be deducted from the member's pledge; provided that said valuation must be determined by the donating member independently, without consultation with the Association; and provided further that information concerning fees received by said Foundation shall not be disseminated to other veterinarians.

For many years, ALVMA has operated a non-profit corporation to provide care for animals of people on welfare or social security. This corporation, the Animal Care Foundation, is funded by a pledge of $1,000 worth of drugs and services by participating members of ALVMA. A qualified applicant is directed to a participating veterinarian. After caring for the animal, the veterinarian informs the Foundation of the value of the drugs and services provided which is to be deducted from that member's pledge. This provision V (B) allows the Foundation to continue its operations under its present system with the proviso that the veterinarian independently determine the value of the services provided for the Foundation. This provision further provides that the Foundation keep secret any information it receives concerning fees charged by individual veterinarians by requiring that the Foundation shall not disseminate any such information on fees to other veterinarians.

3. The exemption in V (C) allows the Ethics Committee of ALVMA to continue to receive complaints from members clients.

V. Nothing in Paragraph IV of this Final Judgment shall be construed to prevent: (C) The Association's Ethics Committee from considering complaints of members' clients, provided that the Ethics Committee may not consider, recommend or suggest a specific fee for veterinary services in any case. With regard to any fee charged for veterinary services, the Ethics Committee's action shall be limited to a recommendation to the member and the client that they consult further regarding the matter, and the Ethics Committee shall not consider the matter further. In any such case, the Ethics Committee shall make and retain for five years a written summary of the proceedings setting for the name of the complainant, the name of the veterinarian, a concise statement of the complaint and of the veterinarian's response and any action taken by the Committee. Said summary shall not mention the amount of any fee involved.

The evidence gathered in this case during discovery proceedings and otherwise indicates that most client complaints concern the quality of service provided by the veterinarian. On rare occasion in the past the client's complaint also included an allegation that the veterinarian's fee was excessive. The past practice of the Ethics Committee has been to encourage the veterinarian involved to have further discussions with the complaining party. No evidence has been discovered which would suggest that the Ethics Committee has been involved in anti-competitive practices such as suggesting appropriate fees to veterinarians. This exemption V (C) allows the ALVMA's Ethics Committee to continue to receive member's clients complaints as before with several protective limitations:

1. The Ethics Committee cannot consider, recommend or suggest a specific fee for veterinary services in any matter before it;

2. The only action the Ethics Committee can take in response to a complaint is to recommend that the veterinarians and the client consult further;

3. A written summary of any such proceeding will be made and retained for five years and the summary shall not mention any specific fees involved in the complaint hearing.

Exemption V (D) allows ALVMA to continue to sponsor and disseminate information concerning the economics of doing business. Counsel for the ALVMA have expressed concern that the proposed Final Judgment prohibits traditional seminars offered to veterinarians on how to run a business. This exemption allows the continued sponsoring of such programs and dissemination of general information with the proviso that no such information or program quantify or suggest appropriate figures or mathematical formulas for a veterinarian to employ in his business. It is further provided that such programs or materials may not refer to or incorporate any fee schedules of fee surveys.

C. Effect of the Proposed Judgment on Competition.—The provisions of the Final Judgment should serve to increase competition (1) by removing and prohibiting, under penalty of contempt of court, unreasonable restraints imposed by ALVMA upon its members with respect to the amount of money charged for veterinary services and (2) by removing any prohibitions implied or expressed against ALVMA members accepting referrals from animal welfare agencies for veterinary services at reduced or discounted fees.

The relief encompassed in the proposed Final Judgment is aimed at preventing any recurrence of the activities alleged in the complaint. Such alleged activities interfere with the normal interplay of competitive forces in the marketplace and accordingly result in artificially determined price levels. The prohibitory language of the judgment will insure that individual members of the ALVMA are the sole judges of their pricing policies.

IV. ALTERNATIVE RELIEF CONSIDERED

During the negotiating process leading to the proposed Final Judgment provisions substantially similar to those contained in the

proposed judgment were considered. The only proposal which was significantly modified was exemption V (C) concerning the Ethics Committee. The original proposal which was considered and rejected by the Government would have allowed the Ethics Committee to hear and resolve fee complaints. This provision has been modified to the present V (C) which allows the ALVMA to continue its previous complaint procedures while ensuring that the complaint procedures will not be a vehicle for reaching fee agreements.

V. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Any potential private plaintiff who might have been damaged by the alleged violations will retain the same right to sue for monetary damages and any other legal and equitable remedies which they would have had were the Final Judgment not entered. Entry of the proposed consent judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust actions. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. Section 16(a)) this consent judgment has no prima facie effect in any subsequent private lawsuits which may be brought against this defendant.

VI. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED JUDGMENT

As provided by the Procedures and Penalties Act, any person believing that the proposed consent judgment should be modified may submit written comments to Anthony E. Desmond, Department of Justice, Antitrust Division, San Francisco, California 94102, within the 60-day period provided by the Act. These comments and the responses to them will be filed with the court and published in the FEDERAL REGISTER. All comments will be given due consideration by the Department of Justice which remains free to withdraw its consent to the proposed consent judgment at any time prior to its entry if it should determine that some modification of it is necessary. The proposed judgment provides that the court retains jurisdiction over this action and the parties may apply to the court for such orders as may be necessary or appropriate for modification of it.

VII. DOCUMENTS DETERMINATIVE IN FORMULATING THE JUDGMENT

No materials and documents of the type described in Section (b) of the Antitrust Procedures and Penalties Act [15 U.S.C. § 16(b)] as being determinative in formulating the proposed judgment were considered in formulating this proposed judgment. Therefore, none is being filed with this competitive impact statement.

Dated: August 8, 1977.

CHRISTOPHER S. CROOK,
Attorney, Department of Justice.

[FR Doc.77-24222 Filed 8-19-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-251]

FLORIDA POWER AND LIGHT CO.

Corrective Order

In the matter of Florida Power and Light Company, Turkey Point Plant Unit No. 4.

On August 3, 1977, the Nuclear Regulatory Commission issued an Order for Modification of License in the captioned matter. Said Order contained two errors in Section III, Provision 3 and 4. This Corrective Order will rectify such error.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that facility operating license No. DPR-44 is hereby amended by revising provisions 3 and 4 of Section III of the Order for Modification of License, in the captioned matter, dated August 3, 1977, to read as follows:

3. The concentration of radioiodine in the primary coliant shall be limited to 1 microcurie/gram during normal operation and to 30 microcuries/gram during power transients as defined in the Safety Evaluation.

4. Reactor operation shall be terminated and Nuclear Regulatory Commission approval shall be obtained prior to resuming operation if primary to secondary leakage attributable to the denting phenomena is detected in 2 or more tubes per plant during any 20 day period.

For the Nuclear Regulatory Commission.

Dated in Bethesda, Maryland this 11th day of August 1977.

EDSON G. CASE,
Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc.77-23958 Filed 8-19-77;8:45 a.m.]

[Docket No. 50-333]

POWER AUTHORITY OF THE STATE OF NEW YORK

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 26 to Facility Operating License No. DPR-59, issued to the Power Authority of the State of New York (the licensee), which revised Technical Specifications for operation of the James A. FitzPatrick Nuclear Power Plant (the facility) located in Oswego County, New York. The amendment is effective as of its date of issuance.

The amendment changes the Technical Specifications to require periodic surveillance of the recirculation pump discharge valves and the associated bypass valves.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not invove a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment submitted by letter dated September 2, 1976, (2) Amendment No. 26 to License No. DPR-59, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Oswego County Office Building, 46 E. Bridge Street, Oswego, New York.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 8th day of August 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-23960 Filed 8-19-77; 8:45 am]

[Docket Nos. 50-346A, 50-500A, 50-501A, 50-440A, and 50-441A]

TOLEDO EDISON CO. ET AL.

Oral Argument

In the matter of the Toledo Edison Company and the Cleveland Electric Illuminating Company, (Davis-Besse Nuclear Power Station, Units 1, 2, and 3), and the Cleveland Electric Illuminating Company, et al., (Perry Nuclear Power Plant, Units 1 and 2).

Notice is hereby given that, in accordance with the Appeal Board's order of August 12, 1977, the date of the oral argument on the appeals from the Licensing Board's January 6, 1977 initial decision in this antitrust proceeding has been changed. That argument is now calendared for 10 a.m. on Monday, September 19, 1977 in the Nuclear Regulatory Commission's Public Hearing Room, 5th floor, East-West Towers, 4350 East West Highway, Bethesda, Maryland.

For the Atomic Safety and Licensing Appeal Board.

Dated: August 12, 1977.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.77-23959 Filed 8-19-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used

V 42162 AUG 22 77 UM V

by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 3.42, "Emergency Planning for Fuel Cycle Facilities and Plants Licensed Under 10 CFR Parts 50 and 70," provides guidance for developing emergency plans for fuel cycle facilities and plants.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 3.42 will, however, be particularly useful in evaluating the need for an early revision if received by October 17, 1977.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland this 11th day of August 1977.

For the Nuclear Regulatory Commission.

RAY G. SMITH,
Acting Director, Office of Standards Development.

[FR Doc.77 23961 Filed 8-19-77;8:45 am]

[Docket Nos. 50-295 and 50-304]

COMMONWEALTH EDISON CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 29 and 26 to Facility Operating Licenses Nos. DPR-39 and DPR-48 issued to Commonwealth Edison Company (the licensee) which revised Technical Specifications for operation of the Zion Station Units Nos. 1 and 2, located in Zion, Illinois. The amendments are effective as of the date of issuance.

These amendments establish surveillance testing requirements for the main stream isolation bypass valves.

The application for these amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated June 21, 1976, as supplemented January 31, 1977, (2) Amendments Nos. 29 and 26 to Licenses Nos. DPR-39 and DPR-48, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Waukegan Public Library, 128 North County Street, Waukegan, Illinois 60685. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 10th day of August 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-24164 Filed 8-19-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.131, "Qualification Tests of Electric Cables, Field Splices, and Connections for Light-Water-Cooled Nuclear Power Plants," describes a method acceptable to the NRC staff for complying with the Commission's regulations with regard to qualification testing of electric cables, field splices, and connections for service in light-water-cooled nuclear power plants to ensure that the cables, field splices, and connections can perform their safety-related functions. This guide endorses IEEE Std 383-1974, "IEEE Standard for Type Test of Class IE Electric Cables, Field Splices, and Connections for Nuclear Power Generating Stations."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 1.131 will, however, be particularly useful in evaluating the need for an early revision if received by October 20, 1977.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone request cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 15th day of August 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.77-24165 Filed 9-18-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON REACTOR SAFETY RESEARCH

Meeting

In accordance with the purposes of Sections 29 and 128b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on Reactor Safety Research will hold an open meeting on September 7, 1977 in Room 1046, 1717 H St. NW., Washington, D.C. 20555. Proposed legislation includes provisions that the ACRS provide a yearly report to Congress on reactor safety research. The first such report is to be submitted by December 31, 1977. The purpose of this meeting is to discuss the status of the review of reactor safety research to identify areas that need to be reviewed but are not included in the review plans, and to establish a format for the report.

The agenda for subject meeting shall be as follows:

WEDNESDAY, SEPTEMBER 7, 1977

6:00 P.M. UNTIL CONCLUSION OF BUSINESS

The Subcommittee will meet in open Executive Session, with any of its consultants who may be present, to conduct the above review. Practical considerations may dictate alterations in the above agenda.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 31, 1977 to Mr. Thomas G. McCreless, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommitte will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on September 6, 1977 to the Office of the Executive Director of the Committee (telephone 202-634-1374, Attn: Mr. Thomas G. McCreless) between 8:15 a.m. and 5:00 p.m., EDT.

(d) Questions may be propounded only by members of the Subcommittee, its consultants, and Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings will be permited only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after September 14, and December 7, 1977, respectively, at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: August 17, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-24160 Filed 8-19-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP NO. 6 OF THE SUBCOMMITTEE ON REACTOR SAFETY RESEARCH

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), Working Group No. 6 of the ACRS Subcommittee on Reactor Safety Research will hold an open meeting on September 7, 1977 in Room 1046, 1717 H Sts. NW., Washington, D.C. 20555. The purpose of this meeting is to continue the review of risk assessment research programs being conducted by the NRC Staff and others.

The agenda for subject meeting shall be as follows:

WEDNESDAY, SEPTEMBER 7, 1977

8:30 A.M. UNTIL CONCLUSION OF BUSINESS

The Working Group may meet in Executive Session, with any of its consultants who may be present, to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Working Group will meet to hear presentations by representatives of the NRC Staff and their consultants, and will hold discussions with these groups pertinent to this review.

At the conclusion of this session, the Working Group may caucus in to determine whether the matters identified in the initial session have been adequately covered.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Working Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Working Group at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 31, 1977 to Mr. Robert L. Wright, Jr., ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on September 6, 1977 to the Office of the Executive Director of the Committee (telephone 202/634-1919, Attn: Mr. Robert L. Wright, Jr.) between 8:15 a.m. and 5:00 p.m. EDT.

(d) Questions may be propounded only by members of the Working Group, its consultants, and the Staff.

V 42162 AUG 22 77 UM

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings of the proceedings will be permitted only during those sessions when a transcript is being kept.

(f) A copy of the transcript of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after September 14, and December 7, 1977, respectively, at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: August 17, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-24161 Filed 8-19-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON REGULATORY ACTIVITIES

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on Regulatory Activities will hold an open meeting on September 7, 1977 in Room 1062, 1717 H St. NW., Washington, D.C. 20555.

The agenda for subject meeting shall be as follows:

WEDNESDAY, SEPTEMBER 7, 1977

8:45 A.M.–10:30 A.M.

A. The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to the following: (1) Regulatory Guide 1.33, Revision 2, "Quality Assurance Program Requirements (Operation tinent to the following: (1) Regulatory Guide 1.33, Revision 2, "Quality Assurance Program Requirements (Operation)"

(2) Regulatory Guide 1.72, "Spray Pond Plastic Piping"

(3) Regulatory Guide 1.43, "Control of Stainless Steel Weld Cladding of Low Alloy Steel Components"

10:30 A.M. UNTIL THE CONCLUSION OF BUSINESS

B. The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to activities which affect the current licensing process on reactor operations, including those related to the NRC Standardized Plant Review Process and the policies by which it is implemented.

Other matters which may be of a predecisional nature relevant to reactor operation or licensing activities may be discussed following this session.

Practical consideration may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the meeting, the following requirements shall apply: (A) Persons wishing to submit written statements regarding Regulatory Guides 1.33, 1.72, and 1.43 may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Such comments shall be based upon documents on file and available for public inspection at the NRC Public Document Room, 1717 H St. NW., Washington, DC 20555.

Persons desiring to mail written eomments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 31, 1977 to Mr. G. R. Quittschreiber, ACRS, NRC, Washington, D.C. 20555. will normally be received in time to be considered at this meeting.

(B) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(C) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on September 6, 1977 to the Office of the Executive Director of the Committee (telephone 202-634-1374, Attn: Mr. G. R. Quittschreiber) between 8:15 a.m. and 5 p.m., edt.

(D) Questions may be propounded only by members of the Subcommittee, its consultants, and Staff

(E) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings of the proceedings will be permitted only during those sessions when a transcript is being kept.

(F) A copy of the transcript of the portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555 on or after September 14, 1977, and December 7, 1977, respectively.

Copies may be obtained upon payment of appropriate charges.

Dated: August 17, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-24247 Filed 8-19-77;8:45 am]

[Docket No. 50-318]

BALTIMORE GAS AND ELECTRIC CO.

Proposed Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-69 issued to the Baltimore Gas and Electric Company (the licensee) for operation of the Calvert Cliffs Nuclear Power Plant Unit No. 2 (the facility), a pressurized water reactor located in Calvert County, Maryland, and currently authorized to operate at power levels up to 2560 MWt.

In accordance with the licensee's application for a license amendment dated July 13, 1977, the amendment would authorize operation of the facility at 2700 MWt in lieu of the current licensed level of 2560 MWt.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By September 21, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to James A. Biddison, Jr., General Counsel, Gas and Electric Building, Charles Center, Baltimore, Maryland 21203, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate full in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated July 13, 1977. The application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Calvert County Library, Prince Frederick, Maryland 20678.

Dated at Bethesda, Maryland, this 12th day of August, 1977.

For The Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-24248 Filed 8-19-77;8:45 am]

[Docket No. 50-315]

INDIANA & MICHIGAN ELECTRIC CO. AND INDIANA & MICHIGAN POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 20 to Facility Operating License No. DPR-58, issued to Indiana & Michigan Electric Company and Indiana & Michigan Power Company (the licensees), which revised the Technical Specifications for operation of the Donald C. Cook Nuclear Plant Unit No. 1 (the facility), located in Berrien County, Michigan. The amendment is effective as of the date of its issuance.

The amendment revised Technical Specification Table 3.7-4 to renumber the safety related hydraulic shock suppressors (snubbers) and add an additional snubber and to alter Figure 6.2-2 to delete the position of Assistant Plant Manager and remove the senior reactor operator license designator from the Technical Supervisor position.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the March 22 and July 8, 1977 letters of application for amendment, (2) Amendment No. 20 to License No. DPR-58, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this fifth day of August, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-24249 Filed 8-19-77;8:45 am]

[Docket No. 50-298]

NEBRASKA PUBLIC POWER DISTRICT

Consideration of Proposed Modification to Facility Spent Fuel Storage Pool

The Nuclear Regulatory Commission (the Commission) is considering the approval of a modification to the spent fuel storage pool of the Cooper Nuclear Station (the facility), a boiling water reactor located in Nemaha County, Nebraska, and currently authorized for operation at power levels up to 2381 MWt.

The proposed modification being considered involves replacement of the existing racks in the spent fuel storage pool of the facility with racks of a design capable of accommodating up to 2366 fuel assemblies in accordance with the licensee's request dated July 22, 1977. The existing racks have a capacity for storage of 740 fuel assemblies.

If it is later determined that the modification requires changes to the facility Technical Specifications, a license amendment would be issued along with approval of the modification.

Prior to approval of the proposed modification and any license amendment, if necessary, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By September 21, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the approval of the modification to the subject facility spent fuel storage pool. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER Notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gene Watson, Attorney, Barlow, Watson & Johnson, P.O. Box 81686, Lincoln, Nebraska 68501, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has the right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

V 42 162 AUG 22 77 UM A V

For further details with respect to this action, see the licensee's proposal dated July 22, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Dated at Bethesda, Maryland, this 16th day of August 1977.

For The Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc 77-24305 Filed 8-19-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS NUCLEAR REGULATORY COMMISSION

Notice of Meeting

In accordance with the purposes of Sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on September 8–10, 1977, in Room 1046, 1717 H Street NW., Washington, D.C.

The agenda for the subject meeting will be as follows:

THURSDAY, SEPTEMBER 8, 1977

8:30 a.m.–9:15 a.m.: Executive Session (Open)—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities.

The Committee will also hear and discuss the report of the ACRS Subcommittee and consultants who may be present related to review of the request for a preapplication site review for the San Joaquin Nuclear Project. Portions of this session will be closed to discuss Proprietary Information applicable to this project.

9:15 a.m.–12 Noon: San Joaquin Nuclear Project (Open)—The Committee will hear presentations and hold discussions with representatives of the NRC Staff and the Applicant related to the request for a preliminary review of the site for the San Joaquin Nuclear Project. Portions of this session will be closed if necessary to discuss Proprietary Information applicable to this project.

1 p.m.–1:30 p.m.: Executive Session (Open)—The Committee will hear and discuss the report of the ACRS Subcommittee and consultants who may be present related to the seismic and geologic features of the Skagit Nuclear Power Project. Portions of this session will be closed if necessary to discuss Proprietary Information applicable to this project.

1:30 p.m.–4 p.m.: Skagit Nuclear Power Project (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC Staff and the Applicant related to the seismic and geologic aspects of the Skagit Nuclear Power Project. Portions of this session will be closed if required to discuss Proprietary Information related to this facility.

4 p.m.–6 p.m.: Executive Session (Open)—The Committee will hear and discuss the report of the ACRS Subcommittee on Regulatory Activities including proposed Regulatory Guides.

The Committee will also discuss its proposed periodic report to the Nuclear Regulatory Commission on ACRS activities, follow-up action regarding ACRS recommendations and requests, and priorities for resolution of generic items applicable to the Shearon Harris Nuclear Power Plant. A portion of this session will be closed to discuss matters involved in NRC adjudicatory proceedings.

FRIDAY SEPTEMBER 9, 1977

8:30 a.m.–9:30 a.m.: Meeting with NRC Executive Director for Operations (Open)—The Committee will meet with the Executive Director for Operations to discuss items related to the regulatory process including the NRC Technical Assistance Program and resolution of outstanding generic issues.

9:30 a.m.–10:30 a.m.: Meeting with Commissioners (Open) The Committe will meet with the Commissioners to discuss ACRS activities during the period of June-July-August 1977 and ACRS activities related to review of fast breeder reactors and fuel fabrication plants.

10:30 a.m.–12:30 p.m. and 1:30 p.m.– 3:30 p.m.: Meeting with the NRC staff (Open)—The Committee will hear presentations and hold discussions with members of the NRC Staff regarding recent operating experience at nuclear facilities, recent licensing actions, generic matters related to reactor licensing, and the future schedule for ACRS activities. This discussion will include:

Performance of vibration and loose parts monitors in nuclear facilities.

Inservice inspection requirements for hydraulic and mechanical pipe snubbers.

Probably of occurrence of the Design Basis Flood.

Control room habitability following an accident.

Future schedule and anticipated ACRS activities.

3:30 p.m.–4 p.m.: Executive Session (Open)—The Committee will hear and discuss the report of the ACRS Subcommittee and consultants who may be present regarding proposed revisions to 10 CFR Part 50, Appendix K, ECCS Evaluation Models.

4 p.m.–5:30 p.m.: Meeting with NRC Staff (Open)—The Committee will hear presentations from and hold discussions with representatives of the NRC Staff, its consultants and contractors regarding proposed revisions to the Code of Federal Regulations (10 CFR), Part 50, Appendix K, ECCS Evaluation Models and review of fuel damage limits for nuclear reactors.

5:30 p.m.–6:30 p.m.: Executive Session (Open/Closed)—The Committee will discuss proposed reports to the Nuclear Regulatory Commission on the Skagit Nuclear Power Project and the San Joaquin Nuclear Project. Portions of this session will be closed as required to protect Proprietary Information and matters involved in NRC adjudicatory proceedings.

SATURDAY, SEPTEMBER 10, 1977

8:30 a.m.–10:30 p.m. and 1 p.m.–2:30 p.m.: Executive Session (Open/Closed)—The Committee will continue preparation of its reports to the NRC on matters discussed during this meeting. Portions of this session will be closed as required to protect Proprietary Information and matters involved in NRC adjudicatory proceedings.

10:30 a.m.–12 Noon and 2:30 p.m.–4 p.m.: Executive Session (Open)—The Committee will hear and discuss the reports of ACRS Subcommittees, Working Groups and Members related to ACRS activities and the NRC regulatory process including the reactor safety research program, transportation of radioactive materials, management of radioactive waste and physical protection of nuclear facilities. Portions of this session will be closed if required to protect Proprietary Information and National Security Information applicable to specific nuclear facilities.

The Committee will also discuss ACRS policy and practices including resolution of generic matters related to light-water reactors, and review of proposed changes at licensed facilities.

I have determined in accordance with Subsection 10(d) of Public Law 92-463 that it is necessary to close portions of the meeeting as noted above to protect Proprietary Information (5 U.S.C. 552b.(c)(4)), to preserve the confidentiality of information related to safeguarding of special nuclear material and the physical protection of nuclear facilities (5 U.S.C. 552b.(c)(1)(4)). The portions of the meeting during which the ACRS comments on matters involved in adjudication are prepared will be held in closed session pursuant to exemption (10) of 5 U.S.C. 552b.(c). Separation of factual information from information considered exempt from disclosure under exemptions (1), (4), and (10) of 5 U.S.C. 552b.(c) during these portions of the meeting is not considered practical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Committee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted session from one to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally deal with matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy to the Committee at the beginning of the meeting. Comments should be limited to safety related areas within the Commitee's purview. Persons desiring to mail writtten comments may do so by mailing a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 31, 1977, to the Executive Director, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, D.C. 20555 will normally be received in time to be

considered at this meeting. Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the following Public Document Rooms:

SKAGIT NUCLEAR PROJECT

Sedro Wooley Library, 802 Ball Avenue, Sedro Wooley, WA 98294.

SAN JOAQUIN NUCLEAR PROJECT

Kern County Library, 1315 Truxtun Avenue, Bakersfield, CA 93301.

SHEARON HARRIS NUCLEAR POWER PLANT

Wake County Public Library, 104 Fayetteville Street, Raleigh, NC 27601.

(b) Those persons wishing to make oral statements regarding agenda items at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements in safety-related areas within the Committee's purview at an appropriate time chosen by the Chairman of the Committee.

(c) Further information regarding topics to be discussed, whether the meeting or portions of the meeting have been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor, can be obtained by a prepaid telephone call on September 7, 1977 to the Office of the Executive Director of the Committee (Telephone: 202–634–1371) between 8:15 a.m. and 5 p.m., Eastern Time. It should be noted that the above schedule is tentative, based on the anticipated availability of related information, etc. It may be necessary to reschedule items to accommodate required changes. The ACRS Executive Director will be prepared to describe these changes on September 7, 1977.

(d) Questions may be asked only by members of the Committee, its consultants and staff.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not diruptive of the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings of the proceedings will be permitted only during those open sessions when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information other than safeguards information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed. The Executive Director of the ACRS should be informed of such an agreement at least 3 days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of this agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Executive Director at the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented will be available for inspection during the following workday at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of the minutes of the meeting will be made available for inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C., on or after December 9, 1977. Copies may be obtained upon payment of appropriate charges.

Dated: August 19, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-24410 Filed 8-19-77;9:20 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Notice of Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups and of the full Committee, the following preliminary schedule is being published. This preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published in the FEDERAL REGISTER on July 25, 1977, page 37885. Those meetings which are definitely scheduled have had, or will have, an individual notice published in the FEDERAL REGISTER approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. Information as to whether a meeting has been firmly scheduled, cancelled or rescheduled, or whether changes have been made in the agenda for the September 8–10, 1977 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202–634–1374, Attention: Mary E. Vanderholt) between 8:15 a.m. and 5 p.m., EDT.

SUBCOMMITTEE AND WORKING GROUP MEETINGS

**Transportation of Radioactive Materials*, August 23, 1977, New York, N.Y. The Working Group will be briefed on Sandia Laboratories Interim Report, "Generic Environmental Assessment on Transportation of Radioactive Material Near and Through a Large, Densely Populated Area." Notice of this meeting was published in the FEDERAL REGISTER on August 1, 1977, page 38947.

**Working Group No. 1 of the Reactor Safety Research Subcommittee*, August 30, 1977, Washington, D.C. (Re Fire Protection, Research, etc.) Postponed indefinitely.

**Atlantic Generating Station*, August 31, 1977, Atlantic City, N.J. The Subcommittee will continue its review of this project. Notice of this meeting was published in the FEDERAL REGISTER on August 15, page 41193.

**San Joaquin Nuclear Project, Skagit Nuclear Project, and Seismic Activities*, September 1–2, 1977, San Francisco, Calif. The Subcommittees will hold a joint meeting to review matters relating to the geology, seismology, and hydrology of the proposed San Joaquin site; to review matters relating to the evaluation of the 1872 Wenatachee earthquake; and to review matters relating to the geology and seismology of the proposed Skagit site. Notice of this meeting was published in the FEDERAL REGISTER on August 15, 1977, page 41194.

**Regulatory Activities*, September 7, 1977, Washington, D.C. The Subcommittee will review working papers, future Regulatory Guides, and changes to existing Regulatory Guides; also, it will discuss pertinent activities which affect the current licensing process and or reactor operations. Notice of this meeting appears elsewhere in this issue.

**Working Group No. 6 of the Reactor Safety Research Subcommittee*, September 7, 1977, Washington, D.C. The Working Group will meet to continue its review of programs and plans for risk assessment research being conducted by the NRC Staff. Notice of this meeting appears elsewhere in this issue.

**Reactor Safety Research Subcommittee*, September 7, 1977, Washington, D.C. The Subcommittee will meet at 6 p.m. in an open Executive Session to discuss the status of the review of reactor safety research, to identify areas that need to be reviewed but are not included in current review plans, and to establish a format for the report to Congress required in proposed legislation. Notice of this meeting appears elsewhere in this issue.

***Working Group No. 1 of the Reactor Safety Research Subcommittee*, September 14–15, 1977, Oak Ridge, Tenn. The Working Group will meet to review various water reactor safety research programs relating to systems engineering and analytical development.

**McGuire Nuclear Station*, September 20, 1977, Washington, D.C. Postponed indefinitely.

***Working Group No. 5 of the Reactor Safety Research Subcommittee*, September 20, 1977, Washington, D.C. The Working Group will meet to review the various research activities in support of fuel cycle development, including health and environmental aspects and safeguard special nuclear materials.

**Greene County Nuclear Power Plant*, September 21–22, 1977, Albany, N.Y. The Subcommittee will meet to review the applica-

V42162 AUG 22 77 UM

tion of the Power Authority of the State of New York for a permit to construct the Greene County Nuclear Power Plant.

Pilgrim Nuclear Station, Unit No. 2, September 22, 1977, Boston, Mass. The Subcommittee will meet to continue its review of the application of the Boston Edison Company for a permit to construct Unit No. 2 of the Pilgrim Nuclear Station.

Working Group No. 2 of the Reactor Safety Research Subcommittee and Reactor Fuel Subcommittee, September 22–23, 1977, San Francisco, Calif. The Working Group and Subcommittee will hold a joint meeting to discuss water reactor safety research and development pertaining to fuel behavior and materials and metallurgy, and to discuss improved fuel concepts for boiling water reactors.

Working Group No. 4 of the Reactor Safety Research Subcommittee, September 28–29, 1977, Washington, D.C. The Working Group will meet to review the NRC sponsored research on advanced reactor technology.

Floating Nuclear Plant, September 29, 1977, Denver, Colo. The Subcommittee will meet to continue its review of the generic liquid pathway study.

Regulatory Activities, October 5, 1977, Washington, D.C. The Subcommittee will review working papers, future Regulatory Guides, and changes to existing Regulatory Guides; also, it will discuss pertinent activities which affect the current licensing process and/or reactor operations.

Atlantic Generating Station, October 21, 1977, Washington, D.C. The Subcommittee will meet to continue its review of the application of Public Service Electric and Gas Company of New Jersey for a permit to construct the Atlantic Generating Station.

Fluid/Hydraulic Dynamic Effects, October 26, 1977, Portland, Oreg. The Subcommittee will meet to continue the discussion on the effects of blowdown forces on reactor vessel supports.

Pebble Springs Nuclear Plant, Units 1 and 2, October 27, 1977 (Tentative) Portland, Oreg. The Subcommittee will meet to continue its review of the application of the Portland General Electric Company for a permit to construct the Pebble Springs Nuclear Plant, Units 1 and 2.

Yellow Creek Nuclear Power Plant, October 28, 1977, Cornith, Miss. The Subcommittee will meet to review the application of the Tennessee Valley Authority for a permit to construct the Yellow Creek Nuclear Power Plant.

Resolution of Generic Items, November 1, 1977, Washington, D.C. The Subcommittee will meet to review the current status of generic issues identified in "Status of Generic Items Relating to Light Water Reactors: Report No. 5," dated February 24, 1977.

D. C. Cook Nuclear Plant, Unit 2, December 3, 1977, Benton Harbor, Mich. The Subcommittee will meet to review the application of the Indiana and Michigan Power Company for a permit to operate D. C. Cook Nuclear Plant, Unit 2.

FULL ACRS MEETINGS

SEPTEMBER 8–10, 1977

Agenda

A. *San Joaquin Nuclear Project—Partial site review.

B. *Skagit Nuclear Project—Construction permit.

C. *Proposed Revision of 10 CFR Part 50, Appendix K, ECCS Evaluation Models.

OCTOBER 6–8, 1977

Agenda to be announced.

Dated: August 19, 1977.

JOHN C. HOYLE,
Advisory Committe,
Management Officer.

[FR Doc.77 24411 Filed 8-19-77;9:20 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

NON-RUBBER FOOTWEAR

Paragraph (1) below sets forth the texts of letters exchanged between the Acting Special Representative for Trade Negotiations and representatives of the Governments of the Republics of China and Korea, respectively, concerning the Agreements between the United States and those two countries regarding international trade in non-rubber footwear. These letter add to the Agreements an Agreed Minute intended to allow certain non-rubber footwear, with respect to which interpretations differed as to the correct date of export, to be entered and counted against relevant import ceilings during the initial period of the Agreements.

Paragraph (2) below sets forth the text of letters from the Acting Special Trade Representative to the Commissioner of Customs, directing that the terms of the Agreed Minutes be implemented, and providing certain guidance with respect to such implementation.

Paragraph (3) below specifies the changes that are to be made in Part 2 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202), in order to embody in the Tariff Schedules the changes made by the Agreed Minutes contained in the letters set forth at paragraph (1). In accordance with Proclamation 4510, of June 22, 1977, these changes will be effective August 22, 1977.

Paragraph (4) below sets forth the text of a letter of July 22, 1977, from the Special Trade Representative to the Commissioner of Customs, amending the description of an export visa that was given previously, and directing that Customs permit entry of non-rubber footwear articles without an export visa wherever requested to do so in writing by the Embassy of the Republic of China. A similar directive was given to the Commissioner of Customs with respect to requests from the Embassy of Korea, in a letter from the Special Trade Representative that was published in the FEDERAL REGISTER of June 24, 1977 (42 FR 32443).

1. *Letters Exchanged Between the Acting Special Trade Representative and Representatives of the Governments of the Republics of China and Korea.*

THE SPECIAL REPRESENTATIVE
FOR TRADE NEGOTIATIONS,
Washington, D.C., August 4, 1977.

HIS EXCELLENCY JAMES C. H. SHEN,
Ambassador of the Republic of China,
2311 Massachusetts Avenue NW.,
Washington, D.C. 20008.

EXCELLENCY: I have the honor to refer to the agreement between the Government of the Republic of China and the Government of the United States of America regarding exports from the Republic of China of non-rubber footwear, hereinafter referred to as the "Agreement".

Pursuant to discussions that have been held between representatives of our two Governments, I hereby propose to add the following paragraph as Agreed Minute No. 7 of the Agreement:

"7. For the initial period of the Agreement, paragraph 2(c) shall be administered as follows: all non-rubber footwear articles exported from the Republic of China on or after June 28, 1977, will be denied importation for consumption by the Government of the United States of America unless such articles have been issued an export visa by the Government of the Republic of China, or unless the Government of the United States of America determines that any such articles that were not issued visas were exported on carriers that (i) were loaded with such footwear articles prior to June 28, 1977; (ii) departed from the Republic of China prior to July 6, 1977; and (iii) were entered, or withdrawn from warehouse for consumption in the United States prior to September 1, 1977."

In addition, it is my understanding that the Government of the Republic of China will issue export visas, or otherwise authorize entry, for all non-rubber footwear articles that were exported to the United States on carriers that were loaded with such articles prior to June 28, 1977, but that are not determined by the Government of the United States to have departed the Republic of China prior to July 6, 1977.

We further understand that, in accordance with the Agreement, the Government of the Republic of China has not permitted non-rubber footwear articles to be exported on or after June 28, 1977, without issuance of export visas covering such articles. We have been assured that the Government of the Republic of China will, to the fullest extent possible, assist representatives of the Government of the United States of America in verifying information needed to implement Agreed Minute No. 7 of the Agreement as added by this exchange of letters.

It is understood that all non-rubber footwear articles that are imported without an export visa, pursuant to Agreed Minute No. 7 of the Agreement as added by this exchange of letters, will be counted in accordance with paragraph 2(d)(ii) of the Agreement as if such articles were exported prior to June 28, 1977.

It is further understood that, without prejudice to its own laws and regulations, the Government of the Republic of China recognizes that the Government of the United States of America will, consistent with its laws and regulations, in the future consider non-rubber footwear articles to be exported on the actual date that the articles finally depart the country of exportation for the United States.

I would appreciate your confirming that the proposal to add Agreed Minute No. 7 of the Agreement, and the other points covered in this letter, are acceptable to your Government.

With best wishes, I am,
Sincerely,

WILLIAM B. KELLY, JR.,
Acting Special Representative
for Trade Negotiations.

Embassy of the Republic of China,
Washington, D.C., August 5, 1977.

EXCELLENCY: I have the honor to refer to Your Excellency's letter of August 4, 1977 proposing to add a paragraph as Agreed Minute No. 7 of the Agreement between the Government of the Republic of China and the Government of the United States of America regarding Exports from the Republic of China of Non-rubber Footwear as follows:

"7. For the initial period of the Agreement, paragraph 2(c) shall be administered as follows: All non-rubber footwear articles exported from the Republic of China on or after June 28, 1977, will be denied importation for consumption by the Government of the United States of America unless such articles have been issued an export visa by the Government of the Republic of China, or unless the Government of the United States of America determines that any such articles that were not issued visas were exported on carriers that (i) were loaded with such footwear articles prior to June 28, 1977; (ii) departed from the Republic of China prior to July 6, 1977; and (iii) were entered, or withdrawn from warehouse for consumption in the United States prior to September 1, 1977."

I have the honor to confirm on behalf of the Government of the Republic of China that the addition to the Agreed Minutes of the Agreement referred to above is acceptable.

I further have the honor to confirm that the Government of the Republic of China will issue export visas, or otherwise authorize entry for all non-rubber footwear articles that were exported to the United States on carriers that were loaded with such articles prior to June 28, 1977, but that are not determined by the Government of the United States of America to have departed the Republic of China prior to July 6, 1977.

I also wish to confirm that your understandings as stated in paragraphs 4, 5, and 6 of your letter are correct.

With best wishes, I am,
Sincerely yours,

JAMES C. H. SHEN,
Ambassador of the
Republic of China.

HIS EXCELLENCY
WILLIAM B. KELLEY, JR.,
Acting Special Representative
for Trade Negotiations,
Washington, D.C. 20506.

THE SPECIAL REPRESENTATIVE
FOR TRADE NEGOTIATIONS,
Washington, D.C., August 4, 1977.

MINISTER YOONSAE YANG,
Embassy of the Republic of Korea,
2320 Massachusetts Avenue NW.,
Washington, D.C. 20008.

DEAR MR. MINISTER: I have the honor to refer to the agreement between the Government of the Republic of Korea and the Government of the United States of America regarding exports from the Republic of Korea of non-rubber footwear, hereinafter referred to as the "Agreement".

Pursuant to discussions that have been held between representatives of our two Governments, I hereby propose to add the following paragraph as Agreed Minute No. 5 of the Agreement:

"5. For the initial period of the Agreement, paragraph 2(c) shall be administered as follows: all non-rubber footwear articles exported from the Republic of Korea on or after June 28, 1977, will be denied importation for consumption by the Government of the United States of America unless such articles have been issued an export visa by the Government of the Republic of Korea, or unless the Government of the United States of America determines that any such articles that were not issued visas were exported on carriers that: (i) were loaded with such footwear articles prior to June 28, 1977; (ii) departed from the Republic of Korea prior to July 6, 1977; and (iii) were entered, or withdrawn from warehouse for consumption in the United States prior to September 1, 1977."

In addition, it is my understanding that the Government of the Republic of Korea will issue export visas, or otherwise authorize entry, for all non-rubber footwear articles that were exported to the United States on carriers that were loaded with such articles prior to June 28, 1977, but that are not determined by the Government of the United States to have departed the Republic of Korea prior to July 6, 1977.

We further understand that, in accordance with the Agreement, the Government of the Republic of Korea has not permitted non-rubber footwear articles to be exported on or after June 28, 1977, without issuance of export visas covering such articles. We have been assured that the Government of the Republic of Korea will, to the fullest extent possible, assist representatives of the Government of the United States of America in verifying information needed to implement Agreed Minute No. 5 of the Agreement as added by this exchange of letters.

It is understood that all non-rubber footwear articles that are imported without an export visa, pursuant to Agreed Minute No. 5 of the Agreement as added by this exchange of letters, will be counted in accordance with paragraph 2(d)(ii) of the Agreement as if such articles were exported prior to June 28, 1977.

It is further understood that, without prejudice to its own laws and regulations, the Government of the Republic of Korea recognizes that the Government of the United States of America will, consistent with its laws and regulations, in the future consider non-rubber footwear articles to be exported on the actual date that the articles finally depart the country of exportation for the United States.

I would appreciate your confirming that the proposal to add Agreed Minute No. 5 of the Agreement, and the other points covered in this letter, are acceptable to your Government.

With best wishes, I am,
Sincerely,

WILLIAM B. KELLY, JR.,
Acting Special Representative
for Trade Negotiations.

EMBASSY OF THE REPUBLIC OF KOREA,
Washington, D.C., August 4, 1977.

WILLIAM B. KELLY, JR.,
Acting Special Representative for
Trade Negotiations,
Washington, D.C.

DEAR SIR: I have the honor to acknowledge receipt of your note of today's date which reads as follows:

"I have the honor to refer to the agreement between the Government of the Republic of Korea and the Government of the United States of America regarding exports from the Republic of Korea of non-rubber footwear, hereinafter referred to as the 'Agreement'.

"Pursuant to discussions that have been held between representatives of our two Governments, I hereby propose to add the following paragraph as Agreed Minute No. 5 of the Agreement:

"5. For the initial period of the Agreement, paragraph 2(c) shall be administered as follows: all non-rubber footwear articles exported from the Republic of Korea on or after June 28, 1977, will be denied importation for consumption by the Government of the United States of America unless such articles have been issued an export visa by the Government of the Republic of Korea, or unless the Government of the United States of America determines that any such articles that were not issued visas were exported on carriers that: (i) were loaded with such footwear articles prior to June 28, 1977; (ii) departed from the Republic of Korea prior to July 6, 1977; and (iii) were entered, or withdrawn from warehouse for consumption in the United States prior to September 1, 1977."

In addition, it is my understanding that the Government of the Republic of Korea will issue export visas, or otherwise authorize entry, for all non-rubber footwear articles that were exported to the United States on carriers that were loaded with such articles prior to June 28, 1977, but that are not determined by the Government of the United States to have departed the Republic of Korea prior to July 6, 1977.

We further understand that, in accordance with the Agreement, the Government of the Republic of Korea will not permitted non-rubber footwear articles to be exported on or after June 28, 1977, without issuance of export visas covering such articles. We have been assured that the Government of the Republic of Korea will, to the fullest extent possible, assist representatives of the Government of the United States of America in verifying information needed to implement Agreed Minute No. 5 of the Agreement as added by this exchange of letters.

"It is understood that all non-rubber footwear articles that are imported without an export visa, pursuant to Agreed Minute No. 5 of the Agreement as added by this exchange of letters, will be counted in accordance with paragraph 2(d)(ii) of the Agreement as if such articles were exported prior to June 28, 1977.

"It is further understood that, without prejudice to its own laws and regulations, the Government of the Republic of Korea recognizes that the Government of the United States of America will, consistent with its laws and regulations, in the future consider non-rubber footwear articles to be exported on the actual date that the articles finally depart the country of exportation for the United States.

"I would appreciate your confirming that the proposal to add Agreed Minute No. 5 of the Agreement, and the other points covered in this letter, are acceptable to your Government".

I have further the honor to confirm that the proposal contained in your note is acceptable to the Government of the Republic of Korea.

Accept, Sir, the renewed assurances of my highest consideration.

Sincerely Yours,

YOONSAE YANG,
Minister.

2. *Letters from the Acting Special Trade Representative to the Commissioner of Customs Regarding Implementation of the New Agreed Minutes.*

THE SPECIAL REPRESENTATIVE
FOR TRADE NEGOTIATIONS,
Washington, D.C., August 5, 1977.

V 42162 AUG 22 77 UM

Mr. ROBERT CHASEN,
Commissioner,
U.S. Customs Service,
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: We have exchanged letters of August 4, 1977, with the representatives of the Governments of the Republic of China and Korea, concerning the orderly marketing agreements on non-rubber footwear concluded between each of those Governments and the Government of the United States of America. These letters state, in pertinent part; as follows:

(Applicable to the Agreement with the Republic of China.)

"• • • add the following paragraph as Agreed Minute No. 7 of the Agreement:

"7. For the initial period of the Agreement, paragraph 2(c) shall be administered as follows: all non-rubber footwear articles exported from the Republic of China on or after June 28, 1977, will be denied importation for consumption by the Government of the United States of America unless such articles have been issued an export visa by the Government of the Republic of China, or unless the Government of the United States of America determines that any such articles that were not issued visas were exported on carriers that (i) were loaded with such footwear articles prior to June 28, 1977; (ii) departed from the Republic of China prior to July 6, 1977; and (iii) were entered, or withdrawn from warehouse for consumption in the United States prior to September 1, 1977."

(Applicable to the Agreement with the Republic of Korea.)

"• • • add the following paragraph as Agreed Minute No. 5 of the Agreement:

"5. For the initial period of the Agreement, paragraph 2(c) shall be administered as follows: all non-rubber footwear articles exported from the Republic of Korea on or after June 28, 1977, will be denied importation for consumption by the Government of the United States of America unless such articles have been issued an export visa by the Government of the Republic of Korea, or unless the Government of the United States of America determines that any such articles that were not issued visas were exported on carriers that: (i) were loaded with such footwear articles prior to June 28, 1977; (ii) departed from the Republic of Korea prior to July 6, 1977; and (iii) were entered, or withdrawn from warehouse for consumption in the United States prior to September 1, 1977."

Pursuant to the authority delegated by operative paragraph (6) of Proclamation 4510 of June 22, 1977, you are directed to implement immediately the provisions quoted above by allowing entry, or withdrawal from warehouse for consumption of non-rubber footwear articles (as defined in the Agreements) that meet the criteria specified in the Agreed Minutes quoted above. You are directed to utilize the date shown on the bill of lading in determining whether those criteria are met. In the absence of a bill of lading or a legible date on a bill of lading, and in the absence of evidence to the contrary, you are authorized to presume that non-rubber footwear articles were loaded prior to June 28, 1977, taking into account the following assurances that have been received from the Governments of the Republics of China and Korea:

"• • • the Government(s) of the (Republics of China and Korea have) not permitted non-rubber footwear articles to be exported on or after June 28, 1977, without issuance of export visas covering such articles. The Government(s) of the (Republics of China and Korea) will, to the fullest extent possible, assist representatives of the Government of the United States of America in verifying information needed to implement (the) Agreed Minute(s) • • • ."

This letter will be published in the FEDERAL REGISTER.

Sincerely,

WILLIAM B. KELLY, JR.,
Acting Special Representative for Trade Negotiations.

Mr. ROBERT CHASEN,
Commissioner,
U.S. Customs Service,
Department of the Treasury,
Washington, D.C. 20229.

AUGUST 6, 1977.

DEAR MR. COMMISSIONER: My letter to you of August 5, 1977 set forth the text of an Agreed Minute (the "Agreed Minute") that had been added to the orderly marketing agreements on non-rubber footwear concluded between the Government of the United States of America and the Governments of the Republics of China and Korea (the "Agreements"). My letter asked that you begin immediately to implement the Agreed Minute by allowing entry, or withdrawal from warehouse for consumption of non-rubber footwear articles that met the criteria specified therein.

You are hereby directed to count all non-rubber footwear articles that are entered pursuant to the Agreed Minute in accordance with paragraph 2(d)(ii) of the Agreements, as if such articles were exported prior to June 28, 1977.

This letter will be published in the FEDERAL REGISTER. In addition, pursuant to operative paragraph (5) of Proclamation 4510 of June 22, 1977, appropriate changes in Part 2 of the Appendix to the Tariff Schedules of the United States will be published in the FEDERAL REGISTER.

Sincerely,

GEZA FEKETEKUTY,
Acting Special Representative for Trade Negotiations.

Mr. ROBERT CHASEN,
Commissioner,
U.S. Customs Service,
Department of the Treasury,
Washington, D.C. 20229.

AUGUST 12, 1977.

DEAR MR. CHASEN: Reference is made to Mr. Kelly's letter to you of August 5, 1977, in which he reported that we had added the following paragraph as an Agreed Minute to the orderly marketing agreements on non-rubber footwear with the Republics of China and Korea:

"For the initial period of the Agreement, paragraph 2(c) shall be administered as follows: all non-rubber footwear articles exported from the Republics of China or Korea on or after June 28, 1977, will be denied importation for consumption by the Government of the United States of America unless such articles have been issued an export visa by the Governments of the Republics of China or Korea, or unless the Government of the United States of America determines that any such articles that were not issued visas were exported on carriers that (i) were loaded with such footwear articles prior to June 28, 1977; (ii) departed from the Republic of China prior to July 6, 1977; and (iii) were entered, or withdrawn from warehouse for consumption in the United States prior to September 1, 1977."

Pursuant to the authority delegated by operative paragraph (6) of Proclamation 4510 of June 22, 1977, and in order to carry out the Agreements as amended by the Agreed Minute quoted above, you are directed to consider the criterion that non-rubber footwear was "exported on [a] carrier[s] that • • • departed from the [Republic of China or Korea] prior to July 6, 1977" as having been fulfilled if non-rubber footwear physically departed by ship from the Republic of China or Korea prior to July 6, 1977, regardless of whether such footwear was on board a ship that subsequently returned to one of those countries. Any non-rubber footwear entered, or withdrawn from warehouse for consumption as a result of this directive should be counted in accordance with paragraph 2(d)(ii) of the orderly marketing agreements.

This letter will be published in the FEDERAL REGISTER.

Sincerely,

GEZA FEKETEKUTY,
Acting Special Representative for Trade Negotiations.

3. *Changes to be Made in Part 2 of the Appendix to the Tariff Schedules of the United States.*

Headnote 3(b) of subpart A, part 2 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is modified by deleting the period at the end thereof, substituting a comma therefor, and adding the following: "or unless the appropriate official of the U.S. Customs Service determines that any such footwear that was not issued a visa—

(i) Was exported on a carrier that was loaded with such footwear prior to June 28, 1977;

(ii) Departed the foreign country involved on such carrier prior to July 6, 1977; and

(iii) Was entered prior to September 1, 1977."

4. *Letter from the Special Trade Representative to the Commissioner of Customs Regarding Description of Import Visas and Requests from the Embassy of the Republic of China.*

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

JULY 22, 1977.

DEAR MR. COMMISSIONER: I would like to draw your attention to Presidential Proclamation 4510, of June 22, 1977, implementing import relief on non-rubber footwear, and to my letter to you of June 21, 1977, containing certain instructions with respect to the administration of such import relief.

The first sentence of the third paragraph of my letter described the export visa to be used by the Republics of China and Korea with respect to footwear exports as "An original stamp on the special customs invoice • • •". I would like to amend this description of the export visa to read as follows: "The export visa shall be an original stamp on the invoice (special customs invoice, or successor document, or commercial invoice when such form is used) • • •".

In addition, importers of shipments from the Republic of China whose shipments are denied entry because they are not accompanied by a visa or because of a discrepancy between the actual merchandise and the category indicated on the visa may seek assistance from the Commercial Attache, Embassy of the Republic of China, 2311 Massachusetts Avenue NW., Washington, D.C. 20008, telephone number NO 7-9000. You are directed to permit entry into the United States for consumption and withdrawal from warehouse for consumption of designated shipments of footwear produced or manufactured in the Republic of China and exported to the United States, notwithstanding that the designated shipment or shipments do not meet the visa requirements set forth in my letter of June 21, whenever requested to do so in writing the Embassy of China. Such shipments shall be charged against the appropriate restraint level.

This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT S. STRAUSS.

RICHARD R. RIVERS,
Acting Special Representative for Trade Negotiations.

[FR Doc.77-24234 Filed 8-19-77;8:45 am]

RAILROAD RETIREMENT BOARD

RAILROAD RETIREMENT SUPPLEMENTAL ANNUITY PROGRAM

Determination of Quarterly Rate of Excise Tax

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. § 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each man-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning October 1, 1977, shall be at the rate of twelve and one-half cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning October 1, 1977, 15 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 85 percent of the taxes collected under such Sections 3211(b) and 3221(c) plus one hundred percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: August 15, 1977.

By Authority of the Board.

R. F. BUTLER,
Secretary of the Board.

[FR Doc.77-24223 Filed 8-19-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 20140; (70-6043)]

CENTRAL POWER AND LIGHT CO.

Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding

AUGUST 16, 1977.

Notice is hereby given that Central Power and Light Company, ("CP&L") P.O. Box 2121, Corpus Christi, Texas 78403, an electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

CP&L proposes to issue and sell, pursuant to the competitive bidding requirements of Rule 50 under the Act, $75,000,000 principal amount of its First Mortgage Bonds, Series O, to be dated October 1, 1977 and to mature October 1, 2007 ("Bonds").

The annual interest rate and the redemption prices of the Bonds, and the price to be paid to CP&L therefor (which will not be less than 99% nor more than 102.75%), will be determined through competitive bidding. The Bonds will have refunding protection until October 1, 1982.

The Bonds will be issued under and secured by the CP&L Indenture, dated November 1, 1943, under which The First National Bank of Chicago and R. R. Manchester are Trustees, as previously amended ("Indenture"), and to be further amended by a proposed supplemental indenture to be dated October 1, 1977 ("Supplemental Indenture").

CP&L States that the Supplemental Indenture amends various computations under the Indenture. The first of these amendments deletes the requirement that there be deducted, in computing net earnings for the purpose of determining the ability of CP&L to issue additional bonds, an amount aggregating not less than 15% of gross operating revenues on account of "maintenance and repairs and as charges or provisions for depreciation, retirements, renewals and replacements, and/or amortization" and replaces it with a requirement that there be deducted "as charges or provisions for depreciation, retirements, renewals and replacements and/or amortization" amounts aggregating a "required percentage" of CP&L's depreciable bondable property. It is stated by CP&L that the required percentage will presently be set at 3.2% of the arithmetical average of the amount of its depreciable bondable property during the calendar period. The amended provision would allow adoption of a different percentage by Commission order, issued after notice and opportunity for hearing, if the Commission finds that 3.2% is no longer appropriate.

The second Indenture computation which is proposed to be amended is that relating to the satisfaction of the renewal fund covenant. The Supplemental Indenture would delete the equivalent 15% revenue based maintenance deduction and leave the depreciable property based deduction increased to 3.2% from its present 2¼%.

The Supplemental Indenture also makes a related change from the pattern of previous supplemental indentures with respect to the limitation on dividends on common stock. The Supplemental Indenture provides that in the computation of available retained earnings in future periods while the Bonds are outstanding, there be deducted an annual provision for depreciation at least equal to the "required percentage" of average depreciable property, rather than, as in the case of supplemental indentures respecting previous series of bonds, the greater of such amount or 15% of operating revenues after deducting costs of purchased power.

CP&L states that inasmuch as the Indenture lacks bondholder consent provisions with respect to series created prior to June 1, 1974, the amendments on earnings coverage and renewal fund computations could probably not be made effective until June 1, 2004.

CP&L states, as its reason for effecting the amendments, that the inflation of operating revenues due primarily to the recovery of greatly increased fuel costs through fuel adjustment clauses has made it clear that deductions based on operating revenues bear no logical relationship to protecting bond-holder interests and that deductions based instead on utility plant are more appropriate.

CP&L states that proceeds to be derived from the sale of the Bonds (exclusive of accrued interest and after deducing expenses of issue) will be used towards future construction and fuel exploration and development expenditures and to repay short-term borrowings incurred or expected to be incurred to finance construction expenditures. Approximately $38,000,000 of short-term borrowings are expected to be out standing as of October 6, 1977, the planned date of issuance of the Bonds. CP&L states that no funds generated from the Bonds nor any of the borrowings retired thereby will be or have been utilized to pay the cost of facilities which would not be needed to provide service to its customers if it were not part of the Central and South West System. CP&L further states that no expenditures will be made by it for the construction or acquisition of any facility not so needed prior to the time all funds covered by this Declaration have been expended. In addition, CP&L states that, for the purposes of the foregoing representation, it is assumed that none of the facilities, construction or acquisition of which would be part of any proposal forming the subject of the proceedings in Central and South West Corporation, et al. (Admin. Proce. File No. 3-4591), would be needed to provide service to customers of CP&L if it were not part of the Central and South West System.

It is stated that the construction and fuel exploration and development expenditures of CP&L for the years 1977 through 1979 are estimated at $223,667,000, $254,699,000 and $215,771,000 respectively. Approximately $68,554,000 of the 1977 estimated total had been expended at June 30, 1977.

It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction. The fees and expenses to be incurred in connection with the proposed transaction are estimated at $160,000 including $26,000 in legal fees and $15,000 in accountants fees.

V 42 162 AUG 22 77 UMI

Notice is further given that any interested person may, not later than September 12, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, and reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-24250 Filed 8-19-77;8:45 am]

MIDWEST STOCK EXCHANGE, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 16, 1977.

The Midwest Stock Exchange, Inc. has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

The Lehman Corp. (Maryland), Common Stock—$1 Par Value, File No. 7 4976.

Upon receipt of a request, on or before September 1, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77 24251 Filed 8-19-77;8:45 am]

[Release No. 34-13861; SR-NASD-77-11]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc., and Order Approving Proposed Rule Change

AUGUST 15, 1977.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), as amended by Pub. L. No. 94-29, § 16 (June 4, 1975), notice is hereby given that on June 14, 1977, the National Association of Securities Dealers, Inc. (the "NASD"), 1735 K Street, NW., Washington, D.C. 20006, filed with the Commission copies of a proposal to adopt a policy relating to Section 9 of the NASD's Code of Arbitration Procedure. That proposal, as modified by an amendment submitted on July 20, 1977 (the "Proposal"), is to adopt a resolution providing that all persons serving on the NASD's Arbitration panels be paid an honorarium of $50 for each hearing session in which they participate while in the performance of their duties.

Interested persons are invited to submit written data, views and arguments concerning the Proposal on or before September 21, 1977. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-NASD-77-11.

Copies of the submission and of all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of the filing will also be available at the principal office of the NASD.

The Commission finds that the Proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities associations and, in particular, the requirements of Section 15A and the Act and the rules and regulations thereunder.

The Commission finds good cause for approving the Proposal prior to the thirtieth day after the date of publication of notice of filing thereof. It appears that such approval would have an immediate positive impact respecting the resolution of controversies subject to the NASD's arbitration process. In addition, the policy which the NASD has proposed to adopt is similar to currently effective policies of various national securities exchanges.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the Proposal be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-24252 Filed 8-19-77;8:45 am]

[Release No. 13846; File No. SR-NASD-77-1]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Withdrawal of Proposed Rule Change

AUGUST 10, 1977.

The National Association of Securities Dealers, Inc. ("NASD"), by letter dated June 10, 1977, has withdrawn from Commission consideration a proposed rule change (the "Proposal") set forth in the above-referenced filing submitted pursuant to Section 19(b) of the Securities Exchange Act of 1934 (15 U.S.C. § 78s(b)) and Rule 19b-4 thereunder (17 CFR 240.19b-4).[1]

The Proposal was to amend Section 4 of the NASD's Code of Arbitration Procedure by adding a new subsection (b) which outlined procedures affecting public-member controversies in amounts not exceeding $500.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-24253 Filed 8-19-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

PROVISION OF PESTICIDES TO SAHEL REGION OF AFRICA

Intent To Waive Certain Requirements

AGENCY: Agency for International Development.

ACTION: Notice of Intent to Waive Certain Requirements for Provision of Pesticides to the Sahel Region of Africa.

SUMMARY: The Agency for International Development intends to waive certain requirements for provision of pesticides as set forth in Interim Pesticide Procedures, the "Interim Regulations" published in the FEDERAL REGISTER on January 7, 1976 (41 FR 1297). This waiver will be made pursuant to Section (a) of the regulations.

[1] SR-NASD-77-1 was filed on January 3, 1977. Notice of submission of the Proposal was given in Securities Exchange Act Release No. 13137 (January 5, 1977), 11 SEC Docket 1361 (January 18, 1977), and the terms of substance of the Proposal were published at 42 FR 2735 (January 18, 1977).

DATES: Comments on this proposed action must be received on or before September 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. Frederick Whittemore, Room 413F, Rosslyn Plaza, Arlington, Virginia 20523, (703) 235-1497.

Mail address, Office of Agriculture, AID, Department of State, Washington, D.C. 20523.

SUPPLEMENTARY INFORMATION: The following table sets for the the pesticides, the crops on which they will be used, and the primary pests of those crops in the Sahelian countries:

Crop	Pesticide	Pests
Maize	Diazinon, endosulfan, malathion, trichlorfon	*Heliothis armigera*—corn ear worm. *Sesamia calamistis*—stem borer. *Sesamia botanephaga*—stem borer. *Chilo orichal—cocichella*—shoot worm or bud worm. *Busseola fusca*—stem borer.
Cowpeas	Diazinon	*Acanthomia horrida*—plant bug. *Acanthomia lomentoscollis*—plant bug. *Helopeltis schoutendeni*—plant bug. *Taeniothrips sjostedti*—thrips. *Cirgus sp.*—leaf-feeding beetle. *Mylabris sp.*—leaf-feeding beetle.
Groundnuts.	Diazinon, malathion, trichlorfon	*Spodoptera littoralis*—leaf worm. *Alcidodes dentipes*—weevil. *Systates spp.*—weevil. *Heliothis armigera*—leaf worm. *Marasa testualis*—stem borer.
Rice	Malathion	*Charlocnema pulla*—beetle. *Sesselia pusilla*—beetle. *Trichispa sericea*—Africa rice hispa. *Diopsis thoracica*—stalk-eyed borer. *Chilopartellus spp.*—maize borer.
Sorghum	Diazinon, dimethoate, lindane, malathion	*Busseola spp.*—stem borers. *Sesamia spp.*—stem borers. *Atherigona sp.*—sorghum shoot fly. *Masalia species*—leaf feeding caterpillars.
Millet	Same as sorghum	Same as sorghum.
Wasteland	Fenitrothion	Desert locust. African migratory locust. Grasshoppers.

BACKGROUND: A.I.D. has, since 1972, participated with other international donors in providing financial assistance to the Office for Special Relief Operations of the Food and Agriculture Organization of the United Nations ("FAO"). This Office was established in that year in response to the non-availability of basic food crops to persons living in the Sahelian zone of certain sub-Saharan countries which had reached a crisis stage. Drought had decimated herds of grazing and domestic animals in the more northern areas of these countries and had forced the human population there to migrate south. Although some production of basic food crops was still possible in these more southerly areas of the affected countries, the annual production of essential food crops had reached an alarmingly low level by 1972 as is shown in the following tables:

Annual production estimates in 1,000 metric tons of Millet in Chad, Niger, Upper Volta, Mali, Senegal, Mauritania, and the Gambia, 1971-1976

1971	1972	1973	1974	1975	1976
2,774	2,111	2,100	2,870	2,785	3,131

Annual production estimates in 1,000 metric tons of other basic food crops in Niger, Senegal, and Upper Volta, 1971-1976

	1971	1972	1973	1974	1975	1976
Sorghum	846	779	699	1,067	1,105	1,116
Maize	205	154	188	209	200	211
Rice	422	289	312	365	416	413
Peanuts (groundnuts)	(1)	(1)	1,076	1,501	1,616	(1)

[1] Not available.

Faced with these extreme conditions of famine, starvation, and death, the international donor community provided food aid to the affected groups in the quantities shown in the following table:

Metric tons of food aid to Sahelian countries 1972-73 to 1975-76

1972-73	1973-74	1974-75	1975-76
471,000	137,747	389,352	131,912

Although drought conditions began to ease somewhat in 1973, and some food crops could again be grown in the more arid areas, severe pest outbreaks, particularly of grasshoppers, soon began to occur and, by 1974, heavy losses were being experienced. For example, farmers attempting to grow crops in flood recession areas of Mauritania, Mali and Senegal were forced to reseed two and sometimes three times, thus causing an estimated production loss of 30 to 60 percent. In Chad, Niger, Northern Cameron, Benin (formerly Dahomey), Togo, Upper Volta, Senegal and Mauritania, 75 to 80 percent of the millet crop was destroyed over several hundred thousand hectares. In Mali alone, 200,000 hectares, representing 16 percent of the total land under millet cultivation, suffered 80 to 100 percent losses. This represented a food crop loss of between 77,000 and 96,000 metric tons.

To ameliorate these conditions and to enable the affected countries to become at least partially self-sufficient in basic food crops, the international donor community, including A.I.D., initiated under the leadership of FAO a program to supply pesticides to be prepositioned in the affected countries and to be used for the protection of basic food crops in the event of pest outbreaks.

Value of pesticides (in millions of U.S. dollars) provided to Sahelian countries for use in the crop years 1973-74 to 1976-77

1973-74	1974-75	1975-76	1976-77
0.7	3.2	1.8	2.7

A long-term assistance program to the countries of the Sahel region is now being formulated through the FAO, including projects to strengthen the national plant protection services of the countries involved and to develop integrated pest management programs for basic food crops. Thus the FAO emergency food crop protection program should end with the present fiscal year.

RELATIONSHIP TO A.I.D. INTERIM PESTICIDE PROCEDURES: Although A.I.D.'s contributions to the Sahelian relief operations in previous years were made prior to the entry into force of the A.I.D. Interim Pesticide Procedures, the fiscal year 1977 contribution is subject to them. The Procedures provide that A.I.D. will not provide pesticides that have not been registered by the Environmental Protection Agency ("EPA") for the specific uses for which procurement is intended. Such registered use involve both the crop and the target (pest) vector. A.I.D. may, however, provide assistance for procurement and use of unregistered pesticides if they are to be used on crops and associated vectors not grown or found in the United States and if the determination is made by the Administrator that the benefits to be derived from their use outweigh potential adverse effects and no preferable alternatives are available.

A.I.D. has identified a number of crop/pest/pesticide combinations under the Grant which meet the needs of the Sahelian countries as identified by the respective national directors of plant protection services and endorsed by FAO. It has been determined that procurement and use of these pesticides come within the approval authority of the Administrator because the target pests are not found in the United States. In addition, the Administrator has determined that the benefits of the procurement and use of these pesticides outweigh the potential adverse effects and that no preferable alternatives are available.

BASES FOR DETERMINATIONS: The bases for these determinations are as follows: 1. *Control of pests attacking sorghum, maize, rice, groundnuts and cowpeas.*

The pesticides to be provided for use on sorghum, maize, rice, groundnuts and compeas are registered with the EPA for use on those corps. However, the primary pests against which the pesticides will be used in the Sahel region do not appear on the EPA registered labels, and therefore, these pesticides cannot be considered to be registered with EPA for this use. The pests to be controlled are not

V 42 162 AUG 22 77 UMI

found in the United States. The kinds of pests against which a pesticide is used does not affect the degree of safety to man and the environment involved in the use of the pesticide,[1] provided that the rate and frequency of application remain the same. Safety to man and the environment is primarily affected by the interaction of the pesticide and the specific corp on which it is used. Therefore, EPA registration of the above-named pesticides for use on the indicated crops is strong evidence that the use of these pesticides will not lead to adverse effects when used in accordance with the instructions on the EPA-approved label.

2. *Control of pests attacking millet.* The pesticides diazinon, dimethoate, lindane and malathion are being approved for use under the Grant on millet against the pests indicated with respect to sorghum. These pests are not vectors found in the United States. Although there are EPA registered pesticides for use on stored millet, none are available for use on growing millet because it is not a crop grown commercially in the United States for human consmption, although small amounts are produced for animal feed. Millet is a staple human food in the Sahel. The pesticides selected for use on millet are the same as those registered with the EPA for use on sorghum because these corps are essentially similar, both being small grains which are generally husked and cooked before consumption. These pesticides have been used successfully for the control of millet pests in the Sahel, and there is no evidence that their use has caused adverse effects on either man or the environment.

3. *Control of locusts and grasshoppers.* The pesticide fenitrothion has been selected for use on wasteland areas against the Desert Locust, the African Migratory Locust and local species of grasshoppers. None of these pests are found in the United States. The effective control of locusts and grasshoppers is based upon the use of pesticides in their breeding areas located in non-cropped lands, thereby minimizing their impact on agricultural crops and also the contamination of cropped lands by the pesticide. Although the Desert Locust and the African Migratory Locust have not caused general probelms in the Sahelian countries in recent years, they continue to be found in the dispersed or solitary phase and the threat of population build-up and their entering into the gregarious migratory phase is ever present. Furthermore, local species of grasshoppers have caused extensive crop losses in the Sahelian zone in recent years, and their depredations are expected to continue absent the use of the pesticide necessary for their control.

In the past, the pesticide dieldrin was used extensively in Africa for the control of locusts and grasshoppers. In response to environmental concerns expressed by the United States and certain other donors, extensive research has been underway for over 15 years to find more environmentally acceptable pesticides. The most acceptable substitute for dieldrin found to date is fenitrothion which has been used widely in Africa in recent years for control of these pests.

The pesticides fenitrothion, malathion, dimethoate, diazinon and lindane have been provided under the FAO program in the Sahel since 1975, and there is no evidence of any adverse effects resulting from their use.

These determinations have been made in consultation with the EPA. This publication constitutes notice of the impending approval of these determinations by the A.I.D. Administrator.

Dated: August 17, 1977.

GOLER T. BUTCHER,
Assistant Administrator for Africa.

[FR Doc.77-24302 Filed 8-18-77;12:09 pm]

[Public Notice CM-7, 100]

ADVISORY COMMITTEE ON THE LAW OF THE SEA

Closed Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act (P.L. 92-463), as amended by P.L. 94-409 section 5(c), notice is hereby given that the Advisory Committee on the Law of the Sea will meet in closed session on Friday, September 9, 1977. The meeting will convene 9:00 a.m. in the Dean Acheson Conference Room (West Auditorium), U.S. Department of State, 22nd and C Streets NW., Washington, D.C.

The purpose of the meeting is to discuss the informational composite negotiating text emanating from the Sixth Session of the Third United Nations Conference on the Law of the Sea and policy options regarding the Conference. During the session, proposals classified under the provisions of Executive Order 11652 will be discussed.

The discussion will involve substantive policy proposals under review in the NSC Policy Review Committee relating to issues which the United States will be negotiating with selected foreign delegation members during the coming intersessional period. The proposals are exempt under section (c) (1) of 5 USC 552b, and are required to be withheld from disclosure in the public interest.

The proposals cover such subjects as our overall posture towards the LOS Conference, the nature of a deep seabeds mining regime and proposed deep seabed mining legislation, and other related topics involving U.S. national security matters. Premature disclosure of the proposals could adversely affect our foreign relations interest and jeopardize the negotiations.

The Advisory Committee on the Law of the Sea represents a broad cross-section of industries, professions, academic disciplines and other public groups. As such, it will comprehensively review the proposals which will come before the Conference.

Dated: August 11, 1977.

F. S. M. HODSOLL,
Director,
Office of the Law of the Sea.

[FR Doc.77-24134 Filed 8-19-77;8:45 am]

[Public Notice CM-7, 102]

SHIPPING COORDINATING COMMITTEE SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on ship design and equipment of the Subcommittee on Safety of Life at Sea concerned with nuclear ships will hold an open meeting at 9:30 a.m. on Tuesday, September 13, 1977, in Room 8236 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of this meeting will be to discuss the proposed IMCO Code of Safety for Nuclear Merchant Ships and to prepare comments on the eight draft chapters for submission to IMCO.

Requests for further information on the meeting should be directed to CDR. John Deck III, United States Coast Guard (G-MMT-4), Washington, D.C. 20590. He may be reached by telephone on (area code 202) 426-2197.

The Chairman will entertain comments from the public as time permits.

Dated August 11, 1977.

CARL TAYLOR, Jr.,
Acting Director,
Office of Maritime Affairs.

[FR Doc.77 24136 Filed 8-19-77;8:45 am]

[Public Notice CM-7, 101]

STUDY GROUP 5 OF THE U.S. NATIONAL COMMITTEE OF THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Notice of Meeting

The Department of State announces that Study Group 5 of the U.S. CCITT National Committee will meet on September 15, 1977, at 10 a.m. in Room B841 of the Department of Commerce, 14th Street NW (between E Street and Constitution Avenue), Washington, D.C. This Study Group deals with matters in telecommunications relating to the development of the international digital data transmission services.

The agenda for the September 15 meeting will include consideration of the following:

1. Approval of draft Provisional Recommendations as recommended by CCITT Study Group VII. (CCITT Circular Letter No. 35).

2. Consideration of U.S. contributions to the December 1977 Working Party meeting of CCITT Study Group XVII and to the April 1978 meeting of Study Group VII.

3. Other business.

All participants are requested to use the main entrance to the Department of Commerce on 14th Street NW. Members of the general public who desire to attend the meeting on September 15 will be admitted up to the limit of the meeting room.

Dated: August 15, 1977.

ARTHUR L. FREEMAN,
Chairman,
U.S. National Committee.

[FR Doc.77-24135 Filed 8-19-77;8:45 am]

[1] This is explicitly recognized in EPA Pesticide Enforcement Policy Statement No. 5.

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on subdivision and stability of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 10 a.m. on Tuesday, September 13, 1977, in Room 8238 of the Department of Transportation, 400 Seventh Street NW., Washington, D.C.

The purpose of the meeting will be to review documents for the 21st session of the IMCO Subcommittee on Subdivision, Stability and Load Lines. The items for discussion are:

Stability of ships in ballast condition.

Damage stability of offshore supply vessels.

Load line requirements for mobile offshore drilling units.

Harmonization of the subdivision and stability requirements of various codes and conventions.

Requests for further information on the meeting should be directed to Mr. Edward H. Middleton, United States Coast Guard, 202-426-2170.

The Chairman will entertain comments from the public as time permits.

Dated: August 12, 1977.

CARL TAYLOR, Jr.,
Acting Director, Office of Maritime Affairs.

[FR Doc 77-24203 Filed 8-19-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 77-155]

CHEMICAL TRANSPORTATION INDUSTRY ADVISORY COMMITTEE, SUBCOMMITTEE ON SHIPS' STORES

Open Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the Chemical Transportation Industry Advisory Subcommittee on Ships' Stores to be held on September 7, 1977, beginning at 9:30 a.m. in Room 8334, Nassif Building, 400 7th Street SW., Washington, D.C. 20590.

At this meeting, the areas of interest, concern, and responsibility of the Subcommittee and the format for revising the regulations for ships' stores will be established.

The agenda for this meeting is as follows:

1. Call to Order.
2. Opening Remarks.
3. Subcommittee Status Report.
4. Committee Comments and Recommendations.
5. Any Other Business Brought Before the Committee.
6. Adjournment.

Attendance is open to the interested public. It is requested that all knowledgeable, interested parties provide advice and assistance to this Subcommittee at this meeting. The Chairman will invite members of the public to present statements at the meeting. Information may be obtained from Captain C. E. Mathieu, Commandant (G-MHM/83), U.S. Coast Guard, Washington, D.C. 20590, 202-426-2306. Any members of the public may present a written statement to the Subcommittee at any time.

Dated: August 18, 1977.

H. G. LYONS,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.77-24294 Filed 8-19-77;8:45 am]

Federal Aviation Administration

FLIGHT SERVICE STATION AT LIVINGSTON, MONTANA

Reduction of Hours

Notice is hereby given that on or about September 22, 1977, the flight service station at Livingston, Mont., will be closed each day from 10 p.m. to 6 a.m. local time. This information will be reflected in forthcoming issues of the Airman's Information Manual.

Issued in Aurora, Colorado, on August 10, 1977.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc.77-24141 Filed 8-19-77;8:45 am]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA)

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the RTCA Special Committee 133 on Airborne Weather and Ground Mapping Pulsed Radars to be held September 28, 29, 30, 1977, RTCA Conference Room 261, 1717 H Street NW., Washington, D.C. commencing at 9:30 a.m. The Agenda for this meeting is as follows: (1) Approval of Minutes of Second Meeting held June 28, 29, and 30, 1977; (2) Report by Performance Evaluation Working Group; (3) Report by Total Operating System Working Group; (4) Development of New Minimum Performance Standards; and (5) Assignment of Tasks.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006; 202-296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on August 15, 1977.

KARL F. BIERACH,
Designated Officer.

[FR Doc 77-24142 Filed 8-19-77;8:45 am]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA)

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the RTCA Executive Committee to be held September 16, 1977, RTCA Conference Room 261, 1717 H Street NW., Washington, D.C. commencing at 9:30 a.m. The Agenda for this meeting is as follows: (1) Approval of Minutes of July 15, 1977 Meeting; (2) Special Activities Report for July and August 1977; (3) Chairman's Report of RTCA Administration and Activities; (4) Consideration of Resolution for Changes to Constitution and Bylaws; (5) Report by the Ad Hoc Committee on Wind Shear; (6) Report by the MPS MOC Informal Review Group, and (7) Consideration of Establishing New Special Committees.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and person wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006; 202-296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on August 15, 1977.

KARL F. BIERACH,
Designated Officer.

[FR Doc 77-24143 Filed 8-19-77;8:45 am]

Federal Railroad Administration

[BS-AP-No 1288]

CONSOLIDATED RAIL CORP.

Hearing

The Consolidated Rail Corporation (Conrail) has petitioned the Federal Railroad Administration seeking approval of a proposed modification of the signal system currently installed on its trackage between Columbus and Bradford in the State of Ohio. The proposed modification would involve the removal of automatic cab signal equipment installed on approximately 83 miles of

V 42 162 AUG 22 77 UM V

trackage between Columbus and Bradford.

The Railroad Safety Board has decided to hold a public hearing on this proposal before entering its final decision in this proceeding. Accordingly, a public hearing is hereby set for 10 a.m. on September 20, 1977 in Room 235 of the Federal Building, which is located at 850 Marconi Boulevard in Columbus, Ohio.

The hearing will be an informal one and will be conducted in accordance with the provisions of section 211.25 of the Federal Railroad Administration, Rules of Practice (49 CFR Part 211). A representative designated by the Railroad Safety Board will conduct this hearing.

The hearing will not be an adversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The representative of the Railroad Safety Board will make an opening statement outlining the scope of the hearing and will provide interested persons with an opportunity to make statements or rebuttal statements. Additional procedures, if necessary, for the conduct of the hearing will be announced at the start of the hearing.

This notice is issued under the authority of Section 25 of the Interstate Commerce Act; 49 U.S.C. 26; and § 149 (g) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(g).

Issued in Washington, D.C. on August 15, 1977.

DONALD W. BENNETT,
Chairman,
Railroad Safety Board.

[FR Doc.77-24179 Filed 9-19-77;8:45 am]

DEPARTMENT OF THE TREASURY

Monetary Offices

FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

Modification of Reporting Requirement

Notice is hereby given that, pursuant to the authority contained in Sections 241 and 242 of the Currency and Foreign Transactions Reporting Act, 84 Stat. 1124, and 31 CFR § 103.46, and the authority contained in section 6001 of the Internal Revenue Code of 1954, persons having a financial interest in 25 or more foreign financial accounts who are required to file a Form 4683 (Information Return on Foreign Bank, Securities and Other Financial Accounts) with their federal income tax returns in 1977 will be permitted to follow a modified filing procedure, as follows:

A person who has a financial interest in 25 or more foreign financial accounts should note that fact on Part II of the Form 4683 that he files; he is not required to provide the information requested in Part II of the form. He is, however, still subject to the provisions in instruction K, which require him, when requested by the Internal Revenue Service, to provide such information concerning each account as may be necessary to determine his federal income tax liability.

This modification in filing procedure is designed to minimize the practical difficulties of reporting a large volume of detailed information concerning a large number of accounts by taxpayers with extensive international interests, while insuring that the purpose and objectives of the statute are carried out.

Dated: August 15, 1977.

BETTE B. ANDERSON,
Under Secretary.
JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc.77-24039 Filed 8-19-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 462]

ASSIGNMENT OF HEARINGS

AUGUST 17, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 142797 Sub 1, Fulton Oregon Air, Inc. now being assigned November 1, 1977 (3 days) at Salem, Oreg., in a hearing room to be later designated.

MC-C-9455 Freeport Fast Freight, Inc., et al v. Clairmont Transfer Company now being assigned November 8, 1977 (2 days) at Chicago, Ill., in a hearing room to be later designated.

MC 65697 Sub 52, Theaters Service Co., Inc. now being assigned October 3, 1977 (2 weeks) for prehearing conference at Atlanta, Ga. and November 28, 1977 (2 weeks) for continued prehearing conference at Atlanta, Ga., in hearing rooms to be later designated.

MC 83835 Sub 142, Wales Transportation, Inc. now being assigned October 11, 1977 (1 day) at Dallas, Tex., and will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 142945 (Sub-No. 1), Glenn Brothers Meat Company, now being assigned November 1, 1977, at Chicago, Ill. (2 days), in a hearing room to be later designated.

MC 93840 (Sub-No. 24), W. W. Gless, DBA Gless Bros., MC 115651 (Sub-No. 27), Kaney Transportation, Inc., MC 119702 (Sub-No. 49), Stahly Cartage Co., MC 124411 (Sub-No. 11), Sully Transport, Inc.

MC 126539 (Sub-No. 26), Katuin Bros., Inc. and MC 142716 C & L Trucking, Inc., now being assigned for November 3, 1977 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 103993 (Sub-No. 879), Morgan Drive Away, Inc., now being assigned November 7, 1977 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 128370 (Sub-No. 22), Redlehs Interstate, Inc., now being assigned November 9, 1977, at Chicago, Ill. (3 days), in a hearing room to be later designated.

MC 142664 Sub 2, Import Dealers Service Corp. now assigned September 12, 1977 at Los Angeles, Calif. is cancelled, application dismissed.

AB 14 Sub No. 2 Northwestern Pacific Railroad Company Abandonment Between Detour and San Rafael in Marin County, Calif., now assigned September 13, 1977 at San Rafael, Calif., will be held in Counsel Chamber, First Floor, City Hall, 1400 5th Ave.

MC 113678 Sub No. 659 Curtis, Inc. now being assigned September 26, 1977 (1 week) for hearing in San Francisco, Calif., in a hearing room to be later designated.

MC 141158, Ronald Dean Clinkenbeard Common Carrier Application now asisgned September 14, 1977 at Los Angeles, Calif., is cancelled, application dismissed.

MC 117604 (Sub-No. 11), Meadors Freight Line, Inc., now assigned September 12, 1977, at Atlanta, Ga., is postponed indefinitely.

MC 5470 Sub 121, Tajon, Inc. now assigned October 11, 1977 at Dallas, Tex. is cancelled.

MC 139381, Spirit of '76 Overland Express, Inc. now assigned September 14, 1977 at Los Angeles, Calif. is being postponed indefinitely.

MC-F-13129, Kaw Transport Co.—Control—Royal Transport, Inc. now assigned September 19, 1977 at Kansas City, Missouri is being postponed indefinitely.

MC 63973 Sub 17, Kaler Freight Lines, Inc. now assigned September 19, 1977, at Des Moines, Iowa is being postponed to a date to be hereafter fixed.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-24243 Filed 8-19-77;8:45 am]

[Notice No. 101TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 10, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 3854 (Sub-No. 37TA), filed July 25, 1977. Applicant: BURTON LINES, INC., 815 Ellis Rd., P.O. Box 11306, Durham Station, Durham, N.C. 27703. Applicant's representative: G. E. Martin, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building, roofing and insulating boards and panels*, from the plant site of Johns-Manville Sales Corp., at or near Woodstock, Va., to points in Kentucky, for 180 days. Applicant has alo filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Johns Manville Sales Corp., 200 N. Main St., Manville, N.J. 08835. Send protests to: Archie W. Andrews, Dist. Supvr., Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 47912 (Sub-No. 4TA), filed July 27, 1977. Applicant: JONES TRANSFER LINES, INC., P.O. Box 217, Hartford, Wis. 53027. Applicant's representative: Michael S. Varda, 121 S. Pinckney St., Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), serving Allenton, Wis.: as an off-route point in connection with presently held regular route operations (present regular route is over U.S. Highway 41 from Milwaukee to junction Wis. Highway 60, west on Wis. Highway 67, thence over Wis. Highway 67 to Mayville, Wis.: and return over the same route), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kasten Manufacturing Corp., 536 Main St., Allenton, Wis. 53002. May Steel Corporation, Highway W. South Allenton, Wis. 53002. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building, and Courthouse, 517 East Wisconsin Ave. Room 619, Milwaukee, Wis. 53202.

No. MC 100666 (Sub-No. 357TA), filed July 25, 1977. Applicant: MELTON TRUCK LINES, INC., P.O. Box 766, 1129 Grimmett Drive, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, Suite 280, National Foundation Life Center, 3535 N.W. 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood and composition board*, from the plantsite and warehouse facilities of Day Company in Randolph County, Ga., to points in and east of North Dakota, South Dakota, Nebraska, Colorado and New Mexico, for 180 days. Supporting shipper: Day Company, P.O. Drawer 429, Cuthbert, Ga. 31740. Send protests to: District Supervisor Ray C. Armstrong, Jr., 701 Loyola Avenue, 9038 Federal Bldg., New Orleans, La. 70113.

No. MC 105006 (Sub-No. 6TA), filed July 20, 1977. Applicant: L. L. SMITH TRUCKING, P.O. Box 566, Powell, Wyo. 82435. Applicant's representative: John P. Thompson, 450 Capitol Life Center, Denver, Colo. 80203. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals* in containers, drilling muds and drilling additives; (2) *bentonite*, (1) (a) between points in Nevada, New Mexico and Utah, and between points in Nevada, New Mexico and Utah on the one hand, and on the other hand points in Arizona, Colorado, Idaho, Montana, North Dakota and South Dakota and Wyoming (b) between points in Wyoming on the one hand and on the other hand points in Arizona and Idaho; (2) from the Wyoming to points in Nevada, New Mexico and Utah, for 180 days. Supporting shipper: There are 10 statements of support attached to the application, which may be examined at the Interstate Commerce Commission, in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 105 Federal Bldg. and Courthouse, 111 South Wolcott, Casper, Wyo. 82601.

No. MC 106674 (Sub-No. 246TA), filed July 26, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Jerry L. Johnson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation board* (except in bulk), from plantsite and warehouse facilities of the Johns-Manville Sales Corporation at or near Woodstock, Va., to points in Kentucky and Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: U.S. Gypsum Company, 101 S. Wacker Drive, Chicago, Ill. 60606. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 108461 (Sub-No. 127TA), filed July 26, 1977. Applicant: WHITFIELD TRANSPORTATION, INC., 821 East Pasadena, P.O. Box 7676, Phoenix, Ariz. 85012. Applicant's representative: William S. Richards, 48 Post Office Place, (P.O. Box 2465), Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except Class A and B explosives, commodities which because of their size or weight require special equipment, commodities in bulk and household goods as defined by the Commission) over regular routes, as follows. Between Yuma and Phoenix, Ariz. From Yuma, Ariz., over Interstate Highway 8 to Gila Bend, Ariz.; thence over U.S. Highway 80 to Phoenix, Ariz., and return over the same route, serving all intermediate points between Wellton and Phoenix, Ariz., and points within twenty-five (25) miles of Phoenix, Hyder, and Roll, Ariz., as off-route points. The above authority is to be joined with applicant's existing authority at Phoenix, Ariz., and to the authority of Haywood L. Washum, doing business as Los Angeles-Yuma Freight Lines, which said authority applicant is acquiring in a directly related Section 5 application. Additonally, applicant intends to interline at Phoenix, Ariz. and Yuma, Ariz., and to serve the Commercial Zones of all service points described in the above route, for 180 days. Supporting shippers: There are approximately (366) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Bldg., 230 N. First Avenue, Phoenix, Ariz. 85025.

No. MC 109692 (Sub-No. 46TA), filed July 27, 1977. Applicant: GRAIN BELT TRANSPORTATION COMPANY, 340 N. James Street, Kansas City, Mo. 66118. Applicant's representative: Warren H. Sapp, 4420 Madison Suite 230, Kansas City, Mo. 64111. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Gypsum, gypsum products, and building materials*, from the plantsite of the United States Gypsum Co., located at or near Southard, Okla., to points in Colorado, Illinois, Iowa, Kansas, Missouri and Nebraska, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: U.S. Gypsum Company, 101 S. Wacker Drive, Chicago, Ill. 60606. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 115311 (Sub-No. 234TA), filed July 19, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board*, from the facilities of the United States Gypsum Company at

Greenville, Miss.; to Arkansas, Alabama, Georgia, Tennessee, Kentucky, Florida, Louisiana, North Carolina, South Carolina, Virginia, West Virginia and the District of Columbia, for 180 days. Supporting shipper: United States Gypsum Company, 101 S. Wacker Dr., Chicago, Ill. 60606. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 116200 (Sub-No. 14TA), filed July 15, 1977. Applicant: UNITED PARCEL SERVICE, INC., 643 West 43rd St., New York, N.Y. 10036. Applicant's representative: S. Harrison Kahn, 733 Investment Bldg., 1511 K St. NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between all points and places in Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia, subject to the following restrictions: (A) service is restricted to packages originating at, or destined to, the premises of the Catalog Distribution Facility of J. C. Penney Company, Inc., Lenexa, Kans.; having an immediately prior or subsequent movement by United Parcel Service, Inc. (an Ohio Corporation). (B) No service shall be rendered in the transportation of any package or article weighing more that 50 pounds or exceeding 108 inches in length and girth combined, and each package or article shall be considered as a separate and distinct shipment. (C) No service shall be provided in the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location on any one day. Small package delivery service between the premises of J. C. Penney's new Catalog Distribution Facility in Lenexa, Kans., and all points and places in the 48 contiguous States and the District of Columbia. Applicant and its affiliate will interline at points in Pennsylvania, West Virginia and Virginia, within ten miles of the Pennsylvania-Ohio, the West Virginia-Ohio, the West Virginia-Kentucky, the Virginia-Kentucky, the Virginia-Tennessee and the Virginia-North Carolina State lines. Applicant is under common control with United Parcel Service, Inc. (Ohio), St. Charles, Ill.; Docket Nos. 115495 and MC 13426 and Subs thereunder. Applicant is in compliance with pertinent statutory requirements relating to common control and management, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: J. C. Penney Company, Inc., 1301 Ave of the Americas, New York, N.Y. 10019. Send protests to: Maria B. Kejss, Transportation Assistant, 25 Federal Plaza, New York, N.Y. 10007.

No. MC 117439 (Sub-No. 52TA), filed July 27, 1977. Applicant: BULK TRANSPORT, INC., P.O. Box 1429 (5500 Fla. Blvd.), Baton Rouge, La. 70821. Applicant's representative: John Schwab, P.O. Box 3036 (617 N. Blvd.), Baton Rouge, La. 70821. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drilling mud*, in bulk, from points in Louisiana to points in Georgia, Florida, Mississippi, and Alabama, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately (3) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Ray C. Armstrong, Jr., 701 Loyola Avenue, 9038 Federal Building, New Orleans, La. 70113.

No. MC 117551 (Sub-No. 10TA), filed July 15, 1977. Applicant: NEWS & FILM SERVICE, INC., 745 Lipan, Denver, Colo. 80204. Applicant's representative: John H. Lewis, 1659 Grant St. Building, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Books, and magazines*, and (2) *newspapers*, the transportation of which is otherwise exempt from economic regulation pursuant to Section 203(b)(7) of the Act, in mixed loads with books and magazines. (a) Between Denver, Colo.; and Worland, Wyo.; serving all intermediate points in Wyoming on I-25 and U.S. Highway 16, from Denver, Colo., to Buffalo, Wyoming via I-25, thence via U.S. Highway 16 from Buffalo, Wyoming to Worland, Wyo.; and return over the same route, with the right to use U.S. Highway 20 between Worland, Wyo.; and Casper, Wyo.; as an alternate route for operating convenience only. (b) Between Denver, Colo., and Rock Springs, Wyo.; serving all intermediate points on I-80 between Laramie, Wyo.; and Rock Springs, Wyo., including Laramie and Rock Springs, from Denver, Colo.; via I-25 to its junction with Colorado Highway 14, thence via Colorado Highway 14 to its junction with U.S. Highway 287, thence via U.S. Highway 287 to its junction with I-80, thence via I-80 to Rock Springs, Wyo.; and return over the same route. (c) Between Denver, Colo., and North Platte, Nebr., from Denver, Colo.; via I-76 to its junction with I-80, thence via Nebraska Highway 70 to North Platte, and return over the same route. (d) Between Denver, Colo.; and Scottsbluff, Nebr., from Denver, Colo., via I-25 to its junction with I-80, thence via I-80 to its junction with Nebraska Highway 71, thence via Nebraska Highway 71 to Scottsbluff and return over the same route, with the right to use U.S. Highway 26 from Scottsbluff to Nebraska Highway 70, thence via Nebraska Highway 70 to its junction with I-80, thence via I-80 to its junction with I-76 to Denver as an alternate route for operating convenience only, for 180 days. Supporting shipper: There are approximately 10 statements of support attached to the application, which may be examined at the Interstate Commerce Commission, in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th St. Denver, Colo. 80202.

No. MC 119493 (Sub-No. 155TA), filed July 22, 1977. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, West 20th St., Joplin, Mo. 64801. Applicant's representative: Lawrence Kloeppel, P.O. Box 1196, West 20th St., Joplin, Mo. 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed*, from Kansas City, Kans., to all points in Oklahoma and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Strongheart Products, Inc. 300 S. 55th St., Kansas City, Kans. 66110. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Building, 911 Walnut St., Kansas City, Mo. 64106.

No. MC 119988 (Sub-No. 120TA), filed July 20, 1977. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1384, Lufkin, Tex. 75901. Applicant's representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Treated lumber mill products*, from points in Jefferson County, Ark., to points in Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dixie Wood Preserving Co., P.O. Box 7807, Pine Bluff, Ark. 71601. Send protests to: District Supervisor Mensing, 8610 Federal Bldg., 515 Rusk, Houston, Tex. 77002.

No. MC 119988 (Sub-No. 121TA), filed July 20, 1977. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1384, Lufkin, Tex. 75901. Applicant's representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, from the plantsites of W. S. Fox & Sons, Inc. and Arkansas Oak Flooring Co., located at Pine Bluff, Ark., and Sheridan, Ark., to points in Texas, for 180 days. Supporting shipper: Arkansas Oak Flg. Co. and W. S. Fox & Sons, Inc., P.O. Box 7227, Pine Bluff, Ark. 71611. Send protests to: John F. Mensing, District Supervisor, 8610 Federal Bldg., 515 Rusk, Houston, Tex. 77002.

No. MC 119991 (Sub-No. 16TA), filed July 27, 1977. Applicant: YOUNG TRANSPORT, INC., P.O. Box 3, Logansport, Ind. 46947. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum ingots, aluminum scrap, aluminum sheet metal, aluminum plate and aluminum foil*, (a) between the plantsites of Alcan Aluminum Division of Alcan Service, Inc., at or near Oswego, N.Y.; Warren, Ohio, and Fairmont, W. Va., (b) from such plantsites to points in the States of Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas and Wisconsin, for 180 days. Supporting shipper: Alcan Service Division of Alcan Aluminum Corp., 100 Erieview Plaza, Cleveland, Ohio 44114. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 121802 (Sub-No. 1TA), filed July 26, 1977. Applicant: W-K WAREHOUSE & DELIVERY SERVICE, INC., 9 Briarwood, P.O. Box 7, Crystal City, Mo. 63019. Applicant's representative: Berverly J. Greenley, Suite 700, 230 South Bemiston, St. Louis, Mo. 63105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except commodities in bulk, (1) to, from and between all points and places located within the territory or area specified by law and the Missouri Public Service Commission, as to the St. Louis Commercial Zone; and (2) to, from and between all points and places within five (5) miles on either side of Interstate 55 between the intersection of that highway and the circumference line of the said Commercial Zone and the junction of Interstate 55 and Missouri State Highway 32 (herein referred to as "five (5) mile strip") and (3) to, from and between all points and places on the one hand in said Commercial zone and all points and places on the other hand in said five (5) mile strip. This read correctly when it refers to the MO Public Service Commission definition of St. Louis Commercial Zone area rather than the ICC exempt area and it is the MO exempt area that is sought here to be certificated and not the ICC zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Furniture Town, Inc., 207 Truman Blvd., Crystal City, Mo. 63019. Tri-City Electric & Hardware Co., Inc., 529 Bailey Rd., Crystal City, Mo. 63019. River Cement Company, 9900 Clayton Rd., St. Louis, Mo. 63124. Combustion Engineering, Inc., P.O. Box 107, Hematite, Mo. 63047. Crystal Heating & Cooling Serv, Inc., 3 Cave Industrial Drive, Crystal City, Mo. 63019, Laiben Homes, Inc., 205 Truman Blvd. Crystal City, Mo. 63019. Send protests to: District Superviser J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Rm. 1465, 210 N. 12th St., St. Louis, Mo. 63101.

No. MC 125470 (Sub-No. 25TA), filed July 27, 1977. Applicant: MOORE'S TRANSFER, INC., P.O. Box 1151, Norfolk, Nebr. 68701. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbonated beverages and bottles or cans*, from Ottumwa, Iowa, to points in Illinois, Kansas, Minnesota, Missouri, and North Dakota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gerald Brody, President, Chromalloy, Beverage Division, No. 4 Industrial Park, Ottumwa, Iowa 52501. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 127303 (Sub-No. 25TA), filed July 27, 1977. Applicant: ZELLMER TRUCK LINES, P.O. Box 996, Granville, Ill. 61326. Applicant's representative: E. Stephen Heisley, 666 11th St. NW., No. 805, Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages, and related advertising materials, equipment* and *supplies*, from Milwaukee, Wis., to Omaha, Nebr., and Council Bluffs, Iowa, empty containers on return, (2) *malt beverages, and related advertising materials, equipment* and supplies from Peoria, Ill., to Omaha, Nebr., empty containers on return, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: K & K Distributing Co. Ronald L. Kiger, 925 S. 6th, Council Bluffs, Iowa. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn St. Rm. 1386, Chicago, Ill. 60604.

No. MC 127550 (Sub-No. 4TA), filed July 25, 1977. Applicant: BOSCH TRUCKING COMPANY, INC., 5600 S. Washington St., Battonville Ill. 61607. Applicant's representative: Edward G. Bazelon, 39 S. La Salle St., Chicago, Ill. 60603. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Furnace pipe, elbows, duct work, register boots, register boxes, wall stack, gutters and rain carrying accessories, and materials, equipment and supplies* used in the manufacture and distribution of the aforenamed commodities, between the facilities of Champion Furnace Pipe Company located at Peoria, Ill., on the one hand, and on the other, points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, West Virginia and Wisconsin, under a continuing contract or contracts with Champion Furnace Pipe Company located at Peoria, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Champion Furnace Pipe Company, Fred Denney, Jr., Vice President and Plant Manager, P.O. Box 957, Peoria, Ill. 61653. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn St., Rm. 1386, Chicago, Ill. 60604.

No. MC 134404 (Sub-No. 36TA), filed July 22, 1977. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, N.J. 08835. Applicant's representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel bathtubs, lavatories, sinks, and parts and accessories thereto, and* (2) *plumbers fittings and supplies* from Salem, Ohio, to points in Michigan, Illinois, Indiana, New Jersey, West Virginia, and those points in Pennsylvania on and east of a line beginning at the West Virginia-Pennsylvania State Boundary Line, and extending along U.S. Highway 119 to Junction U.S. Highway 219, and thence along U.S. Highway 219 to the Pennsylvania-New York State Boundary Line, under a continuing contract or contracts with American Standard, Inc. of New Brunswick, N.J. for 180 days. Supporting shipper: American Standard Inc., Gregory J. Decker Manager, Rates, P.O. Box 2003, New Brunswick, N.J. 08903. Send protests to: Robert S. H. Vance, District Supervisor, Interstate Commerce Comission, 9 Clinton St., Newark, N.J. 07102

No. MC 135684 (Sub-No. 42TA) (Correction), filed June 30, 1977, published in the FEDERAL REGISTER issue of July 28, 1977, and republished as corrected this issue. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Road, Flemington, N.J. 08822. Applicant's representative: Herbert A. Dubin, Federal Bar Bldg. West, 1819 H Street NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, except in bulk, from the facilities of Diamond Crystal Salt Co., at or near St. Clair, Mich., to Baltimore, Cambridge and Hunt Valley, Md.; Fall River and Wilmington, Mass., and points in New Jersey, New York and Pennsylvania, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Diamond Crystal Salt Company, 916 South Riverside Ave., St. Clair, Mich. 48079. Send protests to: Dieter H Harper, District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, N.J. 08608. The purpose of this republication is to

indicate the correct spelling of St. Clair, Mich., in lieu of St. Clair, Miss.

No. MC 138635 (Sub-No. 42TA), filed July 21, 1977. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, N.C. 28052. Applicant's representative: Eric Meierhoefer, Suite 712, 11511 K St. NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) which are at the time moving on bills of lading of Freight Forwarders operating pursuant to Part IV of the Interstate Commerce Act, between Phoenix, Ariz.; Salt Lake City, Utah; Los Angeles, Sacramento, Fresno, San Francisco, San Jose, Oakland and San Diego, Calif.; and points in their respective commercial zones, on the one hand, and, on the other, Greensboro, Charlotte and Asheville, N.C.; Greenville, S.C.; Atlanta, Dalton and Columbus, Ga.; Birmingham, Ala.; Memphis, Nashville, Chattanooga and Knoxville, Tenn.; Jacksonville, Fla.; New Orleans, La.; Lynchburg, Va.; and points in their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Western Carloading Co., Inc., 960 East Third St., Los Angeles, Calif. (T. H. Daggett, Assistant Vice-president Traffic); Universal Carloading & Distributing Co., Inc., 345 Hudson St., N.Y. 10014.

No. MC 140612 (Sub-No. 25TA), filed July 22, 1977. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, Iowa 52406. Applicant's representative: J. L. Kazimour (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Appliances, furnaces, and air conditioners* (except commodities which because of size or weight require the use of special equipment) and materials, parts, and supplies (except commodities in bulk) used in the manufacture, production, and distribution of the above, between Ft. Smith, Ark.; on the one hand, and on the other, points in Iowa, Indiana, Ohio, Kentucky and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rheem Manufacturing Company, 5600 Old Greenwood Rd., Fort Smith, Ark. 72906. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 141167 (Sub-No. 2TA), filed July 25, 1977. Applicant: LANGDON TRANSPORTATION, INC., 8195 Valley View, Buena Park, Calif. 90620. Applicant's representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, Calif. 90010. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Coil steel, requiring heat and humidity control*, in vehicles equipped with mechanical refrigeration, from Dearborne, Mich.; Sharon, Pa.; and Chicago, Ill.; to the plantsite of American Safety Equipment Corporation at Pacoima, Calif. (2) *molded plastic parts and hardware* used in the manufacture of seat belts and seat belt parts, from the Ports of Entry on the International Boundary Line between United States and Canada at or near Buffalo, N.Y.; and Detroit, Mich.; restricted to traffic originating at Toronto, Ontario, Canada; restricted to traffic originating at Toronto, Ontario, Canada; and Chicago, Ill.; to the plantsites of American Safety Equipment Corporation at Pacoima and Fresno, Calif.; and Palmyra, Mo., (3) *plastic safety helmets*, from the plantsite of American Safety Equipment Corporation at San Diego, Calif.; to Wichita, Kansas; Kansas City and Cape Girardeau, Mo.; Minneapolis, Minn.; Antioch and Granite City, Ill.; Columbus and Dayton, Ohio; Palisades Park, N.J.; Little Rock, Arkansas; Monroe and Baton Rouge, La.; Prattville, Ala.; and Clearwater, Fla.; (4) *stamping, iron or steel*, used in the manufacture of seat belts and seat belt parts, from the plantsite of American Safety Equipment Corporation at Pacoima, Calif. to the plantsite of American Safety Equipment Corporation at Palmyra, Mo. (5) *return*, refused or rejected shipments of the commodities described in (1), (2), (3), and (4) above, from the destination points specified in (1), (2), (3) and (4) above to their respective origin points, restriction said operations are limited to a transportation service to be performed, under a continuing contract or contracts with American Safety Equipment Corporation for 180 days. Supporting shipper: American Safety Equipment Corporation, 501-Fourth St. San Fernando, Calif. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Rm. 1321 Federal Building, 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 142059 (Sub-No. 10TA), filed July 25, 1977. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, P.O. Box 911, Joliet, Ill. 60436. Applicant's representative: Jack Riley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum scrap, loose or in bales* (except that requiring specialized transportation equipment), from Dunkirk, N.Y., to St. Charles, Ill., for 180 days. Supporting shipper: Alumax, Inc., Dennis O'Donnell, Director of Physical Distribution, 211 Washington Street, South Bend, Ind. 46601. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 142839 (Sub-No. 1TA), filed July 21, 1977. Applicant: JOHN KING ENTERPRISES, INC., a Colorado Corporation, Garden Valley Center Bldg., Suite 320, 2860 So. Circle Drive, Colorado Springs, Colo. 80906. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, Colo. 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by restaurants, gift shops, and specialty shops for tourists, from Colorado Springs, Colo., to points in the following named counties: Las Animas, Pueblo, and Weld Counties, Colo.; Glenn, Solano, and Alameda Counties, Calif.; Jerome and Ada Counties, Idaho; Broadwater and Powell Counties, Mont.; Humboldt County, Nev.; Marion, Linn, and Multnomah Counties, Oreg.; Utah and Salt Lake Counties, Utah; Lincoln, King, and Snohomish Counties, Washington; Laramie, Albany, Carbon, and Uinta Counties Wyo.; under a continuing contract or contracts with Stuckey's Inc. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Stuckey's, Inc., Box 370, McRae Rd. Eastman, Ga. 31023. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, Denver, Colo. 80202.

No. MC 142994 (Sub-No. 3TA), filed July 27, 1977. Applicant: VIRGINIA COURIER SERVICE, INC., P.O. Box 287, Harrisonburg, Va. 22801. Applicant's representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St. NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicine and chemicals* (except in bulk), and *parts and accessories* used in the manufacture of the aforementioned commodities, moving in express service, between Elkton, Va., on the one hand, and, on the other, Dulles International Airport, Va., John F. Kennedy International Airport, L.I. N.Y., Rahway, N.J., Riverside, Pa., and Putney, Ga., and their respective commercial zones, restrictions (a) no service shall be provided in the transportation of articles weighing in the aggregate more than 500 pounds from one consignor at one location to one consignee on any one day. (b) In two axle vehicles with delivery provided within a 24-hour period, for 180 days. Supporting shipper: Merck & Co., Inc., P.O. Box 2000, Rahway, N.J. 07065. Send protests to: Danny R. Beeler, District Supervisor Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-24244 Filed 8-19-77;8:45 am]

[Notice No. 104TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 16, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2960 (Sub-No. 15TA), filed August 1, 1977. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, INC., 2301 McKinney Street, Houston, Tex. 77023. Applicant's representative: D. Paul Stafford, Winkle and Wells, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden pallets and raw materials* (corrugated and mixed paper) for the manufacture and processing of roofing materials, from points in Alabama, Louisiana, Mississippi, Texas, Oklahoma, Tennessee and Ky., to the plantsite of Elk Roofing Company at Stephens, Ark., and Elk Roofing Company's storage facilities at East Camden, Ark., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Elk Corporation/Elk Roofing Products, P.O. Box 37, Stephens, Ark. 71764. Send protests to: John F. Mensing, Interstate Commerce Commission, 8610 Federal Building, 515 Rusk, Houston, Tex. 77002.

No. MC 3854 (Sub-No. 39TA), filed August 1, 1977. Applicant: BURTON LINES, INC., P.O. Box 11306, East Durham Station, Durham, N.C. 27703. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Avenue and 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials*, from the plantsite of Johns-Manville Corp., in Chatham County, Ga., to points in Tennessee, Virginia and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Johns-Manville Corp. P.O. Box 4487, Atlanta, Ga. 30302. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 45630 (Sub-No. 4TA), filed August 20, 1977. Applicant: OSAR TRUCKING CO., INC., 94 Sylvan Ave., Clifton, N.J. 07011. Applicant's representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, N.J. 08904. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Solidified carbon dioxide* (dry ice) in containers, *and containers* on return from Burlington and Gibbstown, N.J., Lima and Oregon, Ohio, Tewksbury, Mass., and Hopewell, Va., to points in Connecticut, Massachusetts, New Jersey, and New York, and Philadelphia, Pa., and Providence, R.I., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dry Ice Corporation, 189 Central Ave., Old Tappan, N.J. 07675, Esquire Gas Products Co., 156 Spring St., Enfield, N.J. 06082, Liquid Carbonic Corporation, 630 Washington Ave., Belleville, N.J. 07109. Send protests to: Robert E. Johnson, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 48221 (Sub-No. 10TA), filed August 1, 1977. Applicant: W. N. MOREHOUSE TRUCK LINE, INC., 4010 Dahlman Avenue, Omaha, Nebr. 68107. Applicant's representative: Bruce A. Bullock, Suite 530 Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages, and advertising material and premiums*, from Golden Colo., to points in Nebraska; and (2) *empty malt beverage containers, packaging material, pallets, and scrap malt beverage containers, and packing dunnage*, from points in Nebr., to Golden Colo., for 180 days. Supporting shipper(s): Lou Bonner, Director of Transportation, Adolph Coors Company, Golden, Colo. 80401. Send protests to: Carroll Russell District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 59640 (Sub-No. 53TA), filed August 3, 1977. Applicant: PAULS TRUCKING CORPORATION, Three Commerce Drive, Dranford, N.J. 07016. Applicant's representative: Charles J. Williams, 1815 Front St., Scotch Plains, N.J. 07076. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Health care products and materials* used in the manufacture thereof (except commodities in bulk), (1) between Mountain Top, Pa., on the one hand, and, on the other, Murray Hill, N.J., and Fitzwilliam, N.H., (2) between Marietta, Ga., on the one hand, and, on the other, Murray Hill, N.J., and Los Angeles, Calif., and (3) between Kennebunk, Maine and Murray Hill, N.J., under a contract or contracts with C. R. Bard, Inc., located at Murray Hill, N.J., for 180 days. Supporting shipper: C. R. Bard, Inc., 731 Central Ave., Murray Hill, N.J. 07974. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 93980 (Sub-No. 72TA), filed August 2, 1977. Applicant: VANCE TRUCKING COMPANY, INCORPORATED, P.O. Box 1119, Raleigh Road, Henderson, N.C. 27536. Applicant's representative: Henry M. Strause, P.O. Box 1119, Raleigh Road, Henderson, N.C. 27536. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* as described in Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from Waterford Township, N.J., to points in North Carolina and South Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Predco, Inc. Mid-Atlantic Precision Steel Co., 3900 River Road, Pennsauken, N.J. 08110. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 110012 (Sub-No. 36TA), filed August 1, 1977. Applicant: ROY WIDENER MOTOR LINES, INC., 707 North Liberty Hill Road, Morristown, Tenn. 37814. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and returned shipments of new furniture*, from the plantsite and facilities of Davis Cabinet Company at or near Nashville, Tenn., to all points in the United States and returned shipments of new furniture, materials and supplies used in the manufacture of new furniture (except commodities in bulk, in tank vehicles), from the above destinations to above origin, for 180 days. Supporting shipper(s): Davis Cabinet Company, Box 60444, 901 South 5th, Nashville, Tenn. 37206. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 111383 (Sub-No. 43TA), filed July 26, 1977. Applicant: BRASWELL

V 42 16 2 AUG 22 77 UMI

MOTOR FREIGHT LINES, INC., 1900 Anson Road, Dallas, Tex. 75235. Applicant's representative: David B. Schneider (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring which because of their size and weight require the use of special equipment), serving the facilities of Ditto of California, Inc., at or near Calfax, La., as an off-route point to applicant's regular route operations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ditto of California, Inc., Highway 8, P.O. Box 226, Colfax, La. 71417. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 111729 (Sub-No. 713TA), filed August 20, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Rd., New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* moving in courier service (except household goods, commodities in bulk, explosives, articles of unusual value, and commodities which because of their size and weight require special equipment), between points in Texas, on the one hand, and, on the other, Little Rock, Ark.; and points in Louisiana, New Mexico and Oklahoma, restrictions: Restricted against the transportation of packages weighing more than 50 pounds, with each package or article considered a separate and distinct shipment, restricted against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location, to one consignee at one location, in any one day, restricted against providing service from or to the premises of banks and banking institutions, restricted against providing service from or to the premises of person other than agencies of the United States Government, who or which have entered into contracts with applicant or its affiliates and are served by them pursuant to permits issued by the Commission, for 180 days. Supporting shipper(s): There 54 statements of support attached to the application which may be examined at the Interstate Commerce Commission, Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 114211 (Sub-No. 311TA), filed July 29, 1977. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Daniel Sullivan, Suite 1600, 10 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural equipment and industrial equipment*, between Grand Island and Lexington, Nebr., and Vinton, Iowa, on the one hand, and, on the other, points in Montana, Nebraska, Colorado, New Mexico, Idaho, Utah, Arizona, Washington, Oregon, Nevada, California, and the ports of entry between the United States and Canada located in North Dakota, Montana, Idaho and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Sperry New Holland, 500 Diller Avenue, New Holland, Pa. 17557. Send protests to: Herbert W. Allen District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa. 50309.

No. MC 115496 (Sub-No. 58TA), filed July 20, 1977. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Highway 23 South, Cochran, Ga. 31014. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenex Blvd., Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood and composition board*, from the plant and warehouse facilities utilized by the Day Companies, Inc., in Randolph County, Ga., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado and New Mexico, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Day Companies, Inc., P.O. Drawer 429, Cuthbert, Ga. 31740. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street, NW., Room 546, Atlanta, Ga. 30309.

No. MC 119493 (Sub-No. 146TA), filed August 1, 1977. Applicant MONKEM COMPANY, INC., West 20th Street, P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: Lawrence Kloeppel, P.O. Box 1196, Joplin, Mo. 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, from McPherson, Kans., to points in Georgia, north of a line beginning at the Georgia-Alabama state line and extending along U.S. Highway 280 to the junction of U.S. Highway 80, thence along U.S. Highway 80 to the Atlantic Ocean, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wall-Rogalsky Milling Company, 416 N. Main Street, McPherson, Kans. 67460. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 123844 (Sub-No. 8TA), filed August 2, 1977. Applicant: SALDUTTI & SON, INC., 513 Raymond Blvd., P.O. Box 389, Newark, N.J. 07101. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08905. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends thereof, fish oil and vegetable oil*, in bulk, in tank vehicles, from the facilities of Archer Daniels Midland Company, Bayway, N.J., to points in Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, Delaware, Maryland, Virginia and Washington, D.C., for 180 days. Supporting shipper: Archer Daniels Midland Company, P.O. Box 1470, 4666 Faries Parkway, Decatur, Ill. 62525. Jerry C. Slaughter, General Traffic Manager. Send protests to: Robert S. H. Vance, District Supervisor. Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 125433 (Sub-No. 112TA), filed August 2, 1977. Applicant: F–B TRUCK LINE COMPANY, a Utah corporation, 1945 South Redwood Rd., Salt Lake City, Utah 84104. Applicant's representative: Gary Weight (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber mill products*, from Escalante, Utah, to points in Kansas and Missouri, for 180 days. Supporting shipper: Teton West Lumber, Inc., Box 3656, Casper, Wyo. 82602. Send protests to: District Supervisor, Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State St., Salt Lake City, Utah 84138.

No. MC 126198 (Sub-No. 15TA), filed July 27, 1977. Applicant: MICHAUD TRUCKING, INCORPORATED, 133 Birch Street, Kingsford, Mich. 49801. Applicant's representative: William J. Bolognesi, 116 East Brown Street, P.O. Box 705, Iron Mountain, Mich. 49801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* in containers with empty containers on return and related advertising equipment when shipped therewith, from Newport, Ky., and Evansville, Ind., to points and places in the Upper Peninsula of Michigan, and Aurora, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: G. Heileman Brewing Company, Inc., La Crosse, Wis. 54601. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, Mich. 48933.

No. MC 128007 (Sub-No. 102TA), filed July 26, 1977. Applicant: HOFER, INC., P.O. Box 583, 4032 Parkview Drive, Pittsburg, Kans. 66762. Applicant's representative: Larry E. Gregg, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Smectite-Vermiculite*, from the facilities of Micro-Lite, Inc., at or near Buffalo and Chanute, Kans., to points in Delaware, Maryland and N.J., for 180 days. Supporting shipper: Super

Supplement, Inc., 612 Commerce Bank Building, 922 Walnut Street, Kansas City, Mo. 64105. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Bldg., Wichita, Kans. 67202.

No. MC 128007 (Sub-No. 103TA), filed July 27, 1977. Applicant: HOFER, INC., P.O. Box 583, 4032 Parkview Drive, Pittsburg, Kans. 66672. Applicant's representative: Larry E. Gregg, 641 Harrison, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trace minerals, feed and fertilizer ingredients and pigments*, from Sangamon County, Ill., to points in Colorado, Florida, Georgia, North Carolina, South Carolina, Virginia and West Virginia; and (2) *pigments*, from Sangamon County, Ill., to Alabama, Arkansas, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, New Mexico, Oklahoma, South Dakota, Tennessee and Tex.: and (3) *materials and supplies* used or useful in the manufacture or production of trace minerals, feed and fertilizer ingredients, and pigments, from points in Alabama, Arkansas, Colorado, Florida, Georgia, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, New Mexico, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Virginia and W. Va., to Sangamon County, Ill., for 180 days. Supporting shipper(s): Westmin Corporation. P.O. Box 822, Quincy, Ill. 62301. Solomon Grinding Service, Box 1766, Springfield, Ill. 62705. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Bldg., Wichita, Kans. 67202.

No. MC 128592 (Sub-No. 10TA), filed August 2, 1977. Applicant: KLM, INC., P.O. Box 162, Railroad Ave., Jackson, Miss. 39208. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ham*, from Miami, Fla., to San Jose, Calif.; Chicago, Ill.; New Orleans, La., St. Louis, Mo., and Virginia Beach, Va.; (2) *frozen foods*, from points in Pennsylvania, Texas and Wisconsin, to the distribution facilities of the Burger King Corporation located at San Jose, Ca'if.; (3) *cheese*, from points in Wisconsin to the distribution facilities of the Burger King Corporation located at San Jose, Calif.; (3) *cheese*, from points in Wisconsin to the distribution facilities of the Burger King Corporation located at San Jose, Calif., under a continuing contract with Burger King Corporation, Distron Division, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Burger King Corporation, Distron Division, P.O. Box 520843, Miami, Fla. 33152. Send protests to: Allan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 133805 (Sub-No. 4TA), filed August 1, 1977. Applicant: LONE STAR CARRIERS, INC., Route 1, Box 48, Tolar, Tex. 76476. Applicant's representative: Charles W. Beinhauer, One World Trade Center, Suite 4959, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay*, in bags, from the plantsites of Floridin Company near Havana and Quincy, Fla., and Ochlocknee, Ga., to points in the States of Alabama, Arkansas, Georgia, Indiana, Mississippi, Missouri, Louisiana, Oklahoma, and Tex., restricted to traffic originating at the above named plantsites and destined to points in the named destination States, for 180 days. Supporting shipper: Floridin Company, Berkeley Springs, W. Va. 25411. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H–4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 134134 (Sub-No. 23TA), filed August 1, 1977. Applicant: MAINLINER MOTOR EXPRESS, INC., 2002 Madison Street, Omaha, Nebr. 68107. Applicant's representative: Bruce A. Bullock, Suite 530 Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages, and advertising material and premiums*, from Golden, Colo., to points in Nebr.; and (2) *Empty malt beverage containers, packaging material, pallets, and scrap malt beverage containers, and packing dunnage*, from points in Nebr., to Golden, Colo., for 180 days. Supporting shipper(s): Lou Bonner Director of Transportation, Adolph Coors Company, Golden, Colo. 80401. Send protests to: Carroll Russell District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 134477 (Sub-No. 184TA), filed July 27, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* (except in bulk), from Milwaukee, Wis., to Spencer, Iowa, restricted to the transportation of traffic originating at the named origin and destined to the named destination, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): McLaughlin Distributor Company, Inc., 419 East 3rd Street, Spencer, Iowa 15301. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 135082 (Sub-No. 51TA), filed August 1, 1977. Applicant: BURSCH TRUCKING, INC., d/b/a, ROADRUNNER TRUCKING, INC., P.O. Box 25748, 415 Rankin Road, N.E., Albuquerque, N. Mex. 87125. Applicant's representative: Randall R. Sain, P.O. Box 26748, Albuquerque, N. Mex. 87125. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from El Paso, Tex., to points in Colorado, Kansas, Oklahoma and Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Southwest Moulding Company, P.O. Box 1215, El Paso, Tex. 79912. Arnold Siith, Sales Manager. Send protests to: Darrell W. Hammons, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Avenue, S.W., Albuquerque, N. Mex. 87101.

No. MC 136257 (Sub-No. 4TA), filed August 1, 1977. Applicant: RABBIT TRANSIT, 220 Erie Street, Pomona, Calif. 91766. Applicant's representative: Edward A. Francom, 6400 Village Parkway, Dublin, Calif. 94566. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tissue paper*, in wrapped rolls, weighing not less than 100 pounds each, from the plantsite of Orchids Paper Products division of Concel, Inc., at or near St. Helens, Oreg., to points in Los Angeles, Calif., and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Orchids Paper Products, Concel, Inc., P.O. Box 1172, St. Helens, Oreg. 97051. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 139847 (Sub-No. 2TA), filed July 29, 1977. Applicant: W–H TRANSPORTATION COMPANY, INC., P.O. Box 1222, 1205 West Street, Wausau, Wis. 54401. Applicant's representative: James Robert Evans, 145 W. Wisconsin Avenue, Neenah, Wis. 54956. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Truck bodies or vans*, from Marion, Wis., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, and Ohio.; and (2) *equipment and supplies* used in the manufacture of truck bodies or vans, from points in Arkansas, Illinois, Indiana, Minnesota, Missouri, Ohio and Pa., to Marion, Wis., under a continuing contract, or contracts, with Marion Body Works, Inc. Marion, Wis., for 180 days. Supporting tracts, with Marion Body Works, Inc., 211 W. Ramsdell Street, Marion, Wis. 54950. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson Street, Room 202, Madison, Wis. 53703.

V 42 162 AUG 22 77 UM

No. MC 141575 (Sub-No. 4TA), filed July 28, 1977. Applicant: TFS, INC., East Highway 136, Oxford, Nebr. 68967. Applicant's representative: A. J. Swanson, Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, for the account of Oxford Cheese Corporation, from Oxford, Nebr., to points in the commercial zones of Denver, Colo.; Salina, Kansas; Phoenix, Ariz.; Los Angeles, Calif.; Albuquerque, N. Mex.; Chicago, Ill.; Toledo and Cleveland, Ohio; Detroit, Mich.; Buffalo and New York, N.Y.; Pittsburgh, Scranton and Philadelphia, Pa., under a continuing contract, or contracts, with Oxford Cheese Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Roy Mitchell President, Oxford Cheese Corporation, Highway 65 East, Oxford, Nebr. 68967. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 142351 (Sub-No. 1TA), filed July 26, 1977. Applicant: CHEYENNE TRUCK LEASING, INC., 6500 Jericho Turnpike, P.O. Box 314, Commack, N.Y. 11725. Applicant's representative: Nicholas P. Cerbini (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such toys, novelties and stuffed animals as are dealt in by carnivals and amusement parks*, from South Brunswick, N.J., to points in Illinois, Pennsylvania, Nevada, Texas, California, Iowa, Missouri, West Virginia, Arkansas, Ohio, Kentucky, Kansas, Maryland, South Carolina, North Carolina, Michigan, Virginia, Massachusetts, New Hampshire, Vermont, Indiana, Wisconsin, Minnesota, Louisiana, Tennessee, Mississippi, Alabama, Florida, Oklahoma and Rhode Island, under a continuing contract, or contracts, with Dan Brechner, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dan Brechner, Inc., 1115 Broadway, New York, N.Y. Send protest to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 143168 (Sub-No. 2TA), filed August 18, 1977. Applicant: TREASURE STATE TRANSPORT, INC., P.O. Box 1441, Great Falls, Mont. 59403. Applicant's representative: Ray F. Koby, 314 Montana Bldg., Great Falls, Mont. 59401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* (except in bulk) as are usually dealt in by wholesale or retail lumber yards, from points in California, Idaho, Oregon, and Washington to points in Montana and North Dakota, and between points in Montana on the one hand, and, on the other, points in North Dakota; (2) *such commodities* (except in bulk), as are usually dealt in by flour mills, from points in Montana to points in California, Idaho, North Dakota, Oregon and Washington, under a continuing contract with Arvid, D. King for 180 days. Supporting shipper: Arvid, D. King, Director, Motor Carrier Services, Peavey Company, 730 Second Ave., South, Minneapolis, Minn. 55402. Send protests to: District Supervisor, Paul J. Labane, Interstate Commerce Commission, 2602 First Ave., North, Billings, Mont. 59101.

No. MC 14334 (Sub-No. 1TA), filed July 29, 1977. Applicant: WALTEC DISTRIBUTION LIMITED, P.O. Box 936, 471 Dundas Street, Cambridge, Ontario, Canada. Applicant's representative: Robert D. Gunderman, Suite 710, Statler Hilton, Buffalo, N.Y. 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plumbing supplies and equipment, forgings and castings;* and (2) *materials, equipment and supplies* used in the manufacture or production of the commodities named in (1) above, between the ports of entry on the International Boundary line between the United States and Canada in New York and Mich., on the one hand, and, on the other, Little Rock and Malbern, Ark.; Bridegport and New Britain, Conn.; Atlanta, Ga.; Marshalltown, Iowa; Cicero, Ill., Indianapolis, Ind.; Kendallville, Flora, Fort Wayne and Jeffersonville, Ind.; Leitchfield and Lexington, Ky.; Detroit, Port Huron and Grand Rapids and Hillsdale, Mich.; Joplin and St. Louis, Mo.; Rome, Binghampton, Buffalo and Lockport, N.Y.; Cincinnati and Cleveland, Ohio; Bellefonte and Pittsburgh, Pa.; Denton, Beaumont, Dallas and Houston, Tex.; Chester, Virginia and Milwaukee, Wis., restricted to the transportation of traffic originating at or destined to the plant sites or storage facilities of Waltec Forgings, Ltd., Waltec Engineering Ltd., Waltec Industries Ltd., and Kindred Industries Ltd., located at or near Cambridge, Midland, Toronto and Wallaceburg, Ontario, under a continuing contract, or contracts, with these companies, for 180 days. Note 1: Each of the above named shippers, together with the applicant are wholly owned subsidiaries of Waltec Enterprises Ltd., and Note 2: Applicant has been granted, without objection from any carrier, complementary authority by the Ontario Highway Transport Board and The Quebec Transport Commission. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Waltec Industries, Ltd., 155 Margaret Avenue, Wallaceburg, Ontario, (2) Waltec Forgings Ltd., 303 Dora Drive, Wallaceburg, Ontario. (3) Waltec Engineering Ltd., 644 Wallace Street, Wallaceburg, Ontario, and (4) Kindred Industries Ltd., 100 Kindred Road, Midland, Ontario. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 143467 (Sub-No. 1TA), filed July 15, 1977. Applicant: CAMERON ENTERPRISES, INC., 2915 W. 40 Highway, Blue Springs, Mo. 64105. Applicant's representative: Arthur J. Cerra, Stinson, Thomson, McEvers & Fizzell, 2100 Ten Main Center, Kansas City, Mo. 64141. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods, unaccompanied baggage and personal effects* as defined by the Commission in containers and having a prior or subsequent movement in interstate commerce, Missouri Counties of Benton, Henry, Hickory, Johnson, LaFayette, Pettis, St. Clair, Saline, and Jackson, under a continuing contract, or contracts, with Whiteman Air Force Base, Knob Noster, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: DOD, Department of the Army, Office of the Judge Advocate General, Washington, D.C. 20310. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 143531TA, filed July 29, 1977. Applicant: POWDER RIVER MOTOR TRANSPORT CORPORATION, 394 East 900 South, Provo, Utah 84601. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Livestock handling equipment*, from the plantsite of Commercial Welding Co., at or near Provo, Utah, to points in the United States (excluding Alaska and Hawaii); (2) *materials and supplies* used in the manufacture of livestock handling equipment, from points in the United States (except Alaska and Hawaii), to the plantsite of Commercial Welding Co., at or near Provo, Utah; (3) *mineral feeders*, from Hillsboro, Kans., to the plantsite of Commercial Welding Co. at or near Provo, Utah; (4) *cattle waterers*, from Hoskins, Nebr., to the plantsite of Commercial Welding Co., at or near Provo, Utah.; (5) *livestock handling equipment*, from the plantsite of Commercial Welding Co., at or near Baker, Oreg., to the plantsite of Commercial Welding at or near Provo, Utah.; and (6) *materials and supplies* used in the manufacture of livestock handling equipment, from the plantsite of Commercial Welding Co., at or near Provo, Utah to the plantsite of Commercial Welding Co., at or near Baker, Oreg., under a continuing contract, or contracts, with Commercial Welding Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Commercial Welding Co., 934 East 900 South, Provo, Utah 84601. (Donald D. Parker Executive Vice President). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 143536 (TA), filed July 25, 1977. Applicant: WALLACE GRAIN COMPANY, INC., 807 Park Avenue, Sheridan, Ind. 46069. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Molding compound and materials and supplies* used in producing or processing molding compound, (1) *Molding compound*, from Noblesville, Ind., to New Buffalo, Mendon, Benton Harbor, Mich.; Chicago, Addison and Melrose Park, Ill.; Albemarle, N.C.; Cleveland, Newcomerstown, Ohio.; Appleton, Racine, Wis.; Erie, Pa.; Canastota, N.Y.; Little Ferry, Newark, N.J.; and St. Petersburg, Fla.; and (2) *materials and supplies* used in producing or processing molding compounds, from Swanton, Ohio.; Erie, Michigan; Huntington, Bridgeport (Montgomery Co.), Pa.; Cartersville, Georgia; La Crosse, Wis.; and Pottville, Iowa.; to Noblesville, Ind., under a continuing contract, or contracts, with Industrial Dielectronics, Inc., for 180 days. Supporting shipper: Industrial Dielectronics, Inc., 407 South Seventh Street, Noblesville, Ind. 46060. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Bldg. and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

No. MC 143537 TA, filed July 25, 1977. Applicant: CHARLES W. HOLTCAMP, d.b.a., C BAR S FARMS, 15743 North County Road, No. 17, Wellington, Colo. 80549. Applicant's representative: Edward Olin Venable, 1012 Ninth Avenue, Greeley, Colo. 80631. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Livestock handling equipment, rodeo equipment, gates, stalls, feeders, bins, racks and other items* used in the care of livestock, from the plant site of Westguard Products Company at or near Cheyenne, Wyo., to points in Washington, Indiana, Montana, Utah, Nebraska, Kansas, Texas and Calif., and *raw materials* used in the manufacture of the above commodities, from points in the Chicago, Ill., area from St. Louis, Mo., and from Norfolk, Nebr., to the plant site of Westguard Products Company at or near Cheyenne, Wyo., under a continuing contract, or contracts, with Westguard Products Company, for 180 days. Supporting shipper: Westguard Products Company, 351 Lexington Avenue, Cheyenne, Wyo. 82001. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, Colo. 80202.

No. MC 143538 TA, filed July 26, 1977. Applicant: PERISHABLES TRANSPORT, INC., Route 2, Box 295, Chesterton, Ind. 46304. Applicant's representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail and chain grocery and food business houses, and in connection therewith, equipment, materials and supplies used in the conduct of such business (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of The Kroger Co., at Salem (Glenvar), Va., to Greenville, N.C., and refused or rejected shipments on return. Restriction: The operations authorized herein are restricted to the transportation of shipments originating at or destined to facilities of The Kroger Co., and further restricted to the transportation of shipments, under a continuing contract, or contracts, with The Kroger Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Kroger Co., 1014 Vine Street, Cincinnati, Ohio 45201. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 143543 TA, filed July 29, 1977. Applicant: K-LINES TRANSPORTATION, doing business as THOMAS H. KENNEDY, 726 16th Ave. West, Birmingham, Ala. 35214. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St., NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel, iron and steel articles, iron and steel pipe and pipe fittings, valves, hydrants, parts thereof and accessories therefor*, from Birmingham, Ala., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia; (2) *materials, equipment, machinery and supplies* used in the manufacturing, processing and distribution of commodities named in (1) above, from points in the States named in (1) above to Birmingham, Ala. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Cast Iron Pipe Company, P.O. Box 2727, Birmingham, Alabama 35202. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 1616 2121 Building, Birmingham, Ala. 35203.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc 77-24245 Filed 8-19-77;8:45 am]

[Notice No. 211]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30 days after the date of this publication. Failure reasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-76997, filed July 5, 1977. Transferee: GEORGE WILLIAM SIGRIST, doing busines as SIGRIST TRUCKING COMPANY, 700 Homewood Drive, Pocomoke City, Md. 21851. Transferor: William C. Lankford, II, RFD No. 1, Pocomoke City, Md. 21851. Applicant's representative: Chester A. Zyblut, Attorney at Law, 366 Executive Building, 1030 Fifteenth Street NW., Washington, D.C. 20005. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in MC 127003 (Sub-No. 1), issued March 1, 1976, as follows: Feed, feed supplements, and grain products and grain in mixed shipments with feed from Seaford, Del. to the plant site of J. Miles Lankford, Inc. at or near Pocomoke City, Md.; and malt beverages from Williamsburg, Va. to Berlin and Salisbury, Md. Transferee is presently authorized to operate as a common carrier under Certificate No. MC 139702 (Sub-No. 2). Application has been filed for temporary authority under Section 210a(b).

No. MC-FC-77211, filed July 12, 1977. Transferee: BRIE LEASING CORPORATION, 6 Senate Place, Jersey City,

V 42 162 AUG 22 77 UM V

N.J. 07306. Transferor: Transloric Trucking Corp., 720 Tonnele Avenue, Jersey City, N.J. 07306. Applicant's representative: Mario F. Rolla, Attorney at Law, Ronayna, Hackeling and Rolla, One Penn Plaza, New York, N.Y. 10001. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in the Certificate No. MC 134085 (Sub-No. 3), issued January 31, 1973, as follows: Spaghetti and macaroni and products thereof, and equipment, materials and supplies used in the manufacture of such products between the facilities of A. Zerega Sons at or near Fairlawn, N.J., on the one hand, and, on the other, points in Nassau, Suffolk, Orange, Rockland, and Westchester Counties, N.Y.; New York, N.Y.; and Fairfield County, Conn. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77217, filed July 15, 1977. Transferee: R. JEFFREY & SONS, INC., P.O. Box C180, R.D. No. 1 Elysburg, Pa. 17824. Transferor: Robert A. Jeffrey, Doing Business As R. Jeffrey & Sons, P.O. Box C180, R.D. No. 1 Elysburg, Pa. 17824. Applicants' representative: John M. Musselman, 410 North Third Street, Harrisburg, Pa. 17108. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificates No. MC 124017, MC 124017 (Sub-No. 2) and MC 124017 (Sub-No. 5), issued may 25, 1962, March 30, 1973, and September 26, 1975, respectively, as follows: Coal from points within 15 miles of Shamokin, Pa., except Shamokin, to points in a described portion of New York; Coal from points in Schuylkill County, Pa., (except Morea, Pa., and except points within 15 miles of Shamokin, Pa.,) to points in a described portion of New York; and Coal from points in Columbia, Dauphin, Northumberland, Lackawanna, Luzerne, and Schuylkill Counties, Pa., to ports of entry on the United States-Canada Boundary line located in Michigan and New York. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77223, filed July 18, 1977. Transferee: C. NEAL CARSON, Doing Business As CARSON CARRIERS, 1400 South Peters Street, P.O. Box 50262, New Orleans, La. 70150. Transferor: England Transportation Company, Inc., 1400 South Peters Street, P.O. Box 50262, New Orleans, La. 70150. Applicants' representative: David G. Mcdonald, Macdonald & McInerny, 502, Solar Building, 1000 16th St., NW., Washington, D.C. 20036. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 57946 (Sub-No. 2), issued June 15, 1977, as follows: General commodities, with normal exceptions, over irregular routes between New Orleans, La., and points within 10 miles of the corporate limits of New Orleans, on the one hand, and, on the other, points in a described portion of Louisiana. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC–FC–77236, filed July 29, 1977. Transferee: JAMES WILLIAM ROLAND, d.b.a., ROLAND TRUCKING COMPANY, Box 86, Ashlawn Farm, Perryville, Md. 21903. Transferor: William Arthur James, 5815 Kirkwood Highway, Wilmington, Del. 19808. Applicants' representative: Charles E. Fenton, Attorney at Law, 10 Light Street, Baltimore, Md. 21202. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates No. MC 39331 and MC 39331 (Sub-No. 1), issued June 28, 1955 and November 23, 1954 respectively as follows: *Sand, stone,* and *amesite,* between points in Delaware County, Pa., on the one hand, and, on the other, points in that part of Delaware north of a line beginning at the Delaware-Maryland State line and extending east through Hartley, Dover, and Little Creek, Del., to the Delaware Bay, including the points named, and those in that part of New Jersey on and south of U.S. Highway 30. *Also such bulk commodities as sand, gravel, and cement,* between points in Delaware and Maryland within 15 miles of Newark, Del., including Newark. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77241, filed August 4, 1977. Transferee: KEIM TRANSPORTATION, INC., 420 N. 6th, Sabetha, Kans. 66534. Transferor: Bestwick, Inc., 213 S. 13th, Sabetha, Kans. 66534. Applicants' representative: Clyde N. Christey, Attorney at Law, 514 Capitol Federal Bldg., Topeka, Kans. 66603. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC 116879, issued February 3, 1975, as follows: *Condensed milk* and *condensed skim milk,* in bulk, in tank vehicles, and *powdered milk,* from Sabetha, Kans., to Omaha, Nebr., and St. Joseph and Kansas City, Mo.; and *Ice Cream bars, washing and cleaning compounds, sulphruic acid,* and *empty containers used in the transportation of powered milk,* from Omaha, Nebr., and St. Joseph and Kansas City, Mo., to Sabetha, Kans. *Condensed milk,* in bulk, between Sebetha, Kans., on the one hand, and, on the other, points in Missouri. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts with Mid-America Dairymen, Inc. of Sabetha, Kans. Transferee is presently authorized to operate as a common carrier under Certificate No. MC 2095 and subs thereafter. Application has not been filed for temporary authority under Section 210 a(b).

No. MC–FC–77242, filed August 4, 1977. Transferee: BARNEY TRUCKING, INC., 198 North 3rd East, Salina, Utah 84654. Transferor: Glen M. Barney, doing business as Glen Barney & Sons, 198 North 3rd East, Salina, Utah 84654. Applicants' representative: D. Michael Jorgensen, P.O. Box 2465, Salt Lake City, Utah 84110. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 139832, Sub-1, issued October 20, 1976, as follows: Coal, in bulk, from points in Carbon, Emery, San Pete, and Sevier Counties, Utah to points in Arizona, California, Idaho, New Mexico, Nevada, Utah and Wyoming, with no transportation for compensation on return except as otherwise authorized. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 210(a)(b).

No. MC–FC–77245, filed August 4, 1977. Transferee: FRED L. BENDER AND OLINE BENDER, d.b.a., F & O TRUCKING, 20613th 91 Ave., S.E., Shohomish, Wash. 98290. Transferor: Robert B. Jones, P.O. Box 141, Lake Stevens, Wash. 98258. Applicants' representative: Fred and Oline Bender, 20613 91st Ave., SE., Shohomish, Wash. 98290. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 135900 Sub-1, issued March 8, 1973, as follows: Such commodities as are dealt in by surplus and discount stores, from the facilities of World Wide Distributor Association, Inc., at Seattle, Wash., to Portland, Salem, Medford, and Milton-Freewater, Oreg., and Moscow, Ind. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77246, filed August 4, 1977. Transferee: J. P. JENKS, INC., 1294 Madison Avenue, Painesville, Ohio 44077. Transferor: Jeffrey P. Jenks, doing business as Jenks Cartage Company, 1294 Madison Avenue, Painesville, Ohio 44077. Applicant's representative: Jeffrey P. Jencks, 1294 Madison Avenue, Painesville, Ohio 44077. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Permit No. MC 140146, issued July 15, 1976 as follows: Pre-cast concrete building supplies and equipment, materials, and supplies used in the manufacture of such commodities, between the facilities of Old Stone Products Inc., at or near Thompson, Ohio, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Massachusetts, Mississippi, Michigan, Minnesota, Nebraska, Maryland, New Jersey, New York, North Carolina, Oklahoma, Pennsylvania, Rhode Island, Virginia, West Virginia, Wisconsin, and the District of Columbia. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77250, filed July 29, 1977. Transferee: P AND S, INC., doing business as P AND S WRECKER SERVICE, 528 State Street, New Albany, Ind. 47150. Transferor: Preston L. Ford, doing business as Ford-Floyd Wrecker Service, 1015 South Preston, Louisville, Ky. 40203. Applicant's representative: John T. McGarvey, Attorney at Law, 521 West Market Street, Louisville, Ky. 40202. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 108970 (Sub-No. 1) issued November 20, 1972, as follows: Wrecked or disabled motor vehicles between Louisville, Ky., and points within 50 miles therof on the one hand, and, on the other, points in Kentucky, Indiana, Illinois, Ohio, and Tennessee. Transferee presently holds no authority from this Commission; application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77254, filed August 8, 1977. Transferee: DEAN ROBINSON, Dysart, Iowa 52224. Transferor: Wieck's Fees and Livestock, Incorporated, Dysart, Iowa 52224. Applicant's representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 123856, MC 123856 (Sub-No. 1), and MC 123856 (Sub-No. 2) issued March 19, 1962, August 6, 1962, and July 21, 1967 respectively, as follows: Feed ingredients from Lasalle, Ill. to Ladora, Iowa; from Ladora, Iowa to Peoria, Ill., Ellis, S. Dak., Omaha, Nebr., St. Joseph, Mo., Muncie, Kans., Oklahoma City, Okla., Willmar, New Ulm, and Minneapolis, Minn.; dry feed ingredients from Ladora, Iowa to Fremont and Grand Island, Nebr. and between Ladora, Iowa, on the one hand, and, on the other, Hutchinson, Kans. and Ritman, Ohio; dry mineral feed ingredients from Ladora, Iowa to Salina, Kans., Kansas City, Mo., Madison, Wisc., Monmouth, Danville, and Quincy, Ill., Castleton, Ind., Williston, N. Dak., Akron, Ohio, Memphis, Tenn., and St. Clair, Mich. and from Maple Park, Ill., Hammond, Ind., and Memphis and Coving, Tenn. to Ladora, Iowa. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210(a)(b).

H. G. Homme, Jr.
Acting Secretary.

[FR Doc.77-24246 Filed 8-19-77,8:45 am]

V 42 162 AUG 22 77 UM V

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Commodity Futures Trading Commission	1, 2
Federal Power Commission	3
Federal Reserve System	4
Nuclear Regulatory Commission	5, 6
Securities and Exchange Commission	7

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m. August 23, 1977.

PLACE: 2033 K Street, N.W., Washington, D.C., 5th Floor Hearing Room.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Withdrawals from Registration as Futures Commission Merchants. Portions closed to the public:

Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254–6114.

[S–1143–77 Filed 8–10–77;10:00 am]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 AM, August 26, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Market Surveillance Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254–6314.

[S–1144–77 Filed 8–18–77;10:00 am]

3

FEDERAL POWER COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (pub. 8/18/77 42 FR 41729).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: August 16, 1977, 2 p.m., August 18, 1977, 2 p.m.

CHANGE IN THE MEETING:

The following items have been added:

Item No., Docket No., and Company

11. Docket No. RP76–38, *Arizona Electric Power Cooperative, Inc.* and *the City of Wilcox, Arizona* v. *El Paso Natural Gas Company.*
12. Docket No. CI77–306, Transco Exploration Company.
13. Docket No. RP77–110, Alabama-Tennessee Natural Gas Company.
14. Docket No. CP77–106, Mississippi River Transmission Corporation. Docket No. CP77–131, Natural Gas Pipeline Company of America.

KENNETH F. PLUMB,
Secretary.

[S–1146–77 Filed 8–18–77;10:16 am]

4

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 12 noon, Friday, August 26, 1977.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed statement to be presented to the Subcommittee on International Finance of the Senate Committee on Banking, Housing and Urban Affairs regarding international debt problems.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board: (202) 452–3204.

Dated: August 17, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S–1142–77 Filed 8–17–77;4:31 pm]

5

NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Volume 42 No. 155 page 40808.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Week of August 15, 1977.

CHANGES IN THE MEETINGS: Meetings for Wednesday, August 17 through Friday, August 19 have been revised as follows:

WEDNESDAY, AUGUST 17

9 a.m. Review of FY 1979 Budget (continued) (OPEN) (as announced).
1:30 p.m. Discussion of Recall/Preliminary Budget Markup (additional meeting) (CLOSED—Exemption 9).

THURSDAY, AUGUST 18

9 a.m. Review of FY 1979 Budget (continued) (OPEN) (additional meeting).
3:30 p.m. Budget Review—Recall of Offices/Preliminary Markup (Rescheduled from 9 a.m. 8/18) (OPEN/CLOSED to be determined).

FRIDAY, AUGUST 19

9 a.m. Review of FY 1979 Budget (continued) (OPEN) (additional meeting).

CONTACT FOR MORE INFORMATION:

Walter Magee (202) 634–1410.

Dated: August 16, 1977.

WALTER MAGEE,
Chief, Operaitons Branch, Office of the Secretary.

[S–1138 Filed 8–17–77;11:13 am]

6

NUCLEAR REGULATORY COMMISSION:

TIME AND DATE: Week of August 22, 1977.

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

TUESDAY, AUGUST 23

3 p.m. Discussion of Draft Administration Bill for Nuclear Plant Licensing Reform—(Exemption 9).

WEDENESDAY, AUGUST 24

2:30 p.m. (Approx.) Discussion of Draft Administration Bill for Nuclear Plant Licensing Reform—(Exemption 9).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee 202–634–1410.
Dated: August 16, 1977.

WALTER MAGEE,
Office of the Secretary.

[S–1139–77 Filed 8–17–77;11:13 am]

7

SECURITIES AND EXCHANGE COMMISSION:

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR-40808, August 11, 1977.

PREVIOUS ANNOUNCED TIME AND DATE: August 18, 1977, 10 a.m.

CHANGES IN THE MEETING: There will be an additional item considered by the Commission at the open meeting scheduled for Thursday, August 18, 1977, at 10 a.m. The additional subject matter will be:

Consideration of a request by the National Association of Securities Dealers for a rebuttal period in the matter of an application filed by Pacific Stock Exchange Incorporated for unlisted trading privileges in the common stock of Pacific Resources, Inc.

The Commission will consider the following additional matters at the closed meeting scheduled for Thursday, August 18, 1977: Settlement of administrative proceedings. Consideration of request for stay. Formal order of investigation.

The discussion of the regulatory matter bearing enforcement implications, previously scheduled for the closed meeting on Thursday, August 18, 1977 has been rescheduled for the closed meeting on Wednesday, August 24, 1977 at 3 p.m.

Chairman Williams, Commissioners Loomis, Evans, and Pollock voted to approve the above changes and determined that no earlier notice thereof was possible.

Dated: August 17, 1977.

[S–1145–77 Filed 8–18–77;1:46 pm]

V 42 16 2 AUG 22 77 UM V A

federal register

MONDAY, AUGUST 22, 1977
PART II



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the
Assistant Secretary for
Housing—Federal Housing
Commissioner

■

SECTION 8 NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION PROGRAM

Increase in Maximum Allowable Term for Certain Contracts

V 42 16 2
AUG 22 77
UM

Title 24—Housing and Urban Development

CHAPTER VIII—LOW-INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket Nos. R-77-380 and R-77-387]

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—NEW CONSTRUCTION

PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SUBSTANTIAL REHABILITATION

Increase in Maximum Allowable Term for Certain Contracts

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: Section 101(c) of the Supplemental Housing Authorization Act of 1977, amended section 8(e)(1) of the U.S. Housing Act of 1937 to permit HUD to enter into contracts for assistance payments under the Section 8 program for terms of "three hundred and sixty months, except that such term may not exceed two hundred and forty months in the case of a project financed with assistance of a loan made by, or insured, guaranteed or intended for purchase by, the Federal Government, other than pursuant to Section 244 of the National Housing Act."

This amendment increases the maximum term permitted for Housing Assistance Payments Contracts and Annual Contributions Contracts from 20 years to 30 years for conventionally financed projects. The amendment did not change the maximum 40 year term available for projects owned by, or financed by a loan or loan guarantee from, a State or local agency.

The Section 8 New Construction and Substantial Rehabilitation Program Regulations are being amended to reflect this statutory change. In addition, several technical changes are being made to clarify the regulations and assure uniform interpretation between the regulations and the contract document forms on this subject. Since these amendments are based on a statutory amendment or are only technical clarifications, they are being made effective on publication.

EFFECTIVE DATE: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

April D. LeClair, Section 8 and Leased Housing Division, Office of Assisted Housing Development, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, 202-755-5380.

SUPPLEMENTARY INFORMATION: The Department has given serious consideration to the issue of the effective date of implementation of the provision for a 30-year term. The Department has determined to make the amendments effective on publication for projects for which a commitment for permanent financing was not secured before April 30, 1977, which is the date the Supplemental Housing Authorization Act of 1977 became law. The purpose of the amendment permitting a 30-year term for conventional financing is to encourage this type of financing. Projects for which financing was secured prior to the effective date of the Act were able to obtain financing without the 30-year term provisions, and there is no need to make the provision applicable to them.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order 11821.

Accordingly, 24 CFR, Parts 880 and 881 are revised as follows:

1. Paragraph (a) of Section 880.109 is revised, a new paragraph (b) is added and paragraphs (b), (c), and (d) are redesignated (c), (d), and (e), respectively, and are reprinted in their entirety as follows:

§ 880.109 Term of housing assistance payments contract.

(a) The Contract may be for an initial term of not more than five years, for any dwelling unit, renewable at the sole option of the Owner, for additional terms of not more than five years each, provided that the total Contract term for any dwelling unit, including all renewals, shall not exceed 20 years, where a conditional or unconditional commitment for permanent financing was secured by the Owner prior to April 30, 1977, or 30 years, where a conditional or unconditional commitment for permanent financing, based on a term of more than 20 but no more than 30 years, was secured on or after April 30, 1977, except as otherwise provided in this section.

(b) In the case of a Contract under which housing assistance payments are made with respect to a project not covered by paragraph (c) of this section which is financed with the assistance of a loan made by, or insured, guaranteed or intended for purchase by, the Federal Government, other than pursuant to Section 244 of the National Housing Act, the total Contract term, including all renewals, shall not exceed 20 years for any dwelling unit.

(c) In the case of a Contract under which housing assistance payments are made with respect to a project owned by, or financed by a loan or loan guarantee from, a State or local agency, the total Contract term may be equal to the term of such financing but may not exceed 40 years for any dwelling unit.

(d) In the case of mobile homes, the initial Contract term for any mobile home shall be for not more than five years, subject to renewal for additional terms of not more than five years each, as may be mutually agreed upon by the Owner and HUD or, in the case of a Private-Owner/PHA Project, by the Owner and the PHA with the approval of HUD; provided, that the total Contract term for any mobile home shall not exceed 20 years. For the purposes of this paragraph (d), the term "mobile home" means the original mobile home and any replacement(s), combined. In the case of any project under this paragraph (d), notwithstanding the maximum total allowable term per unit stated therein, a shorter term shall be determined by HUD where appropriate, taking into account the amount of the capital expenditures reasonably required for the project, the reasonable period and rate of amortization for the financing, and the approved rents to the Owner.

(e) If the project is completed in stages, the dates for the initial and the renewal terms shall be separately related to the units in each stage; provided, however, that the total Contract term for the units in all the stages, beginning with the effective date of the Contract with respect to the first stage, may not exceed the overall maximum term allowable for any one unit, plus two years.

2. § 881.109 (a) and (b) are revised and (c) is reprinted so as to read in its entirety as follows:

§ 881.109 Term of Housing Assistance Payments Contract.

(a) Where the estimated cost of the rehabilitation is less than 25 percent of the estimated value of the project after completion of the rehabilitation, the Contract may be for an initial term of not more than five years for any dwelling unit, renewable at the sole option of the Owner, for one or more additional terms of not more than five years each; provided, however, that the total Contract term, including all renewals, shall not exceed 10 years for any dwelling unit.

(b) Where the estimated cost of the rehabilitation is 25 percent or more of the estimated value of the project after completion of the rehabilitation, the Contract may be for an initial term of not more than five years for any dwelling unit, renewable at the sole option of the Owner, for additional terms of not more than five years each, for a total Contract term, including all renewals, which:

(1) Will cover the longest term of a single credit instrument covering: (i) The cost of rehabilitation; or

(ii) The existing indebtedness; or

(iii) The cost of rehabilitation and the refinancing of the existing indebtedness; or

(iv) The cost of rehabilitation and the acquisition of the property; and

(2) Will not exceed, for any dwelling unit: (i) 20 years, where a conditional or unconditional commitment for permanent financing was secured before April 30, 1977, except as otherwise provided in paragraph (b)(2)(iv) of this section; or

(ii) 20 years where the project is not covered by paragraph (b)(2)(iv) of this section and is financed with the assistance of a loan made by, or insured, guaranteed or intended for purchase by, the Federal Government other than pursuant to Section 244 of the National Housing Act; or

(iii) 30 years, where a conditional or unconditional commitment for permanent financing based on a term of more than 20 but no more than 30 years was secured on or after April 30, 1977, except as provided in paragraph (b)(2)(ii) or (iv) of this section; or

(iv) 40 years, where the project is owned by, or financed by a loan or loan guarantee from, a State or local agency.

(c) If the project is completed in stages, the dates for the initial and the renewal terms shall be separately related to the units in each stage; provided, however, that the total Contract term for the units in all stages, beginning with the effective date of the Contract with respect to the first stage, may not exceed the overall maximum term allowable for any one unit, plus two years.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., August 12, 1977.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc.77-24172 Filed 8-19-77;8:45 am]

V 42 162 AUG 22 77 UM

federal register

MONDAY, AUGUST 22, 1977

PART III



ENDANGERED SPECIES SCIENTIFIC AUTHORITY

APPENDIX I SPECIMENS

Policy Statement

V 42 162 AUG 22 77 UM V

ENDANGERED SPECIES SCIENTIFIC AUTHORITY

POLICY ON IMPORT OF APPENDIX I SPECIMENS

AGENCY: Endangered Species Scientific Authority.

ACTION: Notice.

SUMMARY: This notice states general findings of the Endangered Species Scientific Authority on import of animals and plants included in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Import will be approved when the purpose is for an essential scientific use not detrimental to the survival of the species, or to enhance the propagation or survival of the species. Import of salvaged specimens will be be allowed for any bona fide scientific use, provided that the possibility of import neither directly nor indirectly contributed to the specimens' death or removal from the wild. Imports for other purposes will be disallowed if they can be reasonably expected to stimulate demand for wild plants or animals, or their parts or products, unless the evidence establishes that import is in the best interest of the species.

DATE: All interested persons are invited to comment on this notice. All comments received before October 24, 1977 will be considered in determining whether the policy should be revised.

ADDRESS: Comments should be addressed to the Executive Secretary, Endangered Species Scientific Authority, 18th and C Streets, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Dr. William Y. Brown, Executive Secretary, Endangered Species Scientific Authority, 18th and C Streets NW., Washington, D.C. 20240, 202-343-5687.

BACKGROUND

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (TIAS 8249) requires the Convention parties to make certain scientific findings before trade is allowed in protected species of animals and plants included in Appendices to the Convention. "Appendix I" includes those species of animals and plants that are threatened with extinction and which are or may be affected by trade. "Appendix II" includes those species not necessarily now threatened with extinction but which may become so unless trade in them is subject to strict regulation. For both Appendix I and II species, member countries generally may allow export of specimens only if an official Scientific Authority of the country has found that the export will not be detrimental to the survival of the species involved and an official Management Authority has issued an export permit based upon that and other findings. Import of these specimens is authorized when they arrive at a receiving member country generally only if the specimens are accompanied by a Convention export permit, if sent from a member country, or substantially similar documentation if sent from a non-member country. In addition, an import permit is required for Appendix I specimens that do not qualify for special exceptions under the Convention, such as that for captive bred animals and cultivated plants. Before the issuance of import permits, the Management Authority must be satisfied, among other requirements, that specimens will not be used for primarily commercial purposes. In addition, the Scientific Authority of the importing country must have found that the import is for purposes not detrimental to the survival of the species.

There is an important difference between the finding of "not detrimental to the survival" that is required for export permits, and the finding of "for purposes not detrimental to the survival" that is required before issuance of Appendix I import permits by the receiving country. The basic biological fact-finding on Convention species is the responsibility of the exporting countries, where the species occur in the wild. That is the only biological assessment made for trade in Appendix II specimens, incorporated in the finding of "not detrimental to the survival" that is required before issuance of an export permit.

The "purposes not detrimental to the survival" finding that is required for Appendix I imports serves as a limitation and a safeguard on trade in these most threatened species. However, the finding does not require the importing country to replicate the basic biological fact-finding that is required of the exporting country. Inclusion of the word "purposes" indicates that the importing country's approach should differ and, in particular, that it should focus on the nature and quality of the activity in the importing country as it relates to species survival.

POLICY

Import of Appendix I specimens will be approved by the U.S. Endangered Species Scientific Authority (ESSA), subject to other Convention requirements and exceptions, when the purpose is for an essential scientific use not detrimental to the survival of the species, or to enhance the propagation or survival of the species. Use of Appendix I specimens for scientific purposes will be considered essential only if no alternative species are available and the number of specimens proposed is the minimum that will produce acceptable scientific results. Import of salvaged specimens will be allowed for any bona fide scientific use, provided that the possibility of import neither directly nor indirectly contributed to the specimens' death or removal from the wild. Because the Convention requires that import permits for Appendix I species be issued before export or re-export permits, the ESSA may give its counterpart in the exporting country any information relevant to the latter's evaluation of the export permit application. If an import permit is issued, this information will be transmitted through the U.S. Management Authority, together with a copy of the import permit. The United States will use this opportunity to encourage exporting countries, particularly those less experienced in conservation, to more fully comply with the scientific standards of the Convention and to accede to the Convention if not members. Approving import for the above purposes is consistent with the Convention, with the Endangered Species Act of 1973 (16 U.S.C. 1531-43), and with the general policy of the United States to simplify and standardize animal and plant trade regulation.

Import for purposes other than the above will be disallowed by the ESSA if the purposes can be reasonably expected to simulate demand for wild plants or animals or their parts or products, without generating countervailing benefits to the species. Examples of purposes included in this category are import for profit, amateur collecting, falconry, and trophies. Clear and convincing evidence of countervailing benefits must be presented before import for these purposes is allowed. On the other hand, import will be approved by the ESSA if the evidence establishes that is in the best interest of the species.

The Endangered Species Scientific Authority unanimously adopted this policy for Appendix I imports on August 2, 1977. The policy is subject to revision, as are all ESSA policies, on the basis of subsequent experience, public comment, and the development of a uniform international policy on the issue.

Dated: August 16, 1977.

WILLIAM Y. BROWN,
Executive Secretary, Endangered Species Scientific Authority.

[FR Doc.77-24185 Filed 8-19-77;8:45 am]



would you like to know

if any changes have been made in certain titles of the CODE OF FEDERAL REGULATIONS without reading the Federal Register every day? If so, you may wish to subscribe to the "Cumulative List of CFR Sections Affected," the "Federal Register Index," or both.

Cumulative List of CFR Sections Affected **$10.00** per year

The "Cumulative List of CFR Sections Affected" is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register, and is issued monthly in cumulative form. Entries indicate the nature of the changes.

Federal Register Index **$8.00** per year

Indexes covering the contents of the daily Federal Register are issued monthly, quarterly, and annually. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

Note to FR Subscribers: FR Indexes and the "Cumulative List of CFR Sections Affected" will continue to be mailed free of charge to regular FR subscribers.

Mail order form to:
Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

There is enclosed $ ____ for ____ subscription(s) to the publications checked below:

____ CUMULATIVE LIST OF CFR SECTIONS AFFECTED ($10.00 a year domestic; $12.50 foreign)
____ FEDERAL REGISTER INDEX ($8.00 a year domestic; $10.00 foreign)

Name _____

Street Address _____

City _____ State _____ ZIP _____

Make check payable to the Superintendent of Documents

☆ GPO: 1976—O 58-000

V42162 AUG 22 77 UMI V

Vol.42—No.163
8–23–77
PAGES
42299–42676

federal register

TUESDAY, AUGUST 23, 1977

highlights

NATIONAL FIRE CODES
GSA/OFR publishes proposed revision to standards; comments by 11–7–77 and announces annual meeting on 5–15 thru 5–18–78 (Part IV of this issue) 42531

SUNSHINE ACT MEETINGS 42428

WORLD LAW DAY
Presidential proclamation 42299

HANDICAPPED CHILDREN
HEW/OE adopts regulations on educational assistance to States and incentive grants program; effective 10–1–77 (Part II of this issue) 42473

SURFACE MINING CONTROL AND RECLAMATION
Interior proposes regulations establishing State and Federal conflict of interest provisions; comments by 9–3–77 (Part VI of this issue) 42539

HOUSING ASSISTANCE PAYMENTS PROGRAMS
HUD amends Fair Market Rents Schedule for Section 23 and Section 8 of existing housing; effective 8–23–77 (Part V of this issue) 42535

PENSION PLANS
PBGC proposes rules on valuation rates and factors for plans that terminated on or after 3–1–77, but before 6–1–77; comments by 9–22–77 42361

COMMERCIAL FISHING OPERATIONS
Commerce/NOAA notice of prohibition of take of rough-toothed dolphin incidental to commercial fishing operations 42370

LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT
Labor/ESA sets guidelines for preparation and submission of legal service fee applications; effective 8–22–77 (Part VIII of this issue) 42553

INCOME TAX
Treasury/IRS provides final regulations relating to vesting standards and certain plans covering subsidiary corporation employees 42318

PRIME AND UNIQUE FARMLANDS
USDA/SCS proposes general guidelines for a national program; comments by 10–7–77 42359

CONTINUED INSIDE

V42 163 AUG 23 77 UMI

163

INFORMATION AND ASSISTANCE

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The Federal Register will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202–523–5240.**

FEDERAL REGISTER, Daily Issue:	
Subscription orders (GPO)	202–783–3238
Subscription problems (GPO)	202–275–3050
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	202–523–5022
Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227
PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235
PUBLIC LAWS:	
Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

ANIMAL DRUGS
HEW/FDA provides for safe and effective use of styrylpyridinium, diethylcarbamazine tablets for deworming dogs; effective 8–23–77 ... 42312

HUMAN DRUGS
HEW/FDA amends bioavailability regulations to add certain parenteral drug products and to clarify waiver provision; effective 8–23–77 ... 42311

RAILROAD NOISE EMISSION
DOT/FRA issues procedures to insure compliance with standards prescribed by EPA; effective 10–1–77 ... 42343

MEDICAL DEVICES
HEW/FDA establishes registration and premarket notification procedures; effective 9–22–77 (Part III of this issue) ... 42519

FALCONRY
Interior/FWS publishes list of States meeting Federal standards; effective 8–23–77 ... 42353

MEETINGS—
Commerce/NBS: National Bureau of Standards' Visiting Committee, 9–16–77 ... 42367
NOAA: Gulf of Mexico Fishery Management Council 9–7 thru 9–9–77 ... 42367
South Atlantic Fishery Management Council, 8–31–77 ... 42368
DOD/Air: Air Force Historical Program Advisory Committee, 9–15 and 9–16–77 ... 42371
DCA: Scientific Advisory Group, 9–16–77 ... 42371
Secy: Defense Systems Management College, 10–4–77 ... 42371
ERDA: High Energy Physics Advisory Panel, 9–19 and 9–20–77 ... 42371
GSA: Architectural and Engineering Services Regional Public Advisory Panel, 9–9–77 ... 42380
HEW/ADAMHA: Continuing Education Review Committee, 9–30–77 ... 42380
HEW/NIH: Board of Scientific Counselors, National Institute on Aging, 10–20 and 10–21–77 ... 42381
Communicative Disorders Review Committee, 10–2–77 ... 42381
Digestive Diseases Subcommittee, National Arthritis, Metabolism and Digestive Diseases Advisory Council, 10–31–77 ... 42382
National Advisory General Medical Sciences Council, 10–5 and 10–6–77 ... 42382
National Advisory Research Resources Council, 9–19 thru 9–21–77 ... 42382
National Arthritis, Metabolism, and Digestive Diseases Advisory Council, 9–29 thru 10–1–77 ... 42382
National Cancer Advisory Board, Subcommittee on Environmental Carcinogenesis, 9–18–77 ... 42382
Pulmonary Diseases Advisory Council, 10–20–77 ... 42383
VA: Cooperative Studies Evaluation Committee, 11–7 thru 11–9–77 ... 42424

CHANGED MEETING—
Commerce/NOAA: Mid-Atlantic Fishery Management Council and its Scientific and Statistical Committee, 9–27 and 9–28–77 ... 42368
HEW/FDA Antimicrobial Agents Review Panel, 8–27–77 ... 42381
OE: Equality of Educational Opportunity Advisory Council, 8–26–77 ... 42383

AMENDED MEETING
HEW/NIH: Arteriosclerosis and Hypertension Advisory Committee, 9–23–77 ... 42381

CANCELLED MEETING
HEW/FDA: Miscellaneous Internal Drug Products Review Panel, 8–28 and 8–29–77 ... 42381

SEPARATE PARTS OF THIS ISSUE
Part II, HEW/OE ... 42473
Part III, HEW/FDA ... 42519
Part IV, GSA/OFR ... 42531
Part V, Treasury/CC ... 42535
Part VI, Interior ... 42539
Part VII, Labor/ESA ... 42547
Part VIII, HUD/Secy ... 42553

V 42 163 AUG 23 77 UMI

contents

THE PRESIDENT

Proclamations
Special observances:
World Law Day ... 42299

EXECUTIVE AGENCIES

AGRICULTURE DEPARTMENT
See Animal and Plant Health Inspection Service; Commodity Credit Corporation; Food and Nutrition Service; Food Safety and Quality Service; Soil Conservation Service.

AIR FORCE DEPARTMENT
Notices
Meetings:
Historical Program Advisory Committee ... 42371

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION
Notices
Meetings:
Advisory Committees; September ... 42380

ALCOHOL, TOBACCO AND FIREARMS BUREAU
Notices
Firearms, granting of relief ... 42422

ANIMAL AND PLANT HEALTH INSPECTION SERVICE
Rules
Plant quarantine, domestic:
Witchweed ... 42302
Notices
Soil samples; approved laboratories, list; correction ... 42364

ANTITRUST DIVISION, JUSTICE DEPARTMENT
Notices
Competitive impact statements and proposed consent judgments; U.S. versus listed companies:
Studiengesellschaft Kohle et al. 42386

CIVIL AERONAUTICS BOARD
Notices
Hearings, etc.:
KLM-Royal Dutch Airlines ... 42364
Trans-Provincial Airlines, Ltd. 42365
Transatlantic route proceedings ... 42365

CIVIL SERVICE COMMISSION
Rules
Excepted service:
Agriculture Department ... 42301
Environmental Protection Agency ... 42301
Executive Office of President ... 42301
Federal Energy Administration 42302
Inter-American Foundation ... 42301
State Department ... 42301
Notices
Noncareer executive assignments:
Health, Education, and Welfare Department ... 42366
Transportation Department ... 42367

COMMERCE DEPARTMENT
See Economic Development Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration.

COMMODITY CREDIT CORPORATION
Rules
Loan and purchase programs:
Cotton; correction ... 42308

COMPTROLLER OF THE CURRENCY
Rules
Rulings:
Bond discount reporting ... 42535
National bank stock acquisition by employee benefit trusts ... 42535

COPYRIGHT OFFICE, LIBRARY OF CONGRESS
Pronosed Rules
Copyright owners and broadcasting entities:
Cable systems; recordation of certain contracts; correction 42362

DEFENSE COMMUNICATIONS AGENCY
Notices
Meetings:
Scientific Advisory Group ... 42371

DEFENSE DEPARTMENT
See also Air Force Department; Defense Communications Agency.
Notices
Meetings:
Defense Systems Management College Board of Visitors ... 42371

DRUG ENFORCEMENT ADMINISTRATION
Notices
Registration applications, etc.; controlled substances:
Abbott Laboratories ... 42391
Alameda Laboratories, Inc ... 42391
Collaborative Research, Inc ... 42392

ECONOMIC DEVELOPMENT ADMINISTRATION
Notices
Import determination petitions:
Atlanta Umbrella Co., Inc ... 42367
Benson Shoe Co ... 42367
Paragon Wire & Cable Corp ... 42367

EDUCATION OF DISADVANTAGED CHILDREN, NATIONAL ADVISORY COUNCIL
Notices
Closed meetings; report, availability ... 42411

EDUCATION OFFICE
Rules
Handicapped children:
State administered programs, assistance to States, and incentive grants program ... 42473
Notices
Meetings:
Equality of Educational Opportunity National Advisory Council ... 42383

EMPLOYMENT STANDARDS ADMINISTRATION
Rules
Longshoremen's and Harbor Workers' Compensation Act:
Administration and procedures 42547

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
Notices
Meetings:
High Energy Physics Advisory Panel ... 42371

ENVIRONMENTAL PROTECTION AGENCY
Notices
Air quality criteria; external review drafts; availability:
Photochemical oxidants and related organics ... 42372
Food additive petitions:
Monsanto Agricultural Products et al ... 42373
Pesticide chemicals; tolerances, exemptions, etc.; petitions:
Ciba-Geigy Corp ... 42372
DuPont De Nemours, E.I ... 42372
Pesticide registration:
Applications ... 42373

FEDERAL COMMUNICATIONS COMMISSION
Rules
Industrial, land transportation, and public safety radio services:
Spectrum management; editorial changes ... 42342
Transmitters, industrial radiolocation service; type acceptance requirements; correction ... 42343
Organization and functions:
Common Carrier Bureau; editorial changes ... 42341
Proposed Rules
Citizens radio service:
Class D transmitters, spurious and harmonic emissions; operating rules; extension of time ... 42362
Notices
Domestic public radio services; applications accepted for filing 42376
Satellite communications services; applications accepted for filing ... 42377

FEDERAL CONTRACT COMPLIANCE PROGRAMS OFFICE
Notices
Contract sanctions:
Anatasi Brothers Corp ... 42392

FEDERAL ENERGY ADMINISTRATION
Proposed Rules
Energy conservation program, appliances:
Energy efficiency improvement targets; inquiry; extension of time ... 42361
Notices
Appeals and applications for exception, etc.; cases filed with Exceptions and Appeals Office:
List of applicants, etc ... 42377

FEDERAL INSURANCE ADMINISTRATION
Rules
Flood Insurance Program, National:
Communities eligible for sale of insurance (6 documents) 42312–42317

FEDERAL MARITIME COMMISSION
Notices
Agreements filed, etc.:
Sacramento-Yolo Port District et al ... 42379
West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Conference (2 documents) ... 42379, 42380

FEDERAL RAILROAD ADMINISTRATION
Rules
Noise emission compliance with EPA ... 42343
Notices
Petitions for exemptions, etc.:
Association of American Railroads ... 42422

FEDERAL REGISTER OFFICE
National Fire Codes:
Standards, proposed revision; inquiry ... 42531

FEDERAL RESERVE SYSTEM
Notices
Applications, etc.:
First Security Corp ... 42380

FEDERAL TRADE COMMISSION
Rules
Prohibited trade practices:
Central California Lettuce Producers Cooperative et al ... 42309

FISH AND WILDLIFE SERVICE
Rules
Endangered and threatened species; fish, wildlife, and plants:
Clams; tan riffle shell ... 42351
Hunting:
Catahoula National Wildlife Refuge, La ... 42356
Iroquois National Wildlife Refuge, N.Y. (2 documents) ... 42354
Noxubee National Wildlife Refuge, Miss. (3 documents) ... 42354, 42355, 52358
Piedmont National Wildlife Refuge, Ga ... 42355
Pungo National Wildlife Refuge, N.C ... 42357
Savannah National Wildlife Refuge, Ga ... 42355
Wheeler National Wildlife Refuge, Ala. (2 documents) ... 42357, 42358
White River National Wildlife Refuge, Ark ... 42356
Migratory bird permits:
Falconry ... 42353

FOOD AND DRUG ADMINISTRATION
Rules
Animal drugs, feeds, and related products:
Styrylypridinium, diethylcarbamazine tablets ... 42312
Human drugs:
Bioavailability and bioequivalence requirements ... 42311
Medical devices:
In vitro diagnostic products for human use and establishment registration for manufacturers; premarket notification procedures, etc ... 42519
Proposed Rules
Human and animal drugs:
Antibiotic drugs; batch certification, analytical data submission; correction ... 42361
Notices
Meetings:
Antimicrobial Agents Review Panel; cancelled ... 42381
Miscellaneous Internal Drug Products Review Panel; cancelled ... 42381

FOOD AND NUTRITION SERVICE
Rules
Food stamp program:
State agencies and eligible household participation; supplemental security income recipients ... 42302

FOOD SAFETY AND QUALITY SERVICE
Rules
Fruits and vegetables (fresh); grade standards:
Grapes ... 42309
Meat and poultry products, inspection:
Editorial changes ... 42309

GENERAL SERVICES ADMINISTRATION
See also Federal Register Office.
Notices
Meetings:
Architectural and Engineering Services Regional Public Advisory Panel ... 42380

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
See Alcohol, Drug Abuse, and Mental Health Administration; Education Office; Food and Drug Administration; National Institutes of Health.

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
See also Federal Insurance Administration.
Rules
Low-income housing:
Fair market rents for payments programs; existing housing ... 42553
Notices
Authority delegations:
Counselor to Secretary; East Harlem Pilot Block Project, N.Y. ... 42383
Committees, establishment and meetings:
Housing Costs Task Force ... 42383

INTERIOR DEPARTMENT
See also Fish and Wildlife Service; Land Management Bureau; Mining Enforcement and Safety Administration; National Park Service; Surface Mining Reclamation and Enforcement Office.
Notices
Environmental statements; availability, etc.:
Esquatzel Coulee Wasteway, Columbia Basin Project, Wash. ... 42385
Pecos River Basin Water Salvage Project, N. Mex. and Tex. ... 42386

INTERNAL REVENUE SERVICE
Rules
Income taxes:
Vesting standards, minimum, and certain plans covering subsidiary corporation employees ... 42318

INTERSTATE COMMERCE COMMISSION
Notices
Fourth section applications for relief ... 42425
Hearing assignments ... 42424
Motor carriers:
Temporary authority applications ... 42425
Transfer proceedings (2 documents) ... 42425

JUSTICE DEPARTMENT
See Antitrust Division; Drug Enforcement Administration.

LABOR DEPARTMENT
See also Employment Standards Administration; Federal Contract Compliance Programs Office.
Notices
Adjustment assistance:
American Can Co ... 42398
American Finish & Chemical Co. et al ... 42397
Ann Will Garment Co ... 42399
Bethlehem Mines Corp. et al ... 42397
Clayton Shoe Co ... 42399
Crucible, Inc ... 42399
Dynamics Corp. of America (2 documents) ... 42406, 42407

V 42 163 AUG 23 77 UM

CONTENTS

Faylee Sportswear, Inc. 42402
Ferry, E. W., Screw Products, Inc. 42401
Gulf & Western Industries 42403
Harrisburg Manufacturing Co. 42403
Jem Fashions, Inc., et al 42404
Johansen Brothers Shoe Co. 42404
Jones & Laughlin Steel Corp. 42405
R & P Manufacturing, Inc. 42406
Sharmat, Inc 42408
Skill Knit Fabrics, Inc. 42408
Terrace Footwear, Inc. 42409
Tina Dress Co. 42409
Townsend Fastening Systems 42410
True Temper Corp. 42410
U.S. Steel Corp. (4 documents) 42398, 42400, 42401, 42410
Webster Enterprises, Inc. 42411
Wexler, I. J., Coats 42403

LAND MANAGEMENT BUREAU
Notices
Applications, etc.:
Colorado 42384
New Mexico (2 documents) 42384

LIBRARY OF CONGRESS
See Copyright Office.

MANAGEMENT AND BUDGET OFFICE
Notices
Clearance of reports, list of requests (2 documents) 42412
Federal Procurement Data System; proposed new data elements: inquiry 42412

MINING ENFORCEMENT AND SAFETY ADMINISTRATION
Coal mine health noise standard; use of noise dosimeters; objections filed and hearing requested 42362

NATIONAL ARCHIVES AND RECORDS SERVICE
See Federal Register Office.

NATIONAL BUREAU OF STANDARDS
Notices
Meetings:
Visiting Committee 42367

NATIONAL INSTITUTES OF HEALTH
Notices
Meetings:
Arteriosclerosis and Hypertension Advisory Committee 42381
Arthritis, Metabolism, and Digestive Diseases National Advisory Council (2 documents) 42382
Cancer National Advisory Board 42382
Communicative Disorders Review Committee 42381
General Medical Sciences National Advisory Council 42382
Pulmonary Diseases Advisory Committee 42383
Research Resources National Advisory Council 42382
Scientific Counselors Board 42381

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
Notices
Marine mammals:
Incidental taking; prohibition; rough-toothed dolphins 42370
Meetings:
Gulf of Mexico Fishery Management Council 42367
Mid-Atlantic Fishery Management Council 42368
South Atlantic Fishery Management Council 42368
Organization and functions:
South Atlantic Fishery Management Council 42368

NATIONAL PARK SERVICE
Notices
Historic Places National Register; additions, deletions, etc 42385

PENSION BENEFIT GUARANTY CORPORATION
Proposed Rules
Plan benefits valuation 42361

SECURITIES AND EXCHANGE COMMISSION
Rules
Interpretative releases:
Accounting bulletins, staff 42310
Notices
Hearings, etc.:
Colonial Option Income Fund, Inc., et al 42418
Du Pont de Nemours, E.I., and Co 42418
Pepper, Hamilton & Scheetz; H.R. 10 profit sharing plan 42419
Puritan Fund, Inc., et al 42420
Scholarship Club, Inc.; trust fund 42421

SMALL BUSINESS ADMINISTRATION
Notices
Applications, etc.:
First Southern Capital Corp. 42421
Disaster areas:
Alabama 42421
Massachusetts 42422

SOIL CONSERVATION SERVICE
Proposed Rules
Support activities:
Farmlands, prime and unique; inventory, etc 42359

SURFACE MINING RECLAMATION AND ENFORCEMENT OFFICE
Proposed Rules
Conflict of interest; Federal and State employees 42539

TRADE NEGOTIATIONS, OFFICE OF SPECIAL REPRESENTATIVE
Notices
Unfair trade practices, petitions: Japan; leather 42413

TRANSPORTATION DEPARTMENT
See Federal Railroad Administration.

TREASURY DEPARTMENT
See also Alcohol, Tobacco and Firearms Bureau; Comptroller of Currency; Internal Revenue Service.
Notices
Antidumping:
Sorbates from Japan 42423

VETERANS ADMINISTRATION
Notices
Meetings:
Cooperative Studies Evaluation Committee 42424

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR
PROCLAMATIONS:
4514 42299

5 CFR
213 (6 documents) 42301, 42302

7 CFR
271 42302
301 42302
1427 42308
2851 42309
PROPOSED RULES:
657 42359

9 CFR
319 42309
325 42309

10 CFR
PROPOSED RULES:
430 42361

12 CFR
7 (2 documents) 42537

16 CFR
13 42309

17 CFR
211 42310

20 CFR
702 42548

21 CFR
20 42526
25 42526
320 42311
520 42312
807 42526
809 42530
PROPOSED RULES:
431 42361
514 42361

24 CFR
803 42554
888 42554
1914 (6 documents) 42312–42317

26 CFR
1 42318

29 CFR
PROPOSED RULES:
2610 42361

30 CFR
PROPOSED RULES:
70 42362
2170 42540
2171 42540

37 CFR
PROPOSED RULES:
201 42362

45 CFR
100b 42475
121a 42476
121m 42517

47 CFR
0 42341
89 42343
91 (2 documents) 42343
93 42343
PROPOSED RULES:
95 42362

49 CFR
210 42343

50 CFR
17 42351
21 42353
32 (12 documents) 42354–42358

V 42 163 AUG 23 77 UM

CUMULATIVE LIST OF PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR

Ch. I 38891

3 CFR

EXECUTIVE ORDERS:

12006 39081

MEMORANDUMS:

January 2, 1973 (Amended by Memorandum of August 1, 1977) 40169
April 26, 1973 (See Memorandum of August 1, 1977) 40169
December 13, 1973 (See Memorandum of August 1, 1977) 40169
October 29, 1974 (See Memorandum of August 1, 1977) 40169
May 20, 1975 (See Memorandum of August 1, 1977) 40169
August 5, 1975 (See Memorandum of August 1, 1977) 40169
March 25, 1976 (Superseded by Memorandum of August 1, 1977) 40169
April 14, 1976 (See Memorandum of August 1, 1977) 40169
November 5, 1976 (See Memorandum of August 1, 1977) 40169
November 19, 1976 (Supplemented by Memorandum of July 21, 1977) 41401
July 20, 1977 39083
July 21, 1977 41401
August 1, 1977 40169
August 5, 1977 40171
August 12, 1977 42185

PROCLAMATIONS:

4514 42299

4 CFR

105 38891

5 CFR

213 ..... 39085, 39657, 40173–40175, 40215, 40866, 40867, 41265–41267, 41813, 41814, 42301, 42302
713 40175

PROPOSED RULES:

890 41866

7 CFR

2 39669
27 40677
68 40868
271 42302
301 42302
318 41267
354 41267
406 39953
409 39956
650 40114
725 40881
905 40882
908 ..... 38892, 39359, 39959, 40678, 41095, 41603
910 ..... 39085, 39359, 39669, 40882, 41814
918 40883
922 41268
926 40678
927 39670
929 40679
944 40885
945 40886
946 39671
947 41403
948 39360
958 39360
967 39361
980 40175
1011 40888
1040 41603
1205 41404
1421 ..... 40175–40185, 41269
1425 40187
1427 ..... 40421, 42308
1443 41269
1473 41269
1479 41269
1821 ..... 39085, 41815
1822 ..... 39361, 39362, 40679
1832 41815
1980 ..... 39362, 41816
2024 40680
2851 42309
2852 41843
2858 41846

PROPOSED RULES:

220 40911
657 42359
780 39223
917 39989
919 41431
926 41130
927 41644
929 39989
931 41866
945 39395
946 38913
967 ..... 39108, 41431
981 42227
989 41867
991 42227
993 ..... 39672, 41644
1002 41582
1006 38913
1011 39108
1012 38913
1013 38913
1097 41873
1102 41873
1108 41873
1133 40216
1435 40216

8 CFR

235 41847
242 38892

PROPOSED RULES:

108 39672

9 CFR

82 39658
92 41848
112 41849
160 41850
161 41850
319 42309
325 ..... 39086, 42309

PROPOSED RULES:

1 42044
3 42044
51 40911
381 41873

10 CFR

0 38893
71 39364
Ch. II 41095
202 41269
210 39959
211 ..... 39959, 41566
212 ..... 38894, 39195, 39959, 41566
213 39087
430 39964
460 41270

PROPOSED RULES:

73 42228
205 41242
210 40915
211 ..... 39114, 39395, 39990, 40448, 40915, 41242
212 ..... 39114, 40915, 41242, 41396, 41572
430 ..... 39114, 39673, 40217, 40701, 40826, 42361
450 41645

12 CFR

7 ..... 39969, 42537
202 ..... 39368, 40424
207 41604
220 41604
221 41604
224 41604
226 40424
329 40425
343 40891
505 39368
545 39088
563 39198
563b 39088
701 39369

PROPOSED RULES:

308 41130
311 41130
564 39115

13 CFR

120 40900
123 39970
301 39970
317 38896

PROPOSED RULES:

107 39992

14 CFR

1 ..... 41101, 42187
39 ..... 38896–38900, 39373–39377, 39971, 39972, 41102–41106, 41622–41625, 42188–42192
45 41101
71 ..... 38901, 39378, 39379, 39972–39976, 40690–40693, 41107–41113, 41625–41627, 42192–42194
73 ..... 39379, 41113
75 39379
91 42187
97 ..... 39380, 41114, 41627
121 42194
135 42194
1204 41628

PROPOSED RULES:

25 41236
39 ..... 38917, 41131–41133, 41647

14 CFR—Continued

PROPOSED RULES—Continued

71 ..... 38917, 39993, 39994, 40710, 40711, 41134–41137, 41648, 42228
75 ..... 38917, 40711
121 41649
123 41649
135 41649
241 39115
245 39115
246 39115
378 40450
399 42229

15 CFR

46 39976
70 38901

PROPOSED RULES:

904 40711

16 CFR

2 ..... 39658, 42195
3 ..... 39658, 39977
4 42195
13 ..... 39198, 40681, 42309
18 39660
22 39660
27 41270
35 39660
47 39660
66 39660
105 39660
138 39660
177 39660
191 39660
206 39660
226 39660
433 40426
702 39381
1025 39089
1026 39089
1201 40188

PROPOSED RULES:

13 ..... 40714, 41297, 41431, 41649, 41874
441 39995
453 41651
705 39223
801 ..... 39040, 39995, 41875
802 ..... 39040, 39995, 41875
803 ..... 39040, 39995, 41875
1500 39648
1605 39402

17 CFR

140 39033
200 ..... 40189, 40900
211 42310
231 42196
239 ..... 40900, 41405
240 ..... 38902, 39090, 40900, 41405
241 41022
249 40902
270 41405
271 42196

PROPOSED RULES:

1 39036
210 41433
211 41433
230 41875
231 41434
239 41139
240 ..... 41138, 41434

17 CFR—Continued

PROPOSED RULES—Continued

241 41434
270 41139
274 41139

18 CFR

1 40191
3 ..... 40191, 41276
4 40191
5 40191
6 40191
16 40191
35 ..... 39660, 41277
101 39661
104 39661
141 39661
154 ..... 41276, 41277
157 ..... 39090, 41276
201 39661
204 39661
260 39661

19 CFR

133 41278
153 ..... 39200, 41406
159 41630
205 40426
210 40428

PROPOSED RULES:

134 39227

20 CFR

416 ..... 39098, 40191
602 40192
702 42548
901 ..... 39200, 41115
902 39200

PROPOSED RULES:

404 38918
405 39995

21 CFR

Ch. I 40904
6 39100
14 41851
20 42526
25 42526
133 39101
176 ..... 41852, 41853
193 41279
310 41374
320 42311
510 41854
520 ..... 41854, 42312
522 ..... 39103, 41855
558 41855
561 41279
700 41374
801 40215
807 42526
809 42530

PROPOSED RULES:

182 ..... 39117, 41299, 41876
184 ..... 39117, 41299, 41876
186 41299
312 41301
320 39675
431 42361
500 40217
514 42361
808 41301
895 42000

22 CFR

123 ..... 39103, 41631
124 41631
202 40428

23 CFR

160 41279
655 ..... 41280, 41633

PROPOSED RULES:

Ch. I 41651

24 CFR

25 40193
203 40430
803 42554
811 39209
880 ..... 39212, 42292
881 ..... 39212, 42292
883 39212
888 42554
1914 42312–42317

25 CFR

141 40194
221 41116
252 40904
258 40904

PROPOSED RULES:

54 41435

26 CFR

1 42318
7 ..... 39104, 42197
9 42198
11 ..... 39382, 41856
404 41856

PROPOSED RULES:

1 ..... 38919, 39227, 39233, 39408 39997
301 ..... 39227, 39233, 39997
404 ..... 39227, 39233, 39997

27 CFR

178 41116

PROPOSED RULES:

4 42230
181 ..... 39316, 40921, 42233

28 CFR

0 ..... 40433, 41407
2 ..... 39668, 39808, 41407
16 ..... 40905, 41408
17 39212
32 39386

PROPOSED RULES:

2 ..... 41435, 41436, 41878
540 41368
541 41368
548 41368
551 41368

29 CFR

102 41117
452 ..... 39105, 41280
1601 41280
1908 41386
1952 ..... 40194, 40195, 41857
2602 41858
2606 41658
2610 41858

PROPOSED RULES:

70a 39997
1061 42022
1910 39120
2608 39120
2610 42361

V 42 163 AUG 23 77 UM

30 CFR

PROPOSED RULES:

70 42362
2170 42540
2171 42540

31 CFR

51 41859

32 CFR

Ch. I 39213
199 41118
286b 39214
290 40433
806b 41409

PROPOSED RULES:

114 39234
143 41306
286 40552
865 39999

33 CFR

110 ..... 39386, 40693, 40694
117 ..... 38903, 39386, 41118, 42199
183 41634
204 ..... 40196, 41281
207 40908
274 41118

PROPOSED RULES:

117 ..... 38919, 38920, 42234
154 39408
155 39408
156 39408
157 39999

34 CFR

231 40694

35 CFR

69 40196

36 CFR

67 40436
200 40438
292 39387

37 CFR

PROPOSED RULES:

2 40450
4 40450
201 ..... 41437, 41438, 42362

38 CFR

2 ..... 41409, 41410
13 41410
14 41410

PROPOSED RULES:

8 40452
17 ..... 39409, 41439

39 CFR

111 ..... 38904, 41634

PROPOSED RULES:

111 ..... 39411, 40219, 40922

40 CFR

52 ..... 39389, 39664, 40695, 41121, 42218, 42219
55 41282
60 ..... 39389, 41122, 41424, 41754
61 41424
86 40697
136 39977
180 ..... 39977, 40909
204 41635
416 40697
610 40438

40 CFR—Continued

PROPOSED RULES:

20 39414
52 ..... 38920, 38921, 39235, 39415, 40220
61 40452
85 40221
180 ..... 40715, 40922
211 41139
700 39182
710 39182

41 CFR

1–4 ..... 39215, 41635
Ch. 9 41128
29–1 40197
29–2 40201
29–3 40201
29–12 40205
29–26 40206
29–61 40206
101–41 41128
101–42 40847
101–43 40847
101–44 40850
101–45 40852
101–46 40858
101–47 40698
105–63 40858
114–25 39978

PROPOSED RULES:

9–4 40923
24–1 42234
60–4 41378

43 CFR

423 41122

PUBLIC LAND ORDERS:

5622 42199

PROPOSED RULES:

424 41440
1880 40000

45 CFR

100a 40207
100b 42475
121a 42476
121m 42517
122a 42005
166 42016
173 40209
194 40207
196 39218
1015 41282

PROPOSED RULES:

11 41140
146a 40221
170 40926

46 CFR

2 41636
10 39978
35 41636
151 41636

PROPOSED RULES:

162 40000
502 40452

47 CFR

0 42341
2 42203
15 39979
73 ..... 38905, 39665, 39981, 39982, 40210, 41123–41125, 41283
76 ..... 41127, 41284

47 CFR—Continued

81 39666
87 38906
89 ..... 42203, 42343
91 42203
93 42343

PROPOSED RULES:

1 40715
13 40939
43 40454
61 40002
63 39236
73 ..... 40003, 40454, 41141, 41302–41305, 41879
81 ..... 40223, 40224, 40455
83 40224
89 39560
90 39560
91 ..... 39560, 41143
93 39560
95 42362

49 CFR

99 39220
173 42206
178 42206
210 42343
529 39983
571 ..... 39983, 39984, 42208
580 38906
581 38909
1033 ..... 39221, 39389, 39985, 41424
1036 40444
1051 40860
1057 39666
1100 40698
1104 40860
1108 39222
1109 ..... 39390, 39985
1251 39667
1254 39390

PROPOSED RULES:

173 ..... 40003, 41651
174 ..... 40003, 41651
178 ..... 40003, 41651
179 ..... 40003, 41651
193 42235
1047 40459
1082 40459
1106 39243
1307 41144

50 CFR

17 ..... 39985, 40682–40685, 42351
20 ..... 39106, 39667, 40211, 41636
21 42353
26 ..... 40213, 41425
32 ..... 38909–38912, 39391–39394, 40214, 40445–40447, 40690, 40861–40865, 41127, 41426–41429, 41642, 41861–41865, 42210–42215, 42354–42358
33 ..... 40214, 41426
216 ..... 39394, 41128, 41879
371 40866
601 42216
602 42216
611 ..... 39106, 41430
680 42216

PROPOSED RULES:

17 ..... 38921, 39121, 40716, 40823
20 41145
23 40459
32 40465
260 41440

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	Date	Pages	Date	Pages	Date
38891–39080	Aug. 1	40677–40845	11	41401–41602	17
38081–39193	2	40169–40419	9	41603–41812	18
39195–39358	3	40847–41094	12	41813–42183	19
39359–39656	4	40421–40675	10	42185–42297	22
39657–39952	5	41095–41264	15	42299–42676	23
39953–40167	8	41265–41399	16		

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

FCC—FM Broadcast stations, table of assignments:
Fargo and Mayville, N.D..... 36830; 7–18–77
Federalsburg, Md..... 37210; 7–20–77
Fort Myers Beach, Fla..... 37369; 7–21–77

Ship station licensees; amendment to permit installation of pretested VHF radiotelephones..... 38180; 7–27–77

DOT/FAA—McDonnell Douglas Model DC–9, –10, –20, –30, –40, –50 Series and VC–9C (DC–9–32) airplanes; airworthiness directives.... 36811; 7–18–77

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

V 42 163 AUG 23 77 UM

presidential documents

Title 3—The President

PROCLAMATION 4514

World Law Day, 1977

By the President of the United States of America

A Proclamation

The past twenty-five years have been marked by the unprecedented development of international law as nations have come to recognize that cooperation in international relations is the only alternative to chaos. This cooperation depends upon mutual respect, which in turn depends upon the development of legal norms upon which all parties can rely with confidence. These norms must be responsive to each nation's legitimate interests, must respect the feelings and beliefs of all peoples, and must foster a climate of justice and liberty in which each individual on this planet can achieve his or her full potential.

Representatives of the legal profession from every corner of the globe will gather in Manila during the week of August 21, 1977, under the auspices of the World Peace Through Law Center, to inaugurate the Eighth World Conference on World Peace Through Law. Together they will search for ways to further universal human liberty and security. Celebrations devoted to international legal protections for human rights will be held not only in Manila, but in more than one hundred countries. Accordingly, it is fitting that the United States join in this effort to focus the world's attention on the pressing need for continued vigilance in protecting fundamental rights and freedoms for all.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate Sunday, August 21, 1977, as World Law Day in the United States. I call upon all public and private officials and organizations, members of the legal profession, the clergy, educators, the communications media, and all men and women of good will to join with the peoples of the world on this day in reflecting on the importance of the rule of law in achieving world peace as well as justice, freedom and dignity for all.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of August, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and second.

Jimmy Carter

[FR Doc.77-24473 Filed 8-19-77;3:53 pm]

V 42 163 AUG 23 77 UM

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Environmental Protection Agency

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Legislative Specialist is excepted under Schedule C because it is confidential in nature. Also, the position of Legislative Affairs Specialist has been revoked under the automatic revocation system.

EFFECTIVE DATE: August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3318(b)(6) is revoked and (b)(7) is added as set out below:

§ 213.3318 Environmental Protection Agency.

* * * * * *

(b) *Office of Legislation.* * * * (6) (Revoked). (7) One Legislative Specialist.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-24413 Filed 8-22-77;8:45 am]

PART 213—EXCEPTED SERVICE

Inter-American Foundation

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Special Assistant to the President is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3320(a) is added as set out below:

§ 213.3320 Inter-American Foundation.

(a) One Special Assistant to the President.

(5 U.S.C. 3301, 3302; E.O. 19577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-24414 Filed 8-22-77;8:45 am]

PART 213—EXCEPTED SERVICE

State Department

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Special Assistant to the Coordinator for Human Rights and Humanitarian Affairs is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3304(a)(30) is added as set out below:

§ 213.3304 Department of State.

(a) *Office of the Secretary.* * * *

(30) Special Assistant to the Coordinator for Human Rights and Humanitarian Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-24412 Filed 8-22-77;8:45 am]

PART 213—EXCEPTED SERVICE

Agriculture Department

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This transfers the organizational coverage of three previously authorized excepted employment authorities which were for the Agricultural Marketing Service and the Animal and Plant Health Inspection Service to the newly-established Food Safety and Quality Service agency within the Department of Agriculture. These authorities except from the competitive service the position of Agricultural Commodity Graders (processed fruits and vegetables) and (poultry, dairy); and for positions of Food Inspectors and Veterinary Medical Officers for employment on an intermittent, temporary, or seasonal basis for not to exceed 1,280 hours a year. These exceptions are granted because it is impractical to competitively examine for these positions.

EFFECTIVE DATE: August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3113 is amended to read as follows:

§ 213.3113 Department of Agriculture.

* * * * * *

(f) *Agricultural Marketing Service.* * * *

(5) [Revoked.]

(6) [Revoked.]

* * * * * *

(k) *Animal and Plant Health Inspection Service.* * * *

(3) [Revoked]

(l) *Food Safety and Quality Service.*

(1) Positions of agricultural commodity graders (processed fruits and vegetables), GS–9 and below, and of graders' aides (processed fruits and vegetables), GS–2–4; for temporary employment on a part-time or intermittent basis for not to exceed 1,280 hours a year.

(2) Temporary and intermittent positions of agricultural commodity graders (dairy) and agricultural commodity graders (poultry) at grade GS–9 and below. Employment under this authority may not exceed 1,280 hours a year.

(3) Positions of meat and poultry inspectors (veterinarians at GS–11 and below and nonveterinarians at appropriate grades below GS–11) for employment on a temporary, intermittent, or seasonal basis, not to exceed 1,280 hours a year.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-24352 Filed 8-22-77;8:45 am]

PART 213—EXCEPTED SERVICE

Executive Office of the President: Office of Management and Budget

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One additional position of Special Assistant to the Deputy Direc-

V 42 163 AUG 23 77 UM

tor is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3303(a)(2) is amended as set out below:

§ 213.3303 Executive Office of the President.

(a) *Office of Management and Budget.* * * *

(2) Two Special Assistants to the Deputy Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-24351 Filed 8-22-77;8:45 am]

PART 213—EXCEPTED SERVICE

Federal Energy Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to indicate the following: that, due to reorganization, the Office of Congressional Affairs has been relocated to a recently established organization, the Office of the Associate Administrator for Congressional and Intergovernmental Affairs; that all listed Schedule C positions in the Office of Congressional Affairs will be relocated to the new organization except for the position of Special Assistant to the Director, Office of Congressional Affairs, which is hereby revoked under the provisions of the automatic revocation system as described in § 213.3301 b, and; that three positions of Staff Assistant to the Special Assistant, Congressional Affairs, are excepted under Schedule C because these positions are confidential in nature.

EFFECTIVE DATE: August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3388 (d) is revoked and (q) is added as set out below:

§ 213.3388 Federal Energy Administration.

* * * * *

(d) (Revoked)

* * * * *

(q) *Office of the Associate Administrator for Congressional and Intergovernmental Affairs.*

(1) One Special Assistant, Congressional Affairs.

(2) Three Staff Assistants, Congressional Affairs.

(3) Four Staff Assistants to the Special Assistant, Congressional Affairs.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
DONALD J. BIGLIN,
Director, Bureau of Management Services.

[FR Doc.77-24468 Filed 8-22-77;8:45 am]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—FOOD STAMP PROGRAM

[Amdt. No. 123]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Recipients of Supplemental Security Income Payments

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: According to the provisions of Pub. L. 93–233, recipients of Supplemental Security Income (SSI) payments are eligible for food stamp benefits except in two States. Pub. L. 95–59 extended the provisions of Pub. L. 93–233 until September 30, 1978. This regulation promulgates that extension.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Alberta Frost, State Agency Operations Branch, Food Stamp Division, Food and Nutrition Service, United States Department of Agriculture, 500 12th Street SW., Washington, D.C. 20250, 202–447–8360.

SUPPLEMENTARY INFORMATION: According to the provisions of Pub. L. 93–233, SSI recipients are currently eligible for food stamp benefits in all States but California and Massachusetts. These provisions of Pub. L. 93–233 expired June 30, 1977. Pub. L. 95–59 extends the present eligibility criteria for SSI households until September 30, 1978. This regulation changes the date for the expiration of food stamp regulations concerning SSI recipients to correspond with the extension mandated in Pub. L. 95–59.

It is the policy of this Department to give at least 30 days' notice for amendments to the regulations. However, because the regulations concerning SSI participation have expired and extension of that date is mandated by Pub. L. 95–59, it would be impracticable and unnecessary to give notice of proposed rulemaking with regard to this amendment.

Accordingly, paragraph (a) in § 271.10 of the Food Stamp Program regulations is amended to read as follows:

§ 271.10 Eligibility and certification of supplemental security income recipients.

(a) Notwithstanding any other provisions of this subchapter, recipients of Supplemental Security Income (SSI) payments shall be treated according to the provisions of this section for purposes of determining eligibility for and certification in the program. The provisions of this section will expire September 30, 1978, unless earlier rescinded or modified.

* * * * *

(78 Stat. 703, as amended; (7 U.S.C. 2011–2026).)

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Programs No. 10.551 Food Stamps.)

Dated: August 16, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc.77-24175 Filed 8-22-77;8:45 am]

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Witchweed

MISCELLANEOUS AMENDMENTS TO REGULATED AREAS

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: Based upon witchweed surveys, this document amends the supplemental regulation which lists regulated areas for purposes of the Federal Witchweed Quarantine by removing, adding, and extending to the list of suppressive regulated areas all or parts of certain counties in North Carolina and South Carolina.

EFFECTIVE DATE: August 18, 1977.

FOR FURTHER INFORMATION CONTACT:

H. I. Rainwater, Regulatory Support Staff, Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs, U.S. Department of Agriculture, Hyattsville, Md. 20782, 301–436–8247.

SUPPLEMENTARY INFORMATION: Witchweed, a parasitic plant which causes a dangerous disease of corn, sorghum, and other crops of the grass family, has been found in the United States only in parts of North Carolina and South Carolina. In these States areas have been designated as suppressive regulated areas and a witchweed eradication program is currently being undertaken.

Surveys conducted by the United States Department of Agriculture and State agencies of North Carolina and South Carolina establish that witchweed has spread or is likely to spread to certain areas beyond the outer perimeter of the previous suppressive regulated areas. Therefore, in order to prevent the spread of witchweed and because eradication of

witchweed is undertaken as an objective, suppressive regulated areas are extended in the following counties: Brunswick, Columbus, Duplin, Greene, Jones, Lenoir, Moore, Richmond, and Scotland in North Carolina, and Florence in South Carolina; and suppressive regulated areas are added in the previously nonregulated counties of Craven and Wilson in North Carolina. The surveys also establish that witchweed has been eradicated in Montgomery County, North Carolina, and parts of other counties in North Carolina. Therefore, all of Montgomery County is deleted from the list of suppressive regulated area. Also, parts of the following counties in North Carolina are deleted from the list of suppressive regulated areas: Columbus, Harnett, Johnston, Jones, Lenoir, Moore, Pender, Scotland, and Wayne.

Other changes are also made to reflect changes in ownership of certain properties and to make corrections in certain descriptions to more accurately describe the area regulated.

Accordingly, § 301.80–2a of the Witchweed Quarantine regulations (7 CFR 301.80–2a) is hereby amended as set forth below:

1. In § 301.80–2a relating to the State of North Carolina under suppressive area, the entire State is redescribed to read as follows:

§ 301.80–2a Regulated areas; suppressive and generally infested areas.

* * * * *

NORTH CAROLINA

(1) *Generally infested area. Robeson County.*—The entire county.

(2) *Suppressive area. Bladen County.*—The entire county.

Brunswick County. The Babson, N. L., farm located on the west side of State Secondary Road 1321 and 0.4 mile south of its junction with State Highway 130.

The Register, W. C., farm located on the south side of State Secondary Road 1147 and 0.3 mile east of the junction of said road and State Secondary Road 1143.

The Register, W. T., farm located on the west side of State Secondary Road 1151 and 0.4 mile south of its junction of State Secondary Road 1147.

The Smith, B. Coda, farm located on the west side of a dirt road and 0.6 mile north of its junction with State Secondary Road 1322, said junction being 0.1 mile west of the junction of State Secondary Road 1322 and State Secondary Road 1321.

Columbus County. That part of the county lying north and west of a line beginning at a point where State Highway 211 intersects the Bladen-Columbus County line, thence south along said Highway 211 to its intersection with State Secondary Road 1740, thence southwest and south along said State Secondary Road 1740 to its junction with U.S. Highways 74 and 76, thence west along said highways to its intersection with State Secondary Road 1001, thence south along said Road 1001 to its intersection with the Seaboard Coastline Railroad, thence west along said Railroad to its intersection with White Marsh Swamp, thence south along said swamp to its junction with Cypress Creek, thence southwest along said creek to its intersection with State Highway 130, thence northwest along said highway to its junction with State Secondary Road 1166, thence southwest along said road to its junction with State Secondary Road 1157, thence southwest along said road to its junction with U.S. Highway 701, thence south and west along said highway to its intersection with State Secondary Road 1314, thence west along said road to its junction with State Secondary Road 1346, thence southwest along said road to its junction with the North Carolina-South Carolina State line.

The Jacobs, Thomas, farm located 0.2 mile north of State Secondary Road 1847 and 1 mile southwest of the junction of said Road 1847 with State Secondary Road 1740.

The Long, J. M., farm located on the southwest side of State Secondary Road 1113 and 0.4 mile northwest of its junction with State Secondary Road 1108.

The McLamb, H. M., farm located on the southwest side of State Secondary Road 1113 and 0.5 mile northwest of its junction with State Secondary Road 1108.

The Owen, J. A., farm located on the southwest side of State Highway 87 and 0.3 mile southeast of the intersection of said Highway 87 with the Bladen-Columbus County line.

The Shaw, Archie, farm located 0.2 mile southeast of State Secondary Road 1864 and 0.5 mile southeast of the junction of said Road 1864 with State Secondary Road 1808.

The Shaw, Charles H., farm located 0.1 mile north of State Secondary Road 1847 and 0.9 mile northeast of the junction of said Road 1847 with State Secondary Road 1740.

The Shipman, C. S., farm located on the east side of State Secondary Road 1909 and 0.6 mile southeast of the junction of said Road 1909 with State Secondary Road 1908.

The Spivey, D. M., farm located in the northeast corner of the intersection of U.S. Highway 701 and Gum Swamp.

The Suggs, Lacy, farm located at the end of a dirt road 0.5 mile southeast of the junction of said road with State Secondary Road 1108, said junction being 0.7 mile northeast of the junction of State Secondary Road 1108 and State Secondary Road 1118.

Craven County. The Hawkins, Annie A., farm located on both sides of State Secondary Road 1263 and 1 mile east of the junction of said Road 1263 with State Secondary Road 1262.

Cumberland County. All of Cumberland County excluding the Fort Bragg Military Reservation, the area within the corporate limits of the city of Fayetteville, and the unincorporated communities of East Fayetteville and Bonnie Doone.

Duplin County. That area bounded by a line beginning at a point where State Secondary Road 1337 intersects the Duplin-Sampson County line, thence northeast along said road to its junction with State Highway 50, thence northwest along said highway to its junction with State Secondary Road 1355, thence northeast along said road to its junction with State Secondary Road 1332, thence northeast along said road to its junction with State Secondary Road 1304, thence southeast along said road to its intersection with Bear Swamp, thence east along said swamp to its junction with Goshen Swamp, thence southeast along said swamp to its intersection with State Secondary Road 1305, thence north along said road to its junction with State Secondary Road 1306, thence northwest along said road to its junction with State Highway 403, thence northeast along said highway to its junction with State Secondary Road 1368, thence south along said road to its junction with State Secondary Road 1367, thence southeast along said road to its junction with State Secondary Road 1365, thence northeast along said road to its junction with State Secondary Road 1004, thence southeast along said road to its junction with State Secondary Road 1503, thence northeast along said road to its intersection with State Secondary Road 1500, thence southeast along said road to its intersection with State Secondary Road 1505, thence south along said road to its junction with State Secondary Road 1004, thence southeast along said road to its intersection with Nahunga Creek, thence southwest along said creek to its intersection with State Secondary Road 1301, thence northwest along said road to its junction with State Secondary Road 1346, thence southwest along said road to its junction with State Secondary Road 1385, thence west along said road to its junction with State Highway 50, thence southeast along said highway to its junction with State Secondary Road 1900, thence southeast along said road to its junction with State Secondary Road 1003, thence east along said road to its junction with State Highway 11, thence south along said highway to its junction with State Secondary Road 1922, thence southwest along said road to its junction with State Secondary Road 1909, thence south along said road to its junction with State Secondary Road 1912, thence west along said road to its intersection with the Magnolia city limits, thence south, west, and north along said city limits to its intersection with State Secondary Road 1003, thence southwest along said road to its junction with State Secondary Road 1101, thence southeast along said road to its intersection with State Secondary Road 1102, thence southwest along said road to its junction with State Secondary Road 1126, thence west along said road to its intersection with State Secondary Road 1100, thence southeast along said road to its intersection with State Secondary Road 1102, thence south along said road to its junction with State Secondary Road 1129, thence southwest along said road to its intersection with State Secondary Road 1128, thence northwest along said road to its intersection with Duplin-Sampson County, thence north along said county line to the point of beginning.

The Beard, Mary Lou, farm located on both sides of State Secondary Road 1961 and 0.6 mile west of the intersection of said road and the Northeast Cape Fear River.

The Bostic, Jake, farm located on both sides of State Secondary Road 1961 and 0.5 mile west of the intersection of said road and the Northeast Cape Fear River.

The Bradshaw, Gene A., farm located on the south side of State Secondary Road 1321 and 0.8 mile west of the junction of said road with State Secondary Road 1302.

The Branch, Hall, farm located on the southeast side of State Highway 11 and 0.6 mile southwest of the junction of said highway and State Secondary Road 1004.

The Britt, Cornia, farm located on both sides of State Secondary Road 1545 and 0.5 mile east of the junction of said road and State Secondary Road 1564.

The Brock, Jack, farm located on both sides of State Secondary Road 1700 and 0.8 mile west of the intersection of said road and the Northeast Cape Fear River.

The Brown, Norman, farm located on the south side of State Secondary Road 1961 and 0.6 mile west of the intersection of said road and State Secondary Road 1962.

The Dail, Albert D., farm located on both sides of State Secondary Road 1524 and 0.1 mile north of the junction of said road and State Secondary Road 1525.

The Davis, Jimmie, farm located on the east side of State Highway 111 and the south side of State Secondary Road 1546.

The Davis, Wenzell, farm located on the south side of State Secondary Road 1560 and 0.3 mile south of the junction of said road and State Secondary Road 1537.

The Garner, S. C., farm located on the south side of State Secondary Road 1306 and 0.5 mile west of the junction of said road and State Secondary Road 1511.

V 42 163 AUG 23 77 UM

The Goodson, Emma, farm located on the south side of State Secondary Road 1501 and 0.3 mile west of the junction of said road and State Secondary Road 1505.

The Grady, E. C., farm located on both sides of State Secondary Road 1700 and 0.7 mile west of the intersection of said road and the Northeast Cape Fear River.

The Grady, Robert, farm located on the east side of State Secondary Road 1560 and the south side of State Secondary Road 1537.

The Grady, S. Leland, farm located on both sides of State Secondary Road 1700 and 0.6 mile west of the intersection of said road and the Northeast Cape Fear River.

The Green, Willie, farm located on both sides of State Secondary Road 1971, and 0.6 mile southwest of the junction of said road and State Highway 50.

The Hall, Raymond, farm located on both sides of State Secondary Road 1961 and 1.2 miles west of the intersection of said road and State Secondary Road 1962.

The Harper, Milo, farm located on the northwest side of State Secondary Road 1539 and 0.6 mile northeast of the junction of said road and State Secondary Road 1540.

The Herring Estate, Jeff, farm located on the north side of State Secondary Road 1545 and 0.6 mile east of the junction of said road and State Secondary Road 1564.

The Howard, Henry, farm located on the north side of State Secondary Road 1700 and 0.8 mile west of the intersection of said road and the Northeast Cape Fear River.

The Hussey Estate, M. W., farm located on the east side of State Secondary Road 1560 and 0.2 mile south of the junction of said road and State Secondary Road 1537.

The Johnson, C. M., farm located on the southwest side of State Secondary Road 1139 and 0.6 mile northwest of the junction of said road with State Secondary Road 1133.

The Johnson, Eldora, farm located on both sides of State Secondary Road 1123 and 1.2 miles west of the junction of said road and State Secondary Road 1103.

The Jones, Billy, farm located on both sides of State Secondary Road 1700 and 0.7 mile west of the intersection of said road and the Northeast Cape Fear River.

The Jones, H. A., farm located on the south side of State Secondary Road 1700 and 0.7 mile west of the intersection of said road and the Northeast Cape Fear River.

The Kalmar, J. N., farm located on the south side of State Highway 403 and 0.5 mile west of its junction with State Secondary Road 1304.

The Kennedy, Owen, farm located on the east side of State Secondary Road 1726 and the southeast side of State Secondary Road 1702.

The Kennedy, Sidney J., farm located on the east side of State Secondary Road 1718 and 0.2 mile south of the junction of said road and State Highway 41.

The King, W. R., farm located on the east side of State Secondary Road 1302 and 0.1 mile south of the junction of said road and State Secondary Road 1308.

The Kornegay, Ethyl, farm located 0.2 mile east of State Secondary Road 1501 and 0.6 mile south of the intersection of said road and State Secondary Road 1519.

The Kornegay Estate, Issac, located on the southwest side of State Secondary Road 1305 and 0.7 mile northwest of the junction of said road and State Secondary Road 1305.

The Lewis, Merle S., farm located on the east side of State Secondary Road 1004 and both sides of State Secondary Road 1508.

The Marshburn, Freeman J., farm located on both sides of State Secondary Road 1128 and 0.7 mile southeast of the intersection of said road and State Secondary Road 1129.

The Maxwell, Myra, farm located on the southeast side of State Secondary Road 1306 and the west side of State Secondary Road 1562.

The McCullen, Larry, farm located on the northeast side of State Highway 24 and 0.2 mile northwest of the junction of said highway and State Secondary Road 1904.

The McGowan, Woodell, farm located on the south side of State Secondary Road 1961 and 1.1 miles west of the intersection of said road and State Secondary Road 1962.

The Mercer, Cathleen, farm located on the south side of State Secondary Road 1703 and 1.1 miles east of the intersection of said road and State Secondary Road 1704.

The Mercer, Herbert C., farm located on the south side of State Secondary Road 1703 and 0.7 mile west of the junction of said road and State Secondary Road 1732.

The Norris, Maggie T., farm located on the south side of State Secondary Road 1700 and 1.4 mile east of the intersection of said road and State Secondary Road 1701.

The Outlaw, Bennie F., farm located on both sides of State Secondary Road 1524 and the north side of State Secondary Road 1525.

The Outlaw, Emma, farm located on the south side of State Secondary Road 1509 and 0.5 mile southwest of the junction of said road and State Secondary Road 1510.

The Parrott, Jr., Mrs. Frank, farm located on the south side of State Secondary Road 1703 and 0.3 mile east of the intersection of said road and State Secondary Road 1704.

The Pate, Robert Lee, farm located on both sides of State Secondary Road 1357 and 0.9 mile southwest of the junction of said road and State Secondary Road 1306.

The Powell, William F., farm located on both sides of State Secondary Road 1128 and 0.2 mile southeast of the intersection of said road and State Secondary Road 1129.

The Precythe, Harold, farm located on the east side of U.S. Highway 117 and 0.1 mile south of the junction of said highway and State Secondary Road 1354.

The Rivenbark, George W., farm located on the northwest side of State Secondary Road 1131 and 0.4 mile southwest of the junction of said road and State Secondary Road 1128.

The Rouse, Jim, farm located on both sides of State Secondary Road 1537 and 0.3 mile south of the junction of said road and State Secondary Road 1306.

The Rouse, Rouke, farm located on the north side of State Secondary Road 1537 and the west side of State Secondary Road 1538.

The Shepard, J. T., farm located on both sides of State Secondary Road 1732 and 0.2 mile north of the junction of said road and State Secondary Road 1703.

The Smith, R. J., farm located on the north side of State Highway 11 and 1.2 miles east of the junction of said highway and State Highway 111.

The Smith, Sallie P., farm located on the northeast side of State Highway 111 and 0.8 mile southeast of the Duplin-Wayne County line.

The Summerlin, D. C., farm located on the north side of State Secondary Road 1513 and 0.4 mile east of the junction of said road and State Secondary Road 1565.

The Summerlin, Oliver, farm located on the south side of State Highway 403 and 0.1 mile east of the corporate limits of the town of Faison.

The Sumner, India, farm located on the southwest side of State Highway 111 and 1.2 miles south of the intersection of said highway and State Secondary Road 1700.

The Thomas, J. R., farm located on the north side of State Secondary Road 1700 and 1.4 miles east of the intersection of said road and State Secondary Road 1701.

The Turner, Lumas, farm located on the south side of State Secondary Road 1703 and 0.8 mile west of the junction of said road and State Secondary Road 1732.

The Whaley, Bennie, farm located on the southeast side of State Secondary Road 1961 and 0.3 mile northeast of the junction of said road and State Secondary Road 1800.

The Whitman, Herman E., farm located on the south side of State Secondary Road 1300 and 0.1 mile west of the junction of said road and State Secondary Road 1381.

The Whitman, Herman E., farm located on the north side of State Secondary Road 1300 and 0.8 mile east of the intersection of said road and State Secondary Road 1301.

The Williams, McArthur, farm located on the south side of State Secondary Road 1961 and 1 mile west of the intersection of said road and State Secondary Road 1962.

The Wilson, Mammie, farm located on the east side of State Highway 111 and 1.0 mile south of the intersection of said highway and State Secondary Road 1700.

Greene County. That area bounded by a line beginning at a point where State Highway 102 intersects State Highway 123 and extending south along State Highway 123 to its intersection with Contentnea Creek, thence northwest along said creek to its junction with Panther Swamp. Thence northerly along said Panther Swamp to its intersection with U.S. Highway 13–258, thence easterly along said highway to the point of beginning.

The Carmon, James E., farm located on the east side of State Secondary Road 1004 and 0.4 mile south of its junction with North Carolina Highway 102.

The Murphrey, Edward, farm located on the east side of State Secondary Road 1004 and 0.3 mile south of its junction with State Highway 102.

Harnett County. That area bounded by a line beginning at a point where the Harnett-Lee County line and State Secondary Road 1209 intersect and extending southeast along said road to its junction with State Highway 27, thence east along said highway to its junction with State Secondary Road 1128, thence south along said road to its junction with State Secondary Road 1128, thence east along said road to its junction with State Highway 210, thence northeast along said highway to its junction with State Secondary Road 2030, thence southeast along said road to its junction with State Secondary Road 2031, thence south along said road to its intersection with the Harnett-Cumberland County line, thence west along said county line to its junction with the Harnett-Moore County line, thence northwest and northeast along the Moore-Harnett County line to its junction with the Moore-Harnett Lee County line, thence northeast along the Harnett-Lee County line to the point of beginning.

The Johnson, Sr., Jonah C., farm located at the junction of State Secondary Roads 1553 and 1555. The farm lies in the northeast portion of this junction.

Hoke County. The entire county excluding Fort Bragg Military Reservation.

Johnston County. That area bounded by a line beginning at a point where State Secondary Road 1116 and State Highway 50 intersect and extending southeast along said highway to its intersection with the Johnston-Sampson County line, thence west along said county line to its intersection with State Highway 242, thence north along said highway to its intersection with State Secondary Road 1116, thence east along said road to the point of beginning.

The Barefoot, Wade H., farm located on a farm road and 0.4 mile south of its junction with State Secondary Road 1144 and 0.4 mile west of the intersection of said road with State Secondary Road 1145.

The Blackman, Dewey, farm located on the south side of State Secondary Road 1146, and 0.4 mile east of the junction of said road with State Secondary Road 1145.

The Braswell, J. G., farm located on the east side of State Secondary Road 2519 and 0.4 mile north of the junction of State Secondary Roads 2519 and 2520.

The Davis, I. H., farm located on the southwest side of State Secondary Road 1197 and 0.1 mile southeast of the junction of said road with State Secondary Road 1198.

The Edwards, Archie, farm located on the south side of State Secondary Road 2542 and 0.6 mile south of the junction of said road with State Secondary Road 1007.

The Everett, Betty, farm located on the west side of State Secondary Road 2541 and 0.5 mile south of the junction of said road with State Secondary Road 1007.

The Everett, Betty, farm located on a farm road and 0.6 mile west of its junction with State Secondary Road 2541, said junction being 1.9 miles south of the junction of State Secondary Roads 2541 and 1007.

The Everett, Jaspar, farm located on a farm road and 0.5 mile west of its junction with State Secondary Road 2541, said junction being 1.9 miles south of the junction of State Secondary Roads 2541 and 1007.

The Hudson, Price, Estate farm located on a farm road and 0.4 mile north of its junction with State Secondary Road 1008, said junction being 0.8 mile northeast of the intersection of State Secondary Road 1008 with U.S. Highway 701.

The Johnson, Annie, farm located on the west side of State Secondary Road 1138 and 0.5 mile south of its junction with State Secondary Road 1144.

The Johnson, Wade, farm located on both sides of State Secondary Road 1144 and 0.2 mile west of the junction of said road with State Secondary Road 1138.

The Martin, Emitt, farm located on the east side of State Secondary Road 2519 and 0.3 mile north of the junction of State Secondary Roads 2519 and 2520.

The Martin, John L., farm located on the west side of State Secondary Road 1201 and 0.3 mile north of the junction of said road with State Secondary Road 1200.

The McArthur, Margaret, farm located on a farm road and 1.4 miles north of its junction with State Secondary Road 1199 and 0.9 mile west of the junction of said road with State Secondary Road 1008.

The Oliver, Mrs. Beulah, farm located on the southeast side of the junction of State Secondary Road 2540 with State Secondary Road 2372.

The Summerlin, Everett L., farm located on the north side of State Secondary Road 1008, and 0.6 mile west of the junction of said road with State Secondary Road 1199.

Jones County. The Franck, Mrs. Wilber, farm located on the south side of State Secondary Road 1116 and 1.9 miles west of junction of said road with State Secondary Road 1115.

The Greene, Earl F., farm located on both sides of State Secondary Road 1127 and 0.9 mile northwest of the junction of said road and State Highway 41.

The Greene Estate, L. T., farm located on the east side of State Secondary Road 1123 and 0.5 mile south of the junction of said road and State Secondary Road 1124.

The Simpson, Eugene T., farm located on the south side of State Secondary Road 1116 and 2.5 miles west of the junction of said road and State Secondary Road 1115.

The Simpson, W. W., farm located on the south side of State Secondary Road 1116 and 2.5 miles west of the junction of said road and State Secondary Road 1115.

Lenoir County. The Barber, Clarence, farm located on both sides of State Secondary Road 1301 with 0.2 mile northeast of its junction with State Secondary Road 1302.

The Braxton, Clyde, Estate located on both sides of State Secondary Road 1802 and 0.9 mile northeast of the junction of State Secondary Road 1802 and State Highway 11.

The Brown, Nannie H., farm located in the southwest junction of State Secondary Roads 1152 and 1309.

The Carr, Lillian, farm located on the southwest side of State Secondary Road 1524 and 0.1 mile south of its junction with State Secondary Road 1526.

The Carter, Ephrom, farm located on the south side of State Secondary Road 1116 and 1.5 miles east of its junction with State Highway 11.

The Elmore, Lucy H., No. 1, farm located on the south side of State Secondary Road 1324 and 0.2 mile west of its junction with State Secondary Road 1333.

The Foss, Reginal D., farm located on the north side of State Secondary Road 1316 and 0.6 mile northwest of its junction with State Secondary Road 1318.

The Hamilton, C. W., farm located on the southeast side of State Secondary Road 1802 and 1.2 miles northeast of its junction with State Highway 11.

The Herring, Ben D., No. 1, farm located on both sides of State Secondary Road 1330 and 0.2 mile west of the junction of State Secondary Roads 1330 and 1331.

The Herring, Ben D., No. 2, farm located on the west side of State Secondary Road 1310 and 0.3 mile south of its junction with State Secondary Road 1311.

The Herring, Jack A., farm located on the east side of State Secondary Road 1310 and 0.4 mile south of its junction with State Secondary Road 1311.

The Herring, Lewis R., No. 1, farm located on the south side of State Secondary Road 1324 and 0.3 mile west of its junction with State Secondary Road 1333.

The Herring, Lewis R., No. 2, farm located on the north side of State Secondary Road 1324 at the end of farm road located 0.2 mile east of junction of State Secondary Road 1333.

The Hill, Nannie T., farm located on the southeast side of State Highway 55 at its junction with State Secondary Road 1161.

The Howard, Clarence, farm located on the south side of State Secondary Road 1105 and 0.1 mile east of its intersection with State Secondary Road 1118.

The Jarman, F. R., farm located on the southeast side of State Secondary Road 1311 and 0.7 mile southwest of its junction with State Secondary Road 1318.

The Jones, Edward S., farm located on the west side of U.S. Highway 258 and 0.3 mile north of its junction with State Secondary Road 1116.

The Joyner Farms, Inc., farm located on both sides of State Secondary Road 1324 and 0.5 mile east of its junction with State Secondary Road 1335.

The Moody, Alton, farm located on the south side of State Highway 55 and 0.6 mile northeast of its junction with State Secondary Road 1161.

The Moye, Lenton G., farm located on the west side of State Secondary Road 1335 and 0.3 mile north of its junction with State Secondary Road 1324.

The Parrott Farms, Inc., farm located on the northwest side of State Secondary Road 1157 and 0.7 mile northwest of its intersection with State Highway 55.

The Rouse, Forrest, farm located on the northeast side of State Secondary Road 1143 and 2.9 miles northwest of its intersection with State Secondary Road 1154.

The Rouse, Jim W., farm located on the northeast side of State Secondary Road 1143 and 2.8 miles northwest of its intersection with State Secondary Road 1154.

The Rouse, Leon, farm located on both sides of State Secondary Road 1307 and 0.4 mile southwest of its junction with State Secondary Road 1324.

The Singleton, Ruby S., farm located on east side of State Secondary Road 1802 and 0.6 mile south of its junction with State Secondary Road 1801.

The Sutton, Albert F., farm located on the southwest side of State Road 1324 and 0.1 mile southeast of its junction with State Secondary Road 1327.

The Sutton, C. R., farm located on the east side of State Secondary Road 1152 and 0.2 mile north of its junction with State Secondary Road 1308.

The Sutton, George Hodges, No. 1, farm located in the southwest junction of State Secondary Roads 1324 and 1307.

The Sutton, Iris, farm located on the east side of State Secondary Road 1152 and 0.6 mile south of its junction with State Secondary Road 1324.

The Sutton, John W., farm located in the southeast junction of State Secondary Roads 1330 and 1333.

The Sutton, Kirby E., farm located on the south side of State Secondary Road 1308 at the end of farm road located 0.1 mile southwest of junction of State Secondary Roads 1308 and 1307.

The Sutton, M. L., farm located on the southeast side of State Secondary Road 1311 and 0.8 mile southwest of its junction with State Secondary Road 1318.

The Sutton, Nathan, farm located on the southeast side of State Secondary Road 1311 and 0.6 mile southwest of its junction with State Secondary Road 1318.

The Sutton, Norman, farm located on the northwest side of State Secondary Road 1308 at the end of farm road located 0.3 mile southwest of junction of State Secondary Roads 1308 and 1324.

The Sutton, Prentice, farm located on the south side of State Secondary Road 1508 and 0.3 mile southeast of its intersection with State Secondary Road 1327.

The Sutton, Woodrow W., farm located on the north side of State Secondary Road 1331 and 0.5 mile west of its junction with State Secondary Road 1333.

The Taylor, Heber farm located on the north side of State Secondary Road 1161 and 0.3 mile east of its junction with State Highway 55.

The Walters, H. F., farm located on both sides of State Secondary Road 1335 and 0.4 mile north of its junction with State Secondary Road 1324.

The Waters, Thomas, Estate located on both sides of State Secondary Road 1318 and 0.3 mile north of its junction with State Secondary Road 1317.

The Whitfield, Hubert, No. 1, farm located on the northwest side of State Highway 55 and 0.1 mile northeast of its junction with State Secondary Road 1161.

The Whitfield, Hubert, No. 2, farm located on the north side of State Secondary Road 1157 and 0.9 mile west of its junction with State Highway 55.

The Whitfield, Melvin, No. 2, farm located on the south side of State Secondary Road 1300 and 0.1 mile east of the junction of State Secondary Roads 1300 and 1158.

The Wood, C. W., farm located on the northwest side of State Secondary Road 1311 and 0.7 mile southwest of its junction with State Secondary Road 1318.

Moore County. The Bryant, R. E., farm located on both sides of State Secondary Road 1815 and 0.5 mile southwest of the junction of said road with U.S. Highway 15–501.

The Hardister, George K., farm located on the north side of Highway 211 and 1 mile west of the junction of said highway and State Secondary Road 2075.

The Hardy, N. W., farm located on both sides of State Secondary Road 2007 and 0.2

V 42 163 AUG 23 77 UM V

mile southeast of the junction of said road with State Secondary Road 2005.

The Laton, William A., farm located on the east side of State Secondary Road 1004 and 0.3 mile north of the intersection of said road with State Secondary Road 1113.

The Marks, E. M., farm located on the south side of State Secondary Road 2019 and 2.5 miles east of the junction of said road and State Secondary Road 2018.

The McLaurin, Hattie J., farm located on the north side of N.C. Highway 211 and 0.5 mile west of the junction of said highway with State Secondary Road 2075.

The McNeill, Lena Bell, farm located on the northwest side of State Secondary Road 2077 and 0.5 mile southwest of the junction of said road with State Highway 211.

The Thomas, Claude and Ted, farm located on the west side of State Secondary Road 1128 and 0.5 mile northwest of the junction of said road with State Secondary Road 1122.

Onslow County. The Bryant, Ira, farm located on the north side of State Secondary Road 1425, 0.8 mile west of its junction with State Secondary Road 1434.

The Henderson, Bill, farm located on the east side of State Secondary Road 1528 and on the north side of State Secondary Road 1518 at the junction of said roads.

The McAllister, Henry, farm located on both sides of State Secondary Road 1316 and 1 mile southwest of said road and its junction with State Secondary Road 1308.

The Melville, John, Sr., farm located on the east side of State Secondary Road 1434 and 0.4 mile south of its junction with State Secondary Road 1428.

Pender County. That area bounded by a line beginning at a point where State Secondary Road 1104 intersects the Pender-Bladen County line, and extending northeast along said county line to its junction with Black River, thence east along said river to its junction with Colvines Creek, thence north and northwest along said creek to its intersection with State Secondary Road 1201, thence east along said road to its intersection with the Atlantic Coast Line Railroad, thence southeast along said railroad to its intersection with State Secondary Road 1125, thence northeast along said road to its intersection with Moores Creek, thence northeast and northwest along said creek to its intersection with State Secondary Road 1128, thence northeast along said road to its junction with State Secondary Road 1216, thence east along said road to its intersection with U.S. Highway 421, thence southeast along said highway to its junction with State Secondary Road 1121, thence south along said road to its intersection with State Secondary Road 1125, thence east and south along said road to its junction with State Secondary Road 1121, thence southeast along said road to its intersection with State Secondary Road 1120, thence southwest along said road to its intersection with State Highway 210, thence southwest along said highway to its junction with State Secondary Road 1103, thence southeast along said road to its junction with State Secondary Road 1104, thence southwest and northwest along said road to the point of beginning.

That area bounded by a line beginning at a point where State Secondary Road 1517, junctions with U.S. Highway 117, and extending northwest along said highway to its intersection with State Secondary Road 1412, thence east along said road to its junction with State Secondary Road 1411, thence southwest along said road to its intersection with Pike Creek, thence southeast along said creek to its junction with the Northeast Cape Fear River, thence south along said river to its intersection with State Highway 210, thence southwest along said highway to its junction with State Secondary Road 1518, thence southeast along said road to its junction with State Secondary Road 1517, thence westerly along said road to the point of beginning.

The Armstrong, Willie, farm located 0.5 mile west of State Secondary Road 1408 and 0.3 mile south of the junction of said road with State Highway 210.

The Colvin, Alex, farm located on the northwest side of State Secondary Roard 1120 and 1.4 miles southwest of the intersection of said road and U.S. Highway 421.

The Kea, Leo, farm located 0.5 mile east of State Secondary Road 1105 and 1 mile southwest of the junction of said road and State Secondary Road 1104.

The Kea, Nora, farm located 0.1 mile west of the end of State Secondary Road 1108.

The McCallister, Mary K., farm located 0.2 mile east of State Secondary Road 1105 and 1 mile southwest of the junction of said road and State Secondary Road 1104.

The Stringfield Estate, John, located on the southwest side of State Secondary Road 1517 and 1.4 miles east of the junction of said road and U.S. Highway 117.

The Williams, John H., and Heirs, farm located on the east side of State Secondary Road 1520 and 2.7 miles north of the junction of said road and State Highway 210.

Richmond County. The Autry, J. H., farm located on the north side of State Secondary Road 1803 and 0.7 mile east of Osborne.

The Beck, Lacy A., farm located on both sides of State Secondary Road 1607 and 0.4 mile southeast of the intersection of said road and State Secondary Road 1608.

The Bethea, Queen, farm located on the northeast side of State Secondary Road 1803 and 0.4 mile southeast of the intersection of said road and State Secondary Road 1825.

The Chappell, Fred, Jr., located on the northwest side of N.C. Highway 177 and 0.5 mile northeast of the junction of said road and State Secondary Road 1607.

The Clinton, Bernice, farm located on the south side of State Secondary Road 1803 and 0.8 mile east of Osborne.

The David, Ethel, farm located on both sides of State Secondary Road 1803, on the west side of the intersection of said road with State Secondary Road 1825.

The Davis, Climon, farm located on the northwest side of N.C. Highway 38 and 0.5 mile northeast of the intersection of said road and State Secondary Road 1803.

The Davis, Katherine, farm located on the northeast side of State Secondary Road 1803 and 0.4 mile northwest of the intersection of said road and N.C. Highway 88.

The Dial, Dormic, farm located on the north side of State Secondary Road 1607 and 0.8 mile west of the intersection of said road and State Secondary Road 1608.

The Dumas, Elnora, farm located on the northeast side of State Secondary Road 1803 and 0.3 mile southeast of the intersection of said road and State Secondary Road 1825.

The Dumas, Reba, farm located on the northeast side of State Secondary Road 1803 and 0.3 mile northwest of said intersection of N.C. Highway 38.

The Dunn, Thomas, farm located on the northwest side of State Secondary Road 1802 and 0.3 mile southwest of the intersection of said road and State Secondary Road 1800.

The Elizhbugar, Charity, farm located on the northeast side of State Secondary Road 1003 and 2 miles northwest of its junction with State Secondary Road 1475.

The Hailey, Annie, farm located on the north side of State Secondary Road 1475 and 1.7 miles west of its junction with U.S. Highway 1.

The Hailey, Maria, farm located on the southwest side of State Secondary Road 1440 and 0.3 mile southeast of its junction with State Secondary Road 1433.

The Hamlet Gin & Supply Co. farm, located on both sides of State Secondary Road 1803 and on the east side of the intersection of said road and State Secondary Road 1825.

The Ingram, Rome, farm located on the southwest side of State Secondary Road 1003 and 1.8 miles northwest of its junction with State Secondary Road 1475.

The Jenkins, Dewey, farm located on a dirt road 0.2 mile southwest of its junction with State Secondary Road 1803, said junction being 0.8 mile east of Osborne.

The Jones, W. R., farm located on the south side of State Secondary Road 1607 and 0.8 mile west of the intersection of said road and State Secondary Road 1608.

The Little, John, farm located on the southeast side of State Secondary Road 1442 and at the junction of said road with State Secondary Road 1476.

The McDonald, Leonard, farm located on the north side of State Secondary Road 1607 and 0.9 mile west of the intersection of said road and State Secondary Road 1608.

The McLaurin, Meta, farm located on the southwest side of State Secondary Road 1803 and 0.3 mile southeast of the intersection of said road and State Secondary Road 1825.

The McNeill, Dalton, farm located on the southwest side of State Secondary Road 1003 and 1.9 miles northwest of its junction with State Secondary Road 1475.

The Mathews, Lizzie, farm located in the southwest quadrant of the intersection of State Secondary Road 1108 and 1971.

The Parker, Henry W., farm located on the southwest side of State Secondary Road 1486 and 1.3 miles northwest of its junction with U.S. Highway 1.

The Porter, Mrs. A. W., farm located on the northeast side of State Secondary Road 1999 and 1 mile east of the intersection of said road with U.S. Highway 1.

The Quick, Douglas, farm located in the northwest quadrant of the intersection of State Secondary Roads 1802 and 1800.

The Quick, Julius, farm located on the northeast side of State Secondary Road 1992 and 0.6 mile northeast of its junction with State Secondary Road 1994.

The Rush, Eli, farm located on the northwest side of State Secondary Road 1442 and 0.7 mile northeast of its junction with State Secondary Road 1489.

The Rush, James, farm located on the southeast side of State Secondary Road 1442 and 0.7 mile northeast of its junction with State Secondary Road 1489.

The Scholl, H. H., farm located on the southwest side of State Secondary Road 1805 and 0.3 mile southeast of its junction with State Secondary Road 1804.

The Smith, J. A., farm located on the southwest side of State Secondary Road 1805 and 0.5 mile northwest of its junction with N.C. Highway 381.

The Sorenzen, Gladys, farm located on the southwest side of State Secondary Road 1803 and 0.4 mile northwest of the intersection of said road and N.C. Highway 38.

The Standback, Tommy, farm located on the east side of U.S. Highway 220 and 0.6 mile northeast of its junction with State Secondary Road 1433.

The Steen, Willard, farm located on the southwest side of State Secondary Road 1803 and 0.2 mile southeast of the intersection of said road and State Secondary Road 1825.

The Strong, Marvin, farm located on the north side of State Secondary Road 1803 and 1.3 miles southwest of the intersection of said road and State Secondary Road 1825.

The Terry, Ruth, farm located on both sides of State Secondary Road 1442 and 0.2 mile northeast of its junction with State Secondary Road 1477.

The Terry, Tom, farm located on both sides of State Secondary Road 1442 and 0.3 mile northeast of its junction with State Secondary Road 1477.

The Terry, W. C., farm located on the west side of State Secondary Road 1424 at is junction with State Secondary Road 1507 at Roberdel, N.C.

The Thomas, Walter, farm located on both sides of U.S. Highway 220 and 0.4 mile northeast of its junction with State Secondary Road 1433.

The Thompson, Roger E., farm located in the northeast corner of the junction of State Secondary Road 1442 with State Secondary Road 1477.

The Waddell, A. M., farm located on both sides of U.S. Highway 1 and on both sides of State Secondary Road 1103 and on both sides of State Secondary Road 1971 at the intersection of said highway and said roads at Diggs.

The Wallace, Talley, farm located on both sides of State Secondary Road 1800 and 1.2 miles northwest of the intersection of said road and State Secondary Road 1802.

The Waters, Will, farm located on both sides of State Secondary Road 1623 and 0.4 mile southwest of its junction with State Secondary Road 1607.

The Watkins, John Q., farm located on the southeast side of State Secondary Road 1476 and 0.3 mile northeast of its junction with State Secondary Road 1442.

The Watkins, Mosby, farm located on both sides of State Secondary Road 1476 and 0.2 mile northeast of its junction with State Secondary Road 1442.

The York, Will, farm located on the northeast side of State Secondary Road 1803 and 0.4 mile northwest of the intersection of said road and N.C. Highway 38.

Sampson County. The entire county.

Scotland County. That area bounded by a line beginning at a point where U.S. Highway 15–401 intersects the North Carolina-South Carolina State line and extending northeast along said highway to its junction with U.S. Highways 15A–401A, thence north along said highway to its junction with U.S. Highway 501, thence north along said highway to its intersection with U.S. Highway 15–401, thence southwest along said highway to its intersection with State Secondary Road 1300, thence northwest along said road to its junction with State Secondary Road 1116, thence northwest along said road to its junction with State Secondary Road 1324, thence north along said road to its junction with State Secondary Road 1345, thence northwest along said road to its intersection with State Secondary Road 1341, thence northeast along said road to its junction with State Secondary Road 1328, thence north along said road to its intersection with the southern boundary of the Sandhills Game Management Area, thence east along said boundary to its intersection with U.S. Highway 15–501, thence north along said highway to its intersection with the Scotland-Hoke County line, thence southeast along said county line to the Scotland-Robeson County line, thence south and southwest along said county line to the North Carolina-South Carolina State line, thence northwest along said State line to the point of beginning, excluding the area within the corporate limits of the city of Laurinburg and the town of East Laurinburg.

The Bunch, Archie W., farm located at the intersection of State Secondary Roads 1323 and 1001.

The Butler, Luther, farm located on the south side of State Secondary Road 1154 and 0.2 mile east of the junction of said road with State Secondary Road 1155.

The Calhoun, L. E., farm located on the south side of State Highway 79 and 0.3 mile west of its junction with State Secondary Road 1118.

The Gibson, H. P., Estate farm located on the north side of State Highway 79 and 0.4 mile west of its junction of State Secondary Road 1118.

The King, J. Lloyd, farm located on the northwest side of State Secondary Road 1128 and 0.3 mile southwest of its junction with State Secondary Road 1101.

The Morgan, J. D., farm located on the east side of State Secondary Road 1346 and 0.5 mile north of the junction of said road with State Secondary Road 1343.

The Morgan, J. D., farm located on both sides of State Secondary Road 1345 and 0.1 mile northwest of its junction with State Secondary Road 1342.

The Newton, Peter F., farm located at the intersection of State Secondary Roads 1334, 1336, and 1345.

The Odoms, Hobson, farm located on both sides of State Secondary Road 1108 and 0.4 mile west of its junction with State Secondary Road 1100.

The Steele, J. D., farm located on both sides of State Secondary Road 1351 and 0.9 mile northwest of the junction of said road with State Secondary Road 1346.

Wayne County. That area bounded by a line beginning at a point where U.S. Highway 70 and State Secondary Road 1719 intersect and extending south along said road to its junction with State Secondary Road 1731, thence south along said road to its junction with State Highway 55, thence southwest and west along said highway to its intersection with State Secondary Road 1937, thence northerly on said road to its junction with State Secondary Road 1932, thence north on said road to its intersection with State Secondary Road 1932, thence easterly along said road to its junction with State Secondary Road 1915, thence east along a line projected from a point at the junction of State Secondary Roads 1120 and 1915 to the junction of said line with a point located at the junction of Sleepy Creek and Neuse River, thence east along the Neuse River to its intersection with State Highway 111, thence north along said highway to its junction with State Secondary Road 1726, thence northeast along said road to its intersection with State Secondary Road 1727, thence southeast along said road to its junction with State Secondary Road 1728, thence northeast along said road to its junction with U.S. Highway 70, thence southeast along said highway to the point of beginning.

The Barwick, George, farm located on the east side of State Secondary Road 1931 and 0.1 mile south of its junction with State Secondary Road 1930.

The Baucom, Howard, farm located on the east side of State Secondary Road 1932 and 0.2 mile north of its junction with State Secondary Road 1927.

The Brinson, Earl, farm located on the north side of State Secondary Road 1120 and 0.1 mile west of its intersection with State Secondary Road 1932.

The Brock, Odell, farm located on the north side of State Secondary Road 1210 and 0.3 mile east of its junction with State Secondary Road 1209.

The Carfaway, Ethel, farm located on the east side of State Secondary Road 1915 and 0.1 mile north of the junction of said road and State Secondary Road 1120.

The Casey, Emma E., farm located 7 miles east of Goldsboro on the north side of U.S. Highway 70 and 0.4 mile east of the junction of State Secondary Road 1721 and said highway.

The Daly, J. B., farm located on the west side of State Highway 111 and 0.6 mile south of the junction of said highway with State Secondary Road 1730.

The Dawson, L. A., farm located on the west side of State Highway 111 and 0.5 mile south of the junction of said highway and State Secondary Road 1730.

The Flowers, Willie, farm located on the north side of U.S. Highway 13 and 0.4 mile east of its junction with State Secondary Road 1207.

The Grady, Vernie C., farm located on the west side of State Secondary Road 1931 and 0.2 mile north of its intersection with State Secondary Road 1120.

The Grant, Maggie, Estate located on the west side of N.C. Highway 111 and 1.9 miles south of the junction of State Secondary Road 1730 with said highway.

The Grantham, Barfield, farm located on the west side of State Secondary Road 1931 and 0.4 mile north of its intersection with State Secondary Road 1120.

The Gray, Albert, farm located on the east side of State Secondary Road 1719 and 0.9 mile south of its intersection with U.S. Highway 70.

The Griffin, Birtie, farm located on the southeast side of State Highway 55 and 0.5 mile northeast of its intersection with State Highway 111.

The Griffin, McKinley, farm located on the north side of State Secondary Road 1737 and 0.2 mile east of its junction with State Secondary Road 1731.

The Griffin, Oliver H., farm located 0.6 mile north of Dudley and 0.2 mile west of U.S. Highway 117.

The Griffin, W. A., farm located on the northeast side of State Secondary Road 1731 and 0.6 mile north of its junction with State Secondary Road 1737.

The Gurley, Clara Lee, farm located on the south side of State Secondary Road 1330 and 0.1 mile west of the junction of said road and State Secondary Road 1332.

The Haggin, Joe, No. 1, farm located on the east side of State Secondary Road 1931 and 0.7 mile north of its intersection with State Secondary Road 1120.

The Haggin, Joe, No. 2, farm located on the east side of State Secondary Road 1931 and 1.1 miles northeast of its intersection with State Secondary Road 1120.

The Hall, Marvin, farm located on both sides of State Secondary Road 1932 and 0.3 mile south of its intersection with State Secondary Road 1120.

The Ham, George E., farm located southeast of Seymour Johnson Air Base on the south side of State Secondary Road 1909 and 0.7 mile west of the junction of said road with State Secondary Road 1910.

The Herring, Harmon, farm located on the south side of State Secondary Road 1734 and 0.4 mile east of its junction with State Secondary Road 1731.

The Herring, Thel, farm located on the west side of State Secondary Road 1711 and 0.4 mile north of its junction with U.S. Highway 70A.

The Hines, J. D., farm located on both sides of State Secondary Road 1236 and 0.8 mile east of the intersection of said road with State Highway 581.

The Hollaman, R. J., farm located on the northwest corner of State Secondary Road 1125 and 0.7 mile north of the junction of said road and State Secondary Road 1122.

The Humphrey, Josephine, farm located on east side of State Secondary Road 1932 and 0.2 mile north of its intersection with State Secondary Road 1120.

The Ivey, W. H., farm located on the south side of State Secondary Road 1734 and 0.3 mile east of its junction with State Secondary Road 1731.

The Johnson, J. R., farm located on the south side of State Secondary Road 1330 and

V 42 163 AUG 23 77 UM V

0.1 mile west of the junction of said road and State Secondary Road 1332.

The Lofton, Burt & Davis, King, farm located on the east side of State Secondary Road 1739 and 0.3 mile south of its junction with State Highway 55.

The McClenny, G. A., farm located on the south side of State Secondary Road 1007 and 0.1 mile west of the junction of said road with State Highway 581.

The McClenny, G. A., No. 2, farm located on both sides of State Secondary Road 1332 and 0.1 mile north of junction of said road and State Secondary Road 1330.

The Newsome, Paul, farm located on the east side of State Secondary Road 1719 and 1 mile south of its intersection with U.S. Highway 70.

The Oliver, Estella J., farm located on the west side of U.S. Highway 117 and 0.8 mile north of Brogden School.

The Oliver, H. H., farm located on the south side of State Secondary Road 1219 and 0.4 mile east of its junction with State Secondary Road 1218.

The Parker, Worth W., farm located on the west side of State Secondary Road 1130 and 1 mile south of the intersection of said road with U.S. Highway 13.

The Parks, Robert, farm located on the southeast side of State Secondary Road 1932 and 0.5 mile northeast of its intersection with State Secondary Road 1120.

The Perkins, Joe D., farm located on the northwest side of State Secondary Road 1711 and 0.2 mile southwest of the intersection of said road with U.S. Highway 70 Bypass.

The Raynor, A. B., farm located on the south side of U.S. Highway 13 and 0.1 mile east of its junction with State Secondary Road 1207.

The Raynor, Early, No. 1, farm located on the south side of U.S. Highway 13 and 0.3 mile east of its junction with State Secondary Road 1207.

The Raynor, Early, No. 2, farm located on the north side of State Secondary Road 1101 and 0.7 mile east of its intersection with State Secondary Road 1105.

The Raynor, Elester, farm located on the east side of State Secondary Road 1105 and 0.8 mile south of its intersection with U.S. Highway 13.

The Rogers, Charlie, farm located on both sides of State Secondary Road 1710 and 0.9 mile southwest of the junction of said road with U.S. Highway 70A.

The Smith, Alfred, farm located on the north side of State Secondary Road 1330 and 0.9 mile west of the junction of said road and North Carolina Highway 581.

The Smith, Arnold, farm located on the southeast side of State Secondary Road 1932 and 0.5 mile northeast of its intersection with State Secondary Road 1120.

The Smith, J. B., farm located in south junction of State Secondary Roads 1731 and 1734.

The Smith, Olivia, farm located on the southeast side of State Secondary Road 1122 and both sides of State Secondary Road 1124.

The Sutton, D. M., farm located on the east side of State Secondary Road 1731 and 0.9 mile north of the Neuse River.

The Tart, John, No. 1, farm located on the south side of U.S. Highway 13 and 0.7 mile east of its intersection with State Secondary Road 1105.

The Thornton, S. E., farm located on the southeast junction of State Secondary Roads 1210 and 1209.

The Turnage, W. H., farm located on the northwest side of State Secondary Road 1932 and 0.3 mile northeast of its junction with State Secondary Road 1927.

The Weaver, Luby W., farm located on both sides of State Secondary Road 1106 and 0.2 mile east of its junction with State Secondary Road 1101.

The Williams, Eddie, farm located on the north side of State Highway 581 and the east side of State Secondary Road 1236 at the junction of said roads.

The Wise, Ella, farm located on the south side of State Secondary Road 1208 and 1 mile west of its junction with State Secondary Road 1209.

Wilson County. The Eatmon, Ralph, farm located on both sides of State Secondary Road 1302 and 0.5 mile east of its intersection with State Secondary Road 1301.

2. In § 301.80–2a relating to the State of South Carolina under suppressive area, the description for Florence County is changed to add three properties in alphabetical order to read as follows:

SOUTH CAROLINA

(1) *Generally infested area.* None.
(2) *Suppressive area.*

* * * * *

Florence County.

* * * * *

The Georgia Pacific Paper Company farm located on the south side of a dirt road and 0.6 mile northeast of its junction with State Secondary Highway 461, said junction being 0.8 mile north of the intersection of State Secondary Highways 461 and 85.

* * * * *

The Poston, Charlton, farm located on the south side of U.S. Highway 378 and its junction with State Secondary Highway 596.

* * * * *

The Thompson, John D., farm located on the north side of State Secondary Highway 150 and 0.4 mile east of its junction with State Secondary Highway 460.

* * * * *

(Secs. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; (7 U.S.C. 161, 162, 150ee); 37 FR 28464, 28477; 38 FR 19141; 7 CFR 301.80–2.)

The Deputy Administrator of the Plant Protection and Quarantine Programs has determined that the witchweed has been found or there is reason to believe it is present in the civil divisions and parts of civil divisions listed above as regulated areas or that it is necessary to regulate such areas because of their proximity to witchweed infested localities. Further, the Deputy Administrator has found that facts exist as to the pest risk involved in the areas removed from the list of regulated areas which make it safe to relieve the requirements of the quarantine as provided herein. He has also determined that the areas designated as suppressive and generally infested areas are eligible for such designation under § 301.80–1, as amended.

The Deputy Administrator has also determined that each of the quarantined States, wherein only portions of the State have been designated as regulated areas, has adopted and is enforcing a quarantine or regulation which imposes restrictions on interstate movement of the regulated articles which are substantially the same as the restrictions on interstate movement of such articles imposed by the quarantine and regulations in this subpart, and that designation of less than the entire State as a regulated area will otherwise be adequate to prevent the interstate spread of witchweed. Therefore, such civil divisions and parts of civil divisions listed above are designated as witchweed regulated areas.

To the extent that this revision relieves certain restrictions presently imposed, it should be made effective promptly in order to be of maximum benefit to persons subject to the restrictions which are being relieved. To the extent that this revision imposes restrictions, that are necessary in order to prevent the spread of witchweed, they should be made effective promptly to accomplish their purpose in the public interest. Also, this action is based or surveys by the U.S. Department of Agriculture and State agencies of North Carolina and South Carolina, and it does not appear that additional information would be made available to the Department by public participation in rulemaking proceedings on this amendment.

Accordingly, it is found upon good cause under the administrative procedure provisions of 5 U.S.C. 553, that further notice and other public procedure with respect to this revision are unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE.—The Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs, has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Done at Washington, D.C., this 18th day of August, 1977.

T. G. DARLING,
Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc.77-24407 Filed 8-22-77;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1427—COTTON

Subpart—1977 Crop Supplement to Cotton Loan Program Regulations

Correction

In FR Doc. 77-22618, appearing at page 40421 in the issue of Wednesday, August 10, 1977, make the following changes:

1. On page 40422, under the heading "Mississippi", in the column headed "City", the 14th to last entry should read, "Pontotoc".

2. On page 40422, under the heading "Missouri", in the column headed "City", the seventh entry should read, "Malden".

3. On page 40423, in the last portion of the table headed "Tennessee", in the column headed "City", the 14th entry should read, "Tahoka".

CHAPTER XXVIII—FOOD SAFETY AND QUALITY SERVICE (STANDARDS, INSPECTION, MARKETING PRACTICES) DEPARTMENT OF AGRICULTURE

PART 2851—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

United States Standards for Grades of Mechanically Harvested American (Eastern Type) Grapes for Processing and Freezing[1]

AGENCY: Food safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This rule changes the title of the grade standards for mechanically harvested American (Eastern Type) grapes for processing and freezing to standards for grapes for processing and freezing. This change will permit all types of grapes for processing, handpicked or mechanically harvested, to be certified under these standards.

EFFECTIVE DATE: September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank W. Betz, Fresh Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C., 202–447–2093.

SUPPLEMENTARY INFORMATION: On June 16, 1977 a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 30626) under Chapter I, Part 51 which has been changed to Chapter XXVIII, Part 2851 by a rule effective June 27, 1977 establishing a new chapter for the Food Safety and Quality Service in the Code of Federal Regulations. This proposed rule would permit all types (European, American and French hybrids) of grapes for processing, hand-picked or mechanically harvested, to be certified under the United States Standards for Grades of Mechanically Harvested American (Eastern Type) Grapes for Processing and Freezing by changing the title to United States Standards for Grades of Grapes for Processing and Freezing and revising § 2851.2150.

The United States Standards for Grades of Mechanically Harvested American (Eastern Type) Grapes for Processing and Freezing became effective May 15, 1975. In May of this year, the National Grape Cooperative Association, Inc. (NGCA) formally requested that the words "Mechanically Harvested" be deleted from the title of the standards. This would permit hand-picked as well as mechanically harvested grapes to be certified under the standards. This request was supported by Taylor Wine Co., Hammondsport, New York and Coca Cola Co., Geneva, Ohio.

Subsequent to the request from NGCA, it was suggested that the title of the standards be further changed by deleting the words "American (Eastern Type)". This change in addition to including hand-picked grapes would also permit all types (European, American and French hybrids) of grapes for processing and freezing to be certified under these standards. The Department and industry representatives agree that this amendment will make the standards more useful to industry.

Following publication of the proposal in the FEDERAL REGISTER copies were distributed to industry and other interested persons for comment. The period for comment ended on July 30, 1977 and no comments were received, therefore, the proposed amendment is hereby adopted without change and is set forth below.

It is hereby found that good cause exists for not postponing the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553), in that: (1) The 1977 harvesting season is already under way and it is in the interest of the industry that this amendment be made effective on September 1, 1977; and (2) no special preparation is required for compliance with the amendment on the part of members of the industry.

The Subpart—United States Standards for Grades of Mechanically Harvested American (Eastern Type) Grapes for Processing and Freezing is amended to read as follows:

Subpart—United States Standards for Grades of Grapes for Processing and Freezing

Section 2851.2150 General is revised to read as follows:

§ 2851.2150 General.

(a) These standards apply to all types of grapes, hand-picked or mechanically harvested, which are to be processed.

(b) The grade of a lot of grapes shall be determined on the basis of a composite sample.

(Agricultural Marketing Act of 1946, secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; (7 U.S.C. 1622, 1624).)

NOTE.—The Food Safety and Quality Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: August 16, 1977.

ROBERT ANGELOTTI,
Administrator.

[FR Doc.77-24401 Filed 8-22-77;8:45 am]

[1] Compliance with provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act, or with applicable State laws and regulations.

Title 9—Animals and Animal Products

CHAPTER III—FOOD SAFETY AND QUALITY SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—MANDATORY MEAT INSPECTION

PART 319—DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION

PART 325—TRANSPORTATION

Miscellaneous Amendments; Correction

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule, corrections.

SUMMARY: This document makes minor nonsubstantive changes in the Federal meat inspection regulations. These changes are necessary in order to correct an error and to reflect an organizational realignment in the Department of Agriculture.

EFFECTIVE DATE: August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. W. J. Minor, Chief Staff Officer, Issuance Coordination Staff, Technical Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–6189.

SUPPLEMENTARY INFORMATION: The Federal meat inspection regulations (9 CFR Parts 319 and 325) are amended as follows:

§ 319.105 [Amended]

1. In § 319.105(a) (2) and (6), the reference to "§ 318.7(b)(4)" is changed to "§ 318.7(c)(4)."

§ 325.20 [Amended]

2. In § 325.20(d), the phrase "Animal and Plant Health Inspection Service" is amended to read "Food Safety and Quality Service." (Sec. 21, 34 Stat. 1260, as amended, (21 U.S.C. 621).)

These amendments make a minor correction and reflect an orginizational change in the Department. Therefore, it does not appear that additional relevant information would be made available by public participation in rulemaking proceedings on these amendments. Accordingly, it is found upon good cause under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to these amendments are impracticable and unnecessary, and good cause is found for making this amendment effective less FEDERAL REGISTER.

NOTE.—The Food Safety and Quality Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Done at Washington, D.C., on Aug. 17, 1977.

ROBERT ANGELOTTI,
Administrator, Food Safety and Quality Service.

[FR Doc.77-24402 Filed 8-22-77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 8970–0]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Central California Lettuce Producers Cooperative Et Al.

AGENCY: Federal Trade Commission.

ACTION: Order of dismissal.

V 42 163 AUG 23 77 UM

SUMMARY: This order dismisses a complaint issued against a Salinas, Calif. nonprofit cooperative and 22 of its members for alleged price-fixing practices in the lettuce market, violative of antitrust law. The Commission ruled that the price-fixing practices were exempt from antitrust laws under a statute permitting producers of agricultural products to "act together in association * * * in collectively * * * marketing" their products.

DATES: Complaint issued June 10, 1974. Dismissal order issued July 25, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

David I. Wilson, Federal Trade Commission, Bureau of Competition, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580, 202–724–1276.

SUPPLEMENTARY INFORMATION: In the Matter of Central California Lettuce Producers Cooperative, a corporation; and Admiral Packing Co., a corporation; and Albert C. Hansen d/b/a Hansen Farms; and California Coastal Farms, Inc., a corporation; and Carl Joseph Maggio, Inc., a corporation; and D'arrigo Bros. Co. of California, a corporation; and Eckel Produce Co., a partnership; and Green Valley Produce Co-op, a corporation; and Growers Exchange, Inc., a corporation; and Harden Farms of California, a corporation; and J. R. Norton Co., a corporation; and Jack T. Baillie Co., Inc., a corporation; and Let-Us-Pack, a partnership; and Merit Packing Co., a corporation; and Merrill Farms, a corporation; and Pacific Lettuce, a corporation; and R. T. Englund Co., a partnership; and Royal Packing Co., a corporation; and Salinas Lettuce Farmers Cooperative, a corporation; and Salinas Marketing Cooperative, a corporation; and The Garin Co., a corporation; and United Brands Company, a corporation; and West Coast Farms, a partnership.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

The order of dismissal is as follows:

FINAL ORDER

This matter having been heard by the Commission upon the appeal of respondent from the administrative law judge's initial decision, and upon briefs and oral argument in support thereof and in opposition thereto, and the Commission, for the reasons stated in the accompanying opinion, having concluded that the administrative law judge's initial decision should be set aside and that the complaint should be dismissed:

It is ordered, That the administrative law judge's initial decision be, and it hereby is, set aside.

It is further ordered, That the complaint be, and it hereby is, dismissed.

By the Commission. Chairman Pertschuk did not participate.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-24340 Filed 8-22-77;8:45 am]

[1] Copies of the Complaint, Initial Decision, Opinion, and Final Order filed with the original document.

Title 17—Commodity and Securities Exchanges

[Release No. SAB–15]

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS

Subpart B—Staff Accounting Bulletins

ALLOWANCE FOR FUNDS USED DURING CONSTRUCTION

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: This interpretation describes the practices to be followed by Commission staff in connection with reporting of allowance for funds used during construction on financial statements of public utilities. It results from the issuance of Order No. 561 by the Federal Power Commission which amended related parts of its uniform systems of accounts for public utilities and natural gas companies. It is expected that this interpretation will clarify the presentation of the allowance for funds used during construction in statements to be filed with this Commission.

EFFECTIVE DATE: August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Lawrence J. Bloch, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202–755–1182.

SUPPLEMENTARY INFORMATION: The statements in the Bulletin are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval; they represent interpretations and practices followed by the Division of Corporation Finance and Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 11, 1977.

STAFF ACCOUNTING BULLETIN No. 15

The staff hereby revises Topic 10F of Staff Accounting Bulletin No. 1 on the subject of AFC Credits by the issuance of Staff Accounting Bulletin No. 15. The facts, question and interpretive response of Topic 10F originally published in Staff Accounting Bulletin No. 1 are deleted and replaced by Staff Accounting Bulletin No. 15.

TOPIC 10: MISCELLANEOUS DISCLOSURE

F. ALLOWANCE FOR FUNDS USED DURING CONSTRUCTION

Facts. In February 1977, the Federal Power Commission issued Order No. 561 amending its Uniform Systems of Accounts for Public Utilities and Licensees (18 CFR Chapter I, Subchapter C) and for Natural Gas Companies (18 CFR Chapter I, Subchapter F) (42 FR 9161, February 15, 1977) to provide a uniform formula for determining the maximum rates to be used in computing the "allowance for funds used during construction" (AFC credits). Concurrently the FPC amended its report forms to divide the AFC credits into two components related to the source of the funds from which the credits are derived, "borrowed funds" (long-term and short-term debt) and "other funds" (preferred and common stock). The borrowed funds component is to be presented on the statement of income as a credit in the interest charges section, and the other funds component is to be included as part of other income. The amended statement of changes in financial position excludes the other funds component of AFC credits from funds provided from operations and also from funds applied to construction and plant expenditures. The amendments to the uniform systems of accounts relating to the formula for computing the maximum rates were made effective as of January 1, 1977, and the amendments to the report forms were ordered effective for the reporting year 1977.

Prior to this amendment, AFC credits have been reported in one amount as a part of other income. The staff has generally required the amount to be cross references to a note which (1) describes the nature and basis of the item, including the interest rate and source of funds assumptions, (2) indicates as a percentage of net income the amount of the AFC credit attributable to the common stock equity portion and (3) discloses whether AFC credits related to borrowed funds are based on a before or after tax effect.

Question. In view of the changes in FPC reporting requirements how should AFC credits be presented in income statements filed under the Securities Acts?

Interpretive Response. Income statements for periods beginning on or after January 1, 1977, should present the AFC credits appropriately divided between other income and as a credit in the interest charges section.

If practicable, income statements for periods ending prior to January 1, 1977, should be reclassified to reflect the new presentation. If the pre-1977 statements are not reclassified, a note should briefly explain why registrant believes reclassification is not appropriate.

Statements covering a twelve-month period ending on an interim month end during 1977 should reflect this new presentation for the entire twelve-month period if practicable. However, if prior periods are not to be reclassified, statements for such twelve-month periods must present AFC credits recognized subsequent to January 1, 1977, in accordance with the new presentation and AFC credits recognized prior to that date as other income.

Because of the lack of comparability between the amount of the AFC credit reported as other income under the former presentation and the amount to be reported under the new presentation, amounts for periods prior to January 1, 1977, which have not been reclassified shall be reported on a separate line from amounts for periods subsequent to that date.

An explanatory note similar to the one outlined under the "Facts" above should be given. In view of the two-part reporting of AFC credits under the new presentation, however, the second item of information relating to the amount of the credit attributable to common stock equity need not be given in connection with statements for periods beginning on or after January 1, 1977 or for statements for periods ending prior to that date which have been reclassified to reflect the new presentation.

On statements covering a twelve-month period ending on an interim month-end during 1977, which reflect the new presentation for the entire period, information concerning the portion of the AFC credit attributable to common stock equity need not be given; however, statements for such periods on which AFC credits for the 1976 months have not been reclassified must give information concerning credits attributable to common stock equity for the portion of the period which was not reclassified.

On statements of changes in financial position, at least the other funds component of the AFC credits should be excluded from funds provided from operations and from funds applied to construction and plant expenditures as provided in the amended FPC forms. The total amount of AFC credits may be excluded if deemed appropriate by the registrant.

[FR Doc.77-24337 Filed 8-22-77;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 75N–0051]

PART 320—BIOAVAILABILITY AND BIOEQUIVALENCE REQUIREMENTS

Addition to Drug List and Clarification of Waiver Provision

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the bioavailability regulations to add certain parenteral drug products that were inadvertently omitted from the list of drug products with known or potential bioequivalence problems, and to clarify the provision under which FDA will waive the requirement for evidence of in vivo bioavailability.

EFFECTIVE DATE: August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Marilyn L. Watson, Bureau of Drugs (HFD–30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6490.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued final regulations in the FEDERAL REGISTER of January 7, 1977 (42 FR 1638), regarding methods and procedures for in vivo testing to determine the bioavailability of drug products. Section 320.22(c) of the regulations listed specific drug products with known or potential bioequivalence problems. Certain types of parenteral drug products that were listed in the preamble of the proposed bioavailability / bioequivalence regulations that were published in the FEDERAL REGISTER of June 20, 1975 (40 FR 26164) as having known or potential bioequivalence problems were inadvertently omitted from the list in the final regulations. They were phenytoin sodium powder for injection and parenteral drug products in suspension form. The Commissioner is therefore amending § 320.22(c) to include those parenteral drug products.

Section 320.22 provides that, under certain specified circumstances, applicants for new drug applications (NDA's) or abbreviated new drug applications (ANDA's) may request the Food and Drug Administration to waive the requirement for submission of evidence of in vivo bioavailability. Paragraph (c) of that section provides that the Commissioner will waive such requirements for certain products that had been determined at the time the regulation was promulgated to be effective for at least one indication as announced in a Drug Efficacy Study Implementation (DESI) notice.

The Commissioner believes that further clarification of the status of drugs in the DESI program is needed. Many DESI notices have included a bioavailability requirement as a condition for NDA or ANDA approval. At the time of publishing the proposed bioequivalence regulations (June 20, 1975), FDA had reviewed all of the products evaluated in a DESI notice as effective for at least one indication and had determined that except for specific drug products listed in the preamble of the proposal there was no present evidence that the DESI products had a known or potential bioequivalence problem. Thus, the waiver provision of § 320.22(c) is intended to supersede any DESI notice bioavailability requirements for those products that were not listed in paragraph (c).

The Commissioner advises that the requirements for the submission of evidence demonstrating the in vivo bioavailability of a parenteral drug product will be waived if the product (1) is determined in a DESI notice to be effective for at least one indication or is identical in both active and inactive ingredient formulation to such drug product as currently approved in a new drug application, and (2) is neither a suspension nor any other form of a parenteral drug product added to § 320.22(c). A manufacturer of an identical drug product must, however, submit evidence that his product is identical in formulation to the parenteral drug product listed in a published DESI notice before the agency will grant such a waiver. A waiver will not necessarily be granted if the product is related to or similar to, but not identical to, the DESI product. The Commissioner advises that variations in formulations of parenteral drug products may affect in vivo preformance and thereby raise questions regarding their bioavailability. Clinical evidence may, therefore, be needed to determine this.

It should be understood that at the time of the review identifying certain effective drug products as having known or suspected bioequivalence problems, other drugs that were subject to the DESI review had not been determined to be effective for any indication. Some have subsequently been the subject of a DESI notice announcing such a determination. Others are likely to be the subject of future DESI notices that evaluate the drug products for the first time as effective. Because these drug products were not in the previous review for bioequivalence problems, they undergo such an evaluation when they are determined to be effective for at least one indication. For those for which there is an actual or potential bioequivalence problem, the DESI notice sets forth a bioavailability requirement as a condition for NDA, ANDA, or supplemental NDA approval. Therefore, the waiver provision of § 320.22(c) does not apply to drug products first announced as effective in DESI notices published after January 7, 1977, if the DESI notice specifies a bioavailability requirement. Section 320.22(c) is amended herein to make this clear. The Commissioner points out that in the future any drug product subject to the DESI review that is determined to be effective for at least one indication and to have an actual or potential bioequivalence problem will be added to § 320.22(c) at the next periodic update of that section. Any bioavailability/bioequivalence requirement established for such a drug product will be applicable to holders of approved NDA's as well as applicants submitting NDA's (or ANDA's) for the first time.

Because this amendment is necessary to correct an omission of data in, and clarify portions of, the final regulation, the Commissioner finds, for good cause, that notice and public procedure are not required for its promulgation. It imposes no additional burden on the regulated industry.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 501, 502, 505, 701(a), 52 Stat. 1041–1042 as amended, 1049–1053 as amended, 1055 (21 U.S.C. 321(p), 351, 352, 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Subpart B of Part 320 is amended in § 320.22 by redesignating paragraph (c) as paragraph (c)(1) and adding new paragraph (c) (2) and (3) to read as follows:

§ 320.22 Criteria for waiver of evidence of in vivo bioavailability.

* * * * *

(c)(1) * * *

(2) The Food and Drug Administration shall waive the requirement for the submission of evidence demonstrating the in vivo bioavailability of a parenteral drug product that is determined to be effective for at least one indication in a Drug Efficacy Study Implementation notice or that, upon submission of evidence, is shown to be identical in both active and inactive ingredient formulation to that drug as currently approved in a new drug application, if the drug product is not one of the following:

V 42163 AUG 23 77 UM

PARENTERAL DRUGS

A drug in suspension form. Phenytoin sodium powder for injection.

(3) A waiver shall not be granted for a drug product for which an initial determination that the drug product is effective for one or more indications is published after January 7, 1977, in a Drug Efficacy Study Implementation notice stating that the drug is subject to a bioavailability requirement.

• • • • •

Effective date: This amendment shall be effective August 23, 1977.

(Secs. 201(p), 501, 502, 505, 701(a), 52 Stat. 1041–1042 as amended, 1049–1053 as amended, 1055 (21 U.S.C. 321(p), 351, 352, 355, 371 (a)).)

Dated: August 16, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-24284 Filed 8-22-77;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Styrylpyridinium, Diethylcarbamazine Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule amends the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by American Cynamid Co. providing for use of a higher potency tablet for deworming dogs.

EFFECTIVE DATE: August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Henry C. Hewitt, Bureau of Veterinary Medicine (HFV–112), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: In accordance with section 512(i) of the Federal Food, Drug, and Cosmetic Act, Part 520 of the animal drug regulations is amended to reflect approval of supplemental NADA (96–031V) filed by American Cyanamid Co., P.O. Box 400, Princeton, N.J. 08540.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of the safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC–20), Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except on Federal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), § 520.2160 is amended by revising paragraphs (b) and (d)(2) to read as follows:

§ 520.2160 Styrylpyridinium, diethylcarbamazine tablets.

• • • • •

(b) *Specifications.* Each tablet contains 50 milligrams of styrylpyridinium chloride and 60 milligrams of diethylcarbamazine citrate, or 125 milligrams of styrylpyridinium chloride and 150 milligrams of diethylcarbamazine citrate.

• • • • •

(d) • • •

(2) Administer orally, intact or pulverized and mixed in feed, at one tablet (50- and 60-milligram dosage) per 20 pounds of body weight per day, or one tablet (125- and 150-milligram dosage) per 50 pounds of body weight per day.

• • • • •

Effective date: August 23, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b (i)).)

Dated: August 15, 1977.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.77-24285 Filed 8-22-77;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI 3211]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to list communities where the sale of flood insurance as authorized under the National Flood Insurance Program will be suspended because of noncompliance with the program regulations.

DATES: The last date that appears in the fourth column is the effective date of the suspension of the sale of flood insurance.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified by the Secretary of Housing and Urban Development.

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program and insurance is purchased. Accordingly, for communities listed under this part such restriction exists as of the effective date of suspension because insurance, which is required cannot be purchased.

Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities suspended in this notice no longer meet that statutory requirement for compliance with program regulations (24 CFR Part 1909 et seq.). Accordingly, the communities are suspended on the effective date in the list below.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community.

The entry reads as follows:

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
•	•	•	•	•	•
California	Shasta	Anderson, city of	Nov. 21, 1973, emergency; Sept. 1, 1977, regular; Sept. 15, 1977, suspended.	June 14, 1974 Dec. 20, 1974	060039-A
Do.	San Mateo	San Carlos, city of	Jan. 28, 1972, emergency; Sept. 1, 1977, regular; Sept. 15, 1977, suspended.	June 28, 1974 Aug. 8, 1975	060327-A
Florida	Santa Rosa	Gulf Breeze, city of	July 10, 1970, emergency; Sept. 1, 1977, regular; Sept. 15, 1977, suspended.	June 28, 1974 Jan. 30, 1976	120275-A
Georgia	Cook	Adel, city of	Dec. 17, 1973, emergency; Sept. 1, 1977, regular; Sept. 15, 1977, suspended.	July 18, 1975	130060
Do.	Dougherty	Albany, city of	Mar. 3, 1972, emergency; Sept. 1, 1977, regular; Sept. 15, 1977, suspended.	May 17, 1974 Feb. 13, 1976	130075-A
Do.	DeKalb	Doraville, city of	Nov. 27, 1973, emergency; Sept. 1, 1977, regular; Sept. 15, 1977, suspended.	June 7, 1974 Jan. 23, 1976	130069-A
Do.	Colquitt	Moultrie, city of	Nov. 12, 1973, emergency; Sept. 1, 1977, regular; Sept. 15, 1977, suspended.	Nov. 22, 1974	130199
Iowa	Harrison	Missouri Valley, city of	May 26, 1972, emergency; Aug. 1, 1977, regular; Sept. 15, 1977, suspended.	Apr. 12, 1974 Dec. 26, 1975	190147-A
Louisiana	West Baton Rouge Parish.	Addis, village of	Apr. 30, 1973, emergency; Aug. 15, 1977, regular; Sept. 15, 1977, suspended.	Dec. 7, 1973 Feb. 20, 1976	220240-A
Massachusetts	Bristol	Rehoboth, town of	Feb. 11, 1972, emergency; Sept. 1, 1977, regular; Sept. 15, 1977, suspended.	Jan. 24, 1975	250062
Minnesota	Dakota	Burnsville, city of	Feb. 9, 1973, emergency; Sept. 1, 1977, regular; Sept. 15, 1977, suspended.	Mar. 29, 1974 Aug. 6, 1976	470102-A
Do.	Polk	Crookston, city of	Mar. 9, 1973, emergency; Sept. 1, 1977, regular; Sept. 15, 1977, suspended.	July 27, 1973 June 4, 1976	270364-B
New Jersey	Ocean	Lacey, township of	Nov. 12, 1974, emergency; Sept. 1, 1977, regular; Sept. 15, 1977, suspended.	Jan. 24, 1975	340376
New York	Suffolk	Amityville, village of	Oct. 20, 1972, emergency; Sept. 1, 1977, regular; Sept. 15, 1977, suspended.	Apr. 25, 1975	360788
Do.	Westchester	Larchmont, village of	Feb. 4, 1972, emergency; Sept. 1, 1977, regular; Sept. 15, 1977, suspended.	June 14, 1973 Nov. 23, 1973	360915
North Dakota	McHenry	Velva, city of	Mar. 28, 1975, emergency; Aug. 15, 1977, regular; Sept. 15, 1977, suspended.	Mar. 22, 1974 Mar. 19, 1976	380051-A
Pennsylvania	Delaware	Edgemont, township of	Mar. 31, 1974, emergency; Sept. 1, 1977, regular; Sept. 15, 1977, suspended.	Feb. 8, 1974 Aug. 6, 1976	420414-A
Do.	Northampton	Freemansburg, borough of	Mar. 30, 1973, emergency; Sept. 1, 1977, regular; Sept. 15, 1977, suspended.	Dec. 28, 1973 June 4, 1976	420721-A
Do.	Cameron	Gibson, township of	Mar. 8, 1974, emergency; Sept. 1, 1977, regular; Sept. 15, 1977, suspended.	July 20, 1974 July 23, 1976	421130-A
Do.	McKean	Liberty, township of	Aug. 24, 1973, emergency; Sept. 1, 1977, regular; Sept. 15, 1977, suspended.	July 25, 1974 June 4, 1976	420068-A
Do.	Westmoreland	Manor, borough of	Aug. 29, 1973, emergency; Sept. 1, 1977, regular; Sept. 15, 1977, suspended.	Apr. 12, 1974 Apr. 23, 1976	420886-A
Do.	Delaware	Marple, township of	Dec. 3, 1971, emergency; Sept. 1, 1977, regular; Sept. 15, 1977, suspended.	Feb. 1, 1974	420420
Do.	Berks	Muhlenberg, township of	Mar. 9, 1973, emergency; Sept. 1, 1977, regular; Sept. 15, 1977, suspended.	Feb. 1, 1974 Apr. 30, 1976	420144-A
Do.	Blair	Roaring Springs, borough of	Sept. 4, 1973, emergency; Sept. 1, 1977, regular; Sept. 15, 1977; suspended.	Feb. 1, 1974	420163-A
Do.	Lehigh	Salisbury, township of	Mar. 16, 1973, emergency; Sept. 1, 1977, regular; Sept. 15, 1977; suspended.	Dec. 28, 1973 May 21, 1976	420591-A
Texas	Bexar	Windcrest, city of	Jan. 21, 1974, emergency; Aug. 15, 1977, regular; Sept. 15, 1977, suspended.	May 17, 1974	480689
Vermont	Washington	Warren, town of	Sept. 1, 1972, emergency; Sept. 1, 1977, regular; Sept. 15, 1977, suspended.	June 28, 1974 Oct. 29, 1976	500121-A
West Virginia	Jackson	Ripley, city of	Feb. 11, 1974, emergency; Sept. 1, 1977, regular; Sept. 15, 1977, suspended.	May 17, 1974 May 28, 1976	540064-A
Wisconsin	Chippewa	Chippewa Falls, city of	Apr. 16, 1971, emergency; Sept. 1, 1977, regular; Sept. 15, 1977, suspended.	Sept. 1, 1977	550044

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.)

Issued: August 5, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24062 Filed 8-22-77;8:45 am]

[Docket No. FI 3213]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to list those communities where the sale of flood insurance is authorized under the National Flood Insurance Program.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the State.

DATES: The date that appears in the fourth column of the table is the effective date of authorization for the sale of flood insurance.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except as authorized by Section 202(b) of the Act, as amended, unless the community has entered the program. Accordingly, for communities listed under this part no such restriction exists, although insurance, if required, must be purchased.

V 42 163 AUG 23 77 UM

The addresses of the National Flood Insurers Association servicing companies, where flood insurance policies can be obtained, are published at § 1912.5 (24 CFR Part 1912).

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
•	•	•	•	•	•
Idaho	Custer	Mackay, city of	July 5, 1977, emergency	May 2, 1975	160177
New York	Cayuga	Cayuga, village of	July 23, 1973, emergency; July 5, 1977, regular	Jan. 9, 1974	420417A
Pennsylvania	Delaware	Haverford, township of	June 16, 1972, emergency; July 5, 1977, regular	Dec. 28, 1973	420417A
Do.	Berks	Lower Alsace, township of	Mar. 30, 1973, emergency; July 5, 1977, regular	Nov. 9, 1973	420140A
Do.	Huntingdon	Mapleton, borough of	Apr. 19, 1973, emergency; July 5, 1977, regular	Sept. 7, 1973	420487B
				Apr. 23, 1976	
Do.	Bucks	Quakertown, borough of	Feb. 2, 1973, emergency; July 5, 1977, regular	Dec. 7, 1973	420200A
Do.	Chester	West Chester, borough of	Dec. 3, 1971, emergency; July 5, 1977, regular	June 14, 1974	420292B
				June 4, 1976	
South Carolina	Horry	Myrtle Beach, city of	Oct. 15, 1971, emergency; July 5, 1977, regular	Sept. 20, 1974	450109A
Texas	Erath	Stephenville, city of	Mar. 11, 1974, emergency; July 5, 1977, regular	June 28, 1974	480220H
				Jan. 2, 1976	
Alabama	Morgan	Trinity, town of	July 7, 1977, emergency	June 25, 1976	010309
Minnesota	Sherburne	Elk River, city of	Feb. 19, 1974, emergency; June 1, 1977, regular; June 1, 1977, suspended; July 1, 1977, reinstated.	Mar. 8, 1974 June 11, 1976	270496A
Nebraska	Douglas	Boys Town, village of	July 7, 1977, emergency	Aug. 6, 1976	310033
Oklahoma	Muskogee	Fort Gibson, town of	July 8, 1977, emergency	July 23, 1976	400123
Do.	Wagoner	Okay, town of	do	Aug. 16, 1974	400217A
				Feb. 6, 1976	
Washington	Lincoln	Almira, town of	do	Dec. 6, 1974	530107

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.)

Issued: August 5, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24063 Filed 8-22-77;8:45 am]

[Docket No. FI 3214]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to list those communities where the sale of flood insurance is authorized under the National Flood Insurance Program.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the State.

DATES: The date that appears in the fourth column of the table is the effective date of authorization for the sale of flood insurance.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for . .uisition or construction except as authorized by Section 202(b) of the Act, as amended, unless the community has entered the program. Accordingly, for communities listed under this part no such restriction exists, although insurance, if required, must be purchased.

The addresses of the National Flood Insurers Association Servicing companies, where flood insurance policies can be obtained, are published at § 1912.7 (24 CFR Part 1912).

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
•	•	•	•	•	•
Michigan	Menominee	Stephenson, city of	June 15, 1977, suspension withdrawn	May 17, 1974	260139-A
				May 28, 1976	
Minnesota	St. Louis	Cook, city of	do	Mar. 29, 1974	270420A
Do.	Anoka	Coon Rapids, city of	do	June 1, 1973	270011A
Do.	Stearns	St. Cloud, city of	do	Dec. 17, 1973	270456A
				Sept. 26, 1975	
New York	Broome	Conklin, town of	do	Apr. 5, 1974	360042A
Do.	do	Dickinson, town of	do	Mar. 8, 1974	360044A
				Dec. 19, 1975	
Do.	Oswego	Oswego, city of	do	May 10, 1974	360536A
Do.	Broome	Port Dickinson, village of	do	Feb. 1, 1974	360053A
				Nov. 28, 1975	
Ohio	Greene	Bellbrook, city of	do	Nov. 2, 1973	390134A
				Apr. 23, 1976	
Oregon	Douglas	Roseburg, city of	do	June 7, 1974	410067A
				Apr. 23, 1976	
Wisconsin	Winnebago	Oshkosh, city of	do	Nov. 23, 1973	550511A
Do.	Ozaukee	Unincorporated areas	do	May 16, 1977	550310
•	•	•	•	•	•
New Hampshire	Strafford	New Durham, town of	June 27, 1977, emergency	Jan. 7, 1975	330227A
				Dec. 10, 1976	
Ohio	Hamilton	Evendale, village of	do	Mar. 1, 1974	390214A
				Aug. 27, 1976	
Texas	Fort Bend	Fort Bend County Levee Improvement District No. 2.	do		1481485
Do.	Travis	Lakeway, village of	do		481303
Do.	Fort Bend	Pecan Grove Municipal Utility District No. 1	do		1481486
•	•	•	•	•	•
New York	Westchester	Buchanan, village of	June 28, 1977, emergency	Oct. 29, 1976	361534
Do.	Jefferson	Philadelphia, town of	do	Dec. 10, 1976	360347A
North Carolina	Pender	Unincorporated areas	do	Oct. 29, 1976	370344
•	•	•	•	•	•
Nebraska	Cass	Greenwood, village of	June 30, 1977, emergency	Oct. 26, 1975	310347
•	•	•	•	•	•
Kentucky	Carroll	Ghent, city of	July 1, 1977, emergency	Jan. 16, 1974	210048-A
North Dakota	Burleigh	Wing, city of	do	June 27, 1975	380213
Oklahoma	Wagoner	Tullahassee, town of	do	July 16, 1976	400218
Utah	Sevier	Glenwood, town of	do	Oct. 22, 1976	490126

[1] New.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.)

Issued: August 5, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24064 Filed 8-22-77;8:45 am]

[Docket No. FI 3215]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to list those communities where the sale of flood insurance is authorized under the National Flood Insurance Program.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the State.

DATES: The date that appears in the fourth column of the table is the effective date of authorization for the sale of flood insurance.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no financial assistance can legally be provided for acquisition or construction except as authorized by Section 202(b) of the Act, as amended, unless the community has entered the program. Accordingly, for communities listed under this part no such restriction exists, although insurance, if required, must be purchased.

The addresses of the National Flood Insurers Association servicing companies, where flood insurance policies can be obtained, are published at § 1912.5 (24 CFR Part 1912).

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

V42163 AUG 23 77 UM

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
Pennsylvania	Lebanon	Annville, township of	July 1, 1977, suspension withdrawn	Nov. 9, 1973 Sept. 3, 1976	420570A
Do.	Northampton	Bangor, borough of	do	Feb. 1, 1974	420716A
Do.	Lebanon	Cleona, borough of	do	Dec. 28, 1973	420571A
Do.	Chester	Downingtown, borough of	do	Feb. 9, 1973	420275
Do.	do	East Bradford, township of	do	Aug. 16, 1974 Oct. 24, 1975	420276A
Do.	Luzerne	Edwardsville, borough of	do	Mar. 23, 1973	420604
Do.	Wayne	Honesdale, borough of	do	Nov. 30, 1973	420661A
Do.	Cambria	Johnstown, city of	do	Jan. 16, 1974	420231A
Do.	Luzerne	Larksville, borough of	do	July 6, 1973	420614A
Do.	Dauphin	Lower Swatara, township of	do	Jan. 9, 1974 June 4, 1976	420385A
Do.	Luzerne	Luzerne, borough of	do	Nov. 23, 1973	420616
Do.	Montour	Mahoning, township of	do	Sept. 13, 1974 Sept. 24, 1976	421231A
Do.	Luzerne	Nanticoke, city of	do	Aug. 21, 1973 Dec. 14, 1973	420617B
Do.	Lycoming	Old Lycoming, township of	do	Aug. 31, 1973 Aug. 13, 1976	420652A
Do.	Clinton	Pine Creek, township of	do	Apr. 1, 1977	420332
Do.	Luzerne	Plymouth, borough of	do	Mar. 30, 1973 Mar. 29, 1974	420622B
Do.	Chester	Pocopson, township of	do	Apr. 15, 1977	420286
Do.	Delaware	Rose Valley, borough of	do	May 25, 1973	420431C
Do.	Dauphin	Royalton, borough of	do	June 15, 1973 Sept. 10, 1976	420394A
Do.	Bradford	Sayre, borough of	do	May 17, 1974 June 4, 1976	420175A
Do.	Centre	Spring, township of	do	June 21, 1974 June 25, 1976	420269A
Do.	Dauphin	Steelton, borough of	do	Aug. 31, 1973 Dec. 26, 1975	420396A
Do.	Monroe	Stroud, township of	do	Jan. 17, 1975	420693
Do.	Schuylkill	St. Clair, borough of	do	Mar. 15, 1977	420786A
Do.	Northumberland	West Chillisquaque, township of	do	May 10, 1974 June 4, 1976	421033A
California	Orange	Fullerton, city of	July 5, 1977, suspension withdrawn	June 28, 1974 July 2, 1976	060219A
Florida	Bay	Lynn Haven, city of	do	Sept. 26, 1974 Dec. 19, 1975	120009A
Do.	do	Panama City Beach, city of	do	July 19, 1974 Mar. 26, 1976	120013A
Missouri	St. Louis	Eureka, city of	do	Jan. 9, 1974 Sept. 26, 1975	290349A
New York	Broome	Binghamton, city of	do	Apr. 12, 1974 Apr. 23, 1976	360038B
Do.	Erie	Elma, town of	do	Sept. 21, 1973	360239
Do.	Cattaraugus	Gowanda, village of	do	Feb. 8, 1973	360075
Do.	Broome	Kirkwood, town of	do	Oct. 5, 1973	360048
Do.	do	Vestal, town of	do	Apr. 5, 1974 Jan. 3, 1975	360057A
South Carolina	Horry	Myrtle Beach, city of	do	Sept. 20, 1974	450109
Texas	Erath	Stephenville, city of	do	June 28, 1974 Jan. 2, 1976	480220
Wisconsin	Eau Claire	Eau Claire, city of	do	Sept. 20, 1974 Sept. 24, 1976	550128A
Arizona	Santa Cruz	Patagonia, town of	July 13, 1977, emergency	Apr 9, 1976	040092
North Dakota	Golden Valley	Beach, city of	do	July 11, 1975	380215
Texas	Bexar	Leon Valley, city of	June 25, 1973, emergency; June 1, 1977, regular; June 1, 1977, suspended; July 6, 1977, reinstated.	Oct. 12, 1973	480042-A

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.)

Issued: August 5, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24065 Filed 8-22-77;8:45 am]

[Docket No. FI-3216]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to list those communities where the sale of flood insurance is authorized under the National Flood Insurance Program.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the State.

DATES: The date that appears in the fourth column of the table is the effective date of authorization for the sale of flood insurance.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator,
Office of Flood Insurance, 202-755-581
or Toll Free Line 800-424-8872,
Room 5270,
451 Seventh Street, SW.,
Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234) requires the purchase of flood insurance as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except as authorized by Section 202(b) of the Act, as amended, unless the community has entered the program. Accordingly, for communities

listed under this part no such restriction exists, although insurance, if required, must be purchased.

The addresses of the National Flood Insurers Association Servicing companies, where flood insurance policies can be obtained, are published at § 1912.7 (24 CFR Part 1912).

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
Minnesota	Hennepin	Champlin, city of	Mar. 30, 1973, emergency; July 18, 1977, regular	Nov. 2, 1973	270153A
Mississippi	Lincoln	Brookhaven, city of	Jan. 17, 1974, emergency; July 18, 1977, regular	Jan. 24, 1975	280107A
New Jersey	Essex	South Orange, village of	Jan. 7, 1972, emergency; July 18, 1977, regular	Nov. 30, 1973	340194A
Pennsylvania	Berks	Earl, township of	Apr. 18, 1973, emergency; July 18, 1977, regular	May 31, 1974 June 4, 1976	420132B
Do.	Cameron	Grove, township of	Mar. 4, 1974, emergency; July 18, 1977, regular	Nov. 8, 1974 July 9, 1976	421128B
Do.	Westmoreland	Mount Pleasant, township of	Sept. 26, 1973, emergency; July 18, 1977, regular	Dec. 6, 1974 Oct. 22, 1976	420888B
Do.	Huntingdon	Mount Union, borough of	Nov. 10, 1972, emergency; July 18, 1977, regular	Aug. 24, 1973 Aug. 20, 1976	420489B
Texas	Tarrant	Bedford, city of	Jan. 19, 1973, emergency; July 18, 1977, regular	Dec. 28, 1973	480585A
Michigan	Calhoun	Tekohsha, township of	July 20, 1977, emergency		[1] 260709
Ohio	Allen	Unincorporated areas	do		390758
Pennsylvania	Monroe	Eldred, township of	do	Dec. 6, 1974	421887
Texas	Bell	Troy, city of	do	Nov. 12, 1976	480709
Do.	Hill	Whitney, city of	do	July 2, 1976	480865
Louisiana	Papides Parish	Boyce, town of	July 21, 1977, emergency	Apr. 5, 1974	220147A
Pennsylvania	Cambria	Reade, township of	do	Dec. 6, 1974	421445
Texas	Tarrant	Dalworthington Gardens, city of	do	Aug. 6, 1976	481013
Do.	Navarro	Franklin, city of	do		[1] 481487
Do.	Shelby	Joaquin, city of	do	Oct. 22, 1976	481003
Ohio	Erie	Sandusky, city of	July 5, 1977, suspension withdrawn	June 21, 1974 July 30, 1976	390156A
Mississippi	Pontotoc	Unincorporated areas	July 22, 1977, emergency	Nov. 29, 1974	280234

[1] New.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.)

Issued: August 5, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24066 Filed 8-22-77;8:45 am]

[Docket No. FI3217]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to list communities where the sale of flood insurance as authorized under the National Flood Insurance Program will be suspended because of noncompliance with the program regulations.

DATES: The last date that appears in the fourth column is the effective date of the suspension of the sale of flood insurance.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234) requires the purchase of flood insurance as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified by the Secretary of Housing and Urban Development.

The requirtment applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program and insurance is purchased. Accordingly, for communities listed under this part such restriction exists as of the effective date of suspension because insurance, which is required, cannot be purchased.

Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities suspended in this notice no longer meet that statutory requirement for compliance with program regulations (24 CFR Part 1909 et seq.). Accordingly, the communities are suspended on the effective date in the list below.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community.

The entry reads as follows:

V 42 163 AUG 23 77 UM V

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
•	•	•	•	•	•
Arizona	Mohave	Kingman, city of	Feb. 4, 1972, emergency; Aug. 15, 1977, regular; Aug. 15, 1977, suspended.	May 31, 1974 Oct. 15, 1976	040060A
Connecticut	Hartford	Bloomfield, town of	Feb. 18, 1972, emergency; Aug. 15, 1977, regular, Aug. 15, 1977, suspended.	Feb. 1, 1974	090122
Do	do	Farmington, town of	Nov. 26, 1971, emergency; Aug. 15, 1977, regular; Aug. 15, 1977, suspended.	June 28, 1974	090029
Florida	Pinellas	Bellair Bluffs, city of	May 1, 1973, emergency; Aug. 1, 1977, regular; Aug. 15, 1977, suspended.	do June 11, 1976	120239A
Georgia	Dougherty	Albany, city of	Mar. 3, 1972, emergency; Aug. 15, 1977, regular; Aug. 15, 1977, suspended.	May 17, 1974 Feb. 13, 1976	130075A
Maine	Oxford	Mexico, township of	Nov. 17, 1972, emergency; Aug. 15, 1977, regular; Aug. 15, 1977, suspended.	Mar. 8, 1974	230095
Massachusetts	Bristol	Dartmouth, town of	Sept. 10, 1971, emergency; Aug. 15, 1977, regular, Aug. 15, 1977, suspended.	Feb. 28, 1975	250051
Do	Bershire	Williamstown, town of	Feb. 18, 1972, emergency; Aug. 15, 1977, regular; Aug. 15, 1977, suspended.	Feb. 8 1974	250046
Michigan	Monroe	Monroe, city of	Dec. 29, 1972, emergency; Aug. 15, 1977, regular; Aug. 15, 1977, suspended.	May 3, 1974	260153A
Minnesota	Brown	Unincorporated areas	Jan. 28, 1972, emergency; Aug. 15, 1977, regular; Aug. 15, 1977, suspended.	Aug. 15, 1977	270034
•	•	•	•	•	•
New Jersey	Essex	Bloomfield, town of	May 12, 1972, emergency; Aug. 15, 1977, regular; Aug. 15, 1977, suspended.	June 15, 1973	310178
Do	Bergen	Maywood, borough of	May 26, 1972, emergency; Aug. 15, 1977, regular; Aug. 15, 1977, suspended.	Aug. 15, 1977	340050
New York	Suffolk	Babylon, village of	Jan. 19, 1973, emergency; Aug. 1, 1977, regular; Aug. 15, 1977, suspended.	Dec. 7, 1973 June 11, 1976	360791A
Ohio	Lucas	Sylvania, city of	Feb. 18, 1972, emergency; July 5, 1977, regular; Aug. 15, 1977, suspended.	Dec. 17, 1973 Oct. 24, 1975	390361A
Pennsylvania	Berks	Douglass, township of	May 15, 1973, emergency; Aug. 15, 1977, regular; Aug. 15, 1977, suspended.	Nov. 9, 1973 Oct. 1, 1976	421911
Do	do	Earl, township of	Apr. 18, 1973, emergency; July 18, 1977, regular; Aug. 15, 1977, suspended.	May 31, 1974 June 4, 1976	420132A
Do	Northampton	Hanover, township of	Jan. 19, 1973, emergency; Aug. 1, 1977, regular; Aug. 15, 1977, suspended.	Nov. 23, 1973	420722
Do	Carbon	Jim Thorpe, borough of	Aug. 7, 1973, emergency; Aug. 15, 1977, regular; Aug. 15, 1977, suspended.	Apr. 5, 1974	420249
Do	Lycoming	Montoursville, borough of	Feb. 9, 1973, emergency; Aug. 15, 1977, regular; Aug. 15, 1977, suspended.	June 15, 1973	420648
Do	Huntingdon	Mount Union, borough of	Nov. 10, 1972, emergency; July 18, 1977, regular; Aug. 15, 1977, suspended.	Aug. 24, 1973 Aug. 20, 1976	420189A
Do	Schuylkill	New Philadelphia, borough of	May 25, 1973, emergency; Aug. 15, 1977, regular; Aug. 15, 1977, suspended.	June 28, 1974 Apr. 23, 1976	420779
Do	Delaware	Parkside, borough of	Dec. 10, 1971, emergency; July 5, 1977, regular; Aug. 15, 1977, suspended.	Mar. 30, 1973	420426A
Do	Berks	Union, township of	July 9, 1973, emergency; Aug. 15, 1977, regular; Aug. 15, 1977, suspended.	Jan. 16, 1974	420155
Wisconsin	Waupaca	Unincorporated areas	Dec. 17, 1971, emergency; Aug. 15, 1977, regular; Aug. 15, 1977, suspended.	Aug. 15, 1977	550192

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.)

Issued: August 3, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24067 Filed 8-22-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7501]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Minimum Vesting Standards and Certain Plans Covering Subsidiary Corporation Employees

AGENCY: Internal Revenue Service, Terasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to vesting standards and certain plans covering subsidiary corporation employees. Changes in the applicable tax law were made by the Revenue Act of 1964, the Tax Reform Act of 1969 and the Employee Retirement Income Security Act of 1974. These regulations provide necessary guidance to the public for compliance with the law and affect employees covered by qualified retirement plans.

DATE: The regulations have varying effective dates. Most of the effective date rules are dependent upon the time when a retirement plan came into existence. For plans in existence on January 1, 1974, the regulations under the Employee Retirement Income Security Act of 1974 are effective for plan years beginning after December 31, 1975. For plans not in existence on January 1, 1974, the regulations are effective for plan years beginning after September 2, 1974.

FOR FURTHER INFORMATION CONTACT:

Richard J. Wickersham of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) 202-566-3289).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On March 6, 1975, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 406 and 407 of the Internal Revenue Code of 1954, 40 FR 10476. The amendments were proposed to conform the regulations to section 220 of the Revenue Act of 1964 (78 Stat. 58) and section 515(c) (2) and (3) of the Tax Reform Act of 1969 (83 Stat. 645, 646). A public hearing was neither requested nor held on these regulations.

On November 5, 1975, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 411 of the Internal Revenue Code of 1954, 40 FR 51445. The amendments were proposed to conform the regulations to section 1012(a) of the Employee Retirement Income Security Act of 1974 (88 Stat. 901) (hereinafter referred to as the "Act").

STATUTORY PROVISIONS

Sections 406 and 407 of the Code allow qualified plans of domestic corporations to cover citizens of the United States who are employees of their foreign subsidiaries or their domestic subsidiaries engaged in business outside the United States if certain requirements are satisfied.

Sections 401(a)(19) and 411 of the Code prescribe minimum vesting standards which are qualification requirements for pension, stock bonus, or profit-sharing plans (and their related trusts) described in section 401(a), 403(a), 405 of the Code. These new vesting standards impose various requirements on plans. Among the principal requirements are the manner in which plans must provide vesting for employees in their plan benefits and how these plan benefits must be determined for employees.

Some regulations prescribed by the Secretary of Labor are applicable for purposes of applying the vesting rules of section 411.

EFFECTIVE DATES

Section 1.411(a)-2, relating to the effective dates of section 411, has been clarified by the addition of a new paragraph (f) to provide that the new requirements are not applicable to certain separated employees.

DIFFERENT SCHEDULES

Section 1.411(a)-3, relating to vesting in employer-derived benefits, is revised to make it clear that plans can satisfy, under certain conditions, different statutory vesting schedules for different employee groups.

FORFEITURES

Section 1.411(a)-4 provides rules relating to permissible forfeitures, suspensions, etc. of vested rights.

The rules have been changed to make it clear that a multiemployer plan does not violate the vesting rules by disregarding accrued benefits to the extent that section 414(f) of the Code permits a forfeiture.

In the case of a plan integrated with Social Security, plan benefits may decrease prior to an employee's retirement or separation because of increasing Social Security benefits. The rules have been changed to make it clear that this is not a prohibited forfeiture.

Paragraph (b)(1) provides a general rule for an exception to the nonforfeitability requirements by reason of the death of an employee. This rule has been revised to provide that benefits derived from employee contributions are not treated as being forfeitable solely because payments received under an annuity option are less than such benefits.

SERVICE FOR VESTING

Section 1.411 (a)-5, relating to service which counts toward the vesting percentage, has been expanded to clarify what service can be disregarded under break in service rules in effect prior to the effective date of the Act.

DEFINITIONS AND SPECIAL RULES

Section 1.411 (a)-7, relating to definitions and special rules, has been modified in several respects.

The definition of "accrued benefit" in paragraph (a)(1) has been modified to provide that the term does not include ancillary benefits not directly related to retirement benefits. Ancillary benefits would include, for example, payment of medical expenses (or insurance premiums for such expenses) and life insurance benefits payable as a lump sum.

The definition of "normal retirement benefit" in paragraph (c) has been revised to make it clear that a plan's computation of its early retirement benefit can take into account the effect of integration with social security or similar laws occurring subsequent to early retirement age.

Paragraph (d), relating to certain distributions and cash-out rules, has been modified to consolidate in one paragraph the rules on cash-outs from a defined contribution plan. In the proposed regulations these rules were scattered among several sections of the regulations.

CHANGES IN VESTING SCHEDULES

Section 1.411(a)-8, relating to changes in vesting schedules, has been revised to make it clear that a plan does not have to provide for an election of a former vesting schedule where an employee cannot be disadvantaged by a plan amendment. Guidance has also been given as to what is meant by "a change in the vesting schedule."

ACCRUED BENEFITS

Section 1.411 (b)-1, relating to accrued benefit requirements, has been modified to make it clear that a plan can compute accrued benefits under more than one formula provided that the aggregate benefits satisfy one of three statutory methods. Furthermore, the final regulations provide that a plan is not precluded from satisfying these requirements by separately testing accrued benefits for different employee classifications.

Paragraph (e) (pertaining to separate accounting) has been revised to provide clarification as to the accounting rules which are required of defined contribution plans.

Paragraph (f), relating to the determination of a year of participation, has been revised to provide that these rules are inapplicable to a defined contribution plan.

ALLOCATIONS

Section 1.411 (c)-1, relating to allocating benefits between employer and employee contributions, has been modified to provide that actuarial adjustments, to benefits are not required because of suspension of benefits described in section 203(a)(3)(B) of the Act and section 411(a)(3)(B) of the Code.

TERMINATIONS

Section 1.411 (d)-2, relating to required vesting on plan terminations, etc., has been revised to clarify the interrelationship between certain Code requirements and certain title IV provisions of the Act.

Paragraph (e) has been clarified to provide that the rule pertaining to vesting upon early plan termination under Code section 411 (d) (2) and (3), present under pre-Act law, takes precedence over other rules, including those in section 4044 of the Act. This provision indicates that the Interal Revenue Service can require forfeitures to preclude prohibited discrimination when there is an early plan termination.

SPECIAL RULES

Section 1.411 (d)-3, relating to other special rules, has been revised. First, the class year plan rules of paragraph (a) have been clarified to provide that certain distribution rules, in § 1.411 (a)-7 (d) of the final regulations, are applicable to these plans and are to be applied in a special manner. Second, the prohibition against accrued benefit decreases rules of paragraph (b) have been revised to identify more specifically the types of amendments which are proscribed.

WITHDRAWAL AND DELETION OF SECTIONS MERELY REPRODUCING STATUTORY MATERIAL

As part of the effort to reduce the bulk of the Code of Federal Regulations, those sections of the proposed regulations which merely reproduced various provisions of the Internal Revenue Code are withdrawn.

For the same reason several such sections are deleted from the Code of Federal Regulations by this document.

DRAFTING INFORMATION

The principal author of these regulations was Richard J. Wickersham of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly—1. The following sections of the proposed regulations are withdrawn:

(a) Section 1.406, as set forth in the appendix to the March 6, 1975, notice of proposed rulemaking and as modified in paragraph 5 of the appendix to the November 5, 1975, notice of proposed rulemaking.

(b) Section 1.407, as set forth in the appendix to the March 6, 1975, notice of proposed rulemaking and as modified in paragraph 7 of the appendix to the November 5, 1975, notice of proposed rulemaking.

(c) Sections 1.411 (a), 1.411 (b), 1.411 (c), 1.411 (d), and 1.411 (e), all as set forth in paragraph 9 of the appendix to the November 5, 1975, notice of proposed rulemaking.

(d) Section 1.413, as set forth in paragraph 10 of the appendix to the November 5, 1975, notice of proposed rulemaking.

2. The amendments to 26 CFR Part 1 as proposed are hereby adopted, subject to the changes indicated below.

PARAGRAPH 1. Sections 1.401, 1.401(a) and 1.401(b) are deleted.

PAR. 2. Section 1.401(a)-19 as set forth in paragraph 2 of the appendix to the November 5, 1976, notice of proposed

V 42 163 AUG 23 77 UM

rule making is amended by adding a new sentence at the end of paragraph (b)(2), by revising paragraph (b)(3) and by adding a paragraph (c) to read as set forth below.

PAR. 3. Sections 1.404(a), 1.404(b), 1.404(c), 1.404(d) and 1.404(e) are deleted.

PAR. 4. Section 1.404(a)–8 as set forth in paragraph 4 of the appendix to the November 5, 1975, notice of proposed rule making is changed by revising subparagraphs (2) and (3)(ii)(B) of paragraph (a) to read as set forth below.

PAR. 5. Section 1.406–1 as set forth in the appendix to the March 6, 1975, notice of proposed rule making is changed by revising paragraphs (b)(2), (c)(1) and (2)(i), (d) and (e)(2) to read as set forth below.

PAR. 6. Section 1.407–1, as set forth in the appendix to the March 6, 1975, notice of proposed rule making is changed by revising paragraphs (b)(2), (c)(1) and (2)(i), (d) and (e)(2) to read as set forth below.

PAR. 7. Section 1.411(a)–1, as set forth in paragraph 9 of the appendix to the November 5, 1975, notice of proposed rule making is changed by adding a new paragraph (d) at the end thereof to read as set forth below.

PAR. 8. Section 1.411(a)–2, as set forth in paragraph 9 of the appendix to the November 5, 1975, notice of proposed rule making, is changed by adding a new paragraph (f) at the end thereof to read as set forth below.

PAR. 9. Section 1.411(a)–3, as set forth in paragraph 9 of the appendix to the November 5, 1975, notice of proposed rule making, is changed by revising subparagraph (2) of paragraph (a) to read as set forth below.

PAR. 10. Section 1.411(a)–4, as set forth in paragraph 9 of the appendix to the November 5, 1975, notice of proposed rule making, is changed by revising paragraph (a), by revising subparagraphs (1) and (4) of paragraph (b), by deleting subparagraphs (5) and (6) of paragraph (b), and by adding new paragraphs (b)(5) and (6). These revised and added provisions are set forth below.

PAR. 11. Section 1.411(a)–5, as set forth in paragraph 9 of the appendix to the November 5, 1975, notice of proposed rule making is amended by revising paragraph (b)(1)(iii) and (2), the second sentence in subdivision (ii) and subdivisions (iii) and (iv) (B) and (C) of paragraph (b)(3), paragraph (b)(6), and paragraph (c) to read as set forth below.

PAR. 12. Section 1.411(a)–6, as set forth in paragraph 9 of the appendix to the November 5, 1975, notice of proposed rulemaking is changed by striking out "—(A) General rule" and deleting subdivisions (B) and (C) in paragraph (c)(1)(ii), by adding a new sentence following the first sentence in paragraph (c)(1)(iii), and by adding a new sentence following the first sentence in paragraph (c)(2). The added provisions are set forth below.

PAR. 13. Section 1.411(a)–7, as set forth in paragraph 9 of the appendix to the November 5, 1975, notice of proposed rulemaking, is changed by adding two new sentences immediately after subdivision (ii) of paragraph (a)(1), by adding two new sentences immediately after subdivision (ii)(B) of paragraph (b)(1), by adding a new subdivision (iii) to paragraph (c)(2), by revising subparagraphs (3), (4) and (5) of paragraph (c), and by revising paragraph (d). These amended and added provisions are set forth below.

PAR. 14. Section 1.411(a)–8, as set forth in paragraph 9 of the appendix to the November 5, 1975, notice of proposed rulemaking, is changed by revising so much of paragraph (a) as follows subparagraph (2), by revising subparagraphs (1) and (3) and adding a new subparagraph (6) to paragraph (b), and by adding a new paragraph (c). These revised and added provisions are set forth below.

PAR. 15. Section 1.411(a)–9, as set forth in paragraph 9 of the appendix to the November 5, 1975, notice of proposed rulemaking, is changed by adding a second sentence to paragraph (b) to read as set forth below.

PAR. 16. Section 1.411(b)–1, as set forth in paragraph 9 of the appendix to the November 5, 1975, notice of proposed rule making is changed by revising paragraphs (a)(1), (d)(3), (e)(1) and (2) and (f)(1) to read as set forth below.

PAR. 17. Section 1.411(c)–1, as set forth in paragraph 9 of the appendix to the November 5, 1975, notice of proposed rule making, is changed by revising the last sentence of subparagraph (2) of paragraph (b), by adding a new sentence at the end of subparagraph (4) of paragraph (c), by revising so much of paragraph (d) as precedes subparagraph (1), by revising paragraph (e)(2), and by adding a new paragraph (f). These revised and added provisions read as set forth below.

PAR. 18. Section 1.411(d)–2, as set forth in paragraph 9 of the appendix to the November 5, 1975, notice of proposed rule making, is changed by adding a new sentence at the end of paragraph (a)(2)(i), by revising paragraphs (a)(2)(ii) and (b), by adding a new sentence at the end of paragraph (c)(2), and by revising paragraph (e). These revised and added provisions read as set forth below:

PAR. 19. Section 1.411(d)–3, as set forth in paragraph 9 of the appendix to the November 5, 1975, notice of proposed rule making, is revised as set forth below:

PAR. 20. Section 1.413–1, as set forth in paragraph 10 of the appendix to the November 5, 1975, of the notice of proposed rule making, is revised by striking out "§ 210 of" in the last sentence of paragraph (e), as set forth below.

PAR. 21. Section 1.413–2, as set forth in paragraph 10 of the appendix to the November 5, 1975, notice of proposed rule making, is revised by striking out "§ 210 of" in the last sentence of paragraph (d), as set forth below.

PAR. 22. Section 1.801 is deleted.

PAR. 23. Section 1.805 is deleted.

(Secs. 411, 7805, Internal Revenue Code of 1954 (88 Stat. 901, 68A Stat. 917; 26 U.S.C. 411 and 7805))

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved:

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

§§ 1.401(a) and 1.401(b) [Deleted]

1. Sections 1.401, 1.401(a) and 1.401(b) are deleted.

2. The following new section is added immediately before § 1.401–1:

§ 1.401–0 Scope and definitions.

(a) *In general.* Sections 1.401 through 1.401–14 (inclusive) reflect the provisions of section 401 prior to amendment by the Employee Retirement Income Security Act of 1974. The sections following § 1.401–14 and preceding § 1.402(a) (hereafter referred to in this section as the "Post-ERISA Regulations") reflect the provisions of section 401 after amendment by such Act.

(b) *Definitions.* For purposes of the Post-ERISA regulations—

(1) *Qualified plan.* The term "qualified plan" means a plan which satisfies the requirements of section 401(a).

(2) *Qualified trust.* The term "qualified trust" means a trust which satisfies the requirements of section 401(a).

3. The following new section is added immediately after § 1.401(a)–19:

§ 1.401(a)–19 Nonforfeitability in case of certain withdrawals.

(a) *Application of section.* Section 401(a)(19) and this section apply to a plan to which section 411(a) applies. (See section 411(e) and § 1.411(a)–2 for applicability of section 411).

(b) *Prohibited forfeitures*—(1) *General rule.* A plan to which this section applies is not a qualified plan (and a trust forming a part of such plan is not a qualified trust) if, under such plan, any part of a participant's accrued benefit derived from employer contributions is forfeitable solely because a benefit derived from the participant's contributions under the plan is voluntarily withdrawn by him after he has become a 50 percent vested participant.

(2) *50 percent vested participant.* For purposes of subparagraph (1) of this paragraph, a participant is a 50 percent vested participant when he has a nonforfeitable right (within the meaning of section 411 and the regulations thereunder) to at least 50 percent of his accrued benefit derived from employer contributions. Whether or not a participant is 50 percent vested shall be determined by the ratio of the participant's total nonforfeitable employer-derived accrued benefit under the plan to his total employer-derived accrued benefit under the plan.

(3) *Certain forfeitures.* Paragraph (b)(1) of this section does not apply in the case of a forfeiture permitted by section 411(a)(3)(D)(iii) and § 1.411(a)–7(d)(3) (relating to forfeitures of certain benefits accrued before September 2, 1974).

(c) *Supersession.* Section 11.401(a)–(19) of the Temporary Income Tax Regulations under the Employee Retirement Income Security Act of 1974 is superseded by this section.

§§ 1.404(a), 1.404(b), 1.404(c), 1.404(d) and 1.404(e) [Deleted]

4. Sections 1.404(a), 1.404(b), 1.404(c), 1.404(d) and 1.404(e) are deleted.

5. Section 1.404(a)–8 is amended to read as follows:

§ 1.404(a)–8 Contributions of employer under an employees' annuity plan which meets the requirements of section 401(a); application of section 404(a)(2).

(a) If contributions are paid by an employer under an annuity plan for employees and the general conditions and limitations applicable to deductions for such contributions are satisfied (see § 1.404(a)–1), the contributions are deductible under section 404(a)(2) if the further conditions provided therein are satisfied. For the meaning of "annuity plan" as used here, see § 1.404(a)–3. In order that contributions by the employer may be deducted under section 404(a)(2), all of the following conditions must be satisfied:

(1) The contributions must be paid toward the purchase of retirement annuities (or for disability, severance, insurance, survivorship benefits incidental and directly related to such annuities, or medical benefits described in section 401(h) as defined in paragraph (a) of § 1.404(h)–1) under an annuity plan for the exclusive benefit of the employer's employees or their beneficiaries.

(2) The contributions must be paid in a taxable year of the employer which ends with or within a year of the plan for which it meets the applicable requirements set forth in section 401(a)(3), (4), (5), (6), (7), (8), (11), (12), (13), (14), (15), (16), and (19). In the case of a plan which covers a self-employed individual, the contributions must be paid in a taxable year of the employer which ends with or within a year of the plan for which it also meets the requirements of section 401(a)(9), (10), (17), and (18) and of section 401(d) (other than paragraph (1)). In the case of a plan which covers a shareholder-employee within the meaning of section 1379(d), the contributions must be paid in a taxable year of the employer which ends with or within a year of the plan for which it also meets the requirements of section 401(a)(17) and (18). See section 401(a) and the regulations thereunder for the requirements and the applicable effective dates of the respective paragraphs set forth in section 401(a). Any contributions of an employer which are paid in a taxable year of the employer ending with or within a year of the plan for which it meets the applicable requirements of section 401 may be carried over and deducted in a succeeding taxable year of the employer in accordance with section 404(a)(1)(D), whether or not such succeeding taxable year ends with or within a taxable year of the plan for which it meets the requirements set out in section 401(a) and (d). See section 401(b) and the regulations thereunder for special rules allowing certain plan amendments to be given retroactive effect. See section 404(a)(6) for a special rule for determining the time when a contribution is deemed to have been made.

(3) There must be a definite written arrangement between the employer and the insurer that refunds of premiums, if any, shall be applied within the taxable year of the employer in which received or within the next succeeding taxable year toward the purchase of retirement annuities (or for disability, severance, insurance, survivorship benefits incidental and directly related to such annuities, or medical benefits described in section 401(h) as defined in paragraph (a) of § 1.401(h)–1) under the plan. For the purpose of this condition, "refunds of premiums" means payments by the insurer on account of credits such as dividends, experience rating credits, or surrender or cancellation credits. The arrangement may be in the form of contract provisions or written directions of the employer or partly in one form and partly in another. This condition will be considered satisfied where—

(i) All credits are applied regularly, as they are determined, toward the premiums next due under the contracts before any further employer contributions are so applied, and

(ii) Under the arrangement,

(A) No refund of premiums may be made during continuance of the plan unless applied as aforesaid, and

(B) If refunds of premiums may be made after discontinuance or termination, whichever is applicable, of the plan on account of surrenders or cancellations before all retirement annuities provided under the plan with respect to service before its discontinuance or termination have been purchased, such refunds will be applied in the taxable year of the employer in which received, or in the next succeeding taxable year, to purchase retirement annuities for employees by a procedure which does not contravene the conditions of section 401(a)(4). If the plan also includes medical benefits described in section 401(h) as defined in paragraph (a) of § 1.401(h)–1, any refund of premiums attributable to such benefits must, in accordance with these rules, be applied toward the purchase of medical benefits described in section 401(h).

(4) Any amounts described in subparagraph (3) of this paragraph which are attributable to contributions on behalf of a self-employed individual must be applied toward the purchase of retirement benefits. Amounts which are so applied are not contributions and thus are not taken into consideration in determining—

(i) The amount deductible with respect to contributions on his behalf, nor

(ii) In the case of an owner-employee, the maximum amount of contributions that may be made on his behalf.

(b) Where the above conditions are satisfied, the amounts deductible under section 404(a)(2) are governed by the limitations provided in section 404(a)(1). See §§ 1.404(a)–3 to 1.404(a)–7, inclusive.

6. Section 1.406–1 is added to read as follows:

§ 1.406–1 Treatment of certain employees of foreign subsidiaries as employees of the domestic corporation.

(a) *Scope*—(1) *General rule.* For purposes of applying the rules in part 1 of subchapter D of chapter 1 of subtitle A of the Code and the regulations thereunder with respect to a pension, profit-sharing, or stock bonus plan described in section 401(a), an annuity plan described in section 403(a), or a bond purchase plan described in section 405(a), of a domestic corporation, an individual who is a citizen of the United States and who is an employee of a foreign subsidiary (as defined in section 3121(l)(8) and the regulations thereunder) of such domestic corporation shall be treated as an employee of such domestic corporation if the requirements of paragraph (b) of this section are satisfied.

(2) *Cross references.* For rules relating to nondiscrimination requirements and the determination of compensation, see paragraph (c) of this section. For rules under which termination of the status of an individual as an employee of the domestic corporation in certain instances will not be considered as separation from service for certain purposes, see paragraph (d) of this section. For rules regarding deductibility of contributions, see paragraph (e) of this section. For rules regarding treatment of such individual as an employee of the domestic corporation under related provisions, see paragraph (f) of this section.

(b) *Application of this section*—(1) *Requirements.* This section shall apply and the employee of the foreign subsidiary shall be treated as an employee of domestic corporation for the purposes set forth in paragraph (a)(1) of this section only if each of the following requirements is satisfied:

(i) The domestic corporation must have entered into an agreement under section 3121(l) to provide social security coverage which applies to the foreign subsidiary of which such individual is an employee and which has not been terminated under section 3121(l)(3) or (4).

(ii) The plan, referred to in paragraph (a)(1) of this section, must expressly provide for contributions or benefits for individuals who are citizens of the United States and who are employees of one or more of its foreign subsidiaries to which an agreement entered into by such domestic corporation under section 3121(l) applies. The plan must apply to all of the foreign subsidiaries to which such agreement applies.

(iii) Contributions under a funded plan of deferred compensation (whether or not a plan described in section 401(a), 403(a), or 405(a)) must not be provided by any other person with respect to the remuneration paid to such individual by the foreign subsidiary.

V 42 163 AUG 23 77 UM

(2) *Supplementary rules.* Subparagraph (1)(ii) of this paragraph does not modify the requirements for qualification of a plan described in section 401(a), 403(a), or 405(a) and the regulations thereunder. It is not necessary that the plan provide benefits or contributions for all United States citizens who are employees of such foreign subsidiaries. If the plan is amended to cover individuals who are employees by reason of paragraph (a)(1) of this section, the plan will not qualify unless it meets the coverage requirements of section 410(b)(1) (section 401(a)(3), as in effect on September 1, 1974, for plan years to which section 410 does not apply; see § 1.410(a)-2 for the effective dates of section 410) and the nondiscrimination requirements of section 401(a)(4). In addition, the administrative rules contained in § 1.401(a)-3(e) (relating to the determination of the contributions or benefits provided by the employer under the Social Security Act) will also apply for purposes of determining whether the plan meets the requirements of section 401. For purposes of subparagraph (1)(iii) of this paragraph, contributions will not be considered as provided under a funded plan merely because the foreign subsidiary is required under the laws of the foreign jurisdiction to pay social insurance taxes or to make similar payments with respect to the wages paid to the employee.

(c) *Special rules*—(1) *Nondiscrimination requirements.* For purposes of applying sections 401(a)(4) and 410(b)(1)(B) (section 401(a)(3)(B), as in effect on September 1, 1974, for plan years to which section 410 does not apply) and the regulations thereunder (relating to nondiscrimination concerning benefits and contributions and coverage of employees) with respect to an employee of the foreign subsidiary who is treated as an employee of the domestic corporation under paragraph (a)(1) of this section—

(i) If the employee is an officer, shareholder, or (with respect to plan years to which section 410 does not apply) person whose principal duties consist in supervising the work of other employees of the foreign subsidiary of the domestic corporation, he shall be treated as having such capacity with respect to the domestic corporation; and

(ii) The determination as to whether the employee is a highly compensated employee shall be made by comparing his total compensation (determined under subparagraph (2) of this paragraph) with the compensation of all the employees of the domestic corporation (including individuals treated as employees of the domestic corporation pursuant to section 406 and this section).

(2) *Determination of compensation.* For purposes of applying section 401(a)(5) and the regulations thereunder, relating to classifications that will not be considered discriminatory, with respect to an employee of the foreign subsidiary who is treated as an employee of the domestic corporation under paragraph (a)(1) of this section—

(i) The total compensation of the employee shall be the remuneration of the employee from the foreign subsidiary (including any allowances that are paid to the employee because of his employment in a foreign country) which would constitute his total compensation if his services had been performed for the domestic corporation;

(ii) The basic or regular rate of compensation of the employee shall be determined for the employee in the same manner as it is determined under section 401 for other employees of the domestic corporation; and

(iii) The amount paid by the domestic corporation which is equivalent to the tax imposed with respect to the employee by section 3101 (relating to the tax on employees under the Federal Insurance Contributions Act) shall be treated as having been paid by the employee and shall be included in his compensation.

(d) *Termination of status as deemed employee not to be treated as separation from service for purposes of capital gain provisions and limitation of tax.* For purposes of applying the rules, relating to the treatment of certain distributions which are made after an employee's separation from service, set forth in section 72(n) as in effect on September 1, 1974 (with respect to taxable years ending after December 31, 1969, and to which section 402(e) does not apply), and in sections 402(a)(2) and (e) and 403(a)(2) (with respect to distributions or payments made after December 31, 1973, and in taxable years beginning after December 31, 1973) with respect to an employee of a foreign subsidiary who is treated as an employee of a domestic corporation under paragraph (a)(1) of this section, the employee shall not be considered as separated from the service of the domestic corporation solely by reason of the occurrence of any one or more of the following events:

(1) The termination, under the provisions of section 3121(l), of the agreement entered into by the domestic corporation under that section which covers the employment of the employee;

(2) The employee's becoming an employee of another foreign subsidiary of the domestic corporation with respect to which such agreement does not apply,

(3) The employee's ceasing to be an employee of the foreign subsidiary by reason of which employment he was treated as an employee of such domestic corporation, if he becomes an employee of another corporation controlled by such domestic corporation; or

(4) The termination of the provision of the plan described in paragraph (b)(1)(ii) of this section, for coverage of United States citizens who are employees of foreign subsidiaries covered by an agreement under section 3121(l).

For purposes of subparagraph (3) of this paragraph, a corporation is considered to be controlled by a domestic corporation if such domestic corporation owns directly or indirectly more than 50 percent of the voting stock of the corporation.

(e) *Deductibility of contributions*—(1) *In general.* For purposes of applying sections 404 and 405(c) with respect to the deduction for contributions made to or under a pension, profit-sharing, or stock bonus plan described in section 401(a), an annuity plan described in section 403(a), or a bond purchase plan described in section 405(a), by a domestic corporation, or by another corporation which is entitled to deduct its contributions under section 404(a)(3)(B), on behalf of an employee of a foreign subsidiary treated as an employee of the domestic corporation under paragraph (a)(1) of this section—

(i) Except as provided in subdivision (ii) of this subparagraph, no deduction shall be allowed to such domestic corporation or to any other corporation which would otherwise be entitled to deduct its contributions on behalf of such employee under one of such sections;

(ii) There shall be allowed as a deduction from the gross income of the foreign subsidiary which is effectively connected with the conduct of a trade or business within the United States (within the meaning of section 882 and the regulations thereunder) an amount which is allocable and apportionable to such gross income under the rules of § 1.861-8 and which in no event may exceed the amount which (but for subdivision (i) of this subparagraph) would be deductible under section 404 or section 405(c) by the domestic corporation if the individual were an employee of the domestic corporation and if his compensation were paid by the domestic corporation; and

(iii) Any reference to compensation shall be considered to be a reference to the total compensation of such individual (determined by applying paragraph (c)(2) of this section).

(2) *Year of deduction.* Any amount deductible by the foreign subsidiary under section 406(d) and this paragraph shall be deductible for its taxable year with or within which ends the taxable year of the domestic corporation for which the contribution was made.

(3) *Special rules.* Whether contributions to a plan on behalf of an employee of the foreign subsidiary who is treated as an employee of the domestic corporation under paragraph (a)(1) of this section, or whether forfeitures with regard to such employee, will require an inclusion in the income of the domestic corporation or an adjustment in the basis of its stock in the foreign subsidiary, shall be determined in accordance with the rules of general application of subtitle A of chapter 1 of the Code (relating to income taxes). For example, an unreimbursed contribution by the domestic corporation to a plan which meets the requirements of section 401(a) will be treated, to the extent each employee's rights to the contribution are nonforfeitable, as a contribution of capital to the foreign subsidiary to the extent that such contributions are made on behalf of the employees of such subsidiary.

(f) *Treatment as an employee of the domestic corporation under related provisions.* An individual who is treated as an employee of a domestic corporation under paragraph (a)(1) of this section shall also be treated as an employee of such domestic corporation, with respect to the plan having the provision described in paragraph (b)(1)(ii) of this section, for purposes of applying section 72(d) (relating to employees' annuities), section 72(f) (relating to special rules for computing employees' contributions), section 101(b) (relating to employees' death benefits), section 2039 (relating to annuities), and section 2517 (relating to certain annuities under qualified plans) and the regulations thereunder.

(g) *Nonexempt trust.* If the plan of the domestic corporation is a qualified plan described under section 401(a), the fact that a trust which forms a part of such plan is not exempt from tax under section 501(a) shall not affect the treatment of an employee of a foreign subsidiary as an employee of a domestic corporation under section 406(a) and paragraph (a)(1) of this section.

7. Section 1.407-1 is added to read as follows:

§ 1.407-1 Treatment of certain employees of domestic subsidiaries engaged in business outside the United States as employees of the domestic parent corporation.

(a) *Scope*—(1) *General rule.* For purposes of applying the rules in part 1 of subchapter D of chapter 1 of subtitle A of the Code and the regulations thereunder with respect to a pension, profit-sharing, or stock bonus plan described in section 401(a), an annuity plan described in section 403(a), or a bond purchase plan described in section 405(a), of a domestic parent corporation (as defined in paragraph (b)(3)(ii) of this section), an individual who is a citizen of the United States and who is an employee of a domestic subsidiary (as defined in paragraph (b)(3)(i) of this section) of such domestic parent corporation shall be treated as an employee of such domestic parent corporation if the requirements of paragraph (b) of this section are satisfied.

(2) *Cross-references.* For rules relating to nondiscrimination requirements and the determination of compensation, see paragraph (c) of this section. For rules under which termination of the status of an individual as an employee of the domestic parent corporation in certain instances will not be considered as separation from service for certain purposes, see paragraph (d) of this section. For rules regarding deductibility of contributions, see paragraph (e) of this section. For rules regarding treatment of such individual as an employee of the domestic parent corporation under related provisions, see paragraph (f) of this section.

(b) *Application of this section*—(1) *Requirements.* This section shall apply and the employee of the domestic subsidiary shall be treated as an employee of the domestic parent corporation for the purposes set forth in paragraph (a)(1) of this section only if each of the following requirements is satisfied:

(i) The plan, referred to in paragraph (a)(1) of this section, must expressly provide for contributions or benefits for individuals who are citizens of the United States and who are employees of one or more of the domestic subsidiaries of the domestic parent corporation. The plan must apply to every domestic subsidiary.

(ii) Contributions under a funded plan of deferred compensation (whether or not a plan described in section 401(a), 403(a), or 405(a)) must not be provided by any other person with respect to the remuneration paid to such individual by the domestic subsidiary.

(2) *Supplementary rules.* Subparagraph (1)(i) of this paragraph does not modify the requirements for qualification of a plan described in section 401(a), 403(a), or 405(a) and the regulations thereunder. It is not necessary that the plan provide benefits or contributions for all United States citizens who are employees of such domestic subsidiaries. If the plan is amended to cover individuals who are employees by reason of paragraph (a)(1) of this section, the plan will not qualify unless it meets the coverage requirements of section 410(b)(1) (section 401(a)(3), as in effect on September 1, 1974, for plan years to which section 410 does not apply; see § 1.410(a)-2 for the effective dates of section 410), and the nondiscrimination requirements of section 410(a)(4). The administrative rules contained in § 1.401(a)-3(e) (relating to the determination of the contributions or benefits provided by the employer under the Social Security Act) will also apply for purposes of determining whether the plan meets the requirements of section 401. For purposes of subparagraph (1)(ii) of this paragraph, contributions will not be considered as provided under a funded plan merely because the domestic subsidiary employer pays the tax imposed by section 3111 (relating to tax on employers under the Federal Insurance Contributions Act) with respect to such employee or is required under the laws of a foreign jurisdiction to pay social insurance taxes or to make similar payments with respect to the wages paid to the employee.

(3) *Definitions*—(i) *Domestic subsidiary.* For purposes of this section, a corporation shall be treated as a domestic subsidiary for any taxable year only if each of the following requirements is satisfied:

(A) It is a domestic corporation 80 percent or more of the outstanding voting stock of which is owned by another domestic corporation;

(B) 95 percent of more of its gross income for the three-year period immediately preceding the close of its taxable year which ends on or before the close of the taxable year of such other domestic corporation (or for such part of such period during which it was in existence) was derived from sources without the United States, determined pursuant to sections 861 through 864 and the regulations thereunder; and

(C) 90 percent or more of its gross income for such period (or such part) was derived from the active conduct of a trade or business.

If for the period (or part thereof) referred to in (B) and (C) of this subdivision such corporation has no gross income, the provisions of (B) and (C) shall be treated as satisfied if it is reasonable to anticipate that, with respect to the first taxable year thereafter for which such corporation has gross income, such provisions will be satisfied.

(ii) *Domestic parent corporation.* The domestic parent corporation of any domestic subsidiary is the domestic corporation which owns 80 percent or more of the outstanding voting stock of such domestic subsidiary.

(c) *Special rules*—(1) *Nondiscrimination requirements.* For purposes of applying sections 401(a)(4) and 410(b)(1)(B) (section 401(a)(3)(B), as in effect on September 1, 1974, for plan years to which section 410 does not apply) and the regulations thereunder (relating to nondiscrimination concerning benefits and contributions and coverage of employees) with respect to an employee of the domestic subsidiary who is treated as an employee of the domestic parent corporation under paragraph (a)(1) of this section—

(i) If the employee is an officer, shareholder, or (with respect to plan years to which section 410 does not apply) a person whose principal duties consist in supervising the work of other employes of the domestic subsidiary of the domestic parent corporation, he shall be treated as having such capacity with respect to the domestic parent corporation; and

(ii) The determination as to whether the employee is a highly compensated employee shall be made by comparing his total compensation (determined under subparagraph (2) of this paragraph with the compensation of all the employees of the domestic parent corporation (including individuals treated as employees of the domestic parent corporation pursuant to section 407 and this section).

(2) *Determination of compensation.* For purposes of applying section 401(a)(5) and the regulations thereunder, relating to classifications that will not be considered discriminatory, with respect to an employee of the domestic subsidiary who is treated as an employee of the domestic parent corporation under paragraph (a)(1) of this section—

(i) The sum of the total compensation of the employee shall be the remuneration of the employee from the domestic subsidiary (including any allowances that are paid to the employee because of his employment in a foreign country) which would constitute his total compensation if his services had been performed for such domestic parent corporation; and

(ii) The basic or regular rate of compensation of the employee shall be determined for the employee in the same manner as it is determined under section 401 for other employees of the domestic parent corporation.

(d) *Termination of status as deemed employee not to be treated as separation from service for purposes of capital gain provisions and limitation of tax.* For purposes of applying the rules, relating to

V 42 163 AUG 23 77 UM

treatment of certain distributions which are made after an employee's separation from service, set forth in section 72(n) as in effect on September 1, 1974 (with respect to taxable years ending after December 31, 1969, and to which section 402(e) does not apply), and in sections 402(a)(2) and (e) and 403(a)(2) (with respect to distributions or payments made after December 31, 1973, and in taxable years beginning after December 31, 1973) with respect to an employee of a domestic subsidiary who is treated as an employee of a domestic parent corporation under paragraph (a)(1) of this section, the employee shall not be considered as separated from the service of the domestic parent corporation solely by reason of the occurrence of any one or more of the following events:

(1) The fact that the corporation of which such individual is an employee ceases, for any taxable year, to be a domestic subsidiary within the meaning of paragraph (b)(3)(i) of this section;

(2) The employee's ceasing to be an employee of the domestic subsidiary of such domestic parent corporation, if he becomes an employee of another corporation controlled by such domestic parent corporation; or

(3) The termination of the provision of the plan described in paragraph (b)(1)(i) of this section, requiring coverage of United States citizens who are employees of domestic subsidiaries of the domestic parent corporation.

For purposes of subparagraph (2) of this paragraph, a corporation is considered to be controlled by a domestic parent corporation if the domestic parent corporation owns directly or indirectly more than 50 percent of the voting stock of the corporation.

(e) *Deductibility of contributions*—(1) *In general.* For purposes of applying sections 404 and 405(c) with respect to the deduction for contributions made to or under a pension, profit-sharing, or stock bonus plan described in section 401(a), an annuity plan described in section 403(a), or a bond purchase plan described in section 405(a), by a domestic parent corporation, or by another corporation which is entitled to deduct its contributions under section 404(a)(3)(B), on behalf of an employee of a domestic subsidiary treated as an employee of the domestic parent corporation under paragraph (a)(1) of this section—

(i) Except as provided in subdivision (ii) of this subparagraph, no deduction shall be allowed to the domestic parent corporation which would otherwise be entitled to deduct its contributions on behalf of such employee under one of such sections;

(ii) There shall be allowed as a deduction to the domestic subsidiary of which such individual is an employee an amount equal to the amount which (but for subdivision (i) of this subparagraph) would be deductible under section 404 or section 405(c) by the domestic parent corporation if the individual were an employee of the domestic parent corporation and if his compensation were paid by the domestic corporation; and

(iii) Any reference to compensation shall be considered to be a reference to the total compensation of such individual (determined by applying paragraph (c)(2) of this section).

(2) *Year of deduction.* Any amount deductible by the domestic subsidiary under section 407(d) and this paragraph shall be deductible for its taxable year with or within which ends the taxable year of the domestic parent corporation for which the contribution was made.

(3) *Special rules.* Whether contributions to a plan on behalf of an employee of the domestic subsidiary who is treated as an employee of the domestic parent corporation under paragraph (a)(1) of this section, or whether forfeitures with regard to such employee, will require an inclusion in the income of the domestic parent corporation or an adjustment in the basis of its stock in the domestic subsidiary, shall be determined in accordance with the rules of general application of subtitle A of chapter 1 of the Code (relating to income taxes). For an example, an unreimbursed contribution by the domestic parent corporation to a plan which meets the requirements of section 401(a) will be treated, to the extent each employee's rights to the contribution are nonforfeitable, as a contribution of capital to the domestic subsidiary to the extent that such contributions are made on behalf of the employees of such subsidiary.

(f) *Treatment as an employee of the domestic parent corporation under related provisions.* An individual who is treated as an employee of a domestic parent corporation under paragraph (a)(1) of this section shall also be treated as an employee of such domestic corporation, with respect to the plan having the provision described in paragraph (b)(1)(i) of this section, for purposes of applying section 72(d) (relating to special rules for computing employees' contributions), section 72(f) (relating to special rules for computing employees' contributions), section 101(b) (relating to employees' death benefits), section 2039 (relating to annuities), and section 2517 (relating to certain annuities under qualified plans) and the regulations thereunder.

(g) *Nonexempt trust.* If the plan of the domestic parent corporation is a qualified plan described under section 401(a), the fact that a trust which forms a part of such plan is not exempt from tax under section 501(a) shall not affect the treatment of an employee of a domestic subsidiary as an employee of a domestic parent corporation under section 407(a) and paragraph (a)(1) of this section.

8. Sections 1.411(a)-1 through 1.411(a)-9 are added to read as follows:

§ 1.411(a)-1 Minimum vesting standards; general rules.

(a) *In general.* A plan is not a qualified plan (and a trust forming a part of such plan is not a qualified trust) unless—

(1) The plan provides that an employee's right to his normal retirement benefit (see § 1.411(a)-7(c)) is nonforfeitable (see § 1.411(a)-4) upon and after the attainment of normal retirement age (see § 1.411(a)-7(b)),

(2) The plan provides that an employee's rights in his accrued benefit derived from his own contributions (see § 1.411(c)-1) are nonforfeitable at all times, and

(3) The plan satisfies the requirements of—

(A) Section 411(a)(2) and § 1.411(a)-3 (relating to vesting in accrued benefit derived from employer contributions), and

(B) In the case of a defined benefit plan, section 411(b)(1) and § 1.411(b)-1 (relating to accrued benefit).

(b) *Organization of regulations relating to minimum vesting standards*—(1) *General rules.* This section prescribes general rules relating to the minimum vesting standards provided by section 411.

(2) *Effective dates.* Section 1.411(a)-2 provides rules under section 1017 of the Employee Retirement Income Security Act of 1974 relating to effective dates under section 411.

(3) *Employer contributions.* Section 1.411(a)-3 provides rules under section 411(a)(2) relating to vesting in employer-derived accrued benefits.

(4) *Certain forfeitures.* Section 1.411(a)-4 provides rules under section 411(a)(3) relating to certain permitted forfeitures, suspensions, etc. under qualified plans.

(5) *Nonforfeitable percentage.* Section 1.411(a)-5 provides rules under section 411(a)(4) relating to service included in the determination of an employee's nonforfeitable percentage under section 411(a)(2) and § 1.411(a)-3.

(6) *Years of service; break in service.* Section 1.411(a)-6 provides rules under section 411(a)(5) and (6) of the Internal Revenue Code of 1954 relating to years of service and breaks in service. Rules prescribed by the Secretary of Labor, relating to years of service and breaks in service under part 2 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 are provided under 29 CFR Part 2530 (Department of Labor regulations relating to minimum standards for employee pension benefit plans).

(7) *Definitions and special rules.* Section 1.411(a)-7 provides definitions and special rules under section 411(a)(7), (8), and (9), for purposes of section 411 and the regulations thereunder.

(8) *Changes in vesting schedule.* Section 1.411(a)-8 provides rules under section 411(a)(10) relating to changes in the vesting schedule of a plan.

(9) *Breaks in service.* Section 1.411(a)-9 provides special rules relating to breaks in service.

(10) *Accrued benefits.* See § 1.411(b)-1 for rules under section 411(b) relating to accrued benefit requirements under defined benefit plans.

(11) *Allocation of accrued benefits.* See § 1.411(c)-1 for rules under section 411(c) relating to allocation of accrued benefits between employer and employee contributions.

(12) *Discrimination, etc.* See § 1.411(d)-1 for rules relating to the coordination of section 411 with section 401(a)(4) (relating to discrimination) and other rules under section 411(d).

(c) *Application of standards to certain plans*—(1) *General rule.* Except as provided in subparagraph (2) of this paragraph, section 411 does not apply to—

(i) A governmental plan (within the meaning of section 414(d) and the regulations thereunder),

(ii) A church plan (within the meaning of section 414(e) and the regulations thereunder) which has not made the election provided by section 410(d) and the regulations thereunder,

(iii) A plan which has not provided for employer contributions at any time after September 2, 1974, and

(iv) A plan established and maintained by a society, order, or association described in section 501(c)(8) or (9), if no part of the contributions to or under such plan are made by employers of participants in such plan.

(2) *Vesting requirements.* A plan described in subparagraph (1) of this paragraph shall, for purposes of section 401(a), be treated as meeting the requirements of section 411 if such plan meets the vesting requirements resulting from the application of section 401(a)(4) and section 401(a)(7) as in effect on September 1, 1974.

(d) *Supersession.* Sections 11.411(a)-1 through 11.411(d)-3, inclusive, of the Temporary Income Tax Regulations under the Employee Retirement Income Security Act of 1974 are superseded by this section and §§ 1.411(a)-2 through 1.411(d)-3.

§ 1.411(a)-2 Effective dates.

(a) *Plan not in existence on January 1, 1974.* Under section 1017(a) of the Employee Retirement Income Security Act of 1974, in the case of a plan which was not in existence on January 1, 1974, section 411 and the regulations thereunder apply for plan years beginning after September 2, 1974. See paragraph (c) of this section for time plan is considered in existence.

(b) *Plans in existence on January 1, 1974.* Under section 1017(b) of the Employee Retirement Income Security Act of 1974, in the case of a plan which was in existence on January 1, 1974, section 411 and the regulations thereunder apply for plan years beginning after December 31, 1975. See paragraph (c) of this section for time plan is considered to be in existence.

(c) *Time of plan existence*—(1) *General rule.* For purposes of this section, a plan is considered to be in existence on a particular day if—

(i) The plan on or before that day was reduced to writing and adopted by the employer (including, in the case of a corporate employer, formal approval by the employer's board of directors and, if required, shareholders), even though no amounts had been contributed under the plan as of such day, and

(ii) The plan was not terminated on or before that day

For example, if a plan was adopted on January 2, 1974, effective as of January 1, 1974, the plan is not considered to have been in existence on January 1, 1974, because it was not both adopted and in writing on January 1, 1974.

(2) *Collectively-bargained plan.* Notwithstanding paragraph (c)(1) of this section, a plan described in section 413(a), relating to a plan maintained pursuant to a collective-bargaining agreement, is considered to be in existence on a particular day if—

(i) On or before that day there is a legally enforceable agreement to establish such a plan signed by the employer, and

(ii) The employer contributions to be made to the plan are set forth in the agreement.

(3) *Special rule.* If a plan is considered to be in existence under subparagraph (1) of this paragraph, any other plan with which such existing plan is merged or consolidated shall also be considered to be in existence on such date.

(d) *Existing plans under collective bargaining agreements.* For a special effective date rule for certain plans maintained pursuant to a collective bargaining agreement, see section 1017(c)(1) of the Employee Retirement Income Security Act of 1974 (88 Stat. 932).

(e) *Certain existing plans may elect new provisions.* The plan administrator may elect to have the provisions of the Code relating to participation, vesting, funding, and form of benefit apply to a selected plan year. See § 1.410(a)-2(d) for rules relating to such an election.

(f) *Application of rules.* The requirements of section 411 do not apply to employees who separate from service with the employer prior to the first plan year to which such requirements apply and who never return to service with the employer in a plan year to which section 411 applies.

§ 1.411(a)-3 Vesting in employer-derived benefits.

(a) *In general*—(1) *Alternative requirements.* A plan is not a qualified plan (and a trust forming a part of such plan is not a qualified trust) unless the plan satisfies the requirements of section 411(a)(2) and this section. A plan satisfies the requirements of this section if it satisfies the requirements of paragraph (b), (c), or (d) of this section.

(2) *Composite arrangements.* A plan will not be considered to satisfy the requirements of paragraph (b), (c), or (d) of this section unless it satisfies all requirements of a particular one of such paragraphs with respect to all of an employee's years of service. A plan which, for example, satisfies the requirements of paragraph (b) (but not (c) or (d)) for an employee's first 9 years of service and satisfies the requirements of paragraph (c) (but not (b)) for all of his remaining years of service, does not satisfy the requirements of this section. A plan is not precluded from satisfying the requirement of one such paragraph with respect to one group of employees and another such paragraph with respect to another group provided that the groups are not so structured as to evade the requirements of this paragraph. For example, if plan A provides that employees who commence participation before age 30 are subect to the "rule of 45" vesting schedule and employees who commence participation after age 30 are subject to the full vesting after 10 years schedule, plan A would be so structured as to evade the requirements of this paragraph.

(3) *Plan amendments.* A plan which satifies the requirements of a particular one of such paragraphs for each of an employee's years of service and which is amended so that, as amended, it satisfies the requirements of another such paragraph for all such years of service, satisfies the requirements of this section even though, as amended, it does not satisfy the requirements of the paragraph which were satisfied prior to the amendment. See § 1.411(a)-8 for rules relating to employee election where the vesting schedule is amended.

(b) *10-year vesting.* A plan satisfies the requirements of section 411(a)(2)(A) and this paragraph if an employee who has completed 10 years of service has a nonforfeitable right to 100 percent of his accrued benefit derived from employer contributions.

(c) *5- to 15-year vesting.* A plan satisfies the requirements of section 411(a)(2)(B) and this paragraph if an employee who has completed at least 5 years of service has a nonforfeitable right to a percentage of his accrued benefit derived from employer contribution which percentage is not less than the nonforeitable percentage determined under the following table:

Completed years of service	*Nonforfeitable percentage*
5	25
6	30
7	35
8	40
9	45
10	50
11	60
12	70
13	80
14	90
15 or more	100

(d) *Rule of 45.* A plan satisfies the requirements of section 411(a)(2)(C) and this paragraph if an employee is entitled to the greater of the two percentages determined under paragraph (d)(1) or (2) of this section.

(1) *Age and service test.* An employee who is not separated from the service, who has completed at least 5 years of service, and with respect to whom the sum of his age and years of service equals or exceeds 45, has a nonforfeitable right to a percentage of his accrued benefit derived from employer contributions which is not less than the nonforfeitable percentage corresponding to his number of completed years of service or to the sum of his age and completed years of service (whichever percentage is the lesser) determined under the following table:

Completed years of service	Sum of age and service	Nonforfeitable percentage
5	45 or 46	50
6	47 or 48	60
7	49 or 50	70
8	51 or 52	80
9	53 or 54	90
10 or more	55 or more	100

(2) *Service test.* An employee who has completed at least 10 years of service has a nonforfeitable right to a percentage of his accrued benefit derived from employer contributions determined under the following table:

Completed years of service	Nonforfeitable percentage
10	50
11	60
12	70
13	80
14	90
15	100

(3) *Computation of age.* For purposes of subparagraph (1) of this paragraph, the age of an employee is his age on his last birthday.

(e) *Examples.* The rules provided by this section are illustrated by the following examples:

Example (1). Plan B provides that each employee's rights to his employer-derived accrued benefit are nonforfeitable as follows:

Completed years of service	Nonforfeitable percentage
2 or less	0
3	30
4	35
5	40
6	45
7	50
8	55
9	60
10	65
11	70
12	75
13	80
14	85
15	100

Plan B does not satisfy the requirements of paragraph (c) of this section (relating to 5–15-year vesting) because the nonforfeitable percentage provided by the plan after completion of 14 years of service (85 percent) is less than the percentage required by paragraph (c) of this section at that time (90 percent). The fact that the nonforfeitable percentage provided by the plan for years prior to the 13th year of service is greater than the percentage required under paragraph (c) of this section is immaterial. The plan fails to satisfy the requirements of paragraph (c) of this section even if it is demonstrated that the value of the vesting provided by the plan to the employee is at least equal to the value of the vesting rate required by that paragraph.

Example (2). Plan C provides for plan participation after the completion of 1 year of service. The plan provides that each employee's rights to his employer-derived accrued benefit are 100 percent nonforfeitable after 10 years of plan participation rather than service. The plan does not satisfy the requirements of paragraph (b) of this section because, under the plan, an employee obtains a 100 percent nonforfeitable right to his employer-derived accrued benefit only after completion of more than 10 years of service.

Example (3). Plan D provides that each employee's rights to his employer-derived accrued benefit are nonforfeitable in accordance with the following schedule:

Completed years of service	Nonforfeitable percentage
0–9	0
10	50
11	60
12	70
13	80
14	90
15	100

The plan does not satisfy the requirements of paragraph (b) of this section after the 9th year of service. It does not satisfy the requirements of paragraph (c) of this section for years prior to the 10th year of service. It does not satisfy the requirements of paragraph (d)(1) of this section for any year of service prior to the 10th year. The plan does not satisfy the requirements of this section because it does not satisfy the requirements of a particular one of the three paragraphs for each of an employee's years of service.

Example (4). Plan G provides that each employee's rights to his employer-derived accrued benefit are 100 percent nonforfeitable upon completion of 5 years of service. The plan satisfies the requirements of paragraphs (b), (c), and (d) of this section and, because it satisfies the requirements of at least one of such paragraphs for all of an employee's years of service, it satisfies the requirements of this section.

§ 1.411(a)–4 Forfeitures, suspensions, etc.

(a) *Nonforfeitability.* Certain rights in an accrued benefit must be nonforfeitable to satisfy the requirements of section 411(a). This section defines the term "nonforfeitable" for purposes of these requirements. For purposes of section 411 and the regulations thereunder, a right to an accrued benefit is considered to be nonforfeitable at a particular time if, at that time and thereafter, it is an unconditional right. Except as provided by paragraph (b) of this section, a right which, at a particular time, is conditioned under the plan upon a subsequent event, subsequent performance, or subsequent forbearance which will cause the loss of such right is a forfeitable right at that time. Certain adjustments to plan benefits such as adjustments in excess of reasonable actuarial reductions, can result in rights being forfeitable. Rights which are conditioned upon a sufficiency of plan assets in the event of a termination or partial termination are considered to be forfeitable because of such condition. However, a plan does not violate the nonforfeitability requirements merely because in the event of a termination an employee does not have any recourse toward satisfaction of his nonforfeitable benefits from other than the plan assets or the Pension Benefit Guaranty Corporation. Furthermore, nonforfeitable rights are not considered to be forfeitable by reason of the fact that they may be reduced to take into account benefits which are provided under the Social Security Act or under any other Federal or State law and which are taken into account in determining plan benefits. To the extent that rights are not required to be nonforfeitable to satisfy the minimum vesting standards, or the nondiscrimination requirements of section 401(a)(4), they may be forfeited without regard to the limitations on forfeitability required by this section. The right of an employee to repurchase his accrued benefit for example under section 411(a)(3)(D), is an example of a right which is required to satisfy such standards. Accordingly, such a right is subject to the limitations on forfeitability. Rights which are required to be prospectively nonforfeitable under the vesting standards are nonforfeitable and may not be forfeited until it is determined that such rights are, in fact, in excess of the vesting standards. Thus, employees have a right to vest in the accrued benefits if they continue in employment of employers maintaining the plan unless a forfeitable event recognized by section 411 occurs. For example, if a plan covered employees in Division A of Corporation X under a plan utilizing a 10-year-100 percent vesting schedule, the plan could not forfeit employees' rights on account of their moving to service in Division B of Corporation X prior to completion of 10 years of service even though employees are not vested at that time.

(b) *Special rules.* For purposes of paragraph (a) of this section a right is not treated as forfeitable—

(1) *Death.* (i) *General rule.* In the case of a participant's right to his employer-derived accrued benefit, merely because such accrued benefit is forfeitable by the participant to the extent it has not been paid or distributed to him prior to his death. This subparagraph shall not apply to a benefit which must be paid to a survivor in order to satisfy the requirements of section 401(a)(11).

(ii) *Employee contributions.* A participant's right in his accrued benefit derived from his own contributions must be nonforfeitable at all times. Such a right is not treated as forfeitable merely because, after commencement of annuity or pension payments in a benefit form provided under the plan, the participant dies without receiving payments equal in amount to his nonforfeitable accrued benefit derived from his contributions determined at the time of commencement.

(2) *Suspension of benefits upon reemployment of retiree.* In the case of certain suspensions of benefits under section 411(a)(3)(B), see regulations prescribed by the Secretary of Labor under 29 CFR Part 2530 (Department of Labor regulations relating to minimum standards for employee pension benefit plans).

(3) *Retroactive plan amendment.* In the case of a participant's right to his employer-derived accrued benefit, merely because such benefit is subject to reduction to the extent provided by a plan amendment described in section 412(c)(8) and the regulations thereunder, which amendment is given retrocative effect in accordance with such section.

(4) *Other forfeiture rules.*—(i) *Withdrawal of mandatory contributions.* For rules allowing forfeitures on account of the withdrawal of mandatory contributions, see § 1.411(a)–7(d)(2) and (3).

(ii) *Class year plans.* For forfeiture rules pertaining to class year plans, see § 1.411(d)–3(b).

(iii) *Additional requirements.* For additional requirements relating to nonforfeitability of benefits in the event of a withdrawal by the employee, see section 401(a)(19) and § 1.401(a)–19.

(5) *Multiemployer plan.* In the case of a multiemployer plan described in section 414(f), merely because an employee's accrued benefit which results from service with an employer before such employer was required to contribute to the plan is forfeitable on account of the cessation of contributions by the employer of the employee. This subparagraph shall not apply to an employee's accrued benefit with respect to an employer which accrued under a plan maintained by that employer prior to the adoption by that employer of the multiemployer plan.

(6) *Lost beneficiary; escheat.* In the case of a benefit which is payable, merely because the benefit is forfeitable on account of the inability to find the participant or beneficiary to whom payment is due, provided that the plan provides for reinstatement of the benefit if a claim is made by the participant or beneficiary for the forfeited benefit. In addition, a benefit which is lost by reason of escheat under applicable state law is not treated as a forfeiture.

(c) *Examples.* The rules of this section are illustrated by the following examples:

Example (1). Corporation A's plan provides that an employee is fully vested in his employer-derived accrued benefit after completion of 5 years of service. The plan also provides that, if an employee works for a competitor he forfeits his rights in the plan. Such provision could result in the forfeiture of an employee's rights which are required to be nonforfeitable under section 411 and therefore the plan would not satisfy the requirements of section 411. If the plan limited the forfeiture to employees who completed less than 10 years of service, the plan would not fail to satisfy the requirements of section 411 because the forfeitures under this provision are limited to rights which are in excess of the minimum required to be nonforfeitable under section 411(a)(2)(A).

Example (2). Plan B provides that if an employee does not apply for benefits within 5 years after the attainment of normal retirement age, the employee loses his plan benefits. Such a plan provision could result in forfeiture of an employee's rights which are required to be nonforfeitable under section 411 and, therefore, the plan would not satisfy the requirements of section 411.

§ 1.411(a)–5 Service included in determination of nonforfeitable percentage.

(a) *In general.* Under section 411(a)(4), for purposes of determining the nonforfeitable percentage of an employee's right to his employer-derived accrued benefit under section 411(a)(2) and § 1.411(a)–3, all of an employee's years of service with an employer or employers maintaining the plan shall be taken into account except that years of service described in paragraph (b) of this section may be disregarded.

(b) *Certain service.* For purposes of paragraph (a) of this section, the following years of service may be disregarded:

(1) *Service before age 22.* (i) In the case of a plan which satisfies the requirements of section 411(a)(2)(A) or (B) (relating to 10-year vesting and 5–15-year vesting, respectively), a year of service completed by an employee before he attains age 22.

(ii) In the case of a plan which does not satisfy the requirements of section 411(a)(2)(A) or (B), a year of service completed by an employee before he attains age 22 if the employee is not a participant (for purposes of section 410) in the plan at any time during such year.

(iii) For purposes of this subparagraph in the case of a plan utilizing computation periods, service during a computation period described in section 411(a)(5)(A) within which the employee attains age 22 may not be disregarded. In the case of a plan utilizing the elapsed time method described in Department of Labor regulations, service on or after the date on which the employee attains age 22 may not be disregarded.

(2) *Contributory plans.* In the case of a plan utilizing computation periods, a year of service completed by an employee under a plan which requires mandatory contributions (within the meaning of section 411(c)(2)(C) and § 1.411(c)–1(c)(4)) to be made by the employee for such year, if the employee does not participate for such year solely because of his failure to make all mandatory contributions to the plan for such year. If the employee contributes any part of the mandatory contributions for the year, such year may not be excluded by reason of this subparagraph. In the case of a plan utilizing the elapsed time method described in Department of Labor regulations, the service which may be disregarded is the period with respect to which the mandatory contribution is not made.

(3) *Plan not maintained.*—(i) *In general.* An employee's years of service with an employer during any period for which the employer did not maintain the plan or a predecessor plan may be disregarded for purposes of section 411(a)(2). Paragraph (b)(3)(ii) of this section provides rules regarding the period prior to the adoption of a plan. Paragraph (b)(3)(iii) of this section provides rules regarding the period after the termination of a plan. Paragraph (b)(3)(iv) of this section provides rules regarding employers who have certain relationships with other employers maintaining the plan.

(ii) *Period prior to adoption.* The period for which a plan is not maintained by an employer includes the period before the plan was established. For purposes of this subdivision, a plan is established on the first day of the plan year in which the plan is adopted even though the plan is adopted after such first day. Except as provided in paragraph (b)(3)(iv) of this section if an employer adopts a plan which has previously been established by another employer or group of employers, the plan is not maintained by the adopting employer prior to the first day of the plan year in which the plan is adopted by the adopting employer. In the case of a transfer of assets or liabilities (including a merger or consolidation) involving two plans maintained by a single employer, the successor (or transferee) plan is treated as if it was established at the same time as the date of the establishment of the earliest component plan. In the case of a plan merger, consolidation, or transfer of plan assets or liabilities involving plans of two or more employers, the successor plan is treated as if it were established on each of the separate dates on which such component plan was established for the employees of each employer. Thus, for example, if employer A establishes a plan January 1, 1970, and employer B establishes a plan January 1, 1980, and the plans were subsequently merged, then the merged plan would be treated as if it were in existence on January 1, 1970, with respect to A's employees and as if it were in existence on January 1, 1980, with respect to B's employees.

(iii) *Period after termination or withdrawal.* The period for which a plan is not maintained by an employer includes the period after the plan is terminated. For purposes of this section, a plan is terminated at the date there is a termination of the plan within the meaning of section 411(d)(3)(A) and the regulations thereunder. Notwithstanding the preceding sentence, if contributions to or under a plan are made after termination, the plan is treated as being maintained until such contributions cease, whether or not accruals are made after such termination. If, after termination of a plan in circumstances under which the employer may be liable to the Pension Benefit Guaranty Corporation under section 4062 of the Act, employer contributions are made to or under the plan to fund benefits accrued at the time of termination, such contributions shall, for purposes of this paragraph, be deemed to be payments in satisfaction of employer liability to such Corporation rather than contributions to or under the plan. In the case of a plan maintained by more than one employer, the period for which the plan is not maintained by the withdrawing employer includes the period after the withdrawal from the plan.

(iv) *Certain employers.* For purposes of this subparagraph—

(A) *Predecessor employers.* Service with a predecessor employer who maintained the plan of the current employer is treated as service with such current employer (see section 414(a)(1) and the regulations thereunder), and certain service with a predecessor employer who did not maintain the plan of the current employer is treated as service with the current employer (see section 414(a)(2) and the regulations thereunder).

(B) *Related employers.* Service with an employer is treated as service for certain related employers for the period during which the employers are related. These related employers include members of a controlled group of corporations (within the meaning of section 1563(a), determined without regard to subsections (a)(4) and

V 42 163 AUG 23 77 UM

(e)(3)(C) thereof) and trades or businesses (whether or not incorporated) which are under common control (see section 414 (b) and (c) and 29 CFR Part 2530, Department of Labor regulations relating to minimum standards for employee pension benefit plans).

(C) *Plan maintained by more than one employer.* Service with an employer who maintains a plan is treated as service for each other employer who maintains that plan for the period during which the employers are maintaining the plan (see section 413 (b)(4) and (c)(3) and 29 CFR Part 2530, Department of Labor regulations relating to minimum standards for employee pension benefit plans).

(v) *Predecessor plan*—(A) *General rule.* In the case of an employee who was covered by a predecessor plan, the time the successor of such plan is maintained for such employee includes the time the predecessor plan was maintained if, as of the later of the time the predecessor plan is terminated or the successor plan is established, the employee's years of service under the predecessor plan are not equalled or exceeded by the aggregate number of consecutive 1-year breaks in service occurring after such years of service. Years of service and breaks in in service, without regard to whether the employee has nonforfeitable rights under the predecessor plan, are determined under section 411(a) (5) and (6) except that years between the termination date of the predecessor plan and the date of establishment of the succcessor plan do not count as years of service.

(B) *Definition of predecessor plan.* For purposes of this section, if—

(1) An employer establishes a retirement plan (within the meaning of section 7476(d)) qualified under subchapter D of chapter 1 of the Code within the 5-year period immediately preceding or following the date another such plan terminates, and

(2) The other plan is terminated during a plan year to which this section applies.

The terminated plan is a predecessor plan with respect to such other plan.

(C) *Example.* The rules provided by this subparagraph are illustrated by the following example:

Example. (1) Employer X's qualified plan A terminated on January 1, 1977. Employer X established qualified plan B on January 1, 1981. Under paragraph (b)(3)(v)(B) of this section, plan A is a predecessor plan with respect to plan B because plan B is established within the 5-year period immediately following the date plan A terminated.

(2) Employee C was not covered by the A plan. Under the general rule in subdivision (v)(A) of this subparagraph, plan B is not maintained until January 1, 1981, with resect to Employee C.

(3) Employee D was covered by the A plan. On December 31, 1976, D had 4 years of service. D had 4 consecutive 1-year breaks in service because, during the years between the termination of plan A and the establishment of plan B, he did not have more than 500 hours of service in any applicable computation period. Because D's consecutive 1-year breaks (4) equal his years of service prior to his breaks (4), plan B is not maintained until January 1, 1981, with respect to employee D.

(4) Employee E was covered by the A plan. On December 31, 1975, E had 6 years of service. E had a 1-year break in service in 1976. E also had 4 consecutive 1-year breaks in service for the period between plan A's termination and plan B's establishment. Because E's years of service (6) are not less than his consecutive 1-year breaks (5), plan B is maintained for E as of the establishment date of plan A.

(4) *Break in service.* A year of service which is not required to be taken into account by reason of a break in service (within the meaning of section 411(a)(6) and § 1.411(a)–6)).

(5) *Service before January 1, 1971.* A year of service completed by an employee prior to January 1, 1971, unless the employee completes at least 3 years of service at any time after December 31, 1970. For purposes of determining if an employee completes 3 years of service, whether or not consecutive, the exceptions of section 411(a)(4) are not applicable. For the meaning of the term "year of service", see regulations prescribed by the Secretary of Labor under 29 CFR Part 2530, relating to minimum standards for employee pension benefit plans.

(6) *Service before effective date.* A year of service completed before the first plan year for which this section applies to the plan, if such service would have been disregarded under the plan rules relating to breaks in service (whether or not such rules are so designated in the plan) as such rules were in effect from time to time under the plan. For this purpose, plan rules which result in the loss of prior vesting or benefit accruals of an employee, or which deny an employee eligibility to participate, by reason of separation or failure to complete a required period of service within a specified period of time (*e.g.*, 300 hours in one year) will be considered break in service rules. See § 1.411(a)–9 for requirements relating to certain amendments to the break in service rules of a plan.

(ii) *Examples.* The rules of this subparagraph are illustrated by the following examples:

Example 1. The A plan in 1971 provides for immediate participation and vesting at normal retirement age. Employees accrue a unit benefit based on their compensation in each year. The plan provides that if an employee is not employed on the last day of the calendar year, he loses all accrued benefits. The requirement of employment on the last day of the year is a break in service rule because emnloyees can lose benefits by reason of their separation. Accordingly, in the case of employees who separate and do not return by the close of the year, service which is completed prior to separation may be disregarded.

Example 2. The B plan in 1971 excludes from plan participation employees who work less than 1200 hours per year. Because years of less than 1200 hours are not taken into account under the B plan for eligibility to participate, such years are excluded under rules relating to breaks in service. Therefore, the years can be disregarded under this subparagraph.

Example 3. The C plan in 1971 provides for immediate participation and provides accruals and vesting credit for 1,200 hours or more in a given year. The plan provides that if a participant works less than 300 hours in a given year, he loses all prior vesting and benefit credits. The 300 hour rule is a break in service rule because the failure to complete 300 hours results in the loss of vesting and prior service credit. The 1,200 hour requirement is not a break in service rule because even though employees do not increase vesting or accrue benefits for service between 300 and 1,200 hours, they can not lose prior vesting or benefits for such service. Accordingly, the C plan can disregard completed years only on account of less than 300 hours of service by an employee.

(c) *Special continuity rule for certain plans.* For special rules for computing years of service in the case of a plan maintained by more than one employer, see 29 CFR Part 2530 (Department of Labor regulations relating to minimum standards for employee pension benefit plans).

§ 1.411(a)–6 Year of service; hour of service; breaks in service.

(a) *Year of service.* Under section 411(a)(5)(A), for purposes of the regulations thereunder, the term "year of service" is defined in regulations prescribed by the Secretary of Labor under section 203(b)(2)(A) of the Employee Retirement Income Security Act of 1974. For special rules applicable to seasonal industries and maritime industries, see regulations prescribed by the Secretary of Labor under subparagraphs (C) and (D) of section 203(b)(2) of the Employee Retirement Income Security Act of 1974.

(b) *Hours of service.* Under section 411(a)(5)(B), for purposes of the regulations thereunder, the term "hours of service" has the meaning provided by section 410(a)(3)(C). See regulations prescribed by the Secretary of Labor under 29 CFR Part 2530, relating to minimum standards for employee pension benefit plans.

(c) *Breaks in service.* Under section 411(a)(6), for purposes of § 1.411(a)–5(b)(4) and of this paragraph—

(1) *In general*—(i) *Year of service after 1-year break in service.* In the case of any employee who has incurred a 1-year break in service, years of service completed before such break are not required to be taken into account until the employee has completed one year of service after his return to service.

(ii) *Defined contribution plan.* In the case of a participant in a defined contribution plan or in an insured defined benefit plan (which plan satisfies the requirements of section 411 (b)(1)(F) and § 1.411(b)–1) who has incurred a 1-year break in service, years of service completed after such break are not required to be taken into account for purposes of determining the nonforfeitable percentage of the participant's right to employer-derived benefits which accrued before such break. This subdivision does not permit years of service completed before a 1-year break in service to be disregarded in determining the nonforfeitable percentage of a participant's right to employer-derived benefits which accrue after such break.

(iii) *Nonvested participants.* In the case of an employee who is a nonvested participant in employer-derived benefits at the time he incurs a 1-year break in service, years of service completed by such participant before such break are not required to be taken into account for purposes of determining the nonforfeitable percentage of his right to employer-derived benefits if at such time the number of consecutive 1-year breaks in service included in his most recent break in service equals or exceeds the aggregate number of his years of service, whether or not consecutive, completed before such break. In the case of a plan utilizing the elapsed time method described in Department of Labor regulations, the condition in the preceding sentence shall be satisfied if the period of severance is at least one year and the consecutive period of severance equals or exceeds his prior period of service, whether or not consecutive, completed before such period of severance. In computing the aggregate number of years of service prior to such break, years of service which could have been disregarded under this subdivision by reason of any prior break in service may be disregarded.

(2) *One-year break in service defined.* The term "1-year break in service" means a calendar year, plan year, or other 12-consecutive month period designated by a plan (and not prohibited under regulations prescribed by the Secretary of Labor) during which the participant has not completed more than 500 hours of service. In the case of a plan utilizing the elapsed time method, the term "1-year break in service" means a 12-consecutive month period beginning on the severance from service date or any anniversary thereof and ending on the next succeeding anniversary of such date; provided, however, that the employee during such 12-consecutive-month period does not complete any hours of service within the meaning of 29 CFR Part 2530.200b–2(a) for the employer or employers maintaining the plan. See regulations prescribed by the Secretary of Labor under 29 CFR Part 2530, relating to minimum standards for employee pension benefit plans.

(d) *Examples.* The rules provided by this section are illustrated by the following examples:

Example (1). (i) X Corporation maintains a defined contribution plan to which section 411 applies. The plan uses the calendar year as the vesting computation period. In 1980, Employee A, who was hired at age 35, separates from the service of X Corporation after completing 4 years of service. At the time of his separation, Employee A had a nonforfeitable right to 25 percent of his employer-derived accrued benefit which was not distributed. In 1985, after incurring 5 consecutive one-year breaks in service, Employee A is re-employed by X Corporation and becomes an active participant in the plan. The plan provides that, for 1985 and all subsequent years, Employee A's previous years of service will not be taken into account for purposes of computing the nonforfeitable percentage of his employer-derived accrued benefit, solely because of his break in service.

(ii) The plan fails to satisfy section 411. Section 411(a)(6)(B) would permit the plan to disregard Employee A's prior service for purposes of computing his nonforfeitable percentage in 1985 only, but such service must be taken into account in subsequent years unless there is another break in service. Under section 411(a)(6)(C), the plan is not required to take Employee A's post-break service into account for purposes of computing his nonforfeitable right to his pre-break employer-derived accrued benefits. This provision, however, would not permit the plan to disregard pre-break service in determining his nonforfeitable right to his benefit accrued after the break. The exception provided by section 411(a)(6)(D) does not apply in the case of a participant who has any nonforfeitable right to his accrued benefit derived from employer contributions.

Example (2). (i) X Corporation maintains a qualified plan to which sections 410 and 411 (relating to minimum participation standards and minimum vesting standards, respectively) apply. The plan permits participation upon completion of a year of service and provides that 100% of an employee's employer-derived accrued benefit vests after 10 years of service. The plan uses the calendar year as the vesting computation period. The plan provides that an employee who completes at least 1,000 hours of service in a 12-month period is credited with a year of service for participation and vesting purposes. The plan also provides that an employee who does not complete more than 500 hours of service in that 12-month period incurs a one-year break in service. The plan includes the rule described in section 411(a)(6)(D) for participation and vesting purposes. Under this rule, an employee's years of service prior to a break in service may be disregarded under certain circumstances if he has no vested right to any employer-derived benefit under the plan. The plan does not contain the rule described in section 411(a)(6)(B) (relating to the requirement of one year of service after a one-year break in service).

(ii) Employee A commences employment with the X Corporation on January 1, 1977. Employee A's employment history for 1977 through 1989 is as follows:

Year ending December 31:	*Hours of service completed*
1977	1,000
1978	800
1979	1,000
1980	400
1981	1,000
1982	0
1983	400
1984	1,000
1985	0
1986	0
1987	500
1988	200
1989	1,000

Employee A's status as a participant during this period is determined as follows:

1978: Employee A was a plan participant on January 1, 1978, because he completed a year of service (1,000 hours) in 1977. He did not complete a year of service in 1978 because he completed fewer than 1,000 hours in that year. Because he completed more than 500 hours of service in 1978, however, Employee A did not incur a one-year break in service that year.

1979: Employee A completes a year of service in 1979. Because he did not incur a one-year break in service in 1978, the plan may not disregard his 1977 service for purposes of determining his years of service as of January 1, 1979.

1980: Employee A incurs a one-year break in service in 1980.

1981: Because Employee A had completed 2 years of service prior to 1981 and had incurred one 1-year break in service prior to 1981, under section 411(a)(6)(D), the plan may not disregard his pre-1980 service in 1981. Employee A completes a year of service in 1981.

1982: Employee A incurs a one-year break in service in 1982.

1983: Employee A incurs a one-year break in service in 1983. As of the end of 1983, he has completed 3 years of service and has incurred 2 consecutive one-year breaks in service.

1984: Employee A completes a year of service in 1984. Under section 411(a)(6)(D), his pre-1982 service may not be disregarded in 1984 because, as of the beginning of 1984, his pre-1984 years of service (3) exceed his consecutive one-year breaks in service (2).

1985–1988: Employee A incurs 4 consecutive one-year breaks in service during the years 1985 through 1988.

1989: Employee A's pre-1989 service is disregarded in 1989 and all subsequent plan years because his years of service as of January 1, 1989, equal the number of consecutive one-year breaks he has incurred as of that date. Therefore, as of the beginning of 1989, Employee A is not a plan participant. Employee A completes a year of service in 1989. (Although section 411(a)(6)(D) does not prohibit the plan provision under which Employee A's pre-1989 service is disregarded, that section does not require such a provision in a qualified plan.)

§ 1.411(a)–7 Definitions and special rules.

(a) *Accrued benefit.* For purposes of section 411 and the regulations thereunder, the term "accrued benefit" means—

(1) *Defined benefit plan.* In the case of a defined benefit plan—

(i) If the plan provides an accrued benefit in the form of an annual benefit commencing at normal retirement age, such accrued benefit, or

(ii) If the plan does not provide an accrued benefit in the form described in subdivision (i) of this subparagraph, an annual benefit commencing at normal retirement age which is the actuarial equivalent (determined under section 411(c)(3) and § 1.411(c)–5) of the accrued benefit determined under the plan. In general, the term "accrued benefits" refers only to pension or retirement benefits. Consequently, accrued benefits do not include ancillary benefits not directly related to retirement benefits such as payment of medical expenses (or insurance premiums for such expenses), disability benefits not in excess of the qualified disability benefit (see section 411 (a)(9) and paragraph (c)(3) of this section), life inusrance benefits payable as a lump sum, incidental death benefits, current life insurance protection, or medical benefits described in section 401(h). For purposes of this paragraph a subsidized early retirement benefit which is provided by a plan is not taken into account, except to the extent of determining the normal retirement benefit under the plan (see section 411(a)(9) and paragraph (c) of this section). The accrued benefit includes any optional settlement at normal retirement age under actuarial assumptions no less favorable than those which would be applied if the employee were terminating his employment at normal retirement age. The accrued benefit does not include any subsidized value in a joint and survivor annuity to the extent that the annual benefit of the joint and survivor

V 42 163 AUG 23 77 UM

annuity does not exceed the annual benefit of a single life annuity.

(2) *Defined contribution plan.* In the case of a defined contribution plan, the balance of the employee's account held under the plan.

(b) *Normal retirement age*—(1) *General rule.* For purposes of section 411 and the regulations thereunder, the term "normal retirement age" means the earlier of—

(i) The time specified by a plan at which a plan participant attains normal retirement age, or

(ii) The later of—

(A) The time the plan participant attains age 65, or

(B) The 10th anniversary of the date the plan participant commences participation in the plan.

If a plan, or the employer sponsoring the plan, imposes a requirement that an employee retire upon reaching a certain age, the normal retirement age may not exceed that mandatory retirement age. The preceding sentence will apply if the employer consistently enforces a mandatory retirement age rule, whether or not set forth in the plan or any related document. For purposes of subdivision (i) of this subparagraph, if an age is not specified by a plan as the normal retirement age, then the normal retirement age under the plan is the earliest age beyond which the participant's benefits under the plan are not greater solely on account of his age or service. For purposes of paragraph (b)(1)(ii)(B) of this section, participation commences on the first day of the first year in which the participant commenced his participation in the plan, except that years which may be disregarded under section 410(a)(5)(D) may be disregarded in determining when participation commenced.

(2) *Examples.* The provisions of this paragraph are illustrated by the following examples:

Example (1). Plan A defines normal retirement age as age 65. Under the plan, benefits payable to participants who retire at or after age 60 are not reduced on account of early retirement. For purposes of section 411 and the vesting regulations, normal retirement age under Plan A is age 65 (determined under subparagraph (1)(i) of this paragraph). This is true even if in operation all participants retire at age 60.

Example (2). Plan B does not specify any age as the normal retirement age. Under the plan, participants who have attained age 55 are entitled to benefits commencing upon retirement but the benefits of participants who retire before attaining age 70 are subject to reduction on account of early retirement. For purposes of section 411 and the vesting regulations the normal retirement age under plan B is the later of (i) age 65, or (ii) the 10th anniversary of the date a plan participant commences participation in the plan (assuming such date is prior to age 70).

Example (3). The facts are the same as in example (2). Employee X first became a participant in Plan B on January 1, 1980 at age 53. His participation continued until December 31, 1980, when he separated from the service with no vested benefits. After incurring 5 consecutive 1-year breaks in service, Employee X again becomes an employee and a plan participant on January 1, 1986, at age 59. For purposes of section 411, Employee X's normal retirement age under Plan B is age 69, the 10th anniversary of the date on which his year of plan participation commenced. His participation in 1980 may be disregarded under the last sentence of paragraph (b)(1) of this section.

(c) *Normal retirement benefit*—(1) *In general.* For purposes of section 411 and the regulations thereunder, the term "normal retirement benefit" means the periodic benefit under the plan commencing upon early retirement (if any) or at normal retirement age, whichever benefit is greater.

(2) *Periodic benefit.* For purposes of subparagraph (1) of this paragraph—

(i) In the case of a plan under which a benefit is payable as an annuity in the same form upon early retirement and at normal retirement age, the greater benefit is determined by comparing the amount of such annuity payments.

(ii) In the case of a plan under which an annuity benefit payable upon early retirement is not in th same form as an annuity benefit payable at normal retirement age, the greater benefit is determined by converting the annuity benefit payable upon early retirement age into the same form of annuity benefit as is payable at normal retirement age and by comparing the amount of the converted early retirement benefit payment with the amount of the normal retirement benefit payment.

(iii) In the case of a plan which is integrated with the Social Security Act or any other Federal or State law, the periodic benefit payable upon and after early retirement age is adjusted for any increases in such benefits occurring on or after early retirement age which are taken into account under the plan. See however, section 401(a)(15) and the regulations thereunder.

(3) *Benefits included.* For purposes of this paragraph, the normal retirement benefit under a plan shall be determined without regard to ancillary benefits not directly related to retirement benefits such as medical benefits or disability benefits not in excess of the qualified disability benefit; see section 411(a)(7) and paragraph (a)(1) of this section. For this purpose, a qualified disability benefit is a disability benefit which is not in excess of the amount of the benefit which would be payable to the participant if he separated from service at normal retirement age.

(4) *Early retirement benefit; social security supplement.* (i) For purposes of this paragraph, the early retirement benefit under a plan shall be determined without regard to any social security supplement.

(ii) For purposes of this subparagraph, a social security supplement is a benefit for plan participants which—

(A) Commences before the age and terminates before the age when participants are entitled to old-age insurance benefits, unreduced on account of age, under title II of the Social Security Act, as amended (see section 202 (a) and (g) of such Act), and

(B) Does not exceed such old-age insurance benefit.

(5) *Special limitation.* If a defined benefit plan bases its normal retirement benefits on employee compensation, the compensation must reflect the compensation which would have been paid for a full year of participation within the meaning of section 411(b)(3). If an employee works less than a full year of participation, the compensation used to determine benefits under the plan for such year of participation must be multiplied by the ratio of the number of hours for a complete year of participation to the number of hours worked in such year. A plan whose benefit formula is computed on a computation base which cannot decrease is not required to adjust employee compensation in the manner described in the previous sentence. Thus, for example, if a plan provided a benefit based on an employee's compensation for his highest five consecutive years or a separate benefit for each year of participation based on the employee's compensation for such year the plan would not have to so adjust compensation. However, if a plan provided a benefit based on an employee's compensation for the employee's last five years or the five highest consecutive years out of the last 10 years, the compensation, would have to be so adjusted. For special rules for applying the limitations on proration of a year of participation for benefit accrual, see regulations prescribed by the Secretary of Labor under 29 CFR Part 2530, relating to minimum standards for employee pension benefit plans.

(6) *Examples.* The provisions of this paragraph are illustrated by the following examples:

Example (1). Plan A provide for a benefit equal to 1% of high 5 years compensation for each year of service and a normal retirement age of 65. The plan also provides for a full unreduced accrued benefit without any actuarial reduction for any employee at age 55 with 30 years of service. Even though the actuarial value of the early retirement benefit could exceed the value of the benefit at the normal retirement age, the normal retirement benefit would not include the greater value of the early retirement benefit because actuarial subsidies are ignored.

Example (2). Plan B provides the following benefits: (1) at normal retirement age 65, $300/mo. for life and (2) at early retirement age 60, $400/mo. for life. The normal retirement benefit is $400/mo., the greater of the benefit payable at normal retirement age ($300) or early retirement ($400).

Example (3). Assume the same facts as example (2) except that the early retirement benefit of $400 is reduced to $300 upon attainment of age 65. If each employee's social security benefit at age 65 is not less than $100, the $100 would be considered to be a social security supplement and would therefore be ignored. Consequently, the normal retirement benefit would be $300.

Example (4). Plan C provides a benefit at normal retirement age equal to 1% per year of service, multiplied by the participant's compensation averaged over the 5 years immediately prior to retirement. An early retirement benefit is provided upon attainment of age 60 equal to the benefit accrued to date of early retirement reduced by 4 percent for each year by which the early retirement date precedes the normal retirement age of 65. Employee A was hired at age 30, participated immediately, and retired at age 65. Employee A's annual compensation was $50,000 between ages 55–60 and was reduced to $33,000 after age 60. The following table indicates the amount of annual benefit that would have been provided by the plan formula if the employee retired at or after after 60:

Age	Final average computed (1)	Percent accrued benefit (2)	Reduction (3)	Annual benefit (4)
60	$50,000	30	0.80	$12,000
61	46,600	31	.84	12,135
62	43,200	32	.88	12,165
63	39,800	33	.92	12,083
64	36,400	34	.96	11,881
65	33,000	35	1.00	11,550

NOTE.—Col. (1) times col. (2) times col. (3) equals col. (4).

The normal retirement benefit is the greater of the benefit payable at normal retirement age or the early retirement benefit. Employee A's normal retirement benefit is $12,165, the greatest annual benefit Employee A would be entitled to.

(d) *Rules relating to certain distributions and cash-outs of accrued benefits*—(1) *In general.* This paragraph sets forth vesting rules applicable to certain distributions from qualified plans and their related trusts (other than class year plans). Subparagraphs (2) and (3) set forth the exceptions to nonforfeitability on account of withdrawal of mandatory contributions provided by section 411(a)(3)(D). When a plan utilizes these exceptions with respect to a given participant's accrued benefit, such accrued benefit is not subject to the cash-out rules or vesting rules of subparagraphs (4) or (5), respectively. Section 411 prescribes certain requirements with respect to accrued benefits under a qualified plan. These requirements would generally not be satisfied if the plan disregarded service in computing accrued benefits even though amounts were distributed on account of such service. Subparagraph (4) of this paragraph sets forth rules under section 411(a)(7)(B) which allow a plan to make distributions and compute accrued benefits without regard to the accrued benefit attributable to the distribution. When a defined contribution plan utilizes this exception with respect to an accrued benefit, the plan is not required to satisfy the rules of subparagraph (5) of this paragraph. Subparagraph (5) of this paragraph sets forth a vesting requirement applicable to certain distributions from defined contribution plans. Subparagraph (6) sets forth other rules which pertain to the distribution rules of this paragraph.

(2) *Withdrawal of mandatory contribution*—(i) *General rule.* In the case of a participant's right to his employer-derived accrued benefit, a right is not treated as forfeitable merely because all or a portion of such benefit may be forfeited on account of the withdrawal by the participant of any amount attributable to his accrued benefit derived from his mandatory contributions (within the meaning of section 411(c)(2)(C) and § 1.411(c)–1) before he has become a 50 percent vested participant (within the meaning of § 1.401(a)–19(b)(2)). For purposes of determining the vested percentage, the plan may disregard service after the withdrawal. For example, assume that a plan utilizes 1000 hours for computing years of service and that for the computation period employee A had 1000 hours of service. If A was 40 percent vested at the beginning of the period but only had 800 hours at the time of the withdrawal, the plan could treat A as only 40 percent vested because service after the withdrawal can be disregarded. On the other hand, if A had 1000 hours at the time of the withdrawal, he must receive a year of service for the computation period, even though service is not taken into account until the end of such period.

(ii) *Plan repayment provision.* (A) Subdivision (i) of this subparagraph shall not apply unless, at the time the amount described in such subdivision is withdrawn by the participant, the plan provides the employee with a right to restoration of his employer-derived accrued benefit to the extent forfeited in accordance with such subdivision upon repayment to the plan of the full amount of the withdrawal.

(B) In the case of a defined benefit plan (as defined in section 414(j)) the restoration of the employee's employer-derived accrued benefit may be conditioned upon repayment of interest on the full amount of the distribution. Such interest shall be computed on the amount of the distribution from the date of such distribution to the date of repayment, compounded annually from the date of distribution, at the rate determined under section 411(c)(2)(C) in effect on the date of repayment. A plan may provide for repayment of interest which is less than the amount determined under the preceding sentence.

(C) In the case of a defined contribution plan (as defined in section 414(i)) the plan repayment provision described in this subparagraph may provide that the employee must repay the full amount of the distribution before the close of the vesting computation period within which the participant has a one-year break in service within the meaning of section 411(a)(6)(C) and § 1.411(a)–6, or in the case of a plan utilizing the elapsed time method described in Department of Labor regulations, before the end of a 12-consecutive month period beginning on the severance from service date or any anniversary thereof and ending on the next succeeding anniversary of such date during which the employee does not complete any hours of service within the meaning of 29 CFR Part 2530.200b–2(a) for the employer or employers maintaining the plan.

(D) A defined contribution plan or a defined benefit plan may require that such repayment be made by the employee not later than the earlier of (*1*) the end of the 2-year period beginning with the employee's resumption of employment covered by the plan, (2) the end of the 5-year period beginning with the date of withdrawal, or (3) in the case of a defined contribution plan, the time described in (C) of this subdivision.

(E) A plan using the break in service rule described in section 410(a)(5)(D) for determining employees' accrued benefits is not required to provide for repayment by an employee whose accrued benefit is disregarded by reason of that rule.

(iii) *Computation of benefit.* In the case of a defined contribution plan, the employer-derived accrued benefit required to be restored by this subparagraph shall not be less than the amount in the account balance of the employee which was forfeited, unadjusted by any subsequent gains or losses.

(iv) *Delayed forfeiture.* A defined contribution plan may, in lieu of the forfeiture and restoration described in this subparagraph, provide that the forfeiture does not occur until the expiration of the time for repayment described in subdivision (ii) of this subparagraph provided that the conditions of this subparagraph are satisfied.

(3) *Withdrawal of mandatory contributions; accruals before September 2, 1974*—(i) *General rule.* In the case of a participant's right to the portion of the employer-derived benefit which accrued prior to September 2, 1974, a right is not treated as forfeitable merely because all or part of such portion may be forfeited on account of the withdrawal by the participant of an amount attributable to his benefit derived from mandatory contributions (within the meaning of section 411(c)(2)(C) and § 1.411(c)–1(c)(4)) made by the participant before September 2, 1974, if the amount so subject to forfeiture is no more than proportional to such amounts withdrawn. This subparagraph shall not apply to any plan to which any mandatory contribution (within the meaning of section 411(c)(2)(C) and § 1.411(c)–1(c)(4)) is made after September 2, 1974.

(ii) *Defined contribution plan.* In the case of a defined contribution plan, the portion of a participant's employer-derived benefit which accrued prior to September 2, 1974, shall be determined on the basis of a separate accounting between benefits accruing before and after such date. Gains, losses, withdrawals, forfeitures, and other credits or charges must be separately allocated to such benefits. Any allocation made on a reasonable and consistent basis prior to September 1, 1977, shall satisfy the requirements of this subdivision.

(iii) *Defined benefit plan.* In the case of a defined benefit plan, the portion of a participant's employer-derived benefit which accrued prior to September 2, 1974, shall be determined in a manner consistent with the determination of an accrued benefit under section 411(b)(1)(D) (see § 1.411(b)–1(c)). Any method of determining such accrued benefit which the Commissioner finds to be reasonable shall satisfy the requirements of this subdivision.

(4) *Certain cash-outs of accrued benefits*—(i) *Involuntary cash-outs.* For

V 42163 AUG 23 77 UM

purposes of determining an employee's right to an accrued benefit derived from employer contributions under a plan, the plan may disregard service performed by the employee with respect to which—

(A) The employee receives a distribution of the present value of his entire nonforfeitable benefit at the time of the distribution,

(B) The portion of such distribution which is attributable to the present value of the employer-derived accrued benefit is not in excess of $1,750.

(C) The distribution is made due to the termination of the employee's participation in the plan, and

(D) The plan has a repayment provision which satisfies the requirements of subdivision (iv) of this subparagraph in effect at the time of the distribution.

A distribution shall be deemed to be made due to the termination of an employee's participation in the plan if it is made no later than the close of the second plan year following the plan year in which such termination occurs. For purposes of determining the entire nonforfeitable benefit, the plan may disregard service after the distribution, as illustrated in subparagraph (2)(i) of this paragraph.

(ii) *Voluntary cash-outs.* For purposes of determining an employee's accrued benefit derived from employer contributions under a plan, the plan may disregard service performed by the employee with respect to which—

(A) The employee receives a distribution of the present value of his nonforfeitable benefit attributable to such service at the time of such distribution,

(B) The employee voluntarily elects to receive such distribution,

(C) The distribution is made on termination of the employee's participation in the plan, and

(D) The plan has a repayment provision in effect at the time of the distribution which satisfies the requirements of subdivision (iv) of this subparagraph.

A distribution shall be deemed to be made on termination of participation in the plan if it is made not later than the close of the second plan year following the plan year in which such termination occurs. For purposes of determining the nonforfeitable benefit, the plan may disregard service after the distribution as illustrated in subparagraph (2)(i) of this subparagraph.

(iii) *Disregard of service.* Service of an employee permitted to be disregarded under subdivision (i) or (ii) of this subparagraph is not required to be taken into account in computing the employee's accrued benefit under the plan. In the case of a voluntary distribution described in subdivision (ii) of this subparagraph which is less than the present value of the employee's total nonforfeitable benefit immediately prior to the distribution, the accrued benefit not required to be taken into account is such total accrued benefit multiplied by a fraction, the numerator of which is the amount of the distribution and the denominator of which is the present value of his total nonforfeitable benefit immediately prior to such distribution. For example, A who is 50 percent vested in an account balance of $1,000 receives a voluntary distribution of $250. The accrued benefit which can be disregarded equals $1,000 times $250/$500, or $500. However, such service may not by reason of this paragraph be disregarded for purposes of determining an employee's years of service under sections 410(a)(3) and 411(a)(4).

(iv) *Plan repayment provision.* (A) A plan repayment provision satisfies the requirements of this subdivision if, under the provision, the accrued benefit of an employee which is disregarded by a plan under subdivision (i) or (ii) of this subparagraph is restored upon repayment to the plan by the employee of the full amount of the distribution. A plan is not required to provide for such repayment unless the employee—

(*1*) Received a distribution which is in a plan year to which section 411 applies (see § 1.411(a)–2), which distribution is less than the present value of his accrued benefit, and

(2) Resumes employment covered under the plan.

For purposes of (*1*) of this subdivision (iv)(A), an employee receives a distribution which is less than the present value of his accrued benefit if any portion of such benefit is forfeitable at the time of such distribution.

(B) A plan may impose the same conditions on repayments for the restoration of employer-derived accrued benefits that are allowed as conditions for restoration of employer-derived accrued benefits upon repayment of mandatory contributions under subparagraph (2)(ii)(B), (C), (D) and (E) of this paragraph.

(v) In the case of a defined contribution plan, the employer-derived accrued benefit required to be restored by this subparagraph shall not be less than the amount in the account balance of the employee, both the amount distributed and the amount forfeited, unadjusted by any subsequent gains or losses. Thus, for example, if an employee received a distribution of $250 when he was 25 percent vested in an account balance of $1,000, upon repayment of $250 the account balance may not be less than $1,000 even if, because of plan losses, the account balance, if not distributed, would have been reduced to $500.

(5) *Vesting requirement for defined contribution plans*—(i) *Application.* The requirements of this subparagraph apply to a defined contribution plan which makes distributions to employees from their accounts attributable to employer contributions at a time when—

(A) Employees are less than 100 percent vested in such accounts, and

(B) Under the plan, employees can increase their percentage of vesting in such accounts after the distributions.

(ii) *Requirements.* In order for a plan, to which this subparagraph applies, to satisfy the vesting requirements of section 411, account balances under the plan (with respect to which percentage vesting can increase) must be computed in a manner which satisfies either subdivision (iii)(A) or (B) of this subparagraph.

(iii) *Permissible methods.* A plan may provide for either of the following methods, but not both, for computing account balances with respect to which percentage vesting can increase and from which distributions are made:

(A)(*1*) A separate account is established for the employee's interest in the plan as of the time of the distribution, and

(2) At any relevant time the employee's vested portion of the separate account is not less than an amount ("X") determined by the formula: $X=P(AB+(R\times D))-(R\times D)$. For purposes of applying the formula: P is the vested percentage at the relevant time; AB is the account balance at the relevant time; D is the amount of the distribution; R is the ratio of the account balance at the relevant time to the account balance after distribution; and the relevant time is the time at which, under the plan, the vested percentage in the account cannot increase.

A plan is not required to provide for separate accounts provided that account balances are maintained under a method that has the same effect as under this subdivision.

(B) At any relevant time the employee's vested portion is not less than an amount ("X") determined by the formula: $X=P(AB+D)-D$. For purposes of applying the formula, the terms have the same meaning as under subdivision (iii)(A)(2) of this subparagraph.

(C) An application of the methods described in subdivisions (iii)(A) and (B) of this subparagraph is illustrated by the following examples:

Example (1). The X defined contribution plan uses the method described in subdivision (iii)(A) of this subparagraph for computing account balances and the break in service rule described in section 411(a)(6)(C) (service after a 1-year break does not increase the vesting percentage in account balances accrued prior to the break). The plan distributes $250 to A when A's account balance prior to the distribution equals $1,000 and he is 25 percent vested. At the time of the distribution, A has not incurred a 1-year break so that his vesting percentage can increase. Six years later, when A is 60 percent vested, he incurs a 1-year break so that his vesting percentage cannot increase. At this time his separate account balance equals $1,500. $R=\frac{\$1,500}{\$750}$ or 2. A's separate account must equal 60 percent ($1,500+(2\times\$250)$) $-(2\times\$250)$ or 60 percent ($1,500+$500)$-$500, or $1,200-$500 equals $700.

Example (2). The Y defined contribution plan uses the method described in subdivision (iii)(B) of this subparagraph for computing account balances and the break in service rule described in section 411(a)(6)(C). The plan distributes $250 to B when B's account balance prior to the distribution equals $1,000 and he is 25 percent vested. At the time of the distribution, B has not incurred a 1-year break so that his vesting percentage can increase. Six years later, when A is 60 percent vested, he incurs a 1-year break so that his vesting percentage cannot increase. At this time his account balance equals $1,500. B's separate account must equal 60 percent ($1,500+$250)$-$250, 60% of $1,750$-$250 equals $800.

(6) *Other rules*—(i) *Distributions on separation or other event.* None of the rules of this paragraph preclude distributions to employees upon separation from service or any other event recognized by the plan for commencing distributions. Such a distribution must, of course, satisfy the applicable qualification requirements pertaining to such distributions. For example, a profit-sharing plan could pay the vested portion of an account balance to an employee when he separated from service, but in order to satisfy section 411 the plan might not be able to forfeit the nonvested account balance until the employee has a 1-year break in service. Similarly, the fact that a plan cannot disregard an accrued benefit attributable to service for which an employee has received a distribution because the plan does not satisfy the cash-out requirements of subparagraph (4) of this paragraph does not mean that the employee's accrued benefit (computed by taking into account such service) cannot be offset by the accrued benefit attributable to the distribution.

(ii) *Joint and survivor requirements.* See § 1.401(a)–11(a)(2) (relating to joint and survivor annuities) for special rules applicable to certain distributions described in this paragraph.

(iii) *Plan repayments.* (A) Under subparagraphs (2) and (4) of this paragraph, a plan may be required to restore accrued benefits in the event of repayment by an employee.

(B) For purposes of applying the limitations of section 415(c) and (e), in the case of a defined contribution plan, the repayment by the employee and the restoration by the employer shall not be treated as annual additions.

(C) In the case of a defined contribution plan, the permissible sources for restoration of the accrued benefit are: income or gain to the plan, forfeitures, or employer contributions. Notwithstanding the provisions of § 1.401–1(b)(1)(ii), contributions may be made for such an accrued benefit by a profit-sharing plan even though there are no profits. In order for such a plan to be qualified, account balances (accrued benefits) generally must correspond to assets in the plan. Accordingly, there cannot be an unfunded account balance. However, an account balance will not be deemed to be unfunded in the case of a restoration if assets for the restored benefit are provided by the end of the plan year following the plan year in which the repayment occurs.

§ 1.411(a)–8 Changes in vesting schedule.

(a) *Requirement of prior schedule.* Under section 411(a)(10)(A), for plan years for which section 411 applies, a plan will be treated as not meeting the minimum vesting standards of section 411(a)(2) if the plan does not satisfy the requirements of this paragraph. If the vesting schedule of a plan is amended, then as of the date such amendment is adopted, the plan satisfies the requirements of this paragraph if, under the plan as amended, in the case of an employee who is a participant on—

(1) The date the amendment is adopted, or

(2) The date the amendment is effective, if later

The nonforfeitable percentage (determined as of such date) of such employee's right to his employer-derived accrued benefit is not less than his percentage computed under the plan without regard to such amendment.

(b) *Election of former schedule*—(1) *In general.* Under section 411(a)(10)(B), for plan years for which section 411 applies, if the vesting schedule of a plan is amended, the plan will not be treated as meeting the minimum vesting standards of section 411(a)(2) unless the plan as amended, provides that each participant whose nonforfeitable percentage of his accrued benefit derived from employer contributions is determined under such schedule, and who has completed at least 5 years of service with the employer, may elect, during the election period, to have the nonforfeitable percentage of his accrued benefit derived from employer contributions determined without regard to such amendment. Notwithstanding the preceding sentence, no election need be provided for any participant whose nonforfeitable percentage under the plan, as amended, at any time cannot be less than such percentage determined without regard to such amendment.

(2) *Election period.* For purposes of subparagraph (1) of this paragraph, the election period under the plan must begin no later than the date the plan amendment is adopted and end no earlier than the latest of the following dates:

(i) The date which is 60 days after the day the plan amendment is adopted,

(ii) The date which is 60 days after the day the plan amendment becomes effective, or

(iii) The date which is 60 days after the day the participant is issued written notice of the plan amendment by the employer or plan administrator.

(3) *Service requirement.* For purposes of subparagraph (1) of this paragraph, a participant shall be considered to have completed 5 years of service if such participant has completed 5 years of service, whether or not consecutive, without regard to the exceptions of section 411(a)(4) prior to the expiration of the election period described in subparagraph (2) of this paragraph. For the meaning of the term "year of service", see regulations prescribed by the Secretary of Labor under 29 CFR Part 2530, relating to minimum standards for employee pension benefit plans.

(4) *Election only by participant.* The election described in subparagraph (1) of this paragraph is available only to an individual who is a participant in the plan at the time such election is made.

(5) *Election may be irrevocable.* A plan, as amended, shall not fail to meet the minimum vesting standards of section 411(a)(2) by reason of section 411(a)(10)(B) merely because such plan provides that the election described in subparagraph (1) of this paragraph is irrevocable.

(6) *Relationship with section 411(a)(2).* The election described in subparagraph (1) of this paragraph is available for a vesting schedule which does not satisfy the requirements of section 411(a)(2) only if under such schedule all participants have a 50 percent nonforfeitable right after 10 years of service, and a 100 percent nonforfeitable right after 15 years of service, in their employer-derived accrued benefit. If the vesting schedule provides less vesting than the percentages required by the preceding sentence, the plan can be amended to provide for such vesting.

(c) *Special rules*—(1) *Amendment of vesting schedule.* For purposes of this section, an amendment of a vesting schedule is each plan amendment which directly or indirectly affects the computation of the nonforfeitable percentage of employees' rights to employer-derived accrued benefits. Consequently, such an amendment, for example, includes each change in the plan which affects either the plan's computation of years of service or of vesting percentages for years of service.

(2) *Aggregation of amendments.* All plan amendments which are: (i) amendments of a vesting schedule within the meaning of subparagraph (1) of this paragraph and (ii) adopted and effective at the same time, shall be deemed to be a single amendment for purposes of applying the rules in paragraphs (a) and (b) of this section.

§ 1.411(a)–9 Amendment of break in service rules; transitional period.

(a) *In general.* Under section 1017(f)(2) of the Employee Retirement Income Security Act of 1974, a plan is not a qualified plan (and a trust forming a part of such plan is not a qualified trust) if the rules of the plan relating to breaks in service are amended, and—

(1) Such amendment is effective after January 1, 1974, and before the effective date of section 411, and

(2) Under such amendment, the nonforfeitable percentage of any employee's right to his employer-derived accrued benefit is less than the lesser of the nonforfeitable percentage of such employee's right to such benefit—

(i) Under the break in service rules provided by section 411(a)(6) and § 1.411(a)–6(c), or

(ii) The greatest such percentage under the plan as in effect on or after January 1, 1974 (provided the break in service rules of the plan were not in violation of any law or rule of law on January 1, 1974).

(b) *Break in service rules.* For purposes of paragraph (a), the term "break in service rules" means the rules provided by a plan relating to circumstances under which a period of an employee's service or plan participation is disregarded, for purposes of determining the extent to which his rights to his accrued benefit under the plan are unconditional, if under such rules such

V 42163 AUG 23 77 UM

service is disregarded by reason of the employee's failure to complete a required period of service within a specified period of time. For this purpose, plan rules which result in the loss of prior vesting or benefit accruals of an employee, or which deny an employee eligibility to participate, by reason of separation or failure to complete a required period of service within a specified period of time (e.g. 300 hours in one year) will be considered break in service rules. For purposes of section 11(b)(3), service described under the plan's break in service rules, as in effect before the effective date of section 411, need not be counted.

9. Section 1.411(b)-1 is added to read as follows:

§ 1.411(b)-1 Accrued benefit requirements.

(a) *Accrued benefit requirements*—(1) *In general.* Under section 411(b), for plan years beginning after the applicable effective date of section 411, rules are provided for the determination of the accrued benefit to which a participant is entitled under a plan. Under a defined contribution plan, a participant's accrued benefit is the balance to the credit of the participant's account. Under a defined benefit plan, a participant's accrued benefit is his accrued benefit determined under the plan. A defined benefit plan is not a qualified plan unless the method provided by the plan for determining accrued benefits satisfies at least one of the alternative methods (described in paragraph (b) of this section) for determining accrued benefits with respect to all active participants under the plan. A defined benefit plan may provide that accrued benefits for participants are determined under more than one plan formula. In such a case, the accrued benefits under all such formulas must be aggregated in order to determine whether or not the accrued benefits under the plan for participants satisfy one of the alternative methods. A plan may satisfy different methods with respect to different classifications of employees, or separately satisfy one method with respect to the accrued benefits for each such classification, provided that such classifications are not so structured as to evade the accrued benefit requirements of section 411(b) and this section. (For example, if a plan provides that employees who commence participation at or before age 40 accrue benefits in a manner which satisfies the 133⅓ percent method of determining accrued benefits and employees who commence participation after age 40 accrue benefits in a manner which satisfies the 3 percent method of determining accrued benefits, the plan would be so structured as to evade the requirements of section 411(b).) A defined benefit plan does not satisfy the requirements of section 411(b) and this section merely because the accrued benefit is defined as the "reserve under the plan". Special rules are provided for the first two years of service by a participant, certain insured defined benefit plans, and certain reductions in accrued benefits due to increasing age or service. In addition, a special rule is provided with respect to accruals for service before the effective date of section 411.

(2) *Cross references*—

(i) *3 percent method.* For rules relating to the 3 percent method of determining accrued benefits, see paragraph (b)(1) of this section.

(ii) *133⅓ percent method.* For rules relating to the 133⅓ percent method of determining accrued benefits, see paragraph (b)(2) of this section.

(iii) *Fractional method.* For rules relating to the fractional method of determining accrued benefits, see paragraph (b)(3) of this section.

(iv) *Accruals before effective date.* For rules relating to accruals for service before the effective date of section 411, see paragraph (c) of this section.

(v) *First 2 years of service.* For special rules relating to determination of accrued benefit for first 2 continuous years of service, see paragraph (d)(1) of this section.

(vi) *Certain insured plans.* For special rules relating to determination of accrued benefit under a defined benefit plan funded exclusively by insurance contracts, see paragraph (d)(2) of this section.

(vii) *Accruals decreased by increasing age or service.* For special rules relating to prohibition of decrease in accrued benefit on account of increasing age or service, see paragraph (d)(3) of this section.

(viii) *Separate accounting.* For rules relating to requirements for separate accounting, see paragraph (e) of this section.

(ix) *Year of participation.* For definition of "year of participation", see paragraph (f) of this section.

(b) *Defined benefit plans.* A defined benefit plan satisfies the requirements of section 411(b)(1) and this paragraph for a plan year to which section 411 and this section apply if it satisfies the requirements of subparagraph (1), (2), or (3) of this paragraph for such year.

(1) *3 percent method*—(i) *General rule.* A defined benefit plan satisfies the requirements of this paragraph for a plan year if, as of the close of the plan year, the accrued benefit to which each participant is entitled, computed as if the participant separated from the service as of the close of such plan year, is not less than 3 percent of the 3 percent method benefit, multiplied by the number of years (not in excess of 33⅓) of his participation in the plan including years after his normal retirement age. For purposes of this subparagraph, the "3 percent method benefit" is the normal retirement benefit to which the participant would be entitled if he commenced participation at the earliest possible entry age for any individual who is or could be a participant under the plan and if he served continuously until the earlier of age 65 or the normal retirement age under the plan.

(ii) *Special rules*—(A) *Compensation.* In the case of a plan providing a retirement benefit based upon compensation during any period, the normal retirement benefit to which a participant would be entitled is determined as if he continued to earn annually the average rate of compensation which he earned during consecutive years of service, not in excess of 10, for which his compensation was the highest. For purposes of this subdivision (A), the number of consecutive years of service used in computing average compensation shall be the number of years of service specified under the plan (not in excess of 10) for computing normal retirement benefits.

(B) *Social security, etc.* For purposes of this subparagraph, for any plan year, social security benefits and all relevant factors used to compute benefits, *e.g.*, consumer price index, are treated as remaining constant as of the beginning of the current plan year for all subsequent plan years.

(C) *Computation in certain cases.* In the case of any plan to which the provisions of section 411(b)(1)(D) and paragraph (c) of this section are applicable, for any plan year the accrued benefit of any participant shall not be less than the accrued benefit otherwise determined under this subparagraph, reduced by the excess of the accrued benefit determined under this subparagraph as of the first day of the first plan year to which section 411 applies over the accrued benefit determined under section 411(b)(1)(D) and paragraph (c) of this section and increased by the amount determined under paragraph (c)(2)(v) of this section.

(iii) *Examples.* The application of this subparagraph is illustrated by the following examples.

Example (1). The M Corporation's defined benefit plan provides an annual retirement benefit commencing at age 65 or $4 per month for each year of participation. As a condition of participation, the plan requires that an employee have attained age 25. The normal retirement age specified under the plan is age 65. The plan provides for no limit on the number of years of credited service. A, age 40, is a participant in the M Corporation's plan.

A has completed 12 years of participation in the plan of the M Corporation as of the close of the plan year. Under subdivision (i) of this subparagraph, the normal retirement benefit commencing at age 65 to which a participant would be entitled if he commenced participation at the earliest possible entry age (25) under the plan and served continuously until normal retirement age (65) is an annual benefit of $1,920 [40×(12×$4)]. Under paragraph (b)(1)(i) of this section, the plan does not satisfy the requirements of this subparagraph unless A has accrued an annual benefit of at least $691 [0.03×($1,920×12)] as of the close of the plan year. Under the M Corporation plan, A is entitled to an accrued benefit of $576 [(12×12)×$4] as of the close of the plan year. Thus, with respect to A, the accrued benefit provided under the M Corporation plan does not satisfy the requirements of this subparagraph.

Example (2). Assume the same facts as in example (1) except that the M Corporation's plan provides that only the first 30 years of participation are taken into account. Under subdivision (i) of this subparagraph, the normal retirement benefit commencing at age 65 to which a participant would be entitled if he commenced participation at the earliest possible entry age (25) and served continuously until normal retirement age (65) is an annual benefit of $1,440 [30×$48]. Under paragraph (b)(1)(i) of this section, the plan does not satisfy the requirements of this subparagraph unless A has accrued an annual benefit of at least $518 [0.03×($1,440×12)] as of the close of the plan year. Under the M Corporation plan, A is entitled to an accrued benefit of $576 [12×$48]. Thus, with respect to A, the accrued benefit provided under the M Corporation plan satisfies the requirements of this subparagraph.

Example (3). The N Corporation's defined benefit plan provides an annual retirement benefit commencing at age 65 of 50 percent of average compensation for the highest 3 consecutive years of compensation for an employee with 25 years of participation. A participant who separates from service before age 65 is entitled to 2 percent of average compensation for the highest 3 consecutive years of compensation for each year of participation not in excess of 25. The plan has no minimum age or service requirement for participation. The normal retirement age specified under the plan is age 65. On December 31, 1990, B, age 40, is a participant in the N Corporation's plan. B began employment with the N Corporation and became a participant in the N Corporation's plan on January 1, 1980. Under this subparagraph, the normal retirement benefit to which a participant would be entitled if he commenced participation at the earliest possible entry age (0) under the plan and served continuously until normal retirement age (65) is 50 percent of average compensation for the highest 3 consecutive years of compensation per year commencing at age 65. Under this subparagraph, B must have accrued an annual benefit of at least 16.5 percent of his highest 3 consecutive years of compensation per year commencing at age 65 [0.03×50 percent of average compensation for the highest 3 consecutive years of compensation × 11] as of the close of the plan year. Under the N Corporation plan, B has accrued an annual benefit of 22 percent of average compensation for his highest 3 consecutive years of compensation per year commencing at age 65. Thus, with respect to B, the accrued benefit under the N Corporation plan satisfies the requirements of this subparagraph.

Example (4). The P Corporation's defined benefit plan provides an annual retirement benefit commencing at age 65 of 50 percent of average compensation for the 3 consecutive years of compensation from the P Corporation next preceding normal retirement age. The plan has no minimum age or service requirement for participation. The normal retirement age under the plan is age 65. On December 31, 1990, C, age 55, separates from service with the P Corporation. C began employment with the P Corporation and became a participant in the P Corporation's plan on January 1, 1980. As of December 31, 1990, C's average compensation for the 3 consecutive years preceding his separation from service is $15,000. Under this subparagraph, the normal retirement benefit to which a participant would be entitled if he commenced participation at the earliest possible entry age (0) under the plan and served continuously until normal retirement age (65) is an annual benefit of 50 percent of average compensation for the 3 consecutive years of compensation from the P corporation next preceding normal retirement age commencing at age 65. C must have accrued an annual benefit of at least $2,475 commencing at age 65 [0.03×(0.50×$15,000)×11] as of his separation from the service with the P Corporation in order for the P Corporation's plan to satisfy the requirements of this subparagraph with respect to C.

Example (5). On December 31, 1985, the R Corporation's defined benefit plan provided an annual retirement benefit commencing at age 65 of $100 for each year of participation, not to exceed 30. As a condition of participation, the plan requires that an employee have attained age 25. The normal retirement age specified under the plan is age 65. The appropriate computation period is the calendar year. On January 1, 1986, the plan is amended to provide an annual retirement benefit commencing at age 65 of $200 for each year of participation (before and after the amendment), not to exceed 30. B, age 40, is a participant in the R Corporation's plan. B has completed 15 years of participation in the plan of the R Corporation as of December 31, 1990. Under paragraph (b)(1)(i) of this section, the normal retirement benefit commencing at age 65 to which a participant would be entitled if he commenced participation at the earliest possible entry age (25) under the plan and served continuously until normal retirement age (65) is an annual benefit of $6,000 [30×200]. Under subdivision (i) of this subparagraph, the plan does not satisfy the requirements of this subparagraph unless B has accrued an annual benefit of at least $2,700 [0.03×$6,000×15] as of December 31, 1990. Under the R Corporation plan, B is entitled to an accrued benefit of $3,000 [$200×15] as of December 31, 1990. Thus, with respect to B, the accrued benefit provided under the R Corporation plan satisfies the requirements of this subparagraph.

Example (6). On December 31, 1995, the J Corporation's defined benefit plan provided an annual retirement benefit commencing at age 65 of $4,800 after 30 years of participation. The normal retirement age specified under the plan is age 65. The appropriate computation period is the calendar year. On January 1, 1996, the plan is amended to provide an annual retirement benefit commencing at age 65 of $6,000. A, age 40, is a participant in the J Corporation's plan since its adoption on January 1, 1986. Under paragraph (b)(1)(i) of this section, on December 31, 1995, the normal retirement benefit commencing at age 65 to which a participant would be entitled if he commenced participation at the earliest possible entry age (0) under the plan and served continuously until normal retirement age (65) is an annual benefit of $4,800. Under paragraph (b)(1)(i) of this section, on January 1, 1996, the normal retirement benefit commencing at age 65 to which a participant would be entitled if he commenced participation at the earliest possible entry age (0) under the plan and served continuously until normal retirement age (65) is an annual benefit of $6,000. Under subdivision (i) of this subparagraph, the plan does not satisfy the requirements of this subparagraph unless A has an accrued benefit on December 31, 1995 of at least $1,440 [$4,800 × 0.03 × 10] and an accrued benefit on January 1, 1996 of at least $1,800 [$6,000 × 0.03 × 10].

Example (7). The X Company's defined benefit plan provides an annual retirement benefit commencing at age 65 of $4 per month for each year of participation (not to exceed 30). As a condition of participation, the plan requires that an employee have attained age 25. The normal retirement age specified under the plan is age 65. D, age 68, is a participant in the X Company's plan. D has completed 20 years of participation in the X Company plan as of the close of the plan year. Under paragraph (b)(1)(i) of this section, the normal retirement benefit commencing at age 65 to which a participant would be entitled if he commenced participation at the earliest possible entry age (25) under the plan and served continuously until normal retirement age (65) is an annual benefit, commencing at age 65, of $1,440 [30 × $48]. Under paragraph (b)(1)(i) of this section, the plan does not satisfy the requirements of this subparagraph unless D has accrued an annual benefit, commencing at age 65, of $864 [0.03 × $1,440 × 20] as of the close of the plan year. Under the X Company plan, D has accured an annual benefit, commencing at age 65, of $960 [20 × $48]. Thus, with respect to D the accrued benefit provided under the X Company plan satisfies the requirements of this subparagraph.

Example (8). Assume the same facts as in example (7) except that for purposes of determining accrued benefits under the plan the X Company's plan disregards all years of participation after normal retirement age. Under paragraph (b)(1)(i) of this section, the normal retirement benefit commencing at age 65 to which a participant would be entitled if he commenced participation at the earliest possible entry age (25) under the plan and served continuously until normal retirement age (65) is an annual benefit of $1,440 [30 × $48]. Under paragraph (b)(1)(i) of this section the plan does not satisfy the requirements of this subparagraph unless D has accrued an annual benefit, commencing at age 65, of $864 [0.03 × $1.440 20] as of the close of the plan year. Under the X Company's plan, D has accrued an annual benefit commencing at age 65, of $816 [17 × $48]. Thus, with respect to D, the accrued benefit provided under the X Company plan does not satisfy the requirements of this subparagraph.

(2) *133⅓ percent rule*—(i) *General rule.* A defined benefit plan satisfies the requirements of this subparagraph for a particular plan year if—

(A) Under the plan the accrued benefit payable at the normal retirement age (determined under the plan) is equal to the normal retirement benefit (determined under the plan), and

(B) The annual rate at which any individual who is or could be a participant can accrue the retirement benefits payable at normal retirement age under the plan for any later plan year cannot be more than 133⅓ percent of the annual rate at which he can accrue benefits for any plan year beginning on or after such particular plan year and before such later plan year.

(ii) *Special rules.* For purposes of this subparagraph—

(A) *Plan amendments.* Any amendment to the plan which is in effect for the current plan year shall be treated as if it were in effect for all other plan years.

(B) *Change in accrual rate.* Any change in an accrual rate which change does not apply to any individual who is or could be a participant in the plan year is disregarded. Thus, for example, if for its plan year beginning January 1, 1980, a defined benefit plan provides an accrued benefit in plan year 1980 of 2 percent of a participant's average compensation for his highest 3 years of compensation for each year of service and provides that in plan year 1981 the accrued benefit will be 3 percent of such average compensation, the plan will not be treated as failing to satisfy the requirements of this subparagraph for plan year 1980 because in plan year 1980 the change in the accrual rate does not apply to any individual who is or could be a

participant in plan year 1980. However, if, for example, a defined benefit plan provided for an accrued benefit of 1 percent of a participant's average compensation for his highest 3 years of compensation for each of the first 10 years of service and 1.5 percent of such average compensation for each year of service thereafter, the plan will be treated as failing to satisfy the requirements of this subparagraph for the plan year even though no participant is actually accruing at the 1.5 percent rate because an individual who could be a participant and who had over 10 years of service would accrue at the 1.5 percent rate, which rate exceeds 133⅓ percent of the 1 percent rate.

(C) *Early retirement benefits.* The fact that certain benefits under the plan may be payable to certain participants before normal retirement age is disregarded. Thus, the requirements of subdivision (i) of this subparagraph must be satisfied without regard to any benefit payable prior to the normal retirement benefit (such as an early retirement benefit which is not the normal retirement benefit (see § 1.411(a)–7(c)).

(D) *Social security, etc.* For purposes of this paragraph, for any plan year, social security benefits and all relevant factors used to compute benefits, *e.g.*, consumer price index, are treated as remaining constant as of the beginning of the current plan year for all subsequent plan years.

(E) *Postponed retirement.* A plan shall not be treated as failing to satisfy the requirements of this subparagraph for a plan year merely because no benefits under the plan accrue to a participant who continues service with the employer after such participant has attained normal retirement age.

(F) *Computation of benefit.* A plan shall not satisfy the requirements of this subparagraph if the base for the computation of retirement benefits changes solely by reason of an increase in the number of years of participation. Thus, for example, a plan will not satisfy the requirements of this subparagraph if it provides a benefit, commencing at normal retirement age, of the sum of (*1*) 1 percent of average compensation for a participant's first 3 years of participation multiplied by his first 10 years of participation (or, if less than 10 his total years of partcipation) and (2) 1 percent of average compensation for a participant's 3 highest years of participation multiplied by each year of participation subsequent to the 10th year.

(iii) *Examples.* The application of this subparagraph is illustrated by the following examples:

Example (1). On January 1, 1980, the R Corporation's defined benefit plan provides for an annual benefit (commencing at age 65) of a percentage of a participant's average compensation for the period of 5 consecutive years of participation for which his compensation is the highest. The percentage is 2 percent for each of the first 20 years of participation and 1 percent per year thereafter. The appropriate computation period is the calendar year. The R Corporation's plan satisfies the requirements of this subparagraph because the 133⅓ percent rule does not restrict subsequent accrual rate decreases.

Example (2). On January 1, 1980, the J Corporation's defined benefit plan provides for an annual benefit (commencing at age 65) of a percentage of a participant's average compensation for the period of his final 5 consecutive years of participation. The percentage is 1 percent for each of the first 5 years of participation; 1½ percent for each of the next 5 years of participation; and 1⅞ percent for each year thereafter. The appropriate computation period is the calendar year. Even though no single accrual rate under the J Corporation's plan exceeds 133⅓ percent of the immediately preceding accrual rate, the J Corporation's plan does not satisfy the requirements of this subparagraph because the rate of accrual for all years of participation in excess of 10 (1⅞ percent) exceeds 133⅓ percent of the rate of accrual for any of the first 5 years of participation (1 percent).

Example (3). On January 1, 1980, the C Corporation's defined benefit plan provides for an annual benefit (commencing at age 65) of a percentage of a participant's average compensation for the period of 3 consecutive years of participation for which his compensation is the highest. The percentage is 2 percent for each of the first 5 years of participation; 1 percent for each of the next 5 years of participation; and 1½ percent for each year thereafter. The appropriate computation period is the calendar year. Even though the average rate of accrual under the C Corporation's plan is not less rapidly than ratably, the C Corporation's plan does not satisfy the requirements of this subparagraph because the rate of accrual for all years of participation in excess of 10 (1½ percent) for any employee who is actually accruing benefits or who could accrue benefits exceeds 133⅓ percent of the rate of accrual for the sixth through tenth years of participation, respectively (1 percent).

(3) *Fractional rule—*(i) *In general.* A defined benefit plan satisfies the requirements of this paragraph if the accrued benefit to which any participant is entitled is not less than the fractional rule benefit multiplied by a fraction (not exceeding 1)—

(A) The numerator of which is his total number of years of participation in the plan, and

(B) The denominator of which is the total number of years he would have participated in the plan if he separated from the service at the normal retirement age under the plan.

(ii) *Special rules.* For purposes of this subparagraph—

(A) *Fractional rule benefit.* The "fractional rule benefit" is the annual benefit commencing at the normal retirement age under the plan to which a participant would be entitled if he continued to earn annually until such normal retirement age the same rate of compensation upon which his normal retirement benefit would be computed. Such rate of compensation shall be computed on the basis of compensation taken into account under the plan (but taking into account average compensation for no more than the 10 years of service immediately preceding the determination). For purposes of this subdivision (A), the normal retirement benefit shall be determined as if the participant had attained normal retirement age on the date any such determination is made.

(B) *Social security, etc.* For purposes of this subparagraph, for any plan year, social security benefits and all relevant factors used to compute benefits, *e.g.*, consumer price index, are treated as remaining constant as of the beginning of the current plan year for all subsequent plan years.

(C) *Postponed retirement.* A plan shall not be treated as failing to satisfy the requirements of this subparagraph merely because no benefits under the plan accrue to a participant who continues service with the employer after such participant has attained normal retirement age under the plan.

(D) *Computation in certain cases.* In the case of any plan to which the provisions of section 411(b)(1)(D) and paragraph (c) of this section are applicable, for any plan year the accrued benefit of any participant shall not be less than the accrued benefit otherwise determined under this subparagraph, reduced by the excess of the accrued benefit determined under this subparagraph as of the first day of the first plan year to which section 411 applies over the accrued benefit determined under section 411(b)(1)(D) and paragraph (c) of this section and increased by the amount determined under paragrah (c)(2)(v) of this section.

(iii) *Examples.* The application of this subparagraph is illustrated by the following examples:

Example (1). The R Corporation's defined benefit plan provides an annual retirement benefit commencing at age 65 of 30 percent of a participant's average compensation for his highest 3 consecutive years of participation. If a participant separates from service prior to normal retirement age, the R Corporation's plan provides a benefit equal to an amount which bears the same ratio to 30 percent of such average compensation as the participant's actual number of years of participation in the plan bears to the number of years the participant would have participated in the plan had he separated from service at age 65. The plan further provides that normal retirement age is age 65. A, age 55, is a participant in the R Corporation's plan for the current year, and A has 15 years of participation in the R Corporation's plan. As of the current year, A's average compensation for his highest 3 years of compensation is $20,000. The R Corporation's plan satisfies the requirements of this subparagraph because if A separates from the service in the current year he will be entitled to an annual benefit of $3,600 commencing at age 65 [0.3×$20,000)×15/25].

Example (2). The J Corporation's defined benefit plan provides a normal retirement benefit of 1 percent per year of a participant's average compensation from the employer. In the case of a participant who separates from service prior to normal retirement age (65), the plan provides that the annual benefit is an amount which is equal to 1 percent of such compensation multiplied by the number of years of plan participation actually completed by the participant. The plan year of the J Corporation's plan is the calendar year. B, age 55, is a participant in the J Corporation's plan for the current year. B became a participant in the J Corporation's plan on January 1, 1980. As of December 31, 1990, B's compensation history is as follows:

Year	Compensation
1980	$17,000
1981	18,000
1982	20,000
1983	20,000
1984	21,000
1985	22,000
1986	23,000
1987	25,000
1988	26,000
1989	29,000
1990	32,000

If B separates from service on December 31, 1990, he would be entitled to an annual benefit of $2,530 commencing at age 65. Because the J Corporation's plan does not limit the number of years of compensation to be taken into account in determining the normal retirement benefit, B's rate of compensation for purposes of determining his normal retirement benefit is $23,600 [$18,000+$20,000+$20,000+$21,000+$22,000+$23,000+$25,000+$26,000+$29,000+$32,000]

10

Under this subparagraph, B's accrued benefit under the J Corporation's plan as of December 31, 1990 must be not less than $2,561 per year commencing at age 65 [0.0' × ($17,000 + $18,000 + $20,000 + $20,000 + $21,000 + $22,000 + $23,000 + $25,000 + $26,000 + $29,000 + $32,000 + ($23,600 × 10)) × 11/21]. Thus, the J Corporation's plan would not satisfy the requirements of this subparagraph.

(c) *Accruals for service before effective date—*(1) *General rule.* For a plan year to which section 411 applies, a defined benefit plan does not satisfy the requirements of section 411(b)(1) and this section unless, under the plan, the accrued benefit of each participant for plan years beginning before section 411 applies is not less than the greater of—

(i) Such participant's accrued benefit (as of the day before section 411 applies) determined under the plan as in effect from time to time prior to September 2, 1974 (without regard to any amendment adopted after such date), or

(ii) One-half of the accrued benefit that would be determined with respect to the participant as of the day before section 411 applies if the participant's accrued benefit were computed for such prior plan years under a method which satisfies the requirements of section 411(b)(1)(A), (B), or (C) and paragraph (b)(1), (2), or (3) of this section. See 29 CFR Part 2530, Department of Labor regulations relating to minimum standards for employee pension benefit plans, for time participation deemed to begin.

(2) *Special rules—*(i) A plan shall not be deemed to fail to satisfy the requirements of section 411(b) and this section merely because the method for computing the accrued benefit of a participant for years of participation prior to the first plan year for which section 411 is effective with respect to the plan is not the same method for computing the accrued benefit of a participant for years of participation subsequent to such plan year.

(ii) For purposes of paragraph (c)(1)(ii) of this section, section 411(b)(1)(A) and paragraphs (b)(1) of this section shall be applied as if the participant separated from service with the employer on the day before the first day of the first plan year to which section 411 applies.

(iii) For purposes of paragraph (c)(1)(ii) of this section, section 411(b)(1)(B) and paragraph (b)(2) of this section shall be applied in the following manner:

(A) Except as provided in (c)(2)(iii)(B) of this section, section 411(b)(1)(B) and paragraph (b)(2) of this section shall be applied as if the participant separated from service with the employer on the day before the first day of the first plan year to which section 411 applies.

(B) In the case that the plan does not satisfy the requirements of section 411(b)(1)(B) and paragraph (b)(2) of this section at any time prior to the day specified in (c)(2)(iii)(A) of this section, the plan shall be deemed revised to the extent necessary to satisfy the requirements of section 411(b)(1)(B) and paragraph (b)(2) of this section for all plan years beginning before the applicable effective date of section 411 and this section. For purposes of the preceding sentence, a plan shall not be deemed revised to the extent necessary to satisfy the requirements of section 411(b)(1)(B) and paragraph (b)(2) of this section for a plan year if the benefit a participant would receive if he were employed until normal retirement age is reduced by such revision or if the revised rate of accrual with respect to such accrued benefit does not otherwise satisfy the requirements of section 411(b)(1)(B) and paragraph (b)(2) of this section.

(iv) For purposes of paragraph (c)(1)(ii) of this section, section 411(b)(1)(C) and paragraph (b)(3) of this section shall be applied as if the participant separated from service on the day before the first day of the first plan year to which section 411 applies.

(v) The excess of the accrued benefit payable at normal retirement age of any participant determined under section 411(b)(1)(A), (B), or (C) (without regard to section 411(b)(1)(D)), and paragraph (b)(1), (2), or (3) of this section (without regard to this paragraph) as of the day before the first day of the first plan year to which section 411 and this section applies over the accrued benefit determined under paragraph (c)(1) of this section shall be accrued in accordance with the provisions of the plan as in effect after the applicable effective date of section 411, as if the plan had been initially adopted on such effective date.

(d) *Special rules—*(1) *First 2 years of service.* Notwithstanding paragraphs (1), (2), and (3) of paragraph (b) of this section, under section 411(b)(1)(E) and this subparagraph, a plan shall not be treated as failing to satisfy the requirements of paragraph (b) of this section solely because the accrual of benefits under the plan does not become effective until the employee has completed 2 continuous years of service. For purposes of this subparagraph, continuous years of service are years of service (within the meaning of section 410(a)(3)(A)) which are not separated by a break in service (within the meaning of section 410(a)(5)). For years of service beginning after such 2 years of service, the accrued benefit of an employee shall not be less than that to which the employee would be entitled if section 411(b)(1)(E) and this subparagraph did not apply. Thus, for example, a plan which otherwise satisfies the requirements of paragraph (b)(2) of this section provides for a rate of accrual of 1 percent of average compensation for the highest 3 years of compensation beginning with the third year of service of a participant shall not be treated as satisfying paragraph (b)(2) of this section because as of the time the employee completes 3 continuous years of service there is no accrual during the first 2 years of service. In addition, a plan which otherwise satisfies the requirements of paragraph (b)(1) of this section and which requires that an employee must attain age 25 and complete 1 year of service prior to becoming a participant will not satisfy the requirements of paragraph (b)(1) of this section if an employee who completes 2 years of service prior to attaining age 25 does not begin accruals immediately upon commencement of participation in the plan. For rules relating to years of service, see 29 CFR part 2530, Department of Labor regulations relating to minimum standards for employee pension benefit plans.

(2) *Certain insured defined benefit plans.* Notwithstanding paragraphs (b)(1), (2), and (3) of this section, a defined benefit plan satisfies the requirements of paragraph (b) of this section if such plan is funded exclusively by the purchase of contracts from a life insurance company and such contracts satisfy the requirements of sections 412(i)(2) and (3) and the regulations thereunder. The preceding sentence is applicable only if an employee's accrued benefit as of any applicable date is not less than the cash surrender value such employee's insurance contracts would have on such applicable date if the requirements of section 412(i)(4), (5), and (6) and the regulations thereunder were satisfied.

(3) *Accrued benefit may not decrease on account of increasing age or service.* Notwithstanding paragraphs (b)(1), (2), and (3) of this section and paragraphs (d)(1) and (2) of this section, a defined benefit plan shall be treated as not satisfying the requirements of paragraph (b) and (d) of this section if the participant's accrued benefit is reduced on account of any increase in his age or years of service. The preceding sentence shall not apply to social security supplements described in § 1.411(a)–7(c)(4).

(e) *Separate accounting.* A plan satisfies the requirements of this paragraph if the requirements of paragraph (e)(1) or (2) of this paragraph are met.

(1) *Defined benefit plan.* In the case of a defined benefit plan, the requirements of this paragraph are satisfied if the plan requires separate accounting for the portion of each employee's accrued benefit derived from any voluntary employee contributions permitted

V 42 163 AUG 23 77 UM

under the plan. For purposes of this subparagraph the term "voluntary employee contributions" means all employee contributions which are not mandatory contributions within the meaning of section 411(c)(2)(C) and the regulations thereunder. See § 1.411(c)-1(b)(1) for rules requiring the determination of such an accrued benefit by the use of a separate account.

(2) *Defined contribution plan.* In the case of a defined contribution plan, the requirements of this paragraph are not satisfied unless the plan requires separate accounting for each employee's accrued benefit. If a plan utilizes the break in service rule of section 411(a)(6)(C), an employee could have different percentages of vesting between pre-break and post-break accrued benefits. In such a case, the requirements of this paragraph are not satisfied unless the plan computes accrued benefits in a manner which takes into account different percentages. A plan which provides separate accounts for pre-break and post-break accrued benefits will be deemed to compute benefits in a reasonable manner.

(f) *Year of participation*—(1) *In general.* This paragraph is inapplicable to a defind contribution plan. For purposes of determining an employee's accrued benefit, a "year of participation" is a period of service determined under regulations prescribed by the Secretary of Labor in 29 CFR Part 2530, relating to minimum standards for employee pension benefit plans.

(2) *Additional rule relating to year of participation.* A trust shall not constitute a qualified trust if the plan of which such trust is a part provides for the crediting of a year of participation, or part thereof, and such credit results in the discrimination prohibited by section 401(a)(4).

(g) *Additional illustrations.* The application of this section may be illustrated by the following example:

Example. (i) The S Corporation established a defined benefit plan on January 1, 1980. The plan provides a minimum age for participation of age 25. The normal retirement age under the plan is age 65. The appropriate computation periods are the calendar year. The plan provides an annual benefit, commencing at age 65, equal to $96 per year of service for the first 25 years of service, and $48 per year of service for each additional year of service.

(ii) The plan of the S Corporation does not satisfy the requirements of section 411(b)(1)(A) and paragraph (b)(1) of this section because the accrued benefit under the plan at some point will be less than the accrued benefit required under section 411(b)(1)(A) and paragraph (b)(1) of this section (i.e., 3 percent × normal retirement benefit × years of participation).

(iii) The plan of the S Corporation does satisfy the requirements of section 411(b)(1)(B) and paragraph (b)(2) of this section because the rate of benefit accrual is equal in each of the first 25 years of service and the rate decreases thereafter.

(iv) The plan of the S Corporation does satisfy the requirements of section 411(b)(1)(C) and paragraph (b)(3) of this section because the accrued benefit under the plan will equal or exceed the normal retirement benefit multiplied by the fraction described in paragraph (b)(3)(i) of this section.

10. Section 1.411(c)-1 is amended to read as follows:

§ 1.411(c)-1 Allocation of accrued benefits between employer and employee contributions.

(a) *Accrued benefit derived from employer contributions.* For purposes of section 411 and the regulations thereunder, under section 411(c)(1), an employee's accrued benefit derived from employer contributions under a plan as of any applicable date is the excess, if any, of—

(1) The total accrued benefit under the plan provided for the employee as of such date, over

(2) The accrued benefit provided for the employee, derived from contributions made by the employee under the plan as of such date.

For computation of accrued benefit derived from employee contributions to a defined contribution plan or from voluntary employee contributions to a defined benefit plan, see paragraph (b) of this section. For computation of accrued benefit derived from mandatory employee contributions to a defined benefit plan, see paragraph (c) of this section.

(b) *Accrued benefit derived from employee contribution to defined contribution plan, etc.* For purposes of section 411 and the regulations thereunder, under section 411(c)(2)(A) the accrued benefit derived from employee contributions to a defined contribution plan is determined under paragraph (b)(1) or (2) of this section, whichever applies. Under section 411(d)(5), the accrued benefit derived from voluntary employee contributions to a defined benefit plan is determined under paragraph (b)(1) of this section.

(1) *Separate accounts maintained.* If a separate account is maintained with respect to an employee's contributions and all income, expenses, gains, and losses attributable thereto, the accrued benefit determined under this subparagraph as of any applicable date is the balance of such account as of such date.

(2) *Separate accounts not maintained.* If a separate account is not maintained with respect to an employee's contributions and the income, expenses, gains, and losses attributable thereto, the accrued benefit determined under this subparagraph is the employee's total accrued benefit determined under the plan multiplied by a fraction—

(i) The numerator of which is the total amount of the employee's contributions under the plan less withdrawals, and

(ii) The denominator of which is the sum of (A) the amount described in paragraph (b)(2)(i) of this section, and (B) the total contributions made under the plan by the employer on behalf of the employee less withdrawals.

For purposes of this subparagraph, contributions include all amounts which are contributed to the plan even if such amounts are used to provide ancillary benefits, such as incidental life insurance, health insurance, or death benefits, and withdrawals include only amounts distributed to the employee and do not reflect the cost of any death benefits under the plan.

(c) *Accrued benefit derived from mandatory employee contributions to a defined benefit plan*—(1) *General rule.* In the case of a defined benefit plan (as defined in section 414(j)) the accrued benefit derived from contributions made by an employee under the plan as of any applicable date is an annual benefit, in the form of a single life annuity (without ancillary benefits) commencing at normal retirement age, equal to the amount of the employee's accumulated contributions (determined under paragraph (c)(3) of this section) multiplied by the appropriate conversion factor (determined under paragraph (c)(2) of this section). Paragraph (e) of this section provides rules for actuarial adjustments where the benefit is to be determined in a form other than the form described in this paragraph.

(2) *Appropriate conversion factor.* For purposes of this paragraph, the term "appropriate conversion factor" means the factor necessary to convert an amount equal to the accumulated contributions to a single life annuity (without ancillary benefits) commencing at normal retirement age and shall be 10 percent for a normal retirement age of 65 years. For other normal retirement ages the appropriate conversion factor shall be the factor as determined by the Commissioner.

(3) *Accumulated contributions.* For purposes of section 411(c) and this section, the term "accumulated contributions" means the total of—

(i) All mandatory contributions made by the employee (determined under paragraph (c)(4) of this section),

(ii) Interest (if any) on such contributions, computed at the rate provided by the plan to the end of the last plan year to which section 411(a)(2) does not apply (by reason of the applicable effective date), and

(iii) Interest on the sum of the amounts determined under paragraphs (c)(3)(i) and (ii) of this section compounded annually at the rate of 5 percent per annum from the beginning of the first plan year to which section 411(a)(2) applies (by reason of the applicable effective date) to the date on which the employee would attain normal retirement age.

For example, if under section 1017 of the Employee Retirement Income Security Act of 1974, section 411(a)(2) of the Code applies for plan years beginning after December 31, 1975, and for plan years beginning before 1975, the plan provided for 3 percent interest on employee contributions, an employee's accumulated contributions would be computed by crediting interest at the rate provided by the plan (3 percent) for plan years beginning before 1976 and by crediting interest at the rate of 5 percent (or another rate prescribed under section 411(c)(2)(D)) thereafter. Section 1017 of the Employee Retirement Income Security Act of 1974 and § 1.411(a)-2 provide the effective dates for the application of section 411(a)(2).

(4) *Mandatory contributions.* For purposes of section 411(c) and this section the term "mandatory contributions" means amounts contributed to the plan by the employee which are required as a condition of his employment, as a condition of his participation in the plan, or as a condition of obtaining benefits (or additional benefits) under the plan attributable to employer contributions. For example, if the benefit derived from employer contributions depends upon a specified level of employee contributions, employee contributions up to that level would be treated as mandatory contributions. Mandatory contributions, otherwise satisfying the requirements of this subparagraph, include amounts contributed to the plan which are used to provide ancillary benefits such as incidental life insurance, health insurance, or death benefits.

(d) *Limitation on accrued benefit.* The accrued benefit derived from mandatory employee contributions under a defined benefit plan (determined under paragraph (c) of this section) shall not exceed the greater of—

(1) The accrued benefit of the employee under the plan, or

(2) The accrued benefit derived from employee contributions determined without regard to any interest under section 411(c)(2)(C) (ii) and (iii) and under paragraphs (c)(3) (ii) and (iii) of this section.

(e) *Actuarial adjustments for defined benefit plans*—(1) *Accrued benefit.* In the case of a defined benefit plan (as defined in section 414(j)) if an employee's accrued benefit is to be determined as an amount other than an annual benefit commencing at normal retirement age, such benefit (determined under section 411(c)(1) and paragraph (a) of this section) shall be the actuarial equivalent of such benefit, as determined by the Commissioner.

(2) *Accrued benefit derived from employee contributions.* In the case of a defined benefit plan (as defined in section 414(j)) if the accrued benefit derived from mandatory contributions made by an employee is to be determined with respect to a benefit other than an annual benefit in the form of a single life annuity (without ancillary benefits) commencing at normal retirement age, such benefit shall be the actuarial equivalent of such benefit (determined under section 411(c)(2)(B) and paragraph (c) of this section) as determined by the Commissioner.

(f) *Suspension of benefits, etc.*—(1) *Suspensions.* No adjustment to an accrued benefit is required on account of any suspension of benefits if such suspension is permitted under section 203(a)(3)(B) of the Employee Retirement Income Security Act of 1974 (88 Stat. 855) (Code section 411(a)(3)(B)).

(2) *Employment after retirement.* No actuarial adjustment to an accrued benefit is required on account of employment after normal retirement age. For example, if a plan with a normal retirement age of 65 provides a benefit of $400 a month payable at age 65, the same $400 benefit (with no upward adjustment) could be paid to an employee who retires at age 68.

11. Sections 1.411(d)-1 through 1.411(d)-3 are added to read as follows:

§ 1.411(d)-1 Coordination of vesting and discrimination requirements. [Reserved]

§ 1.411(d)-2 Termination or partial termination; discontinuance of contributions.

(a) *General rule*—(1) *Required nonforfeitability.* A plan is not a qualified plan (and a trust forming a part of such plan is not a qualified trust) unless the plan provides that—

(i) Upon the termination or partial termination of the plan, or

(ii) In addition, in the case of a plan to which section 412 (relating to minimum funding standards) does not apply, upon the complete discontinuance of contributions under the plan,

the rights of each affected employee to benefits accrued to the date of such termination or partial termination (or, in the case of a plan to which section 412 does not apply, discontinuance), to the extent funded, or the rights of each employee to the amounts credited to his account at such time, are nonforfeitable (within the meaning of § 1.411(a)-4.

(2) *Required allocation.* (i) A plan is not a qualified plan (and a trust forming a part of such plan is not a qualified trust) unless the plan provides for the allocation of any previously unallocated funds to the employees covered by the plan upon the termination or partial termination of the plan (or, in the case of a plan to which section 412 does not apply, upon the complete discontinuance of contributions under the plan). Such provision may be incorporated in the plan at its inception or by an amendment made prior to the termination or partial termination of the plan or the discontinuance of contributions thereunder. In the case of a defined contribution plan under which unallocated forfeitures are held in a suspense account in order to satisfy the requirements of section 415, this subdivision shall not require such plan to provide for allocations from the suspense account to the extent that such allocations would result in annual additions to participants' accounts in excess of amounts permitted under section 415 for the year for which such allocations would be made.

(ii) Any provision for the allocation of unallocated funds which is found by the Secretary of Labor or the Pension Benefit Guaranty Corporation (whichever is appropriate) to satisfy the requirements of section 4044 or section 403(d)(1) of the Employee Retirement Income Security Act of 1974 is acceptable if it specifies the method to be used and does not conflict with the provisions of section 401(a)(4) of the Internal Revenue Code of 1954 and the regulations thereunder. Any allocation of funds required by paragraph (1), (2), (3), or (4)(A) of section 4044(a) of such Act shall be deemed not to result in discrimination prohibited by section 401(a)(4) of the Code (see, however, paragraph (e) of this section). Notwithstanding the preceding sentence, in the case of a plan which establishes subclasses or categories pursuant to section 4044(b)(6) of such Act, the allocation of funds by the use of such subclasses or categories shall not be deemed not to result in discrimination prohibited by the Code. The allocation of unallocated funds may be in cash or in the form of other benefits provided under the plan. However, the allocation of the funds contributed by the employer among the employees need not necessarily benefit all the employees covered by the plan.

(iii) Paragraph (a)(2)(i) and (ii) of this section do not require the allocation of amounts to the account of any employee if such amounts are not required to be used to satisfy the liabilities with respect to employees and their beneficiaries under the plan (see section 401(a)(2)).

(b) *Partial Termination*—(1) *General rule.* Whether or not a partial termination of a qualified plan occurs (and the time of such event) shall be determined by the Commissioner with regard to all the facts and circumstances in a particular case. Such facts and circumstances include: the exclusion, by reason of a plan amendment or severance by the employer, of a group of employees who have previously been covered by the plan; and plan amendments which adversely affect the rights of employees to vest in benefits under the plan.

(2) *Special rule.* If a defined benefit plan ceases or decreases future benefit accruals under the plan, a partial termination shall be deemed to occur if, as a result of such cessation or decrease, a potential reversion to the employer, or employers, maintaining the plan (determined as of the date such cessation or decrease is adopted) is created or increased. If no such reversion is created or increased, a partial termination shall be deemed not to occur by reason of such cessation or decrease. However, the Commissioner may determine that a partial termination of such a plan occurs pursuant to subparagraph (1) of this paragraph for reasons other than such cessation or decrease.

(3) *Effect of partial termination.* If a termination of a qualified plan occurs, the provisions of section 411(d)(3) apply only to the part of the plan that is terminated.

(c) *Termination*—(1) *Application.* This paragraph applies to a plan other than a plan described in section 411(e)(1) (relating to governmental, certain church plans, etc.).

(2) *Plans subject to termination insurance.* For purposes of this section, a plan to which title IV of the Employee Retirement Income Security Act of 1974 applies is considered terminated on a particular date if, as of that date—

(i) The plan is voluntarily terminated by the plan administrator under section 4041 of the Employee Retirement Income Security Act of 1974, or

(ii) The Pension Benefit Guaranty Corporation terminates the plan under

V 42163 AUG 23 77 A UM V

section 4042 of the Employee Retirement Income Security Act of 1974.

For purposes of this subparagraph, the particular date of termination shall be the date of termination determined under section 4048 of such Act.

(3) *Other plans.* In the case of a plan not described in paragraph (c)(2) of this section, a plan is considered terminated on a particular date if, as of that date, the plan is voluntarily terminated by the employer, or employers, maintaining the plan.

(d) *Complete discontinuance*—(1) *General rule.* For purposes of this section, a complete discontinuance of contributions under the plan is contrasted with a suspension of contributions under the plan which is merely a temporary cessation of contributions by the employer. A complete discontinuance of contributions may occur although some amounts are contributed by the employer under the plan if such amounts are not substantial enough to reflect the intent on the part of the employer to continue to maintain the plan. The determination of whether a complete discontinuance of contributions under the plan has occurred will be made with regard to all the facts and circumstances in the particular case, and without regard to the amount of any contributions made under the plan by employees. Among the factors to be considered in determining whether a suspension constitutes a discontinuance are:

(i) Whether the employer may merely be calling an actual discontinuance of contributions a suspension of such contributions in order to avoid the requirement of full vesting as in the case of a discontinuance, or for any other reason;

(ii) Whether contributions are recurring and substantial; and

(iii) Whether there is any reasonable probability that the lack of contributions will continue indefinitely.

(2) *Time of discontinuance.* In any case in which a suspension of a profit-sharing plan maintained by a single employer is considered a discontinuance, the discontinuance becomes effective not later than the last day of the taxable year of the employer following the last taxable year of such employer for which a substantial contribution was made under the profit-sharing plan. In the case of a profit-sharing plan maintained by more than one employer, the discontinuance becomes effective not later than the last day of the plan year following the plan year within which any employer made a substantial contribution under the plan.

(e) *Contributions or benefits which remains forfeitable.* Under section 411(d)(2) and (3), section 411(a) and this section do not apply to plan benefits which may not be provided for designated employees in the event of early termination of the plan under provisions of the plan adopted pursuant to regulations prescribed by the Secretary or his delegate to preclude the discrimination prohibited by section 401(a)(4). Accordingly, in such a case, plan benefits may be required to be reallocated without regard to this section. See § 1.401-4(c).

§ 1.411(d)-3 Other special rules.

(a) *Class year plans*—(1) *General rule.* Under section 411(d)(4), the requirements of section 411(a)(2) for a class year plan shall be deemed to be satisfied if such plan provides that each employee's rights to or derived from employer contributions on his behalf for any plan year are nonforfeitable no later than the end of the 5th plan year following the plan year for which such contributions were made. However, the rights of an employee who separates from service prior to such time, and who is not reemployed in the plan year of separation, may be forfeited. For purposes of section 411 and the regulations thereunder, the term "class year plan" means a profit-sharing, stock bonus, or money purchase plan which provides that the nonforfeitable rights of employees to or derived from employer contributions are determined separately for each plan year.

(2) *Other rules*—(i) *Prohibited forfeiture on withdrawals.* In the case of a class year plan, section 401(a)(19) and the regulations thereunder shall be applied separately to each plan year.

(ii) *Distribution rules.* The rules of § 1.411(a)-7(d) apply to a class year plan. For example, under the rule in § 1.411(a)-7(d)(2)(ii)(D), a class year plan would be permitted to limit the time of repayment to a 5 year period beginning on the date of withdrawal, or under the rule in § 1.411(a)-7(d)(2)(iii), a class year plan would restore the amount of the forfeited account balance in the event of repayment. For purposes of applying subparagraphs (2) and (3) of § 1.411(a)-7(d), relating to withdrawal of mandatory contributions, a withdrawal of employee contributions shall be treated as a withdrawal of such contributions on a plan year by plan year basis in succeeding order of time. Any repayments shall be treated as being on account of plan years in succeeding order of time. For purposes of applying any rule of such paragraph (e.g., paragraph (d)(2)(ii)(C)) the term "one-year break in service" means any plan year in which under subparagraph (1) of this paragraph a class year plan may forfeit an employee's rights.

(iii) *Computation of years for withdrawals.* In applying the requirement of paragraph (a)(1) of this section that rights must be nonforfeitable no later than the end of the fifth plan year following the plan year for which contributions are made, any plan year for which there has been a withdrawal of contributions and no repayment of such contributions (determined as of the last day of the plan year) is not required to count toward the five years. For example, assume that contributions are made for A in 1981 to a calendar year plan. Under the general rule of paragraph (a)(1) of this section, the contributions must be nonforfeitable on December 31, 1986. If in 1982, A withdraws the contributions for 1981, and repays these contributions in 1984, 1982 and 1983 are not required to be counted toward the five years because at the end of each year there is a withdrawal and no repayment of such withdrawal. Accordingly, the plan must provide that A's interest in the contribution for 1981 will be vested on December 31, 1988.

(b) *Prohibition against accrued benefit decrease.* Under section 411(d)(6) a plan is not a qualified plan (and a trust forming a part of such plan is not a qualified trust) if a plan amendment decreases the accrued benefit of any plan participant, unless the plan amendment satisfies the requirements of section 412(c)(8) (relating to certain retroactive amendments) and the regulations thereunder. For purposes of determining whether or not any participant's accrued benefit is decreased, all the provisions of a plan affecting directly or indirectly the computation of accrued benefits which are amended with the same adoption and effective dates shall be treated as one plan amendment. Plan provisions indirectly affecting accrued benefits include, for example, provisions relating to years of service and breaks in service for determining benefit accrual, and to actuarial factors for determining optional or early retirement benefits.

(c) *Rules applicable to section 414(k) plan.* For special rules applicable to defined benefit plans which provide a benefit derived from employer contributions which is based partly on a participant's separate account, see section 414(k) and the regulations thereunder.

12. Sections 1.413-1 and 1.413-2 are added to read as follows:

§ 1.413-1 Special rules for collectively bargained plans.

(a) through (d) [Reserved]

(e) *Vesting.* Section 411 (other than section 411(d)(3) relating to termination or partial termination; discontinuance of contributions) and the regulations thereunder shall be applied as if all employers who have been parties to the collective-bargaining agreement constituted a single employer. The application of any rules with respect to breaks in service under section 411 shall be made under regulations prescribed by the Secretary of Labor. Thus, for example, all the hours which an employee worked for each employer in a collectively-bargained plan would be aggregated in computing the employee's hours of service under the plan. See also 29 CFR Part 2530 (Department of Labor regulations relating to minimum standards for employee pension benefit plans).

§ 1.413-2 Special rules for plans maintained by more than one employer.

(a) through (c) [Reserved]

(d) *Vesting.* Section 411 and the regulations thereunder shall be applied as if all employers who maintain the plan constituted a single employer. The application of any rules with respect to breaks in service under section 411 shall be made under regulations prescribed by the Secretary of Labor. Thus, for example, all the hours which an employee worked for each employer maintaining the plan would be aggregated in computing the employee's hours of service under the plan. See also 29 CFR Part 2530 (Department of Labor regulations relating to minimum standards for employee pension benefit plans).

§ 1.801-8 [Amended]

12. Paragraph (g) of § 1.801-8 is amended by deleting "or (D)" the two places it appears therein and inserting in lieu thereof "(D), or (E)".

13. Section 1.805-7 is amended by revising paragraphs (3) and (4) and adding a new paragraph (5) to paragraph (b) thereof to read as follows:

§ 1.805-7 Pension plan reserves.

* * * * *

(b) *Pension plan reserves defined.*

* * *

(3) Provided for employees of the life insurance company under a plan which for the taxable year meet the requirements of section 401(a)(3), (4), (5), (6), (7), (8), (11), (12), (13), (14), (15), (16), and (19) for the taxable year to which such paragraphs apply. For the purposes of this subparagraph, the term "employees" includes full-time life insurance salesmen treated as employees under section 7701(a)(20);

(4) Purchased to provide retirement annuities for the employees of an organization which (as of the time the contracts were purchased) was an organization described in section 501(c)(3) which was exempt from tax under section 501(a) or was an organization exempt from tax under section 101(6) of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws. The definition of pension plan reserves described in section 805(d)(1)(D) and this paragraph includes only life insurance reserves held under contracts purchased by those organizations described in section 501(c)(3) and exempt from tax under section 501(a), and does not include life insurance reserves held under contracts purchased by organizations described under any other provision of section 501(c). Accordingly, the reserves held under contracts purchased by such other exempt organizations, or by entities not subject to Federal income tax (such as a State, municipality, etc.), shall not be treated as pension plan reserves unless they qualify as such under section 805(d)(1)(A), (B), (C), or (E); or

(5) Purchased under contracts entered into with trusts which (at the time the contracts were entered into) were individual retirement accounts described in section 408(a) or under contracts entered into with individual retirement annuities described in section 408(b).

* * * * *

[FR Doc.77-24092 Filed 8-22-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 0—COMMISSION ORGANIZATION

Editorial Amendment of Part 0 to Reflect a Reorganization of the Common Carrier Bureau

AGENCY: Federal Communications Commission.

ACTION: Amendment of rules.

SUMMARY: This amendment changes the Rules to reflect changes in organization and functions of the Common Carrier Bureau. These changes were necessary to focus and strengthen the Bureau's surveillance activities, to facilitate policy development and coordination, and to improve program management and research activities.

EFFECTIVE DATE: August 22, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mr. H. Walker Feaster, III, Office of the Executive Director, 632-7513.

SUPPLEMENTARY INFORMATION: In the Matter of Editorial Amendment of Part 0 of the Commission's Rules to reflect a reorganization of the Common Carrier Bureau.

ORDER

Adopted: August 12, 1977.

Released: August 16, 1977.

1. Changes in the organization and functions of the Common Carrier Bureau were adopted by the Commission February 4, 1976. Two new divisions were established within the Bureau. Several divisions were renamed, and functional statements were updated. These changes were necessary to focus and strengthen the Bureau's surveillance activities, to facilitate policy development and coordination, and to improve program management and research activities. Part 0 of the Rules and Regulations, which describes the organization of the Commission, is being amended to reflect these changes.

2. The amendments adopted herein pertain to agency organization. The prior notice, procedure and effective date provisions of Section 4 of the Administrative Procedure Act are therefore inapplicable. Authority for the amendments adopted herein is contained in Sections 4(i) and 5(b) of the Communications Act of 1934, as amended, and in Section 0.231(d) of the Commission's Rules.

3. In view of the foregoing, IT IS ORDERED, effective August 22, 1977, that Part 0 of the Rules and Regulations is amended as set forth below.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
R. D. LICHTWARDT,
Executive Director.

1. In Section 0.91, the introductory text, and paragraph (a), (b), (c), (d), (e) and (f) are revised to read as follows:

§ 0.91 Functions of the Bureau.

The Common Carrier Bureau develops, recommends and administers policies and programs for the regulation of the services, facilities, rates and practices of entities which furnish interstate or foreign communications services for hire—whether by wire, radio, cable or satellite facilities—and of ancillary operations related to the provision or use of such services. The Bureau also licenses all radio facilities used for such services, including those dedicated entirely to intrastate use. The Bureau performs the following specific functions:

(a) Advises and makes recommendations to the Commission, or acts for the Commission under delegated authority, in matters pertaining to the regulation and licensing of communications common carriers and ancillary operations. This includes: policy development and coordination; adjudicatory and rule making proceedings, including rate and service investigations, determinations regarding lawfulness of carrier tariffs; action on applications for service, facility and radio authorizations; review of carrier performance; economic research and analysis; administration of Commission accounting and reporting requirements; compliance and enforcement activities.

(b) Participates in all phases of international conferences concerning common carrier and related matters and in the implementation of international agreements.

(c) Collaborates with representatives of state regulatory commissions and with the National Association of Regulatory Utility Commissioners in cooperative studies of common carrier and related matters.

(d) Advises the Commission on policy and technical matters regarding the use of satellites and related facilities for both common carrier and ancillary communications services.

(e) Advises and assists the public, other government agencies and industry groups on common carrier regulation and related matters.

(f) Exercises such authority as may be assigned or referred to it by the Commission pursuant to Section 5(d) of the Communications Act of 1934, as amended.

* * * * *

2. Sections 0.92 through 0.99 are revised to read as follows:

V 42 163 AUG 23 77 UM

§ 0.92 Units in the Bureau.

(a) Office of the Bureau Chief.
(b) Policy and Rules Division.
(c) Tariff Division.
(d) Facilities and Services Division.
(e) Mobile Services Division.
(f) Economics Division.
(g) Accounting and Audits Division.
(h) Hearing Division.

§ 0.93 Office of the Bureau Chief.

The Office of the Bureau Chief is composed of the Bureau Chief, the Deputy Bureau Chief, an Assistant Bureau Chief-International, an Assistant Chief-Management, a Program Evaluation Staff, an International Programs Staff and an Administrative Office. They assist the Chief of the Bureau in planning, directing, coordinating, executing, and evaluating the functions and programs of the Bureau.

§ 0.94 Policy and rules division.

Develops uniform and integrated policies for the regulation of domestic and international communication common carriers.

(a) Develops new policies to provide a framework for the orderly growth of the common carrier industry to meet future communications needs of the nation;

(b) Reviews existing policies and regulations to determine the need for modifications;

(c) Acts on petitions for rule making involving major policy questions;

(d) Prepares precedent setting rule interpretations;

(e) Participates in rule making proceedings and inquiries involving major changes to existing policies and regulations or the development of new policies.

§ 0.95 Tariff division.

Administers the tariff provisions of the Communications Act requiring that the charges, classifications, regulations, and practices of communications common carriers providing interstate and foreign services are just, reasonable and not unduly discriminatory.

(a) Examines tariffs to determine their lawfulness,

(b) Conducts formal or informal investigations of tariff matters.

(c) Establishes and enforces criteria concerning speed, quality, reliability and accuracy of communications services.

(d) Analyzes and disposes of formal and informal complaints regarding charges, adequacy and quality of service and other carrier practices.

§ 0.96 Facilities and services division.

Authorizes and regulates the facilities and services of domestic and international communications common carriers including domestic wireline and microwave, overseas cable and radio, and international and domestic satellites.

(a) Reviews proposals for new services or the modifications of existing services insofar as they impact on facilities.

(b) Examines applications for radio, cable or wireline facilities, through construction or acquisition, and for the construction, launch and operation of space satellites and associated earth stations.

(c) Coordinates frequency assignments.

(d) Issues licenses and other authorizations.

(e) Acts on requests for temporary authority and rule waivers.

(f) Develops and recommends policy, rules, standards, procedures and forms for the authorization and regulation of interstate and foreign communication services.

(g) Participates in adjudicatory hearings on contested and mutually exclusive applications.

(h) Monitors compliance and initiates appropriate enforcement action.

(i) Keeps abreast of technological development and activities in the communications field, and maintains continuing surveillance over the evolution and performance of the domestic and international telecommunication networks.

§ 0.97 Mobile services division.

Authorizes and regulates the domestic common carrier mobile radio services including the domestic public land and aeronautical mobile radio service, the rural radio telephone service and the offshore radio transmission service.

(a) Examines applications from carriers or individuals for new or modified radio facilities;

(b) Coordinates frequency assignments;

(c) Issues licenses and other authorizations;

(d) Acts on requests for temporary or developmental authority, or rule waivers;

(e) Develops and recommends policy, rules, standards, procedures and forms for the authorization and regulation of these services;

(f) Participates in adjudicatory hearings on contested or mutually exclusive applications;

(g) Monitors compliance, acts on complaints and initiates appropriate enforcement action.

§ 0.98 Economics division.

Investigates the economic implications of common carrier regulatory policies and programs and the economic consequences of industry structure and practices. Collects, analyzes and publishes carrier financial operating and other statistical data. Studies and analyzes:

(a) Cost of capital, capital structure and financial policies of carriers;

(b) Customer demand;

(c) Methods for pricing public utility services;

(d) Carrier costs and expenses;

(e) Carrier rates, rate levels, rate bases and rate structures;

(f) Jurisdictional separations and division of revenues;

(g) Carrier depreciation practices.

§ 0.99 Accounting and audits division.

Develops and administers the FCC Uniform Systems of Accounts for communications common carriers, including related Commission requirements for reporting and preservation of records. Monitors carrier compliance with Commission requirements through the review and approval of carrier accounting reports. Conducts a program of comprehensive and selective field audits and investigations of carriers' financial and operating practices, procedures and records.

Sections 0.100 and 0.101 are added to read as follows:

§ 0.100 Hearing division.

Serves as separated trial staff for the Bureau in adjudicatory and rule making proceedings, including rate investigations.

§ 0.101 Field offices.

Common Carrier Bureau field offices are located in Room 1309X, 90 Church Street, New York, New York 10007; and Room 546, 210 Twelfth Street, St. Louis, Mo. 63101.

[FR Doc.77-24324 Filed 8-22-77;8:45 am]

SPECTRUM MANAGEMENT IN THE LAND MOBILE SERVICES

Editorial Amendments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document deletes the requirement that permits the filing of applications in the Chicago Region without evidence of frequency coordination. The amendments will result in the Chicago Region operating under the same procedures as the rest of the continental United States.

EFFECTIVE DATE: September 1, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Richard Breen, Spectrum Management Division, Safety and Special Radio Services Bureau, 202-634-4970.

SUPPLEMENTARY INFORMATION:

ORDER

Adopted: August 11, 1977.

Released: August 12, 1977.

In the matter of inquiry into the practices and procedures for spectrum management in the land mobile services governed by Parts 89, 91, 93 of the Commission's Rules, Docket No. 21229.

1. In its Notice of Inquiry released May 17, 1977, in the above entitled matter, the Commission stated its intention to return to frequency coordination in the Chicago Region. We further stated that an Order would be issued deleting those portions of the rules that permit the filing of applications in the Chicago Region without evidence of frequency coordination.

2. In view of the above, and for the reasons set forth in the Notice of Inquiry in Docket No. 20909, effective September 1, 1977, the Commission will no longer accept applications that are not accompanied either by evidence of frequency coordination or by a field survey in the Chicago Land Mobile Spectrum Management District.

3. Authority for this action is contained in Sections 4 (i) and (j) and 303 (r) of the Communications Act of 1934, as amended. Because the amendments are editorial and procedural in nature, the prior notice and effective date provisions of 5 U.S.C. 553 do not apply.

4. Accordingly, *It is ordered*, effective September 1, 1977, That Parts 89, 91 and 93 of the Rules and Regulations are amended as set out below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
R. D. LICHTWARDT,
Executive Director.

Parts 89, 91 and 93 of Chapter 1 of Title 47 of the Code of Federal Regulations are amended as follows:

PART 89—PUBLIC SAFETY RADIO SERVICES

§ 89.81 [Amended]

1. Section 89.81(g) deleted.

PART 91—INDUSTRIAL RADIO SERVICES

§ 91.67 [Amended]

2. Section 91.67(g) deleted.

PART 93—LAND TRANSPORTATION RADIO SERVICES

§ 93.67 [Amended]

3. Section 93.67(g) deleted.

[FR Doc.77-24268 Filed 8-22-77;8:45 am]

[Docket No. 20547; RM-1773]

PART 91—INDUSTRIAL RADIO SERVICES

Modifying Type Acceptance Requirements for Transmitters in Industrial Radiolocation Service; Correction

AGENCY: Federal Communications Commission.

ACTION: Second correction.

SUMMARY: An errata to correct the appendix in the Report and Order in Docket 20547 so as to: (1) Specify the actual effective date in § 91.109(b)(2); (2) specify the field strength limitations for equipment in the frenquency bands 10,500–10,550 MHz and 23,000–24,250 MHz; and (3) show the proper position of the unit "MHz" under the column heading "Frequency or band".

EFFECTIVE DATE: July 12, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Nevarro C. Elliott, Research and Standards Division, Office of Chief Engineer, 202-632-7093.

In the Matter of amendment of Parts 89, 91, and 93 of the Commission's Rules to modify the type acceptance requirements for transmitters in the Industrial Radiolocation Service, (Docket No. 20547 RM-1773).

SECOND ERRATA

Released: August 17, 1977.

In the Report and Order, FCC 77-358, adopted May 26, 1977, and released June 9, 1977, published at 42 FR 30509, the appendix is corrected as follows:

1. Section 91.109(b) (2) is amended so as to specify the actual effective date.

§ 91.109 Acceptability of transmitters for licensing.

* * * * *

(b) * * *

(1) * * *

(2) Transmitters used at radiolocation stations prior to January 1, 1978.

* * * * *

2. Sections 91.604 (a) and (b) are amended so as to specify field strength limitations for equipment operating in the frequency bands 10,500–10,550 MHz and 23,000–24,500 MHz and to show the proper position of the unit "MHz" under the column heading "Frequency or band".

§ 91.604 Frequencies available.

(a) * * *

Frequency or band (megahertz)	Class of station(s)	Limitation(s)
*	*	*
2150-2500	do	3, 20, 21, 22
10,500-10,550	do	12, 20, 21, 23, 24
23,000-24,250	do	17, 20, 21, 23, 24
*	*	*

(b) * * *

(24) Devices designed to operate as field disturbance sensors on frequencies between 10,500 and 10,550 MHz and between 23,000 and 24,250 MHz, with a field strength equal to or less than 250,000 microvolts per meter at 30 meters, on the fundamental frequency, will not be licensed or type accepted for use under this part. Such equipment must comply with the requirements for field disturbance sensors as set forth in Subpart F of Part 15 of this Chapter.

* * * * *

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-24325 Filed 8-22-77;8:45 am]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket RNE-1 Notice 2]

PART 210—RAILROAD NOISE EMISSION COMPLIANCE REGULATIONS

AGENCY: Federal Railroad Administration, DOT.

ACTION: Final rule.

SUMMARY: This rule sets forth procedures to insure compliance with the noise emission standards prescribed by the Environmental Protection Agency (EPA) for locomotives and rail cars (40 CFR 201).

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Principal Program Person: Philip J. Brannigan, Office of Safety, 202-426-8686.
Principal Attorney: Anne-Marie Hyland, Office of the Chief Counsel, 202-426-8836.

Examination of written comments: All written comments received in this proceeding are available for examination, in the public docket RNE-1, during regular business hours in Room 5101, Nassiff Building, 400 Seventh Street SW., Washington, D.C.

SUPPLEMENTARY INFORMATION: On November 8, 1976, FRA published a notice of proposed rulemaking (NPRM, 41 FR 49183) setting forth proposed procedures to assure compliance with the EPA Railroad Noise Emission Standards ("EPA standards", 40 CFR 201). As stated in the proposed rule, the EPA standards were published by the EPA on January 14, 1976 (41 FR 2184). They became effective on December 31, 1976. Both the Standards and these compliance regulations are issued pursuant to section 17 of the Noise Control Act of 1972 "(Noise Control Act)" (86 Stat. 1248, 42 U.S.C. 4916). In the development of this final rule, consultations were conducted with EPA as required by section 17(b) of the Noise Control Act.

FRA has received ten comments on the proposed rule, each of which urged significant changes. As a result of these comments, a number of changes have been made. A summary of the comments and FRA's responses follows.

DISCUSSION OF MAJOR COMMENTS

PRELIMINARY ISSUES

Time to Comment. Two commenters stated that the comment period was too short to complete detailed analysis of certain provisions and noted that they reserved the right to comment further. FRA provided the 45 day comment period which is established by Department of Transportation policy as the minimum time for comment on an NPRM. Because of the effective date of the EPA standards, FRA was unable to provide a more lengthly comment period. Two comments that were received after the close of the comment period were reviewed and have been considered fully. FRA's general rules of practice provide procedures for petitions for reconsideration as well as petitions for waiver or amendment of any rule issued by FRA. (See 49 CFR 211, 41 FR 54181 (Dec. 13, 1976)). These additional procedures provide any interested party with the opportunity to express views as to the appropriateness of any FRA regulation, or the need for amendment or revision of any such regulation.

V 42 N 163 AUG 23 77 UM

Inflationary Impact and Regulatory Analysis. Two commenters contended that FRA was required to issue an inflationary impact statement for the proposed rule under Executive Order 11821, Office of Management and Budget Circular No. A–107, and DOT Order 2050.4. The NPRM (at 41 FR 49185) stated that the inflationary impact had been considered pursuant to Executive Order 11821. It was determined that the additional impact resulting from the proposed procedures would not be so costly as to reach the $50 million threshold that determines what actions are to be considered "major proposals" requiring inflationary impact evaluation. The major complaint raised by these commenters concerned testing for compliance with the stationary locomotive noise emission standard by use of a load cell as prescribed in the EPA standards (40 CFR 201.11 and Subpart C to 40 CFR 201). The requirement that locomotives be capable of operating within the prescribed decibel limits when connected to a load cell, and the measurement instrumentation, acoustical environment, and procedures which are to be used in determining such compliance have been established by the EPA. The FRA does not have the authority to alter any of these requirements. Several of the commenters have raised issues related to their ability to comply with the measurement criteria for conducting the load cell test. It was noted that many carriers do not presently have load cell facilities, and that the location of the majority of the load cells on those carriers that do have such facilities will not permit noise measurement in accordance with the measurement criteria established by EPA. These comments have raised several difficult issues which FRA has reviewed and considered in detail. Although this agency does not have the authority to alter any provisions of the EPA standards, in developing this final rule we have attempted to define a regulation which will insure compliance with the EPA standards without placing unreasonable or costly additional burdens on railroads. If existing load cell sites will not permit testing for compliance with the requirements prescribed by the EPA without substantial and costly modification, that issue should be addressed to EPA. FRA will provide the appropriate official of that agency with copies of the relevant comments submitted in this proceeding.

One commenter also contended that a regulatory analysis was required under the policy statement of the Secretary of Transportation published April 16, 1976 (41 FR 16200). Since the issuance of this rule is specifically required by section 17 of the Noise Control Act, the comprehensive regulatory impact evaluation normally required of all proposed rulemaking actions undertaken by agencies comprising the Department of Transportation is not required by the Secretary's policies in this case.

Nevertheless, FRA feels that an appropriate application of the Secretary's policies in this case is to assess the relative costs of alternative means of achieving the results contemplated by the statute in an effort to develop an effective and reasonable implementing regulation. FRA believes that, as a result of changes made in response to the comments received in this proceeding, the final rule issued herein will ensure effective enforcement of the EPA standards without imposing on the railroad industry unreasonable costs in excess of the minimum costs necessary to comply with the statutory intent.

Environmental Impact. One commenter also contended that an environmental impact statement is required under the National Environmental Policy Act (NEPA), 42 USC 4332(2)(c). NEPA requires environmental impact statements on all proposals for "major Federal actions significantly affecting the human environment". The Administrator has determined that this rule making is not a major Federal action since the rule only prescribes additional compliance procedures to assure compliance with the substantive requirements of the EPA standards. In the issuance of those standards, the EPA has considered the environmental impacts of the overall railroad noise emission program.

EPA Standards. EPA suggested that the preamble of the final rule should clearly state that the EPA standards do not require that locomotive consists be composed entirely of locomotives manufactured either before 1980 or after 1979. EPA also suggested that the preamble should state clearly that the EPA standards do not apply to warning devices when operated for the purpose of safety. FRA believes that the wording of section 210.3(b)(3) adequately addresses this issue.

SECTION BY SECTION ANALYSIS

§ 210.3

Some question appears to have arisen as to the scope of applicability of these noise compliance rules. These rules are intended to be coextensive with the EPA standards and the Act. The scope of the EPA standards encompasses all common carriers by railroad, or partly by railroad and partly by water, within the continental United States, that are subject to the Interstate Commerce Act. Locomotives and rail cars used in industrial railroad operations that are conducted solely within an industrial complex would not be subject to these rules. The FRA does not have the authority to limit the applicability of the EPA standards, and cannot except any operations that are common carrier operations subject to the Interstate Commerce Act. Section 210.3 has been amended to reflect the statutory scope of applicability of the EPA standards.

§ 210.7

Who should be responsible for compliance? Three commenters recommended that an industrial railroad not be required to repair or remove from service noise defective equipment belonging to another railroad. The commenters operate and maintain some equipment of their own, but they do not have the capacity or capability to repair and maintain the comparatively large number of cars involved in their interchange operations. A similar problem—lack of capability or adequate capacity to perform repairs on potentially large numbers of cars—exists with many short line railroads. In holding the operator, rather than the owner, responsible for compliance with the EPA standards, it was the intent of FRA to utilize present railroad industry practices concerning the repair of defective equipment.

Currently, when defects are found under the Freight Car Safety Standards or other safety regulations, repairs usually are made by the operating railroad. The car owner is then billed for the repair of defects that are not "handling line caused". In those cases in which correction of the defect would involve extensive repairs to the rail car, alternative procedures can be used to return the equipment to its "home shop" for repairs.

This system recognizes the nature of the rail car fleet which operates on the principle of free interchange of railroad cars among carriers. In addition, it assures the efficient freight car utilization which would be impossible if defective equipment had to be returned to its owner each time even minor repairs are required. The FRA believes that the use of this system for the repair and handling of noise defective equipment is the only practical approach to the enforcement of the EPA standards. Some relief may be provided by the procedures established under § 210.9 for the movement of noise defective equipment. If a car is discovered to be defective while being operated by an industrial railroad or short line carrier that does not have the repair facilities necessary to correct the defect, the car may be moved to the next forward location where the noise can be eliminated.

Must noise defective equipment be stopped en route for inspection? One commenter suggested clarification of whether the rule would require immediate stopping for inspection whenever the railroad has notice that a passby test has shown a noise emission in excess of the EPA standards. Stopping trains en route entails an unreasonable interference with interstate commerce and also could result in safety problems that FRA believes would be more serious than the continued excessive noise emission until the train reaches the next point where it is inspected in the normal course of operations. Section 210.25(c)(3) of the final rule provides that inspections on the basis of a passby test are to be performed at the next recognized inspection point, which would include an initial terminal, terminal, interchange, 500-mile, or crew change inspection point.

§ 210.9(a)

Where must noise defective equipment be repaired? Five commenters objected to the proposed restriction allowing noise defective equipment to be moved only to the nearest location where the noise defect can be eliminated, contending that it was unduly burdensome and unclear.

They noted that the procedure for moving cars with safety defects under the Freight Car Safety Standards is less restrictive.

FRA believes that it is reasonable to allow noise defective equipment to be moved in a defective condition to the next forward facility where repairs can be made. The authority for such movement is similar to that adopted when a highly visible rear end marking device becomes inoperative (see 49 CFR 221.17(a), 42 FR 2321, January 11 1977) and to that included in a recent notice of proposed rulemaking governing movement of a locomotive with an inoperative wheel slip/slide indicator (see 42 FR 2994, January 14, 1977). This provision assures that movement of railroad equipment will not be impeded by a requirement to set out defective cars so as to move them to a closer repair point in the opposite direction. Nevertheless, since the rule prescribes the maximum distance defective equipment may be moved, a carrier also would have the option of moving the defective equipment to a closer facility to the rear. As adopted, the authority for movement of noise defective equipment is somewhat more restrictive than the authority for movement of defective equipment under the Freight Car Safety Standards (49 CFR 215). Under those standards a defective car could be tagged and sent to its "home shop for repairs". The more restrictive limitation in this rule is needed to minimize the noise impact after a violation of the EPA standards is found. We wish to point out that, consistent with the safety rules, movement to the home shop would be allowed after correction of the noise defect. Since equipment maintained in accordance with the Freight Car Safety Standards or the Locomotive Inspection rules also should comply with the noise standards, FRA believes that very few noise defects which are not also safety defects will be found. Accordingly, this rule generally is not expected to impose a significant added burden upon even very small repair facilities.

Should noise defective equipment be inspected before movement for repairs? Two commenters objected to the proposed requirement for an equipment inspection before the noise defective equipment is moved to the repair site. They stated that the requirement could seriously disrupt railroad operations because movement could not be made until after the inspection of each piece of equipment suspected of being noise defective.

One of the commenters contended that it is illegal for FRA to require any inspection under this part on the basis of safety considerations. The commenter argued that in fact there is no connection between noise and safety defects, that Congress intended by its reference to the safety statutes in section 17 of the Noise Control Act solely to provide for the use of available machinery to enforce compliance, and that EPA did not contemplate that compliance with its standards would cause any additional maintenance burden. Both commenters contended that an inspection requirement is unnecessary. The first contended that noise often comes from conditions with no safety consequence, and if there is in fact a safety defect it would have been found and corrected under the equipment safety rules, 49 CFR 215 and 230. The second stated that its current practices would assure safety. The commenter instructs its employees to observe passing trains and report anything unusual, and it requires car inspections at each terminal and interchange.

The requirement for an inspection prescribed in this section is within the authority of FRA, based on the need to avoid exposure to possible safety problems as well as unlawful noise emissions. We disagree with the assertion that a noise violation does not imply existence of a safety problem. Certainly, there are a number of possible nonsafety-related causes for a sound level measurement above those prescribed in the EPA standards. However, the EPA standards were established after consideration of noise emission levels emitted by properly maintained equipment. Therefore, a measurement showing a noise emission in excess of the EPA standard indicates a possible safety problem may be present also. Even if equipment is maintained in accordance with the safety rules, there is no certainty that the previous inspection uncovered every problem or that a safety defect did not develop after the inspection. FRA believes that this inspection is necessary in the interests of railroad safety and the safety of the operating crew. In addition, the inspection is also intended to identify the sources of excess noise emissions for corrective action. A prompt, systematic, thorough inspection is necessary for that purpose alone.

Who should perform the inspection on noise defective equipment? Two other commenters argued that a person designated to inspect and test for noise defects is not the appropriate person to perform the inspection required under section 210.9 since the primary purpose of that inspection is to assure the safety of movement to the repair site.

The FRA agrees with these commenters, and has eliminated the reference to a person designated to inspect for noise defects. The railroad's duty under this provision is to determine that the equipment is safe to move to the repair point. Such a determination may be made by any railroad personnel available at the location where the railroad receives notice of the noise defect. It should be noted, however, that, if such an inspection involving equipment covered by the Freight Car Safety Standards (49 CFR 215) results in the identification of a defective component as defined in those standards, further movement of that equipment will also be governed by § 215.9 of title 49 of the Code of Federal Regulations.

§ 210.15

Section 210.15 of the proposed rule required each railroad that operates equipment to which the EPA standards apply to designate persons qualified to inspect and test locomotives and rail cars for noise defects. The primary purpose for this designation was the need to identify those railroad employees who were to perform the inspection required under § 210.9 above and the load cell test required under § 210.31(g) of the NPRM. As stated earlier, on reconsideration, FRA has determined that the designation of specific railroad personnel under 210.9, to perform the inspection prior to movement of noise defective equipment, is unnecessary. In addition, as a result of the comments submitted concerning the present load cell facilities, and their inappropriate locations for conducting noise tests as specified in the EPA standards, FRA has decided to eliminate the requirement that a locomotive be subjected to a noise test each time it is subjected to a load cell test for whatever reason. Furthermore, it is the responsibility of the railroad to assure that equipment that it is operating is maintained in a manner which will assure compliance with the EPA standards. Similar noise compliance regulations issued under parallel provisions of the Act governing motor carrier operations (section 18 of the Act) do not require the designation of specialized "noise control" personnel (see 49 CFR 325). DOT has not experienced enforcement problems due to any lack of such a designation in the motor carrier area, and does not expect the experience to differ significantly in the railroad area. Therefore, the requirement for the designation of qualified railroad persons under section 210.15 of the NPRM has been eliminated from this final rule.

§ 210.17

Section 210.17 of the proposed rule required that State agencies wishing to participate in the enforcement of the EPA standards must designate qualified personnel who must be approved by FRA prior to the commencement of enforcement activities. This provision remains in the final regulation with slight modifications.

The purpose of such a provision is to encourage States to participate in the Federal railroad noise control program and thus minimize interference with the flow of interstate commerce. State and local governments may, under section 17(c)(1) of the Noise Control Act, enact and enforce their own standards identical to the Federal standards. DOT, however, encourages them to instead enforce the Federal standards by availing themselves of the provisions of § 210.17 of this regulaton. To the extent State and local governments choose to enforce the Federal standards, enforcement of noise standards on rail cars and locomotives will be limited to certain designated and qualified State or local governments officials, all of whom will follow the same rules contained in these regulations.

To further insure against unreasonable interferences with interstate commerce, § 210.25(c)(3) has been revised in this final rule to provide specifically that government inspectors enforcing the Federal standard may perform, or request the railroad to perform, inspec-

V 42163 AUG 23 77 UM

tions and/or tests prescribed in this part only at recognized inspection points or scheduled stopping points. Train movements may not, under these regulations, be required to stop at other locations en route on the basis of an excessive noise emission noted in a random passby test.

How does State participation in noise enforcement differ from the FRA State Participation Program? From several comments submitted in response to the NPRM it appears that there is some confusion between State participation in the enforcement of the EPA standards and in the FRA "State Participation Program" under section 206 of the Federal Railroad Safety Act of 1970 (84 Stat. 972, 45 U.S.C. 435) and the regulations contained in 49 CFR 212.

The Federal Railroad Safety Act provides for a program of State participation in the investigative and surveillance activities prescribed by the Administrator for the enforcement of railroad safety regulations issued under that Act. Federal grants for up to 50 percent of the State's costs for such activities are also provided. The rules established in this part are issued under the Noise Control Act and the Secretary's authority under the Safety Appliance Acts, the Interstate Commerce Act and the Department of Transportation Act as provided in section 17 of the Noise Control Act. Therefore, the rules and regulations governing the State Participation Program for railroad safety do not apply to noise enforcement activities undertaken by a State under this part. In order to avoid further confusion of the two programs, § 210.17 has been redrafted to eliminate language referring to "participation". In addition, the scope of applicability of the section has been expanded to include not only State but also local jurisdictions that wish to enforce the Federal Railroad Noise Emission Standards.

How should State (local) inspectors be identified? One commenter stated that approved State inspectors should be required to carry appropriate credentials so that access to railroad property may not be denied on the basis of the lack of State authority. This commenter suggested that the FRA issue appropriate credentials to all approved State inspectors. As a result of these comments, FRA has reviewed the entire concept of prior FRA approval of each State or local noise compliance inspector and has determined that the administrative burden and additional paper work involved in such an approval process is unnecessary to accomplish the intent of this provision. As stated above that intent was twofold—to require qualified personnel and to identify such personnel for the railroads that are to be subject to their authority. FRA believes this can be accomplished by requiring the State or local jurisdiction to designate the personnel authorized to enforce the Federal standards, to certify that they are qualified to inspect and test locomotives and rail cars, that is that they have the knowledge and ability to detect the cause of noise defects, and to provide such persons with appropriate credentials to attest to their authority. FRA will continue to require the State or local jurisdiction to notify FRA that it is going to enforce the Federal standards so that we can accurately assess what the overall enforcement effort is at any given time. Section 210.17 of this final rule has been redrafted accordingly.

Should the regulation prescribe a level of effort to assure adequate State (local) effort? One commenter stated that, if State involvement would result in decreased Federal enforcement, the regulation should provide for a specified level of effort to assure that State involvement is adequate for effective enforcement. This comment apparently results from a confusion with the procedures of the State Participation Program as discussed above. Under that Program, once a State's inspection program is fully certified, the State effort replaces the routine Federal inspection effort in that State. Therefore, FRA has prescribed a specific level of State effort necessary before a program for a particular safety standard can be certified. This procedure does not apply to State or local involvement in enforcement of the EPA standards. State noise enforcement is not intended to substitute for, nor is it expected to reduce, the FRA efforts. Therefore, a prescribed level of State or local effort is not necessary.

Should inspectors be required to be qualified to inspect and test both locomotives and rail cars? Section 210.17(a) of the NPRM required the State to designate persons qualified to inspect and test locomotives or rail cars. One commenter suggested that the final rule should make it clear that any designated State inspector is authorized to inspect and test both locomotives and rail cars. The use of the word "or" rather than the word "and" in the proposed rule was purposeful. FRA does not agree that each State or local inspector enforcing the Federal standards must be qualified to inspect and test both locomotives and rail cars. The experience and knowledge necessary to adequately inspect a locomotive is substantially different from that necessary to perform a similar function with respect to rail cars because of the basic mechanical differences in the railroad equipment. FRA believes that an efficient and effective enforcement program must recognize these differences and provide the greatest degree of flexibility. Accordingly, while an individual inspector may be authorized to inspect and test both locomotives and rail cars if he is qualified to do so, the State or local jurisdiction is not limited to individuals with such dual qualfications.

§ 210.19

Two commenters recommended that the waiver provisions be eliminated or clarified. According to one, FRA's proposed rule contains no provision that is unduly burdensome, and all of the provisions are necessary for effective enforcement of the EPA standards. Therefore, any waiver would improperly interfere with enforcement. As an alternative the commenter stated that, if the provision is retained, FRA should amend the regulation to clarify that all of the provisions of 49 CFR 211 apply, including those providing interested parties an opportunity to receive notice of, and to comment on, all waiver applications. The other commenter stated that the regulation should be clarified to state that FRA may not waive, directly or indirectly, any requirement prescribed in the EPA standards.

The suggested changes have not been adopted. First, despite FRA's endeavors to structure a reasonable rule of general applicability, the railroad industry is characterized by such diversity that differing individual circumstances may justify the waiver of some provisions of this rule. The term "waiver" as used here, and throughout FRA safety regulations, does not necessarily mean a total relaxation or exemption from compliance with the prescribed rule. The waiver procedure allows FRA to impose alternative requirements to accomplish the intended purpose of the regulation in those cases in which the general rule may not be appropriate. Second, the proposed rule makes it clear that all of the provisions of part 211 apply to waiver proceedings and that FRA may not, either directly or indirectly, waive a requirement of the EPA standards. FRA will notify the EPA whenever a petition for waiver is filed under this section and will consult with that agency prior to a final determination on such a petition.

One commenter stated that § 210.19 should specify both the period within which the Administrator must make a decision on an application for waiver and the period for which a waiver may be effective.

FRA has not adopted a time limit within which the Administrator must act upon any petition for waiver under this part because the complexity of the issues raised and the time between the filing dates and proposed effective dates will vary. However, to the extent practicable we will comply with the nine-month time limit applicable to waiver proceedings under the Federal Railroad Safety Act of 1970 (See 49 CFR 211.1, 211.41 (41 FR 54181, December 13, 1976)).

With respect to the period for which a waiver may be effective, FRA does not believe it is appropriate to specify a maximum duration for a waiver. A waiver may be temporary or permanent. Each petition is considered individually, on its own merits, and conditions that will assure the accomplishment of the intent of the general rule are tailored to the circumstances of each case.

§ 210.21

One commenter contended that the proposed penalty provision is inadequate because penalties would be provided only for knowing violations. The commenter stated that the EPA standards prohibit operation of any car or locomotive that violates the standards, and that only if money penalties are established for all violations will the railroads have the incentive to establish testing and maintenance programs that will eliminate excessive noise. The commenter contended that FRA has the authority under the various acts to establish the penalties.

FRA has considered the Noise Control Act, its legislative history, and the related statutes. We believe that Congress intended to set forth in section 11 all of the penalties applicable to violators of the EPA standards themselves. The criminal penalties (fines and imprisonment) may be assessed against willful or knowing violators of these regulations or the EPA standards.

Another commenter stated that the criminal penalty provision was unacceptable because it was unclear when a railroad would be liable because of a violation on equipment owned by someone else.

The EPA standards prohibit operation of noise defective equipment. In addition, as stated in the discussion of § 210.7, this rule imposes the responsibility for inspection and repair of noise defective equipment on the operating railroad rather than on the owner of the equipment because that is the only practical way to enforce the EPA standards. FRA cannot alter the criminal penalty provisions prescribed in the Noise Control Act. It should be noted, however, that the mere existence of a noise defect on operated equipment is not sufficient in itself to establish criminal liability since the penalties apply only for willful or knowing violations. The words "known or has notice" are included in § 210.7 to indicate that some evidence of willfulness or knowledge is necessary before a criminal action for enforcement of the EPA standards can be initiated under the Noise Control Act.

§ 210.25

Should railroads perform the tests? Some commenters stated that the FRA or State inspectors should conduct any noise emission tests since many railroads do not have instrumentation, trained personnel, or suitable test sites. Section 210.25 (b) of the final rule provides that the railroad carrier can be required to conduct the noise tests itself only if it has the capability to do so.

Should periodic noise inspections be required? Another commenter recommended that the section be strengthened to require the railroad to make periodic inspections of all cars and locomotives for noise violations and keep records of the results available for inspection. Since frequent, thorough inspections are required under 49 CFR Parts 215 and 230, and cars and locomotives maintained in accordance with those parts are expected to meet the EPA standards, FRA does not believe that an additional inspection requirement is warranted.

Should inspectors be empowered to conduct or request inspections or testing at random? The thrust of the other comments was that the FRA and State inspectors' authority to inspect, test, or require a railroad to test or inspect locomotives or rail cars should be limited to avoid undue burdens on interstate commerce. One commenter estimated that an average passby test of a rail car would cost a railroad approximately $1,000 in equipment time, crew time, fuel consumption, and interference with other activities. It recommended amending the proposed rule to include guidelines authorizing an inspector to require a locomotive or rail car to be submitted for inspection or testing only if there are reasonable grounds to suspect a noise defect, if the request is in writing, and if the time and place are reasonable.

In light of the comments, the rule has been redrafted to authorize an inspector to request the railroad to test, inspect or examine for noise defects only when there are reasonable grounds to believe that a noise defect is present. Such grounds could be established by a passby noise emission reading in excess of the standards for locomotives or railroad cars or by numerous public complaints about excessive noise from an identified piece of equipment or specific train operation. On the basis of such evidence, an inspector could make, or request a railroad to make, an inspection of the train at the next recognized inspection point or scheduled stopping point. If a railroad has the capability to perform the appropriate tests for noise emissions as prescribed by EPA, testing requested by an inspector must be performed as soon as practicable. If the railroad does not have the capability, the inspector may request that the railroad make the rolling stock and appropriate personnel available at a reasonable time and location for the inspector to obtain the required sound measurements. However, a railroad is not required to test or submit its rolling stock for testing if a readily identifiable noise producing condition is corrected and the correction is verified by an inspector.

Should the requests be in writing? The section also includes the added requirement that the inspector's request that the railroad make a noise inspection or test be in writing, stating his grounds for suspecting a noise defect. This requirement will provide a basis for the railroads to determine why the inspectors are requesting them to make noise inspections. The written record also will serve as evidence that a railroad has been given notice of the existence of noise defective equipment and will serve to establish the "willful" or "knowing" violation necessary to support a criminal action under the Noise Control Act.

Should the rule allow testing during movement pursuant to § 210.9? The same commenter also recomended that an inspector be precluded from testing or demanding a test when cars are moving pursuant to § 210.9 or when the cause of a noise defect has been noted and there is reasonable evidence to show that it has been eliminated. The suggested amendment to preclude testing during movement to § 210.9 has not been adopted because FRA believes it would constitute too broad an exception. While conducting a passby test to determine whether a train was operating in compliance with the EPA standards, an inspector might not be aware that the train included equipment being moved under § 210.9. Under the rule as written a railroad cited for violating the standards must be prepared to show that the noise emissions above the standards could have resulted from the movement of noise defective equipment in accordance with § 210.9. To preserve its defense in that situation, the railroad will have to retain records of the movement in accordance with § 210.9 for enough time to allow for delays between measuring violations and issuing citations.

§ 210.27(b)(1)

One commenter objected to measuring the noise emissions from a consist of locomotives manufactured both before 1980 and after 1979 against the higher noise emission standard for pre-1980 locomotives. The commenter contended that the provision has the effect of changing the substance of the standard for post-1979 locomotives. This commenter recommended that a procedure be established either to differentiate the noise emitted from different locomotives in a mixed consist, or to require the railroad to test each unit in a mixed consist when the consist violates the lower standard for post-1979 locomotives.

The changes recommended by the commenter have been rejected as infeasible. First, the rule does not prescribe a procedure to distinguish the noise emitted by different locomotives in the same consist during a passby test, because such a procedure is technically impossible given the present state of the art in noise measurement unless such locomotives are separated within the consist by at least 10 rail car lengths or 500 feet. Second, a requirement to test individually each unit in a mixed consist that violates the post-1979 standard probably would force individual retesting of each of the units whenever there is a passby test of a mixed consist. To avoid that retesting burden, a railroad would have to operate only unmixed locomotive consists. Such a severe restriction on the use of motive power would impose an undue burden on interstate commerce by railroad.

§ 210.27(b)(3)

One commenter stated that if the built dates of locomotives are not known to the inspector at the time of a passby test, the railroad should have the burden to supply them or have the lower post-1979 noise emission standards applied. FRA does not agree. In most cases, the inspector will not know the built dates of the locomotive units in a consist at the time of a passby test. He will, therefore, be required to identify the units in the locomotive consist by number when the test is made. The built dates for the specific units in a consist can then be determined by reference to carrier records. If the inspector fails to record the locomotive unit numbers, and the built dates cannot be established, the higher pre-1980 standard will apply since all locomotives, regardless of age, must operate below that noise level.

V 42 16 3 AUG 23 77 UM

§ 210.27(c)

One commenter objected to applying the standard for movement at more than 45 miles per hour when the inspector's measuring equipment is not operating within an accuracy of 5 mph. The commenter stated that it is the inspector's duty to maintain properly calibrated measuring devices, and the enforcement regulation should not dilute the EPA standard in anticipation of his failure to do his job properly.

FRA agrees that it is the inspector's duty to maintain his equipment properly. However, if a failure does occur, prosecution for violation of the lower standard is not possible without proof that the train's speed was 45 mph or less.

§ 210.29(b) (1) (i)

One commenter stated that it is unclear whether the noise measurement device must be calibrated to actual frequencies. The section has been amended to make it clear that calibration to nominal frequencies satisfies the requirement. A sufficient degree of accuracy in noise measurements is assured as long as the calibrator frequency is accurate within a range, for example plus or minus three percent.

Another commenter stated that hourly calibrations are not necessary during a series of measurements, stating that calibration at the beginning of each series would assure accurate measurements.

FRA disagrees. The sound level meters are battery powered. Accordingly, frequent calibration during continuous use is important to assure that the inspector is aware as soon as the battery's voltage output drops close to the minimum operating voltage level of the sound level meter.

§ 210.29(c)

One commenter suggested increasing the measurement tolerance to at least 3dB(A), stating that the factors enumerated may realistically justify up to 5dB(A). The 2dB(A) measurement tolerance has been retained because it is the tolerance level generally accepted in the technical noise measurement community for field measurement purposes. (See, e.g., Society of Automotive Engineers Standard J952b, September 1971; SAE Technical Report J192, December 1970.)

In response to another commenter, paragraph (6) of the NPRM, which included an interpretation factor among those taken into account in determining the 2dB(A) tolerance, has been eliminated in this final rule. FRA agrees that the interpretation of the other factors is not properly listed as a separate item in the series and has included this consideration in the general explanation as to the purpose of the 2dB(A) tolerance.

§ 210.31(a)

One commenter opposed requiring that each locomotive manufactured after 1979 be tested for stationary noise emissions before it is placed in service initially. In response to the comment, type certification based on sample testing of each locomotive model will be required on all new locomotives built after 1979. The certification may be based on either load cell or passby testing. For reasons of clarity and rational organization of the final rule, the provisions for new locomotive certification for locomotives built after December 31, 1979 have been placed in a separate section § 210.33.

§ 210.31(g)

Six commenters addressed the proposed requirement for stationary noise testing whenever a locomotive is load cell tested for any reason. All six were opposed. They stated that the requirement would be ineffective in enforcing the noise emission standards, and compliance would be totally impractical. According to the commenters, many railroads do not have load cell facilities at all. One survey that included all of the major railroads plus a number of switching railroads showed that they have only approximately 176 load cell facilities. Furthermore, the typical locations of load cells is in or adjacent to locomotive repair shops. These locations often are unsuitable for noise testing in accordance with the EPA standards because they do not present the large open area, and the isolation from other noise sources that is required by the EPA definition of an acceptable test site. Also, some existing load cells depend upon high voltage direct current. Relocating the load cells at a distance from the shops would require the use of expensive transmission cables, and line losses of electric current during transmission from the power source to the remote load cell would reduce the efficiency of the devices for their primary purpose, i.e., testing the power output of the locomotive engines. The survey cited above showed that only seven existing load cell facilities in the country are suitable for noise testing under the site requirements prescribed in the EPA standards. One commenter that has two locomotive repair shops with load cells estimated that it would need to spend approximately $360,000 on modification of facilities and equipment before it could carry out stationary noise testing in accordance with the EPA standards at those shops. The commenters were also very concerned about the potential delays in returning recently repaired locomotives to service should a load cell noise test be required each time the locomotive is submitted to load cell testing for any purpose, because load cell noise emission tests cannot be performed during precipitation or when the measured wind velocity is over 12 mph. One commenter stated that the ability to take full advantage of its functioning motive power is critical for a small, financially weak railroad. Another concern was utilization of personnel. One commenter asserted that large numbers of new personnel would be needed, especially since the remote locations and random times for the required tests would reduce their efficiency. Finally, a commenter stated that additional problems might arise because of annoyance to the general public and employees who are not now subjected to load cell test noise. That commenter estimated that the proposed regulation would require approximately 47,000 stationary noise tests annually.

Two arguments were made about the effectiveness of the regulation in enforcing the standards. First, the commenters stated that load cell testing normally is done just after overhauls, repairs, or maintenance. That is the time a locomotive is most likely to be in compliance. To provide a more effective enforcement program, the commenters felt that required noise measurements should be taken on equipment with a higher probability of violations. Second, the commenters stated that the proposed rule would in effect exempt certain locomotives from any requirement for stationary noise testing. For example, there are many new locomotives that are equipped with a feature that permits load testing without connecting the unit to wayside load cell testing equipment. Also, locomotives owned by railroads that do not have load cell test facilities would not be subject to the requirement. A commenter that favored more frequent testing stated that the proposed rule needs to be strengthened because railroads do not conduct load cell tests regularly and there is no requirement for them to do so.

As a result of our review of the comments and further analysis, FRA believes it is not reasonable to require periodic load cell testing by the railroads. Many railroads apparently could not perform the tests without a substantial investment in facilities and equipment, and it is not sensible to require such an investment when the EPA has not identified locomotives as a major noise source. However, FRA is not at liberty to exempt locomotives entirely from load cell testing because EPA clearly did not intend the standards for stationary and moving locomotives to be alternatives. The preamble to the EPA standards states in part that—

> The EPA strongly believes that a stationary as well as a moving standard is necessary in order to account for the varying nature of locomotive noise (41 FR 2189).

An inspector could still request a railroad that has the capability to conduct a load cell test to do so if a locomotive is suspected of having a noise defect (§ 210.25(b)(1)). In addition, locomotives manufactured after December 31, 1979, must be certified for noise emission compliance before being placed in service initially. This certification may be based upon a load cell test.

§ 210.31(h)

One commenter stated that no test of a noise defective locotmotive should be required if the cause of the noise defect was readily identifiable and corrected.

The FRA recognizes that the retesting requirement for locomotives under proposed § 210.31(h) will constitute somewhat of a burden on railroads. This is true because the present location of locomotive repair facilities within or directly adjacent to congested yard areas will not ordinarily present an acceptable test site in terms of the criteria established by EPA in Subpart C of 40 CFR 201. In addition, as stated earlier, very few of the existing load cell facilities are located in areas that present acceptable test sites.

FRA believes that the source of excessive locomotive noise will often be readily identifiable as a result of recognized inspection and maintenance procedures. The retesting requirement, is not necessary in such cases in order to accomplish the intended purpose of the EPA standards. Therefore, in those situations in which the excessive noise emission is readily identifiable as related to a particular defective component, and that component can be replaced or there is an accepted repair procedure, FRA believes that retesting before returning the locomotive to service should not be required. Where no such defective component can be readily identified, retesting is necessary to assure elimination of the noise defect and will be required. Paragraph (c) of this section has been redrafted accordingly.

EMPLOYEE SAFETY AND HEALTH

One commenter criticized the EPA standards themselves, stating that they are too high to protect employees from noise related injury. The commenter also stated that there are many sources of railroad noise that might affect an employee's health that are not covered by the EPA standards. The commenters requested that FRA promulgate noise emission standards to protect employees.

The commenter's request is not within the scope of this proceeding. Further related rule making could be undertaken in the future, depending upon the nature of any evidence that particular noise emissions are a serious safety problem.

In accordance with the foregoing, Title 49 of the Code of Federal Regulations is amended by adding a new part 210 to read as set forth below. These rules shall become effective on October 1, 1977.

Issued in Washington, D.C. on August 17, 1977.

JOHN M. SULLIVAN,
Administrator.

Subpart A—General Provisions

Sec.
210.1 Scope of part.
210.3 Applicability.
210.5 Definitions.
210.7 Responsibility for noise defective locomotives or rail cars.
210.9 Movement of a noise defective locomotive, rail car or consist of a locomotive and rail cars.
210.17 State or local enforcement of Federal Railroad Noise Emission Standards—qualified noise compliance inspector.
210.19 Waivers.
210.21 Penalty.

Subpart B—Inspection and Testing

210.23 Scope of subpart.
210.25 Noise testing and inspection.
210.27 Operation standards.
210.29 Measurement criteria and procedures.
210.31 Locomotive tests.
210.33 New locomotive certification.

AUTHORITY: Sec. 17, Pub. L. 92–574, 86 Stat. 1234 (42 U.S.C. 4916); § 1.49(p) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(p).

Subpart A—General Provisions

§ 210.1 Scope of part.

This part prescribes minimum compliance regulations for enforcement of the Railroad Noise Emission Standards established by the Environmental Protection Agency in 40 CFR Part 201.

§ 210.3 Applicability.

(a) The provisions of this part apply to the total sound emitted by rail cars and locomotives operated by a common carrier as defined in 45 U.S.C. 22 under the conditions prescribed herein and in 40 CFR Part 201, including the sound produced by refrigeration and air conditioning units which are an integral element of such equipment, except:

(b) The provisions of this part do not apply to:

(1) Steam locomotives;

(2) Street, suburban or interurban electric railways unless operated as a part of the general railroad system of transportation;

(3) Sound emitted by a warning device, such as a horn, whistle or bell when operated for the purpose of safety;

(4) Special purpose equipment which may be located on or operated from rail cars; and

(5) As prescribed in 40 CFR 201.10, the provisions of 40 CFR 201.11 (a) and (b) do not apply to gas turbine-powered locomotives or any locomotive type which cannot be connected by any standard method to a load cell.

§ 210.5 Definitions.

(a) *Statutory definitions.* All terms used in this part and defined in the Noise Control Act of 1972 (Pub. L. 92–574, 86 Stat. 1234) have the definitions set forth in that Act.

(b) *Difinitions in standards.* All terms used in this part and defined in § 201.1 of the Railroad Noise Emission Standards, 40 CFR 201.1, have the definition set forth in that section.

(c) *Additional definitions:* As used in this part:

(1) "FRA" means the Federal Railroad Administration.

(2) "Administrator" means the Federal Railroad Administrator, the Deputy Administrator, or any official of the FRA to whom the Administrator has delegated authority to enforce the Act.

(3) "Consist of a locomotive and rail cars" means one or more locomotives coupled to a rail car or rail cars.

(4) "Noise defective" means the condition in which a locomotive, rail car or consist of a locomotive and rail cars is found to exceed the Railroad Noise Emission Standards, 40 CFR Part 201.

(5) "Standards" means the Railroad Noise Emission Standards, 40 CFR Part 201.

(6) "Inspector" means FRA regional Motive Power & Equipment Specialists, FRA Motive Power & Equipment Inspectors and State or local noise compliance inspectors designated and certified under § 210.17.

§ 210.7 Responsibility for noise defective locomotives or rail cars.

Any railroad that knows or has notice that a locomotive, rail car or a consist of a locomotive and rail cars that it is operating or testing is noise defective according to the criteria established in this part and in the Standards is responsible for compliance with this part. Subject to § 210.9, such railroad shall:

(a) Correct the noise defect; or

(b) Remove the noise defective locomotive or rail car from service.

§ 210.9 Movement of a noise defective locomotive, rail car or consist of a locomotive and rail cars.

A locomotive, rail cars or consist of a locomotive and rail cars that is noise defective may be moved no further than the nearest forward facility where the noise defective condition can be eliminated only after the locomotive, rail car or consist of a locomotive and rail cars has been inspected and been determined to be safe to move.

§ 210.17 State or local enforcement of the standards—qualified noise compliance inspectors.

(a) Any State or local jurisdiction that desires to enforce the Standards must so notify the FRA, and shall designate persons qualified to inspect and test locomotives or rail cars for defects prescribed by this part. Each person designated must be certified by the State or local jurisdiction and must carry official credentials stating his or her authority to conduct inspections and tests as prescribed in this part.

§ 210.19 Waivers.

(a) Any person may petition the Administrator for a waiver of compliance with any requirement in this part. A waiver of compliance with any requirement prescribed in the Standards, may not be granted under this provision.

(b) Each petition for a waiver under this section must be filed in the manner and contain the information required by 49 CFR Part 211.

(c) If the Administrator finds that a waiver of compliance applied for under paragraph (a) of this section is in the public interest and is consistent with railroad noise abatement and safety, he may grant a waiver subject to any conditions he deems necessary. Notice of each waiver granted, including a statement of the reasons therefor, will be published in the FEDERAL REGISTER.

§ 210.21 Penalty.

Any person who willfully or knowingly operates a locomotive or rail car in violation of the requirements of this part or of the Standards is liable to a penalty as prescribed in section 11 of the Noise Control Act of 1972 (Pub. L. 92–574, 86 Stat 1242).

Subpart B—Inspection and Testing

§ 210.23 Scope of subpart.

This subpart prescribes the compliance criteria concerning the requirements for inspection and testing of a locomotive, a rail car or a consist of a locomotive and rail cars.

§ 210.25 Noise inspection and testing.

(a) An inspector is authorized to perform a passby noise emission test as prescribed in the Standards, and in the procedures of this part, at any time, at any appropriate location, and without prior notice to the railroad for the purpose of determining whether a locomotive, rail car, or consist of a locomotive and rail cars is in compliance with the Standards.

(b)(1) An inspector is authorized to request that a locomotive, rail car or consist of a locomotive and rail cars together with appropriate railroad personnel be made available for a passby or stationary noise emission test as prescribed in the Standards, and in the precedures of this part, and to conduct such test, at a reasonable time and location, for the purpose of determining whether the locomotive, rail car or consist of a locomotive and rail cars is in compliance with the Standards.

(2) If the railroad has the capability to perform an appropriate noise emission test as prescribed in the Standards, and in the procedures of this part, an inspector is authorized to request the railroad to test the locomotives or rail cars. The railroad must perform the appropriate test as soon as practicable.

(3) The requests referred to in this paragraph must be in writing, must state the grounds upon which the inspector has reason to believe that the locomotive, rail car or consist of a locomotive and rail cars does not conform to the Standards, and must be presented to an appropriate operating official of the railroad.

(4) Testing or submission for testing is not required if the cause of the noise defect is readily apparent and the inspector verifies that it is corrected by the replacement of defective components or by instituting a normal maintenance or repair procedure.

(c)(1) An inspector is authorized to inspect or examine a locomotive, rail car or consist of a locomotive and rail cars operated by a railroad, or to request the railroad to inspect or examine the locomotive, rail car or consist of a locomotive and rail cars, whenever he has reason to believe that it does not conform to the requirements of the Standards.

(2) The reouest referred to in this paragraph must be in writing, must state the grounds upon which the inspector has reason to believe that the locomotive, rail car or consist of a locomotive and rail cars does not conform to the Standards, and must be presented to an appropriate operating official of the railroad.

(3) The inspection or examination referred to in this paragraph may be conducted only at recognized inspection points or scheduled stopping points.

(4) An inspector may request a railroad to conduct an inspection or examination of a rail car or consist of rail cars on the basis of an excessive noise emission level measured by a passby test. If, after such inspection or examination, no mechanical condition that would result in a noise defect can be found, and the inspector verifies that no such mechanical condition exists, the rail car or consist of rail cars may be continued in service.

(5) An inspector may request a railroad to conduct an inspection or examination of a locomotive on the basis of an excessive noise emission level measured by a passby test. If, after such inspection or examination, no mechanical condition that would result in a noise defect can be found, and the inspector verifies that no such mechanical condition exists, the locomotive may be continued in service.

§ 210.27 Operation standards.

The operation standards for the noise emission levels of a locomotive, rail car or consist of a locomotive and rail cars are prescribed in the Standards.

(a) Noise emission standards for locomotive operating under stationary conditions are contained in § 201.11 of the Standards.

(b) Noise emission standards for locomitives operating under moving conditions are contained in § 201.12 of the Standards. Measurements for compliance with the standards prescribed in § 201.12 of the Standards shall be made in compliance with the provisions of Subpart C of the Standards and the following:

(1) Consists of locomotives containing at least one locomotive unit manufactured prior to December 31, 1979, shall be evaluated for compliance in accordance with § 201.12(a) of the Standards, unless a locomotive within the consist is separated by at least 10 rail car lengths or 500 feet from other locomotives in the consist, in which case such separated locomotives may be evaluated for compliance according to their respective built dates.

(2) Consists of locomotives composed entirely of locomotive units manufactured after December 31, 1979, shall be evaluated for compliance in accordance with § 201.12(b) of the Standards.

(3) If the inspector cannot establish the built dates of all locomotives in a consist of locomotives measured under moving conditions, evaluation for compliance shall be made in accordance with § 201.12(a) of the Standards.

(c) Noise emission standards for rail cars operating under moving conditions are contained in section 201.13 of the Standards. If speed measurement equipment used by the inspector at the time of the measurement is not operating within an accuracy of 5 miles per hour, evaluation for compliance shall be made in accordance with § 201.13(2) of the Standards.

§ 210.29 Measurement criteria and procedures.

The parameters and procedures for the measurement of the noise emission levels are prescribed in the Standards.

(a) Quantities measured are defined in § 201.21 of the Standards.

(b) Requirements for measurement instrumentation are prescribed in § 201.22 of the Standards. In addition, the following calibration procedures must be utilized:

(1) (i) The sound level measurement system including the microphone must be calibrated and appropriately adjusted at one or more nominal frequencies in the range from 250 through 1000 Hz at the beginning of each series of measurements, at intervals not exceeding 1 (one) hour during continual use, and immediately following a measurement indicating a violation.

(ii) The sound level measurement system must be checked not less than once each year by its manufacturer, a representative of its manufacturer, or a person of equivalent special competence to verify that its accuracy meets the manufacturer's design criteria.

(2) An acoustical calibrator of the microphone coupler type designed for the sound level measurement system in use shall be used to calibrate the sound level measurement system in accordance with paragraph (1) (i) of this subsection. The calibration must meet or exceed the accuracy requirements specified in § 5.4.1 of the American National Standard Institute Standards, "Method for Measurement of Sound Pressure Levels," (ANSI S1.13–1971) for field method measurements.

(c) Acoustical environment, weather conditions and background noise requirements are prescribed in § 201.23 of the Standards; and in addition, measurement tolerances not to exceed 2dB(A) for a given measurement will be allowed to take into account the effects of the factors listed below and the interpretation of these effects by enforcement personnel:

(1) The common practice of reporting field sound level measurements to the nearest whole decibel; (2) Variations resulting from commercial instrument tolerances; (3) Variations resulting from the topography of the noise measurement site; (4) Variations resulting from atmospheric conditions such as wind, ambient temperature, and atmospheric pressure; and (5) Variations resulting from reflected sound from small objects allowed within the test site.

(d) Procedures for the measurement of locomotive and rail car noise are prescribed in § 201.24 of the Standards; and

(1) Accurate determination to within plus or minus 5 miles per hour of train speed (which may change during a passby) must be made as the train passes the microphone location, as defined in § 201.24 of the Standards, to determine the rail car compliance level specified in § 201.13(1) or (2) of the Standards.

(2) Locomotives and rail cars tested pursuant to the procedures prescribed

in this part and in the Standards shall be considered in noncompliance whenever the test measurement, minus the appropriate tolerance, exceeds the noise emission levels prescribed in §§ 201.11, 201.12, or 201.13 of the Standards, as appropriate.

§ 210.31 Locomotive tests.

(a) For load cell tests: (1) Each noise emission test shall begin after the engine of the locomotive has attained the normal cooling water operating temperature as prescribed by the locomotive manufacturer.

(2) Noise emission testing in idle or maximum throttle setting shall start after a 40 second stabilization period in the throttle setting selected for the test.

(3) After the stabilization period as prescribed in paragraph (2) of this subsection, the A-weighted sound level reading in decibels shall be observed for an additional 30 second period in the throttle setting selected for the test.

(4) The maximum A-weighted sound level reading in decibels that is observed during the 30 second period of time prescribed in paragraph (3) of this subsection shall be used for compliance purposes.

(b) The following data determined by any locomotive noise emission test conducted after December 31, 1976 shall be recorded in the "Remarks" section on the reverse side of Form FRA F 6180.49: (1) Location of the test; (2) Type of test; (3) Date and location of the test; and (4) The A-weighted sound level reading in decibels obtained during the passby test, or the readings obtained at idle throttle setting and maximum throttle setting during a load cell test.

(c) Any locomotive subject to this part that is found not to be in compliance with the Standards as a result of a passby test shall be subjected to a load cell test or another passby test prior to return to service, except that no such retest shall be required if the cause of the noise defect is readily apparent and is corrected by the replacement of defective components or by a normal maintenance or repair procedure.

(d) The last entry recorded on Form FRA F 6180.49 as required by paragraph (b) of this section shall be transcribed to a new Form FRA F 6180.49 when it is posted in the locomotive cab.

§ 210.33 New locomotive certification.

(a) A railroad shall not operate a locomotive built after December 31, 1979 unless the locomotive has been certified to be in compliance with the Standards.

(b) The certification prescribed in this section shall be determined for each locomotive model, by either: (1) Load cell testing in accordance with the criteria prescribed in the Standards; or (2) Passby testing in accordance with the criteria prescribed in the Standards.

(c) If passby testing is used under paragraph (b)(2) of this section, it shall be conducted with the locomotive operating at maximum rated horsepower output.

(d) Each new locomotove certified under this section shall be identified by a permanent badge or tag attached in the cab of the locomotive near the location of the inspection Form F 6180.49. The badge or tag must state: (1) Whether a load cell or passby test was used; (2) The date and location of the test; and (3) The A-weighted sound level reading in decibels obtained during the passby test, or the readings obtained at idle throttle setting and maximum throttle setting during a load cell test.

[FR Doc.77-24317 Filed 8-22-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, EXPORTATION AND IMPORTATION OF WILDLIFE

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Determination That the Tan Riffle Shell is an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rulemaking.

SUMMARY: The Director, U.S. Fish and Wildlife Service issues a rule which determines the tan riffle shell (*Epioblasma walkeri*) to be an Endangered species because of the likelihood that this mussel could become extinct within the foreseeable future.

DATES: The amendments will become effective on September 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (202–343–4646).

SUPPLEMENTARY INFORMATION: The Director, U.S. Fish and Wildlife Service (hereinafter the Director and the Service, respectively) hereby issues a rulemaking pursuant to Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884: hereinafter the Act) which determines the tan riffle shell (*Epioblasma walkeri*) to be an Endangered species.

BACKGROUND

On September 26, 1975, the Service published a proposed rulemaking in the FEDERAL REGISTER (40 FR 44329) advising that sufficient evidence was on file to support a determination that the tan riffle shell was an Endangered species as provided for by the Act. That proposal summarized the factors thought to be contributing to the likelihood that this mussel could become extinct within the foreseeable future; specified the prohibitions which would be applicable if such a determination were made; and solicited comments, suggestions, objections and factual information from any interested person.

Section 4(b)(1)(A) of the Act requires that the Governor of each State, within which a resident species of wildlife is known to occur, be notified and be provided 90 days to comment before any such species is determined to be a Threatened species or an Endangered species. Letters were sent to the Governors of Virginia, Kentucky, and Tennessee on June 25, 1976, notifying them of the proposed rulemaking. Such letters were inadvertently not sent at the time of the proposed rulemaking in 1975.

SUMMARY OF COMMENTS AND RECOMMENDATIONS

Section 4(b)(1)(C) of the Act requires that a "* * * summary of all comments and recommendations received * * * be published in the FEDERAL REGISTER prior to adding any species to the List of Endangered and Threatened Wildlife."

In the September 26, 1975, FEDERAL REGISTER proposed rulemaking (40 FR 44329) and the related press release, all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rulemaking.

Comments were received from three States and one individual. In a letter dated July 19 from Governor Julian M. Carroll, the State of Kentucky did "not wish to register any opposition to the action" and considered the tan riffle shell to be restricted to the Red River, in Logan and Simpson Counties, Kentucky, in rather limited numbers. The State of Virginia, according to Earl J. Shiflet of the Office of the Governor in a letter dated July 14, 1976, did not have sufficient information available regarding the status of this mussel in Virginia to make a judgment as to whether it should be designated Endangered pursuant to the Act. However, this State did not believe that overharvesting was an immediate danger. The State of Tennessee, in a letter dated September 16, 1976, from Harvey Bray, Executive Director, Tennessee Wildlife Resources Agency, supported the listing of *Epioblasma walkeri* "based on its limited occurrence in the Clinch, Powell and Duck Rivers and its rapid rate of disappearance." They further recommended that the Department of the Interior "do all possible to implement, in cooperation with States, a realistic program aimed at water quality improvement as the prime means of effecting a recovery program for Endangered mussels and habitats; encourage designation of acceptable comprehensive classification and nomenclatural terms, and distribution and population data; and that immediate research be coordinated to determine management procedures (relating to impoundment effects, commercial and scientific mussel use, and to industrial, municipal, and agricultural practices) which will best assure perpetuation of these mussels."

The Service received a report on the status of *Epioblasma walkeri* from Dr. David H. Stansbery, Museum of Zoology, The Ohio State University, Columbus, Ohio, which resulted from contract 14–16–0008–755. This report (RF 37 12 Final No. 6, October 1976, The Ohio State University Research Foundation, 1314 Kinnear Road, Columbus, Ohio 43212) summarized the synonymy, taxonomic status,

V 42 163 AUG 23 77 UM

diagnostic characteristics, former distribution (a rather general distribution in medium small to large streams in both the Cumberland and Tennessee systems), the present distribution (Middle Fork Holston River above South Holston impoundment, Red River of the Cumberland system, Clinch River and the Duck River from Wilhoite Mill downstream to Columbia) and threats. Threats include sewage effluent from Marion, Chilhowie and other communities in the middle fork Holston. The TVA Columbia Dam, if completed, would inundate the entire Duck River population of the mussel.

CONCLUSION

After a thorough review and consideration of all information available, the Director has determined that the tan riffle shell is in danger of extinction throughout all or a significant portion of its range due to one or more of the factors described in Section 4(a) of the Act. This review amplifies and substantiates the description of those factors included in the proposed rulemaking (40 FR 44329). Those factors are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The tan riffle shell is a pearly mussel and it exemplifies a well known characteristic of its genus (*Epioblasma*): It characteristically inhabits riffle areas of medium to large streams. Species adapted to live in such riffle areas are particularly vulnerable to power dams because of the voluminous, rapid water flow, as well as to pollution because of their large oxygen requirement. About a third of the three dozen *Epioblasma* species are presumed extinct.

The tan riffle shell formerly had a rather general distribution in medium small to large streams in both the Cumberland and Tennessee River systems. It is presently found only in the lower Red River of the Cumberland system in Kentucky and Tennessee, the middle fork of the Holston River in Virginia, possibly the Stones River in Tennessee where it would be very rare, the Duck River in Tennessee from Wilhoite Mill downstream to Columbia, and the Clinch River in Virginia and Tennessee where it is very rare. It is endangered in all of these rivers by pollution, including mine acid and municipal wastes. Pollution problems include low dissolved oxygen below Adairville and untreated effluent from a meat packing plant in the Red River system; mercury and lead in the middle fork of the Holston; low dissolved oxygen at Murfreesboro in the west fork Stones River; and lead, mercury, and a history of accidental spills of fly ash and sulfuric acid in the Clinch River. It is further endangered by channelization of the upper Clinch and by the TVA dam being constructed on the Duck River at Columbia. This dam will inundate and thereby extirpate the Duck River population.

Information on the mechanism by which physical and chemical factors jeopardize *Epioblasma* and other genera of mussels appeared in the "Proceedings of a Symposium on Rare and Endangered Molluscs of the U.S.", Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111, August 10, 1971, and "Greater Adaptability of Freshwater Mussels to Natural Rather than to Artificial Displacement" by Marc J. Imlay, which appeared in the *Nautilus* (1972, 86:76–79). In general, the mussels were demonstrated to be better adapted to naturally occurring stresses than to artificial ones. For example, 25 transplanted mussels (the result of dredging) lay on their sides and were disoriented in a stream where other mussels had reoriented after natural storms had washed them downstream.

Information on water quality appeared in material supplied by the Virginia State Water Control Board, Southwestern Regional Office; Division of Water Quality, Kentucky Department for Natural Resources and Environmental Protection; Proposed Criteria for Water Quality, Volume I, October 1973, U.S. Environmental Protection Agency, Washington, D.C. 20460; and Water Resources Data for Tennessee Water Year 1975. U.S. Geological Survey TN 75 1.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* This species appears on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora because it is threatened with extinction and could enter into previously unregulated international commerce. The impact of this commerce (pearl button and Japanese cultured pearl industry) on the tan riffle shell, while significant, is relatively minor, however, compared to the impact on mussel species with thick shells.

3. *Disease or predation.* Not applicable for this species.

4. *The inadequacy of existing regulatory mechanisms.* No regulations currently exist pertaining to the protection and conservation of this species other than the prohibitions against international trade that apply to species such as *E. walkeri* which are on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. These regulations provide no protection against taking for domestic purposes.

5. *Other natural or manmade factors affecting its continued existence.* During the mid-1950s the Asian clam, *Corbicula manilensis*, was introduced into the Tennessee River system. *Corbicula* has spread throughout the Tennessee River system where it has replaced many beds of native mussels including the tan riffle shell. A square yard of bottom frequently contains hundreds of individual Asian clams. Information on *Corbicula* appeared in the "Proceedings of a Symposium on Rare and Endangered Molluscs of the U.S.", U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111, August 10, 1971.

EFFECT OF THE RULEMAKING

The effects of these determinations and this rulemaking include, but are not necessarily limited to, those discussed below. Endangered Species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered species. The prohibited regulations referred to above, which pertain to Endangered species, are found at § 17.21 of Title 50 and, for the convenience of the reader, are reprinted below:

§ 17.21 Prohibitions.

(a) Except as provided in Subpart A of this part, or under permits issued pursuant to § 17.22 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take endangered wildlife within the United States, within the territorial sea of the United States, or upon the high seas. The high seas shall be all waters seaward of the territorial sea of the United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c)(1) of this section, any person may take endangered wildlife in defense of his own life or the lives of others.

(3) Nothwithstanding paragraph (c)(1) of this section, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take endangered wildlife without a permit if such action is necessary to:

(i) Aid a sick, injured or orphaned specimen; or

(ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientific study; or

(iv) Remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c)(2) and (3) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from the Service.

"(5) Nothwithstanding paragraph (c)(1) of this section, any qualified employee or agent of a State Conservation Agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties take Endangered Species, for conservation programs in accordance with the Cooperative Agreement, provided that such taking is not reasonably

anticipated to result in: (i) the death or permanent disabling of the specimen; (ii) the removal of the specimen from the State where the taking occurred; (iii) the introduction of the specimen so taken, or of any progeny derived from such a specimen, into an area beyond the historical range of the species; or (iv) the holding of the specimen in captivity for a period of more than 45 consecutive days."

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered wildlife which was taken in violation of paragraph (c) of this section.

Example. A person captures a whooping crane in Texas and gives it to a second person, who puts it in a closed van and drives thirty miles, to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the bird in his possession. All three have violated the law—the first by illegally taking the whooping crane; the second by transporting an illegally taken whopping crane; and the third by possessing an illegally taken whopping crane.

(2) Notwithstanding paragraph (d)(1) of this section, Federal and State law enforcement officers may possess, deliver, carry, transport or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this subsection.

The determination set forth in this final rulemaking also makes the tan riffle shell eligible for the consideration provided by Section 7 of the Act. That Section reads as follows:

"The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical."

The Director has prepared, in consultation with an ad hoc interagency committee, guidelines for Federal agencies for the application of Section 7 of the Act. Proposed regulations were published regarding Section 7 (42 FR 4868; January 26, 1977). When this rulemaking becomes effective, all Federal agencies will be required to meet their responsibilities under Section 7 of the Act, and where appropriate, utilize the consultation procedures contained in Section 7 guides and the proposed regulations.

Regulations which appear in Part 17, Title 50 of the Code of Federal Regulations were first published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412), and provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances.

NATIONAL ENVIRONMENTAL POLICY ACT

An environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. It addresses this action as it involves the tan riffle shell. The assessment and the public comments received on this rulemaking are the basis for a decision that these determinations are not major Federal actions which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

(Endangered Species Act of 1973 (U.S.C. 1531–1543; 87 Stat. 884).)

This final rulemaking was prepared by Dr. Marc J. Imlay, Office of Endangered Species.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: May 10, 1977.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

According, § 17.11 of Part 17 of Chapter 1 of Title 50 of the U.S. Code of Federal Regulations is amended as follows:

1. By adding the tan riffle shell to the list under "Clams" as indicated below:

Species			Range		Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered			
Riffle shell, tan	*Epioblasma walkeri*	NA	Virginia, Tennessee, Kentucky.	Entire	E	27	NA

[FR Doc.77-24431 Filed 8-22-77;8:45 am]

PART 21—MIGRATORY BIRD PERMITS

States Meeting Federal Falconry Standards

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service publishes a list of States where falconry laws have been determined by the Director to meet or exceed the minimum Federal standards. Any State may obtain a review and determination of its existing laws or regulations relating to falconry. Falconry may now be practiced in the States listed in 50 CFR 21.29.

DATE: August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Danny M. Searcy, Special Agent, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202–343–9242.

SUPPLEMENTARY INFORMATION: In notices of proposed rulemaking dated July 30, 1973 (38 FR 20264), and April 4, 1974 (39 FR 12314), the Service issued proposed regulations which provided for the review and approval of State falconry laws. If a given State's laws were approved, the State would be listed in 50 CFR 21.29(k), and falconry permitted therein pursuant to a system of joint Federal-State permits. These regulations were finalized on January 15, 1976 (41 FR 2237). On December 28, 1976 (41 FR 56329), the time limit for a State to submit its laws for review and approval was extended until December 31, 1977.

Utilizing the criteria established in 50 CFR 21.29, the Director has now reviewed and approved the falconry laws of 25 States. In accordance with 41 FR 2237 and 41 FR 56329, upon publication of this Appendix in the FEDERAL REGISTER, the practice of falconry in the 25 States listed below shall be governed by 50 CFR 21.28, as amended, and § 21.29.

The primary author of this document is Mr. Ronald Swan, Office of the Solicitor, Department of the Interior.

Accordingly, the following list is hereby added to 50 CFR 21.29(k):

§ 21.29 Federal falconry standards.

* * * * * * *

(k) * * *

*Alaska
*Arizona
*Arkansas
*Florida
*Georgia
*Idaho
*Indiana
*Iowa
*Kentucky
*Massachusetts
*Minnesota
*Mississippi
*Missouri
*Nebraska
*New Mexico
*New York
*North Dakota
*Oklahoma
*Pennsylvania
*South Carolina
*South Dakota
*Utah
*Virginia
*Washington
*Wyoming

V 42 163 AUG 23 77 UM

NOTE.—The Service has determined that this document does not contain a major action requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 16, 1977.

LYNN A. GREENWALT,
U.S. Fish and Wildlife Service.

[FR Doc.77-24300 Filed 8-22-77;8:45 am]

PART 32—HUNTING

Opening of Iroquois National Wildlife Refuge, New York, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to hunting of Iroquois National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1977, through February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Edwin Chandler, Iroquois National Wildlife Refuge, R.F.D. 1, Basom, New York, 14013, Telephone No. 716-948-5445.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of woodcock and crow on the Iroquois National Wildlife Refuge, New York, is permitted during the regular State open seasons, except on areas designated by signs as closed. This open area is shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

Hunting shall be in accordance with all State and Federal regulations covering the hunting of woodcock and crow.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A 107.

AUGUST 12, 1977.

WILLIAM C. ASHE,
Regional Director,
Fish and Wildlife Service.

[FR Doc.77-24338 Filed 8-22-77;8:45 am]

PART 32—HUNTING

Opening of Iroquois National Wildlife Refuge, New York, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to hunting of Iroquois National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1977 through February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Edwin Chandler, Iroquois National Wildlife Refuge, RFD 1, Basom, New York, 14013, Telephone No. 716-948-5445

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of upland game birds and small game mammals, including foxes, opossoms, red squirrels, woodchucks is permitted during the respective State seasons except on areas designated by signs as closed. This open area comprising 10,383 acres is shown on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts, 02158. Hunting shall be in accordance with all State Regulations subject to the following special condition:

(1) A seasonal permit is required for the nighttime hunting of racoon. Permits may be obtained by applying in person at the refuge office.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, as are set forth in Title 50, Code of Federal Regulations, Part 32.

The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

WILLIAM C. ASHE,
Acting Regional Director,
Fish and Wildlife Service.

AUGUST 12, 1977.

[FR Doc.77-24339 Filed 8-22-77;8:45 am]

PART 32—HUNTING

Opening of Noxubee National Wildlife Refuge, Mississippi to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Noxubee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: State Waterfowl Season.

FOR FURTHER INFORMATION CONTACT:

Travis H. McDaniel, Refuge Manager, Noxubee National Wildlife Refuge, Route 1, Box 84, Brooksville, Miss. 39739, telephone 601-323-5548.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuges.

Public hunting of ducks and coots on the Noxubee National Wildlife Refuge is permitted only on the area designated by the refuge manager as Green Timber Reservoir No. 1. The open area of 520 acres is delineated on a map available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of ducks and coots subject to the following special conditions:

1. Hunting will be permitted only on Mondays, Wednesdays, and Saturdays from one-half hour before sunrise to 12 noon during the State waterfowl hunting season.

2. The use of boats with electric motors is permitted within the hunting area.

3. The construction of blinds is not permitted.

4. Hunters will not be permitted to enter the hunting area sooner than 45 minutes before legal shooting hours.

5. No hunting may take more than 16 shootgun shells into the hunting area.

6. No shooting will be permitted from the levee or the open water area immediately adjacent to the levee.

7. All hunters are required to check in and out at the designated check station.

8. Only steel shot ammunition may be used. The possession or use of lead or other toxic shot is prohibited.

9. Permit required.

10. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas general generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 15, 1977.

HAROLD W. BENSON,
Acting Regional Director.

[FR Doc.77-24272 Filed 8-22-77;8:45 am]

PART 32—HUNTING

Opening of Savannah National Wildlife Refuge, Georgia to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Savannah National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Season to be set by State of Georgia.

FOR FURTHER INFORMATION CONTACT:

John P. Davis, Refuge Manager, Savannah National Wildlife Refuge Complex, P.O. Box 4623, Savannah, Ga. 31402, telephone 912-232-4321, ext. 415.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game bird hunting; for individual wildlife refuge areas.

Hunting is permitted on the Savannah National Wildlife Refuge, Georgia only on the areas designated as being open to hunting. These areas comprising 3,500 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, 17 Executive Park Drive NE. Atlanta, Ga. 30329. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Daily bag limits are the same as State regulations for ducks, coots, and snipe. Hunters are cautioned against killing, shooting at, or molesting any species of wildlife other than those listed.

2. Hunting will be permitted only on Thursday, Friday, and Saturday, from one-half hour before sunrise to 12 o'clock noon during the season set by State regulation.

NOTE.—Snipe season opens at different dates than ducks and coots but will close on the refuge on the same date.

3. Hunting will not be permitted in or on Front, Middle, and Back Rivers, nor closer than 50 yards to the shoreline of these rivers.

4. Hunters will not be permitted to enter the hunting area sooner than one and one-half hours before sunrise.

5. Only steel shot ammunition may be used, all lead shot shells are prohibited. Guns must be unloaded and cased or dismantled while being carried to and from the hunting area.

6. Only temporary blinds constructed of native materials are permitted. Hunters must build their own blinds and furnish their own boats and decoys.

7. Dogs used to retrieve waterfowl must be under control at all times.

8. Season permits must be carried on person while hunting. Permits may be obtained from the Refuge Manager in person or by mail.

9. Hunting questionnaires must be completed and returned to the Refuge Manager, Savannah National Wildlife Refuge, within 30 days following the end of the season.

10. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

SPECIAL INFORMATION

Since Savannah Refuge is located near the coast, the hunting area is subject to tidal fluctuations of 6 to 8 feet. Hunters are urged to be familiar with tide tables, carry adequate safety equipment, and exercise extreme caution in all boating and hunting activities.

The provisions of this special regulation supplements the regulations which govern hunting of wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 15, 1977.

HAROLD W. BENSON,
Acting Regional Director.

[FR Doc.77-24273 Filed 8-22-77;8:45 am]

PART 32—HUNTING

Opening of Noxubee National Wildlife Refuge, Mississippi to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Noxubee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Squirrel and Rabbit—October 29-November 12, 1977. Raccoon and Opossum—January 1-31, 1978. Quail and Rabbit—January 16-February 21, 1978. Turkey—March 25-April 5, 1978 and April 7-22, 1978.

FOR FURTHER INFORMATION CONTACT:

Travis H. McDaniel, Refuge Manager, Noxubee National Wildlife Refuge, Route 1, Box 84, Brooksville, Miss. 39739, telephone 601-323-5548.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of upland game on the Noxubee National Wildlife Refuge, Mississippi, is permitted on the area designated by signs as open to hunting. This open area is delineated on a map available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Hunting shall be in accordance with all State and Federal regulations subject to the following special conditions:

1. Squirrels and rabbits may be hunted October 29-November 12, 1977 on all areas of the refuge (except closed areas).

2. Quail may be hunted January 16-February 21, 1978. Rabbits may be hunted as an incidental species during the quail hunt. Only shotguns permitted during this hunt.

3. Raccoons and oppossums may be hunted January 1-31, 1978 with .22 caliber rimfire weapons only.

4. Turkey (Gobblers only) may be hunted March 25-April 5, 1978 and April 7-22, 1978. Limit of two turkeys per year.

5. Sunday hunting is prohibited.

6. Dogs are permitted during the quail, raccoon and opossum hunts only.

7. Turkeys killed must be checked at refuge headquarters.

8. Permits are required for all hunts and may be obtained at refuge headquarters.

9. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

10. The use of any Citizen's Band Radio devices to aid in the pursuit or taking of any game species is prohibited.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 15, 1977.

HAROLD W. BENSON,
Acting Regional Director.

[FR Doc.77-24281 Filed 8-22-77;8:45 am]

PART 32—HUNTING

Opening of Piedmont National Wildlife Refuge, Georgia to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Piedmont National Wildlife Refuge is

V 42 163 AUG 23 77 UM V

compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Squirrel and quail: November 22, 1977 through February 28, 1978 on Tuesdays, Saturdays, and National Holidays.

FOR FURTHER INFORMATION CONTACT:

Ronnie A. Shell, Refuge Manager, Piedmont National Wildlife Refuge, Round Oak, Georgia 31080, telephone (912) 986-3651.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Hunting is permitted on the entire Piedmont National Wildlife Refuge, Georgia except on the areas designated by signs as being closed to hunting. This open area, comprising approximately 33,000 acres, is delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Species permitted to be taken: Bobwhite quail and gray squirrels only.

2. Open season: Quail and gray squirrels—November 22, 1977 thru February 28, 1978, on Tuesdays, Saturdays, and National Holidays. Hunters are permitted on areas open to quail and squirrel hunting from 30 minutes before sunrise until 30 minutes after sunset on the above cited hunting days.

3. No vehicular or horseback travel except on State and county roads.

4. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

5. Camping and fires are prohibited.

6. Dogs permitted for quail hunting, and one dog per party authorized for squirrel hunting.

7. Firearms limited to .22 caliber rimfire rifles and shotguns.

8. A refuge permit is required. An unlimited number of permits for the quail and squirrel hunts will be available at refuge headquarters Monday through Friday 8 a.m.-4:30 p.m. during the respective hunt period. Questionnaire on permit must be completed and returned to refuge office at close of season.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 15, 1977.

HAROLD W. BENSON,
Acting Regional Director.

[FR Doc.77-24277 Filed 8-22-77;8:45 am]

PART 32—HUNTING

Opening of Catahoula National Wildlife Refuge, Louisiana, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to big game hunting of Catahoula National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 10, 1977, through November 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Stephen K. Joyner, Refuge Manager, Catahoula National Wildlife Refuge, P.O. Drawer LL, Jena, Louisiana 73142, telephone (318) 992-5261

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

White-tailed deer hunting is permitted on the Catahoula National Wildlife Refuge, Louisiana, only on the areas designated by signs as being open to hunting. These areas comprising 3,000 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Deer hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Bucks only—gun hunt; November 10-12, 1977.

2. Guns must be centerfire rifles.

3. Hunting hours: One-half hour before sunrise until one-half hour after sunset. Hunters may enter area 30 minutes prior to legal shooting hours and must exit 30 minutes after legal hours.

4. Permits: A refuge permit is required for all hunts.

5. Still hunting only. No dogs allowed. No permanent tree stands may be constructed. It is unlawful to drive a nail, spike, or other metal object into any tree or to hunt from any tree in which a metal object has been driven.

6. Required clothing: Every hunter must wear outer garmets consisting of at least 400 square-inches of daylight fluorescent orange colored material worn above the waistline.

7. No vehicles may be parked more than 50 yards from existing main roads. No ATV vehicles other than jeep type will be allowed. No vehicles with tires larger than 9.00x16" may be used.

8. Unmarked feral hogs may be taken by deer hunters.

9. All deer killed must be checked at a refuge checking station.

10. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB circular A-107.

Dated: August 15, 1977.

HAROLD W. BENSON,
Acting Regional Director.

[FR Doc.77-24274 Filed 8-22-77;8:45 am]

PART 32—HUNTING

Opening of White River National Wildlife Refuge, Arkansas, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of White River National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: *Archery*-October 11-30; *Muzzleloading rifles*: October 28-29; *Gun*: November 14-15-16, 1977.

FOR FURTHER INFORMATION CONTACT:

Raymond R. McMaster, Refuge Manager, P.O. Box 308, DeWitt, AR 72042, telephone (501) 946-1468.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations: big game; for individual wildlife refuge areas.

Hunting is permitted on the White River National Wildlife Refuge, Arkansas, only on the areas designated by signs as being open to hunting. These areas comprising 90,000 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Species permitted to be taken: White-tailed Deer.

2. Bag Limit: One deer of either sex for archery and muzzle loader, one buck only for regular gun hunt.

3. Weapons—In accordance with State regulations.

4. Loaded guns are not permitted in vehicles or in camps. Shooting is not allowed from boats, vehicles, or roadways used by vehicles. Dogs and horses are not allowed and all vehicles must stay on regularly used roads and trails. Shooting hours are 30 minutes before sunrise to 30 minutes after sunset. Camping is permitted in designated areas. Hunters may enter the open hunting area at noon on the date preceding each hunt and must be out of the area by dark of the closing day. Fires may be built only at the campsites.

5. Deer killed during the gun hunting must be checked at one of the refuge check stations between 7:30 a.m. and 7 p.m.

6. Hunters may not return to the hunting area after they have killed a deer.

7. Permit required. No person is authorized to enter the hunting area without a permit. Submission of more than one permit application or applications containing false information is prohibited.

8. Each hunter under 18 years of age must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

9. Each gun deer hunter is required to wear a minimum of 500 square inches of daylight fluorescent orange above the waistline.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 15, 1977.

HAROLD W. BENSON,
Acting Regional Director.

[FR Doc 77-24275 Filed 8-22-77;8:45 am]

PART 32—HUNTING

Opening of Wheeler National Wildlife Refuge, Alabama, to Big Game Hunting, White-Tailed Deer

AGENCY: Fish and Wildlife Service. Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to big game hunting, white-tailed deer, of Wheeler National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 22, 1977 through January 21, 1978, inclusive.

FOR FURTHER INFORMATION CONTACT:

Thomas Z. Atkeson, P.O. Box 1643, Decatur, Alabama 35602, (205) 353-7243.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Big game hunting for white-tailed deer is permitted on the Wheeler National Wildlife Refuge, Alabama, only on the areas designated by signs as being open to hunting. This area comprising approximately 4,500 acres and including all those parts of the Wheeler National Wildlife Refuge included within the Redstone Arsenal Reservation, is delineated on maps available at the Refuge Headquarters, Box 1643, Decatur, Alabama 35602, U.S. Fish and Wildlife Service Area Office, 200 East Pascagoula Street, Suite 490, Jackson, Mississippi 39201, and from the office of the Provost Marshal, Redstone Arsenal, Alabama. Big game hunting for white-tailed deer shall be in accordance with all applicable State and Federal regulations subject to the following conditions:

1. Only white-tailed deer may be taken.

2. Hunting shall be by daily permit only with permits obtained from the office of the Deputy Post Game Warden, Redstone Arsenal, Alabama.

3. Hunting will be limited to the periods October 22-23, October 29-30, November 5-6, November 12-13, 1977, archery only, either sex; November 19-20, November 26-27, December 3-4, December 10-11, December 17, December 26, 1977, January 2, January 7, January 14, January 21, 1978, guns only, either sex until State quota of 200 antlerless deer is reached after which hunts will be for antlered bucks only.

4. Weapons are limited to shotguns of gauges 20 to 12, loaded with single ball only and longbows with broadhead arrows.

5. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

6. Fluorescent orange caps and or vests or coats will be worn.

The provisions of this special regulation supplement the regulations which govern big game hunting for white-tailed deer on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 15, 1977.

HAROLD W. BENSON,
Acting Regional Director.

[FR Doc.77-24276 Filed 8-22-77;8:45 am]

PART 32—HUNTING

Opening of Pungo National Wildlife Refuge, North Carolina to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Pungo National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: *Archery hunt:* September 19—October 5, 1977 *Shotgun and Primitive weapons:* October 11-13, 1977; October 17-19, 1977; and October 25-26, 1977

FOR FURTHER INFORMATION CONTACT:

John C. Fields, Refuge Manager, P.O. Box 267, Plymouth, North Carolina 27962, telephone (919) 793-2143.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Big game hunting is permitted on the Pungo National Wildlife Refuge, North Carolina, only on the areas designated by signs as being open to hunting. These areas comprising 7,000 acres for gun hunting and 9,000 acres for bow hunting are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Big game hunting shall be in accordance with all applicable state regulations subject to the following conditions:

1. Species and bag limit: One white-tailed deer per day; three per season.

2. Seasons and sex: (a) Bow and arrow only: either sex—September 19-October 5, 1977. (b) Shotguns and primitive weapons: either sex—October 11, 12, 13, 17, 18, 19, 25 and 26, 1977.

3. Hunting hours: Sunrise to sunset. All guns must be unloaded and bows unstrung at sunset.

4. Weapons: (a) Bow and arrow as provided for in State regulations. (b) Shotguns—20 gauge or larger used with rifled slugs or shot no smaller than No. 4 buckshot. (c) Primitive weapons are muzzleloading percussion cap or flintlock rifles.

5. Permits: (a) Gun hunters must have a valid permit issued by the U.S. Department of the Interior, Fish and Wildlife Service, as a result of a public drawing of advance applications. (b) Bow hunters must have a permit issued at the refuge.

6. Required clothing: Every gun hunter must wear outer garments consisting of at least 400 square inches of day-light fluorescent orange-colored material worn above the waistline.

7. Age limits: Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more

V 42163 AUG 23 77 UM

than two juveniles under his/her supervision.

8. Closed area: Unauthorized entry into any building or designated "Closed Area" is prohibited. No hunting is permitted within 200 yards of the refuge subheadquarters.

9. Transporting weapons: Weapons must be unloaded while being transported in or on a vehicle. Nocked arrows are considered loaded weapons.

10. Prohibited: Modern rifles, pistols, crossbows, dogs, fires, camping and littering.

11. Hunters shall not disturb, damage or destroy unharvested crops.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation on an Economic Impact Statement under Executive Order 11949 and OMB A-107.

Dated: August 15, 1977.

HAROLD W. BENSON,
Acting Regional Director.

[FR Doc.77-24278 Filed 8-22-77;8:45 am]

PART 32—HUNTING

Opening of Wheeler National Wildlife Refuge, Alabama to Big Game Hunting, White-Tailed Deer

AGENCY: Fish and Wildlife Service. Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to big game hunting, white-tailed deer, of Wheeler National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 24 through November 5, 1977, inclusive.

FOR FURTHER INFORMATION CONTACT:

Thomas Z. Atkeson, P.O. Box 1643, Decatur, Alabama 35602, telephone 205/353-7243.

SUPPLEMENTARY INFORMATION:

§ 32.32 **Special regulations; big game; for individual wildlife refuge areas.**

Big game hunting for white-tailed deer is permitted on the Wheeler National Wildlife Refuge, Alabama, only on the areas designated by signs as being open to hunting. These areas comprising approximately 9,000 acres including all refuge area on the northern side of the Tennessee River from Rockhouse Landing eastward to the Redstone Arsenal boundary and all on the southern side of the river from Bluff City eastward to the eastern end of refuge, are delineated on maps available at the refuge headquarters and from the office of the Regional Director, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Big game hunting for white-tailed deer shall be in accordance with all applicable State regulations subject to the following conditions:

1. Special permits are required and are obtainable without charge at the refuge office.

2. Only white-tailed deer, either sex, may be taken, though no spotted fawns may be shot.

3. Only longbows and broadhead arrows may be used.

4. Hunters must wear fluorescent orange caps and/or vests or coats.

5. Dog use is not allowed.

6. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern big game hunting for white-tailed deer on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 15, 1977.

HAROLD W. BENSON,
Acting Regional Director.

[FR Doc.77-24279 Filed 8-22-77;8:45 am]

PART 32—HUNTING

Opening of Noxubee National Wildlife, Refuge, Mississippi to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Noxubee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1-15, 1977; November 21-26, 1977; December 12-17; 1977; and January 9-14, 1978.

FOR FURTHER INFORMATION CONTACT:

Travis H. McDaniel, Refuge Manager, Noxubee National Wildlife Refuge, Route 1, Box 84, Brooksville, Mississippi 39739, telephone (601) 323-5548

SUPPLEMENTARY INFORMATION:

§ 32.32 **Special regulations; big game; for individual wildlife refuge areas.**

Public hunting of white-tailed deer on Noxubee National Wildlife Refuge, Mississippi, is permitted only on the area designated by signs and delineated on maps available at Refuge Headquarters and from the Office of the Regional Director, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer, subject to the following special conditions:

1. Open Seasons: Archery hunt—October 1-15, 1977; Gun hunts—November 21-26, 1977 and January 9-14, 1978; Primitive weapons—December 12-17, 1977.

2. Weapons: Longbow and arrows; shotguns 20 gauge or larger and centerfire rifles, muzzleloading rifles and shotguns.

3. Sunday hunting prohibited.

4. Horses and dogs are not permitted.

5. All deer killed must be checked out at the designated refuge checking station of refuge headquarters.

6. Permits are required for all deer hunts.

7. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

8. Man-drive deer hunting prohibited.

9. The use of any Citizen's Band Radio devices to aid in the pursuit or taking of any wildlife species is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

HAROLD W. BENSON,
Acting Regional Director.

Dated: August 15, 1977.

[FR Doc.77-24280 Filed 8-22-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

[7 CFR Part 657]

PRIME AND UNIQUE FARMLANDS

Important Farmland Inventory

AGENCY: U.S. Department of Agriculture, Soil Conservation Service.

ACTION: Proposed rule.

SUMMARY: This rule prescribes general guidelines for a national program of inventorying prime and unique farmland, as well as other farmlands of statewide or local importance. It includes specific criteria for the definition of prime farmland.

DATE: Comments must be received on or before October 7, 1977.

FOR FURTHER INFORMATION CONTACT:

R. M. Davis, Administrator, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: On October 15, 1975, the Soil Conservation Service (SCS) issued Land Inventory and Monitoring (LIM) Memorandum-3, to establish SCS policy regarding a national program for inventorying important farmlands. For purposes of determining applicability, "inventorying" means to identify, locate, classify, and measure. LIM Memorandum-3 was developed in response to growing concern over the continuing reduction of the Nation's supply of prime and unique farmland and initiated a standard procedure for showing the kind, extent, and location of these important farmlands.

Prime and unique farmlands are important to the Nation as the base of high quality land that can provide present and future food and fiber supplies with the least use of energy, capital, and labor and with minimal environmental impact.

Prime farmland is the only category in the important farmland inventory that is defined on the basis of national criteria. These criteria are based on soil, water, and climatic factors which are readily available in soil surveys and other related resource information. Application of these criteria assure that the lands classified as prime farmland will meet similar criteria in all parts of the Nation. This is essential to provide uniformity of interpretation and establish a basis for National policy and program action affecting those lands that have the best physical and chemical qualities for the production of food, feed, forage, fiber, and oilseed crops. The definition of prime farmland is published here to fulfill the requirements of Section 701(20), Pub. L. 95-87, and for other purposes.

Unique farmlands and farmlands of statewide importance are identified by representatives of the Governor's office, agencies of the State Government, and others in cooperation with the SCS. Farmlands of local importance are identified if it has been determined by local agencies that this information is needed.

LIM Memorandum-3 is hereby revised to indicate new procedural responsibilities in making and publishing inventories of important farmlands. These new responsibilities provide SCS State Conservationists additional opportunities and flexibility to develop inventories more rapidly. There is no change in the specific criteria for prime farmland, but both the general definition and the specific criteria have been edited to provide a more clearly understandable definition for lay people and technical specialists.

The SCS plans to issue these regulations to provide information on the important farmland inventory and to serve as a standard reference for the definition and specific criteria for prime farmland. This is necessitated by the growing number of legislative and regulatory references to the term "prime farmland" and the need to provide a uniformly accepted definition.

Concern for the continuing loss of these lands to non-agricultural uses has resulted in legislative and regulatory efforts by different levels of Government attempting to reduce these losses. SCS policy and programs support these efforts in several ways. Making and keeping current an inventory of the important farmlands is one such way. Other SCS efforts include special evaluation of the impact of major Federal actions on prime farmlands. (See 7 CFR 650.8.) As other SCS policies or programs to protect prime and unique farmlands are developed, they will be published in this part.

Interested persons are invited to submit written comments, suggestions, data, or arguments as they desire. Comments should be submitted to:

Administrator, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013.

Written comments received on or before October 7, 1977, will be considered before any action is taken on this proposed rule.

Comments received before the closing date will be made available for examination by interested persons.

Dated: August 16, 1977.

WILLIAM M. JOHNSON,
Deputy Administrator for Technical Services, Soil Conservation Service.

(Catalog of Federal Domestic Assistance programs numbered 10.900 (Great Plains), 10.901 (Resource Conservation and Development), 10.902 (Soil and Water Conservation), 10.904 (Watershed Protection and Flood Prevention), and 10.905 (Plant Materials).)

PART 657—PRIME AND UNIQUE FARMLANDS

Subpart A—Important Farmland Inventory

Sec.
657.1 Purpose.
657.2 Policy.
657.3 Applicability.
657.4 SCS Responsibilities.
657.5 Identification of important farmlands.

AUTHORITY: 16 U.S.C. 590a-f, q; 7 CFR 2.62; Pub. L. 95-87; 42 U.S.C. 4321 et seq.

Subpart A—Important Farmland Inventory

§ 657.1 **Purpose.**

The Soil Conservation Service is concerned about any action that tends to impair the productive capacity of American agriculture. The Nation needs to know the extent and location of the best land for producing food, feed, fiber, forage, and oilseed crops. Farmlands, in addition to prime and unique farmlands, that are of statewide and local importance for producing these crops need to be identified.

§ 657.2 **Policy.**

It is SCS policy to make and keep current an inventory of the prime farmland and unique farmland of the Nation. This inventory is to be carried out in cooperation with other interested agencies at the national, State, and local levels of Government. The objective of the inventory is to identify the extent and location of important rural lands needed to produce food, feed, fiber, forage, and oilseed crops.

§ 657.3 **Applicability.**

Inventories made under this memorandum do not constitute a designation of any land area to a specific land use. Such designations are the responsibility of appropriate local and State officials.

§ 657.4 **SCS Responsibilities.**

(a) *State Conservationists.* Each State Conservationist is to:

V 42 163 AUG 23 77 UM

(1) Provide leadership for inventories of important farmlands for the State, county, or other subdivision of the State. Each is to work with appropriate agencies of State Government and others to establish priorities for making these inventories.

(2) Identify the soil mapping units within the State that qualify as prime farmland. Each is to invite representatives of the Governor's Office, agencies of the State Government, and others to identify farmlands of statewide importance and unique farmlands that are to be inventoried within the framework of this memorandum.

(3) Prepare a statewide list of:

(i) Soil mapping units that meet the criteria for prime farmland.

(ii) Soil mapping units that are farmlands of statewide importance if the criteria used were based on soil information.

(iii) Specific high-value food and fiber crops that are grown and, when combined with other favorable factors, qualify lands to meet the criteria for unique farmlands. Copies are to be furnished to Field Offices and to the Technical Service Centers (TSC's). (See 7 CFR 600.3, 600.6.)

(4) Coordinate soil mapping units that qualify as prime farmlands with adjacent States, including the States responsible for the soil series. Since farmlands of statewide importance and unique farmlands are designated by others at the State level, the soil mapping units and areas identified need not be coordinated among States.

(5) Instruct District Conservationists to arrange local review of lands identified as prime, unique, and additional farmlands of statewide importance by Conservation Districts and representatives of local agencies. This review is to determine if additional farmland should be identified to meet local decisionmaking needs.

(6) Make and publish each important farmland inventory on a base map of national map accuracy at an intermediate scale of 1:50,000 or 1:100,000. State Conservationists who need base maps of other scales are to submit their requests with justification to the Administrator for consideration.

(b) *Technical Service Centers.* Field Representatives (see 7 CFR 600.2(f)) are to provide requested technical assistance to State Conservationists in inventorying prime and unique farmlands. This includes reviewing statewide lists of soil mapping units that meet the criteria for prime farmlands and resolving coordination problems that may occur among States for specific soil series or soil mapping units.

(c) *National Office.* The Assistant Administrator for Field Services (see 7 CFR 600.2) is to provide national leadership in preparing guidelines for inventorying prime farmlands and for national statistics and reports of prime farmlands.

§ 657.5 Identification of important farmlands.

(a) *Prime farmland*—(1) *General.* Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops, and also available for these uses (the land could be cropland, pastureland, rangeland, forest land, or other land, but not urban built-up land or water). It has the soil quality, growing season, and moisture supply needed to economically produce sustained high yields of crops when treated and managed, including water management, according to modern farming methods. In general, prime farmlands have an adequate and dependable moisture supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. They are permeable to water and air. Prime farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood or are protected from flooding. Examples of soils that qualify as prime farmland are Palouse silt loam, 0 to 7 percent slopes; Brookston silty clay loam, drained; and Tama silty clay loam, 0 to 5 percent slopes.

(2) *Specific criterial.* Prime farmlands meet the following criterial. Terms used in this section are defined in USDA publications: Soil Taxonomy, Agriculture Handbook 436; Soil Survey Manual, Agriculture Handbook 18; Rainfall-Erosion Losses from Cropland, Agriculture Handbook 282; and Saline and Alkali Soils, Agriculture Handbook 60.

(i) The soils have: (A) Aquic, udic, ustic, or xeric moisture regimes and sufficient available water capacity within a depth of 40 inches (1 meter), or in the root zone if the root zone is less than 40 inches deep to produce the commonly grown crops in 7 or more years out of 10; or

(B) Xeric or ustic moisture regimes in which the available water capacity is limited, but the area has developed irrigation water supply that is dependable (a dependable water supply is one in which enough water is available for irrigation in 8 out of 10 years for the crops commonly grown) and of adequate quality; or,

(C) Aridic or torric moisture regimes and the area has a developed irrigation water supply that is dependable and of adequate quality; and,

(ii) The soils have a temperature regime that is frigid, mesic, thermic, or hyperthermic (pergelic and cryic regimes are excluded). These are soils that, at a depth of 20 inches (50 cm), have a mean annual temperature higher than 32° F (0° C). In addition, the mean summer temperature at this depth in soils with an O horizon is higher than 47° F. (8° C); in soils that have no O horizon, the mean summer temperature is higher than 59° F (15° C); and,

(iii) The soils have a pH between 4.5 and 8.4 in all horizons within a depth of 40 inches (1 meter) or in the root zone if the root zone is less than 40 inches deep; and,

(iv) The soils either have no water table or have a water table that is maintained at a sufficient depth during the cropping season to allow food, feed, fiber, forage, and oilseed crops common to the area to be grown; and,

(v) The soils can be managed so that, in all horizons within a depth of 40 inches (1 meter) or in the root zone if the root zone is less than 40 inches deep, during part of each year the conductivity of the saturation extract is less than 4 mmhos/cm and the exchangeable sodium percentage (ESP) is less than 15; and,

(vi) The soils are not flooded frequently during the growing season (less often than once in 2 years); and,

(vii) The product of K (erodibility factor) x percent slope is less than 2.0, and the product of I (soil erodibility) X C (climatic factor) does not exceed 60; and,

(viii) The soils have a permeability rate of at least 0.06 inch (0.15 cm) per hour in the upper 20 inches (50 cm) and the mean annual soil temperature at a depth of 20 inches (50 cm) is less than 59° F (15° C); the permeability rate is not a limiting factor if the mean annual soil temperature is 59° F (15° C) or higher; and.

(ix) Less than 10 percent of the surface layer (upper 6 inches) in these soils consists of rock fragments coarser than 3 inches (7.6 cm).

(b) *Unique farmland*—(1) *General.* Unique farmland is land other than prime farmland that is used for the production of specific high value food and fiber crops. It has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality and/or high yields of a specific crop when treated and managed according to modern farming methods. Examples of such crops are citrus, treenuts, olives, cranberries, fruit, and vegetables.

(2) *Specific characteristics of unique farmland.* (i) Is used for a specific high-value food or fiber crop.

(ii) Has a moisture supply that is adequate for the specific crop. The supply is from stored moisture, precipitation, or a developed irrigation system.

(iii) Combines favorable factors of soil quality, growing season, temperature, humidity, air drainage, elevation, aspect, or other conditions, such as nearness to market, that favor the growth of a specific food or fiber crop.

(c) *Additional farmland of Statewide importance.* This is land, in addition to prime and unique farmlands, that is of statewide importance for the production of food, feed, fiber, forage, and oilseed crops. Criteria for defining and delineating this land are to be determined by the appropriate State agency or agencies. Generally, additional farmlands of statewide importance include those that are nearly prime farmland and that economically produce high yields of crops when treated and managed according to modern farming methods. Some may produce as high a yield as prime farmlands if conditions are favorable. In some States, additional farmlands of statewide importance may include tracts of land that have been designated for agriculture by State law.

(d) *Additional farmland of local importance.* In some local areas there is concern for certain additional farmlands for the production of food, feed, fiber, forage, and oilseed crops, even though these lands are not identified as having national or statewide importance. Where appropriate, these lands are to be identified by the local agency or agencies concerned. In places, additional farmlands of local importance may include tracts of land that have been designated for agriculture by local ordinance.

[FR Doc.77-24189 Filed 8-22-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 430]

ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Proposed Energy Efficiency Improvement Target for Home Heating Equipment, Not Including Furnaces; Further Opportunity for Comment

AGENCY: Federal Energy Administration.

ACTION: Notice of further opportunity for public comment.

SUMMARY: The Federal Energy Administration gives notice of an extension of the deadline for submission of written comments concerning the proposed energy efficiency improvement target for home heating equipment, not including furnaces, which appeared at 36648 of the July 15, FEDERAL REGISTER. The new deadline is October 25, 1977. A second, public hearing will be held concerning this proposed target, at the time of the hearing on test procedures for vented home heating equipment, which will be proposed shortly.

DATES: Comments by October 25, 1977; hearing to be held on November 2, 1977.

FOR FURTHER INFORMATION CONTACT:

James A. Smith, Office of Conservation, Room 307—Old Post Office Building, 12th & Pennsylvania Ave., N.W., Washington, D.C. 20461, (202) 566-4635.

William J. Dennison, or Laurence J. Hyman, Office of the General Counsel, Room 7148—Federal Building, 12th & Pennsylvania Ave., N.W., Washington, D.C. 20461, (202) 566-9750.

SUPPLEMENTARY INFORMATION: The Federal Energy Administration (FEA) previously proposed an energy efficiency improvement target for home heating equipment, not including furnaces, and scheduled a public hearing concerning this target, to be held on August 19, 1977 (42 FR 36648, July 15, 1977). FEA intends to publish shortly proposed test procedures for vented home heating equipment. Publication of proposed test procedures for other types of appliances has preceded the proposal of targets for those appliances. FEA believes that reference to the test procedures for vented home heating equipment would permit more effective public comment on the proposed energy efficiency improvement target for home heating equipment. Therefore, FEA has extended the period for written comment concerning the target to October 25, 1977. Comments should continue to be sent to the address specified in the July 15, 1977, FEDERAL REGISTER notice. A public hearing concerning both the proposed test procedures and the proposed target will be held on November 2, 1977. The exact time and place of this hearing, and procedures for requesting an opportunity to speak, will be announced when the test procedures for vented home heating equipment are proposed. The August 19, 1977, hearing will be held as scheduled.

Issued in Washington, D.C., August 17, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-24269 Filed 8-22-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 431 and 514]

[Docket No. 77N-0117]

CERTIFICATION OF ANTIBIOTIC DRUGS

Revised Requirements for Submission of Requests for Batch Certification

Correction

In FR Doc. 77-20306, appearing at page 36492 in the issue of Friday, July 15, 1977, make the following changes:

1. The second line of the fourth full paragraph on page 36493 should read, "(c)(4) to require submission of the date".

2. The fourth complete word in the ninth line of the fifth full paragraph on page 36493 should read "test".

3. The eleventh to last line of the fifth full paragraph on page 36493 should be omitted.

PENSION BENEFIT GUARANTY CORPORATION

[29 CFR Part 2610]

VALUATION OF PLAN BENEFITS

Interim Regulation; Proposed Amendment

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed Amendment to the Interim Regulation.

SUMMARY: This proposed rule prescribes the rates and factors to be used for valuing plan benefits under Title IV of the Employee Retirement Income Security Act of 1974 for plans that terminated on or after March 1, 1977, but before June 1, 1977. It is necessary because the PBGC has not yet published valuation rates and factors for plans that terminated during the period covered by the proposed amendment. The proposed amendment's effect is to provide notice of the rates and factors that will be used to value benefits provided under such plans.

DATES: Comments should be submitted on or before September 22, 1977.

ADDRESSES: Comments should be sent to: Office of the General Counsel, Pension Benefit Guaranty Corporation, Suite 7200, 2020 K Street NW., Washington, D.C. 20006. Copies of written comments will be available for examination in: Office of Communications, Pension Benefit Guaranty Corporation, Suite 7100, 2020 K Street NW., Washington, D.C., between the hours of 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT:

William E. Seals, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006 202-254-4895

SUPPLEMENTARY INFORMATION: On November 3, 1976 the Pension Benefit Guaranty Corporation (the "PBGC") issued an interim regulation estabishing the methods for valuing plan benefits under Title IV of the Employee Retirement Income Security Act of 1974 (the "Act"). (41 FR 48484 et seq.). The regulation included an appendix containing rates and factors to be used to value benefits in plans that terminated on or after September 2, 1974, but before October 1, 1975. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after October 1, 1975, but before December 1, 1976. (42 FR 2678 et seq., 42 FR 32777 et seq.). On June 8, 1977, The PBGC published for comment in the FEDERAL REGISTER additional rates and factors for valuing benefits in plans that terminate on or after December 1, 1976, but before March 1, 1977 (42 FR 29318 et seq.). The PBGC has now developed rates and factors for valuing benefits in plans that terminate on or after March 1, 1977, but before June 1, 1977, and proposes to amend the interim regulation to add these factors.

Each person submitting comments on this proposal should include his/her name and address, identify this notice and give reasons for any recommmendation. The proposal may be changed in the light of comments received.

In consideration of the foregoing, it is proposed to amend Part 2610 of Chapter XXIV of Title 29, Code of Federal Regulations, by adding a new Table VIII to Appendix B to read as follows:

V 42 H 163 AUG 23 77 UM

VIII—THE FOLLOWING INTEREST RATES AND QUANTITIES USED TO VALUE DEFERRED ANNUITIES SHALL BE EFFECTIVE FOR PLANS THAT TERMINATE ON OR AFTER MARCH 1, 1977, BUT BEFORE JUNE 1, 1977.

I.—INTEREST RATE FOR VALUING IMMEDIATE ANNUITIES

An interest rate of 7 percent shall be used to value immediate annuities, to compute the quantity "G_T" in § 2610.6 and for valuing both portions of a cash refund annuity.

II.—INTEREST RATE FOR VALUING DEATH BENEFITS

An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a cash refund annuity pursuant to § 2610.8.

III.—INTEREST RATES AND QUANTITIES USED FOR VALUING DEFERRED ANNUITIES

The following factors shall be used to value deferred annuities pursuant to § 2610.6:

(1) $k_1 = 1.06$
(2) $k_2 = 1.0475$
(3) $k_3 = 1.035$
(4) $n_1 = 8$
(5) $n_2 = 10$

(Secs. 4002(b)(3), 4041(b), 4044, 4062(b)(1)(A), Pub. L. 93-406, 88 Stat. 1004, 1020, 1025-27, 1029 (29 U.S.C. 1302(b)(3)), 1341(b), 1344, 1362(b)(1)(A).)

Issued at Washington, D.C., on this 10th day of August 1977.

RAY MARSHALL,
Chairman, Board of Directors,
Pension Benefit Guaranty Corporation.

Issued on the date set forth above, pursuant to a resolution of the Board of Directors authorizing its Chairman to issue same.

HENRY ROSE,
Secretary, Pension Benefit
Guaranty Corporation.

[FR Doc.77-24220 Filed 8-22-77;8:45 am]

LIBRARY OF CONGRESS

Copyright Office

[37 CFR Part 201]

[Docket RM 77-8]

FILING OF COPIES OF CERTAIN CONTRACTS BY CABLE SYSTEMS

Proposed Rulemaking

Correction

In FR Doc. 77-23651 appearing at page 41438 in the issue for Wednesday, August 17, 1977 in the 7th line of § 201.12 (a) appearing in the first column of page 41439, the words "• • • of recordation • • • " should read "• • • by recordation • • •."

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 95]

[Docket No. 21000]

CITIZENS RADIO SERVICE

Spurious and Harmonic Emissions From Class D Transmitters; Extension of Time

AGENCY: Federal Communications Commission

ACTION: Extension of Time to file Comments and Reply Comments

SUMMARY: An extension of time to file comments has been requested in Docket No. 21000. Because of the importance of this proceeding to both manufacturers and consumers, the Chief Engineer pursuant to his delegated authority is granting the request. No objections have been received.

DATES: Comments must be received on or before October 17, 1977; and Reply Comments by November 17, 1977

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT:

Frank Rose, Research and Standards Division, Office of Chief Engineer, (202) 632-7093.

SUPPLEMENTARY INFORMATION: In the matter of amendment of the Commission's Rules to address the matter of further attenuation of the spurious and harmonic emissions from Class D transmitters operating in the Citizens Radio Service under Part 95, (Docket No. 21000).

ORDER EXTENDING TIME AND FILE COMMENTS (42 FR 27629)

Adopted: August 16, 1977.

Released: August 17, 1977.

By the Chief Engineer:

1. A request for a further extension of time to file Comments in this proceeding has been received from the Consumer Electronics Group of the Electronic Industries Association.

2. Because of the technical nature of this proceeding, which requires testing and other studies by those commenting, the importance of this proceeding to both manufacturers and licensees, and the Commission's desire to have the most definitive responses possible, an extension of time from August 29, 1977 to October 17, 1977 for filing Comments and from September 28, 1977 to November 17, 1977 for filing Reply Comments is hereby ordered pursuant to the authority granted by § 0.241(d) of the Commission's Rules..

RAYMOND E. SPENCE,
Chief Engineer.

[FR Doc.77-24323 Filed 8-22-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Mining Enforcement and Safety Administration

[30 CFR Part 70]

COAL MINE HEALTH NOISE STANDARD

Objections Filed and Hearing Requested

AGENCY: Department of the Interior, Mining Enforcement and Safety Administration.

ACTION: Notice of Objections Filed and Hearing Requested.

SUMMARY: This is a notice that objections have been filed and a hearing requested for proposed amendments to 30 CFR Part 70, which would permit the use of noise dosimeters. The Secretary of Health, Education and Welfare will issue notice at a later date that will advise interested persons of the date and place set for the public hearing.

FOR FURTHER INFORMATION CONTACT:

Joseph Lamonica, Chief, Division of Health, Coal Mine Health and Safety, MESA, Room 830, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-235-1358 or Vern Rose, Director of the Division of Criteria Documentation and Standards Development, NIOSH, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3680.

The comments and objections which have been filed may be examined at, or copies obtained from, either of the above offices.

SUPPLEMENTARY INFORMATION: On June 2, 1977, there was published in the FEDERAL REGISTER (42 FR 28151) a Notice of Proposed Rulemaking containing proposed amendments to 30 CFR Part 70. These proposed amendments will permit the use of integrating sound level meters (noise dosimeters) to meet the noise measurement requirements of Parts 70 and 71 of Title 30, CFR. The notice stated that comments, suggestions, objections and requests for a hearing were to be received on or before July 18, 1977.

Several comments, suggestions and objections were submitted to the Assistant Administrator, Coal Mine Health and Safety, MESA concerning the proposed regulations. The comments and suggestions were varied and ranged from approval to disapproval of the proposed regulations. While some comments stated that noise dosimeters would be inaccurate, others stated that their accuracy was high. The location of the dosimeter also received criticism, such as being located in a position which would be a hazard to the miner, as well as not being located in the "hearing zone" of the miner. Some commenters believed that tampering with the dosimeters could occur, resulting in false readings, since a qualified person could not always be present. Additionally, some commenters suggested that false noises and vibrations would cause inaccuracy of the dosimeter readings. One commenter stated that the tolerance of ±2 dBA can be realized only with a "non-man-worn instrument", while another questioned whether violations should be cited only when results exceed 132 percent, thus ignoring the −2 dBA tolerance. There were also comments that the cost would be too high to the mine operator and that the use of the dosimeter would not be helpful to the health of the miner. Some commenters observed that since the ANSI dosimeter standard has not yet been approved these regulations should not be finalized. Other commenters suggested changes in wording and definition.

Section 101(f) of the Federal Coal Mine Health and Safety Act of 1969

provides that after objections have been filed, the Secretary of the Interior shall publish in the FEDERAL REGISTER, a notice that objections have been filed and a hearing requested.

Notice is hereby given in accordance with section 101(f) of the Federal Coal Mine Health and Safety Act of 1969, that objections have been timely filed as well as requests for a hearing.

Pursuant to section 101(g) of the Act, the Secretary of Health, Education, and Welfare will, after publication of this notice in the FEDERAL REGISTER issue notice of, and hold, a public hearing for the purpose of receiving relevant evidence on the issues raised by the comments and objections which have been filed.

Dated: August 19, 1977.

ANTHONY RASPOLIC,
Assistant
Secretary of the Interior.

[FR Doc.77-24511 Filed 8-22-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[PPQ 639]

SOIL SAMPLES

List of Approved Laboratories for Receipt of Certain Soil Samples

Correction

In FR Doc. 77-21830, appearing at page 38616 in the issue of Friday, July 29, 1977, make the following changes:

1. On page 38617, second column, 27th line, the state abbreviation at the end of the entry for Cook Associates should read, "CA".

2. On page 38618, third column, 17th to last line, between the words "County" and "Bureau" insert the word "Farm".

CIVIL AERONAUTICS BOARD

[Order 77-8-76; Dockets Nos. 31202, 31203]

KLM-ROYAL DUTCH AIRPLANES

Order Dismissing Complaints

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 17th day of August, 1977.

In the matter of westbound transatlantic 10,000 kg. specific and general commodity rates filed by KLM-Royal Dutch Airlines.

By tariff revisions filed July 22, 1977, for effectiveness August 21, 1977, KLM-Royal Dutch Airlines (KLM) proposes new specific commodity rates (SCR's) for Item 6799 (polyester foil on mill rolls, packed in crates) at 1.68 guilders per kg. from Amsterdam to New York; and reduced freight-all-kinds (FAK) container rates at 2.13 guilders per kg. from Amsterdam to New York. Both proposals would apply to consignments with a minimum weight of 10,000 kgs.[1]

Complaints against both filings have been submitted by Seaboard World Airlines, Inc. (Seaboard). In opposition to the Item 6799 SCR, Seaboard alleges that KLM's generation estimate of 200 tons per month from surface is grossly overstated, since the air rates would still be too far above the surface rate of 9.2 cents per kg. to be effective in attracting surface traffic to air, and according to U.S. Department of Commerce statistics, current surface traffic of this variety from the Netherlands to the United States amounts to only 69.2 tons per month; that the proposed rate, 16.75 cents per revenue ton-mile (RTM), is uneconomic since it falls well below the U.S. carriers' costs per RTM of 32.04 cents as well as their cost per available ton-mile (ATM) of 23.15 cents; that the KLM rate is aimed at a large Seaboard Brussels shipper, and KLM will truck the traffic 48 miles to Amsterdam; that Seaboard will lose over $1.5 million in revenue if it does not match the rate, and will suffer serious dilution if it does; and that KLM's proposal is at odds with the Board's established policy against undue reliance on SCR's over the Atlantic.

In its complaint against the 10,000 kg. FAK rate, Seaboard contends that the rate would be below cost at its yield of only 22.07 cents per RTM; that KLM's allegation of a need for reducing the minimum weight from 34 to 10 tons is fallacious since there are no westbound 34-ton rates now in effect from Amsterdam or adjacent markets; the KLM's undue reliance on pricing based on incremental costing of the bellies, designed to favor the combination carriers, will lead to the destruction of regular and frequent all-cargo service if endorsed by the Board; that the KLM rate, if approved, will quickly spread to neighboring markets such as Brussels and Paris; and that while the Board historically has taken the position that reduced high weightbreak rates must be tied to demonstrable carrier cost savings, KLM has made no statement as to the extent of cost savings which might justify its proposal, nor has it supported its claim that the rate will generate new traffic.

In support of its SCR filing, and in answer to Seaboard's complaint, KLM asserts that it was approached by shippers with a proposal to switch from surface to air transportation at the proposed rate; that the traffic is of very high density and thus quite attractive for air transport;[2] that the commodity is precisely described, is not specified elsewhere in current Amsterdam-Now York rates, and hence Seaboard's fears of diversion are unfounded; that the freight will not be trucked to Amsterdam and, in fact, Seaboard is now trucking it from Amsterdam to Brussels; that the complainant's reliance on Commerce Department data is misplaced since such figures do not include new business which will be reflected in future statistics; and that while Seaboard contends the rate would be uneconomic for it, this does not mean it would necessarily be below cost for KLM, and in fact Seaboard itself has on file similar SCR rate levels for other commodities from Brussels.

In its justification for the 10,000 kg. FAK container rates, KLM submits that the minimum weight level of 10 tons is more appropriate for the Dutch market, which does not warrant a minimum shipment size of 34 tons, and the rates will equalize the competitive position of the Dutch market versus the weaker currency countries; that the reduction in rates will divert enough traffic from surface to air to exceed any self-dilution which may occur; and that there is sufficient Amsterdam-New York capacity to absorb the expected increase in traffic.

Upon consideration of all relevant matters, the Board has concluded to dismiss the complaints.

Seaboard's complaint against the SCR for Item 6799 centers on its allegation that it will suffer massive diversion of existing traffic to the reduced rate, or alternatively serious revenue dilution if it chooses to match KLM's filing. However, the complainant has provided no information on the amount of such freight now carried or the rates at which it moves. If, as Seaboard alleges, the possibilities of generating new traffic are slight because of the large surface/air rate differential, then by the same token it appears likely that little of this traffic already moves by air and thus the diversion potential is also limited. While KLM's generation estimate may be somewhat high, and the Board believes KLM should have provided more information to support its generation forecast, Seaboard's estimates of diversion and dilution are based on equally vague and unsupported contentions. In these circumstances, where there appears to be some potential for generation of new traffic with little diversion of existing traffic, the Board prefers to give the benefit of the doubt to the proponent of the rate reduction.[3]

We will also dismiss the complaint against the proposed FAK container rate. By Order 76-12-98, December 16, 1976, the Board approved an IATA agreement which established 10,000 kg. SCR's, but stated its disappointment that the carriers had not adopted high weightbreak rates on a FAK basis. While we have some reservations about the reasonableness of the level of KLM's 10,000 kg. FAK container rate, nevertheless it should help reduce the undue reliance

[1] At the current exchange rate of $0.413 = 1 guilder, the SCR equals about 69.5 cents per kg., and the FAK rate, about 88.1 cents per kg.

[2] KLM states that the density of this traffic ranges from about 26 to 34 lbs. per cu. ft.

[3] Further, having dismissed complaints against an SCR filing by Trans World Airlines, Inc., (TWA) for similar Item No. 6113 (Plastic Film and Sheets) as well as other items from London to New York at an even lower yield than the rates proposed here, we are not prepared to take action against KLM's rate. See Order 77-4-154, April 29, 1977.

on specific commodity rates as well as promote containerization, both Board objectives of long standing. And as indicated above, the Board has permitted SCR container rates filed by TWA at considerably lower levels to become effective in the U.K.-U.S. market.

Seaboard notes that the yields from the KLM rates, at 16.75 cents per RTM for the SCR and 22.07 cents per RTM for the FAK container rate, would fall below the U.S. carriers' average unit cost per ATM of 23.15 cents. However, that cost figure, as well as Seaboard's own cost per ATM of 19.75 cents during the first quarter of 1977, reflect the average cost of transatlantic freighter operations in both directions. The proposed KLM rates would apply only in the westbound direction, where substantial excess capacity exists, such that the capacity portion of the costs attributable to freight carried under these tariffs would be considerably less than the average figure for total North Atlantic operations. The proposed rates have the potential for improving the economics of the carrier's service by generating additional revenue and ufilizing otherwise unused westbound capacity, and we will therefore permit them to become effective.

Accordingly, *it is ordered* That:

The complaints of Seaboard World Airlines, Inc., in Dockets 31202 and 31203 be dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[4]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-24366 Filed 8-22-77;8:45 am]

[Docket 25908, *Et Al.*]

TRANSATLANTIC ROUTE PROCEEDING

Oral Argument

The Board has decided that, in view of the deadline set for it by the President, a new oral argument will be held in this proceeding.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on August 31, 1977, at 9 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C. The argument will be confined to the question of the bearing on the Board's July 13, 1976, decision of the Bermuda II Agreement and any other developments since July 13, 1976.

Each party which wishes to participate in the oral argument shall so advise the Acting Chief Administrative Law Judge, in writing, on or before August 25, 1977, together with the name of the person who will represent it at the argument.

[4] All Members concurred except Vice Chairman O'Melia who did not participate.

Dated at Washington, D.C., August 18, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-24415 Filed 8-22-77;8:45 am]

[Order 77-8-71; Docket No. 28898]

TRANS-PROVINCIAL AIRLINES LTD.

Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of August, 1977.

In the matter of application of Trans-Provincial Airlines, Ltd. for renewal of a foreign air carrier permit pursuant to section 402 of the Federal Aviation Act of 1958.

By application filed February 19, 1976,[1] Trans-Provincial Airlines, Ltd. (TPA) requests renewal of its foreign air carrier permit[2] authorizing: (a) foreign air transportation of persons, property, and mail between the terminal point Prince Rupert, British Columbia, Canada, and the terminal point Ketchikan, Alaska, and (b) the performance of charter trips pursuant to Part 212 of the Board's Economic Regulations. The carrier requests that its permit be renewed for an indefinite period. On April 22, 1977, the carrier filed a petition requesting that its application be handled by show-cause procedures.

The Air Transport Services Agreement of January 17, 1966, between the Governments of the United States and Canada, as amended May 8, 1974, provides for scheduled servies by a Canadian carrier between Prince Rupert, British Columbia and Ketchikan, Alaska. The Government of Canada has designated Trans-Provincial Airlines to serve the Prince Rupert-Ketchikan route.[3]

By Order 74-2-79 the Board found that TPA was substantially owned and effectively controlled by nationals of Canada. The information provided by the record continues to support this finding. Approximately 90 percent of the issued stock is held by Canadian citizens. With the exception of one director who is a United States citizen, all thirteen directors and officers of TPA are Canadian citizens. Accordingly, it is tentatively found from the foregoing that TPA is owned and controlled by nationals of Canada.

In Order 74-2-79 the Board found that TPA met the fitness standards of the Act. The record continues to support a finding that the carrier is fit, willing, and able to continue providing the service for which renewed authority is sought. TPA has no history of formal violations of Board regulations and has not defaulted on its transportation commitments.

Normally permits of indefinite duration are awarded to designees under bilateral agreements. At the time TPA's permit was issued in 1974, however, the carrier's accident record showed ten accidents between 1968 and 1973 which had resulted in six deaths and four injuries. The duration of the carrier's permit was, therefore, limited to two years to give the Board an opportunity to reexamine the carrier's safety fitness. Since the permit was issued, the carrier's operations have resulted in no personal injuries or deaths. While the carrier has sustained minor damage to its aircraft on seven occasions, in most instances the damage was caused by the weather while the aircraft were stationary. In view of the carrier's improved safety performance, the record now supports a finding of safety fitness. We propose, therefore, to issue the carrier a permit of indefinite duration. We will require, however, that TPA report any future accidents to the Board. This will enable the Board to keep apprised of the carrier's accident record and to periodically reevaluate the carrier's safety fitness.

Following the issuance of TPA's permit, the Governments of the United States and Canada executed a Non-scheduled Air Service Agreement which governs the operation of charter flights by all U.S. and Canadian carriers. By Order 75-2-25, TPA was issued a charter permit of indefinite duration pursuant to that Agreement.[4] To grant the carrier authority here to conduct off-route charters pursuant to Part 212 of the Board's Economic Regulations would be duplicative of the charter authority possessed by TPA under its charter permit.[5] We will, therefore, omit all ancillary charter authority from the renewed route permit.

In view of the foregoing and all the facts of record, the Board tentatively finds:

1. That TPA is substantially owned and effectively controlled by nationals of Canada;

2. That it is in the public interest to renew the foreign air carrier permit of TPA authorizing the carrier, for a period of indefinite duration, to engage in foreign air transportation with rspect to persons, property, and mail between the terminal point Prince Rupert, British Columbia, Canada, and the terminal point Ketchikan, Alaska;

[1] A copy of the application has been transmitted to the President of the United States in accordance with the requirements of section 801 of the Act.

[2] Issued pursuant to Order 74-2-79, approved February 19, 1974.

[3] Diplomatic Note. No. ECT/607, date May 31, 1973.

[4] TPA is authorized by Board Order 75-2-25, effective February 6, 1975, to engage in charter foreign air transportation between any point or points in Canada and any point or points in the United States subject to conditions.

[5] By Order 74-11-154, approved by the President November 27, 1974, the Board required TPA to obtain prior approval of any on-route charter flights. The Board's intention in imposing the requirement was to make certain that any on-route charter flights would also be conducted pursuant to the carrier's charter permit issued under the Agreement.

V 42 163 AUG 23 77 UM

3. That the public interest requires that the exercise of the privileges granted by said permit shall be subject to the following condition:

The holder shall file with the Board a report of each accident which occurs while performing the scheduled services tentatively authorized by this order. For each accident, the report shall indicate the date, location, type of aircraft involved, cause, and the extent of property or aircraft damage. The report shall also state whether the accident resulted in any deaths or injuries. All reports shall be filed within 20 days after the accident occurs and marked to the attention of the Director, Bureau of International Affairs. Minor incidents of aircraft damage need not be reported. In the event no accidents occur during any calendar year, the carrier shall file a report indicating that result within 30 days after the end of that calendar year.

4. That TPA is fit, willing, and able properly to perform the above-described foreign air transportation and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder;

5. That except to the extent granted herein, the application of Trans-Provincial Airlines, Ltd. in Docket 28898 should be denied;

6. That an evidentiary hearing is not required in the public interest; and

7. That renewal of Trans-Provincial Airlines' foreign air carrier permit is not a "major federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, and will not be inconsistent with the policy objectives of the Energy Policy and Conservation Act of 1975 (EPACA),[6]

Accordingly, it is ordered that:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein, and why the foreign air carrier permit issued to Trans-Provincial Airlines, Ltd. by Order 74-2-79, should not, subject to the approval of the President pursuant to section 801 of the Act, be renewed for a period of indefinite duration;

2. Any interested person having objection to the issuance, without hearing, of an order making final the tentative findings and conclusions stated herein shall file a statement of objections, supported by evidence within 21 days after the adoption of this order. If an evidentiary hearing is requested, the objection should state in detail why such hearing is considered necessary and what relevant and material facts would be expected to be established through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, further consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;[7]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. Copies of this order shall be served upon Trans-Provincial Airlines, Ltd., Alaska Airlines, Western Air Lines, and the Ambassador of Canada in Washington, D.C.

This order will be published in the FEDERAL REGISTER and will be transmitted to the President.

By the Civil Aeronautics Board.[8]

PHYLLIS T. KAYLOR,
Secretary.

SPECIMEN PERMIT

PERMIT TO FOREIGN AIR CARRIER (AS AMENDED)

TRANS-PROVINCIAL AIRLINES, LTD.

Is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in foreign air transportation (except charter foreign air transportation) with respect to persons, property, and mail, as follows:

Between the terminal point Prince Rupert, British Columbia, Canada, and the terminal point Ketchikan, Alaska.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Canada for Canadian international air service.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Canada shall be parties.

The holder shall not commence scheduled service between any of the points authorized herein, except pursuant to an initial tariff setting forth rates, fares, and charges no lower than rates, fares, or charges that are then in effect for any U.S. air carrier engaged in the same foreign air transportation.

By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

This permit shall be subject to the condition that the holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

The exercise of the privileges granted hereby shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall be effective on ---------- Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement, or amendment thereto, which shall have the effect of eliminating the route hereby authorized from the routes which may be operated by airlines designated by the Government of Canada, or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of Canada in lieu of the holder hereof, or (3) upon the termination or expiration of the Air Transport Services Agreement of January 17, 1966, between the Government of the United States and the Government of Canada as amended by an exchange of notes signed May 8, 1974; *Provided, however*, That clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation herein authorized becomes the subject of any treaty, convention, or agreement to which the United States and Canada are or shall become parties.

In Witness Whereof, the Civil Aeronautics Board has caused this permit to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the ----------.

Secretary.

(SEAL)

Issuance of this permit to the holder approved by the President of the United States on ---------- in Order ------.

[FR Doc.77-24367 Filed 8-22-77;8:45 am]

[6] Since no new services are to be performed, there will be no material increase in the utilization of fuel.

[7] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[8] All Members concurred.

CIVIL SERVICE COMMISSION

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Director, Cuban Refugee Program, Assistance Payments Administration, Social and Rehabilitation Service.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-24349 Filed 8-22-77; 8:45 am]

TRANSPORTATION DEPARTMENT

Revocation of Authority To Make A Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Chief Scientist, Office of Assistant Secretary for Systems Development and Technology, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-24350 Filed 8-22-77;8:45 am]

DEPARTMENT OF COMMERCE

Economic Development Administration

ATLANTA UMBRELLA CO., INC.

Petition for Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Atlanta Umbrella Co., Inc., 2846 Franklin Street, Avondale Estates, Georgia 30002, a producer of umbrellas and plastic rainwear, was accepted for filing on August 17, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business on September 2, 1977.

CHARLES L. SMITH,
Acting Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-24345 Filed 8-22-77;8:45 am]

BENSON SHOE CO.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Benson Shoe Company, 192 Broad Street, Lynn, Mass. 01901, a producer of footwear for women, was accepted for filing on August 16, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business on September 2, 1977.

CHARLES L. SMITH,
Acting Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-24346 Filed 8-22-77;8:45 am]

PARAGON WIRE & CABLE CORP.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Paragon Wire & Cable Corporation, 662 Fillmore Avenue, Buffalo, N.Y. 14212, a producer of cable components for electronic devices, was accepted for filing on August 16, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business on September 2, 1977.

CHARLES L. SMITH,
Acting Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-24347 Filed 8-22-77;8:45 am]

National Bureau of Standards

NATIONAL BUREAU OF STANDARDS' VISITING COMMITTEE

Meeting

Pursuant to the Federal Advisory Committee Act 5 U.S.C., App. I (Supp. V, 1975), notice is hereby given that the National Bureau of Standards' Visiting Committee will meet on Tuesday, September 6, 1977, from 2:00 p.m. to 2:30 p.m. in Room 5851, Department of Commerce, Washington, D.C.

The NBS Visiting Committee is composed of five members prominent in the fields of science and technology and appointed by the Secretary of Commerce.

The purpose of the meeting is to report to the Secretary on the efficiency of the Bureau's scientific work and the condition of its equipment.

The public is invited to attend, and the Chairman will entertain comments or questions at an appropriate time during the meeting. Any persons wishing to attend the meeting should inform Ms. Elaine D. Bunten, Office of the Associate Director for Programs, National Bureau of Standards, Washington, D.C. 20234, telephone (301) 921-3131.

Dated: August 19, 1977.

ERNEST AMBLER,
Acting Director.

[FR Doc.77-24430 Filed 8-22-77;8:45 am]

National Oceanic and Atmospheric Administration

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Partially Closed Meeting

Notice is hereby given of a meeting of the Gulf of Mexico Fishery Management Council established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The Gulf of Mexico Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to Alabama, west coast of Florida, Louisiana, Mississippi, and Texas. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plants with respect to the fisheries within its area of authority prepare comments on foreign fishing applications and conduct public hearings.

The meeting will be held Wednesday, Thursday and Friday, September 7, 8 and 9, 1977, in the Executive Room II of the Ramada Inn, 1011 South Akord, Dallas, Texas. The meeting will convene at 1:30 p.m. on September 7, and adjourn at about noon on September 9, 1977. The daily sessions will start at 8:30 a.m. and adjourn at 5 p.m. except as otherwise noted. The meeting may be extended or shortened depending on progress on the agenda.

PROPOSED AGENDA

SEPTEMBER 7

1. Management plans.
2. Personnel and administration categories.
3. Review of foreign fishing applications, if any.

SEPTEMBER 8

1. Closed session to discuss proposals by potential contractors in a negotiated procurement for the preparation of draft fishery management plans.

SEPTEMBER 9

1. Other fishery management business.

A closed session is planned for one day on September 8, 1977, to discuss pro-

posals by potential contractors in a negotiated procurement for the preparation of draft fishery management plans.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined, on August 18, 1977 pursuant to 5 U.S.C. 552b(c) (4), (6), and (9) (B), the agenda item covered in closed session should be exempt from the provisions of the Act relating to open meetings and public participation. (A copy of the determination is available for public inspection and copying.)

The meeting will be open to the public (except the closed session) and there will be seating for a limited number of public member available on a first-come, first-served basis.

Members of the public having an interest in specific items for discussion are also advised that agenda changes are, at times, made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact on or about August 29, 1977:

Mr. Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to submit written comments should do so by addressing the Executive Director at the above address. The public is permitted to file written statements at any time before or after the meeting. However, to receive due consideration and to facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the Council meeting.

WINIFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

AUGUST 19, 1977.

[FR Doc.77-24433 Filed 8-22-77;8:45 am]

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL AND ITS SCIENTIFIC AND STATISTICAL COMMITTEE

Meeting Date Change

Notice is hereby given of a change in dates of the September 12–15, 1977, meeting of the Mid-Atlantic Fishery Management Council and its Scientific and Statistical Committee as published in the FEDERAL REGISTER, Vol. 42, No. 156 on Friday, August 12, 1977.

The meetings of the Council and Committee are now scheduled to be held concurrently on September 27–28, 1977. They will convene at 9 a.m. and adjourn at approximately 3 p.m. each day.

The agenda for both meetings will remain unchanged. These meetings are open to the public, and public seating will be available on a first-come, first-served basis. There will be approximately 30 seats for the meetings.

Dated: August 18, 1977.

WINFRED H. MEIBOHM,
Acting Deputy Director,
National Marine Fisheries Service.

[FR Doc.77-24318 Filed 8-22-77;8:45 am]

SOUTH ATLANTIC FISHERY MANAGEMENT COUCIL

Supplemental Notice of Public Meeting and Public Hearing

Notice was given in the FEDERAL REGISTER on July 18, 1977 (42 FR 36857) of meetings scheduled by the South Atlantic Fishery Management Council for the purpose of providing an opportunity for public input and to serve as a fact-finding mechanism relative to development of a fishery management plan for the domestic and foreign billfish fishery. An additional meeting has been scheduled as follows:

August 31, 1977, Stewart, Florida, Holiday Inn, 1209 South Federal Highway, 7:30 p.m. to 10 p.m.

Notice was also given in the FEDERAL REGISTER on July 29, 1977 (42 FR 38625) of hearings to provide an opportunity for public comment on a draft environmental impact statement for the proposed implementation of a preliminary fishery management plan for the Atlantic Foreign Pelagic Longline Fishery (billfishes and sharks). The draft environmental statement was prepared by NOAA. Hearings were scheduled concurrently with the South Atlantic Fishery Management Council meetings on a fishery management plan for billfish. A supplemental hearing will be held in Stewart, Florida on August 31, 1977 at the time and place listed above.

Dated: August 18, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-24319 Filed 8-22-77;8:45 am]

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

Statement of Organization, Practices, and Procedures

Pursuant to Section 302(f)(6) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), each Regional Fishery Management Council is responsible for determining its organization and prescribing its practices and procedures for carrying out its functions under the Act in accordance with such uniform standards as are prescribed by the Secretary of Commerce. Further, each Council must publish and make available to the public a statement of its organization, practices, and procedures. As required by the Act, the South Atlantic Fishery Management Council has prepared and is hereby publishing its Statement of Organization, Practices, and Procedures.

Dated: August 15, 1977.

JOSEPH W. SLAVIN,
Acting Associate Director,
National Marine Fisheries Service.

STATEMENT OF ORGANIZATION PRACTICES AND PROCEDURES

1. NAME OF COUNCIL

South Atlantic Fishery Management Council.

2. LOCATION OF OFFICES

The principal office of the South Atlantic Fishery Management Council is located in the South Park Building, 1 South Park Circle, Charleston, South Carolina, 29407.

3. LEGAL AUTHORITY

Legal authority for the Council is found in the Fishery Conservation and Management Act of 1976 (Public Law 94-265, § 302 (a)(3)). Additional authority which governs actions of the Council is found in the Federal Advisory Committee Act (Public Law 92-463).

4. PURPOSES

The purposes for the South Atlantic Fishery Management Council are as follows:

a. To prepare fishery management plans or amendments thereto with respect to each fishery within the geographic area of authority of the Council, and submit those plans or amendments to the Secretary of Commerce for approval and implementation. (§ 302(h)(1).)

b. To prepare along with any fishery management plan or amendments, proposed regulations deemed necessary and appropriate to carry out the plan or amendments and to submit these to the Secretary of Commerce. (§ 303(c).)

c. To prepare and transmit, within 45 days of receipt, comments to the Secretary of Commerce on any application for foreign fishing which is forwarded to the Council, along with suggested conditions of restrictions. The Council will consider the comments of any interested person in fulfilling this function. (§ 302(h)(2).)

d. In the event the Secretary of Commerce shall disapprove all or part of a plan or amendment to a plan submitted by the South Atlantic Fishery Management Council, the Council shall at the Secretary's request attempt to change such plan or amendment to satisfy the Secretary's objections and resubmit the plan within 45 days of receipt. (§ 304(a)(2).)

e. To ensure appropriate comment by members of the public through the conduct of public hearings. Such hearings shall permit, within reason, all interested persons; especially those in the geographical area concerned; to be heard in the development of fishery management plans and amendments to such plans and in the administration and implementation of the Fishery Conservation and Management Act of 1976. (§ 302(h)(3).)

f. To submit reports to the Secretary of Commerce, including an annual report by February 1 of each year concerning Council activities in the preceding calendar year. (§ 302(h)(4).)

g. To review assessments and specifications of optimum yield and of allowable foreign fishing continually, and to revise those assessments and specifications as appropriate. (§ 302(h)(5).)

h. To conduct the following additional activities that are necessary and appropriate.

(1) To prepare and submit to the Secretary of Commerce, annual budgets and work plans in the form of grant proposals.

(2) To accept contributed personnel, special studies or direct funds from states within the South Atlantic region or from other sources.

(3) select a Chairman and Vice-chairman from among the voting members. (§ 302(3)(2).)

(4) To appoint and assign duties to an Executive Director and an administrative staff. (§ 302(f)(1).)

(5) To make application to the Secretary of Commerce for such administrative and technical support services as are necessary. (§ 302(f)(5).)

(6) To seek from the Secretary of State relevant information concerning foreign fishing and international fishery agreements. (§ 302(f)(5).)

(7) To establish a Scientific and Statistical Committee and other advisory panels as necessary and appropriate to the development and amendment of fishery management plans. (§ 302(g)(1)(2).)

(8) To conduct any other activities which are required by or provided for in the Fishery Conservation and Management Act of 1976 or which are necessary and appropriate to the foregoing functions. (§ 302(h)(6).)

5. COMPOSITION

The South Atlantic Fishery Management Council consists of representatives of North Carolina, South Carolina, Georgia, and Florida. There are 17 Council members, 13 of these are voting members. Of the voting members 8 are appointed by the Secretary of Commerce for 3 year terms. The other 5 voting members are the principal state officials with the marine fishery management responsibility, or their designees and the Regional Director of the National Marine Fisheries Service for the Southeast Region or his designee. The non-voting members of the Council are: the Southeast Regional Director of the U.S. Fish and Wildlife Service or his designee; the Commander, Seventh Coast Guard District, or his designee; the Executive Director of the Atlantic States Marine Fisheries Commission, or his designee; and a representative of the U.S. Department of State or his designee.

6. OFFICERS AND TERMS OF OFFICE

The Council elects annually from among the voting members, by majority vote of the voting members present and voting a Chairmand and a Vice-chairman, who serve for a one year term ending August 10, or until their successors have been duly elected. Elections are held at the first meeting of the Council after August 10th.

7. STAFF

a. Composition: The Council appoints an Executive Director and such additional staff as it deems necessary.

b. Functions: The Executive Director is the chief administrative Officer of the Council and reports to the Council through the Council Chairman. As directed by the Council, he is responsible for the day to day operations of the Council and its staff. He serves as the principal staff officer to each committee and advisory panels of the Council. Subject to Council regulations, he may assign duties and delegate authority to the Council staff.

c. Employment Practices:

(1) *Scope.* This section shall govern employment practices by the South Atlantic Fishery Management Council unless specifically modified by federal legislation or funding requirements.

(2) *Status of Employees.* The South Atlantic Fishery Management Council is a quasi-public non-profit organization funded by a grant from the United States Department of Commerce. Members of the Council and its employees are not federal employees and are not subject to federal benefits or Civil Service Regulations.

(3) *Personnel Administration.* The Executive Director shall be responsible for the day to day administration of the Council staff. He reports to the Council on personnel matters through the Personnel Committee. Staffing, salary and wage administration, hours of work, etc., are included in a more detailed statement available at the Council office.

(4) *Personnel Committee.* The Personnel Committee is a standing committee of the Council. It shall consist of at least three Council members appointed by the Chairman. One member is designated by the Chairman to act as committee chairman. The Personnel Committee is responsible to the Council for the administration of these regulations.

(5) *Standards of Conduct.*

.01 *Political Activity.* No employee of the Council shall use his or her official authority or influence derived from his or her position with the Council for the purpose of interfering with or affecting the result of an election to or a nomination for any national, state, county, or municipal elective office.

No employee of the Council shall be deprived of employment, position, work, compensation, or benefit provided for or made possible by the Act on account of any political activity or lack of such activity in support of or in opposition to any candidate or any political party in any national, state, county, or municipal election or on account of his or her political affiliation.

No Council member or employee shall pay, or offer, of promise, or solicit, or receive from any person, firm, or corporation, a contribution of money or anything of value either as a political contribution or a personal emolument in consideration of either support, or the use of influence, or the promise of support, or influence in obtaining for any person, any appointive office, place or employment under the Council.

.02 *Financial Interest.* No employee of the Council shall have a direct or indirect financial interest that conflicts with the fair and impartial conduct of his or her Council duties.

.03 *Use of Information.* No Council member or employee of the Council shall use or allow the use, for other than official purposes, of information obtained through or in connection with his or her Council employment which has not been made available to the general public.

.04 *Improper Conduct.* No Council member or employee of the Council shall engage in criminal, infamous, dishonest, notoriously immoral or disgraceful conduct prejudicial to the Council.

.05 *Use of Council Property.* No Council member or employee of the Council shall use Council property on other than official business. Such property shall be protected and preserved from improper or deleterious operation or use.

(6) *Equal Employment Opportunity.*

.01 *Policy.* It is the policy of the South Atlantic Fishery Management Council that neither race, religion, color, creed, national origin, sex, age, political affiliation, nor physical disability is to be considered in the:

Recruitment and employment of new employees of the Council.

Promotion, demotion, transfer, lay-off, termination, or selection of employees of the Council for training and development.

Establishment of rates of pay including the awarding of salary adjustments and merit salary increments.

The Council will be bound by the standards contained in Executive Order 11246, as administered by the U.S. Department of Commerce.

.02 *Appeal Procedure.* Any applicant for employment or any employee who believes that employment, promotion, training, transfer, salary adjustment or merit salary increment was denied him or that demotion, transfer, lay-off or termination was forced on him, because of his race, religion, color, creed, national origin, sex, age, political affiliation, or physical disability may appeal directly to the Council.

8. STANDING COMMITTEES OF COUNCIL MEMBERS

a. The following standing committees have been established by the South Atlantic Fishery Management Council:

(1) *Finance Committee.*

(2) *Personnel Committee.*

b. The composition of the standing committees of the Council are as follows:

(1) *Finance Committee.* The Finance Committee is composed of at least three members appointed by the Chairman. One member is designated by the Chairman to chair the committee.

(2) *Personnel Committee.* The Personnel Committee is composed of at least three members appointed by the Chairman. One member is designated by the Chairman to chair the committee.

c. The standing committees of the Council function as follows.

(1) *Finance Committee.* The Finance Committee prepares for Council approval the annual budget and grant application. It reviews on a regular basis all Council expenditures and reports to the Council.

The committee approves the award of all contracts entered into by the Council. Subject to federal regulations, the Finance Committee may recommend to the Council the transfer of funds from one budget item to another.

(2) *Personnel Committee.* The Personnel Committee is responsible for the administration of the Council's employment practices.

9. MEETINGS AND HEARINGS

a. Frequency: The Council is required by regulation to meet in plenary session at least once a quarter. In addition the Council meets at the call of the Chairman or upon request of a majority of the voting members.

Meetings of the Council may be plenary sessions, working groups, or individually. Meetings held individually are subject to the Council's public hearing procedures.

Council advisory bodies shall meet as frequently as necessary, with the approval of the Council Chairman.

All Council meetings, hearings and meetings of advisory bodies shall be held only after adequate notice has been given according to applicable law.

b. Duration: Council meetings will generally begin on the fourth Tuesday and continue through Thursday of that week. They may however vary in duration depending upon the agenda. Meetings of advisory bodies and public hearings will vary in duration. Exact duration of Council meetings will be contained in published public notices.

c. Location: Council meetings will be held throughout the 4 states composing the South Atlantic Region. In addition, hearings may be held in other states, if that geographic area is affected by Council action. In selecting meeting sites the Council will consider public access.

d. Agendas or Orders of Business: Public notice of Council meetings shall contain agendas or orders of business. The Council may by majority vote suspend an agenda or order of business and proceed to other items or discuss an item not appearing on the agenda or order of business.

V 42 163 AUG 23 77 UM

e. Minutes: Detailed minutes are kept of all Council meetings. Summary minutes will be prepared for all opening portions of Council meetings. Persons or organizations desiring copies of Council minutes should contact the Council's Executive Director.

When the Council or a member meets for hearing purposes an accurate record will be maintained of the participants and their views. Such a record will be maintained as a part of the Council's official records and shall be available for public inspections.

f. General Rules of Procedure: Unless modified in this SOPP the Council will follow Roberts Rules of Order Newly Revised.

g. Hearing Procedure: The Council will follow the following procedure when conducting public hearings.

(1) *Scope of Rules.* These rules shall apply to all public hearings held by the Council pursuant to the requirements of Public Law 94–265 (16 USC 1852).

(2) *When Required.* Public hearings will be held during the development of Fishery Management Plans. The Council may in its discretion hold such hearings at any time and from time to time during the development of a Fishery Management Plan.

The Council may not submit a Fishery Management Plan to the Secretary of Commerce without first receiving public comments on the plan through a public hearing.

The Council may when it deems necessary hold public hearings with respect to the administration and implementation of the Fishery Conservation and Management Act of 1976.

(3) *Location.* Public hearings conducted pursuant to these rules shall be held in the geographic area deemed by the Council to be the most concerned with the proposed action.

The council may in its discretion hold public hearings in several locations when the proposed action is one that affects many areas of the South Atlantic Region.

(4) *Presiding Officer.* When a public hearing is conducted at a scheduled Council meeting the Chairman or his designee shall act as presiding officer.

When a public hearing is conducted with less than the full Council participating, the Council shall designate one voting member to act as presiding officer.

(5) *Powers and Duties of the Presiding Officer.* The presiding officer at the hearing shall have complete control of the proceedings including: extensions of time requirements, recognition of speakers, time allotments for presentations, the right to question speakers, direction of the discussion and management of the hearing. The presiding officer, at all times, will take care that each person participating in the hearing is given a fair opportunity to present views, data and comments.

(6) *Record of Proceedings.* A record will be maintained subject to the provisions § 9e. above. Records will be available for public inspection at the Council offices during regular office hours.

(7) *Public Notice.* Public notice of hearings shall be given in the manner prescribed by 50 CFR 601.24(c)(3) and by such other means as the Council may determine necessary to assure that interested parties are aware of the opportunity to make their views known.

(8) *Content of Notice.* Public notice shall include a summary of the subject matter of the hearing; the time and place for the hearing; and a statement that written comments may be received until 10 days following the close of the hearing. Where management plans are to be discussed the notice shall also set forth where copies may be obtained and at what cost.

h. Authority of the Chair. Unless modified in this SOPP the authority of the chair will be governed by Roberts Rules of Order Newly Revised.

10. ADVISORY PANELS

The Scientific and Statistical Committee was chartered on March 18, 1977 and the Advisory Panel was chartered on April 20, 1977. Copies of the charters are available in the Council headquarters.

11. ORGANIZATION OF MANAGEMENT PLAN DEVELOPMENT TEAM

a. Organization: Management plan development teams shall be working teams of State, Federal, and non-government specialists. A planning team will be established for each management unit which will be the subject of a planning effort. The planning teams will report to the Council through the Executive Director.

b. Practices and Procedures: Planning teams will be established by the Council. The Scientific and Statistical Committee may recommend to the Council persons who should serve on each planning team. Each team shall have a team leader or chairman. The team will meet or consult as needed with the appropriate advisory panel and the Scientific and Statistical Committee, with coordination being provided by the Executive Director. The Council will be informed of progress periodically. The team shall develop alternative management plans and shall thoroughly evaluate the effects of each in terms of objectives or criteria determined by the Council. The planning team shall conduct its planning and evaluation effort in such a way as to satisfy the Fishery Conservation and Management Act requirements. On completion of the initial planning project, the set of alternatives will be transmitted through the Executive Director to the Scientific and Statistical Committee and the appropriate panel for review and comment. Comments will be made to the Council. The Council will evaluate these comments and, if necessary, refer the plan back to the planning team for further work. The revised plans will be submitted to the Council. When the Council is satisfied, it will sponsor public hearings to solicit additional inputs from those groups or individuals who might be affected by future regulatory action. Prior to holding public hearings on these alternatives, the Council will distribute copies widely so that all interested parties have an opportunity to review and consider the alternatives, from which the Council will be making a selection. After consideration of public comments, the planning team shall make such revision of the alternatives as the Council deems necessary and shall draft proposed regulations. Upon final adoption of selected alternatives, the Council shall transmit the plan and an associated environmental assessment or draft Environmental Impact Statement to the Secretary of Commerce for promulgation of implementing regulations.

c. Balance Among Criteria.

(1) *Focused Responsibility.* The organization structure of the Council clearly relates the decision making responsibility of the Council; the advisory nature of planning teams, advisory panels, and the Scientific and Statistical Committee; and the coordination responsibilities of the Executive Director.

(2) *Administrative Simplicity.* The organization of the major units of the Council is among major functional lines, with clear lines of authority between and within individual units.

(3) *Flexibility.* There is sufficient flexibility in the structure to allow for variations within separate units to accommodate changes in priorities or conditions. For example, the Council has chosen to establish separate fishery related advisory panels rather than one large, multi-fishery advisory panel because the former can be established and terminated in accordance with planning efforts and representation can be more selective.

(4) *Independence and Relevance of Science.* The Scientific and Statistical Committee is a separate unit in the Council's organizational structure, and Committee members have been selected on the basis of scientific expertise in several disciplines. This will assure that the Council receives independent and objective scientific advice on alternative management planning teams would comprise representatives of diverse disciplines and interests, and these teams would present plan alternatives and evaluations for Council considerations. In this manner, planning teams will not make judgements as to whether a particular plan is "right" or "wrong", and evaluations should be complete and objective.

(5) *Quality of Scientific and Technical Information.* As indicated, the Council has insured the integrity and independence of science through the organizational structure chosen. Further, selection of individuals to serve on the Scientific and Statistical Committee and the planning teams will be based on expertise and skills, thus assuring that the Council will receive high quality information.

(6) *Minimum Cost.* The Council believes the Structure is the most cost-effective means to carry out its functions. Under this structure fishery planning teams and advisory panels are temporary units which will function until a plan for the specific fishery has been developed and implemented. This approach provides resources for the planning effort without creating large and permanent planning teams or advisory panels. Resources can be assigned in accordance with shifts in priorities. Specialized resources can be obtained readily when necessary rather than being permanently retained at high costs.

12. PROCUREMENT

The Council will contract for services to be provided by other government agencies, educational institutions, profit and non-profit organizations. Detailed procurement procedures have been approved by the Council and are available for review in the Council headquarters. These procurement procedures provide for agreements and orders for procurement, or disposal, of supplies and services. It includes awards and notices of award; fixed-fee, cost, cost-plus-a-fixed-fee, negotiated, or incentive type contracts; letter contracts; and purchase orders. Topics covered are formal advertising; sole source procurements; award; contract types; contract administrations; protests, contract disputes, and appeals; and code of conduct.

[FR Doc.77-24320 Filed 8-22-77;8:45 am]

ROUGH-TOOTHED DOLPHIN

Prohibition of Take Incidental to Commercial Fishing Operations

AGENCY: National Marine Fisheries Service, Commerce.

ACTION: Notice of prohibition of take of rough-toothed dolphin incidental to commercial fishing operations.

SUMMARY: A prohibition on taking rough-toothed dolphin is being implemented due to the fact that the quota established in 1977 for rough-toothed dolphin has been exceeded.

DATES: Effective August 30, 1977, rough-toothed dolphin may not be taken incidental to fishing operations pursuant to the general permit issued to the American Tunaboat Association, Category 2; Encircling Gear, Yellowfin Tuna Purse Seining.

ADDRESSES: Observer records may be reviewed at the Southwest Regional Office, Office of the Director, 300 South Ferry Street, Terminal Island, California.

FOR FURTHER INFORMATION CONTACT:

William P. Jensen, Marine Mammal Program Manager, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235. Telephone: 202–634–7461.

SUPPLEMENTARY INFORMATION: In the permit issued to the American Tunaboat Association for 1977, a limit of five (5) rough-toothed dolphin mortalities was stipulated. That limit has been exceeded based on reports of National Marine Fisheries Service observers. In accordance with 50 CFR 216.24(d)(2)(i)(A) notice of the date when the prohibition on further taking is hereby published.

If at the time the net skiff is released from the vessel attached to the net at the start of a set no rough-toothed dolphin are observed in the herd of porpoise upon which the set is being made, the fact that rough-toothed dolphin are subsequently encircled or killed in the course of completing that set will not be cause for issuance of a notice of violation or assessment of penalty; provided that all procedures required by the applicable regulations have been followed. This policy is being implemented because there are circumstances where an unintentional and accidental taking occurs due to the difficulty of identifying different species and stocks, or due to error in attempting identification particularly when small numbers are interspersed in a larger group of animals.

The number of rough-toothed dolphin encircled or killed will be recorded and this policy will be reviewed periodically in light of its effects on the rough-toothed dolphin population.

Dated: August 17, 1977.

WINFRED H. MEIBOHM,
Acting Deputy Director,
National Marine Fisheries Service.

[FR Doc.77-24333 Filed 8-22-77;8:45 am]

DEPARTMENT OF DEFENSE

Defense Communications Agency

SCIENTIFIC ADVISORY GROUP

Closed Meeting

The DCA Scientific Advisory Group will hold a closed meeting on 16 September 1977. The 16 September meeting will be at the Defense Communications Agency, Director's Conference Room at Headquarters, Defense Communications Agency, 8th Street and South Courthouse Road, Arlington, Va.

The agenda item will be AUTOSEVOCOM II and group discussions.

Any person desiring information about the advisory group may telephone (Area Code 202–692–1765) or write Chief Scientist, Associate Director, Technology, Headquarters, Defense Communications Agency, 8th Street and South Courthouse Road, Arlington, Va. 22204.

This meeting is closed because the material to be discussed is classified requiring protection in the interest of National Defense. (Freedom of Information Act, 5 U.S.C. 552b(c)(5).)

MARGARET E. ANDERSON,
Committee Management Officer.

[FR Doc.77-24270 Filed 8-22-77;8:45 am]

Department of the Air Force

ADVISORY COMMITTEE ON AIR FORCE HISTORICAL PROGRAM

Meeting

AUGUST 8, 1977.

The Advisory Committee on the Air Force Historical Program will meet at the James Forrestal Building, Washington, D.C., on September 15–16, 1977.

The purpose of the meeting is to examine the mission, scope, progress, and productivity of the Air Force Historical Program and make recommendations thereon for the consideration of the Secretary of the Air Force.

The meeting will be open for public attendance, and will begin at 9:30 a.m. on both dates, in Room 8E–069, James Forrestal Building. Among the topics on the tentative agenda are: Air Force Historical Progress and Problems, Contract Histories, Organizational Changes, Personnel Plans, and Current Status of Historical Projects.

If additional information is desired, contact Lt. Col. Charles N. Wood, USAF, Executive Office of Air Force History, HQ USAF (AF/CHO), Washington, D.C., telephone 693–7394.

VAN L. CRAWFORD,
Deputy Director of Administration.

[FR Doc.77-24271 Filed 8-22-77;8:45 am]

Office of the Secretary

DEFENSE SYSTEMS MANAGEMENT COLLEGE

Board of Visitor's Meeting

A meeting of the Board of Visitors of the Defense Systems Management College will be held in Building 202, Fort Belvoir, VA. on Tuesday, October 4, 1977, from 8:30 a.m. until 5 p.m. The agenda will include a review of the course offerings and discussion of DSMC operations, educational policies, and plans. The meeting is open to the public; however, because of limitations on space available, allocation of seating will be made on a first-come, first-served basis. Persons desiring to attend should call the DSMC Director, Department of Administration, Operations, & Support (703–664–1314) to reserve a seat as far in advance as possible.

Dated: August 18, 1977.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of Assistant Secretary of Defense (Comptroller).

[FR Doc.77-24330 Filed 8-22-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

HIGH ENERGY PHYSICS ADVISORY PANEL

Meeting

AUGUST 18, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act, the High Energy Physics Advisory Panel (HEPAP) will meet September 19–20, 1977, at the Brookhaven National Laboratory, Upton, New York. The meeting will be held in the North Room of the Brookhaven Center. Discussion of organizational matters concerned with the meeting will occur from 9 a.m. to 10 a.m. on September 19, with regular agenda items scheduled from 10 a.m. through 5:45 p.m. The portion of the meeting which will be open to the public on September 20 will convene from 9 a.m. to 11:30 a.m.

The Panel's consideration will include a review of the research program and developmental activities at the Alternating Gradient Synchrotron (AGS) and the Intersecting Storage Accelerator (ISABELLE); equipment for major experiments at the Positron-Electron (PEP), the Fermi National Accelerator Laboratory (Fermilab), the Cornell Electron Storage Ring (CESR), the Zero Gradient Synchrotron (ZGS), and the ISABELLE; results of the July 1977 meeting of the US/USSR Joint Coordinating Committee on Research in the Fundamental Properties of Matter; budget status of the national program in high energy physics; and a discussion of recent new particle discoveries.

In addition to the public sessions, an executive session of the Panel is scheduled. The executive session will occur at approximately 11:30 a.m. on September 20 and continue throughout the end of the meeting at 4:30 p.m. Topics to be discussed at the executive session are possible construction and shutdown of some facilities to be included in the FY 1979 budget.

I have determined, in accordance with subsection 10(d) of Pub. L. 92–463 that this executive session will involve information, the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action, which falls within exemption 9B of 5 U.S.C. 552b(c).

Any nonexempt material that may be discussed at this session will be inextricably intertwined with the discussion of exempt material and no further separation is practical. The public interest will be served by closing such portion of the meeting as it is essential to protect such information.

V 42 163 AUG 23 77 UM

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements on the topics for discussion may do so by mailing 25 copies thereof, postmarked, if possible, no later than September 8, 1977, to the Executive Secretary, High Energy Physics Advisory Panel, Dr. Ernest Coleman, Division of High Energy and Nuclear Physics, U.S. Energy Research and Development Administration, Washington, D.C. 20545. Minutes of the meeting will be kept open for 30 days for receipt of written statements for the record.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement, and shall set forth reasons justifying the need for such oral statements and their usefulness to the Panel. To the extent that the time available for the meeting permits, the Panel will receive oral statements during a period of not more than 30 minutes at an appropriate time, chosen by the Chairman.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Panel, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on September 15, 1977, to the office of the Executive Secretary of the Panel on (301) 353-3624 between 8:30 a.m. and 5 p.m. Eastern Time.

(e) Questions at the meeting may be asked only by members of the Advisory Panel.

(f) Seating for the public will be made available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the open portions of the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) Copies of minutes of public sessions will be made available for copying, following their certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the U.S. Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue, N.W., Washington, D.C., upon payment of all charges required by law.

HARRY L. PEEBLES,
Deputy Advisory Committee Management Officer.

[FR Doc.77-24442 Filed 8-22-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 780-4]

AIR QUALITY CRITERIA FOR PHOTOCHEMICAL OXIDANTS AND RELATED ORGANICS

Availability of External Review Draft

On September 2, 1977 the External Review Draft of Air Quality Criteria for Photochemical Oxidants and Related Organics will be available from the Criteria and Special Studies Office, Health Effects Research Laboratory, EPA, Research Triangle Park, N.C. 27711. Telephone No. 919-549-8411 ext. 2266 or 2267.

Dated: August 17, 1977.

STEPHEN J. GAGE,
Acting Assistant Adminstrator for Research and Development.

[FR Doc.77-24370 Filed 8-22-77;8:45 am]

[FRL 780-7; PF79]

CIBA-GEIGY CORP., ET AL.

Filing of Pesticide Petitions

The Environmental Protection Agency has received the following petitions for consideration.

PP 7F1983. Ciba-Geigy Corp., PO Box 11422, Greensboro, N.C. 27409. Proposes amending 40 CFR 180.298 by establishing a higher tolerance for residues of the insecticide methidation (0,0-dimethyl phosphorodithioate, S-ester with 4-(mercaptomethyl)-2-methyl 1-Δ-1,3,4-thiadiazolin-5-one) in or on the raw agricultural commodities alfalfa and alfalfa hay at 12.0 part per million (ppm). Proposed analytical method for determining residues is by gas chromatography employing flame photometric detection. PM12 (202-426-9425).

PP 7F1984. Ciba-Geigy Corp., Proposes amending 40 CFR 180.289 by establishing a tolerance for residues of the insecticide methidation (0,0-dimethyl phosphorodithioate, S-ester with 4-(mercaptomethyl)-2-methoxy-Δ 2-1,3-4-thiadiazolin-5-one in or on the raw agricultural commodities pome and stone fruits at 0.05 ppm. Proposed analytical method for determining residues is by using gas chromatography employing flame photometric detection and thin-layer chromotography. PM12 (202/426-9425).

Interested persons are invited to submit written comments on any petitions to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning specific petitions may be directed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at the numbers cited. Written comments should bear a notation indicating the number of the petition to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: August 18, 1977.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc.77-24373 Filed 8-22-77;8:45 am]

[FRL 780-6; PF78]

E. I. DUPONT DE NEMOURS & CO., ET AL.

Filing of Pesticide Petitions

The Environmental Protection Agency has received the following petitions for consideration.

PP 7F1954. E. I. DuPont De Nemours and Co., Wilmington DE 19898. Proposes amending 40 CFR 180.303 by establishing a tolerance for residues of the insecticide Oxamyl (methyl N',N'-dimethyl-N-[(methylcarbamoyl)oxy]-1-thioxamimidate) and its metabolite, N,N-dimethyl-1-cyanoformamide in or on the raw agricultural commodities apples at 2.0 parts per million (ppm). Proposed analytical method for determining residues is a gas chromatographic procedure using a flame photometric detector. PM12 (202-426-9425).

PP 7F1988. Mobay Chemical Corp., Chemagro Agricultural Division, PO Box 4913, Kansas City MO 64120. Proposes amending 40 CFR 180.320 by establishing a tolerance for residues of the insecticide 3,5-dimethyl-4-(methylthio) phenyl methylcarbamate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodities apples at 15 ppm; meat, fat and meat byproducts of cattle, goats, horses, sheep and swine at 0.05 ppm; milk at 0.01 ppm. Proposed analytical method for determining residues is a gas chromatographic procedure using a flame photometric detector. PM12 (202-426-9425).

PP 7F1971. Monsanto Agricultural Products, 800 N. Lindbergh Blvd., St. Louis MO 63166. Proposes amending 40 CFR 180.364 by establishing a tolerance for combined residues of the herbicide N-phosphonomethylglycine and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodities cottonseed at 6 ppm; soybeans at 6 ppm, soybean forage and hay at 15 ppm, and liver and kidney of cattle, goats, hogs, horses, poultry, and sheep at 0.1 ppm. Proposed analytical method for determining residues is gas liquid chromotography using a phosphorous specific flame photometric detector. PM25 (202-426-2632).

Interested persons are invited to submit written comments on any petitions to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning specific petitions may be directed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at the number cited. Written comments should bear a notation indicating the number of the petition to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: August 18, 1977.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc.77-24372 Filed 8-22-77;8:45 am]

[FRL 780-5; PF77]

MONSANTO AGRICULTURAL PRODUCTS, ET AL.

Filing of Food Additive Petitions

The Environmental Protection has received the following petitions for consideration.

FAP 7H5168. Monsanto Agricultural Products, 800 N. Lindbergh Blvd., St. Louis MO 63166. Proposes amending 21 CFR 561 by establishing a regulation permitting the use of the herbicide N-phosphonomethylglycine and its metabolite aminomethylphosphonic acid on the commodity soybeans hulls with a tolerance limitation of 20 parts per million (ppm). PM25 (202-426-2632)

FAP 7H5169. Mobay Chemical Corp., Chemagro Agricultural Division, PO Box 4913, Kansas City MO 64120. Proposes amending 21 CFR 561 by establishing a regulation permitting the use of the insecticide 3,5-dimethyl-4-(methylthio) phenyl methylcarbamate and its cholinesterase-inhibiting metabolites on the commodity dried apple pomace with a tolerance limitation of 30 ppm resulting in animal feed when present as a result of application of the pesticide chemical to the growing commodity apples. PM12 (202-426-9425)

Interested persons are invited to submit written comments on any petitions to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning specific petitions may be directed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at the number cited. Written comments should bear a notation indicating the number of the petition to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: August 18, 1977.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc.77-24371 Filed 8-22-77;8:45 am]

[FRL 780-8; OPP-33000/513, 514, and 515]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862), its interim policy with respect to the administration of Section 3(c) (1) (D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" (41 FR 3339). This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement which were effected by the enactment of the recent amendments to FIFRA on November 28, 1975 (Pub.L. 94-140), and the new regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnisher by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street SW., Washington, D.C. 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c), desires to assert a claim under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11,12, and 13—202/755-9315
PM 21 and 22—202/426-2454
PM 24—202/755-2196
PM 31—202/426-2635
PM 33—202/755-9041
PM 15, 16, and 17—202/426-9425
PM 23—202/755-1397
PM 25—202/755-2632
PM 32—202/426-9486
PM 34—202/426-9490

The Interim Policy Statement requires that claims for compensation be filed on or before October 25, 1977. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiriers and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made on or before September 22, 1977.

Dated: August 16, 1977.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

APPLICATIONS RECEIVED (OPP-33000, 513)

EPA Reg. No. 239-2369. Chevron Chemical Co., 940 Hensley St., Richmond CA 94804. DIFOLATAN 4 FLOWABLE SEED PROTECTANT. Active Ingredients: Captafol 39%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM21

EPA Reg. No. 239-2418. Chevron Chemical Co., 940 Hensley St., Richmond CA 94804. ORTHENE 75 S SOLUBLE POWDER. Active Ingredients: Acephate (O,S-Dimethyl acetylphosphoramidothioate) 75%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM16

EPA Reg. No. 239-2418. Chevron Chemical Co., 940 Hensley St., Richmond CA 94804. ORTHO ORTHENE 75 S SOLUBLE POWDER. Active Ingredients: Acephate (O,S-Dimethyl acetylphosphoramidothioate) 75%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Amended registration. PM16

EPA Reg. No. 239-2418. Chevron Chemical Co., 940 Hensley St., Richmond CA 94804. ORTHENE 75 S SOLUBLE POWDER. Active Ingredients: Acephate (O,S-Dimethyl acetylphosphoramidothioate) 75%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM16

EPA Reg. No. 239-2418. Chevron Chemical Co., 940 Hensley St., Richmond CA 94804. ORTHO ORTHENE 75 S SOLUBLE POWDER. Active Ingredients: Acephate (O,S-Dimethyl acetylphosphoramidothioate) 75%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM16

V 42 163 AUG 23 77 UM V

EPA Reg. No. 241-243. American Cyanamid Co., PO Box 400, Princeton NJ 08540. PROWL HERBICIDE. Active Ingredients: [N-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine] 43.8%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement. PM25

EPA Reg. No. 352-342. E. I. DuPont De Nemours & Co. (Inc.), Biochemicals Department, 6054 Dupont Bldg., Wilmington DE 19898. LANNATE METHOMYL INSECTICIDE, WATER SOLUBLE POWDER. Active Ingredients: S-methyl N-[methylcarbamoyl)oxy] thioacetimidate 90%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM12

EPA Reg. No. 352-354. E. I. du Pont de Nemours & Co. (Inc.), Biochemicals Department, 6054 DuPont Bldg., Wilmington DE 19898. DUPONT "BENLATE" BENOMYL FUNGICIDE. Active Ingredients: Benomyl [Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate] 50%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM22

EPA Reg. No. 352-370. E. I. du Pont de Nemours & Co. (Inc.), Biochemicals Department, 6054 DuPont Bldg., Wilmington DE 19898. DUPONT LANNATE L METHOMYL INSECTICIDE. Active Ingredients: S-methyl-N-[(methylcarbamoyl)oxy]thioacetimidate 24%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM12

EPA File Symbol 359-ATI. Rhodia Inc., Agricultural Div., PO Box 125, Monmouth Junction NJ 08852. RONSTAR. Active Ingredients: Oxadiazon [2-tert-butyl-4-(2,4-dichloro-5-isopropoxyphenyl)-2-1,3,4-oxadiazolin-5-one] 24.4%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement. PM24

EPA Reg. No. 372-46. Mallinckrodt, Inc., 3600 N. Second St., St. Louis MO 63147. BANROT BROAD SPECTRUM FUNGICIDE 40% WETTABLE POWDER. Active Ingredients: 5-Ethoxy-3-trichloromethyl-1,2,4-thiadiazole 15%; Dimethyl 4,4'-o-Phenylenebis (3-thioallophanate) 25%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Revised labeling. PM21

EPA Reg. No. 891-155. Hercules Inc., Wilmington DE 19898. HERCULES TORAK EMULSIFIABLE CONCENTRATE INSECTICIDE AND MITICIDE. Active Ingredients: Dialifor [O,O-diethyl S-(2-chloro-1-phthalimidoethyl) phosphorodithioate] 40.5%; Related reaction products 4.5%. Method of Support: Application proceeds under 2(a) of interim policy. PM16

EPA File Symbol 1029-RGU. Aidex Corp., PO Box 7348, Omaha NE 68107. DAC-FERT EX GRANULAR CRABGRASS CONTROL AND LAWN FERTILIZER. Active Ingredients: Dimethyl ester of tetrachloroterephthalic acid 2.3%. Method of Support: Application proceeds under 2(b) of interim policy. PM23

EPA Reg. No. 1258-843. Olin Chemicals, 120 Long Ridge Rd., Stamford CT 06904. SODIUM OMADINE 40% AQUEOUS SOLUTION. Active Ingredients: Sodium 2-pyridinothiol 1-oxide 40%. Method of Support: Application proceeds under 2(a) of interim policy. PM33

EPA Reg. No. 2139-101. NOR-AM Agricluturaal Products, Inc. Chicago IL 60606 BETANAL POST-EMERGENCE HERBICIDE FOR CONTROL OF WEEDS IN BEETS. Active Ingredients: Phenmedipham 15.9%. Method of Support: Application proceeds under 2(b) of interim policy. PM25

EPA Reg. No. 2139-119. NOR-AM Agricultural Products, Inc. Chicago, IL 60606. BETANEX POST-EMERGENCE HERBICIDE FOR CONTROL OF REDROOT PIGWEED AND OTHER WEEDS IN SUGAR BEETS. Active Ingredients: Desmedipham 16.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM25

EPA Reg. No. 5736-41. DuBois Chemicals, Div. of Chemed Corp., DuBois Tower, Cincinnati OH 45202. BACTOLOOB BACTERIOSTATIC CONVEYOR CHAIN LUBRICANT. Active Ingredients: Triethanolamine and Potassium soap 34.31%; Tetrasodium Ethylenediamine Tetraacetic Acid 7.60%; Isopropyl Alcohol 7.28%; Ortho Benzyl-Para-Chloro Phenol 0.864%; Orthophenylphenol 1.156%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Revised offer to pay statement. PM32

EPA Reg. No. 6836-39. Daycon Products Co., Inc., PO Box 348, Bladensburg MD 20710. DAYCON DISINFECTANT TOILET BOWL CLEANER. Active Ingredients: Octyl decyl dimethyl ammonum chloride 1.250%; Dioctyl dimethyl ammonium chloride 0.625%; Dideoyl dimethyl ammonium chloride 0.625%; Alkyl amino betaine 1.000%; Hydrogen Chloride 8.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 28070-G. Clarke Chemical Corp., PO Box 332, Miami FL 33147. A & S 600. Active Ingredients: Poly [oxyethylene (dimethylininio) ethylene (dimethylininio) ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 28070-U. Clarke Chemical Corp., PO Box 332, Miami FL 33147. A & S 300. Active Ingredients: Poly [oxyethlene (dimethylininio) ethylene (dimethylininol) ethylene dichloride] 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM 34

EPA Reg. No. 34164-G. American Refining & Mfg., Inc., PO Box 332, Miami FL 33147. SANI-BOL. Active Ingredients: Octyl decyl dimethyl ammonium chloride 1.250%; Dioctyl dimethyl ammonium chloride 0.625%; Dideoyl dimethyl ammonium chloride 0.625%; Alkyl amino betaine 1.000%; Hydrogen chloride 17.500%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 38109-E. S & W Plumbing Supply, Inc., 23655 S. Dixie Highway, Miami FL 33032. LANECHLOR. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 39395-E. Viking Laboratories, Inc., 8725 Mississippi Blvd. NW., Coon Rapids MN 55433. P-114 ALGAECIDE. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 39479-G. Galaxy Chemical Corp., 2012 Whitfield Park Ave., Sarasota FL 33580. GALAXIDE NP 9.0. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 4.5%; n-Alkyl (68% C12, 38% C14) dimethyl ethylbenzyl ammonium chlorides 4.5%; Tetrasodium ethylenediamine tetracetate 2.0%; Sodium Carbonate 4.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 39910-E. Triple E Systems Engineering, Inc., PO Box 3039, Hialeah FL 33013. EEESE SYSTEMS BIO-I. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 12.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 39910-G. Triple E Systems Engineering, Inc., PO Box 3039, Hialeah FL 33013. EEESE SYSTEMS BIO-SHOCK. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40230-R. AgBioChem, Inc., 3 Fleetwood Court, Orinda CA 94563. GALLTROL-A. Active Ingredients: Agrobacterium radiobacter 10.64%. Method of Support: Application proceeds under 2(a) of interim policy. PM 21

EPA File Symbol 40308-R. Quad-City Chemical Co., Inc., 2328 Eastern Ave.,-Davenport IA 52803. ALG-47. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 464-LGN. The Dow Chemical Co., PO Box 1706, Midland MI 48640. DICHLORPROP, BUTOXY ETHANOL ESTER. Active Ingredients: Butoxy Ethanol Ester of Dichloroprop 2-(2,4-dichlorophenoxy) propionic acid 92.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM23

EPA Reg. No. 524-311. Monsanto Co., Agriculture Products, 800 N Lindbergh Ave., St. Louis MO 63166. POLARIS. Active Ingredients: Glyphosine 85.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised Labeling. PM25

APPLICATIONS RECEIVED (OPP-33000/514)

EPA Reg. No. 239-EULO. Chevron Chemical Co., Ortho Div., 940 Hensley St., Richmond, CA 94804. ORTHO DIFOLATAN VITAVAX 2-2 FLOWABLE SEED PROTECTANT. Active Ingredients: Captafol 20%; carboxin 20%. Method of Support: Application proceeds under 2(b) of interim policy. PM21

EPA File Symbol 1206-RTE. Malter International, PO Box 6099, New Orleans LA 70174. MALTINE CWT. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 3125-GRU. Chemagro Agricultural Div., Mobay Chemical Corp., Box 4913, Kansas City MO 64120. SENCOR 4 FLOWABLE HERBICIDE. Active Ingredients: 4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one 41%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM25

EPA File Symbol 3286-UA. Ferd Staffel Co., PO Box 2380, San Antonio TX 78298. BIO DUST (BACILLUS THURINGIENSIS). Active Ingredients: Bacillus thuringiensis, Berliner, Potency of 320 International Units per mg. (at least 0.5 billion variable spores per g.) 0.064%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement. PM17

EPA Reg. No. 4816-483. Fairfield American Corp., 100 Niagara St., Middleport NY 14105. TOMATO & VEGETABLE INSECT SPRAY. Active Ingredients: Pyrethrins 0.030%; Piperonyl Butoxide, Technical 0.160%; Rotenone 0.128%; Other cube resins 0.238%; Petroleum Distillate 0.120%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA File Symbol 10065-I. Fisons Corp., Agricultural Chemicals Div., 2 Preston Court, Bedford MA 01730. ATRAZINE TECHNICAL. Active Ingredients: Atrazine (2-chloro-4-ethylamino-6-isopropylamino-s-triazine) 90.0%. Method of Support: Application proceeds under 2(a) of interim policy. PM25.

EPA File Symbol 12264-RG. Allstates Chemical, PO Box 7482-A, Houston TX 77008. POLY-CIDE WATER TREATMENT. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA Reg. No. 12367-3. Lico Chemicals, 929 Fifth Ave., McKeesport PA 15132. CATCH 22. Active Ingredients: Pyrethrins 0.1%; Piperonyl Butoxide Technical 0.8%; Petroleum Distillate 99.1%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement. PM17

EPA Reg. No. 12367-4. Lico Chemicals, 929 Fifth Ave., McKeesport PA 15132. PESTABATE. Active Ingredients: Pyrethrins 0.5%; Piperonyl Butoxide Technical 4.0%; Petroleum Distillate 95.5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement. PM17

EPA File Symbol 36306-G. Hadco East Chemical Corp., 35 Ralph Ave., Copiague NY 11726. BOWL KLING. Active Ingredients: 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.75%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.75%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 33283-T. Branchemco, Inc., 8286 Western Way Circle, Jacksonville FL 32216. BRANCHEMCO 306. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 33283-I. Branchemco, Inc., 8286 Western Way Circle, Jacksonville FL 32216. BRANCHEMCO 309. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 39398-E. Sumitoma Chemical Co., 1330 Dilion Heights, Baltimore MD 21228. 2% CUMITHRIN TOTAL RELEASE INSECTICIDE, AEROSOL. Active Ingredients: 3-phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methyl-propenyl) cyclopropanecarboxylate 2%. Method of Support: Application proceeds under 2(b) of interim policy. PM177

EPA File Symbol 40840-R. Sentry Water Management Corp., 170 Beechwood Dr., Wayne NJ 07470. SENTRICIDE 100. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylenne (dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40841-R. W. S. Engineering, PO Box 349, Ottawa KS 66067. MICROBIOCIDE W-075. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 8.0% Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40841-E. W. S. Engineering, PO Box 349, Ottawa KS 66067. MICROBIOCIDE W-60. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40841-G. W. S. Engineering, PO Box 349, Ottawa KS 66067. MICROBIOCIDE W-15. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

APPLICATIONS RECEIVED (OPP-33000/515)

EPA Reg. No. 100-437. Agricultural Div., CIBA-GEIGY Corp., PO Box 11422, Greensboro NC 27409. PRINCEP 80W HERBICIDE. Active Ingredients: Simazine: 2-chloro-4,6-bis(ethylamino)-s-triazine 80%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added uses. PM24

EPA Reg. No. 100-439. CIBA-GEIGY, PO Box 11422, Greensboro NC 27407. AATREX 80W. Active Ingredients: Atrazine: 2-chloro-4-ethylamino-6-isopropylamino-s-triazine 76%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM25

EPA Reg. No. 100-497. CIBA-GEIGY, PO Box 11422, Greensboro NC 27407. AATREX 4L. Active Ingredients: Atrazine: 2-chloro-4-ethylamino-6-isopropylamino-s-triazine 40.8%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM25

EPA Reg. No. 100-535. Agricultural Div., CIBA-GEIGY Corp., PO Box 11422, Greensboro NC 27407. AATREX 4LC. Active Ingredients: Atrazine: 2-chloro-4-ethylamino-6-isopropylamino-s-triazine 40.8%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM25

EPA File Symbol 100-LII. Agricultural Div., CIBA-GEIGY Corp., PO Box 11422, Greensboro NC 27409. PRINCEP 1%-ALGICIDE. Active Ingredients: Simazine: 2-chloro-4,6-bis(ethylamino)-s-triazine 1%. Method of Support: Application proceeds under 2(b) of interim policy. PM24

EPA Reg. No. 100-585. Agricultural Div., CIBA-GEIGY Corp., PO Box 11422, Greensboro NC 27407. AATREX NINE-O. Active Ingredients: Atrazine: 2-chloro-4-ethylamino-6-isopropylamino-s-triazine 85.5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM25

EPA File Symbol 100-LON. CIBA-GEIGY, PO Box 11422, Greensboro, NC 27409. BICEP 4.5L HERBICIDE. Active Ingredients: Atrazine: 2-chloro-4-ethylamino-6-isopropylamino-s-triazine 20.8%; Atrazine related compounds 1.1%; Metolachlor: 2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl)acetamide 27.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM25

EPA Reg. No. 239-2211. Chevron Chemical Co., Ortho Div., 940 Hensley St., Richmond CA 94804. ORTHO DIFOLATAN 4 FLOWABLE. Active Ingredients: Captafol 39%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use and Revised offer to pay statement. PM21

EPA File Symbol 257-GRG. Fuid-Stalfort, Inc., Havre de Grace MD 21078. BOWL & PORCELAIN CLEANER DISINFECTANT 17. Active Ingredients; Octyl decyl dimethyl ammonium chloride 1.250%; Dioctyl dimethyl ammonium chloride 0.625%; Dideoyl dimethyl ammonium chloride 0.625%; Alkyl amino betaine 1.000%; Hydrogen chloride 8.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 275-GG. Abbott Laboratories, Chemical Div., 14th & Sheridan Roads, D405, North Chicago IL 60064. AMICAL 50 DISPERSION. Active Ingredients: Diiodomethyl para-tolyl sulfone 37.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPR Reg. No. 400-75. Uniroyal Chemical, Div. of Uniroyal, Inc., Naugatuck, CT 06770. DYANAP. Active Ingredients: Sodium N-1-naphthylphthalamate 21.2%; Sodium Salt of dinoseb (2-sec-butyl-4,6-dinitrophenol) 10.9%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Revised offer to pay statement and Added use. PM25

EPA Reg. No. 432-502. S. B. Penick & Co., 1050 Wall St. West, Lyndhurst NJ 07071. SBP-1382 40 MF OIL BASE CONCENTRATE. Active Ingredients: (5-Benzyl-3-furyl) methyl 2, 2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 40.00%, Related compounds 5.45%; Aromatic petroleum hydrocarbons 52.95%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added data. PM17

EPA Reg. No. 432-536. S.B. Penick & Co., 1050 Wall St. West, Lyndhurst NJ 07071. YOUR BRAND SBP-1382/B19-ALLETHRIN AQUEOUS PRESSURIZED SPRAY FOR HOUSE AND GARDEN. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl)cyclopro - panecarboxylate 0.200%; Related compounds 0.028%; d-trans Allethrin (allyl homolog of Cinerin 1) 0.150%; Related compounds 0.012%; Aromatic petroleum hydrocarbons 0.272%; Petroleum Distillate 6.500%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added data. PM17

EPA Reg. No. 464-432. Dow Chemical, PO Box 1706, Midland MI 48640. N-SERVE 24E NITROGEN STABILIZER. Active Ingredients: Nitrapyrin [2-chloro-6-(trichloromethyl) pyridine] 21.9%; Related chlorinated pyridines 2.4%. Method of Support: Application proceeds under 2(b) of interim policy. PM24

EPA Reg. No. 464-433. Dow Chemical, PO Box 1706, Midland MI 48640. N-SERVE 24E NITROGEN STABILIZER. Active Ingredients: Nitrapyrin [2-chloro-6-(trichloromethyl) pyridine] 22.2%; Related chlorinated pyridines 2.5%.Method of Support: Application proceeds under 2(b) of interim policy. PM24

EPA File Symbol 464-LUT. Dow Chemical, PO Box 1706, Agricultural Products Dept., PO Box 1706, Midland MI 48640. LORSBAN 50-SL. Active Ingredients: Chlorpyrifos [O,O-diethyl O-(3,5,6-trichloro-2-pyidyl)-phosphorothioate] 50%. Method of Support: Application proceeds under 2(b) of interim policy. PM12

EPA File Symbol 876-EAE. Velsicol Chemical Corp., 341 East Ohio St., Chicago IL 60611. TECHNICAL BUTHIDAZOLE. Active Ingredients: 3-[5-(1,1-Dimethyl)-1,3,4-thiadiazol-2-yl-] 4-hydroxy-1-methyl-2-imidazolidinone 95.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM24

EPA Reg. No. 4581-223. Agchem Div., Pennwalt Corp., Pennwalt Technological Center, PO Box C, King of Prussia PA 19406. HERBICIDE 273. Active Ingredients: Dipotassium salt of endothall 40.3%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM24

EPA File Symbol 4708-EI. American Riverside, Inc., 4957 Fyler Ave., St. Louis MO 63139. U-SAN-O MP MOTHPROOFING POWDER. Active Ingredients: Methoxychlor, technical 100%. Method of Support: Application proceeds under 2(b) of interim policy. PM13

EPA File Symbol 5813-RG. The Clorox Co., PO Box 24305, Oakland CA 94623. CLOROX TOILET BOWL CLEANER. Active Ingredients: Octyl decyl dimethyl ammonium chloride 0.250%; Dioctyl dimethyl ammonium chloride 0.125%; Didecyl dimethyl ammonium chloride 0.125%; Hydrogen chloride 8.000%. Method of Support: Application proceeds under 2(c) of interim policy. PM32

EPA File Symbol 6125–GR. Bixon Chem. Co., 50–19 97th Place, Corona NY 11368. QUAT NO. 8 DISINFECTANT-SANITIZER FUNGICIDE DEODORIZER. Active Ingredients: Didecyl dimethyl ammonium chloride 7.5%; Isopropanol 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement. PM31

EPA File Symbol 7478–UL. Chem-Pak Co., PO Box 430757, Miami FL 33143. GARDEN AND HOME GENERAL PURPOSE INSECTICIDAL SPRAY, CONTAINS METHOXYCHLOR 50% WETTABLE POWDER. Active Ingredients: Methoxychlor, technical 50.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM13

EPA File Symbol 7478–UA. Chem-Pak Co., PO Box 430757, Miami FL 33143. GARDEN AND HOME GENERAL PURPOSE INSECTICIDAL DUST. Active Ingredients: Methoxychlor Technical 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM13

[FR Doc.77-24374 Filed 8-22-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 871]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

AUGUST 15, 1977.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See § 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. (See §§ 1.227(b)(3) and 21.30(b) of the Commission's Rules.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21897–CD–TC–TC–77 South Georgia Telephone Company Consent to Transfer of Control from Raiford J. Parker transferor to Continental Telephone Corporation transferee. Station: KIY765, Folkston, Georgia.

21899–CD–AL–(2)–77 Victor E. Duane, Sr. and Victor E. Duane, Jr. d.b. as Central Mobile Radio Phone Service, Consent to Assignment of License from Victor E. Duane, Sr. and Victor E. Duane, Jr. d.b. as Central Mobile Radio Phone Service, assignor to Central Mobile Radio Phone Service, Inc., assignee. Stations: KQD599, Cincinnati, Ohio and KQK595, Toledo, Ohio.

21900–CD–AL–(8)–77 Victor E. Duane d.b. as Central Mobile Radio Phone Service, Consent to Assignment of License from Victor E. Duane d.b. as Central Mobile Radio Phone Service, assignee. Stations: KUC995, KUS298, KUS346, and KQA770, Columbus; KUC871, Jefferson Township; KQD597, Dayton; KQC875, Springfield; and KUC929, Cincinnati, Ohio.

21901–CD–P–77 James Parker and Steven Beeferman d.b. as Genesee and Alleghany Radiotelephone Company (New) C.P. for a new station to operate on 152.18 MHz to be located at Tobes Hill, 1 mile NE of Hornell City limits, Hornell, New York.

21902–CD–P–(2)–77 Two-Way Radio of Carolina, Inc. (KIY441), C.P. to change antenna system and relocate facilities operating on 454.175, 454.125 MHz at Loc. No. 2, to be located 400 S. Tryon Street, Charlotte, North Carolina.

21903–CD–P–77 Ram Broadcasting of Michigan, Inc. (KQD303), C.P. for additional facilities to operate on 158.70 MHz to be located at 536 South Forest Avenue, Ann Arbor, Michigan (Loc. 3).

21904–CD–P–(2)–77 South Shore Radio-Telephone, Inc. (KUD238), C.P. for additional facilities to operate on 454.100 and 454.025 MHz located at 9355 Joliet Road, LaGrange, Illinois.

21905–CD–P–77 Grants Radiotelephone Service, Inc. (KKT397), C.P. for additional facilities to operate on 152.15 MHz at Loc. No. 4; 800 Airport Road, Milan, New Mexico.

21906–CD–P–77 Grant's Radiotelephone Service, Inc. (KUD202), C.P. for additional Repeater facilities to operate on 2173.6 MHz at a new site described as Loc. No. 3 to be located 10 miles WSW of Sheep Springs, Washington Pass, New Mexico.

21907–CD–P–77 Page-A-Fone Corporation (new) C.P. for a new 2-way station to operate on 454.125 MHz to be located 1 mile east of intersection of Texas Hwys. 171 and 174 near Cleburne, Texas.

21908–CD–TC(2)–77 Anserphone of Goldsboro, Inc., Consent to Transfer of Control from Ferebee Land Patterson to Hilda S. Patterson, Executrix of Estate of Ferebee Land Patterson, Deceased, transferee. Stations: KUC942 and KRH678, Goldsboro, North Carolina.

21909–CD–P–77 Lafayette Radiotelephone Company (new) C.P. for a new 1-way station to operate on 152.24 MHz to be located at 101 Colony Road, W. Lafayette, Indiana.

21910–CD–P/ML–77 Contact, Inc. (KGA 807), C.P. for additional facilities to operate on 35.22 MHz to be located at a new site described as Loc. No. 6; 4011 Miller Road, Baltimore, Maryland.

21912–CD–P–77 Dorothy Faye Gallimore and Beverly Fulton Martin d.b. as Pampa Communications Center (KLB497) C.P. for addition Control facilities to operate on 454-300 MHz at a new site described as Loc. No. 2: Near Hobart and McCullough Streets, Pampa: and Repeater facilities to operate on 459.300 MHz at S.E. ¼ of section 60, Block A–8, Wheeler, Texas.

CORRECTION

21788–CD–P–2–77 Sully Buttes Tel. Coop., Inc. (new) Correct frequency to read 152.-600 MHz and 152.66 MHz.

RURAL RADIO

60381–CR–P/L–77 Continental Telephone Company of California (new). C.P. for a new Rural Subscriber station to operate on 157.80 MHz to be located Fish Spring Flat, 7.1 miles east of Gardnerville, Nevada.

60382–CR–P–77 The Lincoln County Telephone System, Inc. (new). C.P. for a new Central Office station to operate on 454.50 MHz: Tempiute, Nevada.

60383–CR–P–77 The Lincoln County Telephone System, Inc. (new). C.P. for a new Rural Subscriber station to operate on 459.50 MHz to be located Approximately 6.8 miles west of Tempiute Mine, Sand Springs, Nevada.

60385–CR–TC–(3)–77 South Georgia Telephone Company. Consent to Transfer of Control form Raiford J. Parker, transferor, to Continental Telephone Corporation, transferee. Stations: KXR74, Temp Fixed; WCZ27, Cumberland Island, WBO 50, Stephen C. Foster State Park, Georgia.

CORRECTION

60376–CD–P–77 Thru 60379–CD–P/ML–77; Correct each file number to read: 60376–CR–P–77, 60377–CR–P–77, 60378–CR–P/ML–77 and 60379–CR–P/ML–77. All other particulars remain as reported on PN3870, dated 8/8/77.

MAJOR AMENDMENTS

Adirondack Mobile Telephone Co., Inc. Suite 13–F, 100 Graham Road, Ithaca, New York, File No. 21383–CD–P–(4)–77, Beekman Court, Plattsburg, New York (Lat. 44°42' 38.5" Long. 73°28'10.5") and WGFM–FM Tower; Rand Hill, Plattsburg, New York (Lat. 44°46'13", Long. 73°36'47"). Application amended to change frequencies to 454.125 MHz and 454.350 MHz.

POINT TO POINT MICROWAVE RADIO SERVICE

3346–CF–P–77 Continental Telephone Company of California (KNB39), Garberville 485 Conger Street, Garberville, California. Lat. 40°06'07" N., Long. 123°47(31" W. C.P. to change name and location of receive station and replace antenna on frequency 6093.5H MHz toward Benbow PR and from passive reflector to Pratt Mtn.

3347–CF–P–77 Same (KNB40), Pratt Mtn. 6 miles NE of Garberville, California. Lat. 40°07'11" N., Long. 123°41'29" W. C.P. to change name and location of receive station and replace antenna on frequency 6345.5H MHz toward Benbow PR.

3371–CF–P–77 The Mountain States Telephone and Telegraph Company (KYJ78), 13.6 miles SW of Rawlins, Wyoming. Lat. 41°38'75" N., Long. 107°23'11" W. C.P. to add a new point of communication on frequencies 2118.8V MHz toward Min Ex Mine and 2118.8V MHz toward Lamont.

3372–CF–P–77 Same (new), Min Ex Mine 22.2 miles SW of Baiboil, Wyoming. Lat. 42°02'06" N., Long. 107°53'58" W. C.P. for a new station on frequency 2168.8V MHz toward Separation, Wyoming.

CORRECTION

3107–CF–MP–77 The Bell Telephone Company of Pennsylvania (KGP35), corrected to read change polarity from V to H on frequencies 11245 11565 MHz toward Rockview, Pa. All other particular remain as reported on PN No. 867 dated July 18, 1977.

3108–CF–MP–77 Same (WCG251), corrected to read change polarity from V to H on frequencies 10795 11115 MHz toward State College, Pa. All other particular remain as reported on PN No. 867 dated July 18, 1977.

3338–CF–P–77 Mountain Microwave (KAQ 88), Mt. Coolidge, 6.0 miles ESE of Custer, South Dakota (Lat. 43°44'42" N., Long. 103°28'51" W.). Construction permit to add 6256.5V, 6286.2H and 6345.5H MHz toward Elk Mountain, South Dakota, via power split, on azimuth 267.9°.

3351–CF–P–77 Eastern Microwave, Inc. (KZA 86), Tyrone Mtn., Hoover Road, 6 miles NW of Tyrone Pennsylvania (Lat. 40° 43'56" N., Long. 78°19'33" W.). Construction permit to replace transmitter 10775.V MHz toward Kinter Hill, Pennsylvania, on azimuth 277.7°.

3354–CF–P–77 Eastern Microwave, Inc. (KZA 85), Boone Mtn., Kersey Road, 5 miles east of Brockport, Pennsylvania (Lat. 41°14'56" N., Long. 78°38'33" W.). Construction permit to change antenna system toward Kane (5989.7V), Punxsutawny (5989.7H), and Reynoldsville (5989.7V), all in Pennsylvania.

MAJOR AMENDMENTS

3599–CF–P–76 RCA American Communications, Inc. (new), Wauconda, Illinois (Lat. 42°14'12" N., Long. 86°04'17" W.). Application amended (a) to delete Chicago (Merchandise Mart), Illinois, as point of communication (frequencies 6034.2V and 6152.8V MHz) and (b) to add 5945.2H MHz and 6063.8H MHz toward Chicago CTO, Illinois, on azimuth 137.6°. (NOTE.—See file No. 2106–CF–P–77 elsewhere in this Public Notice)

3600–CF–P–76 RCA American Communications, Inc. (new), Chicago CTO, 2 North Riverside Plaza, Illinois (Lat. 41°52'57" N., Long. 87°38'21" W.). Application amended to add frequencies 6197.2V and 6315.9V MHz toward Wauconda, Illinois, on azimuth 317.9°.

[FR Doc.77-24283 Filed 8-22-77;8:45 am]

[Report No. I–378]

COMMON CARRIER SERVICES INFORMATION

— International and Satellite Radio Applications Accepted for Filing

AUGUST 15, 1977.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's Rules, Regulations and its Policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

510–DESE–P/L–77 Gulf Coast-Bellaire Cable Television, Bellaire, TX. Report No. I–365 dated 7–5–77 amended to request the reception of the signals from Station WTCG–TV, Ch. 17, Atlanta, Georgia and the programming of the Home Box Office, Inc. and the Christian Broadcasting Network.

592–DSE–P–77 Rocky Mountain Corp., for Public Broadcasting, Morrison, CO. For authority to construct, own and operate a domestic communications satellite receive/transmit earth station or this location. Lat. 39°38'05", Long. 105°10'56". Rec. freq: 3700–4200 MHz. Trans. freq: 5925–6425 MHz. Emission 36000F9. With a 10 meter antenna.

594–DSE–P–77 Southeastern Cable, Co., Inc., Cleveland, TE. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 35°09'44", Long. 84°50'51". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 5 meter antenna.

595–DSE–P/L–77 Cable Vision, Inc., Edna, TX. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 28°58'05", Long. 96°39'00". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

596–DSE–P/L–77 Sammons Communcations, Inc., Clinton, OK. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 35°31'-30", Long. 98°58'55" Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 5 meter antenna.

597–DSE–P/L–77 Clearview Cablevision Associates, Surside Beach, SC. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 33°35'-56", Long 79°00'12". Rec. freq: 3700–4200 MHz Emission 36000F9. With a 4.5 meter antenna.

603–DSE–P/L–77 Mid-Hudson Cablevision, Inc., Catskill, NY., For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 42°12'36", Long. 73°53'59". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 5 meter antenna.

604–DSE–P–77 American Television & Communications Corp., Beloit, WI. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 42°33'11", Long. 88°57'43". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 5 meter antenna.

605–DSE–P/L–77 Corsicana Cable TV, Corsicana, TX. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 32°06'56", Long. 96°28'58". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 5 meter antenna.

606–DSE–P/L–77 Cox Cable Communication, Inc., Aberdeen, WA. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 46°58' 35", Long. 123°48'23". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 5 meter antenna.

610–DSE–P L–77 Mid-South Cablevision, Pearl, MS. For authority to construct and operate a domestic communications satellite receive-only earth station at this location. Lat. 32°17'25" N., Long. 90°06'56" W. Rec. freq: 3700–4200 MHz Emission 36000F9. With a 6 meter antenna.

611–DSE–R–77 Fairchild Space & Electronics Co., Germantown, MD. Renewal of this fixed developmental license to: 8–20–78.

612–DSE–P L–77 Better TV of Zanesville, Inc., Zanesville, OH. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 39°56'07" N., Long. 82°03'18" W. Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 5 meter antenna.

613–DSE–P–77 Dow Jones & Co., Inc., South Brunswick, NJ. For authority to construct own and operate a domestic communications satellite transmit-only earth station at this location. Lat. 40°22'11" N., Long. 74°35'12" W. Transmit freq: 5925–6425 MHz. Emission 1800F9Y. With a 36 foot antenna.

614–DSE–P L–77 Satellite Common Carrier Corp., Romulus, MI. For authority to construct and operate a domestic communications satellite receive-only earth station at this location. Lat. 42°14'05" N., Long. 83°21'51" W. Rec. freq: 3700–4200 MHz. No emission listed. With a 10 meter antenna.

[FR Doc.77-24282 Filed 8-22-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of August 5 Through August 12, 1977

Notice is hereby given that during the week of August 5 through August 12, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

ERIC J. FYGI,
Acting General Counsel.

August 17, 1977.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, week of Aug. 5 through Aug. 12, 1977*

Date	Name and location of applicant	Case No.	Type of submission
Aug. 5, 1977	Sundance Oil Co., Denver, Colo. (If granted: The Sundance Oil Co., would be granted a stay of the requirements of the FEA's July 29, 1977, remedial order pending a final determination of an appeal of that order which Sundance states it intends to file.)	FRS-1415	Stay request.
Aug. 8, 1977	E. B. Brooks, Jr., Dallas, Tex. (If granted: E. B. Brooks, Jr., would be granted a stay of the requirement specified in the FEA's July 25, 1977, remedial order that it refund overcharges made on sales of crude oil pending a final determination of the firm's appeal of that order which it intends to file.)	FRS-1402	Do.
Do.	Cities Service Oil Co., Tulsa, Okla. (If granted: The Cities Service Oil Co. would be granted a stay of the requirements of the FEA's July 11, 1977, remedial order pending a final determination of the firm's appeal of that order.)	FRS-1404	Do.
Do.	Diamond Shamrock Corp., Amarillo, Tex. (If granted: The Diamond Shamrock Corp. would receive an extension of the exception relief granted in the FEA's Mar. 22, 1977, decision and order which would permit it to increase its prices for natural gas liquid products to reflect nonproduct cost increases in excess of $0.005/gal.)	FXE-4472	Extension of relief granted in *Diamond Shamrock Corp.*, case No. FXE-3705 (decided Mar. 22, 1977) (unreported decision).
Do.	Dyco Petroleum Corp., Tulsa, Okla. (If granted: The Dyco Petroleum Corp's. A. B. Cavanaugh No. 1 well located in Jefferson Davis Parish, La., would be classified as a stripper well property.)	FEE-4471	Price exception (sec. 212.74).
Do.	Gulf Oil Corp., Houston Tex. (If granted: The FEA's Feb. 14, 1975, remedial order as modified on July 22, 1977, would be rescinded and the Gulf Oil Corp. would not be required to refund rent charged to Anthony Weber for a service station located in Plymouth, Mich.)	FRA-1423	Appeal of FEA region III's July 22, 1977, 2d modification of remedial order issued Feb. 14, 1975.)
Do.	Hunt Petroleum Corp. (Kinder), Dallas, Tex. (If granted: The Hunt Petroleum Corp. would be permitted to increase its prices for natural gas liquid products produced at the Kinder plant to reflect nonproduct cost increases in excess of $0.005/gal.)	FEE-4473	Price exception (sec. 212.-165).
Do.	Leonard E. Belcher, Inc., Springfield, Mass. (If granted: Leonard E. Belcher, Inc., would be granted a stay of the requirements of the FEA's July 18, 1977, remedial order pending a final determination of the firm's appeal of that order which it intends to file.)	FRS-1414	Stay request.
Do.	Prater Co., Farmington, N. Mex. (If granted; Prater Co. would receive a temporary stay of the refund requirement of the remedial order issued by FEA region VI on July 25, 1977, pending a determination on its application for stay and its appeal.)	FRT-0047	Temporary stay of the requirements of the remedial order issued by FEA region VI on July 25, 1977.
Do.	Prater Co., Farmington, N. Mex. (If granted: The FEA's July 25, 1977, remedial order would be rescinded and the Prater Co. would not be required to reduce its selling prices of motor gasoline or to refund overcharges made on sales of motor gasoline during the period Nov. 1, 1973, through Aug. 31, 1975.)	FRA-1413 FRS-1413 FEE-4470	Appeal of FEA region VI's remedial order issued July 25, 1977. Stay request.
Do.	Standard Oil Co. (Indiana), Chicago, Ill. (If granted: The FEA's June 28, 1977, and July 7, 1977, assignment orders issued to Standard Oil Co. (Indiana) would be rescinded and Standard Oil would not be required to supply additional quantities of motor gasoline to the Stone & Cooper Fuel Co.).	FEA-1417— FEA-1422	Appeal of FEA region I's assignment orders issued June 28, and July 7, 1977.
Aug. 19, 1977	Altex Oil Corp., Denver, Colo. (If granted: Crude oil produced from Altex Oil Corp.'s UPRR-Anshutz Ranch No. 1 well located in Carbon County, Wyo., would be sold at upper tier ceiling prices.)	FEE-4477	Price exception (sec. 212.73).
Do.	E. B. Brooks, Jr., Dallas, Tex. (If granted: The FEA's July 25, 1977, remedial order would be rescinded and E. B. Brooks, Jr., would not be required to refund overcharges made on sales of crude oil.)	FRA-1416	Appeal of FEA region VI's remedial order issued July 25, 1977.
Do.	Melvin Klotzman and Jess Pendleton d b a Victoria Equipment & Supply Co., Victoria, Tex. (If granted: The FEA's July 7, 1977, remedial order would be rescinded and Melvin Klotzman and Jess Pendleton d.b.a. Victoria Equipment & Supply Co. would not be required to refund overcharges made on sales of crude oil.)	FRA-1425	Appeal of FEA region VI's remedial order issued July 7, 1977.
Do.	Lyon County Cooperative Oil Co., St. Paul, Minn., (If granted; The FEA's July 25, 1977, remedial order would be rescinded and the Lyon County Cooperative Oil Co. would not be required to refund over charges made on sales of petroleum products.)	FRA-1426	Appeal of FEA region V's remedial order issued July 25, 1977.
Do.	National Helium Corp., Liberal, Kans. (If granted: The National Helium Corp. would receive an extension of the exception relief granted in the FEA's Mar. 29, 1977, decision and order which would permit it to increase its prices for natural gas liquid products to reflect nonproduct cost increases in excess of $0.005/gal.)	FXE-4474	Extension of relief granted in *National Helium Corp.*, case No. FXE-3891 (decided Mar. 29, 1977) (unreported decision).
Do.	Ross Production Co., Shreveport, La. (If granted: Crude oil produced from Ross Production Co.'s proposed replacement well on the C. F. Ronton lease located in Concordia Parish, La. would be sold at upper tier ceiling prices.)	FEE-4476	Price exception (sec. 212.73).
Do.	Signal Petroleum (Lake Washington), New Orleans, La. (If granted: Signal Petroleum would receive an extension of the relief granted in the FEA's Mar. 23, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products at the Lake Washington plant.)	FXE-4475	Extension of relief granted in *Signal Petroleum*, case No. FXE-3940 (decided Mar. 23, 1977) (unreported decision).
Do.	B. W. Whittington, Portland, Tex. (If granted: The FEA's July 8, 1977, decision and order would be rescinded and Whittington would be granted retroactive exception relief to permit him to sell the crude oil produced from the State Tract 180 lease at a price which exceeds the lower tier ceiling price.)	FXA-1427	Appeal of Decision and Order in *B. W. Whittington*, 6 FEA par. ——, (July 8, 1977).

Date	Name and location of applicant	Case No.	Type of submission
Aug. 10, 1977	A&N Producing Services, Inc., Jackson, Miss. (If granted: A&N Producing Services, Inc., would receive an extension of the exception relief granted in the FEA's Apr. 14, 1977, decision and order and would be permitted to sell the crude oil produced from the USA well No. 2 lease located in Franklin County, Miss., at upper tier prices.)	FXE-4478	Extension of relief granted in *A&N Producing Services, Inc.*, 5 FEA par. 83,131 (Apr. 14, 1977).
Do.	Quincy Oil, Inc., Quincy, Mass. (If granted: The FEA's July 26, 1977, remedial order would be rescinded and Quincy Oil, Inc., would not be required to refund overcharges made on sales of petroleum products.)	FRA-1428 FRS-1428	Appeal of FEA region I's remedial order issued July 26, 1977. Stay requested.
Do.	Tenneco Oil Co., Houston, Tex. (If granted: Crude oil produced from the Tenneco Oil Co.'s Veeder-Hunt lease located in St. Mary Parish, La., would be sold at levels in excess of the lower tier ceiling price.)	FEE-4479	Price exception (sec 212.73).
Aug. 11, 1977	Coquina Oil Corp., Midland, Tex. (If granted: The Coquina Oil Corp.'s Shelton No. 1 well located in Hopkins County, Tex., would be classified as a stripper well property.)	FEE-4480	Price exception (sec 212.74).
Do.	Gas Del Oro, Inc., Gas Del Oro International, Inc., and El Dorado Marketing Co. of Laredo, Houston, Tex. (If granted: The FEA's July 11, 1977, interpretation would be modified and the Suburban Propane Gas Corp.'s sales of propane to Gas Del Oro, Inc., and affiliated companies would be covered by the FEA mandatory price regulations.)	FIA-1429	Appeal of FEA's interpretation dated July 11, 1977.
Do.	Gulf Corp., Tulsa, Okla. (If granted: The FEA's July 8, 1977, decision and order would be modified and the Gulf Oil Corp. would be granted additional exception relief which would permit it to sell additional volumes of crude oil produced from the Northwest Graylin D sand unit located in Logan County, Colo., at upper tier ceiling prices.)	FXA-1430	Appeal of decision and order in *Gulf Oil Corp.*, 6 FEA par. —— (July 8, 1977).
Do.	New York Petroleum Corp., New Orleans, La. (If granted: The FEA's July 29, 1977, remedial order would be rescinded and the New York Petroleum Corp. would not be required to refund overcharges made on its sales of crude oil.)	FRA-1431 FRS-1431	Appeal of FEA region VI's remedial order dated July 29, 1977. Stay request.
Do.	Union Oil Co. of California, Los Angeles, Calif. (If granted: The Union Oil Co. of California would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Coalinga and Timballer Bay plants.)	FEE-4481 FEE-4482	Price exception (sec. 212.165).
Do.	Union Oil Co. of California, Los Angeles, Calif. (If granted: The Union Oil Co. of California would receive an extension of the exception relief granted in the FEA's Mar. 4, and Mar. 30, 1977, decisions and orders which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the following natural gas plants: Bakke, Bell, Bryans Mill, Caddo, Camrick, Como, Cotton Valley, Cow Island, Dollarhide, Gillette, Houma, Ketleman Hills, Lisbon, Mermentau, North Okarche, Putnam Oswego, Santa Maria Valley, Stearns, Van, and Worland.)	FXE-4483— FXE-4502	Extension of relief granted in *Union Oil Co. of California*, case Nos. FEE-3712 through FEE-3721 (decided Mar. 4, 1977) (unreported decision); *Union Oil Co. of California*, case Nos. FXE-3677 through FXE-3733 (decided Mar. 30, 1977) (unreported decision).
Aug. 12, 1977	Beacon Gasoline Co., Washington, D.C. (If granted: The Beacon Gasoline Co. would receive an extension of the exception relief granted in the FEA's Mar. 15, 1977, decision and order which would permit it to increase its prices for natural gas liquid products to reflect nonproduct cost increases in excess of $0.005/gal.)	FXE-4503	Extension of relief granted in *Beacon Gasoline Co.*, case No. FXE-3648 (decided Mar. 15, 1977) (unreported decision).

[FR Doc.77-24369 Filed 8-22-77;8:45 am]

FEDERAL MARITIME COMMISSION

SACRAMENTO—YOLO PORT DISTRICT AND CARGILL OF CALIFORNIA, INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 76 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, NY., New Orleans, La., San Francisco, Calif., and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before September 12, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Mr. John J. Hamlyn, Jr., Downey, Brand, Seymour & Rohwer, 555 Capital Mall, Sacramento, Calif. 95814.

Agreement No. T-21-6, between Sacramento-Yolo Port District (Port) and Cargill of California, Inc. (Cargill), modifies the basic agreement which provides for the lease to Cargill of a grain terminal facility at Sacramento, Calif. The purpose of the modification is to provide for the payment of a diverter type grain sampler which was installed in order to comply with the current applicable law. District and Cargill will each pay half of the cost of the sampler pursuant to paragraph 11 of the basic agreement. District will credit Cargill its share of the cost by reducing the monthly rental payment by $4,732.74 per month until the outstanding balance is paid.

By Order of the Federal Maritime Commission.

Dated: August 18, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-24357 Filed 8-22-77;8:45 am]

WEST COAST OF ITALY, SICILIAN AND ADRIATIC PORTS/NORTH ATLANTIC RANGE CONFERENCE (WINAC)

Agreement Filed

Notice is hereby given that the following agreements, accompanied by a statement of justification, have been filed with the Commission for approval pursuant to Section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements and the statement of justification at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements and the statement of justification at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before September 12, 1977. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Stanley O. Sher, Esq., Billing, Sher & Jones, P. C., Suite 300, 2033 K Street NW., Washington, D.C. 20006.

Agreement No. 2846-30, among the members of WINAC modifies the basic agreement to provide that the clause outlining member's right of independent action will terminate either 450 days from July 5, 1977 or on the date the Commission approves a pooling agreement covering the trade.

VOL 42 NO 163 AUG 23 77 UM

By Order of the Federal Maritime Commission.

Dated: August 18, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-24355 Filed 8-22-77;8:45 am]

WEST COAST OF ITALY, SICILIAN AND ADRIATIC POINTS/NORTH ATLANTIC RANGE CONFERENCE (WINAC)

Agreement Filed

Notice is hereby given that the following agreements, accompanied by a statement of justification, have been filed with the Commission for approval pursuant to Section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements and the statement of justification at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements and the statement of justification at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before September 12, 1977. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Stanley A. Sher, Esq., Billing, Sher & Jones, P. C., Suite 300, 2033 K Street NW., Washington, D.C. 20006.

Agreement No. 2846 D.R. 5, among the members of WINAC, amends the Conference's dual rate contract to provide for the opening of rates on the term and conditions set forth therein.

By Order of the Federal Maritime Commission.

Dated: August 18, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-24356 Filed 8-22-77;8:45 am]

FEDERAL RESERVE SYSTEM

FIRST SECURITY CORP.

Request for Determination and Notice Providing Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors of the Federal Reserve System, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)(3)) ("the Act"), by First Security Corporation, Salt Lake City, Utah, for a determination that, upon the transfer of all the shares of First Security Savings and Loan Association, Pocatello, Idaho, by First Security Corporation to John Price, Salt Lake City, Utah, that First Security Corporation is not nor will be in fact capable of controlling First Security Savings and Loan Association or John Price, notwithstanding the fact that purchase of the shares of First Security Savings and Loan Association is being financed by a loan from First Security Corporation's banking subsidiary, First Security Bank of Utah, N.A., Salt Lake City, Utah, and that John Price is otherwise indebted to First Security Bank of Utah, N.A., Salt Lake City, Utah.

Section 2(g)(3) of the Act provides that shares transferred after January 1, 1966, by any bank holding company (or any company which but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor, unless the Board, after opportunity for hearing, determines that the transferor is not, in fact, capable of controlling the transferee.

Notice is hereby given, that, pursuant to section 2(g)(3) of the Act, an opportunity is provided for filing a request for oral hearing. Any such request or written comments on the application should be submitted in writing (in duplicate) to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than September 13, 1977. If a request for oral hearing is filed, each request should contain a statement of the nature of the requesting person's interest in the matter, the reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which such person wishes to give testimony. The Board subsequently will designate a time and place for any hearing it orders, and will give notice of such hearing to the transferor, the transferee, and all persons that have requested an oral hearing. In the absence of a request for an oral hearing, the Board will consider the requested determination on the basis of documentary evidence filed in connection with the application.

Board of Governors of the Federal Reserve System, August 16, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-24322 Filed 8-22-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

AUGUST 9, 1977.

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 5, September 9, 1977, from 10:30 A.M. to 3:00 P.M., room 3520 A, John C. Kluczynski Federal Building, 230 South Dearborn Street, Chicago, Ill. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under considerating for selection furnish professional services for the proposed new Federal Building, U.S. Courthouse, Madison, Wis. The meeting will be open to the public.

WILLIAM B. MORRISON,
Acting Regional Administrator.

[FR Doc.77-24291 Filed 8-22-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

CONTINUING EDUCATION REVIEW COMMITTEE

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of September 1977:

CONTINUING EDUCATION REVIEW COMMITTEE

Date and time: September 30; 9 a.m.

Place: Conference Room M, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

Type of meeting: Open meeting

Contact: Elizabeth R. Smith, Ph. D., Room 8C-22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4735

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to mental health education projects for interdisciplinary and single discipline groups other than psychiatry, psychology, psychiatric nursing, and social work and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9 a.m. to 4 p.m., on September 30, the meeting will be open for administrative announcements and discussion of review criteria in the light of new program initiatives and priorities of the Institute.

Substantive program information may be obtained from the contact person listed above. The NIMH Information Officer who will furnish upon request summaries of the meetings and rosters of the Committee members is Mr. Edwin Long, Deputy Director, Division of Scientific and Public Information, NIMH, Room 15-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4735.

Dated: August 16, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77-24128 Filed 8-22-77;8:45 am]

Food and Drug Administration

PANEL ON REVIEW OF ANTIMICROBIAL AGENTS

Room Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The location for the August 27, 1977 meeting of the Panel on Review of Antimicrobial Agents, scheduled for August 26 and 27, 1977, has been changed to the Red Carpet Room at the Ramada Inn in Rockville, Maryland.

FOR FURTHER INFORMATION CONTACT:

Armond M. Welch, Bureau of Drugs (MHD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announced in a notice published in the FEDERAL REGISTER of July 15, 1977 (42 FR 36551), meetings of FDA public advisory committees and other required information in accordance with provisions set forth in section 10(a)(1) and (2) of the act.

Notice is hereby given that the meeting of the Panel on Review of Antimicrobial Agents scheduled for August 26 and 27, 1977, will be held in Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. on August 26, and in the Red Carpet Room, Ramada Inn in Rockville, Md. on August 27, 1977. The open public hearing will begin at 9 a.m. on August 26.

Dated: August 16, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-24286 Filed 8-22-77;8:45 am]

PANEL ON REVIEW OF MISCELLANEOUS INTERNAL DRUG PRODUCTS

Meeting Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The meeting of the Panel on Review of Miscellaneous Internal Drug Products scheduled for August 28 and 29, 1977, has been canceled.

FOR FURTHER INFORMATION CONTACT:

Armond M. Welch, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, (301-443-4960).

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announced in a notice published in the FEDERAL REGISTER of July 15, 1977 (42 FR 36551), meetings of FDA public advisory committees and other required information in accordance with provisions set forth in section 10(a)(1) and (2) of the act.

Notice is hereby given that the meeting of the Panel on Review of Miscellaneous Internal Drug Products for August 28 and 29, 1977, is canceled.

Dated: August 16, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-24287 Filed 8-22-77;8:45 am]

National Institutes of Health

ARTERIOSCLEROSIS AND HYPERTENSION ADVISORY COMMITTEE

Meeting Date Changed

Notice is hereby given of a change in the meeting date of the Arteriosclerosis and Hypertension Advisory Committee, National Heart, Lung and Blood Institute, which was published in the FEDERAL REGISTER on August 2, 1977, 42 FR 39142.

The Committee was to have met for two days on September 23 and 24, 1977, and will now meet for only one day. The entire meeting will be open to the public from 9 am to 6 pm on Friday, September 23 in Conference Room 7, Building 31, National Institutes of Health, Bethesda, Maryland.

Dated: August 16, 1977.

SUZANNE L. FREMEAU,
NIH Committee Management Officer.

[FR Doc.77-24193 Filed 8-22-77;8:45 am]

BOARD OF SCIENTIFIC COUNSELORS, NATIONAL INSTITUTE ON AGING

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute on Aging, October 20-21, 1977, to be held at the Gerontology Research Center, Baltimore, Maryland. The entire meeting will be open to the public for the review of the NIA Intramural Research Program. Attendance by the public will be limited to space available.

Ms. Suzanna H. Porter, Committee Management Officer, NIA, Building 31, Room 5C07, National Institutes of Health, Bethesda, Maryland 20854 (telephone: 301/496-5345) will provide a summary of the meeting and a roster of committee members. Dr. Richard C. Greulich, Scientific Director, NIA, Gerontology Research Center, Baltimore City Hospitals, Baltimore, Maryland, will furnish substantive program information.

Dated: August 16, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc.77-24199 Filed 8-22-77;8:45 am]

COMMUNICATIVE DISORDERS REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Communicative Disorders Review Committee, National Institutes of Health, October 2, 1977, in the Adolphus Hotel, 1321 Commerce Street, Dallas, Texas 75221.

The meeting will be open to the public from 8:30 a.m. until 9:30 a.m. on October 2nd, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Sections 552b(c)-(4), and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 2nd, from 9:30 a.m. to adjournment, for the review, discussion and evaluation of individual initial pending and renewal grant applications. The portion of the meeting being closed involves the review, discussion, and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications:

Mr. Robert N. Hinkel, Acting Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, MD 20014, (301) 496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. Ernest J. Moore, Executive Secretary, Federal Building, Room 9C14, Bethesda, MD 20014 (301) 495-5751, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.851, National Institutes of Health.)

Dated: August 12, 1977.

THOMAS E. MALONE,
Deputy Director, NIH.

[FR Doc.77-24196 Filed 8-22-77;8:45 am]

NATIONAL ADVISORY GENERAL MEDICAL SCIENCES COUNCIL

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, National Institute of General Medical Sciences, National Institutes of Health, October 5–6, 1977, Building 31, Conference Room 6, Bethesda, Maryland.

This meeting will be open to the public on October 5, 1977, from 9 a.m. to 12 noon for opening remarks; report of the Director, NIGMS; and other business of the Council. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Title 5, U.S. Code 552b(c)(4) and 552b(c)(6), the meeting will be closed to the public on October 5, 1977, from 1 p.m. to 5 p.m., and on October 6 from 9 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. Paul Deming, Research Reports Officer, National Institute of General Medical Sciences, National Institutes of Health, Room 9A05, Westwood Building, Bethesda, Maryland 20014, Telephone: 301, 496–7301 will provide a summary of the meeting and a roster of council members. Dr. Ruth L. Kirschstein, Executive Secretary, NAGMS Council, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20014, Telephone: 301, 496–5231 will provide substantive program information.

(Catalog of Federal Domestic Assistant Programs Nos. 13–859, 13–860, 13–861, 13–862, 13–863, National Institutes of Health.)

Dated: August 12, 1977.

THOMAS E. MALONE,
Deputy Director, NIH.

[FR Doc.77–24197 Filed 8–22–77;8:45 am]

NATIONAL ADVISORY RESEARCH RESOURCES COUNCIL

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Research Resources Council, Division of Research Resources, September 19–21, 1977, Conference Room 9, Building 31, National Institutes of Health, Bethesda, Maryland 20014.

The meeting will be open to the public from 9 a.m. to recess on September 19 for: the conduct of Council business, including the report of the Director, DRR; a presentation of the DRR Forward Plan 1979–1983; a presentation by a member of the staff of the Veterans Administration, entitled "Summary of the National Academy of Sciences Study of the Veterans Administration Research Program"; a program review of the functions of the Division's Biotechnology Resources Program; and a discussion by the Planning and Agenda Work Group of the Council. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6) under Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on September 20 from 8:30 a.m. to recess, and on September 21 from 8:30 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications, including the review and administrative handling of an application requesting support for the maintenance of a nonhuman primate blood grouping research resource. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Room 5B13, Building 31, Bethesda, Maryland 20014, (301) 496–5545, will provide summaries of the meeting and rosters of the Council members.

Dr. James F. O'Donnell, Deputy Director, Division of Research Resources, National Institutes of Health, Room 5B03, Building 31, Bethesda, Maryland 20014, (301) 496–6023, will furnish substantive program information and will receive any comments pertaining to this announcement.

(Catalog of Federal Domestic Assistance Program Nos 13.306; 13.333; 13.337; 13.371; 13.375; National Institutes of Health.)

Dated: August 12, 1977.

THOMAS E. MALONE,
Deputy Directory, NIH.

[FR Doc.77–24192 Filed 8–22–77;8:45 am]

NATIONAL ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES ADVISORY COUNCIL

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of The National Arthritis, Metabolism, and Digestive Diseases Advisory Council and its subcommittees on September 29–October 1, 1977, in Conference Room 10, Building 31, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 8:30 a.m. to 10:30 a.m. the first two days to discuss administrative reports. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4 and 552b(c)(6); Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meetings of the Digestive Diseases Subcommittee; the Arthritis, Bone, and Skin Diseases Subcommittee; the Diabetes, Endocrine, and Metabolic Diseases Subcommittee; and the Kidney, Urologic and Blood Diseases Subcommittee, will be closed on September 29 from 10:30 a.m. to closing, Building 31, exact room assignments to be announced later, for the review, discussion and evaluation of individual grant applications. On September 30, the full Council meeting will be closed from 10:30 a.m. to closing, and on October 1 from 8:30 a.m. to adjournment, Building 31, Conference Room 10, also for the review, discussion and evaluation of research grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Messrs. James N. Fordham and Leo E. Treacy, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland 20014, will provide summaries of the meeting.

(Catalog of Federal Domestic Assistance Program No. 13 846–13.850, National Institutes of Health.)

Dated Aug. 12, 1977.

THOMAS E. MALONE,
Deputy Director, NIH.

[FR Doc.77–24195 Filed 8–22–77;8:45 am]

NATIONAL ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES ADVISORY COUNCIL

Meeting

Notice is hereby given of a meeting of the Digestive Diseases Subcommittee of the National Arthritis, Metabolism, and Digestive Diseases Advisory Council, with the Directors of Research Centers in the Digestive Diseases and Nutrition programs of the National Institute of Arthritis, Metabolism, and Digestive Diseases, from 2–7 p.m., October 31, 1977, at the O'Hara Hilton Hotel, Chicago, Illinois.

This meeting will be open to the public to discuss the Centers programs and the feasibility of conversion of the programs to Core Center grants. Attendance by the public will be limited to space available.

Dr. Sarah Kalser Liver Diseases Program Director, Digestive Diseases and Nutrition Program, NIAMDD, National Institutes of Health, Bethesda, Maryland 20014, will provide additional information.

(Catalog of Federal Domestic Assistance Program No. 13.848, National Institutes of Health.)

Dated: August 16, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc.77–24200 Filed 8–22–77;8:45 am]

NATIONAL CANCER ADVISORY BOARD SUBCOMMITTEE ON ENVIRONMENTAL CARCINOGENESIS

Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board's Subcommittee on Environmental Carcinogenesis, September 18, 1977, National Institutes of Health, 9000 Rockville Pike, Bethesda Maryland Building 31C, Conference Room 6.

The entire meeting will be open to the public from 7:30 p.m. to adjournment, to discuss the status of environmental carcinogenesis at the National Cancer Institute. Attendance by the public will be limited to space available.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda Maryland 20014, 301–496–5708, will furnish summaries of the meeting and rosters of committee members, upon request.

Dr. J. Dan Recer, Executive Secretary, Building 31, 4B35, National Institutes of Health, Bethesda, Maryland 20014, 301–496–2083, will furnish substantive program information.

Dated: August 11, 1977.

THOMAS E. MALONE,
Deputy Director, National Institutes of Health.

[FR Doc.77–24191 Filed 8–22–77;8:45 am]

PULMONARY DISEASES ADVISORY COMMITTEE

Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute, on October 20, 1977, in Conference Room 7, Building 31, at the National Institutes of Health, Bethesda, Maryland.

The entire meeting will be open to the public from 8:30 a.m. to 5 p.m. on October 20, to discuss current status of Division programs and Committee plans for the coming year. Attendance by the public will be limited to the space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 5A03, National Institutes of Health, Bethesda, Maryland 20014, phone 301–496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Malvina Schweizer, Executive Secretary of the Committee, Westwood Building, Room 6A16, National Institutes of Health, Bethesda, Maryland 20014, phone 301–496–7208, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13–838, National Institutes of Health.)

Dated: August 11, 1977.

THOMAS E. MALONE,
Deputy Director, National Institutes of Health.

[FR Doc.77–24198 Filed 8–22–77;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON EQUALITY OF EDUCATIONAL OPPORTUNTY

Meeting; Location Change

AGENCY: National Advisory Council on Equality of Educational Opportunity.

ACTION: Amendment to notice of meeting.

SUMMARY: This notice amends the notice of meeting previously announced in the FEDERAL REGISTER to change the location of the forthcoming meeting of the Nonmajority/Minority Task Force. This document is intended to notify the general public of the change in location and of their opportunity to attend. The change is prompted by the fact that federal space in which to hold a public meeting has become available.

DATE AND PLACE OF MEETING: August 26, 1977; Los Angeles, Calif.

ADDRESS: Room 8041, U.S. Federal Building, 300 N. Los Angeles Street, Los Angeles, Calif. 90012.

FOR FURTHER INFORMATION CONTACT:

Rosemarie Maynez, Administrative Assistant, NACEEO, 1325 G Street NW., Suite 710, Washington, D.C. 20005. Phone: 202–724–0221.

Signed at Washington, D.C., on August 18, 1977.

LEO A. LORENZO,
Executive Director.

[FR Doc.77–24365 Filed 8–22–77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

Counselor to the Secretary

[Docket No. D–77–490]

DELEGATION OF AUTHORITY

AGENCY: Department of Housing and Urban Development.

ACTION: Delegation of Authority.

SUMMARY: The Secretary is delegating to the Counselor to the Secretary certain authority with respect to completion and operation of a specific housing project in New York, New York.

EFFECTIVE DATE: August 12, 1977.

SUPPLEMENTARY INFORMATION: This delegation of authority confers those responsibilities that have been exercised by the Assistant Secretary for Housing—Federal Housing Commissioner and the Assistant Secretary for Neighborhoods, Voluntary Associations, and Consumer Protection relating solely to the East Harlem Pilot Block Project.

Accordingly, the Secretary delegates authority as follows:

Section A *Authority Delegated.* The Counselor to the Secretary, Joseph Burstein, shall exercise the power and authority of the Secretary with respect to all actions to be taken in completing the East Harlem Pilot Block Project and in operating that project designated as FHA Project Number 012–44096/97/98/99 including, but not limited to, the authority to act as contracting officer, to enter into and administer procurement contracts and make related determinations, except determinations under Section 302(c) (11), (12), and (13) of the Federal Property and Administrative Services Act (41 U.S.C. 251(c) (11), (12), and (13)), with respect to all contracts for goods and services for repair, construction, improvement, removal, demolition or alteration, maintenance, and operation of the East Harlem Pilot Block Project; broker management services in connection with that project; and contracts with public or private organizations to provide budget, debt management and related counseling services.

Section B *Additional Authority Excepted.* There is further excepted from the authority delegated under Section A the power to:

1. Establish the rate of interest on Federal loans;
2. Issue notes or other obligations for purchase by the Secretary of the Treasury;
3. Exercise the powers under section 402(a) of the Housing Act of 1950 (12 U.S.C. 1749a(a));
4. Sue and be sued, and
5. Issue rules and regulations.

Section C *Authority to Redelegate.* The Counselor to the Secretary is authorized to redelegate to employees of the Department any of the authority delegated under Section A.

(Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).)

Issued at Washington, D.C., August 12, 1977.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc.77–24289 Filed 8–22–77;8:45 am]

[Docket No. N–77–794]

TASK FORCE ON HOUSING COSTS

Establishment

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Establishment of a Task Force on Housing Costs.

SUMMARY: The Task Force on Housing Costs shall review the factors affecting the cost of housing construction; consider actions the Federal Government, especially HUD, might take to reduce such costs; and make recommendations to the Secretary concerning such actions. The time, place and agenda for the first Task Force meeting shall be published subsequently in the FEDERAL REGISTER at least 15 days prior to the meeting.

DATES: The charter of the Task Force on Housing Costs shall become effective on the date the Secretary of Housing and Urban Development files it with the Senate Committee on Banking, Housing and Urban Affairs, and the House Committee on Banking, Finance and Urban Affairs, which are the standing committees of the Congress having legislative jurisdiction over the Department of Housing and Urban Development. The charter will be filed also with the Office of Management and Budget and with the Library of Congress.

The Task Force will continue in existence under its charter for nine months from the date the charter is filed unless the charter is amended or revoked.

ADDRESS: Committee Management Officer Douglas C. Brooks, Room 3260, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Douglas C. Brooks, 202-755-5208, or Donald K. McLain, 202-755-5333.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463) it is hereby determined that the establishment of the Task Force on Housing Costs is necessary, appropriate, and in the public interest.

The Task Force shall review and comment on written materials provided by HUD staff concerning factors that affect the cost of new housing and concerning actions that might reduce such costs. The Task Force may raise and consider issues and ideas not included in these materials. The Task Force may hear testimony from members of the general public. The Task Force shall discuss the merits of all suggested actions, and shall make recommendations to the Secretary of HUD concerning actions the Federal Government, particularly HUD, might take to reduce the cost of new housing to the consumer.

The membership of the Task Force on Housing Costs is planned to consist of no more than forty (40) people. The members shall include one or more senior Departmental officials designated by the Secretary of HUD, and will include people not employed by the Federal Government who are expected to serve without compensation. The Task Force will have a balanced membership, including minorities and women, representing diverse groups and points of view, including consumer interests, organized labor, environmental interests, mortgage and construction lenders, real estate brokers and managers, developers and builders, manufacturers of housing materials and components, elected officials, architects, planners, urban and rural housing officials, the academic community, the legal profession, and HUD employees. Broad geographical representation will be achieved.

The meeting(s) of the Task Force will be open to the public.

Issued at Washington, D.C., August 16, 1977.

JAY JANIS,
Under Secretary, Department of Housing and Urban Development.

[FR Doc.77-24290 Filed 8-22-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Colorado 064425-RW]

COLORADO

Amendment To Pipeline Right-of-Way Western Slope Gas Company

AUGUST 16, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Western Slope Gas Co., P.O. Box 840, Denver, Colo. 80201, has applied for an amendment to right-of-way C-064425-RW within the existing boundaries of the original grant on Public Land located in NE¼SW¼ and NW¼SE¼ of Section 3, T. 8 S., R. 104 W., 6th P.M. in Garfield County, Colo.

The facility will enable applicant to enlarge an already existing site for construction of compressor building and related piping, office building, and a meter building, an automatic block and blow down system, and drain tank, and to enlarge an existing auxiliary building at the Baxter Pass Compressor Station. The facility will enable applicant to safely and efficiently operate the Baxter Pass Compressor Station and Carbonera Field gathering system in order to convey natural gas to the Grand Junction, Colo., market area. The proposed compressor building and related piping are necessary to eliminate existing deficiency in capacity caused by occasional sudden reduction in system loads which cause the transmission system to increase discharge pressure beyond the capability of the existing compressor units.

The purposes of this notice are: to inform the public that the Bureau of Land Management will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved and, if so, under what terms and conditions; to allow interested parties to comment on the application, and to allow any persons asserting a claim to the lands or having bona fide objections to the proposed natural gas gathering pipeline right-of-way to file their objections in this office. Any person asserting a claim to the lands or having bona fide objections must include evidence that a copy thereof has been served on the applicant.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

THOMAS HARDIN,
Chief, Branch of Adjudication.

[FR Doc.77-24348 Filed 8-22-77;8:45 am]

[NM 31300]

NEW MEXICO

Application

AUGUST 12, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Co. of New Mexico has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 6 W.,
Sec. 3, lot 1 and SE¼SE¼;
Sec. 6, lots 6 and 7;
Sec. 7, lot 1;
Sec. 10, NE¼NE¼;
Sec. 11, NE¼NE¼ and NW¼NW¼;
Sec. 12, NW¼NW¼;
Sec. 13, NE¼NW¼;
Sec. 17, SE¼NE¼;
Sec. 18, SE¼SW¼ and S½SE¼;
Sec. 21, SW¼NE¼ and SE¼NW¼.

This pipeline will convey natural gas across 2.73 miles of public land in Rio Arriba County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-24363 Filed 8-23-77;8:45 am]

[NM 31293]

NEW MEXICO

Application

AUGUST 11, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Ilano, Inc., has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 19 S., R 33 E.,
Sec. 7, SE¼NE¼.

This pipeline will convery natural gas across 0.11 of a mile of public land in Lea County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-24364 Filed 8-22-77;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 12, 1977. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by September 2, 1977.

WILLIAM J. MURTAGH,
Keeper of the National Register.

ALASKA

Skagway-Yakutat Division

Yakutat, *Yakutat and Southern Railway Company, Engine No. 2.*

CONNECTICUT

Hartford County

Hartford, *South Green Historic District*, 19-60 Alden St., 8-50 Dean St., 1-214 Main St., 12-71 Morris St., 8 Stonington St., 2-139 Wethersfield Ave., 9-11, 38 Wyllys St.

IOWA

Appanoosa County

Centerville, *Vermilion Estate (Pinecrest)*, Valley Dr.

Black Hawk County

Cedar Falls, *Cedar Falls Ice House*, Franklin Ave. and 1st St.
Waterloo, *Snowden House*, 306 Washington St.

Bremer County

Waverly, *Wartburg Teachers' Seminary (Old Main)*, Wartburg College campus.

Linn County

Walker, *Burlington, Cedar Rapids, and Minnesota RR: Walker Station (Rock Island Depot)*, Between Rowley and Washington Sts.

Polk County

Des Moines, *Hoyt Sherman Place*, 1501 Woodland Ave.
Des Moines, *Municipal Building*, E. 1st And Locust Sts.

Van Buren County

Bonaparte, *Aunty Green Hotel*, 602 Washington St.
Keosauqua, *Van Buren County Courthouse*, 904 4th St. HABS.

MAINE

Cumberland County

Gorham, *Gorham Campus Historic District (University of Maine at Portland-Gorham)*, Bounded by College Ave., Campus and Loop Drs., and School St.

MASSACHUSETTS

Bristol County

Taunton, *Bristol County Courthouse Complex*, 9, 11, 15 Court St.

Middlesex County

Newton Centre, *Colby Hall*, 141 Herrick Rd.

Worcester County

Fitchburg, Fay House, The (The Fay Club), 658 Main St.
Fitchburg, *Monument Park Historic District*, Surrounding properties along Grove, Wallace, Hartwell, Fox, Main, and Elms Sts.

MICHIGAN

Antrim County

Bellaire, *Richardi, Henry, House*, 402 N. Bridge St.

Chippewa County

Sault Ste. Marie, *Federal Building*, 209 E. Portage Ave.

MISSISSIPPI

Lauderdale County

Lizella vicinity, *Coosha (Frederickson) Lost* Horse Creek area.

MISSOURI

Jackson County

Kansas City, *Cave Spring*, 7100 Blue Ridge Extension at Raytown.

Nodaway County

Graham, *Simpson's College Museum*, 515 East Jackson St.

Shelby County

Bethel vicinity, *Hebron*, 0.8 mi. NW of Bethel.

NEW JERSEY

Burlington County

Mansfield Township, *Barzillai Newbold House (Bowne House)*, Columbus-Georgetown Rd.
Riverside, *Philadelphia Watch Case Company Building (H. K. Porter Company Building)*, Pavilion and Lafayette Aves.

Mercer County

Trenton, *Mill Hill Historic District*, Livingston, Market, Clay, Mercer, Jackson, E. Front, S. Broad Sts., and Douglas Pl. HABS.

NEW YORK

Allegany County

Angelica, *Angelica Park Circle Historic District*, Properties surrounding Park Cir. on Main and White Sts., and along Allegany County Fairgrounds.

OKLAHOMA

Kay County

Ponca City, *Pioneer Woman Statue*, Monument Cir.

Oklahoma County

Oklahoma City, *Putnam Heights Historic Preservation District*, Roughly area between Classen and Georgia Blvds., and between 35th and 38th Sts. (both sides).
Oklahoma City, *St. Joseph's Cathedral (St. Joseph's Old Cathedral)*, 225 NW. 4th St.

Payne County

Ingalls vicinity, *Irving's Castle (Washington Irving Point of Interest)*, 2.5 mi. SW of Ingalls.

PENNSYLVANIA

Delaware County

Concordville, *Handwrought (Marshall, Thomas, House)*, Concord and Station Rds.

Philadelphia County

Philadelphia, *Northern Saving Fund and Safe Deposit Company*, 600 Spring Garden St. HABS.

Westmoreland County

Latrobe, *St. Vincent Archabbey (Monastery) Gristmill (Gristmill, The)*, St. Vincent Archabbey and College.

SOUTH DAKOTA

Douglas County

Armour, *Armour Historic District*, Main St. between 3rd and 7th Sts.

WISCONSIN

Walworth County

East Troy, *Buena Vista House (Cobblestone Inn)*, 2090 Church St.

[FR Doc.77-23903 Filed 8-22-77;8:45 am]

Bureau of Reclamation

[INT FES 77-30]

ESQUATZEL COULEE WASTEWAY, COLUMBIA BASIN PROJECT, WASHINGTON

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the Esquatzel Coulee Wasteway, Columbia Basin Project, Washington.

The environmental statement concerns the modification of a 5.6-mile reach of existing channel in the Esquatzel Coulee and improvement of unstable stream banks to provide for safe passage of natural runoff and irrigation return flows through the Coulee. Fish and Wildlife management units totaling about 4,000 acres will also be established as a part of this program.

Copies are available for inspection at the following locations:

Office of Assistant to the Commissioner—Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, telephone 202-343-4991.
Office of Regional Director, Bureau of Reclamation, P.O. Box 043, 550 W. Fort Street, Boise, Idaho 83724, telephone 208-384-1208.
Columbia Basin Project Office, Bureau of Reclamation, P.O. Box 815, Division Ave. and C St. NW., Ephrata, Washington 98823, telephone 509-754-4611.

Single copies of the final statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. Copies will also be available for inspection in libraries in the Columbia Basin Project area. Please refer to the statement number above.

Dated: August 18, 1977.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc.77-24315 Filed 8-22-77;8:45 am]

V 42 163 AUG 23 77 UM

[INT DES 77-27]

PECOS RIVER BASIN WATER SALVAGE PROJECT, NEW MEXICO-TEXAS

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental impact statement for the Pecos River Basin Water Salvage Project.

The environmental statement concerns selective clearing of saltcedar from the flood plain of the Pecos River from Santa Rosa, New Mexico, to Girvin, Texas. To date, 53,950 acres have been selectively cleared (the net area cleared and maintained is 47,200 acres). Additional clearing is planned on 24,000 acres—14,000 acres scheduled for clearing and 10,000 (within McMillan Delta) deferred until provision has been made for replacement of terminal storage. Of the 14,000 acres, 10,500 acres will be the net acreage cleared.

Written comments may be submitted to the Regional Director (address below) on or before October 7, 1977.

Office of Assistant to the Commissioner—Ecology, Room 7622, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, telephone 202-343-4991.

Division of Engineering Support, Technical Services Branch, E&R Center, Denver Federal Center, Denver, Colorado 80225, telephone 303-234-3022.

Office of the Regional Director, Bureau of Reclamation, Herring Plaza, Box H-4377, Amarillo, Texas 79101, telephone 806-376-2404.

Albuquerque Planning Office, Bureau of Reclamation, P.O. Box 252, Albuquerque, New Mexico 87103, telephone 505-766-2272.

Pecos River Projects Office, Bureau of Reclamation, P.O. Box 1356, Carlsbad, New Mexico 88220, telephone 505-887-1188.

Single copies of the draft statement may be obtained on request to the Commissioner of Reclamation, Regional Director, Albuquerque Planning Officer, or Project Manager. Please refer to the statement number above.

Dated: August 18, 1977.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc.77-24316 Filed 8-22-77;8:45 am]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES v. STUDIENGESELLSCHAFT KOHLE, m.b.H., HERCULES INCORPORATED, STAUFFER CHEMICAL COMPANY, AND TEXAS ALKYLS, INC.

Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16 (b) through (h), that a Proposed Consent Judgment and Competitive Impact Statement as set out below have been filed with the United States District Court for the District of Columbia in Civil Action No. 1255-70, *United States* v. *Studiengesellschaft Kohle, m.b.H., Hercules Incorporated, Stauffer Chemical Company, and Texas Alkyls, Inc.* Defendants Hercules Incorporated, Stauffer Chemical Company, and Texas Alkyls, Inc., have consented to the proposed judgment. Defendant Studiengesellschaft Kohle, m.b.H. is not a party to the proposed judgment, and will remain an active defendant in the lawsuit. The complaint in this action alleged that defendants violated 15 U.S.C. 1 and 2 by using patents on a process for manufacturing aluminum trialkyls to restrict the sale of the unpatented aluminum trialkyls made thereby. The proposed judgment enjoins defendants from using a patent on a process or machine to restrict the sale of unpatented products made by such process or machine, enjoins defendants from opposing a modification in a judgment which they obtained in 1963 against Ethyl Corporation and requires the defendants to license certain patents and technology relating to aluminum alkyls. The Competitive Impact Statement describes the anticipated effects of the proposed judgment on competition, and evaluates the alternative relief proposals actually considered by the United States. Public comment is invited on or before October 17, 1977. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Richard H. Stern, Chief, Patent Section, Antitrust Division, SAFE 704, Department of Justice, Washington, D.C. 20530.

Dated: August 15, 1977.

BERNARD M. HOLLANDER,
Chief, Judgments and Judgment Enforcement Section.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America, Plaintiff v. *Studiengesellschaft Kohle, m.b.H., Hercules Incorporated, Stauffer Chemical Company, and Texas Alkyls, Inc.*, Defendants.

Civil Action No. 1255-70.
Filed: August 15, 1977.

STIPULATION

It is stipulated by and between the plaintiff, United States of America, and three of the defendants herein, namely Hercules Incorporated, Stauffer Chemical Company, and Texas Alkyls, Inc., by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party to this stipulation or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants who are parties to this stipulation and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to plaintiff and to the defendants who are parties to this stipulation in this or any other proceeding.

Dated: August 15, 1977.

For the Plaintiff: Hugh P. Morrison, Jr., *Deputy Assistant Attorney General;* William E. Swope, John L. Wilson, Richard H. Stern, Kurt Shaffert, Hays Gorey, Jr., Roger B. Andewelt, *Attorneys, Department of Justice.*

For the Defendants: Wolf, Block, Schorr & Solis-Cohen, Philadelphia, Pa., by Bernard M. Borish, *Attorneys for Hercules Incorporated;* Covington & Burling, Washington, D.C., by John H. Schafer, *Attorneys for Stauffer Chemical Company and Texas Alkyls, Inc.*

Stipulation approved for filing.

Dated: August 15, 1977.

AUBREY E. ROBINSON, JR.,
United States District Judge.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America, Plaintiff, v. *Studiengesellschaft Kohle, m.b.H., Hercules Incorporated, Stauffer Chemical Company, and Texas Alkyls, Inc.*, Defendants.

Civil Action No. 1255-70.
Filed: August 15, 1977.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on April 24, 1970; defendants Hercules Incorporated, Stauffer Chemical Company, and Texas Alkyls, Inc., having appeared by their attorneys and having each filed its answer to the complaint; and the plaintiff and the three aforesaid defendants, by their respective attorneys, having consented to the entry of this Final Judgment;

Now, therefore, before commencement of trial and the taking of any testimony thereat, without this Final Judgment constituting any evidence against or admission by any party with respect to any issue of fact or law herein, and upon consent of the plaintiff and the three aforesaid defendants hereto, it is hereby

Ordered, adjudged, and decreed, as follows:

I

This Court has jurisdiction of the subject matter hereof and the parties hereto. The complaint states a claim upon which relief may be granted against the defendants under Sections 1 and 2 of the Sherman Act (15 U.S.C. § 1, 2, as amended).

II

As used in this Final Judgment:

(A) "Defendants" means Hercules Incorporated, Stauffer Chemical Company, and Texas Alkyls, Inc., all Delaware corporations.

(B) "Person" means any individual, corporation, partnership, firm corporation, association, or other business or legal entity.

(C) "Aluminum trialkyl" means any compound consisting of an aluminum atom linked with three carbon atoms, each one of which is a member of any alkyl radical consisting of one, two, three, four, or n carbon atoms and three, five, seven, nine, or $2n+1$ hydrogen atoms, respectively.

(D) "Aluminum alkyl" means any compound consisting of an aluminum atom linked with at least one carbon atom that is a member of an alkyl radical consisting of one, two, three, four, or n carbon atoms and three, five, seven, nine, or $2n+1$ hydrogen atoms respectively. The term includes, *inter alia*, aluminum trialkyls, alkyl aluminum dihydrides, dialkyl aluminum hydrides, alkyl aluminum dihalides, and dialkyl aluminum halides.

(E) "Delaware action" means *Ethyl Corporation* v. *Hercules Powder Co., et al.*, Civil Action No. 2142, United States District Court for the District of Delaware.

(F) "Patent" means United States patent. "Patented" means covered by the claims of an unexpired United States patent. "Unpatented" means not covered by the claims of an unexpired United States patent. "Patentee" means any person to whom a United States patent is issued and any successor in title to such person in respect of such patent.

(G) "Date of this Final Judgment" means that date on which this judgment becomes final.

(H) "Sole and exclusive license" means the transfer from the patentee to another person of the entire right under a process or machine patent for the remaining term thereof.

III

The provisions of this Final Judgment shall apply to each defendant that is named in Article II(A) hereof, to each of its officers, directors, agents, employees, subsidiaries, successors, and assigns; and to all other persons in active concert or participation with any of them that have received actual notice of this Final Judgment by personal service or otherwise.

IV

(A) (1) Subject to subparagraph (2), defendants are enjoined from preventing, restraining, or interfering with, and from attempting to prevent, restrain, or interfere with, the sale in the United States, manufacture in the United States for sale, use in the United States, or export from the United States of unpatented aluminum alkyls by any person—whether by asserting the provisons of any contract, agreement, or understanding to which the late former defendant Karl Ziegler or his successor, Studiengesellschaft Kohle, m.b.H., was a party; by prospectively asserting or enforcing any decision or judgment rendered in the Delaware action; by asserting or enforcing the agreement with Ethyl Corporation dated July 12, 1962; or otherwise.

(2) Article IV(A)(1) hereof shall not apply with respect to unpatented aluminum alkyls that are made or are to be made by any defendant outside the United States and that are not imported into the United States, nor shall it prevent a defendant from enforcing a process or machine patent claim against any person not licensed under such claim.

(B) (1) Subject to subparagraph (2), defendants are enjoined from entering into, maintaining in effect, or enforcing any agreement or understanding (in the form of a quantity limitation, field limitation, or otherwise) by the terms of which any person authorized to use a process or machine claimed in a patent is, or is to be:

(a) Prohibited or restrained from selling;
(b) Authorized to make, but not sell;
(c) Authorized to make, or sell, for some uses but not all uses—

any product made by the process or machine.

(2) Article IV(B)(1) hereof shall not prevent defendants from stating that no license is granted by implication on claims of patents not licensed expressly, or from enforcing any such patent.

(C) (1) Subject to subparagraph (2), defendants are enjoined from entering into, maintaining in effect, or enforcing any agreement or understanding by which any party to the agreement or understanding acquires an exclusive right to sell an unpatented product produced under a license to use a patented process or machine.

(2) Article IV(C)(1) hereof shall not prevent a defendant from entering into, maintaining in effect, or enforcing a sole and exclusive license.

V

If a motion is filed or proceedings are commenced by—(i) the United States, or (ii) any party to the Delaware action, or (iii) both—to vacate or modify the judgment entered in the Delaware action, or to change in any way the prospective effect of the injunction entered in the Delaware action:

(a) Defendants will not oppose the application of the United States to intervene in the Delaware action; and

(b) Defendants will not oppose (and they authorize the United States to represent to the United States District Court for the District of Delaware that defendants have advised the United States that they will not oppose) a modification of said judgment by which the sale of unpatented aluminum trialkyls is no longer enjoined.

Nothing contained in this Article V shall prevent defendants from opposing any further modification of that judgment for which the United States or any party moves.

VI

(A) For each patent or patent application that on the date of this Final Judgment a defendant owns or has any right to license, such defendant shall grant each applicant therefor, for such term as applicant requests, a license, on reasonable and nondiscriminatory rates and conditions, to practice in an unrestricted manner and all patented inventions relating to the manufacture or aluminum alkyls.

(B) Manufacture of any aluminum trialkyl under any license under this Article VI shall initially be royalty-free. At any time three years after the date of this Final Judgment, however, a defendant may, upon at least 30-days notice to plaintiff, file a motion in this Court to modify this Article VI to establish that the degree of competition in the sale of unpatented aluminum trialkyls (or such of them as the motion concerns) is such as to justify the prospective modification of the royalty-free licensing of such manufacture to licensing at a reasonable and nondiscriminatory royalty rate.

VII

(A) Subject to Article VII(B) hereof, each defendant shall grant a license, on reasonable and nondiscriminatory rates and conditions, to each applicant therefor, for such term as applicant requests, pursuant to which it will disclose and permit the practice in the United States in an unrestricted manner of any and all technology (whether in the form of know-how, trade secret, sales and technical literature, or otherwise), that—

(1) Relates to the manufacture, shipment, or storage of aluminum trialkyls; and

(2) Was practiced commercially at any time between April 24, 1970, and the date of this Final Judgment.

(B) No license under this Article VII need be granted to any applicant who, on the date of this Final Judgment, is in the business of manufacturing and selling any aluminum trialkyl in the United States. No license under this Article VII relating to the manufacture of aluminum trialkyls need be granted to any applicant who, on the date of this Final Judgment, is engaged in the manufacture of any aluminum trialkyl. Any license under this Article VII may forbid the unauthorized disclosure to third persons of any trade secret so long as it has not fallen into the public domain.

VIII

(A) For the purpose of securing compliance or determining whether there has been compliance with this Final Judgment, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, each defendant shall, subject to any legally recognized privilege:

(1) Permit any duly authorized representative of the Department of Justice, on reasonable notice, to inspect and copy, during regular office hours, all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession, custody, or control of that defendant, relating to any of the subject matter contained in this Final Judgment (including all licenses under patent claims that cover any process, machine, or any aluminum alkyl, and licenses relating to aluminum trialkyl technology, whether or not containing provisions prohibited by this Final Judgment); and to interview officers, directors, agents, partners, or employees of such defendant, who may have counsel present, regarding any such matter; and

(2) Submit such written reports with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

(B) No information obtained pursuant to this Article VIII shall be disclosed by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings in which the United States is a party, for the purpose of securing compliance or determining whether there has been compliance with this Final Judgment, for law enforcement purposes, or as otherwise required by law.

(C) Before any disclosure is made (other than in a Grand Jury proceeding) under Article VIII(B) of any information or document that (i) is furnished by a defendant under Article VIII(A), (ii) is or contains a trade secret or other confidential research, development, or commercial information, as those terms are used in F.R.Civ.P. 26(c)(7), and (iii) is so designated by the defendant by prominently marking it or the document containing it with the legend "CONFIDENTIAL, NO DISCLOSURE WITHOUT 10 DAYS' NOTICE TO (name of defendant furnishing document)," such defendant shall be given at least ten (10) days' prior notice thereof.

(D) Copies of records and documents obtained pursuant to this Article VIII shall be returned to the defendant from whom obtained, upon that defendant's request, when their retention by the Department of Justice is no longer needed.

IX

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate in relation to the construction or modification of any of the provisions thereof, for the purpose of enforcement or compliance therewith, and for the punishment of violations thereof.

X

This Final Judgment shall terminate sixteen (16) years after the date of this Final Judgment. No license or rights granted under this Final Judgment shall terminate, however, solely because of the expiration of the 16-year term of this Final Judgment.

XI

Entry of this Final Judgment is in the public interest. There is no just reason to delay entry of this Final Judgment against the three defendants named herein, and the entry of this Final Judgment now is expressly directed.

Dated: _____

United States District Judge.

V 42163 AUG 23 77 UM V

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America, Plaintiff, v. *Studiengesellschaft Kohle, m.b.H., Hercules Incorporated, Stauffer Chemical Company, and Texas Alkyls, Inc.*, Defendants.

Civil Action No. 1255–70.
Filed: August 15, 1977.

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (16 U.S.C. § 16 (b)), the United States of America hereby submits this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this civil antitrust action.

I. NATURE AND PURPOSE OF THE PROCEEDING

A. THE COMPLAINT

The government filed this civil action on April 24, 1970, against Dr. Karl Ziegler ("Ziegler") of Mülheim, Federal Republic of Germany, and against Hercules Incorporated ("Hercules"), Stauffer Chemical Company ("Stauffer"), and Texas Alkyls, Inc. ("Texas Alkyls"), all Delaware corporations. The complaint alleged that the defendants were violating §§ 1 and 2 of the Sherman Act by combining and conspiring to restrain interstate trade and commerce in aluminum trialkyls ("ATAs") and to monopolize the sale of ATAs. Upon the subsequent death of defendant Ziegler, Studiengesellschaft Kohle, m.b.H. ("SGK"), a German corporation, was substituted for him as a party defendant.

The prayer for relief sought:

(1) An adjudication and decree that the defendants had combined and conspired to restrain trade and commerce in ATAs and to monopolize the sale of ATAs, in violation of §§ 1 and 2 of the Sherman Act;

(2) A permanent injunction against defendants' attempting in any way to interfere with the sale of ATAs by others;

(3) a permanent injunction against defendants' attempting in any way to interfere with the use or disposition by any person of the unpatented product of a patented process—whether by color of exclusive selling license, field restriction or condition in a license, quantity limitation in a license, or otherwise;

(4) A permanent injunction against defendants' entering into or maintaining in effect any agreement pursuant to which any party thereto, or third-party beneficiary thereof, is promised or otherwise given freedom from competition in the sale of the unpatented product of a patented process, on the part of other persons licensed or to be licensed to practice such process;

(5) Compulsory licensing, on reasonable and nondiscriminatory terms, of any and all inventions relating to the manufacture, use, or sale of ATAs, claimed in any United States patent that any defendant owns or has the right to license on the date of the final judgment;

(6) Compulsory licensing, on reasonable and nondiscriminatory terms, of any and all technology relating to the manufacture, use, or sale of ATAs which, on the date of entry of a final judgment in this action, the defendant owns or has the right to license; and

(7) Such other and further relief as the nature of the case requires and the court may deem just and proper.

B. THE PRODUCTS INVOLVED

ATAs are organ metallic chemical compounds that have two principal commercial uses. The major use is as reactants with ethylene or other olefins (e.g., isobutylene) in the manufacture of straight-chain alkyl alcohols and alphaolefins that, in turn, are used in the manufacture of biodegradable detergents. The other principal use is as catalyst ingredients in the manufacture of such plastic materials as polyethylene and polypropylene, and such specialty synthetic rubber materials as polybutadiene and polyisoprene.

The members of the ATA family that are most widely used commercially are triethyl aluminum and trissobutyl aluminum. These products have long been known to chemists, and are not covered by patents. These compounds are highly pyrophoric (i.e., they spontaneously burst into flame uopn contact with air or other sources of oxygen). Special precautions must therefore be applied in their manufacture, shipment, and storage.

All commercial manufacture of ATAs in the United States is by processes that are covered by one or more patents issued to Ziegler. Moreover, many of the processes in which ATAs are consumed, such as certain processes for the manufacture of alcohols and plastics, are also covered by Ziegler patents.

C. THE PARTIES

Ziegler was, until his death in 1973, the director of a German research institute[1] in which the research leading to his patents was conducted. Under the terms of Ziegler's directorship, all patents resulting from the work performed under his direction at the institute were issued to him, and he was entitled to one-third of all royalty income.

Since Ziegler's death, SGK, as trustee, has been distributing one-third of the royalties to Ziegler's widow and the remainder to his co-inventors and the institute in accordance with Ziegler's contractual and other legal obligations.

Ziegler granted licenses-under his patents on the ATA–manufacturing processes to Hercules in 1954, and to eleven other American companies in the period between 1954 and 1962. Hercules had not engaged in the commercial manufacture of organometallic materials before it obtained this license. In 1959, Hercules formed a joint venture with Stauffer, which had expertise in organometallic chemical manufacture and in the marketing of catalysts. The joint venture, Texas Alkyls, built and operates a facility that manufactures ATAs and other aluminum alkyl compounds. Stauffer acts as exclusive sales agent for Texas Alkyls.

II. THE PRACTICES AND EVENTS GIVING RISE TO THE VIOLATIONS OF THE SHERMAN ACT ALLEGED IN THE COMPLAINT

Ziegler's license to Hercules stated that Hercules would receive a non-exclusive right to use the processes to manufacture ATAs and the exclusive right to sell in the United States the ATAs thus made. The other eleven Ziegler licensees were restricted, in some instances expressly and in other instances by implication, to using the licensed processes in order to manufacture ATAs only for certain specified end-uses in their own plants, but not for sale.

Several of the Ziegler process licensees (other than Hercules) made preparations for, or gave serious consideration to, selling ATAs that they would manufacture by a Ziegler process. Two of these licensees, Ethyl Corporation ("Ethyl") and Continental Oil Co. ("Conoco") have far larger, and therefore more efficient, ATA production facilities than those of defendant Texas Alkyls.

Before Ethyl initiated its ATA sales program, it sought Ziegler and Hercules' express permission to sell ATAs. Each declined to give such permission. When Ethyl discovered, in 1959, that its potential ATA customers were receiving warnings or threats from defendants of possible patent litigation, Ethyl sued defendants Hercules, Stauffer, and Texas Alkyls in federal court in Delaware for a declaratory judgment that Ethyl's sale of the unpatented ATAs (that it made by a patented Ziegler process) infringed no patent right enforceable by Hercules.[2] In 1963, the Delaware court found for defendants Hercules, Stauffer, and Texas Alkyls, and enjoined Ethyl from selling ATAs in the United States that were made by the patented Ziegler processes without Texas Alkyls' permission. 232 F. Supp. 453. Since that time, Ethyl has been selling ATAs with Texas Alkyls' permission, paying a "royalty" to Texas Alkyls on all such sales.

From 1957 onward, Conoco repeatedly sought to establish or obtain the right to sell in the United States the unpatented ATAs that it manufactured by the patented Ziegler processes. The consistent response from representatives of the defendants was that they had the exclusive right to make such sales and that Conoco was not permitted to do so.

Moreover, defendants represented to Conoco and other Ziegler licensees that their exclusive sales right extended to all aluminum alkyls made by the Ziegler process, not just to ATAs. "Aluminum alkyls" describes a category of chemical compounds that includes, in addition to the ATAs, such groups of commercial chemical compounds as the alkyl aluminum halides and the alkyl aluminum hydrides. As a result, Conoco has never sold in the United States any of the aluminum alkyls that it makes by a Ziegler process.

None of the other Ziegler licensees have sold any aluminum alkyls in the United States, leaving the entire field to defendant Texas Alkyls and to Ethyl.

In defending the present lawsuit, the defendants have asserted that Ziegler's process patents gave him the right to specify the use that each licensee could make of the ATAs manufactured by his patented processes and to specify whether or not the licensee could sell them, even though the ATAs are unpatented products. Defendants moved for summary judgment dismissing this action on the ground that such exercise of patent rights is exempt from the Sherman Act. The Court denied defendants' summary judgment motion, holding (1) that the Ziegler process patents confer only the right to exclude others from the use of the processes and not the right to exclude them from the sale of the unpatented ATAs made by those processes, and (2) that defendants' actions must stand scrutiny, in a full trial on the merits, under the Sherman Act. 426 F. Supp. 143 (1976).

III. EXPLANATION OF THE PROPOSED JUDGMENT AND ITS ANTICIPATED EFFECT ON COMPETITION

The United States and defendants Hercules, Stauffer, and Texas Alkyls have stipulated that the proposed consent judgment, in the form negotiated by the parties, may

[1] The Max Planck Institut für Kohlenforschung (Max Planck Institute for Coal Research) is jointly sponsored by the German coal mining industry, the German federal government and German state governments. This is one of many Max Planck Institutes engaged in research in different fields of science and technology under joint industry and government sponsorship.

[2] After this declaratory judgment suit had been pending for some years, the opposing parties agreed that they would cross-move for summary judgment on the basis of a lengthy set of stipulated facts and that, if the Delaware court ruled against Ethyl, defendants would nevertheless permit Ethyl to sell ATAs in the United States in return for payment by Ethyl to Texas Alkyls of a lump sum of $250,000 plus running "royalties" for a 15-year period. These payments to Hercules were in addition to the royalties that Ethyl was required to pay Ziegler for use of his patented process.

be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The proposed judgment provides that there has been no admission by any party with respect to any issue of fact or law. Under the provision of Section 2(e) of the Antitrust Procedures and Penalties Act, the Court must determine that the proposed judgment is in the public interest before it can be entered.

The proposed judgment would, with certain exceptions, enjoin the consenting defendants from interfering with the sale, use, manufacture for sale, or export of unpatented aluminum alkyls; from entering into, maintaining, or enforcing any agreement or understanding that restrains any person in the sale of products made by a patented process or machine that the person is licensed to use; and from entering into, maintaining, or enforcing any agreement or understanding by which a party acquires an exclusive right to sell an unpatented product made by a patented process or on a patented machine. The proposed judgment also provides that the consenting defendants will not oppose certain proceedings to modify the injunction entered in Delaware against Ethyl's sale of ATAs. It would also compel these defendants to grant licenses under all patents and patent applications that they own (or have the right to license) that related to the manufacture of aluminum alkyls, such licenses to be royalty-free for at least three years after final entry of the judgment, and to grant reasonable-royalty licenses on certain technology (know-how) relating to the manufacture, shipment, and storage of ATAs. The major provisions are discussed below.

A. PARTIES COVERED BY THE PROPOSED JUDGMENT

Inasmuch as only three of the four defendants are to be parties to the proposed consent judgment, it will be necessary to hold a trial between the government and the remaining defendant, SGK, even if this proposed consent judgment is entered.

The government proposes to consent to the entry of this judgment despite the fact that trial of the case will not be avoided thereby because it provides for substantially all of the relief against and from these three defendants that could be expected to be obtained in a judgment for the United States entered after trial.

B. ARTICLE IV—INJUNCTIVE RELIEF

Article IV(A) would enjoin the defendants to be covered by the proposed judgment from preventing, restraining, or interfering with:

(i) The sale in the United States,
(ii) Manufacture in the United States for the purpose of selling,
(iii) Use in the United States, or
(iv) Export from the United States,

of unpatented aluminum alkyls by any person. It would also enjoin any attempt to do so. This injunction applies regardless of the manner in which the prescribed activity or result is achieved or attempted; moreover, the following acts are specifically prohibited: asserting any contract, agreement, or understanding to which Ziegler or SGK was a party, or prospectively asserting or enforcing the judgment entered in the Delaware action or the agreement made with Ethyl during that action.

The injunction of Article IV(A) would apply not only to ATAs, but also to any aluminum alkyl (i.e., to any chemical compound in which an aluminum atom is linked with at least one carbon atom that is a member of any alkyl radical), unless the compound is covered by a composition of matter claim of an unexpired United States patent. Unpatented alkyl aluminum dihydrides, dialkyl aluminum hydrides, alkyl aluminum dihalides, and dialkyl aluminum halides, inter alia, are included.

Article IV(A) would not apply to unpatented aluminum alkyls that are made outside the United States by any of the defendants covered by the judgment or by any of their subsidiaries; it would apply, however, to any such material that is imported into the United States. Moreover, it would apply to aluminum alkyls manufactured outside the United States by persons other than these defendants and their subsidiaries. This exception would permit these defendants and their subsidiaries to engage in manufacture of aluminum alkyls abroad without subjecting them to a charge of contempt, should they elect not to import such foreign-made material into the United States. The exception would not authorize these defendants to exercise any restraint over such material in the event that it is imported nor to restrain the foreign manufacture of aluminum alkyls by others.

Article IV(A) also would not prevent any of the defendants covered by the proposed judgment from enforcing any process or machine patent claim against anyone not licensed under such claim. Thus, these defendants would continue to have the right to sue anyone that they have not licensed for infringement of any such patents, subject to the standard defenses of patent invalidity and unenforceability. Under Article VI, discussed infra, these three defendants would be required, however, to grant licenses to any applicant under any patent relating to the manufacture of aluminum alkyls.

Article IV(B) would enjoin each of the defendants to be covered by the proposed judgment from entering into, maintaining, enforcing any agreement or understanding that (1) authorizes use of a patented process or machine, but (2) also prohibits or restrains the sale of any product made by the machine or process. It would also enjoin these defendants from entering into, maintaining, or enforcing any agreement or understanding that authorizes the use of a patented process or machine (1) to make any product, but not to sell it, or (2) to make any product and to sell the product for some, but not all, uses.

Article IV(B) would not prevent any consenting defendant, in the event that it licenses certain patent claims, but not others, from bringing infringement suits, subject to the standard defenses of invalidity and unenforceability, with respect to unlicensed patent claims. Article IV(B) would also not prevent any of these defendants from stating to a licenseee who has a license under some, but not all, of the claims of a patent, that the licensee has no implied license under the remaining claims. These three defendants would be compelled to grant licenses to all applicants on all of their patents relating to the manufacture of aluminum alkyls under Article VI, infra, however, and any limitation of the foregoing type would be subject to the general requirements of the antitrust laws.

Article IV(C) would enjoin these defendants from entering into, maintaining, or enforcing any agreement under which a license is granted to use a patented process or machine and a party acquires the exclusive right to sell an unpatented product produced under that license.

Article IV(C) would not apply to "sole and exclusive licenses," i.e., to licenses in which the licensee acquires the entire patent right under a process or machine patent for the remaining term thereof. Inasmuch as the effect of such licenses is merely to substitute the licensee for the licensor, they have no adverse effect on competition and need not be enjoined, unless they violate the antitrust laws for some other reason not involved in this case.

Articles IV(B) and IV(C) enjoin the practices described above with regard to all products, not merely those involved in the violation charged in the complaint, and apply regardless of whether a defendant is granting or receiving rights under the agreement or understanding.

C. ARTICLE V—VACATUR OF DELAWARE INJUNCTION

Article V of the proposed judgment would apply in the event that a motion or other proceeding is brought in federal court in Delaware to vacate or modify the judgment entered by that court in *Ethyl Corporation v. Hercules Powder Co., et al.*, Civil Action No. 2142 (the "Delaware action"). That judgment enjoins Ethyl from selling unpatented ATAs without Texas Alkyls' permission. If the government or any party to the Delaware action (presumably Ethyl) files a motion to vacate or modify that Delaware judgment, these three defendants would be required to refrain from opposing a modification of the judgment by which the sale of unpatented aluminum trialkyls would no longer be enjoined by that Delaware judgment. Article V would also authorize the government to represent to the Delaware court that these three defendants have no opposition to such modification. These defendants would also be required not to oppose any application that the government may make to intervene in the Delaware action. These three defendants would, however, retain the right to oppose any further modification of the Delaware judgement.

D. ARTICLE VI—COMPULSORY PATENT LICENSE

Article VI of the proposed judgment would require each consenting defendant to grant a license to everyone that requests one under each patent and patent application that the defendant owns (or under which it has the right to grant licenses) on the date that the judgment becomes final, permitting the licensee to practice in an unrestricted manner any and all patented inventions relating to the manufacture of aluminum alkyls. These licenses would have to be granted either for the life of the patents involved or for whatever shorter period the applicant for the license requests. No unreasonable or discriminatory condition can be imposed in the license.

At no time would a defendant be permitted to charge more than a reasonable and non-discriminatory royalty rate for any such license. Manufacture of ATAs under any such license would initially be royalty-free, but at any time more than three years after the date of final entry of the proposed judgment a consenting defendant could bring a motion in this Court for an order to change such a royalty-free license to a license at reasonable and non-discriminatory royalty rates. The government could participate in any such motion and oppose it if appropriate. To assure that the government will have an opportunity to do so, it must be given at least 30 days' notice before the motion is to be adjudicated. According to the proposed judgment, the defendant bringing such a motion must establish that the degree of competition in the sale of unpatented ATAs is such as to justify permitting the defendant to charge a royalty for their manufacture.

This provision has reference to the principle that misused patents are unenforceable until all effects of such misuse have been purged. Thus this provision permits a defendant to establish before the Court, at any time after three years, that the effects of the violations charged in the complaint upon competition in the sale of ATAs have been

V 4216 AUG 23 77 UM V

totally purged and that the patents are therefore prospectively enforceable. A defendant could limit his proof as to the state of competition to those particular ATAs the manufacture of which he seeks to make subject to royalty.

The favorable impact of this compulsory patent license provision upon competition in the sale of ATAs and other aluminum alkyls is expected to be quite limited, due to the fact that these defendants neither own nor have the right to grant licenses under the Ziegler patents. These defendants do have certain other patents in the field, however, and these will be subject to the compulsory license provisions.

E. ARTICLE VII—COMPULSORY KNOW-HOW LICENSE

Each defendant that is to be covered by the judgment would be required to license, to everyone requesting it, certain technology relating to the manufacture, shipment, or storage of ATAs. All such technology that was practiced commercially anywhere in the world by anyone between April 24, 1970 (the date on which this lawsuit was begun), and the date of final entry of the judgment would be included. The reason for imposing the initial time limit is to avoid requiring that the defendants resurrect information about technology that has not been in use for years. The second time limit is imposed to maintain the incentive of competitive advantage to encourage these defendants to develop new technology after the date of the judgment.

All technology, whether in the form of know-how, trade secrets, sales and technical literature, or otherwise, is included. The defendants would be required to disclose all such technology to each licensee and to permit its use without restrictions in the United States in return for payment of a reasonable and nondiscriminatory royalty. Each license would be granted for such duration as the applicant requests.

Each such license would be allowed to contain a provision forbidding the licensee from breaching the confidentiality of any trade secret that has been disclosed to it, but only so long as that secret has not fallen into the public domain, i.e., so long as it is not published nor a matter of general knowledge.

No defendant would be required to grant a know-how license under Article VII to any party that is already in the business of manufacturing and selling ATAs. The only company now in that position, aside from defendants, is Ethyl. Requiring defendants to license this established producer and vendor to use its know-how would not be likely to encourage greater competition. Moreover, any company that is already a manufacturer of ATAs on the date that this judgment becomes final, but that does not sell ATAs, would be entitled to a license only for technology relating to shipment and storage of ATAs, but not to technology relating to manufacture of ATAs. The only company now in that category is Conoco. Conoco's production facilities, like Ethyl's, are considerably larger than those of the defendants. No incentive to competition is therefore anticipated from any requirement to license this existing manufacturer under manufacturing know-how. On the other hand, a license to Conoco for know-how relating to shipment and storage of ATAs may encourage this producer's entry into the sales market.

F. OTHER PROVISIONS

The proposed judgment would remain in effect, in accordance with Article X, for 16 years after its final entry, but no licenses or other rights granted under it would be terminated by the expiration of the judgment. That is, if a compulsory patent license or technology license were granted by a defendant for a longer period, that license would remain in effect for the term specified in the license, even if that term exceeds the duration of the judgment. On the other hand, defendants would not be required to grant new licenses after the judgment has expired. Also, the injunctive provisions would terminate with the judgment. The 16-year effective life of the judgment corresponds approximately to the life of the last patent relating to ATA manufacture that is known to exist.

As is customary in consent judgments such as this, the Court would retain jurisdiction under Article IX and the government would have "visitation" rights under Article VIII during the entire period that the proposed judgment is in effect. All license agreements in the possession, custody or control of any consenting defendant under any patent claim on any process or machine, regardless of the purpose for which such process or machine is to be used, or under any patent claim on any aluminum alkyl would be subject to visitation, regardless of whether such licenses contain provisions prohibited by the proposed judgment.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

All potential private plaintiffs who have been damaged by the violations charged in the complaint will retain the same right to sue for monetary damages, and for any other legal or equitable relief, to which they would have been entitled, as if the proposed judgment were not entered. This judgment may not be used as prima facie evidence in private litigation, however, pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. § 16(a).

The government's trial brief, as well as all deposition transcripts and most of the documentary evidence on which the government intends to rely at trial have been filed with the Court. Most of this material is publicly available, but some of it is subject to the terms of one or more protective orders entered by the Court, and is therefore maintained under seal. Access to the material maintained under seal can only be obtained by petitioning the Court.

Moreover, any manufacturer facing a claim from any defendant in this action either for patent infringement or for non-payment of royalties based on manufacture of ATAs by the process covered by Ziegler's patents, or the use or sale of ATAs made by that process, could assert as a defense to the claim the doctrine of patent misuse. The applicability of that defense would, of course, be determined by the court adjudicating the claim.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED JUDGMENT

The proposed Final Judgment is subject to a stipulation by and between the United States and the defendants, which provides that the United States may withdraw its consent to the proposed Final Judgment at any time before the Court finds that entry of the judgment is in the public interest. Under the proposed judgment, the Court would retain jurisdiction of this action in order, among other things, to permit any necessary or appropriate modification of the judgment or construction of its provisions, to enforce compliance with the judgment, and to punish any judgment violation.

As provided by the Antitrust Procedures and Penalties Act, any person wishing to do so may, during the sixty-day period following the publication of the proposed judgment, submit written comments on the judgment to the United States Department of Justice, Richard H. Stern, Chief, Patent Section, Antitrust Division (SAFE 704), Washington, D.C. 20530. The Department of Justice will file with the Court and publish in the FEDERAL REGISTER such comments and the Department's response to them, and will thereafter evaluate any and all such comments and determine whether there is any reason for withdrawing its consent to the proposed judgment.

VI. DESCRIPTION AND EVALUATION OF ALTERNATIVES TO THE PROPOSED JUDGMENT ACTUALLY CONSIDERED BY THE UNITED STATES

In addition to considering provisions that are either similar in scope to those in the proposed judgment, or that would have provided relief less advantageous to the public than those contained in the proposed judgment, the government gave actual consideration to, and then rejected, the following procedures and judgment provisions:

1. Even if this proposed consent decree is entered, a trial will have to be held against the remaining defendant, SGK. The United States considered the option of refusing to enter into a consent judgment with less than all defendants. This alternative was rejected on the following grounds:

(a) The proposed consent judgment includes all of the relief against these defendants that the government could expect to obtain after trial.

(b) Entry of the proposed consent judgment offers the possibility of realizing procompetitive effects without the delay inherent in obtaining a litigated judgment subject to appeals.

(c) On the facts of this case, it was not considered to be in the interest of justice to compel defendants to continue to defend this suit despite their willingness to consent to entry of this consent judgment.

2. With respect to Article IV(A), the government originally considered the adoption of the injunctive provisions of Article IV(A)(1) without the two limitations imposed thereon by Article IV(A)(2). The defendants to be covered by this proposed judgment asserted, however, that the injunction should not be drawn so as to prevent them from exercising their normal business judgment as to whether to import into the United States any aluminum alkyls that they or their subsidiaries may manufacture abroad. It was concluded that it would be, on balance, procompetitive to relieve these defendants of this concern and thereby not to discourage them or their subsidiaries from investing in foreign aluminum alkyl production facilities, so long as these defendants are not permitted to impose restrictions on the use or re-sale of aluminum alkyls that they manufacture abroad and that are then imported into this country. The first of the two limitations in Article IV(A)(2) is precisely of this scope.

It was also recognized that Article IV(A)(1) could be interpreted as totally preventing these defendants from enforcing any of their patents relating to aluminum alkyls. In view of the compulsory patent licensing provisions of Article VI, it was agreed that Article IV(A)(1) should be limited so as not to enjoin these defendants from enforcing their process and machine patents against persons that have not been licensed to use them. The second limitation in Article IV(A)(2) preserves these defendants' right to do so. The injunction of Article IV(A)(1) would, however, apply to prevent these defendants from restricting a licensee under a process or machine patent claim from selling an unpatented aluminum alkyl manufactured under the license, or from making any use of such material that the licensee sees fit to make. Because the two limitations contained in Article IV(A)(2) are not considered to limit the pro-competitive effect of the injunction in Article IV(A)(1), they were accepted by the government.

3. The parties originally considered adopting Article IV(C)(1) without limitation. It was subsequently realized, however, that this would prevent these defendants from granting sole and exclusive patent licenses. In such licenses the licensee is invested with all of the rights theretofore held by the licensor, and the licensor retains none of the rights under the patent. Therefore, no anticompetitive effect is anticipated to result from continuing to allow these defendants to grant such licenses.

4. With respect to Article V, the government originally proposed that these defendants be required to petition to change the judgment entered in Delaware against Ethyl. These defendants were unwilling to initiate such proceedings, themselves, but expressed their readiness to undertake not to oppose proceedings in the Delaware court that others initiated, and to agree to let the government represent such non-opposition to the Delaware court, provided that their non-opposition was limited as indicated below. Inasmuch as the objective of obtaining the appropriate modification of the Delaware judgment is equally well served regardless of who initiates the proceedings, the government agreed to the modification whereby these defendants would not themselves be required to petition the Delaware court.

Also, the original proposal considered by the government provided for the total vacatur of the Delaware judgment. The two objectives that would be served thereby are: (1) removal of any lingering anticompetitive effect of the Delaware judgment upon the sale of ATAs, and (2) elimination of the possible continuing precedential status of the Delaware decision as a putative justification of restrictions on the sale or use of unpatented products made by patented processes or made on patented machines. These defendants objected to consenting to such a total vacatur, but were willing to agree not to oppose such modification of the Delaware judgment whereby Ethyl would no longer be enjoined from selling ATAs. This more limited undertaking by these defendants appears to satisfy the first of the above-listed objectives, because, in view of the other provisions of this proposed consent judgment, the injunction is the only feature of the Delaware judgment that can have such anticompetitive effect. With respect to the other objective, the government remains free to make whatever arguments it deems appropriate concerning further modification or total vacatur of the Delaware judgment—albeit without the assurance that defendants will not oppose. In the circumstances, the government is willing to assume the burden of convincing the Delaware court of the appropriateness of any further modifications that the government may urge in a further proceeding, if any.

5. With respect to Article VII, the government originally proposed a technology license that would apply to all aluminum alkyls, rather than only to ATAs. These defendants objected on the ground that such a license would include significant aluminum alkyl technology that was developed at their expense and that was not directly related to the violations charged in the complaint. The government therefore agreed to limit the scope of Article VII(A)(1) to ATAs.

In addition, the government agreed to the inclusion of the limitations of Article VII(B). As originally proposed by the government, Article VII would have required defendants to license all their manufacturing technology to all applicants, including Ethyl Corp. and Conoco, both of which are already highly efficient manufacturers of ATAs. The government believes, on the basis of the information presently available to it, that both Ethyl and Conoco will be capable of achieving very strong competitive positions in the sale of ATAs as a result of this proposed judgment, and that requiring Texas Alkyls to share its manufacturing know-how with these established producers would probably have no substantial pro-competitive effect. Therefore, the proposed consent judgment would require no licensing of manufacturing technology to Conoco and Ethyl, but would entitle Conoco to a license for shipment and storage technology, because this producer has not sold ATAs in the United States.

6. With respect to Article VIII, the government originally proposed establishing visitation rights to all "licensing arrangements of defendants," regardless of the subject matter licensed, because it was thought to be impractical to specify the subject matter covered in a way that would assure no loopholes or omissions. Subsequently, more detailed consideration of the scope of visitation rights required to assure that compliance with the judgment could be detected and enforced led the government to agree to the scope ultimately adopted in Article VIII. This provides access, inter alia, to all license agreements in the possession, custody, or control of any of these defendants that grant rights under any patent claim covering any process or machine, regardless of the purpose for which such process or machine is to be used, and under any patent that claims any aluminum alkyl, whether or not such license contains provisions prohibited by the proposed judgment.

VII. DETERMINATION DOCUMENTS

There are no materials or documents which the government considered determinative in formulating the proposal for a consent judgment. Therefore, the United States is submitting none with this competitive impact statement, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b).

Respectfully submitted,

KURT SHAFFERT,
HAYS GOREY, JR.,
ROGER B. ANDEWELT,
Attorneys, United States Department of Justice, Antitrust Division, Patent Section, Washington, D.C. 20530, 202-376-8603.

RICHARD H. STERN,
Chief, Patent Section, Antitrust Division, United States Department of Justice.

AUGUST 15, 1977.

[FR Doc.77-24344 Filed 8-22-77;8:45 am]

Drug Enforcement Administration

ABBOTT LABORATORIES

Manufacture of Controlled Substances, Registration

By Notice dated June 28, 1977, and published in the FEDERAL REGISTER on July 5, 1977; (42 FR 34386) Abbott Laboratories, 14th & Sheridan Road, Attn: Customer Service D-345, North Chicago, Illinois 60064, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of pentobarbital, a basic class controlled substance listed in schedule II.

No comments or objections having been received, and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and 21 CFR 1301.54(e), the Deputy Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of pentobarbital is granted.

Dated: August 16, 1977.

DONALD E. MILLER,
Acting Deputy Administrator, Drug Enforcement Administration.

[FR Doc.77-24314 Filed 8-22-77;8:45 am]

CYCLO CHEMICAL DIVISION, DIVISION OF ALAMEDA LABORATORIES, INC.

Manufacture of Controlled Substances, Application

Section 303a(1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823(a)(1)) states:

The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part. In determining the public interest, the following factors shall be considered:

(1) Maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;

Pursuant to § 1301.43 of Title 21 of the Code of Federal Regulations (CFR), Notice is hereby given that on July 15, 1977, Cyclo Chemical Division, Division of Alameda Laboratories, Inc., 1922 East 64th Street, Los Angeles, California 90001, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of diphenoxylate, a basic class of controlled substance in schedule II.

Pursuant to Section 301 of the Controlled Substances Act (21 U.S.C. 821), and in accordance with 21 CFR 1301.43 (a), notice is hereby given that the above firm has made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substance indicated, and any other such person, and any existing registered bulk manufacturer of diphenoxylate, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on the application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than September 26, 1977.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration,

Room 1203, 1405 Eye Street, NW., Washington, D.C. 20537.

Dated: August 16, 1977.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.77-24312 Filed 8-22-77;8:45 am]

COLLABORATIVE RESEARCH, INC.

Manufacture of Controlled Substances, Application

Section 303(a)(1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823(a)(1)) states:

The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part. In determining the public interest, the following factors shall be considered:

(1) Maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;

Pursuant to Section 1301.43 of Title 21 of the Code of Federal Regulations (CFR), notice is hereby given that on July 18, 1977, Collaborative Research, Inc., 1365 Main Street, Waltham, Maine 02154, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of lysergic acid diethylamide, a basic class of controlled substance in schedule I.

Pursuant to Section 301 of the Controlled Substances Act (21 U.S.C. 821), and in accordance with 21 CFR 1301.43 (a), notice is hereby given that the above firm has made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substance indicated, and any other such person, and any existing registered bulk manufacturer of lysergic acid diethylamide, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on the application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than date.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street, N.W., Washington, D.C. 20537.

Dated: August 16, 1977.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.77-24313 Filed 8-22-77;8:45 am]

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

ANASTASI BROTHERS CORP.

Debarment

Notice hereby is given that for violating Executive Order 11246, as amended, all existing United States Government contracts and subcontracts and Federally-assisted construction contracts and subcontracts with Anastasi Brothers Corporation shall not be extended or modified and the Corporation shall be incligible for further contracts and subcontracts with the United States Government and federally assisted construction contracts until the Company has satisfied the Director, Office of Federal Contract Compliance Programs that it has established and will carry out personnel and employment policies in compliance with Executive Order 11246, as amended. The home office of Anastasi Brothers Corporation is located at 300 Mt. Airy Avenue, Philadelphia, Pennsylvania, 19119.

A copy of my Decision and copies of the Recommended Decision and Order of the Administrative Law Judge and the Final Decision of the Department of Health, Education, and Welfare Reviewing Authority (Civil Rights) follow.

Dated: August 16, 1977.

WELDON J. ROUGEAU,
Director, OFCCP.

DECISION BY THE DIRECTOR OF OFCCP

In the matter of Anastasi Brothers Corporation and U.S. Department of Health, Education and Welfare, Case No. CC-11.

The Department of Health, Education, and Welfare initiated an enforcement proceeding under Executive Order 11246 against Anastasi Brothers Corporation alleging violations of the "New Haven Plan" and Executive Order 11246 by the contractor during its performance on a Government funded project at St. Raphael Hospital which is located in the New Haven, Connecticut, area.

After a hearing, Administrative Law Judge Burton S. Sternburg concluded that Anastasi Brothers Corporation was subject to Executive Order 11246, as amended, and the New Haven Plan Bid Conditions and had violated its contractual obligations and the Executive Order by failing to make adequate good faith efforts to meet its goals for minority employment on the St. Raphael project. Accordingly, the Administrative Law Judge recommended debarment of the Company.

On December 30, 1976, the Department of Health, Education, and Welfare's Reviewing Authority adopted the recommended findings, conclusions and order of the Administrative Law Judge debarring Anastasi Brothers Corporation from further federally involved contracts and subcontracts. No appeal has been filed by the contractor, and the Secretary of Health, Education, and Welfare did not, on his own motion within 30 days, decide to review the decision of the Reviewing Authority as provided by 41 CFR 82.41. Therefore, pursuant to 45 CFR 82.42, the decision of the Reviewing Authority has become the final decision of the Department of Health, Education, and Welfare in this matter.

The Department of Health, Education, and Welfare, pursuant to 41 CFR 60-1.26(b)(2)(vi) (1976) and 45 CFR 82.43, has transmitted to the Office of Federal Contract Compliance Programs the Order of the Reviewing Authority which would debar Anastasi Brothers Corporation from further Federal and federally assisted construction contracts and subcontracts.

In accordance with the powers granted to the Director, Office of Federal Contract Compliance Programs by Title 41, Code of Federal Regulations, Sections 60-1.26(b)(2)(vi) and 60-1.27 of the Secretary of Labor's regulations issued pursuant to Executive Order 11246, as amended, I hereby approve the debarment of Anastasi Brothers Corporation, whose home office is located at 300 Mt. Airy Avenue, Philadelphia, Pennsylvania, 19119, its subsidiaries and divisions, and any and all purchasers, successors, assignees, and/or transferees, from the award of any contract or subcontract funded in whole or in part with Federal funds, including Federally-assisted construction contracts and subcontracts, and from extensions or other modifications of any such existing contracts or subcontracts.

The reference to Mr. John G. Bynoe's title in finding No. 26 of Judge Sternburg's Recommended Decision and Order and in finding No. 26 in the Final Decision of the Reviewing Authority should be changed to read "Director, OCR Region I." In addition, in the first paragraph of the Order in Judge Sternburg's Recommended Decision and Order and in the first paragraph of the Order of the Reviewing Authority's Final Decision, the word "purchases" should be changed to read "purchasers."

The debarment will continue in effect until such time as Anastasi has satisfied the Director, Office of Federal Contract Compliance Programs, that it has established and will carry out employment policies and practices in compliance with the equal opportunity clause of Executive Order 11246, as amended.

This debarment shall be effective as of this date.

Copies of the Recommended Decision and Order of the Administrative Law Judge and the HEW Final Decision of the Reviewing Authority of (Civil Rights) are attached hereto and made a part hereof.

Signed at Washington, D.C., this the 16th day of August 1977.

WELDON J. ROUGEAU,
Director, OFCCP.

[Case No. CC-11]

In the Matter of Anastasi Brothers Corporation and U.S. Department of Health, Education, and Welfare; Colin Gillis, Esquire, 125 Newbury Street, Boston, Massachusetts.

For Anastasi Brothers Corporation, and Thomas J. Flygare, Esquire, Edward P. Levy, Esquire, U.S. Department of Health, Education, and Welfare, J.F.K. Federal Building, Boston, Massachusetts.

Before the Department of Health, Education, and Welfare, before Burton S. Sternburg, Administrative Law Judge.

RECOMMENDED DECISION AND ORDER

STATEMENT OF THE CASE

This administrative enforcement proceeding was brought by the United States Department of Health, Education and Welfare, hereinafter called HEW, pursuant to Executive Order 11246, as amended, (non discrimination under Federal contracts)[1] and the implementing rules and regulations[2] and Order of the Secretary of Labor of October 14, 1971, establishing the "New Haven Plan" containing minority employment ranges as part of the Bid Conditions for all Federally assisted construction in the New Haven Connecticut area.

In accordance with 41 CFR 60-1.26(b), HEW notified Anastasi Brothers Corporation, hereinafter called Respondent, which was engaged in masonry work on the addition to the St. Raphael Hospital in New Haven, Connecticut of its proposal to declare Respondent ineligible for the award of Federal or Federally-assisted contract or subcontracts or extension or other modfications of existing contracts, because of Respondent's failure to comply with the Bid Conditions and Executive Order 11246 while performing the masonry work on the St. Raphael Hospital addition which was an HEW-assisted construction project. Thereafter, Respondent duly filed an Answer to the Notice of Proposed Ineligibility and requested a hearing in the matter.

Subsequently, pursuant to a Notice of Hearing dated March 11, 1976, a formal hearing on the matter was held on April 12 and 13, 1976, in Cambridge, Massachusetts. An additional hearing, pursuant to Respondent's request, was held in Washington, D.C. on May 27, 1976. Evidence was received as to whether the Respondent, while performing masonry work on the St. Raphael Hospital addition, was in compliance with Executive Order 11246 and the New Haven Plan. All parties were represented by counsel and afforded full opportunity to be heard, adduce evidence, and examine and cross-examine witnesses. Additionally, all parties were afforded the opportunity to present oral argument at the hearing and to file briefs, findings of fact, conclusions of law and a proposed order.

Both parties filed briefs and HEW filed proposed findings, conclusions of law, a recommended order, and a reply brief, all of which have been duly considered.

Upon the basis of the entire record, including my observation of the witnesses and their demeanor, the admissions of fact and genuineness of documents, I recommend the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent is a contractor which performs masonry work on construction projects, with a home office at 300 E. Mt. Airy Avenue, Philadelphia, Pennsylvania 19119, and a branch office at 853 Plain Street, Marshfield, Massachusetts 02050.

2. The construction of an addition to St. Raphael Hospital, 1450 Chapel Street, New Haven, Connecticut (hereinafter referred to as the "St. Raphael project") was Federally-assisted by grants administered by HEW and by loan guarantees, with interest subsidies, administered by HEW.

3. Respondent entered into a contract agreement, dated May 25, 1973, to do the masonry work on the St. Raphael project.

4. Respondent's contract for work on the St. Raphael project exceeded $10,000.

5. Respondent began work on the St. Raphael project in July, 1974, and except for minor alterations or modifications completed work on the project in December, 1975.

6. The New Haven Plan Bid Conditions were incorporated into Respondent's contract for work on the St. Raphael project.

7. The New Haven Plan Bid Conditions, which were contained in the Invitation for Bids on this project and incorporated into Respondent's contract, is a nineteen (19) page document approved by the Department of Labor on October 14, 1971.

8. The New Haven Plan Bid Conditions provided that when a contractor uses trades which are no longer participating in voluntary affirmative action plans acceptable to the Director of the Office of Federal Contract Compliance, U.S. Department of Labor (OFCC), the contractor's employment in those trades is subject to the imposed goals, timetables and specific affirmative action steps contained in Part II of the Bid Conditions.

9. On July 2, 1974, the Director of OFCC withdrew approval of the bricklayers' participation in the voluntary affirmative action provisions of the New Haven Plan Bid Conditions and bricklayers became subject to Part II of the New Haven Plan Bid Conditions.

10. Respondent's contract on the St. Raphael project was subject to the following goals for minority employment utilization in the bricklaying trade as contained in Part II of the New Haven Plan Bid Conditions: from 26.3% to 31.3% for February 18, 1974 through February 17, 1975, and from 31.3% to 36.3% for February 18, 1975 through February 17, 1976.

11. Respondent also was required by Part II of the New Haven Plan Bid Conditions to make every good faith effort to meet the goals which had been established while it was working on the St. Raphael project.

12. The New Haven Plan Bid Conditions contain 16 specific affirmative action steps to determine whether good faith efforts have been made to meet the minority employment goals.

13. The following chart shows the total bricklayer hours, minority bricklayer hours and the percentage of total bricklayer hours performed by minorities as contained in Minority Utilization Reports submitted to Office for Civil Rights (OCR), HEW, by the Respondent:

Document No.	Reporting period ending	Total bricklayer hours	Minority bricklayer hours	Minority percentage
18	July 20, 1974...	1,410	0	0
19	Aug. 12, 1974...	1,414	8	.57
20	Sept. 9, 1974...	2,750.5	150.5	5.47
21	Oct. 7, 1974...	2,112	160	7.58
22	Nov. 4, 1974...	1,912	264	18.81
23	Dec. 2, 1974...	2,144	208	9.70
24	Dec. 27, 1974...	1,088	0	0
25	Jan. 27, 1975...	1,049	0	0
26	Feb. 24, 1975...	0	0	0
	Subtotals...	12,429.5	790.5	6.36
27	Mar. 31, 1975...	903	80	8.86
28	Apr. 26, 1975...	1,688	408	24.17
29	May 31, 1975...	1,748	480	27.46
30	June 30, 1975...	2,176	600	27.57
31	July 28, 1975...	1,499	441	29.42
32	Aug. 31, 1975...	1,172	424	36.18
33	Sept. 30, 1975...	776	296	38.14
34	Oct. 31, 1975...	704	192	27.27
35	Nov. 30, 1975...	160	40	25.00
36	Dec. 31, 1975...	324	0	0
37	Jan. 31, 1976...	0	0	0
38	Feb. 29, 1976...	0	0	0
	Subtotals...	11,150	2,961	26.56
	Totals...	23,579.5	3,751.5	15.91

14. While working on the St. Raphael project, Respondent did not meet the minority employment goals as set forth in the New Haven Plan Bid Conditions and incorporated into the Respondent's contract for the following time periods: (a) February 18, 1974 through February 17, 1975; and (b) February 18, 1975 through February 17, 1976.

15. While working on the St. Raphael project, Respondent did not carry out the specific affirmative action steps contained in the New Haven Plan Bid Conditions. Specifically:

a. Respondent did not maintain a file of the names and addresses of all minority workers referred to it along with the action taken regarding the referred workers.

b. Respondent did not notify community organizations in the New Haven area that it had employment opportunities available at the St. Raphael project.

c. Respondent did not externally disseminate an Equal Employment Opportunity policy to recruitment sources, suppliers and subcontractors or in advertising.

d. Respondent did not make specific efforts to encourage its minority bricklayers working on the St. Raphael project to recruit their minority friends and relatives.

e. Respondent did not make specific and constant written and oral recruitment efforts directed at employing minority workers.

16. Respondent is a party to a collective bargaining agreement with Local Union No. 6 of the International Brotherhood of Bricklayers (hereinafter referred to as "Bricklayers Local No. 6").

17. It is accepted practice under the rules or customs of Bricklayers Local No. 6 for a bricklayer to go directly to the work site in an effort to secure employment.

18. Respondent hired sixteen (16) nonminority bricklayers, including one apprentice bricklayer, on the St. Raphael project before it hired the first minority bricklayer, Claude Lang, on August 12, 1974.

19. John L. Brinkley, a minority journeyman bricklayer and a member of Bricklayers Local No. 6 in New Haven, went to Respondent's work site on the St. Raphael project four or five times beginning in August, 1974, and asked for work, but was not hired by Respondent until October 15, 1974.

20. Moses Battle, a minority journeyman bricklayer and a member of Brieklayers Local No. 6 in New Haven, was hired by Respondent to work at the St. Raphael project on October 30, 1974.

21. Claude Lang, John Brinkley and Moses Batlle were laid off by Respondent on or about November 22, 1974.

22. Except for approximately 5 weeks when the job was closed down, Respondent maintained a workforce on the St. Raphael project containing no minority bricklayers from on or about November 22, 1974 until on or about March 17, 1975, when Claude Lang was rehired.

23. In March of 1975, following a period when the project was closed down, Respondent rehired seven nonminority bricklayers including one apprentice, before rehiring a minority bricklayer, Claude Lang, on March 17, 1975.

24. John Brinkley and Moses Battle were rehired by Respondent for work at the St. Raphael project on or about April 7, 1975, following a telegram from Respondent to Bricklayers Local No. 6 requesting referral of two minority bricklayers.

25. Minority bricklayers, who are journeymen members of Bricklayers Local No. 6, were unemployed and available for work during Respondent's term of performance on the St. Raphael project. Specifically:

a. Claude Lang was unemployed from July 15, 1974 to August 12, 1974; from November 22, 1974 to March 17, 1975; and from approximately October 24, 1975 to April 12, 1976.

b. John Brinkley was unemployed from sometime in August, 1974 until October 15, 1974; from November 22, 1974 to April 7, 1975; from approximately September 27, 1975 until approximately October 16, 1975; and from early November, 1975 through April 12, 1976.

c. Moses Battle was unemployed for about 6 weeks of the time between July 15, 1974 and October 30, 1974. He was also unemployed from November 22, 1974 to April 7, 1975.

d. Other minority bricklayers, registered with Recruitment and Training, Inc., were unemployed during the term of Respondent's performance on the St. Raphael project.

26. In a letter dated May 20, 1976 from Lawrence C. Anastasi to Mr. John G. Bynoe, Director OFCC, Respondent stated that the lay-off sequence it intended to follow as its

[1] 3 CFR 169.
[2] 41 CFR Part 60-1.

V42N163 AUG 23 77 UM

work on the St. Raphael project neared completion was as follows: 1–5 nonminorities; 2–3 minorities; 3–Shop Steward; 4–Deputy Foreman. Respondent did not adhere to the intended lay-off sequence because during the month of October it had only 2 minority bricklayers out of a total of seven bricklayers, and during the month of November it had only one minority out of a total of 5 bricklayers.

27. All subcontractors on the St. Raphael project, including Respondent, were requested to attend a meeting to be held at St. Raphael Hospital on June 17, 1975, to discuss compliance with the New Haven Plan Bid Conditions. Respondent failed to attend the meeting.

28. The Recruitment and Training Program, Inc. (hereinafter referred to as "RTP") is located in New Haven, Connecticut, and assists contractors in hiring minorities.

29. Throughout the term of Respondent's performance on the St. Raphael project, Respondent did not initiate any contracts with RTP or avail itself of RTP's assistance in obtaining minority bricklayers.

30. Respondent had reasonable opportunity to be aware of the existence and purpose of RTP, as a result of the following:

a. Respondent was invited but failed to attend a meeting held at St. Raphael Hospital on March 13, 1974, where representatives of the Office for Civil Rights and RTP discussed with subcontractors the minority hiring requirements of the New Haven Plan Bid Conditions and described area resources available to assist subcontractors in meeting those requirements.

b. An RTP representative made a visit to Respondent's work site during the term of Respondent's performance on the St. Raphael project.

c. RTP was specifically mentioned in a May 2, 1975 letter from John G. Bynoe to Lawrence C. Anastasi.

31. Other than a letter and telegram, both dated April 4, 1975, from Respondent to Bricklayers Local No. 6, Respondent made no specific efforts to meet the goals of the New Haven Plan while working on the St. Raphael project.

32. During its work on the St. Raphael project, Respondent did not notify OCR that Bricklayers Local No. 6 had impeded Respondent in reaching the goals of the New Haven Plan.

33. Bricklayers Local No. 6 did not impede Respondent in reaching the goals of the New Haven Plan while Respondent was working on the St. Raphael project.

34. Between July 15, 1974 and December 31, 1975, the only construction project in the New Haven Plan geographical area that Respondent worked on was the St. Raphael project.

35. Respondent employed no minority bricklayers in the geographical area covered by the New Haven Plan between July 15, 1974 and December 31, 1975, except those employed by Respondent on the St. Raphael project.

36. The Department of Health, Education, and Welfare has made adequate efforts to secure Respondent's voluntary compliance with the requirements of the New Haven Plan Bid Conditions. Specifically:

a. A pre-construction meeting was held on March 13, 1974, at St. Raphael Hospital for all subcontractors working or planning to work on the St. Raphael project. This meeting was referred to in 30a, supra.

b. An on-site visit was conducted on August 21, 1974, where OCR representative spoke with Respondent's superintendent on the St. Raphael project, Mr. Tony Pace, and urged him to learn the requirements of the New Haven Plan Bid Conditions by speaking to Mr. John Clark, the project EEO Officer and a vice-president for W. J. Megin, Inc., the prime construction contractor on the St. Raphael project.

c. A letter dated March 21, 1975 was sent by Mr. John Bynoe of OCR to Mr. Lawrence Anastasi stating that Respondent had a minority utilization deficiency and requesting a meeting to discuss the matter.

d. A meeting was held at Respondent's office in Marshfield, Massachusetts on April 2, 1975, between Mr. Lawrence C. Anastasi and representatives of OCR and OFCC.

e. A letter dated May 2, 1975, was sent by Mr. Bynoe to Mr. Anastasi, stating in detail the steps Respondent could take to avoid enforcement proceedings.

f. A meeting was held at the St. Raphael project on May 15, 1975, between Respondent's representatives and representatives of OCR.

37. The prime contractor, W. J. Megin, Inc., through its EEO officer, Mr. John R. Clark, has made efforts in cooperation with OCR to secure Respondent's compliance with the requirements of the New Haven Plan Bid Conditions. Specifically:

a. At the request of OCR, Mr. Clark invited Respondent to a March 13, 1974 meeting at St. Raphael Hospital to discuss the requirements of the New Haven Plan Bid Conditions. This meeting is referred to in 30a and 36a, supra.

b. At the request of OCR, Mr. Clark wrote a letter dated July 25, 1974 to all subcontractors, including Respondent, on the St. Raphael project stating in part that subcontractors should comply with Part II of the New Haven Plan. This letter contained a copy of a letter dated July 16, 1975, from Mr. John Bynoe to W. J. Megin, Inc., regarding the transfer of some trades from Part I to Part II of the New Haven Plan.

c. Upon the suggestion of OCR, Mr. Clark wrote a letter dated August 28, 1974, to Mr. Fred Chiarianza, Respondent's Vice-President, stating the requirements of the New Haven Plan, including the minority utilization percentages.

d. Mr. Clark wrote a letter dated September 10, 1974, to all subcontractors, including Respondent, on the St. Raphael project regarding compliance with the minority hiring requirements set forth in the bid conditions.

e. Mr. Clark wrote a letter dated March 13, 1975 to Respondent stating in part that W. J. Megin, Inc. has been unable to obtain compliance from Respondent regarding submission of Manpower Utilization Reports and minority employment.

f. Mr. Clark wrote a letter dated June 4, 1975 to subcontractors, including Respondent, on the St. Raphael project asking them to attend a meeting on June 17, 1975 at the St. Raphael Hospital to discuss compliance with the New Haven Plan. Respondent did not attend this meeting. This meeting was referred to in 27, supra.

CONCLUSIONS OF LAW

1. Executive Order 11246 and the New Haven Plan Bid Conditions applied to Respondent's work on the St. Raphael project.

2. Respondent violated the provisions of its contract implementing the New Haven Plan Bid Conditions by failing to make adequate good faith efforts to meet its goals for minority employment on the St. Raphael project.

3. The New Haven Plan Bid Conditions require that Respondent's entire work force in the trade of bricklaying, including foreman, deputy foreman, shop stewards, and apprentices, be counted in calculating Respondent's minority employment percentage in the trade of bricklaying.

4. Respondent violated the provisions of Section 202 (1) and (4) of Executive Order 11246 in that it failed to take affirmative action to ensure non-discrimination in the employment of minority workers.

5. HEW exerted adequate efforts towards achieving Respondent's voluntary compliance with the Executive Order and the New Haven Plan Bid Conditions.

ORDER

Anastasi Brothers Corporation having been found in non-compliance with Executive Order 11246, and its implementing rules, regulations and order, it is recommended that the following Order be entered.

Ordered, from the effective date of this order, Anastasi Brothers Corporation, and any and all purchases, successors, assignees, and/or transferees, shall be ineligible for the award of any contract or subcontract funded in whole or in part with Federal funds from any agency of the United States, or for extensions or other modifications of such existing contracts of subcontracts, until Anastasi Brothers Corporation has satisfied the Secretary of the United States Department of Labor that it has established and will carry out personnel and employment policies in compliance with the provisions of Executive Order 11246, or susperseding Executive Orders, and rules, regulations, and orders promulgated thereunder.

Dated: August 25, 1976. Washington, D.C.

BURTON S. STERNBURG,
Administrative Law Judge.

[Case No. CC–11]

In the Matter of Anastasi Brothers Corporation and U.S. Department of Health, Education, and Welfare.

CERTIFICATE OF SERVICE

Recommended decision by Administrative Law Judge Burton S. Sternburg, was issued to the following persons on August 25, 1976.

CERTIFIED MAIL

Colin Gillis, Esquire, 125 Nebury Street, Boston, Massachusetts.

Thomas J. Flygare, Esquire, Edward P. Levy, Esquire, U.S. Department of Health, Education, and Welfare, J. F. K. Federal Building, Boston, Massachusetts.

Mabie Lee, Hearing Clerk, Department of Health, Education, and Welfare, Office of Civil Rights, DHEW North Building, Room 4525, 330 Independence Avenue SW., Washington, D.C. 20201.

Paul Grossman, Attorney, Department of Health, Education, and Welfare, Office of Civil Rights, Office of General Counsel, DHEW North Building, 330 Independence Avenue, Washington, D.C. 20201.

ADMINISTRATIVE PROCEEDING IN THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Docket No. CC–11]

In the matter of: ANASTASI BROTHERS CORPORATION (hereinafter referred to as Respondent).

Final Decision of the Reviewing Authority (Civil Rights)

STATEMENT OF THE CASE

This administrative enforcement proceeding was brought by the United States Department of Health, Education, and Welfare, hereinafter called HEW, pursuant to Executive Order 11246, as amended, (non discrimination under Federal contracts) and the implementing rules and regulations and Order of the Secretary of Labor of October 14, 1971, establishing the "New Haven Plan" containing minority employment ranges as part of the Bid Conditions for all Federally assisted construction in the New Haven, Connecticut area.

In accordance with 41 CFR 60–1.26(b), HEW notified Anastasi Brothers Corporation, hereinafter called Respondent, which was engaged in masonry work on the addition to the St. Raphael Hospital in New Haven, Connecticut, of its proposal to declare Respondent ineligible for the award of Federal or Federally-assisted contract or subcontracts or extension or other modifications of existing contracts, because of Respondent's failure to comply with the Bid Conditions and Executive Order 11246 while performing the masonry work on the St. Raphael Hospital addition which was an HEW-assisted construction project. Thereafter, Respondent duly filed an Answer to the Notice of Proposed Ineligibility and requested a hearing in the matter.

Subsequently, pursuant to a Notice of Hearing dated March 11, 1976, a formal hearing on the matter was held on April 12 and 13, 1976, in Cambridge, Massachusetts before Administrative Law Judge Burton S. Sternburg. An additional hearing, pursuant to Respondent's request, was held in Washington, D.C. on May 27, 1976. Evidence was received as to whether the Respondent, while performing masonry work on the St. Raphael Hospital addition, was in compliance with Executive Order 11246 and the New Haven Plan. All parties were represented by counsel and afforded full opportunity to be heard, adduce evidence, and examine and cross-examine witnesses. Additionally, all parties were afforded the opportunity to present oral argument at the hearing and to file briefs, proposed findings of fact, conclusions of law and a proposed order.

Both parties filed briefs and HEW proposed findings, conclusions of law, a recommended order, and a reply brief, all of which have been duly considered.

Upon the basis of the entire record, including his observation of the witnesses and their demeanor, the admissions of fact and genuiness of documents, the Administrative Law Judge recommended and submitted to us, the Reviewing Authority, Findings of Fact, Conclusions of Law and an Order.

No exceptions have been filed to the Administrative Law Judge's Recommended Decision, timely or otherwise, thereby presenting no contested issues of fact or law for our determination. However, in accordance with our responsibilities in matters such as this, we have reviewed the record, including the pleadings and transcripts, and we agree with the Recommended Decision. Except for a few editorial changes and additional findings, our decision is substantially identical to the Recommended Decision.

FINDINGS OF FACT

1. Respondent is a contractor which performs masonry work on construction projects, with a home office at 300 E. Mt. Airy Avenue, Philadelphia, Pennsylvania 19119, and a branch office at 853 Plain Street, Marshfield, Massachusetts, 02050.

2. The construction of an addition to St. Raphael Hospital, 1450 Chapel Street, New Haven, Connecticut (hereinafter referred to as the "St. Raphael project") was Federally-assisted by grants administered by HEW and by loan guarantees, with interest subsidies, administered by HEW.

3. Respondent entered into a contract agreement, dated May 25, 1973, to do the masonry work on the St. Raphael project.

4. Respondent's contract for work on the St. Raphael project exceeded $10,000.

5. Respondent began work on the St. Raphael project in July, 1974, and except for minor alterations or modifications completed work on the projetc in December, 1975.

6. The New Haven Plan Bid Conditions were incorporated into Respondent's contract for work on the St. Raphael project.

7. The New Haven Plan Bid Conditions, which were contanied in the invitation for Bids on this project and incorporated into Respondent's contract, is a nineteen (19) page document approved by the Department of Labor on October 14, 1971.

8. The New Haven Plan Bid Conditions provided that when a contractor uses trades which are no longer participating in voluntary affirmative action plans acceptable to the Director of the Office of Federal Contrate Compliance, U.S. Department of Labor (OFCC), the contractor's employment practices in those trades is subject to the imposed goals, timetables and specific affirmative action steps contained in Part II of the Bid Conditions.

9. On July 2, 1974, the Director of OFCC withdrew approval of the bricklayers' participation in the voluntary affirmative action provisions of the New Haven Plan Bid Conditions and bricklayers became subject to Part II of the New Haven Plan Bid Conditions.

10. Respondent's contract on the St. Raphael project was subject to the following goals for minority employment utilization in the bricklaying trade as contained in Part II of the New Haven Plan Bid Conditions: from 26.3% to 31.3% for February 18, 1974 through February 17, 1975, and from 31.3% to 36.3% for February 18, 1975 through February 17, 1976.

11. Respondent also was required by Part II of the New Haven Plan Bid Conditions to make every good faith effort to meet the goals which had been established while it was working on the St. Raphael project.

12. The New Haven Plan Bid Conditions contain 16 specific affirmative action steps to determine whether good faith efforts have been made to meet the minority employment goals.

13. The following chart shows Respondent's total bricklayer hours, minority bricklayer hours and the percentage of total bricklayer hours performed by minorities on the St. Raphael project as contained in Minority Utilization Reports submitted to Office for Civil Rights (OCR), HEW, by the Respondent:

Document No.	Reporting period ending	Total bricklayer hours	Minority bricklayer hours	Minority percentage
18	July 20, 1974	1,410	0	0
19	Aug. 12, 1974	1,413	8	.57
20	Sept. 9, 1974	2,750.5	150.5	5.47
21	Oct. 7, 1974	2,112	160	7.58
22	Nov. 4, 1974	1,912	264	13.81
23	Dec. 2, 1974	2,144	208	9.70
24	Dec. 27, 1974	1,048	0	0
25	Jan. 27, 1975	1,040	0	0
26	Feb. 24, 1975	0	0	0
	Sub-totals	12,429.5	790.5	6.36
27	Mar. 31, 1975	903	80	8.86
28	Apr. 26, 1975	1,688	408	24.17
29	May 31, 1975	1,748	480	27.46
30	June 30, 1975	2,176	600	27.57
31	July 28, 1975	1,460	441	29.42
32	Aug. 31, 1975	1,172	424	36.18
33	Sept. 30, 1975	776	296	38.14
34	Oct. 31, 1975	704	192	27.27
35	Nov. 30, 1975	160	40	25.00
36	Dec. 31, 1975	324	0	0
37	Jan. 31, 1976	0	0	0
38	Feb. 29, 1976	0	0	0
	Sub-totals	11,150	2,961	26.56
	Totals	23,579.5	3,751.5	15.91

14. While working on the St. Raphael project, Respondent did not meet the minority employment goals as set forth in the New Haven Plan Bid Conditions and incorporated into the Respondent's contract for the following time periods: (a) February 18, 1974 through February 17, 1975; and (b) February 18, 1975 through February 17, 1976.

15. While working on the St. Raphael project, Respondent did not carry out the specific affirmative action steps contained in the New Haven Plan Bid Conditions. Specifically:

a. Respondent did not maintain a file of the names and addresses of all minority workers referred to it along with the action taken regarding the referred workers;

b. Respondent did not notify community organizations in the New Haven area that it had employment opportunities available at the St. Raphael project;

c. Respondent did not externally disseminate an Equal Employment Opportunity policy to recruitment sources, suppliers and subcontractors or in advertising;

d. Respondent did not make specific efforts to encourage its minority bricklayers working on the St. Raphael project to recruit their minority friends and relatives;

e. Respondent did not make specific and constant written and oral recruitment efforts directed at employing minority workers.

16. Respondent is a party to a collective bargaining agreement with Local Union No. 6 of the International Brotherhood of Bricklayers (hereinafter referred to as "Bricklayers Local No. 6").

17. It is accepted practice under the rules or customs of Bricklayers Local No. 6 for a bricklayer to go directly to the work site in an effort to secure employment.

18. Respondent hired sixteen (16) nonminority bricklayers including one apprentice bricklayer, on the St. Raphael project before it hired the first minority bricklayer Claude Lang, on August 12, 1974.

19. John L. Brinkley, a minority journeyman bricklayer and a member of Bricklayers Local No. 6 in New Haven, went to Respondent's worksite on the St. Raphael project four or five times beginning in August, 1974, and asked for work, but was not hired by Respondent until October 15, 1974.

20. Moses Battle, a minority journeyman bricklayer and a member of Bricklayers Local No. 6 in New Haven, was hired by Respondent to work at the St. Raphael project on October 30, 1974.

21. Claude Lang, John Brinkley and Moses Battle were laid off by Respondent on or about November 22, 1974.

22. Except for approximately 5 weeks when the job was closed down, Respondent maintained a workforce on the St. Raphael project containing no minority bricklayers from on or about November 22, 1974 until on or about March 17, 1975, when Claude Lang was rehired.

23. In March of 1975, following a period when the project was closed down, Respondent rehired seven nonminority bricklayers including one apprentice, before rehiring a minority bricklayer, Claude Lang, on March 17, 1975.

24. John Brinkley and Moses Battle were rehired by Respondent for work at the St. Raphael project on or about April 7, 1975, following a telegram from Respondent to Bricklayers Local No. 6 requesting referral of two minority bricklayers.

25. Minority bricklayers, who are journeymen members of Bricklayers Local No. 6, were unemployed and available for work during Respondent's term of performance on the St. Raphael project. Specifically:

a. Claude Lang was unemployed from July 15, 1974 to August 12, 1974; from November 22, 1974 to March 17, 1975; and from approximately October 24, 1975 to April 12, 1976.

b. John Brinkley was unemployed from sometime in August 1974 until October 15, 1974; from November 22, 1974 to April 7, 1975; from approximately September 27, 1975 until approximately October 16, 1975; and from early November 1975 through April 12, 1976.

V42N163 AUG 23 77 UM

c. Moses Battle was unemployed for about 6 weeks of the time between July 15, 1974 and October 30, 1974. He was also unemployed from November 22, 1974 to April 7, 1975.

d. Other minority bricklayers, registered with Recruitment and Training, Inc., were unemployed during the term of Respondent's performance on the St. Raphael project.

26. In a letter dated May 20, 1976 from Lawrence C. Anastasi to Mr. John G. Bynoe, Director OFCC, Respondent stated that the lay-off sequence it intended to follow as its work on the St. Raphael project neared completion was as follows: 1—5 nonminorities; 2—3 minorities; 3—Shop Steward; 4—Deputy Foreman. Respondent did not adhere to the intended lay-off sequence because during the month of October it had only 2 minority bricklayers out of a total of seven bricklayers, and during the month of November it had only one minority out of a total of 5 bricklayers.

27. All subcontractors on the St. Ralphael project, including Respondent, were requested to attend a meeting to be held at St. Raphael Hospital on June 17, 1975, to discuss compliance with the New Haven Plan Bid Conditions. Respondent failed to attend the meeting.

28. The Recruitment and Training Program, Inc. (hereinafter referred to as "RTP") is located in New Haven, Connecticut, and assists contractors in hiring minorities.

29. Throughout the term of Respondent's performance on the St. Raphael project, Respondent did not initiate any contracts with RTP or avail itself of RTP's assistance in obtaining minority bricklayers.

30. Respondent had reasonable opportunity to be aware of the existence and purpose of RTP, as a result of the following:

a. Respondent was invited but failed to attend a meeting held at St. Raphael Hospital on March 13, 1974, where representatives of the Office for Civil Rights and RTP discussed with subcontractors the minority hiring requirements of the New Haven Plan Bid Conditions and described area resources available to assist subcontractors in meeting those requirements;

b. An RTP representative made a visit to Respondent's work site during the term of Respondent's performance on the St. Raphael project;

c. RTP was specifically mentioned in a May 2, 1975, letter from Mr. John G. Bynoe, Director, OCR, Region I, to Mr. Lawrence C. Anastasi, Respondent's Vice-President.

31. Other than a letter and telegram, both dated April 4, 1975, from Respondent to Bricklayers Local #6, Respondent made no specific efforts to meet the goals of the New Haven Plan while working on the St. Raphael project.

32. During its work on the St. Raphael project, Respondent did not notify OCR that Bricklayers Local #6 had impeded Respondent in reaching the goals of the New Haven Plan.

33. Bricklayers Local #6 did not impede Respondent in reaching the goals of the New Haven Plan while Respondent was working on the St. Raphael project.

34. Between July 15, 1974 and December 31, 1975, the only construction project in the New Haven Plan geographical area that Respondent worked on was the St Raphael project.

35. Respondent employed no minority bricklayers in the geographical area covered by the New Haven Plan between July 15, 1974 and December 31, 1975, except those employed by Respondent on the St. Raphael project.

36. The Department of Health, Education, and Welfare has made adequate efforts to secure Respondent's voluntary compliance with the requirements of the New Haven Plan Bid Conditions. Specifically:

a. A pre-construction meeting was held on March 13, 1974, at St. Raphael Hospital for all subcontractors working or planning to work on the St. Raphael project. This meeting was referred to in 30a, supra;

b. An on-site visit was conducted on August 21, 1974, where an OCR representative spoke with Respondent's Superintendent on the St. Raphael project. Mr. Tony Pace, and urged him to learn the requirements of the New Haven Plan Bid Conditions by speaking to Mr. John Clark, the project EEO Officer and a vice-president for W. J. Megin, Inc., the prime construction contractor on the St. Raphael project;

c. A letter dated March 21, 1975 was sent by Mr. John Bynoe of OCR to Mr. Lawrence Anastasi stating that Respondent had a minority utilization deficiency and requesting a meeting to discuss the matter;

d. A meeting was held at Respondent's office in Marshfield, Massachusetts on April 2, 1975, between Mr. Lawrence C. Anastasi and representatives of OCR and OFCC;

e. A letter dated May 2, 1975, was sent by Mr. Bynoe to Mr. Anastasi, stating in detail the steps Respondent could take to avoid enforcement proceedings;

f. A meeting was held at the St. Raphael project on May 15, 1975, between Respondent's representatives and representatives of OCR.

37. The prime contractor, W. J. Megin, Inc., through its EEO officer, Mr. John R. Clark, has made efforts in cooperation with OCR to secure Respondent's compliance with the requirements of the New Haven Plan Bid Conditions. Specifically:

a. At the request of OCR, Mr. Clark invited Respondent to a March 13, 1974, meeting at St. Raphael Hospital to discuss the requirements of the New Haven Plan Bid Conditions. This meeting is referred to in 30a and 36a, supra;

b. At the request of OCR, Mr. Clark wrote a letter dated July 25, 1974 to all subcontractors, including Respondent, on the St. Raphael project stating in part that subcontractors should comply with Part II of the New Haven Plan. This letter contained a copy of a letter dated July 16, 1975, from Mr. John Bynoe to W. J. Megin, Inc., regarding the transfer of some trades from Part I to Part II of the New Haven Plan;

c. Upon the suggestion of OCR, Mr. Clark wrote a letter dated August 28, 1974, to Mr. Fred Chiarlanza, Respondent's Vice-President, stating the requirements of the New Haven Plan, including the minority utilization percentages;

d. Mr. Clark wrote a letter dated September 10, 1974, to all subcontractors, including Respondent, on the St. Raphael project regarding compliance with the minority hiring requirements set forth in the bid conditions;

e. Mr. Clark wrote a letter dated March 13, 1975, to Respondent stating in part that W. J. Megin, Inc. has been unable to obtain compliance from Respondent regarding submission of Manpower Utilization Reports and minority employment;

f. Mr. Clark wrote a letter dated June 4, 1975, to subcontractors, including Respondent, on the St. Raphael project asking them to attend a meeting on June 17, 1975, at the St. Raphael Hospital to discuss compliance with the New Haven Plan. Respondent did not attend this meeting. This meeting was referred to in 27, supra.

38. Respondent was not shown to be a participant in any authorized multi-employer affirmative action program which served to satisfy the requirements of the New Haven Plan or its Bid Conditions.

39. The so called "show cause meeting" of April 2, 1975, between Respondent's Vice-President and OCR representatives, appeared to be a preliminary, voluntary meeting designed to discuss Respondent's compliance status. This assemblage was not a proceeding but a meeting which was requested, not demanded, by OCR, and it was held in a branch office of the Respondent, not at a government installation or forum. The failure of OCR representatives to advise or insist that Respondent have its attorney present at the meeting is not a denial of the right to aid of counsel.

CONCLUSIONS OF LAW

1. Executive Order 11246 and the New Haven Plan Bid Conditions applied to Respondent's work on the St. Raphael project.

2. Respondent violated the provisions of its contract implementing the New Haven Plan Bid Conditions by failing to make every good faith effort to meet its goals for minority employment on the St. Raphael project.

3. The New Haven Plan Bid Conditions require that Respondent's entire work force in the trade of bricklaying, including foremen, deputy foremen, shop stewards, and apprentices, be counted in calculating Respondent's minority employment percentage in the trade of bricklaying.

4. Respondent violated the provisions of Section 202(1) and (4) of Executive Order 11246 in that it failed to take affirmative action to ensure non-discrimination in the employment of minority workers.

5. HEW exerted adequate efforts towards achieving Respondent's voluntary compliance with the Executive Order and the New Haven Plan Bid Conditions.

ORDER

Anastasi Brothers Corporation having been found in non-compliance with Executive Order 11246, and its implementing rules, regulations and order, it is hereby ordered, from the effective date of this order, Anastasi Brothers Corporation, and any and all purchases, successors, assignees, and/or transferees, shall be ineligible for the award of any contract or subcontract funded in whole or in part with Federal funds from any agency of the United States, or for extensions or other modifications of such existing contracts or subcontracts, until Anastasi Brothers Corporation has satisfied the Secretary of the United States Department of Labor that it has established and will carry out personnel and employment policies in compliance with the provisions of Executive Order 11246, or superceding Executive Orders, and rules, regulations, and orders promulgated thereunder.

Dated: December 30, 1976.

EDWARD A. POTTS,
Chairman.

OLIVER MORSE,
Member.

IRVING PERMAN,
Member.

LIZABETH A. MOODY,
Member.

JERRY H. SHATTUCK,
Member.

CERTIFICATE OF SERVICE

I hereby certify that I caused one copy of the attached document to be mailed this date to each of the following persons at the addresses given:

Honorable Burton Sternberg, Administrative Law Judge, Department of Labor, Suite 700, 1111 20th Street NW., Washington, D.C. 20036.

Mr. Lawrence C. Anastasi, Vice President, Anastasi Brothers Corporation, 853 Plain Street, Marshfield, Mass. 02050.

Bricklayers Union Local No. 6, 46 Water Street, New Haven, Conn. 06511, Attention: Mr. Stephen Castracane, Business Agency.

Mr. Colin W. Gillis, Esq., 126 Newbury Street, Boston, Mass. 02116.

Mr. Edward Levy, Esq., Office of the General Counsel, Office of Civil Rights, Department of Health, Education, and Welfare, Room 3265 North Building, 330 Independence Avenue SW., Washington, D.C. 20201.

Mr. Thomas J. Flygare, Assistant Regional Attorney, 2407 John F. Kennedy Federal Building, Government Center, Boston, Mass. 02203.

Honorable David Mathews, Secretary, Department of Health, Education and Welfare, Room 615–F, South Portal Building, 200 Independence Avenue SW., Washington, D.C. 20201.

Dated: December 30, 1976.

LOUISE GARNER,
MS. MABLE LEE,
Hearing Clerk for Reviewing Authority (CR) Room 530–G South Portal Building, Department of Health, Education, and Welfare, 200 Independence Avenue SW., Washington, D.C. 20201.

[FR Doc.77-24259 Filed 8-22-77;8:45]

Office of the Secretary

AMERICAN FINISH & CHEMICAL CO. ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 2, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 2, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 8th day of August 1977.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union workers or former workers of—	Location	Date received	Date of Petition	Petition No.	Articles produced
American Finish & Chemical Co. (workers).	Chelsea, Mass.	June 13, 1977	June 9, 1977	TA-W-2,240	Cleaners and adhesives for the shoe industry.
Baron-Abramson, Inc. (workers).	Boston, Mass.	Aug. 8, 1977	Aug. 4, 1977	TA-W-2,241	Ladies' sportswear.
Car-Del-Mar Coat Co., Inc. (ILGWU).	Brooklyn, N.Y.	Aug. 4, 1977	July 26, 1977	TA-W-2,242	Ladies' coats, suits, and rainwear.
Endsel Arthur Richards, Ltd. (workers).	New York, N.Y.	June 13, 1977	June 11, 1977	TA-W-2,243	Men's clothing.
Great Eastern Textile Printing Co., Inc. (workers).	Mahwah, N.J.	Aug. 3, 1977	Aug. 1, 1977	TA-W-2,244	Screen and roller printing on textile fabrics.
Robert Reis & Co. Ford Manufacturing Division (ILGWU).	Waterford, N.Y.	Aug. 8, 1977	Aug. 3, 1977	TA-W-2,245	Men's underwear.
Robert Reis & Co. Reis Mills (ILGWU).	Cambridge, N.Y.	do.	do.	TA-W-2,246	Do.
Springfield Specialty Motors (IUE).	Springfield, Mass.	do.	Aug. 2, 1977	TA-W-2,247	Direct current motors.
Wentworth Manufacturing Co. (ILGWU).	Lake City, S.C.	Aug. 5, 1977	Aug. 3, 1977	TA-W-2,248	Ladies' dresses and sportswear.

[FR Doc.77-24258 Filed 8-22-77;8:45 am]

BETHLEHEM MINES CORP., ET AL.

Investigations Regarding Certifications of Eligibility To Apply For Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm

or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 2, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at theaddress shown below, not later than September 2, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 10th day of August 1977.

DOMINIC SORRENTINO,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union workers or former workers of—	Location	Date received	Date of Petition	Petition No.	Articles produced
Bethlehem Mines Corp (United Steelworkers of America).	Cornwall, Pa.	Aug. 8, 1977	July 15, 1977	TA-W-2,249	Iron ore pellets.
Lilli Ann Corp. (ILG WU).	San Francisco, Calif.	do	July 28, 1977	TA-W-2,250	Ladies' coats and suits.
Sheldahl, Inc. (workers)	East Providence, R.I.	Aug. 5, 1977	Aug. 2, 1977	TA-W-2,251	Printing presses and polyethelene bag-making machines.

[FR Doc.77-24257 Filed 8-22-77;8:45 am]

[TA-W-906]

AMERICAN BRIDGE DIVISION, UNITED STATES STEEL CORP.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 222 of the Trade Act of 1974 and in accordance with Section 223(a) of such Act, on September 6, 1976, the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers fabricating structural steel at the Antioch, Calif., plant of the American Bridge Division of United States Steel Corporation.

The notice of certification was published in the FEDERAL REGISTER September 17, 1976 (41 FR 40242).

Subsequent to the publication of the original determination, the Office of Trade Adjustment Assistance received an inquiry on behalf of workers separated prior to the December 26, 1975, impact date. A review of statistical evidence obtained in the course of the original investigation revealed lay-offs associated with the adverse affects of increased imports of fabricated structural steel actually began in June 1976.

CONCLUSION

Based on a review of the entire record and in accordance with the provisions of the Act, I have determined that the following certification is hereby made as follows:

All workers engaged in employment related to the fabrication of structural steel at the Antioch, Calif., plant of the American Bridge Division of United States Steel Corporation who became totally or partially separated from employment on or after May 24, 1975; and before August 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All employees who become totally or partially separated on or after August 1, 1976, are denied certification.

Signed at Washington, D.C., this 12th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24375 Filed 8-22-77;8:45 am]

[TA-W-2035]

AMERICAN CAN CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2035: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 2, 1977, in response to a worker petition received on May 2, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing metal beer, soda, coffee, and peanut cans at the Hillside, N.J., plant of American Can Co., Greenwich, Conn.

The notice of investigation was published in the FEDERAL REGISTER on May 13, 1977 (42 FR 24346). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from American Can Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion 4 has not been met.

Evidence developed in the Department's investigation reveals that the Hillside, N.J., plant of American Can Co. manufacturers three-piece beer, soda, coffee, and peanut cans. As the trend in can production is toward the two-piece drawn can, the Hillside facility has lost sales to other domestic producers and to several sister plants who manufacture two-piece cans. There are no significant imports of cans into the United States. Customers of American Can did not report switching purchases from the Hillside plant to foreign sources. Several customers surveyed have increased purchases of three-piece cans from American Can in the past two years. It is uneconomical to ship cans over long distances because most of the can is air. In addition, most cans made abroad are of the heavier and more expensive three-piece variety.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with those produced by workers at the Hillside, N.J., plant of American Can Co. did not contribute importantly to total or partial separations of workers and to the absolute decline in sales or production at such plant as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24376 Filed 8-22-77;8:45 am]

[TA-W-1908]

ANN WILL GARMENT CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1908: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 24, 1977, in response to a worker petition received on March 24, 1977, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's dresses at Ann Will Garment Co., Kingston, Pa.

The notice of investigation was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19175). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ann Will Garment Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation revealed that criterion (4) has not been met.

Ann Will Garment Co., a contractor, produces women's dresses and pant suits.

The one jobber that Ann Will Garment Co. works for experienced increased sales in 1976 compared to 1975 and in the first quarter of 1977 compared to the first quarter of 1976. This jobber, which does not import or use foreign contractors, increased contract work with other domestic firms while decreasing its level of contracts with Ann Will Garment.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the women's dresses and pant suits produced at Ann Will Garment Co., Kingston, Pa., did not contribute importantly to the total or partial separations of the workers of that firm.

Signed at Washington, D.C., this 15th day of August 1977.

BRIAN TURNER,
Executive Assistant to the Deputy Under Secretary for International Affairs.

[FR Doc.77-24377 Filed 8-22-77;8:45 am]

[TA-W-88T]

CLAYTON SHOE CO.

Termination of Investigation

Pursuant to Section 223(d) of the Trade Act of 1974 and 29 CFR 90.17(d), a termination investigation was initiated on July 28, 1975 to determine, with respect to the certification issued on September 12, 1975, whether total or partial separations from the Corning, Ark., plant of Clayton Shoe Co. are no longer attributable to the conditions specified in such certification.

Notice of investigation regarding termination of certification of eligibility to apply for worker adjustment assistance was published in the FEDERAL REGISTER on August 10, 1976 (41 FR 33595). No public hearing was requested and none was held.

The existing certification will expire on September 12, 1977. Since workers newly separated, totally or partially, after September 12, 1977, would be ineligible to apply for adjustment assistance, termination of the certification by the Secretary of Labor within 90 days from statutory termination would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C., this 11th day of August 1977.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.77-24378 Filed 8-22-77;8:45 am]

[TA-W-590]

CRUCIBLE, INC.

Revised Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor issued a notice of determination on April 19, 1976, and published in the FEDERAL REGISTER on April 30, 1976 (41 FR 18186) certifying workers in the Stainless Steel Division of the Midland, Pa., plant of Crucible, Inc. and denying workers in the Alloy Division of the same plant.

At the request of the United Steelworkers of America, a review investigation was instituted. The review investigation reexamined the case history and additional information submitted by the petitioners and officials of Crucible, Inc., concerning the Midland, Pa., plant.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally of partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met with respect to those Alloy Division units listed in this certification.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of hourly workers in general mill overhead units of the Alloy Division listed in this certification declined 13 percent from 1974 to 1975 and then increased 3 percent from 1975 to 1976. Employment in power and fuel units of the Alloy Division declined six percent from 1974 to 1975 and then increased 4 percent from 1975 to 1976. Employment in the alloy shops fell 20 percent from 1974 to 1975 and then increased 1 percent from 1975 to 1976. Employment in the internal transportation units of the Alloy Division declined 17 percent from 1974 to 1975 and declined 4 percent from 1975 to 1976. Employment in the melt shop maintenance shop declined 17 percent from 1974 to 1975 and then increased 12 percent from 1975 to 1976. Employment of hourly workers in the scrap yard and soaking pits fell 24 percent from 1974 to 1975 and then increased 8 percent from 1975 to 1976.

Employment of salaried workers in these Alloy Division units remained relatively stable in the period from 1974 through 1976. Employment of salaried workers in general mill overhead increased 1 percent from 1974 to 1975 and then remained stable from 1975 to 1976. Employment of salaried workers in power and fuel units remained constant from 1974 to 1975 and then declined 8 percent from 1975 to 1976. Salaried employment in the alloy shops and internal transportation departments remained constant from 1974 to 1975 and from 1975 to 1976. Separate employment data for salaried employees in the melt shop

V 421693 AUG 23 77 UM

maintenance shop and scrap yard and soaking pits was not available.

Labor turnover data for the Alloy Division indicates that layoffs in the alloy shops, power and fuel units, transportation and general mill overhead in 1975 equaled 107 percent, 12 percent, 121 percent, and 117 percent, respectively, of average annual employment in those units. In 1976, layoffs in the alloy shops, power and fuel units, transportation and general mill overhead equalled 28 percent, 4 percent, 148 percent and 155 percent, respectively, of average annual employment.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales by the Stainless Steel Division of the Midland Plant of Crucible, Inc., increased 22 percent from 1973 to 1974 and then decreased 38 percent from 1974 to 1975. Sales declined in each quarter of 1975 when compared to the same quarter in 1974. Production is equivalent to sales.

INCREASED IMPORTS

Imports of stainless hot and cold rolled sheet and strip decreased absolutely and relatively from 1972 to 1973 and then increased absolutely and relatively from 1973 to 1974 and from 1974 to 1975. From 1975 to 1976, imports increased by 18 percent from 66.0 thousand tons to 78.2 thousand tons. The ratio of imports to domestic shipments increased from 7.5 percent in 1974 to 15.1 percent in 1975 and then decreased to 11.1 percent in 1976.

CONTRIBUTED IMPORTANTLY

The Department's original determination for TA-W-590 certified all workers in the Stainless Steel Division of the Midland, Pa., plant of Crucible, Inc., engaged in employment related to the production of stainless steel sheet and strip.

The evidence developed during the Department's reinvestigation indicates that the production of stainless steel sheet and strip involves units in both the Stainless Steel Division and the Alloy Division of the Midland Plant. Employees in the Alloy Division units listed in this certification allocated a significant percentage of their time to the production of stainless steel sheet and strip.

The Department's first investigation revealed that customers of Crucible, Inc., had decreased purchases of stainless steel sheet and strip from the subject firm and increased purchases of stainless steel sheet and strip from foreign suppliers.

The degree of integration between the units of the Alloy Division not listed in this certification, and the Stainless Steel Division is not significant. Purchases by the Stainless Steel Division from the Alloy Division represented less than 11 percent of total Alloy Division revenues in 1974, 1975, and 1976. Additionally, while the Alloy Division produces and sells stainless steel product (stainless steel bars and billets), sales and production of that stainless steel product represents a small percentage of total Alloy Division sales and production. Employees in the Alloy Division allocated a minimal percentage of their time to the production of stainless steel bars and billets.

CONCLUSION

After careful review of the facts obtained in the reinvestigation of TA-W-590, Crucible, Inc., Midland, Pa., plant, I conclude that increases in imports of stainless steel hot and cold rolled sheet and strip like or directly competitive with the stainless steel hot and cold rolled sheet and strip produced at the Midland, Pa., plant of Crucible, Inc., contributed importantly to the total or partial separations of workers in the Alloy Division of that firm. In accordance with the provisions of the Act, I hereby issue the following revised determination:

All workers in the Alloy Division of the Midland, Pa., plant of Crucible, Inc., who became totally or partially separated from employment in the units listed below on or after February 2, 1975, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

HOURLY WORKERS

GENERAL MILL OVERHEAD

Chemical Lab
Safety Department
Plant Protection
Medical Department

POWER AND FUEL

Purchased Electric
Steam Department
Domestic Water
Fuel Oil

ALLOY SHOPS

Electrical Repair
Railroad Car Repair
Railroad Track Maintenance
Meter Repairs
Mechanical Maintenance
(Bar Finish East)

INTERNAL TRANSPORTATION

Diesel Locomotives
Trucks (Crucible)
Diesel and Mobile Cranes

PRODUCTIVE CENTER

Melt shop maintenance shop
Scrap yard and Pits

SALARIED EMPLOYEES

GENERAL MILL OVERHEAD

Chemical Lab
Labor Relations
Employment and Employee Benefits
Personnel
Plant Protection
Medical Department
Production Engineering

POWER AND FUEL

Purchased Electric
Combustion Engineering

ALLOY SHOPS

Electric Repair
Mechanical Maintenance (Bar Finish East)

INTERNAL TRANSPORTATION

Diesel Locomotives
Diesel and Mobile Cranes

PRODUCTIVE CENTER

Melt shop maintenance shop
Scrap yard and Pits

I further conclude that increased imports of stainless steel hot and cold rolled sheet and strip did not contribute importantly to the total or partial separations of workers in all other units of the Alloy Division of the Midland, Pa., plant of Crucible, Inc.

Signed at Washington, D.C., this 10th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.24379 Filed 8-22-77;8:45 am]

[TA-W-1564]

E. T. IRVIN WORKS, U.S. STEEL CORP.

Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1564: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigations were initiated on January 10, 1977, in response to a worker petition received on January 10, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing carbon steel slabs, coated sheets, hot and cold rolled carbon steel strip and sheet and tin mill products at the Braddock and Dravosburg, Pa., plants of the E. T. Irvin works of the U.S. Steel Corporation.

The notice of investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 5456). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the U.S. Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation has revealed that criterion (2) has not been met for workers engaged in employment related to the production of carbon steel slabs and coated sheets. Furthermore, without regard as to whether any of the other criteria have been met, criterion (4) has not been met for workers engaged in employment related to the production of hot and cold rolled carbon steel strip and sheet. Furthermore, without regard as to whether any of the other criteria have been met, criterion (3) has not been met for workers engaged in employment related to the production of tin plated steel.

CARBON STEEL SLABS

Sales of carbon steel slabs increased 294.6 percent in quantity in 1976 as compared to 1975. Production data was not made available.

COATED SHEETS

Sales of coated sheets increased 49.7 percent in quantity in 1976 as compared to 1975. Production data was not made available.

TIN PLATED STEEL

Imports of tin plated steel declined each year from 516,900 tons in 1972 to 315,700 tons in 1974, increased to 407,100 tons in 1975 and declined to 309,300 tons in 1976.

The ratio of imports to domestic shipments of tin plated steel declined each year from 11.6 percent in 1972 to 5.7 percent in 1974, increased to 9.8 percent in 1975 and then declined to 6.5 percent in 1976.

HOT AND COLD ROLLED CARBON STEEL SHEET AND STRIP

The Department conducted a survey of customers of the E. T. Irvin Works of the U.S. Steel Corporation that bought hot and cold rolled carbon steel strip and sheet. The survey revealed that those customers contacted did not switch from the sheet and strip made at the E. T. Irvin Works to sheet and strip from foreign sources.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales of carbon steel slabs and coated sheets at the E. T. Irvin Works of the U.S. Steel Corporation have not declined as required for certification under Section 222 of the Trade Act of 1974. Furthermore, I conclude that imports of articles like or directly competitive with the tin plated steel products produced at the E. T. Irvin Works of the U.S. Steel Corporation have not increased, either absolutely or relative to domestic production, as required for certification under Section 222 of the Trade Act of 1974. Furthermore, I conclude that increased imports of articles like or directly competitive with the hot and cold rolled carbon steel sheet and strip produced at the E. T. Irvin Works of the U.S. Steel Corporation have not contributed importantly to the total or partial separations of workers engaged in employment related to the production of hot and cold rolled carbon steel strip and sheet at the plant as required for certification under Section 222 of the Trade Act of 1974.

Without regard to whether any of the other criteria have been met, criterion (2) has not been met.

The Department's investigation revealed that sales of metal fasteners by E. W. Ferry Screw Products, Inc., increased in quantity and value 70.9 percent and 33.7 percent, respectively in 1976 compared to 1975. Sales increased further in both quantity and value in the first quarter of 1977 by 41.3 percent and 66.8 percent, respectively compared to the first quarter of 1976.

Production of metal fasteners at E. W. Ferry Screw Products, Inc., increased in quantity and value by 94.0 percent and 17.9 percent, respectively in 1976 compared to 1975. Production further increased in quantity and value by 24.4 percent and 89.3 percent, respectively in the first quarter of 1977 compared to the same period in 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales or production of metal fasteners produced at E. W. Ferry Screw Products, Inc., Brookpark, Ohio, have not decreased absolutely as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24381 Filed 8-22-77;8:45 am]

[TA-W-1437]

FAIRLESS WORKS, U.S. STEEL CORP.

Determinations Regarding Eligibility To Apply for Worker Adjustment Asssitance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1437: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1976, in response to a worker petition received on December 15, 1976, which was filed by the United Steelworkers of America on behalf of workers and former workers engaged in employment related to the production of carbon steel wire rod, carbon steel wire and wire products, carbon steel bar-size light shapes, and carbon steel pipe and tubing at the Fairless Works of the U.S. Steel Corporation, in Fairless Hills, Pa.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 900). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the U.S. Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or sub-

Signed at Washington, D.C., this 15th day of August 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc.77-24380 Filed 8-22-77;8:45 am]

[TA-W-1994]

E. W. FERRY SCREW PRODUCTS

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1994: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 20, 1977, in response to a worker petition received on April 19, 1977, which was filed by the Independent Workers Association on behalf of workers and former workers producing metal fasteners at E. W. Ferry Screw Products, Inc., Brookpark, Ohio.

The notice of investigation was published in the FEDERAL REGISTER on May 10, 1977 (42 FR 23657). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of E. W. Ferry Screw Products, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof, have increased either actual, or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (2) has not been met.

V 42 163 AUG 23 77 UM

division are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met for workers engaged in employment related to the production of carbon steel pipe and tubing. Furthermore, the investigation has revealed that without regard as to whether any of the other criteria have been met, criterion (4) has not been met for workers engaged in employment related to the production of carbon steel wire rod and for workers engaged in employment related to the production of carbon steel wire and wire products. Furthermore, without regard as to whether any of the other criteria have been met, criterion (3) has not been met for workers engaged in employment related to the production of carbon steel bar-size light shapes.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

CARBON STEEL PIPE AND TUBING

Average employment declined 44.3 percent in the fourth quarter of 1975 as compared to the like 1974 quarter and continued to decline 35.6 percent in the first quarter of 1976 as compared to the like 1975 period before increasing 16.2 percent in the April through November 1976 period as compared to the like 1975 period.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

CARBON STEEL PIPE AND TUBING

Plant sales declined 52.5 percent in quantity in the fourth quarter of 1975 as compared to the like 1974 quarter and continued to decline 15.4 percent in the first quarter of 1976 as compared to the like 1975 period before increasing 43.2 percent in quantity in the April–November 1976 period as compared to the like 1975 period.

INCREASED IMPORTS

CARBON STEEL BAR-SIZED LIGHT SHAPES

Imports declined from 562,700 tons in 1972 to 457,400 tons in 1973, increased to 521,500 tons in 1974, declined to 167,200 tons in 1975 and continued to decline to 164,300 tons in 1976.

The ratio of imports of carbon steel bar-size light shapes to domestic shipments declined from 75.1 percent in 1972 to 44.2 percent in 1973 increased to 53.1 percent in 1974, declined to 22.7 percent in 1975 and continued to decline to 19.5 percent in 1976.

CARBON STEEL PIPE AND TUBING

Imports declined from 1,768,100 tons in 1972 to 1,574,600 tons in 1973, increased to 1,781,500 tons in 1974, declined to 1,542,500 tons in 1975 and increased to 1,820,700 tons in 1976.

The ratio of imports of carbon steel pipe and tubing to domestic shipments declined from 28.6 percent in 1972 to 20.3 percent in 1973, increased to 21.5 percent in 1974, increased to 22.8 percent in 1975 and continued to increase to 35.8 percent in 1976.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that some customers reduced purchases of carbon steel pipe and tubing from the Fairless Works and increased purchases of imported carbon steel pipe and tubing.

The investigation further revealed that customers of carbon steel wire rod and carbon steel wire and wire products from the Fairless Works that were surveyed by the Department did not switch to imported carbon steel wire rod and imported carbon steel wire and wire products.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the carbon steel wire rod and the carbon steel wire and wire products produced at the Fairless Works of the U.S. Steel Corporation have not contributed importantly to the total or partial separation of workers engaged in employment related to the production of either carbon steel wire rod or carbon steel wire or wire products at the plant as required for certification under Section 222 of the Trade Act of 1974.

I further conclude that imports of articles like or directly competitive with the carbon steel bar-size light shapes produced at the Fairless Works of the U.S. Steel Corporation have not increased either absolutely or relative to domestic production as required for certification under Section 222 of the Trade Act of 1974.

I further conclude that increased imports of articles like or directly competitive with the carbon steel pipe and tubing produced at the Fairless Works of the U.S. Steel Corporation have contributed importantly to the total or partial separation of workers engaged in employment related to the production of carbon steel pipe and tubing at the plant.

In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of carbon steel pipe and tubing at the Fairless Works of the U.S. Steel Corporation in Fairless Hills, Pa., who became totally or partially separated from employment on or after November 15, 1975, and before April 4, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24382 Filed 8-22-77;8:45 am]

[TA-W-1878]

FAYLEE SPORTSWEAR, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1878: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 23, 1977, in response to a worker petition received on March 23, 1977, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's dresses at Faylee Sportswear, Inc., Edwardsville, Pa.

The notice of investigation was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19176). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Faylee Sportswear, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make a naffirmative determination and issue a certification of eligibility to apply for ajustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation revealed that the fourth criterion has not been met.

Jobbers representing 100 percent of Faylee's contract work done in 1976 steadily increased their sales during the January 1974–April 1977 period while maintaining their level of contracts with the subject firm during this period. These jobbers do not use foreign contractors and do not import women's dresses.

Production at Faylee Sportswear, Inc., increased 12.9 percent in 1975 compared to 1974, and further increased 0.1 percent in 1976 compared to 1975. Production at the firm also increased 8.3 percent in the first four months of 1977 compared to the same period of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports like or directly competitive with the women's dresses produced at Faylee Sportswear, Inc., Edwardsville, Pa., did not contribute importantly to the total or partial separations of the workers at that firm.

Signed at Washington, D.C., this 15th day of August 1977.

BRIAN TURNER,
Executive Assistant to the Deputy Under Secretary for International Affairs.

[FR Doc.77-24383 Filed 8-22-77;8:45 am]

[TA-W-1919]

GULF & WESTERN INDUSTRIES, BONNEY FORGE DIVISION

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the result of TA-W-1919: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 29, 1977, in response to a worker petition received on March 28, 1977, which was filed on behalf of workers and former workers producing steel pipe fittings at Gulf & Western Industries, Bonney Forge Division, Roselle, N.J.

The notice of investigation was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19182). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bonney Forge Division, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, Industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment at the Roselle, N.J., plant of the Bonney Forge Division declined 48 percent in 1976 compared to 1975 and declined 58 percent in the first two months of 1977 compared to the same period in 1976. All workers were laid off on March 4, 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at the Roselle, N.J., plant declined 63 percent in 1976 compared to 1975 and declined 66 percent in first two months of 1977 compared to the same period in 1976. All production operations were terminated on February 25, 1977.

INCREASED IMPORTS

Imports of steel pipe fittings increased annually from 64.8 million pounds in 1973 to 185.9 million pounds in 1975. Imports declined to 113.0 million pounds in 1976. In the first quarter of 1977 imports declined to 22.7 million pounds from 36.7 million pounds in the first quarter of 1976.

Imports of steel pipe fittings increased relative to domestic production from 20.3 percent in 1973 to 47.6 percent in 1976. In the first quarter of 1977, imports as a percentage of production declined to 35.3 percent from 48.9 percent in the first quarter of 1976.

CONTRIBUTED IMPORTANTLY

Direct customers of the Bonney Forge Division did not purchase imports though they experienced reduced orders from their own customers because of imported steel pipe fittings. Companies who bought from Bonney Forge's customers were subsequently contacted and some of these companies indicated that they had switched purchases to steel pipe fittings of foreign origin.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with steel pipe fittings produced by Gulf & Western Industries, Bonney Forge Division, Roselle, N.J., contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers of Gulf & Western Industries, Bonney Forge Division, Roselle, N.J., who became totally or partially separated from employment on or after March 24, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24384 Filed 8-22-77;8:45 am]

[TA-W-155T]

HARRISBURG MANUFACTURING CO.

Termination of Investigation

Pursuant to Section 223(d) of the Trade Act of 1974 and 29 CFR 90.17(d), a termination investigation was initiated on July 28, 1976 to determine, with respect to the certification issued on October 29, 1975, whether total or partial separations from the Harrisburg, Ark., plant of Harrisburg Manufacturing Co. are no longer attributable to the conditions specified in such certification.

Notice of investigation regarding termination of certification of eligibility to apply for worker adjustment assistance was published in the FEDERAL REGISTER on August 10, 1976 (41 FR 33596). No public hearing was requested and none was held.

The existing certification will expire on October 29, 1977. Since workers newly separated, totally or partially, after October 29, 1977 would be ineligible to apply for adjustment assistance, termination of the certification by the Secretary of Labor within 90 days from statutory termination would serve no purpose; consequently the investigaton has been terminated.

Signed at Washington, D.C., this 11th day of August 1977.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.77-24385 Filed 8-22-77;8:45 am]

[TA-W-1728]

I. J. WEXLER COATS

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223(d) of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1728: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977, in response to a worker petition received on February 23, 1977, which was filed on behalf of workers and former workers producing ladies' coats and suits at I. J. Wexler Coats, Los Angeles, Calif.

The notice of investigation was published in the FEDERAL REGISTER on March 15, 1977 (42 FR 14185). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of I. J. Wexler Coats, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility re-

V 42 163 AUG 23 77 UM

quirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriation subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that criterion (4) has not been met.

The majority of I. J. Wexler's customers consisted of small specialty shops. A survey of customers indicated that those customers who decreased purchases from I. J. Wexler in 1976 from 1975 did not purchase imported ladies' coats and suits. Customers also indicated that they decreased purchases from I. J. Wexler due to a market demand for styles which were not offered by the firm. Customers who reduced purchases from I. J. Wexler switched to other domestic suppliers.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' coats and suits produced at I. J. Wexler Coats, Los Angeles, Calif., did not contribute importantly to the total or partial separations of the workers of that firm.

Signed at Washington, D.C., this 12th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24386 Filed 8-22-77;8:45 am]

[TA-W-1785, 1787]

JEM FASHIONS, INC., AND MEL MAR FASHIONS, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1785 and TA-W-1787: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 10, 1977, in response to worker petitions received on March 9, 1977, which were filed on behalf of workers and former workers producing women's coats at Jem Fashions, Inc., Asbury Park, N.J. (TA-W-1785) and on behalf of workers and former workers producing women's coats and sportswear at Mel Mar Fashions, Inc., Asbury Park, N.J. (TA-W-1787). The Department's investigation revealed that due to a change in company ownership, Jem Fashions went out of business in December 1976 and was reopened in January 1977 as Mel Mar Fashions, Inc. Thus, both petitions were combined into one investigation.

The notices of investigation were published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16200). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jem Fashions and of Mel Mar Fashions, their customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

Jem Fashions, Inc., was founded in 1962 as a clothing contractor, producing women's coats primarily for a clothing manufacturer in New York City. Jem Fashions was a one-plant company operating in a one-story building at 970 Monroe Avenue, Asbury Park, N.J.

Due to a change in company ownership, Jem Fashions went out of business in December 1976 and was reopened in January 1977 as Mel Mar Fashions, Inc. As a clothing contractor, Mel Mar Fashions continues to produce women's coats and is attempting to expand into the women's sportswear market. Mel Mar Fashions operates on the same premises and with the same machinery as did Jem Fashions. Former employees of Jem Fashions are now working for Mel Mar Fashions.

Unit production at the Asbury Park plant increased 28 percent in 1976 from 1975 and decreased 95 percent in the first quarter of 1977 compared to the first quarter of 1976. The production decline in the first quarter of 1977 can be directly attributed to the loss of contract work with a clothing manufacturer who had accounted for over 90 percent of Jem Fashions' production in 1975 and 1976. This clothing manufacturer had increased its contract work with Jem Fashions in 1976 from 1975 but discontinued its contract work with Mel Mar Fashions in January 1977.

The clothing manufacturer stated that it ceased business with Mel Mar Fashions because Mel Mar Fashions is regulated by a different set of union-employer regulations than was Jem Fashions. Although workers at both Jem Fashions and Mel Mar Fashions were represented by the International Ladies' Garment Workers Union, Jem Fashions, which produced women's coats, belonged to a different employers' association than Mel Mar Fashions, which produces women's coats and women's sportwear. The clothing manufacturer, however, can only award contract work to firms belonging to the employers' association to which Jem Fashions belonged. According to its union-employer association rules, therefore, the clothing manufacturer shifted contract work from Mel Mar Fashions to other domestic union shops. Mel Mar Fashions continues to perform contract work for other clothing manufacturers belonging to its new employers' association.

CONCLUSION

It is therefore concluded that imports of articles like or directly competitive with women's coats produced at Jem Fashions, Inc., and at Mel Mar Fashions, Inc., Asbury Park, N.J., did not contribute importantly to a decline in production at the Asbury Park plant.

Signed at Washington, D.C., this 15th day of August 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc.77-24387 Filed 8-22-77;8:45 am]

[TA-W-124T]

JOHANSEN BROTHERS SHOE CO.

Termination of Investigation

Pursuant to Section 223(d) of the Trade Act of 1974 and 29 CFR Part 90.17 (d), a termination investigation was initiated on July 28, 1976, to determine, with respect to the certification issued on October 29, 1975, whether total or partial separations from the St. Louis, Mo., plant of Johansen Brothers Shoe Co. are no longer attributable to the conditions specified in such certification.

Notice of investigation regarding termination of certification of eligibility to apply for worker adjustment assistance was published in the FEDERAL REGISTER on August 10, 1976 (41 FR 33595). No public hearing was requested and none was held.

The existing certification will expire on October 29, 1977. Since workers newly separated, totally or partially, after October 29, 1977, would be ineligible to apply for adjustment assistance, termination of the certification by the Secretary of Labor within 90 days from statutory termination would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C., this 11th day of August 1977.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.77-24388 Filed 8-22-77;8:45 am]

[TA-W-1479; TA-W-1512; TA-W-1532]

JONES & LAUGHLIN STEEL CORP., PITTSBURGH WORKS

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W- 1479, 1512, and 1532: Investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigations were initiated on December 20, 1976 (TA-W-1479) and December 22, 1976 (TA-W-1512) in response to worker petitions which were filed by the United Steelworkers of America on behalf of workers and former workers producing cold finished carbon steel bars, hot rolled carbon steel bars and shapes, hot rolled carbon steel sheet, cold rolled carbon steel sheet, galvanized sheet and hot rolled carbon steel plate at Jones & Laughlin Steel Corp., Pittsburgh Works, Pittsburgh (TA-W-1512) and Hazelwood, Pa. (TA-W-1479); and on December 15, 1976 (TA-W-1532) on behalf of nurses employed in support of production at the Pittsburgh Works. The Pittsburgh Works encompasses all production operations by Jones & Laughlin in the Pittsburgh area; thus, findings regarding the above-indicated petitions are combined in one determination.

The notices of investigation were published in the FEDERAL REGISTER on January 7, 1977 (42 FR 1535) and January 18, 1977 (42 FR 3373). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jones & Laughlin Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that with respect to workers producing hot rolled plate and hot rolled sheet all of the above criteria have been met, and with respect to all other products and with respect to nurses employed in support of production operations at the Pittsburgh Works, criterion (2) has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at the Pittsburgh Works decreased 26.0 percent in 1975 from 1974. Employment during the period January–November 1976, while increasing compared to the same period in 1975, remained 13 percent below annual employment in 1974. The number of workers on layoff status increased more than four-fold in the fourth quarter of 1976 compared to the prior quarter.

The average number of weekly hours worked by production employees decreased 18.8 percent in 1975 from 1974 and increased 14.9 percent in the period January–November 1976 compared to the same period in 1975.

Workers are not separately identifiable by product line.

SALES OR PRODUCTION OR BOTH HAVE DECREASED ABSOLUTELY

Total shipments at the Pittsburgh Works increased 24.0 percent in the period January–November 1976 compared to the same period in 1975.

In 1976, shipments from the Pittsburgh Works included hot rolled bars and shapes, galvanized sheet, hot rolled plate, cold rolled sheet, cold finished bars, and hot rolled sheet. Shipments of products comprising 80 percent of total 1976 shipments—hot rolled bars and shapes, galvanized sheet, cold rolled sheet, and cold finished bars—each increased in January–November 1976 compared to January–November 1975.

Shipments of hot rolled plate, comprising 19 percent of total shipments, declined 19 percent in quantity in January–November 1976 compared to January–November 1975. Shipments of hot rolled sheet, comprising one percent of total shipments, declinde 93 percent in January–November 1976 compared to January–November 1975.

INCREASED IMPORTS

Imports of carbon steel plate decreased in 1973 from 1972 and then increased in 1974. Imports decreased 20 percent in 1975 from 1974 and then increased 15 percent from 1,353.0 thousand short tons in 1975 to 1,555.4 thousand short tons in 1976. The import/shipment and import/consumption ratios increased steadily from 16.4 percent and 14.5 percent, respectively, in 1973 to 27.7 percent and 21.9 percent, respectively, in 1976.

Imports of carbon hot rolled sheet declined absolutely in each year from 1972 through 1975. Imports declined 14.5 percent from 1974 to 1975 and then increased 8.4 percent from 1,509.2 thousand short tons in 1975 to 1,635.9 thousand short tons in 1976. Imports declined relative to domestic shipments and consumption from 1972 to 1973 and increased from 1973 through 1975. The ratios of imports to domestic shipments and consumption declined from 14.0 percent and 12.4 percent, respectively, in 1975 to 11.3 percent and 10.2 percent, respectively, in 1976.

Imports of hot rolled carbon steel bars decreased steadily from 804.1 thousand short tons in 1972 to 384.2 thousand short tons in 1976. The ratios of imports to domestic shipments and consumption decreased steadily from 12.8 percent and 11.5 percent, respectively, in 1972 to 7.0 percent and 6.6 percent, respectively, in 1976.

Imports of carbon steel bar-size light shapes decreased both absolutely and relative to domestic production and consumption in 1973 from 1972 and increased both absolutely and relatively in 1974 from 1973. Imports decreased 67.9 percent in 1975 from 1974, and decreased 1.7 percent in 1976 from 1975. The import/shipment and import/consumption ratios decreased steadily from 53.1 percent and 35.4 percent, respectively, in 1974 to 19.5 percent and 16.7 percent, respectively, in 1976.

Imports of galvanized steel sheet and strip decreased absolutely and relative to domestic shipments and consumption in 1973 from 1972 and increased both absolutely and relatively in 1974 from 1973. Imports decreased 42 percent in 1975 from 1974 and increased 99 percent from 739.0 thousand short tons in 1975 to 1,467.7 thousand short tons in 1976. The import/shipment and import/consumption ratios decreased from 21.0 percent and 17.6 percent, respectively, in 1974 to 19.9 percent and 16.7 percent, respectively, in 1975 and then increased to 28.3 percent and 22.2 percent, respectively, in 1976.

Imports of carbon steel cold rolled sheet declined absolutely in each year from 1972 through 1975. Imports declined 18.9 percent from 1974 to 1975 and then increased 13.7 percent from 2,067.1 thousand short tons in 1975 to 2,350.7 thousand short tons in 1976. Imports declined relative to domestic shipments and consumption from 1972 to 1973 and increased from 1973 through 1975. The ratios of imports to domestic shipments and consumption declined from 16.5 percent and 14.2 percent, respectively, in 1975 to 13.2 percent and 11.7 percent, respectively, in 1976.

Imports of cold finished carbon steel bars decreased in each year from 131.9 thousand short tons in 1972 to 65.6 thousand short tons in 1975 and then increased to 70.3 thousand short tons in

V42163 AUG 23 77 UM

1976. The ratios of imports to domestic shipments and consumption decreased from 9.5 percent and 8.8 percent, respectively, in 1972 to 5.3 percent and 5.0 percent, respectively, in 1976.

CONTRIBUTED IMPORTANTLY

Shipments of hot rolled plate and hot rolled sheet combined comprised 20 percent of total shipments by the Pittsburgh Works during the first eleven months of 1976. Shipments of both products declined during that period compared to the same eleven month period in 1975. Customers surveyed who purchase plate and hot rolled sheet from the Pittsburgh Works reduced purchases from the Pittsburgh Works while increasing purchases of imported plate and hot rolled sheet.

Total shipments by the Pittsburgh Works increased in the first eleven months of 1976 compared to the first eleven months of 1975. Workers employed in support functions, such as the nurses who petitioned under TA-W-1532, are not influenced by fluctuations in output of individual products, but by total plant output. Thus, notwithstanding declines in output of hot rolled plate and hot rolled sheet, total plant output increased 42 percent and 70 percent in the second and third quarters, of 1976 compared to the respective quarters of 1975.

Shipments of all products other than hot rolled plate and hot rolled sheet increased in January–November 1976 compared to January–November 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with hot rolled plate and hot rolled sheet produced at the Pittsburgh Works of Jones & Laughlin Steel Corp. contributed importantly to declines in production and employment at that plant. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers engaged in employment related to the production of hot rolled plate and hot rolled sheet at the Pittsburgh Works (Pittsburgh and Hazelwood, Pa., plants) of Jones & Laughlin Steel Corp., who became totally or partially separated from employment on or after September 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that increases of imports of articles like or directly competitive with cold finished bars, hot rolled bars and shapes, cold rolled sheet, and galvanized sheet did not contribute importantly to separations of either workers producing such products at the Pittsburgh Works or nurses employed in support functions at the Pittsburgh Works of Jones & Laughlin Steel Corp.

Signed at Washington, D.C., this 12th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24389 Filed 8-22-77;8:45 am]

[TA-W-1808]

R & P MANUFACTURING, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1808: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 15, 1977, in response to a worker petition received on March 14, 1977, which was filed on behalf of workers and former workers producing ladies' slacks and skirts at R&P Manufacturing, Inc., South River, N.J.

The notice of investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18155). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of R&P Manufacturing, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the workers firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, criterion (4) has not been met.

Evidence developed in the Department's investigation revealed that customers representing 93 percent of R&P Manufacturing's sales of ladies skirts and slacks did not report purchasing imports of such products. These customers cited union jurisdictional complications as the reason for reducing or ceasing to place orders for ladies skirts and slacks with R&P Manufacturing.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's slacks and skirts produced by R&P Manufacturing, Inc., South River, N.J., did not contribute importantly to the decline in sales or production or separations of workers of that firm.

Signed at Washington, D.C., this 12th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24390 Filed 8-22-77;8:45 am]

[TA-W-1959]

REEVES HOFFMAN DIVISION OF DYNAMICS CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1959: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 7, 1977, in response to a worker petition received on April 5, 1977, by three individual workers on behalf of workers and former workers producing electronic quartz crystals for time pieces at the McConnellsburg, Pa., plant of Reeves Hoffman Division of Dynamics Corp. of America.

The notice of investigation was published in the FEDERAL REGISTER on April 15, 1977 (42 FR 19939). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Reeves Hoffman Division of Dynamics Corp. of America, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at the McConnellsburg plant increased 87 percent in July 1976, increased 79 percent in August 1976, increased 40 percent in September 1976, and increased 31 percent in October 1976 when compared to the previous month, Average employment of production workers declined 1 percent in November 1976 when compared to October 1976, declined 4 percent in December 1976 when compared to November 1976, declined 39 percent in January 1977 when compared to December 1976, increased 2 percent in February 1977 when compared to January 1977, and increased 20 percent in March 1977 compared to February 1977. The plant closed on March 25, 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total sales (both the Carlisle and McConellsburg plants) of electronic quartz crystals for time pieces, in quantity, increased 65 percent in 1976 compared to 1975 and increased 2 percent in the first quarter of 1977 compared to the first quarter of 1976. The above comparisons do not fully reflect the sales trend of Reeves Hoffman. Sales, in both quantity and value, were on an upward trend through the second quarter of 1976. Sales, in quantity, increased in each consecutive quarter from the first quarter in 1975 through the second quarter of 1976. In the second quarter of 1976 sales, in both quantity and value, peaked and then started on a downward trend. Because of this upward trend through the second quarter of 1976 the comparison of 1976 to 1975 shows an increase. Therefore, the following comparison is shown in order to illustrate the reverse in the sales trend that occurred in mid-1976. Sales, in quantity, increased 82 percent in the last six months of 1975 when compared to the first six months in 1975. Sales, in quantity, declined 23 percent in the last six months of 1976 when compared to the first six months of 1976. Therefore, it is shown that not only did sales decrease in the last six months of 1976 when compared to the first six months but also that the reverse in the trend in mid-1976 is not of a seasonal nature.

Production, in quantity, at the McConnellsburg plant increased 175 percent in September 1976, increased 164 percent in October 1976, increased 79 percent in November 1976, and increased 198 percent in December 1976 when compared to the previous month. Production then declined 14 percent in January 1977 when compared to December 1976, declined 2 percent in February 1977 when compared to January 1977, and declined 97 percent in March 1977 when compared to February 1977. The plant closed on March 25, 1977.

INCREASED IMPORTS

Imports of quartz crystals for electronic watches increased absolutely in 1974 and 1975 when compared to the previous year and increased 345 percent in 1976 compared to 1975. The ratio of imports to domestic production increased from 16.7 percent in 1975 to 32.7 percent in 1976.

CONTRIBUTED IMPORTANTLY

Customers indicated they decreased purchases of electronic quartz crystals for time pieces from Reeves Hoffman Division of Dynamics Corp. of America and increased purchases of imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with electronic quartz crystals for time pieces produced at the McConnellsburg, Pa., plant of Reeves Hoffman Division of Dynamics Corp. of America contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the McConnellsburg, Pa., plant of Reeves Hoffman Division of Dynamics Corp. of America who became totally or partially separated from employment on or after November 1, 1976, and before June 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers totally or partially separated on or after June 1, 1977, are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 15th day of August 1977.

BRIAN TURNER,
Executive Assistant to the Deputy Under Secretary for International Affairs.

[FR Doc.77-24391 Filed 8-22-77;8:45 am]

[TA-W-2049]

REEVES HOFFMAN DIVISION OF DYNAMICS CORP. OF AMERICA

Certification Rearding Eligibility To Apply for Worker Adjustment Asssitance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2049: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 10, 1977, in response to a worker petition received on May 5, 1977, on behalf of workers and former workers producing electronic quartz crystals for timepieces at the Carlisle, Pa., plant of Reeves Hoffman Division of Dynamics Corp. of America.

The notice of investigation was published in the FEDERAL REGISTER on May 27, 1977 (42 FR 27330). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Reeves Hoffman Division of Dynamics Corp. of America, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATION

Average employment of all production workers at the Carlisle plant increased 7 percent in 1975 compared to 1974, increased 11 percent in 1976 compared to 1975. and decreased 59 percent in the first quarter of 1977 compared to the first quarter of 1976. Average employment of production workers at the Carlisle plant started declining in July 1976 and has decreased in each consecutive month until the plant stopped producing electronic quartz crystals for time pieces on May 16, 1977.

The number of employees engaged in employment not related to the production of electronic quartz crystals at the Carlisle plant has remained relatively unchanged over the period from 1974 through the first quarter of 1977. Employees not engaged in employment related to the production of electronic quartz crystals constituted approximately 13 percent of total employment in 1975 and 12 percent in 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total sales (both the Carlisle and McConnellsburg plants) of electronic quartz crystals for time pieces, increased in quantity 65 percent in 1976 compared to 1975 and increased 2 percent in the first quarter of 1977 compared to the first quarter of 1976. The above comparisons do not fully reflect the sales trend of Reeves Hoffman. Sales, in both quantity and value, were on an upward trend through the second quarter of 1976. Sales, in quantity, increased in each consecutive quarter from the first quarter in 1975 through the second quarter of 1976. In the second quarter of 1976, sales, in both quantity and value, peaked and then started on a downward trend. Because of this upward trend through the second quarter of 1976 the comparison of 1976 to 1975 shows an increase. Therefore, the following comparison is shown in order to illustrate the reverse in the

sales trend that occurred in mid-1976. Sales, in quantity, increased 82 percent in the last six months of 1975 when compared to the first six months of 1975. Sales, in quantity, declined 23 percent in the last six months of 1976 when compared to the first six months of 1976. Therefore, it is shown that not only did sales decrease in the last six months of 1976 when compared to the first six months, but also that the reverse in the trend in mid-1976 is not of a seasonal nature.

Production, in quantity, at the Carlisle plant increased 69 percent in 1976 compared to 1975 and declined 44 percent in the first quarter of 1977 when compared to the first quarter of 1976. The above comparisons do not fully reflect the production trend of Reeves Hoffman. Production, in both quantity and value, were on an upward trend through the second quarter of 1976. Production, in both quantity and value, peaked in the second quarter of 1976 and then started on a downward trend. Because of this upward trend through the second quarter of 1976 the comparison of 1976 to 1975 shows an increase. Therefore, the following comparison is shown in order to illustrate the reverse in the production trend that occurred in mid-1976. Production, quantity, declined 18 percent in the six month period from July 1976 through December 1976 when compared to the previous six month period from January 1976 through June 1976. The plant stopped producing electronic quartz crystals for time pieces on May 16, 1977.

INCREASED IMPORTS

Imports of quartz crystals for electronic watches increased absolutely in 1974 and 1975 when compared to the previous year and increased 345 percent in 1976 compared to 1975. The ratio of imports to domestic production increased from 16.7 percent in 1975 to 32.7 percent in 1976.

CONTRIBUTED IMPORTANTLY

Customers indicated they decreased purchases of electronic quartz crystals for time pieces from Reeves Hoffman Division of Dynamics Corp. of America and increased purchases of imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with electronic quartz crystals for time pieces produced at the Carlisle, Pa., plant of Reeves Hoffman Division of Dynamics Corp. of America contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of electronic quartz crystals for time pieces at the Carlisle, Pa., plant of Reeves Hoffman Division of Dynamics Corp. of America who became totally or partially separated from employment on or after July 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of August 1977.

BRIAN TURNER,
Executive Assistant to the Deputy Under Secretary for International Affairs.

[FR Doc.77-24392 Filed 8-22-77;8:45 am]

[TA-W-1831]

SHARMAT, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1831: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 21, 1977, in response to a worker petition received on March 18, 1977, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's dresses at Sharmat, Inc., Luzerne, Pa.

The notice of investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18158). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Sharmat, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation revealed that criterion (4) has not been met.

Production of women's dresses at Sharmat, Inc., Luzerne, Pa., increased 14.6 percent in 1975 compared to 1974, before declining 3.2 percent in 1976 compared to 1975. Production then increased 4.3 percent in the first four months of 1977 compared to the same period of 1976.

Jobbers representing 100 percent of the contract work done by Sharmat in 1976 experienced increased sales during the period from 1974 through the first four months of 1977 and generally increased contract work with Sharmat during the same period. The jobbers do not use foreign contractors.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the women's dresses produced at Sharmat, Inc., Luzerne, Pa., did not contribute importantly to the total or partial separations of the workers at that firm.

Signed at Washington, D.C., this 12th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24393 Filed 8-22-77;8:45 am]

[TA-W-1658]

SKILL KNIT FABRICS, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1658: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 16 1977, in response to a worker petition received on February 8, 1977, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing circular knit fabric at Skill Knit Fabrics, Inc.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13093). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Skill Knit Fabrics, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 22 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision thereof have become totally or partially separated, or are threatened to become totally or partially separated:

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely:

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, criteria (2) and (4) have not been met.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales and production at Skill Knit are equal since the company only produces for order on a commission basis. Sales and production decreased 37.1 percent in quantity and 33.2 percent in value in 1975 from 1974. In 1976, sales and production increased 23.8 percent in quantity and 34.5 percent in value compared to 1975.

Total sales and production at Skill Knit increased in 1976 compared to 1975. Production declines in the first and third quarter of 1976 compared to the immediately preceding quarters reflect the seasonal trend at Skill Knit. Skill Knit is a commission knitter whose production patterns follow those of the manufacturers Skill Knit serves. Periods of decreased production at Skill Knit reflect the slower production seasons of customers.

CONTRIBUTED IMPORTANTLY

Skill Knit's major customer, who represented over 65 percent of total sales in 1976, indicated that he does not purchase imported fabric.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales and production of circular knit fabric produced at Skill Knit Fabrics, Inc., did not decline and that increases of imports of articles like or directly competitive with circular knit fabric produced at Skill Knit Fabrics, Inc., did not contribute importantly to declines in production and employment at that plant.

Signed at Washington, D.C., this 12th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24394 Filed 8-22-77;8:45 am]

[TA-W-1250]

TERRACE FOOTWEAR, INC.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 222 of the Trade Act of 1974 and in accordance with Section 223(a) of such Act, on March 11, 1977, the Department of Labor issued a certification of eligibility to apply for ajustment assistance applicable to workers and former workers producing women's casual footwear at the Norwalk, Conn., plant of Terrace Footwear, Inc.

The notice of certification was published in the FEDERAL REGISTER March 22, 1977 (42 FR 15481). A revised certification was issued April 14, 1977, to include six additional workers who were separated after the termination date because of their required presence to close out the plant. The notice of revised certification was published in the FEDERAL REGISTER (42 FR 21871) April 29, 1977.

Subsequent to the publication of the revised determination, the Office of Trade Adjustment Assistance received an inquiry on behalf of workers separated prior to the July 1, 1976, impact date. A review of statistical evidence obtained in the course of the original investigation revealed layoffs associated with the adverse affects of increased imports of women's casual footwear actually began in May 1976.

CONCLUSION

Based on a review of the entire record and in accordance with the provisions of the Act, I have determined that the following certification is hereby made as follows:

All workers at Terrace Footwear, Inc., Norwalk, Conn., who became totally or partially separated from employment on or after April 30, 1976, and on or before October 30, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974, except that the following identified employees of Terrace Footwear, Inc., shall be eligible to apply for adjustment assistance even if they become totally or partially separated after October 30, 1976.

1. Genevieve Cuneo, 17 Joemar Rd., South Norwalk, Conn.
2. Oscar Greenberg, 20 Friendly Dr., Norwalk, Conn.
3. Jeffrey Waldron, 400 North Main St., Ansonia, Conn.
4. Preston Fryr, 408A Washington Village, South Norwalk, Conn.
5. Angel Morales, 16 Pine St., South Norwalk, Conn.
6. Charles Nastro, 432 Rowayton Ave., South Norwalk, Conn.

Signed at Washington, D.C., this 12th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24395 Filed 8-22-77;8:45 am]

[TA-W-1835]

TINA DRESS CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1835: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 21, 1977, in response to a worker petition received on March 18, 1977, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's dresses and sportswear at Tina Dress Co., Wilkes-Barre, Pa.

The notice of investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18158). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Tina Dress Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated:

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, criterion (4) has not been met.

The Department's investigation has revealed that the only apparel manufacturer for which Tina Dress produced women's dresses and sportswear (which includes blouses, shirts, skirts, vests, jackets, slacks, and shorts) does not import finished products for sale to its retail customers and does not contract with firms outside the United States. This manufacturer increased contracts with other domestic contractors from 1975 to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with women's dresses, blouses, shirts, skirts, vests, jackets, slacks, and shorts produced by Tina Dress Co. have not contributed importantly to the decline in sales or production of the firm or to the total or partial separations of workers of that firm as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of August 1977.

BRIAN TURNER,
Executive Assistant to the Deputy Under Secretary for International Affairs.

[FR Doc.77-24396 Filed 8-22-77;8:45 am]

V 42 16 3 AUG 23 77 UM

[TA-W-2031 and TA-W-2032]

TOWNSEND FASTENING SYSTEMS, DIVISION OF TEXTRON, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2031 and TA-W-2032: Investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 26, 1977, in response to a worker petition received on April 25, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing specialty fasteners and rivets at the Ellwood City, Pa., plant and the Fallston, Pa., plant of Townsend Fastening Systems, Division of Textron, Inc.

The notice of investigation was published in the FEDERAL REGISTER on May 10, 1977 (42 FR 23655). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Townsend Fastening Systems, the U.S. Department of Commerce; the U.S. International Trade Commission, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met.

(1) That a significant number or proportion of the workers in th workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

Production of specialty fasteners comprises 85 percent of Townsend Fastening System's output.

The evidence developed in the Department's investigation reveals that there are no known identifiable imports of specialty fasteners.

Production of rivets comprises 15 percent of Townsend Fastening System's output.

Imports of rivets relative to domestic production decreased from 3.3 percent in 1974 to 2.6 percent in 1975 and 2.2 percent in 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with specialty fasteners and rivets produced by the Ellwood City, Pa., plant and the Fallston, Pa., plant of Townsend Fastening Systems, Division of Textron, Inc., have not increased either actually or relative to domestic production as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24397 Filed 8-22-77;8:45 am]

[TA-W-2180]

TRUE TEMPER CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2180: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 27, 1977, in response to a worker petition received on June 24, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing shovels and spades at the Dunkirk, N.Y., plant of True Temper Corp.

The notice of investigation was published in the FEDERAL REGISTER on July 12, 1977 (42 FR 35904). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the United Steelworkers of America and officials of True Temper Corp.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the decreased in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion (1) has not been met.

The Dunkirk, N.Y., plant of the True Temper Corp. produces shovels and spades.

Pursuant to the requirements of 29 CFR 90.2 total separations must be the equivalent to a total unemployment of five percent or 50 workers, whichever is less. Evidence developed in the Department's investigation revealed that the total separations which occurred during the period of possible coverage amounted to less than five percent of the workforce employed at the Dunkirk plant of True Temper Corp. The total number of workers experiencing separations during the period May 6, 1976, one year prior to the signature date of the petition, to the present was less than 50 workers. There is no indication that current workers are threatened with any involuntary separations.

Pursuant to the requirements of 29 CFR 90.2, "partial separation" means, that the worker's hours of work have been reduced to 80 percent of less of the worker's average weekly hours at the firm or appropriate subdivision thereof. Evidence developed in the Department's investigation revealed that the worker's average weekly hours of work increased 14 percent in the first half of 1977 compared to the same period of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Dunkirk, N.Y., plant of the True Temper Corp. have not become totally or partially separated as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24398 Filed 8-22-77;8:45 am]

[TA-W-1432]

U.S. STEEL CORP., CUYAHOGA WORKS

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1432: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1976, in response to a worker petition received on December 15, 1976, which was filed by the United Steelworkers of America on behalf of workers and former workers producing carbon steel wire and carbon steel wire rods at the Cleveland, Ohio (Cuyahoga Works) of the United States Steel Corp.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 902). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of U.S. Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that without regard to whether any of the other criteria have been met, the fourth criterion has not been met.

The Cuyahoga Works of the U.S. Steel Corp. produces carbon steel wire and carbon steel wire rod.

Most customers of the Cuyahoga Works surveyed indicated that they did not purchase imported wire or wire rods in 1976. Those customers that did purchase imports increased purchases from the Cuyahoga Works in 1976 compared to 1975. The increased purchases by customers in 1976 compared to 1975 followed the increased activity in the construction industry following the slow year in 1975.

The response of customers is consistent with industry trends. U.S. domestic shipments of carbon steel wire and wire rod rose substantially from 1975 to 1976. Consequently, imports relative to domestic shipments declined from 65.1 percent in 1975 to 35.7 percent in 1976 for wire rods while the import to shipments ratio for carbon steel wire and wire products remained relatively unchanged from 1975 to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with carbon steel wire and carbon steel wire rod produced at the Cleveland, Ohio (Cuyahoga Works) of the U.S. Steel Corp. did not contribute importantly to the total or partial separations of the workers at that plant.

Signed at Washington, D.C., this 12th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24399 Filed 8-22-77;8:45 am]

[TA-W-1989]

WEBSTER ENTERPRISES, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1989: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 18, 1977, in response to a worker petition received on that date which was filed on behalf of workers formerly engaged in employment related to the production of squeeze toys at Webster Enterprises, Inc., Cleveland, Ohio.

The notice of investigation was published in the FEDERAL REGISTER on April 29, 1977 (42 FR 21872). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Webster Enterprises, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at Webster Enterprises, Inc., increased 80 percent in the first three Employment of production workers decreased 80 percent in the first three quarters of 1976 compared to the like period in 1975.

All employment ceased when the plant closed in August 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales at Webster Enterprises, Inc., adjusted for price changes, increased 100 percent in value from 1974 to 1975. Adjusted sales decreased 15 percent in value in the first three quarters of 1976 compared to the like period in 1975.

All sales ceased when the plant closed in August 1976.

INCREASED IMPORTS

Imports of squeeze toys increased absolutely from 1972 to 1973, then decreased from 1973 to 1974, and 1974 to 1975. Imports increased 38 percent absolutely from 1975 to 1976, and the ratio of imports to domestic production increased from 139.1 percent in 1975 to 151.7 percent in 1976. Imports increased 26 percent absolutely in the first three quarters of 1976 compared to the like period in 1975.

CONTRIBUTED IMPORTANTLY

Customers of Webster Enterprises, Inc., who were surveyed by OTAA, decreased purchases of squeeze toys from Webster in 1976 compared to 1975, and increased purchases from other domestic sources manufacturing squeeze toys offshore.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with squeeze toys produced at Webster Enterprises, Inc., Cleveland, Ohio, contributed importantly to the total or partial separation of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Webster Enterprises, Inc., Cleveland, Ohio, who became totally or partially separated from employment on or after April 12, 1976, and before October 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers who became totally or partially separated after October 1, 1976, are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 15th day of August 1977.

BRIAN TURNER,
Executive Assistant to Deputy Under Secretary for International Affairs.

[FR Doc.77-24400 Filed 8-22-77;8:45 am]

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

CLOSED MEETINGS

Annual Report

In compliance with Sections 10(d) and 13 of the Federal Advisory Committee Act, a summary report is hereby submitted on the partially closed meeting of the National Advisory Council on the Education of Disadvantaged Children held during calendar year 1976. The closed meeting, hereby referred to as the "closed executive session," which had been previously approved by the Commissioner of Education on April 6, 1976, was held on April 29, 1976 from 4–5 p.m. The meeting was held at the San Francisco Hotel, Mason & O'Farrell Streets, San Francisco, California.

The National Advisory Council on the Education of Disadvantaged Children (NACEDC) is established under section

148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The purpose of the closed executive session was for Council to discuss personnel matters and internal personnel rules and practices of the Council. Ten members were in attendance and no conclusions were reached.

Record of this meeting is found in the NACEDC's 1976 Report to the Commissioner. This report is available for public inspection at the office of the National Advisory Council on the Education of Disadvataged Children, located at 425 Thirteenth Street NW., Suite 1012, Washington, D.C., and is also available from the Commissioner of Education, U.S. Office of Education, Washington, D.C.

Signed at Washington, D.C. on August 17, 1977.

GLORIA STRICKLAND,
Acting Executive Director.

[FR Doc.77-24267 Filed 8-22-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on August 16, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

Domestic and International Business Administration, Evaluation of Industry Needs in Exporting, DIB-407LP, single time, manufacturer, EMC, wholesaler, retailer, Economics and General Government Divisions, C. Louis Kincannon, 395-3451.

DEPARTMENT OF THE TREASURY

Departmental and Other Office of Industrial Economics—Survey of Three Industries: Professional, Scientific and Controlling Instruments, single time, business firms, Gaylord Worden, 395-4730.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration, Driver Survey on Unreported and Low-Damage Accidents, Involving Bumpers, single time, licensed automobile drivers, Strasser, A., 395-5867.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:
Application for Federal Assistance (nonconstruction) Vocational Education, OE 3176, annually, SEA's, LEA's, universities, nonprofit, Indian tribes, Budget Review Division, Lowry, R. L. 395-4775.
Nomination for Graduate Fellowship, OE-1048, on occasion, graduate fellowship nominees, Caywood, D. P. 395-3443.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit, Development Program of Public Housing Agency, Development Cost Budget/Cost Statement, HUD-52484, HUD 52483, on occasion, public housing agencies, Housing, Veterans and Labor Division, 395-3532.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration:
Parts Return Program, on occasion, automotive shops, dealers, fleets, and parts suppliers, Warren Topelius, 395-5872.
Agreement, Cost and Task Description Forms for Volume 102 Highway Safety Plan, HS-212, annually, State highway safety agencies, Warren Topelius, 395-5872.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration, End Stage Renal Disease Home Dialysis Study, single time, candidates for home dialysis, Richard Eisinger, 395-6140.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration, Contract Cost Status and Forecast Report, FAA 4450-3, quarterly, contractor's, Caywood, D. P., 395-3443.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-24321 Filed 8-22-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on August 17, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

ENVIRONMENTAL PROTECTION AGENCY

Assessment of Selected Storm Water Control, on occasion, agencies directly involved in stormwater management, Ellett, C. A. 395-5867.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Point of Sales Survey (pretest), single time, farmers, Gaylord Worden, Strasser, A., 395-4730.

DEPARTMENT OF LABOR

Labor Management and Service Administration:
Impact of Prohibited Transaction Provisions of ERISA Survey, LMSA-75-T, single time, U.S. employee benefit plan administrators, Housing, Veterans and Labor Division, C. Louis Kincannon, 395-3532.
Surveys for Evaluation Study of the Impact of the ERISA on Formation of New Pension Plans, LMSA-74-7, single time, Orig./Pension Plans Established After September 1974, Housing, Veterans and Labor Division, C. Louis Kincannon, 395-3532.

REVISIONS

DEPARTMENT OF DEFENSE

Department of the Air Force, DOD Property Report, DD1342, on occasion, business firms, National Security Division, Lowry, R. L., 395-4734.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, Statement for Determining Continuing Eligibility for SSI Payments, SSA-8203, single time, aged, blind or disabled recipients of SSI payments, Human Resources Division, 395-3532.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, milk price inquiry, SRSCE5206, monthly, milk buyers, Marsha Traynham, 395-4529.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration, Monthly Statistical Report on Medical Care, SRS NCSS, monthly, State Medicaid Title XIX agencies, Richard Eisinger, 395-6140.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-24435 Filed 8-22-77;8:45 am]

FEDERAL PROCUREMENT DATA SYSTEM

Proposed New Data Elements; Comments Requested

To implement Sec. 6(d)5 of P.L. 93-400, which makes the Office of Federal Procurement Policy (OFPP) responsible for "• • • establishing a system for collecting, developing, and disseminating procurement data which takes into account the needs of the Congress, the executive branch, and the private sector • • •", the OFPP is developing the design of a Federal Procurement Data System (FPDS). Generally, the procurement information to be reported by each executive agency to the FPDS is currently available in each agency's contracting office.

The purpose of this Notice for Comment is to obtain views on two new data elements proposed for inclusion in the FPDS which are not currently available in the executive agencies. These items of new information must therefore be collected from prospective Federal contractors during the solicitation phase of the procurement process. It is proposed that each bid, proposal, or quotation for contracts in excess of $10,000 contain the following two items: (1) a statement that the firm is, or is not, female owned, and (2) with respect to contracts for supplies or equipment a statement showing the percent of total contract price which represents foreign content.

Comments or suggestions submitted in response to this Notice will be thoroughly considered by the OFPP in the final development of the Federal Procurement Data System design. Questions may be addressed to Mr. Wm. W. Thybony, Assistant Administrator for Contract Placement, telephone (202) 395-4946.

Interested parties have until September 30, 1977 to submit comments.

Dated: August 17, 1977.

LESTER A. FETTIG,
Administrator.

[FR Doc.77-24434 Filed 8-22-77;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

[Doc. No. 301-13]

TANNER'S COUNCIL OF AMERICA, INC.

Section 301 Committee: Notice of Complaint

On August 4, 1977, the Chairman of the Section 301 Committee received from Thomas F. Shannon, Esquire, and Lauren Oldak, Esquire, Counsel to the Tanner's Council of America, a petition alleging unfair trade practices by Japan. The complaint alleges that Japan has maintained quantitative restrictions and excessive tariffs that adversely affect U.S. exports of leather. Relief is requested under section 301 of the Trade Act of 1974 (Pub. L. 93-618; 88 Stat. 1978). The text of the complaint is as follows:

BEFORE THE OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Complaint on Behalf of the Tanners' Council of America, Inc. Filed Pursuant to Section 301 of the Trade Act of 1974 Against the Tariff and Non-Tariff Barriers Restricting Exports of Leather to Japan.

Thomas F. Shannon, Lauren R. Oldak, 1055 Thomas Jefferson Street NW., Washington, D.C. 20007. *Counsel to the Tanners' Council of America, Inc.*

Collier, Shannon, Rill, Edwards & Scott, Washington, D.C. 20007, 202-337-6000, August 4, 1977.
1055 Thomas Jefferson Street NW.,

BEFORE THE OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Tanners' Council of America, Inc., Complainant.

Complaint Pursuant to Section 301 of the Trade Act of 1974.

COMPLAINT

Pursuant to Section 301 of the Trade Act of 1974, 19 U.S.C. § 2411 (Supp. 1977) and Section 2006.0 et seq. of Title 15 of the Code of Federal Regulations, the Tanners' Council of America, Inc. (TCA), a nonprofit trade association that represents virtually the entire leather tanning industry in the United States, charges that Japan has maintained quantitative restrictions and excessive tariffs on imports of leather (TSUS 121.10-TSUS 121.65) into its home market, thereby frustrating the attempts of the U.S. leather industry to export its products to Japan.

Such trade barriers violate the prohibitions contained in Section 301(a)(1) of the Trade Act of 1974 which expressly authorizes Presidential action when a foreign country "maintains unjustifiable or unreasonable tariff or other import restrictions which impair the value of trade commitments made to the United States or which burden, restrict, or discriminate against United States commerce • • • ." 19 U.S.C. § 2411(a)(1) (Supp. 1977).

Because these unreasonable and unjustifiable impediments to international trade have contributed to the decline of the American leather industry which has lost more than 30 percent of its production and employment in recent years, relief is clearly merited under the provisions of Section 301 of the Trade Act of 1974. Complainant requests a public hearing pursuant to Section 301(d)(2) of the Trade Act of 1974, 19 U.S.C. § 2411(d)(2) (Supp. 1977), and declares that it has not filed for other forms of relief available under the Trade Act of 1974 or any other provisions of law.

I. Japanese Tariff and Non-Tariff Barriers Affecting Imports of Leather Have Burdened, Restrained and Discriminated Against U.S. Commerce.

A. Japanese Tariff and Non-Tariff Barriers. In order to restrict access to their leather market, the Japanese government has maintained high tariffs and quantitative restrictions on imports of leather. See Exhibit I. In 1976, the duties on cattlehide, calf skin, sheep skin and goat skin leather were 20 percent, in contrast to the 5 percent duty assessed by the United States on imported cattlehide leather and the average 6 percent duty levied on all imported leather.

In addition to this excessive tariff, Japan imposes import quotas on leather, setting a total quota estimated to be $8.7 million last year. For the United States, it is estimated that the quota was limited to $2.5 million. This contrasts sharply with the estimated size of the Japanese leather market as indicated by Japanese imports of leather-making raw material of $290 million in 1976 (see Exhibit II), from which an estimated $600 million worth of leather was produced.[1]

Besides the numerical limitations of the Japanese import quota system, there are also administrative obstacles that further inhibit the ability of U.S. tanners to sell in this market.

(1) There are difficulties in determining the quota ceiling and identifying holders of the quota.

(2) Often Japanese quota holders will restrict access to them for competitive or other reasons.

(3) The import quotas have a price.

(4) The ambiguous nature of the system makes it impossible for either a willing seller or willing buyer to make plans for the utilization of the available quotas.

B. Injury Resulting from Restrictive Trade Practices. The consequences to the U.S. leather industry in the Japanese market are obvious. Because of the infinitesimal size of the quotas and the administrative difficulties placed in the way of their implementation, even the small quotas available to U.S. tanners have not been filled. In 1976, U.S. firms were only able to sell $1.6 million worth of leather to Japan, even though the U.S. quota was an estimated $2.5 million. It is therefore unprofitable for both the U.S. seller and Japanese buyer to expend a great deal of effort for so limited an opportunity.

However, the inability of U.S. tanners to sell their leather in Japan is clearly not due to either price or quality considerations. During March 1977, the Tanners' Council presented a leather show in Tokyo featuring leather produced by 28 American firms. Customer response to the leathers on display was favorable. Unfortunately, the restrictive Japanese trade polices and practices almost completely negated efforts of buyers and sellers to trade.

That U.S. exports of leather to Japan would be much higher if these trade barriers were removed is obvious from recent export statistics. In the past several years, the U.S. tanning industry has made a major effort to expand its exports of leather and it has been highly successful. Total exports of leather have more than doubled from $66.7 million in 1972 to more than $139 million in 1976. See Exhibit III. Exports to other Far Eastern countries including Korea, Taiwan, Hong Kong and the Philippines have almost tripled, in sharp contrast to exports to Japan which have remained almost constant during this same period. See Exhibit III. In fact, it is probable that the U.S. leather industry would have had even greater success in selling to the Japanese market, given the fact that Japanese labor costs for the production of leather are considerably higher than those in the other Far Eastern countries.

Unfortunately, the burden on the U.S. industry is not even limited to the restrictions on access to the Japanese market. As a result of these protectionist policies, the flow of leather-making raw material, leather and finished products has been completely distorted. With the umbrella of a completely protected home market, the Japanese have been able to operate in the U.S. raw material market without relevance to actual market value. Using hide purchasing methods which are comparable to the operations of nonmarket or controlled economies, Japan was able to absorb more than 20 percent of all U.S. hides last year. Because Japan buyers have been able to preempt supply, domestic tanning companies who must operate in an

[1] However, even this $600 million figure underestimates the size of the Japanese leather market because leather produced from Japanese hides is not taken into account because there are no statistics available on Japanese hide production.

VOL 42 NO 163 TUE AUG 23 77 UM

open marketplace have been shut out of their own customary sources of supply.

In addition, the United States tanning industry has also been adversely affected by restrictive Japanese trade policy in third world markets. At leather trade shows held in March and April of this year in Korea, the Republic of China and Hong Kong, it became evident that Japanese tanners dominated the market. They were able to considerably undersell American companies in these countries, possibly because the profits earned in their protected home market where the prices of Japanese leather were significantly higher than U.S. prices for comparable leathers enabled them to charge less abroad.

Thus, not only is the American leather industry prevented from selling its products in Japan because of these insurmountable trade barriers, they are also rapidly losing the raw materials in the United States to these same Japanese competitors who profit considerably from their protected home market and place American tanners at a competitive disadvantage in other leather markets. Such restrictive trade practices clearly burden, restrict and discriminate against U.S. commerce within the meaning of Section 301(a)(1) of the Trade Act of 1974 and have contributed substantially to the injury suffered by this industry which has seen its production and employment drop by more than 30 percent in the past eight years.

II. Japanese Excessive Tariffs and Quantitative Restrictions Against Imports of U.S. Leather are Unreasonable Within the Meaning of Section 301

Section 301(a)(1) of the Trade Act of 1974 authorizes the President to take retaliatory action when a foreign country maintains "unreasonable tariff or other import restrictions" which the Senate Finance Committee Report defines as "restrictions which are not necessarily illegal but which nullify or impair benefits accruing to the United States under trade agreements or which otherwise discriminate against U.S. commerce."

In this instance, it is clear that the 20 percent ad valorem duties are unreasonable tariff restrictions in that they are meant to serve as trade barriers, not as sources of revenue, and as such contrast sharply with the average 6 percent duties levied by the United States on leather imports. In addition, the Senate Finance Committee Report specifically listed quotas and licensing systems among the practices which were to be considered discriminatory against U.S. commerce.

It was without question the intent of Congress that immediate and effective action be taken to eliminate such unreasonable trade practices. According to the Report, "[t]he Committee's intention generally has been to assure a swift and certain response to foreign import restrictions * * *," emphasizing that "these powers be exercised vigorously to insure fair and equitable conditions for U.S. commerce." The Committee warned that it did not intend the President's retaliation authority to be "a dead letter," stating:

Foreign trading partners should know that we are willing to do business with them on a fair and free basis, but if they insist on maintaining unfair advantages, swift and certain retaliation against their commerce will occur. The Committee feels that the authorities contained in this provision will serve as negotiating leverage to eliminate those barriers to, and other distortions of trade which Title I of this bill gives the President broad authority to harmonize, reduce or eliminate on a reciprocal basis. The authority in this section should not be used frivolously or without justification. *The Committee feels, however, that there must be a credible threat of retaliation whenever a foreign nation treats the commerce of the United States unfairly.* (Emphasis added.)

It is therefore clear that the President has and must exercise the authority to take retaliatory action against Japan for the trade barriers it has erected against imports of American leather. Insurmountable tariff barriers and impenetrable quantitative restrictions halt the free flow of trade and must be stricken in the interests of fair international trade.

III. The quantitative Restrictions Imposed on Imports of U.S. Leather Into Japan Are Unjustifiable Within the Meaning of Section 301

The quotas imposed on imports of U.S. leather into Japan are also an unjustifiable restriction which burdens, restricts and discriminates against U.S. commerce within the meaning of Section 301(a)(1) of the Trade Act of 1974. According to the Senate Finance Committee Report, an unjustifiable restriction is one which is "illegal under international law or inconsistent with international obligations." Although a trade practice need not be illegal to warrant retaliatory action, the quantitative restrictions maintained by Japan in the instant case directly contravene the General Agreement on Tariffs and Trade (GATT).

The first paragraph of Article XI of the GATT expressly prohibits quantitative restrictions:

No prohibitions or restrictions other than duties, taxes or other charges, *whether made effective through quotas,* import or export licenses or other measures, *shall be instituted* or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party. (Emphasis added.)

The critical necessity for abolishing all quantitative restrictions was underscored in the preparatory work for the GATT obligations and was most vehemently expressed by one of the chief U.S. negotiators:

> Quantitative restrictions * * * impose rigid limits on the volume of trade. They insulate domestic prices and production against the changing requirements of the world economy. They freeze trade into established channels. They are likely to be discriminatory in purpose and effect. They give the guidance of trade to public officials; they cannot be divorced from politics. They require public allocation of imports and exports among private traders and necessitate increasing regulation of domestic business. Quantitative restrictions are among the most effective methods that have been devised for the purpose of restricting trade. They make for bilateralism, discrimination, and the regimentation of private enterprise.

Thus, the Japanese quotas on leather violate the express ban on quantitative restrictions contained in the General Agreement. Nor do the Japanese quotas fall within the scope of any of the limited exceptions to this GATT prohibition. Quotas on imports of leather were not imposed as a temporary measure to "prevent or relieve" critical shortages of "foodstuffs" or "other products essential to the exporting contracting party" and are not "necessary to the application of standards or regulations for the classification, grading or marketing of commodities in international trade. * * *" Nor are they agricultural or fisheries products which need quotas to implement governmental programs involving restricted domestic production and price support systems.

But perhaps most importantly, these particular quantitative restrictions do not qualify for the balance-of-payments exception permitted by the General Agreement. Although that justification might have been persuasive in the post-World War II period, it can no longer be used to rationalize this discrimination against U.S. commerce. Clearly, the Japanese cannot now meet the criteria for this exception which permits a country to impose quotas in order to "forestall the imminent threat of, or to stop, a serious decline in its monetary reserves" or "to achieve a reasonable rate of increase in its very low reserves" on the express condition that it "progressively relax" the quantitative restrictions as balance of payments improve and "eliminate the restrictions when conditions would no longer justify their institution or maintenance. * * *"

Even the Japanese have acknowledged the dubiousness of this justification. In a communique issued by the GATT in March 1963, contracting parties were advised that the Japanese government had informed the executive secretary "that in view of the improvement in its balance-of-payments situation, Japan no longer claims balance-of-payments justification under Article XII of the GATT for the maintenance of import restrictions." In fact, three years later, bovine, sheepskin, goatskin and patent leather were included in Japan's list of articles which were subject to "quantitative import restrictions applied contrary to GATT and not covered by waivers."

With the evaporation of this rationale for the maintenance of quantitative restrictions on leather, the Japanese now insist that they cannot discontinue the quotas because most leather tanning is performed by a minority group, the Buraku-Min, which is unemployable in other vocations. However, such a justification is suspect since the Japanese leather industry has increased by a factor of 12 in the 30 years since the imposition of restrictive measures and it is inconceivable that this minority group could have grown at a comparable rate during the same period of time.

Moreover, the General Agreement on Tariffs and Trade does not authorize restrictions on international trade for the purpose of providing permanent protection to a domestic industry after balance-of-payment excuses wane. In fact, commentators on the GATT have expressed grave concern over such residual restrictions:

> Although quantitative restrictions may originally be imposed for balance-of-payments reasons, they provide protection for domestic industry. When balance-of-payments considerations no longer justify retention of such restrictions, the domestic firms involved may have become so dependent upon the protection thus afforded that they no longer have the competitive vigor to survive the return of international competition. In some cases balance-of-payments-motivated restrictions may lead to the development of new domestic industries that never could be viable in international competition. An attempt to suspend those restrictions when payments imbalances finally disappear may present political and social problems of major dimensions.

Such a situation is directly contrary to the letter and spirit of the GATT; yet, it has apparently happened in the instant case. Although the Japanese may not legally restrict trade under the General Agreement because of its minority employment problem, it has proceeded to do so in derogation of the principles of free international trade and to the detriment of the employees in the U.S. leather tanning industry, many of whom are also members of minority groups and who

are frequently located in rural areas where alternative employment is unavailable.

It is therefore clear that the continued imposition of quotas on U.S. leather exports to Japan violates the ban on quantitative restrictions in Article XI of the General Agreement on Tariffs and Trade and, regardless of its legality under Article XII, constitutes a prima facie nullification and impairment of the benefits and objectives of the General Agreement as provided in Article XXIII of the GATT.

IV. Conclusion

The United States does not maintain any quantitative restrictions on leather and levies duties which average 6 percent. The open market of the U.S. stands in stark contrast to the protected market of Japan which is insurmountably surrounded by 20 percent tariffs and stringent quotas. The American leather tanning industry, one of the most efficient and productive in the world, merely asks for an equal opportunity to trade its product freely in Japan so that it can regain the employment and production that it has lost as a result of such restrictive practices. The Tanners' Council of America, Inc., therefore seeks remedial action under the provisions of Section 301 of the Trade Act of 1974.

Respectfully submitted,

THOMAS F. SHANNON,
LAUREN R. OLDAK,
Counsel for the Tanners' Council of America, Inc.

Of Counsel: Collier, Shannon, Rill, Edwards & Scott, 1055 Thomas Jefferson Street NW., Washington, D.C. 20007, 202-337-6000, August 4, 1977.

EXHIBIT I

1. Past Leather Import Quotas: 1/

	JFY 72	JFY 73	JFY 74	JFY 75
	(Mil. dol.)			
Cattle hide and calf skin leather	4.25	6.8	7.1	6.95
Global	3.25	4.3	4.6	4.65
U.S. Exclusive 2/	1.0	2.5	2.5	2.3
Sheep skin leather	0.7	0.78	0.78	0.78
Blue hide	0.65	0.65	0.65	0.65
Total	5.60	8.23	8.53	8.38

1/ Unobtainable for JFY 76
2/ Established from the 2nd half of JFY 72

2. Leather Import Restrictions and Rates of Duty:

	Restrictions	Rate of Duty (%)
Cattle hide leather, dyed, colored or embossed	I.Q.	20 or 10 preferential
Calf skin leather, dyed, colored or embossed	I.Q.	20 or 10 preferential
Sheep skin leather, dyed, colored or embossed	I.Q.	20 or 10 preferential
Pig skin leather, dyed, colored or embossed	Free	10 or 0 preferential
Composite leather made from leather or leather fibre, in slubs, sheets or rolls	Free	7.5 or 0 preferential
Goat skin leather, dyed colored or embossed	I.Q.	20 or 10 preferential

Source: Customs Bureau, Ministry of Finance, GOJ

V42163 AUG 23 77 UM

EXHIBIT I (cont.)

3. Leather Import Statistics 1/

	U.S.		All	
	MT	$1,000	MT	$1,000
Cattle hide leather				
CY 1975	13(33)	101(45)	40(100)	222(100)
CY 1976	21(72)	205(62)	29(100)	331(100)
Calf skin leather				
CY 1975	a/(-)	1 (-)	60(100)	1,371(100)
CY 1976	1 (2)	14 (1)	48(100)	1,119(100)
Sheep skin leather				
CY 1975	0 (0)	0 (0)	52(100)	631(100)
CY 1976	a/(-)	1 (-)	19(100)	867(100)
Pig skin leather				
CY 1975	35(85)	303(50)	41(100)	609(100)
CY 1976	26(76)	246(42)	34(100)	584(100)
Composite leather				
CY 1975	0 (0)	0 (0)	3,134(100)	2,903(100)
CY 1976	0 (0)	0 (0)	3,194(100)	2,861(100)
Goat leather				
CY 1975	4 (7)	149 (8)	60(100)	1,900(100)
CY 1976	3 (3)	170 (4)	105(100)	3,853(100)

1/ Figures in ( ) are U.S. shares in percent.

a/ Not available.

SCOURCE: Customs Bureau, Ministry of Finance, GOJ

JAPANESE IMPORTS OF AGRICULTURAL COMMODITIES, TOTAL, FROM U.S., AND U.S. SHARE, CY 1972-1976

	Total Imports					U.S. Share				
	1972	1973	1974	1975	1976	1972	1973	1974	1975	1976 1/
Bulk Commodities	(Million Dollars)					(Percent)				
Soybeans	474	765	879	942	841	92	87	90	91	92
Wheat	361	656	1,025	1,117	1,053	49	67	65	53	56
Corn	379	734	1,227	1,138	1,113	57	83	74	71	74
Grain Sorghum	215	348	605	541	520	59	70	61	54	54
Soybean Meal	7	63	29	3	42	86	81	93	-	59
Alfalfa Meal & Cubes	27	35	49	37	56	78	80	65	62	61
Cotton	609	692	1,020	827	910	18	28	30	33	28
Tobacco	126	135	198	289	308	65	68	61	64	69
Hides & Skins	166	209	165	158	290	80	83	82	75	77
Beef Tallow	45	90	94	66	90	62	64	77	41	45
Subtotal	2,399	3,727	5,291	5,118	5,223	35	69	65	62	62
Consumer Ready-Items										
Lemons	38	47	57	50	52	100	100	100	99	100
Grapefruit	33	36	51	60	61	100	94	94	89	92
Raisins	12	14	15	20	20	100	94	73	78	84
Prunes	1	1	1	1	1	58	36	35	90	89
Canned Peaches	6	11	9	6	12	83	83	17	18	33
Fruit Cocktail	1	2	2	1	2	44	18	17	18	33
Almonds	12	21	22	12	20	80	80	80	66	68
Pulses	34	33	41	35	58	100	100	100	100	100
Peanuts	24	39	36	40	57	15	15	24	31	12
Beef	79	293	135	75	164	3	11	19	21	23
Pork	99	233	92	308	407	30	32	12	33	34
Poultry Meat	22	27	32	27	47	32	41	44	60	60
Subtotal	361	757	493	835	901	40	32	44	46	43
Others	2,703	4,133	5,369	5,539	5,849	4	6	6	5	7
Total	5,463	8,617	11,153	11,292	11,973	29	35	36	33	34

1/ Less than $500,000.

Source: Customs Bureau, Ministry of Finance, GOJ

V42N163 AUG 23 77 UM

EXHIBIT III*

U.S. FOREIGN TRADE IN LEATHER

($1,000)

	Total U.S. Leather Exports	U.S. Leather Exports to Japan	U.S. Leather Exports to Korea, Taiwan, Hong Kong, Philippines
1972	66,706	1,283	10,730
1973	82,914	2,371	12,903
1974	102,116	1,494	16,028
1975	140,497	2,127	18,478
1976	139,265	1,574	30,641

HEARINGS

I. The complainant has requested that hearings be held on this matter. Such hearings will be held at 10 a.m. on Tuesday, October 11, 1977, and if necessary will continue on October 12 at the Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C., Room 730.

II. Requests to present oral testimony and accompanying briefs must be received on or before October 3, 1977. Interested persons are advised to refer to the regulations promulgated by the Office of the Special Representative for Trade Negotiations covering procedures to be followed in all Section 301 proceedings, 15 CFR 2006, (40 FR 39497—August 28, 1975), except that all communications to the Chairman of the Section 301 Committee should be addressed to the Office of the Special Representative for Trade Negotiations, *Room 715*, 1800 G Street NW., Washington, D.C., 20506, instead of Room 725 as specified in the regulations.

1. *Submission of Briefs and Requests to Present Oral Testimony.* Requests for oral testimony and submission of written briefs should conform to the procedures set forth in 15 CFR 2006.6 and 2006.7 (40 FR 39497—August 28, 1975).

2. *Rebuttal Briefs.* In order to assure parties the opportunity to contest information provided by other interested parties, rebuttal briefs may be filed by any party within 15 days after the close of the hearings. The requirement that written briefs be submitted in 20 copies is waived with regard to rebuttal briefs.

3. *Attendance at Hearings.* The hearings will be open to the public.

C. MICHAEL HATHAWAY,
Chairman, Section 301 Committee, Office of the Special Representative for Trade Negotiations.

[FR Doc.77-24298 Filed 8-22-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 9894; 812-4117]

COLONIAL OPTION INCOME FUND, INC. AND COLONIAL MANAGEMENT ASSOCIATES, INC.

Order To Permit an Offer of Exchange and for an Exemption

AUGUST 17, 1977.

Colonial Option Income Fund, Inc. ("Fund") 75 Federal Street, Boston, Massachusetts 02110, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), and Colonial Management Associates, Inc., the investment adviser to and the principal underwriter for the Fund (collectively "Applicants"), filed an application on April 4, 1977, and an amendment thereto on July 5, 1977, for an order of the Commission (1) pursuant to Section 11(a) of the Act, to permit the Fund to offer its shares in exchange for those shares of Standard & Poor's/InterCapital Liquid Asset Fund, Inc. ("S&P") which were originally acquired with proceeds from the redemption of Fund shares and from additional S&P shares received through reinvestment of dividends and capital gains distributions, upon payment of a $5 exchange fee, and (2) pursuant to Section 6(c) of the Act, to exempt Applicants from Section 22(d) of the Act and the rules thereunder to the extent necessary to permit the sale of Fund shares through such exchange offers without the customary sales charge.

On July 21, 1977, a notice (Investment Company Act Release No. 9863) was issued of the filing of said application. The notice gave interested persons an opportunity to request a hearing and stated that an order disposing of the application would be issued as of course unless a hearing should be ordered. No request for a hearing has been filed and the Commission has not ordered a hearing.

The matter has been considered and it is found that the granting of the application is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Accordingly,

It is ordered, pursuant to section 11(a) of the Act, that the proposed exchange offers be, and hereby are, approved, effective forthwith; and

It is further ordered, pursuant to section 6(c) of the Act, that the application for exemption from section 22(d) of the Act and the rules thereunder, to the extent requested, be, and hereby is, granted, effective forthwith.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc 77-24335 Filed 8-22-77;8:45 am]

[Rel. No. 9895; 812-4139]

E. I. DU PONT DE NEMOURS & CO.

Filing of Application for Order of Exemption

AUGUST 17, 1977.

Notice is hereby given that E. I. du Pont de Nemours and Company ("Applicant") 1007 Market Street, Wilmington, Delaware 19898, a Delaware corporation, has filed an application on May 25, 1977, pursuant to Section 17(b) of the Investment Company Act of 1940 ("Act") for an order exempting from the provisions of Section 17(a) of the Act Applicant's proposed grant to Mitsui Fluorochemicals Company, Ltd. ("Mitsui"), a Japanese corporation, of an exclusive license, with the right to grant sublicenses, to certain patent rights and technical information. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that Mitsui, a manufacturer and seller of fluorinated hydrocarbon products since 1963, seeks to acquire an exclusive license, with the right to grant sublicenses, to use certain technology developed by Applicant relating to fluorocarbon resin pellets ("PFA polymers") for use in molding a variety of products which require high resistance to strong chemicals and extremely high temperatures.

According to the application, Applicant and Mitsui have executed an agreement (the "Agreement") providing for the grant of such a license. The application states that, under the Agreement, the transfer of Mitsui of Japanese patent rights and technical information is nonexclusive pending receipt of the exemptive order requested in the application, and that approval of the transaction by appropriate Japanese governmental authorities was received on April 19, 1975. The application also states that, pursuant to the Agreement, Mitsui has agreed to pay Applicant a royalty of 5% of the Net Selling Price, as defined in the Agreement, of all quantities of PFA polymers used or sold by Mitsui or any Mitsui sublicensee during the ten-year period beginning as of the first day of the calendar quarter immediately succeeding the date of the first sale or use for commercial purposes of PFA polymers made by Mitsui or any sublicensee of Mitsui after January 17, 1975; that those royalties are payable by Mitsui within 60 days after the end of each calendar quarter during such ten-year period; and that, as of May 23, 1977, Mitsui has paid Applicant $17,886.79 in such royalties.

The application states that Christiana Securities Company ("Christiana"), a non-diversified, closed-end management investment company registered under the Act, owns approximately 27.7% of the outstanding common stock of Applicant, which in turn owns 50% of the outstanding common stock of Mitsui. The application further states that the remaining 50% of Mitsui's outstanding common stock is owned by Mitsui Petrochemical Industries, Ltd., a Japanese corporation. Applicant concludes that both Applicant and Mitsui are (1) presumed to be controlled by Christiana, and (2) affiliated persons of Christiana, for purposes of the Act.

Section 17(a) of the Act provides, in part, that it shall be unlawful for any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, knowingly to sell to or purchase from such registered company, or any company controlled by such company, any security or other property. Applicant states that the proposed grant to Mitsui of the exclusive rights described above may be prohibited by Section 17(a), and it therefore requests an order exempting that proposed grant from the provisions of Section 17(a).

Section 17(b) of the Act provides that the Commission, upon application, shall exempt a proposed transaction from the provisions of Section 17(a) of the Act if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Applicant asserts that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person, and that the royalties payable on PFA polymers and the future rights to technology developed by Applicant reasonably reflect the value of the patent rights and technical information conveyed by the Agreement.

The application states that Mitsui maintains only a limited research and development organization and, therefore, must purchase technology from others. The application also states that Mitsui desires the above-described patent rights and technical information because of the lower cost advantages of domestic production and the broader product base they would bring to Mitsui. Applicant asserts that its granting of access to such technology to Mitsui would provide Applicant with an opportunity to capitalize on such technology in the Japanese market.

Finally, Applicant submits that the proposed transaction is consistent with the policies of Christiana and with the general purposes of the Act.

Notice is further given that any interested person may, not later than September 9, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-24336 Filed 8-22-77;8:45 am]

[Rel. No. 5855; File No. 18-4]

H.R. 10 PPROFIT SHARING PLAN OF PEPPER, HAMILTON & SCHEETZ

Notice of Filing of Application for an Order of Exemption

AUGUST 16, 1977.

Notice is hereby given that the law firm of Peper, Hamilton & Scheetz, ("Applicant" or the "Firm") 123 South Broad Street, Philadelphia, Pa. 19109, a Philadelphia partnership, has by application filed March 15, 1977, applied for an exemption from the registration requirements of the Securities Act of 1933 (the "Act") for any participations or interests issued in connection with Applicant's H.R. 10 Profit Sharing Plan. All interested persons are referred to these documents, which are on file with the Commission, for the facts and representations contained therein, which are summarized below.

I. INTRODUCTION

The Plan, as of September 1, 1976, covered 215 participants, of whom 49 were partners, 44 were associates, and 122 were clerical, secretarial and other staff employees of Applicant. During the period prior to August 31, 1976, no solicitation of voluntary contributions was made and no persons other than partners of the Firm ever made voluntary contributions. The Plan is of the type commonly referred to as a "Keogh" plan, which covers persons (in this case Applicant's partners) who are employees within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954, as amended ("Code"), and therefore, the exemption provided by Section 3(a)(2) of the Securities Act is inapplicable to the Plans. Section 3(a)(2) provides, however, that "the Commission, by rules and regulations or order, shall exempt from the provisions of [Section 5 of the Securities Act] any interest or participation issued in connection with a stock bonus, pension, profit-sharing, or annuity plan which covers employees some or all of whom are employees within the meaning of (S)ection 401(c)(1) of the (Code), if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of (the Securities Act)."

II. DESCRIPTION AND ADMINISTRATION OF THE PLAN

The Plan was originally adopted in 1968. The present plan, as amended to comply with revisions of the Code and ERISA requirements, has been in effect since September 1, 1976. Applicant has submitted the Plan, as revised, to the Internal Revenue Service for a determination that the Plan is qualified under Section 401(a) of the Code. Applicant contributes to the Plan on behalf of participants out of the net earnings of the Firm in an amount equal to 15% of each participant's compensation up to the maximum compensation subject to Federal Insurance Contributions Act taxes plus 8¾% of each participant's compensation in excess thereof up to $100,000 of total compensation. Under the Plan, participants may make voluntary contributions to the Plan of up to 10% of such participant's aggregate compensation for all years during which the person had been a participant subject to certain limitations. By administrative rule voluntary contributions will be accepted only during the last two weeks of the last month of each quarter.

Funds held by the Plan are invested in two collective investment funds maintained solely and separately for the investment of assets of the Plan. No funds

V42163 AUG 77 UM

of any other plan or person are commingled or invested with these funds. Assets of the Plan are divided between a discretionary fund having as its objectives long term growth and low risk to the extent consistent with such long term growth and an income fund having as its objectives the long term preservation of capital, minimization of interim principal volatility and high current income return. The Plan's discretionary fund invests in equity securities of companies with a past record of consistency in growth of earnings and dividends, relatively high profit margins and ability to finance growth internally with little or no dependence on external capital sources. The portfolio of the discretionary fund will be managed by Cooke & Bieler, Inc., a registered investment adviser. The income fund will invest in agency bonds such as bonds of the Federal Home Loan Bank, bank certificates of deposit, bankers' acceptances, commercial paper, convertible debentures, industrial and finance company bonds and United States Treasury bills. The portfolio of the income fund will be managed by The Fidelity Bank.

Monies contributed by the Firm are maintained in an Employer Account; voluntary contributions by participants are maintained in an Employee Account. Each participant may direct that the partnership contributions allocated to the Employer Account be invested entirely in the income fund or partially in the discretionary fund and partially in the income fund. At the beginning of each Plan year each participant may also direct that the investment of voluntary contributions be allocated between the discretionary fund and the income fund in such proportions as he may desire.

Administration of the Plan is in the following persons: the Executive Committee of the Partnership, the Committee appointed by the Executive Committee of the Partnership, a Plan Administrator, The Fidelity Bank which acts as Trustee to the Plan, and Cooke & Bieler, Inc. which acts as adviser to the discretionary account. The Executive Committee has the duty and authority to appoint and remove trustees, the members of the Committee and any Investment Manager. The Committee designates the investment policies, interprets the Plan and makes decisions with respect to distribution of Plan funds to the extent provided in the Plan.

The Plan is subject to the provisions of the Employee Retirement Income Security Act of 1974 ("ERISA") and Applicant will comply with all of the ERISA reporting and disclosure requirements. A summary Plan description, written in language understandable by the average participant will be delivered to each participant. A summary annual report will be delivered to each participant and persons currently receiving benefits. Each participant and person receiving benefits will be informed that the full annual report for the Plan will be available upon request. All reports and other basic documents relating to the Plans will be made available to participants for their review. Copies thereof will be supplied to participants at no charge upon request. Each participant will be furnished, upon request, not more than once a year, with a statement of his accrued and vested benefits under the Plan. An ERISA notice briefly describing to participants their rights to information has been distributed.

Applicant states that if the partnership were a corporation, interests and participants in the H.R. 10 Profit Sharing Plan would be exempt under Section 3(a)(2) of the Securities Act. Applicant further submits that the intent of Congress in excluding from the exemption plans in which self-employed persons were participants was to prevent the sale without registration of interests in prepackaged plans offered by financial institutions to self-employed persons lacking the sophistication to protect themselves and their employees and that the provision permitting the Commission to grant exemption upon application was included in Section 3(a)(2) of the Securities Act to make available an exemption for partnership plans where the plan and the entity involved are comparable to corporate plans exempted by Section 3(a)(2).

Applicant states that the Plan covers partners and employees of a single firm and assets of the Plan will not be commingled in collective investment funds with the assets of the plans of other employers.

Applicant concludes that for the foregoing reasons, granting the requested exemptive order would be appropriate in the public interest, consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than September 15, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application, accompanied by a statement of the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed to: George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Pepper, Hamilton & Scheetz, 123 South Broad Street, Philadelphia, Pennsylvania 19109, Attn: Allison Page, Esq. Proof of such service (by affidavit or, in the case of any attorney-at-law, by certificate) shall be filed contemporaneously with the request.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-24341 Filed 8-22-77;8:45 am]

PURITAN FUND, INC. AND FIDELITY MANAGEMENT & RESEARCH CO.

Order Exempting a Proposed Exchange of Shares Permitting Consumation of Certain Proposed Transactions

AUGUST 17, 1977.

On July 21, 1977, a notice was issued (Investment Company Act Release No. 9865) of an application filed on March 25, 1977, and an amendment thereto on June 17, 1977, by Puritan Fund, Inc. ("Puritan"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, and Fidelity Management & Research Company ("FMR"), 82 Devonshire Street, Boston, Massachusetts 02109, investment adviser to Puritan, for an order of the Commission pursuant to Section 6(c) of the Act exempting from the provisions of Section 22(c), Rule 22c-1 and Section 22(d) of the Act the proposed exchange of Puritan shares at net asset value without a sale charge and at a price other than the price next determined after receipt of a purchase order for substantially all of the assets of Blanchard Investment Company, Inc., a personal holding company; and an order pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder permitting an agreement between Puritan and FMR calling for Puritan and FMR each to bear one-half of Puritan's out-of-pocket expenses related to the above proposed exchange of shares up to a maximum of $5,000, and for all of such out-of-pocket expenses in excess of $5,000 to be borne by FMR.

The notice gave interested persons an opportunity to request a hearing, and stated that an order disposing of the application would be issued as of course unless a hearing should be ordered. No request for a hearing has been filed and the Commission has not ordered a hearing.

The matter has been considered, and it is found that the granting of the requested exemptions is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act, and that the participation by Puritan in the proposed transactions is consistent with the provisions, policies and purposes of the Act and is not on a basis less advantageous than that of any other participant. Accordingly,

It is ordered, pursuant to Section 6(c) of the Act, that the application for exemption from Sections 22(c), Rule 22c-1 and 22(d) of the Act, to the extent requested, be, and hereby is, granted, effective forthwith.

It is further ordered, pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder, that said application to permit the consummation of the proposed transactions between Puritan and FMR be, and hereby is, granted, effective forthwith.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-24342 Filed 8-22-77;8:45 am]

[Rel. No. 9897; 811-1515]

TRUST FUND SPONSORED BY SCHOLARSHIP CLUB, INC.

Proposal to Terminate Registration

AUGUST 17, 1977.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion, that the Trust Fund Sponsored by the Scholarship Club, Inc. ("Fund") c/o Calvert Courtney, P.O. Box 998, Palmetto, Florida 33561, registered under the Act as a closed-end management investment company, has ceased to be an investment company as defined in the Act.

The Fund was organized in 1961 under the laws of the State of Florida, and commenced the sale of its scholarship plans ("Plans") in 1962. The Fund suspended sales of these Plans sometime prior to 1967. On July 17, 1967, the Fund registered under the Act, and on September 26, 1967, it filed a registration statement (File No. 2-27353) on Form S-6 under the Securities Act of 1933 to cover the sale of new scholarship plans. This registration statement was declared effective on October 6, 1969, and information in the Commission's files discloses that 1300 new Plans were sold between October 6, 1969, and May, 1975, making a total of 5,150 Plans outstanding as of that date. Due to certain problems which developed in the management and administration of the Fund the Department of Insurance of the State of Florida sometime in 1975 decided to take action to have the Fund liquidated. A proceeding entitled *State of Florida, ex rel The Department of Insurance* (Realtor) vs. *The Scholarship Club, Inc.*, (Respondent), was filed in the Circuit Court, Second Judicial Circuit for Leon County Florida, Civil Action No. 75-1701. That Court issued an order on August 26, 1975, appointing the Florida Department of Insurance as Receiver of the Fund's property and affairs for the purpose of supervising the liquidation of the Fund. On March 9, 1977, that Court issued an Order of Final Distribution causing the Fund to be liquidated and its assets distributed to participating Fund members and trustees of Fund members. The Division of Rehabilitation and Liquidation of the State of Florida Department of Insurance has advised the Commission by letters dated May 16, 1977, and August 9, 1977, that the Order of Final Distribution was implemented on March 18, 1977, and therefore the Fund ceased to exist on that date. Specifically, the staff of the Commission has been advised that the Fund has no assets or liabilities currently outstanding.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order, which may be made upon appropriate conditions if necessary for the protection of investors, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 12, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of this matter will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request, or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-24343 Filed 8-22-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1360]

ALABAMA

Declaration of Disaster Loan Area

The following 62 counties, and adjacent counties, in the State of Alabama constitute a disaster area as a result of drought caused by severe crop losses during the 1976 crop year and continuing into the 1977 crop year:

Autauga	DeKalb
Baldwin	Elmore
Barbour	Escambia
Bibb	Etowah
Blount	Fayette
Bullock	Franklin
Butler	Geneva
Calhoun	Greene
Chambers	Hale
Cherokee	Henry
Chilton	Houston
Choctaw	Jackson
Clarke	Jefferson
Clay	Lamar
Cleburne	Lee
Coffee	Lowndes
Conecuh	Macon
Coosa	Marengo
Covington	Marion
Crenshaw	Marshall
Cullman	Mobile
Dale	Monroe
Dallas	Montgomery
Morgan	Sumter
Perry	Talladega
Pickens	Tallapoosa
Pike	Tuscaloosa
Randolph	Walker
Russell	Washington
Shelby	Wilcox
St. Clair	Winston

Eligible persons firms and organizations may file applications for loans for physical damage until the close of business on Oct. 14, 1977, and for economic injury until the close of business on June 15, 1978, at:

Small Business Administration, District Office, 980 South 20th Street, Birmingham, Ala. 02114.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 12, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-24296 Filed 8-22-77;8:45 am]

FIRST SOUTHERN CAPITAL CORP.

[License No. 06/12-0023]

Application for Transfer of Control of Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA), pursuant to Section 107.701 of the regulations governing small business investment companies (13 CFR Section 107.701 (1977)), for transfer of control of First Southern Capital Corporation (FSCC), Suite 1216 Commerce Building, 821 Gravier Street, New Orleans, La. 70112, a Federal Licensee under the Small Business Investment Act of 1958, as amended (The Act), (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

FSCC was licensed on May 11, 1961, and its present capitalization is $1,028,224. It is proposed that Crabtree Investments, Inc. (CII), One American Place, Baton Rouge, La. 70825, purchase 357,904 shares of FSCC's issued and outstanding common stock from First National Bank of Commerce, New Orleans, La. These shares represent approximately 49 percent of FSCC's issued and outstanding stock, and, accordingly, CII will effectively control FSCC. There is only one class of stock authorized.

CII is a Louisiana corporation which was organized in July 1974 and is owned 100 percent by John H. Crabtree, 3551 S. Lakeshore Drive, Baton Rouge, La. 70808. It is registered with the Securities and Exchange Commission as an investment advisor, and its principal activities to date have been furnishing investment and management services to commercial banks in Louisiana.

The proposed transfer of control is subject to the approval of SBA. If such approval is given, Mr. Crabtree will become a director of FSCC. There will be no change in FSCC's charter or bylaws.

Matters involved in SBA's consideration of the application include the gen-

eral business reputation and character of management and shareholders, and the probability of successful operations of FSCC under their management in accordance with the Act and Regulations.

Notice is further given that any person may, not later than September 2, 1977, submit to SBA in writing, comments on the proposed transfer of control of this company. Any such comments should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice will be published by FSCC in a newspaper of general circulation in New Orleans, La.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 12, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-24297 Filed 8-22-77;8:45 am]

[Declaration of Disaster Loan Area #1359]

MASSACHUSETTS

Declaration of Disaster Loan Area

The Millville Mill Complex on Main Street in the town of Millville, Worcester County, Mass., constitutes a disaster area because of damage resulting from a fire which occurred on June 8, 1977.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 17, 1977, and for economic injury until the close of business on May 15, 1978, at:

Small Business Administration, District Office, 150 Causeway Street, Boston, Mass. 02114.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 16, 1977.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc.77-24329 Filed 8-22-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA General Docket H-77-3]

ASSOCIATION OF AMERICAN RAILROADS

Power Brake Test Program

Notice is hereby given that the Association of American Railroads (AAR) has petitioned the Federal Railroad Administration (FRA) for a temporary waiver of compliance with the testing and repair requirements of 49 CFR 232.-17(a)(1) and (b). The temporary waiver is requested in order to conduct a limited study and evaluation of the safe service life and reliability of a specific type of power brake equipment.

The current provisions, which establish the intervals for the testing and repair of freight car brake equipment, require that freight cars equipped with ABD type valve components be given cleaning, oiling, testing and stenciling (COT&S) attention at periods which do not exceed 120 months. These provisions were premised on prior limited test programs which were sponsored and supervised by the AAR.

In generalized terms those earlier tests obtained evidence of valve component conditions by sampling inspections which were conducted after specific time periods. These prior tests were limited in scope and primarily involved open top hopper cars.

The test program being proposed by AAR would utilize a variety of freight car equipment which is owned by five railroads. Approximately 2,300 freight cars, which are operated in interchange service, are proposed to be employed in this test program.

The AAR indicates that Consolidated Rail Corp., Missouri Pacific Railroad, Seaboard Coast Line, Union Pacific and Denver & Rio Grande Western will furnish the equipment to be employed in this test program. A detailed list of this equipment is provided in the appendix to this notice.

The AAR notes that a test program of this size should provide a statistically valid sample of various railroad operating practices, equipment and climatic conditions. The cars selected generally range in age from seven to ten years which should produce effective test data in the near term future.

During the period of the test program the AAR proposes to have these cars given complete COT&S attention only in the event that the equipment on a given car fails to pass an In-Date-Single Car Code of tests. Each of these cars will be subjected to an In-Date-Test when placed on a shop or repair track for any reason. The AAR also proposes to subject a minimum of twenty cars to the In-Date-Test-Procedure each year and a minimum of two cars will have their valvular portions and piston cylinder removed for examination. This additional procedure would be utilized for cars which have been in service for ten years.

In the event that a car fails to pass the In-Date-Test because of a malfunction of the valve portion or the brake cylinder, the Chief Mechanical Officer of the carrier owner will be notified. If it is necessary to provide COT&S attention to the equipment, the installed equipment will be removed and to the extent possible sent to the carrier owners air brake shop. The removed equipment will be identified as part of the test program and a report will be furnished.

Interested persons are invited to participate in this proceeding by submitting written data, views or comments. FRA does not anticipate scheduling an opportunity for oral comment on this petition since the facts do not appear to warrant it. However, an opportunity to present oral comments will be provided if any interested party requests it prior to September 9, 1977.

All communications concerning this proceeding must identify the docket designation (FRA General Docket H-77-3) and should be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before September 30, 1977 will be considered by the Federal Railroad Administration before final action is taken. Comments received after that date will be considered so far as practicable. All comments received will be available for examination during regular business hours, both before and after the closing date for comments, in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C.

(Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by Sec. 5(b) of the Federal Railroad Safety Authorization Act of 1975, Pub. L. 94-348, 90 Stat. 817, July 8, 1976; § 1.49(n) of the regulations of the Office of the Secretary, 49 CFR 1.49(n).)

Issued in Washington, D.C. on August 17, 1977.

DONALD W. BENNETT,
Chairman, Railroad Safety Board.

APPENDIX

CONSOLIDATED RAIL CORPORATION

Total Number of Cars—200.
Type of Car—Open Top Hopper.
Reporting Marks—PPLX in the series between 100 and 309.

SEABOARD COAST LINE RAILROAD

Total Number of Cars—1400.
Type of Car—Covered Hoppers.
Reporting Marks—SCL in the series between 421800 and 422399 and between 831700 and 832499.

UNION PACIFIC RAILROAD

Total Number of Cars—195.
Type of Cars—Open Top Hoppers.
Reporting Marks—UP in the series between 31900 and 31994 and between 32000 and 32099.

DENVER AND RIO GRANDE WESTERN RAILROAD

Total Number of Cars—205.
Type of Car—Open Top Hoppers.
Reporting Marks—DRGW in the series between 56995 and 56999, 16398 and 16500 and between 16763 and 16864.

MISSOURI PACIFIC RAILROAD

Total Number of Cars—200.
Type of Cars—Refrigerator Cars and Box Cars.
Reporting Marks—MP in the series between 786400 and 499 and between 794800 and 794999 for the refrigerator cars. MP in the series between 265000 and 265999 and between 271500 and 271674 for the box cars.

[FR Doc.77-24301 Filed 8-22-77;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

GRANTING OF RELIEF

Notice is hereby given that pursuant to 18 U.S.C. Section 925(c) the following named persons have been granted relief from disabilities imposed by Federal laws with respect to acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to my satisfaction that the circumstances regarding the convictions of each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

Agnes, James R., 550 Evergreen Lane, Munster, Indiana, convicted on March 12, 1957, in the United States District Court, Hammond, Ind.

Albright, Douglas K., 3800 Adams, Denver, Colo., convicted on July 5, 1973, in the Denver District Court, Colorado.

Argyle, Dale M., 764 South University, Blackfoot, Idaho, convicted on April 27, 1972, in the United States District Court for the District of Idaho.

Bailey, Donald A., 750 Sherburne, St. Paul, Minn., convicted on April 18, 1969, in the District Court, Hennepin County, Minn.

Barberini, Joseph, 110 Sherwood Avenue, Yonkers, N.Y., convicted on June 30, 1972, in the United States District Court, Southern District of New York.

Barbour, James R., Route 2, Fort Valley, Ga., convicted on May 16, 1960, in the Superior Court, Bibb County, Ga.

Bradford, Clifton R., 1434 East John Cove, Greenville, Miss., convicted on April 25, 1975, in the United States District Court, Memphis, Tenn.

Bradford, Pascal S., P.O. Box 145, Camden, Ind., convicted on September 27, 1952, in the Harrison Circuit Court, Harrison County, Ind.

Brisk, James B., Star Route, Keshena, Wis., convicted on September 8, 1959, in the County Court, Shawano County, Circuit Court Branch, Wisconsin; and on October 3, 1961, in the County Court, Shawano, Menominee Court, Circuit Court Branch, Shawano County Division, Wisconsin.

Casteel, Donald W., Box 393, Huntsville, Ariz., convicted on March 11, 1967, in the Madison County Circuit Court, Huntsville, Ark.

Castro, Gerald G., P.O. Box 314, Tijeras, N. Mex., convicted on May 21, 1976, in the Criminal District Court, Dallas County, Tex.

Clark Donald P., P.O. Box 983, Brazoria, Tex., convicted on February 24, 1969, in the District Court of Brazoria County, Twenty-Third Judicial District, Texas.

Clark, Milton, 35033 Concord Court, Mt. Clemens, Mich., convicted on October 26, 1964, and on May 7, 1968, in the Recorder's Court of the City of Detroit, Mich.; and on February 14, 1968, in the Circuit Court for the County of Wayne, Michigan.

Colburn, William C., 5927 West Avalon Drive, Phoenix, Ariz., convicted on April 18, 1957, in the Superior Court, San Diego County, California.

Cooney, John T., 4911 South Pine, Tacoma, Wash., convicted on May 27, 1971, in the Superior Court of the State of California in and for the County of Alameda.

Cornell, James M., 3537 Brown Road, Ferndale, Wash., convicted in 1962, in Oneida, N.Y.

Earnhardt, Clyde H., Jr., 4000 Dunwoody Drive, Charlotte, N.C., convicted on September 28, 1970, in the United States District Court for the Southern District of Texas.

Estep, Gordon J., 2552 West Avenue K, Lancaster, Calif., convicted on March 18, 1959, in the Brattleboro Municipal Court, Vermont.

Fernengel, Dennis M., 808 Columbia Road, Westlake, Ohio, convicted on March 2, 1967, in the Cuyahoga County Common Pleas Court, Cuyahoga County, Ohio.

Foltz, Richard B., 7602 West St. Clair, Indianapolis, Ind., convicted on April 26, 1973, in the United States District Court, Indiana.

Garza, Ruben T., 3602 West LaSalle, Phoenix, Ariz., convicted on January 31, 1974, in the United States District Court for the District of Arizona.

Hicks, Gene A., P.O. Box 544, Folsom, Calif., convicted on March 19, 1973, in the United States District Court for the Eastern District of California.

Humphryes, Horace E., 705 1st Avenue, Lipscomb, Ala., convicted on July 20, 1947, in the Jefferson County Circuit Court, Bessemer, Ala.; and on June 22, 1962, in the Tuscaloosa County Circuit Court, Sixth Circuit, Alabama.

Kitchens, Bud J., 7280 Stanford Avenue, La-Mesa, Calif., convicted on April 24, 1968, in the Municipal Court, El Cajon Judicial District, County of San Diego, Calif.

Linder, Thomas E., Jr., 1913 B Mimosa Drive, Lynchburg, Va., convicted on December 20, 1973, in the United States District Court, Northern District, Pensacola, Fla.

Lock, Gary E., 706 North Volland, Kennewick, Wash., convicted on June 23, 1972, in the Superior Court of the State of Washington for Franklin County.

McGee, Robert, Route 4, Box 438, Fayetteville, Tenn., convicted on October 23, 1931, in the Gibbs County Circuit Court, Pulaski, Tenn.

Martin, Frank H., 287 Wheeler Street, Akron, Ohio, convicted on January 27, 1964, in the United States District Court, Cleveland, Ohio.

Martin, Thomas D., P.O. Box 30, Hanksville, Utah, convicted on or about November 21, 1963, in the District Court of Grand County, Utah.

Moskal, Stanley, 32772 Tuxedo Court, Warren, Mich., convicted on September 20, 1937, in the Macomb County Circuit Court, Mich.; and on September 26, 1940, in the Recorder's Court, Detroit, Mich.

Mueller, Brian L., 1106 North 10th Street, Sheboygan, Wis., convicted on or about December 27, 1967, in the Sheboygan County Court, Branch II, Sheboygan, Wis.

Mundinger, Henry D., 275 Aurora Street, St. Paul, Minn., convicted on November 7, 1969, on December 29, 1969, and on December 14, 1971, in the District Court, Fourth Judicial District of Hennepin County, Minnesota.

Orcutt, Scott E., 133 Kunze Drive, St. Charles, Mo., convicted on December 5, 1969, in the Court of Record at Broward County, Florida.

Penn, Joseph D., 267 West Burke Circle, McDonough, Ga., convicted on July 6, 1973, in the Superior Court, Henry County, Ga.

Powell, Curtis E., East 12009 Third Avenue, Spokane, Wash., convicted on April 4, 1969, in the Spokane County Superior Court, Spokane, Wash.

Ridgley, Thomas W., 1913 Druid Hill Avenue, Baltimore, Md., convicted on May 11, 1938, by the Justice of the Peace, Howard County, Maryland.

Schultz, Leah C., 4703 Franklin Road, Boise, Idaho, convicted on December 20, 1974, in the District Court of the Second Judicial District of the State of Idaho.

Smith, Jesse B., Route 3, Box 60-D, Zachary, Louisiana, convicted on August 28, 1968, in the Circuit Court of Franklin County, Mississippi.

Sullivan, Robert E., 514 Forest Park Drive, Pensacola, Fla., convicted on July 28, 1969, in the State of Florida, Circuit Court in and for Santa Rosa County.

Swann, Lee E., 1847 North 38th Place, Phoenix, Ariz., convicted on February 3, 1975, in the United States District Court, District of Arizona, Phoenix, Ariz.

Tewksbury, James R., 2866 B Hemlock Street, Bremerton, Wash., convicted on March 11, 1974, in the Superior Court of the State of Washington for Kitsap County.

Townsend, Charles E., 9310 Palo Alto Drive, Oklahoma City, Okla., convicted on August 25, 1972, in the United States District Court for the Western District of Oklahoma.

Trout, LaDoit S., 16237 S.E. Lincoln Street, Portland, Oreg., convicted on September 12, 1962, in the District Court of the Sixth Judicial District, Park County, Mont.

Tucker, Efren H., 1544 Minden Drive, San Diego, Calif., convicted on February 1, 1961, in the Superior Court, San Diego, Calif.

Urista, Bruno R., 1797 Livernois, Detroit, Mich., convicted on July 19, 1954, in the Wayne County Circuit Court, Michigan.

Signed at Washington, D.C., this 9th day of August 1977.

REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc.77-24292 Filed 8-22-77;8:45 am]

Office of the Secretary

SORBATES FROM JAPAN

Antidumping Proceeding

AGENCY: United States Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether or not imports of sorbates (sorbic acid and potassium sorbate) from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended. Sales at less than fair value generally occur when the prices of merchandise sold for exportation to the United States are less than the prices in the home market.

EFFECTIVE DATE: August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Edward F. Haley, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: On July 18, information was received in proper form pursuant to § 153.26 and § 153.27, Customs Regulations (19 CFR 153.26 and 153.27), from counsel acting on behalf of the Monsanto Company, a domestic producer of the subject merchandise, indicating a possibility that sorbates from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

For purposes of this notice, the term "sorbates" means sorbic acid and potassium sorbate, which are classified under item numbers 425.8720 and 426.8420, respectively, of the Tariff Schedules of the United States, Annotated.

There is evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an indus-

try in the United States. This evidence indicates that imports of sorbates from Japan have increased their share of the United States market in recent years as a result of possible sales at less than fair value. Furthermore, it appears that those alleged sales at less than fair value have prevented the petitioner from pricing its merchandise at a level sufficient to realize an adequate return on its investment.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined that there are grounds for doing so, the United States Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information from all sources is as follows:

The information received tends to indicate that the prices of merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to section 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

AUGUST 17, 1977.

[FR Doc.77-24331 Filed 8-22-77;8:45 am]

VETERANS ADMINISTRATION

COOPERATIVE STUDIES EVALUATION COMMITTEE

Meeting

The Veterans' Administration gives notice pursuant to Pub. L. 92-463 that a meeting of the Cooperative Studies Evaluation Committee, authorized by 38 USC 4101, will be held at the Burlington Hotel, Vermont Avenue at Thomas Circle, NW., Washington, D.C. on November 7, 8, and 9, 1977. The meeting will be for the purpose of reviewing proposed cooperative studies and advising the Veterans' Administration on the relevance and feasibility of the studies, the adequacy of the protocols, the scientific validity and the propriety of technical details, including involvement of human subjects. The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program, on its findings.

The meeting will be open to the public up to the seating capacity of the room from 8 a.m. to 8:30 a.m., November 7, to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. James A. Hagans, Coordinator of the Committee, Veterans' Administration Central Office, Washington, D.C. (202-389-3702) prior to October 28.

The meeting will be closed from 8:30 a.m. to 5 p.m., November 7 and all day November 8 and 9 for consideration of specific proposals in accordance with provisions set forth in Section 10(d) of Pub. L. 92-463 and Section 552b(c)(6) of Title 5, United States Code. During this portion of the meeting, discussion and decisions will deal with qualifications of personnel conducting the studies and the medical records of patients who are study subjects, the disclosure of which would constitute an invasion of personal privacy.

Dated: August 16, 1977.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

[FR Doc.77-24327 Filed 8-22-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 463]

ASSIGNMENT OF HEARINGS

AUGUST 18, 1977.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 32779 (Sub-No. 13), Silver Eagle Co., now being assigned November 28, 1977 (2 weeks), at Portland, Oreg., in a hearing room to be later designated.

MC 35807 (Sub-No. 68), Wells Fargo Armored Service Corp., now being assigned November 1, 1977 (3 days), at Richmond, Va., in a hearing room to be later designated.

MC 142783, Farruggio's Limousine Service, a division of Farruggio's Bristol & Philadelphia Auto Express, Inc., now being assigned December 5, 1977 (1 week), at Philadelphia, Pa., in a hearing room to be later designated.

MC 109897 (Sub-No. 2), Gray Line New York Tours Corp., now being assigned for November 9, 1977 (2 days), at Newark, N.J., in a hearing room to be later designated.

MC 87730 (Sub-No. 27), R. W. Bozel Transfer, Inc., now assigned November 16, 1977, at Washington, D.C., is canceled.

MC 130444, Nancy H. Nagle, now being assigned November 21, 1977 (3 days), at Richmond, Va., in a hearing room to be later designated.

MC 133591 (Sub-No. 33), Wayne Daniel Truck, Inc., now assigned October 18, 1977, at St. Louis, Mo., is canceled, application dismissed.

MC 112103 (Sub-No. 4), Leprechaun Lines, Inc., now being assigned November 14, 1977 (1 week), at Poughkeepsie, N.Y., in a room to be later designated.

MC-F-13154, Shaffer Trucking, Inc.—Purchase—Tempco Transportation, Inc., now September 13, 1977, at Louisville, Ky., is postponed to November 29, 1977 (4 days), at Louisville, Ky., in a hearing room to be later designated.

MC 135410 (Sub-No. 11), Courtney J. Munson, d.b.a. Munson Trucking now being assigned October 18, 1977 (2 days), for hearing in St. Louis, Mo., in a hearing room to be later designated.

MC 113678 (Sub-No. 645), Curtis, Inc., now being assigned November 15, 1977 (3 days), at Denver, Colo., in a hearing room to be later designated.

MC 39491 (Sub-No. 16), Colonial Coach Corp., now being assigned November 28, 1977 (1 week), at Trenton, N.J., in a hearing room to be later designated.

MC 139973 (Sub-No. 23), J. H. Ware Trucking, Inc., now being assigned September 19, 1977 (1 day), in Room 609, Federal Office Building, 911 Walnut Street, Kansas City, Mo.

MC 135797 (Sub-No. 66), J. B. Hunt Transport, Inc., now being assigned September 20, 1977 (1 day), in Room 609, Federal Office Building, 911 Walnut Street, Kansas City, Mo.

MC 113459 (Sub-No. 109), H. J. Jeffries Truck Line, Inc., now being assigned September 21, 1977 (1 day), in Room 609, Federal Office Building, 911 Walnut Street, Kansas City, Mo.

MC 82841 (Sub-No. 207), Hunt Transportation, Inc., now being assigned September 22, 1977 (2 days), in Room 609, Federal Office Building, 911 Walnut Street, Kansas City, Mo.

MC 140421 (Sub-No. 17), Action Motor Express, Inc., now being assigned December 5, 1977 (1 day), at New Orleans, La., in a hearing room to be later designated.

MC-FC-76543, City Delivery Service, Inc., Boise, Idaho, Transferee and Vogt Transfer & Storage Co., Ontario, Oreg., Transferor now being assigned November 14, 1977 (1 week), at Boise, Idaho, in a hearing room to be later designated.

MC 121044 (Sub-No. 4), City Delivery Service, Inc., now being assigned November 14, 1977 (1 week), at Boise, Idaho, in a hearing room to be later designated.

MC 128273 (Sub-No. 252), Midwestern Distribution, Inc., now assigned October 19, 1977, at Washington, D.C., is postponed to November 15, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-C-9702, *Global Van Lines, Inc.* v. *United Van Lines*, now assigned October 3, 1977, at St. Louis, Mo., is canceled.

MC 1924 (Sub-No. 14), Wallace-Colville Motor Freight, Inc., now being assigned November 28, 1977 (1 week), at Missoula, Mont., in a hearing room to be later designated.

MC 117068 (Sub-No. 76), Midwest Specialized Transportation, Inc., now being assigned November 29, 1977 (1 day), at St. Paul, Minn., in a hearing room to be later designated.

MC 133689 (Sub-No. 101), Overland Express, Inc., now being assigned November 30, 1977 (1 day), at St. Paul, Minn., in a hearing room to be later designated.

MC 114457 (Sub-No. 297), Dart Transit Co. and MC 140612, Sub-No. 14), Robert F. Kazimour, now being assigned December 1, 1977 (2 days), at St. Paul, Minn., in a hearing room to be later designated.

MC 135874 (Sub-No. 74), LTL Perishables, Inc., now being assigned December 5, 1977 (1 day), at St. Paul, Minn., in a hearing room to be later designated.

MC 139495 (Sub-No. 105), National Carriers, Inc., now being assigned December 6, 1977 (1 day), at St. Paul, Minn., in a hearing room to be later designated.

MC 40978 (Sub-No. 28), Chair City Motor Express Co., now being assigned December 7, 1977 (3 days), at St. Paul, Minn., in a hearing room to be later designated.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-24359 Filed 8-22-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

AUGUST 18, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before September 7, 1977. FSA No. 43413—*Wheat from Points in Kansas on the Missouri Pacific Railroad Company.* Filed by Missouri Pacific Railroad Company, (No. 1142), for interested rail carriers. Rates on wheat, in bulk, in carloads, as described in the application, from points in Kansas on the Missouri Pacific Railroad Company, i.e., Silverdale and Arkansas City, Kansas, to Gulf Ports, viz.: Ama, Baton Rouge, Lake Charles, Myrtle Grove, New Orleans, and Port Allen, Louisiana; also Beaumont, Corpus Christi, Freeport, Galveston, Houston, Orange and Texas City, Texas.

Grounds for relief—Motor-truck competition. Tariff—Supplement 97 to Missouri Pacific Railroad Company tariff 57-F, I.C.C. No. 518. Rates are published to become effective on September 17, 1977.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-24358 Filed 8-22-77;8:45 am]

[Notice No. 213]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 23, 1977.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77250. By application filed August 15, 1977, P and S, Inc., d.b.a. and S Wrecker Service, 528 State Street, New Albany, IN 47150, seeks temporary authority to transfer the operating rights of Preston L. Ford, an individual, d.b.a. Ford-Floyd Wrecker Service, 1015 South Preston Street, Louisville, KY 40203, under section 210a(b). The transfer to P and S, Inc., d.b.a. P and S Wrecker Service, of the operating rights of Preston L. Ford, an individual, d.b.a. Ford-Floyd Wrecker Service, is presently pending.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-24360 Filed 8-22-77;8:45 am]

[Notice No. 212]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 23, 1977.

Application filed for temporary authority under section section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77249. By application filed August 16, 1977, Linus Jankord, an individual, d.b.a. Jankord Trucking, Revillo, S.D. 57259, seeks temporary authority to transfer the operating rights of Erkel Transfer, Inc., 22 N. Lexington Avenue, Le Center, MN 56057, under section 210a(b). The transfer to Linus Jankord, an individual, d.b.a. Jankord Trucking, of the operating rights of Erkel Transfer, Inc., is presently pending.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-24361 Filed 8-22-77;8:45 am]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

[Notice No. 105TA]

AUGUST 17, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provides that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 59150 (Sub-No. 102TA), filed August 1, 1977. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, P.O. Box 3277, Jacksonville, Fla. 32206. Applicant's representative: Martin Sack, Jr., 1745 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood and composition board*, from the plant and warehouse facilities utilized by the Day Companies, Inc., in Randolph County, Ga., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado and N. Mex., for 180 days. Supporting shipper(s): Day Companies, Inc. P.O. Box 429, Guthbert, Ga. 31740. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 59241 (Sub-No. 4 TA), filed August 3, 1977. Applicant: JOHN GIBBONS, INC., 650 Eddystone Avenue, Eddystone, Pa. 19013. Applicant's representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cleaning products*, (2) *nutritional foods*, and (3) *related articles, materials, supplies and equipment* used in the manufacture, distribution, or sale of the commodities in (1) and (2) above, except in bulk, between the plantsite of Dracket Products Company, at or near East Stroudsburg, Pa., on the one hand, and, on the other, Saylesville, R.I., for 180 days. Supporting shipper(s): Drackett Products Company, 5020 Spring Grove Avenue, Cincinnati, Ohio. 45232. Send protests to: Monica A. Blodgett Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 99439 (Sub-No. 4TA), filed August 1, 1977. Applicant: SUWANNEE TRANSFER, INC., 1830 East 21st Street, Jacksonville, Fla. 32206. Applicant's representative: Dan R. Schwartz, 1729 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except truck tractors) and *attachments, parts, and accessories* for tractors when moving at the same time and in the same equipment with tractors, from rail ramps located at or near Jacksonville and Tampa, Fla., to points in Florida. Restriction: The authority sought herein shall be restricted to traffic having a prior movement by rail. Supporting shipper(s): Ford Motor Co., Ford Tractor Operations, 2500 E. Maple Road, Troy, Mich. 48084. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

VOL 42 NO 163 AUG 23 77 UM

No. MC 100666 (Sub-No. 358TA), filed August 2, 1977. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, 1129 Grimmett Drive, Shreveport, La. 71107. Applicant's representative: William P. Parker, Suite 280, National Foundation Life Center, 3535 N.W., 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the facilities of World Wood Corp., located at or near Cove City, North Carolina to points in Alabama, Arkansas, Kansas, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): World Wood Corp., 2000 Federal Road, Houston, Tex. 77015. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 701 Loyola Avenue, 9038 Federal Bldg., New Orleans, La. 70113.

No. MC 100666 (Sub-No. 359TA), filed August 2, 1977. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, 1129 Grimmett Drive, Shreveport, La. 71107. Applicant's representative: Dean Williamson, 3535 NW. 58th Street, 280 National Foundation Life Bldg., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum products, and materials and supplies* used in the installation and distribution thereof, from Marshall County, Kans., to points in Arkansas, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Georgia-Pacific Corp., 1062 Lancaster Avenue, Rosemont, Pa. 19010. Send protests to: Ray C. Armstrong, Jr., District Supervisor, Loyola Avenue, 9038 Federal Bldg., New Orleans, La. 70113.

No. MC 102616 (Sub-No. 932TA), filed August 3, 1977. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Road, P.O. Box 5555, Arkon, Ohio 44313. Applicant's representative: David F. McAllister, 250 N. Cleveland-Massillon Road, Akron, Ohio. 44313. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium phosphates*, in bulk, in tank vehicles, from Kearny, N.J., to the International Boundary Line between the United States and Canada located at Buffalo and Niagara Falls, N.Y., restricted to traffic destined to points in the Province of Ontario, for 180 days. Supporting shipper(s): Monsanto Company, 880 North Lindbergh Blvd., St. Louis, Mo. 63166. Send protests to: James Johnson District Supervisor, Interstate Commerce Commission, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, Ohio 44199.

No. MC 103051 (Sub-No. 405TA), filed August 3, 1977. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue, P.O. Box 90408, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone, P.O. Box 90408, Nashville, Tenn. 37209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulfuric acid*, in bulk, in tank vehicles, from Bonnie and South Pierece, Fla., to points in Alabama, Georgia, Tennessee, North Carolina and South Carolina, for 180 days Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cities Service Company, P.O. Box 50360, Atlanta, Ga. 30302. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 112617 (Sub-No. 370TA), filed August 2, 1977. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R Dunford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Whiskey and gin*, in bulk, in tank vehicles, between Bardstown, Ky., on the one hand, and, on the other, Atlanta, Ga., for 180 days. Supporting shipper(s): David Humphrey, Traffic Manager, Barton Brands, Ltd., Barton Road, Bardstown, Ky. 40004. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Bldg., Louisville, Ky. 40202.

No. MC 115904 (Sub-No. 78TA), filed July 29, 1977. Applicant: GROVER TRUCKING CO., 1710 West Broadway, Idaho Falls, Idaho 83401. Applicant's representative: Irene Warr, 530 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-cut log home packages, knocked down, and materials and supplies* used in the erection and construction thereof, from Colorado to points in Washington, Oregon, Idaho, Montana, Wyoming, Utah, New Mexico, South Dakota, Kansas, Oklahoma, Texas, Missouri, Wisconsin, Nebraska, and Iowa, for 180 days. Applicant does not intend to tack or interline authority with other carriers. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Brallier Enterprises Inc., d.b.a. Colorado Log Homes, 1925 W. Dartmouth, Englewood, Colo. 80110. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 W. Fort Street, Box 07, Boise, Idaho 83724.

No. MC 119118 (Sub-No. 58TA), filed August 2, 1977. Applicant: McCURDY TRUCKING, INC., P.O. Box 388, R.D. No. 4, Latrobe, Pa. 15650. Applicant's representative: Lawrence C. Maston, P.O. Box 388, Latrobe, Pa. 15650. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, and materials and supplies used in the manufacture, sale and distribution of malt beverages, including empty containers, between South Volney, N.Y., and Eden, N.C., and from South Volney, N.Y., to points in the State of North Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Miller Brewing Company, 4000 West State Street, Milwaukee, Wis. 53208. Send protests to: Richard C. Gobbell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, Pittsburgh, Pa. 15222.

No. MC 126555 (Sub-No. 50TA), filed August 1, 1977. Applicant: UNIVERSAL TRANSPORT, INC., P.O. Box 3000, Rapid City, S. Dak. 57701. Applicant's representative: Barry C. Burnette, P.O. Box 3000, Rapid City, S. Dak. 57709. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite*, from points in Butte County, S. Dak., to points in Pennington County, S. Dak., for subsequent movement by rail in interstate commerce, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Colloid Co., P.O. Box 228, Skokie, Ill. 60076. Robert N. Garity Transportation Specialist. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 126899 (Sub-No. 115TA), filed August 3, 1977. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Road, P.O. Box 3156, Paducah, Ky. 42001. Applicant's representative: George M. Catlett, Suite 708, McClure Bldg., Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packaged coal*, from points and places in Hancoci and Daviess Counties, Ky., to points and places in Arkansas, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Iowa, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, and Wisconsin, restricted against the transportation of commodities in bulk for 180 days. Supporting Shipper(s): Fireplace Fuels, Inc., Lockport, Ky. 40036. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, Tenn. 38103.

No. MC 126904 (Sub-No. 25TA), filed August 1, 1977. Applicant: H. C. PARRISH TRUCK SERVICE, INC., R.R. 2, P.O. Box 264, Freeburg, Ill. 62243. Applicant's representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, Pa. 19107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising material*, from the facilities of Carling National Breweries at Belleville, Ill., to points in Alabama, Louisiana, and Mississippi; (2) *Returned empty malt beverage containers; shipping devices; refused, rejected, and damaged shipments of malt beverages*, from points in Alabama, Louisiana, and Mississippi, to the facilities of Carling National Breweries at Belleville, Ill., for 180 days. Supporting shipper(s): Gordon Director of Distribution, Carling National Breweries, Inc., 3720 Dillon Street, Baltimore, Md. 21224. Send protests to: Harold C. Jolliff District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 128117 (Sub-No. 25TA), filed August 3, 1977. Applicant: NORTON-RAMSEY MOTOR LINES, INC., P.O. Box 896, Hickory, N.C. 28601. Applicant's representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle ,over irregular routes, transporting: *Sugar*, (except in bulk), from Houma, La., to points and places in Georgia, Florida, North Carolina, South Carolina, Virginia, and West Virginia, for 180 days. Supporting shipper(s): Harry H. Gilbert, Southdown Sugars, Inc., New Orleans, La. Send protests to: Terrell Price District Supervisor, Interstate Commerce Commission, 800 Briar Creek Road, Mart Office Building, Room CC-516, Charlotte, N.C. 28205.

No. MC 143554TA, filed August 2, 1977. Applicant: H. PETERSON & W. YATES TRUCKING, LTD., P.O. Box 397, Bow Island, Alberta, Canada. Applicant's representative: Ralph Bateman, P.O. Box 397, Bow Island, Alberta, Canada. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat meal and feather meal*, from the United States-Canada International Boundary line located at or near the ports of entry of Eastport, Idaho, and Sumas and Blaine, Wash., to Spokane, Arlington, and Tacoma, Wash., on traffic originating at Calgary, Edmonton, and Lethbridge, Alberta, Canada. Applicant intends to tack the authority here applied for to its Canadian authority. Supporting shipper(s): B. Smolkin Manager, Alberta Processing Co., P.O. Box 5025, Stn. A, Calgary, Alberta, Canada. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 143555TA, filed August 3, 1977. Applicant: RIVERSIDE TRANSPORTATION CO., INC., 1903 Canal Drive, Wilson, N.C. 27893. Applicant's representative: Dennis A. Peacock, 1903 Canal Drive, Wilson, N.C. 27893. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in West Virginia, Pennsylvania, Ohio, Tennessee, and Kentucky, to points in North Carolina, Virginia, South Carolina, Washington, D.C., Georgia, and Maryland, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): U.S.V.C. International Coal Co., 1921 Frick Bldg., Pittsburgh, Pa. 15219. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 143555 (Sub-No. 1TA), filed August 3, 1977. Applicant: RIVERSIDE TRANSPORTATION CO., INC., 1903 Canal Drive, Wilson, N.C. 27893. Applicant's representative: Dennis A. Peacock, 1903 Canal Drive, Wilson, N.C. 27893. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal offal, unprocessed or rendered*, between points in North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, Kentucky, Ohio, Indiana, Illinois, Michigan, Minnesota, West Virginia, Pennsylvania, New York, New Jersey, Maryland, Virginia, Delaware, Iowa, and Washington, D.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Carolina By-Products, P.O. Box 20687, Greensboro, N.C. 27420. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 143556TA, filed July 29, 1977. Applicant: DAHLSTROM'S, INC., 401 Hill Road, Aberdeen, Wash. 98520. Applicant's representative: George Kargianis, 2120 Pacific Bldg., Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood residuals*, including, but not limited to, sawdust and wood chips, from Grays Harbor County, Wash., to points in St. Helens and Columbia County, State of Oregon, under a continuing contract, or contracts, with Boise Cascade Corp., for 180 days. Supporting shipper(s): Boise Cascade Corp., P.O. Box 7747, Boise, Idaho. 83707. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-24362 Filed 8-22-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Civil Aeronautics Board	1, 2, 3
Civil Service Commission	13
Commodity Futures Trading Commission	4
Federal Communications Commission	5
Federal Election Commission	6
Federal Home Loan Bank Board	7
Federal Power Commission	8
International Trade Commission	9
Nuclear Regulatory Commission	10
Parole Commission	11
Tennessee Valley Authority	12

1

[MA-25 amending M-44; Aug. 18, 1977]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to August 23, 1977 meeting agenda.

TIME AND DATE: 10 a.m., August 23, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 15a. Docket 30221, Petition for discretionary review of the Initial Decision in the *DOD-Contract Eligible Certification Case* (Memo No. 7352, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: This proceeding involves eligibility to perform certain Department of Defense contracts beginning October 1, 1977 for the 1978 fiscal year. The initial decision was issued July 1, 1977, petitions for discretionary review were filed on July 22, 1977, and answers to the petition were filed by August 8, 1977. In order for the Board to be in a position to decide this case in time for the 1978 fiscal year, agency business requires that the Board meet on this item on less than seven days' notice. Accordingly, the following Members have voted that agency business requires the addition of this item on less than seven days' notice and that no earlier announcement of the addition was possible:

Chairman Alfred E. Kahn
Member Joseph Minetti
Member Lee R. West
Member Elizabeth E. Bailey

[S-1150-77 Filed 8-18-77;4:33 pm]

2

[M-46; Aug. 18, 1977]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., August 25, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1. Dockets 22859 and 26838, Increased air freight rates proposed by Continental (Memo No. 7355, BE).

2. Docket 31167, Application of American for exemption to waive its tariff which permits only one pet container in the cabin compartment of the aircraft (Memo No. 7359, BE).

3. Docket 29123, Petition for reconsideration of Order 77-3-62, March 11, 1977, filed by Pan American (Memo No. 6849-D, BE, BIA).

4. Docket 30439, Discretionary review on Board initiative of the decision of the Director, BOE, declining to institute an enforcement proceeding in *ABC Air Freight Company* v. *Emery Air Freight Corporation* (Memo No. 7356, OGC).

5. Docket 26245, *American-Pan American, Route Exchange Agreement*, petition of Flight Engineers' International Association, AFL-CIO (Memo No. 5189-M, OGC).

6. Docket 26907, Draft final rule to eliminate Schedules T-4, T-5 and T-6 of CAB Form 244 from Part 244 of the Economic Regulations (Memo No. 7358, OGC, BAS, BOR).

7. Docket 30256, Yugoslav Airlines' Application for Renewal of its Charter Foreign Air Carrier Permit (Memo No. 4632-G, BIA, BOR, OGC).

8. Docket 29139, Proposed rule on overbooking and oversales (Memo No. 5963-G, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

[S-1151-77 Filed 8-18-77;4:33 pm]

3

[M-45; Aug. 17, 1977]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 4 p.m., August 17, 1977.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Petition for Board review of staff denial of IAS Cargo Airlines' request for authorization under section 1108(b), to operate horse charter between London, Ireland and New York on August 18 and 19, 1977.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The following Members have voted that Board business requires that the Board meet on short notice on the August 17, 1977, petition of IAS Cargo Airlines for Board business requires that the Board no earlier announcement of the meeting was possible:

Chairman Alfred E. Kahn
Member G. Joseph Minetti
Member Elizabeth E. Bailey

[S-1152-77 Filed 8-18-77;4:33 pm]

4

COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: See FEDERAL REGISTER of Monday, August 22, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., August 23, 1977.

CHANGES IN THE MEETING: Add fiscal year 1978 reauthorization.

[S-1158-77 Filed 8-19-77;10:15 am]

5

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: Followed 9:30 a.m. open meeting, Thursday, August 18, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting.

MATTER CONSIDERED:

The Commission's Public Notice issued August 11, 1977, 42 FR 41348, stated that prior to the consideration of the 2 closed meeting Hearing agenda items on Thursday, August 18th, the Commissioners as a first order of business would vote on the matter of closing the meeting. A vote was taken on August 18, 1977, and Commissioners Wiley (Chairman), Fogarty, and White acting as a Board voted to close the meeting.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: August 18, 1977.

[S-1147-77 Filed 8-18-77;2:02 pm]

6

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Thursday, August 25, 1977 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

I. Future meetings.

II. Correction and approval of minutes, August 11, 1977.

III. Advisory opinions: AD 1977-39; AQ 1977-29.

IV. Appropriations and budget.

V. Pending legislation—Request for comments from Senate Committee on Rules and Administration. Letter from Senator Cannon.

VI. Guidelines on independent expenditures—Commission Memordandum No. 1427.

VII. Commission procedures for responding to Congressional requests.

VIII. Liaison with other Federal agencies—Application of OMB Personnel Ceilings to the FEC. Commission Memorandum No. 1431.

IX. Report on pending litigation.

X. Agency job classifications actions.

XI. Routine Administrative matters.

Portions closed to the public (Executive Session):

Audits.
Compliance Matters.
Personnel.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, Telephone: 202-523-4065.

[S-1149-77 Filed 8-18-77;3:36 pm]

7

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., August 23, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-376-3012.

MATTERS TO BE CONSIDERED:

Application for Modification of Condition—First Federal Savings and Loan Association of Little Rock, Little Rock, Arkansas, and Arkansas Savings and Loan Association, North Little Rock, Arkansas.

Application for Service Corporation Activity—First Federal Savings and Loan Association of Proviso Township, Maywood, Illinois.

Satellite Office Application—Florida Federal Savings and Loan Association, St. Petersburg, Florida.

Application for Bank Membership—Banco Regional de Aborro de Bayamon, Bayamon, Puerto Rico.

Limited Facility Application—Homestead Federal Savings and Loan Association of Dayton, Dayton, Ohio.

Branch Office Application—First Federal Savings and Loan Association of Eau Claire, Wisconsin.

Branch Office Application—Westchester Federal Savings and Loan Association, New Rochelle, New York.

Branch Office Application—Home Federal Savings and Loan Association, Deming, New Mexico.

Application for Change of Branch Office Location—Civic Federal Savings and Loan Association, San Francisco, California.

Application for Expansion of an EFTS-RSU System—San Diego Federal Savings and Loan Association, San Diego, California.

Satellite Office Application—Security First Federal Savings and Loan Association, Millvale, Pennsylvania.

Application for Withdrawal from Membership—National Savings Association, Cincinnati, Ohio.

Satellite Office Application—Biscayne Federal Savings and Loan Association, Miami, Florida.

Satellite Office Application—Clearwater Federal Savings and Loan Association, Clearwater, Florida.

Branch Office Application—University Federal Savings and Loan Association of Coral Gables, Coral Gables, Florida.

Agency Office Application—Continental Federal Savings and Loan Association, Oklahoma City, Oklahoma.

Application for Change of Branch Office Location and Retention of Existing Office as Pedestrian Facility—City Federal Savings and Loan Association, Elizabeth, New Jersey.

Branch Office Application—Home Federal Savings and Loan Association of San Diego, San Diego, California.

Branch Office Application—Western Federal Savings and Loan Association, Council Bluffs, Iowa.

Branch Office Application—First Federal Savings and Loan Association of Hardeman County, Bolivar, Tennessee.

Limited Facility Application—Commercial Federal Savings and Loan Association, Omaha, Nebraska.

Mobile Facility Application—Franklin Federal Savings and Loan Association, Columbus, Ohio.

Branch Office Application—First Federal Savings and Loan Association of Niles, Niles, Michigan.

Announcement is being made at the earliest practicable time.

[S-1154-77 Filed 8-19-77;10:49 am]

8

AUGUST 17, 1977.

FEDERAL POWER COMMISSION.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552B.

TIME AND DATE: August 24, 1977, 10 a.m.

PLACE: 825 North Capitol Street.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(Agenda).

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, Room 1000.

GAS AGENDA, 7670TH MEETING, AUGUST 24, 1977, REGULAR MEETING, PART I (10 A.M.)

G-1.—Docket No. RP71-11 (PGA77-4), Tennessee Natural Gas Lines, Inc.

G-2.—Docket No. RP76-115 and Docket Nos. RP73-109 and RP74-95, Northwest Pipeline Corporation.

G-3.—Docket Nos. RP73-107, RP74-90 and RP75-91, Consolidated Gas Supply Corporation.

G-4.—Docket No. RP75-102, Panhandle Eastern Pipe Line Company.

G-5.—Docket No. RP76-90 (Phase I), Kansas-Nebraska Natural Gas Company, Inc.

G-6.—Docket No. RP72-6, El Paso Natural Gas Company.

G-7.—Docket No. CP76-314, Southern Transmission Corporation.

G-8.—Docket No. RP77-114, Western Transmission Corporation.

MISCELLANEOUS AGENDA, 7670TH MEETING, AUGUST 24, 1977, REGULAR MEETING, PART I

M-1.—Docket No. RM74-16, Natural Gas Companies' Annual Report of Proved Domestic Gas Reserves: FPC Form No. 40.

POWER AGENDA, 7670TH MEETING, AUGUST 24, 1977, REGULAR MEETING, PART I

P-1.—Docket No. E-8264, Maine Public Service Company.

P-2.—Docket No. ER76-40, Nevada Power Company.

P-3.—Docket No. ER77-325, Appalachian Power Company.

P-4.—Docket No. ER77-426, Appalachian Power Company.

P-5.—Docket No. ER77-533, Louisiana Power & Light Company.

P-6.—Project No. 176, Escondido Mutual Water Company; Docket No. E-7562, Secretary of the Interior acting in his capacity as trustee for the *Rincon, La Jolla, and San Pasqual Bands of Mission Indians* v. *Escondido Mutual Water Company and City of Escondido, California;* Docket No. E-7655, Vista Irrigation District; Project No. 559, San Diego Gas & Electric Company.

P-7.—Project No. 1862, City of Tacoma, Washington; Docket No. E-6454, City of Centralia, Washington.

P-8. Project No. 1962—California, Pacific Gas and Electric Company.

P-9.—Docket No. ER77-534, Kansas Gas and Electric Company.

P-10.—Docket No. ER77-535, Kansas Power and Light Company.

P-11.—Docket No. ER77-536, Kansas City Power & Light Company.

P-12.—Docket No. ER77-537, Union Electric Company.

P-13.—Docket No. ER77-538, Missouri Public Service Company.

P-14.—Docket No. ER77-539, Missouri Power & Light Company.

P-15.—Docket No. ER77-540, Arkansas Power & Light Company.

P-16.—Docket No. ER77-541, Middle South Utilities, Inc.

P-17.—Docket No. ER77-542, Southwestern Electric Power Company.

P-18.—Docket No. ER77-543, Public Service Company of Oklahoma.

P-19.—Docket No. ER77-544, Central Power & Light Company.

P-20.—Docket No. ER77-545, West Texas Utilities Company.

P-21.—Docket No. ER77-546, Oklahoma Gas & Electric Company.

P-22.—Docket No. ER77-547, Southwestern Public Service Company.

P-23.—Docket No. ER77-548, Gulf States Utilities Company.

P-24.—Docket No. ER77-549, Texas Utilities Company.

P-25.—Docket No. ER77-550, Central Louisiana Electric Company, Inc.

P-26.—Docket No. ER77-551, Southwestern Electric Power Company.

P-27.—Docket No. ER77-552, Public Service Company of Oklahoma.

P-28.—Docket No. ER77-553, Central Power & Light Company.

P-29.—Docket No. ER77-554, West Texas Utilities Company.

P-30.—Docket No. ER77-555, Oklahoma Gas & Electric Company.

P-31.—Docket No. ER77-556, Southwestern Public Service Company.

P-32.—Docket No. ER77-557, Gulf States Utilities Company.

P-33.—Docket No. ER77-558, Texas Utilities Company.

P-34.—Docket No. ER77-559, Central Louisiana Electric Company, Inc.

P-35.—Docket No. ER77-560, Public Service Company of Oklahoma.

P-36.—Docket No. ER77-561, Central Power & Light Company.

P-37.—Docket No. ER77-562, West Texas Utilities Company.

P-38.—Docket No. ER77-563, Oklahoma Gas & Electric Company.

P-39.—Docket No. ER77-564, Southwestern Public Service Company.

P-40.—Docket No. ER77-565, Gulf States Utilities Company.

P-41.—Docket No. ER77-566, Texas Utilities Company.

P-42.—Docket No. ER77-567, Central Louisiana Electric Company, Inc.

P-43.—Docket No. ER77-568, Public Service Company of Oklahoma.

P-44.—Docket No. ER77-569, Central Power & Light Company.

P-45.—Docket No. ER77-570, West Texas Utilities Company.

P-46.—Docket No. ER77-571, Oklahoma Gas & Electric Company.

P-47.—Docket No. ER77-572, Southwestern Public Service Company.

P-48.—Docket No. ER77-573, Gulf States Utilities Company.

P-49.—Docket No. ER77-574, Texas Utilities Company.

P-50.—Docket No. ER77-575, Central Louisiana Electric Company, Inc.

P-51.—Docket No. ER77-576, Public Service Company of Oklahoma.

P-52.—Docket No. ER77-577, Central Power & Light Company.

P-53.—Docket No. ER77-578, West Texas Utilities Company.

P-54.—Docket No. ER77-579, Oklahoma Gas & Electric Company.

P-55.—Docket No. ER77-580, Southwestern Public Service Company.

P-56.—Docket No. ER77-581, Gulf States Utilities Company.

P-57.—Docket No. ER77-582, Texas Utilities Company.

P-58.—Docket No. ER77-583, Central Louisiana Electric Company, Inc.

P-59.—Docket No. ER77-584, Public Service Company of Oklahoma.

P-60.—Docket No. ER77-585, Central Power & Light Company.

P-61.—Docket No. ER77-586, West Texas Utilities Company.

P-62.—Docket No. ER77-587, Oklahoma Gas & Electric Company.

P-63.—Docket No. ER77-588, Southwestern Public Service Company.

P-64.—Docket No. ER77-589, Gulf States Utilities Company.

P-65.—Docket No. ER77-590, Texas Utilities Company.

P-66.—Docket No. ER77-591, Central Louisiana Electric Company, Inc.

P-67.—Docket No. ER77-592, Public Service Company of Oklahoma.

P-68.—Docket No. ER77-593, Central Power & Light Company.

P-69.—Docket No. ER77-594, West Texas Utilities Company.

P-70.—Docket No. ER77-595, Oklahoma Gas & Electric Company.

P-71.—Docket No. ER77-596, Southwestern Public Service Company.

P-72.—Docket No. ER77-597, Gulf States Utilities Company.

P-73.—Docket No. ER77-598, Texas Utilities Company.

P-74.—Docket No. ER77-599, Central Louisiana Electric Company, Inc.

P-75.—Docket No. ER77-600, Public Service Company of Oklahoma.

P-76.—Docket No. ER77-601, Central Power & Light Company.

P-77.—Docket No. ER77-602, West Texas Utilities Company.

P-78.—Docket No. ER77-603, Oklahoma Gas & Electric Company.

P-79.—Docket No. ER77-604, Southwestern Public Service Company.

P-80.—Docket No. ER77-605, Gulf States Utilities Company.

P-81.—Docket No. ER77-606, Texas Utilities Company.

P-82.—Docket No. ER77-607, Central Louisiana Electric Company, Inc.

P-83.—Docket No. ER77-608, Public Service Company of Oklahoma.

P-84.—Docket No. ER77-609, Central Power & Light Company.

P-85.—Docket No. ER77-610, West Texas Utilities Company.

P-86.—Docket No. ER77-611, Oklahoma Gas & Electric Company.

P-87.—Docket No. ER77-612, Southwestern Public Service Company.

P-88.—Docket No. ER77-613, Gulf States Utilities Company.

P-89.—Docket No. ER77-614, Texas Utilities Company.

P-90.—Docket No. ER77-615, Central Louisiana Electric Company, Inc.

P-91.—Docket No. ER77-616, Public Service Company of Oklahoma.

P-92.—Docket No. ER77-617, Central Power & Light Company.

P-93.—Docket No. ER77-618, West Texas Utilities Company.

P-94.—Docket No. ER77-619, Oklahoma Gas & Electric Company.

P-95.—Docket No. ER77-620, Southwestern Public Service Company.

P-96.—Docket No. ER77-621, Gulf States Utilities Company.

P-97.—Docket No. ER77-622, Texas Utilities Company.

P-98.—Docket No. ER77-623, Central Louisiana Electric Company, Inc.

P-99.—Docket No. ER77-624, Public Service Company of Oklahoma.

P-100.—Docket No. ER77-625, Central Power & Light Company.

P-101.—Docket No. ER77-626, West Texas Utilities Company.

P-102.—Docket No. ER77-627, Oklahoma Gas & Electric Company.

P-103.—Docket No. ER77-628, Southwestern Public Service Company.

P-104.—Docket No. ER77-629, Gulf States Utilities Company.

P-105.—Docket No. ER77-630, Texas Utilities Company.

P-106.—Docket No. ER77-631, Central Louisiana Electric Company, Inc.

P-107.—Docket No. ER77-632, Public Service Company of Oklahoma.

P-108.—Docket No. ER77-633, Central Power & Light Company.

P-109.—Docket No. ER77-634, West Texas Utilities Company.

P-110.—Docket No. ER77-635, Oklahoma Gas & Electric Company.

P-111.—Docket No. ER77-636, Southwestern Public Service Company.

P-112.—Docket No. ER77-637, Gulf States Utilities Company.

P-113.—Docket No. ER77-638, Texas Utilities Company.

P-114.—Docket No. ER77-639, Central Louisiana Electric Company, Inc.

P-115.—Docket No. ER77-640, Public Service Company of Oklahoma.

P-116.—Docket No. ER77-641, Central Power & Light Company.

P-117.—Docket No. ER77-642, West Texas Utilities Company.

P-118.—Docket No. ER77-643, Oklahoma Gas & Electric Company.

P-119.—Docket No. ER77-644, Southwestern Public Service Company.

P-120.—Docket No. ER77-645, Gulf States Utilities Company.

P-121.—Docket No. ER77-646, Texas Utilities Company.

P-122.—Docket No. ER77-647, Central Louisiana Electric Company, Inc.

P-123.—Docket No. ER77-648, Public Service Company of Oklahoma.

P-124.—Docket No. ER77-649, Central Power & Light Company.

P-125.—Docket No. ER77-650, West Texas Utilities Company.

P-126.—Docket No. ER77-651, Oklahoma Gas & Electric Company.

P-127.—Docket No. ER77-652, Southwestern Public Service Company.

P-128.—Docket No. ER77-653, Gulf States Utilities Company.

P-129.—Docket No. ER77-654, Texas Utilities Company.

P-130.—Docket No. ER77-655, Central Louisiana Electric Company, Inc.

P-131.—Docket No. ER77-656, Public Service Company of Oklahoma.

P-132.—Docket No. ER77-657, Central Power & Light Company.

P-133.—Docket No. ER77-658, West Texas Utilities Company.

P-134.—Docket No. ER77-659, Oklahoma Gas & Electric Company.

P-135.—Docket No. ER77-660, Southwestern Public Service Company.

P-136.—Docket No. ER77-661, Gulf States Utilities Company.

P-137.—Docket No. ER77-662, Texas Utilities Company.

P-138.—Docket No. ER77-663, Central Louisiana Electric Company, Inc.

P-139.—Docket No. ER77-664, Public Service Company of Oklahoma.

P-140.—Docket No. ER77-665, Central Power & Light Company.

P-141.—Docket No. ER77-666, West Texas Utilities Company.

P-142.—Docket No. ER77-667, Oklahoma Gas & Electric Company.

P-143.—Docket No. ER77-668, Southwestern Public Service Company.

P-144.—Docket No. ER77-669, Gulf States Utilities Company.

P-145.—Docket No. ER77-670, Texas Utilities Company.

P-146.—Docket No. ER77-671, Central Louisiana Electric Company, Inc.

P-147.—Docket No. ER77-672, Public Service Company of Oklahoma.

P-148.—Docket No. ER77-673, Central Power & Light Company.

P-149.—Docket No. ER77-674, West Texas Utilities Company.

P-150.—Docket No. ER77-675, Oklahoma Gas & Electric Company.

P-151.—Docket No. ER77-676, Southwestern Public Service Company.

P-152.—Docket No. ER77-677, Gulf States Utilities Company.

P-153.—Docket No. ER77-678, Texas Utilities Company.

P-154.—Docket No. ER77-679, Central Louisiana Electric Company, Inc.

P-155.—Docket No. ER77-680, Public Service Company of Oklahoma.

P-156.—Docket No. ER77-681, Central Power & Light Company.

P-157.—Docket No. ER77-682, West Texas Utilities Company.

P-158.—Docket No. ER77-683, Oklahoma Gas & Electric Company.

P-159.—Docket No. ER77-684, Southwestern Public Service Company.

P-160.—Docket No. ER77-685, Gulf States Utilities Company.

P-161.—Docket No. ER77-686, Texas Utilities Company.

P-162.—Docket No. ER77-687, Central Louisiana Electric Company, Inc.

P-163.—Docket No. ER77-688, Public Service Company of Oklahoma.

P-164.—Docket No. ER77-689, Central Power & Light Company.

P-165.—Docket No. ER77-690, West Texas Utilities Company.

P-166.—Docket No. ER77-691, Oklahoma Gas & Electric Company.

P-167.—Docket No. ER77-692, Southwestern Public Service Company.

P-168.—Docket No. ER77-693, Gulf States Utilities Company.

P-169.—Docket No. ER77-694, Texas Utilities Company.

P-170.—Docket No. ER77-695, Central Louisiana Electric Company, Inc.

P-171.—Docket No. ER77-696, Public Service Company of Oklahoma.

P-172.—Docket No. ER77-697, Central Power & Light Company.

P-173.—Docket No. ER77-698, West Texas Utilities Company.

P-174.—Docket No. ER77-699, Oklahoma Gas & Electric Company.

P-175.—Docket No. ER77-700, Southwestern Public Service Company.

P-176.—Docket No. ER77-701, Gulf States Utilities Company.

P-177.—Docket No. ER77-702, Texas Utilities Company.

P-178.—Docket No. ER77-703, Central Louisiana Electric Company, Inc.

P-179.—Docket No. ER77-704, Public Service Company of Oklahoma.

P-180.—Docket No. ER77-705, Central Power & Light Company.

P-181.—Docket No. ER77-706, West Texas Utilities Company.

P-182.—Docket No. ER77-707, Oklahoma Gas & Electric Company.

P-183.—Docket No. ER77-708, Southwestern Public Service Company.

P-184.—Docket No. ER77-709, Gulf States Utilities Company.

P-185.—Docket No. ER77-710, Texas Utilities Company.

P-186.—Docket No. ER77-711, Central Louisiana Electric Company, Inc.

P-187.—Docket No. ER77-712, Public Service Company of Oklahoma.

P-188.—Docket No. ER77-713, Central Power & Light Company.

P-189.—Docket No. ER77-714, West Texas Utilities Company.

P-190.—Docket No. ER77-715, Oklahoma Gas & Electric Company.

P-191.—Docket No. ER77-716, Southwestern Public Service Company.

P-192.—Docket No. ER77-717, Gulf States Utilities Company.

P-193.—Docket No. ER77-718, Texas Utilities Company.

P-194.—Docket No. ER77-719, Central Louisiana Electric Company, Inc.

P-195.—Docket No. ER77-720, Public Service Company of Oklahoma.

P-196.—Docket No. ER77-721, Central Power & Light Company.

P-197.—Docket No. ER77-722, West Texas Utilities Company.

P-198.—Docket No. ER77-723, Oklahoma Gas & Electric Company.

P-199.—Docket No. ER77-724, Southwestern Public Service Company.

P-200.—Docket No. ER77-725, Gulf States Utilities Company.

P-201.—Docket No. ER77-726, Texas Utilities Company.

P-202.—Docket No. ER77-727, Central Louisiana Electric Company, Inc.

P-203.—Docket No. ER77-728, Public Service Company of Oklahoma.

P-204.—Docket No. ER77-729, Central Power & Light Company.

P-205.—Docket No. ER77-730, West Texas Utilities Company.

P-206.—Docket No. ER77-731, Oklahoma Gas & Electric Company.

P-207.—Docket No. ER77-732, Southwestern Public Service Company.

P-208.—Docket No. ER77-733, Gulf States Utilities Company.

P-209.—Docket No. ER77-734, Texas Utilities Company.

P-210.—Docket No. ER77-735, Central Louisiana Electric Company, Inc.

P-211.—Docket No. ER77-736, Public Service Company of Oklahoma.

P-212.—Docket No. ER77-737, Central Power & Light Company.

P-213.—Docket No. ER77-738, West Texas Utilities Company.

P-214.—Docket No. ER77-739, Oklahoma Gas & Electric Company.

P-215.—Docket No. ER77-740, Southwestern Public Service Company.

P-216.—Docket No. ER77-741, Gulf States Utilities Company.

P-217.—Docket No. ER77-742, Texas Utilities Company.

P-218.—Docket No. ER77-743, Central Louisiana Electric Company, Inc.

P-219.—Docket No. ER77-744, Public Service Company of Oklahoma.

P-220.—Docket No. ER77-745, Central Power & Light Company.

P-221.—Docket No. ER77-746, West Texas Utilities Company.

P-222.—Docket No. ER77-747, Oklahoma Gas & Electric Company.

P-223.—Docket No. ER77-748, Southwestern Public Service Company.

P-224.—Docket No. ER77-749, Gulf States Utilities Company.

P-225.—Docket No. ER77-750, Texas Utilities Company.

P-226.—Docket No. ER77-751, Central Louisiana Electric Company, Inc.

P-227.—Docket No. ER77-752, Public Service Company of Oklahoma.

P-228.—Docket No. ER77-753, Central Power & Light Company.

P-229.—Docket No. ER77-754, West Texas Utilities Company.

P-230.—Docket No. ER77-755, Oklahoma Gas & Electric Company.

P-231.—Docket No. ER77-756, Southwestern Public Service Company.

P-232.—Docket No. ER77-757, Gulf States Utilities Company.

P-233.—Docket No. ER77-758, Texas Utilities Company.

P-234.—Docket No. ER77-759, Central Louisiana Electric Company, Inc.

P-235.—Docket No. ER77-760, Public Service Company of Oklahoma.

P-236.—Docket No. ER77-761, Central Power & Light Company.

P-237.—Docket No. ER77-762, West Texas Utilities Company.

P-238.—Docket No. ER77-763, Oklahoma Gas & Electric Company.

P-239.—Docket No. ER77-764, Southwestern Public Service Company.

P-240.—Docket No. ER77-765, Gulf States Utilities Company.

P-241.—Docket No. ER77-766, Texas Utilities Company.

P-242.—Docket No. ER77-767, Central Louisiana Electric Company, Inc.

P-243.—Docket No. ER77-768, Public Service Company of Oklahoma.

P-244.—Docket No. ER77-769, Central Power & Light Company.

P-245.—Docket No. ER77-770, West Texas Utilities Company.

P-246.—Docket No. ER77-771, Oklahoma Gas & Electric Company.

P-247.—Docket No. ER77-772, Southwestern Public Service Company.

P-248.—Docket No. ER77-773, Gulf States Utilities Company.

P-249.—Docket No. ER77-774, Texas Utilities Company.

P-250.—Docket No. ER77-775, Central Louisiana Electric Company, Inc.

P-251.—Docket No. ER77-776, Public Service Company of Oklahoma.

P-252.—Docket No. ER77-777, Central Power & Light Company.

P-253.—Docket No. ER77-778, West Texas Utilities Company.

P-254.—Docket No. ER77-779, Oklahoma Gas & Electric Company.

P-255.—Docket No. ER77-780, Southwestern Public Service Company.

P-256.—Docket No. ER77-781, Gulf States Utilities Company.

P-257.—Docket No. ER77-782, Texas Utilities Company.

P-258.—Docket No. ER77-783, Central Louisiana Electric Company, Inc.

P-259.—Docket No. ER77-784, Public Service Company of Oklahoma.

P-260.—Docket No. ER77-785, Central Power & Light Company.

P-261.—Docket No. ER77-786, West Texas Utilities Company.

P-262.—Docket No. ER77-787, Oklahoma Gas & Electric Company.

P-263.—Docket No. ER77-788, Southwestern Public Service Company.

P-264.—Docket No. ER77-789, Gulf States Utilities Company.

P-265.—Docket No. ER77-790, Texas Utilities Company.

P-266.—Docket No. ER77-791, Central Louisiana Electric Company, Inc.

P-267.—Docket No. ER77-792, Public Service Company of Oklahoma.

P-268.—Docket No. ER77-793, Central Power & Light Company.

P-269.—Docket No. ER77-794, West Texas Utilities Company.

P-270.—Docket No. ER77-795, Oklahoma Gas & Electric Company.

P-271.—Docket No. ER77-796, Southwestern Public Service Company.

P-272.—Docket No. ER77-797, Gulf States Utilities Company.

P-273.—Docket No. ER77-798, Texas Utilities Company.

P-274.—Docket No. ER77-799, Central Louisiana Electric Company, Inc.

P-275.—Docket No. ER77-800, Public Service Company of Oklahoma.

P-276.—Docket No. ER77-801, Central Power & Light Company.

P-277.—Docket No. ER77-802, West Texas Utilities Company.

P-278.—Docket No. ER77-803, Oklahoma Gas & Electric Company.

P-279.—Docket No. ER77-804, Southwestern Public Service Company.

P-280.—Docket No. ER77-805, Gulf States Utilities Company.

P-281.—Docket No. ER77-806, Texas Utilities Company.

P-282.—Docket No. ER77-807, Central Louisiana Electric Company, Inc.

P-283.—Docket No. ER77-808, Public Service Company of Oklahoma.

P-284.—Docket No. ER77-809, Central Power & Light Company.

P-285.—Docket No. ER77-810, West Texas Utilities Company.

P-286.—Docket No. ER77-811, Oklahoma Gas & Electric Company.

P-287.—Docket No. ER77-812, Southwestern Public Service Company.

P-288.—Docket No. ER77-813, Gulf States Utilities Company.

P-289.—Docket No. ER77-814, Texas Utilities Company.

P-290.—Docket No. ER77-815, Central Louisiana Electric Company, Inc.

P-291.—Docket No. ER77-816, Public Service Company of Oklahoma.

P-292.—Docket No. ER77-817, Central Power & Light Company.

P-293.—Docket No. ER77-818, West Texas Utilities Company.

P-294.—Docket No. ER77-819, Oklahoma Gas & Electric Company.

P-295.—Docket No. ER77-820, Southwestern Public Service Company.

P-296.—Docket No. ER77-821, Gulf States Utilities Company.

P-297.—Docket No. ER77-822, Texas Utilities Company.

P-298.—Docket No. ER77-823, Central Louisiana Electric Company, Inc.

P-299.—Docket No. ER77-824, Public Service Company of Oklahoma.

P-300.—Docket No. ER77-825, Central Power & Light Company.

P-301.—Docket No. ER77-826, West Texas Utilities Company.

P-302.—Docket No. ER77-827, Oklahoma Gas & Electric Company.

P-303.—Docket No. ER77-828, Southwestern Public Service Company.

P-304.—Docket No. ER77-829, Gulf States Utilities Company.

P-305.—Docket No. ER77-830, Texas Utilities Company.

P-306.—Docket No. ER77-831, Central Louisiana Electric Company, Inc.

P-307.—Docket No. ER77-832, Public Service Company of Oklahoma.

P-308.—Docket No. ER77-833, Central Power & Light Company.

P-309.—Docket No. ER77-834, West Texas Utilities Company.

P-310.—Docket No. ER77-835, Oklahoma Gas & Electric Company.

P-311.—Docket No. ER77-836, Southwestern Public Service Company.

P-312.—Docket No. ER77-837, Gulf States Utilities Company.

P-313.—Docket No. ER77-838, Texas Utilities Company.

P-314.—Docket No. ER77-839, Central Louisiana Electric Company, Inc.

P-315.—Docket No. ER77-840, Public Service Company of Oklahoma.

P-316.—Docket No. ER77-841, Central Power & Light Company.

P-317.—Docket No. ER77-842, West Texas Utilities Company.

P-318.—Docket No. ER77-843, Oklahoma Gas & Electric Company.

P-319.—Docket No. ER77-844, Southwestern Public Service Company.

P-320.—Docket No. ER77-845, Gulf States Utilities Company.

P-321.—Docket No. ER77-846, Texas Utilities Company.

P-322.—Docket No. ER77-847, Central Louisiana Electric Company, Inc.

P-323.—Docket No. ER77-848, Public Service Company of Oklahoma.

P-324.—Docket No. ER77-849, Central Power & Light Company.

P-325.—Docket No. ER77-850, West Texas Utilities Company.

P-326.—Docket No. ER77-851, Oklahoma Gas & Electric Company.

P-327.—Docket No. ER77-852, Southwestern Public Service Company.

P-328.—Docket No. ER77-853, Gulf States Utilities Company.

P-329.—Docket No. ER77-854, Texas Utilities Company.

P-330.—Docket No. ER77-855, Central Louisiana Electric Company, Inc.

P-331.—Docket No. ER77-856, Public Service Company of Oklahoma.

P-332.—Docket No. ER77-857, Central Power & Light Company.

P-333.—Docket No. ER77-858, West Texas Utilities Company.

P-334.—Docket No. ER77-859, Oklahoma Gas & Electric Company.

P-335.—Docket No. ER77-860, Southwestern Public Service Company.

P-336.—Docket No. ER77-861, Gulf States Utilities Company.

P-337.—Docket No. ER77-862, Texas Utilities Company.

P-338.—Docket No. ER77-863, Central Louisiana Electric Company, Inc.

P-339.—Docket No. ER77-864, Public Service Company of Oklahoma.

P-340.—Docket No. ER77-865, Central Power & Light Company.

P-341.—Docket No. ER77-866, West Texas Utilities Company.

P-342.—Docket No. ER77-867, Oklahoma Gas & Electric Company.

P-343.—Docket No. ER77-868, Southwestern Public Service Company.

P-344.—Docket No. ER77-869, Gulf States Utilities Company.

P-345.—Docket No. ER77-870, Texas Utilities Company.

P-346.—Docket No. ER77-871, Central Louisiana Electric Company, Inc.

P-347.—Docket No. ER77-872, Public Service Company of Oklahoma.

P-348.—Docket No. ER77-873, Central Power & Light Company.

P-349.—Docket No. ER77-874, West Texas Utilities Company.

P-350.—Docket No. ER77-875, Oklahoma Gas & Electric Company.

P-351.—Docket No. ER77-876, Southwestern Public Service Company.

P-352.—Docket No. ER77-877, Gulf States Utilities Company.

P-353.—Docket No. ER77-878, Texas Utilities Company.

P-354.—Docket No. ER77-879, Central Louisiana Electric Company, Inc.

P-355.—Docket No. ER77-880, Public Service Company of Oklahoma.

P-356.—Docket No. ER77-881, Central Power & Light Company.

P-357.—Docket No.

P-9.—Project No. 2019—California, Pacific Gas and Electric Company.

P-10.—Project No. 2310—California, Pacific Gas and Electric Company.

GAS AGENDA, 7670TH MEETING, AUGUST 24, 1977, REGULAR MEETING, PART II

CG-1.—Docket No. RP73-91 (PGA No. 77-2b), McCulloch Interstate Gas Corporation.

CG-2.—Docket No. RP72-134 (PGA Nos. 77-8 and 77-9), Eastern Shore Natural Gas Company.

CG-3.—Docket No. RP77-57, National Fuel Gas Supply Corporation.

CG-4.—Docket No. RP77-96, Natural Gas Pipeline Company of America.

CG-5.—Docket Nos. G-2017, et al., Texas Gas Transmission Corporation.

CG-6.—Phillips Petroleum Company, FPC Gas Rate Schedule No. 600; Texas Pacific Oil Company, Inc., FPC Gas Rate Schedule No. 121.

CG-7.—Docket No. C173-427, Texas Pacific Oil Company; Docket No. CS75-341, Tricentrol United States, Inc.; Docket No. CS71-659, Kilroy Properties Incorporated; Docket No. CS73-266, Harrington & Bibler, Inc.; Docket No. CS73-268, Bridger Petroleum Corporation; Docket No. CS75-389, Arden F. Blair.

CG-8.—Pennzoil Company, FPC Gas Rate Schedule No. 10.

CG-9.—Docket No. CP77-382, Transcontinental Gas Pipe Line Corporation.

CG-10.—Docket No. CP77-346, Natural Gas Pipeline Company of America Trunkline Gas Company and Columbia Gulf Transmission Company.

CG-11.—Docket No. CP77-264, Transcontinental Gas Pipe Line Corporation and United Gas Pipe Line Company.

CG-12.—Docket No. CP77-460, Cities Service Gas Company.

CG-13.—Docket No. CP77-375, United Gas Pipe Line Company.

CG-14.—Docket No. CP77-322, United Gas Pipe Line Company and Southern Natural Gas Company.

CG-15.—Docket No. CP77-122, Sea Robin Pipeline Company.

CG-16.—Docket No. CP77-408, El Paso Natural Gas Company; Docket No. CP77-411, Southwest Gas Corporation.

CG-17.—Docket Nos. CP77-369 and CP77-370, Transcontinental Gas Pipe Line Corporation.

CG-18.—Docket No. CP77-347, Western Gas Interstate Company.

CG-19.—Docket No. CP77-339, Columbia Gas Transmission Corporation.

CG-20.—Docket No. CP77-230, Florida Gas Transmission Company and United Gas Pipe Line Company.

CG-21.—Docket No. CP77-109, Texas Eastern Transmission Corporation.

CG-22.—Docket No. CP76-403, Texas Gas Transmission Corporation; Docket No. CP77-426, Transcontinental Gas Pipe Line Corporation.

CG-23.—Docket No. CP76-410, El Paso Natural Gas Company.

CG-24.—Docket No. CP77-249, Trunkline Gas Company.

CG-25.—Docket No. CP75-326, Transcontinental Gas Pipe Line Corporation.

CG-26.—Docket No. CI76-407, Columbia Gas Development Corporation; Docket No. CP76-132, Transcontinental Gas Pipe Line Corporation.

CG-27.—Docket No. CP77-11, Northern Natural Gas Company; Docket No. CP77-17, Trunkline Gas Company and Panhandle Eastern Pipe Line Company; Docket No. RP77-92, Trunkline Gas Company and Panhandle Eastern Pipe Line Company; Docket No. CP77-54, Northern Natural Gas Company.

CG-28.—Docket No. CP70-188, Texas Gas Transmission Corporation.

CG-29.—Docket No. CP77-427, Transcontinental Gas Pipe Line Corporation; Docket No. CP77-480, Panhandle Eastern Pipe Line Company and Trunkline Gas Company.

CG-30.—Docket No. CP76-363, Transcontinental Gas Pipe Line Corporation.

CG-31.—Docket No. CP63-177, Texas Eastern Transmission Corporation and Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

CG-32.—Docket Nos. CP67-381, CP68-166 and CP69-71, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

CG-33.—Docket No. CP73-43, Mountain Fuel Supply Company.

CG-34.—Docket No. CP74-126, El Paso Natural Gas Company; Docket No. CP74-162, Natural Gas Pipeline Company of America.

CG-35.—Docket No. CP74-213, Michigan Wisconsin Pipe Line Company.

CG-36.—Docket No. CP76-362, Texas Eastern Transmission Corporation, Transcontinental Gas Pipe Line Corporation and Northern Natural Gas Company.

CG-37.—Docket No. CP75-301, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., and Michigan Wisconsin Pipe Line Company.

CG-38.—Docket No. CP76-492, National Fuel Gas Supply Corporation and National Fuel Storage Corporation.

CG-39.—Docket No. CP76-492, National Fuel Gas Supply Corporation and National Gas Storage Corporation.

CG-40.—Docket No. CP76-500, United Gas Pipeline Company.

CG-41.—Docket No. CP77-210, Michigan Wisconsin Pipe Line Company and United Gas Pipe Line Company.

MISCELLANEOUS AGENDA, 7670TH MEETING, AUGUST 24, 1977, REGULAR MEETING, PART II

CM-1.—Central Hudson Gas and Electric Corporation.

CM-2.—Northern States Power Company (Minnesota).

CM-3.—Mississippi Power & Light Company.

CM-4.—Commission Minutes.

CM-5.—(A) *Amarex, Inc.* v. *FPC*, 10th Cir. No. 77-1503 (CP76-220).

(B) *Gulf Oil Corporation* v. *FPC*, 3d Cir. No. 77-1893 (C177-95).

(C) *Columbia Gas Transmission Corporation* v. *FPC*, D.C. Cir. No. 77-1627 (RP75-19).

(D) *Arizona Electric Power Cooperative* v. *FPC* (CP74-289).

(E) *The City of Groton, et al.* v. *FPC*, D.C. Cir. No. 77-1635 (E-7743).

(F) *Cities of Altus, et al.* v. *FPC*, D.C. Cir. No. 77-1548 (E-8242).

POWER AGENDA, 7670TH MEETING, AUGUST 24, 1977, REGULAR AGENDA, PART II

CP-1.—Docket No. ER77-328, Public Service Company of Oklahoma.

CP-2.—Docket No. ER77-223, Bangor Hydro-Electric Company.

CP-3.—Docket No. ER77-292, Kansas Power & Light Company.

CP-4.—State Director, Bureau of Land Management (I-13221), Boise, Idaho.

CP-5.—State Director, Bureau of Land Management (CA-4256), Sacramento, California.

CP-6.—Docket No. ID-1598, Willis S. White, Jr.

CP-7.—Docket No. ID-1682, Frederick Lange.

CP-8.—Docket No. ID-1811, Ernest D. Huggard.

CP-9.—Docket No. ID-1813, S. Hale Lull.

CP-10.—Docket No. DA-506-Colorado, U.S. Geological Survey, Lands Withdrawn in Power Site Classification Nos. 219 and 357.

CP-11.—Docket Nos. ER-77-427 and ER-77-473, Minnesota Power and Light Company, Superior Water, Light and Power Company.

OP-12.—Docket No. ER77-480, Montaup Electric Company.

CP-13.—Docket No. ER77-464, Public Service Company of New Mexico.

CP-14.—Docket No. E-9572, *Papago Tribal Utility Authority and Arizona Electric Power Cooperative, Inc.* v. *Arizona Public Service Company.*

CP-15.—Docket No. E-9579, Idaho Power Company.

[S-1159-77 Filed 8-19-77;2:51 p.m.]

9

INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Issue of August 19, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., August 23, 1977.

CHANGES IN THE MEETING: Additional item added to the agenda as follows: 9. Promotion—see action jacket GC-77-48 (if necessary).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1148-77 Filed 8-18-77;2:54 pm]

10

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of August 22, 1977.

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

WEDNESDAY, AUGUST 24

9 a.m.—Preliminary Markup/Reclama (IE/NRR) (Closed—Exemption 9).

11:30 a.m.—Discussion of Response to Applicant's Agent and Proposed Action on Minor Export (public meeting).

1:30 p.m.—Briefing on Pending ALAB Review and Disposition of Certiorari Petitions, including Indian Point, Sabrook, Diablo Canyon, and St. Lucie, 2 Proceedings (Closed—Exemption 10).

THURSDAY, AUGUST 25

9 a.m.—Recall of Officers (RES) (approx. 1 hr) (public meeting).

10:00 a.m.—Affirmation of Clearance Exemption for Cong. Moss (approx. 5 min) (public meeting).

10:30 a.m.—Preliminary Markup/Reclama (RES) (approx. 1 hr) (Closed—Exemption 9).

1:30 p.m.—Commission Budget Markup (approx. 3 hrs) (Closed—Exemption 9).

FRIDAY, AUGUST 26

9 a.m.—Commission Budget Markup (approx. 3 hrs) closed—Exemption 9).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

[S-1157-77 Filed 8-19-77;10:57 am]

11

PAROLE COMMISSION.

National Commissioners (the three Commissioners presently maintaining offices at Washington, D.C. Headquarters).

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: August 8, 1977, 42 FR 40074.

CHANGES IN THE MEETING: The Closed meeting scheduled for 9:30 a.m., on Wednesday, August 17, 1977, to consider referrals from regional directors of approximately 20 cases in which inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release has been rescheduled for 9:30 a.m., on Tuesday, August 30, 1977.

PLACE: Room 338, Federal Home Loan Bank Board Building, 320 First Street NW., Washington, D.C. 20537.

AUTHORITY FOR THE CHANGE: Order of Commissioner George J. Reed, Acting Vice-Chairman and Presiding Officer of National Commissioners.

CONTACT PERSON FOR MORE INFORMATION:

Lee H. Chait, Analyst, 202-724-3094.

[S-1155-77 Filed 8-19-77;10:51 am]

12

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:30 a.m., Thursday, August 25, 1977.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

MATTERS TO BE CONSIDERED:

A—PERSONNEL ACTIONS

None.

B—CONSULTING AND PERSONAL SERVICE CONTRACTS

1. Renewal of consulting contract with Lawrence K. Cecil, Champaign, Illinois—Office of Power.

C—PURCHASE AWARDS

1. Req. No. 820325—Metal siding panels and accessories including installation for Bellefonte Nuclear Plant.

2. Req. No. 820926—Sodium hypochlorite generation system for Browns Ferry, Sequoyah, Hartsville, proposed Phipps Bend, and proposed Yellow Creek Nuclear Plants.

3. Req. No. 821269—Horizontal centrifugal pumps for Hartsville and proposed Phipps Bend Nuclear Plants.

4. Req. No. 820900—Mechanical penetration assemblies for Hartsville and proposed Phipps Bend Nuclear Plants.

5. Req. No. 822512—Requirement contract for portland cement for proposed Phipps Bend Nuclear Plant.

6. Req. No. 822535—Indefinite quantity term contracts for steel reinforcing bars for proposed Phipps Bend Nuclear Plant.

7. Req. No. 107956—ACSR conductor cable for various transmission lines.

8. Req. No. 822334—Structural steel for 161- and 500-kV switchyards for Hartsville Nuclear Plant.

9. Req. No. 547118—Automatic pipe welding equipment for Watts Bar Nuclear Plant.

10. Amendment to Contracts 73C60-75210 and 75K60-84840-1 with General Electric Company, Chattanooga, Tennessee, for nuclear steam supply systems for Hartsville and the proposed Phipps Bend Nuclear Plants.

11. Amendment to Contract No. 76X72-71332 with Siskin Steel & Supply Company, Inc., Chattanooga, Tennessee, for carbon steel for any TVA nuclear project.

12. Req. No. 144930—Spare parts for nuclear steam supply systems for Sequoyah and Watts Bar Nuclear Plants.

13. Req. No. 547377—Indefinite quantity term contract for gasoline for various TVA projects and warehouses.

14. Sales Invitation No. 3644—Sale of scrap aluminum, electrical wire, and cable.

D—PROJECT AUTHORIZATIONS

1. No. 3215—Construction of transmission connections for the Hartsville Nuclear Plant.

2. No. 2902.1—Amendment to project authorization for Hartsville Nuclear Plant.

3. No. 3032.1—Amendment to project authorization for proposed Phipps Bend Nuclear Plant.

4. No. 3261—Environmental studies of coal cleaning processes (in collaboration with U.S. Environmental Protection Agency).

E—FERTILIZER ITEMS

1. Letter agreement with the International Fertilizer Development Center—research and technical assistance projects.

F—POWER ITEMS

1. Lease and amendatory agreement with Cumberland Electric Membership Corporation—Pleasant View 69-kV substation.

2. Lease and amendatory agreement with Tri-State Electric Membership Corporation—Epworth Substation.

3. Lease and amendatory agreement with Electric Plant Board of the city of Murray, Kentucky.

4. Lease and amendatory agreement with city of Paris, Tennessee.

5. Lease and amendatory agreement with North Georgia Electric Membership Corporation Catoosa and Tilton Substations.

6. New power contract with city of Trenton, Tennessee.

7. New power contract with city of Jackson, Tennessee.

8. New power contract with Jersey Miniere Zinc Company.

9. Letter agreement with Champion International Corporation—relocation of section of TVA's 161-kV transmission tapline near Courtland, Alabama.

10. Bill of sale and quitclaim deed to the city of Glasgow, Kentucky—deenergized section of TVA's former Summer Shade-Oakland 69-kV Transmission Line.

G—REAL PROPERTY TRANSACTIONS

1. Resolution relating to sale of 10-year easement for a coal-loading terminal, affecting approximately 3.4 acres of Guntersville Reservoir Land—Tract No. XGR-720IE.

2. Filing of condemnation suits.

H—UNCLASSIFIED

1. Resolution relating to settlement agreement with Skyline Structures, Division of Anderson "Safeway" Guard Rail Corporation, in connection with contract disputes.

2. Resolution relating to settlement agreement with Southwestern Engineering Company.

3. Agreement with the National Climatic Center of the National Oceanic and Atmospheric Administration for wind analyses.

4. Amendment to contract with University of Kentucky Research Foundation for aeromagnetic mapping.

5. Agreement with the United States Geological Survey for cooperative water resources investigations.

6. Agreement with the city of Rockwood, Tennessee, for redevelopment program.

Following the formal meeting, the Board will complete its quarterly review of current and anticipated conditions and costs affecting TVA's power operations and the adequacy of revenues to meet the requirements of the TVA Act and the tests and provisions of its bond resolutions. The Board will determine whether an adjustment of the rates and charges for the sale of electric power will be necessary during the quarter beginning October 1, 1977.

CONTACT PERSON FOR MORE INFORMATION:

John Van Mol, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202-343-4537.

[S-1153-77 Filed 8-19-77,9:21 am]

13

CIVIL SERVICE COMMISSION.

TIME AND DATE OF MEETING: 9 a.m., August 30, 1977.

PLACE: Commissioners' Meeting Room, Room 5H09 (fifth floor), 1900 E Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Administrative Remedies—Downgrading.

(2) Commission Policy on Paid Institutional Advertising in Educational and Career Editions of Publications.

CONTACT PERSON FOR MORE INFORMATION:

Georgia Metropulos, Office of the Executive Assistant to the Commissioners (202-632-5556).

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[S-1165-77 Filed 8-22-77;11:42 am]

VOL 42 NO 163 AUG 23 77 UM

federal register

TUESDAY, AUGUST 23, 1977

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

EDUCATION OF HANDICAPPED CHILDREN

Implementation of Part B of the Education of the Handicapped Act

V42 I163 AUG 23 77 UM V

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

EDUCATION OF HANDICAPPED CHILDREN

Implementation of Part B of the Education of the Handicapped Act

AGENCY: U.S. Office of Education, HEW.

ACTION: Final regulation.

SUMMARY: These regulations implement amendments to Part B of the Education of the Handicapped Act (as required by the Education for All Handicapped Children Act of 1975) by: (1) amending the existing regulations governing assistance to States for education of handicapped children, (2) adding a new part on incentive grants programs for handicapped children aged three through five, and (3) making certain conforming amendments to the general provisions for State-administered programs.

These regulations govern the provision of formula grant funds to State and local educational agencies to assist them in the education of handicapped children.

The regulations include provisions which are designed (1) to assure that all handicapped children have available to them a free appropriate public education; (2) to assure that the rights of handicapped children and their parents are protected; (3) to assist States and localities to provide for the education of handicapped children; and (4) to assess and assure the effectiveness of efforts to educate such children.

These regulations also include the final rules for counting and reporting handicapped children. (The child count rules were published in proposed form on September 8, 1976, and were incorporated into the December 30 proposed regulations for the convenience of the reader.)

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Daniel Ringelheim, Director, Division of Assistance to States, Bureau of Education for the Handicapped, 400 Maryland Ave. SW., (room 4046 Donohoe Building), Washington, D.C. 20202, telephone: 202-472-2265;

or

Thomas B. Irvin, Policy Officer, Bureau of Education for the Handicapped, 400 Maryland Ave. SW., (room 4926 Donohoe Building), Washington, D.C. 20202, telephone: 202-245-9405.

SUPPLEMENTARY INFORMATION:

RULEMAKING HISTORY—PUBLIC PARTICIPATION

Because of the potential impact that Pub. L. 94-142 will have on the education of handicapped children throughout the Nation, and on the agencies that serve them, the Office of Education recognized the need for intensive public participation in the development of regulations, and took steps to insure maximum public involvement throughout the entire rulemaking process. A description of these steps is included in the following paragraphs:

Before the proposed rules were drafted, the Office of Education carried out a massive effort to obtain comments and suggestions for developing regulations from interested parties throughout the Nation. This involved participating in approximately 20 meetings about the law conducted on both a geographic and special interest basis. Approximately 2,200 people participated in these meetings and several hundred comments were received.

In June 1976, the Office of Education convened a national writing group of approximately 170 people to develop concept papers for use in writing the regulations. This group was composed of parents, representatives of special interest organizations (i.e., AFT, NEA, private schools), and administrators of State and local schools. These concept papers formed the basis for the proposed regulations.

During the months of July–November, the Office of Education prepared several redrafts of the concept papers and continued to seek inputs on these drafts from various interested parties.

On December 30, 1976, the proposed rules were published in the FEDERAL REGISTER. Written comments and recommendations on the proposed rules were invited for a 60-day comment period ending March 1, 1977; and public hearings were held in Washington, San Francisco, Denver, Chicago, Boston, and Atlanta. Over 1,600 written comments were received during that period, all of which were reviewed and considered by the Office of Education in preparing these final regulations.

The tapes of the hearings and copies of written comments are available for public inspection at the Bureau of Education for the Handicapped, room 4921, Donohoe Building, 400 6th Street SW., Washington, D.C. 20202.

In addition to the above public comment activities, the Office of Education continued with other public participation efforts, including:

(1) Participating in 10 regional meetings of the American Association of School Administrators and other regional meetings with the Council of the Great City Schools;

(2) Conducting a national conference on the regulations for administrators of various State agency programs for the handicapped, and participating in meetings at other national conferences; and

(3) Participating in a special series of meetings organized by the Institute for Educational Leadership and composed of representatives of the National Governors' Conference, the National Conference of State Legislatures, the National Association of State Boards of Education, and the Education Commission of the States.

ACTION TAKEN ON PUBLIC COMMENTS

PART 100B—STATE ADMINISTERED PROGRAMS

No comments were received on the proposed amendments to Part 100b, and no changes have been made.

PART 121A—ASSISTANCE TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

The Office of Education conducted a careful review of the public comments received and summarized them by subpart and topic.

A very large number of comments dealt with specific statutory requirements. These comments expressed concerns about the statute and suggested changes to be made in the statutory provisions. However, because they are statutory, the Office of Education is not able to make any changes in the regulations with respect to those points. Some of the statutory provisions on which comments were received, together with concerns about them, are included below:

(1) Free appropriate public education—problems with timelines and concerns about the cost of implementing this requirement;

(2) Priorities—concerns about Federal priorities which are not consistent with State and local priorities;

(3) Individualized education programs—suggestions that the requirement be deleted from the regulation unless more funds are available for implementing it;

(4) Prior notice and other due process procedures—concerns about the amount of detail in these requirements and the time, cost and paper work involved in their implementation;

(5) State educational agency responsibility for general supervision of all special education programs in the State—concerns about lack of authority over other State agencies and the lack of funds to efficiently implement the provision;

(6) Child count—concerns about the dates on which the count must be taken.

Another large number of commenters cited specific concerns or issues with respect to the content of the proposed rules. Because of the large number of comments received, individual comments have been consolidated.

PART 121M—INCENTIVE GRANTS

Part 121m sets forth the conditions under which States may receive grants to assist in the education of handicapped children aged three through five. Congress established incentive grants in the recognition that when education begins at the earlier stages of development (1) benefits are maximized, (2) additional or more severe handicaps may be prevented, and (3) greater long-term cost effectiveness is realized.

Comment: An issue was raised concerning the possible use of incentive grant funds for children from birth through two years of age.

Response: Section 619 of the Act and the legislative history specify that the use of incentive grant funds is limited to children aged three through five years. However, the State's entitlement under section 611 of the Act may be used for children from birth through age twenty-one.

Comment: An issue was raised as to whether incentive grant funds may be used for administrative or supervisory costs.

Response: The regulation has been amended to make it clear that administrative costs are allowable.

MINIMUM REGULATION—FUTURE RULEMAKING PLANS

The preamble to the proposed rules contained the following statement regarding minimum regulations:

> The Department sees the development of regulations for implementing Pub. L. 94-142 as being an evolutionary process which will continue over a period of several years. The actual impact and consequences of the statutory provisions and problems which State and local educational agencies may have in implementing these provisions are not known at this time. Therefore, the Department feels that the most rational approach to follow is (1) to write minimum regulations at this point, and (2) to amend and revise such regulations in the future as need and experience dictate.
>
> Because the Statute is very comprehensive and specific on many points, the Department has elected (1) to incorporate the basic wording or substance of the Statute directly into the regulations, and (2) to expand on the statutory provisions only where additional interpretation sems to be necessary.

Although some commenters felt that more extensive regulations were necessary, many persons who responded to the proposed rules felt that the Office of Education had already over-regulated and should cut back on the rules when they are published in final form. At this juncture, the Office of Education holds to the same position that it took in the proposed rules, and for the same reasons as set forth in that document.

The Office of Education believes that some working experience with this regulation is essential before determining whether there is a need to amend it. Once the regulation becomes effective (Oct. 1, 1977) and people gain experience in implementing it, there will likely be a series of questions raised in individual States which could result in the development of policies and interpretations that would be proposed for addition to these regulations.

OVERVIEW OF CHANGES IN THE PART 121A REGULATIONS

A substantial number of changes have been made in response to comments received on the proposed rules. However, few of these changes have resulted in adding major substantive requirements. Most of the changes are technical or have been made in an attempt to provide greater clarity or to add more explanatory material.

Extensive use has been made of explanatory comments in the text of the regulations. The purpose of these comments is to attempt, where appropriate, to clarify or further interpret a particular rule, or to provide direction and assistance without imposing additional requirements. For example, an extensive explanation is included under the excess cost requirement and an example is given on how to make the computation under that requirement.

ORGANIZATION OF REGULATIONS

Three parts of Title 45 of the Code of Federal Regulations are amended by this document:

(1) Part 100b—*State Administered Programs.* This includes certain conforming amendments to the regulations under section 434(b)(1)(A) of the General Education Provisions Act.

(2) Part 121a—*Assistance to States for Education of Handicapped Children.* This is divided into seven subparts: (A) General, (B) State Annual Program Plans and Local Applications, (C) Services, (D) Private Schools, (E) Procedural Safeguards, (F) State Administration, and (G) Allocation of Funds and Reports.

(3) Part 121m—*Incentive Grants.* This governs the administration of the incentive grants program for handicapped children aged three through five, authorized under section 619 of the Act.

ANALYSIS OF REGULATIONS

Appendix A of Part 121a includes an analysis of each subpart, which (1) discusses significant comments received and the action taken with respect to those comments, and (2) explains the basis for any changes made from the proposed rules published on December 30, 1976.

TOPICAL INDEX

Appendix B of Part 121a includes an index of the major topics in the regulations (e.g., free appropriate public education, priorities, and individualized education program) and the specific sections under which each term is used.

NOTE.—The Department of Health, Education, and Welfare, has determined that this document contains a major proposal requiring preparation of an Economic Impact Analysis (EIA) Statement under Executive Orders 11821 and 11949 and OMB Circular A-107, and certifies that an Economic Impact Analysis has been prepared. However, because the portion of this regulation involving major costs is virtually identical to the content of subpart D of the regulation issued on discrimination against the handicapped under section 504 of the Rehabilitation Act of 1973 (45 CFR Part 84; published May 4, 1977, at 42 FR 22675), the Department has determined that (a) this regulation involves no substantial costs not imposed by Part 84 and (b) the pertinent parts of the EIA Statement for that regulation meet the EIA requirements for this regulation. Both regulations impose the following requirements: (1) appropriate education to handicapped children; (2) identification and evaluation of handicapped children; and (3) procedural safeguards for handicapped children and their parents.

(Catalog of Federal Domestic Assistance Number 13.449, Education of Handicapped Children, Part B.)

Dated: August 12, 1977.

JOHN ELLIS,
Acting U.S. Commissioner of Education.

Approved: August 15, 1977.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended as follows:

PART 100b—STATE ADMINISTERED PROGRAMS

1. In Part 100b, § 100b.17 is revised to read as follows:

§ 100b.17 General applications.

(a) The general application of a State must meet the requirements of section 434(b)(1)(A) of the General Education Provisions Act.

(b) A State does not have to resubmit its general application.

(20 U.S.C. 1232c(b)(1)(A).)

(c)(1) The following statutes require that a State must submit certain provisions to the Commissioner which are similar to provisions in the general application.

(2) Subject to paragraph (d) of this section, if the Commissioner has approved a State's general application, the State does not have to submit the provisions required under the following statutes:

(i) *Compensatory education.* Section 142(a) (2) and (3) of Title I of the Elementary and Secondary Education Act of 1965, as amended.

(20 U.S.C. 1232c(b)(1)(A)(ii) (II), (III).)

(ii) *School library resources.* Section 203(a) (5), (6) and (7) of Title II of the Elementary and Secondary Education Act of 1965, as amended.

(20 U.S.C. 1232c(b)(1)(A)(ii) (II), (III), and (IV).)

(iii) *Supplementary educational centers and services; guidance, counseling, and testing.* Section 305(b) (9)(B), (10), and (11) of Title II of the Elementary and Secondary Education Act of 1965, as amended.

(20 U.S.C. 1232c(b)(1)(A)(ii) (II), (III) and (IV).)

(iv) *Education of the handicapped.* Section 613(a) (7)(A), (9)(B), and (10) of Part B of the Education of the Handicapped Act, as amended.

(20 U.S.C. 1232c(b)(1)(A)(ii) (II), (III) and (IV).)

(v) *Adult education.* Section 306(a) (6) and (7) of the Adult Education Act, as amended.

(20 U.S.C. 1232c(b)(1)(A)(ii) (II), (III).)

(vi) *Strengthening instruction in academic subjects.* Section 1004(a) (2) and (3) of Title X of the National Defense Education Act of 1958, as amended.

(20 U.S.C. 1232c(b)(1)(A)(ii), (II), (III).)

(vii) *State reading improvement programs.* Section 714(a) (10) of Title VII-B of the Education Amendments of 1974.

(20 U.S.C. 1232c(b)(1)(A)(ii), (III).)

(d)(1) The general application does not change the legal substance of the provisions listed under paragraph (c)(2) of this section.

(2) If a provision listed in paragraph (c)(2) of this section is different in wording from an assurance in the general application, the provision listed in that paragraph governs any question of compliance with the assurance.

(20 U.S.C. 1232c(b)(1)(B)(i), (b)(1)(B)(iii), (b)(2).)

2. In Part 100b, § 100b.35 is revised to read as follows:

§ 100b.35 Effective date of an application, plan, or amendment.

(a) Federal funds are available only for obligations incurred under:

(1) A State plan approved by the Commissioner (in the case of the programs set forth in § 100b.10 other than those referenced in § 100b.15(a)); or

(2) A general application and an annual program plan approved by the Commissioner (in the case of the programs referenced in § 100b.15(a)).

(b) A State plan, general application, annual program plan, or amendment to any of them, is effective on the date the State submits it to the Federal Government in substantially approvable form. However, the effective date cannot be earlier than the first day of the fiscal period for which it is submitted.

(c) The Commissioner sends the State agency a notice of approval, including notice of the effective date, when the application, plan, or amendment is approved.

(d) Federal funds are not available for obligation by a State or local agency before the effective date of the State plan or annual program plan (whichever is submitted under paragraph (a) of this section). If funds are expressly made available by statute for the development of the State plan, general application, or annual program plan, the first sentence of this paragraph does not apply to obligations by the State for that purpose.

(20 U.S.C. 1221e-3(a)(1).)

3. In Part 100b, § 100b.55 is revised to read as follows:

§ 100b.55 Obligation by recipients.

(a) *Period for obligation.* Federal funds which the Federal government may obligate during a fiscal period remain available for obligation by State and local recipients through the end of that fiscal period. Federal funds made available for construction of facilities remain available for obligation by State and local recipients for that purpose for a reasonable period of time as determined by the Commissioner.

(b) *Carryovers.* In accordance with section 414(b) of the General Education Provisions Act, any Federal funds which are not obligated by State and local recipients before the end of the fiscal period under paragraph (a) of this section, remain available for obligation by those agencies for one additional fiscal year.

(c) *Determinations of obligation.* (1) An obligation for the acquisition of real or personal property, for the construction of facilities, or for the performance of work, is incurred by a recipient on the date it makes a binding written commitment.

(2) An obligation for personal services, for services performed by public utilities, for travel, or for the rental of real or personal property, is incurred by a recipient on the date it receives the services, its personnel takes the travel, or it uses the rented property.

(20 U.S.C. 1221c(a); 1225(b); 1232c(b)(1)(A)(ii)(II).)

4. Part 121a is revised to read as follows:

PART 121a—ASSISTANCE TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

Subpart A—General

PURPOSE, APPLICABILITY, AND GENERAL PROVISIONS REGULATIONS

Sec.
121a.1 Purpose.
121a.2 Applicability to State, local, and private agencies.
121a.3 General provisions regulations.

DEFINITIONS

121a.4 Free appropriate public education.
121a.5 Handicapped children.
121a.6 Include.
121a.7 Intermediate educational unit.
121a.8 Local educational agency.
121a.9 Native language.
121a.10 Parent.
121a.11 Public agency.
121a.12 Qualified.
121a.13 Related services.
121a.14 Special education.
121a.15 State.

Subpart B—State Annual Program Plans and Local Applications

ANNUAL PROGRAM PLANS—GENERAL

121a.110 Condition of assistance.
121a.111 Contents of plan.
121a.112 Certification by the State educational agency and attorney general.
121a.113 Approval; disapproval.
121a.114 Effective period of annual program plan.

ANNUAL PROGRAM PLANS—CONTENTS

121a.120 Public participation.
121a.121 Right to a free appropriate public education.
121a.122 Timelines and ages for free appropriate public education.
121a.123 Full educational opportunity goal.
121a.124 Full educational opportunity goal—data requirement.
121a.125 Full educational opportunity goal—timetable.
121a.126 Full educational opportunity goal—facilities, personnel, and services.
121a.127 Priorities.
121a.128 Identification, location, and evaluation of handicapped children.
121a.129 Confidentiality of personally identifiable information.
121a.130 Individualized education programs.
121a.131 Procedural safeguards.
121a.132 Least restrictive environment.
121a.133 Protection in evaluation procedures.
121a.134 Responsibility of State educational agency for all educational programs.
121a.135 Monitoring procedures.
121a.136 Implementation procedures—State educational agency.
121a.137 Procedures for consultation.
121a.138 Other Federal programs.
121a.139 Comprehensive system of personnel development.
121a.140 Private schools.
121a.141 Recovery of funds for misclassified children.
121a.142 Control of funds and property.
121a.143 Records.
121a.144 Hearing on application.
121a.145 Prohibition of commingling.
121a.146 Annual evaluation.
121a.147 State advisory panel.
121a.148 Policies and procedures for use of Part B funds.
121a.149 Description of use of Part B funds.
121a.150 Nondiscrimination and employment of handicapped individuals.
121a.151 Additional information if the State educational agency provides direct services.

LOCAL EDUCATIONAL AGENCY APPLICATIONS—GENERAL

121a.180 Submission of application.
121a.181 Responsibilities of State educational agency.
121a.182 The excess cost requirement.
121a.183 Meeting the excess cost requirement.
121a.184 Excess costs—computation of minimum amounts.
121a.185 Computation of excess costs—consolidated application.
121a.186 Excess costs—limitation on use of Part B funds.
121a.190 Consolidated applications.
121a.191 Payments under consolidated applications.
121a.192 State regulation of consolidated applications.
121a.193 State educational agency approval; disapproval.
121a.194 Withholding.

LOCAL EDUCATIONAL AGENCY APPLICATIONS—CONTENTS

121a.220 Child identification.
121a.221 Confidentiality of personally identifiable information.
121a.222 Full educational opportunity goal; timetable.
121a.223 Facilities, personnel, and services.
121a.224 Personnel development.
121a.225 Priorities.
121a.226 Parent involvement.
121a.227 Participation in regular education programs.
121a.228 Public control of funds.
121a.229 Excess cost.
121a.230 Nonsupplanting.
121a.231 Comparable services.
121a.232 Information—reports.
121a.233 Records.
121a.234 Public participation.
121a.235 Individualized educaton program.
121a.236 Local policies consistent with statute.
121a.237 Procedural safeguards.
121a.238 Use of Part B funds.
121a.239 Nondiscrimination and employment of handicapped individuals.
121a.240 Other requirements.

APPLICATION FROM SECRETARY OF INTERIOR

121a.260 Submission of annual application; approval.
121a.261 Public participation.
121a.262 Use of Part B funds.
121a.263 Applicable regulations.

PUBLIC PARTICIPATION

121a.280 Public hearings before adopting an annual program plan.
121a.281 Notice.
121a.282 Opportunity to participate; comment period.

121a.283 Review of public comments before adopting plan.
121a.284 Publication and availability of approved plan.

Subpart C—Services

FREE APPROPRIATE PUBLIC EDUCATION

121a.300 Timeliness for free appropriate public education.
121a.301 Free appropriate public education—methods and payments.
121a.302 Residential placement.
121a.303 Proper functioning of hearing aids.
121a.304 Full educational opportunity goal.
121a.305 Program options.
121a.306 Nonacademic services.
121a.307 Physical education.

PRIORITIES IN THE USE OF PART B FUNDS

121a.320 Definitions of "first priority children" and "second priority children."
121a.321 Priorities.
121a.322 First priority children—school year 1977–1978.
121a.323 Services to other children.
121a.324 Application of local educational agency to use funds for the second priority.

INDIVIDUALIZED EDUCATION PROGRAMS

121a.340 Definition.
121a.341 State educational agency responsibility.
121a.342 When individualized education programs must be in effect.
121a.343 Meetings.
121a.344 Participants in meetings.
121a.345 Parent participation.
121a.346 Content of individualized education program.
121a.347 Private school placements.
121a.348 Handicapped children in parochial or other private schools.
121a.349 Individualized education program—accountability.

DIRECT SERVICE BY THE STATE EDUCATIONAL AGENCY

121a.360 Use of local educational agency allocation for direct services.
121a.361 Nature and location of services.
121a.370 Use of State educational agency allocation for direct and support services.
121a.371 State matching.
121a.372 Applicability of nonsupplanting requirement.

COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT

121a.380 Scope of system.
121a.381 Participation of other agencies and institutions.
121a.382 Inservice training.
121a.383 Personnel development plan.
121a.384 Dissemination.
121a.385 Adoption of educational practices.
121a.386 Evaluation.
121a.387 Technical assistance to local educational agencies.

Subpart D—Private Schools

HANDICAPPED CHILDREN IN PRIVATE SCHOOLS PLACED OR REFERRED BY PUBLIC AGENCIES

121a.400 Applicability of §§ 121a.401–121a.403.
121a.401 Responsibility of State educational agency.
121a.402 Implementation by State educational agency.
121a.403 Placement of children by parents.

HANDICAPPED CHILDREN IN PRIVATE SCHOOLS NOT PLACED OR REFERRED BY PUBLIC AGENCIES

121a.450 Applicability of §§ 121a.451–121a.460.
121a.451 State educational agency responsibility.
121a.452 Local educational agency responsibility.
121a.453 Determination of needs, number of children, and types of services.
121a.454 Service arrangements.
121a.455 Differences in services to private school handicapped children.
121a.456 Personnel.
121a.457 Equipment.
121a.458 Prohibition of segregation.
121a.459 Funds and property not to benefit private school.
121a.460 Existing level of instruction.

Subpart E—Procedural Safeguards

DUE PROCESS PROCEDURES FOR PARENTS AND CHILDREN

121a.500 Definitions of "consent", "evaluation", and "personally identifiable".
121a.501 General responsibility of public agencies.
121a.502 Opportunity to examine records.
121a.503 Independent educational evaluation.
121a.504 Prior notice; parent consent.
121a.505 Content of notice.
121a.506 Impartial due process hearing.
121a.507 Impartial hearing officer.
121a.508 Hearing rights.
121a.509 Hearing decision; appeal.
121a.510 Administrative appeal; impartial review.
121a.511 Civil action.
121a.512 Timelines and convenience of hearings and reviews.
121a.513 Child's status during proceedings.
121a.514 Surrogate parents.

PROTECTION IN EVALUATION PROCEDURES

121a.530 General.
121a.531 Preplacement evaluation.
121a.532 Evaluation procedures.
121a.533 Placement procedures.
121a.534 Reevaluation.

LEAST RESTRICTIVE ENVIRONMENT

121a.550 General.
121a.551 Continuum of alternative placements.
121a.552 Placements.
121a.553 Nonacademic settings.
121a.554 Children in public or private institutions.
121a.555 Technical assistance and training activities.
121a.556 Monitoring activities.

CONFIDENTIALITY OF INFORMATION

121a.560 Definitions.
121a.561 Notice to parents.
121a.562 Access rights.
121a.563 Record of access.
121a.564 Records on more than one child.
121a.565 List of types and locations of information.
121a.566 Fees.
121a.567 Amendment of records at parent's request.
121a.568 Opportunity for a hearing.
121a.569 Result of hearing.
121a.570 Hearing procedures.
121a.571 Consent.
121a.572 Safeguards.
121a.573 Destruction of information.
121a.574 Children's rights.
121a.575 Enforcement.
121a.576 Office of Education.

OFFICE OF EDUCATION PROCEDURES

121a.580 Opportunity for a hearing.
121a.581 Hearing panel.
121a.582 Hearing procedures.
121a.583 Initial decision; final decision.
121a.589 Waiver of requirement regarding supplementing and supplanting with Part B funds.
121a.590 Withholding payments.
121a.591 Reinstating payments.
121a.592 Public notice by State and local educational agencies.
121a.593 Judicial review of Commissioner's final action on annual program plan.

Subpart F—State Administration

STATE EDUCATIONAL AGENCY RESPONSIBILITIES: GENERAL

121a.600 Responsibility for all educational programs.
121a.601 Monitoring and evaluation activities.
121a.602 Adoption of complaint procedures.

USE OF FUNDS

121a.620 Federal funds for State administration.
121a.621 Allowable costs.

STATE ADVISORY PANEL

121a.650 Establishment.
121a.651 Membership.
121a.652 Advisory panel—functions.
121a.653 Advisory panel—procedures.

Subpart G—Allocation of Funds; Reports

ALLOCATIONS

121a.700 Special definition of the term State.
121a.701 State entitlement; formula.
121a.702 Limitations and exclusions.
121a.703 Ratable reductions.
121a.704 Hold harmless provision.
121a.705 Within-State distribution: fiscal year 1978.
121a.706 Within-State distribution: fiscal year 1979 and after.
121a.707 Local educational agency entitlement; formula.
121a.708 Reallocation of local educational agency funds.
121a.709 Payments to Secretary of Interior.
121a.710 Entitlements to jurisdictions.

REPORTS

121a.750 Annual report of children served—report requirement.
121a.751 Annual report of children served—information required in the report.
121a.752 Annual report of children served—certification.
121a.753 Annual report of children served—criteria for counting children.
121a.754 Annual report of children served—other responsibilities of the State educational agency.

APPENDICES

Appendix A—Analysis of Final Regulation. (45 CFR Part 121a.) Under Part B of the Education of the Handicapped Act.
Appendix B—Index to Part 121a.

AUTHORITY: Part B of the Education of the Handicapped Act, Pub. L. 91-230, Title VI, as amended, 89 Stat. 776-794 (20 U.S.C. 1411-1420), unless otherwise noted.

Subpart A—General

PURPOSE, APPLICABILITY, AND GENERAL PROVISIONS REGULATIONS

§ 121a.1 Purpose.

The purpose of this part is:

(a) To insure that all handicapped children have available to them a free appropriate public education which in-

cludes special education and related services to meet their unique needs,

(b) To insure that the rights of handicapped children and their parents are protected,

(c) To assist States and localities to provide for the education of all handicapped children, and

(d) To assess and insure the effectiveness of efforts to educate those children.

(20 U.S.C. 1401 Note.)

§ 121a.2 Applicability to State, local, and private agencies.

(a) *States.* This part applies to each State which receives payments under Part B of the Education of the Handicapped Act.

(b) *Public agencies within the State.* The annual program plan is submitted by the State educational agency on behalf of the State as a whole. Therefore, the provisions of this part apply to all political subdivisions of the State that are involved in the education of handicapped children. These would include: (1) The State educational agency, (2) local educational agencies and intermediate educational units, (3) other State agencies and schools (such as Departments of Mental Health and Welfare and State schools for the deaf or blind), and (4) State correctional facilities.

(c) *Private schools and facilities.* Each public agency in the State is responsible for insuring that the rights and protections under this part are given to children referred to or placed in private schools and facilities by that public agency.

(See §§ 121a.400–121a.403.)

(20 U.S.C. 1412(1), (6); 1413(a); 1413(a)(4)(B).)

Comment. The requirements of this part are binding on each public agency that has direct or delegated authority to provide special education and related services in a State that receives funds under Part B of the Act, regardless of whether that agency is receiving funds under Part B.

§ 121a.3 General provisions regulations.

Assistance under Part B of the Act is subject to Parts 100, 100b, 100c, and 121 of this chapter, which include definitions and requirements relating to fiscal, administrative, property management, and other matters.

(20 U.S.C. 1417(b).)

DEFINITIONS

Comment. Definitions of terms that are used throughout these regulations are included in this subpart. Other terms are defined in the specific subparts in which they are used. Below is a list of those terms and the specific sections and subparts in which they are defined:

Consent (Section 121a.500 of Subpart E)
Destruction (Section 121a.560 of Subpart E)
Direct services (Section 121a.370(b)(1) of Subpart C)
Evaluation (Section 121a.500 of Subpart E)
First priority children (Section 121a.320(a) of Subpart C)
Independent educational evaluation (Section 121a.503 of Subpart E)
Individualized education program (Section 121a.340 of Subpart C)
Participating agency (Section 121a.560 of Subpart E)
Personally identifiable (Section 121a.500 of Subpart E)
Private school handicapped children (Section 121a.450 of Subpart D)
Public expense (Section 121a.503 of Subpart E)
Second priority children (Section 121a.320(b) of Subpart C)
Special definition of "State" (Section 121a.700 of Subpart G)
Support services (Section 121a.370(b)(2) of Subpart C)

§ 121a.4 Free appropriate public education.

As used in this part, the term "free appropriate public education" means special education and related services which:

(a) Are provided at public expense, under public supervision and direction, and without charge,

(b) Meet the standards of the State educational agency, including the requirements of this part,

(c) Include preschool, elementary school, or secondary school education in the State involved, and

(d) Are provided in conformity with an individualized education program which meets the requirements under §§ 121a.340–121a.349 of Subpart C.

(20 U.S.C. 1401(18).)

§ 121a.5 Handicapped children.

(a) As used in this part, the term "handicapped children" means those children evaluated in accordance with §§ 121a.530–121a.534 as being mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multi-handicapped, or as having specific learning disabilities, who because of those impairments need special education and related services.

(b) The terms used in this definition are defined as follows:

(1) "Deaf" means a hearing impairment which is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, which adversely affects educational performance.

(2) "Deaf-blind" means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that they cannot be accommodated in special education programs solely for deaf or blind children.

(3) "Hard of hearing" means a hearing impairment, whether permanent or fluctuating, which adversely affects a child's educational performance but which is not included under the definition of "deaf" in this section.

(4) "Mentally retarded" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, which adversely affects a child's educational performance.

(5) "Multihandicapped" means concomitant impairments (such as mentally retarded-blind, mentally retarded-orthopedically impaired, etc.), the combination of which causes such severe educational problems that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blind children.

(6) "Orthopedically impaired" means a severe orthopedic impairment which adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g. poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns which cause contractures).

(7) "Other health impaired" means limited strength, vitality or alertness, due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, which adversely affects a child's educational performance.

(8) "Seriously emotionally disturbed" is defined as follows:

(i) The term means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree, which adversely affects educational performance:

(A) An inability to learn which cannot be explained by intellectual, sensory, or health factors;

(B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(C) Inappropriate types of behavior or feelings under normal circumstances;

(D) A general pervasive mood of unhappiness or depression; or

(E) A tendency to develop physical symptoms or fears associated with personal or school problems.

(ii) The term includes children who are schizophrenic or autistic. The term does not include children who are socially maladjusted, unless it is determined that they are seriously emotionally disturbed.

(9) "Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain disfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, or of environmental, cultural, or economic disadvantage.

(10) "Speech impaired" means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, which adversely affects a child's educational performance.

(11) "Visually handicapped" means a visual impairment which, even with correction, adversely affects a child's educational performance. The term includes both partially seeing and blind children.

(20 U.S.C. 1401(1), (15).)

§ 121a.6 Include.

As used in this part, the term "include" means that the items named are not all of the possible items that are covered, whether like or unlike the ones named.

(20 U.S.C. 1417(b).)

§ 121a.7 Intermediate educational unit.

As used in this part, the term "intermediate educational unit" means any public authority, other than a local educational agency, which:

(a) Is under the general supervision of a State educational agency;

(b) Is established by State law for the purpose of providing free public education on a regional basis; and

(c) Provides special education and related services to handicapped children within that State.

(20 U.S.C. 1401(22).)

§ 121a.8 Local educational agency.

(a) As used in this part, the term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(b) For the purposes of this part, the term "local educational agency" also includes intermediate educational units.

(20 U.S.C. 1401(8).)

§ 121a.9 Native language.

As used in this part, the term "native language" has the meaning given that term by section 703(a)(2) of the Bilingual Education Act, which provides as follows:

The term "native language", when used with reference to a person of limited English-speaking ability, means the language normally used by that person, or in the case of a child, the language normally used by the parents of the child.

(20 U.S.C. 880b–1(a)(2); 1401(21).)

Comment. Section 602(21) of the Education of the Handicapped Act states that the term "native language" has the same meaning as the definition from the Bilingual Education Act. (The term is used in the prior notice and evaluation sections under § 121a.505(b)(2) and § 121a.532(a)(1) of Subpart E.) In using the term, the Act does not prevent the following means of communication:

(1) In all direct contact with a child (including evaluation of the child), communication would be in the language normally used by the child and not that of the parents, if there is a difference between the two.

(2) If a person is deaf or blind, or has no written language, the mode of communication would be that normally used by the person (such as sign language, braille, or oral communication).

§ 121a.10 Parent.

As used in this part, the term "parent" means a parent, a guardian, a person acting as a parent of a child, or a surrogate parent who has been appointed in accordance with § 121a.514. The term does not include the State if the child is a ward of the State.

(20 U.S.C. 1415.)

Comment. The term "parent" is defined to include persons acting in the place of a parent, such as a grandmother or stepparent with whom a child lives, as well as persons who are legally responsible for a child's welfare.

§ 121a.11 Public agency.

As used in this part, the term "public agency" includes the State educational agency, local educational agencies, intermediate educational units, and any other political subdivisions of the State which are responsible for providing education to handicapped children.

(20 U.S.C. 1412(2)(B); 1412(6); 1413(a).)

§ 121a.12 Qualified.

As used in this part, the term "qualified" means that a person has met State educational agency approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which he or she is providing special education or related services.

(20 U.S.C. 1417(b).)

§ 121a.13 Related services.

(a) As used in this part, the term "related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a handicapped child to benefit from special education, and includes speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parent counseling and training.

(b) The terms used in this definition are defined as follows:

(1) "Audiology" includes:

(i) Identification of children with hearing loss;

(ii) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;

(iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;

(iv) Creation and administration of programs for prevention of hearing loss;

(v) Counseling and guidance of pupils, parents, and teachers regarding hearing loss; and

(vi) Determination of the child's need for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

(2) "Counseling services" means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

(3) "Early identification" means the implementation of a formal plan for identifying a disability as early as possible in a child's life.

(4) "Medical services" means services provided by a licensed physician to determine a child's medically related handicapping condition which results in the child's need for special education and related services.

(5) "Occupational therapy" includes:

(i) Improving, developing or restoring functions impaired or lost through illness, injury, or deprivation;

(ii) Improving ability to perform tasks for independent functioning when functions are impaired or lost; and

(iii) Preventing, through early intervention, initial or further impairment or loss of function.

(6) "Parent counseling and training" means assisting parents in understanding the special needs of their child and providing parents with information about child development.

(7) "Physical therapy" means services provided by a qualified physical therapist.

(8) "Psychological services" include:

(i) Administering psychological and educational tests, and other assessment procedures;

(ii) Interpreting assessment results;

(iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning.

(iv) Consulting with other staff members in planning school programs to meet the special needs of children as indicated by psychological tests, interviews, and behavioral evaluations; and

(v) Planning and managing a program of psychological services, including psychological counseling for children and parents.

(9) "Recreation" includes:

(i) Assessment of leisure function;

(ii) Therapeutic recreation services;

(iii) Recreation programs in schools and community agencies; and

(iv) Leisure education.

(10) "School health services" means services provided by a qualified school nurse or other qualified person.

(11) "Social work services in schools" include:

(i) Preparing a social or developmental history on a handicapped child;

(ii) Group and individual counseling with the child and family;

(iii) Working with those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school; and

(iv) Mobilizing school and community resources to enable the child to receive maximum benefit from his or her educational program.

(12) "Speech pathology" includes:

(i) Identification of children with speech or language disorders;

(ii) Diagnosis and appraisal of specific speech or language disorders;

(iii) Referral for medical or other professional attention necessary for the habilitation of speech or language disorders;

(iv) Provisions of speech and language services for the habilitation or prevention of communicative disorders; and

(v) Counseling and guidance of parents, children, and teachers regarding speech and language disorders.

(13) "Transportation" includes:

(i) Travel to and from school and between schools,

(ii) Travel in and around school buildings, and

(iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a handicapped child.

(20 U.S.C. 1401(17).)

Comment. With respect to related services, the Senate Report states:

The Committee bill provides a definition of "related services," making clear that all such related services may not be required for each individual child and that such term includes early identification and assessment of handicapping conditions and the provision of services to minimize the effects of such conditions.

(Senate Report No. 94-168, p.12 (1975).)

The list of related services is not exhaustive and may include other developmental, corrective, or supportive services (such as artistic and cultural programs, and art, music, and dance therapy), if they are required to assist a handicapped child to benefit from special education.

There are certain kinds of services which might be provided by persons from varying professional backgrounds and with a variety of operational titles, depending upon requirements in individual States. For example, counseling services might be provided by social workers, psychologists, or guidance counselors; and psychological testing might be done by qualified psychological examiners, psychometrists, or psychologists, depending upon State standards.

Each related service defined under this part may include appropriate administrative and supervisory activities that are necessary for program planning, management, and evaluation.

§ 121a.14 Special education.

(a)(1) As used in this part, the term "special education" means specially designed instruction, at no cost to the parent, to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions.

(2) The term includes speech pathology, or any other related service, if the service consists of specially designed instruction, at no cost to the parents, to meet the unique needs of a handicapped child, and is considered "special education" rather than a "related service" under State standards.

(3) The term also includes vocational education if it consists of specially designed instruction, at no cost to the parents, to meet the unique needs of a handicapped child.

(b) The terms in this definition are defined as follows:

(1) "At no cost" means that all specially designed instruction is provided without charge, but does not preclude incidental fees which are normally charged to non-handicapped students or their parents as a part of the regular education program.

(2) "Physical education" is defined as follows:

(i) The term means the development of:

(A) Physical and motor fitness;

(B) Fundamental motor skills and patterns; and

(C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports).

(ii) The term includes special physical education, adapted physical education, movement education, and motor development.

(20 U.S.C. 1401(16).)

(3) "Vocational education" means organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree.

(20 U.S.C. 1401(16).)

Comment. (1) The definition of "special education" is a particularly important one under these regulations, since a child is not handicapped unless he or she needs special education. (See the definition of "handicapped children" in section 121a.5.) The definition of "related services" (section 121a.13) also depends on this definition, since a related service must be necessary for a child to benefit from special education. Therefore, if a child does not need special education, there can be no "related services," and the child (because not "handicapped") is not covered under the Act.

(2) The above definition of vocational education is taken from the Vocational Education Act of 1963, as amended by Pub. L. 94-482. Under that Act, "vocational education" includes industrial arts and consumer and homemaking education programs.

§ 121a.15 State.

As used in this part, the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virginia Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 1401(6).)

Subpart B—State Annual Program Plans and Local Applications

Annual Program Plans—General

§ 121a.110 Condition of assistance.

In order to receive funds under Part B of the Act for any fiscal year, a State must submit an annual program plan to the Commissioner through its State educational agency.

(20 U.S.C. 1232c(b), 1412, 1413.)

§ 121a.111 Contents of plan.

Each annual program plan must contain the provisions required in this subpart.

(20 U.S.C. 1412, 1413, 1232c(b).)

§ 121a.112 Certification by the State educational agency and attorney general.

Each annual program plan must include:

(a) A certification by the officer of the State educational agency authorized to submit the plan that:

(1) The plan has been adopted by the State educational agency, and

(2) The plan is the basis for the operation and administration of the activities to be carried out in that State under Part B of the Act; and

(b) A certification by the State Attorney General or other authorized State legal officer that:

(1) The State educational agency has authority under State law to submit the plan and to administer or to supervise the administration of the plan, and

(2) All plan provisions are consistent with State law.

(20 U.S.C. 1413(a).)

§ 121a.113 Approval; disapproval.

(a) The Commissioner shall approve any annual program plan which meets the requirements of this part and Subpart B of Part 100b of this chapter.

(b) The Commissioner shall disapprove any annual program plan which does not meet those requirements but may not finally disapprove a plan before giving reasonable notice and an opportunity for a hearing to the State educational agency.

(c) The Commissioner shall use the procedures set forth in §§ 121a.580–121a.583 of Subpart E for a hearing under this section.

(20 U.S.C. 1413(c).)

§ 121a.114 Effective period of annual program plan.

(a) Each annual program plan is effective for a period from the date it becomes effective under § 100b.35 of this chapter through the following June 30.

(b) The Commissioner may extend the effective period of an annual program plan, on the request of a State, if the plan meets the requirements of this part and Part B of the Act.

(20 U.S.C. 1413(a), 1232c(b).)

Annual Program Plans—Contents

§ 121a.120 Public participation.

(a) Each annual program plan must include procedures which insure that the requirements in §§ 121a.280–121a.284 are met.

(b) Each annual program plan must also include the following:

(1) A statement describing the methods used by the State educational agency to provide notice of the public hearings on the annual program plan. The statement must include:

(i) A copy of each news release and advertisement used to provide notice,

(ii) A list of the newspapers and other media in which the State educational agency announced or published the notice, and

(iii) The dates on which the notice was announced or published.

(2) A list of the dates and locations of the public hearings on the annual program plan.

(3) A summary of comments received by the State educational agency and a description of the modifications that the State educational agency has made in the annual program plan as a result of the comments.

(4) A statement describing the methods by which the annual program plan will be made public after its approval by the Commissioner. This statement must include the information required under paragraph (b)(1) of this section.

(20 U.S.C. 1412(7).)

§ 121a.121 Right to a free appropriate public education.

(a) Each annual program plan must include information which shows that the State has in effect a policy which insures that all handicapped children have the right to a free appropriate public education within the age ranges and timelines under § 121a.122.

(b) The information must include a copy of each State statute, court order, State Attorney General opinion, and other State document that shows the source of the policy.

(c) The information must show that the policy:

(1) Applies to all public agencies in the State;

(2) Applies to all handicapped children;

(3) Implements the priorities established under § 121a.127(a)(1) of this subpart; and

(4) Establishes timelines for implementing the policy, in accordance with § 121a.122.

(20 U.S.C. 1412(1)(2)(B), (6); 1413(a)(3).)

§ 121a.122 Timeliness and ages for free appropriate public education.

(a) *General.* Each annual program plan must include in detail the policies and procedures which the State will undertake or has undertaken in order to insure that a free appropriate public education is available for all handicapped children aged three through eighteen within the State not later than September 1, 1978, and for all handicapped children aged three through twenty-one within the State not later than September 1, 1980.

(b) *Documents relating to timelines.* Each annual program plan must include a copy of each statute, court order, attorney general decision, and other State document which demonstrates that the State has established timelines in accordance with paragraph (a) of this section.

(c) *Exception.* The requirement in paragraph (a) of this section does not apply to a State with respect to handicapped children aged three, four, five, eighteen, nineteen, twenty, or twenty-one to the extent that the requirement would be inconsistent with State law or practice, or the order of any court, respecting public education for one or more of those age groups in the State.

(d) *Documents relating to exceptions.* Each annual program plan must:

(1) Describe in detail the extent to which the exception in paragraph (c) of this section applies to the State, and

(2) Include a copy of each State law, court order, and other document which provides a basis for the exception.

(20 U.S.C. 1412(2)(B).)

§ 121a.123 Full educational opportunity goal.

Each annual program plan must include in detail the policies and procedures which the State will undertake, or has undertaken, in order to insure that the State has a goal of providing full educational opportunity to all handicapped children aged birth through twenty-one.

(20 U.S.C. 1412(2)(A).)

§ 121a.124 Full educational opportunity goal—data requirement.

Beginning with school year 1978–1979, each annual program plan must contain the following information:

(a) The estimated number of handicapped children who need special education and related services.

(b) For the current school year:

(1) The number of handicapped children aged birth through two, who are receiving special education and related services; and

(2) The number of handicapped children:

(i) Who are receiving a free appropriate public education,

(ii) Who need, but are not receiving a free appropriate public education,

(iii) Who are enrolled in public and private institutions who are receiving a free appropriate public education, and

(iv) Who are enrolled in public and private institutions and are not receiving a free appropriate public education.

(c) The estimated numbers of handicapped children who are expected to receive special education and related services during the next school year.

(d) A description of the basis used to determine the data required under this section.

(e) The data required by paragraphs (a), (b), and (c) of this section must be provided:

(1) For each disability category (except for children aged birth through two), and

(2) For each of the following age ranges: birth through two, three through five, six through seventeen, and eighteen through twenty-one.

(20 U.S.C. 1412(2)(A).)

Comment. In Part B of the Act, the term "disability" is used interchangeably with "handicapping condition". For consistency in this regulation, a child with a "disability" means a child with one of the impairments listed in the definition of "handicapped children" in § 121a.5, if the child needs special education because of the impairment. In essence, there is a continuum of impairments. When an impairment is of such a nature that the child needs special education, it is referred to as a disability, in these regulations, and the child is a "handicapped" child.

States should note that data required under this section are not to be transmitted to the Commissioner in personally identifiable form. Generally, except for such purposes as monitoring and auditing, neither the States nor the Federal Government should have to collect data under this part in personally identifiable form.

§ 121a.125 Full educational opportunity goal—timetable.

(a) *General requirement.* Each annual program plan must contain a detailed timetable for accomplishing the goal of providing full educational opportunity for all handicapped children.

(b) *Content of timetable.* (1) The timetable must indicate what percent of the total estimated number of handicapped children the State expects to have full educational opportunity in each succeeding school year.

(2) The data required under this paragraph must be provided:

(i) For each disability category (except for children aged birth through two), and

(ii) For each of the following age ranges: birth through two, three through five, six through seventeen, and eighteen through twenty-one.

(20 U.S.C. 1412(2)(A).)

§ 121a.126 Full educational opportunity goal—facilities, personnel, and services.

(a) *General requirement.* Each annual program plan must include a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet the goal of providing full educational opportunity for all handicapped children. The State educational agency shall include the data required under paragraph (b) of this section and whatever additional data are necessary to meet the requirement.

(b) *Statistical description.* Each annual program plan must include the following data:

(1) The number of additional special class teachers, resource room teachers, and itinerant or consultant teachers needed for each disability category and

V 421 363 AUG 23 77 UM

the number of each of these who are currently employed in the State.

(2) The number of other additional personnel needed, and the number currently employed in the State, including school psychologists, school social workers, occupational therapists, physical therapists, home-hospital teachers, speech-language pathologists, audiologists, teacher aides, vocational education teachers, work study coordinators, physical education teachers, therapeutic recreation specialists, diagnostic personnel, supervisors, and other instructional and non-instructional staff.

(3) The total number of personnel reported under paragraph (b) (1) and (2) of this section, and the salary costs of those personnel.

(4) The number and kind of facilities needed for handicapped children and the number and kind currently in use in the State, including regular classes serving handicapped children, self-contained classes on a regular school campus, resource rooms, private special education day schools, public special education day schools, private special education residential schools, public special education residential schools, hospital programs, occupational therapy facilities, physical therapy facilities, public sheltered workshops, private sheltered workshops, and other types of facilities.

(5) The total number of transportation units needed for handicapped children, the number of transportation units designed for handicapped children which are in use in the State, and the number of handicapped children who use these units to benefit from special education.

(c) *Data categories.* The data required under paragraph (b) of this section must be provided as follows:

(1) Estimates for serving all handicapped children who require special education and related services,

(2) Current year data, based on the actual numbers of handicapped children receiving special education and related services (as reported under Subpart G), and

(3) Estimates for the next school year.

(d) *Rationale.* Each annual program plan must include a description of the means used to determine the number and salary costs of personnel.

(20 U.S.C. 1412(2)(A).)

§ 121a.127 Priorities.

(a) *General requirement.* Each annual program plan must include information which shows that:

(1) The State has established priorities which meet the requirements under §§ 121a.320–121a.324 of Subpart C.

(2) The State priorities meet the timelines under § 121a.122 of this subpart, and

(3) The State has made progress in meeting those timelines.

(b) *Child data.* (1) Each annual program plan must show the number of handicapped children known by the State to be in each of the first two priority groups named in §§ 121a.321 of Subpart C:

(1) By disability category, and

(2) By the age ranges in § 121a.124(e)(2) of this subpart.

(c) *Activities and resources.* Each annual program plan must show for each of the first two priority groups:

(1) The programs, services, and activities that are being carried out in the State,

(2) The Federal, State, and local resources that have been committed during the current school year, and

(3) The programs, services, activities, and resources that are to be provided during the next school year.

(20 U.S.C. 1412(3).)

§ 121a.128 Identification, location, and evaluation of handicapped children.

(a) *General requirement.* Each annual program plan must include in detail the policies and procedures which the State will undertake or has undertaken to insure that:

(1) All children who are handicapped, regardless of the severity of their handicap, and who are in need of special education and related services are identified, located, and evaluated; and

(2) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services.

(b) *Information.* Each annual program plan must:

(1) Designate the State agency (if other than the State educational agency) responsible for coordinating the planning and implementation of the policies and procedures under paragraph (a) of this section;

(2) Name each agency that participates in the planning and implementation and describe the nature and extent of its participation;

(3) Describe the extent to which:

(i) The activities described in paragraph (a) of this section have been achieved under the current annual program plan, and

(ii) The resources named for these activities in that plan have been used;

(4) Describe each type of activity to be carried out during the next school year, including the role of the agency named under paragraph (b)(1) of this section, timelines for completing those activities, resources that will be used, and expected outcomes;

(5) Describe how the policies and procedures under paragraph (a) of this section will be monitored to insure that the State educational agency obtains:

(i) The number of handicapped children within each disability category that have been identified, located, and evaluated, and

(ii) Information adequate to evaluate the effectiveness of those policies and procedures; and

(6) Describe the method the State uses to determine which children are currently receiving special education and related services and which children are not receiving special education and related services.

(20 U.S.C. 1412(2)(C).)

Comment. The State is responsible for insuring that all handicapped children are identified, located, and evaluated, including children in all public and private agencies and institutions in the State. Collection and use of data are subject to the confidentiality requirements in §§ 121a.560–121a.576.

§ 121a.129 Confidentiality of personally identifiable information.

(a) Each annual program plan must include in detail the policies and procedures which the State will undertake or has undertaken in order to insure the protection of the confidentiality of any personally identifiable information collected, used, or maintained under this part.

(b) The Commissioner shall use the criteria in §§ 121a.560–121a.576 of Subpart E to evaluate the policies and procedures of the State under paragraph (a) of this section.

(20 U.S.C. 1412(2)(D); 1417(c).)

Comment. The confidentiality regulations were published in the FEDERAL REGISTER in final form on February 27, 1976 (41 FR 8603–8610), and met the requirements of Part B of the Act, as amended by Pub. L. 94–142. Those regulations are incorporated in § 121a.560–121a.576 of Subpart E.

§ 121a.130 Individualized education programs.

(a) Each annual program plan must include information which shows that each public agency in the State maintains records of the individualized education program for each handicapped child, and each public agency establishes, reviews, and revises each program as provided in Subpart C.

(b) Each annual program plan must include:

(1) A copy of each State statute, policy, and standard that regulates the manner in which individualized education programs are developed, implemented, reviewed, and revised, and

(2) The procedures which the State educational agency follows in monitoring and evaluating those programs.

(20 U.S.C. 1412(4).)

§ 121a.131 Procedural safeguards.

Each annual program plan must include procedural safeguards which insure that the requirements in §§ 121a.500–121a.514 of Subpart E are met.

(20 U.S.C. 1412(5)(A).)

§ 121a.132 Least restrictive environment.

(a) Each annual program plan must include procedures which insure that the requirements in §§ 121a.550–121a.556 of Subpart E are met.

(b) Each annual program plan must include the following information:

(1) The number of handicapped children in the State, within each disability category, who are participating in regular education programs, consistent with §§ 121a.550–121a.556 of Subpart E.

(2) The number of handicapped children who are in separate classes or separate school facilities, or who are otherwise removed from the regular education environment.

(20 U.S.C. 1412(5)(B).)

§ 121a.133 Protection in evaluation procedures.

Each annual program plan must include procedures which insure that the requirements in §§ 121a.530–121a.534 of Subpart E are met.

(10 U.S.C. 1412(5)(C).)

§ 121a.134 Responsibility of State educational agency for all educational programs.

(a) Each annual program plan must include information which shows that the requirements in § 121a.600 of Subpart F are met.

(b) The information under paragraph (a) of this section must include a copy of each State statute, State regulation, signed agreement between respective agency officials, and any other document that shows compliance with that paragraph.

(20 U.S.C. 1412(6).)

§ 121a.135 Monitoring procedures.

Each annual program plan must include information which shows that the requirements in § 121a.601 and § 121a.602 of Subpart F are met.

(20 U.S.C. 1412(6).)

§ 121a.136 Implementation procedures—State educational agency.

Each annual program plan must describe the procedures the State educational agency follows to inform each public agency of its responsibility for insuring effective implementation of procedural safeguards for the handicapped children served by that public agency.

(20 U.S.C. 1412(6).)

§ 121a.137 Procedures for consultation.

Each annual program plan must include an assurance that in carrying out the requirements of section 612 of the Act, procedures are established for consultation with individuals involved in or concerned with the education of handicapped children, including handicapped individuals and parents of handicapped children.

(20 U.S.C. 1412(7)(A).)

§ 121a.138 Other Federal programs.

Each annual program plan must provide that programs and procedures are established to insure that funds received by the State or any public agency in the State under any other Federal program, including section 121 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241e–2), section 305(b)(8) of that Act (20 U.S.C. 844a(b)(8)) or Title IV–C of that Act (20 U.S.C. 1831), and section 110(a) of the Vocational Education Act of 1963, under which there is specific authority for assistance for the education of handicapped children, are used by the State, or any public agency in the State, only in a manner consistent with the goal of providing free appropriate public education for all handicapped children, except that nothing in this section limits the specific requirements of the laws governing those Federal programs.

(20 U.S.C. 1413(a)(2).)

§ 121a.139 Comprehensive system of personnel development.

Each annual program plan must include the material required under §§ 121a.380–121a.387 of Subpart C.

(20 U.S.C. 1413(a)(3).)

§ 121a.140 Private schools.

Each annual program plan must include policies and procedures which insure that the requirements of Subpart D are met.

(20 U.S.C. 1413(a)(4).)

§ 121a.141 Recovery of funds for misclassified children.

Each annual program plan must include policies and procedures which insure that the State seeks to recover any funds provided under Part B of the Act for services to a child who is determined to be erroneously classified as eligible to be counted under section 611(a) or (d) of the Act.

(20 U.S.C. 1413(a)(5).)

§ 121a.142 Control of funds and property.

Each annual program plan must provide assurance satisfactory to the Commissioner that the control of funds provided under Part B of the Act, and title to property acquired with those funds, is in a public agency for the uses and purposes provided in this part, and that a public agency administers the funds and property.

(20 U.S.C. 1413(a)(6).)

§ 121a.143 Records.

Each annual program plan must provide for keeping records and affording access to those records, as the Commissioner may find necessary to assure the correctness and verification of reports and of proper disbursement of funds provided under Part B of the Act.

(20 U.S.C. 1413(a)(7)(B).)

§ 121a.144 Hearing on application.

Each annual program plan must include procedures to insure that the State educational agency does not take any final action with respect to an application submitted by a local educational agency before giving the local educational agency reasonable notice and an opportunity for a hearing.

(20 U.S.C. 1413(a)(8).)

§ 121a.145 Prohibition of commingling.

Each annual program plan must provide assurance satisfactory to the Commissioner that funds provided under Part B of the Act are not commingled with State funds.

(20 U.S.C. 1413(a)(9).)

Comment. This assurance is satisfied by the use of a separate accounting system that includes an "audit trail" of the expenditure of the Part B funds. Separate bank accounts are not required. (See 45 CFR 100b, Subpart F (Cash Depositories).)

§ 121a.146 Annual evaluation.

Each annual program plan must include procedures for evaluation at least annually of the effectiveness of programs in meeting the educational needs of handicapped children, including evaluation of individualized education programs.

(20 U.S.C. 1413(a)(11).)

§ 121a.147 State advisory panel.

Each annual program plan must provide that the requirements of §§ 121a.650–121a.653 of Subpart F are met.

(20 U.S.C. 1413(a)(12).)

§ 121a.148 Policies and procedures for use of Part B funds.

Each annual program plan must set forth policies and procedures designed to insure that funds paid to the State under Part B of the Act are spent in accordance with the provisions of Part B, with particular attention given to sections 611(b), 611(c), 611(d), 612(2), and 612(3) of the Act.

(20 U.S.C. 1413(a)(1).)

§ 121a.149 Description of use of Part B funds.

(a) *State allocation.* Each annual program plan must include the following information about the State's use of funds under § 121a.370 of Subpart C and § 121a.620 of Subpart F:

(1) A list of administrative positions, and a description of duties for each person whose salary is paid in whole or in part with those funds.

(2) For each position, the percentage of salary paid with those funds.

(3) A description of each administrative activity the State educational agency will carry out during the next school year with those funds.

(4) A description of each direct service and each support service which the State educational agency will provide during the next school year with those funds, and the activities the State advisory panel will undertake during that period with those funds.

(b) *Local educational agency allocation.* Each annual program plan must include:

(1) An estimate of the number and percent of local educational agencies in the State which will receive an allocation under this part (other than local educational agencies which submit a consolidated application),

V 42 163 AUG 23 77 UM

(2) An estimate of the number of local educational agencies which will receive an allocation under a consolidated application,

(3) An estimate of the number of consolidated applications and the average number of local educational agencies per application, and

(4) A description of direct services the State educational agency will provide under § 121a.360 of Subpart C.

(20 U.S.C. 1232c(b)(1)(B)(ii).)

§ 121a.150 Nondiscrimination and employment of handicapped individuals.

(a) Each annual program plan must include an assurance that the program assisted under Part B of the Act will be operated in compliance with Title 45 of the Code of Federal Regulations Part 84 (Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefitting from Federal Financial Assistance). The State educational agency may incorporate this assurance by reference if it has already been filed with the Department of Health, Education, and Welfare.

(b) The assurance under paragraph (a) of this section covers, among other things, the specific requirement on employment of handicapped individuals under section 606 of the Act, which states:

The Secretary shall assure that each recipient of assistance under this Act shall make positive efforts to employ and advance in employment qualified handicapped individuals in programs assisted under this Act.

(20 U.S.C. 1405; 29 U.S.C. 794.)

§ 121a.151 Additional information if the State educational agency provides direct services.

If a State educational agency provides free appropriate public education for handicapped children or provides them with direct services, its annual program plan must include the information required under §§ 121a.226–121a.228, 121a.231, and 121a.235.

(20 U.S.C. 1413(b).)

LOCAL EDUCATIONAL AGENCY APPLICATIONS—GENERAL

§ 121a.180 Submission of application.

In order to receive payments under Part B of the Act for any fiscal year a local educational agency must submit an application to the State educational agency.

(20 U.S.C. 1414(a).)

§ 121a.181 Responsibilities of State educational agency.

Each State educational agency shall establish the procedures and format which a local educational agency uses in preparing and submitting its application.

(20 U.S.C. 1414(a))

§ 121a.182 The excess cost requirement.

A local educational agency may only use funds under Part B of the Act for the excess costs of providing special education and related services for handicapped children.

(20 U.S.C. 1414(a)(1), (a)(2)(B)(i).)

§ 121a.183 Meeting the excess cost requirement.

(a) A local educational agency meets the excess cost requirement if it has on the average spent at least the amount determined under § 121a.184 for the education of each of its handicapped children. This amount may not include capital outlay or debt service.

(b) Each local educational agency must keep records adequate to show that it has met the excess cost requirement.

(20 U.S.C. 1402(20); 1414(a)(1).)

Comment. The excess cost requirement means that the local educational agency must spend a certain minimum amount for the education of its handicapped children before Part B funds are used. This insures that children served with Part B funds have at least the same average amount spent on them, from sources other than Part B, as do the children in the school district taken as a whole.

The minimum amount that must be spent for the education of handicapped children is computed under a statutory formula. Section 121a.184 implements this formula and gives a step-by-step method to determine the minimum amount. Excess costs are those costs of special education and related services which exceed the minimum amount. Therefore, if a local educational agency can show that it has (on the average) spent the minimum amount for the education of each of its handicapped children, it has met the excess cost requirement, and all additional costs are excess costs. Part B funds can then be used to pay for these additional costs, subject to the other requirements of Part B (priorities, etc.). In the "Comment" under section 121a.184, there is an example of how the minimum amount is computed.

§ 121a.184 Excess costs—computation of minimum amount.

The minimum average amount a local educational agency must spend under § 121a.183 for the education of each of its handicapped children is computed as follows:

(a) Add all expenditures of the local educational agency in the preceding school year, except capital outlay and debt service:

(1) For elementary school students, if the handicapped child is an elementary school student, or

(2) For secondary school students, if the handicapped child is a secondary school student.

(b) From this amount, subtract the total of the following amounts spent for elementary school students or for secondary school students, as the case may be:

(1) Amounts the agency spent in the preceding school year from funds awarded under Part B of the Act and Titles I and VII of the Elementary and Secondary Education Act of 1965, and

(2) Amounts from State and local funds which the agency spent in the preceding school year for:

(i) Programs for handicapped children,

(ii) Programs to meet the special educational needs of educationally deprived children, and

(iii) Programs of bilingual education for children with limited English-speaking ability.

(c) Divide the result under paragraph (b) of this section by the average number of students enrolled in the agency in the preceding school year:

(1) In its elementary schools, if the handicapped child is an elementary school student, or

(2) In its secondary schools, if the handicapped child is a secondary school student.

(20 U.S.C. 1414(a)(1).)

Comment. The following is an example of how a local educational agency might compute the average minimum amount it must spend for the education of each of its handicapped children, under § 121a.183. This example follows the formula in § 121a.184. Under the statute and regulations, the local educational agency must make one computation for handicapped children in its elementary schools and a separate computation for handicapped children in its secondary schools. The computation for handicapped elementary school students would be done as follows:

a. First, the local educational agency must determine its total amount of expenditures for elementary school students from all sources—local, State, and Federal (including Part B)—in the preceding school year. Only capital outlay and debt service are excluded.

Example: A local educational agency spent the following amounts last year for elementary school students (including its handicapped elementary school students):

(1) From local tax funds	$2,750,000
(2) From State funds	7,000,000
(3) From Federal funds	750,000
	10,500,000

Of this total, $500,000 was for capital outlay and debt service relating to the education of elementary school students. This must be subtracted from total expenditures:

	$10,500,000
	−500,000
Total expenditures for elementary school students (less capital outlay and debt service)	=10,000,000

b. Next, the local educational agency must subtract amounts spent for:

(1) Programs for handicapped children;

(2) Programs to meet the special educational needs of educationally deprived children; and

(3) Programs of bilingual education for children with limited English-speaking ability.

These are funds which the local educational agency actually spent, not funds received last year but carried over for the current school year.

Example: The local educational agency spent the following amounts for elementary school students last year:

(1) From funds under Title I of the Elementary and Secondary Education Act of 1965	$300,000
(2) From a special State program for educationally deprived children	200,000
(3) From a grant under Part B	200,000
(4) From State funds for the education of handicapped children	500,000
(5) From a locally-funded program for handicapped children	$250,000
(6) From a grant for a bilingual education program under Title VII of the Elementary and Secondary Education Act of 1965	150,000
Total	1,600,000

(A local educational agency would also include any other funds it spent from Federal, State, or local sources for the three basic purposes: handicapped children, educationally deprived children, and bilingual education for children with limited English-speaking ability.)

This amount is subtracted from the local educational agency's total expenditure for elementary school students computed above:

$10,000,000
−1,600,000
8,400,000

c. The local educational agency next must divide by the average number of students enrolled in the elementary schools of the agency last year (including its handicapped students).

Example: Last year, an average of 7,000 students were enrolled in the agency's elementary schools. This must be divided into the amount computed under the above paragraph:

$8,400,000 / 7,000 students = $1,200/student

This figure is in the minimum amount the local educational agency must spend (on the average) for the education of each of its handicapped students. Funds under Part B may be used only for costs over and above this minimum. In this example, if the local educational agency has 100 handicapped elementary school students, it must keep records adequate to show that it has spent at least $120,000 for the education of those students (100 students times $1,200/student), not including capital outlay and debt service.

This $120,000 may come from any funds except funds under Part B, subject to any legal requirements that govern the use of those other funds.

If the local educational agency has handicapped secondary school students, it must do the same computation for them. However, the amounts used in the computation would be those the local educational agency spent last year for the education of secondary school students, rather than for elementary school students.

§ 121a.185 Computation of excess costs—consolidated application.

The minimum average amount under § 121a.183 where two or more local educational agencies submit a consolidated application, is the average of the combined minimum average amounts determined under § 121a.184 in those agencies for elementary or secondary school students, as the case may be.

(20 U.S.C. 1414(a)(1).)

§ 121a.186 Excess costs—limitation on use of Part B funds.

(a) The excess cost requirement prevents a local educational agency from using funds provided under Part B of the Act to pay for all of the costs directly attributable to the education of a handicapped child, subject to paragraph (b) of this section.

(b) The excess cost requirement does not prevent a local educational agency from using Part B funds to pay for all of the costs directly attributable to the education of a handicapped child in any of the age ranges three, four, five, eighteen, nineteen, twenty, or twenty-one, if no local or State funds are available for non-handicapped children in that age range. However, the local educational agency must comply with the nonsupplanting and other requirements of this part in providing the education and services.

(20 U.S.C. 1402(20); 1414(a)(1).)

§ 121a.190 Consolidated applications.

(a) *Voluntary applications.* Local educational agencies may submit a consolidated application for payments under Part B of the Act.

(b) *Required applications.* A State educational agency may require local educational agencies to submit a consolidated application for payments under Part B of the Act if the State educational agency determines that an individual application submitted by a local educational agency will be disapproved because:

(1) The agency's entitlement is less than the $7,500 minimum required by section 611(c)(4)(A)(i) of the Act (§ 121a.360(a)(1) of Subpart C); or

(2) The agency is unable to establish and maintain programs of sufficient size and scope to effectively meet the educational needs of handicapped children.

(c) *Size and scope of program.* The State educational agency shall establish standards and procedures for determinations under paragraph (b)(2) of this section.

(20 U.S.C. 1414(c)(1).)

§ 121a.191 Payments under consolidated applications.

In any case in which a consolidated application is approved by the State educational agency, the payments to the participating local educational agencies must be equal to the sum of the entitlements of the separate local educational agencies.

(20 U.S.C. 1414(c)(2)(A).)

§ 121a.192 State regulation of consolidated applications.

(a) The State educational agency shall issue regulations with respect to consolidated applications submitted under this part.

(b) The State educational agency's regulations must:

(1) Be consistent with section 612(1)–(7) and section 613(a) of the Act, and

(2) Provide participating local educational agencies with joint responsibilities for implementing programs receiving payments under this part.

(c) If an intermediate educational unit is required under State law to carry out this part, the joint responsibilities given to local educational agencies under paragraph (b)(2) of this section do not apply to the administration and disbursement of any payments received by the intermediate educational unit. Those administrative responsibilities must be carried out exclusively by the intermediate educational unit.

(20 U.S.C. 1414(c)(2)(C).)

§ 121a.193 State educational agency approval; disapproval.

(a) *Approval.* A State educational agency shall approve an application submitted by a local educational agency if the State educational agency determines that the application meets the requirements under §§ 121a.220–121a.240. However, the State educational agency may not approve any application until the Commissioner approves its annual program plan for the school year covered by the application.

(b) *Disapproval.* The State educational agency shall disapprove an application if the State educational agency determines that the application does not meet a requirement under §§ 121a.220–121a.240.

(20 U.S.C. 1414(b)(1).)

(c) In carrying out its functions under this section, each State educational agency shall consider any decision resulting from a hearing under §§ 121a.506–121a.513 of Subpart E which is adverse to the local educational agency involved in the decision.

(20 U.S.C. 1414(b)(3).)

§ 121a.194 Withholding.

(a) If a State educational agency, after giving reasonable notice and an opportunity for a hearing to a local educational agency, decides that the local educational agency in the administration of an application approved by the State educational agency has failed to comply with any requirement in the application, the State educational agency, after giving notice to the local educational agency, shall:

(1) Make no further payments to the local educational agency until the State educational agency is satisfied that there is no longer any failure to comply with the requirement; or

(2) Consider its decision in its review of any application made by the local educational agency under § 121a.180;

(3) Or both.

(b) Any local educational agency receiving a notice from a State educational agency under paragraph (a) of this section is subject to the public notice provision in § 121a.592.

(20 U.S.C. 1414(b)(2).)

LOCAL EDUCATIONAL AGENCY APPLICATIONS—CONTENTS

§ 121a.220 Child identification.

Each application must include procedures which insure that all children residing within the jurisdiction of the local educational agency who are handicapped, regardless of the severity of their handicap, and who are in need of special education and related services are identified, located, and evaluated, including a practical method of determining which children are currently receiving needed

V42N163 AUG 23 77 UM

special education and related services and which children are not currently receiving needed special education and related services.

(20 U.S.C. 1414(a)(1)(A).)

Comment. The local educational agency is responsible for insuring that all handicapped children within its jurisdiction are identified, located, and evaluated, including children in all public and private agencies and institutions within that jurisdiction. Collection and use of data are subject to the confidentiality requirements in §§ 121a.560–121a.576 of Subpart E.

§ 121a.221 Confidentiality of personally identifiable information.

Each application must include policies and procedures which insure that the criteria in §§ 121a.500–121a.574 of Subpart E are met.

(20 U.S.C. 1414(a)(1)(B).)

§ 121a.222 Full educational opportunity goal; timetable.

Each application must: (a) Include a goal of providing full educational opportunity to all handicapped children, aged birth through 21, and

(b) Include a detailed timetable for accomplishing the goal.

(20 U.S.C. 1414(a)(1)(C), (D).)

§ 121a.223 Facilities, personnel, and services.

Each application must provide a description of the kind and number of facilities, personnel, and services necessary to meet the goal in § 121a.222.

(20 U.S.C. 1414(a)(1)(E).)

§ 121a.224 Personnel development.

Each application must include procedures for the implementation and use of the comprehensive system of personnel development established by the State educational agency under § 121a.140.

(20 U.S.C. 1414(a)(1)(C)(i).)

§ 121a.225 Priorities.

Each application must include priorities which meet the requirements of §§ 121a.320–121a.324.

(20 U.S.C. 1414(a)(1)(C)(ii).)

§ 121a.226 Parent involvement.

Each application must include procedures to insure that, in meeting the goal under § 121a.222, the local educational agency makes provision for participation of and consultation with parents or guardians of handicapped children.

(20 U.S.C. 1414(a)(1)(C)(iii).)

§ 121a.227 Participation in regular education programs.

(a) Each application must include procedures to insure that to the maximum extent practicable, and consistent with §§ 121a.550–121a.553 of Subpart E, the local educational agency provides special services to enable handicapped children to participate in regular educational programs.

(b) Each application must describe:

(1) The types of alternative placements that are available for handicapped children, and

(2) The number of handicapped children within each disability category who are served in each type of placement.

(20 U.S.C. 1414(a)(1)(C)(iv).)

§ 121a.228 Public control of funds.

Each application must provide assurance satisfactory to the State educational agency that control of funds provided under Part B of the Act and title to property acquired with those funds, is in a public agency for the uses and purposes under this part, and that a public agency administers the funds and property.

(20 U.S.C. 1414(a)(2)(A).)

§ 121a.229 Excess cost.

Each application must provide assurance satisfactory to the State educational agency that the local educational agency uses funds provided under Part B of the Act only for costs which exceed the amount computed under § 121a.184 and which are directly attributable to the education of handicapped children.

(20 U.S.C. 1414(a)(2)(B).)

§ 121a.230 Nonsupplanting.

(a) Each application must provide assurance satisfactory to the State educational agency that the local educational agency uses funds provided under Part B of the Act to supplement and, to the extent practicable, increase the level of State and local funds expended for the education of handicapped children, and in no case to supplant those State and local funds.

(b) To meet the requirement in paragraph (a) of this section:

(1) The total amount or average per capita amount of State and local school funds budgeted by the local educational agency for expenditures in the current fiscal year for the education of handicapped children must be at least equal to the total amount or average per capita amount of State and local school funds actually expended for the education of handicapped children in the most recent preceding fiscal year for which the information is available. Allowance may be made for:

(i) Decreases in enrollment of handicapped children; and

(ii) Unusually large amounts of funds expended for such long-term purposes as the acquisition of equipment and the construction of school facilities; and

(2) The local educational agency must not use Part B funds to displace State or local funds for any particular cost.

(20 U.S.C. 1414(a)(2)(B).)

Comment. Under statutes such as Title I of the Elementary and Secondary Education Act of 1965, as amended, the requirement is to not supplant funds that "would" have been expended if the Federal funds were not available. The requirement under Part B, however, is to not supplant funds which have been "expended." This use of the past tense suggests that the funds referred to are those which the State or local agency actually spent at some time before the use of the Part B funds. Therefore, in judging compliance with this requirement, the Commissioner looks to see if Part B funds are used for any costs which were previously paid for with State or local funds.

The nonsupplanting requirement prohibits a local educational agency from supplanting State and local funds with Part B funds on either an aggregate basis or for a given expenditure. This means that if an LEA spent $100,000 for special education in FY 1977, it must budget at least $100,000 in FY 1978, unless one of the conditions in § 121a.230(b)(1) applies.

Whether a local educational agency supplants with respect to a particular cost would depend on the circumstances of the expenditure. For example, if a teacher's salary has been switched from local funding to Part B funding, this would appear to be supplanting. However, if that teacher was taking over a different position (such as a resource room teacher, for example), it would not be supplanting. Moreover, it might be important to consider whether the particular action of a local educational agency led to an increase in services for handicapped children over that which previously existed. The intent of the requirement is to insure that Part B funds are used to increase State and local efforts and are not used to take their place. Compliance would be judged with this aim in mind. The supplanting requirement is not intended to inhibit better services to handicapped children.

§ 121a.231 Comparable services.

(a) Each application must provide assurance satisfactory to the State educational agency that the local educational agency meets the requirements of this section.

(b) A local educational agency may not use funds under Part B of the Act to provide services to handicapped children unless the agency uses State and local funds to provide services to those children which, taken as a whole, are at least comparable to services provided to other handicapped children in that local educational agency.

(c) Each local educational agency shall maintain records which show that the agency meets the requirement in paragraph (b) of this section.

(20 U.S.C. 1414(a)(2)(C).)

Comment. Under the "comparability" requirement, if State and local funds are used to provide certain services, those services must be provided with State and local funds to all handicapped children in the local educational agency who need them. Part B funds may then be used to supplement existing services, or to provide additional services to meet special needs. This, of course, is subject to the other requirements of the Act, including the priorities under §§ 121a.320–121a.324.

§ 121a.232 Information—reports.

Each application must provide that the local educational agency furnishes information (which, in the case of reports relating to performance, is in accordance with specific performance criteria developed by the local educational agency and related to program objectives) as may be necessary to enable the State educational agency to perform its duties under this part, including information relating to the educational achievement of handicapped children participating in the local educational agency's programs for handicapped children.

(20 U.S.C. 1414(a)(3)(A).)

§ 121a.233 Records.

Each application must provide that the local educational agency keeps such records, and affords access to those records, as the State educational agency may find necessary to insure the correctness and verification of the information that the local educational agency furnishes under § 121a.232.

(20 U.S.C. 1414(a)(3)(B).)

§ 121a.234 Public participation.

(a) Each application must:

(1) Provide for making the application and all documents related to the application available to parents and the general public; and

(2) Provide that all evaluations and reports required under § 121a.232 are public information.

(b) In implementing the requirement in paragraph (a)(1), the local educational agency shall use methods for public participation within its jurisdiction which are comparable to those required in § 121a.280–121a.284 of this subpart. However, the local educational agency is not required to hold public hearings.

(20 U.S.C. 1414(a)(4).)

§ 121a.235 Individualized education program.

Each application must include procedures to assure that the local educational agency complies with §§ 121a.340–121a.349 of Subpart C.

(20 U.S.C. 1414(a)(5).)

§ 121a.236 Local policies consistent with statute.

Each application must provide assurance satisfactory to the State educational agency that all policies and programs which the local educational agency establishes and administers are consistent with section 612(1)–(7) and section 613(a) of the Act.

(20 U.S.C. 1414(a)(6).)

§ 121a.237 Procedural safeguards.

Each application must provide assurance satisfactory to the State educational agency that the local educational agency has procedural safeguards which meet the requirements of §§ 121a.500–121a.514 of Subpart E.

(20 U.S.C. 1414(a)(7).)

§ 121a.238 Use of Part B funds.

Each application must describe how the local educational agency will use the funds under Part B of the Act during the next school year.

(20 U.S.C. 1414(a).)

§ 121a.239 Nondiscrimination and employment of handicapped individuals.

(a) Each application must include an assurance that the program assisted under Part B of the Act will be operated in compliance with Title 45 of the Code of Federal Regulations Part 84 (Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefitting from Federal Financial Assistance). The local educational agency may incorporate this assurance by reference if it has already been filed with the Department of Health, Education, and Welfare.

(b) The assurance under paragraph (a) of this section covers, among other things, the specific requirement on employment of handicapped individuals under section 606 of the Act, which states:

> The Secretary shall assure that each recipient of assistance under this Act shall make positive efforts to employ and advance in employment qualified handicapped individuals in programs assisted under this Act.

(20 U.S.C. 1405; 29 U.S.C. 794.)

§ 121a.240 Other requirements.

Each local application must include additional procedures and information which the State educational agency may require in order to meet the State annual program plan requirements under §§ 121a.120–121a.151.

(20 U.S.C. 1414(a)(6).)

APPLICATION FROM SECERTARY OF INTERIOR

§ 121a.260 Submission of annual application: approval.

In order to receive payments under this part, the Secretary of Interior shall submit an annual application which:

(a) Meets applicable requirements of section 614(a) of the Act;

(b) Includes monitoring procedures which are consistent with § 121a.601; and

(c) Includes other material as agreed to by the Commissioner and the Secretary of Interior.

(20 U.S.C. 1411(f).)

§ 121a.261 Public participation.

In the development of the application for the Department of Interior, the Secretary of Interior shall provide for public participation consistent with §§ 121a.280–121a.284.

(20 U.S.C. 1411(f).)

§ 121a.262 Use of Part B funds.

(a) The Department of Interior may use five percent of its payments in any fiscal year, or $200,000, whichever is greater, for administrative costs in carrying out the provisions of this Part.

(b) The remainder of the payments to the Secretary of Interior in any fiscal year must be used in accordance with the priorities under §§ 121a.320–121a.324 of Subpart C.

(20 U.S.C. 1411(f).)

§ 121a.263 Applicable regulations.

The Secretary of Interior shall comply with the requirements under Subparts C, E, and F.

(20 U.S.C. 1411(f)(2).)

PUBLIC PARTICIPATION

§ 121a.280 Public hearings before adopting an annual program plan.

(a) Prior to its adoption of an annual program plan, the State educational agency shall:

(1) Make the plan available to the general public,

(2) Hold public hearings, and

(3) Provide an opportunity for comment by the general public on the plan.

(20 U.S.C. 1412(7).)

§ 121a.281 Notice.

(a) The State educational agency shall provide notice to the general public of the public hearings.

(b) The notice must be in sufficient detail to inform the public about:

(1) The purpose and scope of the annual program plan and its relation to Part B of the Education of the Handicapped Act,

(2) The availability of the annual program plan,

(3) The date, time, and location of each public hearing,

(4) The procedures for submitting written comments about the plan, and

(5) The timetable for developing the final plan and submitting it to the Commissioner for approval.

(c) The notice must be published or announced:

(1) In newspapers or other media, or both, with circulation adequate to notify the general public about the hearings, and (2) Enough in advance of the date of the hearings to afford interested parties throughout the State a reasonable opportunity to participate.

(20 U.S.C. 1412(7).)

§ 121a.282 Opportunity to participate: comment period.

(a) The State educational agency shall conduct the public hearings at times and places that afford interested parties throughout the State a reasonable opportunity to participate.

(b) The plan must be available for comment for a period of at least 30 days following the date of the notice under § 121a.281.

(20 U.S.C. 1412(7).)

§ 121a.283 Review of public comments before adopting plan.

Before adopting its annual program plan, the State educational agency shall:

(a) Review and consider all public comments, and

(b) Make any necessary modifications in the plan.

(20 U.S.C. 1412(7).)

§ 121a.284 Publication and availability of approved plan.

After the Commissioner approves an annual program plan, the State educational agency shall give notice in newspapers or other media, or both, that the plan is approved. The notice must name places throughout the State where the plan is available for access by any interested person.

(20 U.S.C. 1412(7).)

Subpart C—Services

Free Appropriate Public Education

§ 121a.300 Timelines for free appropriate public education.

(a) *General.* Each State shall insure that free appropriate public education is available to all handicapped children aged three through eighteen within the State not later than September 1, 1978, and to all handicapped children aged three through twenty-one within the State not later than September 1, 1980.

(b) *Age ranges 3–5 and 18–21.* This paragraph provides rules for applying the requirement in paragraph (a) of this section to handicapped children aged three, four, five, eighteen, nineteen, twenty, and twenty-one:

(1) If State law or a court order requires the State to provide education for handicapped children in any disability category in any of these age groups, the State must make a free appropriate public education available to all handicapped children of the same age who have that disability.

(2) If a public agency provides education to non-handicapped children in any of these age groups, it must make a free appropriate public education available to at least a proportionate number of handicapped children of the same age.

(3) If a public agency provides education to 50 percent or more of its handicapped children in any disability category in any of these age groups, it must make a free appropriate public education available to all of its handicapped children of the same age who have that disability.

(4) If a public agency provides education to a handicapped child in any of these age groups, it must make a free appropriate public education available to that child and provide that child and his or her parents all of the rights under Part B of the Act and this part.

(5) A State is not required to make a free appropriate public education available to a handicapped child in one of these age groups if:

(i) State law expressly prohibits, or does not authorize, the expenditure of public funds to provide education to non-handicapped children in that age group; or

(ii) The requirement is inconsistent with a court order which governs the provision of free public education to handicapped children in that State.

(20 U.S.C. 1412(2)(B); Sen. Rept. No. 94-168 p 19 (1975).)

Comment. 1. The requirement to make free appropriate public education available applies to all handicapped children within the State who are in the age ranges required under section 121a.300 and who need special education and related services. This includes handicapped children already in school and children with less severe handicaps, who are not covered under the priorities under § 121a.321.

2. In order to be in compliance with § 121a.300, each State must insure that the requirement to identify, locate, and evaluate all handicapped children is fully implemented by public agencies throughout the State. This means that before September 1, 1978, every child who has been referred or is on a waiting list for evaluation (including children in school as well as those not receiving an education) must be evaluated in accordance with §§ 121a.530–121a.533 of Subpart E. If, as a result of the evaluation, it is determined that a child needs special education and related services, an individualized education program must be developed for the child by September 1, 1978, and all other applicable requirements of this part must be met.

3. The requirement to identify, locate, and evaluate handicapped children (commonly referred to as the "child find system") was enacted on August 21, 1974, under Pub. L. 93-380. While each State needed time to establish and implement its child find system, the four year period between August 21, 1974, and September 1, 1978, is considered to be sufficient to insure that the system is fully operational and effective on a State-wide basis.

Under the statute, the age range for the child find requirement (0–21) is greater than the mandated age range for providing free appropriate public education (FAPE). One reason for the broader age requirement under "child find" is to enable States to be aware of and plan for younger children who will require special education and related services. It also ties in with the full educational opportunity goal requirement, which has the same age range as child find. Moreover, while a State is not required to provide "FAPE" to handicapped children below the age ranges mandated under § 121a.300, the State may, at its discretion, extend services to those children, subject to the requirements on priorities under §§ 121a.320–121a.324.

§ 121a.301 Free appropriate public education—methods and payments.

(a) Each State may use whatever State, local, Federal, and private sources of support are available in the State to meet the requirements of this part. For example, when it is necessary to place a handicapped child in a residential facility, a State could use joint agreements between the agencies involved for sharing the cost of that placement.

(b) Nothing in this part relieves an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to a handicapped child.

(20 U.S.C. 1401(18); 1412(2)(B).)

§ 121a.302 Residential placement.

If placement in a public or private residential program is necessary to provide special education and related services to a handicapped child, the program, including non-medical care and room and board, must be at no cost to the parents of the child.

(20 U.S.C. 1412(2)(B); 1413(a)(4)(B).)

Comment. This requirement applies to placements which are made by public agencies for educational purposes, and includes placements in State-operated schools for the handicapped, such as a State school for the deaf or blind.

§ 121a.303 Proper functioning of hearing aids.

Each public agency shall insure that the hearing aids worn by deaf and hard of hearing children in school are functioning properly.

(20 U.S.C. 1412(2)(B).)

Comment. The report of the House of Representatives on the 1978 appropriation bill includes the following statement regarding hearing aids:

In its report on the 1976 appropriation bill the Committee expressed concern about the condition of hearing aids worn by children in public schools. A study done at the Committee's direction by the Bureau of Education for the Handicapped reveals that up to one-third of the hearing aids are malfunctioning. Obviously, the Committee expects the Office of Education will ensure that hearing impaired school children are receiving adequate professional assessment, follow-up and services.

(House Report No. 95-381, p. 67 (1977).)

§ 121a.304 Full educational opportunity goal.

(a) Each State educational agency shall insure that each public agency establishes and implements a goal of providing full educational opportunity to all handicapped children in the area served by the public agency.

(b) Subject to the priority requirements under §§ 121a.320–121a.324, a State or local educational agency may use Part B funds to provide facilities, personnel, and services necessary to meet the full educational opportunity goal.

(20 U.S.C. 1412(2)(A); 1414(a)(1)(C).)

Comment. In meeting the full educational opportunity goal, the Congress also encouraged local educational agencies to include artistic and cultural activities in programs supported under this part, subject to the priority requirements under §§ 121a.320–121a.324. This point is addressed in the following statements from the Senate Report on Pub. L. 94-142:

The use of the arts as a teaching tool for the handicapped has long been recognized as a viable, effective way not only of teaching special skills, but also of reaching youngsters who had otherwise been unteachable. The Committee envisions that programs under this bill could well include an arts component and, indeed, urges that local educational agencies include the arts in programs for the handicapped funded under this Act. Such a program could cover both appreciation of the arts by the handicapped youngsters, and the utilization of the arts as a teaching tool per se.

Museum settings have often been another effective tool in the teaching of handicapped children. For example, the Brooklyn Museum has been a leader in developing exhibits utilizing the heightened tactile sensory skill of the blind. Therefore, in light of the national policy concerning the use of museums in Federally-supported education programs enunciated in the Education Amendments of 1974, the Committee also urges local educational agencies to include museums in programs for the handicapped funded under this Act.

(Senate Report No. 94-168, p. 13 (1975).)

§ 121a.305 Program options.

Each public agency shall take steps to insure that its handicapped children have available to them the variety of educational programs and services available to non-handicapped children in the area served by the agency, including art, music, industrial arts, consumer and homemaking education, and vocational education.

(20 U.S.C. 1412(2)(A); 1414(a)(1)(C).)

Comment. The above list of program options is not exhaustive, and could include any program or activity in which non-handicapped students participate. Moreover, vocational education programs must be specially designed if necessary to enable a handicapped student to benefit fully from those programs; and the set-aside funds under the Vocational Education Act of 1963, as amended by Pub. L. 94-482, may be used for this purpose. Part B funds may also be used, subject to the priority requirements under §§ 121a.320–121a.324.

§ 121a.306 Nonacademic services.

(a) Each public agency shall take steps to provide nonacademic and extracurricular services and activities in such manner as is necessary to afford handicapped children an equal opportunity for participation in those services and activities.

(b) Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies which provide assistance to handicapped persons, and employment of students, including both employment by the public agency and assistance in making outside employment available.

(20 U.S.C. 1412(2)(A); 1414(a)(1)(C).)

§ 121a.307 Physical education.

(a) *General.* Physical education services, specially designed if necessary, must be made available to every handicapped child receiving a free appropriate public education.

(b) *Regular physical education.* Each handicapped child must be afforded the opportunity to participate in the regular physical education program available to non-handicapped children unless:

(1) The child is enrolled full time in a separate facility; or

(2) The child needs specially designed physical education, as prescribed in the child's individualized education program.

(c) *Special physical education.* If specially designed physical education is prescribed in a child's individualized education program, the public agency responsible for the education of that child shall provide the services directly, or make arrangements for it to be provided through other public or private programs.

(d) *Education in separate facilities.* The public agency responsible for the education of a handicapped child who is enrolled in a separate facility shall insure that the child receives appropriate physical education services in compliance with paragraphs (a) and (c) of this section.

(20 U.S.C. 1401(16); 1412(5)(B); 1414(a)(6).)

Comment. The Report of the House of Representatives on Pub. L. 94-142 includes the following statement regarding physical education:

Special education as set forth in the Committee bill includes instruction in physical education, which is provided as a matter of course to all non-handicapped children enrolled in public elementary and secondary schools. The Committee is concerned that although these services are available to and required of all children in our school systems, they are often viewed as a luxury for handicapped children.

* * * * *

The Committee expects the Commissioner of Education to take whatever action is necessary to assure that physical education services are available to all handicapped children, and has specifically included physical education within the definition of special education to make clear that the Committee expects such services, specially designed where necessary, to be provided as an integral part of the educational program of every handicapped child.

(House Report No. 94-332, p. 9 (1975).)

Priorities in the Use of Part B Funds

§ 121a.320 Definitions of "first priority children" and "second priority children."

For the purposes of §§ 121a.321–121a.324, the term:

(a) "First priority children" means handicapped children who:

(1) Are in an age group for which the State must make available free appropriate public education under § 121a.300; and

(2) Are not receiving any education.

(b) "Second priority children" means handicapped children, within each disability, with the most severe handicaps who are receiving an inadequate education.

(20 U.S.C. 1412(3).)

Comment. After September 1, 1978, there should be no second priority children, since States must insure, as a condition of receiving Part B funds for fiscal year 1979, that all handicapped children will have available a free appropriate public education by that date.

NOTE.—The term "free appropriate public education," as defined in § 121a.4 of Subpart A, means "special education and related services which * * * are provided in conformity with an individualized education program * * *."

New "First priority children" will continue to be found by the State after September 1, 1978 through on-going efforts to identify, locate, and evaluate all handicapped children.

§ 121a.321 Priorities.

(a) Each State and local educational agency shall use funds provided under Part B of the Act in the following order of priorities:

(1) To provide free appropriate public education to first priority children, including the identification, location, and evaluation of first priority children.

(2) To provide free appropriate public education to second priority children, including the identification, location, and evaluation of second priority children.

(3) To meet the other requirements in this part.

(b) The requirements of paragraph (a) of this section do not apply to funds which the State uses for administration under § 121a.620.

(20 U.S.C. 1411(b)(1)(B), (b)(2)(B), (c)(1)(B), (c)(2)(A)(ii).)

(c) State and local educational agencies may not use funds under Part B of the Act for preservice training.

(20 U.S.C. 1413(a)(3); Senate Report No. 94-168, p. 34 (1975).)

Comment. Note that a State educational agency as well as local educational agencies must use Part B funds (except the portion used for State administration) for the priorities. A State may have to set aside a portion of its Part B allotment to be able to serve newly-identified first priority children.

After September 1, 1978, Part B funds may be used:

(1) To continue supporting child identification, location, and evaluation activities;

(2) To provide free appropriate public education to newly identified first priority children;

(3) To meet the full educational opportunities goal required under section 121a.304, including employing additional personnel and providing inservice training, in order to increase the level, intensity and quality of services provided to individual handicapped children; and

(4) To meet the other requirements of Part B.

§ 121a.322 First priority children—school year 1977–1978.

(a) In school year 1977–1978, if a major component of a first priority child's proposed educational program is not available (for example, there is no qualified teacher), the public agency responsible for the child's education shall:

(1) Provide an interim program of services for the child; and

(2) Develop an individualized education program for full implementation no later than September 1, 1978.

(b) A local educational agency may use Part B funds for training or other support services in school year 1977–1978 only if all of its first priority children have available to them at least an interim program of services.

(c) A State educational agency may use Part B funds for training or other support services in school year 1977–1978 only if all first priority children in the State have available to them at least an interim program of services.

(20 U.S.C. 1411(b), (c).)

Comment. This provision is intended to make it clear that a State or local educational agency may not delay placing a previously unserved (first priority) child until it has, for example, implemented an inservice training program. The child must be placed. After the child is in at least an interim program, the State or local educational agency may use Part B funds for training or other support services needed to provide that child with a free appropriate public education.

§ 121a.323 Services to other children.

If a State or a local educational agency is providing free appropriate public education to all of its first priority children,

V42 N163 AUG 23 77 UM

that State or agency may use funds provided under Part B of the Act:

(a) To provide free appropriate public education to handicapped children who are not receiving any education and who are in the age groups not covered under § 121a.300 in that State; or

(b) To provide free appropriate public education to second priority children; or

(c) Both.

(20 U.S.C. 1411(b)(1)(B), (b)(2)(B), (c)(2)(A)(ii).)

§ 121a.321 Application of local educational agency to use funds for the second priority.

A local educational agency may use funds provided under Part B of the Act for second priority children, if it provides assurance satisfactory to the State educational agency in its application (or an amendment to its application):

(a) That all first priority children have a free appropriate public education available to them;

(b) That the local educational agency has a system for the identification, location, and evaluation of handicapped children, as described in its application; and

(c) That whenever a first priority child is identified, located, and evaluated, the local educational agency makes available a free appropriate public education to the child.

(20 U.S.C. 1411 (b)(1)(B), (c)(1)(B); 1414(a)(1)(C)(ii).)

Individualized Education Programs

§ 121a.340 Definition.

As used in this part, the term "individualized education program" means a written statement for a handicapped child that is developed and implemented in accordance with §§ 121a.341–121a.349.

(20 U.S.C. 1401(19).)

§ 121a.341 State educational agency responsibility.

(a) *Public agencies.* The State educational agency shall insure that each public agency develops and implements an individualized education program for each of its handicapped children.

(b) *Private schools and facilities.* The State educational agency shall insure that an individualized education program is developed and implemented for each handicapped child who:

(1) Is placed in or referred to a private school or facility by a public agency; or

(2) Is enrolled in a parochial or other private school and receives special education or related services from a public agency.

(20 U.S.C. 1412 (4), (6); 1413(a)(4).)

Comment: This section applies to all public agencies, including other State agencies (e.g., departments of mental health and welfare), which provide special education to a handicapped child either directly, by contract or through other arrangements. Thus, if a State welfare agency contracts with a private school or facility to provide special education to a handicapped child, that agency would be responsible for insuring that an individualized education program is developed for the child.

§ 121a.342 When individualized education programs must be in effect.

(a) On October 1, 1977, and at the beginning of each school year thereafter, each public agency shall have in effect an individualized education program for every handicapped child who is receiving special education from that agency.

(b) An individualized education program must:

(1) Be in effect before special education and related services are provided to a child; and

(2) Be implemented as soon as possible following the meetings under § 121a.343.

(20 U.S.C. 1412 (2)(B), (4), (6); 1414(a)(5); Pub. L. 94-142, Sec. 8(c) (1975).)

Comment. Under paragraph (b)(2), it is expected that a handicapped child's individualized education program (IEP) will be implemented immediately following the meetings under § 121a.343. An exception to this would be (1) when the meetings occur during the summer or a vacation period, or (2) where there are circumstances which require a short delay (e.g., working out transportation arrangements). However, there can be no undue delay in providing special education and related services to the child.

§ 121a.343 Meetings.

(a) *General.* Each public agency is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising a handicapped child's individualized education program.

(b) *Handicapped children currently served.* If the public agency has determined that a handicapped child will receive special education during school year 1977–1978, a meeting must be held early enough to insure that an individualized education program is developed by October 1, 1977.

(c) *Other handicapped children.* For a handicapped child who is not included under paragraph (b) of this action, a meeting must be held within thirty calendar days of a determination that the child needs special education and related services.

(d) *Review.* Each public agency shall initiate and conduct meetings to periodically review each child's individualized education program and if appropriate revise its provisions. A meeting must be held for this purpose at least once a year.

(20 U.S.C. 1412 (2)(B), (4), (6); 1414(a)(5).)

Comment. The dates on which agencies must have individualized education programs (IEPs) in effect are specified in § 121a.342 (October 1, 1977, and the beginning of each school year thereafter). However, except for new handicapped children (i.e., those evaluated and determined to need special education after October 1, 1977), the timing of meetings to develop, review, and revise IEPs is left to the discretion of each agency.

In order to have IEPs in effect by the dates in § 121a.342, agencies could hold meetings at the end of the school year or during the summer preceding those dates. In meeting the October 1, 1977 timeline, meetings could be conducted up through the October 1 date. Thereafter, meetings may be held any time throughout the year, as long as IEPs are in effect at the beginning of each school year.

The statute requires agencies to hold a meeting at least once each year in order to review, and if appropriate revise, each child's IEP. The timing of those meetings could be on the anniversary date of the last IEP meeting on the child, but this is left to the discretion of the agency.

§ 121a.344 Participants in meetings.

(a) *General.* The public agency shall insure that each meeting includes the following participants:

(1) A representative of the public agency, other than the child's teacher, who is qualified to provide, or supervise the provision of, special education.

(2) The child's teacher.

(3) One or both of the child's parents, subject to § 121a.345.

(4) The child, where appropriate.

(5) Other individuals at the discretion of the parent or agency.

(b) *Evaluation personnel.* For a handicapped child who has been evaluated for the first time, the public agency shall insure:

(1) That a member of the evaluation team participates in the meeting; or

(2) That the representative of the public agency, the child's teacher, or some other person is present at the meeting, who is knowledgeable about the evaluation procedures used with the child and is familiar with the results of the evaluation.

(20 U.S.C. 1401(19); 1412 (2)(B), (4), (6); 1414(a)(5).)

Comment. 1. In deciding which teacher will participate in meetings on a child's individualized education program, the agency may wish to consider the following possibilities:

(a) For a handicapped child who is receiving special education, the "teacher" could be the child's special education teacher. If the child's handicap is a speech impairment, the "teacher" could be the speech-language pathologist.

(b) For a handicapped child who is being considered for placement in special education, the "teacher" could be the child's regular teacher, or a teacher qualified to provide education in the type of program in which the child may be placed, or both.

(c) If the child is not in school or has more than one teacher, the agency may designate which teacher will participate in the meeting.

2. Either the teacher or the agency representative should be qualified in the area of the child's suspected disability.

3. For a child whose primary handicap is a speech impairment, the evaluation personnel participating under paragraph (b)(1) of this section would normally be the speech-language pathologist.

§ 121a.345 Parent participation.

(a) Each public agency shall take steps to insure that one or both of the parents of the handicapped child are present at each meeting or are afforded the opportunity to participate, including:

(1) Notifying parents of the meeting early enough to insure that they will have an opportunity to attend; and

(2) Scheduling the meeting at a mutually agreed on time and place.

(b) The notice under paragraph (a)(1) of this section must indicate the purpose, time, and location of the meeting, and who will be in attendance.

(c) If neither parent can attend, the public agency shall use other methods to insure parent participation, including individual or conference telephone calls.

(d) A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case the public agency must have a record of its attempts to arrange a mutually agreed on time and place such as:

(1) Detailed records of telephone calls made or attempted and the results of those calls.

(2) Copies of correspondence sent to the parents and any responses received, and

(3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

(e) The public agency shall take whatever action is necessary to insure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

(f) The public agency shall give the parent, on request, a copy of the individualized education program.

(20 U.S.C. 1401(19); 1412 (2)(B), (4), (6); 1414(a)(5).)

Comment. The notice in paragraph (a) could also inform parents that they may bring other people to the meeting. As indicated in paragraph (c), the procedure used to notify parents (whether oral or written or both) is left to the discretion of the agency, but the agency must keep a record of its efforts to contact parents.

§ 121a.346 Content of individualized education program.

The individualized education program for each child must include:

(a) A statement of the child's present levels of educational performance;

(b) A statement of annual goals, including short term instructional objectives;

(c) A statement of the specific special education and related services to be provided to the child, and the extent to which the child will be able to participate in regular educational programs;

(d) The projected dates for initiation of services and the anticipated duration of the services; and

(e) Appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short term instructional objectives are being achieved.

(20 U.S.C. 1401(19); 1412 (2)(B), (4), (6), 1414(a)(5); Senate Report No. 94-168, p. 11 (1975).)

§ 121a.347 Private school placements.

(a) *Developing individualized education programs.* (1) Before a public agency places a handicapped child in, or refers a child to, a private school or facility, the agency shall initiate and conduct a meeting to develop an individualized education program for the child in accordance with § 121a.343.

(2) The agency shall insure that a representative of the private school facility attends the meeting. If the representative cannot attend, the agency shall use other methods to insure participation by the private school or facility, including individual or conference telephone calls.

(3) The public agency shall also develop an individualized educational program for each handicapped child who was placed in a private school or facility by the agency before the effective date of these regulations.

(b) *Reviewing and revising individualized education programs.* (1) After a handicapped child enters a private school or facility, any meetings to review and revise the child's individualized education program may be initiated and conducted by the private school or facility at the discretion of the public agency.

(2) If the private school or facility initiates and conducts these meetings, the public agency shall insure that the parents and an agency representative:

(i) Are involved in any decision about the child's individualized education program; and

(ii) Agree to any proposed changes in the program before those changes are implemented.

(c) *Responsibility.* Even if a private school or facility implements a child's individualized education program, responsibility for compliance with this part remains with the public agency and the State educational agency.

(20 U.S.C. 1413(a)(4)(B).)

§ 121a.348 Handicapped children in parochial or other private schools.

If a handicapped child is enrolled in a parochial or other private school and receives special education or related services from a public agency, the public agency shall:

(a) Initiate and conduct meetings to develop, review, and revise an individualized education program for the child, in accordance with § 121a.343; and

(b) Insure that a representative of the parochial or other private school attends each meeting. If the representative cannot attend, the agency shall use other methods to insure participation by the private school, including individual or conference telephone calls.

(20 U.S.C. 1413(a)(4)(A).)

§ 121a.349 Individualized education program—accountability.

Each public agency must provide special education and related services to a handicapped child in accordance with an individualized education program. However, Part B of the Act does not require that any agency, teacher, or other person be held accountable if a child does not achieve the growth projected in the annual goals and objectives.

(20 U.S.C. 1412(2)(B); 1414(a), (5), (6); Cong. Rec. at H 7152 (daily ed., July 21, 1975).)

Comment. This section is intended to relieve concerns that the individualized education program constitutes a guarantee by the public agency and the teacher that a child will progress at a specified rate. However, this section does not relieve agencies and teachers from making good faith efforts to assist the child in achieving the objectives and goals listed in the individualized education program. Further, the section does not limit a parent's right to complain and ask for revisions of the child's program, or to invoke due process procedures, if the parent feels that these efforts are not being made.

Direct Service by the State Educational Agency

§ 121a.360 Use of local educational agency allocation for direct services.

(a) A State educational agency may not distribute funds to a local educational agency, and shall use those funds to insure the provision of a free appropriate public education to handicapped children residing in the area served by the local educational agency, if the local educational agency, in any fiscal year:

(1) Is entitled to less than $7,500 for that fiscal year (beginning with fiscal year 1979);

(2) Does not submit an application that meets the requirements of §§ 121a.220–121a.240;

(3) Is unable or unwilling to establish and maintain programs of free appropriate public education;

(4) Is unable or unwilling to be consolidated with other local educational agencies in order to establish and maintain those programs; or

(5) Has one or more handicapped children who can best be served by a regional or State center designed to meet the needs of those children.

(b) In meeting the requirements of paragraph (a) of this section, the State educational agency may provide special education and related services directly, by contract, or through other arrangements.

(c) The excess cost requirements under §§ 121a.182–121a.186 do not apply to the State educational agency.

(20 U.S.C. 1411(c)(4); 1413(b); 1414(d).)

Comment. Section 121a.360 is a combination of three provisions in the statute (Sections 611(c)(4), 613(b), and 614(d)). This section focuses mainly on the State's administration and use of local entitlements under Part B.

The State educational agency, as a recipient of Part B funds is responsible for insuring that all public agencies in the State comply with the provisions of the Act regardless of whether they receive Part B funds. If a local educational agency elects not to apply for its Part B entitlement, the State would be required to use those funds to insure that a free appropriate public education (FAPE) is made available to children residing in the area served by that local agency. However, if the local entitlement is not sufficient for this purpose, additional State or local funds would have to be expended in order to insure that "FAPE" and the other requirements of the Act are met.

Moreover, if the local educational agency is the recipient of any other Federal funds, it would have to be in compliance with Subpart D of the regulations for section 504 of the Rehabilitation Act of 1973 (45 CFR Part 84). It should be noted that the term "FAPE" has different meanings under Part B and section 504. For example, under Part

V 42 N 163 AUG 23 77 UM

B, "FAPE" is a statutory term which requires special education and related services to be provided in accordance with an individualized education program (IEP). However, under section 504, each recipient must provide an education which includes services that are "designed to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met • • •" Those regulations state that implementation of an IEP, in accordance with Part B, is one means of meeting the "FAPE" requirement.

§ 121a.361 Nature and location of services.

The State educational agency may provide special education and related services under § 121a.360(a) in the manner and at the location it considers appropriate. However, the manner in which the education and services are provided must be consistent with the requirements of this part (including the least restrictive environment provisions in §§ 121a.550–121a.556 of Subpart E).

(20 U.S.C. 1414(d).)

§ 121a.370 Use of State educational agency allocation for direct and support services.

(a) The State shall use the portion of its allocation it does not use for administration to provide support services and direct services in accordance with the priority requirements under §§ 121a.320–121a.324.

(b) For the purposes of paragraph (a) of this section:

(1) "Direct services" means services provided to a handicapped child by the State directly, by contract, or through other arrangements.

(2) "Support services" includes implementing the comprehensive system of personnel development under §§ 121a.380–121a.388, recruitment and training of hearing officers and surrogate parents, and public information and parent training activities relating to a free appropriate public education for handicapped children.

(20 U.S.C. 1411(b)(2), (c)(2).)

§ 121a.371 State matching.

Beginning with the period July 1, 1978–June 30, 1979, and for each following year, the funds that a State uses for direct and support services under § 121a.370 most be matched on a program basis by the State from funds other than Federal funds. This requirement does not apply to funds that the State uses under § 121a.360.

(20 U.S.C. 1411(c)(2)(B), (c)(4)(B).)

Comment. The requirement in § 121a.371 would be satisfied if the State can document that the amount of State funds expended for each major program area (e.g., the comprehensive system of personnel development) is at least equal to the expenditure of Federal funds in that program area.

§ 121a.372 Applicability of nonsupplanting requirement.

Beginning with funds appropriated for Fiscal Year 1979 and for each following Fiscal Year, the requirement in section 613(a)(9) of the Act, which prohibits supplanting with Federal funds, does not apply to funds that the State uses from its allocation under § 121a.706(a) of Subpart G for administration, direct services, or support services.

(20 U.S.C. 1411(c)(3).)

COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT

§ 121a.380 Scope of system.

Each annual program plan must include a description of programs and procedures for the development and implementation of a comprehensive system of personnel development which includes:

(a) The inservice training of general and special educational instructional, related services, and support personnel;

(b) Procedures to insure that all personnel necessary to carry out the purposes of the Act are qualified (as defined in § 121a.12 of Subpart A) and that activities sufficient to carry out this personnel development plan are scheduled; and

(c) Effective procedures for acquiring and disseminating to teachers and administrators of programs for handicaped children significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices and materials developed through those projects.

(20 U.S.C. 1413(a)(3).)

§ 121a.381 Participation of other agencies and institutions.

(a) The State educational agency must insure that all public and private institutions of higher education, and other agencies and organizations (including representatives of handicapped, parent, and other advocacy organizations) in the State which have an interest in the preparation of personnel for the education of handicapped children, have an opportunity to participate fully in the development, review, and annual updating of the comprehensive system of personnel development.

(b) The annual program plan must describe the nature and extent of participation under paragraph (a) of this section and must describe responsibilities of the State educational agency, local educational agencies, public and private institutions of higher education, and other agencies:

(1) With respect to the comprehensive system as a whole, and

(2) With respect to the personnel development plan under § 121a.383.

(20 U.S.C. 1412(7)(A); 1413(a)(3).)

§ 121a.382 Inservice training.

(a) As used in this section, "inservice training" means any training other than that received by an individual in a full-time program which leads to a degree.

(b) Each annual program plan must provide that the State educational agency:

(1) Conducts an annual needs assessment to determine if a sufficient number of qualified personnel are available in the State; and

(2) Initiates inservice personnel development programs based on the assessed needs of State-wide significance related to the implementation of the Act.

(c) Each annual program plan must include the results of the needs assessment under paragraph (b)(1) of this section, broken out by need for new personnel and need for retrained personnel.

(d) The State educational agency may enter into contracts with institutions of higher education, local educational agencies or other agencies, institutions, or organizations (which may include parent, handicapped, or other advocacy organizations), to carry out:

(1) Experimental or innovative personnel development programs;

(2) Development or modification of instructional materials; and

(3) Dissemination of significant information derived from educational research and demonstration projects.

(e) Each annual program plan must provide that the State educational agency insures that ongoing inservice training programs are available to all personnel who are engaged in the education of handicapped children, and that these programs include:

(1) The use of incentives which insure participation by teachers (such as released time, payment for participation, options for academic credit, salary step credit, certification renewal, or updating professional skills);

(2) The involvement of local staff; and

(3) The use of innovative practices which have been found to be effective.

(f) Each annual program plan must:

(1) Describe the process used in determining the inservice training needs of personnel engaged in the education of handicapped children;

(2) Identify the areas in which training is needed (such as individualized education programs, non-discriminatory testing, least restrictive environment, procedural safeguards, and surrogate parents);

(3) Specify the groups requiring training (such as special teachers, regular teachers, administrators, psychologists, speech-language pathologists, audiologists, physical education teachers, therapeutic recreation specialists, physical therapists, occupational therapists, medical personnel, parents, volunteers, hearing officers, and surrogate parents);

(4) Describe the content and nature of training for each area under paragraph (f)(2) of this section;

(5) Describe how the training will be provided in terms of (i) geographical scope (such as Statewide, regional, or local), and (ii) staff training source (such as college and university staffs, State and local educational agency personnel, and non-agency personnel);

(6) Specify: (i) The funding sources to be used, and

(ii) The time frame for providing it; and

(7) Specify procedures for effective evaluation of the extent to which program objectives are met.

(20 U.S.C. 1413(a)(3).)

§ 121a.383 Personnel development plan.

Each annual program plan must: (a) Include a personnel development plan which provides a structure for personnel planning and focuses on preservice and inservice education needs;

(b) Describe the results of the needs assessment under § 121a.382(b)(1) with respect to identifying needed areas of training, and assigning priorities to those areas; and

(c) Identify the target populations for personnel development, including general education and special education instructional and administrative personnel, support personnel, and other personnel (such as paraprofessionals, parents, surrogate parents, and volunteers).

(20 U.S.C. 1413(a)(3).)

§ 121a.384 Dissemination.

(a) Each annual program plan must include a description of the State's procedures for acquiring, reviewing, and disseminating to general and special educational instructional and support personnel, administrators of programs for handicapped children, and other interested agencies and organizations (including parent, handicapped, and other advocacy organizations) significant information and promising practices derived from educational research, demonstration, and other projects.

(b) Dissemination includes:

(1) Making those personnel, administrators, agencies, and organizations aware of the information and practices;

(2) Training designed to enable the establishment of innovative programs and practices targeted on identified local needs; and

(3) Use of instructional materials and other media for personnel development and instructional programming.

(20 U.S.C. 1413(a)(3).)

§ 121a.385 Adoption of educational practices.

(a) Each annual program plan must provide for a statewide system designed to adopt, where appropriate, promising educational practices and materials proven effective through research and demonstration.

(b) Each annual program plan must provide for thorough reassessment of educational practices used in the State.

(c) Each annual program plan must provide for the identification of State, local, and regional resources (human and material) which will assist in meeting the State's personnel preparation needs.

(20 U.S.C. 1413(a)(3).)

§ 121a.386 Evaluation.

Each annual program plan must include:

(a) Procedures for evaluating the overall effectiveness of:

(1) The comprehensive system of personnel development in meeting the needs for personnel, and

(2) The procedures for administration of the system; and

(b) A description of the monitoring activities that will be undertaken to assure the implementation of the comprehensive system of personnel development.

(20 U.S.C. 1413(a)(3).)

§ 121a.387 Technical assistance to local educational agencies.

Each annual program plan must include a description of technical assistance that the State educational agency gives to local educational agencies in their implementation of the State's comprehensive system of personnel development.

(20 U.S.C. 1413(a)(3).)

Subpart D—Private Schools

HANDICAPPED CHILDREN IN PRIVATE SCHOOLS PLACED OR REFERRED BY PUBLIC AGENCIES

§ 121a.400 Applicability of §§ 121a.401–121a.403.

Sections 121a.401–121a.403 apply only to handicapped children who are or have been placed in or referred to a private school or facility by a public agency as a means of providing special education and related services.

(20 U.S.C. 1413(a)(4)(B).)

§ 121a.401 Responsibility of State educational agency.

Each State educational agency shall insure that a handicapped child who is placed in or referred to a private school or facility by a public agency:

(a) Is provided special education and related services:

(1) In conformance with an individualized education program which meets the requirements under §§ 121a.340–121a.349 of Subpart C;

(2) At no cost to the parents; and

(3) At a school or facility which meets the standards that apply to State and local educational agencies (including the requirements in this part); and

(b) Has all of the rights of a handicapped child who is served by a public agency.

(20 U.S.C. 1413(a)(4)(B).)

§ 121a.402 Implementation by State educational agency.

In implementing § 121a.401, the State educational agency shall:

(a) Monitor compliance through procedures such as written reports, on-site visits, and parent questionnaires;

(b) Disseminate copies of applicable standards to each private school and facility to which a public agency has referred or placed a handicapped child; and

(c) Provide an opportunity for those private schools and facilities to participate in the development and revision of State standards which apply to them.

(20 U.S.C. 1413(a)(4)(B).)

§ 121a.403 Placement of children by parents.

(a) If a handicapped child has available a free appropriate public education and the parents choose to place the child in a private school or facility, the public agency is not required by this part to pay for the child's education at the private school or facility. However, the public agency shall make services available to the child as provided under §§ 121a.450–121a.460.

(b) Disagreements between a parent and a public agency regarding the availability of a program appropriate for the child, and the question of financial responsibility, are subject to the due process procedures under §§ 121a.500–121a.514 of Subpart E.

(20 U.S.C. 1412(2)(B); 1415).)

HANDICAPPED CHILDREN IN PRIVATE SCHOOLS NOT PLACED OR REFERRED BY PUBLIC AGENCIES

§ 121a.450 Applicability of §§ 121a.451–121a.460.

As used in §§ 121a.451–121a.460, "private school handicapped children" means handicapped children enrolled in private schools or facilities other than handicapped children covered under §§ 121a.400–121a.403.

(20 U.S.C. 1413(a)(4)(A).)

§ 121a.451 State educational agency responsibility.

The State educational agency shall insure that:

(a) To the extent consistent with their number and location in the State, provision is made for the participation of private school handicapped children in the program assisted or carried out under this part by providing them with special education and related services; and

(b) The other requirements in §§ 121a.452–121a.460 are met.

(20 U.S.C. 1413(a)(4)(A).)

§ 121a.452 Local educational agency responsibility.

(a) Each local educational agency shall provide special education and related services designed to meet the needs of private school handicapped children residing in the jurisdiction of the agency.

(b) Each local educational agency shall provide private school handicapped children with genuine opportunities to participate in special education and related services consistent with the number of those children and their needs.

(20 U.S.C. 1413(a)(4)(A); 1414(a)(6).)

§ 121a.453 Determination of needs, number of children, and types of services.

The needs of private school handicapped children, the number of them who will participate under this part, and the types of special education and related services which the local educational agency will provide for them must be determined after consultation with persons knowledgeable of the needs of these

VOL 42 NO 163 AUG 23 77 UM

children, on a basis comparable to that used in providing for the participation under this part of handicapped children enrolled in public schools.

(20 U.S.C. 1413(a)(4)(A).)

§ 121a.154 Service arrangements.

Services to private school handicapped children may be provided through such arrangements as dual enrollment, educational radio and television, and the provision of mobile educational services and equipment.

(20 U.S.C. 1413(a)(4)(A).)

§ 121a.155 Differences in services to private school handicapped children.

A local educational agency may provide special education and related services to private school handicapped children which are different from the special education and related services it provides to public school children, if:

(a) The differences are necessary to meet the special needs of the private school handicapped children, and

(b) The special education and related services are comparable in quality, scope, and opportunity for participation to those provided to public school children with needs of equal importance.

(20 U.S.C. 1413(a)(4)(a); *Wheeler v Barrera*, 417 U.S. 402 (1974).)

§ 121a.156 Personnel.

(a) Public school personnel may be made available in other than public school facilities only to the extent necessary to provide services required by the handicapped children for whose needs those services were designed, and only when those services are not normally provided by the private school.

(b) Each State or local educational agency providing services to children enrolled in private schools shall maintain continuing administrative control and direction over those services.

(c) The services provided with funds under Part B of the Act for eligible handicapped children enrolled in private schools may not include:

(1) The payment of salaries of teachers or other employees of private schools except for services performed outside their regular hours of duty and under public supervision and control; or

(2) The construction of private school facilities.

(20 U.S.C. 1413(a)(4)(A).)

§ 121a.157 Equipment.

(a) Equipment acquired with funds under Part B of the Act may be placed on private school premises for a limited period of time, but the title to and administrative control over all equipment must be retained and exercised by a public agency.

(b) In exercising administrative control, the public agency shall keep records of and account for the equipment, and shall insure that the equipment is used solely for the purposes of the program or project, and remove the equipment from the private school premises if necessary to avoid its being used for other purposes or if it is no longer needed for the purposes of the program or project.

(20 U.S.C. 1413(a)(4)(A).)

§ 121a.158 Prohibition of segregation.

Programs or projects carried out in public facilities, and involving joint participation by eligible handicapped children enrolled in private schools and handicapped children enrolled in public schools, may not include classes that are separated on the basis of school enrollment or the religious affiliations of the children.

(20 U.S.C. 1413(a)(4)(A).)

§ 121a.159 Funds and property not to benefit private school.

Funds provided under Part B of the Act and property derived from those funds may not inure to the benefit of any private school.

(20 U.S.C. 1413(a)(4)(A).)

§ 121a.160 Existing level of instruction.

Provisions for serving private school handicapped children may not include the financing of the existing level of instruction in the private schools.

(20 U.S.C. 1413(a)(4)(A).)

Subpart E—Procedural Safeguards

Due Process Procedures for Parents and Children

§ 121a.500 Definitions of "consent", "evaluation", and "personally identifiable".

As used in this part: "Consent" means that: (a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;

(b) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) which will be released and to whom; and

(c) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

"Evaluation" means procedures used in accordance with §§ 121a.530–121a.534 to determine whether a child is handicapped and the nature and extent of the special education and related services that the child needs. The term means procedures used selectively with an individual child and does not include basic tests administered to or procedures used with all children in a school, grade, or class.

"Personally identifiable" means that information includes:

(a) The name of the child, the child's parent, or other family member;

(b) The address of the child;

(c) A personal identifier, such as the child's social security number or student number; or

(d) A list of personal characteristics or other information which would make it possible to identify the child with reasonable certainty.

(20 U.S.C. 1413(a)(4)(A).)

(20 U.S.C. 1415, 1417(c).)

§ 121a.501 General responsibility of public agencies.

Each State educational agency shall insure that each public agency establishes and implements procedural safeguards which meet the requirements of §§ 121a.500–121a.514.

(20 U.S.C. 1415(a).)

§ 121a.502 Opportunity to examine records.

The parents of a handicapped child shall be afforded, in accordance with the procedures in §§ 121a.562–121a.569 an opportunity to inspect and review all education records with respect to:

(a) The identification, evaluation, and educational placement of the child, and

(b) The provision of a free appropriate public education to the child.

(20 U.S.C. 1415(b)(1)(A).)

§ 121a.503 Independent educational evaluation.

(a) *General.* (1) The parents of a handicapped child have the right under this part to obtain an independent educational evaluation of the child, subject to paragraphs (b) through (e) of this section.

(2) Each public agency shall provide to parents, on request, information about where an independent educational evaluation may be obtained.

(3) For the purposes of this part:

(i) "Independent educational evaluation" means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question.

(ii) "Public expense" means that the public agency either pays for the full cost of the evaluation or insures that the evaluation is otherwise provided at no cost to the parent, consistent with § 121a.301 of Subpart C.

(b) *Parent right to evaluation at public expense.* A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency. However, the public agency may initiate a hearing under § 121a.506 of this subpart to show that its evaluation is appropriate. If the final decision is that the evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

(c) *Parent initiated evaluations.* If the parent obtains an independent educational evaluation at private expense, the results of the evaluation:

(1) Must be considered by the public agency in any decision made with respect to the provision of a free appropriate public education to the child, and

(2) May be presented as evidence at a hearing under this subpart regarding that child.

(d) *Requests for evaluations by hearing officers.* If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense.

(e) *Agency criteria.* Whenever an independent evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria which the public agency uses when it initiates an evaluation.

(20 U.S.C. 1415(b)(1)(A).)

§ 121a.504 Prior notice; parent consent.

(a) *Notice.* Written notice which meets the requirements under § 121a.505 must be given to the parents of a handicapped child a reasonable time before the public agency:

(1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child, or

(2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child.

(b) *Consent.* (1) Parental consent must be obtained before:

(i) Conducting a preplacement evaluation; and

(ii) Initial placement of a handicapped child in a program providing special education and related services.

(2) Except for preplacement evaluation and initial placement, consent may not be required as a condition of any benefit to the parent or child.

(c) *Procedures where parent refuses consent.* (1) Where State law requires parental consent before a handicapped child is evaluated or initially provided special education and related services, State procedures govern the public agency in overriding a parent's refusal to consent.

(2)(i) Where there is no State law requiring consent before a handicapped child is evaluated or initially provided special education and related services, the public agency may use the hearing procedures in §§ 121a.506–121a.508 to determine if the child may be evaluated or initially provided special education and related services without parental consent.

(ii) If the hearing officer upholds the agency, the agency may evaluate or initially provide special education and related services to the child without the parent's consent, subject to the parent's rights under §§ 121a.510—121a.513.

(20 U.S.C. 1415(b)(1)(C), (D).)

Comment. 1. Any changes in a child's special education program, after the initial placement, are not subject to parental consent under Part B, but are subject to the prior notice requirement in paragraph (a) and the individualized education program requirements in Subpart C.

2. Paragraph (c) means that where State law requires parental consent before evaluation or before special education and related services are initially provided, and the parent refuses (or otherwise withholds) consent, State procedures, such as obtaining a court order authorizing the public agency to conduct the evaluation or provide the education and related services, must be followed.

If, however, there is no legal requirement for consent outside of these regulations, the public agency may use the due process procedures under this subpart to obtain a decision to allow the evaluation or services without parental consent. The agency must notify the parent of its actions, and the parent has appeal rights as well as rights at the hearing itself.

§ 121a.505 Content of notice.

(a) The notice under § 121a.504 must include:

(1) A full explanation of all of the procedural safeguards available to the parents under Subpart E;

(2) A description of the action proposed or refused by the agency, an explanation of why the agency proposes or refuses to take the action, and a description of any options the agency considered and the reasons why those options were rejected;

(3) A description of each evaluation procedure, test, record, or report the agency uses as a basis for the proposal or refusal; and

(4) A description of any other factors which are relevant to the agency's proposal or refusal.

(b) The notice must be:

(1) Written in language understandable to the general public, and

(2) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(c) If the native language or other mode of communication of the parent is not a written language, the State or local educational agency shall take steps to insure:

(1) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;

(2) That the parent understands the content of the notice, and

(3) That there is written evidence that the requirements in paragraph (c)(1) and (2) of this section have been met.

(20 U.S.C. 1415(b)(1)(D))

§ 121a.506 Impartial due process hearing.

(a) A parent or a public educational agency may initiate a hearing on any of the matters described in § 121a.504(a)(1) and (2).

(b) The hearing must be conducted by the State educational agency or the public agency directly responsible for the education of the child, as determined under State statute, State regulation, or a written policy of the State educational agency.

(c) The public agency shall inform the parent of any free or low-cost legal and other relevant services available in the area if:

(1) The parent requests the information; or

(2) The parent or the agency initiates a hearing under this section.

(20 U.S.C. 1416(b)(2).)

Comment: Many States have pointed to the success of using mediation as an intervening step prior to conducting a formal due process hearing. Although the process of mediation is not required by the statute or these regulations, an agency may wish to suggest mediation in disputes concerning the identification, evaluation, and educational placement of handicapped children, and the provision of a free appropriate public education to those children. Mediations have been conducted by members of State educational agencies or local educational agency personnel who were not previously involved in the particular case. In many cases, mediation leads to resolution of differences between parents and agencies without the development of an adversarial relationship and with minimal emotional stress. However, mediation may not be used to deny or delay a parent's rights under this subpart.

§ 121a.507 Impartial hearing officer.

(a) A hearing may not be conducted:

(1) By a person who is an employee of a public agency which is involved in the education or care of the child, or

(2) By any person having a personal or professional interest which would conflict with his or her objectivity in the hearing.

(b) A person who otherwise qualifies to conduct a hearing under paragraph (a) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer.

(c) Each public agency shall keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons.

(20 U.S.C. 1416(b)(2).)

§ 121a.508 Hearing rights.

(a) Any party to a hearing has the right to:

(1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped children;

(2) Present evidence and confront, cross-examine, and compel the attendance of witnesses;

(3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five days before the hearing;

(4) Obtain a written or electronic verbatim record of the hearing;

(5) Obtain written findings of fact and decisions. (The public agency shall transmit those findings and decisions, after deleting any personally identifiable information, to the State advisory panel established under Subpart F).

(b) Parents involved in hearings must be given the right to:

(1) Have the child who is the subject of the hearing present; and

(2) Open the hearing to the public.

(20 U.S.C. 1415(d).)

§ 121a.509 Hearing decision; appeal.

A decision made in a hearing conducted under this subpart is final, unless

a party to the hearing appeals the decision under § 121a.510 or § 121a.511.

(20 U.S.C. 1415(c).)

§ 121a.510 Administrative appeal; impartial review.

(a) If the hearing is conducted by a public agency other than the State educational agency, any party aggrieved by the findings and decision in the hearing may appeal to the State educational agency.

(b) If there is an appeal, the State educational agency shall conduct an impartial review of the hearing. The official conducting the review shall:

(1) Examine the entire hearing record;

(2) Insure that the procedures at the hearing were consistent with the requirements of due process;

(3) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in § 121a.508 apply;

(4) Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official;

(5) Make an independent decision on completion of the review; and

(6) Give a copy of written findings and the decision to the parties.

(c) The decision made by the reviewing official is final, unless a party brings a civil action under § 121a.512.

(20 U.S.C. 1415 (c), (d); H. Rep. No. 94-664, at p. 49 (1975).)

Comment. 1. The State educational agency may conduct its review either directly or through another State agency acting on its behalf. However, the State educational agency remains responsible for the final decision on review.

2. All parties have the right to continue to be represented by counsel at the State administrative review level, whether or not the reviewing official determines that a further hearing is necessary. If the reviewing official decides to hold a hearing to receive additional evidence, the other rights in section 121a.508, relating to hearings, also apply.

§ 121a.511 Civil action.

Any party aggrevied by the findings and decision made in a hearing who does not have the right to appeal under § 121a.510 of this subpart, and any party aggrieved by the decision of a reviewing officer under § 121a.510 has the right to bring a civil action under section 615(e)(2) of the Act.

(20 U.S.C. 1415.)

§ 121a.512 Timeliness and convenience of hearings and reviews.

(a) The public agency shall insure that not later than 45 days after the receipt of a request for a hearing:

(1) A final decision is reached in the hearing; and

(2) A copy of the decision is mailed to each of the parties.

(b) The State educational agency shall insure that not later than 30 days after the receipt of a request for a review:

(1) A final decision is reached in the review; and

(2) A copy of the decision is mailed to each of the parties.

(c) A hearing or reviewing officer may grant specific extensions of time beyond the periods set out in paragraphs (a) and (b) of this section at the request of either party.

(d) Each hearing and each review involving oral arguments must be conducted at a time and place which is reasonably convenient to the parents and child involved.

(20 U.S.C. 1415.)

§ 121a.513 Child's status during proceedings.

(a) During the pendency of any administrative or judicial proceeding regarding a complaint, unless the public agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her present educational placement.

(b) If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school program until the completion of all the proceedings.

(20 U.S.C. 1415(e)(3).)

Comment. Section 121a.513 does not permit a child's placement to be changed during a complaint proceeding, unless the parents and agency agree otherwise. While the placement may not be changed, this does not preclude the agency from using its normal procedures for dealing with children who are endangering themselves or others.

§ 121a.514 Surrogate parents.

(a) *General.* Each public agency shall insure that the rights of a child are protected when:

(1) No parent (as defined in § 121a.10) can be identified;

(2) The public agency, after reasonable efforts, cannot discover the whereabouts of a parent; or

(3) The child is a ward of the State under the laws of that State.

(b) *Duty of public agency.* The duty of a public agency under paragraph (a) of this section includes the assignment of an individual to act as a surrogate for the parents. This must include a method (1) for determining whether a child needs a surrogate parent, and (2) for assigning a surrogate parent to the child.

(c) *Criteria for selection of surrogates.* (1) The public agency may select a surrogate parent in any way permitted under State law.

(2) Public agencies shall insure that a person selected as a surrogate:

(i) Has no interest that conflicts with the interests of the child he or she represents; and

(ii) Has knowledge and skills, that insure adequate representation of the child.

(d) *Non-employee requirement; compensation.* (1) A person assigned as a surrogate may not be an employee of a public agency which is involved in the education or care of the child.

(2) A person who otherwise qualifies to be a surrogate parent under paragraph (c) and (d)(1) of this section, is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

(e) *Responsibilities.* The surrogate parent may represent the child in all matters relating to:

(1) The identification, evaluation, and educational placement of the child, and

(2) The provision of a free appropriate public education to the child.

(20 U.S.C. 1415(b)(1)(B).)

PROTECTION IN EVALUATION PROCEDURES

§ 121a.530 General.

(a) Each State educational agency shall insure that each public agency establishes and implements procedures which meet the requirements of §§ 121a.530–121a.534.

(b) Testing and evaluation materials and procedures used for the purposes of evaluation and placement of handicapped children must be selected and administered so as not to be racially or culturally discriminatory.

(20 U.S.C. 1412(5)(C).)

§ 121a.531 Preplacement evaluation.

Before any action is taken with respect to the initial placement of a handicapped child in a special education program, a full and individual evaluation of the child's educational needs must be conducted in accordance with the requirements of § 121a.532.

(20 U.S.C. 1412(5)(C).)

§ 121a.532 Evaluation procedures.

State and local educational agencies shall insure, at a minimum, that:

(a) Tests and other evaluation materials:

(1) Are provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so;

(2) Have been validated for the specific purpose for which they are used; and

(3) Are administered by trained personnel in conformance with the instructions provided by their producer;

(b) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient;

(c) Tests are selected and administered so as best to ensure that when a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (except where those skills are the factors which the test purports to measure);

(d) No single procedure is used as the sole criterion for determining an appropriate educational program for a child; and

(e) The evaluation is made by a multidisciplinary team or group of persons, including at least one teacher or other specialist with knowledge in the area of suspected disability.

(f) The child is assessed in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

(20 U.S.C. 1412(5)(C).)

Comment. Children who have a speech impairment as their primary handicap may not need a complete battery of assessments (e.g., psychological, physical, or adaptive behavior). However, a qualified speech-language pathologist would (1) evaluate each speech impaired child using procedures that are appropriate for the diagnosis and appraisal of speech and language disorders, and (2) where necessary, make referrals for additional assessments needed to make an appropriate placement decision.

§ 121a.533 Placement procedures.

(a) In interpreting evaluation data and in making placement decisions, each public agency shall:

(1) Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;

(2) Insure that information obtained from all of these sources is documented and carefully considered;

(3) Insure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and

(4) Insure that the placement decision is made in conformity with the least restrictive environment rules in §§ 121a.550–121a.554.

(b) If a determination is made that a child is handicapped and needs special education and related services, an individualized education program must be developed for the child in accordance with §§ 121a.340–121a.349 of Subpart C.

(20 U.S.C. 1412(5)(C); 1414(a)(5).)

Comment. Paragraph (a)(1) includes a list of examples of sources that may be used by a public agency in making placement decisions. The agency would not have to use all the sources in every instance. The point of the requirement is to insure that more than one source is used in interpreting evaluation data and in making placement decisions. For example, while all of the named sources would have to be used for a child whose suspected disability is mental retardation, they would not be necessary for certain other handicapped children, such as a child who has a severe articulation disorder as his primary handicap. For such a child, the speech-language pathologist, in complying with the multisource requirement, might use (1) a standardized test of articulation, and (2) observation of the child's articulation behavior in conversational speech.

§ 121a.534 Reevaluation.

Each State and local educational agency shall insure:

(a) That each handicapped child's individualized education program is reviewed in accordance with §§ 121a.340–121a.349 of Subpart C, and

(b) That an evaluation of the child, based on procedures which meet the requirements under § 121a.532, is conducted every three years or more frequently if conditions warrant or if the child's parent or teacher requests an evaluation.

(20 U.S.C. 1412(5)(c).)

LEAST RESTRICTIVE ENVIRONMENT

§ 121a.550 General.

(a) Each State educational agency shall insure that each public agency establishes and implements procedures which meet the requirements of §§ 121a.550–121a.556.

(b) Each public agency shall insure:

(1) That to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and

(2) That special classes, separate schooling or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(20 U.S.C. 1412(5)(B); 1414(a)(1)(C)(iv).)

§ 121a.551 Continuum of alternative placements.

(a) Each public agency shall insure that a continuum of alternative placements is available to meet the needs of handicapped children for special education and related services.

(b) The continuum required under paragraph (a) of this section must:

(1) Include the alternative placements listed in the definition of special education under § 121a.13 of Subpart A (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions), and

(2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

(20 U.S.C. 1412(5)(B).)

§ 121a.552 Placements.

Each public agency shall insure that:

(a) Each handicapped child's educational placement:

(1) Is determined at least annually,

(2) Is based on his or her individualized education program, and

(3) Is as close as possible to the child's home;

(b) The various alternative placements included under § 121a.551 are available to the extent necessary to implement the individualized education program for each handicapped child;

(c) Unless a handicapped child's individualized education program requires some other arrangement, the child is educated in the school which he or she would attend if not handicapped; and

(d) In selecting the least restrictive environment, consideration is given to any potential harmful effect on the child or on the quality of services which he or she needs.

(20 U.S.C. 1412(5)(B).)

Comment. Section 121a.552 includes some of the main factors which must be considered in determining the extent to which a handicapped child can be educated with children who are not handicapped. The overriding rule in this section is that placement decisions must be made on an individual basis. The section also requires each agency to have various alternative placements available in order to insure that each handicapped child receives an education which is appropriate to his or her individual needs.

The analysis of the regulations for Section 504 of the Rehabilitation Act of 1973 (45 CFR Part 84—Appendix, Paragraph 24) includes several points regarding educational placements of handicapped children which are pertinent to this section:

1. With respect to determining proper placements, the analysis states: "* * * it should be stressed that, where a handicapped child is so disruptive in a regular classroom that the education of other students is significantly impaired, the needs of the handicapped child cannot be met in that environment. Therefore regular placement would not be appropriate to his or her needs * * *."

2. With respect to placing a handicapped child in an alternate setting, the analysis states that among the factors to be considered in placing a child is the need to place the child as close to home as possible. Recipients are required to take this factor into account in making placement decisions. The parent's right to challenge the placement of their child extends not only to placement in special classes or separate schools, but also to placement in a distant school, particularly in a residential program. An equally appropriate education program may exist closer to home; and this issue may be raised by the parent under the due process provisions of this subpart.

§ 121a.553 Nonacademic settings.

In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in § 121a.306 of Subpart C, each public agency shall insure that each handicapped child participates with nonhandicapped children in those services and activities to the maximum extent appropriate to the needs of that child.

(20 U.S.C. 1412(5)(B).)

Comment. Section 121a.553 is taken from a new requirement in the final regulations for Section 504 of the Rehabilitation Act of 1973. With respect to this requirement, the analysis of the Section 504 Regulations includes the following statement: "[A new paragraph] specifies that handicapped children must also be provided nonacademic services in as integrated a setting as possible. This requirement is especially important for children whose educational needs necessitate their being solely with other handicapped children during most of each day. To the maximum extent appropriate, children in residential settings are also to be provided

V42N163 AUG 23 77 UM

opportunities for participation with other children." (45 CFR Part 84—Appendix, Paragraph 24.)

§ 121a.554 Children in public or private institutions.

Each State educational agency shall make arrangements with public and private institutions (such as a memorandum of agreement or special implementation procedures) as may be necessary to insure that § 121a.550 is effectively implemented.

(20 U.S.C. 1412(5)(B).)

Comment. Under section 612(5)(B) of the statute, the requirement to educate handicapped children with nonhandicapped children also applies to children in public and private institutions or other care facilities. Each State educational agency must insure that each applicable agency and institution in the State implements this requirement. Regardless of other reasons for institutional placement, no child in an institution who is capable of education in a regular public school setting may be denied access to an education in that setting.

§ 121a.555 Technical assistance and training activities.

Each State educational agency shall carry out activities to insure that teachers and administrators in all public agencies:

(a) Are fully informed about their responsibilities for implementing § 121a.550, and

(b) Are provided with technical assistance and training necessary to assist them in this effort.

(20 U.S.C. 1412(5)(B).)

§ 121a.556 Monitoring activities.

(a) The State educational agency shall carry out activities to insure that § 121a.550 is implemented by each public agency.

(b) If there is evidence that a public agency makes placements that are inconsistent with § 121a.550 of this subpart, the State educational agency:

(1) Shall review the public agency's justification for its actions, and

(2) Shall assist in planning and implementing any necessary corrective action.

(20 U.S.C. 1412(5)(B).)

CONFIDENTIALITY OF INFORMATION

§ 121a.560 Definitions.

As used in this subpart:

"Destruction" means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

"Education records" means the type of records covered under the definition of "education records" in Part 99 of this title (the regulations implementing the Family Educational Rights and Privacy Act of 1974).

"Participating agency" means any agency or institution which collects, maintains, or uses personally identifiable information, or from which information is obtained, under this part.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.561 Notice to parents.

(a) The State educational agency shall give notice which is adequate to fully inform parents about the requirements under § 121a.128 of Subpart B, including:

(1) A description of the extent to which the notice is given in the native languages of the various population groups in the State;

(2) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;

(3) A summary of the policies and procedures which participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and

(4) A description of all of the rights of parents and children regarding this information, including the rights under section 438 of the General Education Provisions Act and Part 99 of this title (the Family Educational Rights and Privacy Act of 1974, and implementing regulations).

(b) Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the State of the activity.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.562 Access rights.

(a) Each participating agency shall permit parents to inspect and review any education records relating to their children which are collected, maintained, or used by the agency under this part. The agency shall comply with a request without unnecessary delay and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or placement of the child, and in no case more than 45 days after the request has been made.

(b) The right to inspect and review education records under this section includes:

(1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;

(2) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and

(3) The right to have a representative of the parent inspect and review the records.

(c) An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.563 Record of access.

Each participating agency shall keep a record of parties obtaining access to education records collected, maintained, or used under this part (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.564 Records on more than one child.

If any education record includes information on more than one child, the parents of those children shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.565 List of types and locations of information.

Each participating agency shall provide parents on request a list of the types and locations of education records collected, maintained, or used by the agency.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.566 Fees.

(a) A participating education agency may charge a fee for copies of records which are made for parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.

(b) A participating agency may not charge a fee to search for or to retrieve information under this part.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.567 Amendment of records at parent's request.

(a) A parent who believes that information in education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child, may request the participating agency which maintains the information to amend the information.

(b) The agency shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

(c) If the agency decides to refuse to amend the information in accordance with the request it shall inform the parent of the refusal, and advise the parent of the right to a hearing under § 121a.568.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.568 Opportunity for a hearing.

The agency shall, on request, provide an opportunity for a hearing to challenge information in education records to insure that it is not inaccurate, misleading,

or otherwise in violation of the privacy or other rights of the child.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.569 Result of hearing.

(a) If, as a result of the hearing, the agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it shall amend the information accordingly and so inform the parent in writing.

(b) If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it shall inform the parent of the right to place in the records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

(c) Any explanation placed in the records of the child under this section must:

(1) Be maintained by the agency as part of the records of the child as long as the record or contested portion is maintained by the agency; and

(2) If the records of the child or the contested portion is disclosed by the agency to any party, the explanation must also be disclosed to the party.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.570 Hearing procedures.

A hearing held under § 121a.568 of this subpart must be conducted according to the procedures under § 99.22 of this title.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.571 Consent.

(a) Parental consent must be obtained before personally identifiable information is:

(1) Disclosed to anyone other than officials of participating agencies collecting or using the information under this part, subject to paragraph (b) of this section; or

(2) Used for any purpose other than meeting a requirement under this part.

(b) An educational agency or institution subject to Part 99 of this title may not release information from education records to participating agencies without parental consent unless authorized to do so under Part 99 of this title.

(c) The State educational agency shall include policies and procedures in its annual program plan which are used in the event that a parent refuses to provide consent under this section.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.572 Safeguards.

(a) Each participating agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

(b) One official at each participating agency shall assume responsibility for insuring the confidentiality of any personally identifiable information.

(c) All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under § 121a.129 of Subpart B and Part 99 of this title.

(d) Each participating agency shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.573 Destruction of information.

(a) The public agency shall inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child.

(b) The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

(20 U.S.C. 1412(2)(D); 1417(c).)

Comment. Under section 121a.573, the personally identifiable information on a handicapped child may be retained permanently unless the parents request that it be destroyed. Destruction of records is the best protection against improper and unauthorized disclosure. However, the records may be needed for other purposes. In informing parents about their rights under this section, the agency should remind them that the records may be needed by the child or the parents for social security benefits or other purposes. If the parents request that the information be destroyed, the agency may retain the information in pargraph (b).

§ 121a.574 Children's rights.

The State educational agency shall include policies and procedures in its annual program plan regarding the extent to which children are afforded rights of privacy similar to those afforded to parents, taking into consideration the age of the child and type or severity of disability.

(20 U.S.C. 1412(2)(D); 1417(c).)

Comment. Note that under the regulations for the Family Educational Rights and Privacy Act (45 CFR 99.4(a)), the rights of parents regarding education records are transferred to the student at age 18

§ 121a.575 Enforcement.

The State educational agency shall describe in its annual program plan the policies and procedures, including sanctions, which the State uses to insure that its policies and procedures are followed and that the requirements of the Act and the regulations in this part are met.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.576 Office of Education.

If the Office of Education or its authorized representatives collect any personally identifiable information regarding handicapped children which is not subject to 5 U.S.C. 552a (The Privacy Act of 1974), the Commissioner shall apply the requirements of 5 U.S.C. section 552a(b)(1)–(2), (4)–(11); (c); (d); (e)(1), (2), (3)(A), (B), and (D), (5)–(10); (h); (m); and (n), and the regulations implementing those provisions in Part 5b of this title.

(20 U.S.C. 1412(2)(D); 1417(c).)

OFFICE OF EDUCATION PROCEDURES

§ 121a.580 Opportunity for a hearing.

The Commissioner gives a State educational agency reasonable notice and an opportunity for a hearing before taking any of the following actions:

(a) Disapproval of a State's annual program plan under § 121a.113 of Subpart B.

(b) Withholding payments from a State under § 121a.590 or under section 434(c) of the General Education Provisions Act.

(c) Waiving the requirement under § 121a.589 of this subpart regarding supplementing and supplanting with funds provided under Part B of the Act.

(20 U.S.C. 1232c(c); 1413(a)(9)(B); 1413(c); 1416.)

§ 121a.581 Hearing panel.

The Commissioner appoints a Hearing Panel consisting of not less than three persons to conduct any hearing under § 121a.530 of this subpart.

(20 U.S.C. 1232c(c); 1413(a)(9)(B); 1413(c); 1416.)

§ 121a.582 Hearing procedures.

(a)(1) If the Hearing Panel determines that oral testimony would not materially assist the resolution of disputed facts, the Panel shall give each party an opportunity for presenting the case:

(i) In whole or in part in writing, or

(ii) In an informal conference before the Hearing Panel.

(2) The Hearing Panel shall give each party:

(i) Notice of the issues to be considered (if this notice has not already been given); and

(ii) An opportunity to be represented by counsel.

(b) If the Hearing Panel determines that oral testimony would materially assist the resolution of disputed facts, the Panel shall give each party, in addition to the requirements under paragraph (a)(2) of this section:

(1) An opportunity to obtain a record of the proceedings;

(2) An opportunity to present witnesses on the party's behalf; and

(3) An opportunity to cross-examine witnesses either orally or with written questions.

(20 U.S.C. 1232c(c); 1413(a)(9)(B); 1413(c); 1416.)

§ 121a.583 Initial decision; final decision.

(a) The Hearing Panel shall prepare an initial written decision which includes findings of fact and the conclusions based on those facts.

(b) The Hearing Panel shall mail a copy of the initial decision to each party (or to the party's counsel) and to the Commissioner, with a notice that each

V 42 163 AUG 23 77 UM

party has an opportunity to submit written comments regarding the decision to the Commissioner within a specified reasonable time.

(c) The initial decision of the Hearing Panel is the final decision of the Commissioner unless, within 25 days after the end of the time for receipt of written comments, the Commissioner informs the Panel in writing that the decision is being reviewed.

(d) Review by the Commissioner is based on the decision, the written record, if any, of the Hearing Panel's proceedings, and written comments or oral arguments by the parties.

(e) No decision under this section becomes final until it is served on the State educational agency or its attorney.

(20 U.S.C. 1232c(c); 1413(a)(9)(b); 1413(c); 1416.)

§ 121a.589 Waiver of requirement regarding supplementing and supplanting with Part B funds.

(a) Under sections 613(a)(9)(B) and 614(a)(2)(B)(ii) of the Act, State and local Educational agencies must insure that Federal funds provided under Part B of the Act are used to supplement the level of State and local funds expended for the education of handicapped children, and in no case to supplant those State and local funds. Beginning with funds appropriated for fiscal year 1979 and for each following fiscal year, the nonsupplanting requirement only applies to funds allocated to local educational agencies. (See § 121a.372.)

(b) If the State provides clear and convincing evidence that all handicapped children have available to them a free appropriate public education, the Commissioner may waive in part the requirement under sections 613(a)(9)(B) and 614(a)(2)(B)(ii) of the Act if the Commissioner concurs with the evidence provided by the State.

(c) If a State wishes to request a waiver, it must inform the Commissioner in writing. The Commissioner then provides the State with a finance and membership report form which provides the basis for the request.

(d) In its request for a waiver, the State shall include the results of a special study made by the State to obtain evidence of the availability of a free appropriate public education to all handicapped children. The special study must include statements by a representative sample of organizations which deal with handicapped children, and parents and teachers of handicapped children, relating to the following areas:

(1) The adequacy and comprehensiveness of the State's system for locating, identifying, and evaluating handicapped children, and

(2) The cost to parents, if any, for education for children enrolled in public and private day schools, and in public and private residential schools and institutions, and

(3) The adequacy of the State's due process procedures.

(e) In its request for a waiver, the State shall include finance data relating to the availability of a free appropriate public education for all handicapped children, including:

(1) The total current expenditures for regular education programs and special education programs by function and by source of funds (State, local, and Federal) for the previous school year, and

(2) The full-time equivalent membership of students enrolled in regular programs and in special programs in the previous school year. .

(f) The Commissioner considers the information which the State provides under paragraph (d) and (e) of this section, along with any additional information he may request, or obtain through on-site reviews of the State's education programs and records, to determine if all children have available to them a free appropriate public education, and if so, the extent of the waiver.

(g) The State may request a hearing under §§ 121a.580–121a.583 with regard to any final action by the Commissioner under this section.

(20 U.S.C. 1411(c)(3); 1413(a)(9)(B).)

§ 121a.590 Withholding payments.

(a) The Commissioner may make the following findings only after reasonable notice and an opportunity for a hearing under §§ 121a.580–121a.583 to the State educational agency involved (and to any local educational agency affected by any failure described in paragraph (a)(2) of this section):

(1) That there has been a failure to comply substantially with the provisions of section 612 and 613 of the Act, or

(2) That in the administration of the annual program plan there is a failure to comply with any provision of this part or with any requirement in the application of a local educational agency approved by the State educational agency under the annual program plan.

(b) After making either of the findings in paragraph (a) of this section, the Commissioner:

(1) Shall, after notifying the State educational agency, withhold any further payments to the State under this part, and

(2) May, after notifying the State educational agency, withhold further payments to the State under the Federal programs referred to in § 121a.139 of Subpart B which are within his jurisdiction, to the extent that funds under those programs are available for the provision of assistance for the education of handicapped children.

(c) If the Commissioner withholds payments under paragraph (b) of this section he may determine:

(1) That withholding is limited to programs or projects under the annual program plan, or portions of it, affected by the failure, or

(2) That the State educational agency must not make further payments under Part B of the Act to specified local educational agencies affected by the failure.

(20 U.S.C. 1416(a).)

§ 121a.591 Reinstating payments.

Until the Commissioner is satisfied that there is no longer any failure to comply with the provisions of this part, as specified in § 121a.590(a):

(a) No further payments shall be made to the State under this part or under the Federal programs specified in section 613(a)(2) of the Act which are within his jurisdiction to the extent that funds under those programs are available for the provision of assistance for the education of handicapped children, or

(b) Payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure.

(20 U.S.C. 1416(a).)

§ 121a.592 Public notice by State and local educational agencies.

Any State educational agency and local educational agency which receives a notice under § 121a.590(a) shall by means of a public notice, take any necessary measures to inform the public within the agency's jurisdiction of the pendency of the action.

(20 U.S.C. 1416(a).)

§ 121a.593 Judicial review of Commissioner's final action on annual program plan.

If any State is dissatisfied with the Commissioner's final action with respect to its annual program plan submitted under Subpart B, the State may under section 616(b) of the Act, within sixty days after notice of the action, file a petition for review of that action with the United States Court of Appeals for the circuit in which the State is located.

(20 U.S.C. 1416(b).)

Subpart F—State Administration

State Educational Agency Responsibilities: General

§ 121a.600 Responsibility for all educational programs.

(a) The State educational agency is responsible for insuring:

(1) That the requirements of this part are carried out; and

(2) That each educational program for handicapped children administered within the State, including each program administered by any other public agency:

(i) Is under the general supervision of the persons responsible for educational programs for handicapped children in the State educational agency, and

(ii) Meets education standards of the State educational agency (including the requirements of this part).

(b) The State must comply with paragraph (a) of this section through State statute, State regulation, signed agreement between respective agency officials, or other documents.

(20 U.S.C. 1412(6).)

Comment. The requirement in § 121a.600(a) is taken essentially verbatim from section 612(6) of the statute and reflects the desire of the Congress for a central point of responsibility and accountability in the education of handicapped children within each State. With respect to State educational agency responsibility, the Senate Report on P.L. 94-142 includes the following statements:

This provision is included specifically to assure a single line of responsibility with regard to the education of handicapped children, and to assure that in the implementation of all provisions of this Act and in carrying out the right to education for handicapped children, the State educational agency shall be the responsible agency * * *.

Without this requirement, there is an abdication of responsibility for the education of handicapped children. Presently, in many States, responsibility is divided, depending upon the age of the handicapped child, sources of funding, and type of services delivered. While the Committee understands that different agencies may, in fact, deliver services, the responsibility must remain in a central agency overseeing the education of handicapped children, so that failure to deliver services or the violation of the rights of handicapped children is squarely the responsibility of one agency. (Senate Report No. 94-168, p. 24 (1975))

In meeting the requirements of this section, there are a number of acceptable options which may be adopted, including the following:

(1) Written agreements are developed between respective State agencies concerning State educational agency standards and monitoring. These agreements are binding on the local or regional counterparts of each State agency.

(2) The Governor's Office issues an administrative directive establishing the State educational agency responsibility.

(3) State law, regulation, or policy designates the State educational agency as responsible for establishing standards for all educational programs for the handicapped, and includes responsibility for monitoring.

(4) State law mandates that the State educational agency is responsible for all educational programs.

§ 121a.601 Monitoring and evaluation activities.

Each State educational agency shall:

(a) Undertake monitoring and evaluation activities to insure compliance of all public agencies within the State with the requirements of Subparts C, D, and E.

(b) Develop procedures (including specific timelines) for monitoring and evaluating public agencies involved in that education of handicapped children. These procedures must include:

(1) Collection of data and reports;

(2) Conduct of on-site visits;

(3) Audit of Federal fund utilization; and

(4) Comparison of a sampling of individualized education programs with the programs actually provided.

(20 U.S.C. 1412(6); 1413(a)(11).)

Comment: In carrying out the requirements of paragraph (b) of this section, State educational agencies could include additional procedures, such as involving parents or representatives of parent organizations in on-site visits and other monitoring activities.

§ 121a.602 Adoption of complaint procedures.

(a) Each State educational agency shall adopt effective procedures for reviewing, investigating, and acting on any allegations of substance, which may be made by public agencies, or private individuals, or organizations, of actions taken by any public agency that are contrary to the requirements of this part.

(b) In carrying out the requirements in paragraph (a) of this section, the State educational agency shall:

(1) Designate specific individuals within the agency who are responsible for implementing the requirements;

(2) Provide for negotiations, technical assistance activities, and other remedial action to achieve compliance; and

(3) Provide for the use of sanctions, including the withholding of Part B funds in accordance with § 121a.194

(20 U.S.C. 1412(6).)

Use of Funds

§ 121a.620 Federal funds for State administration.

A State may use five per cent of the total State allotment in any fiscal year under Part B of the Act, or $200,000, whichever is greater, for administrative costs related to carrying out sections 612 and 613 of the Act. However, this amount cannot be greater than the amount which the State may use under § 121a.704 or § 121a.705, as the case may be.

(20 U.S.C. 1411(b), (c).)

§ 121a.621 Allowable costs.

(a) The State educational agency may use funds under § 121a.620 of this Subpart for:

(1) Administration of the annual program plan and for planning at the State level, including planning, or assisting in the planning, of programs or projects for the education of handicapped children;

(2) Approval, supervision, monitoring, and evaluation of the effectiveness of local programs and projects for the education of handicapped children;

(3) Technical assistance to local educational agencies with respect to the requirements of this part;

(4) Leadership services for the program supervision and management of special education activities for handicapped children; and

(5) Other State leadership activities and consultative services.

(b) The State educational agency shall use the remainder of its funds under § 121a.620 in accordance with § 121a.370 of Subpart C.

(20 U.S.C. 1411(b), (c).)

State Advisory Panel

§ 121a.650 Establishment.

(a) Each State shall establish, in accordance with the provisions of this subpart, a State advisory panel on the education of handicapped children.

(b) The advisory panel must be appointed by the Governor or any other official authorized under State law to make those appointments.

(c) If a State has an existing advisory panel that can perform the functions in § 121a.652, the State may modify the existing panel so that it fulfills all of the requirements of this subpart, instead of establishing a new advisory panel.

(20 U.S.C. 1413(a)(12).)

§ 121a.651 Membership.

(a) The membership of the State advisory panel must be composed of persons involved in or concerned with the education of handicapped children. The membership must include at least one person representative of each of the following groups:

(1) Handicapped individuals.

(2) Teachers of handicapped children.

(3) Parents of handicapped children.

(4) State and local educational officials.

(5) Special education program administrators.

(b) The State may expand the advisory panel to include additional persons in the groups listed in paragraph (a) of this section and representatives of other groups not listed.

(20 U.S.C. 1413(a)(12).)

Comment. The membership of the State advisory panel, as listed in paragraphs (a)(1)–(5), is required in section 613(a)(12) of the Act. As indicated in paragraph (b), the composition of the panel and the number of members may be expanded at the discretion of the State. In adding to the membership, consideration could be given to having:

(1) An appropriate balance between professional groups and consumers (i.e., parents, advocates, and handicapped individuals);

(2) Broad representation within the consumer-advocate groups, to insure that the interests and points of view of various parents, advocates and handicapped individuals are appropriately represented;

(3) Broad representation within professional groups (e.g., (a) regular education personnel, (b) special educators, including teachers, teacher trainers, and administrators, who can properly represent various dimensions in the education of handicapped children, and (c) appropriate related services personnel); and

(4) Representatives from other State advisory panels (such as vocational education).

If a State elects to maintain a small advisory panel (e.g., 10–15 members), the panel itself could take steps to insure that it (1) consults with and receives inputs from various consumer and special interest professional groups, and (2) establishes committees for particular short-term purposes composed of representatives from those input groups.

§ 121a.652 Advisory panel functions.

The State advisory panel shall:

(a) Advise the State educational agency of unmet needs within the State in the education of handicapped children;

(b) Comment publicly on the State annual program plan and rules or regulations proposed for issuance by the

V 42 N 163 AUG 23 77 UM

State regarding the education of handicapped children and the procedures for distribution of funds under this part; and

(c) Assist the State in developing and reporting such information and evaluations as may assist the Commissioner in the performance of his responsibilities under section 618.

(20 U.S.C. 1413(a)(12).)

§ 121a.653 Advisory panel procedures.

(a) The advisory panel shall meet as often as necessary to conduct its business.

(b) By July 1 of each year, the advisory panel shall submit an annual report of panel activities and suggestions to the State educational agency. This report must be made available to the public in a manner consistent with other public reporting requirements under this part.

(c) Official minutes must be kept on all panel meetings and shall be made available to the public on request.

(d) All advisory panel meetings and agenda items must be publicly announced prior to the meeting, and meetings must be open to the public.

(e) Interpreters and other necessary services must be provided at panel meetings for panel members or participants. The State may pay for these services from funds under § 121a.620.

(f) The advisory panel shall serve without compensation but the State must reimburse the panel for reasonable and necessary expenses for attending meetings and performing duties. The State may use funds under § 121a.620 for this purpose.

(20 U.S.C. 1413(a)(12).)

Subpart G—Allocation of Funds; Reports

ALLOCATIONS

§ 121a.700 Special definition of the term State.

For the purposes of § 121a.701, § 121a.702, and §§ 121a.704–121a.708, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 1411(a)(2).)

§ 121a.701 State entitlement; formula.

(a) The maximum amount of the grant to which a State is entitled under section 611 of the Act in any fiscal year is equal to the number of handicapped children aged three through 21 in the State who are receiving special education and related services, multiplied by the applicable percentage, under paragraph (b) of this section, of the average per pupil expenditure in public elementary and secondary schools in the United States.

(b) For the purposes of the formula in paragraph (a) of this section, the applicable percentage of the average per pupil expenditure in public elementary and secondary schools in the United States for each fiscal year is:

(1) 1978—5 percent,
(2) 1979—10 percent,
(3) 1980—20 percent,
(4) 1981—30 percent, and
(5) 1982, and for each fiscal year after 1982, 40 percent.

(20 U.S.C. 1411(a)(1).)

(c) For the purposes of this section, the average per pupil expenditure in public elementary and secondary schools in the United States, means the aggregate expenditures during the second fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the United States (which, for the purpose of this section, means the fifty States and the District of Columbia), plus any direct expenditures by the State for operation of those agencies (without regard to the source of funds from which either of those expenditures are made), divided by the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year.

(20 U.S.C. 1411(a)(4).)

§ 121a.702 Limitations and exclusions.

(a) In determining the amount of a grant under § 121a.701 of this subpart, the Commissioner may not count:

(1) Handicapped children in a State to the extent that the number of those children is greater than 12 percent of the number of all children aged five through 17 in the State;

(2) Children with specific learning disabilities to the extent that the number of those children is greater than two percent of the number of all children aged five through 17 in the State; and

(3) Handicapped children who are counted under section 121 of the Elementary and Secondary Education Act of 1965.

(b) For the purposes of paragraph (a) of this section, the number of children aged five through 17 in any State shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

(20 U.S.C. 1411(a)(5).)

§ 121a.703 Ratable reductions.

(a) *General.* If the sums appropriated for any fiscal year for making payments to States under section 611 of the Act are not sufficient to pay in full the total amounts to which all States are entitled to receive for that fiscal year, the maximum amount which all States are entitled to receive for that fiscal year shall be ratably reduced. In case additional funds become available for making payments for any fiscal year during which the preceding sentence is applicable, those reduced amounts shall be increased on the same basis they were reduced.

(20 U.S.C. 1411(g)(1).)

(b) *Reporting dates for local educational agencies and reallocations.* (1) In any fiscal year in which the State entitlements have been ratably reduced, and in which additional funds have not been made available to pay in full the total of the amounts under paragraph (a) of this section, the State educational agency shall fix dates before which each local educational agency shall report to the State the amount of funds available to it under this part which it estimates it will expend.

(2) The amounts available under paragraph (a)(1) of this section, or any amount which would be available to any other local educational agency if it were to submit an application meeting the requirements of this part, which the State educational agency determines will not be used for the period of its availability, shall be available for allocation to those local educational agencies, in the manner provided in §121a.707, which the State educational agency determines will need and be able to use additional funds to carry out approved programs.

(20 U.S.C. 1411(g)(2).)

§ 121a.704 Hold harmless provision.

No State shall receive less than the amount it received under Part B of the Act for fiscal year 1977.

(20 U.S.C. 1411(a)(1).)

§ 121a.705 Within-State distribution: fiscal year 1978.

Of the funds received under § 121a.701 of this subpart by any State for fiscal year 1978:

(a) 50 percent may be used by the State in accordance with the provisions of § 121a.620 of Subpart F and § 121a.370 of Subpart C, and

(b) 50 percent shall be distributed to local educational agencies in the State in accordance with § 121a.707.

(20 U.S.C. 1411(b)(1).)

§ 121a.706 Within-State distribution: fiscal year 1979 and after.

Of the funds received under § 121a.701 by any State for fiscal year 1979, and for each fiscal year after fiscal year 1979:

(a) 25 percent may be used by the State in accordance with § 121a.620 of Subpart F and § 121a.370 of Subpart C, and

(b) 75 percent shall be distributed to the local educational agencies in the State in accordance with § 121a.707.

(20 U.S.C. 1411(c)(1).)

§ 121a.707 Local educational agency entitlements; formula.

From the total amount of funds available to all local educational agencies, each local educational agency is entitled to an amount which bears the same ratio to the total amount as the number of handicapped children aged three through 21 in that agency who are receiving special education and related services bears to the aggregate number of handicapped children aged three through 21 receiving special education and related services in all local educational agencies which apply to the State educational agency for funds under Part B of the Act.

(20 U.S.C. 1411(d).)

§ 121a.708 Reallocation of local educational agency funds.

If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all handicapped children residing in the area served by the local agency with State and local funds otherwise available to the local agency, the State educational agency may reallocate funds (or portions of those funds which are not required to provide special education and related services) made available to the local agency under § 121a.707, to other local educational agencies within the State which are not adequately providing special education and related services to all handicapped children residing in the areas served by the other local educational agencies.

(20 U.S.C. 1414(e).)

§ 121a.709 Payments to Secretary of Interior.

(a) The Commissioner is authorized to make payments to the Secretary of the Interior according to the need for that assistance for the education of handicapped children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior.

(b) The amount of those payments for any fiscal year shall not exceed one percent of the aggregate amounts available to all States for that fiscal year under Part B of the Act.

(20 U.S.C. 1411(f)(1).)

§ 121a.710 Entitlements to jurisdictions.

(a) The jurisdictions to which this section applies are Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) Each jurisdiction under paragraph (a) of this section is entitled to a grant for the purposes set forth in section 601 (c) of the Act. The amount to which those jurisdictions are so entitled for any fiscal year shall not exceed an amount equal to 1 percent of the aggregate of the amounts available to all States under this part for that fiscal year. Funds appropriated for those jurisdictions shall be allocated proportionately among them on the basis of the number of children aged three through twenty-one in each jurisdiction. However, no jurisdiction shall receive less than $150,000, and other allocations shall be ratably reduced if necessary to insure that each jurisdiction receives at least that amount.

(c) The amount expended for administration by each jurisdiction under this section shall not exceed 5 percent of the amount allotted to the jurisdiction for any fiscal year, or $35,000, whichever is greater.

(20 U.S.C. 1411(e).)

REPORTS

§ 121a.750 Annual report of children served—report requirement.

(a) The State educational agency shall report to the Commissioner no later than April 1 of each year the number of handicapped children aged three through 21 residing in the State who are receiving special education and related services.

(b) The State educational agency shall submit the report on forms provided by the Commissioner.

(20 U.S.C. 1411(a)(3).)

Comment. It is very important to understand that this report and the requirements that relate to it are solely for allocation purposes. The population of children the State may count for allocation purposes may differ from the population of children to whom the State must make available a free appropriate public education. For example, while section 611(a)(5) of the Act limits the number of children who may be counted for allocation purposes to 12 percent of the general school population aged five through seventeen, a State might find that 14 percent (or some other percentage) of its children are handicapped. In that case, the State must make free appropriate public education available to all of those handicapped children.

§ 121a.751 Annual report of children served—information required in the report.

(a) In its report, the State educational agency shall include a table which shows:

(1) The number of handicapped children receiving special education and related services on October 1 and on February 1 of that school year, and the average of the numbers for those two dates;

(2) The number of those handicapped children within each disability category, as defined in the definition of "handicapped children" in § 121a.5 of Subpart A; and

(3) The number of those handicapped children within each of the following age groups:

(i) Three through five;
(ii) Six through seventeen; and
(iii) Eighteen through twenty-one.

(b) A child must be counted as being in the age group corresponding to his or her age on the date of the count: October 1 or February 1, as the case may be.

(c) The State educational agency may not report a child under more than one disability category.

(d) If a handicapped child has more than one disability, the State educational agency shall report that child in accordance with the following procedure:

(1) A child who is both deaf and blind must be reported as "deaf-blind."

(2) A child who has more than one disability (other than a deaf-blind child) must be reported as "multihandicapped."

(20 U.S.C. 1411(a)(3); 1411(a)(5)(A)(ii); 1418(b).)

§ 121a.752 Annual report of children served—certification.

The State educational agency shall include in its report a certification signed by an authorized official of the agency that the information provided is an accurate and unduplicated count of handicapped children receiving special education and related services on the dates in question.

(20 U.S.C. 1411(a)(3); 1417(b).)

§ 121a.753 Annual report of children served—criteria for counting children.

(a) The State educational agency may include handicapped children in its report who are enrolled in a school or program which is operated or supported by a public agency, and which either:

(1) Provides them with both special education and related services; or

(2) Provides them only with special education if they do not need related services to assist them in benefitting from that special education.

(b) The State educational agency may not include handicapped children in its report who:

(1) Are not enrolled in a school or program operated or supported by a public agency;

(2) Are not provided special education that meets State standards;

(3) Are not provided with a related service that they need to assist them in benefitting from special education;

(4) Are counted by a State agency under section 121 of the Elementary and Secondary Education Act of 1965, as amended; or

(5) Are receiving special education funded solely by the Federal Government. However, the State may count children covered under § 121a. 186(b) of Subpart B.

(20 U.S.C. 1411(a)(3); 1417(b).)

Comment. 1. Under paragraph (a), the State may count handicapped children in a Head Start or other preschool program operated or supported by a public agency if those children are provided special education that meets State standards.

2. "Special education," by statutory definition, must be at no cost to parents. As of September 1, 1978, under the free appropriate public education requirement, both special education and related services must be at no cost to parents.

There may be some situations, however, where a child receives special education from a public source at no cost, but whose parents pay for the basic or regular education. This child may be counted. The Office of Education expects that there would only be limited situations where special education would be clearly separate from regular education—generally, where speech therapy is the only special education required by the child. For example, the child might be in a regular program in a parochial or other private school but receiving speech therapy in a program funded by the local educational agency. Allowing these children to be counted will provide incentives (in addition to complying with the legal requirement in section 613(a)(4)(A) of the Act regarding private schools) to public agencies to provide services to children in private schools, since funds are generated in part on the basis of the number of children provided special education and related services. Agencies should understand, however, that where a handicapped child is placed in or referred to a public or private school for educational purposes, special education includes the entire educational program provided to the child. In that case, parents may not be charged for any part of the child's education.

A State may not count Indian children on or near reservations and children on military facilities if it provides them no special

V 42163 AUG 23 77 UMI

education. If a State or local educational agency is responsible for serving these children, and does provide them special education and related services, they may be counted.

§ 121a.754 Annual report of children served—other responsibilities of the State educational agency.

In addition to meeting the other requirements in this subpart, the State educational agency shall:

(a) Establish procedures to be used by local educational agencies and other educational institutions in counting the number of handicapped children receiving special education and related services;

(b) Set dates by which those agencies and institutions must report to the State educational agency to insure that the State complies with § 121a.750(a);

(c) Obtain certification from each agency and institution that an unduplicated and accurate count has been made;

(d) Aggregate the data from the count obtained from each agency and institution, and prepare the reports required under this subpart; and

(e) Insure that documentation is maintained which enables the State and the Commissioner to audit the accuracy of the count.

(20 U.S.C. 1411(a)(3); 1417(b).)

Comment. States should note that the data required in the annual report of children served are not to be transmitted to the Commissioner in personally identifiable form. States are encouraged to collect these data in non-personally identifiable form.

APPENDIX A—ANALYSIS OF FINAL REGULATION (45 CFR PART 121a) UNDER PART B OF THE EDUCATION OF THE HANDICAPPED ACT

These regulations set forth requirements to be followed by States and localities if they are to receive funds under Part B of the Education of the Handicapped Act. The regulations cover matters such as the identification, location, and evaluation of handicapped children; the provision of free appropriate public education; the establishment of a full educational opportunity goal; the count of handicapped children for allocation purposes; priorities in the use of Part B funds; the proper use of Part B funds; the development of an individualized education program; the creation of a comprehensive personnel development system; procedural safeguards (e.g. right to notice and conduct of hearings); methods to guarantee public participation; and details about State annual program plans and local educational agency applications.

RELATIONSHIP BETWEEN REGULATIONS UNDER PART B AND REGULATIONS UNDER SECTION 504

The regulations under section 504 of the Rehabilitation Act of 1973 (45 CFR Part 84; published at 42 FR 22675; May 4, 1977) deal with nondiscrimination on the basis of handicap and basically require that recipients of Federal funds provide equal opportunities to handicapped persons (for example, that they meet the needs of handicapped persons to the same extent that the needs of nonhandicapped persons are met). Subpart D of the section 504 regulations ("Preschool, Elementary, and Secondary Education") contains requirements very similar to those in Part B of the Education of the Handicapped Act.

Basically, both require that handicapped persons be provided a free appropriate public education; that handicapped students be educated with nonhandicapped students to the extent appropriate; that educational agencies identify and locate all unserved handicapped children; that evaluation procedures be adopted to insure appropriate classification and educational services; and that procedural safeguards be established.

In several respects, however, the section 504 regulations are broader in coverage than Part B. For example, the definition of "handicapped person" and "qualified handicapped person" under section 504 covers a broader population than the definition of "handicapped children" under Part B. Under the Part B definition, a handicapped child is a child who has one of the impairments listed in the Act, who because of that impairment requires special education and related services. Under section 504, a handicapped person is a person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of that type of impairment, or is regarded as having that impairment (§ 84.3(j)).

The regulations for section 504 also deal with a number of subjects not covered by the Part B regulations (for example, barrier-free facilities and program accessibility; employment; postsecondary education and health, welfare and social services). On the other side, Part B contains a substantial number of administrative requirements not included under section 504 (for example, annual program plans and local applications) and requires more detailed procedures and policies in many instances (such as due process procedures).

In several instances, the section 504 regulations specifically reference where a requirement may be met by complying with a requirement under Part B. For example, § 84.33(b)(2), dealing with appropriate education, cites implementation of an individualized education program as one means of meeting the requirement. Section 84.33(d) has a September 1, 1978 outside date for providing an appropriate education to qualified handicapped persons (conforming to the timelines in Part B). Section 84.35(d) indicates that a reevaluation procedure consistent with the Part B requirements is one means of meeting the reevaluation requirements under section 504. Section 84.36, dealing with due process requirements, indicates that compliance with the procedural safeguards in Part B is one means of meeting those requirements.

It should be noted that the term "free appropriate public education" (FAPE) has different meanings under Part B and section 504. For example, under Part B, "FAPE" is a statutory term which requires special education and related services to be provided in accordance with an individualized education program. However, under section 504, each recipient must provide an education which includes "the provision of regular or special education and related aids and services that (i) are designed to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met * * *"

There is also a major difference between Part B and the section 504 regulations concerning the matter of exclusion of handicapped children from school. As of the effective date of the section 504 regulations (June 3, 1977), exclusion of handicapped children from school constitutes a violation of those requirements. However, under Part B, States are not required to serve all handicapped children aged 3–18 until September 1, 1978. As stated in Appendix A of the section 504 regulations:

The EHA requires a free appropriate education to be provided to handicapped children "no later than September 1, 1978," but section 504 contains no authority for delaying enforcement. To resolve this problem, a new paragraph (d) has been added to § 84.33. Section 84.33(d) requires recipients to achieve full compliance with the free appropriate public education requirements of § 84.33 as expeditiously as possible, but in no event later than September 1, 1978. The provision also makes clear that, as of the effective date of this regulation, no recipient may exclude a qualified handicapped child from its educational program. This provision against exclusion is consistent with the order of providing services set forth in section 612(3) of the EHA, which places the highest priority on providing services to handicapped children who are not receiving an education.

PART 121a—ASSISTANCE TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

SUBPART A—GENERAL

Subpart A sets forth the purposes and applicability of these regulations and includes definitions of statutory terms (e.g. free appropriate public education, special education, and related services) and other definitions related to those terms.

The following comments were received regarding Subpart A.

APPLICABILITY OF REGULATIONS TO STATE, LOCAL AND PRIVATE AGENCIES (§ 121a.2)

Comment: A commenter felt that the statement regarding the applicability of the regulations was not clear, and should be revised to indicate that the requirements apply to any public agency serving handicapped children, even if the agency does not receive Part B funds.

Response: A definition of "public agency" has been added to the regulations. The definition includes all political subdivisions in the State that are responsible for educating handicapped children. Throughout the regulation, the term "public agency" has been used to make it clear where the requirements do not apply only to State and local educational agencies. In addition, an explanatory comment was added after section 121a.2 to make it clear that the requirements under Part B are binding on each public agency in the State that has direct or delegated authority for the education of handicapped children, regardless of whether that agency receives Part B funds.

DEFINITIONS (§§ 121a.4–121a.15)

Comment: Hundreds of comments were received regarding definitions in the proposed rules. Commenters requested that new definitions be added, or sought changes in existing definitions, especially definitions of various disability categories and the various types of related services. In many instances, revisions were sought to conform to the most recent definitions adopted or used by professional associations.

Response: Definitions of terms used in the regulations are taken from various statutes, Congressional reports, or materials provided by professional associations and other groups. Where appropriate, the Office of Education has attempted to incorporate changes recommended by commenters, and has made other changes to clarify the definitions. In addition, the following new terms were added:

Definitions of "deaf-blind" and "multi-handicapped" were added because these are recognized categories of handicapped children in most States.

A definition of "qualified" was added in order to be able to use a consistent term in

referring to the qualifications of the various personnel.

The definition of "handicapped children" has been modified only by making certain clarifying changes. Although some commenters requested additional changes in the definitions of the various disability categories, it is felt that the definitions in this regulation must closely conform to current usage in the States and professions.

The related services definition was expanded to include "school health services." In addition, changes were made in the definitions of the individual terms included under "related services" (e.g., psychological services and recreation) to conform to recommendations of professional associations.

SUBPART B—STATE ANNUAL PROGRAM PLANS AND LOCAL APPLICATIONS

Subpart B includes the requirements relating to State annual program plans, local educational agency applications, participation by the Bureau of Indian Affairs, and public participation.

Two new sections (sections 121a.150 and 121a.239) have been added to require assurances from the State educational agencies and local educational agencies that the program under Part B will be operated in compliance with the section 504 regulations, including the requirements under section 606 of the Education of the Handicapped Act regarding employment of qualified handicapped individuals in programs assisted under the Act. (The Office for Civil Rights has been delegated authority for enforcing section 606.)

A substantial number of commenters were concerned with the following major issues in this subpart: (1) the amount of data required of State and local educational agencies; (2) the excess costs, nonsupplanting and comparability requirements; and (3) the public participation requirements. In addition, as with other subparts, many commenters objected to statutory requirements and sought interpretations of the statute and regulations.

ANNUAL PROGRAM PLANS

CONDITION OF ASSISTANCE (§ 121a.110)

Section 434(b) of the General Education Provisions Act (GEPA), as amended by Pub. L. 93–380, requires each State to submit (1) a general application containing five assurances, and (2) an annual program plan for each Office of Education program under which funds are provided to local educational agencies through, or under the supervision of, the State educational agency. Under Section 434(b), and the implementing regulations (45 CFR 100b, Subpart B), the general application and an annual program plan take the place of a State plan for Part B (45 CFR 100b.19).

The five assurances required under section 434(b) of the GEPA cover proper administration, fiscal control and accounting, reports, supplanting, and submission of the annual program plan. Where Part B contains plan requirements covering the same subject matters, submission of those plan requirements is satisfied by the State's submission of the general application. They do not have to be submitted as part of the annual plan. The Part B plan provisions which do not have to be submitted in the annual program plan are referenced in 45 CFR § 100b.17(c)(2)(iv). Note that a substantive section on the nonsupplanting requirement for local educational agencies is set out in § 121a.230.

Under 45 CFR 100b.18(c), material may be incorporated by reference in an annual program plan if the material is in a document previously approved by the Commissioner and on file in the Office of Education. This should save some paperwork, particularly in the years after the first annual program plan (for school year 1977–1978) is submitted under these regulations.

The provisions to be included in the annual program plan for Part B are set forth in §§ 121a.120–121a.151 of these regulations (which include the conditions of eligibility and the State plan requirements under sections 612 and 613 of the Act and section 434(b)(1)(B)(ii) of the GEPA (which requires each annual program plan to "set forth a statement describing the purposes for which Federal funds will be expended during the fiscal year for which the annual program plan is submitted")).

APPROVAL; DISAPPROVAL (§ 121a.113)

The following is clarification about the submission of draft annual program plans for review by the Office of Education and how this would affect the issuance of grant award documents:

A State educational agency may elect to send a copy of its proposed annual program plan to the Commissioner for technical assistance purposes at the same time that the plan is being made available for public comment. However, funds cannot be obligated by a State before the date on which its official adopted plan is received in substantially approvable form by the Federal Government. (See 45 CFR 100b.35.)

EXAMPLE: A State educational agency's proposed plan for a particular school year is received by the Bureau of Education for the Handicapped on June 1. Its official plan is received on August 1. When BEH approves the plan (e.g. September 1), the State educational agency will receive a grant award document which will show August 1, as the earliest date of obligation under that plan.

EFFECTIVE PERIOD OF ANNUAL PROGRAM PLAN (§ 121a.114)

The Office of Education is proposing to use the period July 1–June 30 for State annual program plans in those programs where appropriations become available for obligation by the Federal Government each July 1 (the so-called "advance funded" programs). The purpose of this is to meet the statutory requirement for an annual program plan covering a 12-month period and at the same time to conform as closely as possible to the regular school year. However, even if the proposed procedure is adopted, the obligational period of State and local agencies for funds from any fiscal year would not be changed. If a State submits its annual program plan and receives its grant on the earliest possible date (July 1), the funds are available for obligation at the State and local level for 27 months, subject to submission or extension of the annual program plan for the following year. (This period includes the 12-month carryover provision under the Tydings Amendment. See 45 CFR 100b.55 (Obligation by recipients).) For example, if a State received its grant for fiscal year 1978 on July 1, 1977, the funds would be available for obligation at the State and local level from July 1, 1977 through September 30, 1979. The rules which govern when an annual program plan becomes effective, and State and local authority to obligate the Federal funds are located in 45 CFR Part 100b, Subpart B.

PUBLIC PARTICIPATION (§ 121a.120)

Comment: Commenters wanted this section to be expanded to require the States to describe in detail a number of additional specific steps to be taken in complying with the public participation requirements of the Act. For example, they wanted States to develop a roster of interested persons to whom plans and other documents would routinely be sent. The commenters felt that these steps would be necessary to insure full public participation.

Response: Requirements have been added (in §§ 121a.280 et seq.) to spell out in more detail the State's duties regarding public participation in development of the annual program plan (for example, indicating in the notice of public hearings of the plan the timetable for developing the final plan and submitting it to the Commissioner). A requirement has also been added to specify that the plan must be available for comment at least 30 days following the date notice is given.

Another revised section indicates that the public participation requirements for local educational agencies are to be comparable to those required of the State, except that public hearings are not required (§ 121a.234).

FULL EDUCATIONAL OPPORTUNITY GOAL REQUIREMENTS (§§ 121a.124–121a.126)

Comment: Commenters disagreed about the amount of data which should be required under this (and other) sections. Some commenters sought to have the regulations require a substantial amount of additional data (about the population of handicapped children and their placements) on the grounds that it is needed for effective monitoring. Others sought to have the amount of data to be reported substantially reduced as unnecessary and fulfilling no useful purpose.

Response: The final regulations eliminate the data requirements in proposed section 121a.24(a) for school year 1977–1978. Since the funds for FY 1978 became available for obligation by the Federal government on July 1, 1977, the States began submitting annual program plans for school year 1977–1978 before these regulations were published. Therefore, it would be inappropriate to impose a retroactive data requirement. No substantive change has been made in the data requirement for school years 1978–1979 and thereafter. The Office of Education believes that the remaining amount of data sought is necessary and adequate to provide information on what and how children are being served. Additional information may be sought on a case by case basis from each State where necessary to monitor compliance with Part B. In addition, requirements have been added to Subpart F to increase each State's monitoring and enforcement obligations.

Comment: Commenters requested that the data requirements regarding personnel needed to meet the full educational opportunity goal include various other professional groups, such as physical therapists, or use terms currently accepted by the professions, such as "therapeutic recreation specialists" rather than "recreation therapists."

Response: These changes have been made to cover the various personnel who provide special education or related services and to use terms currently recognized by the appropriate professional associations.

LOCAL EDUCATIONAL AGENCY APPLICATIONS

PARENT INVOLVEMENT (§ 121a.226)

Comment: Commenters wanted the regulations to require the establishment of a parent advisory committee in each school district.

Response: No change has been made. Extensive public and parental participation is already required under sections 121a.226 and 121a.234.

V42163 AUG 23 77 UMI

EXCESS COST REQUIREMENTS (§§ 121a.182–121a.186)

Comment: A substantial number of commenters requested clarification and explanation of the excess cost requirement.

Response: The section on excess costs has been broken out into five sections for easier reading. Section 121a.184 specifies that a local educational agency must spend a certain minimum amount for the education of handicapped children before Part B funds may be used. A detailed example of determining the minimum amount follows revised section 121a.184.

NONSUPPLANTING AND COMPARABLE SERVICES (§§ 121a.230–121a.231)

Comment: A substantial number of commenters requested clarification of these requirements. Some commenters proposed detailed procedures and urged that the regulations require the reporting of a substantial amount of data to monitor compliance with these requirements. Some commenters felt the comparability requirement should be met by comparing expenses for regular and special education.

Response: These sections have been substantially revised to attempt to explain these requirements. Detailed procedures and reporting requirements are not adopted at this time because local educational agencies are otherwise required to maintain auditable records to document their compliance with these and other requirements.

Regarding nonsupplanting, the regulation provides that the requirement applies to total aggregate funds and particular costs. A local educational agency meets the requirement if (1) the total amount or average per capita amount of State and local school funds budgeted by the local educational agency for expenditures in the current fiscal year for the education of handicapped children is at least equal to the total amount or average per capita amount of State and local school funds actually expended for their education in the most recent preceding fiscal year for which information is available. Allowances may be made for decreases in enrollment of handicapped children and unusually large amounts of funds expended for long-term purposes (construction); and (2) Part B funds are not used to displace State or local funds for any particular cost.

The statutory requirement for comparability is implemented by prohibiting a local educational agency from using funds under Part B to provide services to handicapped children, unless the agency uses State and local funds to provide services to those children which, taken as a whole, are at least comparable to services provided to other handicapped children in that local educational agency. This should insure that handicapped children who receive services with Part B funds are treated equally with handicapped children who do not receive services with Part B funds. It would be too difficult to make an objective comparison between special and regular education. The concern of the commenters who asked for this comparison should be met by the excess cost requirement, which provides that a local educational agency must spend a minimum amount, on the average, for each of its handicapped children.

Comment: Commenters requested that the regulations make it clear that the local applications must meet the requirements imposed on the State in Subpart B.

Response: A section has been added to make it clear that each local application must include additional procedures and other information which the State educational agency may require in order to meet the State annual program plan requirements in Subpart B. The requirement for local educational agencies to be consistent with the annual program plan is set forth in section 121a.236.

APPLICATION FROM SECRETARY OF INTERIOR (§§121a.260–121a.261)

These sections have been rewritten to clarify that the annual application by the Secretary of the Interior for schools operated for Indian children must meet the applicable requirements of section 614(a), include other material as agreed to by the Commissioner and the Secretary of the Interior, and meet monitoring and public participation requirements.

PUBLIC PARTICIPATION

See the comments on Section 121a.120.

SUBPART C—SERVICES

Subpart C contains regulations governing the major service components required under Part B of the Act. These include free appropriate public education, the full educational opportunity goal, priorities in the use of Part B funds, individualized education programs, direct services by the State educational agency, and the State comprehensive system of personnel development.

FREE APPROPRIATE PUBLIC EDUCATION

FREE APPROPRIATE PUBLIC EDUCATION REQUIREMENTS (§§121a.300–121a.303)

Comment: Commenters disagreed with the interpretation of "State law or practice" in the proposed regulations. Some commenters felt the exception to the requirement to make free appropriate public education (FAPE) available to children in the age ranges three through five and 18 through 21 applies only if State law (or a court order) specifically prohibits services, or only if the State's practice is to provide services to less than a majority of the State's handicapped children. Others felt the requirement does not apply to the lower and upper age ranges unless the State is in fact serving all nonhandicapped children in those age ranges.

Response: The requirement has been redrafted to clarify the use of the exception and to insure at a minimum that handicapped children in any of these age ranges are served to the extent nonhandicapped children are served (to be consistent with nondiscrimination requirements under section 504).

Section 121a.300 ("Timeliness for free appropriate public education") breaks "practice" down by individual public agency, disability category, and age group. This revision is designed to maximize the number of handicapped children aged 3–5 and 18–21 who receive services. It should reduce the reluctance of agencies wishing to serve children in those age groups, because services to a few handicapped children will not require services to all handicapped children in all of the disabilities.

Section 121a.300 also includes an amendment designed to insure that each time a public agency elects to serve a handicapped child, the child receives the full range of rights and services, whether or not FAPE is mandated for that age range.

FREE APPROPRIATE PUBLIC EDUCATION METHODS AND PAYMENTS (§ 121a.301–121a.303)

Comment: Commenters disagreed on which agencies or parties should bear the costs of educating a handicapped child, especially room and board costs. Commenters sought clarification of when the costs must be borne by the State or local educational agency.

Response: The proposed regulation on methods and costs for FAPE (proposed § 121a.201) has been redrafted and expanded as follows:

(1) A new paragraph has been added to section 121a.301, which states: "Nothing in this part relieves an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to a handicapped child."

(2) Section 121a.302 states that if placement in a public or private residential program is necessary to provide FAPE to a handicapped child, the program (including non-medical care and room and board) must be at no cost to the child's parents.

Both of these changes have been made to conform to the regulations implementing section 504.

Other Changes: A new section 121a.303 has been added regarding the proper functioning of hearing aids. This section is based on a special study conducted by the Office of Education ("The Condition of Hearing Aids as Worn by Children in Public Schools," GPO publication date Summer, 1977).

FULL EDUCATIONAL OPPORTUNITY GOAL (§§ 121a.304–121a.306)

The statutory terms "free appropriate public education" and "full educational opportunity goal" are distinguished in this regulation as follows:

"Free appropriate public education" (FAPE) must (1) be made available to all handicapped children within the mandated time lines and age ranges set forth in the Act, and (2) include special education and related services which are provided in accordance with an individualized education program.

"Full educational opportunity goal" is broader in scope than "FAPE." It is an all-encompassing term, which (1) covers all handicapped children aged birth through twenty-one, (2) includes a basic planning dimension (including making projections of the estimated numbers of handicapped children), (3) permits each agency to establish its own timetable for meeting the goal, and (4) calls for the provision of additional facilities, personnel, and services to further enrich a handicapped child's educational opportunity beyond that mandated under the "FAPE" requirement. The term "goal" means an end to be sought. However, while an agency may never achieve its goal in the absolute sense, it must be committed to implementing this provision, and must be in compliance with the policies and procedures in the Annual Program Plan under this provision. Further, the agency is not relieved from its obligations under the "FAPE" requirement.

The proposed rule on full educational opportunity goal has been revised as follows: Proposed paragraph (a) (Program options) is now § 121a.305 and proposed paragraph (b) (Non-academic services) is now § 121a.306. A new § 121a.304 has been added which (1) requires each State educational agency to insure that each public agency establishes and implements a goal of providing full educational opportunity to all handicapped children, and (2) authorizes State and local educational agencies to use Part B funds to provide the facilities, personnel and services necessary to meet the goal.

A comment has been added following section 121a.304 which points to Congressional interest in having artistic and cultural activities included in programs supported under this part, subject to the priorities.

Comment: Many commenters asked that additional areas be added to the program options requirement (e.g., leisure education, cultural and performing arts, and occupational education). Other commenters requested that the term "consumer and homemaking education" be substituted for "home economics" in order to be consistent with the

vocational education amendments of 1976 (Pub. L. 94–482).

Response: No substantive change was made in this requirement. The program options included are examples and the list is not exhaustive. Under the regulation implementing section 504, any program provided to nonhandicapped students must also be made available to handicapped pupils. The language conforming to the vocational education amendments was added.

Comment: Commenters requested that under the requirement on nonacademic services the term "cocurricular" be substituted for "extra curricular" and that intramural, extramural, and interscholastic athletics be included in order to insure consistent use of terminology as it applies nationally. Another commenter suggested that specific language be included regarding participation of visually handicapped persons.

Response: The suggested terms were not adopted. This section conforms to the language in the final regulations under section 504. Also, the suggested language on visually handicapped was not included. This requirement applies to all handicapped individuals, including those with visual handicaps.

PHYSICAL EDUCATION (§ 121a.307)

Comment: Some commenters felt that the section on physical education (PE) needed to be clarified, particularly the conditions under which a handicapped child would not be required to participate in the regular PE program; (e.g., the child (a) is enrolled full-time in a separate facility, (b) needs specially designed PE, or (c) the parents and agency agree that the child should not participate). The main concern dealt with the parent-agency agreement, because it appeared to provide a loophole in which a child would not be required to participate in any PE activity.

Response: The statement on parent-agency agreement was deleted. With this change, a handicapped child attending a regular school would participate in the regular PE program, unless the child needs specially designed PE as prescribed in his or her individualized education program (IEP). Parent-agency agreement is inherent in the development of a child's IEP. The decision as to whether the child should be in the regular PE program or receive specially designed PE is made in the IEP meeting in which the parent and agency personnel are represented.

It should be noted that every handicapped child would participate in some type of PE activity. Specially designed PE could involve arrangements for a child to participate in some individual sport or physcial activity (e.g., weight lifting, bowling, or an exercise or motor activity program).

Other changes: Proposed section 121a.204 (Incidental use of property) has been deleted.

PRIORITIES IN THE USE OF PART B FUNDS

As part of the provision on free appropriate public education, the law requires each State and local educational agency to establish priorities, first with respect to handicapped children not receiving an education (defined as "first priority children" in the regulations) and second with respect to handicapped children, within each disability, with the most severe handicaps who are receiving an inadequate education (defined as "second priority children"). The law further requires that, except for State administration funds, each State and local educational agency must use its full entitlement under part B "in accordance with the priorities." The regulations which implement these priority requirements are included in sections 121a.320–121a.324.

PRIORITIES (§ 121a.321)

Comment: Many commenters were concerned that first priority expenditures cannot be used for inservice training for personnel who can serve those students, and stated that such inservice training activities may be an essential component toward achieving the first priority.

Response: The proposed rules have been redrafted and expanded in order to address the above concerns. A new section was added to make it clear that an agency may use Part B funds for inservice training concurrently with placing a first priority child in school (in an interim program, if a component of the child's program is missing). However, the provision of inservice training may not be used as a pre-condition for service to the child.

The intent of Congress with respect to the education of first priority children is both long-standing (dating back to Pub. L. 93–380) and very clear, as reflected in the following statements:

(1) The Congress has a responsibility "* * * to see that all persons are assured equal opportunity. For handicapped children, this means, at the very least, that they must be educated * * * These funds must be focused in such a way that we are assured that handicapped children are provided their right to education." (Congressional Record—Senate, June 18, 1975, p. S10969)

(2) "First priority for spending under the legislation is to provide services for handicapped children who are not now being served. The flexible approach in the Conference Report with respect to the current fiscal year, fiscal year 1977 and fiscal year 1978 will allow for concentrations of moneys so that this priority can be met." (Congressional Record—House of Representatives, November 18, 1975, p H12348)

(3) "There are millions of children with handicapping conditions who are receiving no services at all. And since we must have a place to start, it is appropriate that we give priority to those who are receiving no services at all first, and then try to reach those with the most severe handicaps who have traditionally received only minimal attention second." (Congressional Record—Senate, June 18, 1975, p S10961)

Comment: Several commenters requested clarification regarding whether the requirements on the use of funds for priorities apply within or among local educational agencies (e.g., if an agency is serving all of its first priority children, could a State give that agency's entitlement to another agency which is not serving all of its first priority children?).

Response: No change has been made. The statute does not permit the State to take away a local educational agency's Part B funds solely because the local educational agency is serving all of its first priority children. For the limited circumstances where a local educational agency's funds may be reallocated, see section 121a.708.

Other changes: A new paragraph (c) has been added to section 121a.321, which provides that Part B funds cannot be used for preservice training. This addition was made to implement Congressional intent expressed in Senate Report No. 94–168, p. 34 (1975), in which it was stated that funds for preservice training are available under the training program under Part D of the Act, and that Part B funds should not be used for this purpose.

INDIVIDUALIZED EDUCATION PROGRAM

The requirements on individualized education programs (IEPs) in Subpart C have been reorganized and redrafted substantially, based largely on comments received. (These sections have been renumbered, starting with section 121a.340.) A summary of these changes is included below:

(1) A definition of IEP has been added which states that the term "IEP" means a written statement on a handicapped child that is developed and implemented in accordance with sections 121a.341–121a.349 of Subpart C.

(2) The proposed section entitled, "Scope" has been deleted and the substance combined with the section on "State educational agency responsibility."

(3) The proposed section on "Local educational agency responsibility" has been replaced by two new sections ("When IEPs must be in effect" and "Meetings").

(4) The section on "Participants in meetings" has been redrafted to adopt essentially verbatim the language in the Act and to add a new paragraph on participation of evaluation personnel.

(5) The proposed section on "Parent participation" has been amended to include specific provisions regarding notifying parents about the IEP meetings.

(6) The substance under the proposed section on "Content of IEP" has been replaced with the statutory language.

(7) The proposed section on "Private school placements" has been reorganized into two sections to conform to the two groups of private school handicapped children in Subpart D, and has been expanded to spell out in more detail the responsibilities of State and local educational agencies in administering this provision.

(8) A new section was added, entitled, "IEP—accountability."

TIMING OF IEP MEETINGS (§§ 121a.342–121a.343)

Comment: Many commenters felt that the final rules should provide more flexibility to agencies in terms of when IEP meetings are conducted.

Response: The following changes were made in the proposed rules in an attempt to clarify this provision. First, the regulations now specify the dates on which IEP's must be in effect (October 1, 1977, and the beginning of each school year thereafter). Second, except for new handicapped children (those initially evaluated after October 1, 1977), the timing of meetings to develop, review and revise IEPs is left to the discretion of each agency. (For a new handicapped child, a meeting must be held within thirty days of a determination that he or she needs special education.) The regulations are flexible on the schedule to be followed by public agencies in meeting the above dates.

PARTICIPANTS IN IEP MEETINGS (§ 121a.344)

Comment: A number of commenters recommended that personnel from specific disciplines be participants at IEP meetings (e.g., physicians, health care personnel, psychologists, and representatives from other agencies, such as Head Start). Some commenters felt that the meetings should include all direct service personnel who work with a handicapped child. Other commenters suggested cutting back on the number of people who participate.

Response: The final regulations only require the participants listed in the statute, except in the case of a child who has been evaluated for the first time. (NOTE: Participation of evaluation personnel in IEP meetings is covered under the next comment-response sequence.)

Generally, having a large group of people at an IEP meeting may be unproductive and

V42163 AUG 23 77 UMI

very costly, and could essentially defeat the purpose of insuring active, open parent involvement.

While it is necessary to insure that all direct services personnel who work with a handicapped child are informed about and involved in implementing the child's IEP, this does not mean that they should attend the IEP meetings. The mechanism for insuring the involvement of all IEP implementers is left to the discretion of each agency (e.g., the child's teacher, or principal, or supervisor could have that responsibility). However, this is a basic administrative procedure which can be handled outside of the context of the IEP meeting.

The statute does not require all IEP implementers to be involved in the meetings. In fact, the definition of IEP in section 602(19) of the Act includes only four people (e.g., a special education provider or supervisor, the teacher, the parent, and the child, where appropriate). Moreover, it was the intent of Congress that IEP meetings generally be small. This position is reflected in the following statement by Senator Randolph in the June 18, 1975 Congressional Record:

In answer to my colleague, it was the intent, and I believe, I can speak for the subcommittee and the committee in this matter, that these meetings * * * be small meetings; that is, confined to those persons who have, naturally an intense interest in a particular child, i.e., the parent or parents, and in some cases the guardian of the child. Certainly the teacher involved or even more than one teacher would be included. In addition, there should be a representative of the local educational agency who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of handicapped children.

These are the persons that we thought might well be included. That is why we have called them "individualized planning conferences". We believe that they are worthwhile, and we discussed this very much as we drafted the legislation.

While very large IEP meetings might generally be inappropriate, there may be specific instances where additional participants are essential. In order to enable other persons to be included, the Office of Education retained a provision from the proposed rules which authorized the attendance of "other participants, at the discretion of the agency or parents."

Comment: Some commenters recommended that members of the evaluation team participate in IEP meetings.

Response: A new paragraph has been added which states, in effect, that an evaluation person must participate in any IEP meetings conducted for handicapped children who have been evaluated for the first time (i.e., the preplacement evaluation required under section 121a.531 of Subpart E). Since the meeting is intended to develop an education program for the child, it is essential that someone at the meeting be familiar with the child's evaluation.

Comment: Several commenters recommended that the representative of the agency be qualified in the disability area in which the IEP is written.

Response: A comment has been added following section 121a.344 which suggests (but does not require) that either the teacher or the agency representative should be qualified in the area of suspected disability. At the time of the meeting, the public agency may not yet have hired a person qualified to provide special education with respect to that suspected disability.

PARENT PARTICIPATION (§ 121a.345)

Comment: Some commenters stated that documenting efforts to involve parents would be difficult and time consuming. One commenter felt it was important to retain the general statement requiring agencies to involve parents, but recommended that the details in the parent participation section be deleted from the final regulation. Another commenter recommended that the section be dropped because it is not required in the law and is "* * * utterly paternalistic. If a local education agency is foolish enough to keep inadequate records on transactions with parents, it alone stands in jeopardy; there is no damage to parents or to handicapped children."

Response: The comments have not been adopted. The Office of Education believes that it is important to retain this section in the final regulations, for the following reasons:

First, the section provides rules that allow agencies to proceed in conducting IEP meetings in cases where parents cannot or will not attend. Without this authorization, the IEP process might come to a halt in some cases, since the law states that an IEP must be developed at a meeting with the parents.

Second, the section is designed to protect agencies by setting the conditions under which they can proceed.

Third, the section is designed to protect the rights of the parents. The Congress intended that IEP meetings be utilized as an extension of the procedural protections guaranteed under Pub. L. 93-380. However, if the regulations provided an authorization for agencies to proceed without the parents, there is a potential problem that the authorization (without documentation) might be inappropriately applied in individual cases, which could result in parents' rights not being protected.

Comment: A few commenters suggested using surrogate parents if a child's parents could not attend an IEP meeting. One commenter recommended adding a provision to enable the parents to designate a person to represent them at a meeting.

Response: The Office of Education elected not to write regulations on either of these suggestions.

First, a surrogate parent is appointed only in accordance with the procedural safeguards in Subpart E. The provision was not meant to apply in situations when parents are unwilling to participate, or when an agency makes unsuccessful efforts to communicate with a known parent. A surrogate parent is appointed only when the parents are unknown, unavailable or the child is a ward of the state. However, a surrogate parent appointed under appropriate circumstances would attend the IEP meetings and represent the child in all matters relating to the provision of a free appropriate public education to the child.

Second, with respect to parent designated representatives, the Office of Education does not feel that any change in the regulation is warranted. Parents unable to attend an IEP meeting, who are interested enough in their child's education to seek a third party representative, would have direct input in developing the child's IEP through individual or conference telephone calls or other methods authorized under paragraph (c) of section 121a.345.

Other changes. A new paragraph (f) has been added to require that parents be given a copy of the IEP on request. This should help to insure that the parents are fully informed of the program for their child, and will assist them in participating in future meetings on the IEP.

CONTENT OF IEP (§ 121a.346)

Comment: Hundreds of commenters responded to this section. Some commenters requested that additional services or other items be added. Other commenters recommended that the section be sharply cut back, because they felt that this went unnecessarily beyond the items listed in the statute. Many of the commenters wanted the specific service areas they represent added to the list of services to be provided in the IEP. Others felt that this went unnecessarily beyond the items listed in the statute.

Response: The Office of Education has elected to amend this section by adopting substantially verbatim the language from section 602(19) of the statute. The regulation retains one clarification from the proposed rules, that the individualized education program must include related services to be provided to the child, as well as special education and the extent to which the child can participate in regular education programs. However, given the controversy over this section and whether it is appropriate to add items not specifically covered in the statute, the Office of Education has decided that some experience operating under the statute would be useful before considering whether further regulations on this point would be appropriate.

IEP—ACCOUNTABILITY (§121a.349)

Comment: In the preamble to the proposed rules, a statement was made that the IEP is not a legally binding document. Many commenters recommended that this statement should be included in the body of the final regulations. Other commenters felt that the statement needed to be clarified.

Response: The Office of Education has added a new section, which states, in effect, that each public agency must provide special education and related services in accordance with a handicapped child's IEP. However, Part B does not require that the agency, the teacher, or other persons be held accountable if the child does not achieve the growth projected in the written statement.

COLLECTIVE BARGAINING

Comment: Numerous commenters recommended that the regulations deal with the fact that the required participation of teachers (and other agency staff) in the meetings to develop IEPs would require modification of collective bargaining agreements. Some commenters urged that the regulations require additional compensation for teachers to participate in these meetings, prescribe or limit any after-school-hours participation, and specify arrangements for relieving teachers from classroom duties for the meetings.

Response: No change has been made in the regulation. The requirement for teacher participation in developing IEPs is statutory. The Commissioner understands that collective bargaining agreements and individual annual contracts for teachers vary greatly among local educational agencies and may or may not deal with additional duties and compensation for after-hour activities. In some instances, especially in urbanized and highly unionized areas, collective bargaining agreements may have to be renegotiated to cover employee participation in IEPs. However, this is an area which is solely within the authority of the public agency and its employees (and their union representative, if any). It would be inappropriate and beyond the scope of the Commissioner's authority to prescribe how this requirement must be met. Where collective bargaining agreements must be modified, the public agency must negotiate the appropriate modifications to comply with the statute. The public agency is also responsible for insuring that the IEP meetings are conducted at a time reasonably convenient to parents. (In some cases this may be during school hours; in others, after hours.) The agency also must make its own arrangements for covering classrooms when teachers are absent.

DIRECT SERVICES BY THE STATE EDUCATIONAL AGENCY

The direct services provision of this subpart includes sections on (1) use of local educational agency (LEA) funds, (2) nature and location of services, (3) use of the State's (SEA's) entitlement, and (4) a State matching requirement.

The section on the use of LEA allocations (renumbered section 121a.360) has been redrafted to combine the proposed paragraphs (a) and (b) into a single paragraph. This paragraph sets out the conditions under which an SEA may use an LEA's entitlement.

A new paragraph (b) has been added to section 121a.360, which states that in meeting the requirements of this section, the SEA may provide special education and related services directly, by contract, or through other arrangements.

A new paragraph (c) has been added, which repeats the statutory provision that the excess cost requirement does not apply to State educational agencies.

Section 121a.360 (Nature and location of services) has been amended to correct an error made in the proposed rule. The proposed regulation stated that the least restrictive environment (LRE) provisions do not apply when the SEA provides direct services. The amended rule now states that the manner in which the education and services are provided must be consistent with the requirements of this part (including the LRE provisions).

The regulation on "State matching" was not substantially changed. However, a comment was added after this section to make it clear that the requirement would be satisfied if the State can document that the amount of State funds expended on each major program area (e.g., the comprehensive system of personnel development) is at least equal to the expenditure of Federal funds in that program area.

Comment: In the preamble to the proposed rules under the direct services provision, a point was made that an LEA would not be in compliance with the section 504 regulations if that agency did not make available a free appropriate public education (FAPE) to all of its handicapped children. A commenter, in responding to this statement, pointed out that the term FAPE has different meanings under section 504 and Pub. L. 94-142; and, therefore, an LEA would not have to meet the requirements of Pub. L. 94-142 in order to be in compliance with section 504.

Response. Under Part B, "FAPE" is a statutory term which requires services to be provided in accordance with an IEP. However, under the section 504 regulations, each recipient must provide an education which includes services that are "designed to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met * * *" Those regulations state that implementation of an IEP, in accordance with Part B, is one means of meeting the "FAPE" requirement. (NOTE.—A more detailed description of the relationship between section 504 and Pub. L. 94-142 is included in this appendix.)

Other changes: A new section 121a.372 has been added to implement section 611(c)(3) of the Act. This section provides that the nonsupplanting requirement does not apply to the State's expenditure of its allocation beginning with funds appropriated for Fiscal Year 1979 and for each following fiscal year.

COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT

GENERAL

The proposed rules in this section created some controversy over the amount of detail contained in the regulations. Comments ranged from requests for more specificity to suggestions that everything be deleted except the statutory language.

The statute is very clear in requiring that a "comprehensive system of personnel development" be implemented in each State. Since this is a broad requirement, challenging each State to reach out to the expansive community of agencies involved in preparing personnel to educate the handicapped, many of which are private and not under the control of the State, it was felt that a regulation was needed that would provide sufficient information for the State and involved agencies to understand their responsibilities in achieving compliance.

SCOPE OF SYSTEM (§ 121a.380)

Comment: A commenter suggested that inservice education be available to all special, regular, and related service personnel.

Response: Paragraph (a) of section 121a.380 was changed to read "the inservice training of general and special educational instructional, related services, and support personnel."

Comment: A commenter suggested that all personnel preparation services be conducted in accredited institutions granting advanced degrees and that "no less than ten percent of the money under this Act be contracted to institutions of higher education." Another commenter recommended the earmarking of a percentage of funds for staff and program development.

Response: No change has been made in the regulations. The Office of Education believes that each State must have maximum latitude in decisions regarding the types of facilities and personnel that are used to implement the comprehensive system of personnel development.

With respect to targeting funds for training, the Office of Education feels that such a step would be inappropriate at this time.

Part B is a unique Federal statute in that it imposes requirements on States which must be implemented, regardless of the amount of Federal funds available. Given the scope and magnitude of the law, the Office of Education believes that each State should have maximum latitude in terms of how its Part B funds are used to implement the various statutory provisions, subject, of course, to the priority requirements in Subpart C.

DEFINITION OF "APPROPRIATELY AND ADEQUATELY PREPARED AND TRAINED" (PROPOSED §121a.261)

A number of comments were received on the definition of "appropriately and adequately prepared and trained" which was in § 121a.261 of the proposed rules. The definition has been deleted in the final regulations. Instead, the term "qualified" is used, as defined in § 121a.12.

Comment: A commenter suggested that nationwide certification requirements be mandated to allow for the mobility of personnel.

Response: No change has been made. The intent of the Act is to insure that all personnel necessary to carry out the purposes of the Act are qualified. The Act does not authorize the establishment of national certification standards.

Comment: A commenter suggested that early childhood be required as an area for certification.

Response: No change has been made. These personnel must be included under the State's comprehensive personnel development system.

Comment: Several commenters expressed the belief that certification should not be required for all personnel directly serving the handicapped, or that such a requirement would result in great expense for the State. Still others felt that competency based systems should be used as opposed to the requirement for certification, registration, or licensing.

Response: The statutory language "appropriately and adequately prepared and trained" has been interpreted, by use of the term "qualified," to mean certification, registration, or licensing. These are commonly accepted procedures for determining if personnel are "appropriately and adequately prepared and trained."

PARTICIPATION OF OTHER AGENCIES AND INSTITUTIONS (§ 121a.381)

The comments on the level and intensity of the "participation" required in this section ranged from the belief expressed that special meetings on components of the state plan are not required in the Act, therefore the "participation" envisioned in section 121a.381 should be eliminated, to the suggested requirement that organizations not only have an opportunity to participate, but that they "must participate." The comprehensive system of personnel development is such a specialized aspect of the Act, necessarily involving agencies not under the jurisdiction of the State that "participation" is fully warranted, though not mandated in the statute. Thus, the regulations set a requirement for the State to insure that those agencies with an interest in the preparation of personnel for the education of the handicapped have an opportunity to participate fully in the development, review, and updating of the system. This is a reasonable requirement, especially considering the critical effect the system will have on those agencies preparing the personnel. Rather than a burden on the State, the "participation" should provide the direct opportunity for the State to encourage the development of quality personnel preparation programs, a factor essential to the provision of a "free appropriate public education."

Comment: Several commenters suggested that "representatives from each group be included in the planning" as well as parents. One commenter suggested that disability categories and groups be listed in the proposed rule.

Response: The regulation has been altered to include representatives of handicapped and parent organizations. This wording should be sufficient to involve all relevant groups.

Comment: A commenter suggested the addition of a subsection (3) to section 121a.381(b) that would require the annual program plan to include a description of agency responsibilities with respect to research and evaluation of exemplary programs that could be implemented in local educational settings.

Response: Sections 121a.385 and 121a.386 have been modified to classify agency responsibilities.

INSERVICE TRAINING (§ 121a.382)

Comment: There were a number of contrasting points of view and suggestions on this section, ranging from requests to mandate greater detail in the proposed rules, to the suggestion that the section be deleted altogether. Those proposing greater detail suggested that specific knowledge and areas of learning be emphasized and that teachers be trained "by having them work one-to-one with specialists" and that "inservice training be mandated at the local level, a county being the largest unit possible, to prevent the State from using the money for ineffectual regional workshops." Also, there were suggestions that where academic credit is to be made available that this be done

V 42163 AUG 23 77 UMI

only in institutions of higher education with State approved programs.

On the other extreme there were suggestions that this section "exceeds statutory requirements" and "federal rules should not say how a task is accomplished" and "(state) provides adequate training and inservice and does not need more obstacles and regulations."

Response: The statute clearly requires inservice education as a central part of the comprehensive system of personnel development and it is appropriate for the rules to detail the nature and extent of the inservice education that is required. This has been accomplished through the outlining of procedures which define inservice education, its parameters, and relationship to required needs assessments. However, the rules do not define the specific nature of the training to be accomplished. Thus, the rules have been designed to outline the foundation for an adequate program of inservice education, without stifling the creativity of State and local personnel in their efforts to plan and implement such a system.

Comment: A commenter suggested that the statement "in cooperation with institutions of higher education" be inserted in section 121a.383(b)(1).

Response: No change has been made. However, involvement of institutions of higher education is required under § 121a.381(a).

Comment: A number of commenters suggested the addition of specific disciplines and professionals to this section, constituting an itemized list of personnel to be trained or involved in the review of training needs.

Response: No change has been made. The State's plan must include all personnel who need training.

Comment: Several commenters suggested wording changes designed to clarify the text of the proposed rule on inservice training.

Response: Changes were made where necessary to bring the regulation into conformity with current usage.

Comment: There were a number of suggestions concerning the financial arrangements for conducting inservice training. Some commenters advocated the funding of parent groups to conduct inservice training. Others suggested financial support for trainees involved in their programs. One commenter urged that the rule allow for contracting with other than non-profit organizations. One suggested contracts with institutions of higher education to carry out personnel development programs. Another suggested incentives for teacher participation, including released time and college credit. One suggested that inservice be provided during contract time, not involving extra hours.

Response: No substantive changes have been made. All of the suggestions in the above comments are authorized under these regulations.

PERSONNEL DEVELOPMENT PLAN (§ 121a.383)

Comment: Several commenters asked for special attention to physical education and service delivery models which take into account problems of rural families.

Response: No change has been made. Specialized needs in physical education and the unique aspects of providing services in rural settings should be addressed as appropriate in the needs assessment and plan.

Comment: One commenter objected to including preservice training under this section.

Response: No change has been made. The term "inservice" education is used in the Act. However, since the Act clearly requires that a "comprehensive system of personnel development" be developed, such a system must include the consideration of preservice training.

NOTE.—The data required in sections 121a.124 and 121a.126 of Subpart B on the numbers of handicapped children and the kind and number of personnel needed will serve as the uniform data base within the State for the personnel development system under § 121a.383 of this subpart. The data may also be used by institutions of higher education and other nonprofit educational training agencies in submitting personnel preparation applications under Part D of the Act. Section 121f.9 of the regulations under Part D (45 CFR 121f.9) provides as follows:

§ 121f.9 *State personnel needs.*

Each application shall include (a) a statement by the State educational agency of personnel needs for education of the handicapped and a statement by the applicant of how the proposed program relates to those stated needs, and (b) a description of the ways in which the recipient's program goals and objectives relate to the purposes of Part D of the Act.

(20 U.S.C. 1431, 1432, 1434)

DISSEMINATION (§121a.384)

Comment: One commenter suggested that "teachers organizations" be specified as recipients of information.

Responses: No change has been made. Teacher organizations are included under the phrase "other interested agencies and organizations."

SUBPART D—PRIVATE SCHOOLS

The proposed rules created a certain amount of confusion among commenters in distinguishing between handicapped children placed in or referred to private schools by the State or by local educational agencies and handicapped children whose parents choose to educate them in private schools. The major difference between these two groups of children is in who bears the cost of the private school.

A free appropriate public education must be made available to each handicapped child by the public agencies of the State. Subject to the requirements on least restrictive environment, this could include placement in or referral to a private school or facility. Such a placement or referral must be at no cost to the parent.

On the other hand, even if a free appropriate public education is available, the parent may choose not to accept it. The parent may choose to send the child to a private school rather than take advantage of the free public education. If this happens, the Act does not require the State or local educational agency to bear the cost of the private school. For children placed in private schools by their parents, the State and its local educational agencies have a different duty. They must design their program so that handicapped children in those private schools can participate in special education and related services offered by the local educational agencies if the parents of those children so desire.

The regulations have been reorganized to make these distinctions clearer. The first set of sections (121a.400–121a.403) now cover children placed in or referred to private schools or facilities by a public agency in order to provide them with special education or related services. (These sections replace sections 121a.320–121a.323 of the proposed rules.)

Since the "State" includes all of its political subdivisions, the term "public agency" is used, as elsewhere in the regulations, to mean all of the political subdivisions of the State which are responsible for providing special education or related services to handicapped children.

The second set of sections (121a.450–121a.460) apply to handicapped children enrolled in private schools or facilities but who are not placed or referred there by a public agency to receive special education or related services. (These sections replace sections 121a.300–121a.306 of the proposed rules.)

The following comments were made regarding proposed Subpart D. Comments which asked for changes not authorized under the statute are not summarized. (Commenters who are concerned about the cost of room and board as a "related service" are referred to section 121a.302 and the discussion of that section in this preamble.) The comments are arranged in order of the final rules.

RESPONSIBILITY OF STATE EDUCATIONAL AGENCY (§ 121a.401)

Comment: A commenter asked that paragraph (a)(3) be deleted, which required that the special education given to a handicapped child placed by a public agency must meet the education standards of the State educational agency (SEA). The commenter stated that otherwise there would be conflicts between the SEA's standards and those of other agencies, in the day care area, for example.

Response. Paragraph (a)(3) cannot be deleted, since it is derived from a statutory requirement. However, it has been revised by using the language of the statute. This will broaden the types of standards that the SEA may apply, and therefore avoid conflict with other mandatory standards. Of course, those standards cannot override the provisions in Part B of the Act.

Comment: A commenter asked that provision be made for interstate referrals to private schools and communication among States regarding those referrals.

Response. No change has been made in the regulation. Referrals between States are to be handled under existing procedures. Unless a problem develops in this area that seriously interferes with the rights of handicapped children or their parents under Part B, the Office of Education is reluctant to regulate the mechanisms by which the States arrange to provide services.

IMPLEMENTATION BY SEA (§121a.402)

Comment: A commenter suggested that the State educational agency insure the monitoring of private schools, dissemination of standards to them, and involving them in developing State standards, rather than the State educational agency doing it directly.

Response: No change has been made. The statute places direct responsibility on the State educational agency to administer and monitor the requirements under Part B. While the State educational agency in many areas need only insure that the Part B requirements are met, monitoring must be done by the agency itself. Dissemination of standards could be done in a variety of ways. Involvement in development of State standards would have to be done directly by the State educational agency if it is the agency that develops those standards.

PLACEMENT OF CHILDREN BY PARENTS (§ 121a.403)

Comment: Commenters were concerned with the effect of this section on the rights of handicapped children in private schools and felt that the section was worded in a manner that would limit those rights.

Response: The section has been revised to make it clear that a free appropriate public education (FAPE) must be made available to

each handicapped child. This would include the development of an individualized education program and placement in the least restrictive environment. Free appropriate public education must be made available at no cost to the parents. If the parents felt that services were not adequate, they may have a due process hearing to show that more or better services must be provided to give their child FAPE. However, if the parents choose not to educate their child in the public school system, they are not required to do so. In that case, the relevant public agency has the remaining duty of offering special education and related services under sections 121a.450–121a.460, but does not have the duty of insuring that the private school meets the requirements of Part B (unless other handicapped children have been placed in or referred to that private school by the agency), or of paying for the cost of the private school. Language has been added to clarify the public agency's duties under sections 121a.450–121a.460.

Other changes: Proposed section 121a.323 (Placements in another State) has been deleted. It would have required private schools to meet the standards of both the sending and receiving States. This would have been an unreasonable burden on the receiving State to enforce.

HANDICAPPED CHILDREN IN PRIVATE SCHOOLS NOT PLACED OR REFERRED BY PUBLIC AGENCIES (§§ 121a.450–121a.460)

Comments: A number of commenters felt that clarification was needed in these sections. There was also some concern expressed regarding the State's legal authority to provide services to children enrolled in private schools.

Response: The regulations have been amended to conform more closely to those under Title I of the Elementary and Secondary Education Act of 1965 (education of educationally deprived children) (45 CFR, Section 116a.23). As under Title I, a balance is drawn between the statutory requirement to provide services, and the constitutional necessity of avoiding excessive entanglements between public agencies and church-related institutions. It is also important for the Office of Education to have a uniform policy regarding services to private school children under all Federal education programs it administers. The amendments to the proposed rules should serve all of these purposes.

SUBPART E—PROCEDURAL SAFEGUARDS

This subpart implements the procedural safeguards set forth in the Act, including due process procedures for parents and children, protection in evaluation procedures, least restrictive environment, confidentiality of information, and procedures of the Office of Education.

A substantial number of detailed comments were received on these sections. Many concerned the statute rather than the regulations or did not state what changes in the regulations were desired. Others requested revisions which did not appear to involve substantive changes. Some comments sought substantially more detailed specification of due process rights while others indicated that the statute itself was so detailed in the due process area that the regulations should not go beyond the statute.

As stated earlier in this preamble, the Office of Education's position, while incorporating a number of the suggestions in the final regulations, is still to adopt minimum regulations in this area at this time, review experience under the regulations, and then made a determination as to whether more detailed regulations are required.

DUE PROCESS PROCEDURES FOR PARENTS AND CHILDREN

DEFINITIONS (§ 121a.500)

Comment: Commenters recommended that the phrase "unless it is clearly not feasible to do so" be deleted from the definition of consent and that additions be made to make it clear that consent may be revoked and may not be made a precondition to the child's right to participate in basic educational programs. The effect of deleting the phrase would be to require that a consent is not valid unless the parent is informed in every case of the information relevant to the consent.

Response: The phrase has been deleted. The deletion of the phrase will help to assure an informed consent in every case, regardless of the parent's language or other mode of communication. A phrase has been added to make it clear that parents have the right to revoke consent. A separate section 121a.504 states that consent may not improperly be made a precondition of services. While public agencies must obtain consent for preplacement evaluations or for initial placement, a public agency may not coerce parents to consent by withholding or threatening to withhold other regular education services or extracurricular activities unless the parent consents.

Comment: Several commenters requested changes in the definition of "evaluation" to indicate that an evaluation must be conducted by qualified personnel, that the findings must be reduced to writing, and that it must take into accouut the child's assets as well as deficits.

Response: No change has been made. The suggestion reagarding qualified personnel is covered under section 121a.532. The Office of Education expects that evaluations will be in writing and that a child's assets will be considered. If a problem develops in this area, the Office of Education will reconsider the necessity for further regulations.

GENERAL RESPONSIBILITY OF PUBLIC AGENCIES (§ 121a.501)

Comment: Commenters suggested that parents have the right to complain and that agencies should be required to respond to them outside of the context of a hearing.

Response: No change has been made in the regulation. However, agencies should certainly seek to respond to complaints by informal discussions and negotiations. A comment section has been added which notes that mediation may be useful in some instances. In any case, negotiations may not delay a hearing if a parent has requested it.

INDEPENDENT EDUCATIONAL EVALUATION (§ 121a.503)

Comment: Commenters disagreed as to whether the parent's right to an independent evaluation should be broadened or narrowed.

Response: The section has been rewritten to require public agencies to provide parents information, upon request, of where an independent educational evaluation may be obtained. Also, "public expense" has been defined. However, the interpretation in the proposed regulations is retained. The evaluation must be at public expense if the parent disagrees with the evaluation by the public agency, unless the public agency initiates a hearing to show that its evaluation is appropriate. If upheld, the expense of the independent evaluation does not have to be borne by the agency. The independent evaluation must be considered in any hearing.

There are several competing interests which the regulation seeks to balance. The statutory right of the parent to an independent educational evaluation must be preserved. On the other hand, the public agencies should not be asked to bear the costs of unreasonably expensive independent evaluations. Also, for the independent evaluation to be useful, it must meet the same criteria as evaluations conducted by public agencies under this part.

PRIOR NOTICE; PARENT CONSENT AND CONTENT OF NOTICE (§§ 121a.504–121a.505)

Comment: Commenters sought further specificity as to the detail of information provided to parents in the notice. Other commenters felt that the requirements were too demanding. Some commenters asked that consent be required for preplacement evaluation and prior notice for reevaluation; and that consent be extended to include permission for placement. Other commenters sought to delete the consent requirement on the grounds that educational judgments should be final.

Response: The basic notice requirements in sections 121a.504 and 121a.505 were not changed. However, the following changes were made in the consent requirements:

(1) Consent was expanded to include permission for initial placement of a handicapped child in a special education program. Many commenters had requested this addition; and the Office of Education agrees that this requirement is as essential as consent for preplacement evaluation.

(2) The proposed consent rule was changed from consent for all evaluations to consent for the initial or preplacement evaluation. This change is essentially consistent with the section 504 final regulations (45 CFR Part 84, § 84.35(a)). The Office of Education agrees with commenters that there is no need to require consent for reevaluation. If a handicapped child is initially placed in accordance with section 121a.504, and if his or her individualized education program is annually reviewed in accordance with section 121a.343 of Subpart C, a requirement is not necessary. However, prior notice would have to be provided.

Comment: Commenters were especially concerned that clarification be added regarding procedures for overriding parents' refusal to consent.

Response: A subsection has been added to set out procedures for dealing with parental refusal to consent (see section 121a.504(c) and the comment following that section).

The procedures are designed not to interfere with existing State laws which may require consent. Where State law does not require consent, the parent is afforded a due process hearing under this Part. These rules should provide protection to the parent, the child, and the public agency.

IMPARTIAL DUE PROCESS HEARING (§ 121a.506)

Comment: A commenter asked that the regulations specify that the public agency must pay for the hearing.

Response: The change requested by the commenter has not been made. Since the statute requires that the public agency must afford parents an opportunity for a hearing, the agency must bear the cost of the hearing, except for paying for parents' representatives and witnesses. However, section 121a.506 has been amended to require agencies to provide parents with information about free or low-cost legal and other relevant services that are available.

IMPARTIAL HEARING OFFICER (§ 121a.507)

Comment: Commenters sought to have three-person panels, including parents, serve as the hearing officials. Some sought to allow and others sought not to allow school board officials from serving as hearing officials. Com-

V 42163 AUG 23 77 UMI

menters also asked that lists of hearing officers be required, including their qualifications.

Response: A requirement has been added that each public agency keep a list of persons who serve as hearing officers and a statement of their qualifications. This should help to ensure that the requirement for impartiality is met. No other substantive change has been made. A three-person panel could be used under the existing rules, as long as the conditions of impartiality are met. However, a parent of the child in question and school board officials are disqualified under section 121a.508.

HEARING RIGHTS (§ 121a.508)

Comment: Commenters disagreed as to whether hearing rights set forth in the proposed rules should be expanded or restricted. Among the additional rights sought were the right to compel the attendance of witnesses, prohibit the introduction of evidence not disclosed prior to the hearing, allow the child to be present and the hearing to be open to the public at the parents' discretion, and to specify whether the record of the hearing must be free or at reasonable cost.

Response: The section has been revised to add rights for any party to prohibit the introduction of evidence not previously disclosed to the other party and for the child to be present and the hearing to be open to the public. The purpose of hearings under this part is to ensure that handicapped children are provided free appropriate public education. Opening up the hearing and the evidence that may be presented should serve to insure that the result of a hearing will be in the best interests of the child. No provision has been added relating to cost. However, it is expected that a copy of any decision would be provided to the parent at no cost.

HEARING DECISION; APPEAL (§ 121a.509)

Comment: A commenter sought to add a requirement that specifies that the hearing officer has the power to order any educational program for the child and that his or her power not be limited to accepting or rejecting the program by the public agency or parent.

Response: No change is necessary. The hearing officer has the function to decide what placement is appropriate, if that is the subject of the hearing.

ADMINISTRATIVE APPEAL; IMPARTIAL REVIEW (§ 121a.510)

Comment: Commenters disagreed on whether to reduce or expand the requirements in this section. Some commenters wanted short, specific timelines set out for various actions and specification of the rights that apply at the review level.

Response: The section has been revised to specify other duties and powers of the reviewing official, in addition to those already set out. For example, the official may seek additional evidence if necessary, including holding a new hearing and affording the parties an opportunity for written as well as oral argument (at the reviewing official's discretion). The reviewing official must give a copy of the written findings and decision to the parties. These duties and powers are regarded as necessary to insure that a full review will be conducted and that all parties will be informed of the result of the review. Revisions to timelines for any hearing or review are set out in section 121a.512.

CIVIL ACTION (§ 121a.511)

Comment: Commenters wanted the regulations revised to allow for direct appeal to the courts without first using administrative hearing and review procedures if those procedures would be futile, the timeliness or adequacy of the administrative proceedings are being challenged, or a class action is involved. Commenters cited language in the Congressional Record in support of this interpretation (121 Cong. Rec. S20433 daily ed., November 19, 1975).

Response: No change has been made. The legislative history cited is nongermane as it was made in reference to the Senate Bill (S. 6) which did not contain the final statutory provision on civil actions. The provision on civil action was added as a Conference substitute. The issue of exhaustion of remedies will be up to the courts to resolve.

TIMELINESS AND CONVENIENCE OF HEARINGS AND REVIEWS (§ 121a.512)

Comment: Commenters wanted clarification of the 45-day time limit for commencing and completing a hearing and review set out in the proposed regulations. They disagreed on whether the time should be shortened or lengthened.

Response: The section has been revised to set a 45 day time limit for a hearing and a 30 day limit for a State level review. In both instances, a decision must be reached and mailed to each of the parties within the time limits set. A hearing or reviewing officer may grant specific extensions, at his or her discretion, at the request of either party. The Office of Education believes reasonable outside time limits must be set to insure resolution of any dispute quickly so that the child's special education may proceed. Discretion for specific extensions is consistent with normal judicial and administrative practice.

CHILD'S STATUS DURING PROCEEDINGS (§ 121a.513)

Comment: Commenters suggested a provision be added to allow change of placement for health or safety reasons. One commenter requested that the regulations indicate that suspension not be considered a change in placement. Another commenter wanted more specificity to make it clear that where an initial placement is involved, the child be placed in the regular education program or, if the parents agree, in an interim special placement.

Response: A comment has been added to make it clear that this section would not preclude a public agency from using its regular procedures for dealing with emergencies.

SURROGATE PARENTS (§ 121a.514)

Comment: Commenters requested that the regulations clarify when surrogates may be appointed. One reason given was to insure that agencies do not attempt to appoint surrogates when parents are uncooperative or nonresponsive.

Response: The section has been revised to make it clear that the requirements for appointing surrogates apply only when no parent can be identified, the agency after reasonable efforts cannot discover the whereabouts of a parent, or the child is a ward of the State. Agencies are not allowed to appoint surrogates when parents are uncooperative or nonresponsive.

Comment: Commenters requested that the regulations further specify procedures to be used for the appointment of surrogates, including administrative proceedings with notice to interested parties and the right of interested parties to seek a review of the decision.

Response: No change has been made. State procedures for the appointment of surrogates will be followed. Disagreements about the choice of surrogates may be the subject of a due process hearing under section 121a.506.

Comment: A number of commenters suggested that the regulations provide more detail about the qualifications of the surrogates (for example, requiring training and a commitment to becoming acquainted with the child).

Response: No change has been made. The Office of Education believes these concerns are covered by section 121a.514(c)(2) which requires that the surrogate have knowledge and skills that insure adequate representation of the child.

Comment: A number of commenters were concerned about the legal liability of surrogates. Some commenters wanted the regulations to protect surrogates from any legal liability.

Response: No change has been made. The legal liability of surrogates will be determined under State law relating to such matters as breach of fiduciary duty, negligence, and conflict of interest. The Federal government has no authority to limit legal liability.

Comment: A number of commenters sought clarification regarding which agency employees could serve as surrogates. For example, one commenter wanted the regulations to indicate whether the head of a State institution could serve as the surrogate.

Response: The regulation has been reworded to make it clear that no employee of any agency involved in the education or care of the child may serve as the surrogate parent.

PROTECTION IN EVALUATION PROCEDURES

Section 612(5)(C) of the Act requires States to establish non-discriminatory testing procedures for use in the evaluation and placement of handicapped children. The requirements for public agencies to follow in carrying out this provision are set forth in sections 121a.530–121a.534 of Subpart E. (These section numbers have been changed to correspond with other number changes in Subpart E.)

The evaluation procedures in the proposed rules have been changed to conform to the corresponding requirements in the final regulations for section 504 of the Rehabilitation Act of 1973 (45 CFR Part 84, § 84.35) and in response to other comments received. (Many of the comments dealing with the language and substance of the proposed evaluation procedures are covered by the above conforming changes.) A summary of the changes in these procedures is included below:

(1) Proposed section 121a.431 ("Evaluation; change in placement") has been replaced with new section 121a.531 ("Preplacement evaluation"). This corresponds to section 84.35(a) of Part 84.

(2) Proposed section 121a.432 ("Evaluation procedures") has been divided into two sections (section 121a.532 "Evaluation procedures" and section 121a.533, "Placement procedures"). The new section on evaluation procedures (a) incorporates essentially verbatim the language of section 84.35(b) of Part 84, (b) adds two additional requirements from section 612(5)(C) of the Act which are not in Part 84 (e.g., the provision on native language, and the requirement that "No single procedure is used as the sole criterion for determining an appropriate educational program for a child"), and (c) requires that the evaluation be made by a "multidisciplinary team • • • including at least one teacher or other specialist with knowledge in the area of identified disability • • •"

(3) The new section on placement procedures incorporates essentially verbatim the language in section 84.35(c) of Part 84. In addition, the section ties the development of an individualized education program to the placement procedures.

The following additional comments were made regarding evaluation procedures:

Comment: Several commenters felt that the regulations should require State and local educational agencies to develop procedures for the conduct of evaluations. This would make it possible to determine the adequacy of the evaluations and to insure uniformity in basic procedures.

Response: A paragraph was added to section 121a.530 (General) which requires the State educational agency to insure that each public agency establishes and implements evaluation—placement procedures.

Comment: Several commenters felt that timelines should be set for implementing the evaluation process (e.g., for initial referral to evaluation and placement).

Response: No change has been made. The Office of Education has elected to impose very few absolute timelines in the regulations for this part, because of the potential administrative and legal problems they can cause. Imposing timelines can actually delay the provision of a service (for example, if the time periods are regarded as both minimum and maximum times for implementing a procedure).

A child should be evaluated as soon as possible following referral. Any undue delay in providing the evaluation would raise the question of the State and local educational agencies' compliance with sections 121a.128 and 121a.220 (identification and evaluation of all handicapped children).

Comment: Some commenters requested clarification regarding whether a reevaluation is needed, as required by proposed section 121a.431(a)(2), if the parents and agency agree that the child should be transferred from a special education program to a full time regular class placement.

Response: This specific section has been deleted in the final regulations. However, any changes in a child's placement (including a transfer to a regular class) would not be made until after a meeting is held to review the child's individualized education program in accordance with the requirements under sections 121a.340–121a.349 of Subpart C. If the parents and agency agree that the child no longer needs special education, a reevaluation would not be necessary. Section 121a.531 requires an evaluation before initial placement only. Reevaluations are covered under section 121a.534.

LEAST RESTRICTIVE ENVIRONMENT

Section 612(5)(B) of the Act requires States to establish policies and procedures to insure that "to the maximum extent appropriate, handicapped children • • • are educated with nonhandicapped children • • •." The regulations for implementing this provision are set out in sections 121a.550–121a.556 of Subpart E.

A new paragraph was added to section 121a.550 which requires the State to insure that all public agencies establish and implement procedures in accordance with the requirements of this subpart. In addition, a new section, entitled "Nonacademic settings" was added. This section is taken from a new requirement in the section 504 regulations (45 CFR Part 84, § 84.34).

GENERAL (§ 121a.550)

Comment: A number of commenters requested that provisions be made for special support in the regular classroom in order to accommodate handicapped children (e.g., including reducing the pupil-teacher ratio and assigning aides to the room).

Response: No change was made, since the statute already authorizes the use of supplementary aids and services as a means of enabling a handicapped child to be educated with nonhandicapped children.

CONTINUUM OF ALTERNATIVE PLACEMENTS (§ 121a.551)

Comment: Many commenters responded to this requirement. Some felt that terms other than "continuum" should be used (e.g., "range of programs" and "variety of services"). A large number of commenters felt that "continuum" carried negative connotations (e.g., statements were made that the concept undermines the ideals of Pub. L. 94–142, that it implies best-to-worst, etc.). Other commenters felt that it discriminated against residential or private schools, and suggested that efforts be made to counteract this bias.

Response: No change has been made in this section. The term "continuum," as with "least restrictive environment" (LRE), is commonly used by agencies, advocates, and parents. However, there is nothing to prohibit an agency from using terms such as those included above in administering these provisions.

As with "LRE," the term that is used is not as important as the basic provision and how that provision is implemented. The purpose of a continuum is to be able to accommodate to differences between handicapped children in terms of the degree of special assistance they need to receive a free appropriate public education. This matter was dealt with directly in the June 26, 1975 Report of the House of Representatives on HR 7217 (H. Rept. No. 94-332, p. 9):

The Committee understands the importance of providing educational services to each handicapped child according to his or her individual needs. These needs may entail instruction to be given in varying environments, i.e., hospital, home, school or institution. The Committee urges that where possible and where most beneficial to the child, special educational services be provided in a classroom situation. An optimal situation, of course, would be one in which the child is placed in a regular classroom. The Committee recognizes that this is not always the most beneficial place of instruction. No child should be denied an educational opportunity; therefore, H.R. 7217 expands special educational services to be provided in hospitals, in the home, and in institutions.

When it is clear that, because of the nature or severity of a child's handicap, the child must be educated in a setting other than the regular class, it is appropriate to implement such a placement. However, the LRE provision is also designed as a rights provision to protect against indiscriminate placement of a child in a separate facility solely because the child is handicapped and not because special education is needed in that type of setting.

Even with respect to severely handicapped children, it may be possible to meet the "regular education setting" goal by having a separate class or separate wing in a regular school building.

PLACEMENTS (§ 121a.552)

Comment: Many commenters were concerned that there may be an overzealous implementation of the LRE provision without regard to the needs of individual handicapped or nonhandicapped children.

Response: No substantive change has been made in this section, because the Office of Education feels that the section includes necessary safeguards to insure protection against the above concerns. With respect to those concerns, the overriding rule is that each child's placement must be determined annually and be based on his or her individualized education program.

With respect to concerns about the harmful effect of placing handicapped children in regular classes, the analysis of the section 504 regulations indicates: "• • • it should be stressed that, where a handicapped child is so disruptive in a regular classroom that the education of other students is significantly impaired, the needs of the handicapped child cannot be met in that environment. Therefore regular placement would not be appropriate to his or her needs • • •" (45 CFR Part 84—Appendix, paragraph 24)

Comment: A commenter requested that a new provision be added which requires State and local educational agencies to utilize community-based early childhood development programs for 3–5 year old handicapped children. The main intent of the new provision is "aimed solely at assuring maximum appropriate mainstreaming."

Response: No change was made in the section. The existing provisions are considered to be adequate to cover the intent of this request.

CONFIDENTIALITY OF INFORMATION

NOTICE TO PARENTS (§ 121a.561)

Comment: Commenters asked that the detailed content of the notice requirements be deleted as excessive.

Response: No change has been made. The Office of Education believes the provisions require that States provide necessary information to inform parents about the type of information collected about handicapped children to meet the requirements of this part.

ACCESS RIGHTS (§ 121a.562)

Comment: Commenters requested that this section be expanded to require that access to records be given in no case less than five days prior to meetings to develop individualized education programs or any hearing and to permit authorized representatives of the parent to inspect the record. A commenter felt the 45-day outside time limitation could be misinterpreted to mean an agency need not comply at all after 45 days from the date of the request.

Response: Language has been added to make it clear that an agency must comply with a request for access before any meeting regarding an individualized education program. This will help insure that interested parents are able to familiarize themselves with their child's records prior to any meeting and be able to participate more knowledgeably. The prohibition against unnecessary delay places an obligation on the agency to make the records available in a timely manner so that the Office of Education does not believe it is necessary to specify a specific time limitation. Section 121a.562 has been amended to give parents the right to have an authorized representative inspect their child's education records.

The 45-day time limitation is not subject to the misinterpretation the commenter fears. This language is from the Family Educational Rights and Privacy Act, section 438 of the General Education Provisions Act (specifically section 432(a)(1)(A)), to which these regulations are tied (by statute).

FEES (§ 121a.566)

Comment: A commenter felt the first copy of a record should be given free upon request from the parents.

Response: No change has been made. The prohibition against charging a fee if it would effectively prevent the parents from inspecting and reviewing the record is based on a requirement in the Family Educational Rights and Privacy Act, to which these regulations are limited by statute (section 612

V 42163 AUG 23 77 UMI

(2)(C)). Agencies may of course adopt policies of making copies available free of charge and are encouraged to do so.

HEARING PROCEDURES (§ 121a.570)

Comment: A commenter requested clarification of who conducts a hearing.

Response: The section states that the procedures under § 99.22 (the hearing procedures in the regulations for the Family Educational Rights and Privacy Act) be used. Section 99.22(b) states the hearing may be conducted by any party, including an official of the educational agency or institution, who does not have a direct interest in the outcome of the hearing.

CONSENT (§ 121a.571)

Comment: Commenters requested that "advanced students," "persons acting as practicum advisors," and researchers be given access to records without consent.

Response: No change has been made. The Family Educational Rights and Privacy Act specifically lists parties and conditions where records may be released without parental consent.

SAFEGUARDS (§ 121a.572)

Comment: A commenter requested a list of positions rather than a list of names of employees who may have access to personally identifiable information.

Response: The requirement has been modified to require a list of names and positions to more fully inform parents and the public of the categories of individuals given access to data as well as the specific individuals who may have access.

DESTRUCTION OF INFORMATION (§ 121a.573)

Comment: A number of commenters were concerned about the destruction requirements. The principle concern was that detailed records might be needed by the handicapped individuals to show proof of need for further services from other agencies. One recommendation was that the parent and child be notified of the existence of the records at the time of graduation and informed that they would be destroyed only upon request of the parent or child. Another commenter suggested that records be maintained, but that parents be given the option to have them destroyed.

Response: The requirement has been revised to permit the parents to request that the information be destroyed and to require the public agency to inform the parents of the destruction option and their right to have the records destroyed upon request. The notice would normally be given at the time a child graduates or otherwise leaves the agency. The purpose of the destruction option is to insure that nonessential records about a child's behavior, performance, and abilities, which may possibly by stigmatizing and are highly personal, are not kept after they are no longer needed for educational purposes. Destruction of these records is the best protection against improper or unauthorized disclosures. However, the handicapped child or his or her parents may need certain records for other purposes (such as proof of eligibility for benefits).

Comment: Commenters asked that notice be given to a child who has reached the age of majority.

Response: No change has been made. Section 121a.574 requires the State educational agency to have policies and procedures regarding children's privacy rights. Where education records are maintained by an agency covered under the Family Educational Rights and Privacy Act, these rights must include transfer of the rights of parents to the child when he or she reaches 18 or the postsecondary education level.

Other Changes: The regulations have been revised to make it clear that the records covered under this Act are the same as the type of records covered under the Family Educational Rights and Privacy Act. Consistency in coverage is necessary to avoid undue administrative burdens on public agencies covered by both laws.

OFFICE OF EDUCATION PROCEDURES

General: The requirements in these sections largely repeated the statute. Perhaps for this reason, few comments were received on the Office of Education procedures.

WAIVER OF REQUIREMENT REGARDING SUPPLEMENTING AND SUPPLANTING WITH PART B FUNDS (§ 121a.589)

Comment: A commenter requested that the special study to determine if a waiver of the requirement should be granted include a review of whether grievance procedures are operational. Other commenters disagreed on the need for this study.

Response: A requirement has been added to have the study cover the adequacy of the State's due process procedures, as this is an important part of insuring that grievances are heard and to determine if parents and other parties are satisfied with the adequacy of the State's programs for handicapped children.

WITHHOLDING PAYMENTS (§ 121a.590)

Comment: Commenters asked for definitions of "substantial compliance" and "failure to comply." Commenters also urged that the Office of Education, the Office for Civil Rights, and Departmental audit officials apply the same criteria.

Response: No change has been made. The Office of Education believes these terms will have to be defined on a case-by-case basis.

The Office of Education and the Office for Civil Rights will coordinate and cooperate in enforcing requirements under this Part and Part 84 (the regulations for section 504 of the Rehabilitation Act of 1973) where identical requirements are involved. The Office of Education will make every effort to insure that auditing officials understand and apply any criteria used by program officials.

SUBPART F—STATE ADMINISTRATION

This subpart has been expanded with requirements set out under the major headings: State Educational Agency Responsibilities, Use of Funds, and State Advisory Panel.

STATE EDUCATIONAL AGENCY RESPONSIBILITIES

Provisions on State educational agency responsibilities have been redrafted (and relocated from proposed section 121a.34) in response to comments, to better summarize general administrative and supervisory responsibilities in section 612(6) and other sections of the Act. A section on complaint procedures, which was included in previous regulations for Part B (prior section 121a.14) and inadvertently not included in the proposed regulations has been added.

Comment: Commenters requested addition of a new section on State educational agencies' responsibilities for monitoring, evaluation, and enforcement activities to insure compliance throughout the State with the requirements of this part. The commenters made specific suggestions for implementing such a section, including collection of data, conduct of on-site visits, audit of fund utilization, comparison of written individualized education programs with programs actually provided, meetings with parents and parent groups, public hearings, development of detailed criteria for evaluating program quality and effectiveness, and detailed procedures for enforcing requirements against noncomplying agencies.

Response: A new section has been added to require each State educational agency to develop procedures and specific timelines for monitoring and evaluating public agencies involved in the education of handicapped children. These are minimal requirements. Adoption of the other suggestions made by the commenters is encouraged but not required.

ALLOWABLE COSTS (§ 121a.621)

Comment: A number of commenters requested that the limitation on State administrative funds be raised and that provisions be added to allow local educational agencies to use funds for administrative costs.

Response: No change has been made on the State limit as it is a statutory limitation.

Comment: Commenters requested that the regulations require each State educational agency to use its funds for specific purposes. One recommendaiton was that ten percent of the administrative funds be used to train persons in local communities to assist and represent parents and to prepare and disseminate to parents information about their rights under these regulations. Another was that they be used to disseminate instructional material.

Response: No change has been made. The Office of Education does not believe it is appropriate to dictate to States how to use their limited administrative funds.

STATE ADVISORY PANEL

ESTABLISHMENT (§ 121a.650)

Comment: One commenter recommended that local panels be required.

Response: No change has been made. The statute only requires a State advisory panel. A State may, of course, decide to establish local panels.

MEMBERSHIP (§ 121a.651)

Comment: A substantial number of commenters requested additions to the list of representatives to be included on the panel, including professional groups, legal advocacy groups, and employees of State and local agencies. Some commenters recommended that handicapped individuals or their parents make up specific percentages of the panel.

Response: A provision has been added to make it clear that a State may expand the advisory panel to include additional persons in the groups listed (which are statutory) and representatives of other groups. The Office of Education does not believe it is appropriate to prescribe specific percentages, as the States should have some discretion to determine the proper mix of representatives. A comment has been added to indicate factors a State may consider in determining balanced membership of the panel.

ADVISORY FUNCTIONS AND ADVISORY PANEL PROCEDURES (§§ 121a.652—121a.653)

Comment: Commenters recommended that the regulations indicate that the panel must comment publicly on the State annual program plan as well as on any rules and regulations regarding education of handicapped children, review annual evaluations, and act as ombudspersons to hear complaints.

Response: A change has been made to require the panel to comment on the annual program plan. The annual program plan is an extremely important document and this addition makes it clear that the advisory panel must be involved in reviewing it. The other recommendations are legitimate activities but not ones the Federal government believes should be required by these regulations at this time.

Comment: Commenters requested that the regulations provide that panel members be reimbursed for reasonable and necessary expenses for attending meetings and performing duties.

Response: This change has been made. It is reasonable to require reimbursement for expenses so that persons will be able to participate without financial sacrifice.

SUBPART G—ALLOCATIONS OF FUNDS: REPORTS

ALLOCATIONS

This major section of Subpart G is entirely statutory; therefore, there are no comments of substance on which to respond.

REPORTS—ANNUAL REPORT OF CHILDREN SERVED (§§ 121a.750–121a.754)

The following comments were received regarding the annual report by the States of the number of children receiving special education and related services. This report is the basis for each State's allocation of funds under Part B, and serves as a mechanism for the Commissioner to meet some of his reporting requirements to Congress under section 618 of the Act. Some commenters recommended changes that would require amendment of the Act. These have not been summarized except where further explanation seemed to be useful.

AMOUNT OF INFORMATION REQUIRED IN THE REPORT

Comment: Commenters varied in their views on what information should be included in the report. It was suggested that additional information be collected for compliance purposes. Objections were made to the requirement for reporting information by disability category, and for reporting the 0-2 year old population. On the other hand, some commenters recommended that additional categories be added to the report, particularly for deaf-blind children and for multihandicapped children.

Response: Two categories of handicapped children have been added to the report—one for multihandicapped children and one for deaf-blind children. These terms are defined in section 121a.5 of Subpart A. No other changes have been made on the amount of information to be reported.

The additional categories should help to insure that no handicapped child is counted more than once, since the States will not have to decide in which of two or more disability categories to count a multihandicapped child. The changes conform to existing reporting requirements used by the States.

The annual report of children served is not a compliance document. It is only used to determine each State's allocation and to assist the Commissioner in meeting his reporting requirements to the Congress under section 616. Under section 611 of the Act, allocations are based on the number of handicapped children in each State receiving special education and related services. Compliance with requirements such as "least restrictive environment" will be achieved through other mechanisms, including the State's annual program plan, the local educational agency's application, and monitoring by the State educational agency and the Office of Education.

As explained in the preamble to the proposed rules published in the FEDERAL REGISTER on September 8, 1976, the report requirements are the minimum needed by the Commissioner to carry out the Act. (See 41 FR 37814.) While the Commissioner is concerned about the possible harmful effects of "labeling" children, the Act requires that the Commissioner report a substantial amount of information, to Congress by disability category. For this reason, and for the other reasons stated in the September 8, 1976, FEDERAL REGISTER, there appears to be no workable alternative to retaining the categories in the States' annual reports. The various disability categories, as well as the requirements to use them in the Commissioner's reports to the Congress, are statutory.

WHO MAY BE COUNTED

Comment: Commenters disagreed as to whether handicapped children should be counted if their special education is paid for solely from private sources or solely from Federal funds (such as children living on military bases). Some thought that only publicly-funded special education should qualify, while others argued that since all children have a right to a free appropriate public education the source of funding (other than the parent) should not matter.

Response: Section 121a.753 has been amended to provide that handicapped children (including such children in Head Start or other preschool programs) may be counted only if they (1) are enrolled in a school or program which is operated or supported by a public agency, and (2) receive special education that meets State standards.

A State may not count a child whose special education is paid for solely by the Federal government, unless the child is in one of the age groups 3–5 or 18–21, and there are no local or State funds available for nonhandicapped children in that age group.

Children funded solely by the Federal government would include Indian children whose special education is paid for solely by the Federal government, as well as children on military bases whose education is paid for solely with Federal funds. This rule is consistent with the requirement that a free appropriate public education (FAPE) be made available by the State to each handicapped child. Parents are not required to take advantage of FAPE. If they choose to educate their child outside of the public school system, even though FAPE is available, the State has discharged its responsibility. However, by the same token, the child should not be counted by the State for its allocation if the child is not being provided special education at public expense. The same reasoning applies to Indian children and other children who receive their special education from the Federal government. The rule should serve as an encouragement to States to provide services to all handicapped children, however, since any child provided special education from State or local funds may be counted.

Comment: Two other provisions in the regulations were objected to by commenters. The first of these provided that handicapped children "enrolled" in schools to receive special education could be counted as receiving special education. These commenters felt that enrollment did not guarantee actual receipt of services. The second provision stated, in essence, that a child who receives special education may be counted, but not a child who receives only "related services." This was viewed as an overly restrictive reading of the Act.

Response: No change has been made in the regulations. While no system is perfect, enrollment is a legitimate way of determining the number of handicapped children receiving special education on October 1 and on February 1, the two dates on which the Act requires the count of children served. It would not be practical to make an actual head count of children in classrooms and other facilities where services are provided.

With respect to children who only receive "related services," this is governed by statutory language. "Related services" are only those "required to assist a handicapped child to benefit from special education." (Section 602(17) of the Act.) If a child does not need special education, there can be no "related services," as that term is defined in the Act. However, section 121a.14 permits a State to define certain services as "special education," if those services are "specially designed instruction to meet the unique needs of a handicapped child." (This is taken from the definition of "special education" in section 602(16) of the Act.)

REALLOCATION OF LOCAL EDUCATIONAL AGENCY FUNDS (§ 121a.708)

Comment: Commenters requested criteria be added for when funds may be reallocated.

Response: No criteria have been added as determinations will be made on a case-by-case basis.

APPENDIX B—INDEX TO PART 121a

ADMINISTRATION

See: Monitoring.
Annual program plan requirements—§§ 121a.112; 121a.134; 121a.138; 121a.141; 121a.142; 121a.145.
Certification of State authority—§ 121a.112.
Direct Service by State educational agency—§ 121a.360.
Local application requirements—§§ 121a.228; 121a.236; 121a.240.
Local education agency definition—§ 121a.8.
State administration—Subpart F.

ADVISORY PANEL (STATE)

Annual program plan requirement—§ 121a.147.
General requirements—§§ 121a.650–121a.653.

ALLOCATIONS

Annual program plan condition of assistance—§ 121a.110.
Application by local agency condition of assistance—§ 121a.180.
Consolidated applications—§ 121a.191.
Count of children—See Reports.
Interior Department for Indian children:—§ 121a.709.
Local agency allocation—See Reports.
Formula—§§ 121a.705–121a.707.
Reallocation—§ 121a.708.
Use by the State—§ 121a.360.
Outlying areas—§ 121a.710.
Recovery for misclassified children—§ 121a.141.
State allocation:
Formula—§§ 121a.701–121a.703; 121a.705–121a.706.
Hold harmless—§ 121a.704.
Use for administration—§§ 121a.620–121a.621.
Use of—See other headings.
Withholding—See: Hearings.
From the local agency—§ 121a.194.
From the State—§§ 121a.590–121a.593.

ANNUAL PROGRAM PLAN

Approval; disapproval—§ 121a.113.
Certifications—§ 121a.112.
Condition of assistance to State—§ 121a.110.
Contents—§§ 121a.111; 121a.112; 121a.120–121a.151.
Effective period—§ 121a.114.
General requirements—§§ 121a.110–121a.114.
Public participation—See: Public Participation.
Submission by State—§ 121a.110.

APPLICABILITY OF REGULATIONS—§ 121a.2

APPLICATION BY LOCAL AGENCY

Annual program plan requirement—§ 121a.144.
Approval or disapproval by State educational agency—§§ 121a.193; 121a.360.

V42163 AUG 23 77 UMI

Second priority children—amendment of application—§ 121a.324.
Submission by local agency—§ 121a.180.
Condition of assistance to local agency—§ 121a.180.
Consolidated application—§§ 121a.190–121a.192.
Content—§§ 121a.220–121a.240.
Excess costs—See: Excess Costs.
Public participation—See Public Participation.

AUDITS

See: Monitoring.

COMPLAINTS

State educational agency procedures—§ 121a.602.
See: Hearings.

COMPARABLE SERVICES

Local application requirement—§ 121a.231.

CONSENT

Defined—§ 121a.500.
Disclosure of information—§ 121a.571.
Initial placement—§ 121a.504(b).
Placement status during a proceeding—§ 121a.513.
Preplacement evaluation of child—§ 121a.504(b).

CONFIDENTIALITY OF INFORMATION

Annual program plan requirement—§ 121a.129.
Definitions—§ 121a.560.
General requirements—§§ 121a.560–121a.572.
Local application requirements—§ 121a.221.

CONSOLIDATED APPLICATIONS

See: Application of local agency.

COUNT OF CHILDREN

Annual report of children served—§§ 121a.750–121a.754.
Allocations:
State entitlement—§§ 121a.701–121a.702.
Local educational agency entitlement—§ 121a.707.
Outlying areas entitlements—§ 121a.710.

DEFINITIONS—§§ 121a.4, 121m.15

DUE PROCESS

See: Confidentiality of Information.
Evaluation.
Hearings.
Notice.
Procedures for parents and children—§§ 121a.500–121a.514.

EDUCATION

See: Free Appropriate Public Education.
Full Educational Opportunity Goal.
Individualized Education Program.
Personnel Development.
Physical Education.
Special Education.
Related Services.

EVALUATION

Advisory panel function—§ 121a.652.
Annual program plan requirements—§§ 121a.128; 121a.133; 121a.146.
Education programs—§ 121a.146.
Handicapped children:
Consent required for—§ 121a.504.
Defined—§ 121a.500.
Hearings—See Hearings.
Independent educational evaluation—§ 121a.503.
Information on achievement—§ 121a232.
Notice required—§§ 121a.504–121a.505.
Protection—§§ 121a.129, 121a.133, 121a.221, 121a.530–121a.534.
State responsibility—§ 121a.128.
Hearing aids—§ 121a.303.
Individualized education programs—§ 121a.146.
Personnel development—§ 121a.386.
Private school children service needs—§ 121a.453.
State educational agency activities—§§ 121a.146; 121a.601.
Training—See: Personnel development, this heading.

EXCESS COSTS

Generally—§§ 121a.182–121a.186.
Local application requirement—§ 121a.229.
Not applicable to State educational agency—§ 121a.360.

FREE APPROPRIATE PUBLIC EDUCATION

See: Individualized Education Programs.
Related Services.
Special Education.
Time Limits and Timetables.
Annual program plan requirements—§§121a.121–121a.122.
Defined—§ 121a.4.
Generally—§§ 121a.300–121a.303; 121a.307.
Initiation or change—See: Notice.
State practice exception—§ 121a.300.
State use of local agency's allocation—§ 121a.360.
Priorities—§§ 121a.320–121a.324.

FULL EDUCATIONAL OPPORTUNITY GOAL

Annual program plan requirements—§§ 121a.123–121a.126.
General requirements—§§ 121a.304–121a.306.
Local application requirements—§§ 121a.222–121a.223.

HANDICAPPED CHILDREN

Defined—§ 121a.5.

Rights

See: Confidentiality of Information.
Due Process.
Evaluation.
Free Appropriate Public Education.
Hearing.
Identification, Location, Evaluation.
Individualized Education Program.
Least Restrictive Environment.
Notice.
Private School Children.
Special Education.
Related Services.

HEARINGS

Disapproval of annual program plan—§ 121a.113.
Disapproval of local application—§ 121a.194.
Office of Education procedures—§§ 121a.580–121a.593.
Parents and children:
Identification, evaluation, placement—§§ 121a.506–121a.514.
Confidentiality of information—§§ 121a.568–121a.570.
Public hearings before adopting annual program plan—§§ 121a.280–121a.284.
Withholding payments from a State—§ 121a.590.

IDENTIFICATION, LOCATION, EVALUATION

See: Evaluations.
Annual program plan requirement—§ 121a.128.
Local application requirement—§ 121a.220.
Private school children—§ 121a.453.

INDIAN CHILDREN

Application from Secretary of Interior—§§ 121a.260–121a.263.
Count—§§ 121a.753.
Payments to Secretary of Interior—§ 121a.709.

INDIVIDUALIZED EDUCATION PROGRAM

Accountability—§ 121a.349.
Annual program plan requirement—§ 121a.130.
Content—§ 121a.346.
Defined—§ 121a.340.
Effective dates—§ 121a.342.
First priority children—§ 121a.322.
Free appropriate public education definition—§ 121a.4.
General requirements—§§ 121a.340–121a.349.
Least restrictive environment—§ 121a.552.
Local application requirement—§ 121a.235.
Meetings—§§ 121a.343–121a.345.
Parent participation—§ 121a.344.
Placement—§§ 121a.533; 121a.552.
Private school children—§§ 121a.347–121a.348; 121a.401.
Reevaluation—§ 121a.534.

LEAST RESTRICTIVE ENVIRONMENT

Annual program plan requirement—§ 121a.132.
General requirements—§§ 121a.550–121a.556.
Local application requirement—§ 121a.227.
Nature and location of State services—§ 121a.361.
Nonacademic services and settings—§§ 121a.306; 121a.553.
Physical education—§ 121a.307.
Placement decisions—§§ 121a.513; 121a.533.
Program options—§ 121a.305.

MATCHING—§ 121a.371

MONITORING

Annual program plan requirements—§§ 121a.128(b)(5); 121a.130(b)(2); 121a.135.
Auditing count of children served—§ 121a.754.
Confidentiality of information—§ 121.575.
Identification, location, evaluation—§ 121a.128(b)(5).
Individualized education programs—§ 121a.130(b)(2).
Least restrictive environment—§ 121a.556.
Private school children—§ 121a.402(a).
State educational agency responsibility—§ 121a.601.

NONDISCRIMINATION

Annual program requirement—§ 121a.150.
Evaluation materials and procedures—§ 121a.530.
Local application requirement—§ 121a.239.
Nonacademic services—§ 121a.306.
Private school children—§ 121a.458.
Program options—§ 121a.305.
Testing materials and procedures—§ 121a.530.

NOTICE

Confidentiality of information—§§ 121a.561, 121a.573.
Individualized education program meeting—§ 121a.345.
Intitiation or change of identification, evaluation, placement, or free appropriate public education—§§ 121a.504–121a.505.
Notice of opportunity for a hearing—See: Hearings.
Notice of procedural safeguards—§ 121a.505.
Public notice of withholding payments—§ 121a.592.

PERSONNEL DEVELOPMENT

Annual program plan requirement—§ 121a.139.
Comprehensive system of personnel development—§§ 121a.380–121a.387.
Included in State support services—§ 121a.370.
Least restrictive environment—§ 121a.555.
Local application requirement—§ 121a.224.
Personnel needs—§§ 121a.126; 121a.223.
Preservice training—§ 121a.321.

Trained personnel for evaluation materials—§ 121a.532.
Training regarding confidentiality of information—§ 121a.572.
Use of Part B funds for training—§§ 121a.321, 121a.322.

PHYSICAL EDUCATION

Included in special education—§ 121a.14.
Required—§ 121a.307.

PLACEMENTS

See: Evaluation.
Least Restrictive Environment.
Private schools.

PRIORITIES

See: Evaluation.
Indentification, Location, Evaluation.
Annual program plan requirement—§ 121a.127.
Definitions:
First priority children—§ 121a.320(a).
Second priority children—§ 121a.320(b).
General requirements—§§ 121a.320–121a.324.
Local application requirement—§ 121a.225.
State direct and support services—§ 121a.370.

PRIVATE SCHOOL CHILDREN

Annual program plan requirement—§ 121a.140.
Confidentiality of information—§ 121a.560.
Cost of residential placement—§ 121a.302.
Handicapped children placed or referred by public agencies—§§ 121a.400–121a.403.
Handicapped children not placed or referred by public agencies—§§ 121a.450–121a.460.
Individualized education program—§§ 121a.347–121a.348.
Least restrictive environment—§ 121a.554.
Part B applicability to private schools—§ 121a.2.
Physical education—§ 121a.307.

PROCEDURAL SAFEGUARDS

See: Complaints.
Consent.
Hearings.
Notice.
Surrogate Parents.
Annual program plan requirements—§§ 121a.131; 121a.136.
Local application requirement—§ 121a.237.

PUBLIC PARTICIPATION

See: Hearings.
Annual program plan requirements—§§ 121a.120; 121a.137; 121a.280–121a.284.
Local application requirements—§§ 121a.226; 121a.234.
Secretary of Interior application—§ 121a.261.
State advisory panel—§§ 121a.650–121a.654.

RECORDS

See: Confidentiality of Information.
Annual program plan requirement—§ 121a.143.
Comparable services—§ 121a.231.
Count of children served—§ 121a.754.
Excess costs—§ 121a.183.
Individualized education programs—§ 121a.130.
Local application requirement—§ 121a.233.
Parents may examine—§ 121a.502; 121a.562.
Parents not participating in meetings—§ 121a.345.

RELATED SERVICES

See: Free Appropriate Public Education.
Individualized Education Program.
Defined—§ 121a.13.

REPORTS

Annual report of children served—§§ 121a.750–121a.754.
Local application requirements—§§ 121a.232; 121a.233.
State advisory panel—§ 121a.652.

SPECIAL EDUCATION

See: Free Appropriate Public Education.
Individualized Education Program.
Defined—§ 121a.14.

STATE ADVISORY PANEL

Annual program plan requirement—§ 121a.147.
General requirements—§§ 121a.650–121a.653.

STATE DIRECT AND SUPPORT SERVICES

Annual program plan requirement—§ 121a.51.
General requirements—§§ 121a.360–121a.372.

SUPPLANTING

Applicability to State educational agency—§ 121a.372.
Local application requirement—§ 121a.230.
Private schools—§ 121a.460.
Waiver of requirement—§ 121a.589.

SURROGATE PARENTS

Definition of parent—§ 121a.10.
Duty of public agency to assign—§ 121a.514.
Responsibilities—§ 121a.514.
Selection—§ 121a.514.

TESTING

See: Evaluation.

TIME LIMITS AND TIMETABLES

Annual program plan effective period—§ 121a.114.
Evaluation of educational programs—§ 121a.146.
Free appropriate public education—§§ 121a.122; 121a.300.
Full educational opportunity goal—§§ 121a.125; 121a.222.
Hearing decisions—§§ 121.512; 121a.583.
Individualized education programs—§§ 121a.342; 121a.343.
Public participation in the annual program plan—§ 121a.280–121a.284.
Reevaluation—§ 121a.534.
Report of children served—§ 121a.750–121a.754.
State monitoring of public agencies—§ 121a.601.
State review of hearing decision—§ 121a.512.

TRAINING

See: Personnel Development.

USE OF PART B FUNDS

Allocation formulas:
Consolidated applications—§§ 121a.190–121a.191.
Entitlements—§§ 121a.700–121a.710.
Annual program plan requirements—§§ 121a.148; 121a.149.
Department of the Interior (Indian children)—§ 121a.262.
Excess costs—§§ 121a.182–121a.186.
Local application requirement—§ 121a.238.
State and local educational agencies:
Free appropriate public education—§§ 121a.301–121a.302.
Full educational opportunity goal—§ 121a.304(b).
Priorities—§§ 121a.320–121a.324.
Private school children—§§ 121a.450–121a.460.
State educational agencies:
Allowable costs—§ 121a.621.
Federal funds for State administration—§ 121a.620.
Matching—§ 121a.371.
State advisory panel—§ 121a.652.
Use of local allocation for direct services—§§ 121a.360–121a.361.
Use of State educational agency allocation for direct and support services—§ 121a.370.
Supplanting—§§ 121a.230; 121a.372; 121a.589.
Training—See: Personnel Development.

5. A new Part 121m is added to read as follows:

PART 121m—INCENTIVE GRANTS

Sec.
121m. 1 Scope; purpose.
121m. 2 General provisions regulations.
121m. 3 Eligibility.
121m. 4 Application.
121m. 5 Application contents.
121m. 6 Amount of grant.
121m. 7 Participation by children not counted under Part B of the Act.
121m. 8 Excess costs.
121m. 9 Administration.
121m. 10 Annual evaluation report.

AUTHORITY: Sec. 619 of Pub. L. 91–230, as amended, 89 Stat. 793 (20 U.S.C. 1419), unless otherwise noted.

§ 121m.1 Scope; purpose.

(a) This part applies to assistance under section 619 of the Act.

(b) The Commissioner awards a grant to each State which provides special education and related services to handicapped children ages three, four, or five.

(c) The State shall use funds provided under this part to give special education and related services to handicapped children in the age groups named in paragraph (b) of this section.

(d) The terms "special education" and "related services" have the meanings defined in § 121a.12 and § 121a.13 of this chapter.

(20 U.S.C. 1419(c).)

§ 121m.2 General provisions regulations.

Assistance under this part is subject to the requirements in Parts 100, 100b, 100c, and 121 of this chapter (including definitions and fiscal, administrative, property management, and other matters).

(20 U.S.C. 1419.)

§ 121m.3 Eligibility.

A State is eligible to receive a grant if:

(a) The Commissioner has approved its annual program plan under Part 121a of this chapter; and

(b) The State provides special education and related services to any handicapped children aged three, four, or five.

(20 U.S.C. 1419(a).)

§ 121m.4 Application.

To receive funds under this part, a State must submit an application to the Commissioner through its State educational agency.

(20 U.S.C. 1419(b).)

§ 121m.5 Application contents.

An application must include the following material:

(a) A description of the State's goals and objectives for meeting the educational needs of handicapped children ages three through five. These goals and objectives must be consistent with the State's full educational opportunity goal under § 121a.123 of this chapter.

(b) A description of the objectives to be supported by the grant in sufficient

V 42163 AUG 23 77 UMI

detail to determine what will be achieved with the grant.

(c) A description of the activities to be supported by the grant. The activities must be related to the objectives under paragraph (b) of this section and must be described in sufficient detail to determine how the grant will be used.

(d) A description of the impact the proposed activities will have on handicapped children ages three through five. This description must include evidence that the proposed activities are of sufficient size, scope, and quality to warrant the amount of the expenditure. The application must indicate the number of children to be served and the number of handicapped children who will be benefitted indirectly. If children are to be benefitted indirectly, there must be a rationale that demonstrates the benefit.

(e) The number of local educational agencies or intermediate educational units, and the number and names of other agencies which will provide contractual services under the grant, the activities they will carry out, and the reasons for selecting these agencies.

(f) The dollar amounts that will be spent for each major activity described.

(g) A description of the procedures the State will use to evaluate the extent to which the activities met the objectives described under paragraph (b) of this section.

(20 U.S.C. 1419(b).)

§ 121m.6 Amount of grant.

(a) The amount of a grant is $300 multiplied by the average number of children ages three through five counted during the current school year under §§ 121a.750–121a.754 of this chapter.

(b) If appropriated funds are less than enough to pay in full the grants under this part, the amount of each grant is ratably reduced.

(20 U.S.C. 1419(a), (d).)

§ 121m.7 Allowable expenditures.

(a) The State educational agency may use funds under this part to give special education and related services to handicapped children ages three through five who are not counted under §§ 121a.750–121a.754 of this chapter if the State educational agency insures that those children have all of the rights afforded under part 121a of this chapter.

(b) The State educational agency may use up to five percent of its grant for the costs of administering the funds provided under this part.

(20 U.S.C. 1419(c).)

Comment. In carrying out the provisions of this part some activities are considered particularly appropriate for the use of these funds: (1) Providing parents with child development information; (2) assisting parents in the understanding of the special needs of their handicapped child; (3) providing parent counseling and parent training, where appropriate, to enable parents to work more effectively with their children; (4) providing essential diagnosis and assessment; (5) providing transportation essential to the delivery of services; (6) providing speech therapy, occupational therapy, or physical therapy.

§ 121m.8 Excess costs.

(a) If local or State funds are available to pay for the education of nonhandicapped children of the same age as the handicapped children served with funds under this part, funds equal to that amount must also be made available for these handicapped children.

(b) If no local or State funds are available for nonhandicapped children of the same age, funds under this part may be used to pay for all of the costs directly attributable to the education of the handicapped children.

(20 U.S.C. 1419(c).)

§ 121m.9 Administration.

(a) The State educational agency shall administer the funds provided under this part.

(b) The State educational agency may use the funds itself, or may contract with local educational agencies, intermediate educational units, or other agencies.

(20 U.S.C. 1419(a).)

§ 121m.10 Annual evaluation report.

(a) Within 90 days after the end of the grant period, the State educational agency shall submit a report to the Commissioner on the activities carried out under this part during that period.

(b) The report must contain:

(1) The results of the evaluation under § 121m.5(g), and

(2) In brief narrative form, the impact that these funds have had on the State's educational services to handicapped children ages three, four, and five.

(20 U.S.C. 1419(c).)

[FR Doc.77-24033 Filed 8-22-77;8:45 am]

Federal Register

TUESDAY, AUGUST 23, 1977

PART III



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

MEDICAL DEVICES

Establishment Registration and Premarket Notification Procedures

V 42 163 AUG 23 77 UMI

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER H—MEDICAL DEVICES

[Docket No. 76N-0355]

ESTABLISHMENT REGISTRATION AND PREMARKET NOTIFICATION PROCEDURES

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency is issuing final regulations setting forth procedures for the registration of establishments in which devices intended for human use are produced. These regulations also establish requirements governing the form and manner in which premarket notification submissions are to be sent to the Food and Drug Administration (FDA), at least 90 days in advance, by any person who proposes to begin commercial distribution of a device intended for human use in interstate commerce. The Medical Device Amendments of 1976 have provided the agency with the authority to promulgate such regulations to ensure the safety and effectiveness of medical devices for humans.

The agency also is establishing rules governing the availability to the public of premarket notification submissions. The existence of a submission and its contents will generally be available to the public upon request, but the regulations provide an exception allowing the existence and contents of certain submissions to be considered confidential commercial information. However, the Commissioner announces his intention to consider further revisions in the regulation when he publishes proposed regulations concerning FDA's handling of public information requests involving new drug applications and related industry submissions to FDA.

EFFECTIVE DATE: September 22, 1977.

FOR FURTHER INFORMATION CONTACT:

FOR THE ESTABLISHMENT REGISTRATION PROVISIONS

Thomas V. Kelley, Bureau of Medical Devices (HFK-124), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910 (301-427-7190).

FOR PREMARKET NOTIFICATION PROCEDURES

Robert S. Kennedy, Bureau of Medical Devices (HFK-1), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910 (301-427-7900).

SUPPLEMENTARY INFORMATION: The proposed regulations on which these final regulations are based were published in the FEDERAL REGISTER of September 3, 1976 (41 FR 37458). Interested persons were given until November 2, 1976 to comment.

Forty-seven comments were received on the proposal. The issues most often raised by these comments concerned the exemptions from registration, the requirements for submitting a premarket notification when a change or modification is made to a device already on the market, the FDA review of premarket notification submissions, and the confidentiality of premarket notification submissions.

In general, the final regulation has been adopted as proposed although several changes have been made in response to the comments and to clarify the language of the regulation.

ESTABLISHMENT REGISTRATION

1. Definitions of "act" and "distributor" are being added for clarity to § 807.3 of the final regulation. The Commissioner of Food and Drugs is also adding a new paragraph (h) to this section which states that the terms defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) shall have the same meaning in these registration regulations.

2. Three comments asserted that if the definition of "commercial distribution" was adopted as proposed in § 807.3 (a), multinational corporations would be required to file a premarket notification submission for an intraorganizational shipment between a foreign subsidiary and a domestic parent. The comments indicated that premarket notification in such a situation would not serve any useful purpose since the device will not go "on the market" at that point, and also indicated that a second premarket notification would be required when the device is about to be marketed by the parent company. It was therefore suggested that the words "registered domestic" should be deleted from the definition of "commercial distribution" to clarify that premarket notification is not required for such intraorganizational shipments.

The Commissioner agrees that premarket notification is not required when a device is to be shipped from a foreign subsidiary to a domestic parent establishment and there is no distribution outside the company. It is necessary, however, that FDA be notified at least 90 days before the device is distributed and held or offered for sale within the United States. Therefore, as suggested by the comments, the phrase "registered domestic" has been deleted from the definition of commercial distribution in the final regulation.

Two comments also suggested that the shipment of a device for display as a work-in-process or as an engineering prototype at a scientific exhibit should not be considered "commercial distribution" of a device. These comments noted that such shipments are useful to manufacturers and the scientific community and present no danger to the public health.

The Commissioner notes that the definition of "commercial distribution" applies only to a device that is "held or offered for sale." If a device is shipped merely for display as a work-in-process or as an engineering prototype at a scientific exhibit and is not held or offered for sale, it will not be considered to be in "commercial distribution."

3. One comment questioned whether the term "establishment" in proposed § 807.3(b) (redesignated § 807.3(c)) is synonymous with the terms "division" or "owner or operator." Another comment questioned whether a division of a company would be an "owner or operator" where such a division has more than one operating facility.

The Commissioner notes that an "establishment" within the meaning of new § 807.3(c) is a place of business at which a device is processed, whereas an "owner or operator" within the meaning of new § 807.3(f) is the person or organization directly responsible for the activities of an establishment. Therefore, the terms "establishment" and "owner or operator" are not synonymous. A division may be either an "establishment" or an "owner or operator" depending upon which definition applies.

4. One comment objected that proposed § 807.20 would require a manufacturer of a device "intended for human use" to register. This comment asserted that the phrase "intended for human use" is too broad and would include devices not within the scope of the act. The comment suggested that this phrase should be changed to "device as defined in section 201(h) of the act."

The Commissioner notes that the definition of device in section 201(h) of the act includes devices other than those intended for human use. However, the registration provisions of section 510 of the act (21 U.S.C. 360) and Part 807 apply only to devices intended for human use and not to devices intended for veterinary use. In all other respects the term "device" as used in the regulation is intended to carry the meaning conveyed in section 201(h) of the act. Therefore, the phrase "intended for human use" has been retained in the final regulation.

5. One comment objected to the fact that under proposed § 807.20(a) registration is required for any person who initiates specifications for a device that is to be manufactured for him for subsequent commercial distribution. It was argued that section 510 of the act requires the registration of any establishment engaged in the manufacture, preparation, propagation, compounding, or processing of a device, and that the initiation of specifications is not within any of these processes.

The Commissioner believes that a person initiating specifications for a device to be manufactured for him for commercial distribution would be engaged both in the manufacture and in the propagation of a device and therefore should register with FDA. The initiation of specifications is a process that often occurs within the manufacturing establishment as part of the manufacturing process. A device may be manufactured exactly according to specifications and still be defective if the specifications are

faulty; for that reason, the regulation requires registration.

The Commissioner notes, however, that the requirement to register applies only if the person initiating specifications has the device manufactured for him for commercial distribution and the device is marketed under the name of the person initiating the specifications. The Commissioner believes that a person who has a device marketed under his name is engaged in the propagation of a device. The requirement to register does not apply when the person initiating the specifications is in a consulting capacity or transfers the rights to manufacture and to distribute the device to other persons. To reflect this position, the regulation has been changed in §§ 807.3(d)(3) and 807.20(a)(1) to provide that a person initiating specifications is required to register only if the device is to be put in commercial distribution by him.

6. One comment suggested that proposed § 807.20(a) be clarified so that only one establishment of a company would be required to register for each device and the manufacturer could determine which location would be the most appropriate one to register.

The suggestion has not been adopted. A device may be processed wholly or in part at more than one establishment. For the purposes of inspection, the Commissioner should be aware of all establishments at which a device is manufactured, prepared, propagated, compounded, or processed, and therefore all such establishments must be registered.

7. Various comments addressed the time periods allowed for establishment registration under proposed § 807.21. This section provided that an establishment register within 15 days of receiving Form FD-2891 (Initial Registration of Device Establishment) if the establishment were currently engaged in an operation requiring registration. One comment suggested that this period be changed to 30 days and another suggested that it should be 60 days. Proposed § 807.21 also provided that an establishment register within 5 days after submitting a premarket notification if it had not been previously engaged in an operation requiring registration. One comment suggested that this period be changed to 15 days; another suggested that it should be 30 days.

All these comments argued that the longer time periods are necessary so that the registration form can go through the approval process within the business organization.

The Commissioner agrees with these comments, and the time frames for registration have been changed in the final regulation. He also notes that in 1976 FDA mailed registration forms to all human medical device establishments of which it had knowledge. Many establishments completed and returned these registration forms, while other establishments did not register, awaiting these final regulations. The Food and Drug Administration does not plan another mass mailing of registration forms, but will send individual forms to establishments that request them. The requirement that establishments currently engaged in an operation requiring registration must register within 15 days after receiving Form FD-2891 has been deleted from the final regulation as unnecessary. Establishments currently engaged in an operation requiring registration that have not yet registered must register within 30 days after the effective date of this regulation.

The Commissioner has also determined that it is inappropriate to require an establishment not currently engaged in an operation requiring registration to register within 5 days after submitting a premarket modification. If the Commissioner determines that the device is not substantially equivalent to one already on the market and therefore premarket approval is required, the owner or operator may decide that it is not economically feasible to market the device. This would result in an establishment being registered that is not engaged in the medical device business. As a result, the final regulation requires the owner or operator to register within 30 days after entering into an operation requiring registration.

8. One comment suggested that Form FD-2891 (Initial Registration of Device Establishment) provide a space for designation of the person(s) to whom copies of correspondence should be sent. The comment stated that if a subcontract-manufacturer registers, there should be an official means of notifying the responsible manufacturer.

The Commissioner notes that under these regulations copies of all correspondence will be sent to the official correspondent as listed on Form FD-2891. The official correspondent is responsible for notifying the proper persons within the establishment, and, when desired by those persons, those with whom a contractual relationship exists.

9. Five comments argued that the 5-day period allowed for submission of amendments to the establishment registration under proposed § 807.26 is too short to allow for preparation within the company and for mailing time. Two of the comments suggested that the period should be 15 days; three comments suggested that 30 days should be allowed for submission of amendments.

The Commissioner agrees that 5 days may not be a sufficient time for submission of amendments to the registration form. The final regulation therefore allows 30 days for submission of an amendment after the change in registration information occurs.

10. One comment referring to proposed § 807.37 asserted that the establishment registration forms should not be made available for public inspection since the listing of device activities on them could be used to the disadvantage of the person submitting the registration forms.

Section 510(f) of the act requires the Commissioner to make available for public inspection any registration submitted pursuant to section 510. Accordingly, such information will be made available as required under the act. The Commissioner advises, however, that he does not believe that the registration forms require the submission of any trade secret information or any information that truly could be considered to be of a confidential commercial character.

11. Two comments sought clarification of the meaning of the word "requested" in proposed § 807.40 in reference to registration procedures for foreign device establishments. These comments asserted that if foreign manufacturers were not required to register it would give them an unfair competitive advantage over domestic manufacturers.

Section 510(i) of the act provides that foreign device establishments "shall be permitted" to register according to regulations to be promulgated by the Commissioner. The Commissioner therefore cannot as a matter of law require foreign device establishments to register. However, foreign device establishments will be required to list their devices with FDA in accordance with device-listing regulations that will be published in the FEDERAL REGISTER as a proposal in the near future.

Under section 801(a) of the act, the Commissioner is required to furnish the Secretary of the Treasury a list of foreign establishments registered pursuant to subsection 510(i). If a foreign manufacturer does not register under subsection 510(i) of the act or does not provide product-listing information under subsection 510(j) of the act, the device is required to be sampled by the Secretary of the Treasury for examination by FDA upon importation or an offer of importation into the United States.

12. One comment objected to the exemption in proposed § 807.65(d) for licensed practitioners who manufacture or alter devices solely for use in their practice. The comment stated that users who alter in vitro diagnostic products can create serious problems since such devices are no longer reporting results as labeled by the manufacturer.

The Commissioner advises that § 807.65(d) is intended to exempt licensed practitioners who manufacture, alter, or use devices to meet the needs of a particular patient; however, exemption from registration does not relieve such persons from their obligation to comply with other provisions of the act or regulations. The Commissioner believes that the problem of improper device use can be regulated more appropriately under the investigational device exemption authority of section 520(g) of the act (21 U.S.C. 360j(g)) and restricted device authority under section 520(e) of the act (21 U.S.C. 360j(e)). The comment is therefore rejected. The Commissioner recognizes that clinical laboratories, included in proposed § 807.65(d), generally provide a service resulting from the use of a device. He has therefore deleted reference to it in § 807.65(d), but has in-

V 42163 AUG 23 77 UMI

corporated this exemption into new § 807.65(i).

13. One comment objected that proposed § 807.65(d) exempted from registration only licensed practitioners who alter devices. The comment noted that opticians are only licensed in 19 States and that no distinction should be made between licensed and unlicensed opticians where licensing is not available.

The Commissioner advises that opticians are specifically exempted in new § 807.65(i). The Commissioner intends this exemption to apply to any optician who meets the requirements to practice in the State in which he is practicing, whether or not there is a State licensing requirement.

14. One comment agreed that dental laboratories should be exempted from registration, but noted that in proposed § 807.65(i) they are exempted as persons who dispense devices to the ultimate consumer. The comment indicated that dental laboratories are forbidden by the Federal Denture Act of 1948 (18 U.S.C. 1821) to dispense devices to the ultimate consumer.

The final regulation has been rephrased to state that persons who dispense devices to the ultimate consumer or whose major responsibility is to render a service necessary to provide a consumer with a device are exempt from registration. In addition, the Commissioner is adding to the list of examples in § 807.65(i) assemblers of diagnostic X-ray systems. While such assemblers are exempt from registration, they continue to be subject to the assembler certification (reports of assembly) requirements in 21 CFR 1020.30(d).

15. One comment suggested that proposed § 807.65(i) be clarified to indicate that opticians who own and operate full-service laboratories should be exempted from establishment registration. These opticians perform functions such as processing, surfacing, edging, finishing, heat-treating, tempering, and assembling previously manufactured lenses or frames. The comment noted that these are the ordinary functions of opticians and it is therefore presumed that it was intended that opticians who perform these functions be exempted. Another comment noted that individuals and establishments that perform the same functions as full service optical laboratories are exempted by proposed §§ 807.65(d) (licensed ophthalmologists and optometrists) and 807.65(i) (opticians). Additionally, two comments stated that the regulation should exempt all establishments engaged in the production of eyeglasses, except manufacturers of lens blanks and frames, since optometrists, opticians, and optical laboratories are not engaged in any process which involves a risk to the public health.

The Commissioner agrees with these comments, but does not believe that a change in the final regulation is necessary to reflect this position. While ophthalmologists, optometrists, and opticians are listed as examples of the types of individuals who are not required to register, the Commissioner believes that full service laboratories and similar establishments are exempted from registration. However, manufacturers of lens blanks and frames are not exempted and must register.

16. Comments suggested that proposed § 807.65 be clarified to indicate that a private labeler, who obtains a device from a manufacturer with the label already applied and who does not repackage or otherwise alter the container or label, is exempted from registration.

Paragraph (e) of this section provides an exemption for a pharmacy or similar retail establishment that purchases a device for subsequent distribution under its own name. The Commissioner intends this exemption to apply to a person who obtains a device from a manufacturer with the label already applied and who does not repackage the device or alter the container or label. The Commissioner believes that no change is necessary in the final regulation to reflect this position.

PREMARKET NOTIFICATION PROCEDURES

17. Comments asserted that FDA should not require a premarket notification submission when a person intends to reintroduce into commercial distribution a device that had once been in commercial distribution but had been subsequently discontinued. The comments stated that there is no legal or factual basis for such a requirement. One comment stated that there is nothing in the legislative history of section 510(k) of the act to substantiate the view that a discontinuance of commercial distribution before May 28, 1976, means that the device should not be considered to have been on the market prior to May 28, 1976. Another comment indicated that the House Report stated that section 510(k) of the act was "designed to insure that manufacturers do not intentionally circumvent the automatic classification of 'new' devices" (Medical Device Amendments of 1976, February 29, 1976, H.R. 94–853 at 37) and argued that this purpose would not be served by requiring a premarket notification submission for the reintroduction of a device on the market prior to May 28, 1976. An additional comment noted that no practical purpose would be served by this requirement since FDA would be notified of the reintroduction of any device under the device listing procedures of section 510(j) of the act.

The Commissioner generally agrees that it is not necessary to require a premarket notification submission for the resumption of commercial distribution of a device that was on the market and was later discontinued by the manufacturer. The owner or operator will, however, be required to report under the device listing regulations the resumption of commercial distribution of a device. The device listing regulations will be published in the FEDERAL REGISTER in the near future.

The owner or operator would not be circumventing the automatic classification of "new" devices if the device had previously been in commercial distribution and had been classified. The Commissioner cautions, however, that if the device in question has been changed or modified to the extent that a premarket notification would be required under the criteria of proposed § 807.81(a)(3), a premarket notification submission would then be required.

18. Numerous comments requested clarification or changes in proposed § 807.81(a)(3) with reference to situations requiring a premarket notification submission when a change or modification is to be made to a device already in commercial distribution. These comments stated that: (1) There is no need to require a premarket notification submission when a proposed change will increase the safety or effectiveness of the device. (2) Not every change in design, material, chemical composition, energy source, and manufacturing process is a significant change affecting the safety or effectiveness of the device and therefore a premarket notification submission should not be required for every such change. Instead, the regulation should identify what types of changes are significant enough to require a premarket notification submission. (3) The Food and Drug Administration should not require a premarket notification submission for every change in manufacturing process since too many such changes are made on a regular basis.

The Commissioner believes that FDA should be aware of and determine whether or not a change will increase the safety or effectiveness of the device. Proposed § 807.81(a)(3)(i), therefore, has been changed in the final regulation to require that a premarket notification be submitted only for changes that could significantly affect safety or effectiveness whether or not the manufacturer believes that it will increase or decrease safety or effectiveness.

The Commissioner did not intend that the owner or operator should submit a premarket notification for every change in design, material, chemical composition, energy source, or manufacturing process. This list was only intended as an example of some types of changes that often affect safety or effectiveness. The manufacturer is required to submit a premarket notification only if the change could significantly affect the safety or effectiveness of the device whether or not it is a change of one of the types given as examples. A change has been made in new § 807.81(a)(3) to indicate that premarket notification is required only if the change or modification could significantly affect the safety or effectiveness of the device or if there is a major change or modification in the intended use of the device.

Under the act, the burden is on the manufacturer to determine whether a premarket notification should be submitted for a change or modification in a device. The Commissioner believes that the manufacturer is the person best qualified to make this determination. If appropriate, FDA will notify the manufacturer that the premarket notification that was submitted need not have been submitted so that he may be aware that premarket notification is not required in such a situation. From such experiences, FDA may eventually draw some guidelines as to when a premarket notification submission is not required.

A question has been raised whether a premarket notification is required when a Firm B purchases the product line of a Company A, including the manufacturing facility for that product. The Commissioner believes that a premarket notification would not be required in that situation unless the devise has been changed or modified to the extent that the provisions of § 807.81(a)(3) would apply. Section 510(k) of the act would not apply to this situation because Firm B would not be proposing "to begin the introduction or delivery for introduction into interstate commerce for commercial distribution" of a device. Rather, Firm B would be marketing the device in place of Company A.

In such instances, FDA will be notified of a change in ownership by other means. Under new § 807.26, the owner or operator must report a change in individual ownership or corporate or partnership structure within 30 days of the change. The owner or operator will also be required to report a change in ownership under the device-listing procedures to be published as proposed regulations in the FEDERAL REGISTER in the near future.

19. A comment objected that, under proposed § 807.85, the exemption from premarket notification to be granted to custom device manufacturers would not not be allowed if the device is offered through advertising by the manufacturer importer, or distributor. The comment noted that the dissemination of this information is essential to the medical community in obtaining the medical devices needed to treat all patients.

The prohibition of advertising in § 807.85 is intended to apply only to the advertising of a particular device. It does not prohibit the custom device manufacturer from advertising that he manufactures custom devices of a particular generic type. The exemption for manufacturers of custom devices is intended to apply to only those who are customizing devices to fit the needs of a particular patient so that they will not be required to file a premarket notification for each particular device. This reasoning does not apply if the manufacturer, through advertising, is generally offering a particular device for sale. If the device is widely offered through advertising, it could not be considered a custom device.

20. The Commissioner is adding to new § 807.85 exemptions from premarket notification for a distributor who places a device in commercial distribution for the first time under his own name and for a repackager who places his own name on a device, neither of whom otherwise changes the labeling or affects the device. The exemption applies if the device was in commercial distribution before May 28, 1976, the date of enactment of the Medical Device Amendments of 1976, and is being classified. If a premarket notification was submitted by another person, another premarket notification would be a duplication and would not be necessary.

21. One comment suggested that FDA exempt from the premarket notification requirements a device that has been changed by the manufacturer if (1) the device has the intended purpose of only performing in vitro diagnostic tests; (2) the change is intended to improve the device; and (3) the change does not require a change in labeling.

The Commission disagrees with the suggestion. A change can be made to an in vitro diagnostic product which does not require a change in labeling but that is significant enough to affect the safety and effectiveness of the device. Premarket notification must be required for such a change.

22. The Commissioner has also added to new § 807.87(a) a requirement that a premarket notification submission contain the classification name of the device, if known. This name is the one used by the classification panels in the classification process under section 513 of the act. Use of the classification name will be discussed further in the preamble to the proposed device-listing regulations, which will be published in the FEDERAL REGISTER in the near future. The Food and Drug Administration will furnish a list of classification names with the device-listing forms or upon request.

The Commissioner has added to new § 807.87(b) a requirement that a premarket notification submission contain the establishment registration number, if any, of the owner or operator submitting the premarket notification. This is to be used to identify registered manufacturers. The Food and Drug Administration will provide any person who does not supply an establishment registration number in the premarket notification with appropriate instructions on establishment registration.

The Commissioner has also added to new § 807.87(e) a requirement that a premarket notification include photographs or engineering drawings where applicable. Photographs or drawings should be submitted when they will aid in understanding the operation of the device.

23. One comment noted that proposed § 807.87(c) (redesignated § 807.87(d)) required that a premarket notification submission contain a statement of the action taken to comply with the premarket approval requirements of section 515 of the act, even though under proposed § 807.81(b) a premarket notification submission is not required when a premarket approval application has been submitted for the device.

The Commissioner agrees with this comment. If a premarket approval application has been submitted, a premarket notification submission would not be required since FDA would already be advised of the intent to market. Accordingly, the requirement has been deleted from the final regulation.

24. One comment objected that under proposed § 807.87 too much information is required to be included in a premarket notification submission. The comment asserted that section 510(k) of the act was intended to require notification only and not "mini-premarket approval."

The requirements of section 510(k) of the act are intended not only to notify FDA that a device is about to be marketed but primarily to enable FDA to determine whether the device is substantially equivalent to one already in commercial distribution. The information required by § 807.87 is necessary to carry out this purpose and is not intended to be a "mini-premarket approval application."

25. Several comments asserted that FDA has no authority for the requirement in proposed § 807.87(d) (redesignated § 807.87(e)) that representative advertisements be included in the premarket notification submission; the comments stated that under section 510(j)(1)(B) of the act, FDA may only require the submission of advertisements for restricted devices. One comment noted that advertisements may not yet be available 90 days before the marketing date.

The limiting procedures of section 510(j)(1)(B) of the act apply only to the listing of devices and therefore do not limit the authority of the Commissioner to require the submission of advertising with premarket notifications under section 510(k) of the act. Section 510(k) provides that premarket notification shall be submitted in such form and manner as the Commissioner shall by regulations prescribe. The Commissioner is of the opinion that this is authority for requiring the submission of representative advertisements. The submission of advertisements is necessary to show the uses for which a device is being promoted so as to determine whether the device is substantially equivalent to a device already in commercial distribution.

26. Several comments addressed proposed § 807.87(e) (redesignated § 807.87(f)) which requires the inclusion of a statement in the premarket notification submission indicating how a device is or is not substantially equivalent to a device already in commercial distribution and data to support that statement. One comment suggested that data to support the statement should be required only if necessary since, in many cases, it will be obvious if a device is substantially equivalent. Three comments suggested that FDA define more clearly the type of data needed to support a statement that a device is substantially equivalent. Also, one comment stated that it is not appropriate to require that supporting data be included in a premarket notification submission since section 510(k) of the act is a notification provision and not a premarket approval provision.

It has been pointed out above that submission of certain information is necessary to carry out the purpose of section 510(k) of the act. From the information submitted pursuant to section 510(k) of the act, the Commissioner must

V 42163 AUG 23 77 UMI

be able to determine whether the device is substantially equivalent to one already in commercial distribution. The type of data needed to support a claim that one device is substantially equivalent to another will vary widely depending on the type of device. The Commissioner cannot make a more specific statement as to the type of information required. The information that is necessary must be determined on an individual basis. The manufacturer is best qualified to determine the type of information that should be submitted to demonstrate that his device is substantially equivalent to another device that was on the market on May 28, 1976 or is equivalent to a device that has been classified into class I or II.

The amount of data needed to support a claim of substantial equivalence also will vary widely. In some instances, the data needed to support claims of substantial equivalence will be minimal. The Commissioner therefore rejects the comments suggesting that supporting data only be required if necessary.

27. One comment objected that under proposed § 807.87(g) (redesignated § 807.87(h)), the owner or operator would have to wait an additional 90 days to market the device after submitting a new or amended premarket notification submission, when the Commissioner determines that the original submission was insufficient. The comment asserted that section 510(k) of the act does not provide for the approval or disapproval of a premarket notification submission and also does not contain any provisions that would allow the agency to keep a device off the market more than 90 days after the original filing of the premarket notification submission. One comment suggested that if the additional information requested for a premarket notification submission is submitted within 45 days of the original intended market date, the owner or operator should be allowed to market the device on the original date.

Several comments objected to the basic concept under proposed § 807.87(g) (now § 807.87(h)) that allows the Commissioner to request additional information from the owner or operator when there is insufficient information in the original premarket notification submission to determine whether the device is substantially equivalent to one already in commercial distribution. (Proposed § 807.87(g) also required that the requested information be submitted at least 90 days before the owner or operator intended to market the device.) Five comments noted that the preamble to the proposed regulation stated that the Commissioner would notify the owner or operator within 30 days if the information contained in the premarket notification submission was insufficient, but that no such statement was included in the regulation. Another comment stated that the regulation should require that FDA specify in its notification to the owner or operator exactly what information is lacking in the premarket notification submission.

As noted above, section 510(k) of the act is more than a notification provision. The Commissioner must determine whether the device about to be marketed is substantially equivalent to one already in commercial distribution. To this end, section 510(k) of the act provides that the notification shall be made in such form and manner as the Commissioner shall prescribe. The Commissioner therefore has the authority to reject a notification which does not meet the prescribed form or one which does not contain adequate information.

In most cases, the Commissioner will make any necessary request for additional information within 30 days after the original submission. However, in certain cases, the Commissioner may have to request additional information after the initial 30-day period. The Commissioner must retain this option to ensure that he obtains the information that is necessary to make a proper decision on a premarket notification. Therefore, the Commissioner rejects the comment that suggested that the regulation should require the Commissioner to request any necessary additional information within 30 days after the initial submission.

After the Commissioner requests additional information and the information is submitted, the amended premarket notification will receive expedited review and FDA will generally respond to it in far less than 90 days. However, in certain cases, the additional information may be substantial and a 90-day period may be needed to review this information. The Commissioner therefore rejects any suggestion that FDA should allow the device to be marketed less than 90 days after the submission of the additional information.

If possible the Commissioner will notify the person submitting the premarket notification of the specific information required to complete the submission. However, in some cases, this may not be possible. The Commissioner believes that the manufacturer is best qualified to show whether his product is substantially equivalent to one already on the market. The Commissioner therefore rejects the suggestion that the regulation require the Commissioner to specify exactly what information is lacking in a premarket notification submission. However, the Commissioner will provide this information to the applicant, where appropriate.

The Commissioner is adding a requirement to new § 807.87(h) stating that, if the additional information is not submitted within 30 days after it is requested, the Commissioner will consider the premarket notification submission to be withdrawn. In such cases, the device cannot be marketed unless (1) a new premarket notification is submitted and the device is declared substantially equivalent, or (2) the device is classified in class I or II pursuant to a petition filed under section 513(f)(2) of the act, or (3) the device is the subject of an approved premarket approval application under section 515 of the act.

28. The Commissioner has revised § 807.95(a) to clarify that in all cases the existence of a premarket notification submission is to be available for public disclosure upon request when a device is marketed or the manufacturer or distributor discloses his intent to market the device. This is true whether any period for confidentiality that FDA granted the notification has expired and whether the premarket notification was submitted before or after the effective date of these regulations.

The proposal did not address the possibility that the person submitting a premarket notification submission might disclose his intent to market the device, not did the proposal indicate whether FDA would respond to public information requests about whether there had been a submission for an already marketed or advertised product. The agency has no grounds for withholding information that would reveal the intent to market a device when the person submitting the premarket notification submission has revealed these marketing plans, or when marketing has already occurred. There may be instances in which a manufacturer seeks to discover whether a competitor has violated the act, by determining whether there is a premarket notification submission for a device. However, the fact that a manufacturer has not submitted such a notification is not confidential commercial information that is exempt from disclosure, however useful or interesting it might be. Handling of public information requests for premarket notification submissions is facilitated when those requests are accompanied by evidence that there has been public disclosure of the intent to market a device, or that marketing is begun, or when FDA has obtained such evidence from other sources.

The Commissioner also has clarified in § 807.95(c) the duration of confidentiality for premarket notification submissions in the three situations where submissions may be granted confidential treatment for more than 90 days. Of course, none of these provisions for continued confidentiality apply once the device is marketed or the person who submitted the premarket notification has revealed the intent to market the device.

First, if the Commissioner requests additional information regarding the device under § 807.87(h), the existence of the submissions will not be disclosed until 90 days after the agency's receipt of a complete premarket notification submission.

Second, if the Commissioner determines that the device is a class III device, it cannot be marketed without premarket approval or reclassification. When the Commissioner makes this determination, the existence of the submission will not be disclosed unless a petition for reclassification is submitted under section 513(f) of the act and its existence can be disclosed under proposed § 860.5(d). Proposed § 860.5(d) is a provision of the agency's classification regulations to be published in the FEDERAL REGISTER in the near future, and is consistent with the requirements in section 513(f)(2) of the act that FDA provide opportunity for public participation in reclassification of new devices and in section 520(c) of the act that FDA not rely on trade secrets or other confidential commercial information as the basis for reclassifying a class III device. Future FDA regulations will address the confidentiality of intent to market a device when an application for premarket approval of a device is submitted under section 515 of the act. The Commissioner believes that it will be very unlikely that the intent to market a device that is the subject of such an application would in fact be confidential, because the sponsor would almost invariably have had to reveal its marketing plans to some persons outside the company and because of the statutory requirement for advisory committee review.

Third, if the person requests, and FDA agrees, that the intent to market a device be held in confidence for more than 90 days because the person has reason to believe that the actual marketing of the device may be delayed, the Commissioner will not disclose the existence of the submission until FDA receives the required notification that the device has been put on the market or that the intent to market the device has been disclosed.

Once FDA can disclose the fact that a premarket notification submission exists, the contents of the submission (other than information protected under § 807.95(d)) will be available for public disclosure.

29. Several comments asserted that the intent to market a device should be kept confidential without the owner or operator having to request confidentiality as required by proposed § 807.95(a). The Commissioner believes that it is appropriate to require the person submitting the premarket notification submission to request that it be kept confidential. The intent to market a device will in many cases be known to persons outside the company, and the Commissioner believes that information concerning a premarket notification submission, including its existence, should be available for public disclosure, upon request, unless the person submitting it shows that the intent to market the device is confidential commercial information.

The Commissioner has revised § 807.95 to require a person submitting a certification of confidentiality to include a statement that the person understands that the submission to the government of false information is prohibited by 18 U.S.C. 1001 and 21 U.S.C. 331(q). This change underlies the importance of submitting truthful requests for confidential treatment of premarket notification submissions and thus discourages indiscriminate claims of confidentiality. The Commissioner also is requiring the person submitting the request for confidentiality to agree to notify FDA immediately if the person discloses the intent to market the device to anyone, except employees of or paid consultants to the establishment, or individuals in an advertising or law firm pursuant to commercial arrangements with appropriate safeguards for confidentiality.

30. Another comment stated that the intent to market a device should be kept confidential until the owner or operator notifies FDA of the actual marketing of the device.

The regulations have retained the provision that the existence of the premarket notification submission, and thus the contents other than trade secrets, will be kept confidential for 90 days when the person submitting it demonstrates to the agency's satisfaction that the intent to market the device is confidential. The agency believes this approach is more workable in most cases than that suggested by the comment. However, under § 807.95(b)(1)(iii) the Commissioner will keep the intent to market a device confidential until actual marketing of the device begins when this is expected to occur more than 90 days after the premarket notification if the person submitting it convinces FDA that the notification should be kept confidential until actual marketing begins and agrees to comply with certain specified conditions, including a requirement to notify the Commissioner when the device is marketed or when the person reveals the intent to market the device.

31. Other comments opposed the conditions placed on persons seeking to protect the confidentiality of a premarket notification submission. Several comments objected to the fact that proposed § 807.95 required the owner or operator to certify that he has not released the information to individuals outside the company who are not paid consultants. These comments pointed out that the owner or operator may have to release the information to investigators and scientists who are not paid. The comments also stated that the intent to market a device should be kept confidential by FDA if the intent to market is made known to individuals not in the employ of the owner or operator but who are in a confidential relationship with him and if the manufacturer has taken reasonable steps to protect the confidentiality of the information. One comment stated that the intent to market a device may necessarily be released on a confidential basis to advertising personnel and others who do not fall within the category of employees of the establishment under proposed § 807.95(a)(1) but should nevertheless be kept confidential.

The Commissioner agrees that a discussion with individuals in an advertising firm or a law firm should not be regarded as a breach of confidentiality of the intent to market a device and has revised the regulation accordingly.

32. One comment stated that material dealing with comparative literature and data to support a claim of substantial equivalence should be exempt from disclosure because it could be relevant in the event there is litigation involving patent infringement.

Under § 807.95(d), data and information submitted pursuant to the premarket notification regulations that are trade secret information shall be held as confidential. The Commissioner cannot, however, make a broad statement that all material dealing with comparative literature and data to support substantial equivalence will be considered confidential. The possibility that such information could be relevant in litigation involving patent infringement does not provide FDA with grounds for withholding the information under any exemption to the Freedom of Information Act. Although evidence that a competitor infringed a patent may be commercially useful information, it is not confidential commercial information that is entitled to confidentiality. The Commissioner notes, however, that a determination of substantial equivalence under the Federal Food, Drug, and Cosmetic Act relates to the fact that the product can lawfully be marketed without premarket approval or reclassification. This determination is not intended to have any bearing whatever on the resolution of patent infringement suits.

33. The Commissioner cautions that FDA may in the future propose revisions in the policy set forth in § 807.95. FDA currently is reviewing the procedures by which it handles requests for disclosure of information concerning the existence of a variety of submissions that are made to it, including new drug applications, new animal drug applications, and device premarket approval applications. The agency may revise its current procedures so as to acknowledge in all cases the existence of these pending submissions. Because the proper method of handling requests for data and information on device premarket notification submissions involves many of the same issues that are involved in requests for information on new drug applications and similar applications, § 807.95 may eventually be revised in future regulations in light of the agency's decisions on how all such related submissions should be handled.

The Commissioner has had to decide how to handle public information requests for premarket notification submissions received before the effective date of these regulations. Freedom of information requests have been received for such premarket notification submissions review by FDA. There is no question about the agency's handling of these requests where FDA knows, either from the public information requests or from other sources, that the device has been put on the market or the intent to do so has been disclosed: The existence of the notification and its contents, other than any bona fide trade secrets, are disclosable. More difficult questions arise in situations in which FDA simply does not know whether a device that was the subject of a submission has been put on the market or the intent to do so has been disclosed. Therefore, as discussed below, FDA is requiring, by October 25, 1977, submission of justification for continued confidential treatment for most premarket approval notifications re-

V 42163 AUG 23 77 UMI

ceived before the effective date of the regulation.

The following describes how FDA is dealing with requests concerning premarket notification submissions received before September 22, 1977, the effective date of the regulations:

a. The existence of the premarket notification submission and its contents, other than bona fide trade secrets, shall be available for public disclosure if the device has been marketed or if the intent to market the device has been disclosed.

b. During the 90 days after the submission of a premarket notification submission, FDA will treat the existence of the submission and its contents as confidential unless the agency has information that the device has been marketed or the intent to market the device has been disclosed.

c. If the submission indicated that marketing was not expected for more than 90 days, and requested confidential treatment until marketing began, and included an agreement to notify FDA when marketing began, FDA will treat the existence of the submission and its contents as confidential unless the agency has information that the device has been marketed or the intent to do so has been disclosed. If much time has elapsed since the expiration of the 90-day notification period, FDA will make reasonable efforts to determine whether a device which was the subject of a submission has been put on the market or the intent to market the device has been disclosed.

d. Any premarket notification submission received before the effective date of the regulations shall be available for public disclosure 90 days after its receipt by FDA except to the extent that the person who submitted the submission demonstrates by October 21, 1977, that the existence of the submission and its contents are still entitled to confidentiality. Where the FDA receives a public information request for a submission more than 90 days after the submission's receipt, but before October 21, 1977, FDA will make reasonable efforts to determine whether the device has been put on the market or the intent to market the device has been disclosed. A person who seeks to demonstrate that the existence of a submission is still confidential should submit the necessary documentation to the Food and Drug Administration, Bureau of Medical Devices (HFK-20), 8757 Georgia Ave., Silver Spring, Md. 20910. This documentation should indicate whether the device has not been marketed or the intent to do has not been disclosed except to employees of or paid consultants to the establishment, or to individuals in an advertising or law firm pursuant to commercial arrangements with appropriate safeguards for secrecy.

e. Where a public information request is made concerning a premarket notification submission and there is no submission or there is a submission whose existence is confidential under b, c, or d above, FDA will respond to the request by indicating that no submission described in the request has been received that is disclosable, and that FDA cannot indicate whether a submission has been received.

f. To determine whether the intent to market a device has been disclosed, FDA is applying the rules in § 807.95.

Therefore, under the Federal Food, Drug and Cosmetic Act (secs. 301(p), 501, 502, 510, 701(a), 52 Stat. 1049–1051 as amended, 1055, 86 Stat. 562, 90 Stat. 576–580 (21 U.S.C. 331(p), 351, 352, 360, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner is amending Chapter I of Title 21 of the Code of Federal Regulations as follows:

PART 20—PUBLIC INFORMATION

1. By amending § 20.100 by redesignating paragraph (c)(28) as paragraph (c)(29). As revised, paragraph (c)(28) and (29) reads as follows:

§ 20.100 Applicability; cross reference to other regulations.

* * * * *

(c) * * *

(28) Device premarket notification submissions, in § 807.95 of this chapter.

(29) Electronic product information, in §§ 1002.4 and 1002.42 of this chapter.

2. By revising § 20.116 to read as follows:

§ 20.116 Drug and device listing information.

Information submitted to the Food and Drug Administration pursuant to section 510 (a)–(j) of the act shall be subject only to the special disclosure provisions established in §§ 207.37 and 807.37 of this chapter.

PART 25—ENVIRONMENTAL IMPACT CONSIDERATIONS

3. By amending § 25.1 in paragraph (d), by revising paragraph (d)(4) and (5) and adding new paragraph (d)(6), to read as follows:

§ 25.1 Applicability.

* * * * *

(d) * * *

(4) Issuance or amendment of food standards;

(5) Investigational new drug applications and investigational new animal drug applications, unless the agency notifies the applicant that one is required; and

(6) Device premarket notifications submissions.

* * * * *

PART 807—ESTABLISHMENT REGISTRATION FOR MANUFACTURERS OF DEVICES

4. By adding new Part 807 to read as follows:

Subpart A—General Provisions

Sec.
807.3 Definitions.

Subpart B—Procedures for Domestic Device Establishments

807.20 Who must register.
807.21 Times for establishment registration.
807.22 How and where to register establishments.
807.25 Information required or requested for establishment registration.
807.26 Amendments to establishment registration.
807.35 Notification of registrant.
807.37 Inspection of establishment registrations.
807.39 Misbranding by reference to establishment registration or to registration number.

Subpart C—Registration Procedures for Foreign Device Establishments

807.40 Establishment registration for foreign manufacturers of devices.

Subpart D—Exemptions

Sec.
807.65 Exemption for device establishments.

Subpart E—Premarket Notification Procedures

807.81 When a premarket notification submission is required.
807.85 Exemption from premarket notification.
807.87 Information required in a premarket notification submission.
807.90 Format of a premarket notification submission.
807.95 Confidentiality of information.
807.97 Misbranding by reference to premarket notification.

AUTHORITY: Secs. 301(p), 501, 502, 510, 701(a), 52 Stat. 1049–1051 as amended, 1055, 76 Stat. 794 as amended, 86 Stat. 562 as amended, 90 Stat. 576–580 (21 U.S.C. 331(p), 351, 352, 360, 371(a)).

Subpart A—General Provisions

§ 807.3 Definitions.

(a) "Act" means the Federal Food, Drug, and Cosmetic Act.

(b) "Commercial distribution" means any distribution of a device intended for human use which is held or offered for sale but does not include the following:

(1) Internal or interplant transfer of a device between establishments within the same parent, subsidiary, and/or affiliate company;

(2) Any distribution of a device intended for human use which has in effect an approved exemption for investigational use pursuant to section 520(g) of the act and Part 812 of this chapter; or

(3) Any distribution of a device, before the effective date of Part 812 of this chapter, that was not introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, and that is classified into class III under section 513(f) of the act: *Provided*, That the device is intended solely for investigational use, and under section 501(f)(2)(A) of the act the device is not required to have an approved premarket approval application as provided in section 515 of the act.

(c) "Establishment" means a place of business under one management at one general physical location at which a device is manufactured, assembled, or otherwise processed.

(d) "Manufacture, preparation, propagation, compounding, assembly, or processing" of a device means the making by chemical, physical, biological, or other procedures of any article that meets the definition of device in section 201(h) of the act. These terms include the following activities:

(1) Repackaging or otherwise changing the container, wrapper, or labeling of any device package in furtherance of the distribution of the device from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer;

(2) Initial distribution of imported devices; or

(3) Initiation of specifications for devices that are manufactured by a second party for subsequent commercial distribution by the person initiating specifications.

(e) "Official correspondent" means the person designated by the owner or operator of an establishment as responsible for the following:

(1) The annual registration of the establishment;

(2) Contact with the Food and Drug Administration for device listing;

(3) Maintenance and submission of a current list of officers and directors to the Food and Drug Administration upon the request of the Commissioner; and

(4) The receipt of pertinent correspondence from the Food and Drug Administration directed to and involving the owner or operator and or any of the firm's establishments.

(f) "Owner or operator" means the corporation, subsidiary, affiliated company, partnership, or proprietor directly responsible for the activities of the registering establishment.

(g) "Distributor" means any person who furthers the marketing of a device from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer or user but who does not repackage or otherwise change the container, wrapper, or labeling of the device or device package.

(h) Any term defined in section 201 of the act shall have that meaning.

Subpart B—Procedures for Domestic Device Establishments

§ 807.20 Who must register.

(a) Any owner or operator of an establishment not exempt under section 510(g) of the act or Subpart D of this part who is engaged in the manufacture, preparation, propagation, compounding, assembly, or processing of a device intended for human use is required to register. The term device includes all in vitro diagnostic products and in vitro diagnostic biological products not subject to licensing under section 351 of the Public Health Service Act. Such owner or operator is required to register his name, places of business, and all such establishments whether or not the output of such establishments enter interstate commerce. The registration requirements shall pertain to any person who:

(1) Initiates or develops specifications for a device that is to be manufactured by a second party for commercial distribution by the person initiating specifications;

(2) Manufactures for commercial distribution a device either for himself or for another person;

(3) Repackages or relabels a device;

(4) Initially distributes a device imported into the United States; or

(5) Manufactures components or accessories which are ready to be used for any intended health-related purpose and are packaged or labeled for commercial distribution for such health-related purpose, e.g., blood filters, hemodialysis tubing, or devices which of necessity must be further processed by a licensed practitioner or other qualified person to meet the needs of a particular patient, e.g., a manufacturer of ophthalmic lens blanks.

(b) No registration fee is required. Registration does not constitute an admission of agreement or determination that a product is a "device" within the meaning of section 201(h) of the act.

§ 807.21 Times for establishment registration.

The owner or operator of an establishment entering into, or currently engaged in, an operation defined in § 807.3(c) and not currently registered shall register the establishment by September 22, 1977. The owner or operator of an establishment who has not previously entered into an operation defined in § 807.3(c) shall register within 30 days after entering into such an operation. Owners or operators of all establishments shall update their registration information annually between November 15 and December 31.

§ 807.22 How and where to register establishments.

The first registration of a device establishment shall be on Form FD–2891 (Initial Registration of Device Establishment). Forms are obtainable on request from the Department of Health, Education, and Welfare, Food and Drug Administration, Bureau of Medical Devices (HFK–124), 8757 Georgia Ave., Silver Spring, MD 20910, or from the Food and Drug Administration district offices. Subsequent annual registration shall be accomplished on Form FD–2891(a) (Registration of Device Establishment) which will be furnished by the Food and Drug Administration before November 15 of each year to establishments whose registration for that year was validated pursuant to § 807.35(a). The completed form shall be mailed to the above address before December 31 of that year.

§ 807.25 Information required or requested for establishment registration.

(a) Form FD–2891 and Form FD–2891(a) are the approved forms for initially providing the information required by the act and for providing annual registration, respectively. The required information includes the name and street address of the device establishment, including post office ZIP Code, all trade names used by the establishment, and the business trading name of the owner or operator of such establishment.

(b) The owner or operator shall identify the device activities of the establishment such as manufacturing, repackaging, or distributing of imported devices and identify any other FDA registries in which the establishment is registered.

(c) Each owner or operator is required to maintain a listing of all officers, directors, and partners for each establishment he registers and to furnish this information to the Food and Drug Administration upon request.

(d) Each owner or operator shall provide the name of an official correspondent who will serve as a point of contact between the Food and Drug Administration and the establishment for matters relating to the registration of device establishments and the listing of device products. All future correspondence relating to registration, including requests for the names of partners, officers, and directors, will be directed to this official correspondent. In the event no person is designated by the owner or operator, the owner or operator of the establishment will be the official correspondent.

(e) The designation of an official correspondent does not in any manner affect the liability of the owner or operator of the establishment or any other individual under section 301(p) or any other provision of the act.

§ 807.26 Amendments to establishment registration.

Changes in individual ownership, corporate or partnership structure, or location of an operation defined in § 807.3(c) shall be submitted on Form FD–2891(a). This information shall be submitted within 30 days of such changes. Changes in the names of officers and or directors of the corporation(s) shall be filed with the establishment's official correspondent and shall be provided to the Food and Drug Administration upon receipt of a written request for this information.

§ 807.35 Notification of registrant.

(a) The Commissioner will provide to the official correspondent, at the address listed on the form, a validated copy of Form FD–2891 or Form FD–2891(a) (whichever is applicable) as evidence of registration. A permanent registration number will be assigned to each device establishment registered in accordance with these regulations.

(b) Owners and operators of device establishments who also manufacture or process blood or drug products at the same establishment shall also register with the Bureau of Biologics and Bureau of Drugs, as appropriate. Blood products shall be listed with the Bureau of Biologics, Food and Drug Administration, pursuant to Part 607 of this chapter; drug products shall be listed with the Bureau of Drugs, Food and Drug Administration, pursuant to Part 207 of this chapter.

(c) Although establishment registration is required to engage in the device activities described in § 807.20, validation of registration in itself does not establish that the holder of the registration is legally qualified to deal in such devices and does not represent a determination by the Food and Drug Administration as to the status of any device.

§ 807.37 Inspection of establishment registrations.

A copy of the Form FD–2891 and FD–2891(a), filed by the registrant, will be available for inspection pursuant to § 510(f) of the act, at the Department of Health, Education, and Welfare, Food and Drug Administration, Bureau of Medical Devices (HFK–124), 8757 Georgia Ave., Silver Spring, MD 20910. In addition, there will be available for inspection at each of the Food and Drug Administration district offices the same information for firms within the geographical area of such district office.

V 42163 AUG 23 77 UMI

Upon request and receipt of a self-addressed stamped envelope, verification of registration number or location of a registered establishment will be provided.

§ 807.39 Misbranding by reference to establishment registration or to registration number.

Registration of a device establishment or assignment of a registration number does not in any way denote approval of the establishment or its products. Any representation that creates an impression of official approval because of registration or possession of a registration number is misleading and constitutes misbranding.

Subpart C—Registration Procedures for Foreign Device Establishments

§ 807.40 Establishment registration for foreign manufacturers of devices.

Foreign device establishments that export devices into the United States are requested to register in accordance with the procedures of Subpart B of this part, unless exempt under Subpart D of this part.

Subpart D—Exemptions

§ 807.65 Exemptions for device establishments.

The following classes of persons are exempt from registration in accordance with § 807.20 under the provisions of section 510(g) (1), (2), and (3) of the act, or because the Commissioner has found, under section 510(g) (4) of the act, that such registration is not necessary for the protection of the public health:

(a) A manufacturer of raw materials or components to be used in the manufacture or assembly of a device who would otherwise not be required to register under the provisions of this part.

(b) A manufacturer of devices to be used solely for veterinary purposes.

(c) A manufacturer of general purpose articles such as chemical reagents or laboratory equipment whose uses are generally known by persons trained in their use and which are not labeled or promoted for medical uses.

(d) Licensed practitioners, including physicians, dentists, and optometrists, who manufacture or otherwise alter devices solely for use in their practice.

(e) Pharmacies, surgical supply outlets, or other similar retail establishments dispensing or selling devices in the regular course of business at the retail level. This exemption also applies to a pharmacy or other similar retail establishment that purchases a device for subsequent distribution under its own name, e.g., a properly labeled health aid such as an elastic bandage or crutch, indicating "distributed by" or "manufactured for" followed by the name of the pharmacy.

(f) Persons who manufacture, prepare, propagate, compound, or process devices solely for use in research, teaching, or analysis and do not introduce such devices into commercial distribution.

(g) Persons who handle devices but make no revisions to such devices or their immediate containers, such as wholesalers or warehousers.

(h) Carriers by reason of their receipt, carriage, holding or delivery of devices in the usual course of business as carriers.

(i) Persons who dispense devices to the ultimate consumer or whose major responsibility is to render a service necessary to provide the consumer (i.e., patient, physician, layman, etc.) with a device or the benefits to be derived from the use of a device; for example, a hearing aid dispenser, optician, clinical laboratory, assembler of diagnostic X-ray systems, and personnel from a hospital, clinic, dental laboratory, orthotic or prosthetic retail facility, whose primary responsibility to the ultimate consumer is to dispense or provide a service through the use of a previously manufactured device.

Subpart E—Premarket Notification Procedures

§ 807.81 When a premarket notification submission is required.

Except as provided in paragraph (b) of this section, each person who is required to register his establishment pursuant to § 807.20 must submit a premarket notification submission to the Food and Drug Administration at least 90 days before he proposes to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a device intended for human use which meets any of the following criteria:

(1) The device is being introduced into commercial distribution for the first time; that is the device is not of the same type as, or is not substantially equivalent to, (i) a device in commercial distribution before May 28, 1976, or (ii) a device introduced for commercial distribution after May 28, 1976, that has subsequently been reclassified into class I or II.

(2) The device is being introduced into commercial distribution for the first time by a person required to register, whether or not the device meets the criteria in paragraph (a) (1) of this section.

(3) The device is one that the person currently has in commercial distribution or is reintroducing into commercial distribution, but that is about to be significantly changed or modified in design, components, method of manufacture, or intended use. The following constitute significant changes or modifications that require a premarket notification:

(i) A change or modification in the device that could significantly affect the safety or effectiveness of the device, e.g., a significant change or modification in design, material, chemical composition, energy source, or manufacturing process.

(ii) A major change or modification in the intended use of the device.

(b) A premarket notification under this subpart is not required for a device for which a premarket approval application under section 515 of the act, or for which a petition to reclassify under section 513(f) (2) of the act, is pending before the Food and Drug Administration.

(c) In addition to complying with the requirements of this part, owners or operators of device establishments that manufacture radiation-emitting electronic products, as defined in § 1000.3 of this chapter, shall comply with the reporting requirements of Part 1002 of this chapter.

§ 807.85 Exemption from premarket notification.

(a) A device is exempt from the premarket notification requirements of this subpart if the device intended for introduction into commercial distribution is not generally available in finished form for purchase and is not offered through labeling or advertising by the manufacturer, importer, or distributor thereof for commercial distribution, and the device meets one of the following conditions:

(1) It is intended for use by a patient named in the order of the physician or dentist (or other specially qualified person); or

(2) It is intended solely for use by a physician or dentist (or other specially qualified person) and is not generally available to, or generally used by, other physicians or dentists (or other specially qualified persons).

(b) A distributor who places a device into commercial distribution for the first time under his own name and a repackager who places his own name on a device and does not change any other labeling or otherwise affect the device shall be exempted from the premarket notification requirements of this subpart if:

(1) The device was in commercial distribution before May 28, 1976; or

(2) A premarket notification submission was filed by another person.

§ 807.87 Information required in a premarket notification submission.

Each premarket notification submission shall contain the following information:

(a) The device name, including both the trade or proprietary name and the common or usual name or classification name of the device.

(b) The establishment registration number, if applicable, of the owner or operator submitting the premarket notification submission.

(c) The class in which the device has been put under section 513 of the act and, if known, its appropriate panel; or, if the owner or operator determines that the device has not been classified under such section, a statement of that determination and the basis for the person's determination that the device is not so classified.

(d) Action taken by the person required to register to comply with the requirements of the act under section 514 for performance standards.

(e) Proposed labels, labeling, and advertisements sufficient to describe the device, its intended use, and the directions for its use. Where applicable, photographs or engineering drawings should be supplied.

(f) A statement indicating the device is similar to and/or different from other products of comparable type in commercial distribution, accompanied by data to support the statement. This information may include an identification of similar products, materials, design and considerations, energy expected to be used or delivered by the device, and a description of the operational principles of the device.

(g) Where a person required to register intends to introduce into commercial distribution a device that has undergone a significant change or modification that could significantly affect the safety or effectiveness of the device, or the device is to be marketed for a new or different indication for use, the premarket notification submission must include appropriate supporting data to show that the manufacturer has considered what consequences and effects the change or modification or new use might have on the safety and effectiveness of the device.

(h) Any additional information regarding the device requested by the Commissioner that is necessary for the Commissioner to make a finding as to whether or not the device is substantially equivalent to a device in commercial distribution. A request for additional information will advise the owner or operator that there is insufficient information contained in the original premarket notification submission for the Commissioner to make this determination and that the owner or operator may either submit the requested data or a new premarket notification containing the requested information at least 90 days before the owner or operator intends to market the device, or submit a premarket approval application in accordance with section 515 of the act. If the additional information is not submitted within 30 days following the date of the request, the Commissioner will consider the premarket notification to be withdrawn.

§ 807.90 Format of a premarket notification submission.

Each premarket notification submission pursuant to this part shall be submitted in accordance with this section. Each submission shall:

(a) Be addressed to the Food and Drug Administration, Bureau of Medical Devices (HFK-20), 8757 Georgia Ave., Silver Spring, Md. 20910. All inquiries regarding a premarket notification submission should be in writing and sent to the above address.

(b) Be bound into a volume or volumes, where necessary.

(c) Be submitted in duplicate on standard size paper, including the original and two copies of the cover letter.

(d) Be submitted separately for each product the manufacturer intends to market.

(e) Designated "510(k) Notification" in the cover letter.

§ 807.95 Confidentiality of information.

(a) The Food and Drug Administration will disclose publicly whether there exists a premarket notification submission under this part:

(1) Where the device is on the market, i.e., introduced or delivered for introduction into interstate commerce for commercial distribution;

(2) Where the person submitting the premarket notification submission has disclosed, through advertising or any other manner, his intent to market the device to scientists, market analysts, exporters, or other individuals who are not employees of, or paid consultants to, the establishment and who are not in an advertising or law firm pursuant to commercial arrangements with appropriate safeguards for secrecy; or

(3) Where the device is not on the market and the intent to market the device has not been so disclosed, except where the submission is subject to an exception under paragraph (b) or (c) of this section.

(b) The Food and Drug Administration will not disclose publicly the existence of a premarket notification submission for a device that is not on the market and where the intent to market the device has not been disclosed for 90 days from the date of receipt of the submission, if:

(1) The person submitting the premarket notification submission requests in the submission that the Food and Drug Administration hold as confidential commercial information the intent to market the device and submits a written certification to the Commissioner:

(i) That the person considers his intent to market the device to be confidential commercial information;

(ii) That neither the person nor, to the best of his knowledge, anyone else, has disclosed through advertising or any other manner, his intent to market the device to scientists, market analysts, exporters, or other individuals, except employees of, or paid consultants to, the establishment or individuals in an advertising or law firm pursuant to commercial arrangements with appropriate safeguards for secrecy;

(iii) That the person will immediately notify the Food and Drug Administration if he discloses the intent to market the device to anyone, except employees of, or paid consultants to, the establishment or individuals in an advertising or law firm pursuant to commercial arrangements with appropriate safeguards for secrecy;

(iv) That the person has taken precautions to protect the confidentiality of the intent to market the device; and

(v) That the person understands that the submission to the government of false information is prohibited by 18 U.S.C. 1001 and 21 U.S.C. 331(q); and

(2) The Commissioner agrees that the intent to market the device is confidential commercial information.

(c) Where the Commissioner determines that the person has complied with the procedures described in paragraph (b) of this section with respect to a device that is not on the market and where the intent to market the device has not been disclosed, and the Commissioner agrees that the intent to market the device is confidential commercial information, the Commissioner will not disclose the existence of the submission for 90 days from the date of its receipt by the agency. In addition, the Commissioner will continue not to disclose the existence of such a submission for the device for an additional time when any of the following occurs:

(1) The Commissioner requests in writing additional information regarding the device pursuant to § 807.87(g), in which case the Commissioner will not disclose the existence of the submission until 90 days after the Food and Drug Administration's receipt of a complete premarket notification submission;

(2) The Commissioner determines that the device intended to be introduced is a class III device and cannot be marketed without premarket approval or reclassification, in which case the Commissioner will not disclose the existence of the submission unless a petition for reclassification is submitted under section 513(f)(2) of the act and its existence can be disclosed under § 860.5(d) of this chapter; or

(3) The person has requested in the premarket notification submission that the Commissioner protect the confidentiality of the intent to market a device for more than 90 days from the date of receipt of the premarket notification submission by the Food and Drug Administration, and the Commissioner determines that the person has reason to believe that the actual introduction of the device to the market may take longer than 90 days, and the person agrees in a written certification to provide the Commissioner with written notification immediately if the device is put on the market or the intent to market is disclosed. In this case the Commissioner will not disclose the existence of the submission until the Food and Drug Administration's receipt of notification by the person that the device has been put on the market or that the intent to market the device has been disclosed.

(d) Data or information submitted with, or incorporated by reference in, a premarket notification submission (other than safety and effectiveness data that have not been disclosed to the public) shall be available for disclosure by the Food and Drug Administration when the intent to market the device is no longer confidential in accordance with this section, unless exempt from public disclosure in accordance with Part 20 of this chapter. Upon final classification, data and information relating to safety and effectiveness of a device classified in class I (general controls) or class II (performance standards) shall be available for public disclosure. Data and information relating to safety and effectiveness of a device classified in class III

V 4216 3 AUG 23 77 UMI V

(premarket approval) that have not been released to the public shall be retained as confidential unless such data and information become available for release to the public under § 860.5(d) or other provisions of this chapter.

§ 807.97 Misbranding by reference to premarket notification.

Submission of a premarket notification in accordance with this subpart, and a subsequent determination by the Commissioner that the device intended for introduction into commercial distribution is substantially equivalent to a device in commercial distribution before May 28, 1976, or is substantially equivalent to a device introduced into commercial distribution after May 28, 1976, that has subsequently been reclassified into class I or II, does not in any way denote official approval of the device. Any representation that creates an impression of official approval of a device because of complying with the premarket notification regulations is misleading and constitutes misbranding.

PART 809—IN VITRO DIAGNOSTIC PRODUCTS FOR HUMAN USE

§ 809.20 [Amended]

2. In Part 809, § 809.20 *General requirements for manufacturers and producers of in vitro diagnostic products* is amended by deleting paragraph (a) and designating it "reserved."

Effective date: This regulation shall be effective September 22, 1977.

(Secs. 301(p), 501, 502, 510, 701(a), 52 Stat. 1049–1051 as amended, 1055, 76 Stat. 794 as amended, 88 Stat. 562 as amended, 90 Stat. 576–580 (21 U.S.C. 331(p), 351, 352, 360, 371 (a)).)

Dated: August 12, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc.77-24147 Filed 8-22-77;8:45 am]

federal register

TUESDAY, AUGUST 23, 1977

PART IV



GENERAL SERVICES ADMINISTRATION

Office of the Federal Register

■

NATIONAL FIRE CODES

Proposed Revision of Fire Safety Standards

federal register

V42163 AUG 23 77 UMI

GENERAL SERVICES ADMINISTRATION

Office of the Federal Register

NATIONAL FIRE CODES

Proposed Revision of Standards

AGENCY: Office of the Federal Register, GSA.

ACTION: Notice and invitation for comment.

SUMMARY: The Office of the Federal Register is publishing these proposed changes to the fire safety standards developed by the National Fire Protection Association to inform the general public and invite comments from interested persons. The standards are frequently used as the basis for Federal Regulations concerning fire safety and are published in the public interest.

DATES: Comments due on or before November 7, 1977. Annual Meeting: May 15–18, 1978.

ADDRESS: Assistant Vice President of Standards, 470 Atlantic Avenue, Boston, Massachusetts 02210.

FOR FURTHER INFORMATION CONTACT:

Martha Girard, 202–523–5240.

SUPPLEMENTARY INFORMATION: Standards developed by the technical committees of the National Fire Protection Association (NFPA) have been used by various Federal agencies as the basis for Federal regulations. Often, this has been accomplished through incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. The NFPA standards are known collectively as the National Fire Codes.

Revisions of existing standards and adoption of new standards are reported by the technical committees at the NFPA's Fall meeting in November or at the Annual Meeting in May of each year. The NFPA invites public comment on its technical committee reports.

Action at the NFPA Annual Meeting in May, 1978 is being proposed on the NFPA standards listed below:

NFPA 1978 annual meeting technical committee reports

	Title	Type of action
NFPA No.:		
10	Installation, maintenance and use of portable fire extinguishers.	O-P
11	Foam extinguishing systems.	O-P
13E	Fire department operations in properties protected by sprinkler and standpipe systems.	O-P
14	Installation of standpipe and hose systems.	O-P
20	Installation of centrifugal fire pumps.	O-P
56A	Use of inhalation anesthetics.	O-C
72E	Automatic fire detectors.	O-P
74	Installation, maintenance and use of household fire warning equipment.	O-P
85B	Prevention of furnace explosions in natural gas-fire multiple burner boiler-furnaces.	O-P
85D	Prevention of furnace explosions in fuel oil-fired multiple burner boiler-furnaces.	O-P
85E	Prevention of furnace explosions in pulverized coal-fired multiple burner boiler-furnaces.	O-P
85F (formerly NFPA 60).	Installation and operation of pulverized fuel systems.	O-C
85G	Prevention of furnace explosions in multiple burner, boiler-furnaces.	N-O
253	Radiant panel fire test for floor covering.	N-O
254	Chamber method of fire test for floor covering.	N-O
302	Motor craft (pleasure and commercial).	O-C
505	Powered industrial trucks including type designations and areas of use.	O-P
512	Truck fire protection.	O-P
518	Motor freight terminals.	O-P
604	Salvaging operations.	W
1141	Fire prevention and protection measures in planned building groups.	N-O
1221 (formerly NFPA 73).	Installation, maintenance and use of public fire service communications.	O-P

TYPES OF ACTION

Proposed action on official documents
- O-P—Partial Amendments
- O-C—Complete Revision
- O-T—Tentative Revision

Proposed action on new documents
- N-T—Tentative Adoption
- N-O—Official Adoption

Proposed action on tentative documents
- T-P—Partial Amendments
- T-C—Complete Revision
- T-O—Official Adoption

Other proposed action
- R—Reconfirmation
- W—Withdrawal

Single copies of the 1978 Annual Technical Committee Reports are available at no charge from the National Fire Protection Association. Publications Department, 470 Atlantic Avenue, Boston, Mass. 02210. The Reports will be mailed during the week of August 29, 1977.

Interested persons may participate in these revisions by submitting written data, views, or arguments to the Assistant Vice President-Standards, NFPA, 470 Atlantic Avenue, Boston, Mass 02210. Commenters should use the forms provided for comments in the Technical Committee Reports. Each person submitting a comment should include his name and address, identify the notice, and give reasons for any recommendations. Comments received on or before November 7, 1977 will be considered by the NFPA before final action is taken on the proposals.

Copies of all written comments received and the disposition of those comments by the NFPA committees will be published as the technical Committee Documentation by March 20, 1978, prior to the Annual Meeting. A copy of the Technical Committee Documentation will be sent automatically to each commenter. Action on the Technical Committee Reports (adoption or rejection) will be taken at the Annual Meeting, May 15 through 18, 1978, at the Disneyland Hotel, Anaheim, California, by NFPA members who are members of record 30 (thirty) days prior to that meeting.

Copies of the Technical Committee Reports and Technical Committee Documentation, when published, will also be available for review at the Office of the Federal Register, 1100 L Street NW., Washington, D.C.

FRED J. EMERY,
Director, Office of the Federal Register.

[FR Doc.77-24266 Filed 8-22-77;8:45 am]

V 42 163 AUG 23 77 UMI

federal register

TUESDAY, AUGUST 23, 1977
PART V



DEPARTMENT OF THE TREASURY

Comptroller of the Currency

■

ACCRUAL OF BOND DISCOUNT AND ACQUISITION OF NATIONAL BANK STOCK BY EMPLOYEE BENEFIT TRUST

Interpretive Rulings Rescinded

V42163 AUG 23 77 UMI

Title 12—Banks and Banking

CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 7—INTERPRETIVE RULINGS

Acquisition of National Bank Stock by Bank's Employee Benefit Trust

AGENCY: Comptroller of the Currency.

ACTION: Rescission of rule.

SUMMARY: The Comptroller's interpretive ruling (12 CFR 7.7595) concerning the acquisition of national bank stock by an employee profit sharing or pension trust of the same bank is being rescinded because it no longer accurately states the conditions under which such stock may be purchased.

EFFECTIVE DATE: August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Dean E. Miller, Deputy Comptroller for Trust Operations, Comptroller of the Currency, Washington, D.C. 20219 (202–447–1731).

SUPPLEMENTARY INFORMATION: The Comptroller has determined that 12 CFR 7.7595, an interpretive ruling concerning the acquisition of national bank stock by the bank's own employee profit sharing or pension trust, no longer accurately describes the conditions under which such stock may be purchased. Further, the requirement that national banks report such acquisitions has proven to be of minimal assistance in viewing the condition of the respective trust departments and is therefore being discontinued. The legality of such acquisitions has been and will continue to be the subject of review by the Comptroller's examining personnel.

DRAFTING INFORMATION

The principal drafters of this document were Dean E. Miller, Deputy Comptroller for Trust Operations and Richard H. Neiman, Staff Attorney.

RESCISSION OF RULING

§ 7.7595 [Rescinded]

Accordingly, 12 CFR Part 7 is amended by rescinding § 7.7595.

Dated: August 12, 1977.

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc.77-24311 Filed 8-22-77;8:45 am]

PART 7—INTERPRETIVE RULINGS

Reporting of Bond Discount

AGENCY: Comptroller of the Currency.

ACTION: Rescission of rule.

SUMMARY: This amendment rescinds 12 CFR 7.7550, an interpretive ruling permitting banks the option to accrue bond discount. The ruling is being rescinded because it has been superseded by the "Instructions for the Preparation of Consolidated Reports of Condition and Reports of Income by National Banking Associations", revised March, 1976, which eliminates the option as to banks with resources in excess of $25 million.

EFFECTIVE DATE: August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Gary M. Eiserman, Senior Accountant, Securities Disclosure Division, Office of the Comptroller of the Currency, Washington, D.C. 20219. 202–447–1954.

SUPPLEMENTARY INFORMATION: The Comptroller is rescinding 12 CFR 7.7550, an interpretive ruling permitting banks the option to report bond discount either on the accrual or cash basis of accounting. The ruling has been superseded by the "Instructions for the Preparation of Consolidated Reports of Condition and Reports of Income by National Banking Associations" which was revised in March, 1976. The "Instructions" eliminate, as to banks with resources exceeding $25 million, the option contained in 12 CFR 7.7550 and require that such discount be accrued. However, the "Instructions" retain the option as to banks with resources of less than $25 million and permit them to report bond discount either on the accrual or cash basis of accounting.

DRAFTING INFORMATION

The principal drafters of this document were Gary M. Eiserman, Senior Accountant and Richard H. Neiman, Staff Attorney.

RESCISSION OF RULING

§ 7.7550 [Rescinded]

In consideration of the foregoing, 12 CFR Part 7 is amended by rescinding § 7.7550.

Dated: August 11, 1977.

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc. 77-24310 Filed 8-22-77;8:45 am]

V42163 AUG 23 77 UMI

federal register

TUESDAY, AUGUST 23, 1977
PART VI

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

■

STATE AND FEDERAL CONFLICT OF INTEREST PROVISIONS

Proposed Rules

V42163 AUG 23 77 UMI V

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[30 CFR Parts 2170 and 2171]

STATE AND FEDERAL CONFLICT OF INTEREST PROVISIONS

Proposed Rules

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The proposed regulations in Part 2170 establish the conflict of interest provisions applicable to employees of the State regulatory authority performing any function or duty under the Surface Mining Control and Reclamation Act of 1977 in order for the State to be eligible for reimbursements or grants under the Act. The proposed regulations in Part 2171 establish the conflict of interest provisions which Federal employees performing any function or duty under the Act must meet in order to be in compliance with the Act. These regulations are intended to provide the methods by which conflict of interest situations involving employees performing under the Act can be identified and remedied.

DATES: Comments must be received before September 23, 1977.

ADDRESS: Comments should be addressed to: Director, Office of Surface Mining Reclamation and Enforcement, United States Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Gene Fredriksen or Gabe Paone, Office of Audit and Investigation, U.S. Department of the Interior, Washington, D.C. 20240, AC 202 343-5916.

SUPPLEMENTARY INFORMATION: Section 201(f) and 517(g) of the Act make it a crime for employees performing any function or duty under the Act to knowingly have a direct or indirect financial interest in any coal mining operation. The Act further directs the Secretary to publish regulations which establish methods for monitoring and enforcing the prohibition, including provisions for the filing and review of financial interest statements.

The Secretary proposes these regulations recognizing the clear Congressional intent that affected employees maintain the highest standards of honesty, integrity and impartiality to avoid even the appearance of conflict of interest.

The concept that affected employees would simply certify that they did not have a direct or indirect financial interest in any coal mining operations was discarded as legally insufficient to sustain criminal prosecutions. Instead, covered employees are required to submit a detailed statement of employment and financial interests to appropriate officials for review. Based on the criteria in these regulations, the reviewing official will determine whether a conflict of interest exists and what the proper remedial action should be.

The direct or indirect financial interests of an employee's spouse, minor child, or other relatives who are full-time members of the employee's home are considered to be the financial interests of the employee. Disclosure of these interests will bring to the review's attention any direct or indirect financial interests in coal mining operations which the employee may be deriving from interests of other close family members and relatives. Disclosure will also preclude employees from transferring prohibited financial interests to close family members or relatives in order to avoid the provisions in the Act.

In keeping with the legislative intent and at the suggestion of several States, the proposed regulations place as much responsibility as possible upon the individual States. States are responsible for resolving employee conflict of interest situations, for initiating action to impose the penalties of the Act within their existing laws, regulations and personnel programs in order to meet the requirements of the Act. Care has been taken to specifically separate the responsibilities of the Federal Government from those of the individual States and to guard against the imposition of excessive Federal requirements upon the States.

The same high standards applicable to covered employees of the State agencies apply to covered employees of the Federal Government under the separate regulations in Part 2171. With regard to covered employees of other Federal agencies, it is proposed that each agency have as much latitude as possible in resolving conflict of interest situations and in enforcing the conflict of interest requirements within these regulations. Other Federal agencies implementation must be consistent with the regulations developed for employees of the Department of the Interior.

DRAFTING INFORMATION

These regulations were prepared by: Gene Fredriksen and Gabe Paone under the general supervision of Paul Reeves, Office of Surface Mining Task Force, Department of the Interior.

Interested persons may submit written comments on the proposed regulations to the Director, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Washington, D.C. 20240, no later than September 23, 1977.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: August 17, 1977.

ROBERT HERBST,
Acting Secretary of the Interior.

It is proposed to Amend Title 30 by adding Chapter VII, Office of Surface Mining Reclamation and Enforcement. It is proposed to add Parts 2170 and 2171, Conflict of Interest, to Title 30, Chapter VII, to read as follows:

PART 2170—CONFLICT OF INTEREST PROVISIONS FOR STATE EMPLOYEES

Sec.
2170.1 Purpose.
2170.2 Objectives.
2170.3 Authority.
2170.4 Responsibility.
2170.5 Definitions.
2170.6 Penalties.
2170.11 Who shall file.
2170.13 When to file.
2170.15 Where to file.
2170.17 What to report.
2170.19 Resolving conflicts of interest.
2170.21 Appeals procedures.

AUTHORITY: Public Law 95-87, Section 517(g).

§ 2170.1 Purpose.

This part sets forth the minimum conflict of interest policies and procedures that States must establish and use in order to be eligible for reimbursement of costs of enforcing and administering the initial regulatory program under Section 502, or for grants for developing, administering and enforcing a state regulatory program under Section 705, or to assume primary regulatory authority under Section 503 of the Act (Pub. L. 95-87). Compliance with the policies and procedures in this part will satisfy the requirements of Section 517(g) of the Act. Section 517(g) prohibits certain employees of the State Regulatory Authority from having any direct or indirect financial interest in any underground or surface coal mining operation. The regulations in this part are applicable to employees of the State Regulatory Authority as defined in § 2170.5.

§ 2170.2 Objectives.

The objectives of this part are:

(a) To ensure that the States adopt a standard program for implementing the conflict of interest provisions in Section 517(g) of the Act.

(b) To establish methods which will ensure, as required by Section 517(g) of the Act, that each employee of the State Regulatory Authority who performs any function or duty under the Act does not have a direct or indirect financial interest in any underground or surface coal mining operation.

(c) To establish the methods by which the monitoring, enforcing and reporting responsibilities of the Secretary of the Interior as stated in Section 517(g) will be accomplished.

§ 2170.3 Authority.

(a) The Secretary of the Interior is authorized by Public Law 95-87 to:

(1) Establish the methods by which he and State officials will monitor and enforce the provisions contained in subsection 517(g) of the Act;

(2) Establish appropriate provisions for employees of the State Regulatory Authority who perform any function or duty under the Act to file a statement and supplements thereto concern any financial interest which may be affected by subsection 517(g), and

(3) Report annually to the Congress, actions taken and not taken during the preceding calendar year under subsection 517(g) of the Act.

(b) The Governor of the State, the Head of the State Regulatory Authority, or such other State official designated by State law, is authorized to expand the provisions in this part in order to meet the particular needs within the State.

(c) The Office of Audit and Investigation, U.S. Department of the Interior is authorized to conduct on behalf of the Secretary periodic audits related to the provisions contained in Section 517(g) of the Act and related to the provisions in this Part. These audits will be conducted on a cyclical basis or upon request of the Secretary or the Director.

§ 2170.4 Responsibility.

(a) The Head of each State Regulatory Authority shall:

(1) Provide advice, assistance, and guidance to all State employees required to file statements pursuant to § 2170.11 of this part;

(2) Promptly review the statement of employment and financial interests and supplements, if any, filed by each employee, to determine if the employee has correctly identified those listed employment and financial interests which constitute a direct or indirect financial interest in an underground or surface coal mining operation;

(3) Resolve conflict of interest situations by ordering or initiating remedial action or by reporting the violations to the Director who is responsible for initiating action to impose the penalties of the Act;

(4) Certify on each statement that review has been made, that conflicts of interest or prohibited holdings have been resolved, and that no conflicts of interest exist;

(5) Submit to the Director such statistics and information he or she may request to enable prepartion of the required annual report to Congress;

(6) Submit to the Director the initial listing and the subsequent annual listings of positions as required by § 2170.11 (b), (c) and (d) of this part;

(7) Furnish a blank statement by December 15 of each year, to each State employee required to file a statement, and

(8) Inform annually each State employee required to file a statement with the Head of the State Regulatory Authority, or such other official designated by State law or regulation, of the name, address, and telephone number of the person whom they may contact for advice and counseling.

(b) The Director, Office of Surface Mining Reclamation and Enforcement, shall:

(1) Provide advice, assistance, and counseling to the Heads of all State Regulatory Authorities concerning conflict of interest matters;

(2) Promptly review the statement of employment and financial interests and supplements, if any, filed by each Head of the State Regulatory Authority. The Director will review the statement to determine if the Head of the State Regulatory Authority has correctly identified those listed employment and financial interests which constitute a direct or indirect financial interest in an underground or surface coal mining operation;

(3) Recommend to the State Attorney General, or such other State official designated by State law or the Governor of the State, the remedial action to be ordered or initiated, recommend to the Secretary that action be taken to impose the penalties of the Act, or recommend to the Secretary that other appropriate action be taken with respect to reimbursements, grants, or state programs;

(4) Certify on each statement filed by the Head of the State Regulatory Authority that the State has completed the review of the statement, that conflicts of interest have been resolved, and that no conflicts of interest exist;

(5) Monitor the conflict of interest program by using reports requested from Heads of State Regulatory Authorities and by using periodic audits performed by the Office of Audit and Investigation, U.S. Department of the Interior.

(6) Prepare for the Secretary of the Interior a consolidated report to the Congress as part of the annual report submitted under Section 706 of the Act, on the actions taken and not taken during the preceding calendar year under Section 517(g);

(7) Designate if so desired other qualified Office of Surface Mining Reclamation and Enforcement employees as Assistant Conflict of Interest Counselors to assist with the operational duties associated with filing and reviewing the statements from the Heads of each State Regulatory Authority;

(8) Furnish a blank statement by December 15 of each year, to the Head of each State Regulatory Authority, and

(9) Inform annually, the Head of each State Regulatory Authority of the requirement to file his or her statement with the Director and supply the name, address, and telephone number of the person whom they may contact for advice and counseling.

(c) State Regulatory Authority employees shall:

(1) Maintain especially high standards of impartiality by avoiding employment situations with or investments in business entities involved with coal mining operations;

(2) File a fully completed statement of employment and financial interests 120 days after these regulations become effective or upon entrance to duty, and annually thereafter on February 1 of each year;

(3) Comply with directives issued by persons responsible for approving each statement and comply with directives issued by those persons responsible for ordering remedial action.

§ 2170.5 Definitions.

Act. Means the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87.

Coal Mining Operation. Means the business of developing, producing, preparing or loading bituminous coal, subbituminous coal, anthracite or lignite or of reclaiming the areas upon which such activities occur.

Conflict. Means a situation where an employee's public duty is or will be affected by his or her direct or indirect financial interest, such as when the employee owns or has an interest in a company, land or other entity engaged in underground or surface coal mining operations which is or will be affected by operations or decisions he or she makes or in which he or she is involved.

Direct or Indirect Financial Interest. Means ownership or part ownership by an employee in his or her own name, or in the name of another person where the employee still reaps benefits of lands, stocks, bonds, debentures, warrants, partnership shares, or other holdings and, means any other situation where the employee may benefit from his or another person's holding in or salary from coal mining operations. Direct or indirect financial interests include employment pensions, creditor, real property and other financial relationships of the employee and his or her spouse, minor child, and other relatives, including in-laws, who live in the employee's home.

Director. Means the Director of the Office of Surface Mining Reclamation and Enforcement within the U.S. Department of the Interior.

Employee. Means any person employed by the State Regulatory Authority who performs any function or duty under the Act. State officials may through State law or regulations expand this definition to meet their program needs.

Office. Means the Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior.

Secretary. Means the Secretary of the U.S. Department of the Interior.

State Regulatory Authority. Means that office in each State which has primary responsibility at the State level for administering this Act. Until an office is established under the provisions of Section 503 or Section 504 of the Act, this term shall refer to those existing State offices having primary jurisdiction for regulating, enforcing, and inspecting any surface coal mining and reclamation operations within the State during the interim period between the effective date of the Act and the establishment of the State Regulatory Authority under Section 503 or Section 504.

§ 2170.6 Penalties.

(a) Criminal penalties are imposed by Section 517(g) of the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87. Section 517(g) prohibits each employee of the State Regulatory Authority who performs any function or duty under the Act from having a direct or indirect financial interest in any underground or surface coal mining operation. The Act provides that whoever knowingly violates the provisions of subsection 517(g) shall, upon conviction, be

V 42163 AUG 23 77 UMI

punished by a fine of not more than $2,500, or by imprisonment of not more than one year, or by both.

(b) Regulatory penalties are imposed by this part. The provisions in Section 517(g) of the Act make compliance with the conflict of interest requirements a condition of employment for employees of the State Regulatory Authority who perform any functions or duties under the Act. Accordingly, an employee who fails to file the required statement will be considered in violation of the intended employment provisions of Section 517(g) and will be subject to removal from his or her position.

§ 2170.11 Who shall file.

(a) The Act applies to each State Regulatory Authority employee performing any function or duty under the Act. Each employee shall file a statement of employment and financial interests, including a certification that he or she is aware that he or she has no direct or indirect financial interest in any underground or surface coal mining operation and that he or she is in compliance with these requirements except as disclosed on the statement. Employees who occupy a position which has been determined by the Head of the State Regulatory Authority not to involve performance of any function or duty under the Act or who are no longer employed by the State Regulatory Authority at the time a filing is due, are not required to file a statement.

(b) The Head of each State Regulatory Authority shall prepare a list of those positions within the State Regulatory Authority that do not involve performance of any functions or duties under the Act. Only those employees who occupy a listed position will be exempted from the filing requirements of Section 517(g) of the Act.

(c) The Head of each State Regulatory Authority shall prepare and submit to the Director, an initial listing of positions that do not involve performance of any functions or duties under the Act within 60 days of the effective date of these regulations.

(d) The Head of each State Regulatory Authority shall annually review and update this listing. For monitoring and reporting reasons, the listing must be submitted to the Director and must contain a written justification for inclusion of the positions listed. Proposed revisions or a certification that revision is not required shall be submitted to the Director by no later than September 30 of each year. The Secretary, the Director, or the Head of the State Regulatory Authority may revise the listing by the addition or deletion of positions at any time they determine such revisions are required to carry out the purpose of the law or the regulations of this part. Additions to and deletions from the listing of positions are effective upon notification to the incumbents of the positions added or deleted.

§ 2170.13 When to file.

(a) Employees performing functions or duties under the Act shall file:

(1) Within 120 days of the effective date of these regulations, and

(2) Annually on February 1 of each year.

(b) New employees hired, appointed, or transferred to perform functions or duties under the Act will be required to file:

(1) At the time of entrance to duty, and

(2) Annually on February 1 of each year.

(c) Employees are not required to file an annual statement on February 1 if they filed their initial statement within two months prior to February 1. For example, an employee entering duty on December 1, 1978 would file a statement on that date. Because December 1 is within two months of February 1 the employee would not be required to file his next annual statement until February 1, 1980.

§ 2170.15 Where to file.

(a) The Head of the State Regulatory Authority shall file his statement with the Director. All other employees, as provided in § 2170.11, shall file their statement with the Head of the State Regulatory Authority or such other official as may be designated by State law or regulation.

§ 2170.17 What to report.

(a) Each employee shall report all information required on the statement of employment and financial interests of the employee, his or her spouse, minor children, or other relatives who are full-time residents of the employee's home. The report shall be on OSM Form 2170–1 as provided by the Office. The statement consists of three major parts, (1) A listing of all direct and indirect employment, security, real property and creditor financial interests held during the course of the preceding year, (2) certification that none of the listed financial interests represent a direct or indirect financial interest in an underground or surface coal mining operation except as specifically identified and described by the employee as part of the certificate, and (3) a certification by the reviewer that the form was reviewed and that no conflicts of interest exist.

(b) Listing of all financial interests. The statement will set forth the following information regarding any financial interest:

(1) *Employment.* Any continuing financial interests in business entities and nonprofit organizations through a pension or retirement plan, shared income, salary or other income arrangement as a result of prior or current employment. The employee, his or her spouse or other resident relative is not required to report a retirement plan from which he or she will receive a guaranteed income. A guaranteed income is one which is unlikely to be changed as a result of actions taken by the State Regulatory Authority.

(2) *Securities.* Any financial interest in business entities and nonprofit organizations through ownership of stock, stock options, bonds, securities or other arrangements including trusts. An employee is not required to report holdings in widely diversified mutual funds, investment clubs or regulated investment companies not specializing in underground and surface coal mining operations.

(3) *Real Property.* Ownership, lease, royalty or other interests or rights in lands or minerals. Employees are not required to report lands developed and occupied for a personal residence.

(4) *Creditors.* Debts owed to business entities and nonprofit organizations. Employees are not required to report debts owed to financial institutions (banks, savings and loan, credit unions, and the like) which are chartered to provide commercial or personal credit. Also, excluded are charge accounts and similar short term debts for current and ordinary household and living expenses.

(c) Employee certification, and, if applicable, a listing of exceptions.

(1) The statement will provide for a signed certification by the employee that to the best of his or her knowledge, (i) none of the listed financial interests represent an interest in an underground or surface coal mining operation except as specifically identified and described by the employee as part of the certificate, and (ii) the information shown on the statement is true, correct, and complete.

(2) (i) The following examples of financial interests would be prohibited financial interests because they represent an interest in an underground or surface coal mining operation and would be shown as exceptions on the employee certification:

(A) Companies which operate coal mines regardless of the nature of their major business, (i.e. public utilities, steel companies, etc.),

(B) Spouse's employment with a company engaged in coal mining operations, such as described in the preceding example.

(C) Outside employment such as part time or consultant work done for a coal mining operations company,

(D) Payments received for easements to or from coal mine operation sites,

(E) Retirement benefits which are not or will not be guaranteed,

(F) Ownership or use of lands associated with active coal mining operations.

(ii) These examples are not all-inclusive and are presented to give guidance to employees required to file a statement. An employee is expected to (A) Have complete knowledge of his or her personal involvement in business enterprises such as a sole proprietorship and partnership, his or her outside employment and the outside employment of the spouse and other covered relatives, and (B) be aware of the information contained in the annual financial statements or other corporate or business reports routinely circulated to investors or routinely made available to the public.

(3) The exceptions shown in the certification must provide enough information for the Head of the State Regulatory Authority to determine the existence of a direct or indirect financial interest. Accordingly, the exceptions should: (i) List the prohibited financial interests;

(ii) Show the number of shares or the estimated value of the prohibited financial interests;

(iii) Explain in some detail those other prohibited financial interest situations such as spouse's employment with mining operations, inherited mineral rights attached to land currently being mined, etc., and

(iv) Include any information which the employee believes should be considered in determining whether or not a conflict exists which must be corrected.

(4) Employees are cautioned to give serious consideration to their direct and indirect financial interests before signing the statement of certification. Signing the certification without listing known prohibited financial interests may be cause for imposing the penalties prescribed in § 2170.6(a).

§ 2170.19 Resolving conflicts of interest.

(a) Actions to be taken by the Head of the State Regulatory Authority:

(1) Remedial action to effect resolution. If an employee has a prohibited direct or indirect financial interest, the Head of the State Regulatory Authority shall promptly advise the employee that remedial action which will resolve the conflict of interest is required within 90 days.

(2) Remedial action may include: (i) Reassignment of the employee to another job where no such conflict would exist;

(ii) Divestiture of the financial interest which creates the conflict; or

(iii) Other appropriate action which either eliminates the direct or indirect financal interest or eliminates the situation which creates the conflict.

(3) Reports of non-compliance. If 30 days after an employee is notified to take remedial action that employee is not in compliance with the requirements of the Act and these regulations, the Head of the State Regulatory Authority shall report the facts of the situation to the Director who shall determine whether action to impose the penalties prescribed by the Act should be initiated. The report to the Director shall include the original or a certified true copy of the employee's statement and any other information pertinent to the Director's determination, including a statement of actions being taken at the time the report is made.

(b) Actions to be taken by the Director:

(1) Remedial action to effect resolution. Violations of the regulations in this part by the Head of a State Regulatory Authority, will be cause for remedial action by the Governor of the State or other appropriate State official based on recommendations from the Director on behalf of the Secretary. The Governor or other appropriate State official shall promptly advise the Head of the State Regulatory Authority that remedial action which will resolve the conflict of interest is required within 90 days.

(2) Remedial action should be consistent with the procedures prescribed for other State employees by § 2170.19(a)(2).

(3) Reports of non-compliance. (i) If 90 days after the Head of a State Regulatory Authority is notified to take remedial action the Governor or other appropriate State official notifies the Director that the Head of the State Regulatory Authority is not in compliance with the Act and these regulations, the Director shall report the facts of the situation to the Secretary who shall determine whether action to impose the penalties prescribed by the Act, or to impose the eligibility restrictions prescribed by § 2170.1 should be initiated.

(ii) Within 30 days of receipt of a non-compliance report from the Head of a Regulatory Authority under § 2170.19(a)(2), the Director shall notify the Head of the State Regulatory Authority and the employee involved of additional action to be taken. Actions which the Director may take include but are not limited to the granting of additional time for resolution or the initiation of action to impose the penalties prescribed by the Act.

§ 2170.21 Appeals procedures.

Employees have the right to appeal an order for remedial action under § 2170.19, and shall have 30 days to exercise this right before disciplinary action is initiated.

(a) Employees other than the Head of the State Regulatory Authority, may file their appeal, in writing, through established procedures within their particular State.

(b) The Head of the State Regulatory Authority may file his appeal, in writing, with the Director who will refer it to the Appeals Board within the Department of the Interior.

PART 2171—CONFLICT OF INTEREST PROVISION FOR FEDERAL EMPLOYEES

Sec.

2171.1 Purpose.
2171.2 Objectives.
2171.3 Definitions.
2171.4 Authority.
2171.5 Responsibility.
2171.6 Penalties.
2171.11 Who shall file.
2171.13 When to file.
2171.15 Where to file.
2171.17 What to report.
2171.19 Resolving conflicts of interest.
2171.21 Appeals procedures.

AUTHORITY: Pub Law 95-87, Section 201(f).

§ 2171.1 Purpose.

This part sets forth the minimum conflict of interest policies and procedures to be followed by Federal employees to satisfy the requirements of section 201(f) of the Act. The requirements of this part are in addition to Executive Order 11222 of May 8, 1965, and other applicable regulations related to conflict of interest. Section 201(f) prohibits certain Federal employees from having any direct or indirect financial interest in underground or surface coal mining operations. The regulations of this part are applicable to Federal employees as defined in § 2171.3.

§ 2171.2 Objectives.

The objectives of this part are: (a) To ensure that affected Federal agencies adopt a standard program for implementing the conflict of interest provisions in section 201(f) of the Act.

(b) To establish methods which will ensure, as required by section 201(f) of the Act, that each Federal employee who performs any function or duty under the Act does not have a direct or indirect financial interest in an underground or surface coal mining operation.

(c) To establish the methods by which the monitoring enforcing and reporting responsibilities of the Director and the Secretary of the Interior under Section 201(f) will be accomplished.

§ 2171.3 Definitions.

Act, means the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87.

Coal mining operation, means the business of developing, producing, preparing or loading bituminous coal, subbituminous coal, anthracite or lignite or of reclaiming the areas upon which such activities occur.

Conflict, means a situation where an employee's public duty is or will be affected by his or her direct or indirect financial interest, such as when the employee owns or has an interest in a company, land, or other entity, engaged in underground or surface coal mining operations which is or will be affected by operations or decisions he or she makes or in which he or she is involved.

Direct or indirect financial interest, means ownership or part ownership by an employee in his or her own name or in the name of another person where the employee still reaps benefits, of lands, stocks, bonds, debentures, warrants, partnership shares or other holdings and means any other situation where the employee may benefit from his or another person's holding in or salary from coal mining operations. Direct or indirect financial interests includes employment, pensions, creditor, real property and other financial relationships of the employee and his or her spouse, minor child and other relatives, including in-laws who live in the employee's home.

Director, means the Director or Acting Director of the Office of Surface Mining Reclamation and Enforcement, United States Department of the Interior.

Employee, means any person employed by the Office of Surface Mining Reclamation and Enforcement within the Department of the Interior and any other person employed by the Federal government who performs duties under the Act without regard to the duration or nature of his or her appointment.

Office, means the Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior.

Other Federal agency, means any executive Federal agency or office or part thereof not a part of the Department of the Interior, and includes, but is not

V 42163 AUG 23 77 UMI

limited to, the following agencies: The Department of Agriculture, the Department of Justice, the Corps of Engineers, the Environmental Protection Agency, the Council on Environmental Quality and the Energy Research and Development Administration.

Secretary, means the Secretary of the United States Department of the Interior.

§ 2171.4 Authority.

(a) The Director is authorized by Public Law 95-87 to:

(1) Establish the methods by which the provisions in Section 201(f) of the Act will be monitored and enforced.

(2) Establish appropriate provisions for all employees who perform any function or duty under the Act to file a statement and supplements thereto concerning their financial interests which may be affected by Section 201(f) and

(3) Report annually to the Congress on actions taken and not taken during the preceding calendar year under subsection 201(f) of the Act.

(b) Other Federal agencies with employees who perform functions or duties under the Act may adopt conflict of interest regulations pursuant to the Act which are consistent with the requirements in this Part. If any such agency does not adopt regulations pursuant to this part, that agency shall enter into a memorandum of understanding with the Director, to have the employees of that agency who perform functions or duties under the Act file their statements with the Director. The Director will review statements filed with him, applying the regulations of the Department of the Interior. Where the Director determines that remedial action is necessary, he will refer the case to the employing agency with a recommendation as to the action to be taken.

(c) The Office of Audit and Investigation within the U.S. Department of the Interior is authorized to conduct or arrange for the conduct of periodic audits related to the provisions contained in Section 201(f) of the Act and related to the provisions in this Part. These audits will be conducted on a cyclical basis or upon request of the Secretary of the Interior or Director.

§ 2171.5 Responsibility.

(a) The Director, the Head of each other Federal Agency, and the Head of each other bureau or office within the Department of the Interior, have the following common responsibilities concerning employees within their organizations performing any functions or duties under the Act, and shall:

(1) Provide advice, assistance and counseling to employees concerning conflict of interest matters related to the Act;

(2) Promptly review the statement of employment and financial interests and supplements, if any, filed by each employee to determine if the employee has correctly identified those listed employment and financial interest in an underground or surface coal mining operation;

(3) Certify on each statement filed by an employee that the review of the statement is completed, that conflicts of interest if any, have been resolved, and that no conflicts of interest exist;

(4) Resolve conflict of interest situations by promptly notifying and ordering the employee to take remedial action within 90 days, or by initiating action to impose the penalties of the Act;

(5) Furnish a blank statement by December 15 of each year to each employee required to file a statement within his or her employing organization;

(6) Inform annually each employee requiredd to file a statement within his or her employing organization of the name, address, and telephone number of the person whom they may contact for advice and counseling.

(b) In addition to the common responsibilities in § 2171.5(a) the Director shall:

(1) Monitor the conflict of interest program by using reports requested from the Heads of other Federal agencies, from the Heads of other bureaus and offices within the Department of the Interior, and by using periodic audits performed by the U.S. Department of the Interior, Office of Audit and Investigation.

(2) Prepare for the Secretary a consolidated report to the Congress as part of the annual report submitted under Section 706 of the Act, on the actions taken and not take nunder Section 201(f) during the preceding calendar year;

(3) Refer recommendations to officials of other Federal Agencies concerning those cases requiring remedial action for employees of the other Federal Agency who filed with the Director because that other Federal Agency did not choose to adopt its own conflict of interest regulations pursuant to the Act;

(4) Report to the Solicitor, U.S. Department of the Interior, through the Office of Audit and Investigation, U.S. Department of the Interior, cases of knowing violations of the provisions in Section 201(f). The Solicitor will transfer such reports to the U.S. Department of Justice;

(5) Designate, if so desired, other qualified Office employees as assistant conflict of interest counselors to assist with the operational duties associated with filing and reviewing financial statements;

(6) Furnish an adequate supply of blank statements to the Heads of those other Federal agencies which decide to have their employees file with the Director, and

(7) Submit to the Department of the Interior Ethics Counselor such statistics and information he may request in accordance with 43 CFR 20.735-17 as adopted.

(c) In addition to the common responsibilities in § 2171.5(a), the Head of each other Federal Agency with employees performing any functions or duties under the Act shall:

(1) Decide whether to adopt independent procedures for the filing and review of statements or to enter into a memorandum of understanding with the Director that the Department of the Interior will provide and review the statements and recommend any necessary remedial action to the Head of the employing agency;

(2) Submit to the Director such statistics and information the Director may request to enable preparation of the required annual report to the Congress, and to ensure uniform application of the provision in Section 201(f) of the Act, and

(3) Report to the Director cases of knowing violations of the provisions in Section 201(f). The Director will transmit the report to the Office of Audit and Investigation and to the Solicitor in the Department of the Interior. The Solicitor will transfer such reports to the U.S. Department of Justice;

(d) In addition to the common responsibilities in § 2171.5(a), the Heads of other Interior Department bureau or offices with employees performing any functions or duties under the Act shall:

(1) Submit to the Director such statistics and information the Director may request to enable preparation of the required annual report to Congress, and to ensure uniform application of provisions in Section 201(f) of the Act;

(2) Submit to the Department of the Interior Ethics Counselor such statistics and information he may request in accordance with 43 CFR 20.735-17 as adopted, and

(3) Report to the Director cases of knowing violations of the provisions in Section 201(f).

(e) Employees shall:

(1) Maintain especially high standards of impartiality by avoiding employment situations with or investments in business entities involved with coal mining operations;

(2) File a fully completed statement of employment and financial interests 120 days after these regulations become effective or upon entrance to duty, and annually thereafter on February 1 of each year, and

(3) Comply with directives issued by persons responsible for approving each statement and comply with directives issued by those persons responsible for ordering remedial action.

§ 2171.6 Penalties.

(a) Criminal penalties are imposed by Section 201(f) of the Surface Mining Control and Reclamation Act, Public Law 95-87, which prohibits each employee of the Office or any other Federal employee who performs any function or duty under the Act from having a direct or indirect financial interest in underground or surface coal mining operations. The Act provides that whoever knowingly violates the provisions of subsection 201(f) shall, upon conviction, be punished by a fine of not more than $2,500, or by imprisonment for not more than one year, or both.

(b) Regulatory penalties are imposed by this part. The provisions in Section 201(f) of the Act make compliance with the conflict of interest requirements a condition of employment for all Office employees and for other employees of the Federal government who perform any functions or duties under the Act. Accordingly, an employee who fails to file the required statement will be considered in violation of the intended employment provisions of Section 201(f) and will be subject to removal from his or her position.

§ 2171.11 Who shall file.

(a) Every employee in the Office is required to file a statement of employment and financial interests.

(b) Any other Federal employee who performs any function or duty under the Act is required to file a statement of employment and financial interests. The Head of each other Federal agency and the Heads of other Interior bureaus and offices, shall prepare and submit a report within 60 days of the effective date of these regulations, either listing the Federal positions identified as performing functions or duties under the Act, or listing the organizational unit within the organization showing the total number of employees within the unit who must file a statement. Revision to the listing or certification that revision is not required shall be submitted to the Director by no later than September 30 of each year. The Secretary, the Director, or the Heads of the other affected Federal organizations may revise the list by the addition or deletion of positions at any time such revisions are required to carry out the purpose of the law or regulations of this Part. Additions to or deletions from the list of positions are effective upon notification to the incumbents.

§ 2171.13 When to file.

(a) Employees currently performing functions or duties under the Act will be required to file:

(1) Within 120 days of the effective date of these regulations, and

(2) Annually on February 1 of each year.

(b) New employees hired, appointed, or transferred to perform functions or duties under the Act will be required to file:

(1) At the time of entrance on duty, and

(2) Annually on February 1 of each year.

(c) Employees are not required to file an annual statement if they have filed an initial statement within two months prior to February 1. For example, an employee entering duty on December 1, 1978 would file a statement on that date. Because December 1 is within two months of February 1 the employee would not be required to file his next annual statement until February 1, 1980.

§ 2171.15 Where to file.

(a) Each Office employee shall file his or her statement of employment and financial interests with the Director.

(b) Each Department of the Interior employee, who is not an Office employee but does perform any function or duty under the Act, shall file a statement of employment and financial interests with their appropriate Ethics Counselor as identified in 43 CFR 20.735-22(c).

(c) Each employee of an other Federal agency who performs a function or duty under the Act shall file a statement of employment and financial interests with the official designated by the Head of the other Federal agency.

§ 2171.17 What to report.

(a) Each employee shall report all information required on the statement of employment and financial interest of the employee, his or her spouse, minor children, or other relatives who are full-time residents of the employee's home. The report shall be on a form provided by the Office. The statement consists of three major parts, (1) a listing of all direct and indirect employment, security, real property and creditor financial interests held during the course of the preceding year, (2) an employee signed certification that none of the listed financial interests represent a direct or indirect financial interest in an underground or surface coal mining operation except as specifically identified and described by the employee as part of the certificate, and (3) a certification by the reviewer that the form was reviewed and that no conflicts of interest exist.

(b) Listing of all financial interests. The statement will set forth the following information regarding any financial interest:

(1) *Employment.* Any continuing financial interests in business entities and nonprofit organizations through a pension or retirement plan, shared income, salary or other income arrangement as a result of prior or current employment. The employee, his or her spouse or other resident relative is not required to report a retirement plan from which he or she will receive a guaranteed income. A guaranteed income is one which is unlikely to be changed as a result of actions taken by the Federal government under the Act.

(2) *Securities.* Any financial interest in business entities and nonprofit organizations through ownership of stock, stock options, bonds, securities or other arrangements including trusts. An employee is not required to report holdings in widely diversified mutual funds, investment clubs or regulated investment companies not specializing in underground and surface coal mining operations.

(3) *Real Property.* Ownership, lease, royalty or other interests or rights in lands or minerals. Employees are not required to report lands developed and occupied for a personal residence.

(4) *Creditors.* Debts owed to business entities and non-profit organizations. Employees are not required to report debts owed to financial institutions (banks, savings and loan, credit unions, and the like) which are chartered to provide commercial or personal credit. Also excluded are charge accounts and similar short term debts for current and ordinary household and living expenses.

(c) Employee certification, and, if applicable, a listing of exceptions.

(1) The statement will provide for a signed certification by the employee that to the best of his or her knowledge, (i) none of the listed financial interests represent an interest in an underground or surface coal mining operation except as specifically identified and described by the employee as part of the certificate, and (ii) the information shown on the statement is true, correct, and complete.

(2) (i) The following examples of financial interests would be prohibited financial interests because they represent an interest in an underground or surface coal mining operation and would be shown as exceptions on the employee certification:

(A) Companies which operate coal mines regardless of the nature of their major business, (i.e. public utilities, steel companies etc.)

(B) Spouse's employment with a company engaged in coal mining operations, such as described in the preceding example,

(C) Outside employment such as part time or consultant work done for a coal mining operations company,

(D) Payments received for easements to or from coal mine operation sites,

(E) Retirement benefits which are not or will not be guaranteed, and

(F) Ownership or use of lands associated with active coal mining operations.

(ii) These examples are not all-inclusive and are presented to give guidance to employees required to file a statement. An employee is expected to (A) have complete knowledge of his or her personal involvement in business enterprise such as a sole proprietorship and partnership, his or her outside employment and the outside employment of the spouse and other covered relatives, and (B) be aware of the information contained in the annual financial statements or other corporate or business reports routinuely circulated to investors or routinely made available to the public.

(3) The exceptions shown in the certification must provide enough information for the Director, the Head of an other Federal agency, or the Head of another Interior Department bureau or office to determine the existence of a direct or indirect financial interest. Accordingly, the exceptions should:

(i) List the prohibited financial interests;

(ii) Show the number of shares or the estimated value of the prohibited financial interests;

V 42 163 AUG 23 77 UMI V

(iii) Explain in some detail those other prohibited financial interest situations such as spouse's employment with mining operations, inherited mineral rights attached to land currently being mined, etc., and

(iv) Include any information which the employee believes should be considered in determining whether or not a conflict exists which must be corrected.

(4) Employees are cautioned to give serious consideration to their direct and indirect financial interests before signing the statement or certification. Signing the certification without listing known prohibited financial interests may be cause for imposing the penalties prescribed in § 2171.6(a).

§ 2171.19 Resolving conflicts of interest.

Actions to be taken by the Director, the Heads of other Federal agencies, and the Heads of other affected Interior Department bureau and offices include:

(a) Remedial action to effect resolution. If an employee has a prohibited direct or indirect financial interests, the Head of the organizational entity (Department, bureau, office etc.) where the employee works shall promptly advise the employee that remedial action which will resolve the conflict of interest is required within 90 days.

(b) Remedial action may include: (1) Reassignment of the employee to another job where no conflict of interest would exist, (2) Divestiture of the financial interests which creates the conflict, or (3) Other appropriate action which either eliminates the direct or indirect financial interest or eliminates the situation which creates the conflict.

(c) Reports of non-compliance. If 90 days after an employee is notified to take remedial action that employee is not in compliance with the requirements of the Act and these regulations, the official, other than the Director, who ordered the remedial action shall report the facts of the situation to the Director who shall determine whether action to impose the penalties prescribed by the Act should be initiated. The reports to the Director shall include the original or a certified true copy of the employee's statement and any other information pertinent to the Director's determination, including a statement of actions being taken at the time the report is made. Within 30 days of receipt of a non-compliance report, the Director shall notify the Head of the employing organization and the employee involved of additional action to be taken. Actions which the Director may take include but are not limited to the granting of additional time for resolution or the initiation of action to impose the penalties prescribed by the Act.

§ 2171.21 Appeals procedures.

Employees have the right to appeal an order for remedial action under § 2171.19, and shall have 30 days to exercise this right before disciplinary action is initiated.

(a) Office employees and other Department of the Interior employees may file their appeal, in writing, in accordance with the provisions in 43 CFR 20.735-25(b).

(b) Employees of other Federal agencies may file their appeal, in writing, in accordance with the established procedures of their employing agency.

[FR Doc.77-24326 Filed 8-22-77;8:45 am]

federal register

TUESDAY, AUGUST 23, 1977

PART VII



DEPARTMENT OF LABOR

Employment Standards Administration

■

LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT AND RELATED STATUTES

Referral of Claims Under Longshoremen's Act for Formal Hearings and Approval of Fees for Legal Services Rendered Claimants

V 42 163 AUG 23 77 UM

Title 20—Employees' Benefits

CHAPTER VI—EMPLOYMENT STANDARDS ADMINISTRATION, DEPARTMENT OF LABOR

SUBCHAPTER A—LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT AND RELATED STATUTES

PART 702—ADMINISTRATION AND PROCEDURES

Referral of Claims Under Longshoremen's Act for Formal Hearings and Approval of Fees for Legal Services Rendered Claimants

AGENCY: Department of Labor.

ACTION: Final rules.

SUMMARY: The rules prescribe guidelines for preparation and submission for approval of applications for fees for legal services rendered to claimants in claims arising under the Longshoremen's and Harbor Workers' Compensation Act and its extensions. The rules also prescribe new procedures for referring such claimants to administrative law judges for formal hearings and for adjudicating claims after referral. In response to a demonstrated need, the rules are intended to promote uniformity in fee application and approval and to diminish the time between referral of a claim for formal hearing and the filing of a decision disposing of the claim.

DATES: Effective date: September 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. George M. Lilly, Counsel for Longshore Programs, Office of the Solicitor, Suite N-2716, New DOL Building, 200 Constitution Avenue NW., Washington, D.C. 20210, Tel.: 202-523-7651.

SUPPLEMENTARY INFORMATION: The Secretary of Labor is authorized by statute (33 U.S.C. 939(a)) to make rules and regulations to administer the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901-950) and its extensions, the District of Columbia Workmen's Compensation Act (66 D.C. Code 501-502), the Defense Base Act (42 U.S.C. 1651-1654), the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343), and the Nonappropriated Fund Instrumentalities Act (5 U.S.C. 8171-8173). On March 15, 1977, pusuant to this authority, the Department of Labor published proposed rules (42 FR 14284-85) to revise the present guidelines (20 CFR 702.132) for securing approval (see 33 U.S.C. 928) of fees for legal services rendered to claimants with respect to claims arising under the Longshoremen's and Harbor Workers' Compensation Act and its extensions and to revise the present procedures (20 CFR 702.316, 702.317, 702.331, 702.335, 702.336, 702.337, 702.341, 702.343, 702.347) for referring such claims to the Office of Administrative Law Judges, Department of Labor, for formal hearings and for adjudicating claims after referral. At the same time, the Department invited comment on the proposed rulemaking, and twenty-five letters containing or enclosing comments have been received. The comments have been studied thoroughly. As a result, the Department has decided to revise the present regulations, but also to incorporate many of the suggestions implied or expressed in the comments. Nevertheless, many suggestions have not been followed, in many cases because they are beyond the scope of the rules to be revised, and some doubts raised by the comments and shared by the Department have not been resolved by the final rules published here, primarily because it is the opinion of the drafters that they will be resolved more effectively in practice than they could be by the adoption of additional formal rules.

DISCUSSION OF MAJOR COMMENTS AND CHANGES

§ 702.32: FEES FOR SERVICES

Several commenting parties suggested that the proposed rule lacks sufficient detail to promote uniformity in general and compliance at all levels in particular with rulings of several United States courts of appeals as to fee applications submitted for services performed before those courts.[1] The drafters agree, and the final rule is more specific and consistent with the courts' guidelines.

Several other suggestions for additional uniformity have, however, been rejected. The suggestion that an upper limit on fees is necessary for actuarial purposes has been rejected because the statutory requirement that fees be "reasonable" (see 33 U.S.C. 928) cannot be satisfied in all cases consistently with such a regulatory limitation. Likewise, the suggestions that a standard fee application form be adopted and that uniform times for filing the application and for responding to it be specified have been rejected because additional forms are to be avoided if at all possible, and a uniform time for fee applications is necessary to accelerate adjudication on the merits and might interfere with the performance of useful but unexpected services—for example, seeking reconsideration.

Several commenting parties suggested that consideration of the amount of benefits involved when the fee is to be assessed against the employer is unfair, because the employer's attorney is not paid according to the benefits involved. In fact, a reasonable hourly rate remains the touchstone of fee approval. Moreover, the employer's attorney or any attorney billing at a "normal" rate is customarily compensated without regard to wins or losses and before all appeals are exhausted. In fact another commenting party suggested adoption of some system of conditional payment of claimant's attorney's fee at each level where he or she is successful; such a scheme is, however, beyond the scope of the Department's rulemaking authority (see 33 U.S.C. 928(a)), and the suggestion must be rejected.

One commenter's suggestion that the rule's final sentence, regarding fee-setting contracts, be revised to eliminate the confusing reference to "a contingent basis" has been adopted, since fee approval is contingent upon success, and, to some extent, the amount approved is contingent upon the amount of benefits awarded.

Finally, the suggestion that the rules expressly require that fee applications and responses be served on the other parties has been adopted. It was initially omitted only because it seems required by professional ethics in any event.[2]

§ 702.316: CONCLUSION OF CONFERENCE: NO AGREEMENT ON ALL MATTERS WITH RESPECT TO THE CLAIM

Most commenting parties objected to the proposed rule, particularly in conjunction with §§ 702.317, 702.331, and 702.336, and the common theme of the objections is that the proposed rules in combination merely translate, and even magnify, delay at the formal hearing into delay before the deputy commissioner. The purpose of the proposed rules is to ensure that the case is ripe for formal adjudication by the time the hearing is held, but the drafters agree that delay before the deputy commissioner is a problem which may be aggravated by even the final rules; however, the problem is an administrative one which cannot be solved by rulemaking. Many specific objections have nevertheless persuaded the drafters to revise the final rules substantially.

Several commenters questioned whether the deputy commissioner's memorandum of conference was to be included among the items transmitted to the Office of the Chief Administrative Law Judge, and § 702.317(c) has been revised to make it more clear (see § 702.331) that the memorandum is not to be included.

One commenting party suggested that the memorandum of conference should state the positions of the parties as well as the deputy commissioner's findings and reasoning in support of his or her recommendations. Although the final rule is more specific as to the contents of the memorandum, it does not require a statement of the parties' positions because, in the view of the drafters, litigative formalization of the parties' positions should await their preparation of pre-hearing statement forms (see § 702.317 and comments concerning it).

[1] *See Aguas Stevedoring Co. v. Bryant*, 544 F.2d 812 (5th Cir. 1977); *Todd Shipyards Corp. v. Director, Office of Workers' Compensation Programs*, 545 F.2d 1176 (9th Cir. 1976); *Atlantic & Gulf Stevedores, Inc. v. Director, Office of Workers' Compensation Programs*, 542 F.2d 602 (3d Cir. 1976). Additionally, the Ninth Circuit case forbids award of a fee against an employer for services rendered by a non-attorney unless he or she is assisting an attorney, and by adoption of this rule and Department acquiesces in all circuits at all levels.

[2] See, e.g., ABA Code of Professional Responsibility, Canon No. 7, Disciplinary Rule 7-110(B).

Another commenter read this section effectively to forbid submission of current medical reports at the formal hearing. This result was never intended. However, for the sake of clarity, in the final rule the last sentence of the proposed rule has been eliminated, and the first sentence now specifies merely that the deputy commissioner shall evaluate the evidence "available to him or her" before preparing the memorandum of conference.

Several commenting parties complained that the informal conferences and related procedures are often used merely for delay and suggested express adoption of an accelerated referral procedure for a claimant who is seriously disabled and receiving no benefits. One commenter suggested that the deputy commissioner be required to issue the memorandum of conference within fourteen days of the conference in all cases. For the present, such suggestions have been rejected because the drafters believe that accelerated handling of special cases can be accomplished individually within the framework of the final rules.

At the other end of the spectrum, a few commenting parties urged adoption of formal evidentiary and discovery procedures and restoration of some enforcement powers before the deputy commissioner in order to encourage intelligent settlements and avoid dilatory hearing requests. This suggestion has been rejected for several reasons, of which the most forceful is that it is inconsistent with the 1972 amendments to the Longshoremen's Act (see 33 U.S.C. 919(d)); furthermore, the drafters believe that requiring preparation of the pre-hearing statement form (see § 702.317) before referral will accomplish the same purpose as well.

One commenter suggested that the rule expressly provide that referral on the merits should not be delayed pending administrative response to the deputy commissioner's recommendation regarding relief from the special fund (see 33 U.S.C. 908(f), 944). This suggestion has been rejected for the present because the problem it addresses appears to be atypical and capable of resolution on an individual basis.

Other changes are in style only.

§ 702.317: PREPARATION AND TRANSFER OF THE CASE FOR HEARING

Voluminous and diffuse comments regarding this section were received, and they do not lend themselves to easy summarization. The following three paragraphs are intended to answer most of them, and the remainder of this discussion addresses particular comments and changes.

The drafters do not intend the final rules to encourage the parties to adopt a litigative posture before it becomes clear that the case will be transferred for formal hearing. Experience has shown that in most areas claimants are rarely represented by attorneys at informal conferences but usually are so represented at hearings. Thus under the final rule it is contemplated, although of course not mandated, that attorneys will become involved once it becomes necessary to fill out pre-hearing statement forms. Furthermore, discovery in the modern sense, as contemplated by the Federal Rules of Civil Procedure, does not exist under the Longshoremen's and Harbor Workers' Compensation Act: 33 U.S.C. 924 authorizes depositions and interrogatories only for the purpose of taking testimony (see discussion of § 702.341), and the parties are expected to discover the facts informally in proceedings before the deputy commissioner. When necessary, however, compelled production of evidence pursuant to 33 U.S.C. 927(a) is expected to commence at approximately the same time the parties are furnished pre-hearing statement forms. Thus at least twenty-one days, which may be enlarged by the deputy commissioner "for good cause" (see § 702.317(b)), plus at least thirty days, according to the final rules (see § 702.335, § 702.337(b)), are available for the limited pre-hearing discovery authorized by the statute. "Post-hearing" procedures, however, are not allowed except by the device of extending the time for official termination of the hearing in "exceptional cases" in the discretion of the Chief Administrative Law Judge or the administrative law judge assigned to the case (see § 702.347(b)).

Secondly, the deputy commissioner's transmittal of evidence (see § 702.317(c), § 702.331) is simply for the convenience of the parties and is not intended to accomplish the evidence's admission: evidence transmitted because one party intends to submit it must still be offered and may still be objected to by another party at the hearing. Furthermore, neither the transmitted evidence nor the pre-hearing statement form is intended to prohibit submission of new evidence at the hearing. And as the final rules make clear, pre-transferal re-evaluation by the deputy commissioner is required only when an issue arises that has never been brought to his or her attention or when important evidence has been unreasonably withheld; moreover, although the final rules require that the deputy commissioner's re-evaluation be reflected in a new *memorandum* of conference (see § 702.317(d)), whether an additional conference should be held is a matter for the deputy commissioner's judgment (*cf.* § 702.316). Thus, any delay incident to re-evaluation should ordinarily be minimal. Simply, the parties are expected to raise all known issues and reveal all known facts material to those issues. However, once the case has been transferred for a formal hearing, remand by the administrative law judge is contemplated only when a new issue arises from new evidence so important that it is likely to resolve the entire case informally[1] (see § 702.336(a)). That a claim for permanent partial disability has, since transferal, ripened into a claim for permanent total disability by reason of the claimant's discharge by the employer, to use one commenter's example, does not ensure remand; although it presents a new issue arising from new evidence, the evidence is presumably not likely to resolve the entire case by persuading the employer to pay benefits for permanent total disability on the deputy commissioner's recommendation. Whenever doubtful, the point may of course be argued before the administrative law judge.

It follows from the discussion above that a party's failure to fill out a pre-hearing statement form does not preclude his or her submission of evidence at the hearing (for procedure, see 20 CFR 702.319) and does not render remand permissible unless his or her position at the hearing raises an issue not included in the pre-hearing statement form or forms that are prepared and transmitted. Thus, any party can prevent remand by including all potential issues in his or her pre-hearing statement form, regardless of what the other parties do and regardless of what evidence is disclosed on the forms. On the other hand, if no party prepares a pre-hearing statement form, all issues and evidence will be new to the administrative law judge, since under the new rules the deputy commissioner no longer prepares "a separate memorandum" of facts and issues in dispute (see 20 CFR 702.317), and remand will be permissible if the evidence proffered is likely to resolve the entire case informally. In sum, the new rules are intended to encourage informal resolution of claims and discourage tactical surprise at formal hearings, but under no circumstances do they bar anyone, including an intervenor, from submitting evidence at the hearing.

Several commenting parties asked the reason for limiting the evidence transmitted to medical evidence and transmitting all of it without regard to its continued materiality, and the final language of § 702.317(c) and § 702.331(a) provides instead that all available evidence (already submitted to the deputy commissioner: see 20 CFR 702.319), which the parties intend to submit (indicated on the pre-hearing statement form) shall be transmitted.

A few commenters questioned the evidentiary status, propriety, and other aspects of the deputy commissioner's statement explaining the absence of a party's pre-hearing statement form (see § 702.317(e)). The statement is intended merely as an indication to the administrative law judge that the form's absence is not a clerical mistake, and the statement's preparation will therefore not be burdensome. Furthermore, the statement itself will not be prejudicial, but a party's failure to prepare (or even to prepare fully) a pre-hearing statement form, regardless of the deputy commissioner's statement, will presumably be relevant if, for example, the same party moves for remand, continuance, or other time-consuming relief. Addi-

[1] Under the proposed rule, the case could be remanded for likely resolution of a particular issue, but objection to that feature was very strong, and it has been changed in the final rule. The policy the drafters seek to effectuate is that a serious effort should be made to resolve all issues informally.

V 42163 AUG 23 77 UM V

tionally, at some point dilatory tactics and failure to comply with the rules give rise to the sanctions contained in 33 U.S.C. 926 (costs of proceedings) and 33 U.S.C. 927(b) (contempt).

Several parties questioned whether the deputy commissioners' memorandum of conference was to be transmitted, and the final rule specifies that it shall not be (cf. 20 CFR 702.317).

§ 702.331: FORMAL HEARINGS; TO WHOM PAID; INITIATING

The language describing the evidence to be transmitted has been changed; see discussion of § 702.317.

§ 702.335: FORMAL HEARINGS; NOTICE

Commenting parties were unanimous in urging that ten days is inadequate notice, and the final rule guarantees thirty days, a rough average of the suggestions. One commenter suggested, however, that the ten-day period be retained as to cases where the claimant is seriously disabled and receiving no benefits (cf. discussion of § 702.316), but since, as a practical matter, the guaranteed notice period will seldom affect the time between informal conference and formal hearing, and so many commenters wanted a guaranteed period for discovery (see discussion of § 702.316), the suggestion has not been adopted. In practice, a statement on a party's pre-hearing statement form explaining the need for a speedy hearing should do more towards accelerating the process than any special provision in the rules. Similarly, several commenting parties questioned when discovery was intended to take place, and this question is answered in the discussion of § 702.317.

A couple of commenters asked why parties are not consulted, at least on the West Coast where the Office of Administrative Law Judges is decentralized, before the Chief Administrative Law Judge sets a hearing date. In fact, sometimes they are consulted, generally by means of a calendar call, and the extent to which they are depends on particularized administrative factors that cannot be controlled by rulemaking. However, since the new rules (see § 702.337(b)) are more restrictive than the current rules (see 20 CFR 702.337) regarding the granting of continuances, the drafters contemplate that a greater effort will be made to accommodate the parties. Again, inclusion of a range of convenient hearing dates on the pre-hearing statement form should prove helpful in practice.

One commenting party questioned why the requirement that the notice of hearing specify the time and place of the hearing had been deleted; it was deleted because it seems implicit in the concept of "notice" of "scheduling," but the final rule restores it explicitly.

§ 702.336: FORMAL HEARINGS; NEW ISSUES

Most commenting parties objected to the proposed remand provisions, and, as explained in the discussion of § 702.317, they have been modified. The final rule provides for remand only when a new issue arises from new evidence likely to resolve the entire case. Additionally, the provision that the administrative law judge may consult with the deputy commissioner regarding the advisability of remand has been deleted, and argument on the point, if needed, is therefore left to the parties. Several commenters found any remand without the consent of all parties objectionable, but it is difficult to imagine circumstances such that an administrative law judge could be persuaded that the new evidence will resolve the entire case notwithstanding that one party vigorously opposes remand.

Several commenting parties suggested that granting settlement-approval authority to the administrative law judges was preferable to providing for remand when informal resolution was likely, but the suggestion has not been adopted. In view of the drafters, approval of a settlement is properly an administrative rather than judicial function, since to satisfy the statutory condition that a settlement be "for the best interests of an injured employee" (33 U.S.C. 908(i)) requires resort to administrative experience in the local area and informal investigation of factors outside the record (see also 20 CFR 702.241(d)).

The typographical error according to which the proposed § 702.336(a) would replace the entire present 20 CFR 702.336 has been corrected.

§ 702.337: FORMAL HEARINGS; CHANGE OF TIME OR PLACE FOR HEARINGS; POSTPONEMENTS

Most commenting parties suggested that the "extreme hardship" standard for continuances in combination with the ten-day guaranteed notice period was unreasonably strict, and both have been changed (see discussion of § 702.335). As several commenters suggested, the final rule now expressly provides that a previously scheduled judicial proceeding is an adequate reason for granting a continuance. However, the final rule also changes the time when a request for a continuance must be received by the Chief Administrative Law Judge from five until ten days before the scheduled date.

A couple of commenting parties questioned whether the requirement that the hearing be held near the claimant's residence was fair to employers and witnesses in areas of the country where many employees travel more than seventy-five miles to work. Since, however, such unfairness in any particular case can be "shown" as "good cause" for holding the hearing elsewhere and can often be mitigated for witnesses by means of depositions, the proposed rule has not been changed in this regard. Another commenter questioned whether the seventy-five-mile rule might be detrimental to the claimant in practice by further complicating, and thereby prolonging, the Office of Administrative Law Judges' scheduling. The drafters agree that the rule may occasionally produce this result, but in such a case, when time appears more important than distance, the claimant is free to waive the privilege, for example, by a statement on his or her pre-hearing statement form (cf. discussion of § 702.335).

§ 702.341: FORMAL HEARINGS; DEPOSITIONS; INTERROGATORIES

A few commenters objected to deposition or interrogation of a party unrepresented by counsel, and although the final rule meets the objection, a few cautionary words are in order. This rule is derived from 33 U.S.C. 924, the language of which has been in force since the original enactment of the Longshoremen's Act in 1927. The statutory provision does not authorize discovery in the modern sense, but merely the taking of testimony of a witness. Thus deposition or interrogation of a witness is only permissible as a substitute for live testimony should it be unavailable when the hearing is held, and deposition or interrogation of a party will only rarely be appropriate.

In the same vein, several commenting parties urged precise definition of where a case is "pending." This language also survives from the original Longshoremen's Act, according to which it was clear that a case was pending where the deputy commissioner sat, and there is nothing in the present Act in derogation of this construction. Thus, unless it has been transferred to a different district pursuant to 33 U.S.C. 919(g) and 20 CFR 702.104, a case is "pending" where the claim was filed, which, according to 33 U.S.C. 913(a) and 20 CFR 702.212, is "in the compensation district in which the injury or death occurred."

Finally, many commenters objected to continued adoption of the "rules of practice" of the Federal district court of the district where the case is pending, and urged adoption of the Federal Rules of Civil Procedure. Again the objectionable phrase is lifted from 33 U.S.C. 924, and survives from a time when there were no Federal Rules of Civil Procedure,[4] discovery as we now know it did not exist, and the "rules of practice" were essentially state rules followed pursuant to the Conformity Act.[5] Although it is highly doubtful that the statutory language can be read to have contemplated the revolution in federal practice effected by the Federal Rules,[6] it would surely exalt form over substance to require compliance with archaic district rules; accordingly the drafters have, subject to the limitation discussed above that depositions and interrogatories may only be used for testimony, adopted the Federal Rules.

§ 702.343: FORMAL HEARINGS; ORAL ARGUMENT AND WRITTEN ALLEGATIONS

All commenting parties but one objected to the proposed rule's elimination of post-hearing briefing at the request of a party. Most suggested that any delay caused by such briefing could be eliminated less restrictively by adoption of a short time limit for the brief's submission, combined with a more restrictive standard for enlargement. The drafters agree, and the final rule restores the privilege of filing a post-hearing brief to any party. However, the privilege is conditioned upon specification on the record of the novel or difficult issue or issues that cannot be adequately addressed in oral summation, and all briefs filed are limited to the specified issue or issues. Furthermore, the fifteen-day period for submission of the briefs commences at the conclusion of the hearing and not upon receipt of the transcript. However, the standard for enlargement no longer mentions receipt of the transcript, and in a proper case—if, for example, the administrative law judge intends to wait for the transcript so that a short enlargement beyond its receipt will not delay his or her decision—the administrative law judge may grant such an enlargement if he or she is persuaded that the brief will be "helpful."

[4] See Fed. R. Civ. P. 86(a).
[5] Ch. 255, § 5, 17 Stat. 196, 197 (1972).
[6] See generally *Wayma* v. *Southard*, 23 U.S. 1 (1825).

§ 702.347: FORMAL HEARINGS; TERMINATION

The comments received concerning this section are addressed in the discussion of § 702.343, and the only changes made in the final rule are in style.

OTHER COMMENTS

Two commenters urged that approval of a settlement by the deputy commissioner be mandatory when the claimant is represented by counsel, but the suggestion is plainly inconsistent with any reasonable construction of 33 U.S.C. 908(i).

One commenter suggested that the Department's goal should be for the administrative law judge to issue the decision at the conclusion of the hearing, and, under the final rules, this will sometimes be possible. Another commenter suggested that the rules require the administrative law judge to issue his or her decision within a specified number of days after the hearing. This is already provided for in 33 U.S.C. 919(c), and although the provision has never been effective in light of case law holding its terms directory rather than mandatory (see also 20 CFR 702.347), under the new § 702.347, it is anticipated that cases ordinarily will be decided within twenty days of the hearing.

One commenting party suggested that the impact of the economic disparity between the claimant and the employer should be lessened by providing that the employer pay, even to an unsuccessful claimant, all expenses incurred by the claimant in attending or being represented at depositions requested by the employer. The suggestion has been rejected because in the view of the drafters it goes beyond anything provided for by statutory terms.

Finally, one commenter suggested that benefits under the Longshoremen's Act are unjustly disproportionate to benefits provided by state compensation law and that the federal benefits should be lowered accordingly. Whatever merit this suggestion may have, however, it cannot be adopted by rulemaking.

This document was prepared under the supervision of Laurie M. Streeter, Association Solicitor for Employee Benefits, in cooperation with the Chief Administrative Law Judge.

Accordingly, 20 CFR Part 702 is amended as follows:

1. Section 702.132 is revised to read as follows:

§ 702.132 Fees for services.

An attorney seeking a fee for services performed on behalf of a claimant with respect to claims filed under the Act shall make application therefor to the deputy commissioner, administrative law judge, Board, or court, as the case may be, before whom the services were performed (See 33 U.S.C. 928(c)). The application shall be filed and served upon the other parties within the time limits specified by such deputy commissioner, administrative law judge, Board, or court. The application shall be supported by a complete statement of the extent and character of the necessary work done, described with particularity as to the professional status (e.g., attorney, paralegal, law clerk, or other person assisting an attorney) of each person performing such work, the normal billing rate for each such person, and the hours devoted by each such persons to each category of work. Any fee approved shall be reasonably commensurate with the necessary work done and shall take into account the quality of the representation, the complexity of the legal issues involved, and the amount of benefits awarded, and when the fee is to be assessed against the claimant, shall also take into account the financial circumstances of the claimant. No contract pertaining to the amount of a fee shall be recognized.

2. Section 702.316 is revised to read as follows:

§ 702.316 Conclusion of conference; no agreement on all matters with respect to the claim.

When it becomes apparent during the course of the informal conference that agreement on all issues cannot be reached, the deputy commissioner shall bring the conference to a close, shall evaluate all evidence available to him or her, and after such evaluation shall prepare a memorandum of conference setting forth all outstanding issues, such facts or allegations as appear material and his or her recommendations and rationale for resolution of such issues. Copies of this memorandum shall then be sent by certified mail to each of the parties or their representatives, who shall then have 14 days within which to signify in writing to the deputy commissioner whether they agree or disagree with his or her recommendations. If they agree, the deputy commissioner shall proceed as in § 702.315(a). If they disagree (Caution: See § 702.134), then the deputy commissioner may schedule such further conference or conferences as, in his or her opinion, may bring about agreement; if he or she is satisfied that any further conference would be unproductive, or if any party has requested a hearing, the deputy commissioner shall prepare the case for transfer to the Office of the Chief Administrative Law Judge (See § 702.317, §§ 702.331–.351).

3. Section 702.317 is revised to read as follows:

§ 702.317 Preparation and transfer of the case for hearing.

A case is prepared for transfer in the following manner:

(a) The deputy commissioner shall furnish each of the parties or their representatives with a copy of a pre-hearing statement form.

(b) Each party shall, within 21 days after receipt of such form, complete it and return it to the deputy commissioner and serve copies on all other parties. Extensions of time for good cause may be granted by the deputy commissioner.

(c) Upon receipt of the completed forms, the deputy commissioner, after checking them for completeness and after any further conferences that, in his or her opinion, are warranted, shall transmit them to the Office of the Chief Administrative Law Judge by letter of transmittal together with all available evidence which the parties intend to submit at the hearing (exclusive of X-rays, slides and other materials not suitable for mailing which may be offered into evidence at the time of hearing); the materials transmitted shall not include any recommendations expressed or memoranda prepared by the deputy commissioner pursuant to § 702.316.

(d) If the completed pre-hearing statement forms raise new or additional issues not previously considered by the deputy commissioner or indicate that material evidence will be submitted that could reasonably have been made available to the deputy commissioner before he or she prepared the last memorandum of conference, the deputy commissioner shall transfer the case to the Office of the Chief Administrative Law Judge only after having considered such issues or evaluated such evidence or both and having issued an additional memorandum of conference in conformance with § 702.316.

(e) If a party fails to complete or return his or her pre-hearing statement form within the time allowed, the deputy commissioner may, at his or her discretion, transmit the case without that party's form. However, such transmittal shall include a statement from the deputy commissioner setting forth the circumstances causing the failure to include the form, and such party's failure to submit a pre-hearing statement form may, subject to rebuttal at the formal hearing, be considered by the administrative law judge, to the extent intransigence is relevant, in subsequent rulings on motions which may be made in the course of the formal hearing.

4. Section 702.331 is revised to read as follows:

V42N163 AUG 23 77 UM

§ 702.331 Formal hearings; procedure initiating.

Formal hearings are initiated by transmitting to the Office of the Chief Administrative Law Judge the pre-hearing statement forms, the available evidence which the parties intend to submit at the formal hearing, and the letter of transmittal from the deputy commissioner as provided in § 702.316 and § 702.317.

5. Section 702.335 is revised to read as follows:

§ 702.335 Formal hearings; notice.

On a form prescribed for this purpose the Office of the Chief Administrative Law Judge shall notify the parties (See § 702.333) of the place and time of the formal hearing not less than 30 days in advance thereof.

6. Section 702.336(a) is revised to read as follows:

§ 702.336 Formal hearings; new issues.

(a) If, during the course of the formal hearing, the evidence presented warrants consideration of an issue or issues not previously considered, the hearing may be expanded to include the new issue. If in the opinion of the administrative law judge the new issue requires additional time for preparation, the parties shall be given a reasonable time within which to prepare for it. If the new issue arises from evidence that has not been considered by the deputy commissioner, and such evidence is likely to resolve the case without the need for a formal hearing, the administrative law judge may remand the case to the deputy commissioner for his or her evaluation and recommendation pursuant to § 702.316.

* * * * *

7. Section 702.337 is revised to read as follows:

§ 702.337 Formal hearings; change of time or place for hearings; postponements.

(a) Except for good cause shown, hearings shall be held at convenient locations not more than 75 miles from the claimant's residence.

(b) Once a formal hearing has been scheduled, continuances shall not be granted except in cases of extreme hardship or where attendance of a party or his or her representative is mandated at a previously scheduled judicial proceeding. Unless the ground for the request arises thereafter, requests for continuances must be received by the Chief Administrative Law Judge at least 10 days before the scheduled hearing date, must be served upon the other parties and must specify the extreme hardship or previously scheduled judicial proceeding claimed.

(c) The Chief Administrative Law Judge or the administrative law judge assigned to the case may change the time and place of the hearing, or temporarily adjourn a hearing, on his own motion or for good cause shown by a party. The parties shall be given not less than 10 days' notice of the new time and place of the hearing, unless they agree to such change without notice.

8. Section 702.341 is revised to read as follows:

§ 702.341 Formal hearings; depositions; interrogatories.

The testimony of any witness, including any party represented by counsel, may be taken by deposition or interrogatory according to the Federal Rules of Civil Procedure as supplemented by local rules of practice for the federal district court for the judicial district in which the case is pending. However, such depositions or interrogatories must be completed within reasonable times to be fixed by the Chief Administrative Law Judge or the administrative law judge assigned to the case.

9. Section 702.343 is revised to read as follows:

§ 702.343 Formal hearings; oral argument and written allegations.

Any party upon request shall be allowed a reasonable time for presentation of oral argument and shall be permitted to file a pre-hearing brief or other written statement of fact or law. A copy of any such pre-hearing brief or other written statement shall be filed with the Chief Administrative Law Judge or the administrative law judge assigned to the case before or during the proceeding at which evidence is submitted to the administrative law judge and shall be served upon each other party. Post-hearing briefs will not be permitted except at the request of the administrative law judge or upon averment on the record of a party that the case presents a specific novel or difficult legal or factual issue (or issues) that cannot be adequately addressed in oral summation. When permitted, any such brief shall be limited to the issue or issues specified by the administrative law judge or by the party in his or her averment and shall be due from any party desiring to address such issue or issues within 15 days of the conclusion of the proceeding at which evidence is submitted to the administrative law judge. Enlargement of the time for filing such briefs shall be granted only if the administrative law judge is persuaded that the brief will be helpful to him or her and that the enlargement granted will not delay decision of the case.

10. Section 702.347 is revised to read as follows:

§ 702.347 Formal hearings; termination.

(a) Formal hearings are normally terminated upon the conclusion of the proceeding at which evidence is submitted to the administrative law judge.

(b) In exceptional cases the Chief Administrative Law Judge or the administrative law judge assigned to the case may, in his or her discretion, extend the time for official termination of the hearing.

(33 U.S.C. 939)

Dated: August 19, 1977.

RAY MARSHALL,
Secretary of Labor.

[FR Doc.77-24404 Filed 8-22-77;8:45 am]

federal register

TUESDAY, AUGUST 23, 1977

PART VIII

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

■

FAIR MARKET RENTS FOR SECTION 8 AND SECTION 23 EXISTING HOUSING

Amendment of Schedule B

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME PUBLIC HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-77-311]

PART 803—SECTION 23 HOUSING ASSISTANCE PAYMENTS PROGRAM

PART 888—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—FAIR MARKET RENTS AND CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

Amendment of Schedule B—Section 8 Existing Housing and Section 23 Existing Housing

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: HUD is amending for certain market areas the Schedule that sets forth the Fair Market Rents for the Section 23 and Section 8 Housing Assistance Payments Programs for Existing Housing. Fair Market Rents for these market areas have been recalculated in response to comments received from HUD field offices and the general public on the schedule published for comment on May 4.

EFFECTIVE DATE: August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Bernard Horn, Acting Director, Office of Economic and Market Analysis, PD&R, HUD, Washington, D.C. 20410, 202-755-5816.

SUPPLEMENTARY INFORMATION: HUD gave notice on May 4, 1977, at 42 FR 22704 that it was proposing to amend Title 24 of the Code of Federal Regulations by revising Part 803, Schedule B and Part 888, Schedule B. The comment period closed May 18, 1977.

By the deadline, the Department had received 189 comments from the general public and HUD field offices in response to the May 4 publication. Most of the comments requested increases in the schedules.

To avoid delay in providing needed rent increases while the comments were being considered, HUD published the proposed schedule for effect on July 1 at 42 FR 33921-34066 without change. In the preamble to the July 1 publication, however, HUD announced that additional amendments to the schedule would be made once all comments received were analyzed. All comments have been carefully considered and the data submitted has been verified with our field offices. Additional amendments are now being published for effect.

NOTE.—A Finding of Inapplicability regarding the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the office of the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order 11821.

Accordingly, Title 24, Part 888, Schedule B and Part 803, Schedule B are revised for the specified market areas as set forth below.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., August 12, 1977.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing—Federal Housing Commissioner.

SCHEDULE B—FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

NOTE.—The Fair Market Rents for five and six bedroom units are calculated as follows: (1) Five bedrooms—150 percent of two bedroom Fair Market Rent; (2) Six bedrooms—175 percent of two bedroom Fair Market Rent.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
REGION 1					
MANCHESTER, NEW HAMPSHIRE SMSA: BOUNDS ARE SMSA PARTICIPATING STATE:					
NON-ELEVATOR:	155	181	211	249	285
ELEVATOR:	170	200	233	274	314
SMSA PARTICIPATING STATE:					
NON-ELEVATOR:	155	181	211	249	285
ELEVATOR:	170	200	233	274	314

NOTE: FAIR MARKET RENTS (FMRS) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CUI), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
REGION 1					
BILLINGS, MONTANA SMSA: 1 JANUARY MAY BE CALLED MAY HILL, NEW HAMPSHIRE SMSA PARTICIPATING STATE:					
NON-ELEVATOR:	146	206	240	299	339
ELEVATOR:	178	227	271	329	373

NOTE: FAIR MARKET RENTS (FMRS) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CUI), JULY 07, 1977

AUG 23 1977 V42 #163 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BURLINGTON,VERMONT INSURING OFFICE						
NON SMSA						
COUNTY:ADDISON	NON-ELEVATOR:	158	181	215	260	280
STATE:VT	ELEVATOR:	174	199	237	280	300
COUNTY:BENNINGTON	NON-ELEVATOR:	158	181	215	260	280
STATE:VT	ELEVATOR:	174	199	237	280	300
COUNTY:CALEDONIA	NON-ELEVATOR:	145	172	203	245	267
STATE:VT	ELEVATOR:	165	188	223	265	285
COUNTY:CHITTENDEN	NON-ELEVATOR:	158	181	220	275	295
STATE:VT	ELEVATOR:	174	199	242	295	315
COUNTY:FRANKLIN	NON-ELEVATOR:	145	172	203	245	267
STATE:VT	ELEVATOR:	165	188	223	265	285
COUNTY:GRAND ISLE	NON-ELEVATOR:	145	172	203	245	267
STATE:VT	ELEVATOR:	165	188	223	265	285
COUNTY:ORANGE	NON-ELEVATOR:	145	172	203	245	267
STATE:VT	ELEVATOR:	165	188	223	265	285
COUNTY:ORLEANS	NON-ELEVATOR:	145	172	203	245	267
STATE:VT	ELEVATOR:	165	188	223	265	285
COUNTY:RUTLAND	NON-ELEVATOR:	158	181	215	260	280
STATE:VT	ELEVATOR:	174	199	237	280	300
COUNTY:WASHINGTON	NON-ELEVATOR:	145	172	203	245	267
STATE:VT	ELEVATOR:	165	188	223	265	285
COUNTY:WINDHAM	NON-ELEVATOR:	158	181	215	260	280
STATE:VT	ELEVATOR:	174	199	237	280	300
COUNTY:WINDSOR	NON-ELEVATOR:	158	181	215	260	280
STATE:VT	ELEVATOR:	174	199	237	280	300

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO). JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
HARTFORD,CONNECTICUT AREA OFFICE						
SMSA: STAMFORD, CT						
SMSA PART:FAIRFIELD	NON-ELEVATOR:	210	269	311	368	395
STATE:CT	ELEVATOR:	220	275	325	368	395

NOTE, FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS.
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO). JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MANCHESTER,NEW HAMPSHIRE AREA OFFICE						
SMSA: LAWRENCE-HAVERHILL, MA-NH						
SMSA PART:ROCKINGHAM	NON-ELEVATOR:	180	206	246	299	339
STATE:NH	ELEVATOR:	196	227	271	329	373
SMSA: MANCHESTER, NH						
SMSA PART:HILLSBOROUGH	NON-ELEVATOR:	166	206	246	299	339
STATE:NH	ELEVATOR:	183	227	271	329	373
SMSA PART:MERRIMACK	NON-ELEVATOR:	166	206	246	299	339
STATE:NH	ELEVATOR:	183	227	271	329	373
SMSA PART:ROCKINGHAM	NON-ELEVATOR:	166	206	246	299	339
STATE:NH	ELEVATOR:	183	227	271	329	373
SMSA: NASHUA, NH						
SMSA PART:HILLSBOROUGH	NON-ELEVATOR:	166	206	246	299	339
STATE:NH	ELEVATOR:	183	227	271	329	373

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO). JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALBANY,NEW YORK INSURING OFFICE						
NON SMSA						
COUNTY:ESSEX	NON-ELEVATOR:	125	144	170	189	208
STATE:NY	ELEVATOR:	138	158	187	208	229
COUNTY:GREENE	NON-ELEVATOR:	133	155	181	202	221
STATE:NY	ELEVATOR:	146	171	199	222	243
COUNTY:WASHINGTON	NON-ELEVATOR:	125	144	170	189	208
STATE:NY	ELEVATOR:	138	158	187	208	230

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BUFFALO,NEW YORK AREA OFFICE						
NON SMSA						
COUNTY:CHAUTAUQUA	NON-ELEVATOR:	132	165	195	220	243
STATE:NY	ELEVATOR:	145	182	215	242	267
COUNTY:GENESEE	NON-ELEVATOR:	141	162	193	213	235
STATE:NY	ELEVATOR:	155	178	211	235	258
COUNTY:SCHUYLER	NON-ELEVATOR:	133	151	181	200	220
STATE:NY	ELEVATOR:	146	166	198	220	242
COUNTY:STEUBEN	NON-ELEVATOR:	133	151	181	200	220
STATE:NY	ELEVATOR:	146	166	198	220	242

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BALTIMORE,MARYLAND AREA OFFICE						
SMSA: BALTIMORE, MD						
COUNTY:ANNE ARUNDEL	NON-ELEVATOR:	180	210	245	290	335
STATE:MD	ELEVATOR:	198	231	270	319	368
COUNTY:BALTIMORE	NON-ELEVATOR:	180	210	245	290	335
STATE:MD	ELEVATOR:	198	231	270	319	368
COUNTY:CARROLL	NON-ELEVATOR:	180	210	245	290	335
STATE:MD	ELEVATOR:	198	231	270	319	368
COUNTY:HARFORD	NON-ELEVATOR:	180	210	245	290	335
STATE:MD	ELEVATOR:	198	231	270	319	368
COUNTY:HOWARD	NON-ELEVATOR:	180	210	245	290	335
STATE:MD	ELEVATOR:	198	231	270	319	368
:-COLUMBIA(U)	NON-ELEVATOR:	186	233	286	327	368
STATE:MD	ELEVATOR:	204	256	314	360	404
INDEP. CITY:BALTIMORE	NON-ELEVATOR:	180	210	245	290	335
STATE:MD	ELEVATOR:	198	231	270	319	368
SMSA: WASHINGTON, DC-MD-VA						
COUNTY:CHARLES	NON-ELEVATOR:	187	224	264	299	337
STATE:MD	ELEVATOR:	205	247	288	329	370
NON SMSA						
COUNTY:CALVERT	NON-ELEVATOR:	129	148	177	197	217
STATE:MD	ELEVATOR:	142	162	195	216	239
COUNTY:FREDERICK	NON-ELEVATOR:	163	187	217	280	310
STATE:MD	ELEVATOR:	179	206	239	308	341
COUNTY:GARRETT	NON-ELEVATOR:	85	108	129	158	173
STATE:MD	ELEVATOR:	95	118	142	174	190

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BALTIMORE,MARYLAND AREA OFFICE						
NON SMSA						
COUNTY:WASHINGTON	NON-ELEVATOR:	136	155	185	239	265
STATE:MD	ELEVATOR:	150	171	204	263	292

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHARLESTON,WEST VIRGINIA INSURING OFFICE						
NON SMSA						
COUNTY:MCDOWELL	NON-ELEVATOR:	100	125	150	175	200
STATE:WV	ELEVATOR:	110	138	165	193	220
COUNTY:MERCER	NON-ELEVATOR:	100	125	150	175	200
STATE:WV	ELEVATOR:	110	138	165	193	220
COUNTY:MONROE	NON-ELEVATOR:	100	125	150	175	200
STATE:WV	ELEVATOR:	110	138	165	193	220
COUNTY:RALEIGH	NON-ELEVATOR:	100	125	150	175	200
STATE:WV	ELEVATOR:	110	138	165	193	220
COUNTY:SUMMERS	NON-ELEVATOR:	100	125	150	175	200
STATE:WV	ELEVATOR:	110	138	165	193	220
COUNTY:WYOMING	NON-ELEVATOR:	100	125	150	175	200
STATE:WV	ELEVATOR:	110	138	165	193	220

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PHILADELPHIA,PENNSYLVANIA AREA OFFICE						
SMSA: NORTHEAST, PA						
COUNTY:LACKAWANNA	NON-ELEVATOR:	132	152	181	202	220
STATE:PA	ELEVATOR:	146	167	198	221	241
COUNTY:LUZERNE	NON-ELEVATOR:	132	152	181	202	220
STATE:PA	ELEVATOR:	146	167	198	221	241
COUNTY:MONROE	NON-ELEVATOR:	132	152	181	202	220
STATE:PA	ELEVATOR:	146	167	198	221	241
SMSA: READING, PA						
COUNTY:BERKS	NON-ELEVATOR:	143	164	194	226	246
STATE:PA	ELEVATOR:	157	180	213	249	271

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND,VIRGINIA AREA OFFICE						
SMSA: JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA						
COUNTY:SCOTT	NON-ELEVATOR:	113	131	157	173	191
STATE:VA	ELEVATOR:	125	143	172	191	210
COUNTY:WASHINGTON	NON-ELEVATOR:	113	131	157	173	191
STATE:VA	ELEVATOR:	125	143	172	191	210
INDEP. CITY:BRISTOL	NON-ELEVATOR:	113	131	157	173	191
STATE:VA	ELEVATOR:	125	143	172	191	210
SMSA: LYNCHBURG, VA						
COUNTY:AMHERST	NON-ELEVATOR:	127	146	174	192	211
STATE:VA	ELEVATOR:	139	159	190	212	233
COUNTY:APPOMATTOX	NON-ELEVATOR:	127	146	174	192	211
STATE:VA	ELEVATOR:	139	159	190	212	233
COUNTY:CAMPBELL	NON-ELEVATOR:	127	146	174	192	211
STATE:VA	ELEVATOR:	139	159	190	212	233
INDEP. CITY:LYNCHBURG	NON-ELEVATOR:	127	146	174	192	211
STATE:VA	ELEVATOR:	139	159	190	212	233
SMSA: NEWPORT NEWS-HAMPTON, VA						
COUNTY:GLOUCESTER	NON-ELEVATOR:	150	172	197	240	300
STATE:VA	ELEVATOR:	165	180	217	264	330
COUNTY:JAMES CITY	NON-ELEVATOR:	150	172	197	240	300
STATE:VA	ELEVATOR:	165	180	217	264	330
COUNTY:YORK	NON-ELEVATOR:	150	172	197	240	300
STATE:VA	ELEVATOR:	165	180	217	264	330
INDEP. CITY:HAMPTON	NON-ELEVATOR:	150	172	197	240	300
STATE:VA	ELEVATOR:	165	180	217	264	330

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND,VIRGINIA AREA OFFICE						
SMSA: NEWPORT NEWS-HAMPTON, VA						
INDEP. CITY:NEWPORT NEWS	NON-ELEVATOR:	150	172	197	240	300
STATE:VA	ELEVATOR:	165	180	217	264	330
INDEP. CITY:POQUOSON	NON-ELEVATOR:	150	172	197	240	300
STATE:VA	ELEVATOR:	165	180	217	264	330
INDEP. CITY:WILLIAMSBURG	NON-ELEVATOR:	150	172	197	240	300
STATE:VA	ELEVATOR:	165	180	217	264	330
SMSA: NORFOLK-VIRGINIA BEACH-PORTSMOUTH, VA-NC						
INDEP. CITY:CHESAPEAKE	NON-ELEVATOR:	143	163	192	214	235
STATE:VA	ELEVATOR:	157	178	212	235	257
INDEP. CITY:NORFOLK	NON-ELEVATOR:	143	163	192	214	235
STATE:VA	ELEVATOR:	157	178	212	235	257
INDEP. CITY:PORTSMOUTH	NON-ELEVATOR:	143	163	192	214	235
STATE:VA	ELEVATOR:	157	178	212	235	257
INDEP. CITY:SUFFOLK	NON-ELEVATOR:	143	163	192	214	235
STATE:VA	ELEVATOR:	157	178	212	235	257
INDEP. CITY:VIRGINIA BEA	NON-ELEVATOR:	143	163	192	214	235
STATE:VA	ELEVATOR:	157	178	212	235	257
SMSA: PETERSBURG-COLONIAL HEIGHTS-HOPEWELL, VA						
COUNTY:CHESTERFIELD	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
COUNTY:PRINCE GEORGE	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
INDEP. CITY:COLONIAL HEI	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND,VIRGINIA AREA OFFICE						
SMSA: PETERSBURG-COLONIAL HEIGHTS-HOPEWELL, VA						
INDEP. CITY:HOPEWELL	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
INDEP. CITY:PETERSBURG	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
SMSA: RICHMOND, VA						
COUNTY:CHARLES CITY	NON-ELEVATOR:	156	184	226	263	288
STATE:VA	ELEVATOR:	164	202	251	288	317
COUNTY:CHESTERFIELD	NON-ELEVATOR:	156	184	226	263	288
STATE:VA	ELEVATOR:	164	202	251	288	317
COUNTY:GOOCHLAND	NON-ELEVATOR:	156	184	226	263	288
STATE:VA	ELEVATOR:	164	202	251	288	317
COUNTY:HANOVER	NON-ELEVATOR:	156	184	226	263	288
STATE:VA	ELEVATOR:	164	202	251	288	317
COUNTY:HENRICO	NON-ELEVATOR:	156	184	226	263	288
STATE:VA	ELEVATOR:	164	202	251	288	317
COUNTY:NEW KENT	NON-ELEVATOR:	156	184	226	263	288
STATE:VA	ELEVATOR:	164	202	251	288	317
COUNTY:POWHATAN	NON-ELEVATOR:	156	184	226	263	288
STATE:VA	ELEVATOR:	164	202	251	288	317
INDEP. CITY:RICHMOND	NON-ELEVATOR:	156	184	226	263	288
STATE:VA	ELEVATOR:	164	202	251	288	317
SMSA: ROANOKE, VA						
COUNTY:BOTETOURT	NON-ELEVATOR:	117	133	159	184	200
STATE:VA	ELEVATOR:	127	146	174	201	221

NOTE. FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CU), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND,VIRGINIA AREA OFFICE						
SMSA: ROANOKE, VA						
COUNTY:CRAIG	NON-ELEVATOR:	117	133	159	184	200
STATE:VA	ELEVATOR:	127	146	174	201	221
COUNTY:ROANOKE	NON-ELEVATOR:	117	133	159	184	200
STATE:VA	ELEVATOR:	127	146	174	201	221
INDEP. CITY:ROANOKE	NON-ELEVATOR:	117	133	159	184	200
STATE:VA	ELEVATOR:	127	146	174	201	221
INDEP. CITY:SALEM	NON-ELEVATOR:	117	133	159	184	200
STATE:VA	ELEVATOR:	127	146	174	201	221
NON SMSA						
COUNTY:ACCOMACK	NON-ELEVATOR:	120	137	163	182	199
STATE:VA	ELEVATOR:	132	150	181	200	220
COUNTY:ALBEMARLE	NON-ELEVATOR:	150	170	200	230	260
STATE:VA	ELEVATOR:	165	187	220	253	286
COUNTY:ALLEGHANY	NON-ELEVATOR:	117	133	159	184	200
STATE:VA	ELEVATOR:	127	146	174	201	221
COUNTY:AMELIA	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
COUNTY:AUGUSTA	NON-ELEVATOR:	102	117	138	153	170
STATE:VA	ELEVATOR:	111	128	152	170	186
COUNTY:BATH	NON-ELEVATOR:	102	117	138	153	170
STATE:VA	ELEVATOR:	111	128	152	170	186
COUNTY:BEDFORD	NON-ELEVATOR:	127	146	174	192	211
STATE:VA	ELEVATOR:	139	159	190	212	233

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CU), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND,VIRGINIA AREA OFFICE						
NON SMSA						
COUNTY:BLAND	NON-ELEVATOR:	85	97	114	127	140
STATE:VA	ELEVATOR:	93	106	126	140	156
COUNTY:BRUNSWICK	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
COUNTY:BUCHANAN	NON-ELEVATOR:	85	97	114	127	140
STATE:VA	ELEVATOR:	93	106	126	140	156
COUNTY:BUCKINGHAM	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
COUNTY:CAROLINE	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
COUNTY:CARROLL	NON-ELEVATOR:	94	108	127	142	157
STATE:VA	ELEVATOR:	104	118	140	157	172
COUNTY:CHARLOTTE	NON-ELEVATOR:	127	146	174	192	211
STATE:VA	ELEVATOR:	139	159	190	212	233
COUNTY:CLARKE	NON-ELEVATOR:	102	117	138	153	170
STATE:VA	ELEVATOR:	111	128	152	170	186
COUNTY:CULPEPER	NON-ELEVATOR:	117	133	159	175	192
STATE:VA	ELEVATOR:	127	146	174	194	212
COUNTY:CUMBERLAND	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
COUNTY:DICKENSON	NON-ELEVATOR:	85	97	114	127	140
STATE:VA	ELEVATOR:	93	106	126	140	156
COUNTY:ESSEX	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CU), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND,VIRGINIA AREA OFFICE						
NON SMSA						
COUNTY:FAUQUIER	NON-ELEVATOR:	117	133	159	175	192
STATE:VA	ELEVATOR:	127	146	174	194	212
COUNTY:FLOYD	NON-ELEVATOR:	117	133	159	184	200
STATE:VA	ELEVATOR:	127	146	174	201	221
COUNTY:FLUVANNA	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
COUNTY:FRANKLIN	NON-ELEVATOR:	92	105	125	138	152
STATE:VA	ELEVATOR:	101	115	137	152	169
COUNTY:FREDERICK	NON-ELEVATOR:	102	117	138	153	170
STATE:VA	ELEVATOR:	111	128	152	170	186
COUNTY:GILES	NON-ELEVATOR:	117	133	159	184	200
STATE:VA	ELEVATOR:	127	146	174	201	221
COUNTY:GRAYSON	NON-ELEVATOR:	94	108	127	142	157
STATE:VA	ELEVATOR:	104	118	140	157	172
COUNTY:GREENE	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
COUNTY:GREENSVILLE	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
COUNTY:HALIFAX	NON-ELEVATOR:	127	146	174	192	211
STATE:VA	ELEVATOR:	139	159	190	212	233
COUNTY:HENRY	NON-ELEVATOR:	117	133	159	184	200
STATE:VA	ELEVATOR:	127	146	174	201	221
COUNTY:HIGHLAND	NON-ELEVATOR:	102	117	138	153	170
STATE:VA	ELEVATOR:	111	128	152	170	186

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CU), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND,VIRGINIA AREA OFFICE						
NON SMSA						
COUNTY:ISLE OF WIGHT	NON-ELEVATOR:	92	105	125	138	152
STATE:VA	ELEVATOR:	101	115	137	152	169
COUNTY:KING + QUEEN	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
COUNTY:KING GEORGE	NON-ELEVATOR:	117	133	159	175	192
STATE:VA	ELEVATOR:	127	146	174	194	212
COUNTY:KING WILLIAM	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
COUNTY:LANCASTER	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
COUNTY:LEE	NON-ELEVATOR:	85	97	114	127	140
STATE:VA	ELEVATOR:	93	106	126	140	156
COUNTY:LOUISA	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
COUNTY:LUNENBURG	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
COUNTY:MADISON	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
COUNTY:MATHEWS	NON-ELEVATOR:	92	105	125	138	152
STATE:VA	ELEVATOR:	101	115	137	152	169
COUNTY:MECKLENBURG	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
COUNTY:MIDDLESEX	NON-ELEVATOR:	92	105	125	138	152
STATE:VA	ELEVATOR:	101	115	137	152	169

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND,VIRGINIA AREA OFFICE						
NON SMSA						
COUNTY:MONTGOMERY	NON-ELEVATOR:	117	133	159	184	200
STATE:VA	ELEVATOR:	127	146	174	201	221
COUNTY:NELSON	NON-ELEVATOR:	127	146	174	192	211
STATE:VA	ELEVATOR:	139	159	190	212	233
COUNTY:NORTHAMPTON	NON-ELEVATOR:	120	137	163	182	199
STATE:VA	ELEVATOR:	132	150	181	200	220
COUNTY:NORTHUMBERLD	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
COUNTY:NOTTOWAY	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
COUNTY,ORANGE	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
COUNTY:PAGE	NON-ELEVATOR:	102	117	138	153	170
STATE:VA	ELEVATOR:	111	128	152	170	186
COUNTY:PATRICK	NON-ELEVATOR:	117	133	159	184	200
STATE:VA	ELEVATOR:	127	146	174	201	221
COUNTY:PITTSYLVANIA	NON-ELEVATOR:	127	146	174	192	211
STATE:VA	ELEVATOR:	139	159	190	212	233
COUNTY:PRINCEEDWARD	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
COUNTY:PULASKI	NON-ELEVATOR:	117	133	159	184	200
STATE:VA	ELEVATOR:	127	146	174	201	221
COUNTY:RAPPAHANNOCK	NON-ELEVATOR:	117	133	159	175	192
STATE:VA	ELEVATOR:	127	146	174	194	212

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND,VIRGINIA AREA OFFICE						
NON SMSA						
COUNTY:RICHMOND	NON-ELEVATOR:	134	170	201	231	255
STATE:VA	ELEVATOR:	148	187	221	254	281
COUNTY:ROCKBRIDGE	NON-ELEVATOR:	102	117	136	153	170
STATE:VA	ELEVATOR:	111	126	152	170	186
COUNTY:ROCKINGHAM	NON-ELEVATOR:	102	117	138	153	170
STATE:VA	ELEVATOR:	111	128	154	170	186
COUNTY:RUSSELL	NON-ELEVATOR:	85	97	114	127	140
STATE:VA	ELEVATOR:	93	106	126	140	156
COUNTY:SHENANDOAH	NON-ELEVATOR:	102	117	138	153	170
STATE:VA	ELEVATOR:	111	128	152	170	186
COUNTY:SMYTH	NON-ELEVATOR:	85	97	114	127	140
STATE:VA	ELEVATOR:	93	106	126	140	156
COUNTY:SOUTHAMPTON	NON-ELEVATOR:	92	105	125	138	152
STATE:VA	ELEVATOR:	101	115	137	152	169
COUNTY:SPOTSLYVANIA	NON-ELEVATOR:	117	133	159	175	192
STATE:VA	ELEVATOR:	127	146	174	194	212
COUNTY:STAFFORD	NON-ELEVATOR:	117	133	159	175	192
STATE:VA	ELEVATOR:	127	146	174	194	212
COUNTY:SURRY	NON-ELEVATOR:	92	105	125	138	152
STATE:VA	ELEVATOR:	101	115	137	152	169
COUNTY:SUSSEX	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
COUNTY:TAZEWELL	NON-ELEVATOR:	85	97	114	127	140
STATE:VA	ELEVATOR:	93	106	126	140	156

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO). JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND,VIRGINIA AREA OFFICE						
NON SMSA						
COUNTY:WARREN	NON-ELEVATOR:	102	117	138	153	170
STATE:VA	ELEVATOR:	111	126	152	170	186
COUNTY:WESTMORELAND	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
COUNTY:WISE	NON-ELEVATOR:	85	97	114	127	140
STATE:VA	ELEVATOR:	93	106	126	140	156
COUNTY:WYTHE	NON-ELEVATOR:	117	133	159	184	200
STATE:VA	ELEVATOR:	127	146	174	201	221
INDEP. CITY:BEDFORD	NON-ELEVATOR:	127	146	174	192	211
STATE:VA	ELEVATOR:	139	159	190	212	233
INDEP. CITY:BUENA VISTA	NON-ELEVATOR:	102	117	138	153	170
STATE:VA	ELEVATOR:	111	128	152	170	186
INDEP. CITY:CHARLOTTESVI	NON-ELEVATOR:	150	170	200	230	260
STATE:VA	ELEVATOR:	165	187	220	253	286
INDEP. CITY:CLIFTON FORG	NON-ELEVATOR:	117	133	159	184	200
STATE:VA	ELEVATOR:	127	146	174	201	221
INDEP. CITY:COVINGTON	NON-ELEVATOR:	117	133	159	184	200
STATE:VA	ELEVATOR:	127	146	174	201	221
INDEP. CITY:DANVILLE	NON-ELEVATOR:	127	146	174	192	211
STATE:VA	ELEVATOR:	139	159	190	212	233
INDEP. CITY:EMPORIA	NON-ELEVATOR:	136	156	186	215	235
STATE:VA	ELEVATOR:	149	171	204	237	259
INDEP. CITY:FRANKLIN	NON-ELEVATOR:	117	133	159	184	200
STATE:VA	ELEVATOR:	127	146	174	201	221

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO). JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND,VIRGINIA AREA OFFICE						
NON SMSA						
INDEP. CITY;FREDERICKSBUR	NON-ELEVATOR:	117	133	159	175	192
STATE;VA	ELEVATOR:	127	146	174	194	212
INDEP. CITY;GALAX	NON-ELEVATOR:	94	108	127	142	157
STATE;VA	ELEVATOR:	104	116	140	157	172
INDEP. CITY;HARRISONBURG	NON-ELEVATOR:	102	117	138	153	170
STATE;VA	ELEVATOR:	111	128	152	170	186
INDEP. CITY;LEXINGTON	NON-ELEVATOR:	102	117	138	153	170
STATE;VA	ELEVATOR:	111	128	152	170	186
INDEP. CITY;MARTINSVILLE	NON-ELEVATOR:	117	133	159	184	200
STATE;VA	ELEVATOR:	127	146	174	201	221
INDEP. CITY;NORTON	NON-ELEVATOR:	85	97	114	127	140
STATE;VA	ELEVATOR:	93	106	126	140	156
INDEP. CITY;RADFORD	NON-ELEVATOR:	117	133	159	184	200
STATE;VA	ELEVATOR:	127	146	174	201	221
INDEP. CITY;SOUTH BOSTON	NON-ELEVATOR:	127	146	174	192	211
STATE;VA	ELEVATOR:	139	159	190	212	233
INDEP. CITY;STAUNTON	NON-ELEVATOR:	102	117	138	153	170
STATE;VA	ELEVATOR:	111	128	152	170	186
INDEP. CITY;WAYNESBORO	NON-ELEVATOR:	102	117	138	153	170
STATE;VA	ELEVATOR:	111	128	152	170	186
INDEP. CITY;WINCHESTER	NON-ELEVATOR:	102	117	138	153	170
STATE;VA	ELEVATOR:	111	128	152	170	186

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
WASHINGTON,D.C. AREA OFFICE						
SMSA; WASHINGTON, DC-MD-VA						
COUNTY;MONTGOMERY	NON-ELEVATOR:	187	224	262	299	337
STATE;MD	ELEVATOR:	205	247	288	329	370
COUNTY;PRINCE GEORG	NON-ELEVATOR:	187	224	262	299	337
STATE;MD	ELEVATOR:	205	247	288	329	370
COUNTY;WASHINGTON	NON-ELEVATOR:	187	224	262	299	337
STATE;DC	ELEVATOR:	205	247	288	329	370
COUNTY;ARLINGTON	NON-ELEVATOR:	187	224	262	299	337
STATE;VA	ELEVATOR:	205	247	288	329	370
COUNTY;FAIRFAX	NON-ELEVATOR:	187	224	262	299	337
STATE;VA	ELEVATOR:	205	247	288	329	370
COUNTY;LOUDOUN	NON-ELEVATOR:	187	224	262	299	337
STATE;VA	ELEVATOR:	205	247	288	329	370
COUNTY;PRINCEWILLIA	NON-ELEVATOR:	187	224	262	299	337
STATE;VA	ELEVATOR:	205	247	288	329	370
INDEP. CITY;ALEXANDRIA	NON-ELEVATOR:	187	224	262	299	337
STATE;VA	ELEVATOR:	205	247	288	329	370
INDEP. CITY;FAIRFAX	NON-ELEVATOR:	187	224	262	299	337
STATE;VA	ELEVATOR:	205	247	288	329	370
INDEP. CITY;FALLS CHURCH	NON-ELEVATOR:	187	224	262	299	337
STATE;VA	ELEVATOR:	205	247	288	329	370
INDEP. CITY;MANASSAS	NON-ELEVATOR:	187	224	262	299	337
STATE;VA	ELEVATOR:	205	247	288	329	370
INDEP. CITY,MANASSAS PAR	NON-ELEVATOR:	187	224	262	299	337
STATE;VA	ELEVATOR:	205	247	288	329	370

NOTE. FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
SMSA: MACON, GA						
COUNTY:BIBB	NON-ELEVATOR:	123	140	166	192	211
STATE:GA	ELEVATOR:	135	153	184	211	231
COUNTY:HOUSTON	NON-ELEVATOR:	123	140	166	192	211
STATE:GA	ELEVATOR:	135	153	184	211	231
COUNTY:JONES	NON-ELEVATOR:	123	140	166	192	211
STATE:GA	ELEVATOR:	135	153	184	211	231
COUNTY:TWIGGS	NON-ELEVATOR:	123	140	166	192	211
STATE:GA	ELEVATOR:	135	153	184	211	231
SMSA: SAVANNAH, GA						
COUNTY:BRYAN	NON-ELEVATOR:	153	163	170	185	190
STATE:GA	ELEVATOR:	168	179	187	204	209
COUNTY:CHATHAM	NON-ELEVATOR:	153	163	170	185	190
STATE:GA	ELEVATOR:	168	179	187	204	209
COUNTY:EFFINGHAM	NON-ELEVATOR:	153	163	170	185	190
STATE:GA	ELEVATOR:	168	179	187	204	209
NON SMSA						
COUNTY:APPLING	NON-ELEVATOR:	91	108	129	146	173
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:ATKINSON	NON-ELEVATOR:	91	111	135	154	187
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:BACON	NON-ELEVATOR:	91	105	126	146	177
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:BAKER	NON-ELEVATOR:	89	105	127	141	168
STATE:GA	ELEVATOR:	0	0	0	0	0

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CU), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
NON SMSA						
COUNTY:BALDWIN	NON-ELEVATOR:	94	113	139	159	193
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:BANKS	NON-ELEVATOR:	101	116	140	156	186
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:BARROW	NON-ELEVATOR:	101	116	140	156	182
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:BARTOW	NON-ELEVATOR:	93	115	137	154	183
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:BEN HILL	NON-ELEVATOR:	90	109	135	150	184
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:BERRIEN	NON-ELEVATOR:	91	110	135	150	183
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:BLECKLEY	NON-ELEVATOR:	98	118	144	163	196
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:BRANTLEY	NON-ELEVATOR:	98	112	133	149	179
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:BROOKS	NON-ELEVATOR:	97	117	142	157	192
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:BULLOCH	NON-ELEVATOR:	123	148	178	204	241
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:BURKE	NON-ELEVATOR:	102	117	141	157	188
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:CALHOUN	NON-ELEVATOR:	89	108	133	148	183
STATE:GA	ELEVATOR:	0	0	0	0	0

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CU), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
NON SMSA						
COUNTY:CAMDEN	NON-ELEVATOR:	98	112	133	149	180
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:CANDLER	NON-ELEVATOR:	95	115	136	155	184
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:CARROLL	NON-ELEVATOR:	112	137	172	205	240
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:CHARLTON	NON-ELEVATOR:	98	113	139	155	187
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:CHATTOOGA	NON-ELEVATOR:	100	124	150	166	202
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:CLARKE	NON-ELEVATOR:	135	160	193	213	250
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:CLAY	NON-ELEVATOR:	97	122	150	168	209
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:CLINCH	NON-ELEVATOR:	93	112	135	150	180
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:COFFEE	NON-ELEVATOR:	117	140	166	190	223
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:COLQUITT	NON-ELEVATOR:	94	118	142	159	189
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:COOK	NON-ELEVATOR:	107	126	150	166	194
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:COWETA	NON-ELEVATOR:	114	139	171	196	228
STATE:GA	ELEVATOR:	0	0	0	0	0

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
NON SMSA						
COUNTY:CRAWFORD	NON-ELEVATOR:	127	153	187	213	256
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:CRISP	NON-ELEVATOR:	119	141	174	201	227
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:DAWSON	NON-ELEVATOR:	123	146	178	198	235
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:DECATUR	NON-ELEVATOR:	109	132	162	180	220
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:DODGE	NON-ELEVATOR:	99	118	142	160	189
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:DOOLY	NON-ELEVATOR:	89	103	122	143	170
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:EARLY	NON-ELEVATOR:	102	126	150	167	199
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:ECHOLS	NON-ELEVATOR:	93	112	136	150	178
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:ELBERT	NON-ELEVATOR:	108	127	155	171	201
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:EMANUEL	NON-ELEVATOR:	102	120	148	164	194
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:EVANS	NON-ELEVATOR:	113	134	160	183	214
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:FANNIN	NON-ELEVATOR:	114	134	163	181	210
STATE:GA	ELEVATOR:	0	0	0	0	0

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
NON SMSA						
COUNTY:FLOYD	NON-ELEVATOR:	106	130	158	175	213
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:FRANKLIN	NON-ELEVATOR:	101	116	140	156	183
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:GILMER	NON-ELEVATOR:	90	106	129	143	170
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:GLASCOCK	NON-ELEVATOR:	112	134	164	181	214
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:GLYNN	NON-ELEVATOR:	129	147	175	195	212
STATE:GA	ELEVATOR:	140	161	193	214	235
COUNTY:GORDON	NON-ELEVATOR:	110	136	164	182	219
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:GRADY	NON-ELEVATOR:	88	108	133	148	184
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:GREENE	NON-ELEVATOR:	101	116	140	156	182
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:HABERSHAM	NON-ELEVATOR:	83	96	119	133	160
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:HALL	NON-ELEVATOR:	109	131	159	175	209
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:HANCOCK	NON-ELEVATOR:	89	102	122	142	165
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:HARALSON	NON-ELEVATOR:	94	114	147	177	209
STATE:GA	ELEVATOR:	0	0	0	0	0

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 4-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
NON SMSA						
COUNTY:HARRIS	NON-ELEVATOR:	100	115	136	158	193
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:HART	NON-ELEVATOR:	101	116	140	156	183
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:HEARD	NON-ELEVATOR:	100	114	136	159	184
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:IRWIN	NON-ELEVATOR:	93	111	134	148	177
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:JACKSON	NON-ELEVATOR:	101	116	140	156	185
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:JASPER	NON-ELEVATOR:	89	102	122	143	168
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:JEFF DAVIS	NON-ELEVATOR:	91	105	124	145	170
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:JEFFERSON	NON-ELEVATOR:	102	117	141	157	187
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:JENKINS	NON-ELEVATOR:	102	117	141	157	188
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:JOHNSON	NON-ELEVATOR:	89	104	129	145	168
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:LAMAR	NON-ELEVATOR:	97	119	146	162	200
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:LANIER	NON-ELEVATOR:	89	102	122	136	161
STATE:GA	ELEVATOR:	0	0	0	0	0

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 4-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
NON SMSA						
COUNTY:LAURENS	NON-ELEVATOR:	90	109	133	150	182
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:LIBERTY	NON-ELEVATOR:	150	177	210	241	277
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:LINCOLN	NON-ELEVATOR:	102	119	145	159	189
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:LONG	NON-ELEVATOR:	91	105	124	145	170
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:LOWNDES	NON-ELEVATOR:	114	133	162	177	210
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:LUMPKIN	NON-ELEVATOR:	83	140	170	189	225
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:MCDUFFIE	NON-ELEVATOR:	102	117	141	157	183
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:MCINTOSH	NON-ELEVATOR:	98	112	133	149	178
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:MACON	NON-ELEVATOR:	89	107	132	148	181
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:MADISON	NON-ELEVATOR:	109	128	156	172	202
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:MARION	NON-ELEVATOR:	100	114	136	153	178
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:MERIWETHER	NON-ELEVATOR:	100	114	136	159	182
STATE:GA	ELEVATOR:	0	0	0	0	0

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - FMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
NON SMSA						
COUNTY:MILLER	NON-ELEVATOR:	89	106	133	147	184
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:MITCHELL	NON-ELEVATOR:	103	130	160	178	223
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:MONROE	NON-ELEVATOR:	103	127	155	175	215
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:MONTGOMERY	NON-ELEVATOR:	91	109	133	152	185
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:MORGAN	NON-ELEVATOR:	101	116	140	156	189
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:MURRAY	NON-ELEVATOR:	100	119	143	159	186
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:OCONEE	NON-ELEVATOR:	131	156	190	210	245
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:OGLETHORPE	NON-ELEVATOR:	101	116	140	156	184
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:PEACH	NON-ELEVATOR:	97	116	141	159	191
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:PICKENS	NON-ELEVATOR:	104	128	156	173	210
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:PIERCE	NON-ELEVATOR:	98	116	133	149	175
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:PIKE	NON-ELEVATOR:	96	110	131	152	176
STATE:GA	ELEVATOR:	0	0	0	0	0

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - FMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
NON SMSA						
COUNTY;POLK	NON-ELEVATOR;	94	114	139	155	190
STATE;GA	ELEVATOR;	0	0	0	0	0
COUNTY;PULASKI	NON-ELEVATOR;	89	104	126	142	170
STATE;GA	ELEVATOR;	0	0	0	0	0
COUNTY;PUTNAM	NON-ELEVATOR;	89	102	124	142	167
STATE;GA	ELEVATOR;	0	0	0	0	0
COUNTY;QUITMAN	NON-ELEVATOR;	104	136	166	188	236
STATE;GA	ELEVATOR;	0	0	0	0	0
COUNTY;RABUN	NON-ELEVATOR;	83	96	118	132	159
STATE;GA	ELEVATOR;	0	0	0	0	0
COUNTY;RANDOLPH	NON-ELEVATOR;	104	121	149	166	207
STATE;GA	ELEVATOR;	0	0	0	0	0
COUNTY;SEMLEY	NON-ELEVATOR;	127	149	180	202	238
STATE;GA	ELEVATOR;	0	0	0	0	0
COUNTY;SCREVEN	NON-ELEVATOR;	91	105	125	145	173
STATE;GA	ELEVATOR;	0	0	0	0	0
COUNTY;SEMINOLE	NON-ELEVATOR;	89	102	123	136	166
STATE;GA	ELEVATOR;	0	0	0	0	0
COUNTY;SPALDING	NON-ELEVATOR;	104	122	144	167	193
STATE;GA	ELEVATOR;	0	0	0	0	0
COUNTY;STEPHENS	NON-ELEVATOR;	101	116	140	156	184
STATE;GA	ELEVATOR;	0	0	0	0	0
COUNTY;STEWART	NON-ELEVATOR;	100	117	136	154	181
STATE;GA	ELEVATOR;	0	0	0	0	0

NOTE; FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CU), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
NON SMSA						
COUNTY;TALBOT	NON-ELEVATOR;	100	114	136	153	179
STATE;GA	ELEVATOR;	0	0	0	0	0
COUNTY;TALIAFERRO	NON-ELEVATOR;	102	117	141	157	184
STATE;GA	ELEVATOR;	0	0	0	0	0
COUNTY;TATTNALL	NON-ELEVATOR;	91	105	126	145	170
STATE;GA	ELEVATOR;	0	0	0	0	0
COUNTY;TAYLOR	NON-ELEVATOR;	103	117	139	157	188
STATE;GA	ELEVATOR;	0	0	0	0	0
COUNTY;TELFAIR	NON-ELEVATOR;	95	115	140	159	192
STATE;GA	ELEVATOR;	0	0	0	0	0
COUNTY;TERRELL	NON-ELEVATOR;	91	108	132	145	177
STATE;GA	ELEVATOR;	0	0	0	0	0
COUNTY;THOMAS	NON-ELEVATOR;	98	112	135	149	175
STATE;GA	ELEVATOR;	0	0	0	0	0
COUNTY;TIFT	NON-ELEVATOR;	100	129	156	176	219
STATE;GA	ELEVATOR;	0	0	0	0	0
COUNTY;TOOMBS	NON-ELEVATOR;	96	118	144	163	199
STATE;GA	ELEVATOR;	0	0	0	0	0
COUNTY;TOWNS	NON-ELEVATOR;	85	102	126	141	169
STATE;GA	ELEVATOR;	0	0	0	0	0
COUNTY;TREUTLEN	NON-ELEVATOR;	89	104	127	143	173
STATE;GA	ELEVATOR;	0	0	0	0	0
COUNTY;TROUP	NON-ELEVATOR;	103	127	156	178	225
STATE;GA	ELEVATOR;	0	0	0	0	0

NOTE; FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CU), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
NON SMSA						
COUNTY:TURNER	NON-ELEVATOR:	89	105	126	141	172
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:UNION	NON-ELEVATOR:	83	98	118	132	159
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:UPSON	NON-ELEVATOR:	96	112	147	160	174
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:WARE	NON-ELEVATOR:	98	112	133	149	176
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:WARREN	NON-ELEVATOR:	102	117	141	157	184
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:WASHINGTON	NON-ELEVATOR:	89	102	123	142	170
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:WAYNE	NON-ELEVATOR:	91	110	129	145	172
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:WEBSTER	NON-ELEVATOR:	100	117	136	154	181
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:WHEELER	NON-ELEVATOR:	89	108	133	151	185
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:WHITE	NON-ELEVATOR:	79	95	118	132	159
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:WHITFIELD	NON-ELEVATOR:	115	142	171	189	228
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:WILCOX	NON-ELEVATOR:	90	109	135	153	188
STATE:GA	ELEVATOR:	0	0	0	0	0

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 4-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
NON SMSA						
COUNTY:WILKES	NON-ELEVATOR:	102	117	141	157	185
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:WILKINSON	NON-ELEVATOR:	89	106	131	149	181
STATE:GA	ELEVATOR:	0	0	0	0	0
COUNTY:WORTH	NON-ELEVATOR:	89	102	123	136	164
STATE:GA	ELEVATOR:	0	0	0	0	0

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 4-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BIRMINGHAM-ALABAMA AREA OFFICE						
SMSA: BIRMINGHAM, AL						
COUNTY:JEFFERSON	NON-ELEVATOR:	139	157	185	213	241
STATE:AL	ELEVATOR:	153	173	204	234	265
COUNTY:ST CLAIR	NON-ELEVATOR:	139	157	185	213	241
STATE:AL	ELEVATOR:	153	173	204	234	265
COUNTY:SHELBY	NON-ELEVATOR:	139	157	185	213	241
STATE:AL	ELEVATOR:	153	173	204	234	265
COUNTY:WALKER	NON-ELEVATOR:	139	157	185	213	241
STATE:AL	ELEVATOR:	153	173	204	234	265
NON SMSA						
COUNTY:DALE	NON-ELEVATOR:	113	128	150	173	195
STATE:AL	ELEVATOR:	124	141	165	190	215
COUNTY:MORGAN	NON-ELEVATOR:	120	136	160	184	208
STATE:AL	ELEVATOR:	132	150	176	202	229
COUNTY:TALLADEGA	NON-ELEVATOR:	0	100	125	150	0
STATE:AL	ELEVATOR:	0	0	0	0	0

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CU). JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CORAL GABLES-JACKSONVILLE AREA OFFICE						
SMSA: WEST PALM BEACH-BOCA RATON, FL						
COUNTY:PALM BEACH	NON-ELEVATOR:	167	178	227	266	292
STATE:FL	ELEVATOR:	183	195	250	293	320

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CU). JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBIA-SOUTH CAROLINA AREA OFFICE						
NON SMSA						
COUNTY:SUMTER	NON-ELEVATOR:	106	127	139	169	187
STATE:SC	ELEVATOR:	125	150	165	0	0
COUNTY:YORK	NON-ELEVATOR:	112	132	155	216	241
STATE:SC	ELEVATOR:	106	122	155	0	0

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CU). JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GREENSBORO-NORTH CAROLINA AREA OFFICE						
SMSA: ASHEVILLE, NC						
COUNTY:BUNCOMBE	NON-ELEVATOR:	110	128	151	170	187
STATE:NC	ELEVATOR:	121	139	166	188	206
COUNTY:MADISON	NON-ELEVATOR:	110	128	151	170	187
STATE:NC	ELEVATOR:	121	139	166	188	206
SMSA: BURLINGTON, NC						
COUNTY:ALAMANCE	NON-ELEVATOR:	126	145	172	193	211
STATE:NC	ELEVATOR:	138	158	189	211	233
SMSA: NORFOLK-VIRGINIA BEACH-PORTSMOUTH, VA-NC						
COUNTY:CURRITUCK	NON-ELEVATOR:	143	163	192	214	235
STATE:NC	ELEVATOR:	157	178	212	235	257
SMSA: RALEIGH-DURHAM, NC						
COUNTY:DURHAM	NON-ELEVATOR:	141	162	194	250	285
STATE:NC	ELEVATOR:	156	178	213	275	314
COUNTY:ORANGE	NON-ELEVATOR:	141	162	194	250	285
STATE:NC	ELEVATOR:	156	178	213	275	314
COUNTY:WAKE	NON-ELEVATOR:	141	162	194	250	285
STATE:NC	ELEVATOR:	156	178	213	275	314
SMSA: WILMINGTON, NC						
COUNTY:BRUNSWICK	NON-ELEVATOR:	115	131	156	176	193
STATE:NC	ELEVATOR:	124	145	171	193	212
COUNTY:NEW HANOVER	NON-ELEVATOR:	115	131	156	176	193
STATE:NC	ELEVATOR:	124	145	171	193	212
NON SMSA						
COUNTY:ALLEGHANY	NON-ELEVATOR:	106	123	146	163	178
STATE:NC	ELEVATOR:	116	135	160	178	197

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GREENSBORO-NORTH CAROLINA AREA OFFICE						
NON SMSA						
COUNTY:ANSON	NON-ELEVATOR:	106	123	146	162	179
STATE:NC	ELEVATOR:	117	133	160	179	196
COUNTY:ASHE	NON-ELEVATOR:	106	123	146	163	178
STATE:NC	ELEVATOR:	116	135	160	178	197
COUNTY:AVERY	NON-ELEVATOR:	106	123	146	163	178
STATE:NC	ELEVATOR:	116	135	160	178	197
COUNTY:CAMDEN	NON-ELEVATOR:	115	131	156	176	192
STATE:NC	ELEVATOR:	125	144	172	192	212
COUNTY:CHEROKEE	NON-ELEVATOR:	92	107	126	142	156
STATE:NC	ELEVATOR:	101	116	140	157	172
COUNTY:CHOWAN	NON-ELEVATOR:	115	131	156	176	192
STATE:NC	ELEVATOR:	125	144	172	192	212
COUNTY:DAVIE	NON-ELEVATOR:	126	145	172	193	211
STATE:NC	ELEVATOR:	138	158	189	211	233
COUNTY:EDGECOMBE	NON-ELEVATOR:	107	122	146	163	180
STATE:NC	ELEVATOR:	118	134	160	179	199
COUNTY:GATES	NON-ELEVATOR:	115	131	156	176	192
STATE:NC	ELEVATOR:	125	144	172	192	212
COUNTY:HENDERSON	NON-ELEVATOR:	97	111	132	148	162
STATE:NC	ELEVATOR:	105	123	145	162	179
COUNTY:JOHNSTON	NON-ELEVATOR:	118	135	163	189	206
STATE:NC	ELEVATOR:	129	149	178	207	226
COUNTY:MCDOWELL	NON-ELEVATOR:	97	111	132	148	162
STATE:NC	ELEVATOR:	105	123	145	162	179

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GREENSBORO-NORTH CAROLINA AREA OFFICE						
NON SMSA						
COUNTY:MITCHELL	NON-ELEVATOR:	106	123	146	163	178
STATE:NC	ELEVATOR:	116	135	160	178	197
COUNTY:NASH	NON-ELEVATOR:	107	122	146	163	180
STATE:NC	ELEVATOR:	118	134	160	179	199
COUNTY:PASQUOTANK	NON-ELEVATOR:	115	131	156	176	192
STATE:NC	ELEVATOR:	125	144	172	192	212
COUNTY:PERQUIMANS	NON-ELEVATOR:	115	131	156	176	192
STATE:NC	ELEVATOR:	125	144	172	192	212
COUNTY:POLK	NON-ELEVATOR:	97	111	132	148	162
STATE:NC	ELEVATOR:	105	123	145	162	179
COUNTY:RICHMOND	NON-ELEVATOR:	106	123	146	162	179
STATE:NC	ELEVATOR:	117	133	160	179	196
COUNTY:SURRY	NON-ELEVATOR:	120	145	172	193	211
STATE:NC	ELEVATOR:	138	158	189	211	233
COUNTY:TRANSYLVANIA	NON-ELEVATOR:	97	111	132	148	162
STATE:NC	ELEVATOR:	105	123	145	162	179
COUNTY:WARREN	NON-ELEVATOR:	118	135	163	189	206
STATE:NC	ELEVATOR:	129	149	178	207	226
COUNTY:WILKES	NON-ELEVATOR:	106	123	146	163	178
STATE:NC	ELEVATOR:	116	135	160	178	197
COUNTY:YANCEY	NON-ELEVATOR:	106	123	146	163	178
STATE:NC	ELEVATOR:	116	135	160	178	197

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JACKSON-MISSISSIPPI AREA OFFICE						
SMSA: BILOXI-GULFPORT, MS						
COUNTY:HANCOCK	NON-ELEVATOR:	125	150	180	230	270
STATE:MS	ELEVATOR:	138	165	198	253	297
COUNTY:HARRISON	NON-ELEVATOR:	125	150	180	230	270
STATE:MS	ELEVATOR:	138	165	198	253	297
COUNTY:STONE	NON-ELEVATOR:	125	150	180	230	270
STATE:MS	ELEVATOR:	138	165	198	253	297
SMSA: PASCAGOULA-MOSS POINT, MS						
COUNTY:JACKSON	NON-ELEVATOR:	125	150	180	230	270
STATE:MS	ELEVATOR:	138	165	198	253	297
NON SMSA						
COUNTY:ALCORN	NON-ELEVATOR:	120	150	170	200	240
STATE:MS	ELEVATOR:	132	165	187	220	264
COUNTY:LEE	NON-ELEVATOR:	120	150	170	200	240
STATE:MS	ELEVATOR:	132	165	187	220	264
COUNTY:MONROE	NON-ELEVATOR:	120	150	170	200	240
STATE:MS	ELEVATOR:	132	165	187	220	264
COUNTY:PEARL RIVER	NON-ELEVATOR:	125	150	180	230	270
STATE:MS	ELEVATOR:	138	165	198	253	297
COUNTY:UNION	NON-ELEVATOR:	120	150	170	200	240
STATE:MS	ELEVATOR:	132	165	187	220	264

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE,KENTUCKY AREA OFFICE						
SMSA; OWENSBORO, KY						
COUNTY;DAVIESS	NON-ELEVATOR;	130	159	188	203	220
STATE;KY	ELEVATOR;	144	175	207	223	242
NON SMSA						
COUNTY;ADAIR	NON-ELEVATOR;	125	150	174	202	220
STATE;KY	ELEVATOR;	125	150	174	202	220
COUNTY;ALLEN	NON-ELEVATOR;	125	150	174	202	220
STATE;KY	ELEVATOR;	125	150	174	202	220
COUNTY;ANDERSON	NON-ELEVATOR;	125	150	174	202	220
STATE;KY	ELEVATOR;	138	165	191	222	242
COUNTY;BALLARD	NON-ELEVATOR;	125	150	174	202	220
STATE;KY	ELEVATOR;	125	150	174	202	220
COUNTY;BARREN	NON-ELEVATOR;	125	150	174	202	220
STATE;KY	ELEVATOR;	125	150	174	202	220
COUNTY;BATH	NON-ELEVATOR;	125	150	174	202	220
STATE;KY	ELEVATOR;	138	165	191	222	242
COUNTY;BELL	NON-ELEVATOR;	125	150	174	202	220
STATE;KY	ELEVATOR;	125	150	174	202	220
COUNTY;BRACKEN	NON-ELEVATOR;	125	150	174	202	220
STATE;KY	ELEVATOR;	138	165	191	222	242
COUNTY;BREATHITT	NON-ELEVATOR;	125	150	174	202	220
STATE;KY	ELEVATOR;	125	150	174	202	220
COUNTY;BRECKINRIDGE	NON-ELEVATOR;	125	150	174	202	220
STATE;KY	ELEVATOR;	138	165	191	222	242

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE,KENTUCKY AREA OFFICE						
NON SMSA						
COUNTY;BUTLER	NON-ELEVATOR;	125	150	174	202	220
STATE;KY	ELEVATOR;	125	150	174	202	220
COUNTY;CALDWELL	NON-ELEVATOR;	125	150	174	202	220
STATE;KY	ELEVATOR;	125	150	174	202	220
COUNTY;CALLOWAY	NON-ELEVATOR;	125	150	174	202	220
STATE;KY	ELEVATOR;	125	150	174	202	220
COUNTY;CARLISLE	NON-ELEVATOR;	125	150	174	202	220
STATE;KY	ELEVATOR;	125	150	174	202	220
COUNTY;CARROLL	NON-ELEVATOR;	125	150	174	202	220
STATE;KY	ELEVATOR;	138	165	191	222	242
COUNTY;CARTER	NON-ELEVATOR;	125	150	174	202	220
STATE;KY	ELEVATOR;	125	150	174	202	220
COUNTY;CASEY	NON-ELEVATOR;	125	150	174	202	220
STATE;KY	ELEVATOR;	125	150	174	202	220
COUNTY;CLAY	NON-ELEVATOR;	125	150	174	202	220
STATE;KY	ELEVATOR;	125	150	174	202	220
COUNTY;CLINTON	NON-ELEVATOR;	125	150	174	202	220
STATE;KY	ELEVATOR;	125	150	174	202	220
COUNTY;CRITTENDON	NON-ELEVATOR;	125	150	174	202	220
STATE;KY	ELEVATOR;	125	150	174	202	220
COUNTY;CUMBERLAND	NON-ELEVATOR;	125	150	174	202	220
STATE;KY	ELEVATOR;	125	150	174	202	220
COUNTY;EDMONSON	NON-ELEVATOR;	125	150	174	202	220
STATE;KY	ELEVATOR;	125	150	174	202	220

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE, KENTUCKY AREA OFFICE						
NON SMSA						
COUNTY:ELLIOTT	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:ESTILL	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:FLEMING	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:FLOYD	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:FULTON	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:GALLATIN	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:GARRARD	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:GRANT	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:GRAVES	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:GRAYSON	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:GREEN	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:HANCOCK	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 160 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE, KENTUCKY AREA OFFICE						
NON SMSA						
COUNTY:HARDIN	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:HARLAN	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:HARRISON	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:HART	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:HENRY	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:HICKMAN	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:HOPKINS	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:JACKSON	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:JOHNSON	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:KNOTT	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:KNOX	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:LARUE	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 160 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE,KENTUCKY AREA OFFICE						
NON SMSA						
COUNTY:LAUREL	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:LAWRENCE	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:LEE	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:LESLIE	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:LETCHER	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:LEWIS	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:LINCOLN	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:LIVINGSTON	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:LOGAN	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:LYON	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:MCCRACKEN	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:MCCREARY	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CU). JULY 07. 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE,KENTUCKY AREA OFFICE						
NON SMSA						
COUNTY:MCLEAN	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:MAGOFFIN	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:MARION	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:MARSHALL	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:MARTIN	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:MASON	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:MEADE	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:MENIFEE	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:MERCER	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:METCALFE	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:MONROE	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:MONTGOMERY	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CU). JULY 07. 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE,KENTUCKY AREA OFFICE						
NON SMSA						
COUNTY:MORGAN	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:MUHLENBERG	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:NELSON	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:NICHOLAS	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:OHIO	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:OWEN	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:OWSLEY	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:PENDLETON	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:PERRY	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:PIKE	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:POWELL	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:PULASKI	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO). JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE,KENTUCKY AREA OFFICE						
NON SMSA						
COUNTY:ROBERTSON	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:ROCKCASTLE	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:RURAL	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:RUSSELL	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:SHELBY	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:SIMPSON	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:SPENCER	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:TAYLOR	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:TODD	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:TRIGG	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:TRIMBLE	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:UNION	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO). JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE, KENTUCKY AREA OFFICE						
NON SMSA						
COUNTY:WARREN	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:WASHINGTON	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	138	165	191	222	242
COUNTY:WAYNE	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:WEBSTER	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:WHITLEY	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY:WOLFE	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CU), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KNOXVILLE, TENNESSEE AREA OFFICE						
SMSA: JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA						
COUNTY:CARTER	NON-ELEVATOR:	113	131	157	173	191
STATE:TN	ELEVATOR:	125	143	172	191	210
COUNTY:HAWKINS	NON-ELEVATOR:	113	131	157	173	191
STATE:TN	ELEVATOR:	125	143	172	191	210
COUNTY:SULLIVAN	NON-ELEVATOR:	113	131	157	173	191
STATE:TN	ELEVATOR:	125	143	172	191	210
COUNTY:UNICOI	NON-ELEVATOR:	113	131	157	173	191
STATE:TN	ELEVATOR:	125	143	172	191	210
COUNTY:WASHINGTON	NON-ELEVATOR:	113	131	157	173	191
STATE:TN	ELEVATOR:	125	143	172	191	210
SMSA: KNOXVILLE, TN						
COUNTY:ANDERSON	NON-ELEVATOR:	130	154	188	248	265
STATE:TN	ELEVATOR:	143	169	207	273	292
COUNTY:BLOUNT	NON-ELEVATOR:	130	154	188	248	265
STATE:TN	ELEVATOR:	143	169	207	273	292
COUNTY:KNOX	NON-ELEVATOR:	130	154	188	248	265
STATE:TN	ELEVATOR:	143	169	207	273	292
COUNTY:UNION	NON-ELEVATOR:	130	154	188	248	265
STATE:TN	ELEVATOR:	143	169	207	273	292

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CU), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MEMPHIS,TENNESSEE INSURING OFFICE						
NON SMSA						
COUNTY:MCNAIRY	NON-ELEVATOR:	0	138	153	211	218
STATE:TN	ELEVATOR:	0	0	0	0	0

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NASHVILLE,TENNESSEE INSURING OFFICE						
SMSA: NASHVILLE-DAVIDSON, TN						
COUNTY:CHEATHAM	NON-ELEVATOR:	150	169	204	235	258
STATE:TN	ELEVATOR:	162	186	222	258	282
COUNTY:DAVIDSON	NON-ELEVATOR:	150	169	204	235	258
STATE:TN	ELEVATOR:	162	186	222	258	282
COUNTY:DICKSON	NON-ELEVATOR:	150	169	204	235	258
STATE:TN	ELEVATOR:	162	186	222	258	282
COUNTY:ROBERTSON	NON-ELEVATOR:	150	169	204	235	258
STATE:TN	ELEVATOR:	162	186	222	258	282
COUNTY:RUTHERFORD	NON-ELEVATOR:	150	169	204	235	258
STATE:TN	ELEVATOR:	162	186	222	258	282
COUNTY:SUMNER	NON-ELEVATOR:	150	169	204	235	258
STATE:TN	ELEVATOR:	162	186	222	258	282
COUNTY:WILLIAMSON	NON-ELEVATOR:	150	169	204	235	258
STATE:TN	ELEVATOR:	162	186	222	258	282
COUNTY:WILSON	NON-ELEVATOR:	150	169	204	235	258
STATE:TN	ELEVATOR:	162	186	222	258	282

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
TAMPA-FLORIDA INSURING OFFICE						
SMSA: DAYTONA BEACH, FL						
COUNTY:VOLUSIA	NON-ELEVATOR:	138	150	179	211	232
STATE:FL	ELEVATOR:	151	165	195	232	254
SMSA: TAMPA-ST PETERSBURG, FL						
COUNTY:HILLSBOROUGH	NON-ELEVATOR:	146	165	188	245	267
STATE:FL	ELEVATOR:	161	182	207	267	293
COUNTY:PASCO	NON-ELEVATOR:	146	165	188	245	267
STATE:FL	ELEVATOR:	161	182	207	267	293
COUNTY:PINELLAS	NON-ELEVATOR:	146	165	188	245	267
STATE:FL	ELEVATOR:	161	182	207	267	293

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE 8- FAIR MARKET RENTS FOR EAISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHICAGO,ILLINOIS AREA OFFICE						
SMSA: CHICAGO, IL						
COUNTY:COOK	NON-ELEVATOR:	210	239	281	325	367
STATE:IL	ELEVATOR:	232	263	310	356	404
COUNTY:DU PAGE	NON-ELEVATOR:	210	239	281	325	367
STATE:IL	ELEVATOR:	232	263	310	356	404
COUNTY:KANE	NON-ELEVATOR:	210	239	281	325	367
STATE:IL	ELEVATOR:	232	263	310	356	404
COUNTY:LAKE	NON-ELEVATOR:	210	239	281	325	367
STATE:IL	ELEVATOR:	232	263	310	356	404
COUNTY:MCHENRY	NON-ELEVATOR:	210	239	281	325	367
STATE:IL	ELEVATOR:	232	263	310	356	404
COUNTY:WILL	NON-ELEVATOR:	210	239	281	325	367
STATE:IL	ELEVATOR:	232	263	310	356	404

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE 8- FAIR MARKET RENTS FOR EAISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CLEVELAND,OHIO INSURING OFFICE						
SMSA: CANTON, OH						
COUNTY:CARROLL	NON-ELEVATOR:	145	167	199	232	253
STATE:OH	ELEVATOR:	158	182	218	254	277
COUNTY:STARK	NON-ELEVATOR:	145	167	199	232	253
STATE:OH	ELEVATOR:	158	182	218	254	277
SMSA: CLEVELAND, OH						
COUNTY:CUYAHOGA	NON-ELEVATOR:	152	176	210	245	278
STATE:OH	ELEVATOR:	169	194	231	269	305
COUNTY:GEAUGA	NON-ELEVATOR:	152	176	210	245	278
STATE:OH	ELEVATOR:	169	194	231	269	305
COUNTY:LAKE	NON-ELEVATOR:	152	176	210	245	278
STATE:OH	ELEVATOR:	169	194	231	269	305
COUNTY:MEDINA	NON-ELEVATOR:	152	176	210	245	278
STATE:OH	ELEVATOR:	169	194	231	269	305
SMSA: LIMA, OH						
COUNTY:PUTNAM	NON-ELEVATOR:	113	129	155	179	196
STATE:OH	ELEVATOR:	124	141	169	198	215
SMSA: TOLEDO, OH-MI						
COUNTY:FULTON	NON-ELEVATOR:	151	174	206	239	261
STATE:OH	ELEVATOR:	167	191	226	262	287
COUNTY:LUCAS	NON-ELEVATOR:	151	174	206	239	261
STATE:OH	ELEVATOR:	167	191	226	262	287
COUNTY:OTTAWA	NON-ELEVATOR:	151	174	206	239	261
STATE:OH	ELEVATOR:	167	191	226	262	287
COUNTY:WOOD	NON-ELEVATOR:	151	174	206	239	261
STATE:OH	ELEVATOR:	167	191	226	262	287

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBUS,OHIO AREA OFFICE						
SMSA: COLUMBUS, OH						
COUNTY:DELAWARE	NON-ELEVATOR:	133	152	181	211	231
STATE:OH	ELEVATOR:	146	167	199	232	253
COUNTY:FAIRFIELD	NON-ELEVATOR:	133	152	181	211	231
STATE:OH	ELEVATOR:	146	167	199	232	253
COUNTY:FRANKLIN	NON-ELEVATOR:	133	152	181	211	231
STATE:OH	ELEVATOR:	146	167	199	232	253
COUNTY:MADISON	NON-ELEVATOR:	133	152	181	211	231
STATE:OH	ELEVATOR:	146	167	199	232	253
COUNTY:PICKAWAY	NON-ELEVATOR:	133	152	181	211	231
STATE:OH	ELEVATOR:	146	167	199	232	253
SMSA: LIMA, OH						
COUNTY:ALLEN	NON-ELEVATOR:	113	129	155	179	196
STATE:OH	ELEVATOR:	124	141	169	198	215
COUNTY:AUGLAIZE	NON-ELEVATOR:	113	129	155	179	196
STATE:OH	ELEVATOR:	124	141	169	196	215
COUNTY:VAN WERT	NON-ELEVATOR:	113	129	155	179	196
STATE:OH	ELEVATOR:	124	141	169	198	215
SMSA: SPRINGFIELD, OH						
COUNTY:CHAMPAIGN	NON-ELEVATOR:	121	138	165	192	210
STATE:OH	ELEVATOR:	133	152	182	212	231
COUNTY:CLARK	NON-ELEVATOR:	121	138	165	192	210
STATE:OH	ELEVATOR:	133	152	182	212	231
NON SMSA						
COUNTY:ATHENS	NON-ELEVATOR:	123	141	169	188	206
STATE:OH	ELEVATOR:	135	154	184	206	226

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBUS, OHIO AREA OFFICE						
COUNTY:COSHOCTON	NON-ELEVATOR:	105	119	143	159	174
STATE:OH	ELEVATOR:	115	132	158	174	192
COUNTY:KNOX	NON-ELEVATOR:	121	137	165	190	209
STATE:OH	ELEVATOR:	132	151	181	210	228
COUNTY:LICKING	NON-ELEVATOR:	110	125	150	167	183
STATE:OH	ELEVATOR:	122	138	166	184	201
COUNTY:SCIOTO	NON-ELEVATOR:	106	121	145	162	177
STATE:OH	ELEVATOR:	117	134	161	177	196

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE OF FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DETROIT, MICHIGAN AREA OFFICE						
SMSA: DETROIT, MI						
COUNTY:LAPEER	NON-ELEVATOR:	175	199	235	273	308
STATE:MI	ELEVATOR:	193	219	259	300	339
COUNTY:LIVINGSTON	NON-ELEVATOR:	175	199	235	273	308
STATE:MI	ELEVATOR:	193	219	259	300	339
COUNTY:MACOMB	NON-ELEVATOR:	175	199	235	273	308
STATE:MI	ELEVATOR:	193	219	259	300	339
COUNTY:OAKLAND	NON-ELEVATOR:	175	199	235	273	308
STATE:MI	ELEVATOR:	193	219	259	300	339
COUNTY:ST CLAIR	NON-ELEVATOR:	175	199	235	273	308
STATE:MI	ELEVATOR:	193	219	259	300	339
COUNTY:WAYNE	NON-ELEVATOR:	175	199	235	273	308
STATE:MI	ELEVATOR:	193	219	259	300	339
SMSA: FLINT, MI						
COUNTY:GENESEE	NON-ELEVATOR:	158	182	219	252	276
STATE:MI	ELEVATOR:	174	200	241	277	304
COUNTY:SHIAWASSEE	NON-ELEVATOR:	158	182	219	252	276
STATE:MI	ELEVATOR:	174	200	241	277	304
SMSA: TOLEDO, OH-MI						
COUNTY:MONROE	NON-ELEVATOR:	151	174	206	239	261
STATE:MI	ELEVATOR:	167	191	226	262	287
NON SMSA						
COUNTY:LENAWEE	NON-ELEVATOR:	128	148	176	196	216
STATE:MI	ELEVATOR:	141	163	196	216	238
COUNTY:MIDLAND	NON-ELEVATOR:	142	163	194	216	235
STATE:MI	ELEVATOR:	156	179	213	238	259

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE OF FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GRAND RAPIDS, MICHIGAN INSURING OFFICE						
SMSA: BATTLE CREEK, MI						
COUNTY:BARRY	NON-ELEVATOR:	141	165	190	215	238
STATE:MI	ELEVATOR:	156	181	209	237	262
COUNTY:CALHOUN	NON-ELEVATOR:	141	165	190	215	238
STATE:MI	ELEVATOR:	156	181	209	237	262
SMSA: LANSING-EAST LANSING, MI						
COUNTY:CLINTON	NON-ELEVATOR:	157	179	215	270	301
STATE:MI	ELEVATOR:	173	197	236	280	310
COUNTY:EATON	NON-ELEVATOR:	157	179	215	270	301
STATE:MI	ELEVATOR:	173	197	236	280	310
COUNTY:INGHAM	NON-ELEVATOR:	157	179	215	270	301
STATE:MI	ELEVATOR:	173	197	236	280	310
COUNTY:IONIA	NON-ELEVATOR:	157	179	215	270	301
STATE:MI	ELEVATOR:	173	197	236	280	310
NON SMSA						
COUNTY:ALGER	NON-ELEVATOR:	110	135	163	169	185
STATE:MI	ELEVATOR:	120	139	166	185	204
COUNTY:ALLEGAN	NON-ELEVATOR:	110	158	174	179	193
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:ANTRIM	NON-ELEVATOR:	110	149	162	187	193
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:BENZIE	NON-ELEVATOR:	110	126	164	177	193
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:BERRIEN	NON-ELEVATOR:	125	169	189	193	212
STATE:MI	ELEVATOR:	138	159	190	213	234

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GRAND RAPIDS,MICHIGAN INSURING OFFICE						
NON SMSA						
COUNTY:BRANCH	NON-ELEVATOR:	122	142	175	195	207
STATE:MI	ELEVATOR:	135	155	186	207	220
COUNTY:CASS	NON-ELEVATOR:	125	158	184	200	212
STATE:MI	ELEVATOR:	138	159	190	213	234
COUNTY:CHARLEVOIX	NON-ELEVATOR:	110	153	155	179	208
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:CLARE	NON-ELEVATOR:	123	149	171	191	208
STATE:MI	ELEVATOR:	136	156	188	208	229
COUNTY:DELTA	NON-ELEVATOR:	110	152	167	180	185
STATE:MI	ELEVATOR:	120	139	166	185	204
COUNTY:DICKINSON	NON-ELEVATOR:	110	152	167	180	185
STATE:MI	ELEVATOR:	120	139	166	185	204
COUNTY:EMMET	NON-ELEVATOR:	110	154	162	185	202
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:GOGEBIC	NON-ELEVATOR:	100	135	138	155	169
STATE:MI	ELEVATOR:	110	126	152	169	186
COUNTY:GRD TRAVERSE	NON-ELEVATOR:	139	159	179	207	255
STATE:MI	ELEVATOR:	134	151	182	204	225
COUNTY:IONIATIOT	NON-ELEVATOR:	110	138	164	175	177
STATE:MI	ELEVATOR:	108	123	147	163	181
COUNTY:IRILLSDALE	NON-ELEVATOR:	122	149	170	189	207
STATE:MI	ELEVATOR:	135	155	186	207	228
COUNTY:HOUGHTON	NON-ELEVATOR:	110	133	152	171	187
STATE:MI	ELEVATOR:	120	139	166	185	204

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GRAND RAPIDS,MICHIGAN INSURING OFFICE						
NON SMSA						
COUNTY:ISABELLA	NON-ELEVATOR:	123	151	177	203	208
STATE:MI	ELEVATOR:	136	166	188	208	229
COUNTY:KALKASKA	NON-ELEVATOR:	110	150	174	193	208
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:LEELANAU	NON-ELEVATOR:	110	158	176	200	210
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:MARQUETTE	NON-ELEVATOR:	121	167	176	185	204
STATE:MI	ELEVATOR:	134	151	182	204	225
COUNTY:MASON	NON-ELEVATOR:	110	143	152	177	195
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:MELOSTA	NON-ELEVATOR:	110	153	164	188	193
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:MENOMINEE	NON-ELEVATOR:	110	144	152	169	185
STATE:MI	ELEVATOR:	120	139	166	185	204
COUNTY:MISSAUKEE	NON-ELEVATOR:	110	138	156	177	200
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:MONTCALM	NON-ELEVATOR:	110	148	163	178	193
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:ONTONAGON	NON-ELEVATOR:	100	127	150	158	169
STATE:MI	ELEVATOR:	110	126	152	169	186
COUNTY:OTSEGO	NON-ELEVATOR:	123	169	182	191	208
STATE:MI	ELEVATOR:	136	156	188	208	229
COUNTY:ST JOSEPH	NON-ELEVATOR:	125	171	181	203	212
STATE:MI	ELEVATOR:	138	159	190	213	234

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GRAND RAPIDS,MICHIGAN INSURING OFFICE						
NON SMSA						
COUNTY:MEAFORD	NON-ELEVATOR:	110	158	163	190	193
STATE:MI	ELEVATOR:	120	139	166	194	212

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
INDIANAPOLIS,INDIANA AREA OFFICE						
SMSA: BLOOMINGTON, IN						
COUNTY:MONROE	NON-ELEVATOR:	135	168	200	230	245
STATE:IN	ELEVATOR:	149	185	220	253	270
SMSA: FORT WAYNE, IN						
COUNTY:ADAMS	NON-ELEVATOR:	155	175	195	230	250
STATE:IN	ELEVATOR:	175	193	215	253	275
COUNTY:ALLEN	NON-ELEVATOR:	155	175	195	230	250
STATE:IN	ELEVATOR:	175	193	215	253	275
COUNTY:DE KALB	NON-ELEVATOR:	155	175	195	230	250
STATE:IN	ELEVATOR:	175	193	215	253	275
COUNTY:WELLS	NON-ELEVATOR:	155	175	195	230	250
STATE:IN	ELEVATOR:	175	193	215	253	275
SMSA: GARY-HAMMOND-EAST CHICAGO, IN						
COUNTY:LAKE	NON-ELEVATOR:	137	155	179	234	255
STATE:IN	ELEVATOR:	148	171	195	258	280
COUNTY:PORTER	NON-ELEVATOR:	137	155	179	234	255
STATE:IN	ELEVATOR:	148	171	195	258	280
SMSA: LAFAYETTE-WEST LAFAYETTE, IN						
COUNTY:TIPPECANOE	NON-ELEVATOR:	136	168	200	230	245
STATE:IN	ELEVATOR:	150	185	220	253	270
NON SMSA						
COUNTY:KNOX	NON-ELEVATOR:	0	150	180	190	0
STATE:IN	ELEVATOR:	0	165	198	209	0

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MILWAUKEE, WISCONSIN AREA OFFICE						
SMSA: MINNEAPOLIS-ST PAUL, MN-WI						
COUNTY:ST CROIX	NON-ELEVATOR:	170	202	244	283	322
STATE:WI	ELEVATOR:	188	224	269	311	353

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (COI), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MINNEAPOLIS-ST.PAUL, MINNESOTA AREA OFFICE						
SMSA: FARGO-MOORHEAD, ND-MN						
COUNTY:CLAY	NON-ELEVATOR:	136	159	196	222	244
STATE:MN	ELEVATOR:	152	174	209	243	269
SMSA: GRAND FORKS, N.D.-MN						
COUNTY:POLK	NON-ELEVATOR:	136	159	196	222	244
STATE:MN	ELEVATOR:	152	174	209	243	269
SMSA: MINNEAPOLIS-ST PAUL, MN-WI						
COUNTY:ANOKA	NON-ELEVATOR:	170	202	244	283	322
STATE:MN	ELEVATOR:	188	224	269	311	353
COUNTY:CARVER	NON-ELEVATOR:	170	202	244	283	322
STATE:MN	ELEVATOR:	188	224	269	311	353
COUNTY:CHISAGO	NON-ELEVATOR:	170	202	244	283	322
STATE:MN	ELEVATOR:	188	224	269	311	353
COUNTY:DAKOTA	NON-ELEVATOR:	170	202	244	283	322
STATE:MN	ELEVATOR:	188	224	269	311	353
COUNTY:HENNEPIN	NON-ELEVATOR:	170	202	244	283	322
STATE:MN	ELEVATOR:	188	224	269	311	353
COUNTY:RAMSEY	NON-ELEVATOR:	170	202	244	283	322
STATE:MN	ELEVATOR:	188	224	269	311	353
COUNTY:SCOTT	NON-ELEVATOR:	170	202	244	283	322
STATE:MN	ELEVATOR:	188	224	269	311	353
COUNTY:WASHINGTON	NON-ELEVATOR:	170	202	244	283	322
STATE:MN	ELEVATOR:	188	224	269	311	353
COUNTY:WRIGHT	NON-ELEVATOR:	170	202	244	283	322
STATE:MN	ELEVATOR:	188	224	269	311	353

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (COI), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE OF FAIR MARKET RENTS FOR EXISTING HOUSING[INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM]

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MINNEAPOLIS-ST.PAUL,MINNESOTA AREA OFFICE						
SMSA: ROCHESTER, MN						
COUNTY:OLMSTED	NON-ELEVATOR:	151	174	207	233	255
STATE:MN	ELEVATOR:	166	190	227	254	280
SMSA: ST. CLOUD, MN						
COUNTY:BENTON	NON-ELEVATOR:	155	178	215	244	267
STATE:MN	ELEVATOR:	171	197	235	267	294
COUNTY:SHERBURNE	NON-ELEVATOR:	155	178	215	244	267
STATE:MN	ELEVATOR:	171	197	235	267	294
COUNTY:STEARNS	NON-ELEVATOR:	155	178	215	244	267
STATE:MN	ELEVATOR:	171	197	235	267	294
NON SMSA						
COUNTY:AITKIN	NON-ELEVATOR:	111	129	156	172	189
STATE:MN	ELEVATOR:	123	141	171	189	207
COUNTY:BECKER	NON-ELEVATOR:	130	148	177	195	214
STATE:MN	ELEVATOR:	143	163	194	214	235
COUNTY:BELTRAMI	NON-ELEVATOR:	111	129	156	172	189
STATE:MN	ELEVATOR:	123	141	171	189	207
COUNTY:BIG STONE	NON-ELEVATOR:	111	129	156	172	189
STATE:MN	ELEVATOR:	123	141	171	189	207
COUNTY:BLUE EARTH	NON-ELEVATOR:	155	178	215	244	267
STATE:MN	ELEVATOR:	171	197	235	267	294
COUNTY:CASS	NON-ELEVATOR:	111	129	156	172	189
STATE:MN	ELEVATOR:	123	141	171	189	207
COUNTY:CHIPPEWA	NON-ELEVATOR:	111	129	156	172	189
STATE:MN	ELEVATOR:	123	141	171	189	207

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 4-BR FMR; 6-BR = 175 PERCENT OF 4-BR FMR

PREPARED BY HUD - EMAD (CO). JULY 07. 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE OF FAIR MARKET RENTS FOR EXISTING HOUSING[INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM]

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MINNEAPOLIS-ST.PAUL,MINNESOTA AREA OFFICE						
NON SMSA						
COUNTY:CLEARWATER	NON-ELEVATOR:	130	148	177	195	214
STATE:MN	ELEVATOR:	143	163	194	214	235
COUNTY:COTTONWOOD	NON-ELEVATOR:	111	129	156	172	189
STATE:MN	ELEVATOR:	123	141	171	189	207
COUNTY:DOUGLAS	NON-ELEVATOR:	111	129	156	172	189
STATE:MN	ELEVATOR:	123	141	171	189	207
COUNTY:GOODHUE	NON-ELEVATOR:	128	147	176	195	214
STATE:MN	ELEVATOR:	141	162	193	214	234
COUNTY:GRANT	NON-ELEVATOR:	111	129	156	172	189
STATE:MN	ELEVATOR:	123	141	171	189	207
COUNTY:HOUSTON	NON-ELEVATOR:	121	137	166	184	202
STATE:MN	ELEVATOR:	133	151	182	201	221
COUNTY:HUBBARD	NON-ELEVATOR:	111	129	156	172	189
STATE:MN	ELEVATOR:	123	141	171	189	207
COUNTY:ISANTI	NON-ELEVATOR:	128	147	176	195	214
STATE:MN	ELEVATOR:	141	162	193	214	234
COUNTY:KANABEC	NON-ELEVATOR:	128	147	176	195	214
STATE:MN	ELEVATOR:	141	162	193	214	234
COUNTY:KITTSON	NON-ELEVATOR:	130	148	177	195	214
STATE:MN	ELEVATOR:	143	163	194	214	235
COUNTY:LAC QUI PARL	NON-ELEVATOR:	111	129	156	172	189
STATE:MN	ELEVATOR:	123	141	171	189	207
COUNTY:LAKE OF WOOD	NON-ELEVATOR:	111	129	156	172	189
STATE:MN	ELEVATOR:	123	141	171	189	207

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 4-BR FMR; 6-BR = 175 PERCENT OF 4-BR FMR

PREPARED BY HUD - EMAD (CO). JULY 07. 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MINNEAPOLIS-ST.PAUL,MINNESOTA AREA OFFICE						
NON SMSA						
COUNTY:MAHNOMEN	NON-ELEVATOR:	130	148	177	195	214
STATE:MN	ELEVATOR:	143	163	194	214	235
COUNTY:MARSHALL	NON-ELEVATOR:	130	148	177	195	214
STATE:MN	ELEVATOR:	143	163	194	214	235
COUNTY:MILLE LACS	NON-ELEVATOR:	128	147	176	195	214
STATE:MN	ELEVATOR:	141	162	193	214	234
COUNTY:NORMAN	NON-ELEVATOR:	130	148	177	195	214
STATE:MN	ELEVATOR:	143	163	194	214	235
COUNTY:OTTER TAIL	NON-ELEVATOR:	130	148	177	195	214
STATE:MN	ELEVATOR:	143	163	194	214	235
COUNTY:PENNINGTON	NON-ELEVATOR:	130	148	177	195	214
STATE:MN	ELEVATOR:	143	163	194	214	235
COUNTY:PINE	NON-ELEVATOR:	128	147	176	195	214
STATE:MN	ELEVATOR:	141	162	193	214	234
COUNTY:POPE	NON-ELEVATOR:	111	129	156	172	189
STATE:MN	ELEVATOR:	123	141	171	189	207
COUNTY:RED LAKE	NON-ELEVATOR:	130	148	177	195	214
STATE:MN	ELEVATOR:	143	163	194	214	235
COUNTY:REDWOOD	NON-ELEVATOR:	111	129	156	172	189
STATE:MN	ELEVATOR:	123	141	171	189	207
COUNTY:RENVILLE	NON-ELEVATOR:	111	129	156	172	189
STATE:MN	ELEVATOR:	123	141	171	189	207
COUNTY:RICE	NON-ELEVATOR:	128	147	176	195	214
STATE:MN	ELEVATOR:	141	162	193	214	234

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MINNEAPOLIS-ST.PAUL,MINNESOTA AREA OFFICE						
NON SMSA						
COUNTY:ROSEAU	NON-ELEVATOR:	130	148	177	195	214
STATE:MN	ELEVATOR:	143	163	194	214	235
COUNTY:STEVENS	NON-ELEVATOR:	111	129	156	172	189
STATE:MN	ELEVATOR:	123	141	171	189	207
COUNTY:SWIFT	NON-ELEVATOR:	111	129	156	172	189
STATE:MN	ELEVATOR:	123	141	171	189	207
COUNTY,TODD	NON-ELEVATOR:	111	129	156	172	189
STATE:MN	ELEVATOR,	123	141	171	189	207
COUNTY:TRAVERSE	NON-ELEVATOR:	111	129	156	172	189
STATE:MN	ELEVATOR:	123	141	171	189	207
COUNTY:WABENA	NON-ELEVATOR:	111	129	156	172	189
STATE:MN	ELEVATOR:	123	141	171	189	207
COUNTY,WILKIN	NON-ELEVATOR,	130	148	177	195	214
STATE,MN	ELEVATOR:	143	163	194	214	235
COUNTY:WINONA	NON-ELEVATOR:	121	137	166	184	202
STATE,MN	ELEVATOR:	133	151	182	201	221
COUNTY:YELLOW MEDIC	NON-ELEVATOR:	111	129	156	172	189
STATE:MN	ELEVATOR,	123	141	171	189	207

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE OF FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALBUQUERQUE-NEW MEXICO INSURING OFFICE						
SMSA: ALBUQUERQUE, NM						
COUNTY:BERNALILLO	NON-ELEVATOR:	129	147	176	203	221
STATE:NM	ELEVATOR:	142	163	193	221	243
COUNTY:SANDOVAL	NON-ELEVATOR:	129	147	176	203	221
STATE:NM	ELEVATOR:	142	163	193	221	243
NON SMSA						
COUNTY:CATRON	NON-ELEVATOR:	101	114	137	152	166
STATE:NM	ELEVATOR:	110	126	150	166	182
COUNTY:CHAVES	NON-ELEVATOR:	120	138	164	180	197
STATE:NM	ELEVATOR:	133	153	180	198	217
COUNTY:COLFAX	NON-ELEVATOR:	119	137	164	180	198
STATE:NM	ELEVATOR:	132	152	179	198	217
COUNTY:CURRY	NON-ELEVATOR:	113	127	154	167	182
STATE:NM	ELEVATOR:	124	140	167	184	200
COUNTY:DE BACA	NON-ELEVATOR:	96	109	130	152	165
STATE:NM	ELEVATOR:	105	120	144	166	182
COUNTY:DONA ANA	NON-ELEVATOR:	120	138	164	180	197
STATE:NM	ELEVATOR:	133	153	180	198	217
COUNTY:EDDY	NON-ELEVATOR:	120	138	164	180	197
STATE:NM	ELEVATOR:	133	153	180	198	217
COUNTY:GRANT	NON-ELEVATOR:	109	123	148	164	179
STATE:NM	ELEVATOR:	120	137	164	180	197
COUNTY:GUADALUPE	NON-ELEVATOR:	96	109	130	152	165
STATE:NM	ELEVATOR:	105	120	144	166	182

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 4-BR FMR; 6-BR = 175 PERCENT OF 4-BR FMR

PREPARED BY HUD - EMAD (CU), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE OF FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALBUQUERQUE-NEW MEXICO INSURING OFFICE						
NON SMSA						
COUNTY:HARDING	NON-ELEVATOR:	96	109	130	152	165
STATE:NM	ELEVATOR:	105	120	144	166	182
COUNTY:HIDALGO	NON-ELEVATOR:	101	114	137	152	166
STATE:NM	ELEVATOR:	110	126	150	166	182
COUNTY:LEA	NON-ELEVATOR:	120	138	164	180	197
STATE:NM	ELEVATOR:	133	153	180	198	217
COUNTY:LINCOLN	NON-ELEVATOR:	101	114	137	152	166
STATE:NM	ELEVATOR:	110	126	150	166	182
COUNTY:LOS ALAMOS	NON-ELEVATOR:	119	137	164	180	198
STATE:NM	ELEVATOR:	132	152	179	198	217
COUNTY:LUNA	NON-ELEVATOR:	119	137	164	180	198
STATE:NM	ELEVATOR:	132	152	179	198	217
COUNTY:MCKINLEY	NON-ELEVATOR:	119	137	164	180	198
STATE:NM	ELEVATOR:	132	152	179	198	217
COUNTY:MORA	NON-ELEVATOR:	119	137	164	180	198
STATE:NM	ELEVATOR:	132	152	179	198	217
COUNTY:OTERO	NON-ELEVATOR:	120	138	164	180	197
STATE:NM	ELEVATOR:	133	153	180	198	217
COUNTY:QUAY	NON-ELEVATOR:	96	109	130	152	165
STATE:NM	ELEVATOR:	105	120	144	166	182
COUNTY:RIO ARRIBA	NON-ELEVATOR:	119	137	164	180	198
STATE:NM	ELEVATOR:	132	152	179	198	217
COUNTY:ROOSEVELT	NON-ELEVATOR:	96	109	130	152	165
STATE:NM	ELEVATOR:	105	120	144	166	182

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 4-BR FMR; 6-BR = 175 PERCENT OF 4-BR FMR

PREPARED BY HUD - EMAD (CU), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE OF FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION &		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALBUQUERQUE,NEW MEXICO INSURING OFFICE						
NON SMSA						
COUNTY:SAN JUAN	NON-ELEVATOR:	120	138	164	180	197
STATE:NM	ELEVATOR:	133	153	180	198	217
COUNTY:SAN MIGUEL	NON-ELEVATOR:	119	137	164	180	198
STATE:NM	ELEVATOR:	132	152	179	198	217
COUNTY:SANTA FE	NON-ELEVATOR:	119	137	164	180	198
STATE:NM	ELEVATOR:	132	152	179	198	217
COUNTY:SIERRA	NON-ELEVATOR:	101	114	137	152	166
STATE:NM	ELEVATOR:	110	126	150	166	182
COUNTY:SOCORRO	NON-ELEVATOR:	101	114	137	152	166
STATE:NM	ELEVATOR:	110	126	150	166	182
COUNTY:TAOS	NON-ELEVATOR:	119	137	164	180	198
STATE:NM	ELEVATOR:	132	152	179	198	217
COUNTY:TORRANCE	NON-ELEVATOR:	119	137	164	180	198
STATE:NM	ELEVATOR:	132	152	179	198	217
COUNTY:UNION	NON-ELEVATOR:	96	109	130	152	165
STATE:NM	ELEVATOR:	105	120	144	166	182
COUNTY:VALENCIA	NON-ELEVATOR:	119	137	164	180	198
STATE:NM	ELEVATOR:	132	152	179	198	217

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CU), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE OF FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION &		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS,TEXAS AREA OFFICE						
SMSA: DALLAS-FORT WORTH , TX						
COUNTY:COLLIN	NON-ELEVATOR:	147	169	200	233	263
STATE:TX	ELEVATOR:	162	186	220	255	289
COUNTY:DALLAS	NON-ELEVATOR:	147	169	200	233	263
STATE:TX	ELEVATOR:	162	186	220	255	289
COUNTY:DENTON	NON-ELEVATOR:	147	169	200	233	263
STATE:TX	ELEVATOR:	162	186	220	255	289
COUNTY:ELLIS	NON-ELEVATOR:	147	169	200	233	263
STATE:TX	ELEVATOR:	162	186	220	255	289
COUNTY:KAUFMAN	NON-ELEVATOR:	147	169	200	233	263
STATE:TX	ELEVATOR:	162	186	220	255	289
COUNTY:ROCKWALL	NON-ELEVATOR:	147	169	200	233	263
STATE:TX	ELEVATOR:	162	186	220	255	289
SMSA: KILLEEN-TEMPLE, TX						
COUNTY:BELL	NON-ELEVATOR:	110	126	150	167	184
STATE:TX	ELEVATOR:	122	136	166	185	202
COUNTY:CORYELL	NON-ELEVATOR:	110	126	150	167	184
STATE:TX	ELEVATOR:	122	136	166	185	202
SMSA: LONGVIEW, TX						
COUNTY:GREGG	NON-ELEVATOR:	115	131	158	183	201
STATE:TX	ELEVATOR:	126	144	173	201	221
SMSA: SHERMAN-DENISON, TX						
COUNTY:GRAYSON	NON-ELEVATOR:	117	133	157	174	189
STATE:TX	ELEVATOR:	129	145	174	190	209
SMSA: TYLER, TX						
COUNTY:SMITH	NON-ELEVATOR:	108	123	145	160	175
STATE:TX	ELEVATOR:	119	135	160	176	192

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CU), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE OF FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION &		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS,TEXAS AREA OFFICE						
SMSA; WACO, TX						
COUNTY;MCLENNAN	NON-ELEVATOR;	110	126	150	167	184
STATE;TX	ELEVATOR;	122	138	166	185	202
NON SMSA						
COUNTY;ANDERSON	NON-ELEVATOR;	101	114	135	148	162
STATE;TX	ELEVATOR;	109	124	148	163	177
COUNTY;CAMP	NON-ELEVATOR;	78	89	106	118	130
STATE;TX	ELEVATOR;	86	98	117	130	143
COUNTY;CHEROKEE	NON-ELEVATOR;	89	103	123	136	149
STATE;TX	ELEVATOR;	98	113	135	149	164
COUNTY;COOKE	NON-ELEVATOR;	107	120	143	157	173
STATE;TX	ELEVATOR;	117	133	157	174	189
COUNTY;DELTA	NON-ELEVATOR;	96	110	129	143	155
STATE;TX	ELEVATOR;	106	120	143	157	172
COUNTY;FALLS	NON-ELEVATOR;	110	126	150	167	184
STATE;TX	ELEVATOR;	122	138	166	185	202
COUNTY;FANNIN	NON-ELEVATOR;	95	108	129	144	157
STATE;TX	ELEVATOR;	105	119	142	157	174
COUNTY;FRANKLIN	NON-ELEVATOR;	89	103	123	136	149
STATE;TX	ELEVATOR;	98	113	135	149	164
COUNTY;FREESTONE	NON-ELEVATOR;	110	126	150	167	184
STATE;TX	ELEVATOR;	122	138	166	185	202
COUNTY;HENDERSON	NON-ELEVATOR;	89	103	123	136	149
STATE;TX	ELEVATOR;	98	113	135	149	164

NOTE; FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS;
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CU), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE OF FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION &		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS,TEXAS AREA OFFICE						
NON SMSA						
COUNTY;HILL	NON-ELEVATOR;	110	126	150	167	184
STATE;TX	ELEVATOR;	122	138	166	185	202
COUNTY;HOPKINS	NON-ELEVATOR;	107	120	143	157	173
STATE;TX	ELEVATOR;	117	133	157	174	189
COUNTY;HUNT	NON-ELEVATOR;	107	120	143	157	173
STATE;TX	ELEVATOR;	117	133	157	174	189
COUNTY;LAMAR	NON-ELEVATOR;	96	110	129	143	155
STATE;TX	ELEVATOR;	106	120	143	157	172
COUNTY;LIMESTONE	NON-ELEVATOR;	110	126	150	167	184
STATE;TX	ELEVATOR;	122	138	166	185	202
COUNTY;MILAM	NON-ELEVATOR;	103	117	139	155	169
STATE;TX	ELEVATOR;	112	129	153	169	187
COUNTY;NAVARRO	NON-ELEVATOR;	95	108	129	144	157
STATE;TX	ELEVATOR;	105	119	142	157	174
COUNTY;RAINS	NON-ELEVATOR;	95	108	129	144	157
STATE;TX	ELEVATOR;	105	119	142	157	174
COUNTY;RED RIVER	NON-ELEVATOR;	78	89	106	118	130
STATE;TX	ELEVATOR;	86	98	117	130	143
COUNTY;RUSK	NON-ELEVATOR;	101	114	135	148	162
STATE;TX	ELEVATOR;	109	124	148	163	178
COUNTY;TITUS	NON-ELEVATOR;	78	89	106	118	130
STATE;TX	ELEVATOR;	86	98	117	130	143
COUNTY;UPSHUR	NON-ELEVATOR;	89	103	123	136	149
STATE;TX	ELEVATOR;	98	113	135	149	164

NOTE; FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS;
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CU), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS,TEXAS AREA OFFICE						
NON SMSA						
COUNTY:VAN ZANDT	NON-ELEVATOR:	95	108	129	144	157
STATE:TX	ELEVATOR:	105	119	142	157	174
COUNTY:WOOD	NON-ELEVATOR:	89	103	123	136	149
STATE:TX	ELEVATOR:	98	113	135	149	164

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
FORT WORTH,TEXAS INSURING OFFICE						
SMSA: ABILENE, TX						
COUNTY:CALLAHAN	NON-ELEVATOR:	110	125	146	163	177
STATE:TX	ELEVATOR:	122	137	163	178	196
COUNTY:JONES	NON-ELEVATOR:	110	125	146	163	177
STATE:TX	ELEVATOR:	122	137	163	178	196
COUNTY:TAYLOR	NON-ELEVATOR:	110	125	146	163	177
STATE:TX	ELEVATOR:	122	137	163	178	196
SMSA: DALLAS-FORT WORTH , TX						
COUNTY:HOOD	NON-ELEVATOR:	147	169	200	233	263
STATE:TX	ELEVATOR:	162	186	220	255	289
COUNTY:JOHNSON	NON-ELEVATOR:	147	169	200	233	263
STATE:TX	ELEVATOR:	162	186	220	255	289
COUNTY:PARKER	NON-ELEVATOR:	147	169	200	233	263
STATE:TX	ELEVATOR:	162	186	220	255	289
COUNTY:TARRANT	NON-ELEVATOR:	147	169	200	233	263
STATE:TX	ELEVATOR:	162	186	220	255	289
COUNTY:WISE	NON-ELEVATOR:	147	169	200	233	263
STATE:TX	ELEVATOR:	162	186	220	255	289
SMSA: SAN ANGELO, TX						
COUNTY:TOM GREEN	NON-ELEVATOR:	115	132	155	172	187
STATE:TX	ELEVATOR:	127	144	172	187	205
SMSA: WICHITA FALLS, TX						
COUNTY:CLAY	NON-ELEVATOR:	108	124	146	172	187
STATE:TX	ELEVATOR:	119	136	163	188	206
COUNTY:WICHITA	NON-ELEVATOR:	108	124	146	172	187
STATE:TX	ELEVATOR:	119	136	163	188	206

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
FORT WORTH-TEXAS INSURING OFFICE						
NON SMSA						
COUNTY:ARMER	NON-ELEVATOR:	108	124	148	172	187
STATE:TX	ELEVATOR:	119	136	163	188	206
COUNTY:BAYLOR	NON-ELEVATOR:	108	124	148	172	187
STATE:TX	ELEVATOR:	119	136	163	188	206
COUNTY:BOSQUE	NON-ELEVATOR:	110	126	150	167	184
STATE:TX	ELEVATOR:	122	138	166	185	202
COUNTY:BROWN	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:CLAY	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:COLEMAN	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:COMANCHE	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:CONCHO	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:CROCKETT	NON-ELEVATOR:	105	119	142	165	179
STATE:TX	ELEVATOR:	114	132	156	180	198
COUNTY:EASTLAND	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:ERATH	NON-ELEVATOR:	107	120	143	157	173
STATE:TX	ELEVATOR:	117	133	157	174	189
COUNTY:FOARD	NON-ELEVATOR:	108	124	148	172	187
STATE:TX	ELEVATOR:	119	136	163	188	206

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 4-BR FMR; 6-BR = 175 PERCENT OF 4-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
FORT WORTH-TEXAS INSURING OFFICE						
NON SMSA						
COUNTY:HAMILTON	NON-ELEVATOR:	110	126	150	167	184
STATE:TX	ELEVATOR:	122	138	166	185	202
COUNTY:HARDEMAN	NON-ELEVATOR:	108	124	148	172	187
STATE:TX	ELEVATOR:	119	136	163	188	206
COUNTY:HASKELL	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:IRION	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:JACK	NON-ELEVATOR:	108	124	148	172	187
STATE:TX	ELEVATOR:	119	136	163	188	206
COUNTY:KIMBLE	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:KNOX	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:LAMPASAS	NON-ELEVATOR:	110	126	150	167	184
STATE:TX	ELEVATOR:	122	138	166	185	202
COUNTY:MCCULLOCH	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:MASON	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:MENARD	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:MILLS	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 4-BR FMR; 6-BR = 175 PERCENT OF 4-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
FORT WORTH,TEXAS INSURING OFFICE						
NON SMSA						
COUNTY:MONTAGUE	NON-ELEVATOR:	107	120	143	157	173
STATE:TX	ELEVATOR:	117	133	157	174	189
COUNTY:PALO PINTO	NON-ELEVATOR:	117	133	157	174	189
STATE:TX	ELEVATOR:	129	145	174	190	209
COUNTY:REAGAN	NON-ELEVATOR:	105	119	142	165	179
STATE:TX	ELEVATOR:	114	132	156	180	198
COUNTY:RUNNELS	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	106	124	149	173	188
COUNTY:SAN SABA	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:SCHLEICHER	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:SHACKLEFORD	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:SOMERVELL	NON-ELEVATOR:	95	108	129	144	157
STATE:TX	ELEVATOR:	105	119	142	157	174
COUNTY:STEPHENS	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:STERLING	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:SUTTON	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:THROCKMORTON	NON-ELEVATOR:	108	124	146	172	187
STATE:TX	ELEVATOR:	119	136	163	188	206

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CU), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
FORT WORTH,TEXAS INSURING OFFICE						
NON SMSA						
COUNTY:WILBARGER	NON-ELEVATOR:	108	124	146	172	187
STATE:TX	ELEVATOR:	119	136	163	188	206
COUNTY:YOUNG	NON-ELEVATOR:	108	124	146	172	187
STATE:TX	ELEVATOR:	119	136	163	188	206

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CU), JULY 07, 1977

RULES AND REGULATIONS

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE OF FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
HOUSTON,TEXAS INSURING OFFICE						
SMSA; BEAUMONT-PORT ARTHUR-ORANGE, TX						
COUNTY;HARDIN	NON-ELEVATOR;	145	153	165	191	215
STATE;TX	ELEVATOR;	160	168	182	210	237
COUNTY;JEFFERSON	NON-ELEVATOR;	145	153	165	191	215
STATE;TX	ELEVATOR;	160	168	182	210	237
COUNTY;ORANGE	NON-ELEVATOR;	145	153	165	191	215
STATE;TX	ELEVATOR;	160	168	182	210	237
SMSA; BRYAN-COLLEGE STATION, TX						
COUNTY;BRAZOS	NON-ELEVATOR;	145	153	165	191	215
STATE;TX	ELEVATOR;	160	168	182	210	237
SMSA; GALVESTON-TEXAS CITY, TX						
COUNTY;GALVESTON	NON-ELEVATOR;	145	153	180	210	240
STATE;TX	ELEVATOR;	160	168	198	231	264
NON SMSA						
COUNTY;ANGELINA	NON-ELEVATOR;	135	140	160	185	215
STATE;TX	ELEVATOR;	149	154	176	204	237
COUNTY;AUSTIN	NON-ELEVATOR;	135	140	160	185	215
STATE;TX	ELEVATOR;	149	154	176	204	237
COUNTY;BURLESON	NON-ELEVATOR;	135	140	160	185	215
STATE;TX	ELEVATOR;	149	154	176	204	237
COUNTY;CHAMBERS	NON-ELEVATOR;	135	140	160	185	215
STATE;TX	ELEVATOR;	149	154	176	204	237
COUNTY;COLORADO	NON-ELEVATOR;	135	140	160	185	215
STATE;TX	ELEVATOR;	149	154	176	204	237
COUNTY;GRIMES	NON-ELEVATOR;	135	140	160	185	215
STATE;TX	ELEVATOR;	149	154	176	204	237

NOTE; FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE OF FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
HOUSTON,TEXAS INSURING OFFICE						
NON SMSA						
COUNTY;HOUSTON	NON-ELEVATOR;	135	140	160	185	215
STATE;TX	ELEVATOR;	149	154	176	204	237
COUNTY;JASPER	NON-ELEVATOR;	135	140	160	185	215
STATE;TX	ELEVATOR;	149	154	176	204	237
COUNTY;LEON	NON-ELEVATOR;	135	140	160	185	215
STATE;TX	ELEVATOR;	149	154	176	204	237
COUNTY;MADISON	NON-ELEVATOR;	135	140	160	185	215
STATE;TX	ELEVATOR;	149	154	176	204	237
COUNTY;NACOGDOCHES	NON-ELEVATOR;	135	140	160	185	215
STATE;TX	ELEVATOR;	149	154	176	204	237
COUNTY;NEWTON	NON-ELEVATOR;	135	140	160	185	215
STATE;TX	ELEVATOR;	149	154	176	204	237
COUNTY;POLK	NON-ELEVATOR;	135	140	160	185	215
STATE;TX	ELEVATOR;	149	154	176	204	237
COUNTY;ROBERTSON	NON-ELEVATOR;	135	140	160	185	215
STATE;TX	ELEVATOR;	149	154	176	204	237
COUNTY;SABINE	NON-ELEVATOR;	135	140	160	185	215
STATE;TX	ELEVATOR;	149	154	176	204	237
COUNTY;SAN AUGUSTIN	NON-ELEVATOR;	135	140	160	185	215
STATE;TX	ELEVATOR;	149	154	176	204	237
COUNTY;SAN JACINTO	NON-ELEVATOR;	135	140	160	185	215
STATE;TX	ELEVATOR;	149	154	176	204	237

NOTE; FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE OF FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
HOUSTON,TEXAS INSURING OFFICE						
NON SMSA						
COUNTY:SHELBY	NON-ELEVATOR:	135	140	160	185	215
STATE:TX	ELEVATOR:	149	154	176	204	237
COUNTY:TRINITY	NON-ELEVATOR:	135	140	160	185	215
STATE:TX	ELEVATOR:	149	154	176	204	237
COUNTY:TYLER	NON-ELEVATOR:	135	140	160	185	215
STATE:TX	ELEVATOR:	149	154	176	204	237
COUNTY:WALKER	NON-ELEVATOR:	135	140	160	185	215
STATE:TX	ELEVATOR:	149	154	176	204	237
COUNTY:WASHINGTON	NON-ELEVATOR:	135	140	160	185	215
STATE:TX	ELEVATOR:	149	154	176	204	237
COUNTY:WHARTON	NON-ELEVATOR:	135	140	160	185	215
STATE:TX	ELEVATOR:	149	154	176	204	237

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE OF FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LITTLE ROCK,ARKANSAS AREA OFFICE						
SMSA: FAYETTEVILLE-SPRINGDALE, AR						
COUNTY:BENTON	NON-ELEVATOR:	115	130	154	170	188
STATE:AR	ELEVATOR:	126	142	168	188	206
COUNTY:WASHINGTON	NON-ELEVATOR:	115	130	154	170	188
STATE:AR	ELEVATOR:	126	142	168	188	206
SMSA: FORT SMITH, AR-OK						
COUNTY:CRAWFORD	NON-ELEVATOR:	101	113	133	155	169
STATE:AR	ELEVATOR:	109	123	147	169	187
COUNTY:SEBASTIAN	NON-ELEVATOR:	101	113	133	155	169
STATE:AR	ELEVATOR:	109	123	147	169	187
SMSA: LITTLE ROCK-NORTH LITTLE ROCK, AR						
COUNTY:PULASKI	NON-ELEVATOR:	114	130	155	179	197
STATE:AR	ELEVATOR:	125	143	172	198	216
COUNTY:SALINE	NON-ELEVATOR:	114	130	155	179	197
STATE:AR	ELEVATOR:	125	143	172	198	216
SMSA: PINE BLUFF, AR						
COUNTY:JEFFERSON	NON-ELEVATOR:	104	116	138	154	168
STATE:AR	ELEVATOR:	114	128	152	169	187
SMSA: TEXARKANA, TX-AR						
COUNTY:LITTLE RIVER	NON-ELEVATOR:	108	122	144	168	183
STATE:AR	ELEVATOR:	119	134	158	185	201
COUNTY:MILLER	NON-ELEVATOR:	108	122	144	168	183
STATE:AR	ELEVATOR:	119	134	158	185	201
COUNTY:BOWIE	NON-ELEVATOR:	108	122	144	168	183
STATE:TX	ELEVATOR:	119	134	158	185	201

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LITTLE ROCK,ARKANSAS AREA OFFICE						
NON SMSA						
COUNTY:ARKANSAS	NON-ELEVATOR:	93	106	126	140	154
STATE:AR	ELEVATOR:	103	117	139	155	169
COUNTY:ASHLEY	NON-ELEVATOR:	84	96	114	126	140
STATE:AR	ELEVATOR:	93	106	125	140	154
COUNTY:BAXTER	NON-ELEVATOR:	106	122	144	168	183
STATE:AR	ELEVATOR:	119	134	156	185	201
COUNTY:BOONE	NON-ELEVATOR:	110	128	150	176	193
STATE:AR	ELEVATOR:	122	139	167	193	213
COUNTY:BRADLEY	NON-ELEVATOR:	84	96	114	126	140
STATE:AR	ELEVATOR:	93	106	125	140	154
COUNTY:CALHOUN	NON-ELEVATOR:	83	95	114	126	139
STATE:AR	ELEVATOR:	92	105	125	139	153
COUNTY:CARROLL	NON-ELEVATOR:	97	113	133	155	169
STATE:AR	ELEVATOR:	107	123	147	169	187
COUNTY:CHICOT	NON-ELEVATOR:	93	106	125	140	154
STATE:AR	ELEVATOR:	102	117	137	155	169
COUNTY:CLARK	NON-ELEVATOR:	81	93	112	124	136
STATE:AR	ELEVATOR:	89	103	123	136	149
COUNTY:CLAY	NON-ELEVATOR:	92	105	125	139	153
STATE:AR	ELEVATOR:	102	116	138	153	167
COUNTY:CLEBURNE	NON-ELEVATOR:	88	101	121	134	148
STATE:AR	ELEVATOR:	97	112	133	148	162
COUNTY:CLEVELAND	NON-ELEVATOR:	93	106	126	140	154
STATE:AR	ELEVATOR:	103	117	139	155	169

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LITTLE ROCK,ARKANSAS AREA OFFICE						
NON SMSA						
COUNTY:COLUMBIA	NON-ELEVATOR:	83	95	114	126	139
STATE:AR	ELEVATOR:	92	105	125	139	153
COUNTY:CONWAY	NON-ELEVATOR:	81	93	112	124	136
STATE:AR	ELEVATOR:	89	103	123	136	149
COUNTY:CRAIGHEAD	NON-ELEVATOR:	103	116	137	154	168
STATE:AR	ELEVATOR:	113	128	150	169	186
COUNTY:CROSS	NON-ELEVATOR:	92	105	125	139	153
STATE:AR	ELEVATOR:	102	116	138	153	167
COUNTY:DALLAS	NON-ELEVATOR:	83	95	114	126	139
STATE:AR	ELEVATOR:	92	105	125	139	153
COUNTY:DESHA	NON-ELEVATOR:	83	95	113	127	142
STATE:AR	ELEVATOR:	91	106	125	142	155
COUNTY:DREW	NON-ELEVATOR:	93	106	125	138	155
STATE:AR	ELEVATOR:	102	117	137	155	169
COUNTY:FAULKNER	NON-ELEVATOR:	97	113	133	155	169
STATE:AR	ELEVATOR:	107	123	147	169	187
COUNTY:FRANKLIN	NON-ELEVATOR:	82	94	113	129	143
STATE:AR	ELEVATOR:	91	104	124	143	156
COUNTY:FULTON	NON-ELEVATOR:	88	101	121	134	148
STATE:AR	ELEVATOR:	97	112	133	148	162
COUNTY:GARLAND	NON-ELEVATOR:	104	117	138	155	169
STATE:AR	ELEVATOR:	114	129	154	170	186
COUNTY:GRANT	NON-ELEVATOR:	93	106	126	140	154
STATE:AR	ELEVATOR:	103	117	139	155	169

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B" FAIR MARKET RENTS FOR EAISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LITTLE ROCK,ARKANSAS AREA OFFICE						
NON SMSA						
COUNTY:GREENE	NON-ELEVATOR:	93	106	125	140	154
STATE:AR	ELEVATOR:	102	117	138	154	168
COUNTY:HEMPSTEAD	NON-ELEVATOR:	85	97	115	128	141
STATE:AR	ELEVATOR:	94	107	127	142	155
COUNTY:HOTSPRING	NON-ELEVATOR:	90	102	120	129	141
STATE:AR	ELEVATOR:	99	112	132	142	155
COUNTY:HOWARD	NON-ELEVATOR:	78	89	106	118	130
STATE:AR	ELEVATOR:	86	98	117	130	143
COUNTY:INDEPENDENCE	NON-ELEVATOR:	88	101	121	134	148
STATE:AR	ELEVATOR:	97	112	133	148	162
COUNTY:IZARD	NON-ELEVATOR:	88	101	121	134	148
STATE:AR	ELEVATOR:	97	112	133	148	162
COUNTY:JACKSON	NON-ELEVATOR:	101	115	137	152	167
STATE:AR	ELEVATOR:	112	127	151	168	184
COUNTY:JOHNSON	NON-ELEVATOR:	81	93	112	124	136
STATE:AR	ELEVATOR:	89	103	123	136	149
COUNTY:LAFAYETTE	NON-ELEVATOR:	78	89	106	118	130
STATE:AR	ELEVATOR:	86	98	117	130	143
COUNTY:LAWRENCE	NON-ELEVATOR:	92	105	125	139	153
STATE:AR	ELEVATOR:	102	116	138	153	167
COUNTY:LEE	NON-ELEVATOR:	92	105	125	139	153
STATE:AR	ELEVATOR:	102	116	138	153	167
COUNTY:LINCOLN	NON-ELEVATOR:	93	106	126	140	154
STATE:AR	ELEVATOR:	103	117	139	155	169

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B" FAIR MARKET RENTS FOR EAISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LITTLE ROCK,ARKANSAS AREA OFFICE						
NON SMSA						
COUNTY:LOGAN	NON-ELEVATOR:	82	94	113	129	143
STATE:AR	ELEVATOR:	91	104	124	143	156
COUNTY:LONOKE	NON-ELEVATOR:	93	106	126	140	154
STATE:AR	ELEVATOR:	103	117	139	155	169
COUNTY:MADISON	NON-ELEVATOR:	95	108	129	144	157
STATE:AR	ELEVATOR:	105	119	142	157	174
COUNTY:MARION	NON-ELEVATOR:	97	113	133	155	169
STATE:AR	ELEVATOR:	107	123	147	169	187
COUNTY:MISSISSIPPI	NON-ELEVATOR:	103	116	137	154	168
STATE:AR	ELEVATOR:	113	128	150	169	186
COUNTY:MONROE	NON-ELEVATOR:	93	106	126	140	154
STATE:AR	ELEVATOR:	103	117	139	155	169
COUNTY:MONTGOMERY	NON-ELEVATOR:	81	93	112	124	136
STATE:AR	ELEVATOR:	89	103	123	136	149
COUNTY:NEVADA	NON-ELEVATOR:	78	89	106	118	130
STATE:AR	ELEVATOR:	86	98	117	130	143
COUNTY:NEWTON	NON-ELEVATOR:	97	113	133	155	169
STATE:AR	ELEVATOR:	107	123	147	169	187
COUNTY:OUACHITA	NON-ELEVATOR:	83	95	114	126	139
STATE:AR	ELEVATOR:	92	105	125	139	153
COUNTY:PERRY	NON-ELEVATOR:	81	93	112	124	136
STATE:AR	ELEVATOR:	89	103	123	136	149
COUNTY:PHILLIPS	NON-ELEVATOR:	92	105	125	139	153
STATE:AR	ELEVATOR:	102	116	138	153	167

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE OF FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LITTLE ROCK,ARKANSAS AREA OFFICE						
NON SMSA						
COUNTY:PIKE	NON-ELEVATOR:	81	93	112	124	136
STATE:AR	ELEVATOR:	89	103	123	136	149
COUNTY:POINSETT	NON-ELEVATOR:	103	116	137	154	168
STATE:AR	ELEVATOR:	113	128	150	169	186
COUNTY:POLK	NON-ELEVATOR:	89	102	122	140	155
STATE:AR	ELEVATOR:	98	112	134	155	169
COUNTY:POPE	NON-ELEVATOR:	97	113	133	155	169
STATE:AR	ELEVATOR:	107	123	147	169	187
COUNTY:PRAIRIE	NON-ELEVATOR:	93	106	126	140	154
STATE:AR	ELEVATOR:	103	117	139	155	169
COUNTY:RANDOLPH	NON-ELEVATOR:	92	105	125	139	153
STATE:AR	ELEVATOR:	102	116	138	153	167
COUNTY:ST FRANCIS	NON-ELEVATOR:	103	116	137	154	168
STATE:AR	ELEVATOR:	113	128	150	169	186
COUNTY:SCOTT	NON-ELEVATOR:	82	94	113	129	143
STATE:AR	ELEVATOR:	91	104	124	143	156
COUNTY:SEARCY	NON-ELEVATOR:	97	113	133	155	169
STATE:AR	ELEVATOR:	107	123	147	169	187
COUNTY:SEVIER	NON-ELEVATOR:	78	89	106	118	130
STATE:AR	ELEVATOR:	86	98	117	130	143
COUNTY:SHARP	NON-ELEVATOR:	88	101	121	134	148
STATE:AR	ELEVATOR:	97	112	133	148	162
COUNTY:STONE	NON-ELEVATOR:	88	101	121	134	148
STATE:AR	ELEVATOR:	97	112	133	148	162

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE OF FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LITTLE ROCK,ARKANSAS AREA OFFICE						
NON SMSA						
COUNTY:UNION	NON-ELEVATOR:	83	95	114	126	139
STATE:AR	ELEVATOR:	92	105	125	139	153
COUNTY:VAN BUREN	NON-ELEVATOR:	88	101	121	134	148
STATE:AR	ELEVATOR:	97	112	133	148	162
COUNTY:WHITE	NON-ELEVATOR:	101	115	137	152	167
STATE:AR	ELEVATOR:	112	127	151	168	184
COUNTY:WOODRUFF	NON-ELEVATOR:	101	115	137	152	167
STATE:AR	ELEVATOR:	112	127	151	168	184
COUNTY:YELL	NON-ELEVATOR:	82	94	113	129	143
STATE:AR	ELEVATOR:	91	104	124	143	156

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LUBBOCK,TEXAS INSURING OFFICE						
SMSA; AMARILLO, TX						
COUNTY;POTTER	NON-ELEVATOR;	110	125	148	163	177
STATE;TX	ELEVATOR;	122	137	163	178	196
COUNTY;RANDALL	NON-ELEVATOR;	110	125	148	163	177
STATE;TX	ELEVATOR;	122	137	163	178	196
SMSA; EL PASO, TX						
COUNTY;EL PASO	NON-ELEVATOR;	127	145	174	200	220
STATE;TX	ELEVATOR;	140	159	190	221	241
SMSA; LUBBOCK, TX						
COUNTY;LUBBOCK	NON-ELEVATOR;	122	138	164	180	194
STATE;TX	ELEVATOR;	133	153	180	199	217
SMSA; MIDLAND, TX						
COUNTY;MIDLAND	NON-ELEVATOR;	117	133	157	174	189
STATE;TX	ELEVATOR;	129	145	174	190	209
SMSA; ODESSA, TX						
COUNTY;ECTOR	NON-ELEVATOR;	117	133	157	174	189
STATE;TX	ELEVATOR;	129	145	174	190	209
NON SMSA						
COUNTY;ANDREWS	NON-ELEVATOR;	105	119	142	165	179
STATE;TX	ELEVATOR;	114	132	156	180	198
COUNTY;ARMSTRONG	NON-ELEVATOR;	94	107	128	148	163
STATE;TX	ELEVATOR;	104	118	140	164	178
COUNTY;BAILEY	NON-ELEVATOR;	98	114	135	156	172
STATE;TX	ELEVATOR;	108	124	149	173	188
COUNTY;BORDEN	NON-ELEVATOR;	105	119	142	165	179
STATE;TX	ELEVATOR;	114	132	156	180	198

NOTE; FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LUBBOCK,TEXAS INSURING OFFICE						
NON SMSA						
COUNTY;BREWSTER	NON-ELEVATOR;	105	119	142	165	179
STATE;TX	ELEVATOR;	114	132	156	180	198
COUNTY;BRISCOE	NON-ELEVATOR;	94	107	128	148	163
STATE;TX	ELEVATOR;	104	118	140	164	178
COUNTY;CARSON	NON-ELEVATOR;	94	107	128	148	163
STATE;TX	ELEVATOR;	104	118	140	164	178
COUNTY;CASTRO	NON-ELEVATOR;	94	107	128	148	163
STATE;TX	ELEVATOR;	104	118	140	164	178
COUNTY;CHILDRESS	NON-ELEVATOR;	108	124	148	172	187
STATE;TX	ELEVATOR;	119	136	163	188	206
COUNTY;COCHRAN	NON-ELEVATOR;	98	114	135	156	172
STATE;TX	ELEVATOR;	108	124	149	173	188
COUNTY;COLLINGSWORTH	NON-ELEVATOR;	94	107	128	148	163
STATE;TX	ELEVATOR;	104	118	140	164	178
COUNTY;COTTLE	NON-ELEVATOR;	108	124	148	172	187
STATE;TX	ELEVATOR;	119	136	163	188	206
COUNTY;CRANE	NON-ELEVATOR;	105	119	142	165	179
STATE;TX	ELEVATOR;	114	132	156	180	198
COUNTY;CROSBY	NON-ELEVATOR;	98	114	135	156	172
STATE;TX	ELEVATOR;	108	124	149	173	188
COUNTY;CULBERSON	NON-ELEVATOR;	97	113	133	148	163
STATE;TX	ELEVATOR;	107	123	147	164	179
COUNTY;DALLAM	NON-ELEVATOR;	94	107	128	148	163
STATE;TX	ELEVATOR;	104	118	140	164	178

NOTE; FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LUBBOCK, TEXAS INSURING OFFICE						
NON SMSA						
COUNTY: DAWSON	NON-ELEVATOR:	105	119	142	165	179
STATE: TX	ELEVATOR:	119	132	158	180	198
COUNTY: DEAF SMITH	NON-ELEVATOR:	110	125	148	163	177
STATE: TX	ELEVATOR:	122	137	163	178	196
COUNTY: DICKENS	NON-ELEVATOR:	98	114	135	156	172
STATE: TX	ELEVATOR:	108	124	149	173	188
COUNTY: DUNLEY	NON-ELEVATOR:	94	107	128	148	163
STATE: TX	ELEVATOR:	104	118	140	164	178
COUNTY: FISHER	NON-ELEVATOR:	98	114	135	156	172
STATE: TX	ELEVATOR:	108	124	149	173	188
COUNTY: FLOYD	NON-ELEVATOR:	98	114	135	156	172
STATE: TX	ELEVATOR:	108	124	149	173	188
COUNTY: GAINES	NON-ELEVATOR:	105	119	142	165	179
STATE: TX	ELEVATOR:	119	132	158	180	198
COUNTY: GARZA	NON-ELEVATOR:	98	114	135	156	172
STATE: TX	ELEVATOR:	108	124	149	173	188
COUNTY: GLASSCOCK	NON-ELEVATOR:	105	119	142	165	179
STATE: TX	ELEVATOR:	119	132	158	180	198
COUNTY: GRAY	NON-ELEVATOR:	107	120	143	157	173
STATE: TX	ELEVATOR:	117	133	157	174	189
COUNTY: HALE	NON-ELEVATOR:	107	120	143	157	173
STATE: TX	ELEVATOR:	117	133	157	174	189
COUNTY: HALL	NON-ELEVATOR:	94	107	128	148	163
STATE: TX	ELEVATOR:	104	118	140	164	178

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CU), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LUBBOCK, TEXAS INSURING OFFICE						
NON SMSA						
COUNTY: HANSFORD	NON-ELEVATOR:	94	107	128	148	163
STATE: TX	ELEVATOR:	104	118	140	164	178
COUNTY: HARTLEY	NON-ELEVATOR:	94	107	128	148	163
STATE: TX	ELEVATOR:	104	118	140	164	178
COUNTY: HEMPHILL	NON-ELEVATOR:	94	107	128	148	163
STATE: TX	ELEVATOR:	104	118	140	164	178
COUNTY: HOCKLEY	NON-ELEVATOR:	98	114	135	156	172
STATE: TX	ELEVATOR:	108	124	149	173	188
COUNTY: HOWARD	NON-ELEVATOR:	117	133	157	174	189
STATE: TX	ELEVATOR:	129	145	174	190	209
COUNTY: HUDSPETH	NON-ELEVATOR:	97	113	133	148	163
STATE: TX	ELEVATOR:	107	123	147	164	179
COUNTY: HUTCHINSON	NON-ELEVATOR:	94	107	128	148	163
STATE: TX	ELEVATOR:	104	118	140	164	178
COUNTY: JEFF DAVIS	NON-ELEVATOR:	97	113	133	148	163
STATE: TX	ELEVATOR:	107	123	147	164	179
COUNTY: KENT	NON-ELEVATOR:	98	114	135	156	172
STATE: TX	ELEVATOR:	108	124	149	173	188
COUNTY: KING	NON-ELEVATOR:	98	114	135	156	172
STATE: TX	ELEVATOR:	108	124	149	173	188
COUNTY: LAMB	NON-ELEVATOR:	98	114	135	156	172
STATE: TX	ELEVATOR:	108	124	149	173	188
COUNTY: LIPSCOMB	NON-ELEVATOR:	94	107	128	148	163
STATE: TX	ELEVATOR:	104	118	140	164	178

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CU), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LUBBOCK,TEXAS INSURING OFFICE						
NON SMSA						
COUNTY:LOVING	NON-ELEVATOR:	105	119	142	165	179
STATE:TX	ELEVATOR:	114	132	156	180	198
COUNTY:LYNN	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:MARTIN	NON-ELEVATOR:	105	119	142	165	179
STATE:TX	ELEVATOR:	114	132	156	180	198
COUNTY:MITCHELL	NON-ELEVATOR:	92	105	125	145	159
STATE:TX	ELEVATOR:	102	116	138	160	175
COUNTY:MOORE	NON-ELEVATOR:	94	107	128	148	163
STATE:TX	ELEVATOR:	104	118	140	164	178
COUNTY:MOTLEY	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:NOLAN	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:OCHILTREE	NON-ELEVATOR:	94	107	128	148	163
STATE:TX	ELEVATOR:	104	118	140	164	178
COUNTY:OLDHAM	NON-ELEVATOR:	94	107	128	148	163
STATE:TX	ELEVATOR:	104	118	140	164	178
COUNTY:PARMER	NON-ELEVATOR:	94	107	128	148	163
STATE:TX	ELEVATOR:	104	118	140	164	178
COUNTY:PECOS	NON-ELEVATOR:	105	119	142	165	179
STATE:TX	ELEVATOR:	114	132	156	180	198
COUNTY:PRESIDIO	NON-ELEVATOR:	97	113	133	148	163
STATE:TX	ELEVATOR:	107	123	147	164	179

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LUBBOCK,TEXAS INSURING OFFICE						
NON SMSA						
COUNTY:REEVES	NON-ELEVATOR:	105	119	142	165	179
STATE:TX	ELEVATOR:	114	132	156	180	198
COUNTY:ROBERTS	NON-ELEVATOR:	94	107	128	148	163
STATE:TX	ELEVATOR:	104	118	140	164	178
COUNTY:SCURRY	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:SHERMAN	NON-ELEVATOR:	94	107	128	148	163
STATE:TX	ELEVATOR:	104	118	140	164	178
COUNTY:STONEWALL	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:SWISHER	NON-ELEVATOR:	94	107	128	148	163
STATE:TX	ELEVATOR:	104	118	140	164	178
COUNTY:TERRELL	NON-ELEVATOR:	105	119	142	165	179
STATE:TX	ELEVATOR:	114	132	156	180	198
COUNTY:TERRY	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188
COUNTY:UPTON	NON-ELEVATOR:	105	119	142	165	179
STATE:TX	ELEVATOR:	114	132	156	180	198
COUNTY:WARD	NON-ELEVATOR:	105	119	142	165	179
STATE:TX	ELEVATOR:	114	132	156	180	198
COUNTY:WHEELER	NON-ELEVATOR:	94	107	128	148	163
STATE:TX	ELEVATOR:	104	118	140	164	178
COUNTY:WINKLER	NON-ELEVATOR:	105	119	142	165	179
STATE:TX	ELEVATOR:	114	132	156	180	198

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LUBBOCK,TEXAS INSURING OFFICE						
NON SMSA						
COUNTY:YOAKUM	NON-ELEVATOR:	98	114	135	156	172
STATE:TX	ELEVATOR:	108	124	149	173	188

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NEW ORLEANS,LOUISIANA AREA OFFICE						
SMSA: BATON ROUGE, LA						
PARISH:ASCENSION	NON-ELEVATOR:	140	160	192	223	243
STATE:LA	ELEVATOR:	154	176	210	244	267
PARISH:E BATON ROUG	NON-ELEVATOR:	140	160	192	223	243
STATE:LA	ELEVATOR:	154	176	210	244	267
PARISH:LIVINGSTON	NON-ELEVATOR:	140	160	192	223	243
STATE:LA	ELEVATOR:	154	176	210	244	267
PARISH:W BATON ROUG	NON-ELEVATOR:	140	160	192	223	243
STATE:LA	ELEVATOR:	154	176	210	244	267
SMSA: LAFAYETTE, LA						
PARISH:LAFAYETTE	NON-ELEVATOR:	124	142	169	196	223
STATE:LA	ELEVATOR:	136	156	186	216	245
SMSA: LAKE CHARLES, LA						
PARISH:CALCASIEU	NON-ELEVATOR:	124	142	169	196	223
STATE:LA	ELEVATOR:	136	156	186	216	245
SMSA: NEW ORLEANS, LA						
PARISH:JEFFERSON	NON-ELEVATOR:	124	142	169	196	223
STATE:LA	ELEVATOR:	136	156	186	215	245
PARISH:ORLEANS	NON-ELEVATOR:	124	142	169	196	223
STATE:LA	ELEVATOR:	136	156	186	215	245
PARISH:ST BERNARD	NON-ELEVATOR:	124	142	169	196	223
STATE:LA	ELEVATOR:	136	156	186	215	245
PARISH:ST TAMMANY	NON-ELEVATOR:	124	142	169	196	223
STATE:LA	ELEVATOR:	136	156	186	215	245
NON SMSA						
PARISH:ACADIA	NON-ELEVATOR:	96	112	133	149	166
STATE:LA	ELEVATOR:	107	124	147	164	182

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NEW ORLEANS,LOUISIANA AREA OFFICE						
NON SMSA						
PARISH:ALLEN STATE:LA	NON-ELEVATOR:	107	124	147	164	182
	ELEVATOR:	116	135	160	178	198
PARISH:ASSUMPTION STATE:LA	NON-ELEVATOR:	98	112	133	149	166
	ELEVATOR:	107	124	147	164	182
PARISH:BEAUREGARD STATE:LA	NON-ELEVATOR:	107	124	147	164	182
	ELEVATOR:	116	135	160	178	198
PARISH:CAMERON STATE:LA	NON-ELEVATOR:	107	124	147	164	182
	ELEVATOR:	116	135	160	178	198
PARISH:E FELICIANA STATE:LA	NON-ELEVATOR:	89	102	122	136	150
	ELEVATOR:	98	112	133	149	166
PARISH:EVANGELINE STATE:LA	NON-ELEVATOR:	98	112	133	149	166
	ELEVATOR:	107	124	147	164	182
PARISH:IBERIA STATE:LA	NON-ELEVATOR:	107	124	147	164	182
	ELEVATOR:	116	135	160	178	198
PARISH:IBERVILLE STATE:LA	NON-ELEVATOR:	98	112	133	149	166
	ELEVATOR:	107	124	147	164	182
PARISH:JEFFERSON DA STATE:LA	NON-ELEVATOR:	107	124	147	164	182
	ELEVATOR:	116	135	160	178	198
PARISH:LAFOURCHE STATE:LA	NON-ELEVATOR:	107	124	147	164	182
	ELEVATOR:	116	135	160	178	198
PARISH:PLAQUEMINES STATE:LA	NON-ELEVATOR:	98	112	133	149	166
	ELEVATOR:	107	124	147	164	182
PARISH:POINTE COUPE STATE:LA	NON-ELEVATOR:	89	102	122	136	150
	ELEVATOR:	98	112	133	149	166

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 160 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NEW ORLEANS,LOUISIANA AREA OFFICE						
NON SMSA						
PARISH:ST CHARLES STATE:LA	NON-ELEVATOR:	107	124	147	164	182
	ELEVATOR:	116	135	160	178	198
PARISH:ST HELENA STATE:LA	NON-ELEVATOR:	89	102	122	136	150
	ELEVATOR:	98	112	133	149	166
PARISH:ST JAMES STATE:LA	NON-ELEVATOR:	98	112	133	149	166
	ELEVATOR:	107	124	147	164	182
PARISH:ST JOHN THE STATE:LA	NON-ELEVATOR:	107	124	147	164	182
	ELEVATOR:	116	135	160	178	198
PARISH:ST LANDRY STATE:LA	NON-ELEVATOR:	107	124	147	164	182
	ELEVATOR:	116	135	160	178	198
PARISH:ST MARTIN STATE:LA	NON-ELEVATOR:	98	112	133	149	166
	ELEVATOR:	107	124	147	164	182
PARISH:ST MARY STATE:LA	NON-ELEVATOR:	98	112	133	149	166
	ELEVATOR:	107	124	147	164	182
PARISH:TANGIPAHOA STATE:LA	NON-ELEVATOR:	98	112	133	149	166
	ELEVATOR:	107	124	147	164	182
PARISH:TERREBONNE STATE:LA	NON-ELEVATOR:	107	124	147	164	182
	ELEVATOR:	116	135	160	178	198
PARISH:VERMILION STATE:LA	NON-ELEVATOR:	98	112	133	149	166
	ELEVATOR:	107	124	147	164	182
PARISH:WASHINGTON STATE:LA	NON-ELEVATOR:	98	112	133	149	166
	ELEVATOR:	107	124	147	164	182
PARISH:W FELICIANA STATE:LA	NON-ELEVATOR:	89	102	122	136	150
	ELEVATOR:	98	112	133	149	166

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 160 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION &		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OKLAHOMA CITY,OKLAHOMA AREA OFFICE						
SMSA: LAWTON, OK						
COUNTY:COMANCHE	NON-ELEVATOR:	130	146	176	203	221
STATE:OK	ELEVATOR:	144	162	195	223	243
SMSA: OKLAHOMA CITY, OK						
COUNTY:CANADIAN	NON-ELEVATOR:	124	142	169	196	214
STATE:OK	ELEVATOR:	136	156	186	215	236
COUNTY:CLEVELAND	NON-ELEVATOR:	124	142	169	196	214
STATE:OK	ELEVATOR:	136	156	186	215	236
COUNTY:MCCLAIN	NON-ELEVATOR:	124	142	169	196	214
STATE:OK	ELEVATOR:	136	156	186	215	236
COUNTY:OKLAHOMA	NON-ELEVATOR:	124	142	169	196	214
STATE:OK	ELEVATOR:	136	156	186	215	236
COUNTY:POTTAWATOMIE	NON-ELEVATOR:	124	142	169	196	214
STATE:OK	ELEVATOR:	136	156	186	215	236
NON SMSA						
COUNTY:CUSTER	NON-ELEVATOR:	102	117	141	164	179
STATE:OK	ELEVATOR:	113	129	154	180	197
COUNTY:GRADY	NON-ELEVATOR:	102	117	141	164	179
STATE:OK	ELEVATOR:	113	129	154	180	197
COUNTY:JOHNSTON	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176
COUNTY:KINGFISHER	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176
COUNTY:LOVE	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION &		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OKLAHOMA CITY,OKLAHOMA AREA OFFICE						
NON SMSA						
COUNTY:MARSHALL	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176
COUNTY:STEPHENS	NON-ELEVATOR:	102	117	141	164	179
STATE:OK	ELEVATOR:	113	129	154	180	197
COUNTY:TEXAS	NON-ELEVATOR:	105	128	151	177	192
STATE:OK	ELEVATOR:	116	140	166	194	211

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN ANTONIO, TEXAS AREA OFFICE						
SMSA: AUSTIN, TX						
COUNTY:HAYS	NON-ELEVATOR:	155	177	212	245	267
STATE:TX	ELEVATOR:	170	194	231	268	295
COUNTY:TRAVIS	NON-ELEVATOR:	155	177	212	245	267
STATE:TX	ELEVATOR:	170	194	231	268	295
SMSA: BROWNSVILLE-HARLINGEN-SAN BENITO, TX						
COUNTY:CAMERON	NON-ELEVATOR:	129	149	176	205	226
STATE:TX	ELEVATOR:	141	162	196	226	248
SMSA: CORPUS CHRISTI, TX						
COUNTY:NUECES	NON-ELEVATOR:	137	157	188	216	239
STATE:TX	ELEVATOR:	152	173	207	240	264
COUNTY:SAN PATRICIO	NON-ELEVATOR:	137	157	188	216	239
STATE:TX	ELEVATOR:	152	173	207	240	264
SMSA: LAREDO, TX						
COUNTY:WEBB	NON-ELEVATOR:	137	157	186	215	237
STATE:TX	ELEVATOR:	149	172	205	237	260
SMSA: MC ALLEN-PHARR-EDINBURG, TX						
COUNTY:HIDALGO	NON-ELEVATOR:	129	149	176	205	226
STATE:TX	ELEVATOR:	141	162	196	226	248
SMSA: SAN ANTONIO, TX						
COUNTY:BEXAR	NON-ELEVATOR:	137	157	188	216	239
STATE:TX	ELEVATOR:	152	173	207	240	264
COUNTY:COMAL	NON-ELEVATOR:	137	157	188	216	239
STATE:TX	ELEVATOR:	152	173	207	240	264
COUNTY:GUADALUPE	NON-ELEVATOR:	137	157	188	216	239
STATE:TX	ELEVATOR:	152	173	207	240	264

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CU), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN ANTONIO, TEXAS AREA OFFICE						
NON SMSA						
COUNTY:ARANSAS	NON-ELEVATOR:	120	137	164	180	199
STATE:TX	ELEVATOR:	132	150	179	199	218
COUNTY:ATASCOSA	NON-ELEVATOR:	96	110	130	145	160
STATE:TX	ELEVATOR:	106	120	144	160	176
COUNTY:BANDERA	NON-ELEVATOR:	109	125	149	173	189
STATE:TX	ELEVATOR:	120	137	164	190	208
COUNTY:BASTROP	NON-ELEVATOR:	104	118	140	156	170
STATE:TX	ELEVATOR:	113	130	154	170	187
COUNTY:BEE	NON-ELEVATOR:	120	137	164	180	199
STATE:TX	ELEVATOR:	132	150	179	199	218
COUNTY:BLANCO	NON-ELEVATOR:	103	117	139	155	169
STATE:TX	ELEVATOR:	112	129	153	169	187
COUNTY:BROOKS	NON-ELEVATOR:	120	137	164	180	199
STATE:TX	ELEVATOR:	132	150	179	199	218
COUNTY:BURNET	NON-ELEVATOR:	103	117	139	155	169
STATE:TX	ELEVATOR:	112	129	153	169	187
COUNTY:CALDWELL	NON-ELEVATOR:	135	149	177	205	224
STATE:TX	ELEVATOR:	146	165	194	224	247
COUNTY:CALHOUN	NON-ELEVATOR:	96	110	130	145	160
STATE:TX	ELEVATOR:	106	120	144	160	176
COUNTY:DE WITT	NON-ELEVATOR:	96	110	130	145	160
STATE:TX	ELEVATOR:	106	120	144	160	176
COUNTY:DIMMIT	NON-ELEVATOR:	120	137	164	180	199
STATE:TX	ELEVATOR:	132	150	179	199	218

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CU), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION &		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN ANTONIO,TEXAS AREA OFFICE						
NON SMSA						
COUNTY:DUVAL	NON-ELEVATOR:	120	137	164	180	199
STATE:TX	ELEVATOR:	132	150	179	199	218
COUNTY:EDWARDS	NON-ELEVATOR:	96	110	130	145	160
STATE:TX	ELEVATOR:	106	120	144	160	176
COUNTY:FAYETTE	NON-ELEVATOR:	102	116	138	160	175
STATE:TX	ELEVATOR:	110	126	152	176	192
COUNTY:FRIO	NON-ELEVATOR:	96	110	130	145	160
STATE:TX	ELEVATOR:	106	120	144	160	176
COUNTY:GILLESPIE	NON-ELEVATOR:	96	110	130	145	160
STATE:TX	ELEVATOR:	106	120	144	160	176
COUNTY:GOLIAD	NON-ELEVATOR:	96	110	130	145	160
STATE:TX	ELEVATOR:	106	120	144	160	176
COUNTY:GONZALES	NON-ELEVATOR:	96	110	130	145	160
STATE:TX	ELEVATOR:	106	120	144	160	176
COUNTY:JACKSON	NON-ELEVATOR:	96	110	130	145	160
STATE:TX	ELEVATOR:	106	120	144	160	176
COUNTY:JIM HOGG	NON-ELEVATOR:	120	137	164	180	199
STATE:TX	ELEVATOR:	132	150	179	199	218
COUNTY:JIM WELLS	NON-ELEVATOR:	120	137	164	180	199
STATE:TX	ELEVATOR:	132	150	179	199	218
COUNTY:KARNES	NON-ELEVATOR:	96	110	130	145	160
STATE:TX	ELEVATOR:	106	120	144	160	176
COUNTY:KENDALL	NON-ELEVATOR:	96	110	130	145	160
STATE:TX	ELEVATOR:	106	120	144	160	176

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR.

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION &		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN ANTONIO,TEXAS AREA OFFICE						
NON SMSA						
COUNTY:KENEDY	NON-ELEVATOR:	120	137	164	180	199
STATE:TX	ELEVATOR:	132	150	179	199	218
COUNTY:KERR	NON-ELEVATOR:	96	110	130	145	160
STATE:TX	ELEVATOR:	106	120	144	160	176
COUNTY:KINNEY	NON-ELEVATOR:	96	110	130	145	160
STATE:TX	ELEVATOR:	106	120	144	160	176
COUNTY:KLEBERG	NON-ELEVATOR:	120	137	164	180	199
STATE:TX	ELEVATOR:	132	150	179	199	218
COUNTY:LA SALLE	NON-ELEVATOR:	120	137	164	180	199
STATE:TX	ELEVATOR:	132	150	179	199	218
COUNTY:LAVACA	NON-ELEVATOR:	96	110	130	145	160
STATE:TX	ELEVATOR:	106	120	144	160	176
COUNTY:LEE	NON-ELEVATOR:	103	117	139	155	169
STATE:TX	ELEVATOR:	112	129	153	169	187
COUNTY:LIVE OAK	NON-ELEVATOR:	120	137	164	180	199
STATE:TX	ELEVATOR:	132	150	179	199	218
COUNTY:LLANO	NON-ELEVATOR:	103	117	139	155	169
STATE:TX	ELEVATOR:	112	129	153	169	187
COUNTY:MCMULLEN	NON-ELEVATOR:	120	137	164	180	199
STATE:TX	ELEVATOR:	132	150	179	199	218
COUNTY:MAVERICK	NON-ELEVATOR:	117	133	158	175	193
STATE:TX	ELEVATOR:	129	145	174	194	212
COUNTY:MEDINA	NON-ELEVATOR:	96	110	130	145	160
STATE:TX	ELEVATOR:	106	120	144	160	176

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN ANTONIO,TEXAS AREA OFFICE						
NON SMSA						
COUNTY:REAL	NON-ELEVATOR:	96	110	130	145	160
STATE:TX	ELEVATOR:	106	120	144	160	176
COUNTY:REFUGIO	NON-ELEVATOR:	120	137	164	180	199
STATE:TX	ELEVATOR:	132	150	179	199	218
COUNTY:STARR	NON-ELEVATOR:	120	137	164	180	199
STATE:TX	ELEVATOR:	132	150	179	199	218
COUNTY:UVALDE	NON-ELEVATOR:	96	110	130	145	160
STATE:TX	ELEVATOR:	106	120	144	160	176
COUNTY:VAL VERDE	NON-ELEVATOR:	117	133	158	175	193
STATE:TX	ELEVATOR:	129	145	174	194	212
COUNTY:VICTORIA	NON-ELEVATOR:	120	137	164	180	199
STATE:TX	ELEVATOR:	132	150	179	199	218
COUNTY:WILLACY	NON-ELEVATOR:	120	137	164	180	199
STATE:TX	ELEVATOR:	132	150	179	199	218
COUNTY:WILLIAMSON	NON-ELEVATOR:	103	117	139	155	170
STATE:TX	ELEVATOR:	113	128	153	170	187
COUNTY:WILSON	NON-ELEVATOR:	96	110	130	145	160
STATE:TX	ELEVATOR:	106	120	144	160	176
COUNTY:ZAPATA	NON-ELEVATOR:	120	137	164	180	199
STATE:TX	ELEVATOR:	132	150	179	199	218
COUNTY:ZAVALA	NON-ELEVATOR:	96	109	130	145	160
STATE:TX	ELEVATOR:	105	120	144	160	176

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SHREVEPORT,LOUISIANA INSURING OFFICE						
SMSA; ALEXANDRIA, LA						
PARISH:GRANT	NON-ELEVATOR:	115	131	158	183	201
STATE:LA	ELEVATOR:	126	144	173	201	221
PARISH:RAPIDES	NON-ELEVATOR:	115	131	158	183	201
STATE:LA	ELEVATOR:	126	144	173	201	221
SMSA; LONGVIEW, TX						
COUNTY:HARRISON	NON-ELEVATOR:	115	131	158	183	201
STATE:TX	ELEVATOR:	126	144	173	201	221
SMSA; MONROE, LA						
PARISH:OUACHITA	NON-ELEVATOR:	115	131	158	183	201
STATE:LA	ELEVATOR:	126	144	173	201	221
SMSA; SHREVEPORT, LA						
PARISH:BOSSIER	NON-ELEVATOR:	115	131	158	183	201
STATE:LA	ELEVATOR:	126	144	173	201	221
PARISH:CADDO	NON-ELEVATOR:	115	131	158	183	201
STATE:LA	ELEVATOR:	126	144	173	201	221
PARISH:WEBSTER	NON-ELEVATOR:	115	131	158	183	201
STATE:LA	ELEVATOR:	126	144	173	201	221
NON SMSA						
PARISH:AVOYELLES	NON-ELEVATOR:	93	107	128	149	165
STATE:LA	ELEVATOR:	102	126	140	163	182
PARISH:BIENVILLE	NON-ELEVATOR:	93	107	128	149	165
STATE:LA	ELEVATOR:	102	126	140	163	182
PARISH:CALDWELL	NON-ELEVATOR:	93	107	128	149	165
STATE:LA	ELEVATOR:	102	126	140	163	182

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE OF FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SHREVEPORT: LOUISIANA INSURING OFFICE						
NON SMSA						
PARISH: CATAHOULA	NON-ELEVATOR:	93	107	128	149	165
STATE: LA	ELEVATOR:	102	126	140	163	182
PARISH: CLAIBORNE	NON-ELEVATOR:	93	107	128	149	165
STATE: LA	ELEVATOR:	102	126	140	163	182
PARISH: CONCORDIA	NON-ELEVATOR:	93	107	128	149	165
STATE: LA	ELEVATOR:	102	126	140	163	182
PARISH: DE SOTO	NON-ELEVATOR:	93	107	128	149	165
STATE: LA	ELEVATOR:	102	126	140	163	182
PARISH: EAST CARROLL	NON-ELEVATOR:	93	107	128	149	165
STATE: LA	ELEVATOR:	102	126	140	163	182
PARISH: FRANKLIN	NON-ELEVATOR:	93	107	128	149	165
STATE: LA	ELEVATOR:	102	126	140	163	182
PARISH: JACKSON	NON-ELEVATOR:	93	107	128	149	165
STATE: LA	ELEVATOR:	102	126	140	163	182
PARISH: LA SALLE	NON-ELEVATOR:	93	107	128	149	165
STATE: LA	ELEVATOR:	102	126	140	163	182
PARISH: LINCOLN	NON-ELEVATOR:	93	107	128	149	165
STATE: LA	ELEVATOR:	102	126	140	163	182
PARISH: MADISON	NON-ELEVATOR:	93	107	128	149	165
STATE: LA	ELEVATOR:	102	126	140	163	182
PARISH: MOREHOUSE	NON-ELEVATOR:	93	107	128	149	165
STATE: LA	ELEVATOR:	102	126	140	163	182
PARISH: NATCHITOCHES	NON-ELEVATOR:	106	122	145	167	184
STATE: LA	ELEVATOR:	117	134	159	184	203

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE OF FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SHREVEPORT: LOUISIANA INSURING OFFICE						
NON SMSA						
PARISH: RED RIVER	NON-ELEVATOR:	93	107	128	149	165
STATE: LA	ELEVATOR:	102	126	140	163	182
PARISH: RICHLAND	NON-ELEVATOR:	93	107	128	149	165
STATE: LA	ELEVATOR:	102	126	140	163	182
PARISH: SABINE	NON-ELEVATOR:	93	107	128	149	165
STATE: LA	ELEVATOR:	102	126	140	163	182
PARISH: TENSAS	NON-ELEVATOR:	93	107	128	149	165
STATE: LA	ELEVATOR:	102	126	140	163	182
PARISH: UNION	NON-ELEVATOR:	93	107	128	149	165
STATE: LA	ELEVATOR:	102	126	140	163	182
PARISH: VERNON	NON-ELEVATOR:	106	122	145	167	184
STATE: LA	ELEVATOR:	116	134	160	185	202
PARISH: WEST CARROLL	NON-ELEVATOR:	93	107	128	149	165
STATE: LA	ELEVATOR:	102	126	140	163	182
PARISH: WINN	NON-ELEVATOR:	93	107	128	149	165
STATE: LA	ELEVATOR:	102	126	140	163	182
COUNTY: CASS	NON-ELEVATOR:	93	107	128	149	165
STATE: IA	ELEVATOR:	102	126	140	163	182
COUNTY: MARION	NON-ELEVATOR:	93	107	128	149	165
STATE: IA	ELEVATOR:	102	126	140	163	182
COUNTY: MORRIS	NON-ELEVATOR:	93	107	128	149	165
STATE: IA	ELEVATOR:	102	126	140	163	182
COUNTY: PANOLA	NON-ELEVATOR:	93	107	128	149	165
STATE: IA	ELEVATOR:	102	126	140	163	182

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE OF FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION &		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
TULSA:OKLAHOMA INSURING OFFICE						
SMSA: FORT SMITH, AR-OK						
COUNTY:LE FLORE	NON-ELEVATOR:	101	113	133	155	169
STATE:OK	ELEVATOR:	109	123	147	169	187
COUNTY:SEQUOYAH	NON-ELEVATOR:	101	113	133	155	169
STATE:OK	ELEVATOR:	109	123	147	169	187
SMSA: TULSA, OK						
COUNTY:CREEK	NON-ELEVATOR:	130	146	176	203	221
STATE:OK	ELEVATOR:	144	162	193	223	243
COUNTY:MAYES	NON-ELEVATOR:	130	146	176	203	221
STATE:OK	ELEVATOR:	144	162	193	223	243
COUNTY:OSAGE	NON-ELEVATOR:	130	146	176	203	221
STATE:OK	ELEVATOR:	144	162	193	223	243
COUNTY:ROGERS	NON-ELEVATOR:	130	146	176	203	221
STATE:OK	ELEVATOR:	144	162	193	223	243
COUNTY:TULSA	NON-ELEVATOR:	130	146	176	203	221
STATE:OK	ELEVATOR:	144	162	193	223	243
COUNTY:WAGONER	NON-ELEVATOR:	130	146	176	203	221
STATE:OK	ELEVATOR:	144	162	193	223	243
NON SMSA						
COUNTY:ATOKA	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176
COUNTY:COAL	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176
COUNTY:PITTSBURG	NON-ELEVATOR:	102	117	141	164	179
STATE:OK	ELEVATOR:	113	129	154	180	197

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE OF FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION &		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
TULSA:OKLAHOMA INSURING OFFICE						
NON SMSA						
COUNTY:PUSHMATAHA	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

RULES AND REGULATIONS

FEDERAL REGISTER, VOL. 42, NO. 163—TUESDAY, AUGUST 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION /		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DES MOINES,IOWA INSURING OFFICE						
SMSA: CEDAR RAPIDS, IA						
COUNTY:LINN	NON-ELEVATOR:	137	174	231	272	316
STATE:IA	ELEVATOR:	151	191	245	299	348
SMSA: DUBUQUE, IA						
COUNTY:DUBUQUE	NON-ELEVATOR:	121	156	198	225	256
STATE:IA	ELEVATOR:	133	172	218	248	282
SMSA: SIOUX CITY, IA-NE						
COUNTY:WOODBURY	NON-ELEVATOR:	129	160	190	230	260
STATE:IA	ELEVATOR:	142	176	209	253	286
SMSA: WATERLOO-CEDAR FALLS, IA						
COUNTY:BLACK HAWK	NON-ELEVATOR:	124	152	216	255	307
STATE:IA	ELEVATOR:	136	167	236	281	338
NON SMSA						
COUNTY:KOSSUTH	NON-ELEVATOR:	120	145	180	212	233
STATE:IA	ELEVATOR:	132	160	198	233	256
COUNTY:LEE	NON-ELEVATOR:	117	152	184	209	230
STATE:IA	ELEVATOR:	129	167	200	230	253

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION /		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA,NEBRASKA AREA OFFICE						
SMSA: SIOUX CITY, IA-NE						
COUNTY:DAKOTA	NON-ELEVATOR:	129	160	190	230	260
STATE:NE	ELEVATOR:	142	176	209	253	286
NON SMSA						
COUNTY:GAGE	NON-ELEVATOR:	126	150	187	209	228
STATE:NE	ELEVATOR:	139	165	206	230	251
COUNTY:HALL	NON-ELEVATOR:	112	149	179	252	277
STATE:NE	ELEVATOR:	123	164	197	277	305
COUNTY:RED WILLOW	NON-ELEVATOR:	111	123	160	200	220
STATE:NE	ELEVATOR:	122	135	176	220	242

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION /		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER,COLORADO INSURING OFFICE						
SMSA: GREELEY, CO						
COUNTY:WELD	NON-ELEVATOR:	141	160	180	225	247
STATE:CO	ELEVATOR:	153	176	196	247	272

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
FARGO, NORTH DAKOTA INSURING OFFICE						
SMSA: FARGO-MOORHEAD, ND-MN						
COUNTY:CASS	NON-ELEVATOR:	138	159	190	222	244
STATE:ND	ELEVATOR:	152	174	209	243	269
SMSA: GRAND FORKS, N.D.-MN						
COUNTY:GRAND FORKS	NON-ELEVATOR:	138	159	190	222	244
STATE:ND	ELEVATOR:	152	174	209	243	269
NON SMSA						
COUNTY,BURLEIGH	NON-ELEVATOR:	138	159	190	222	244
STATE:ND	ELEVATOR:	152	174	209	243	269
COUNTY:WARD	NON-ELEVATOR:	138	159	190	222	244
STATE:ND	ELEVATOR:	152	174	209	243	269

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
HELENA, MONTANA INSURING OFFICE						
SMSA: BILLINGS, MT						
COUNTY:YELLOWSTONE	NON-ELEVATOR:	148	169	202	232	253
STATE:MT	ELEVATOR:	163	186	222	255	278
NON SMSA						
COUNTY:LEWIS & CLARK	NON-ELEVATOR:	106	166	233	274	301
STATE:MT	ELEVATOR:	117	183	256	301	331

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOS ANGELES, CALIFORNIA AREA OFFICE						
SMSA: BAKERSFIELD, CA						
COUNTY:KERN	NON-ELEVATOR:	131	167	193	222	241
STATE:CA	ELEVATOR:	144	184	211	245	265
SMSA: LOS ANGELES-LONG BEACH, CA						
COUNTY:LOS ANGELES	NON-ELEVATOR:	166	188	222	257	292
STATE:CA	ELEVATOR:	183	207	245	283	321
SMSA: SANTA BARBARA-SANTA MARIA-LOMPOC, CA						
COUNTY:SANTA BARBAR	NON-ELEVATOR:	168	191	227	261	286
STATE:CA	ELEVATOR:	185	210	249	286	312
NON SMSA						
COUNTY:SAN LUIS OBI	NON-ELEVATOR:	138	173	210	240	272
STATE:CA	ELEVATOR:	152	191	232	264	298

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PHOENIX, ARIZONA INSURING OFFICE						
SMSA: PHOENIX, AZ						
COUNTY:MARICOPA	NON-ELEVATOR:	167	191	227	270	294
STATE:AZ	ELEVATOR:	184	210	248	297	323
SMSA: TUCSON, AZ						
COUNTY:PIMA	NON-ELEVATOR:	150	173	210	240	272
STATE:AZ	ELEVATOR:	165	190	230	264	299

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION Y		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RENO,NEVADA INSURING OFFICE						
SMSA: RENO, NV						
COUNTY:WASHOE	NON-ELEVATOR:	161	191	239	285	315
STATE:NV	ELEVATOR:	177	210	263	314	347
NON SMSA						
COUNTY:CHURCHILL	NON-ELEVATOR:	161	191	239	285	315
STATE:NV	ELEVATOR:	177	210	263	314	347
COUNTY:DOUGLAS	NON-ELEVATOR:	161	191	239	285	315
STATE:NV	ELEVATOR:	177	210	263	314	347
COUNTY:ELKO	NON-ELEVATOR:	161	191	239	285	315
STATE:NV	ELEVATOR:	177	210	263	314	347
COUNTY:ESMERALDA	NON-ELEVATOR:	161	191	239	285	315
STATE:NV	ELEVATOR:	177	210	263	314	347
COUNTY:EUREKA	NON-ELEVATOR:	161	191	239	285	315
STATE:NV	ELEVATOR:	177	210	263	314	347
COUNTY:HUMBOLDT	NON-ELEVATOR:	161	191	239	285	315
STATE:NV	ELEVATOR:	177	210	263	314	347
COUNTY:LANDER	NON-ELEVATOR:	161	191	239	285	315
STATE:NV	ELEVATOR:	177	210	263	314	347
COUNTY:LINCOLN	NON-ELEVATOR:	161	191	239	285	315
STATE:NV	ELEVATOR:	177	210	263	314	347
COUNTY:LYON	NON-ELEVATOR:	161	191	239	285	315
STATE:NV	ELEVATOR:	177	210	263	314	347
COUNTY:MINERAL	NON-ELEVATOR:	161	191	239	285	315
STATE:NV	ELEVATOR:	177	210	263	314	347

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION Y		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RENO,NEVADA INSURING OFFICE						
NON SMSA						
COUNTY:NYE	NON-ELEVATOR:	161	191	239	285	315
STATE:NV	ELEVATOR:	177	210	263	314	347
COUNTY:ORMSBY	NON-ELEVATOR:	161	191	239	285	315
STATE:NV	ELEVATOR:	177	210	263	314	347
COUNTY:PERSHING	NON-ELEVATOR:	161	191	239	285	315
STATE:NV	ELEVATOR:	177	210	263	314	347
COUNTY:STOREY	NON-ELEVATOR:	161	191	239	285	315
STATE:NV	ELEVATOR:	177	210	263	314	347
COUNTY:WHITE PINE	NON-ELEVATOR:	161	191	239	285	315
STATE:NV	ELEVATOR:	177	210	263	314	347
INDEP. CITY:CARSON CITY	NON-ELEVATOR:	161	191	239	285	315
STATE:NV	ELEVATOR:	177	210	263	314	347

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SACRAMENTO, CALIFORNIA INSURING OFFICE						
SMSA: SACRAMENTO, CA						
COUNTY:PLACER	NON-ELEVATOR:	155	176	211	275	300
STATE:CA	ELEVATOR:	171	195	231	303	330
COUNTY:SACRAMENTO	NON-ELEVATOR:	155	176	211	275	300
STATE:CA	ELEVATOR:	171	195	231	303	330
COUNTY:YOLO	NON-ELEVATOR:	155	176	211	275	300
STATE:CA	ELEVATOR:	171	195	231	303	330
SMSA: STOCKTON, CA.						
COUNTY:SAN JOAQUIN	NON-ELEVATOR:	145	160	195	265	290
STATE:CA	ELEVATOR:	160	176	215	292	319
NON SMSA						
COUNTY:ALPINE	NON-ELEVATOR:	145	160	195	265	290
STATE:CA	ELEVATOR:	160	176	215	292	319
COUNTY:AMADOR	NON-ELEVATOR:	145	160	195	265	290
STATE:CA	ELEVATOR:	160	176	215	292	319
COUNTY:BUTTE	NON-ELEVATOR:	151	171	210	250	275
STATE:CA	ELEVATOR:	166	188	231	275	303
COUNTY:CALAVERAS	NON-ELEVATOR:	145	160	195	265	290
STATE:CA	ELEVATOR:	160	176	215	292	319
COUNTY:COLUSA	NON-ELEVATOR:	151	171	210	250	275
STATE:CA	ELEVATOR:	166	188	231	275	303
COUNTY:EL DORADO	NON-ELEVATOR:	151	171	210	250	275
STATE:CA	ELEVATOR:	166	188	231	275	303
COUNTY:GLENN	NON-ELEVATOR:	151	171	210	250	275
STATE:CA	ELEVATOR:	166	188	231	275	303

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SACRAMENTO, CALIFORNIA INSURING OFFICE						
NON SMSA						
COUNTY:LASSEN	NON-ELEVATOR:	151	171	210	250	275
STATE:CA	ELEVATOR:	166	188	231	275	303
COUNTY:MODOC	NON-ELEVATOR:	151	171	210	250	275
STATE:CA	ELEVATOR:	166	188	231	275	303
COUNTY:NEVADA	NON-ELEVATOR:	151	171	210	250	275
STATE:CA	ELEVATOR:	166	188	231	275	303
COUNTY:PLUMAS	NON-ELEVATOR:	151	171	210	250	275
STATE:CA	ELEVATOR:	166	188	231	275	303
COUNTY:SHASTA	NON-ELEVATOR:	151	171	210	250	275
STATE:CA	ELEVATOR:	166	188	231	275	303
COUNTY:SIERRA	NON-ELEVATOR:	151	171	210	250	275
STATE:CA	ELEVATOR:	166	188	231	275	303
COUNTY:SISKIYOU	NON-ELEVATOR:	151	171	210	250	275
STATE:CA	ELEVATOR:	166	188	231	275	303
COUNTY:SUTTER	NON-ELEVATOR:	151	171	210	250	275
STATE:CA	ELEVATOR:	166	188	231	275	303
COUNTY:TEHAMA	NON-ELEVATOR:	151	171	210	250	275
STATE:CA	ELEVATOR:	166	188	231	275	303
COUNTY:TRINITY	NON-ELEVATOR:	151	171	210	250	275
STATE:CA	ELEVATOR:	166	188	231	275	303
COUNTY:TUOLUMNE	NON-ELEVATOR:	145	160	195	265	290
STATE:CA	ELEVATOR:	160	176	215	292	319
COUNTY:YUBA	NON-ELEVATOR:	151	171	210	250	275
STATE:CA	ELEVATOR:	166	188	231	275	303

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN DIEGO,CALIFORNIA INSURING OFFICE						
SMSA: SAN DIEGO, CA						
COUNTY:SAN DIEGO	NON-ELEVATOR:	165	186	222	256	290
STATE:CA	ELEVATOR:	182	207	244	282	319
NON SMSA						
COUNTY:IMPERIAL	NON-ELEVATOR:	119	136	163	179	197
STATE:CA	ELEVATOR:	131	151	176	197	216

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 160 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN FRANCISCO,CALIFORNIA AREA OFFICE						
SMSA: FRESNO, CA						
COUNTY:FRESNO	NON-ELEVATOR:	151	171	200	263	291
STATE:CA	ELEVATOR:	166	188	220	289	320
SMSA: MODESTO, CA						
COUNTY:STANISLAUS	NON-ELEVATOR:	155	167	200	263	291
STATE:CA	ELEVATOR:	171	184	220	289	320
SMSA: SALINAS-SEASIDE-MONTEREY, CA						
COUNTY:MONTEREY	NON-ELEVATOR:	183	206	250	300	360
STATE:CA	ELEVATOR:	201	227	275	330	396
SMSA: SAN FRANCISCO-OAKLAND, CA						
COUNTY:ALAMEDA	NON-ELEVATOR:	189	216	260	325	390
STATE:CA	ELEVATOR:	208	238	286	358	429
COUNTY:CONTRA COSTA	NON-ELEVATOR:	189	216	260	325	390
STATE:CA	ELEVATOR:	208	238	286	358	429
COUNTY:MARIN	NON-ELEVATOR:	189	216	260	325	390
STATE:CA	ELEVATOR:	208	238	286	358	429
COUNTY:SAN FRANCISC	NON-ELEVATOR:	189	216	260	325	390
STATE:CA	ELEVATOR:	208	238	286	358	429
COUNTY:SAN MATEO	NON-ELEVATOR:	189	216	260	325	390
STATE:CA	ELEVATOR:	208	238	286	358	429
SMSA: SAN JOSE, CA						
COUNTY:SANTA CLARA	NON-ELEVATOR:	191	218	260	325	390
STATE:CA	ELEVATOR:	210	240	286	358	429
SMSA: SANTA CRUZ, CA						
COUNTY:SANTA CRUZ	NON-ELEVATOR:	169	190	250	300	360
STATE:CA	ELEVATOR:	186	209	275	330	396

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 160 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN FRANCISCO,CALIFORNIA AREA OFFICE						
SMSA: SANTA ROSA, CA						
COUNTY:SONOMA	NON-ELEVATOR:	175	198	250	300	360
STATE:CA	ELEVATOR:	193	218	275	330	396
SMSA: VALLEJO-FAIRFIELD-NAPA, CA						
COUNTY:NAPA	NON-ELEVATOR:	151	172	200	263	291
STATE:CA	ELEVATOR:	166	189	220	289	320
COUNTY:SOLANO	NON-ELEVATOR:	151	172	200	263	291
STATE:CA	ELEVATOR:	166	189	220	289	320
NON SMSA						
COUNTY:DEL NORTE	NON-ELEVATOR:	120	137	205	250	275
STATE:CA	ELEVATOR:	132	151	226	275	303
COUNTY:HUMBOLDT	NON-ELEVATOR:	151	171	205	250	275
STATE:CA	ELEVATOR:	166	188	226	275	303
COUNTY:KINGS	NON-ELEVATOR:	121	139	200	250	291
STATE:CA	ELEVATOR:	133	153	220	275	320
COUNTY:LAKE	NON-ELEVATOR:	151	172	205	250	275
STATE:CA	ELEVATOR:	166	189	226	275	303
COUNTY:MADERA	NON-ELEVATOR:	123	140	200	250	291
STATE:CA	ELEVATOR:	135	154	220	275	320
COUNTY:MARIPOSA	NON-ELEVATOR:	129	146	200	250	291
STATE:CA	ELEVATOR:	142	161	220	275	320
COUNTY:MENDOCINO	NON-ELEVATOR:	140	159	205	250	275
STATE:CA	ELEVATOR:	154	175	226	275	303
COUNTY:MERCED	NON-ELEVATOR:	131	148	200	250	291
STATE:CA	ELEVATOR:	144	163	220	275	320

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN FRANCISCO,CALIFORNIA AREA OFFICE						
NON SMSA						
COUNTY:SAN BENITO	NON-ELEVATOR:	140	159	200	263	291
STATE:CA	ELEVATOR:	154	175	220	289	320
COUNTY:TULARE	NON-ELEVATOR:	134	152	200	263	291
STATE:CA	ELEVATOR:	147	167	220	289	320

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SANTA ANA,CALIFORNIA INSURING OFFICE						
SMSA: ANAHEIM-SANTA ANA-GARDEN GROVE, CA						
COUNTY:ORANGE	NON-ELEVATOR:	193	218	258	307	348
STATE:CA	ELEVATOR:	212	240	284	337	382
NON SMSA						
COUNTY:INYO	NON-ELEVATOR:	119	136	163	179	197
STATE:CA	ELEVATOR:	131	151	178	197	216
COUNTY:MONO	NON-ELEVATOR:	119	136	163	179	197
STATE:CA	ELEVATOR:	131	151	178	197	216

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAU (CO), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANCHORAGE, AK AREA INSURING OFFICE						
SMSA ANCHORAGE, AK						
DISTRICT:ANCHORAGE	NON-ELEVATOR:	281	334	412	461	503
STATE:AK	ELEVATOR:	309	367	454	507	553

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS;
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CU), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SEATTLE-EVERETT, WA AREA OFFICE						
SMSA SEATTLE-EVERETT, WA						
COUNTY:KING	NON-ELEVATOR:	163	186	219	278	304
STATE:WA	ELEVATOR:	179	205	241	306	334
COUNTY:SNOHOMISH	NON-ELEVATOR:	163	186	219	278	304
STATE:WA	ELEVATOR:	179	205	241	306	334
SMSA TACOMA, WA						
COUNTY:PIERCE	NON-ELEVATOR:	149	175	215	278	304
STATE:WA	ELEVATOR:	164	193	237	306	334
NON SMSA						
COUNTY:KITSAP	NON-ELEVATOR:	149	176	214	278	304
STATE:WA	ELEVATOR:	164	194	236	306	334

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CU), JULY 07, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SPOKANE-WASHINGTON INSURING OFFICE						
SMSA RICHLAND-KENNEWICK, WA						
COUNTY:BENTON	NON-ELEVATOR:	151	179	217	288	324
STATE:WA	ELEVATOR:	166	297	239	317	356
COUNTY:FRANKLIN	NON-ELEVATOR:	151	179	217	288	324
STATE:WA	ELEVATOR:	166	297	239	317	356

NOTE: FAIR MARKET RENTS (FMR) MAY BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS:
5-BR = 150 PERCENT OF 2-BR FMR; 6-BR = 175 PERCENT OF 2-BR FMR

PREPARED BY HUD - EMAD (CU), JULY 07, 1977
GEN3
FUNFOR 2741 BL72=0 07/08/77 111501731
END EM3.

[FR Doc.77-23939 Filed 8-22-77;8:45 am]

dial·a·reg



For an advance "look" at the FEDERAL REGISTER, try our new information service. A recording will give you selections from our highlights listing of documents to be published in the next day's issue of the FEDERAL REGISTER.

AREA CODE 202

523·5022

V42 163 AUG 23 77 UMI

Vol.42—No.164
8–24–77
PAGES
42677–42837

federal register

WEDNESDAY, AUGUST 24, 1977

highlights

NOTICE TO FEDERAL AGENCIES

Beginning October 1, 1977, Federal agencies must reimburse the Government Printing Office (GPO) for the cost of printing documents in the *Federal Register* and Code of *Federal Regulations*.

The Legislative Branch Appropriations Act, 1978 (Public Law 95–94, August 5, 1977) amended the Federal Register Act to require Federal agencies to reimburse the Government Printing Office for the cost of printing, binding, and distributing the *Federal Register* and Code of *Federal Regulations*. The pertinent provisions of Public Law 95–94 amending 44 U.S.C. 1509 are contained in Appendix A to this document.

FEDERAL REGISTER

In order to make certain that statutory requirements for publication in the *Federal Register* can be met on and after October 1, 1977 agencies must submit a Printing and Binding Requisition (Standard Form 1) before September 15 to the following address:

Superintendent of Planning Service
Room C830
Government Printing Office
Washington, DC 20401

CODE OF FEDERAL REGULATIONS

Every agency that has rules in the Code of *Federal Regulations* must submit a second Printing and Binding Requisition (Standard Form 1) to the Superintendent of Planning Service at the above address.

COMPUTATION OF COSTS-BILLING: FISCAL YEARS 1978, 1979

For fiscal year 1978 agencies will be charged $285 for each page of printed matter they publish in the *Federal Register* and $50 for each page in the Code of *Federal Regulations*. Fractions of pages published in the *Federal Register* will be counted on a column basis with a minimum charge of one column ($95). GPO will bill each agency monthly for the material the agency has printed in the previous month. Billing for the Code of *Federal Regulations* will be on an as printed basis.

For budget planning purposes, agencies are advised that current estimates for printing services in Fiscal Year 1979 are as follows: Federal Register $300 per page; Code of Federal Regulations $55 per page.

These prices cover the costs of composition, printing, binding and distribution.

CONTINUED INSIDE

V 42 164 AUG 24 77 UM

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington. D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202–523–5240.**

FEDERAL REGISTER, Daily Issue:	
Subscription orders (GPO)	**202**–783–3238
Subscription problems (GPO)	**202**–275–3050
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	**202**–523–5022
Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227

PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235
PUBLIC LAWS:	
Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

INFORMATION AND ASSISTANCE

For information and assistance in filling out the Printing and Binding Requisition (Standard Form 1) and in computing your projected printing costs, call:

Mr. William Rose (202)275–2867.

APPENDIX A

[Public Law 95–94 Approved Aug. 5, 1977]

* * * * *

"§ 1509. Costs of publication, etc.

"(a) The cost of printing, reprinting, wrapping, binding, and distributing the Federal Register and the Code of Federal Regulations, and, except as provided in subsection (b), other expenses incurred by the Government Printing Office in carrying out the duties placed upon it by this chapter shall be charged to the revolving fund provided in section 309. Reimbursements for such costs and expenses shall be made by the Federal agencies and credited, together with all receipts, as provided in section 309(b)."

* * * * *

(b) The amendments made by subsection (a) shall take effect on October 1, 1977.

* * * * *

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Workshops include a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

OUT OF TOWN WORKSHOPS PREVIOUSLY ANNOUNCED

Boston, Mass., 9–7, 9–8, 9–9
(Details: 42 FR 37261, 7–20–77)
For reservations call: Mrs. Louise Conboy
at (617) 223–7121

Saint Paul, Minn. 9–13, 9–14, 9–15
(Details: 42 FR 40999, 8–12–77)
For reservations call: Chuck McDew
at (612) 291–6421

EDUCATIONAL WORKSHOPS ON HOW TO USE THE FEDERAL REGISTER

OFR announces Region VII workshops to be held in St. Louis, Missouri, 9–28 and 9–29–77..... 42719

SUNSHINE ACT MEETINGS 42726

MANDATORY PETROLEUM ALLOCATION
FEA revises crude oil buy/sell program; comments by 9–9–77; effective 10–1–77 (Part V of this issue)..... 42769

INDIAN RESERVATIONS
Interior/BIA proposes law enforcement standards; comments by 10–25–77..... 42694

GUIDANCE AND COUNSELING PROGRAM
HEW/OE sets forth requirements and evaluation criteria for award of grants (Part III of this issue)..... 42753

SAVINGS AND LOAN ASSOCIATIONS
FHLBB proposes amendments on State housing corporations; comments by 9–24–77..... 42691

POST OFFICES
PS proposes revision of procedures for discontinuance; comments by 9–23–77..... 42695

FREIGHT RATE TARIFFS
ICC modifies rules on tariffs governing rates and charges on household goods; effective 10–25–77..... 42689

DOMESTIC CRUDE OIL ALLOCATION PROGRAM
FEA issues entitlement notice for June, 1977 (Part VII of this issue)..... 42785

HOUSING
HUD/FHC proposes amendment of rules on mutual mortgage insurance and insured home improvement loans; comments by 9–22–77..... 42693

CHLOROFLUOROCARBON PROPELLANTS
CPSC finalizes regulations on labeling of consumer products; effective 2–20–78 (Part VI of this issue)..... 42779

COMMODITY EXCHANGE
CFTC proposes provision for minimum financial requirements for Futures Commission Merchants; comments by 9–8–77 (Part IV of this issue)..... 42765
CFTC amends definition of bona fide hedging, and related reporting requirements; effective 10–1–77 (Part II of this issue)..... 42747

MOTOR CARRIERS
ICC proposes revision of reporting requirements for disclosure of depreciation policy; comments by 9–30–77.... 42701

PRIVACY ACT
FRS adopts system of records..... 42714

MEETINGS—
Commerce/NOAA: Pacific Fishery Management Council and its Scientific and Statistical Committee, 9–14 thru 9–16–77..... 42705
DIBA: Computer Systems Technical Advisory Committee, 9–8–77..... 42704
FCC: PURAC Task Area Group on General Mobile Radio Service, 9–9–77..... 42709
HEW: National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, 9–9 and 9–10–77..... 42716
OE: National Advisory Council for Career Education, 9–19 and 9–20–77..... 42715
Office of Telecommunications Policy: Frequency Management Advisory Council, 9–9–77..... 42719

HEARINGS—
CRC: Age discrimination, 9–26 thru 9–28–77..... 42703
HEW: Delivery of health services under programs conducted or supported by HEW, 10–14–77..... 42716

SEPARATE PARTS OF THIS ISSUE
Part II, CFTC..... 42747
Part III, HEW/OE..... 42753
Part IV, CFTC..... 42765
Part V, FEA..... 42769
Part VI, CPSC..... 42779
Part VII, FEA..... 42785
Part VIII, HUD/FIA..... 42793

contents

THE PRESIDENT

Memorandums
Portugal; sale of agricultural commodities 42677

EXECUTIVE AGENCIES

AGENCY FOR INTERNATIONAL DEVELOPMENT
Rules
Procurement; mandatory use of visa application form..... 42689

AGRICULTURAL MARKETING SERVICE
Rules
Potatoes (Irish) grown in Wash.. 42679
Proposed Rules
Pears, plums, and peaches (fresh) grown in Calif.; correction..... 42691

AGRICULTURE DEPARTMENT
See Agricultural Marketing Service; Forest Service.

AIR FORCE DEPARTMENT
Rules
Motor vehicle traffic supervision; registration, operation and parking of motor vehicles, bicycles, etc. on Keesler Air Force Base 42684

CENSUS BUREAU
Notices
Population censuses, special; results 42703

CIVIL AERONAUTICS BOARD
Proposed Rules
Accounts and reports for certificated air carriers; uniform system, etc.:
Corporate disclosure regulations, model; inquiry; extension of time..... 42691

CIVIL RIGHTS COMMISSION
Notices
Age discrimination in Federal programs; hearings:
Washington, D.C..... 42703

CIVIL SERVICE COMMISSION
Rules
Excepted service:
Community Services Administration 42679

COMMERCE DEPARTMENT
See Census Bureau; Domestic and International Business Administration; National Oceanic and Atmospheric Administration.

COMMODITY FUTURES TRADING COMMISSION
Rules
Commodity Exchange Act regulations:
Bona fide hedging definition and reporting requirement..... 42747
Proposed Rules
Commodity Exchange Act regulations:
Bona fide hedging definitions; minimum financial requirements 42765

CONSUMER PRODUCT SAFETY COMMISSION
Rules
Chlorofluorocarbon propellants, self pressurized consumer products containing; labeling and data submission requirements.. 42779

CUSTOMS SERVICE
Rules
Merchandise, special classes:
Pre-Columbian art; importation; Ecuador..... 42683

DEFENSE DEPARTMENT
See Air Force Department.

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION
Notices
Meetings:
Computer Systems Technical Advisory Committee..... 42704

EDUCATION OFFICE
Rules
Guidance and counseling programs; grants award criteria... 42753
Notices
Meetings:
Career Education National Advisory Council..... 42715

FEDERAL COMMUNICATIONS COMMISSION
Rules
Cable television:
Cable systems; modified technical standards; correction..... 42689
Proposed Rules
FM broadcast stations; table of assignments:
Louisiana 42700
Virginia 42700
Notices
Educational FM broadcast applications ready and available for processing 42707
Meetings:
Personal Use Radio Advisory Committee 42709
Television translator applications ready and available for processing 42706
Hearings, etc.:
Medical-Dental Bureau, Inc., et al 42706
Pine Mountain Communications, Inc., et al..... 42708

FEDERAL ENERGY ADMINISTRATION
Rules
Petroleum allocation regulations, mandatory:
Crude oil buy/sell program; limitation of scope..... 42769
Notices
Crude oil, domestic, allocation program; 1977; entitlement notices:
June 42785
Environmental statements; availability, etc.:
Carolina Power & Light Co. et al 42709
Strategic petroleum reserves (2 documents) 42710

FEDERAL HOME LOAN BANK BOARD
Proposed Rules
Federal Savings and Loan Insurance Corporation:
State housing corporations investments; policy statement.. 42691

FEDERAL HOUSING COMMISSIONER—OFFICE OF ASSISTANT SECRETARY FOR HOUSING
Proposed Rules
Mortgage and loan insurance programs:
Mutual mortgage insurance and coinsurance; hazard insurance reimbursement; reasonable rate limit..... 42693

FEDERAL INSURANCE ADMINISTRATION
Rules
Flood Insurance Program, National:
Special hazard areas..... 42793

FEDERAL MARITIME COMMISSION
Notices
Agreements filed, etc.:
Associated Latin American Freight Conferences..... 42711
Med-Gulf Conference et al..... 42711

FEDERAL RAILROAD ADMINISTRATION
Notices
Petitions for exemptions, etc.:
Association of American Railroads 42719

FEDERAL REGISTER OFFICE
Notices
"Federal Register—what it is and how to use it", educational workshops:
St. Louis, Mo..... 42719

FEDERAL RESERVE SYSTEM
Notices
Board actions; applications and reports 42711
Privacy Act; systems of records.. 42714
Applications, etc.:
Country Bancshares, Inc..... 42714

FEDERAL TRADE COMMISSION
Proposed Rules
Consent orders:
City Stores Co..... 42692
Mobile home sales and service; hearing changes..... 42693

V 42 164 AUG 24 77 UM

V42N164 AUG 24 77 UM

CONTENTS

FOREST SERVICE
Notices
Environmental statements; availability, etc.:
Gallatin National Forest, Buck Creek special use road application, Mont. 42703

GENERAL SERVICES ADMINISTRATION
See Federal Register Office.

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
See also Education Office.
Notices
Meetings:
Protection of Human Subjects of Biomedical and Behavioral Research, National Commission (2 documents) 42716
Organization, functions, and authority delegations:
General Counsel Office 42716

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
See Federal Housing Commissioner—Office of Assistant Secretary for Housing; Federal Insurance Administration.

INDIAN AFFAIRS BUREAU
Proposed Rules
Law and order on Indian reservations; law enforcement standards, civil rights violations 42694
Mining, etc.:
Mining development contracts; meetings, withdrawals, and extension of time 42695
Notices
Distribution plans and termination notices:
Sisseton-Wahpeton (Devils Lake) Sioux 42717

INTERIOR DEPARTMENT
See Indian Affairs Bureau; Land Management Bureau.

INTERNATIONAL TRADE COMMISSION
Notices
Import investigations:
Golf balls, certain molded 42718
Glue and gelatin, animal and inedible, from Yugoslavia, et al.; correction 42718

INTERSTATE COMMERCE COMMISSION
Rules
Motor carriers and practice rules:
Freight and passenger tariffs and schedules; household goods 42689
Proposed Rules
Reports:
Motor carriers; depreciation policy disclosure; inquiry 42701
Notices
Abandonment of railroad services, etc.:
Oregon Short Line Railroad et al 42724
Fourth section applications for relief 42719
Motor carriers:
Temporary authority applications 42720

LAND MANAGEMENT BUREAU
Notices
Applications, etc.:
New Mexico (2 documents) 42718
Outer Continental Shelf:
Official protraction diagrams; availability, etc. 42718
Withdrawal and reservation of lands, proposed, etc.:
New Mexico 42717

MANAGEMENT AND BUDGET OFFICE
Notices
Clearance of reports; list of requests 42719

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Rules
Contract appeals; procedures 42679

NATIONAL ARCHIVES AND RECORDS SERVICE
See Federal Register Office.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
Notices
Environmental statements; availability, etc.:
Marine mammals; incidental taking; commercial fishing operations for yellowfin tuna; porpoise stock chart correction 42705
Meetings:
Pacific Fishery Management Council 42705

POSTAL SERVICE
Proposed Rules
Organization and administration:
Post office discontinuance; decisionmaking, etc 42695

STATE DEPARTMENT
See Agency for International Development.

TELECOMMUNICATIONS POLICY OFFICE
Notices
Meetings:
Frequency Management Advisory Council 42719

TEXTILE AGREEMENTS IMPLEMENTATION COMMITTEE
Notices
Textile category system; 1978 system; correction 42706

TRANSPORTATION DEPARTMENT
See Federal Railroad Administration.

TREASURY DEPARTMENT
See Customs Service.

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR
MEMORANDUMS:
August 11, 1977 42677

5 CFR
213 42679

7 CFR
946 42679
PROPOSED RULES:
917 42691

10 CFR
211 42770

12 CFR
PROPOSED RULES:
571 42691

14 CFR
1241 42679
PROPOSED RULES:
241 42691
245 42691
246 42691

16 CFR
1401 42780

16 CFR—Continued
PROPOSED RULES:
13 42692
441 42693

17 CFR
1 42748
PROPOSED RULES:
1 42767

19 CFR
12 42683

24 CFR
1915 42794
PROPOSED RULES:
203 42693
204 42693

25 CFR
PROPOSED RULES:
11 42694
171 42695
177 42695
182 42695
183 42695

32 CFR
852 42684

39 CFR
PROPOSED RULES:
241 42695
245 42695
246 42695
247 42695
248 42695
265 42695

41 CFR
7-7 42689

45 CFR
191 42754

47 CFR
76 42689
PROPOSED RULES:
73 (2 documents) 42700

49 CFR
1100 42689
1307 42689
PROPOSED RULES:
1241 42701
1249 42701

CUMULATIVE LIST OF PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR

Ch. I 38891

3 CFR

EXECUTIVE ORDERS:

12006 39081

MEMORANDUMS:

January 2, 1973 (Amended by Memorandum of August 1, 1977) 40169
April 26, 1973 (See Memorandum of August 1, 1977) 40169
December 13, 1973 (See Memorandum of August 1, 1977) 40169
October 29, 1974 (See Memorandum of August 1, 1977) 40169
May 20, 1975 (See Memorandum of August 1, 1977) 40169
August 5, 1975 (See Memorandum of August 1, 1977) 40169
March 25, 1976 (Superseded by Memorandum of August 1, 1977) 40169
April 14, 1976 (See Memorandum of August 1, 1977) 40169
November 5, 1976 (See Memorandum of August 1, 1977) 40169
November 19, 1976 (Supplemented by Memorandum of July 21, 1977) 41401
July 20, 1977 39083
July 21, 1977 41401
August 1, 1977 40169
August 5, 1977 40171
August 11, 1977 42677
August 12, 1977 42185

PROCLAMATIONS:

4514 42299

4 CFR

105 38891

5 CFR

213 ..... 39085, 39657, 40173–40175, 40215, 40866, 40867, 41265–41267, 41813, 41814, 42301, 42302, 42679
713 40175

PROPOSED RULES:

890 41866

7 CFR

2 39669
27 40677
68 40868
271 42302
301 42302
318 41267
354 41267
406 39953
409 39956
650 40114
725 40881
905 40882
908 ..... 38892, 39359, 39959, 40678, 41095, 41603
910 ..... 39085, 39359, 39669, 40882, 41814
918 40883
922 41268
926 40678
927 39670
929 40679

7 CFR—Continued

944 40885
945 40886
946 ..... 39671, 42679
947 41403
948 39360
958 39360
967 39361
980 40175
1011 40888
1040 41603
1205 41404
1421 ..... 40175–40185, 41269
1425 40187
1427 ..... 40421, 42308
1443 41269
1473 41269
1479 41269
1821 ..... 39085, 41815
1822 ..... 39361, 39362, 40679
1832 41815
1980 ..... 39362, 41816
2024 40680
2851 42309
2852 41843
2858 41846

PROPOSED RULES:

220 40911
657 42359
780 39223
917 ..... 39989, 42691
919 41431
926 41130
927 41644
929 39989
931 41866
945 39395
946 38913
967 ..... 39108, 41431
981 42227
989 41867
991 42227
993 ..... 39672, 41644
1002 41582
1006 38913
1011 39108
1012 38913
1013 38913
1097 41873
1102 41873
1108 41873
1133 40216
1435 40216

8 CFR

235 41847
242 38892

PROPOSED RULES:

108 39672

9 CFR

82 39658
92 41848
112 41849
160 41850
161 41850
319 42309
325 ..... 39086, 42309

PROPOSED RULES:

1 42044
3 42044
51 40911
381 41873

10 CFR

0 38893
71 39364
Ch. II 41095
202 41269
210 39959
211 ..... 39959, 41566, 42770
212 ..... 38894, 39195, 39959, 41566
213 39087
430 39964
460 41270

PROPOSED RULES:

73 42228
205 41242
210 40915
211 ..... 39914, 39395, 39990, 40448, 40915, 41242
212 ..... 39114, 40915, 41242, 41396, 41572
430 ..... 39114, 39673, 40217, 40701, 40826, 42361
450 41645

12 CFR

7 ..... 39969, 42537
202 ..... 39368, 40424
207 41604
220 41604
221 41604
224 41604
226 40424
329 40425
343 40891
505 39368
545 39088
563 39198
563b 39088
571 42691
701 39369

PROPOSED RULES:

308 41130
311 41130
564 39115

13 CFR

120 40900
123 39970
301 39970
317 38896

PROPOSED RULES:

107 39992

14 CFR

1 ..... 41101, 42187
39 ..... 38896–38900, 39373–39377, 39971, 39972, 41102–41106, 41622–41625, 42188–42192
45 41101
71 ..... 38901, 39378, 39379, 39972–39976, 40690–40693, 41107–41113, 41625–41627, 42192–42194
73 ..... 39379, 41113
75 39379
91 42187
97 ..... 39380, 41114, 41627
121 42194
135 42194
1204 41628
1241 42679

PROPOSED RULES:

25 41236
39 ..... 38917, 41131–41133, 41647

14 CFR—Continued

PROPOSED RULES—Continued

71 ..... 38917, 39993, 39994, 40710, 40711, 41134–41137, 41648, 42228
75 ..... 38917, 40711
121 41649
123 41649
135 41649
241 ..... 39115, 42691
245 ..... 39115, 42691
246 ..... 39115, 42691
378 40450
399 42229

15 CFR

46 39976
70 38901

PROPOSED RULES:

904 40711

16 CFR

2 ..... 39658, 42195
3 ..... 39658, 39977
4 42195
13 ..... 39198, 40681, 42309
18 39660
22 39660
27 41270
35 39660
47 39660
66 39660
105 39660
138 39660
177 39660
191 39660
206 39660
226 39660
433 40426
702 39381
1025 39089
1026 39089
1201 40188
1401 42780

PROPOSED RULES:

13 ..... 40714, 41297, 41431, 41649, 41874, 42692
441 ..... 39995, 42693
453 41651
705 39223
801 ..... 39040, 39995, 41875
802 ..... 39040, 39995, 41875
803 ..... 39040, 39995, 41875
1500 39648
1605 39402

17 CFR

1 42748
140 39033
200 ..... 40189, 40900
211 42310
231 42196
239 ..... 40900, 41405
240 ..... 38902, 39090, 40900, 41405
241 41022
249 40902
270 41405
271 42196

PROPOSED RULES:

1 ..... 39036, 42767
210 41433
211 41433
230 41875
231 41434
239 41139
240 ..... 41138, 41434

17 CFR—Continued

PROPOSED RULES—Continued

241 41434
270 41139
274 41139

18 CFR

1 40191
3 ..... 40191, 41276
4 40191
5 40191
6 40191
16 40191
35 ..... 39660, 41277
101 39661
104 39661
141 39661
154 ..... 41276, 41277
157 ..... 39090, 41276
201 39661
204 39661
260 39661

19 CFR

12 42683
133 41278
153 ..... 39200, 41406
159 41630
205 40426
210 40428

PROPOSED RULES:

134 39227

20 CFR

416 ..... 39098, 40191
602 40192
702 42548
901 ..... 39200, 41115
902 39200

PROPOSED RULES:

404 38918
405 39995

21 CFR

Ch. I 40904
6 39100
14 41851
20 42526
25 42526
133 39101
176 ..... 41852, 41853
193 41279
310 41374
320 42311
510 41854
520 ..... 41854, 42312
522 ..... 39103, 41855
558 41855
561 41279
700 41374
801 40215
807 42526
809 42530

PROPOSED RULES:

182 ..... 39117, 41299, 41876
184 ..... 39117, 41299, 41876
186 41299
312 41301
320 39675
431 42361
500 40217
514 42361
808 41301
895 42000

22 CFR

123 ..... 39103, 41631
124 41631
202 40428

23 CFR

160 41279
655 ..... 41280, 41633

PROPOSED RULES:

Ch. I 41651

24 CFR

25 40193
203 40430
803 42554
811 39209
880 ..... 39212, 42292
881 ..... 39212, 42292
883 39212
888 42554
1914 42312–42317
1915 42794

PROPOSED RULES:

203 42693
204 42693

25 CFR

141 40194
221 41116
252 40904
258 40904

PROPOSED RULES:

11 42694
54 41435
171 42695
177 42695
182 42695
183 42695

26 CFR

1 42318
7 ..... 39104, 42197
9 42198
11 ..... 39382, 41856
404 41856

PROPOSED RULES:

1 ..... 38919, 39227, 39233, 39408 39997
301 ..... 39227, 39233, 39997
404 ..... 39227, 39233, 39997

27 CFR

178 41116

PROPOSED RULES:

4 42230
181 ..... 39316, 40921, 42233

28 CFR

0 ..... 40433, 41407
2 ..... 39668, 39808, 41407
16 ..... 40905, 41408
17 39212
32 39386

PROPOSED RULES:

2 ..... 41435, 41436, 41878
540 41368
541 41368
548 41368
551 41368

29 CFR

102 41117
452 ..... 39105, 41280
1601 41280
1908 41386

VOL 42 NO 164 AUG 24 1977 UM

29 CFR—Continued

1952 ..... 40194, 40195, 41857
2602 41858
2606 41858
2610 41858

PROPOSED RULES:

70a 39997
1061 42022
1910 39120
2608 39120
2610 42361

30 CFR

PROPOSED RULES:

70 42362
2170 42540
2171 42540

31 CFR

51 41859

32 CFR

Ch. I 39213
199 41118
286b 39214
290 40433
806b 41409
852 42684

PROPOSED RULES:

114 39234
143 41306
286 40552
865 39999

33 CFR

110 ..... 39386, 40693, 40694
117 ..... 38903, 39386, 41118, 42199
183 41634
204 ..... 40196, 41281
207 40908
274 41118

PROPOSED RULES:

117 ..... 38919, 38920, 42234
154 39408
155 39408
156 39408
157 39999

34 CFR

231 40694

35 CFR

69 40196

36 CFR

67 40436
200 40438
292 39387

37 CFR

PROPOSED RULES:

2 40450
4 40450
201 ..... 41437, 41438, 42362

38 CFR

2 ..... 41409, 41410
13 41410
14 41410

PROPOSED RULES:

8 40452
17 ..... 39409, 41439

39 CFR

111 ..... 38904, 41634

39 CFR—Continued

PROPOSED RULES:

111 ..... 39411, 40219, 40922
241 42695
245 42695
246 42695
247 42695
248 42695
265 42695

40 CFR

52 ..... 39389, 39664, 40695, 41121, 42218, 42219
55 41282
60 ..... 39389, 41122, 41424, 41754
61 41424
86 40697
136 39977
180 ..... 39977, 40909
204 41635
416 40697
610 40438

PROPOSED RULES:

20 39414
52 ..... 38920, 38921, 39235, 39415, 40220
61 40452
85 40221
180 ..... 40715, 40922
211 41139
700 39182
710 39182

41 CFR

1-4 ..... 39215, 41635
7-7 42689
Ch. 9 41128
29-1 40197
29-2 40201
29-3 40201
29-12 40205
29-26 40206
29-61 40206
101-41 41128
101-42 40847
101-43 40847
101-44 40850
101-45 40852
101-46 40858
101-47 40698
105-63 40858
114-25 39978

PROPOSED RULES:

9-4 40923
24-1 42234
60-4 41378

43 CFR

423 41122

PUBLIC LAND ORDERS:

5622 42199

PROPOSED RULES:

424 41440
1880 40000

45 CFR

100a 40207
100b 42475
121a 42476
121m 42517
122a 42005
166 42016
173 40209
191 42754
194 40207
196 39218
1015 41282

45 CFR—Continued

PROPOSED RULES:

11 41140
146a 40221
170 40926

46 CFR

2 41636
10 39978
35 41636
151 41636

PROPOSED RULES:

162 40000
502 40452

47 CFR

0 42341
2 42203
15 39979
73 ..... 38905, 39665, 39981, 39982, 40210, 41123-41125, 41283
76 ..... 41127, 41284, 42689
81 39666
87 38906
89 ..... 42203, 42343
91 42203
93 42343

PROPOSED RULES:

1 40715
13 40939
43 40454
61 40002
63 39236
73 ..... 40003, 40454, 41141, 41302-41305, 41879, 42700
81 ..... 40223, 40224, 40455
83 40224
89 39560
90 39560
91 ..... 39560, 41143
93 39560
95 42362

49 CFR

99 39220
173 42206
178 42206
210 42343
529 39983
571 ..... 39983, 39984, 42208
580 38906
581 38909
1033 ..... 39221, 39389, 39985, 41424
1036 40444
1051 40860
1057 39666
1100 ..... 40698, 42689
1104 40860
1108 39222
1109 ..... 39390, 39985
1251 39667
1254 39390
1307 42689

PROPOSED RULES:

173 ..... 40003, 41651
174 ..... 40003, 41651
178 ..... 40003, 41651
179 ..... 40003, 41651
193 42235
1047 40459
1082 40459
1106 39243
1241 42701

49 CFR—Continued

PROPOSED RULES—Continued

1249 42701
1307 41144

50 CFR

17 ..... 39985, 40682-40685, 42351
20 ..... 39106, 39667, 40211, 41636
21 42353
26 ..... 40213, 41425

50 CFR—Continued

32 ..... 38909-38912, 39391-39394, 40214, 40445-40447, 40690, 40861-40865, 41127, 41426-41429, 41642, 41861-41865, 42210-42215, 42354-42358
33 ..... 40214, 41426
216 ..... 39394, 41128, 41879
371 40866
601 42216
602 42216

50 CFR—Continued

611 ..... 39106, 41430
680 42216

PROPOSED RULES:

17 ..... 38921, 39121, 40716, 40823
20 41145
23 40459
32 40465
260 41440

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	Date	Pages	Date	Pages	Date
38891-39080	Aug. 1	40677-40845	11	41401-41602	17
38081-39193	2	40169-40419	9	41603-41812	18
39195-39358	3	40847-41094	12	41813-42183	19
39359-39656	4	40421-40675	10	42185-42297	22
39657-39952	5	41095-41264	15	42299-42676	23
39953-40167	8	41265-41399	16	42677-42837	24

V 42 164 AUG 24 77 UM

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

EPA—New stationary sources; applicability dates for standards of performance. 37936; 7–25–77

ICC—Railroad rates; revision of rules governing demand-sensitive rates.... 38182; 7–27–77

LSC—Client grievance procedure; enacted for Legal Service Programs that receive financial assistance from the Legal Services Corp 37551; 7–22–77

DOT/FAA—Airworthiness directives; Hawker-Siddeley, model DH–114 landing gear damper ram..... 37805; 7–25–77

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—
Celery grown in Florida; expenses and assessment rates; comments by 9–2–77 ..... 41431; 8–17–77
Tokay grapes grown in San Joaquin, Calif.; expenses, assessment rates and carryover of unexpended funds; comments by 9–2–77..... 41130; 8–15–77

Agricultural Stabilization and Conservation Service—
Wheat; feed grain, upland cotton, and rice programs; appraisals for technical determinations, comments by 9–2–77..... 39223; 8–3–77

Animal and Plant Health Inspection Service—
Viruses, serums, toxins; biological products; test procedures (2 documents); comments by 9–1–77. 28548–9; 6–3–77

Commodity Credit Corporation—
Terms and conditions of 1977–78 price support program; comments by 8–29–77 ..... 38598; 7–29–77

Farmers Home Administration—
Interest rate and term of credit sales; revision; comments by 8–29–77. 38383; 7–28–77

Forest Service—
National Forest System Lands; grazing livestock; comments by 8–29–77..... 33470; 6–30–77

COMMERCE DEPARTMENT

Economic Development Administration—
Round II, local public work program, miscellaneous amendments; comments by 8–3–77 ... 38896; 8–1–77

National Oceanic and Atmospheric Administration—
Importation of yellowfin tuna; interior final rule; comments by 9–1–77. 39394; 8–4–77

Patent and Trademark Office—
Patent Cooperation Treaty; implementation; comments extended to 8–31–77..... 31812; 6–23–77 [First published at 42 FR 2632–26 44, Jan. 12, 1977]

CONSUMER PRODUCT SAFETY COMMISSION

Respirable free-form asbestos; regulation under Consumer Product Safety Act; banning of certain patching compounds and artificial emberizing materials (2 documents); comments by 8–29–77 ... 38782, 38783; 7–29–77

DEFENSE DEPARTMENT

Defense Intelligence Agency—
Privacy Act of 1974; clarification of exemption rules; comments by 8–29–77..... 38605; 7–29–77

Office of the Secretary—
Reserve components, Common Personnel Data System; comments by 9–2–77 ..... 39234; 8–3–77

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plan:
Massachusetts; comments by 9–2–77. 39235; 8–3–77
Tennessee; comments by 8–31–77. 38921; 8–1–77
Virginia; comments by 8–31–77. 38920; 8–1–77

Loan Guarantees for Construction of Treatment Works; comments by 9–1–77..... 25665; 5–18–77

FEDERAL COMMUNICATIONS COMMISSION

Citizens radio service; Class D transmitters; spurious and harmonic emissions; comments extended to 8–29–77..... 27629; 5–31–77

FM broadcast stations; table of assignments:
Anchorage and Seward, Alaska; comments by 9–1–77..... 38195; 7–27–77

International radio regulations; preparation for world conference on revision; comments by 9–1–77. 38423; 7–28–77

Radio broadcast services; multiple ownership of standard FM and television stations; reply comments extended to 9–1–77....27971; 6–1–77 [First published at 42 FR 21630, Apr. 28, 1977]

Transatlantic communications; comments by 8–31–77.. 39236; 8–3–77

FEDERAL HOME LOAN BANK BOARD

IRA's and Keogh Retirement Plans; insurance; comments by 9–2–77. 39115; 8–2–77

FEDERAL TRADE COMMISSION

Hart-Scott-Rodino Antitrust Improvements Act of 1976; premerger notification; reporting and waiting period requirements; comments by 8–31–77. 39040; 8–1–77

GENERAL SERVICES ADMINISTRATION

Public Buildings Service—
Procurement by formal advertising; comments by 9–1–77. ..... 36277; 7–14–77

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Alcohol, Drug Abuse, and Mental Health Administration—
Alcohol Research Review Committee, (partially open), 8–31 and 9–1–77. 40954; 8–12–77

Food and Drug Administration—
Saccharin; availability of two studies; comments extended to 8–31–77. 33768; 7–1–77 [First published at 42 FR 19996, Apr. 15, 1977]

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Public housing agencies; tax exemptions; final rule; comments on certain provisions by 9–1–77..... 39205; 8–3–77

INTERIOR DEPARTMENT

Fish and Wildlife Service—
Endangered and threatened species; Atlantic Salt Marsh snake; comments by 9–1–77.... 28165; 6–2–77

INTERSTATE COMMERCE COMMISSION

Freight rate tariffs, schedules and classification of motor carriers; free time allowances and detention charges—
Alaska; comments by 9–4–77.. 41144; 8–15–77

LABOR DEPARTMENT

Occupational Safety and Health Administration—
Exposure to cotton dust; post-hearing comments on additional data by 9–2–77..... 39120; 8–2–77 [First published at 41 FR 56498, Dec. 28, 1976]

Pension and Welfare Benefit Programs—
Employee Retirement Income Security Act; seasonal industries; comments by 8–31–77..... 32807; 6–28–77

LIBRARY OF CONGRESS

Copyright Office—
Cable television systems outside the forty-eight contiguous States; filing of copies of certain contracts; comments by 9–2–77.. 41438; 8–17–77
Photoduplication of copyrighted material; display of warnings; comments by 9–2–77..... 41437; 8–17–77

NATIONAL SCIENCE FOUNDATION

Government in the Sunshine; proposed amendments; comments by 8–29–77. 36278; 7–14–77

NUCLEAR REGULATORY COMMISSION

Construction of multi-unit sites; maintaining integrity of structures, systems, and components important to safety; comments by 8–29–77. 36268; 7–14–77

International Atomic Energy Agency Draft Safety Guide; availability; comments by 8–31–77.... 33386; 6–30–77

Radiation, standards for protection; removal or defacing of radioactive materials labels on empty containers; comments by 8–29–77..... 36268; 7–14–77

POSTAL SERVICE

Handling of business reply mail with postage affixed; comments by 9–1–77. 38606; 7–29–77

Identification statements requirements in second-class and controlled circulation publications; comments by 8–29–77..... 38604; 7–29–77

TRANSPORTATION DEPARTMENT

Coast Guard—
Drawbridge operations:
Bayou Teche, La.; comments by 8–31–77..... 38919; 8–1–77
Missouri River, S.D.; comments by 8–31–77 ..... 38920; 8–1–77
Inert Gas System; comments by 9–1–77..... 35662; 7–11–77
Oil pollution prevention equipment; extension of comments to 9–2–77. 40000; 8–8–77 [First published at 42 FR 32686, June 27, 1977]
Oiltankers; improved emergency steering standards; comments by 9–1–77..... 24869; 5–16–77
Pollution prevention; vessel and oil transfer facilities; comments extended to 9–2–77.. 39408; 8–4–77 [First published at 42 FR 32670, June 27, 1977]
Tank vessels carrying oil in bulk; protection of marine environment; extension of comments to 9–2–77. 39999; 8–8–77 [First published at 42 FR 32684, June 27, 1977]
Tank vessels carrying oil in trade; protection of marine environment; comments by 9–1–77..... 24868; 5–16–77
Vessels of 10,000 gross tons or more; additional equipment; comments by 9–1–77..... 24871; 5–16–77

Federal Aviation Administration—
Airworthiness directives:
Bell Helicopter Textron Model 47 Series Helicopters; comments by 9–4–77..... 41131; 8–15–77
Control zone and transition area:
Burlington, Vt.; comments by 9–2–77..... 39993; 8–8–77
Federal airways and jet routes; between Meredian, Miss. and Montgomery, Ala.; comments by 8–31–77..... 38917; 8–1–77
Rolls Royce Dart Engines; airworthiness directives (2 documents) comments by 8–29–77.... 38387–8; 7–28–77
Transition area:
Fort Huacha, Ariz.; comments by 8–31–77..... 39994; 8–8–77
Tucson, Ariz.; comments by 8–31–77..... 39400; 8–4–77

TREASURY DEPARTMENT

Customs Service—
Consumer electronic products; country of origin marking; comments by 9–2–77..... 39227; 8–3–77

Fiscal Service—
Use of Federal Reserve Banks as depositaries of Federal taxes; comments by 8–29–77..... 38603; 7–29–77

Internal Revenue Service—
Paid preparers of tax returns; comments by 9–22–77.. 39227; 8–3–77

Next Week's Meetings

AGRICULTURE DEPARTMENT

Forest Service—
Pacific Crest National Scenic Trail Advisory Council, Vancouver, Wash. (open), 8–29 thru 8–31–77. 39692; 8–5–77
National Forest Management Act Committee of Scientists, Denver, Colo. (open), 8–29 and 8–30–77. 36279; 7–14–77

ARTS AND HUMANITIES, NATIONAL FOUNDATION

National Endowment for the Arts—
Advisory Panel: Media Arts, D.C. (closed), 8–30 and 8–31–77. 40999; 8–12–77

National Endowment for the Arts—
Advisory Panel: Media Arts, D.C. (closed), 8–30 and 8–31–77. 40999; 8–12–77

National Endowment for the Humanities—
Fellowships Panel, Washington, D.C. (closed), 8–29 thru 8–31–77 (4 documents)..... 37879; 7–25–77; 39728–29; 8–5–77
Research Grants Panel, Washington, D.C. (closed), 8–30–77..... 39284; 8–3–77

CIVIL RIGHTS COMMISSION

Advisory Committees:
Rhode Island, Providence, R.I. (open), 8–30–77..... 37834; 7–25–77

CIVIL SERVICE COMMISSION

Federal Prevailing Rate Advisory Committee, Washington, D.C. (closed), 9–1–77..... 38624; 7–29–77

COMMERCE DEPARTMENT

Domestic and International Administration—
Weather Modification Advisory Board, Grand Forks, North Dakota (open), 8–27 and 8–28–77..... 39420; 8–4–77

Maritime Administration—
Practical Firefighting Facility, Toledo, Ohio (open), 8–30–77..... 38626; 7–29–77

National Oceanic and Atmospheric Administration—
Atlantic Foreign Pelagic Longline Fishery, Miami and West Palm Beach, Fla. (open), (2 documents), 9–1 and 9–2–77..... 39694; 8–5–77
Geostationary Operational Environmental Satellite Data, Camp Springs, Md. (open), 8–30–77. 40231; 8–9–77
Gulf of Mexico Fishery Management Council, St. Petersburg, Fla. (open), 8–30–77..... 36855; 7–18–77
Gulf of Mexico Fishery Management Council, Marathon, Fla. (open), 8–31–77..... 36855; 7–18–77
South Atlantic Fishery Management Council:
Charleston, S.C. (open), 8–29–77. 39694; 8–5–77
Miami, Fla. (open), 9–1–77. 39694; 8–5–77
West Palm Beach, Fla. (open), 9–2–77. ..... 39694; 8–5–77

DEFENSE DEPARTMENT

Defense Nuclear Agency—
Scientific Advisory Group on Effects, Monterey, Calif. (closed) 8–30 through 9–2–77.... 30234; 6–13–77

Office of the Secretary—
Electron Devices Advisory Group A, New York, N.Y. (closed), 8–29 and 8–30–77 ..... 40008; 8–8–77
President's Commission on Military Compensation, Washington, D.C. (open with restrictions), 9–1–77. 40947; 8–12–77
Wage Committee, Washington, D.C. (closed), 8–30–77 29038; 6–7–77

FEDERAL COMMUNICATIONS COMMISSION

Private Land Mobile Advisory Committee, Washington, D.C. (open), 9–1–77.
Radio Technical Commission for Marine Services, Special Committee No. 70 "Minimum Performance Standards—Marine Loran-C Receiving Equipment," New York, N.Y. (open), 9–1–77..... 41162; 8–15–77
Radio Technical Commission for Marine Services, Technical Specs Working Group, New York, N.Y. (open), 8–31–77..... 41162; 8–15–77

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Alcohol, Drug Abuse, and Mental Health Administration—
Paraprofessional Manpower Development Review Committee, Rockville, Md. (open), 8–29 and 8–30–77. 39720; 8–5–77

Education Office—
Women's Educational Programs National Advisory Council, Washington, D.C. (open), 8–30–77.. 40776; 8–11–77

Health Resources Administration—
Health Profession Education, National Advisory Council, Hyattsville, Md. (open-closed), 8–29 through 8–31–77..... 35224; 7–8–77
Nurse Training, National Advisory Council, Bethesda, Md. (open-closed) 8–29 through 9–1–77. 35224; 7–8–77

VOL 42 NO 164 AUG 24 77 UM

National Institutes of Health—
Cancer Immunobiology Committee, Bethesda, Md. (open-closed), 8–30–77..... 35225; 7–8–77
Cancer Immunodiagnosis Committee, Bethesda, Md. (partially open), 9–2–77..... 39143; 8–2–77

INTERIOR DEPARTMENT
Land Management Bureau—
California Desert Conservation Area Advisory Committee, Work Program Subcommittee, Riverside, Calif. (open), 9–1–77.... 40785; 8–11–77
National Park Service—
National Parks, Historic Sites, Buildings, and Monuments Advisory Board, History Areas Committee, Washington, D.C. (open), 8–29–77. 40496; 8–10–77
Southeast Regional Advisory Committee, Vicksburg, Miss. (open), 9–1–77..... 37872; 7–25–77

JUSTICE DEPARTMENT
U.S. Circuit Judge Nominating Commission, Fourth Circuit Panel, Charlotte, N.C. (closed), 8–30–77..... 39509; 8–4–77
Law Enforcement Assistance Administration—
Juvenile Justice and Delinquency Prevention National Advisory Committee, New Orleans, La. (open), 8–31 and 9–1 and 9–2–77..... 41499; 8–17–77

NATIONAL SCIENCE FOUNDATION
Minority Programs in Science Education Advisory Committee; Washington, D.C. (open), 9–1 thru 9–2–77..... 41337; 8–16–77
Science Education Programs Evaluation Subpanel, Chevy Chase, Md. (closed), 8–28 and 8–29–77.. 35918; 7–12–77
Very Large Array Ad Hoc Advisory Panel, Washington, D.C. (open), 8–31–77. 40288; 8–9–77

NUCLEAR REGULATORY COMMISSION
Reactor Safeguards Advisory Committee, Atlantic Generating Station Subcommittee, Atlantic City, N.J. (partially open), 8–31–77..... 41193; 8–15–77
Reactor Safeguards Advisory Committee, Subcommittees on San Joaquin Nuclear Project; Skagit Nuclear Project; and Seismic Activity (joint meeting), San Francisco, Calif. (partially open), 9–1 and 9–2–77.... 41194; 8–15–77

STATE DEPARTMENT
Advisory Committee to the United States National Section of the Inter-American Tropical Tuna Commission, La Jolla, Calif. (partially open), 8–30–77. 39285; 8–3–77
Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Washington, D.C. (open), 8–31–77. 37889; 7–25–77

TELECOMMUNICATIONS POLICY OFFICE
U.S. Inmarsat Preparatory Committee Working Group, Washington, D.C. (open), 8–30–77..... 28636; 6–3–77

TRANSPORTATION DEPARTMENT
Federal Highway Administration—
Wetland Drainage into Federal-Aid Highway Rights-of-Way, Washington, D.C. (open), 8–31–77.. 39286; 8–3–77
Pipeline Safety Operations Office—
LNG Facilities; Federal safety standards; development of new standards; comments by 9–1–77 20776; 4–21–77

VETERANS ADMINISTRATION
Cardiovascular Studies Merit Review Board; Washington, D.C. (open), 8–29 thru 8–30–77..... 41341; 8–16–77

Next Week's Hearings

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
Coastal Management Program of the Virgin Islands (open), St. Thomas Island, 8–30–77; St. Croix Island, 8–31–77..... 40755; 8–11–77
Pacific billfish and sharks; preliminary fishery management plan, Agana, Guam (open), Terminal Island, Calif. (open), 8–30–77..... 40755; 8–11–77

ENVIRONMENTAL PROTECTION AGENCY
Noise emission standards for construction equipment, Philadelphia, Penn., 8–30 and 9–1–77.... 35804; 7–11–77

FEDERAL ENERGY ADMINISTRATION
Crude oil supplier/purchaser rule, Washington, D.C., (open), 9–1–77.. 39395; 8–4–77

TREASURY DEPARTMENT
Internal Revenue Service—
Oil and gas wells; proposal for limitations on percentage depletion; Washington, D.C., 8–31–77. 38919; 8–1–77

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

presidential documents

Title 3—The President

Memorandum of August 11, 1977

Determination under Section 103(d)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480) Portugal

[Presidential Determination No. 77–18]

Memorandum for the Secretary of State, the Secretary of Agriculture

THE WHITE HOUSE,
Washington, August 11, 1977.

Pursuant to the authority vested in me under the Agricultural Trade Development and Assistance Act of 1954, as amended (hereinafter "the Act"), I hereby:

Determine that for Portugal the waiver of the exclusion provided for by Section 103(d)(3) of the Act, for the purpose of selling up to $20 million worth of agricultural commodities under Title I during Fiscal Year 1977 in addition to the $50 million worth which have already been authorized, is in the national interest of the United States, and I do waive that exclusion.

Jimmy Carter

STATEMENT OF REASONS THAT A WAIVER UNDER SECTION 103(d)(3) OF THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954, AS AMENDED (PUBLIC LAW 480), IS IN THE NATIONAL INTEREST

In response to current Portuguese import needs, the Executive Branch proposes to agree to finance the export to that country of up to $20 million of agricultural commodities in fiscal year 1977 under Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (P.L. 480) in addition to the $50 million worth which have already been authorized.

After almost fifty years of authoritarian rule, a popularly elected Portuguese government took office on August 1, 1976. The United States strongly supports the restoration of democracy to Portugal. However, beset by enormous economic problems, exacerbated by the influx of over half a million refugees, Portugal needs urgent economic assistance. Concessional sales of agricultural commodities to Portugal constitute a tangible demonstration of our willingness to help provide this assistance.

Portuguese nationalized firms export to Cuba. Therefore, in order to enter into an agreement with the Government of Portugal for such a sale under Title I, it is necessary that the President determine that the waiver of the exclusion from eligibility for concessional sales under Title I of P.L. 480 is in the national interest of the United States. Section 103(d)(3) of P.L. 480 excludes from eligibility for concessional sales under Title I any country which sells or furnishes or permits ships or aircraft under its registry to transport to or from Cuba or North Vietnam any equipment, materials, or commodities, so long as those countries are governed by Communist regimes. However, under Section 103(d)(3), the President is authorized to waive this exclusion if he determines that such a waiver is in the national interest.

The considerations noted above make the proposed sale of agricultural commodities to Portugal and the necessary waiver important to the national interest of the United States.

[FR Doc.77–24585 Filed 8–22–77;2:28 pm]

V42164 AUG 24 77 UM

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Community Services Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The Position of Staff Assistant, Office of Policy, Planning, and Evaluation, is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 24, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3373(j)(2) is added as set out below:

§ 213.3373 Community Services Administration.

* * * * * * *

(j) *Office of Policy, Planning, and Evaluation.* * * *

(2) One Staff Assistant

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-24604 Filed 8-23-77;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 946—IRISH POTATOES GROWN IN WASHINGTON

Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of $16,650 and establishes a rate of assessment of $0.001 per hundredweight of potatoes for the functioning of the Washington Potato Committee. The regulation enables the committee to collect assessments from first handlers on all assessable potatoes handled and to use the resulting funds for its expenses.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 113 and Order No. 946, both as amended, regulate the handling of Irish potatoes grown in the State of Washington. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The State of Washington Potato Committee, established under the order, is responsible for its local administration.

Notice was published in the August 1, 1977, FEDERAL REGISTER (42 FR 38913) inviting written comments by August 17, 1977. None was received.

Findings. After consideration of all relevant matters, including the proposals in the notice, it is found that the following expenses and rate of assessment should be approved.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because this part requires that the rate of assessment for a particular fiscal period shall apply to all assessable potatoes from the beginning of such period.

The regulation is as follows:

§ 946.230 Expenses and rate of assessment..

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending June 30, 1978, by the State of Washington Potato Committee for its maintenance and functioning and for such other purposes as the Secretary may determine to be appropriate will amount to $16,650.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be one-tenth cent ($0.001) per hundredweight, or equivalent quantity, of potatoes handled by him as the first handler thereof during the fiscal period, except potatoes for canning, freezing, and "other processing" as defined in the act shall be exempt.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 946.42(a).

(d) The terms used in this section have the same meaning as when used in the marketing agreement and this part.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated: August 19, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-24428 Filed 8-23-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER V—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

PART 1241—CONTRACT APPEALS

Subpart 1241.1—General Procedures

AGENCY: National Aeronautics and Space Administration.

ACTION: Final Rules.

SUMMARY: These rules of procedure for the adjudication of contract appeals before the NASA Board of Contract Appeals adopt in major part the Uniform Rules of Practice for Boards of Contract Appeals, as proposed by the National Conference of Boards of Contract Appeals Members. The purpose of the uniform rules is to promote greater uniformity in Government procurement policies, practices and procedures.

EFFECTIVE DATE: August 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Frederick J. Lees, Chairman, Board of Contract Appeals. Telephone 202–755–8405, National Aeronautics and Space Administration, Washington, D.C. 20546.

SUPPLEMENTARY INFORMATION: On June 22, 1977, NASA published proposed rules (42 FR 31605–31609) to revise its rules of procedure for the adjudication of contract appeals before the NASA Board of Contract Appeals. Interested persons were given until July 22, 1977 to submit comments or suggestions. No such comments or suggestions were received. Therefore, the proposed rules are hereby adopted without change and are set forth below.

1. Subpart 1241.1 in revised in its entirety as follows:

Subpart 1241.1—General Procedures

Sec.

1241.10 Scope.

PREFACE TO THE RULES

1241.11 Authority and jurisdiction of the Board.

1241.12 Location and organization of the Board.

Sec.
1241.13 Decisions on questions of law.
1241.14 Board of contract appeals procedure.

PRELIMINARY PROCEDURES

1241.101 Appeals, how taken.
1241.102 Notice of appeal, contents of.
1241.103 Forwarding of appeals.
1241.104 Preparation, contents, organization, forwarding and status of appeal file.
1241.105 Dismissal for lack of jurisdiction.
1241.106 Pleadings.
1241.107 Amendments of pleadings or record.
1241.108 Hearing election.
1241.109 Prehearing briefs.
1241.110 Prehearing or presubmission conference.
1241.111 Submission without a hearing.
1241.112 Optional accelerated procedure.
1241.113 Settling the record.
1241.114 Discovery—depositions.
1241.115 Interrogatories to parties, admission of facts, and production and inspection of documents.
1241.116 Service of papers.

HEARINGS

1241.117 Where and when held.
1241.118 Notice of hearings.
1241.119 Unexcused absence of a party.
1241.120 Nature of hearings.
1241.121 Examination of witnesses.
1241.122 Copies of papers.
1241.123 Posthearing briefs.
1241.124 Transcript of proceedings.
1241.125 Withdrawal of exhibits.

REPRESENTATION

1241.126 The appellant.
1241.127 The respondent.

DECISIONS

1241.128 Decisions.

MOTION FOR RECONSIDERATION

1241.129 Motion for reconsideration.

DISMISSALS

1241.130 Dismissal without prejudice.
1241.131 Dismissal for failure to prosecute.

EX PARTE COMMUNICATIONS

1241.132 Ex parte communications.

SANCTIONS

1241.133 Sanctions.

AUTHORITY: 42 U.S.C. 2473(b)(1).

Subpart 1241.1—General Procedures

§ 1241.10 Scope.

This Subpart 1241.1 prescribes the procedures for the adjudication of appeals before the NASA Board of Contract Appeals (hereinafter referred to as "the Board") arising from NASA contracts.

PREFACE TO THE RULES

§ 1241.11 Authority and jurisdiction of the Board.

(a) The Board, constituted under the provisions of Subpart 1209.1 of this chapter, is authorized to hear, consider and determine appeals from decisions of contracting officers arising under contracts which contain provisions requiring the determination of appeals by the Administrator or his duly authorized representative or board. In addition, the Board may perform other quasi-judicial duties as assigned by the Administrator. The Board has authority to determine appeals falling within the scope of its jurisdiction as fully and finally as might the Administrator.

(b) Under § 1209.102(b) of this chapter, the Board is granted the authority to issue its rules of procedure.

§ 1241.12 Location and organization of the Board.

(a) The Board is located in Washington, D.C., and its mailing address is The Board of Contract Appeals, National Aeronautics and Space Administration, Washington, D.C. 20546.

(b) The Board consists of a Chairman and two other members, all of whom shall be attorneys at law duly licensed by any state or the District of Columbia, and who have significant experience in Government procurement law. In general, the appeals are assigned to a panel of at least two members of the Board. If a panel of two members is unable to agree upon a decision, the Chairman may assign a third member to consider the appeal. The Chairman is designated as Chief Administrative Judge and the other Board members are designated as Administrative Judges.

§ 1241.13 Decisions on questions of law.

When an appeal is taken pursuant to a Disputes clause in a contract which limits appeals to disputes concerning questions of fact, the Board may, in its discretion, hear, consider, and decide all questions of law necessary for the complete adjudication of the issue. In the consideration of an appeal should it appear that a claim is involved which is not cognizable under the terms of the contract, the Board may make findings of fact with respect to such a claim without expressing an opinion on the question of liability.

§ 1241.14 Board of contract appeals procedure.

(a) *Rules.* Appeals referred to the Board are handled in accordance with the rules of the Board.

(b) *Administration and interpretation of rules.* Emphasis is placed upon the sound administration of these rules in specific cases, because it is impracticable to articulate a rule to fit every possible circumstance which may be encountered. These rules will be interpreted so as to secure a just and inexpensive determination of appeals without unnecessary delay.

(c) *Preliminary procedures.* Preliminary procedures are available to encourage full disclosure of relevant and material facts, and to discourage unwarranted surprise.

(d) *Time, computation, and extensions.* (1) All time limitations specified for various procedural actions are computed as maximums, and are not to be fully exhausted if the action described can be accomplished in a lesser period. These time limitations are similarly eligible for extension in appropriate circumstances, on good cause shown.

(2) Except as otherwise provided by law, in computing any period of time prescribed by these rules or by any order of the Board, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a legal holiday, in which event the period shall run to the end of the next business day.

(3) Requests for extensions of time from either party shall be made in writing and stating good cause therefor.

PRELIMINARY PROCEDURES

§ 1241.101 Appeals, how taken.

Notice of an appeal must be in writing and the original, together with two copies, may be filed with the contracting officer from whose decision the appeal is taken. The notice of appeal must be mailed or otherwise filed within the time specified therefor in the contract or allowed by applicable provision of directive or law.

§ 1241.102 Notice of appeal, contents of.

A notice of appeal should indicate that an appeal is thereby intended, and should identify the contract (by number), and the final decision of the contracting officer from which the appeal is taken. The notice of appeal should be signed personally by the appellant (the contractor making the appeal), or by an officer of the appellant corporation or member of the appellant firm, or by the contractor's duly authorized representative or attorney. The complaint referred to in § 1241.106 may be filed with the notice of appeal, or the appellant may designate the notice of appeal as a complaint, if it otherwise fulfills the requirements of a complaint.

§ 1241.103 Forwarding of appeals.

When a notice of appeal in any form has been received by the contracting officer, he shall endorse thereon the date of mailing (or date of receipt, if otherwise conveyed) and within 10 days shall forward said notice of appeal to the Board. Following receipt by the Board of the original notice of an appeal (whether through the contracting officer or otherwise), the contractor and contracting officer will be promptly advised of its receipt and the contractor will be furnished a copy of these rules.

§ 1241.104 Preparation, contents, organization, forwarding and status of appeal file.

(a) *Duties of Contracting Officer.* Within 30 days of receipt of an appeal, or advice that an appeal has been filed, the contracting officer shall assemble and transmit to the Board an appeal file consisting of all documents pertinent to the appeal, including:

(1) The decision and findings of fact from which appeal is taken;

(2) The contract including specifications and pertinent amendments, plans and drawings;

(3) All correspondence between the parties pertinent to the appeal, including the letter or letters of claim in response to which decision was issued;

(4) Transcripts of any testimony taken during the course of proceedings, and affidavits or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board; and

(5) Any additional information considered pertinent.

Within the same time specified above, the contracting officer shall furnish the appellant a copy of each document he transmits to the Board, except those stated in § 1241.104(a)(2), as to which a list furnished appellant indicating specific contractual documents transmitted will suffice, and those stated in § 1241.104(d).

(b) *Duties of the appellant.* Within 30 days after receipt of a copy of the appeal file assembled by the contracting officer, the appellant shall supplement the same by transmitting to the Board any documents not contained therein which he considers pertinent to the appeal, and furnishing two copies of such documents to the Government trial attorney.

(c) *Organization of the appeal file.* Documents in the appeal file may be originals or legible fascimile or authenticated copies thereof, and shall be arranged in chronological order where practicable, numbered sequentially, tabbed, and indexed to identify the contents of the file.

(d) *Lengthy documents.* The Board may waive the requirement of furnishing to the other party copies of bulky, lengthy, or out-of-size documents in the appeal file when a party has shown that doing so would impose an undue burden. At the time a party files with the Board a document as to which such a waiver has been granted, he shall notify the other party that the same or a copy is available for inspection at the offices of the Board or of the party filing same.

(e) *Status of documents in appeal file.* Documents contained in the appeal file are considered, without further action by the parties, as part of the record upon which the Board will render its decision, unless a party objects to the consideration of a particular document in advance of hearing or of settling the record in the event there is no hearing on the appeal. If objection to a document is made, the Board will rule upon it admissibility into the record as evidence in accordance with §§ 1241.113 and 1241.120.

§ 1241.105 Dismissal for lack of jurisdiction.

Any motion addressed to the jurisdiction of the Board shall be promptly filed. Hearing on the motion shall be afforded on application of either party, unless the Board determines that its decision on the motion will be deferred pending hearing on both the merits and the motion. The Board shall have the right at any time and on its own motion to raise the issue of its jurisdiction to proceed with a particular case, and shall do so by an appropriate order, affording the parties an opportunity to be heard thereon.

§ 1241.106 Pleadings.

(a) *Appellant.* Within 30 days after receipt of notice of docketing of the appeal, the appellant shall file with the Board an original and two copies of a complaint setting forth simple, concise and direct statements of each of his claims, alleging the basis, with appropriate reference to contract provisions, for each claim, and the dollar amount claimed. This pleading shall fulfill the generally recognized requirements of a complaint, although no particular form or formality is required. Upon receipt thereof, the Board shall serve a copy upon the respondent. Should the complaint not be received within 30 days, appellant's claim and appeal may, if in the opinion of the Board the issues before the Board are sufficiently defined, be deemed to set forth his complaint and the respondent shall be so notified.

(b) *Respondent.* Within 30 days from receipt of said complaint, or the aforesaid notice from the Board, respondent shall prepare and file with the Board an original and two copies of an answer thereto, setting forth simple, concise, and direct statements of respondent's defenses to each claim asserted by appellant. This pleading shall fulfill the generally recognized requirements of an answer, and shall set forth any affirmative defenses or counter-claims as appropriate. Upon receipt thereof, the Board shall serve a copy upon appellant. Should the answer not be received within 30 days, the Board may, in its discretion, enter a general denial on behalf of the Government, and the appellant shall be so notified.

§ 1241.107 Amendments of pleadings or record.

The Board upon its own initiative or upon application by a party may, in its discretion, order a party to make a more definite statement of the complaint or answer, or to reply to an answer. The Board may, in its discretion, and within the proper scope of the appeal, permit either party to amend his pleading upon conditions just to both parties. When issues within the proper scope of the appeal, but not raised by the pleadings or the documentation described in § 1241.104, are tried by express or implied consent of the parties, or by permission of the Board, they shall be treated in all respects as if they had been raised therein. In such instances, motions to amend the pleadings to conform to the proof may be entered, but are not required. If evidence is objected to at a hearing on the ground that it is not within the issues raised by the pleadings or the § 1241.104 documentation (which shall be deemed part of the pleadings for this purpose), it may be admitted within the proper scope of the appeal, provided, however, that the objecting party may be granted a continuance if necessary to enable him to meet such evidence.

§ 1241.108 Hearing election.

Upon receipt of respondent's answer or the notice referred to in the last sentence of § 1241.106(b), appellant shall advise whether he desires a hearing as prescribed in §§ 1241.117 through 1241.125, or whether, in the alternative, he elects to submit his case on the record without a hearing, as prescribed in § 1241.111. In appropriate cases, the appellant shall also elect whether he desires the optional accelerated procedure prescribed in § 1241.112.

§ 1241.109 Prehearing briefs.

Based on an examination of the documentation described in § 1241.104, the pleadings, and a determination of whether the arguments and authorities addressed to the issues are adequately set forth therein, the Board may, in its discretion, require the parties to submit prehearing briefs in any case in which a hearing has been elected pursuant to § 1241.108. In the absence of a Board requirement therefor, either party may, in its discretion and upon appropriate and sufficient notice to the other party, furnish a prehearing brief to the Board. In any case where a prehearing brief is submitted, it shall be furnished so as to be received by the Board at least 15 days prior to the date set for hearing, and a copy shall simultaneously be furnished to the other party as previously arranged.

§ 1241.110 Prehearing or presubmission conference.

(a) Whether the case is to be submitted pursuant to § 1241.111, or heard pursuant to § 1241.117 through § 1241.125, the Board may upon its own initiative or upon the application of either party, call upon the parties to appear before an Administrative Judge for a conference to consider:

(1) The simplification or clarification of the issues;

(2) The possibility of obtaining stipulations, admissions, agreements on documents, understandings on matters already of record, or similar agreements which will avoid unnecessary proof;

(3) The limitation of the number of expert witnesses, or avoidance of similar cumulative evidence; if the case is to be heard;

(4) The possibility of agreement disposing of all or any of the issues in dispute; and

(5) Such other matters as may aid in the disposition of the appeal.

(b) *Conference record.* The results of the conference shall be reduced to writing by the Board member within 5 calendar days after the close of the conference. Copies shall be duly served on the parties who may, within 10 calendar days from receipt of the written record, file objection, comment, request for correction, or other motion pertaining to that record of prehearing conference. The record of prehearing conference, together with any objection, comment, request for correction, or other motion made by the parties shall become a part of the Board record.

§ 1241.111 Submission without a hearing.

Either party may elect to waive a hearing and to submit his case upon the record before the Board, as settled pursuant to § 1241.113. Submission of a case without hearing does not relieve the par-

V 42 164 AUG 24 77 UM

ties from the necessity of proving the facts supporting their allegations or defenses. Affidavits, depositions, admissions, answers to interrogatories, and stipulations may be employed to supplement other documentary evidence in the Board record. The Board may permit such submission to be supplemented by oral argument (transcribed, if requested), and by briefs arranged in accordance with § 1241.123.

§ 1241.112 Optional accelerated procedure.

(a) In appeals involving $25,000 or less, either party may elect, in his notice of appeal, complaint, answer, or by separate correspondence or statement prior to commencement of hearing or settlement of the record, to have the appeal processed under a shortened and accelerated procedure. For application of this rule the amount in controversy will be determined by the sum of the amounts claimed by either party against the other in the appeal proceeding. If no specific amount of claim is stated, a case will be considered to fall within this rule if the sum of the amounts which each party represents in writing that it could recover as a result of a Board decision favorable to it does not exceed $25,000. Upon such election, a case shall then be processed under this rule unless the other party objects and shows good cause why the substantive nature of the dispute requires processing under the Board's regular procedures and the Board sustains such objection. In cases proceeding under this rule, parties are encouraged, to the extent possible consistent with adequate presentation of their factual and legal positions, to waive pleadings, discovery, and briefs.

(b) Written decision by the Board in cases proceeding under this rule normally will be short and contain summary findings of fact and conclusions only. The Board will endeavor to render such decisions within 30 days after the appeal is ready for decision.

(c) Except as herein modified, these rules otherwise apply in all respects.

§ 1241.113 Settling the record.

(a) The record upon which the Board's decision will be rendered consists of the appeal file described in § 1241.104 and, to the extent the following items have been filed, pleadings, prehearing conference memoranda or orders, prehearing briefs, depositions or interrogatories received in evidence, admissions, stipulations, transcripts of conferences and hearings, hearing exhibits, posthearing briefs, and documents which the Board has specifically designated be made a part of the record. The record will at all reasonable times be available for inspection by the parties at the office of the Board.

(b) Except as the Board may otherwise order in its discretion, no proof shall be received in evidence after completion of an oral hearing or, in cases submitted on the record, after notification by the Board that the case is ready for decision.

(c) The weight to be attached to any evidence of record will rest within the sound discretion of the Board. The Board may in any case require either party, with appropriate notice to the other party, to submit additional evidence on any matter relevant to the appeal.

§ 1241.114 Discovery—depositions.

(a) *General policy and protective orders.* The parties are encouraged to engage in voluntary discovery procedures. In connection with any deposition or other discovery procedure, the Board may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, and those orders may include limitations on the scope, method, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents.

(b) *When depositions permitted.* After an appeal has been docketed and complaint filed, the parties may mutually agree to, or the Board may, upon application of either party and for good cause shown, order the taking of testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purpose of discovery. The application for order shall specify whether the purpose of the deposition is discovery or for use as evidence.

(c) *Orders on depositions.* The time, place, and manner of taking depositions shall be as mutually agreed by the parties, or failing such agreement, governed by order of the Board.

(d) *Use as evidence.* No testimony taken by depositions shall be considered as part of the evidence in the hearing of an appeal unless and until such testimony is offered and received in evidence at such hearing. It will not ordinarily be received in evidence if the deponent is present and can testify personally at the hearing. In such instances, however, the deposition may be used to contradict or impeach the testimony of the witness given at the hearing. In cases submitted on the record, the Board may, in its discretion, receive depositions as evidence in supplementation of that record.

(e) *Expenses.* Each party shall bear its own expenses associated with the taking of any deposition.

§ 1241.115 Interrogatories to parties, admission of facts, and production and inspection of documents.

(a) *Interrogatories to parties.* After an appeal has been filed with the Board, a party may serve on the other party written interrogatories to be answered separately in writing, signed under oath and returned within 30 days. Upon timely objection by the party, the Board will determine the extent to which the interrogatories will be permitted.

(b) *Admission of facts.* After an appeal has been filed with the Board, a party may serve upon the other party a request for the admission of specified facts. Within 30 days after service, the party served shall answer each requested fact or file objections thereto. The factual propositions set out in the request shall be deemed admitted upon the failure of a party to respond to the request for admission.

(c) *Production and inspection of documents.* Upon motion of any party showing good cause therefor, and upon notice, the Board may order the other party to produce and permit the inspection and copying or photographing of any designated documents or objects, not privileged, specifically identified, and their relevance and materiality to the cause or causes in issue explained, which are reasonably calculated to lead to the discovery of admissible evidence. If the parties cannot themselves agree thereon, the Board shall specify just terms and conditions in making the inspection and taking the copies and photographs.

§ 1241.116 Service of papers.

Papers shall be served personally or by mailing the same, addressed to the party upon whom service is to be made. Copies of complaints, answers, and simultaneous briefs shall be filed directly with the Board. The party filing any other paper with the Board shall send a copy thereof to the opposing party, noting on the paper filed with the Board, or on the letter transmitting the same, that a copy has been so furnished.

HEARINGS

§ 1241.117 Where and when held.

Hearings will ordinarily be held in the Washington, D.C., area, except that upon request seasonably made and upon good cause shown, the Board may set the hearing at another location. Hearings will be scheduled at the discretion of the Board with due consideration to the regular order of appeals and other pertinent factors. On request or motion by either party and upon good cause shown, the Board may, in its discretion, advance a hearing.

§ 1241.118 Notice of hearings.

The parties shall be given at least 15 days notice of the time and place set for hearings. In scheduling hearings, the Board will give due regard to the desires of the parties and to the requirement for just and inexpensive determination of appeals without unnecessary delay. Notices of hearing shall be promptly acknowledged by the parties.

§ 1241.119 Unexcused absence of a party.

The unexcused absence of a party at the time and place set for hearing will not be occasion for delay. In the event of such absence, the hearing will proceed and the case will be regarded as submitted by the absent party as provided in § 1241.111.

§ 1241.120 Nature of hearings.

Hearings shall be as informal as may be reasonable and appropriate under the circumstances. Appellant and respondent may offer at a hearing on the merits such relevant evidence as they deem appropriate and as would be admissible under the generally accepted rules of evidence applied in the courts of the United States in nonjury trials, subject, however, to the sound discretion of the presiding member in supervising the extent and manner of presentation of such evidence. In general, admissibility will hinge on relevancy and materiality. Letters or copies thereof, affidavits, or other evidence not ordinarily admissible under the generally accepted rules of evidence, may be admitted in the discretion of the presiding member. The weight to be attached to evidence presented in any particular form will be within the discretion of the Board, taking into consideration all the circumstances of the particular case. Stipulations of fact agreed upon by the parties may be regarded and used as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if the witness were present. The Board may in any case require evidence in addition to that offered by the parties.

§ 1241.121 Examination of witnesses.

Witnesses before the Board will be examined orally under oath or affirmation, unless the facts are stipulated, or the Board member shall otherwise order. If the testimony of a witness is not given under oath or affirmation, the Board shall warn the witness that his statements may be subject to the provisions of Title 18, United States Code, Sections 287 and 1001, and any other provisions of law imposing penalties for knowingly making false representations in connection with claims against the United States or in any matter within the jurisdiction of any department or agency thereof.

§ 1241.122 Copies of papers.

When books, records, papers, or documents have been received in evidence, a true copy thereof or of such part thereof as may be material or relevant may be substituted therefor, during the hearing or at the conclusion thereof.

§ 1241.123 Posthearing briefs.

Posthearing briefs may be submitted upon such terms as may be agreed upon by the parties and the presiding member at the conclusion of the hearing. Ordinarily, they will be simultaneous briefs, exchanged within 30 days after receipt of transcript.

§ 1241.124 Transcript of proceedings.

Testimony and argument at hearings shall be reported verbatim, unless the Board otherwise orders. Transcripts or copies of the proceedings shall be supplied to the parties at such rates as may be fixed by contract with the reporter.

§ 1241.125 Withdrawal of exhibits.

After a decision has become final the Board may, upon request, and after notice to the other party, in its discretion, permit the withdrawal of original exhibits, or any part thereof, by the party entitled thereto. The substitution of true copies of exhibits or any part thereof may be required by the Board on its discretion as a condition of granting permission for such withdrawal.

REPRESENTATION

§ 1241.126 The appellant.

An individual appellant may appear before the Board in person, a corporation by an officer thereof, a partnership or joint venture by a member thereof, or any of these by an attorney at law duly licensed in any state, commonwealth, territory, or in the District of Columbia. An attorney representing an appellant shall file a written notice of apperance with the Board.

§ 1241.127 The respondent.

Government counsel may, in accordance with their authority, represent the interest of the Government before the Board. They shall file notices of appearance with the Board, and notice thereof will be given appellant or his attorney in the form specified by the Board from time to time. Whenever at any time it appears that appellant and the Government counsel are in agreement as to disposition of the controversy, the Board may suspend further processing of the appeal: *Provided, however,* That if the Board is advised thereafter by either party that the controversy has not been disposed of by agreement, the case shall be restored to the Board's calendar without loss of position.

DECISIONS

§ 1241.128 Decisions.

Decisions of the Board will be made in writing and copies thereof will be forwarded simultaneously to both parties. Decisions of the Board will be made solely upon the record, as described in § 1241.113. The rules of the Board, all final orders and decisions, and other records of, or before, the Board shall be available for inspection at its offices to the extent permitted by, and subject to the exemptions of, 5 U.S.C. 552.

MOTION FOR RECONSIDERATION

§ 1241.129 Motion for reconsideration.

A motion for reconsideration, if filed by either party, shall set forth specifically the ground or grounds relied upon to sustain the motion, and shall be filed within 30 days from the date of the receipt of a copy of the decision of the Board by the party filing the motion.

DISMISSALS

§ 1241.130 Dismissal without prejudice.

In certain cases, appeals docketed before the Board are required to be placed in a suspense status and the Board is unable to proceed with disposition thereof for reasons not within the control of the Board. In any such case where the suspension has continued, or it appears that it will continue, for an inordinate length of time, the Board may, in its discretion, dismiss such appeals from its docket without prejudice to their restoration when the cause of suspension has been removed. Unless either party or the Board acts within three years to reinstate any appeal dismissed without prejudice, the dismissal shall be deemed with prejudice.

§ 1241.131 Dismissal for failure to prosecute.

Whenever a record discloses the failure of either party to file documents required by these rules, respond to notices or correspondence from the Board, comply with orders of the Board, or otherwise indicates an intention not to continue the prosecution or defense of an appeal, the Board may issue an order requiring the offending party to show cause why the appeal should not be either dismissed or granted, as appropriate. If the offending party shall fail to show such cause, the Board may take such action as it deems reasonable and proper under the circumstances.

EX PARTE COMMUNICATIONS

§ 1241.132 Ex parte communications.

No member of the Board or of the Board's staff shall entertain, nor shall any person directly or indirectly involved in an appeal submit to the Board or the Board's staff, off the record, any evidence, explanation, analysis, or advice, whether written or oral, regarding any matter at issue in an appeal. This provision does not apply to consultation among Board members nor to ex parte communications concerning the Board's administrative functions or procedures.

SANCTIONS

§ 1241.133 Sanctions.

If any party fails or refuses to obey an order issued by the Board, the Board may make such order in regard to the failure as it considers necessary to the just and expeditious conduct of the appeal.

Effective date. August 26, 1977.

FREDERICK J. LEES,
Chairman,
Board of Contract Appeals.

[FR Doc.77-24432 Filed 8-23-77;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 77-206]

PART 12—SPECIAL CLASSES OF MERCHANDISE

Importation of Certain Pre-Columbian Art

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule adds Ecuador to the list of countries whose pre-Columbian monumental or architectural sculpture or murals are subject to certain restrictions upon importation into the United States. This action is being taken because Ecuador subjects these articles to export control.

EFFECTIVE DATE: August 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard M. Belanger, Attorney, Regulations and Legal Publications Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-8237.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Sections 12.105 through 12.109 of the Customs Regulations (19 CFR 12.105-12.109) set forth regulations for the importation into the United States of pre-Columbian monumental or architectural sculpture or murals.

Pub. L. 92-587 (19 U.S.C. 2095) defines the term "pre-Columbian monumental or architectural sculpture or mural" to include, among other things, any stone carving or wall art which is the product of a pre-Columbian Indian culture of Mexico, Central or South America, or the Caribbean Islands, and which is subject to export control by the country of origin.

Section 12.105(a) of the Customs Regulations specifies countries of origin by applying the term "pre-Columbian monumental or architectural sculpture or mural" to certain specified articles of a pre-Columbian Indian culture of Bolivia, British Honduras, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Panama, Peru, or Venezuela. Information has now been received from the Department of State that Ecuador also subjects these articles to export control. Therefore, Ecuador is added to the list of countries whose pre-Columbian monumental or architectural sculpture or murals are subject to certain restrictions upon importation into the United States.

Because this amendment merely implements a statutory requirement, notice and public procedure thereon is found to be unnecessary and good cause exists for dispensing with the delayed effective date provisions of 5 U.S.C. 553.

DRAFTING INFORMATION

The principal author of this document was Richard M. Belanger, Attorney, Regulations and Legal Publications Division of the Office of Regulations and Rulings, United States Customs Service. However, personnel from other offices of the Customs Service participated in developing the document, both on matters of substance and style.

AMENDMENTS TO THE REGULATIONS

Accordingly, § 12.105 of the Customs Regulations (19 CFR 12.105) is amended in the following manner:

§ 12.105 [Amended]

Paragraph (a) of § 12.105 is amended by inserting "Ecuador," between "Dominican Republic," and "El Salvador".

(R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 204, 86 Stat. 1295 (19 U.S.C. 66, 1624, 2094)).

ROBERT E. CHASEN,
Commissioner of Customs.

Approved: August 3, 1977.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc.77-24440 Filed 8-23-77;8:45 am]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER E—SECURITY

PART 852—MOTOR VEHICLE TRAFFIC SUPERVISION

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is adding a new Part 852 to Title 32 CFR regarding motor vehicle traffic supervision on Keesler Air Force Base, Mississippi. It was found that, since the Mississippi Rules of the Road may not apply within the confines of Keesler Air Force Base, establishment of traffic rules for the base is necessary. This new rule is intended to result in a clearer understanding by visitors to the base and explicit procedures for disposition of Keesler traffic offenders.

EFFECTIVE DATE: September 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Colonel Robert G. Smith, Staff Judge Advocate, Keesler Law Center, Keesler Air Force Base, Mississippi 39534. (601-377-2329).

SUPPLEMENTARY INFORMATION: This rule is issued under the authority of 10 U.S.C. 8012 and 50 U.S.C. 797.

This new part establishes procedures for the registration, operation, and parking of motor vehicles, bicycles, boats, trailers, and similar towed items. It implements provisions of AFR 125-14, Motor Vehicle Traffic Supervision, and 125-15, Motor Vehicle Registration and Related Requirements, and applies to persons operating, registering, or parking any of the aforementioned items on Keesler Air Force Base, including housing areas and annexes. This rule also applies to tenants. It is applicable to both military and civilian personnel.

The new Part 852 will read as follows:

Sec.
852.1 Purpose.
852.2 Definitions.
852.3 Obedience and effect of traffic regulations.
852.4 Traffic signs, signals and markings.
852.5 General rules and restrictions.
852.6 Maximum speed limits.
852.7 Driving on right side of roadway; overtaking and passing; and following.
852.8 Turning and signaling.
852.9 Right-of-way.
852.10 Parking.
852.11 Operator's responsibility.
852.12 Rules for bicycle operators.
852.13 Pedestrian rights and duties to conform with the Mississippi Uniform Vehicle Code.
852.14 Off-limit areas on Keesler Air Force Base.
852.15 Prohibited areas of Keesler AFB.

AUTHORITY: 10 U.S.C. 8012; 50 U.S.C. 797.

§ 852.1 Purpose.

This Part establishes procedures for the registration, operation, and parking of motor vehicles, bicycles, boats, trailers, and similar towed items. It implements provisions of AFR 125-14, Motor Vehicle Traffic Supervision, and AFR 125-15, Motor Vehicle Registration and Related Requirements, and applies to persons operating, registering, or parking any of the aforementioned items on Keesler Air Force Base, including housing areas and annexes. This part also applies to tenants. It is applicable to both military and civilian personnel. Violations of the provisions of this part may be cause for disciplinary action by military authorities for violation of Article 92, UCMJ, and by appropriate civilian and/or federal authorities.

§ 852.2 Definitions.

(a) "Vehicle" means every device, in, upon, or by which any person or property is or may be transported or drawn upon a roadway, except devices moved by human power or used exclusively upon stationary rails or tracks.

(b) "Motor Vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(c) "Motorcycle" means every motor vehicle rated at 1 or more horsepower, having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground but excluding a tractor.

(d) "Fractional Horsepower Cycle" means every motor vehicle rated under 1 horsepower having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground but excluding a tractor.

(e) "Authorized Emergency Vehicle" means every vehicle authorized to be such by the Base Commander. The squadrons authorized emergency vehicles are: Security Police, Fire Department, Hospital, and Disaster Preparedness.

(f) "School Bus" means every motor vehicle owned by a public or government agency and operated for the transportation of children to or from school, or privately owned and operated for compensation for the transportation of children to or from school.

(g) "Law Enforcement Officer" means every Security Policeman authorized to direct or regulate traffic or to make apprehensions/detentions for violations.

(h) "Driver" means every person who drives or is in actual physical control of a vehicle.

(i) "Owner" means any person who holds the legal title of a vehicle; in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this regulation.

(j) "Person" means every natural person, firm, co-partnership, association or corporation.

(k) "Pedestrian" means any person afoot.

(l) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and any other conveyances either singly or together while using any street or roadway for purposes of travel.

(m) "Street or Roadway" means any way or place of whatever nature designed and used for purposes of vehicular traffic.

(n) "Laned Roadway" means any roadway which is divided into three or more clearly marked lanes for vehicular traffic.

(o) "Sidewalk" means any way or place adjacent to a roadway and intended for the use of pedestrians.

(p) "Driveway" means every roadway or street designed specifically for access to a particular building or group of buildings.

(q) "Through Street or Roadway" means every street or roadway or portion thereof at the entrances to which vehicular traffic from intersecting streets or roadways is required by law to stop before entering or crossing the same.

(r) "Crosswalk" means that portion of a roadway or street ordinarily included within the prolongation or connection of the lateral lines of sidewalks at intersections, or any portion of a roadway or street distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(s) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways which join one another at or approximately at, right angles, or the area within which vehicles traveling upon different roadways joining at any other angle may come in conflict.

(t) "Official Traffic Control Devices" means all signs, signals, markings, and devices not inconsistent with this regulation placed or erected by authority of the Base Commander for the purpose of regulating, warning, or guiding traffic.

(u) "Official Traffic Control Signal" means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.

(v) "Right-of-Way" means the privilege of the immediate use of the highway.

(w) "Stop", when required, means the complete cessation from movement.

(x) "Stop, Stopping or Standing", when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a Security Policeman or of a traffic control sign or signal.

(y) "Park", when prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

§ 852.3 Obedience and effect of traffic regulations.

(a) It is unlawful and, unless otherwise declared in this part with respect to particular offenses, it is a misdemeanor for any person to do any act forbidden by this part or to fail to perform any act required in this part, and upon conviction thereof said person shall be liable to a fine of not to exceed $5,000, or to imprisonment for not more than one year, or both.

(b) No person shall willfully fail or refuse to comply with any lawful order or direction of any Security Policeman invested by law with authority to direct, control, or regulate traffic.

§ 852.4 Traffic signs, signals and markings.

(a) The Uniform System of Traffic Control Devices adopted by the Commissioner of Public Safety for the State of Mississippi in accordance with Section 63-3-301 of the Mississippi Code of 1972 is hereby adopted as the system of traffic control devices for use upon Keesler Air Force Base.

(b) The Base Commander or his designee shall place and maintain such traffic control devices upon all base streets and roadways as he shall deem necessary to indicate and to carry out the provisions of this part, or to regulate, warn or guide traffic.

(c) Whenever traffic is controlled by traffic control signals exhibiting difference colored lights successively one at a time, only the following colors shall be used, and said lights shall indicate as follows:

(1) *Green alone.* (i) Vehicular traffic facing the signal may proceed straight through or turn right or left, unless a sign at such place prohibits either such turn. However, vehicular traffic shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection at the time such signal is exhibited.

(ii) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) *Yellow alone when shown following the green signal.* (i) Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at the intersection, but if such stop cannot be made in safety, a vehicle may be driven cautiously through the intersection.

(ii) Pedestrians facing such signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(3) *Red alone.* (i) Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at an intersection or at such other point as may be indicated by a clearly visible line and shall remain standing until green is shown alone.

(ii) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(iii) After coming to a complete stop, a vehicle may turn right only if turn can be made with reasonable safety to both crossing vehicles and pedestrians and if turn is not prohibited by a sign.

(4) *Red with green arrow.* (i) Vehicular traffic facing such signal may cautiously enter the intersection only to make movement indicated by such arrow, but shall not interfere with other traffic or endanger pedestrians lawfully within a crosswalk.

(ii) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(d) Whenever flashing red or yellow signals are used they shall require obedience by vehicular traffic as follows:

(1) *Flashing red.* When a red lens is illuminated by rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at the limit line when marked, and the right to proceed shall be subject to the rules applicable after making a stop at a stop-sign. (2) *Flashing yellow.* When a yellow lens is illuminated by rapid intermittent flashes, drivers of vehicles may proceed through the intersection or pass such signal only with caution.

(e) No driver of a vehicle shall disobey the instructions of any official traffic control device placed in accordance with the provisions of this part, unless at the time otherwise directed by a Security Policeman.

(f) The driver of an authorized emergency vehicle when responding to an emergency call, upon approaching a red or stop signal or any stop-sign, shall slow down, as necessary for safety, but may proceed cautiously past such red or stop-sign or signal. At other times drivers of authorized emergency vehicles shall stop in obedience to a stop-sign or signal.

§ 852.5 General rules and restrictions.

(a) No person will:

(1) Place, maintain, or display any unauthorized signs, signals, markings, or devices that are similar, purport to be, or are an imitation of an official traffic control device, sign or signal. Persons will not erect signs, devices, etc., that interfere with, hide, or reduce the effectiveness of any traffic control sign, signal, or other device, or block the view of drivers and become a hazard. Dempsey dumpster containers will not be placed within 20 feet of an intersection.

(2) Attempt to or alter, deface, knock down, damage or remove any traffic control device, or official inscription, shield, or insignia or other parts thereof without lawful authority.

(b) The driver will:

(1) Drive at a speed that is safe and prudent with regard to actual existing conditions.

(2) Have his vehicle under control at all times to avoid endangering or colliding with another person, vehicle, or other property.

(3) Drive at a reduced speed when approaching or going around a curb, entering or crossing an intersection, or when a hazard exists due to pedestrians, other traffic, or road/weather conditions.

§ 852.6 Maximum speed limits.

Except as in § 852.5(b)(1), the following are the maximum speed limits and apply to all vehicles except emergency vehicles responding to emergency calls:

(a) Base streets and roadways—25 mph unless otherwise posted.

(b) Driveways and parking lot areas—10 mph.

(c) Family housing area—20 mph unless otherwise posted.

§ 852.7 Driving on right side of roadway; overtaking and passing; and following.

(a) Upon all roadways of sufficient width a vehicle shall be driven on the right half of the roadway, except as follows:

(1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement.

(2) When the right half of a roadway is closed to traffic while under construction or repair.

(3) Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon.

(4) Upon a roadway designated and signed-posted for one-way traffic.

(b) Whenever roadway has been divided into three or more clearly marked lanes for traffic, the following rules in addition to all others consistent herein shall apply:

(1) A vehicle shall be driven as nearly as practical entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(2) A vehicle shall not be driven in the center lane upon a roadway which is divided into three lanes except when:

(i) Overtaking and passing another vehicle when the roadway is clearly visible and such center lane is clear of traffic within a safe distance.

(ii) Such vehicle is in preparation for a left turn.

(iii) Such center lane is at the time allocated exclusively to traffic moving in the direction such vehicle is proceeding and is sign-posted to give notice of such allocation.

(3) Official signs may be erected directing slow moving traffic to use a designated lane or allowing specified lanes to traffic moving in the same direction, and drivers of vehicles shall obey the directions of every such sign.

(c) Upon a roadway designated and sign-posted for one-way traffic, a vehicle shall be driven only in the direction designated; and a vehicle passing around a rotary traffic island shall be driven only to the right of such island.

(d) Drivers of vehicles proceeding in opposite directions shall pass each other to the right. Upon roadways having width for not more than one lane of traffic in each direction, each driver shall give to the other at least one-half of the main travel portion of the roadway as nearly as possible.

(e) The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules otherwise provided in this article.

(1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

(f) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event, the overtaking vehicle must return to the right-hand side of the roadway before coming within 100 feet of any vehicle approaching from the opposite direction.

(1) No vehicle shall, in overtaking and passing another vehicle or at any other time, be driven to the left side of the roadway under the following conditions:

(i) When approaching the crest of a grade or upon a curve in the highway where the driver's view along the highway is obstructed.

(ii) When approaching within 100 feet of or traversing any intersection or railroad grade crossing.

(iii) When official signs are in place directing that traffic keep to the right, or a distinctive centerline is marked, which distinctive line also directs traffic as declared in the sign manual adopted by the Mississippi State Highway Commission and by reference by Keesler Air Force Base.

(g) The driver of a vehicle:

(1) May overtake and pass upon the right of another vehicle which is making or about to make a left turn.

(2) May overtake and, allowing sufficient clearance, pass another vehicle proceeding in the same direction either on the left or right on a roadway with unobstructed pavement of sufficient width for four or more lines of moving traffic when such movement can be made in safety. No person shall drive off the pavement or upon the shoulder of the roadway overtaking or passing on the right.

(3) On a roadway or street upon meeting or overtaking any school bus which has stopped on the roadway or street for the purpose of receiving or discharging children shall come to a complete stop and shall not proceed until the children have crossed the street or roadway and the school bus has proceeded in the direction it was going.

(4) This section shall be applicable only in the event the school bus shall bear upon the front and rear thereon a plainly visible sign containing the words "School Bus" in letters not less than four inches in height which can be removed or covered when the vehicle is not in use as a school bus.

(h) It shall be unlawful for a driver of any truck or other vehicle to drive in or near the center of any roadway for a distance of more than 200 yards, or at any time to refuse to turn to the right in order that a driver desiring to pass said truck or other vehicle, may drive at a higher legal rate of speed.

(i) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and condition of the roadway.

§ 852.8 Turning and signaling.

(a) The driver of a vehicle intending to turn at an intersection shall do so as follows:

(1) Both the approach for a right turn and the turn itself shall be made as close as practical to the right-hand curb or edge of the roadway.

(2) The approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof, and after entering the intersection, the left turn shall be made so as to leave the intersection to the right of the centerline of the roadway being entered.

(3) The approach for a left turn from a two-way street onto a one-way street shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection. A left turn from a one-way street into a two-way street shall be made by passing to the right of the centerline of the street being entered upon leaving the intersection. When markers, buttons, or signs are placed within or adjacent to intersections, and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection; no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons, or signs.

(b) No vehicle shall be turned so as to proceed in the opposite direction (U-Turn) except at intersections on double-lane drives separated by median islands and only when such turn can be made in complete safety and without obstructing traffic.

(c) No person shall turn a vehicle from a direct course upon a roadway or street unless and until such movement can be made with reasonable safety, and then only after giving a clearly audible signal by sounding the horn, if any pedestrian may be affected by such movement or after giving an appropriate signal in the manner provided in this part, in the event any other vehicle may be affected by such movement.

(d) A signal of intention to turn right or left shall be given continuously for a reasonable distance before turning.

(e) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided in this regulation to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

(f) Signals required in this part shall be given either by means of the hand and arm or by a signal lamp or device of a type approved by the Mississippi Department of Public Safety. When a vehicle is so constructed or loaded that a hand and arm signal would not be visible both to the front and rear of such vehicle, then said signals must be given by such a lamp or device.

(g) All signals given by hand and arm shall be given from the left side of the vehicle in the following manner, and such signal shall indicate as follows:

(1) Left turn—Hand and arm extended horizontally.

(2) Right turn—Hand and arm extended upward or moved with a sweeping motion from the rear to the front.

(3) Stop or decrease speed—Hand and arm extended downward.

§ 852.9 Right-of-way.

(a) Except as may otherwise be provided in this part, the driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different roadway. Except as may otherwise be provided in this part, when two vehicles enter an intersection from different roadways at the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(b) The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard. However, said driver, having so yielded and having given a signal when and as required, may make such left turn, and the drivers of all other vehicles approaching the intersection from said opposite direction shall yield the right-of-way to the vehicle making the left turn.

(c) The driver of a vehicle shall stop as required by this part at the entrance to a through street or roadway and shall yield the right-of-way to other vehicles which have entered the intersection from said through street or roadway as to constitute an immediate hazard. However, said driver having so yielded may proceed, and the drivers of all other vehicles approaching the intersection on said through street or roadway shall yield the right-of-way to the vehicle so proceeding into or across the through street or roadway.

(d) The driver of a vehicle shall likewise stop in obedience to a stop-sign as required by this part at an intersection where a stop-sign is erected at one or more entrances thereto, although not a part of a through street, and shall proceed cautiously, yielding to vehicles not so obliged to stop which are within the intersection or approaching so closely as to constitute an immediate hazard, but may then proceed.

(e) The driver of a vehicle about to cross or enter a street or roadway from a driveway shall yield the right-of-way to all vehicles approaching on said street or roadway.

(f) Upon the immediate approach of an authorized emergency vehicle, when the driver is giving audible signal by siren, exhaust whistle, or bell, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by Security Policeman.

(g) Marching formations have the right-of-way over all except emergency vehicles on official call. Road guards will control vehicle traffic for marching formations. Vehicles traveling in the same direction as the troop formation will not approach the formation closer than 50 feet and will not pass the formation unless signalled to do so by personnel in charge. Vehicles traveling in the opposite direction may pass the formation at a speed not to exceed 10 mph.

(h) Vehicles will yield the right-of-way to pedestrians crossing a roadway within a marked crosswalk or at any intersection. When a vehicle has yielded to a pedestrian, vehicles approaching from the front or rear will not pass the stopped vehicle.

(i) Golf cart operators will stop the cart, look in both directions, assure he has proper clearance, and use extreme caution when attempting to cross a roadway. Golf cart operators will yield to all traffic.

§ 852.10 Parking.

Authorized parking is designated by painted white lines or signs. Yellow or red lines indicate no parking areas.

(a) Vehicles will park within the marked area of the parking space.

(b) Crossing the approaching traffic lane for the purpose of parking in an angle/parallel parking slot intended for approaching traffic is prohibited.

(c) Backing into or pulling through parking spaces, other than parallel parking spaces, to park or change directions is prohibited except for authorized emergency vehicles.

(d) No person will leave a vehicle unattended with the engine running. He will lock the ignition and remove the key; if on a grade, he will set the emergency brake and turn the wheels to prevent the vehicle from rolling.

(e) Reserve parking spaces for handicapped personnel will be based upon a doctor's statement attesting to disability and be approved by the Traffic Coordinating Committee (TCC). The TCC may designate general handicapped parking spaces at service facilities.

(f) The TCC will review and approve requests for parking spaces for government vehicles in work functional areas, loading zones, and time parking spaces for customers.

(g) The TCC will plan, develop, coordinate, and monitor parking and traffic control. Requests for reserved parking spaces must be reviewed by the TCC who will approve/disapprove each request and furnish a reply to the agency/individual concerned.

(h) Car-Pool parking: Car-pool parking areas reserved for personnel with bona fide car-pool cards. Display cards inside of windshield.

(1) Squadrons will obtain car-pool cards from SPAR and complete KTTC Form 23, Car-Pool Application (original and one copy). Forward original to SPA and file copies numerically within the squadron. When individuals are reassigned/discharged, return car-pool card and KTTC Form 23 to SPA.

(2) Individuals will obtain car-pool cards from squadron orderly room.

(i) The BX and Commissary parking lots are restricted to two-hour customer parking.

(j) Parking (other than four-wheeled vehicles):

(1) Two-wheel vehicles will not use regular parking spaces unless two-wheeled parking spaces have not been provided. Additionally, two-wheel vehicles may park at the end of angle parking rows within the lines.

(2) Boats, trailers, and campers, 18 feet in length or less, may be parker in carports, driveways, or patios. Those exceeding 18 feet in length, or those less than 18 feet without previously mentioned facilities, will be parked in designated base storage areas, except for loading/unloading (not to exceed 48 hours) at which time they may park in housing areas.

(3) Boats, trailers, or campers will not be parked in the streets next to curbs, except for loading/unloading. They will never be parked on the grass.

(4) Personnel will not block up trailers parked in housing areas or install in a permanent or semipermanent manner.

(5) Secure any of the above or any other towed item so that no safety hazard is present.

(6) The parking facility for the above is available for base personnel on a "first-come, first-serve" basis. Individuals are responsible for the maintenance (cutting grass, policing area, etc.) of their assigned slot. Upon reassignment, separation, trade or sale, etc., individual is responsible to clear his assigned slot through SPAP. Failure to comply with any provisions of this paragraph will result in terminating the assigned slot. Further, items stored within this area that give appearance of not being used or moved within 120 days will be considered abandoned and will be disposed of in accordance with directives of this installation.

(7) Storage of POVs in the above parking area is prohibited. (Abandoned vehicles may be stored in this area at the direction of the Chief, Security Police).

(k) Stopping or parking a vehicle on any of the following areas is prohibited except when necessary to avoid conflict with other traffic or in compliance with directions of a security policeman or traffic control device:

(1) In nondesignated areas.

(2) On sidewalks.

(3) On grass or shoulders of roadway.

(4) In front of a driveway or service drive.

(5) Within 10 feet of a hanger or maintenance dock.

V 42164 AUG 24 77 UM

(6) On a crosswalk or within 20 feet of a crosswalk at an intersection.

(7) Within an intersection.

(8) Within 15 feet of a fire hydrant or building, except when otherwise designated.

(9) On the left side of roadway, except on one-way streets. (This does not apply in housing areas).

(10) Adjacent to a yellow curb.

(11) Any place where prohibited by official signs.

§ 852.11 Operator's responsibility.

(a) Persons of any age that are not appropriately licensed will not operate any motor vehicle.

(b) Persons will not knowingly cause or permit a person without a license or under the influence of alcohol or drugs to operate a vehicle.

(c) Persons will not move a vehicle until it can be done with reasonable safety. Start in such a manner as to prevent spinning of wheels, throwing of gravel, or excessive revving of the engine.

(d) No driver will, other than the driver of an official vehicle responding to an alarm, follow any fire vehicle closer than 500 feet, nor stop or park within one block of the fire vehicle when it is being operated in response to an alarm. Drivers will not drive across an unprotected fire hose without the consent of the fire official in charge.

(e) Personnel will not operate privately owned vehicles on the ramp in front of Base Operations or any other portion of the flight line normally used for the movement or parking of aircraft.

(f) Drivers will, when necessary to insure safe operation, give audible warning with their horn. They will not use horn otherwise.

(g) Vehicles will not transport more passengers than the manufacturer's designated capacity.

(h) Do not affix a decal, inspection sticker, or similar item to the windshield or window so as to obstruct the vision of the driver.

(i) Do not throw litter from any vehicle.

(j) Emergency red or blue lights will not be installed or used on any privately owned vehicle without writen approval from the Base Commander.

(k) No operator will allow his vehicle to tow or push, or to be towed or pushed by, another vehicle except by use of a properly secured A-frame tow bar.

(l) The wearing of stero headphones, headsets, earphones, or any other item (except for hearing aids used to improve hearing) which would interfere with normal hearing of a motor vehicle operator, is prohibited.

(m) Viewing television by the motor vehicle operator is prohibited.

(n) Use headlights during inclement weather, limited visibility, and hours of darkness.

(o) Children under 10 years of age will not remain unattended in any vehicle.

(p) Inoperative vehicles will not be on base more than 24 hours except in the Hobby Shop.

(q) Modification of vehicles "lift and/or drop" that exceeds three inches in length (front or rear) is prohibited. Violations will be determined by a measurement of either bumper (bottom) to ground level. At no time will the gasoline tank be exposed by virtue of lift/drop modifications.

(r) Safety belt use is mandatory for all military personnel and civilian employees while operating or riding in vehicles on base. Off base, in all vehicles being used on government business, i.e., change of station, TDY, etc., IAW AFR 127–5.

(s) Major vehicle maintenance on base streets and parking lots is prohibited.

(t) Operation of Two and Three-Wheeled Motor Vehicles:

(1) Persons attached or assigned to KAFB operating such motor vehicles will: (i) Wear an approved safety helmet and shatterproof eye protection (applies to riders also). Ref: AFR 127–5.

(ii) Operate vehicle with lights on at all times.

(iii) Not carry passengers unless the vehicle is specifically designed to carry more than one person.

(2) Visitors and personnel with unregistered two and three-wheeled motor vehicles will comply with § 852.11(t). Assigned/attached personnel will comply with the 72-hour registration requirement as outlined in AFR 125–14.

(3) Fractional Horsepower cycles will not be registered on Keesler AFB, however, the wearing of an approved safety helmet and shatterproof eye protection are required. Ref: AFR 125–14, ATC Sup 1, para 3–2b.

(u) Defective Vehicles: Security Police will issue traffic citations to persons operating a defective motor vehicle in violation of the Mississippi Highway Patrol Inspection Station Regulation.

§ 852.12 Rules for bicycle operators.

Bicycle operators will:

(a) Obey all traffic signs and regulations.

(b) Keep to the right side of the roadway.

(c) Ride single file and at a safe distance behind the vehicle ahead.

(d) Stop to assure safe clearance before riding out of driveways, alleys, or from behind parked cars.

(e) Dismount and walk bicycle across heavily traveled roadways.

(f) Signal intention to turn.

(g) Carry parcels and books in a basket or luggage carrier.

(h) Never ride two on a bicycle; passengers interfere with vision and control.

(i) Never hitch onto other vehicles.

(j) Not stunt on streets and highways.

(k) Have a white light on front and red light or reflector on rear of bicycle and wear white or light-colored clothing at night. Ref: AFR 127–101, 4 Sep 74, and Change 1, 13 Jun 75, Paras 13–14f(1).

(l) Keep bicycle in good condition.

(m) Park bicycle in a safe and proper place, standing upright.

(n) If children under 10 years of age, not ride bicycles on Ploesti Drive unless accompanied by adults.

§ 852.13 Pedestrian rights and duties to conform with the Mississippi Uniform Vehicle Code.

(a) Pedestrians crossing between intersections will yield the right-of-way to vehicles and cross with caution. Pedestrians will comply with traffic control signals and not step, walk, or run suddenly from the curb or other places of safety into the path of a vehicle that is so close that it is impossible for the driver to yield safely; will not walk upon or adjacent to a roadway where sidewalks are provided. When sidewalks are not provided, walk only on the left side of the roadway or road shoulder approaching traffic and cross streets at crosswalks or intersections when within 25 yards.

(b) Hitchhiking is prohibited.

(c) Pedestrians will not cross between or through units of marching troops after the column has started moving.

(d) All pedestrians must use the sidewalk along the roadway of Ploesti Drive to and from the Triangle Area to Gate No. 7. Pedestrians will not cross any portion of the runway due to the landing and takeoff of aircraft. The runway and the clear zone at the ends of the runway approach are part of the airdrome controlled area as established under AFR 125–37.

(e) Pedestrians will not wear radio headsets while traversing the thoroughfares of Keesler AFB.

§ 852.14 Off limit areas of Keesler AFB.

The following areas are off limits to dependents and military personnel (except in the performance of duties) on Keesler AFB, including annexes and noncontiguous housing areas:

(a) Construction sites, trenches, and excavation work in progress.

(b) Water towers, radar, radio masts and antennas; elevated platforms; utility poles and junction cabinets above, on, and below ground level.

(c) Rock, shell, sand piles, and other construction materials stacked in open storage areas.

(d) Emergency operation areas of police and fire service.

(e) All sites posted "Off Limits" by authority of the Base Commander or Base Civil Engineer.

(f) Fuels Storage Area and Liquid Oxygen (LOX) Storage Area.

§ 852.15 Prohibited areas of Keesler AFB.

Entrance into the following areas without the Commander's consent is prohibited:

Area	Acreage	Jurisdiction
Main base	1,229.88	Exclusive.
Bay Ridge	68.20	Exclusive (east 14.35 acres). Proprietary (west 53.85 acres).
Oak Park	63.57	Exclusive.
Falcon Park	64.39	Do.
Shadow Lawn	20.45	Do.
Harrison Court	43.64	Do.
Annex 1 (Thrower Park).	57.38	Exclusive (east 40 acres) Proprietary (west 17.38 acres).
Maltby Hall	24.50	Proprietary.
Radio Beacon (north Biloxi).	12.00	Exclusive.
Small arms range	1,938.00	Concurrent (1,574 acres under permit).
Track K–1 (adjoins Falcon Park).	23.20	Exclusive.
Tract K–2 (adjoins Bay Ridge).	6.30	Do.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison, Directorate of Administration.

[FR Doc.77–24422 Filed 8–23–77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 7—AGENCY FOR INTERNATIONAL DEVELOPMENT, DEPARTMENT OF STATE

[AIDPR Notice 77–8]

PART 7–7—CONTRACT CLAUSES

Mandatory Use of Visa Application Form DSP 66A by AID Participants, Correction

AGENCY: Agency for International Development, State.

ACTION: Correction to Interim Procurement Instruction.

SUMMARY: This rule amends AID Procurement regulation by correcting an erroneously numbered Section in AIDPR 77–7.

EFFECTIVE DATE: Effective as of July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. V. Henry Walker, CM/SD/POL Agency for International Development, Department of State, Washington, D.C. Telephone: 703–235–9107.

SUPPLEMENTARY INFORMATION: This AIDPR Notice 77–8 amends Title 41 CFR, Chapter 7, AID Procurement Regulations to correct the numbering of a section in AIDPR Notice 77–7.

In AIDPR Notice 77–7, FR Doc. 77–15698, published at page 28540, June 3, 1977, make the following changes:

1. In amendatory paragraph 3 on page 28540, the reference to § 7–7.5003–5 should be changed to read § 7–7.5003–6.

2. Also on page 28540, the section heading which begins *§ 7–7.5003–5 Mandatory use . . .* should be changed to read as set forth below:

§ 7–7.5003–6 Mandatory use of visa eligibility Form DSP 66A by participants.

AUTHORITY: 41 CFR 7–1.104–4. (42 FR 28540).

Dated: August 12, 1977.

JOHN F. OWENS,
Deputy Assistant Administrator for Program and Management Services.

[FR Doc.77–24419 Filed 8–23–77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20765]

PART 76—CABLE TELEVISION SERVICES

Modifying Certain Technical Standards; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction.

SUMMARY: Editorial errors in rule revisions adopted under Docket 20765 are corrected.

EFFECTIVE DATE: June 6, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT:

Robert S. Powers, Cable Television Bureau, 202–632–9797.

SUPPLEMENTARY INFORMATION:

Released: August 19, 1977.

In the matter of amendment of Part 76 of the Commission's rules to modify certain technical standards for Cable Television Systems, Docket 20765.

In the Report and Order in the above entitled matter, FCC 77–276, adopted April 20, 1977, released April 28, 1977, and published in the FEDERAL REGISTER at 42 FR 21779, Instruction 1 of the Appendix, through the words "is revised as follows", is corrected to read as follows:

1. In § 76.601, paragraph (b) is amended by replacing the words "community unit" by the words "cable television system"; paragraph (d) is amended by replacing the words "community unit" by the word "system"; paragraph (e) is deleted and marked [Reserved]; the Note following paragraph (e) is moved to the end of § 76.601 and is amended by replacing the words "community units" by the words "cable television systems"; paragraph (f) is revised by replacing the words "paragraphs (b), (c), and (e) of this section" by the words "paragraphs (b) and (c) of this section"; and paragraph (c) is revised as follows:

* * * * *

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77–24448 Filed 8–23–77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. MC–19 (Sub.-No. 30)]

PART 1100—GENERAL RULES OF PRACTICE

SUBCHAPTER D—TARIFFS AND SCHEDULES

PART 1307—FREIGHT RATE TARIFFS, SCHEDULES AND CLASSIFICATIONS OF MOTOR CARRIERS

Special Procedures for Tariffs Governing Rates and Charges on Household Goods

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: Modifies the Commission's rules of practice applicable to proposed rate changes on household goods, to allow more time for interested parties to voice their views and to expedite Commission action thereon.

EFFECTIVE DATE: September 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, Deputy Director, or Harvey Gobetz, Assistant Deputy Director, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 10423 (202–275–7693).

SUPPLEMENTARY INFORMATION: The Interstate Commerce Commission in the above-entitled proceeding has modified its general rules of practice by adding to rule 40(b) (49 CFR 1100.40(b)) the provision that protests and requests for suspension of tariffs applicable to household goods, when published for the account of household goods carriers on no less than 45 days' notice, shall reach the Commission no later than 27 days before the effective dates of these tariffs; by adding to rule 40(f) (49 CFR 1100.40(f)) the provision that a reply to protest against such a 45-day-notice tariff shall be filed with the Commission not more than 5 days after the protest is filed; by adding a new subsection rule 40(h) (49 CFR 1100.40(h)), announcing that the Suspension and Fourth Section Board will act on such protests no later than 18 days before the effective dates; by adding to rule 200(c) (49 CFR 1100.200(c)) the provision that when the Suspension and Fourth Section Board has declined to suspend such a tariff any petition for reconsideration shall be filed within 2 work days after the Board has acted; and by adding a new rule 200(d) (49 CFR 1100.200(d)) providing that the designated appellate division will act on such petitions for reconsideration no later than 2 work days after they are filed. Appropriate additions are made to 49 CFR 1307.26(a) and 1307.44(d) to indicate in title pages and letters of transmittal, respecively, that they re-

V 42 16 4 AUG 24 77 UM

late to tariffs published on not less than 45 days' notice.

These rules are issued under the authority of 49 U.S.C. 304(a)(1), 316(b) and 316(g), and 5 U.S.C. 553 and 559. Notice of proposed rulemaking was given by publication in the FEDERAL REGISTER on November 30, 1976 (41 FR 52501).

Issued in Washington, D.C. July 20, 1977.

H. G. HOMME, JR.,
Acting Secretary.

Accordingly, the proposed modifications are as follows:

1. Rules 40 (b), (f) and (h), 49 CFR 1100.40 is amended by:

(a) In paragraph (b), change the period at the end of the second sentence to a semicolon and insert the following as set forth below;

(b) In paragraph (f), change the period at the end of the sentence to a semicolon and add the following as set forth below;

(c) Add a new paragraph (h) to read as set forth below.

As amended, § 1100.40 (b), (f), and (h) reads as follows:

§ 1100.40 Protests against applications. (Rule 40)

* * * * * * *

(b) * * * *Provided, however,* That protests against and requests for suspension of tariffs applicable on household goods as defined in 49 CFR 1056.1(a), when published for the account of household goods carriers as defined in 49 CFR 1040.2(b) on not less than 45 days' notice, shall reach the Commission no later than 27 days before the effective dates of the tariffs, schedules, or parts thereof to which they refer. * * *

* * * * * * *

(f) * * * *Provided, however,* That a reply to protest against a tariff applicable on household goods as defined in 49 CFR 1056.1(a), when published for the account of household goods as defined in 49 CFR 1040.2(b) on not less than 45 days' notice, shall be filed with the Commission not more than 5 days after the protest is filed.

* * * * * * *

(h) Except in extraordinary circumstances, the Suspension and Fourth Section Board will act on protests against or requests for suspension of tariffs applicable on household goods as defined in 49 CFR 1056.1(a), when published for the account of household goods carriers as defined in 49 CFR 1040.2(b) on not less than 45 days' notice, no later than 18 days before the effective dates of the tariffs, schedules, or parts thereof to which they refer.

2. Rules 200 (c) and (d), 49 CFR 1100.200 is amended as follows: In paragraph (c), change the period at the end of the first sentence to a semicolon and insert the following and add a new paragraph (d). As amended, § 1100.200 (c) and (d) reads as follows:

§ 1100.200 Special rules of practice governing procedures in certain suspension and fourth-section matters. (Rule 200).

* * * * * * *

(c) * * * *Provided, however,* That when the Suspension and Fourth Section Board has declined to suspend a proposed tariff or schedule applicable on household goods as defined in 49 CFR 1056.1(a) published for the account of a household goods carrier as defined in 49 CFR 1040.2(b) on not less than 45 days' notice, such petition shall be filed within 2 work days after the Suspension and Fourth Section Board has acted. * * *

(d) When the Suspension and Fourth Section Board has declined to suspend a proposed tariff or schedule applicable on household goods as defined in 49 CFR 1056.1(a) published for the account of a household goods carrier as defined in 49 CFR 1040.2(b) on not less than 45 day's notice, the designated appellate division will, except in extraordinary circumstances, act on petitions for reconsideration no later than 2 work days after the petition is filed.

3. In 49 CFR 1307.26 *Title page,* add a new paragraph (a)(10) to read as follows:

§ 1307.26 Title page.

(a) * * *

(10) in addition to the requirements of this section, the title page of publications containing rates on household goods as defined in 49 CFR 1056.1(a) when published for the account of household goods carriers as defined in 49 CFR 1040.2(b) on not less than 45 days' notice must show the following notation:

This tariff (or supplement or loose leaf amendment) is published on not less than 45 days' notice within the meaning of 49 CFR 1100.40 (b), (f), and (h), and 49 CFR 1100.200 (c) and (d).

4. In 49 CFR 1307.44, *Filing and posting tariffs,* add a new paragraph (d)(4) to read as follows:

§ 1307.44 Filing and posting tariffs.

* * * * * * *

(d) * * *

(4) when a tariff, supplement or loose leaf amendment containing rates on household goods as defined in 49 CFR 1056.1(a) is published for the account of household goods carriers as defined in 49 CFR 1040.2(b) on not less than 45 days' notice, the letter shall bear the following notation:

This tariff (or supplement or loose leaf amendment) is published on not less than 45 days' notice within the meaning of 49 CFR 1100.40 (b), (f), and (h), and 49 CFR 1100.200 (c) and (d).

* * * * * * *

[FR Doc.77-24465 Filed 8-23-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 917]

FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Proposed Extension of Grade, Size, and Container Requirements

Correction

In FR Doc. 77-22781, appearing on page 39989 in the issue for Monday, August 8, 1977, in § 917.445(a)(4), between the sixth and seventh lines, insert the following line: "(ii) such pears are packed fairly tight;". The seventh line which now begins with "(ii)" should begin with "(iii)".

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 571]

[No. 77-500]

INVESTMENT IN STATE HOUSING CORPORATIONS

Insurance of Accounts

AUGUST 18, 1977.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board's present Statement of Policy concerning investment in "state housing corporations" by institutions insured by the Federal Savings and Loan Insurance Corporation provides that certain private corporations and agencies are considered "state housing corporations". The Board proposes to restrict investment under this Statement of Policy to investment in public corporations and agencies, because it believes, based on further consideration of the statute which the Statement of Policy implements, that private corporations are not "state housing corporations" within the meaning and purpose of the statute.

DATES: Comments must be received by September 24, 1977.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 320 First Street, N.W., Washington, D.C. 20552. Comments available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board (202-376-3556) at the above address.

SUPPLEMENTARY INFORMATION: Section 5 of Pub. L. 93-100 provides for investment by insured institutions in "state housing corporations", which are defined, in paragraph (e)(3) of that section, as corporations "* * * established by a State for the limited purpose of providing housing and incidental services, particularly for families of low or moderate income." The Board's Statement of Policy set forth at § 571.8 of the rules and regulations for Insurance of Accounts (12 CFR 571.8) sets out the Board's expectations regarding such investment by insured institutions. Section 571.8 states that the Board believes that such investment is meant to be restricted to investment in public corporations and agencies, and in private corporations and agencies (whose objectives and purposes are primarily of a civic or community nature and seem socially desirable to the savings and loan association's board of directors), which corporations and agencies were established to provide housing and incidental services, particularly for families of low or moderate income.

After reconsideration of the authority provided by 5, and particularly the paragraph (e)(3) definition, it is the Board's view that investment in private organizations is not appropriate under that section. The Board believes that investment under authority of § 5 should be restricted to investment in public corporations and agencies which were established under the laws of the state in which the corporation will carry on its operations and which were established to provide housing and incidental services particularly for families of low or moderate income. This proposed restriction of the Board's view, as stated in § 571.8, of the scope of authorized investment under § 5 will not, however, apply to investment prior to August 24, 1977.

Accordingly, the Board hereby proposes to amend § 571.8, to read as follows:

§ 571.8 Investment in state housing corporations.

Sections 545.6-25 and 563.9-5 of this chapter authorize investment by Federal associations, and regulate investment by state-chartered insured institutions, in state housing corporations pursuant to section 5 of Pub. L. 93-100. A "state housing corporation" is defined in section 5(e)(3) of that law as "a corporation established by a State for the limited purpose of providing housing and incidental services, particularly for families of low or moderate income." The Federal Home Loan Bank Board believes the investment authority thereby provided is meant to be restricted to investment in public corporations and agencies which were established under the laws of the State in which the corporation will carry on its operation, and which corporations and agencies were established to provide housing and incidental services, particularly for families of low or moderate income. Although such investments may bear investment risks which are greater than usual, the Board further believes that they constitute a worthy effort and therefore holds that investments made pursuant to §§ 545.6-25 and 563.9-5 will not be subject to adverse comment on the quality oft heir investment grade by the Office of Examinations and Supervision, in the absence of default of such investments.

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. §§ 1725, 1726, 1730). Reorg. Plan No. 3 of 1947 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc.77-24458 Filed 8-23-77;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 241, 245, 246]

[EDR-331A; Docket No. 31205]

MODEL CORPORATE DISCLOSURE REGULATIONS

Supplemental Advance Notice of Proposed Rulemaking

AUGUST 19, 1977.

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental advance notice of proposed rulemaking.

SUMMARY: This notice extends for 30 days the filing date for comments and reply comments in a rulemaking proceeding concerning Model Corporate Disclosure Regulations developed by the Interagency Steering Committee on Uniform Corporate Reporting. The extension for the Comment due date was requested by the Air Transport Association (ATA).

DATES: Comments: September 21, 1977. Reply comments: October 6, 1977.

ADDRESSES: Comments should be sent to: Docket 31205, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

V 42 164 AUG 24 77 UM

Stephen L. Babcock, Rules Division, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5442).

SUPPLEMENTARY INFORMATION: By Advance Notice of Proposed Rulemaking EDR-331, 42 FR 39115, August 2, 1977, the Board gave notice that it desired to solicit public views on whether it can and should adopt the Model Corporate Disclosure Regulations developed by the Interagency Steering Committee on Uniform Corporate Reporting.

In a letter dated August 12, 1977, the counsel for ATA requested an extension of 30 days for the filing of comments in response to EDR-331. In support of the request, counsel stated that additional time is required to arrange coordination among ATA members and to submit the specific information requested by the Board.

Upon consideration of the foregoing, the undersigned finds that good cause has been shown for the granting of the requested extension. It does not appear that this extension will prejudice any party to the proceeding.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations (14 CFR 385.20 (d)), the time for filing comments is extended to September 21, 1977, and the time for filing reply comments to October 6, 1977.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324).)

SIMON J. EILENBERG,
Associate General Counsel,
Rules Division.

[FR Doc.77-24474 Filed 8-23-77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 772 3003]

CITY STORES CO.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent order, among other things, would require a New York City retail department store chain to cease imposing unauthorized collection fees on delinquent charge accounts; and to provide such disclosures and refunds as are set forth in the order.

DATE: Comments must be received on or before October 21, 1977.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Paul R. Peterson, Director, Cleveland Regional Office, Federal Trade Commission, 1339 Federal Office Bldg., 1240 East Ninth St., Cleveland, Ohio 44199, 216-522-4207.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the FTC Act, 38 Stat. 721; 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

UNITED STATES OF AMERICA BEFORE FEDERAL TRADE COMMISSION

FILE NO. 772 3003 AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

In the matter of City Stores Company, a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of City Stores Company, a corporation, and it now appearing that City Stores Company, a corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between City Stores Company, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent City Stores Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 500 Fifth Avenue, New York, New York.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives: a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and it understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied in the amount provided by law for each violation of the order after it becomes final.

ORDER

It is ordered that the respondent, City Stores Company, a corporation, and its successors and assigns, and its officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the handling of customer charge accounts, in or affecting commerce, as "commerce" is defined in the Federal Trade Commision Act, do forthwith cease and desist from:

1. Except as otherwise authorized by law, imposing any fee or penalty on accounts which respondent deems to be uncollectable, or with respect to which delinquency collection procedures have been instituted (as "uncollectable" and "delinquency" are used in Section 226.7(b) of Regulation Z (12 C.F.R. 226) of the Truth In Lending Act (Pub. L. 90-321, 15 U.S.C. 1601, et sq.)), which is not set forth in the Retail Installment Credit Agreement or other agreement with the customer. (Such unauthorized fee or penalty is referred to herein as an "unauthorized collection fee")

2. Failing to send the disclosures and make the refunds required by this Order.

It is further ordered that, with respect to each unauthorized collection fee in excess of one dollar ($1.00) which respondent has at any time heretofore imposed on a customer and which has been collected from any such customer on or after February 4, 1974, or which is collected at any time subsequent thereto:

1. Respondent shall refund to each such customer the full amount of such fee:

(i) within sixty (60) days of the date this Order becomes final, respecting all fees heretofore collected (unless such fee has previously been refunded); and

(ii) within 30 days after receipt, respecting any such fees which may be collected subsequent to the date of this Order; and

2. Respondent shall make a clear and conspicuous disclosure which shall state:

REFUND

The enclosed check represents a refund of a collection fee which you paid as part of a previous bill. Since our account agreement with you does not provide for such a charge we are refunding the amount of the collection fee.

Each refund shall be given to the customer either in person or by mail, and shall be in the form of a check payable to the order of the customer. The check shall be sent to the last known address shown in respondent's records for said customer. If any such check is returned to respondent with a notification to the effect that the customer to whom it was mailed is not located at the address to which it was sent, respondent shall remail the check, with an address correction request, to the Post Office unless respondent has already done so. If the check or statement which has been remailed is returned to respondent and the amount to be refunded exceeds fifteen dollars ($15.00), respondent shall obtain from a credit bureau the most current address available for the customer in the credit bureau's files by means of an in-file report or other credit bureau report. If the customer is not located by the preceding methods, resondent shall thereafter be relieved of any further obligation to send any additional notice and/or any refund with respect to the collection fee in question; provided, however, that in the event said customer should subsequently request such refund, respondent shall, within thirty (30) days from the date of such request, provide the disclosures and refund the collection fee in accordance with the provisions of this Order.

It is further ordered that respondent shall, upon request, produce for the purpose of examination and copying by representatives of the Federal Trade Commission, all records pertinent to disclosures and refunds made pursuant to this Order.

It is further ordered that respondent shall forthwith distribute a copy of this Order to each of its operating divisions and subsidiaries.

It is further ordered that respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the Order.

It is further ordered that respondent shall, within sixty (60) days after the service upon it of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

ANALYSIS OF PROPOSED CONSENT ORDER

CITY STORES COMPANY
FILE NO. 772 3003

The Federal Trade Commission has accepted an agreed-to order from City Stores Company. The proposed consent order has been placed on the public record for sixty (60) days for the reception of views and comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the consent order in light of the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges that City Stores Company added a 20 percent collection fee to delinquent charge accounts when those accounts were referred to a collection agency by Franklin Simon or Lit Brothers division. This collection fee was imposed contrary to the terms of the charge agreement with the customer. The charge agreement requires the customer to pay an attorney's fee when the account is referred for collection to an independent attorney. There is no mention of any collection fee in the charge agreement.

The order requires the company to return to customers unauthorized collection fees which total over $81,000. Any fee collected on or after February 4, 1974, will be refunded within 60 days of the order. Any outstanding fee collected after the date of the order will be refunded within 30 days.

A consumer disclosure will accompany each refund. The disclosure will inform the customer that the refund check represents a collection fee which has been paid by the customer, but which was not part of the charge agreement with customer or otherwise ordered by a court.

Other important order provisions prohibit all divisions of City Stores from imposing a fee or penalty on delinquent accounts in the future, unless the fee is set forth in the customer charge agreement.

The purpose of this analysis is to facilitate public comment on the consent order and is not intended to constitute an official interpretation of the order or to modify in any way the terms of the order.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-24424 Filed 8-23-77;8:45 am]

[16 CFR Part 441]

MOBILE HOME SALES AND SERVICE

Change of Dates for Washington, D.C. Hearing and Related Filing Requirements Concerning Proposed Trade Regulation Rule

AGENCY: FEDERAL TRADE COMMISSION

ACTION: Notice of Change of Date for Washington Hearing and Related Filing Requirements

SUMMARY: The Federal Trade Commission hereby gives notice that the date for commencing the Washington, D.C. public hearing is being changed from September 12, 1977 to October 11, 1977. The dates for filing word-for-word statements, outlines and exhibits and written comments are also being extended and the location of the hearing is being changed.

DATES: Hearing Date: October 11, 1977. Materials required for oral presentation must be filed by September 19, 1977. Written comments must be filed by September 7, 1977.

ADDRESSES: Send word-for-word statements, comprehensive outlines and exhibits to Charles A. Taylor, III, Attorney, Federal Trade Commission, Pennsylvania Avenue at 6th Street, NW., Washington, D.C. 20580 and send written comments to Raymond L. Rhine, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580.

Hearing address: Room 2008, New Executive Office Building, on 17th Street between Pennsylvania Avenue NW. and H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Charles A. Taylor, III, 202-523-3660, Federal Trade Commission, Pennsylvania Avenue at 6th Street, NW., Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On May 23, 1977, the Presiding Officer published in the FEDERAL REGISTER (42 FR 26398) a Final Notice of Proposed Rulemaking concerning Mobile Home Sales and Service. The Notice included a schedule of dates for submission of word-for-word statements, outlines, written comments, and exhibits and for commencement of the public hearings in Washington, D.C.

As published in such Final Notice, the closing date set for the submission of word-for-word statements, comprehensive outlines and exhibits for the hearings in Washington was August 22, 1977 and the date for the submission of written comments was later established by Commission Notice (42 FR 38390, July 28, 1977) as August 29, 1977.

The closing date for the submission of word-for-word statements, comprehensive outlines and exhibits for the Washington hearings has been extended to September 19, 1977. The closing date for the submission of written comments and available exhibits has been extended to September 7, 1977.

The date for the Washington, D.C. hearings to commence is now October 11, 1977. Therefore, the public hearing will commence on October 11, 1977, at 9:30 a.m., in Washington, D.C., Room 2008, New Executive Office Building, on 17th Street between Pennsylvania Avenue NW. and H Street, NW.

Persons wishing to make an oral presentation at the hearing must inform Mr. Charles A. Taylor, III, Federal Trade Commission, 6th and Pennsylvania Avenue, NW., Washington, D.C. 20580 and furnish the required word-for-word statements, comprehensive outlines and exhibits no later than September 19, 1977. Persons desiring to file written comments and available exhibits must send them to Raymond L. Rhine, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580 no later than September 7, 1977.

The other provisions of the Presiding Officer's Final Notice of May 23, 1977 in Sections A and C remain the same and the instructions and requirements set forth therein shall be observed. The dates for the hearing and the filing requirements in connection with the San Francisco hearing remain the same.

Issued: August 19, 1977.

RAYMOND L. RHINE,
Presiding Officer.

[FR Doc.77-24587 Filed 8-24-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[24 CFR Parts 203 and 204]

[Docket No. R-77-461]

OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER (FEDERAL HOUSING ADMINISTRATION)

Mutual Mortgage Insurance and Insured Home Improvement Loans, Coinsurance

AGENCY: Department of Housing and Urban Development.

ACTION: Proposed rules.

SUMMARY: These proposed rules will amend 24 CFR Parts 203 and 204 so as to limit that portion of an insurance benefit payment which relates to reimbursement of the mortgagee for hazard insurance payments to an amount which does not exceed a "reasonable rate" as defined by 24 CFR 203.379(b)(3).

DATES: Comments must be received on or before September 22, 1977.

ADDRESSES: Comments should be addressed to the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Communications should have reference to the above docket number and title.

FOR FURTHER INFORMATION CONTACT:

Julius Williams, Director, Single-Family Housing Division, Office of Loan Management, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5752.

SUPPLEMENTARY INFORMATION: The proposed amendment conforms with administrative practice in processing claims where hazard insurance has been obtained at more than a reasonable rate. See Handbook 4191.1 REV, Administration of Insured Home Mortgages, paragraph 29, and recently amended 24 CFR § 203.379, published at 41 FR 49730 dated November 10, 1976, which prevents mortgagees from requiring mortgagors to pay premiums for hazard insurance at more than reasonable rates.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

It is hereby certified that the economic and inflationary impact of these proposed rules have been carefully evaluated in accordance with Executive Order No. 11821.

Accordingly, the Department proposes to amend Chapter II of Title 24 CFR as follows:

1. Amend § 203.402(c) to read as follows:

§ 203.402 Items included in payment-conveyed properties.

* * * * *

(c) Hazard insurance premiums on the mortgaged property not in excess of a "reasonable rate" as defined in § 203.379(b)(3);

* * * * *

2. Amend § 204.322(c) to read as follows:

§ 204.322 Items included in payment.

* * * * *

(c) Hazard insurance premiums on the mortgaged property not in excess of a "reasonable rate" as defined in § 203.379(b)(3), prorated to the date of disposition of the property:

* * * * *

Issued in Washington, D.C., on August 12, 1977.

MORTON BARUCH,
General Deputy Assistant Secretary for Housing.

[FR Doc.77-24420 Filed 8-23-77; 8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 11]

LAW AND ORDER ON INDIAN RESERVATIONS

Law Enforcement Standards

AUGUST 18, 1977.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This action is needed because there have been recurrent reports that complaints of civil rights violations by Indian police are not fully and thoroughly investigated. The purpose of this action is to assure that the proper investigating authorities are promptly informed of such complaints.

DATES: Comments must be received on October 25, 1977.

ADDRESSES: Written comments should be directed to: Director, Office of Indian Services, Bureau of Indian Affairs, 18th and C Streets.

FOR FURTHER INFORMATION CONTACT:

Eugene F. Suarez, Sr., Chief, Division of Law Enforcement Services, Office of Indian Services, Bureau of Indian Affairs, Department of the Interior, Washington, D.C. 20245. Telephone: 202-343-5786.

SUPPLEMENTARY INFORMATION: The new paragraph (n) provides procedures for the prompt reporting of allegations that police officers have violated the civil rights of any person to the Federal Bureau of Investigation. Allegations against Bureau of Indian Affairs employees must also be reported to the Office of Audit and Investigation of the Department of the Interior. Allegations against employees of tribal contractors must be reported to the top BIA law enforcement officer at the Agency. If there is no BIA officer at the Agency, the allegation must be reported to the Area Special Officer.

The primary author of this document is: David C. Etheridge, Attorney, Division of Indian Affairs, Office of the Solicitor, Department of the Interior, Washington, D.C. 20240, 202-343-6967.

This proposed rule making is being published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

It is proposed to add a paragraph (n) to § 11.304 of Subchapter B, Chapter I, of Title 25 of the Code of Federal Regulations. This revision is proposed under the authority contained in 5 U.S.C. 301, 25 U.S.C. 2, and Section 102 of Title I of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638, 88 Stat. 2203).

It is proposed to amend Section 11.304 by adding paragraph (n) to read as follows:

§ 11.304 Minimum standards for police program.

(n) (1) When a law enforcement officer receives an oral or written allegation that a law enforcement officer employed by a program funded by the Bureau of Indian Affairs has violated the civil rights of any person, the officer receiving the allegation shall prepare a written report of the allegation and transmit it through the chain of command to the chief enforcement officer.

(2) Upon being notified of the allegation, the chief law enforcement officer shall take the following actions:

(i) Notify the Federal Bureau of Investigation, and the Agency's Superintendent or Contracting Officer's Representative.

(ii) If the officer against whom the allegation is made is an employee of the Bureau of Indian Affairs, prepare a memorandum to the Superintendent, who shall, through the Area Director and the Commissioner of Indian Affairs, transmit to the Director, Office of Audit and Investigation, a request that the allegation be investigated to determine whether any administrative action is warranted. The memorandum shall be transmitted through the Superintendent and the Area Director.

(iii) If the officer against whom the allegation is made is an employee of a tribal contractor, notify the top Bureau of Indian Affairs law enforcement officer assigned to the agency. If there is no Bureau of Indian Affairs law enforcement officer at the Agency, the Superintendent and the Area Special Officer shall be notified.

(3) If the chief law enforcement officer is accused of a civil rights violation, the report of the allegation shall be transmitted directly to the Agency Superintendent, who shall take the actions required by subparagraph (2) of this section. If there is no Agency Superintendent, the report of the allegation shall be transmitted directly to the Area Director, who shall take the actions required by subparagraph (2) of this section.

(4) As soon as all actions required by paragraphs (1), (2), and (3) of this Section have been completed, a copy of all documents concerning the allegation shall be transmitted to the Chief, Division of Law Enforcement Services, in the Central Office.

RAYMOND V. BUTLER,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.77-24498 Filed 8-23-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Parts 171, 177, 182, and 183]

INDIAN MINING REGULATIONS

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Extension of comment period; withdrawal of certain proposed rules; and announcement of meetings.

SUMMARY: The Bureau of Indian Affairs is extending the comment period on certain parts of proposed rules for mining on Indian lands. Also, a proposed subpart providing for operating and reclamation standards is being withdrawn in light of recent enactment of comprehensive legislation governing the regulation of surface mining operations on both public and Indian lands.

This document also announces meetings for discussion with tribes and Indian organizations on the proposed rules for Indian mineral development contracts.

DATES: Comment period is extended to September 2, 1977.

Meetings for discussion with tribes and Indian organizations on the proposed rules for Indian mineral development contracts will be held in the following locations:

Oklahoma City, Okla.—August 30, 1977.
Billings, Mont.—September 13, 1977.
Aberdeen, S. Dak.—September 15, 1977.
Phoenix, Ariz.—September 23, 1977.
Albuquerque, N. Mex.—September 26, 1977.
Window Rock, Navajo Nation—September 28, 1977.

ADDRESSES: Comments should be sent to: Commissioner of Indian Affairs—Code 202 Bureau of Indian Affairs, Washington, D.C. 20245.

For addresses and instructions for meetings with tribes and Indian organizations, see "Supplementary Information" below.

FOR FURTHER INFORMATION, CONTACT:

David C. Harrison, 202-343-8018.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the period for written comments on certain proposed rules for Mining on Indian Lands, published in the Federal Register on April 5, 1977 (42 FR 18083), is extended to September 2, 1977. This extension is applicable to proposed Parts 171, 177 (Subpart A only), and 182 of 25 CFR. The extension does not apply to proposed Part 183, governing oil and gas leasing of Osage lands.

Proposed Subpart B of Part 177, which provides for operating and reclamation standards for coal operations on Indian lands, is hereby withdrawn in light of the recent enactment of comprehensive legislation governing the regulation of surface mining operations on both public and Indian lands. It is anticipated that the Interior Department will publish proposed rulemaking designed to implement the new law.

Meetings for discussion with tribes and Indian organizations on the proposed rules for Indian mineral development contracts will be held in the following locations:

Oklahoma City, Okla.—August 30, 1977.
Billings, Mont.—September 13, 1977.
Aberdeen, S. Dak.—September 15, 1977.
Phoenix, Ariz.—September 23, 1977.
Albuquerque, N.M.—September 26, 1977.
Window Rock, Navajo Nation—September 28, 1977.

The purpose of these meetings is to provide a forum for discussion and explanation of the proposed regulations and the issues raised in the written comments on them. Panelists will come from among those employees of the Interior Department who have been involved in drafting of the proposed regulatory scheme. Persons attending a meeting who wish to address some issue raised by the regulations should submit two copies of a written statement at least one week prior to that meeting. One copy should be sent to: Commissioner of Indian Affairs, Bureau of Indian Affairs, Code 202, 1951 Constitution Avenue NW., Washington, D.C. 20245, Attn: David C. Harrison.

The other copy should be submitted to the local Area Director of the Bureau of Indian Affairs at one of the following addresses:

Oklahoma City: Area Director, Anadarko Area Office, Bureau of Indian Affairs, Federal Building, P.O. Box 368, Anadarko, Okla. 73005, Attn: Realty Officer; or

Area Director, Muskogee Area Office, Bureau of Indian Affairs, Federal Building, Muskogee, Okla. 74401, Attn: Realty Officer.

Billings: Area Director, Billings Area Office, Bureau of Indian Affairs, 316 N. 26th Street, Billings, Mont. 59101, Attn: Realty Officer.

Aberdeen: Area Director, Aberdeen Area Office, Bureau of Indian Affairs, Federal Building, 115 4th Avenue SE., Aberdeen, S. Dak. 57401, Attn: Realty Officer.

Phoenix: Area Director, Phoenix Area Office, Bureau of Indian Affairs, 124 W. Thomas Road, P.O. Box 7007, Phoenix, Ariz. 85011, Attn: Realty Officer.

Albuquerque: Area Director, Albuquerque Area Office, Bureau of Indian Affairs, 5301 Central Avenue NE., P.O. Box 8327, Albuquerque, N. Mex. 87107, Attn: Realty Officer.

Window Rock: Area Director, Navajo Area Office, Bureau of Indian Affairs, Window Rock, Ariz. 86515, Attn: Realty Officer.

Oral comments at the meetings must be limited to 15 minutes. The meetings will begin at 9 a.m. For additional information on these meetings please contact the local Area Director. The specific location for each meeting will be set by the Area Director at least two weeks prior to the meeting.

RAYMOND V. BUTLER,
Acting Deputy Commissioner of Indian Affairs.

AUGUST 12, 1977.

[FR Doc.77-24641 Filed 8-23-77;8:45 am]

POSTAL SERVICE

[39 CFR Parts 241, 245, 246, 247, 248, 265]

DISCONTINUANCE OF POST OFFICE

Procedural Regulations

AGENCY: United States Postal Service.

ACTION: Proposed rule.

SUMMARY: These proposed regulations would revise the Postal Service procedures for considering whether to discontinue a post office, to bring the procedures into line with new statutory provisions that recently became effective. The new statute and proposed rules are intended to assure, first, that decision-making about the continuation of a post office takes into account all relevant factors; and second, that customers of the post office under review have an opportunity to participate in the decisionmaking process.

DATES: Written comments must be received on or before September 23, 1977.

ADDRESSES: Address comments to Assistant General Counsel, Legislative Division, U.S. Postal Service, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

W. Allen Sanders (202-245-4636).

SUPPLEMENTARY INFORMATION: Pub. L. 94-421 enacted a new provision, 39 U.S.C. 404(b) (effective March 15, 1977), which establishes standards and procedures for the consideration of post office closings and consolidations. Present Postal Service regulations dealing with the discontinuance[1] of a post office have not yet been revised to reflect the statutory changes. See Regional Instruction, Discontinuance and Consolidation of Post Offices, Filing No. 361.2, dated November 20, 1975; Amendment No. 1, dated January 15, 1976; Amendment No. 2 dated March 25, 1976. The proposed rule is intended to bring Postal Service regulations into conformity with the statute, in a codified form that will be readily available to the public. When a final rule is adopted, the 1975 Regional Instruction and subsequent amendments will be revoked. No post office will be closed until the final rule has been adopted and its procedures are followed.

The Postal Service wishes to emphasize that the adoption of the proposed new

[1] Section 404(b) covers both "closing" and "consolidation". Under the proposed rule, the term "discontinuance" is used to include both closings and consolidations. In Postal Service usage, a "consolidation" combines two or more independent post offices by replacing at least one of them with a different kind of facility (a community post office, station, or branch) that is operated as an affiliate of one of the other post offices. A consolidation thus does not result in depriving the affected community of its own postal facility, and may or may not result in closing the facility that has served as the community's independent post office, since the same facility may or may not serve as the new affiliate facility.

V 42 16 4 AUG 24 77 UM

rule will not signal the beginning of a campaign to close large numbers of post offices. It will simply bring postal regulations up to date. The new law contemplates that in some circumstances, the continuation of an existing post office may not be warrantd. The proposed rule will provide necessary guidance to postal managers and to the public in such a case, to help them apply the criteria and follow the procedures outlined by new section 404(b).

The requirements of section 404(b) may be grouped in three categories. First, the section establishes criteria which must form the basis for assessing whether or not a post office should be discontinued. Second, it establishes procedures to be followed by the Postal Service in making such an assessment, including ample opportunity for public comment on the proposed action. These first two requirements would be implemented by the proposed rule. Third, section 404(b) provides for the affected customers' right of appeal of a Postal Service determination to the Postal Rate Commission. The Commission is authorized to set aside any determination found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; without observance of procedure required by law; or unsupported by substantial evidence on the record. The Commission has already established procedures for the implementation of this provision. See Subpart H, Part 3001 of Title 39, CFR, as added by 42 FR 10989–10994 (February 25, 1977).

The criteria to be considered in determining whether to discontinue a post office include the effect on the community and on the post office's employees, the requirement to maintain effective and regular postal services, the potential savings, and any other relevant factors identified by the Postal Service. In recent years, many of the reservations that have been expressed about discontinuing small post offices, even when substantial savings would be realized and as good or better service would be provided, have focused on the potential adverse effect on the continued identity of a small community, particularly where the demographic changes that make the office seem unnecessary already have led other institutions to abandon the community. In recent years, the Postal Service has attempted to mitigate potential effects of this kind, where possible, by establishing a category of contract postal facility known as a "community post office", which preserves the community name in the name of the postal facility and in the mailing address of the community residents served by the facility.

The present proposed rule, §§ 247.4 through 247.8, would go beyond previous policy, to enable the continuation of the community address in almost all cases when a post office is discontinued. Whenever the discontinuance is accomplished by consolidation—that is, when an independent post office is replaced by an affiliate facility still in the community—the replacement facility will preserve the name of the discontinued post office. In addition, when a post office is simply closed, without being replaced by another type of postal facility in the community, the community's name will still be permitted to be used in the mailing address of the affected customers in most cases, along with the ZIP Code of the post office from which delivery is provided after the change. The only exception will be the unusual case when delivery can suitably be provided to the community only from several different offices with different ZIP Codes. In such a case, using the community name would not enable the Postal Service to route the mail properly if the mailer neglects to include the applicable ZIP Code in the address, as still too frequently happens. Finally, the names of all discontinued post offices would continue to appear in an appropriate fashion in published Postal Service directories. We believe that these adjustments would provide a significant step toward helping to preserve a community's identity despite discontinuance of the post office, where the discontinuance is warranted considering all relevant factors.

Proposed §§ 247.9 through 247.24 provide step-by-step procedures for considering whether a particular post office should be discontinued. Consideration would be begun by local postal management (the Sectional Center Manager). As provided by § 247.13, notice of the proposed action would be posted in the affected office. The notice would include a full explanation of the reasons for the proposed action, including an application of all of the required statutory criteria. Copies of the proposal and a blank comment form would be distributed at the post office. The administrative record upon which the proposal is based would be available for public examination in the affected post office. Additional actions to enhance customer participation, suited to the local context, would be encouraged. Postal customers would have 60 days to provide views and information, which would become part of the record for decision. If after taking customer comments into account, the local manager decided to continue with the proposal, he would have to revise his written explanation to reflect consideration of the information and arguments received from the customers. Thereafter, the matter would be reviewed at higher levels within the Postal Service. If the final determination is to proceed with the discontinuance, the decision would have to be explained in writing and made available in the affected post office. For a period of 30 days, any customer would be entitled to file an appeal to the Postal Rate Commission. The post office could not be discontinued until at least 60 days after the Postal Service's written determination is made available.

Certain supplementary changes are also proposed. Conforming amendments would revise the caption of § 241.1 and would delete present § 241.1(c). Proposed new Part 248 would make it clear that an emergency suspension of post office operations for reasons of necessity—as in the case of a loss of quarters—would be temporary only, and that the provisions of Part 247 would apply to the discontinuance of such a post office as to any other. A proposed amendment to § 245.6(a)(2) would provide for the preservation of final written determinations to discontinue a post office, with supporting record, as a public record available for inspection.

Accordingly, although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking, 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed amendments to Title 39, CFR.

PART 241—ESTABLISHMENT AND CLASSIFICATION

1. Part 241 is amended by revising the caption as set forth above.

§ 241.1 [Amended]

2. Paragraph (c) of § 241.1 is deleted.

PART 245—[RESERVED]

PART 246—[RESERVED]

3. Parts 245 and 246 are reserved

PART 247—DISCONTINUANCE OF POST OFFICE

4. New Part 247 is added as follows:

Subpart A—Introduction

Sec.
247.1 Coverage.
247.2 Requirements of law.
247.3 Additional requirements of this part.

Subpart B—Policy on Preservation of the Community Address

247.4 General
247.5 Assignment of ZIP Code.
247.6 Post office name in address.
247.7 Name of facility established by consolidation.
247.8 Listing of discontinued post office.

Subpart C—Initial Investigation and Proposal by Local Management

247.9 General).
247.10 Consolidation.
247.11 Consultation with postmasters of affected offices.
247.12 Preparation of written Proposal to Discontinue Post Office.

Subpart D—Notice, Public Comment, and Administrative Record

247.13 Posting and availability of proposal and comment form.
247.14 Other steps.
247.15 Administrative record.

Subpart E—Consideration of Public Comment and Final Local Recommendation

247.16 Analysis of comments.
247.17 Evaluation of proposal in light of comments.

Subpart F—Final Determination

247.18 Standard of review.
247.19 Review by district and regional management.
247.20 Final determination by Senior Assistant Postmaster General, Operations Group.

Subpart G—Notice and Implementation of Final Determination

Sec.
247.21 Notice of final determination to discontinue post office.
247.22 Implementation of determinations not appealed.
247.23 Actions during appeal.
247.24 Actions following appeal decision.

AUTHORITY: 39 U.S.C. 101(b), 401, 403(b), 404.

Subpart A—Introduction

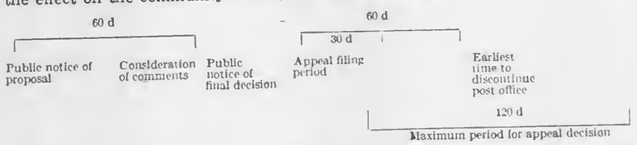
§ 247.1 Coverage.

This part establishes the rules which govern the Postal Service's consideration of whether an existing post office should be discontinued. The rules cover any proposal to replace a post office with a community post office, station, or branch through consolidation with another post office, as well as any proposal to discontinue a post office without providing a replacement facility.

§ 247.2 Requirements of law.

By law 39 U.S.C. 404(b)), any decision to discontinue a post office must be based on certain specific criteria. These include the effect on the community served, the effect on employees, the maintenance of effective and regular services, and the economic savings. In addition, certain mandatory procedures apply. These include providing 60 days' public notice of a proposed action in order to enable the public to evaluate the proposal and provide comments. In addition, any final determination to close an office, after public comments are received and taken into account, must be made in writing and must include findings covering all of the required considerations. The written determination must be made available to the affected customers at least 60 days before the discontinuance takes effect. Within the first 30 days after the written determination is made available, any customer served by the affected post office may appeal the decision to the Postal Rate Commission. The Commission is required by 39 U.S.C. 404(b)(5) to make a determination on the appeal no later than 120 days after receiving the appeal. (See Subpart H of Part 3001 of this title.)

A summary table of the notice and appeal periods under the statute or these regulations follows:



§ 247.3 Additional requirements of this part.

Subpart B of this part establishes specific rules designed to assure that the community's identity as a postal address will be preserved. Subparts C through F of this part provide step by step rules for consideration of a proposed discontinuance and for its implementation if approved. These rules are designed to assure that the reasons which lead postal managers to propose the discontinuance of a particular post office are fully articulated and disclosed at a stage that will enable customer participation to make a helpful contribution toward the final decision.

Subpart B—Policy on Preservation of the Community Address

§ 247.4 General.

One of the most significant contributions that post offices traditionally have provided toward maintaining the identity of small communities has been the maintenance of a common mailing address using the name of the community. In order to avoid or mitigate any negative effect on the continuing identity of a community as a result of the discontinuance of its post office, it is the policy of the Postal Service to maintain the community's separate address to the maximum practical extent, in accordance with this subpart.

§ 247.5 ZIP Code.

The ZIP Code for each address formerly served from the discontinued post office shall be the ZIP Code of the facility providing replacement service to that address. In the case of a consolidation, the ZIP Code provided for the replacement community post office, station, or branch shall be either the ZIP Code originally assigned to the discontinued post office or the ZIP Code of the replacement facility's parent post office, whichever will provide the most expeditious distribution and delivery of mail addressed to the customers of the replacement facility. If the parent post office is a multi-ZIP Code office, the ZIP Code shall be that of the delivery area within which the facility is located.

§ 247.6 Post office name in address.

If all of the delivery addresses using the name of the post office to be discontinued are assigned the same ZIP Code, each customer may continue to use the name of the discontinued post office in his address, instead of changing to the name of the post office from which delivery is provided after the discontinuance.

§ 247.7 Name of facility established by consolidation.

If a post office to be discontinued is to be consolidated with one or more other post offices, by establishing in the place of the discontinued post office a community post office or classified or contract station or branch affiliated with another post office involved in the consolidation, the name of the community post office or classified or contract station or branch shall be the same as the name of the discontinued post office.

§ 247.8 Listing of discontinued post office.

The names of all post offices discontinued after March 14, 1977, shall be listed in an appropriate manner in Publication 26, the Directory of Post Offices, and in Publication 65, the National ZIP Code Directory, for mailing address purposes only. The ZIP Code or ZIP Codes listed for the discontinued office shall be the ZIP Code or ZIP Codes assigned in accordance with § 247.5.

Subpart C—Initial Investigation and Proposal by Local Management

§ 247.9 General.

If a Sectional Center Manager believes that the discontinuance of a post office within his responsibility may be warranted, he may investigate, and if found appropriate, may propose that it be discontinued, applying the standards and following the procedures of this subpart and Subpart D of this part.

§ 247.10 Consolidation.

If the communities served by two or more post offices are being merged into a single incorporated village, town, or city, or if providing a replacement facility is necessary to maintain regular and effective service to the area served by the post office being considered for discontinuance, the proposed action may include a consolidation of post offices to substitute a community post office or a classified or contract station or branch for the discontinued post office.

§ 247.11 Consultation with postmasters of affected offices.

Whether the discontinuance under consideration involves a consolidation or not, the Sectional Center Manager shall consult with the postmaster (or the officer-in-charge if there is a vacancy in the postmaster's position) of the post office being considered for discontinuance, together with the postmaster (or officer-in-charge) of any other post office that would be affected by the change. In addition, the Sectional Center Manager shall encourage these postmasters (or officers-in-charge) to submit their comments and suggestions in writing to be made part of the record for further consideration and review of the proposal.

§ 247.12 Preparation of written Proposal to Discontinue Post Office.

The Sectional Center Manager shall gather all relevant documentation to enable him to decide whether or not the proposed change is justified. Based on this documentation, if the change appears warranted, he shall prepare a written description entitled "Proposal to Discontinue Post Office," which shall provide a description and analysis of the proposal that is sufficient to disclose both to higher management and to the affected community the nature of the changes in service being proposed and the reasons why those changes are justified. The written description must ad-

dress each of the following matters in separate sections:

(a) *Responsiveness to community postal needs.* Whether or not it is proposed to consolidate the affected post office with another post office by establishing a replacement facility, the residents of the community must receive a maximum degree of regular and effective service. The Proposal should contrast the services available before and after the proposed change, should describe how the changes respond to the postal needs of the community, and should highlight any particular aspects of service which might be less advantageous to the persons served as well as those which would be more advantageous.

(b) *General effect on community.* The Proposal must include an analysis of the effect which the proposed discontinuance might have on the general character of the community. The application of the requirements of §§ 247.4 through 247.8 must be discussed and taken into account.

(c) *Effect on employees.* In preparing the Proposal, the Sectional Center Manager shall determine what actions he proposes to comply with the applicable Regional Instructions relating to personnel actions to be taken in connection with the discontinuance and consolidation of post offices. The written Proposal must include a summary of the contemplated effect of the proposed action on the postmaster and any supervisors and other employees of the post office proposed for discontinuance.

(d) *Economic savings.* The Proposal must include an analysis of the economic savings to be gained from the proposed action, including the cost or savings expected from each of the major factors contributing to the overall estimate.

(e) *Other factors.* The Proposal should include an analysis of any other factors that the Sectional Center Manager considers relevant to the need for the proposed change, to be weighed in favor or to be weighed against the proposed action.

(f) *Summary.* The Proposal must include a summary that explains why the proposed action is needed, including an assessment of how the factors supporting the need for the proposed change outweigh any negative factors. In taking competing considerations into account, the need to provide regular and effective service shall be paramount.

(g) *Notices.* The Proposal must include the following notices:

(1) *"Supporting materials.* Copies of all unpublished materials upon which this proposal is based are available for public inspection at the post office during normal office hours."

(2) *"Appeal rights.* A final determination to discontinue this post office may be appealed by any person served by the office to the Postal Rate Commission at 2000 L Street NW., Washington, D.C. 20268, within 30 days after the final written determination is made available to the public."

Subpart D—Notice, Public Comment, and Administrative Record

§ 247.13 Posting and availability of proposal and comment form.

A copy of the Proposal to Discontinue Post Office, together with a signed Invitation for Comments, shall be prominently posted in each post office that would be affected. The Invitation for Comments shall include a request that interested persons provide written comments within 06 days, to a stated address, offering specific opinions and information, favorable or unfavorable, regarding the potential effect of the proposed change on postal services or on the community generally. It shall also indicate that copies of the proposal with attached optional comment forms (see Appendix) are available upon request in the affected post offices and shall provide a name and telephone number to call for further information and questions.

§ 247.14 Other steps.

In addition to providing notice and inviting comment, the Sectional Center Manager should take any other steps that seem needed to make sure that the community understands the nature and implications of the proposed action, such as meeting with community groups and following up on comments received which which seem to be based on incorrect assumptions or information. If oral contacts develop views or information not previously documented, whether favorable or unfavorable to the proposal, he should encourage the person offering the views or information to provide written comments, in order to preserve them for the record.

§ 247.15 Administrative record.

The Sectional Center Manager shall maintain as part of the record for his consideration and for review by higher management all of the unpublished documentation he has gathered concerning the need for the proposed change. The proposal shall be assigned a docket number, which he shall obtain by calling the Regional Director, Customer Services, in his Region. The record shall include a chronological index in which each document contained in the record is identified and numbered as filed. As written communications are received in response to the public notice and invitation for comments, they shall be included in the record. The Sectional Center Manager shall assure that a complete up-to-date copy of the record is available for public inspection during normal office hours at the post office proposed for discontinuance, beginning no later than the date upon which notice is posted under § 247.13, and extending through the comment period. Copies of documents in the record shall be provided upon request and (except for the Proposal and comment form) payment of fees prescribed by § 265.8.

Subpart E—Consideration of Public Comment and Final Local Recommendation

§ 247.16 Analysis of comments.

After waiting not less than 60 days after notice has been posted in accordance with § 247.13, the Sectional Center Manager shall prepare an analysis of the public comments received. Comments subsequently received should also be included in the analysis if possible. The analysis should list and briefly describe each of the points made favorable to the proposal and each of the points made unfavorable to the proposal, and should identify how many comments supported each point listed. It should also identify any points which seem to be irrelevant or based on a misunderstanding of what has been proposed.

§ 247.17 Evaluation of proposal in light of comments.

Upon completion of the analysis, the Sectional Center Manager shall review the Proposal to Discontinue Post Office and re-evaluate all of the tentative conclusions previously made in light of the additional information and public views received.

(a) *Discontinuance not warranted.* If the Sectional Center Manager decides not to proceed with the proposed discontinuance, he shall post, in the post office considered for discontinuance, a notice that the proposed discontinuance has been determined not to be warranted.

(b) *Discontinuance warranted.* If the Sectional Center Manager decides that the proposed discontinuance is justified, he shall revise the appropriate sections of the Proposal to Discontinue Post Office to take into account the comments received from the public. Upon completing the necessary revisions, he shall forward the revised proposal together with the entire record through his District Manager and Regional Postmaster General to the Senior Assistant Postmaster General, Operations Group, for final review. The documents (including customer comments) in the record sent forward must be the originals or certified copies.

Subpart F—Final Determination

§ 247.18 Standard of review.

The District Manager, Regional Postmaster General, and Senior Assistant Postmaster General each shall conduct his review under this subpart on the basis of the administrative record developed by the Sectional Center Manager. The decision of each reviewing authority shall be fully supported in the record. As necessary, each reviewing authority may provide instructions to the Sectional Center Manager, through appropriate channels, to supplement the record.

§ 247.19 Review by district and regional management.

The District Manager shall review the revised Proposal to Discontinue Post Office and may approve it, with or without making revisions, and send it forward with the record to his Regional Postmaster General, or may disapprove it and return it with the record to the Sectional Center Manager with his reasons for disapproval. If the Proposal is returned disapproved, the Sectional Center Manager shall post a notice, in the post office considered for discontinuance, that the proposed discontinuance has been determined not to be warranted. If the District Manager sends it forward, the Regional Postmaster General may approve it, with or without making revisions, and send it forward to the Senior Assistant Postmaster General, Operations Group, or may disapprove it and return it with the record and with his reasons for disapproval, through the District Manager to the Sectional Center Manager for posting of the required notice.

§ 247.20 Final determination by Senior Asssitant Postmaster General, Operations Group.

The Senior Assistant Postmaster General, Operations Group, may approve a revised Proposal forwarded for his review, with or without making further revisions, or may disapprove it and return it with the record and with his reasons for disapproval, through the Regional Postmaster General and the District Manager to the Sectional Center Manager for posting of the notice required in § 247.19. If he approves it, the Proposal (with revisions) shall be retitled the "Determination to Discontinue Post Office", shall be signed by him, and shall constitute the determination and findings of the Postal Service for purposes of 39 U.S.C. 404(b). He shall return a copy through the Regional Postmaster General and the District Manager to the Sectional Center Manager and shall forward a copy with a copy of the record to be placed on public file as provided in § 265.6(a)(2).

Subpart G—Notice and Implementation of Final Determination

§ 247.21 Notice of final determination to discontinue post office.

The Sectional Center Manager shall provide notice of the Determination to Discontinue Post Office by having a copy prominently posted in the affected post office or offices. The date of posting shall be noted on the first page of the posted copy.

§ 247.22 Implementation of determinations not appealed.

If no appeal is filed pursuant to 39 U.S.C. 404(b)(5), the Sectional Center Manager may schedule an appropriate date for implementing the approved discontinuance. However, the post office may not be discontinued sooner than 60 days after the notice required by § 247.21 has been posted.

§ 247.23 Actions during appeal.

(a) *Implementation of discontinuance.* If an appeal is filed, the affected post office may be discontinued, without waiting for final disposition of the appeal, unless otherwise directed by the Senior Assistant Postmaster General, Operations Group, or unless otherwise ordered by the Postal Rate Commission in accordance with law. However, the post office may not be discontinued sooner than 60 days after the notice required by § 247.21 has been posted.

(b) *Display of appeal documents.* The Regional Counsel shall provide the Sectional Center Manager with copies of the Postal Rate Commission's service list and all pleadings, notices, orders, briefs, and opinions filed in the appeal proceeding. The Sectional Center Manager shall assure that a copy of each of these documents is prominently displayed and made available for reading by the public in the post office to be discontinued, or if it has been or is discontinued, in the post office or post offices serving the customers affected. All documents except the Commission's final order and opinion must be displayed until the final order and opinion are issued. The final order and opinion must be displayed for a period of 30 days.

§ 247.24 Actions following appeal decision.

(a) *Determination affirmed.* If the Commission dismisses the appeal or affirms the Postal Service's determination, the Sectional Center Manager may schedule an appropriate date for implementing the approved discontinuance if not previously implemented. However, the post office may not be discontinued sooner than 60 days after the notice required under § 247.21 has been posted.

(b) *Determination returned for further consideration.* If the Commission returns the matter for further consideration, the Senior Postmaster General, Operations Group shall direct either that notice be provided in accordance with § 247.19 that the proposed discontinuance has been determined not to be warranted, or shall direct that the matter be returned to an appropriate stage under these regulations for further consideration according to such instructions as he may provide.

(APPENDIX—PART 245)

UNITED STATES POSTAL SERVICE

DEAR POSTAL CUSTOMER: Attached is a description of a proposal which we are considering to attempt to provide your community's postal service more efficiently and economically, while also providing regular and effective service. Please read the proposal carefully and then let us have your comments and suggestions on the form provided below. Your comments will be carefully considered and will be made a part of a public record. If additional room is required, please attach additional sheets of paper as needed. Return the completed form to_____ by _____.

In considering this proposal, if you have any questions you want to talk about with a postal official, you may call _____ whose telephone number is _____

I. *Effect on Your Postal Service*

Please describe any favorable or unfavorable effects which you believe the proposal would have on the regularity or effectiveness of your postal service.

_____

_____

_____

_____

_____

_____

_____

II. *Effect on Your Community*

Please describe any favorable or unfavorable effects which you believe the proposal would have on your community generally.

_____

_____

_____

_____

_____

_____

III. *Other Comments*

Please provide any other views or information which you believe the Postal Service should consider in deciding whether to adopt the proposal.

_____

_____

_____

_____

_____

_____

_____ _____

(Signature of Postal Customer) (Date)

_____

(Mailing Address)

_____

(City) (State) (ZIP Code)

PART 248—SUSPENSION OF POST OFFICE OPERATIONS

5. New Part 248 is added as follows:

§ 248.1 Emergency suspension.

In emergencies, when it is absolutely necessary to suspend operations of a post office without a full review and evaluation, as in the case of a natural disaster or in the termination of a lease when alternative quarters are not quickly available, the Sectional Center Manager, through the District Manager and the Regional Postmaster General, shall notify the Senior Assistant Postmaster General, Operations Group, by telephone or TWX, of the action taken. In such cases, operations must be restored as soon as possible and the post office may not be discontinued except in full compliance with Part 247 of this chapter.

(39 U.S.C. 401)

PART 265—RELEASE OF INFORMATION

§ 265.2 [Amended]

4. Paragraph (a)(2) of § 265.6 is amended by inserting immediately after "Board of Contract Appeals," the fol-

lowing: "all determinations pursuant to § 245.20 of Title 39, Code of Federal Regulations, to close a post office, together with supporting record,".

An appropriate amendment to title 39, CFR to reflect this change will be published if the proposal is adopted.

(39 U.S.C. 101(b), 401, 403(b), 404)

LOUIS A. COX,
General Counsel.

[FR Doc.77-24469 Filed 8-23-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21363; RM-2891]

FM BROADCAST STATION IN COLUMBIA, LA.

Proposed Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action herein proposes the assignment of a first Class A FM channel to Columbia, La. Petitioner, KCTO Broadcasting Co., states the proposed channel will provide Columbia with its first FM broadcast service.

DATES: Comments must be received on or before October 3, 1977, and reply comments must be received on or before October 25, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

Adopted: August 16, 1977.

Released: August 22, 1977.

In the matter of Amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Columbia, La.). Docket No. 21363T RM-2891.

1. *Petitioner, proposal and comments.* (a) Petition for rulemaking filed[1] by KCTO Broadcasting Co. ("KCTO"), licensee of daytime-only AM Station KCTO, Columbia, La., proposing the assignment of Channel 276A to Columbia, La., as a first FM assignment to the community. No oppositions to the petition were received.

(b) Channel 276A could be assigned to Columbia without affecting any existing FM assignments, provided the transmitter is located 8.8 kilometers (5.5 miles) west of the community. From such a location, petitioner states, it would be possible to provide the requisite signal level over Columbia.

(c) KCTO states that it will promptly file an application for the channel, if assigned.

2. *Community Data*—(a) *Location.* Columbia, seat of Caldwell Parish, is located approximately 47 kilometers (29 miles) south of Monroe, La.

(b) *Population.* Columbia—1,000; Caldwell Parish—9,354.[2]

(c) *Local Broadcast Service.* Columbia has a daytime—only station, licensed to petitioner.

3. *Economic data.* KCTO states that Columbia is governed by a mayor and city council. The parish derives its income from farming, logging and pulp operations. KCTO also submitted information with respect to education, churches and civic organizations. It has no daily newspaper.

4. In view of the apparent need for a first full-time local broadcast service in Columbia, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to Columbia, La., as follows:

City	Channel No.	
	Present	Proposed
Columbia, La.		276A

5. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained below and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 below before a channel will be assigned.

6. Interested parties may file comments on or before October 3, 1977, and reply comments on or before October 25, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, It is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and Regulations, as set forth in this Notice of Proposed Rule Making.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc.77-24451 Filed 8-23-77;8:45 am]

[47 CFR Part 73]

[Docket No. 21362; RM-2881]

FM BROADCAST STATION, IN LOUISA, VIRGINIA

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action herein proposes the assignment of a first Class A FM channel to Louisa, Va. Petitioner, Louisa County Broadcasting Co., states that the proposed channel will provide Louisa with its first FM broadcast service.

DATES: Comments must be received by October 3, 1977, and reply comments must be received by October 25, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Louisa, Virginia), Docket No. 21362, RM-2881.

Adopted: August 16, 1977.

Released: August 22, 1977.

1. *Petition, proposal and comments.* (a) Petition for rulemaking,[1] filed April 27, 1977, by Louisa County Broadcasting Co. ("petitioner"), proposing the assignment of Channel 288A to Louisa, Va., as a first FM assignment to that community.

(b) The channel could be assigned in full conformity with the minimum distance separation requirements. There were no oppositions to the proposal.

(c) Petitioner states that, if the channel is asigned, it would file an application to construct a station.

2. *Community data*—(a) *Location.* Louisa, seat of Louisa County, is located approximately 80 kilometers (50 miles) southeast of Richmond, Va., and 40 kilometers (25 miles) west of Charlottesville, Va.

(b) *Population.* Louisa—633; Louisa County—14,004.[2]

(c) *Local Broadcast Service.* There is no local broadcast service in Louisa or Louisa County.

3. *Economic Data.* Petitioner states that Louisa County's economy is based on farming, agriculture and timber production. In support of its proposal, petitioner has submitted population and demographic data and a profile of the local economy. It adds that the proposed station would provide for a first local radio service to Louisa and Louisa County.

4. In view of the apparent need for a local broadcast service in Louisa and Louisa County, we believe that consideration of the proposed FM assignment in a rulemaking proceeding would be in the public interest.

5. Accordingly, it is proposed to amend the FM Table of Assignments, § 73.202 (b) of the Commission's rules, with regard to Louisa, Va., as follows:

City	Channel No.	
	Present	Proposed
Louisa, Va.		288A

6. Authority to institute rule making proceedings, showings required; cut-off procedures; and filing requirements are contained below and are incorporated herein.

[1] Public Notice of the filing of the petition was given on May 9, 1977 (Report No. 1044).

[2] Population figures are taken from the 1970 U.S. Census.

NOTE.—A showing of continuing interest is required by paragraph 2 below before a channel will be assigned.

7. Interested parties may file comments on or before October 3, 1977, and reply comments on or before October 25, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules. It is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in this *notice of proposed rulemaking.*

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc.77-24450 Filed 8-23-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 1241 and 1249]

MOTOR CARRIERS OF PASSENGERS AND PROPERTY

Depreciation Policy Disclosure

AGENCY: Interstate Commerce Commission.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Bureau of Accounts is considering a revision of reporting requirements for motor carriers of passengers and property. The revision would require disclosure of depreciation policies for several major categories of assets. Our objective is to provide users of financial statements with increased comparability among the reports of different carriers. To further our research, we are requesting comments and suggestions on the proposed disclosures described below. *This discussion is intended solely for comment and does not order changes to the reporting regulations.*

DATE: Comments by September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Ronald Young, Chief, Section of Accounting, Interstate Commerce Commission, Washington, D.C. 20423, Phone No.: 202-275-7448.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Commission does not presently prescribe depreciation rates for motor carriers, yet depreciation expense can have a significant impact on net income. Thus, we believe motor carriers should be required to disclose depreciation policy in their annual reports. Such disclosure would facilitate general comparison of carriers' financial statements as well as an evaluation of the impact of different depreciation policies on carrier financial statements.

RECOMMENDED DISCLOSURE

We believe motor carriers with $10 million or more of gross operating revenues should disclose their depreciation policies for these major categories of

[1] Public Notice of the filing of the petition was given on May 24, 1977 (Report No. 1048).

[2] Population figures are taken from the 1970 U.S. Census.

V 42 164 AUG 24 77 UM

assets: (1) Structures, (2) Revenue Equipment, and (3) Service Cars and Equipment.

The proposed disclosures would include:

(1) Book cost,
(2) Service life (and how determined),
(3) Net salvage value (and how determined),
(4) A statement as to consistency of application of depreciation policies, and
(5) Percentage of fully depreciated assets in service (which would indicate the reasonableness of depreciation policy).

These disclosures would be included in explanatory notes to annual report schedules.

Issued at Washington, D.C., August 16, 1977.

JOHN A. GRADY,
Director, Bureau of Accounts.

[FR Doc.77-24512 Filed 8-23-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

BUCK CREEK SPECIAL USE ROAD APPLICATION

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a Final Environmental Statement for the Buck Creek Special Use Road Application, Forest Service report number USDA-FS-FES(Adm)R1(11)76-24.

The environmental statement concerns alternatives for road access to Burlington Northern Inc. lands in the Buck Creek and Yellow Mule drainages of the Gallatin National Forest. Approximately 3.4 miles of road will be built across National Forest land to access private lands situated in a checkerboard onwership pattern in Gallatin and Madison Counties, Montana.

This final environmental statement was transmitted to CEQ on August 19, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA Forest Service, South Agriculture Bldg., Rm. 3210, 12th Street and Independence Avenue SW., Washington, D.C. 20013.
USDA Forest Service, Northern Region, Federal Building, Missoula, Mont. 59807.
USDA Forest Service, Gallatin National Forest, Federal Building, Bozeman, Mont. 59715.
USDA Forest Service, Bozeman Ranger District, 234 E. Babcock, Suite D, Bozeman, Mont. 59715.

A limited number of single copies are available upon request to the Forest Supervisor, Gallatin National Forest, P.O. Box 130, Bozeman, Mont. 59715.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

R. MAX PETERSON,
Deputy Chief.

AUGUST 19, 1977.

[FR Doc.77-24497 Filed 8-23-77;8:45 am]

COMMISSION ON CIVIL RIGHTS

AGE DISCRIMINATION

Hearing

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1957, as amended, 42 U.S.C. § 1975 et seq. (1976), that the U.S. Commission on Civil Rights will hold a public hearing dealing specifically with the provisions of the Age Discrimination Act of 1975, enacted as part of the Older Americans Amendments of 1975, 42 U.S.C. § 6101 et seq. (1976). The hearings will be held on September 26, 27, and 28, 1977 in the Loy Henderson Conference Room (No. 1309A) at the Department of State, 2201 C Street NW., Washington, D.C. An Executive Session, if appropriate, will be convened on September 26, at the same location as the hearing.

The Commission has been conducting an extensive study of age discrimination in federally assisted programs with emphasis on the following programs and activities: Comprehensive Employment and Training Act Public Service Employment Programs; Community Mental Health Centers; Community Health Centers; Vocational Rehabilitation; Legal Services; Title XX of the Social Security Act; Food Stamps; Medicaid; admissions and financial aid policies and procedures of institutions of higher education; and elementary and secondary education including Adult Basic Education, and Vocational Education.

This represents the last in a series of four public hearings held by the Commission on the issue of age discrimination. The first three were conducted in San Francisco, California; Denver, Colorado; and Miami, Florida.

The purpose of these hearings has been to elicit the views of interested parties, including Federal departments and agencies, on issues relating to age discrimination in programs and activities receiving Federal financial assistance and particularly with respect to the reasonableness of distinguishing on the basis of age among potential participants in, or beneficiaries of, specific federally assisted programs.

The Washington, D.C. hearing is intended specifically to obtain the views of officials from Federal agencies administering programs covered by the Age Discrimination Act, and from national organizations working in areas relevant to the problem of age discrimination, on issues identified in the study and the three previous hearings; on the projected effects of the Act on current program policy and operations; on how the agencies of the Federal Government can effectively implement the intent and provisions of the Act; and on any issues or problems which may arise in light of the current provisions of the Act.

Further information on the hearing may be obtained by contacting Ms. Eileen Bradley, Age Discrimination Study, U.S. Commission on Civil Rights, 1730 K Street NW., Suite 214, Washington, D.C. 20006, 202-634-7138.

Dated at Washigton, D.C., August 18, 1977.

ARTHUR S. FLEMMING,
Chairman.

[FR Doc.77-24470 Filed 8-23-77;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUSES

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. The content of a special census is ordinarily limited to questions on household relationship, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the decennial census.

Summary results of special censuses are published semiannually in the Current Population Reports—Series P-28, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following table are the results of special censuses conducted since December 31, 1976, for which tabulations were completed between July 1, 1977, and July 31, 1977.

Dated: August 18, 1977.

MANUEL D. PLOTKIN,
Director, Bureau of the Census.

State/Place or Special Area	County	Date of Census	Population
Arkansas			
Arkansas City city	Desha	May 16, 1977	784
Cabot city	Lonoke	May 10, 1977	3,970
Calico Rock city	Izard	May 2, 1977	1,015
Fort Smith city	Sebastian	March 17, 1977	68,006
McCaskill town	Hempstead	May 26, 1977	91
Sherwood city-annexed areas only	Pulaski	April 18, 1977	1,274
Colorado			
Delta County	------	March 19, 1977	18,949
Garfield County	------	March 11, 1977	18,800
Mesa County	------	March 21, 1977	66,848
Moffat County	------	April 1, 1977	10,303
Rio Blanco County	------	March 16, 1977	5,100
Routt County	------	March 18, 1977	10,516
Illinois			
Carol Stream village	DuPage	April 21, 1977	9,460
Collinsville township-excluding Collinsville city	Madison	May 9, 1977	9,426
Diamond village	Grundy	May 3, 1977	915
Geneseo city	Henry	April 26, 1977	6,154
Hinsdale village	Cook and DuPage	March 29, 1977	16,844
Mokena village	Will	May 23, 1977	3,121
Naperville city	DuPage and Will	May 9, 1977	35,062
Palos Heights city	Cook	May 3, 1977	10,725
Riverwoods village	Lake	April 25, 1977	2,182
Indiana			
Hobart city	Lake	April 7, 1977	22,268
Mishawaka city	St. Joseph	March 31, 1977	39,002
North Dakota			
Stanton city	Mercer	May 25, 1977	583
Washburn city	McLean	May 23, 1977	1,397
Pennsylvania			
Richland township	Cambria	May 10, 1977	11,805
Ridgebury township	Bradford	April 29, 1977	2,068
Tinicum township	Bucks	May 3, 1977	3,242
Upper Uwchlan township	Chester	May 2, 1977	1,343
Virginia			
Ashland town	Hanover	April 25, 1977	4,688
Suffolk city	------	April 4, 1977	46,574

[FR Doc.77-24438 Filed 8-23-77;8:45 am]

Domestic and International Business Administration

COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Computer Systems Technical Advisory Committee will be held on Thursday, September 8, 1977, at 1:00 pm. in Room 3708, Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production and technology, (C) licensing procedures which may affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has four parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Review of Licensing Procedures Subcommittee recommendations for the clarification and simplification of the Export Administration Regulations.

EXECUTIVE SESSION

(4) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegates of the General Counsel, formally determined on January 27, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, P.L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Divisions, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone A/C 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: August 18, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, United States Department of Commerce.

[FR Doc.77-24421 Filed 8-23-77;8:45 am]

National Oceanic and Atmospheric Administration

PACIFIC FISHERY MANAGEMENT COUNCIL AND ITS SCIENTIFIC AND STATISTICAL COMMITTEE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., Appendix I, notice is hereby given of a joint meeting of the Pacific Fishery Management Council, and its Scientific and Statistical Committee.

The Pacific Council established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) has authority, effective March 1, 1977, over fisheries within the fishery conservation zone off the coasts of California, Oregon, and Washington. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

The Council has established a Scientific and Statistical Committee under Section 302(g) of the Act, to assist the Council in the development and amendment of fishery management plans.

The meetings will be Wednesday, Thursday, and Friday, September 14-16, 1977, at the Cosmopolitan Motor Hotel, located at 1030 Northeast Union, Portland, Oregon 97232.

The Scientific and Statistical Committee will meet in the Hall of Fame Room at 1 p.m. and adjourn about 5 p.m. on September 14, 1977. The Committee will tentatively reconvene, dependent upon Council developments, at 8 am. and adjourn about 5 p.m. on September 15, 1977.

PROPOSED AGENDA

1. Consideration of development of fishery management plans, including the salmon fishery management plan for 1978.

2. Organization of the Council, including fishery advisory panels and management development teams, and operational and procedural matters.

3. Other Committee Business.

This meeting will be open to the public and there will be seating for approximately 30 members of the public, on a first-come, first-served basis.

The Pacific Fishery Management Council will convene in the Capri/Del Rio Room at 8 a.m. and adjourn about 5 p.m. on September 15, 1977, and reconvene at 10 a.m. and adjourn about 5 p.m. on September 16, 1977.

PROPOSED AGENDA

SEPTEMBER 15

1. Organization of the Council, including its staff, advisory panels, and committees, and operational and procedural matters.

2. Consideration of a first draft of the salmon fishery management plan for 1978.

3. Consideration of a report from Council's Subcommittee on Coordination with North Pacific Council.

4. Consideration of a report from Council's Subcommittee on Charters.

SEPTEMBER 16

1. Closed Session to discuss classified material on preparations for and actual negotiations in connection with the International North Pacific Fisheries Commission (INPFC), the International Pacific Halibut Commission (IPHC) and continuing negotiations with the Canadians. (Council only.)

2. Review of communications from other agencies and organizations.

3. Budget and administrative matters.

4. Other Council Business.

A closed session of the Council is planned for the early morning of the last day, September 16, from 8:00 a.m. through 10:00 a.m. to hear Department of State reports and other related Council business on preparations for and actual negotiations in connection with the International North Pacific Fisheries Commission, the International Pacific Halibut Commission, and continuing negotiations with the Canadians, properly classified under Executive Order 11652. Only those Council members having security clearances will be allowed to attend this closed session. The Scientific and Statistical Committee will not attend this session.

After the closed meeting adjourns, a public hearing will be held on September 16, at approximately 10 a.m., at the same location. Interested members of the public are invited to testify at this hearing on matters relating to fishery management plans under development by the Council and other related Council functions.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined, on August 18, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in executive session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because these items will be concerned with matters listed in 5 U.S.C. 552b(c)(1), i.e., it is specifically required by E.O. 11652 that they be kept secret in the interest of national security. (A copy of the determination is available for public inspection and copying.)

The meeting will be open to the public (except the closed session of the Council) and there will be seating for approximately 100 members of the public available on a first-come, first-served basis.

Members of the public having an interest in specific items for discussion are also advised that agenda changes are, at times, made prior to the meetings. To receive information on changes, if any, made to the agenda, interested members of the public should contact on or about September 6, 1977:

Mr. Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, (503) 221-6352.

At the discretion of the Council and its Committee, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to submit written comments should do so by addressing Mr. Lorry M. Nakatsu at the above address. The public is permitted to file written statements at any time before or after the meeting. However, to receive due consideration and facilitate inclusion in the record of the meeting, typewritten statements which relate to the agenda items should be received no later than ten (10) days after the close of the joint meeting.

Dated: August 19, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-24436 Filed 8-23-77;8:45 am]

National Oceanic and Atmospheric Administration

TAKING OF MARINE MAMMALS INCIDENTAL TO TUNA PURSE SEINING OPERATIONS

DEIS Correction Notice

A draft environmental impact statement (DEIS) was submitted to the Council on Environmental Quality on August 12, 1977, by the National Marine Fisheries Service concerning the promulgation of regulations and proposed issuance of permits to commercial fishermen allowing the taking of marine mammals in the course of yellowfin tuna purse seining operations from 1978 through 1980. It has come to our attention that the charts comprising Figures 3, 4, and 5 (pages 32, 34, and 36 respectively) of the DEIS, which depict the known ranges of the major porpoise stocks and species involved, are incorrect. The charts published in the DEIS are working drafts which include unsubstantiated porpoise sighting data. The population estimates published in the proposed 1978 to 1980 regulations (42 FR 37217-37224) were not based on the porpoise stocks distributions shown in the published DEIS figures, rather they were based on the confirmed porpoise stock distributions published in the "Report of the Workshop on Stock Assessment of Porpoises Involved in the Eastern Pacific Yellowfin

Tuna Fishery" (SWFC Admin. Report No. LJ-76-29). The recent increase in the estimate of the whitebelly spinner stock size was based on late-1976 sighting data from within the range established by the workshop.

The corrected DEIS Figures 3, 4, and 5 have been forwarded to CEQ and to all individuals who received the original DEIS. All questions concerning these corrections should be directed to:

William P. Jensen, Marine Mammal Program Manager, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235; Telephone 202-634-7461.

Dated: August 19, 1977.

WINFRED H. MEIBOHM,
Acting Deputy Director, National Marine Fisheries Service.

[FR Doc.77-24437 Filed 8-23-77;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

TEXTILE CATEGORY SYSTEM

Effective January 1, 1978

Correction

In FR Doc. 77-23081 appearing at page 40610 in the issue for Wednesday, August 10, 1977, the telephone number directly above the signature on page 40610, now reading "202-337-4212", should read "202-377-4212".

FEDERAL COMMUNICATIONS COMMISSION

FM AND TV TRANSLATOR APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: August 16, 1977.

Released: August 19, 1977.

Notice is hereby given pursuant to Sections 1.572(c) and 1.573(d) of the Commission's Rules, that on October 14, 1977, the TV and FM translator applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to Section 1.227 (b)(1) and Section 1.519(b) of the Commission's Rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on October 13, 1977, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on October 13, 1977.

The attention of any party in interest desiring to file pleadings concerning any pending TV and FM translator application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to Section 1.580(i) of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

VHF TV TRANSLATOR APPLICATIONS

BPTTV-5843 (new), Wanship, Utah, Summit County. Req: Channel 6, 82-88 MHz, 1 watt. Primary: KUTV-TV, Salt Lake City, Utah.

BPTTV-5844 (new), Wanship, Utah, Summit County. Req: Channel 8, 180-186 MHz, 1 watt. Primary: KTVX-TV, Salt Lake City, Utah.

BPTTV-5847 (new), Crockett Heights, Texas, I. & M. Communications. Req: Channel 6, 32-88 MHz, 1 watt. Primary: KCTV-TV, San Angelo, Texas.

BPTTV-5848 (new), Crockett Heights, Texas, I. & M. Communications. Req: Channel 10, 192-198 MHz, 1 watt. Primary: KRBC-TV, San Angelo, Texas.

BPTTV-5850 (K07FD), Meeker, Wilson Oil Camp, Rural Area West of Meeker and Rural Area South of Meeker, Colorado. Rio Blanco County TV Association. Req: Change freqeuncy to Channel 6, 82-88 MHz, change primary TV station to KBTV, Channel 9, Denver, Colorado.

BPTTV-5851 (K12EO), Buford, Colorado, Rio Blanco County TV Association. Req: Change frequency to Channel 5, 76-82 MHz, add Upper White River Rural Area, Colorado to present principal community.

BPTTV-5852 (K10HE), Buford and Upper White River Rural Area, Colorado, Rio Blanco County TV Association. Req: Increase output power to 10 watts, change primary TV station to KOA-TV, Channel 4, Denver, Colorado.

BPTTV-5854 (new), Salida and Buena Vista, Colorado, Chaffee County TV Translator Association. Req: Channel 4, 66-72 MHz, 10 watts. Primary: KWGN-TV, Denver, Colorado.

BPTTV-5855 (new), McDermitt, Nevada, Quinn River Television Maintenance District. Req: Channel 12, 204-210 MHz, 1 watt. Primary: KOLO-TV, Reno, Nevada.

BPTTV-5856 (new), Aromas, California, Monterey County Supt., of Schools. Req: Channel 13, 210-216 MHz, 1 watt. Primary: KQED-TV, San Francisco, California.

BPTTV-5857 (new), Tununak, Alaska, Bethel Broadcasting, Inc. Req: Channel 2, 54-60 MHz, 10 watts. Primary: KYUK-TV, Bethel, Alaska.

BPTTV-5858 (new), Kwiguk, Alaska, Bethel Broadcasting, Inc. Req: Channel 2, 54-60 MHz, 10 watts. Primary: KYUK-TV, Bethel, Alaska.

BPTTV-5859 (new), Kotlik, Alaska, Bethel Broadcasting, Inc. Req: Channel 7, 174-180 MHz, 1 watt. Primary: KYUK-TV, Bethel, Alaska.

BPTTV-5860 (new), Alukanuk, Alaska, Bethel Broadcasting, Inc. Req: Channel 10, 192-198 MHz, 10 watts. Primary: KYUK-TV, Bethel, Alaska.

BPTTV-5861 (new), Relay to Alukanuk, Kwiguk & Kotlik, Alaska, Bethel Broadcasting, Inc. Req: Channel 13, 210-216 MHz, 5 watts. Primary: KYUK-TV, Bethel, Alaska.

BPTT-2948 (new), Hugo, Oklahoma, Oklahoma Educational Television Authority. Req: Channel 15, 476-482 MHz, 1,000 watts. Primary: KETA-TV, Eufaula, Oklahoma.

BPTT-2949 (new), Idabel, Oklahoma, Oklahoma Educational Television Authority. Req: Channel 63, 764-770 MHz, 100 watts. Primary: KETA-TV, Eufaula, Oklahoma.

BPTT-3223 (new), Falls City, Nebraska, Nebraska Educational Television Commission. Req: Channel 24, 530-536 MHz, 1,000 watts. Primary: KUON-TV, Lincoln, Nebraska.

BPTT-3285 (new), Mullin, Texas, Pompey Mountain Broadcasting, Inc. Req: Channel 67, 788-794 MHz, 100 watts. Primary: KTVT-TV, Fort Worth, Texas.

BPTT-3292 (new), Woodland & Kamas, Utah, Summit County. Req: Channel 48, 674-680 MHz, 100 watts. Primary: KUT—TV, Salt Lake City, Utah.

BPTT-3293 (new), Woodland & Kamas, Utah, Summit County. Req: Channel 50, 686-692 MHz, 100 watts. Primary: KTVX-TV, Salt Lake City, Utah.

BPTT-3294 (new), Woodland & Kamas, Utah, Summit County. Req: Channel 52, 698-704 MHz, 100 watts. Primary: KSL-TV, Salt Lake City, Utah.

BPTT-3295 (new), Woodland & Kamas, Utah, Summit County. Req: Channel 54, 710-716 MHz, 100 watts. Primary: KUED-TV, Salt Lake City, Utah.

BPTT-3296 (new), White River Area (East-West) & Piceance Creek Area, Colorado, Rio Blanco County TV Association. Req: Channel 57, 728-734 MHz, 100 watts. Primary: KOA-TV, Denver, Colorado.

BPTT-3297 (new), Piceance Creek Rural Area (Central), Colorado, Rio Blanco County TV Association. Req: Channel 64, 770-776 MHz, 20 Watts. Primary: KBTV-TV, Denver, Colorado.

BPTT-3298 (new), Wilson Creek & Meeker Including White River Rural Area, Colorado, Rio Blanco County TV Association. Req: Channel 66, 782-788 MHz, 100 watts. Primary: KBTV-TV, Denver, Colorado.

BPTT-3299 (new), Piceance Creek Rural Area (Central), Colorado, Rio Blanco County TV Association. Req: Channel 67, 788-794 MHz, 20 watts. Primary: KOA-TV, Denver, Colorado.

BPTT-3300 (New), White River Area (East-West) & Piceance Creek Area, Colorado, Rio Blanco County TV Association. Req: Channel 69, 800-806 MHz, 100 watts. Primary: KBTV-TV, Denver, Colorado.

BPTT-3301 (new), Bear Creek, Pennsylvania, Scranton Broadcasters, Inc. Req: Channel 63, 764-770 MHz, 100 watts. Primary: WDAU-TV, Scranton, Pennsylvania.

BPPT-3311 (new), Arrey & Derry, New Mexico, New Mexico Broadcasting, Co. (NSL). Req: Channel 67, 788-794 MHz,10 watts. Primary: KGGM-TV, Albuquerque, New Mexico.

BPTT-3151 (new), Deming, New Mexico, New Mexico Broadcasting, Co. Req: Channel 57, 728-734 MHz, 10 watts. Primary: KGGM-TV, Albuquerque, New Mexico.

The following entry appeared on the Public Notice (Mimeo No. 82462) released May 26, 1977, listing translator applications which would be considered as ready and available for processing on July 18, 1977.

BPTTV-5813 (new), Phoenix, Arizona, Bouse Booster Club, Inc. Req: Channel 4, 66-72 MHz, 1 watt. Primary: KOOL-TV, Phoenix, Arizona.

The entry is corrected to read as follows:

BPTTV-5813 (new), Bouse Arizona, Bouse Booster Club, Inc. Req: Channel 4, 66-72 MHz, 1 watt. Primary: KOOL-TV, Phoenix, Arizona.

[FR Doc.77-24455 Filed 8-23-77;8:45 am]

[Docket Nos. 21367 and 21368; File Nos. 21249-CD-P-75 and 21578-CD-P-75]

MEDICAL BUREAU, INC. AND METROTEC, INC.

Designation of Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order

Adopted August 15, 1977.

Released August 23, 1977.

In re application of the Medical-Dental Bureau, Inc., for a construction permit to establish a new one-way signaling station on frequency 35.22 MHz in the Domestic Public Land Mobile Radio Service at Youngstown, Ohio and Metrotec, Inc., for a construction permit for additional facilities for one-way Station KTS283 to operate on frequency 35.22 MHz in the Domestic Public Land Mobile Radio Service at Youngstown, Ohio.

1. The Commission, by the Chief of the Common Carrier Bureau acting pursuant to delegated authority, has before it an application filed on February 27, 1975[1] by the Medical-Dental Bureau, Inc. (Medical-Dental), File No. 21249-CD-P-75, for a Construction Permit to establish a new one-way signaling station on frequency 35.22 MHz in the Domestic Public Land Mobile Radio Service at Youngstown, Ohio, and an application filed on May 13, 1975 by Metrotec, Inc. (Metrotec), File No. 21578-CD-P-75, for a Construction Permit for additional facilities for one-way Station KTS283 to operate on frequency 35.22 MHz in the Domestic Public Land Mobile Radio Service at Youngstown, Ohio. Petitions to Deny filed by Anserphone, Inc. against both applications have been withdrawn, and the applications are now unopposed.

2. Medical-Dental is the licensee of one-way signaling Station KEK302 which provides tone-only and tone-plus-voice service at Youngstown, Ohio.[2] Pursuant to Section 21.516 of the Commission's Rules,[3] Medical-Dental has submitted a traffic load study setting forth for certain periods the number of calls made per hour and the air time used per hour in connection with the base station facilities of KEK302. The Bureau cannot conclude from this traffic load study that Medical-Dental has adequately demonstrated a need for the requested additional channel. The air time for each paging transmission was calculated at 30 seconds per transmission whether operator dispatched or through an automatic terminal.[4] In any case, the air time figures ranging from nine to 40 minutes are not so compelling as to conclusively demonstrate a need for the requested additional channel. Moreover, Medical-Dental has not presented information as to why its proposed one-way signaling service could not be provided in connection with the base station facilities of Station KLF512, over which it currently provides mobile telephone service in the Youngstown, Ohio area.[5] Accordingly, the Bureau will designate as an issue herein whether Medical-Dental has adequately demonstrated a need for the requested additional channel and whether its proposed one-way signaling service could not be provided in connection with the base station facilities of Station KLF512 at Youngstown, Ohio.

3. Metrotec has caused a survey to be conducted in the Youngstown, Ohio area to determine the need for its proposed one-way signaling service. Metrotec reports requests for 190 paging units. Although this number would appear to be sufficient evidence of substantial unsatisfied need, for other reasons the showing appears deficient under the standards of *Long Island Paging* 30 FCC 2d 405 (1971) and *New York Telephone Company*, 47 FCC 2d 264 (1974), *aff'd sub nom. Pocket Phone Broadcast Service, Inc.* v. *FCC*, 538 F.2d 447 (D.C. Cir. 1976). In particular, there is no description of the methodology employed in the survey, or an indication as to the total number of individuals or businesses contacted or a statement as to whether those contacted were informed of the cost and the reliable service area of its proposed one-way signaling service. Accordingly, the Bureau will designate as an issue herein whether Metrotec has adequately demonstrated a need for its proposed service.

4. Since the above-referenced applications request use of the same frequency, they are electrically mutually exclusive. For this reason, and because the applicants appear to be legally, financially, technically and otherwise qualified to construct and operate the proposed facilities, except to the extent indicated in the following issues, a comparative hearing must be held to determine which applicant, if any, would better serve the public interest. *Ashbacker Radio Corp.* v. *FCC*, 36 U.S. 327 (1945).

5. In view of the foregoing, *It is ordered*, pursuant to Section 309(e) of the Communications Act of 1934, as amended, That the application of The Medical-Dental Bureau, Inc., File No. 21249-CD-P-75 and the application of Metrotec, Inc., File No. 21578-CD-P-75, are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine in accordance with Sections 21.516 and 21.501(d)(2) of the Commission's Rules the nature and extent of services now rendered by The Medical-Dental Bureau, Inc. and the capacity of its existing facilities;

(b) To determine whether Metrotec, Inc. has adequately demonstrated a public need for its proposed facilities;

(c) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance personnel, practices, classifications, regulations, and facilities pertaining thereto;

(d) To determine on a comparative basis, the areas and populations that each applicant will serve within the prospective 43 dbu contours, based upon the standards set forth in Section 21.504(a) of the Commission's Rules,[6] and to determine the need for the proposed services in said areas;

(e) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the above-referenced applications, would best serve the public interest, convenience and necessity.

6. *It is further ordered*, That the hearing shall be held at the Commission offices in Washington, D.C. at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

7. *It is further ordered*, That the Chief, Common Carrier Bureau, is made a party to the proceeding.

8. *It is further ordered*, That the applicants may avail themselves of an opportunity to be heard by filing with the Commission pursuant to Section 1.221(c) of the Rules within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and present evidence on the issues specified in this Memorandum Opinion and Order.

WALTER R. HINCHMAN,
Chief, Common Carrier Bureau.

[FR Doc.77-24453 Filed 8-23-77;8:45 am]

Noncommercial Educational FM Broadcast Applications Ready and Available for Processing

Adopted: August 17, 1977.

Released: August 18, 1977.

Notice is hereby given, pursuant to Section 1.573(d) of the Commission's Rules, that on September 27, 1977, the

[1] This application apeared on public notice on March 17, 1975.

[2] Although Medical-Dental has termed its application as for a new station, the proposed transmitting location is identical to that for Station KEK302. Accordingly, the Medical-Dental application is in substance a request for an additional channel for Station KEK302.

[3] Section 21.516 requires that "an applicant requesting the assignment of an additional channel or channels at an existing Domestic Public Land Mobile Radio Station (other than control dispatch or repeater), in addition to the information required by other sections of the rules, shall include a showing of the following: * * * (b) Data showing the actual traffic loading on each channel assignment of the present radio systems during the busiest 12-hour periods on three days (within a seven-day period) having normal message traffic not more than 60 days prior to the date of filing. This information should be reported separately for each of the three days selected, which should be identified by dates, and should disclose the following: * * * (4) For systems that provide one-way signaling as a primary service; (i) the number of mobile receivers in operation during the study period, (ii) the number of calls held, (iii) the total holding time; or for systems that do not provide message relay service; (iv) the total number of minutes the channel is utilized for transmission between the base station and the mobile receiver during each hour.

[4] By means of an automatic terminal, a tone-only call can be executed in less than one second. Medical-Dental employs an automatic terminal. The Bureau has not been informed as to what portion of Medical-Dental's calls are tone-only.

[5] Section 21.501(d)(2) of the Commission's Rules provides: "If an applicant for authorization to provide an exclusive one-way signaling service provides or proposes to provide, General or Dispatch service * * * the application for a one-way facility should be supported with full information to show why the proposed signaling service could not be provided in connection with the base station facilities used for such General or Dispatch service."

[6] Section 21.504(a) of the Commission's Rules and Regulations describes a field strength contour of 43 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in one-way communications service. Propagation data set forth in Section 21.504(b) are the proper bases for establishing the location of service contours (F50, 50) for the facilities involved in this proceeding.

noncommercial educational FM broadcast applications listed in the attached Appendix, which are being processed expeditiously since they are potentially eligible for funding in this fiscal year from the Department of Health, Education and Welfare, will be considered as ready and available for processing. Pursuant to Section 1.227(b)(1) and Section 1.591(b) of the Commission's Rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on September 26, 1977, which involves a conflict necessitating a hearing with any application on this list, must be substantiaally complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on September 26, 1977. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing in the attached Appendix by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to Section 1.573(d) of the Commission's Rules.

The attention of any party in interest desiring to file pleadings concerning any pending noncommercial educational FM broadcast application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to Section 1.580(i) of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPENDIX

BPH-10620 (WFBE), Flint, Mich., Flint Board of Education. Has: 95.1 mHz; Channel No. 236B, ERP: 3.7 kW; HAAT: 115 ft. (Lic). Req: 95.1 mHz; Channel No 236B. ERP: 10 kW; HAAT: 241 ft.

BPED-2174 (KUT-FM), Austin, Tex., the University of Texas. Has: 90.7 mHz; Channel No. 214A, ERP: 4.1 kW; HAAT: 225 ft. (Lic). Req: 90.5 mHz; Channel No. 213C. ERP: 100 kW; HAAT: 957.7 ft.

BPED-2452 (new), KESHENA, Wis., Menominee Indian Tribe. Req: 83.3 mHz; Channel No. 202A. ERP: 21.4 kW; HAAT: 300 ft.

BPED-2453 (WBFO), Buffalo, N.Y., State University of New York. Has: 88.7 mHz; Channel No. 204A. ERP: .770 kW; HAAT: 230 ft. (Lic). Req: 88.7 mHz; Channel No. 204B, ERP: 21.4 kW; HAAT: 239.5 ft.

BPED-2462 (KHCC-FM), Hutchinson, Kans., Hutchinson Community Junior College. Has: 90.1 mHz; Channel No. 211A. ERP: .083 kW; HAAT: 57 ft. (Lic). Req: 90.1 mHz; Channel No. 211C. ERP: 100 kW; HAAT: 1080 ft.

BPED-2479 (new), Wheeling, W. Va., West Virginia Educational Broadcasting Authority. Req: 89.9 mHz; Channel No. 210B. ERP: 24.7 kW; HAAT: 500 ft.

BPED-2481 (KTOO), Juneau, Alaska, Capital Community Broadcasting, Inc. Has: 104.3 mHz; Channel No. 282C. ERP: .01 kW; HAAT: ft. (Lic). Req: 104.3 mHz; Channel No. 282C. ERP: 1.40 kW; HAAT: −1042 ft.

BMPED-1511 (KACC), Alvin, Tex., Alvin Community College. Has: 91.3 mHz; Channel No. 217D. TPO: .01 kW (CP). Req: 91.3 mHz; Channel No. 217A. ERP: .80 kW; HAAT: 118 ft.

[FR Doc.77-24456 Filed 8-23-77;8:45 am]

[Docket Nos. 21364-21366; File Nos. 22016-CD-P-76, 22022-CD-P-76, and 22339-CD-P-76]

PINE MOUNTAIN COMMUNICATIONS, INC. ET AL.

Designation of Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order

In re Applications of Pine Mountain Communications, Inc., Custom Radio, Inc., and Specialized Telephone Service. For Construction Permits to establish new one-way signaling stations, or for additional facilities, to operate on frequency 152.24 MHz in the Domestic Public Land Mobile Radio Service at or near Casper, Wyoming.

Adopted: August 16, 1977.

Released: August 23, 1977.

1. The Commission, by the Chief, Common Carrier Bureau, acting pursuant to delegated authority, has before it the following applications: an application filed May 13, 1976, by Pine Mountain Communications, Inc. (Pine Mountain), File No. 22016-CD-P-76, for a Construction Permit to establish a new one-way station to operate on frequency 152.24 MHz at Casper Mountain near Casper, Wyo.; an application filed May 11, 1976, by Custom Radio, Inc. (Custom), File No. 22022-CD-P-76, for a Construction Permit for a new one-way station to operate on frequency 152.24 MHz at Casper, Wyo.; and an application filed June 25, 1976, by Specialized Telephone Service (Specialized), File No. 22339-CD-P-76, licensee of one-way Station KWH348 currently operating on frequency 158.70 MHz at Casper, Wyo., for a Construction Permit to establish additional facilities to operate on frequency 152.24 MHz. A letter opposition was filed against the Pine Mountain application by Custom. In addition, both Custom and Pine Mountain have filed for our consideration copies of pleadings filed in connection with the Pine Mountain application for two-way mobile telephone service, File No. 22017-CD-P-(3)-76. The applications of Specialized Telephone Service and of Custom Radio, Inc., are unopposed.

2. The above-captioned application of Pine Mountain has been opposed by Custom on the ground of failure to demonstrate state certification as required by section 21.13(f) of the Rules,[1] and on the ground that Pine Mountain's need survey is in part fraudulent. These issues were also raised against Pine Mountain in its application for two-way mobile telephone service, File No. 22017-CD-P-(3)-76. The Bureau has fully discussed these issues in the Memorandum Opinion and Order disposing of that application issued this same day. Accordingly, it is unnecessary to repeat that discussion here. With respect to the state certification issue, however, the Bureau notes that Pine Mountain has submitted a letter from the Wyoming Public Service Commission indicating that its proposed noninterconnected paging service does not require state certification. However, prior to offering an interconnected service the Bureau will require Pine Mountain to obtain state certification.

3. Pine Mountain has requested a waiver of section 21.505 of the Rules[2] to permit operation at a power greater than that authorized by Rule 21.505. Pine Mountain contends the requested waiver is necessary in order for it to provide reliable service to those who have expressed an interest in its proposed service. Pine Mountain has offered meager factual support for this contention, and normally the Bureau would deny the request in such circumstances.[3] However, because the application must be designated for hearing, the Bureau has decided to afford Pine Mountain the opportunity of presenting evidence on this issue. Accordingly, the Bureau will designate as an issue herein Pine Mountain's request for a waiver of Section 21.505 of the Rules.

4. By a Memorandum Opinion and Order issued this same day, Pine Mountain has been granted a Construction Permit to establish facilities to offer two-way mobile telephone service from the same site proposed by the applicant in the instant application. Accordingly, pursuant to section 21.501(d)(2) of the Rules,[4] the Bureau will designate as an issue herein why Pine Mountain's proposed one-way signaling service cannot be provided in connection with the base station facilities of that station.

5. Specialized is currently operating a one-way signaling service over the facilities of station KWH348. The instant application is for an additional channel for this station. By letter dated December 16, 1976, the Bureau requested a traffic load study pursuant to section 21.516 of

[1] Section 21.13(f) of the Rules provides: "Where required by applicable local law, an applicant shall include a copy of the franchise or other authorization issued by appropriate regulatory authorities. If no such local requirement exists, or if Commission authority is a prerequisite for such authorization, a statement to this effect shall be included in the application."

[2] Section 21.505 of the Commission's Rules prescribes required reductions in effective radiated power for antenna heights in excess of 500 feet above average terrain.

[3] The Bureau has denied Pine Mountain's request for a waiver of Section 21.505 in connection with its application for two-way service, File No. 22017-CD-P-(3)-76.

[4] Section 21.505(d)(2) provides: "If an applicant for authorization to provide an exclusive one-way signaling service provides or proposes to provide, General or Dispatch service • • • the application for a one-way facility should be supported with full information to show why the proposed signaling service could not be provided in connection with the base station facilities used for such General or Dspatch service."

the Rules[5] to demonstrate the current usage of station KWH348. In response, Specialized submitted a traffic load study showing the number of calls transmitted each hour of a 12-hour period for three consecutive days. It further stated that it currently has 260 paging units in service and that its channel was becoming congested. The Bureau concludes, however, that Specialized has not sufficiently demonstrated a need for the requested additional channel for station KWH348. Accordingly, the Bureau will designate as an issue herein whether Specialized has adequately demonstrated loading of its existing channel so that grant of an additional channel would be justified.

6. Custom is currently serving 48 paging units, on a secondary basis, on the facilities of its two-way station KOK342. Although it has stated that further paging growth cannot efficiently be accommodated on station KOK342, it has failed to demonstrate pursuant to section 21.501(d)(2) why its proposed paging service cannot be provided in connection with the base station facilities of this station. Accordingly, we shall designate this issue for further exploration at the hearing ordered herein. With respect to this issue, a relevant factor will be the Bureau's grant today of Custom's application, File No. 21879-CD-P-76, for an additional channel for two-way station KOK342.

7. Since the above-referenced applications all request use of the same frequency, they are electrically mutually exclusive. For this reason, and because all three applicants appear to be legally, financially, technically and otherwise qualified to construct and operate the proposed facilities, except to the extent indicated in the following issues, a comparative hearing must be held to determine which applicant, if any, would better serve the public interest. *Ashbacker Radio Corp. v. FCC*, 326 U.S. 327 (1945).

8. In view of the foregoing, *It is ordered*, That pursuant to sections 309(d) and (e) of the Communications Act of 1934, as amended (47 U.S.C. sections 309(d) and (e), the above-captioned applications of Pine Mountain Communications, Inc., Custom Radio, Inc., and Specialized Telephone Service are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine, in accordance with section 21.516(b) of the Commission's Rules, the nature and extent of services now rendered by Specialized Telephone Service and the capacity of its existing facilities;

(b) To determine, in accordance with section 21.501(d)(2) of the Commission's Rules, the nature and extent of services now rendered by Custom Radio, Inc., and the capacity of its existing facilities including its additional facilities authorized this same day;

(c) To determine, in accordance with section 21.501(d)(2) of the Commission's Rules, the nature and extent of services rendered or to be rendered by Pine Mountain Communications, Inc., and the capacity of its facilities authorized this same day;

(d) To determine whether section 21.505 of the Commission's Rules should be waived to allow operation of the facilities proposed in the application of Pine Mountain Communications, Inc., at a power in excess of that prescribed by section 21.505;

(e) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance personnel, practices, classifications, regulations, and facilities pertaining thereto;

(f) To determine on a comparative basis the areas and populations that each applicant will serve within the prospective 43 dbu contours, based upon the standards set forth in section 21.504(a) of the Commission's Rules;[6] and to determine the need for the proposed services in said area;

(g) To determine in light of the evidence adduced pursuant to the foregoing issues what disposition of the above-referenced applications would best serve the public interest, convenience, and necessity.

9. *It is further ordered*, That the hearing shall be held at the Commission offices in Washington, D.C., at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

10. *It is further ordered*, That the Chief, Common Carrier Bureau, is made a party to the proceeding.

11. *It is further ordered*, That applicants may avail themselves of an opportunity to be heard by filing with the Commission, pursuant to section 1.221(c) of the Rules within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and present evidence on the issues specified in this Memorandum Opinion and Order.

WALTER R. HINCHMAN,
Chief, Common Carrier Bureau.

[FR Doc.77-24454 Filed 8-23-77;8:45 am]

[5] Section 21.516 requires: "An applicant requesting the assignment of an additional channel or channels at an existing Domestic Public Land Mobile Radio Station (other than control dispatch or repeater), in addition to the information required by other sections of the rules, shall include a showing of the following: • • • (b) Data showing the actual traffic loading on each channel assignment of the present radio systems during the busiest 12-hour periods on three days (within a seven-day period) having normal message traffic not more than 60 days prior to the date of filing. This information should be reported separately for each of the three days selected, which should be identified by dates, and should disclose the following: • • • (4) For systems that provide one-way signaling as a primary service; (i) the number of mobile receivers in operation during the study period, (ii) the number of calls held, (iii) the total holding time; or for systems that do not provide message relay service; (iv) the total number of minutes the channel is utilized for transmission between the base station and the mobile receiver during each hour."

[6] Section 21.504(a) of the Commission's Rules and Regulations describes a field strength contour of 43 decibles above one microvolt per meter as the limits of the reliable service area for base stations engaged in one-way communications service. Propagation data set forth in section 21.504(b) are the proper bases for establishing the location of service contours (F50, 50) for the facilities involved in this proceeding.

PURAC TASK AREA GROUP ON GENERAL MOBILE RADIO SERVICE

Meeting

In preparation for the next meeting of the Personal Use Radio Advisory Committee (PURAC), the PURAC task area group investigating the General Mobile Radio Service will meet September 9, 1977, at 9 A.M. in Room 7327 of the offices of the Federal Communications Commission at 2025 "M" Street NW., Washington, D.C. 20554 to discuss its fact finding progress for presentation to the full PURAC.

This meeting is open to the public. Individuals interested in the personal radio aspects of the General Mobile Radio Service are invited to attend. For further information, contact the Task Area Coordinator, Corwin Moore, c/o Highway Safety Research Institute, University of Michigan, Huron Parkway and Baxter Road, Ann Arbor, Mich. 48109, 313-763-3232.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-24452 Filed 8-23-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Negative Determination of Environmental Impact; Construction Orders to Certain Powerplants

Pursuant to 10 CFR §§ 208.4(c) and 307.7, the Federal Energy Administration (FEA), hereby gives notice that, in accordance with 10 CFR §§ 307.7(c) and 208.3(a)(4), it has performed an analysis and review of the environmental impact of the issuance to the following powerplants of Notices Effectiveness of construction orders:

Docket No.	Owner	Powerplant no.	Generating station	Location
OFU-031-N	Carolina Power & Light Co.	1	Mayo	Person County, N.C.
OFU-032-N	do	2	do	Do.
OFU-044-N	Louisville Gas & Electric Co.	4	Mill Creek	Louisville, Ky.
OFU-046-N	Montana Power Co.	3	Colstrip	Colstrip, Mont.
OFU-047-N	do	4	do	Do.
OFU-057-N	Sierra Pacific Power Co.	2	North Valmy	Humboldt County, Nev.
OFU-072-N	Wisconsin Electric Power Co.	1	Pleasant Prairie	Pleasant Prairie, Wis.
OFU-073-N	do	2	do	Do.
OCU-087-N	Columbus and Southern Ohio Electric Co.	5	E. M. Poston	Athens, Ohio.
OCU-088-N	do	6	do	Do.
OCU-091-N	Brazos Electric Power Cooperative Inc., and South Texas Electric Cooperative, Inc.	1	San Miguel	South of Christine, Tex.

Docket No.	Owner	Power-plant no.	Generating station	Location
OCU-105-N	Kentucky Utilities Co.	3	Ghent	Ghent, Ky.
OCU-106-N	Lower Colorado River Authority	2	Fayette power project.	LaGrange, Tex.
OCU-118-N	Texas Power & Light Co., Texas Electric Service Co., and Dallas Power & Light Co. (Texas Utilities Generating Co.—agent/operator).	1	Forest Grove	Near Athens, Tex.
OCU-119-N	Texas Power & Light Co. and Aluminum Co. of America (Texas Utilities Generating Co.—agent/operator).	4	Sandow	Near Rockdale, Tex.
OCU-120-N	do	1	Twin Oak	Near Franklin, Tex.
OCU-121-N	do	2	do	Do.
OCU-183-N	Nebraska Public Power District	2	Gerald Gentleman.	Sutherland, Nebr.

On June 30, 1975, September 30, 1976, and February 11, 1977, FEA issued construction orders to the above listed powerplants in the early planning process, which required the powerplants to be designed and constructed so as to be capable of using coal as their primary energy source (40 FR 28436, July 3, 1975; 41 FR 45909, October 18, 1976; and 42 FR 10721, February 23, 1977). The construction orders provided, however, that in accordance with the requirements of 10 CFR Parts 303 and 307, the orders would not become effective until FEA had considered the environmental impact of the orders, pursuant to 10 CFR § 307.7, and until FEA had served the affected powerplants with a Notice of Effectiveness.

On the basis of an analysis and review of the effect on the human environment of issuance of the Notices of Effectiveness, FEA has determined it is clear that issuance of Notices of Effectiveness for construction orders to the above listed powerplants are not "major Federal action[s] significantly affecting the quality of the human environment." Section 102(2)(c) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR § 208.4(c) FEA concludes that environmental impact statements are not required.

Additional copies of this Negative Determination and copies of the analyses upon which it is based are available upon request from the FEA National Energy Information Center, Room 1404, Federal Building, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of the documents are also available for public review in the FEA Freedom of Information Reading Room, 2107, 12th Street and Pennsylvania Avenue NW., Washington, D.C.

Interested persons are invited to submit data, views, or arguments with respect to the environmental impacts of the Notices of Effectiveness and the associated environmental analyses to Executive Communications, Box OS, Room 3317, Federal Energy Administration, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Negative Determination—Proposed NOE to [powerplant]." Fifteen copies should be submitted on or before September 13, 1977.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., August 18, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-24506 Filed 8-23-77;8:45 am]

STRATEGIC PETROLEUM RESERVE

Notice of Availability of the Final Environmental Impact Statement for the Central Rock Mine Storage Site

Pursuant to section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C), the Federal Energy Administration (FEA) has prepared a final environmental impact statement (EIS) on the proposed storage of crude oil at the Central Rock Mine site.

The draft EIS on the Central Rock Mine site was made available to the Council on Environmental Quality and to the public on January 12, 1977. The final Central Rock EIS includes comments received by FEA on the draft EIS and FEA analyses and responses to these comments.

The Central Rock Mine has been proposed as an element of the Strategic Petroleum Reserve. The Reserve (mandated by Part B of Title I, Energy Policy and Conservation Act, 42 U.S.C. 6231–6246) will be created for the storage of crude oil and/or petroleum products for use in the event of a Presidential determination of a severe energy supply interruption or a requirement to meet the obligations of the United States under the International Energy Program.

Single copies of the final Central Rock EIS (FES 76/77–9) may be obtained from the National Energy Information Center, Room 1404, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of this final EIS will also be available for public review in the FEA Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Interested persons are invited to submit data, views, and arguments with respect to this EIS to Executive Communications, Box OT, Room 3317, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on the documents submitted to FEA Executive Communications with the designation "Central Rock Final EIS (FES 76/77–9)." Fifteen copies should be submitted.

All comments should be received by FEA by September 23, 1977, in order to receive full consideration.

Any information or data, submitted in response to the final Central Rock EIS, considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C. August 18, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-24504 Filed 8-23-77;8:45 am]

STRATEGIC PETROLEUM RESERVE

Notice of Availability of a Supplement to the Final Environmental Impact Statements for the Weeks Island and Cote Blanche Salt Dome Storage Sites

Pursuant to section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C), the Federal Energy Administration (FEA) has prepared a supplement to the environmental impact statements (EIS's) for the Weeks Island and Cote Blanche salt dome sites. The supplement describes the environmental impacts of a proposed change in pipeline siting associated with both storage facilities.

The Weeks Island and Cote Blanche sites have been selected as a key element of the Strategic Petroleum Reserve. The Reserve (mandated by Part B of Title I, Energy Policy and Conservation Act, 42 U.S.C. 6231–6246) will be created for the storage of crude oil and/or petroleum products for use in the event of a Presidential determination of a severe energy supply interruption or a requirement to meet the obligations of the United States under the International Energy Program.

FEA will allow for a minimum of 30 days for interested parties to comment before taking any administrative action with regard to the proposed pipeline alteration. Moreover, FEA will endeavor to comply with any requests (received during the 30-day period) for extensions of the review period up to a maximum of 15 days.

Single copies of the supplement to the Weeks Island EIS (FES 76/77–8) and the Cote Blanche EIS (FES 76/77–7) may be obtained from the National Energy Information Center, Room 1404, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of the supplement will also be available for public review in the FEA Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Interested persons are invited to submit data, views or arguments with respect to the supplement to Executive Communications, Box OU, Room 3317, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on the documents submitted to FEA Executive Communications with the designation "Supplement to the Final Environmental Impact Statements for the Weeks Island (FES 76/77–8) and Cote Blanche (FES 76/77–7) Salt Dome Storage Sites." Fifteen copies should be submitted. All comments should be received by FEA by September 23, 1977, in order to receive full consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., August 18, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-24505 Filed 8-23-77;8:45 am]

FEDERAL MARITIME COMMISSION

MED-GULF CONFERENCE, ET AL.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to Section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 13, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the Commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreements Filed by:

Stanley O. Sher, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Agreements Nos. 9522–32, 5660–24, 2846–31, 10261–2, 9548–15 and 8090–15, among the member lines of the above named Mediterranean trade conferences respectively, authorize each of these conferences to share office space, equipment, personnel, administrative and related facilities with other conferences or rate agreements.

By Order of the Federal Maritime Commission.

Dated: August 19, 1977.

JOSEPH C. POLKING,
Acting Secretary.

Notice of Agreement Filed

Notice is hereby given that the following agreements, accompanied by a statement of justification, have been filed with the Commission for approval pursuant to Section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements and the statement of justification at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W. Room 10126; or may inspect the agreements and the statement of justification at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Wade S. Hooker, Jr., Casey, Lane & Mittendorf, 26 Broadway, New York, New York 10004.

Agreement No. 9876–3, among the members of the Associated Latin American Freight Conferences (ALAFC), provides that ALAFC shall appoint a neutral body for self-policing, enforcement and cargo inspection under the terms set forth in the agreement. The neutral body shall perform these functions on behalf of those member conferences which shall adopt the said provisions themselves.

By Order of the Federal Maritime Commission.

Dated: August 19, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-24444 Filed 8-23-77;8:45 am]

FEDERAL RESERVE SYSTEM

ACTIONS OF THE BOARD; APPLICATIONS AND REPORTS RECEIVED DURING THE WEEK ENDING JULY 30, 1977

ACTIONS OF THE BOARD

Statement by Chairman Arthur F. Burns before the House Committee on Banking, Finance and Urban Affairs presenting the views of the Board on H.R. 8094, the "Federal Reserve Reform Act of 1977".

Statement by Chairman Arthur F. Burns before the House Committee on Banking, Finance and Urban Affairs on the condition of the national economy and the course of monetary policy.

Letter to Chairman Reuss, House Committee on Banking, Finance and Urban Affairs in response to request for Board's views on the need for additional legislation to "clarify ambiguities" in the area of bank securities activities.

Issuance of a subordinated capital note by European American Bank and Trust Company, New York, New York.

Dime Bank, Canton, Ohio, proposed acquisition by The Central Trust Company of Northeastern Ohio, N.A., Canton, Ohio, report to the Comptroller of the Currency on competitive factors.

Western Michigan Corporation, Niles, Michigan, extension of time to October 27, 1977, within which to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The First National Bank of Cassopolis, Cassopolis, Michigan.[1]

Farmers Trust Company of Lebanon, Pennsylvania, Lebanon County, Pennsylvania, to increase its investment in bank premises.[1]

Atlantic Bancorporation, Jacksonville, Florida, subsidiaries of, proposed merger with Atlantic National Bank of West Hollywood, Hollywood, Florida, report to the comptroller of the Currency on competitive factors.[1]

Florida National Banks of Florida, Inc., Jacksonville, Florida, subsidiaries of, proposed merger with Florida First National Bank of Jacksonville, Jacksonville, Florida, report to the Comptroller of the Currency on competitive factors.[1]

Goldern State Bank, Downey, California, proposed merger with The Sanwa Bank of California, San Francisco, California, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Morgan Bank and Trust, Spartanburg, South Carolina, proposed merger with Southern Bank and Trust Company, Greenville, South Carolina, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

[1] Application processed on behalf of the Board of Governors under delegated authority.

V 42 164 AUG 24 77 UM

Peoples Bank and Trust Company, Wilmington, Delaware, proposed merger with Peoples Corporation, Wilmington, Delaware, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

The Toledo Trust Company, Toledo, Ohio. Branch to be established at the southeast corner of Wales Road and Oregon Road, Village of Northwood, Wood County.[2]

The bank of Waverly, Waverly, Virginia. Branch to be established at the intersection of State Routes 735 and 634, Sussex Courthouse, Sussex.[2]

The Citizens Bank, Batesville, Arkansas. Branch to be established in the Wal-Mart Shopping Center on Harrison Street, Batesville, Independence County.[2]

The United California Bank, Los Angeles, California. Branches to be established in the following locations:

A. At the intersection of Imperial Highway and Santa Ana Canyon Road, City of Anaheim, Orange County.
B. At the intersection of Pacific Coast Highway and East Second Street, Long Beach, Los Angeles County.
C. At the intersection of Victoria Avenue and Telephone Road, San Buenaventura, Ventura County.
D. At the intersection of the Santa Ana and San Diego Freeways, in the Irvine Center, Orange County.[2]

* * * * * *

International Investments and Other Actions Pursuant to Sections 25 and 25(a) of the Federal Reserve Act and Sections 4(c)(9) and 4(c)(13) of the Bank Holding Company Act of 1956, as amended.

APPROVED

The Industrial Bank of Japan, Limited: To continue to hold the shares of the Chuo Trust and Banking Company Limited, after the latter establishes an agency in New York City.[2]

The Dai-Ichi Kangyo Bank Limited: To continue to hold the shares of Chuo Trust and Banking Company, Limited, after the latter establishes an agency in New York.

Security Pacific Corporation: Investment—additional shares respectively: 50 per cent of Security Universe, Ltd., Bermuda; 10 per cent of Security Universe (Hong Kong) Ltd.; and 25 per cent of Security Universe Espana, S.A.

The Tokai Bank, Ltd. To continue to hold the shares of the Chuo Trust and Banking Company, Limited, after the latter established an agency in New York City.

* * * * * *

To Establish an Overseas Branch of a Member Bank Pursuant to Section 25 of the Federal Reserve Act.

APPROVED

New Jersey National Bank: Branch—George Town, Grand Cayman, Cayman Islands.

Union Trust Company of Maryland: Branch—George Town, Grand Cayman, Cayman Islands.

First International Bank in Houston, National Association: Branch—George Town, Grand Cayman, Cayman Islands.

Wells Fargo Bank, National Association: Branch—London, England.

* * * * * *

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

APPROVED

Banco Central, S.A., Madrid, Spain, for approval to acquire all the voting shares of Banco Central y Economias, Hato Rey, Puerto Rico, a new bank.

Peotone Bancorp, Inc., Peotone, Illinois, for approval to acquire 80 per cent or more of the voting shares of Peotone Bank and Trust Company, Peotone, Illinois.

American State Financial Corporation, Lubbock, Texas, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to American State Bank, Lubbock, Texas.[2]

Sandy Holding Company, Sandy, Utah, for approval to acquire 100 per cent (except directors' qualifying shares) of the voting shares of Sandy State Bank, Sandy, Utah, a proposed new bank.[2]

* * * * * *

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

APPROVED

Northeast United Bancorp, Inc. of Texas, Fort Worth, Texas, for approval to acquire 51 per cent or more of the voting shares of First State Bank, Bedford, Texas.

* * * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

WITHDRAWN

Platte Valley Bancorp, Inc., Brighton, Colorado, notification of intent to engage in de *novo* activities (providing bookkeeping or data processing services for the internal operations of the holding company, its subsidiary banks, and other unaffiliated organizations such as commercial banks and credit unions) at 25 North Spruce Street, Colorado Springs, Colorado, through a 25 per cent owned subsidiary, First Financial Services, Inc. (7/28/77)[3]

PERMITTED

Citicorp, New York, New York, notification of intent to engage in *de novo* activities (making consumer installment personal loans, purchasing and servicing for its own account consumer installment sales finance contracts; and acting as agent or broker for the sale of credit related life/accident and health insurance) at Centre 71, 71st Street and Memorial Drive, Tulsa, Oklahoma and Southroads Shopping Center, 4945 E. 41st Street, Tulsa, Oklahoma, through its subsidiary, Citicorp Person-to-Person Financial Center, Inc. (7/30/77)[3]

Citicorp, New York, New York, notification of intent to engage in *de novo* activities (making consumer installment personal loans, purchasing and servicing of its own account consumer installment sales finance contracts; and acting as agent or broker for the sale of credit related life/accident and health insurance) at 714 Lincoln Highway, Fairvew Business Campus, Fairview Heights, Illinois, through its subsidiary, Citicorp Person-to-Person Financial Center, Inc. (7/23/77)[3]

Citicorp, New York, New York, notification of intent to relocate *de novo* activities (purchasing consumer installment sales finance contracts for its own account; sale of credit related life/accident and health insurance; sale by a licensed agent of insurance which protects personal property) from 4305-07 Plank Road, Baton Rouge, Louisiana to Village Square Shopping Center, College Drive and I-10, Baton Rouge, Louisiana, through its subsidiary, Nationwide Financial Services Corporation. (7/30/77)[3]

Citicorp, New York, New York, notification of intent to engage in *de novo* activities (making loans for the account of others such as one-to-four family unit mortgage loans) from 4520 N.W. 50th, Oklahoma City, Oklahoma to Jamestown Executive Center, 3011 N.W. 63rd Street, Suite 110, Oklahoma City, Oklahoma and from 1514 North Rockwell, Oklahoma City, Oklahoma to 2507 N.W. 23rd Street, Oklahoma City, Oklahoma, through its subsidiary, Nationwide Financial Services Corporation. (7/25/77)[3]

Citicorp, New York, New York, notification of intent to relocate *de novo* activities (making of consumer installment personal loans; purchasing consumer installment sales finance contracts; sale of credit related life/accident and health insurance; sale by a licensed agent of insurance which protects personal property subject to a security agreement with Nationwide Financial Corporation of Oklahoma, Inc.) from 4520 NW. 50th, Oklahoma City, Oklahoma and 1514 North Rockwell, Oklahoma City, Oklahoma to Jamestown Executive Center, 3011 NW. 63rd Street, Suite 110, Oklahoma City, Oklahoma and 2507 NW. 23rd Street, Oklahoma City, Oklahoma, respectively, through its subsidiary, Nationwide Financial Services Corporation. (7/25/77)[3]

Citicorp, New York, New York, notification of intent to relocate *de novo* activities (making of consumer installment personal loans; purchasing consumer installment sales finance contracts; sale of credit related life/accident and health insurance; sale by a licensed agent of insurance which protects personal property subject to a security agreement with Citicorp Person-to-Person Financial Center) from #3, 28 East 21st Street, Salt Lake City, Utah to 3828 South Main Street, Salt Lake City, Utah; through its subsidiary, Nationwide Financial Services Corporation. (7/25/77)[3]

Citicorp, New York, New York, notification of intent to relocate *de novo* activities (making of consumer installment personal loans; purchasing consumer installment sales finance contracts; sale of credit related life/accident and health insurance; sale by a licensed agent of insurance which protects personal property) from 5935 E. Admiral Place, Tulsa, Oklahoma to Main Park Plaza, Tulsa, Oklahoma, through its subsidiary, Nationwide Financial Services Corporation. (7/28/77)[3]

Horizon Bancorp, Morristown, New Jersey notification of intent to engage in *de novo* activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit as would be made by a mortgage company; and servicing loans and other extensions of credit for any person) at Jefferson Office Complex, 7500 West Mississippi, Denver, Colorado, through its subsidiary, Mortgage Investment Securities, Inc. (7/24/77)[3]

Manufacturers Hanover Corporation, New York, New York, notification of intent to engage in *de novo* activities (arranging, making or acquiring for its own account or for the account of others, loans and other extensions of credit such as would

[1] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

be made or acquired by a mortgage company and servicing such loans and other extensions of credit) at 1052 Forstdale Boulevard, Birmingham, Alabama, through its subsidiary, Citizens Mortgage Corporation. (7/26/77)[3]

Philadelphia National Corporation, Philadelphia, Pennsylvania, notification of intent to engage in *de novo* activities (second mortgage lending which consists of making personal installment loans secured by mortgages other than first liens on the borrowers real estate and by security interests in personal property of borrowers; and selling credit life insurance in connection with such personal installment loans and reinsuring such insurance through Patrick Henry Life Insurance Company an indirect subsidiary of Philadelphia National Corporation) at 3600 North Duke Street, North Duke Mall, Durham, North Carolina and 530 East Innes Street, Salisbury, North Carolina, through an indirect subsidiary, Signal Mortgage Corporation of North Carolina. (7/24/77)[3]

Pittsburgh National Corporation, Pittsburgh, Pennsylvania, notification of intent to engage in *de novo* activities (leasing personal property, or acting as agent, broker, or adviser in leasing such property, on a full pay-out basis, in accordance with the provisions of Section 225.4 of Regulation Y of the Federal Reserve Board) at Pittsburgh National Building, Fifth Avenue and Wood Street, Pittsburgh, Pennsylvania, through its wholly-owned subsidiary, Pittsburgh National Leasing Corporation. (7/28/77)[3]

Union Trust Bancorp, Baltimore, Maryland, notification of intent to engage in *de novo* activities (making installment loans to individuals for personal, family or household purposes; purchasing sales finance contracts executed in connection with the sale of personal, family or household goods or services; and acting as agent in the sale of credit life and credit accident and health insurance directly related to its extension of credit) at 119 East Innes Street, Salisbury, North Carolina, through its subsidiaries, Landmark Financial Corporation of North Carolina and Landmark Mortgage Corporation (wholly-owned subsidiaries of Landmark Financial Services, Inc.). (7/28/77)[3]

Sun Banks of Florida, Inc., Orlando, Florida, notification of intent to engage in *de novo* activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit; and servicing loans and other extensions of credit for any person) at 1501 NE. 26th Street, Wilton Manors (Fort Lauderdale), Florida, through a subsidiary, Sunbank Mortgage Company. (7/28/77)[3]

BankAmerica Corporation, San Francisco, California, notification of intent to relocate *de novo* activities (making and acquiring, for its own account loans and other extensions of credit such as would be made or acquired by a finance company; such activities will include, but not be limited to, making loans and other extensions of credit to small businesses, purchasing installment sales finance contracts, and making loans secured by real property; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance and credit related property insurance in connection with extensions of credit made or acquired by FinanceAmerica Mortgage Services, Inc.) from 490 Valley Street to 50 Bridge Street, Manchester, New Hampshire, through its indirect subsidiary, FinanceAmerica Mortgage Services, Inc. (7/24/77)[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to relocate *de novo* activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit including secured and unsecured consumer, commercial and agricultural loans, sale contracts and other forms of receivables and such other types of loans and credit extension as are customarily made or acquired by a finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance and credit-related property and casualty insurance) from 110 N. Wewoka, Wewoka, Oklahoma to 1707 N. Mill Phillips Avenue, Seminole, Okklahoma, through its subsidiary, The Bankers Investment Company. (7/25/77)[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in *de novo* activities (the financing of personal property and equipment and real property and the leasing of such property or the acting as an agent, broker, or adviser in the leasing and/or financing of such property where at the inception of the initial lease the effect of the transaction (and, with respect to governmental entities only, reasonably anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease and the servicing of such financings and/or leases as is authorized by the Federal Reserve Board under Regulation Y and the Bank Holding Company Act) at 5100 Westheimer, Houston, Texas, through its subsidiary, Security Pacific Leasing Corporation. (7/23/77)[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to relocate *de novo* activities (the origination and acquisition of mortgage loans including development and construction loans on multi-family and commercial properties for its own account or for the sale to others and the servicing of such loans for others) from 8316 Claremont Mesa Boulevard to 591 Camino de Reina, San Diego, California, through its subsidiary, Security Pacific Mortgage Corporation. (7/28/77)[3]

Wells Fargo & Company, San Francisco, California, notification of intent to engage in *de novo* activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit; servicing loans and other extensions of credit for other persons; acting as an insurance agent or broker with respect to the following types of insurance that are directly related to the extension of credit by Wells Fargo & Company or its subsidiaries: credit life and credit accident and health insurance and mortgage redemption life insurance and group mortgage disability insurance) at 22 W. Osborn Road, Phoenix, Arizona, through its subsidiaries, Wells Fargo Mortgage Company and WFMC Corporation. (7/29/77)[3]

Wells Fargo & Company, San Francisco, California, notification of intent to relocate *de novo* activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit; servicing loans and other extensions of credit for other persons; acting as an insurance agent or broker with respect to the following types of insurance that are directly related to the extension of credit by Wells Fargo & Company or its subsidiaries: credit life and credit accident and health insurance and mortgage redemption life insurance and group mortgage disability insurance) from One East First Street, Reno, Nevada to 1135 Terminal Way, Reno, Nevada, through its subsidiaries, Wells Fargo Mortgage Company and WFMC Corporation. (7/25/77)[3]

Certifications Issued Pursuant to the Bank Holding Company Tax Act of 1976.

Union Financial Corporation, Denver, Colorado (formerly Stuarco Oil Company, Inc.), (1) prior certification pursuant to section 6158(a) of the Internal Revenue Code ("Code") that its sales of various oil and gas properties during 1973 and 1974 were necessary or appropriate to effectuate section 4 of the Bank Holding Company Act ("BHC Act"); and (2) final certification pursuant to section 6158(e)(2) of the Code that it has (before the expiration of the period prohibited property is permitted to be held under the BHC Act by a bank holding company) disposed of all of the property and disposition of which is necessary or appropriate to effectuate section 4 of 76-126)[4]

APPLICATIONS RECEIVED

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

The Oakwood Deposit Bank Company, Oakwood, Ohio. Branch to be established at 100 South Main Street, Grover Hill, Pauding County

WITHDRAWAL

Application received from the Oberlin Savings Bank Co., Oberlin, Ohio to withdraw the request of establishing a branch at 56 South Pleasant Street, Oberlin, Lorain County.

* * * * * *

To Establish an Overseas Branch of a Member Bank Pursuant to Section 25 of the Federal Reserve Act.

Chase Manhattan Bank National Association: Branch—Abijan, Ivory Coast.

Continental Illinois National Bank & Trust Company of Chicago: Branch—Seoul, Korea.

* * * * * *

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

Banco Central, S.A., Madrid, Spain, for approval to acquire all the voting shares of Banco Central y Economias, Hato Rey, Puerto Rico, a new bank. (Received 8/28/77)

Royal Trustco Limited, Ottawa, Ontario, Canada, for approval to acquire 100 percent of the voting shares of Royal Trust Bank Corp., Miami, Florida and indirectly acquire Royal Trust Bank of Miami, N.A., Miami, Florida; Royal Trust Bank of Tampa, Tampa, Florida; Royal Trust Bank of St. Petersburg, Gulfport, Florida; Royal Trust Bank of Palm Beach, N.A., Palm Beach, Florida; First Bank of Pembroke Pines, Pembroke Pines, Florida; Royal Trust Bank of South Dade, N.A., Dade County, Florida and The American Bank of Orange County, Orlando, Florida.

Summit Holding Corporation, Tamarac, Florida, for approval to acquire 90 per cent of the voting shares of Summit Bank, Tamarac, Florida.

WISCUB, Inc., Milwaukee, Wisconsin, for approval to acquire 86.7 per cent or more of the voting shares of Cleveland State Bank, Cleveland, Wisconsin.

[4] Processed on behalf of the Board of Governors under delegated authority.

V 42 N 164 AUG 24 77 UM

Central Bancshares, Inc., Browerville, Minnesota, for approval to acquire 92 per cent of the voting shares of The Lee State Bank, Browerville, Minnesota.

Crete State Corporation, Crete, Nebraska, for approval to acquire 80 per cent or more of the voting shares of Crete State Bank, Crete, Nebraska.

Fairlawn Bancshares, Inc., Topeka, Kansas, for approval to acquire 80 per cent of the voting shares of Fairlawn Plaza State Bank, Topeka, Kansas.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

Florida Coast Banks, Inc., Pompano Beach, Florida, for approval to acquire 99 per cent of the voting shares of Florida Coast Bank of South Palm Beach, N.A. Boca Raton, Florida, a proposed new bank.

Hawkeye Bancorporation, Des Moines, Iowa, for approval to acquare 60 per cent or more of the voting shares of Morningside State Bank, Sioux City, Iowa.

B.O.C. Corporation, Sheridan, Wyoming, for approval to acquire 100 per cent (less directors' qualifying shares) of the voting shares of The Wyoming Security Bank, Sheridan, Wyoming.

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

Citicorp, New York, New York, notification of intent to engage in *de novo* activities (making or acquiring, for its own account or the account of others, commercial loans) at 1300 E. 9th Street, Cleveland, Ohio, through its wholly-owned subsidiary, Citicorp Commercial, Inc. (a Delaware Corporation). (7-27/77)[3]

Mellon National Corporation, Pittsburgh, Pennsylvania, notification of intent to engage in *de novo* activities (making or acquiring, for its own account secured and unsecured loans and extensions of credit such as would be made by a finance company which activities include making direct consumer installment loans and purchasing consumer installment sales finance contracts; providing credit life and credit accident and health insurance in conjunction with the above lending activities; such insurance will be provided only in connection with extensions of credit by Local Loan Co., and its wholly-owned subsidiaries and will be available solely at the option in advance) at 1917 Irving Park Road, Schaumburg, Illinois, through its wholly-owned subsidiary, Local Loan Co., Chicago, Illinois. (7/27/77)[3]

CleveTrust Corporation, Cleveland, Ohio, for approval to acquire Lake Life Insurance Company, Wilmington, Delaware (and thereby engage in acting as underwriter of credit life and credit accident and health insurance directly related to extensions of credit by the bank holding company system).

Commercial Bankshares, Inc., Grand Island, Nebraska, notification of intent to engage in *de novo* activities (operating an industrial loan and investment company pursuant to the laws of the State of Nebraska, including the issuance of installment and paid-up certificates of indebtedness and making consumer loans, commercial loans, agricultural loans and first and second mortgages on real estate; and also to act as an insurance agent for the sale of decreasing term credit life insurance and credit accident and health insurance which coverages are directly related to extensions of credit by commercial Savings Company of Grand Island) at 1616 South Locust, Grand Island, Nebraska, through a subsidiary, Commercial Savings Company of Grand Island. (7/29/77)[3]

UB Financial Corp., Phoenix, Arizona, for approval to retain the Mesa, Arizona office of H. S. Pickrell Company, Phoenix, Arizona and to engage in the following activities (the origination, making, acquiring, purchasing, arranging for, holding, warehousing and selling for its own account and for the account of others, loans of all types and other extensions of credit, secured by mortgages or deeds of trust on real property such as would be made by a mortgage company; and servicing loans and other extensions of credit for any person).

UB Financial Corp., Phoenix, Arizona, for approval to continue to engage in acting as insurance agent or broker for credit life and accident and health insurance by H. S. Pickrell Company, Phoenix, Arizona and to engage in the following activities (the origination, purchase, sale and servicing of mortgage loans, and acting as broker or agent for the sale, by mail solicitation, of credit related life and accident and health insurance, solely in connection with extensions of credit by H. S. Pickrell Company).

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(12) of the Bank Holding Company Act of 1956.

N L Industries, Inc., New York, New York, notification of intent to acquire all the assets of Driprodco, Inc., Hobbs, New Mexico, engaged primarily in the manufacture for sale and rent of roller reamers and other stabilizers used as downhole tolls in the drilling of oil wells. (7/28/77)[3]

N L Industries, Inc., New York, New York, notification of intent to acquire all the outstanding stock of Jett Engineering, Inc., Charlotte, North Carolina, a distributor of hydraulic components used in a variety of agricultural and manufacturing activities. 7/27/77)[3]

For Certification Pursuant to the Bank Holding Company Tax Act of 1976.

King Ranch, Inc., Kingsville, Texas to divest shares of Kleberg First National Bank, Kleberg, Texas and shares of State Bank of Kingsville, Kingsville, Texas (Legal Division Docket TCR 76-144)[1]

* * * * *

REPORTS RECEIVED

Current Report Filed Pursuant to Section 13 of the Securities Exchange Act.

Seattle Trust and Savings Bank, Seattle, Washington.

* * * * *

PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, August 18, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-24472 Filed 8-23-77;8:45 am]

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

COUNTRY BANCSHARES, INC.

Formation of Bank Holding Company

Country Bancshares, Inc., Jamesport, Mo., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of the Home Exchange Bank of Jamesport, Jamesport, Mo. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 16, 1977.

Board of Governors of the Federal Reserve System, August 18, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-24471 Filed 8-23-77;8:45 am]

[Docket No. R-0091]

PRIVACY ACT OF 1974

Adoption of New System of Records

On March 11, 1977, the Board of Governors of the Federal Reserve System issued a notice for publication in the FEDERAL REGISTER (42 FR 16854) that it proposed to adopt a new system of records entitled, "Municipal Securities Principal and Municipal Securities Representative Records." Interested persons were given until May 2, 1977, to submit comments to the Board on the proposed system of records. The Board did not receive any comments objecting to the system of records and has adopted it without change effective September 15, 1977. The new system of records replaces a system of records identified as "Regulation F Ownership Reports." System identification number BGFRS-17, which was erroneously published as part of the systems of records maintained by the Board on September 15, 1976, 41 FR 39702, but which had been deleted in its entirety on July 23, 1976, 41 FR 30574. The new system of records is adopted as proposed except that "Categories of individuals covered by the system" have been narrowed; and two technical changes have been made in "System location" and "System manager and address." The new system of records as adopted is set forth below.

Board of Governors of the Federal Reserve System, August 8, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

BGFRS-17

System name:

FRB—Municipal Securities Principal and Municipal Securities Representative Records.

System location:

Board of Governors of the Federal Reserve System, 20th and Constitution Avenue NW., Washington, D.C. 20551. Records stored in computerized files are maintained off Board premises at the National Association of Securities Dealers, 1735 K Street NW., Washington, D.C. 20036.

Categories of individuals covered by the system:

Persons who are or seek to be municipal securities principals or municipal securities representatives associated with a municipal securities dealer which is a State member bank of the Federal Reserve System or a subsidiary or a department or division thereof.

Categories of records in the system:

These records may contain identifying information as well as educational, employment, and disciplinary information, and, where applicable, information regarding termination of employment of individuals covered by the system. Identifying information includes name, address, date and place of birth, and may include social security account number.

Authority for maintenance of the system:

Sections 15B, 17, and 23 of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78o-4(c)(5), 78q, and 78w) and section 11(a) of the Federal Reserve Act (12 U.S.C. § 248(a)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information in these records may be used:

a. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate governmental authority, whether Federal, State, local, or foreign, or self-regulatory organization, as defined in section 3(a)(26) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(26)).

b. To refer, in the event of litigation, whether civil, criminal, or regulatory in nature, to the appropriate court, magistrate, or administrative law judge.

c. To assist in any proceeding in which the Federal securities or banking laws are in issue or in which the Federal Reserve Board or a past or present member of its staff is a party or otherwise involved in an official capacity.

d. To disclose to a Federal, State, local, or foreign governmental authority or a self-regulatory organization if necessary in order to obtain information relevant to a Federal Reserve Board inquiry concerning a person who is or seeks to be associated with a municipal securities dealer described in Categories of individuals covered by the system as a municipal securities principal or municipal securities representative.

e. To respond to a request from a Federal, State, local, or foreign governmental authority or a self-regulatory organization for information in connection with the issuance of a license or other benefit to the extent that such information is relevant and necessary.

f. To disclose to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are maintained in file folders and on computer discs.

Retrievability:

Records are indexed by name.

Safeguards:

File folders are stored in lockable metal cabinets and computer discs are accessed only by authorized personnel.

Retention and disposal:

Records may be maintained indefinitely.

System manager and address:

Secretary of the Board, Board of Governors, Federal Reserve System, 20th and Constitution, NW., Washington, D.C. 20551.

Notification procedure:

Inquiries, including name and date and place of birth, should be addressed to the System Manager, address above. Inquiriers may be required to include a notarized statement attesting to identity.

Record access procedures:

Same as *Notification* above.

Contesting records procedures:

Same as *Notification* above.

Record source categories:

Individuals on whom the records are maintained as well as municipal securities dealers described in Categories of individuals covered by the system and Federal, State, local, and foreign governmental authorities, and self-regulatory organizations, which regulate the securities industry.

System exempted from certain provisions of the Act:

None.

[FR Doc.77-24408 Filed 8-23-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL FOR CAREER EDUCATION

Meeting

AGENCY: National Advisory Council for Career Education, HEW/OE.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meeting of the National Advisory Council for Career Education. It also describes the functions of the Council. Notice of the meeting is required by the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: September 19–20, 1977; September 19–8:45 a.m.–4 p.m.; September 20–9 a.m.–4 p.m.

ADDRESS: Howard Johnson's Motor Lodge (Near National Airport), 2650 Jefferson Davis Highway, Arlington, Virginia 22202, 703–684–7200.

FOR FURTHER INFORMATION CONTACT:

Dr. Robert D. Bhaerman, Office of Education, Office of Career Education, Room 3100–ROB No. 3, 7th and D Sts. SW., Washington, D.C. 20202. 202–245–2547.

SUPPLEMENTARY INFORMATION: The National Advisory Council for Career Education is established under Section 406 of the Education Amendments of 1974, Pub. L. 93–380, (88 Stat. 552, 553.) The Council is directed to:

Advise the Comissioner of Education on the implementation of Section 406 of the Education Amendments of 1974 and carry out such advisory functions as it deems appropriate, including reviewing the operation of this Section and all other programs of the Division of Education pertaining to the development and implementation of career education, evaluating their effectiveness in meeting the needs of career education throughout the United States, and in determining need for further legislative remedy in order that all citizens may benefit from the purposes of career education as described in Section 406.

The Council with the assistance of the Comissioner conducted a survey and assessment of the current status of career education programs, projects, curricula and materials in the United States and submitted to Congress a report on such survey.

The meeting of the Council shall be open to the public. The meeting on September 19 will begin at 8:45 a.m. and end at 4 p.m. and on September 20 the meeting will begin at 9 a.m. and end at 4 p.m. The meeting will be held at the Howard Johnson's Motor Lodge (Near National Airport), 2650 Jefferson Davis Highway, Arlington, Virginia 22202. 703–684–7200.

This special meeting will bring together the members of the National Advisory Council for Career Education, resource people active in the field, State Coordinators of Career Education, and State Advisory Board Representatives in an effort to explore the many major issues facing Career Education.

The proposed agenda includes:

(1) Discussion of the purpose of this meeting.

(2) Assessment, evaluation and research background presentations: College entrance examination board—assessment program National assessment for educational progress—career and occupational development data. Recommendations from the States (State coordinators of career education and State

V 42 164 AUG 24 77 UM

advisory board members from the fifty States and six Trust Territories).

(3) Legislation—Background presentations: The legislative process: Where have we been? Where are we now? Where do we expect to go?

(4) Future directions—Communications, innovations, and new developments (e.g. experienced base models, training, inservice, adult, and postsecondary programs). Background Presentations: A perspective from the education and work group of the National Institute of Education. Discussion on the issues—Panel of participants from the States.

(5) Business session.

Records shall be kept of all Council proceedings and shall be available 14 days after the meeting for public inspection at the Office of Career Education located at 7th and D Streets SW., Washington, D.C. 20202. The room number is 3100—ROB No. 3.

Signed at Washington, D.C. on August 18, 1977.

JOHN LINDIA,
Delegate, National Advisory. Council for Career Education.

[FR Doc.77-24409 Filed 8-23-77;8:45 am]

Office of the Secretary

OFFICE OF THE GENERAL COUNSEL

Statement of Organization, Functions, and Delegations of Authority

Part A of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare, Office of the Secretary, is amended to reflect certain changes in Chapter AG "Office of the General Counsel". (38 FR 17032, dated 6/28/73, as amended by 38 FR 22667, dated 8/23/73).

The Secretary's reorganization has necessitated certain changes in Office of the General Counsel/client relationships. These changes are reflected in revisions to Section AG-10, *Organization*, Subsection AG-18, *Divisions in the Office of the General Counsel*, and Section AG-20, *Functions*, Subsection AG-22, *Divisions of the Office of the General Counsel*. The revisions are as follows:

Subsec. AG-18. *Divisions in the Office of the General Counsel.*

A. The Divisions in the Office of the General Counsel are:
Business and Administrative Law Division.
Civil Rights Division.
Education Division.
Food and Drug Division.
Legislation Division.
Public Health Division.
Health Care Financing and Human Development Services Division.
Social Security Division.
Inspector General Division.

Subsec. AG-22. Divisions in the Office of the General Counsel.

7. *Health Care Financing and Human Development Services Division.* The Health Care Financing and Human Development Services Division shall provide legal services for programs administered by the Health Care Financing Administration and by the Office of Human Development Services.

8. *Social Security Division.* The Social Security Division shall provide legal services for programs administered by the Social Security Administration and by the Office of Child Support Enforcement.

9. *Inspector General Division.* The Inspector General Division shall provide legal services to the Office of Inspector General.

Dated: August 15, 1977.

JOHN D. YOUNG,
Assistant Secretary for Management and Budget.

[FR Doc.77-24445 Filed 8-23-77;8:45 am]

NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

Meeting

The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research will meet on September 9 and 10, 1977, in Conference Room 6, C Wing, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. The meeting will convene at 9:00 a.m. each day and will be open to the public, subject to the limitations of available space. Topics included in the mandate to the Commission under the National Research Act (Pub. L. 93-348), as amended, including research involving the institutionalized mentally infirm, the performance of Institutional Review Boards, the application of research guidelines to the delivery of health services by DHEW, and other matters identified in the legislative mandate to the Commission, will be the agenda for this meeting.

Written materials of any length may be submitted to the Commission at any time. Requests for information should be directed to Ms. Betsy Singer, Information Officer, 301-496-7776, Room 125, Westwood Building, 5333 Westbard Avenue, Bethesda, Maryland 20016.

MICHAEL S. YESLEY,
Staff Director, National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

AUGUST 16, 1977.

[FR Doc.77-22446 Filed 8-23-77;8:45 am]

PROTECTION OF PUBLIC HEALTH CARE RECIPIENTS

Public Hearing

Ethical principles and guidelines that should govern the delivery of health services under programs conducted or supported by the Department of Health, Education, and Welfare (DHEW) will be the subject of a public hearing to be held by the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. The hearing will provide an opportunity for interested members of the public and government officials to present relevant views to the Commission, which is charged under Public Law 93-348 to make recommendations to the Secretary, DHEW, and to report to Congress regarding the protection of patients receiving health services under DHEW programs.

The hearing will be held on October 14, 1977, commencing at nine a.m., in Conference Room 6, C Wing, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. Persons wishing to testify are invited to submit their requests to the Commission in accordance with the directions given below. The hearing will be open to the public, subject to the limitation of available space.

Background information. The Commission for the Protection of Human Subjects was established under Pub. L. 93-348 to identify the basic ethical principles that should underlie the conduct of research involving human subjects, and to recommend guidelines to assure that such principles are followed. The Commission's recommendations are made to the Secretary of Health, Education, and Welfare with respect to research conducted or supported by that department, and to Congress with respect to research not subject to regulation by DHEW. To date, the Commission has issued reports and recommendations on research on the fetus, research involving prisoners, the use of psychosurgery, and disclosure of research information under the Freedom of Information Act. A report on research involving children is in publication and will shortly be available.

In addition to these and other topics relating to the protection of human subjects of research, the Commission is directed to consider the applicability of the ethical principles and guidelines to the protection of patients who receive health services under DHEW programs. Such health programs include services provided by DHEW employees (*e.g.*, Public Health Service hospitals, the Indian Health Service), capacity-building programs (*e.g.*, grant support for health maintenance organizations, community health centers, migrant health centers, family planning services), and programs that pay for services delivered through the private health care system (*e.g.*, Medicare, Medicaid).

To develop guidelines for the protection of human subjects of research, the Commission has considered requirements and conditions in the following areas: assessment of risks and benefits, selection of human subjects, informed consent, and mechanisms to review research. Many of these requirements and conditions implement or derive from such basic ethical principles as beneficence, justice (the equitable distribution of burdens and benefits), and respect for persons. The applicability of such principles, requirements and conditions to the delivery of health services under DHEW programs will be explored in the hearing and thereafter in the Commission's public deliberations that will lead to the adoption of recommendations.

Requests to testify. Each presentation at the hearing will be limited to 10 minutes, followed by a question-and-answer period. Anyone wishing to speak at the hearing must submit his or her statement in writing not later than September 30, 1977. The Commission desires to receive a wide range of views on the subject to be covered at the hearing. Accordingly, the Commission reserves the right to accept for the record, but not for oral presentation, statements that are not relevant to the subject of the hearing or that duplicate previously received statements. Written materials of any length may be submitted for the record or to the Commission at any time. Written statements or requests for information should be directed to Ms. Betsy Singer, Public Information Officer, Westwood Building, Room 125, 5333 Westbard Avenue, Bethesda, Md. 20016 (301/496-7776).

Dated: August 17, 1977.

MICHAEL S. YESLEY,
Staff Director, National Commission for the Protection of Human Subjects of Biomedical and Behavorial Research.

[FR Doc.77-24447 Filed 8-23-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

SISSETON-WAHPETON (DEVILS LAKE) SIOUX

Plan for the Use and Distribution of Sisseton-Wahpeton (Devils Lake) Sioux Judgment Funds in Docket 363, Second Claim, Act of 1904, Before the Indian Claims Commission

AUGUST 17, 1977.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated by the Act of December 18, 1975, 89 Stat. 826, in satisfaction of the award granted to the Sisseton-Wahpeton (Devils Lake) Sioux Tribe in Indian Claims Commission Docket 363, Second Claim, Act of 1904.

The plan for the use and distribution of the funds was submitted to the Congress with a letter dated April 27, 1977, and was received (as recorded in the Congressional Record) by the House of Representatives on May 3, 1977, and as reported by the Senate on May 4, 1977. Neither House of Congress having adopted a resolution disapproving it, the plan became effective on July 23, 1977, as provided by section 5 of the 1973 Act, supra.

The plan reads as follows:

The funds appropriated by the Act of December 18, 1975, 89 Stat. 826, in satisfaction of an award granted to the Sisseton-Wahpeton (Devils Lake) Sioux Tribe in Docket 363, Second Claim, Act of 1904, before the Indian Claims Commission, less attorney fees and litigation expenses, shall be utilized as herein provided.

PER CAPITA PAYMENT ASPECT

The Devils Lake Sioux Tribe's latest approved membership roll shall be brought current, pursuant to the Devils Lake Sioux Tribe's Constitution and Bylaws, to include all eligible members born on or prior to and living on the effective date of this plan.

Subsequent to the preparation and approval of the membership roll referred to above, the Secretary of the Interior (hereinafter 'Secretary') shall make a per capita distribution of eighty (80) percent of the funds, including all interest and investment income accrued on this portion, in a sum as equal as possible, to each Devils Lake Sioux tribal enrollee.

The per capita shares of living competent adults shall be paid directly to them. The per capital shares of legal incompetents shall be handled pursuant to 25 CFR 104.5. The per capita shares of minors shall be handled pursuant to 25 CFR 60.10 (a) and (b) (1) and 104.4, as amended November 5, 1976 (41 FR 48735, 48736). The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR, Part 4, Subpart D.

The per capita shares of adults who are determined by the tribal governing body and the Agency Superintendent to be in arrears in debts to the tribe shall be placed in individual Indian money (IIM) accounts. Subsequent to the placement of such shares in IIM accounts, the Agency Superintendent shall have authority to collect all or part of such shares and apply the collections to the payment of the delinquent debts pursuant to 25 CFR 104.9.

PROGRAMMING ASPECTS

1. INDUSTRIAL DEVELOPMENT PROGRAM

Three (3) percent of the funds, including all interest and investment income accrued on this portion and any amounts remaining after the per capita payment provided above, shall be utilized by the Devils Lake Sioux Tribe for the purchase of shares of stock, in the name of the tribe, in the Devils Lake Sioux Manufacturing Corporation.

2. LAND ACQUISITION PROGRAM

Ten (10) percent of the funds, and all interest and investment income accrued on this portion, shall be utilized by the Devils Lake Sioux Tribe on an annual budgetary basis, subject to the approval of the Secretary, for the purchase of land pursuant to the tribe's Land Acquisition Program.

3. SOCIAL, HEALTH, AND ECONOMIC PROGRAMS

Seven (7) percent of the funds, and all interest and investment income accrued on this portion, shall be utilized by the Devils Lake Sioux Tribe on an annual budgetary basis, subject to the approval of the Secretary, for the following:

(a) Activities for elderly persons.
(b) Higher education.
(c) Burial fund.
(d) Small business loans.
(e) Health insurance.
(f) Credit union.
(g) Road construction, maintenance, and equipment purchase.
(h) Business development.
(i) Miscellaneous fund.

Should any funds in any of the three above-cited general program categories not be needed or be found in excess of programing goals in any given annual budget, such funds may be transferred by the tribal governing body, with the approval of the Secretary, to another of the above-cited general program categories, including any specific categories within Social, Health and Economic Programs.

GENERAL PROVISION

Only enrolled members of the Devils Lake Sioux Tribe may benefit from the per capita payment aspect or any other aspect of this plan; lineal descendants of Sisseton or Wahpeton Sioux Indians not enrolled with the Devils Lake Sioux Tribe are not eligible for benefits under this plan.

RAYMOND V. BUTLER,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.77-24499 Filed 8-23-77;8:45 am]

Bureau of Land Management

[NM 22547]

NEW MEXICO

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

AUGUST 11, 1977.

The Forest Service, U.S. Department of Agriculture, filed application serial number NM 22547 on July 1, 1974, for a withdrawal in relation to the following described land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO
CIBOLA NATIONAL FOREST
CIENEGA RECREATION AREA ADDITION

T. 11 N., R. 5 E.,
Sec. 14, $NE\frac{1}{4}NW\frac{1}{4}SW\frac{1}{4}$, $W\frac{1}{2}NE\frac{1}{4}SW\frac{1}{4}$ $SW\frac{1}{4}$, $SE\frac{1}{4}NE\frac{1}{4}SW\frac{1}{4}SW\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}$ $SW\frac{1}{4}$ and $SW\frac{1}{4}SE\frac{1}{4}SW\frac{1}{4}$;
Sec. 23, lot 1 (approximately 10 acres not included in PLO 4757), $N\frac{1}{2}NE\frac{1}{4}NW\frac{1}{4}$ (less approximately 2 acres included in PLO 4757), $E\frac{1}{2}SW\frac{1}{4}NE\frac{1}{4}NW\frac{1}{4}$, $N\frac{1}{2}NE\frac{1}{4}$ $NW\frac{1}{4}NW\frac{1}{4}$, $SE\frac{1}{4}NE\frac{1}{4}NW\frac{1}{4}$, $N\frac{1}{2}NE\frac{1}{4}$ $SE\frac{1}{4}NW\frac{1}{4}$, $N\frac{1}{2}SW\frac{1}{4}NE\frac{1}{4}$ and $N\frac{1}{2}SE\frac{1}{4}$ $NE\frac{1}{4}$ (less approximately 2 acres in PLO 4757).

The area described aggregates 128.50 acres in Bernalillo County, New Mexico.

The applicant desires the land for the enlargement of an existing recreation area in the Cibola National Forest in New Mexico.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on October 29, 1974, page 38118, FR Doc. 74-25078.

Pursuant to Sec. 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing to the State Director, Bureau of Land Management, Department of the Interior, P.O. Box 1449, Santa Fe, N. Mex. 87501, on or before September 20, 1977. If a public hearing is scheduled, a notice will be published in the FEDERAL REGISTER.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 20, 1977.

The above-described national forest land is withdrawn from appropriation under the mining laws, 30 U.S.C. Ch. 2,

V 42164 AUG 24 77 UM

but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture. Current administrative jurisdiction over the segregated land will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, P.O. Box 1449, Sante Fe, N. Mex. 87501.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-24466 Filed 8-23-77;8:45 am]

[NM 31275 and 31408]

NEW MEXICO

Applications

AUGUST 16, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), EL Paso Natural Gas Company has applied for a cathodic protection station site and a 4½-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 27 N., R. 9 W.,
Sec. 14, NE¼SE¼.
T. 13 N., R. 11 W.,
Sec. 34, SW¼NW¼ and NW¼SW¼.

The site and pipeline will be used in connection with natural gas operations and will cross 0.233 of a mile of public lands in McKinley and San Juan Counties, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so. under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-24467 Filed 8-23-77;8:45 am]

[NM 31296 and 31297]

NEW MEXICO

Notice of Applications

AUGUST 15, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for three 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 22 E.,
Sec. 7, N½NE¼, SE¼NE¼ and NE¼SE¼.
T. 23 S., R. 29 E.,
Sec. 27, W½SW¼ and SE¼SW¼;
Sec. 28, E½SE¼.

These pipelines will convey natural gas across 1.280 miles of public lands in Eddy County, N. Mex. 88201.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-24416 Filed 8-23-77;8:45 am]

PACIFIC OUTER CONTINENTAL SHELF

Availability of Official Protraction Diagram

Notice is hereby given that, effective with this publication, the following OCS Official Protraction Diagram approved on the date indicated, is available, for information only, in the Pacific Outer Continental Shelf, Bureau of Land Management, Los Angeles, Calif. In accordance with Title 43, Code of Federal Regulations, this protraction diagram is the basic record for the description of mineral and oil and gas lease offers in the geographic area it represents.

OUTER CONTINENTAL SHELF OFFICIAL PROTRACTION DIAGRAM

Description:	*Approval date*
Channel Islands Area, Calif., Map No. 6C revised.	Apr. 25, 1977

Copies of this diagram are for sale at two dollars ($2.00) per copy by the Manager, Pacific Outer Continental Shelf Office, Bureau of Land Management, 300 N. Los Angeles St., Rm. 7127, Los Angeles, Calif 90012. Checks or money orders should be made payable to the Bureau of Land Management.

WILLIAM E. GRANT,
Manager, Pacific Outer Continental Shelf Office.

[FR Doc.77-24417 Filed 8-23-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[AA1921-169-172]

ANIMAL GLUE AND INEDIBLE GELATIN FROM YUGOSLAVIA, SWEDEN, THE NETHERLANDS, AND WEST GERMANY

Corrected Notice of Investigation

Having received advice from the Department of the Treasury on July 29, 1977, that animal glue and inedible gelatin from Yugloslavia, Sweden, the Netherlands, and West Germany (except that produced and sold by Electro Chemische Fabric Kempen G.m.b.H. of West Germany) are being, or are likely to be, sold at less than fair value, the United States International Trade Commission on August 8, 1977, instituted investigations Nos. AA1921-169, 170, 171, and 172, respectively, under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the investigation and hearing was published in the FEDERAL REGISTER of August 15, 1977 (42 F.R. 41190).

By order of the Commission.

KENNETH R. MASON,
Secretary.

AUGUST 18, 1977.

[FR Doc.77-24427 Filed 8-23-77;8:45 am]

[Investigation 337-TA-35]

CERTAIN MOLDED GOLF BALLS

Preliminary Conference

Notice is hereby given that a Preliminary Conference will be held in connection with the above styled investigation at 10 a.m. on Wednesday, August 31, 1977 in Room 610 Bicentennial Building, 600 E Street NW., Washington, D.C. Notice of this investigation was published in the FEDERAL REGISTER on July 6, 1977 (42 FR 34558). The purposes of this preliminary conference are to establish a discovery schedule, to discuss the procedures to be followed in pursuing such discovery, to set the dates for the Prehearing Conference, and to resolve any other matters necessary to the conduct of this investigation.

If any questions should arise not covered by these instructions, the parties or their counsel shall call the chambers of the undersigned Presiding Officer.

The Secretary shall serve a copy of this Notice upon all parties of record and shall publish it in the FEDERAL REGISTER.

MYRON R. RENICK,
Presiding Officer.

AUGUST 18, 1977.

[FR Doc.77-24426 Filed 8-23-77;8:45 am]

OFFICE OF THE FEDERAL REGISTER

EDUCATIONAL WORKSHOPS ON HOW TO USE THE FEDERAL REGISTER

St. Louis, Missouri

WHO: Any person who must use the FEDERAL REGISTER publications to keep track and to gain an understanding of Federal regulations.

WHAT: The free public workshops are being presented by the Office of the FEDERAL REGISTER, National Archives and Records Service, General Services Administration. Each workshop will last approximately three hours, will be identical in content, and will cover the following areas:

1. A brief history of the FEDERAL REGISTER system.
2. The difference between legislation and regulations.
3. The relationship of the FEDERAL REGISTER and the Code of Federal Regulations.
4. Important elements of a typical FEDERAL REGISTER document.
5. An introduction to the finding aids of the Office of the Federal Register.

The workshops will not provide a forum for the discussion of substantive questions pertaining to specific agency regulations.

WHY: These workshops are one way of providing the public with access to information about Federal agency actions which directly affect them. They are designed to help the public better use and understand the FEDERAL REGISTER and to seek suggestions on ways to improve FEDERAL REGISTER publications.

WHEN: 9:30 a.m. on September 28 and 29, 1977 (Reservations required).

WHERE: Room 3250, Federal Building, 1520 Market Street, St. Louis, Missouri. Reservations: Delores O'Guin, 314-425-4106.

FRED J. EMERY,
Director of the Federal Register.

AUGUST 18, 1977.

[FR Doc.77-24328 Filed 8-22-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 08/18/77 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received: the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Economic Research Service: New York Agricultural District Survey, single-time, active farmers in Erie Co., N.Y., Gaylord Worden, 395-4730.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary: A study of general assistance programs, OS-10-77, single-time, State and local welfare directors, Human Resources Division, 395-3532.

DEPARTMENT OF TRANSPORTATION

Coast Guard: Spill cleanup inventory, single-time, business firms, Warren Topelius, 395-5872.
Federal Highway Administration: Fringe parking lots for carpoolers, single-time, individuals, Strasser, A., 395-5867.

REVISIONS

VETERANS ADMINISTRATION

Application for home loan guaranty—refinancing loan, 26-1802B, on occasion, veterans, Warren Topelius, 395-5872.
Application for home loan guaranty—alteration, improvement, or repair loan, 26-1802, on occasion, veterans, Housing, Veterans, and Labor Division, 395-3532.

NATIONAL SCIENCE FOUNDATION

Survey of scientific and engineering expenditures at universities and colleges, NSF 411, annually, institutions of higher education with science and engineering programs, Kathy Wallman, 395-6140.

EXTENSIONS

NATIONAL SCIENCE FOUNDATION

Data collection for estimating rates of return to 40 industrial innovations, single-time, industrial firms producing and using innovations, Kathy Wallman, 395-6140.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service: Regulations for viruses, serums, toxins, and analogous products, on occasion, biologics producers, Marsha Traynham, 395-4529.

DEPARTMENT OF LABOR

Bureau of Labor Statistics: 1976 occupational injuries and illnesses survey, OSHA 103, 103 pre-annually, employers in American industry covered by Pub. L. 91-596, Strasser, A., 395-5867.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-24552 Filed 8-23-77;8:45 am]

OFFICE OF TELECOMMUNICATIONS POLICY

FREQUENCY MANAGEMENT ADVISORY COUNCIL

Meeting

Notice is hereby given that the Frequency Management Advisory Council (FMAC) will meet at 9:30 a.m., September 9, 1977, at COMSAT-MARISAT 950 L'Enfant Plaza, 8th Floor Conference Room, Washington, D.C.

The principal agenda items will be: (1) Progress report on the ITU Conference preparations to include and overview of the exchange of views with foreign governments to date; and (2) status of reorganization of Federal Government spectrum management.

The meeting will be open to the public. Any member of the public will be permitted to file a written statement with the Council, before or after the meeting.

Information pertaining to the meeting may be obtained from Mr. Jack E. Weatherford, Office of Telecommunications Policy, Washington, D.C. (Telephone: 202-395-5623).

Dated: August 15, 1977.

L. D. O'NEILL,
Advisory Committee Management Officer.

[FR Doc.77-24457 Filed 8-23-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

MERGER AND CONSOLIDATION REGULATIONS

Petition for Reconsideration

AGENCY: Federal Railroad Administration, Department of Transportation.

ACTION: Notice of grant of petition for reconsideration.

SUMMARY: On March 17, 1977, the Association of American Railroads ("AAR") filed a petition for reconsideration of several portions of the Federal Railroad Administration's final regulations covering procedures and format to be observed when filing a proposed transaction for study by the Federal Railroad Administrator ("Administrator") under section 5(3) of the Interstate Commerce Act. The Administrator has decided to grant in part the AAR's petition for reconsideration. A revision of the merger and consolidation regulations will soon be published as a final rule.

Dated: August 18, 1977.

JOHN M. SULLIVAN,
Administrator, Federal Railroad Administration.

[FR Doc.77-24551 Filed 8-23-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

AUGUST 19, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with

Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before September 8, 1977.

FSA No. 43414—*Joint Rail-Water Container Rates—Great Lakes and European Lines, Inc.* Filed by Great Lakes and European Lines, Inc., (No. 4), for itself and interested rail carriers.

Rates on general commodities, between rail terminals at U.S. Pacific Coast seaboard, and ports and terminals in Europe, by way of Chicago, Illinois.

Grounds for relief—Water competition.

Tariffs—Great Lakes and European Lines, Inc., Westbound tariff No. 5, I.C.C. No. 3, F.M.C. No. 5, and Eastbound tariff No. 6, I.C.C. No. 4, F.M.C. No. 6. Rates are published to become effective on September 18, 1977.

FSA No. 43415—*Joint Water-Rail Container Rates—Korea Shipping Corporation, Ltd.* Filed by Korea Shipping Corporation, Ltd., (No. 102), for itself and interested rail carriers. Rates on general commodities, from ports in Japan and Korea, to rail stations on the U.S. Atlantic seaboard, by way of Seattle, Washington.

Grounds for relief—Water competition.

FSA No. 43416—*Joint Water-Rail Container Rates—Orient Overseas Container Line, Inc.* Filed by Orient Overseas Container Line, Inc., (No. 101), for itself and interested rail carriers.

Rates on general commodities, from Hong Kong and ports in Japan, Korea and Taiwan, to rail stations on the U.S. Atlantic and Gulf Coasts, by way of Seattle, Washington.

Grounds for relief—Water competition.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-24463 Filed 8-23-77;8:45 am]

[Notice No. 102]

MOTOR CARRIER TEMPORARY APPLICATIONS

August 11, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Motor Carriers of Property

No. MC 20916 (Sub-No. 27TA), filed July 29, 1977. Applicant: JOHN T. SISK, Rt. 2, Box 182–B, Culpeper, Va. 22701. Applicant's representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, Va. 22611. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast concrete and precast concrete products*, from the facilities of Smith Cattleguard, Inc., at Midland, Va., to points in Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Smith Cattleguard, Inc, Midland, Va. Send protests to: W. C. Hersman District Supervisor, Interstate Commerce Commission, 12th and Constitution Avenue NW., Room 1413, Washington, D.C. 20423.

No. MC 44605 (Sub-No. 46TA) (Correction), filed June 28, 1977, published in the Federal Register issue of July 21, 1977, and republished as corrected this issue. Applicant: MILNE TRUCK LINES, INC., 2500 West California Avenue, Salt Lake City, Utah 84104. Applicant's representative: Edward J. Hegarty, 100 Bush Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Yucca, Ariz., and Kingman, Ariz., (a) from Yucca over Interstate Highway 40 (U.S. Highway 66) to Kingman and return over the same route, serving all intermediate points, and (2) Between Wickenburg, Ariz., and Las Vegas, Nev., (a) from Wickenburg, over U.S. Highway 93 to Las Vegas and return over the same route, serving all intermediate points in Arizona. Applicant intends to tack this authority with that in their MC–44605 and subs. Applicant also intends to interline with other carriers at Las Vegas, Nev.; Los Angeles, Calif.; and Phoenix, Ariz., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately thirty-three statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138. The purpose of this republication is to indicate (1) that the parenthesis is to close after equipment; and (2) is to indicate paragraph (1)(a) in lieu of paragraph (1)(2).

No. MC 56082 (Sub-No. 72TA), filed July 28, 1977. Applicant: DAVIS & RANDALL, INC., 42 Central Avenue, P.O. Box 390, Fredonia, N.Y. 14063. Applicant's representative: Roy D. Pinsky, 345 South Warren Street, Syracuse, N.Y. 13202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and preserved foodstuffs*, from Waun, Poynette, Waunakee, New Richmond, Eden, Oakfield, Gillett and Coleman, Wis., to the state of N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Friday Canning Company, 660 North Second Street, New Richmond, Wis. 54017. (2) Oconomowoc Canning Company, Box 248, Oconomowoc, Wis. 53066. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 96629 (Sub-No. 4 TA) filed July 28, 1977. Applicant: SHIFFLET BROS., INC., P.O. Box 206, Hwy 99E at Sheldon Avenue, Gridley, Calif. 95948. Applicant's representative: Michael J. Stecher, Silver, Rosen, Fischer & Stecher, 256 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizers*, in bulk or hopper-type vehicles, from Helm and Bena, Calif., to all points and places in the State of Oregon, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Valley Nitrogen Producers, Inc., P.O. Box 128, Helm, Calif. 93627. Send protests to: A. J. Rodriguez District Supervisor, 211 Main, Suite 500, San Francisco, Calif. 94105.

No. MC 109533 (Sub-No. 95TA), filed July 29, 1977. Applicant: OVERNITE TRANSPORTATION COMPANY, 1000 Semmes Avenue, Richmond, Va. 23224. Applicant's representative: C. H. Swanson, 1000 Semmes Avenue, Richmond, Va. 23224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between plant site of Chattanooga Glass Company at or near Keyser W. Va., as off-route point in connection with carrier's presently authorized operation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Chattanooga Glass Company, 400 W. 45th Street, Chattanooga, Tenn. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 10–502 Federal Building, 400 North 8th Street, Richmond, Va. 23240.

No. MC 110525 (Sub-No. 1201TA), filed July 29, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Avenue, P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Salt cake*, in bulk, in tank vehicles, from Belvidere, N.J., to Tonawanda and Elmira, N.Y., and West Point, Va., for 180 days. Supporting shipper(s): Prior Chemical Corp., 420 Lexington Avenue, New York, N.Y. 10017. Send protests to: Monica A. Blodgett, Transportation mission, 600 Arch Street, Room portation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 110525 (Sub-No. 1202 TA), filed July 29, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry talc*, in bulk, in tank vehicles, from Johnson, Vt., to New Castle, Del., for 180 days. Supporting shipper(s): Engelhard Minerals & Chemicals Corp. Menlo Park, Edison, N.J. 08817. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 113271 (Sub-No. 39TA), filed July 29, 1977. Applicant: CHEMICAL TRANSPORT, P.O. Box 2644, Great Falls, Mont. 59401. Applicant's representative: Ray F. Koby, 314 Montana Bldg., Great Falls, Mont. 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acid*, in bulk, from East Helena, Mont., to points in Wyoming, Colorado, Idaho, Oregon, North Dakota, Minnesota, Utah and Wash., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Gerald D. Martin District Traffic Manager, Asarco, Incorporated, 405 Montgomery Street, San Francisco, Calif. 94104. Send protests to: Paul J. Labane District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 115821 (Sub-No. 28TA), filed July 29, 1977. Applicant: FRANK BEELMAN, d.b.a. BEELMAN TRUCK CO., St. Libory, Ill. 62282. Applicant's representative: Ernest A. Brooks, II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Zinc concentrates*, in bulk, in dump vehicles, from the facilities of AMAX Lead Company, a Division of Amax, Inc., at or near Buick (Iron County), Mo., to the facilities of AMAX Zinc Company, Inc., a subsidiary of AMAX, Inc., at Sauget, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mr. S. K. Passmore Manager of Rates, AMAX, Inc., AMAX Center, Greenwich, Conn. 06830. Send Protests to: Harold C. Jolliff District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 118130 (Sub-No. 78TA), filed July 29, 1977. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Fort Worth, Tex. 76115. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials, and empty returned malt beverage containers*, between Fort Worth, Tex., on the one hand, and, on the other, points in New Mexico and Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Miller Brewing Company, 4000 West State Street, Milwaukee, Wis. 53208. Send protests to: Robert J. Kirspel District Supervisor, Room 9A27 Federal Bldg., 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 123255 (Sub-No. 113), filed July 29, 1877. Applicant: B&L MOTOR FREIGHT, INC., 140 Everett Ave., Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum articles*, between the plantsite of Kaiser Aluminum & Chemical Corporation at or near Ravenswood, W. Va., on the one hand, and, on the other, points in the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, Wisconsin, and the cities of Clayton, Edison, and Wayne, N.J.; and Lockport, N.Y.; for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kaiser Aluminum & Chemical Corporation, P.O. Box 98, Ravenswood, W. Va. 26164. Send protests to: Frank L. Calvery, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 124078 (Sub-No. 741TA), filed July 29, 1977. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 St., Milwaukee, Wis. 53215. Applicant's representative: James R. Ziperski (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, in bulk, from Clinton, Iowa to points in Illinois, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Send protests to: American Admixtures Corporation, 5909 No. Rogers St., Chicago, Ill. 60646. Send portests to: Gail Daugherty, Transportation Asst. Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Ave. Room. 619, Milwaukee, Wis. 53202.

No. MC 125283 (Sub-No. 26TA), filed July 21, 1977. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., P.O. Box 2122, 432 South Stuhr Road, Grand Island, Nebr. 68801. Applicant's representative: Gailyn L. Larsen, Peterson, Bowman, Coffman & Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses* (except hides and commodities in bulk), from the plantsite and storage facilities of Gibbon Packing Company at or near Gibbon, Nebr., to points in Iowa, Wisconsin, Michigan, Illinois, Indiana, and Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Neal Holub Plant Manager, Gibbon Packing, Inc., P.O. Box Q, Gibbon, Nebr. 68840. Send protests to: Max H. Johnston District Supervisor, Interstate Commerce Commission, 285 Federal Bldg, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 126118 (Sub-No. 48TA), filed July 28, 1977. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Detroit, Mich., and its commercial zone to Winston-Salem, N.C., and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bill Haubrich Vice President, and Secretary, Alpine Beverage, Inc. 3171 Lynchburg Street, Memphis, Tenn. 38128. Send protests to: Max H. Johnson District Supervisor, 285 Federal Bldg, and Court House, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 133937 (Sub-No. 21TA), filed July 28, 1977. Applicant: CAROLINA CARTAGE COMPANY, INC., P.O. Box 572, Greer, S.C. 29651. Applicant's representative: Henry P. Willimon, P.O. Box 1075, Greenville, S.C. 29602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, with the usual exceptions, restricted to traffic having a prior or subsequent movement by air, between points and places in Anderson, Oconee, Pickens, Greenville, and Spartanburg Counties, S.C., on the one hand, and, on the other, airports at or near Miami, Fla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Her Majesty Industries, Inc., P.O. Box 9, Maul-

VOL 42 NO 164 AUG 24 77 UM

din, S.C., Jantzen, Incorporated, P.O. Box 775, Seneca, S.C., Daniel International Corp., Daniel Building, Greenville, S.C. 29602, Novo Air Freight Corp., 1638 E. Vesta Ave. College Park, Ga. 30337. Send protests to: Terrecia L. Standridge, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree St., N.W. Rm. 300, Atlanta, Ga. 30309.

No. MC 134405 (Sub-No. 37TA), filed July 28, 1977. Applicant: BACON TRANSPORT COMPANY, P.O. Box 1134, Ardmore, Okla. 73401. Applicant's representative: O. G. Bacon, P.O. Box 1134, Ardmore, Okla. 73401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt*, in bulk, in tank vehicles, from Wynnewood, Okla., to Irving, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Trumbull Asphalt Co. 209 N. Nursery Road, Irving, Tex. 75061. Send protests to: Kathy Henson, Transportation Assistant, Room 240, Old Post Office Building, 215 Northwest Third Street, Oklahoma City, Okla. 73102.

No. MC 134989 (Sub-No. 1TA), filed July 29, 1977. Applicant: JOHN J. HAZARD DRAYAGE & CONSTRUCTION CO., INC., 701 South Alexander Street, New Orleans, La. 70119. Applicant's representative: John J. Hazard, 548 Andrews Avenue, Metairie, La. 70005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone material, equipment and supplies*, between New Orleans, La., and points in Ascension, Assumption, Lafourche, St. Mary and Terrebonne Parishes, La., under a continuing contract, or contracts, with Western Electric Company, Inc., for 180 days Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Western Electric Company, Inc., 6701 Roswell Road NE., Atlanta, Ga. 30328. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 9038 Federal Bldg, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 136553 (Sub-No. 48TA), filed July 29, 1977. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th Street, Dubuque, Iowa 52001. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 40309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-alcoholic beverages*, from Madison, Wis., to Dubuque and Decorah, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Coca Cola Bottling Company, 2435 Kerper Blvd. Dubuque, Iowa. 52001. Send protests to: Herbert W. Allen District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa. 50309.

No. MC 138512 (Sub-No. 20TA) July 29, 1977. Applicant: ROLAND'S TRANSPORTATION SERVICES, INC., d.b.a. WISCONSIN PROVISION EXPRESS, Franklin, Wis. 53132. Applicant's representative: Allan J. Morrison, P.O. Box 477, Cudahy, Wis. 53110. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Taco corn products, seasoning, and sauces*, from Stoughton, Wis., to the storage facilities of or utilized by Grocery Products Group Heblein Inc., located at or near, Birmingham, Ala.; Oxnard, Calif.; Denver, Colo.; Hartford, Conn.; Jacksonville, Miami, and Tampa, Fla.; Atlanta, Ga.; Chicago, Ill.; Indianapolis, Ind.; Davenport, Des Moines, Iowa; Kansas City, Kans.; Louisville, Ky.; New Orleans, La.; Everett, Mass.; Detroit, Grand Rapids, Michigan; Minneapolis, Minn.; St. Louis, Mo.; Omaha, Nebraska; Tereboro, N.J.; Buffalo, Rochester, Syracuse, N.Y.; Charlotte, Raleigh, N.C.; Cincinnati, Cleveland, Columbus, Toledo, Ohio; Oklahoma City, Okla.; Hanover, Pittsburgh, Pa.; Memphis, Nashville, Tennessee; Dallas, Houston, San Antonio, Tex.; and Milwaukee, Wis.; under a continuing contract or contracts with Grocery Products Group, Heublein, Inc., of Hartford, Conn.; for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Grocery Products, Group, Heublein, Inc. 330 New Park Ave., Hartford, Conn. 06101. Send protests to: Gail Daugherty, Transportation Asst' Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Ave., Rm. 619, Milwaukee, Wis. 53202.

No. MC 138548 (Sub-No. 5TA), filed July 28, 1977. Applicant: INDIANOAKS TRANSPORTATION CO., P.O. Box 37, Old Route 66, Dwight, Ill. 60420. Applicant's representative: James R. Madler, 120 W. Madison Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation, application machines, parts and supplies thereof*, between Minonk, Ill., on the one hand, and, on the other, points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Cellulose Manufacturing, Inc. Robert L. Rickerson President, Rt. 1, Box 162, Minonk, Ill. 61760. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 139495 (Sub-No. 252TA), filed July 29, 1977. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, 1501 E. 8th St., Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, Suite 1030, 1819 H St., NW., Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lenses and reflectors*, from Greenville, Ohio, to Lynn, Mass.; (2) glass tubing from Danville, Ky.; to Lynn, Mass.; for 180 days. Supporting shipper: North American Philips Lighting Corp., Bank St., Highstown, N.Y. 08520. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, Kans. 67202.

No. MC 139658 (Sub-No. 20TA), filed July 28, 1977. Applicant: HARRY POOLE, INC., 2322 Kensington Road, Macon, Ga. 31201. Applicant's representative: William Addams, Suite 212, 5299 Roswell Road, N.E., Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flue dust*, in bulk, in dump trucks, from Tampa, Fla., to Pelham, Ga., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pelham Phosphate Co. Pelham, Ga. Send protests to: Sara K. Davis Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street, N.W., Room 300, Atlanta, Ga. 30309.

No. MC 141776 (Sub-No. 14TA), filed July 29, 1977. Applicant: FOODTRAIN, INC., Spring and South Center Streets, Ringtown, Pa. 17967. Applicant's representative: L. Agnew Myers, Jr., Suite 407, Walker Building, 734 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum sheet, aluminum plate, flat or in coils, aluminum blanks, flat in temperature controlled vehicles*, from Lancaster, Pa., to points in the states of Indiana, Illinois, Michigan, Ohio and Wisconsin., for 180 days. Supporting shipper(s): Howmet Aluminum Corporation, Mill Products Division, Box 3167, 1480 Manheim Pike, Lancaster, Pa. 17604. Send protests to: Paul J. Kenworthy District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 142047 (Sub-No. 6TA), filed July 27, 1977. Applicant: CHEYENNE TRUCK LEASING, INC., 6500 Jericho Turnpike, P.O. Box 314, Commack, N.Y. 11725. Applicant's representative: Charles Tell, 100 E. Broad Street, Columbus Center, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paint thinner and ingredients thereof*, from the plantsite of Globe Solvents, Inc., at Philadelphia, Pa., to points in Denver, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Globe Solvents, Inc., 2200 East Westmoreland Street, Philadelphia, Pa. 19134. Send protests to: Maria B. Kejss Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 142222 (Sub-No. 1TA), filed July 27, 1977. Applicant: PICKERING TRANSFER COMPANY, INC., a Utah corporation, 90 North Porter St., Salt Lake City, Utah 84101. Applicant's representative: Bob Bond, 90 North Porter St., Salt Lake City, Utah 84101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products and articles distributed by meat packing houses* described in Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from Salt Lake City, Utah, to points in Utah, Wyoming, and Idaho within 150 air miles of Salt Lake City and to points in Cora and Pinedale, Wyo. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John Morrell & Co., P.O. Box 1319, 2161 Regent St., Salt Lake City, Utah 84110. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State St., Salt Lake City, Utah 84138.

No. MC 142351 (Sub-No. 2TA), filed July 26, 1977. Applicant: CHEYENNE TRUCK LEASING, INC., 6500 Jericho Turnpike, P.O. Box 314, Commack, N.Y. 11725. Applicant's representative: Frank Cerbini (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hibachies, barbeques, accessories and components, lawn chairs, charcoal, folding cots, zorries*, from Hicksville, Long Island, N.Y., to Illinois, Indiana, Florida, Pennsylvania, North Carolina, Ohio, Maine, Michigan, New Jersey, Virginia, Georgia, South Carolina, Connecticut, West Virginia, Maryland and Dela., under a continuing contract, or contracts, with Ivy Man Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ivy Man Corp, 910 So. Oyster Bay Road, Hicksville, N.Y. Send protests to: Maria B. Kejss Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 142351 (Sub-No. 3TA), filed July 27, 1977. Applicant: CHEYENNE TRUCK LEASING, INC., 6500 Jericho Turnpike, P.O. Box 314, Commack, N.Y. 11725. Applicant's representative: Frank Cerbini (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Artificial christmas trees, decorations or ornaments and christmas lights in boxes*, from Hicksville, Long Island, N.Y., to Illinois, Indiana, Florida, Pennsylvania, North Carolina, Ohio, Maine, Michigan, New Jersey, Virginia Georgia, South Carolina, Connecticut, West Virginia, Maryland, and Delaware, under a continuing contract with Liberty Bell Christmas, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Liberty Bell Christmas, Inc., 910, So. Oyster Bay Rd., Hicksville, N.Y. Send protests to: Maria B. Kejss, Transportation assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 142855 (Sub-No. 1TA), filed July 18, 1977. Applicant: ORANGEBURG TRUCKING, INC., P.O. Drawer 1164, Orangeburg, S.C. 29115. Applicant's representative: Frank A. Graham, Jr., 707 Security Federal Bldg., Columbia, S.C. 29201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Woodchips, saw dust and bark*, from Elgin and Orangeburg, S.C., to Augusta and Savannah, Ga., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Camden Hardwood Corp. Elgin, S.C. Dean-Dempsey Lumber Corp. P.O. Box 1164, Orangeburg, S.C. 29115. Send protests to: E. E. Strotheid District Supervisor, Interstate Commerce Commission, Room 302, 1400 Bldg, 1400 Pickens Street, Columbia, S.C. 29201.

No. MC 14331 (Sub-No. 1TA), filed July 29, 1977. Applicant: FREIGHT TRAIN TRUCKING, INC., 4906 E. Compton Blvd., P.O. Box 817, Paramount, Calif. 90723. Applicant's representative: William J. Monheim, 15942 Whittier Blvd., P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic bottle or can carriers*, from Fullerton, Calif., to Casa Grande, Phoenix and Tucson, Ariz.; and Portales, N. Mex., under a continuing contract, or contracts, with Hi-Cone Division, Illinois Tool Works, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hi-Cone Division, Illinois Tool Works, Inc. 500 S. State College Blvd, Fullerton, Calif. Send protests to: Irene Carlos Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Bldg., 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 143383 (Sub-No. 1TA), filed July 28, 1977. Applicant: DALE E. NICHOLSON, Potosi, Mo. 63664. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-ferrous ores or concentrates*, including zinc concentrates, in bulk, in dump trucks and trailers, from the facilities of Amax Lead Company, a division of AMAX, Inc., at or near Buick (Iron County), Mo., to the facilities of AMAX, Zinc Company, a subsidiary of AMAX, Inc., at Sauget, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): AMAX, Inc. AMAX Center, Greenwich, Ct. 06830. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 143435RTA (Amendment), filed June 27, 1977, and published in the FEDERAL REGISTER issue of July 21, 1977, and republished as amended this issue. Applicant: MONDAY'S EXPRESS, INC., 201 Johnson Street, Covington, Ky. 41101. Applicant's representative: Charles P. Gore, 107 Church Street, Lexington, Ky. 40505. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pre-mixed clay*, from Cincinnati, Ohio to McMinnville, Tenn.; (2) *Raw castings*, from McMinnville, Tenn., to Detroit, Mich., Lake City, Minn., Buffalo and Akron, N.Y., and Cincinnati, Ohio. (3) *Empty containers and rejected castings*, from Detroit, Mich., to McMinnville, Tenn., under a contract with Powermatic Houdaille, Inc., McMinnville, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Powermatic Houdaille, Inc., P.O. Box 70, McMinnville, Tenn. 37110. Send protests to: Mrs. Linda H. Sypher, Interstate Commerce Commission, 216 Bakhaus Building, 1500 West Main Street, Lexington, Ky. 40505. The purpose of this amendment is to delete parts (4) and (5) which was previously published in error.

No. MC 143506 (Sub-No. 1TA), filed July 28, 1977. Applicant: BOWMAN READY MIX, INC., P.O. Box 22, Huntington, Utah 84528. Applicant's representative: Kenneth L. Rothey, 2275 South West Temple, Salt Lake City, Utah 84115. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Refined oil products* of Schaeffer Mfg., of St. Louis, Mo., does not include gasoline, all products will be in barrels, cartons and cones, between Pocatello, Idaho, and its commercial zone and points in Utah, under a continuing contract, or contracts, with Schaeffer Mfg. Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Schaeffer Mfg. Co., 102 Barton Street, St. Louis, Mo. 63104. (Tom Herrmann, Assistant Sales Manager). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 143530TA, filed July 28, 1977. Applicant: WOLF'S TOWING, INC., Rt. 80 and Rt. 51, Peru, Ill. 61354. Applicant's representative: John S. Duncan III, 654 First Street, La Salle, Ill. 61301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Towing or hauling by tow truck vehicles*, including trucks, tractors, cars, buses, and motors, tanks, trailers, to and from Peru, Ill., and Iowa, Indiana, Missouri, Wisconsin and Minn., for 180 days. Supporting shipper(s): Schwerman Trucking Co., John Hubinsky, Vice President Western Division, P.O. Box 1601, Milwaukee, Wis. 53201. Zellmer Truck Lines, Inc., Henry Zellmer, President, P.O. Box 343, Granville, Ill. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKin-

V 42164 AUG 24 77 UM

ley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 143532TA, filed July 28, 1977. Applicant: MELVIN A. AND THERESA L. AUMAN, a partnership, d.b.a. AUMAN TRUCKING, 107 Grissom Drive, Walkerton, Ind. 46574. Applicant's representative: Charles O. Lloyd, 529 S. Main Street, Bourbon, Ind. 46504. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter, rejects, pallets, and similar return materials*, between Melrose Park, Ill., on the one hand, and on the other, places in the states of New Jersey, New York, Pennsylvania, Virginia, and Indiana, under a continuing contract, or contracts, with Album Graphics, Inc., 1950 Ruby Street, Melrose Park, Ill. 60160. Send protests to: J. H. Gray District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 143534 (Sub-No. 1TA), filed July 27, 1977. Applicant: GERALD MARTINSON, Route 3, Augusta, Wis. 54722. Applicant's representative: Roderick A. Cameron, 101 N. Broadway, Stanley, Wis. 54768. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bulk, from Augusta, Wis., to Strum, Wis., restricted to shipments having a prior movement by rail in interstate or foreign commerce, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Beef River Co-op, Strum, Wis. 54770. Send protests to: Mrs. Marion L. Cheney Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 143535TA, filed July 26, 1977. Applicant: ROBERT L. JONES, d.b.a. BOB JONES TRUCKING, 555 West Main Street, Olney, Ill. 62450. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over over irregular routes, transporting: *Metal fencing and component parts thereof*, for the account of Master Fence Fittings, Inc., from Olney, Ill., to points in Indiana, Kentucky, Missouri, Ohio, and Tennessee, under a continuing contract, or contracts, with Master Fence Fittings, Inc., for 180 days. Supporting shipper(s): Bob Ingram Branch Manager, Master Fence Fittings, Inc. Radio Tower Road, P.O. Box 657, Olney, Ill. 62450. Send protests to: Harold C. Jolliff District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 143540TA, filed July 27, 1977. Applicant: MARINE TRANSPORT COMPANY, 1901 Carolina Beach Road, Wilmington, N.C. 28401. Applicant's representative: Ralph McDonald, P.O. Box 2246, 336 Fayetteville Street, Raleigh, N.C. 27602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dimethyl terephthalate and terephthalic acid*, (except in bulk), from New Hanover County, N.C., to Charleston, South Carolina and Norfolk, Va., under a continuing contract, or contracts, with Hercules, Incorporated for 180 days. Supporting shipper(s): Hercules, Incorporated, 900 Life of Georgia Tower, Atlanta, Ga. 30308. Send protests to: Archie W. Andrews District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

PASSENGER APPLICATIONS

No. MC 138053 (Sub-No. 4TA), filed July 28, 1977. Applicant: YELLOW CAB OF BOCA RATON, INC., 2150 N.W. First Place, Boca Raton, Fla. 33432. Applicant's representative: Richard B. Austin, 214 Palm Coast II Bldg., 5255 N.W. 87th Ave., Miami, Fla. 33178. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers with or without baggage*, in unmarked limousines of a capacity of nine (9) passengers or less (including the driver) between Miami International Airport, Fort Lauderdale/Hollywood International Airport, Palm Beach International Airport, Dodge Island, and Port Everglades on the one hand, and, on the other, all points in Florida, restricted to passengers having an immediately prior or subsequent movement by air or water in interstate or foreign commerce and further restricted to the transportation of passengers which are moving on a prearranged or reserved basis or a packaged tour basis, for 180 days. Supporting shipper: There are 15 statements of support attached to the application, which may be examined at the Interstate Commerce Commission, in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, Fla. 33166.

No. MC 143252 (Sub-No. 1TA), filed August 1, 1977. Applicant: JOHN WILLIAM JIGGETTS, doing business as JIGGETTS CHARTERED BUS SERVICE, P.O. Box 18, Palmer Springs, Va. 23957. Applicant's representative: James H. Walsh, 1400 Ross Building, Richmond, Va. 23219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in special and/or round trip charter operations, beginning and ending in Mecklenburg, Nottaway, Greenville, and Lunenburg Counties, Va., Van and Wareen Counties, N.C., to points in Virginia, North Carolina, Georgia, Florida, Maryland, Delaware, New Jersey, New York, Pennsylvania, Connecticut, Rhode Island, Massachusetts, and the District of Columbia, for 180 days. Supporting shippers: There are eight letters of support to this application, which may be examined at the Interstate Commerce Commission, in Washington, D.C. or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Paul D. Collins, Bureau of Operations, Room 10-502 Federal Bldg., 400 North 8th Street, Richmond, Va. 23240.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-24464 Filed 8-23-77;8:45 am]

[Docket No. AB-36 (Sub-No. 2)]

OREGON SHORT LINE RAILROAD AND THE UNION PACIFIC RAILROAD CO.

Abandonment of Railroad Services

AUGUST 18, 1977.

Findings made that the present and future public convenience and necessity permit abandonment of line by Oregon Short Line Railroad and abandonment of operations by Union Pacific Railroad Company of a portion of Oregon Short Line's line extending from milepost 0.06 near Firth in a northeasterly direction to milepost 17.53 near Ammon, a distance of 17.59 miles, subject to republication and certain conditions, by report and order of the Commission, Division 3, Acting as an Appellate Division, dated July 22, 1977, which modified, in certain respects, the order of the Commission, Review Board Number 5, dated April 27, 1976, which had made similar findings of present and future convenience and necessity, subject to conditions.

The order of the review board had authorized abandonment, subject to the same conditions for the protection of employees as set forth in *Chicago, B&Q R. Co. Abandonment*, 256 I.C.C. 700 (1944), as supplemented by section 405 of the Rail Passenger Service Act (45 U.S.C. 565) and certain other unrelated conditions. By petition filed March 9, 1977, the applicants requested that only those conditions for the protection of employees set out in *Chicago, B&Q R. Co. Abandonment, supra*, be imposed, since section 1a(8) of the Interstate Commerce Act did not require imposition of employee protective conditions established pursuant to section 405 of the Rail Passenger Service Act (RPSA), except in those abandonment proceedings filed subsequent to the Commission's promulgation of new abandonment regulations in Ex Parte No. 274 (Sub-No. 2), *Abandonment of Lines and Discontinuance of Service*, on November 1, 1976.

Initially, the report discussed the amendments of the Interstate Commerce Act (act) enacted in the Rail Revitalization and Regulatory Reform Act of 1976 that related to employee protection. The amendment of section 5(2)(f) of the act and enactment of section 1a(4) relating to employee protection in abandonment proceedings mandate that the arrangements for protection of employees in section 1a and 5 proceedings shall be at least as beneficial to such interests as those established pursuant to section

5(2)(f) of the act and pursuant to section 405 of the RPSA.

The report then outlined the history of employee protection under section 5(2)(f) of the act, and the substantive content of the various arrangements for the protection of employees established pursuant to section 5(2)(f) including the "Oklahoma," "Burlington," and "New Orleans" conditions. Furthermore, an analysis of the arrangements for the protection of employees established pursuant to section 405 of the RPSA, which were approved by the Secretary of Labor on April 17, 1971, was made. It indicated that the level of employee protection contained in this agreement negotiated pursuant to paragraph (a) of section 405 substantially exceeded the level of employee protection established pursuant to section 5(2)(f) in *New Orleans Union Passenger Terminal Case*, 282 I.C.C. 271. Paragraph (b) of section 405 had established certain minimum requirements for arrangements for the protection of employees to be negotiated pursuant to paragraph (a). These included the proviso that employee protection negotiated pursuant to section 405(a) of the RPSA had to be at least as beneficial to employee interests as the arrangements for the protection of employees established pursuant to section 5(2)(f) of the act, i.e., "New Orleans" conditions. The higher level of employee protection negotiated pursuant to section 405(a) made these requirements in paragraph (b) redunant, since as a statutory minimum, section 5(2)(f) protection is encompassed within the protection enacted in and developed pursuant to section 405 of the RPSA. It stated that imposition of 5(2)(f) conditions combined with or supplemented by any section 405 RPSA protection, as required by the act, is also redundant since the amendment of section 5(2)(f) and the enactment of section 1(a)(4) provided that section 405 and the arrangements for employee protection established pursuant to it to be the all encompassing, minimum level of employee protection to be imposed in section 1a and 5 proceedings.

The second section of the report concerned the imposition of appropriate employee protection in those abandonment applications still pending before the Commission which were filed prior to promulgation of the Commission's new abandonment regulations on November 1, 1976. Section 1a(8) of the act requires the imposition of 1a(4) employee protection (i.e. section 405 of the RPSA and the provisions for protection of employees developed pursuant to it) only in those abandonment proceedings filed subsequent to November 1, 1976. It was found that prior to enactment of the Rail Revitalization and Regulatory Reform Act of 1976, imposition of employee protective in abandonment proceedings was not required by statute, but that imposition of such conditions was within the discretion of the Commission, see *I.C.C. v. Railway Labor Executives' Association*, 315 U.S. 373. In the exercise of this discretion the "Burlington" conditions had been imposed in the past. The report concluded that although the employee protection specified in section 1a(4) of the act is not required in abandonment applications filed prior to November 1, 1976, the intent of Congress and a consistent treatment of the employee protection would best be satisfied by the imposition of the employee protective conditions enacted in and developed pursuant to section 405 of the RPSA, in all pending abandonment proceedings, filed prior to November 1, 1976. The report stated that this was clearly within the discretionary power of the Commission as amplified in *I.C.C. v. Railway Labor Executives' Association, supra*.

Because this decision represents a significant policy change and interpretation, all other railroads and employee representatives may have an opportunity to intervene and present argument, if they so desire, by submitting written comments to the Interstate Commerce Commission within 15 days of the date of this notice. Since the Commission is providing an opportunity for interested parties to comment on this decision, it will retain jurisdiction in this proceeding and in other subsequently decided abandonment proceedings which were filed prior to November 1, 1976. At the close of the period specified for comments, we will review the comments received and consider the conditions specified in this report in light of such comments. Carriers may consummate abandonments during this period, but if they do so, they will be deemed to have no objection to the employee protective conditions specified in this report. However, if after comments it is determined that other labor protective conditions are more appropriate for employee protection, then in those proceedings not consummated, we will by our retention of jurisdiction, impose such other labor protective conditions.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-24462 Filed 8-23-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

CONTENTS

Equal Employment Opportunity Commission	6
Federal Power Commisison	4
National Railroad Passenger Corporation	3
Nuclear Regulatory Commission	1
Renegotiation Board	2
Securities and Exchange Commission	5

1

NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: August 11, 1977, Volume 42 No. 155 page 40808.

PREVIOUSLY ANNOUNCED TIME AND DATE OF TH EMEETING: Week of August 15, 1977.

CHANGES IN THE MEETINGS: Meetings for Thursday, August 18 and Friday, August 19 have been revised as follows:

Thursday, August 18—3:30 p.m. Budget Review—Preliminary Markup (CLOSED-Exemption 9).

Friday, August 19—9:00 a.m. Review of FY 1979 Budget (continued) (OPEN) (Meeting is CANCELLED).

CONTACT FOR MORE INFORMATION:

Walter Magee (202) 634–1410.

Dated: August 18, 1977.

WALTER MAGEE,
Chief, Operations Branch
Office of the Secretary.

[S–1158–77; Filed 8–19–77;10:52 am]

2

THE RENEGOTIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 40807, August 11, 1977.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Tuesday, August 30, 1977, 10 a.m.

CHANGE IN MEETING: Item 6 is added to the previously announced agenda.

MATTER TO BE CONSIDERED:

Board Meeting concerning: AMF Incorporated (Formerly American Machine and Foundry Company), Consolidated with: AMF Beaird, Inc., W. J. Voit Rubber Corporation, The Cuno Engineering Corporation. Fiscal Year Ended December 31, 1968.

STATUS: Open to the public.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202/254–8277.

Dated: August 18, 1977.

GOODWIN CHASE,
Chairman.

[S–1160–77 Filed 8–19–77;3:41 pm]

3

NATIONAL RAILROAD PASSENGER CORPORATION.

In accordance with rule 4a. of Appendix A of the By-laws of the National Railroad Passenger Corporation, notice is given that the Board of Directors will meet on August 31, 1977.

A. The meeting will be held on Wednesday, August 31, 1977, in the Charles Suite of the Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza East, Southwest, Washington, D.C. beginning at 9:30 a.m. The portion of the meeting beginning at 9:30 will be closed to the public, during which time the Board will consider agenda items Nos. 1 and 2, as identified below.

B. The meeting will be open to the public beginning at 10 a.m. starting with agenda item No. 3, as identified below.

C. The agenda items to be discussed at the meeting follow:

AGENDA: NATIONAL RAILROAD PASSENGER CORPORATION, MEETING OF THE BOARD OF DIRECTORS—AUGUST 31, 1977

(9:30 a.m.) CLOSED SESSION:
1. Internal Personnel Matters.
2. Fare Increase Strategy.
(10 a.m.) OPEN SESSION:
3. Approval of Minutes of Regular Meeting of July 27, 1977.
4. Commitment Approval Requests:

75–245R	Purchase Teletypewriters.
77–35R	Ticket-by-Mail EDP Equipment.
77–194	Bridge Repairs—Northeast Corridor Spur Lines.
77–204	Pollution Control—Lincoln, Nebraska.
77–208	Omaha Station and Trackage.
77–218	Station Modifications—Charleston, West Virginia.
77–219	Elevator for Handicapped—Penn Station, New York.
77–221	Construct Station—Schenectady, New York.

5. Board Committee Reports:
(A) Track Policy:
(1) Track Policy Final Report.
(B) Northeast Corridor Improvement Project:
(1) Status of Improvement Master Plan.
(2) Status of 1977 Program.
(3) Status of Clean-up Program Contracts.
(4) Status of Woonasquatucket River Bridge.
(5) Labor Situation.
(C) Planning/Equipment:
(1) Baltimore-Washington International Intermodal Facility Status Report.
(2) Route Criteria—Butte and Helena Public Review.
6. President's Reports:
(A) Operations:
(1) National Operations.
(2) Operations Support.
(3) Northeast Corridor Operations.
(B) Marketing.
(C) Government Affairs.
(D) Other.
7. Financial Reports.
8. General Fare Increase.
9. Status of Floridian.
10. New Business.
11. Adjournment.

D. Inquiries regarding the information required to be made available to the public pursuant to Appendix A of the Corporation's By-laws should be directed to the Corporate Secretary at (202) 484–7679.

Dated: August 19, 1977.

ELYSE G. WANDER,
Corporate Secretary.

4

FEDERAL POWER COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (pub. 8–23–77).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., August 24, 1977.

CHANGE IN THE MEETING: The following item has been added:

Item No. and Docket No. and Company

G–9.—CI77–306, Transco Exploration Company.

KENNETH F. PLUMB,
Secretary.

[S–1161–77 Filed 8–19–77;4:38 pm]

5

SECURITIES AND EXCHANGE COMMISSION.

TIME AND DATE: 7:30 a.m. August 22, 1977; 7:30 a.m., August 23, 1977; 7:30 a.m., August 24, 1977.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

STATUS: Closed meetings.

SUBJECT MATTER: Consideration of investigative matter.

Chairman Williams, Commissioners Loomis, Evans, and Pollack voted to close the meetings and determined that no earlier notice thereof was possible.

AUGUST 19, 1977.

[S–1163–77 Filed 8–22–77;9:03 am]

6

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 41950 (S–1110–77).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (Eastern Time), Tuesday, August 23, 1977.

CHANGES IN THE MEETING: Deletion of the following item from the portion open to the public:

Freedom of Information Act Appeal 77–6–FOIA–132.—With the deletion of this item, the status of the meeting is changed and is now closed to the public.

A majority of the entire membership of the Commission determined by recorded vote, on August 19, 1977, that the business of the Commission requires this change and that no earlier announcement was possible.

The vote was as follows:

In favor of change: Eleanor Holmes Norton, Chair; Ethel Bent Walsh, Commissioner; Daniel E. Leach, Commissioner.

Opposed: None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202–634–6748.

This notice issued August 19, 1977.

[S–1164–77 Filed 8–22–77;9:42 am]

V 42 164 AUG 24 77 UM V

federal register

WEDNESDAY, AUGUST 24, 1977

PART II



COMMODITY FUTURES TRADING COMMISSION

BONA FIDE HEDGING AND RELATED REPORTING REQUIREMENTS

Definition

V42164 AUG 24 77 UM

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

Definition of Bona Fide Hedging and Related Reporting Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission ("the Commission") has reviewed its definition of bona fide hedging and found it is inadequate due to changes in commercial practices and the diverse nature of commodities now under regulation.

The Commission has therefore adopted amendments to its general regulations under the Commodity Exchange Act as amended ("the Act") which would generally broaden the scope of the hedging definition to include current commercial risk shifting practices in the markets now under regulation. The Commission has also recognized the potential for market disruption if certain trading practices are carried out during the delivery period of any future. The definition therefore restricts the classification of certain transactions and positions as bona fide hedging during the last five days of trading. In addition, the Commission has amended its regulations to include reporting requirements for some new types of bona fide hedging which will now be recognized.

The intended effect of this action is to increase commercial utilization of futures markets for the purpose of hedging by allowing additional exemptions from the Commission's limits on transactions and positions. It is also intended to encourage increased commercial participation through recognition of a broad range of current risk shifting uses of futures markets. The new restrictions incorporated in the definition and reporting requirements are intended to limit the potential for market disruption.

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Blake Imel, Office of the Chief Economist, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581 (202-254-6124).

SUPPLEMENTARY INFORMATION: Section 4a of the Act authorizes the Commission to establish limits on the trading and positions ("speculative limits") of any person in contracts for future delivery on or subject to the rules of any contract market. As amended by section 404 of the Commodity Futures Trading Commission Act of 1974 ("CFTC Act"), that section further provides that such limits shall not "apply to transactions or positions which are shown to be bona fide hedging transactions or positions" as such terms shall be defined by the Commission. Prior to the enactment of the CFTC Act, the terms bona fide hedging transactions or positions were defined in section 4a(3) of the Act.

In March 1977 the Commission solicited public comment (42 FR 14832, March 16, 1977) on a revision of the definition of "bona fide hedging transactions or positions" provided in § 1.3(z) of its regulations, 17 CFR 1.3(z) (1977). In the same notice the Commission also requested comment on a revision of § 1.48 of its regulations, 17 CFR 1.48 (1977), which specifies certain reporting requirements for persons classifying positions as bona fide hedging of unfilled anticipated requirements and a proposed new § 1.47 which would contain the requirements for classifying certain other positions as bona fide hedging under the revision of § 1.3(z) being proposed at that time.

Major Proposed Amendments

The major amendments to the definition of bona fide hedging and attendant reporting requirements proposed in the Federal Register on March 16, 1977, were as follows:

1. Paragraph (1) of the proposed hedging definition provided a conceptual definition of transactions and positions which the Commission would consider as bona fide hedging under economically appropriate circumstances and subject to other provisions of the regulations.

2. Paragraph (2) of the proposed definition provided a description of specific purchases and sales for future delivery which the Commission considered to be in conformity with the general conceptual definition in proposed paragraph (1). The principal amendments to this provision of the definition which describes specific purchases and sales were as follows:

(a). A general provision for considering as bona fide hedging purchases and sales for future delivery which are offset by positions which are not the same quantity of the same cash commodity ("cross commodity hedging"). Transactions and positions of this nature were not to be considered as bona fide hedging during the five last days of trading in any expiring futures contract.

(b) A provision which restricted or eliminated the extent to which purchases and sales for future delivery would be considered bona fide hedging of unfilled anticipated requirements for manufacturing, processing and feeding or of anticipated production during the five last trading days of any expiring futures contract.

(c) Deletion of references to transactions and positions in commodities where the Commission has no speculative limits currently in effect and to specific transactions and positions which would fall under the proposed general provision for cross commodity hedging.

(d) A provision which excludes all purchases and sales for future delivery by governments or their agents from the enumerated listing. The intended effect was to require governments or their agents to apply for individual approval under the provisions of a new paragraph (3) of the proposed definition and the proposed new § 1.47 of the regulations.

3. Paragraph (3) of the proposed hedging definition provided that for purposes of determining exemptions from the Commission's speculative limits the Commission would recognize as bona fide hedging purchases and sales other than those specifically enumerated in proposed paragraph (2). Proposed paragraph (3) required in effect that any person requesting permission to classify such purchases or sales as hedging must provide the Commission with evidence that such transactions meet the requirements of the general definition in paragraph (1) of proposed § 1.3(z). The purpose of this proposed provision was to provide flexibility in application of the general definition and to avoid an extensive specialized listing of enumerated bona fide hedging transactions and positions in paragraph (2) of the proposed definition.

4. A proposed new § 1.47 set forth the requirements for considering transactions and positions as bona fide hedging pursuant to paragraph (3) of the proposed hedging definition. It required that certain information be provided to the Commission before such purchases or sales for future delivery could exceed the Commission's speculative limits. The Commission would have thirty days to review initial requests and approve the level of purchases and sales specified therein, specify a lower level, or request additional information. The Commission would have ten days to review subsequent applications by the same person.

5. Revisions to § 1.48 were proposed for the purpose of: (a) Conforming reporting requirements to the proposed revisions in the hedging definition and proposed § 1.47, and (b) codifying existing procedures employed under the current regulation.

In response to the request for comment on these proposed revisions or amendments, the Commission received over 20 responses from individuals, firms, exchanges and associations. Most of the comments concerned the proposed hedging definition rather than the proposed new § 1.47 or the proposed revision of § 1.48. Careful consideration has been given to these comments and to the issue of bona fide hedging in general. The following is a discussion of the amendments to these proposed regulations and the more pertinent issues considered by the Commission in adopting the new regulations.

Conceptual Definition of Hedging

One commentator noted that the language in paragraph (1) of the proposed § 1.3(z) does not recognize "balance sheet Ledging." Specifically, while conforming to all other aspects of the proposed general definition such transactions or positions do not represent "a substitute for transactions to be made or positions to be taken at a later time in a physical marketing channel."[1] The Commission has considered this example and found other relatively infrequent but potentially important examples of risk reducing futures transactions which may not conform to this aspect of the proposed general definition. Accordingly, paragraph (1) of the proposed definition has been amended to state that bona fide hedging transactions and positions "*normally* represent a substitute * * *".

The Commission considered other comments concerning the proposed conceptual definition but was not persuaded that this particular proposed provision should be further amended.

Government Hedging

As proposed, the bona fide hedging definition would have required governments or their agents to seek Commission approval of proposed hedging transactions on the part of governments. The Commission received limited comment on this proposal. However, upon further consideration, the Commission has determined not to impose any special requirements on governments' hedging transactions or positions at this time. The Commission believes that this question requires further study, particularly the issue of foreign government participation in the futures markets.

Anticipated Production

The Commission received several comments on the provision in paragraph (2) of the proposed hedging definition which concerns the hedging of up to twelve months' anticipated production (§ 1.3(z)(2)(i)(B)). All but one of these comments were from persons who are processors of agricultural commodities rather than producers. Comments on this provision were not expected from processors since paragraph (2) affects trading in only those commodities for future delivery where the Commission's speculative limits are currently in effect and all such commodities are agriculturally produced. However, agricultural processors such as flour millers noted that the new provision for cross hedging in the proposed regulation creates the possibility of hedging processed agricultural commodities in the futures markets for basic agricultural products. They note however that the cross hedging provision will be of little value unless the bona fide hedging of anticipated non-agricultural production is permitted.

Although the Commission had not considered the particular case, the language of paragraph (2) of the proposed definition would allow sales for future delivery to be offset by up to twelve months' anticipated non-agricultural production. This resulted jointly from the deletion of the word "agricultural" from the provision for the hedging of anticipated production in the current definition,[2] and the proposed general provision for cross hedging. In view of the comments on the hedging of anticipated non-agricultural production, the Commission has not changed the substance of the language in the proposal which would recognize this form of bona fide hedging. However, in an effort to conform the provision for hedging anticipated production to the provision for hedging "unfilled anticipated requirements" (§ 1.3(z)(2)(ii)(C) of the proposal), the language of the proposed § 1.3(z)(2)(i)(B) has been amended to refer to "unsold anticipated production." Unsold anticipated production is computed by deducting any fixed-price sales of anticipated production from total anticipated production.

In addition, due to the possibility of increased utilization of this provision by larger scale producers, such as agricultural processors, the Commission has amended the proposed § 1.48 to include periodic reporting of unsold anticipated production by persons whose offsetting sales for future delivery would be in excess of the Commission's speculative limits.

One commentator stated that the provision for hedging anticipated production should be extended beyond the proposed twelve months in accordance with the longer term leases (twenty-four to thirty-six months) signed by agricultural producers, but also acknowledged the provisions of the proposed definition which might permit case-by-case approval of such hedging. The Commission has considered this statement, which was not supplemented with any data on the extent to which agricultural producers hedge more than twelve months' production, and believes review of individual applications for such hedging is more appropriate than amendment of the enumerated provisions of paragraph (2) of the proposed definition.

Cross Commodity Hedging

Paragraph (2) of the proposed definition included a general provision for cross commodity hedging provided that, among other things, "the value and fluctuations in value of the position for future delivery are substantially related to the value and fluctuations in value of the actual or anticipated cash position." One commentator expressed concern over the concept of "value equivalent" noting that the important consideration for cross hedging should be the relationship between futures and cash price fluctuations on a unit basis. The Commission agrees with this comment and has deleted in § 1.3(z)(3)(iii) of the newly adopted definition that language which equates cash and futures positions in different commodities in terms of value rather than value fluctuations.

Five Day Rule

The Commission received numerous comments on the "five-day rule" for anticipatory hedges and cross commodity hedges in paragraph (2) of the proposed definition. These provisions eliminate or further restrict the extent to which certain transactions or positions may be considered bona fide hedging for the purposes of anticipatory hedging or cross commodity hedging if they are made or held in the five last days of trading in any expiring futures contract. Several commentators expressed the view that the rule was unfair or unneeded. Persons interested in long anticipatory hedging noted that the restriction to less than two months unfilled anticipated requirements may often effectively preclude taking delivery since many firms would already be carrying a long cash position equal to their total requirements for that period of time. Other persons noted that allowing positions equal to unfilled requirements for the current month and the month next proceeding during the last five trading days is to restrictive because the time span between maturing contracts is sometimes as much as three months.

The Commission understands the "five-day rule" will restrict or eliminate the extent to which persons may classify as bona fide hedging certain transactions and positions which are made or held in an expiring contract during the five last days of trading. However, it has not been persuaded by the written commentary that these proposed provisions should be amended or eliminated. With respect to anticipatory hedges of unfilled anticipated requirements the Commission has considered the historically low utilization of this provision in terms of actual positions acquired in the futures market. For cross hedge and short anticipatory hedge positions, the Commission does not believe that persons who do not possess or do not have a commercial need for the commodity for future delivery will normally wish to participate in the delivery process. As a result, the five-day provisions have not been amended. In not amending the five-day rules the Commission notes the following: (1) Positions subject to the five-day rule can still be carried during the five last trading days if they do not exceed the Commission's speculative limits and (2) persons wishing to exceed such limits during the five last trading days may submit materials supporting classi-

[1] One form of balance sheet hedging would involve offsetting net exposure to changes in currency exchange rates for the purpose of stabilizing the domestic dollar accounting value of assets which are held abroad. In the case of depreciable capital assets, such hedging transactions might not represent a substitute for subsequent transactions in a physical marketing channel.

[2] Section 1.3(z)(1) of the current definition allows a person to hedge "with respect to agricultural commodities the amount of such commodity such person is raising, or in good faith intends or expects to raise within the next twelve months (eighteen months for cane sugar) on land which such person owns or leases." In redrafting this concept into the proposed § 1.3(z)(2)(i)(B) the word agricultural was dropped (among other things). This was done in an effort to simplify the language since that paragraph was to apply only to markets with limits currently in effect pursuant to § 4a of the Act. All of these markets are for agriculturally produced commodities.

V 42 164 AUG 24 77 UM

fication of the position as bona fide hedging pursuant to paragraph (3) of the newly-adopted definition.

OTHER COMMENTS ON THE PROPOSED ENUMERATED TRANSACTIONS AND POSITIONS

Several persons pointed out that the specific transactions and positions enumerated as bona fide hedging in paragraph (2) of the proposal would be deficient for certain commodities where the Commission currently has no speculative limits. The Commission is aware of this possibility but, as noted in the March 16, 1977, FEDERAL REGISTER notice containing the proposed hedging definition, the Commission does not believe that it is necessary to enumerate transactions and positions which would be considered bona fide hedging in markets where it currently has no speculative limits.[5]

In this connection, one commentator stated that implications of the definition of bona fide hedging go further than markets where the Commission currently has speculative limits in effect and involve the classification of positions for future delivery on the CFTC series '03 reports[6] and affect the minimum financial requirements for futures commission merchants under § 1.17 of the Commission's regulations, 17 CFR 1.17 (1977). In response to the first comment, the Commission notes its proposal to eventually supplant the series '03 reports with other reports which will not require that positions be classified as either hedging or speculation.[5]

With respect to the second comment, § 1.17 provides that in determining compliance with the minimum financial requirements imposed on futures commission merchants, as they pertain to the definition of adjusted working capital and the computation of safety factors, certain references are made to bona fide hedging transactions and positions as defined in § 1.3(z). In proposing new section 1.3(z), the Commission did not intend to expand the types of bona fide hedging transactions and positions that are to be used in determining compliance with § 1.17. Accordingly, the Commission believes that an amendment to paragraphs (c)(6) and (e) of regulations 1.17 is necessary to apply only to those transactions and positions referred to in the newly adopted bona fide hedging definition that are substantially the same as those contained in the present bona fide hedging definition. The Commission is therefore proposing to amend § 1.17 and to adopt the amendments to become effective concurrently with the adoption of the new bona fide hedging definition. See 42 FR 42765 (1977). However, in view of this comment the Commission intends to study further the relationship between the definition of "bona fide hedging transactions or positions" and the minimum financial requirements in § 1.17 of its regulations.

One commentator objected to the provisions of the proposed enumerated listing in paragraph (2) which continue to permit persons to classify as bona fide hedging any purchase or sale for future delivery which is offset by their gross cash position irrespective of their net cash position (so called "double hedging"). The Commission is not persuaded by this commentator's statement that the provisions of the proposed definition which allow the hedging of gross cash positions operate to the detriment of domestic agricultural producers. In addition, the Commission refers to the numerous written and oral comments it has previously received on the subject of hedging gross positions. In summary, these comments were to the effect that net cash positions do not necessarily measure total risk exposure and in such cases the hedging of gross cash positions does not constitute "double hedging."[6] Accordingly, the Commission has not amended the provisions of the proposed definition which relate to the hedging of gross cash positions.

NON-ENUMERATED TRANSACTIONS AND POSITIONS

One commentator favored the provisions of paragraph (3) of the proposed definition which pertained to Commission approval of non-enumerated transactions and positions, but recommended that "organized exchanges, various trade associations as well as individual firms be permitted right of petition under this category." The Commission has considered this suggestion but did not amend paragraph (3) of the proposed hedging definition or proposed § 1.47 to permit such petition. The Commission believes that the nature of transactions and positions which would be considered as bona fide hedging under paragraph (3) of § 1.3(z) is such that the economic circumstances of each case should be considered individually.[7]

The Commission has amended paragraph (3) of the proposed § 1.3(z) by deleting the references to governments or their agents.

SECTIONS 1.47 AND 1.48

Paragraph (d) of the proposed § 1.47 has been amended to conform its requirements to the language in the newly adopted § 1.3(z)(2)(ii) which concerns cross-hedging. The term "value equivalents" in the proposed § 1.47(d)(1) has been amended to read "value fluctuation equivalents." In addition, the references to governments or their agents have been deleted from proposed section 1.47.

As noted above, the joint effect of deleting the word agricultural from § 1.3(z)(2)(i)(B) of the current hedging definition and the newly adopted provision for cross commodity hedging is that non-agricultural producers will now be allowed to exceed the Commission's speculative limits for the purpose of hedging of up to twelve months' unsold anticipated production. Due to the possibility of increased utilization of this provision by larger scale producers, such as agricultural processors, the Commission has amended section 1.48 to include periodic reporting of unsold anticipated production by persons whose sales for future delivery would be in excess of the Commission's speculative limits. These reporting requirements for unsold anticipated production are similar to those for unfilled anticipated requirements which were contained in the proposed and newly adopted § 1.48.

In consideration of the foregoing, the Commission, pursuant to its authority under §§ 4(a) and 8(a) of the Act, 7 U.S.C. §§ 6(a) and 12(a) (Supp. V, 1975), hereby amends Part 1 of Chapter I of Title 17 of the Code of Federal Regulations by amending §§ 1.3(z) and 1.48 and adopting a new § 1.47 to read as follows:

. . . . .

§ 1.3 Definitions.

. . . . .

(z) *Bona Fide Hedging Transactions and Positions.*

(1) *General Definition.* Bona fide hedging transactions and positions shall mean transactions or positions in a contract for future delivery on any contract market, where such transactions or positions normally represent a substitute for transactions to be made or positions to be taken at a later time in a physical

[5] See 42 FR 14834 (March 16, 1977).

[6] Section 18.00 of the regulations requires that traders who are in reporting status in a commodity for future delivery file CFTC series '03 reports which, among other things, show the total open contracts held or controlled in that commodity and classified as hedging or speculative. A trader is in reporting status if the size of his position in any one future of the commodity exceeds levels specified in § 15.03 of the regulations under the Act.

[5] See 41 FR 3050 (July 23, 1976). Several phases of this plan to make major changes in the Commission's large trader reporting system have already been implemented and others are in the process of being implemented.

[6] These views were received in response to the Commission's August 1975 request for comment on the definition of bona fide hedging (40 FR 30627) and the hearings on the same subject in New York City on January 8 and 9, 1976. They were summarized in the March 1977 FEDERAL REGISTER notice requesting comment on the proposals being discussed here (42 FR 14832, March 16, 1977).

[7] Another commentator stated that no firm should have to seek prior approval under paragraph (3) of the proposed hedging definition as long as the firm determines that the transactions fall within the conceptual definition in paragraph (1). However, this commentator did not provide any suggestions as to the manner in which the Commission would determine compliance with its speculative limits under this suggested arrangement.

marketing channel, and where they are economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise, and where they arise from:

(i) The potential change in the value of assets which a person owns, produces, manufactures, processes, or merchandises or anticipates owning, producing, manufacturing, processing, or merchandising,

(ii) The potential change in the value of liabilities which a person owes or anticipates incurring, or

(iii) The potential change in the value of services which a person provides, purchases or anticipates providing or purchasing.

Notwithstanding the foregoing, no transactions or positions shall be classified as bona fide hedging for purposes of section 4a of the Act unless their purpose is to offset price risks incidental to commercial cash or spot operations and such positions are established and liquidated in an orderly manner in accordance with sound commercial practices and unless the provisions of paragraphs (z) (2) and (3) of this section and sections 1.47 and 1.48 of the regulations have been satisfied.

(2) *Enumerated Hedging Transactions.* The definition of bona fide hedging transactions and positions in paragraph (1) of this section includes, but is not limited to, the following specific transactions and positions:

(i) *Sales* of any commodity for future delivery on a contract market which do not exceed in quantity:

(A) Ownership or fixed-price purchase of the same cash commodity by the same person; and

(B) Twelve months' unsold anticipated production of the same commodity by the same person provided that no such position is maintained in any future during the five last trading days of that future.

(ii) *Purchases* of any commodity for future delivery on a contract market which do not exceed in quantity:

(A) The fixed-price sale of the same cash commodity by the same person;

(B) The quantity equivalet of fixed-price sales of the cash products and by-products of such commodity by the same person; and

(C) Twelve months' unfilled anticipated requirements of the same cash commodity for processing, manufacturing, or feeding by the same person, provided that such transactions and positions in the five last trading days of any one future do not exceed the person's unfilled anticipated requirements of the same cash commodity for that month and for the next succeeding month.

(iii) Sales and purchases for future delivery described in paragraphs z(2)(i) and z(2)(ii) of this section may also be offset other than by the same quantity of the same cash commodity, provided that the fluctuations in value of the position for future delivery are substantially related to the fluctuations in value of the actual or anticipated cash position, and provided that the positions in any one future shall not be maintained during the five last trading days of that future.

(3) *Non-Enumerated cases.* Upon specific request made in accordance with section 1.47 of the regulations, the Commission may recognize transactions and positions other than those enumerated in paragraph (2) of this section as bona fide hedging in such amounts and under such terms and conditions as it may specify in accordance with the provisions of § 1.47. Such transactions and positions may include, but are not limited to, purchases or sales for future delivery on any contract market by an agent who does not own or who has not contracted to sell or purchase the offsetting cash commodity at a fixed price, *provided* that the person is responsible for the merchandising of the cash position which is being offset.

. . . . .

§ 1.17 Requirements for Classification of Purchases or Sales of Contracts for Future Delivery as Bona Fide Hedging under § 1.3(z)(3) of the Regulations.

(a) Any person who wishes to avail himself of the provisions of § 1.3(z)(3) of the regulations and to make purchases or sales of any commodity for future delivery in any commodity in excess of trading and position limits then in effect pursuant to section 4a of the Act shall file statements with the Commission in conformity with the requirements of this section. All or a specified portion of the transactions and positions described in these statements shall not be considered as bona fide hedging if such person is so notified by the Commission:

(1) Within 30 days after the Commission is furnished the information required under paragraph (b) of this section, or

(2) Within 10 days after the Commission is furnished with the information required under paragraph (c) of this section.

The Commission may request the person notified to file specific additional information with the Commission to support a determination that all, or the specified portion, of the transactions and positions be considered as bona fide hedging transactions and positions. In such cases, the Commission shall consider all information so filed and, by notice to such person, shall specify the extent to which the Commission has determined that the transactions and positions may be classified as bona fide hedging. In no case shall transactions and positions described be considered as bona fide hedging if they exceed the levels specified in paragraph (d) of this section.

(b) *Initial Statement.* Initial statements concerning the classification of transactions and positions as bona fide hedging pursuant to § 1.3(z)(3) shall be filed with the Commission at least 30 days in advance of the date that such transactions or positions would be in excess of limits then in effect pursuant to section 4a of the Act. Such statements shall:

(1) Describe the transactions and positions for future delivery and the offsetting cash positions;

(2) Set forth in detail information which will demonstrate that the purchases and sales are economically appropriate to the reduction of risk exposure attendant to the conduct and management of a commercial enterprise;

(3) Contain, and upon request of the Commission be supplemented by, such other information which is necessary to enable the Commission to make a determination whether the particular purchases and sales for future delivery fall within the scope of those described in section 1.3(z)(1) of the regulations;

(4) Include a statement concerning the maximum size of positions for future delivery (both long and short) which will be acquired any time during the next fiscal year or marketing season of the person filing or on whose behalf the filing is made.

(5) In addition: statements filed by an agent, concerning a futures position which would offset a cash position which the agent does not own or has not contracted to buy or sell, shall contain information describing all contractual arrangements between the agent filing and the person who owns the commodity or holds the cash market commitment being offset;

(6) Statements concerning futures positions to be acquired against unsold anticipated production or unfilled anticipated requirements for manufacturing, processing or feeding shall also include the information required under § 1.48 of the regulations.

(c) *Supplemental Reports.* Whenever the purchases or sales which a person wishes to classify as bona fide hedging shall exceed the amount provided in the person's most recent filing pursuant to this section or the amount previously specified by the Commission pursuant to paragraph (a) of this section, such person shall file with the Commission a statement which updates the information provided in the person's most recent filing and provides the reasons for this change at least ten days in advance of the date that person wishes to exceed those amounts.

(d) *Maximum Purchases and Sales.* Purchases and sales for future delivery considered bona fide hedging pursuant to § 1.3(z)(3) of the regulations shall at no time exceed the lesser of:

(1) The value fluctuation equivalent (in terms of the commodity for future delivery) of the current cash position described in the information most recently filed pursuant to this section, or

(2) the maximum level of long or short open positions provided in the information most recently filed pursuant to this section or most recently specified by the Commission pursuant to paragraph (a) of this section.

(e) *Updated Reports.* Reports updating the information required pursuant to this section also shall be filed with the Commission upon specific request.

§ 1.13 Requirements for Classification of Sales or Purchases for Future Delivery as Bona Fide Hedging of Unsold Anticipated Production or Unfilled Anticipated Requirements Under § 1.3(z)(2)(i)(B) or (ii)(C) of the Regulations.

(a) Any person who wishes to avail himself of the provisions of § 1.3(z)(2)(i)(B) or § 1.3(z)(2)(ii)(C) of the regulations and to make sales or purchases for future delivery in any commodity in excess of trading and position limits then in effect pursuant to section 4a of the Act for the purposes of bona fide hedging shall file statements with the Commission in conformity with the requirements of this section. All or a specified portion of the unsold anticipated production or unfilled anticipated requirements described in these statements shall not be considered as offsetting positions for bona fide hedging transactions and positions if such person is so notified by the Commission within ten days after the Commission is furnished with the information required under paragraphs (b) or (c) of this section. The Commission may request the person notified to file specific additional information with the Commission to support a determination that the statement filed accurately reflects unsold anticipated production or unfilled anticipated requirements for manufacturing, processing or feeding. In such cases, the Commission shall consider all additional information so filed and, by notice to such person, shall specify its determination as to what portion of the production or requirements described constitutes unsold anticipated production or unfilled anticipated requirements for the purposes of bona fide hedging. In no case shall such transactions and positions which offset unsold anticipated production or unfilled anticipated requirements be considered bona fide hedging if they exceed the levels specified in paragraph (d) of this section of the regulations.

(b) *Initial Statement.* Initial statements concerning the classification of transactions and positions as bona fide hedging pursuant to section 1.3(z)(2)(i)(B) or 1.3(z)(2)(ii)(C) shall be filed with the Commission at least ten days in advance of the date that such transactions or positions would be in excess of limits then in effect pursuant to section 4a of the Act. Such statements shall set forth in detail for a specified operating period not in excess of one year the person's unsold anticipated production or unfilled anticipated requirements for processing or manufacturing or feeding and explain the method of determination thereof, including, but not limited to, the following information:

(1) For unsold anticipated production:

(i) Annual production of such commodity for the three complete fiscal years preceding the current fiscal year;

(ii) Anticipated production of such commodity for a specified period not in excess of one year;

(iii) Fixed-price forward sales of such commodity;

(iv) Unsold anticipated production of such commodity for a specified period not in excess of one year.

(2) For unfilled anticipated requirements:

(i) Annual requirements of such commodity for processing or manufacturing or feeding for the three complete fiscal years preceding the current fiscal year;

(ii) Anticipated requirements of such commodity for processing or manufacturing or feeding for a specified operating period not in excess of one year;

(iii) Inventory and fixed-price forward purchases of such commodity, including any quantity in process of manufacture and finished goods and byproducts of manufacture or processing (in terms of such commodity);

(iv) Unfilled anticipated requirements of such commodity for processing or manufacturing or feedings for a specified operating period not in excess of one year.

(3) Additional information: Persons hedging unsold anticipated production or unfilled anticipated requirements which are not the same quantity or are not the same commodity as the commodity to be sold or purchased for future delivery shall furnish this information both in terms of the actual commodity produced or used and in terms of the commodity to be sold or purchased for future delivery. In addition, such persons shall explain the method for determining the ratio of conversion between the amount of the actual unsold anticipated production or unfilled anticipated requirements and the amount of commodity to be sold or purchased for future delivery. Persons hedging unfilled annual feeding requirements for livestock and poultry shall provide the number of cattle, hogs, sheep, or poultry expected to be fed during the specified period, not to exceed one year, and the derivation of their annual requirements based upon these numbers. Persons filing as an agent shall furnish this information on the basis of the fiscal or operating year of the person on whose behalf the filing is made.

(c) *Supplemental Reports.* Whenever the sales or purchases which a person wishes to consider as bona fide hedging of unsold anticipated production or unfilled anticipated requirements shall exceed the amounts described by the figures for requirements furnished in the most recent filing pursuant to this section or the amounts determined by the Commission to constitute unsold anticipated production or unfilled anticipated requirements pursuant to paragraph (a) of this section, such person shall file with the Commission a statement which updates the information provided in the person's most recent filing and supplies the reason for this change at least ten days in advance of the date that person wishes to exceed these amounts.

(d) *Maximum Sales and Purchases.* Sales or purchases for future delivery considered as bona fide hedges pursuant to sections 1.3(z)(2)(i)(B) or (ii)(C) shall at no time exceed the lesser of:

(i) A person's unsold anticipated production or unfilled anticipated requirements as described by the information most recently filed pursuant to this section or determined by the Commission pursuant to paragraph (a) of this section, or

(ii) A person's actual unsold anticipated production or current unfilled anticipated requirements for the length of time specified in the information most recently filed pursuant to this section.

(e) *Updated Reports.* Reports updating the information required pursuant to this section shall also be filed with the Commission upon specific request.

* * * * *

The foregoing amendments are adopted effective October 1, 1977.

Issued in Washington, D.C., on August 19, 1977.

For the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.77-24501 Filed 8-23-77;8:45 am]

federal register

WEDNESDAY, AUGUST 24, 1977
PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

GUIDANCE AND COUNSELING PROGRAM GRANTS

Requirements and Evaluation Criteria

V 42 164 AUG 24 77 UM

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 191—GUIDANCE AND COUNSELING

AGENCY: Office of Education, HEW.

ACTION: Final regulation.

SUMMARY: This document sets forth requirements and evaluation criteria governing the award of grants for guidance and counseling programs in conformance with the Education Amendments of 1976. The regulation makes provisions for grants to provide programs, projects and leadership activities, to increase the coordination of guidance and counseling activities, and to improve the qualifications of guidance and counseling personnel.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232 (d)), this regulation has been transmitted to the Congress concurrently with its publication in the FEDERAL REGISTER. This section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of transmission, subject to the provisions in that section concerning Congressional action and adjournment.

FOR FURTHER INFORMATION CONTACT:

Dr. Donald Twiford, Guidance and Counseling Program, U.S. Office of Education, 400 Maryland Avenue, S.W., Regional Office Building No. 3, Room 3608, Washington, D.C. 20202, telephone 202–245–2243.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Part D of Title III of the Education Amendments of 1976 (Pub. L. 94–482) authorizes three new guidance and counseling initiatives described below with the intent of (1) providing programs, projects and leadership activities by States in guidance and counseling for FY 1977, (2) increasing the coordination of guidance and counseling activities at the Federal, State, and local levels, and (3) improving the qualifications of guidance and counseling personnel, with special emphasis on inservice training which takes educational professionals into the workplaces of business, industry, and the professions.

Subpart B of the regulation governs a program of grants to States in Fiscal Year 1977 for "programs, projects, and leadership activities to expand and strengthen guidance and counseling services in elementary and secondary schools." These grants will be allotted to the States on a formula grant basis, and to Guam, American Samoa, the Virgin Islands, the Trust Territories of the Pacific Islands, schools for Indian children operated by the Department of Interior, and the overseas dependent schools of the Department of Defense on the basis of their respective needs.

Subpart C of the regulation governs a competitive grant program for Fiscal Years 1978 and 1979 to assist State and local educational agencies, institutions of higher education, and private nonprofit organizations in conducting institutes, workshops, and seminars to improve the professional guidance qualifications of teachers, counselors, and supervisory and technical personnel having responsibilities for guidance and counseling, and to improve guidance and counseling supervisory services in State and local educational agencies and nonpublic elementary and secondary school systems.

Subpart D governs a program of grants to be made to States to assist them in carrying out programs to coordinate new and existing programs of guidance and counseling.

No regulations are needed to implement Sec. 343 of Pub. L. 94–482, which provides for the establishment or designation of an administrative unit within the Office of Education to (1) provide information regarding guidance and counseling activities to Federal, State, and local governments, (2) advise the Commissioner on coordinating guidance and counseling at the Federal level and, where feasible, at the State and local levels, and (3) administer the programs under this part.

CITATIONS OF LEGAL AUTHORITY

As required by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232(a)), a citation of statutory or other legal authority for each section of the regulation has been placed in parentheses on the line following the text of the section. References to "Sec." in the citations of authority following provisions of the regulation refer to sections of the Education Amendments of 1976, Pub. L. 94–482. If the citation uses the word, "interprets," the regulation provisions include an interpretation of the cited statutory provision. If the citation uses the word, "implements," the regulation provisions include rules considered necessary to implement the statute.

PUBLIC RESPONSE TO THE PROPOSED REGULATION

Approximately thirty written comments were received within the comment period on the notice of proposed rulemaking which was published in the FEDERAL REGISTER on May 20, 1977 (42 FR 25881). Comments were received from universities or colleges, State educational agencies, local educational agencies, and private associations or institutions.

The overall reaction to the regulation was supportive. The following specific comments were made. After a summary of each comment, a response is set forth stating changes which have been made in the regulation or the reasons why no change is considered appropriate. The comments appear in the order of the sections of the final regulation.

SUMMARY OF COMMENTS AND RESPONSE

GENERAL

Eligibility

Comment. A number of respondents made suggestions or raised questions with respect to eligibility for awards. Several asked if community colleges were eligible for awards, and one respondent urged that postsecondary level counselors in community and junior colleges be eligible to receive training, and that funds be earmarked for them. Another respondent recommended that counselors and teachers in nonprofit, nonschool agencies serving out-of-school youth or adults be eligible to receive training. Two respondents expressed concern that higher education would not benefit to any significant degree from the program due to a lack of receptivity to higher education programs by State educational agencies. One of these respondents recommended that higher education be allocated a minimum amount of funds under subpart C of the regulation, and that institutions of higher education be made eligible to receive funds under subparts B and D.

Several respondents addressed cooperative arrangements between applicants. One asked if local educational agencies could form a consortium and submit a project for several local educational agencies. Another of these respondents proposed that the regulation encourage cooperative arrangements in programs of training and State level coordination among new and developing guidance and counseling associations organized specifically to serve particular ethnic groups. One respondent strongly urged that nonprofit organizations qualified to serve Hispanic students and other minority groups be eligible for grants.

Response. No change has been made in the regulation. The statute provides that those awards described in subpart C of the regulation may be made to State and local educational agencies, institutions of higher education, and private nonprofit organizations. Community colleges would be eligible for grants under subpart C of the regulation if they are institutions of higher education, as defined by the regulation, or private nonprofit organizations. It is also possible that particular community colleges may qualify as "local educational agencies" if they can establish that they are public authorities legally constituted within a State for administrative control or direction of, or to perform a service function for, public elementary or secondary schools.

While many community colleges will be eligible for funding under these provisions, they may not be funded to train their own teachers and counselors at the postsecondary level. The statute for the program is expressly designed to strengthen guidance and counseling services in elementary and secondary schools (Sec. 342(b)(1), Pub. L. 94–482), and the Office of Education interprets the statutory authorization for training programs to be for teachers and guidance

counselors at the elementary and secondary school level (Sec. 344(a), Pub. L. 94–482). While not specifically defined in the authorizing statute, the term "secondary school" has been defined in both the Elementary and Secondary Education Act of 1965, as amended (Sec. 801 (h)), and the Higher Education Act of 1965, as amended (Sec. 1201(d)), not to include education beyond grade 12. The Office of Education believes these provisions reflect Congress general understanding of the term "secondary school" not to include education beyond grade 12. The Office of Education concludes that postsecondary level teachers and counselors in community and junior colleges are ineligible under the statute to receive training.

The statute also limits eligibility for training to teachers and counselors in State and local educational agencies and nonpublic school systems. Teachers and counselors in private nonschool agencies who work with out-of-school youth would not be eligible to participate. Teachers and counselors in private organizations would be eligible only if the organizations are elementary or secondary school systems, as defined in § 191.12.

Institutions of higher education are eligible to compete for awards under subpart C on the same basis as other eligible applicants. The statute authorizes a competitive grant program with a number of types of eligible applicants, and the Office of Education believes that it would be inappropriate to earmark funds specifically for institutions of higher education. Applications from these institutions will be evaluated in terms of their quality against the published criteria on the same basis as applications from other eligible applicants.

Under § 191.32 of the regulation, State educational agencies are given an opportunity to offer comments on these applications, but the State agencies are not given authority to disapprove the applications. Also, an amendment has been added to § 191.32 to clarify that comments by the State educational agencies will be taken into account by the Office of Education only to the extent that they bear upon the published requirements and evaluation criteria.

Under sections 342(b) and 344(b) of the statute, grants may be made only to "States." In implementing these provisions, the regulation provides that grants under subparts B and D of the regulation will be made only to that State agency which is vested with the direct and primary responsibility for State supervision of programs of guidance and counseling at the elementary and secondary school levels. In most cases this is likely to be the State educational agency, although it is possible that a State university could be vested with that responsibility under State law.

Local educational agencies and other eligible applicants can join together to apply for a grant under subpart C. The application can be filed jointly in the name of several eligible applicants under 45 CFR § 100a.19. Also, local educational agencies or other eligible applicants may form a consortium which is itself a private nonprofit organization eligible for an award. In this case, the application may also be filed in the name of the consortium.

The regulation does encourage appropriate cooperative arrangements in carrying out projects under subparts C and D. Section 191.31(c)(2)(ii) requires applications to provide evidence of cooperation with other appropriate organizations and groups, and § 191.33(b)(5) assigns evaluation points to this factor. Comparable provisions apply to the State coordination program in subpart D (§§ 191.44(b)(1)(iv) and 191.45(b)(7)). However, it should be noted, in response to the comment on this issue, that private, nonprofit organizations would not be eligible to receive awards for State-level activities under subparts B and D.

Nonprofit organizations focused on specific target populations such as the Hispanic are eligible to apply under subpart C, and the Office of Education hopes to receive many such applications of high quality. However, as indicated above with reference to community colleges, the projects would have to be to train counselors and teachers or improve supervisory services in elementary and secondary schools. A nonprofit organization could not, under the statute, be funded to carry out direct guidance and counseling services for students.

Grievance procedures

Comment. One respondent recommended that grievance procedures be established whereby counselors may challenge State agencies which they believe are expending Federal funds earmarked for vocational or general guidance in a manner contrary to legislative intent.

Response. No change has been made in the regulation. Any citizen who believes that a grantee is spending Federal funds in violation of the Federal statute or regulation may so notify the responsible Office of Education administrative office. With respect to the program under this regulation, that office will be the administrative unit established or designated under Sec. 343 of Pub. L. 94–482. Any such allegations will be pursued. If enforcement remedies are called for, there are a number of possible options for the Office of Education, including suspension and termination of grants and audit exceptions. It does not appear that formal grievance procedures need to be established by the regulation.

Administrative unit

Comment. Comments were received with reference to the administrative unit for guidance and counseling provided for in Sec. 343(a) of the Act, including comments on the qualifications of staff, and that staff represent different geographic regions of the country.

Response. No regulation is needed to implement this section of the law. The issues raised by these comments are not appropriate areas for formulating rules to govern applicants and grantees. The comments will be considered in taking administrative steps to carry out this section of the law.

Comment. In order that counselors may know about regulations and information issued from the Office of Education, one respondent proposed that it be mandatory for the State educational agency to notify and leave open for comment any directions or information from the Office of Education.

Response. Full communication between the State and local educational levels is to be encouraged, and it is hoped that State educational agencies will make every effort to communicate relevant Office of Education information to local educational agencies and other institutions involved in guidance and counseling. However, this is not considered an appropriate program area for imposing mandatory requirements.

Sex bias

Comment. The National Advisory Council on Women's Educational Programs, which was created by the Women's Educational Equity Act of 1974 to advise the Department of Health, Education, and Welfare on the improvement of educational equity for women, recommended a number of specific amendments to the regulation to highlight the critical importance to guidance and counseling of an awareness of sex bias and stereotyping. The Council recommended that subpart B of the regulation be amended to require attention by award recipients to the special needs of women and minority groups and to overcoming sex stereotyping and bias. With respect to subpact C, the Council suggested a number of changes to highlight the possible focus of projects on the needs of women and on sex stereotyping. It also recommended that each application be required to include a description of how the need for reducing sex and race stereotyping will be met. The Council cited findings of a study on sex discrimination in guidance and counseling which it has carried out to support its recommendations. The Council urged that, unless professionals receive more training as to the effects of sex stereotyping and an awareness of attitudes, the usefulness of an increased awareness of occupational pursuits will be limited.

Another respondent, on the other hand, questioned the appropriateness of § 191.31(c) requiring an applicant to include in the application a statement that the special needs of handicapped children and the need for reducing sex and race stereotyping have been considered in developing the plan for the project. The respondent indicated that these statements are not required by the Act.

Response. The comments of the National Advisory Council on Women's Educational Programs are well taken respecting the critical importance of addressing sex and race stereotyping to strengthen guidance and counseling

V 42164 AUG 24 77 UM V

services. However, the Council's recommendations on subpart B of the regulation have not been adopted because States are entitled to the funds under this program under a statutory formula for activities described in the statute. In the absence of any statutory provision related to sex and race stereotyping, it is not appropriate in the subpart B program that these matters be the subject of regulations.

Nevertheless, the key recommendations of the Council with respect to the subpart C program have been implemented through changes in § 191.29 and § 191.31. Under the proposed § 191.31, every subpart C application was required to indicate that the special needs of handicapped students and the need for reducing sex and race stereotyping had been considered in the development of the project plan. As amended, § 191.31 also requires in each application a description of project activities or methods to be used to meet these needs.

This does not mean that the special needs of handicapped students and the need for reducing sex and race stereotyping must be the central focus of each project. However, each project must include activities or methods to meet these needs. The Office of Education shares the concern of the National Advisory Council on Women's Educational Programs that, unless these problems are addressed in each project, there is the danger that projects which are otherwise of high quality from a programmatic and technical standpoint may not have a positive impact on guidance and counseling.

Although the subject requirement is not contained in the authorizing statute, the Congress has recognized the importance of these needs generally, and, with particular reference to guidance and counseling, in the legislative history and in express provisions of civil rights enforcement and related asssitance statutes. Regulations implementing Title IX of the Education Amendments of 1972 already set forth specific provisions forbidding discrimination by recipients of Federal financial assistance on the basis of sex in the counseling or guidance of students or applicants for admission (45 CFR § 86.36). The subject requirement in this regulation enables the Office of Education to ensure that it does not fund guidance and counseling projects which include sex biased materials or activities.

SUBPART A—GENERAL

§ 191.12 *Definitions.*

Comment. Three respondents objected to the definition of "nonpublic elementary and secondary school systems" in § 191.12(h) to mean two or more schools joined together in a common education program under central administrative control or direction. The respondents pointed out that the definition would have the anomalous result that a particular private school could be funded under § 191.27, but that the school could not serve its own guidance and counseling personnel unless it happened to be part of a larger system. This would exclude the staffs of many independent private schools from receiving the program benefits. The respondents argued that such a restrictive reading of the term "systems" in the statute would detract from the broad purpose of the statute to improve guidance and counseling services in the Nation's schools, both public and private. They recommended that the definition be changed to include an independent private school which meets State licensing or compulsory school attendance requirements.

Response. The comments are well taken. The regulation has been amended in accordance with the comments.

Comment. One respondent recommended that the words "elementary" and "secondary" be deleted from the definition of "local educational agency" so that special orientation and nongraded school districts are eligible. The respondent suggested that a comparable change be made for the definition of "student," with respect to which an age range of 5 to 21 would be preferable. The respondent also recommended that reference to political or geographical subdivisions be dropped to allow an LEA without either as a base to be eligible.

Response. No change has been made in the regulation. While the term "local educational agency" is not defined in the authorizing statute, the regulation adopts the standard definition of the term used by the Congress in the Elementary and Secondary Education Act and Higher Education Act. The Office of Education believes that Congress intends the term to be defined in this way absent particular statutory language to change the definition for specific programs. However, this does not necessarily mean that special or nongraded school districts are ineligible. "Elementary" and "secondary" schools are defined in the regulation as schools which provide elementary or secondary education, respectively, under State law, except that they do not include any education provided beyond grade 12. Therefore, a public authority providing an ungraded program could be a local educational agency, subject to the grade 12 limitation, if it were considered for purposes of State law to be providing elementary or secondary education.

The definition of "student" is provided merely to clarify that, when that term is used in the regulation, it refers to elementary and secondary school students to be served by teachers and counselors rather than to the counselors or teachers who may receive training.

The definition of "local educational agency" already meets the respondent's concern regarding references to political subdivisions. In addition to language in the definition relating to political subdivisions, the last sentence of the definition provides that the term "local educational agency • • • also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school."

Comment. It was suggested by one respondent that the explanation of "educational accountability" be moved to § 191.12, the definitions section.

Response. The only place the concept of "educational accountability" is used in the regulation is in § 191.30(a)(2). It is therefore more convenient for readers of the regulation to have the concept explained there.

SUBPART B—STRENGTHENING GUIDANCE AND COUNSELING SERVICE

§ 191.17 *Eligibility.*

Comment. One respondent stated that in all States, the State educational agency has the responsibility for administering elementary and secondary education programs. The respondent recommended that §§ 191.17(b) and 191.42 be amended to provide that the State educational agency is the only agency eligible to apply for and receive funds for the State under subparts B and D of the regulation.

Response. No change has been made in the regulation. These sections of the regulation provide that the grant will be made to that State agency which is vested with the direct and primary responsibility for State supervision of programs of guidance and counseling at the elementary and secondary school levels. The Office of Education believes that in most, and perhaps all, cases, this will be the State educational agency. However, unlike most education statutory provisions providing aid to States (including Section 344(a) of the Act) which specify that awards are to be made to the State educational agency, Sections 342 and 344(b) of the Act provide that grants are to be made to the "States." It therefore would be inappropriate to mandate by regulation for these programs (subparts B and D of the regulation) that grants must go to the State educational agency. If a particular State decided to vest primary responsibility for guidance and counseling at the elementary and secondary levels in an agency other than the State educational agency, the Office of Education could not, under the statute, refuse to make the award to such other agency.

§ 191.18 *Description of program staff.*

Comment. One respondent recommended that the required description of staff under § 191.18(e) be general rather than specific in nature. The respondent's concern apparently was that great detail not be required on the staff.

Response. The regulation has been modified to reflect the suggested change.

§ 191.19 *Distribution of funds.*

Comment. One respondent objected to § 191.19 of the regulation which makes provision for the Commissioner first to make allotments to Guam, American Samoa, the Virgin Islands, and the Trust Territories of the Pacific Islands on the basis of need, and to the Departments of Defense and Interior based on amounts necessary to carry out authorized programs and projects, with the remaining

amounts to be allotted to the States on the basis of the school-age population. The respondent's view was that all funds should be allotted equitably among all eligible applicants on the basis of the number of children aged five to seventeen.

Response. No change has been made in the regulation. The Act requires the Commissioner to allot funds to Guam, American Samoa, the Virgin Islands, and the Trust Territories of the Pacific Islands, "according to their respective needs," and to the Department of Defense (for children and teachers in the overseas department schools), and the Department of Interior (for children and teachers in elementary and secondary schools operated for Indian children by the Department of Interior) "amounts necessary for the programs, projects, and activities" so authorized. The only practicable way to make these allotments is to make them before allotting to the States according to the statutory formula. In any event, the regulation essentially meets the respondent's concern by providing that the determination of needs in these outlying areas and departmental schools is made with reference to the number of children aged five to seventeen in these jurisdictions or schools.

SUBPART C—IMPROVING GUIDANCE QUALIFICATIONS OF PERSONNEL AND IMPROVING SUPERVISORY SERVICES

§ 191.28 *Eligible participants.*

Comment. One respondent recommended that students, representatives from business, industry, and other professions, administrators, and parents be made eligible participants.

Response. No change has been made in the regulation. The Act specifies that grants are "to improve the professional guidance qualifications of teachers and counselors • • • and to provide training for supervisory and technical personnel • • •" Therefore, administrators with responsibilities for guidance and counseling would be eligible to receive training, but students, parents and representatives from business and industry, the professions, and other occupational pursuits may not participate as trainees. However, the participation of such individuals as resource persons in training activities, as indicated in § 191.29(a)(2), is permissible.

§ 191.29 *Projects for training.*

Comment. One respondent believed that there was a heavy emphasis in the regulation on career and vocational counseling and recommended that a more evenhanded approach be taken toward all areas of guidance and counseling.

Response. No change has been made in the regulation. The emphasis upon career and vocational counseling is derived from the governing statute. For example, Sec. 341 of the Act provides: "The Congress finds that • • • increased and improved preparation of educational professionals is needed in guidance and counseling • • • with special emphasis on in-service training which takes educational professionals into workplaces of business and industry, the professions, and other occupational pursuits • • •" It should be noted, however, that while § 191.29 cites two major emphases which an applicant may choose to address which are work oriented, there is no requirement that the project address "career and vocational counseling." Projects may deal with any area of training for improving guidance and counseling qualifications which the applicant determines is a priority need.

Comment. One respondent noted that § 191.29 of the proposed regulation gave emphasis to the "world of work" but did not make mandatory such involvement. One respondent recommended that each proposal be reviewed locally by persons from business, industry, the professions, and other occupational pursuits, and that such reviews be included in the proposals when submitted for funding, and another respondent similarly suggested that letters of assurance be provided from these persons to assure their involvement and coordination. The respondent's recommendation was based on concern that projects might not respond to local needs and might duplicate existing resources. Two respondents requested clarification in the regulation that projects other than those described in § 191.29(a)(2) could be funded.

Response. Section 191.29(a)(2) has been amended to clarify that projects related to the world of work are not the only types of training projects which can be funded. However, projects related to the world of work receive extra points under the application review criteria, consistent with the focus of the authorizing statute on these projects (§ 191.33(h) and (l)). The regulation in effect already addresses the concern that representatives of occupational pursuits be involved in reviewing and carrying out the project. The application requirements and review criteria contain provisions relating to evidence of commitments from outside organizations, groups, or individuals to cooperate in the implementation of the proposed activities, including any evidence of involvement with persons from business and industry, the professions, and other occupational pursuits and evidence of cooperation with other agencies and organizations which are involved in providing guidance and counseling services (§§ 191.31(c)(2)(ii) and 191.33(b)(5)).

§ 191.30 *Supervisory services projects.*

Comment. One respondent suggested that § 191.30(a)(2) be broadened to permit the development of exemplary models of supervisory practices.

Response. The regulation already does this. No change is needed.

§ 191.31 *Application requirements.*

Comment. One respondent questioned the inclusion of a comprehensive needs assessment and procedures for carrying it out (set forth in § 191.31(c)(1)(i) as required in the operational plan). This was interpreted by the respondent to require a needs assessment carried out specifically for the purpose of this program. It was indicated that the time required would diminish the amount of staff time available for service delivery.

Response. The regulation has been changed to clarify that the required needs description may be based on a previously conducted needs assessment or other appropriate means for determining needs. A new comprehensive needs assessment is not required.

Comment. One respondent in commenting on § 191.31(c)(1) noted that items (i) through (iii), and items (v) and (ix) are commonly accepted components of an application but that items (vi) through (viii) require detail that cannot be justified in an application to the Federal Government. The respondent also felt that § 191.31(c)(2)(i), (ii), and (iii) called for unnecessary detail. The respondent suggested that these requirements and corresponding criteria in § 191.33 be deleted.

Response. No change has been made in the regulation. It is not necessary that the application go into extensive detail regarding the subject items. However, the Office of Education believes that it needs information responding to each of these items if it is adequately to review applications and make competitive judgments between them.

The subject requirements and criteria relate to fundamental project elements, such as whom the project will serve and their eligibility under the regulation, project milestones, staff positions, and evidence of necessary commitments from other organizations. Absent this information, the Office of Education's basis for review of applications would be significantly impaired.

§ 191.32 *State review of application.*

Comment. A respondent expressed concern that State comments submitted under § 191.32 might be arbitrary, based on personal biases, or related to factors extrinsic to the program.

Response. Section 191.32 has been changed to clarify that comments by State educational agencies will be considered by the Office of Education only to the extent that they relate to the published requirements and criteria.

§ 191.33 *Application review criteria.*

Comment. One respondent took exception to § 191.33(h) which awards a maximum of 5 points to an application which has potential for contributing to the alleviation of unemployment among youth through interrelationships with business and industry, the professions, and other occupational pursuits. The respondent stated that this criterion is not mandated by the statute. It suggested that the criterion be omitted, or that it be broadened to serve as a general category under which points would be awarded if the application were directed toward resolving a pressing societal

V 42 164 AUG 24 77 UM

and/or developmental problem of children and/or youth.

Response. No change has been made in the regulation. The statute is silent on the evaluation criteria to be used by the Office of Education in selecting the highest quality applications under Section 344(a) (subpart C of the regulation). It is incumbent upon the Office of Education to establish criteria designed to result in the selection of those applications which best carry out the statutory purposes. Youth unemployment is not expressly mentioned in the statute, but the statute does give special emphasis to the relationship between guidance and counseling and the world of work. The alleviation of youth unemployment is an implicit and important element of this. It is appropriate in terms of the statutory purposes that, if two applications are otherwise equally rated, the one which holds promise of alleviating youth unemployment is funded first. If the criteria were broadened to include any pressing societal or developmental problem of children or youth, it would become so general that it would provide no guidance to applicants or application reviewers.

§ 191.35 *Allowable costs.*

Comment. Concern was expressed by two respondents that the regulation was unduly restrictive in limiting the allowability of instructional materials under § 191.35(b). Another respondent recommended that no payment should be made to business, industry, or other professions other than per diem costs.

Response. The regulation has been amended to make instructional materials generally allowable in accordance with these comments. With respect to payments to business, industry, and other professions the regulation is already consistent with the concern expressed. It permits only per diem expenses, travel, and incidental costs. It does not permit stipends or other compensation to participants.

Comment. One respondent noted that it should not be necessary to have the Commissioner's specific approval for payment of substitute teachers if the application proposes a budget for substitute teacher pay and the application is approved.

Response. Due to the expected limited amount of funds to be appropriated to carry out this part, the Commissioner will carefully evaluate the amount of money which an applicant intends to use for substitute teachers. The Commissioner does intend that an application approved by the Commissioner, which includes in its budget the amount of the award which will be used for substitutes, satisfies the approval requirement of § 191.35(c). However, if a grantee decides after approval of the application to use its money for substitutes or to use a greater amount than indicated in the application, such action must be approved by the Commissioner. The regulation has been amended to clarify the requirements of § 191.35(c).

Comment. One respondent found that it was unclear as to whether professional or consultative services in the conduct of a workshop is an allowable cost under § 191.35(d)(2). This respondent also urged that representatives of occupational pursuits should receive remuneration for their services in addition to payment for travel, meals, and lodging.

Response. There has been no change in the regulation. Due to the expected limited nature of the funds for programs under this part, it has been determined that representatives of occupational pursuits will receive payment only for their travel, meals, and lodging. Also, the Commissioner wishes to encourage voluntary participation of business, industry, and the professions to assist counselors in achieving a better understanding of the world of work.

Subject to these restrictions, the grantee may enter into service contracts to carry out the workshops and institutes to be funded under this subpart, in accordance with § 100a.30 of the General Education Provisions Regulations (GEPR) and subpart I of Part 100a of GEPR.

SUBPART D—COORDINATING GUIDANCE AND COUNSELING PROGRAMS

Distribution of funds

Comment. Two comments suggested that a formula be established for the distribution of funds between the activities authorized under Sections 344(a) and 344(b) of the authorizing statute (subparts C and D of the regulation), and further suggested that no more than one-third of the funds be allocated to Section 344(a).

Response. No change has been made in the regulation. The distribution of funds between these separate activities is likely to be resolved in the budgetary process. It is possible that Congress will include directives on the distribution in appropriating funds for the program. It, therefore, is inappropriate to provide by regulation for a distribution. The respondents' comments will be considered in preparing budget recommendations.

§ 191.43 *Activities.*

Comment. One respondent urged that a subsection F should be added to this section to allow the use of funds for reviewing applications submitted to a State agency for comments in accordance with § 191.32, State Review of Applications.

Response. One of the major focuses of programs and activities to be carried out under this part is to improve coordination of guidance and counseling programs at the State and local levels. For this reason, § 191.32 of subpart C of the regulation provides an opportunity for State comments on all applications. The Commissioner agrees that activities for which funds may be used under subpart D may include review of subpart C applications, and the regulation has been amended to reflect this change.

OTHER INFORMATION

Sections 191.37 and 191.49 have been added to provide that an award will not be made under subparts C and D if the applicant lacks the capacity successfully to carry out the project. Other technical and typographical changes have been made in the final regulation.

The Office of Education has determined that this document does not contain a proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance No. 13.577 Guidance and Counseling Program.)

Dated: July 22, 1977.

ERNEST L. BOYER,
Commissioner of Education.

Approved: August 16, 1977.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

Subpart A—General

Sec.
191.10 Scope.
191.11 Purpose.
191.12 Definitions.
191.13–14 [Reserved]

Subpart B—Strengthening Guidance and Counseling Services

191.15 Scope.
191.16 Purpose.
191.17 Eligible recipients.
191.18 Required application.
191.19 Distribution of funds.
191.20 Allowable costs.
191.21–24 [Reserved]

Subpart C—Improving Guidance Qualifications of Personnel and Improving Supervisory Services

191.25 Scope.
191.26 Purpose.
191.27 Eligible applicants.
191.28 Eligible participants.
191.29 Projects for training.
191.30 Projects for improving supervisory services.
191.31 Content of application.
191.32 State review of application.
191.33 Application review criteria.
191.34 Project duration.
191.35 Allowable costs.
191.36 Amount of award.
191.37 Capacity to carry out the project.
191.38–39 [Reserved]

Subpart D—Coordinating Guidance and Counseling Programs

191.40 Scope.
191.41 Purpose.
191.42 Eligible applicants.
191.43 Activities.
191.44 Required application data.
191.45 Review criteria.
191.46 Project duration.
191.47 Project funding.
191.48 Allowable costs.
191.49 Capacity to carry out the project.

AUTHORITY: Secs. 341–44, Pub. L. 94-482 (20 U.S.C. 2531–34).

Subpart A—General

§ 191.10 Scope.

(a) The regulations in this part govern the award of grants with funds appropriated pursuant to Part D of Title III of the Education Amendments of 1976, Pub. L. 94-482.

(b) The award of grants under this part is subject to applicable provisions contained in subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters, 45 CFR Parts 100, 100a) except that application requirements set forth in § 100a.16 and evaluation criteria set forth in § 100a.26(b) do not apply to awards under this part.

(Sec. 341, 20 U.S.C. 2531, 1221c.)

§ 191.11 Purpose.

The purpose of this part is through Federal financial assistance, to:

(a) Provide programs, projects, and leadership activities by the State to expand and strengthen counseling and guidance services in elementary and secondary schools.

(Sec. 342(b)(1), 20 U.S.C. 2532(b)(1).)

(b) Improve the professional guidance qualifications of teachers and counselors.

(Sec. 344(a), 20 U.S.C. 2534(a).)

(c) Provide training for supervisory and technical personnel having responsibilities for guidance and counseling.

(Sec. 344(a), 20 U.S.C. 2534(a).)

(d) Improve guidance and counseling supervisory services; and

(Sec. 344(a), 20 U.S.C. 2534(a).)

(e) Coordinate new and existing programs of guidance and counseling in the States.

(Sec. 344(b), 20 U.S.C. 2534(b).)

§ 191.12 Definitions.

As used in this part:

(a) "Guidance" means a program provided by or under the leadership and supervision of, professional counselors, involving teachers and resource personnel, to assist elementary and secondary school students in their educational, vocational, and personal-social development. A program of guidance services includes, but is not limited to, counseling, information, placement, appraisal, and follow-up and research.

(Interprets Sec. 341, 20 U.S.C. 2531.)

(b) "Counseling" is one of the basic components which constitute a program of school guidance services, and means a process conducted by a professional counselor in face-to-face or group settings to assist the student for the purpose of resolving or better understanding a problem, or planning and carrying out a course of action.

(Interprets Sec. 341, 20 U.S.C. 2531.)

(c) "Elementary school" means a day or residential school which provides elementary education, as determined under State law, and "Elementary school level" means the educational level at which elementary education is provided under State law.

(Interprets Secs. 342, 344, 20 U.S.C. 2532, 2534.)

(d) "Inservice training" means institutes, workshops, or seminars to improve guidance qualifications of teachers, counselors, and guidance supervisory and technical personnel in State and local educational agencies or nonpublic elementary and secondary school systems during their time of service.

(Interprets Sec. 344(a), 20 U.S.C. 2531(a).)

(e) "Institution of higher education" means an institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association or, if not so accredited, (i) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (ii) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of subparagraphs (1), (2), (4), and (5).

(Interprets Sec. 344(a), 20 U.S.C. 2534(a).)

(f) "Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or a combination of school districts or counties recognized in a State as an administrative agency for its public elementary or secondary schools. This term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(Interprets Sec. 344(a), 20 U.S.C. 2534(a).)

(g) "Nonprofit organization" means an organization owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(Interprets Sec. 344(a), 20 U.S.C. 2534 a).)

(h) "Nonpublic elementary and secondary school system" means one or more nonprofit elementary or secondary schools operated or controlled by other than a public authority, and which is licensed or approved by the State in which it is located or attendance at which satisfies applicable State compulsory school attendance laws.

(Interprets Sec. 344(a), 20 U.S.C. 2534(a).)

(i) "Secondary school" means a day or residential school which provides secondary education as determined under State law except that it does not include any education provided beyond grade 12, and "Secondary school level" means the educational level (not beyond grade 12) at which secondary education is provided as determined under State law.

(Interprets Sec. 342, 344, 20 U.S.C. 2532.

(j) "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(Interprets Secs. 342, 344, 20 U.S.C. 2532, 2534.)

(k) "Students" refers to elementary or secondary school students and not teachers, counselors, supervisors, and technical personnel who are participants in institutes, workshops, and seminars.

(Implements Sec. 344(a), 20 U.S.C. 2534(a).)

(l) "Supervisory services" means those activities which are specifically designed to improve programs of guidance and counseling, and which are carried out by professional guidance personnel who have responsibilities within State and local educational agencies and nonpublic school systems for directing and coordinating the guidance and counseling efforts of staff members in the respective agencies or school systems.

(Interprets Sec. 344(a), 20 U.S.C. 2534(a).)

(m) "State educational agency" means the State board of education or other State agency or officer primarily responsible for State supervision of public elementary and secondary schools, or if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(Interprets Sec. 344(a), 20 U.S.C. 2534(a).)

§§ 191.13—191.14 [Reserved]

Subpart B—Strengthening Guidance and Counseling Services

§ 191.15 Scope.

This subpart applies to the program of guidance and counseling for which grants are authorized by Section 342(b) of Part D of Title III of Pub. L. 94-482. This program is authorized for fiscal year 1977.

(Sec. 342, 20 U.S.C. 2532.)

V 42 164 AUG 24 77 UM

§ 191.16 Purpose.

The purpose of the program authorized by this subpart is to provide for programs, projects, and leadership activities designed to expand and strengthen guidance and counseling services in elementary and secondary schools through grants (a) to States and (b) to other recipients set forth in § 191.17(a).

(Sec. 342, 20 U.S.C. 2532.)

§ 191.17 Eligible recipients.

(a) Eligible recipients under this subpart include: (1) the States, (2) the Department of the Interior (for children and teachers in elementary and secondary schools operated for Indian children in the Department of Interior), and (3) the Department of Defense (for children and teachers in the overseas dependent schools of the Department of Defense).

(b) A grant to a State under this subpart will be made to that State agency which is vested with the direct and primary responsibility for State supervision of programs of guidance and counseling at the elementary and secondary school levels.

(Implements Sec. 342, 20 U.S.C. 2532.)

§ 191.18 Required application.

Any State or other eligible applicant under § 191.17 desiring to receive funds for the purpose of this subpart shall, as a condition to the receipt of these funds, file an application with the Commissioner providing the following information:

(a) With respect to an application from a State, documentation that the applicant agency is the appropriate grant recipient under § 191.7;

(b) The needs to be met by the proposed activity;

(c) Objectives which are clearly related to the purposes of this program and capable of being attained by the proposed activities;

(d) A description of the activities to be carried out with these funds which satisfies the Commissioner (1) that these activities are designed to achieve the stated objectives, and (2) that funds will be used only to carry out the purposes of this subpart;

(e) A general description of the program staff and other resources to carry out the activities;

(f) Provision for such methods of administration as are necessary for the proper and efficient administration of the proposed project; and

(g) Provisions for such fiscal control and fund accounting procedures and reports as may be required pursuant to applicable provisions of Part 100a of this chapter.

(Implements Sec. 342, 20 U.S.C. 2532, 1232c (b) 1221e-3(a)(1).)

§ 191.19 Distribution of funds.

(a) From sums appropriated for purposes of this subpart, the Commissioner will first allot amounts to Guam, American Samoa, the Virgin Islands, and the Trust Territories of the Pacific according to their respective needs. The Commissioner generally bases a determination of these needs on the number of children aged five to seventeen inclusive in each jurisdiction.

(b) The amounts allotted to the Department of Defense (for children and teachers in the overseas dependent schools of the Department of Defense) and to the Department of the Interior (for children and teachers in the elementary and secondary schools operated for Indian children in the Department of the Interior) are based upon the amounts necessary for the programs, projects, and activities authorized under this subpart. These amounts are to be determined with reference to the number of children aged five to seventeen inclusive in these schools.

(c) After the amounts under paragraphs (a) and (b) have been allotted, the Commissioner allots to each State, other than Guam, American Samoa, the Virgin Islands, and the Trust Territories of the Pacific, from those amounts that remain, in accordance with Section 342(b)(3)(B) of the Act, an amount which bears the same ratio to those remaining amounts as the number of children in that State, aged five to seventeen inclusive, bears to the total number of children in all these States.

(Implements Sec. 342, 20 U.S.C. 2532.)

§ 191.20 Allowable costs.

The Commissioner determines allowable costs pursuant to this subpart in accordance with principles set forth in Appendix B of Subchapter A of this chapter (Office of Education General Provisions Regulations).

(20 U.S.C. 1221c.)

§§ 191.21—191.24 [Reserved]

Subpart C—Improving Guidance Qualifications of Personnel and Improving Supervisory Services

§ 191.25 Scope.

(a) This subpart applies to the award of grants under the program of guidance and counseling authorized by section 344(a) of Part D of Title III of Pub. L. 94-482.

(b) The award of any contracts under Section 344(a) will be made in accordance with applicable procurement regulations in 41 CFR Chapters I and 3 and the provisions of specific requests for proposals, and will not be subject to the provisions of this subpart.

(Sec. 344(a), 20 U.S.C. 2534(a).)

§ 191.26 Purpose.

(a) The purpose of this subpart is (1) to improve the professional guidance qualifications of teachers, counselors, supervisory personnel, and technical personnel through inservice training to enable them more effectively to carry out their specific current roles, and (2) to improve supervisory services in the field of guidance and counseling;

(b)(1) Two kinds of projects will be funded under this subpart:

(i) Inservice training projects described in § 191.29; and

(ii) Projects to improve supervisory services described in § 191.30.

(2) An applicant may propose a single project with activities described under both of these sections.

(Interprets Sec. 344(a), 20 U.S.C. 2534(a).)

§ 191.27 Eligible applicants.

The following agencies and organizations are eligible for grants under this subpart: (a) State educational agencies; (b) Local educational agencies; (c) Institutions of higher education; and (d) Private nonprofit organizations.

(Sec. 344(a), 20 U.S.C. 2534(a).)

§ 191.28 Eligible participants.

The following persons are eligible to participate as trainees in training programs funded under § 191.29:

(a) Teachers and counselors in State and local educational agencies;

(b) Teachers and counselors in nonpublic elementary and secondary school systems;

(c) Supervisory and technical personnel in State and local educational agencies with responsibilities for guidance and counseling; and

(d) Supervisory and technical personnel in nonpublic elementary and secondary school systems with responsibilities for guidance and counseling.

(Sec. 344(a), 20 U.S.C. 2534(a).)

§ 191.29 Projects for training.

(a) *Nature of project.* (1) The projects funded under this section support inservice training programs in the form of institutes, workshops, and seminars to improve the professional guidance qualifications of teachers, counselors, and supervisory and technical personnel in their current roles, for the purpose of improving the guidance and counseling program provided to students in elementary and secondary schools.

(2) Two major emphases (among others) which an applicant may choose to address in these projects are:

(i) To increase the understanding of teachers and counselors about the world of business, industry, professions, and other occupational pursuits through exposure to these areas; and

(ii) To provide for increased use of men and women experienced in business, industry, the professions, and other occupational pursuits in guidance and counseling programs, by (A) bringing these persons into the schools as counselors and advisors for students; and (B) bringing students into the workplace for observation and participation to acquaint them with the nature of the work. The applicant may choose to emphasize non-traditional career alternatives for members of both sexes.

(3) To receive assistance under this part, an inservice training project must:

(i) Be designed on the basis of a needs assessment for a specific group of trainees; and

(ii) Serve as a resource for contributing to improved programs of guidance and counseling services within the schools served by the trained counselors or teachers. (For example, a counselor, as a participant in an institute provided by a grant recipient, could spend one day a week in industry so that, upon completion, the counselor would be more aware of the opportunities and requirements of different occupations and would thus be able to provide a better program of guidance and counseling services.)

(4) Applicants may wish to propose specific training activities designed to demonstrate exemplary ways of involving persons from business and industry, the professions, and other occupational pursuits in guidance and counseling programs.

(5) Inservice training programs supported under this subpart must be short-term, with no program exceeding a year for each group of trainees. Normally, a workshop, institute, or seminar conducted on a daily basis may not exceed a three-month period for each group of trainees. However, training may be carried out on a more extended, but periodic basis, e.g., 1 to 6 hours a week, but for a period not to exceed a year.

(Implements Secs. 341, 344(a), 20 U.S.C. 2531, 2534(a).)

(b) *Types of activities.* Projects designed for training purposes may include, among other training activities, one or more of the following:

(1) Inservice training programs which involve counselors and teachers in demonstration models which bring individuals with experience in occupational pursuits into schools as counselors or advisors for students, and which bring students into work-places to acquaint students with the nature of the work;

(2) In service training programs for teachers and guidance counselors in State and local educational agencies and non-public elementary and secondary school systems so that they can obtain experience in business and industry, the professions, and other occupational pursuits. (These programs may include individual and group experiences in observing or participating in various occupational pursuits); and

(3) Training of supervisory and technical personnel designed to improve the supervisory knowledge and skills, including effective management and administrative procedures, of persons assigned to guidance and counseling programs. As used in this subparagraph, "supervisory and technical personnel" means professional guidance staff who have designated responsibilities within State and local educational agencies or nonpublic school systems for directing and coordinating the efforts of staff working in guidance programs in the respective agencies or school systems, or for providing technical assistance in such areas of specialty as elementary school guidance, student appraisal, career development, occupational information, counseling, techniques, and group procedures, to improve the quality of services within guidance and counseling programs.

(Implements Secs. 341, 344(a), 20 U.S.C. 2531, 2534(a).)

§ 191.30 Projects for improving supervisory services.

(a) *Nature of projects.* (1) Projects under this section are designed to improve supervisory services of guidance and counseling in State and local educational agencies and nonpublic school systems, as opposed to concentrating on personnel qualifications of supervisory personnel.

(2) The Commissioner encourages the submission of projects providing for exemplary supervisory practices which may serve as models for replication by other State and local educational agencies and nonpublic school systems. Exemplary approaches to accountability in terms of evaluating guidance outcomes is an example of a type of project which has potential for improving supervisory services. (Educational accountability includes a process of establishing objectives, delineating tasks and activities, and having personnel who are held responsible for accomplishing the objectives.)

(b) *Types of activities.* Activities designed to improve supervisory services in the field of guidance and counseling in State and local educational agencies and nonpublic elementary and secondary school systems may include, but are not limited to, one or more of the following:

(1) Expanding and coordinating supervisory services in guidance and counseling programs;

(2) Providing or increasing technical or consultative assistance to guidance and counseling personnel;

(3) Implementing or improving accountability through:

(i) Assessment of students' needs for guidance;

(ii) Planning and implementing guidance objectives; and

(iii) Evaluating guidance outcomes;

(4) Planning and preparing guidance and counseling materials and information; and

(5) Demonstrating successful supervisory practices in guidance and counseling.

(Implements Secs. 341, 344(a), 20 U.S.C. 2531, 2534(a).)

§ 191.31 Content of application.

An eligible applicant which seeks to receive a grant under this subpart shall file an application which must include:

(a) A cover sheet(s) which includes the following:

(1) The identification of the purpose and the type of activity such as training or improved supervisory services to which the application is addressed; and

(2) A brief abstract of the proposed project;

(b) A copy of the letter of transmittal of the application which was submitted to the appropriate State educational agency for the purpose of State review and comment as provided under § 191-32; and

(c) An operational plan describing in detail how the applicant proposes to achieve the purpose(s) identified in the application.

(1) This plan must include, but need not be limited to:

(i) A description of the needs of prospective participants for the project, in relation to the needs of students served by these participants, and a description of how the needs were determined;

(ii) Objectives which are related to the purposes of this subpart;

(iii) A description of project activities and information on the size, scope, and duration of the proposed project;

(iv) A statement that the special needs of handicapped students and the need for reducing race and sex stereotyping have been considered in the development of the plan and a description of project activities or methods to be used to meet these needs;

(v) An evaluation design;

(vi) Milestones and dates for the completion of project activities;

(vii) Identification of all proposed staff positions, and a description of the duties and qualifications required for these positions;

(viii) An estimated cost for each of the program activities;

(ix) A description of the resources available to the applicant to carry out the proposed project; and

(x) A description of any activities to be contracted.

(2) If the applicant proposes to improve the professional guidance qualifications of personnel, in addition to the other information required by this section, the following information must be included in the operational plan:

(i) A description of the target population, methods, and criteria to be used in selecting participants, including information to establish the eligibility of the participants under § 191.28;

(ii) Evidence of any commitment already received from outside organizations, groups, or individuals to cooperate in the implementation of the proposed activities, including any evidence of involvement with persons from business and industry, the professions, and other occupational pursuits and evidence of cooperation with other agencies and organizations which are involved in providing guidance and counseling services; and

(iii) In cases where an applicant proposes to train personnel who are not in their employ, a copy of the training agreement between the applicant and the agency or organization where the prospective trainees are located.

(3) The applicant is encouraged to respond in the operational plan to each criterion in § 191.33. Except with respect to paragraph (f) of § 191.33, if the plan does not provide information responsive to a particular criterion, this will deny the applicant the opportunity to receive points for that criterion.

(Implements Sec. 344(a), 20 U.S.C. 2534(a).)

V 42164 AUG 24 77 UM V

§ 191.32 State review of application.

(a) Each applicant under this subpart must provide a copy of its application to the State educational agency of each State in which is located the agency or organization to be served under a project for improving supervisory services or where the prospective trainees are employed, as applicable, concurrently with its submission of the application to the Commissioner.

(b) The Commissioner will not approve an application submitted by an applicant unless each appropriate State educational agency under paragraph (a) has been given an opportunity to review and comment on the application.

(c) In reviewing applications, the Commissioner will consider comments submitted by a State educational agency to the extent that they relate to requirements and review criteria in this subpart.

(d) The Commissioner may establish a cut-off date for submission of comments on applications by State educational agencies. If the Commissioner establishes such a date, failure by a State educational agency to submit comments to the Commissioner within the period specified shall be deemed a waiver of the State educational agency's opportunity to comment on that application.

(Implements Secs. 343(a)(3), 344(a), 20 U.S.C. 2533(a)(3), 2534(a).)

§ 191.33 Application review criteria.

Applications submitted under this subpart will be reviewed to determine the extent to which they meet specific program criteria. Each criterion is assigned a maximum score and is weighted in terms of its relative value to the rest of the application criteria. The total number or points for all criteria is 100. The criteria and the maximum point score for each criterion are as follows:

(a) *Need.* Maximum score, 10. The application clearly describes the need, through documented evidence for training and/or improved supervisory services, and the procedures used in determining the need. The need should be based on the guidance needs of students in the location where trainees are employed.

(b) *Objectives and activities.* Maximum score, 30. The application:

(1) Clearly sets forth objectives which are: designed to meet the purposes of this subpart; sharply defined; clearly stated; capable of being attained; and capable of being measured;

(2) Sets forth activities, tasks, and strategies, which, when implemented, will achieve the stated objectives, including milestones and dates by which to monitor the completion of each of the proposed activities;

(3) Sets forth training or supervisory objectives and activities which respond effectively to the needs of students documented in the needs assessment;

(4) Sets forth project activities which are designed to serve as a resource for improving guidance and counseling services within schools which receive supervisory services, or which are served by teacher and counselor trainees;

(5) Gives evidence, in those applications proposing to provide training, of commitments from outside organizations, groups, or individuals to cooperate in the implementation of proposed activities or in those applications proposing to improve supervisory services, of plans for working with other appropriate units;

(6) Clearly describes the criteria and processes for selecting participants in training activities and clearly describes criteria and processes for developing comprehensive and coordinated guidance programs in activities to improve supervisory services.

(c) *Evaluation plan.* Maximum score, 10. The quality of provisions set forth in the application for evaluating the effectiveness of the project and for determining the extent to which each of the objectives will be achieved.

(d) *Personnel.* Maximum scores, 10. The qualifications and experience of project staff and strength of commitment from individuals and groups whose assistance is needed to accomplish the proposed objectives.

(e) *Budget.* Maximum score, 10. The application gives evidence that the size, scope, and duration of the project are reasonable and that the estimated cost is reasonable in relation to the anticipated results of each of the proposed activities.

(f) *Distribution of projects.* Maximum score, 10. The extent to which approval of the project will contribute to:

(1) An equitable geographic distribution of programs funded under this subpart throughout the United States in both urban and rural areas; and

(2) The funding of a wide variety of projects which collectively can demonstrate diverse approaches to meet effectively the purposes of this subpart.

(g) *Models.* Maximum score, 10. The extent to which approval of the project will contribute to the establishment of a model or models which can be replicated by other agencies or institutions with similar educational needs. In applying this criterion, the Commissioner shall consider (1) the extent to which similar needs to those addressed by the proposed project exist in other agencies or institutions and (2) the design of the proposed project.

(h) *Alleviation of unemployment among youth.* Maximum score, 5. The extent to which approval of the project has potential for contributing to the alleviation of unemployment among youth through interrelationships with business and industry, the professions, and other occupational pursuits.

(i) *World of work.* Maximum score, 5. The project involves inservice training to increase the understanding of teachers and counselors of the world of business, industry, professions, and other occupational pursuits through exposure to these areas, and to provide for increased use of persons employed in business, industry, the professions and other occupational pursuits in the guidance and counseling programs, by bringing these persons into the schools to assist teachers and counselors, and bringing students into the work-place for observation and participation in order to acquaint them with the nature of the work.

(Implements Sec. 344(a), 20 U.S.C. 2534(a).)

§ 191.34 Project duration.

Project awards pursuant to this subpart will be for a grant period of up to one year. If a grantee seeks to receive assistance under this part for an additional period beyond the grant period, it must submit a new application for a new grant award. The new application will be evaluated in competition with applications from other former grantees as well as from applicants which have not previously received assistance under this part.

(Implements Sec. 344(a), 20 U.S.C. 2534(a).)

§ 191.35 Allowable costs.

(a) Allowable costs in grants pursuant to this subpart are determined in accordance with principles set forth in the applicable appendices to Subchapter A of this chapter (Office of Education General Provisions for Programs), subject to the following provisions.

(b) Costs of equipment (other than guidance and counseling materials) are limited and allowed only if essential and reasonable in relation to anticipated results.

(c) Allowable costs may include travel, meals, lodging, guidance and counseling materials and supplies, and other costs incident to trainees' participation in institutes, workshops, and seminars, designed to improve professional guidance qualifications, but shall not include stipends or other forms of compensation. Payment of substitutes for teachers and counselors during the time of their participation in the inservice training is allowable only if specifically provided for in the approved application, or if otherwise approved in writing by the Commissioner.

(d) (1) The costs of bringing representatives of business and industry, the professions, and other occupational pursuits into schools as counselors or advisors to students, and of bringing students into work-places to acquaint them with the nature of the work are allowable program costs only if carried out through workshops, institutes, or seminars and if they serve training purposes for participant counselors and teachers.

(2) Allowable costs of these activities (operated in institute, workshop, or seminar settings) are limited to travel, per diem expenses, and other incidental costs, and do not include stipends or other types of compensation to participant students, trainees, or representatives of occupational pursuits.

(Implements Sec. 344(a), 20 U.S.C. 2534(a), 1221c.)

§ 191.36 Amount of award.

The amount of an award will be affected by the quality of the project pursuant to criteria in § 191.33. It is expected that the amount of an award for inservice training projects as specified in § 191.29 will be relatively small, with most awards within the range of $5,000 or less to $25,000, and normally will not exceed $50,000. Awards for projects to improve supervisory services, as specified in § 191.30, normally will not exceed $100,000. Nothing in this section shall be construed as a limitation on the amount of a particular grant.

(Implements Sec. 344(a), 20 U.S.C. 2534(a).)

§ 191.37 Capacity to carry out the project.

Notwithstanding the specific evaluation criteria in § 191.33, the Commissioner will not fund an application under this subpart unless the Commissioner is satisfied that the applicant has the capacity successfully to carry out the project.

(a) In making this judgment, the Commissioner will consider such factors as:

(1) Both the programmatic and financial management capacities of the applicant organization and its staff;

(2) Past performance by the applicant—

(i) In carrying out any prior grant under this part; or

(ii) In carrying out similar projects—with respect to such matters as achievement of objectives, adherence to the project conditions, programmatic and financial management, and the governing board's assumption of responsibility;

(3) Adequacy of facilities and other resources, including consideration of any litigation or dispute which calls into question the continued availability of the facilities and resources to the applicant; and/or

(4) Consideration of local community factors which may prevent the successful operation of the grant.

(b) If the Commissioner decides not to fund an application based upon this section, the Commissioner will do so only after providing reasonable notice and an opportunity to the applicant to rebut, in writing or in an informal meeting with the responsible officials of the U.S. Office of Education, the basis for the decision.

(Implements Sec. 344(a), 20 U.S.C. 2534(a).)

§§ 191.38—191.39 [Reserved]

Subpart D—Coordinating Guidance and Counseling Programs

§ 191.40 Scope.

This subpart applies to the program of guidance and counseling for which grants are authorized by section 344(b) of Part D of Title III of Pub. L. 94-482.

(Sec. 344(b), 20 U.S.C. 2534(b).)

§ 191.41 Purpose.

The purpose of the program authorized by this subpart is to assist States in coordinating new and existing programs of guidance and counseling in the States, working with the assistance of and in cooperation with the administrative unit within the Office of Education responsible for coordinating and providing information on guidance and counseling under section 343(a), Part D, Title III of Pub. L. 94-482.

(Sec. 343(a)(3), 344(b), 20 U.S.C. 2533(a)(3), 2534(b).)

§ 191.42 Eligible applicants.

Grants under this subpart may be made only to that State agency within each State which is vested with the direct and primary responsibility for State supervision of programs of guidance and counseling at the elementary and secondary school levels.

(Implements Sec. 344(b), 20 U.S.C. 2534(b).)

§ 191.43 Activities.

Coordination of guidance and counseling programs supported under this subpart may include, but is not limited to, the following activities:

(a) Identification of guidance and counseling programs supported jointly or separately by Federal programs, and by State and local programs;

(b) Initiating and conducting a Statewide guidance and counseling needs assessment to determine priorities for program development;

(c) Development of a plan and strategies for implementing these programs in terms of common goals and objectives as determined through the needs assessment;

(d) Planning and conducting appropriate action steps to accomplish goals and objectives such as preparation of position statements, providing for consultative or technical assistance, conducting conferences and workshops, sharing information through appropriate publications and other means, evaluating program outcomes in terms of established objectives, and other related activities necessary for the coordination and improvement of new and existing programs of guidance and counseling in the State;

(e) Participating in the activities of the Office of Education's administrative unit pursuant to section 343(a) of Pub. L. 94-482; and

(f) Commenting on applications under subpart C of this part, as provided for in § 191.32.

(Interprets Sec. 344(b), 20 U.S.C. 2534(b).)

§ 191.44 Required application data.

Each applicant for assistance under this subpart must submit an application which includes:

(a) A cover sheet(s) which includes a brief abstract of the proposed project; and

(b) An operational plan describing in detail how the applicant proposes to achieve the purposes of the program.

(1) The operational plan must include, but need not be limited to:

(i) A description of the needs to be met by the proposed plan, e.g., the need to reduce duplication of efforts in the State in guidance and counseling;

(ii) Objectives which are clearly related to the purposes of this subpart;

(iii) A description of the project activities and information on the proposed size, scope, and duration of the project;

(iv) Plans to include other institutions and agencies in the proposed activities;

(v) An evaluation design;

(vi) Identification of all proposed staff, their duties, and a description of the qualifications possessed by all proposed professional staff;

(vii) An estimated cost for each of the proposed activities;

(viii) Milestones and dates for the completion of each project activity; and

(ix) A description of any activities to be contracted.

(2) Applicants are encouraged to respond in the operational plan to each of the criteria in § 191.45 in the sequence described.

(Implements Sec. 344(b), 20 U.S.C. 2534(b).)

§ 191.45 Review criteria.

(a) Applications submitted under this subpart will be reviewed to determine the extent to which they meet the criteria in this section. Each criterion is assigned a maximum score and is weighted in terms of its relative value to the rest of the criteria. The total number of points for all criteria is 100.

(b) The following criteria will be utilized by the reviewers in reviewing applications:

(1) *Need.* Maximum score, 10. The need for the proposed plan to reduce duplication of efforts in the State in guidance and counseling is clearly established.

(2) *Objectives.* Maximum score, 25. The proposed plan includes sharply defined and clearly stated objectives which are related to the purpose of this subpart and which are capable of being attained by the proposed activities and capable of being measured.

(3) *Activities.* Maximum score, 25. The project activities are designed to achieve each of the proposed objectives, and milestones and dates for completing each project activity are clearly set forth.

(4) *Evaluation.* Maximum score, 10. The quality of the evalution design to determine the attainment of objectives.

(5) *Personnel.* Maximum score, 10. The quality of staff with specified duties and qualifications necessary to achieve objectives.

(6) *Budget.* Maximum score, 10. The estimated cost for each of the proposed activities is reasonable in relation to anticipated results, and the size, scope, and duration of the project is adequate to secure productive results.

(7) *Cooperative arrangements.* Maximum score, 10. The strength and quality of arrangements made by the applicant to work with other appropriate institutions and agencies.

(Implements Sec. 344(b), 20 U.S.C. 2534(b).)

V 42 164 AUG 24 77 UM

§ 191.46 Project duration.

Project awards pursuant to this subpart will be for a grant period of up to one year. If a grantee seeks to receive assistance under this part for an additional period beyond the grant period, a new application for a new grant award must be submitted.

(Implements Sec. 344(b), 20 U.S.C. 2534(b).)

§ 191.47 Project funding.

(a) While there is no formula for the distribution of funds under this subpart, the Commissioner intends to make a grant to all States that meet the requirements in § 191.44 and propose projects of sufficient quality under the criteria set forth in § 191.45.

(b) The size of an award will be affected by the Commissioner's intent to fund all the States in accordance with paragraph (a) of this section and by the scope and quality of the project as measured by criteria set forth in § 191.45.

(Implements Sec. 344(b), 20 U.S.C. 2534(b).)

§ 191.48 Allowable costs.

Allowable costs pursuant to this subpart shall be determined in accordance with principles set forth in appendix B of Subchapter A of this chapter (Office of Education General Provisions Regulations).

(20 U.S.C. 1221c.)

§ 191.49 Capacity to carry out the project.

Notwithstanding the specific evaluation criteria in § 191.45, the Commissioner will not fund an application under this subpart unless the Commissioner is satisfied that the applicant has the capacity successfully to carry out the project.

(a) In making this judgment, the Commissioner will consider such factors as:

(1) Both the programmatic and financial management capacities of the applicant organization and its staff;

(2) Past performance by the applicant—

(i) In carrying out any prior grant under this part; or

(ii) In carrying out similar projects—with respect to such matters as achievement of objectives, adherence to the project conditions, programmatic and financial management, and the governing board's assumption of responsibility;

(3) Adequacy of facilities and other resources, including consideration of any litigation or dispute which calls into question the continued availability of the facilities and resources to the applicant; and/or

(4) Consideration of local community factors which may prevent the successful operation of the grant.

(b) If the Commissioner decides not to fund an application based upon this section, the Commissioner will do so only after providing reasonable notice and an opportunity to the applicant to rebut, in writing or in an informal meeting with the responsible officials of the U.S. Office of Education, the basis for the decision.

(Implements Sec. 344(b), 20 U.S.C. 2534(b).)

[FR Doc.77-24429 Filed 8-23-77;8:45 am]

federal register

WEDNESDAY, AUGUST 24, 1977

PART IV

COMMODITY FUTURES TRADING COMMISSION

■

MINIMUM FINANCIAL REQUIREMENTS FOR FUTURES COMMISSION MERCHANTS

V 42 164 AUG 24 77 UM

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 1]

MINIMUM FINANCIAL REQUIREMENTS FOR FUTURES COMMISSION MERCHANTS

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed Rulemaking.

SUMMARY: The Commodity Futures Trading Commission has adopted an amendment to § 1.3(z) of its regulations which significantly broadens the definition of bona fide hedging. That amendment, however, would result in an unintentional change in the minimum financial requirements for futures commission merchants found in § 1.17 of the regulations since § 1.17 contains references to the definition of bona fide hedging. The Commission is therefore proposing an amendment which would change § 1.17 so that it refers only to those provisions of the newly adopted bona fide hedging definition which are substantially the same as those in the present bona fide hedging definition. The effect of this amendment would be to retain the minimum financial requirements of § 1.17 as they existed prior to the effective date of the amended bona fide hedging definition.

DATES: Comments on this proposed rule change should be submitted by September 8, 1977. Proposed effective date: October 1, 1977.

ADDRESSES: Comments should be sent to: Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT:

John L. Manley, Chief Accountant, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW, Washington, D.C. 20581, 202–254–5218.

SUPPLEMENTARY INFORMATION: The Commodity Futures Trading Commission ("Commission") has amended § 1.3(z) of its regulations under the Commodity Exchange Act, as amended ("Act"), effective October 1, 1977. See 42 FR 42747 (1977). The amendment would generally broaden the scope of the definition of bona fide hedging to include current commercial risk-shifting practices in the markets now under regulation. The intended effect of the amendment is to increase commercial utilization of the futures markets for the purposes of hedging by allowing additional exemptions from the Commission's limits on positions and daily trading, and by recognizing a broader range of risk-shifting uses in those markets.

This broadened definition of bona fide hedging would, however, effect an unintentional change in the current minimum financial requirements for futures commission merchants found in § 1.17 of the regulations. In paragraphs (c)(6) and (e) of § 1.17, which relate to the definition of adjusted working capital and the computation of safety factors, references are made to the definition of bona fide hedging contained in § 1.3(z). Since the Commission did not intend to change the current minimum financial requirements when it expanded the concept of bona fide hedging, it believes that an amendment to paragraphs (c)(6) and (e) of § 1.17 is necessary. In order to effectuate the intention of the Commission that the minimum financial requirements of § 1.17 not be substantially affected, it is necessary that § 1.17 be amended to insure that, for purposes of § 1.17, the definition of bona fide hedging be limited to those transactions that qualified as bona fide hedging transactions under § 1.3(z) prior to the amendment.

The proposed amendments will have no substantial effect on the present requirements of § 1.17. All comments on the proposed amendments received by, on or before September 8, 1977 will be considered before final action is taken on the proposals. The Commission considers this to be an appropriate period because of the nature of the proposed amendments. In order that there be no ambiguity or uncertainty in the method by which futures commission merchants are to continue to comply with § 1.17, the Commission intends to adopt the proposed amendments effective October 1, 1977, to coincide with the effective date of the revised bona fide hedging definition.

In consideration of the foregoing, the Commission hereby proposes to amend 17 CFR Part 1 by amending § 1.17 to read as follows:

§ 1.17 Minimum Financial Requirements—Futures Commission Merchants.

* * * * * *

(c) * * *

(6) * * *

(iii) In the case of cash commodity inventories that are hedged by those bona fide hedging positions enumerated in paragraphs (2) (i) and (ii) of § 1.3(z), the amount by which the value of such inventories used by the applicant or registrant in computing his working capital, exceeds 95 percent of the market value of such inventories;

* * * * * *

(e) * * * (1) That such safety factor shall not apply to any spread or straddle held for the same account in the same commodity, on the same market, in the same crop year, or to any contract representing those bona fide hedging transactions enumerated in paragraphs (2) (i) and (ii) of § 1.3(z) (however, such factor shall apply to contracts specified in paragraph (2) (ii) (c) of § 1.3(z), representing hedges against unfilled anticipated requirements); nor shall it apply to any contract resulting from a "changer trade" made in accordance with the rules of a contract market which have been submitted to and approved by the Commission, and (2) that in the case of any intermarket or intercrop year spread or straddle, or any intermarket and intercrop year spread or straddle, held for the same account in the same commodity, the safety factor shall be 5 percent of the market value of that side of each such spread or straddle having the greater market value.

* * * * * *

(7 U.S.C. 6f, 12a (Supp. V, 1975).)

Issued in Washington, D.C. on August 19, 1977, by the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.77-24500 Filed 8-23-77;8:45 am]

federal register

WEDNESDAY, AUGUST 24, 1977
PART V

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

FEDERAL ENERGY ADMINISTRATION

■

CRUDE OIL BUY/SELL PROGRAM

Revision

V 42 164 AUG 24 77 UM

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Revision of Crude Oil Buy/Sell Program

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: This rule amends, effective October 1, 1977, the Mandatory Crude Oil Allocation Program (the "buy/sell program") set forth in 10 CFR 211.65 to limit the scope of the program to those refiner-buyers which have a demonstrated necessity for allocations of crude oil based on lack of access to adequate supplies of domestic and foreign crude oil, and to simplify the administration of the program. The pricing provisions governing buy/sell program sales are expected to be amended pursuant to a final rule to be issued in Sepember 1977.

DATES: Effective October 1, 1977. Further comments due on or before September 9, 1977 (see Supplementary Information).

ADDRESS: Send comments to: Executive Communications, Room 3317, Federal Energy Administration, Box NO, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Comment Procedures), 2000 M Street NW., Room 2214B, Washington, D.C. 20461 (202-254-5201).

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461 (202-566-9833).

Robert G. Bidwell, Jr. or H. William Gottfried (Program Office), 2000 M Street NW., Room 6128P, Washington, D.C. 20461 (202-254-9707).

Michael Paige or Samuel M. Bradley (Office of the General Counsel), 12th and Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461 (202-566-9565).

SUPPLEMENTARY INFORMATION: On July 18, 1977, FEA issued a notice of proposed rulemaking and public hearing (42 FR 37406, July 21, 1977) to revise the crude oil buy/sell program set forth in 10 CFR 211.65. Under the proposed amendments, the program would be limited to those refiner-buyers that have a demonstrated necessity for allocations of crude oil based on lack of access to adequate supplies of domestic and foreign crude oil. In addition, the proposal modified the pricing provision for sales of allocated crude oil to reflect more accurately the actual market value of crude oil sold under the program and simplified the administration of the program.

DISCUSSION OF COMMENTS

Comments on the proposed amendments to the crude oil buy/sell program were invited through August 8, 1977, and eighteen written comments were received by FEA. The public hearing on the proposal was held on August 9, 1977, and fourteen persons presented oral statements. The oral statements and written comments presented the views of major integrated refiners, large independent refiners, small refiners, and trade associations representing small refiners. FEA believes that the comments received fairly represent the broad range of interests which would be affected by any changes in the buy/sell program.

ELIGIBILITY FOR PROGRAM PARTICIPATION

FEA proposed that program participation would be reduced by elimination of all large independent refiners and small refiners that have had allocations shown on the buy/sell list during the last year but have not exercised their purchase opportunities. In addition, FEA proposed that no refining capacity operational after August 31, 1977 and no reactivated refineries or refining capacity that has not been operated for a period of six months or more would be eligible for an allocation. All other small refiners (including those which had allocations of zero) would be eligible to apply for allocations under the program, and allocations would be granted for specific refineries as to which supplies of domestic crude oil were not sufficient and the required showing of lack of access to imported crude oil had been made.

(a) *General.* Although the majority of the large integrated refiners commenting preferred elimination of the buy/sell program, most of these refiners generally supported FEA's proposal to limit the scope of the program to small refiners that are able to demonstrate a need for allocated crude oil and FEA's proposed criteria for determining buyer eligibility for participation in the program. Many of the large refiners, however, recommended that a revised program should contain a phase-out schedule or termination date as an incentive for small refiners to resolve their supply problems without governmental intervention. Some testimony recommended that buyer eligibility should be further restricted to small refiners that purchased allocated crude oil in at least three of the last four allocation periods. With respect to the proposed eligibility criteria, many large refiners commented that eligible small refiners located at a port or on a navigable inland waterway should be required to demonstrate a commitment to acquiring facilities to receive imported crude oil within a reasonable time period in order to maintain eligibility under the program.

FEA's conclusion from the record in this proceeding is that there is no rationale for providing a termination date for the revised program or for requiring eligible small refiners to acquire access to terminal or storage facilities to receive imported crude oil as a condition of maintaining their eligibility under the program. Since the Emergency Petroleum Allocation Act of 1973, as amended, provides for the expiration of allocation authority over crude oil in 1981, FEA believes that the majority of small refiners have sufficient incentives now to make alternative arrangements for obtaining future supplies of imported crude oil.

Small refiners commenting were generally critical of FEA's proposal to exclude from the program refiners that have not exercised their purchase opportunities during the last year. The principal objections that were raised in opposition to the proposal were that (1) exclusion on this basis would penalize those firms which have made concerted efforts to arrange for supplies of crude oil outside of the program; (2) non-use of the program in the past is not necessarily indicative of future need, particularly in light of the frequently erratic changes in the world crude oil market; (3) lack of past participation by some buyers in the program may have been due in part to sellers' unwillingness to offer a suitable crude oil or because the price for the crude oil made the sale uneconomic for the buyer; and (4) the proposed eligibility system would encourage refiners to make token purchases merely to maintain their eligibility in the program. In addition, small refiners which are dependent upon the Federal royalty oil program administered by the Department of the Interior and upon crude oil produced at Naval Petroleum Reserves for their crude oil supplies expressed concern over the absence of a provision for reentry into the buy/sell program in the event of the termination of these supply sources.

With respect to the proposed criteria for determining access to imported crude oil, many small refiners contended that the criteria are inflexible and thus constitute an inconclusive test of a refiner's access to imported crude oil. Specifically, some small refiners contended that the access test, that excludes refineries with crude oil runs to stills (excluding allocated crude oil) during the period January 1, 1977 through June 30, 1977 comprised of 20 percent or more of imported crude oil, establishes an absolute presumption of future access to foreign crude sources based on past conduct only and that it does not make any provision for changed circumstances that could limit, if not eliminate, a refinery's access to imported crude oil. In addition, some testimony indicated that the 20 percent test does not take into account the fact that a small refiner's dock facilities and storage capacity may make it impossible for it to receive tanker shipments on a regular basis.

On the basis of the evidence presented in the oral testimony and the written comments, FEA has concluded that it should examine further the need for a provision for re-entry into the buy/sell program for small refiners that are not eligible to apply for an allocation because they did not purchase any allocated crude oil during the period September 1976 through August 1977. Accordingly, FEA invites further comments

as to whether a re-entry provision should be added to the revised program adopted today and, if so, the form of such a provision. FEA is particularly interested in receiving comments from small refiners that made no purchases in the period September 1976 through August 1977 but believe they will require allocated oil in the future under the revised program. Comments in this regard should not address the allocation of crude oil during an embargo or a severe general shortage, since other allocation programs would be required to deal with such situations.

With respect to the proposed criteria for determining access to imported crude oil, none of the objections made by small refiners commenting convinced FEA that these should be revised. Specifically, very little evidence was presented which substantiated any conclusion that small refiners which are deemed to have access to imported crude oil and thus are ineligible for allocations would be unable to continue to make alternative arrangements for supplies of imported crude oil sufficient to sustain their operations. In view of the fact that there exists an active commercial international crude oil market involving the major oil companies, medium-size producers and many traders and brokers, FEA believes that small refiners which have secured imported crude oil in the past will continue to be able to make satisfactory arrangements in the future. However, in the event that there are significant changes in the access of a small refiner's refinery to imported crude oil, the amendments adopted today provide that FEA may review the eligibility of that refinery for participation in the program. FEA believes that this review provision should provide sufficient protection for refineries that are initially determined to be ineligible for an allocation.

(b) *Allocations for newly constructed refining capacity.* Large refiners commenting generally supported FEA's proposal to exclude new or expanded refining capacity from the buy sell program and, as to refineries operational prior to September 1, 1977, to permit a maximum possible allocation of 25 percent of the refinery's capacity under the same access criteria as for other refineries. However, the majority of small refiners contended that the proposal was inequitable in that some refiners had relied on the continued existence of the current by/sell program and, in particular, the provisions providing for allocations to future refining capacity in committing funds to the construction of additional refining capacity. In at least one case the proposal, in effect, would have rendered inoperative a decision of the Office of Exceptions and Appeals granting exception relief from the ninety-day requirements of 10 CFR 211.65(b)(1) to a firm which required an advance allocation in order to obtain financing necessary to complete a new refinery. Some testimony indicated that exclusion of newly constructed and expanded refining capacity operational after September 1, 1977 was inconsistent with the provisions of the Emergency Petroleum Allocation Act of 1973, as amended, relating to market entry and expansion of refining facilities by small refiners.

On the basis of the evidence presented in the oral testimony and written comments, FEA has concluded that the proposed provision pertaining to new and expanded refineries should be modified to provide that any small refiner which has made a substantial commitment prior to the issuance of this final rule for the expansion of an existing refinery or construction of a new refinery would be permitted to apply for an allocation for the expanded capacity or new refinery. If the new or expanded refinery is determined not to have access to imported crude oil and thus is eligible for an allocation, the refinery or the expanded portion thereof would be granted a maximum allocation equal to 25 percent of its capacity. The allocation for the new or expanded refining capacity would be in effect for two allocation periods; for subsequent allocation periods, the allocation would be determined in accordance with the allocation formula adopted today.

With respect to small refiners that make a commitment after the issuance of this final rule for new or expanded refining capacity, FEA has determined to solicit further comments as to whether, and under what circumstances, such capacity should be eligible to apply for an allocation under the buy sell program.

(c) *Large independent refiners.* As indicated above, under the proposed revisions to the buy/sell program the so-called large independent refiners would be eliminated from the refiner-buyer category as a result of the proposed amendments to the definitions of "small refiner" and "refiner-buyer". However, these refiners would not be refiner-sellers under the definition of that term in 10 CFR 211.62 if they qualify as independent refiners (as defined in 10 CFR 211.62). In light of these changes, several refiners commented that the so-called large independent refiners should be classified as refiner-sellers unless they were able to demonstrate their status as "independent refiners" as that term is defined in 10 CFR 211.62 and in the Emergency Petroleum Allocation Act of 1973, as amended.

In connection with the implementation of the June 1974 amendments to the buy/sell program, each refiner that claimed to be a small refiner or an independent refiner was required to file an affidavit with FEA setting forth the factual basis for its claim for the purpose of determining its status as a refiner-buyer. In evaluating these affidavits, FEA determined that certain of the independent refiners that are over the 175,000 barrel per day capacity limit qualified as refiner-buyers on the basis of their status as small refiners. Thus, the agency did not specifically rule on their status as independent refiners.

On the basis of the foregoing and the comments received in this proceeding, FEA has determined to adopt an amendment to the definition of "refiner-seller" in 10 CFR 211.62 which in effect freezes the refiner-seller category for the allocation period commencing October 1, 1977. This six-month period will provide any refiner that is not a small refiner by reason in the change in that defined term and which claims to be an independent refiner sufficient time to submit documentation to FEA pursuant to Subpart G of 10 CFR Part 205 to permit the agency to evaluate its status as an independent refiner. If any of these firms is unable to document its claim to the status of an independent refiner, it would become a refiner-seller under this program in the allocation quarter commencing April 1, 1978. The amendments adopted today also exclude from the definition of refiner-sellers refiners that are not small refiners or independent refiners all of the refining capacity of which was constructed after January 1, 1974.

PURCHASE OPPORTUNITIES FOR ELIGIBLE REFINER-BUYERS

Under the proposal, eligible refiner-buyers would be entitled to purchase an amount of crude oil equal to the difference between (A) the crude oil runs to stills for the refiner's own account at the eligible refinery in the corresponding six months of the previous year, including allocated crude oil, and (B) the runs to stills for the six month period immediately preceding the allocation period (determined by using the crude oil runs to stills level for that refinery for the refiner's account in the first four months of that period over the six month period), less the volume of allocated crude oil processed in the refinery.

Most of the large refiners commenting supported FEA's proposed formula for calculating a buyer's purchase opportunity under the program. However, several larger refiners recommended that an allocation ceiling be established for all buyers to encourage them to take appropriate action to maintain their operations in the face of changing supply conditions. Some large refiners also recommended that the formula be modified to preclude buyers from rolling-over unused purchase rights from one period to the next.

Many small refiners contended that the proposed formula for calculating a refiner's purchase opportunity would penalize a refiner which experienced a shutdown or a drop in runs to stills due to inventory drawdown during the corresponding period of the previous year or during the six-month period preceding the allocation period. The proposed formula also was criticized on the ground that it would discourage small refiners from locating sources of crude oil outside the program, since this action would result in a reduced allocation in a succeeding allocation period. In this regard, several small refiners recommended that the formula should contain an automatic

V 42164 AUG 24 77 UM

adjustment mechanism to compensate for unanticipated shortfalls in crude oil supply during an allocation period.

Contrary to the comments of several small refiners, the July 21, 1977 proposal contained a provision for adjustments to allocations to compensate for unusual or non-recurring operating problems. However, in light of the comments in this proceeding, FEA has determined to make provision, in addition to the provision for adjusting allocations to compensate for unusual or nonrecurring operating conditions, for emergency supplemental allocations at any time for eligible refiners that have experienced or will experience shortfalls in supply equal to 25 percent of their nonallocated supply in the preceding six-month period. Emergency supplemental allocations would be available only for supply shortfalls caused by disasters, acts of God, or other events over which the small refiner reasonably had no control. In addition, FEA has concluded that an adjustment to a refiner's purchase opportunity also would be appropriate where a buyer is not able to consummate a directed sale transaction due to the fault of a seller.

However, it is FEA's conclusion from the record in this proceeding that there is insufficient justification for providing an automatic adjustment provision to compensate for unanticipated shortfalls in crude oil supply or for a reduction in runs to stills due to inventory drawdown. FEA continues to believe that the general availability of crude oil in the world market should in most cases permit small refiners to make alternate arrangements for crude oil supply in periods of unanticipated shortfall. FEA is also not persuaded from the evidence presented in this proceeding that the proposed formula would discourage refiners from locating crude oil outside the program.

SALES OBLIGATIONS OF REFINER-SELLERS

The majority of the refiner-sellers commenting opposed FEA's proposal to retain the provision for carryover of sellers' sales obligations on the ground that it adds to the difficulties and uncertainties which the major refiners experience in developing crude oil scheduling. Many large refiners contended that the carryover provision is unfair, particularly where the unsold obligations are due to buyers' refusals to consummate transactions. On the basis of the evidence presented in this proceeding, FEA has determined to modify the carryover provision to provide for a reduction, as explained in more detail below, in the unsold obligations carried over for each refiner-seller.

PRICING OF ALLOCATED CRUDE OIL

Under the proposal, refiner-sellers would determine their weighted average landed cost separately for high sulfur and low sulfur crude oil, defined as crude oil above and below .6 percent sulfur by weight, respectively. The maximum permitted sale price of allocated crude oil would be calculated by applying the current sulfur and gravity differentials of plus or minus three cents per one tenth percent sulfur by weight and three cents per °API against the weighted average landed cost of the category of crude oil in which the actual volume of crude oil sold to a refiner-buyer is included. With respect to transportation expenses recoverable by refiner-sellers, the proposal provided that refiner-buyers would be charged only actual additional transportation costs over and above the average of all transportation costs of imported crude oil included in the calculation of the price of allocated crude oil. Domestic transportation costs included in a refiner-seller's computation of landed costs will not be recoverable as additional expenses.

The majority of refiner-sellers and refiner-buyers commenting in this proceeding generally supported FEA's proposal for the pricing of allocated crude oil. One refiner-seller commented that the proposed pricing method failed to provide a procedure for refiner-sellers which import only high sulfur crude oil and are required to sell domestic low sulfur crude oil, as well as the converse of that situation. FEA is considering allowing refiner-sellers which import only one category of crude oil to use the weighted average landed cost of that category and to apply the current sulfur and gravity differentials provided in 10 CFR 212.94 (b) (3) (4) to determine the price of the crude oil sold under the program. However, FEA specifically invites further comments by the date specified above on an alternative means for calculating a fair market price for allocated crude oil in this type of situation.

Several refiner-sellers recommended that the regulation should provide for a one-month period in which to make the required calculations rather than the proposed three-month period. It is FEA's conclusion from the record that there are no compelling reasons at this time to adopt a one-month period for calculation of prices. However, FEA is interested in receiving further comments on this issue.

With respect to adjustments for transportation expenses, several refiner-sellers recommended that specific recognition should be given to a refiner-seller's transportation expense in replacing domestic crude oil which is sold under the program with imported crude oil and that a refiner-seller should be required to credit a refiner-buyer with transportation expenses saved in moving domestic crude oil to a refiner-buyer's refinery. Several refiner-sellers also recommended that a refiner-seller should be permitted to charge a refiner-buyer the transportation expense to move the domestic crude oil to the refiner-buyer's refinery in addition to the transportation expense incurred in moving replacement foreign crude oil from the port of entry to the refiner-seller's refinery.

On the basis of the comments in this proceeding, FEA has concluded that the proposal for transportation cost adjustments may be unfair, in certain situations, to both refiner-buyers and refiner-sellers. Accordingly, FEA is requesting further comments and recommendations by the date specified above with regard to a regulatory provision that would assure that only actual transportation costs will be charged or incurred in transactions involving allocated crude oil. FEA solicits comments on the most appropriate methods for determining transportation cost adjustments when either a domestic or an imported crude oil is actually delivered to a refiner-buyer. Specifically, FEA solicits comments on the following possible alternative provisions:

1. A refiner-seller would be required to reduce the transportation charge for crude oil sold under the program by an amount equal to its average cost of transporting crude oil from the U.S. Customs border to the seller's refinery and to increase the transportation charge by an amount equal to the cost of transporting domestic crude oil from the lease to the buyer's refinery. For example, if a refiner-seller's average domestic transportation cost for imported crude oil is $0.40 per barrel, and the cost of transporting the domestic crude oil sold to the refiner-buyer from the lease to the buyer's refinery is $0.52 per barrel, then the seller could charge the buyer $0.12 per barrel over the seller's average landed cost for crude oil of that category.

2. A refiner-seller would be required to sell domestic crude oil to a refiner-buyer at the lease at the refiner-seller's average landed cost less the refiner-seller's average domestic transportation cost. The buyer would be required to arrange for the transportation of the crude oil from the lease to its refinery.

3. A refiner-seller would be required to reduce its average landed cost by its actual savings, if any, in moving domestic crude oil from the lease to its own refinery. The domestic crude oil would be sold to the refiner-buyer at the lease at this reduced cost.

4. A refiner-seller would be required to reduce its average landed cost by its average cost of transporting imported crude oil to its refineries from the U.S. Customs border and add actual domestic transportation cost from the point of entry to the point of delivery to the refiner-buyer when imported crude oil is actually delivered to the refiner-buyer.

As indicated above, FEA expects to issue a final rule applicable to the pricing provisions governing the buy sell program in September 1977.

REPORTING REQUIREMENTS

The proposed modification of the present reporting requirements provided for a monthly report for refiner-buyers and refiner-sellers, which would have included the data now reported quarterly, plus information as to actual sales, purchases, crude oil runs to stills

of allocated crude oil, which are not now reported. In addition, FEA requested comments on whether refiners should be required to identify the volumes of differing quality crude oils processed in each of their refineries, which information could assist FEA in evaluating requests for directed sales.

There was considerable opposition to the proposed reporting requirements, the consensus being that they would be unduly burdensome and would serve no useful purpose. The objections convinced FEA that these reporting requirements should not be adopted as proposed. As explained in more detail below, FEA has decided to adopt a semiannual reporting requirement for refiner-buyers participating in the program and an abbreviated monthly reporting requirement for refiner-sellers with respect to crude oil sales under the program.

ALLOCATION PERIOD, DIRECTED SALES, AND CONDITIONS OF SALE

The majority of firms commenting in this proceeding generally supported FEA's proposal to adopt a six-month allocation period in lieu of the present three-month period and to permit refiner-buyers to request a directed sale at any time within the twenty-day period following the publication of the buy/sell notice. Most firms also supported the proposed amendments pertaining to the conditions of sales under the program.

With respect to the proposed directed sales amendment, some large refiners expressed concern that in certain situations their supply-to-capacity ratios for particular refineries could be reduced below the supply-to-capacity ratios of assigned refiner-buyers as a result of directed sales orders. Although FEA has not been persuaded by the evidence to modify the proposed provision to reflect these concerns, the agency will monitor the situation to ensure that refiner-sellers are selected for directed sales in a fair and equitable manner. In this regard, FEA may on occasion request refiner-sellers to provide information regarding their supply-to-capacity ratio at specified refineries which will assist the agency in selecting the most appropriate seller for directed sales.

With respect to the provision relating to the conditions of sale, several refiner-sellers objected to the requirement that the crude oil offered for sale must be "physically capable of being delivered to the refiner-buyer's refinery by transportation methods" normally used "to deliver crude oil to that refinery" (emphasis supplied). These firms contended that the "normally used" language was unduly restrictive since several reasonable alternatitve delivery systems might be available to the refiner-seller. In light of these comments, FEA has determined to eliminate this requirement from the conditions of sale provision adopted today. In lieu of this language, FEA is requiring that the crude oil offered for sale to a refiner-buyer must be "practical for delivery" and "physically capable" of being delivered to the buyer's refinery.

THE AMENDMENTS ADOPTED

Based on its analysis of the material submitted in the public hearing and in the written comments, and upon all other information available to it, FEA has determined to adopt the amendments to the crude oil buy/sell program essentially as proposed, with the modifications discussed below.

1. *Eligibility.* As discussed above, program participation in the revised buy/sell program will be reduced by the elimination of all large independent refiners, as well as small refiners that have had allocations shown on the buy/sell list during the last year but have not exercised their purchase opportunities. All other small refiners (including those which had allocations of zero) will be eligible to apply for allocations under the program, and allocations will be granted for specific refineries as to which the supplies of domestic crude oil are not sufficient and the required showing of lack of access to imported crude oil has been made.

Small refiners with newly constructed refining capacity that have received an allocation under the present buy/sell program for such capacity but have not yet commenced operations will be eligible for an allocation for such capacity. In addition, small refiners that have expended or are irrevocably committed to expend prior to the issuance of this final rule an amount equal to at least twenty percent of the total cost of newly constructed refinery capacity also will be eligible for an allocation for such capacity. The allocations for newly constructed refining capacity will not exceed twenty-five percent of such capacity and will be in effect for a maximum of two complete allocation periods. For subsequent allocation periods, the allocations will be determined in accordance with the formula adopted today for calculating purchase opportunities.

All applications for individual refineries will be evaluated according to the criteria proposed in the July 21, 1977 notice for determining whether or not the refinery has access to imported crude oil.

2. *Purchase opportunities for eligible refiner-buyers.* Under the amendments adopted today, eligible refiner-buyers will be entitled to purchase an amount of crude oil equal to the difference between (A) the crude oil runs to stills for the refiner's own account at the eligible refinery in the corresponding six months of the previous year, including allocated crude oil, and (B) the runs to stills for the six month period immediately preceding the allocation period (determined by using the crude oil runs to stills level for that refinery for the refiner's account in the first four months of that period over the six month period), less the volume of allocated crude oil processed in the refinery.

3. *Review of eligibility for allocations, adjustments to purchase opportunities, and emergency supplemental allocations.* As indicated above, FEA is adopting as proposed the amendment providing for review of an adverse eligibility determination where significant changes in a refinery's access to imported crude oil have occurred. Requests for review of eligibility will not be accepted during an allocation period. FEA also is adopting as proposed the provision providing for adjustment of a refinery's allocation to compensate for reductions in crude oil runs to stills due to unusual or nonrecurring operating conditions. In addition, the adjustment provision will be available to small refiners which experience a reduction in crude oil runs to stills due to an unconsummated directed sale caused by delays of the refiner-seller.

Finally, as discussed above, FEA is adopting a provision for emergency supplemental allocations which would be available to eligible refiner-buyers to compensate for shortfalls in crude oil supply under certain limited circumstances.

4. *Sales obligations of refiner-sellers.* A refiner-seller's sales obligation will continue to be a fixed percentage share of the total amount of crude oil to be allocated to all refiner-buyers in an allocation quarter. The precentage share of each refiner-seller will be its proportional share of the reported refinery capacity of all refiner-sellers as of January 1, 1973. Since the amounts to be allocated to refiner-buyers should under the final rule more accurately reflect their actual purchases, the existing provision for calculating primary and secondary sales obligations for refiner-sellers is being eliminated. With respect to unsold sales obligations, the amount carried over for a refiner-seller will equal the product of its total sales obligation and the largest percentage of a sales obligation sold by any refiner-seller, less the volume of crude oil sold by the refiner-seller. The total sales obligation for each refiner-seller will therefore consist of a share of its unsold sales obligation from the previous allocation period, plus its fixed percentage share of that additional volume of crude oil, if any, necessary to make the total of the sales obligations of all sellers equal to the sum of the quantities of crude oil that all refiner-buyers are eligible to purchase for the allocation period.

5. *Directed sales.* FEA is adopting the procedures proposed for directed sales with the modifications explained above. The procedures adopted today are similar to those under the current program, except that refiner-buyers will be permitted to request directed sales as soon after the publication of a buy/sell list as they could demonstrate their inability to obtain allocated crude oil for their refinery under the program. Refiner-buyers may apply for directed sales at any time within the twenty (20) day period following publication of the list. This change is intended to speed up the directed sales process and to assure that refiner-buyers' allocations would be arranged before the beginning of the allocation period.

6. *Reporting requirements.* The final rule adopted today provides that each

refiner-buyer in the revised buy/sell program will be required to submit to FEA semiannually a report containing the following information for each of its refineries which receives an allocation: (1) Crude oil runs to stills; (2) purchases of allocated crude oil; (3) volume of domestic, imported, and allocated crude oil processed in the refinery; (4) volume of crude oil processed for the account of non-refiners; volume of crude oil processed for the account of the refiner by other refiners; (5) any change in refinery capacity since the previous report; and (6) deliveries of allocated crude oil made by refiner-sellers to each eligible refinery.

Refiner-sellers will be required to file a report with FEA each month summarizing crude oil sales under the program.

Both refiner-sellers and refiner-buyers will be required to notify FEA in writing or by telex of sales under the program within forthy-eight (48) hours after arrangements therefor are completed. This is to enable FEA to complete directed sales in a timely manner. In addition, any refiner-buyer requesting a directed sale will be required to identify the volumes of differing quality crude oils historically processed by the refinery for which the request is made. FEA believes that the reporting requirements adopted today are reasonable and will not impose an unfair burden on either refiner-buyers or refiner-sellers.

7. *Pricing of allocated crude oil.* As indicated above, FEA is soliciting further comments by September 9, 1977 with regard to various issues, including the transportation adjustment provision applicable to the pricing of allocated crude oil. Accordingly, FEA has determined to defer issuance of a final pricing rule governing sales of allocated crude oil until late September 1977.

8. *Allocation period and buy/sell notice.* The allocation period adopted hereby is a six-month calendar period in lieu of the three-month allocation period under the present regulations. FEA believes the longer allocation period will simplify the administration of the program and add a greater degree of certainty for both refiner-buyers and refiner-sellers. The first allocation period will commence October 1, 1977.

On August 8, 1977 (42 FR 40448, August 10, 1977) FEA issued a proposed special rule for the appendix to Subpart C of Part 211 which would suspend the allocation quarter that would otherwise commence September 1, 1977 under the present regulations and would permit refiner-buyers that purchased their allocations in the current allocation period to purchase a pro-rata amount thereof in the month of September from the same refiner-sellers from which they purchased crude oil in the current quarter. In the notice FEA requested comments on whether it would be desirable to extend the current allocation period on a pro-rata basis for October, as well as September, to permit the thirty-day period between the publication of the first buy/sell notice and the beginning of the first allocation period under the new program. In the event FEA determines that it is desirable to extend the current allocation period for two months, the revised buy/sell program adopted today would be implemented effective November 1, 1977, rather than October 1, as proposed, and the allocations for the first allocation period would be pro-rated over a five-month allocation period.

The buy/sell notice that specifies the quantities of allocated crude oil each refiner-buyer is eligible to purchase and each refiner-seller is required to sell will be published 30 days prior to the start of each allocation period, rather than 15 days prior to the beginning of an allocation quarter as provided under current regulations. FEA believes that this will make it easier for refiners to arrange purchases and sales of allocated crude oil and for refiner-buyers to apply for directed sales orders from FEA, if required. FEA expects that the buy/sell notice for the first allocation period will be issued on or about September 15, 1977.

PROVISIONS FOR ALLOCATION PERIOD COMMENCING OCTOBER 1, 1977

The amendments adopted hereby are made effective commencing with the allocation period beginning October 1, 1977. Any small refiner that is eligible to apply for an allocation for one or more of its refineries is required to submit an application to FEA no later than August 31, 1977. Separate applications are required for each refinery. Each application should contain full and detailed information necessary for FEA to evaluate the application under § 211.65(a) of the amendments adopted today. Specifically, each application must contain all information specified in § 211.65(a)(4). Data on crude oil runs to stills for the October 1, 1976 through May 31, 1977 period need not be resubmitted. FEA expects to issue decisions and orders on each application no later than October 1, 1977. As indicated above, FEA expects to publish the buy/sell notice for the first allocation period on or about September 15, 1977.

FURTHER COMMENTS SOLICITED

As indicated above, FEA is soliciting further comments from interested parties on various issues, including: (1) Whether the rule adopted today should be modified to permit re-entry into the buy/sell program for small refiners that are not eligible to apply for an allocation and, if so, under what circumstances re-entry should be permitted; (2) whether small refiners that make a commitment after the issuance of this rule for construction of a new refinery or expanded refinery capacity should be permitted to apply for an allocation under the buy/sell program; (3) an appropriate regulatory provision pertaining to transportation expenses recoverable by refiner-sellers which would ensure that the transportation expenses charged are fair to both refiner-buyers and refiner-sellers; and (4) an appropriate pricing provision for sales of allocated crude oil applicable to refiner-sellers which import only high sulfur crude oil (or only low sulfur crude oil) and are required to sell domestic low (or high) sulfur crude oil.

Written comments will be accepted and considered if received by September 9, 1977. Comments should be submitted to Executive Communications, Room 3317, Federal Energy Administration, Box NO, the Federal Buliding, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on documents submitted with the designation "Crude Oil Buy/Sell Program." Fifteen copies should be submitted. FEA requests that parties submitting comments provide detailed data and, where appropriate, examples, in support of their comments.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act Pub. L. 94-163, as amended Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 211 of Chapter II, Title 10, Code of Federal Regulations, is amended as set forth below, effective October 1, 1977, except that the provisions of 10 CFR 211.65(a)(4) amended hereby pertaining to applications for allocations for the allocation period commencing October 1, 1977 are effective immediately.

Issued in Washington, D.C., August 19, 1977.

J. PETER LUEDTKE,
Acting General Counsel.

1. Section 211.62 is amended to delete the definitions of "allocation quarter", "future refining capacity", "new refining capacity" and "refinery capacity"; to revise the definitions of "refiner-buyer," "refiner-seller" and "refining capacity"; and to add, in appropriate alphabetical sequence, a new definition of "allocation period", to read as follows:

§ 211.62 Definitions.

* * * * *

"Allocation period" means a consecutive six-month calendar period commencing either on April 1 or October 1 of each year. The first allocation period shall be the six-month period from October 1, 1977 through March 31, 1978.

* * * * *

"Refiner-buyer" means any small refiner which is determined to be eligible for an allocation of crude oil pursuant to § 211.65 of this subpart.

* * * * *

"Refiner-seller" means a refiner which is not a small refiner or independent refiner as defined in this section: *Provided*, That a refiner which is not a small refiner or an independent refiner, and all of the refining capacity of which has been constructed after January 1, 1974, shall not be classified as a refiner-seller: *And provided further*, That, for the allocation period commencing October 1, 1977, the refiners considered to be refiner-sellers for purposes of § 211.65 of this subpart shall include only those firms classified as refiner-sellers in the allocation quarter commencing June 1, 1977.

* * * * *

"Refining capacity" means, for each refinery, the capacity thereof as certified by the FEA. Any capacity of a refinery which has ceased to be operated continuously in the normal course of business shall be deducted from refining capacity.

* * * * *

"Small refiner" means a refiner, the sum of the capacity of the refineries of which (including the capacity of any person who controls, or is controlled by, or is under common control with such refiner) does not exceed 175,000 barrels per day.

* * * * *

2. Section 211.64 is amended to read as follows:

§ 211.64 Transactions under prior program.

Any agreement for the sale or purchase of crude oil entered into as a result of the provisions of this subpart as in effect immediately prior to October 1, 1977, shall be fully performed nowithstanding any provision of this subpart as in effect on October 1, 1977.

3. Section 211.65 is revised to read as follows:

§ 211.65 Method of allocation.

(a) *Eligibility for allocation.* (1) Any small refiner may apply to FEA for an allocation for one or more of its refineries: *Provided*, That the small refiner (i) purchased crude oil under the provisions of this section during the period September 1, 1976 through August 31, 1977, (ii) was listed on the buy/sell notices during the period September 1, 1976 through August 31, 1977, with an allocation of zero (0) barrels in all four allocation quarters in that period, or (iii) as to small refiners not shown on such buy/sell notices and other small refiners with newly constructed refinery capacity or reactivated refineries or refinery capacity, has completed the process design basis for the refining capacity concerned and has expended or is irrevocably committed to expend prior to August, 1977, an amount equal to at least twenty (20%) percent of the total cost of such refining capacity, in which latter case the FEA may assign such refining capacity a maximum allocation of twenty-five (25%) percent of the capacity. Such allocation will be in effect for a period not to exceed two allocation periods, following which the allocation for such refining capacity shall be calculated in accordance with the provisions of paragraph (b) of this section.

(2) A refinery shall only be eligible for an allocation if it is not deemed to have access to imported crude oil (other than Canadian crude oil).

(3) A refinery shall be deemed to have access to imported crude oil if:

(i) Twenty (20%) percent of its crude oil runs to stills (excluding crude oil purchased pursuant to this section) during the period January 1, 1977 through June 30, 1977 were comprised of imported (other than Canadian) crude oil; or

(ii) It is located at a port or on a navigable inland waterway providing access to imported crude oil, unless the small refiner that owns the refinery can document that it could not receive imported crude oil for one of the following reasons:

(A) The refinery is only accessible by water for a portion of the year, or

(B) The refinery was constructed to process domestic crude oil, and lacks dock and/or storage facilities that would permit it to process imported crude oil; or

(iii) It has direct access to a pipeline that routinely carries imported crude oil (other than Canadian crude oil) to inland refineries, unless the small refiner that owns the refinery can document that it could not receive a sufficient quantity of imported crude oil by pipeline for one of the following reasons:

(A) The refinery's volume of crude oil runs to stills (excluding crude oil processed for other refiners) have decreased by fifteen (15%) percent or more in the six months immediately preceding the refiner's application due to documented pipeline proration.

(B) The required minimum size of pipeline shipments exceeds the refinery's storage capacity, or other available storage in the immediate area, or

(C) The refiner is required to supply pipeline fill in order to use the pipeline, and the minimum pipeline fill requirements are more than one-half of the refinery's storage capacity.

(4) Small refiners eligible under subparagraph (1) of this paragraph to apply for allocations for one or more of their refineries shall submit applications by September 1, 1977 for a determination of the refineries' eligibility for an allocation. Applications shall be addressed to the Program Manager, Crude Oil Allocation, FEA, in accordance with the procedures established in Subpart G of Part 205 of this chapter. Each application shall contain the information (including documentation where appropriate) necessary for the FEA to evaluate the application under the criteria specified in subparagraph (3) of this paragraph and the data on crude oil runs to stills necessary to calculate an allocation under paragraph (b) of this section, including the information specified in § 211.66(d) for the months of June and July 1977. Documentation should include copies of correspondence with pipeline companies, as well as any published requirements of pipeline companies as to required minimum shipments. Separate applications must be submitted for each refinery. The FEA may request additional information if necessary for evaluation of the application and shall notify each applicant of its determination as to eligibility of the refinery or refineries concerned by September 30, 1977.

(b) *Purchase opportunities of refiner-buyers.* (1) In each allocation period, each refiner-buyer shall be entitled to purchase, for each refinery owned by that refiner-buyer that is determined by the FEA not to have access to imported crude oil, an amount of crude oil equal to the difference between the volume of crude oil runs to stills (not including crude oil processed for other refiners) at the eligible refinery in the corresponding period of the previous year (October 1, 1976 through March 31, 1977 for the first allocation period) and the volume of the crude oil runs to stills (not including crude oil processed for other refiners) at the eligible refinery for the six month period immediately preceding the allocation period for which the allocation is being determined (calculated by utilizing the level of the crude oil runs to stills at that refinery in the first four months of the period for the entire six-month period) less the volume of the crude oil runs to stills in the latter six month period attributable to crude oil purchased under this section: *Provided*, That any allocation granted under this paragraph may be adjusted if FEA determines pursuant to paragraph (a) of this section that a refiner-buyer's refinery has access to imported crude oil during certain seasons of the year.

(2) Crude oil allocated under this section shall be processed only at the refinery as to which the allocation was granted, and such crude oil must be processed in that refinery within forty-five days following the close of the allocation period for which that crude oil was allocated.

(3) No allocation shall be made under this section which will result in crude oil supplies in excess of one hundred (100%) percent of refining capacity for any refiner-buyer's refinery.

(4) No refiner-buyer shall purchase under this section, (i) crude oil imported from Canada for processing in any first priority refinery (as defined in Part 214 of this chapter) owned by that refiner-buyer or (ii) domestic crude oil for processing in any such first priority refinery in excess of the average volumes thereof purchased by that refiner-buyer for that refinery in the period September 1, 1976 to August 31, 1977.

(c) *Review of eligibility for allocations, adjustments to purchase opportunities, and emergency supplemental allocations.* (1) Upon application by a small refiner to the FEA no less than 60 days or more than 90 days prior to the beginning of an allocation period, the FEA may: (i) Review the eligibility of a refinery owned by that refiner where significant changes in the refinery's access to imported crude oil have occurred since the refinery was determined by FEA to be ineligible for an allocation; (ii) adjust the allocation as to an eligible refinery to compensate for reductions in crude oil runs to stills due to unusual or nonrecurring operating conditions; or

V 42164 AUG 24 77 UM

(iii) adjust the allocation as to an eligible refinery to compensate for an unconsummated directed sale under paragraph (j) of this section due to documented delays in delivering crude oil to be sold under this section by the refiner-seller during the period September 1, 1976 through August 31, 1977, or an allocation period subsequent to October 1, 1977. Requests for review of eligibility for an allocation or adjustment to an allocation shall be made in accordance with the procedures established in Subpart G of Part 205 of this chapter. The FEA shall make its determinations within forty-five (45) days of the receipt of the application.

(2) Upon application at any time by a refiner-buyer, the FEA may grant an emergency supplemental allocation for one or more of the refiner-buyer's eligible refineries for one or more allocation periods, or for part of an allocation period; *Provided*, That such refiner shall be required to demonstrate that it has incurred or will incur a reduction in its crude oil supply (excluding crude oil allocated under this section or under § 211.63) for the eligible refinery for which an emergency supplemental allocation is sought equal to at least twenty-five (25%) percent of such crude oil supply in the preceding six-month period. In granting a request of a refiner-buyer for an emergency supplemental allocation, the FEA may also direct one or more refiner-sellers to sell a suitable type of crude oil to such refiner-buyer pursuant to paragraph (j) of this section. Requests for an emergency supplemental allocation shall be made in accordance with the procedures established in Subpart G of Part 205 of this chapter. The FEA shall make its determination within ten (10) days of the receipt of the application.

(3) The FEA may at any time, without application by the refiner-buyer concerned, review the eligibility of or allocation as to a refinery. Specifically, the FEA may institute such a review where it believes that significant changes in the supplies of domestic crude oil for any refinery have occurred or because of the need to reconsider the refinery's access to imported crude oil pursuant to paragraph (a)(3) of this section. The FEA may request additional information from the refiner concerned for the purposes of such a review. If appropriate, the FEA may determine that a refinery is ineligible for further allocations or may adjust the allocation of a refinery pursuant to an order issued under Subpart G of Part 205 of this chapter.

(d) *Leased or purchased refineries.* Leased or purchased refineries shall continue to be eligible for allocations on the same basis as in effect for the lessor or the previous owner, as the case may be; *Provided*, That the lessee or new refiner as to the refinery is a small refiner.

(e) *Computation of total allocation obligation.* The sum of the quantities of crude oil that all refiner-buyers are eligible to purchase for delivery during an allocation period shall be the total allocation obligation for refiner-sellers for such allocation period.

(f) *Refiner-sellers' sales obligations*—(1) *Sales obligation of each refiner-seller.* (i) Effective for the allocation period commencing October 1, 1977 and subsequent allocation periods, the FEA shall compute a sales obligation for each refiner-seller as provided in paragraph (f)(2) and (3) of this section. The total of the sales obligations of all refiner-sellers shall be equal to the total allocation obligation for the particular allocation period as computed in paragraph (e) of this section.

(ii) Each refiner-seller shall offer for sale, directly or through exchange, to refiner-buyers during an allocation period a quantity of crude oil equal to that refiner-seller's sales obligation.

(2) *Calculation of sales obligations.* (i) The sales obligation for each refiner-seller shall consist of that refiner-seller's fixed percentage share as calculated under subparagraph (2)(ii) of this paragraph (f) multiplied by the total sales obligation for all refiner-sellers adjusted by any carryovers of unsold sales obligations and FEA approved reductions in sales obligations for sales in excess of sales obligations in previous allocation periods.

(ii) A refiner-seller's fixed percentage share is its proportionate share of the total refining capacity of all refiner-sellers as reported to the Bureau of Mines on January 1, 1973, as certified by the FEA. Changes in refining capacity shall not subject a refiner-seller to any change in its fixed percentage share over the share identified for the first allocation period. No refiner-seller shall be required to sell any of its supplies of crude oil under this section if the sale thereof would effect a reduction in the supplies of crude oil imported from Canada allocated under Part 214 of this chapter to any first priority refinery (as defined in Part 214) owned by that refiner-seller or if the sale thereof would effect a reduction in the supply levels of domestic crude oil for any such first priority refinery, except that such refiner-seller is required to offer for sale under this section the average volumes of domestic crude oil sold under this section in the period September 1, 1976, through August 31, 1977, for use at an eligible first priority refinery owned by a refiner-buyer.

(3) *Carryover of sales obligations.* (i) The volume of each refiner-seller's unsold sales obligation in an allocation period shall be added to that refiner-seller's sales obligation in one or more subsequent allocation periods: *Provided*, That the unsold sales obligations of each refiner-seller so carried over shall not exceed an amount equal to the product of such refiner-seller's sales obligations and the largest percentage of a sales obligation sold by any refiner-seller, less the volume of crude oil sold by such refiner-seller.

(ii) The FEA shall pursuant to paragraph (j)(3) of this section, or may at its discretion in other cases, reduce a refiner-seller's sales obligation in an allocation period for sales in excess of its published sales obligation in a previous allocation period.

(g) *Buy/sell notice.* The buy/sell notice for the allocation period commencing October 1, 1977, shall be issued on or about September 15, 1977. For subsequent allocation periods, the buy sell notice shall be published at least thirty days prior to the beginning of the allocation period. Each buy/sell notice shall list the quantity of crude oil each refiner-buyer is eligible to purchase, the total allocation obligation for all refiner-sellers, the fixed percentage share for each refiner-seller and the quantity of crude oil that each refiner-seller will be obligated to offer for sale to refiner-buyers. Upon publication of the notice, refiner-buyers and refiner-sellers shall negotiate purchases and sales of crude oil allocated pursuant to the notice. All sales, except directed sales pursuant to paragraph (j) of this section, must be contracted for within thirty (30) days after the publication of the buy/sell notice, and all deliveries must be completed within thirty (30) days following the close of the allocation period.

(h) *Sale/purchase transaction report.* Within forty-eight hours of the completion of arrangements therefor, each transaction made to comply with this section shall be reported in writing or by telex by the buyer and seller to the FEA. This report shall identify the refiner-seller, the refiner-buyer, the refineries to which the crude oil is to be delivered, the volumes of crude oil sold or purchased, and the period over which the delivery is expected to take place.

(i) *Conditions of sale.* (1) The terms and conditions of each sale of crude oil, other than the prices, shall be consistent with normal business practices.

(2) The crude oil offered must be suitable for processing in the refiner-buyer's refinery. Crude oil is deemed to be suitable for processing in a refinery if it has historically been processed in the refinery or if it has the same characteristics as crude oil that has historically been processed in the refinery. A refiner-seller may not be required to supply a specific type of crude oil to a refiner-buyer's refinery if the volume of the crude oil that would be sold would account for a greater percentage of the refinery's total crude oil runs to stills in the allocation period concerned than was the case for that type of crude oil during the previous twenty-four month period.

(3) The crude oil offered for sale by a refiner-seller must be practical for delivery to and physically capable of being delivered to the refiner-buyer's refinery. The refiner-seller is responsible for arranging delivery of allocated crude oil to the refiner-buyer's refinery.

(4) All crude oil sold pursuant to this section shall be priced in accordance with the provisions of Part 212 of this chapter.

(5) Exchanges of crude oil may be utilized to comply with the purchase and sale provisions of this section.

(j) *Failure to negotiate transactions.* (1) Each refiner-buyer shall make its best effort to consummate the purchases of crude oil under this subpart from refiner-sellers prior to requesting assistance from the FEA. A refiner-buyer that is able to demonstrate its inability to consummate a sale despite making such effort may request, in accordance with the procedures established under Subpart G of Part 205 of this chapter, that the FEA direct one or more refiner-sellers to sell a suitable type of crude oil to such refiner-buyer. Such a request must be received by the FEA no later than 20 days after the publication of the buy/sell notice for the allocation period for which the assignment of a refiner-seller is requested. Such a request must also document the refiner-buyer's inability to purchase crude oil from refiner-sellers by supplying the following information to the FEA:

(i) Name of the refiner-buyer and of the person authorized to act for the refiner-buyer in transactions under this section.

(ii) Names and locations of the refineries for which crude oil has been sought, the amount of crude oil sought for each refinery, and the technical specifications of crude oil that have historically been processed in each refinery.

(iii) Statement of any restrictions, limitations or constraints on the refiner-buyer's purchases of crude oil, particularly concerning the manner or time of deliveries.

(iv) Names and locations of all refiner-sellers from which crude oil has been sought under the buy-sell notice, the refineries for which crude oil has been sought, and the volume and specifications of the crude oil sought from each refiner-seller.

(v) The response of each refiner-seller to which a request to purchase crude oil has been made, and the name and telephone number of the individual contacted at each such refiner-seller.

(vi) Such other pertinent information as the FEA may request.

(2) Upon receipt of such a request, the FEA may direct one or more refiner-sellers that have not sold their required sales obligations for the allocation period to sell crude oil to the refiner-buyer. If the refiner-buyer declines to purchase the crude oil specified by the FEA, the rights of that refiner-buyer to purchase that volume of crude oil are forfeited during that allocation period: *Provided*, That the refiner-seller or refiner-sellers have fully complied with the provisions of this section.

(3) The FEA may direct refiner-sellers to sell crude oil to refiner-buyers that have been unable to purchase their total allocations for the allocation period. In directing refiner-sellers to make such sales, the FEA shall consider the percentage of each refiner-seller's sales obligations for the allocation period that has been sold, as reported pursuant to paragraph (h) of this section, as well as the refiner-seller or sellers that can best be expected to consummate particular directed sales. If, in the FEA's opinion, a valid directed sale request cannot reasonably be expected to be consummated by a refiner-seller that has not completed all or substantially all of its sales obligation for the allocation period, the FEA may issue one or more directed sales orders that would result in one or more refiner-sellers selling more than their published sales obligations for that allocation period. In such cases, the refiner-seller or sellers will receive a barrel-for-barrel reduction in their sales obligations for the next allocation period pursuant to paragraph (f)(3)(ii) of this section.

4. Section 211.66 is amended by deleting paragraphs (c) and (f) and reserving them for furture use and revising paragraphs (d) and (e) to read as follows:

§ 211.66 Reporting requirements.

* * * * * *

(d) *Refiner-buyers' semiannnual report.* Not later than the tenth (10th) day of the fifth (5th) month of each allocation period (February 10, 1978 for the allocation period commencing October 1, 1977) each refiner-buyer shall file with the FEA a report containing the following information as to the six-month period ending with the last full month prior to which the report is filed:

(i) The volume of the crude oil runs to stills for each of its eligible refineries, by month, identifying the volumes of domestic, imported and allocated crude oils so processed.

(ii) The volume by month of crude oil processed for the account of other refiners in each such refinery, identifying such refiners and the volume processed.

(iii) The volume by month of crude oil processed for the account of non-refiners in each such refinery, identifying such non-refiners and the volume processed.

(iv) The volume of crude oil by month processed for the account of that refiner-buyer by other refiners, identifying such other refiners and the volume processed.

(v) Any change in refinery capacity since the previous report.

(vi) Purchases of allocated crude oil for each eligible refinery.

(vii) Deliveries of allocated crude oil made by refiner-sellers to each eligible refinery.

(e) *Refiner-sellers' monthly report.* Not later than the tenth (10th) day of each month, each refiner-seller shall file with the FEA a report containing the following information with respect to any crude oil delivered to a refiner-buyer under § 211.65 in the month prior to the filing of the report:

(i) The volume of crude oil delivered under § 211.65.

(ii) The name of the refiner-buyer for which and the refinery to which the crude oil was delivered.

(iii) The type of crude oil delivered by name, API gravity, and sulfur content.

(iv) The allocation period for which the crude oil was sold.

* * * * * *

[FR Doc 77-24503 Filed 8-22-77;10:17 am]

federal register

WEDNESDAY, AUGUST 24, 1977

PART VI



CONSUMER PRODUCT SAFETY COMMISSION

■

SELF-PRESSURIZED CONSUMER PRODUCTS CONTAINING CHLOROFLUOROCARBON PROPELLANTS

Labeling and Data Submission Requirements

V 42164 AUG 24 77 UM

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1401—SELF PRESSURIZED CONSUMER PRODUCTS CONTAINING CHLOROFLUOROCARBONS: REQUIREMENTS TO PROVIDE THE COMMISSION WITH PERFORMANCE AND TECHNICAL DATA; REQUIREMENTS TO NOTIFY CONSUMERS AT POINT OF PURCHASE OF PERFORMANCE AND TECHNICAL DATA

Self-Pressurized Consumer Products Containing Chlorofluorocarbon Propellants: Labeling and Data Submission Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: This rule requires marketers and importers of self-pressurized consumer products that use a chlorofluorocarbon propellant to label such products with a warning that they contain chlorofluorocarbons that may harm the public health and environment by reducing ozone in the upper atmosphere. The Commission believes this labeling will help reduce unreasonable risks of injury associated with these propellants and assist consumers in evaluating the comparative safety of such products. The rule also requires manufacturers and importers to submit to the Commission certain information about aerosol products that contain chlorofluorocarbon propellants.

EFFECTIVE DATE: The requirements of this regulation become effective February 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles M. Jacobson, Division of Regulatory Management, Compliance and Enforcement Directorate, Consumer Product Safety Commission, Washington, D.C. 20207 (301–492–6400).

SUPPLEMENTARY INFORMATION:

Product Definition

The requirements set forth below in 16 CFR Part 1401 apply to self-pressurized products containing fully halogenated chlorofluoroalkane (chlorofluorocarbon propellants that are also consumer products as defined in section 3(a)(1) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(1)). For the purposes of this regulation, "propellant" is defined as "a liquified or compressed gas in a container, where a purpose of the liquified or compressed gas is to expel material from the container. The material to be expelled may be the propellant itself and/or a material different from the propellant."

Background

Chlorofluorocarbons are used as propellants in self-pressurized (aerosol) containers of a variety of products subject to the Commission's jurisdiction. Scientific research in recent years has indicated that chlorofluorocarbons may pose a risk of depletion of the stratospheric ozone. The stratospheric ozone layer is of great importance in protecting life on earth from short wave ultraviolet rays of the sun. The consequences of ozone reduction include a possibility of a significant increase in human skin cancer and other effects of unknown magnitude on man, animals, and plants. Chlorofluorocarbon release may also cause climatic change, both by reducing stratospheric ozone and by increasing infrared absorption in the atmosphere.

A detailed history of the Commission's consideration of the problem of depletion of the earth's ozone layer from the release of chlorofluorocarbon propellants is set forth in the FEDERAL REGISTER notice which proposed this Part 1401 (42 FR 21807, April 29, 1977).

On November 22, 1976, the Commission granted a petition from the Natural Resources Defense Council (NRDC) to begin regulatory proceedings leading to a ban of certain fluorocarbons in aerosols. The Commission decided that, on the basis of the available information, certain aerosol consumer products with chlorofluorocarbon propellants may present an unreasonable risk of injury to consumers caused by destruction of the stratospheric ozone layer and that no feasible consumer product safety standard could adequately protect the public.

The Commission instructed its staff to prepare a notice proposing a ban of aerosol consumer products containing the compounds dichlorodifluoromethane, trichlorofluoromethane and other fluorocarbon compounds with similar physical and chemical properties as propellants.

In its decision, however, the Commission (CPSC) recognized that the Environmental Protection Agency (EPA), under the Toxic Substances Control Act (15 U.S.C. 2601–2629), planned regulatory action with respect to the non-essential uses of certain fluorocarbon propellants. Therefore, the Commission indicated that if EPA proposed a rule within a reasonable period of time and proceeded with regulatory action which would render Commission action in this area unnecessary, the Commission would consider terminating its proceeding.

The Commission's staff was instructed to cooperate closely with the EPA and the Food and Drug Administration (FDA), which had announced their intention to phase out the non-essential uses of fluorocarbons in products under their jurisdiction. Since that time, the staff has been working closely with the Interagency Chlorofluorocarbon Work Group (a committee including EPA, FDA, and CPSC representatives) to develop the proposed EPA prohibition on the manufacture, processing, and distribution of fully halogenated chlorofluoroalkanes for non-essential aerosol propellant uses.

EPA's proposed ban appeared in the FEDERAL REGISTER of May 13, 1977 (42 FR 24542), as did a complementary proposal by FDA to prohibit the use of certain fluorocarbons as propellants in self-pressurized containers of products subject to the Food, Drug, and Cosmetic Act (42 FR 24536). The ban proposed by EPA would ban chlorofluorocarbon propellants in non-essential consumer and other products where the purpose of the propellant is to expel from the container a liquid or solid material different from the propellant. EPA and FDA have indicated that they will also address in the future those products in which these propellants are used as the active ingredient or as both the active ingredient and the propellant. The Commission has reviewed EPA's proposed ban and has determined that banning action by the Commission is unnecessary at this time.

However, since the proposed EPA ban will not apply to every consumer product containing these propellants, and since the EPA proposal would not prohibit the sale of products subject to the ban that are sold and introduced into commerce by the processor by April 15, 1979, the Commission has decided to require that the aerosol consumer products within its jurisdiction that contain chlorofluorocarbon propellants shall bear a label stating that the product contains a chlorofluorocarbon and that such compounds may harm the public health and environment by reducing ozone in the upper atmosphere. In order to facilitate enforcement of the labeling rule, the Commission is also requiring manufacturers (including importers) to submit to the Commission information about aerosol products that contain chlorofluorocarbons, FDA, on April 29, 1977 (42 FR 22018), issued a final rule requiring that certain self-pressurized containers containing chlorofluorocarbon propellants bear the same label warning that is being required by the Commission. This FDA requirement applies to those finished products that are initially introduced into interstate commerce on or after October 31, 1977.

The CPSC Regulation

The final regulation which the Commission is issuing in this notice applies to self-pressurized consumer products which contain a chlorofluorocarbon propellant, regardless of whether any other material is expelled from the container. The regulation contains a requirement for submission of information concerning these products to the Commission and also contains a requirement that such products shall bear the following identification and warning statement:

WARNING—Contains a chlorofluorocarbon that may harm the public health and environment by reducing ozone in the upper atmosphere.

The warning may appear on a firmly affixed tag, tape, card, or sticker or similar overlabeling attached to the package. It must appear on the label with such prominence and conspicuousness as to render it likely to be read and understood by ordinary individuals under normal conditions of purchase. The warning shall appear on the immediate container of the consumer product and also on any outside container or wrapper

in which the product is normally offered for sale at retail.

The warning and identification statement is required to appear on the finished products that are imported or initially introduced into interstate commerce after February 20, 1978.

In addition, the manufacturers (including importers) of such products are required to submit to the Commission an identification of their specific self-pressurized products that are covered by this rule by type and brands, including identifying features such as package size, package or label design, and production codes. The initial report must be received by the Commission within 30 days after the effective date of Part 1401 (February 20, 1978), concerning all products imported or shipped on and after this date. Additional reports are required when any of the relevant information changes or when the manufacturer ceases distribution of the product in commerce.

As used in this regulation, the term "manufacturer" includes both a person who manufactures the product at the direction of another (such as a contract filler of aerosol products) and the person at whose direction the product is manufactured (such as the marketer of the brand).

For the purposes of Part 1401, the Commission defines the term "initially introduced into interstate commerce" to mean the first shipment of the product into interstate commerce by the firm marketing the product. There must be both physical movement in interstate commerce and passage of title to the product. Thus, mere shipment of a product across state lines from a contract filler to the marketer of the product would not constitute initial introduction into interstate commerce. All products initially introduced into interstate commerce before the effective date may continue to be distributed and sold even though they do not bear the warning statement. A finished product is a product which has been completely manufactured, packaged, and labeled.

The reporting requirement of § 1401.4 applies to "manufacturers," which, as explained above, includes both marketers and contract fillers. The Commission believes that enforcement of the regulation will be facilitated by the receipt of reports from both of these categories of manufacturers. The labeling requirement of § 1401.5, however, applies only to those manufacturers who import or "initially introduce" such products "into interstate commerce." Since, for the purposes of Part 1401, only the marketer can "initially introduce into interstate commerce," a contract filler is not responsible for seeing that labels bear the identification and warning statement.

As originally proposed, Part 1401 would have applied to products "first distributed in commerce" after the effective date. This terminology has been changed to "initially introduced into interstate commerce" in the final rule in order to establish the same criteria as the FDA regulation in this regard.

Reporting Requirement

The Commission is applying to the General Accounting Office (GAO) for clearance of the reporting requirement pursuant to 44 U.S.C. 3512 and 4 CFR Part 4 (Federal Reports Act and implementing regulations). The Commission will publish notice of the GAO's final action on the application.

Comments on the Proposal

The Commission received 15 written communications containing 21 comments on various aspects of the proposed regulation. The commentators included seven individuals, one retail and advertising firm, one refinery corporation, three manufacturers who make products that would be subject to this regulation, a major chemical company and manufacturer, the American Academy of Dermatology, the Chemical Specialties Manufacturers Association, Incorporated (CSMA), and the Natural Resources Defense Council, Inc. An explanation of the subject matter of the comments and the reasons why the Commision has accepted or rejected them is given below.

1. *In support of the regulation.* The largest group of comments that were received, six in all, supported the Commission's proposed regulation.

2. *In favor of a ban.* Four other comments, including two from persons who were also in favor of the Commission's proposed regulation, indicated that the Commission's action did not go far enough and that they wished to ban all products containing chlorofluorocarbon propellants.

The Commission agrees that a ban of non-essential consumer products containing chlorofluorocarbon propellants is desirable. As described above, the Commission has been working closely with the Interagency Chlorofluorocarbon Work Group to help develop a proposed EPA prohibition on the manufacture, processing, and distribution of fully halogenated chlorofluoroalkanes (chlorofluorocarbons) for non-essential aerosol propellant uses. The Commission has reviewed EPA's proposed ban and their statements of intention to regulate other products and has determined that further banning action by the Commission is unnecessary at this time because such would merely duplicate the proposed actions of EPA.

3. *Extend public comment.* One comment requested an extension of the public comment period in order to allow time for "organizing a people's lobby to gather 10 million signatures on a petition demanding an immediate and total ban of all fluorocarbon use."

As explained in paragraph 2 above, agencies of the federal government are already taking action to ban the non-essential uses of chlorofluorocarbon propellants. The Commission has decided that the proposed schedules for these bans are reasonable and that it would be an unnecessary duplication for the Commission to take any banning action at this time. Accordingly, any petition relating to the extent or phasing of these bans should perhaps also be directed to FDA and EPA. The Commission has decided not to extend the period for public comment since the labeling requirement need not be delayed while banning actions are being considered by EPA and FDA.

4. *Indicate if no fluorocarbon.* One comment requested that aerosol products that do not contain a chlorofluorocarbon propellant should be required to have a label stating that fact. The requirement suggested by this comment is much broader than the requirements that were proposed, and consideration of the issues raised by this broader requirement would required a substantial period of time. If it were eventually decided that such a requirement was desirable, the requirement would probably have to be separately proposed or the entire regulation would have to be delayed to allow for its reproposal. The length of time required for this process of considering the additional issues raised by this comment and for reproposing the requirement could easily delay the effective date of this part past the time when EPA's ban will begin to have an effect in the marketplace. Accordingly, the Commission believes that it is not in the public interest to delay the issuance of Part 1401 while the possible ramifications of this suggestion are explored, and the comment is therefore not adopted at this time. The Commission also believes that potential benefit of such a requirement will be considerably reduced when the "pipeline" of unlabeled products is exhausted and consumers may rely on the absence of a chlorofluorocarbon warning on an aerosol consumer product as a sure indication that there is none present as a propellant.

In the proposal, the Commission specifically requested comments on a possible future regulation requiring the identification of all propellants in aerosol consumer products. Although no comments were received in response to this request, the subject matter of the comment discussed in the preceding paragraph will be considered during the consideration of any possible regulation in this area.

5. *The warning would result in too much label information.* One comment stated that requiring a warning label for fluorocarbons in aerosols would create an additional risk "since the essential instructions and cautions for use of the product may be missed in the welter of non-essential information that is competing for the consumer's limited capacity for absorbing information." The comment suggests that the Commission consult some human factor psychologists and run some experiments to measure information loss when the fluorocarbon warning label is added.

The Commission believes that the consumer should be alerted to all the serious

hazards that may be posed by a product and that the warnings on self-pressurized containers are not so numerous that the additional warning would substantially dilute the effectiveness of other warnings that may be required on products to alert consumers to even greater hazards. In addition, the regulation gives the manufacturer a choice in the way (by hang tag or other means) that the chlorofluorocarbon warning is attached to the container (so long as the warning is sufficiently prominent and conspicuous.) Accordingly, the Commission concludes that further consultation or experiments are not necessary.

6. *Make the effective date sooner.* The Natural Resources Defense Council, Inc. (NRDC), commented that it is important that the labeling requirement take effect as soon as possible. They believe that the effective date should not be delayed longer than 90 days.

The effective date proposed for Part 1401 was 180 days after promulgation of the part, with an additional 30 day period for submitting the required data to the Commission. The labeling requirements apply only to those consumer products containing chlorofluorocarbon propellants that were "imported or initially introduced into interstate commerce" on or after the effective date. For the purposes of this regulation, the Commission has defined the phrase "initially introduced into interstate commerce" to mean the first shipment of the product into interstate commerce by the firm marketing the product. There must be both physical movement in interstate commerce and passage of title to the product. Thus, mere shipment of a product across state lines from a contract filler to the marketer of the product would not constitute initial introduction into interstate commerce. Under the Commission's interpretation of "initially introduced into interstate commerce," the delay in the effective date need not take into account time required to clear out the wholesale and retail pipeline, since the regulation applies only to those products "initially introduced into interstate commerce" after the effective date of the regulation. However, the information available to the Commission indicates that an effective date of less than 180 days from the date of this notice could cause a substantial adverse economic effect on marketers who maintain a large inventory compared to their rate of production. Although the Commission would like the regulation to become effective as soon as is reasonably possible, it does not believe that such an adverse effect on these manufacturers is warranted. The 180-day delay in the effective date will allow these manufacturers to reduce their inventory to a reasonable level so that the cost to sticker or relabel the inventory will not be excessive.

7. *Regulation should apply to date of manufacture of product rather than date of distribution.* Whirlpool Corporation, which sells an aerosol deodorizer using chlorofluorocarbon gases as the propellant to expel a deordorizer in connection with a trash compactor that they market, requests that the effective date be specified in relation to the date the product is manufactured, rather than the date of distribution in commerce. They argue that their wholesalers and independent retail outlets would not have time to dispose of their inventories of this aerosol product within 180 days. However, as explained above, the labeling portion of the regulation applies only to products initially introduced into interstate commerce after the effective date and not to products that are initially introduced into interstate commerce before the 180-day period and are subsequently sold by wholesalers and retailers. Accordingly, the change requested in this comment is unnecessary.

8. *Change the reporting requirements.* As proposed, Part 1401 required that data be submitted to the Commission identifying specific self-pressurized products by type and brand, including identifying features. These reports were required within 30 days after the effective date or within 30 days after a new product or new size is imported or first distributed in commerce. As proposed, reports would also have to be resubmitted within 30 days after each subsequent 6 month period. One comment suggests that instead of resubmitting reports every 6 month, resubmissions should be required only when any of the data in the first report changes or when a substitution for chlorofluorocarbon has been made in a product and the warning label is therefore being removed. The Commission agrees that the adoption of this suggestion would lighten the administrative burden on manufacturers, importers, and the Commission, while at the same time accomplishing the intended result. In addition, it would eliminate the necessity of comparing each 6-month report with the last one in order to determine which products have been withdrawn from the market (by inference from the failure to file a subsequent report). Accordingly, § 1401.3 (c) (formerly § 1401.3(b)) has been amended to require that subsequent reports be submitted when there is any change in the information that is required to be reported or if distribution of the product or size is stopped.

9. *Define "propellant."* Two comments (using identical wording) point out that the preamble of the proposed regulation used the terms "self-pressurized consumer products containing a fully halogenated chlorofluoroalkane (chlorofluorocarbon) as a propellant" and "self-pressurized consumer products containing chlorofluorocarbons" synonymously. The Commission agrees that this terminology is confusing, and the statement of the scope in § 1401.1 has been modified to specify that the consumer products referred to are only those in which the chlorofluorocarbon is used as a propellant.

These comments also request that the term "propellant" be defined and suggest adoption of the terminology used in the Food and Drug Administration's labeling regulations (42 FR 22018). The FDA regulations contain the following restriction: "The warning * * * is applicable only to self-pressurized containers that use a chlorofluorocarbon in whole or in part as a propellant to expel from the container liquid or solid material different from the propellant." These comments claimed that in addition to clarifying the Commission's intent, adoption of the FDA propellant definition would achieve uniform interagency regulation, since the definition of "propellant" in EPA's proposed ban contains the same limitation as the FDA definition.

The Commission agrees that the term "propellant" should be specifically defined in order to remove the ambiguities mentioned in these comments. The Commission does not, however, believe that the limitation on the term "propellant" that is contained in the FDA regulation and the EPA proposal should apply to Part 1401. As can be inferred from the use of the broad term "self-pressurized consumer products containing chlorofluorocarbons" in Part 1401 as proposed and from the lack of a discussion of any limitation in the preamble of the proposal, the Commission never intended to limit the applicability of Part 1401 to only those products whose chlorofluorocarbons serve to expel other liquid or solid materials. The Commission believes that even where the self-pressurized container contains only chlorofluorocarbons or where chlorofluorocarbons are the active ingredient, the consumer should be informed of the presence of these chlorofluorocarbons in the product so that he or she may consider this fact in making the purchasing decision.

10. *Exempt "Drain Power."* Glamorene Products Corporation, the makers of "Drain Power", have requested that this product be exempted from the Commission's labeling regulation. "Drain Power" is an aerosol drain opener which injects liquified chlorofluorocarbon 12 (F–12) into the drain pipe. The shock wave caused by the rapid expansion of the propellant travels through the hydrostatic head of water in the drain pipe to dislodge the clog. Glamorene states that the use of this product is safer than the use of the chemical drain openers that have been the major consumer remedy for clogged drains. They state that they have made exhaustive efforts to find an acceptable alternative to F–12 but that they have found nothing that would work without introducing other significantly safety hazards. They note that their product has been exempted from the proposed EPA ban.

The ban proposed by EPA as its initial step in regulating products containing chlorofluorocarbons does not apply to chlorofluorocarbons which are used in aerosols either as the active ingredient or as both the active ingredient and the propellant. This is so the public will not be denied the benefits of such products by means of an overall ban. However, it is conceivable that some such products will be banned by EPA at a later date.

The labeling requirement which is issued by the Commission, however, will not prevent any consumer from utilizing any of the affected products. It does, however, insure that the consumer has access to information that can enable the consumer to make an informed choice of whether to use the product or not. The Commission believes that this choice should be available to consumers, who can weigh the risks involved in a product containing chlorofluorocarbon propellants against the risks involved in the available alternatives. Accordingly, Glamorene's request for an exemption of "Drain Power" from the scope of Part 1401 is denied.

11. *Falcon Safety Products Inc. exemption.* Falcon Safety Products Inc. (Falcon) requested an exemption for the following products manufactured by it that contain fluorocarbons:

(a) A fire detector in which freon (a chlorofluorocarbon) from a pressurized container operates an acoustic device to warn occupants.

(b) A burglar alarm in which an acoustic device is operated by freon from a pressurized container.

(c) A freon-powered horn.

(d) A canister of freon which is directed through a nozzle for cleaning instruments such as cameras, enlargers, and microscopes.

Falcon stated that there is insufficient room on many of these containers for additional instructions. In addition, they said it would be a severe financial hardship to change the dozens of printing plates for their labels. They argue that any labeling requirement instituted before a determination is made by EPA that these products are not "essential" would be arbitrary and unnecessarily harsh.

For the reasons given above in paragraph 10, the Commission does not believe that an exemption for these products is warranted. Since the regulation allows the flexibility to use hang tags, etc., for the required label, the size of the container should not present any difficulties. For this reason, it would also not be necessary to replace the existing label printing plates.

It also does not follow that products that are determined by EPA to be "essential" should not be labeled. Even for those consumer products that are sufficiently "essential" to be exempted from being banned by EPA, the consumer is entitled to exercise his or her right to choose whether to use such a product in view of the risks involved. The Commission believes that a consumer should be able to rely on the absence of a warning label on a consumer product as a sure indication that the product does not contain a chlorofluorocarbon propellant.

12. *Delete warning.* The Chemical Specialities Manufacturers Association, Incorporated (CSMA), suggested that the label should identify the presence of a chlorofluorocarbon but should not warn that it may harm the public health and environment by reducing ozone in the upper atmosphere. They contend that the "hypothesis that certain chlorofluorocarbons may be a threat to the ozone layer has not been proved and many scientists have serious doubts about several aspects of the theory." Therefore, they argue, the benefits of the warning "must be considered wholly speculative." They further argue that even if the theory of ozone depletion is correct, the warning's benefits to public health are "clearly insignificant" because of the brief time the warnings will be available before the EPA ban and because of the "necessarily limited change in consumer purchasing habits it can realistically be expected to induce." They concluded that since the benefits of the warning are either speculative or insignificant, the requirement for warning labeling does not justify the "major unacceptable consequences." These consequences are said to include (1) creating consumer confusion concerning the nature of the risk, (2) promoting unwarranted discriminatory buying among products, and (3) fostering non-uniform state regulation.

In response to the implication that chlorofluorocarbons may not be a threat to the ozone layer, the Commission states that the great weight of current scientific opinion is that continued use of these compounds will result in a depletion of the ozone layer.[1]

Although there is some controversy as to the exact degree of ozone depletion, the Commission concludes that at any level within the range that is currently estimated by National Academy of Sciences' committees and other current researchers, the risk of harm is substantial.

The Commission also believes that providing the identification and warning statement on the containers of these products will substantially reduce the demand for them during the period that these products are available before the proposed EPA ban becomes effective. In addition, a number of products subject to Part 1401 are not affected by the initial phase of EPA regulation.

The Commission also does not agree with the allegation that Part 1401 will result in "major unacceptable consequences." The nature of the risk is stated in the warning statement and should not create consumer confusion. The warning will also enhance the consumer's ability to refrain from buying products containing chlorofluorocarbon propellants, and the Commission feels that the consumer is entirely warranted in making this choice. The Commission does not believe that Part 1401 will foster non-uniform state regulation, and, in fact, believes it will have precisely the opposite effect.

[1] See the following reports, which may be obtained from the National Academy of Sciences, Printing and Publication Office, 2101 Constitution Avenue NW., Washington, D.C. 20418:

(a) Report of the Committee on Impacts of Stratospheric change of the National Academy of Sciences, "Halocarbons: Environmental effects of Chlorofluoromethane Release." ($6.25, Order No. 2529)

(b) Report of the National Academy of Sciences Panel on Atmospheric Chemistry "Halocarbons: Effects on Stratospheric Ozones." ($10.25, Order No. 2532)

Conclusion

After considering the comments that have been received on the proposal and other available information, the Commission finds that the use of chlorofluorocarbons as propellants in self-pressurized consumer products presents an unreasonable risk of injury to the public, and that pursuant to section 27 (e) of the Consumer Product Safety Act, the provisions of proposed Part 1401, modified as discussed above, are necessary and required to carry out the purposes of the Act (1) to protect the public against unreasonable risks of injury associated with consumer products and (2) to assist consumers in evaluating the comparative safety of consumer products.

Therefore, under provisions of the Consumer Product Safety Act (sec. 27 (e), 86 Stat. 1228, 15 U.S.C. 2076(e)), the Commission amends Title 16, Chapter II, of the Code of Federal Regulations by adding to subchapter B a new Part 1401 reading as follows:

Sec.

1401.1 Scope.
1401.2 Purpose.
1401.3 Definitions.
1401.4 Submission of performance and technical data to the Commission.
1401.5 Providing performance and technical data to purchasers by labeling.
1401.6 Effective date.

Authority: Secs. 2(b), 27(e), Pub. L. 92-573, 86 Stat. 1208, 1228 (15 U.S.C. 2051(b), 2076(e)).

§ 1401.1 Scope.

This Part 1401 establishes requirements under section 27(e) of the Consumer Product Safety Act (15 U.S.C. 2076(e)) for marketers and importers of self-pressurized consumer products that contain chlorofluorocarbons as propellants to provide notification of certain performance and technical data to prospective purchasers of such products at the time of original purchase and to the first purchaser of such products for purposes other than resale. The notification shall consist of a label on the product stating that it contains a chlorofluorocarbon that may harm the public health and environment by reducing the ozone in the upper atmosphere. Also, manufacturers and importers must provide the Commission with reports identifying which of the self-pressurized consumer products sold by them contain chlorofluorocarbon propellants.

§ 1401.2 Purpose.

Chlorofluorocarbons are used as propellants in self-pressurized containers of a variety of products subject to the Commission's jurisdiction. Scientific research has indicated that chlorofluorocarbons may pose a risk of depletion of ozone in the stratosphere. The stratospheric ozone shield is of great importance in protecting life on earth from shortwave ultra-

V 42 164 AUG 24 77 UM

violet rays of the sun. Ozone depletion allows more of these rays to reach the earth, and the consequences include a possibility of a significant increase in human skin cancer and other effects of unknown magnitude on man, animals, and plants. Chlorofluorocarbon release may also cause climatic change, both by reducing stratospheric ozone and by increasing infrared absorption in the atmosphere. The Commission believes that the requirements of this Part 1401 will enable consumers to make a conscious choice of whether to use products that contain chlorofluorocarbon propellants. The Commission also believes that these requirements are necessary in order to carry out the purposes of the Consumer Product Safety Act of (a) helping to protect the public against unreasonable risks of injury associated with consumer products and (b) assisting consumers in evaluating the comparative safety of consumer products.

§ 1401.3 Definitions.

For the purposes of this Part 1401:

(a) "Chlorofluorocarbon" means any fully halogenated chlorofluoroalkane.

(b) "Finished product" means a product which has been completely manufactured, packaged, and labeled.

(c) "Initially introduced into interstate commerce" means the first shipment of the product into interstate commerce by the firm marketing the product. There must be both physical movement in interstate commerce and passage of title to the product. Thus, mere shipment of a product across state lines from a contract filler to the marketer of the product would not constitute initial introduction into interstate commerce. All products initially introduced into interstate commerce before the effective date may continue to be distributed and sold even though they do not bear the warning statement.

(d) "Manufacturer" means any person who manufactures or imports a consumer product. The term includes both a person who manufactures the product at the direction of another (such as a contract filler of aerosol products) and the person at whose direction the product is manufactured (such as the marketer of the brand).

(e) "Propellent" means a liquefied or compressed gas in a container, where a purpose of the liquefied or compressed gas is to expel material from the container. The material to be expelled may be the propellant itself and/or a material different from the propellent.

(f) The definitions given in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052) shall, where applicable, apply to this Part 1401.

§ 1401.4 Submission of performance and technical data to the Commission.

(a) All manufacturers, as defined in § 1401.3(d), of self-pressurized consumer products that contain a chlorofluorocarbon as a propellant shall submit to the Commission performance and technical data concerning all such products that they import or ship after February 20, 1978. The data shall consist of an identification of such products by type, brand, and identifying features such as package size, package or label design, and production codes.

(b) If the manufacturer claims confidentiality for any of the information required to be submitted by paragraph (a) of this section, the portions of the material for which confidentiality is claimed must be identified as required by the Commission's regulations under the Freedom of Information Act (16 CFR 5 Part 1015, issued February 22, 1977, at 42 FR 10490).

(c) The data required by paragraphs (a) and (b) of this section shall be submitted in writing to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. The data shall be submitted so that it is received by the Commission by March 22, 1978, or, if a new product or new size is imported or shipped after February 20, 1978, by 30 days after such importation or shipment. The Commission shall also be notified (1) of any change in the information required to be submitted by paragraph (a) of this section or (2) if the manufacturer has stopped shipping the product or size. These reports shall be submitted so that they are received by the Commission within 30 days after the event that requires the report.

§ 1401.5 Providing performance and technical data to purchasers by labeling.

(a) Manufacturers of self-pressurized consumer products containing a chlorofluorocarbon propellant shall provide performance and technical data concerning such products that they import or initially introduce into interstate commerce after February 20, 1978, to prospective purchasers at the time of original purchase and to the first purchaser for purposes other than resale. The data shall consist of the following identification and warning statement: "WARNING—Contains a chlorofluorocarbon that may harm the public health and environment by reducing ozone in the upper atmosphere."

(b) The identification and warning statement required by paragraph (a) of this section shall be in addition to any other required labeling and shall be sufficiently prominent and conspicuous as to be likely to be read and understood by ordinary individuals under normal conditions of purchase. This identification and warning statement shall appear on the immediate container of the product and also on any outside container or wrapper in which the product is normally offered for sale at retail. The identification and warning statement may appear on a firmly affixed tag, tape, card, or sticker or similar overlabeling attached to the package.

§ 1401.6 Effective date.

This part becomes effective February 20, 1978.

Dated: August 19, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-24502 Filed 8-23-77;8:45 am]

federal register

WEDNESDAY, AUGUST 24, 1977

PART VII



FEDERAL ENERGY ADMINISTRATION

DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlement Notice for June 1977

V42164 AUG 24 77 7 UM

FEDERAL ENERGY ADMINISTRATION

DOMESTIC CRUDE OIL ALLOCATION

Entitlement for June 1977

In accordance with the provisions of 10 CFR § 211.67 relating to FEA's domestic crude oil allocation program the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for June 1977 submitted to FEA by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports and imported naphtha utilized as a petrochemical feedstock in Puerto Rico; application of the entitlement adjustment for residual fuel oil production for sale in the East Coast market provided in § 211.67(d)(4); July 1977 deliveries of crude oil for storage in the Strategic Petroleum Reserve; and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for June 1977 is calculated to be .272894.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of June 1977, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to .324493 of a barrel of deemed old oil.

The issuance of entitlements for the month June 1977 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR § 211.67(i)(4), FEA hereby fixes the price at which entitlements shall be sold and purchased for the month of June 1977 at $8.65, which is the exact differential as reported for the month of June between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil, less the sum of 21 cents.

In accordance with 10 CFR § 211.67 (b), each refiner that has been issued fewer entitlements for the month of June 1977 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of June 1977 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of June 1977 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements. In addition, certain refiners are required to purchase or sell entitlements to effect corrections for reporting errors for the months September 1975 through May 1977 pursuant to 10 CFR § 211.67(j)(1).

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by FEA pursuant to § 211.67(h).

The listing contained in the Appendix identifies in a separate column additional entitlements issued to refiners pursuant to relief granted by FEA's Office of Exceptions and Appeals. Also set forth in this column are the adjustments for relief granted by the Office of Exceptions and Appeals for 1975, which adjustments are being reflected in monthly installments commencing with the September 1976 entitlement notice. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, see Beacon Oil Company, et al, 4 FEA par. 87,024 (November 5, 1976).

For purposes of the adjustments to refiners' crude run volumes under § 211.67 (d)(4), total production of residual fuel oil for sale in the East Coast market (in excess of the first 5,000 barrels per day thereof for each refiner reporting such production) was 9,853,650 barrels for June 1977. For that month, import of residual fuel oil eligible for entitlement issuances totaled 30,285,107 barrels.

The total number of entitlements required to be purchased and sold under this notice is 23,031,329.

Payment for entitlements required to be purchased under 10 CFR §211.67(b) for June 1977 must be made by August 31, 1977.

On or prior to September 10, 1977, each firm which is required to purchase or sell entitlements for the month of June 1977 shall file with FEA the monthly transaction report specified in 10 CFR § 211.66(i) certifying its purchases and sales of entitlements for the month of June. FEA has mailed the monthly transaction report forms for the month of June to reporting firms. FEA requests that firms which have been unable to locate other firms for required entitlement transactions by August 31, 1977 contact FEA at 202-254-6296 to expedite consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to August 31, 1977, FEA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR § 211.67(k).

This notice is issued pursuant to Subpart G of FEA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with FEA's Office of Exceptions and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before September 23, 1977.

Issued in Washington, D.C. on August 18, 1977.

ERIC J. FYGI,
Acting General Counsel.

ENTITLEMENTS FOR DOMESTIC CRUDE OIL PAGE: 6

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEANUP	********** REQUIRED TO BUY	REQUIRED TO SELL
A-JOHNSON	0	139,889	0	0	0	0	139,889
ALLIED	61,694	59,590	0	0	0	2,104	0
AMER-PETROFINA	1,497,883	1,308,042	0	0	0	189,841	0
AMERADA-HESS	1,619,204	3,461,577	0	263,351	0	0	1,842,373
AMOCO	11,546,309	9,529,470*	0	0	0	2,016,839	0
APCO	369,259	459,746	0	0	0	0	90,487
ARCO	6,165,467	6,272,295	0	0	0	0	106,828
ARIZONA	68,914	55,494	6,849	0	0	13,420	0
ASAMERA	248,235	215,684	0	0	0	32,551	0
ASHLAND	1,749,837	2,882,567	0	220,224	0	0	1,132,730
ASIATIC	0	220,224	0	0	0	0	220,224
AUGSBURY	0	6,744	0	6,744	0	0	6,744
BASIN	40,409	44,399	0	0	0	0	3,990
BAYOU	62,057	63,622	0	0	0	0	1,565
BEACON	238,762	172,211	1,365	157,050	0	66,551	0
BELCHER	0	137,050	0	0	0	0	137,050
BI-PETRO	2,048	73,936	0	0	0	0	71,888
C&H	0	667	0	0	0	0	667
CALUMET	22,283	31,736	0	0	0	796	9,453
CANAL	68,641	67,845	0	0	0	0	0
CARIBOU	119,470	105,391	0	12,280	0	14,079	0
CASTLE	0	12,280	0	0	0	0	0
CENTRAL	0	18,156	0	12,280	0	0	12,280
CHAMPLIN	1,945,754	1,548,765	0	18,156	0	0	18,156
CHARTER	541,882	1,019,034	421,710	0	0	394,989	0
CHEVRON	7,426,656	9,885,028	0	18,603	0	0	477,152
CIRILLO	0	29,284	0	29,284	0	0	2,458,372
CITGO	2,852,775	2,039,750	0	0	0	813,025	29,284
CLAIBORNE	81,068	61,664	0	0	0	19,404	0
CLARK	293,122	973,386	0	0	0	0	680,264
COASTAL	380,421	1,564,130	0	53,248	0	0	1,183,709
COLONIAL	0	53,248	0	0	0	0	53,248
CONOCO	3,551,537	2,893,833	231,059	310,856	0	657,704	0
CORCO	0	1,383,393	0	14,661	0	0	1,383,393

ENTITLEMENTS FOR DOMESTIC CRUDE OIL PAGE: 7

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
CRA-FARMLAND	419,279	642,401	0	0	0	0	223,122
CROSS	48,565	55,451	0	0	0	0	6,886
CROWN	345,253	751,791	0	0	0	42,330	406,538
CRYSTAL-OIL	236,312	193,982	0	0	0	0	0
CRYSTAL-REF	719	38,852	0	0	0	0	38,133
DELTA	215,212	391,408	0	0	0	0	176,196
DEMENNO	-4,593	18,250	0	0	0	0	22,843
DIAMOND	60,405	478,893	66,063	0	0	181,512	0
DILLMAN	0	995	0	0	0	0	995
DORCHESTER	9,541	12,498	0	0	0	0	2,957
DOW	93,131	165,741	0	0	0	0	72,610
E-SEABOARD	0	66,063	66,063	0	0	0	66,063
ECO	7,356	14,991	0	0	0	0	7,635
EDDY	39,939	35,270	0	0	0	4,669	0
EDGINGTON-OIL	0	-117,529	0	0	0	117,529	0
ENERGY-COOP	25,011	1,190,058	0	0	0	0	1,165,047
EVANGELINE	54,789	40,599	0	0	0	14,190	0
EXXON	13,915,924	11,415,376	508,986	0	0	2,500,548	0
EZ-SERVE	29,360	47,746	0	0	0	0	18,386
FARMERS-UN	191,543	395,822	0	0	0	0	204,279
FLETCHER	0	188,136	0	0	0	0	188,136
FLINT	9,767	11,040	0	0	0	0	1,273
GARY	48,690	80,647	0	0	0	0	31,957
GETTY	1,186,605	1,006,502	0	0	0	180,103	0
GIANT	20,067	43,593	0	0	0	0	23,526
GIBSON	381	3,047	0	0	0	0	2,666
GLACIER-PARK	82,035	41,985	0	0	0	40,050	0
GLADIEUX	53,217	83,583	0	0	0	0	30,366
GLENROCK	2,687	2,720	0	0	0	0	33
GOLDEN-EAGLE	0	153,274	0	0	0	0	153,274
GOLDKING	76,112	77,163	0	0	0	0	1,051
GOOD-HOPE	93,250	368,700	0	0	0	0	275,450
GUAM	0	221,031	0	0	0	0	221,031
GULF	8,277,133	6,477,250	38,016	0	0	1,799,883	0

ENTITLEMENTS FOR DOMESTIC CRUDE OIL PAGE: 8

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
GULF-STS	53,108	55,705	0	0	0	17,405	0
HIRT	0	515,742	0	0	0	0	515,742
HOWARD	0	21,139	21,139	0	0	0	21,139
HOWELL	674,282	397,738	0	0	0	280,544	0
HUDSON-OIL	55,808	217,060	0	0	0	0	161,252
HUNT	222,941	333,315	0	0	0	0	110,374
HUSKY	765,492	765,492	0	0	0	0	0
INDEPENDENT-REF	154,241	177,329	0	0	0	0	19,088
INDIANA-FARM	75,324	228,894	0	0	0	0	153,574
INGEM-OIL	179	461	0	0	0	0	282
J&W	238,799	238,799	0	0	0	0	0
KENCO	22,591	35,349	0	0	0	0	12,758
KENTUCKY	2,634	4,188	0	0	0	0	1,554
KERN	674,182	728,780	0	0	0	0	54,598
KERR-MCGEE	1,451,179	1,284,536	0	0	0	166,643	0
KOCH	361,023	961,083	0	0	0	0	600,060
LAGLORIA	439,015	430,663	0	0	0	8,352	0
LAKESIDE	14,241	50,877	0	0	0	0	54,636
LAKETON	110,035	131,197	0	0	0	0	21,162
LITTLE-AMER	1,195,518	1,152,577	0	0	0	43,141	0
LOUISIANA-LAND	364,268	386,509	0	0	0	0	22,041
MACMILLAN	41,890	182,928	0	0	0	0	140,938
MARATHON	3,932,296	3,544,615	0	0	0	387,681	0
MARION	199,265	259,150	0	0	0	0	59,885
MID-AMER	44,394	96,061	0	0	0	0	51,667
MID-TEX	44,340	24,265	0	0	0	20,075	0
MIDLAND	0	-10,191	0	0	0	10,191	0
MOBIL	8,119,715	6,896,257	0	0	0	1,223,458	0
MOHAWK	421,640	387,636	0	0	0	34,004	0
MONOCO	0	9,009	0	0	0	0	9,009
MONSANTO	397,096	346,182	0	0	0	50,914	0
MORRISON	27,681	16,462	0	0	0	11,219	0
MOUNTAINEER	7,670	8,469	0	0	0	0	799
MURPHY	851,161	857,175	0	0	0	0	6,014

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
N-AMER-PETRO	63,622	153,069	0	0	0	0	89,447
NATL-COOP	330,132	506,222	0	0	0	0	176,090
NAVAJO	327,971	327,971	8,126	0	0	0	0
NEVADA	904	2,569	0	0	0	0	1,665
NEW-EDGINGTON	455,618	541,223	274,693	0	0	0	85,605
NEW-ENGL-PETRO	0	398,381	0	398,381	0	0	398,381
NEWHALL	168,667	162,609	10,423	0	0	6,058	0
NORTHEAST-PETRO	0	39,073	0	39,073	0	0	39,073
NORTHLAND	35,240	86,569	0	0	0	0	51,329
NORTHVILLE	0	8,587	0	8,587	0	0	8,587
OKC	218,275	263,371	1,895	0	0	0	45,096
OXNARD	14,774	12,491	0	0	0	2,283	0
PASCO	0	-65,756	-65,756	0	0	-65,756	0
PATCHOGUE	0	12,601	0	12,601	0	0	12,601
PENNZOIL	823,049	525,332	0	0	0	297,717	0
PESTER	132,461	249,682	0	0	0	0	117,221
PETRO-HEAT-CT	0	1,637	0	1,637	0	0	1,637
PHILLIPS	2,723,134	2,315,592	0	0	0	407,542	0
PHILLIPS-PR	0	192,208	0	192,208	0	0	192,208
PIONEER	34,667	67,061	0	0	0	0	32,394
PITTSTON	0	54,943	0	54,943	0	0	54,943
PLACID	192,230	407,503	0	0	0	0	215,273
PLATEAU	114,870	172,345	0	0	0	0	57,475
POWERINE	65,220	352,457	0	0	0	0	287,237
PRIDE	152,769	334,452	0	0	0	0	181,683
PRINCETON	1,598	72,059	0	0	0	0	70,461
QUAKER-ST	57,504	253,116	0	0	0	0	195,612
RANCHO-REF	36,462	595	0	0	0	35,867	0
RICHARDS	1,261	77,040	0	0	0	0	75,779
RICO	0	6,550	0	6,550	0	0	6,550
ROAD-OIL	0	3,462	0	0	0	0	3,462
ROCK-ISLAND	283,255	354,070	-39,150	0	0	0	70,815
SABER-TEX	24,528	152,308	0	0	0	0	127,780
SABRE-CAL	223,867	145,931	53,596	0	0	77,936	0

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
SAGE-CREEK	3,782	5,348	0	0	0	0	1,566
SAN-JUAQUIN	182,279	182,279	17,893	0	0	0	0
SEMINOLE	0	64,152	0	0	0	0	64,152
SHELL	12,400,446	8,772,179	0	0	0	3,628,267	0
SIGMOR	4,638	150,431	0	0	0	0	145,793
SO-HAMPTON	57,934	207,643	0	0	0	0	149,709
SOHIO	1,618,674	3,340,041	0	0	0	0	1,721,167
SOMERSET	48,206	69,832	0	0	0	0	21,626
SOUND	11,240	33,555	0	0	0	0	22,315
SOUTHERN-UNION	306,825	347,970	0	0	0	0	41,145
SOUTHLAND	466,809	312,831	64,535	0	0	153,978	0
SOUTHWESTERN	92,954	58,730	0	0	0	34,224	0
SPRAGUE	0	38,890	0	38,890	0	0	38,890
STEUART	0	50,541	0	50,541	0	0	50,541
SUNLAND	369	153,188	56,950	0	0	0	152,819
SUNOCO	5,208,439	4,229,174	0	17,918	0	979,265	0
SWANN	0	19,245	0	19,245	0	0	19,245
TARRICONE	0	42,406	0	42,406	0	0	42,406
TENNECO	1,044,736	740,977	0	0	0	303,759	0
TESORO	705,208	765,609	0	0	0	0	60,401
TEXACO	12,128,565	9,094,407	0	233,528	0	3,034,158	0
TEXAS-AMERICAN	39,362	147,533	0	0	0	0	108,171
TEXAS-ASPH	5,933	116,749	0	0	0	0	110,816*
TEXAS-CITY	480,867	686,238	0	0	0	0	205,371
THAGARD	746,603	746,603	474,488	0	0	0	0
THRIFTWAY	32,450	37,480	0	0	0	0	5,030
THUNDERBIRD	131,964	155,081	0	0	0	0	23,117
TONKAWA	29,088	50,323	0	0	0	0	21,235
TOSCO	2,316,317	1,668,334	229,861	0	0	647,983	0
TOTAL-PETROLEUM	262,995	425,780	0	0	0	0	162,785
TRANS-OCEAN	0	139,060	0	0	0	0	139,060
UCC-CARIBE	0	140,762	0	140,762	0	0	140,762
UNION-OIL	5,513,853	3,537,852	0	0	0	1,976,001	0
UNION-PETRO	0	96,912	0	96,912	0	0	96,912

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
UNTD-IND	9,153	4,181	0	0	0	4,972	0
UNTD-REF	157,381	419,255	0	0	0	0	261,874
US-OIL	19,249	199,662	0	0	0	0	180,413
USA-PETROCHEM	36,694	226,642	0	0	0	0	189,948
VICKERS	19,866	572,624	0	0	0	0	552,758
VULCAN	57,361	213,236	0	0	0	0	155,875
WALLER	0	8,187	0	8,187	0	0	8,187
WARRIOR	47,754	48,750	15,418	0	0	0	996
WEST-COAST	55,575	48,581	0	0	0	6,994	0
WESTERN	101,303	90,476	0	0	0	10,827	0
WINSTON	128,960	187,731	0	0	0	0	58,771
WIREBACK	0	1,033	0	0	0	0	1,033
WITCO	71,790	154,425	0	0	0	0	82,635
WYATT	0	17,463	0	17,463	0	0	17,463
YETTER	0	1,167	0	0	0	0	1,167
YOUNG	96,652	96,652	43,344	0	0	0	0
TOTAL	139,187,937	139,187,937	3,291,219	3,123,212	0	23,031,529	25,031,329

* Includes entitlements issued for 330,770 barrels of imported crude oil purchased by the United States Government for storage in the Strategic Petroleum Reserve.

** Reflects adjustments for 1975 exceptions relief as provisionally modified by FEA pending agency review consistent with court order. For discussion, see December entitlement notice, 42 FR 12133 (March 2, 1977).

*** This does not include the purchase obligation stayed by court order in Texas Asphalt & Refinery Co. v. FEA Civ. Action No. 4-75-268 (N.D. Tex., filed October 31, 1975).

[FR Doc.77-24423 Filed 8-19-77;10:43 am]

federal register

WEDNESDAY, AUGUST 24, 1977
PART VIII

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

NATIONAL FLOOD INSURANCE PROGRAM

List of Communities With Special Hazard Areas

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-3212]

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The purpose of this rule is the identification of communities with areas of special flood or mudslide or erosion hazards as authorized by the National Flood Insurance program. The identification of such areas is to provide guidance so that communities may mitigate hazards and reduce property losses by adopting appropriate flood plain management or other measures to minimize damage caused by floods or other hazards. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

DATES: The effective date of identification is the date listed in the eighth column of the table or September 23, 1977, whichever is later.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in an identified plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply to loans by Federally regulated, insured, supervised, or approved lending institutions (1) to finance the acquisition of a residential dwelling occupied as a residence prior to March 1, 1976, or one year following identification of the area within which such dwelling is located as an area containing special flood hazards, whichever is later, or made to extend, renew, or increase the financing or refinancing in connection with such a dwelling, (2) to finance the acquisition of a building or structure completed and occupied by a small business concern, as defined by the Secretary, prior to January 1, 1976, (3) any loan or loans, which in the aggregate do not exceed $5,000, to finance improvements to or rehabilitation of a building or structure occupied as a residence prior to January 1, 1976, or (4) any loan or loans, which in the aggregate do not exceed an amount prescribed by the Secretary, to finance nonresidential additions or improvements to be used solely for agricultural purposes on a farm.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under Section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 1915 of Title 24 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001-4128).

Accordingly, § 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas (FHBMs in effect).

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
AL	Randolph	City of Roanoke 0001A	010348	N - S	I	F	June 10, 1977	June 10, 1977	F.J. Coulton, Mayor P.O. Box 432 Roanoke, AL 36274 Phone: 205-863-4129
FL	Sarasota	City of North Port 01-25	120279A	E - S	I	F	Do.	June 10, 1977	Margaret M. Gentle, Mayor 311 North Port Blvd. North Port, FL Phone: 813-426-1258
GA	Dade	Dade County (Unincorporated Areas) 0001A-0003A	130246	E - S	I	F	Do	June 10, 1977	Dan Hull, County Commissioner P.O. Box 613 Trenton, GA 30752 Phone: 404-657-4625
GA	Pierce	Town of Patterson 0001A	130457	N - S	I	F	Do	June 10, 1977	S.W. Gardiner, Mayor P.O. Box 434 Patterson, GA 31551 Phone: 912-647-5035
IN	Harrison	Town of Crandall 01	180416A	E - S	I	F	Do	June 10, 1977	Town Bd. of Supervisors P.O. Box 29 Crandall, IN 47114 Phone: 812-366-3644

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
IN	Dubois	Dubois County (Uninc.Areas) 0001A-0009A	180054	N - 10,11, 12,14	H	F	Dec. 13, 1974	June 10, 1977	David Schnell, Pres. County Commissioners County Courthouse Jasper, IN 47516 Phone: 812-482-5445
IN	Sullivan	Town of Merom 0001A	180413	N - 5	H	F	June 10, 1977	June 10, 1977	Betty Turpen, Pres. Town Board Merom, IN 47861 Phone: 812-356-4626
KY	Bracken	Bracken County (Uninc. 0001A-0006A Areas)	210021	N - 5	H	F	Do	June 10, 1977	John Corlis, County Judge P.O. Box 4 County Courthouse Brooksville, KY 41004 Phone: 606-735-2300
KY	Marion	Marion County (Uninc. 0001A-0006A Areas)	210160	N - 5	H	F	Do	June 10, 1977	H.L. Smith, County Judge County Courthouse P.O. Box 606 Lebanon, KY 40033 Phone: 502-692-3451
KY	Martin	Martin County (Uninc.Areas) 0001A-0010A	210166	N - 10,11, 12,14	H	F	Dec. 13, 1974	June 10, 1977	Ray Fields, County Judge Box 406 Inex, KY 3290 Phone: 606-298-3290
KY	Rowan	Rowan County (Uninc.Areas) 0001A-0005A	210203	E - 10,11 12,14	H	F	Oct. 18, 1974	June 10, 1977	Ottis Caldwell, County Judge County Courthouse Morehead, KY 40351 Phone: 505-784-5151

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
MI	Berrien	City of Benton Harbor 01-03	260032A	E - 10,11 12,14	I	F	May 24, 1974	June 10, 1977	Charles F. Joseph, Mayor 200 Wall Street Benton Harbor, MI 49025
MI	Wayne	Township of Sumpter 0001B-0002B	260243	E - 11,12 14	I	F	June 28, 1974 Aug. 20, 1976	June 10, 1977	Fred Slaviero, Engineer Wade, Trim & Assoc. 25185 Goddard Road Taylor, MI 48180
MI	Ottawa	Township of Tallmadge 0001A-0004A	260494	N - 5	I	F	June 10, 1977	June 10, 1977	Nicholas Nanninga, Twp. Supr. Township Hall 01451 Leonard Rd. Grand Rapids, MI 49604 Phone: 616-677-1582
MN	Cass	City of Boy River 01	270057A	N - 5	I	F	June 10,1977	June 10, 1977	Junior Daniels, Mayor City Hall Boy River, MN 56632 Phone: 218-889-2221
MN	Mower	City of Rose Creek 01	270598A	N - 5	I	F	June 10, 1977	June 10, 1977	B.N. Schammel, Mayor City Hall Rose Creek, MN 55970 Phone: 507-437-3586

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
MN	Scott	City of Savage 0001B-0002B	270433	E - 11,12,14	I	F	March 29, 1974 June 11, 1976	June 10, 1977	Paul H. Haugen, City Clerk 101 Elm Street Savage, MN 55378 Phone: 612-890-1045
NJ	Hunterdon	Township of Alexandria 0001A-0004A	340230	E - 11,12,14	I	F	Feb. 1, 1974	June 10, 1977	Gerald D. Philkill, P.E., Engr. 19 Trenton Avenue Frenchtown, NJ 08825 Phone: 201-996-2020
NJ	Hunterdon	Township of West Amwell 0001B-0002B	340243	E - 8,11,12,14	I	F	May 11, 1973 July 9, 1976	June 10, 1977	Richard Gulick, Mayor R.D. 2 Lambertville, NJ 08530 Phone: 609-397-2054
NY	Columbia	Town of Chatham 0001A-0004A	361314	N - 5	I	F	June 10, 1977	June 10, 1977	Richard F. Lobdell, Tn. Supr. Rural Route East Chatham, NY 12060 Phone: 518-392-4674
NY	Cattaraugus	Town of South Valley 0001B-0004B	360100	N - 11,12,14	I	F	Sept. 6, 1974 Sept. 24, 1976	June 10, 1977	Floyd Burch, Supr. R.D. 1 Frewsburg, NY 14738 Phone: 716-354-2386
NY	Ulster	Town of Wawarsing 01-33	360867A	E - 10,11,12,14	I	F	Sept. 13, 1974	June 10, 1977	Franklin Sahler, Supr. 108 Canal Ellenville, NY 12428 Phone: 914-647-6560

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
NC	Randolph	City of Archdale 0001A	370273	E - 5	I	F	June 10, 1977	June 10, 1977	Lloyd H. Taylor, Mayor P.O. Box 4134 307 Balfour Dr. Archdale, NC 27263 Phone: 919-431-9141
NC	Brunswick	Town of Bolivia 0001A	370394	N - 5	I	F	June 10, 1977	June 10, 1977	Paul Hofham, Mayor P.O. Box 293 Bolivia, NC 28422 Phone: 919-253-5303
NC	Brunswick	Town of Calabash 0001A	370395	N-5	I	F	June 10, 1977	June 10, 1977	Ivey High, Mayor Rt. 1, Box 160 Shallotte, NC 28459 Phone: 919-529-6577
NC	Guilford Alamance	Town of Gibsonville 0001A	370387	E - 5	I	F	June 10, 1977	June 10, 1977	John O. Harper, Mayor 129 W. Main Street Gibsonville, NC 27249 Phone: 919-449-4144
OH	Warren	City of Lebanon 0001B-0002B	390557	E - 12,14	I	F	May 10, 1974 July 23, 1976	June 10, 1977	Allen A. Thompson, City Engr. City Building Broadway at Main Street Lebanon, OH 45036 Phone: 513-932-3060

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
PA	Clinton	Township of Chapman 0001A-0006A	420323	E - 10,11 12,14	I	F	March 1, 1974	June 10, 1977	Ralph A. Lupro, Jr., Chairman Box 122 North Bend, PA 17760 Phone: 717-923-1376
PA	Susquehanna	Township of Harmony 0001A-0004A	422082	E - 5	I	F	June 10, 1977	June 10, 1977	Allen Fenoscey, Supr. & R.D. 3 Chairman Susquehanna, PA 18847 Phone: 717-853-3943
PA	Blair	Township of Woodbury 0001A-0004A	420963	E - 10,11 12,14	I	F	March 15, 1974	June 10, 1977	Donald Hileman, Chairman R.D. 1, Box 46A Williamsburg, PA 16693 Phone: 814-832-3334

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
AR	Uninc. Area	Carroll County (01-44)	050024 A	N-5	I	F	14 JUN 77	14 JUN 77	Honorable Arthur Carter - County Judge - Office of the County Judge - County Courthouse - Berryville, AR 72616 (501) 423-2967
AR	Uninc. Area	Madison County (01-11,13-17,19-42,43-46, 48-51)	050449 A	N-5	I	F	14 JUN 77	14 JUN 77	Honorable Charles Horton - County Judge - Office of the County Judge - County Courthouse - Huntsville, AR 72740 (501) 738-6721
CA	Riverside	City of Palm Desert (01-03,05)	060629 A	E-5	I	F	14 JUN 77	14 JUN 77	Mr. Hill - Building Inspector - 45275 Prickly Pear Lane - P.O. Box 1648 - Palm Desert, CA 92260 (714) 346-0611
ID	Bonneville	City of Swan Valley (01-05)	160154 A	N-8,11,12	I	F	29 AUG 75	14 JUN 77	Honorable H. O. Sargent - Mayor - Swan Valley, ID 83449 (208) 483-2645
IA	Uninc. Area	Greene County (0001-0006)	190869 A	N-5	I	F	14 JUN 77	14 JUN 77	Mr. R. C. Frederickson - Chairman - Board of Supervisors - County Courthouse - Jefferson, IA 50129 (515) 386-2316

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
ME	Cumberland	Town of Brunswick (01,03-09,11-22)	230042 A	E-11,12,14	C	F	1 NOV 74	14 JUN 77	Mr. John P. Bibber - Town Manager Brunswick Town Hall - 28 Federal Street - Brunswick, ME 04011 (207) 725-7522
MA	Worcester	Town of Leicester (01-08)	250313 B	E-11	I	F	19 JLY 74 3 SEP 76	14 JUN 77	Mr. Johnston Glass - Acting Cartographer - Town Hall - Leicester, MA (617) 892-4011
MA	Franklin	Town of Whately (01-08)	250132 B	E-12,14	I	F	6 SEP 74 22 OCT 76	14 JUN 77	Mr. Wilfred J. Mennier, Jr. - Selectman - Town Hall - Whately, MA 01093 (413) 665-3803
NH	Merrimack	Town of Danbury (03-14)	330111 A	N-5	I	F	14 JUN 77	14 JUN 77	Mr. Donald J. Cook - Selectman - Town Hall - Danbury, NH 03230 (603) 768-3313
TX	Harris	City of Bellaire (02)	480289 A	E-12,14	I	F	28 JUN 74	14 JUN 77	Mr. Robert P. Schernig - Director of Community Development - 7002 South Rice - Bellaire, TX 77401 (713) 667-8315

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
TX	Harrison	City of Marshall (01-06,08-09)	480319 A	E-8,10,11,12	I	F	22 FEB 74	14 JUN 77	Mr. Tom Dingler - City Engineer - City Hall - Marshall, TX (214) 935-5241
TX	Archer & Clay	City of Scotland (0001)	481280 A	N-5	I	F	14 JUN 77	14 JUN 77	Honorable Grady Schenk - Mayor - City Hall - Scotland, TX 76379 (817) 541-2233
TX	Uninc. Area	Terry County (0001-0012)	481019 A	N-5	I	F	14 JUN 77	14 JUN 77	Honorable Herbert Chesshire - County Judge - Office of the County Judge - Courthouse - Brownfield, TX 79316 (806) 637-6421
UT	Uninc. Area	Carbon County (01-12,14-30,32-35,38-39, 41-42,44,46-49,51,55,59-62,64,68,71-77,79-80,83-92)	490032 A	E-5	I	F	14 JUN 77	14 JUN 77	Mr. James Simoni - Chairman - Board of County Commissioners - County Courthouse - Price, UT 84501 (801) 637-0327
VT	Windsor	Town of Reading (01,04,06-14)	500152 A	E-11,12,14	I	F	13 SEP 74	14 JUN 77	Mr. James L. Barngrove - Selectman - Town Hall - Reading, VT 05062 (802) 484-7250
VT	Windham	Town of Townshend (02,06,09-10,13)	500136 B	E-12,14	I	F	2 AUG 74 10 DEC 76	14 JUN 77	Mr. Richard Lucier - Selectman - Town Hall - Townshend, VT 05353 (802) 365-7300
VT	Windham	Town of Wardsboro (01-02,04-05)	500138 A	E-11,12,14	I	F	27 DEC 74	14 JUN 77	Mr. Raymond Young, Jr. - Chairman Board of Selectmen - P.O. Box 35 West Wardsboro, VT 05360 (802) 896-6055

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
FL	Hillsborough	Hillsborough County (Uninc. Areas) 0001A-0020A	120112	E - S	I	F	June 17, 1977	June 17, 1977	Mrs. Betty Caster, Chairman County Commissioners P.O. Box 1110 Tampa, FL 33601 Phone: 813-223-7811
FL	Holmes	Holmes County (Uninc. Areas) 0001A-0010A	120420	N - S	I	F	June 17, 1977	June 17, 1977	Charles Q. Padgett, Chairman County Commissioners County Courthouse Bonifay, FL 32425 Phone: 904-547-3636

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
GA	Pulaski	Pulaski County (Uninc. Areas) 01-21	130378A	N - S	I	F	June 17, 1977	June 17, 1977	John H. Anderson, Jr. County Commissioners County Courthouse Hawkinsville, GA 31036 Phone: 912-783-4154
GA	Pickens	Town of Talking Rock 01	130150A	N - S	I	F	June 17, 1977	June 17, 1977	Benny Kirk, Mayor General Delivery Talking Rock, GA 30175 Phone: 404-698-4145
IL	Carroll	Village of Milledgeville 01	170908A	E - 15	I	F	June 17, 1977	June 17, 1977	William C. Pitenour, Vil. Pres P.O. Box 396 Milledgeville, IL 61051 Phone: 815-225-7231
KY	Anderson	Anderson County (Uninc. Areas) 0001A-0006A	210002	E - 10,11, 12,14	I	F	Oct. 18, 1974	June 17, 1977	Hollie Warford, Sr., County Judge Co. Courthouse Lawrenceburg, KY 40342 Phone: 502-839-3471
KY	Floyd	Floyd County (Uninc. Areas) 0001A-0007A	210069	E - 10,11, 12,14	I	F	Dec. 13, 1974	June 17, 1977	Henry Stumbo, Co. Judge Box 510 Prestonburg, KY 41653 Phone: 606-886-3055

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
KY	Franklin	Franklin County (Uninc. Areas) 0001A-0006A	210280	E - 5	I	F	June 17, 1977	June 17, 1977	Jack C. Goins, Co. Judge County Courthouse Frankfort, KY 40601 Phone: 502-875-5260
KY	Lewis	Lewis County (Uninc. Areas) 0001A-0017A	210141	E - 10,11, 12,14	I	F	Dec. 20, 1974	June 17, 1977	Boone Dummitt, Co. Judge Route 7 County Courthouse Vanceburg, KY 41749 Phone: 606-796-2722
KY	Owsley	Owsley County (Uninc. Areas) 0001A-0004A	210296	N - 5	I	F	June 17, 1977	June 17, 1977	Hamp Turner County Judge Route 1 Box 87 Booneville, KY 41314 Phone: 606-493-6202

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
MI	Chippewa	Township of Bay Mills 0001A-0002A	260374	N - 5	I	F	June 17, 1977	June 17, 1977	Allen Bertram, Jr., Twp. Supr. R. 1 Brimley, MI 48715 Phone: 906-248-5435
MI	Clinton	Township of DeWitt 0001A-0002A	260631	E - 5	I	F	June 17, 1977	June 17, 1977	Dale S. Emerson, Twp. Supr. 780 East. Wieland Rd. Lansing, MI 48906 Phone: 517-482-1291
MI	Ionia	Township of North Plains 0001A-0002A	260420	N - 5	I	F	June 17, 1977	June 17, 1977	Knight Kruger, Twp. Supr. Township Hall Muir, MI 48860 Phone: 517-855-3583
MI	Washtenaw	Township of Pittsfield 0001A-0002A	260623	E - 5	I	F	June17, 1977	June 17, 1977	Robert A. Lillie, Tn. Supr. 701 W. Ellsworth, Rd Ann Arbor, MI 48104

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
MI	Chippewa	Township of Sugar Island 0001A-0002A	260379	N - 5	I	F	June 17, 1977	June 17, 1977	John Morley, Twp. Supr. Township Hall Sault Ste. Marie, MI 49783 Phone: 906-635-0593
MI	Chippewa	Township of Superior 0001A-0002A	260380	N - 5	I	F	June 17, 1977	June 17, 1977	Harold W. Passmore, Twp. Supr. Township Hall Brimley, MI 49715 Phone: 248-5391
MI	Washtenaw	Township of Superior 0001A-0002A	260540	N - 5	I	F	June 17, 1977	June 17, 1977	Diana M. Parkes, Supr. Twp. Hall 3040 N. Prospect Rd. Ypsilanti, MI 48197 Phone: 313-482-6099
MI	Bay	Township of Williams 0001A-0002A	260359	N - 5	I	F	June 17, 1977	June 17, 1977	Stanley T. Wasek, Twp. Supr. Box 97 Auburn, MI 48611 Phone: 517-662-6277

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
NC	Davidson	Davidson County (Uninc. Areas) 0001A-0007A	370307	E - 5	I	F	June 17, 1977	June 17, 1977	Jim Phillips, Co. Manager County Courthouse Lexington, NC 27292 Phone: 704-246-2549
NC	Wayne	Town of Mount Olive 0001A-0002A	370369	E - 5	I	F	June 17, 1977	June 17, 1977	I. Ray McDonald, Mayor P.O. Box 286 Mount Olive, NC 28365 Phone: 919-658-9536
PA	York	Township of Manchester 0001A-0002A	420931	E - 10, 11, 12, 14	I	F	June 17, 1977	June 17, 1977	William D. Poet, Supr. 2500 Midpine Drive York, PA 17404 Phone: 717-764-9560
WI	Waushara	Waushara County (Uninc. Areas) 01-48	550540A	N - 5	I	F	June 17, 1977	June 17, 1977	Elmer Weeland, Chairman County Board Coloma, WI 54930 Phone: 414-787-2320

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
AR	Benton	CITY of Little Flock (01-02)	050479 A	N-5	I	F	21 JUN 77	21 JUN 77	Honorable John McLeod - Mayor - Town Hall - Little Flock, AR 72756 (501) 636-3232
AR	Uninc. Area	Monroe County (01-47)	050154 A	N-5	I	F	21 JUN 77	21 JUN 77	Honorable Tom Catlett - County Judge - Office of the County Judge - County Courthouse - Clarendon, AR 72029 (501) 747-3632
AR	Uninc. Area	Sharp County (03-46)	050464 A	N-5	I	F	21JUN 77	21 JUN 77	Honorable Les Anderson - County Judge - Office of the County Judge - County Courthouse - Hardy, AR 72542 (501) 994-7338
CA	Alameda	City of Fremont (04,07-12,14-16,18-30)	065028 A	E-11,12,14, 15	I	F	14 FEB 75	21 JUN 77	Mr. Herbert Epstein - Economic Development Director - City Government Building - Fremont, CA 94538 (415) 796-0800
CA	Shasta	City of Redding (0001-0004)	060360 A	E-8,11,12,14	I	F	20 DEC 74	21 JUN 77	Mr. Phillip Perry - Associate Planner - Department of Planning and Community Development - 760 Parkview - Redding, CA 96001 (916) 246-1151
CT	New Haven	Town of Cheshire (01-12)	090074 A	E-11,12,14	I	F	5 APR 74	21 JUN 77	Mr. William Blitz - Town Planner - Town Hall - 84 S. Main Street - Cheshire, CT 06410 (203) 272-7347

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
CT	Tolland	Town of Mansfield (01-16)	090128 B	E-12,14	I	F	9 JAN 74 29 OCT 76	21 JUN 77	Mr. Grant Meitzler - Town Engineer - P.O. Box 207 - Mansfield Center, CT 06250 (203) 423-4547
IA	Uninc. Area	Kossuth County (0001-0010)	190884 A	N-5	I	F	21 JUN 77	21 JUN 77	Mr. Lawrence Newbrough - Chairman - Board of County Commissioners - Courthouse - Algona, IA 50511 (515) 295-2718
IA	Uninc. Area	Lee County (0001-0007)	190182 A	N-5	I	F	21 JUN 77	21 JUN 77	Ms. Darlene Morrison - Chairman - Board of Supervisors - County Courthouse - Fort Madison, IA 52627 (319) 372-6557
KS	Uninc. Area	Dickinson County (0001-0009)	200575 A	N-5	I	F	21 JUN 77	21 JUN 77	Mr. Gerald Smith - Chairman - Board of County Commissioners - Courthouse - Abilene, KS 67410 (913) 2027
ME	Washington	City of Eastport (01-05)	230137 A	E-11,12,14	C	F	26 JLY 74	21 JUN 77	Mr. Everett Baxter - City Manager 78 High Street - Eastport, ME 04631 (207) 853-2300

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
MA	Norfolk	Town of Norwood (01-06)	250248 A	E-11,12,14	I	F	16 AUG 74	21 JUN 77	Mr. John Mogan - General Manager - P.O. Box 40 - Town Hall - Norwood, MA 02062 (617) 762-1240
MA	Middlesex	Town of Reading (01-06)	250211 A	E-5	I	F	21 JUN 77	21 JUN 77	Mr. John W. Agnew, Jr. - Chairman Office of Board of Selectmen - Municipal Building - Reading, MA 01867 (617) 942-0500
MA	Norfolk	Town of Stoughton (01-07)	250253 A	E-11,12,14	I	F	2 AUG 74	21 JUN 77	Mr. Albert Gray, Jr. - Town Manager - 10 Pearl Street - Stoughton, MA 02072 (617) 344-6565
MO	Platte	City of Houston Lake (01)	290576 A	N-5	I	F	21 JUN 77	21 JUN 77	Honorable Frank E. Barnes - Mayor City Hall - Houston Lake, MO (816) 231-7711
MO	Ray	City of Orrick (01)	290309 A	E-11,12,14	I	F	5 APR 74	21 JUN 77	Honorable Lloyd F. Smith - Mayor - Office of the Mayor - P.O. Box 365 Orrick, MO 64077 (816) 496-3607
NB	Uninc. Area	Hall County (01-35)	310100 A	E-10,11,12, 14	I	F	20 DEC 74	21 JUN 77	Mr. Robert Boehm - Board of Supervisors - 621 West Koenig - Grand Island, NB 68801 (308) 382-4679
NB	Uninc. Area	Jefferson County (0001-0006)	310447 A	N-5	I	F	21 JUN 77	21 JUN 77	Mr. Willard Gumaer - Chairman - Board of County Commissioners - County Courthouse - Fairbury, NB 68352 (402) 729-2323

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
NH	Sullivan	Town of Washington (01-02,04-09,11-17)	330166 B	N-12	I	F	27 DEC 74 8-27-76	21 JUN 77	Mr. Hilbert S. Cofield - Chairman Board of Selectmen - Office of Selectmen - Washington, NH 03280 (603) 478-5765
OK	Harper	Town of Laverne (01)	400069 A	E-10,11,12	I	F	3 MAY 74	21 JUN 77	Mr. Cecil Hurley - Board President Town Hall - 115 North Ohio - Laverne, OK 73848 (405) 921-5121
OK	Payne	Town of Ripley (01)	400324 A	N-5	I	F	21 JUN 77	21 JUN 77	Mr. Dale Carothers - Board President - Town Hall - Main Street - Ripley, OK 74062 (918) 372-4287
SD	Minnehaha	City of Garretson (01)	460177 A	E-11,12,14	I	F	26 SEP 75	21 JUN 77	Mr. Robert E. Nelson - Mayor - Garretson, SD 57030 (605) 594-3414

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
TX	McLennan	Town of Lorena (01-02)	480928 A	N-5	I	F	21 JUN 77	21 JUN 77	Honorable William T. Woody - Mayor - Town Hall - Lorena, TX 76655 (817) 857-4504
UT	Juab	Town of Levan (01)	490080 A	N-5	I	F	21 JUN 77	21 JUN 77	Honorable Farrell Wankier - Mayor Town Hall - Levan, UT (801) 623-1959
UT	Utah	City of Lindon (01-03)	490210 A	N-5	I	F	21 JUN 77	21 JUN 77	Honorable Willard M. Johnson - Mayor - City Hall - Box 21A - Pleasant Grove, UT 84062 (801) 785-2267
UT	Juab	Town of Mona (01)	490081 A	N-5	I	F	21 JUN 77	21 JUN 77	Mr. Don F. Newton - Town President Town Hall - Mona, UT 84645 (801) 623-0630
WA	Whatcom	City of Bellingham (0001-0002)	530199 A	N-8,10,11,12	C	F	14 JUN 74	21 JUN 77	Honorable R. W. Williams - Mayor - City Hall - 210 Lottie Street - Bellingham, WA 98225 (206) 676-6800
WA	Uninc. Area	Franklin County (0001-0018)	530044 A	E-5	I	F	21 JUN 77	21 JUN 77	Mr. James Rogers - Chairman - Board of County Commissioners - County Courthouse - Pasco, WA 99301 (509) 545-3536
WA	Uninc. Area	Jefferson County (01-15,17-27,30-35,37-48, 51-54,56,59-63,65,67-83)	530069 A	E-5	C	F	21 JUN 77	21 JUN 77	Mr. B. G. Brown - Chairman - Board of County Commissioners - County Courthouse - Port Townsend, WA 98368 (206) 385-2016

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
WA	Uninc. Area	Pend Oreille County (02,07,11-12,16,21,26-27, 33,38-39,43-44,49-50,54, 58-60,63-65,68-70,73-76, 79-81,83-94)	530131 A	E-5	I	F	21 Jun 77	21 JUN 77	Mr. John Krogh,- Chairman - Board of County Commissioners - County Courthouse - Newport, WA 99156 (509) 447-4119
WA	Pierce	Town of Roy (01)	530262 A	N-11,12	I	F	18 JLY 75	21 JUN 77	Honorable Gary W. Roush - Mayor - P.O. Box 154 - Roy, WA 98580 (206) 843-2253
WY	Lincoln	Town of Afton (01)	560068 A	N-5	I	F	21 JUN 77	21 JUN 77	Honorable Elno F. Draney - Mayor - Town Hall - 40 East Fifth Avenue - Afton, WY 83110 (307) 886-5238

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
AL	Hale Tuscaloosa	Town of Moundville 0001A	010096	E - 10,11, 12,14	I	F	June 21, 1974	June 24, 1977	W.B. Chandler, Mayor P.O. Box 206 Moundville, AL 35474 Phone: 205-371-2231
DE	Sussex	Town of Laurel 01	100040A	E - 10,12, 14	I	F	June 7, 1974	June 24, 1977	George M. Warner, Mayor P.O. Box 210 Laurel, DE 19956 Phone: 302-875-2277
FL	Flagler	Town of Beverly Beach 0001A	120569	N - 5	I	F	June 24, 1977	June 24, 1977	Bob Conkling, Mayor P.O. Box 146 Flagler Beach, FL 32036 Phone: 904-439-2102
IL	Lake	Village of Lake Barrington 01-04	170372B	E - 12,14	I	F	Sept. 13, 1974 Jan. 14, 1977	June 24, 1977	Jorden Hubschman, Vil. Pres. 114 Vance Court Lake Barrington, IL 60010 Phone: 312-381-6010

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
IN	Lake	Lake County (Uninc. Areas) 0001A-0009A	180126	E - 10,11, 12,14	I	F	Dec. 6, 1974	June 24, 1977	Atterson Spann, Pres. Bd. of Commissioners 2293 North Main Street Crown Point, IN 46307 Phone: 219-663-0760
IN	Posey	Posey County (Uninc. Areas) 01-37	180209A	E - 10,11, 12,14	I	F	Dec. 13, 1974	June 24, 1977	Everett Searsey, Chairman County Commission County Courthouse Mt. Vernon, IN 47620 Phone: 812-838-3492
KY	Allen	Allen County (Uninc. Areas) 0001A-0013A	210267	N - 5	I	F	June 24, 1977	June 24, 1977	A.R. Oliver, County Judge County Courthouse Box 115 Scottsville, KY 42164 Phone: 502-237-3631
KY	Bourbon	Bourbon County (Uninc. Areas) 0001A-0010A	210271	E - 5	I	F	Do	June 24, 1977	Guy F. Ornsby, Jr., Co. Judge County Courthouse Paris, KY 40361 Phone: 606-987-3010
KY	Christian	Christian County (Uninc. Areas) 0001A-0012A	210277	N - 5	I	F	Do	June 24, 1977	William S. Edmunds, Co. Judge County Courthouse P.O. Box 15 Hopkinsville, KY 42240 Phone: 502-886-6665
KY	Henderson	Henderson County (Uninc. Areas) 0001A-0008A	210286	N - 5	I	F	Do	June 24, 1977	A.G. Pritchett, Co. Judge County Courthouse Henderson, KY 42420 Phone: 502-826-3971

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
KY	McCracken	McCracken County (Uninc. Areas) 0001A-0004A	210151	E - 10,11, 12,14	I	F	Dec. 6, 1974	June 24, 1977	Raymond Schultz, Co. Judge County Courthouse Raducah, KY 42001 Phone: 502-443-8831
MI	Arenac	Township of Deep River 0001A-0002A	260350	N - 5	I	F	June 24, 1977	June 24, 1977	Stanley Oziuben, Twp. Supr. R.D. 2, Box 71 Standish, MI 48658 Phone: 517-846-4372
MI	Oakland	Township of Holly 0001A-0002A	260474	N - 5	I	F	Do	June 24, 1977	Seeley Tinsman, Twp. Supr. 102 Front Street Holly, MI 48442
MI	Menominee	Township of Meyer 0001A-0002A	260458	N - 5	I	F	Do	June 24, 1977	Lester Johnson, Supr. Twp. Hall Hermansville, MI 49047 Phone: 906-498-2382
MN	Washington	City of Mahtomedi 0001A	270698	N - 5	I	F	Do	June 24, 1977	Joe Muhuich, Mayor 600 Stillwater Road Mahtomedi, MN 55115 Phone: 612-426-3344
NJ	Somerset	Township of Bedminster 0001A-0002A	340427	E - 10,11, 12,14	I	F	July 26, 1974	June 24, 1977	Albert F. Winkler, Mayor Hillside Ave. Bedminster, NJ 07921 Phone: 201-234-0333

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
NJ	Camden	Borough of Runnemede 0001A	340144	E - 10,11, 12,14	I	F	Dec. 7, 1973	June 24, 1977	David Venella, Mayor Fifth Ave. & Black Horse Pike Runnemeade, NJ 07078 Phone: 609-939-5161
NY	Orange	Village of Goshen 0001A	361571	E - 5	I	F	June 24, 1977	June 24, 1977	Robert J. Rysinger, Mayor 41 Webster Ave. Goshen, NY 10924
NY	Nassau	Village of Port Washington North 0001A	361562	E - 5	I	F	June 24, 1977	June 24, 1977	Thomas J. Pelligrino, Mayor One Soundview Drive Port Washington, NY 11050 Phone: 516-883-5900
NC	Duplin	Town of Kenansville 01A	370399	N - 5	I	F	June 24, 1977	June 24, 1977	E. Douglas Judge, Mayor P.O. Box 420 Kenansville, NC 28349 Phone: 919-296-5241
OH	Paulding	Village of Grover Hill 01	390436A	E - 15	I	F	June 24, 1977	June 24, 1977	Jerry Priest, Mayor Village Hall Grover Hill, OH 45849 Phone: 419-587-3656
OH	Richland	Village of Lucas 01	390661B	N - 12,14	I	F	April 5, 1974 Sept. 26, 1975	June 24, 1977	Donald E. Smith, Mayor 152 Brightwood Blvd. Lucas, OH 44843 Phone: 419-892-2491

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
PA	Columbia	Township of Catawissa 0001A-0002A	420342	E - 10,11, 12,14	I	F	Feb. 1, 1974	June 24, 1977	Frank B. Ernest, Chairman R.D. 1 Catawissa, PA 17820 Phone: 717-784-2919
PA	York	Township of Hellam 0001A-0003A	420927	E - 10,11, 12,14	I	F	March 29, 1974	June 24, 1977	Michael P. Loucks, Twp. R.D. 1 Chairman Wrightsville, PA 17368 Phone: 717-252-3169
PA	Beaver	Township of Independence 0001B-0002B	421323	E - 11,12, 14	I	F	Aug. 30, 1974 June 18, 1976	June 24, 1977	E. Lee Ulmer, Twp. Sec. R.D. 2, Box 670 Aliquippa, PA 15001 Phone: 412-378-2851

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
PA	Berks	Township of Pike 0001A-0003A	421382	E - S	I	F	June 24, 1977	June 24, 1977	Gordon E. Brown, Chairman Township Supervisors R.D. 1 Millville, PA 17846 Phone: 717-458-6723
PA	Union	Township of Union 01-07	420834A	N - 11,12, 14	I	F	Dec. 28, 1973	June 24, 1977	Union Twp. Planning Comm. c/o Samuel A. Wood, Sec. Winfield, PA 17889 Phone: 717-524-4411
WI	Washington	Village of Germantown 0001A-0002A	550472	E - 10,11, 12,14	I	F	June 28, 1974	June 24, 1977	William Wetterall, Vil. Pres. N 122 - W 17177 Pond du Lac Germantown, WI Phone: 414-677-2177

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
AR.	Uninc. Area	Lincoln County (01-41)	050445 A	N-5	I	F	28 JUN 77	28 JUN 77	Honorable Charles Green - County Judge - Office of Lincoln County Judge - Star City, AR 71667 (501) 628-4521
AR	Uninc. Area	St. Francis County (01-43)	050184 A	N-5	I	F	28 JUN 77	28 JUN 77	Honorable W. R. Hamilton - County Judge - Office of the County Judge - County Courthouse - Forrest City, AR 72335 (501) 633-1656
ID	Uninc. Area	Ada County (01-02,04-06,08-11,13-16, 18-35,37-41,44-50,52,54-56, 58-60,64-66,69-70)	160001 A	E-5	I	F	28 JUN 77	28 JUN 77	Linda L. Davis - Chairman - Board of County Commissioners - County Courthouse - Boise, ID 83707 (208) 343-4605
ID	Uninc. Area	Latah County (01-02,04-05,07-08,10-21, 23-32,35-58,60-67)	160086 A	E-10,11,12, 14	I	F	8 NOV 74	28 JUN 77	Mr. Gerald A. Ingle - Chairman - Board of County Commissioners - County Courthouse - Moscow, ID 83843 (208) 882-8530

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
KS	Uninc. Area	Lyon County (01-60)	200201 A	E-5	I	F	28 JUN 77	28 JUN 77	Mr. R. P. Felkner - Chairman - Board of County Commissioners - County Courthouse - Emporia, KS 66801 (316) 342-3832
KS	Uninc. Area	Marshall County (01-54)	200210 A	N-5	I	F	28 JUN 77	28 JUN 77	Mr. L. N. Rasmussen - Chairman - Board of County Commissioners - County Courthouse - Marysville, KS 66508 (913) 562-3721
KS	Uninc. Area	McPherson County (01-54)	200214 A	N-5	I	F	28 JUN 77	28 JUN 77	Mr. Carl Oakleaf - Chairman - Board of County Commissioners - County Courthouse - McPhearson, KS 67460 (316) 241-3656
KS	Uninc. Area	Saline County (01-42)	200316 A	E-5	I	F	28 JUN 77	28 JUN 77	Mr. James L. Martin - Chairman - Board of County Commissioners - County Courthouse - Salina, KS 67401 (913) 827-1961
LA	Uninc. Area	Iberia Parish (01-69)	220078 A	E-5	C	F	28 JUN 77	28 JUN 77	Mr. Romo Romero - President - Office of the Police Jury - Parish Courthouse - New Iberia, LA 70560 (318) 365-8246
LA	Uninc. Area	Red River Parish (01-32)	220152 A	E-10,11,12, 14	I	F	6 SEP 74	28 JUN 77	Mr. Glenn Jones - President - Police Jury - Parish Courthouse - Coushatta, LA 71019 (318) 932-5719

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
LA	Uninc. Area	Richland Parish (01-46)	220154 A	E-5	I	F	28 JUN 77	28 JUN 77	Mr. E. T. Greer - President - Office of the Police Jury - Parish Courthouse - Rayville, LA 71269 (318) 728-2061
LA	Uninc. Area	St. Charles Parish (01-30)	220160 A	E-11,12,14	I	F	11 NOV 74	28 JUN 77	Inaz R. Schillaci - Secretary, St. Charles Parish Police Jury - P.O. Box 302 - Hahnville, LA 70057 (504) 783-2233
MA	Middlesex	City of Woburn (0001)	250229 A	E-5	I	F	28 JUN 77	28 JUN 77	Honorable Edward P. Gilgun - Mayor - 10 Common Street - Woburn, MA 01801
MT	Uninc. Area	Flathead County (03-04,06-08,12-13,17-19, 21-22,27-49,52-59,62-65,67-91, 94-96,98-99,103-105,107-108)	300023 B	E-10,11,12, 14	I	F	13 SEP 74 19 MAR 76	28 JUN 77	Mr. Frank Guay - Chairman - Board of County Commissioners - P.O. Box 1000 - Kalispell, MT 59901 (406) 755-5300
NB	Uninc. Area	Dakota County (01-20)	310429 A	E-5	I	F	28 JUN 77	28 JUN 77	Bert G. Harris - County Clerk - County Clerk's Office - Dakota City, NB 68731 (402) 987-3646

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
OR	Uninc. Area	Wallowa County (02-03,07,09,11,14-18,24,32, 37,46-48,54,56-59,61-62,64-72, 74-78,83-86,90,92,96,98,101-102,105)	410224 A	E-5	I	F	28 JUN 77	28 JUN 77	Mr. Claude H. Hall - Chairman - Board of County Commissioners - County Courthouse - Enterprise, OR 97828 (503) 426-3226
TX	Uninc. Area	Angelina County (0001-0011)	480007 A	N-10,11,12	I	F	27 DEC 74	28 JUN 77	Honorable Claude Welch - County Judge - Office of the County Judge - County Courthouse - Lufkin, TX 75901 (713) 634-5413
WA	Uninc. Area	Spokane County (01-04,06-14,16-20,22-23, 25-40,42-62,64-97,99-105)	530174 A	E-10,11,12, 14	I	F	17 JAN 75	28 JUN 77	Mr. E. W. Parsons - Chairman - Board of County Commissioners - County Courthouse - Spokane, WA 99201 (509) 456-2265

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
AL	Henry	Henry County (Uninc. Areas) 01-45	010261A	E - 10,11, 12,14	I	F	Jan. 17, 1975	July 1, 1977	R.M. McSwean, Pro. Judge P.O. Box 457 Abbeville, AL 35310 Phone: 205-585-3257
AL	Madison	Madison County (Uninc. Areas) 0001A-0012A	010151	N - 5	I	F	July 1, 1977	July 1, 1977	James Record, Chairman County Commission County Courthouse Huntsville, AL 35801 Phone: 205-536-5911
FL	Hillsborough	City of Tampa 01-40	120114A	E - 5	C	F	July 1, 1977	July 1, 1977	William F. Poe, Mayor City Hall Tampa, FL 33602 Phone: 813-223-8181
GA	Effingham	Town of Guyton 01	130456A	N - 5	I	F	July 1, 1977	July 1, 1977	John Barner, Mayor City Hall Guyton, GA 31312 Phone: 912-772-3353
GA	Carroll	Town of Mount Zion 0001A	130286	N - 5	I	F	July 1, 1977	July 1, 1977	Jack Dorsey, Mayor Town Hall Mount Zion, GA 30117 Phone: 404-832-9340

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
IL	Cook	Village of South Holland 01-03	170163A	E - 8,11	I	F	March 15, 1974	July 1, 1977	Harold J. Gouwens, Vil. Pres. 16015 Wausau Ave. South Holland, IL 60473 Phone: 312-333-0572
IN	Boone	Boone County (Uninc. Areas) 0001A-0006A	180011	E - 10,11, 12,14	I	F	Nov. 29, 1974	July 1, 1977	Roy Dulin, Pres. Board of Co. Commissioners Zionsville, IN 46052 Phone: 317-873-3432
IN	Hancock	Hancock County (Uninc. Areas) 0001A-0006A	180419	E - 5	I	F	July 1, 1977	July 1, 1977	Dawfon Frey, Chairman County Commissioners County Courthouse Greenfield, IN 46410
IN	LaGrange	LaGrange County (Uninc. Areas) 0001A-0004A	180125	N - 5	I	F	July 1, 1977	July 1, 1977	Orville Yoder, Chairman County Commissioners County Courthouse LaGrange, IN 46761 Phone: 219-463-3431
IN	Newton	Newton County (Uninc. Areas) 0001A-0008A	180179	E - 10,11, 12	I	F	Jan. 3, 1975	July 1, 1977	Chairman County Commissioners County Courthouse Kentland, IN 47951 Phone: 219-474-5842
KY	Kenton	Kenton County (Uninc. Areas) 0001A-0003A	210128	E - 10,11, 12,14	I	F	Oct. 18, 1974	July 1, 1977	James Dressman, C. Judge City-County Building Third and Court Street Covington, KY 41011 Phone: 606-292-2320

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
KY	Owen	City of Monterey 01	210295A	E - 11	I	F	March 28, 1975	July 1, 1977	Joe Peters, Mayor City Hall Monterey, KY 40349 Phone: 502-484-2666
MN	Rock	Rock County (Uninc. Areas) 01-28	270642A	N - 5	I	F	July 1, 1977	July 1, 1977	William J. Doherty, Chairman Bd. of Commissioners County Courthouse Luverne, MN 56156 Phone: 507-283-9501
NJ	Burlington	Township of Medford 0001A-0003A	340104	E - 10,11, 12,14	I	F	Feb. 1, 1974	July 1, 1977	Ephraim Tomlinson, II, Mayor 17 North Main Street P.O. Box 8 Medford, NJ 08055 Phone: 609-654-2608
NJ	Gloucester	Borough of Newfield 01	340549A	N - 5	I	F	July 1, 1977	July 1, 1977	Albert Robinson, Mayor P.O. Box 328 Newfield, NJ 08344 Phone: 609-697-1100
NY	Tompkins	Town of Caroline 01-07	360843B	E - 9	I	F	Sept. 6, 1974 April 9, 1976	July 1, 1974	Harold K. Pagton, Supr. 736 Valley Road Brooktondale, NY 14817 Phone: 607-539-7357

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
NY	Columbia	Town of Canaan 0001B-0004B	361313	E - 11,12, .14	I	F	Nov. 1, 1974 May 21, 1976	July 1, 1977	William Butt, Chairman Town Planning Board Frisbee Street East Chatham, NY 12060 Phone: 518-392-4096
NY	Dutchess	Town of Clinton 01-05	361334B	E - 9	I	F	Dec. 20, 1974 Aug. 20, 1976	July 1, 1977	Arthur L. Fried, Supr. Box 366 Hollow Road Staatsburg, NY 12580
NY	Chautauqua	Village of Forestville 01	361501A	N - 5	I	F	July 1, 1977	July 1, 1977	James K. Merrit, Mayor Chestnut Street Forestville, NY 14062 Phone: 716-965-4842
NY	Oswego	Town of Hastings 01-08	360653B	E - 9	I	F	Nov. 1, 1974 May 21, 1976	July 1,1977	Richard English, Supr. R.D. 1 Hastings, NY 13076 Phone: 315-668-2456
NY	Warren	Town of Johnsburg 01-24	360875A	N - 9	I	F	Aug. 27, 1976	July 1, 1977	Sterling J. Goodspeed, Supr. North Creek, NY 12853 Phone: 518-998-2421

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
NY	Otsego	Town of Morris 01-03	361273B	E - 9	I	F	Nov. 15, 1974 July 9, 1976	July 1, 1977	Lewis Foote, Sr., Supr. Town Hall Morris, NY 13808 Phone: 607-263-5170
NY	St. Lawrence	Town of Morristown 01-09	360706B	N - 9	I	F	Sept. 6, 1974 July 16, 1976	July 1, 1977	William Farley, Supr. Morristown, NY 13766 Phone: 315-375-6510
NY	Montgomery	Village of Nelliston 01	360453B	E - 9	I	F	Feb. 15, 1974 April 30, 1976	July 1, 1977	Harvey Grant, Mayor Village Hall Nelliston, NY 13410 Phone: 518-993-2861
NY	Sullivan	Town of Neversink 01-11	360828B	E - 9	I	F	June 21, 1974 July 30, 1976	July 1, 1977	Joseph Rassa, Supr. Town Hall Neversink, NY 12765 Phone: 914-985-2922
NY	Schuyler	Town of Orange 01-06	360748B	E - 9	I	F	July 26, 1974 April 16, 1976	July 1, 1977	Robert W. Scott, Supr. R.D. 1, Box 77 Beaver Dam, NY 14812 Phone: 607-962-2963

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
NY	Yates	Village of Penn Yan 01-02	360962B	E - 9	I	F	May 31, 1974 Sept. 24, 1976	July 1, 1977	Bruce LeClaire, Mayor Village Hall Penn Yan, NY 14527 Phone: 315-536-3015
NY	Seneca	Town of Waterloo 01-03	360759A	E - 10,11, 12,14	I	F	July 19, 1974	July 1, 1977	Laverne Sessler, Supr. R.D. 3, Kings Row Waterloo, NY 13165
NC	Alleghany	Alleghany County (Uninc. 0001A-0006A Areas)	370004	N - 5	I	F	July 1, 1977	July 1, 1977	Leo J. Thompkins, Chairman County Commissioners P.O. Box 73 Sparta, NC 28675 Phone: 919-372-4179
NC	Edgecombe	Town of Leggett 0001A-0002A	370317	N - 5	I	F	July 1, 1977	July 1, 1977	J.H. Koonze, Mayor Rt. 2, Box 138 Leggett, NC 27886 Phone: 817-823-4875

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
PA	Washington	Borough of Coal Center 01	422131A	E - 8,11	I	F	Nov. 8, 1974	July 1, 1977	Edgar Delbarre, Mayor Borough Building Coal Center, PA 15423 Phone: 412-938-8933
PA	Juniata	Township of Lack 0001A-0005A	421742	E - 10,11, 12,14	I	F	SEPT. 13, 1974	July 1, 1977	Edward L. Neidigh, Twp. Chairman Blairs Mills, PA 17213 Phone: 717-734-3615
PA	Tioga	Township of Ward 0001A-0004A	422101	E - 5	I	F	July 1, 1977	July 1, 1977	Mason Machmer, Twp. Chairman R.D. 2, Box 206A Canton, PA 17724 Phone: 717-673-8430
PA	Lycoming	Township of Wolf 0001A-0003A	420663	E - 5	I	F	July 1, 1977	July 1, 1977	Harry Rodgers, Twp. Chairman R.D. 1 Hughesville, PA 17737 Phone: 717-584-2721
PA	Lycoming	Township of Woodward 0001A	420664	E - 10,11, 12,14	I	F	March 15, 1974	July 1, 1977	Michael Farmer, Chairman P.O. 68 Linden, PA 17744 Phone: 717-323-4836

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
TN	McMinn	McMinn County (Uninc. 0001A-0006A Areas)	470126	N - 5	I	F	July 1, 1977	July 1, 1977	Lowell T. Stewart, Co. Manager County Courthouse Athens, TN 37303 Phone: 615-259-5000
WV	Marion	Marion County (Uninc. 0001A-0005A Areas)	540097	N - 10,11 12,14	I	F	Aug. 30, 1974	July 1, 1977	Betty Gill, Pres. Bd. of Commissioners Second Floor - C. Courthouse Adams Street Fairmount, WV 26554 Phone: 304-366-1940
WI	Waukesha	City of Brookfield 0001A-0002A	550478	E - 10,11, 12,14	I	F	Nov. 9, 1973	July 1, 1977	William A. Mitchell, Jr., Mayor 2000 North Calhoun Road Brookfield, WI 53005 Phone: 414-782-9650
WI	Chippewa	Village of Cadott 01	550043A	E - 10,11, 12,14	I	F	Dec. 17, 1973	July 1, 1977	Walter Ebert, Vil. Pres. Route 1 Cadott, WI Phone: 715-289-3277

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
CO	Uninc. Area	Archuleta County (03-04,06-07,11,15,18-20, 24-28,30,33-39,43-44,46-48,50,53-54,56-57,60,62-63,65-66,68-71,73-77,79-82)	080273 A	E-5	I	F	5 JLY 77	5 JLY 77	W. H. Diestelkamp - Chairman - Board of County Commissioners - County Courthouse - Pagosa Springs CO 81147 (303) 968-2536
CO	Uninc. Area	Jefferson County (02-43)	080087 A	E-11,12,14	I	F	22 NOV 74	5 JLY 77	Ms. Donna Paschke - County Land-Use Co-ordinator - Jefferson County Courthouse - 1700 Arapahoe Golden, CO 80419 (303) 279-6511
ID	Uninc. Area	Shoshone County (01-03,05-16,24,26-32,35-36, 38-39,41-42,45-46,50-51)	160114 A	E-5	I	F	5 JLY 77	5 JLY 77	Vernon T. Lannen - County Commissioner - Board of County Commissioners - County Courthouse Wallace, ID 83873 (208) 752-1264
KS	Gray	City of Montezuma (01)	200539 A	N-5	I	F	5 JLY 77	5 JLY 77	Honorable Vernon Musser - Mayor - City Hall - Montezuma, KS 67867 (316) 846-3190

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
KS	Uninc. Area	Nemaha County (0001-0008)	200237 A	N-5	I	F	5 JLY 77	5 JLY 77	Mr. Frank H. Meyers, Jr. - Chairman - Board of County Commissioners - County Courthouse - Seneca, KS 66538 (913) 336-2170
OK	Uninc. Area	Carter County (0001-0010)	400030 A	N-5	I	F	5 JLY 77	5 JLY 77	Mr. Thomas M. Fraser - Chairman - Board of County Commissioners - County Courthouse - Ardmore, OK 73401 (405) 223-8414
OK	Garvin	City of Pauls Valley (01-02)	400246 A	N-5	I	F	5 JLY 77	5 JLY 77	Honorable Claude E. Cotten - Mayor - City Hall - P.O. Drawer 578 - Pauls Valley, OK 73075 (405) 238-6354
TX	Uninc. Area	Cass County (01-61)	480730 A	N-5	I	F	5 JLY 77	5 JLY 77	Honorable Bennett Hill - County Judge - Office of the County Judge - County Courthouse - Lincoln, TX 78948 (214) 756-5181
TX	Uninc. Area	Newton County (01-73)	480499 A	E-5	I	F	5 JLY 77	5 JLY 77	Honorable Lee Roy Fillyaw - Count Judge - Office of the County Judge - County Courthouse - Newton, TX 75966 (713) 379-5691

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
TX	Uninc. Area	Tarrant County (01-17,19-21,23-25,29-31, 35,37-41,43-54)	480582 A	E-10,11,12, 14	I	F	7 FEB 75	5 JLY 77	Honorable Mike Moncrief - County Judge - Office of the County Judge - County Courthouse - Fort Worth, TX 76101 (817) 336-9551

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued: August 5, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

FINAL LIST CODES

1. Conversion to Regular Program with FIRM (elevations determined)
2. Conversion to Regular Program with FIRM (no elevations determined)
3. Conversion to Regular Program with no Special Flood Hazard Areas- no FIRM
4. Conversion to Regular Program with no Special Flood Hazard Areas - no FIRM; rescission of FIRM effective on same date as conversion
5. Initial FIRM
6. Revision - Change of elevation; revised FIRM
7. Revision - Change of zone designation; revised FIRM
8. Revision - Corporate limit changes
9. Revision - Drafting corrections; Printing errors
10. Revision - Curvilinear
11. Revision - Add Flood Hazard Area
12. Revision - Reduce Flood Hazard Area
13. Revision - Federal Register omission
14. Revision - Refunds possible
15. Attention! A previous map (or maps) has been rescinded or withdrawn for this community. This may have affected the sequence of suffixes.

R - REGULAR PROGRAM E - EMERGENCY PROGRAM N- NOT IN PROGRAM

[FR Doc.77-24068 Filed 8-23-77;8:45 am]

RULES AND REGULATIONS

V 4 2 1 6 4
AUG 24
UNCLASSIFIED

Advance Orders are now being Accepted
for delivery in about 6 weeks

CODE OF FEDERAL REGULATIONS

(Revised as of April 1, 1977)

Quantity	Volume	Price	Amount
_____	Title 21—Food and Drugs (Part 1300–end)	$4.25	$_____
_____	Title 26—Internal Revenue (Part 1, §§ 1.401–1.500)	4.00	_____
_____	Title 26—Internal Revenue (Part 1, §§ 1.641–1.850)	4.25	_____
_____	Title 26—Internal Revenue (Parts 2–29)	4.50	_____
		Total Order	$_____

A Cumulative checklist of CFR issuances for 1977 appears in the first issue of the Federal Register each month under Title 1

PLEASE DO NOT DETACH

MAIL ORDER FORM To:
Superintendent of Documents, Government Printing Office, Washington, D.C. 20402

Enclosed find $..... (check or money order) or charge to my Deposit Account No. .....

Please send me ..... copies of:

PLEASE FILL IN MAILING LABEL BELOW

Name _____
Street address _____
City and State _____ ZIP Code _____

FOR USE OF SUPT. DOCS.
Enclosed
To be mailed later
Subscription
Refund
Postage
Foreign Handling

FOR PROMPT SHIPMENT, PLEASE **PRINT OR TYPE** ADDRESS ON LABEL BELOW, INCLUDING **YOUR ZIP CODE**

SUPERINTENDENT OF DOCUMENTS
U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON, D.C. 20402

OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U.S. GOVERNMENT PRINTING OFFICE
375
SPECIAL FOURTH-CLASS RATE BOOK

Name _____
Street address _____
City and State _____ ZIP Code _____

V 42 164 AUG 24 77 UMI

Vol.42—No.165
8–25–77
PAGES
42839–43049

federal register

THURSDAY, AUGUST 25, 1977

highlights

SUNSHINE ACT MEETINGS 43003

PRESIDENTIAL ADVISORY COMMITTEES
Executive order terminating certain committees 42839

OFFSHORE OIL AND GAS LEASES
Interior/GS proposes national orders for the outer continental shelf; comments by 10–25–77 42912

TREASURY SECURITIES
Treasury/Secy announces auction of Series K–1981 notes 42945

CUSTOMS REGULATIONS
Treasury/Customs amends regulations concerning carnets; effective 8–11–77 42851

DOMESTIC ENERGY SUPPLIES
Commerce/DIBA proposes regulations describing procedures for implementing departmental functions; comments by 9–15–77 (Part III of this issue) 43037

IMPORTED MEAT
USDA/FAS deletes obsolete regulations, and expands definition; effective 8–25–77 42841

VETERANS EDUCATION
VA solicits comments on revised statements of policy and procedure; comments by 9–23–77 42946

ARMS CONTROL
State amends regulations to strengthen U.S. control of exported defense articles and services; effective 9–1–77 .. 42851

POLLUTANT DISCHARGE ELIMINATION PROGRAM
EPA solicits comments on proposed amendments 42882

GASOLINE VAPOR CONTROL SYSTEMS
EPA proposes emission test procedures; comments by 10–11–77 42879

AVIATION SECURITY
DOT/FAA proposes to amend regulation pertaining to carriage of persons in custody of armed escorts, and places restrictions on the carrying of firearms in checked baggage; comments by 10–11–77 42874

CREDIT CARDS
FRS interprets regulation Z with regards to certain two-party plans; effective 8–17–77 42843

TEXTILE AND LEATHER APPAREL
FTC publishes Presiding Officer's report concerning care labeling 42875

CONTINUED INSIDE

165

V 42 165 A U G 25 7 7 UM

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202–523–5240.**

FEDERAL REGISTER, Daily Issue:	
Subscription orders (GPO)	**202**–783–3238
Subscription problems (GPO)	**202**–275–3050
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	**202**–523–5022
Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227
PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235
PUBLIC LAWS:	
Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

HIGHWAY REHABILITATION
DOT/FHWA solicits comments on establishing geometric design standards; comments by 10–25–77 42876

LAND RECLAMATION
Interior/Reclamation proposes regulations concerning acreage limitations and other provisions; comments by 11–23–77 (Part IV of this issue) 43043

TRAFFIC SAFETY
DOT/FHWA proposes to require states to assure safety of motorists, construction workers and pedestrians in construction zones on Federal-aid Highway projects; comments by 10–25–77 42877

EXCISE TAX
Treasury/IRS publishes final regulations pertaining to certain highway motor vehicles 42856

LOW-CARBON FERROCHROMIUM
Commerce/EDA publishes results of investigation 42891

RAILROAD MERGER AND CONSOLIDATION PROCEDURES
DOT/FRA revises rules concerning filing of proposed transactions; effective 8–25–77 (Part II of this issue) 43029

PRIVACY ACT
Interior/Secy amends system of records; comments by 9–25–77 42929

MEETINGS—
DOD/AF: Scientific Advisory Board, 9–12 thru 9–14–77 42893
DOT/CG: Ship Structure Subcommittee, 9–29–77 42937
FAA: Radio Technical Commission for Aeronautics, Special Committee 127—Emergency Locator Transmitters, 9–20 thru 9–22–77 42937
EPA: National Air Pollution Control Techniques Advisory Committee, 9–27 and 9–28–77 42894
State–Federal Water Programs Advisory Committee, 9–13–77 42893
FEA: Gasoline Marketing Advisory Committee, Subcommittee, 9–9–77 42895
HEW/OE: Extension and Continuing Education, National Advisory Council, 9–14 thru 9–16–77 42910
Secy: Postsecondary Education Improvement Fund, Board of Advisors, 9–25 and 9–26–77 42910
Interior/BLM: California Desert Conservation Area Advisory Committee, Public Participation Subcommittee, 9–20–77 42911
GS: Domestic Names Committee, 10–25 and 11–10–77 42928
NPS: Western Regional Advisory Committee, 9–17–77 42928
NASA: Research and Technology Advisory Council, Panel on Aviation Safety and Operating Systems, Ad Hoc Panel on Terminal Configured Vehicles, 9–14 thru 9–16–77 42930
Space Science Steering Committee, Space Telescope Ad Hoc Advisory Subcommittee, 9–19 thru 9–21–77 42930
NFAH/NEA: Theater Research Project, 9–9–77 42932
NSF: Science for Citizens Advisory Committee, 9–15 and 9–16–77 42932
Task Group No. 3, 9–9–77 42932
Science and Technology Policy Office: Working Group on Basic Research in the Defense Department, 9–22 and 9–23–77 42936
State: Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea (2 documents), 9–15 and 9–29–77 42937
Telecommunications Policy Office: Interagency Committee on Rural Telecommunications, 8–25–77 42936
USDA/FS: National Forest Management Committee of Scientists, 9–21 thru 9–23–77 42884

HEARINGS—
ITC: Certain Railway Track Maintenance Equipment from Austria, 10–6–77 42930

SEPARATE PARTS OF THIS ISSUE
Part II, DOT/FRA 43029
Part III, Commerce/DIBA 43037
Part IV, Interior/Reclamation 43043

V 42 N 165 AUG 25 77 UM

contents

THE PRESIDENT

Executive Order

Federal advisory committees; termination ---------- 42839

EXECUTIVE AGENCIES

AGRICULTURAL MARKETING SERVICE

Rules

Grapefruit grown in Ariz. and Calif ---------- 42842
Oranges (Valencia) grown in Ariz. and Calif ---------- 42841

AGRICULTURE DEPARTMENT

See also Agricultural Marketing Service; Farmers Home Administration; Forest Service.

Rules

Meat import limitation:
Foreign-trade zones, meat processed in ---------- 42841

AIR FORCE DEPARTMENT

Notices

Meetings:
Scientific Advisory Board ---------- 42893

ARTS AND HUMANITIES, NATIONAL FOUNDATION

Notices

Meetings:
Theatre research project consultants ---------- 42932

CIVIL AERONAUTICS BOARD

Notices

Mail rates, domestic service priority and nonpriority ---------- 42886
Hearings, etc.:
Alaska service investigation ---------- 42884
Atlanta-Charleston competitive nonstop investigation ---------- 42884
California - Toronto/Montreal route proceeding et al ---------- 42889
Florida-Atlanta competitive nonstop service case ---------- 42884
Iowa/Illinois-Atlanta route proceeding ---------- 42884
Laker Airways Limited-Skytrain service et al ---------- 42887

COAST GUARD

Notices

Meetings:
Ship Structure Committee et al ---------- 42937

COMMERCE DEPARTMENT

See also Domestic and International Business Administration; Economic Development Administration; Maritime Administration; National Oceanic and Atmospheric Administration.

Notices

Committees; establishment, renewals, etc.:
Coastal Zone Management Advisory Committee ---------- 42892

COMMODITY FUTURES TRADING COMMISSION

Rules

Sunshine Act; implementation; correction ---------- 42851

CUSTOMS SERVICE

Rules

Carnets, E.C.S. (Echantillons Commerciaux—Commercial Samples); nonacceptance for duty-free entry ---------- 42851

DEFENSE DEPARTMENT

See also Air Force Department.

Rules

Nondiscrimination; equal opportunity program; correction ---------- 42857

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Proposed Rules

Energy supplies, domestic, materials and equipment allocation and priority performance under contracts or orders ---------- 43037

ECONOMIC DEVELOPMENT ADMINISTRATION

Notices

Adjustment assistance eligibility, industry producing firm studies:
Low-carbon ferrochromium ---------- 42891

EDUCATION OFFICE

Notices

Applications and proposals, closing dates:
Follow Through program; correction ---------- 42910
Meetings:
Extension and Continuing Education National Advisory Council ---------- 42910

ENVIRONMENTAL PROTECTION AGENCY

Proposed Rules

Air quality implementation plans:
Vapor recovery; gasoline stations, stage II; test methods for mass emission rates ---------- 42879
Toxic substances:
Chlorofluorocarbons used in aerosol propellants; manufacturing, processing, distribution, reporting, etc.; extension of time ---------- 42882
Water pollution control; National discharge elimination system and State program elements:
Operations and procedures improvements; inquiry ---------- 42882

Notices

Air pollution control, new motor vehicles and engines:
Light duty vehicles and trucks; sulfuric acid emissions; measurement procedures, availability ---------- 42893
Meetings:
Air Pollution Control Techniques National Advisory Committee ---------- 42894
State-Federal Water Programs Advisory Committee ---------- 42893

FARMERS HOME ADMINISTRATION

Rules

Drought stricken areas, special assistance; termination provisions ---------- 42843
Title clearance and loan closing:
Profit, limited profit, and nonprofit organizations; use of own attorney ---------- 42843

FEDERAL AVIATION ADMINISTRATION

Rules

Airport aid program:
Advisory circulars ---------- 42849
Airworthiness directives:
Bendix ---------- 42845
Canadair ---------- 42846
Martin ---------- 42846
Control zones ---------- 42847
Standard instrument approach procedures ---------- 42847

Proposed Rules

Air carriers certification and operations:
Domestic, flag, and supplemental air carriers and commercial operators of large aircraft; security regulations; carriage of weapons and escorted persons ---------- 42874

Notices

Meetings:
Aeronautics Radio Technical Commission ---------- 42937

FEDERAL COMMUNICATIONS COMMISSION

Rules

FM broadcast stations; table of assignments:
Arkansas ---------- 42858

FEDERAL DISASTER ASSISTANCE ADMINISTRATION

Notices

Drought impact areas, emergency; various States, etc. (2 documents) ---------- 42911

FEDERAL ENERGY ADMINISTRATION

Notices

Energy conservation plans; environmental negative determinations:
Alaska ---------- 42894
Ohio ---------- 42894
Texas, et al ---------- 42895
Meetings:
Gasoline Marketing Advisory Committee, ad hoc subcommittee ---------- 42895

FEDERAL HIGHWAY ADMINISTRATION

Proposed Rules

Engineering and traffic operations:
Design standards, geometric; resurfacing, restoration, and rehabilitation projects ---------- 42876
Traffic safety in highway and street work zones; management plans ---------- 42877

Notices

Bridge tolls, etc.:
Bayonne Bridge et al ---------- 42937

FEDERAL MARITIME COMMISSION

Notices

Casualty and nonperformance, certificates:
Cunard Cruise Ships Ltd. et al ---------- 42897
Rate increases, etc.; investigations and hearings, etc.:
Atlantic & Gulf/Indonesia Conference et al ---------- 42895
Agreements filed, etc.:
Australia/Eastern U.S.A. Shipping Conference ---------- 42898
Lykes Bros. Steamship Co., Inc., et al ---------- 42897
Matson Terminals, Inc., et al ---------- 42898
Seattle, Port of, et al ---------- 42898

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
Carnegie Natural Gas Co. (3 documents ---------- 42898, 42899
Carolina Power & Light Co ---------- 42899
Columbia Gas Transmission Corp ---------- 42900
Delmarva Power & Light Co ---------- 42900
El Paso Natural Gas Co ---------- 42900
Energy Reserves Group, Inc ---------- 42901
High Island Offshore System ---------- 42901
Holyoke Water Power Co. et al ---------- 42902
Inexco Oil Co ---------- 42906
Northern States Power Co.; extension of time ---------- 42902
Pacific Power & Light Co ---------- 42902
Phillips Petroleum Co. et al ---------- 42902
Southern California Edison Co. (2 documents) ---------- 42904
Tampa Electric Co. (2 documents) ---------- 42904
Tenneco Atlantic Pipeline Co. et al ---------- 42905
Tenneco InterAmerica Inc. et al ---------- 42905
Texas Oil & Gas Corp. et al ---------- 42906
U-T Offshore System; extension of time ---------- 42906

FEDERAL RAILROAD ADMINISTRATION

Rules

Merger and consolidation procedures ---------- 43029

FEDERAL RESERVE SYSTEM

Rules

Truth-in-lending:
Credit card plans, transaction-by-transaction billing with no finance charge; interpretation ---------- 42843
Official staff interpretations; correction ---------- 42845

Notices

Board actions; applications and reports ---------- 42907
Applications, etc.:
White Cloud Bancshares ---------- 42909

FEDERAL TRADE COMMISSION

Rules

Prohibited trade practices:
CBS, Inc ---------- 42850

Proposed Rules

Textile products and leather wearing apparel; care labeling; report availability ---------- 42875

FISH AND WILDLIFE SERVICE

Rules

Hunting:
Bear River Migratory Bird Refuge, Utah ---------- 42867
Blackbeard Island National Wildlife Refuge, Ga ---------- 42870
Cape Romain National Wildlife Refuge, S.C ---------- 42872
Carolina Sandhills National Wildlife Refuge, S.C ---------- 42871
Chautauqua National Wildlife Refuge, Ill ---------- 42867
Crab Orchard National Wildlife Refuge, Ill ---------- 42868
Hatchie National Wildlife Refuge, Tenn ---------- 42869
Holla Bend National Wildlife Refuge, Ark ---------- 42873
Merritt Island National Wildlife Refuge, Fla ---------- 42872
Ravalli National Wildlife Refuge, Mont ---------- 42867
Santee National Wildlife Refuge, S.C ---------- 42868
Savannah National Wildlife Refuge, Ga ---------- 42871
Seney National Wildlife Refuge, Mich ---------- 42866
Tennessee National Wildlife Refuge, Tenn ---------- 42869
Wassaw National Wildlife Refuge, Ga ---------- 42870

Proposed Rules

Public access, entry, use, and recreation:
Ruby Lake National Wildlife Refuge, Oreg ---------- 42883

FOREST SERVICE

Notices

Meetings:
Scientists Committee, National Forest Management Act ---------- 42884

GEOLOGICAL SURVEY

Notices

Meetings:
Geographic Names Board and Domestic Names Committee ---------- 42928
Outer Continental Shelf; oil and gas lease operations, National orders:
Wells, platforms, structures, and subsea objects, etc ---------- 42912

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Education Office; Health Care Financing Administration.

Notices

Meetings:
Fund for Improvement of Postsecondary Education, Board of Advisors ---------- 42910

HEALTH CARE FINANCING ADMINISTRATION

Rules

Professional standards review:
Area designations; Ohio, boundaries of PSRO areas in ---------- 42857

Notices

Professional Standards Review Organizations; nominations, designations, etc.:
Ohio ---------- 42909

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Disaster Assistance Administration.

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Geological Survey; Land Manangement Bureau; National Park Service; Reclamation Bureau.

Rules

Property management; OMB waiver of copyright in certain grant agreements, etc ---------- 42857

Notices

Privacy Act; systems of records ---------- 42929

INTERNAL REVENUE SERVICE

Rules

Excise taxes:
Highway motor vehicle use tax; extension ---------- 42856

Notices

Authority delegations:
Assistant Commissioner (Compliance) et al.; confidential expenditures approval ---------- 42944
Tax examiners (Audits) et al.; issue summonses, administer oaths, etc ---------- 42943

INTERNATIONAL TRADE COMMISSION

Notices

Import investigations:
Pipe and tube, welded stainless steel ---------- 42930
Railway track maintenance equipment ---------- 42930

INTERSTATE COMMERCE COMMISSION

Notices

Hearing assignments ---------- 42993
Motor carriers:
Irregular route property carriers; gateway elimination ---------- 42994
Transfer proceedings ---------- 43000
Petitions, applications, finance matters (including temporary authorities), railroad abandonments, alternate route deviations, and intrastate application ---------- 42960
Petitions, applications, finance matters (including temporary authorities), railroad abandon-

V421165 AUG 25 77 UM

list of cfr parts affected in this issue

ments, alternate route deviations, and intrastate applications; correction ---------- 42993
Railroad car service rules, mandatory; exemptions ---------- 42994
Waste product transportation for reuse or recycling ---------- 43002

LAND MANAGEMENT BUREAU

Notices

Applications, etc.:
New Mexico ---------- 42912
Meetings:
California Desert Conservation Area Advisory Committee ---- 42911
Withdrawal and reservation of lands, proposed, etc.:
New Mexico ---------- 42911

MANAGEMENT AND BUDGET OFFICE

Notices

Privacy Act; systems of records ---- 42935

MARITIME ADMINISTRATION

Notices

Applications, etc.:
Equity Carriers, Inc ---------- 42892
States Steamship Co ---------- 42892

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notices

Meetings:
Research and Technology Advisory Council ---------- 42930
Space Science Steering Committee ---------- 42930

NATIONAL CAPITAL PLANNING COMMISSION

Notices

Citizen participation and intergovernmental liaison:
Meetings, agenda items ---------- 42931

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Notices

Motor vehicle safety standards; exemption petitions, etc:
Bristol Cars, Ltd ---------- 42942

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Notices

Fishery market news reports; subscription changes ---------- 42892

NATIONAL PARK SERVICE

Notices

Authority delegations:
Everglades National Park, Fla., Administrative Officer, et al ---- 42928
Washington Office; Contracting and Property Management Division Chief, et al ---------- 42928
Meetings:
Western Regional Advisory Committee ---------- 42928

NATIONAL SCIENCE FOUNDATION

Notices

Meetings:
National Science Foundation Advisory Council; Task Group #3 ---------- 42932
Science for Citizens Advisory Committee ---------- 42932

NATIONAL TRANSPORTATION SAFETY BOARD

Notices

Safety recommendations and accident reports; availability, responses, etc ---------- 42934

NUCLEAR REGULATORY COMMISSION

Notices

Regulatory guides; issuance and availability (2 documents) ----- 42934
Applications, etc.:
Florida Power & Light Co ------- 42932
Long Island Lighting Co ------- 42933
Northern States Power Co ------ 42933
Philadelphia Electric Co. et al -- 42933

OHIO RIVER BASIN COMMISSION

Notices

Comprehensive Coordinated Joint Plans; availability of reports:
Great Miami River Basin ------ 42936
Kentucky/Licking River Basin - 42936

PIPELINE SAFETY OPERATIONS OFFICE

Rules

Pipeline transportation of gas and liquids:
Pipe bends, longitudinal seams in ---------- 42865

Notices

Petitions for waiver; pipelines:
Trans-Alaska Crude Oil Pipeline ---------- 42943

RECLAMATION BUREAU

Proposed Rules

Acreage limitation; reclamation rules and regulations ---------- 43043

SCIENCE AND TECHNOLOGY POLICY OFFICE

Notices

Meetings:
Basic Research Working Group in Defense Department ------ 42936

SECURITIES AND EXCHANGE COMMISSION

Rules

Securities Exchange Act:
Lost and stolen securities program; reports and inquiries; correction ---------- 42851

STATE DEPARTMENT

Rules

International traffic in arms:
Administrative remedies and procedures; export of defense articles and services control -- 42851

Notices

Meetings:
Shipping Coordinating Committee (2 documents) ------- 42937

TELECOMMUNICATIONS POLICY OFFICE

Notices

Meetings:
Rural Telecommunications Interagency Committee ------- 42936

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration; National Highway Traffic Safety Administration; Pipeline Safety Operations Office.

TREASURY DEPARTMENT

See also Customs Service; Internal Revenue Service.

Notices

Notes, Treasury:
K-1981 series ---------- 42945

VETERANS ADMINISTRATION

Notices

Education benefits; policies and procedures ---------- 42946

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR

EXECUTIVE ORDERS:
11126 (Amended by EO 12007) ---- 42839
11221 (See EO 12007) ---------- 42839
11472 (Amended by EO 12007) ---- 42839
11514 (See EO 12007 ---------- 42839
11583 (Amended by EO 12007) ---- 42839
11625 (Amended by EO 12007) ---- 42839
11948 (Superseded in part by EO 12007) ---------- 42839
11962 (Revoked by EO 12007) ----- 42839
12007 ---------- 42839

7 CFR

16 ---------- 42841
908 ---------- 42841
909 ---------- 42842
1807 ---------- 42843
1888 ---------- 42843

12 CFR

226 (2 documents) -------- 42843–42845

14 CFR

39 (3 documents) ---------- 42845–42846
71 ---------- 42847
97 ---------- 42847
152 ---------- 42849
PROPOSED RULES:
121 ---------- 42874

16 CFR

13 ---------- 42850
PROPOSED RULES:
423 ---------- 42875

17 CFR

147 ---------- 42851
240 ---------- 42851

19 CFR

114 ---------- 42851

22 CFR

123 ---------- 42851
124 ---------- 42852
127 ---------- 42852
128 ---------- 42853

23 CFR

PROPOSED RULES:
625 ---------- 42876
630 ---------- 42877

26 CFR

41 ---------- 42856

32 CFR

191 ---------- 42857

32A CFR

PROPOSED RULES:
671 ---------- 43038

40 CFR

PROPOSED RULES:
52 ---------- 42879
123 ---------- 42882
124 ---------- 42882
125 ---------- 42882
762 ---------- 42882

41 CFR

114–60 ---------- 42857

42 CFR

101 ---------- 42857

43 CFR

PROPOSED RULES:
426 ---------- 43044

47 CFR

73 ---------- 42858

49 CFR

192 ---------- 42865
195 ---------- 42865
268 ---------- 43030

50 CFR

32 (15 documents) ---------- 42866–42873
PROPOSED RULES:
26 ---------- 42883

V 42 N 165 AUG 25 77 UM V

CUMULATIVE LIST OF PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR

Ch. I 38891

3 CFR

EXECUTIVE ORDERS:

12006 39081
11126 (Amended by EO 12007) 42839
11221 (See EO 12007) 42839
11472 (Amended by EO 12007) 42839
11514 (See EO 12007 42839
11583 (Amended by EO 12007) 42839
11625 (Amended by EO 12007) 42839
11948 (Superseded in part by EO 12007) 42839
11962 (Revoked by EO 12007) 42839
12007 42839

MEMORANDUMS:

January 2, 1973 (Amended by Memorandum of August 1, 1977) 40169
April 26, 1973 (See Memorandum of August 1, 1977) 40169
December 13, 1973 (See Memorandum of August 1, 1977) 40169
October 29, 1974 (See Memorandum of August 1, 1977) 40169
May 20, 1975 (See Memorandum of August 1, 1977) 40169
August 5, 1975 (See Memorandum of August 1, 1977) 40169
March 25, 1976 (Superseded by Memorandum of August 1, 1977) 40169
April 14, 1976 (See Memorandum of August 1, 1977) 40169
November 5, 1976 (See Memorandum of August 1, 1977) 40169
November 19, 1976 (Supplemented by Memorandum of July 21, 1977) 41401
July 20, 1977 39083
July 21, 1977 41401
August 1, 1977 40169
August 5, 1977 40171
August 11, 1977 42677
August 12, 1977 42185

PROCLAMATIONS:

4514 42299

4 CFR

105 38891

5 CFR

213 ..... 39085, 39657, 40173–40175, 40215, 40866, 40867, 41265–41267, 41813, 41814, 42301, 42302, 42679
713 40175

PROPOSED RULES:

890 41866

7 CFR

2 39669
16 42841
27 40677
68 40868
271 42302
301 42302
318 41267
354 41267
406 39953
409 39956
650 40114
725 40881

7 CFR—Continued

905 40882
908 ..... 38892, 39359, 39959, 40678, 41095, 41603 42841
909 42842
910 ..... 39085, 39359, 39669, 40882, 41814
918 40883
922 41268
926 40678
927 39670
929 40679
944 40885
945 40886
946 ..... 39671, 42679
947 41403
948 39360
958 39360
967 39361
980 40175
1011 40888
1040 41603
1205 41404
1421 ..... 40175–40185, 41269
1425 40187
1427 ..... 40421, 42308
1443 41269
1473 41269
1479 41269
1807 42843
1821 ..... 39085, 41815
1822 ..... 39361, 39362, 40679
1832 41815
1888 42843
1980 ..... 39362, 41816
2024 40680
2851 42309
2852 41843
2858 41846

PROPOSED RULES:

220 40911
657 42359
780 39223
917 ..... 39989, 42691
919 41431
926 41130
927 41644
929 39989
931 41866
945 39395
946 38913
967 ..... 39108, 41431
981 42227
989 41867
991 42227
993 ..... 39672, 41644
1002 41582
1006 38913
1011 39108
1012 38913
1013 38913
1097 41873
1102 41873
1108 41873
1133 40216
1435 40216

8 CFR

235 41847
242 38892

PROPOSED RULES:

108 39672

9 CFR

82 39658
92 41848

9 CFR—Continued

112 41849
160 41850
161 41850
319 42309
325 ..... 39086, 42309

PROPOSED RULES:

1 42044
3 42044
51 40911
381 41873

10 CFR

0 38893
71 39364
Ch. II 41095
202 41269
210 39959
211 ..... 39959, 41566, 42770
212 ..... 38894, 39195, 39959, 41566
213 39087
430 39964
460 41270

PROPOSED RULES:

73 42228
205 41242
210 40915
211 ..... 399114, 39395, 39990, 40448, 40915, 41242
212 ..... 39114, 40915, 41242, 41396, 41572
430 ..... 39114, 39673, 40217, 40701, 40826, 42361
450 41645

12 CFR

7 ..... 39969, 42537
202 ..... 39368, 40424
207 41604
220 41604
221 41604
224 41604
226 ..... 40424, 42843–42845
329 40425
343 40891
505 39368
545 39088
563 39198
563b 39088
571 42691
701 39369

PROPOSED RULES:

308 41130
311 41130
564 39115

13 CFR

120 40900
123 39970
301 39970
317 38896

PROPOSED RULES:

107 39992

14 CFR

1 ..... 41101, 42187
39 ..... 38896–38900, 39373–39377, 39971, 39972, 41102–41106, 41622–41625, 42188–42192 42845–42846
45 41101
71 ..... 38901, 39378, 39379, 39972–39976, 40690–40693, 41107–41113, 41625–41627, 42192–42194, 42847

14 CFR—Continued

73 ..... 39379, 41113
75 39379
91 42187
97 ..... 39380, 41114, 41627, 42847
121 42194
135 42194
152 42849
1204 41628
1241 42679

PROPOSED RULES:

25 41236
39 ..... 38917, 41131–41133, 41647
71 ..... 38917, 39993, 39994, 40710, 40711, 41134–41137, 41648, 42228
75 ..... 38917, 40711
121 ..... 41649, 42874
123 41649
135 41649
241 ..... 39115, 42691
245 ..... 39115, 42691
246 ..... 39115, 42691
378 40450
399 42229

15 CFR

46 39976
70 38901

PROPOSED RULES:

904 40711

16 CFR

2 ..... 39658, 42195
3 ..... 39658, 39977
4 42195
13 ..... 39198, 40681, 42309, 42850
18 39660
22 39660
27 41270
35 39660
47 39660
66 39660
105 39660
138 39660
177 39660
191 39660
206 39660
226 39660
433 40426
702 39381
1025 39089
1026 39089
1201 40188
1401 42780

PROPOSED RULES:

13 ..... 40714, 41297, 41431, 41649, 41874, 42692
423 42875
441 ..... 39995, 42693
453 41651
705 39223
801 ..... 39040, 39995, 41875
802 ..... 39040, 39995, 41875
803 ..... 39040, 39995, 41875
1500 39648
1605 39402

17 CFR

1 42748
140 39033
147 42851
200 ..... 40189, 40900
211 42310
231 42196
239 ..... 40900, 41405

17 CFR—Continued

240 ..... 38902, 39090, 40900, 41405, 42851
241 41022
249 40902
270 41405
271 42196

PROPOSED RULES:

1 ..... 39036, 42767
210 41433
211 41433
230 41875
231 41434
239 41139
240 ..... 41138, 41434
241 41434
270 41139
274 41139

18 CFR

1 40191
3 ..... 40191, 41276
4 40191
5 40191
6 40191
16 40191
35 ..... 39660, 41277
101 39661
104 39661
141 39661
154 ..... 41276, 41277
157 ..... 39090, 41276
201 39661
204 39661
260 39661

19 CFR

12 42683
114 42851
133 41278
153 ..... 39200, 41406
159 41630
205 40428
210 40428

PROPOSED RULES:

134 39227

20 CFR

416 ..... 39098, 40191
602 40192
702 42548
901 ..... 39200, 41115
902 39200

PROPOSED RULES:

404 38918
405 39995

21 CFR

Ch. I 40904
6 39100
14 41851
20 42526
25 42526
133 39101
176 ..... 41852, 41853
193 41279
310 41374
320 42311
510 41854
520 ..... 41854, 42312
522 ..... 39103, 41855
558 41855
561 41279
700 41374
801 40215
807 42526
809 42530

21 CFR—Continued

PROPOSED RULES:

182 ..... 39117, 41299, 41876
184 ..... 39117, 41299, 41876
186 41299
312 41301
320 39675
431 42361
500 40217
514 42361
808 41301
895 42000

22 CFR

123 ..... 39103, 41631, 42851
124 ..... 41631, 42852
127 42852
128 42853
202 40428

23 CFR

160 41279
655 ..... 41280, 41633

PROPOSED RULES:

Ch. I 41651
625 42876
630 42877

24 CFR

25 40193
203 40430
803 42554
811 39209
880 ..... 39212, 42292
881 ..... 39212, 42292
883 39212
888 42554
1914 42312–42317
1915 42794

PROPOSED RULES:

203 42693
204 42693

25 CFR

141 40194
221 41116
252 40904
258 40904

PROPOSED RULES:

11 42694
54 41435
171 42695
177 42695
182 42695
183 42695

26 CFR

1 42318
7 ..... 39104, 42197
9 42198
11 ..... 39382, 41856
41 42856
404 41856

PROPOSED RULES:

1 ..... 38919, 39227, 39233, 39408 39997
301 ..... 39227, 39233, 39997
404 ..... 39227, 39233, 39997

27 CFR

178 41116

PROPOSED RULES:

4 42230
181 ..... 39316, 40921, 42233

VOL 42 NO 165 AUG 25 77 UM

28 CFR

0 ..... 40433, 41407
2 ..... 39668, 39808, 41407
16 ..... 40905, 41408
17 39212
32 39386

PROPOSED RULES:

2 ..... 41435, 41436, 41878
540 41368
541 41368
548 41368
551 41368

29 CFR

102 41117
452 ..... 39105, 41280
1601 41280
1908 41386
1952 ..... 40194, 40195, 41857
2602 41858
2606 41858
2610 41858

PROPOSED RULES:

70a 39997
1061 42022
1910 39120
2608 39120
2610 42361

30 CFR

PROPOSED RULES:

70 42362
2170 42540
2171 42540

31 CFR

51 41859

32 CFR

Ch. I 39213
191 42857
199 41118
286b 39214
290 40433
806b 41409
852 42684

PROPOSED RULES:

114 39234
143 41306
286 40552
865 39999

32A CFR

PROPOSED RULES:

671 43038

33 CFR

110 ..... 39386, 40693, 40694
117 ..... 38903, 39386, 41118, 42199
183 41634
204 ..... 40196, 41281
207 40908
274 41118

PROPOSED RULES:

117 ..... 38919, 38920, 42234
154 39408
155 39408
156 39408
157 39999

34 CFR

231 40694

35 CFR

69 40196

36 CFR

67 40436
200 40438
292 39287

37 CFR

PROPOSED RULES:

2 40450
4 40450
201 ..... 41437, 41438, 42362

38 CFR

2 ..... 41409, 41410
13 41410
14 41410

PROPOSED RULES:

8 40452
17 ..... 39409, 41439

39 CFR

111 ..... 38904, 41634

PROPOSED RULES:

111 ..... 39411, 40219, 40922
241 42695
245 42695
246 42695
247 42695
248 42695
265 42695

40 CFR

52 ..... 39389, 39664, 40695, 41121, 42218, 42219
55 41282
60 ..... 39389, 41122, 41424, 41754
61 41424
86 40697
136 39977
180 ..... 39977, 40909
204 41635
416 40697
610 40438

PROPOSED RULES:

20 39414
52 ..... 38920, 38921, 39235, 39415, 40220, 42879
61 40452
85 40221
123 42882
124 42882
125 42882
180 ..... 40715, 40922
211 41139
700 39182
710 39182
762 42882

41 CFR

1-4 ..... 39215, 41635
7-7 42689
Ch. 9 41128
29-1 40197
29-2 40201
29-3 40201
29-12 40205
29-26 40206
29-61 40206
101-41 41128
101-42 40847
101-43 40847
101-44 40850

41 CFR—Continued

101-45 40852
101-46 40858
101-47 40698
105-63 40858
114-25 39978
114-60 42857

PROPOSED RULES:

9-4 40923
24-1 42234
60-4 41378

42 CFR

101 42857

43 CFR

423 41122

PUBLIC LAND ORDERS:

5622 42199

PROPOSED RULES:

424 41440
426 43044
1880 40000

45 CFR

100a 40207
100b 42475
121a 42476
121m 42517
122a 42005
166 42016
173 40209
191 42754
194 40207
196 39218
1015 41282

PROPOSED RULES:

11 41140
146a 40221
170 40926

46 CFR

2 41636
10 39978
35 41636
151 41636

PROPOSED RULES:

162 40000
502 40452

47 CFR

0 42341
2 42203
15 39979
73 ..... 38905, 39665, 39981, 39982, 40210, 41123-41125, 41283, 42858
76 ..... 41127, 41284, 42689
81 39666
87 38906
89 ..... 42203, 42343
91 42203
93 42343

PROPOSED RULES:

1 40715
13 40939
43 40454
61 40002
63 39236
73 ..... 40003, 40454, 41141, 41302-41305, 41879, 42700
81 ..... 40223, 40224, 40455

47 CFR—Continued

PROPOSED RULES—Continued

83 40224
89 39560
90 39560
91 ..... 39560, 41143
93 39560
95 42362

49 CFR

99 39220
173 42206
178 42206
192 42865
195 42865
210 42343
268 43030
529 39983
571 ..... 39983, 39984, 42208
580 38906
581 38909
1033 ..... 39221, 39389, 39985, 41424
1036 40444

49 CFR—Continued

1051 40860
1057 39666
1100 ..... 40698, 42689
1104 40860
1108 39222
1109 ..... 39390, 39985
1251 39667
1254 39390
1307 42689

PROPOSED RULES:

173 ..... 40003, 41651
174 ..... 40003, 41651
178 ..... 40003, 41651
179 ..... 40003, 41651
193 42235
1047 40459
1082 40459
1106 39243
1241 42701
1249 42701
1307 41144

50 CFR

17 ..... 39985, 40682-40685, 42351
20 ..... 39106, 39667, 40211, 41636
21 42353
26 ..... 40213, 41425
32 ..... 38909-38912, 39391-39394, 40214, 40445-40447, 40690, 40861-40865, 41127, 41426-41429, 41642, 41861-41865, 42210-42215, 42354-42358, 42866-42873
33 ..... 40214, 41426
216 ..... 39394, 41128, 41879
371 40866
601 42216
602 42216
611 ..... 39106, 41430
680 42216

PROPOSED RULES:

17 ..... 38921, 39121, 40716, 40823
20 41145
23 40459
26 42883
32 40465
260 41440

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	Date	Pages	Date	Pages	Date
38891-39080	Aug. 1	40421-40675	10	41603-41812	18
38081-39193	2	40677-40845	11	41813-42183	19
39195-39358	3	40847-41094	12	42185-42297	22
39359-39656	4	41095-41264	15	42299-42676	23
39657-39952	5	41265-41399	16	42677-42837	24
39953-40167	8	41401-41602	17	42839-43049	25
40169-40419	9				

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

HEW/FDA—Hearing aids; labeling and conditions for sale..... 40215; 8-9-77
DOT/FAA—Standard instrument approach procedures..... 39380; 8-4-77
Standard instrument approach procedures..... 37367; 7-21-77
Standard instrument approach procedures; receipt changes and additions..... 36248; 7-14-77
Standard instrument approach procedures..... 35641; 7-11-77

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

V42N165 AUG 25 77 UM

presidential documents

Title 3—The President

Executive Order 12007 • **August 22, 1977**

Termination of Certain Presidential Advisory Committees

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in order to terminate certain advisory committees in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), it is hereby ordered as follows:

SECTION 1. (a) The Citizens' Advisory Council on the Status of Women is terminated.

(b) Executive Order No. 11126 of November 1, 1963, as amended by Executive Order No. 11221 of May 6, 1965, is further amended as follows:

(1) Subsection (5) of Section 102 is revoked.

(2) Section 103, in order to delete a reference to the Council, is amended to read as follows:

"Annually the Committee shall transmit a report to the President concerning the status of women."

(3) Part II is revoked.

(4) The second sentence of Section 301, in order to delete references to the Council, is amended to read as follows:

"To the extent practical and to the extent permitted by law (1) all Executive agencies shall cooperate with the Committee and furnish it such information and assistance as may be necessary for the performance of its functions, and (2) the Secretary of Labor shall furnish staff, office space, office facilities and supplies, and other necessary assistance, facilities, and services for the Committee."

SEC. 2. (a) The Citizens' Advisory Committee on Environmental Quality is terminated.

(b) Part II of Executive Order No. 11472 of May 29, 1969, as amended by paragraphs (7) and (8) of Section 4 of Executive Order No. 11514 of March 5, 1970, is revoked.

V 42 N 165 AUG 25 77 UM

SEC. 3. (a) The Advisory Council for Minority Enterprise is terminated.

(b) Section 2 of Executive Order No. 11625 of October 13, 1971, is revoked.

SEC. 4. (a) The Consumer Advisory Council is terminated.

(b) Executive Order No. 11583 of February 24, 1971, is amended as follows:

(1) The second sentence of subsection (b)(1) of Section 2 is amended by deleting "(including the Consumer Advisory Council established in section 5 of this order)".

(2) Section 5 is revoked.

SEC. 5. (a) The President's Advisory Board on International Investment is terminated.

(b) Executive Order No. 11962 of January 19, 1977, is revoked.

SEC. 6. Subsections (a), (g), (i), and (j) of Section 1 of Executive Order No. 11948 of December 20, 1976, which extended the above advisory committees until December 31, 1978, is superseded.

Jimmy Carter

THE WHITE HOUSE,
August 22, 1977.

[FR Doc.77-24943 Filed 8-24-77;11:31 am]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

SUBTITLE A—OFFICE OF SECRETARY OF AGRICULTURE

PART 16—LIMITATION ON IMPORTS OF MEAT

Section 204 Import Regulations; Regulations Governing Entry of Certain Meat

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: The regulations set forth in this part are revised to delete those regulations no longer in effect. In addition (1) the definition of meat is expanded to include meats processed in Foreign-Trade Zones, territories or possessions of the United States as provided for in the 1977 voluntary restraint agreements, (2) documentation requirements are made applicable to all meat subject to the restrictions in Subpart A and (3) 1977 imports from Costa Rica are limited to no more than 55.6 million pounds of meat.

EFFECTIVE DATE: August 25, 1977. See supplementary information.

FOR FURTHER INFORMATION CONTACT:

John E. Riesz (FAS), 202-447-7198, Dairy, Livestock & Poultry Division, FAS, USDA, Room 6621 South Building, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: The regulations set forth in this subpart are to assist in carrying out bilateral agreements with governments of foreign countries pursuant to Section 204 of the Agricultural Act of 1956, as amended limiting the export from the respective countries and the importation into the United States of certain meat.

The meat is that covered by items 106.10 (relating to fresh, chilled, or frozen cattle meat) and 106.20 (relating to fresh, chilled, or frozen meat of goats and sheep (except lambs)) of the Tariff Schedules of the United States and meats which but for processing in Foreign-Trade Zones, territories or possessions of the United States prior to entry, or withdrawal from warehouse for consumption into the United States Customs Territory, would fall within the above descriptions (and items of the Tariff Schedules of the United States) upon such entry or withdrawal from warehouse for consumption.

By E.O. 11539, dated June 30, 1970, the Secretary of Agriculture was authorized with the concurrence of the Secretary of State and the Special Representative for Trade Negotiations, to issue regulations governing the entry or withdrawal from warehouse for consumption in the United States of meat to carry out such bilateral agreements and to request the Commissioner of Customs to implement such action.

The action taken herewith has been determined to involve foreign affairs functions of the United States. Therefore, these regulations fall within the foreign affairs exception to the notice and effective date provisions of 5 U.S.C. 553.

EFFECTIVE DATE

Meat released under the provisions of Section 448(b) of the Tariff Act of 1930 (19 U.S.C. 1448(b) (immediate delivery)) prior to August 25, 1977 shall not be denied entry although the quota for Costa Rica established herein has been filled.

Part 16—Subtitle A of Title 7 of the Code of Federal Regulations, "Limitations on Imports of Meat" is revised to read as follows:

Subpart A—Section 204 Import Regulations

Sec.
16.1 General.
16.2 Definitions.
16.3 Import documentation.
16.4 Transshipment restrictions.
16.5 Quantitative restrictions.

Subpart B—Meat Import Law Regulations [Reserved]

AUTHORITY: Sec. 204, Pub. L. 540, 84th Cong., 70 Stat. 200, as amended, (7 U.S.C. 1854) and Executive Order 11539 (35 FR 10733).

Subpart A—Section 204 Import Regulations

§ 16.1 General.

The regulations set forth in this subpart are issued by the Secretary of Agriculture, with the concurrence of the Secretary of State and Special Representative for Trade Negotiations. The Commissioner of Customs has been requested to take such action as is necessary to implement these regulations.

§ 16.2 Definitions.

The following terms shall have the meaning set forth in this section:

(a) "Meat" means fresh, chilled, or frozen cattle meat (Item 106.10 of the Tariff Schedules of the United States (TSUS)), fresh, chilled, or frozen meat of goats and sheep, except lambs (TSUS 106.20), and meats which but for processing in Foreign-Trade Zones, territories or possessions of the United States prior to entry, or withdrawal from warehouse for consumption into the United States Customs Territory, would fall within the above descriptions (and TSUS items) upon such entry, or withdrawal from warehouse for consumption.

(b) "United States" means the 50 States of the United States, District of Columbia, and Puerto Rico.

§ 16.3 Import documentation.

Meat subject to the restrictions in §§ 16.4 and 16.5 may not be entered into the customs territory of the United States unless there is presented at time of entry documentation establishing (a) that there has been compliance with the applicable conditions of Subpart A and (b) the country from which the meat was exported in the form in which it would fall within the definition of meat in TSUS items 106.10 and 106.20.

§ 16.4 Transhipment restrictions.

During calendar year 1977:

(a) No meat of Australian or New Zealand origin may be entered or withdrawn from warehouse for consumption in the United States unless (1) it is exported into the customs territory of the United States as direct shipments or on a through bill of lading from the country of origin or (2) if processed in Foreign-Trade Zones, territories or possessions of the United States it is exported into the customs territory of the United States as direct shipments or on a through bill of lading from the Foreign-Trade Zone, territory or possession of the United States in which it was processed.

§ 16.5 Quantitative restrictions.

(a) Imports from Costa Rica. During calendar year 1977, no more than 55.6 million pounds of meat, exported from Costa Rica in the form in which it would fall within the definition of meat in TSUS items 106.10 and 106.20, may be entered or withdrawn from warehouse for consumption in the United States, whether such meat was shipped directly or indirectly from Costa Rica to the United States.

(b) [Reserved]

Subpart B—Meat Import Law Regulations [Reserved]

Issued at Washington, D.C. this 22d day of August 1977.

DALE E. HATHAWAY,
Assistant Secretary of Agriculture.

[FR Doc.77-24578 Filed 8-24-77;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Regulation 570]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

V 42 165 AUG 25 77 UM

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period Aug. 26–Sept. 1, 1977. This regulation is needed to provide for orderly marketing of fresh Valencia oranges for the regulation period because of the production and marketing situation confronting the orange industry.

EFFECTIVE DATE: August 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: *Findings.* (1) pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of Valencia organges, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantities of Valencia oranges that may be marketed from District 1, District 2, or District 3 during the specified week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation for the quantities of Valencia oranges that should be marketed during the specified week. The recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors covered in the order. The committee further reports the fresh market demand for Valencia oranges continues easy.

Average f.o.b. price was $4.59 per carton on 613 cars for the week ended August 18, as compared with $4.51 per carton on 642 cars the previous week.

Track and rolling supplies at 304 cars were down 49 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantities of Valencia oranges which may be handled should be established as provided in this regulation.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information became available upon which this regulation is based and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient. A reasonable time is permitted for preparation for such effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for Valencia oranges and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning such provisions and effective time has been provided to handlers of Valencia oranges. It is necessary, to effectuate the declared policy of the act, to make this regulation effective during the period specified. The committee meeting was held on August 23, 1977.

§ 908.870 Valencia Orange Regulation 570.

(a) Order. (1) The quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period August 26, 1977, through September 1, 1977, are hereby fixed as follows:

(i) District 1: 234,000 cartons;

(ii) District 2: 366,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: August 24, 1977.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-24945 Filed 8-24-77;11:41 am]

PART 909—GRAPEFRUIT GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Expenses, Rate of Assessment, and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of $129,000 and a rate of assessment of $0.03 per carton of grapefruit handled for the functioning of the Administrative Committee for the 1976–77 fiscal period. The committee is established under a Federal marketing order program regulating the handling of grapefruit grown in Arizona and designated part of California. The regulation approves the collection of assessments by the committee and the use of resulting funds for its expenses.

DATES: Effective for the period September 1, 1976, through August 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: On November 16, 1976, notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 50452) regarding proposed expenses, the proposed rate of assessment, and the proposed carryover of unexpended assessment funds under the amended marketing agreement and Order No. 909, as amended (7 CFR Part 909), regulating the handling of grapefruit grown in Arizona and designated part of California. This notice allowed an appropriate time for the submission of written comments pertaining to these proposals. None were submitted. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

After consideration of all relevant matters presented, including the proposals set forth in the notice, which were submitted by the Administrative Committee (established pursuant to the marketing agreement and order), it is hereby found and determined that:

§ 909.215 Expenses, rate of assessment, and carryover of unexpended funds.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Administrative Committee during the period September 1, 1976, through August 31, 1977, will amount to $129,000.

(b) *Rate of assessment.* The rate of assessment for such period, payable by each handler in accordance with § 909.41, is hereby fixed at three cents ($0.03) per carton, or equivalent quantity of grapefruit.

(c) *Operating reserve.* Unexpended assessment funds of approximately $38,969, in excess of expenses incurred during the 1975–76 fiscal period, shall be carried over as a reserve in accordance with the applicable provisions of § 909.42.

It is hereby further found that good cause exists for not postponing the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) provisions of the marketing agreement and this part require that the rate of assessment shall apply to all assessable grapefruit handled during the fiscal period, and (2) the year began on September 1, 1976, and the rate of assessment will automatically apply to all such grapefruit handled during the year.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 19, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-24565 Filed 8-24-77;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—GENERAL REGULATIONS

[FmHA Instruction 427.1]

PART 1807—TITLE CLEARANCE AND LOAN CLOSING

Methods; Revision

AGENCY: Farmers Home Administration, USDA.

ACTION: Final Rule.

SUMMARY: The Farmers Home Administration (FmHA) revises its regulation to allow profit, limited profit, and nonprofit organization applicants to use their own attorney for title clearance, and loan or transfer closing under certain conditions. The intended effect of this action is to correct an inconsistency within FmHA regulations.

EFFECTIVE DATE: August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul R. Conn, Director, Multiple Family Housing Loan Division; Donald Colburn, Multiple Housing Loan Officer, 202–447–7207.

SUPPLEMENTARY INFORMATION: Paragraph (d) of § 1807.1, Part 1807 of Title 7, Code of Federal Regulations (31 FR 14123) is revised to make it consistent with other FmHA regulations, and to reflect an editorial change in the heading of this paragraph (d). It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since the purpose of the change is to correct an inconsistency within FmHA regulations, therefore, public procedure thereon is unnecessary.

As revised, § 1807.1(d) reads as follows:

§ 1807.1 General.

* * * * *

(d) *Methods of title clearance and closing of transactions.* Title clearance and loan or transfer closing will be handled by title insurance companies approved by the State Director and/or attorneys designated by the State Director with the exception of Rural Rental Housing (RRH) loans to profit, limited profit, and nonprofit organizations who may use their own attorney in accordance with the requirements of § 1822.95(a) of this chapter. When private attorneys are to be used in connection with obtaining title insurance, the State Director may, by a State Supplement, require such services to be performed by designated attorneys if that is acceptable to the title insurance company(s). When the services are available from more than one source, the borrower or seller, or both; or the transferor or transferee, or both; will choose the source to be used.

(1) The services of the Office of the General Counsel (OGC) will be used (i) in any county or area where the State Director is unable to obtain the services of a designated attorney or a title insurance company, or a combination of both; (ii) any exceptional or complex case or situation in which the State Director determines, with the advice of OGC that it would be more reasonable or practical to use OGC's services; (iii) in any case involving a mortgage on a leasehold; and (iv) in all credit sales with or without a subsequent loan or transfer.

(i) When OGC services are to be used on a county or area basis, the State Director, with the advice of OGC, will determine whether the title clearance and closing of the transaction will be accomplished with the assistance of a local attorney, a title insurance company representative or combination thereof, or other method. After such a determination has been made, the State Supplement will specify the county or area involved and the method to be used.

(ii) When OGC services are to be used in an exceptional or complex case or situation, title clearance will be handled in the manner in which OGC determines most appropriate.

* * * * *

(7 U.S.C. 1989; 4 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93–357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: August 3, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77-24557 Filed 8-24-77;8:45 am]

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

[FmHA Instruction 440.3]

PART 1888—SPECIAL ASSISTANCE TO DROUGHT STRICKEN AREAS

Termination Provisions

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations to limit the requirements that loan and grant funds be obligated by September 30, 1977, to rural communities for water supply assistance. This action is necessary since loan funds made for purposes other than those to rural communities for water supply assistance need not be obligated by September 30, 1977.

EFFECTIVE DATE: August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

James E. Lee, Director, Emergency Loan Division, 202–447–6257.

SUPPLEMENTAL INFORMATION: Part 1888 of Chapter XVIII, Title 7, Code of Federal Regulations (42 FR 19322; 42 FR 23158; 42 FR 37354) Subchapter G, "Miscellaneous Regulations," is amended. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts, shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since the purpose of the change is to correct the July 21, 1977 (42 FR 37355) amendment of this part; therefore, notice and public procedure thereon are unnecessary. Accordingly, § 1888.17(a) is amended to read as follows:

§ 1888.17 Termination provisions.

(a) Any assistance provided under this regulation must be for an applicant with an application on file on or before September 30, 1977. For assistance provided under § 1888.13 funds must also be obligated on or before September 30, 1977.

* * * * *

(7 U.S.C. 1989; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: August 13, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77-24558 Filed 8-24-77;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z; Docket No. R–0094]

PART 226—TRUTH IN LENDING

Application of Certain Requirements to Credit Card Plans Involving Transaction-By-Transaction Billing and Imposition of No Finance Charge

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This interpretation of Regulation Z indicates the provisions applicable to certain two-party credit card plans in connection with which the card issuers bill their customers in full on a transaction-by-transaction basis, rather than on an account basis using periodic statements, and in connection with which no finance charge is imposed. These credit card issuers are subject to the Act and Regulation Z because the Fair Credit Billing Act amendments adjusted the definition of "creditor" to impose certain requirements upon all card

issuers even though those requirements are generally applicable only to open end creditors. The Board is directed to apply those requirements to such card issuers "to the extent appropriate." This interpretation indicates which of the requirements are appropriate for such card issuers.

EFFECTIVE DATE: August 17, 1977.

FOR FURTHER INFORMATION CONTACT:

D. Edwin Schmelzer, Chief, Fair Credit Practices Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2412.

DISCUSSION: Section 103(f) of the Truth in Lending Act, as implemented by § 226.2(s) and (x) of Regulation Z, requires all credit card issuers to comply with certain provisions even though those provisions are generally applicable only to creditors of open end credit plans. Certain two-party credit card plans impose no finance charge and bill for payment in full on a transaction-by-transaction basis, rather than on an account basis using periodic statements. This interpretation specifies which sections of the regulation should appropriately be applied to such credit card programs.

The interpretation permits such card issuers to continue sending bills in the form of invoices or other statements to each customer for each transaction in which the card is used. It does not require that the card issuer convert to a periodic billing statement which involves the maintenance of an account for each customer.

The interpretation requires such card issuers, prior to the first transaction in which the card is used, to disclose any charges (other than a finance charge) which relate to the deferral of payment by use of the card, such as a late payment or delinquency charge (§ 226.7(a)(6)). The card issuer is required to make disclosures regarding any security interest which may be retained (§ 226.7(a)(7)). The card issuer is also required to provide the statement of rights and responsibilities under the Fair Credit Billing Act prior to the first use of the card (§ 226.7(a)(9)).

The interpretation does not require a disclosure regarding minimum payments (§ 226.7(a)(8)), since the only types of credit cards considered herein are ones which require payment in full for each transaction at the time of billing.

The interpretation does not require such card issuers to disclose the "previous balance" (§ 226.7(b)(1)(i)), the amounts of "payments" and "credits" (§ 226.7(b)(1)(iii), or the closing date and "new balance" (§ 226.7(b)(1)(ix)) Those disclosures relate mainly to systems which periodically bill their customers on an account basis and do not appear to be germane to the type of system under consideration in this interpretation.

The requirements to provide an identification of each transaction (§ 226.7(b)(1)(ii)) and to provide an address for receipt of billing error inquiries § 226.7(b)(1)(x)) apply to such systems. The interpretation permits the card issuer to comply with those sections by placing the relevant information on the invoice or other statement sent to the customer for each transaction.

The provisions requiring the card issuer to send a periodic statement at least 14 days prior to the end of a "free period" (§ 226.7(b)(2)) are also not applicable to such credit card systems, since there are no finance charges imposed by such credit card systems and, consequently, no "free periods."

The interpretation permits the card issuer to make use of the exceptions from the general requirement that all disclosures appear on the front of the periodic statement (§ 226.7(c)). All references to a "periodic statement" in § 226.7(c) are to be read to indicate the invoice or other statement sent to the customer for each transaction.

This interpretation requires the card issuer to send the statement prescribed by § 226.7(a)(9) to each customer on a semiannual basis (§ 226.7(d)). However, the interpretation permits the card issuer to comply with that section by sending the statement required by § 226.7(a)(9) within the time periods provided in § 226.7(d) (i.e., two times during a 12 month calendar period provided that the statments must not be sent less than five or more than seven months apart in order to be considered "semiannual"), or by sending either the statement prescribed by § 226.7(a)(9) or the statement prescribed by § 226.7(d)(5) with every invoice or other billing statement sent to its customers.

The timing of this disclosure is to be computed without reference to billing cycles and periodic statements, which do not exist in such programs. Consequently, if the card issuer decides to give the statement semiannually instead of with every invoice, this interpretation permits sending the statement only to those customers who receive a transaction invoice during the chosen months.

This interpretation requires the card issuer to notify customers of changes in terms (§ 226.7(f)). However, since there are no billing cycles or periodic statements used in such plans, customers must be notified of changes in the terms of the plan 15 days prior to the date the change is to be instituted, rather than 15 days prior to the first billing cycle in which the change is to take place. Additionally, the interpretation requires advance notice only of those types of changes in terms which, if undertaken by open end creditors generally, would require notice to all customers prior to imposition of the change on the customers' accounts.

The interpretation exempts the affected card issuers from complying with the requirements which call for prompt crediting of payments (§ 226.7(g)), unless the plan includes the possibility of the imposition of a specific charge for late payment, delinquency, or default.

The interpretation applies the provisions regarding crediting and refunding excess payments (§ 226.7(h)) to such credit plans. However, compliance with those requirements may be achieved by such credit card issuers by accounting for the amount received in excess of the required payment by a credit memorandum or other reasonable means rather than by crediting to our account. Since no periodic statement is required for such systems, this interpretation requires the card issuer to notify the customer of the existence of an excess payment, unless a refund is sent within 5 business days of its receipt.

The card issuer is required to comply with all relevant portions of § 226.13, regarding credit card requirements, except § 226.13(k) which is inapplicable to two-party credit card systems generally.

The interpretation requires the card issuer to comply with the error resolution requirements of the regulation (§ 226.14. However, the interpretation provides that all references therein to a "periodic statement" should be read to indicate the invoice or other billing statement for the relevant transaction. All actions referenced in § 226.14 with regard to correcting and adjusting a customer's account are permitted to be taken by issuing a refund or new invoice to the customer, or by other appropriate means consistent with the purposes of the section. Since there are no accounts to be adjusted, and no periodic statement upon which any such adjustments can be reflected, this change in the regulation's requirements with respect to this type of credit card is deemed necessary for the purposes of the Act and regulation.

It should be emphasized that this interpretation applies only to two-party credit card issuers that bill on a transaction-by-transaction basis and impose no finance charge. It applies only in those transactions in which the card issued by that credit card issuer is used. It does not apply to other types of card issuers, such as those that use a cumulative account billing system, even if no finance charge is imposed.

Pursuant to 15 U.S.C. 1602(f) and 15 U.S.C. 1604, the Board hereby adopts the following interpretation of Regulation Z.

§ 226.709 Application of limited requirements to card issuers which bill customers on a transaction-by-transaction basis.

It has come to the Board's attention that certain credit cards are issued, the card issuer and the seller being the same person or related persons, in connection with which no finance charge is imposed and customers are billed in full for each use of the card on a transaction-by-transaction basis by means of an invoice or other statement reflecting each use of the card. No cumulative account which reflects the transactions by each customer during a period of time, such as a month, is maintained.

Section 103(f) of the Act requires all credit card issuers to comply with certain provisions, even though those provisions are generally applicable only to creditors of open end credit plans, and requires the Board to apply these provisions to all card issuers "to the extent appropriate." The question arises as to which of those provisions, as implemented by this Part, appropriately apply to such card issuers.

Such card issuers may bill customers on a transaction-by-transaction basis and need not maintain a cumulative account for each customer for which a periodic statement must be sent.

Prior to the first use of the credit card, the card issuer shall provide the customer with a statement setting forth the disclosures required by § 226.7(a)(9) and, as applicable, § 226.7(a)(6) and § 226.7(a)(7). The disclosure required by § 226.7(a)(6) shall be limited to those charges that are or may be imposed as a result of the deferral of payment by use of the card, such as late payment or delinquency charges. Such card issuers need not provide the disclosure required by § 226.7(a)(8).

The disclosures required by § 226.7(b)(1)(i), (iii) and (ix) need not be given by such credit card issuers. The requirements of § 226.7(b)(1)(ii) and § 226.7(b)(1)(x) are applicable to such card issuers, and compliance may be achieved by placing the required disclosures on the invoice or statement sent to the customer for each transaction. Section 226.7(b)(2) does not apply to these credit card issuers.

The provisions of § 226.7(c), including those which permit certain required disclosures to be made other than on the front of a periodic statement, shall apply. All references to the "periodic statement" in § 226.7(c) shall be read to indicate the invoice or other billing document sent to the customer for each transaction.

The provisions of § 226.7(d) shall apply to such credit card issuers. Compliance therewith may be achieved (1) by mailing or delivering the statement required by § 226.7(a)(9) to each customer who receives a transaction invoice during a one-month period chosen by the card issuer which meets the timing requirements of § 226.7(d)(2), (3), and (4); or (2) by sending either the statement prescribed by § 226.7(a)(9) or the statement prescribed by § 226.7(d)(5) with each invoice sent to a customer.

The provisions of § 226.7(f) apply to these credit card issuers, except that (1) notice of the change in terms shall be given at least 15 days prior to the date upon which the change takes effect, rather than 15 days prior to the beginning date of the billing cycle in which it takes effect, and (2) the card issuer need notify cardholders in advance of only those changes in terms which, if undertaken by creditors of open end credit plans generally, would necessitate notice to all customers prior to imposing the change on their accounts.

The provisions of § 226.7(g) shall apply to such credit card issuers if the credit card plan includes the possible imposition of a specific charge for late payment, default, or delinquency. Otherwise, they do not apply to such credit card issuers.

The provisions of § 226.7(b) shall apply to such credit card issuers, except that all requirements to credit amounts to an account may be complied with by other reasonable means, such as by a credit memorandum. Since no periodic statements are provided or required for the credit card systems subject to this interpretation, a notice of excess payment should be sent to the customer within a reasonable period of time following its occurrence unless a refund of the excess payment is mailed or delivered to the customer within 5 business days of its receipt by the card issuer.

The card issuer shall comply with all the provisions of § 226.13, including § 226.13 (i) and (j) to the extent that they are applicable to the credit card plan, except that § 226.13(k) is inapplicable.

The card issuer shall comply with the provisions of § 226.14, as applicable. All references in § 226.14 to the "periodic statement" shall be read to indicate the invoice or other statement for the relevant transaction. All actions referenced in § 226.14 with regard to correcting and adjusting a customer's account may be taken by issuing a refund or a new invoice, or by other appropriate means consistent with the purposes of the section.

By order of the Board of Governors of the Federal Reserve System, August 17, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-24576 Filed 8-24-77;8:45 am]

[Reg. Z; FC-0094—FC 0099]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

Correction

In FR Doc. 77-21648, appearing at page 38173 in the issue for Wednesday, July 27, 1977, the following FC numbers should precede the appropriate letters:

1. On page 38174, in the first column, the first letter, which begins "§ 226.15 (a)", should be preceded by "FC-0094";

2. On page 38174, in the first column, the second letter, which begins "§ 226.15 (b)", should be preceded by "FC-0095";

3. On page 38174, in the third column, the third letter, which begins "§ 226.8 (g)", should be preceded by "FC-0096";

4. On page 38175, in the second column, the fourth letter, which begins "§ 226.808", should be preceded by "FC-0097";

5. On page 38176, in the first column, the fifth letter, which begins "§ 226.6(b)", should be preceded by "FC-0098";

6. On page 38176, in the second column, the sixth letter, which begins "§ 226.2 (d)", should be preceded by "FC-0099".

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77-EA-62, Amdt. 39-3024]

PART 39—AIRWORTHINESS DIRECTIVES

Bendix Ignition Switches

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This rule (AD) amends and revises AD 76-07-12 applicable to Bendix Ignition Switches. The amendment changes the initial compliance time from prior to the next flight to 100 hours in service. It also exempts from the AD those switches which have been properly modified or new switches both of which have been properly marked. This rule results from a need to clarify the rule and exempt approved switches.

EFFECTIVE DATE: August 30, 1977.

ADDRESSES: Bendix Service Bulletins may be acquired from the manufacturer at the Electrical Components Division, Sidney, New York 13838.

FOR FURTHER INFORMATION CONTACT:

W. White, Systems & Equipment Section, AEA-213, Engineering and Manufacturing Branch, Federal Building, J. F. K. International Airport, Jamaica, N.Y. 11430; Tel. 212-995-3372.

SUPPLEMENTARY INFORMATION: Due to response from industry and users, it has become apparent that unnecessary coverage has been included in the rule. The AD was issued originally to preclude switches which remained active when turned off from inadvertently starting the engine on the ground. This amendment will exempt from the rule modified and new switches which have eliminated the deficiency, and requires repetitive inspections for all other switches. In view of the effect on safety, notice and public procedure hereon are impractical and good cause exists for making the rule (AD) effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are W. White, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by amending AD 76-07-12, as follows: BENDIX IGNITION SWITCHES. Applies to all aircraft employing magnetos and using Bendix ignition switches listed in the table below except switches identified by four digit date code (new) adjacent to the model number or a white dot (modified) on the support plate adjacent to the Bendix logo.

Bendix Switches Switch Function.	*Rotary Action, Key or Lever Actuated* Bendix (series) Part Numbers.
Twist-to-Start	10-357XXX, 10-126XXX.
Twist-to-Start/Push-to-Prime.	10-357XXX, 10-126XXX.
Push-to-Start	10-357XXX, 10-126XXX, 10-157XXX.

Compliance required as indicated:

1. For switches subject to this AD, conduct the following checks within the next 100 hours' time in service and each 100 hours thereafter to detect possible switch malfunction:

(a) Observing regular ground run-up procedures, allow the engine to reach operating temperatures and perform a normal magneto check.

(b) With the engine at normal idle, rotate the switch key or lever through the "OFF" detent to the extreme limit of its travel in the "OFF" direction.

(c) If the engine stops firing, this indicates an airworthy switch.

(d) If the engine continues to run with the switch in the extreme "OFF" direction indicating a malfunctioning switch, prior to the next flight accomplish Part III outlined in Bendix Service Bulletin No. 583, dated April 1976, for Repair and Replacement or use an alternate method approved by Chief, Engi-

neering and Manufacturing Branch, Eastern Region.

2. The aircraft may be flown in accordance with FAR 21.197 to a place where these modifications can be accomplished.

3. The checks required by this AD may be performed by the pilot.

4. Upon submission by an operator with substantiating data, an FAA Maintenance Inspector subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA Eastern Region may adjust the compliance times specified in this AD if the request contains substantiating data to justify the increase for the operator:

NOTE.—If the engine continues to run when complying with paragraph 1 and repair or replacement cannot or will not be accomplished immediately, the magneto (primary circuit) should be grounded in accordance with Bendix Service Bulletin No. 583, dated April 1976.

Effective date: This amendment is effective August 30, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, New York, on August 16, 1977.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.77-24646 Filed 8-24-77;8:45 am]

[Docket No. 77-EA-50; Amdt. 39-3023]

PART 39—AIRWORTHINESS DIRECTIVES

Canadair Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) is applicable to Canadair CL-215 type airplanes. It intends to prevent inadvertent opening of the nose landing gear doors during water landing which can result from a deficiency in the hydraulic system.

EFFECTIVE DATE: August 30, 1977.

ADDRESSES: Canadair Service Bulletins may be acquired from the manufacturer, at P.O. Box 6087, Montreal, Canada.

FOR FURTHER INFORMATION CONTACT:

K. Tunjian, Systems & Equipment Section, AEA-213, Engineering and Manufacturing Branch, Federal Building, J. F. K. International Airport, Jamaica, N.Y. 11430, Tel. 212-995-3372.

SUPPLEMENTARY INFORMATION: Due to subsequent research by the manufacturer, it was determined that original rework outlined in Service Bulletin CL-215-176 was not sufficient to eliminate hydraulic pressure surges in the nose landing gear hydraulic system when electric power to the selector valve is interrupted and gear is up. This rule requires additional alterations to the system. There are presently no U.S. registered CL-215 type airplanes; therefore, notice and public procedure hereon are unnecessary and good cause exists for making the rule (AD) effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are K. Tunjian, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

CANADAIR: Applies to Canadair Model CL-215 aircraft, S/Ns 1001 through 1030, certificated in all categories. Compliance required prior to issuance of a U.S. airworthiness certificate, unless already accomplished.

To preclude inadvertent opening of the nose landing gear doors when electric power to the nose gear selector valve is interrupted with the landing gear in the "UP" position, accomplish the following:

(a) Incorporate the alteration outlined in Canadair Service Bulletin CL-215-176, dates September 5, 1973, or an equivalent alteration.

(b) Alter the nose landing gear hydraulic system in accordance with the modifications described in Canadair Service Bulletin CL-215-200, dated August 5, 1975, or an equivalent method.

(c) Equivalent alterations or methods of compliance must be approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(d) Upon submission of substantiating data by an owner or operator, through an FAA maintenance inspector, the compliance time specified in this AD may be adjusted by the Chief, Engineering and Manufacturing Branch FAA Eastern Region.

Effective date: This amendment is effective August 30, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on August 16, 1977.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.77-24647 Filed 8-24-77;8:45 am]

[Docket No. 77-EA-3, Amdt. 39-3022]

PART 39—AIRWORTHINESS DIRECTIVES

Martin Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) will update and replace AD 75-26-08 applicable to Martin 404 type airplanes. It will relate some of the calendar time to hours in service and require an initial inspection within a 5-year period or 10,000 hours of the effective date. Inspections pursuant to AD 75-26-08 disclosed cracks and such deficiencies were a product of both calendar time and service time.

EFFECTIVE DATE: August 30, 1977.

FOR FURTHER INFORMATION CONTACT:

L. Lipsius, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J. F. K. International Airport, Jamaica, N.Y. 11430, Tel. 212-995-2875.

SUPPLEMENTARY INFORMATION: The NPRM was published in the FEDERAL REGISTER on June 20, 1977, on page 31171. Interested parties were given 30 days in which to submit comments. There were no comments received. AD 75-26-08 was published in 1975 to require an inspection for corrosion at station 187 of the wings of the Martin 404 type airplane. The inspection was premised in some instances on calendar time only. The proposal will relate the calendar time to service time and also require an inspection for cracks as well as corrosion.

DRAFTING INFORMATION

The principal authors of this document are L. Lipsius, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, as follows:

1. Revoke AD 75-26-08.

2. Adopt the amendment as published.

Effective date. This amendment is effective August 30, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423); Sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of a Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on August 16, 1977.

L. J. CARDINALI,
Acting Director, Eastern Region.

MARTIN: Applies to all Martin 404 Aircraft Certificated in all categories.

Compliance required as indicated.

(a) For airplanes without wing spar chord splice joint fittings at wing station 187, accomplish the following:

(1) Within the next three months or 500 hours in service, whichever occurs first, after the effective date of this AD, unless accomplished within five years or 10,000 hours in service preceding the effective date, remove the left and right outer wing panels and visually inspect the wing spar chord splice joints for corrosion at wing station 187.

(2) Repeat the inspection specified in (a) (1) at intervals not to exceed 10,000 hours in service or five years, whichever occurs first, for left wings, and 12,000 hours in service or six years, whichever occurs first, for right wings.

(b) For airplanes with wing splice fittings installed in accordance with STC SA328SO, accomplish the following without wing removal:

(1) Visually inspect the left and right wing panels at wing station 187 for corrosion within the next 12 months or 2000 hours in service, whichever occurs first, after the effective date of this AD, unless accomplished within 48 months or 8000 hours in service preceding the effective date by

(i) Stripping all sealant from the spar splice joints.

(ii) Removing any two vertical large attachment bolts and the two end horizontal tension bolts from each "Hayes" fitting.

(2) Perform a dye pentrant inspection or an FAA approved equivalent inspection for cracks at the same time as the corrosion inspection specified in (b) (1).

(i) At the accessible areas of the spars and

(ii) In the four bolt holes of each "Hayes" fitting as noted in (b) (1) (ii).

(3) Perform the inspection in (b) (1) (ii) which requires removal of the horizontal bolts even though any two vertical large attachment bolts have been removed for bolt hole inspection within the past 48 months or 8,000 hours in service.

(4) Repeat the inspection specified in (b) (1) at intervals not to exceed 10,000 hours in service or five years, whichever occurs first.

(5) Remove both wing outer panels; conduct a corrosion inspection of the wing structure and fittings, and a dye penetrant inspection for cracks on all affected parts at intervals not to exceed 20,000 hours in service or ten years, whichever occurs first, beyond the inspection in (b) (1).

(c) Repair corroded parts before further flight in accordance with an FAA approved repair or replace cracked parts before further flight with serviceable or equivalent parts approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(d) Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, may adjust the inspection interval specified in this AD.

[FR Doc.77-24645 Filed 8-24-77;8:45 am]

[Airspace Docket No. 77-SW-34]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone: Cotulla, Texas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the effective hours of operation of the Cotulla, Tex. (Cotulla Municipal Airport) control zone to coincide with the hours of operation of the Cotulla, Tex. Flight Service Station (FSS). The FSS hours of operation are being reduced from continuous to 0600 to 2200 local time daily. This reduces the availability of special weather observations accordingly and necessitates the change in the control zone hours of operation to conform to the FSS hours of operation.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: In Subpart F 71.171 (42 FR 355) of FAR Part 71, the Cotulla, Tex. (Cotulla Municipal Airport) control zone is designated as continuous (through the omission of any reference to specific dates and times of operation). This conforms with the FSS hours of operation. Special weather observations are provided by the FSS on a 24-hour basis, which is one of the requirements for a continuous control zone operation.

A traffic survey was completed on January 31, 1977, which indicated insufficient activity to retain the FSS 24-hour operation. On December 1, 1977, the FSS hours of operation will be reduced to 0600 to 2200 local time daily. This will necessitate a change in the control zone hours of operation to 0600 to 2200 local time.

The aforementioned action will reduce the constraints and, in effect, the impact on the user imposed by the control zone operation. Consequently, we have elected to omit circularization of the change for comment.

DRAFTING INFORMATION

The principal authors of this document are John A. Jarrell, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 355) is amended, effective 0901 GMT, December 1, 1977, as hereinafter set forth.

In Subpart F 71.171 (42 FR 355), the Cotulla, Tex. (Cotulla Municipal Airport) control zone is amended by adding the following sentence:

This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on August 16, 1977.

PAUL J. BAKER,
Director, Southwest Region.

[FR Doc.77-24648 Filed 8-24-77;8:45 am]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 17143; Amdt. No. 1087]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

FOR EXAMINATION

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

FOR PURCHASE

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

BY SUBSCRIPTION

Copies of all SIAPs, mailed weekly, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The current annual subscription price is $150.00; add $30.00 for each additional copy mailed to the same address.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Air-

craft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 9) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * *Effective October 20, 1977.*

St. Cloud, MN—St. Cloud Municipal, VOR Rwy 31, Amdt. 2
Barre-Montpelier, VT—Edward F. Knapp State, VOR Rwy 35, Amdt. 5

* * * *Effective October 6, 1977.*

Monroeville, AL—Monroe County, VOR Rwy 3, Amdt. 5.
Monroeville, AL—Monroe County, VOR Rwy 21, Amdt. 5.
Selma, Alabama—Selfield, VOR-A, Orig, cancelled.
Wetumpka, Alabama—Wetumpka Muni., VOR Rwy 27, Amdt. 1, cancelled.
Los Angeles, CA—Los Angeles Int'l, VOR Rwy 25L (TAC), Amdt. 9.
Los Angeles, CA—Los Angeles Int'l, VOR Rwy 25R (TAC), Amdt. 9.
Ontario, CA—Ontario Int'l, VOR Rwy 25 (TAC), Amdt. 4.
Oxnard, CA—Oxnard, VOR Rwy 7, Amdt. 7.
Oxnard, CA—Oxnard, VOR Rwy 25, Amdt. 5.
Santa Ana, CA—Orange County Airport, VOR Rwy 19R, Amdt. 15.
Santa Barbara, CA—Santa Barbara Municipal, VOR/DME Rwy 25, Original.
Santa Barbara, CA—Santa Barbara Municipal, VOR Rwy 25, Original, cancelled.
Santa Ynez CA—Santa Ynez, VOR-A, Amdt. 4.
Gunnison, CO—Gunnison County, VOR-A, Amdt. 2.
Miami, FL—Miami International, VOR Rwy 30, Original.
Miami, FL—Miami International, VOR Rwy 30, Amdt. 5, cancelled.
Toccoa, GA—Toccoa, VOR Rwy 20, Amdt. 6.
Valdosta, GA—Valdosta Muni., VOR Rwy 35, Amdt. 24.
Hopedale, MA—Hopedale-Draper, VOR-A, Amdt. 2.
Manistee, MI—Manistee County-Blacker, VOR Rwy 9, Amdt. 3.
Manistee, MI—Manistee County-Blacker, VOR Rwy 27, Amdt. 3.
Pellston, MI—Emmet County, VOR Rwy 23, Amdt. 7.
Pellston, MI—Emmet County, VOR/DME Rwy 5, Amdt. 3.
Traverse City, MI—Cherry Capital, VOR-A, (TAC), Amdt. 12.
Vincentown, NJ—Red Lion, VOR-A, Amdt. 3.
Elmira, NY—Chemung County, VOR Rwy 6, Amdt. 12.
Anderson, SC—Anderson County, VOR Rwy 5, Amdt. 8.
Delta, UT—Delta Municipal, VOR/DME Rwy. 16, Original.
Richmond, VA—Richard Evelyn Byrd Int'l, VOR Rwy 33, Amdt. 14.
Kenmore, WA—Kenmore Air Harbor, VOR-A, Original.
Eau Claire, WI—Eau Claire Municipal, VOR-A, Amdt. 18.
Green Bay, WI—Austin-Straubel Field, VOR Rwy 12, Amdt. 15.
Green Bay, WI—Austin-Straubel Field, VOR/DME Rwy 36(TAC), Original.
Green Bay, WI—Austin-Straubel Field, VORTAC Rwy 36, Amdt. 6, cancelled.
Hartford, WI—Hartford Municipal, VOR-A, Amdt. 2.
Waukesha, WI—Waukesha County, VOR-A, Amdt. 10.

* * * *Effective August 17, 1977.*

Marianna, Fla.—Marianna Muni., VOR-A, Amdt. 9.

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * *Effective October 6, 1977.*

Santa Ana, CA—Orange County Airport, LOC Rwy 19R, Amdt. 6.
Santa Ana, CA—Orange County Airport, LOC (BC) Rwy 1L, Amdt. 5.
Escanaba, MI—Delta County, LOC Rwy 9, Original.
Escanaba, MI—Delta County, LOC/DME (BC) Rwy 27, Original.
Eau Claire, WI—Eau Claire Municipal, LOC/DME BC Rwy 4, Amdt. 3.
Green Bay, WI—Austin-Straubel Field, LOC (BC) Rwy 24L, Amdt. 12.

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * *Effective October 6, 1977.*

Ontario, CA—Ontario Int'l, NDB Rwy 25, Amdt. 27.
Santa Barbara, CA—Santa Barbara Muni., NDB-A, Amdt. 3.
Grayling, MI—Grayling AAF, NDB Rwy 14, Amdt. 1
Pellston, MI—Emmet County, NDB Rwy 32, Amdt. 11
Traverse City, MI—Cherry Capital, NDB Rwy 28, Amdt. 3.
Aitkin, MN—Aitkin Municipal, NDB Rwy 16, Original.
Manteo, NC—Manteo, NDB Rwy 4, Amdt. 1.
Florence, SC—Florence City-County, NDB Rwy 9, Amdt. 7.
Eau Claire, WI—Eau Claire Municipal, NDB Rwy 22, Amdt. 3.
Green Bay, WI—Austin-Straubel Field, NDB Rwy 6R, Amdt. 13.
Hartford, WI—Hartford Municipal, NDB Rwy 11, Amdt. 1.
Watertown, WI—Watertown Municipal, NDB Rwy 23, Amdt. 2.
Waukesha, WI—Waukesha County, NDB Rwy 10, Amdt. 6.

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

Effective October 6, 1977.

Los Angeles, CA—Los Angeles Int'l, ILS Rwy 24L, Amdt. 11.
Los Angeles, CA—Los Angeles Int'l, ILS Rwy 24R, Amdt. 12.
Los Angeles, CA—Los Angeles Int'l, ILS Rwy 25L, Amdt. 12.
Los Angeles, CA—Los Angeles Int'l, ILS Rwy 25R, Amdt. 12.
Ontario, CA—Ontario Int'l, ILS Rwy 25, Amdt. 28.
Santa Ana, CA—Orange County Airport, ILS Rwy 19R, Amdt. 5.
Santa Barbara, CA—Santa Barbara Municipal, ILS Rwy 7, Amdt. 19.
Valdosta, GA—Valdosta Muni., ILS Rwy 35, Amdt. 2.
Pellston, MI—Emmet County, ILS Rwy 32, Amdt. 2.
Traverse City, MI—Cherry Capital, ILS Rwy 28, Amdt. 4.
Salem, OR—McNary Field, ILS Rwy 31, Amdt. 21.
Coatesville, PA—Chester County G.O. Carlson, MLS Rwy 11 (Interim), Orig.
Florence, SC—Florence City-County, ILS Rwy 9, Amdt. 7.
Richmond, VA—Richard Evelyn Byrd Int'l, ILS Rwy 6, Amdt. 18.
Richmond, VA—Richard Evelyn Byrd Int'l, ILS Rwy 15, Amdt. 1.

Richmond, VA—Richard Evelyn Byrd Int'l, ILS Rwy 33, Amdt. 4.
Eau Claire, WI—Eau Claire Municipal, ILS Rwy 22, Amdt. 3.
Green Bay, WI—Austin-Straubel Field, ILS Rwy 6R, Amdt. 14.

5. By amending § 97.31 RADAR SIAPs identified as follows:

Effective October 6, 1977.

Selma, ALA—Selfield, RADAR-1, Orig., cancelled.
Green Bay, WI—Austin-Straubel Field, RADAR-1, Amdt. 3.

6. By amending § 97.33 RNAV SIAPS identified as follows:

* * * *Effective October 6, 1977.*

Anderson, SC—Anderson County, RNAV Rwy 23, Amdt. 3.
Waukesha, WI—Waukesha County, RNAV Rwy 10, Amdt. 3.

(Secs. 307, 313(a), 601, 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c). Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 25 FR 6489 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 19, 1977.

JAMES M. VINES,
Chief, Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.77-24686 Filed 8-24-77;8:45 am]

[Docket No. 17140; Amdt. No. 152-6]

PART 152—AIRPORT AID PROGRAM CONTENTS

Advisory Circulars

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment is being issued to update the list of advisory circulars which contain certain programming, design, and construction standards for airport development projects submitted for approval under the Airport Aid Program. In addition, the amendment explains where those circulars may be examined and how they may be obtained.

EFFECTIVE DATE: August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

James Burnett, Development Program Division (AAP-600), Program Requirements Branch, 800 Independence Avenue SW., Washington, D.C. 20591, Telephone: (202) 426-3857.

SUPPLEMENTARY INFORMATION: Section 16 of the Airport and Airway Development Act of 1970 (AADA; 49 U.S.C. 1716) sets forth requirements pertaining to the submission and approval of projects for airport development under the AADA. Under paragraph (a) of that section, all proposed airport development must be in accordance with standards established by the Secretary of Transportation, including standards for site location, airport layout, grading, drainage, seeding, paving, lighting, and safety of approaches.

Under § 1.47(f)(1) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.47(f)(1), the Federal Aviation Administrator is delegated authority to carry out the functions vested in the Secretary by the AADA, except sections 3 and 4 thereof. Accordingly, the Administrator of the FAA is responsible for establishing the standards described in section 16(a) of that act.

Some of the guidelines for airport development projects are set forth in advisory circulars. These circulars are listed in Appendix I to Part 152 of the Federal Aviation Regulations. Under § 152.83, the technical guidelines in the advisory circulars are incorporated by reference into Subpart C of Part 152 (Project Programming Standards for Airport Development Projects) and are made mandatory standards.

The advisory circulars listed in Appendix I are revised periodically to reflect new and revised standards. Such standards recently have been established. Therefore, this amendment is necessary to include in Appendix I the advisory circulars containing the new and revised standards, and to delete references to circulars which no longer are current.

As explained in § 152.83(c) of this amendment, copies of the advisory circulars listed in Appendix I may be examined in the Rules Docket, Office of the Chief Counsel, FAA, Washington, D.C., and those circulars may be inspected and copied at any FAA Regional Office or Airports District Office. In addition, copies that are available free of charge may be obtained from any of those offices or from the Department of Transportation, Publications and Forms Section, TAD 443.1, Washington, D.C. 20590. Finally, copies that are for sale may be bought for the price listed from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Finally, section 152.83(b) provides that the Director, Airports Service, is authorized to add to, or delete from, Appendix I any advisory circular or part thereof. This function is currently exercised by the Assistant Administrator, Office of Airports Programs. Accordingly, § 152.83 (b) has been revised to reflect this change.

The principal authors of this document are James Burnett, Office of Airports Programs, and Danvers E. Long, Office of the Chief Counsel.

Since this amendment is editorial in nature and relates to grants made under the Airport Aid Program, I find that notice and public procedure thereon are unnecessary and that good cause exists for making this amendment effective in less than 30 days.

Accordingly, Part 152 of the Federal Aviation Regulations (14 CFR 152) is amended, effective August 25, 1977, as follows:

1. By amending § 152.83 by revising paragraphs (b) and (c) to read as follows:

§ 152.83 Incorporation by reference of technical guidelines in advisory circulars.

* * * * *

(b) *Amendments of Appendix I.* The Assistant Administrator, Office of Airports Programs, may add to, or delete from, Appendix I any advisory circular or part thereof.

(c) *Availability of Advisory Circulars.* The advisory circulars listed in Appendix I may be inspected and copied at any FAA Regional Office or Airports District Office, and copies of those circulars may be examined in the Rules Docket, Office of Chief Counsel, FAA, Washington, D.C. Copies that are available free of charge may be obtained from any of the Regional or Airports District Offices or from the Department of Transportation, Publications and Forms Section, TAD 443.1, Washington, D.C. 20590. Copies of the circulars that are for sale may be bought for the price listed from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

2. By revising Appendix I to read as follows:

APPENDIX I

List of Advisory Circulars Incorporated by § 152.83: (a) *Circulars available free of charge.*

Number and subject

150/5100-12—Electronic Navigational Aids Approved for Funding Under the Airport Development Aid Program (ADAP).
150/5190-3A—Model Airport Hazard Zoning Ordinance.
150/5210-7A—Aircraft Fire and Rescue Communications.
150/5210-10—Airport Fire and Rescue Equipment Building Guide.
150/5300-2C—Airport Design Standards—Site Requirements for Terminal Navigational Facilities.
150/5300-4B—Utility Airports—Air Access to National Transportation.
150/5300-6—Airport Design Standards—General Aviation Airports—Basic and General Transport.
150/5300-8—Planning and Design Criteria for Metropolitan STOL Ports.
150/5320-6B—Airport Pavement Design and Evaluation.
150/5320-10—Environmental Enhancement at Airports—Industrial Waste Treatment.
150/5320-12—Methods for the Design, Construction, and Maintenance of Skid Resistant Airport Pavement Surfaces.
150/5325-2C—Airport Design Standards—Airports Served by Air Carriers—Surface Gradient and Line-of-Sight.
150/5325-4—Runway Length Requirements for Airport Design.
150/5325-6A—Airport Design Standards—Effect and Treatment of Jet Blast.
150/5325-8—Compass Calibration Pad
150/5335-1A—Airport Design Standards—Airports Served by Air Carriers—Taxiways.
150/5335-2—Airport Aprons.
150/5335-3—Airport Design Standards—Airports Served by Air Carriers—Bridges and Tunnels on Airports.

150/5335-4—Airport Design Standards—Airports Served by Air Carriers—Runway Geometrics.
150/5340-1D—Marking of Paved Areas on Airports.
150/5340-4C—Installation Details for Runway Centerline and Touchdown Zone Lighting Systems.
150/5340-5A—Segmented Circle Airport Marker System.
150/5340-8—Airport 51-foot Tubular Beacon Tower.
150/5340-14B—Economy Approach Lighting Aids.
150/5340-17A—Standby Power for Non-FAA Airport Lighting System.
150/5340-18—Taxiway Guidance Sign System.
150/5340-19—Taxiway Centerline Lighting System.
150/5340-20—Installation Details and Maintenance Standards for Reflective Markers for Airport Runway and Taxiway Centerlines.
150/5340-21—Airport Miscellaneous Lighting Visual Aids.
AC/5340-22—Maintenance Guide for Determining Degradation and Cleaning of Centerline and Touchdown Zone Lights.
150/5340-23A—Supplemental Wind Cones.
150/5340-24—Runway and Taxiway Edge Lighting System.
150/5340-25—Visual Approach Slope Indicator (VASI) Systems.
150/5345-1E—Approved Airport Lighting Equipment.
150/5345-2—Specification for L-810 Obstruction Light.
150/5345-3C—Specification for L-821 Panels for Remote Control of Airport Lighting.
150/5345-4—Specification for L-829 Internally Lighted Airport Taxi Guidance Sign.
150/5345-5—Specification for L-847 Circuit Selector Switch, 5,000 Volt 20 Ampere.
150/5345-7C—Specification for L-824 Underground Electrical Cable for Airport Lighting Circuits.
150/5345-10C—Specification for L-828 Constant Current Regulators.
150/5345-11—Specification for L-812 Static Indoor Type Constant Current Regulator Assembly; 4 KW and 7½ KW, With Brightness Control for Remote Operation.
150/5345-12A—Specification for L-801 Beacon.
150/5345-13—Specification for L-841 Auxiliary Relay Cabinet Assembly for Pilot Control of Airport Lighting Circuits.
150/5345-18—Specification for L-811 Static Indoor Type Constant Current Regulator Assembly, 4 KW; With Brightness Control and Runway Selection for Direct Operation.
150/5345-21—Specification for L-813 Static Indoor Type Constant Current Regulator Assembly; 4 KW and 7½ KW; for Remote Operation of Taxiway Lights.
150/5345-26A—Specification for L-823 Plug and Receptacle, Cable Connectors.
150/5345-27A—Specification for L-807 Eight-foot and Twelve-foot Unlighted or Externally Lighted Wind Cone Assemblies.
150/5345-28C—Specification for L-851 Visual Approach Slope Indicators and Accessories.
150/5345-36—Specification for L-808 Lighted Wind Tee.
150/5345-39A—FAA Specification for L-853, Runway and Taxiway Retroreflective Markers.
150/5345-42A—FAA Specification L-857, Airport Light Bases, Transformer Housings, and Junction Boxes.
150/5345-43B—FAA/DOD Specification L-856, High Intensity Obstruction Lighting Systems.
150/5345-44A—Specification for L-858 Retroreflective Taxiway Guidance Sign.
150/5345-45—Lightweight Approach Light Structure.
150/5345-46—Specification for Semiflush Airport Lights.
150/5345-47—Isolation Transformers for Airport Lighting Systems.
150/5345-48—Specification for Runway and Taxiway Edge Lights.
150/5360-6—Airport Terminal Building Development with Federal Participation.
150/5360-7—Planning and Design Considerations for Airport Terminal Building Development.
150/5370-7—Airport Construction Controls to Prevent Air and Water Pollution.
150/5370-9—Slip-Form Paving—Portland Cement Concrete.
150/5370-11—Use of Nondestructive Testing Devices in the Evaluation of Airport Pavements.

(b) *Circulars for Sale.*

150/5320-5B—Airport Drainage; $1.30.
150/5370-10—Standards for Specifying Construction of Airports; $7.25.
150/5390-1A—Heliport Design Guide, $1.50.

(Sec. 16(a), Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1716(a)); § 1.47(f)(1), Regulations of the Office of the Secretary of Transportation (49 CFR 1.47(f)(1)); Sec. 552(a), Administrative Procedure Act (5 U.S.C. 552(a)).)

NOTE: The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 12, 1977.

J. W. COCHRAN,
Acting Administrator.

(NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on July 26, 1977. Referenced materials are on file at the Federal Register library.)

[FR Doc.77-24354 Filed 8-24-77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C-2896]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

CBS, Inc.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a New York publishing firm to cease mailing and billing for unauthorized magazines; sending collection letters to receivers of unordered magazines; misrepresenting the effects of nonpayment on credit ratings in such letters; and transferring unpaid accounts of recipients of unsolicited magazines to debt collection or consumer reporting agencies. Further, the order requires respondent to make proper restitution to individuals who paid for unordered magazines; and to send correction letters to consumers whose credit standings may have been adversely affected by respondent's actions. Additionally, respondent is required to maintain prescribed records; and to institute an adequate program of continued surveillance to ensure conformance with the terms of the order.

DATES: Complaint and order issued July 21, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

Paul R. Peterson, Director, Cleveland Regional Office, Federal Trade Commission, 1339 Federal Office Bldg., 1240 East 9th St., Cleveland, Ohio 44199, 216-522-4207.

SUPPLEMENTARY INFORMATION: On Tuesday, May 17, 1977, there was published in the FEDERAL REGISTER 42 FR 25335 a proposed consent agreement with analysis In the Matter of CBS, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR, are as follows:

Subpart—Advertising Falsely or Misleadingly: § 13.15 Business status, advantages or connections; 13.15-20 Business methods and policies; 13.15-30 Connections or arrangements with others; 13.15-225 Personnel or staff; § 13.42 Connection of others with goods; § 13.160 Promotional sales plans; § 13.205 Scientific or other relevant facts. Subpart—Coercing and Intimidating: § 13.356 Delinquent debtors. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-15 Destruction of records and/or data; 13.533-20 Disclosures; 13.533-45 Maintain records; 13.533-55 Refunds, rebates and/or credits; 13.533-60 Release of general, specific, or contractual constrictions, adjustments or actions owed. Subpart—Delaying or Withholding corrections, adjustments or action owed: § 13.675 Delaying or withholding corrections, adjustments or actionsowed. Subpart—Enforcing Dealings or Payments Wrongfully: § 13.1045 Enforcing dealings or payments wrongfully. Subpart—Misrepresenting Oneself and Goods: Business Status, Advantages or Connections: § 13.1370 Business methods, policies, and practices; § 13.1395 Connections and arrangements with others; § 13.1440 Identity; § 13.1520 Personnel or staff; § 13.1675 Law or legal requirements; § 13.1740 Scientific or other relevant facts. Subpart—Neglecting, Unfairly or Deceptively, to Make Material Disclosure: § 13.1855 Identity; § 13.1895 Scientific or other relevant facts. Subpart—Securing Orders by Deception: § 13.2170 Securing orders by deception.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

CAROL M. THOMAS,
Secretary.

[FR Doc.77-24540 Filed 8-24-77;8:45 am]

[1] Copies of the Complaint and the Decision and Order filed with the original document.

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

OPEN COMMISSION MEETINGS, EX PARTE COMMUNICATIONS

Implementation of the Requirements of the Government in the Sunshine Act

Correction

In FR Doc. 77-7297 appearing at page 13700 in the issue of Friday, March 11, 1977, in § 147.3, on page 13705, in the first column, the paragraph designated as "(b) (5) (iii)" should be designated as "(b) (5) (ii)".

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13831]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Lost and Stolen Securities

Correction

In FR Doc. 77-23187 appearing at page 40902 in the issue of Friday, August 12, 1977 on page 40903, third column, in § 240.17a-4(e)(4), in the second line, the reference to "(a)(4)" should read "(a)(14)".

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

PART 114—CARNETS

End to Acceptance of E.C.S. Carnets

AUGUST 18, 1977.

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: General Notice.

SUMMARY: This notice announces that the Customs Service will not accept E.C.S. (Echantillons Commerciaux—Commercial Samples) carnets issued after August 10, 1977, for the temporary duty-free admission of commercial samples into the United States. A.T.A. (Admission Temporaire—Temporary Admission) carnets will be accepted for that purpose instead of E.C.S. carnets. This action is required because the United States, in accordance with a recommendation of the Customs Cooperation Council, has withdrawn from the convention which provides for the use of E.C.S. carnets.

EFFECTIVE DATE: August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Jerrald O. Worley, Operations Officer, International Operations Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-8607).

SUPPLEMENTARY INFORMATION: A.T.A. and E.C.S. carnets are international Customs documents which facilitate the importation of certain articles by serving simultaneously as an entry document and as a bond for temporary duty-free admission.

On December 3, 1968, the United States agreed to become a party to both the Customs Convention on the E.C.S. Carnets for Commercial Samples (E.C.S. Convention), March 1, 1956, 20 UST 120, TIAS 6632, and the Customs Convention on the A.T.A. Carnet for the Temporary Admission of Goods (A.T.A. Convention), December 6, 1961, 20 UST 58, TIAS 6631. The E.C.S. Convention provides for the use of E.C.S. carnets for the temporary admission of commercial samples only, while the A.T.A. Convention provides for the use of A.T.A. carnets for the temporary admission of commercial samples and professional equipment. The text of the E.C.S. and A.T.A. Conventions was published in T.D. 69-68.

It was generally agreed at the time of the adoption of the A.T.A. Convention that it would eventually replace the E.C.S. Convention. Further, the use of E.C.S. carnets has declined significantly, and all parties to the E.C.S. Convention have become parties to the A.T.A. Convention. Inasmuch as there no longer is a need for E.C.S. carnets, the Customs Cooperation Council in Brussels, Belgium, the administering body for both Conventions, has recommended that all parties withdraw from the E.C.S. Convention. In accordance with that recommendation, the United States on May 11, 1977, notified the Secretary General of the Customs Cooperation Council and the Belgian Ministry of Foreign Affairs of its withdrawal from the E.C.S. Convention effective August 11, 1977.

Accordingly, the United States will not accept E.C.S. carnets that are issued after August 10, 1977, for the temporary admission of commercial samples. A.T.A. carnets will continue to be accepted for the temporary admission of commercial samples and professional equipment.

Appropriate amendments to the Customs Regulations reflecting this new practice will be issued in due course.

G. R. DICKERSON,
Acting Commissioner of Customs.

[FR Doc.77-24441 Filed 8-24-77;8:45 am]

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

SUBCHAPTER M—INTERNATIONAL TRAFFIC IN ARMS

[Dept. Reg. 108.744]

ADMINISTRATIVE REMEDIES AND PROCEDURES

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule amends the International Traffic in Arms regulations to provide administrative procedures to strengthen the ability of the U.S. Government to control the export of defense articles and services from the United States. This amendment establishes means for imposing civil penalties for violations and for disqualifying from muntions exports persons who jeopardize the integrity of the regulatory system. The procedures are designed to ensure administrative fairness in deciding whether a civil penalty or disqualification is appropriate in each individual case.

EFFECTIVE DATE: September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Stephen A. Orlins, Office of the Legal Adviser, Department of State, Washington, D.C. 20520 (202-632-0568).

SUPPLEMENTARY INFORMATION: On June 10, 1977, the Department of State published a notice of proposed rulemaking to Parts 123, 124, 127 and 128 of 22 CFR in the FEDERAL REGISTER inviting interested persons to submit comments by July 15, 1977. No comments on the proposed amendments were received; therefore the proposed amendment is adopted as set forth below.

LUCY WILSON BENSON,
Under Secretary for Security Assistance, Science and Technology.

AUGUST 19, 1977.

PART 123—LICENSES FOR UNCLASSIFIED ARMS, AMMUNITION, AND IMPLEMENTS OF WAR

1. Revise § 123.05(a) to read as follows:

§ 123.05 License denial, revocation, suspension or amendment.

(a) Licenses may be denied, revoked, suspended, or amended by the Department of State without prior notice whenever the Department believes such action to be advisable in furtherance of (1) World peace; (2) The security of the United States; (3) The foreign policy of the United States; (4) Whenever the Department believes that 22 U.S.C. 2778 or any regulations contained in this subchapter has been violated; or (5) Whenever the applicant or licensee has

been debarred under § 127.07 or suspended under § 127.08, or whenever an order of debarment or suspension has been made applicable to the applicant or licensee under § 127.09, or whenever a person who has been debarred or suspended has a significant interest in the transaction.

* * * * *

PART 124—MANUFACTURING LICENSE AND TECHNICAL ASSISTANCE AGREEMENTS

2. Part 124 is amended by inserting immediately after § 124.11 a new § 124.12 to read as follows:

§ 124.12 Agreement disapproval and revocation, suspension of amendment of approval.

(a) A manufacturing license or technical assistance agreement may be disapproved, and a previously granted approval of such an agreement may be revoked, suspended or amended by the Department of State without prior notice whenever the Department deems such action to be advisable in furtherance of: (1) World peace; (2) The security of the United States; (3) The foreign policy of the United States; (4) Whenever the Department of State believes that 22 U.S.C. 2778 or any regulation contained in this subchapter, has been violated; or (5) Whenever a party to the agreement has been debarred under § 127.07 of this chapter or suspended under § 127.08 of this chapter or whenever an order of debarment or suspension has been made applicable to such a party under § 127.09 of this chapter, or whenever a person who has been debarred or suspended has a significant interest in the transaction.

(b) Whenever an agreement is disapproved or a previously granted approval of an agreement is revoked, suspended, or amended, the U.S. party will be advised promptly in writing, of the Department's decision. The reasons therefor will be stated as specifically as security and foreign relations considerations permit.

(c) If written request is made within 30 days after service of an adverse decision by the Department of State, the U.S. party will be accorded an opportunity to present additional information and the case will be reviewed by the Department of State.

PART 127—VIOLATIONS, PENALTIES AND ADMINISTRATIVE REMEDIES

3. Part 127 is amended by revising the title to read as set forth above and table of contents to read as follows:

Sec.
- 127.01 Violations in general.
- 127.02 Misrepresentation and concealment of facts.
- 127.03 Penalties for violation.
- 127.04 Penalties for violations relating to Southern Rhodesia.
- 127.05 Authority to district directors of customs.
- 127.06 Seizure and forfeiture in attempts at illegal exports.
- 127.07 Debarment.
- 127.08 Interim suspension.
- 127.09 Applicability of orders.
- 127.10 Civil penalty.

4. Revise § 127.01 to read as follows:

§ 127.01 Violations in general.

(a) It is unlawful to export or attempt to export from the United States any article or technical data for which a license or approval is required by this subchapter without first obtaining the required license or written approval from the Department of State.

(b) No person, with knowledge that another person is then subject to an order of debarment, or interim suspension, directly or indirectly, in any manner or capacity, without prior disclosure of the facts to, and written authorization of the Office of Munitions Control:

(1) May apply for, obtain, or use any export control document as defined in § 127.02(b) by, to, or for such debarred or suspended person; or

(2) May order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in, any transaction which may involve any article or technical data for which a license or approval is required by this subchapter, exported or to be exported from the United States, whereby a debarred or suspended person may obtain any benefit therefrom or have any direct or indirect interest therein.

(c) No person may cause, or aid, abet, counsel, demand, induce, procure, or permit the commission of any act prohibited by, or the omission of any act required by 22 U.S.C. 2778, 22 U.S.C. 2779, or any regulation, license, approval, or order issued thereunder.

5. In § 127.02 paragraphs (a) and (b)(14) are revised to read as follows:

§ 127.02 Misrepresentation and omission of facts.

(a) It is unlawful to use any export or intransit control document containing a false statement or misrepresenting or omitting a material fact for the purpose of exporting any article or technical data for which license approval is required by this subchapter. Any false statement, misrepresentation or omission of material fact in an export or intransit control document will be considered, as made in a matter within the jurisdiction of a department or agency of the United States for the purposes of 18 U.S.C. 1001, 22 U.S.C. 2778 and 22 U.S.C. 2779.

(b) For the purpose of this section, the term export or intransit control document includes the following:

(1) * * *

(14) Any other document used in the regulation or control of articles or technical data for which license or approval is required by this subchapter.

* * * * *

6. Revise § 127.03 to read as follows:

§ 127.03 Criminal penalties.

Any person who willfully—

(a) Violates any provision of section 38 or section 39 of the Arms Export Control Act (22 U.S.C. 2778, 2779), or any rule or regulation issued under either section; or

(b) In a registration, license application or report required by section 38 or section 39 of the Arms Export Control Act (22 U.S.C. 2778, 2779) or by any rule or regulation issued under either section, makes any untrue statement of a material fact or omits a material fact required to be stated therein or necessary to make the statements therein not misleading—

shall, upon conviction, be subject to fine or imprisonment, or both, as prescribed by 22 U.S.C. 2778(c).

7. Part 127 is further amended by adding new §§ 127.07, 127.08, 127.09 and 127.10, reading as follows:

§ 127.07 Debarment.

(a) *Debarment orders.* The Director, Bureau of Politico-Military Affairs, is authorized to debar (prohibit) any person from participating directly or indirectly in the export of articles or technical data for which license or approval is required by this subchapter for any of the causes listed below when to do so is important for the maintenance of the regulatory scheme. The following are cause for debarment.

(1) Conviction of a criminal offense as defined in § 127.03.

(2) The violation of 22 U.S.C. 2778 or of any rule or regulation issued thereunder when such a violation is of such character as to provide a reasonable basis to believe and determine that the violator cannot be relied upon to comply with the statute, rules, or regulations in the future, and when such a violation is established in accordance with §§ 128.02 through 128.16 of this chapter.

(3) The violation of any provision of 22 U.S.C. 2778, or of any rule or regulation issued thereunder when, because it is a second or subsequent violation, it impels the belief that the violator cannot be relied upon to comply with the statute, rules or regulations in the future and when the violations are established in accordance with §§ 128.02 through 128.16 of this chapter.

(4) A decision by the Office of Export Administration, Bureau of East-West Trade of the Department of Commerce, to deny, suspend, or revoke export privileges to the person under 15 CFR 388.1 and the Export Administration Act of 1969 or to exclude the person from practice before the Bureau of East-West Trade under 15 CFR 390.2 and the Export Administration Act of 1969, where the Hearing Commissioner makes a further finding that the facts reasonably impel a decision that they form a reasonable basis for concluding that the person cannot be relied upon to comply in the future with 22 U.S.C. 2778, or with the rules or regulations issued thereunder.

(b) *Motions to vacate or modify.* A person who has been debarred for more

than 12 months may petition the Hearing Commissioner to vacate or modify the order of debarment. The petition must be filed with the Hearing Commissioner, and a copy simultaneously filed with the Office of Munitions Control, Department of State. In his discretion, the Hearing Commissioner may require the submission of evidence and arguments, oral or written or both. The Hearing Commissioner, after considering the motion and any evidence and arguments with respect thereto, shall at the earliest practicable date submit his report and recommendations to the Director, Bureau of Politico-Military Affairs, Department of State. The Director may issue an appropriate order disposing of the motion and the moving party will be informed.

§ 127.08 Interim suspension.

(a) *Interim suspension orders.* The Director of the Office of Munitions Control is authorized to order the interim suspension of any person, prohibiting that person from participating directly or indirectly in the export of any article or technical data for which a license or approval is required by this subchapter, when he believes grounds for debarment as defined in § 127.07 exist, and where and to the extent he finds interim suspension is reasonably necessary to protect world peace or the national security or foreign policy of the United States, pending final disposition of debarment proceedings. The suspended person shall be sent a charging letter as provided in § 128.03 of this chapter. A copy of the interim suspension order will be served upon him in the same manner as provided in § 128.07 of this chapter for service upon him of a charging letter. The interim suspension order may be made effective immediately, without prior notice or hearing. The order will briefly recite the relevant facts, state the grounds for issuance of the order, and describe the nature and duration of the interim suspension. No person may be suspended for a period exceeding 60 days unless proceedings under §§ 128.02 through 128.16 of this chapter or criminal proceedings are initiated before the expiration of that period.

(b) *Motions to vacate or modify.* A motion or petition to vacate or modify an interim suspension order may be filed at any time with the Hearing Commissioner, and a copy shall be filed with the Office of Munitions Control, Department of State. An oral hearing, if requested, will be held before the Hearing Commissioner at the earliest practicable date. The Hearing Commissioner, after considering the assembled record, will submit his report and recommendations to the Director, Bureau of Politico-Military Affairs, Department of State. The Director will issue an appropriate order disposing of the motion or petition and will promptly inform the respondent accordingly.

(c) *Deferment of action on license applications otherwise prohibited.* Except for the particular application or license which is itself the basis of any investigation or proceeding, no license application filed by any person may be returned without action, held without action, or rejected, solely because such person is under investigation, or because proceedings against him are pending, other than in accordance with the terms of an interim suspension order issued under § 127.08(a).

§ 127.09 Applicability of orders.

For the purpose of preventing evasion, orders of the Director, Bureau of Politico-Military Affairs, debarring a person under § 127.07, and orders of the Director, Office of Munitions Control, suspending a person under § 127.08, may be made applicable to any other person who may then or thereafter (during the term of the order) be related by affiliation, ownership, control, position of responsibility, or other commercial connection. Appropriate notice and opportunity to respond to charges will be given.

§ 127.10 Civil penalty.

(a) The Director, Bureau of Politico-Military Affairs, is authorized to impose a civil penalty in an amount not to exceed that authorized by 50 U.S.C. 2405 (c) for each violation of 22 U.S.C. 2778, or any regulation, order, license or approval issued thereunder. This civil penalty may be either in addition to, or in lieu of, any other liability or penalty which may be imposed.

(b) The Office of Munitions Control may make the payment of a civil penalty under this section a prior condition for the issuance, restoration, or continuing validity of any export license.

8. Part 128 is revised to read as follows:

PART 128—ADMINISTRATIVE PROCEDURES

Sec.
- 128.01 Exclusion of functions from Administrative Procedure Act.
- 128.02 Hearing Commissioner.
- 128.03 Institution of administrative proceedings.
- 128.04 Default.
- 128.05 Answer and demand for oral hearing.
- 128.06 Discovery.
- 128.07 Prehearing conference.
- 128.08 Hearings.
- 128.09 Proceedings before and report of Hearing Commissioner.
- 128.10 Disposition of proceedings.
- 128.11 Consent orders.
- 128.12 Rehearings.
- 128.13 Appeals.
- 128.14 Proceedings confidential.
- 128.15 Orders containing probationary periods.
- 128.16 Extension of time.
- 128.17 Availability of orders.

AUTHORITY: Sec. 38, 90 Stat. 744 (22 U.S.C. 2778); sec. 601, as amended, 47 Stat. 417 (31 U.S.C. 686); E.O. 11958, (42 FR 4311, January 18, 1977).

§ 128.01 Exclusion of functions from Administrative Procedure Act.

The functions conferred by Section 38 of the Arms Export Control Act are excluded from 5 U.S.C. §§ 553 and 554.

§ 128.02 Hearing Commissioner.

The Hearing Commissioner referred to herein is the Hearing Commissioner, Bureau of East-West Trade, U.S. Department of Commerce, as provided in 15 CFR 388.2. The Hearing Commissioner is authorized to exercise the powers and perform the duties provided for in §§ 128.03 through 128.16.

§ 128.03 Institution of administrative proceedings.

(a) *Charging letters.* The Director, Office of Munitions Control, with the concurrence of the Office of the Legal Adviser, may initiate debarment proceedings in accordance with § 127.07 of this chapter or civil penalties in accordance with § 127.10 of this chapter. The charging letter will state the essential facts constituting the alleged violation, refer to the regulatory or other provisions involved, and give notice that, if the respondent is found to have committed the alleged violation, he may be prohibited from participating in the export of any article or technical data for which a license or approval is required by this subchapter, or that civil penalties may be imposed. The charging letter will require the respondent to answer the charges within 30 days, as provided in § 128.05(a), and that failure to answer will be taken as an admission of the truth of the charges. It will inform the respondent that he is entitled to an oral hearing if he files a written demand therefor with his answer or within 7 days after service of his answer, and that he may, if he so desires, be represented by counsel of his own choosing. Charging letters may be amended from time to time, upon reasonable notice.

(b) *Service.* A charging letter is served upon a respondent: (1) If he is a resident of the United States, when mailed in a wrapper addressed to him at his last known address, or when left with him or his agent or employee, or when left at his dwelling with some person of suitable age and discretion than residing therein; or (2) if he is a non-resident of the United States, when served upon him by any of the foregoing means, or if such method of service is not practicable or appropriate by reason of arrangements or understandings between the U.S. Government and the government of the country wherein the respondent resides, when it is tendered for service on him to an official of the government of the country wherein he resides.

§ 128.04 Default.

(a) *Failure to answer.* If the respondent fails to answer the charging letter he may be held in default and the case shall be referred to the Hearing Commissioner for consideration in a manner as he may consider appropriate. Any order issued shall have the same effect as an order issued following the disposition of contested charges.

(b) *Petition to set aside defaults.* Any respondent against whom a default order has been issued may apply, upon good cause shown, together with evidentiary data in support thereof, to set aside his default and vacate the order entered thereon. The petition shall be submitted in duplicate to the Director, Bureau of Politico-Military Affairs, U.S. Department of State, 2201 C Street, NW., Washington, D.C. 20520. The Director will refer

the petition to the Hearing Commissioner for consideration and recommendation. The Hearing Commissioner will consider the application and may order a hearing and/or require the respondent to submit further evidence in support of his petition. The filing of a petition to set aside a default does not in any manner affect an order entered upon default and such order continues in full force and effect unless a further order is made modifying or terminating it.

§ 128.05 Answer and demand for oral hearing.

(a) *When to answer.* The respondent is required to answer the charging letter within 30 days after service.

(b) *Contents of answer.* An answer must be responsive to the charging letter and must fully set forth the nature of the respondent's defense or defenses. In his answer, respondent must admit or deny specifically each separate allegation of the charging letter, unless the respondent is without knowledge, in which case, his answer shall so state and the statement shall operate as a denial. Failure to deny or controvert any particular allegation will be deemed an admission thereof. The answer may set forth such additional or new matter as respondent believes supports a defense or claim of mitigation. Any defense or partial defense not specifically set forth in an answer shall be deemed, waived, and evidence offered thereon by the respondent at a hearing may be refused except upon good cause shown. If the respondent does not demand an oral hearing, he shall transmit, within 7 days after the service of his answer, original or photocopies of all correspondence, papers, records, affidavits, and other documentary or written evidence having any bearing upon or connection with the matters in issue and, if any such materials be in a language other than English, translations into English shall be submitted at the same time.

(c) *Submission of answer.* The answer, written demand for oral hearing, if any, and supporting evidence required by § 128.05(b) shall be in duplicate and mailed or delivered to the Hearing Commissioner, Bureau of East-West Trade, U.S. Department of Commerce, Washington, D.C. 20230. A copy shall be simultaneously served on the Director, Office of Munitions Control, Department of State, Washington, D.C. 20520.

§ 128.06 Discovery.

(a) *Discovery by the respondent.* The respondent, through the Hearing Commissioner, may request from the Office of Munitions Control any relevant information, not privileged, that may be necessary or helpful in preparing a defense. The Office of Munitions Control may supply summaries in place of original documents or may withhold information from discovery if the interests of national security so require, or if necessary to comply with any statute, executive order or regulation requiring that information not be disclosed. The respondent may request the Hearing Commissioner to request any relevant information, books, records, or other evidence, from any other person or government agency so long as the request is reasonable in scope and not unduly burdensome.

(b) *Discovery by the Office of Munitions Control.* The Office of Munitions Control or the Hearing Commissioner may request from the respondent admissions of facts, answers to interrogatories, the production of books, records, or other relevant evidence, so long as the request is relevant and material, reasonable in scope and not unduly burdensome.

(c) *Subpoenas.* At the request of any party, the Hearing Commissioner may issue subpoenas, returnable before him, requiring the attendance of witnesses and the production of books, records and other documentary or physical evidence determined by the Hearing Commissioner to be relevant and material to the proceedings, reasonable in scope and not unduly burdensome.

(d) *Enforcement of discovery rights.* If the Office of Munitions Control fails to provide the respondent with adequate information to prepare a defense, the Hearing Commissioner may dismiss the charges of his own motion or on motion of the respondent. If the respondent fails to respond with reasonable diligence to the requests for discovery by the Office of Munitions Control or the Hearing Commissioner, the Commissioner, on his own motion or motion of the Office of Munitions Control, and upon such notice to the respondent as the Hearing Commissioner may direct, may strike respondent's answer and declare him in default, or make any other ruling which he deems necessary and just under the circumstances. If a third party fails to respond to requests for information, the Hearing Commissioner shall consider whether the evidence sought is necessary to a fair hearing, and if it is so necessary that a fair hearing may not be held without it, he shall dismiss the charges.

§ 128.07 Prehearing conference.

(a) The Hearing Commissioner may, upon his own motion or upon motion of any party, request the parties or their counsel to a prehearing conference to consider (1) simplification of issues; (2) the necessity or desirability of amendments to pleadings; (3) obtaining stipulations of fact and of documents to avoid unnecessary proof; or (4) such other matter as may expedite the disposition of the proceeding. The Hearing Commissioner will prepare a summary of the action agreed upon or taken at the conference, and will incorporate therein any written stipulations or agreements made by the parties. The conference proceedings may be recorded magnetically or taken by a reporter and transcribed, and filed with the Hearing Commissioner.

(b) If a conference is impracticable, the Hearing Commissioner may request the parties to correspond with him to achieve the purposes of a conference. The Hearing Commissioner shall prepare a summary of action taken as in the case of a conference.

§ 128.08 Hearings.

(a) A respondent who had not filed a timely written answer is not entitled to a hearing, and the case may be considered by the Hearing Commissioner as provided in § 128.04(a). If an answer is filed, but no oral hearing demanded, the Hearing Commissioner may proceed to consider the case upon the written pleadings and evidence available, and he may provide for the making of the record in such manner as he deems appropriate. If respondent answers and demands an oral hearing, the Hearing Commissioner, upon due notice, shall set the case for hearing, unless a respondent has raised in his answer no issues of material fact to be determined. If respondent fails to appear at a scheduled hearing, the hearing nevertheless may proceed in his absence, and respondent's failure to appear will not affect the validity of the hearing or any proceedings or action thereafter.

(b) Hearings will be conducted by the Hearing Commissioner in a fair and impartial manner. The rules of evidence prevailing in courts of law do not apply, but all evidentiary material relevant and material to the inquiry will be received and given appropriate weight. Diligent effort shall be made to declassify or to secure unclassified summaries or extracts of classified materials, when not contrary to any statute or security regulation. The Hearing Commissioner will compare an unclassified summary or extract with the related classified materials. If he finds that the summary or extract is supported by the classified materials and omits only so much as remains classified, he may admit the unclassified summary or extract as part of the record, to the extent such summary or extract is relevant and material. The respondent may submit evidence in explanation or contradiction thereof. The respondent is not entitled to inspect classified materials.

(c) The Hearing Commissioner may administer oaths and affirmations. Respondent may be represented by counsel. Unless otherwise agreed by the parties and the Hearing Commissioner, the proceeding will be taken by a reporter or by magnetic recording, transcribed, and filed with the Hearing Commissioner. Respondent may examine the transcript and may obtain a copy upon payment of proper costs.

§ 128.09 Proceedings before and report of Hearing Commissioner.

(a) The Hearing Commissioner may conform any part of the proceedings before him to the Federal Rules of Civil Procedure. The record may be made available in any other proceeding involving the same respondent.

(b) The Hearing Commissioner, after considering the record, will prepare a written report. The report will include findings of fact, findings of law, a finding whether a law or regulation has been violated, and the Hearing Commissioner's recommendations and shall be transmitted to the Director, Bureau of Politico-Military Affairs, Department of State.

§ 128.10 Disposition of proceeding.

Where the evidence is not sufficient to support the charges, the Director, Office of Munitions Control, or the Hearing Commissioner, will dismiss the charges. Where the Hearing Commissioner finds that a violation has been committed, his recommendation shall be advisory only, and the Director, Bureau of Politico-Military Affairs will review the record, consider the report of the Hearing Commissioner, and make appropriate disposition of the case. He may issue an order debarring the respondent from participating in the export of articles or technical data on the U.S. Munitions List as provided in § 127.07 of this chapter, or imposing a civil penalty as provided in § 127.10 of this chapter, or take such other action as he deems appropriate. Any debarment order will be effective for the period of time specified therein and may contain such additional terms and conditions as are deemed appropriate. A copy of the order together with a copy of the Hearing Commissioner's report will be served upon the respondent.

§ 128.11 Consent orders.

The Office of Munitions Control, and the respondent may, by agreement, submit to the Hearing Commissioner a proposal for the issuance of a consent order. The Hearing Commissioner will review the facts of the case and the proposal and may conduct conferences with the parties and may require the presentation of evidence in the case. If he does not approve the proposal, he will notify the parties and the case will proceed as though no consent proposal had been made. If he approves the proposal, he will report the facts of the case with his recommendations to the Director, Bureau of Politico-Military Affairs. If the Director does not approve the proposal, the case will proceed as though no consent proposal had been made. If he approves the proposal, the Director may issue an appropriate order.

§ 128.12 Rehearings

The Hearing Commissioner may grant a rehearing or reopen a proceeding at any time for the purpose of hearing any relevant and material evidence which was not known or obtainable at the time of the original hearing. A request for rehearing or reopening must contain a summary of such evidence, and must explain the reasons why it could not have been presented at the original hearing. The Hearing Commissioner will advise the parties of any further hearing, and will conduct such hearing and submit his report and recommendations in the same manner as provided for the original proceeding as described in § 128.10.

§ 128.13 Appeals.

(a) *Filing of appeals.* An appeal must be in writing, addressed to and filed with the Appeals Board, U.S. Department of Commerce, Washington, D.C. 20230. An appeal from a final order denying export privileges or imposing civil penalties must be filed within 30 days after receipt of a copy of the order.

(b) *Grounds and conditions for appeal.* The respondent may appeal from a debarment or from the imposition of a civil penalty upon the ground (1) that the findings of violation are not supported by any substantial evidence, (2) that prejudicial error of law was committed, or (3) that the provisions of the order are arbitrary, capricious, or an abuse of discretion. The appeal must specify upon which of these grounds the appeal is based and must indicate from which provisions of the order the appeal is taken. An appeal from an order issued upon default will not be entertained if the respondent has failed to seek relief as provided in § 128.04(b).

(c) *Matters considered on appeal.* An appeal will be considered upon the basis of the assembled record, consisting of, but not limited to the charging letter, respondent's answer, the transcript or magnetic recording of the hearing before the Hearing Commissioner, the report of the Hearing Commissioner, the order of the Director, Bureau of Politico-Military Affairs, and any other relevant documents involved in the proceedings before the Hearing Commissioner. The Appeals Board may direct a rehearing and reopening before the Hearing Commissioner if it finds that the record is insufficient or that new evidence is relevant and material to the issues and was not known and was not available to the respondent at the time of the original hearing. The Appeals Board may order oral argument before it, but shall not consider facts or arguments relating to the policy embodied in rules or regulations alleged to have been violated.

(d) *Effect of appeals.* The taking of an appeal will not stay the operation of any order.

(e) *Preparation of appeals.* (1) *General requirements.* An appeal shall be clearly marked "Ref: Appeals Board for the U.S. Department of Commerce, Washington, D.C. 20230," and shall be in letter form. The appeal and accompanying material should be filed in duplicate, unless otherwise indicated, and a copy simultaneously served on the Director, Office of Munitions Control, Department of State, Washington, D.C. 20520. If the submission of two copies of all accompanying documents or exhibits would place an undue burden on the petitioner, waiver of this rule may be requested at the time the request is filed.

(2) *Oral presentation.* The Appeals Board may grant the appellant an opportunity for oral argument. The Appeals Board will set the time and place for oral argument and will notify the parties, ordinarily at least 10 days before the date set.

(3) *Records.* Records on appeal will be made available for inspection and copying by the appellant or his duly authorized representative, upon written application. The application should be made to the Appeals Board, U.S. Department of Commerce, Washington, D.C. 20230. It must identify the material or information to be inspected or copied, and the purposes for which it is sought.

(f) *Decisions.* All appeals will be considered and decided within a reasonable time after they are filed. An appeal may be granted or denied, in whole or in part, or dismissed at the request of the appellant. The decision of the Appeals Board will be final.

§ 128.14 Proceedings confidential.

Proceedings under this Part are confidential, excepting any orders issued therein. Reports of the Hearing Commissioner and copies of transcripts or recordings of hearings will be available to parties and, to the extent of their own testimony, to witnesses. All records are available to any U.S. Government agency showing a proper interest therein.

§ 128.15 Orders containing probationary periods.

(a) *Revocation of probationary periods.* A debarment or interim suspension order may set a probationary period during which the order may be held in abeyance for all or part of the debarment or suspension period, subject to conditions stated therein. The Director, Office of Munitions Control, without notice to any person to be affected thereby, may apply to the Hearing Commissioner for an order revoking probation when it appears the conditions of the probation have been breached. The facts in support of the application will be presented to the Hearing Commissioner who will report thereon, and make a recommendation to the Director, Bureau of Politico-Military Affairs. The Director, Bureau of Politico-Military Affairs will make a determination whether to revoke probation and will issue an appropriate order.

(b) *Hearing.*—(1) *Objections upon notice.* Any person affected by an application upon notice to revoke probation, within the time specified in the notice, may file objections with the Hearing Commissioner.

(2) *Objections to order without notice.* Any person adversely affected by an order revoking probation without notice may request that the order be set aside by filing his objections thereto with the Hearing Commissioner. The request will not stay the effective date of the order or revocation.

(3) *Requiremen's for filing objection.* Objections filed with the Hearing Commissioner must be submitted in writing and in duplicate, and a copy must be simultaneously served on the Office of Munitions Control, Department of State. Denials and admissions, as well as the facts of any mitigating circumstances, which the person affected intends to present must be set forth in or accompany the letter of objection and must be supported by evidence. A request for an oral hearing may be made at the time of filing objections.

(4) *Determination.* The application and objections thereto will be referred to the Hearing Commissioner. An oral hearing, if requested, will be conducted at an early convenient date, unless the objections filed raise no issues of material fact to be determined. The Hearing

Commissioner will report the facts and make a recommendation to the Director, Bureau of Politico-Military Affairs, who will determine whether the application should be granted or denied and will issue an appropriate order. A copy of the order and of the Hearing Commissioner's report will be furnished to any person affected thereby.

(c) *Effect of revocation on other actions.* The revocation of a probationary period will not preclude any other action concerning a further violation, even where revocation is based on the further violation.

§ 128.16 Extension of time.

The Hearing Commissioner, for good cause shown, may extend the time within which to prepare and submit an answer to a charging letter or do any other act required by this Part 128.

§ 128.17 Availability of orders.

All debarment orders, orders imposing civil penalties, probationary periods, and interim suspension orders are available for public inspection in the Public Reading Room of the Department of State.

NOTE: The recordkeeping and reporting requirements contained in Subchapter M have been approved by the Office of Management and Budget in accordance with 44 U.S.C. 3509.

[FR Doc.77-24644 Filed 8-24-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7505]

PART 41—EXCISE TAX ON USE OF CERTAIN HIGHWAY MOTOR VEHICLES

Extension of Highway Motor Vehicle Use Tax

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the excise tax imposed on the use of certain highway motor vehicles on public highways in the United States. Changes to the applicable tax law were made by the Act of May 5, 1976. These regulations affect all who are subject to the tax and provide them with the guidance needed to comply with the law.

DATE: The regulations are effective immediately.

FOR FURTHER INFORMATION CONTACT:

Mark L. Yecies of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3328).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains amendments to the Highway Motor Vehicle Use Tax Regulations (26 CFR Part 41), relating to the tax imposed by subchapter D of chapter 36 of the Internal Revenue Code of 1954 and to certain related administrative provisions of subtitle F of the Internal Revenue Code. Sections 303(a)(7) through (10) of the Act of May 5, 1976 (Pub. L. 94-280, 90 Stat. 456), extended the imposition of the highway motor vehicle use tax until September 30, 1979. The amendments contained in this document conform the regulations to these sections. In addition, the amendments revise the regulations to provide that they will continue to apply without need of further amendment if the highway motor vehicle use tax is extended beyond September 30, 1979.

DRAFTING INFORMATION

The principal author of this regulation was Mark L. Yecies of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, 26 CFR Part 41 is amended as follows:

Paragraph 1. Section 41.0-3 is amended to read as follows:

§ 41.0-3 Scope of regulations.

The regulations in this part apply to the use of certain highway motor vehicles on the public highways in the United States after June 30, 1956, and before the date the tax imposed by section 4481(a) ceases to apply.

§ 41.4481 [Deleted]

Par. 2. Section 41.4481 is deleted.

Par. 3. Section 41.4481-1 is amended as follows:

(1) Paragraph (b) is amended by deleting "1977" each time it appears and inserting in lieu thereof "1979", and by adding, as the last sentence, a flush sentence as set forth below. (2) Paragraph (c)(1) is amended by deleting "as shown" and inserting in lieu thereof "as provided". (3) Paragraph (c)(2) is amended by deleting everything after the second sentence. (4) Paragraph (d) is amended by deleting, "or, if computed by alternative method, 30×25 cents×11" from the parenthetical clause in the last sentence of example (2).

§ 41.4481-1 Imposition of tax.

* * * * * *

(b) *Rate of tax.* * * * In the event the tax imposed by section 4481(a) is extended to apply to use after September 30, 1979, the rate of tax in effect for taxable periods beginning after June 30, 1979, shall be as provided in section 4481(a).

* * * * * *

§ 41.4482(a) [Deleted]

Par. 4. Section 41.4482(a) is deleted.

§ 41.4482(b) [Deleted]

Par. 5. Section 41.4482(b) is deleted.

§ 41.4482(c) [Deleted]

Par. 6. Section 41.4482(c) is deleted.

Par. 7. Paragraph (b) of § 41.4482 (c)-1 is amended by deleting "1977" each time it appears and inserting in lieu thereof "1979", and by adding, as the last sentence, a sentence to read as follows:

§ 41.4482(c)-1 Definition of State, taxable period and use.

* * * * * *

(b) *Taxable period.* * * * In the event the tax imposed by section 4481(a) is extended to apply to use after September 30, 1979, the term "taxable period" shall means (1) any one-year period beginning with July 1 and ending with the following June 30 during which the tax applies, and (2) the period, if any, less than one year in length beginning with July 1 and ending with the date the tax ceases to apply.

* * * * * *

§ 41.6156 [Deleted]

Par. 8. Section 41.6156 is deleted.

Par. 9. Paragraph (f) of § 41.6156-1 is amended to read as follows:

§ 41.6156-1 Installment payments of tax on use of highway motor vehicles.

* * * * * *

(f) *Liabilities to which election does not apply.* The privilege to pay tax in installments provided by section 6156, shall not apply to any liability for tax incurred in

(1) Any taxable period ending prior to July 1, 1961, and

(2) April, May, or June of any taxable period one year in length, or

(3) July, August, or September of a taxable period less than one year in length.

* * * * * *

The amendments made by this Treasury decision are technical amendments designed to conform the regulations to the extension of the highway motor vehicle use tax until September 30, 1979, by sections 303(a)(7) through (10) of the Act of May 5, 1976 (Pub. L. 94-280, 90 Stat. 456). For this reason, it is unnecessary to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: August 18, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

[FR Doc.77-24603 Filed 8-24-77;8:45 am]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER M—MISCELLANEOUS

PART 191—THE DEPARTMENT OF DEFENSE EQUAL OPPORTUNITY PROGRAM

Reissuance of the Department of Defense, Equal Opportunity Program

Correction

In FR Doc. 77-14667 appearing at page 26422 in the issue for Tuesday, May 24, 1977, the FR page number in the last line of the summary paragraph in the middle column, page 26422, now reading "(35 FR 1976)", should read "(35 FR 19576)".

Title 41—Public Contracts and Property Management

CHAPTER 114—DEPARTMENT OF THE INTERIOR

PART 114-60—PERSONAL PROPERTY MANAGEMENT

Identification

AGENCY: Office of the Secretary, Interior.

ACTION: Final regulations.

SUMMARY: This document corrects a number of citations so they will be current, and deletes material containing inapplicable references. It also clarifies the meaning of the term "other agreements" as used in the property management standards for grants, and adds information about an OMB waiver to the requirement for including the copyright provision in certain grant agreements.

DATE: This amendment is effective immediately.

FOR FURTHER INFORMATION CONTACT:

James O. Wyatt, Chief, Division of Property Management, Office of Administrative and Management Policy, Department of the Interior, Washington, D.C. 20240, telephone No. 202-343-3185.

SUPPLEMENTARY INFORMATION: Because this amendment relates only to internal Departmental procedures, the proposed rulemaking procedures are inapplicable. The primary author of this document is Charles H. Young, Property Management Officer, Office of Administrative and Management Policy, telephone No. 202-343-3185.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

AUGUST 17, 1977.

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301 and 40 U.S.C. 486(c), Chapter 114, Title 41 of the Code of Federal Regulations is amended as set forth below.

Subpart 114-60.3—Identification of Personal Property

§ 114-60.300 [Amended]

Section 114-60.300 is amended by revising the IPMR reference in the second line to read as follows: "(see IPMR 114-60.100)."

Section 114-60.303 is amended by deleting paragraphs (b) and (c), and paragraph (d) is renumbered (b) to read as follows:

§ 114-60.303 Items requiring special identification.

* * * * * *

(b) *Livestock.* Livestock shall be branded or marked in some acceptable manner to indicate Government ownership.

§ 114-60.901 [Amended]

Section 114-60.901(b)(1) is amended by revising the IPMR reference so the second line will read as follows: "(as defined in IPMR 114-43.001-50) to"

§ 114-60.902 [Amended]

Section 114-60.902(a)(2) is amended by changing the reference in the fifth line from 395 DM 4 to read 485 DM 4.

Section 114-60.1002(a) is amended by adding the following subparagraphs to read as follows:

§ 114-60.1002 Educational institution.

* * * * * *

(a) * * *

(1) As used in this subpart, the term "grant" means money or property provided in lieu of money paid or furnished by the Federal Government to recipients under programs that provide financial assistance or that provide support or stimulation to accomplish a public purpose. The term "other agreements" does not include contracts which are required to be entered into and administered under procurement laws and regulations (see paragraph 6 of OMB Circular No. A-110).

(2) The Office of Management and Budget has granted a waiver to the copyright provision set forth in sec. 8.b., Attachment N, OMB Circular No. A-110. This waiver permits agencies not to require inclusion of this provision when the grants or other agreements are for the purpose of educating or training students in a particular career field or specialized area.

* * * * * *

[FR Doc.77-24543 Filed 8-24-77;8:45 am]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 101—PROFESSIONAL STANDARDS REVIEW

Professional Standards Review Areas

AGENCY: Health Care Financing Administration, (HCFA), HEW.

ACTION: Final regulation.

SUMMARY: This regulation redesignates Professional Standards Review Areas in Ohio. Area VI is redesignated to include only counties of Summit and Portage, and a new Area XIII is established to include the counties of Stark, Trumbull, Mahoning, and Columbiana. As a result of the redesignation, Area VI will be congruent with Health Service Area VIII and both Areas VI and XIII will better coincide with the local medical service areas in northeastern Ohio.

EFFECTIVE DATE: These regulations are effective August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Al Salazar, Room 13A-19, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20852, 301-443-6477.

SUPPLEMENTARY INFORMATION: On March 30, 1977, the Department published a Notice of Proposed Rulemaking in the FEDERAL REGISTER (42 FR 16839) to redesignate PSRO Area VI in Ohio to include only the counties of Summit and Portage and to establish a new PSRO Area XIII composed of Stark, Trumbull, Mahoning, and Columbiana Counties. Interested persons were invited to submit written comments, suggestions, or objections on or before May 15, 1977.

One comment was received. It suggested that Ashtabula County be added and Stark County deleted from the proposed new area XIII. The inclusion of Ashtabula in Area XIII would not, in our view, result in a PSRO Area which better coincides with the local medical service areas. Neither the Ohio State Medical Association medical service areas nor the Standard Metropolitan Statistical areas for northeastern Ohio combine Ashtabula County with the counties of Trumbull, Mahoning, and Columbiana. Furthermore, residents of the counties of Trumbull, Mahoning, and Columbiana generally seek their secondary medical care in Youngstown located in Mahoning County. Finally, although the suggested change would make the new Area XIII congruent with the Ohio Health Service Area X, established under the National Health Planning and Resources Development Act of 1974 (Pub. L. 93-641) it would also, by adding Stark County to Area VI, make the proposed Area VI less congruent with Health Service Area VIII. For these reasons, the suggestion was rejected, and the proposed redesignation is adopted.

Accordingly, 42 CFR 101.39 is amended to read as follows:

§ 101.39 Ohio.

Ohio. Thirteen Professional Standards Review Organization Areas are designated in Ohio composed of the following counties:

	AREA I
Butler	Clermont
Warren	Brown
Clinton	Highland
Hamilton	Adams
	AREA II
Darke	Clark
Shelby	Preble
Champaign	Montgomery
Miami	Green
	AREA III
Van Wert	Hardin
Allen	Logan
Hancock	Wyandot
Seneca	Crawford
Mercer	Marion
Auglaize	
	AREA IV
Williams	Henry
Fulton	Wood
Lucas	Sandusky
Ottawa	Paulding
Defiance	Putnam
	AREA V
Lake	Ashtabula
Geauga	
	AREA VI
Summit	Portage
	AREA VII
Coshocton	Harrison
Tuscarawas	Belmont
Carroll	Monroe
Jefferson	
	AREA VIII
Licking	Morgan
Muskingum	Noble
Guernsey	Athens
Fairfield	Washington
Perry	
	AREA IX
Hocking	Jackson
Vinton	Gallia
Meigs	Scioto
Pike	Lawrence
	AREA X
Morrow	Franklin
Knox	Fayette
Union	Pickaway
Delaware	Ross
Madison	
	AREA XI
Erie	Richland
Lorain	Ashland
Huron	Wayne
Medina	Holmes
	AREA XII
Cuyahoga	
	AREA XIII
Stark	Mahoning
Trumbull	Columbiana

AUTHORITY: Section 1102, Social Security Act, 49 Stat. 647 (42 U.S.C. 1302); Section 1152, Social Security Act, 86 Stat. 1430 (42 U.S.C. 1320c–1).

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A–107.

Dated: July 21, 1977.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: August 19, 1977.

HALE CHAMPION,
Acting Secretary.

[FR Doc.77–24559 Filed 8–24–77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19897; RM–2020; RM–2064; RM–2113; RM–2177; RM–2226; RM–2264; RM–2288; RM–2299; RM–2305; RM–2313; RM–2381; RM–2404; RM–2487; RM–2527]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Batesville, Cherokee Village, Dumas, Lonoke, Malvern, Morrilton, Mountain View, Ozark, Russellville, Sheridan and Van Buren, Arkansas

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: This action assigns first FM channels to 10 communities in Arkansas and deletes one FM channel from another Arkansas community. In making these assignments, we placed primary importance on providing for as much first FM service and first local service as possible. Certain proposals requesting additional channels at Little Rock and Pine Bluff, Arkansas, were denied due to conflicts with more favorable proposals and a failure in some cases on the part of proponents to offer reimbursement for necessary channel changes.

EFFECTIVE DATE: October 3, 1977.

ADDRESSES: Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mark N. Lipp, Broadcast Bureau, 202–632–7792.

SUPPLEMENTARY INFORMATION: Proposals for FM assignments at Fayetteville and Springdale, Arkansas, are held pending further data in a separately released Request for Supplemental Information, adopted August 19, 1977, released August 24, 1977.

In the matter of amendment of § 73.–202(b), Table of Assignments, FM Broadcast Stations. (*Little Rock, Benton, Batesville and Mountain View, Arkansas. Also Cherokee Village, Dardanelle, Dumas,* Fayetteville, *Lonoke, Malvern, Morrilton, Ozark,*[1] *Pine Bluff, Russellville, Sheridan,* Springdale,[1] *and Van Buren, Arkansas, and Neosho, Missouri*) First report and order (40 FR 34614).

Adopted: August 16, 1977.

Released: August 24, 1977.

By the Chief, Broadcast Bureau:

1. The Commission here considers the proposals and counterproposals for amending the FM Table of Assignments which were consolidated and advanced for public comment in the Notice of Proposed Rule Making, released November 27, 1973 (38 FR 32945) and in the Further Notice of Proposed Rule Making and Order to Show Cause,[2] released on April 24, 1975 (40 FR 18452). The petitioning parties and other proponents of the plans advanced for consideration are identified in Apendix A. All parties filing comments or reply comments in response to the Notices are listed in Appendix B. Pertinent data on available local radio services and on population (based on 970 U.S. Census reports) for the communities and their respective counties are given in Appendix C.

2. There are certain late filings to be considered for acceptance before discussing the merits of the proposals before us. The late filing of initial comments by Arkansas Television Company (licensee of KTHV, TV Channel 11, Little Rock) and of reply comments by it and Betty Wetenkamp (the Cherokee Village proponent) will be accepted. The late reply comments contain no new arguments which could prejudice other parties, and they are of assistance in analysis of this proceeding. Arkansas Television Company's late filed initial comments can also be accepted. The time of filing did not delay the proceeding since an extension of time had previously been given to file reply comments. However, a letter from Kermit Richardson (KBOK-Malvern Broadcasting Company, licensee of KBOK(AM), Malvern, Arkansas) cannot be accepted because it was filed almost a year late and, as a result, other interested parties did not have any opportunity to respond.

3. Before turning to the specific proposals, one preliminary matter requires consideration. Arkansas Television Company, licensee of TV Station KTHV (Channel 11), Little Rock, contends that certain assignments proposed in this proceeding could cause second harmonic interference to the reception of its station in parts of its coverage area. It requests that any such assignments not be made, and it lists twelve communities where it says the potential for interference exists. However, foreclosing otherwise warranted assignments on this basis is inappropriate and would be in conflict with the Commission's policy in such potential interference cases as stated in the Public Notice of September 1, 1967

[1] These communities have been added to the caption.

[2] The Order to Show Cause was served upon Snider Corporation, Licensee of FM Station KKYK, Channel 279, Little Rock, Arkansas, in regard to the proposed modification of its license to specify Channel 282 at Little Rock.

(FCC 67–1012). The FM permittees would be called upon to follow a procedure which is outlined in the Public Notice in order to reduce or eliminate interference problems. See also Brazil and Rockville, Indiana, 43 F.C.C 2d 650 (1973).

4. The initial Notice dealt only with the proposals of the petitioning parties for Little Rock, Benton, Mountain View, and Batesville, Arkansas. Based upon the proposals of these petitioners, the Notice invited comments on one proposal and five alternative plans involving assignments for these communities.

5. The Further Notice consolidated for consideration these proposals with other conflicting and interrelated proposals for a number of other Arkansas communities as well as a proposal for Neosho, Missouri. At that point, the proposals before the Commission were as follows:

City	Channel No.	
	Present	Proposed
Batesville, Ark		224A, 228A, 240A, 277 or [1] 268.
Benton, Ark	296A	226 or 269A.
Cherokee Village, Ark		265A or 296A.
Dardanelle, Ark	272A	271.
Dumas, Ark		296A.
Fayetteville, Ark	221A, 280A	221A, 281, 300.
Little Rock, Ark	231, 239, 253, 279	231, 239, 253, 282, and 226 or 285.
Lonoke, Ark		292A.
Malvern, Ark	269A	226.
Morrilton, Ark		269A or 278.
Mountain View, Ark		224A, 249A or [1] 277.
Pine Bluff, Ark	222, 235	222, 235, 257A or 295.
Russellville, Ark		242, 265A.
Sheridan, Ark		272A or 276A.
Van Buren, Ark		244A.
Neosho, Mo		257A or 300.

[1] Only 1 FM channel was proposed to be assigned to Batesville and to Mountain View from those suggested.

6. Additional counterproposals were advanced by commenting parties in response to the *Further Notice*, including the following:

(a) A proposal by Johnson Communications, Inc., the licensee of Station KCIZ(FM) (Channel 285A), Springdale, Ark., to substitute Class C Channel 300 for Channel 285A at Springdale, and to reassign Channel 285A to Van Buren, Arkansas, as a counterproposal to the Fayetteville and Neosho Channel 300 proposals.

(b) A proposal by Charles R. Crisler,[3] Greenwood, Arkansas, to assign Channel 272A to Van Buren is advanced as an alternative to a previous Van Buren Channel 244A proposal. Crisler states that he prefers Channel 272A because it would allow a transmitter site within the city. In addition, he notes that the assignment would have little or no preclusive effect upon other possible assignments. This Van Buren Channel 272A proposal would conflict with the Dardanelle Channel 271 proposal of Central Arkansas.

(c) A proposal by Crawford Broadcasters to assign Channel 237A to Van Buren by substituting Channel 292A for Channel 237A (unused) at Paris, Arkansas, as a preferred alternative to their initial Van Buren Channel 244A proposal. They prefer Channel 237A because it would allow use of a site closer to Van Buren than would Channel 244A.

(d) A proposal by Valley Communications, Inc., licensee of daytime-only AM Station KZRK, Ozark, to assign Channel 244A, Channel 269A or Channel 292A to Ozark, Arkansas, for a first FM assignment. The Channel 244A proposal (which Valley prefers) would conflict with the Van Buren Channel 244A proposal and the Russellville Channel 242 proposal. Its alternative Channel 269A proposal for Ozark would conflict with the Dardanelle Channel 271 proposal of Central Arkansas. Valley's alternative Channel 292A proposal for Ozark is free from any conflict.

(e) Comprehensive assignment plans to resolve conflicts among the proposals previously advanced are offered by Central Arkansas Broadcasting Company ("Central Arkansas") (proponent of the substitution of Channel 271 for Channel 272A, upon which it operates Station KWKK at Dardanelle), and by KCLA, Inc., licensee of AM Station KCLA, Pine Bluff (proponent of the Pine Bluff Channel 295 and Channel 278 proposals herein). The new Central Arkansas plan and the four alternative plans put forward for consideration by KCLA are set out in Appendix A. These plans will be discussed later as they relate to the specific communities.

7. Because of the need for additional information, the portion of this proceeding involving the communities of Fayetteville and Springdale, Arkansas, has been severed for additional consideration in a *Request for Supplemental Information* to be issued separately.[4] Therefore, no discussion of the proposals for those communities appears herein.

DECISION

8. While it has not been possible with the available FM channels to satisfy all the assignment requests that have been made for the above communities, we have considered all the requests and have compiled and considered numerous plans. We have been guided by the Commission's well settled policies and priorities in the assignment process and in doing so have sought to offer service to unserved and underserved areas where possible, to provide a first local service to as many communities as possible, and to assign additional channels where available to communities already having local service, while seeking to avoid intermixture of classes of channels. Pursuant to these principles, the following assignments have been made herein and a discussion of the reasons for these decisions will follow: first FM assignments will be made at Batesville (Channel 226), Cherokee Village (Channel 265A), Dumas (Channel 296A), Lonoke (Channel 292A), Morilton (Channel 269A), Mountain View (Channel 277), Ozark (Channel 244A), Russellville (Channel 265A), Sheridan (Channel 272A), and Van Buren (Channel 272A), all in Arkansas. All of these new assignments can be made in conformity with mileage spacing requirements and, with the exception of the Morrilton Channel 269A assignment requiring the deletion of the same channel at Malvern, can be made without changing any existing assignment or station. In addition, we are not ordering any change in the existing FM assignments at Little Rock or Dardanelle, as had been requested and we are denying requests made for additional Little Rock and Pine Bluff Class C assignments. A discussion of each decision, by community, follows:

9. *Little Rock.* Little Rock, the capital of and largest city in Arkansas, has a population of 123,483.[5] It has six AM and four FM stations and receives additional service from three AM stations—two at North Little Rock, Arkansas, and one at Jacksonville, Arkansas. A Class C FM station at Jacksonville also provides service. It would be consistent with our population criteria (which permits four to six assignments to communities with populations of 100,000 to 250,000[6]) to assign a fifth Class C channel to Little Rock and interest has been demonstrated by Carroll D. Caldwell and Arkansas Media Ventures for Channels 295 and 226. The Channel 295 proposal, advanced by Caldwell, would require the substitution of Channel 226 for Channel 296A at Benton. The Channel 226 proposal would require substitution of Channel 282 for Channel 279, occupied by Station KKYK (FM), at Little Rock.

10. The value of either of these alternatives would be to increase the number and diversity of radio outlets and services in Little Rock. However, it is unlikely that either proposal would serve any significant population now without a first or second FM or aural service since three of the Little Rock stations are operating with power greater than 75 kilowatts and with antenna heights greater than 153 meters (500 feet). Also, given certain shortcomings in both of these proposals, as the following discussion will indicate, adoption of either is undesirable.

11. The Little Rock Channel 295 proposal would preclude the assignment of Channel 292A to Lonoke, located approximately 32 kilometers (20 miles) east of Little Rock, and of Channel 296A to Dumas, located approximately 121 kil-

[3] Crisler has advised the Commission by letter of November 12, 1975, that he is no longer interested in an FM station at Van Buren. However, since the record indicates another expression of interest (Crawford County Broadcasters), this proposal will also be considered.

[4] Previously there had been a conflicting proposal for Neosho, Missouri, but as discussed in paragraph 34, that proposal has been dismissed.

[5] All population data has been taken from the 1970 U.S. Census.

[6] See *Third Report, Memorandum Opinion and Order*, 40 F.C.C. 747, and 754 (1963).

ometers (75 miles) southeast of Little Rock. There is interest and demand for first local FM assignments at both of these communities and no other FM channels are available without other changes in the Table of Assignments. Dumas has a daytime-only AM station and Lonoke has no broadcast stations. While Lonoke and Dumas are small communities, it appears that FM assignments could be activated promptly to serve the needs of those communities for first local FM and fulltime aural services, respectively. Information showing a need for local service at these communities was previously set forth in the Further Notice and need not be repeated here. First assignments to Lonoke or Dumas must take precedence over providing Little Rock with a fifth FM assignment and an eleventh local radio service.

12. Another problem with the Little Rock Channel 295 proposal is that it would require deletion of Channel 296A at Benton for which an application is pending. Although part of the Little Rock SMSA, Benton (pop. 16,499) is located some 32 kilometers (20 miles) southwest of Little Rock in Saline County, and is presently dependent upon two daytime-only AM stations for local service. Caldwell has proposed the substitution of Channel 226 at Benton, but the applicant for Channel 296A, Samuel Preston Bridges of Bridges Broadcasting Service opposes such a replacement. He contends that a Class A operation is more economically feasible and appropriate at Benton. Bridges states that he would not be interested in establishing a station on Channel 226 because of the more restrictive requirements as to site [7] and the greater, he says prohibitive, costs of construction and operation of a Class C station. He was joined by the Mayor of Benton and Judge H. W. Green of Saline County in letters to the Commission which express doubt that anyone would undertake to establish a station on Channel 226 if assigned to Benton because of the costs of a Class C operation. They urge that to replace the Benton Class A assignment with Channel 226 would create a situation that could keep Benton from having a needed FM outlet for a first fulltime local radio service in the foreseeable future. In addition, a previously suggested alternative, Channel 269A as a substitute for Channel 296A would preclude the assignment of Channel 269A as a first FM channel to Morrilton as proposed and is therefore unsatisfactory as a solution.

13. The alternate Little Rock Channel 226 proposal, advanced in the assignment plans for Dardanelle (Central Arkansas) and Pine Bluff (KCLA, Inc.), would require the substitution of Channel 282 for Channel 279 at Little Rock in order to comply with the Commission's rule designed to avoid the creation of intermediate frequency (IF) interference.[8] This proposed substitution for Station KKYK, however, would permit first FM assignments to Morrilton (Channel 278) and to Sheridan (Channel 276A) for which there is interest and demand. Snider contends that a frequency change for its Little Rock Channel 279 station would cost in excess of $192,000; that failure to receive full reimbursement for conversion costs would bankrupt it; that the public interest would be adversely affected by loss or curtailment of its network and SCA services; and that it could not undertake the conversion without simultaneous reimbursement. The *Further Notice* asked interested parties to state their willingness to reimburse Snider for its necessary conversion costs. However, proponents at Little Rock, Sheridan, and Morrilton were silent as to their willingness to reimburse.

14. In view of this failure on the part of the proponents to commit themselves to reimbursement,[9] we conclude that it is not in the public interest to make this fifth FM assignment at Little Rock. Little Rock has ten local radio services available to it from its four Class C FM stations and six AM stations (four fulltime), and it receives four additional radio services from other nearby stations. We believe that Little Rock, even considering its size, is reasonably well served by existing broadcast facilities. Moreover, the record furnishes no basis for concluding that there are special circumstances supporting a fifth Little Rock FM assignment, such as service to unserved or underserved areas.[10] Moreover, the additional service to Little Rock would be possible only by precluding the assignment of a first local service to other communities (Channel 295) or by imposing a reimbursement condition that has not been shown to be within the means of those parties expressing an interest in a new Little Rock station (Channel 226). With all of these points in mind, we shall not assign either of the channels requested at Little Rock.

15. *Pine Bluff.* KCLA, Inc., licensee of Class IV AM Station KCLA, Pine Bluff, seeks a third Class C assignment to Pine Bluff for which it has stated it would apply. The *Further Notice* set forth KCLA's initial proposal to assign Channel 295 to Pine Bluff by substituting Channel 269A for unoccupied Channel 296A at Benton, and by deleting or changing the unoccupied Channel 269A assignment at Malvern. This proposal conflicted with the previously discussed Little Rock Channel 295 proposal, the Lonoke Channel 292A proposal and the Dumas Channel 296A proposal. The Benton Channel 269A replacement proposal is also mutually exclusive with the Morrilton Channel 269A proposal. The *Further Notice* invited comments on an alternative proposal to assign Channel 257A to Pine Bluff as a "drop-in," and KCLA and Central Arkansas have proposed two more assignment possibilities for Pine Bluff. KCLA's alternative Channel 278 proposal also involves the substitution of Channel 282 for Channel 279 at Little Rock (licensed to KKYK). Central Arkansas revised plan proposes the assignment of Channel 268 to Pine Bluff by substituting Channel 296A for occupied Channel 269A (WJBI) at Clarksdale, Mississippi, and by deleting Channel 269A from Malvern without replacement.[11]

16. Relevant demographic data supporting the addition of a third Class C channel is adequately set forth in the *Further Notice* and will not be repeated here. KCLA indicates in its reply comments that it does not favor the Pine Bluff Channel 268 proposal requiring the Clarksdale Channel 269A station to change frequency because it would involve "very expensive reimbursement." KCLA disputes the Little Rock licensee's estimate of conversion costs, but does not say whether it is willing and able to reimburse either the Little Rock or the Clarksdale licensee. As for the Pine Bluff Class A proposal, KCLA considers it unlikely that any such assignment would be activated, if made, due to the competition from existing Class C stations there.

17. In reply comments, Superior, the Clarksdale FM licensee, states that Station WJBI now enjoys a position midpoint on the FM frequency dial which would be lost if its frequency were changed. It contends that as a result it would be surrounded on the dial by high-power FM stations that could make tuning difficult and that this could have a serious adverse economic effect upon its

[7] A transmitter site for the Benton channel would have to be located approximately 21 kilometers (13 miles) to the south or west to meet spacing requirements. Bridges could not use his AM transmitter site for an FM station with this restriction imposed.

[8] See Section 73.207(a) (Note) which requires a Class A and a Class C channel (53 or 54 channels removed) to be spaced at least 48 kilometers (30 miles) apart.

[9] It is well settled Commission policy that an existing station is entitled to be reimbursed from the benefitting permittees or licensees for the reasonable and necessary expenses incurred in changing its operating frequency when the change makes possible a requested new assignment or assignments. See *e.g., Circleville, Ohio*, 8 F.C.C. 2d 159 (1967); *Lake City, S.C.*, 47 F.C.C. 2d 1067 (1974); *Atlanta, Ga.*, 49 F.C.C. 2d 1270 (1974), and other decisions cited therein. This reimbursement policy has also been extended by the Commission's recent decision in the case of *Forest Lake-Brainerd, Minn.*, 61 F.C.C. 2d 113 (1976), to include reimbursement for necessary costs incurred to continue operation of a Subsidiary Communications (SCA) service.

[10] Caldwell argues that Little Rock needs a local radio outlet with a quality religious programming format and Arkansas Media Ventures argues that Little Rock needs a first Black-owned radio station to serve the needs and interests of its Black residents (25 percent of the population of Little Rock and 18.5 percent of its SMSA). However, we have consistently held that these considerations are not ones we can take into account in the assignment process where there is no way to adjudge which the successful applicant might be or what programming it would present.

[11] As indicated in Appendix A hereto, where all of the KCLA and Central Arkansas alternative assignment plans are set out, KCLA also advanced an alternative fourth plan which is technically defective and cannot be considered.

station. Nevertheless, Superior requests reimbursement if Station WJBI is required to change its operating frequency. Also, as previously discussed in the Little Rock section paragraph 13, *supra*, Snider, the Little Rock licensee, also opposes its proposed frequency change and requests reimbursement.

18. KCLA's comments include Roanoke Rapids coverage showings for its alternative Pine Bluff Channel 295 and Channel 278 proposals, based on assumed facilities with power of 75 kilowatts and antenna height of 153 meters (500 feet). These showings indicate that a Pine Bluff Channel 295 operation would provide a first FM service to an area of 354 sq. kilometers (136 sq. miles) with a population of 1,718 and a second FM service to an area of 541 sq. kilometers (208 sq. miles) with a population of 8,964. A Pine Bluff Channel 278 operation would provide a first FM service to an area of 47 sq. kilometers (18 sq. miles) with a population of 523 and a second FM service to an area of 406 sq. kilometers (156 sq. miles) with a population of 6,455. However, analysis of KCLA's map indicates that the coverage for Channel 295 at Pine Bluff is incorrectly shown, since the contours of three of the Little Rock stations and of the Jacksonville FM station are not drawn to extend as far on its Channel 295 map as on its Channel 278 map. Also neither of its coverage showings for Channel 295 and Channel 278 take into consideration the fact that three of the Little Rock FM stations operate with facilities greater than reasonable operating values (power of 75 kilowatts and antenna height of 153 meters (500 feet) or its equivalent). Consequently, the coverage for a Pine Bluff Channel 295 operation would be much less than KCLA claims. However, the oversight would have but minimal effect on its Pine Bluff Channel 278 coverage showing. No. Roanoke Rapids showing was submitted for the proposed Channel 268 assignment. As for the Class A channel proposal, KCLA correctly concludes that Channel 257A at Pine Bluff would not provide a first or second FM service to any area or population.

19. Although it appears that a need exists at Pine Bluff for a third Class C channel, and that a service to unserved and underserved areas could be provided, none of the proposed channels are acceptable. Channel 295 could not be assigned without precluding opportunity for first FM assignments to Lonoke (Channel 292A) and Dumas (Channel 296A). The switch of Channel 296A with Channel 269A at Benton would preclude Channel 269A as a first FM assignment to Morrilton. Dumas and Morrilton each have a daytime-only AM outlet; Lonoke has none. Meeting the needs of these communities for first fulltime local aural service with the available FM channels would, in our judgment, be more beneficial to the public and would achieve a more efficient and equitable result than an eighth local aural service at Pine Bluff, even taking into account the proposal's potential for serving areas and populations now lacking FM service.[12] We are therefore opposed to the adoption of KCLA's Channel 295 proposal for Pine Bluff.

20. KCLA's alternative Channel 278 proposal for Pine Bluff would require the Little Rock Channel 279 station to change frequency and Central Arkansas' alternative Channel 268 proposal for Pine Bluff would require the Clarksdale Channel 269A station to change frequency. We are of the view that neither of these proposals warrant adopton. Neither assignment could be accomplished without reimbursement to the affected stations and made. Moreover, the *Roanoke Rapids* study for Channel 278 indicated that the service to unserved and underserved areas would be so small as to be insignificant. No showing was made for Channel 268. There is no expression of interest for the assignment of a Class A channel to Pine Bluff, and we would not intermix this community under the circumstances without such interest. Therefore, no changes in the Table will be made with regard to Pine Bluff.

21. *Dardanelle and Russellville.* Dardanelle (pop. 3,297), the seat of Yell County (pop. 14,208), and Russellville (pop. 11,750), the seat of Pope County (pop. 28,607), are located in west central Arkansas, approximately 8 kilometers (5 miles) from each other. Dardanelle has two aural broadcast stations, both licensed to Central Arkansas Broadcasting Company, Inc. ("Central Arkansas"), KCAB(AM), a daytime-only operation, and KWKK (FM) (Channel 272A). Central Arkansas proposes to replace its Dardanelle Class A FM station with Class C Channel 271. This proposal is mutually exclusive with proposals for first FM assignments to Morrilton (Channel 269A), Ozark (Channel 269A), Sheridan (Channel 272A), and Van Buren (Channel 272A).[13] In its assignment plan, Central Arkansas proposed changing the occupied Little Rock Channel 279 assignment to Channel 282 to permit, among other things, the assignment of Class C Channel 278 to Morrilton and Channel 276A to Sheridan to thereby remove the conflicts.[14]

22. Horne Industries, Inc. ("Horne") requests the assignment of Class C Channel 242 to Russellville as a first FM assignment. Russellville is served by Station KARV(AM), a Class IV unlimited-time operation, licensed to Horne. In its comments to the *Further Notice*, it reaffirms its intention to promptly apply for the requested assignment at Russellville if assigned. Horne shows that Channel 242 would meet separation requirements for assignment and would be able to provide a signal of the required strength over Russellville from a transmitter site some 24 kilometers (15 miles) northwest of the city. Horne's Russellville Channel 242 proposal would conflict with Valley Communications' Channel 244A proposal for Ozark. However, Horne states that Valley's alternative Channel 292A proposal for Ozark could be adopted.

23. A proposal by Jerry L. Ragsdale ("Ragsdale") to assign Channel 265A to Russellville (RM–2487) was also advanced along with a commitment to apply for this requested Class A assignment if made, and to build promptly, if authorized. While Ragsdale does not believe a Class C channel would be appropriate for a small community like Russellville, he states that he would nevertheless apply for the Class C channel if assigned. Ragsdale demonstrates that Channel 265A is technically feasible for assignment at Russellville without disturbing existing assignments if used at a transmitter site about three kilometers (2 miles) west of Russellville. This proposal is technically campatible with all other FM assignment proposals advanced herein. Central Arkansas states that it would support Horne's Russellville Class C proposal only if Dardanelle also got a Class C channel and its present Class A station were modified to the Class C channel. Otherwise it would urge the assignment of a Class A channel to Russellville.

24. Small communities like Dardanelle and Russellville normally merit a Class A assignment rather than the wider coverage Class C channels designed for serving larger cities and metropolitan areas. It is also Commission policy to avoid intermixture of classes of FM assignments in the same community or in communities as closely located with respect to each other as Dardanelle and Russellville, in the interest of providing local stations an opportunity to obtain comparable facilities for competition and coverage. With Dardanelle and Russellville so close geographically, a Russellville Class A station could reasonably be expected to provide service to Dardanelle as well as providing Russellville with a first local FM outlet and an improved local nighttime aural

[12] While the KCLA coverage showings for its Channel 295 and Channel 278 alternative proposals for Pine Bluff do not reveal whether any AM service is available in the relatively small areas which could receive a first or second FM service therefrom, it appears likely that at least portions of these areas are served by the Class I–B, 50 kilowatt, AM station at Little Rock (KAAY).

[13] The separation requirement to Channel 269A is 104 kilometers (65 miles) and to Channel 272A, 168 kilometers (105 miles).

[14] The conflicting Ozark Channel 269A and Van Buren Channel 272A proposals were not before Central Arkansas in developing its assignment plans. However, in its reply comments, Central Arkansas urges that its Channel 292A proposal for Ozark be adopted instead of Channel 269A to avoid the conflict with its Dardanelle Channel 271 proposal. It also proposes Channel 244A for a Van Buren assignment in its revised assignment plan, recognizing that it would require site coordination with the proposed Russellville Channel 242 assignment to meet the minimum separation requirement. While the Dardanelle Channel 271 proposal of Central Arkansas does not conflict with the Fayetteville Channel 281 proposal, its plan to substitute Channel 282 for Channel 279 at Little Rock does conflict with the Fayetteville proposal.

service. While Central Arkansas and Horne urge that Class C assignments would better serve the needs of both Russellville and Dardanelle in light of their substantial growth during the 1960–1970 period [15] and their recent and projected further growth, we are satisfied that Class A channels are technically adequate and have sufficient coverage capability to satisfactorily serve these relatively small communities.

25. We realize that a concern about an intermixture situation in the Russellville-Dardanelle area could be avoided by adopting both the Horne and Central Arkansas Class C proposals for these communities. However, the showings offered in support of Class C assignments in terms of service to unserved and underserved areas are insubstantial. In this respect, Horne demonstrates in its corrected engineering analysis that Channel 242 at Russellville, operating with power of 75 kilowatts at 153 meters (500 feet) HAAT, would provide a first FM service to 299 persons in an area of approximately 252 sq. kilometers (97 sq. miles) and a second FM service to 12,715 persons in an area of approximately 3,205 sq. kilometers (1,233 sq. miles). The Central Arkansas analysis shows that a Dardanelle Channel 271 station, operating with power of 100 kilowatts and antenna height of 397 meters (1,300 feet), would provide a first FM service to 1,399 persons in an area of approximately 455 sq. kilometers (175 sq. miles) and a second FM service to 3,673 persons in an area of approximately 2,223 sq. kilometers (855 sq. miles). High priority is given to providing service to unserved and, to a lesser extent, underserved areas, and these points have been decisive factors in justifying Class C FM assignments to communities ordinarily warranting Class A assignments.[16] However, the population which would receive first FM service as shown by Central Arkansas and Horne for Class C operations at either Dardanelle or Russellville is small, and the second service areas, while larger, are of less significance.[17] These do not, in our judgment, warrant making the assignment, especially in light of the losses which would result.

26. The adoption of the Class C proposal for Dardanelle would preclude the assignments of proposed first FM channels to Morrilton, Ozark, Sheridan and/or Van Buren. First local service is an important assignment objective and the submitted Roanoke Rapids showings do not offer a sufficient basis to counterbalance this preclusive impact on other requested assignments. Some of the conflicts could be resolved by site limitations or use of available alternative channels in these communities as suggested by Central Arkansas and Horne. Still, the Central Arkansas Channel 271 proposal at Dardanelle would either preclude first FM assignments at Morrilton (Channel 269A) and Sheridan (Channel 272A) or result in substantial reimbursement costs to the Little Rock Channel 279 licensee if it is changed to allow different Morrilton (Channel 278) and Sheridan (Channel 276A) assignments. In fact, the Morrilton proponent (J. C. Willis) indicates in his comments that, while he would apply for a Class C channel at Morrilton in the absence of any other choice, the costs of a Class C operation would cast a heavy burden on him, and neither he nor the Sheridan petitioner comment on their willingness or ability to share in the reimbursement costs to the Little Rock licensee. Therefore, in view of our assignment criteria and intermixture policy and the lack of any substantial showing of service to unserved and underserved areas, we conclude that the public interest and our FM goals are best served by the assignment of Channel 265A to Russellville, and denial of the Class C proposals for Russellville and Dardanelle.

27. *First Local FM Assignments to Various Communities.* Parties have requested Class A FM channels as first assignments, and have expressed intent to apply for such channels, in the following communities: Batesville, Mountain View, Cherokee Village, Dumas, Lonoke, Morrilton, Sheridan, Van Buren and Ozark, all in Arkansas. Proponents at Batesville and Mountain View said they would prefer Class C assignments but would accept Class A channels. The essential considerations which support the need for first assignments at all of these communities were set forth in the *Further Notice* and will be incorporated herein as findings of fact supporting these assignments. They do not require repetition here. We have decided that all of the above communities should have Class A assignments except Batesville and Mountain View. In the discussion which follows we address the basis for the exceptions and go on to consider the various other proposals including those at Ozark which have not yet been mentioned. Since some of the conflicts affecting the Dumas, Lonoke, Morrilton and Sheridan proposals have already been discussed and resolved, they will not be discussed further. Finally, in order to assign the Morrilton channel, the assignment at Malvern had to be deleted. The reasons for that decision will also follow.

28. *Batesville and Mountain View.* Our disposition of the Little Rock-Benton and Dardanelle proposals removes the conflicts, set out in footnote 2 of the *Further Notice*, with the Batesville and Mountain View proposals.[18] Although the *Further Notice* proposed a Class A assignment for Mountain View and a Class C channel for Batesville, we do have expressions of interest for Class A and Class C channels at both communities and the Notice alternatively proposed Class A and Class C channels at each location.

29. Wide area Class C FM channels are not usually assigned to communities the size of Batesville (7,209) or Mountain View (1,866). However, as we said in the *Notice*, special circumstances may be demonstrated that would merit the consideration of the assignment of at least one Class C channel to such a locality. Mountain View is now without any local aural service, and Batesville's only local aural service is from a Class IV AM station with limited nighttime coverage. While both communities are relatively small and neither are of a size to normally warrant a Class C assignment, the record evidence shows that the assignment of a Class C channel to these communities would bring service to large unserved and underserved rural areas in a mountainous region.

30. Proponents have supplied information to support their respective assignment plans. Both communities are said to be cultural and tourist centers which are showing growth in population and economy. Both communities are county seats, Batesville of Independence County and Mountain View of Stone County in Arkansas. The Commission's study of the engineering data which has been filed has confirmed the following FM service populations for Class C assignments:

City	First FM service	Second FM service
Mountain View	54,122	9,178
Batesville	49,575	18,530

A portion of the first service from one of the communities would become a second FM service if two Class C channels were in operation. Nevertheless, these figures are far in excess of the first and second service that could be offered by a Class A assignment to this area. The study for a Class A station at either community shows the following population figures:

City	First FM service	Second FM service
Mountain View	8,990	
Batesville	20,561	1,135

31. In view of these showings of large first FM service, we shall make Class C assignments to both communities. The assignments of Channel 226 at Batesville and Channel 277 at Mountain View are consistent with our overall plan in this proceeding. A transmitter site restriction of 11 km. (7 mi.) northwest of Batesville which is necessary for the Channel 226 assignment, should not affect the station's ability to provide the required signal to Batesville.

32. *Ozark.* Valley Communications, Inc. ("Valley"), licensee of daytime-only Station KZRK(FM), in seeking the assignment, gives the following information in support. Ozark (pop. 2,529) is the largest city in, and is the seat of Franklin County (pop. 11,301). Valley claims that Ozark has increased in population by over 30% in the last Census decade, and that by 1980 it is predicted to have a population of over 3,000. Valley says Ozark is a farming community and that there are no other stations, besides KZRK(AM), in the county. There is no opposition to this proposal, and based on the record before us, we find that the public interest would be served by the assignment of a first FM channel to Ozark. Channel 244A can be assigned without conflicting with proposals at Van Buren, Russellville and Dardanelle.

33. *Malvern and Morrilton.* The only Class A channel available for assignment to Morrilton is the unused and unapplied for channel presently assigned to Malvern. Also, there are no other channels available for substitution at Malvern if this reassignment is made. A late-filed interest in applying for the channel at its present location in Malvern was submitted in August, 1976, but no application has been filed to date. In comparing the need for FM service at each of the two communities, we find that both are county seats and have a daytime-only AM station. Although Malvern had a 1970 Census population of 8,739, and Morrilton had a 1970 population of 6,814, the population growth rate of Morrilton is significantly greater than that of Malvern. In fact, Malvern's population has decreased from 1960 to 1970 by 8.6%, while Morrilton's population increased over the same period by 13.6%. Malvern has a daily newspaper while both have weekly newspapers. Although there are similarities between the two communities, it must be concluded that the need for an FM channel at Morrilton is greater in light of its population growth rate and its lack of a daily newspaper. Also, while Malvern has had an FM channel since the original FM Table of Assignments was adopted in 1963, no institution of service was ever made and only recently was an interest expressed, at a point too late to be considered in a timely fashion. Even now, no application has yet been received. Under such circumstances, it is our view that interested parties at Morrilton should be given the opportunity to apply for this unused channel.

34. *Neosho, Missouri.* KBTN, Inc., licensee of AM Station KBTN, Neosho, Missouri, proposed the assignment of Channel 300 to Neosho, as a first FM channel. However, KBTN has withdrawn its request because of the Commission's amendment of the multiple ownership provisions of Section 73.240 of the rules, which were effective April 22, 1977 (First Report and Order, 40 R.R. 2d 23) bars overlap of the sort which would occur if it acquired such a station. Since now there is no party expressing interest in an assignment at Neosho, we shall not consider it further in this proceeding, and the proposal will be dismissed.

35. In view of the foregoing and pursuant to authority found in Sections 4(i), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, *It is ordered*, That, effective October 3, 1977, the FM Table of Assignments (Section 73.202(b) of the Commissions' Rules) is amended with respect to the following cities, as follows:

State/City Arkansas:	*Channel No.*
Batesville	226
Cherokee Village	265A
Dumas	296A
Lonoke	292A
Malvern	----
Morrilton	269A
Mountain View	277
Ozark	244A
Russellville	265A
Sheridan	272A
Van Buren	272A

36. *It is further ordered*, That the petition of Carroll D. Caldwell to assign Channel 295 to iLttle Rock (RM–2020) is denied.

37. *It is further ordered*, That the petition of James A. Peason to assign Channel 224A to Mountain View, Akansas (RM–2064) is denied.

38. *It is further ordered*, That the petition of KCLA, Inc. to assign a Class C channel to Pine Bluff, Arkansas (RM–2313) is denied.

39. *It is further ordered*, That the petition of Central Arkansas Broadcasting Co., Inc., to substitute Channel 271 for Channel 272A at Dardanelle, Arkansas, is denied.

40. *It is further ordered*, That the petition of Horne Industries to assign Channel 242 to Russellville, Arkansas (RM–2288) is denied.

41. *It is further ordered*, That the petition of KBTN, Inc., to assign Channel 300 to Neosho, Missouri (RM–2177) is dismissed.

(Secs. 4, 303, 307, 48 Stat., as amended, 1068, 1082, 1083; 47 U.S.C. 154, 303, 307.)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX A

The petitioning parties and other proponents of proposals and counterproposals consolidated for consideration in the Notice herein, together with their proposals, are as follows:

RM–2020 (Carroll D. Caldwell)—Channel 295 to Little Rock as a Class C assignment by replacing Channel 296A (application pending) with Channel 226 at Benton.

RM–2064 (James A. Pearson)—Channel 224A to Mountain View as a first FM assignment.

RM–2113 (Joe M. Biard)—Channel 226 to Batesville as a first FM assignment. Also proposed Channel 249A to Mountain View to resolve conflict with Mountain View 224A proposal in RM–2064.

RM–2226 (Preston Grace, Jr.)—Channel 226 to Mountain View as a first FM assignment.

RM–2177 (KBTN, Inc.)—Channel 300 to Neosho, Missouri, as a first FM assignment.

RM–2264 (Vernon B. Fitzhugh)—Channel 300 to Fayetteville as a third FM assignment (first Class C). Also proposed Channel 257A to Neosho to resolve conflict with Neosho Channel 300 prposed in RM–2177.

RM–2288 (Horne Industries, Inc.)—Channel 242 to Russellville as a first FM assignment.

RM–2299 (Kessler Mountain Broadcasting Co., Inc.)—Channel 281 to Fayetteville in place of Channel 280A (KNWA) at Fayetteville.

RM–2305 (J. C. Willis)—Channel 269A to Morrilton as a first FM assignment by substituting Channel 226 for Channel 269A (unused) at Malvern.

RM–2313 (KCLA, Incorporated)—Channel 295 or Channel 298 to Pine Bluff as a third Class C assignment by substituting Channel 269A for Channel 296A at Benton and Channel 257A for Channel 269A at Malvern. (The Channel 298 proposal was not proposed for consideration in the Further Notice herein since it is mutually exclusive with the new Channel 298 assignment recently made to Ruston, Louisiana, in Docket No. 19690, and no public interest justification for considering a change in the new Ruston assignment was shown.)

RM–2381 (William L. Pharis and Bert Denson, d/b/a Crawford County Broadcasters)—Channel 244A to Van Buren as a first FM assignment.

RM–2404 (Lowell Stephen Jumper)—Channel 292A to Lonoke as a first FM assignment.

RM–2487 (Jerry L. Ragsdale)—Channel 265A to Russellville as a first (or second) FM assignment.

RM–2527 (Ralph Sanders)—Channel 272A to Sheridan as a first FM assignment.

Cherokee Village (Betty McCutcheon Wetenkamp)—Channel 296A or Channel 265A to Cherokee Village as a first FM assignment.

Dardanelle (Central Arkansas Broadcasting Company, Inc.)—Channel 271 to Dardanelle in place of Channel 272A (KWKK) as a first Class C assignment. Also advanced following plan to resolve conflicts:
- Dardanelle—Channel 271 for Channel 272A (KWKK).
- Little Rock—Channel 282 for Channel 279 (KKYK) and add Channel 226.
- Pine Bluff—Assign Channel 257A.
- Morrilton—Assign Channel 278.
- Mountain View—Assign Channel 224A.
- Batesville—Assign Channel 298.
- Cherokee Village—Assign Channel 265A.
- Sheridan—Assign Channel 276A.

Dumas (Alan W. Eastham)—Interest expressed in Channel 296A to Dumas as first FM assignment.

Additional proposals, counterproposals and plans advanced in response to Further Notice:

Springdale-Van Buren, Arkansas (Johnson Communications, Inc.)—Channel 300 to Springdale in place of Channel 285A (KCIZ–FM) and Channel 285A to Van Buren as a first FM assignment.

Ozark, Arkansas (Valley Communications, Inc.)—Channels 244A, 269A or 292A to Ozark as a first FM assignment.

Van Buren, Arkansas (Charles R. Crisler)—Alternatively suggests Channel 272A instead of Channel 244A (RM–2381) as a first assignment for Van Buren.

Van Buren-Paris, Arkansas (Crawford County Broadcasters)—Channel 237A to Van Buren as a first FM assignment by substituting Channel 292A for Channel 237A (unused) at Paris. (Preferred to their Van Buren Channel 244A proposal in RM–2381.) They also suggest Channel 285A as a possible assignment for Van Buren if Channel 285A (KCIZ–FM) is replaced with another channel at Springdale. They note that Channel 252A could be used at Springdale.

Revised Assignment Plan Advanced by Central Arkansas Broadcasting Company, Inc.

Channel 268 to Pine Bluff by substituting Channel 296A for Channel 269A (WJBI), Clarksdale, Mississippi, as part of following plan:
- Dardanelle—Assign Channel 271 in place of Channel 272A (KWKK).

[15] The U.S. Census shows that from 1960 to 1970 Dardanelle had a 57.1 percent population increase (from 2,098 to 3,297) and that Russellville had a 31.7 percent population increase (from 8,921 to 11,750).

[16] See *e.g., Lexington, Missouri*, 53 F.C.C. 2d 893 (1975); *Poteau, Oklahoma*, 43 F.C.C. 2d 1130 (1973); and *Clinton, Oklahoma*, 7 F.C.C. 2d 836 (1967).

[17] In addition, the second Class C assignment would offer no first FM service and second FM service only to a small area.

[18] The Commission also proposed alternative assignment plans for Batesville and Mountain View based on the pleadings and conflicts, which assumed the assignment of Channel 295 at Little Rock and the substitution of Channel 226 for Channel 296A at Benton, but those alternatives are mooted by our action today.

Cherokee Village—Assign Channel 265A.
Batesville—Assign Channel 298.
Mountain View—Assign Channel 224A.
Lonoke—Assign Channel 292A.
Russellville—Assign Channel 242.
Van Buren—Assign Channel 244A.
Little Rock—Assign Channel 282 in place of Channel 279 (KKYK) and assign Channel 226.
Morrilton—Assign Channel 278.
Sheridan—Assign Channel 276A.
Pine Bluff—Assign Channel 268.
Malvern—Delete Channel 269A without replacement.
Dumas—Assign Channel 272A.
Clarksdale—Substitute Channel 296A for Channel 269A (WJBI).
McGehee—Assign Channel 276A in place of Channel 272A (unused).

Alternative Assignment Plans Advanced by KCLA, Incorporated.

Plan I—Change Channel 279 (KKYK) to Channel 282 at Little Rock and make assignments as follows:
Benton—No change proposed in Channel 296A assignment.
Dardanelle—No change proposed in Channel 272A assignment.
Dumas—Assign Channel 272A.
Little Rock—Assign Channel 226 and substitute Channel 282 for Channel 279 (KKWK).
Lonoke—Assign Channel 292A.
Malvern—Assign Channel 272A in place of Channel 269A (unused).
Morrilton—Assign Channel 269A.
McGehee—Assign Channel 269A in place of Channel 272A (unused).
Pine Bluff—Assign Channel 278.
Sheridan—Assign Channel 269A.

Plan II—Change Channel 279 (KKYK) to Channel 282 at Little Rock and make the following assignments:
Benton—Assign Channel 226 in place of Channel 296A (unused).
Dumas—Assign Channel 269A.
Dardanelle—No change in Channel 272A assignment proposed.
Little Rock—Assign Channel 282 in place of Channel 279 (KKYK).
Lonoke—Assign Channel 269A.
Malvern—No change proposed in Channel 269A assignment.
Morrilton—Assign Channel 278.
Pine Bluff—Assign Channel 257A or Channel 276A.
Sheridan—Assign Channel 272A.

Plan III—Change Channel 279 (KKYK) to Channel 282 at Little Rock and make the following assignments:
Benton—No change proposed in Channel 296A assignment.
Dumas—Assign Channel 296A.
Dardanelle—No change in Channel 272A assignment proposed.
Little Rock—Assign Channel 226 and assign Channel 282 in place of Channel 279 (KKYK).
Lonoke—Assign Channel 292A.
Malvern—Assign Channel 272A in place of 269A (unused).
Pine Bluff—Assign Channel 278.
Sheridan—Assign Channel 269A.
McGehee—No change proposed in Channel 272A assignment.
Morrilton—Assign Channel 269A.
[1] Plan IV—Change Channel 279 (KKYK) to Channel 278 at Little Rock and make assignments, as follows:
Benton—Substitute Channel 282 for Channel 296A (unused).
Dumas—Assign Channel 276A.
Dardanelle—Assign Channel 299 in place of Channel 272A (KWKK).
Fayetteville—Assign 281 in place of 280A (KNWA) and assign Channel 300.
Little Rock—Assign Channel 278 in place of Channel 279 (KKYK) and assign Channel 226.
Lonoke—Assign Channel 269A.
Malvern—No change proposed in Channel 269A assignment.
Morrilton—Assign Channel 272A.
Pine Bluff—Assign Channel 295.
Sheridan—Assign Channel 272A.

(With the above plans, KCLA suggests 249A or 298 for Batesville; Channel 265A or Channel 296A for Cherokee Village; Channel 300 for Fayetteville—also Channel 281 for Channel 280A at Fayetteville in Plan IV which, as indicated above, is not technically feasible; Channel 224A or Channel 298 for Mountain View; Channel 257A or Channel 300 for Neosho, Missouri; Channel 242 or Channel 265A for Russellville; and Channel 244A for Van Buren.)

APPENDIX B

COMMENTS FILED TO NOTICE OF PROPOSED RULE MAKING

[Docket No. 19879]

Allen W. Eastham
Arkansas Media Ventures
Arkansas Television
Betty McCutcheon Wetenkamp
Bridges Broadcasting Service
Crawford County Broadcasters
Dan Winn
David J. Philipps
Edwin T. Baldridge
H. W. Green
J. C. Willis (KVOM), Morrilton Broadcasting Co.
Jerry L. Ragsdale
Joe Biard
KBTN, Inc.
KCLA, Inc.
Kessler Mountain Broadcasting Co.
Noel Butler, Jr.
Payton Golden
Preston Grace, Jr.
Radio Jacksonville, Incorporated
Ralph Sanders
Thomas C. White
Tower Communications Company (KLAZ (FM))
Weldon Sledge (KWRF)
White River Valley Broadcasters, Inc.

REPLY COMMENTS

Arkansas Television Company (KTHV)
Central Arkansas Broadcasting Company, Inc. (KWKK)
Joe Biard
KCLA, Inc.

COMMENTS TO FURTHER NOTICE OF PROPOSED RULE MAKING

[Docket No. 19879]

Arkansas Television Company
Betty McCutcheon Wetenkamp
Carroll D. Caldwell
Central Arkansas Broadcasting Company (KWKK)
Charles R. Crisler
Crawford County Broadcasters
Horne Industries, Inc.
J. C. Willis (KVOM), Morrilton Broadcasting Co.
Jerry L. Ragsdale
Joe M. Biard
Johnson Communications, Inc.
KBTN, Inc.
KCLA, Inc.
Kessler Mountain Broadcasting Co., Inc.
Little Chief Broadcasting Company
Lowell Stephen Jumper
Preston Grace, Jr.
Ralph Sanders
Snider Corporation
Valley Communications, Inc.
Vernon Fitzhugh
White River Valley Broadcasters, Inc.

REPLY COMMENTS

Arkansas Media Ventures
Arkansas Television Company
Betty McCutcheon Wetenkamp
Central Arkansas Broadcasters Corporation
Horne Industries, Inc.
Johnson Communications, Inc.
Lowell Stephen Jumper
Ralph Sanders
Superior Broadcasting Co., Inc.
Valley Communications, Inc.
Vernon Fitzhugh

[1] Plan IV, which KCLA prefers, is technically defective. Channel 282 could not be used at Benton and Channel 281 at Fayetteville, as proposed, since the required 150-mile separation between these proposed assignments could not be met (15-mile shortage). Also Channel 299 could not be assigned to Dardanelle and Channel 300 to Fayetteville, as proposed, in conformity with the 150-mile separation required (80 mile shortage).

APPENDIX C.—*Population (1970)*

City	County	City	Percent change (1960)	County	Percent change (1960)	AM services	FM assignments
Arkansas:							
Batesville	Independence	7,209	16.1	22,723	13.3	1 (class IV)	
Benton	Saline	16,499	58.7	36,107	24.7	2 (daytime)	296A, A
Cherokee Village	Sharp (principally)	1,300		8,233	30.3		272A
Dardanelle	Yell	3,297	57.1	14,208	19.0	1 (daytime)	KWKK
Dumas	Desha	4,600	29.9	18,761	−9.7	do	
Fayetteville	Washington	30,729	51.6	77,370	38.7	2 (daytime)	221A, 280A, KKEG, KNWA
Jacksonville	Pulaski	19,832	36.9	287,189	16.2	1 (daytime)	262, KGMR-FM
Little Rock	do	132,483	22.9	287,189	18.2	6 (2 daytime)	231, 239, KEZQ, KMYO-FM, 253, 279, KLAZ, KKYK
Lonoke	Lonoke	3,140	33.1	26,249	6.9		
McGehee	Desha	4,683	5.3	18,761	−9.7	1 (daytime)	
Malvern	Hot Spring	8,739	−8.6	21,963	9.3	do	269A
Morrilton	Conway	6,814	13.6	16,605	8.9	do	
Mountain View	Stone	1,866	89.8	6,838	8.6		
North Little Rock	Pulaski	60,040	3.5	287,189	18.2	2 (1 daytime)	
Ozark	Franklin	2,502	31.9	11,301	10.7	1 (daytime)	
Paris	Logan	3,646	21.3	16,789	5.2	do	237A
Pine Bluff	Jefferson	57,389	30.3	85,329	4.9	5 (2 daytime) (3 class IV)	222, 235, KOTN-FM, KADL-FM
Russellville	Pope	11,750	31.7	28,607	35.1	1 (class IV)	
Sheridan	Grant	2,480	28.0	9,711	17.1		
Springdale	Washington (principally), Benton	16,783	66.6	77,370	38.7	1 (class IV)	285A, KCIZ
Van Buren	Crawford	8,373	23.4	50,476	39.2		
Mississippi: Clarksdale	Coahoma	21,673	2.7	25,677	20.4	1 (daytime)	269A, 292A, WJBI, A
Missouri: Neosho	Newton	7,517	.9	40,447	−12.5	2 (daytime)	
				32,901	9.3	1 (daytime)	

[FR Doc.77-24449 Filed 8-24-77;8:45 am]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER D—PIPELINE SAFETY

[Amdts. 192-29; 195-12; Docket No. OPSO-38]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE

PART 195—TRANSPORTATION OF LIQUIDS BY PIPELINE

Longitudinal Seams in Pipe Bends

AGENCY: Materials Transportation Bureau, Department of Transportation.

ACTION: Final rule.

SUMMARY: This amendment permits longitudinal welds in field bends of steel pipe to be placed other than near the neutral axis when an internal bending mandrel is used or when bending pipe of 12 inches or less in outside diameter that has a diameter to wall thickness ratio of less than 70. This amendment permits the utilization of new techniques for bending steel pipe in the field and permits the realization of the attendant safety and economic benefits.

EFFECTIVE DATE: The effective date is October 3, 1977, except that § 192.313 (a)(4)(B) and § 195.212(b)(3)(B) do not become effective until November 3, 1977.

ADDRESS: Any person desiring to comment on Section 192.313(a)(4)(B) or Section 195.212(b)(3)(B) should comment in writing to:
Director, Office of Pipeline Safety Operations, Department of Transportation, 2100 Second Street, S.W., Washington, D.C. 20590.

Comments will be available at Docket Room 6500, 2100 Second Street, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Ralph T. Simmons, (202) 426-2392.

SUPPLEMENTARY INFORMATION: The Materials Transportation Bureau (MTB) issued a notice of proposed rulemaking, Notice No. 76-2 (41 FR 46463, October 21, 1976), proposing to amend § 192.313(a)(4) of the Federal gas pipeline safety standards and § 195.212(b)(3) of the Federal liquid pipeline safety standards to permit the field bending of steel pipe with longitudinal welds without placing the longitudinal weld near the neutral axis of the bend if an internal bending mandrel is used. Interested persons were invited to participate in this rulemaking action by submitting written data, views, or arguments not later than November 8, 1976.

There were six persons who responded and submitted written comments to Notice 76-2. Three were from gas distribution companies and three were from trade associations. A discussion of the significant comments and the recommendations of the Technical Pipeline Safety Standards Committee (TPSSC) on the proposed amendment to Part 192 and their disposition in developing the final rules are contained in the following discussion of comments.

DISCUSSION OF COMMENTS

All of the commenters and the TPSSC supported the proposal as published in the Notice. Their reasons were that the improvements in pipe manufacturing methods and construction techniques, particularly with the use of the internal bending mandrel, have made the restriction on location of the longitudinal weld in a bend unnecessary. They concluded that operators and carriers should be allowed to utilize this improved technology that has demonstrated its ability to produce a high quality pipeline and shown the old requirement to be obsolete.

MTB agrees with the commenters and the TPSSC, that operators should be allowed to take full advantage of improved welding and bending technology that is not inconsistent with pipeline safety. After considering all available information, MTB is not aware of any failures in the longitudinal weld seam of pipe caused by bending with the longitudinal weld seam placed other than near the neutral axis. Additionally, MTB is of the opinion that the performance requirements in §§ 192.313 and 195.212 are sufficient to ensure that any pipe with a damaged weld seam would be detected and rejected before being placed in service. The advances in pipe manufacturing and bending methods make the requirement for placing the longitudinal weld in a neutral axis when bending with an internal bending mandrel unnecessary. The relaxation of the requirement would not be inconsistent with pipeline safety. Therefore, the proposed amendments have been adopted in the final rules as §§ 192.313(a)(4)(A) and 195.212(b)(3)(A).

One commenter agreed with the proposal as written, but recommended that MTB continue its investigation to sub-

stantiate the need for the requirement that a longitudinal weld be placed near the neutral axis during bending when an internal bending mandrel is not used. The reason given was that the proposal will provide the operator with a choice of methods for field bending of pipe.

MTB will continue its investigation and welcomes the submission of information from knowledgeable sources. Such information will be considered by MTB for future rulemaking proceedings on pipe bending.

Three commenters and the TPSSC suggested that an internal bending mandrel is inappropriate for bending small pipe, and use of the mandrel should not be adopted as a condition to not placing the longitudinal seam near the neutral axis. Their argument was that for large diameter pipe the requirement for using an internal bending mandrel is not unreasonable because internal bending mandrels are required to obtain acceptable field bends. However, for small diameter pipe, particularly 12 inches and under with a diameter to wall thickness (D/t) ratio of less than 70, internal bending mandrels are not needed to achieve acceptable bends. They further stated that, when using electric resistance welded pipe that has been weathered, cleaned, and coated, it is very difficult to locate the longitudinal weld seam.

After reviewing the comments, the TPSSC's recommendation, and other available information, MTB believes that safe bends in steel pipe 12 inches or less in outside diameter with a D/t ratio of less than 70 can be made without using an internal bending mandrel even though the longitudinal seam is not placed near the neutral axis of the bend. Further, MTB has not received any reports of failure of bent pipe of 12-inch diameter or less with a D/t ratio of less than 70 that can be attributed to the fact that an internal bending mandrel was not used or that the location of the longitudinal weld seam in bending was a contributing factor.

Therefore, in view of the favorable information and the absence of any information to the contrary, MTB is of the opinion that omitting the proposed condition that an internal bending mandrel be used when bending pipe of 12 inches or less in outside diameter with a D/t ratio less than 70 as an alternative to placing the weld seam near the neutral axis is not contrary to the public interest nor inconsistent with pipeline safety.

For the foregoing reasons, MTB has further amended §§ 192.313(a)(4) and 195.212(b)(3) by adding to each section a new subdivision (B) to allow the field bending of small diameter steel pipe with a longitudinal seam without placing the seam near the neutral axis irrespective of whether a bending mandrel is used. MTB is cognizant of the fact that this issue was not specifically addressed in the Notice but feels that it is within the broad scope and intent of the Notice, and therefore it is appropriate to include it in the final rules. However, in keeping with MTB's policy to ensure that the public has full opportunity to participate in the rulemaking process, MTB is delaying the effective date of § 192.313(a)(4)(B) and § 195.212(b)(3)(B) until November 3, 1977 to permit any interested person the opportunity to comment before the rule becomes effective. If no adverse comment is received that raises substantial doubt as to the desirability of the amendment, it will become effective November 3, 1977 as written.

REPORT OF THE TECHNICAL PIPELINE SAFETY STANDARDS COMMITTEE

Section 4(b) of the Natural Gas Pipeline Safety Act of 1968 requires that all proposed standards and amendments to such standards pertaining to gas pipelines be submitted to the Committee and that the Committee be afforded a reasonable opportunity to prepare a report on the technical feasibility, reasonableness, and practicability of each proposal. This amendment to Part 192 was submitted as Item A-2 in a list of two proposed amendments at a meeting in Washington, D.C., on December 16 and 17, 1976. On January 12, 1977, the Committee filed the following favorable report. A minority report was not filed.

This communication is the official report of the Technical Pipeline Safety Standards Committee concerning the Committee's action on two amendments to 49 CFR Part 192 proposed by the Office of Pipeline Safety Operations and other matters which the Committee decided should be brought to the attention of the Department of Transportation.

The following described actions were taken by the Committee at a meeting held in Washington, D.C. on December 16 and 17, 1976.

Item A-2 was a proposal by OPSO to revise § 192.313(a)(4), Bends and elbows. By an affirmative vote of 12-1 the Committee found that the following language for § 192.313(a)(4) is technically feasible, reasonable, and practicable.

. . . . . .

[The language suggested is adopted in the final rule as discussed in the "Discussion of Comments Section" above.]

After additional discussions of agenda Item A-2, by an affirmative vote of 12-1, the Committee further recommended that § 192.313 be further modified to provide that for pipe with a D/t ratio less than 70, the location of the longitudinal seam may be at the discretion of the operator.

PRINCIPAL AUTHORS

Ralph T. Simmons, Regulations Specialist, and Robert L. Beauregard, Attorney, Office of the General Counsel.

In consideration of the foregoing, Parts 192 and 195 of Title 49 of the Code of Federal Regulations are amended as follows:

1. Section 192.313(a)(4) is amended to read as follows:

§ 192.313 Bends and elbows.

(a) * * *

(4) On pipe containing a longitudinal weld, the longitudinal weld must be as near as practicable to the neutral axis of the bend unless—

(i) The bend is made with an internal bending mandrel; or

(ii) The pipe is 12 inches or less in outside diameter with a diameter to wall thickness ratio less than 70.

. . . . . .

(Sec. 3, Pub. L. 90-481, 82 Stat. 721, 49 USC 1672; for offshore gathering lines, Sec. 105, Pub. L. 93-633, 88 Stat. 2157, 49 USC 1804; 40 FR 43901, 49 CFR 1.53.)

2. Section 195.212(b)(3) is amended to read as follows:

§ 195.212 Bending of pipe.

. . . . . .

(b) * * *

(3) On pipe containing a longitudinal weld, the longitudinal weld must be as near as practicable to the neutral axis of the bend unless—

(i) The bend is made with an internal bending mandrel; or

(ii) The pipe is 12 inches or less in outside diameter with a diameter to wall thickness ratio less than 70.

. . . . . .

(Sec. 6, Pub. L. 89-670, 80 Stat. 937, 48 U.S.C. 1655; 18 U.S.C. 831-835; 40 FR 43901, 49 CFR 1.53.)

JOHN J. FEARNSIDES,
Acting Director,
Materials Transportation Bureau.

[FR Doc.77-24303 Filed 8-24-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Seney National Wildlife Refuge, Michigan, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to hunting of Seney National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 15 to November 12, 1977.

FOR FURTHER INFORMATION CONTACT:

John R. Frye, Refuge Manager, Seney National Wildlife Refuge, Seney, Mich. 49883, 906-586-9851.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of Woodcock and Wilson's Snipe (Jacksnipe) on the Seney National Wildlife Refuge is permitted only on the area designated as open to hunting. This open area, comprising 33,525 acres, is delineated on maps available at refuge headquarters, Seney, Mich. and from the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

Hunting shall be in accordance with all applicable State regulations covering the hunting of Woodcock and Wilson's Snipe (Jacksnipe) subject to the following special conditions:

(1) All motorized conveyances are prohibited from traveling on dikes or off established roads and trails. Motorized Bikes All-Terrain Vehicles and Snowmobiles are not permitted on the refuge.

The provisions of this special regulation supplements the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 12, 1977. The public is invited to offer suggestions at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 17, 1977.

JACK E. HEMPHILL,
Regional Director.

[FR Doc.77-24541 Filed 8-24-77;8:45 am]

PART 32—HUNTING

Opening of Chautauqua National Wildlife Refuge, Illinois, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to migratory game bird hunting of Chautauqua National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 10 through September 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Howard A. Lipke, Refuge Manager, Mark Twain National Wildlife Refuge, P.O. Box 225, Quincy, Ill. 62301, telephone: 217-224-8580.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations: migratory game bird, for individual wildlife refuge areas.

Public hunting of blue-wing, green wing, and cinnamon teal is permitted on the Chautauqua National Wildlife Refuge, Ill., only on the areas designated by signs. These areas comprising 745 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, United States Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Migratory game bird hunting of blue wing, green wing, and cinnamon teal shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Blinds—Temporary blinds of wood or brush may be constructed. Blinds do not become the property of those constructing them and will be available on a daily basis.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 17, 1977.

JACK E. HEMPHILL,
Regional Director.

[FR Doc.77-24542 Filed 8-24-77;8:45 am]

PART 32—HUNTING

Migratory Game Bird Hunting on Ravalli National Wildlife Refuge, Mont.

AGENCY: Ravalli National Wildlife Refuge, U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Special Regulations, Migratory game birds.

SUMMARY: This document describes the regulations governing migratory game bird hunting on the Ravalli National Wildlife Refuge, North of Stevensville, Mont.

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert C. Twist, Refuge Manager, No. 5 Third Street, P.O. Box 257, Stevensville, Montana, 59870, 406-777-5552.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special Regulations: Migratory Game Birds.

MONTANA

RAVALLI NATIONAL WILDLIFE REFUGE

The hunting of ducks, geese, coot and mergansers will be permitted on portions of the Ravilli National Wildlife Refuge during the regular migratory bird hunting season, from October 1, 1977 to January 1, 1978, and shall be in accordance with all applicable State and Federal regulations subject to the following additional special conditions:

1. All hunters must enter public hunting through appropriate check station.

2. All hunters must set blind selection pointer to "taken" upon selecting a blind, and return blind selection pointer to "open" upon leaving hunting area.

3. Placing blind selection pointer to "taken" determines occupant of blind.

4. During periods of high hunter demand, as determined by the Refuge Manager, hunters will be limited to one period only during a day:

Period No. 1; Start of shooting hours to 12:00 Noon.

Period No. 2; 1:00 P.M. until close of shooting hours.

5. Hunters must be within ten feet of designated blind sites while attempting to take and taking of waterfowl game birds.

6. Blind sites will be limited to five hunters each.

7. A designated area will be open to the taking of ducks, geese, coot and mergansers by means of falconry from the opening of the migratory waterfowl season through November 27. No firearms may be carried in this area.

8. The public hunting area will be closed to entry from one hour after sunset until one and one-half hour before sunrise.

9. No fishing equipment of any type will be permitted on the public hunting area.

10. Boats are not permitted.

The hunting area is designated by signs and delineated on maps available at Refuge Headquarters, No. 5 Third Street, Stevensville, Mont., and from the Area Manager, U.S. Fish and Wildlife Service, Room 3035, Federal Building, 316 No. 26th Street, Billings, Mont.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through June 30, 1978.

NOTE.—The U. S. Fish and Wildlife Service had determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

ROBERT C. TWIST,
Refuge Manager,
Ravalli National Wildlife Refuge.

AUGUST 12, 1977.

[FR Doc.77—24611 Filed 8-24-77;8:45 am]

PART 32—HUNTING

Opening of Bear River Migratory Bird Refuge, Utah to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to hunting of the Bear River Migratory Bird Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreation opportunity to the public.

DATES: *Ducks, coots, mergansers, and whistling swans,* October 1, 1977 through January 1, 1978 inclusive; *Geese,* October 8, 1977 through December 18, 1977 inclusive.

FOR FURTHER INFORMATION CONTACT:

Ned I. Peabody, P.O. Box 459, Brigham City, Utah 84302, Telephone 801-744-2488.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds, for individual wildlife refuge areas.

Public hunting of ducks, geese, coots, mergansers, and whistling swans is permitted on the Bear River Migratory Bird Refuge, Utah, only on the areas designated by signs as being open to hunting. Those areas comprising 12,855 acres, are delineated on maps available at the refuge headquarters, Brigham City, Utah, and from the Area Office, Fish and Wildlife Service, Federal Building, Salt Lake City, Utah 84138. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots, mergansers, and whistling swans subject to the following special regulations:

(1) *Steel Shot.* The exclusive use of steel shot is required on all days in both Hunting Area "A" and Area "B" for the entire season. The possession of lead shot within a refuge hunting area is prohibited, and having lead shot in one's possession will be considered prima facie evidence that the person possessing such shot is engaged in hunting with same; except lead shot may be possessed for transportation through designated travel lanes for use off refuge.

(2) *Hunting Areas.* No hunting is permitted from roadways or within 100 yards of any roadway in Area "A". No hunting is permitted from roadway or adjacent area as posted by signs in Area "B".

(3) *Boat Use.* The use of boats is permitted except that airthrust boats and aircycles may not be used in Unit 2 on weekends and holidays. Airboats may be launched only from designated boat ramps. Boats may be left at designated sites one week prior to and during the hunting season. All boats and trailers must be removed within two weeks after close of the hunting season.

(4) *Parking.* Hunters may park cars only at designated areas within the refuge.

(5) *Hunter Check Station.* All hunters entering Area "A" are required to register at the check station and check out before leaving the refuge. All hunters entering the Perry gate entrance to Area "B" are required to register and check out at the self registration counter provided.

(6) *Routes of Travel.* Travel to open hunting areas is permitted by foot or bicycle over roads between Units 1 and 2 and Units 2 and 3. Travel by boat is permitted from headquarter area boat ramps down canals between Units 1 and 2 and Units 2 and 3, and the main river channel into Unit 2. Vehicles with boats and trailers are permitted to travel dike roads to designated parking and launching sites. Travel by boat to reach lands outside refuge boundary will be permitted only over designated travel lanes through closed areas. Firearms must be unloaded and either cased or broken down when transported by motor vehicle or boat over the above designated travel lanes.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32, and are effective through January 1, 1978. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 18, 1977.

RODNEY F. KREY,
Acting Refuge Manager,
Bear River Migratory Bird Refuge.

[FR Doc.77-24612 Filed 8-24-77;8:45 am]

PART 32—HUNTING

Opening of Crab Orchard National Wildlife Refuge, Ill. to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to migratory game bird hunting of Crab Orchard National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1, 1977 through January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Wayne D. Adams, Project Manager, Post Office Box J, Carterville, Ill. 62918, telephone No. 618-997-3344.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds, for individual wildlife refuge areas.

Migratory game bird hunting is permitted on the Crab Orchard National Wildlife Refuge, Illinois, only on the areas designated by signs as being open to hunting. These areas comprising 23,000 acres as Areas I and III are delineated on maps available at the refuge headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, Department of the Interior, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Migratory game bird hunting shall be in accordance with all applicable State of Illinois regulations subject to the following conditions:

1. Only portable or temporary blinds of dead vegetation located in the immediate vicinity of the site may be used for hunting and these must be removed or dismantled at the end of the day's hunt. Permanent blinds and pits and blinds beyond the shoreline of refuge waters may not be constructed, established, occupied or hunted from.

2. Waterfowl hunters using 12 gauge shotguns must use steel shot shells only, and may not possess ammunition containing lead or other toxic shot.

3. Blinds located on Grassy, Orchard, Turkey, and Sawmill Islands will be filled during the goose season by a public drawing prior to each day's hunt. The drawing will be held at 5:00 A.M. each day at refuge sub-headquarters. Hunters may hunt only from the refuge provided blinds on these islands during the goose season.

4. Hunting is prohibited at the Carterville Beach Area during goose season as posted with "No Hunting" signs.

5. Only authorized waterfowl hunting is permitted on the controlled areas of Grassy Point, Carterville Public, and Greenbriar Road Areas from sunrise to 12:00 Noon daily during the goose season. Goose hunting on these areas is subject to the following conditions:

(a) Blinds will be allocated by public drawing conducted daily at 5:00 A.M. at designated locations.

(b) All applicants must be present for the drawing.

(c) Fee is $2 per hunter. Decoys may be rented for $1 per dozen per hunt.

(d) Hunting is permitted only from existing refuge established blinds. This includes lake shorelines.

(e) Two hunters per blind will be allowed.

(f) Shooting hours are sunrise to 12:00 Noon.

(g) Each hunter is permitted a maximum of 10 shells for the day's hunt.

(h) Alcoholic beverages are prohibited while in the field.

(i) Disorderly conduct, high shooting, or unsportsmanlike conduct will result in removal from the area.

(j) Hunters must check out of the area by 12:30 P.M.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comment at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 OMB Circular A-107.

Dated: August 17, 1977.

JACK E. HEMPHILL,
Regional Director.

[FR Doc.77-24617 Filed 8-24-77;8:45 am]

PART 32—HUNTING

Opening of Santee National Wildlife Refuge, S.C. to Hunting

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determined that the opening to hunting of Santee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Hunt dates: October 1, 3, 4, 7, 8, 12, and 13.

FOR FURTHER INFORMATION CONTACT:

Charles Strickland, Refuge Manager, P.O. Box 158, Summerton, S.C. 29148, telephone 803-478-2217.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Hunting is permitted on the Santee National Wildlife Refuge, S.C., only on the areas designated as being open to hunting. These areas comprising some 3,140 acres are delineated on a map available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Only persons with a valid refuge permit and State hunting license will be allowed on the hunt area.

2. Daily Bag Limit: One either sex white-tailed deer per hunter.

3. Open Season (daylight to 6:00 p.m.): October 1, 3, 4, 7, 8, 12, 13.

4. Only shot guns using slugs and rifles larger than .22 rimfire caliber will be permitted. Buckshot, other shotgun shells and pistols will not be allowed.

5. Each hunter must wear an outer garment containing a minimum of 500 square inches of international orange color above the waistline.

6. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

7. All hunters must check out at the designated entry point and all deer must be checked at the designated check station prior to leaving the refuge.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 18, 1977.

RAY R. VAUGHAN,
Acting Regional Director.

[FR Doc.77-24618 Filed 8-24-77;8:45 am]

PART 32—HUNTING

Opening of Tennessee National Wildlife Refuge, Tenn., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to hunting of Tennessee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable resource, and will provide additional recreational opportunity to the public.

DATES: *Archery hunt for deer,* October 1 and 2, 1977; *Gun hunt for deer,* December 27 and 28, 1977; *Muzzleloader hunt for deer,* December 29 and 30, 1977.

FOR FURTHER INFORMATION CONTACT:

V. L. Childs, Refuge Manager, Tennessee National Wildlife Refuge, P.O. Box 849, Paris, Tenn. 38242, telephone 901-642-2091.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game, for individual wildlife refuge areas.

Hunting is permitted on the Tennessee National Wildlife Refuge, Tennessee, only on the areas designated by signs as being open to hunting. These areas comprising 1,900 acres for archery hunting, 5,075 acres for gun hunting, and 1,900 acres for muzzleloader hunting are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Hunters may take one (1) deer of either sex.

2. Hunt areas cannot be entered until sunrise. Hunters must be out of the area by not later than one-half hour after sunset.

3. All hunters will check in and depart via the refuge check station.

4. No advance scouting for deer on foot is permissible at any time prior to the hunt.

5. Hunters may use vehicles on primary refuge roads only.

6. Organized driving of deer is prohibited.

7. A Federal permit is required for each hunter utilizing the area.

8. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

9. All hunters must wear at least 500 square inches of fluorescent orange material as outer clothing on the upper portion of the body and head.

10. Hunters will be required to furnish survey information concerning the hunt when leaving the area.

11. All applicable Federal laws and regulations shall prevail during the hunt.

12. Legal weapons for the hunts shall be as follows:

(a) Gun Hunt—any centerfire rifle of .24 caliber or larger. Any shotgun of 20 to 10 gauge with single slug. Muzzleloading rifles, longbows, and compound bows. No hand guns.

(b) Muzzleloader Hunt—muzzleloading rifles must be between .40 and .58 caliber.

(c) Archery Hunt—archers may use longbows and compound bows only.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Date: August 18, 1977.

RAY R. VAUGHAN,
Acting Regional Director.

[FR Doc.77-24619 Filed 8-24-77;8:45 am]

PART 32—HUNTING

Opening of Hatchie National Wildlife Refuge, Tenn. to Public Deer Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to the public for deer hunting of Hatchie National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 1-5, 1977.

FOR FURTHER INFORMATION CONTACT:

Dennis B. Jordan, Hatchie National Wildlife Refuge, P.O. Box 187, Brownsville, Tenn. 38012, telephone 901-772-0501.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game hunting; for individual wildlife refuge areas.

Public hunting of deer is permitted on the Hatchie National Wildlife Refuge, Tenn., only on the areas designated by signs as being open to hunting. These areas comprising approximately 3,500 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Hunting shall be in accordance with all applicable State and Federal regulations subject to the following conditions:

1. Weapons: Archery equipment as specified by State regulations.

2. Bag Limit: 2 deer of either sex.

3. Hunters must check in and out through refuge checking station.

4. Camping is prohibited.

5. The operation of all motorized vehicles is prohibited in fields and woods and over trails and roads marked "closed". Vehicles may not be parked so as to block any road or thoroughfare.

6. Permanent type tree stands are prohibited. Nails, spikes or other items that permanently damage trees may not be used.

V 42 165 AUG 25 77 UM

7. All tree stands must display the owner's name, address and phone number.

8. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern public hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 18, 1977.

RAY R. VAUGHN,
Acting Regional Director.

[FR Doc.77-24620 Filed 8-24-77;8:45 am]

PART 32—HUNTING

Opening of Blackbeard Island National Wildlife Refuge, Ga. to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to hunting of Blackbeard Island National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 31-November 3, 1977 and December 19-22, 1977.

FOR FURTHER INFORMATION CONTACT:

John P. Davis, P.O. Box 9623, Savannah, Ga. 31402, telephone 912-232-4321, ext. 415.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Hunting is permitted on the Blackbeard Island National Wildlife Refuge, Ga., only on the areas designated as being open to hunting. These areas comprising 4,500 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Entry on the Island will not be permitted more than two days in advance of the opening date of each hunt period. Participants will be confined to the camping area until the morning of the first day of each hunt period, and must be off the island the day following the last day of the hunt period.

2. All camping will be at designated camping areas only. Fires must be confined to the camping area.

3. Deer (either sex) is the only species that may be taken. All State regulations and bag limits will be enforced. A maximum of two deer may be taken.

4. Hunting hours are according to State regulations. Hunters must be on their stands during morning and evening hunt periods to be announced prior to each hunt. No movement during these hours will be tolerated.

5. Hunters under age 18 must be under the close supervision of an adult. For safety reasons the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

6. Blazing, driving spikes, painting, applying tape, or damaging or destroying trees and shrubbery in any manner is prohibited. Deer stands which will damage trees are not permitted.

7. All forms of litter should be placed in trash receptacles for proper disposal.

8. Transportation is not provided to and from the Island or on the Island. Any movement after reaching the Island must, of necessity, be by foot. You are not allowed to leave by boat to go to other parts of the Island.

9. A Federal permit is required. Only hunt participants with proper licenses and permits will be permitted on the refuge to hunt and camp.

10. No firearms are permitted and archery weapons will conform to State regulations.

11. The Blackbeard Island National Wildlife Refuge will be closed to the general public October 29-November 3, 1977 and December 17-22, 1977.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 18, 1977.

RAY R. VAUGHN,
Acting Regional Director.

[FR Doc.77-24627 Filed 8-24-77;8:45 am]

PART 32—HUNTING

Opening of Wassaw National Wildlife Refuge, Ga. to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to hunting of Wassaw National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 8-11, 1977.

FOR FURTHER INFORMATION CONTACT:

John P. Davis, Refuge Manager, Savannah National Wildlife Refuge Complex, P.O. Box 4623, Savannah, Georgia 31402, telephone (912) 232-4321, ext. 415.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Hunting is permitted on the Wassaw National Wildlife Refuge, Georgia, only on the areas designated as being open to hunting. These areas comprising 2,000 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Entry on the refuge will not be permitted more than one day in advance of the opening date of the hunt period. Participants will be confined to the camping area until the morning of the first day of the hunt period, and must be off the island the day following the last day of the hunt period.

2. All camping will be at designated camping areas only Fires must be confined to the camping area.

3. Hunters must check in at the Wassaw Refuge Headquarters and leave their boats at the refuge dock.

4. Deer (either sex) is the only species that may be taken. All State regulations and bag limits will be enforced. A maximum of two deer may be taken.

5. Hunting hours are according to State regulations. During the periods from daylight until 9:30 a.m. and from 3:30 p.m. until sunset each day, hunters must be on their stands. No movement during these hours will be tolerated.

6. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

7. Blazing trees, driving spikes in trees, painting trees, applying tape to trees, or damaging or destroying trees and shrubbery in any manner is prohibited. This also applies to tree stands. Stands which will damage trees are not permitted.

8. All forms of litter should be placed in trash receptacles for proper disposal.

9. Transportation is not provided to and from the Island or on the Islands. Any movement after reaching Wassaw Island must, of necessity, be by foot. You are not allowed to leave by boat to go to the other parts of Wassaw Island.

10. A Federal permit is required. Only hunt participants with proper licenses and permits will be permitted on the refuge to hunt and camp.

11. No firearms are permitted and archery weapons will conform to State regulations.

12. The Wassaw Island National Wildlife Refuge will be closed to the general public November 7-11, 1977.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 18, 1977.

RAY R. VAUGHN,
Acting Regional Director.

[FR Doc.77-24628 Filed 8-24-77;8:45 am]

PART 32—HUNTING

Opening of Savannah National Wildlife Refuge, Ga. to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to hunting of Savannah National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 3 & 4, 1977.

FOR FURTHER INFORMATION CONTACT:

John P. Davis, Refuge Manager, Savannah National Wildlife Refuge Complex, P.O. Box 9623, Savannah, Georgia 31402, telephone (912) 232-4321, ext. 415.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Hunting is permitted on the Savannah National Wildlife Refuge, Georgia, only on the areas designated as being open to hunting. These areas comprising 3,500 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Hunting will be permitted only on October 3 and 4, 1977 on the area delineated on refuge map.

2. Participants must check-in and park in designated area prior to hunting. Entry by boat is not permitted.

3. Feral hog is the only species to be taken. A daily bag limit of two (2) will be permitted.

4. Hunting hours will be from sunrise to sunset.

5. No hunters under age 18 will be permitted to participate in the hunt.

6. All forms of litter should be placed in trash receptacles for proper disposal.

7. Transportation is not provided on the refuge. Any movement within the refuge must be by foot.

8. A non-transferable federal permit is required. Only hunt participants with proper South Carolina licenses and refuge permits will be permitted on the refuge to hunt.

9. Only shotguns using number 1 buckshot size will be authorized during the hunt. Weapons must be unloaded and cased except during the daily hunting period.

10. Hunters must wear outer garments containing at least 500 square inches of daylight fluorescent orange-colored material above the waistline.

11. Hunting will not be permitted closer than 100 yards of U.S. Highway No. 17 or the refuge headquarters area.

12. Persons convicted of any wildlife violation or refuge regulations will have this permit suspended.

13. The Savannah National Wildlife Refuge (except for the headquarters area) will be closed to the general public on October 3-4, 1977.

The provisions this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 18, 1977.

RAY R. VAUGHN,
Acting Regional Director.

[FR Doc.77-24629 Filed 8-24-77;8:45 am]

PART 32—HUNTING

Opening of Carolina Sandhills National Wildlife Refuge, S.C. to Hunting of Whitetailed Deer

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening for hunting of white-tailed deer of Carolina Sandhills National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Archery only October 17-22, 1977; Guns only October 31-November 3, 1977, November 7, 14, and 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Marvin T. Hurdle, Carolina Sandhills National Wildlife Refuge, Route 2, Box 130, McBee, South Carolina 29101. Telephone (803-335-8401).

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of white-tailed deer is permitted on the Carolina Sandhills National Wildlife Refuge, South Carolina, only on the areas designated by signs as being open to hunting. These areas comprising 96 percent of the refuge are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations subject to the following conditions:

(1) Hunters are allowed on the hunting area from 5:30 a.m. until 6:30 p.m. EST. Hunters must enter the hunting area at designated entrance points and must park their vehicles on the hunting area. All hunting paraphernalia including weapons and vehicles are subject to inspection by authorized Fish and Wildlife Service personnel to determine compliance with applicable regulations and laws.

(2) Bag Limits: Archery only—Two (2) of either sex. Gun hunts—October 17-November 3—Two (2) bucks with at least 3" antlers visible above the hairline; November 7, 14, and 21—One (1) of either sex. All deer taken must be checked before leaving the refuge.

(3) Only still hunting is allowed. All bows must have a minimum draw of 45 pounds and arrows must be equipped with sharp broadheads. Only shotguns using slugs and centerfire rifles using soft-nosed ammunition are allowed during gun hunts. All guns must be unloaded and completely encased while being transported over refuge roads.

(4) Stopping, parking, walking, or hunting within 500 feet of the paved auto visitor drive or hunting within 100 fect of any other road or trail open for vehicle travel is prohibited. Hunting is prohibited within 100 feet of any field planted to green browse.

(5) A refuge permit is required for all hunts. Permits are non-transferable. Submission of more than one permit application or applications containing false information is prohibited.

(6) Each hunter under age 18 must be under the close supervision of an adult. In no case should an adult have more than two juveniles under his/her supervision.

(7) Each gun hunter must wear an outer garment containing a minimum of 500 square inches of daylight fluorescent orange colored material above the waistline. Alcoholic beverages are not allowed. It is unlawful to drive a nail or other object into any tree or to hunt from a stand that is permanently attached to a tree.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

V 42 N 165 AUG 25 77 UM

The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 18, 1977.

RAY R. VAUGHN,
Acting Regional Director.

[FR Doc.77-24630 Filed 8-24-77;8:45 am]

PART 32—HUNTING

Opening of Cape Romain National Wildlife Refuge, S.C. to Public Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to archery deer hunting of Cape Romain National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a natural resource, and will provide additional recreational opportunity to the public.

DATES: November 7-12, and December 5-10, 1977.

FOR FURTHER INFORMATION CONTACT:

George R. Garris, Refuge Manager, Cape Romain National Wildlife Refuge, Route 1, Box 191, Awendaw, South Carolina, telephone 803-928-3368.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulation; big game; for individual wildlife refuge areas.

Public hunting of big game on the Bulls Island Unit of the Cape Romain National Wildlife Refuge, Awendaw, S.C., is permitted only on the area designated by signs as open to hunting. This open area, comprising 2,500 acres, is delineated on maps available at the Refuge Headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) The open season for hunting of white-tailed deer (either sex) is November 7-12, 1977 and December 5-10, 1977. Limit is two deer per hunter.

(2) Only archery equipment in accordance with State regulations is permitted. Firearms and ammunitions, motorized equipment, bikes, crossbows, poison arrows, dogs, alcoholic beverages, nails, paint or flagging are not allowed on the Island.

(3) On the area north of Beach Road, hunters must remain on their stands from 30 minutes before sunrise until 9:00 a.m. and from 3:00 p.m. until 30 minutes after sunset. No hunting within 100 feet of the Walking Trail (interpretative foot trail). Areas posted with "Closed" signs may not be entered for any reasons.

(4) Each hunter must obtain a refuge permit upon arrival at Bulls Island and must turn in this permit before leaving the Island. All deer taken must be checked by refuge personnel before leaving the Island.

(5) Only hunters with a valid refuge permit may camp. Camping and fires are restricted to the designated camping area which will be open from 9:00 a.m. on November 6 until 12 noon on November 13 and from 9:00 a.m. on December 4 to 12 noon on December 11, 1977. Hunters are restricted to the camping area at night from 7:00 p.m. until 4:00 a.m.

(6) Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Date: August 18, 1977.

RAY R. VAUGHN,
Acting Regional Director.

[FR Doc.77-24631 Filed 8-24-77;8:45 am]

PART 32—HUNTING

Opening of Merritt Island National Wildlife Refuge, Fla. to Migratory Bird Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to hunting of Merritt Island National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: In accordance with State (Florida) Waterfowl Season.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, P.O. Box 6504, Titusville, Fla. 32780, telephone 305-867-4820.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory bird hunting; for individual wildlife refuge areas.

Migratory bird hunting is permitted on the Merritt Island National Wildlife Refuge, Florida, only on the areas designated as being open to hunting. These areas comprising 37,500 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. *Permits.* A Merritt Island NWR Annual Hunting Permit must be obtained and carried by the person to whom it is issued when he is on the Refuge. The permit is free and may be obtained in person or by mail at the refuge headquarters. A daily permit for Areas 1, 2, and 4 are required for all hunters and may be obtained daily at the check station.

2. *Hunting days.* Hunting is permitted only on Sunday, Wednesday, Thursday, Friday, and Saturday weekly except refuge will be closed Christmas Day.

3. *Hunting hours.* Shooting is prohibited at all times except from legal starting time until noon, Titusville local time.

4. *Steel shot.* Only steel shot may be used. Possession of lead or other toxic shot in any gauge on the Refuge is prohibited.

5. *Entry.* Check-stations open at 5 a.m. for check-in. Daily permit will be issued on first-come, first-served basis throughout the season. The following maximum number of permits will be available each day: 75 for Area 1; 200 for Area 2; and 100 for Area 4.

6. *Check-out.* Hunters must turn in daily permits and check-out before 1 p.m. check-station closing time. Failure to do so will cause forfeiture of future hunting privileges.

7. *Hunter Safety Course.* Proof of completion of Florida Game and Fresh Water Fish Commission Hunter Safety Course is required to hunt Areas 1 and 4.

8. *Juveniles.* Hunters under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

9. *Boats.* Air thrust boats are prohibited, but the use of other boats and retrieving dogs is recommended.

10. *Dikes.* Shooting from or within 10 yards of any dike, roadway or railroad fill is prohibited.

11. *Blinds.* Only temporary blinds of native vegetation are permitted except in designated locations in Area 1.

12. *Decoys.* Decoys must be removed daily from the refuge.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 18, 1977.

RAY R. VAUGHN,
Regional Director.

[FR Doc.77-24632 Filed 8-24-77;8:45 am]

PART 32—HUNTING

Opening of Holla Bend National Wildlife Refuge, Ark. to Hunting of White-tailed Deer

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Holla Bend National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1 through November 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Paul D. Daly, Refuge Manager, P.O. Box 1043, Russellville, Ark. 72801, telephone 501-968-2800.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer with longbow and arrow on the Holla Bend National Wildlife Refuge is permitted. The hunting area, comprising approximately 6,367 acres, is delineated on a map available at refuge headquarters, P.O. Box 1043, Russellville, Ark. 72801, and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of white-tailed deer, subject to the following special conditions:

1. Archery only.

2. A special refuge permit is required only on October 1 and 2, 1977.

3. Hunters may not enter the refuge earlier than 2 hours before official sunrise daily.

4. All deer taken must be reported to the refuge check station before leaving the refuge.

5. Only portable tree stands capable of being quickly removed are permitted. Stands must bear the name and address of the owner and must be removed from the refuge by December 5, 1977.

6. Hunters may harvest two deer of either sex.

7. All hunters must register upon entering the refuge each day.

8. Hunters are prohibited from driving vehicles across or otherwise damaging standing crops and may not park their vehicles so as to block any road or thoroughfare.

9. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Date: August 18, 1977.

RAY R. VAUGHN,
Acting Regional Director.

[FR Doc.11-24633 Filed 8-24-77;8:45 am]

V 42 165 AUG 25 77 UM

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 121]

[Docket No. 17142; Notice No. 77-16]

CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Proposed Aviation Security Regulations: Carriage of Weapons and Escorted Persons

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This proposal would amend the Federal Aviation Regulations and permit the carriage of persons in the custody of armed escorts only when the escort is a civilian or military law enforcement officer. In addition, this proposal would amend the regulations to prohibit the carriage of a firearm in checked baggage unless it is carried in an appropriate container, require certain kinds of firearms to be carried in locked baggage, require a passenger to declare the presence of a deadly or dangerous weapon in baggage to be checked, and require the certificate holder to obtain a declaration from the passenger that any firearm to be carried in checked baggage is unloaded. These proposed amendments are intended to prescribe safety requirements that administrative experience indicates are appropriate.

DATE: Comments must be received on or before October 11, 1977.

ADDRESSES: Send comment on the proposals to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 17142, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert P. Jones, Air Operations Security Division (ACS-100), Civil Aviation Security Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8409.

SUPPLEMENTARY INFORMATION: All interested persons are invited to participate in this proposed rule making by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, economic, or inflationary impact that might result from adoption of the proposals contained herein are solicited and should be submitted. Comments should identify this regulatory docket and notice number (Docket No. 17142, Notice No. 77-16) and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before October 11, 1977, will be considered by the Administrator before taking action on the proposed rules. However, interested persons are urged to submit their comments as early as possible to facilitate rapid resolution of any issues raised. Comments received after the above date will be considered, as far as possible, without incurring expense or delay. The proposals contained in this notice may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rule making will be filed in the public regulatory docket.

Interested persons may examine this notice of proposed rule making in the Rules Docket, AGC-24, Docket No. 17142. Copies of this notice may be obtained by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications should identify the notice number.

The current provisions of § 121.584 apply to the carriage by Part 121 certificate holders of any person in the custody of law enforcement personnel. The FAA believes that safety considerations require an amendment to § 121.584 which would make that section apply to the carriage of any passenger in the custody and control of an armed escort and prohibit their carriage if the armed escort is not a "law enforcement officer." The FAA is of the opinion that safety considerations do not justify requiring compliance with the provisions of § 121.584 when the escort is unarmed, since the decision by the responsible government entity not to use an armed escort indicates that the restrictions of § 121.584 need not be applied. In addition, the FAA believes safety considerations justify limiting the applicability of § 121.584 to scheduled passenger operations conducted by domestic and flag air carriers. However, it should be noted that by virtue of § 121.7, the requirements of proposed § 121.584 would continue to apply to commercial operators engaging in intrastate common carriage operations governed by § 121.7.

Accordingly, this proposal would amend § 121.584 to prohibit a domestic or flag air carrier from carrying any passenger under the custody and control of an armed escort on an airplane in scheduled passenger operations if the armed escort is not a "law enforcement officer." For purposes of clarification, a definition of the term "law enforcement officer" is added to § 121.584 by this proposal. It will be noted that military personnel are included in the definition of the term.

It will also be noted that the proposal would add an express provision to §121.584 to clearly exclude from its applicability the carriage of passengers who are under voluntary protective custody.

Section 121.584 does not currently limit the number of persons a law enforcement officer may have in his custody when those persons are not considered maximum security risk individuals. The FAA believes no more than two of those persons should be in the custody of any one law enforcement officer. Moreover, if an officer is accompanying a person considered in the maximum security risk category, the FAA believes he should not also have under his control any other person. Accordingly, this proposal would add those restrictions to § 121.584.

Finally, this proposal would amend current § 121.584(b) (1) and (2) and require an escorted passenger and his escort to be enplaned before all other passengers and be seated in the rearmost passenger seats only when they are boarded at the airport where the flight originates, since the applicability of current § 121.584(b) (1) has created burdensome passenger seating problems for the carriers when escorted passengers were boarded at enroute stops.

Since all of the foregoing proposals require numerous substantive and clarifying changes to § 121.584, a complete revision of that section is set forth in this proposal.

Section 121.585(b) presently requires a passenger to notify the certificate holder when a weapon is to be carried in checked baggage and whether the weapon is unloaded. Recently, incidents have occurred which indicate that passengers have not given the notification required as to whether a firearm carried in checked baggage is unloaded. To reduce the likelihood of loaded firearms being carried in checked baggage, it is proposed to amended § 121.585(b) to prohibit any passenger from carrying a loaded firearm in checked baggage, to require the passenger to declare the presence of a firearm in baggage to be checked, and to require the certificate holder to obtain a declaration from the passenger that any firearm to be carried in checked baggage is unloaded. The term "declaration" is used in this proposal to conform to the language used in Pub. L. 93-366 and it

may consist of an oral or written statement, whichever the certificate holder deems appropriate. Limiting the provisions of § 121.585(b) to firearms in checked baggage will be consistent with the intent of the law and is justified in the light of experience gained under the current regulation.

Experience indicates that § 121.585(b) also requires an amendment to ensure that firearms to be carried in checked baggage are carried in containers that the certificate holder considers appropriate for their transportation. Accordingly, such a requirement is proposed herein.

In addition, difficulties have been encountered in implementing the requirement in § 121.585(b)(2) that checked baggage containing a weapon must be locked. It is considered advisable that all firearms be carried in locked containers. This is particularly so in the case of handguns, since they are easily concealed, more often used for criminal acts than long-guns, and pose a greater hazard to safety in air commerce. On the other hand, containers for firearms such as shotguns and rifles are frequently not equipped with locking devices and are difficult to lock in any other manner. Furthermore, they are not easily concealed and do not constitute a significant hazard to safety in air commerce. In view of this, it is proposed to amend § 121.585(b) to require checked baggage containing a firearm to be locked only when the firearm is other than a shotgun, rifle, or other firearm normally fired from the shoulder position.

The principal authors of this document are Robert P. Jones, Civil Aviation Security Service and R. G. Leary Office of the Chief Counsel.

Accordingly, the Federal Aviation Administration proposes to amend Part 121 of the Federal Aviation Regulations as follows:

1. By revising § 121.584 to read as follows:

§ 121.584 Carriage of passengers under the control of armed law enforcement officers, other than passengers under voluntary protective escort.

(a) Except as provided in paragraph (e) of this section, no domestic or flag air carrier may knowingly carry a passenger in the custody of an armed escort on an airplane in scheduled passenger operations unless—

(1) The armed escort is a law enforcement officer. For the purpose of this paragraph, "law enforcement officer" means an official or employee (including military personnel) of the United States, of a State or political subdivision of a State, or of a municipality who is required by appropriate authority to maintain custody and control over an individual aboard an airplane;

(2) The air carrier is notified by the responsible government entity at least one hour, or in case of emergency as soon as possible, before departure—

(i) Of the identity of the passenger to be carried and the flight on which it is proposed to carry him; and

(ii) Whether the passenger is considered to be in a maximum risk category or not;

(3) If the passenger is considered to be in a maximum risk category, he is under the control of at least two armed law enforcement officers and no other passengers are under the control of those two law enforcement officers;

(4) No more than one passenger who the certificate holder has been notified is in a maximum risk category is carried on the airplane:

(5) If the passenger is considered to be not in a maximum risk category, he is under the control of at least one armed law enforcement officer. No more than two of these persons may be carried under the control of any one law enforcement officer;

(6) The air carrier is assured, prior to departure, by each law enforcement officer that—

(i) He is equipped with adequate restraining devices to be used in the event restraint of each passenger under his control becomes necessary; and

(ii) Each passenger under his control has been searched and does not have on or about his person or property anything that could be used as a deadly or dangerous weapon;

(7) Each passenger under the control of a law enforcement officer is—

(i) Boarded before any other passengers when boarding at the airport where the flight originates and deplaned at the destination after all other deplaning passengers have deplaned;

(ii) Seated in the rear-most passenger seat when boarding at the airport where the flight originates; and

(iii) Seated in a seat that is neither located in any lounge area, nor located next to or directly across from any exit; and

(8) A law enforcement officer having control of a passenger is seated between the passenger and any aisle.

(b) No air carrier operating an airplane under paragraph (a) of this section may—

(1) Serve food and beverage or provide metal eating utensils, to a passenger under the control of a law enforcement officer while aboard the airplane unless authorized to do so by the law enforcement officer; or

(2) Serve a law enforcement officer or the passenger under his control any alcoholic beverages while aboard the airplane.

(c) Each law enforcement officer carried under the provisions of paragraph (a) of this section shall, at all times, accompany the passenger under his control and keep him under surveillance while aboard the airplane.

(d) No law enforcement officer carried under paragraph (a) of this section or any passenger under his control may drink any alcoholic beverages while aboard the airplane.

(e) This section does not apply to the carriage of passengers under voluntary protective escort.

2. By revising § 121.585(b) to read as follows:

§ 121.585 Carriage of weapons.

* * * * *

(b) No certificate holder may knowingly permit any passenger to carry, nor may any passenger carry, while aboard an aircraft being operated by that certificate holder, in checked baggage, a loaded firearm. No firearm may be carried in checked baggage unless the following conditions are met:

(1) The passenger has declared to the certificate holder before checking the baggage that a firearm is in the baggage; and the certificate holder has obtained from the passenger, before checking the baggage, a declaration that any firearm carried in the baggage is unloaded. The declaration may be oral or written, as the certificate holder considers appropriate.

(2) The firearm is carried in a container the certificate holder considers appropriate for air transportation.

(3) When the firearm is other than a shotgun, rifle, or other firearm normally fired from the shoulder position, the baggage in which it is carried is locked, and only the passenger checking the baggage retains the key.

(4) The baggage containing any firearm is carried in an area other than the flight crew compartment that is inaccessible to passengers.

* * * * * *

(Secs. 313(a), 601, 604, and 902(1) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1424, and 1472; and section 6(c) of the Department of Transportation Act (49 U.S.C 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 17, 1977.

RICHARD F. LALLY,
Director,
Civil Aviation Security Service.

[FR Doc.77-24353 Filed 8-24-77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 423]

CARE LABELING OF TEXTILE PRODUCTS AND LEATHER WEARING APPAREL

Publication of Presiding Officer's Report Regarding Proposed Revised Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Publication of Presiding Officer's Report.

SUMMARY: On August 23, 1976 the Presiding Officer published in the FEDERAL REGISTER (41 FR 35863) final notice of the proposed revised trade regulation rulemaking proceeding. The Presiding Officer's Report, required by the Commission's Rules of Practice for rulemaking (16 CFR 1.13(f)) consisting of his summary, findings and conclusions with regard to the proposed revised rule and to those issues designated by him and

such other findings and conclusions as he saw fit to make, has been made public and placed on Public Record 215–22. When completed, the staff's report of the rulemaking record and its recommendations to the Commission also will be made public and notice thereof published in the FEDERAL REGISTER. The Presiding Officer's Report has not been reviewed or adopted by either the Bureau of Consumer Protection or the Commission itself and its publication should not be interpreted as reflecting the present views of the Commission or any individual Commissioner.

DATES: The sixty-day period which the Rules of Practice for rulemaking (16 CFR 1.13(g)) provide for public comment on both the report by the Presiding Officer and the report of the staff will not commence until the staff's report has been made public and placed on the public record. Therefore, comment on the Presiding Officer's report alone would be considered premature at this time.

FOR FURTHER INFORMATION CONTACT:

John A. Gray, Presiding Officer, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202–724–1167).

Issued: August 25, 1977.

ALBERT H. KRAMER,
Director, Bureau of Consumer Protection.

[FR Doc.77–24560 Filed 8–24–77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Part 625]

[FHWA Docket No. 77–4]

DESIGN STANDARDS FOR HIGHWAYS

Advance Notice of Proposed Rulemaking

AGENCY: Federal Highway Administration, Department of Transportation.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Highway Administration (FHWA) solicits suggestions and comments on establishing geometric design standards for resurfacing, restoration, and rehabilitation (R–R–R) projects.

DATES: Comments on this proposal must be submitted by October 25, 1977.

ADDRESSES: Written comments should be sent (preferably in triplicate) to: Federal Highway Administration, Docket No. 77–4, Room 4230, 400 7th Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. EST, Monday–Friday.

FOR FURTHER INFORMATION CONTACT:

Seppo Sillan, Highway Design Division, Office of Engineering, 202–426–0321; T. B. Foote, Office of the Chief Counsel, 202–426–0786, Federal Highway Administration, 400 7th Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. EST, Monday–Friday.

SUPPLEMENTARY INFORMATION: The Federal-Aid Highway Act of 1976 (Pub. L. 94–280) amended Section 101 of Title 23, United States Code, by including in the definition of the term "construction" the words "resurfacing, restoration, and rehabilitation."

The conference report on H.R. 8235 [1] states that the purpose of the addition is:

> The definition is amended, coupled with the Secretary's existing authority on standards, would permit Federal funding of such projects as: Resurfacing or widening and resurfacing of existing rural and urban pavements with or without revision of horizontal or vertical alinement or other geometric features.

The new definition provides greater flexibility in the use of Federal funds for the purpose of obtaining maximum use from the extensive system of existing facilities by improving their serviceability through measures short of complete reconstruction.

Section 109, Title 23, United States Code, provides further that "the Secretary shall not approve plans and specifications for proposed projects on any Federal-aid system if they fail to provide for a facility (1) that will adequately meet the existing and probable future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance; (2) that will be designed and constructed in accordance with standards best suited to accomplish the foregoing objectives and to conform to the particular needs of each locality."

There are two phrases in the above quotation that must be kept in mind when considering improvements under the new definition of construction. They are: "* * * conducive to safety * * *" and "* * * particular needs of each locality * * *." The Federal Highway Administration, as well as the States, has an interest and responsibility in maximizing safety within particular funding limitations. While information is available on construction and operating costs and general service benefits, good conclusive data is just not available on the safety sensitivity of individual or interacting geometric design elements. Each State is working from a different base. The individual State systems were constructed at different times and to different standards. The terrain and local conditions influencing social, economic, and environmental impacts are also very different and the variations in impacts are especially significant to R-R-R project design. Therefore, the establishment of national standards is difficult in light of the lack of extensive definitive data on the sensitivity of design criteria in regard to safety, and the vast differences between existing State highway systems and other local conditions.

[1] S. Rep. No. 94–741, 94th Cong., 2d Sess. (1976) at p. 43.

ALTERNATIVES

The Federal Highway Administration proposes to revise the existing Part 625 on Interim Design Standards for Highways, published in the FEDERAL REGISTER at 42 FR 6 (January 3, 1977), to include guidance on geometric design standards for R-R-R type of projects. All suggestions and proposals for establishing such standards are welcome. The following three specific alternatives are offered for comment:

Alternative 1. This "No Change" alternative would provide for continued operation within the provisions of existing Part 625. This provides for exceptions to existing design standards on an individual project basis.

Alternative 2. This alternative would incorporate by reference the American Association of State Highway and Transportation Officials' (AASHTO) "Geometric Design Guide for Resurfacing, Restoration, and Rehabilitation (R-R-R) of Highways and Streets, AASHTO." [2] The criteria in the guide would then be fully acceptable for Federal-aid R-R-R projects other than Interstate.

Alternative 3. Under this alternative the State highway officials and the FHWA Division Administrators would develop individual State criteria by using the "Geometric Design Guide for Resurfacing, Restoration, and Rehabilitation (R-R-R) of Highways and Streets, AASHTO 1977," [3] and other guides, policies, and standards referred to in existing Part 625. Final approval would be by the FHWA on an individual State basis.

The modifications of 23 CFR Part 625, that would be required by each of the alternatives outlined above are presented in Appendix A to this advance notice. It should be noted that other alternatives are also being solicited by this notice and that the text of Part 625 would change accordingly.

The apparent intent of the legislation is to allow Federal funding for projects that are designed to protect previous investments in highways by restoring those highways to their original or better condition without extensive revisions to the geometric features. Legislation also requires that all projects are to meet the traffic and safety needs.

The entire regulation, 23 CFR Part 625, to which this amendment is proposed was published in the FEDERAL REGISTER at 42 FR 6 (January 3, 1977).

NOTE.—The Federal Highway Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

This advance notice of proposed rulemaking is issued under the authority of 23 U.S.C. 109 and 315 and 49 CFR 1.48(b).

Issued on: August 17, 1977.

WILLIAM M. COX,
Federal Highway Administrator.

APPENDIX A—PROPOSED TEXTS OF THE AMENDMENTS TO 23 CFR PART 625 FOR EACH OF THE ALTERNATIVES SUGGESTED IN THIS ADVANCE NOTICE OF PROPOSED RULEMAKING.

Alternative 1. No change.

Alternative 2. Under this alternate a new paragraph (6) would be added to § 625.3(a). The existing paragraphs (6) through (21) would be renumbered as (7) through (22), respectively.

§ 625.3(a)(6). Geometric Design Guide for Resurfacing, Restoration, and Rehabilitation (R–R–R) of Highways and Streets, AASHTO 1977.

Alternative 3. Under this alternate a new paragraph (b) would be added to § 625.5. The existing paragraphs (b) and (c) would be redesignated as (c) and (d), respectively.

§ 625.5(b). Resurfacing, restoration, and rehabilitation projects on highways other than freeways.

(1) State highway agencies and the FHWA may on an individual State basis reach an agreement that the minimum criteria set forth in section 625.3(a)(1)–(5) of this chapter do not apply to their nonfreeway resurfacing, restoration, and rehabilitation (R–R–R) projects including minor pavement widening and shoulder improvements.

(2) When such agreement is reached, the State highway officials in consultation with the FHWA Division Administrator may develop guidelines which set forth the design criteria and the type of R-R-R nonfreeway projects to which they apply. In developing these guidelines the "Geometric Design Guide for Resurfacing, Restoration, and Rehabilitation (R-R-R) of Highways and Streets, AASHTO 1977," and the criteria set forth in section 625.3(a)(1)–(5) of this chapter should be used.

(3) Upon FHWA approval of a State's guidelines, approval may be given to project plans for the types of projects specified therein if the design conforms to the criteria set forth in the guidelines.

[FR Doc.77–24643 Filed 8–24–77;8:45 am]

[23 CFR Part 630]

[FHWA Docket No. 76–14]

TRAFFIC SAFETY IN HIGHWAY AND STREET WORK ZONES

Guidelines for Development of Process Management Plans; Proposed Rulemaking

AGENCY: Federal Highway Administration, DOT.

ACTION: Proposed Rule.

SUMMARY: The Federal Highway Administration (FHWA) proposes to issue a rule which could require States to prepare process management plans assuring that adequate consideration is given to the safety of motorists, construction workers and pedestrians in construction zones on Federal-aid highway projects.

DATES: Comments must be received on or before October 25, 1977.

ADDRESS: FHWA Docket No. 76–14, Federal Highway Administration, Room 4230, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Mr. Ken Ziems (202–426–4847), Office of Highway Operations; or Mrs. Kathleen S. Markman (20–426–0790), Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours Monday–Friday from 7:45 a.m. to 4:15 p.m. ET.

SUPPLEMENTARY INFORMATION: On September 20, 1976, the FHWA issued a notice of proposed rulemaking requesting suggestions for increasing safety in the construction zones of Federal-aid highways. 41 FR 41712 (September 23, 1976). Comments were received from over 130 State and local agencies, associations, organizations, manufacturers, suppliers, contractors, consultants, and individuals. The principal subjects of the comments are discussed below.

TRAFFIC CONTROL PLANS

The FHWA requested comments on the inclusion in the plans, specifications and estimates (PS&E) for each project of a reasonably specific traffic control plan (TCP) for moving traffic through or around a construction zone in a manner that is conductive to the safety of motorists and workers. One hundred and one replies addressed this question. Fifty-two replies generally supported the concept of requiring a TCP while 49 opposed.

Of those who supported the concept of a TCP, 18 suggested that the need for a TCP should depend on the size and complexity of the project. Eight replies suggested that the contractor develop and submit the TCP. Several parties supporting the concept of a TCP suggested that the traffic control devices be specified as to type and location, that they be made bid items and that monetary arrangements be made for maintaining the devices.

The replies which opposed the need for a TCP did so because they believed that TCP's should be the responsibility of the State, because they believed that a TCP in the Federal requirements would be too restrictive, or because they were afraid that liability for injuries would be shifted from the contractor to the State.

The FHWA proposes to improve construction zone safety by requiring each State to prepare Process Management Plans (PMP) to be followed in that State. The FHWA will not specify the particulars in each PMP but it will review each PMP. This approach is intended to leave substantial responsibility with the States, to provide flexibility for States to carry out both large and small projects, and to prevent Federal requirements from becoming unnecessarily restrictive. The proposed regulations provide for the funding of the necessary traffic control devices.

RESPONSIBLE STAFF PERSONNEL

The FHWA requested comments on the need for a designated individual to assure that the TCP and other safety aspects of the project are effectively administered. Ninety-two parties offered comments on this question. Thirty-two replies generally supported the need for a designated individual and 60 opposed the concept. Most of those opposing the concept stated that the project engineer should be responsible for administering the TCP because of his education, experience and authority to do the job.

The proposed regulation provides the flexibility for determining who should be responsible for traffic control.

SPECIFIC ELEMENTS OF A TCP

In the advance notice of proposed rulemaking, FHWA requested comments on specific elements of a TCP, such as signing, application and removal of pavement markings, etc. Many replies contained specific recommendations. The proposed regulation contains no specific requirements; however, it is anticipated that FHWA's review of each PMP will include a determination that all elements stated in the advance notice have been considered as necessary.

A draft copy of this notice of proposed rulemaking was previously provided to the American Association of State Highway and Transportation Officials and the Center for Auto Safety, and was placed in the public docket (no. 76–14) on July 1, 1977. The draft was provided for informational purposes only; no comments were solicited or received.

NOTE.—The FHWA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A–107.

In consideration of the foregoing, the Federal Highway Administration proposes to add a new Subpart J to part 630, Chapter I of title 23 Code of Federal Regulations as set forth below.

Issued on August 22, 1977.

WILLIAM M. COX,
Federal Highway Administrator.

PART 630—PRECONSTRUCTION PROCEDURES

Subpart J—Traffic Safety in Highway and Street Work Zones

Sec.

630.1002 Purpose.
630.1004 Background.
630.1006 Definitions.
630.1008 Action.
630.1010 Implementation.
630.1012 Contents of the process management plan.

AUTHORITY: 23 U.S.C. §§ 109(b), 109(d), 315, and 402(a); 23 CFR 1.48 (b).

V42N165 AUG 25 77 UM V

Subpart J—Traffic Safety In Highway and Street Work Zones

§ 630.1002 Purpose.

The purpose of this subpart is to provide to highway agencies and FHWA field offices guidelines for the development of process management plans which will assure that adequate consideration is given to providing for the safety of motorists, construction workers and pedestrians on Federal-aid highway construction projects. These guidelines identify items and set forth minimum requirements which shall be included in the process management plans. The guidelines recognize the unique situation of each State and do not prescribe specific organizations or procedures. While these guidelines are not mandated for use on work not involving Federal-aid funds, highway agencies are encouraged to apply them on all work where significant traffic interference is anticipated.

§ 630.1004 Background.

Part VI of the Manual on Uniform Traffic Control Devices (MUTCD) [1] sets forth basic principles and prescribes standards for the design, application, installation, and maintenance of the various types of traffic control devices for highway and street construction, maintenance operations, and utility work. The Manual cannot address in depth the variety of situations that occur regarding traffic control in work zones. Although agencies responsible for traffic control and work area protection have attempted to develop some guidelines for themselves, a coordinated and comprehensive effort to develop greater uniformity through guidelines and procedures is desirable.

§ 630.1006 Definitions.

(a) Process Management Plan (PMP)—A developed action plan which when put into effect will detail the procedures that a State highway agency utilizes to assure that adequate provisions are made for the safety of motorists, pedestrians, and workmen on Federal-aid highway construction projects.

(b) Traffic Control Plan (TCP)—A detailed plan for handling traffic through a specific highway or street work zone or project. The TCP can vary from a complex plan of numerous requirements for geometrics, signing, work restrictions, and other limitations and provisions to a standard treatment per the MUTCD.

(c) Major Revision—A revision that changes the basic concept or application of the PMP or revises the responsibilities therein. For example, revisions which change the basis on which the complexity of the TCP is predicated, or a change in the basic responsibility for construction zone safety are considered "major."

(d) Minor Revision—A revision that does not change the basic concept of the PMP or revise the responsibilities therein. For example, changes to correct or clarify, to include updated or new reference material, and other similar revisions are considered "minor."

§ 630.1008 Action.

(a) To meet the requirements of these guidelines each State highway agency shall develop a PMP to be followed in providing for and assuring the safety of motorists, pedestrians, and construction workers on Federal-aid highway construction projects.

(b) The PMP shall be consistent with the provisions of the MUTCD.

(c) Within the limits of their resources, FHWA field offices will assist and advise the States in the development of the PMP.

(d) The State shall transmit, under signature of the chief officer of the highway agency, copies of the PMP to the FHWA Division Administrator.

(e) The Division Administrator will review and, where appropriate, recommend approval of the PMP and any major revisions thereto to the Regional Federal Highway Administrator who has final approval authority.

§ 630.1010 Implementation.

(a) The FHWA Division shall review the State's implementation of its PMP at appropriate intervals. The FHWA may take such corrective action as deemed appropriate if the PMP is not being followed or achieving the results intended.

(b) An approved PMP shall have provisions to permit revision or adoption of improved procedures and to meet changing circumstances or assignments of responsibilities.

(c) Major revisions to the PMP will require FHWA approval action as described in § 630.1008. Minor revisions may be approved by the Division Administrator.

§ 630.1012 Contents of the Process Management Plan.

(a) The PMP shall address but not necessarily be limited to the following subject areas.

(1) *Traffic Control Plan (TCP).*—(i) The TCP should be developed in such a manner as to allow for varying degrees of complexity depending upon the project and may range in scope from a very detailed, comprehensive plan designed for a complicated project to a standard plan, scheme, or MUTCD provision for a simple project. A TCP should be included in the PS&E for each proposed project. Detailed TCP's will be required for all Federal-aid freeway and major arterial projects that are to remain open to traffic during construction.

(ii) The scope of the TCP should be determined during the planning and design phases of the project. The PMP guidelines should provide for modifying or altering the TCP to meet unforeseen or changing conditions, and for obtaining timely approvals of any revisions.

(2) *Responsible person.*—(i) The contracting agency shall designate a person at the project level who will have the primary responsibility and sufficient authority for assuring that the TCP and other safety aspects of the contract are effectively administered. The project or resident engineer may have this responsibility. However, on large complex projects, another person should be assigned at the project level to handle traffic control, on a full-time basis, if needed.

(ii) The Division Administrator should be notified who the "responsible person" is to be at the time when "Concurrence in Award" is requested.

(3) *Pay items.*—The PS&E should include unit pay items for providing, installing, moving, replacing, maintaining, and cleaning traffic control devices required by TCP. It is expected that the lump sum method of payment would be used only to cover very small projects, projects of short duration, contingency, and general items.

(4) *Training.*—The State highway agency should train persons responsible for development, design, and implementation of traffic control, particularly those persons responsible for traffic control at the project level. This training should be required and should be updated on a continuing basis.

(5) *Emergency plans.*—The State should develop contingency plans for each project which could be implemented in the event of emergencies, major backups, or disasters. This plan would allow for the movement of police, fire, ambulance, and other emergency vehicles through, across, or around the projects. Contingency plans could not be finalized or developed for all situations. However, the PMP should contain provisions for addressing this area and generally anticipated methods for handling this situation should be outlined at the preconstruction conference.

(6) *Process review and evaluation.*—(i) A review team consisting of State central office design and construction personnel should review randomly selected active projects throughout the State for the purpose of assessing the effectiveness of the PMP. The State may elect to include an FHWA representative as a member of this team. These reviews should be conducted on a continuing basis with the intent that the findings would lead to improvements or modifications in the PMP.

(ii) It is expected that the State highway agency would have district level staff persons with expertise in traffic control who would be available to review project traffic control and offer assistance to the project people on a continuing basis.

(iii) A method to record and analyze accident data should be developed. This information should be provided to and used by appropriate level staff persons as a basis for improving or modifying the PMP. Such construction zone accident data should also be used to continually correct deficiencies which are found to exist on individual projects.

(b) The PMP shall contain guidelines for determining how each area will be handled. The State has the responsibility for developing the guidelines based on the criteria in § 630.1012(a).

[FR Doc.77-24747 Filed 8-24-77;8:45 am]

[1] The MUTCD is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. It is incorporated by reference at 23 CFR 625.3.

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 766-6]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Proposal of Emission Test Procedures for Stage II Gasoline Vapor Incinerators

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The proposed regulations for Stage II gasoline vapor control at service stations (FEDERAL REGISTER, Vol. 41, No. 211, November 1, 1976) require that performance tests be conducted on installed vapor control systems. The proposal includes emission test procedures for most types of vapor control systems and associated equipment. However, the proposal does not describe test methods for measuring mass emission rates from gasoline vapor incinerators which are often used as secondary control measures with vacuum-assisted vapor collection systems. Such test methods have now been developed and are being proposed at this time.

DATES: Comments must be received on or before October 11, 1977.

ADDRESS: Comments should be submitted in triplicate to the Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention: Mr. Don R. Goodwin.

All public comments received may be inspected and copied at the Public Information Reference Unit, Room 2922, 401 M Street, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Peter Westlin, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Telephone No. 919-541-5276.

SUPPLEMENTARY INFORMATION: Incinerators commonly used for gasoline vapor emission control follow a similar general design. Most vapor control systems store excess vapors in a holding tank, usually the stations' underground supply tanks. Upon a signal that varies with the type of system, the incinerator draws vapors from the holding tank and routes the vapors to the burner units. In a few systems, vapors are routed directly from the dispensing islands to the burner. Ignition of vapors occurs either by electric discharge or via a gas pilot flame. Combustion air is supplied by natural draft in most cases, although a few systems use a forced draft blower for combustion air. Combustion gases exhaust through a metal stack. For safety reasons, the incinerator is somewhat removed from the pumping islands and the traffic lanes of the service station. The roof of the garage building is a common location for these units.

The objectives of the test procedures include the determination of a mass emission rate for hydrocarbons for the vapor incinerator exhausts. The mass emission rate is defined as the mass of hydrocarbons emitted per volume of liquid gasoline transferred at the station. The procedures proposed here also provide a means for calculating a mass control efficiency. Mass control efficiency is the percent reduction of inlet hydrocarbons achieved by the incinerator.

Two test methods are being proposed. The first is a screening method which is relatively simple and which can be used to determine the need for further, more rigorous testing. The assumptions upon which the screening method is based are designed such that any significant inaccuracy in the mass emission rate estimation is in the direction of a positive bias. Thus, the results of a screening method test that show compliance with the regulation would indicate that an incinerator was, indeed, in compliance. Test results showing that the emission standard is exceeded by only a small margin would not necessarily indicate a noncompliance, but rather would serve to indicate the need for a retest with a more rigorous procedure. Test results indicating emissions well above the emission standard would show noncompliance.

The second, more rigorous, compliance test method involves additional measurements and, thus, is more costly and time consuming to apply. However, the results are reliable and accurate.

The screening test procedure requires continuous measurements only of carbon dioxide and hydrocarbon emissions over several burning cycles. These measurements allow a calculation of carbon balance wherein incinerator efficiency is determined using a ratio of carbon in the hydrocarbon emission to the total carbon in the hydrocarbon and carbon dioxide emissions. An estimated correction for carbon dioxide concentrations in ambient air is included. This procedure assumes carbon monoxide concentrations are small relative to carbon dioxide and hydrocarbons. This assumption is true for high efficiency units. For low efficiency units, an increase in the unmeasured carbon monoxide emissions will lead to a slight negative bias in the efficiency calculations and a positive bias in the mass emission rate estimation. The calculation for estimating the mass emission rate is based on an inlet hydrocarbon mass rate of 9.0 grams per gallon (g/gal). The 9.0 g/gal value is based on an excess air return rate at the dispensing islands of 100 percent and a 100 percent saturation of the vapor-air mixture at the burner inlet. Also accounted for in the 9.0 g/gal are possible breathing losses associated with the ingestion of fresh dilution air during liquid dispensing. Depending on the system design, this mass emission rate estimation may overstate the true mass emission rate by a factor of two. The mass emission rate is determined in the method by multiplying the 9.0 g/gal value by one minus the calculated efficiency fraction.

The compliance method expands on the screening method and involves actual measurement of the inlet hydrocarbon mass rate, the gasoline liquid volume dispensed, and carbon monoxide in the outlet gas stream. In order to accurately determine the inlet hydrocarbon mass rate and, thus, an accurate mass emission rate, the measurements for the compliance test method must extend over a continuous period of several days.

All hydrocarbon measurements are made with a flame ionization detector. Limited results from recent field tests of vapor incinerators indicate that the hydrocarbons exhausted are of the types that produce good responses on a flame ionization analyzer (i.e., alkanes, benzene, toluene, and some acetone). Calibration of these instruments for field use is performed with known concentrations of propane in air in the range of concentrations expected.

Recent field tests have supplied information about the concentrations of hydrocarbons found in the vapor-air mixture of the burner inlet gas and the exhaust gases. The range of inlet concentration values is from 20 to 50 percent by volume as propane (13 to 33 percent actual vapor volume). For these high concentrations, modifications to most commonly available hydrocarbon analyzers are necessary. One accepted method of equipment modification is to decrease the size of the sample to the analyzer through the use of a smaller diameter sample capillary. In any case, some modification to the sampling system that allows direct and continuous measurement of hydrocarbon concentrations up to 50 or 60 percent by volume as propane is sufficient.

Concentrations of hydrocarbons in the exhaust gases are in the range of 20 to 10,000 parts per million by volume (ppmv) as propane. The great range of concentration is due to the intermittent burning cycles of the incinerators. At each ignition of the inlet gases, a short duration peak of high concentration hydrocarbons is emitted. After ignition when steadier burning of the vapors occurs, the hydrocarbon concentration returns to a much lower level. In addition, the incinerators often have more than one burning level. A lower level is used for light inlet loads, while a higher burning level is switched on for heavy inlet loading. Because of this variation, it is necessary to continuously measure and record hydrocarbon concentration. Analyses of these data should include peak values, average values, and the respective duration percentages.

The analysis for total gaseous carbon neglects any carbon in the form of soot or smoke in the exhaust gas. However, if soot does exist in the exhaust, this is a clear indication that poor combustion is occurring and the efficiency of the control system will suffer. The system is declared unacceptable if any soot or visible emissions do occur during the test period.

Concentrations of CO_2 will range from 0.2 to 2.5 percent by volume and concentration of CO should be only a few ppmv up to 500 ppmv. Nondispersive infrared analyzers with continuous recorders are accurate for these measurements. Continuous recordings of CO_2 and CO data are necessary to correlate the CO_2 and

V 42 165 AUG 25 77 UM

CO level with the changing hydrocarbon readings. The ambient concentration of CO_2 is measured for the compliance test procedure periodically with the CO_2 analyzer and an average ambient CO_2 level is determined.

Gas volume flow measurements are necessary in the compliance test method in order to establish inlet mass emission rates. Inlet gas volumes can be measured by installing a gas volume meter into the vapor inlet line and recording total volume readings for each burning cycle. Because of the changing burning cycles of these incinerators, the inlet gas volumes will vary over the burning periods. A continuous recording of volume input is necessary in determining flow rates for the different cycles.

For the compliance test procedure, it is necessary to determine the liquid volume dispensed during the test period and be able to relate the hydrocarbon emissions to a specific volume of gasoline. The volume of gasoline dispensed during the test period can be obtained from daily pump readings. It is important to establish a relationship between the period of burning for the incinerator and the volume of liquid dispensed and must be done over an extended test period. This test period should be no less than three working days. Accuracy and precision of this procedure can be high if the measurements are made with high quality, well calibrated instruments. For the mass emission rate calculation, an error in measurement inlet or exhaust hydrocarbon concentration of 10 percent will produce a similar error in $(m/L)_e$. For the control efficiency calculation, an error in measurement produces less of an effect on the resulting calculated efficiency.

MISCELLANEOUS

This action is being proposed under the authority of sections 110, 113, 114, 301(a) of the Clean Air Act, as amended.

(42 U.S.C. 1857c-5, 1857c-8, 1857c-9, 1857g (a).)

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Order 11821 and 11949 and OMB Circular A-107.

Dated: August 16, 1977.

DOUGLAS M. COSTLE,
Administrator.

It is proposed to amend Part 52 of Title 40 of the Code of Federal Regulations by adding Test Procedures III and IV to Appendix F as follows:

APPENDIX F—FIELD TEST PROCEDURES FOR STAGE II CONTROL SYSTEMS

* * * * *

III. GASOLINE VAPOR CONTROL INCINERATOR SCREENING TEST METHOD

1. *Principle.* Hydrocarbon and carbon dioxide concentration measurements are made in the exhaust gas. These values are used to calculate an estimated control efficiency and mass emission rate based on a carbon mass balance.

2. *Applicability.* This method is applicable as a periodic screening test of performance for gasoline vapor control incinerators used at service stations equipped for Stage I and Stage II vapor control.

3. *Definitions.*

3.1 Stage I. Underground supply tank refilling operations.

3.2 Stage II. Vehicle refueling operations.

3.3 Vapor Incinerator. A combustion device designed to burn excess gasoline vapors collected during Stage I and/or Stage II operations.

4. *Summary of Method.* This procedure describes test procedures and test conditions to be followed in determining an estimated vapor control efficiency for gasoline vapor control incinerators. The exhaust hydrocarbon concentration is measured with a flame ionization detector and exhaust carbon dioxide concentration is measured with a nondispersive infrared analyzer. Average values obtained from strip chart analyses are used to calculate an estimated combustion efficiency based on a carbon mass balance.

5. *Test Scope and Conditions Applicable to Test.*

5.1 Service Station Status During Test Period. The procedure is designed to measure incinerator control efficiency under service station conditions that are normal for the station under test.

5.1.1 Closing of Dispensing Pumps. All dispensing pumps interconnected with or sharing the control system under test shall remain open as is normal for the service station operation.

5.1.2 Vehicle Refueling. Vehicles shall be refueled as is normal for the period of the test.

5.1.3 Underground Tank Refilling. As underground tank refilling produces vapor volumes drastically different from vehicle refueling operations, no underground tank refilling should be performed during the test period. A separate test period may be set for determining vapor control efficiency during Stage I operations.

5.2 Fuel RVP. The RVP (Reid Vapor Pressure) of the fuel dispensed during the test shall be within the range normal for the geographic location and time of year of the test.

6. *Test Measurements and Equipment.*

6.1 Exhaust Hydrocarbon Concentration. A flame ionization detector calibrated with known concentrations of propane in hydrocarbon free air is used to measure total hydrocarbon concentrations in the exhaust gas. The sampling probe should be of a material unaffected by combustion gases (i.e., stainless steel, glass, etc.). The sample pump should be oil-free and leak-tight. A continuous recorder is required to record real-time output from the hydrocarbon monitor.

6.2 Exhaust Carbon Dioxide Concentration. A nondispersive infrared analyzer calibrated with known quantities of carbon dioxide in air is used to measure carbon dioxide concentrations in the exhaust gas. The criteria that apply to the sample probe, sample pump, and recorder for the hydrocarbon measurement also apply here.

6.3 Calibration and Span. Section 9.0 describes the calibration and span gas requirements for these instruments.

7. *Test Procedure.*

7.1 Visual Inspection. Any visible emissions from vapor incinerators are an indication of poor combustion. Should visible emissions from the exhaust (i.e., soot or smoke) be detected, the control system is unacceptable and the problem must be attended before any further emission testing.

7.2 Sample Location. The sampling point should be located in the exhaust stack downstream of the burner far enough to permit complete mixing of the combustion gases. For most sources, this point is at least eight stack diameters downstream of any interference and two diameters upstream of the stack exit. There are many cases where these conditions cannot be met for these vapor incinerators because of large diameter stacks or other reasons. For the purposes of this screening test procedure, it is sufficient to locate the sampling point at the center of the stack exit. One point sampling is sufficient.

7.3 Monitoring Equipment Set-up. Span and calibrate monitors (hydrocarbon analyzer and nondispersive infrared CO_2 analyzer) according to procedures in Section 9. Connect sampling probes, pumps, and recorders to the monitors and amount sampling probes in the stack.

7.4 Measurements. Mark strip charts at the start of the test period and proceed with hydrocarbon and carbon dioxide measurement for at least three burning cycles of the incinerator. Depending on the design of the system, the total test period will range from 15 to 45 minutes. (NOTE: low volume stations may produce lower excess vapor volumes causing a longer test period.) Sampling for hydrocarbons and carbon dioxide must occur simultaneously and strip chart recordings should correspond as to sample times.

8. *Calculations.*

8.1 Terminology.

CO_2 = Outlet carbon dioxide concentration (ppmv).
HC = Outlet hydrocarbon concentration (ppmv).
$\%E$ = Percent control efficiency (%).
$(m/L)_e$ = Estimated mass emission rate.
100 = Percent correction factor.
3 = Number of carbon atoms in a propane molecule, correction for CO_2 levels.
300 = Average CO_2 levels in ambient area (ppmv).

8.2 Averaging of Recorded Values. The strip chart recording will show variations in hydrocarbon and carbon dioxide concentration during the burning cycles. An average value for each should be calculated from the recorded curves. Averages may be determined using preliminary, triangulation, or integrating techniques.

8.3 Percent Control Efficiency Calculation.

$$\text{Percent } E = 100\left[1 - \frac{HC}{HC + \frac{CO_2 - 300}{3}}\right]$$

8.4 Estimated Mass Emission Rate Calculation.

$$(m/L)_e = 9.0\left[1 - \frac{\text{percent } E}{100}\right]$$

NOTE.—This calculation can be completed for average values obtained during normal vehicle refueling operations or using average values obtained during Stage I operations, if hydrocarbon and carbon dioxide measurements are made accordingly.

9. *Calibration and Specifications.*

9.1 Total Hydrocarbon Analyzers. Flame ionization detectors are acceptable for measurement of exhaust hydrocarbon concentrations. Calibrations should be performed following the manufacturer's instruction for warm-up time and instrument adjustments. Calibration gases should be propane in hydrocarbon-free air of known concentrations prepared gravimetrically with measured mass quantities of 100 percent propane. A calibration curve shall be produced using a minimum of five (5) prepared calibration gases in the range of concentrations expected during testing. The calibration curve shall be used in determining measured levels during testing. The calibration of the instrument need not be performed on the test site, but shall be performed prior to and immediately following the test program. During the test program, the hydrocarbon analyzer shall be spanned on site with zero gas (<3 ppmv C) and with known concentration of propane in hydrocarbon-free air at a level near the highest concentration expected at the test point. The spanning procedure shall be performed at least once prior to the test and at least once following the measurement period.

Conditions in calibration and span gas cylinders must be kept well below critical pressures and temperatures in order to avoid condensation of propane affecting the gas concentrations. A safety factor of two (2) is recommended.

The fuel for a flame ionization analyzer should be a mixture of hydrogen and helium using a 40/60 ratio (H_2/He). A 40/60 mixture of hydrogen and nitrogen (H_2/N_2) may be used as a substitute.

9.2 Carmon Dioxide Analyzers. Nondispersive infrared analyzers are acceptable for measurement of exhaust carbon dioxide concentrations. Calibrations should be performed following the manufacturer's instructions for warm-up time and instrument adjustments. Calibration gases should be known concentrations of carbon dioxide in air. A calibration curve shall be produced using a minimum of five (5) prepared calibration gases in the range of concentrations expected during testing. The calibration curve shall be used in determining measured levels during testing. The calibration of the instrument need not be performed on the test site, but shall be performed prior to and immediately following the test program. During the testing, the analyzer shall be spanned on site with zero gas (<3 ppmv C) and with a known concentration of carbon dioxide in air at a level near the highest concentrations expected at the test point. The spanning procedure shall be performed at least once prior to the test and at least once immediately following the measurement period.

IV. GASOLINE VAPOR CONTROL INCINERATOR COMPLIANCE TEST METHOD

1. *Principle.* Hydrocarbon, carbon dioxide, and carbon monoxide concentrations in the exhaust gases and gas volume and hydrocarbon concentrations in the inlet vapor and ambient carbon dioxide concentrations are measured. These values are used to calculate the incinerator hydrocarbon control efficiency and mass emission rate based on a carbon mass balance.

2. *Applicability.* This method is applicable as a compliance test method of performance for gasoline vapor control incinerators used at service stations equipped for Stage I and Stage II vapor control.

3. *Definitions.*

3.1 Stage I. Underground Supply Tank Refilling Operations.

3.2 Stage II. Vehicle Refueling Operations.

3.3 Vapor Incinerator. A combustion device designed to burn excess gasoline vapors collected during Stage I and/or Stage II operations.

4. *Summary of Method.* This procedure describes test equipment, methods, and test conditions to be followed in determining compliance with the emissions regulation for gasoline vapor control incinerators. The inlet hydrocarbon mass rate is determined from hydrocarbon concentrations and volume measurements along with establishing the gasoline liquid volume dispensed over the test period. Exhaust hydrocarbon, carbon dioxide, and carbon monoxide concentrations are measured over an extended test period of at least three days. An accurate measure of these values over this long period provides for an accurate determination of hydrocarbon mass emission rate.

Hydrocarbon measurements are made with a flame ionization detector calibrated with known concentrations of propane in hydrocarbon-free air. Carbon dioxide and carbon monoxide concentrations are measured with nondispersive infrared analyzers calibrated with known concentrations for the appropriate gas. Continuous recordings of these values are analyzed and used to calculate a combustion efficiency and mass emission rate.

5. *Test Scope and Conditions Applicable to Test.*

5.1 Service Station Status During Test Period. The procedure is designed to measure incinerator control efficiency under service station conditions that are normal for the station under test.

5.1.1 Closing of Dispensing Pumps. All dispensing pumps interconnected with or sharing the control system under test shall remain open as is normal for the service station operation.

5.1.2 Vehicle Refueling. Vehicles shall refuel as is normal for the period of the test.

5.1.3 Underground Tank Refilling. As underground tank refilling produces vapor volumes drastically different from vehicle refueling operations, no underground tank refilling should be performed during the test period. A separate test period may be set for determining vapor control efficiency during Stage I operations.

5.2 Fuel RVP. The RVP (Reid Vapor Pressure) of the fuel dispensed during the test shall be within the range normal for the geographic location and time of year of the test.

6. *Test Measurements and Equipment.*

6.1 Hydrocarbon Concentrations. Flame ionization analyzers calibrated with known concentrations of propane in air are used to measure hydrocarbon concentrations at both the incinerator inlet and exhaust. (A properly calibrated nondispersive infrared hydrocarbon analyzer may be substituted for the inlet hydrocarbon concentration measurements.) A suitable continuous recorder is required to record real-time output from the hydrocarbon monitors.

6.2 Sample Handling Systems. The sample pumps should be properly sized and of a material unaffected by combustion gases or strong hydrocarbon vapors. The sampling probes must also be of suitable material. The sample handling systems should not be manifolded for the different instruments, but each measurement should be from a separate sample system. This requires three sample probes for exhaust measurements which may be gauged for easy probe handling.

Sampling in the exhaust of these vapor incinerators often requires sample traversing as described in EPA Reference Method 1. However, as these measurements must be made continuously over a long period of time and the incinerator burning periods are short, an alternative sampling method is required. It is suggested that the sample probes be constructed of stainless steel tubing and plugged at one end (i.e., the end opposite the sample line connection). Sampling holes are drilled into the tube at the sample traverse point location defined by EPA Reference Method 1. The probes may then be mounted securely in the stack at one stack diameter for a round stack or at the center line of a rectangular stack for continuous sampling of exhaust gases. The probes for all exhaust gas measurements should be identical so that results represent the same stack gases. The inlet hydrocarbon sample probe need be only a simple sample top on the volume meter in the vapor inlet line.

6.3 Carbon Dioxide and Carbon Monoxide Concentrations. Nondispersive infrared analyzer calibrated with known quantities of carbon dioxide or carbon monoxide in air are used to measure carbon dioxide and carbon monoxide in the exhaust gases and the ambient air. The criteria that apply to the sample probes, sample pump, and recorder for the hydrocarbon measurements also apply here.

6.4 Gas Volume Meter. A dry gas volume meter constructed of suitable material and appropriately sized is used to measure inlet gas vapor volume to the vapor incinerator. The meter should be equipped with taps for a thermocouple and a hydrocarbon sample line.

6.5 Calibrations and Span. Section 9.0 describes the calibrations and span gas requirements for these instruments and meter.

7. *Test Procedure.*

7.1 Visual Inspection. Any visible emissions from vapor incinerators are an indication of poor combustion. Should visible emissions from the exhaust (i.e., soot or smoke) be detected, the control system is unacceptable and the problem must be attended before any further emission testing.

7.2 Sample Location. The sampling point should be located in the exhaust stack downstream of the burner far enough to permit complete mixing of the combustion gases. For the most sources, this point is at least eight stack diameters downstream of any interference and two diameters upstream of the stack exit. There are many cases where these conditions cannot be met for these vapor incinerators because of large diameter stacks or other reasons. The sample traverse line should be no less than one stack diameter from the stack exit. The inlet sampling location is in the system inlet line routing gasoline vapors to the burner. Install the gas volume meter into the line so that all vapor passes through the meter. The hydrocarbon sample tap and a thermocouple connection to monitor gas temperature must be installed on the inlet side of the volume meter. Note: If the pressure at the inlet side of the burner is substantially different from atmospheric pressure, this line pressure must also be measured.

7.3 Monitoring Equipment Set-up. Span and calibrate monitors (hydrocarbon analyzers and nondispersive infrared CO_2 and CO analyzers) according to precedures in Section 9. Connect sampling probes, pumps, and recorders to the monitors and mount sampling probes in the stack and at the inlet.

7.4 Measurements. Mark strip charts at the start of the test period and proceed with hydrocarbon, CO_2, and CO measurements for at least three continuous 24-hour periods. For the half-hour periods each day, disconnect the CO_2 monitor and monitor the ambient CO_2 levels. This step requires that the CO_2 instrument be calibrated for the lower concentrations expected at ambient levels.

All sampling of inlet and exhaust gases must occur simultaneously and strip chart recordings are to correspond as to sample times.

7.5 Gasoline Liquid Volume. Record the gasoline liquid dispensed volume for each 24-hour period.

8. *Calculations.* The calculations for the compliance test method necessary to determine a hydrocarbon reduction efficiency and a mass emission rate are shown below. The terminology listed provides a review of the measurements that are necessary.

8.1 Terminology.

CO_e=Carbon monoxide concentration in the exhaust gas (ppmv).
CO_{2a}=Average carbon dioxide concentration in the ambient air (ppmv).
CO_{2e}=Carbon dioxide concentration in the exhaust gas (ppmv).
HC_i=Hydrocarbon concentration in the inlet gas to the burner (ppmv as propane).
HC_e=Hydrocarbon concentration in the exhaust gas (ppmv as propane).
L_d=Gasoline liquid volume dispensed during test period (gallons).
P_i=Static pressure at inlet meter, if measured (mmHg).
T_i=Temperature of gas at inlet meter (°c).
V_i=Inlet gas volume (ft³).
F=Dilution factor (dimensionless).
51.6×10^{-6}=Correction factor for grams of hydrocarbon per gas volume parts per million propane.

$$\left(\frac{g}{(scf)\ (ppmv)}\right).$$

3=Number of carbon atoms per propane molecule.

8.2 Calculate the standard total gas volume (V_s) at the burner inlet for each test day (standard pressure=760.0 mmHg, standard temperature=20°c).

$$V_s=0.3855\,V_i\,\frac{(P_i+760)}{(T_i+273)}$$

Equation 1

8.3 Calculate an average vapor volume to liquid volume (V/L) at the inlet for each test day.

$$(V/L)_i=\frac{V_s\ (scf)}{L_d\ gal}$$ Equation 2

8.4 Determine the average inlet hydrocarbon mass rate $(m/L)_i$ for each test day.

$$(m/L)_i=51.6\times10^{-6}(HC_i)(V/L)_i\ (g/gal)$$

Equation 3

8.5 A carbon dilution factor, F, can be calculated for the incinerator using the inlet and outlet hydrocarbon concentrations, the outlet CO and CO_2 concentrations, and an average ambient CO_2 concentration. The important criterion for this calculation is that all the carbon sources be measured. The values used in the calculation should represent average daily values obtained from strip chart recordings and commonly used integration techniques. Many systems have more than one burning mode of operation. For these it is desirable to have high and low emission levels calculated. This requires that corresponding dilution factors, $(V/L)_i$ values, and $(m/L)_i$ values be calculated for each period in question.

$$F=\frac{HC_i}{HC_e+\frac{CO_{2e}-CO_{2a}+CO_e}{3}}$$

Equation 4

8.6 The mass emission rate $(m/L)_e$ is calculated using the inlet $(m/L)_i$ from Equation 3 and the carbon dilution factor from Equation 4. The exhaust hydrocarbon concentration will vary with time and operation of the system. It is likely that, in addition to an overall average mass emission rate using an average HC_i, several peak values of $(m/L)_e$ will be required as discussed above. If some correlation between HC_i and HC_e occurs over the burning cycle of the system, this calculation should be used to show the change in mass emission rate.

$$(m/L)_e=F\left(\frac{HC_e}{HC_i}\right)(m/L)_i\ (g/gal)$$

Equation 5

8.7 Mass control efficiency (%E) can be calculated for an average value over each test day or for any shorter interval. It represents the reduction of hydrocarbon mass achieved by the incinerator system and this efficiency can vary depending on the burning cycle or the inlet loading.

$$\text{Percent } E=100\left[1-\frac{(F)(HC_e)}{HC_i}\right]$$

Equation 6

9. *Calibrations and Specifications.*

9.1 Total Hydrocarbon Analyzers. Flame ionization detectors or equivalent total hydrocarbon analyzers are acceptable for measurement of exhaust hydrocarbon concentrations. Calibrations should be performed following the manufacturers' instruction for warm-up time and instrument adjustments. Calibration gases should be propane in hydrocarbon-free air of known concentrations prepared gravimetrically with measured mass quantities of 100 percent propane. A calibration curve shall be produced using a minimum of five (5) prepared calibration gases in the range of concentrations expected during testing. The calibration curve shall be used in determining measured levels during testing. The calibration of the instrument need not be performed on the test site, but shall be performed prior to and immediately following the test program. During the test program, the hydrocarbon analyzer shall be spanned on site with zero gas (<3 ppmv C) and with known concentration of propane in hydrocarbon-free air at a level near the highest concentration expected at the test point. The spanning procedure shall be performed at least once prior to each test day, at least twice during each test day, and once following the end of each 24-hour test day.

Conditions in calibration and span gas cylinders must be kept well below critical pressures and temperatures in order to avoid condensation of propane affecting the gas concentration. A safety factor of two (2) is recommended.

The fuel for a flame ionization analyzer should be a mixture of hydrogen and helium using a 40/60 ratio (H_2/He). A 40/60 mixture of hydrogen and nitrogen (H_2/N_2) may be used as a substitute.

9.2 Carbon Dioxide and Carbon Monoxide Analyzers. Nondispersive infrared analyzers are acceptable for measurement of exhaust carbon dioxide and carbon monoxide concentrations. Calibrations should be performed following the manufacturers' instructions for warm-up time and instrument adjustments. Calibration gases should be known concentrations of carbon dioxide in air. A calibration curve shall be produced using a minimum of five (5) prepared calibration gases in the range of concentrations expected during testing. The calibration of the instrument need not be performed on the test site, but shall be performed prior to and immediately following the test program. During the testing, the analyzer shall be spanned on site with zero gas (<3 ppmv C) and with a known concentration of carbon dioxide in air at a level near the highest concentrations expected at the test point. The spanning procedure shall be performed at least once prior to each test day, at least twice during each test day, and once following the end of each 24-hour test day.

[FR Doc.77-24507 Filed 8-24-77;8:45 am]

[40 CFR Parts 123, 124, 125]

[FRL 732-6]

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Intent to Develop Rulemaking

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to develop rulemaking.

SUMMARY: In light of the experience gained by the Environmental Protection Agency and the States in working with the national pollutant discharge elimination system program as established in the regulations, it has been determined that these regulations should be amended to improve the operations and procedures of the NPDES program.

FOR FURTHER INFORMATION CONTACT:

Mr. Frank E. Hall (EN-336), Office of Water Enforcement, Environmental Protection Agency, Washington, D.C. 20460 (202-755-0750).

SUPPLEMENTARY INFORMATION: The Federal Water Pollution Control Act as amended in 1972 (33 U.S.C. 1251 et. seq.) mandated that the Administrator of the Environmental Protection Agency develop regulations for the implementation of the National Pollutant Discharge Elimination System (NPDES). These regulations (40 CFR 123, 124 and 125) were developed and implemented. In light of the experience gained by the Environmental Protection Agency and the States in working with the NPDES program as established in the regulations, it has been determined that these regulations should be amended to improve the operations and procedures of the NPDES program. For example the Agency is considering amending the regulations eliminating NPDES permit application fees, revising application and permit forms, and improving the permit development fact sheets.

The purpose of this notice is to advise interested members of the public (including but not limited to, Federal, State, and local government agencies, industries that are required to participate in the NPDES program or may be interested in the program, consumer, agricultural and public interest groups) of the agency contact point for the amendment of these regulations. The contact person may also be consulted regarding the status of progress of the development of this action. The mailing address and telephone number for this contact person are: Mr. Frank E. Hall (EN-336), Office of Water Enforcement, Environmental Protection Agency, Washington, D.C. 20460 (202-755-0750).

Dated: July 27, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-24586 Filed 8-24-77;8:45 am]

[40 CFR Part 762]

[FRL 781-1]

FULLY HALOGENATED CHLOROFLUOROALKANES

Deadline of Reply Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Deadline of reply comment period.

SUMMARY: Reply comments on the proposed fully halogenated chlorofluoroalkane regulation are being requested.

This request is made in accordance with the proposed rules for Procedures for Rulemaking under Section 6 of the Toxic Substances Control Act. Reply comments are based on the hearing record, materials that were not and could not reasonably have been available to the commenting party a sufficient time before the main comments were due, and other comments that may be submitted.

DATES: Comments must be postmarked no later than September 16, 1977.

ADDRESSES: Reply comments should be submitted to: U.S. Environmental Protection Agency, Office of Toxic Substances (WH-557), 401 M Street SW., Washington, D.C. 20460, Attn: Joni T. Repasch.

FOR FURTHER INFORMATION CONTACT:

Joni T. Repasch, 202-426-9000.

SUPPLEMENTARY INFORMATION: The legislative part of the informal hearing on the proposed regulation was held August 1, 2, and 3, 1977, at the Washington, D.C., headquarters of the Environmental Protection Agency. No requests for cross-examination were received. Therefore, the informal hearing on this rulemaking closed on August 12, 1977.

Dated: August 19, 1977.

ANDREW W. BREIDENBACH,
Acting Assistant Administrator for Toxic Substances.

[FR Doc.77-24513 Filed 8-24-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 26]

RUBY LAKE NATIONAL WILDLIFE REFUGE

Public Entry and Use; Proposed Special Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed special regulations.

SUMMARY: It is proposed that special regulations be established governing boating use at the Ruby Lake National Wildlife Refuge. These regulations are required to resolve the conflict which has developed between boating and primary wildlife objectives. The intended effect is to minimize the adverse impact on the primary wildlife objectives for which the refuge was established.

DATES: Comments must be received on or before: September 25, 1977.

The proposed effective date of these special regulations will be from January 1, 1978 to December 31, 1978.

ADDRESS: Send comments to: Regional Director, U.S. Fish and Wildlife Service, 1500 NE Irving Avenue, Portland, Oreg. 97208.

FOR FURTHER INFORMATION CONTACT:

Patrick O'Halloran, Federal Building, Room E-3911, 2800 Cottage Way, Sacramento, Calif. 95824; telephone 916-484-4664.

SUPPLEMENTARY INFORMATION: The primary author of this document is Lawrence G. Kline, Division of National Wildlife Refuges, U.S. Fish and Wildlife Service, Washington, D.C. 20420.

Current levels of public use on the Ruby Lake Refuge are approaching 50,000 visitors annually. Approximately 30,000 boaters annually are now using the 7,000-acre South Sump that makes up the southern portion of the refuge. However, the refuge is one of the most important nesting areas for canvasback and redhead ducks in the Nation. About 4,000 birds are produced annually, chiefly on the South Sump, and the area has potential to produce even more. Continental populations of both species are low, largely as a result of habitat loss.

Boats are necessary to fish in the South Sump, but bank fishing is permitted on the North Sump. Current fishing use on the refuge is about 165,000 activity hours (AH), with 65 percent occurring on the South Sump. Boating also supports 2,000 AH of water-skiing, 900 AH of pleasure boating, and 700 AH of hunting on the South Sump.

When boating was first allowed in the 1940's there was very little use and consequently not much disturbance to nesting. In recent years the annual increase in fishing has been 18 percent. The increase in boating has been even higher. The current level of boating use constitutes a serious threat to waterfowl nesting on the refuge, particularly canvasbacks and redheads. Additionally, the maintenance of higher water levels required by large boats in the shallow marsh precludes managing the water for optimum wildlife benefits.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k-1), as amended, provides that recreation may be permitted on a National Wildlife Refuge only if such use does not conflict with the purpose for which the refuge was established. Wildlife, therefore, must be the dominant use of a National Wildlife Refuge and recreation must be secondary.

Under the current program, year-round boating without motors is permitted on the South Sump. Powerboating with no horsepower restrictions is allowed on the designated year-round powerboating area. Powerboating, with no horsepower restrictions is allowed on all areas of the South Sump from June 30 to December 31. Water-skiing is allowed on a designated small area only.

In June 1976, the Fish and Wildlife Service completed an environmental assessment on the effects of boating on the management of the refuge. The assessment is available from the Regional Director at the above address. Public hearings were held at four locations in Nevada in September 1976, on the Fish and Wildlife Service proposal to resolve the conflict. The Service proposal featured a 10 horsepower limit on motor size, and an August 1 opening for boats with motors. This proposal was designed to reduce the disturbance to nesting waterfowl to a minimum and also reduce the potential for serious boat accidents. Under this proposal water-skiing would have been discontinued.

Following a review of the Service proposal, the public hearing records, and an on-site inspection of the area, Assistant Secretary Robert L. Herbst decided to resolve existing conflicts by establishing speed limits and no wake zones in certain areas where boats with no horespower limitations will continue to be permitted. Mr. Herbst also made the decision to reduce the total water area available for powerboating by closing the north one-third of the South Sump to this use. As provided by 50 CFR 26.34, the Service hereby proposes the following special regulations:

§ 26.34 Special Regulations concerning public access, use, and recreation for Ruby Lake National Wildlife Refuge.

Boats will be permitted only on that portion of the Ruby Lake National Wildlife Refuge known as the South Sump. The South Sump will be divided into zones, which will be identified by signs and delineated on maps available from the Refuge Manager and on maps posted at the boat landings.

Copies can also be obtained from the Regional Director, U.S. Fish and Wildlife Service, 1500 NE Irving Avenue, Portland, Oreg. 97208. The zones and the regulations applicable to each zone are as follows:

Zone 1—Motorless Boating Area. Period of use: year round. Boats without motors or boats with electric motors only will be permitted. Motorless boats can go into zone 2 and 3, when these zones are open to boating.

Zone 2—Powerboat Area. Periods of use: July 1 to December 31 on designated area in the eastern part of zone; August 1 to December 31 on remainder of zone and in 10 hp. designated areas. Only boats with motors of 10 hp. or less will be permitted on certain designated areas beginning on August 1. The remainder of the zone will be open to all boats with no horespower limitations. Boats with motors exceeding 10 hp. will not be permitted outside of designated areas or outside Zone 2 even if the engine is disabled. No boat may exceed 20 mph except on the designated water-ski area. On critical areas identified by signs, no boat may exceed 5 mph (no wake).

Water-skiing will be permitted from 10:00 a.m. to 5:00 p.m. daily on the designated water-ski area only. No more than three (3) boats pulling waterskiers will be permitted to operate at any one time. If more than three water-ski boats are operating at one time, all boats in operation will be in violation.

Zone 3—Small Boat Area. Period of use: August 1 to December 31. Only boats with motors of 10 hp. or less will be permitted. Boats with motors of 10 hp. or less can enter any part of zones 2 and 3 when these zones are open to boating.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal which would require the preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 22, 1977.

LYNN A. GREENWALT,
Dirctor, U.S. Fish and Wildlife Service.

[FR Doc.77-24577 Filed 8-24-77;8:45 am]

V 42 165 AUG 25 77 UM V

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

NATIONAL FOREST MANAGEMENT ACT COMMITTEE OF SCIENTISTS

Meeting

The Committee of Scientists will meet at 8:30 a.m. on September 21, 1977 through noon of September 23, 1977, at the Bloomington Holiday Inn, 1201 West 94th Street, Bloomington, Minn.

The purpose of this meeting will be to review and work on proposed Regulations for the Land Management Planning process.

The meeting will be open to the public. Persons who wish to attend should notify Charles R. Hartgraves, Forest Service, area code 202–447–5933. Written statements may be filed with the Committee before or after the meeting.

Dated: August 19, 1977.

J. W. DEINEMA,
Deputy Chief.

[FR Doc.77-24634 Filed 8-24-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 30309]

ATLANTA-CHARLESTON COMPETITIVE NONSTOP CASE

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on September 14, 1977, at 10 a.m. (local time), in the Charleston County Council Chambers, County Office Building, Fourth floor 2 Courthouse Square, Charleston, South Carolina.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report, served May 10, 1977, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C. August 15, 1977.

STEPHEN J. GROSS,
Administrative Law Judge.

[FR Doc.77-24607 Filed 8-24-77;8:45 am]

[Docket 30679]

FLORIDA–ATLANTA COMPETITIVE NONSTOP SERVICE CASE

Supplemental Prehearing Conference

Notice is hereby given that a supplemental prehearing conference in the above-entitled proceeding is assigned to be held on September 20, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. Submissions shall be made on or before September 13, 1977, and shall follow the numbering and lettering used by the Bureau in its prehearing conference submission of July 26, 1977.

Dated at Washington, D.C., August 17, 1977.

RICHARD V. BACKLEY,
Administrative Law Judge.

[FR Doc.77-24608 Filed 8-24-77;8:45 am]

[Docket 30182]

IOWA/ILLINOIS–ATLANTA ROUTE PROCEEDING

Hearing

Notice is hereby given that a public hearing in the above-entitled proceeding is assigned to be held on November 15, 1977, at 9:30 a.m. (local time) in the Supervisor's Room, Rock Island County Board of Supervisors, Rock Island County Office Building, 1504 Third Avenue, Rock Island, Illinois, 61201, before the undersigned Administrative Law Judge.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the prehearing conference report served July 21, 1977 and the supplemental prehearing conference report served August 15, 1977, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 19, 1977.

MARVIN H. MORSE,
Administrative Law Judge.

[FR Doc.77-24609 Filed 8-24-77;8:45 am]

[Docket Nos. 20826, etc.; Order 77-8-85]

ALASKA SERVICE INVESTIGATION (BUSH ROUTES PHASE)

Order Dismissing Applications and Terminating Proceeding

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of August 1977.

By Order 74-6-21, June 4, 1974, the Board deferred action on the portion of the Alaska Service Investigation (Bush Routes Phase) involving applications by air taxi operators for certificates of public convenience and necessity that would result in the replacement of Alaska Airlines and Wien Air Alaska in certain bush markets. The procedural history leading up to this deferral follows.

The Alaska Service Investigation was initiated in March 1969, and contemplated a comprehensive review of major route patterns serving Alaska (Order 69–3–68, March 19, 1969). Hearings were held throughout Alaska during the summer months of 1970 and an initial decision was rendered by Examiner F. Merritt Ruhlen in March 1971. Later that year the Board, in conducting its review of the record, determined that it would be better to proceed with the Investigation in two phases (Order 71–3–172, March 29, 1971). The first was to center on the major trunk and regional routes encompassing the 48-States-Alaska and major intra-Alaska markets. The second was to review the issues of service from major regional hubs to the small outlying communities of the bush and among the small bush communities themselves.

After division of the Investigation into two phases, the Board decided to adopt the recommendation of Examiner Ruhlen to realign the bush routes of Alaska Air Lines and Wien Air Alaska (formerly Wien Consolidated Airlines), and to effect certain other changes. However, because of the paucity of the evidence with respect to bush points and routes, the Board concluded that a re-evaluation of bush issues should be undertaken (Order 72–9–91 and 72–9–92, September 25, 1972).[1] The Bush Routes Phase was accordingly reopened and remanded for further evidentiary proceedings to consider, among other things, broadened issues with respect to the establishment of standards for subcontracting arrangements between certificated carriers and air taxi operators; the certification of air taxis at any of the communities in question; and the identification of bush points where operation of subsidized services by air carriers, whether or not certificated, pursuant to competitive bid contracts might prove feasible and desirable if authorized by Congress.[2] Although a second prehearing conference was held in Anchorage in May 1973, and a conference report issued on June 1, 1973, established a procedural schedule for the Bush Routes Phase, the air taxi and civic parties did not submit evidence sufficient for an adequate decision on the issues of service alternatives. Some of the carriers filed pro forma certificate applications, failing to come forward with the detailed data necessary for resolution of the certificate issues. Moreover, no party sought to explore the other service alternatives contemplated by the Board in its order on remand.

To resolve these difficulties, the Board restructured the Bush Routes Phase, (Order 74–6–21, June 4, 1974), severing the following issues for separate disposition:

(a) Renewal of the Kodiak-Western Alaska certificate, Dockets 23604 and 23605, and the proposed King Salmon-Kodiak link between the two elements of the carrier's system, Docket 23757.[3]

(b) Termination and revocation of the Howard J. Mays certificate and transfer of the certificate to Munz Northern Airlines, Docket 25655.[4]

(c) Extension of the 30-seat/7,500-pound payload standard applicable to Part 298 operations in the 48 contiguous United States to air taxi operations within Alaska. See EDR–273, June 4, 1974.

(d) Establishment of standards for subcontracting arrangements between certificated airlines and Alaskan air taxis and requiring prior Board approval of those arrangements. See EDR-272, June 4, 1974.[5]

(e) Deletion of bush points no longer receiving ceritficated service.[6]

Decisions have been issued in Kodiak-Western Alaska Renewal Proceeding (Orders 75–8–72, August 13, 1975, and 75–10–35, October 10, 1975) and Howard J. Mays Revocation Munz Northern Certification Proceeding (Orders 75–8–117, August 21, 1975, and 76–3–169, March 26, 1976), and final rules have been enacted establishing the 30 seat/7,500 pound payload standard for Alaskan air Taxis and standard for subcontracting arrangements (see Regulations ER–970 and 946, effecting November 5, 1976, and February 27, 1976, respectively). Consequently, the only remaining undecided issue in the Bush Routes Phase involves the applications by air taxi operators for certificates of public convenience and necessity.[7]

Certain events have occurred since the Board deferred action on these certificate applications which, we believe, indicate the desirability of terminating the Bush Routes Phase of the Alaskan Service Investigation.

When the Board was contemplating the establishment of standards to make subcontracting more stable and attractive, the air taxi parties to the proceeding were directed to advise the Board whether the certificate applications would be prosecuted if the proposed subcontract guidelines were adopted. The parties were also directed to advise the Board what additional steps they believed necessary to expedite adjudication of the remaining issues in the Bush Routes Phase (Order 74–6–21, June 4, 1974). In response to these directives, Merric, Munz Northern Airlines, Parkair, and Tanana Air Taxi indicated a desire to prosecute their certificate applications regardless of any subcontracting standards which might be established. Yukon Air Service stated that it did not wish to prosecute its application, assuming adoption of the subcontracting guidelines and the continuance of its subcontract, and Sea Airmotive later filed a motion to reestablish a procedural schedule in the Bush Routes Phase.[8] Looking at all the responses received relating in any way to this matter, we find that, out of thirteen parties whose applications for new bush authority were consolidated into the Bush Route Phase, only six indicated any desire to proceed with the investigation. Two of those parties have now merged (Parkair and Sea Airmotive), and another (Merric) has merged with ERA Helicopters, which has indicated no desire to prosecute the application filed by its predecessor in interest, and the conditions of another (Yukon) apparently have been met. There remains, therefore, an unsatisfied interest in only three certificate applications. The last record interest that any of these expressed was in December 1974. In addition the Board has revised Part 298 so that the 30-seat/7500-pound payload standard is now applicable to Alaskan air taxi operations, giving them more flexibility.[9]

More importantly, in February 1976, Part 293 of the Board's Economic Regulations became effective. This rule requires prior Board approval of subcontract agreements involving the operation of scheduled air services by an air taxi operator over Alaskan bush routes of a certificated air carrier, and contains substantial requirements aimed at protecting the economic viability of the operations of the subcontracting air taxis and their services to the public.[10]

It is clearly desirable to avoid the expenditure of time and money in unnecessary certification procedures for small and financially marginal Alaskan air taxi operators, since other means of achieving the same ends are now available. Accordingly, in view of the limited interest of the air taxi in certification, and their lack of interest in the other service alternatives originally contemplated by the Board, the continued absence of a usable record, the promulgation of the protective standards in Part 293, and the revision of Part 298, we will terminate the Bush Routes Phase of the Alaska Service Investigation and dis-

[1] The intra-Alaska service issues deferred in the Part 298 Weight Limitation Investigation, Order 72–7–61, were also consolidated in the remanded proceeding. The bush points to be considered were also broadened by order of the Board on reconsideration (Order 73–4–29, April 5, 1973).

[2] The following applications for new bush authority were consolidated into the remanded proceeding: Fairbanks Air Service (Docket 25440), Foster Aviation (Docket 25454), Kodiak-Western Alaska Airlines (Docket 25522), Merric (Docket 25451), Munz Northern Airlines (Docket 25450), Northern Commuter Air Service (Docket 25543), Parkair (Docket 24865), Peninsula Airways (Docket 25502), Polar Airways (Docket 24862), Sea Airmotive (Docket 25536), Tanana Air Taxi (Docket 25442), Wien Consolidated Air Lines (Docket 25438), and Yukon Air Service (Docket 25443). See Orders 73–4–29, April 5, 1973, and 73–6–22, June 7, 1973. The latter order, which consolidated applications for certificates for consideration in the Bush Routes Investigation, also refined the meaning of bush points and routes. In addition, a bush application and motion to consolidate was filed late by Southeast Skyways in Docket 25653, and an application to transfer a Munz Northern Airlines certificate to Gallcher (Docket 25655) was also the subject of a motion to consolidate.

[3] That portion of the application of Peninsula Airways, Docket 25502, seeking certificate authority over portions of the Kodiak-Wsestern Alaska combined system was severed from the Bush Routes Phase and consolidated with Kodiak-Western Alaska Renewal Proceeding, and the Wien application in Docket 24103 for King Salmon-Kodiak authority was likewise consolidated.

[4] That portion of the application of Munz Northren Airlines, Docket 25450, seeking certificate authority paralleling the certificate of Howard J. Mays, but only that portion, was severerd from the Bush Routes Phase to be considered in the Howard J. Mays Revocation/Munz Northern Certification Proceeding.

[5] Since the Board never received legislative authority to implement the competitive bid contract proposal, that issue was also eliminated from the Bush Routes Phase.

[6] While technically this issue was not severed from the proceeding in the same sense as the others, the Board indicated that the deletions would be accomplished through show-cause procedures. This was completed pursuant to Order 76–8–30, August 6, 1976.

[7] An additional issue on remand relates to the possible alteration of the irregular route authority and authority to provide service under the 25-mile rule contained in the certificates of Alaska Airlines and Wien Air Alaska. No interest was demonstrated in this matter nor was information submitted by the parties to the Bush Routes Phase, and we have concluded that the carriers' irregular and 25-mile authority should not be altered. We note, in addition, that no pending application is prejudiced by this conclusion since the possible alteration of the irregular and 25-mile authority was placed in issue by the Board on its own initiative.

[8] The administrative law judge assigned to the Howard J. Mays Revocation/Northern Certification Proceeding, Docket 25655, stated in a notice served August 12, 1974, that he had received communications from Polar Airways, Sea Airmotive, and Southeast Skyways (not a party to the Bush Routes Phase) indicating the desires of those air taxis to move forward with the investigation. In addition, while Wien filed comments to Order 74–6–21, none of the comments were directed to the procedures for disposition of its bush application.

[9] The expansion was predicated in part upon the protection granted the certificated carriers by the limitations on air taxis in Alaskan set forth in section 298.34 of the Board's Economic Regulations where the certificated carriers provide stated minimal services in a market.

[10] At the same time the Board adopted Order 76–2–125, February 27, 1976, approving 22 agreements under which certificated Alaskan bush routes are being served by air taxi operators either for Alaska Airlines or Wien, such approval being conditioned upon the filing of further reports to bring them into line with the new Part 293.

V42N165 AUG 25 77 UM

miss all remaining applications pursuant to § 302.911 of the Board's regulations,[11] without prejudice to the right of the carriers to refile.[12] As a result, we will deny Sea Airmotive's motion to reestablish the procedural schedule, dismiss as moot Southeast Skyway's motion to consolidate and dismiss its application in Docket 25653 under § 302.911(b) of the Board's Regulations.[13]

Accordingly, *it is ordered*, That:

1. The Alaska Service Investigation (Bush Routes Phase), Docket 20826 et al. be terminated;

2. The following applications for certificates of public convenience and necessity for new bush route authority in Alaska be dismissed, without prejudice to the right to refile:

A. Fairbanks Air Service, Docket 25440.
B. Foster Aviation, Docket 25454.
C. Merric, Docket 25451.
D. Northern Commuter Air Service, Docket 25543.
E. Parkair, Docket 24865.
F. Peninsula Airways, Docket 25502.
G. Polar Airways, Docket 24862.
H. Sea Airmotive, Docket 25536.
I. Tanana Air Taxi, Docket 25442.
J. Wien Consolidated Airlines, Docket 25438.
K. Yukon Air Service, Docket 25443.
L. Munz Northern Airlines, Docket 25450.
M. Southeast Skyways, Docket 25653.

3. The motion of Sea Airmotive to reestablish a procedural schedule in the Alaska Service Investigation (Bush Routes Phase), Docket 20826 et al. is denied;

4. The motion of Southeast Skyways to consolidate its application (Docket 25653) in the Bush Routes Phase of Docket 20826 et al. be dismissed as moot; and

5. Petitions for reconsideration, if any, shall be due 45 days after the date of adoption of this order.

6. This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[14]
Secretary.

[FR Doc.77-24613 Filed 8-24-77;8:45 am]

[Docket No. 23080-2; Order 77-8-97]

LOCAL SERVICE CARRIERS

Order Regarding Priority and Nonpriority Domestic Service Mail Rates Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of August 1977.

By a petition filed May 16, 1977, the Local Service Carriers (Locals)[1] have requested that the Board establish revised temporary service mail rates based on the initial decision issued by Administrative Law Judge Thomas J. Sheehan in this proceeding on October 27, 1976. More specifically, the Locals request that new temporary rates be established which provide for the payment of at least (1) 75 percent of the additional revenues which the ALJ found that the carriers should receive for the open-rate period from March 28, 1973, through December 31, 1975, and (2) 100 percent of the amounts that would be due under rates established following the ALJ's methodology for the period from January 1, 1976, until the date that the Board's final decision becomes effective. According to the petition, the relief requested would produce close to $120 million in additional mail pay for the industry for services rendered through the end of 1977, with nearly $30 million going to the Locals.[2]

By a separate motion filed May 16, 1977, the Locals also request that the Board advance its target date for the issuance of a final decision in this proceeding from December 9, 1977, to July 27, 1977.[3]

In support of their request for increased temporary rates, the Locals contend that during the four-year course of this phase of the proceeding cost increases have far outstripped the temporary rate levels established at the outset, notwithstanding the Board's additional authorization of linehaul element surcharges to cover fuel cost increases on two occasions.[4] Also acknowledging that the Board declined to increase the temporary rates to cover nonfuel cost increases in 1975,[5] the Locals argue that the following circumstances now favor immediate relief for the carriers: (1) The Board now has available a quantitative benchmark based on a full evidentiary hearing; (2) if the Board adopts the ALJ's findings in establishing final rates, the carriers would be entitled to approximately $120 million in additional mail pay for services rendered through the end of 1977; (3) there is little risk of overpayment if temporary rates are set at the proposed level because the positions of "virtually all other parties" would lead to final rates higher than those recommended by the ALJ;[6] (4) the underpayment to the carriers measured by the initial decision translates into an unwarranted and inequitable interest-free loan of $2.1 million per month to the Postal Service, and has resulted in a total of $18.1 million in potential interest income lost to the carriers during the open rate period; (5) the Local's share of the underpayment, approximately $30 million, is substantial in terms of their operations and its withholding "has or will soon create serious problems for the individual carriers in meeting working capital covenants in existing loan agreements, not to mention in arranging any further financing or refinancing"; and (6) under analogous circumstances the Board has adopted the rates set forth in an initial decision as reasonable temporary rates pending the establishment of final rates.[7]

Answers to the petition, reflecting a range of views and alternative recommendations, were filed by the Postal Service, the Bureau of Economics, and most of the trunkline carriers.[8] Briefly summarized, the Postal Service opposes any change in temporary rates at this time, arguing that (1) inasmuch as both the Postal Service and the Bureau have proposed final rates below the levels of the ALJ, the Locals' allegation of underpayment is speculative, the proposed levels would prima facie risk overpayment, and reliance on the initial decision at this time could subtly prejudice the outcome of the Board's final decision; (2) the Locals have not demonstrated a "compelling need" for relief under the Board's temporary rate policy, and in fact their own petition shows that they earned

[11] While § 302.911(b) is not strictly applicable since the applications were once designated for prehearing conference, which was held in May 1974, it is apparent that the inadequacy and age of the existing record in this proceeding would necessitate another prehearing conference before the case could move forward. For purposes of § 302.911 (b), therefore, this proceeding is being treated as if a prehearing conference had never been held. Such treatment will permit the refund of filing fees under § 389.25 (a).

[12] We note that Polar Airways was granted exemption authority pursuant to Order 75-1-137, January 31, 1975, to enable the carrier to provide scheduled service between Anchorage and Valdez, Alaska, subsequent to the reintroduction of certificated service by Alaska Airlines. That authority was scheduled to remain in effect for two years or until 60 days after final Board decision on Polar's certificate application, whichever first occurred. The two-year period has now expired without an application for renewal of the exemption by Polar. Our action herein, therefore, has no effect on the status of that authority since it has already expired by its terms.

[13] In view of the distances and number of parties involved in this case, petitions for reconsideration of this order shall be due in 45 days instead of the usual 20 days.

[14] All members concurred.

[1] Allegheny Airlines, Inc., Frontier Airlines, Inc., Hughes Airwest, North Central Airlines, Inc., Ozark Air Lines, Inc., Piedmont Aviation, Southern Airways, Inc., and Texas International Airlines, Inc.

[2] Adjusting the ALJ's estimates of additional revenues set forth in Appendix B to the initial decision for the removal of fuel surcharge payments received, the Locals compute a "net underpayment" for the period through December 31, 1975, of $14.2 million to the Locals and $34.7 million to the Trunks (including Flying Tiger and Pan American). For 1976-1977, the Locals compute a net underpayment of $16.6 million to the Locals and $53.5 million to the Trunks, based on traffic forecasts applied to the ALJ's 1974 rates increased by 10.32 percent to obtain extrapolated 1976 rates and increased by 16.70 percent to obtain extrapolated 1977 rates. These percentages are the Locals' estimates of average ATM/RTM cost increases during the respective periods in accordance with the ALJ's update methodology. Petition, Appendix A.

[3] Notice of Target Date, served April 12, 1977.

[4] Orders 74-10-94 and 76-12-60.

[5] Order 75-7-87.

[6] The Locals note that if the Board adopts their methodology and proposed rates, the carriers would be entitled to $310 million in additional mail pay through the end of 1977.

[7] Citing the Domestic Service Mail Rates, 46 C.A.B. 716 (1967).

[8] American, Delta, Eastern, Flying Tiger, Northwest, Pan Am, TWA, and United.

a collective net profit of $42.6 million in 1976; (3) any new rates would have only a short active life prior to final decision; and (4) the Locals can point to no precedent applicable to the present circumstances.[9]

The Bureau supports the establishment of revised temporary rates but objects to both the methodology and the levels proposed by the Locals. Based on its own costing methodology and updating technique, the Bureau takes the position that (1) no change is warranted in the rates paid during the period March 28, 1973, to January 1, 1975; (2) the Locals' proposed 1975 rate levels[10] are reasonable temporary rates for that year; and (3) temporary rates for the period beginning January 1, 1976, should not exceed 100 percent of the ALJ's recommended 1975 rate levels.[11] Stressing that the ALJ's specific rate levels, formula, and methodology are in dispute, the Bureau urges that any interim mail pay increases be accomplished through amendments to the current temporary rate structure and payment formula in order to avoid any prejudgment of controversial issues by the Board. Alternatively, the Bureau suggests that if the Board has already decided the major methodological issues in this proceeding, it would be appropriate to establish temporary rates based upon these determinations.

Most of the trunkline carriers support the relief requested by the Locals for the reasons set forth in the petition. However, several carriers oppose any revision in temporary rates based on the methodology and rate structure recommended by the ALJ. Flying Tiger opposes, in particular, the ALJ's treatment of container mail rates, claiming that his formula would set daylight container mail rates approximately 25 percent below the levels reflected in the current rates and would require a substantial repayment by Flying Tiger to the Postal Service. The carrier contends that the Board cannot lawfully order such repayments in the context of temporary rate changes. As an alternative, Flying Tiger supports a revision in temporary rates implemented through a flat percentage increase in the existing temporary rate formula elements. Similarly, Pan American objects to rates based on the initial decision, arguing that such relief would entail erroneous and costly changes in the temporary rate structure and billing procedures.[12] Pan Am also suggests that the Board increase the temporary rates by means of an overall surcharge.

Upon consideration of the pleadings, the Board has determined to deny the requests for temporary rate increases at this time. This proceeding is clearly in the final stages of resolution, the Board having announced that it will issue its final decision on or before December 9, 1977. Allowing for procedural steps, preparation and decision time, and possible billing or other implementation changes, any new temporary rates would have a short life span and an uncertain impact on carrier revenues, even if it could be found that a compelling need for additional mail revenues exists.[13] Moreover, it is apparent from the qualifications, objections and alternative proposals set forth in the pleadings that the issues raised by the petition are complex, and that any proposal advanced by the Board for revising temporary rates would be highly controversial and time-consuming. Under such circumstances, we believe that a further expenditure of the Board's resources on the question of overall temporary rate levels would be counterproductive.

We also will deny the Locals' motion to advance the announced target date for our final decision in this proceeding. In support of their request, the Locals argue that the 13½ month interval between the issuance of the ALJ's initial decision and the Board's target date exceeds comparable periods in prior mail rate cases and is creating a substantial and inequitable burden on the carriers. The additional delay, assert the Locals, undercuts the Board's announced commitment to a greater expedition of hearing cases.[14] Although the carriers' dissatisfaction with the length of this proceeding is readily understandable, it should be born in mind that all parties have generally supported the recesses, extensions and longer-than-average procedural dates permitted on the grounds that the issues are technical, complex, and often quite controversial. Certainly the instant pleadings do not detract from that conclusion. In establishing the target date of December 9, 1977, the Board took all relevant factors into account, including those cited by the Locals. There have been no intervening changes in workload or other considerations which would permit us to advance that date on a formal basis.

Accordingly, *it is ordered*, That:

1. The petition for the establishment of temporary service mail rates filed by the Local Service Carriers in this docket on May 16, 1977, be denied; and

2. The motion for the advancement of the Board's final decision target date filed by the Local Service Carriers in this docket on May 16, 1977, be denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[15]
Secretary.

[FR Doc.77-24616 Filed 8-24-77;8:45 am]

[Docket Nos. 25427, etc.; Order 77-8-94]

LAKER AIRWAYS LIMITED—SKYTRAIN SERVICE ET AL.

Order Regarding Foreign Air Carrier Permit

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of August 1977.

Laker Airways Limited-Skytrain Service, Dockets 25427 and 25457; Transatlantic Standby Fares Proposed by Pan American World Airways and Trans World Airlines, Docket 31262; Airport Notice Filed by Laker Airways Limited for Skytrain Service Pursuant to Part 213 of the Economic Regulations, Undocketed.

By Order 77-6-68 (served June 14, 1977) the Board, with the approval of the President, provided for the issuance of a foreign air carrier permit to Laker Airways Limited authorizing Laker to engage in scheduled foreign air transportation of persons and their baggage between London and New York for a period of one year, subject to stated conditions. The service proposed by Laker was a limited-capacity, no reservation, low-fare service denominated Skytrain. In its opinion, the Board stated:

> In the absence of any evidence in the record as to the means by which Laker intends to cope with the obviously formidable problems that its proposed limited-capacity, no reservation service may create, the Board finds that the public interest requires that Laker's access to Kennedy Airport be granted only at such time as Laker can establish that services there can be provided without unwarranted disruption of the services of other carriers and other airport activities, and inconvenience to the traveling public utilizing those facilities (p. 28).

The Board included condition (a) in Laker's permit directing it (1) not to inaugurate service from John F. Kennedy International Airport (sometimes referred to as JFK) until it submitted plans for the handling of passengers at JFK that would be satisfactory in the respects discussed above either to the Board or to the Port Authority of New York and New Jersey (Port Authority), the proprietor of JFK, and (2) to await either an order of the Board finding that the condition was satisfied or a statement of the Port Authority filed in the docket stating its satisfaction with the plans submitted (Permit, p. 2).

[9] The Postal Service distinguishes the situation in the Domestic Service Mail Rates case, supra, on the grounds that Board action was necessary because the original temporary rates had expired, the Examiner's rates were close to the temporary rates, and all parties concurred in the Board's action.

[10] Understood by the Bureau to be the temporary rates paid in 1975 increased by 75 percent of the difference between those rates and the rates established in the initial decision.

[11] The Bureau estimates that its recommended temporary rates for 1975 and 1976 are approximately 10.8 percent and 14.4 percent, respectively, above existing temporary rate levels, and will provide the carriers with $18.8 million and $25.1 million, respectively, in additional mail revenues for the two years.

[12] Pan Am cites the ALJ's changes in the composition of the terminal and linehaul formula elements and his elimination of the X, Y, and Z station categories as areas of disagreement.

[13] There is at least a serious doubt whether such a compelling need has been demonstrated as that term has been applied by the Board in previous temporary mail rate situations. However, we need not decide the question in view of our judgment that the other factors are dispositive of the relief requested.

[14] An answer in support of the motion was filed by Delta.

[15] All Members concurred except Member Bailey who did not participate.

On July 29, Laker filed a motion for an order approving its passenger handling plan at JFK.[1] Attached to the motion was a letter to the Director of Aviation of the Port Authority setting forth its plan for the operation of Skytrain in and out of JFK and requesting the Port Authority to approve and file the plan with the Board.[2] To avoid congestion at JFK, Laker has arranged for the use of the El Al Orange Terminal located just off the airport property for waiting, parking and check-in for Skytrain passengers.[3] Laker's plan is to bus checked-in passengers to the United Air Lines terminal public entrances where the passengers would proceed directly to the Laker aircraft. In the winter no more than 189 passengers would be bussed for a departure at 2310 hours. In the summer 345 to 690 passengers would be so handled. Unitec would handle the passengers as it does for Laker's present flights. Luggage for checked-in passengers would be trucked directly from the Orange Terminal to the Laker aircraft at the United Terminal.

The Orange Terminal is in excellent working condition and has satisfactory space. Laker has hired Burns International Security Services (Burns) as security consultants to Skytrain. Burns has drawn detailed plans for the orderly reception and control and provision of comfortable waiting areas for prospective passengers before check-in and movement to the United Terminal.

On August 9, 1977, the Port Authority filed four papers opposing the use of JFK by Laker and, as in the main case, offering facilities at Newark Airport instead. The first paper was an answer in opposition to Laker's motion. It provided further information on Laker's plans as set forth in an exchange of correspondence between the Port Authority and Laker. However, it relied heavily on the second paper, which was a consolidated complaint against the standby fares of Pan Am and TWA filed in response to the Laker Skytrain and a request that they be suspended and investigated (Docket 31262).[4] The third paper was a memorandum in opposition to the airport notice filed by Laker pursuant to Part 213 of the Economic Regulations for the purpose of instituting Skytrain service from JFK on September 26, 1977. The opposition of the Port Authority was based on the same grounds expressed in the other papers. The fourth paper was a motion by the Port Authority for consolidation or concurrent consideration of the other three papers. We do not believe consolidation is necessary but concurrent consideration is practicable and sensible and we are following that course in this order. Nothing in TWA's answer requires a different result.

Before turning to an explanation of the Port Authority's over-all position, we will sumarize briefly the additional facts with respect to Laker's plan of operation for Skytrain disclosed by the Port Authority's answer. From May 1 to September 30, 1978, there will be two daily Skytrain arrivals and departures on three days of each week. These are scheduled for

Arrival JFK, IAB, 8:10 p.m., 10:10 p.m.
Departure JFK, UAL, 11:10 p.m., 01:10 a.m.

The Orange Terminal will be open 24 hours a day with guards on duty in accordance with the Burns' plan.[6] Check-in will begin at 7 p.m. daily. Checked-in passengers will be screened for security purposes just before boarding at United's terminal. The lease of the Orange Terminal includes a car park with 187 car spaces. The car park will be operated by a sublessor. Long-term parking is not anticipated as it is expected that nearly all Skytrain passengers will be less than affluent.

The Port Authority's first position is that it is better equipped than the Board to gauge the effect of Laker's proposal at JFK as it relates to disruption of operations and since it has not concluded its review of Laker's proposal it would at least be premature to grant Laker's motion. The basis for the Port Authority's statement that it has not completed its review of Laker's plan are the following: (1) On August 9, it wrote Laker asking "to what extent Laker plans to implement each of the various recommendations contained in the Burns plan in the event your proposal, as contained in your July 26 letter to me, is approved." No answer to this letter is in the record. (2) Laker's proposal calls for off-airport ticketing (at the Orange Terminal) but its British license states, "Tickets for a fight shall be sold only at the airport of departure." The Port Authority expresses concern as to whether it should continue its review of the Laker plan because this license departure "may lead to objections by others as to your proposed arrangements." In response, Laker states that it has already requested the British CAA for a license modification for off-airport ticket sales and that it would have no objection to the Port Authority conditioning its approval on a license modification by the British for Laker.

Without challenging the Port Authority's asserted superiority in assessing the possibility of disruption at JFK, and agreeing also that to some extent more facts can be ascertained if more time is spent on this matter, it does not appear to us that a determination by the Board is premature. On the face of it the Laker plan appears to be sound and the Port Authority has made no concrete objection to any part of it or suggested in what way the plan will cause disruption or could be improved. Further, the license departure referred to has not been objected to "by others," is the subject of corrective procedures, and is unrelated to the disruption which all seek to avoid. Most significant, however, is the fact that the Port Authority's real problem rests not with the Laker plan but with the competitive response to it offered by Pan Am and TWA. As the Port Authority's position makes clear, and we shall discuss below, even moving Laker to Newark would not solve the problem of disruption unless the Board also suspended and investigated the standby tariffs filed by Pan Am and TWA in response to Skytrain. The matter does not appear to us, therefore, to be premature. The airport notice filed by Laker becomes effective August 25, unless the Board earlier notifies Laker that the use of JFK may be adverse to the public interest. The tariffs filed by Pan Am and TWA for use September 15 become effective August 28 and 31 unless suspended earlier. It now appears that essentially the same tariff provisions will be submitted to the Board in the form of an IATA fare agreement. The sooner the Board acts, the greater will be the period of time available for response by the Port Authority or others before services are to be inaugurated.[9]

The heart of the Port Authority position is that the "interaction of Laker's proposal" with the "proposed standby fare services" of Pan Am and TWA in the New York-London market "will disrupt airport operations and the activities of passengers utilizing the airport facilities at Kennedy." It anticipates that the standby services may spread to other carriers in the market and to other cities in Europe.[7] The Port Authority also believes the low-fare service in the New York-London market will be very popular. Since Pan Am and TWA operate morning and evening flights in the market, their tariff rules would permit the sale of daily standby tickets beginning at 4 a.m. and 5 a.m. and later during the afternoon and evening. By 7 p.m. Laker's sales will start at the Orange Terminal. Thus, even if no other carriers

[1] Earlier, on July 25, it filed an airport notice pursuant to 14 CFR 213.4 for use of JFK in the performance of its Skytrain service.

[2] Skytrain arrivals do not appear to present any issue. Arrivals are scheduled for 8:10 p.m. daily at the International Arrivals Building for customs clearance. Ramp handling is to be by Allied and passenger handling by United. According to Laker these arrangements are the same as for their present DC-10 arrivals, which number six a week.

[3] The Orange Terminal was formerly used by El Al for 747 check-ins. It has been unused for three years.

[4] These are described as follows: Pan American tariff provisions—18th revised page 222—and Rule 155 on the 27th revised page 49 and 27th revised page 50 to Tariff C.A.B. No. 44 issued by International Air Traffic Tariffs Corp. Agent; TWA tariff provisions—14th revised page 174 and Rule 33-A on 15th revised page 30-W and 15 revised page 30-X to tariff C.A.B. No. 37 issued by Trans World Airlines Inc. TWA requested dismissal of the complaint.

[6] The Burns' plan was furnished to the Port Authority by Laker with its letters of August 5, but a copy has not been filed with the Board.

[7] Laker points out that there is a need for expedition to permit it sufficient time to acquire equipment for installation at the El Al Orange Terminal, to hire staff, and to take other necessary pre-operating steps.

[9] It now appears that the low standby and budget fares filed by Pan Am and TWA will be the subject of an IATA agreement which will encompass comparable fare filings by British Airways, Air India, Iran Air and El Al with the offering of 2900 seats weekly at the low fares.

or markets are involved, the Port Authority envisions many travelers either remaining in the airport for long periods of time or moving around the airport with their luggage between carriers seeking a standby ticket on the earliest departure or an advantageous position in the queue to secure standby accommodations. This, the Port Authority believes, will lead to a disruption of the airport operations and the activities of passengers utilizing the airport.

The Port Authority, while recognizing that the Board does not wish to restrict the competitive response Pan Am and TWA may propose to Skytrain, observes that Pan Am considers its standby fare uneconomic and projects a profit for its Budget Fare proposal,[8] and concludes that "in consideration of the effect on airport operations, the passengers seeking low-fare air transportation to London and the competitive nature of the proposals, that no low-fare standby, same-day reservation, or ticketing six hours in advance of departure services from Kennedy to London should be authorized by the Board."

We do not think the Board should accept these conclusions. First, the Port Authority conclusions as to the effect on operations are speculative. The number of carriers which propose to join the competition in the New York-London market apparently will increase to six. The number of other markets from New York to Europe which may become involved in a super Apex fare at a somewhat higher fare level with substantially different conditions not involving standby, same-day reservation, or ticketing six hours in advance of departure services may also increase. However, the number of passengers who will seek standby fares is unknown. The conduct of prospective passengers while seeking standby accommodations is unknown. These are not issues which can be resolved by investigations or hearings. They are issues "where a month of experience will be worth a year of hearings." *American Airlines* v. *CAB*, 359 F. 2d 624, 63 (1966), *cert. denied* 385 U.S. 843 (1966). Second, acceptance of the Port Authority conclusions will very likely defeat the whole low-fare experiment and the extensive public benefits which are projected. As the Port Authority recognizes, the Board wishes to leave the carriers free to propose the competitive response to Skytrain they deem best. It would be better, it seems to us, so far as the congestion and other airport arrangement issues are concerned, to accept Laker's plan, to permit all such services, conditioning their continuance on their not having a substantial, adverse impact on airport operations and the persons using the airport which outweighs the benefits of the services. The services could then be assessed on the basis of what actually happens and what can be done to remedy the problems that arise. The Board could then change its position if experience dictated that change was required and the changes made could be based on the facts experienced rather than the judgement of an interested person. We find, subject to the conditions of this order, that Laker has satisfied condition (a) of its permit. The same approach should apply to the new fares filed or to be filed by the regular route carriers, although regulations for the maintenance of orderly conditions at JFK remain the function of the Port Authority.

The complaint of the Port Authority in Docket 31262 is only against the no-reservation, standby fare portions of the Pan Am and TWA tariffs filed in response to Skytrain.[5] The complaint alleges that under the standby proposals confirmed reservations will become available each day at 4 a.m. and 5 a.m. on TWA and Pan Am, respectively; that the last of the flights of the two carriers in the New York-London market leaves at 9:30 p.m.; that prospective passengers may come well before 4 a.m. and that passengers who are successful will await their flights while those who are not will remain at the airport seeking acommodations or queue positions for later flights or go to Laker's Orange Terminal; that no provision has been made for the great number of potential passengers or their extraordinarily long stay at the airport; that their presence will result in a disruption of airport activities and inconvenience for travelers using JFK; and that the standby fares should therefore be suspended.[10]

The complaint against the fares adds nothing new to the Port Authority answer to the Laker motion unless it is the suggestion that Pan Am and TWA are not known to have made any special preparations for the crowds they may receive, but that of course has not been the subject of any investigation or report. It appears, however, that no standby tickets will be available for sale within three hours of a flight departure in New York. This should materially assist in eliminating disruption for regular passengers. In view of the Board's position with respect to the freedom of Pan Am and TWA to propose filings responsive to Laker's Skytrain, which was elaborated at length in Order 77-6-68, there appears to be no reason to suspend these rates at this time.

The Board has concluded that facts sufficient to warrant investigation or suspension of the challenged fares have not been presented and, accordingly, so far as the congestion and other arrangement issues are concerned. The Board will consider the complaints filed against the fares by other persons on other grounds in a subsequent order.

Likewise, for the reasons already stated, it does not appear to us at this time that Laker's use of JFK to perform its Skytrain services under the plan it has presented will adversely affect the public interest. We shall, therefore, permit the airport notice to become effective. Laker should be on notice, however, that if the condition upon which the Board is accepting Laker's plan of operations is exercised by the Board to halt Laker's use of JFK that action will also constitute a revocation of the airport notice with the acquiescence of Laker.

On the basis of the foregoing, and the powers vested in the Board.

It is ordered and declared, That:

1. Laker's plans for handling passengers at JFK for its Skytrain service are approved and its compliance with condition (a) of its foreign air carrier permit issued pursuant to Order 77-6-68 is satisfied, subject to the following conditions:

(a) The foregoing approval of Laker's plans and the foregoing declaration by the Board of Laker's compliance with condition (a) of its permit may be revoked, in whole or in part, upon 15 days notice to Laker and an opportunity to present its views orally or in writing, as the Board may decide, if it appears to the Board, on its own initiative, or on a showing by an interested person, such as the Port Authority, that the Skytrain operations of Laker and the interaction of such operations with those of competing carriers is in fact disrupting operations at JFK and the activities of passengers utilizing the airport facilities at JFK in so substantial a manner as to outweigh the benefits of the services giving rise to the difficulties.

2. The motion of Laker is otherwise denied.

3. The complaint of the Port Authority in Docket 31262 is dismissed.

4. This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[11]
Secretary.

[FR Doc.77-24615 Filed 8-24-77;8:45 am]

[8] The Budget Fare proposal is at the same fare level as the standby fare but requires an advance purchase and payment 21 days before the week of travel with a guaranteed reservation during a given week, the precise day being fixed by the carrier one week in advance of the flight, or, according to the IATA version, not earlier than 10 days before the week of travel. No reference to the economic feasibility of the standby fares is made in the complaint in Docket 31262.

[5] There are other complaints against these tariffs which will be dealt with by the Board separately.

[10] No economic grounds are stated for the complaint.

[Docket Nos. 30782, etc.; Order 77-8-95]

UNITED AIR LINES, INC., ET AL.

Order Regarding San Francisco-Toronto/Montreal Route Proceeding

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of August 1977.

California-Toronto/Montreal Route Proceeding, Docket 30782; San Francisco-Toronto/Montreal Route Proceeding, Docket 30782; application of United Air Lines, Inc., Docket 30877; application of Western Air Lines, Inc., Docket 30875; application of Hughes Air Corp. d/b/a Hughes Airwest, Docket 28251.

[11] All Members concurred.

By Order 77–4–115 adopted April 22, 1977, the Board instituted the San Francisco-Toronto/Montreal Route Proceeding to consider whether the public convenience and necessity require the certification of an air carrier or air carriers to engage in nonstop foreign air transportation between San Francisco, Calif., on the one hand, and Toronto and Montreal, Canada, on the other, and, if so, to determine which air carrier(s) should be authorized to provide such service.

The Board's order consolidated into the proceeding the pending applications for nonstop authority between these points filed by American Airlines in Docket 27538 and United Air Lines in Docket 27730. The order provided that petitions for reconsideration and motions to consolidate any other applications should be filed with the Board by May 12, 1977, and that answers should be filed by May 23, 1977.

Western Air Lines, Inc., filed an application (Docket 30875) for authority in the San Francisco-Toronto/Montreal market, accompanied by a motion to consolidate the application for hearing and decision in the San Francisco-Toronto/Montreal Route Proceeding. Western's motion was unopposed and will be granted. Its application conforms to the scope of the proceeding as set forth in Order 77–4–115 and meets the criteria for consolidation prescribed in Rule 12 of the Board's Rules of Practice.

Hughes Airwest and the Spokane, Washington Parties have filed petitions for reconsideration of Order 77–4–115 to the extent that it did not provide for a hearing at this time on the issue of certification of a U.S. carrier to serve the Spokane-Vancouver transborder route provided for under the amendments to the U.S.-Canadian bilateral agreement dated May 8, 1974. We will deal with these petitions in a separate order.

On May 12, 1977, United Air Lines, Inc., filed a petition for reconsideration of Order 77–4–115 requesting that the Board include in this proceeding the issue of the need for U.S.-flag service in the Los Angeles-Toronto/Montreal market. United argues that in view of the numerous similar characteristics between the Los Angeles-Canada and the San Francisco-Canada markets, the reliance of both markets upon the same general beyond traffic, and the fact that the carrier applicants will be nearly identical, consolidation of the two routes is required to avoid duplication and waste of resources. United's petition for reconsideration was accompanied by an application for the Los Angeles authority (Docket 30877).[1]

American Airlines filed an answer in opposition to United's petition. American contends that United has advanced no valid reason for the Board to depart from its determination in the original order to hear the San Francisco and Los Angeles routes separately. American asserts that the routes involve clearly distinct markets and rely on different traffic bases, and the fact that Hawaii may be a beyond point common to both routes does not warrant combining them in a sigle case. American argues that the Los Angeles route is not effective under the U.S.-Canadian bilateral until April 1979, whereas a U.S. carrier will have the right under the agreement to operate a San Francisco-Toronto nonstop service effective April 30, 1978. American contends that the time is short enough anyway and that adding the Los Angeles route could result in delay sufficient to prevent designation of a U.S. carrier by that date. Finally, American argues that the Board's announced intention in Order 77–4–115 of placing in issue in the Los Angeles-Toronto/Montreal case the suspension or deletion of American's nonstop authority in the Los Angeles-Toronto market will complicate the proceeding, lengthen the record, and generate legal problems. Western Air Lines, the third applicant for the San Francisco authority, has not filed an objection to United's petition.

We have decided to expand the issues in the proceeding in Docket 30782 to include the Los Angeles-Toronto/Montreal authority. We said in Order 77–4–115, which was dated April 22, 1977, that we planned to set the Los Angeles case for hearing in six to nine months. Since this would have involved a proceeding commencing between October and December 1977, consolidation at this time will involve acceleration of only a few months in the previously announced schedule for handling the Los Angeles route.

We recognize that the San Francisco-Toronto route will be available for a U.S. carrier on April 30, 1978, while the other route segments cannot be operated until a year later. We recognize also that adding the Los Angeles route issues will place some additional burden on the participants in this proceeding, and that all will be required to move expeditiously in order to get a decision to the President as quickly as possible. We are persuaded, however, that the significant economy in the use of our hearing resources which will result from the avoidance of an entirely separate proceeding only a few months from now is well worth the added effort in this case. The two routes are clearly suited to handling in one proceeding. As United points out, there are a number of similarities between them, including certain of the beyond markets upon which they will both draw. Moreover, we will obviously have some of the same carriers, in addition to United, applying for both routes.

In these circumstances, we now conclude that the two separate proceedings outlined in Order 77–4–115 would represent an unacceptable and inefficient use of our resources. We find that inclusion of the Los Angeles-Toronto/Montreal route and consolidation of United's application would not cause undue delay, will be conducive to the proper dispatch of the Board's business and the ends of justice, and are in the public interest. We expect all parties to give the judge their full cooperation with a view toward permitting the board ample time to carefully consider all matters and complete its work and have a recommendation to the President on or before April 30, 1978. This will require issuance of a recommended decision by March 10, automatic review, and the filing of briefs by March 30.

Other factors cited by American Airlines in its answer to United's petition do not require a different result. For the reasons set out in Order 77–4–115, the proceeding, as expanded, will include the issue of the suspension/deletion of American's nonstop authority in the Los Angeles-Toronto market.

We will require United, and any other carrier filing an application in the proceeding for the Los Angeles authority, to file the information set forth in Part 312 of the Board's Procedural Regulations within thirty days of adoption of this order.

Accordingly, it is ordered, That: 1. The petition of United Air Lines, Inc., for reconsideration of Order 77–4–115 is granted to the extent that it seeks inclusion in Docket 30782 of the issue of nonstop authority between Los Angeles, on the one hand, and Toronto and Montreal, Canada, on the other;

2. This proceeding shall hereafter be known as the California-Toronto/Montreal Route Proceeding, Docket 30782;

3. In addition to the issues set out in Order 77–4–115 this proceeding shall include consideration of the following issues:

a. Do the public convenience and necessity require the certification of an air carrier or air carriers to engage in nonstop foreign air transportation between Los Angeles, California, on the one hand, and Toronto, Ontario and Montreal, Quebec, on the other hand?

b. If the answer to (a) is in the affirmative, which air carrier(s) should be authorized to engage in such service?

c. What conditions, if any, should be placed on the operations of such carrier(s)?

d. Do the public convenience and necessity require the alteration, amendment, modification, or suspension of the certificate of American Airlines for Route 56 so as to suspend or delete that carrier's authority to engage in foreign air transportation with respect to persons, property, and mail on a nonstop basis between Los Angeles, California, and Toronto, Canada?

4. The application of United Air Lines in Docket 30877 is consolidated with the proceeding in Docket 30782;

5. The motion of Western Air Lines, Inc., to consolidate its application in Docket 30875 for nonstop authority in the San Francisco-Toronto/Montreal market is granted and that application is consolidated for hearing and decision with the California-Toronto/Montreal Route Proceeding, Docket 30782;

6. Disposition of the petitions by Hughes Air Corp. d/b/a Hughes Airwest and by the Spokane, Washington Parties for reconsideration of Order 77–4–115 to the extent that such order failed to provide for a hearing on the issue of nonstop authority between Spokane, Washington and Vancouver, British Colombia is deferred;

7. United Air Lines, and any other carrier filing an application for Los Angeles authority in this proceeding, shall file an environmental evaluation pursuant to § 312.12 of the Board's Procedural Regulations within 30 days of the date of adoption of this order;

8. Applications for the additional authority placed in issue in this case, motions to consolidate, and petitions for reconsideration of this order shall be filed within 15 days from the date of adoption of this order and answers thereto shall be filed within ten days thereafter; and

9. All other requests in the petitions and answers discussed herein are denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[2]
Secretary.

[FR Doc.77-24614 Filed 8-24-77;8:45 am]

[1] United did not file a motion to consolidate its application in Docket 30877 as contemplated by Order 77–4–115 and the Board's Rules of Practice. However, the entire purpose of its petition for reconsideration was to obtain consolidation of the two dockets and the last clause of its petition contains a request that this be done.

[2] All Members concurred.

DEPARTMENT OF COMMERCE

Economic Development Administration

LOW-CARBON FERROCHROMIUM INDUSTRY

Prospects for Adjustment Assistance for Firms

The Department of Commerce has conducted a study of firms producing low-carbon ferrochromium pursuant to Section 264 of the Trade Act of 1974. Such a study is required whenever the U.S. International Trade Commission makes an industry investigation under Section 201 of the Act.

On July 11, 1977, the Commission determined (by a 3-to-1 majority) that increased imports of low-carbon ferrochromium are not a substantial cause of serious injury, or the threat thereof, to the domestic industry.

Low-carbon ferrochromium ("LCF") is a ferroalloy which contains not over three percent by weight of carbon. Chromium is used in the manufacture of stainless steel, other high-chromium specialty steels and high-temperature alloys to provide strength hardness and resistance to corrosion, wear and heat. High-carbon ferrochromium and silicon ferrochromium are other types of chromium-containing ferroalloys generally made by the same firms that produce LCF. According to the Commission, over the past five years, all major stainless steel producers have been installing a refining process to obtain chromium by substituting less costly high-carbon ferrochromium for LCF. The effect has been a drastic reduction in the consumption LCF.

LCF is produced in three plants in Ohio operated by three firms. The firms also produce other products in the three plants and in their other diversified operations.

U.S. production of LCF totaled 19,686 short tons in 1976, 48 percent below 1975 and 68 percent less than in 1974. The estimated value of producers' shipments in 1976 totaled $41 million, off 42 percent from 1974. The average number of employees engaged in the manufacture of LCF declined to 290 in 1976 compared with 747 in 1974—a decline of 61 percent. While domestic production and shipments declined, U.S. imports of LCF increased from 30,763 short tons in 1974 to 39,933 in 1975 and 42,961 short tons in 1976, an increase of 40 percent over the three-year period. Imported LCF was equivalent to more than twice the volume of domestic shipments in 1976, compared with a 51-percent ratio in 1974. Leading foreign suppliers of LCF in recent years have been Japan, the Republic of South Africa and Rhodesia.

To be certified eligible to apply for trade adjustment assistance, a firm must petition the Department of Commerce and demonstrate that increased imports of articles like or directly competitive with those produced by the firm contributed importantly to decline in sales or production, or both, and to the separation, or threat of separation, of a significant number or proportion of the firm's workers. A trade-impacted producing firm may petition the Department for certification at any time regardless of a prospective Commission finding or its results.

For firms producing LCF that are considering petitioning for certification, the first requirement of the qualifying criteria apparently has been met, since U.S. imports of LCF increased in both 1975 and 1976. None of the three producing firms has petitioned the Department of Commerce for certification.

The production, sales and employment data provided in the Commission's report on a product line and establishment basis for the three producing firms in the industry are inadequate for determining the performance of the overall operations of the firms. For purposes of certification of eligibility, the Department of Commerce considers all products of a multi-product firm and all operations of a diversified company, including those of affiliates, subsidiaries and parents of the petitioning firm.

However, even in those instances where data are available and the firms have experienced the requisite declines, without an investigation of each individual firm there is no basis for determining whether imports contributed importantly to those declines. Under such circumstances, the Department is unable to determine the number of firms that are "likely to be certified as eligible" until the firms have actually submitted acceptable petitions.

Under the program of trade adjustment assistance for firms authorized by the Trade Act and administered by the Economic Development Administration ("EDA") in the Department of Commerce, a certified firm may apply for adjustment assistance to carry out its recovery plan. However, the fact that a firm is certified does not imply that such assistance will be furnished. Whether the firm obtains any financial assistance will depend upon the firm's adjustment proposal meeting all of the statutory criteria essential for approval.

Adjustment assistance may consist of financial assistance, technical assistance, or both. Financial assistance, in the form of direct loans and loan guarantees may be used for the acquisition, construction, installation, modernization, expansion or conversion of fixed assets, or for working capital necessary for a firm to implement its adjustment plan. Technical assistance may be used for management and operational assistance, feasibility studies and related research to aid in developing and implementing a firm's recovery plan.

The Trade Act provides for certification of communities located in trade-impacted areas or in areas where a firm or subdivision has transferred to a foreign country. Certified communities are eligible for public works grants, loans, and loan guarantees—all of which can be directed towards assisting affected firms. Under the Public Works and Economic Development Act of 1965 ("PWEDA"), as amended, direct and indirect assistance to firms is available without Trade Act Certification. Firms located in EDA-designated "redevelopment areas" and "economic development centers" can benefit indirectly from grants to the designated places and related entities for financing public works, and directly from business development loans and guarantees.

Under PWEDA, neither loans nor guarantees can be used to assist firms relocating from one area to another or to expand production in an industry found to have long-term overcapacity.

However, firms could obtain assistance under PWEDA for purposes of assuring the retention of existing capacity and employment. Moreover, PWEDA does authorize technical assistance to firms regardless of location and grants of loanable funds to communities with actual or threatened unemployment.

The Farmers Home Administration ("FmHA") of the Department of Agriculture has two programs that might benefit firms producing LCF. Some companies may be able to participate in a program of loan guarantees to businesses located in areas other than cities of over 50,000 population. As with EDA business loans, however, these guarantees are not available to firms in industries found to have long term over-capacity. FmHA also can make grants and loans to public bodies, such as local development organizations and governments, in areas other than cities of over 10,000 population. These funds can be used for public works projects, such as utility extensions

and access roads, that would benefit industry.

Additional information about the adjustment assistance program and copies of the report, Prospects for Adjustment Assistance for firms in the Low-Carbon Ferrochromium Industry, are available from the Office of Public Affairs, Economic Development Administration, Room 7019, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202–377–5112.

CHARLES L. SMITH,
Acting Director, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-24685 Filed 8-24-77;8:45 am]

Maritime Administration

[Docket No. S-570]

EQUITY CARRIERS, INC.

Application

Notice is hereby given that an application dated August 9, 1977, has been filed under the Merchant Marine Act, 1936, as amended (the Act), for operating-differential subsidy with respect to the operation of five dry bulk vessels for service in the U.S. foreign trade. The proposed trade is from U.S. ports to the Far East, and worldwide service.

Inasmuch as the applicant and affiliated or associated firms own, operate and charter ships in the domestic intercoastal, intracoastal or coastwise service, written permission of the Maritime Administration under section 805(a) of the Act will be required if its application for operating-differential subsidy is to be granted.

Falcon Carriers, Inc., an affiliated or associated firm of Equity Carriers, Inc., charters four vessels to the Military Sealift Command. The vessels are the *Susquehanna, Naches, Columbia* and *Hudson*. Terms of these charters allow the charterer to employ these vessels in the coastwise or intracoastal or intercoastal trade, or in the Great Lakes, or on bays, sounds, rivers, harbors or inland lakes of the United States or in foreign trade not prohibted to U.S.-flag vessels, or in such other trade or trades as the Secretary may approve.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on September 12, 1977 file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time, or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating Differential Subsidies (ODS).)

By Order of the Assistant Secretary for Maritime Affairs/Maritime Subsidy Board

Dated: August 22, 1977.

JAMES S. DAWSON Jr.,
Secretary.

[FR Doc.77-24572 Filed 8-24-77;8:45 am]

[Docket No. S-569]

STATES STEAMSHIP CO.

Application

Notice is hereby given that States Steamship Company has applied to amend its present Operating-Differential Subsidy Agreement, Contract No. FMB–62, to modify its Trade Route No. 29 Freight Services to allow the loading and discharging of cargo carried in containers moving under bills of lading in which Singapore is named as either the port of origin or the port of destination.

Any person, firm, or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Merchant Marine Act of 1936, as amended (46 U.S.C. 1175), should, by the close of business on September 12, 1977, notify the Secretary, Maritime Subsidy Board in writing, in triplicate, and file petition for leave to intervene in accordance with the Rules of Practice and Procedure of the Maritime Subsidy Board.

In the event a section 605(c) hearing is ordered to be held, the purpose thereof will be to receive evidence relevant to (1) whether the application is one with respect to a vessel to be operated in an essential service served by citizens of the United States, which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of United States registry in such essential service is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petitions for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistant Program No. 11.504 Operating Differential Subsidies (ODS).)

By Order of the Maritime Subsidy Board.

Dated: August 22, 1977.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-24573 Filed 8-24-77;8:45 am]

National Oceanic and Atmospheric Administration

FISHERY MARKET NEWS REPORTS

Rates for Changing From a Weekly to a Full Service Subscription

Subscriptions for Fishery Market News Reports published by the National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), of the U.S. Department of Commerce are accepted for two types of service—full service and weekly summary (FR, Vol. 40, No. 69, April 9, 1975). The full service information is mailed on Monday, Wednesday, and Friday at $35 per year. The weekly summary, including the Friday report, is mailed on Friday at $15 per year. Reports are issued from five cities—Boston, New York, New Orleans, Terminal Island, and Seattle. Rates for changing from a weekly to a full service subscription during a subscription year are listed below:

1st month	$20
2nd month	19
3rd month	17
4th month	15
5th month	14
6th month and after	12

No changes will be made from a full service report to a weekly summary.

Make check (drawn on a U.S. Bank) payable to:

U.S. Department of Commerce-NOAA

Mail check or money order to:

U.S. Department of Commerce-NOAA, National Marine Fisheries Service.

Direct to address of office that issues the report—see below:

(Blue Sheet), Room 10, Commonwealth Pier, Boston, Mass. 02210.
(Green Sheet), 201 Varick Street—Room 951, New York, N.Y. 10014
(Goldenrod Sheet), 546 Carondelet Street—Room 412, New Orleans, La. 70130.
(Yellow Sheet), 300 South Ferry Street, P.O. Box 3266, Terminal Island, Calif. 90731.
(Pink Sheet), 1700 Westlake Avenue, North—Room 732, Seattle, Wash. 98109.

Dated: August 18, 1977.

WINFRED H. MEIBOHM,
Associate Director.

[FR Doc.77-24516 Filed 8-24-77;8:45 am]

Office of the Secretary

COASTAL ZONE MANAGEMENT ADVISORY COMMITTEE

Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5

U.S.C. App. I and Office of Management and Budget Circular A–63 of March 1974, the Secretary of Commerce has determined that the renewal of the Coastal Zone Management Advisory Committee is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee was first established in August 1973, was rechartered on August 15, 1975, and it was to terminate on August 15, 1977. Its original purpose was to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal zone, as provided in the Coastal Zone Management Act of 1972.

The Committee's advice has been useful to the Office of Coastal Zone Management in formulating policy, deciding program goals, and as a sounding board for new initiatives. A number of recommendations made in the form of resolutions to the Secretary of Commerce have been applied by the Office of Coastal Zone Management to its program formulation, particularly in the drafting of regulations. The Committee has been effective in monitoring legislative amendments which might affect the CZM Program; several of its recommendations have been forwarded to appropriate Congressional Committees by the Secretary of Commerce. A Task Force on State Assistance was formed to provide technical assistance on public participation to states on a request basis. Comments received from the states maintain the success of this approach. In addition, a Task Force on Estuarine Sanctuaries is currently evaluating the national estuarine sanctuary program's effectiveness and future directions.

The Committee will continue with a balanced representation of 11 members to be obtained through normal attrition procedures from its present complement of 15 members. The Chairman shall be elected from the membership. The Committee will operate in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the Committee's revised charter will be filed with appropriate committees of the Congress and with the Library of Congress.

Inquiries or comments may be addressed to the Committee Liaison Officer, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Rockville, Md. 20852.

Dated: August 18, 1977.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc.77-24547 Filed 8-24-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

AUGUST 16, 1977.

The USAF Scientific Advisory Board Ad Hoc Committee on M–X C³ will hold a meeting on September 12–14, 1977, in the Pentagon from 8:30 a.m. to 5:00 p.m. both days.

The Committee will conduct classified discussions concerning an in-depth review of the advanced ICBM C³ program.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–8845.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-24589 Filed 8-24-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 781-2]

STATE-FEDERAL WATER PROGRAMS ADVISORY COMMITTEE

Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name: State-Federal Water Programs Advisory Committee.
Date: September 13, 1977.
Place: Environmental Protection Agency, 401 "M" Street, SW., Washington, D.C., Room 2117, Waterside Mall.
Time: 9:00–4:30 p.m. (approximately).

PROPOSED AGENDA

Time, Topic, and Leader
9:00–9:15 a.m., Opening Remarks, Mr. Costle.
9:15–10:00, Remarks, Mr. Jorling.
10:00–12:30, Construction Grants, Update on Legislation, Reallocation of Funds, Streamlining of Construction Grants, Update on 1978 Needs Survey, Mr. Jorling/Mr. Rhett.
12:30–1:30 p.m., Lunch.
1:30–2:00, Water Strategy Development, Mr. Jorling/Mr. Erickson.
2:00–2:30, Pretreatment Strategy, Mr. Jorling/Mr. Davis.
2:30–3:00, Consolidation of Section 106, Program Grants with Other Control Agency Grants, Mr. Jorling/Mr. Erickson.
3:00–3:30, Decentralization, Review of Interim Report on Intergovernmental Operations, Mr. Jorling/Mr. Roush.
3:30–4:00, Safe Drinking Water Act, Mr. Jorling/Mr. Kimm.
4:00–4:30, General Discussion, Members.

These meetings are open to the public. Any member of the public may file a written statement with the Committee before, during or after the meeting. All communication regarding these meetings should be addressed to: Taylor Adams, Office of Water and Hazardous Materials (WH–556), Environmental Protection Agency, 401 "M" Street, SW., Washington, D.C. 20460. Anyone wishing to have their name placed on the mailing list for any Committee reports, meeting announcements, and minutes of all meetings should contact Taylor Adams, either in writing or by telephone 202–755–0405.

Dated: August 18, 1977.

THOMAS C. JORLING,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.77-24506 Filed 8-24-77;8:45 am]

MOTOR VEHICLE EXHAUST SULFURIC ACID MEASUREMENT PROCEDURES

Availability

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability.

SUMMARY: The Environmental Protection Agency is making available, upon request, copies of the document entitled "Recommended Practice for Measurement of Exhaust Sulfuric Acid Emissions from Light-duty Vehicles and Trucks." The procedures were developed by the Agency as part of its investigation into the nature of sulfuric acid emissions from passenger cars. The recommended measurement procedure is being made available as a guide for parties interested in conducting tests to measure light-duty vehicle sulfuric acid emissions.

FOR FURTHER INFORMATION CONTACT:

Robert Smith, Regulatory Management Staff, Office of Mobile Source Air Pollution Control (AW–455), U.S. Environmental Protection Agency, Washington, D.C. 20460 (202–755–0596).

SUPPLEMENTARY INFORMATION: The need for developing a procedure for measuring sulfuric acid emissions from light-duty vehicles and trucks became apparent two years ago, when, with the advent of catalyst emission control systems, preliminary data indicated that vehicles equipped with these systems emitted greater quantities of sulfates—primarily small droplets or particles of sulfuric acid and other sulfur compounds—than did vehicles not so equipped. In early 1975, efforts to develop sulfuric acid emission test procedures for light-duty vehicles and trucks were begun as the first step in accurately characterizing sulfuric acid emissions. Developing the test procedure consisted of creating a dynamometer driving cycle which was representative of in-use vehicle operating conditions that caused typical sulfate emissions to occur, and then to assemble the test equipment that would be required to measure these emissions accurately. The result of this development work is the procedure described in the "Recommended Practices • • •" document.

Although the EPA has concluded that, at the present time, sulfuric acid emissions from light-duty vehicles or trucks do not represent a public health threat, the Agency and other organizations remain interested in further study of the levels of sulfuric acid emissions from vehicles equipped with existing emission control systems or systems currently under development. So that data relating to sulfuric acid emissions may continue to be gathered, EPA will provide copies of the complete measurement procedure to interested parties.

Because the sulfuric acid measurement procedure overlaps in many areas the gaseous (hydrocarbons, carbon monoxide, and oxides of nitrogen) emission test procedures described in Subpart B, Part 86 of Title 40 of the Code of Federal Regulations, this "Recommended Practice • • •" is structured in the same for-

mat as Part 86 of Title 40 in order to be as unambiguous as possible. This procedure specifies performance criteria for the constant volume sampler, compatible dilution tunnel and analytical system. Regarding the sampling procedure, individual test facilities should choose the size dilution tunnel most compatible with their test cell configuration. The basic requirements are that the tunnel and sampler provide a well mixed sample, sample isokinetically, and lose less than 4 percent of the sulfuric acid collected. The analytical method described in the recommended practice is the barium chloranilate system. However, titration with photometric end point determination is an acceptable alternative method.

EPA is continuing to explore the automotive sulfates question and will continue to reassess the need to take action to reduce sulfuric acid emissions so as to avoid any real danger to public health from such emissions.

Dated: August 22, 1977.

EDWARD F. TUERK,
Acting for Assistant Administrator for Air and Waste Management.

[FR Doc.77-24738 Filed 8-24-77;8:45 am]

[FRL 781-5]

NATIONAL AIR POLLUTION CONTROL TECHNIQUES ADVISORY COMMITTEE

Open Meeting

Under Public Law 92-463, notice is hereby given that a meeting of the National Air Pollution Control Techniques Advisory Committee will be held at 9 a.m. on September 27 and 28, 1977, at the Olde Colony Motor Lodge and Conference Center, North Washington and First Streets, Alexandria, Virginia 22313. The commercial telephone number (703) 548-6300.

The purpose of the meeting will be to discuss two new source performance standards to be proposed under Section 111 of the Clean Air Act—lead battery manufacturing plants and surface coating (automobile and light truck assembly plants). The agenda will also include a review of a control techniques document for volatile organic compounds as required by Section 108 of the Clean Air Act and a status report for the Committee on the data base to review the new source performance standards for power plants.

All meetings are open to the public. Anyone wishing to make a presentation should contact Mr. Don R. Goodwin, Director, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, by September 21, 1977. The area code and telephone number are (919) 541-5271.

Dated: August 19, 1977.

EDWARD F. TUERK,
Acting Assistant Administrator for Air and Waste Management.

[FR Doc.77-24737 Filed 8-24-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

ALASKA ENERGY CONSERVATION PLAN

Negative Determination of Environmental Impact

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by the State of Alaska, of its State Energy Conservation Plan. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321, et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of this plan, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the Federal Energy Administration has determined that an environmental impact statement is not required for this plan.

Single copies of the environmental assessment of the State Plan for Alaska are available upon request from the FEA National Energy Information Center, Room 1406, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the environmental assessment will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the State Plan are available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views, or arguments with respect to the environmental assessment to Executive Communications, Box OX, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Environmental Assessment—Alaska Energy Conservation Plan." Fifteen copies should be submitted. All comments should be received by FEA by 4:30 p.m. e.d.s.t., August 31, 1977, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., August 19, 1977.

PAUL L. BLOOM,
Deputy General Counsel, Federal Energy Administration.

[FR Doc.77-24581 Filed 8-24-77;8:45 am]

OHIO ENERGY CONSERVATION PLAN

Negative Determination of Environmental Impact

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by the State of Ohio, of its State Energy Conservation Plan. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321, et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of this plan, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the Federal Energy Administration has determined that an environmental impact statement is not required for this plan.

Single copies of the environmental assessment of the State Plan for Ohio are available upon request from the FEA National Energy Information Center, Room 1406, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the environmental assessment will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the State Plan are available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views, or arguments with respect to the environmental assessment to Executive Communications, Box OV, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Environmental Assessment—Ohio Energy Conservation Plan." Fifteen copies should be submitted. All comments should be received by FEA by 4:30 p.m. e.d.s.t., August 31, 1977, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., August 19, 1977.

PAUL L. BLOOM,
Deputy General Counsel, Federal Energy Administration.

[FR Doc.77-24579 Filed 8-24-77;8:45 am]

TEXAS, ET AL.

Energy Conservation Plans; Negative Determination of Environmental Impact

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by the States of Texas, Indiana, Tennessee, Illinois, Wisconsin, and Connecticut, of their State Energy Conservation Plans. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321, et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of these plans, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the Federal Energy Administration has determined that an environmental impact statement is not required for any of these plans.

Single copies of the environmental assessments of the State Plans for Texas, Indiana, Tennessee, Illinois, Wisconsin, and Connecticut are available upon request from the FEA National Energy Information Center, Room 1406, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the environmental assessments will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the State Plans are available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views, or arguments with respect to the environmental assessments to Executive Communications, Box OW, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation. "Environmental Assessment—(Name of State) Energy Conservation Plan." Fifteen copies should be submitted. All comments should be received by FEA by 4:30 p.m. e.d.s.t., August 31, 1977, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., August 19, 1977.

PAUL L. BLOOM,
Deputy General Counsel, Federal Energy Administration.

[FR Doc.77-24580 Filed 8-24-77;8:45 am]

GASOLINE MARKETING ADVISORY COMMITTEE SUBCOMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that an ad hoc subcommittee of the Gasoline Marketing Advisory Committee will meet Friday, September 9, 1977, at 1:30 p.m. in Room 2105, 2000 M Street NW., Washington, D.C.

The objective of the subcommittee is to make recommendations to the parent Committee with respect to matters concerning FEA plans and programs which are related to the responsibilities of the parent Committee.

The purpose of the subcommittee meeting is to discuss and make recommendations concerning gasoline marketing data.

The meeting is open to the public. The Chairman of the subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Acting Director, Advisory Committee Management (202) 566-9996, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

The transcript of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 2107, FEA, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on August 23, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-24850 Filed 8-24-77;8:45 am]

FEDERAL MARITIME COMMISSION

[Docket No. 77-44]

ATLANTIC AND GULF/INDONESIA CONFERENCE, ET AL.

Order of Investigation and Hearing

In the matter of Atlantic and Gulf/Indonesia Conference, Atlantic and Gulf/Singapore, Malaya and Thailand Conference, Pacific-Straits Conference, and Pacific/Indonesian Conference: Application for approval of Interconference Agreement Nos. 10175, 10176; and for approval of Conference Amednments Nos. 8080-14, 6060-17, 8240-11, and 5680-18.

The carriers members of the Atlantic and Gulf Indonesia Conference, pursuant to Agreement No. 8080, fix the rates for, and the rules and regulations governing, the transportation of cargo from the United States Atlantic and Gulf Coast ports to ports in Indonesia and Portuguese Timor. The carriers members of the Atlantic and Gulf-Singapore, Malaya and Thailand Conference, pursuant to Agreement No. 8240, fix the rates for, and the rules and regulations governing, the transportation of cargo from the United States Atlantic and Gulf Coast ports to ports in Singapore, Malaya, Thailand, Labuan, and Brunei.

The carriers members of the Pacific-Straits Conference, pursuant to Agreement No. 5680, fix the rates for, and the rules and regulations governing, the transportation of cargo from ports on the United States Pacific Coast, and points within the United States via those ports, to ports and points in Malaysia, Singapore, and Brunei. That conference has published an intermodal tariff, which became effective on November 1, 1976. The carriers members of the Pacific/Indonesian Conference, pursuant to Agreement No. 6060, fix the rates for, and the rules and regulations governing, the transportation of cargo from United States Pacific Coast ports to ports in Indonesia. In addition to a tariff quoting local rates, that conference also publishes a tariff quoting overland rates. An amendment to Agreement No. 6060, which would extend the scope of the agreement to include intermodal traffic, Agreement No. 6060-18, is pending the approval of the Commission. Accordingly, any and all intermodal traffic carried by the carriers members of that conference, is transported pursuant to the independently filed intermodal tariffs of each member line.

Agreement No. 10175, between the Atlantic and Gulf-Indonesia Conference and the Pacific/Indonesian Conference, and Agreement No. 10176, between the Atlantic and Gulf-Singapore, Malaya and Thailand Conference and the Pacific-Straits Conference (collectively, "Proponents"), have been filed with the Commission for approval under section 15 of the Shipping Act, 1916. By those Agreements the carriers members of one conference would, with the carriers members of the conference serving the opposite coast of the U.S., meet, discuss, and agree upon the rates, rules, and regulations to be assessed for and governing the transportation of cargo from ports and points in the United States to all destinations within the scope of either of the two conferences party to the respective Agreements.

Additionally, the carrier members of the four conferences have filed for the approval of the Commission, amendments to their respective conference agreements, numbered 8080–14, 6060–17, 8240–11, and 5680–18. Agreement Nos. 8080–14 and 8240–11 are identical, and provide:

Subject to all applicable provisions of law and of this Agreement, the Conference or the members as a group may enter into arrangements or agreements with carriers, other conferences of carriers, or other persons.

Agreement Nos. 5680–18 and 6060–17 are also virtually identical, and provide:

The Conference may, by the same voting percentage as is required for amendment to this Agreement, enter into as a single party to [Malaysian/Straits discussion Agreement FMC #10176 (in Agreement No. 5680–18), Indonesian discussion Agreement FMC #10175 (in Agreement No. 606–17)] and amendments thereto for the purpose of discussing and/or agreeing upon matters of mutual interest within the scope of the respective Agreements.

Any carrier becoming a Member of this Conference shall thereby automatically become a party to, and any carrier ceasing to hold Conference membership shall thereby automatically cease to be a party to such Agreement.

In support of the Agreements, the parties thereto maintain that the Agreements do not expand the price fixing activities of the signatory conferences, and that the only concerted conduct contemplated is the exchange of information. They maintain that it is necessary, "• • • in today's world of advanced transportation technology • • •", for conferences to have discussion agreements, as shippers are no longer "• • • locked into a single transportation route." Detrimental effects of shipper "whipsawing" have been generally alleged.

Following notice of the filing of the Agreements in the FEDERAL REGISTER no protest or request for hearings in regard to the Agreements was received. However, Outboard Marine Corporation, a shipper in the trades covered by the Agreements, filed a comment thereto which pointed out that the Agreements have anticompetitive results, and should not be approved without a showing of the public benefit which would flow from the Agreements.

While the format of Agreement Nos. 10175 and 10176 resemble other pure "discussion" agreements approved by the Commission, the fourth and fifth whereas clauses of each Agreement, which clearly set forth the intent of the parties, represent a significant variance. The activity contemplated is to meet, discuss, and agree upon rates and tariff regulations, which from time to time may be uniform. As such, the Agreements are price fixing arrangements, and are, per se, illegal under section 1 of the Sherman Act, 15 U.S.C. 1. *U.S.* v. *Trenton Potteries Co.*, 273 U.S. 392 (1927).

Where an agreement is per se violative of section 1 of the Sherman Act, the agreement is prima facie contrary to the public interest The Commission is required to disapprove, cancel, or modify such an agreement unless it has other evidence before it demonstrating a need for the agreement, which need outweighs the anticompetitive effect of the agreement.

In accordance with that requirement, and in order to make the determinations to which this investigation is directed, the investigation instituted by this Order shall inquire into, among other things, the identity of the commodities [1] carried by the members of the respective Conferences, in the past, in the present, and anticipated; the quantity of those commodities carried by each member line of the respective Conferences, in the past, in the present, and anticipated; the rate history of those commodities; [2] the reasons for any changes heretofore made in the rates for those commodities; for each Conference, the identity of shippers who have requested changes in the rates for those commodities; the reasons given by each of those shippers for the requested rate change; the action taken by each Conference in response to each of those requests; the identity of, volume of, and rate history of, each commodity moved pursuant to an overland tariff of the Conference, for each member thereof; the identity of each carrier offering an intermodal service between points within the scope of each of the respective Conferences; the identity of, volume of, and rate history of, each commodity carried by each carrier pursuant to those intermodal services; the identity of, volume of, and rate history of, each commodity carried by each non-conference carrier providing service in the trades within the scope of each of the respective Conferences; the identity of, level of service of, and rates quoted by, all non-liner carriers offering service in the trades within the scope of each of the respective Conferences; the connection, if any, between carriers, members of any of the respective Conferences, and the non-liner operators identified; and, the identity of, type of, cubic capacity of, and container capacity of each vessel employed by any carrier, liner or non-liner, offering service in the trades within the scope of each of the respective Conferences, in the past, in the present, and anticipated. The inquiry shall extend sufficiently far into the past to permit the observation of trends. Five years appears to be a minimum period.

The specific items of inquiry identified above are not intended to limit the scope of the investigation instituted herein. Rather, they are merely the minimum level of inquiry required by the Commission.

Therefore, it is ordered, that, pursuant to sections 15 and 22 of the Shipping Act, 1916, an investigation is hereby instituted in order to determine whether Agreement Nos. 10175, 10176, each as filed on December 26, 1976, 8080–14, 6060–17, 8240–11, and 5680–18, are unjustly discriminatory or unfair as between carriers, shippers, importers, exporters, or ports, or between exporters from the United States and their foreign competitors, operate to the detriment of the commerce of the United States, are contrary to the public interest, or are in violation of the Shipping Act; and to determine whether those Agreements are (1) required by a serious transportation need, or (2) necessary to secure important public benefits, or (3) necessary to remedy conditions, (a) which the Shipping Act was enacted to eliminate, and (b) which exist, or, with a high degree of probability, immediately will exist in the area to be affected by the Agreements; and to determine whether those Agreements should be approved, modified, or disapproved.

It is further ordered, that the Atlantic and Gulf Indonesia Conference, the Pacific/Indonesia Conference, the Atlantic and Gulf-Singapore, Malaya and Thailand Conference, the Pacific-Straits Conference, and the members of each, as listed in the Appendix hereto, are hereby named Proponents in this proceeding;

It is further ordered, that, in the event any modifications of those Agreements are filed with the Commission, such modificaitons shall be subject to this investigation and its purposes;

It is further ordered, that this proceeding be referred to the Commission's Office of Administrative Law Judges for public hearing, and that the hearing be held at a date and place to be determined by the presiding Administrative Law Judge, but not later than February 19, 1978: *Provided, however,* that this investigation shall include oral testimony and cross-examination, in the discretion of the Presiding Officer, only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents, or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, that a copy of this Order be served upon Proponents and the Commission's Bureau of Hearing Counsel, and that a copy be published in the FEDERAL REGISTER.

It is further ordered, that all persons (including individuals, corporations, associations, firms, partnerships, and public bodies) desiring to intervene in this proceeding shall comply with Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.72;

It is further ordered, that all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

APPENDIX

Atlantic & Gulf/Indonesia Conference (AG/IC), J. F. Nash, Chairman, 40 Rector Street, Suite 1810, New York, New York 10006.
Atlantic & Gulf/Singapore, Malaya and Thailand Conference (AG/SMTC), J.F. Nash, Chairman, 40 Rector Street, Suite 1810, New York, New York 10006.

Member Lines AG/IC

American President Lines Ltd., American Mail Line Division, One World Trade Center, Suite 1225, New York, New York 10048.
Barber-Blue Sea Line J/S, Barber Steamship Lines, Inc. (USA), General Agents, 17 Battery Place, New York, New York 10004.
Central Gulf Lines, One Whitehall Street, New York, New York 10004.
Djakarta Lloyd, P.T., Tilston Roberts Corp., 17 Battery Place, New York, New York 10004.
Lykes Bros. Steamship Co., Inc., 17 Battery Place, New York, New York 10004.
Moller-Maersk Line J/S, Maersk Line, One World Trade Center, Suite 3527, New York, New York 10048.
Uiterwyk Lines (Far East) Ltd., Jan C. Uiterwyk Co., Inc., 90 West Street, New York, New York 10006.

Member Line AG/SMTC

American President Lines Ltd., American Mail Line Division, One World Trade Center, Suite 1225, New York, New York 10048.
Barber-Blue Sea Line J/S, Barber Steamship Lines, Inc. (USA), General Agents, 17 Battery Place, New York, New York 10004.
Central Gulf Lines, One Whitehall Street, New York, New York 10004.
Lykes Bros. Steamship Co., Inc., 17 Battrey Place, New York, New York 10004.
Moller-Maersk Line J/S, Maersk Line, One World Trade Center, Suite 3527, New York, New York 10048.
Uiterwyk Lines (Far East) Ltd., Jan C. Uiterwyk Co. Inc., 90 West Street, New York, New York 10006.
United States Lines, Inc., 1 Broadway, New York, New York 10004.
Pacific-Straits Conference (PSC), H. R. Rollins, Secretary, 635 Sacramento Street, San Francisco, California 94111.
Pacific/Indonesian Conference (PIC), H. R. Rollins, Secretary, 635 Sacramento Street, San Francisco, California 94111.

Member Lines of the PSC

American President Lines, Ltd., American Mail Line Division, One World Trade Center, Suite 1225, New York, New York 10048.
Barber-Blue Sea Line J/S, Barber Steamship Lines, Inc. (USA), General Agents, 17 Battery Place, New York, New York 10004.
Hoegh Lines J/S, Nedlloyd Inc., General Agents, Suite 617, Northeast Plaza Bldg., Five World Trade Center, New York, New York, 10048.
Knutsen Line, Boyd, Weir & Sewell, Inc., Agents, 17 Battery Place, New York, New York 10004.
Moller-Maersk Line J/S, Maersk Line, One World Trade Center, Suite 3527, New York, New York 10048.
Pacific Far East Line, Inc., One Embarcadero Center, San Francisco, California 94111.
Sea-Land Service, Inc., Terminal and Fleet Streets, Post Office Box 1050, Elizabeth, New Jersey 07207.
Shipping Corporation of India, Ltd., Norton, Lilly & Co., Inc., 90 West Street, New York, 10006.
Showa Line, Ltd., Norton, Lilly & Co., Inc., 90 West Street, New York, New York 10006.
States Steamship Company, 320 California Street, San Francisco, California 94104.
United States Lines, Inc., 1 Broadway, New York, New York 10004.

Member Lines of the PIC

American President Lines, Ltd., American Mail Line Division, One World Trade Center, Suite 1225, New York, New York 10048.
Barber-Blue Sea Line J/S, Barber Steamship Lines, Inc. (USA) General Agents, 17 Battery Place, New York, New York 10004.
Moller-Maersk Line J/S, Maersk Line, One World Trade Center, Suite 3527, New York, New York 10048.
Palau Shipping Company, Inc., P.O. Box 6000, Koror, Palau 96940.
Scindia Steam Navigation Ltd., United States Navigation, Inc., General Agent, 17 Battery Place, New York, New York 10004.
Showa Line, Ltd., Norton, Lilly & Co., Inc., 90 West Street, New York, New York 10006.
States Steamship Company, 320 California Street, San Francisco, California 94104.

[1] By commodities, the Commission means both the commonly understood grouping of goods sold by merchants, and the tariff items in the tariffs of each carrier, as subdivided by any method of classification, including, but not limited to, value, weight, measurement, or any other method used by the carrier to determine different rates. This meaning of commodities applies wherever the word is used herein.

[2] Wherever a rate history is called for herein, the Commission does not necessarily require the history of all commodities. Rather, the Commission wants a rate history of those commodities which are significant, either because of the quantity of the commodity carried by a carrier, or because the commodity, while not carried in great quantity, is important to a line of commerce. At a minimum, the rate histories shall cover the commodities which comprised 80 percent of the tonnage carried by the carrier under examination in each calendar year, and, separately, the commodities which produced 80 percent of the revenue of the carrier under examination in each calendar year.

[FR Doc.77-24621 Filed 8-24-77;8:45 am]

CUNARD CRUISE SHIPS LTD. AND CUNARD LINE LTD.

Order of Revocation

In the matter of Certificate of Financial Responsibility for indemnification of passengers for nonperformance of transportation Nos. P–103, P–65, and P–162 and Certificate of Financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages nos. C–1,097, C–1,061, and C–1,163; Cunard Cruise Ships Limited and Cunard Line Limited, % Cunard Line Limited, 555 Fifth Avenue, New York, New York, 10017.

Whereas, Cunard Cruise Ships Limited and Cunard Line Limited have ceased to operate the passenger vessel *Cunard Adventurer;* and

Whereas, Certificate (Performance) Nos. P–103, P–65, and P–162 and Certificate (Casualty) Nos. C–1,097, C–1,061, and C–1,163 have been returned for revocation.

It is ordered, that Certificate (Performance) No. P–103 and Certificate (Casualty) No. C–1,097 issued to Cunard–ONA Limited and Cunard Line Limited and reissued to Cunard Cruise Ships Limited and Cunard Line Limited covering the *Cunard Adventurer*, that Certificate (Performance) No. P–65 and Certificate (Casualty) No. C–1,061 reissued to Cunard Line Limited applying to the *Cunard Adventurer*, and that Certificate (Performance) No. P–162 and Certificate (Casualty) No. C–1, 163 issued to Cunard Cruise Ships Limited and Cunard Line Limited applying to the *Cunard Adventurer*, be and are hereby revoked effective August 15, 1977.

It is further ordered, that a copy of this Order be published in the FEDERAL REGISTER and served on certificates.

By the Commission August 15, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc. 77-24622 Filed 8-24-77;8:45 a.m.]

LYKES BROS. STEAMSHIP CO., INC. AND STRACHAN SHIPPING CO.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 4 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 14, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commmerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement filed by:

R. J. Finnan, Pricing, Lykes Bros. Steamship Co., Inc., Lykes Center, 300 Poydras Street, New Orleans, Louisiana 70130.

Agreement No. T–3503, between Lykes Bros. Steamship Co., Inc., (Lykes) and Strachan Shipping Company (Strachan), provides for the performance of stevedoring services by Strachan at Savannah and Brunswick, Georgia. As compensation, Lykes agrees to pay such rates mutually agreed to by the parties from time-to-time. The term of the agreement is for one year, automatically renewed on a year-to-year basis, and may be terminated upon 30 days' written notice by either party.

By Order of the Federal Maritime Commission.

Dated: August 22, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77–24623 Filed 8–24–77;8:45 am]

AUSTRALIA/EASTERN U.S.A. SHIPPING CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 14, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement filed by:

Stanley O. Sher, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street NW., Washington, D.C. 20006.

Agreement No. 10268-1, entered into by the member lines of the Australia/Eastern U.S.A. Shipping Conference amends Article 10 thereof by the addition of the following new paragraph:

(c) The Conference may share office space, equipment, personnel, administrative and related facilities with any other Conference(s) and/or rate agreement(s).

By Order of the Federal Maritime Commission.

Dated: August 22, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-24624 Filed 8-24-77;8:45 am]

PORT OF SEATTLE AND AMERICAN PRESIDENT LINES, LTD.

Agreements Filed

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 14, 1977. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreements filed by:

H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Agreements Nos. T-2640-8 and T-2640-9, between the Port of Seattle (Port) and American President Lines, Ltd. (APL), modify the parties' basic agreement providing for the five-year lease to APL of Terminal 25, Seattle, Washington.

The purpose of Agreement No. T-2640-8 is to provide for APL's design and construction of a Container Maintenance and Repair Building located on Parcel C of Terminal 25. Upon completion, the Port shall reimburse APL's out-of-pocket construction costs, not to exceed $80,000, and thereafter APL shall amortize said reimbursement over a 20-year period by means of equal monthly payments to the Port, including interest on the declining balances at the rate of 10 percent per annum.

The purpose of Agreement No. T-2640-9 is to increase the total monthly rental for land, cranes and other improvements from $109,046.52 to $114,316.03.

By Order of the Federal Maritime Commission.

Dated: August 22, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-24625 Filed 8-24-77;8:45 am]

MATSON TERMINALS, INC. AND POLYNESIA LINE LTD.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before September 14, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:
Peter P. Wilson, Senior Counsel, Matson Navigation Company, P.O. Box 3933, San Francisco, California 94119.

Agreement No. T-3502, which is between Matson Terminals, Inc., (Matson) and Polynesia Line, Ltd., (Polynesia), is a container terminal services agreement under which Matson will provide: (1) adequate berthing space; (2) adequate container yard space; (3) container gantry cranes; (4) container freight station services; and (5) comprehensive terminal services for Polynesia vessels calling at Los Angeles and Oakland, California. Compensation for these services is to be as agreed upon and filed with the Federal Maritime Commission.

By Order of the Federal Maritime Commission.

Dated: August 22, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-24626 Filed 8-24-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP77-119]

CARNEGIE NATURAL GAS CO.

Proposed Changes in FPC Gas Tariff

AUGUST 16, 1977.

Take notice that Carnegie Natural Gas Company, on July 29, 1977, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 2. Applicant indicates that it proposes to charge 31.253¢ per Mcf for gathering and compression service, under the First Revised Sheet, Rate Schedule X-5. The proposed effective date is September 1, 1977.

The proposed charge of 31.253¢ per Mcf is for gathering and compression of gas produced by others in the Mingo-Logan field, Mingo and Logan Counties, West Virginia. The charge will enable Carnegie to cover its cost in providing this service, and will obviate the need for other producers from this field to construct duplicate facilities.

Copies of the filing were served upon the company's jurisdictional customer, Consolidated Gas Supply Corporation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 26, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24528 Filed 8-24-77;8:45 am]

[Docket No. RP77-118]

CARNEGIE NATURAL GAS CO.

Initial FPC Gas Tariff

AUGUST 16, 1977.

Take notice that Carnegie Natural Gas Company (Carnegie), on July 29, 1977, tendered for filing an Original Sheet No. 70, Volume No. 2. Carnegie requests a waiver of § 4(c) of the Natural Gas Act and the Commission's Rules and Regulations to permit the proposed tariff sheet to become effective January 1, 1975, in accordance with the provisions of § 4 of the Natural Gas Act.

The proposed tariff sheet sets forth rates under Rate Schedule X-5 of 7.5¢ per Mcf for gathering and compression of gas produced by others in the Mingo-Logan field, Mingo and Logan Counties, West Virginia. The charge will enable Carnegie to cover its cost in providing this service, and will obviate the need for other producers from this field to construct duplicate facilities.

Concurrently with this filing, Carnegie has petitioned for a declaratory order disclaiming Commission jurisdiction over gathering and compression service in the Mingo-Logan field and, in the event the Commission finds that it has jurisdiction, issuance of a certificate of public convenience and necessity authorizing such services. The original X-5 rate schedule is being filed, therefore, because of the possibility of the Commission asserting jurisdiction.

Copies of the filing were served upon the company's jurisdictional customer, Consolidated Gas Supply Corporation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 26, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24529 Filed 8-24-77;8:45 am]

[Docket No. RP77-116]

CARNEGIE NATURAL GAS CO.

Proposed Changes in FPC Gas Tariff

AUGUST 16, 1977.

Take notice that Carnegie Natural Gas Company (Carnegie), on July 29, 1977, tendered for filing Second Revised Sheet No. 15, Volume No. 1. Carnegie requests a waiver of Section 4'd) of the Natural Gas Act and the Commission's Rules and Regulations to permit the proposed tariff sheet to become effective January 16, 1974, subject to refund, in accordance with the provisions of Section 4 of the Natural Gas Act.

The proposed tariff sheet sets forth increased rates under Rate Schedule S-6. Rate Schedule S-6 provides for a 4¢ increase for each Mcf of gas produced or purchased for resale by Carnegie from the Mingo-Logan field, Mingo-Logan Counties, West Virginia, and separately states that 7.5¢ of the 37.5¢ rate would be for gathering and compression charges.

On January 16, 1974, Consolidated Gas Supply Corporation, the only customer purchasing gas under the tariff involved in this filing, unilaterally increased its payment for that gas from 33.5¢ to 37.5¢ per Mcf. Carnegie states that this filing is intended to rectify the misapprehension which has occurred by its accepting the increased payments since that date.

Copies of the filing were served upon the company's jurisdictional customer, Consolidated Gas Supply Corporation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commssion, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 24, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file wth the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24530 Filed 8-24-77;8:45 am]

[Docket No. ER77-551]

CAROLINA POWER & LIGHT CO.

Filing of an Amendment to Existing Service Agreement and Cancellation of an Existing Service Agreement

AUGUST 17, 1977.

Take notice that Carolina Power & Light Company, on August 3, 1977 tendered for filing an Amendment dated June 30, 1977, between the City of Fayetteville (the City) and Carolina Power & Light Company (the Company) to the Service Agreement dated October 27, 1972, which is on file with the Commission as Carolina Power & Light Company's Rate Schedule FPC No. 102. The Company also filed a notice of cancellation of the Service Agreement dated December 1, 1966, between the City of Fayetteville and Carolina Power & Light Company which is on file with the Commission as Carolina Power & Light Company's Rate Schedule FPC No. 93.

The Company indicates that the Amendment dated June 30, 1977, provides for totalized metering of the two points of delivery to the City, the supplying of partial requirements service, the providing of backstand service by the Company for the City's generation, and the purchase of capacity from the City by the Company when such capacity is available. The Company further indicates that partial requirements service will be rendered under the Company's filed resale service schedule as amended by the Agreement.

The Company states that the Amendment between the parties dated June 30, 1977, ellminates the Service Agreement between the City and the Company dated December 1, 1966, which is on file with the Commission as Carolina Power & Light Company's Rate Schedule FPC No. 93.

It is proposed by the Company that the Amendment dated June 30, 1977, and the cancellation of FPC No. 93 be effective as of June 20, 1977, and waiver of the Commission's notice requirements is therefore requested.

According to the Company a copy of the filing was sent by Carolina Power & Light Company to the Public Works Commission of the City.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 31, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to be-

V42N165 AUG 25 77 UM

come a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24527 Filed 8-24-77;8:45 am]

[Docket No. RP73-65; (PGA77-4)]

COLUMBIA GAS TRANSMISSION CORP.

Proposed Changes in FPC Gas Tariff

AUGUST 16, 1977.

Take notice that Columbia Gas Transmission Corporation (Columbia) on July 29, 1977, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1, as follows:

Thirty-seventh Revised Sheet No. 16.
Eighteenth Revised Sheet No. 64A.

These proposed changes to be effective September 1, 1977, reflect the following rate adjustments:

(1) A PGA rate adjustment, pursuant to Section 20.4(d) of the General Terms and Conditions of Columbia's FPC Gas Tariff, Original Volume No. 1, to recover increased cost of gas purchases of $65,265,540, annually.

(2) A Commodity Surcharge, pursuant to Section 20.2 of the General Terms and Conditions of Columbia's FPC Gas Tariff, Original Volume No. 1, to recover $100,698,736 of deferred Purchased Gas cost over the six month period September 1, 1977 through February 28, 1978. Such surcharge includes the effect of (1) Supplier Refunds received, (2) a refund pursuant to the settlement of Columbia's Appalachian Pipeline production issue at FPC Docket No. RP74-82, and (3) Emergency Purchases and associated costs.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 24, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24533 Filed 8-24-77;8:45 am]

[Docket No. ER76-494]

DELMARVA POWER & LIGHT CO.

Compliance Filing

AUGUST 17, 1977.

Take notice that Delmarva Power & Light Company, Delmarva Power & Light Company of Maryland and Delmarva Power & Light Company of Virginia (Delmarva) on July 28, 1977 tendered for filing proposed changes in FPC Electric Tariff Nos. 6 and 7 of Delmarva Power & Light Company, FPC Electric Tariff Nos. 6 and 7 of Delmarva Power & Light Company of Maryland, and FPC Electric Tariff No. 3 of Delmarva Power & Light Company of Virginia, all in compliance with the Order approving settlement herein, issued July 1, 1977. Delmarva indicates that the proposed changes conform such Rates Schedules to the rates approved by the Commission in its Order issued July 1, 1977.

According to Delmarva copies of this filing were served upon all Delmarva's various jurisdictional customers and on the appropriate Commissions of Delaware, Maryland and Virginia. Delmarva requests waiver of the Commission's notice requirements in order that these compliance filings may be accepted for filing at the earliest possible date.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 824 North Capitol Street, NE, Washington, DC, 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 31, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24519 Filed 8-24-77;8:45 am]

[Docket Nos. RP72-155, and RP76-59
(PGA No. 77-2b)]

EL PASO NATURAL GAS CO.

Tariff Sheets Retender

AUGUST 16, 1977.

Take notice that on July 27, 1977, El Paso Natural Gas Company ("El Paso") filed, purusant to Part 154 of the Commission's Reglations Under the Natural Gas Act, the following revised tariff sheets, to become effective April 1, 1977.

Tariff volume No.	*Tariff sheet No.*
PGAC:	
Original volume No. 1.	First Substitute Nineteenth Revised Sheet No. 3-B.
Third Revised Volume No. 2.	First Substitute Ninth Revised Sheet No. 1-D.
Original Volume No. 2A.	First Substitute Eleventh Revised Sheet No. 1-C.
PGAG—CHPG:	
Original Volume No. 2A.	Seventh Revised Sheet No. 1-D.

El Paso states that by order issued March 31, 1977, the Commission, inter alia, accepted for filing and suspended for one (1) day the PGAC tariff sheets filed by El Paso February 25, 1977,[1] and permitted such sheets to become effective April 2, 1977, subject to refund. El Paso states that ordering paragraph (B) of the Commission's said order of March 3, 1977, permitted El Paso to file a revised PGAC increase to be effective April 1, 1977, which excludes the amounts for gas purchases paid to reversionary interest holders[2] in excess of similar amounts paid to prior owners for gas purchases.

El Paso states that on April 15, 1977, it tendered for filing certain substitute revised tariff sheets[3] to implement both its PGAC increase and its PGCA-CHPG increase on April 1, 1977 .The revised net increases proposed by said April 15, 1977, filing, were determined by El Paso by reducing the rates applicable to the reversionary interest holders to the rates established by the Commission's Opinion No. 699-H.

El Paso further states that by letter order issued July 15, 1977, at Docket Nos. RP72-155 and RP76-59 (PGA No. 77-2a), the Commission rejected certain of the tariff sheets filed by El Paso on April 15, 1977,[4] inasmuch as the rates reflected thereon did not eliminate all costs applicable to the reversionary interest holders in excess of the amounts paid to prior owners for such purchases. The subject letter order provides that the rejection is without prejudice to El Paso's right to refile rates properly adjusted to reflect the appropriate rates authorized to the prior owners of such gas. Accordingly, to implement both its PGAC increase and its PGAC-CHPG on April 1, 1977, adjusted as directed by the Commission letter order issued July 15, 1977, El Paso retenders herewith for filing and acceptance the above identified tariff sheets.

[1] First Substitute Nineteenth Revised Sheet No. 3-B to Original Volume No. 1; First Substitute Ninth Revised Sheet No. 1D to Third Revised Volume No. 2; First Substitute Eleventh Revised Sheet No. 1-C and Seventh Revised Sheet No. 1-D to Original Volume No. 2A.

[2] Such reversionary interest holders are the subject of the Commission's Opinion No. 737, as amended, issued July 11, 1975, at Docket No. CP75-209 and CP75-594.

[3] First Substitute Nineteenth Revised Sheet No. 3-B, Original Volume No. 1 tariff; First Substitute Ninth Revised Sheet No. 1-D, Third Revised Volume No. 2 tariff; and First Substitute Eleventh Revised Sheet No. 1-C and Seventh Revised Sheet No. 1-D, Original Volume No. 2A tariff.

[4] The rejected tariff sheets are identified in note 3, *supra*. The Commission took no action in the July 15, 1977, order respecting the other tariff sheets tendered by El Paso as part of its April 15, 1977, tender, as more fully discussed herein.

El Paso states that the above described retendered PGAC tariff sheets provide for a total PGAC current adjustment of 10.13¢ per Mcf, effective as of April 1, 1977, and is comprised of adjusted annualized purchased gas cost increases equating to 4.81¢ per Mcf, plus 5.32¢ per Mcf representing the adjusted unrecovered purchased gas cost balance in Account 191 as of December 31, 1976. El Paso further states that the adjustment proposed by the tendered substitute tariff sheets is an increase of 6.13¢ per Mcf in El Paso's then currently effective rate and is 1.69¢ per Mcf below the PGAC net adjustment in rates of 7.82¢ per Mcf, filed by El Paso on February 25, 1977, and suspended for one (1) day until April 2, 1977, by the Commission order of March 31, 1977.

El Paso further states that the retendered Seventh Revised Sheet No. 1-D provides for a current adjustment of 2.8097¢ per Mcf, effective as of April 1, 1977, applicable to sales subject to the PGAC—Clean High Pressure Gas ("PGAC-CHPG") provision contained in El Paso's FPC Gas Tariff, Original Volume No. 2A. Such current adjustment is comprised of an increase in the weighted average purchased cost of clean, high-pressure gas equating to 1.5704¢ plus 1.2393¢ per Mcf representing the unrecovered purchased gas balance in Account 191 as of December 31, 1976. El Paso further states that, after elimination of the surcharge adjustment of 4.4913¢ per Mcf included in El Paso's rates prior to April 1, 1977, authorized at Docket No. RP72-155 (PGA77-1), the net PGAC-CHPG adjustment proposed by the tendered Seventh Revised Sheet No. 1-D is a net decrease of 1.6816¢ per Mcf.

El Paso's April 15, 1977, tender also included certain substitute tariff sheets[5] containing the PGAC and PGAC-CHPG rates made effective as of April 2, 1977, which tariff sheets reflected the superseding pagination reference required as a result of the submittal of the tariff sheets tendered to be effective on April 1, 1977. Except for the noted change, said tariff sheets were identical to the counterpart tariff sheets tendered by El Paso on February 25, 1977, and made effective on April 2, 1977, by the Commission's March 31, 1977, order. The July 15, 1977, Commission letter order states that no action will be taken on such tariff sheets to be effective April 2, 1977. Since El Paso is retendering substitute tariff sheets to become effective as of April 1, 1977, in conformity with the directives of the Commission in its letter order of July 15, 1977, El Paso has requested that the tariff sheets tendered on April 15, 1977, reflecting the rates authorized to be effective as of April 2, 1977,[6] be accepted for filing and permitted to become effective on April 2, 1977, in order to properly reflect the pagination of subsequent counterpart tariff sheets.

El Paso states that copies of the instant tender have been served upon all parties of record in Docket Nos. RP72-155 and RP76-59 and, otherwise, upon all affected customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before August 24, 1977, with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.-10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24531 Filed 8-24-77;8:45 am]

[Docket No. RI77-117]

ENERGY RESERVES GROUP, INC.

Petition for Special Relief

AUGUST 16, 1977.

Take notice that on June 3, 1977, Energy Reserves Group, Inc., 217 North Water, Wichita, Kansas 67201, filed a petition for special relief in Docket No. RI77-117 pursuant to Section 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76).

Petitioner seeks authorization to charge 44.7556 cents per Mcf for the sale of gas from the DeWeese Gas Unit No. 1 in consideration for the installation of compression facilities. The gas is being sold to National Gas Pipeline Company of America.

Any person desiring to be heard or to make any protest with reference to said petition should on or before August 31, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24536 Filed 8-24-77;8:45 am]

[Docket Nos. CP75-104, CP75-81 and
CP75-16]

HIGH ISLAND OFFSHORE SYSTEM

Petition To Amend Certificate

AUGUST 16, 1977.

Take notice that on August 10, 1977, High Island Offshore System (HIOS), pursuant to Section 1.7 of the Commission's General Rules of Practice and Procedure, filed a petition to further amend the certificate of public convenience and necessity issued herein on June 4, 1976, as previously amended by the Order on Rehearing issued July 30, 1976, to permit the use of an interim rate during the production build-up period on the HIOS facilities until January 1, 1979.

Petitioner states that such an interim rate is necessary so that shippers, not able to fully utilize the HIOS facilities during this build-up period, are not required to pay demand charges during that period.

As a result of the series of informal conferences, representative of the Bureau of Natural Gas and Office of the General Counsel have agreed that an interim rate to be used during the initial build-up period, comports with the public interest under the terms and conditions which are set forth, in detail, in the aforementioned Petition.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before August 24, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24532 Filed 8-24-77;8:45 am]

[5] Such redesignated tariff sheets submitted by El Paso on April 15, 1977, are as follows:

Tariff Volume No.	*Tariff Sheet No.*
Original Volume No. 1---	Second Substitute Nineteenth Revised Sheet No. 3-B.
Third Revised Volume No. 2.	Second Substitute Ninth Revised Sheet No. 1-D.
Original Volume No. 2A--	Second Substitute Eleventh Revised Sheet No. 1-C.
Original Volume No. 2A--	Eighth Revised Sheet No. 1-D.

[6] See note 5, supra.

[Docket No. ER77-90]

HOLYOKE WATER POWER CO., AND THE HOLYOKE POWER & ELECTRIC CO.

Proposed Settlement Agreement

AUGUST 15, 1977.

Take notice that Holyoke Water Power Company and Holyoke Power & Electric Company (hereinafter collectively referred to as Holyoke) on August 3, 1977, tendered for filing a Settlement Agreement. Holyoke indicates that Holyoke, the City of Chicopee, Massachusetts and the Town of South Hadley, Massachusetts have conducted settlement conferences with the Commission Staff which have resulted in the Settlement Agreement, dated as of July 21, 1977. Holyoke further indicates that the rate changes set forth in the Settlement Agreement are proposed to become effective as of August 1, 1977.

Holyoke states that the mutual agreements and understandings which the parties have agreed to in the Settlement Agreement are appropriate and acceptable for settlement of the proceedings in the above-noted docket, and respectfully requests that the Commission permit the rates set forth in the Settlement Agreement to become effective as of August 1, 1977.

Comments will be considered by the Commission in determining the outcome of the proceeding. Comments may be sent to the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 31, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24518 Filed 8-24 77:8:45 am]

[Docket No. ER77-528]

NORTHERN STATES POWER CO. (MINNESOTA)

Extension of Time for Filing Petitions to Intervene

AUGUST 18, 1977.

On August 16, 1977, Minnesota Municipal Utilities Association (MMUA) filed a request to extend the date set by Commission Notice issued August 8, 1977, for filing protests and petitions to intervene in the above designated proceeding. The motion states that MMUA has contacted a majority of Northern States' transmission service customers, all of whom have asked MMUA to request an extension of time on their behalf.

Upon consideration, notice is hereby given that the date for filing protests and petitions to intervene in the above proceeding is extended to and including September 16, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24522 Filed 8-24-77;8:45 am]

[Project No. 2082]

PACIFIC POWER & LIGHT CO.

Application for Amendment of License

AUGUST 17, 1977.

Public notice is hereby given that an application was filed on April 6, 1977, under the Federal Power Act, 16 U.S.C. §§ 791 et seq., by Pacific Power & Light Company (Applicant) (Correspondence to: Mr. G. Eldon Drewman, Executive Vice President, Pacific Power & Light Company, 920 SW. Sixth Avenue, Portland, Oregon 97204) for an amendment of the license for its Klamath River Project, FPC No. 2082. The project is located on the Klamath River in Jackson and Klamath Counties, Oregon, and Siskiyou County, California.

Applicant requests that the license for Project No. 2082 be amended to remove from the project the segment of the 69-KV transmission line that extends from the project's Fall Creek development to Griffin Creek substation. Applicant proposes to dismantle a portion of the transmission line, to convert another portion to distribution service, and to convert a third portion to 115-KV. Specifically, Applicant proposes:

(1) To dismantle the Fall Creek-Soda Mountain Substation portion of the line in 1977:

(2) To convert the Soda Mountain Substation to Line 19-2 (the intersection is near Ashland) portion of the line to distribution service at 7.2/12.5-KV in 1977; and

(3) To convert the Line 19-2 intersection to Ashland City Substation portion of the line to 115-KV in 1977, and the remainder of the line to Griffin Creek Substation to 115-KV in 1984.

The only transmission line that would remain licensed under the proposed amendment extends from the Fall Creek hydroelectric development to the Copco No. 1 hydroelectric development. Power from the Fall Creek development would be transmitted over this line to the Copco No. 1 substation and thence into Applicant's Siskiyou area system. Applicant states that the changes are necessary to improve its service in the Medford-Ashland area.

The application is on file with the Commission and is available for public inspection.

Any person desiring to be heard or to make any protest with respect to said application should on or before October 5, 1977, file with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing in the proceeding must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24526 Filed 8-24-77;8:45 am]

[Docket Nos. G-2619, et al]

PHILLIPS PETROLEUM COMPANY, ET AL.

Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates [1]

AUGUST 16, 1977.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before August 30, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price Per 1,000 ft³	Pressure base
G-2619 ..... D 6/20/77	Phillips Petroleum Co., 5 C4 Phillips Bldg., Bartlesville, Okla. 74004.	El Paso Natural Gas Co., Dumas Plant, Moore County, Tex.	(1)	.....
G-2896 ..... D 2/4/77	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Panhandle Eastern Pipe Line Co., West Panhandle Field, Moore County, Tex.	(2)	.....
G-12175 ..... D 2/28/77	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Northern Natural Gas Co., Hansford Field, Hansford County, Tex.	(3)	.....
CI74-528 ..... C 6/6/77	Exxon Corp.	El Paso Natural Gas Co., Sand Hills Field, Crane County, Tex.	[4] 171.42	14.73
CI77-553 B 6/10/77	American Natural Gas Production Co., 1 Woodward Ave., Detroit, Mich. 48226.	Mountain Fuel Supply Co., Converse County, Wyo.	(5)	15.025
CI77-537 ..... A 6/1/77	Amoco Production Co., 500 Jefferson Bldg., P.O. Box 3092, Houston, Tex. 77001.	Northern Natural Gas Co., Gomez Field, Pecos County, Tex.	(6)	14.73
CI77-540 ..... 6 A/6/77	The Louisiana Land and Exploration Co., 225 Baronne St., P.O. Box 60351, New Orleans, La. 70160.	Texas Eastern Transmission Corp., Block 543 field, West Cameron Area, Offshore La.	[4] $1.90	15.025
CI77-541 ..... A 6/6/77	Transco Exploration Co.,[3] P.O. Box 1396, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corp., Bolivar Point Field, Plaquemines Parish, La.	[4] $1.42	15.025
CI77-542 ..... A 6/6/77	ONG Exploration, Inc., P.O. Box 871, Tulsa, Okla. 74102.	Northern Natural Gas Co., Mocane-Laverne gas area, Beaver County, Okla.	[4] $1.59666	14.73
CI77-543 ..... A 6/2/77	The Superior Oil Co., (Operator), et al., P.O. Box 1521, Houston, Tex. 77001.	Lone Star Gas Co., Mundy-Walter Well No. 1, Garvin County, Okla.	[4] $1.40	14.65
CI77-544 ..... A 6/6/77	Helmerich & Payne, Inc., 1579 East 21st St., Tulsa, Okla. 74114.	Wisconsin Pipe Line Co., West Mayfield Field, Beckham County, Okla.	[4] $1.5434	14.73
CI77-545 ..... A 6/6/77	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Tex. 79105.	Panhandle Eastern Pipe Line Co., Hartzog Draw field, Campbell County, Wyo.	[4] $1.45	14.65
CI77-546 ..... A 6/6/77	Helmerich & Payne, Inc.	Michigan Wisconsin Pipe Line Co., West Cheyenne field, Roger Mills County, Okla.	[4] $1.5372	14.73
CI77-548 ..... A 6/9/77	American Petrofina Co. of Texas, P.O. Box 2159, Dallas, Tex. 75221.	Northern Natural Gas Co., Beaver County, Okla.	(6)	14.73
CI77-549 ..... A 6/9/77	Helmerich & Payne, Inc.	Michigan Wisconsin Pipe Line Co., Wheeler Pan (Hunton) Field, Wheeler County, Tex.	[4] $1.6334	14.73
CI77-550 ..... A 6/9/77	Southland Royalty Co., 1600 1st National Bldg., Fort Worth, Tex. 76102.	Montana-Dakota Utilities Co., Blankenship No. 4-8 Well located in sec. 4, township 3 north, range 2 east, W.R.M., Fremont County, Wyo.	(6)	15.025
CI77-551 ..... A 6/9/77	Pan Eastern Exploration Co., P.O. Box 1642, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Eugene Island area south addition, block 380, offshore Louisiana.	[4] 103.9288[c]	15.025
CI77-554 ..... A 6/10/77	Tenneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	Transwestern Pipeline Co., South Empire Deep Field, Eddy County, N. Mex.	[4] 117.2640[c]	14.65
CI77-555 ..... A 5/27/77	HNG Oil Co., P.O. Box 1188, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., sec. 11, block Z-1, A.C. H. & B. & H. & W. Survey, Viking (Upper Morrow), Field, Hemphill County, Tex.	[4] 153.4962[c]	14.73
CI77-559 ..... B 6/16/77	Estate of J. B. Stoddard, 211 North Ervay, suite 1413, Dallas, Tex. 75201.	Coastal States Gas Producing Co., Fitzsimmons Field—Duval County, Tex.	(7)	
CI77-560 ..... A 6/16/77	The Superior Oil Co.	Natural Gas Pipeline Co. of America, Cemetary Field, Eddy County, N. Mex.	[4] $1.46	14.65
CI77-561 ..... A 6/16/77	do.	El Paso Natural Gas Co., Somora Field, Sutton County, Tex.	[4] $1.45	14.73
CI77-562 ..... A 6/8/77	Mobil Oil Corp., 3 Greenway Plaza East, suite 800, Houston, Tex. 77046.	El Paso Natural Gas Co., Corral Draw Field, Eddy County, N. Mex.	[4] 113.44[c]	14.73
CI77-561 ..... A 6/10/77	Canadian Superior Oil (U.S.) Ltd., P.O. Box 1521, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co., South Marsh Island area blocks 243, 249, and 250.	[4] $2.00	15.025
CI77-565 ..... A 6/13/77	Tenneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	Transwestern Pipeline Co., South Empire Deep Field, Eddy County, N. Mex.	[4] 168.4200[c]	14.65
CI77-566 ..... A 6/15/77	The Superior Oil Co.	El Paso Natural Gas Co., Sand Dunes Field, Eddy County, N. Mex.	[4] $1.45	14.73
CI77-567 ..... A 6/15/77	Union Oil Co. of California, P.O. Box 7600, Los Angeles, Calif. 90051.	Northern Natural Gas Co., blocks 34 and 60 Vermilion area, offshore Louisiana.	[4] [8] 193.8052[c] [4] [9] 190.0000[c]	(8) (8)
CI77-568 ..... A 6/15/77	Napeco Inc., 122 South Michigan Ave., Chicago, Ill. 60603.	Natural Gas Pipeline Co. of America, Southland Paper Mills No. A-4 Well, Hortense (Woodbine) Field, Polk County, Tex.	(4)	14.73
CI77-582 ..... B 6/21/77	Petroleum Inc. (operator) et al., 300 West Douglas, Wichita, Kans. 67202.	Michigan Wisconsin Pipe Line Co., Beaver County, Okla.	[10]	
CI77-616 ..... A 7/1/77	Cities Service Co., P.O. Box 300, Tulsa, Okla. 74102.	Transco Gas Supply Co., block A-133, Brazos area (south addition), offshore Texas.	(4)	14.73
CI77-647 ..... B 7/15/77	Ray H. Potts and Robert L. Stephenson, d.b.a., Potts-Stephenson Exploration Co., Liberty Tower, Oklahoma City, Okla. 73102.	Arkansas Louisiana Gas Co., sec. 29, T 4 N, R. 12 E., Pittsburg County, Okla.	[11]	
CI77-691 ..... A 7/28/77	Columbia Gas Development Corp., P.O. Box 1350, 1700 West Loop South, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co., block 265, West Cameron area, offshore Louisiana.	[4] $1.855	14.7
CI77-692 ..... A 7/28/77	Columbia Gas Development Corp.	Columbia Gas Transmission Corp., platform "A", block 313, Vermilion, area, offshore Louisiana.	[4] $1.90	15.025

Footnotes on next page.

[1] Phillips and El Paso have entered into a replacement contract dated Mar. 4, 1977, which will become effective Oct. 23, 1977, at which time the Oct. 13, 1945 agreement expires.
[2] No longer held by Atlantic or committed to its Aug. 30, 1951 contract with Panhandle Eastern Pipe Line Co.
[3] Certain leases have been released and are no longer held by Exxon.
[4] Applicant proposes to collect the prescribed applicable national rate as prescribed in Opinion No. 770-A, subject adjustments contained therein.
[5] Applicant and purchaser are affiliated.
[6] Applicant is willing to accept a permanent certificate in accordance with Opinion No. 770, as amended.
[7] Well watered out.
[8] 15.025 lb mcfa.
[9] 14.73 lb mcfa.
[10] Depleted.
[11] Uneconomical.

[FR Doc.77-24539 Filed 8-24-77;8:45 am]

[Docket No. FR77-548]

SOUTHERN CALIFORNIA EDISON CO.

Filing of Initial Rate Schedule

AUGUST 17, 1977.

Take notice that on August 10, 1977, Southern California Edison (Edison) tendered for filing a Transmission Service Agreement with Pacific Gas and Electric Company (Pacific) providing for the transmission by Edison on an interruptible basis of power purchased by Pacific from the Department of Water and Power of the City of Los Angeles, also on an interruptible basis. Edison indicates that it will charge Pacific for transmission, dispatching, scheduling services, and for losses in delivery of such energy between Sylmar and Midway Substations.

Edison states that Pacific requests that service be initiated as soon as possible under this Agreement to assist during the present drought situation in northern California, and for that reason, Edison requests that the notice provisions of the Commission's regulations be waived and the filing be permitted to become effective at the time of acceptance for filing, but in no event later than 30 days thereafter.

According to Edison copies of this filing were served upon Pacific and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washingon, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 31, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24525 Filed 8-24-77;8:45 am]

[Docket No. ER77-547]

SOUTHERN CALIFORNIA EDISON CO.

Filing of Initial Rate Schedule

AUGUST 16, 1977.

Take notice that on August 10, 1977, Southern California Edison Company (Edison) tendered for filing a letter agreement between Edison acting in party with other California utilities (Utilities) and Bonneville Power Administration (Bonneville). Edison indicates that this agreement provides for Utilities to store energy generated by Bonneville during periods of excess water release at dams on the Columbia River for purposes of mitigating the adverse effects of recent drought conditions of fish migration. Edison further indicates that Utilities will return such energy through February 28, 1978. Edison states that Bonneville will pay a storage charge of 1 mill per kilowatthour.

According to Edison copies of this filing were served upon Utilities, Bonneville, and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C., 20426, in accordance with § 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 31, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24537 Filed 8-24-77;8:45 am]

[Docket No. ER77-549]

TAMPA ELECTRIC CO.

Filing

AUGUST 17, 1977.

Take notice that on August 10, 1977, Tampa Electric Company (Tampa) tendered for filing a Contract For Interchange Service between Florida Power Corporation and Tampa. Tampa states that the Contract replaces Tampa's FPC Rate Schedule No. 1, as supplemented, and provides for the following services: emergency interchange energy, scheduled interchange energy, and economy interchange energy.

Tampa requests waiver of the Commission's notice requirements to allow an effective date of August 14, 1977.

According to Tampa copies of the filing were served upon Florida Power Corporation and the Florida Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 31, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24520 Filed 8-24-71;8:45 am]

[Docket No. ER77-550]

TAMPA ELECTRIC CO.

Filing

AUGUST 17, 1977.

Take notice that on August 10, 1977, Tampa Electric Company (Tampa) tendered for filing a Contract For Interchange Service between Florida Power & Light Company and Tampa Electric Company. Tampa states that the Contract replaces Tampa's FPC Rate Schedule No. 4 and provides for the following services: emergency interchange energy, scheduled interchange energy, and economy interchange energy.

Tampa requests an effective date of August 14, 1977, and therefore requests waiver of the Commission's notice requirements.

Tampa further states that copies of the filing were served upon Florida Power & Light Company and the Florida Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8,

1.10). All such petitions or protests should be filed on or before August 31, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24524 Filed 8-24-77;8:45 am]

[Docket No. CP77-100, et al.]

TENNECO ATLANTIC PIPELINE CO., ET AL.

Inquiry as to Suitability of Alternative LNG Sites in Rhode Island and Maine

AUGUST 17, 1977.

On December 20, 1977, Tenneco Atlantic Pipeline Company, et al. (TAPCO) filed applications in Docket Nos. CP77-100, CP77-101, CP77-102, and CP77-103 pursuant to Sections 7 and 3 of the Natural Gas Act to import natural gas into the United States from Algeria by way of Canada and to construct and operate various natural gas pipeline facilities in order to deliver this gas for the benefit of Tennessee Gas Pipeline Company's existing customers, all as more fully set forth in the applications. Take notice that as a result of a preliminary analysis by the Commission Staff pursuant to the Commission's responsibilities under the Natural Gas Act and Natural Environmental Policy Act of 1969, two alternatives to the TAPCO proposal are now seriously being considered and requisite findings will be made on these alternatives.

The Commission Staff in its Draft Environmental Impact Statement (DEIS) has suggested that the placement of liquefied natural gas (LNG) terminals at Sears Island, Maine and Prudence Island, Rhode Island may be viable alternatives to the proposed TAPCO project which involves the construction and operation of an LNG terminal near St. John, New Brunswick, and a pipeline from such terminal terminating near Milford, Pennsylvania. Staff has indicated that additional studies on cost and engineering aspects of these alternatives are now in progress and will be released about September 12, 1977. These alternatives are more completely described in Staff's DEIS and an "Alternative Site Study Northeast Coast Liquefied Natural Gas Conversion Facility" report prepared by Resource Planning Associates in conjunction with the Commission Staff which is filed as an exhibit in this proceeding.[1]

Any party or interested person who wishes to be heard with regard to such alternatives should file either prepared testimony on or before September 20, 1977, or file a statement of position prior to September 30, 1977. Any interested party who wishes to file testimony or a statement of position should also file with the Commission a petition to intervene or notice of intervention if they have not already done so. This notice is issued pursuant to a suggestion made by the Presiding Administrative Law Judge designated for this proceeding.[2]

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24521 Filed 8-24-77;8:45 am]

[Docket No. CP77-561]

TENNECO INTERAMERICA INC., ET AL.

Application

AUGUST 17, 1977.

Take notice that on August 11, 1977, Tenneco InterAmerica Inc. (Tenneco InterAmerica), P.O. Box 2511, Houston, Texas 77001, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77001, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, Florida Gas Transmission Company (Florida), P.O. Box 44, Winter Park, Florida 32790, and Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77-561 an application pursuant to Section 3 of the Natural Gas Act for authorization to import natural gas into the United States from the Republic of Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to import up to a daily quantity of 2,000,000 Mcf of natural gas at the international boundary between Mexico and the United States near Reynosa, Tamaulipas. It is stated that Applicants anticipate that such importation would commence at the estimated initial rate of approximately 50,000 Mcf per day commencing late in 1977 and increase to 2,000,000 Mcf per day as necessary additional pipeline facilities in Mexico and the United States are installed and production of gas in Mexico is increased.

The gas to be imported would be purchased by Applicants from Petroleos Mexicanos, a decentralized institution of the Republic of Mexico (Pemex), it is stated. Applicants further state that a memorandum of intentions has been entered into outlining the terms and conditions applicable to the purchase of such volumes and that Applicants and Pemex are currently preparing definitive gas purchase contracts to be filed as a supplement to the instant application.

The application indicates that Pemex would build and operate a 48-inch diameter gas transmission pipeline extending approximately 850 miles from Pemex's treating facilities in the Reforma area in the states of Chiapas and Tabasco to the international boundary. It is further indicated that the respective purchase entitlements of Applicants to the total daily volumes of gas which Pemex would sell and deliver at the international boundary and for which import authority is herein requested are as follows:

Tenneco InterAmerica—37.5 percent.
Texas Eastern—27.5 percent.
El Paso—15.0 percent.
Southern and Florida—10.0 percent.
Transco—10.0 percent.

Applicants state that pursuant to the provisions of the memorandum of intentions, the purchase contracts between Applicants and Pemex would, among other things, provide for an initial term of six years plus another additional six-year term provided Applicants meet the best tender Pemex may have at the end of the initial term and for an initial price, F.O.B. Reynosa, payable in U.S. dollars calculated to equal the total heating value price of No. 2 fuel oil in New York harbor, using the average of the high prices prevailing during the preceding quarter and using 140,000 Btu's per gallon as the heating value of No. 2 fuel oil. It is asserted that if by the end of any quarter the price index no longer reflects accurately the real commercial value of energy delivered, a new price index would be chosen by mutual agreement.

It is indicated that the gas to be purchased and imported would be supplied by Pemex's existing gas pipeline system and by its proposed natural gas trunk line from Reforma to Reynosa and would be produced by Pemex primarily from many fields in the Reforma area in Chiapas and Tabasco. Applicants assert that DeGolyer and McNaughton's current estimate of the remaining natural gas proved and probable reserves in such area is 9.661 trillion cubic feet with a potential reserves of an additional 20.648 trillion cubic feet.

Applicants state that the subject proposal is an integral part of a comprehensive project whereby large daily volumes of gas produced in Mexico by Pemex would be made available to the United States. Further, it is stated that each of the pipeline systems to be served by the subject project has experienced high levels of curtailment in recent years and that the large daily volumes of gas proposed to be imported constitute a most significant gas supply attachment for each such pipeline system at an alternate fuel related price level.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 8, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to

[1] These two documents are on file with the Commission and are available for public inspection in the Commission's Office of Public Information.

[2] See Transcript Volume No. 10 pages 1161-1166.

VOL 42 NO 165 AUG 25 77 UM

participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24534 Filed 8-24-77;8:45 am]

[Docket No. RI77-54]

TEXAS OIL & GAS CORP.

(Operator), et al.

Amended Petition for Special Relief

AUGUST 16, 1977.

Take notice that on August 4, 1977, Texas Oil & Gas Corporation (Operator), et al. (TXO) submitted an amendment to its April 4, 1977 petition for special relief filed pursuant to Section 2.76 of the Commission's General Policy and Interpretations in the above-captioned docket. By this amendment TXO seeks a total rate of 77 cents per Mcf. at 14.65 psia for its sale of natural gas to Michigan Wisconsin Pipeline Company from a well located in Beaver County, Oklahoma. TXO had previously sought a rate of 78.125 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said petition should on or before August 31, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77 24535 Filed 8 24-77;8:45 am]

[Docket No. CP76-118]

U-T OFFSHORE SYSTEMS

Further Extension of Time

AUGUST 18, 1977.

On August 5, 1977, U-T Offshore System filed a request to further extend the time for submitting rate schedules and cost of service studies pursuant to Ordering Paragraph (B) of the Commission Order issued January 13, 1977, in the above designated docket.

Upon consideration, notice is hereby given that a further extension of time is granted to and including October 3, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24523 Filed 8 24 77;8:45 am]

[Docket No. RM74-19]

INEXCO OIL CO.

Petition for Rulemaking to Permit Collection by Independent Producers of a Surcharge For Use In Exploration for Natural Gas

AGENCY: Federal Power Commission.

ACTION: Order Denying Petition For Initiation of Rulemaking Proceeding.

SUMMARY: Inexco Oil Company filed a petition for initiation of a rulemaking proceeding for the purpose of investigating a proposal which would permit collection of a surcharge on gas transported in interstate commerce. The surcharge would be collected from the ultimate gas consumer, held by the Commission in a trust fund, and distributed annually to exploration and development companies which have discovered gas reserves dedicated to interstate commerce. The Commission is denying the petition. A primary effect of this denial is to eliminate shifting, from producers to consumer, the financial risk in gas exploration and development.

EFFECTIVE DATE: August 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Norman Pedersen, Office of General Counsel, 202-275-4318.

ORDER DENYING PETITION FOR INITIATION OF RULEMAKING PROCEEDING

AUGUST 17, 1977.

On March 13, 1974, Inexco Oil Company (Inexco) filed a petition requesting that the Commission initiate a rulemaking proceeding for the purpose of investigating the surcharge proposal presented by Inexco in its brief filed on November 7, 1973 in "Transcontinental Gas Pipe Line Corporation," Docket No. RP73-69. For the reasons stated hereinafter, the Commission shall deny Inexco's petition.

Inexco proposed that the Commission establish a trust fund to hold the proceeds from a 3 cents per Mcf surcharge on each Mcf of gas transported in interstate commerce. According to Inexco, the surcharge would be collected from the ultimate consumer of the gas. Amounts accumulated in the trust fund would be distributed on a yearly basis to the exploration and development companies which had discovered gas reserves dedicated to interstate commerce.

Inexco proposes that in order to share in the surcharge proceeds each producing company would be required to demonstrate the quantity of gas it had sold in interstate commerce during a given period of time. A company would receive 3 cents per Mcf for each Mcf of gas sold by it in interstate commerce provided that the company committed such proceeds to increased domestic gas exploration. A participating company would be required to document the amount expended on exploration over the previous five years, and to spend its share of the trust fund proceeds over and above the annual average of the amount expended by it on exploration, or incur a 100% tax on all of the trust fund proceeds received by it.

In support of its proposal Inexco alleges in its petition that the surcharge plan would result in a major increase in domestic gas exploration; would reward those companies which historically have searched for, found and subsequently dedicated gas to the interstate market; and would provide reserves needed to alleviate the energy shortage.

Public notice of Inexco's petition was issued on April 12, 1974, with comments, petitions to intervene or protests due on or before June 8, 1974. The parties listed in Appendix A filed petitions to intervene. The Commission finds that good cause exists to grant intervention to each party listed.

The parties listed in Appendix B commented on Inexco's proposal. All such parties commented adversely. Among the most frequently expressed objections to the surcharge plan were the following: (1) The Commission has no authority to levy a surcharge on ultimate customers; (2) while the 3% surcharge would be uniformly applied to the rates charged to all consumers, there is no assurance that the ultimate consumer who pays the surcharge will receive his proportionate share of gas supplies as a result of his surcharge payments; (3) if a producer must demonstrate five years prior experience to benefit from surcharge proceeds, the surcharge proposal would restrict the entry of new producers into the field contrary to antitrust policy; (4) the surcharge plan presents administrative problems of how to collect the surcharge proceeds, how to distribute the proceeds without protracted adjudication of competing producer claims and how to monitor producer spending of the proceeds; (5) the proposal could foster wasteful expenditures of capital by a participating company because of the possibility of that company incurring a 100% tax on all of the trust fund proceeds received by it if it failed to spend its share of the trust fund proceeds over and above the annual average of the amount expended by it on exploration during the previous five years.

Additionally, twelve of the twenty-two parties commenting on Inexco's proposal stated that if the Commission were to increase the rate for gas sold in interstate commerce in the then-pending nationwide rate proceeding in Docket No. R-389-B, a surcharge would not be necessary. Inexco itself stated in the brief it filed on November 7, 1973 in Docket No. RP73-69 that its proposed surcharge was a "short-term alternative to increased overall prices." (Inexco Brief, p. 7)

After Inexco filed its petition and the last of the comments were filed in response thereto, the Commission issued

Opinion Nos. 699[1] and 699-H[2] in Docket No. R-389-B, establishing national rates for sales of natural gas in interstate commerce. The rates established in Docket No. R-389-B were subsequently revised substantially upward in Docket No. RM75-14.[3] Thus, the Commission has taken the action to which Inexco's surcharge proposal was a "short-run alternative." The rate for interstate sales of natural gas has been raised, thereby providing capital and incentive for increased exploration and development of new gas supplies and, accordingly, obviating the need for Inexco's proposed surcharge. The Commission concludes, therefore, that Inexco's petition should be denied as having become moot as a result of actions taken subsequently to the filing of it.

Since Inexco filed its petition the Commission has, additionally, issued Opinion Nos. 721[4] and 721-A[5] in "Transcontinental Gas Pipe Line Corporation," Docket No. RP73-69. In that proceeding Transcontinental Gas Pipe Line Corporation (Transco) had proposed a 3 cents per Mcf surcharge on all its firm sales for a five year period. The proceeds of the surcharge were to be transferred to a nonprofit corporation to be used for exploration and development to augment Transco's general system gas supply. In Opinion Nos. 721 and 721-A the Commission rejected the Transco surcharge proposal finding that while it had approved programs whereby pipeline customers pay carrying charges on amounts invested in finding additional gas supplies, it could not condone the shifting of financial risk from the producer to the consumer as would occur if the customers were required to supply the initial investment capital itself.[6] Under Inexco's surcharge proposal, the consumer would be supplying initial investment capital. Thus, there would be a shifting of risk from producer to consumer. Inexco's proposal, therefore, suffers from the same defect as did Transco's. This is another factor compelling Commission denial of Inexco's petition.

Associated Gas Distributors (AGD) filed a motion on June 10, 1974, requesting that the matter of Inexco's petition be consolidated with the national rate proceeding then pending in Docket No. R-389-B. In light of the subsequent completion of the rulemaking in Docket No. R-389-B and our denial of Inexco's petition herein, AGD's motion shall be denied as moot.

The Commission finds: (1) Good cause exists to deny Inexco's March 13, 1974 petition for initiation of a rulemaking proceeding.

(2) Good cause exists to grant intervention to each party listed in Appendix A of this order.

(3) Good cause exists to deny AGD's June 10, 1974 motion for consolidation.

The Commission orders: (A) Inexco's petition of March 13, 1974, for initiation of a rulemaking proceeding is denied.

(B) The petitions to intervene listed in Appendix A are hereby granted subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in each petition to intervene; *And provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(C) AGD's June 10, 1974, motion for consolidation is hereby denied.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

PARTIES FILING PETITIONS TO INTERVENE

Company:	*Date filed—1974*
Sun Oil Co	May 8
Southern Union Gas Co.	May 13
Associated Gas Distributors.	May 20
Equitable Gas Co	May 23
Kentucky West Virginia Gas Co.	Do.
Columbia Gas Transmission Corp.	June 3
Union Oil Co. of California.	Do.
Ashland Oil, Inc	June 4
Exxon Corp	June 6
State of Louisiana	Do.
Public Utilities Commission of the State of Colorado.	Do.
Mitchell Energy Corp	Do.
Marathon Oil Co	Do.
Tennessee Gas Pipeline Co.	June 7
Shell Oil Co	Do.
The California Co., a division of Chevron Oil Co.	Do.
The Peoples Natural Gas Co.	Do.
Interstate Natural Gas Association of America.	Do.
People of the State of California and the Public Utilities Commission of the State of California.	June 10
Amoco Production Co	Do.
The Superior Oil Co	Do.
Belco Petroleum Corp	Do.
Skelly Oil Co	June 13
Texaco Inc	June 14
Amerada Hess Corp	June 17
Continental Oil Co	Do.

APPENDIX B

PARTIES SUBMITTING VIEWS AND COMMENTS

Company:	*Date Submitted—1974*
Equitable Gas Co	May 28
Kentucky West Virginia Gas Co	Do.
Columbia Gas Transmission Corp	June 3
Southern California Gas Co	Do.
Exxon Corp	June 6
Mitchell Energy Corp	Do.
Public Utilities Commission of the State of Colorado	Do.
The California Co., a division of Chevron Oil Co	June 7
Shell Oil Co	Do.
Pacific Gas and Electric Co	Do.
Southern California Edison Co	June 6
Interstate Natural Gas Association of America	June 7
Mobil Oil Corp	June 10
Phillips Petroleum Co	Do.
United Gas Pipe Line Co	Do.
Continental Oil Co	Do.
Amoco Production Co	Do.
Colorado Interstate Gas Co., a division of Colorado Interstate Corp	Do
Skelly Oil Co	June 13
The Superior Oil Co	Do.
Texaco Inc	June 14
Amerada Hess Corp	June 17

[FR Doc.77-24546 Filed 8-24-77;8:45 am]

FEDERAL RESERVE SYSTEM

[H.2, 1977 No. 32]

ACTIONS OF THE BOARD; APPLICATIONS AND REPORTS RECEIVED DURING THE WEEK ENDING AUGUST 6, 1977

ACTIONS OF THE BOARD

Equal Credit Opportunity, the Board issued an interpretation of the provision of its Regulation B dealing with Federal or State special purpose credit programs.

Temporary suspension of the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by the severe storms and flooding beginning about July 19, 1977, in the Commonwealth of Pennsylvania.

Report on bill S. 1873, request for Board's views on an amendment that would prevent Federally-chartered institutions from offering NOW accounts in any State unless and until the State legislature granted such authority to State-chartered institutions within that State; reply sent to chairman Thomas J. McIntyre, subcommittee on Financial Institutions.

Report on bill S. 1724 which seeks to transform the ad hoc Urban Reinvestment Task Force into a permanent Neighborhood Reinvestment Corporation; letter sent to Chairman Proxmire, Senate Committee on Banking, Housing and Urban Affairs expressing Board's views.

Letter to Federal Reserve Bank of Atlanta regarding the conceptual design for the Miami Branch.

First Maywood, Inc., Maywood, Illinois, extension of time to October 10, 1977, within which to become a bank holding company through the acquisition of the voting shares (less directors' qualifying shares) of the successor by merger to the First

[1] "Just and Reasonable Rates for Sales of Natural Gas," 51 F.P.C. 2212 (1974).

[2] "Just and Reasonable Rates for Sales of Natural Gas," 52 F.P.C. 1604 (1974); aff'd. "Shell Oil Co v. F.P.C." 520 F.2d 1061 (5th Cir. 1975), cert. denied sub. nom. "California Co v. F.P.C.", 426 U.S. 941 (1976).

[3] "National Rates for Jurisdictional Sales of Natural Gas," Opinion No. 770, issued July 27, 1976; modified, Opinion No. 770-A, issued November 5, 1976, aff'd "American Public Gas Association v. F.P.C.", No. 76-2000, et al., ____ F.2d ____ (D.C. Cir., June 16, 1977).

[4] Issued March 4, 1975.

[5] Issued May 2, 1975.

[6] See: Opinion No. 731, supra, at 7; Opinion No. 721-A supra, at 5.

National Bank of Maywood, Maywood, Illinois.[1]

First National Boston Corporation, Boston, Massachusetts, extension of time to October 7, 1977, within which to consummate the acquisition of The First National Bank of Yarmouth, Yarmouth Port, Massachusetts.[1]

SYB Corporation, Oklahoma City, Oklahoma, extension of time to October 6, 1977, within which to consummate the acquisition of United Oklahoma Bank, Oklahoma City, Oklahoma.[1]

Oberlin Savings Bank Company, Oberlin, Ohio, to make an investment in bank premises.[1]

Ohio Bank and Savings Company, Findlay, Ohio, to make an investment in bank premises.[1]

Peoples Trust Company, Brookville, Indiana, to make an investment in bank premises.[1]

Citizens Bank of Pacific, Pacific, Missouri, request for a 90-day extension of time until until November 17, 1977, to establish a facility (branch) on the west side of State Highway 100 near its intersection with Highway M in the unincorporated community of Gray Summit, Missouri.[1]

First Progressive Bank, Brewton, Alabama, a proposed new bank, extension of time to December 27, 1977, within which to open for business and effect membership in the Federal Reserve System.[1]

Termination of registration for Larned Production Credit Association, Larned, Kansas, and for Vendo Associates Federal Credit Union, Overland Park, Kansas.[1]

Barnett Bank of Delray Beach, National Association, Delray Beach, Florida, proposed merger with Barnett Bank of West Delray Beach, Palm Beach County, Florida, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Flagship Banks, Inc., Miami, Florida, subsidiaries of, proposed merger with Flagship State Bank of Jacksonville, Jacksonville, Florida, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Flagship National Bank of Westland, Hialeah, Florida, proposed merger with Flagship National Bank of Miami, Miami, Florida, report to the Comptroller of the Currency on competitive factors.[1]

Fulton Savings Bank, Brooklyn, New York, proposed merger with Metropolitan Savings Bank, Brooklyn, New York, report to the Federal Deposit Insurance Corporation on competitive factors.

Intercontinental Bank of Miami, Miami, Florida, proposed merger with Intercontinental Bank of Miami Beach, Miami Beach, Florida, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Sun Banks of Florida, Inc., Orlando, Florida, subsidiaries of, proposed merger with Sun Bank of Miami, Miami, Florida, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

Bank of Virginia, Richmond, Virginia, Branch to be established as a Customer-Bank Communications Terminal at 5801 Bremo Road, Henrico County.[2]

[1] Application processed on behalf of the Board of Governors under delegated authority.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

People's Trust Company, Brookville, Indiana, Branch to be established at the northeast corner of intersection R.R.3, Reservoir Hill Road and State Road No. 101, Brookville, Franklin County.[2]

Walker Bank and Trust Company, Salt Lake City, Utah, Branch to be established in the vicinity of Downtown Roosevelt, Duchesne County.[2]

To become a Member Bank of the Federal Reserve System Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

First Settlers Bank, Hayes, Virginia.[2]
Utah Independent Bank, Salina, Utah.[2]
Sandy State Bank, Sandy, Utah.[2]

International Investments and Other Actions Pursuant to Sections 25 and 25(a) of the Federal Reserve Act and Sections 4(c)(9) and 4(c)(13) of the Bank Holding Company Act of 1956, as amended.

APPROVED

Wells Fargo Bank International: Investment—to acquire additional shares of Credit Chimigue, Paris, France.

Wells Fargo Bank, National Association: To restructure and refinance certain foreign holdings, including the establishment of an Edge Corporation to be known as "Wells Fargo International Affiliates Corporation".

Thirty Day Notice by a Member Bank of Intention to Establish an additional branch in a Foreign Country.

APPROVED

The First National Bank of Boston: Branch—Additional in Brasilia, Brazil.

Bank of America National Trust & Savings Association: Branch—Additional in Pusan, Korea.

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

APPROVED

Brentwood Bancshares Corporation, St. Louis, Missouri, for approavl to acquire at least 80 per cent of the voting shares of Brentwood Bank, Brentwood, Missouri, Brentwood, Missouri.[2]

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

APPROVED

First Midwest Bancorp, Inc., St. Joseph, Missouri, for approval to acquire 80 per cent or more of the voting shares of The Farmers Bank of Gower, Gower, Missouri through the acquisition of 100 per cent of the voting shares of L.W.J.S. Corporation, Gower, Missouri.

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

APPROVED

Brentwood Bancshares Corporation, St. Louis, Missouri, for permission to engage *de novo* in acting as agent or broker in the sale of credit life and credit accident and health insurance, directly related to extensions of credit by Brentwood Bank, Brentwood, Missouri, Brentwood, Missouri.[2]

PERMITTED

Southeast Banking Corporation, Miami, Florida, notification of intent to engage in de novo activities (the business of acting as agent or broker for the sale of credit life, accident and health insurance related to extensions of credit by the bank holding company and/or its banking and nonbanking subsidiaries) at 1001 N.W. 7th Street, Miami; 231 E. Forsyth Street, Jacksonville; 201 E. Pine Street, Orlando; and 403 N. Morgan Street, Tampa, all in Florida, through a subsidiary, Southeast Credit Insurance Agency, Inc. (8/3/77) [2]

Southwest Florida Banks, Inc., Fort Myers, Florida, notification of intent to engage in de novo activities (providing, as agent, in connection with extensions of credit by applicants, subsidiary banks, insurance assuring repayment of such an extension of credit in the event of death of disability of the borrower) at 2400 First Street, Fort Myers; 4301 Palm Beach Boulevard, Fort Myers; First Commercial Bank of Fort Myers, College Parkway, Fort Myers; 6848 North Cleveland Avenue, North Fort Myers; 2001 Siesta Drive, Sarasota; 6525 South Tamiami Trail, Sarasota; and 2180 South Tamiami Trail, Venice, all in Florida, through a subsidiary, Southwest Financial Services, Inc. (7 31 77) [2]

First Bank System, Inc., Minneapolis, Minnesota, notification of intent to engage in de novo activities (mortgage banking business, including the origination, purchase, sale and servicing of real estate mortgage loans) at 8801 West Center Road, Omaha, Nebraska, through FBS Homes, Inc. a mortgage banking and sales finance subsidiary of FBS Financial, Inc. (8 5 77) [2]

BankAmerica Corporation, San Francisco, California, notification of intent to relocate de novo activities (making or acquiring, for its own account loans and other extensions of credit such as would be made or acquired by a finance company; such activities will include, but not be limited to, making consumer installment loans; purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, and making loans secured by real and personal property; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance, and credit related property insurance in connection with extensions of credit made or acquired by FinanceAmerica Corporation of Ohio and FinanceAmerica Discount Company of Ohio) from 128 East Sixth Street, Cincinnati, Ohio to 1594 Goodman Avenue, North College Hill, Ohio, through its indirect subsidiaries, FinanceAmerica Corporation of Ohio and FinanceAmerica Discount Company of Ohio. (7 31 77) [2]

APPLICATIONS RECEIVED

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

First Trust & Savings Bank of Kankakee, Kankakee, Illinois, Branch to be established at the northwest corner of Merchant and Curtis Avenue, Kankakee.

American Security Bank, Mount Pleasant, Michigan, Branch to be established at the northwest corner of the intersection of East Pickard and Summerton Road, Union Township, Isabella County.

The Bank of El Paso, El Paso, Texas, Branch to be established as a New Motor Bank Facility and Data Processing Center at 5101 Montana Street, El Paso.

Thirty Day Notice by a Member Bank of Intention to Establish an additional Branch in a Foreign Country.

[2] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

Citibank, National Association: Branch—Additional in Hong Kong.

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

Linn County Bancshares, Inc., Linneus, Missouri, for approval to acquire 80 per cent or more of the voting shares of Linn County State Bank, Linneus, Missouri.

Republic Bancorporation, Inc., Englewood, Colorado, for approval to acquire at least 80 per cent of the voting shares of Republic National Bank of Englewood, Englewood, Colorado.

Kelly Field Bancshares Corporation, San Antonio, Texas, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of Kelly Field National Bank of San Antonio, San Antonio, Texas.

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

The Royal Trust Company, Montreal, Quebec, Canada and Royal Trust Bank Corp., Miami, Florida, for approval to acquire 51 per cent or more of the voting shares of The American Bank of Orange County, Orange County, Florida.

The Marine Corporation, Milwaukee, Wisconsin, for approval to acquire 80 percent or more of the voting shares of American Kettle Moraine Bank, Delafield, Wisconsin.

Crystal State Agency, Inc., Minneapolis, Minnesota, for approval to acquire 94.1 percent of the voting shares of Wayzata Bank & Trust Company, Wayzata, Minnesota.

To Expand a Bank Holding Company Pursuant to Section 3(a)(5) of the Bank Holding Company Act of 1956.

First National Financial Corporation, Kalamazoo, Michigan, for approval to merge with American Bankcorp, Inc., Lansing, Michigan.

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

Industrial National Corporation, Providence, Rhode Island, notification of intent to relocate de novo activities (origination and sale of residential mortgages, consumer finance, servicing of mortgage loans; and insurance agency for any insurance directly related to an extension of credit or provision of other financial services) from 4747 West Peterson Avenue, Chicago, Illinois to 4415 West Harrison Street, Suite 312-C, Hillside, Illinois, through its subsidiary, Mortgage Associates, Inc. (8 2 77) [2]

Chemical New York Corporation, New York, New York, notification of intent to engage in de novo activities (extending direct loan credit and purchasing sales finance contracts and such other extensions of credit as would be made or acquired by a consumer finance company operating under the Mississippi Small Loan Regulatory Act; and providing, at the election of debtors of said consumer finance company, group credit life and group accident and health insurance directly related to such extensions of credit) at Kimbrough Plaza, 4915 I-55 North, Jackson, Mississippi, through its subsidiary, SunAmerica Corporation. (8 1 77) [2]

Horizon Bancorp, Morristown, New Jersey, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit as would be made by a mortgage company; and servicing loans and other extensions of credit for any person) at 2121 Ponce de Leon Boulevard, Suite 415, Coral Gables, Florida and 2210 Parklake Drive, N.E., Suite 115, Atlanta, Georgia, through its subsidiary, Mortgage Investment Securities Inc. (7/27/77) [2]

Manufacturers Hanover Corporation, New York, New York, notification of intent to engage in de novo activities (arranging making or acquiring for its own account or for the account of others, loans and other extensions of credit such as would be made or acquired by a mortgage company; and servicing such loans and other extensions of credit; and acting as agent or broker for the sale of credit life and credit accident and health insurance which is related to extensions of credit made or acquired by The Financial Source, Inc. of Connecticut) through sixteen existing offices of Ritter Finance Company Inc. of Connecticut. (8 3 77) [2]

United Virginia Bankshares Incorporated, Richmond, Virginia, notification of intent to relocate de novo activities (originating loans as principal; originating loans as agent; servicing loans for non-affiliated individuals, partnerships and corporations; servicing loans for affiliates of United Virginia Bankshares Corporation; the sale as agent, of credit disability, mortgage redemption and mortgage cancellation insurance in connection with such loans; and such other activities as may be incidental to the business of a mortgage corporation) from 2200 Century Parkway, N.E., Suite 798, Atlanta, Georgia, to 2295 Parklake Drive, N.E., Suite 470, Atlanta, Georgia, through its subsidiary, United Virginia Mortgage Corporation. (8 3 77) [2]

Great American Corporation, Baton Rouge, Louisiana, notification of intent to engage in de novo activities (making and acquiring for its own account, loans, discounts, acceptances and other extensions of credit, and such other business as is customarily engaged in by consumer credit or finance company; and acting as insurance agent or broker in selling insurance to borrowers from such finance subsidiary to include credit life insurance, accident and health insurance) at 3201 Ryan Street, Lake Charles, Louisiana, through a subsidiary, Ambank Acceptance Corporation. (7 27 77) [2]

BankAmerica Corporation, San Francisco, California, notification of intent to relocate de novo activities (making loans and extending credit, servicing for itself and others, loans and other extensions of credit such as would be made or provided by a finance company including, but not be limited to, providing the financing of stock and floor plan inventory of distributors and dealers; making available to such distributors and dealers at their option and cost, fire, theft and damage insurance on a monthly reporting basis covering only the outstanding indebtedness on such floor plan inventory) from 3637 Park Avenue Building to 4023 Knight Arnold Road, Memphis, Tennessee, through its indirect subsidiaries, Finance-America Private Brands, Inc., Ariens Credit Corporation, and Hupp Credit Corporation. (8 1 77) [2]

REPORTS RECEIVED

Proxy Statement (Special Meeting) Filed Pursuant to Section 14(a) of The Securities Exchange Act.

Piedmont Trust Bank, Collinsville, Virginia.

PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, August 18, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-24575 Filed 8-24-77;8:45 am]

WHITE CLOUD BANCSHARES

Formation of Bank Holding Company

White Cloud Bancshares, Kansas City, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 86.7 percent of the voting shares of First State Bank, White Cloud, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 19, 1977.

Board of Governors of the Federal Reserve System, August 19, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-24574 Filed 8-24-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Physicians Regarding Intention to Enter Into Agreement Designating Conditional Professional Standards Review Organization for Redesignated Area VI of Ohio

Notice is hereby given, in accordance with Section 1152(f) of the Social Security Act (42 U.S.C. 1320c-1(f)) and 42 CFR 101.104, that the Secretary of the Department of Health, Education, and Welfare proposes to enter into an agreement with the Region Six Peer Review Organization for redesignated PSRO Area VI of the State of Ohio which includes the counties of Summit and Portage as provided in the amendment to § 101.39 of Title 42, Code of Federal Regulations (CFR) published on August 25, 1977, in the FEDERAL REGISTER. This agreement will be subject to satisfactory completion of the contract negotiation process and completion of required changes in the organization structure and formal plan.

The Secretary has determined that the Region Six Peer Review Organization is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Ohio as a nonprofit professional organization whose membership is voluntary and comprises at least 25 per centum of the licensed doctors of

medicine or osteopathy engaged in active practice in PSRO Area VI of the State of Ohio.

As stipulated in its articles of Incorporation, the principal officers of the Region Six Peer Review Organization are:

NAME AND OFFICE HELD

1. Robert R. Clark, M.D., President.
2. Robert C. Barns, M.D., Vice President.
3. Carl J. Nader, M.D., Secretary.
4. Earl C. Herschberger, M.D., Treasurer.

The official address of the corporation is Region Six Peer Review Organization, 430 Grant Street, Akron, Ohio 44311.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area VI of the State of Ohio who objects to the Secretary entering into an agreement with the Region Six Peer Review Organization on the grounds that this organization is not representative of the doctors in such area may, on or before thirty days after the date this Notice appears in the FEDERAL REGISTER, mail such objection in writing to the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office(s), his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in a medical facility or other health related institutions, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 932 doctors of medicine and/or osteopathy are engaged in active practice in PSRO Area VI of the State of Ohio. In the event that more than 10 percentum of the doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Region Six Peer Review Organization is representative of such doctors in the area; provided that pursuant to Section 108(b) of Public Law 94-182, the provisions of Section 1152(f) [42 USC 1320c-1(f)], relating to notification and polling, as described above, shall not apply where: (1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State, in which such area is located if different, has adopted by resolution or other official procedures a formal policy position of opposition to or noncooperation with the established program of professional standards review; or (2) the organization proposed to be designated by the Secretary under Section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f)(2) thereof.

Dated: August 23, 1977.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

[FR Doc.77-24801 Filed 8-24-77;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

Meeting

AGENCY: National Advisory Council on Extension and Continuing Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Extension and Continuing Education. It also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10 (a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATE: Meeting: September 14-16, 1977.

ADDRESS: The Watergate Hotel, 2650 Virginia Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

James A. Turman, Executive Director, National Advisory Council on Extension and Continuing Education, 425 Thirteenth Street NW., Suite 529, Washington, D.C. 20004.

The National Advisory Council on Extension and Continuing Education is authorized under Pub. L. 89-329. The Council is required to report annually to the President, the Congress, the Secretary of HEW, and the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Part A of Title I (HEA) including policies and procedures governing the approval of State plans under section 105; and to advise the Assistant Secretary of HEW on Part B (Lifelong Learning activities) of the title. The Council is required to review the administration and effectiveness of all federally supported extension and continuing education programs.

The meeting of the Council will be open to the public beginning on September 14, 1977 at 1:30 p.m. until 5 p.m.; on September 15, from 9 a.m. until 5 p.m.; and on September 16, from 9 a.m. ending at 12 noon.

The agenda for the meeting will include the following items:

(1) Review of Federal education policies and their relevance to postsecondary continuing education.

(2) Approval of the Council's FY 1978 budget.

(3) Determination of program priorities and activities for FY 1978.

(4) Review of the Council's draft Compendium of Federal Programs of Continuing Education and Lifelong Learning.

(5) Meeting of the Title I Committee to discuss the Council's oversight responsibilities for the University Community Service Program (title I, HEA) of the U.S. Office of Education, and to review a study proposal outlining the Committee's work plan for the coming year.

(6) Meeting of the Continuing Education Policy Committee to review and modify its proposal to undertake a study of continuing education and lifelong learning opportunities in the United States.

(7) Other administrative matters and related business.

All records of Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 Thirteenth Street NW., Washington, D.C.

Dated: August 17, 1977.

JAMES A. TURMAN,
Executive Director.

[FR Doc.77-24538 Filed 8-24-77;8:45 am]

Office of the Secretary

BOARD OF ADVISORS TO THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), that the next meeting of the Board of Advisors to the Fund for the Improvement of Postsecondary Education will be held on September 25, 1977 at 5:00 p.m. through September 26, 1977 at 5:00 p.m. at the Mayflower Hotel, 1127 Connecticut Avenue, N.W., Washington, D.C.

The Board of Advisors to the Fund was established to recommend to the Director of the Fund and the Assistant Secretary for Education priorities for funding and the approval or disapproval of grants and contracts of a given kind or over a designated amount under section 404 of the General Education Provisions Act.

The meeting will be open to the public. It will be for the sole purpose of reviewing recommending possible program directions for fiscal year 1977-78.

A summary of the proceedings of the meeting and a roster of members may be obtained from the Fund for the Improvement of Postsecondary Education, 400 Maryland Avenue SW., Room 3123, Washington, D.C. 20202, telephone 202-245-8091.

Signed at Washington, D.C. on August 19, 1977.

CHARLES I. BUNTING,
Acting Director, Fund for the Improvement of Postsecondary Education.

[FR Doc.77-24736 Filed 8-24-77;8:45 am]

Office of Education

FOLLOW THROUGH PROGRAM

Closing Date for Receipt of Applications (By Invitation Only) for Additional FY 1977 Funds

Correction

In the issue for Friday, August 19, 1977 at page 41926 there appeared a correction for FR Doc. 77-23524 which was published at page 41326 in the issue of Tuesday, August 16, 1977. In the second paragraph of the correction, the date to be corrected was referred to as being in the third line of the *first* full paragraph in column two, page 41326. The date to be corrected actually appears in the third line of the *third* full paragraph. The correction, therefore, is to

the last date by which applications may *be postmarked* (September 7, 1977). The closing date for the *receipt* of applications remains September 12, 1977.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-532]

Interagency Drought Emergency Coordinating Committee

Designation of Additional Emergency Drought Impact Areas

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of additional designation of Emergency Drought Impact Areas by the Interagency Drought Emergency Coordinating Committee of 1977.

DATED: August 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Jack W. McGraw, Director, Preparedness Office, Federal Disaster Assistance Administraton, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7845.

Acting upon the request of the respective Governors, the Interagency Drought Emergency Coordinating Committee designated the following as Emergency Drought Impact Areas:

Virginia—1 Additional Independent City
Manassas Park

Manassas Park

Alabama—4 Additional Counties

Calhoun	DeKalb
Cleburne	Marshall

Indiana—1 Additional County

Miami

Vermont—1 County

Addison

The designation of an Emergency Drought Impact Area does not confer entitlement to drought assistance. Individuals and communities must meet the separate eligibility requirements established by each agency before assistance may be provided.

Under the authority granted to the Administrator as Secretary to the Committee by the Memorandum of Agreement (42 FR 21855, April 29, 1977), I have provided this designation for the public record.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-24548 Filed 8-24-77;8:45 am]

[Docket No. NFD-533]

INTERAGENCY DROUGHT EMERGENCY COORDINATING COMMITTEE

Designation of Additional Emergency Drought Impact Areas

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of additional designation of Emergency Drought Impact Areas by the Interagency Drought Emergency Coordinating Committee of 1977.

DATED: August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Jack W. McGraw, Director, Preparedness Office, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7845.

Acting upon the request of the respective Governors, the Interagency Drought Emergency Coordinating Committee designated the following as Emergency Drought Impact Areas:

Alabama—5 Additional Counties

Franklin	Morgan
Jackson	Winston
Marion	

Georgia—3 Additional Counties

Habersham	White
Stephens	

Indiana—1 Additional County

Tippecanoe

North Carolina—3 Additional Counties

Burke	Yancey
Wilkes	

South Carolina—13 Additional Counties

Berkeley	Georgetown
Clarendon	Horry
Colleton	Lee
Darlington	Marion
Dillon	Marlboro
Dorchester	Williamsburg
Florence	

(The entire State has now been designated.)

Virginia—1 Additional Independent City

Manassas

The designation of an Emergency Drought Impact Area does not confer entitlement to drought assistance. Individuals and communities must meet the separate eligibility requirements established by each agency before assistance may be provided.

Under the authority granted to the Administrator as Secretary to the Committee by the Memorandum of Agreement (42 FR 21855, April 29, 1977), I have provided this designation for the public record.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-24549 Filed 8-24-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA DESERT CONSERVATION AREA ADVISORY COMMITTEE, PUBLIC PARTICIPATION SUBCOMMITTEE

Meeting

Notice is hereby given in accordance with Public Law 92-463 and 92-579 that the ad hoc subcommittee on public participation of the California Desert Conservation Area Advisory Committee to the Bureau of Land Management, U.S. Department of the Interior, will meet in Riverside, California, September 20, 1977. The meeting will be a working session to review and consider revision of the draft public participation plan for the California Desert Planning Program, including methods of creating public awareness of the program, and techniques for obtaining public participation in the planning process.

The meeting will be held at 2 p.m., Tuesday, September 20, in the Conference Room, Riverside District Office, Bureau of Land Management, 1695 Spruce Street, Riverside, California 92507, and will be open to the public.

Dated: August 18, 1977.

ED HASTEY,
State Director.

[FR Doc 77 24590 Filed 8-24-77;8:45 am]

[NM 25765]

NEW MEXICO

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

AUGUST 16, 1977.

The Corps of Engineers, U.S. Department of the Army, filed application serial number NM 25765 on June 2, 1975, for a withdrawal in relation to the following described lands:

NEW MEXICO PRINCIPAL MERIDIAN,
NEW MEXICO

T. 1 N., R. 30 E.,
Sec. 2, $S\frac{1}{2}$;
Sec. 11;
Sec. 20, $S\frac{1}{2}SE\frac{1}{4}$;
Sec. 28.

T. 2 N., R. 30 E.,
Sec. 20, $E\frac{1}{2}SE\frac{1}{4}$;
Sec. 21, $SW\frac{1}{4}$ and $W\frac{1}{2}SE\frac{1}{4}$;
Sec. 28, $W\frac{1}{2}E\frac{1}{2}$ and $W\frac{1}{2}$;
Sec. 29, $E\frac{1}{2}E\frac{1}{2}$;
Sec. 32, $E\frac{1}{2}E\frac{1}{2}$;
Sec. 33, $W\frac{1}{2}E\frac{1}{2}$, $NW\frac{1}{4}$ and $S\frac{1}{2}SW\frac{1}{4}$.

T. 1 S., R. 30 E.,
Secs. 2, 3 and 4;
Sec. 6, lots 1 and 2;
Sec. 9, $N\frac{1}{2}$ and $N\frac{1}{2}S\frac{1}{2}$;
Sec. 10, $N\frac{1}{2}$ and $N\frac{1}{2}S\frac{1}{2}$;
Sec. 11, $N\frac{1}{2}$ and $N\frac{1}{2}S\frac{1}{2}$.

The area described aggregates 6,713.90 acres in Roosevelt County, New Mexico.

The applicant desires the lands as a bombing range for the purpose of training Air Force personnel of the Tactical Air Command stationed at Cannon Air Force Base, New Mexico.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on July 1, 1975, page 27675, FR Doc. 75-17121.

Pursuant to Sec. 204(h) of the Federal Land Policy and Management Act of 1976, (90 Stat. 2754), notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing to the State Director, Bureau of Land Management, Department of the Interior, P.O. Box 1449, Santa Fe, New Mexico 87501, on or before September 26, 1977. If a public hearing is scheduled, a notice will be published in the FEDERAL REGISTER giving the time and place of such hearing. All pre-

vious comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the publication.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 26, 1977.

The above-described lands are temporarily segregated from all forms of appropriation, including the general mining and the mineral leasing laws, except that grazing leases or permits may be issued for lands in the safety area. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 28, 1991, unless sooner terminated by action by the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, P.O. Box 1449, Santa Fe, New Mexico 37501.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc 77 24591 Filed 8-24 77,8:45 am]

NEW MEXICO

Application

AUGUST 17, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), BCO, Inc. has applied for one 3-inch natural gas pipeline right-of-way across the following lands:

New Mexico Principal Meridian, New Mexico
T. 22 N., R. 7 W.,
Sec. 6, lots 3 and 4.
T. 22 N., R. 8 W.,
Sec. 1, lots 1, 2, 3, and 4;
Sec. 2, lot 1.
T. 23 N., R. 7 W.,
Sec. 22, E½SE¼;
Sec. 25, SW¼NW¼;
Sec. 26, S½N½ and NW¼NW¼;
Sec. 27, E½E½;
Sec. 31, SE¼SW¼ and S½SE¼;
Sec. 33, E½SW¼, SW¼SW¼, and N½SE¼;
Sec. 34, N½NE¼, SW¼NE¼, SE¼NW¼, and N½SW¼.

This pipeline will convey natural gas across 7.026 miles of public lands in Sandoval and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc 77 24593 Filed 8-24-77;8:45 am]

Geological Survey

PROPOSED NATIONAL ORDERS FOR THE OUTER CONTINENTAL SHELF GOVERNING OIL AND GAS LEASE OPERATIONS

Notice is hereby given that, pursuant to revisions of 30 CFR 250.2(j), 250.3, 250.11, and 250.12, National Orders for the Outer Continental Shelf (OCS) governing oil and gas lease operations are proposed as set forth below. The proposed revisions to these regulations and proposed National OCS Order Nos. 1, 3, and 4 were published in the FEDERAL REGISTER on June 29, 1977.

This publication also announced that National OCS Order Nos. 2 and 5 through 15 were under development and would be published at a later date. Proposed National Order Nos. 2, 5, 7, 8, and 12 are set forth below. Proposed National OCS Order Nos. 6, 9, 10, 11, 13, 14, and 15 remain under development and will be published at a later date. The existing Orders will remain in effect until such time as all of the proposed National Orders are published in final form in the FEDERAL REGISTER.

The Orders reflect an evaluation and the adoption of appropriate suggestions received in response to FEDERAL REGISTER solicitations for comments on proposed revisions to existing Area orders.

This Notice includes a table of contents for the Orders previously published and the titles of the remaining Orders to be developed.

Interested persons may submit written comments and suggestions on the proposed National OCS Orders to the Acting Chief, Conservation Division, U.S. Geological Survey, Mail Stop 600, National Center, 12201 Sunrise Valley Drive, Reston, Va. 22092, on or before October 25, 1977.

For further information, contact Mr. Richard B. Krahl, Chief of the Branch of Marine Oil and Gas Operations, Conservation Division, U.S. Geological Survey, Mail Stop 620, Reston, Va. 22092 (703–860–7531). The primary author of this document is Lloyd M. Tracey, OCS Orders and Standards Section, Branch of Marine Oil and Gas Operations, Conservation Division, U.S. Geological Survey (703–860–7835).

The Geological Survey has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and Office of Management and Budget Circular A–107.

W. A. RADLINSKI,
Acting Director.

First Edition (Month, Year)

NATIONAL ORDERS FOR THE OUTER CONTINENTAL SHELF GOVERNING OIL AND GAS LEASE OPERATIONS

U.S. DEPARTMENT OF THE INTERIOR—GEOLOGICAL SURVEY, CONSERVATION DIVISION, RESTON, VA.

FOREWORD

NATIONAL OUTER CONTINENTAL SHELF ORDERS

National Orders governing oil and gas lease operations for the Outer Continental Shelf (OCS) are hereby issued pursuant to the authority prescribed in 30 CFR 250.2(j), 30 CFR 250.3, 250.11, and 250.12(a).

The Federal Regulations authorizing each individual Order are cited in the preamble thereof.

The National OCS Orders were developed when it became apparent that the existing Orders for each of the OCS Areas contained a majority of requirements which were common to all Areas and that only a minority of the requirements arose from environmental, geological, geophysical, or geographical differences between the various Areas. Those requirements which are common to all Areas of the OCS have been compiled in the National OCS Orders. Those requirements which arise from environmental, geological, geophysical, or geographical differences have been compiled in appropriate Appendices to the National OCS Orders. Reference is made to these Appendices when there is a need for a variance in the requirements for a particular OCS Area.

The operator is responsible for compliance with the requirements of the National OCS Orders as well as those requirements in the Appendices which pertain to a particular OCS Area. In order to simplify the operator's conformance with the National OCS Orders and the Appendices, these items are cross-referenced.

When the Orders refer to approvals or determinations by the "Supervisor," these references mean the appropriate Area Oil and Gas Supervisor. In those instances where approvals or determinations are to be made by the District Supervisor, the Orders so state.

CONTENTS

National OCS Order No. 1
Identification of Wells, Platforms, Structures, and Subsea Objects (Proposed Order published FEDERAL REGISTER June 29, 1977).
National OCS Order No. 2
Drilling Procedures.
1. Drilling Platforms and Mobile Drilling Units
1.1 General Requirements for Fixed and Mobile Drilling Units
1.1.1 Fitness of Drilling Unit
1.1.2 Predrilling Inspection
1.1.3 Well Site Surveys
1.1.4 Drawings, Specifications, Performance Data
1.1.5 Oceanographic, Meteorologic, Performance Data
1.1.6 Subfreezing Operations
1.2 Mobile Drilling Units
1.3 Fixed Drilling Platforms
2. Well Casing and Cementing
2.1 Drive or Structural Casing
2.2 Conductor and Surface Casing Cementing Requirements
2.2.1 Conductor Casing
2.2.2 Surface Casing
2.2.3 Conductor and Surface Casing Setting Depths
2.3 Intermediate Casing
2.4 Production Casing
2.5 Pressure-Testing of Casing

3. Directional Surveys
4. Blowout Preventer (BOP) Equipment Requirements
4.1 General Requirements
4.1.1 BOP Equipment
4.1.2 Auxiliary Equipment
4.1.3 Subfreezing Operations
4.2 Subsea BOP Requirements
4.3 Surface BOP Requirements
4.4 Drive Pipe or Structural Casing BOP Requirements
4.4.1 Surface BOP
4.4.2 Surface BOP
4.4.3 Floating Drilling Operations
4.5 Conductor Casing
4.6 Surface and, or Intermediate Casing
4.7 Testing
4.7.1 BOP Controls
4.7.2 Pressure Tests
4.7.3 Actuation
4.8 Inspection and Maintenance
4.9 Drills
5. Mud Program
5.1 Mud Control
5.2 Mud Test Equipment
5.3 Mud Quantities
6. Supervision, Surveillance, and Training
6.1 Supervision
6.2 Surveillance
6.3 Training
7. Hydrogen Sulfide
8. Critical Operations and Curtailment Plans
National OCS Order No. 3
Plugging and Abandonment of Wells (Proposed Order published in FEDERAL REGISTER on June 29, 1977).
National OCS Order No. 4
Suspensions and Determination of Well Producibility (Proposed Order published in FEDERAL REGISTER on June 29, 1977).
National OCS Order No. 5
Subsurface Safety Devices and Surface Safety Systems.
1. Technological Improvement
2. Subsurface Safety Devices
2.1 Installation
2.2 Design, Testing, and Inspection
2.3 Surface-Controlled Subsurface Safety Devices
2.3.1 Quality Assurance and Performance
2.3.2 Installation and Testing
2.4 Subsurface-Controlled Subsurface Safety Devices
2.5 Shut-in Wells
2.6 Injection Wells
2.7 Tubing Plugs
2.8 Temporary Removal for Routine Operations
2.9 Additional Protective Equipment
2.10 Departures
2.11 Emergency Action
2.12 Records
2.12.1 Field Records
2.12.2 Other Records
2.13 Reports
3. Design, Installation, Operation, and testing of Surface Production Facilities Safety Systems
3.1 New Platforms
3.2 Existing Platforms
3.3 Approval of Alternate Methods of Safety System Design
3.4 Submittal of Safety System Design and Installation Features
4. Additional Safety and Pollution-Control Requirements
4.1 Design and Installation
4.1.1 Pressure Vessels
4.1.2 Flowlines
4.1.3 Remote Shut-In Systems
4.1.4 Engine Exhausts
4.1.5 Glycol Dehydration Units
4.1.6 Gas Compressors
4.1.7 Curbs, Gutters, and Drains
4.1.8 Firefighting Systems
4.1.9 Fire and Gas Detection Systems
4.1.10 Electrical Equipment
4.1.11 Erosion
4.2 General Platform Operations
4.3 Simultaneous Platform Operations
4.4 Welding Practices and Procedures
4.5 Safety Device Testing
4.6 Safety Device Training
5. Crane Operations
6. Employee Orientation and Motivation Programs for Personnel Working Offshore
7. Requirements for Drilling Rigs
7.1 Fixed Structures
7.2 Mobile Drilling Units
National OCS Order No. 6
Well Completions and Workover Operations (Under Development).
National OCS Order No. 7
Pollution Control and Waste Disposal.
1. Pollution Prevention
1.1 Liquid Disposal
1.1.1 Oil-Cut Drilling Mud
1.1.2 Drilling Mud Components
1.1.3 Hydrocarbon Handling Equipment
1.1.4 Curbs, Gutters, and Drains
1.1.5 Fixed Structure Discharges
1.1.6 Mobile Drilling Unit Discharger
1.2 Solid Material Disposal
1.2.1 Well Solids
1.2.2 Containers
1.2.3 Equipment
2. Personnel, Inspections, and Reports
2.1 Personnel
2.2 Pollution Inspections
2.2.1 Manned Facilities
2.2.2 Unattended Facilities
2.3 Pollution Reports
2.3.1 Spills
2.3.2 Observed Malfunctions
3. Pollution-Control Equipment and Oil Spill Contingency Plan
3.1 Equipment
3.2 Oil Spill Contingency Plan
4. Drills and Training
5. Spill Control and Removal
6. Contingency Plan Review
National OCS Order No. 8
Platforms and Structures.
1. General Platform Design
2. Fatigue Considerations
2.1 Steel Structures
2.2 Concrete Structures
3. Application
3.1 General Information
3.1.1 Identification Data
3.1.2 Location Data
3.1.3 Intended Uses
3.1.4 Personnel Facilities
3.1.5 Platform or Structure Details
3.1.6 Corrosion Protection
3.2 Environmental Information
3.2.1 Environmental Data
3.2.2 Acoustic Profiling
3.2.3 Loading
3.3 Foundation
3.3.1 Seabed Testing
3.3.2 Foundation Loads
3.3.3 Soil Stability Analysis
3.4 Installation
3.5 Specific Supporting Design Information Submittal
3.5.1 Critical Design Loading
3.5.2 Steel Structures Data
3.5.3 Concrete Structures Data
3.5.4 Nondestructure Testing
4. Certification
4.1 Certification of Plans
4.2 Certification by Operator
National OCS Order No. 9
Oil and Gas Pipelines (Under Development).
National OCS Order No. 10
(This Title and Content Reserved) (Under Development).
National OCS Order No. 11
Oil and Gas Production Rates, Prevention of Waste, and Protection of Correlative Rights.
OCS Order No. 12
Public Inspection of Records.
1. Filing of Reports
2. Availability of Records
2.1 Form 9–152—Monthly Report of Operations
2.2 Form 9–330—Well Completion or Recompletion Report and Log
2.2.1 Prior to Commencement
2.2.2 After Commencement of Production
2.2.3 5 Years Elapsed Time
2.3 Form 9–331—Sundry Notices and Report on Wells
2.3.1 "Request for Approval to"
2.3.2 "Subsequent Report of"
2.4 Form 9–331C—Application for Permit to Drill, Deepen, or Plug Back
2.5 Form 9–1869—Quarterly Oil Well Test Report
2.6 Form 9–1870—Semiannual Gas Well Test Report
2.7 Multipoint Back Pressure Test Report
2.8 Sales of Lease Production
2.9 Availability of Inspection Records
2.10 Availability of Data and Information Submitted by Lessees as a Requirement of OCS Orders and Notices
3. Information Exempt from Public Inspection
National OCS Order No. 13
Production Measurement and Commingling (Under Development).
National OCS Order No. 14
Approval of Suspensions of Production (Under Development).
National OCS Order No. 15
Submittal of Information Concerning Development Plans to Coastal States (Under Development).

APPENDIX

Appendix I —Gulf of Mexico Area
Appendix II.—Pacific Area
Appendix III.—Alaska Area
Gulf of Alaska
Appendix IV.—Atlantic Area
Mid-Atlantic
Appendix V.—Atlantic Area
North Atlantic
Appendix VI.—Atlantic Area
South Atlantic

UNITED STATES DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY, CONSERVATION DIVISION

NATIONAL ORDER, OCS ORDER NO. 2
EFFECTIVE _____

Drilling Procedures

This Order is established pursuant to the authority prescribed in 30 CFR 250.11. All exploratory and development wells drilled for oil and gas shall be drilled in accordance with 30 CFR 250.34, 250.41, 250.91, and the provisions of this Order which shall continue in effect until field drilling rules are issued. When sufficient geologic and engineering information is obtained through exploratory drilling, operators may make application or the Supervisor may require an application for the establishment of field drilling rules. After field drilling rules have been established by the Supervisor, development wells shall be drilled in accordance with such rules.

All wells drilled under the provisions of this Order shall have been included in an exploratory or development plan for the lease as required under 30 CFR 250.34. All applications for approval under the provisions of this Order shall be submitted to the appropriate District Supervisor. Each Application

AUG 25 1977
UM

for Permit to Drill (Form 9-331C) shall include all information required under 30 CFR 250.91, and shall include a notation of any proposed departures from the requirements of this Order. All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b).

1. *Drilling Platforms and Mobile Drilling Units.*

1.1 *General Requirements for Fixed and Mobile Drilling Units.* The requirements applicable to fixed and mobile drilling units are contained in paragraphs 1.1.1 through 1.1.6.

1.1.1 *Fitness of Drilling Unit.* All drilling platforms and mobile drilling units shall be capable of withstanding the oceanographic and meteorological conditions for the proposed area of operations. The operator shall furnish evidence of the fitness of the drilling platform or mobile drilling unit to perform the planned drilling operation.

1.1.2 *Pre-Drilling Inspection.* Prior to commencing operations in an OCS area, all drilling platforms and mobile drilling units shall be given a complete inspection by the U.S. Geological Survey to insure compliance with OCS Orders and regulations.

1.1.3 *Well Site Surveys.* Operators or lessees shall conduct a shallow geological hazards survey, and other surveys as required by the Supervisor, and furnish the District Supervisor with the results of the survey(s) of the proposed well site, prior to the approval of drilling operations.

1.1.4 *Drawings, Specifications, Performance Data.* Drawings, specifications, and performance data of all drilling equipment, drilling safety systems, and pollution prevention equipment associated with the drilling operation, and a schematic of the mobile drilling unit, shall be submitted to the District Supervisor.

1.1.5 *Oceanographic, Meterological, Performance Data.* Refer to Appendix III, IV, V, and VI for additional requirements for the Gulf of Alaska, Mid-Atlantic, and South Atlantic, respectively.

1.1.6 *Subfreezing Operations.* Refer to Appendix III, IV, and V for additional requirements for the Gulf of Alaska, Mid-Atlantic, and North Atlantic, respectively.

1.2 *Mobile Drilling Units.* Applications for drilling from mobile drilling units shall include the following:

(a) Maximum environmental design criteria, operational criteria, and a critical operations plan as described in Paragraph 3 of this Order.

(b) Anticipated maximum wave height, wind, and current values expected to be encountered based on an average recurrence interval of 100 years.

(c) Current American Bureau of Shipping Classification or U.S. Coast Guard Certification of Fitness with operational limitations.

Unless required by the Supervisor, after a mobile drilling unit has been approved for use in an area, the information detailed in 1.1.4. above need not be resubmitted unless there are changes in equipment or performance data.

1.3 *Fixed Drilling Platforms.* Applications for placement of fixed drilling platforms or structures shall be submitted in accordance with OCS Order No. 8.

2. *Well Casing and Cementing.* All wells shall be cased and cemented in accordance with the requirements of 30 CFR 250.41(a)(1), and the Application for Permit to Drill shall include the casing design safety factors for collapse, tension, and burst. In cases where cement has filled the annular space back to the ocean floor, the cement may be washed out or displaced to a depth not exceeding 12 meters (39 feet) below the ocean floor to facilitate casing removal upon well abandonment. For the purpose of this Order, the several casing strings in order of normal installation are drive or structural, conductor, surface, intermediate, and production casing.

For the surface, intermediate, and production casing strings, if there are indications of improper cementing such as lost returns, cement channeling, or mechanical failure of equipment, the operator shall recement or make the necessary repairs and run a temperature or cement bond log to verify that the casing has been adequately cemented.

The design criteria for all wells shall consider all pertinent factors for well control, including formation fracture gradients and pressures and casing setting depths. The operator shall utilize appropriate drilling technology and state-of-the-art methods, such as drilling rate evaluation, shale density analysis, or other appropriate methods in order to enhance the evaluation of conditions of abnormal pressure, and to minimize the potential for the well to develop a flow or kick.

All casing, except drive pipe or structural casing, shall be new pipe which meets American Petroleum Institute (API) quality standards, or reconditioned used pipe that has been tested to insure that it will meet API quality standards for new pipe.

2.1 *Drive or Structural Casing.* This casing shall be set by drilling, driving, or jetting to a minimum depth of 30 meters (98 feet) below the ocean floor or to such greater depth, approved by the District Supervisor, required to support unconsolidated deposits and to provide hole stability for initial drilling operations. If this portion of the hole is drilled, the drilling fluid shall be of a type that is in compliance with the liquid disposal requirements of OCS Order No. 7, and a quantity of cement sufficient to fill the annular space back to the ocean floor shall be used.

2.2 *Conductor and Surface Casing Cementing Requirements.* These casing strings shall be cemented as follows:

2.2.1 *Conductor Casing.* This casing shall be cemented with a quantity of cement sufficient to fill the calculated space back to the ocean floor. Cement fill to the ocean floor shall be verified by the observation of cement returns. In the event that observation of cement returns is not feasible or possible, an excess volume of cement shall be used to assure fill to the ocean floor. The excess volume shall be approved by the District Supervisor.

2.2.2 *Surface Casing.* Refer to Appendix II for conducting requirements for the Pacific Area. This casing shall be cemented with a quantity of cement sufficient to protect all freshwater sands and provide well control until the next string of casing is set, and sufficient to fill the calculated annular space to at least 60 meters (197 feet) inside the conductor casing or as approved by the District Supervisor. After drilling a maximum of 30 meters (98 feet) below the surface casing shoe a pressure test shall be obtained to aid in determining a formation fracture gradient either by testing to formation leak-off or by testing to a predetermined equivalent mud weight. The results of this test and any subsequent tests of the formation shall be recorded on the driller's log and used to determine the depth and maximum mud weight of the intermediate hole.

2.2.3 *Conductor and Surface Casing Setting Depths.* Refer to the appropriate appendix for conductor and surface casing setting depth requirements for each area of the OCS.

2.3 *Intermediate Casing.* One or more strings of intermediate casing shall be set when required by anticipated abnormal pressure, mud weight, sediment, and other well conditions. The proposed setting depth for intermediate casing shall be based on the pressure tests of the exposed formation below the surface casing shoe, or on subsequent pressure tests. After drilling a maximum of 30 meters (98 feet) below the intermediate casing shoe, a pressure test shall be obtained to aid in determining a formation leak-off or by testing to a predetermined equivalent mud weight.

A quantity of cement sufficient to cover and isolate all hydrocarbon zones and to isolate abnormal pressure intervals from normal pressure intervals shall be used. Sufficient cement shall be used to provide annular fill-up to a minimum of 150 meters (492 feet) above the zones to be isolated or 150 meters (492 feet) above the casing shoe in cases where zonal coverage is not required. If a liner is used as an intermediate string, it shall be lapped a minimum of 30 meters (98 feet) into the previous casing string, and the cement shall be tested by a fluid entry or pressure test to determine whether a seal between the liner top and the next larger string has been achieved. The test shall be recorded on the driller's log. When such liner is used as production casing, it shall be extended to the surface and cemented to avoid surface casing being used as production casing.

2.4 *Production Casing.* This string of casing shall be set before completing the well for production. It shall be cemented in a manner necessary to cover or isolate all zones which contain hydrocarbons but, in any case, a calculated volume sufficient to fill the annular space at least 150 meters (492 feet) above the uppermost producible hydrocarbon zone must be used. When a liner is used as production casing, it shall be lapped a minimum of 30 meters (98 feet) into the previous casing string, and the testing of the seal between the liner top and the next larger string shall be conducted as in the case of intermediate liners. The test shall be recorded on the driller's log.

2.5 *Pressure-Testing of Casing.* Prior to drilling the plug after cementing, all casing strings, except the drive or structural casing, shall be pressure-tested as shown in the table below. The test pressure shall not exceed the internal yield pressure of the casing. The surface casing shall be tested with water in the top 30 meters (98 feet) of the casing. If the pressure declines more than 10 percent in 30 minutes or if there is another indication of a leak, the casing shall be recemented, repaired, or an additional casing string run and the casing tested again. The above procedures shall be repeated until a satisfactory test is obtained.

Casing	Minimum Surface Pressure
Conductor	1,400 kilopascals (kPa) (203 psi).
Surface	6,900 kPa (1000 psi).
Intermediate, liner, and production.	10,400 kPa (1508 psi) or 5 kPa/m (0.22 psi/ft.) whichever is greater.

After cementing any of the above strings, drilling shall not be commenced until a time lapse of 8 hours under pressure for the conductor casing string or 12 hours under pressure for all other strings. Cement is considered under pressure if one of more float valves are employed and are shown to be holding the cement in place or when other means of holding pressure is used. All casing pressure tests shall be recorded on the driller's log.

In all cases, sufficient time must elapse to allow the bottom 153 meters (500 feet) of annular cement fill, or total length of annular cement fill, if less, to attain a compressive strength of at least 3,448 kPa (500 psi) before drilling commences. The typical performance data for the particular cement mix used in the well shall be used to determine the time lapse required.

3. *Directional surveys.* Wells are considered vertical if inclination does not exceed three degrees from the vertical. Inclination surveys shall be obtained on all vertical wells at intervals not exceeding 150 meters (492 feet) during the normal course of drilling.

Wells are considered directional if inclination exceeds three degrees from the vertical. Directional surveys giving both inclination and azimuth shall be obtained on all directional wells at intervals not exceeding 150 meters (492 feet) during the normal course of drilling and at intervals not exceeding 30 meters (98 feet) in all angle change portions of the hole. On both vertical and directional wells, directional surveys giving both inclination and azimuth shall be obtained at intervals not exceeding 150 meters (492 feet) prior to, or upon, setting surface or intermediate casing, liners, and at total depth.

Composite directional surveys shall be filed with the District Supervisor. The interval shown will be from the bottom of conductor casing or, in the absence of conductor casing, from the bottom of drive or structural casing to total depth. In calculating all surveys, a correction from true north to Universal Transverse Mercator-Grid north or Lambert Grid north shall be made after making the magnetic-to-true-north correction.

4. *Blowout Preventer (BOP) Equipment Requirements.*

4.1 *General Requirements.* Blowout preventers and related well control equipment shall be installed, used, and tested in a manner necessary to insure well control.

4.1.1 *BOP Equipment.* Blowout preventer equipment shall consist of an annular and the specified number of ram-type preventers. The pipe rams shall be of proper size to fit the drill pipe in use. The working pressure of any blowout preventer shall exceed the maximum anticipated surface pressure to which it may be subjected.

Information submitted with the Application for Permit to Drill shall include the maximum anticipated surface pressure and the criteria used to determine this pressure. All blowout preventer systems shall be equipped with:

(a) A hydraulic actuating system that provides sufficient accumulator capacity to close all BOP equipment units with a 50-percent operating fluid reserve at 8,300 kPa (1,204 psi). An accumulator backup system, driven by a source of power independent from the primary system, shall be provided with sufficient capacity to close all blowout preventers and hold them closed. Locking devices shall be provided on the ram-type preventers. The method of BOP actuation, such as hydraulic, acoustic or other methods, shall be described and included in the Application for Permit to Drill.

(b) At least one operable remote blowout-preventer-control station, in addition to the one on the drilling floor.

(c) A drilling spool with side outlets, if side outlets are not provided in the BOP body, to provide for a kill line and choke line.

(d) A kill line with a master valve located adjacent to the BOP. This value shall not be used for normal opening or closing on flowing fluids. The kill line shall have at least one control valve in addition to the master valve.

(e) A choke manifold equipped in accordance with American Petroleum Institute Recommended Practice entitled "Blowout Prevention Equipment Systems," API RP 53, First Edition, February 1976, Sections 3A and 3B, or subsequent revisions thereto approved by the Supervisor.

(f) A fill-up line.

(g) Valves, pipes, and fittings upstream of and including the choke manifold that can be exposed to pressure from the wellbore, with a pressure rating at least equal to that of the blowout preventer quipment.

4.1.2. *Auxiliary Equipment.* The following auxiliary equipment shall also be provided:

(a) A top kelly cock shall be installed below the swivel, and an essentially full-opening kelly cock of such design that it can be run through blowout preventers shall be installed at the bottom of the kelly.

(b) An inside blowout preventer and an essentially full-opening drill string safety valve in the open position shall be maintained on the rig floor at all times while drilling operations are being conducted. Such valves shall be maintained on the rig floor to fit all connections that are in the drill string.

(c) A safety valve shall be available on the rig floor assembled with the proper connection to fit the casing string that is being run in the hole at the time.

4.1.3 *Subfreezing Operations.* Refer to Appendix III, IV, and V for special requirements pertaining to low temperature conditions encountered in the Gulf of Alaska, Mid-Atlantic, and North Atlantic, respectively.

4.2 *Subsea BOP Requirements.* The minimum requirements for drilling below the casing strings for subsea blowout preventer stacks are tabulated below:

SUBSEA BOP STACKS

Drive pipe	1—Annular or pressure rotating pack-off head.[1]
Conductor	1—Annular and diverter.[2]
Surface	1—Annular. 2—Pipe rams. 1—Blind shear ram.
Intermediate	1—Annular. 2—Pipe rams.[3] 1—Blind shear ram.

[1] To be installed on top of the marine riser.
[2] The diverter system shall provide as a minimum, two 15-centimeter (6-inch) internal diameter lines and full-opening valves.
[3] When a tapered drill string is in use, the BOP stack shall be additionally equipped with a minimum of one set of pipe rams to fit the smaller size(s) drill pipe.

NOTE.—The working pressure of all blowout preventers shall exceed the maximum anticipated surface pressure to which they may be subjected.

Subsea blowout preventer stacks shall be equipped with blind-shear rams. A subsea accumulator system is required to provide fast closure of the preventers and for cycling all critical functions in case of loss of connection to the surface. A fail-safe design shall be incorporated into the blowout preventer system and shall include dual pod control systems and fail-safe valving on critical lines and outlets. Prior to the removal of the marine riser for installing casing, the riser shall be displaced with sea water. The operator shall insure that sufficient hydrostatic head exists within the well bore to compensate for the reduction in head and maintain a safe well condition. If repair or replacement of the blow-out preventer stack is necessary after installation, this work will be accomplished after casing has been cemented prior to drilling out the shoe or by setting a cement or bridge plug to insure safe well conditions.

4.3 *Surface BOP Requirements.* The minimum requirements for drilling below the casing strings for conventional surface blowout-preventer stacks are tabulated below:

Minimum BOP Requirements

	Surface BOP stacks
Drive pipe	1—Annular or pressure rotating pack-off head. Diverter.[1]
Conductor casing	1—Annular and diverter.[1]
Surface casing	1—Annular. 2—Pipe rams. 1—Blind ram.
Intermediate casing	1—Annular. 2—Pipe rams.[2] 1—Blind ram.

[1] The diverter system shall provide, as a minimum, two 15-centimeter (6-inch) internal diameter lines and full-opening valves.
[2] When a tapered drill string is in use, the BOP stack shall be additionally equipped with a minimum of one set of pipe rams to fit the smaller size(s) drill pipe.

NOTE.—The working pressure of all blowout preventers shall exceed the maximum anticipated surface pressure to which they may be subjected.

4.4 *Drive Pipe or Structural Casing BOP Requirements.*

4.4.1 *Surface BOP.* Before drilling below this string, at least one remote-controlled, annular-type blowout preventer or pressure-rotating, pack-off-type head and related equipment shall be installed for circulating the drilling fluid to the drilling structure or vessel.

4.4.2 *Subsea BOP.* When the blowout-preventer system is on the ocean floor, the choke and kill lines or equivalent vent lines, equipped with necessary connections and valves, can be used for diversion, if approved by the Supervisor, or an annular preventer or pressure rotating, pack-off-type head, equipped with suitable diversion lines shall be installed on top of the marine riser. The diverter system shall be equipped with automatic, remote-controlled valves which open, prior to shutting in the well, venting in different directions to permit downwind diversion shall be provided. A schematic diagram and operational procedure for the diverter system shall be submitted with the Application for Permit to Drill (Form 9-331C) to the District Supervisor for approval.

4.4.3 *Floating Drilling Operations.* In drilling operations where a floating or semi-submersible type of drilling vessel is used and formation competency at the structural casing setting depth is not adequate to permit circulation of drilling fluids to the vessel while drilling conductor hole, a program which provides for safety in these operations shall be described and submitted to the District Supervisor for approval. This program shall include all known pertinent and relevant information, including seismic and geologic data, water depth, drilling-fluid hydrostatic pressure, schematic diagram from rotary table to proposed conductor casing seat, and contingency plan for moving off location. In all areas where shallow hazards or hydrocarbons are unknown, seismic data shall be obtained, and a small-diameter initial pilot hole from the bottom of drive or structural casing to proposed conductor casing seat shall be drilled to aid in determining the presence or absence of these hazards. All seismic data relating to shallow hazards shall be made available to the Supervisor, and an analysis of the geologic hazards shall be furnished with the Application for Permit to Drill.

4.5 *Conductor Casing.* Before drilling below this string, at least one remote-con-

AUG 25 1977 UM

trolled, annular-type blowout preventer, a diverter system as described in paragraph 4.4 above, and equipment for circulating the drilling fluid to the drilling structure or vessel shall be installed.

4.6 *Surface and/or Intermediate Casing.* Before drilling below this string, the blowout preventer equipment shall include a minimum of:

(a) Four remote-controlled, hydraulically operated blowout preventers with a working pressure which exceeds the maximum anticipated surface pressure, including at least two equipped with pipe rams, one with blind rams, and one annular type. (Subsea blowout-preventer stacks used with floating drilling vessels shall be equipped with one set of blind-shear rams.)

(b) In addition to the above, when a tapered string is used for drilling intermediate casing hole, the B.O.P. stack shall be additionally equipped with a minimum of one set of pipe rams to fit the smaller size(s) drill pipe.

(c) A drilling spool with side outlets, if side outlets are not provided in the blowout preventer body.

(d) A choke line and manifold

(e) A kill line separate from the choke line.

(f) A fill-up line.

4.7 *Testing.*

4.7.1 *BOP Controls.* A minimum of one operable remote blowout preventer control station shall be provided, in addition to the primary blowout preventer control station on the drilling floor. Accumulators or accumulators and pumps shall maintain a pressure capacity reserve at all times to provide for repeated operation of hydraulic blowout preventers.

4.7.2 *Pressure Tests.* Ram-type blowout preventers and related control equipment shall be tested at the rated working pressure of the B.O.P. stack assembly, or at 70 percent of the minimum internal yield pressure of the casing, whichever is the lesser. Annular-type preventers shall be tested at 70 percent of the applicable above pressure test requirements. All preventers shall be tested:

(a) When installed.

(b) Before drilling out after each string of casing has been set.

(c) Not less than once each week, alternating between control stations.

(d) Following repairs that require disconnecting a pressure seal in the assembly.

4.7.3 *Actuation.* While drill pipe is in use, the following actuation procedures shall be performed, as a minimum, to determine proper functioning of the blowout preventers and control stations:

(a) Pipe Rams—Actuated daily.

(b) Blind/Shear Rams—Actuated while drill pipe is out of the hole, once each trip, but not more than once each day.

(c) Tapered Drill String Pipe Rams—The smaller size pipe rams shall be actuated on the appropriate drill pipe size once each trip.

(d) Annular-Type Preventer—Actuated on the drill pipe, in conjunction with the pressure test, once each week.

(e) Control Stations—Actuated while drill pipe is out of the hole, once each trip, but not more than once each day.

4.8 *Inspection and Maintenance.* All blowout-prevention systems and marine risers and associated equipment shall be inspected and maintained in accordance with the manufacturer's recommended procedures. The blowout preventers and marine risers shall be visually inspected during each trip and in no event less than once each day. Inspection of subsea installations may be accomplished by the use of television equipment.

4.9 *Drills.* All drilling personnel shall be indoctrinated in blowout-preventer procedures and be familiar with the blowout-preventer equipment before starting work on the well. A blowout-preventer drill shall be conducted weekly for each drilling crew to insure that all equipment is operational and that crews are trained properly to carry out emergency duties. These drills shall be performed during various drilling operations, such as drilling, running and pulling the drill string, and when out of the hole. All blowout-preventer tests and crew drills shall be recorded on the driller's log. The operator shall furnish current schedules of drills to the District Supervisor so that a Geological Survey representative may witness any drill. Such a drill may be required by a Geological Survey representative at any time during the drilling operation. The drill shall include, as a minimum:

(a) Sounding of a warning signal, sometimes actuated by pit-level indicator or other automatic device.

(b) Withdrawing the kelly.

(c) Stopping the pump.

(d) Observing flow of mud from well.

(e) Actuation of the blowout preventers.

(In order to prevent damage to the rams, complete closure of the rams on drill pipe is not required on floating drilling vessels.)

5. *Mud Program.* The characteristics, use, and testing of drilling mud and the conduct of related drilling procedures shall be such as are necessary to prevent the blowout of any well. Quantities of mud materials sufficient to insure well control shall be maintained readily accessible for use at all times.

5.1 *Mud Control.* Before starting out of the hole with drill pipe, the mud shall be properly conditioned. Proper conditioning requires either circulation with the drill pipe just off bottom to the extent that the annular volume is displaced, or proper documentation in the driller's log prior to pulling the drill pipe as follows:

(a) There was no indication of influx of formation fluids prior to starting to pull the drill pipe from the hole.

(b) The weight of the returning mud is not less than the weight of the mud entering the hole.

(c) Other mud properties recorded on the daily drilling log are within the specified ranges at the stage of drilling the hole to perform their required functions. In those cases when the hole is circulated, the driller's log shall be so noted.

When coming out of the hole with the drill pipe, the annulus shall be filled with mud before the mud level drops 30 meters (98 feet). A mechanical device for measuring the amount of mud required to fill the hole shall be utilized, and any time there is an indication of swabbing or influx of formation fluids, the necessary safety devices and action shall be employed to control the well. The mud shall not be circulated and conditioned, except on or near bottom, unless well conditions prevent running the drill pipe back to the bottom. The mud in the hole shall be circulated or reverse-circulated prior to pulling drill-stem test tools from the hole.

The hole shall be filled by accurately measured volumes of mud. The number of stands of drill pipe and drill collars that may be pulled between the times of filling the hole shall be calculated and posted. The number of barrels and pump strokes required to fill the hole for this designated number of stands of drill pipe and drill collars shall be posted. For each casing string, the maximum pressure which may be applied to the blowout preventer, before controlling excess pressure by bleeding through the choke, shall be posted near the driller. Drill pipe pressure shall be monitored during the bleeding procedure for well control.

An operable degasser shall be installed in the mud system prior to commencement of drilling operations. It shall be maintained for use throughout the drilling and completion of the well.

5.2 *Mud Test Equipment.* Mud test equipment shall be maintained on the drilling rig at all times, and mud tests shall be performed once each tour, or more frequently, as conditions warrant. Such tests shall be conducted in accordance with procedures outlined in API RP 13B, "Recommended Practice for Standard Procedure for Testing Drilling Fluids," Sixth Edition, April 1976, or subsequent revisions as approved by the Supervisor, and the results recorded and maintained at the drill site. The following mud-system monitoring equipment shall be installed (with derrick floor indicators) and used at the point in the drilling operation when mud returns are established and throughout subsequent drilling operations:

(a) Recording mud pit level indicator to determine mud pit volume gains and losses. This indicator shall include a visual and audio warning device.

(b) Mud volume measuring device for accurately determining mud volumes required to fill the hole on trips.

(c) Mud return indicator to determine that returns essentially equal the pump discharge rate.

(d) Gas-detecting equipment to monitor the drilling mud returns.

5.3 *Mud Quantities.* The operator shall include, with his Application for Permit to Drill, a tabulation of well depth versus minimum quantities of mud material, including weighting material to be maintained at the drill site for emergency use. Taking into account the availability of the mud capacity storage of the drilling vessel, the minimum quantities of mud material required shall be based on the following:

(a) Twice the volume of the calculated capacity of the active downhole and surface mud system.

(b) The weighting material shall be based on the amount required to overcome the highest anticipated formation pressure.

When the mud quantity required exceeds the storage capacity of the vessel, the operator must demonstrate that the mud inventories on hand are sufficient to maintain well control until additional quantities can be delivered to the well site.

Daily inventories of mud materials, including barite, shall be recorded to provide a basis for comparison with the tabulation of well depth versus minimum quantities of mud material. Drilling operations shall be suspended in the absence of minimum quantities of mud material specified in the table.

6. *Supervision, Surveillance, and Training.*

6.1 *Supervision.* A representative of the operator shall provide on-site supervision of drilling operations on a 24-hour basis.

6.2 *Surveillance.* From the time drilling operations are initiated and until the well is completed or abandoned, a member of the drilling crew or the toolpusher shall maintain rig floor surveillance continuously, unless the well is secured with blowout preventers or cement plugs.

6.3 *Training.* Company and drilling contractor supervisory personnel including drillers shall be trained in and qualified for present-day well control. Records of such training and qualification shall be maintained at the drill site. Training shall include but is not limited to:

(a) Abnormal pressure detection methods.

(b) Well-control methods and procedures.

Such training shall be given in addition to the required weekly blowout prevention drills. Written verification of compliance with these provisions shall be filed with the Supervisor. Such training shall be in accordance with U.S. Geological Survey Outer Continental Shelf Standard No. T-1 (GSS–OCS–T-1), First Edition, ---------- 1977, entitled "Training and Qualification of Personnel in Well Control Equipment and Techniques for Drilling on Offshore Locations," and subsequent revisions thereto. Compliance shall be considered a prerequisite to approval of any drilling operation.

7. *Hydrogen Sulfide.* When drilling operations are undertaken to penetrate reservoirs known or expected to contain hydrogen sulfide (H_2S), the preventive measures and operating practices set forth in U.S. Geological Survey Outer Continental Shelf Standard No. 1 (GSS–OCS–1), "Safety Requirements for Drilling Operations in a Hydrogen Sulfide Environment," February 1976, shall be followed. In exploratory or development wells where H_2S is discovered unexpectedly, the drilling operations shall be suspended until the operating practices required by GSS–OCS–1 can be implemented.

8. *Critical Operations and Curtailment Plans.* Certain operations performed in drilling are more critical than others with respect to well control, fire, explosion, oil spills, and other discharge or emissions. These operations may occur during drilling, running casing, logging, drill-stem testing, well completion, or wireline operations. Each operator shall file with the Supervisor for approval a Critical Operations and Curtailment Plan for the lease which shall contain:

(a) A list or description of the critical drilling operations that are, or are likely to be, conducted on the lease. Such list or description shall specify the operations to be ceased, limited, or not to be commenced under given circumstances or conditions. The list shall include operations such as:

(1) Drilling in close proximity to another producing well.

(2) Drill-stem testing.

(3) Running and cementing casing.

(4) Cutting and recovering casing.

(5) Logging or wireline operations.

(6) Well-completion operations.

(7) Moving the drilling vessel off location in an emergency; repositioning the vessel on location; and reestablishing entry into the well.

(b) A list or description of circumstances or conditions under which such critical operations shall be curtailed. This list or description shall be developed from all the factors and conditions relating to the conduct of operations on the lease, and shall consider but not necessarily be limited to the following:

(1) Whether the drilling operations are to be conducted from mobile or fixed platforms.

(2) The availability and capability of containment and cleanup equipment.

(3) Abnormal or unusual characteristics expected to be encountered during drilling operations.

(4) Spill control system response time.

(5) Known or anticipated meteorological or oceanographical conditions.

(6) Availability of personnel and equipment for the particular operation to be conducted.

(7) Other factors peculiar to the particular lease under consideration.

(c) When any such circumstance or condition listed or described in the plan occurs or other operational limits are encountered, the operator shall notify the Supervisor and shall curtail the critical operations as set forth under 8.a. above.

(d) Any deviations in the plan shall require prior approval by the Supervisor except in case of an emergency in which event the Superivsor shall be notified as soon as possible.

(e) The operator shall review the plan at least annually. Notification of the review and any amendments or modifications to the plan shall be filed with the Supervisor.

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY, CONSERVATION DIVISION

NATIONAL ORDERS, OCS ORDER NO. 5

Effective ----------

Subsurface Safety Devices and Surface Safety Systems

This Order is established pursuant to the authority prescribed in 30 CFR 250.11, 30 CFR 250.12(a), 30 CFR 250.45, 30 CFR 250.46, and in accordance with 30 CFR 250.41(b). The operator shall be responsible for compliance with the requirements of this Order in the installation and operation of all platforms and structures, and all facilities installed thereon including those facilities not operated or owned by the operator. All applications for approval under the provisions of this Order shall be submitted to the appropriate District Supervisors. All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b).

1. *Technological Improvement.* As technological research, progress, and product improvement result in increased effectiveness of existing safety devices or the development of new devices or systems, such devices or systems may be required or used upon application, justification, and approval. Applications for routine use shall include evidence that the device or system has been field-tested at least once each month for a minimum of 6 consecutive months, and that each test indicated proper operation.

2. *Subsurface Safety Devices.*

2.1 *Installation.* All tubing installations open to and capable of producing from hydrocarbon-bearing zones shall be equipped with a subsurface safety device unless, after application and justification, the well is determined to be incapable of flowing. The device is to be installed at a depth of 30 meters (98 feet) or more below the ocean floor. Those installations shall be made within 2 days after stabilized production is established. The well shall not be left unattended while open to production unless a subsurface safety device is installed. Refer to Appendix I for additional requirements for the Gulf of Mexico Area.

2.2 *Design, Testing, and Inspection.* Subsurface safety devices shall be designed, adjusted, installed, and maintained to insure reliable operation. During testing and inspection procedures, the well shall not be left unattended while open to production unless a subsurface safety device has been installed in the well.

2.3 *Surface-Controlled Subsurface Safety Devices.* All tubing installations open to and capable of producing from hydrocarbon-bearing zones shall be equipped with a surface-controlled subsurface safety device, except as specified in subparagraph 2.4. The surface controls may be located on site or remotely. Refer to Appendix III, IV, or V for additional requirements for the Gulf of Alaska, Mid-Atlantic, or North Atlantic, respectively.

2.3.1 *Quality Assurance and Performance.* The operator shall use subsurface safety devices that comply with the minimum standards set forth in American Petroleum Institute (API) Specification 14A, First Edition, October 1973, "Subsurface Safety Valves," as amended by Supplement 2, February 1976, or revision thereto, as approved by the Supervisor, for quality assurance, including design, material, and functional test requirements, and for verification of independent party performance testing and manufacturer functional testing of such valves.

2.3.2 *Installation and Testing.* The operator shall comply with the minimum recommended practices set forth in API Recommended Practice (RP) 14B, First Edition, October 1973, "Design, Installation, and Operation of Subsurface Safety Valve Systems," or revision thereto, as approved by the Supervisor, which contains procedures for design calculations, safe installation, and operating and testing.

Each surface-controlled, or other remote-controlled, subsurface safety device installed in a well shall be tested in place for proper operation when installed, or reinstalled, at least monthly for the next 6 months, and quarterly thereafter. If the device does not operate properly, it shall be promptly removed, repaired, and reinstalled or replaced and tested to insure proper operation.

2.4 *Subsurface-Controlled Subsurface Safety Devices.* Refer to Appendix I for additional requirements for the Gulf of Mexico Area.

2.5 *Shut-in Wells.* A tubing plug shall be installed in lieu of, or in addition to, other subsurface safety devices, if a well has been shut in for a period of 6 months. Such plugs shall be set at a depth of 30 meters (98 feet) or more below the ocean floor. All retrievable plugs installed after the date of this Order shall be of the pump-through type. All wells perforated and completed, but not placed on production, shall be equipped with a subsurface safety device or tubing plug within 2 days after completion. A surface-controlled subsurface safety device of the pump-through type may be used as a pump-through tubing plug for the purpose of this subparagraph, provided the surface control has been rendered inoperative.

2.6 *Injection Wells.* Surface-controlled subsurface safety devices shall be installed in all injection wells unless, after application and justification, it is determined that the well is incapable of flowing.

2.7 *Tubing Plugs.* A shut-in well equipped with a tubing plug shall be inspected for leakage by opening the well to possible flow at intervals not exceeding 6 months. No sustained liquid flow or gas leakage is allowed. In the event leakage is detected, the plug shall be removed, repaired, and reinstalled, or an additional tubing plug may be installed in lieu of removal and repair.

2.8 *Temporary Removal for Routine Operations.* Each wireline- or pumpdown-retrievable subsurface safety device may be removed, without further authorization or notice, for a routine operation which does not require approval of a Sundry Notice and Report on Wells (Form 9–331) for a period not to exceed 15 days. The well shall be clearly identified as being without a subsurface safety device and shall not be left unattended while open to production unless approved by the District Supervisor. The provisions of this paragraph are not applicable to the testing and inspection procedures specified in Paragraph 2.2 above.

2.9 *Additional Protective Equipment.* All tubing installations in which a wireline- or pumpdown-retrievable subsurface safety device is to be installed shall be equipped with a landing nipple, with flow couplings, or other protective equipment, above and below, to provide for setting of the subsurface safety device. All wells in which a subsurface safety device or tubing plug is installed shall have the tubing-casing annulus packed off above the uppermost open casing perforations and at least 30 meters (98 feet) below the measured or calculated top of cement on the production string or the intermediate string. The control system for all surface-controlled subsurface safety devices shall be an integral part of the platform shut-in system.

2.10 *Departures.* All applications for departures shall include a detailed statement of the well conditions, efforts made to overcome any difficulties, and proposed alternate safety measures.

2.11 *Emergency Action.* All tubing installations open to and capable of producing from hydrocarbon-bearing zones and not equipped with a subsurface safety device as permitted by Paragraph 2.7 of this Order

V 4211 65 AUG 25 77 UM

shall be clearly identified as not being so equipped, and a subsurface safety device or tubing plug shall be available at the field location. In the event of an emergency (such as an impending storm), such device or plug shall be promptly installed due consideration being given to personnel safety.

2.12 *Records.* The operator shall maintain the following records for a minimum period of 1 year for each subsurface safety device and tubing plug installed, and these records shall be available to any authorized representative of the Geological Survey.

2.12.1 *Field Records.* Individual well records shall be maintained at or near the field and shall include, as a minimum, the following information:

(a) A record which will give design and other information; i.e., make, model, type, spacers, bean and spring size, pressure, etc.

(b) Verification of assembly by a qualified person in charge of installing the device and installation date.

(c) Verification of setting depth and all operational tests as required in this Order.

(d) Removal date, reason for removal, and reinstallation date.

(e) A record of all modifications of design in the field.

(f) All mechanical failures or malfunctions, including sand cutting, of such devices with notation as to cause or probable cause.

(g) Verification that failure report was submitted.

2.12.2 *Other Records.* The following records, as a minimum, shall be maintained at the operator's office:

(a) Verified design information of subsurface safety devices for the individual well.

(b) Verification of assembly and installation according to design information.

(c) All failure reports.

(d) All laboratory analysis reports of failed or damaged parts.

(e) Quarterly failure-analysis report.

2.13 *Reports.* Well completion reports (Form 9–330) and any subsequent reports of workover (Form 9–331) shall include the type and the depth of the subsurface safety devices and tubing plugs installed.

To establish a failure-reporting and corrective-action program as a basis for reliability and quality control, each operator shall submit a quarterly failure-analysis report to the Supervisor, identifying mechanical failures by lease and well, make and model, cause or probable cause of failure, and action taken to correct the failure. The report shall be submitted within 30 days following the periods ending December 31, March 31, June 30, and September 30 of each year.

3. *Design, Installation, Operation, and Testing of Surface Production Facilities Safety Systems.* All production facilities, including separators, treaters, compressors, headers, and flowlines shall be designed, installed, and maintained in a manner which will facilitate efficient, safe, and pollution-free operation. Refer to Appendix III, IV, or V for additional requirements for the Gulf of Alaska, Mid-Atlantic, or North Atlantic, respectively.

3.1 *New Platforms.* New platform production facilities shall be protected with a basic and ancillary surface safety system designed, analyzed, installed, tested, and maintained in operating condition in accordance with the provisions of API RP 14C, "Analysis, Design, Installation, and Testing of Basic Surface Safety Systems on Offshore Production Platforms," June 1974, as amended November 1975, except Section A9, *Pipelines*, or subsequent revisions as approved by the Supervisor, and the additional requirements of this Order. For this application, the word "should" contained in API 14C shall be read "shall," except for those contained in explanatory statements, paragraphs 3.4(c), page 11 and 4.3(4) (a)–(f). In the event that processing components are to be utilized other than those for which Safety Analysis Checklists (SAC's) are included in API RP 14C, the analysis technique and documentation specified therein shall be utilized to determine the effects and requirements of such components upon the safety system.

3.2 *Existing Platforms.* Existing platforms shall comply with the provisions of API RP 14C, and the additional Safety and Pollution Control requirements of paragraphs 3 and 4 of this Order, by December 31, 1977. The submittal of information relative to design and installation features, as listed below in subparagraph 3.4, is not required until an equipment or structural modification to an existing facility is performed (other than those necessary for proper maintenance of the facility).

3.3 *Approval of Alternate Methods of Safety System Design.* Operators may utilize the alternate methods contained in API RP 14C during Safety Systems Designs; however, the method selected and depicted on the schematic flow diagram and Safety Analysis Function Evaluation (SAFE) Chart is subject to approval by the appropriate District Supervisor.

3.4 *Submittal of Safety System Design and Installation Features.* Prior to installation, the operator shall submit for approval to the appropriate District Supervisor, in duplicate, information relative to design and installation features, as indicated in subparagraphs *a* through *f* below. This information shall also be maintained at the operator's onshore field engineering office.

(a) A flow schematic showing size, capacity, and design working pressure of separators, treaters, storage tanks, compressors, pipeline pumps, and metering devices.

(b) A schematic flow diagram (Reference API RP 14C, Example Figure E1, page 79) and the related Safety Analysis Function Evaluation (SAFE) Chart [Reference API RP 14C, paragraph 4.3(C)]. These shall be developed with consideration of the provisions of API RP 14C and the additional requirements of this Order.

(c) A schematic piping diagram showing the size and design working pressure with reference to welding specification(s) or code(s) used. The recommendations contained in API RP 14E, "Design and Installation of Offshore Production Platform Piping Systems," are acceptable for platform piping systems.

(d) A diagram of the fire-fighting system.

(e) Electrical system information including the following:

(1) Plan view of each platform deck outlining any nonrestricted area, i.e., areas which are unclassified with respect to electrical equipment installations and areas in which potential ignition sources, other than electrical, are to be installed. The area outline should include the following information:

(*a*) Any surrounding production or other hydrocarbon source and a description of deck, overhead, and firewall.

(*b*) Location of generators, control rooms, panel boards, major cabling or conduit routes, and identification of wiring method.

(2) Elementary electrical schematic of any platform safety-shutdown system with functional legend.

(3) Classification of areas for electrical installations in accordance with API RP 500B, "Classification of Areas for Electrical Installation at Drilling Rigs and Production Facilities on Land and on Marine and Mobile Platforms," Second Edition, July 1973, or subsequent revisions approved by the Supervisor.

(f) The design and schematics for the installation and maintenance of all fire, smoke, and gas detection systems shall include the following:

(1) Type, location, and number of detection heads.

(2) Type and kind of alarm, including emergency equipment to be activated.

(3) Method used for detection.

(4) Method and frequency of calibration.

(5) Name of organization to perform system inspection and calibration.

(6) A functional block diagram of the detection system, including the electric power supply.

(7) Other pertinent information.

4. *Additional Safety and Pollution Control Requirements.* The following requirements modify or are in addition to those contained in API RP 14C.

4.1 *Design and Installation.*

4.1.1 *Pressure Vessels.*

(a) Pressure relief valves shall be designed, installed, and maintained in accordance with applicable provisions of Sections I, IV, and VIII of the ASME Boiler and Pressure Vessel Code, July 1, 1974, or subsequent revisions thereto approved by the Supervisor. All relief valves and vents shall be piped in such a way as to minimize the possibility of fluid striking personnel or ignition sources.

(b) Steam generators shall be equipped with low-water-level controls in accordance with applicable provisions of Sections I and IV of the ASME Boiler and Pressure Vessel Code, July 1, 1974.

(c) All relief valves shall conform to the appropriate sizing and relieving requirement of ASME Boiler and Presure Vessel Codes, July 1, 1974, Sections I, IV, and VIII. The high-pressure shut-in sensor shall activate sufficiently below the design working pressure to positively insure operation before the relief valve starts relieving. The low-pressure shut-in sensor shall activate no lower than 15 percent or 35 kilopascals (kPa) (5 psi), whichever is greater, below the lowest pressure in the operating range.

(d) Pressure sensors may be of the automatic or non automatic reset type, but where the automatic reset types are used, a non-automatic reset relay shall be installed. All pressure sensors shall be equipped to permit testing with an external pressure source.

(e) All pressure or fired vessels used in the production of oil or gas, installed after the effective date of this Order, shall conform to the requirements stipulated in the edition of the ASME Boiler and Pressure Vessel Code, Sections I, IV, and VIII, as appropriate, in effect at the time the vessel is installed. Uncoded vessels now in use shall have been hydrostatically tested to a pressure 1.5 times their working pressure.

The test date, test pressure, and working pressure shall be marked on the vessel in a prominent place. A record of the test shall be maintained by the operator.

4.1.2. *Flowlines*

(a) All flowlines from wells shall be equipped with high- and low-pressure shut-in sensors located downstream of the well choke. If there are more than 3 meters (10 feet) of line between the wellhead wing valve and the primary choke, an additional low-pressure shut-in sensor shall be installed in this section. The high-pressure shut-in sensor shall be set no higher than 10 percent above the highest operating pressure of the line; but, in all cases, it shall be set sufficiently below the maximum shut-in pressure to assure actuation of the surface safety valve. The low-pressure shut-in sensor shall be set no lower than 10 percent or 35 kPa (5 psi), whichever is greater, below the lowest operating pressure of the line in which it is installed.

(b) In the event a well flows directly to the pipeline before separation, the flowline and valves from the well located upstream of, and including, the header inlet valve(s), shall be able to withstand the maximum

shut-in pressure of the well, unless: (1) protected by a relief valve connected to either the platform flare scrubber or some other approved location other than into the departing pipeline, or (2) the flowline is equipped with an additional automatic shutdown valve controlled by an independent high-pressure sensor. The platform flare scrubber shall be designed to handle, without liquid hydrocarbon carryover to flare, the maximum anticipated flow of liquid hydrocarbons which may be relieved to the vessel.

4.1.3 *Remote Shut-In Systems.* Remote shut-in controls shall be quick-opening and quick-closing valves, or similar acting devices that are approved by the District Supervisor. Platform shut-in shall be completed within 45 seconds after a platform shut-in control is activated.

4.1.4 *Engine Exhausts.* Engine exhausts shall be equipped to comply with the insulation and personnel protection requirements of OPI RP 14C, Section 4.2c(4). Exhaust piping from diesel engines shall be equipped with spark arrestors.

4.1.5 *Glycol Dehydration Units.* A pressure relief valve shall be installed on the glycol regenerator, or at a location approved by the District Supervisor, which will prevent overpressurization of all glycol dehydration units. The set pressure of this valve shall be determined by the operator and approved by the District Supervisor. The discharge of the relief valve must be vented in a nonhazardous manner.

4.1.6 *Gas Compressors.*

(a) *Existing*—Each compressor installation existing as of the effective date of this Order shall be protected as follows:

(1) A Level Safety High (LSH) and a Pressure Safety Valve (PSV) on each interstage scrubber.

(2) A Pressure Safety High (PSH) and a Pressure Safety Low (PSL) on each interstage scrubber unless protected by a high temperature shutdown control on the compressor cylinders.

(3) A Level Safety Low (LSL) on each interstage scrubber unless fluid dump is through a choke restriction to another pressure vessel.

(4) Compressor installations existing prior to the effective date of this Order, and which are installed in a building, are excluded from the requirements of API RP 14C, A8.3b, Flow Safety Devices (FSV), and Section A8.3d, Shut-Down Devices (SDV), which prescribes that these devices be located outside of the building.

(b) *New*—Each compressor installed after the effective date of this Order shall be protected as follows:

(1) A PSH, PSL, LSH, and Pressure Safety Valve (PSV) on each interstage scrubber.

(2) An LSL on each interstage scrubber unless fluid dump is through a choke restriction to another pressure vessel.

(3) A Temperature Safety High (TSH) on each compressor cylinder or other components as applicable. These compressor units installed in a building shall have the isolation valves located outside the building. Each suction and interstage level safety high shut-in control shall, as a minimum, be designed to shut down the compressor prime mover.

(c) In addition to the provisions of API RP 14C, paragraphs A8.3a and A8.3d, safety high- and low-pressure shut-in sensors and level safety low shut-in controls protecting compressor suction and interstage scrubbers shall be designed to actuate automatic isolation valves located in each compressor suction and fuel gas line, so that the compressor unit and associated vessels can be isolated from all input sources.

As an alternative, level safety low shut-in control(s) installed in such and interstage scrubber(s) may be designed to actuate automatic shutoff valve(s) installed in the scrubber dump line(s).

(d) Compressor installations of 745 kilowatts (1,000 horsepower) or less are excluded from those requirements of API RP 14C, A8.3d, which provide for installation of a blow-down value on the discharge line.

(e) The automatic isolation valves installed in compressor suction and fuel gas piping shall also be actuated by shutdown of the prime mover.

4.1.7 *Curbs, Gutters, and Drains.* Curbs, gutters, and drains shall be installed in all deck areas in a manner necessary to collect all contaminants in a closed sump or a sump pile, unless drip pans or equivalent are placed under equipment and piped to a closed sump or sump pile, which will automatically maintain the oil at a level sufficient to prevent discharge into the ocean. All walking and working surfaces shall be kept free of all liquid accumulations. Sump piles shall not be used as a processing device to treat or skim liquids but shall be used to collect treated produced water, treated sand, liquids from drip pans and deck drains, and as a final trap for hydrocarbon liquids in event of equipment upsets.

4.1.8 *Firefighting Systems.* Refer to Appendix I for the requirements of this subparagraph for the Gulf of Mexico Area.

A firefighting water system of rigid pipe with fire hose stations and a fixed water-spray system in the well bays shall be installed. The system shall be installed in a manner necessary to provide needed protection in all areas where production-handling equipment is located. A standby pump with a separate power source shall be provided for the system. A firefighting system using chemicals may be used in lieu of a water system if determined to provide equivalent fire protection control. A diagram of the firefighting system showing the location of all equipment shall be posted in a prominent place on the platform or structure.

4.1.9 *Fire and Gas Detection System.*

(a) Flame, heat, gas, and smoke sensors shall be used in all enclosed high-hazard areas. A high-hazard area is defined as any enclosed area in which an explosive gas-air mixture is likely to occur. A diagram of the detection systems showing the location of all detection points shall be posted in a prominent place on the platform or structure.

(b) All gas detection systems shall be capable of continuously monitoring for the presence of combustible gas in the areas in which the detection devices are located.

(c) The use of fuel gas odorant, as well as an automatic gas detection and alarm system, is required in enclosed, continuously manned areas of the facility.

4.1.10 *Electrical Equipment.* The following requirements shall be applicable to all electrical equipment and systems installed:

(a) All engines with ignition systems shall be equipped with a low-tension ignition system of a low-fire-hazard type and shall be designed and maintained to minimize release of sufficient electrical energy to cause ignition of an external, combustible mixture.

(b) All electrical generators, motors, and lighting systems shall be installed, protected, and maintained in accordance with the edition of the National Electrical Code and API RP 500B in effect at the time of installation.

(c) Wiring methods which conform to the National Electrical Code, or to IEEE 45, "Recommended Practice for Electric Installations on Shipboard," in effect at the time of installation, are acceptable.

(d) An auxiliary power supply shall be installed to provide emergency power, capable of operating all electrical equipment required to maintain safety of operations, in the event of a failure in the primary electrical power supply.

(e) The controls for electrical equipment shall be interlocked to prevent an improper startup and shutdown sequence.

(f) The elementary electrical schematic of the platform safety shutdown system required by subparagraph 3.4e(1) shall be posted in a prominent place on the platform or structure.

(g) Certification that the mechanical and electrical systems of the facility will be designed and installed under the supervision of appropriate registered professional engineers. Maintenance of these systems shall be by qualified personnel.

4.1.11 *Erosion.* A program of erosion control shall be in effect for wells having a history of sand production. The erosion control program may include sand probes, X-ray, ultrasonic, or other satisfactory monitoring methods. An annual report, by lease, on the results of the program shall be submitted by the first of September to the appropriate District Supervisor.

4.2 *General Platform Operations.*

(a) Any device on wells, vessels, or flowlines temporarily out of service shall be flagged. Safety devices and systems on wells which are capable of producing shall not be bypassed or blocked out of service, unless necessary, during startup maintenance operations and then only with personnel on duty aboard the platform.

(b) When wells are disconnected from producing facilities and blind-flanged or equipped with tubing plug, compliance is not required with the provisions of API RP 14C or this Order, concerning:

(1) Installation of automatic fail-close surface safety valves on wellhead assemblies.

(2) Installation of high- and low-pressure shut-in sensors downstream of the well choke-in flowlines from wells.

(3) Installation of check valves in header individual flowlines.

(c) All open-ended lines connected to producing facilities shall be plugged or blind-flanged, except those lines designed to be open-ended, such as flare or vent lines.

4.3 *Simultaneous Platform Operations.* Prior to conducting activities, simultaneously with production operations, which could increase the possibility of occurrence of undesirable events such as harm to personnel or to the environment, or damage to equipment, an operator's Contingency Plan, for each platform, shall be filed for approval with the appropriate District Supervisor. The plan shall be modified and updated as appropriate. Activities requiring the plan are drilling, workover, wireline, pumpdown, and major construction operations. The plan shall include:

(a) A narrative description of operations.

(b) A plan view of each platform deck indicating critical areas of simultaneous activities.

(c) Procedures for mitigation of potential undesirable events including:

(1) The guidelines the operator will follow to assure coordination and control of simultaneous activities.

(2) Indication as to the person having overall responsibility, as person-in-charge at the site, for safety of platform operations.

(3) An outline of any additional safety measures that are required for simultaneous operations.

(4) Specification of any added or special equipment or procedural conditions imposed when simultaneous activities are in progress.

4.4 *Welding Practices and Procedures.* The following requirements shall apply to all platforms and structures, including mobile drilling and workover structures. These requirements shall apply to fixed structures after the drilling out of the drive or structural casing for the first well drilled on the structure, entry into a well to be tied back

V 42 N 165 AUG 25 77 UM

to the structure, or first flow of combustible fluids to the structure. The period of time during which these requirements are considered applicable to drilling structures is the interval from the drilling out of the drive or structural casing until the blowout-preventer stack and riser are pulled in the final abandonment, suspension, or completion. These requirements shall apply to workover rigs when such rigs are performing remedial work on any wells open to hydrocarbon-bearing zones.

For the purpose of this Order, the term "welding and burning" is defined to include arc or acetylene cutting and arc or acetylene welding.

Each operator shall file, for approval by the appropriate District Supervisor, a Welding and Burning Safe Practices and Procedures Plan. The plan shall be filed within 90 days after the effective date of this Order and shall include company qualification standards or requirements for personnel and the methods by which the operator will assure that only personnel meeting such standards or rquirements are utilized. A copy of this plan shall be available in the field. Any person designated as a welding supervisor shall be thoroughly familiar with this plan.

Prior to welding or burning operations, the operator shall establish approved safe welding areas. Such areas shall be constructed of noncombustible or fire-resistant materials free of combustible or flammable contents and be suitably segregated from adjacent areas. National Fire Protection Association Bulletin No. 51B, "Cutting and Welding Processes," 1971, shall be used as a guide to designate these areas.

All welding which cannot be done in the approved safe welding area shall be performed in compliance with the procedures outlined below:

(a) All offshore welding and burning shall be minimized by onshore fabrication when feasible.

(b) Prior to the commencement of any welding or burning operations on a structure, the operator's designated person-in-charge at the installation shall personally inspect the qualifications of the welder or welders to assure that they are properly qualified in accordance with the approved company qualification standards or requirements for welders. The designated person-in-charge and welders shall personally inspect the area in which the work is to be performed for potential fire and explosion hazards. After it has been determined that it is safe to proceed with the welding or burning operation, the designated person-in-charge shall issue a written authorization for the work.

(c) All welding equipment shall be inspected prior to beginning any welding or burning. Welding machines located on production or process platforms shall be equipped with spark arrestors and drip pans. Welding leads shall be completely insulated and in good condition; oxygen and acetylene bottles secured in a safe place; and hoses leak-free and equipped with proper fittings, gauges, and regulators.

(d) During all welding and burning operations, one or more persons as necessary shall be designated as a Fire Watch. Persons assigned as a Fire Watch shall have no other duties while actual welding or burning operations are in progress.

(e) Prior to any welding or burning, the Fire Watch shall have in his possession fire-fighting equipment in a condition ready to use.

(f) No welding shall be done on containers, tanks, or other vessels which have contained a flammable substance unless the contents of the vessels have been rendered inert and determined to be safe for welding or burning by the designated person-in-charge.

(g) In the event drilling, workover, or wireline operations are in progress on the platform, welding operations in other than approved safe welding areas may be conducted only if the well(s) on which work is being done contain noncombustible fluids, and entry of formation hydrocarbons into the wellbore is precluded by a positive overbalance toward the formation. Also, all other provisions of this section shall be applicable.

(h) All other producible wells shall be shut in at the surface safety valves while welding or burning in the wellhead or production area.

4.5 *Safety Device Testing.* The safety system devices required by this Order shall be tested by the operator at the interval specified below or more frequently if operating conditions warrant. Records shall be maintained at the field office for a period of 1 year, showing the present status and history of each device, including dates and details of inspection, testing, repairing adjustment, and reinstallation. Such records shall be available to any authorized representative of the Geological Survey. Records shall be analyzed, equipment or system problem areas identified, and action taken to preclude recurrence of these problems.

Testing and reporting shall be accomplished in accordance with API RP 14C, Appendix D, and the following:

(a) All pressure relief valves shall be tested for operation semiannually. Pressure relief valves shall be either bench-tested or equipped to permit testing with an external pressure source.

(b) All pressure sensors shall be tested at least once each calendar month, but at no time shall more than 6 weeks elapse between tests.

(c) All automatic wellhead safety devices and check valves on all flowlines shall be checked for operation weekly and holding pressure once each calendar month, but at no time shall more than 6 weeks elapse between tests. If any wellhead safety valve indictates leakage, it shall be repaired or replaced.

(d) All liquid-level shut-in controls shall be tested at least once within each calendar month, but at no time shall more than 6 weeks elapse between tests. These tests shall be conducted by raising or lowering the liquid level across the level-control detector.

(e) All automatic inlet shut-off valves actuated by a sensor on a vessel or a compressor shall be tested for operation at least once within each calendar month, but at no time shall more than 6 weeks elapse between tests.

(f) All automatic shut-off valves located in liquid discharge lines and actuated by vessel low-level sensors shall be tested for operation once within each calendar month, but at no time shall more than 6 weeks elapse between tests.

(g) The high-temperature shut-down controls installed in all compressors which are protected against abnormal pressures solely by such temperature safety devices shall be tested semiannually and repaired or replaced as necessary.

(h) All pumps for fire-fighting water systems shall be inspected and test-operated weekly.

(i) The Automatic Smoke, Fire and Gas Detection System shall be tested for operation and recalibrated semi-annually.

(j) A complete testing and inspection of the integrated safety system shall be witnessed by Geological Survey representatives at the time production is commenced. Thereafter, the operator shall arrange for a test every 6 months. The test shall be conducted when it can be witnessed by Geological Survey representatives.

4.6 *Safety Device Training.* Not later than October 1, 1978, the operator shall ensure that all personnel engaged in installing, inspecting, testing, and routinely maintaining these safety devices will have been qualified under a program as recommended by API RP T–2, "Qualification Programs for Offshore Production Personnel Who Work With Anti-Pollution Safety Devices," September 1974, amended October 1975, or subsequent revisions approved by the Supervisor.

Documented evidence of qualification of individuals performing these functions shall be maintained at the field headquarters and shall be available to any authorized representative of the Geological Survey.

Manufacturers' representatives may work on component equipment supplied by their company, provided they are directly supervised by a qualified person, capable of evaluating the impact of the work on the total system. On-the-job trainees working with safety devices shall be directly supervised by a qualified person.

The operators shall submit for approval of the appropriate District Supervisor a description of the training to be conducted and the methods the operator will utilize to ensure that only persons qualified as above perform these functions. The description shall include:

(a) The operator's organizational element responsible for training and coordinating with the Geological Survey in training program matters.

(b) Categories of personnel to be qualified.

(c) Training organizations and courses to be utilized.

(d) Method for ensuring qualification of third-party personnel, if utilized.

(e) Method for determining when additional training or requalification is required and for obtaining same.

(f) Method of monitoring operations to ensure that only qualified personnel perform functions.

(g) Method of maintaining documented evidence of qualification at work site.

5. *Crane Operations.* Cranes shall be operated and maintained in a manner necessary to ensure the safety of facility operations in accordance with the provisions or API RP 2D, "Operation and Maintenance of Offshore Cranes," October 1972, or other revisions approved by the Supervisor.

Records of inspection, testing, and maintenance shall be kept in the field office for a period of 1 year.

API Specification 2C, "Specification for Offshore Cranes," shall be used as a guideline for the selection of cranes to be used offshore.

6. *Employee Orientation and Motivation Programs for Personnel Working Offshore.* The operator shall make a planned, continuing effort to eliminate accidents due to human error. This effort shall include the training of personnel in operational aspects of their functions and a program to instill in each individual working offshore a conscious desire to achieve safe and pollution-free operations. Minimum training of personnel going offshore for the first time shall include an orientation in accordance with API RP T–1, "Orientation Program for Personnel Going Offshore the First Time," January 1974, or equivalent. API Bulletin T–5, "Employee Motivation Programs for Safety and Prevention of Pollution in Offshore Operations," September 1974, shall be used as a guide in developing employee safety and pollution-prevention motivation programs. The applicability of any future revisions of the above API documents shall require approval by the Supervisor.

7. *Requirements for Drilling Rigs.*

7.1 *Fixed Structures.* The following requirements are applicable to drilling rigs for fixed structures:

(a) Subparagraph 4.1.7 *Curbs, Gutters, and Drains.*

(b) Subparagraph 4.1.10 *Electrical Equipment.*

(c) Subparagraph 4.4 *Welding Practices and Procedures.*

(d) Paragraph 5. *Crane Operations.*

(e) Paragraph 6. *Employee Orientation and Motivation Programs for Personnel Working Offshore.*

7.2 *Mobile Drilling Units.* The following requirements are applicable to drilling rigs on mobile drilling units:

(a) Subparagraph 4.4 *Welting Practices and Procedures.*

(b) Paragraph 6. *Employee Orientation and Motivation Programs for Personnel Working Offshore.*

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR.
GEOLOGICAL SURVEY, CONSERVATION DIVISION

NATIONAL ORDER, OCS ORDER NO. 7

EFFECTIVE----------

Pollution Control and Waste Disposal

This Order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.43. The operator shall comply with the following requirements. All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b).

1. *Pollution Prevention.* In the conduct of all oil and gas operations, the operator shall prevent pollution of the ocean. Furthermore, the disposal of waste materials into the ocean shall not create conditions which will adversely affect the public health, life or property, aquatic life or wildlife, recreation, navigation, commercial fishing, or other uses of the ocean.

1.1. *Liquid Disposal.*

1.1.1. *Oil-Cut Drilling Mud.* Drilling mud containing free oil shall not be disposed of into the ocean.

1.1.2 *Drilling Mud Components.* The operator shall submit, as a part of the Application for Permit to Drill (Form 9–331C), a detailed list of drilling mud components, including the common chemical or chemical trade name of each component, a list of the drilling mud additives anticipated for use in meeting special drilling requirements, and the proposed method of drilling mud disposal. Disposal of drilling mud shall be by methods which will minimize the adverse effects to marine life. Approval of drilling mud disposal into the ocean must be obtained from the District Supervisor. Each request will be site specific and decided on a case-by-case basis.

1.1.3 *Hydrocarbon Handling Equipment.* All production facilities, such as separators, tanks, treaters, and other hydrocarbon handling equipment shall be designed and operated in a manner necessary to prevent pollution. Maintenance or repairs as are necessary to prevent pollution of the ocean shall be undertaken immediately.

1.1.4 *Curbs, Gutters, and Drains.* Curbs, gutters, and drains on platforms, structures, and mobile drilling units shall be installed and maintained in accordance with the provisions of OCS Order No. 5.

1.1.5 *Fixed Structure Discharges.* Discharges from fixed structures, including sanitary waste, produced water, and deck drainage, are subject to the Environmental Protection Agency's permitting procedures pursuant to the Federal Water Pollution Control Act, as amended.

1.1.6 *Mobile Drilling Unit Discharges.* Marine sanitation devices for mobile drilling units shall meet Coast Guard Type I specifications.

1.2 *Solid Material Disposal.*

1.2.1 *Well Solids.* Drill cuttings, sand, and other well solids containing oil shall not be disposed of into the ocean unless all of the free oil has been removed.

1.2.2 *Containers.* Containers and other similar solid waste materials shall not be disposed of into the ocean.

1.2.3 *Equipment.* Disposal of equipment into the ocean is prohibited except under emergency conditions. The location and description of any equipment so discharged shall be reported to the District Supervisor.

2. *Personnel, Inspections and Reports.*

2.1 *Personnel.* The operator's personnel shall be thoroughly instructed in the techniques of equipment maintenance and operation for the prevention of pollution. Nonoperator personnel shall be informed in writing, prior to executing contracts, of the operator's obligations to prevent pollution.

2.2 *Pollution Inspections.*

2.2.1 *Manned Facilities.* Manned drilling and production facilities shall be inspected daily to determine if pollution is occurring. Such maintenance or repairs as are necessary to prevent pollution of ocean waters shall be immediately undertaken and performed.

2.2.2 *Unattended Facilities.* Unattended facilities, including those equipped with remote control and monitoring systems, shall be inspected daily or at intervals prescribed by the District Supervisor and necessary maintenance or repairs thereto made immediately.

2.3 *Pollution Reports.* All spills of oil and liquid pollutants shall be reported orally to the District Supervisor and confirmed in writing. The reports shall include the cause, location, ocean state, meteorological conditions, size and appearance of slick, volume of spill and action taken.

2.3.1 *Spills.* Spills shall be reported orally as follows:

(a) Less than 1.0 cubic meters (6.3 barrels) within 12 hours.

(b) 1.0 to 5.0 cubic meters (6.3 to 31.5 barrels) within 4 hours.

(c) More than 5.0 cubic meters (31.5 barrels) without delay.

2.3.2 *Observed Malfunctions.* Operators shall notify each other upon observation of equipment malfunction or pollution resulting from another's operation.

3. *Pollution-Control Equipment and Oil Spill Contingency Plan.*

3.1 *Equipment.* Standby pollution-control equipment and materials shall be maintained by, or shall be available to, each operator at an offshore location, or at such location as required by the Supervisor. This shall include containment booms, skimming apparatus, cleanup materials, and chemical agents, and shall be available prior to the commencement of operations. The use of chemicals shall be permitted only after approval by the Supervisor in accordance with Annex X, National Oil and Hazardous Substances Pollution Contingency Plan. The equipment and materials shall be inspected monthly and maintained in good condition for use. The results of the inspections shall be recorded and maintained at the site.

3.2 *Oil Spill Contingency Plan.* The operator shall submit an oil spill contingency plan for approval by the Supervisor prior to approval of an application for a permit to conduct operations. This plan shall contain the following:

(a) Provisions to assure that full resource capability is known and can be committed during an oil discharge situation, including the identification and inventory of applicable equipment, materials, and supplies which are available locally and regionally, both committed and uncommitted, and the time required for deployment.

(b) Provisions for varying degrees of response effort depending on the severity of the oil discharge.

(c) Provisions for protecting areas of special biological sensitivity.

(d) Establishment of notification procedures for the purpose of early detection and timely notification of an oil discharge including a current list of names, telephone numbers, and addresses of the responsible persons and alternates on call to receive notification of an oil discharge, as well as the names, telephone numbers, and addresses of regulatory organizations and agencies to be notified when an oil discharge is discovered.

(e) Provisions for well defined and specific actions to be taken after discovery and notification of an oil discharge including:

(1) Specification of an oil discharge response operating team consisting of trained, prepared, and available operating personnel.

(2) Predesignation of an oil discharge response coordinator who is charged with the responsibility and delegated commensurate authority for directing and coordinating response operations.

(3) A preplanned location for an oil discharge response operations center and a reliable communications system for directing the coordinated overall response operations.

(4) Provisions for disposal of recovered spill material.

4. *Drills and Training.* Drills and training classes for familiarization with pollution control equipment and operational procedures shall be held by the operator either at the offshore structures and drilling vessels or at onshore locations where pollution and containment equipment is based. The drills shall be realistic and include deployment of equipment. A drill schedule acceptable to the Supervisor shall be set by the operator, and a copy shall be sent to the District Supervisor in sufficient time for U.S. Geological Survey personnel to witness any of the drills or training classes. All equipment need not be deployed at each drill. Records of the drills shall be kept and be made available to Geological Survey personnel. Where drill performance and results are deemed inadequate by the District Supervisor, the operator shall increase the frequency of the drills until satisfactory results are achieved.

5. *Spill Control and Removal.* Immediate corrective action shall be taken in all cases where pollution has occurred. Corrective action taken under the operator's Oil Spill Contingency Plan shall be subect to modification when directed by the Area Supervisor. The primary jurisdiction to require corrective action to abate the source of pollution and to enforce the subsequent cleanup by the lessee or operator shall remain with the Supervisor pursuant to the provisions of this Order and the memorandum of understanding between the Department of Transportation (U.S. Coast Guard) and the Department of the Interior (U.S. Geological Survey) dated August 16, 1971.

6. *Contingency Plan Review.* Contingency plans shall be reviewed annually, and all modifications shall be submitted to the Supervisor for approval, together with the results of the review.

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY, CONSERVATION DIVISION

NATIONAL ORDERS, OCS ORDER NO. 8

EFFECTIVE----------

Platforms and Structures

This Order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.19(a). All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b).

The operator shall be responsible for compliance with the requirements of this Order in the installation and operation of all platforms and structures. All applications for approval under the provisions of this Order shall be submitted to the appropriate District Supervisor.

Following approval of applications, installations and operations shall be performed as approved. If deemed advisable, significant changes to approved applications may be proposed; however, approval of such proposals shall be required prior to implementation. For the purposes of compliance with this paragraph, a significant change is any structural change which materially alters the original plan or any major deviation from operations as originally approved. Any question as to whether a change is significant enough to require approval shall be referred to the Supervisor.

The following requirements are applicable to all platforms and structures approved and installed subsequent to the effective date of the Order. When structural or equipment modifications to existing platforms and structures are proposed, only requirements relevant to the modification shall be applicable.

1. *General Platform Design.* A platform or structure shall be designed for safe installation and operation for its intended use and service life at a specific site. Steel structures shall be planned and designed in accordance with those provisions of American Petroleum Institute (API) Recommended Practice (RP) 2A, "Planning, Designing, and Constructing Fixed Offshore Platforms," Eighth Edition, April 1977, or subsequent revisions as approved by the Supervisor. Additionally, the design shall include considerations for fatigue which are outlined in paragraph 2 below. Alternatively, the operator may utilize "Rules for the Design, Construction, and Inspection of Fixed Offshore Structures," May 1977, or subsequent revisions published by Det Norske Veritas of Norway where said rules meet or exceed the provisions of API RP 2A (as modified above) when approved by the appropriate Supervisor. The design of structures other than steel shall be evaluated on an individual basis. Consideration shall be given to conditions which may contribute to structural damage such as:

(a) Forces due to seismic and thermal stresses, snow, ice buildup (live load and fouling effects), collision with floating ice, wind, wave, and current effects (including dynamic amplification where appropriate), and other environmental loading forces.

(b) Functional loading conditions including the weight of the structure and all permanently fixed equipment, and the effects of static and dynamic functional load conditions during installation and the design operational service period.

(c) Water depth, bottom topography, surface and subsurface soil conditions, slope stability, scour conditions, and other pertinent geologic conditions based on information from on-site investigations.

2. *Fatigue Considerations.*

2.1 *Steel Structures.* The results of the fatigue analysis performed in accordance with API RP 2A shall indicate a minimum expected life of twice the time period selected for the "design life (20 year minimum)" of the platform where sufficient structural redundancy exists to prevent catastrophic failure of the platform in the event of failure of the member or joint under consideration. Where such redundancy does not exist, the results shall indicate a minimum expected life of three times the "design life." Where weld treatments such as grinding are performed for reduction in stress concentration factors, such information shall be submitted for the Supervisor's consideration in his assessment of platform approval.

2.2 *Concrete Structures.* Those areas of the platform which are subject to fatigue are to be analyzed to determine the effects of cyclic loading on the concrete and reinforcement by employing the latest "state-of-the-art" methods and procedures. Factors of safety on "design life" are to be the same as for steel structures.

3. *Application.* Prior to installation of a fixed platform or structure, the operator shall submit for approval four copies of an application showing essential features of the platform or structure, including the support information listed in subparagraphs 3.1 through 3.5.

3.1 *General Information.*

3.1.1 *Identification Data.* Identification data, which shall include the platform or structure designation, lease number, area name, block number, and operator.

3.1.2 *Location Data.* Location data, giving the longitude and latitude coordinates and Universal Transverse Mercator grid system coordinates, and the Lambert system coordinates, where appropriate, including a plat showing the distance from the nearest block lines.

3.1.3 *Intended Uses.* Primary use and other intended functions, including planned drilling, production, and storage operations.

3.1.4 *Personnel Facilities.* Personnel facilities, personnel access to living quarters, boat landings, and heliports.

3.1.5 *Platform or Structure Details.* Drawings and plats to clearly illustrate essential parts, including number and location of well slots, water depth nominal size and thickness of jacket and deck column legs, nominal size, thickness, and design penetration of piling.

3.1.6 *Corrosion Protection.* A description of the method of corrosion protection.

3.2 *Environmental Information.*

3.2.1 *Environmental Data.* List of pertinent environmental data which have a bearing on the installation, operation, or design of the platform or structure, including wave heights and periods, current, wind and gust velocities at defined heights above the water surface, water depth, seismic history, storm and astronomical tide data, marine growth loading, air and sea temperatures, rainfall, snowfall, icing conditions, floating ice conditions, and factors considered in subparagraph 1.c.

3.2.2 *Acoustic Profiling.* Multi-sensor, high resolution, acoustic profiling information which determines overburden thickness and shallow geological structural detail at each proposed structure location.

3.2.3 *Loading.* Listing of total design functional loads, live loads due to snow and ice buildup and forces due to ice collision, wind, wave, and current forces for longitudinal, transverse, and diagonal approaches. Design values for maximum wave height, wind, and current shall be based on an average recurrence interval of not less than 100 years.

3.3 *Foundation.*

3.3.1 *Seabed Testing.* A listing of on-site investigations and tests and a basic summary of resultant determinations. Test results shall include properties and conditions of seabed and subsoil, and the presence of any manmade hazards or obstructions shall be noted.

3.3.2 *Foundation Loads.* A description of foundation loads for environmental and functional forces listed in subparagraphs 3.2.1 and 3.2.2.

3.3.3 *Soil Stability Analysis.* In areas susceptible to soil movement, an analysis of slope and soil stability in relation to the foundation design loads.

3.4 *Installation.* A statement shall be submitted to the effect that the installation recommendations contained in API RP 2A were adopted or that significant deviations from the recommendations of API RP 2A were adopted and are herewith submitted for approval.

3.5 *Specific Supporting Design Information Submittal.* Information listed in 3.5.1 through 3.5.4 shall be developed and utilized in platform design and submitted with the installation application.

3.5.1 *Critical Design Loading.* A description of the critical design loading and design criteria, taking into consideration maximum environmental and operational loading conditions expected over the service life of the platform or structure. This shall include those conditions considered under subparagraphs 1.a through 1.c above.

3.5.2 *Steel Structure Data.* For steel structures, a description of the materials, specifications, strength and fatigue analyses, including a summary of results, and allowable stresses over the service life.

3.5.3 *Concrete Structure Data.* For concrete structures, a description of the materials, specifications, strength and serviceability requirements, and analyses of the reinforcing systems.

3.5.4 *Nondestructive Testing.* Plans for the method(s) and extent of nondestructive testing of welding and materials.

4. *Certification.*

4.1 *Certification of Plans.* Detailed structural plans certified by a registered professional structural engineer or civil engineer specializing in structural design shall be on file and maintained by the operator or his designee.

4.2 *Certification by Operator.* The following certification, signed and dated by a company representative, shall accompany the application:

"---------- certifies that
(Operator)
this platform has been certified by a registered professional structural engineer or civil engineer specializing in structural design and the structure will be constructed, operated, and maintained as described in the application and any approved modification thereto. Certified Plans are on file at----------."

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY, CONSERVATION DIVISION

NATIONAL ORDER, OCS ORDER NO. 12

EFFECTIVE ----------

Public Inspection of Records

This Order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.97 and 43 CFR Part 2. Requests for information made under the Freedom of Information Act, 5 U.S.C. § 552, will be governed by the provisions of 43 CFR Part 2 (40 F.R. 7304, February 19, 1975). All departures from the requirements

specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b).

1. *Filing of Reports.* All reports on Forms 9–152, 9–330, 9–331, 9–331C, 9–1869, 9–1870, and the forms used to report the results of multi-point back pressure tests shall be filed by the operator in accordance with the following:

(a) All reports submitted on these forms shall include a copy with the words "Public Information" shown on the lower right-hand corner. This copy of the form shall be made available for public inspection.

(b) All items on the form not marked "Public Information" shall be completed in full, and such forms and all attachments thereto shall not be available for public inspection.

(c) The copy marked "Public Information" shall be completed in full, except that the items described in 2.1 through 2.4 below and the attachments relating to such items may be excluded.

2. *Availability of Records.* It has been determined that certain records pertainng to leases and wells in the Outer Continental Shelf and submitted under 30 CFR 250 shall be made available for public inspection, as specified below, in the Area office. Certain other portions of these records have been determined to be exempt from disclosure. The reason for these exemptions is discussed in Paragraph 3 of this Order.

2.1 *Form 9–152—Monthly Report of Operations.* All information contained on this form shall be available except the information required in the "Remarks" column.

2.2 *Form 9–330—Well Completion or Recompletion Report and Log.*

2.2.1 *Prior to Commencement.* Prior to commencement of production, all information contained on this form shall be available, except:

(a) Item 1a, Type of Well.

(b) Item 4, Location of Well, at top production interval and at total depth.

(c) Item 22, if Multiple Completion, how many.

(d) Item 24, Producing Interval.

(e) Item 26, Type Electric and Other Logs Run.

(f) Item 28, Casing Record.

(g) Item 29, Liner Record.

(h) Item 30, Tubing Record.

(i) Item 31, Perforation Record.

(j) Item 32, Acid, Shot, Fracture, Cement Squeeze, etc.

(k) Item 33, Production.

(l) Item 37, Summary of Porous Zones

(m) Item 38, Geologic Markers.

2.2.2 *After Commencement of Production.* After commencement of production, all information shall be available except Item 37, Summary of Porous Zones, and Item 38, Geologic Markers.

2.2.3 *Five Years Elapsed Time.* If production has not commenced after an elapsed time of 5 years from the date of filing Form 9–330 as required in 30 CFR 250.38(b), excluding the total of such time that operations and production are suspended by direction of the Secretary of the Interior or his duly authorized representative, and further excluding the total of such time that operations and production are stopped or prohibited by Court order, all information contained on this form shall be available except Item 37, Summary of Porous Zones, and Item 38, Geologic Markers. Within 90 days prior to the end of the 5-year period, exclusive of exceptions noted above, the lessee or operator shall file a Form 9–330 containing all information requested on the form except Item 37, Summary of Porous Zones, and Item 38, Geologic Markers, to be made available for public inspection. Objections to the release of such information may be submitted with the completed Form 9–330.

2.3 *Form 9–331—Sunday Notices and Report on Wells.*

2.3.1 *"Request for Approval to."* When used as a "Request for Approval to" conduct operations, all information contained on this form shall be available except Item 4, Location of Well, at top production interval and at total depth, and Item 17, Describe Proposed or Completed Operations.

2.3.2 *"Subsequent Report of."* When used as a "Subsequent Report of" operations, and after commencement of production, all information contained on this form shall be available, except information under Item 17 as to subsurface locations and measured and true vertical depths for all markers and zones not placed on production.

2.4 *Form 9–331C—Application for Permit to Drill, Deepen or Plug Back.* All information contained on this form, and location plat attached thereto, shall be available except Item 4, Location of Well at Proposed Production Zone, and Item 23, Proposed Casing and Cementing Program.

2.5 *Form 9–1869—Quarterly Oil Well Test Report.* All information contained on this form shall be available.

2.6. *Form 9–1870—Semi-Annual Gas Well Test Report.* All information contained on this form shall be available.

2.7 *Multi-point Back Pressure Test Report.* All information contained on this form used to report the results of required multi-point back pressure test of gas wells shall be available.

2.8 *Sales of Lease Production.* Information contained on monthly Geological Survey computer printout showing sales volumes, value, and royalty on production of oil, condensate, gas and liquid products, by lease, shall be made available.

2.9 *Availability of Inspection Records.* All accident investigation reports, pollution incident reports, facilities inspection data, and records of enforcement actions are also available for public inspection.

2.10 *Availability of Data and Information Submitted by Lessees as a Requirement of OCS Orders and Notices.* It has been determined that much information submitted by lessees as a result of OCS Orders and OCS Notices to Lessees and Operators is nonproprietary in nature and will be made available for public inspection. This will include:

(a) Notices of support activity.

(b) Oceanographic, meteorological, and performance data collected from drilling units and production facilities during the period of operations.

(c) Results of site surveys required prior to drilling or placement of structures, except for those portions which the lessee shall designate, with the Supervisor's approval, as trade secrets and commercial or financial information which is privileged or confidential.

(d) Drawings, maximum environmental design criteria, and performance data of mobile drilling units and structures.

(e) Oil spill contingency plans.

(f) Critical operations and curtailment plans.

3. *Information Exempt from Public Inspection.* The requirements of this paragraph are applicable to leases issued after June 11, 1976. It has been determined that certain information as discussed in paragraphs 1 and 2.1 through 2.4 of this Order is exempt from disclosure, under exemption No. 9 of the Freedom of Information Act [5 U.S.C. § 552(b)(9) and 43 CFR 2.13 subparagraph (c) *"Statutory Exemptions."* (9)]. This information has been determined to qualify as "geological and geophysical information and data including maps concerning wells." In accordance with 30 CFR 250.97, *"Public Inspection of Records,"* subparagraph (a), geophysical data shall not be available for public inspection without the consent of the lessee as long as the lease remains in effect or for a period of 10 years after the date of submission, whichever is less, unless the Supervisor, with the approval of the Director, determines that earlier release of such information is necessary for the proper development of the field or area. Subparagraph (b) requires that geological data shall not be made available for public inspection without the consent of the lessee, as long as the lease remains in effect or for a period of 2 years after the date of submission, whichever is less, unless the Supervisor, with the approval of the Director, determines that earlier release of such information is necessary for the proper development of the field or area.

Approved:

Acting Chief, Conservation Division

APPENDIX I

OCS ORDERS GOVERNING OIL AND GAS LEASE OPERATIONS IN THE OUTER CONTINENTAL SHELF

UNITED STATES DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY, CONSERVATION DIVISION

GULF OF MEXICO AREA, OCS ORDER NO. 2

EFFECTIVE ----------

Drilling Procedures

The preamble to this Order is common to all Areas of the Outer Continental Shelf. Refer to National Order No. 2.

1. *Drilling Platforms and Mobile Drilling Units.* Refer to National OCS Order No. 2.

2. *Well Casing and Cementing.* The requirements of this paragraph are the same as National OCS Order No. 2, except subparagraph 2.2.3 below.

2.2.3 *Conductor and Surface Casing Setting Depths.* Casing design and setting depths shall be based upon all engineering and geologic factors, including the presence or absence of hydrocarbons or other potential hazards and water depths. These strings of casing shall be set at the depths specified, subject to approved variation to permit the casing to be set in a competent bed, or through formations determined desirable to be isolated from the well by pipe for safer drilling operations; provided, however, that the conductor casing shall be set immediately prior to drilling into formations known to contain oil or gas, or, if unknown, upon encountering such formations. These casing strings shall be run and cemented prior to drilling below the specified setting depths. For those wells which may encounter abnormal pressure conditions, the District Supervisor may prescribe the exact setting depths. Conductor casing setting depths shall be between 152 meters (499 feet) and 305 meters (1,000 feet) TVD below Gulf floor, and surface casing setting depths shall be between 457 meters (1,499 feet) and 1372 meters (4,500 feet) TVD below Gulf floor.

Engineering and geologic data used to substantiate the proposed setting depths of the conductor and surface casing (such as estimated fracture gradients, pore pressures, shallow hazards, etc.) shall be furnished with the Application for Permit to Drill.

3. *Directional Surveys.* Refer to National OCS Order.

4. *Blowout Preventer Equipment Requirements.* Refer to National OCS Order.

5. *Mud Program.* Refer to National OCS Order.

6. *Supervision, Surveillance, and Training.* Refer to National OCS Order.

7. *Hydrogen Sulfide* Refer to National OCS Order.

8. *Critical Operations and Curtailment Plans.* Refer to National OCS Order.

D. W. SOLANAS,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

UNITED STATES
DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY, CONSERVATION DIVISION

GULF OF MEXICO AREA, OCS ORDER NO. 5
EFFECTIVE----------

Subsurface Safety Devices and Surface Safety Systems

The preamble to this Order is common to all Areas of the Outer Continental Shelf. Refer to National OCS Order No. 5.

1. *Technological Improvements.* Refer to National Order.

2. *Subsurface Safety Devices.* In addition to the requirements of National OCS Order No. 5, the following items are required:

(a) *Wells completed subsequent to June 5, 1972.*

(1) All tubing installations in wells completed after June 5, 1972, with a shut-in pressure of 4,000 psig or greater shall be equipped with a subsurface-controlled subsurface safety device. A surface- or remote-controlled subsurface safety device may be installed if approved by the Supervisor. When the shut-in tubing pressure declines below 4,000 psig, a surface- or other remote-controlled subsurface safety device shall be installed when the tubing is first removed and reinstalled.

(2) All tubing installations in wells completed after June 5, 1972, with a shut-in tubing pressure initially below 4,000 psig shall be equipped with a surface- or remote-controlled subsurface safety device.

(b) *Wells completed prior to June 5, 1972.* (1) All tubing installations in wells completed prior to June 5, 1972, with a shut-in tubing pressure of 4,000 psig or greater, shall be equipped with a subsurface-controlled subsurface safety device. A surface- or remote-controlled subsurface safety device may be installed if approved by the Supervisor. When the shut-in tubing pressure declines below 4,000 psig, a surface- or other remote-controlled subsurface safety device shall be installed when the tubing is first removed and reinstalled.

(2) All tubing installations in wells existing prior to June 5, 1972, with a shut-in tubing pressure initially below 4,000 psig shall be equipped with a subsurface controlled subsurface safety valve. A surface- or remote-controlled subsurface safety device shall be installed when the tubing is first removed and reinstalled.

(c) *Satellite and sub-sea completion.* Tubing installations in wells completed from single-well and multiwell satellite caissons or jackets and ocean floor completions may be equipped with a subsurface-controlled subsurface safety device in lieu of a surface- or other remote-controlled subsurface safety device, upon application, justification, and approval.

(d) *Testing of subsurface-controlled subsurface safety devices.* Each subsurface-controlled subsurface safety device installed in a well shall be removed, inspected, and repaired or adjusted as necessary and reinstalled at intervals not exceeding:

(1) 6 months for those devices not installed in a landing nipple.

(2) 12 months for those devices installed in a landing nipple.

Each velocity-type device shall be designed to close at a flow rate not to exceed the larger of either 150 percent of, or 200 BFPD above, the most recent well-test rate which equals or exceeds the approved production rate. The above closing flow rate shall not exceed the calculated capacity of the well to produce against a flowing wellhead pressure of 50 psig. Each preset tubing-pressure-actuated device shall be designed to close prior to reduction of the flowing wellhead pressure to 50 psig.

3. *Design, Installation, Operation, and Testing of Surface Production Facilities Safety Systems.* Refer to National Order.

4. *Additional Safety and Pollution Control Requirements.* The requirements of this paragraph are the same as National OCS Order No. 5, except subparagraph 4.1.8 below.

4.1.8 *Firefighting Systems.* A firefighting water system of rigid pipe with fire hose stations shall be installed and may include a fixed water-spray system. Such a system shall be installed in a manner necessary to provide needed protection in areas where production-handling equipment is located. A firefighting system using chemicals may be used in lieu of a water system if determined to provide equivalent fire protection control.

An alternate fuel or power source shall be installed to provide continued pump operation for the system during platform shutdown, unless an alternate firefighting system is provided.

A diagram of the firefighting system showing the location of all equipment shall be posted in a prominent place on the platform or structure.

5. *Crane Operations.* Refer to National Order.

6. *Employee Orientation and Motivation Programs for Personnel Working Offshore.* Refer to National Order.

7. *Requirements for Drilling Rigs.* Refer to National Order.

D. W. SOLANAS,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY CONSERVATION DIVISION

GULF OF MEXICO AREA, OCS ORDER NO. 7
EFFECTIVE ----------

Pollution Control and Waste Disposal

The requirements of this Order for the Gulf of Mexico Area are the same as National OCS Order No. 7.

D. W. SOLANAS,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY CONSERVATION DIVISION

GULF OF MEXICO AREA, OCS ORDER NO. 8
EFFECTIVE ----------

Platforms and Structures

The requirements of this Order for the Gulf of Mexico Area are the same as National Outer Continental Shelf Order No. 8.

D. W. SOLANAS,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY, CONSERVATION DIVISION

GULF OF MEXICO AREA, OCS ORDER NO. 12
EFFECTIVE ----------

Public inspection of records

The requirements of this Order for the Gulf of Mexico Area are the same as those for National Outer Continental Shelf Order No. 12.

D. W. SOLANAS,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

APPENDIX II

OCS ORDERS GOVERNING OIL AND GAS LEASE OPERATIONS IN THE OUTER CONTINENTAL SHELF

UNITED STATES DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY, CONSERVATION DIVISION

WESTERN REGION, PACIFIC AREA, OCS ORDER NO. 2
EFFECTIVE----------

Drilling procedures

The preamble to this Order is common to all Areas of the Outer Continental Shelf. Refer to National OCS Order No. 2.

1. *Drilling Platforms and Mobile Drilling Units.* Refer to National OCS Order No. 2.

2. *Well Casing and Cementing.* The requirements of this paragraph are the same as National OCS Order No. 2, except Subparagraphs 2.2.2 and 2.2.3 below.

2.2.2. *Surface Casing.* This casing shall be cemented with a quantity of cement sufficient to protect all freshwater sands and provide well control until the next string of casing is set, and sufficient to fill the calculated annual space to the ocean floor, or as approved by the District Supervisor. After drilling a maximum of 30 meters (98 feet) below the surface casing shoe, a pressure test shall be obtained to aid in determining a formation fracture gradient either by testing to formation leak-off or by testing to a predetermined equivalent mud weight. The results of this test and any subsequent tests of the formation shall be recorded on the driller's log and used to determine the depth and maximum mud weight of the intermediate hole.

2.2.3 *Conductor and Surface Casing Setting Depths.* Casing design and setting depths shall be based upon all engineering and geologic factors, including the presence or absence of hydrocarbons or other potential hazards and water depths. These strings of casing shall be set at the depths specified, subject to approved variation to permit the casing to be set in a competent bed, or through formations determined desirable to be isolated from the well by pipe for safer drilling operations; provided, however, that the conductor casing shall be set immediately prior to drilling into formations known to contain oil or gas, or, if unknown, upon encountering such formations. These casing strings shall be run and cemented prior to drilling below the specified setting depths. For those wells which may encounter abnormal pressure conditions, the District Supervisor may prescribe the exact setting depths. Conductor casing setting depths shall be between 91 meters (298 feet) and 152 meters (499 feet) TVD below the ocean floor. Surface casing setting depths shall be between 305 meters (1,000 feet) and 366 meters (1,200 feet) TVD below the ocean floor, but may be set 455 meters (1,501 feet) in the event that conduct casing is set as deep as 137 meters (449 feet) TVD below the ocean floor.

Engineering and geologic data used to substantiate the proposed setting depths of the conductor and surface casings (such as estimated fracture gradients, pore pressures, shallow hazards, etc.) shall be furnished with the Application for Permit to Drill.

3. *Directional Surveys.* Refer to National OCS Order.

4. *Blowout Preventer Equipment Requirements.* Refer to National OCS Order.

5. *Mud Program.* Refer to National OCS Order.

6. *Supervision, Surveillance, and Training.* Refer to National OCS Order.

7. *Hydrogen Sulfide.* Refer to National OCS Order.

8. *Critical Operations and Curtailment Plans.* Refer to National OCS Order.

F. J. SCHAMBECK,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY, CONSERVATION DIVISION

WESTERN REGION, PACIFIC AREA, OCS ORDER NO. 5
EFFECTIVE----------

Subsurface Safety Devices and Surface Safety Systems

The requirements of this Order for the Pacific Area are the same as National Outer Continental Shelf Order No. 5.

F. J. SCHAMBECK,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY, CONSERVATION DIVISION

WESTERN REGION, PACIFIC AREA, OCS ORDER NO. 7
EFFECTIVE ------

Pollution Control and Waste Disposal

The requirements of this Order for the Pacific Area are the same as National Outer Continental Shelf Order No. 7.

F. J. SCHAMBECK,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY, CONSERVATION DIVISION

WESTERN REGION, PACIFIC AREA, OCS ORDER NO. 8
EFFECTIVE ------

Platforms and Structures

The requirements of this Order for the Pacific Area are the same as National Outer Continental Shelf Order No. 8.

F. J. SCHAMBECK,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY CONSERVATION DIVISION

WESTERN REGION, PACIFIC AREA,
OCS ORDER NO. 12 EFFECTIVE----------

Public inspection of records

The requirements of this Order for the Pacific Area are the same as National Outer Continental Shelf Order No. 12.

F. J. SCHAMBECK,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

APPENDIX III

OCS ORDERS GOVERNING OIL AND GAS LEASE OPERATIONS IN THE OUTER CONTINENTAL SHELF

UNITED STATES DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY, CONSERVATION DIVISION

WESTERN REGION, ALASKA AREA, GULF OF ALASKA
OCS ORDER NO. 2, EFFECTIVE ----------

Drilling Procedures

The preamble to this Order is common to all Areas of the Outer Continental Shelf. Refer to National OCS Order No. 2.

1. *Drilling Platforms and Mobile Drilling Units.* In addition to the requirements of National OCS Order No. 2, the following items are required:

1.1.5 *Oceanographic, Meteorological, Performance Data.* Operators shall collect and report oceanographic, meteorological, and performance data during the period of operations. The type of information collected, method of collection, and report requirements will be as specified by the Supervisor.

1.1.6 *Subfreezing Operations.* Operators shall furnish evidence that the drilling equipment, drilling safety systems, and other associated equipment are conditioned to assure proper operation under subfreezing conditions where operations will take place over winter months in areas which experience these conditions.

2. *Well Casing and Cementing.* The requirements of this paragraph are the same as National OCS Order No. 2, except Subparagraph 2.2.3 below.

2.2.3 *Conductor and Surface Casing Setting Depths.* Casing design and setting depths shall be based upon all engineering and geologic factors, including the presence or absence of hydrocarbons or other potential hazards and water depths. These strings of casing shall be set at the depths specified, subject to approved variation to permit the casing to be set in a competent bed, or through formations determined desirable to be isolated from the well by pipe for safer drilling operations; provided, however, that the conductor casing shall be set immediately prior to drilling into formations known to contain oil or gas, or, if unknown, upon encountering such formations. These casing strings shall be run and cemented prior to drilling below the specified setting depths. For those wells which may encounter abnormal pressure conditions, the District Supervisor may prescribe the exact setting depths. Except as may otherwise be prescribed, conductor casing setting depths shall be between 91 meters (298 feet) and 305 meters (1,000 feet) TVD below ocean floor, and surface casing setting depths shall be between 305 meters (1,000 feet) and 1,400 meters (4,592 feet) TVD below ocean floor.

Engineering, geophysical, and geologic data used to substantiate the proposed setting depths of the conductor and surface casings (such as estimated fracture gradients, pore pressures, shallow hazards, etc.) shall be furnished with the Application for Permit to Drill.

3. *Directional Surveys.* Refer to National OCS Order.

4. *Blowout Preventer Equipment Requirements.* In addition to the requirements of National OCS Order No. 2, the following is required:

4.1.3 *Subfreezing Operations.* The blowout preventers and related control equipment must be equipped and conditioned to assure proper operation under subfreezing conditions when operations will be conducted over winter months in areas likely to experience these conditions.

5. *Mud Program.* Refer to National OCS Order.

6. *Supervision, Surveillance, and Training.* Refer to National OCS Order.

7. *Hydrogen Sulfide.* Refer to National OCS Order.

8. *Critical Operations and Curtailment Plans.* Refer to National OCS Order.

RODNEY A. SMITH,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY, CONSERVATION DIVISION

WESTERN REGION, ALASKA AREA,
GULF OF ALASKA
OCS ORDER NO. 5, EFFECTIVE ----------

Subsurface safety devices and surface safety systems

The preamble to this Order is common to all Areas of the Outer Continental Shelf. Refer to National OCS Order No. 5.

1. *Technological Improvements.* Refer to National OCS Order.

2. *Subsurface Safety Devices.* In addition to the requirements of National OCS Order No. 5, the following item is required:

2.3 *Surface-Controlled Subsurface Safety Devices.* The operator must furnish evidence that the surface-controlled subsurface safety devices and related equipment are capable of full operation under subfreezing conditions.

3. *Design, Installation, Operation, and Testing of Surface Production Facilities Safety Systems.* In addition to the requirements of National OCS Order No. 5, the following is required:

The operator must furnish evidence that the surface safety systems and related equipment are capable of full operation under subfreezing conditions, and that all equipment and operating procedures take into account floating ice and other extreme environmental conditions that may occur in the area.

4. *Additional Safety and Pollution Control Requirements.* Refer to National OCS Order.

5. *Crane Operations.* Refer to National OCS Order.

6. *Employee Orientation and Motivation Programs for Personnel Working Offshore.* Refer to National OCS Order.

7. *Requirements for Drilling Rigs.* Refer to National OCS Order.

RODNEY A. SMITH,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY, CONSERVATION DIVISION
WESTERN REGION, ALASKA AREA, GULF OF ALASKA
OCS ORDER NO. 7, EFFECTIVE ----------

Pollution control and waste disposal

The requirements of this Order for the Gulf of Alaska are the same as National OCS Order No. 7.

RODNEY A. SMITH,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY, CONSERVATION DIVISION
WESTERN REGION, ALASKA AREA, GULF OF ALASKA
OCS ORDER NO. 8, EFFECTIVE ----------

Platforms and structures

The requirements of this Order for the Gulf of Alaska are the same as National OCS Order No. 8.

RODNEY A. SMITH,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY, CONSERVATION DIVISION

WESTERN REGION, ALASKA AREA, GULF OF ALASKA OCS ORDER NO. 12, EFFECTIVE----------

Public Inspection of Records

The requirements of this Order for the Gulf of Alaska are the same as National OCS Order No. 12.

RODNEY A. SMITH,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

APPENDIX IV

OCS ORDERS GOVERNING OIL AND GAS LEASE OPERATIONS IN THE OUTER CONTINENTAL SHELF

UNITED STATES, DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY, CONSERVATION DIVISION EASTERN REGION, ATLANTIC AREA, MID-ATLANTIC OCS ORDER NO. 2, EFFECTIVE ----------

Drilling Procedures

The preamble to this Order is common to all areas of the OCS. Refer to National OCS Order No. 2.

1. *Drilling Platforms and Mobile Drilling Units.* In addition to the requirements of National OCS Order No. 2, the following items are required:

1.1.5 *Oceanographic, Meterological, and Performance Data.* Operators shall collect and report oceanographic, meteorological, and performance data during the period of operations. The type of information collected, method of collection, and report requirements will be as specified by the Supervisor.

1.1.6 *Subfreezing Operations.* Operators shall furnish evidence that the drilling equipment, drilling safety systems, and other associated equipment are conditioned to assure proper operation under subfreezing conditions where operators will take place over winter months in areas which experience these conditions.

2. *Well Casing and Cementing.* The requirements of this paragraph are the same as National OCS Order No. 2, except Subparagraph 2.2.3 below.

2.2.3 *Conductor and Surface Casing Setting Depths.* Casing design and setting depths shall be based upon all engineering and geologic factors, including the presence or absence of hydrocarbons or other potential hazards and water depths. These strings of casing shall be set at the depths specified, subject to approved variation to permit the casing to be set in a competent bed, or through formations determined desirable to be isolated from the well by pipe for safer drilling operations; provided, however, that the conductor casing shall be set immediately prior to drilling into formations known to contain oil or gas, or, if unknown, upon encountering such formations. These casing strings shall be run and cemented prior to drilling below the specified setting depths. For those wells which may encounter abnormal pressure conditions, the District Supervisor may prescribe the exact setting depths. Except as may otherwise be prescribed, conductor casing setting depths shall be between 91 meters (298 feet) and 305 meters (1,000 feet) TVD below ocean floor, and surface casing setting depths shall be between 305 meters (1,000 feet) and 1,400 meters (4,592 feet) TVD below ocean floor.

Engineering, geophysical, and geologic data used to substantiate the proposed setting depths of the conductor and surface casings (such as estimated fracture gradients, pore pressures, shallow hazards, etc.) shall be furnished with the Application for Permit to Drill.

3. *Directional Surveys.* Refer to National OCS Order.

4. *Blowout Preventer Equipment Requirements.* In addition to the requirements of National OCS Order No. 2, the following is required:

4.1.3. *Subfreezing Operations.* The blowout preventers and related control equipment must be equipped and conditioned to assure proper operation under subfreezing conditions when operations will be conducted over winter months in areas likely to experience these conditions.

5. *Mud Program.* Refer to National OCS Order.

6. *Supervision, Surveillance, and Training.* Refer to National OCS Order.

7. *Hydrogen Sulfide.* Refer to National OCS Order.

8. *Critical Operations and Curtailment Plan.* Refer to National OCS Order.

DWAYNE E. HULL,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY, CONSERVATION DIVISION

EASTERN REGION, ATLANTIC AREA, MID-ATLANTIC OCS ORDER NO. 5, EFFECTIVE ----------

SUBSURFACE SAFETY DEVICES AND SURFACE SAFETY SYSTEMS

The preamble to this Order is common to all Areas of the Outer Continental Shelf. Refer to National OCS Order No. 5.

1. *Technological Improvements.* Refer to National OCS Order.

2. *Subsurface Safety Devices.* In addition to the requirements of National OCS Order No. 5, the following item is required:

2.3 *Surface-Controlled Subsurface Safety Devices.* The operator must furnish evidence that the surface-controlled subsurface safety devices and related equipment are capable of full operation under subfreezing conditions.

3. *Design, Installation, Operation, and Testing of Surface Production Facilities Safety Systems.* In addition to the requirements of National OCS Order No. 5, the following item is required:

The operator must furnish evidence that the surface safety systems and related equipment are capable of full operation under subfreezing conditions, and that all equipment and operating procedures take into account floating ice and other extreme environmental conditions that may occur in the area.

4. *Additional Safety and Pollution Control Requirements.* Refer to National OCS Order.

5. *Crane Operations.* Refer to National OCS Order.

6. *Employee Orientation and Motivation Programs for Personnel Working Offshore.* Refer to National OCS Order.

7. *Requirements for Drilling Rigs.* Refer to National OCS Order.

DWAYNE E. HULL,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY, CONSERVATION DIVISION

EASTERN REGION, ATLANTIC AREA, MID-ATLANTIC OCS ORDER NO. 7, EFFECTIVE----------

Pollution Control and Waste Disposal

The requirements of this Order for the Mid-Atlantic are the same as National OCS Order No. 7.

DWAYNE E. HULL,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY, CONSERVATION DIVISION

EASTERN REGION, ATLANTIC AREA, MID-ATLANTIC OCS ORDER NO. 8, EFFECTIVE ----------

Platforms and Structures

The requirements of this Order for the Mid-Atlantic are the same as National OCS Order No. 8.

DWAYNE E. HULL,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY, CONSERVATION DIVISION

EASTERN REGION, ATLANTIC AREA, MID-ATLANTIC OCS ORDER NO. 12, EFFECTIVE----------

Public Inspection of Records

The requirements of this Order for the Mid-Atlantic are the same as National OCS Order No. 12.

DWAYNE E. HULL,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

APPENDIX V

OCS ORDERS GOVERNING OIL AND GAS LEASE OPERATIONS IN THE OUTER CONTINENTAL SHELF

UNITED STATES DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY, CONSERVATION DIVISION

EASTERN REGION, ATLANTIC AREA, NORTH ATLANTIC AREA OCS ORDER NO. 2, EFFECTIVE ----------

Drilling Procedures

The preamble to this Order is common to all Areas of the Outer Continental Shelf. Refer to National OCS Order No. 2.

1. *Drilling Platforms and Mobile Drilling Units.* In addition to the requirements of National OCS Order No. 2, the following items are required:

1.1.5 *Oceanographic, Meteorological, and Performance Data.* Operators shall collect and report oceanographic, meteorological, and performance data during the period of operations. The type of information collected, method of collection, and report requirements will be as specified by the Supervisor.

1.1.6 *Subfreezing Operations.* Operators shall furnish evidence that the drilling equipment, drilling safety systems, and other

associated equipment are conditioned to assure proper operation under subfreezing conditions where operations will take place over winter months in areas which experience these conditions.

2. *Well Casing and Cementing.* The requirements of this paragraph are the same as OCS Order No. 2, except Subparagraph 2.2.3 below.

2.2.3 *Conductor and Surface Casing Setting Depths.* Casing design and setting depths shall be based upon all engineering and geologic factors, including presence or absence of hydrocarbons or other potential hazards and water depths. These strings of casing shall be set at the depths specified, subject to approved variation to permit the casing to be set in a competent bed, or through formations determined desirable to be isolated from the well by pipe for safer drilling operations; provided, however, that the conductor casing shall be set immediately prior to drilling into formations known to contain oil or gas, or, if unknown, upon encountering such formations. These casing strings shall be run and cemented prior to drilling below the specified setting depths. For those wells which may encounter abnormal pressure conditions, the District Supervisor may prescribe the exact setting depths. Except as may otherwise be prescribed, conductor casing setting depths shall be between 91 meters (298 feet) and 305 meters (1,000 feet) TVD below ocean floor, and surface casing setting depths shall be between 305 meters (1,000 feet) and 1,400 meters (4,592 feet) TVD below ocean floor.

Engineering, geophysical, and geologic data used to substantiate the proposed setting depths of the conductor and surface casings (such as estimated fracture gradients, pore pressures, shallow hazards, etc.) shall be furnished with the Application for Permit to Drill.

3. *Directional Surveys.* Refer to National OCS Order.

4. *Blowout Preventer Equipment Requirements.* In addition to the requirements of National OCS Order No. 2, the following is required:

4.1.3 *Subfreezing Operations.* The blowout preventers and related control equipment must be equipped and conditioned to assure proper operation under subfreezing conditions when operations will be conducted over winter months in areas likely to experience these conditions.

5. *Mud Program.* Refer to National OCS Order.

6. *Supervision, Surveillance, and Training.* Refer to National OCS Order.

7. *Hydrogen Sulfide.* Refer to National OCS Order.

8. *Critical Operations and Curtailment Plan.* Refer to National OCS Order.

DWAYNE E. HULL,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY, CONSERVATION DIVISION

EASTERN REGION, ATLANTIC AREA, NORTH ATLANTIC OCS ORDER NO. 5, EFFECTIVE --------

Subsurface Safety Devices and Surface Safety Systems

The preamble to this Order is common to all Areas of the Outer Continental Shelf. Refer to National OCS Order No. 5.

1. *Technological Improvements.* Refer to National OCS Order.

2. *Subsurface Safety Devices.* In addition to the requirements of National OCS Order No. 5, the following is required:

2.3 *Surface-Controlled Subsurface Safety Devices.* The operator must furnish evidence that the surface-controlled subsurface safety devices and related equipment are capable of full operation under subfreezing conditions.

3. *Design, Installation, Operation, and Testing of Surface Production Facilities Safety Systems.* In addition to the requirements of National OCS Order No. 5, the following is required:

The operator must furnish evidence that the surface safety systems and related equipment are capable of full operation under subfreezing conditions, and that all equipment and operating procedures take into account floating ice and other extreme environmental conditions that may occur in the area.

4. *Additional Safety and Pollution Control Requirements.* Refer to National OCS Order.

5. *Crane Operations.* Refer to National OCS Order.

6. *Employee Orientation and Motivation Programs for Personnel Working Offshore.* Refer to National OCS Order.

7. *Requirements for Drilling Rigs.* Refer to National OCS Order.

DWAYNE E. HULL,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY, CONSERVATION DIVISION

EASTERN REGION, ATLANTIC AREA, NORTH ATLANTIC OCS ORDER NO. 7, EFFECTIVE----------

Pollution Control and Waste Disposal

The requirements of this Order for the North Atlantic are the same as National OCS Order No. 7.

DWAYNE E. HULL,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division.

UNITED STATES DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY, CONSERVATION DIVISION

EASTERN REGION, ATLANTIC AREA, NORTH ATLANTIC OCS ORDER NO. 8, EFFECTIVE----------

Platforms and Structures

The requirements of this Order for the North Atlantic are the same as National OCS Order No. 8.

DWAYNE E. HULL,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division.

UNITED STATES DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY, CONSERVATION DIVISION

EASTERN REGION, ATLANTIC AREA, NORTH ATLANTIC, OCS ORDER NO. 12, EFFECTIVE ----------

Public Inspection of Records

The requirements of this Order for the North Atlantic are the same as National OCS Order No. 12.

DWAYNE E. HULL,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

APPENDIX VI

OCS ORDERS GOVERNING OIL AND GAS LEASE OPERATIONS IN THE OUTER CONTINENTAL SHELF

UNITED STATES DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY, CONSERVATION DIVISION

EASTERN REGION, ATLANTIC AREA, SOUTH ATLANTIC OCS ORDER NO. 2, EFFECTIVE --------

Drilling Procedures

The preamble to this Order is common to all Areas of the Outer Continental Shelf. Refer to National OCS Order No. 2.

1. *Drilling Platforms and Mobile Drilling Units.* In addition to the requirements of National OCS Order No. 2, the following is required:

1.1.5 *Oceanographic, Meterological, and Performance Data.* Operators shall collect and report oceanographic, meterological, and performance data during the period of operations. The type of information collected, method of collection, and report requirements be as specified by the Supervisor.

2. *Well Casing and Cementing.* The requirements of this paragraph are the same as OCS Order No. 2, except Subparagraph 2.2.3 which follows:

2.2.3 *Conductor and Surface Casing Setting Depths.* Casing design and setting depths shall be based upon all engineering and geologic factors, including the presence or absence of hydrocarbons or other potential hazards and water depths. These strings of casing shall be set at the depths specified, subject to approved variation to permit the casing to be set in a competent bed, or through formations determined desirable to be isolated from the well by pipe for safer drilling operations; provided, however, that the conductor casing shall be set immediately prior to drilling into formations known to contain oil or gas, or, if unknown, upon encountering such formations. These casing strings shall be run and cemented prior to drilling below the specified setting depths. For those wells which may encounter abnormal pressure conditions, the District Supervisor may prescribe the exact setting depths. Except as may otherwise be prescribed, conductor casing setting depths shall be between 91 meters (298 feet) and 305 meters (1,000 feet) TVD below ocean floor, and surface casing setting depths shall be between 305 meters (1,000 feet) and 1,400 meters (4,592 feet) TVD below ocean floor.

Engineering, geophysical, and geologic data used to substantiate the proposed setting depths of the conductor and surface casings (such as estimated fracture gradients, pore pressures, shallow hazards, etc.) shall be furnished with the Application for Permit to Drill.

3. *Directional Surveys.* Refer to National OCS Order.

4. *Blowout Preventer Equipment Requirements.* Refer to National OCS Order.

5. *Mud Program.* Refer to National OCS Order.

6. *Supervision, Surveillance, and Training.* Refer to National OCS Order.

7. *Hydrogen Sulfide.* Refer to National OCS Order.

8. *Critical Operations and Curtailment Plans.* Refer to National OCS Order.

DWAYNE E. HULL,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY, CONSERVATION DIVISION

EASTERN REGION, ATLANTIC AREA, SOUTH ATLANTIC OCS ORDER NO. 5, EFFECTIVE----------

Subsurface Safety Devices and Surface Safety Systems

The requirements of this Order for the South Atlantic are identical to National OCS Order No. 5.

DWAYNE E. HULL,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY, CONSERVATION DIVISION
EASTERN REGION, ATLANTIC AREA, SOUTH ATLANTIC
OCS ORDER NO. 7 EFFECTIVE

Pollution Control and Waste Disposal

The requirements of this Order for the South Atlantic are the same as National OCS Order No. 7.

DWAYNE E. HULL,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY CONSERVATION DIVISION
EASTERN REGION, ATLANTIC AREA,
SOUTH ATLANTIC
OCS ORDER NO. 8, EFFECTIVE

Platforms and Structures

The requirements of this Order for the South Atlantic are the same as National OCS Order No. 8.

DWAYNE E. HULL,
Area Oil and Gas Supervisor.

Approved:

Acting Chief, Conservation Division

UNITED STATES DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY CONSERVATION DIVISION
EASTERN REGION, ATLANTIC AREA,
SOUTH ATLANTIC
OCS ORDER NO. 12, EFFECTIVE

Public Inspection of Records

The requirement of this Order for the South Atlantic are the same as National OCS Order No. 12.

DWAYNE E. HULL,
Area Oil and Gas Supervisor.

Approved.

Acting Chief, Conservation Division

[FR Doc.77-24610 Filed 8-24-77;8:45 am]

Geological Survey

BOARD ON GEOGRAPHIC NAMES DOMESTIC NAMES COMMITTEE

Meetings

Announcement is made of the following two meetings of the Committee:

Name: Board on Geographic Names, Domestic Names Committee.

Date: October 25, 1977.

Place: Auditorium, Interior South Building, 1951 Constitution Avenue, NW., Washington, D.C.

Time: 0930–1130; 1330–1700.

Date: November 10, 1977.

Place: Assembly Chambers, City of Anchorage, 3500 E. Tudor Road, Anchorage, Alaska.

Time: 0930–1130; 1330–1700.

Purpose of meetings: A proposal to change the name of Mt. McKinley in Alaska to the Indian name "Denali" will be discussed. Interested parties may express their views on the proposal prior to a decision on the matter by the entire U.S. Board on Geographic Names and the Secretary of the Interior.

The meetings of the Domestic Names Committee are open to the public. Parties wishing to make oral statements at the meeting(s) are asked to notify the Committee at least 5 days prior to meeting(s) which they plan to attend in order that time may be reserved for their presentations.

Any member of the public may file a written statement with the Committee, before, during, or immediately after each meeting. To the extent that time permits, the Committee Chairman may allow public presentations of oral statements at the meeting(s) from individuals who have not preregistered with the Committee.

All communications regarding the meeting in Washington, D.C. should be addressed to:

Mr. Donald J. Orth, Executive Secretary, Domestic Names Committee, U.S. Geological Survey, 523 National Center, Reston, Va. 22092.

Communications pertaining to the Anchorage, Alaska, meeting should be addressed to:

Mr. Jerry Z. Gilliland, Field Representative, Department of the Interior, P.O. Box 120, Anchorage, Alaska 99501.

By the Domestic Names Committee.

S. M. LANG,
Acting Executive Secretary.

[FR Doc.77-24605 Filed 8-24-77;8:45 am]

National Park Service

[Order No. 6, Amdt. 2]

ADMINISTRATIVE OFFICER, ET AL., EVERGLADES NATIONAL PARK, FLORIDA

Delegation of Authority

Sections 1 and 2 of Order No. 6 published in the FEDERAL REGISTER of July 25, 1972, (FR 14821) are hereby canceled and superseded as follows:

Section 1. *Administrative Officer and Procurement Officer.* The Administrative Officer and Procurement Officer, Everglades National Park, may execute, approve, and administer contracts and issue purchase orders not in excess of $500,000 for equipment, supplies, and services, in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. This authority may be exercised by the Administrative Officer and Procurement Officer in behalf of any coordinated area.

Section 2. Purchasing Agent. The Purchasing Agent, Everglades National Park, may issue purchase orders not in excess of $10,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. This authority may be exercised by the Purchasing Agent in behalf of any coordinated area.

(National Park Service Order No. 77 (38 FR 7478) as amended; Southeast Region Order No. 5 (37 FR 7721) as amended.)

Dated: December 15, 1976

JOHN M. GOOD,
Superintendent,
Everglades National Park.

[FR Doc 77-24563 Filed 8-24-77;8:45 am]

[Order No. 92]

CHIEF, CONTRACTING AND PROPERTY DIVISION, ET AL

Delegation of Authority

SECTION 1. Chief, Contracting and Property Management Division. The Chief, Contracting and Property Management Division, Washington Office, is authorized to execute, approve, and administer contracts for construction, equipment, supplies, and services, in conformity with applicable regulations and statutory requirements and subject to the availability of appropriated funds.

SEC. 2. Chief, General Services Division. The Chief, General Services Division, Washington Office, is authorized to execute, approve, and administer contracts for construction, equipment, supplies, and services, in conformity with applicable regulations and statutory requirements and subject to the availability of appropriated funds.

SEC. 3. Contract Specialist. The Contract Specialist, General Services Division, Washington Office, is authorized to execute, approve, and administer contracts for construction, equipment, supplies, and services, in conformity with applicable regulations and statutory requirements and subject to the availability of appropriated funds.

SEC. 4. Purchasing Agent. The Purchasing Agent may issue purchase orders not in excess of $10,000 for supplies, equipment, or services in conformity with applicable regulations and statutory requirements and subject to the availability of appropriated funds.

SEC. 5. Revocation. This order revokes National Park Service Delegation of Authority No. 89 (42 FR 10344) published February 22, 1977.

(205 DM, as amended; 245 DM, as amended; Sec. 2 of Reorganization Plan of 1950.)

Dated: August 5, 1977.

WILLIAM J. WHALEN,
Director.

[FR Doc.77-24561 Filed 8-24-77;8:45 am]

WESTERN REGIONAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a field trip and public meeting of the Western Regional Advisory Committee will be held in Sequoia National Park and Visalia, California respectively. The field trip will begin on September 16, 1977 at Giant Forest and end the same date in Visalia. A public meeting will be held at 9:00 a.m. PDT on September 17, 1977 in

the Sequoia Room of the Convention Center, 303 E. Acequia, Visalia, California.

The purpose of the Western Regional Advisory Committee is to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on programs and problems pertinent to the Western Region of the National Park Service.

The members of the Advisory Committee are as follows:

Lewis S. Eaton, Fresno, California (Chairman).
Ben Avery, Phoenix, Arizona.
David W. Ballie, Jr., Waipahu, Hawaii.
Ed Fike, Las Vegas, Nevada.
Bernard Fontana, Tucson, Arizona.
Jean Ford, Las Vegas, Nevada.
Sonya Thompson, Aqoura, California.
Jack Walston, San Marino, California.
Todd Watkins, Bishop, California.

The field trip will provide the committee with an onsite orientation of the present planning activities by the National Park Service for the Giant Forest Lodgepole and Clover Creek areas within Sequoia National Park. They will also be provided an on the ground briefing of the Mineral King area.

Due to a lack of space, only the Advisory Committee members and associated National Park Service personnel will be provided transportation for the field trip.

The meeting will be open to the public. Any member of the public will also be able to file, with the committee, a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who wish to submit written statements may contact Ray C. Foust, Executive Assistant to the Regional Director, Western Regional Office at (415) 556-8227.

Resolutions or recommendations made by the committee as a result of this meeting will be available for public inspection four weeks after the meeting through the Western Regional Office, National Park Service, 450 Golden Gate Avenue, San Francisco, California 94102.

Dated: August 16, 1977.

HOWARD H. CHAPMAN,
Regional Director,
Western Region.

[FR Doc.77-24564 Filed 8-24-77;8:45 am]

Office of the Secretary

PRIVACY ACT OF 1974

Modification of System Notice

Notice is hereby given that the Department of the Interior has under consideration modification of the system notice describing a records system which it maintains which is subject to section 3 of the Privacy Act of 1974, 5 U.S.C. 552a.

By notice published in the FEDERAL REGISTER on April 11, 1977 (42 FR 19062–19069), the Department adopted a system notice describing the Health and Safety Training Records including Qualification and Certification Data (Interior, MESA–15).

It is now proposed to maintain records of training, to verify that individuals have completed required training, and to monitor and/or expand safety training programs. The proposed modification in the system notice will reflect this change.

The system notice, as it is proposed to be modified, is set out below. The modified portions of the notice are indicated by underlining.

Comments on the proposed modification may be submitted to the Assistant Solicitor, General Legal Services, Office of the Solicitor, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240. All comments received on or before September 25, 1977, will be considered. Copies of any comments received may be inspected in Room 6510 at the above address.

RICHARD R. HITE,
Deputy Assistant Secretary
of the Interior.

AUGUST 17, 1977.

INTERIOR/EMS–15

System name:

Health and Safety Training Records Including Qualification and Certification Data—Interior, MESA—15.

System location:

Qualification and Certification Unit, Education and Training, Mining Enforcement and Safety Administration, U.S. Department of the Interior, 603 Miller Court, Lakewood, Colorado 80215.

Categories of individuals covered by the system:

Contains training data on miners, mining industry personnel, and State and Federal employees who have taken MFSA approved training courses.

Categories of records in the system:

Contains name, Social Security Number, mine ID number, training course, instructor's name and other relevant data.

Authority for maintenance of the system:

Section 317(i) and Section 502 of P.L. 91–173, Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 877 and 952) and Section 15 of Pub. L. 89–577, Federal Metal and Nonmetallic Mine Safety Act of 1966 (30 U.S.C. 734).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The primary uses of the records are to *(a) maintain records of training of individual miners, mining industry personnel, and State and Federal employees who have taken MESA approved training courses; (b) issue certificates or certification cards to individuals who become qualified or certified under the law, as appropriate;* (c) issue certification cards to instructors authorizing them to teach MESA *approved* training courses; *(d) provide information to monitor and/or expand safety training programs; (e) to verify that individuals have completed required training;* (f) statistical reporting of training data in various formats for a variety of uses, e.g., reporting to Congress, publications, etc. Disclosures outside of the Department of the Interior may be made (1) to coal companies requesting information to verify training required by law; (2) to Unions requesting information on training status of its members; (3) to coal operators associations requiring training for policy and programming utilization; (4) to the U.S. Department of Justice when related to litigation or anticipated litigation; (5) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (6) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Manual: Microfilm—original training records; and Computer: Magnetic tape-training, certification and qualification of Individual.

Retrievability:

Microfilm: Computerized document listing; filed by mine ID number; filed by date processed. Magnetic tape: retrieved by feeding in the individual's Social Security Number.

Safeguards:

In accordance with 43 CFR 2.51.

Retention and disposal:

Computer records are kept indefinitely; reporting outputs are discarded after they have served their purpose; microfilm records are permanently retained for historical file.

System manager(s) and address:

Education Specialist, Qualification and Certification Unit, Education and Training, 603 Miller Court, Lakewood, Colorado 80215.

Notification procedure:

To determine whether the records are maintained on you in the system, write to the System Manager.

Record access procedure:

To see your records write the System Manager cited under "Records Location". Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay.

Contesting record procedures:

To request corrections or the removal of material from your files, write the System Manager.

Record source categories:

An individual on whom the record is maintained, Instructors of the train-

ing courses, *mine inspection personnel, mine operators, State personnel and miners' representatives or organizations who provide training courses required by MESA.*

[FR Doc. 77-24582. Filed 8-24-77, 8:45 a.m.]

INTERNATIONAL TRADE COMMISSION

[AA1921-173]

CERTAIN RAILWAY TRACK MAINTENANCE EQUIPMENT FROM AUSTRIA

Investigation and Hearing

Having received advice from the Department of the Treasury on August 11, 1977, that railway track maintenance equipment from Austria is being, or is likely to be, sold at less than fair value, the United States International Trade Commission, on August 19, 1977, instituted investigation No. AA1921-173 under section 20(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160 (a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigation will be held in Washington, D.C., beginning at 10 a.m., e.d.t, on Thursday, October 6, 1977, in the hearing room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. All persons shall have the right to appear by counsel or in person, to present evidence, and to be heard. Requests to appear at the public hearing, or to intervene under the provisions of section 201(d) of the Antidumping Act, 1921, shall be filed with the Secretary of the Commission, in writing, not later than noon, Thursday, September 29, 1977.

Issued: August 22, 1977.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.77-24554 Filed 8-24-77;8:45 am]

[Investigation No. 337-TA-20]

CERTAIN WELDED STAINLESS STEEL PIPE AND TUBE

Order Dismissing Certain Respondents

This matter comes before the Commission as a result of the recommendation of the presiding officer to dismiss Nippon Steel Corp., Nippon Kokan Kabushiki Kaisha, Itoman & Co., Ltd., Nishimura Kogyo Co., Ltd., Shinshowa Kokan Co., Ltd., Sanwa Metal Industries, Ltd., Sumikin Bussan Kaisha, Ltd., Iwatani and Co., Ltd., Mitsubishi Corp., and Nippon Stainless Steel Co., Ltd., as respondents in the instant investigation. After considering the presiding officer's recommendation, Prehearing Order No. 17, issued July 29, 1977, and the evidence in support thereof including both affidavits filed in support of the motions to dismiss and discovery responses of the respondents, and the pleadings of all parties concerning these motions, the Commission has decided to adopt recommendations 1-10 of Prehearing Order No. 17.

We also adopt the presiding officer's opinion. It would appear that he set up a special wave of discovery to inquire into jurisdictional facts. In light of the interrogatory answers that have been filed and the respondents' affidavits, the Commission will not disturb the presiding officer's findings.

It is, therefore, hereby ordered, That:

1. The motion of Nippon Steel Corporation (M29-11) to be removed as a party is granted.

2. The motion of Nippon Kokan Kabushiki Kaisha (M29-12) to be removed as a party is granted.

3. The motion of Itoman and Co., Ltd. (M29-13) to be removed as a party is granted.

4. The motion of Nishimura Kogyo Co., Ltd. (M29-14) to be removed as a party is granted.

5. The motion of Shinshowa Kokan Co., Ltd. (M29-15) to be removed as a party is granted.

6. The motion of Sanwa Metal Industries, Ltd. (M29-16) to be removed as a party is granted.

7. The motion of Sumikin Bussan Kaisha, Ltd. (M29-17) to be removed as a party is granted.

8. The motion of Iwatani and Co., Ltd. (M29-18) to be removed as a party is granted.

9. The motion of Mitsubishi Corporation (M29-35) to be removed as a party is granted.

10. The motion of Nippon Stainless Steel Company (M29-50) to be removed as a party is granted.

Issued: August 22, 1977.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.77-24555 Filed 8-24-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 77-51]

SPACE SCIENCE STEERING COMMITTEE, SPACE TELESCOPE AD HOC ADVISORY SUBCOMMITTEE

Meeting

The Space Science Steering Committee, Space Telescope Ad Hoc Advisory Subcommittee, will meet at NASA Headquarters on September 19, 20, and 21, 1977. The meetings will be held as follows: September 19: Room 5026; 9:00 a.m.-5:30 p.m.; Rooms 5137 and 6004; 10:30 a.m.-5:30 p.m.; September 20: Rooms 5026, 5092, and 5137; 8:30 a.m.-5:00 p.m.; September 21: Room 5026; 8:30 a.m. to 5:00 p.m.

The Subcommittee section will discuss, evaluate, and categorize proposals for participation in scientific investigations to be performed on the Space Telescope mission. Throughout the Subcommittee session the professional qualifications of the proposers, the merits of their proposed flight investigations and the associated instrumentation, and the potential scientific contribution of the proposers to the mission will be candidly discussed and appraised. Discussion of these matters in a public session would invade the privacy of the proposers and the other individuals involved. The meeting will be closed to members of the public.

Since the Subcommittee sessions will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that these sessions should be closed to the public.

For further information please contact Dr. Nancy G. Roman, NASA Headquarters, Washington, D.C. 20546, telephone 202-755-3649.

Dated: August 19, 1977.

KENNETH R. CHAPMAN,
Assistant Administrator for DOD and Interagency Affairs.

[FR Doc.77-24584 Filed 8-24-77;8:45 a.m.]

[Notice 77-52]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL PANEL ON AVIATION SAFETY AND OPERATING SYSTEMS, AD HOC PANEL ON TERMINAL CONFIGURED VEHICLES

Meeting

The NASA Research and Technology Advisory Council, Panel on Aviation Safety and Operating Systems, Ad Hoc Panel on Terminal Configured Vehicles will meet on September 14-16, 1977, at the NASA Langley Research Center, Hampton, Va. 23665. The meeting will be held in Conference Room 246 of Building 1202. The meeting will be open to the public on a first-come, first-served basis, up to the seating capacity of the room, which is about 50 persons. All visitors must report to the Receptionist in Room 246, Building 1202.

The NASA Research and Technology Advisory Council's Panel on Aviation Safety and Operating Systems, Ad Hoc Panel on Terminal Configured Vehicles serves in an advisory capacity only. The Panel reviews and evaluates all phases of terminal configured vehicle research and technology in relevance to current needs and requirements, and also provides recommendations and advice on the goals, trends, content, and benefits in areas of Panel responsibility. The Chairman is John A. Gorham.

There are 10 members. The following list sets forth the approved agenda and schedule for the September 14-16, 1977 meeting of the Panel. For further information, please contact the Executive Secretary, Mr. Kenneth E. Hodge, Code RO, NASA Headquarters, Washington, D.C. 20546, area code 202-755-2375.

SEPTEMBER 14, 1977

Time and Topic

12:00 Noon: Registration of Members, Invited Guests, and Visitors.

12:30 p.m.: Convene. Welcoming Remarks and Introductory Statement.

12:45 p.m.: Report of the Chairman (Purpose: To report on the May 24-26, 1977 meeting of the Panel on Aviation Safety and Operating Systems and to relay to the members that Panel's response to this Ad Hoc Panel's activity and recommendations).

1:00 p.m.: Report of the Executive Secretary (Purpose: To advise the Panel of recent or proposed changes in NASA policy, organization, and in pertinent aeronautics programs, to review FY 1978 and FY 1979 budget status and to present other items of interests).

1:15 p.m.: Discussion of Metering and Spacing Simulations and Cockpit Display of Traffic Information (Purpose: To describe two tasks which are being conducted jointly with the FAA and which have been active since the last meeting and to obtain Panel comments on the plan for future activities).

1:35 p.m.: Discussion of Longitudinal Separation in the Terminal Area and Runway Feeding (Purpose: To update for the Panel the results of high speed runway turn-off tests, sensitivity studies of high speed turn-off parameters, and study of effects of reduction of wake vortex separation minima. Panel comments will be solicited on contents of the tasks).

2:15 p.m.: Reduced Fuel Consumption Techniques (Purpose: To obtain Panel comments on a plan for profile descent research designed with reduced fuel utilization as the objective).

2:45 p.m.: Discussion of Use of an Oculometer as a Research Tool in Defining Pilot Information Needs (Purpose: To report on status and future thrusts of research using an oculometer in developing new cockpit display arrangements including display concepts).

3:30 p.m.: Reduction of Wind Shear Effects (Purpose: To inform the Panel of recent results of simulation studies of on-board wind shear detection, display, and aircraft control; to summarize wind shear data gathered during flights; and to give the status of wind shear probe development and test).

SEPTEMBER 15, 1977

8:30 a.m.: Summary of Microwave Landing Systems Related Activities and Future Plans (Purpose: To brief the Panel of ongoing and planned activities related to the Microwave Landing System and to obtain Panel comments on the contents of the planned tasks.).

9:00 a.m.: Status of the Research Support Flight System (Purpose: To inform the Panel of the improvements which have been made in the aircraft systems of the modified Boeing 737 airplane.).

9:15 a.m.: Description of Near-Term Tasks and Long-Term Activities of the Terminal Configured Vehicles Program (Purpose: To solicit Panel comments and recommendations on the content of these tasks.).

10:30 a.m.: Status Reports from Ames and Langley Research Centers on Research of Interest to the Panel (Purpose: Cognizant Center representatives will present brief reports to the Panel summarizing progress and accomplishments on various research projects relating to terminal area operations.).

1:00 p.m.: Members' Reports (Purpose: To report on non-NASA research and technology of interest to the Panel.).

3:00 p.m.: Issues for Panel Consideration and Recommendations (Purpose: To identify issues on which the Panel can provide useful suggestions.).

SEPTEMBER 16, 1977

8:30 a.m.: Members' Discussions and Development of Panel Recommendations (Purpose: To discuss relevancy, timing, scope, and efficacy of research and technology activities presented at this Panel meeting and to provide recommendations and resolutions to be reported to the parent Panel.).

11:45 a.m.: Chairman's Concluding Remarks.

1:00 p.m.: Tour of Langley Research Center Facilities.

3:00 p.m.: Adjournment.

Dated: August 19, 1977.

KENNETH R. CHAPMAN,
Assistant Administrator for DOD and Interagency Affairs.

[FR Doc.77-24583 Filed 8-24-77;8:45 am]

NATIONAL CAPITAL PLANNING COMMISSION

TENTATIVE AGENDA ITEMS

In order to provide notice regarding matters which may be acted upon by the Commission and to solicit written comments prior to and oral comments at meetings of the Commission in accordance with the Commission's Procedures for Citizen Participation and Intergovernmental Liaison, approved April 7, 1977, there is set forth below a list of agenda items tentatively scheduled for consideration by the Commission at its meeting at 9:30 a.m. on September 8 and 15, 1977 and at subsequent meetings. The Commission meets in its Tenth Floor Conference Room at 1325 G Street NW., Washington, D.C.

FILE NO. AND ITEM

CP01 1203: Comprehensive Plan for the National Capital: Foreign Missions and International Agencies (Commission action requested: Adoption of proposed element and related conforming modifications to other elements pursuant to Section 4 of the National Capital Planning Act of 1952).

CP14: Prince George's County, Md. Fiscal Years 1978-1983 Capital Improvements Program (Commission action requested: Comments on Federal interest to Prince George's County Council); George Washington Memorial Parkway, Fort Hunt Subarea, Fairfax County, Va.

MP53: (a) General Development Plan (Commission action requested: Approval of revised subarea plan pursuant to Section 5 of the National Capital Planning Act of 1952).

1691: (b) Maintenance Unit Replacement (Commission action requested: Approval of preliminary site and building plans pursuant to Section 5 of the National Capital Planning Act of 1952).

0338: Perry Simmons Elementary School Replacement, First and Eye Streets NW. (Commission action requested: Approval of final site and building plans pursuant to Section 5 of the National Capital Planning Act of 1952 and D.C. Code, sec. 5-428); U.S. Postal Service.

0489: (a) Northern Virginia Central Facility and Vehicle Maintenance Facility, Merrifield, Va.—Exterior Fence Modifications (Commission action requested: Approval of revised site plan pursuant to Section 5 of the National Capital Planning Act of 1952).

1014: (b) City Post Office, North Capitol Street and Massachusetts Avenue NE.—Exterior alterations for entrance for handicapped (Commission action requested: Approval of final site development plan pursuant to Section 5 of the National Capital Planning Act of 1952 and D.C. Code, sec. 5-428).

1018: (c) Dale City Branch, Woodbridge, Va., Prince William County, Va. (Commission action requested: Approval of revised location pursuant to Section 5 of the National Capital Planning Act of 1952).

0841: U.S. Coast Guard, Fort Hunt Remote Site, Fairfax County, Va. (Commission action requested: Comments on GSA Land Utilization Report).

1158: Pennsylvania Avenue Development Corporation—Preliminary Special Street Plan (Commission action requested: Approval pursuant to Section 5 of the National Capital Planning Act of 1952).

1199: U.S. Reservations 44, 45, 46, 47, 48 and 49, Eighth Street and Pennsylvania Avenue SE. (Commission action requested: Approval of revised final site development plan pursuant to Section 5 of the National Capital Planning Act of 1952).

1066: Federal Reserve Board Building, Constitution Avenue and 21st Street NW.—Podium Enclosure (Commission action requested: Approval of final site and building plans pursuant to Section 5 of the National Capital Planning Act of 1952 and D.C. Code, sec. 5-428).

1700: Proposed amendment to Zoning Map of the District of Columbia: Change from R-2 to R-3 lots 3, 4, 804 and 809 in Square 1672 (south side of Ellicott Street NW., between 42nd and 43rd Streets) (Zoning Commission Case No. 76-22) (Commission action requested: Report to Zoning Commission pursuant to D.C. Code, sec. 5-417).

1725: Oxon Run Relief Sewer and Stream Improvements, from Joliet Street SE., northeastward to Southern Avenue (Commission action requested: Recommendations on final site development plan pursuant to Section 5 of the National Capital Planning Act of 1952).

1727: General Services Administration, Central Heating Plant, 13th and D Streets SW.—Oil Handling Facility (Commission action requested: Approval of final site and building plans pursuant to Section 5 of the National Capital Planning Act of 1952 and D.C. Code, sec. 5-428).

1728: Suitland Federal Center, Prince George's County, Md.—Satellite Communication Earth Station (Commission action requested: Approval of preliminary and final site and building plans pursuant to Section 5 of the National Capital Planning Act of 1952).

OCTOBER 6 AND 13, 1977

0348: District of Columbia 1979-1984 Multiyear Capital Improvements Program (Commission action requested: Comments on Federal interest pursuant to the National Capital Planning Act of 1952).

1729: Zoning Commission Case No. 77-15, text amendment prohibiting sex oriented businesses in districts other than C-3-B and C-4 (Zoning Commission Order No. 161) (Commission action requested: Report to Zoning Commission pursuant to D.C. Code, sec. 5-417).

NOVEMBER 3 AND 10, 1977

——: West Potomac Park, District of Columbia.

MP49: (a) Subarea Master Plan (Commission action requested: Approval pursuant to Section 5 of the National Capital Planning Act of 1952).

0570: (b) Franklin Delano Roosevelt Memorial (Commission action requested: Approval of preliminary site and building plans pursuant to Section 5 of the National Capital Planning Act of 1952).

DECEMBER 1 AND 8, 1977

1676: Washington, D.C. Civic Center, 9th and H Streets NW. (Commission action requested: Approval of location and pro-

gram pursuant to Section 5 of the National Capital Planning Act of 1952 and D.C. Code, sec. 5-428).

The Commission affords interested and affected organizations and individuals an opportunity to present their views on any of the items in writing prior to and/or in person at the meeting at which such item is considered, with such limitations on the number and length of oral presentations as the agenda item and the length of the agenda appear to warrant.

Organizations and individuals desiring to make a statement or otherwise communicate their views on any item tentatively scheduled for the September 8 and 15 meeting should advise Samuel K. Frazier, Chief, Office of Public Affairs, National Capital Planning Commission, Washington, D.C. 20576, telephone 724-0174. Copies of the Executive Director's Recommendation on any action item on the agenda for the September 8 and 15 meeting may be obtained from Mr. Frazier on or after September 6. Agenda items with respect to which no organization or individual has advised Mr. Frazier by Thursday, September 1, 12:00 Noon, of a desire to present views in person to the Commission and on which the Executive Director recommends approval or a favorable report, may be placed on the "consent calendar" and acted upon by the Commission, without presentation or discussion, at the beginning of the Commission meeting on September 8. To insure that written comments on any items are placed before the Commission prior to Commission action thereon, written statements must be received by Mr. Frazier by Wednesday, September 7, 12:00 Noon.

The Commission's Procedures for Citizen Participation and Intergovernmental Liaison, copies of which may be obtained from Mr. Frazier, generally provide that comments on District plans and projects should address their effect on the Federal establishment and/or on Federal interests in the National Capital Region.

DANIEL H. SHEAR,
Secretary.

AUGUST 19, 1977.

[FR Doc.77-24594 Filed 8-24-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

THEATRE RESEARCH PROJECT

Meeting

The National Endowment for the Arts has contracted with Mathtech, Inc. to conduct a research study on the condition and needs of American theatre. Consultants representing the theatre community will assist the contractor in this study.

The second meeting of these consultants is scheduled for September 9, 1977, from 10:00 A.M.-5:00 P.M. in the Board Room, League of New York Theatres and Producers, 226 West 47th Street, New York, New York 10036.

The agenda of the meeting will include: (1) Review and discussion of the data collection and analysis process during the period of June-August; (2) Comments and suggestions by the Advisory Group.

Further information may be obtained from Dr. Robert J. Anderson, Jr., Vice President and Director of Economics, Mathtech, Inc., P.O. Box 2392, Princeton, New Jersey 08540, 609-799-2600.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and Humanities.

[FR Doc.77-24595 Filed 8-24-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY COUNCIL, TASK GROUP NO. 3

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: Task Group No. 3 of the NSF Advisory Council.

PLACE: Room 421, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

DATE: September 9, 1977.

TIME: 9:00 a.m.

TYPE OF MEETING: Open.

CONTACT PERSON: Ms. Margaret L. Windus, Executive Secretary, NSF Advisory Council National Science Foundation, Room 518, Washington, D.C. 20550. Telephone: 202-632-4384.

PURPOSE OF TASK GROUP: The purpose of the Task Group, composed of members of the NSF Advisory Council, is to provide the full Council with a mechanism to consider numerous issues of interest to the Council that have been assigned by the National Science Foundation.

SUMMARY MINUTES: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

AGENDA: To evaluate the impact on scientific research, on educational institutions and on industry of an NSF policy to support basic research in industry.

M. REBECCA WINKLER,
Acting Committee Management Officer.

AUGUST 22, 1977.

[FR Doc.77-24545 Filed 8-24-77;8:45 am]

SCIENCE FOR CITIZENS ADVISORY COMMITTEE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: Science for Citizens Advisory Committee.

DATE: September 15 and 16, 1977.

TIME: 9:00 to 6:00 each day.

PLACE: Room 651, 5225 Wisconsin Avenue, NW., Washington, D.C.

TYPE OF MEETING: Open.

CONTACT PERSON: Ms. Rachelle Hollander, Acting Program Manager, Science for Citizens, Office of Science and Society, National Science Foundation, Washington, D.C. 20550. Telephone 202-282-7770.

SUMMARY MINUTES: May be obtained from the Office of Science and Society, Science for Citizens Program, National Science Foundation, Washington, D.C. 20550

PURPOSE OF ADVISORY COMMITTEE: To provide advice and recommendations concerning the development of Science for Citizens program.

AGENDA: Discussion of draft report to Congress.

M. REBECCA WINKLER,
Acting Committee Management Officer.

AUGUST 22, 1977.

[FR Doc.77-24544 Filed 8-24-77;8:45 am]

[Docket No. 50-250]

NUCLEAR REGULATORY COMMISSION

FLORIDA POWER AND LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 27 to Facility Operating License No. DPR-31, issued to Florida Power and Light Company, for operation of the Turkey Point Nuclear Generating Unit No. 3 located in Dade County, Florida. The amendment is effective as of the date of issuance.

The amendment to the operating license will allow continued operation of Turkey Point Unit No. 3 until the next refueling (presently scheduled for January 1978) at which time the steam generators shall be inspected.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environment impact and that pursuant to CFR § 51.5 (d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 5, 1977, as modified by letter dated August 10, 1977, (2) Amendment No. 27 to License No. DPR-31, and (3) the Commission's Related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental & Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 16th day of August 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-24306 Filed 8-24-77;8:45 am]

Atomic Safety and Licensing Board

[Docket No. 50-322]

LONG ISLAND LIGHTING CO. (SHOREHAM NUCLEAR POWER STATION, UNIT 1)

Order

The special prehearing conference scheduled in the above captioned matter for September 19, 1977 is postponed at the request of counsel for intervenors OHILI and North Shore to September 26, 1977. The hearing will take place at Port Jefferson Village Hall, 121 West Broadway (Route 25A), Port Jefferson, L.I., New York 11777 at 1:00 p.m.

Dated at Bethesda, Maryland, this 17th day of August 1977.

For the Atomic Safety and Licensing Board.

JOHN M. FRYSIAK,
Chairman.

[FR Doc.77-24307 Filed 8-24-77;8:45 am]

[Docket Nos. 50-282 and 50-306]

NORTHERN STATES POWER CO.

Issuance of Amendment to Facility Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has, pursuant to the Initial Decision of its Atomic Safety and Licensing Board dated August 12, 1977, issued Amendment Nos. 22 and 16 to Facility Operating License Nos. DPR-42 and DPR-60, issued to the Northern States Power Company (the licensee), which revised the licenses and Technical Specifications for operation of Unit Nos. 1 and 2 of the Prairie Island Nuclear Generating Plant (the facilities) located in Goodhue County, Minnesota. The amendments are effective as of their date of issuance.

The amendments revised the licenses and Technical Specifications for the facilities to permit replacement of the existing spent fuel storage racks having a capacity of 198 fuel assemblies with new storage racks having a capacity of 687 fuel assemblies.

The Initial Decision is subject to review by an Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may be reviewed by the Commission.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Notice of Proposed Issuance of the Amendments was published in the FEDERAL REGISTER on January 10, 1977 (42 FR 2140). A hearing was requested by the Minnesota Pollution Control Agency. The hearing was held from June 14 through 17, 1977, and subsequently the above-referenced Initial Decision issued August 12, 1977.

The Commission has prepared an environmental impact appraisal entitled "Discussion and Conclusions By the Office of Nuclear Reactor Regulation Relating to Environmental Considerations Associated with Modifications to the Spent Fuel Pool of the Prairie Island Nuclear Generating Station Units 1 and 2" dated April 18, 1977, and has concluded that an environmental impact statement for this particular action is not warranted because the actions authorized by these license amendments will not significantly affect the quality of the human environment.

For further details with respect to this action, see (1) the application for amendments dated November 24, 1976, as supplemented by filings dated March 1, 11, and 21, and April 14 and 27, 1977, (2) Amendment Nos. 22 and 16 to License Nos. DPR-42 and DPR-60, respectively, (3) the Commission's related Safety Evaluation dated April 15, 1977, (4) the Commission's Environmental Impact Appraisal dated April 18, 1977, and (5) The Initial Decision of the Atomic Safety and Licensing Board dated August 12, 1977. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Environmental Conservation Library of the Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A single copy of items (2), (3), (4), and (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 16th day of August, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-24308 Filed 8-24-77;8:45 am]

[Docket No. 50-277]

PHILADELPHIA ELECTRIC CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 36 to Facility Operating License No. DPR-44 issued to Philadelphia Eelectric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications for operation of the Peach Botton Atomic Power Station, Unit No. 2. The amendment is effective as of its date of issuance.

The amendment consists of changes which will modify the Technical Specifications to (1) permit operation of the facility with 172 Reload 2 (Cycle 3) 8 x 8 fuel bundles with holes drilled in the lower tie plate of all reload bundles to provide an alternate bypass flow path and (2) to increase the setpoints of the relief valves to reduce the probability of excessive leakage around the setpoint pilot valve. Reduction in leakage will reduce spurious valve openings and failure of reclosure.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated March 14, 1977 (as supplemented by letter dated June 14, 1977) and June 21, 1977, (2) Amendment No. 36 to License No. DPR-44, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Martin Memorial Library, 159 E. Market Street, York, Pennsylvania 17401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission,

Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 18th day of August 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-24475 Filed 8-24-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.90, Revision 1, "Inservice Inspection of Prestressed Concrete Containment Structures with Grouted Tendons," describes bases acceptable to the NRC staff for developing an appropriate surveillance program for prestressed concrete containment structures with grouted tendons. This guide was revised to reflect public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland this 17th day of August 1977.

For the Nuclear Regulatory Commission.

RAY G. SMITH,
Acting Director, Officer of Standards and Development.

[FR Doc 77-24476 Filed 8-24-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commisison's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.100, Revision 1, "Seismic Qualification of Electric Equipment for Nuclear Power Plants," describes a method acceptable to the NRC staff for complying with the Commission's regulations for verifying the adequacy of the seismic design of electric equipment for all types of nuclear power plants. The guide endorses IEEE Standard 344-1975, "IEEE Recommended Practices for Seismic Qualification of Class 1E Equipment for Nuclear Power Generating Stations." This guide was revised as the result of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland this 16th day of August 1977.

For the Nuclear Regulatory Commission.

RAY G. SMITH,
Acting Director, Office of Standards and Development.

[FR Doc.77-24309 Filed 8-24-77;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 77-34]

SAFETY RECOMMENDATIONS AND RESPONSES

Availability and Receipt

Railroad Safety Recommendations R-77-20 through 23 and R-77-24.—A call to establish operating and procedure standards for the Nation's rail rapid transit systems was made August 19 by the National Transportation Safety Board. Recommendation R-77-24 was issued to the Federal Railroad Administration following investigation into the August 18, 1976, rear end collision of two trains operated by the Greater Cleveland (Ohio) Regional Transit Authority (RTA). Train No. 461 struck the rear of train No. 409 which was standing near the East 79th Street Station in Cleveland. Twenty persons were injured and property damage was estimated to be $61,000.

Investigation of the accident indicated that the method of employing the automatic train stop nullifies protection that could be afforded by that system for an occupied signal block. Train No. 461 was able to pass a stop signal with the trip arm in up position by only reducing the speed. However, after No. 461 passed the stop signal, it resumed speed and passed the stop signal of the occupied block. The trip arm at this signal was not activated. Safety for the movement of the train rested with the operator, who failed to discharge his responsibility, sped past the signal, and struck the standing train.

Investigation also disclosed that while the operators are informed of operating and safety rules during training, they are not provided with a copy of those rules. Since the operators are not given refresher courses, the rules become vague and some are forgotten.

The Safety Board found that RTA operators are not required to make predeparture tests of automatic train stops, automatic train controls, cab signals, brakes, or radio equipment. A record of tests made by maintenance personnel is not provided to the operators. Also, cars that are disconnected from multicar trains to be used as single-unit trains may not be tested at all. The brakes are not tested by the operator until after the train departs the terminal.

The requirement that delays be reported to central control is apparently not being enforced. The Board stated that all delays beyond a normal station stop should be immediately reported and central control should in turn notify all trains in the area.

In view of the above, the Safety Board recommends that the Greater Cleveland Regional Transit Authority:

Develop a system assurance and safety program that will provide and insure (1) a set of operating rules and procedures that will provide objective requirements for a safe and efficient operation, (2) a training program that will originally acquaint operating personnel with the rules and a system of reexamination to keep them current with the rule requirements, and (3) a system of supervision which will enforce the rules and will provide an efficient operation. (R-77-20)

Operate trains on an absolute block and, if it becomes necessary to enter an occupied block in an emergency, provide procedures that will insure safe operation. (R-77-21)

Implement a system to insure that general orders and bulletins are read and understood. (R-77-22)

Expand the current automatic train control test facilities so that all equipment entering main track service can be tested, require more comprehensive inspections and tests to include all vital components or systems of the equipment, and provide a record of the results to the operator using the equipment. (R-77-23)

In a separate letter to the Federal Railroad Administration issuing recommendation R-77-24, the Safety Board expressed its belief that FRA should begin exercising its regulatory responsibilities relative to rail rapid transit systems. The Board stressed the need for operating standards and a system of checks and balances to insure conformance.

Each of the above recommendations is designated "Class II, Priority Followup." The Safety Board's report on the investigation of the RTA accident will be made available to the public in the near future.

Railroad Safety Recommendation R-77-25.—The establishment of a policy and procedures to insure that all trains are operated in compliance with company rules and Federal power brake regulations was recommended by the Safety Board on August 19. This Class II recommendation was issued to the Norfolk & Western Railway Company (N&W) after the Board completed its investigation into the October 19, 1976, head-on collision of two N&W freight trains at New Haven, Indiana.

Investigation revealed that each train was traveling at about 10 mph when the westbound freight and eastbound yard train collided on the single track main line. The freight train's front brakeman was killed and four crewmembers were injured when the caboose, coupled immediately behind the locomotive, jackknifed and was crushed between the locomotive and following cars. Estimated cost of damages was $168,400.

Also disclosed in the investigation was the fact that the last five cars of the 11-car westbound freight train did not have their airbrake systems connected to the rest of the train. When adding the last seven cars to their train, the crewmembers failed to inspect the cars as required by company rules and the Federal Power Brake Law of 1958. Consequently, the uncoupled air hoses between the fifth and sixth cars from the rear and the closed angle cock on the east end of the sixth car were not detected.

The Safety Board notes that Federal regulations require that the brakes on each freight car added to a train be inspected for proper application and release and that brake operation on a train's last car be observed to make sure that the engineer can control brakes on all of the cars.

The Board's formal investigation report is expected to be available for distribution within the next few weeks.

RESPONSE TO HIGHWAY SAFETY RECOMMENDATIONS

Following a further review of recommendations H-77-2 and 3, the Safety Board on August 12 replied to the State of Iowa Department of Transportation letter of last March 21. These recommendations were issued following investigation of the August 6, 1976, Tri-Center Community Schools schoolbus accident at Neola, Iowa. (See 42 FR 10915. February 24, 1977.) The schoolbus struck and overrode a guardrail and concrete bridge parapet.

The recommendations asked the Iowa Department of Transportation to adhere to the maintenance principles of Highway Safety Program Standard Number 12 and to establish procedures that will insure appropriate, cost-efficient, and timely corrective repair of damaged highway safety equipment (H-77-2), and to incorporate the general principles and standards identified in the *Handbook of Highway Safety Design and Operating Practices* and the *National Cooperative Highway Research Program Report 118*, into those designs established for corrective repair of damaged highway safety equipment (H-77-3).

The Iowa Department of Transportation's March 21 response reported that following the Neola accident immediate repairs were made with the same kind of section of guardrail that was damaged and that this type of treatment is "certainly safer than the delays accompanying new materials, designs, etc." "We are in *full compliance* with the maintenance principles of Highway Safety Program Standard Number 12 and operate under procedures that assure appropriate, cost efficient and *timely corrective repair* of damaged highway safety equipment," the Department emphasized.

According to the Department's March 21 response, upgrading of the guardrail for the Neola Bridge on all four bridge post ends will be accomplished during this construction season to the presently approved design standards. The type of design used will provide for a longer section of guardrail on all four end posts and ties into the end posts; also, a new concrete safety rail is being constructed through the bridge on both sides. The Department states, "This type of work does *not* fall into a repair type activity. It is a replacement activity utilizing different principles and design than the replacement of the guardrail section would involve." The Department said that Iowa is on an extensive program of upgrading safety features, including correcting substandard guardrail.

The Iowa Department of Transportation reported that it is reviewing the feasibility of an open end guardrail construction contract whereby modern guardrail approach sections could be placed on all four end post approaches at the time of an accident. The Department finds that this type of activity is beyond its maintenance force capability due to the increased manpower, equipment, and materials that would be required. The one drawback to the open end construction contract, the Department said, would be the requirement for a contractor to mobilize immediately with manpower and equipment for a situation anywhere in the State. The standby requirement would likely be extremely costly.

The Safety Board's August 12 reply notes that further review of the subject of corrective repair of crash-damaged highway equipment has revealed that there is a wide variety of opinion regarding what constitutes an adequate interpretation of those segments of Highway Safety Program Standard Number 12. According to Iowa Department of Transportation's interpretation, temporary repairs of crash-damaged guardrail may be made by replacing that damaged with the same kind of equipment in place at the time of the accident; the temporary repair is then followed by a corrective update of the location. On the other hand, the Board noted, since 1968 the State of Maryland has had the following policy on repair of damaged guardrail: "In the interest of highway safety and in order to forestall criticism of the State Road Commission, it is mandatory that when guardrail is being repaired after being struck and damaged by motor vehicles that the repaired section be installed in accordance with the latest safety standards."

The Safety Board further noted that the Federal Highway Administration and the American Association of State Highway and Transportation Officials encourage the practice of upgrading damaged installations at the time corrective repair or replacement is made, if this can be accomplished in a timely manner. The Board also stated that FHWA is developing further policy statements, training programs, and manuals that will hopefully establish what model corrective repair programs constitute an adequate interpretation of this goal.

NOTE: The above notice consists of summaries of safety recommendation letters issued by the Safety Board and other correspondence relating to recommendations which were made available during the week preceding publication of the notice in the FEDERAL REGISTER. The recommendation letters in their entirety are available to the general public; single copies are obtainable without charge. Copies of the full text of responses to recommeindations and other Board correspondence may be obtained at a cost of $4.00 for service and 10¢ per page for reproduction. All requests must be in writing, identified by the recommendation number and date of publication of this notice. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

AUGUST 22, 1977.

[FR Doc.77-24606 Filed 8-24-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

PRIVACY ACT OF 1974

Reports on New Systems

The purpose of this notice is to list reports on new systems filed with the Office of Management and Budget to give members of the public the opportunity to make inquiries about them and to comment on them.

The Privacy Act of 1974 requires that agencies give advance notice to the Congress and the Office of Management and

Budget of their intent to establish or modify systems of records subject to the Act (5 U.S.C. 552a(o)). During the period August 8, 1977 through August 18, 1977 the Office of Management and Budget received the following reports on new (or revised) systems of records.

DEPARTMENT OF AGRICULTURE

System Name:
Audit Information System.

Report Date:
August 8, 1977.

Point-of-Contact:
Mr. Douglas S. Wood, Room 2321 S. U.S. Department of Agriculture, Washington, D.C. 20250.

Summary:

The proposed system covers personal information which may be maintained for short periods of time during USDA audits.

FEDERAL TRADE COMMISSION

System Names:
(1) Information Mailing List, (2) Correspondence Control System, (3) Mail Order Rule Complaint Letters, Abstracts of (4) Applications for Compensation for Participation in Rulemaking Proceedings, (5) Employee Locator System

Report Date:
August 8, 1977.

Point-of-Contact:

Mr. Harry Hull, Federal Trade Commission, Washington, D.C. 20580.

Summary:

The Public Information Mailing List, Correspondence Control System, and Employee Locator System are used for FTC administration; the Mail Order Rule Complaint Letters, Abstracts aids enforcement of the Mail Order Merchandise Rule; and Applications for Compensation for Participation in Rulemaking is used to determine whether to compensate parties for their expenses in participating in FTC rulemaking.

DEPARTMENT OF THE INTERIOR

System Name:

Health and Safety Training Records including Qualification and Certification Data—Interior.

Report Date:

August 9, 1977.

Point-of-Contact:

Mr. Warren Dahlstrom, Department of the Interior, Washington, D.C. 20240.

Summary:

The Department of the Interior proposes to expand an existing system of records to maintain additional training records and monitor/expand safety training courses.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.77-24556 Filed 8-24-77;8:45 am]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

WORKING GROUP ON BASIC RESEARCH IN THE DEPARTMENT OF DEFENSE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

NAME: Working Group on Basic Research in the Department of Defense.

DATE: September 22-23, 1977.

TIME: 9:00 a.m. to 4:00 p.m.

PLACE: Room 3104, New Executive Office Building, 17th and Pennsylvania Avenue NW., Washington, D.C. 20500.

TYPE OF MEETING: Open.

CONTACT PERSON: Dr. William P. Raney, Executive Office of the President, Office of Science and Technology Policy, Washington, D.C. 20500, telephone 202-395-3934.

SUMMARY MINUTES: May be obtained from the Office of Science and Technology Policy, Washington, D.C. 20500.

PURPOSE OF ADVISORY COMMITTEE: The Office of Science and Technology Policy is conducting a study which will lead to the formulation of policy governing the performance of basic research by or for the mission agencies. Under the guidance of the Steering Committee on Basic Research in Mission Agencies, the Working Group on Basic Research in the DOD is to examine the policies and procedures and research programs of that agency for adequacy and balance between near-term and long-term technical objectives.

AGENDA: 9:00 a.m. to 4:00 p.m. Planning meeting to discuss detailed objectives of the study, methods of approach, and work schedule and assignments.

WILLIAM MONTGOMERY,
Executive Officer.

[FR Doc.77-24510 Filed 8-24-77;8:45 am]

OFFICE OF TELECOMMUNICATIONS POLICY

INTERAGENCY COMMITTEE ON RURAL TELECOMMUNICATIONS

Meeting

Notice is hereby given that the Interagency Committee on Rural Telecommunications will hold a meeting on August 25, 1977, at 9:30 a.m., at the Office of Telecommunications Policy, 1800 G Street NW., Room 730, Washington, D.C.

The purpose of the Committee is to identify regulatory and institutional barriers to the use of telecommunication technology for improvement of social services in rural areas. The Committee includes representatives from the following Federal agencies: Department of Commerce; Department of Health, Education, and Welfare; Department of Labor; Department of Agriculture; National Science Foundation; and the Office of Telecommunications Policy.

The first half of the meeting will include presentations on rural communications by Phil Rubin of the Corporation for Public Broadcasting and John Dimling of the National Association of Broadcasters.

During the second half of the meeting, status reports will be presented by the Subcommittee on Regulatory Barriers, the Subcommittee on Institutional Barriers, and the Subcommittee on Demonstration Options.

The meeting will be open to the public; any member of the public will be permitted to file a written statement with the Committee before or after the meeting. Further information pertaining to the meeting may be obtained from Dr. Vincent Sardella, Office of Telecommunications Policy, Washington, D.C. 20504 (telephone, 202/395-3122).

Dated: August 19, 1977.

VINCENT SARDELLA,
Program Manager.

[FR Doc.77-24841 Filed 8-24-77;8:45 am]

OHIO RIVER BASIN COMMISSION

GREAT MIAMI RIVER BASIN COMPREHENSIVE COORDINATED JOINT PLAN

Availability of Adopted Plan

Pursuant to Section 204(3) of the Water Resources Planning Act of 1965 (Pub. L. 89-80), the Ohio River Basin Commission has adopted the Great Miami River Basin Comprehensive Coordinated Joint Plan for transmittal to the President and the Congress through the Water Resources Council.

Copies are available on request to the Ohio River Basin Commission, 36 East Fourth Street, Cincinnati, Ohio 45202.

FRED E. MORR,
Chairman.

[FR Doc.77-24597 Filed 8-24-77;8:45 am]

KENTUCKY/LICKING RIVER BASIN COMPREHENSIVE COORDINATED JOINT PLAN

Availability of Adopted Plan

Pursuant to section 204(3) of the Water Resources Planning Act of 1965 (Pub. L. 89-80), the Ohio River Basin Commission has adopted the Kentucky/Licking River Basin Comprehensive Coordinated Joint Plan for transmittal to the President and the Congress through the Water Resources Council.

Copies are available on request to the Ohio River Basin Commission, 36 East Fourth Street, Cincinnati, Ohio 45202.

FRED E. MORR,
Chairman.

[FR Doc.77-24596 Filed 8-24-77;8:45 am]

DEPARTMENT OF STATE

[Public Notice CM-7/105]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The Shipping Coordinating Committee will conduct an open meeting at 9:30 a.m. on Thursday, September 29, 1977 in room 8236 of the Department of Transportation Building, 400 Seventh Street SW., Washington, D.C. 20590.

The purpose of this meeting is to finalize preparations for the Intergovernmental Maritime Safety Committee/Marine Environment Protection Committee (MSC/MEPC) meeting on Tanker Safety and Pollution Prevention which is scheduled for October 10-21, 1977 in London. In particular, the Shipping Coordinating Committee will discuss development of U.S. positions dealing with inter alia, the following topics:

Acceleration of entry into force of 1973 Marine Pollution Convention and 1974 Safety Convention.

Consideration of Draft Protocol to 1974 Safety Convention (SOLAS).

Consideration of Draft Protocol to 1973 Marine Pollution Convention.

Consideration of proposal on Marine Safety Corps.

Procedures for the control of ships under 1954 Oil Pollution Convention as amended in 1969.

Arrangements for International Convention on Tanker Safety and Pollution Prevention.

Requests for further information on the meeting may be directed to Captain R. A. Biller, United States Coast Guard (G-AIA/83), 400 Seventh Street SW., Washington, D.C. 20590. He may be reached by telephone on (area code 202) 426-2280.

The Chairman will entertain comments from the public as time permits.

Dated: August 17, 1977.

RICHARD K. BANK,
Chairman,
Shipping Coordinating Committee.

[FR Doc.77-24598 Filed 8-24-77;8:45 am]

[Public Notice CM-7/104]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on radiocommunications of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on September 15, 1977 in Room 8442 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of the meeting is the prepare position documents for the Eighteenth Session of the Subcommittee on Radiocommunications of the Intergovernmental Maritime Consultative Organization (IMCO) to be held in London during Nov. 28-Dec. 2, 1977. In particular, the working group will discuss the following topics:

Code of of safety requirements for mobile off-shore drilling units;

Operational standards for shipboard radio equipment;

Operational requirements for emergency position-indicating radio beacons and portable radio apparatus for survival craft;

Matters resulting from the World Maritime Administrative Radio Conference, 1974, and the work of the International Radio Consultative Committee.

Requests for further information on the meeting should be directed to Lt. F. N. Wilder, United States Coast Guard (G-OTM/74), Washington, D.C. 20590. He may be reached by telephone on (area code 202) 426-1345.

The Chairman will entertain comments from the public as time permits.

Dated: August 16, 1977.

RICHARD K. BANK,
Chairman,
Shipping Coordinating Committee.

[FR Doc.77-24599 Filed 8-24-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[77-164]

SHIP STRUCTURE SUBCOMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Ship Structure Subcommittee to be held Thursday, September 29, 1977 at 9:00 A.M. in the Lecture Room, National Academy of Sciences, 2101 Constitution Ave., Washington, D.C. The agenda for this meeting is as follows: This is a joint meeting of the Ship Structure Subcommittee, Hull Structure Committee of the Society of Naval Architects and Marine Engineers, and the Ship Research Committee of the National Academy of Sciences. Presentations will be made on agency marine structural research programs and needs.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, LCDR T. H. Robinson, USCG, Secretary, Ship Structure Committee, U.S. Coast Guard Headquarters, Washington, D.C. 20590 (202) 426-2205. Any member of the public may present a written statement to the Committee at any time.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Merchant Marine Safety.

[FR Doc.77-24642 Filed 8-24-77;8:45 am]

Federal Aviation Administration

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA), SPECIAL COMMITTEE 127—EMERGENCY LOCATOR TRANSMITTERS

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Special Committee 127 on Emergency Locator Transmitters to be held September 20, 21, 22, 1977, Conference Room 246, Building 1202, NASA Langley Research Center, Hampton, Virginia commencing at 9:30 a.m. The Agenda for this meeting is as follows: (1) Chairman's Comments; (2) Approval of Minutes of Seventh Meeting held June 7, 8, 9, 1977; (3) Review Final Draft of Minimum Performance Standards for Emergency Locator Transmitters.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006; 202-296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on August 19, 1977.

KARL F. BIERACH,
Designated Officer.

[FR Doc.77-24635 Filed 8-24-77;8:45 am]

Federal Highway Administration

[FHWA Docket No. 76-9]

BAYONNE BRIDGE, GOETHALS BRIDGE, GEORGE WASHINGTON BRIDGE AND OUTERBRIDGE CROSSING TOLLS

Decision of the Administrator

This proceeding was instituted under section 4 of the General Bridge Act of 1906, 33 U.S.C. § 494 (1970 ed.), to enable the Secretary of Transportation, acting through the Federal Highway Administrator, to determine whether existing tolls for four bridges under the jurisdiction of the Port Authority of New York and New Jersey are reasonable and just.

Section 4 provides in full:

"* * * If tolls shall be charged for the transit over any bridge constructed under the provisions of said sections, of the engines, cars, streetcars, wagons, carriages, vehicles, animals, foot passengers, or other passengers, such tolls shall be reasonable and just, and the Secretary of the Army may, at any time, and from time to time, prescribe the reasonable rates of toll for such transit over such bridge, and the rates so prescribed shall be the legal rate and shall be the rate demanded and received for such transit.

Jurisdiction to prescribe rates under this section was originally granted to the Secretary of War. This function was transferred from the Secretary of the Army to the Secretary of Transportation by 49 U.S.C. § 1655(g)(6)(B), who has, in turn, delegated this authority to the Administrator, 49 CFR 1.48(a)(1)(1976).

The George Washington Bridge connects New Jersey and New York between New Jersey and 178th Street in New York City. The Goethals Bridge, Bayonne Bridge and Outerbridge Crossing connect Staten Island with New Jersey. In addition to the bridges, the Port Authority also operates the Hudson and Lincoln tunnels, the interstate Port Authority Trans-Hudson Railroad (PATH), two bus terminals, two truck terminals, seven marine terminals, four airports, two heliports, and the World Trade Center.

Effective May 1975, the Port Authority raised its tolls on the four bridges. This was the first increase in tolls for the facilities in question since they were opened for traffic, which, in the case of the Goethals Bridge and Outerbridge Crossing was 1928, and for the George Washington and Bayonne Bridges was 1931. The new toll schedule raised the standard automobile round trip rate on the bridges from $1 to $1.50, the commuter round trip rate from 50 cents to $1, and increased the truck rate by 50 percent. At the same time, the Port Authority instituted a carpool discount whereby vehicles carrying a total of three or more persons during weekdays would be charged 66⅔ percent of the standard automobile rate.

Following an evidentiary hearing pursuant to 49 CFR Part 310, Administrative Law Judge John E. Faulk issued a decision in which he recommended that the Administrator should not find the tolls reasonable and just under the General Bridge Act of 1906. The basis for this recommendation was that the tolls produced more revenues than were necessary to cover direct operating expense, debt service, and provide the Port Authority with a reasonable return on its investment, which was recommended to be limited to all four bridges considered as a whole. The Administrative Law Judge rejected the suggestion that the capital in any non-bridge facility be included within the rate base. In this regard, it was recommended that the Administrator determine, as a matter of law, that the Port Authority is not allowed to use revenues derived from toll collections for any purpose other than those directly related to the operation of the bridges. Because the return on the Port Authority's net investment in the four bridges exceeded the 6.5 percent ceiling the Administrative Law Judge determined to be reasonable, he recommended the tolls be reduced to the level which existed prior to May 1975. In addition, the Administrtaive Law Judge recommended that the Port Authority submit a feasibility study on peak-hour pricing.

Pursuant to 49 U.S.C. § 310.12(b), exceptions, with supporting briefs, were filed by the following parties: the Automobile Club of New York and the AAA Clubs of New Jersey, which urged adoption of the major parts of the recommended decision; Citizens for Clean Air, which stated that the Administrator should sustain, subject to the elimination of all commuter discounts, the existing tolls on the bridges; the Environmental Defense Fund, which opposed any reduction in the bridge tolls; the city of New York, which advocated retention of the Port Authority's new toll schedule; the Port Authority, which contended that the rate base should be the integrated system of bridge, tunnel, rail, and terminal facilities that it operates to facilitate movements across the waters in question; Public Counsel, which advocated that the proper rate base against which the rate of return should be allowed is the net investment in functionally related facilities—i.e., one group consisting of the Staten Island bridges and another comprised of the George Washington Bridge, the Hudson, and Lincoln tunnels, the bus terminals and PATH—; New York Senator Linda Winikow, who supported the Administrative Law Judge's recommendations except with respect to the proposed studies concerning peak-hour pricing; and Mrs. Julia F. Lamb, who supported a rate structure compatible with effective traffic management.

Reply briefs have been filed, and the matter is now ripe for decision.

Upon consideration of the entire record, the Administrator has determined to reject the Administrative Law Judge's recommendations concerning the composition of the rate base against which the rate of return should be applied. Specifically, the Administrator has concluded that the investment base should consist of the Port Authority's net investment in the four bridges, the tunnels, PATH, and the bus terminals that it operates. The Administrator has further determined that the rate of return to be applied against this rate base should not exceed 6.5 percent. Based upon the foregoing and consideration of other relevant factors, the Administrator finds that the toll rates established by the Port Authority on April 25, 1976, are reasonable and just.

The Administrator has decided to adopt the Administrative Law Judge's recommendations concerning the need for a comprehensive feasibility study to be compiled for peak-hour charges and the impact that carpooling and commuter discounts have upon congestion.

Fairness to the User

Section 4 of the General Bridge Act of 1906 requires the Administrator to determine whether the Port Authority's tolls on the four bridges are "reasonable and just." Such a determination requires the Administrator to assess a variety of considerations. While many of these vary from case to case, the analysis must begin with balancing the competing interests of the public with those of the bridge owner.

As the legislative history of the General Bridge Act makes clear, one guiding purpose of the statute was to prevent the operators of toll bridges from exploiting what was often a monopoly position to exact excessively high tolls from bridge users.

While later parts of this decision will discuss whether it is reasonable and just to require bridge users to finance mass transportation, there is little doubt on this record that the Port Authority's 1975 toll schedules are fair to the users. Any increase in tolls, no matter how small, will have some adverse affect upon bridge users. Nevertheless, this class does not have any justifiable expectation that, in an era of escalating costs, tolls will remain the same. These are the first increases the Port Authority has sought in 40 years.

The tolls also compare favorably to those applicable to river crossings elsewhere in the vicinity. The present standard automobile toll of $1.50 is identical to that charged by the Triborough Bridge and Tunnel Authority on the Triborough, Bronx, Whitestone, and Throgs Neck bridges, as well as for the Queens-Midtown and Brooklyn-Battery tunnels. (PA–7D).

Determination of Rate Base

The fairness of the tolls to the users having been established, the Administrator must consider the relation of the revenues produced by the tolls to the needs of the Port Authority. In order to be reasonable and just to the interests of the bridge owners, the revenues covered by tolls should be sufficient to cover not only the direct costs of bridge operation but to provide an element of return to the owner that will ensure retention and attraction of capital in amounts adequate to foster economic stability and development. The requirement of a fair return is equally applicable to a public body as to a private bridge owner. While not entitled to a profit per se, the Port Authority should be entitled to a rate of return on actual investment that will support its activities. *Delaware River Port Authority* v. *Tiemann*, 403 F. Supp. 1117, 1123, n.1. (D.N.J. 1975), vacated and remanded, 531 F. 2d 699 (3rd Cir. 1976). Owing to certain internal restrictions, the Port Authority is prohibited from seeking additional financing unless the net revenues from its facilities attain a certain level in relation to the costs of debt service (PA–8 at 8). Thus, without the subject toll increase, there is evidence that the Port Authority's ability to obtain additional outside capital would be inhibited (Id. table C).[2]

The record compiled in this case reflects complete agreement that the revenues produced by the May 1975 toll increase are more than adequate to cover operating expenses on the four bridges (Recommended Decision, Appendices A–G). While no party seriously quarrels with the right of the Port Authority to earn an adequate return on its investment, the most serious controversy in this case concerns whether the investment base against which the rate of return is measured should include non-bridge capital as well as that invested in bridges.

The crux of the matter is this: if net operating revenues produced by the tolls exceed an appropriate rate of return on the investment used in the rate base, the tolls cannot in any circumstance be found by the Administrator to be reasonable and just. If, on the other hand, net operating revenues do not exceed a proper rate of return on the proper investment base, the tolls producing these revenues may in proper circumstances be sustanied as reasonable and just. It is therefore critical to this decision to address the extent of the investment which should be used to measure the rate of return.

A. Legality of including related-non-bridge investments in the rate base

The Administrator considers the reasonable and just standard of section 4 of the General Bridge Act of 1906 to be sufficiently broad to permit capital investments in related non-bridge facilities to be included within the investment base used to determine the rate of return. Precedent for such a step is to be found in proceedings held under the General Bridge Act of 1946, 33 U.S.C. § 525–533.[3] Section 503 of the General Bridge Act of 1946, as does section 4 of the General Bridge Act of 1906, requires tolls to be "reasonabel and just."[4] In *In the Matter of Camden Bridge Tolls*, decided May 4, 1954, the Secretary of the Army[5] approved as reasonable and just an increase in tolls by the Delaware River Port Authority for the Benjamin Franklin Bridge between Philadelphia and Camden. The purpose of the toll increase was to support port development and improvement activities and to finance the completion of the Walt Whitman Bridge. Because Congress had approved the bi-state compact establishing the Delaware River Port Authority, authorizing the pooling of revenues from all of its income-producing activities, and authorizing the expenditure of revenues so pooled for port development and port promotion activities, the Secretary of the Army held that the application of toll revenues by the Authority to finance operations that did not directly benefit highway users was reasonable and just. Thus, in appropriate situations, the Administrator may include capital invested in non-bridge facilities to form the rate base used to determine whether the level of tolls meets the statutory standard of section 4, even if to do so would require bridge users to contribute toward the support of other transportation facilities.

The Administrative Law Judge's finding that, as a matter of law, only the four bridges could be included in the investment base (Recommended Decision at 12–14) must be rejected. To the contrary, there is ample legal authority and substantial public interest considerations favoring the pooling of revenue from various Port Authority facilities and, thus, the combination of appropriate Port Authority facilities in a single investment base.

The powers and duties of the Port Authority were established by an interstate compact between the States of New York and New Jersey. Congress gave its assent to the compact in 1921, 42 Stat. 174 (1921). In addition to the powers and duties specifically stated in the compact, articles 3 and 7 of the compact approved by Congress gave the Authority "such additional powers and duties as may hereafter be delegated and imposed upon it from time to time by the action of the legislature of either State concurred in by the legislature of the other." 42 Stat. 172 (1921). In accordance with these two sections, the two State legislatures have conferred additional authority and duties on the Port Authority to operate facilities other than the bridges and have also required the Port Authority to pool the revenues of all its facilities.[6]

The Port Authority's power to pool all revenues therefore must be considered to have equal authority with the powers contained in the original compact. *Courtesy Sandwich Shop* v. *Port of New York Authority*, 240 N.Y.S. 2d. 1, 190 N.E. 2d 402, 406 (1963), appeal dismissed, 375 U.S. 78 (1963), reh. denied, 375 U.S. 960 (1963); *Kheel* v. *Port of New York Authority*, 331 F.Supp. 118 (S.D.N.Y. 1971), *aff'd*, 456 F.2d 46 (2d Cir. 1971), cert. den'd 409 U.S. 983 (1972); *Port of New York Authority Bondholders Protective Committee* v. *Port of New York Authority*, 270 F.Supp. 947, 951 (S.D.N.Y. 1967), aff'd, 387 F.2d 259, 262 (2d Cir. 1967). The Administrator must respect the rights and duties that are federally sanctioned through an interstate compact.

Contrary to the view of the Administrative Law Judge (Recommended Decision at 12–13), comparison with the powers of the Delaware River Port Authority (DRPA) confirms, rather than contradicts, the position that the Administrator may consider investments other than those in bridges as permitted under the "reasonable and just" standard of section 4.

As previously mentioned, the DRPA is subject to the General Bridge Act of 1946, which contains reasonable and just language identical to that involved in the present proceeding. Unlike the General Bridge Act of 1906, which contains no direct prohibition against application of toll revenues to non-bridge activities, section 506 of the General Bridge Act of 1946 expressly limits the use of toll revenues to specific bridge-related purposes.[7] The failure of the General Bridge Act of 1906 to contain a similar restriction strongly suggests that the reasonable and just standard of section 4 does not impose a *per se* bar against tolls designed to finance other activities.

But Congress' action with respect to the DRPA impact lends even stronger support for the Administrator's construction of the reasonable and just standard as permitting capital investments in non-bridge facilities to form part of the rate base. In approving certain amendments to the interstatee compact creating the DRPA in 1952, Congress permitted the Authority to combine revenues and to use tolls for the purposes of financing other facilities. Pub. L. No. 574, 82d Cong., 2d Sess. § 3, 66 Stat. 571–72 (1952). To facilitate these powers, Congress specifically exempted DRPA from the limitation on the collection of tolls prescribed by section 506 of the General Bridge Act of 1946. Had Congress intended the reasonable and just provisions of section 503 of the General Bridge Act of 1946 to bar the use of toll revenues to finance other activities, it would have certainly excepted the DRPA from section 503 as well as from section 506.

To the contrary, congressional reports preceding the approval of the DRPA

[2] In addition, the Port Authority has a policy requiring it to maintain in its reserves a sum sufficient to cover its bonded debt service for the succeeding 2 (years PA–8 at 7). Without the toll increase, the Port Authority would have to depart from this policy (Id. at Table 4), which may have an adverse effect on investor confidence and impair the Port Authority's ability to attract capital.

[3] This statute applies to interstate bridges over navigable waters of the United States, the construction of which was approved after 1946. 33 U.S.C. § 530.

[4] Section 503, 33 U.S.C. § 526, now provides:

If tolls shall be charged for the transit over any interstate bridge of engines, cars, street cars, wagons, carriages, vehicles, animals, foot passengers, or other passengers, such tolls shall be reasonable and just, and the Secretary of Transportation may, at any time, and from time to time, prescribe the reasonable rates of toll for such transit over such bridge, and the rates so prescribed shall be the legal rates and shall be the rates demanded and received for such transit.

[5] Jurisdiction under this statute was also transferred to the Secretary of Transportation by 49 U.S.C. § 1655(g)(4)(B) and (6)(c).

[6] N.Y. Uncol. Laws § 7002 and N.J.S. 32:1–142 provide: In all cases where the port authority has raised or shall hereafter raise moneys for the establishment, acquisition, construction or effectuation of terminal and/or transportation facilities by the issue and sale of bonds legal for investment, as herein defined and limited, the surplus revenues received by or accruing to the Port Authority from or in connection with the operation of such terminal and/or transportation facilities built in whole or in part by the proceeds of the sale of such bonds shall be pooled and applied by it to the establishment and maintenance of a general reserve fund in an amount equal to one-tenth (1/10) of the par value of all bonds legal for investment, as herein defined and limited, issued by the Port Authority and currently outstanding. . . . Any surplus revenues not required for the establishment and maintenance of the aforesaid general reserve fund shall be used for such purposes as may hereafter be directed by the two said States. (Emphasis supplied).

[7] Section 506, 33 U.S.C. 529, provides: If tolls are charged for the use of an interstate bridge . . . the rates of toll shall be so adjusted as to provide a fund sufficient to pay for the reasonable cost of maintaining, repairing, and operating the bridge under economical management, and to provide a sinking fund sufficient to amortize the amount paid therefor, including the reasonable interest and financing cost, as soon as possible under reasonable charges, but within a period of not to exceed 30 years from the date of completing or acquiring the same.

VOL 42 NO 165 AUG 25 77 UM

amendments cited the New York Port Authority's policy of using toll revenues to finance other facilities as a desirable and necessary means to develop the Delaware port area. H.R. Rep. No. 2293, 82d Cong., 2d Sess. 3 (1952). Congress thus manifested its awareness of New York's policy of pooling revenues and implied its approval that New York had authority to do this under the reasonable and just standard of the General Bridge Act of 1906.

The Administrator therefore must reject the Administrative Law Judge's conclusion that the rate base for the Port Authority's bridge tolls must be restricted to the investment in the four bridges.

B. INVESTMENT TO BE CONSIDERED IN RATE BASE

Having decided that the rate base need not be restricted to the four bridges as a matter of law, the Administrator must determine whether the investment in any other Port Authority facilities should be considered and, if so, which facility or facilities. In the absence of any guidance from legislative history, past interpretations of the statute, or the Recommended Decision, the Administrator must turn to principles of regulatory law from other fields.

Generally speaking, the "entire interconnected operating property of a utility used and useful for the convenience of the public in the territory served, without regard to particular groups of consumers of local subdivisions" is the unit for rate-making purposes. *Wabash Valley Electric Co. v. Young*, 287 U.S. 488, 497 (1933). See also *Bluefield Waterworks and Improvement Co. v. Public Service Commission of West Virginia*, 262, U.S. 679 (1923) and *Simpson v. Shepherd (The Minnesota Rate Cases)*, 230 U.S. 352 (1912). As a corollary to this principle, it should be noted that other property, although it contributes to the income of a regulated entity, should be excluded from the rate base if it is not "used and useful" for the performance of services of the type subject to regulation. *Denver Union Stock Yard Co. v. United States*, 304 U.S. 470 (1938).

The Administrator has determined that the property used and useful for the convenience of the four bridges should consist of the bridges themselves, the Holland and Lincoln tunnels, PATH, and the bus terminals. Because the record shows that all of these facilities act to relieve congestion that would otherwise overburden the bridges, their investment should be considered along with that in the bridges themselves to determine whether, in light of the combined operating results of these facilities, the toll increases produce a fair rate of return.

The record shows that if any one facility were not in existence, the use of others would increase correspondingly, as, significantly, would the congestion of these other facilities. The relationship among the Hudson River crossings—namely, the Holland and Lincoln tunnels, PATH, and the George Washington Bridge—is well demonstrated on the record. PATH and the Lincoln and Holland tunnels all have terminals in the Manhattan central business district and all provide nearly inter changeable transportation options for persons residing in New Jersey and working in the central business district. Thus, discontinuance of any facility would significantly increase use and congestion of any other.

The evidence also establishes that the Staten Island bridges divert traffic that would otherwise cross and congest the Hudson River Tunnels, PATH or the George Washington Bridge. When the Verrazano Narrows Bridge was opened, allowing access between New Jersey and Long Island via Staten Island, traffic in the Holland Tunnel decreased while the number of Staten Island crossings increased (PA–7 at 4). It is true, as AAA points out (AAA–11 at 4–5), that the decrease in Holland Tunnel traffic and the increase in Staten Island crossings do not exactly coincide, but the interdependency between the two has been sufficiently established to demonstrate that the discontinuance of one would add to congestion on the other.

The relationship between the George Washington and the Staten Island bridges seems adequately established, both by the planning studies referred to in PA–7 at 23 and by cross-examination of the Port Authority's witness (Tr. 11/4 at 95–97). In addition, the relationship between PATH and the Staten Island bridges is sufficient to justify including them within a single rate base (Tr. 11/4 at 111).

The Port Authority's bus terminals facilitate bus movement across the Hudson and thereby are factors in avoiding congestion on the bridges. For this reason, the investment should be added to the relevant rate base. There has been no demonstration, on the other hand, that the Port Authority's truck terminals serve to alleviate congestion on the bridges since trucks will have to cross the Hudson River on the George Washington Bridge in order to reach either the New York terminal from New Jersey or the Newark terminal from New York. The investment in these facilities should not be included in the rate base. Similar reasoning favors exclusion of the Port Authority's other projects—including the World Trade Center and Kennedy Airport—from consideration, since neither of these affects the congestion of the bridges.

The avoidance of congestion is of unquestionable advantage for bridge users. Congestion not only produces lost time and increases aggravation but contributes to the degradation of the environment of the congested facility by increased noise and engine emissions. Although it is virtually impossible to measure these costs in dollars, avoidance of them has an economic benefit to the user which should be charged to him. Because this economic benefit is as equally unquantifiable as the penalties of the costs avoided, a proxy for its value can be substituted. This proxy consists of the cost of providing other transportation facilities that divert traffic that would otherwise use and congest the bridges. The Administrator therefore concludes that, since each of the facilities does contribute towards avoiding congestion on the bridges, inclusion of the capital invested in them in the rate base for the tolls is a reasonable proxy cost for the benefit conferred upon the bridge users.

Another independent reason exists for including the investment of all these facilities in a single rate base. This is because these facilities were planned and have been operated by the Port Authority as an integrated, interdependent transportation system used to facilitate cross-water movements (PA–7, passim).[8] The Administrator must pay some deference to the Port Authority's fiscal policy of pooling revenues and costs in all these facilities and making its investment decisions on the basis of net operating revenues considered as a whole. Moreover, the record shows, that each transportation instrumentality serves to facilitate this cross-water movement in its own fashion, thereby benefitting not only its own users but also the users of other such instrumentalities. As previously mentioned, the existence of mass-transportation facilities serves to avoid congestion on all bridges. The bridges in turn benefit the users of these other facilities by contributing towards their financial support. It is therefore appropriate for the Administrator to include the capital invested in each in forming the investment base to measure the rate of return.

C. RATE OF RETURN

The rate of return which the Port Authority may reasonably earn on its amortized investment in use of the facilities making up the rate base, excluding government contributions, is a matter of less dispute than the rate base itself. The record advocates a rate of return as low as 5.03 percent and as high as 10 percent. The Administrative Law Judge found that a rate of return "not exceeding 6.5 percent" was appropriate (Recommended Decision at 20–23, 26).

The Administrator will adopt the recommendation of the Administrative Law Judge on the rate of return. As the conflicting evidence on this issue makes clear, there is no single accepted standard of measurement for measuring the supply price of capital, which is the paramount consideration in determining a fair return. Rather, if a single figure is to be selected, this must be done on the basis of informed judgment and discretion. The record shows that the Administrative Law Judge considered all evidence, and thus, properly exercised his discretion in recommending

[8] Again, the Administrator considers that the investment base in the Port Authority's truck facilities should be excluded because of the lack of evidence connecting these with across-harbor, as distinct from other movement. The same ground exists for excluding the World Trade Center, Kennedy Airport, and other facilities not involved in transwater crossings.

that the rate of return applicable here should not exceed 6.5 percent.

As shown by Appendix A to this decision, the rates of return on the Port Authority's capital investment in facilities that the Administrator has determined to constitute the rate base do not exceed this figure, ranging as they do from 4.0 percent in 1976 to —2.6 in 1981. In these circumstances, it is not necessary for the Administrator to determine an exact rate of return or even establish a range of return in order to determine whether the tolls in question comport with standards of the General Bridge Act of 1906.

It is possible for the Port Authority to increase these tolls beyond their present limits without exceeding the 6.5 percent rate of return determined to be reasonable in this case. However, the Administrator considers that the need for a toll to produce revenues sufficient to maintain a reasonable rate of return is far from paramount in the ultimate determination of whether a particular toll is reasonable and just. Thus, any further toll increase would have to be assessed in the light of the other factors mentioned in this decision.

The Public Interest

In addition to considering the Port Authority's rate of return on investment, the Administrator must also consider other public interest factors indicated in *Delaware River Port Authority v. Tiemann, supra.*, and *Burlington v. Turner*, 336 F.Supp. 594 (S.D. Iowa 1972), modified, 471 F.2d 120 (8th Cir. 1973).

In addition to the fact that the Port Authority toll schedules provide the lowest possible tolls consistent with the financial well-being of the bridge owner, evidence in the record demonstrates other favorable impacts on the public. To the extent that toll revenues are used to support and improve mass-transit facilities, reduced congestion and improved traffic flow resulting from increased patronage of mass-transit can benefit both the bridge users and other users of surface transport in the New York area.

In this regard, the Administrator considers it reasonable and just for the Port Authority to use excess toll revenues to support mass transportation enterprises. This use is fully consistent with the declaration of congressional policy in forming the Department of Transportation that the Nation requires (49 U.S.C. § 1651):

> The development of national transportation policies and programs conducive to the provision of fast, safe, efficient, and convenient transportation at the lowest cost consistent therewith and with other national objectives including the efficient utilization and conservation of the Nation's resources.

By permitting bridge toll revenues to aid the support and improvement of mass transit projects, the Port Authority is acting in support of the national objective of the efficient utilization and conservation of important transportation resources. The proper solution to the many problems that beset transportation in large urban areas can only be found in redressing some of the imbalances between private and public transportation. The Port Authority's policy of using bridge tolls to support other modes of transportation promotes a more efficient utilization of mass transportation, thereby decreasing dependency upon the automobile. The financial support that toll revenues will make towards the improvement of mass transportation is substantial and will tend to enhance the attraction of these modes of travel.

In sum, the Administrator must conclude that, in these circumstances, it is fair and reasonable for the Port Authority to require the users of bridges to contribute towards the financial support of other transportation facilities.

D. VIABILITY OF CONSTRUCTION PROJECTS

The Port Authority's justification of its 1975 toll increases was to obtain $40 million to pay the debt service on bonds to finance four mass transit projects: the PATH extension to Plainfield, New Jersey, the Erie-Lackawana Direct Rail Service project, the Kennedy Rail Service project, and the bus terminal extension. Tr. 11/4 at 124–126. Of the four projects, only the bus terminal expansion is now actually in progress. Tr. 11/4 at 155–156. Much of the testimony and arguments of the opponents to the toll increase is directed to the point that the toll increase is unneeded because of the uncertainty surrounding these projects.

It is not necessary for the Administrator to decide the viability of these and other projects in order to decide whether the tolls are reasonable and just. Given the determination that the toll schedule provides a reasonable return on the Port Authority's investment in the bridges and related facilities, the nature of these projects need not be reviewed by the Administrator in a toll proceeding unless the projects are outside the authority of the toll agency or are so unreasonable as to constitute a burden on the toll-paying public in terms of requiring higher tolls and failing to contribute to the betterment of the transportation system. It has not been shown that such is the case here.

RATE STRUCTURE

The record contains some discussion of the effect of giving discounts to buses, commuters and carpools and some advocacy in favor of peak-hour pricing as a disincentive to car use during rush hours. For example, Public Counsel produced evidence suggesting that the Port Authority's toll increase combined with the carpool discount served to increase the use of carpools and thereby decrease congestion (PC–6, 22–25). Another witness for Public Counsel stated his opinion that, in order to be more effective, carpool discounts should be confined to peak hours (PC–7, at 74). He added that the commuter discount was too large to be justified in any savings in administrative costs (PC–7 at 24).

The Administrator has determined that the evidence is inconclusive on the issue of whether the carpool and commuter discount features of the Port Authority's rate structures are reasonable and just.[9] Given the present state of the record, the Administrator is unable to determine whether the existing carpool and commuter discounts are reasonable and just and whether, in order to conform to this statutory standard, the Port Authority's rate structure should have peak-hour charges. Although the Administrator has the power to prescribe reasonable rates of toll, as well as the authority exercised here to review tolls, the exercise of this power on such an inadequate record is not warranted.

For this reason, the Administrator will reserve decision on these aspects of the Port Authority's toll structure. The Administrator will therefore direct the Port Authority to prepare, within 1 year from the date of the final order, a study concerning the economic feasibility, traffic management and environmental effects, and impact on mass transit of various alternative rate structures of commuter and carpool discounts and of peak-hour pricing. Copies of this study shall be filed with the Administrator, and all parties. Upon receipt of this study, the Administrator will provide for an opportunity for the other parties to comment. Based upon this study and comments thereon, the Administrator will then dispose of this remaining issue as he deems appropriate in the circumstances.

ORDER

The Federal Highway Administrator, after consideration of the evidence in the record of this matter, and for the reasons heretofore stated, finds that the existing toll schedule for the crossings of the George Washington Bridge, the Goethals Bridge, the Bayonne Bridge, and the Outerbridge Crossing is reasonable and just, and that the toll schedule adopted by the Port Authority of New York and New Jersey on April 10, 1975, effective May 5, 1975, is the legal rate to be demanded and received for transit over these bridges.

The Administrator also orders the Port Authority to prepare and submit to the Administrator and all parties a comprehensive feasibility study and recommendations for peak-hour charges and the impact that carpooling and commuter discounts have upon congestion.

Exceptions to the decision and order of this date may be submited to the Ad-

[9] Although it is not necessary for a proper disposition of this proceeding, the Administrator considers that the burden of proof is upon those parties opposing tolls. This is consistent with the finding of the Administrator in previous proceedings and with section 6(d) of the Administrative Procedure Act, 5 U.S.C. § 556(d), which places the burden of proof upon "the proponent of a rule or order." Since challengers to a toll can be considered proponents of an order finding it to be unjust and unreasonable and extensive discovery is available in administrative proceedings under the statute, they should bear the burden of proof.

V 42 AUG 25 77 UM

ministrator within 30 days of the date of this decision. The Administrator, upon review of the exceptions, will issue a final order on the issues resolved in this decision.

Issued this 9th day of August, 1977, in Washington, D.C.

WILLIAM M. COX,
Administrator, Federal Highway Administration.

Appendix A

Port Authority of New York and New Jersey

FOUR BRIDGES, TWO TUNNELS, TWO BUS TERMINALS, AND PATH
RATE OF RETURN ON UNAMORTIZED INVESTMENT IN USE
DOLLAR AMOUNTS IN MILLIONS

Item	Particulars	1976	1977	1978	1979	1980	1981
1.	Gross operating revenues a/	156.7	162.0	166.1	170.7	175.6	178.4
2.	Operating expenses	120.8	125.5	132.8	144.6	159.1	174.7
3.	Net operating revenues	35.9	36.5	33.3	25.8	16.5	3.7
4.	Depreciation b/	12.5	13.0	13.4	14.8	17.8	23.5
5.	Income from Operations	23.4	23.5	19.9	11.0	-1.3	-19.8
6.	Unamortized investment in use c/	577.3	575.3	571.4	614.9	616.4	774.6
7.	Rate of return on unamortized investment in use	4.0	4.0	3.5	1.8	-0.2	-2.6
8.	Revenue requirements at 5.03%	29	29	29	31	31	39
9.	Revenue excess over (or deficiency from) requirement	(5.6)	(5.5)	(9.1)	(20.0)	(32.3)	(58.8)

Source: Exhibit PA-9, Table A, Sheets 19-24 (Roseman)

Notes: a/ Based on current (increased) tolls;
b/ Straight line basis: retired assets fully depreciated.
c/ Government contribution to investment excluded.

[FR Doc.77-24600 Filed 8-24-77;8:45 am]

National Highway Traffic Safety Administration

[Docket No. EX 77-3; Notice 2]

BRISTOL CARS, LTD.

Petition for Temporary Exemption From Motor Vehicle Safety Standards

This notice grants the petition by Bristol Cars, Ltd. of England for a temporary exemption of the Bristol 412 passenger car from five Federal motor vehicle safety standards (Nos. 201, 202, 212, 214, and 219) on the basis that compliance would cause it substantial economic hardship. Exemption is denied from Standard No. 215.

Notice of the petition was published on March 24, 1977 (42 FR 16014), and an opportunity afforded for comment.

Petitioner is a manufacturer whose annual production of motor vehicles has not exceeded 150 units in the past 3 years. Bristol seeks a 2-year exemption from Standards Nos. 201, *Occupant Protection in Interior Impact*, and 202, *Head Restraints*, and for 3 years from Standards Nos. 212, *Windshield Mounting*, 214, *Side Door Strength*, 215, *Exterior Protection*, and 219, *Windshield Zone Intrusion*. With the exception of Standard No. 215 the company believes that it may already comply with the standards for which exemption is requested, and it describes the engineering reasoning in support of its belief. However, it wishes to test to verify conformance and the costs are such that to immediately conduct them would create an economic problem. With respect to Standard No. 215 the bumper system of the 412 has not been designed or tested in accordance with it. The cost of bumper testing and conversion is estimated at slightly over $100,000. The 2 and 3 year exemption will allow an orderly scheduling of tests and exhaustion of inventory of noncomplying parts (if any) as well as permitting it to test the U.S. market potential. Bristol had a net loss of approximately $92,000 in 1975 with a total accumulated loss of approximately $156,000 as of the end of that year. Bristol argued that the exemption would be in the public interest because it purchases its engines, transmissions and drive trains from Chrysler Corporation, providing work for a U.S. corporation. If the exemption is granted, the company will also buy its air conditioning systems and electric seat adjustments from Chrysler.

No comments were received on the petition.

Petitioner's belief that it may already comply with five of the six standards from which it requests exemption means that conformance may have been achieved or that any nonconformance is minimal. The small volume of its production and its uncertainty as to its acceptance in the American market indicates that the exposure of the vehicle to the public will be limited. It is evident from its picture of corporate financial loss that it cannot immediately afford to conduct the conformance tests it wishes and that these must be phased in on an orderly basis in order not to create substantial economic hardship within the meaning of the statute. Its purchase of American components supports its argument that an exemption would be in the public interest.

It has been determined that to require immediate conformance would cause Bristol substantial economic hardship and that a temporary exemption would be in the public interest and consistent with the objectives of the National Traffic and Motor Vehicle Safety Act.

In consideration of the foregoing Bristol Cars, Ltd. is hereby granted NHTSA Exemption No. 77-3, from the standards listed below and expiring on the dates indicated: Motor Vehicle Safety Standard No. 201, *Occupant Protection in Interior Impact*, and 49 CFR 571.202, Motor Vehicle Safety Standard No. 202, *Head Restraints*, expiring July, 1, 1979; 49 CFR 571.212, Motor Vehicle Safety Standard No. 212, *Windshield Mounting;* 49 CFR 571.214, Motor Vehicle Safety Standard No. 214, *Side Door Strength;* and 49 CFR 571.219, Motor Vehicle Safety Standard No. 219, *Windshield Zone Intrusion*, expiring July 1, 1980.

With respect to Standard No. 215, however, Bristol has stated only that the bumper system of the 412 has not been designed or tested in accordance with it. In order to provide an exemption, however, Section 123(a)(1)(A) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1410(a)(1)(A)) requires the Administrator to find that Bristol "has, in good faith, attempted to comply" with Standard No. 215. The information submitted to date is insufficient to support such a finding. Accordingly, Bristol's petition for exemption from Standard No. 215 is hereby denied, without prejudice.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegation of authority at 49 CFR 1.50.)

Issued on August 18, 1977.

HOWARD DUGOFF,
Acting Administrator.

[FR Doc 77-24509 Filed 8-24-77;8:45 am]

Office of Pipeline Safety Operations

[Docket No. OPSO 77-8W]

TRANS-ALASKA CRUDE OIL PIPELINE

Grant of Waiver

By petition dated July 25, 1977, the Alyeska Pipeline Service Company (Alyeska) requested a waiver from compliance with 49 CFR 195.218 with respect to seven girth welds at the Valdez Terminal. The welds, identified as Weld Nos. 139, 362C, 363, 442, 1085, 346, and 420, were made without offsetting the longitudinal seams on adjacent pipe lengths as required by Section 195.218. Alyeska, operating on the mistaken belief that Part 195 did not apply to that portion of the pipeline system where these particular welds were located, had not taken steps to ensure that offsets were provided for at the time of construction.

In support of the waiver request, Alyeska asserted that the technical bases upon which the Materials Transportation Bureau (MTB) relied in granting Alyeska a waiver from Section 195.218 for Weld No. 49344T at the Jim River Crossing No. 2 (Docket No. OPSO 76-10W, 41 FR 38202, September 9, 1976) also apply in the case of the present welds. In the Jim River situation, as for every waiver request, MTB evaluated all available data relative to determining whether pipeline safety would be jeopardized by granting the waiver. MTB found that a waiver from Section 195.218 for the Jim River weld would not be inconsistent with pipeline safety because of the difficulties attendant to weld replacement activities in the river crossing and the following reasons:

1. The girth weld exceeds the standards of acceptability in Sec. 6 of API Standard 1104 and does not contain any weld defect which might grow to an unacceptable level under cyclic loadings.

2. The ductility of the pipe and girth weld metals would provide for localized yielding where high residual stresses may exist and thereby prevent fracture initiation and failure of the weld. (Section 195.218 was adopted when pipe and weld materials in general use were less ductile than the materials at Weld No. 49344T.)

3. The similarity of mechanical properties between the girth weld and pipe metals minimizes the likelihood of any concentration of residual stresses existing at the intersection of welds and surrounding heat-affected zone.

4. The fact that the longitudinal seams are ground flush with the inside pipe circumference at the joint mitigates the likelihood of any concentration of residual stresses caused by excess metal at the intersection of welds. (The longitudinal seams were ground flush with the inside circumference at pipe ends when the pipe was manufactured to accommodate an internal line-up clamp during welding.)

MTB agrees with Alyeska that the aforementioned technical reasons why the Jim River weld is safe apply equally to the seven welds at the Valdez Terminal. Moreover, in light of modern pipeline materials and welding technology, the safety rationale appears applicable to all girth welds currently made on steel pipelines intended to carry hazardous materials. This position is substantiated by the fact that neither the Federal gas pipeline safety standards in 49 CFR Part 192 nor the industry standards applicable to liquid pipelines, ANSI B31.4, contain a requirement for seam offsetting such as § 195.218. Therefore, although the working conditions at Valdez do not have the adversities of a river crossing, MTB believes that a waiver from § 195.218 for the seven welds is nonetheless appropriate because the requirement itself does not appear necessary for safety. Thus, on July 27, 1977, Alyeska was advised by telephone and telegram that its waiver request was granted. This Notice publicly announces that decision.

Because of the significance of the decision and its impact on pipelines to be constructed by others, MTB will issue a Notice of Proposed Rulemaking to repeal the general requirement in 49 CFR 195.218.

(18 USC 831-835, 49 CFR 1.53(g).)

Issued in Washington, D.C., on August 17, 1977.

CESAR DELEON,
Acting Director, Office of Pipeline Safety Operations.

[FR Doc.77-24288 Filed 8-24-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 4 (Rev. 4)]

OFFICERS AND EMPLOYEES

Delegation of Authority

AGENCY: Internal Revenue Service.

ACTION: Delegation of Authority.

SUMMARY: The authorities granted to the Commissioner of Internal Revenue by 26 CFR 301.7602-1(b), 301.7603-1, 301.7604-1, and 301.7605-1(a) to issue summonses; to set the time and place for appearance; to serve summonses; to take testimony under oath of the person summoned; to receive and examine books, papers, records, or other data produced in compliance with the summons; and to enforce summonses, are delegated to the officers and employees of the Internal Revenue Service as specified in the delegation order. This revision expands the delegation to include tax examiners in the Service Center Correspondence Audit Branch and trainee tax examiners in the Correspondence Audit Branch, and tax auditor trainees.

EFFECTIVE DATE: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. William Schutt, CP:A:S:S, 1111 Constitution Avenue NW., Room 2140, Washington, D.C. 20224 (202-566-6815, not toll free).

JACK CHIVATERO,
Acting Assistant Director, Audit Division.

AUTHORITY TO ISSUE SUMMONSES, TO ADMINISTER OATHS AND CERTIFY, AND TO PERFORM OTHER FUNCTIONS

1(a). The authorities granted to the Commissioner of Internal Revenue by 26 CFR 301.7602-1(b), 301.7603-1, 301.7604-1, and 301.7605-1(a) to issue summonses; to set the time and place for appearance; to serve summonses; to take testimony under oath of the person summoned; to receive and examine books, papers, records or other data produced in compliance with the summons; and to enforce summonses, are delegated to the officers and employees of the Internal Revenue Service specified in paragraphs 1(b), 1(c), and 1(d) of this Order and subject to the limitations stated in paragraphs 1(b), 1(c), 1(d), and 6 of this Order.

(b) The authorities to issue summonses and to perform the other functions related thereto specified in paragraph 1(a) of this Order, are delegated to the following officers and employees, provided that the authority to issue a summons in which the proper name or names of the taxpayer or taxpayers is not identified because unknown or unidentifiable (hereinafter called a "John Doe" summons) may be exercised only by said officers and employees and by them only after obtaining pre-issuance legal review by Regional Counsel or the Chief Counsel in the case of Inspection and International Operations.

(1) Inspection: Assistant Commissioner and Director, Internal Security Division.

(2) District Intelligence: Chief of Division.

(3) International Operations: Director and Chiefs of Divisions.

(4) District Collection Activity: Chief of Division.

(5) District Audit: Chief of Division.

(6) District Employee Plans and Exempt Organizations: Chief of Division.

(c) The authorities to issue summonses except "John Doe" summonses, and to perform other functions related thereto specified in paragraph 1(a) of this Order, are delegated to the following officers and employees:

(1) Inspection: Regional Inspectors and Assistant Regional Inspectors (Internal Security) and Chief, Investigations Branch.

(2) District Intelligence: Assistant Chief of Division; Chiefs of Branches; and Group Managers.

(3) International Operations: Assistant Director; Chiefs of Branches; Case Managers; and Group Managers.

(4) District Collection Activity: Assistant Chief of Division; Chiefs of Field Branches and Office Branches; Chief, Special Procedures Staff; and Group Managers.

(5) District Audit: Chiefs of Examination Branches; Case Managers; and Group Managers.

(6) District Employee Plans and Exempt Organizations: Group Managers.

(d) The authority to issue summonses except "John Doe" summonses and to perform the other functions related thereto specified in paragraph 1(a) of this Order is delegated to the following officers and employees except that in the instance of a summons to a third party witness, the issuing officers' case manager, group manager, or any supervisory official above that level, has in advance personally authorized the issuance of the summons. Such authorization shall be manifested by the signature of the authorizing officer on the face of the original and all copies of the summons or by a statement on the face of the original and all copies of the summons, signed by the issuing officer, that he/she had prior authorization to issue said summons and stating the name and title of the authorizing official and the date of authorization.

(1) International Operations: International Revenue Agents; Attorneys, Estate Tax; Estate Tax Examiners; Special Agents; Revenue Service and Assistant Revenue Service Representatives; Tax Auditors; and Revenue Officers, GS–9 and above.

(2) District Intelligence: Special Agents.

(3) District Collection: Revenue Officers, GS–9 and above.

(4) District Audit: Internal Revenue Agents; Tax Auditors; Attorneys, Estate Tax; and Estate Tax Examiners.

(5) District Employee Plans and Exempt Organizations: Internal Revenue Agents; Tax Law Specialists; and Tax Auditors.

(e) Each of the officers and employees referred to in paragraphs 1(b), 1(c), and 1(d) of this Order may serve a summons whether it is issued by him, her or another official.

2. Each of the officers and employees referred to in paragraphs 1(b), 1(c), and 1(d) of this Order, authorized to issue summonses, is delegated the authority under 26 CFR 301.7602–1(b) to designate any other officer or employee of the Internal Revenue Service referred to in paragraph 4(b) of this Order, as the individual before whom a person summoned pursuant to Section 7602 of the Internal Revenue Code shall appear. Any such other officer or employee of the Internal Revenue Service when so designated in a summons is authorized to take testimony under oath of the person summoned and to receive and examine books, papers, records, or other data produced in compliance with the summons.

3. Internal Security Inspectors are delegated the authority under 26 CFR 301.7603–1 to serve summonses issued in accordance with this Order by any of the officers and employees of the Inspection Service referred to in paragraphs 1(b)(1) and 1(c)(1) of this Order even though Internal Security Inspectors do not have the authority to issue summonses.

4(a). The authorities granted to the Commissioner of Internal Revenue by 26 CFR 301.7602–1(a), and 301.7605–1(a) to examine books, papers, records, or other data, to take testimony under oath and to set the time and place of examination are delegated to the officers and employees of the Internal Revenue Service specified in paragraphs 4(b), 4(c), and 4(d) of this Order and subject to the limitations stated in paragraphs 4(c) and 6 of this Order.

(b) General Designations:

(1) Inspection: Assistant Commissioner; Director, Internal Security Division; Director, Internal Audit Division; Regional Inspectors; Internal Auditors; and Internal Security Inspectors.

(2) District Intelligence: Chief and Assistant Chief of Division; Chiefs of Branches; Group Managers; and Special Agents.

(3) International Operations: Director; Assistant Director; Chiefs of Divisions and Branches; Special Agents; Case Managers; Group Managers; Internal Revenue Agents; Attorneys, Estate Tax; Estate Tax Examiners; Revenue Service and Assistant Revenue Service Representatives; Tax Auditors; and Revenue Officers.

(4) District Collection Activity: Chief and Assistant Chief of Division; Chiefs of Field Branches and Office Branches; Chiefs, Special Procedures Staffs; Group Managers; and Revenue Officers.

(5) District Audit: Chief of Division; Chiefs of Examination Branches; Conferees; Case Managers; Group Managers; Internal Revenue Agents; Tax Auditors; Attorneys, Estate Tax; and Estate Tax Examiners.

(6) Regional and District Employee Plans and Exempt Organizations; Conferees; Chief of Division; Chief of Examination Branch; Chief, Technical Staff; Group Managers; Internal Revenue Agents; Tax Law Specialists; and Tax Auditors.

(7) Service Center: Chief, Audit Division; Chief, Intelligence Staff; Revenue Agents; Tax Auditors; Tax Examiners in the Correspondence Audit Branch; and Special Agents.

(c) District Directors, Service Center Directors, Regional Inspectors, the Chief of Investigation Branch, and the Director of International Operations may redelegate the authority under 4(a) of this Order to aides or trainees, respectively, for the positions of revenue agent, tax auditor, tax examiner in the service center Correspondence Audit Branch, tax law specialist, revenue officer, internal auditor, internal security inspector, and special agent, provided that each such aide or trainee shall exercise said authority only under the direct supervision, respectively, as applicable of a revenue agent, tax auditor, tax examiner in the service center Correspondence Audit Branch, tax law specialist, revenue officer, special agent, internal auditor or internal security inspector.

(d) District Directors may redelegate the authority under 4(a) of this Order to Revenue Representatives and Office Collection Representatives.

5. Under the authority granted to the Commissioner of Internal Revenue by 26 CFR 301.7622–1, the officers and employees of the Internal Revenue Service referred to in paragraphs 1(b), 1(c), 1(d), and 4(b) and 4(c) of this Order are designated to administer oaths and affirmations and to certify to such papers as may be necessary under the internal revenue laws and regulations except that the authority to certify shall not be construed as applying to those papers or documents the certification of which is authorized by separate order or directive. Revenue Representatives and Office Collection Representatives referred to in paragraph 4(d) of this Order are not designated to administer oaths or to perform the other functions mentioned in this paragraph.

6. The authority delegated herein may not be redelegated except as provided in paragraphs 4(c) and 4(d).

7. This Order supersedes Delegation Order No. 4 (Rev. 3), issued November 24, 1975.

WILLIAM E. WILLIAMS,
Acting Commissioner.

AUGUST 5, 1977.

[FR Doc.77-24601 Filed 8-24-77;8:45 am]

[Delegation Order No. 16 (Rev. 1)]

ASSISTANT COMMISSIONER (COMPLIANCE), ET AL.

Delegation of Authority

AGENCY: Internal Revenue Service.

ACTION: Delegation of Authority.

SUMMARY: The authority of the Commissioner of Internal Revenue to approve payments for confidential expenditures pertaining to violations of federal statutes administered and enforced by the Internal Revenue Service is delegated to certain management officials. The text of the delegation order appears below.

EFFECTIVE DATE: August 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Loren P. Kraft, CP:I:P, 1111 Constitution Avenue NW., Room 2429, Washington, D.C. 20224, 202–566–1554 (Not Toll Free).

WILLARD M. CUMMINGS,
Acting Director,
Intelligence Division.

AUTHORIZATION TO APPROVE CONFIDENTIAL EXPENDITURES

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order 150–37, authority to approve payments for confidential expenditures pertaining to violations of federal statutes administered and enforced by the Internal Revenue Service is hereby delegated to the following officials as well as the dollar limitation, where appropriate, that each official may approve:

A. Assistant Commissioner (Compliance) is authorized to approve all confidential expenditures for information related to violations of Title 26, United States Code from informants or payments on behalf of informants exceeding $2000 in each single assigned case or project; all confidential expenditures for undercover operations exceeding $2000 in each single assigned case or project; and other confidential expenditures exceeding $2000 in each single assigned case or project.

B. Assistant Commissioner (Inspection) is authorized to approve all Internal Security Activity confidential expenditures for information related to violations of Title 26, United States Code from informants or payments on behalf of informants; undercover operations; and other confidential expenditures.

C. Regional Commissioners are authorized to approve all confidential expenditures for information related to violations of Title 26, United States Code from informants or payments on behalf of informants for $2000 or less in each single assigned case or project; all confidential expenditures for undercover operations for $2000 or less in each single assigned case or project; and other confidential expenditures for $2000 or less in each single assigned case or project. The authority to approve confidential expenditures for information related to violations of Title 26, United States Code for informants or payments on behalf of informants and other confidential expenditures may be redelegated to District Director for $1000 or less.

D. Regional Inspectors are authorized to approve all Internal Security Activity confidential expenditures up to a limit of $2000 for each single assigned case or project, for information related to violations of Title 26, United States Code from informants or payments on behalf of informant; undercover operations; and other confidential expenditures.

E. District Directors are authorized in emergency situations to approve expenditures up to $1000 for payments to informants for information leading to the apprehension of fugitives named in wanted circulars issued in connection with violations of Title 26, United States Code.

F. Director, Internal Security Division is authorized to approve all Internal Security Activity confidential expenditures, involving National Office cases or projects, up to a limit of $2000 for each single assigned case or project, for information related to violations of Title 26 United States Code from informants or payments on behalf of informants; undercover operations; and other confidential expenditures.

This authority delegated herein may not be redelegated.

This order supersedes Commissioner Delegation Order No. 16 issued January 13, 1956.

WILLIAM E. WILLIAMS,
Acting Commissioner.

JULY 15, 1977.

[FR Doc.77-24602 Filed 8-24-77;8:45 am]

Office of the Secretary

[Department Circular Public Debt Series—No. 21–77]

TREASURY NOTES OF SEPTEMBER 30, 1981 SERIES K–1981

AUGUST 22, 1977.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,500,000,000 of United States securities, designated Treasury Notes of September 30, 1981, Series K–1981 (COSIP No. 912827 GZ 9). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated September 7, 1977, and will bear interest from that date, payable on a semiannual basis on March 31, 1978, and each subsequent 6 months on September 30 and March 31 until the principal becomes payable. They will mature September 30, 1981, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the International Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3 The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, August 30, 1977. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, August 29, 1977.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are suomitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full at the weighted average price (in three decimals) of accepted competitive tenders, and competitive tenders with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a low-

est accepted price above the original issue discount limit of 99.000. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full or when the price is over par.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Wednesday, September 7, 1977, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Friday, September 2, 1977, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Thursday, September 1, 1977, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivey of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5 Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

PAUL H. TAYLOR,
Deputy Fiscal
Assistant Secretary.

[FR Doc.77-24562 Filed 8-22-77;11:50 am]

VETERANS ADMINISTRATION

VETERANS EDUCATION

Policies and Procedures

AGENCY: Veterans Administration.

ACTION: Request for public comment.

SUMMARY: The Veterans Administration is publishing for public comment various new and revised statements of policy and procedures which have been adopted by the Agency to implement Public Law 94-502 (90 Stat. 2383). These documents have already been issued to staff and interested persons, but the publication here is intended to apprise persons that may not have received them. It is hoped that interested persons will provide input to allow the Veterans Administration to gauge the effectiveness of the policies and procedures.

DATES: Comments must be received on or before September 23, 1977.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A) Veterans Administration, 810 Vermont Avenue, NW. Washington, DC 20420.

Comments will be available for inspection at the address shown above during normal business hours until October 3, 1977.

FOR FURTHER INFORMATION CONTACT:

June C. Schaeffer, Assistant Director for Benefits and Facilities, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, Washington, D.C. 20420 (202-389-2092).

SUPPLEMENTARY INFORMATION: The Veterans Administration has published portions of this material in the FEDERAL REGISTER in the past. On December 16, 1976 (41 FR 55021) we published DVB Circular 20-76-84 and appendixes (A) through (H). On February 9, 1977 (42 FR 8255), appendixes (I) through (O) to DVB Circular 20-76-84 were published in the FEDERAL REGISTER. Also published on that date was appendix (H) as it had been revised (including two changes to it in the form of changes 1 and 2 of DVB Circular 20-76-84). Finally on April 12, 1977 (42 FR 19243) we published DVB Cirlulars 20-77-24 and 20-77-25.

Since these circulars have been revised in many respects by subsequent changes and since DVB Circular 20-77-10 with it own changes has been promulgated, the following documents are being published at this time so that the reader may have the complete current versions of each item. New material not previously included in the FEDERAL REGISTER is denoted by brackets.

This publication contains the entire content of DVB Circular 20-77-10, including change 1; DVB Circular 20-77-24, including changes 1, 2 and 3 and appendix A; appendix A, revised, of DVB Circular 20-76-84; appendix C, as revised by change 3 of DVB Circular 20-76-84; appendix D, revised, of DVB Circular 20-76-84; appendix H, revised, as revised by changes 4 and 6 of DVB Circular 20-76-84; appendix M, as revised by change 5 of DVB Circular 20-76-84; and appendix P of DVB Circular 20-76-84. These publications deal with the procedures and policy required to implement provisions of Public Law 94-502 as to approval of facilities located off the main campus of a school; advance payment and termination of prepayment of benefits; the 6-month normal completion time requirement for correspondence courses; the requirement that a school shall have operated the course for a minimum of 2 years; the prohibition of assignment of educational assistance benefits; the requirements that at least 15 percent of the students in a course be nonveterans; the prohibition of payments of educational assistance for courses not counted to satisfy graduation requirements; and other miscellaneous requirements. All of these publications have been implemented and have been distributed through normal channels to interested persons.

ADDITIONAL COMMENT INFORMATION

Interested persons are invited to submit written comments, suggestions, or objections regarding these documents to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), until October 3, 1977. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

APPROVED: August 17, 1977.

By the direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

DVB Circular 20-77-10.
January 25, 1977.

DEPARTMENT OF VETERANS BENEFITS,
Veterans Administration,
Washington, D.C.

APPROVAL CONSIDERATIONS FOR FACILITIES LOCATED OFF THE MAIN CAMPUS

1. *General.* In implementing certain provisions of PL 94-502, primarily concerning the two-year rule and the 85-15 percent requirement, it has become apparent that some clarification is required concerning additional facilities, branches and extensions. This circular examines administrative capability and summarizes certain approval requirements for resident courses offered at additional facilities, branches and extensions.

2. *Definitions.*—a. An "additional facility" (per VAR 14251(F)) is an off-campus location for which the following conditions exist:

(1) The parent facility has been in operation for a period of 2 years or more;

(2) The parent school has reached the limit of its enrollment capacity in its present

(3) The courses offered at the additional facility are the same as those given at the parent facility, and

(4) The additional facility is within normal commuting distance of the parent facility.

NOTE.—A branch, as well as the main campus, may be the "parent facility" for the purpose of acquiring additional facilities under this definition.)

b. A "branch" or "subsidiary branch" is any location apart from the main campus that does not meet the necessary criteria to be considered an additional facility.

c. An "extension" is synonymous with a "branch" for Veterans Administration purposes.

d. For "normal commuting distance" see the note in DVB Circular 20-76-84. Appendix C, paragraph 4a(2).

3. *Approval Requirements.*—a. An additional facility is considered to be a part of the parent school and therefore no separate approval is required. However, if the additional facility is located in a different State from the parent facility (e.g., a school in the District of Columbia with a facility 3 miles away in Virginia), the SAA (State approving agency) of the State in which the additional facility is located must approve the courses offered there. The two-year rule and the 85-15 percent requirement do not apply independently to additional facilities.

b. A branch or extension is considered to be a separate school and must meet all of the requirements necessary for course approval, including the following:

(1) Obtain a separate approval from the SAA in the State where the branch is located.

(2) Fulfill the 85-15 percent requirement as outlined in VAR 14202(C)(1) and DVB Circular 20-76-84, appendix H, Revised, and

(3) Meet the two-year rule as outlined in VAR 14251 and DVB Circular 20-76-84, appendix C.

4. *Administrative Capability of a Branch.* Up to this time, the VA has held the policy that in order to be approved for VA benefits, each branch must have a separate SAA approval and have an administrative capability separate from the parent facility. However, certain situations have been encountered which are considered valid exceptions to this policy. These exceptions will be examined below after restating the criteria of an administrative capability.

a. A branch is considered to have an administrative capability when the following criteria are met:

(1) The branch maintains sufficient records and files for VA purposes pertaining to students enrolled therein;

(2) The branch designates a named certifying official;

(3) The branch is able to furnish all reports and certifications to the VA without resort to the parent school; and

(4) The branch maintains a local mailing address.

b. Branches are excepted from the requirement to have an administrative capability if they are located in the same State as the parent facility and any of the following conditions exist:

(1) The course offering consists of a small number of unit subjects which do not comprise a program of education or a set curriculum large enough to allow pursuit on a continuing basis; or

(2) The course offering is being given on a temporary basis (i.e., no more than a few cycles of the training are contemplated), or

(3) The site itself cannot provide the minimum space needed to develop an administrative capability. This exception contemplates facilities such as high school classrooms that are vacant at night, unused classrooms of local colleges and other community facilities available on a part-time basis.

NOTE.—Branches located overseas are not required to have a separate administrative capability as long as all administrative requirements are handled by the parent institution.)

c. A branch that is excepted from the requirement to have an administrative capability may nevertheless be approved if all other approval requirements, including the two-year rule and 85-15 percent requirement, are met.

(1) A separate approval will not be required. Courses at such branches will be included in the approval of the parent facility.

(2) The SAA must make an onsite inspection prior to approval (unless the branch is overseas) in order to determine if an administrative capability exists or is required. The approval should list each off-campus site that is not required to have an administrative capability and indicate the specific courses approved at each site.

[NOTE.—Current approvals which include courses at such branches should not be considered invalid. Only new approvals and revisions which include a new branch will require prior onsite inspection. Where existing approvals include branch instruction which was approved without an onsite inspection, the SAA will make such an inspection as soon as their workload allows.]

(3) When certifying enrollments, the parent facility must specify the off-campus site where the instruction will be furnished.

(4) Compliance surveys, as warranted, will include off-campus class checks.

d. All out-of-State branches, as well as those branches that are not excepted (under subpar. b above), require a separate approval and a separate administrative capability.

5. *Specific Situations.* The following examples point out the most common situations encountered in dealing with off-campus locations:

Example 1: Acme County Junior College offers a freshman-level English course at the Acme County Community Center and also at the Community Center in neighboring Shaw County, whenever enough students are interested. These are not additional facilities, since the parent facility has not reached the limit of its enrollment capacity. These branches are not required to have an administrative capability nor a separate approval. However, the 85-15 percent requirement does apply to these branches. Although the two-year rule does not apply to the Acme County Branch, it does apply to the Shaw County Branch since the parent school is supported solely by Acme County and the branch is located in Shaw County, outside of the taxing jurisdiction.

Example 2: Maryland State University has a branch in Pennsylvania. The branch must have an administrative capability and a separate approval from the Pennsylvania SAA, since it is located outside of Maryland. The branch courses must meet the 85-15 percent requirement. The two-year rule also applies because the parent school is tax supported and the branch is located outside of the taxing jurisdiction.

Example 3: Smythe Business College of Plainville (a nonprofit IHL) opens a branch 9 miles away in Muddale and offers an associate degree program there. The new branch does not meet any of the conditions outlined in paragraph 4b. Therefore a separate approval is required and the branch must

have an administrative capability. The 85–15 percent requirement applies. However, the two-year rule does not apply since the parent school is a proprietary nonprofit institution and the branch is located within the normal commuting distance of the main campus.

Example 4: Alamnus College of New York has a branch location in California which meets all approval requirements (new and old). This branch offers night courses at several high schools within the community (within a 10-mile radius of the branch). The high school locations are considered additional facilities because the main branch campus (the parent facility) has reached the limit of its enrollment capacity and the high schools are located within normal commuting distance. Also, the courses offered at the additional facilities are the same as those given at the main branch campus which has been in operation for over 2 years. As additional facilities, the high school locations are not required to have an administrative capability nor a separate approval, but should be included with the approval of the main branch campus. The two-year rule and the 85–15 percent requirement do not apply independently to the additional facilities."

RUFUS H. WILSON,
Chief Benefits Director.

DVB Circular 20–77–24.
March 18, 1977.

DEPARTMENT OF VETERANS BENEFITS,
VETERANS ADMINISTRATION,
Washington, D.C.

CHANGES TO PREPAYMENT, ADVANCE PAYMENT AND RELATED PROCEDURES

[The circular printed below contains content changes to various paragraphs indicated by the bracketed portions. The original circular was published on March 18, 1977. The changes to paragraphs 2, 4, 5, and 8 were published on May 6, 1977. These changes to the prepayment and advance payment procedures were brought about because several stations and schools have expressed concern that continuing summer students will experience an unnecessary interruption of payments under the original procedures. The changes are intended to prevent or minimize any interruption of payment for these students. Also, the changes further clarify the effect of postpayment and allow stations to determine locally if VA Form 22–1999–1, Reenrollment Certification, should be processed without the claims folder. Other changes, made on March 31, 1977, are denoted by brackets in paragraph 3b and c, on May 26, 1977 additional changes to paragraph 5 were made (subparagraph c was amended and subparagraph d was added). Paragraph 5b states that full course awards with a full calendar month break after May 1, 1977, would be automatically terminated and a computer writeout, with message 996 issued. Inadvertently, awards with less than a full calendar month break but more than a 30-day break were also terminated. In these automatically terminated cases, a computer letter was issued to the claimant and a VA Form 22–1999–1 was issued to the school. The purpose of this change is to provide instructions for the remaining full course awards that were not terminated and to delete paragraph 7d in addition to the other changes made.]

1. *General.* This circular describes changes to the prepayment and advance payment procedures brought about by Public Law 94–502. (See DVB Circular 20–76–84.) It also provides instructions on related subjects including confirmed enrollments, end of full course certifications, interval payments, summer enrollments, computer-generated reenrollment forms, special payments, April check stuffer and required liaison actions. Enrollments with effective dates on or after June 1, 1977, may now be processed. Instructions for chapter 31 will be issued at a later date.

2. *End of prepayment.* Regular monthly benefits will no longer be prepaid at the beginning of each month after May 1977. This means that regular monthly checks issued on or after June 1, 1977, will represent payment for the preceding month rather than for the current month. The regular monthly checks for June will not be issued under the new system until July 1. Under most circumstances, students will not receive a check in June of this year.

[(NOTE.—Under the new payment system, regular (nonadvance) payment for the initial month or partial month of both IHL and NCD enrollments will be issued no earlier than the first of the following month. Payment for the final month or partial month of IHL enrollment will be issued or earlier than the first of the following month; the final NCD payment will be issued when the certification of attendance is processed.)]

3. *Advance Payment.* Effective June 1, 1977, the law provides that advance payment may not be made unless the veteran or eligible person requests such payment and the Veterans Administration finds that the educational institution has agreed to and can satisfactorily carry out the advance payment provisions of the law.

a. All affected schools in your area should be advised immediately by letter of the new requirements for advance payment listed in subparagraphs b and c below which apply to enrollments with beginning dates on or after June 1, 1977. The letter should request each school to state in writing whether or not they wish to receive advance payments. A school that agrees to receive advance payments will be asked to certify in their reply that they can satisfactorily carry out the advance payment provisions in 38 U.S.C. 1780(d)(5) (B) and (C), and (6). (These pars. will be quoted in the letter to the school.) A response will be requested within 30 days. A 30-day control will be established and a followup letter will be sent to any school that does not reply within 30 days to the first letter. The responses will be filed in the school approval file, and a listing for the Adjudication and Counseling and Rehabilitation activities will be prepared showing those schools which have declined to participate in the advance payment program (either expressly in writing or by failure to respond to the first letter within 60 days). Any enrollment certifications properly requesting advance payment, timely received and otherwise in order will be honored unless there is a specific statement in the approval file from the school that they decline to participate in the advance payment program or the school fails to reply within 60 days to the first letter from the regional office.

b. The requirements for advance payment are: (1) The enrollment must be for a school course for at least half-time training;

(2) The school must agree to receive and process the advance payment;

[(3) The student must specifically request advance payment on the enrollment certification or on a separate document attached to the enrollment certification;]

(4) The enrollment certification must be received by the VA at least 30 days but not more than 120 days in advance of registration; and

(5) The enrollment must begin at least one full calendar month after the student's prior term (for example, the student's prior term ended in May; advance payment would be in order for enrollment beginning in July since June is a full calendar month).

c. Pending revision of the application, enrollment and reenrollment certification forms (e.g., VA Forms 22–1990, 22–1999, 22–1999–1), advance payment may be requested by entering "I request advance payment" in the remarks section of the enrollment certification, and by having the student enter his or her signature and the date below this request.

[Alternatively, the advance payment request may be made on a separate document which is signed and dated by the student and attached to the enrollment certification.]

d. If advance payment is properly requested and timely received in the VA but for some reason cannot be processed in time for advance payment, Adjudication must notify the student and the school that regular payment will be issued instead of advance payment and the reason why. Enrollments in this category requiring confirmation (see par. 4a below), must be confirmed by telephone prior to an award action.

e. If advance payment is improperly requested or received too late for processing, the school will be advised of the problem by the Liaison activity. The student will be informed by Adjudication Division that regular payment will be made instead of advance payment and the reason why. Enrollments in this category requiring confirmation (see par. 4a below) will either be returned to the school or held and confirmed by telephone prior to award action.

f. If a station Director determines that a school cannot satisfactorily carry out advance payment and the reason why. Enroll-M22–2, part IV, chapter 8, paragraph 8. 01d, will be applied.

4. *Confirmed enrollments.* [a. An enrollment certification is considered to be confirmed if it is signed and dated on or after the beginning date certified. Confirmation in this sense is not an issue when advance payment is requested and issued. The following confirmation rules apply to *non-advance-payment* cases:

(1) Confirmation will always be required for the student's initial term (or initial enrollment for NCD students) at a particular school.

(2) Confirmation will be required for any subsequent term or enrollment period *except* when there will be less than a full calendar month break between the terms or other enrollment periods at a particular school.

(3) Fall enrollments must be confirmed if there will be a full calendar month break between summer and fall terms. Fall enrollments with less than a full calendar month break between summer and fall terms at the same school need not be confirmed; however, these fall enrollments may be certified to the VA no earlier than the beginning of the student's summer term but only if the student is actually registered or preregistered for fall. (NOTE.—If there is a full calendar month break during the summer term, the fall enrollment may be submitted no earlier than the beginning of the summer period which follows the full calendar month break.)

EXAMPLES

(a) *Advance payment is requested for one terms:* A confirmed enrollment certification is not required;

(b) *A student's spring term ends in May and the fall term begins in August:* A confirmed enrollment for the fall term is required unless advance payment is requested;

(c) *A student who enrolls in a second summer session beginning in June was enrolled in a spring term ending in May:* A confirmed summer enrollment is not required since there is not a full calendar month break;

(d) *A student whose summer term ends in August is preregistered at the same school for a fall term which begins in September:* A confirmed fall enrollment will not be required. Instead, the fall enrollment may be signed and dated as early as the beginning of the student's first summer term provided there will be no full calendar month break during the summer term.]

b. Schools should be cautioned not to submit non-advance-payment enrollments requiring confirmation prior to the beginning date certified. If such unconfirmed enrollments are received they will be confirmed by telephone call to the school or returned to the school, and the school will be requested to resubmit the documents when they can be redated and submitted as confirmed enrollments.

c. For institutions of higher learning, it should be noted that the beginning date certified should be the registration date or the date the student is required to report in advance of registration, but not earlier than 14 days prior to the start of classes nor later than the date classes start.

d. All schools are reminded that they are still required to report changes in enrollment status such as reductions in training time, interruptions or terminations in accordance with VAR 14203.

5. *End of Full Course Certifications.* [a. Effective immediately, schools operating on a term basis should discontinue, if they have not already done so, the practice of certifying the complete course. Instead, the period certified should never exceed 12 months on any one enrollment certification form. However,

(1) A non-advance-payment enrollment certification should not include any future term which is preceded by a full calendar month break; and

(2) A fall term preceded by less than a full calendar month break may not be included on any enrollment certification unless the student is registered or preregistered for fall and the student's summer term has actually begun.

(Regional Offices Note: The procedures described in M22–2, pt. IV, ch. 8, par. 8.11c, regarding automatic generation of advance payment will be deleted on 6–1–77 from the computer program. Advance payment, therefore, can be issued only if OX, or 6X is shown on the *first* award line.)]

b. Programming has been requested to terminate full course awards currently in the system with a future break of a full calendar month or more after May 1, 1977 since there is no specific request for advance payment of record for these cases, and if advance payment were not made there would be no way to confirm the reenrollment if confirmation were required. The termination will be effective at the end of the term preceding the full calendar month break. A computer-generated VA Form 22–1999–1, Reenrollment Certification, will be issued for these terminated cases, and the veteran will be advised by computer letter that he or she met contact the school for a new enrollment certification if he or she reenrolls. A computer writeout with message number *996* and the legend "Future Award Periods Terminated" will be issued in May for drop-filing in these cases.

c. [IHL (Institution of Higher Learning) cases with more than a 30-day break occurring after May 1, 1977, were automatically terminated in a one-time review on cycle 0 May. However, there are still a significant number of full-course IHL awards that were not terminated. These are cases with a break of 30 days or less between terms. Fall enrollments need *not* be submitted for these cases if the fall term is already included on the full-course award. To assist in the identification of the remaining full-course IHL awards, the following points are for consideration:

(1) If a VA Form 22–1999–1, Reenrollment Certification, has been issued to a school,

a new fall enrollment certification will be necessary to continue payments. The VA Form 22–1999–1 should be issued.

(2) A special listing of active master records will be issued at the end of May. This listing should accurately show which cases have full-course awards that were not automatically terminated and do not require fall enrollments. (The quarterly listing produced at the end of April does not reflect the automatic terminations on May 1, and is, therefore, less accurate than the listing which will be produced at the end of May.)

d. Additional considerations for the remaining full-course IHL awards are as follows:

(1) A special verification of pursuit card, VA Form 22–6553, is planned to be issued in October for the full-course awards identified in May that were not automatically terminated, nor subsequently amended. This card will be used in lieu of a fall enrollment certification.

(2) If an existing full-course award must be amended because of a change in training time or dependency, it will *not* be necessary to change the ending date of the award unless an earlier ending date has been certified by the school.]

6. *Interval Payment.*—a. Payment for an interval between terms will be authorized in all cases except in the following situations:

(1) An interval between terms, regardless of length, if the student is training at less than a half-time rate, or is on active duty;

(2) An interval between terms at the same school which spans a complete calendar month or more;

(3) An interval of more than 30 days between consecutive terms when the veteran or eligible person transfer to *another school*;

(4) An interval, regardless of length, preceding a change of program;

(5) An interval, regardless of length, which is specifically designated by a school as an interval between the end of one school year and the beginning of the next, *if the school operates on other than a term, quarter or semester basis*;

(6) An interval between terms for which the eligible student requests, prior to award authorization or prior to check negotiation, that no benefits be paid; and

(7) An interval during which the veteran's entitlement will be exhausted and it is to his or her advantage not to receive benefits for the interval.

b. If otherwise in order, interval payment will be authorized upon processing of a reenrollment document. Use either an amended or reentrance type of award action in these cases. However, under no circumstances should a non-advance-payment reentrance award with reason code *60* be submitted to DPC Hines more than 60 days before the beginning date of the award. The rate of payment for the interval will be at the rate in effect for the previous term.

7. *Summer Enrollment.* It should be noted from the above discussion that: a. Advance payment requests for continuing students for the summer term will generally be inappropriate because there is usually less than a full calendar month break between spring and the summer terms; b. Interval payment between spring and summer terms will generally be in order for the same reason; c. Non-advance-payment summer enrollments for continuing students at the same school may be submitted and processed before the start of the summer term since confirmation of these summer enrollments will not be required; [ ]

8. *Computer-Generated VA Form 22–1999–1.*—a. [Schools are advised that the instructions contained in this circular concerning advance payment, confirmed enrollments, and maximum length of certification apply to the computer-generated VA Form 22–1999–1 as well as to the other enrollment certification forms. The instructions in the circular are to be followed where they are in conflict with VA Form 22–8410, Instruction Sheet For Use of VA Form 22–1999–1.]

b. Except for stations that use CRT terminals, it is not contemplated that regional offices will process any VA Forms 22–1999–1 without review of the claims folder this year because otherwise: (1) Interval payment might be omitted when due; (2) Advance payment might be authorized in a case with less than a full calendar month break resulting in a possible delay in the issuance of the advance payment check; (3) An erroneous award action might occur as the result of a failure to timely drop file the VA Form 22–1999–1. [Nevertheless, station directors who believe that these problems can be minimized by close school liaison and timely drop filing may continue to process VA Form 22–1999–1 without the claims folder to the extent permitted by M22–2, part IV, chapter 5.]

9. *Special Payment.* Changes to special payment rules will be issued in a separate publication. Meanwhile, station Directors are reminded of their authority to modify the 30-day rule contained in M22–2, Part IV, chapter 9, paragraph 9.01a(2), if conditions warrant.

10. *April and May Check Stuffers.* A stuffer which will describe the end of prepayment and the changes in the advance payment procedures will be included in all checks issued in April and May. The stuffer tells the claimant to contact the school if advance payment is desired. Regional offices should be prepared for inquiries on both prepayment and advance payment.

11. *Liaison.* Sufficient copies of this circular will be supplied for State approving agencies, IHL's, and NCD's. However, close liaison with the schools will be necessary to ensure their understanding of these changes. Particular emphasis should be placed on the following points: a. The end of prepayment (par. 2); b. The five requirements for advance payment (par. 3); c. The definition of a confirmed enrollment and the situations in which confirmed enrollments are required (par. 4); d. The maximum period that may be certified for schools operating on a term, quarter, or semester basis (par. 5); e. The impending termination of full course awards with a future break of a full calendar month occurring after May 1, 1977 (par. 5); f. The effect of the new changes on summer enrollments (par. 7); and g. The requirement that only reenrollments beginning with fall 1977 may be certified on VA Form 22–1999–1 (par. 8).

A. J. BOCHICCHIO,
Acting Chief
Benefits Director.

DVB Circular 20–77–24.
Appendix A.
May 6, 1977.

DEPARTMENT OF VETERANS BENEFITS,
VETERANS ADMINISTRATION,
Washington, D.C.

CHANGES TO PREPAYMENT, ADVANCE PAYMENT AND RELATED PROCEDURES UNDER CHAPTER 31

1. *General.* This appendix supplements DVB Circular 20–77–24 by providing instructions regarding changes to prepayment, advance payment and other procedures for chapter 31 brought about by PL 94–502. Where the instructions contained in the basic circular are applicable to chapter 31, this is indicated by cross-reference to the pertinent paragraph(s) of the circular.

2. *End of Prepayment.* See paragraph 2 of DVB Circular 20–77–24.

3. *Advance Payment.* Effective June 1, 1977, advance payment may be made only if the veteran requests such payment, the VA finds that the educational institution has agreed to and can satisfactorily carry out the advance payment provisions of the law and, if the student was previously enrolled, the new enrollment period will begin at least one full calendar month after the prior enrollment period ends.

a. *Veteran's Request for Advance Payment.* The veteran's request must be submitted in writing and must be received by the VA at least 30 days in advance of registration. The statement "I request advance payment of subsistence allowance" signed and dated by the veteran will suffice. Such statement may be given to the counseling psychologist or vocational rehabilitation specialist during the orientation-to-training session, or during a training assistance visit or may be submitted by mail. It is important that the veteran prior to making such a request have the opportunity to discuss with the vocational rehabilitation specialist whether or not advance pay is desirable in his or her circumstance.

b. *School Agreement to Handle Advance Pay.* (See par. 3a of DVB Circular 20–77–24). It should be noted that the agreement submitted by schools will cover advance pay under all chapters, and a separate letter of agreement pertaining to chapter 31 payments will not be needed, except for schools being utilized for chapter 31 training that are not on the SAA-approved list.

c. *Notification in Instances Where Advance Pay Request Cannot be Processed.* If a request for advance pay cannot be processed, the VRS will notify the veteran that regular payment will be issued instead of advance pay and explain the reason why. If the school has been sent authorization indicating that advance pay was planned, the VRS will explain the change to the school as well as to the veteran.

d. *April and May Check Stuffers.* A stuffer describing the end of prepayment and the changes in advance payment procedures under chapter 31 have been included in all chapter 31 checks issued in April and May. The stuffer tells the veteran that a written request for advance pay must be made and advises him or her to contact the VA vocational rehabilitation specialist prior to making such request.

4. *Period of Training Which May Be Authorized.* In authorizing training in schools operating on a term basis, the policy of authorizing the complete course will no longer be followed. Instead, the period authorized should include the school year plus the following summer term, whenever practicable, unless there is clear indication that the veteran will not attend during the summer. If the veteran begins training during a summer term, training should be authorized for that term plus the following school year, whenever practicable. The VRS should verify the veteran's continuation in training at the beginning of the fall term of that school year. While no action will be taken to review or revise authorizations for longer periods that are now in effect, VRS verification of continued enrollment is essential.

5. *Payment for Intervals Between Terms.* Subsistence may be authorized for the following:

a. Periods between consecutive terms within a certified enrollment period that do not exceed one full calendar month. Leave will be charged for such paid intervals for students enrolled in courses not leading to a standard college degree.

b. Periods between a semester, term or quarter when the educational institution certifies enrollment on an individual semester, term or quarter basis, if the interval does not exceed one full calendar month. For veterans enrolled in courses not leading to a standard college degree, leave will be charged for intervals during which subsistence is paid.

c. Periods between consecutive school terms when the veteran, as part of his or her approved program of vocational rehabilitation, transfers from one educational institution to another for the purpose of enrolling in and pursuing a similar course at the second institution, provided the period does not exceed 30 days. Leave will be charged for such paid intervals for veterans enrolled in courses not leading to a standard college degree.

6. *Granting Advance Leave.* Ordinary leave of absence may be approved, as needed, in excess of the amount of leave accrued to the credit of the veteran, but in no case may ordinary leave in excess of an aggregate of 30 days be authorized in any 12 months of training, beginning with the date of the veteran's entrance into training.

A. J. BOCHICCHIO,
Acting Chief Benefits Director.

DVB Circular 20–76–84,
Appendix A, Revised,
November 12, 1976.

DEPARTMENT OF VETERANS BENEFITS,
VETERANS ADMINISTRATION,
Washington, D.C.

SIX-MONTH NORMAL COMPLETION TIME REQUIREMENT FOR CORRESPONDENCE COURSES—PL 94–502

1. *Purpose.* This appendix provides instructions for implementing the 6-month normal completion time requirement of 38 U.S.C. 1780(a).

2. *General.* PL 94–502 amends 38 U.S.C. 1780(a), effective December 1, 1976, to provide that educational benefits may not be paid for pursuit of any correspondence course or correspondence portion of a combination course leading to a vocational objective if the normal period of time required to complete the correspondence course or correspondence portion is less than 6 months.

3. *Implementation.* Before benefits may be authorized for an enrollment period beginning on or after December 1, 1976, correspondence schools must certify to the Veterans Administration the normal completion time of each correspondence course or portion which is approved.

a. "Normal" completion time of 6 months means that 80 percent or more of the students completing the course over the past 2-year period required 6 months or longer to complete it. Completion time for a course is the span between the date a student was sent the first lesson and the date on which the last lesson was received by the school. Note that dates on which the school services lessons are not used to compute completion time, nor is the date the school issues its diploma or certificate. Delays due to payment or shipping problems must be excluded.

b. Education liaison representatives will immediately notify their respective SAA (State approving agency) and all correspondence schools within the jurisdiction of the regional office of the provisions of the law and all requirements of this appendix. The required certification of normal completion time for each course must be received by the SAA, reviewed and sent to the VA before December 1, 1976. Unless it is established that the normal completion time is 6 months or more, benefits will not be authorized for enrollments beginning on or after December 1, 1976.

(1) Before providing the certification, schools will be required to determine if *each* approved course meets the completion time criterion by computing the completion time for all students who completed the course during the 24 months preceding the date of certification. A school's certification must be based on actual records, and not on estimates. All completers, both veteran and nonveteran, must be considered. If a school has a course or courses for which the audit of actual records cannot be completed before December 1, 1976, and it can with certainty certify that 80 percent of its graduates over the past 2 years required 6 months or longer, it may send such a certification. If a school elects to make such a certification, it must follow it up within 60 days with a certificate of the actual percentage of its graduates over the past 2 years who required 6 months or longer to complete. If the actual percentage report which is subsequently received shows the percentage is less than 80 percent, all awards with commencing dates on or after December 1, 1976 will be terminated retroactively to the date of enrollment. School liability for the resulting overpayments will be considered under existing procedures on the basis of false certifications. If it is found that the school willfully submitted a false or misleading report; e.g., the school fails to submit an actual percentage report or a report is submitted which is substantially below 80 percent, a complete report will be made and referred to the district counsel for possible referral to the Attorney General of the United States in accordance with VAR 14006.

(2) Applications for approval of new correspondence courses received on of after December 1, 1976, must include a certification of normal completion time. Until VA Form 22–8670, State Approving Agency Review Check Sheet (Correspondence Courses), is revised to include this item, inclusion of the required certification will be indicated under "Remarks".

(3) Applications for approval of correspondence courses as similar in character to a previously offered course (VAR 14251(C)) must also include the normal completion certification, even though it cannot be based on a 24-month history of students completing the course in these cases. The SAA and liaison representative must therefore examine the normal completion certification critically, comparing the normal completion length of the new course to that of the old course of alleged similar character. As a general rule, a course that is being considered as similar in character to another course previously offered should not be considered to require a longer period to complete than the course which was previously approved. As an alternative guideline for determining the validity of such a certification of normal completion time, the judgment should be made whether the course material reasonably requires an average of not less than 6 hours of preparation per week for at least 26 weeks, resulting in a 6-month requirement for course completion.

(4) No extensions of time for submission of the required certification shall be granted.

c. It must be emphasized to schools that this is a statutory requirement and normal completion times as certified for each approved course will be reviewed during SAA supervisory visits and VA compliance surveys.

(1) If it is later found that a certification of normal completion time which was accepted, is incorrect, and in fact normal completion time for a particular course is less than 6 months, the approval for that course will be withdrawn and all awards with a beginning date on or after December 1, 1976 terminated retroactively to the date of enrollment. School liability for the resulting overpayments should be considered under existing procedures on the basis of false certifications.

(2) If an SAA forwards a certification for normal completion time, but the regional office of jurisdiction has evidence from certifications of lessons completed, compliance survey reports, etc., that the certification is not accurate, it should not be accepted until a 100 percent audit of students completing the course within the applicable 24-month period is conducted for verification of the certification.

4 *Reports.* Beginning November 8, 1976, and each Monday through November 29, 1976, liaison representatives will notify Central Office (223B) by teletype of the names of those courses for which affirmative certifications or negative determinations were received during the previous week. On December 1, 1976, liaison representatives must teletype to Central Office (223B) a final report listing the names of all courses for which schools have failed to furnish required 6-month normal completion certifications. The final report should also include and identify all affirmative certifications and negative determinations which were not previously reported. The complete title of each course, the name of the school, and the school facility code must be included with each report. If a certification is received subsequent to transmission of the final report, the liaison representative should notify Central Office (223B) by teletype. RCS 22–20–S is assigned to the weekly reports and the final report to December 1, 1976. Do not enter the RCS report number on reports transmitted subsequent to the final report.

a. As notices are received, Central Office will inform all stations by teletype of the names of the courses which fail to meet the 6-month completion requirement. Stations will also be notified by teletype of the names of all courses for which enrollments will not be accepted because the certification was not received from the school. Once the final reports of December 1, 1976, are received, Central Office will send an all-station teletype which will summarize the previous teletypes and will list those courses not previously reported. No award will be prepared to authorize benefits for any enrollment beginning December 1, 1976, or later, for any course which has failed to meet the 6-month normal completion requirement or for any course for which the school has failed to furnish the required certification.

b. The liaison representative will maintain a control for each case where the school certified without actually checking records to assure that the actual percentage computation is properly certified. If the report from the school is not received by February 1, 1977, or if it fails to support the certificate that the course requires 6 months, Central Office (223B) will be notified. Central Office will then notify all stations by teletype to terminate benefits for any enrollment beginning on or after December 1, 1976 effective from the date of enrollment. Central Office will request VA Forms 20–8270a, Education Master Record—Audit Writeout, for all such courses. These forms will be sent to the office of jurisdiction for appropriate action to terminate payments.

c. Please note that enrollments effective before December 1, 1976 are not affected by the 6-month normal completion provision. Awards for all such enrollments will be continued until completion or interruption.

5. Rescission: Appendix A, dated October 21, 1976, to DVB Circular 20–76–84.

RUFUS H. WILSON,
Chief Benefits Director.

DEPARTMENT OF VETERANS BENEFITS,
VETERANS ADMINISTRATION,
Washington, D.C.

DVB Circular 20–76–84,
Appendix C.
October 29, 1976.

PERIOD OF OPERATION OF A COURSE—TWO-YEAR RULE

1. *Purpose.* This Appendix provides detailed instructions and procedures for implementing those provisions of PL 94–502 pertaining to the two-year rule.

2 *General.* PL 94–502 amends 38 U.S.C. 1789 by excepting certain courses from the two-year rule and by applying the rule to courses offered by certain branches and extensions previously excluded. These provisions are effective December 1, 1976.

3. *New exception.* In addition to the five exceptions to the two-year rule listed under 38 U.S.C. 1789(b) and VAR 14251(A), a course offered by an institution under contract with DOD (Department of Defense) is also excepted, provided the following three conditions are met: *first*, the course is given on, or immediately adjacent to, a military base; *second*, the course is available only to active duty military personnel and or their dependents; and *third*, the course is approved by the SAA (State approving agency) in the state where the base is located or, for degree courses offered overseas, by the SAA of jurisdiction over the parent institution. If the first or second condition is not met, the course must be offered continuously for two years before enrollments may be accepted. If the third condition is not met, the course cannot be approved by any other SAA, since all branches and extensions fall under the jurisdiction of the SAA in the state where they are located.

a. The term "immediately adjacent" to a military base refers to facilities that are clearly neighboring or in close proximity to the base so that it is easily accessible to active duty personnel. The location must be such that effective supervision by the military authorities is possible. Presumably, such facilities have been established off base because of a lack of onbase facilities.

[ ]

4. *New courses affected.*

a. A course in operation for less than two years shall not be approved when offered by a branch or extension of the following institutions:

(1) Public or tax-supported institutions where the branch or extension is located outside of the area of the taxing jurisdiction which provides support to the parent institution; or

(2) Proprietary institutions (profit or nonprofit) where the branch or extension is located beyond the normal commuting distance of the main campus. [(Even if located within normal commuting distance, branches or extensions of proprietary profit or nonprofit institutions must be in operation for 2 years unless excepted under VAR 14251(A).)]

NOTE.—"Normal commuting distance" is interpreted to mean within the same general locality from which the main campus draws students. Normal commuting distance may vary with each institution depending on various factors, such as the geography of the area and the proximity of similar institutions. No firm guideline specifying exact mileage can be established, although a location more than 30 miles (48 kilometers) away from the main campus would ordinarily be considered beyond the normal commuting distance.

b. The two-year rule applies to the courses listed above, with *only* the following two exceptions:

(1) A PREP or SAED (Special Assistance for the Educationally Disadvantaged) course offered by a branch or extension of a proprietary nonprofit institution in operation for more than two years, or a public or other tax-supported institution, even though the branch or extension is located beyond the normal commuting distance of the main campus or area of taxing jurisdiction.

(2) A course offered by a branch or extension of an institution under contract with DOD as specified in paragraph 3 above.

5. *Identification of new courses affected.*

a. The liaison representative will request from all the schools within the jurisdiction of the regional office a list of each school's branches and extensions. The list should include the names and addresses of all branches and extensions (in state and out of state) and the courses or curricula offered at each. The school will also be asked to certify to the period of operation of each course or curriculum at each location. The following certification should be used:

"It is hereby certified that the course (or curriculum), (name of course), has been in continuous operation at (name of branch) from (date) to the present inclusive of reasonable vacation and holiday periods."

b. Courses offered by a branch or extension located on a military installation must now be approved by the SAA in the state where the branch or extension is located rather than in the state where the parent institution is located. Enrollments in courses offered at such branches may continue if, in addition to the certification required above the school certifies that application for approval was made to the local SAA on or before December 1, 1976. If such a branch or extension does not meet the two-year requirement, certification to the following will be acceptable pending approval by the local SAA:

(1) The course is given on, or immediately adjacent to, a military base, and

(2) The course is available only to active duty military personnel and or their dependents.

c. The schools should submit their lists and certifications before December 1, 1976; otherwise, no new enrollments will be processed for payment of benefits.

d. The schools will also be advised that, effective immediately, the name and address of the branch or extension must be shown on all enrollment certifications. If the enrollment is at the main campus, that fact must appear on the enrollment certification.

6. *Referral to the SAA.*

a. The liaison representative will screen the lists of branches and extensions as they are received from the schools. In-state branches and extensions which may offer courses that must now meet the two-year requirement (as outlined in par. 4 above) will be referred to the SAA for verification of the schools' certifications. For out-of-state branches (including those on military installations), the information will be forwarded to the regional office where the branch or extension is located for referral to the SAA with jurisdiction over the branch location for approval or disapproval action.

Where out-of-state branches or extensions

b. Where out-of-state branches or extensions are encountered that were not previously identified, the following actions will also be taken (as outlined previously in DVB Circular 20–75–93, rescinded July 1, 1976):

(1) All information on the out-of-state branch or extension (including those on military installations) will be forwarded to the responsible liaison activity with jurisdiction over the area where the branch is located in order to request a new approval from the SAA.

(2) The SAA will initiate approval action and notify the liaison representative at the new office of jurisdiction of all subsequent approvals and denials. The SAA should pro-

VA 2165 AUG 77 UNIVERSITY OF GEORGIA

vide the names and file numbers of all VA education beneficiaries currently enrolled, if obtainable from the branch or extension.

(3) If a course is approved, the liaison representative will process the approval material and establish a new facility code for the branch or extension. The list of names and file numbers will be forwarded to the original regional office of jurisdiction for transfer of folders. Upon transfer, an 02V correction to establish the new facility code must be input in each master record by the Adjudication activity in the receiving station.

(4) If a course approval is denied for reason(s) other than the two-year rule, running awards will be terminated in accordance with VAR 14135(J) at the original office of jurisdiction. (See par. 8b.) Cases that are terminated will *not* be transferred.

7. *SAA action.*

a. The appropriate SAA will be advised as to the date schools certified as the beginning date of each course for the purpose of meeting the two-year requirement at each branch or extension. The SAA will be requested to verify if the two-year period of operation is met or if one of the two exceptions in paragraph 4b applies. The approval should then be amended to show the basis for continued approval or, if appropriate, denial action should be taken.

b. The SAA will notify the liaison representative of the continued approval or denial action for each course. [Amended approval action should be completed by August 1, 1977.]

8. *Regional office control.*

a. The liaison representative will maintain a control on all courses referred to the SAA to ensure that notification of continued approval or denial is received.

[(1) An interim review will be made EOM May 1977, and the SAA will be notified of all courses for which amended approvals are still pending. The SAA will be requested to submit an estimated date for completion of each approval. The SAA must be made aware that unjustified delays beyond August 1, 1977, will necessitate the withdrawal of approvals and the termination of enrollments in those courses that lack proper approval.

(2) A final review will be made on August 1, 1977, to ensure receipt of amended approvals for all cases. Approval will be withdrawn effective August 1, 1977, and no new enrollments or reenrollment will be processed if an amended approval has not been received by that date. If legitimate reasons exist for the delay, the SAA may request up to 30 days' additional time from the regional office. Requests for extensions beyond 30 days must be referred to the Area Field Director (224C) for approval.]

b. If a course approval is denied because the two-year requirement is not met, the approval for that course will be withdrawn and all awards for new enrollments on or after December 1, 1976 will be terminated retroactively to that date. School liability for the resulting overpayments should be considered under existing procedures on the basis of false certification, if the school certified erroneously to the period of operation.

9. *Enrollments.* No new enrollments in a course at a branch or extension location with an effective date on or after December 1, 1976, may be approved if the school's certifications are not received or if the two-year requirement is not met. Students enrolled in and pursuing the course before that date will be permitted to complete their program provided they remain continuously enrolled. A break in enrollment due to extenuating circumstances, such as serious illness, will not be considered an interruption in the student's program. Students attending a school operated on a term basis will not be required to attend the summer term to be considered continuously enrolled. If approval of a course is denied or withdrawn for a reason other than the two-year rule, all awards must be terminated in accordance with VAR 14135 (J).

10. *Followup reviews.* On routine SAA supervisory visits and station compliance surveys, school records will be reviewed to verify the certifications made in accordance with this appendix. If the certifications are found to have been false or erroneous, termination action will be taken and school liability considered in accordance with paragraph 8b.

RUFUS H. WILSON,
Chief Benefits Director.

DVB Circular 20–76–84,
Appendix D, Revised,
February 23, 1977.

DEPARTMENT OF VETERANS BENEFITS,
VETERANS ADMINISTRATION
Washington, D.C.

PROHIBITION OF ASSIGNMENT OF EDUCATIONAL BENEFIT PAYMENTS (PL 94–502)

1. *Purpose.* This appendix provides instructions for implementing the provision of PL 94–502 which prohibits the assignment of educational benefit payments.

2. *General.* PL 94–502 amends title 38 U.S.C. 3101(a) effective December 1, 1976, to prohibit the assignment of educational assistance checks through the practice of a payee designating the address of an attorney-in-fact (usually a school or school representative in this context) as the payee's check mailing address, and also executing a power of attorney agreement authorizing the attorney-in-fact to negotiate Veterans Administration educational benefit checks. Under this legal provision, schools may not negotiate VA educational assistance checks, nor may schools obtain indirect access to the proceeds of such checks. All VA educational assistance checks must be negotiated by the veteran or eligible person.

a. Indirect access to the proceeds of VA checks is construed to mean any device, coercive or otherwise, a school may employ to limit or predetermine a veteran's or eligible person's disposition of the proceeds of a VA check. Such indirect access would constitute an effective assignment of benefits, which the law is intended to prohibit just as it prohibits direct assignment of benefits.

b. A common example of indirect access is the practice of a school receiving a check for a student, stamping it on the reverse "For Deposit Only" to the school's account, and then calling in the student to endorse the stamped check. This procedure has the effect of controlling the student's disposition of the check and is thus prohibited as it is, in effect, an assignment of benefits. Another example of indirect access which is likewise prohibited is the procedure of showing a bank account number in the check mailing address, but the account is held jointly with the veteran by the school. While it is clear that a veteran or eligible person may endorse an educational assistance check payable to a school to satisfy a debt, this action must be entirely voluntary.

3. *Procedural Requirements.* The following procedures concerning award, development, and reporting actions will be followed to ensure that schools are not obtaining assignment of benefits in violation of the law:

a. All correspondence schools must be informed that no enrollments or reenrollments will be processed on or after December 1, 1976, which show the school's address, or a post office box or sales office address of the school as the student cannot be present at the school to receive checks. Such enrollment certifications will be returned to the student at the school address and no further action taken until a home address is provided for the student. All correspondence schools are hereby notified that if a school address is shown as the student's mailing address on any currently running awards, the school must submit a certification (as specified in subpar. d below) to the VA office with liaison jurisdiction that effective December 1, 1976, they will not accept a power of attorney to cash VA educational benefit checks and they will not exercise check-negotiating authority under any power of attorney previously accepted.

(1) Correspondence schools which refuse to provide the certification mentioned above will be reported by teletype to Central Office (223B). Those schools which have failed to certify compliance but have not actively refused should be contacted once again to solicit the certification; if it is not provided, the school will be reported by the office with liaison jursdiction to Central Office (223B) as not in compliance. All final reports of noncompliance are due in Central Office before March 1, 1977. Central Office in turn will notify all stations of correspondence schools which have not indicated compliance with this provision of the law.

(2) If a currently running award (including a suspended award) shows the address of a correspondence school listed as not in compliance with the certification requirement, the award will be suspended or allowed to remain in suspense. The claimant will be informed of the action taken and the legal prohibition against assignment of VA educational benefits. He or she will be requested to furnish a current home mailing address and also informed that no further action may be taken until the requested information is furnished. Such awards should be identified only through routine claims folder processing; special review of claims folders or VA Forms 22–6553b, Certification of Lessons Completed, will not be conducted for this purpose.

(3) Correspondence schools which initially do not certify compliance with the law and are reported to Central Office as not in compliance but later provide the appropriate certification will be immediately reported to Central Office (223B) for removal from the all-station listing of schools not in compliance.

b. All schools, other than correspondence schools, are hereby informed that no enrollments or reenrollments using the school's address or a post office box or sales office address of the school as the student's address will be processed on or after December 1, 1976, unless the school certifies that it holds no power of attorney to negotiate VA benefit checks and it does not have direct or indirect access to the proceeds of such checks other than by direct payment by the payee thereof.

(1) In cases (other than correspondence awards) processed after November 30, 1976, in which the school's address is shown as the payee's mailing address, and the school has not submitted the required certification regarding power of attorney arrangements, or the certification is not acceptable for the reasons explained in subparagraph d(2) below, development will be necessary before processing any enrollments, reenrollments, or adjustments to running awards.

NOTE.—No special review will be made to identify running awards with a school address. However, when these cases are encountered during normal claims processing and the school has not submitted the required certification, the award will be suspended and development undertaken.

(2) The claimant will be informed of the provisions of the law and requested to furnish either a current home mailing address or a signed statement that he or she has not executed a power of attorney authorizing the school to negotiate VA educational assistance checks and no arrangements have been made to provide the school or its representative direct or indirect access to the proceeds of such checks other than by direct payment by the payee thereof. The claimant will also be informed that no further action can be taken until the requested information is furnished.

(3) Similar development must be undertaken if the claimant indicates a post office or bank address as his or her mailing address and the school has not submitted the required certification. The VA will not require an actual home address in these cases, but the signed certification provided for above must be obtained before any award action can be processed.

c. All educational assistance checks which are in the possession of or received by any school on or after December 1, 1976, must be delivered directly to the veteran or eligible person for his or her disposition. If for any reason a check cannot be delivered to a veteran or eligible person, it must be returned to the Treasury Disbursing Center address shown on the check envelope.

d. Each certification required by subparagraph a or b above must be worded as follows and signed by the appropriate school certifying official: "This to certify that, in accordance with title 38 U.S.C. 3101(a), (*name of school*) holds no power of attorney agreements authorizing the school to negotiate educational assistance checks, and neither (*name of school*) nor any of its representatives has direct or indirect access to the proceeds of any such checks other than direct payment by the payee thereof."

(1) As these certifications are received they will be made part of the respective schools' approval folders and the liaison representative will notify the Finance and Adjudication Divisions that the power of attorney requirements of the law have been met, and enrollments and reenrollments in other than correspondence courses, and certifications of attendance or lessons completed may be processed showing a school address.

(2) Checks mailed to a school address based on the appropriate certification will be mailed only to the school location where the student is in attendance and can receive the check. Educational assistance checks will not be mailed to one school location for further distribution to other locations of the school. If a school with multiple locations attempts to use only one address as a check mailing address for all students, development for the addresses of separate locations must be undertaken before processing award actions for students enrolled at those locations. If a particular school location does not have the capability of receiving checks, safeguarding them, and properly delivering them to students, development for a home mailing address for each veteran or eligible person enrolled at that location must be completed as outlined in subparagraph b(2) above.

4. It must be made clear to schools that compliance with this provision of the law will be checked during future compliance surveys. Spot checks may also be made to verify the signatures on negotiated checks. If it is found that a school held a power of attorney and negotiated VA checks or otherwise had access to the proceeds of such checks other than by direct payment by the payee thereof after having certified that it did not, payments (for those beneficiaries involved) for attendance at the school and further enrollments in the school will be suspended under VAR 14134 and the matter will be referred to the Station Committee on Educational Allowances to consider withdrawal of the school's approval. In addition, overpayments may be established and school liability assessed on the basis of false certifications.

5. Rescission: Appendix D, dated October 29, 1976, to DVB Circular 20–76–84.

RUFUS H. WILSON,
Chief Benefits Director.

DVB Circular 20–76–84,
Appendix H, Revised,
December 17, 1976.

DEPARTMENT OF VETERANS BENEFITS,
VETERANS ADMINISTRATION,
Washington, D.C.

EXTENDED 85–15 PERCENT RATIO REQUIREMENTS

[It has been determined that award actions required by Appendix H, revised, when courses fail to meet 85–15% ratio requirements are not consistent with protection of the best interests of veterans who may have enrolled in such a course before the determination of 85–15% noncompliance. The required action in question is the immediate discontinuance of processing new chapter 34 enrollments upon receipt by the Veterans Administration of an unsatisfactory 85–15% certification. This procedure is changed to allow processing of new enrollments which have a beginning date before the date on which a school computes an unsatisfactory 85–15% ratio for a course. In addition, award procedures are clarified for instances when schools fail to submit a required 85–15% certification. Also the BEOG SEOG exemption is exceded to June 30, 1978.]

1. *Purpose.* This appendix provides instructions for implementing the provision of PL 94–502 which extends the 85–15% ratio requirements to additional types of courses and specifies additional types of financial support which must be computed into the 85% portion of the ratio. This appendix also explains the conditions under which the Administrator may waive the requirements because it is determined to be in the best interest of the veteran and the Federal Government.

2. *General.* PL 94–502 amends title 38 U.S.C. 1673(d) to provide that, effective December 1, 1976, the enrollment of an eligible veteran (not already enrolled) may not be approved in any course for a period during which more than 85 percent of the students enrolled are having all or part of their tuition, fees, or other charges paid to or for them by the school, the Veterans' Administration, and or by grants from any Federal agency. Specifically excepted from computing 85–15% ratios are special assistance payments for the educationally disadvantaged (under subchapter V of chapter 34), farm cooperative courses, and courses offered under contract with the Department of Defense on or immediately adjacent to a military base and which are available only to active-duty military personnel and their dependents if approved by the SAA (State approving agency) in the State where the base is located. In the case of a military installation located outside of the United States, approval will be by the SAA in the State where the parent school is located. As noted in paragraph 1, certain requirements can and will be waived by the Administrator. The new law extends the 85–15% ratio requirement to degree-granting institutions, and the requirement now applies to both proprietary profit, proprietary nonprofit institutions and public and other tax-supported schools. In addition, students receiving grants from all Federal agencies other than the VA with certain exceptions as explained below, must now be counted in the 85% portion of the ratio.

3. *Identification of Affected Courses.* An 85–15% ratio must be computed for each course of study or curriculum leading to a separate approved educational or vocational objective. Computations will not be made for unit subjects, unless only one unit subject is approved by the SAA to be offered at a separate branch or extension of a school. Courses or curricula which are offered at separately approved branches or extensions must have an 85–15% ratio computed separately from the same course offered at the parent institution; the student figures from the branch may not be added to those of the parent institution even for the same courses or curricula. Courses or curricula offered at an additional facility, as opposed to a branch or extension, must be added for 85–15% computation purposes to the same course at the parent institution. Pursuit of a course or curriculum that varies in any way, although it may have the same designation as another curriculum, will require a separate 85–15% computation. A course or curriculum will be considered to vary from another if there are different attendance requirements, required unit subjects are different, required completion length is different, etc.

a. For computation purposes, separate courses in IHL's (institutions of higher learning) will be determined by general curriculum only until the point at which it is reasonable to assume a major field would be declared. After that point, 85–15% requirements must be met for each specific curriculum based on a major field of study as certified to the VA. School policy for declaring fields of study must be equal for veterans and nonveterans alike. Because of numerous inquiries and comments, serious consideration has been given to broadening the definition of "course" for 85–15% purposes, but it has been determined that the following guidelines are the most lenient possible within the language of the statute and the underlying intent of Congress.

(1) In 2-year IHL's, general curricula such as AA (Associate of Arts) or AS (Associate of Science) degrees with no major specified will require separate computations. Specific curricula for associate degrees will require separate computation for each curriculum. Terminal 2-year courses (e.g., AAS (Associate of Applied Science) Dental Technology, Auto Mechanics Certificate) must be computed separately for each objective.

(2) Students attending 4-year IHL's and graduate schools may be counted in general curricula such as BA (Bachelor of Arts) and BS (Bachelor of Science) only until the normal point at which the student must declare a major subject at the particular school. Then the 85–15% computation must be made for each specific curriculum; e.g., BS (Bachelor of Science) in Electrical Engineering, MA (Master of Arts) in English, etc. The rules mentioned above regarding branches and extensions must be applied strictly to yield accurate computations and correct approvals.

b. NCD (noncollege degree) courses must be computed separately by approved vocational objective. If several curricula lead to the same coded vocational objective, each must meet the 85–15% requirement separately, unless it can be shown that two or more courses are identical in all respects (scheduling, hours devoted to each unit subject, etc.). Once again, branch or extension courses will be computed as separate courses or curricula. Courses offered on full-time and part-time bases which are identical in length and content will be combined for computing the ratio.

4. *Waivers.* The following waivers for 85–15% computation have been determined by the Administrator to be in the best interest of veterans and the Federal Government, and authority to apply them is hereby delegated to all station Directors. Note that when a type of assistance received by a student is waived, that student must

VA 42165 AUG 25 77 UM

still be counted in the ratio. However, that student will be counted in the non-VA, nonsupported portion of the ratio as a result of the waiver. (See subpar. f.)

Important: Notwithstanding any type of waiver provided for below, station directors are authorized to waive 85–15% computations for institutions which certify that 35% or less of their enrollment receives Veterans Administration educational assistance (compute main campuses and branches separately). Such certifications must be provided to the VA on a continuing basis in accordance with the time limits shown in paragraph 7c. (Such waiver will not be granted for any course in which the percentage of VA-supported veterans enrolled exceeds 85%.) Station directors are responsible for taking forceful action to identify specific courses of study which may exceed 85% VA-supported enrollment even if such courses are offered by schools having 35% or fewer veterans in the total school population. All station directors will require full 85–15% ratio computations for such courses with extraordinarily disproportionate VA-supported enrollments to show compliance with the law. In addition, a temporary waiver is hereby granted to exclude counting recipients of BEOG (Basic Educational Opportunity Grants) and SEOG (Supplementary Educational Opportunity Grants) as federally supported students for purposes of 85–15% ratio requirements. This temporary waiver of the BEOG and SEOG computation requirements [will expire on June 30, 1978.] After that date, computation and waiver provisions shown below relating to BEOG and SEOG will be in effect.

a. Graduate Students; waive counting all Federal assistance (other than VA benefits) and all support from the institution. No specific application for this waiver is required from the school.

b. Undergraduate and NCD Students:

(1) Waive counting all assistance provided by an institution, if the institution policy for determining the recipients of such aid is equal with respect to veterans and nonveterans alike. A specific application for this waiver from the school to the station Director is not required.

(2) Waive computation of the 85–15% ratio for any course offered by an IHL or NCD if 35 percent or fewer of the students *in the course* receive VA educational benefits, and the percentage of VA-supported students in the course plus the percentage of the school's total enrollment receiving BEOG (Basic Educational Opportunity Grants) or SEOG (Supplementary Educational Opportunity Grants) totals 85 percent or less. For example, if a school finds that 29 percent of the enrollees in a business AA degree curriculum receive VA payments and 52 percent of the school's total enrollment receives BEOG or SEOG support, the total of the percentages (81%) qualifies that business AA degree for a waiver of any further 85–15% ratio computation. Satisfactory compliance with the 85–15% requirement is assumed when the above conditions are fulfilled. If the total of the two percentages exceeds 85 percent, the ratio must be computed for that course with BEOG and SEOG recipients included in the 85 percent portion of the ratio.

(a) When more than 35 percent of the enrollment in a course receives VA assistance, the ratio must be computed for that course with BEOG and SEOG recipients included in the 85 percent portion of the ratio.

(b) This count of VA-supported students and BEOG or SEOG recipients must be completed within 30 days of the beginning of each regular academic term (summer sessions excluded) or before the beginning date of the next term, whichever is earlier, for application to the next term for the purpose of waiving computation of an 85–15% ratio for each affected course. For schools not operating on a term basis, counts as of the last day of the quarter must be completed within 30 days of the end of each calendar quarter (March, June, September, December). If this count is not submitted for a course which previously had its ratio computation waived, a complete computation will be required before any new enrollments of eligible veterans may be processed for that course.

(3) Waive counting all forms of Federal assistance other than BEOG and SEOG. Specific examples of this type of waiver are benefits administered by the Social Security Administration, Federal grants supporting specific programs such as law enforcement (LEEP, Safe Cities Act grants), nursing, etc., Government Employees Training Act support, and tuition paid by an Armed Service to active-duty personnel. No specific application is required for this waiver.

(4) Waiver for all so-called military aero clubs which were previously exempt from 85–15% requirements under VAR 14202(C)(3). No specific application is required for this waiver.

(5) Waiver for courses open only to military personnel, their dependents, and civilian employees of a military installation when the course is offered on or adjacent to the base under contract with the Department of Defense and the branch or extension is approved by the SAA in the State where the military installation is located. In the case of foreign military installations, approval will be by the SAA in the State where the parent school is located. This waiver is an expansion of the statutory exclusion explained in paragraph 2 above. If the course is offered to other students, the 85–15% ratio requirement must be met. No specific application is required for this waiver.

c. Schools which submit satisfactory certifications of 85–15% compliance based on use of one or more of the above waivers must maintain records for a period of 3 years following termination of the enrollment period showing the basis for the waiver and the separate percentages of students falling into each waived category. The waivers and supporting data will be reviewed during compliance surveys.

d. Schools which offer courses not meeting the 85–15% requirement for any reason may apply to the appropriate station Director for a specific waiver of the requirements except for VA benefits. This generally will be a request for a waiver for BEOG and SEOG. The school must state the specific basis of the specific waiver request, show the computation of the ratio for the affected course, and submit sufficient information to allow the Director to judge the merits of the request against the criteria shown below. The Director should use all VA sources as well as school-submitted data and statements when considering a specific waiver request in relation to these criteria. (See subpar. f below.)

(1) Availability of comparable alternative educational programs effectively open to veterans in the vicinity of the school requesting a waiver.

(2) Status of the school requesting a waiver as a developing institution primarily serving a disadvantaged population. The school should enclose a copy of the notification of developing status from the Office of Education, if applicable. Otherwise, the school should submit data sufficient to allow the Director to judge whether the school is similar to officially classified developing institutions, according to the criteria and data categories published in Part 169, Subpart B, title 45, Code of Federal Regulations. The requirement that a school be a "Public or Nonprofit" institution need not be met.

(3) Previous compliance history of the school, including such factors as false or deceptive advertising complaints, enrollment certification timeliness and accuracy, and amount of school liability indebtedness to the VA.

(4) General effectiveness of the school's program in providing educational and employment opportunities to the particular veteran population it serves. Factors to be considered should include percentage of veteran students completing the first year of the course of study and completing the entire course, results of the 50 percent employment survey for vocational objective courses, ratio of educational and general expenditures to full-time equivalency enrollment, etc.

(5) If a school does not agree with a Director's determination concerning a specific 85–15% waiver, it may request that the application along with the Director's findings and recommendation be forwarded to Central Office (224C) for administrative review.

e. All waivers of 85–15% requirements, whether partial or total and whether granted by a station Director under delegated authority or by Central Office decision, will be made part of the school approval folder and will be subject to annual review for continuation.

f. Waivers will not be granted for courses in which the percentage of veterans enrolled exceeds 85%, except that the percentage may be exceeded in courses offered by military aero clubs. Of course, the 85% limitation may also be exceeded in courses exempted by law (see paragraph 2 above.)

5. *Countable Assistance for 85–15% Computations.* In conjunction with the delegated waivers provided for in the preceding paragraph, the following types of assistance must be counted for determining compliance with 85–15% requirements.

a. Accredited graduate and advanced professional courses; count only VA assistance provided under chapters 31, 32, 34 and 35, except for courses offered on or adjacent to a military installation as explained in paragraph 2.

b. All other courses:

(1) Count only VA assistance provided under chapters 31, 32, 34 and 35 except farm cooperative, assistance under subchapter V of chapter 34, and courses offered on or adjacent to a military base open to only active-duty personnel and their dependents (and civilian employees of the base, if waived by the station Director).

(2) Count BEOG and SEOG as Federal assistance, unless computation for a course is waived by the station Director (see par. 4b (2)) under delegated authority or waived by Central Office.

(3) Count all support offered by the institution, unless waived by the Station Director or Central Office.

6. *Computation of 85–15% Ratio.* To determine if this requirement has been met, the number of students in a course who are not veterans, are not receiving a form of Federal or institutional aid (exclusive of waivers and statutory exemptions), or are receiving a form of aid which has been waived, will be compared to the total number of students enrolled in the course. If the non-VA, nonsupported students (unless waived) do not comprise at least 15% of the total enrollment, the 85–15% requirement has not been met for that course.

a. If all students in a course are full-time trainees, the ratio is computed simply by dividing non-VA, nonsupported students by total students; e.g., 20 non-VA, nonsupported students divided by 100 total students equals .20; the 15% requirement would be met in this case.

b. Ratios which include less than full-time students may be computed by comparing full-time equivalent non-VA, nonsupported students to the total number of full-time equivalent students. For example, assume that there are 100 students enrolled in a particular course of study; 75 are full-time students and 25 are half time. The total full-time equivalency enrollment would be 75 plus 12.5 or 87.5. Similarly, if 20 non-VA, nonsupported students are full-time trainees and five are half-time students, the non-VA, nonsupported full-time equivalency would be 20 plus 2.5 or 22.5. The ratio is computed by dividing non-VA, nonsupported equivalencies by total full-time equivalencies: 22.5 divided by 87.5 equals .26. In this example the 15% non-VA requirement would be fulfilled.

c. This appendix does not alter methods of 85–15% computation previously required of flight and correspondence schools. However, these schools must recognize the additional forms of aid which may have to be computed into the supported (85%) portion of the ratio.

7. *Certifications of 85–15% Compliance.* The provisions of the new law make it necessary to institute new procedures for initial and continuing certification of compliance with the 85–15% requirements.

a. No initial 85–15% ratio computation is required for any course organized on a term basis which began before December 1, 1976. All computations for courses organized on a term basis beginning on or after December 1, 1976, must be received by the appropriate VA station within 30 days of the beginning date of the course or before February 1, 1977, whichever is later. Computations for all courses not organized on a term basis must be received by the VA before February 1, 1977. This extension for initial certifications of compliance is provided to allow both VA and school personnel to familiarize themselves with the new statutory and administrative requirements.

b. If schools will provide reasonable assurance of 85–15% compliance, enrollment certifications for courses beginning on or after December 1, 1976 will continue to be processed without individual certifications of 85–15% compliance only until actual computations are completed and submitted as specified in subparagraph a above. A school may provide reasonable assurance based on percentages of VA-supported and otherwise federally-supported students enrolled in the school. If a station Director has reason to question any school's reasonable assurance, he or she is authorized to defer processing new chapter 34 enrollments for that school until actual computations are completed and certified to the VA. If a school cannot or will not provide reasonable assurance of compliance, new chapter 34 enrollments may be processed only if they are accompanied by the appropriate individual 85–15% certification.

c. After the initial computation for a course, continuing 85–15% ratio certifications for each course must be received by the VA no later than 30 days after the beginning date of the term (excluding summer sessions) or before the beginning date of the next term, whichever occurs first. Certification for courses not offered on a term basis must be received by the VA no later than 30 days after the end of each calendar quarter.

(1) New enrollments of eligible veterans in a course will be processed based on the most recent available computation and certification of the 85–15% ratio. [If a computation is then received showing that a course fails to meet the 85–15% requirement, new chapter 34 enrollments in that course may be processed for payment of benefits only if the beginning date of the enrollment is prior to or the same as the date on which the unsatisfactory computation was completed by the school. If a school fails to submit a required 85–15% certification within the time limits specified in subparagraph c above, new chapter 34 enrollments with beginning dates beyond the expiration of the allowable computation period will not be processed until an acceptable 85–15% certification is received.] Processing such new enrollments for that course may be resumed only after the school submits a certification showing that the proper ratio has been reestablished. In cases where a school shows a reestablished 85–15% ratio, the school must individually compute each new veteran enrollment submitted after reestablishment into the ratio for the course to ensure that the 85% limitation is not again immediately exceeded. Individual computations will be required until the end of the term for which the ratio was reestablished.

(2) Schools will maintain the records and computations showing 85–15% compliance for each course for a period of 3 years after the ending date of the enrollment period.

d. Once a student is properly enrolled in a course either before December 1, 1976, or enrolls after November 30, 1976 in a course which meets the 85–15% requirement such a student may not have benefits for that course terminated because the 85–15% requirement is subsequently not met, as long as the student's enrollment remains continuous. A student enrolled in an institution organized on a term basis need not attend summer sessions in order to maintain continuous enrollment. An enrollment may also be considered continuous if a "break" in enrollment is wholly due to circumstances beyond the student's control such as serious illness.

e. Compliance surveys performed after December 1, 1976 will include verification of 85–15% compliance under the criteria in this appendix for new enrollments effective on or after December 1, 1976. Item 10 on VA Forms 22–1936 and 22–1936A, Compliance Survey Worksheet for Students Pursuing Training Under Chapter 34 or 35, must be altered to delete the words "proprietary noncollege degree". Revision of these forms will be accomplished soon in accordance with the new provisions of PL 94–502.

8. *85–15% Certification on Enrollment Documents.* Once a school has computed and certified 85–15% compliance to the VA as required in paragraph 7a., all enrollment documents submitted subsequently must bear or have attached the individual 85–15% certification statement shown below.

Attachment of such individual certifications is not required if the school has qualified for a waiver of 85–15% computations on the basis of 35% or fewer students receiving VA educational benefits, and the station director has granted the waiver without reservation (see par. 4 above). If a school cannot qualify for this waiver, the individual certification statement must appear on or be attached to each enrollment document. In cases where a director withholds the 35% waiver from a specific course or courses offered by a school, enrollment documents for only such courses must bear or have attached the individual certification statement. In order to apply this individual certification exception properly, liaison representatives will furnish to the Adjudication Division a list of schools which have been granted a 35% waiver. The list must also show individual courses from which the 35% waiver has been withheld at the director's discretion.

a. VA Forms 22–1999 and 22–1999–1 are being revised to show the proper 85–15% certification statement. Availability of the revised forms cannot be predicted at this time.

b. Until the revised enrollment documents become available, institutional certifying officials must use interim measures to show compliance with the law. The 85–15% certification statement currently shown on enrollment documents must be deleted and a signed certification worded as follows attached to each document certifying a new enrollment covering a period beginning on or after December 1, 1976: "It is hereby certified that for enrollments under chapter 34, computation requirements (including allowable waivers) have been satisfied to show that not more than 85% of the students enrolled in this course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution, the Veterans Administration under title 38 U.S.C., and or by grants from any Federal agency, unless such payments have been waived by the VA for purposes of this requirement." (Note: This provision does not apply to persons pursuing courses under 38 U.S.C. 1691, farm cooperative courses, or courses offered on military bases solely for military personnel and their dependents if approved by the SAA in the State where the base is located.) Each statement should show the name and VA claim number of the student whose enrollment is being certified. The statement itself may be duplicated, but each statement must bear an original or acceptable facsimile signature of the appropriate school certifying official.

c. No student will be counted more than one time in any computation of an 85–15% ratio. If a student receives both VA or other countable benefits and noncountable or waived type of benefit, that student must be included in the countable (85%) portion of the ratio.

9. *Rescission:* Appendix H, dated November 22, 1976 — DVB Circular 20–76–84.

RUFUS H. WILSON,
Chief Benefits Director.

DVB Circular 20–76–84,
Appendix M,
December 10, 1976.

DEPARTMENT OF VETERANS BENEFITS,
VETERANS ADMINISTRATION,
Washington, D.C.

PROHIBITION OF EDUCATIONAL ASSISTANCE PAYMENTS FOR COURSES NOT COUNTED TO SATISFY GRADUATION REQUIREMENTS

[The original appendix M, published December 10, 1976, did not deal with the problem of incomplete grades and their status for Veterans Administration payment purposes under the provisions of PL 94–502. Based on extensive information presented by various schools and VA field stations, the following procedure has been developed for uniform application. This procedure was published on May 5, 1977. In addition, this change clarifies the application of appendix M to NCD courses. A typographical error is also corrected to show that overpayments *will* be created for audited courses which were certified to the VA, and school liability will be considered. The changes are denoted by brackets in paragraph.]

1. *Purpose.* This appendix provides instructions for the implementation of the provisions of PL 94–502 which prohibit payment of educational benefits for auditing a course or for a course which is not used in computing graduation requirements, including any course from which the student withdraws, unless there is a finding of mitigating circumstances causing the withdrawal.

2. *General.* PL 94–502 amends title 38 U.S.C. 1780(a), to provide that, effective December 1, 1976, no payment of educational benefits will be made to an eligible veteran or person for audited courses or courses for which the grade assigned is not used in computing graduation requirements. This includes prohibition of payments for courses from which the eligible veteran or person withdraws, unless the Administrator finds

V421165 AUG 25 77 UM

mitigating circumstances involved in the withdrawal.

3. *Definitions.* Proper implementation of these statutory provisions will be facilitated if the following concepts are used in determinations concerning benefit payments:

a. *Audited Courses:* Any course which a student attends with a prior understanding between school officials and the student that such attendance will not result in credit being granted toward graduation. Because no credit toward an educational objective can be earned for such a course, it is not properly a part of the student's approved educational program.

b. *Nonpunitive Grade:* Any grade assigned for pursuit of a course, whether upon completion of the course or at the time of withdrawal from it, which has the effect of excluding the course from any consideration in determining progress toward fulfillment of requirements for graduation. No credit toward graduation would be granted for such a grade, nor would there be any effect on other graduation factors imposed by school policy, such as a grade point average. A course for which a nonpunitive grade is assigned is thus equivalent to an audited course for purposes of advancement toward graduation.

c. *Punitive (Failing) Grade:* A grade assigned for pursuit of a course which indicates unacceptable course work and no credit granted toward graduation for that pursuit. Although this type of grade results in no credit, it is distinguished from a nonpunitive grade by the fact that it is considered in determining overall progress toward graduation in that a penalty is exacted on a school graduation requirement, such as grade point average. A course for which a punitive failing grade is assigned is not equivalent to an audited course because the grade is computed into a graduation requirement.

d. *Drop-Add Period:* A reasonably brief period at the beginning of a term (not to exceed 30 days) officially designated by a school for unrestricted enrollment changes by students.

e. *Mitigating Circumstances:* Circumstances which directly hinder eligible veteran's or person's pursuit of a course and which are judged to be out of the student's control. Following are some general categories of mitigating circumstances (this list is not all-inclusive):

(1) Serious illness of the eligible veteran or person.

(2) Serious illness or death in the eligible veteran's or person's immediate family.

(3) Immediate family or financial obligations which require a change in terms, hours, or place of employment which precludes pursuit of a course.

(4) Discontinuance of a course by a school.

(5) Active duty military service, including active duty for training.

(6) Withdrawal from a course or receipt of a nonpunitive grade upon completion of a course due to unsatisfactory work may be considered to be under mitigating circumstances if the student can demonstrate good faith pursuit of the course up to the point of withdrawal or completion *and* the student submits evidence that he or she applied for tutorial aid consulted a Veterans Administration counselor, or consulted a school academic counselor or advisor regarding an attempt to remedy the unsatisfactory work before withdrawal or completion.

4. *Payment and Termination Actions.* Depending on the type of grade assigned, the point during a term when a student withdraws, and/or the presence of mitigating circumstances, payment or award termination actions will be determined as follows:

a. No VA educational assistance will be paid for an audited course. This is consistent with long-standing VA policy, the only difference being that the policy is now expressed in the statute. Schools should never certify audited courses to the VA for payment of benefits. Such certifications, if they occur, will be considered false for purposes of considering school liability for overpayments.

b. If an eligible veteran or person withdraws from a course after the institution's drop-add period, receives a nonpunitive grade for that course, and mitigating circumstances are not found, benefits for that course will be terminated effective the first date of enrollment or December 1, 1976, whichever is later.

c. If an eligible veteran or person completes a course but receives a nonpunitive (no credit or no failure) grade, and mitigating circumstances are not found, benefits for that course will be terminated effective the first date of enrollment or December 1, 1976, whichever is later.

d. As noted in subparagraphs [b and c] above, no overpayments will be created in accordance with these provisions for any period prior to December 1, 1976. School liability provisions will not be applied to overpayments resulting from withdrawals or nonpunitive grades unless a school fails to report changes in student status timely in accordance with VA Regulations and administrative requirements.

e. If an eligible veteran or person withdraws from a course before the end of an institution's drop-add period regardless of circumstances, withdraws from a course and mitigating circumstances are shown, or withdraws from a course under circumstances such that a punitive grade is or will be assigned for that course, reduction of benefits will be effective at the end of the month or the end of the term in which the withdrawal occurs, whichever is earlier. If the eligible person or veteran terminates all courses under these same conditions, termination of benefits will be effective the last date of pursuit. Last date of pursuit in a residence course is the last date of attendance.

[f. Incomplete grades for unit subjects, commonly designated as "I", may not be continued indefinitely without conversion on a student's records. To do so would effectively result in payment for courses not counted toward graduation requirements. For VA payment purposes, an "I" designation for a course must be converted to a credit grade counting toward graduation or a punitive failing grade within one calendar year after the date on which an "I" is assigned.

NOTE.—This provision does not require schools to adopt any particular academic policy with respect to incomplete courses. As explained below, the provision is merely a VA reporting requirement to ensure lawful payment of benefits.

(1) Designations of "I" (incomplete) which have not been converted within the period specified above must be reported to the VA or VA Form 22-1999B. The VA will consider such incomplete designations as equivalent to a "W" (nonpunitive withdrawal) for the course. Benefits for those courses will be terminated by amended award action effective the beginning date of the course or December 1, 1976, whichever date is later, unless mitigating circumstances are found.

(2) If the "I" designation is subsequently changed to a grade for credit toward graduation, or if a punitive grade is assigned in accordance with school academic policy for failure to complete course requirements, the school will report this grading action to the VA. The report should clearly indicate that the grade assigned is a change from an "I" designation which had been reported previously. Upon receipt of such a report, the VA will restore benefits payable for the entire course in question through amended award action.

(3) Grading designations (including designations of "I") indicating continuing enrollment in thesis or dissertation research courses leading to a graduate degree will not be reported for VA action as described above.]

[g.] If an eligible veteran or person terminates a correspondence, flight, farm cooperative, cooperative, or job-training course, termination of benefits will be effective on the following dates:

(1) Correspondence Training: Date last lesson serviced.

(2) Flight Training: Date last instruction received.

(3) Farm Cooperative Training: Date of last classroom attendance.

(4) Cooperative Training: Date of last training.

(5) Job Training: Date of last training.

[(6) Noncollege Degree: Date of last attendance, unless instruction is organized on a block or unit subject basis and the block or unit must be repeated in its entirety (no credit accrued for work completed) due to the withdrawal. For such a block or unit subject of instruction, termination will be as of the first date from which no credit accrued, unless mitigating circumstances are found.]

5. *Mitigating Circumstances—Reporting, Development, and Award Actions.* As indicated previously, the involvement of mitigating circumstances in a student's termination or reduction of training will affect adjustment of the award of benefits.

a. All schools will be encouraged to show mitigating circumstances, provided this information is known, and the grade which is or will be assigned for the course(s) involved, when reporting training time reductions or terminations. Item 3C, Remarks, on VA Form 22-1999B or 22-1999B-1, Notice of Change in Student Status—Institutional Courses only, will be used for this purpose. It should be pointed out to schools that their cooperation in this regard will avoid retroactive termination of benefits, if there were satisfactory mitigating circumstances, to the beginning of the course(s) from which withdrawn, and thus aid the veteran by maintaining proper benefit payments.

b. If the school shows acceptable mitigating circumstances, benefits will be reduced at the end of the month in which the reduction occurs if the student continues a part of his/her course, or terminated effective last date of pursuit when there is an interruption or discontinuance of all unit subjects with no further action required.

c. If mitigating circumstances are not shown on the notice of withdrawal or termination, reduction will be at end of the month in which reduction in training occurs or termination of the award will be effective last date of pursuit, and the following further actions will be required:

(1) A form or dictated development letter will be sent to the student (the computer-generated reduction or termination letter will be allowed to issue). The development letter will indicate the action taken and explain that the student will receive a computer-generated letter showing months of entitlement remaining, amount overpaid (if any), and information concerning repayment and waiver request. The student will be invited to give his or her statement regarding possible mitigating circumstances (not further specified) involved in the reduction or termination of training. Finally, the student will be advised that if no response is received by the VA within 30 days, reduction or termination of benefits will be made effective the beginning date of the course(s) include date of enlistment or assignment to a reserve component, the first subsequent EOD and RAD dates and the character of discharge."

d. Development will not be necessary if a copy of the enlistment agreement under DEP or DCAD is of record. For this agreement the Department of Defense uses DD Form 4C, Enlistment or Reenlistment Agreement (page 4 of which contains the DEP data) and Public Health Service uses PHS 4426, Memorandum of Understanding Concerning Participation in Delayed Call to Active Duty. To be acceptable without additional development, the enlistment agreement must clearly show the date the agreement was entered into and be supported by a DD Form 214.

6. *Additional Conditions for Approval of an Accredited Course Under 38 U.S.C. 1775*

a. In addition to the existing requirements for approval of a course as accredited, schools must now submit to the State approving agency a certification that the school's catalog or bulletin is true and correct in content and policy. This certification must be made by an authorized official of the school. The catalog or bulletin must specifically state the school's progress requirements for graduation and, at the minimum, must include the following information:

(1) The institution's policy and regulations relative to standards of progress required of the student by the institution (this policy will define the grading system of the institution);

(2) The minimum grades considered satisfactory;

(3) The conditions for interruption for unsatisfactory grades or progress and a description of the probationary period, if any, allowed by the institution;

(4) The conditions of reentrance for those students dismissed for unsatisfactory progress;

(5) A statement regarding the progress records maintained by the institution and furnished to the student; and

(6) The institution's policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct.

b. Liaison representatives will notify all schools offering accredited courses of this added provision of 38 U.S.C. 1775. Catalogs or bulletins previously published will not be affected by this requirement. However, the next catalog or bulletin published by the school must meet these requirements and the required certification must be submitted with the catalog or bulletin.

c. PL 94-502 also amends 38 U.S.C. 1775 relating to the basic approval of accredited courses, to codify institutional responsibility for recordkeeping and enforcing their standards of progress. This provision does not add any additional approval requirement but states in statutory language the standards of progress requirements currently contained in VAR 14253(D) (1) and (3). The statute now requires that SAA's must find that adquate records are kept by the educational institution to show the program of each eligible person or veteran and must include as a minimum the following requirements:

(1) Adequate records as prescribed by the SAA relating to progress or grades; and

(2) Adequate records showing satisfactory standards relating to progress and conduct are enforced.

RUFUS H. WILSON,
Chief Benefits Director.

volved, resulting in creation of an overpayment or additional over-payment. (NOTE: A new VA Form Letter will be developed for this purpose. Until it is available, modified current form letters or dictated letters must be used.)

(2) Each case developed in this manner will be placed under pending end product control for 30 days using end product code 220. (NOTE: A one-time code 220 may not be recorded in addition to establishing the pending 220 control.) If no response is received during this period, or if the student's claim of mitigating circumstances is not judged to be satisfactory, amended award action will be taken to reduce or terminate benefits effective the beginning date of the course(s) involved and final action recorded on the end product code 220. The computer-generated letter will be allowed to issue to explain remaining entitlement, amount of overpayment, etc., but a form or dictated letter must also be issued to explain the reason for retroactive termination or reduction of benefits. If mitigating circumstances are established, final action will be recorded on the pending end product code 220.

(3) The potential abuse of the provision for mitigating circumstances in order to obtain benefits otherwise not payable is obvious. Therefore, if a pattern of withdrawals or terminations develops with mitigating circumstances shown or claimed in each instance, the student will be required to submit a signed statement of circumstances before any further favorable judgments can be made. Other corroborative evidence, such as statements from employers or physicians, may also be required if deemed necessary. For purposes of this provision, a pattern of withdrawals or terminations will exist upon the third occurrence within a term or the third occurrence in consecutive terms.

RUFUS H. WILSON,
Chief Benefits Director.

DVB Circular 20-76-84.
Appendix P.
February 1, 1977.

DEPARTMENT OF VETERANS BENEFITS
VETERANS ADMINISTRATION
Washington, D.C.

MISCELLANEOUS PROVISIONS OF PL 94-502

1. *Purpose.* This appendix provides instructions for implementing various provisions of PL 94-502 which have not been covered elsewhere. This appendix also provides rate tables showing rates payable under this law for chapters 34 and 35 beneficiaries.

2. *Ending Date—Chapter 34 Eligibility.* PL 94-502 establishes final dates beyond which active duty service will no longer establish eligibility to chapter 34 educational assistance.

a. The basic ending date is December 31, 1976. Individuals entering service after December 31, 1976 (with limited exceptions) have no eligibility to benefits under chapter 34. Basic eligibility, therefore, is based on those periods of active duty, any part of which occurred after January 31, 1955 and before January 1, 1977.

b. The exception mentioned in subparagraph a above applies to a person who prior to January 1, 1977, enlists in or is assigned to a reserve component under a DEP (Delayed Enlistment Program) or DCAD (Delayed Call to Active Duty) and subsequently serves on active duty for a continuous period of 181 days, any part of which occurs on or before January 1, 1978, and is discharged or released from active duty under conditions other than dishonorable. Such a person would be entitled to chapter 34 educational assistance. When the period of active duty is less than 181 days, eligibility to chapter 34 educational assistance may be established if the person is discharged or released from active duty due to a service-connected disability.

3. *Ending Date Chapter 34 Entitlement Computation.*

a. The ending date for computing an otherwise eligible person's entitlement to chapter 34 educational assistance shall be the date of such person's first discharge or release from active duty after December 31, 1976, for any person serving on active duty on December 31, 1976, or any person entitled to chapter 34 benefits due to enlistment in a DEP or DCAD program.

b. The phrase *first discharge* or *release* as used above means the first such date a person is eligible for complete separation from service (i.e., first enlistment period ending on or after January 1, 1977) even though said person may reenlist for subsequent service on the same date.

4. *Final Cutoff Date—Chapters 34 and 36 Benefits.* No educational assistance allowance may be afforded under chapter 34 or 36 after December 31, 1989.

5. *Explanation of DEP (Delayed Enlistment Program) and DCAD (Delayed Call to Active Duty)*

a. The DEP and the DCAD are programs whereby individuals enlist in or are assigned to a reserve component and subsequently enter active duty in the Armed Forces or the Public Health Service. (NOTE: The National Oceanic and Atmospheric Administration does not have such a program.) Normally, under these programs, a person may delay his her entry onto active duty for 180 to 270 days up to a maximum of 365 days from the time of entering into the enlistment agreement. Although in certain instances extensions may be granted, the person must enter into the DEP or DCAD agreement prior to January 1, 1977, and begin serving on active duty on or before January 1, 1978, in order to have potential chapter 34 eligibility.

b. If a claimant's application for chapter 34 educational assistance and/or the DD Form 214, Armed Forces of the United States Report of Transfer or Discharge (Public Health Service uses PHS Form 1867), show a basic EOD (Entered on Active Duty) date subsequent to December 31, 1976, and prior to January 2, 1978, a careful review must be undertaken to determine possible eligibility as outlined in paragraph 2b of this appendix. If the DD Form 214 or application indicates an enlistment or assignment date to a reserve component prior to January 1, 1977, and a subsequent EOD prior to January 2, 1978, then verification from the appropriate Service Department or the Public Health Service concerning the applicant's enlistment under a DEP or DCAD program must be undertaken, unless sufficient supporting documentation is already of record.

c. Whenever development is necessary a VA Form 07-3101, Request for Information, will be completed and forwarded to the appropriate records center requesting verification of the applicant's enlistment under a DEP or DCAD. The VA Form 07-3101 should state the following:

"Request verification of enlistment under (DEP (Delayed Enlistment Program) or DCAD (Delayed Call to Active Duty)) to in-

TABLE I. CHAPTER 34 EDUCATIONAL ASSISTANCE RATES (NEW RATES AND RECENT HISTORICAL RATES)

TYPE OF COURSE/TRAINING	MONTHLY RATES FOR SERVICE PERSONNEL *											
	PL 93-508 (Eff. 9-1-74)			PL 94-502 (Eff. 10-1-76)			PL 93-602 (Eff. 1-1-75)			PL 93-508	PL 93-602	PL 94-502
	NO DEPS	ONE DEP	TWO DEPS	NO DEPS	ONE DEP	TWO DEPS	ADD'L DEP	Eff. 9-1-74	Eff. 1-1-75	Eff. 10-1-76		
INSTITUTIONAL												
FULL TIME	$270	$321	$366	$292	$347	$396	$ 24	$260	$270	$292		
3/4 TIME	$203	$240	$275	$219	$260	$297	$ 18	$195	$203	$219		
1/2 TIME	$135	$160	$182	$146	$174	$198	$ 12	$130	$135	$146		
LESS THAN 1/2 BUT MORE THAN 1/4*	$130	-	-	$146	-	-	-	$130	$135	$146		
1/4 TIME OR LESS*	$ 65	-	-	$ 73	-	-	-	$ 65	$ 68	$ 73		
COOPERATIVE												
FULL TIME ONLY	$217	$255	$289	$235	$276	$313	$ 18	SAME RATES AS PL 93-508				
APPRENTICESHIP/OJT												
1st 6 MONTHS	$189	$212	$232	$212	$238	$260	$ 11	$220	$240	$ 10	$196	$212
2nd 6 MONTHS	$142	$164	$184	$159	$185	$207	$ 11	$171	$191	$ 10	$147	$159
3rd 6 MONTHS	$ 95	$117	$137	$106	$132	$154	$ 11	$122	$142	$ 10	$ 98	$106
4th AND ANY SUCCEEDING 6 MONTHS	$ 47	$ 70	$ 90	$ 53	$ 79	$101	$ 11	$ 73	$ 93	$ 10	$ 49	$ 53
FARM COOPERATIVE	$217	$255	$289	$ 17				SAME RATES AS PL 93-508				
FULL TIME	$163	$191	$218	$ 13								
3/4 TIME	$109	$128	$145	$ 9								
1/2 TIME												
CORRESPONDENCE	ENTITLEMENT CHARGED AT RATE OF 1 MONTH FOR EACH $260 PAID			ENTITLEMENT CHARGED AT RATE OF 1 MONTH FOR EACH $270 PAID				SAME ENTITLEMENT CHARGE AS PL 93-602			ENTITLEMENT CHARGED AT RATE OF 1 MONTH FOR EACH $270 PAID	
FLIGHT	ENTITLEMENT CHARGED AT RATE OF 1 MONTH FOR EACH $260 PAID			ENTITLEMENT CHARGED AT RATE OF 1 MONTH FOR EACH $270 PAID				THE SAME AS FOR VETS $260		$270	THE SAME AS FOR VETS $270	

* THE MONTHLY RATE FOR SERVICE PERSONNEL OR TRAINING AT LESS THAN 1/2 TIME BUT MORE THAN 1/4, OR 1/4 TIME OR LESS MAY NOT EXCEED THE MONTHLY PRO RATA COST OF THE COURSE AS SPECIFIED IN VA REGULATION 14136(B), OR THE RATE LISTED HERE, WHICHEVER IS THE LESSER.

Exhibit A

Exhibit B

TABLE II. CHAPTER 35 EDUCATIONAL ASSISTANCE RATES[1]
(NEW AND RECENT HISTORICAL RATES)

TYPE OF COURSE/TRAINING	MONTHLY RATES		
	PL 93-508 (Eff. 9-1-74)	PL 93-602 (Eff. 1-1-75)	PL 94-502 (Eff. 10-1-76)
INSTITUTIONAL			
FULL TIME	$270	$270	$292
3/4 TIME	$203	$203	$219
1/2 TIME	$135	$135	$146
LESS THAN 1/2 TIME BUT MORE THAN 1/4	$130	$135	$146
1/4 TIME OR LESS[2]	$ 65	$ 68	$ 73
COOPERATIVE			
FULL TIME ONLY	$209	$217	$235
FARM COOPERATIVE			
FULL TIME	$217	$217	$235
3/4 TIME	$163	$163	$176
1/2 TIME	$109	$109	$118
APPRENTICESHIP/OJT			
1st 6 MONTHS	$189	$196	$212
2nd 6 MONTHS	$142	$147	$159
3rd 6 MONTHS	$ 95	$ 98	$106
4th AND ANY SUCCEEDING 6 MONTHS	$ 47	$ 49	$ 53
SPECIAL RESTORATIVE (FULL TIME ONLY) PLUS	$260	$270	$292
ACCELERATED CHARGES COST OF TUITION AND FEES IN EXCESS OF: ENTITLEMENT REDUCED 1 DAY FOR EACH:	$82 PER MONTH $3.69	$85 PER MONTH $9.02	$92 PER MONTH $9.76
CORRESPONDENCE FOR SPOUSES AND SURVIVING SPOUSES ONLY (1-1-73)	ENTITLEMENT CHARGED AT THE RATE OF 1 MONTH FOR EACH AMOUNT PAID AS SHOWN BELOW.		
	$260	$270	$292

[1]If a program of education is pursued by an eligible person at an institution located in the Republic of the Philippines, the educational assistance allowance shall be paid at a rate in Philippines pesos equivalent to $0.50 for each dollar (VAR 14137(D)).

[2]The monthly rate for training at less than 1/2 time but more than 1/4 time, or at 1/4 time or less, may not exceed the monthly prorata cost of the course as specified in VA Regulation 14137(B), or the rate listed here, whichever is the lesser.

[FR Doc.77-24439 Filed 8-24-77;8:45 am]

V4 21 AUG 25 77 UM V

INTERSTATE COMMERCE COMMISSION

[Volume No. 31]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

AUGUST 10, 1977.

PETITIONS FOR MODIFICATION, INTERPRETATION, OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

NOTICE

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

The Commission has recently provided for easier identification of substantive petition matters and all documents should clearly specify the "docket", "sub", and "suffix" (e.g. M1, M2) numbers identified by the FEDERAL REGISTER notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No MC-29748 M1 (notice of filing of petition to modify permit), filed June 20, 1977. Petitioner: M. C. Cumbie, Inc., 5011 Ecoff Avenue, Chester, Va. 23831. Petitioner's representative: Stanley I. Goldman, 1700 K Street, N.W., Washington, D.C. 20006. Petitioner holds a motor *contract carrier* permit in No. MC-29748, issued March 29, 1971 authorizing transportation, as pertinent, over irregular routes, of *Sheet iron products*, between Richmond, Va., on the one hand, and, on the other, points in Virginia, North Carolina and South Carolina. By the instant petition petitioner seeks to modify the above commodity description to read: *Iron and steel articles*, in lieu of sheet iron products.

No. MC 35320 (Sub-No. 78) (M1) (notice of filing of petition to delete restriction), filed August 8, 1977. Petitioner: T.I.M.E.-DC, INC., 2598 74th Street, Lubbock, Tex. 79108. Petitioner's representative: Kenneth G. Thomas (same address as petitioner). Petitioner holds a motor *common carrier* certificate in No. MC 35320 (Sub-No. 78), issued November 23, 1964, authorizing transportation, as pertinent, over regular routes, of *Classes A and B explosives* and *general commodities*, (except those of unusual value, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Chattanooga, Tenn., and Tuscumbia, Ala., serving all intermediate points and the off-route points of Fackler, Wheeler Dam, and Listerhill, Ala., the Widow's Bar Steam Plant of the Tennessee Valley Authority, located between Bridgeport and Stevenson, Ala., and the Huntsville Arsenal, Redstone Ordnance Works, and the Gulf Chemical Warfare Depot, near Huntsville, Ala.: From Chattanooga over U.S. Highway 72 via Huntsville, Ala., to Tuscumbia, and return over the same route; and (2) Between Huntsville, Ala., and Decatur, Ala., serving all intermediate points and the off-route points of Fackler, Wheeler Dam, and Listerhill, Ala., and the Huntsville Arsenal, Redstone Ordnance Works, and the Gulf Chemical Warfare Depot, near Huntsville, Ala.: From Huntsville over Alabama Highway 20 to Decatur, and return over the same route. Restriction: The authority granted in the two routes next above shall be subject to the restriction that carrier shall not transport shipments between points on its regular routes in Alabama, on the one hand, and, on the other, Nashville, Tenn., and points beyond. By the instant petition, petitioner seeks to modify the above authority by deleting the restriction.

No. MC 55889 (Sub-No. 40) (M1) (notice of filing of petition to delete restriction), filed July 20, 1977. Petitioner: AAA COOPER TRANSPORTATION, P.O. Box 2207, Dothan, Ala. 36301. Petitioner's representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. Petitioner holds a motor *common carrier* certificate in No. MC 55889 (Sub-No. 40) issued, May 12, 1976, authorizing transportation, over regular routes, of *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (I) Between New Orleans, La., and Jacksonville, Fla., serving Mobile, Ala., as an intermediate point: From New Orleans, over U.S. Highway 90 (also over Interstate Highway 10) to Jacksonville, and return over the same route; (II) Between Thomasville, Ga., and St. Petersburg, Fla.: From Thomasville, over U.S. Highway 19 to St. Petersburg, and return over the same route; (III) Between Albany, Ga., and Miami, Fla., serving Tifton, Ga., as an intermediate point: From Albany over U.S. Highway 82 to Tifton, Ga., thence over Interstate Highway 75 to Tampa, Fla. (also from Tifton over U.S. Highway 41 to Tampa), thence over U.S. Highway 41 to Miami, and return over the same route; (IV) Between Bainbridge, Ga., and Miami, Fla.: From Bainbridge over U.S. Highway 27 to Miami, and return over the same route:

(V) Between junction Interstate Highway 75 and Florida's Turnpike at or near Wildwood, Fla., and Miami, Fla.: From junction Interstate Highway 75 over Florida's Turnpike at or near Wildwood, Fla., to Miami, and return over the same route; (VI) Between Naples, Fla., and Fort Lauderdale, Fla.: From Naples over Florida Highway 84 to Fort Lauderdale, and return over the same route; (VII) Between Jacksonville, Fla., and Miami, Fla.: From Jacksonville, over U.S. Highway 1 (also over Interstate Highway 95) to Miami, and return over the same route; (VIII) Between Baldwin, Fla., and junction Florida's Turnpike at or near Wildwood, Fla.: From Baldwin over U.S. Highway 301 to junction Florida's Turnpike at or near Wildwood, Fla., and return over the same route; (IX) Between Daytona Beach, Fla., and St. Petersburg, Fla.: From Daytona Beach over U.S. Highway 92 (also over Interstate Highway 4) to St. Petersburg, and return over the same route; (X) Between Tampa, Fla., and junction Florida's Turnpike at or near Yeehaw Junction, Fla.: From Tampa over Florida Highway 60 to junction Florida's Turnpike at or near Yeehaw Junction, Fla., and return over the same route; (XI) Between Geneva, Ala., and Dothan, Ala., serving no intermediate points: From Geneva over Alabama Highway 52 to Dothan, and return over the same route. Serving in connection with routes (I) through (X) above, (1) all intermediate points in Florida, except those in connection with Route (I) above, and (2) all other points in Florida on and east of the Apalachicola River as off-route points. Restrictions: The operations authorized hereinabove are restricted as follows:

(a) against service at intermediate points in Alabama and Georgia (except Tifton, Ga., as authorized in III above), (b) against the transportation of traffic either (i) originating at points in the commercial zone of Birmingham, Ala., points in the commercial zone of Montgomery, Ala., and points in the commercial zone of Columbus, Ga., and destined to those points in Florida described in (1) and (2) above, or (ii) originating at those points in Florida described in (1) and (2) above and destined to points in the commercial zone of Birmingham, Ala., points in the commercial zone of Montgomery, Ala., and points in the commercial zone of Columbus, Ga. (c) against the transportation of traffic either (i) originating at points in the commercial zone of Dothan, Ala., points in the commercial zone of Tifton, Ga., and points in Georgia which applicant holds authority to serve under heretofore issued operating rights and destined to Tampa, Fla., and the Tampa, Fla., commercial zone, and to points in that portion of Florida on and west of Interstate Highway 75 extending between the Florida-Georgia State line and Gainesville, Fla., and those points on and north of Florida Highway 24 extending between Gainesville, Fla., and Cedar Key, Fla., or (ii) originating at points in that portion of Florida described immediately above in (c)(i) and destined to points in the commercial zone of Dothan, Ala., points in the commercial zone of Tifton, Ga., and points in Georgia which applicant holds authority to serve under heretofore issued operating rights. (d) serv-

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

ice at Mobile, Ala., restricted to the transportation of shipments moving from or to points in (1) and (2) above, except no service authorized to those Florida points described in (c) above. (e) service over Route (XI) restricted to the transportation of shipments moving from or to points in Florida described in (1) and (2) above in connection with service authorized in routes (I) through (X) above. By the instant petition, petitioner seeks to modify the above authority by deleting the restriction in (b) (i) and (ii) insofar as it applies to traffic originating at or destined to points in the commercial zones of Birmingham and Montgomery, Ala. Petitioner does not seek to affect the restriction insofar as it applies to Columbus, Ga. traffic.

No. MC 109490 (Sub-Nos. 1 and 9) (M1) (Notice of filing of petition for removal of restriction), filed July 26, 1977. Petitioner: HEDING TRUCK SERVICE, INC., Union Center, Wis. 53962. Petitioner's representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, Wis. 53705. Petitioner holds motor *common carrier* Certificate No. MC 109490 (Sub-Nos. 1 and 9), issued April 17, 1973 and December 6, 1977, respectively, authorizing transportation (1) in No. MC 109490 (Sub-No. 1), as pertinent, over irregular routes, of (a) *Animal and poultry feed, animal and poultry feed ingredients* (except commodities in bulk) and (b) *animal and poultry medications* in mixed loads with the commodities in (1)(a) above (except commodities in bulk), from Howard Lake, Minn., to points in Illinois, Iowa, and Wisconsin; Restriction: Under the commodity description above are restricted to the transportation of traffic originating at the plant site and storage facilities of American Feeds & Livestock Co., located at Howard Lake, Minn.; (c) *Animal and poultry feeds* and *animal and poultry feed ingredients* (except commodities in bulk), from Union Center, Wis., to points in Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, Ohio, and Pennsylvania; and (d) *Materials, equipment and supplies* used in the manufacture or distribution of animal and poultry feeds and animal and poultry feed ingredients, from the destination states in (c) above to Union Center, Wis., restricted in (c) and (d) above to the transportation of traffic originating at or destined to the plant site and storage facilities of Merrick Dry Milk Co., Inc., located at Union Center, Wis.; (2) in No. MC 109490 (Sub-No. 9) over irregular routes, and (a) *animal and poultry feeds* and *animal and poultry feed ingredients* (except in bulk), from Union Center, Wis., to points in the United States (except points in Alaska, Colorado, Hawaii, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, Ohio, and Pennsylvania); and (b) *materials, equipment and supplies* (except acids and chemicals and commodities in bulk), used in the manufacture or distribution of animal and poultry feeds and animal and poultry feed ingredients, from points in the destination states named in (2)(a) above, to Union Center, Wis., restricted to the transportation of traffic originating at or destined to the facilities of Merrick Dry Milk Co., Inc., located at Union Center, Wis. By the instant petition, petitioner seeks to delete the words "except commodities in bulk" in the above authority.

No. MC 112520 (Sub-No. 155) (M1) (Notice of filing of petition to reinstate certification), filed July 25, 1977. Petitioner: McKENZIE TANK LINES, INC., 122 Appleyard Drive, P.O. Box 1200, Tallahassee, Fla. 32302. Petitioner's representative: W. Guy McKenzie, Jr. (same address as petitioner). Petitioner formerly held a motor *common carrier* certificate in No. MC 112520 (Sub-No. 155), originally issued June 9, 1967 for a five-year term, reissued August 7, 1972, with an expiration date of June 9, 1973. Said certificate had authorized the transportation of *liquefied petroleum gas*, in bulk, in tank vehicles, from Panama City, Fla., to points in Alabama, over irregular routes. By the instant petition, petitioner seeks to have the formerly held authority above the reinstated with an indefinite expiration term or for such period as may be appropriate under current Commission regulations or policy.

No. MC 113545 (Sub-No. 9 and pending Sub-Nos. 16 and 18) (M1) (Notice of filing of petition to modify commodity description), filed July 26, 1977. Petitioner: CORMETT FORWARDING CO., INC., P.O. Box 38, Jersey City, N.J. 07303. Petitioner's representative: Morton E. Kiel, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Petitioner holds motor *contract carrier* Permits in No. 113545 (Sub-No. 9 and pending Sub-Nos. 16 and 18), issued April 26, 1974, respectively, authorizing transportation (1) in 113545 (Sub-No. 9) over irregular routes, of *Radiopharmaceuticals, radioactive drugs*, and *medical isotopes*, from South Plainfield, N.J., to Newark Airport, Newark, N.J.; New York, N.Y.; Silver Spring, Md.; and Wilmington, Del.; and to points in Nassau, Suffolk, Westchester, Rockland, Orange, Ulster, Sullivan, Putnam, and Dutchess Counties, N.Y.; Fairfield and New Haven Counties, Conn.; Philadelphia, Bucks, Montgomery, and Delaware Counties, Pa., under a continuing contract or contracts with Medi-Physics, Inc. (2) in MC 113545 (pending Sub-No. 16) over irregular routes, of *radiopharmaceuticals, radioactive drugs and medical isotopes*, from South Plainfield, N.J., to points in Middlesex, New London and Hartford Counties, Conn., and Lehigh and Northhampton Counties, Pa., under a continuing contract or contracts with Medi-Physics, Inc.; and (3) in MC 113545 (pending Sub-No. 8) over irregular routes, of *radiopharmaceuticals, radioactive drugs and medical isotopes*, from South Plainfield, N.J., to points in Cecil, Harford, Anne Arundel, Baltimore, and Baltimore City Counties, Md., under a continuing contract or contracts with Medi-Physics, Inc. By the instant petition, petitioner seeks to modify the commodity description in all of the above authority to read "*Radiopharmaceuticals, radioactive drugs, medicals isotopes, and medical test kits and related apparatus.*"

No. MC 119626 (Sub-Nos. 1, 2, 7, and 9) (M1) (Notice of filing of petition to modify commodity description), filed June 24, 1977. Petitioner: ILL.-PAC COAST TRANSPORTATION CO., a corporation, 1601 Market St., P.O. Box 128, Madison, Ill. 62060. Petitioner's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Petitioner holds a motor *common carrier* Certificates in No. MC 119626 and (Sub-Nos. 1, 2, 7, and 9), issued May 20, 1960, September 20, 1960, August 2, 1961, July 23, 1971 and April 24, 1975 respectively, authorizing transportation, over irregular routes in No. MC 119626 of: *Meat products and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from St. Louis, Mo., to Los Angeles, San Francisco, and Stockton, Calif.; the Certificate in No. MC 119626 (Sub-No. 1) authorizes transportation of *Meats, meat products, and meat by-products*, as described in section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Springfield, Ill., to San Diego, Sacramento, Los Angeles, and San Francisco, Calif.; the Certificate in No. MC 119626 (Sub-No. 2) authorizes transportation of *Meats, packinghouse products*, and *commodities used by packinghouses*, as described in Appendix I to the report in *Descriptions in Motor Carriers Certificates*, 61 M.C.C. 209 and 766, between Chicago, Ill., on the one hand, and, on the other, St. Louis, Mo.; No. MC 119626 (Sub-No. 7) authorizes transportation of *Meats, packinghouse products*, and *commodities used by packinghouses*, as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Springfield, Ill., to Las Vegas, Nev.; and in No. MC 119626 (Sub-No. 9) the authority in the Certificate is to transport *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities of Krey Packing Company, B. Constantio and Sons Co., Inc., and Continental Meat Distributors, Inc., at St. Louis, Mo., Springfield, Ill., and Chicago, Ill., to points in Arizona, Nevada, and New Mexico, restricted to the transportation of shipments originating at the above-named origins and destined to the named destinations. By the instant petition, petitioner seeks to modify the commodity descriptions in the above certificates by adding the following words: "and exempt poultry products when transported in the same vehicle".

No. MC 123476 (Sub-No. 17) (M1) (Notice of filing of petition to change the location of a plantsite), filed July 25, 1977. Petitioner: CURTIS TRANSPORT, INC., 2616 Jeffco Blvd., P.O. Box 388, Arnold, Mo. 63010. Petitioner's rep-

VOL 42 NO 165 AUG 25 77 UM

resentative: David G. Dimit (same address as petitioner). Petitioner holds a motor *common carrier* certificate in NO. MC 123476 (Sub-No. 17), issued January 20, 1975, authorizing transportation, as pertinent, over irregular routes, of *Materials, equipment and supplies* used in the manufacture and distribution of the foregoing commodities, from points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming, and the District of Columbia to the facilities of Dow Chemical Company, located at Cape Girardeau, Mo. By the instant petition, petitioner seeks to modify the above authority by substituting Pevely, Mo., as the location of the Dow Chemical plant-site, in lieu of Cape Girardeau, Mo.

No. MC 128988 (Sub-No. 3, 28 and pending Sub-No. 27) (M1) (notice of petition for modification of permits), filed July 12, 1977. Petitioner: JO/KEL, INC., P.O. Box 1249, City of Industry, Calif. 91749. Petitioner's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Petitioner holds motor *contract carrier* Permits in No. MC 128988 (Sub-Nos. 3, 28 and pending Sub-No. 27), issued October 16, 1975 and March 3, 1975, respectively, authorizing transportation (1) in MC 128988 (Sub-No. 3) over irregular routes, of: (a) *Upholstery or carpet tacking rims* or *strips, nails, adhesive cement, mechanic hand tools,* and *advertising materials, racks, and stands* therefor, from points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Wisconsin, Illinois, Indiana, Michigan, Ohio, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont, Maine, Delaware, Maryland, Virginia, West Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Florida, Iowa, Minnesota, Missouri, Arkansas, Louisiana, and the District of Columbia; and (b) *Materials, equipment,* and *supplies* used in the manufacture and distribution of the commodities described above, from points in the above-named destination states, to City of Industry, Calif., restricted against the transportation of commodities in bulk, under a continuing contract or contracts with Taylor Industries, a Division of Consolidated Foods Corporation.

(2) in MC 128988 (Sub-No. 28) over irregular routes, of: (a) *Upholstery and carpet tacking rims* and *strips, nails, adhesive cement, mechanic hand tools,* and *advertising materials, racks,* and *stands* therefor, from City of Industry, Calif., to points in Oregon, Washington, Idaho, Nevada, Arizona, New Mexico, Utah, Colorado, Wyoming, and Montana; and (b) *Materials, equipment* and *supplies* used in the manufacture and distribution of the commodities described in (2)(a) above, from points in the above-named destination states to City of Industry, Calif., restricted against the transportation of commodities in bulk, under a continuing contract or contracts with Taylor Industries, Division of Consolidated Foods Corporation; and (3) in 128988 (pending Sub-No. 27), over irregular routes, of: (a) *Upholstery* and *carpet tacking rims and strips, nails, adhesive cement, mechanic hand tools,* and *advertising materials, racks,* and *stands* therefor, from Conyers, Ga., to City of Industry, Calif., and points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas; and (b) *Materials, equipment, and supplies* used in the manufacture and distribution of the commodities described above, from points in the above-named destination states to Conyers, Ga., restricted against the transportation of commodities in bulk, under a continuing contract or contracts with Taylor Manufacturing, Inc., doing business as, Taylor Industries. By the instant petition, petitioner seeks (A) to modify all its above permits by deleting City of Industry, Calif., wherever it appears in the above authority and substituting in lieu thereof, Santa Fe Springs, Calif., and (B) to change the name of the shipper in MC 128988 (Sub-Nos. 3 and 28) from Taylor Industries, Inc., a division of Consolidated Foods Corporation, to Taylor Manufacturing, Inc., d.b.a. Taylor Industries.

No. MC 135973 (Sub-No. 1) (M1) (Notice of filing of petition to modify territorial description and add an additional contracting shipper), filed July 12, 1977. Petitioner: EXPEDITED TRANSPORTATION CORPORATION, 5 Wood Avenue, Secaucus, N.J. 07094. Petitioner's representative: Joel C. Feffer, 235 East 42nd Street, New York, N.Y. 10017. Petitioner holds a motor *contract carrier* Permit in No. MC 135973 (Sub-No. 1), issued July 16, 1975, authorizing transportation, over irregular routes, of *Film, video tape, and sound tracks,* between New York, N.Y., on the one hand, and, on the other, Wilmington, Del. RESTRICTION: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with the following shippers: Proctor and Gamble Co., of Cincinnati, Ohio; Grey Advertising, Inc., of New York, N.Y.; and Doyle Dane Bernbach, Inc., of New York, N.Y. By the instant petition, petitioner seeks to modify the territorial description by the deletion of Wilmington, Del., and the substitution of Newark, Del. in lieu thereof and addition of Lever Bros., Inc. as an additional contract shipper to the above authority.

No. MC 136403 (Sub-No. 22) (M1) (Notice of filing of petition to add a contracting shipper), filed July 5, 1977. Petitioner: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Petitioner's representative: William J. Hanlon, 55 Madison Avenue, Morristown, N.J. 07960. Petitioner holds a motor *contract carrier* permit in No. MC 136403 (Sub-No. 22), issued June 29, 1976, authorizing transportation, over irregular routes, of *Chemicals,* (except in bulk in tank vehicles), from Wallingford, Conn., and Linden, N.J., to points in Ohio, Michigan, Indiana, and Illinois, under a continuing contract, or contracts, with American Cyanamid Co. By the instant petition, petitioner seeks to modify the above authority by adding Merck & Co. as an additional contracting shipper.

No. MC 139769 (M1) (Notice of filing of petition to delete restriction), filed July 22, 1977. Petitioner: FALCON CHARTER SERVICE, INC., 120 Perry Street, San Francisco, Calif. 94107. Petitioner's representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, Calif. 94108. Petitioner holds a motor *common carrier* certificate in No. MC 139769 issued February 9, 1977, authorizing transportation, over irregular routes, of *Passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at San Francisco, Calif., and extending to points in Arizona, California, Colorado, Idaho, Montana, Nevada (except Carson City, Nev., and points in Washoe, Douglas, and Storey Counties, Nev.), New Mexico, Oregon, Utah, Washington, and Wyoming.

By the instant petition, petitioner seeks to delete the following language from the above authority: "except Carson City, Nev., and points in Washoe, Douglas and Storey Counties, Nev."

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading shall comply with Special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 113678 (Sub-No. 561) (Republication), filed September 12, 1974, published in the FEDERAL REGISTER issue of October 3, 1974, and republished this issue. Applicant: CURTIS, INC., 4810 Pontia Street, Commerce City (Denver),

Colo. 80022. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. An Order of the Commission, Review Board Number 2, dated November 25, 1975, and served December 9, 1975, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *bakery goods,* not frozen, (1) from Finderne and Metuchen, N.J., to points in Nebraska, Kansas, Colorado, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Kentucky, Indiana, Arizona, Nevada, California, Washington, Oregon, Montana, North Dakota, South Dakota, Wyoming, Utah, New Mexico, and Idaho, and (2) from Elizabeth, N.J., to points in Wisconsin, Arizona, Nevada, California, Washington, Oregon, Montana, North Dakota, South Dakota, Wyoming, Utah, New Mexico, and Idaho; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the addition of the authority in part (2) in applicant's grant of authority.

No. MC 114004 (Sub-No. 156) (Republication, filed November 26, 1976, published in the FEDERAL REGISTER issue of December 9, 1976, and republished this issue. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, Ark. 72209. Applicant's representative: Harold G. Hernly, Jr., 118 North St. Asaph St., Alexandria, Va. 22314. An Order of the Commission, Review Board Number 1, dated July 22, 1977, and served August 5, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of (1) *Trailers,* designed to be drawn by passenger automobiles, and *buildings* in sections, mounted on wheeled undercarriages, in initial movements, from points in Franklin, Morgan, and Tallapoosa Counties, Ala., Lonoke and Mississippi Counties, Ark., Columbia, Hillsborough, Lake, Manatee, Marion, Polk, and Sarasota Counties, Fla., Coffe, Floyd, Meriwether, Schley, and Ware Counties, Ga., Cowley, Franklin, Johnson, Lyon, McPherson, Riley, and Rooks Counties, Kans., Cecil County, Md., Lapeer, Osceola, St. Joseph, and Sanilac Counties, Mich., Columbia, Erie, and Oneida Counties, N.Y., Anson, Davie, Harnett, Montgomery, Rowan, Stanly, Union, and Vance Counties, N.C., Holmes, Huron, Noble, Tuscarawas, and Wood Counties, Ohio, Blair, Clarion, Lancaster, and Snyder Counties, Pa., Maury County, Tenn., and Angelina, Bell, Bowie, Fannin, Grimes, Hopkins, Hunt, Johnson, McLennon, Tarrant, and Van Zandt Counties, Tex., to points in the United States, including Alaska, but excluding Hawaii.

(2) *Trailers* designed to be drawn by passenger automobiles, in initial movements, from points in Burke County, Ga., Sumner County, Kans., Bossier and Lincoln Counties, La., Washington County, Md., Williams County, Ohio and Gregg County, Tex., to points in the United States, including Alaska, but excluding Hawaii. (3) *Trailers* designed to be drawn by passenger automobiles, and *buildings,* in sections, mounted on wheeled undercarriages, from points in Adams and Boulder Counties, Colo., to points in Texas, Oklahoma, and those points in that part of the United States east of the western boundaries of Minnesota, Iowa, Missouri, Arkansas, and Louisiana. (4) *Buildings,* in sections, when mounted on wheeled undercarriages, in secondary movements, (1) from points in Florida to points in Arkansas, Georgia, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas, (2) from points in Georgia to points in Arkansas, Florida, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas, (3) from points in South Carolina, to points in Arkansas, Florida, Georgia, Mississippi, North Carolina, Oklahoma, Tennessee, and Texas, and (4) from points in Texas to points in Arkansas, Florida, Georgia, Mississippi, North Carolina, Oklahoma, South Carolina, and Tennessee. Restriction: Service authorized in parts (1) and (2) above is restricted against the transportation of trailers designed to be drawn by passenger automobiles from points in Kansas and Michigan to points in Alaska; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the deletion of the restrictions against the transportation of recreational vehicles and prefabricated buildings in the commodity description of applicant's grant of authority.

No. MC 114004 (Sub-No. 157) (Republication), filed November 26, 1976, published in the FEDERAL REGISTER issue of December 9, 1976, and republished this issue. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, Ark. 72209. Applicant's representative: Harold G. Hernly, Jr., 118 North St. Asaph St., Alexandria, Va. 22314. An Order of the Commission, Review Board Number 1, dated July 22, 1977, and served August 5, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of (1) *Trailers,* designed to be drawn by passenger automobiles, and *buildings,* in sections, when mounted on wheeled undercarriages, from points in Reno County, Kans., Saratoga County, N.Y., Rockingham County, N.C., and Sumner County, Tenn., and points in Maricopa and Pinal Counties, Ariz., Los Angeles, Orange, Riverside, Sacramento, San Bernardino, Solano, Tulare, Yolo, and Yuba Counties, Calif., Allen, Clay, Elkhart, Fulton, Jay, and Marshall Counties, Ind., Brown, Murry, Nobles, and Redwood Counties, Minn., Holmes, Lincoln, and Union Counties, Miss., Merrick, Scotts Bluff, and York Counties, Nebr., Deschute, Marion, Washington, and Yamhill Counties, Oreg., Franklin, Pittsylvania, and Shenandoah Counties, Va., and Adams, Crawford, and Grant Counties, Wis., to points in the United States, including Alaska, but excluding Hawaii, (2) *trailers* designed to be drawn by passenger automobiles, and *buildings,* in sections, mounted on wheeled undercarriages, from points in Adams and Boulder Counties, Colo., to points in the United States west of the western boundaries of Minnesota, Iowa, Missouri, Oklahoma, and Texas, including Alaska, but excluding Hawaii and Colorado. (3) *buildings,* in sections, when mounted on wheeled undercarriages in secondary movements, (1) from points in California to points in the United States, including Alaska, but excluding California and Hawaii, (2) from points in Mississippi to points in Arkansas, Florida, Georgia, North Carolina, South Carolina, Tennessee, and Texas, and (3) from points in North Carolina to points in Arkansas, Florida, Georgia, Mississippi, Oklahoma, South Carolina, Tennessee, and Texas.

(4) buildings, in sections, mounted on wheeled undercarriages, in initial movements, from points in Ontario County, N.Y., to points in Massachusetts and Pennsylvania; that applicant is fit, willing; and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the deletion of the restrictions against the transportation of recreational vehicles and prefabricated buildings in the commodity description of applicant's grant of authority.

No. MC 114055 (Sub-No. 7) (Republication), filed March 29, 1976, published in the FEDERAL REGISTER issue of April 29, 1976, republished as corrected in the FEDERAL REGISTER issue of June 3, 1976, and republished this issue. Applicant: RAY KOLNIK, doing business as RAY KOLNIK TRUCKING, Prairie View Road, Walworth, Wis. 53184. Applicant's representative: Joseph E. Ludden, 309 State Bank Bldg., La Crosse, Wis. 54601. An Order of the Commission, Review Board Number 2, dated June 29, 1977, and served July 27, 1977, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, in the transportation of *malt beverages,* from the facilities of the G. Heileman Brewing Company, Inc., at La Crosse, Wis., to Chicago, Ill., under a continuing contract, or contracts, with James J. Paulus, Inc., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The

purpose of this republication is to indicate the substitution of James J. Paulus, Inc. as contracting shipper in lieu of C & K Distributors in applicant's grant of authority.

No. MC 141033 (Sub-No. 10) (Republication), filed March 4, 1976, published in the FEDERAL REGISTER issue of April 8, 1976, and republished this issue. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 E. Salt Lake Ave., P.O. Box 1257, City of Industry, Calif. 91479. Applicant's representative: R. A. Peterson P.O. Box 81849, Lincoln, Nebr. 68501. An Order of the Commission, Review Board Number 3, dated June 29, 1977, and served August 2, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in transportation of (1) *parts and materials* for rotary mowers, chain saws, mini-bikes, go-carts, snowmobiles, and engines, from Glennville, Ga., to points in the United States (except Alaska, Hawaii, California, Indiana, Massachusetts, Rhode Island, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Tennessee, Georgia, Alabama, and Florida, and the District of Columbia); and (2) *materials and supplies* used in the manufacture of rotary mowers, chain saws, mini-bikes, go-carts, snowmobiles, and engines (except in bulk), from points in the states named as destinations in (1) above to Glennville, Ga. The purpose of this republication is to indicate the changes made in the commodity descriptions in applicant's' grant of authority.

No. MC 142025 (Sub-No. 2) (Republication), filed June 22, 1976, published in the FEDERAL REGISTER issue of July 29, 1976, and republished this issue. Applicant: DON FOWLER, doing business as FOWLER'S MOBILE HOME TRANSIT, Rt. No. 1, Box 40A, Winchester, Va. 22601. Applicant's representative: Frank B. Hand, Jr., P.O. Box 187, Berryville, Va. 22611. An Order of the Commission, Review Board Number 3, dated July 15, 1977, and served August 12, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *trailers* designed to be draw by passenger automobiles, in secondary movements, and *buildings*, in sections mounted on wheeled undercarriages, from origins other than points of manufacture, between points in Albemarle, Clarke, Culpeper, Fairfax, Fauquier, Fluvanna, Frederick, Goochland, Greene, Henrico, Loudoun, Louisa, Madison, Orange, Page, Prince William, Rappahannock, Rockingham, Shenandoah, Spotsylvania, Stafford, and Warren Counties, Va., on the one hand, and, on the other, Baltimore, Md., and points in Allegany, Anne Arundel, Baltimore, Calvert, Carroll, Charles, Frederick, Garrett, Howard, Montgomery, Prince Georges, St. Marys, and Washington Counties, Md., Adams, Allegheny, Bedford, Fayette, Franklin, Fulton, and Greene Counties, Pa., Barbour, Berkeley, Grant, Greenbrier, Hampshire, Hardy, Jefferson, Mercer, Mineral, Monroe, Morgan, Pendleton, Preston, Randolph, Summers, Tucker, and Upshur Counties, W. Va., and the District of Columbia; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the modifications made to the commodity description in applicant's grant of authority.

No. MC-142350 (Sub-No. 2) (Republication), filed September 23, 1977, published in the FEDERAL REGISTER issue of November 18, 1977, and republished this issue. Applicant: MALT TRANSPORT, INC., 58 Rogers Avenue, West Springfield, Mass. 01089. Applicant's representative: William P. Sullivan, Suite 1030, 1819 H Street, NW., Washington, D.C. 20006. An order of the Commission, Review Board Number 1, dated July 26, 1977, and served July 29, 1977, finds that the present and future public convenience and necessity require operations by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of (1) *malt beverages* from South Volney, N.Y., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, and (2) *rejected and returned malt beverages* and *returned empty malt beverage containers*, from points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont to South Volney, N.Y. The purpose of this republication is to reflect applicant's inbound service of rejected and returned malt beverages from the above-named destination States to South Volney, N.Y.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's *General Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the specific portions of its authority which protestants believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularly the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if not representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the Federal Register of a notice that the proceeding has been assigned for oral hearing.*

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 2900 (Sub-No. 307), filed July 11, 1977. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Applicant's representative: S. E. Somers, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: General commodities (except household goods as defined by the Commission, Classes A and B explosives, commodities in bulk and those requiring special equipment): Serving the plantsite and warehouse facilities of the Goodyear Tire and Rubber Co., located at or near Lawton, Okla., as an off route point in connection with applicant's presently authorized regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 2900 (Sub-No. 308), filed July 14, 1977. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, Fla. 32203. Applicant's representative: S. E. Somers, Jr. (same address as applicant). Authority to operate as a *common carrier*, by motor vehicle, over *regular* routes, transporting: *General commodities* (except household goods as defined by the Commission,

Classes A and B explosives, commodities in bulk, and those requiring special equipment): Serving the plantsite and warehouse facilities of Ampacet Corp., located at or near DeRidder, La., as an off-route point in connection with carrier's presently authorized routes.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 4405 (Sub-No. 560), filed July 11, 1977. Applicant: DEALERS TRANSIT, INC., 522 South Boston Avenue, Tulsa, Oklahoma 74103. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, North Dakota 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: *Metal and metal articles*, from Whitewater, Ohio, to points in Michigan, Indiana, Ohio, Kentucky, Tennessee, Virginia, West Virginia, Arkansas, Mississippi, Alabama, Georgia, North Carolina, South Carolina, Florida, Texas, New Mexico, Arizona, Nevada, California, and Oregon.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 5470 (Sub-No. 127), filed July 5, 1977. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Applicant's representative: Brian L. Troiano, 918 16th Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Alloys, ores, silicon metals, and scrap steel shapes*, in dump vehicles, from Calvert City, Ky.; Charleston, S.C.; and Theodore, Ala., to points in Florida and (2) *Scrap metals and alloy fines*, in dump vehicles, from points in Florida to Calvert City, Ky.; Charleston, S.C.; and Theodore, Ala.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Washington, D.C., or Buffalo, N.Y.

Docket No. MC 5470 (Sub-No. 129), filed July 14, 1977. Applicant: TAJON, INC., R.D. 5, Mercer, Pennsylvania 16137. Applicant's representative: Brian L. Troiano, 918 16th Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum ingots, aluminum sows, aluminum dross, and aluminum scrap*, in dump vehicles, between points in Brazoria County, Tex., on the one hand, and, on the other, points in Alabama, Indiana, Kentucky, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Houston, Tex.

No. MC 5623 (Sub-No. 33), filed July 15, 1977. Applicant: ARROW TRUCKING CO., a corporation, P.O. Box 7280, Tulsa, OK 74105. Applicant's representative: J. G. Dail, Jr., P.O. Box 567, McLean, VA 22101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air pollution, heating, and cooling equipment, and parts and accessories for such commodities*, from the plantsite and facilities of the Fuller Company, located in Houston, Tex., to those points in that part of the United States in and east of Kansas, Nebraska, North Dakota, South Dakota, Oklahoma, and Louisiana.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Houston, Tex.

No. MC 7680 (Sub-No. 3), filed July 13, 1977. Applicant: BOWMAN BROS. TRUCKING CO., INC., P.O. Box 624, West Paterson, N.J. 07424. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Fork Lifts, Fabricated Steel Products, and Aluminum Products, from the facilities of Consolidated Diesel Electric Co., located at or near Old Greenwich, Conn. to Albany, Ga.; Barstow, Calif.; Pueblo, Colo.; Tooele, Utah, restricted to the transportation of shipments originating at the named origin and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Newark, N.J.

No. MC 11207 (Sub-No. 396), filed July 8, 1977. Applicant: DEATON, INC., 317 Avenue W., P.O. Box 938, Birmingham, Alabama 35201. Applicant's representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *sheet iron and steel containers*, from Canton, Miss., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Chicago, Ill., or Jackson, Miss.

MC 14215 (Sub-No. 11), filed July 13, 1977. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, Ohio 43952. Applicant's representative: James R. Stiverson, 1396 West Fifth Avenue, Columbus, Ohio 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal tar pitch*, in bulk, in dump vehicles, (1) From Youngstown, Ohio, and Follansbee, W. Va., to Loyer, Md., and Catlettsburg, Ky.; and (2) from Follansbee, W. Va., to West Haven, Conn.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Pittsburgh, Pa., or Washington, D.C.

No. MC 19227 (Sub-No. 237), filed July 11, 1977. Applicant: LEONARD BROS. TRUCKING CO., INC., 2515 NW. 20th Street, P.O. Box 520602, Miami, Florida 33152. Applicant's representative: Thomas A. Leonard, 2515 NW. 20th Street, Miami, Florida 33152. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cranes and bulk material handling systems, and parts and accessories thereof which because of their size or weight require special handling or the use of special equipment, and related parts and accessories moving in connection therewith*, between plantsites and facilities of Paceco division of Fruehauf Corp. in Harrison County, Mississippi on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either San Francisco, Calif., or Washington, D.C.

No. MC 19227 (Sub-No. 238), filed July 11, 1977. Applicant: LEONARD BROS. TRUCKING CO., INC., 2515 NW. 20th Street, P.O. Box 520602, Miami, Florida 33152. Applicant's representative: Thomas A. Leonard (same address as applicant). Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and Steel Articles* as described in Appendix V to the *report in Descriptions in Motor Carrier Certificates 61 MCC 209*, from the plantsite and warehouse facilities of Nucor Steel Corp., located at or near Darlington County, South Carolina, to points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, New Jersey, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, and West Virginia; and return of refused or rejected shipments.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Columbia, S.C., Atlanta, Ga., or Washington, D.C.

No. MC 19311 (Sub-No. 34), filed July 11, 1977. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, Michigan 48077. Applicant's representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, Illinois 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over *regular* routes, transporting *general commodities*, except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment; between Milwaukee, Wisconsin and Chicago, Illinois, serving all intermediate points, and serving Chicago, Illinois and points within its commercial zone as points of joinder only: (1) from Milwaukee, Wisconsin over U.S. Highway 41 to Chicago, Illinois and return over the same route; (2) from Milwaukee, Wisconsin Highway 32 to the Wisconsin Illinois State Line, thence over Sheridan Road (formerly Illinois Highway 42) to Chicago, Illinois and return over the same route.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held either at Chicago, Illinois or Detroit, Michigan. Common control may be involved.

No. MC 24784 (Sub-No. 8), filed July 8, 1977. Applicant: BARRY, INC., 463 South Water Street, Olathe, Kansas 66061. Applicant's representative: Arthur J. Cerra, P.O. Box 19251, 2100 TenMain Center, Kansas City, Missouri 64141. Authority is sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting building, roofing and insulation materials, (except iron and steel articles and commodities in bulk) from Kansas City, Missouri, to the plant site of G.A.F. Corporation in Denver, Colorado; points in Kansas and Nebraska; and Muskogee, Sapulpa and Tulsa, Oklahoma.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Kansas City, Missouri.

No. MC 25869 (Sub-No. 135), filed June 10, 1977. Applicant: NOLTE BROS. TRUCK LINE, INC., 6217 Gilmore Avenue, P.O. Box 7184, South Omaha Station, Omaha, Nebr. 68107. Applicant's representative: Donald Stern, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a motor *common carrier*, by motor vehicle, over irregular routes transporting: *Meats, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk in tank vehicles), from Omaha, Nebr., to points in Connecticut, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 26396 (Sub-No. 151), filed July 6, 1977. Applicant: POPELKA TRUCKING CO. d/b/a THE WAGGONERS, P.O. Box 990, Livingston, Montana 59047. Applicant's representative: Jacob P. Billig, 2033 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes, transporting: *Common cement pipes, containing asbestos fiber and accessories necessary for the installation thereof*, from the plantsite and storage facilities of Certain-Teed at Bellefontaine Neighbors, Missouri, to points in Arkansas, Colorado, Florida, Kansas, Illinois, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Carolina, South Dakota, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 43867 (Sub-No. 33), filed July 6, 1977. Applicant: A. LEANDER McALISTER TRUCKING COMPANY, a Corporation, P.O. Box 2214, Wichita Falls, Texas 76307. Applicant's representative: Brian E. Brewton (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat Glass* from the facilities of PPG Industries, Inc., located at or near Wichita Falls, Texas, to points in Arizona, California, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held on a consolidated hearing with similar applications at Denver, Colo.

No. MC 49567 (Sub-No. 9), filed July 11, 1977. Applicant: GOLDEN BROS., INC., 234 E. McClure Street, Kewanee, Ill. 61443. Applicant's representative: Donald S. Mullins, 4704 W. Irving Park Road, Chicago, Ill. 60641. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Heating Systems and Power Boilers, including parts and equipment incidental thereto*, from Kewanee, Illinois, to Baltimore, Maryland, limited to a transportation service to be performed under a continuing contract with Kewanee Boiler Corporation of Kewanee, Illinois.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill.

No. MC 50866 (Sub-No. 5), filed June 23, 1977. Applicant: BURLINGAME TRUCK LINE, INC., R.R. 2, Scranton, Kans. 66537. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Bldg., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry animal and dry poultry feed and dry feed ingredients and dry feed supplements*, from Atchison, Kansas City, Topeka, Chanute, Girard, Emporia, Fredonia, and Pittsburg, Kans.; to those points in Missouri on and west of U.S. Highway No. 63 and those points in Nebraska on and south of Nebraska Highway 91 and on and east of U.S. Highway No. 183; (2) *Dry animal and dry poultry feed and dry feed ingredients and dry supplements and dry animal health and sanitation products*, (a) from Kansas City and St. Joseph, Mo., to Crawford, Cherokee, Franklin, Anderson, Linn, Miami, Nemaha, Brown, Atchison, Doniphan, Jackson, Labette, Montgomery, Wilson, Neosho, Woodson, Allen, Johnson, Wyandotte, Leavenworth, Jefferson, Douglas, Riley, Pottawatomie, Geary, Morris, Chase, Lyon, Osage and Coffey Counties, Kans., and (b) from Neosho, Mo., to Kansas City and Atchison, Kans.; (3) *Dry animal and dry poultry feed, dry feed ingredients, dry feed supplements and dry feed premix*, from Omaha, Fremont, West Point, Weeping Water,, Duncan, North Platte, Fall City, and Lincoln, Nebr., to (a) points in Kansas on and east of Kansas Highway No. 14; and (b) points in Missouri on and west of U.S. Highway No. 63; and (4) *Dry fertilizer*, (a) from Topeka, and Kansas City, Kans., to those points in Nebraska on and south of Nebraska Highway 91 and on and east of U.S. Highway No. 183; (b) from Kansas City, Kans., to those points in Missouri on and west of U.S. Highway 63; (c) from Nebraska City and Omaha, Nebr., to those points in Missouri on and west of U.S. Highway 63 and those points in Kansas on and east of Kansas Highway 14; (d) from Trenton, Joplin, Kansas City, and Hannibal, Mo., to those points in Nebraska on and south of Nebraska Highway 91 and on and east of U.S. Highway No. 183 and those points in Kansas on and east of Kansas Highway 14.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Topeka, Kans. or Kansas City, Mo.

No. MC 52579 (Sub-No. 165), filed July 11, 1977. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: Irving Klein, 371 Seventh Avenue, New York, N.Y. 10001. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting wearing apparel on hangers from Decherd, Tennessee to Atlanta, Georgia; Columbus, Ohio; and Wilmington, Del.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Atlanta, Georgia or Washington, D.C.

No. MC 52579 (Sub-No. 166), filed July 14, 1977. Applicant: GILBERT CARRIER CORP., 1 Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: Irving Klein, 371 Seventh Avenue, New York, N.Y. 10001.

Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes transporting: Wearing apparel, loose on hangers, (1) from Paris,, Texas; Winfield, Louisiana; Arkadelphia, Arkansas and Hamilton, Alabama, to Memphis, Tenn.; and (2) from Memphis, Tenn., to points in California, Colorado, Florida, Georgia, Illinois, Indiana, Michigan, Minnesota, Missouri, New York Commercial Zone, Ohio, Pennsylvania, Texas.

NOTE.—Common control may be involved. If a hearing is necessary, applicant requests that it be held at either Washington, D.C. or Memphis, Tenn.

No. MC 52704 (Sub-No. 148), filed July 8, 1977. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, Ala. 36862. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St., NW., Atlanta, GA. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass containers and container accessories*, between the plantsite and warehouse facilities of Kerr Glass Manufacturing Corporation located in Wilson County, N.C., on the one hand, and, on the other, points in Kentucky, South Carolina, Missouri, Virginia, points in Arkansas on and east of U.S. Highway 63, points in Mississippi north of Mississippi Highway 6, points in Oklahoma north of Interstate Highway 40 and east of U.S. Highway 183 from the junction of Interstate Highway 40 and U.S. Highway 183, points in Pennsylvania on and west of U.S. Highway 219 and on and south of U.S. Highway 30, from its junction with U.S. Highway 15 to its junction with U.S. Highway 219, points in Maryland on and west of U.S. Highway 522, points in West Virginia on and south of U.S. Highway 52, and points in Florida (other than to Arcadia, Belle Glade, Daytona Beach, Deland, DeFuniak Springs, Fort Myers, Gainesville, Jacksonville, Jasper, Kissimmee, Live Oak, Lakeland, Marianna, Miami, Orlando, Ocala, Palatka, Pensacola, Panama City, Plant City, Quincy, River Junctions, Sarasota, St. Petersburg, Sanford, Stark, Trenton, Tampa, Tarpon Springs, Tallahassee, West Palm Beach, and Winter Haven, Fla.), and (2) *Materials, equipment and supplies* used in the manufacture and distribution of glass containers and container accessories (except commodities in bulk), From points in the states named in (1) above to the plantsite and warehouse facilities of Kerr Glass Manufacturing Corporation located in Wilson County, N.C.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Atlanta, Ga.

No. MC 56553 (Sub-No. 32), filed July 5, 1977. Applicant: PULASKI, HIGHWAY EXPRESS, INC., 640 Hamilton Avenue, Nashville, Tenn. 37203. Applicant's representative: A. O. Buck, 618 United American Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), (1) between Pulaski, Tenn. and Lewisburg, Tenn., serving all intermediate points; from Pulaski over U.S. Highway 31 Alternate to Lewisburg, and return over the same route; (2) between Pulaski, Tenn. and Ardmore, Ala., serving all intermediate points; from Pulaski over U.S. Highway 31 to Ardmore, and return over the same route; (3) between Pulaski, Tenn. and Frankewing, Tenn., serving all intermediate points; from Pulaski over U.S. Highway 64 to Frankewing, and return over the same route; (4) between Lawrenceburg, Tenn., and Ethridge, Tenn., serving all intermediate points; from Lawrenceburg over U.S. Highway 43 to Ethridge, and return over the same route; (5) between Columbia, Tenn. and Lewisburg, Tenn., as an alternate route for operating convenience only, in connection with carrier's regular-route operations; from Columbia over Tennessee Highway 50 to Lewisburg, and return over the same route. Restriction: Service at Lewisburg, Tenn. and its commercial zone is restricted against the handling of traffic originating at, destined to, or interchanged at Nashville, Tenn. and its commercial zone. If a hearing is deemed necessary applicant requests that it be held at Lewisburg, Tenn.

No. MC 56553 (Sub-No. 33), filed July 11, 1977. Applicant: PULASKI HIGHWAY EXPRESS, INC., 640 Hamilton Avenue, Nashville, Tennessee. Applicant's representative: Roland M. Lowell, 618 United American Bank Building, Nashville, Tennessee 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting *general commodities* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) between Nashville, Tenn., and Clarksville, Tenn., as an alternate route for operating convenience only, in connection with carrier's regular-route operations, serving no intermediate points and serving Clarksville for the purpose of Joinder only; from Nashville over U.S. Highway 41 Alternate to Clarksville, and return over the same route, (2) between Nashville, Tenn. and the junction of Interstate Highway 24 and U.S. Highway 68, as an alternate route for operating convenience only, in connection with carrier's regular-route operations; from Nashville over Interstate Highway 24 to its junction with U.S. Highway 68, and return over the same route, (3) between the junction of U.S. Highway 41 and Kentucky Highway 181 and Elkton, Kentucky, as an alternate route for operating convenience only, in connection with carrier's regular-route operations; from junction of U.S. Highway 41 and Kentucky Highway 181, over Kentucky Highway 181 to Elkton, Kentucky, and return over the same route.

NOTE.—If a hearing be deemed necessary, applicant requests that it be held at Nashville, Tennessee.

No. MC 57311, Sub-No. 11, filed July 11, 1977. Applicant: PUTNAM TRANSFER & STORAGE CO., a corporation, 1502 Woodlawn Avenue, Zanesville, Ohio 43701. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between points in Ohio.

NOTE.—Applicant states it is presently authorized to operate between points in Ohio through observance of various gateways. This application seeks elimination of gateways. If a hearing is deemed necessary, the applicant requests that it be held at Columbus, Ohio.

No. MC 64808 (Sub-No. 27), filed June 13, 1977. Applicant: W. S. THOMAS TRANSFER, INC., P.O. Box 501, 1854 Morgantown Avenue, Fairmont, W. Va. 26554. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from Baltimore, Md. to Morgantown, W. Va. serving Morgantown only for purposes of tacking with applicant's irregular route authority at Sub-No. 19G, as follows: From Baltimore over Interstate Highway 70 to Hancock, Md., thence over U.S. Highway 40 to junction U.S. Highway 48 (Also Maryland Highway 48 and West Virginia Highway 48) to Morgantown, W. Va.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Washington, D.C. or Pittsburgh, Pa.

No. MC 69834 (Sub-No. 14), filed July 11, 1977. Applicant: PRICE TRUCK LINE, INC., 2945 North Market, Wichita, Kans. 67219. Applicant's representative: William H. Shawn, 1730 M Street NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular-routes, transporting: *school, art, and hobbies supplies and commodities used in the manufacturing, packaging, and transporting of school, art, and hobbies supplies* between the facilities of Binney & Smith, Inc., located at Winfield, Kans., Cincinnati, Ohio, and Easton, Pa., and Vandalia, Ill.

NOTE.—Common control may be involved If a hearing is deemed necessary, applicant requests that it be held in Wichita, Kans., or Washington, D.C. Applicant states that the contract carrier authority sought in No. MC 141586 (Sub-No. 1) has been converted to common carrier authority, thereby obviating the possibility of objectionable dual operations.

No. MC 71652 (Sub-No. 11), filed July 8, 1977. Applicant: SOUTHERN TRUCKING, INC., 4669 Crater Lake Hwy., P.O. Box 1124, Medford, Ore. 97501. Applicant's representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products, particleboard and fiberboard*, from points in Crook, Klamath, Deschutes, Douglas, Marion, Lane, Linn and Multnomah Counties, Ore., to points in California.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Medford, Oreg. or San Francisco, Calif.

No. MC 73688 (Sub-No. 75), filed July 8, 1977. Applicant: SOUTHERN TRUCKING CORPORATION, 1500 Orenda Ave., Memphis, Tenn. 38107. Applicant's representative: Charles W. Singer, 2440 E. Commercial Blvd., Ft. Lauderdale, Fla. 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in, or used by, agricultural equipment, industrial equipment and lawn and leisure products manufacturers and dealers (except commodities in bulk), between the facilities of, or used by, International Harvester Company at Louisville, Ky., and Memphis, Tenn., on the one hand

VOL 42 NO 165 AUG 25 77 UM

and, on the other, points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas and Virginia, restricted to the transportation of traffic (a) originating at the facilities of, or used by, International Harvester Company located at the points named therein and destined to points in the states named therein; and (b) originating at points in the States named therein and destined to the facilities of, or used by, International Harvester Company located at the points therein (except that the restrictions in (a) and (b) above shall not apply to traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Washington, D.C. or Chicago, Ill.

No. MC 75281 (Sub-No. 9), filed July 14, 1977. Applicant: RIGHTER TRUCKING CO., INC., 1238 Meadowbrook Drive, Cape Girardeau, Mo. 63701. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Road, N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Paducah, Ky., on the one hand, and, on the other, points in Alexander County, Ill., and Scott, Perry, Miss., Pemiscot and Cape Girardeau Counties, Mo.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either St. Louis, Mo. or Cairo, Ill.

No. MC 75281 (Sub-No. 10), filed July 15, 1977. Applicant: RIGHTER TRUCKING CO., INC., 1238 Meadowbrook Drive, Cape Girardeau, Mo. 63701. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Road, N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by manufacturer of pipe, conduit, wire, cable, cord sets, plastic materials, and materials, equipment, and supplies used in the conduct of such business (except commodities in bulk, in tank vehicles), between plantsites and warehouses of Triangle PWC, Inc., a subsidiary of Triangle Industries, Inc., located in Sikeston, Mo., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Idaho, Kansas, Iowa, Louisiana, Mississippi, Missouri, Montana, Nebraska, Nevada, North Dakota, New Mexico, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming, Florida, Connecticut, New Jersey, Minnesota, Massachusetts, Rhode Island, Tennessee, Georgia, Illinois, Indiana, Michigan, North Carolina, Kentucky, South Carolina and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either St. Louis, Mo. or Cairo, Ill.

No. MC 82063 (Sub-No. 82), filed July 7, 1977. Applicant: KLIPSCH HAULING CO., a corporation, 10795 Watson Road, Sunset Hills, St. Louis, Mo. 63127. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Iowa City, Iowa, to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Des Moines, Iowa, or Memphis, Tenn.

No. MC 82841 (Sub-No. 213), filed July 8, 1977. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, Nebr. 68127. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, Nebr., 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of such commodities as are dealt in, or used by, agricultural equipment, industrial equipment and lawn and leisure products manufacturers and dealers (except commodities in bulk), (1) between the facilities of, or used by, International Harvester Co. at East Moline and Moline, Ill., on the one hand, and, on the other, points in Colorado, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Nebraska, Ohio, West Virginia, and Wyoming; (2) between the facilities of, or used by, International Harvester Co. at Canton and Rock Island, Ill., on the one hand, and, on the other, points in Colorado, Iowa, Kansas, Missouri, Nebraska, and Wyoming. Restrictions: The above authorities are restricted to the transportation of traffic (a) originating at the facilities of, or used by, International Harvester Co. at the points named in each of the respective paragraphs above and destined to points in the States named in said paragraph, or (b) originating at points in the States named in each of the respective paragraphs above shall not apply to traffic moving in foreign commerce.

NOTE.—Applicant seeks authority to serve Ports of Entry on the international boundary line between the United States and Canada located in the United States and Canada located in the involved states bordering on Canada and to participate in traffic moving from and to Canadian Provinces which can be served in connection therewith. If a hearing is deemed necessary, applicant requests it to be held at Washington, D.C., or Chicago, Ill.

No. MC 85465 (Sub-No. 62), filed June 27, 1977. Applicant: WEST NEBRASKA EXPRESS, INC., Mart Plaza Building, P.O. Box 1159, St. Joseph, Mo. 64502. Applicant's representative: Henry O. Barnhart, P.O. Box 10280, Palo Alto, Calif. 94303. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): Between Denver, Colo. and junction U.S. Highway 160 and Colorado Highway 17, serving no intermediate points and serving junction U.S. Highway 160 and Colorado Highway 17 for purposes of joinder only: From Denver over U.S. Highway 85 to junction U.S. Highway 285, thence over U.S. Highway 285 to junction Colorado Highway 17, thence over Colorado Highway 17 to junction U.S. Highway 160 and return over the same route. Restricted against the transportation of shipments having a point of origin or point of destination in Conejos, Costilla, Rio Grande and Alamosa Counties, Colo.

NOTE.—Common control may be involved. If a hearing is deemed necessary, Applicant requests that it be held at San Francisco, Calif.

No. MC 87511 (Sub-No. 21), filed July 11, 1977. Applicant: SAIA MOTOR FREIGHT LINE, INC., P.O. Box 10157, Station 1, Houma, La. 70360. Applicant's representative: Phillip Robinson, P.O. Box 2207, Austin, Tex. 78768. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which because of size or weight require the use of special equipment): Serving the compressor station of United Gas Pipeline Co. located near Vinton, La., as an off-route point in connection with carrier's presently authorized regular route operations between Vidor, Tex., and Kinder, La., over U.S. Highway 190, and between Houston, Tex., and Lafayette, La., over U.S. Highway 90 and Interstate Highway 10, coordinating service to and from said compressor station with such presently-authorized operations.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New Orleans, La.

No. MC 94265 (Sub-No. 249), filed July 12, 1977. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, Va. 23487. Applicant's representative: Harry G. Buckwalter, P.O. Box 305, Windsor, Va. 23487. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products, and meat by-products and articles* distributed by meat packing-houses (Except commodities in bulk in tank vehicles), from Muncie, Ind., to points in Maryland, Virginia, West Virginia, North Carolina and District of Columbia. Restriction: Restricted to traffic originating at the plant site and/or storage facilities of Marhoefer Packing located at or near Muncie, Indiana and destined to named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 95540 (Sub-No. 989), filed July 11, 1977. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, Fla. 33802. Applicant's representative: Benjy W. Fincher, 1144 West Griffin Road, P.O. Box 1636, Lakeland, Fla. 33802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay and clay products and pet food* (except in bulk); from the plantsites and warehouse facilities of Sunshine Mills, Inc., at or near Tupelo, Mississippi; Red Bay, Alabama; and Ochlocknee, Georgia, to points in the United States in and East of Texas, Oklahoma, Colorado, Nebraska, Iowa, and Minnesota.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Birmingham, Ala.; Washington, D.C.; or Tampa, Fla.

No. MC 97009 (Sub-No. 26), filed July 13, 1977. Applicant: HERZOG TRUCKING COMPANY, INC., 200 Delaware Street, Honesdale, Pa. 18431. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Candles, wax products*, and (2) *materials and supplies*, used in the manufacture, sale, and distribution of the above named commodities (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between the facilities of Diamond Candle located at Newburgh, N.Y., on the one hand, and, on the other, points in that part of Pennsylvania on and west of the Susquehanna River, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Missouri, Ohio, Oklahoma, Tennessee, Texas, Virginia, West Virginia, and Wisconsin. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Albany, N.Y., or Washington, D.C.

No. MC 99808 (Sub-No. 7), filed June 27, 1977. Applicant: C-LINE EXPRESS, a corporation, 525 Silverado Trail, Napa, Calif. 94558. Applicant's representative: Robert Pieri, 199 Kaanapali Drive, Napa, Calif. 94558. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods as defined by the Commission, motor vehicles in truckaway service, livestock, commodities in tank vehicles, classes A and B explosives), (1) Between Oakland and San Francisco, Calif., over Interstate Highway 80. (2) From San Francisco, Calif., over U.S. Highway 101 to Calpella, Calif., serving all intermediate points. (3) Between all points specified in paragraph 2 above, on the one hand, and, on the other, all points on and within ten miles laterally of U.S. Highway 101. (4) From Calpella, Calif., over California State Highway 20 to California State Highway 29, thence over junction state Highway 29 to Lakeport, Calif. (5) From Lakeport, Calif., over California State Highway 29 to Calistoga, Calif. (6) Between all points specified in paragraph 4 and 5 above on the one hand, and, on the other, all points on and within ten miles laterally of California State Highway 20 and 29. (7) From Santa Rosa, Calif., over California State Highway 12 to Napa, Calif., serving all intermediate points.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

No. MC 100666 (Sub-No. 355), filed July 13, 1977. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 N.W. 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cans* and *pails* from the facilities of Standard Container Corp. at or near Homerville, Georgia to the facilities of Georgia-Pacific Corp. at or near Acme, Texas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Dallas, Tex.

No. MC 103993 (Sub-No. 897), filed July 12, 1977. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, Indiana 46514. Applicant's representatives: Paul D. Borghesani and James B. Buda, 28651 U.S. 20 West, Elkhart, Ind. 46514. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings, sections of buildings, building panels, building parts and materials, accessories and supplies* used in the installation, erection, and construction of buildings, sections of buildings, building panels and building parts, (except commodities in bulk), from the plantsite and storage facilities of Star Manufacturing Company, at or near Homer City, Pennsylvania, to Minnesota, Wisconsin, Iowa, Missouri, Illinois, Michigan, Indiana, Ohio, Kentucky, Tennessee, North Carolina, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, and Maine.

NOTE.—If a hearing is deemed necessary, Applicant requests it be held at Oklahoma City, Oklahoma.

No. MC 103993 (Sub-No. 898), filed July 13, 1977. Applicant: MORGAN DRIVE-AWAY, INC., 286 1 U.S. 20 West, Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers, semi-trailers, trailer chassis* (except those designed to be drawn by passenger automobiles), *cargo containers and bodies*, between Coffee County, Alabama, on the one hand, and, on the other to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Montgomery, Alabama or Birmingham, Alabama.

MC 104421 (Sub-No. 21), filed July 12, 1977. Applicant: ECONOLITES, INC., P.O. Box 623, D.T.S., Omaha, NE 68101. Applicant's representative: Roger W. Norris (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle over regular routes, transporting: *General commodities*, except Classes A and B explosives, commodities in bulk, and commodities which, because of their size or weight, require the use of special equipment, Between Blair, Nebr., and Lyons, Nebr., serving all intermediate points in Burt County, Nebr., as follows: From Blair over U.S. Highway 73 to junction unnumbered highway, approximately one mile northwest of Herman, Nebr., thence over unnumbered highway to junction U.S. Highway 77, thence over U.S. Highway 77 to Lyons, and return over the same route; From Blair over U.S. Highway 73 to junction Nebraska State Highway 32, thence over Nebraska State Highway 32 to junction U.S. Highway 77, thence over U.S. Highway 77 to Lyons, and return over the same route.

NOTE.—Common control may be involved. If oral hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr.

No. MC 105607 (Sub-No. 9), filed July 12, 1977. Applicant: TWIN HAULAGE CO. (a corporation), 401 Commerce Road, Linden, N.J. 07036. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, over irregular routes, transporting: Corn products and blends thereof, fish oil and vegetable oil, in bulk in tank vehicles, from the facilities of Archer Daniels Midland Company, Bayway, New Jersey, to points in Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, Delaware, Maryland, Virginia and Washington, D.C.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y. or Washington, D.C.

No. MC 105733 (Sub-No. 59), filed July 13, 1977. Applicant: H. R. RITTER TRUCKING CO., INC., 928 East Hazelwood Avenue, Rahway, New Jersey 07065. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: corn products and blends thereof, fish oil and vegetable oil, in bulk in tank vehicles from the facilities of Archer Daniels Midland Company, Bayway, New Jersey to points in Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, Delaware, Maryland, Virginia, and Washington, D.C.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Washington, D.C.

No. MC 106398 (Sub-No. 780), filed July 11, 1977. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, Oklahoma 74103. Applicant's representative: Irvin Tull, 525 South Main, Tulsa, Oklahoma 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Buildings, in sections mounted on wheeled undercarriages, from Aberdeen*, South Dakota, to points in Missouri, Illinois, North Dakota, Nebraska, Colorado, Wyoming, Montana Idaho, Utah, Arizona, Wisconsin Minnesota, and Iowa.

NOTE.—Common control may be involved If a hearing is deemed necessary, the applicant requests that it be held at Rapid City, S Dak.

No. MC 106674 (Sub-No. 244), filed July 11, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Indiana 47977. Applicant's representative: Linda J. Sundy, P.O. Box 123, Remington, Indiana 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Adhesives, building materials, composition board, gypsum and gypsum products, gypsum board paper, mineral fiber products, and paint and paint products, and materials, equipment, and supplies used in the manufacture, packaging, installation, or distribution of the above base commodities (except commodities in bulk), between the facilities of United States Gypsum Company at or near Gypsum, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Michigan, Maryland, New York, Pennsylvania, West Virginia, and Wisconsin.

NOTE – If a hearing is deemed necessary, applicant requests it be held in either Chicago, Illinois or Indianapolis, Indiana.

No. MC 106968 (Sub-No. 5), filed July 11, 1977. Applicant: JAMES E. MASCARI, doing business as BORDER TURF LINES, P.O. Box 3205, San Ysidro, California 92073. Applicant's representative: Carl H. Fritze, 1545 Wilshire Boulevard, Los Angeles, California 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *horses* (except ordinary) and in connection therewith, *personal effects of attendants, equipment, supplies* and *mascots* used in the care and exhibition of such animals, between San Ysidro, California, on the one hand, and, on the other, points in New Mexico. Restricted to the transportation of such shipments moving to and from the Republic of Mexico.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at San Diego, California.

No. MC 107002 (Sub-No. 508), filed July 11, 1977. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Mississippi 39205. Applicant's representatives: John J. Borth, P.O. Box 8573, Battlefield Station, Jackson, Miss. 39204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Memphis, Tenn., to points in Connecticut, Delaware, Maryland, Massachusetts, Minnesota, Nebraska, New Jersey, New York, North Dakota, Pennsylvania, South Dakota, Virginia, and West Virginia.

NOTE.—Applicant states the purpose of the purpose of the authority sought to eastern states is to eliminate an interline arrangement to afford more direct operations to conserve fuel. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tennessee.

No. MC 107002 (Sub-No. 509), filed July 13, 1977. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Mississippi 39205. Applicant's representative: John J. Borth, P.O. Box 8573, Battlefield Station, Jackson, Miss. 39204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fuel Oils*, in bulk, in tank vehicles, from the Yellow Creek Port Terminal and Industrial Area located in Tishomingo County, Miss., to points in Alabama, Arkansas, Georgia, Kentucky, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Jackson, Mississippi.

No. MC 107012 (Sub-No. 244), filed July 5, 1977. Applicant: North American Van Lines, Inc., Lincoln Highway East and Meyer Road, P.O. Box 988, Fort Wayne, Indiana 46801. Applicant's representative: David D. Bishop, P.O. Box 988, Fort Wayne, Indiana 46801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *heating and air conditioning units* from the plantsite and storage facilities of Rheem Manufacturing Company located at or near Fort Smith, Ark. to points in North Carolina, South Carolina, Virginia, California, Oregon and Washington, and (2) *heating and air conditioning unit parts*, from points in Indiana, Michigan and Ohio to the plantsite and storage facilities of Rheem Manufacturing Company located at or near Fort Smith, Ark.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Chicago, Illinois, or Washington, D.C.

No. MC 107515 (Sub-No. 1090), filed July 11, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, Georgia 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite 375, Atlanta, Georgia 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen Foods*, in vehicles equipped with mechanical refrigeration, From, the plantsite and storage facilities of Roman Meal Company at Decatur, Indiana, to points in Alabama, Arkansas, California, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and the District of Columbia. Restriction: Restricted to traffic originating at the name origin and destined to the named destinations.

NOTE.—Dual operations and common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at San Francisco, California or Seattle, Washington.

No. MC 107515 (Sub-No. 1091), filed July 11, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308; Forest Park, Georgia 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite 375, Atlanta, Georgia 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) shot blast machine repair parts, from Mishawaka, Indiana, to Gardena, California; (2) iron and steel shot (except ammunition), (a) from Mishawaka, Indiana to points in Arizona, California, Colorado, Texas, and Utah, (b) from Elkrart and Mishawaka, Indiana and points in Cuyahoga County, Ohio, to points in Idaho, Montana, Oregon, Washington and Wyoming, (c) from Bedford, Virginia, to points in Alabama, Arizona, California, Colorado, Louisiana, Montana, Nevada, Oregon, Texas, Vermont, Washington and Wyoming. Restriction: Parts (1) and (2) are restricted to the transportation of traffic originating at the facilities of Wheelabrator-Frye, Inc. at the named origins.

NOTE.—Applicant states it already holds this authority as a contract carrier in MC-126436 (Subs 2 and 6) and seeks to convert its contract carrier permits to a common carrier certificate of public convenience and necessity. No new authority is sought to serve new origins, destinations or commodities. Dual operations and common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., Atlanta, Georgia or Indianapolis, Indiana.

No. MC 107544 (Sub-No. 138), filed July 8, 1977. Applicant: LEMMON TRANSPORT COMPANY, INC., P.O. Box 580, Marion, Virginia 24354. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank or hopper-type vehicles from the plant site of Tennessee Eastman Company, Kingsport, Tenn., to points in the United States in and east of Minnesota, Iowa, Nebraska, Kensas, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Washington, D.C., or Roanoke, Va. Applicant holds contract carrier authority under MC-113959 and Subs thereunder, therefore dual operations may be involved.

No. MC 108392 (Sub-No. 5), filed July 1, 1977. Applicant: DISTRIBUTORS SERVICE COMPANY, INC., 30 Edgewood Park Drive, Parkersburg, W. Va. 26101. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, W. V. 25526. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes, transporting *Beer and Malt Beverages*, in containers, from Fulton, N.Y.; Eden, N.C., and Pabst, Ga., to Parkersburg, W. Va.

NOTE.—If a hearing is deemed necessary, Applicant requests that it be held at Charleston, West Virginia.

No. MC 108676 (Sub-No. 107), filed July 8, 1977. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, Knoxville, Tennessee 37917. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Kentucky 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting flat glass from Kingsburg, California, to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests that the hearing be held in San Francisco, California.

No. MC 110525 (Sub-No. 1200), filed July 8, 1977. Applicant: CHEMICAL LEAMAN TANK LINES ,INC., 520 East Lancaster Avenue, Downingtown, Pennsylvania 19335. Applicant's representative: Thomas J. O'Brien (same address as Applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Boron Trifluoride Gas, in manifold tube trailers, from Marcus Hook, Pa., to Port St. Joe, Fla. and Quapaw, Okla.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Philadelphia, Pennsylvania.

No. MC 111045 (Sub-No. 146), filed July 8, 1977. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, Fla. 33601. Applicant's representative: L. W. Fincher (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Phosphate, phosphate products, posphate byproducts, and fertilizer and fertilizer materials*, in bulk, in tank vehicles, from the facilities of New Wales Chemicals, Inc., a subsidiary of International Minerals & Chemical Corporation, located at Polk County, Fla., to points in the United States (except Alabama, Alaska, Arkansas, Georgia, Hawaii, Kentucky, Louisiana, Mississippi, North Carolina, Ohio, South Carolina, Tennessee and Virginia; and (2) *phosphatic feed ingredients*, from the facilities of New Wales Chemicals, Inc., a subsidiary of International Minerals & Chemical Corporation, located at New Wales, Fla., to points in the United States, (except Alabama, Alaska, Florida, Georgia, and Hawaii). Note: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 111729 (Sub-No. 711), filed July 8, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as Applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records, and audit and accounting media* of all kinds; Between Brattleboro, Vt., and W. Bridgewater, Mass.

NOTE.—Applicant holds motor contract carrier authority in MC 112750 and Sub Numbers thereunder, and therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, Applicant requests that it be held at Washington, D.C.

No. MC 112588 (Sub-No. 26), filed July 11, 1977. Applicant: RUSSELL TRUCKING LINE, INC., 2011 Cleveland Road, Sandusky, Ohio 44870. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: advesives, building materials, composition board, gypsum and gypsum products, gypsum board paper, mineral fiber products, and paint and paint products, and materials, equipment, and supplies used in the manufacture, packaging, installation, or distribution of the above base commodities (except commodities in bulk), between the facilities of the United States Gypsum Company at or near Gypsum, Ohio (Portage Township, Ottawa County), on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Maryland, Michigan, New York, Ohio, Pennsylvania, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held Columbus, Ohio.

No. MC 112822 (Sub-No. 421), filed July 11, 1977. BRAY LINES INCORPORATED, 1401 N. Little Street, P.O. Box 1191, Cushing, Oklahoma 74023. Applicant's representative: Charles D. Midkiff (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk), from Joplin, Missouri, to points in Alabama, Arizona, Arkansas, California, Florida, Georgia, Iowa, Louisiana, Minnesota, Mississippi, Nebraska, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Minn. or Chicago, Ill.

No. MC 113325 (Sub-No. 149), filed July 8, 1977. Applicant: SLAY TRANSPORTATION CO., INC., 2001 South Seventh Street, St. Louis, Missouri 63104. Applicant's representative: T. M. Tahan, 2001 South Seventh Street, St. Louis, Missouri 63104. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, in bulk*, from Trenton, Michigan to points in Illinois and Missouri.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at St Louis, Missouri.

No. MC 113325 (Sub-No. 150), filed July 8, 1977. Applicant: SLAY TRANSPORTATION CO., INC., 2001 South Seventh Street, St. Louis, Missouri 63104. Applicant's representative: T. M. Tahan, 2001 South Seventh Street, St. Louis, Missouri 63104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime in bulk*, from the Ash Grove plant at or near Sequcita, Missouri to Bayway, New Jersey.

NOTE.—If a hearing is deemed necessary; the applicant requests it be held at St Louis Missouri or Houston, Texas.

No. MC 113678 (Sub-No. 690), filed June 29, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colorado 80022. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building Materials* (except iron and steel articles, roofing and roofing materials, and articles the transportation of which because of size or weight require the use of special equipment), *concrete surface hardeners, concrete sealers, water reducing admixtures, floor patching compounds for concrete, asphalt or other surface materials, grouts, iron filings*, not ground or powdered, *iron and sand mixtures and sand mixture cement* (except commodities in bulk in tank, hopper, or dump vehicles). From North Judson, Ind. and Muskegon, Mich. to points in Arizona, California, Colorado, Idaho, Iowa, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 113678 (Sub-No. 692), filed July 1, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colorado 80022. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beverage preparations, non-dairy coffee creamer and commodities* exempt from economic regulation when moving with beverage preparations and non-dairy coffee creamer (except commodities in bulk in tank vehicles). From Manawa, Wis. and Minneapolis, Minn., to points in the United States (except Alaska and Hawaii, Minnesota, and Wisconsin), restricted to traffic originating at the named points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y. or Chicago, Ill.

No. MC 113828 (Sub-No. 247), filed July 11, 1977. Applicant: O'BOYLE TANK LINES, INC., P.O. Box 30006, Washington, D.C. 20014. Applicant's representative: William P. Sullivan, American Building, Suite 500, 1320 Fenwick Lane, Silver Spring, Md. 20910. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *cement* from points in Botetourt County, Virginia, to points in Delaware, District of Columbia, Maryland, North Carolina, Pennsylvania, South Carolina, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Washington, D.C.

V 42165 AUG 25 77 UM V

No. MC 113861 (Sub-No. 69), filed July 11, 1977. Applicant: WOOTEN TRANSPORTS, INC., 153 Gaston Avenue, Memphis, Tenn. 38106. Applicant's representative: James N. Clay, III, 2700 Sterick Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *fuel oils*, in bulk, in tank vehicles: From the Yellow Creek Port Terminal and Industrial Area in Tishomingo County, Mississippi to points in Alabama, Arkansas, Georgia, Kentucky, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Jackson, Mississippi, or Memphis, Tennessee.

No. MC 114211 (Sub-No. 308), filed July 8, 1977. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, P.O. Box 420, Waterloo, Ia. 50704. Applicant's Representative: Charles W. Singer, 2440 East Commercial Blvd., P.O. Box 4580, Fort Lauderdale, Fla. 33338. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *such commodities* as are dealt in, or used by, agricultural equipment, industrial equipment and lawn and leisure products manufacturers and dealers (except commodities in bulk), (1) between the facilities of, or used by, International Harvester Company at East Moline, Moline and Rock Island, Ill., on the one hand, and, on the other, points in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Washington, West Virginia, Wisconsin, Wyoming, and the District of Columbia; (2) between the facilities of, or used by, International Harvester Company at Canton, Ill., and Memphis, Tenn., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the District of Columbia; (3) between the facilities of, or used by International Harvester Company at Louisville, Ky., on the one hand, and, on the other, points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, West Virginia, Wisconsin, and Wyoming; (4) from the facilities used by International Harvester Company at the Port of New Orleans, Louisiana, and points in its commercial zone, to points in Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming; (5) from the facilities used by International Harvester Company at the Port of Philadelphia and points in its commercial zone, to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, West Virginia, Wisconsin, and Wyoming. Restrictions: The authorities in paragraphs (1), (2), and (3) above are restricted to the transportation of traffic (a) originating at the facilities of, or used by, International Harvester Company at the points named in each of said respective paragraphs and destined to points in the States named in said paragraphs and the District of Columbia, or (b) originating at points in the States named in each of said respective paragraphs and the District of Columbia and destined to the facilities of, or used by International Harvester Company at the points named in said paragraphs, except that the restrictions in (a) and (b) above shall not apply to traffic moving in foreign commerce; and the authorities in paragraphs (4) and (5) above are restricted to the transportation of traffic (a) having a prior movement by water and (b) destined to the facilities or dealers of International Harvester Company.

NOTE.—Applicant seeks authority to serve Ports of Entry on the International Boundary line between the United States and Canada located in the involved States bordering on Canada and to participate in traffic moving from and to Canadian Provinces which can be served in connection therewith. If a hearing is deemed necessary, we request it be held at either Washington, D.C. or Chicago, Ill., at the same time and place as similar applications.

No. MC 114211 (Sub-No. 309), filed July 11, 1977. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Daniel C. Sullivan, Suite 1600, 10 South LaSalle Street, Chicago, Illinois 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *cooling towers, cooling tower parts and accessories*, between the facilities of E. D. Goodfellow, Inc., Tulsa, Okla., on the one hand, and, on the other, points in the United States, except Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, we request it be held at Tulsa, Oklahoma or Chicago, Illinois at the same time and place as similar applications.

No. MC 114211 (Sub-No. 310), filed July 13, 1977. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, 324 Manhard Street, Waterloo, Iowa 50704. Applicant's representative: Mr. Charles W. Singer, 2440 East Commercial Blvd., Ft. Lauderdale, Florida 33308. Authority sought to operate as a *common carrier* over irregular routes, by motor vehicle, transporting: *Pipe, valves, fittings, hydrants*, parts thereof and accessories therefore from Birmingham and Bessemer, Alabama to points in Iowa, Kansas, Missouri, Nebraska, Oklahoma, South Dakota, North Dakota, Texas, and Minnesota.

NOTE.—If a hearing is deemed necessary we request it be held at either Birmingham, Alabama or Atlanta, Georgia.

No. MC 114604 (Sub-No. 48), filed July 13, 1977. Applicant: CAUDELL TRANSPORT, INC., State Farmers Market, Bldg. 33, P.O. Drawer I, Forest Park, Ga. 30050. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Road, NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from the plant-site and storage facilities of Joan of Arc Company located at or near Turkey, N.C., to points in South Carolina, Florida, Georgia, Alabama, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 115311 (Sub-No. 233), filed July 15, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* and related advertising matter, from Latrobe, Pa., to points in South Carolina, Florida, Alabama, Mississippi, Louisiana, and Tennessee, and empty malt beverage containers, malt beverage pallets and dunnage, damaged, refused, and rejected shipments on return.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Atlanta, GA.

No. MC 115495 (Sub-No. 36), filed July 12, 1977. Applicant: UNITED PARCEL SERVICE, INC., 300 North 2nd Street, St. Charles, Illinois 60174. Applicant's representative: S. Harrison Kahn, Suite 733 Investment Building, 1511 K Street, NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment, (A) between the premises of the Catalog Distribution facility of J.C. Penney Company, Inc., in Lenexa, Kansas, on the one hand, and on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming, and (B) between the premises of the Catalog Distribution facility of J. C. Penney Company, Inc. in Lenexa, Kansas, on the one hand, and on the other, points in Pennsylvania, West Virginia and Virginia, within ten miles of the Pennsylvania-Ohio, the West Virginia-Ohio, the West Virginia-Kentucky, the Virginia-Kentucky, the Virginia-Tennessee, and the Virginia-North Carolina

State lines, restricted to (a) no service shall be rendered in the transportation of any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined, and each package or article shall be considered as a separate and distinct shipment, and (b) no service shall be provided in the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location on any one day.

NOTE.—Applicant holds motor contract carrier authority in No. MC 13426 and subs thereunder, therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y.

No. MC 115496 (Sub-No. 54), filed July 8, 1977. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, Ga. 31014. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Malt beverages and related advertising materials, from the facilities of Pabst Brewing Company, located in Houston County, Ga., to points in Florida, North Carolina, South Carolina, Louisiana, Texas, Tennessee, Kentucky, Illinois, Indiana, Ohio, Wisconsin, and Minnesota, and (2) used empty malt beverage containers, pallets, and spoiled malt beverages, from points in the above-named destination states, to the facilities of Pabst Brewing Company, located in Houston County, Ga.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga.

No. MC 115654 (Sub-No. 66), filed July 13, 1977. Applicant: TENNESSEE CARTAGE CO., INC., Candy Lane, P.O. Box 23193, Nashville, Tenn. 37202. Applicant's representative: Henry E. Seaton, 915 Pennsylvania Building, Pennsylvania Ave. and 13th St. NW., Washington, D.C. 20004. Authority sought as a *common carrier* by motor vehicle, over irregular routes, in the transportation of such merchandise as is dealt in by department and variety stores from Nashville, Tenn., to Booneville, Clarksdale, Corinth, Greenwood, Oxford, Pontotoc, and Tupelo, Miss., Blytheville and West Helena, Ark., and Poplar Bluff and Sikeston, Missouri.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Nashville, Tenn., or Washington, D.C.

No. MC 115826 (Sub-No. 268), filed: June 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088TA, 1960 31st Street, Denver, Colorado 80217. Applicant's representative: Charles J. Kimball, Suite 350 Capitol Life Center, 1600 Sherman Street, Denver, Colorado 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Part 1, (1) *Foodstuffs;* (2) *Pharmaceutical Materials, Supplies and Products;* (3) *Chemicals;* (4) *Alcoholic Beverages;* (5) *Tobacco Products;* (6) *Pet Foods;* (7) Such commodities as are dealt in by distribution or consolidation warehouses for the commodities described in (1), (2), (3), (4), (5), and (6); (7) exempt commodities, when moving with regulated commodities, except, as to all parts, commodities in bulk, (A) From Denver, Colorado to points in the United States in and west of Minnesota, Iowa, Missouri, Arkansas, and Louisiana (except Alaska and Hawaii); (B) From points in the United States in and west of Minnesota, Iowa, Missouri, Arkansas, and Louisiana (except Alaska and Hawaii), to Denver, Colo.;

NOTE.—It is applicants' intention to tack paragraphs (A) and (B) at Denver, Colorado.

Part 2. *Foodstuffs and restaurant materials, equipment and supplies* (except commodities in bulk), from points in the United States in and west of Minnesota, Iowa, Missouri, Arkansas, and Louisiana (except Alaska and Hawaii), to Denver, Colorado and Albuquerque, New Mexico.

NOTE.—If a hearing is deemed necessary Applicant requests that it be held at Denver, Colorado and consolidated with similar applications.

No. MC 115826 (Sub-No. 269), filed July 6, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Terminal Annex, Denver, Colorado 80217. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colorado 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat by-products*, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except commodities in bulk), (A) from Luverne, Minn., West Point and Dakota City, Neb., Fort Dodge, Denison, and Sioux City, Ia., Emporia and Wichita, Kan., to points in Arizona, California, Idaho, Oregon, Utah, and Washington, restricted to the transportation of traffic originating at the plant sites and storage facilities of Iowa Beef Processors, Inc.; (B) from Waterloo and Independence, Ia., and Omaha, Nebr., to points in Arizona, California, Nevada, Oregon, Utah, and Washington, restricted to the transportation of traffic originating at the plant sites and storage facilities of Cudahy Foods Co.; and (2) cheese and dairy products, from Fond du Lac, Wis., to points in Arizona, California, Nevada, Oregon, Utah, and Washington, restricted to traffic originating at the plant site and storage facilities of Cudahy Foods Co.

NOTE—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Denver, Colo.

No. MC 115826 (Sub-No. 270), filed July 8, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Terminal Annex, Denver, Colorado 80217. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colorado 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpets, carpeting, rugs, floor covering, textiles, and textile products:* From points in California to points in Arizona, Colorado, Idaho, New Mexico, Nevada, Oregon, Texas, Utah, Washington, and Wyoming.

NOTE—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Denver, Colo.

No. MC 115904 (Sub-No. 76), filed July 6, 1977. Applicant: GROVER TRUCKING CO., a Corporation, 1710 West Broadway, Idaho Falls, Idaho 83401. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes, transporting (1) *Flat glass*, from the facilities of PPG Industries, Inc. located at or near Wichita Falls, Texas, to points in Arizona, California, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming; and (2) equipment, materials and supplies used in the manufacture and distribution of flat glass, from points in Arizona, California, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, to the facilities of PGG Industries, Inc., located at or near Wichita Falls, Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held on a consolidated basis with similar applications at Denver, Colo.

No. MC 115904 (Sub-No. 75), filed June 24, 1977. Applicant: GROVER TRUCKING CO., a corporation, 1710 West Broadway, Idaho Falls, Idaho 83401. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cellular expanded plastic and rubber foam*, from the plantsites of Upholstery Supply Co. RAMCO, located at or near Los Angeles, Calif., and City of Industry, Calif., to Salt Lake City, Utah; and (2) *carpet pads*, from the plantsites of Upholstery Supply Co./RAMCO, located at or near Los Angeles and City of Industry, Calif., to points in Idaho and Utah.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Salt Lake City, Utah, or Boise, Idaho.

No. MC 116014 (Sub-No. 83) (Correction), filed June 16, 1977, published in the FEDERAL REGISTER issue of August 4, 1977, as MC 116014, republished as corrected this issue. Applicant: OLIVER TRUCKING COMPANY, INC., P.O. Box 53, Winchester, Ky. 40391. Applicant's

V 42 165 AUG 25 77 A
UMI

representative: Louis J. Amato, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials and supplies* (except commodities in bulk), used in the manufacture of bed springs, bedstead rails, cots, cot frames and bed springs and bed spring assemblies and metal sleeper fixtures, from points in South Carolina to Winchester, Ky.

NOTE.—The purpose of this republication is to indicate the correct docket number MC 116014 Sub 83 in lieu of MC 116014. If a hearing is deemed necessary, the applicant requests that the hearing be held in Louisville, Ky.

No. MC 116200 (Sub-No. 13), filed July 12, 1977. Applicant: UNITED PARCEL SERVICE, INC., 643 West 43rd Street, New York, New York 10036. Applicant's representative: S. Harrison Kahn, Suite 733 Investment Building, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, between points in Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia, subject to the following restrictions: (a) service is restricted to packages originating at, or destined to, the premises of the Catalog Distribution Facility of J. C. Penney Company, Inc., in Lenexa, Kansas, having an immediately prior or subsequent movement by United Parcel Service, Inc. (an Ohio corporation), (b) no service shall be rendered in the transportation of any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined, and each package or article shall be considered as a separate and distinct shipment, and (c) no service shall be provided in the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location on any one day.

NOTE.—Applicant holds motor contract carrier authority in No. MC 63063 and subs thereunder, therefore, dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y.

No. MC 116514 (Sub-No. 36), filed July 12, 1977. Applicant: EDWARDS TRUCKING, INC., P.O. Drawer 428, Hemingway, S.C. 29554. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th St. NW., Washington, D.C. 20004. Authority sought as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of non-alcoholic and soft drink products and materials and supplies used in the manufacture, mixing, distribution and sale of such products between Cheraw, S.C., on the one hand, and, on the other, points in North Carolina, South Carolina and Georgia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Columbia, S.C. or Washington, D.C.

No. MC 117119 (Sub-No. 646), filed July 14, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Arkansas 72728. Applicant's representative: M. M. Geffon, P.O. Box 338, Willingboro, New Jersey 08046. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: Such merchandise as dealt in retail sewing centers from Trumann, Arkansas to Albuquerque, New Mexico; Denver, Colorado; Des Moines, Iowa; Los Angeles, California; Minneapolis, Minnesota; Phoenix, Arizona; Portland, Oregon; San Francisco, California; and Seattle, Washington.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y. or Washington, D.C.

No. MC 117589 (Sub-No. 42), filed July 7, 1977. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 7th Avenue South, Seattle, Wash. 98108. Applicant's representative: Michael D. Duppenthaler, 515 Lyon Building, 607 3rd Ave., Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen Human Blood Plasma*, from Eugene, Oreg., to Los Angeles, Calif.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Seattle, Wash.

No. MC 117686 (Sub-No. 177), filed July 14, 1977. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Blvd., P.O. Box 517, Sioux City, Iowa 51102. Applicant's representative: Robert A. Wichser (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar* (except in bulk), from the plantsite and storage facilities utilized by American Crystal Sugar Company, at Crookston, East Grand Forks, and Moorhead, Minn., to Mason City, Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Fargo, N. Dak.; Omaha, Nebr.; or Washington, D.C.

No. MC 117940 (Sub-No. 225), filed July 11, 1977. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minnesota 55359. Applicant's representative: Allan L. Timmerman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Such merchandise as is dealt in by retail stores, except foodstuffs and commodities in bulk, and (2) Foodstuffs in mixed shipments with the commodities in (1) above, from the facilities of Target Stores, Inc. at or near Minneapolis, Minnesota to points in Colorado, Texas, and Oklahoma. Restricted to traffic originating at the facilities of Target Stores, Inc. at named origins and destined to the facilities of Target Stores, Inc. at named destinations.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at Minneapolis Minnesota or St. Paul, Minnesota. Applicant holds contract carrier authority in No. MC 11489 (Sub-No. 16) and other subs thereunder, therefore, dual operations may be involved.

No. MC 118831 (Sub-No. 152), filed July 8, 1977. Applicant: CENTRAL TRANSPORT, INCORPORATED, P.O. Box 7007, High Point, North Carolina 27264. Applicant's representative: Earlie O. Jones, P.O. Box 7007, High Point, N.C. 27264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Chemicals, in bulk, in tank vehicles and hopper-type trucks, from the plant site of Tennessee Eastman Company, Kingsport, Tennessee, to points in the United States in and east of Minnesota, Iowa, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 118831 (Sub-No. 153), filed July 8, 1977. Applicant: CENTRAL TRANSPORT, INCORPORATED, P.O. Box 7007, High Point, N.C. 27264. Applicant's representative: Earlie O. Jones (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Plastics (except expanded), in bulk, from the 3M (Minnesota Mining & Manufacturing Company) plant site located at Greenville, S.C., to Prairie du Chien, Wis.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 119547 (Sub-No. 46), filed July 8, 1977. Applicant: EDGAR W. LONG, INC., 3815 Old Wheeling Road, Zanesville, Ohio, 43701. Applicant's representative: Richard H. Brandon, 220 West Bridge Street, Post Office Box 97, Dublin, Ohio, 43017. Authority sought to operate as a *common carrier* by motor vehicles, over irregular routes, transporting (1) *Paper Trays, corrugated post and clay products* (except commodities in bulk) from the plant sites of Lowe's, Inc., at or near Bloomfield, Missouri; Olmsted, Illinois; and Paris, Tennessee; to points in the United States, except Alaska and Hawaii, and (2) *Clay and Clay Products* (except commodities in bulk) from Oran, Missouri, to points in Florida, Idaho, Maine, Montana, New Hampshire, Nevada, Oregon, Utah, Vermont, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 119619 (Sub-No. 112), filed July 11, 1977. Applicant: DISTRIBUTORS SERVICE CO., a corporation, 2000 West 43rd Street, Chicago, Illinois 60609. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, New York 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cornstarch* (except in bulk in tank vehicles), from the plant site of A. E. Staley Manufacturing Co. at Morrisville (Bucks Co.), Pennsylvania, to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Philadelphia, Pa.

No. MC 119741 (Sub-No. 80), filed July 14, 1977. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 3225 Fifth Avenue South, Fort Dodge, Iowa 50501. Applicant's representative: D. L. Robson, P.O. Box 1235, Fort Dodge, Iowa 50501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Meats, meat products, meat by-products, and articles distributed by meat packinghouses, as described in sections A and C of appendix I to the report in descriptions in motor carrier certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the facilities of Premier Boneless Meats, Inc. at or near Lyons, Nebraska, to points in North Dakota, South Dakota, Kansas, Missouri, Iowa, Minnesota, Illinois, Indiana, Ohio, Michigan, Wisconsin, Kentucky, New York, New Jersey, Maryland, Connecticut, Rhode Island, Massachusetts, and Pennsylvania.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Omaha, Neb. or Sioux City, Iowa.

No. MC 119777 (Sub-No. 338), filed July 8, 1977. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer "L", Madisonville, Kentucky 42431. Applicant's representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, Kentucky, 42431. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, between the plantsite of Nucor Steel at or near Jewett, Texas, on the one hand, and on the other, points in Alabama, Arkansas, Florida, Georgia, Kansas, Louisiana, Mississippi, Missouri, New Mexico and Oklahoma.

NOTE.—Common control and dual operations may be involved. Applicant holds contract carrier authority in MC 126970 Subs 1 and 3. If a hearing is deemed necessary, applicant requests it be held at either Houston, Texas, or Dallas, Texas.

No. MC 119988 (Sub-No. 115), filed July 7, 1977. Applicant: GREAT WESTERN TRUCKING CO. INC., P.O. Box 1384, Highway 103 East, Lufkin, Tex. 75901. Applicant's representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, from Temple, Tex., to points in California, New Mexico, Arizona, Illinois, Oregon, and Washington.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 120761 (Sub-No. 25), filed July 13, 1977. Applicant: NEWMAN BROS. TRUCKING COMPANY (a corporation), 6559 Midway Road, P.O. Box 13302, Fort Worth, Texas 76118. Applicant's representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, Texas 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials, composition shingles, rolled roofing, roofing compounds, and accessories thereto* from the plantsite and storage facilities of Elk Corp at or near Stephens and Camden, Ark., to points in Alabama, Kentucky, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex., or Oklahoma City, Okla.

No. MC 121654 (Sub-No. 4), filed July 11, 1977. Applicant: COASTAL TRANSPORT & TRADING CO., a corporation, P.O. Box 7438, Savannah, Georgia 31408. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite 375, Atlanta, Georgia 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing, building, and insulating materials* (except iron and steel articles and commodities in bulk) from points in Chatham County, Ga., to points in Alabama, Florida, Mississippi, North Carolina, South Carolina, and Tennessee; and (2) *such materials, equipment, and supplies* as used in the manufacture, installation, and distribution of roofing, building, and insulating materials, from points in the above described destination territory (in 1 above) to points in Chatham County, Ga. Restriction: Operations in (1) and (2) above are restricted against the transportation of (a) commodities in bulk, and (b) those which because of size or weight require the use of special equipment.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga., or Washington, D.C.

No. MC 123048 (Sub-No. 360), filed July 11, 1977. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, P.O. Box 1557, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Racine, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in, or used by, agricultural equipment, industrial equipment, and lawn and leisure products manufacturers and dealers* (except commodities in bulk), (1) between the facilities of, or used by, International Harvester Company at East Moline, Moline, and Rock Island, Ill., on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and District of Columbia; (2) between the facilities of, or used by, International Harvester Company at Louisville, Ky., on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Kentucky, Michigan, Ohio, Pennsylvania, and West Virginia; (3) between the facilities of, or used by, International Harvester Company at Memphis, Tenn., on the one hand, and, on the other, points in Indiana, Kentucky, Michigan, Ohio, Pennsylvania, and West Virginia; (4) from the facilities used by International Harvester Company at the Port of New Orleans, La., and points in its commercial zone to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Ohio, Pennsylvania, and West Virginia; (5) from the facilities used by International Harvester Company at the Port of Savannah, Ga., and points in its commercial zone to points in Illinois, Iowa, Minnesota, Montana, North Dakota, South Dakota, and Wisconsin. Restrictions: The authorities in paragraphs (1), (2), and (3) above are restricted to the transportation of traffic (a) originating at the facilities of, or used by, International Harvester Company at the points named in each of said respective paragraphs and destined to points in the States named in said paragraphs and the District of Columbia, or (b) originating at points in the States named in each of said respective paragraphs and the District of Columbia and destined to the facilities of, or used by, International Harvester Company at the points named in said paragraphs, except that the restrictions in (a) and (b) above shall not apply to traffic moving in foreign commerce; and the authorities in paragraphs (4) and (5) above are restricted to the transportation of traffic (a) having a prior movement by water and (b) destined to the facilities or dealers of International Harvester Company.

NOTE.—Applicant seeks authority to serve Ports of Entry on the international boundary line between the United States and Canada located in the involved States bordering on Canada and to participate in traffic moving from and to Canadian Provinces which can be served in connection therewith. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 123255 (Sub-No 108), filed July 11, 1977. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting *aluminum articles*, between the plantsite of Kaiser Aluminum & Chemical Corp., located at or near Ravenswood, W. Va., on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the appli-

V 42165 AUG 25 77 UM

cant requests that it be held at Columbus, Ohio.

No. MC 123255 (Sub-No. 109), filed July 11, 1977. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr., 140 Everett Avenue, Newark, Ohio 43055. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting (1) *fibreboard cans and closures therefor*, from Greenville, N.C., to points in Alabama, Connecticut, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin, and (2) *materials and supplies incidental to the manufacture of fibreboard cans and closures therefor*, from points in the above named destination states to Greenville, N.C.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 123255 (Sub-No. 110), filed July 13, 1977. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting *expanded plastic products* (except commodities in bulk), from Channahon, Ill., to points in the United States on and east of U.S. Highway 85.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 123255 (Sub-No. 111), filed July 13, 1977. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr., 140 Everett Avenue, Newark, Ohio 43055. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting *fiberglas materials and fiberglas products, fibrous glass textile materials, fibrous glass textile products, fibrous glass mineral wool products, plastic materials, and plastic products*, from the plantsite and warehouse facilities of Owens-Corning Fiberglas Corp., at or near Newark, Ohio, to points in Arkansas, Louisiana, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Columbus, Ohio.

No. MC 123255 (Sub-No. 112), filed July 14, 1977. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting *paper products*, from St. Marys, Ga., to points in the United States on and east of U.S. Highway 85.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 123407 (Sub-No. 392), filed July 14, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *(1) Aluminum, aluminum products, and supplies, materials, and equipment* used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc., and its subsidiary and affiliated companies, located at or near Decatur, Ala.; Casa Grande, Ariz.; Long Beach, Riverside, Visalia, Perris Valley, and Woodland, Calif.; Loveland, Colo.; Ocala and Plant City, Fla.; Peachtree City and Jonesboro, Ga.; Boise and Twin Falls, Idaho; Chicago, Morris, and St. Charles, Ill.; Bristol, Franklin, and Bicknell, Ind.; McPherson, Kans.; Frederick, Md.; Montevideo, Minn.; St. Louis, Mo.; Hernando, Miss.; Dunkirk, N.Y.; Reidsville, N.C.; Cleveland, Ohio; Tulsa and Checotah, Okla.; Stayton, Oreg.; Bloomsburg, Pa.; Dennison and Mansfield, Tex. Harrisonburg, Va.; Spokane and Ferndale, Wash.; and Marshfield, Wis., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); and (2) *zinc and zinc alloys* (except in bulk), between the plantsites of Alumax, Inc., and its subsidiary and affiliated companies, located at or near Long Beach, Calif; Chicago, Ill.; Cleveland, Ohio; and Checotah, Okla., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at San Francisco, Calif., or Atlanta, Ga.

No. MC 123640 (Sub-No. 26), filed July 8, 1977. Applicant: SUMMIT CITY ENTERPRISES, INC., 3200 Maumee Avenue, Fort Wayne, Ind. 46803. Applicant's representative: Irving Klein, 371 Seventh Avenue, New York, N.Y. 10001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) Cellulose wood fiber insulation, and supplies, materials, equipment, machinery, parts, and accessories utilized in the manufacture, production, packaging, installation, and distribution of cellulose wood fiber insulation, between Delphos, Ohio, on the one hand, and, on the other, points in Kentucky, Illinois, Indiana, Wisconsin, Michigan, Iowa, Massachusetts, Maryland, Minnesota, Missouri, New York, North Carolina, Pennsylvania, Tennessee, Virginia, West Virginia, Georgia, Mississippi, and the District of Columbia, and (2) packaging materials, from Spencerville, Ohio, to Lee, Mass., Detroit, Mich., Oskaloosa, Iowa, and Jonesville, N.C., in (1) and (2) above, under a continuing contract or contracts with U.S. Fiber Corporation of Delphos, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C., or Columbus, Ohio.

No. MC 124211 (Sub-No. 298), Filed July 14, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Vanities, vanity tops, cultured marble tops, shower doors, kitchen cabinets, hardware, and plumbing supplies*, from points in Los Angeles and Orange Counties, Calif., to points in the United States, in and east of Montana, Wyoming, Colorado, and New Mexico.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 124211 (Sub-No. 299), filed July 14, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes transporting: Fiberboard boards, fiberboard sheets, and insulating materials, from points in Los Angeles, Orange, Placer, Riverside, San Bernardino, and Sacramento Counties, Calif.; Mesa County, Colo.; and Lincoln Parish, La.; to points in the United States, except Alaska and Hawaii.

NOTE.—Common control may be involved. If oral hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 125146 (Sub-No. 6), filed July 11, 1977. Applicant: BOB WHITAKER, doing business as BOB WHITAKER & SON, P.O. Box 65, Roswell, New Mexico 88201. Applicant's representative: Edwin E. Piper, Jr., 1115 Sandia Savings Building, Albuquerque, New Mexico 87101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting meats, meat products, and articles distributed by meatpacking houses, between points in Bernalillo, Chaves Counties, N. Mex., Potter, Tenn., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract, or contracts, with Glover, Inc. Restriction: Restricted against traffic moving from the facilities of Glover, Inc., at or near Roswell, N. Mex., to points in Arizona, California, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Albuquerque, N. Mex.

No. MC 125770 (Sub-No. 13), filed July 6, 1977. Applicant: SPIEGEL TRUCKING, INC., Cape May Street, Harrison, New Jersey 07029. Applicants representative: Joel J. Nagel, 19 Back Drive, Edison, New Jersey 08817. Authority is sought to operate as a *contract carrier* by motor carrier over irregular routes, transporting empty containers, trailers, and chassis, between New York, N.Y.;

Newark, N.J.; Philadelphia, Pa.; Baltimore, Md.; Norfolk, Va.; and Boston, Mass., in nonradial movements, under a continuing contract or contracts with Container Transport International, Inc. of New York, N.Y.

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held at Newark, N.J., or New York, N.Y. Common control may be involved.

No MC 126984 (Sub-No. 4), filed July 11, 1977. Applicant: H. F. L. TRANSPORT, INC., 2330 Columbus Avenue, Springfield, Ohio 45501. Applicant's representative: James R. Stiverson, 1396 West Fifth Avenue, Columbus, Ohio 43212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brooms, mops, and related items, and materials used in their manufacture*, (1) from Jackson, Miss., to those points in that part of the United States on and east of U.S. Highway 85; and from those points in that part of the United States on and east of U.S. Highway 85, to Jackson, Miss.; (2) from Paxton, Ill., to those points in that part of the United States on and east of U.S. Highway 85; and from those points in that part of the United States on and east of U.S. Highway 85, to Paxton, Ill. Restriction: The operations sought herein are restricted to a transportation service to be perfomed, under a continuing contract or contracts, in (1) above with ACE Housewares, Inc., Jackson, Miss., and in (2) above with FBC Corp., Paxton, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Columbus, Ohio, or Washington, D.C.

No. MC 127647 (Sub-No. 4), filed July 7, 1977. Applicant: RALPH H. LARSEN, 195 Roundtoft Drive, Salt Lake City, Utah 84103. Applicant's representative: Harry D. Pugsley, Suite 1200, 310 South Main Street, Salt Lake City, Utah 84101. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes, transporting: (1) *Bananas;* and (2) *fresh fruits and vegetables* which are otherwise exempt from economic regulations under Section 203(b)(6) of the Interstate Commerce Act, in mixed loads with bananas, (a) from Long Beach, Calif., to Sparks, Nev.; Gillette, Casper, Laramie, and Cheyenne, Wyo., and points in Montana; and (b) from Sparks, Nev., to Gillette, Casper, Laramie, and Cheyenne, Wyo., and points in Montana.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 128205 (Sub-No. 31), filed July 14, 1977. Applicant: BULKMATIC TRANSPORT COMPANY (a corporation), 12000 S. Doty Avenue, Chicago, Illinois 60628. Applicant's representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, Illinois 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Flour, in bulk, in pneumatic tank vehicles, from Chicago, Ill., to points in New York, Pennsylvania, and Massachusetts.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 128539 (Sub-No. 8) (Amendment), filed May 25, 1977, published in the FEDERAL REGISTER issue of July 8, 1977, and republished this issue. Applicant: EAGLE TRANSPORT CORPORATION, P.O. Box 4508, Rocky Mount, N.C. 27801. Applicant's representative: Robert J. Corber, 1747 Pennsylvania Ave. NW., Suite 1050, Washington, D.C. 20006. Authority sought to opreate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquified petroleum gas*, in bulk, in tank vehicles, (1) from the site of the pipeline-terminal of the Dixie Pipe Line Company near Apex, N.C., to points in Virginia within the area delineated by U.S. Highway 29 at the Virginia-North Carolina State line to U.S. Highway 60, thence west along U.S. Highway 60 to the Virginia-West Virginia State line and thence north along the Virginia-West Virginia State line to the Virginia-Maryland State line, thence east and south along the Virginia-Maryland State line to the Virginia-North Carolina State line, and thence west along the Virginia-North Carolina State line to the point of beginning, and (2) from Norfolk, Virginia to points in Maryland. The purpose of this republication is to amend Applicant's territorial description.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 128879 (Sub-No. 25), filed July 12, 1977. Applicant: C–B TRUCK LINES, INC., 4030 Fabian Way, Palo Alto, CA 94306. Applicant's representative: Kirk Wm. Horton, P.O. Box 10280, Palo Alto, CA 94303. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): Between Dallas, Tex., and El Paso, Tex., serving no intermediate points: From Dallas, Tex., over U.S. Highway 80 to El Paso, Tex., and return over the same route. The instant application is a request for relocation of an interchange point for economical reasons. Applicant is currently performing the same service by joining the authorities of carriers under common control over Amarillo, Tex.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at San Francisco, Calif.

No. MC 129387 (Sub-No. 32), filed July 11, 1977. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, South Dakota 57350. Applicant's representative: Scott E. Daniel, P.O. Box 82028, Lincoln, Nebraska 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by retail and wholesale department and hardware stores*, from Los Angeles, Calif., and Longmont, Colo., to Brookings, S. Dak.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 129401 (Sub-No. 7), filed July 14, 1977. Applicant: DOUGLAS & BESS, INC., Route 5, Box 238, Statesville, North Carolina 28677. Applicant's representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and home furnishing accessories, electrical appliances, and commodities dealt in by retail mail order houses, from Statesville, N.C.*, to all points in United States except those in Alaska, Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, Virginia, and the District of Columbia. Damaged or rejected shipments on return. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Blackwelder Furniture Co.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in (1) Charlotte, N.C. or (2) Washington, D.C.

No. MC 129645 (Sub-No. 62), filed June 21, 1977. Applicant: BASIL J. SMEESTER AND JOSEPH G. SMEESTER, a partnership, doing business as SMEESTER BROTHERS TRUCKING, 1330 South Jackson St., Iron Mountain, Mich. 49801. Applicant's representative: John M. Nader, Route 3, Box 4, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Furniture stock panels, wooden, with veneer facings; wood dimension stock; and wood fiberboard*, in straight or mixed shipments (except commodities, which, because of size or weight, require special equipment and except commodities in bulk), loose or in bundles, (1) from the facilities utilized by Allied International, Inc., located at or near Hanover, South Boston, and Westfield, Mass., and Norwich and Windsor Locks, Conn., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin; and (2) *wood fiberboard* (except commodities which, because of size or weight, require special equipment and except commodities in bulk), loose or in bundles, from the facilities utilized by Allied International, Inc., located at or near New Orleans, La., to points in Indiana, Kentucky, Michigan, Minnesota, Missouri, Ohio, Kansas, Tennessee, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass., New Orleans, La., or Chicago, Ill.

V 42 165 AUG 25 77 UMI

No. MC 129962 (Sub No. 2), filed July 12, 1977. Applicant: GERARD HARBEC TRANSPORT, INC., 200 Rue Comeau Nord, Farham, Quebec, Canada J2N 2R6. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority to operate as a *common carrier*, by motor vehicle, over irregular routes, transporating: *Metal rollers*, between the ports of entry on the International Boundary line between the United States and Canada at or near Highgate Springs, Richford, North Troy, Derby Line, Norton and Canaan, Vt., Pittsburg, N.H., Coburn Gore and Jackman, Me. on the one hand, and, on the other, points in Maine, New Hampshire and Vermont.

Restricted to traffic originating at or destined to the plantsite facilities of Gutta Percha Industries of Farnham, Ltd., Farnham, Quebec, Canada.

NOTE:—If a hearing is deemed necessary, applicant requests that it be held at Montpelier, Vt. or Boston, Mass.

No. MC 133095 (Sub-No. 165), filed July 8, 1977. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, Tex. 76039. Applicant's representative: Rocky Moore, P.O. Box 434, Euless, Tex. 76039. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Hair and skin care products and toilet preparations*, in mechanically refrigerated vehicles, from the facilities of Redken Laboratories, Inc., at or near Florence, Kentucky to points in Illinois, Wisconsin, Indiana, Michigan, Tennessee, Kentucky, Ohio, South Carolina, North Carolina, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, New York, New Jersey, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, District of Columbia, Minnesota, Iowa, and Missouri.

NOTE:—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex. Applicant holds contract carrier authority in No. MC 136032 and subs thereunder; therefore dual operations may be involved.

No. MC 133095 (Sub-No. 166), filed July 8, 1977. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, Tex. 76039. Applicant's representative: Rocky Moore, P.O. Box 434, Euless, Tex. 76039. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Alcoholic beverages* (except in bulk), from Portland, Oregon to points in Colorado, Illinois, Texas, California, Washington, and Nevada.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg. or Dallas, Tex. Applicant holds contract carrier authority in No. MC 136032 and subs thereunder; therefore dual operations may be involved.

No. MC 133133 (Sub-No. 15), filed July 15, 1977. Applicant: FULLER MOTOR DELIVERY CO. (a corporation), 802 Plum Street, Cincinnati, Ohio 45202. Applicant's representative: Norbert B. Flick, 715 Executive Bldg., Cincinnati, Ohio 45202. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, in dump vehicles, from Cincinnati, Ohio, to points in Indiana.

NOTE.—Applicant holds motor contract carrier authority in No. MC 74857 (Sub-No. 6), therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Cincinnati, Ohio or Indianapolis, Ind.

No. MC 133233 (Sub-No. 52), filed July 13, 1977. Applicant: CLARENCE L. WERNER d.b.a. WERNER ENTERPRISES, P.O. Box 37308, Omaha, Neb. 68137. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Neb. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials, and supplies* used in the manufacture and distribution of cast iron products and finished products thereof (except commodities in bulk), (1) Between Lynchburg, Virginia on the one hand, and, on the other, points in the United States (except Alaska & Hawaii) (2) Between points in Pottawattamie County, Iowa, on the one hand, and, on the other, points in the United States (except Alaska & Hawaii) and (3) Between points in Burlington County, New Jersey, on the one hand, and, on the other, points in the United States (except Alaska & Hawaii), under a continuing contract, or contracts, with Griffin Pipe Products Co.

NOTE.—Applicant holds common carrier authority in MC-138328 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Illinois.

No. MC 133816 (Sub-No. 13), filed July 15, 1977. Applicant: K & K WHOLESALE CO., a corporation, P.O. Box 328, Lowell, Oreg. 97452. Applicant's representative: Howard E. Speer, 835 East Park Street, Eugene, Oreg. 97401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular route, transporting: *building stone and landscape boulders* from Mono County, California, to points in Thurston, Pierce, King and Snohomish Counties, Wash.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Eugene, Ore.

No. MC 134094 (Sub-No. 6), filed: July 11, 1977. Applicant: HEIGHTS SERVICE, INC., 521 East Nevada Avenue, St. Paul, Minn. 55101. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials, premiums and malt beverage dispensing equipment when moving in mixed loads with malt beverages* from St. Paul, Minn. to Joliet, Ill., serving Pro-Hamms Distributing Co., Inc., under a continuing contract, or contracts, with Pro-Hamms Distributing Co., Inc.

NOTE.—If a hearing is deemed necessary applicant requests it be held at either Minneapolis or St. Paul, Minn.

No. MC 134142 (Sub-No. 13), filed July 8, 1977. Applicant: BROWN REFRIGERATED EXPRESS, INC., P.O. Box 603, Fort Scott, Kans. 66701. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 NW. 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and cheese products*, from Plymouth, Wis. to points in Arizona, California, Colorado, Idaho, Iowa, Kansas, Missouri, Nebraska, New Mexico, Montana, Washington, Utah, Nevada, Oregon, and Wyoming, under a continuing contract or contracts with Borden, Inc. of Columbus, Ohio.

NOTE.—Applicant holds common carrier authority in MC 139587 (Sub-No. 2) and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 134405 (Sub-No. 36), filed July 8, 1977. Applicant: BACON TRANSPORT COMPANY (a corporation), P.O. Box 1134, Ardmore, Oklahoma 73401. Applican't representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 N.W. 58th Street, Oklahoma City, Oklahoma 73112. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Fuel oil*, in bulk, in tank vehicles from Tulsa and Cushing, Oklahoma to the facilities of Arkansas Kraft Corporation at or near Oppelo, Arkansas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Texas.

MC-134477 (Sub-No. 182), filed July 14, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting frozen foodstuffs (except commodities in bulk), from the facilities of Great American Basic Commodities, Inc. at or near Plover, Wisconsin to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant request it be held at Minneapolis, Minnesota.

No. MC 134670 (Sub-No. 3), filed July 15, 1977. Applicant: DIVERSIFIED TRANSPORTATION, INC., P.O. Box 1406, Mountain View, California 94042. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Radio-pharmaceuticals* and *radioactive chemicals* in packages not to exceed 700 pounds, between points in San Mateo, Santa Clara, Alameda, and Sacramento Counties, Calif., on the one hand, and, on the other,

points in Calaveras, Butte, Placer, Shasta, Amador, Merced, Siskiyou, El Dorado, Tuolumne, and Fresno Counties, Calif., and points in Nevada, restricted against the transportation of packages or articles weighing in the aggregate more than 2,000 pounds from one consignor to one consignee on any one day; and (2) *Live animals* and *diagnostic kits*, between points in San Mateo, Santa Clara, Alameda, and Sacramento Counties, Calif., on the one hand, and, on the other, points in Calaveras, Butte, Placer, Shasta, Amador, Merced, Siskiyou, Ed Dorado, Tuolumne, and Fresno Counties, Calif., and points in Nevada, restricted in (1) and (2) above to the transportation of shipments having a prior or subsequent movement by air.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at San Francisco, Calif.

No. MC 134906 (Sub-No. 9) filed June 23, 1977. Applicant: CAPE AIR FREIGHT, INC., 3101 Fairfax Road, Kansas City, KS 66115. Applicant's representative: William F. King, Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, Va. 22312. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General Commodities*, (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), restricted to the transportation of traffic having an immediate prior or subsequent movement by air; (a) Between Cape Girardeau, Mo., and points in Kentucky; (b) Between Outlaw Field, near Clarksville, Tenn., Paducah, Henderson, and Owensboro, Ky., and points in Illinois and Indiana; (c) Between Outlaw Field, near Clarksville, Tenn., and points in Missouri, East St. Louis and Cairo, Ill.; (d) Between Outlaw Field, near Clarksville, Tenn., and Ashland, South Shore, Maysville, and Covington, Ky., and New Albany, Ind., and points in Ohio; (e) Between Kansas City Municipal Airport and Kansas City International Airport (both located at or near Kansas City, Mo.), points in West Virginia, Georgia, Tennessee, Alabama, Mississippi, Louisiana, and that part of Kentucky south of Kentucky Highway 80 (except points in Barren, Bell, Christian, Logan, Simpson, Todd, Trigg, and Warren Counties), restricted against the transportation of (1) traffic between Memphis, Tenn., and points in its commercial zone as defined by the Commission, on the one hand, and, on the other, New Orleans, La., and points in its commercial zone as defined by the Commission, and the Kansas City Municipal Airport and Kansas City International Airport, and (2) traffic between the Kansas City Municipal Airport and the Kansas City International Airport, on the one hand, and, on the other, points in Livingston, Tangipahoa, Washington, St. Tammany, Ascension, East Feliciana, West Feliciana, St. James, St. Charles, St. Helena and Jefferson Parishes, La.; (f) (1) Between Cape Girardeau Municipal Airport at or near Cape Girardeau, Mo., and points in that part of Ohio on and east of Interstate Highway 77, Wheeling, Williamson, Parkersburg, Point Pleasant and Valley Grove, W. Va., Bristol, Va., and points in that part of Pennsylvania on and west of U.S. Highway 219, (ii) Between Cape Girardeau Municipal Airport, Cape Girardeau, Mo., points in that part of Ohio on and east of Interstate Highway 77, and points in that part of Pennsylvania on and west of U.S. Highway 219, on the one hand, and, on the other, points in that part of Pennsylvania east of U.S. Highway 219, and (iii) Between points in Maryland, Delaware, New Jersey, New York, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, and the District of Columbia, restricted against the transportation of traffic between Cape Girardeau Municipal Airport at or near Cape Girardeau, Mo., on the one hand, and, on the other, points in Ohio and West Virginia, and points in that part of Kentucky on and east of U.S. Highway 31-W.

(2) *General Commodities*, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, restricted to the transportation of traffic having an immediate prior or subsequent movement by air: (a) Between points in Ohio, on the one hand, and, on the other, all points in Louisiana, Mississippi, Alabama, Georgia, and points in Tennessee on and west of a line commencing at the Kentucky-Tennessee State line on Interstate Highway 75, thence south on Interstate Highway 75 to Knoxville, Tennessee, thence south on U.S. Highway 129 to the Tennessee-North Carolina State line; (b) Between all points in Ohio, on the one hand, and, on the other, all points in Kentucky; (c) Between all points in Illinois, on the one hand, and, on the other, all points in Louisiana, Mississippi, Alabama, and Georgia; (d) Between points in Illinois, north and east of a line commencing at the Missouri-Illinois State line on Illinois Highway 156, thence east on Illinois Highway 156 to junction Illinois Highway 13, thence north on Illinois Highway 13 to junction U.S. Highway 460, thence east on U.S. Highway 460 to junction Illinois, Highway 37 at Mount Vernon, Illinois, thence on Illinois Highway 37 to Mound City, Illinois, on the one hand, and, on the other, points in Tennessee on and east of a line commencing at South Fulton, Tennessee, thence south on U.S. Highway 45E to junction of U.S. Highway 45 to the Kentucky-Tennessee State line; (e) Between all points in Indiana, on the one hand, and, on the other, all points in Louisiana, Mississippi, Alabama, Georgia, and points in Tennessee on and west of Interstate Highway 75; (f) Between all points in Pennsylvania, on and west of U.S. Highway 219, on the one hand, and, on the other, all points in Louisiana, Mississippi, Alabama, Georgia and Tennessee; (g) Between all points in Illinois on and north of U.S. Highway 40, on the one hand, and, on the other, all points in Kentucky; (h) Between points in Indiana, on and north of a line beginning at the Illinois-Indiana State line on U.S. Highway 40, thence east on U.S. Highway 40 to Terre Haute, Indiana, thence east on Indiana State Highway 46 to the Ohio-Indiana State line, on the one hand, and, on the other, all points in Kentucky; (i) Between points in Missouri, on the one hand, and points in Tennessee on and east of a line commencing at the Kentucky-Tennessee State line on Interstate Highway 65, thence south on Interstate Highway 65 to the Alabama-Tennessee State line.

(j) Between all points in Missouri, on the one hand, and, on the other, all points in Georgia; (k) Between points in Missouri, south and west of a line commencing at St. Joseph, Missouri, thence east on U.S. Highway 36 to junction U.S. Highway 65 at Chillicothe, Missouri, thence south on U.S. Highway 65 to junction of Interstate Highway 70, thence east on Interstate Highway 70 to the Missouri-Illinois State line, on the one hand, and, on the other, all points in Indiana; (l) between points in Missouri on, south, and west of a line commencing at Kansas City, Missouri, thence east on U.S. Highway 40 to Columbia, Missouri, thence south on U.S. Highway 63 to the Missouri-Arkansas State line, on the one hand, and, on the other, points in Illinois within an area on, east, and north of a line commencing at Chicago, Illinois on U.S. Highway 66, thence southwest on U.S. Highway 66 to St. Louis, Missouri, thence southeast on U.S. Highway 460 to the Illinois-Indiana State line; (m) Between points in Missouri on, west, and south of a line commencing at the Iowa-Missouri State line on U.S. Highway 63, thence south on U.S. Highway 63 to the junction of U.S. Highway 36 at Macon, Missouri, thence east on U.S. Highway 36 to the Missouri-Illinois State line at Hannibal, Missouri, on the one hand, and, on the other, all points in Pennsylvania, New York, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, Maryland, Delaware, New Jersey and the District of Columbia; (n) Between points in Indiana on and south of U.S. Highway 150, on the one hand, and, on the other, all points in Pennsylvania; (o) Between points in Indiana on and south of a line commencing at the Illinois-Indiana State line on Indiana Highway 46, thence east on Indiana Highway 46 to junction Indiana State Highway 7, thence southeast on Indiana Highway 7 to the Kentucky-Indiana State line, on the one hand, and, on the other, all points in Rhode Island and Delaware; (p) Between points in Indiana on and south of Indiana Highway 26, on the one hand, and, on the other, all points in Connecticut; (q) Between points in Indiana on and south of a line commencing at the Illinois-Indiana State line on U.S. Highway 40, thence east on U.S. Highway 40 to the junction of U.S. Highway 52, thence east on U.S. Highway 52 to the Indiana-Ohio State line, on the one hand, and, on the other, all points in Vermont.

V42165 AUG 25 77 UMI V

(r) Between points in Indiana on and south of a line commencing at the Illinois-Indiana State line on U.S. Highway 36, thence east on U.S. Highway 36 to Indianapolis, Indiana, thence southeast on U.S. Highway 52 to the Indiana-Ohio State line, on the one hand, and, on the other, all points in New Hampshire; (s) Between all points in Kentucky, on the one hand, and, on the other, all points in Vermont, New Hampshire, New Jersey, Rhode Island, New York, Pennsylvania, Massachusetts and Connecticut; (t) Between points in Kentucky on and west of a line commencing at Ashland, Kentucky, thence south on U.S. Highway 23 to junction U.S. Highway 60, thence west on U.S. Highway 60 to junction Kentucky Highway 7 at Grayson, Kentucky, thence southwest on Kentucky State Highway 7 to junction Kentucky Highway 30 at Salyersville, Kentucky, thence southwest on Kentucky Highway 30 to junction Interstate Highway 75 at London, Kentucky, thence south on Interstate Highway 75 to the Kentucky-Tennessee State line, on the one hand, and, on the other, all points in Delaware, Maryland and the District of Columbia; (u) Between points in Illinois on and south of a line commencing at Moline, Illinois on Interstate Highway 80, thence east on Interstate Highway 80 to junction U.S. Highway 30 at Joliet, Illinois, thence east on U.S. Highway 30 to the Illinois-Indiana State line, on the one hand, and, on the other, points in Rhode Island; (v) Between points in Illinois, on and south of Illinois State Highway 9, on the one hand, and, on the other, all points in New Jersey; (w) Between all points in Louisiana and Mississippi, on the one hand, and, on the other, points in New York, Connecticut, Rhode Island, New Hampshire, New Jersey, Massachusetts and Vermont; (x) Between all points in Louisiana, Mississippi, and points in Alabama on and west of a line commencing at the Alabama-Georgia State line on U.S. Highway 278, thence southwest on U.S. Highway 278 to junction Alabama State Highway 21, thence southwest on Alabama State Highway 21 to Montgomery, Alabama, thence southwest on U.S. Highway 31 to Flomaton, Alabama, on the one hand, and, on the other, all points in Maryland; (y) Between all points in Tennessee on and west of Interstate Highway 75, on the one hand, and, on the other, all points in Massachusetts and Connecticut; (z) Between points in Tennessee on and west of Interstate Highway 75, on the one hand, and, on the other all points in Vermont.

(aa) Between points in Tennessee on and west of a line commencing at the Kentucky-Tennessee State line, thence, south on U.S. Highway 25E to Newport, Tenn., thence south on Interstate Highway 40 to the Tennessee-North Carolina State line, on the one hand, and, on the other, all points in New Hampshire; (bb) between points in Tennessee on and west of Interstate Highway 75, on the one hand, and, on the other, all points in Rhode Island; (cc) between points in Tennessee on and west of Interstate Highway 75, on the one hand, and, on the other, all points in New York; (dd) between all points in Georgia on and west of a line commencing at the Georgia-North Carolina State line on U.S. Highway 441, thence south on U.S. Highway 441 to Eatonton, Ga., thence south on U.S. Highway 129 to Macon, Ga., thence south on U.S. Highway 41 to the Georgia-Florida State line, on the one hand, and, on the other, all points in Vermont; (ee) between all points in Georgia on and west of a line beginning at the Georgia- North Carolina State line on U.S. Highway 441, thence south on U.S. Highway 441 to Eatonton, Ga., thence south on U.S. Highway 129 to Macon, Ga., thence south on U.S. Highway 41 to the Georgia-Florida State line, on the one hand, and, on the other, all points in Massachusetts; (ff) between all points in Georgia on and west of a line commencing at the Georgia-Tennessee State line on U.S. Highway 41, thence south on U.S. Highway 41 to Calhoun, Ga., thence southwest on Georgia State Highway 53 to the Alabama-Georgia State line, on the one hand, and, on the other, all points in Connecticut and Rhode Island; (gg) between all points in Georgia within an area commencing at a line at the Georgia-Tennessee State line on U.S. Highway 41, thence south on U.S. Highway 41 to Calhoun, Ga., thence northwest on Georgia State Highway 143 to the Georgia-Alabama State line, on the one hand, and, on the other, all points in Maryland; (hh) between all points in Georgia on and west of a line commencing at the Georgia-North Carolina State line on U.S. Highway 23, thence southwest on U.S. Highway 23 to Atlanta, Ga., thence southwest on U.S. Highway 29 to the Georgia-Alabama State line, on the one hand, and, on the other, all points in New Hampshire.

(ii) Between all points in Georgia on and west of a line commencing at the Georgia-Tennessee State line on U.S. Highway 41, thence, south on U.S. Highway 41 to Calhoun, Ga., thence southwest on Georgia State Highway 53 to the Alabama-Georgia State line, on the one hand, and, on the other, all points in New York; (jj) between all points in Alabama, on the one hand, and, on the other, all points in New York, Connecticut, Rhode Island, New Hampshire, New Jersey, Massachusetts, and Vermont.

(3) *Motion Picture Films, motion picture projector equipment, supplies* for motion picture theatres, and *printed matter:* (a) Between Indianapolis, Ind., and points in Kentucky (except Louisville); (b) Between Cincinnati, Ohio, and points in Kentucky, and (c) Between Evansville, Ind., and points n Kentucky and Tennessee. Restriction: The operations authorized in the transportation of printed matter insofar as it covers operations between Evansville and Indianapolis, Ind., and Cincinnati, Ohio, on the one hand, and, on the other,, points in Kentucky. is restricted to the transportation of traffic moving to or from theatres.

(4) *Printed Matter, and paper* in mixed loads with printed matter; between Shepherdsville, Ky., on the one hand, and, on the other, points in that part of the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana (except Mississippi).

(5) *Printed Matter:* (a) Between points in Kentucky on, south, and west of a line commencing at Louisville, Ky., thence east on Interstate Highway 64 to junction U.S. Highway 27 at Lexington, Ky., thence south on U.S. Highway 27 to junction of Kentucky Highway 78 at Stanford, Ky., thence southwest on Kentucky Highway 78 to junction U.S. Highway 127, thence south on U.S. Highway 127 to the Kentucky-Tennessee State line, on the one hand, and, on the other, all points in Massachusetts and Connecticut; (b) between points in Kentucky on and west of a line commencing at the Indiana-Kentucky State line on U.S. Highway 421, thence south on U.S. Highway 421 to Frankfort, Ky., thence south on U.S. Highway 127 to the Kentucky-Tennessee State line, on the one hand, and, on the other, all points in New York; (c) between points in Kentucky on and west of Interstate Highway 65, on the one hand, and, on the other, points in Virginia on and east of a line commencing at the West Virginia-Virginia State line on Virginia State Highway 39, thence southeast on Virginia Highway 39 to junction U.S. Highway 220 at Warm Springs, Va., thence south on U.S. Highway 220 to the Virginia-North Carolina State line, and points in North Carolina on and east and north of a line commencing at the Virginia-North Carolina State line and extending along U.S. Highway 52 to Mount Airy, N.C., thence south on U.S. Highway 601 to the North Carolina-South Carolina State line.

(d) Between points in Kentucky on and west of a line commencing at Louisville, Ky., on U.S. Highway 31E, thence south on U.S. Highway 31E to the Kentucky-Tennessee State line, on the one hand, and, on the other, all points in the District of Columbia, Delaware, and Maryland; (e) between points in Kentucky on and north of Interstate Highway 64, on the one hand, and, on the other, all points in Arkansas; (f) between points in Kentucky on and west of Interstate Highway 75, on the one hand, and, on the other, all points in Maine; (g) between points in Kentucky on, south, and west of a line commencing at Louisville, Ky., on Interstate Highway 64, thence east on Interstate Highway 64 to junction U.S. Highway 127, at Frankfort, Ky., thence south on U.S. Highway 127 to the Kentucky-Tennessee State line, on the one hand, and, on the other, all points in Rhode Island; south, and west of a line commencing at Louisville, Ky., on Interstate Highway 64, thence east on Interstate Highway 64 to junction U.S. Highway 127 at Frankfort, Ky., thence south on U.S. Highway 127 to the Kentucky-Tennessee State line, on the one hand, and, on the other, all points in New Hampshire; (i) between points in Kentucky on, north, and west of a line commencing at the Kentucky-Indiana State line on Kentucky Highway 44, thence east on Kentucky Highway 44 to junction of Kentucky Highway 55 at Taylorsville, Ky., thence north on Kentucky Highway 55 to the Kentucky-Indiana State line, on the one hand, and, on the other, all points in Georgia; (j) between points in Kentucky on and east of a line commencing at Louisville, Ky., on Interstate Highway 65, thence south on Interstate Highway 65 to the Kentucky-Tennessee State line, on the one hand, and, on the other, all points in Iowa; (k) between points in Kentucky on and within an area bounded by a line commencing at the Indiana-Kentucky State line at Owensboro, Ky., thence southeast on U.S. Highway 231 to Bowling Green, Ky., thence north on Interstate Highway 65 to Louisville, Ky., thence north on to Louisville, Ky., on the one hand, and, on the other, all points in Indiana on, east and north of the line commencing at the Michigan-Indiana State line, thence south on U.S. Highway 31 to Indianapolis, Ind., thence east on U.S. Highway 40 to Indiana-Ohio State line; (l) between points in Kentucky on and west of U.S. Highway 31E, on the one hand, and, on the other, points in New Jersey.

(m) Between points in Kentucky on and west of a line commencing at Louisville, Ky., thence south on U.S. Highway 31E to the Kentucky-Tennessee State line, on the one hand, and, on the other, all points in Pennsylvania; (n) between points in Kentucky on and north of a line commencing at Louisville, Ky., thence east on Interstate Highway 64 to the Kentucky-West Virginia State line, on the one hand, and, on the other, all points in Louisiana; (o) between points in Kentucky on and within an area bounded by a line commencing at Owensboro, Ky., thence southeast on U.S. Highway 231 to the junction of U.S. Highway 62, thence northeast on U.S. Highway 62 to junction Interstate Highway 65, thence north on Interstate Highway 65 to the Indiana-Kentucky State line, on the one hand, and, on the other, all points in South Carolina; (p) between points in Kentucky on and west of Interstate Highway 65, on the one hand, and, on the other, all points in West Virginia; (q) between points in Kentucky on and north of Interstate Highway 64, on the one hand, and, on the other, all points in Florida; (r) between points in Kentucky on and north of Interstate Highway 64, on the one hand, and, on the other, all points in Alabama; (s) between points in Kentucky on, east, and north of a line commencing at Louisville, Ky., thence south on Interstate Highway 65 to Elizabethtown, Ky., thence east on U.S. Highway 62 to junction Interstate Highway 64 thence east on Interstate Highway 64 to the Kentucky-West Virginia State line, on the one hand, and, on the other, all points in Missouri; (t) between points in Kentucky on, south and west of a line commencing at Louisville, Ky., on Interstate Highway 64, thence east on Interstate Highway 64 to Lexington, Ky., thence south on U.S. Highway 27 to the Kentucky-Tennessee State line, on the one hand, and, on the other, all points in Vermont; (u) between points in Kentucky on, south and west of a line commericing at Louisville, Ky., thence east on Interstate Highway 64 to junction Interstate Highway 75 at Lexington, Ky., thence south on Interstate Highway 75 to the Kentucky-Tennessee State line, on the one hand, and, on the other, all points in Michigan.

(v) Between points in Tennessee on and west of Interstate Highway 65, on the one hand, and, on the other, all points in Maryland, Delaware, and West Virginia; (w) between points in Tennessee on and east of Interstate Highway 65, on the one hand, and, on the other, all points in Iowa and Wisconsin; (x) between points in Tennessee on and west of a line commencing at the Kentucky-Tennessee State line on U.S. Highway 27, thence south on U.S. Highway 27 to the Tennessee-Georgia State line, on the one hand, and, on the other, all points in Maine, Connecticut, New York, and Vermont; (y) between points in Tennessee on and west of a line commencing at the Kentucky-Tennessee State line on Tennessee State Highway 56, thence south on Tennessee Highway 56 to the Alabama-Tennessee State line, on the one hand, and, on the other, points in Ohio and Pennsylvania; (z) between points in Tennessee on and east of Interstate Highway 65, on the one hand, and, on the other, points in Illinois on and north of a line commencing at the Missouri-Illinois State line on U.S. Highway 54, thence northeast on U.S. Highway 54 to the junction of U.S. Highway 36, thence east on U.S. Highway 36 to the Illinois-Indiana State line; (aa) between points in Tennessee on and east of U.S. Highway 127, on the one hand, and, on the other, points in Missouri, on and north of Interstate Highway 70; and (bb) between points in Tennessee on and west of a line commencing at the Kentucky-Tennessee State line on Interstate Highway 75, thence south on Interstate Highway 75 to junction U.S. Highway 129 at Knoxville, Tenn., thence south on U.S. Highway 129 to the Tennessee-North Carolina State line, on the one hand, and, on the other, all points in the Lower Peninsula of Michigan.

NOTE.—Applicant states that it intends to tack or join the elements of the above described operating authority at all common points for the purpose of rendering a through-service, and requests appropriate authorization to accomplish this purpose. Applicant states that it presently holds the authority sought in this application under Certificates of Public Convenience issued in Docket No. MC 134906 and Sub-Nos. 1 through 7 and Sub-No. E1 thereto. The application is directly related to Docket No. 134906 and Sub-Nos. 1 through 7, *Cape Air Freight, Inc., Kansas City, Kans.*, in which by Order served September 16, 1976, Division 1 reopened the proceedings for consideration of possible cancellation or revocation of all or part of applicant's certificates. It is the position of applicant that regardless of the ultimate decisions in the proceeding referenced, the public convenience and necessity requires the continuance of its present operations in the transportation of the commodities identified, within the territory described, subject only to the restrictions contained in its existing authority. Consolidation of this application proceeding with the reopened proceedings in Docket No. MC 134906 and Sub-Nos. 1-7 has been requested concurrently. If a hearing is deemed necessary, the applicant requests that it be held at Atlanta, Ga., and New Orleans, La.

No. MC 134970 (Sub-No. 16), filed July 11, 1977. Applicant: UNZICKER TRUCKING, INC., P.O. Box 35, El Paso, Ill. 61738. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen pork sausage*, from the plantsite of Bird Provision Co. at or near Pekin, Ill., to points in Indiana, Michigan, Missouri (except St. Louis), Kentucky, Ohio, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill. Common control may be involved.

No. MC 135437 (Sub-No. 16), filed July 5, 1977. Applicant: TRI-NORTHEASTERN TRANSPORT, INC., P.O. Box 80, Lyndonville, N.Y. 14098. Applicant's representative: S. Michael Richards, P.O. Box 225, 44 North Ave., Webster, N.Y. 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and vegetables, processed* (except frozen), from Turkey, N.C., to points in Connecticut, Delaware, Maine, Massachusetts, Maryland, Illinois, New Jersey, New York, New Hampshire, Ohio, Pennsylvania, Rhode Island, Vermont, and District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Buffalo, N.Y., or Chicago, Ill.

No. MC 135684 (Sub-No. 44), filed July 15, 1977. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Road, Flemington, N.J. 08822. Applicant's representative: Herbert Alan Dubin, Federal Bar Building West, 1819 H Street NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning products, pot scourers and steel wool*, from London, Ohio, to points in Georgia, Florida, and Michigan.

NOTE.—Applicant holds contract carrier authority in MC 87720 (Sub-No. 2) and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 135684 (Sub-No. 45), filed July 15, 1977. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Road, Flemington, N.J. 08822. Applicant's representative: Herbert Alan Dubin, Federal Bar Building West, 1819 H Street NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning and water purifying products, materials, supplies, and equipment* used in the manufacture, sale, and distribu-

V 42165 AUG 25 77 UMI V

tion of cleaning and water purifying products, between St. Louis, Mo. and points in Iowa, Kansas, Minnesota, North Dakota, and South Dakota, a nonradial movement.

NOTE.—Applicant holds motor contract authority in No. MC 87720 (Sub-No. 2) and other subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 135965 (Sub-No. 3), filed July 13, 1977. Applicant: J. P. WIEST d.b.a. WIEST TRUCK LINE, 1305 6th Avenue SW., Jamestown, N. Dak. 58401. Applicant's representative: James B. Hovland, P.O. Box 1637, 414 Gate City Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural implements and parts and attachments for agricultural implements*, from the facilities of Haybuster Manufacturing Co. at or near Jamestown, N. Dak., to points in the United States (except Alaska and Hawaii); and (2) *iron and steel articles*, from Chicago, Ill., and Minneapolis, Minn., to the facilities of Haybuster, Manufacturing Co. at or near Jamestown, N. Dak., (1) and (2) under a continuing contract or contracts with Haybuster Manufacturing Co., of Jamestown, N. Dak.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Fargo, N. Dak., or Minneapolis or St. Paul, Minn.

No. MC 136168 (Sub-No. 15), filed July 12, 1977. Applicant: WILSON CERTIFIED EXPRESS, INC., 4545 Lincoln Boulevard, Oklahoma City, Okla. 76102. Applicant's representative: H. P. Simpsen, 4545 Lincoln Boulevard, Oklahoma City, Okla. 76102. Authority sought to operate as a *contract carrier*, by motor vehicles, over irregular routes, transporting: (1) *Cheese* from the facilities of, or those utilized by, Milk House Cheese Corp., at points in Wisconsin: Booneville, Miss.; Lena and Minook, Ill.; Clinton, Mo.; Bongards, Minn.; and Los Angeles, Calif., to points in Texas; Phoenix, Ariz.; Los Angeles, and San Francisco, Calif.; Atlanta and Decatur, Ga.; Shreveport, La.; Albuquerque, N. Mex.; Springfield, Mo.; Memphis, Tenn.; and New York City, N.Y.; and (2) *canned foods* from San Antonio, Tex., to Weyauwega, Wis. Restriction: Restricted to traffic originating at the plantsites, facilities of, or those utilized by, Milk House Cheese Corp. and limited to a transportation service to be performed under a continuing contract with Milk House Cheese Corp.

NOTE.—Applicant has motor common carrier authority pending in No. MC 141041 (Sub-No. 1), and other subs, therefore, dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Dallas, Tex., or Kansas City, Mo.

No. MC 136343 (Sub-No. 113), filed July 7, 1977. Applicant: MILTON TRANSPORTATION, INC., Box 355, Milton, Pa. 17847. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs* from the plantsite and shipping facilities of Heinz U.S.A., Division of H. J. Heinz Co., at Fremont and Toledo, Ohio, to points in that part of New York, on and south of Interstate 84; points in New Jersey on and north of New Jersey Highway 33; points in Massachusetts, Connecticut, Rhode Island, Maine, and New Hampshire; and King of Prussia, Oaks, and Philadelphia, Pa., restricted to traffic originating at the named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C., or Harrisburg, Pa.

No. MC 136343 (Sub-No. 115), filed: July 13, 1977. Applicant: MILTON TRANSPORTATION INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printing paper*, from the facilities of the St. Regis Paper Co. located at Bucksport, Maine, to points in Pennsylvania, Ohio, Indiana, Illinois, Kentucky, Maryland, Virginia, District of Columbia, and Tennessee and points in New York on and west of U.S. Route 11.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 136512 (Sub.No. 14), filed July 11, 1977. Applicant: SPACE CARRIERS, INC., 444 Lafayette Road, St. Paul, Minn. 55101. Applicant's representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, Minn. 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Garden, lawn, turf, and golf course care equipment, snow throwers, and parts and accessories therefor*, from the plantsite and warehouse facilities of The Toro Co. at or near Windom, Minn., and at or near Tomah, Wis., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York (except Buffalo and points in its commercial zone), Pennsylvania (except Pittsburgh and points in its commercial zone), Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to shipments originating at the above named origin points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at St. Paul, Minn.

No. MC 136704 (Sub-No. 3), filed June 7, 1977. Applicant: KENNETH FRANKLIN WAGNON, LILLIAN ANN WAGNON, KENNETH DAVID WAGNON, d.b.a. KENNETH F. WAGNON TRUCKING CONTRACTOR, 84774 N. Cloverdale Road, Creswell, Oreg. 97426. Applicant's representative: James C. Gee, (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Empty kiln cars*, from the facilities of Cascade Handle Co., Inc., located at Eugene Oreg., to the facilities of Weyerhaeuser Co., located at Everett, Wash.; and (2) *rough lumber handles* moving in the same vehicle with kiln cars, from the facilities of Weyerhaeuser Co., located at Everett, Wash., to the facilities of Cascade Handle Co., located at Eugene, Oreg.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at any point in Oregon.

No. MC 136762 (Sub-No. 13), filed July 8, 1977. Applicant: OSBORNE HIGHWAY EXPRESS, 1725 South River Road, Sacramento, Calif., 95691. Applicant's representative: Edward A. Francom, 6400 Village Parkway, Dublin, Calif. 94566. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Fireplace Logs*, extruded sawdust and paraffin combined, from Stockton and the Port of Stockton, Calif., to points in Arizona, Nevada, Utah, and points in that part of Idaho south of a line beginning at the Oregon State Boundary line and extending along the Salmon River to its junction with the North Fork of the Salmon River and thence along the North Fork of the Salmon River to the Montana State Boundary line.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at San Francisco, Calif.

MC 138157 (Sub-No. 41), filed July 6, 1977. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., doing business as SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, Tenn. Applicant's representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, Tennessee 37412. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shaped metal articles and related accessories and equipment, materials and supplies* used in the manufacture, production and distribution of shaped metal articles and related accessories (except commodities in bulk and commodities which by reason of size and weight require the use of special equipment), between Atlanta, Georgia and points in the United States (except Alaska and Hawaii), a non-radial movement, restricted to traffic originating at or destined to the facilities of Kinkead Industries, Inc., located at or near Atlanta, Ga.

NOTE.—Applicant holds contract carrier authority in MC-134150 (Sub No. 2) and other subs, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests that it be held at Atlanta, Georgia.

No. MC 138253 (Sub-No. 4), filed June 27, 1977. Applicant: MONFORT TRANSPORTATION COMPANY, a corporation, Box G, Greeley, Colorado 80631. Applicant's representative: David R. Parker, 2310 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods*, from the plantsites and facilities of Stouffer Foods, at or near Solon and Cleveland, Ohio, to points in Arizona, California, Colorado, Nevada, New Mexico and Utah. (2) *Materials, supplies and equipment utilized in the production and distribution of the commodities in (1) above*, from points in Arizona, California, Colorado, Nevada, New Mexico and Utah, to the plantsites and facilities of Stouffer Foods, at or near Solon and Cleveland, Ohio. Restrictions: (a) Restricted against the transportation of commodities in bulk; (b) Restricted to transportation under a continuing contract or contracts with Stouffer Foods.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Denver, Colorado.

No. MC 138308 (Sub-No. 32), filed July 11, 1977. Applicant: KLM, Inc., 2102 Old Brandon Road, P.O. Box 6098, Jackson, Miss. 39208. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common* carrier by motor vehicle, over irregular routes, transporting: *Water closet seats and accessories*, from the facilities of Beneke Corporation at or near Columbus, Mississippi to points in Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oklahoma, Oregon, Texas, Washington, Wyoming and Utah.

NOTE.—Applicant holds motor contract authority in No. MC 128592 and subnumbers thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Memphis, Tenn. or Jackson, Miss.

No. MC 138469 (Sub-No. 45), filed July 14, 1977. Applicant: DONCO CARRIERS, INC., 641 North Meridian, Post Office Box 75354, Oklahoma City, Oklahoma 73107. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, Illinois 60068. Authority sought to operate as a *common* carrier, by motor vehicle, over irregular routes transporting: *paper, paper products and laminated paper products*, from the facilities of or utilized by Paper-Pak Products, Inc., located at or near La Verne, California to points in Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, Tennessee, and Texas, restricted to the transportation of traffic originating at the named origin and destined to the named destinations.

NOTE.—Applicant holds contract carrier authority in MC 136375 (Sub-No. 2) and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, California or San Francisco, California.

No. MC 138512 (Sub-No. 19), filed July 11, 1977. Applicant: ROLAND'S TRANSPORTATION SERVICES, INCORPORATED, doing business as WISCONSIN PROVISIONS EXPRESS, 3383 East Layton Avenue, Cudahy, Wis. 53110. Applicant's representative: Richard C. Alexander, Suite 412, Empire Bldg., 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *cheese, cheese foods, and synthetic cheese*. (except commodities in bulk), from Logan, Utah, to points in Connecticut, Maryland, Massachusetts, New Jersey, New York, and Pennsylvania, under a continuing contract or contracts with L. D. Schreiber Cheese Co., Inc., of Green Bay, Wis.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 138741 (Sub-No. 33), filed June 24, 1977. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, Illinois 60435. Applicant's attorney: Tom B. Kretsinger, 910 Brookfield Building, 101 West Eleventh Street, Kansas City, Missouri 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Roofing and building materials*, (except iron and steel and iron and steel articles), from the plantsite and shipping facilities of the G.A.F. Corporation at or near Joliet, Illinois, to the Lower Peninsula of Michigan. Restricted to traffic originating at and destined to the above-described territories.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 138861 (Sub-No. 6), filed July 14, 1977. Applicant: C-LINE, INC., Tourtellot Hill Road, Chepachet, R.I. 02814. Applicant's representative: Ronald N. Corbert, 1730 M Street, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes transporting *Automotive oil and lubricants* (except in bulk), from Atlanta, Ga.; St. Louis, Mo. Bayone, Bay Way, and Edison, N.J., Cincinnati, Ohio; Bradford, Emlenton, and Freedom, Pa.; and Congo and St. Mary's, W. Va., to points in Connecticut, Florida, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia and West Virginia.

NOTE.—Applicant holds motor contract carrier authority in No. MC 138861 Sub 1 and other subs, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests that it be held at Providence, R.I., or Boston, Mass.

No. MC 138956 (Sub-No. 6), filed July 11, 1977. Applicant: ERGON TRUCKING, INC., 202 East Pearl Street, Jackson, Miss. 39201. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *fuel oils*, in bulk, in tank vehicles, from the Yellow Creek Port Terminal and Industrial area located in Tishomingo County, Mississippi to points in Alabama, Arkansas, Georgia, Kentucky and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Jackson, Miss.

No. MC 139112 (Sub-No. 14), filed July 5, 1977. Applicant: CALEX EXPRESS, INC., 149 Warden Avenue, Trucksville, Pennsylvania 18708. Applicant's representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, Pennsylvania 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast acrylic sheet*, between Stamford, Conn. and Hackensack, N.J., on the one hand, and, on the other, Los Angeles and San Francisco, Calif., Atlanta, Ga., and Dallas and Houston, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y. or Washington, D.C.

No. MC 139207 (Sub-No. 5), filed July 8, 1977. Applicant: McNABB-WADSWORTH TRUCKING COMPANY, a corporation, P.O. Box 3610, Kingsport, Tenn. 37664. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *crated glass and crated glass products*, not exceeding 108 inches in height from the facilities of ASG Industries, Inc. at Kingsport and Greenland, Tenn. to points in Kentucky, North Carolina and South Carolina west of U.S. Highway 1, points in Texas on and east of Interstate Highway 35 and on and south of U.S. Highway 84, and Columbia, S.C. and points in its commercial zone.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139587 (Sub-No. 7), filed July 7, 1977. Applicant: BROWN REFRIGERATED EXPRESS, INC., P.O. Box 603, Fort Scott, Kans. 66701. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 N.W. 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paint* and *paint products*, from Ennis, Tex., and Casper, Wyo., to points in the United States in and west of Iowa, Minnesota, Mississippi, Missouri, and Tennessee; and (2) *materials* and *supplies* used in the manufacture of the commodities described in (1) above (except commodities in bulk), from points in the United States in and west of Iowa, Minnesota, Mississippi, Missouri, and Tennessee to Ennis, Tex., and Casper, Wyo.

NOTE.—Applicant holds contract carrier authority in MC 134142 Sub 2 and other Subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 139882 (Sub-No. 4), filed July 5, 1977. Applicant: GLEN M. BARNEY, d.b.a. BARNEY & SONS, 178 North Third East, Salina, Utah 84654. Applicant's

V 42165 AUG 25 77 UMI

representative: D. Michael Jorgensen, 48 P.O. Place, P.O. Box 2465, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting coal, between points in Arizona, California, Colorado, Idaho, New Mexico, Nevada, Utah, and Wyoming, in non-radial movements.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Salt Lake City, Utah, or Washington, D.C.

No. MC 139885 (Sub-No. 4), filed July 5, 1977. Applicant: ART J. ROBINSON, d.b.a. ART ROBINSON & SONS, 95 North 2nd East, Salina, Utah 84654. Applicant's representative: D. Michael Jorgensen, 48 P.O. Place, P.O. Box 2465, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting coal, between points in Arizona, California, Colorado, Idaho, New Mexco, Nevada, Utah and Wyoming, in non-radial movements.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Salt Lake City, Utah, or Washington, D.C.

No. MC 139999 (Sub-No. 25), filed July 11, 1977. Applicant: REDFEATHER FAST FREIGHT, INC., 2606 North 11th Street, Omaha, Nebraska 68110. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebraska 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* (except hides and commodities in bulk), from the plantsites and facilities of Hy-Plains Dressed Beef, Inc. at Dodge City, Kansas, to points in Nebraska, Iowa, Minnesota, Wisconsin, Illinois, Indiana, Missouri, Oklahoma, Arkansas, Colorado, Tennessee, Kentucky, Ohio, Michigan, Pennsylvania, New York, Virginia, West Virginia, Massachusetts, New Hampshire, District of Columbia, Delaware, New Jersey, Maryland, Texas and Louisiana.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Omaha, Nebraska.

No. MC 140463 (Sub-No. 5), filed July 8, 1977. Applicant: ORREN J. LEE, 2312 Braemer Drive, Sioux Falls, S. Dak. 57105. Applicant's representative: Mark Menard, P.O. Box 480, Sioux Falls, S. Dak. 57101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, as described in Section B of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61, M.C.C. 209, and *supplies* used in the production and distribution of dairy products, from points in Iowa, Minnesota, Nebraska and South Dakota, to Sioux Falls, S. Dak., under a continuing contract or contracts with Terrace Park Dairy, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Sioux Falls, S. Dak., or Sioux City, Iowa.

No. MC 140471 (Sub-No. 3), filed: July 11, 1977. Applicant: R.J.C. TRANSPORT CORPORATION, 68 South Main Street, Pearl River, New York 10954. Applicant's representative: Ronald I. Shapss, 450 Seventh Avenue, New York, N.Y. 10001. Authority sought to operate as a *Contract Carrier*, by motor vehicle, over irregular routes, transporting: Paper carbons, ribbons, inked ribbon tape, cleaning compound, paper forms, printing ink, paper sets, typewriter pads, plastic articles, teletype perforated tapes, paper, alcohol solvent, machine covers, plastic pellets, and materials, equipment and supplies (except commodities in bulk, and those which because of size or weight require the use of special equipment). Between the facilities of the Burroughs Corporation at or near City of Industry, Calif., Bardstown, Ky., Park Ridge, N.J., and Rochester, N.Y. on the one hand, and, on the other, points in Alabama, California, Massachusetts, Connecticut, Kentucky, New Jersey, New York, Ohio, Pennsylvania, and Texas, under a continuing contract or contracts with the Burroughs Corporation of Park Ridge, N.J. Restricted against the transportation of commodities between the City of Industry, Calif., on the one hand, and, on the other, points in California.

NOTE.—Applicant states that the purpose of this application is to add the points in the states of New York and Massachusetts. If a hearing is deemed necessary, the applicant requests that it be held at New York, N.Y.

No. MC 140644 (Sub-No. 1), filed July 11, 1977. Applicant: SURE WAY TRUCK SERVICE, INC., R.R. No. 2, Auburn, Indiana. Applicant's representative Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting cheese (1) from the plant site of County Line Cheese Co., Inc. at Auburn, Indiana to points in Alabama, Kentucky, and Tennessee; and (2) return shipments of cheese from points in Alabama, Kentucky, and Tennessee to the plant site of County Line Cheese Co., Inc., at Auburn, Indiana under a continuing contract or contracts with County Line Cheese Co., Inc. of Auburn, Indiana.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Indianapolis, Ind. or Chicago, Ill.

No. MC 140693 (Sub-No. 14), filed July 7, 1977. Applicant: BEER TRANSPORTATION COMPANY, a Corporation, P.O. Box 5305, Philadelphia, Pa. 19153. Applicant's representative: Edward J. Kiley, Suite 501, 1730 M Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from the facilities of the Henry F. Ortlieb Brewing Company, located at or near Philadelphia, Pa., to points in Illinois, Indiana, and Michigan.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Washington, D.C., or Philadelphia, Pa.

No. MC 141033 (Sub-No. 27), filed July 13, 1977. Applicant: CONTINENTAL CONTRACT CARRIER CORP., P.O. Box 1257, City of Industry, CA 91749. Applicant's representative R. A. Peterson, P.O. Box 81849, Lincoln, NB 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wiring devices and electrical and lighting equipment* (except commodities which by reason of size or weight require the use of special equipment), from the facilities of Union Insulation Co., Inc. located at or near Parkersburg, West Virginia to points in that part of the United States in and west of Minnesota, Iowa, Missouri, Arkansas and Louisiana (except Alaska and Hawaii).

NOTE.—Applicant holds contract carrier authority in MC 124796 (Sub-No. 11), and other subs, therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Parkersburg, West Virginia or Washington, D.C.

No. MC 141088 (Sub-No. 3), filed July 14, 1977. Applicant: KEYSTONE DELIVERY SERVICE, INC., 60 NW 37th Street, Miami, Florida 33127. Applicant's representative: John P. Bond, 2766 Douglas Road, Miami, Florida 33133. Applicant seeks authority to operate as a *Contract carrier* over irregular routes, in the transportation of Merchandise, equipment, and supplies, sold, used, or distributed by a manufacturer of cosmetics; Between Dade County, Florida, on the one hand, and, on the other, points in Broward and Palm Beach Counties, Fla., under a continuing contract with Avon Products, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Miami or Ft. Lauderdale, Fla.

No. MC 141138 (Sub-No. 6), filed July 7, 1977. Applicant: STEVE SCHRANZ TRUCKING, INC., 350 Honeysuckle Lane, Belleville, Ill. 62221. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and feed ingredients*, between points in Shelby County, Tenn., on the one hand, and, on the other, points in Mississippi, Arkansas, Kentucky, Florida, Alabama, Georgia and Louisiana.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or St. Louis, Mo.

No. MC 141402 (Sub-No. 9), filed July 11, 1977. Applicant: LINCOLN FREIGHT LINES, INC., P.O. Box 427, Lapel, Indiana 46051. Applicant's representative: Norman R. Garvin, 815 Merchants Bank Building, Indianapolis, Indiana 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Empty glass jars, bottles, containers, caps, covers and skids*, from Lapel, Indiana, to points in Illinois, Iowa, Kentucky, Michigan, Minnesota, Missouri and Ohio, under a continuing contract or contracts with Brockway Glass Company, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Indianapolis, Ind. or Chicago, Ill.

No. MC 141485 (Sub-No. 4), filed July 11, 1977. Applicant: CLIFFORD RAY RUTLAND, doing business as CLIFF RUTLAND TRUCKING, Rural Route One, Independence, Kansas 67301. Applicant's representative: Laurel D. McClellan, P.O. Box 478, 430 North Seventh, Fredonia, Kansas 67301. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: (1) (a) *Feed ingredients (except in bulk)*, from Van Buren and Jonesboro, Ark., Quincy, Ill., Cedar Rapids, Iowa, Louisville, Ky., and Ft. Worth, Tex., to Republic, Billings, Crane, Bois De Arc, Ash Grove, Ozark, Springfield, Mountain Grove, Golden, Mansfield, Ava, Carthage, Neosho, Marionville, Lebanon, Marshfield, West Plains, Hartville, Bolivar, Buffalo, Nixa, and Joplin, Mo., and Springdale, Bentonville, and Decatur, Ark., (b) *Feed Ingredients (except in bulk)*, from Hutchinson and Pittsburg, Kans., Danville, Springfield, and Decatur, Ill., and Stuttgart, Ark., to Billings, Crane, Bois De Arc, Ash Grove, Ozark, Springfield, Mountain Grove, Golden, Mansfield, Ava, Carthage, Neosho, Marionville, Lebanon, Marshfield, West Plains, Hartville, Bolivar, Buffalo, Nixa, and Joplin, Mo., and Springdale, Bentonville, and Decatur, Ark.; and (c) *Feed Bags*, from Memphis, Tenn., to Billings, Mo.; under a continuing contract or contracts with American Agri Products, Inc., of Republic, Mo.; and (2) (a) *Horse Feeds (except in bulk)*, from Ava and Republic, Mo., Parsons, Kans., Washington, Okla., and Denver, Colo., to points in Arkansas and Ohio; (b) *Horse Feed Ingredients (except in bulk)*, from Van Buren and Jonesboro, Ark., Quincy, Ill., Cedar Rapids, Iowa, and Louisville, Ky., to Republic, Billings, Crane, Bois De Arc, Ash Grove, Ozark, Springfield, Mountain Grove, Golden, Mansfield, Ava, Carthage, Neosho, Marionville, Lebanon, Marshfield, West Plains, Hartville, Bolivar, Buffalo, Nixa and Joplin, Mo., and Springdale, Bentonville, and Decatur, Ark., under a continuing contract or contracts with Super Sup Equine Products, Inc., of Springfield, Mo.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Tulsa, Okla., or Wichita, Kans.

No. MC 141804 (Sub-No. 70), filed July 11, 1977. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tennessee 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebraska 68509. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages* (except commodities in bulk) from Plainfield, Illinois; Hammondsport, New York; Lawrenceville and Edison, New Jersey; Dundalk and Relay, Maryland; Linfield and Philadelphia, Pennsylvania to points in California, Arizona and Nevada.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, California, or Lincoln, Nebraska.

No. MC 141823 (Sub-No. 2), filed July 5, 1977. Applicant: GLASS CONTAINER TRANSPORT, INC., Route 1, Box 271, Ridgeway, S.C. 29130. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St. NW., Atlanta, Ga. 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass containers and container accessories*, between the plantsite and warehouse facilities of Kerr Glass Manufacturing Corporation located in Wilson County, N.C., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, Ohio, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, and Wisconsin, and (2) *Materials, equipment and supplies* used in the manufacture and distribution of glass containers and container accessories (except commodities in bulk), from points in the states named in (1) above to the plantsite and warehouse facilities of Kerr Glass Manufacturing Corporation located in Wilson, N.C. under a continuing contract or contracts with Kerr Glass Manufacturing Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Atlanta, Ga., or Oklahoma City, Okla.

No. MC 142631 (Sub-No. 1), filed July 5, 1977. Applicant: LEELAND L. PEABODY, doing business as, PEABODY TRUCKING, 9161 Batavia, Orange, Calif. 92665. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Insulation*, from New Carlisle, Ind. and Niagara Falls, N.Y., to points in Arizona and California; and (B) *Firebrick and firebrick shapes*, from Falconer, N.Y., to points in Arizona and California, under a continuing contract or contracts with The Carborundum Company, Niagara Falls, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y. or Los Angeles, Calif.

No. MC 143023 (Sub-No. 1), filed July 11, 1977. Applicant: CHIWAUKEE TRUCK LINES, INC., 1501 West Pershing Road, Chicago, Ill. 60609. Applicant's representative: Robert J. Gill, 29 South LaSalle Street, Chicago, Illinois 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Malt, carbonated and cereal beverages, beverage containers and advertising matter; and (2) empty malt beverage containers and pallets on return, from Memphis, Tennessee to points in Cook County, Ill.

NOTE.—Applicant holds contract carrier authority in MC 27089 (Sub-No. 1), therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill.

No. MC 143033 (Sub-No. 2), filed July 8, 1977. Applicant: MOUNTAIN AIR DELIVERY, a corporation, 3770 Mill Street, Reno, Nev. 89505. Applicant's representative: G. W. Griffin, Jr. (same address as applicant). Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, in the transportation of *Electronic measuring instruments and component parts*, between the plant of Bently Nevada Corp., located at Minden, Nev., on the one hand, and, on the other, Reno, Sparks, and Reno International Airport, Nev. restricted to traffic having an immediately prior or subsequent movement by air, under a continuing contract, or contracts, with Bently Nevada Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Carson City, Nev.

No. MC 143071 (Sub-No. 4), filed July 13, 1977. Applicant: UNIVERSAL DEVELOPMENT, INC., Box 568, York, Nebraska 68467. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kansas 66603. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting *Aluminum irrigation pipe, fittings and accessories*, from the plantsite of Kroy Metal Products, at or near York, Nebraska to points in Alabama, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebraska.

No. MC 143071 (Sub-No. 5), filed: July 13, 1977. Applicant: UNIVERSAL DEVELOPMENT, INC., Box 568, York, Nebraska 68467. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kansas 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products* and articles distributed by meat packinghouses, as described in Section A and C of Appendix I

V42165 AUG 25 77 UMI

to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) From the plantsite of Sunflower Beef Packers, Inc. located at or near York, Nebraska to points in Washington, Oregon, Idaho, and Montana. Restricted to traffic originating at above-named origin and destined to above-named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebraska.

No. MC 143169 (Sub-No. 1), filed July 5, 1977. Applicant: HARRY BROTTON AND HENRY LUCERO, doing business as LUCERO FILM SERVICE, 3630 Locke Avenue, Los Angeles, California 90032. Applicant's representative: David S. Koslow, 3550 Wilshire Boulevard, Suite 1418, Los Angeles, California 90010. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *motion picture film positives, theater related supplies, carbons for carbon arc projectors and lamps, parts and supplies used in the general repair of exhibitors' booth equipment and existing theater installations, and advertising material*, between Los Angeles, California and points in Arizona and Nevada, a non-radial movement, restricted to locations of film exhibitors.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, California.

No. MC 143182 (Sub-No. 1), filed July 11, 1977. Applicant: ED WHITE, doing business as, WHITE TRUCKING, Route 1, Box 95, Atmore, Alabama 36502. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, Alabama 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: Fertilizer and fertilizer ingredients from Columbus, Ga., to Baldwin, Escambia, and Mobile Counties, Ala.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Mobile, Ala., or Columbus, Ga.

No. MC 143211 (Sub-No. 2), filed July 13, 1977. Applicant: IRA LEE WALKER, 410 Bleckley St., P.O. Box 836, Anderson, S.C. 29622. Applicant's representative: Richard C. Otter, P.O. Box 273, Anderson, S.C. 29622. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Aluminum corrugated alloy pipe* between points in Anderson County, S.C., on the one hand, and, on the other, points in Georgia and North Carolina. Restricted: to transportation service under continuing contracts with Kaiser Aluminum & Chemical Sales, Inc.

NOTE.—If a hearing is deemed necessary, the applicants request it be held in Columbia, S.C., Atlanta, Ga., or Charlotte, N.C.

No. MC 143239 (Sub-No. 2), filed June 24, 1977. Applicant: JAMOUR, INC., doing business as QUICK METROPOLITAN MESSENGER SERVICES, a corporation, 28 S. 40th Street, Philadelphia, Pa. 19104. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting business reports, records and documents from the facilities of Datacomp Corporation in Philadelphia, Pa., to the facilities of Bell Telephone Company, located at points in New Jersey.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Washington, D.C., or Philadelphia, Pa.

No. MC 143311 (Sub-No. 2), filed June 24, 1977. Applicant: FAMCO TRANSPORT, INC., P.O. Box 80007, Seattle, Wash. 98108. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Chemicals and minerals*, in bags, boxes, drums, and packages from points in Los Angeles, Alameda, and Stanislaus Counties and Lompoc, Calif., to the ports of entry located on the International Boundary Line between the United States and Canada located at or near Lynden, Wash., under a continuing contract, or contracts, with Harrisons & Crosfield, Ltd.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 143356 (Sub-No. 2), filed July 12, 1977. Applicant: MIRACLE MOTOR SERVICE, LTD., 1825 N. California, Chicago, Ill. 60647. Applicant's representative: Michael Parisi, 5915½ Irving Park Road, Chicago, Ill. 60634. Authority sought to engage in interstate commerce as a *common carrier* by motor vehicle over irregular routes in the transpotration of composition board, plywood, accessories, and materials used in the installation and sale thereof, from the plant and warehouse sites of Abitibi Corp., in Chicago, Ill., to points in Wisconsin and Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill., or Milwaukee, Wis.

No. MC 143373 (Sub-No. 1), filed July 7, 1977. Applicant: WEILAND TRUCKING CO., INC., P.O. Box 268, Wautoma, Wis. 54982. Applicant's representative: Edward H. Instenes, P.O. Box 676, Winona, Minn. 55987. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and empty beverage containers*, between Newport, Ky., and Evansville, Ind., on the one hand, and, on the other, points in Brown Deer, Cedarburg, Green Bay, Hartland, and Racine, Wis., under contract with G. Heileman Brewing Co., at La Crosse, Wis.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Madison or Milwaukee, Wis.

No. MC 143448 (Sub-No. 1), filed July 5, 1977. Applicant: DOONAN TRUCK AND EQUIPMENT, INC., P.O. Box 1266, Great Bend, Kansas 67530. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Bldg., Topeka, Kansas 66603. Authority sought to operate as a *common carrier*, by motor vehicles over irregular routes, transporting: *Wrecked and disabled or repossessed vehicles and trailers and replacement vehicles and trailers for such wrecked or disabled vehicles*, between points in Kansas, on the one hand, and points in the United States (except Alaska and Hawaii), on the other hand. Restricted, against trailers designed to be drawn by passenger automobiles, mobile homes, buildings in sections, traveling on their own or removable undercarriages, unless they are wrecked.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Topeka, Kans., or Kansas City, Mo.

No. MC 143454 (Sub-No. 1), filed July 7, 1977. Applicant: DONNA BARTOLI, doing business as DON-BAR FREIGHT, 3859 West 109th Place, Chicago, Ill. 60655. Applicant's representative: James R. Madler, 120 West Madison St., Suite 718, Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, conduit, tubing, and fittings*, from Chicago, Ill., to points in Iowa, Missouri, North Dakota, South Dakota, Minnesota, and Wisconsin, under a continuing contract with Maneely-Illinois, Inc., at Chicago, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 143465, Filed July 7, 1977. Applicant: FOREDECK TRANSPORTATION CO., INC., Whitewood Lane, Oak Ridge, N.J. 07438. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, over irregular routes, transporting: (1) *Cleaning, scouring, washing compounds, display materials, and supplies* (except commodities in bulk in tank vehicles), and (2) *materials, equipment, and supplies* used in the mnufacture and sale of (1) above (except commodities in bulk in tank vehicles), between Berkeley, R.I.; Clifton, N.J.; Elkhart, Ind.; Milford, Conn.; and Clinton, Mass., on the one hand, and, on the other, Savannah, Ga.; Detroit, Mich.; Peoria, Ill.; Denver, Colo.; Los Angeles, Calif.; Fort Worth, Dallas, Tex.; Cleveland, Ohio; New York, N.Y.; and Commercial Zones of the above points as defined by the Commission. Restricted to shipments under continuing contract or contracts with Glamorene Products Corp., at Clifton, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 143467, filed July 8, 1977. Applicant: CAMERON ENTERPRISES, INC., 2915 W. 40 Highway, Blue Springs, Missouri 64015. Applicant's representative: Arthur J. Cerra, 2100 TenMain

Center, Kansas City, Missouri 64141. Authority is sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting used household goods, unaccompanied baggage, and personal effects as defined by the Commission in containers between the Missouri Counties of Benton, Henry, Hickory, Johnson, Lafayette, Pettis, St. Clair, Saline, and Jackson, under a Government Contract serving Whiteman Air Force Base, Knob Noster, Mo.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Kansas City, Mo.

No. MC 143468 (Sub-No. 1), filed July 11, 1977. Applicant: D. & T. ENTERPRISES, INC., R. R. 3, Box 390, Columbus, Ind. 47201. Applicant's representative: Robert W. Loser II, 1009 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *Fertilizer*, from the plantsite and storage facilities of C F Industries Incorporated, located at or near Cincinnati, Ohio, to Bartholomew County, Indiana; and, (2) *Dry feed and dry feed ingredients*, from the plantsite and storage facilities of Ralston Purina Company, located at or near Louisville, Kentucky, to Bartholomew County, Indiana, restricted in Parts (1) and (2) above to service performed pursuant to a continuing contract, or contracts, with Farmers Marketing Ass'n., Inc., Columbus, Indiana.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Indianapolis, Ind. or Louisville, Ky.

No. MC 143476, filed July 8, 1977. Applicant: CHARLES C. HAMMOND, d.b.a. Paw Paw Trucking Co., 248 Maple Street, Paw Paw, Ill. 61353. Applicant's representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal tar emulsion* from Compton, Illinois to points in Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, and Wisconsin, under a continuing contract or contracts with Cosmicoat, Inc., located at Canton, Illinois.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held either at Chicago, Ill. or Springfield, Ill.

No. MC 143477, filed July 8, 1977. Applicant: ARCADIAN MOTOR CARRIERS (a corporation), 1831 Simpson Street, Kingsburg, Calif. 93631. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are used or dealt in by wholesale or retail grocers (except commodities in bulk), from the plant sites and storage facilities of the Proctor & Gambie Company and its divisions or subsidiaries located in Lima and Cincinnati, Ohio; Kansas City, Kan., St. Louis, Mo., and their commercial zones, to points in California, Oregon, Washington, Utah, and Arizona, under a continuing contract or contracts with the Proctor & Gamble Company, and its divisions or subsidiaries.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 143478, filed July 11, 1977. Applicant: G. P. THOMPSON d.b.a. G. P. THOMPSON ENTERPRISES, P.O. Box 146, Midway, Ala. 36053. Applicant's representative: Terry P. Wilson, 420 South Lawrence Street, Montgomery, Ala. 36104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, glassware, plastic articles, and cartons*, from Brockway and Washington, Pa., and Zanesville, Ohio, to points in Alabama, Georgia, Mississippi, Tennessee, Louisiana, and Florida. Restricted to the transportation of shipments under a continuing contract or contracts with Brockway Glass Company, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Pittsburgh, Pa., or Montgomery, Ala.

No. MC 143486, filed July 13, 1977. Applicant: DELTCOO (a corporation), 312 East 16th Street, Greeley, Colo. 80631. Applicant's representative: Leslie R. Kehl, Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80264. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Ore*, from Elko County, Nev., to the mill facility of Eisenman Chemical Company, located at Salt Lake City, Utah, and (b) *chemicals*, in bags, and *drilling mud*, (1) between the warehouses of Eisenman Chemical Company, located at or near Greeley, Colorado; Bakersfield and Woodland, California; Weatherford, Burns Flat and Woodward, Oklahoma; Canadian, Texas; Casper and Evanston, Wyoming; Myton and Salt Lake City, Utah; Grand Island, Nebraska, and Farmington,, New Mexico, and (2) from Arizona; Colorado; California; Idaho; Kansas; Michigan; Montana; Nebraska; Nevada; New Mexico; Syracuse, New York; North Dakota; Oklahoma; South Dakota; Texas; Utah; Hopewell, Virginia; and Wyoming, to the warehouses of Eisenman Chemical Company as listed in subparagraph (1) above. The operations sought in paragraphs (a) and (b) above are limited to a transportation service to be performed under a continuing contract or contracts with Eisenman Chemical Company of Greeley, Colorado.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Denver, Colorado.

No. MC 143942, filed July 11, 1977. Applicant: RALPH TUNE, d.b.a. TUNE LUMBER CO., Mountain View, Mo. 65548. Applicant's attorney: Tom B. Kretsinger, 910 Brookfield Building, 101 West Eleventh Street, Kansas City, Mo. 64105. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes transporting: *Wooden pallets and mill lumber*, from Mountain View, Missouri, to points in Arkansas, Illinois, Iowa, Kansas and Nebraska, under a continuing contract, or contracts, with Clinton Pallet Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Kansas City, or St. Louis, Mo.

No. MC 143493, filed July 13, 1977. Applicant: MINERAL CARRIERS, INC., 831 East Main Street, Bridgewater, N.J. 08807. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Avenue, Post Office Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Activated carbon, spent or deactivated carbon, and water-treating chemicals*, in bulk, in dump trucks, between Catlettsburg, Kentucky and Pittsburgh, Pennsylvania, on the one hand, and, on the other, points in Pennsylvania, New Jersey, New York, Delaware, Connecticut, Massachusetts, Maryland, Virginia, Texas, Rhode Island, Kentucky, Louisiana, Tennessee, Alabama, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 143523, filed July 12, 1977. Applicant: GERALD R. HENGEVELD, P.O. Box 327, Moxee City, Wash. 98936. Applicant's representative: Douglas A. Wilson, 303 East "D" Street, Yakima, Wash. 98901. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and wine*, from Azusa, Los Angeles and Modesto, Calif., to Mt. Vernon, Washington, and empty barrels, bottles and pallets on return, under a continuing contract or contracts with Sound Beverage Distributors, Inc. of Mt. Vernon, Wash.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Portland, Oreg. or Seattle, Wash.

No. MC 143524, filed July 14, 1977. Applicant: DWIGHT R. WEATHERMAN, Route 9, Box 197, Statesville, N.C. 28677. Applicant's representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and home furnishing accessories, electrical appliances, and commodities dealt in by retail mail order houses*, from Statesville, N.C., to points in Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and the District of Columbia. Damaged or rejected shipments on return. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Blackwelder Furniture Co., of Statesville, N.C.

V 42165 AUG 25 77 UMI

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in (1) Charlotte, N.C., or (2) Washington, D.C.

No. MC 143591, filed July 11, 1977. Applicant: FLOYD WILD, INC., P.O. Box 91, Marshall, Minn. 56258. Applicant's representative Samuel Rubenstein, 301 North Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured decorative stone* from points in Lyon County, Minn., to points in Colorado, Iowa, Kansas, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn. Applicant holds con-carrier authority in No. MC 133542 (Sub-No. 1 and other subs); therefore dual operations may be involved.

PASSENGERS

No. MC 2890 (Sub-No. 52), filed June 30, 1977. Applicant: AMERICAN BUSLINES, INC., 1501 South Central Avenue, Los Angeles, Calif. 90021. Applicant's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, (1) in round-trip sightseeing and pleasure tours beginning and ending at points in Cochise, Maricopa, Pima, Pinal, and Yuma Counties, Ariz.; Clark, Churchill, Elko, Eureka, Humboldt, Lander, Lyon, Pershing, Washoe, and White Pine Counties, Nev.; and Beaver, Davis, Iron, Juab, Millard, Morgan, Salt Lake, Summit, Tooele, Utah, and Weber Counties, Utah, and extending to points in the United States including Alaska (but excluding Hawaii); and (2) in sightseeing and pleasure tours beginning at points in the above-named Arizona, Nevada, and Utah Counties and extending to points in the United States, including Alaska (but excluding Hawaii).

NOTE.—Applicant states it proposes to operate between any and all ports of entry on the International Boundary line between the United States and Canada. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Phoenix, Ariz., Reno, Nevada, or Salt Lake City, Utah.

No. MC 11316 (Sub-No. 1), filed July 3, 1977. Applicant: THE GALION & MANSFIELD TRANSIT CO., a corporation, 1271 Bowman Street, Mansfield, Ohio 44903. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *passengers and their baggage* in the same vehicles with passengers in round-trip special and charter operations beginning and ending at points in Ashland, Crawford, Holmes, Huron, Licking, Marion, Morrow, Seneca, Richland, and Wyandot Counties, Ohio, and extending to points in the United States including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 61802 (Sub-No. 15), filed July 12, 1977. Applicant: THE COLONIAL TRANSIT CO., INC., P.O. Box 508, Fredericksburg, Va. 22401. Applicant's representative: L. C. Major, Jr., Suite 400, Overlook Bldg., 6121 Lincolnia Road, Alexandria, Va. 22312. Applicant seeks authority to operate as a *common carrier* by motor vehicle, over a regular route, transporting: *Passengers and their baggage* in the same vehicle with passengers, between Lake of the Woods, Va., and the District of Columbia as follows: From Lake of the Woods, Va., over Virginia Highway 3 to junction with Interstate Highway 95, thence over Interstate Highway 95 to junction with U.S. Highway 17, thence over U.S. Highway 17 to junction with Virginia Secondary Highway 670, thence over Virginia Secondary Highway 670 to the parking lot of the Thr-Rift Inns, Ltd., thence return over Virginia Secondary Highway 670 to junction with U.S. Highway 17, thence via U.S. Highway 17 to junction with Interstate Highway 95, thence over Interstate Highway 95 to the District of Columbia, and return over the same route serving all intermediate points on Virginia Highway 3 between Lake of the Woods and junction Virginia Highway 3 and County Highway 734 (Green Gate Road), at a point approximately .6 of a mile west of junction Virginia Highway 3 and Interstate Highway 95, and the parking lot of Thr-Rift Inns, Ltd., located on Virginia Secondary Highway 670, approximately 0.2 of a mile west of junction of U.S. Highway 17 and Interstate Highway 95. Applicant states it currently is authorized by the certificate issued it in Docket No. MC 61802 Sub-No. 11 to provide service over the entire route being applied for except for the segments of U.S. Highway 17 and Virginia Secondary Highway 670 here involved which authority is being sought solely in order to permit applicant to serve the parking lot of Thr-Rift Inns, Ltd., as a new intermediate point, for the pick-up and discharge of Commuter passengers traveling to and from Washington, D.C.

NOTE.—If a hearing is deemed necessary applicant requests it be held at Washington, D.C.

No. MC 103210 (Sub-No. 5), filed July 8, 1977. Applicant: SERVICE BUS CO. INC., 798 Nepperhan Avenue, Yonkers, N.Y. 10703. Applicant's representative: Sidney J. Leshin, 575 Madison Avenue, New York, N.Y. 10022. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, between points in Putnam and Westchester Counties, N.Y., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either New York, N.Y., or White Plains, N.Y.

No. MC 107586 (Sub-No. 24), filed June 30, 1977. Applicant: CONTINENTAL BUS SYSTEM, INC., 315 Continental Avenue, Dallas, Tex. 75207. Applicant's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Passengers and their baggage*, in special operations, in round-trip sightseeing and pleasure tours, beginning and ending at points in Carson, Emery, Garfield, Grand, Juab, Kane, Piute, Salt Lake, Sanpete, Sevier, and Utah Counties, Utah, and extending to points in the United States, including Alaska (but excluding Hawaii); and (2) *passengers and their baggage*, in one-way sightseeing and pleasure tours, beginning at points in said Utah Counties, and extending to points in the United States, including Alaska (but excluding Hawaii).

NOTE.—Applicant proposes to operate between any and all ports of entry on the International Boundary line between the United States and Canada. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Salt Lake City, Utah.

No. MC 109780 (Sub-No. 74), filed June 23, 1977. Applicant: CONTINENTAL TRAILWAYS, INC., 1500 Jackson Street, Dallas, Tex. 75201. Applicant's representative: Gayla L. Campbell, 1500 Jackson Street, Suite 422, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in special operations, beginning and ending at points in San Francisco, Contra Costa, Alameda, San Mateo, Santa Clara, Sacramento, and San Joaquin Counties, Calif., and extending to points in Douglas, Washoe, and Storey Counties, Nev., and Carson City, Nev.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at San Francisco, Calif., and Reno, Nev. Common control may be involved.

No. MC 109780 (Sub-No. 75), filed June 30, 1977. Applicant: CONTINENTAL TRAILWAYS, INC., 1500 Jackson Street, Dallas, Tex. 75201. Applicant's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* (A) in special operations, in round-trip sightseeing and pleasure tours, beginning and ending at points in Apache, Coconino, Maricopa, Mohave, Navajo, and Yavapai Counties, Ariz., and Kane County, Utah; and (B) one-way sightseeing and pleasure tours, beginning at points in said Arizona and Utah counties and extending to points in the United States, including Alaska but excluding Hawaii.

NOTE.—Applicant proposes to operate between any and all ports of entry on the International Boundary line between the United States and Canada. Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Phoenix, Ariz.

No. MC 115880 (Sub-No. 4), filed July 12, 1977. Applicant: BROOKFIELD BUS SERVICE, INC., 3 Railroad Place, Maspeth, N.Y. 11378. Applicant's representative: Sidney J. Leshin, 575 Madison Avenue, New York, N.Y. 10022. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, (1) between the New York Counties of Nassau and Suffolk, on the one hand, and, on the other, points in New York, New Jersey, Pennsylvania, Connecticut, Rhode Island, Maine, New Hampshire, Vermont, Massachusetts, Delaware, Maryland, Virginia, Florida, and the District of Columbia, and (2) between New York, N.Y., on the one hand, and, on the other, points in Florida, Vermont, and Maryland.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y.

No. MC 138252 (Sub-No. 4), filed July 13, 1977. Applicant: COURTESY BUS RENTAL SYSTEM, INC., Route 3, Box 617, Brandywine, Md. 20613. Applicant's representative: Daniel B. Johnson, 1123 Munsey Bldg., 1329 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in round trip charter operations: Beginning and ending at points in that part of Maryland bounded by the Chesapeake Bay on the east; the Potomac River on the south; and Prince Georges and Anne Arundel Counties on the north including points within Prince Georges and Anne Arundel Counties, and the District of Columbia and extending to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 142760 (Sub-No. 1), filed July 11, 1977. Applicant: DATA PROCESSING MAINTENANCE, INC., doing business as, LUXURY COACHES, 4220 La Branch (Box 8326), Houston, TX 77004. Applicant's representative: Thomas F. Sedberry, 1102 Perry-Brooks Building, Austin, TX 78701. Authority sought as a *common carrier*, by motor vehicle, over irregular routes, transporting: Passengers and their baggage, in round-trip special or charter operations, and in round-trip special operations, between points in Harris County, Texas, on the one hand, and, on the other, points in New Mexico and Colorado.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 143314, filed April 26, 1977. Applicant: AUTOBUS LA SAPINIERE LTEE, A Corporation, 114 Angus Street, East Angus, Quebec, Canada. JOB LRO. Applicant's representative: Claude St-James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in round trip charter operations, beginning and ending at Ports of Entry on the International Boundary Line between the United States and Canada located at Alexandria Bay, N.Y.; Richford, Vt.; Rouses Point, N.Y.; Derby Line, Vt.; Norton Mills, Vt.; Beechar Falls, N.H.; and Coburn Gore, Maine and extending to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Concord, N.H.

No. MC 143490, filed July 14, 1977. Applicant: VENISE COACH LINE INC., McArthur Road, Valleyfield, province of Quebec, Canada J6S 4V4. Applicant's representative: Guy Poliquin, No. 140–580 east Grande-Allee, Quebec, Canada G1R 2K3. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Passengers and their baggage, in round trip charter and special operations, beginning and ending at ports of entry on the International Boundary line between the United States and Canada, located in Maine, New Hampshire, Vermont, New York and Michigan and extending to points in the United States (except Alaska and Hawaii), restricted to the transportation of passengers beginning and ending at Valleyfield, province of Quebec, Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Montpelier, Vt.

No. MC 143491, filed July 14, 1977. Applicant: TRANSPORT DES MONTS LTEE, Cap-Chat. Gaspe-nord County, Province of Quebec, Canada. Applicant's representative: Guy Poliquin, No. 140–580 east Grande-Allee, Quebec city, Province of Quebec, Canada G1R 2K3. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Passengers and their baggage in round trip charter and special operations, beginning and ending at ports of entry on the international boundary line between the United States and Canada, located in Maine, New Hampshire, Vermont, New York and Michigan and extending to points in the United States (except Alaska and Hawaii), restricted to the transportation of passengers beginning and ending in Matane, Petite-Matane, St-Felicite, Grosses-Roches, Les Mechins, Capucin, Cap-Chat, Ste-Anne-des-Monts, province of Quebec, Canada.

NOTE.—If a hearing is deemed necessary, the applicanat requests that it be held at Concord, N.H.

No. MC 130258 (Sub-No. 1), filed July 8, 1977. Applicant: VI R. CARPENTER and MARK E. CARPENTER, Individually, doing business as CARPENTER TOURS, RFD No. 1, Humboldt, Illinois 61931. Applicant's representative: VI R. Carpenter (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Humboldt, Illinois, to sell or offer to sell the transportation of *passengers; individuals and/or groups and their baggage*, in round-trip all expense tours, in special and charter operations, beginning and ending at Mattoon, Illinois, and points in Effingham, Moultrie, Edgar, Shelby, Cumberland and Douglas Counties, Illinois and extending to points in the United States including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Springfield, Illinois.

No. W 1311 (Sub-No. 1), filed July 18, 1977. Applicant: AMERICAN PACIFIC CONTAINER LINE, INC. (AMPAC), 501 Army Street, San Francisco, Calif. 94124. Applicant's representative: John T. Reed, Pacific Coast Tariff Bureau, 450 Mission Street, San Francisco, Calif. 94105. Authority sought to operate as a *common carrier* by water in the transportation of *commodities generally in containers* between the ports of Long Beach, Los Angeles, San Diego, San Francisco and Oakland, Calif; Portland, Oregon and Seattle and Tacoma, Wash. Service to be restricted to cargo having prior or subsequent movement via ocean carriers subject to the Shipping Act of 1916; and (2) *empty containers* between the above listed points.

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held at San Francisco, Calif., or alternatively Seattle, Wash.

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, or rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 240 (c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-12443 (supplemental notice) Notice of this proposed transaction was originally published in the FEDERAL REGISTER on March 5, 1975. Authority sought for purchase by JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, Mo. 63701, of the operating rights of PASCAGOULA DRAYAGE COMPANY, INC., 701 East Pine Street, Hattiesburg, Miss. 39401, and for acquisition by Jerry Lipps, 130 S. Frederick Street, Cape Girardeau, Mo. 63701, of control of such rights through the purchase. Applicant's attorney: Edward G. Bazelon, 39 South LaSalle St., Chuoys,

V 42165 AUG 25 77 UM

Ill. 60603 and Harold D. Miller, Jr., P.O. Box 22567, Jackson, Miss. 39205. This transaction was approved, subject to conditions, by a report and order of the Commission, Division 3, Acting as an Appellate Division, served December 6, 1976. The report noted that the operating rights authorized to be transferred in vendor's certificate in No. MC–127689 (Sub-No. 15) had been modified (to change the commodity authorization version from "particleboard" to "fiberboard") and, accordingly, noted the transfer of the operating rights, as modified, should be given in the FEDERAL REGISTER. Notice is hereby given of the proposed transfer of vendor's certificate in No. MC–127689 (Sub-No. 15) which as modified by Division 3's report, authorizes the transportation of fiberboard, from Meridian, Miss., to Truman, Ark., with no transportation for compensation on return except as otherwise authorized, with said authority being restricted to the transportation of traffic originating at the plant site of Kroehler Manufacturing Company in Meridian, Miss., and destined to Truman, Ark. Said certificate will actually be transferred to vendee if no protest or petition is received within 30 days from the date of this notice.

No. MC–F–13304. Authority sought for control and merger by BECKER CORPORATION, P.O. Box 1050, El Dorado, KS 67042, of ROYAL TRANSPORTS, INC., 642 Adams, Kansas City, KS 66105, and for acquisition by FRANK J. BECKER, P.O. Box 1050, El Dorado, KS 67042, of control of such rights through the transaction. Applicants' attorneys: T. M. Brown, 223 Ciudad Bldg., Oklahoma City, OK 73112, John E. Jandera, 641 Harrison St., Topeka, KS 66603, and Michael Dwyer, Ste. 205, 4700 W. 50th Terrace, Shawnee Mission, KS 66205. Operating rights sought to be controlled and merged: Under MC–139227, Gasoline, diesel fuel, aviation fuel, fuel oil, asphalt, and asphalt products, in bulk, in tank vehicles, as a common carrier over irregular routes between points in Kansas, on the one hand, and, on the other, points in Missouri; Under MC–136956 and subs thereunder, the authority is presently pending or Temporary authority. Under MC–1340, (Royal Transports, Inc. of Nebraska) which is a wholly owned subsidiary of Royal Transports, Inc. of Kansas (transferor), Petroleum products, in bulk, as a common carrier over regular routes From Arkansas City, Kans., to points in Nebraska as follows, serving the intermediate points of Augusta, Wichita, and McPherson, Kans., restricted to pickup only, and Grafton, Sutton, Hastings, Kearney, Lexington, North Platte, Hershey, Sutherland, Paxton, Sidney, Potter, Kimball, Gibson, Shelton, Lawrence, Benkelman, Red Cloud, Stratton, Culbertson, McCook, Cambridge, Holdrege, Broken Bow, and Oshkosh, Nebr., restricted to delivery only, and the off route points of Eldorado, Kans., to be served from junction U.S. Highway 81 and Kansas Highway 196 over Kansas Highway 196 restricted to pickup only; Curley and Dalton, Nebr., to be served from Sidney, Nebr., from junction Nebraska Highway 19 and Nebraska Highway 385 (formerly portion Nebraska Highway 19), over Nebraska Highway 385, Wauneta and Palisade, Nebr., to be served from Culbertson, Nebr., over U.S. Highway 6, and Hayes Center, Nebr., to be served from junction U.S. Highway 6 and unnumbered highway (formerly portion Nebraska Highway 17), over unnumbered highway, restricted to delivery only; From Argentine, Kans., to Bushnell, Anselmo, and Fremont, Nebr., as follows, serving the intermediate points of Fairfield, Sutton, Grafton, Hastings, Kearney, Lexington, North Platte, Hershey, Sutherland, Paxton, Sidney, Kimball, Grand Island, and Broken Bow, Nebr., restricted to delivery only; and the off route points of Gurley and Dalton to be served from Sidney, Nebr., from junction Highway 19 and Nebraska Highway 385 (formerly portion Nebraska Highway 19).

Over Nebraska Highway 385, and Lawrence, Nebr., restricted to delivery only; liquid petroleum products, from Kansas points to points in Nebraska and Iowa, as follows, serving the intermediate points of Harlem, Iowa, restricted to delivery only, and Maryville, Mo., restricted to delivery of traffic moving from Eldorado, Kans., only; from Portsmouth, Iowa, to junction Iowa Highway 44 (formerly Iowa Highway 39) and U.S. Highway 30, serving no intermediate points; Petroleum products, in bulk, as a common carrier over irregular routes from refining and distributing points in Kansas to Auburn, Nebr.; liquid petroleum products, in bulk, in tank trucks, from Sugar Creek, Mo., to Anselmo, Ansley, Aranahoe, Ashland, Benkelman, Broken Bow, Cambridge, Culbertson, Dalton, Exeter, Fairbury, Fairfield, Fremont, Friend, Geneva, Gibbon, Grafton, Gretha, Grand Island, Haigler, Hastings, Hebron, Holdrege, Kearney, Kimball, Lawrence, Lexington, Lincoln, Lodgepole, McCook, Milford, North Platte, Ogallala, Omaha, Oshkosh, Palisado, Paxton, Red Cloud, Scribner, Sidney, Stratton, Sutherland, Sutton, Valley, Wahoo, Wallace, and Wauneta, Nebr., from Coffeyville, Kans., to Jolley and Lohrville, Iowa, from Coffeyville, Eldorado, McPherson, Arkansas City, Heodesha, and Augusta, Kans., to Malvern, Council Bluffs, Logan, Sioux City, Red Oak, Wesley, Titonka, Corning, Carroll, Bagley, Wall Lake, Manning, Rippey, Dunlap, Mapleton, and Havelock, Iowa, from Eldorado, McPherson, Arkansas City, Neodetha, and Augusta, Kans., to Jolley, Iowa; liquid petroleum products, in bulk, from refining and distributing points in Kansas to Cambridge, Broadwater, Omaha, Seribner, Fairbury, Arapahoe, Chester, Grafton, Geneva, Hastings, Kearney, Lexington, Paxton, Oshkosh, Ansley, Ogallala, Sutton, Exeter, Friend, Milford, Lincoln, Ashland, Gretna, Wahoo, Fremont, Hebron, Deshler, Irvington, Valley, and Morse Bluff, Nebr.; Catalogs, from McCook, Nebr., to Rexford, Menlo, Gem, Colby, Levant, Brewster, Edson, Goodland, Ruleton, Xanorado, St. Francis, Wheeler, Bird City, McDonald, Beardsley, Blakeman, Atwood, Ludell, Herndon, Traer, and Cedar Bluffs, Kans.; salt, from Hutchinson and Kanapolis, Kans., to McCook, Orleans, Cambridge, Indianola, and Benkelman, Nebr.; fruits and vegetables, from points in Colorado to McCook, Nebr.; Household goods, between McCook, Nebr., and points in Nebraska within 25 miles of McCook, on the one hand, and, on the other, points in Kansas and Colorado. Vendee is authorized to operate as a common carrier in Kansas, Nebraska, Oklahoma, Texas, New Mexico, Colorado, Iowa, South Dakota, North Dakota, Montana, Idaho, Minnesota, Wisconsin, Illinois, Missouri, Arkansas, and Louisiana. Application has been filed for temporary authority under section 210a(b).

NOTE.—Kaw Transport Company presently has contract to purchase Royal Transports, Inc. of Kansas stock. The contract is assigned to Becker Corporation.

No. MC–F 13306. Authority sought for purchase by BEE LINE MOTOR FREIGHT, INC., 1804 Paul Street, Omaha, NB 68102, of a portion of the operating rights of McAllister Transfer, Inc., 2415 Lincoln Avenue, York, NB 68467, and for acquisition by Velma Long, individually, of control of such rights through the purchase. Applicants' attorney: Donald L. Stern, Suite 530 Univac Building, 7100 West Center Road, Omaha, NB 68106. Operating rights sought to be transferred: That portion of Certificate MC 60912 authorizing General Commodities, with the usual exceptions, as a common carrier over regular routes, between Omaha, Nebraska, and Grand Island, Nebr., from Omaha over U.S. Highway 6 to Lincoln, Nebr., thence over U.S. Highway 34 to Grand Island, and all intermediate points west of Lincoln. The Purchase Agreement between Bee Line Motor Freight, Inc. and McAllister Transfer, Inc., is the subject of Sections 5 and 210a(b) applications. The effect of the authority sought to be acquired permits Transferee to serve intermediate points west of Lincoln, Nebraska on U.S. Highway 34 to Grand Island. Transferee already holds authority to serve Omaha, Lincoln, and Grand Island. The authority of Bee Line authorizes operations in the States of Iowa, Nebraska, and Colorado. Approval of this application and the herein noted application of Campbell Sixty-Six Express, Inc., and McAllister Transfer, Inc., will result in a division of that portion of the certificate of McAllister Transfer, Inc., authorizing the transportation of general commodities, with the usual exceptions, over regular routes between Omaha, Nebr., and Grand Island, Nebr. Application has been filed for temporary authority under Section 210a(b).

NOTE.—MC–F 13307 (Campbell Sixty-Six Express, Inc.—Purchase (Portion)—McAllister Transfer, Inc.) is a directly related matter.

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

NOTICE

The following operating rights application(s) are filed in connection with

pending finance applications under section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 37327 (Sub-No. 8), filed August 8, 1977. Applicant: PENN EMPIRE TRANSPORT, INC., P.O. Box 517, Livingston Ave., Jamestown, N.Y. 14701. Applicant's representative: Frederick T. O'Sullivan, P.O. Box 2184, Peabody, Mass. 01960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *new furniture*, (1) from points in Massachusetts, to points in Allegany, Broome, Cattaraugus, Chautauqua, Erie, Genesee, Chemung, Livingston, Niagara, Orleans, Steuben, Tioga, and Wyoming Counties, N.Y. The purpose of this filing is to eliminate the gateways of Concord and Acton, Mass.; and (2) from points in Massachusetts, to points in Pennsylvania. The purpose of this filing is to eliminate the gateways of Concord and Acton, Mass., and Jamestown, N.Y.

NOTE.—These are gateway elimination requests and are matters directly related to a Section 5(2) proceeding in MC–F 13218 published in the FEDERAL REGISTER issue of July 8, 1977. If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass.

No. MC 83430 (Sub-No. 12), filed August 8, 1977. Applicant: ONEIDA MOTOR FREIGHT, INC., Commercial Avenue, Carlstadt, N.J. 07072. Applicant's representative: William Biederman, 371 7th Avenue, New York, N.Y. 10001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between points in New York, on the one hand, and, on the other, points in New Jersey, and those points in Bucks, Philadelphia, Delaware, and North Hampton Counties, Pa., the gateways to be eliminated are New York, N.Y., and points in Somerset, Hunterdon, Morris, Sussex, Warren, Passiac, Middlesex, Union, Hudson, Bergen Counties, N.J.; (2) between points in New York, on the one hand, and, on the other, Hartford, Conn., points in that part of Connecticut bounded by a line beginning at the New York-Connecticut State line and extending along U.S. Highway 6 to Sandy Hook, Conn., thence along Connecticut Highway 34 to New Haven, Conn., including points on those parts of the highways specified; the gateways to be eliminated are Essex, Hudson, Bergen, Passaic, and Union Counties, NJ.; and (3) between Athens and Sayre, Pa., on the one hand, and, on the other, Hartford, Conn., and points in New York, New Jersey, and those points in that part of Connecticut bounded by a line beginning at the New York-Connecticut State line and extending along U.S. Highway 6 to Sandy Hook, Conn., including those portions of the highways specified; the gateways to be eliminated are the New York Commercial Zone, Rockland, and Westchester Counties, N.Y., and Union, Somerset, Middlesex, Essex, Hudson, Bayonne, and Passaic Counties, N.J.

NOTE.—This is a matter directly related to a finance proceeding in MC–F 13022 which was noticed in the FEDERAL REGISTER issue of December 2, 1976. If a hearing is deemed necessary, applicant requests it be held at either New York, N.Y., Newark, N.J., or Washington, D.C.

No. MC 120761 (Sub-No. 21), filed June 15, 1977. Applicant: NEWMAN BROS. TRUCKING COMPANY, 6559 Midway Road, P.O. Box 13302, Fort Worth, Texas, 76118. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Texas 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (I) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the discovery, development, production, refining, manufacture, processing storage, transmission, and distribution of natural gas and petroleum and their products and byproducts; and *machinery, materials, equipment, and supplies*, used in, or in connection with, construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof (except the stringing or picking up of pipe in connection with main or trunk pipelines); and *heavy machinery, and heavy or cumbersome commodities*, which because of size and weight, require the use of special equipment, and *parts* thereof; (1) between points in Texas; and (2) between points in Texas, on the one hand, and, on the other, points in New Mexico, Oklahoma, and Kansas; (II) *machinery, equipment, materials, and supplies*, used in, or in connection with, the discovery, development, production, refining, manuafcture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and byproducts; and *machinery, materials equipment, and supplies*, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, (except the stringing and picking up of pipe in connection with main or trunk pipelines), between points in Texas, on the one hand, and, on the other, points in Colorado and Wyoming; and (III) *machinery, equipment, materials, and supplies*, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transportation of natural gas, petroleum, their products and byproducts, water or sewage, restricted to the transportation of shipments moving to or from pipeline rights-of-way: (1) Between points in Texas; and (2) between points in Texas, on the one hand, and, on the other, points in New Mexico, Oklahoma, and Kansas.

NOTE.—This is a Gateway Elimination Application, directly related to MC–F 13182. The purpose of this application is as follows:

To eliminate gateways with respect to Part (I) and Part (III) of the application, between points in that part of Texas, west of a line beginning at the Texas-Oklahoma State line, and extending along U.S. Highway 81 to Fort Worth, Texas, and north of a line beginning at Fort Worth, and extending along U.S. Highway 80 to El Paso, Tex., including points on the indicated portions of the highways specified, and between points in Texas, north of a line beginning at the Texas-New Mexico State line, and extending along the southern boundaries of Parmer, Castro, Swisher, Briscoe, Hall, and Childress Counties, Tex., to junction of Hardeman County line, thence west of a line extending along the Childress-Hardeman County line, to the Texas-Oklahoma State line; and

To eliminate gateways with respect to Part (II) of the application, between points in Texas, north of a line beginning at the Texas-New Mexico State line, and extending along the southern boundaries of Parmer, Castro, Swisher, Briscoe, Hall, and Childress Counties, Tex., to junction of Hardeman County line, thence west of a line extending along the Childress-Hardeman County line, to the Texas-Oklahoma State line; and to eliminate gateways in the State of Kansas.

The purpose of this republication is to add Part (III) to the application. Notice of the application filing in MC–F 13182 appeared in the FEDERAL REGISTER issue of April 21, 1977; and notice of the application filing in this matter appeared in the FEDERAL REGISTER issue of June 30, 1977.

No. MC 121586 (Sub-No. 2), filed June 29, 1977. Applicant: KRUSE TRANSPORTATION COMPANY, INC., 723 South 12th Street, Omaha, Nebr. 68102. Applicant's representative: Earl H. Scudder, Jr., P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *General Commodities* (except those requiring special equipment), over irregular routes, (1) between points in Cass, Sarpy, Saunders, Dodge, Washington, and Douglas Counties, Nebr., on the one hand, and, on the other, Omaha, Nebr.; and between points in Cass, Sarpy, Saunders, Dodge, Washington, and Douglas Counties, Nebr., on the one hand, and, on the other, points in Nebraska on and east of U.S. Highway 183; (2) between Omaha, Nebr., on the one hand,

V 42165 AUG 25 77 UMI V

and, on the other, points in Otoe, Lancaster, Seward, Cass, Sarpy, Saunders, Butler, Platte, Colfax, Dodge, Washington, Douglas, Cuming, and Burt Counties, Nebr.

NOTE.—This is a matter directly related to a finance proceeding in MC-F 13153 which was noticed in the FEDERAL REGISTER issue of March 24, 1977. If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz. Notice of this application having initially appeared in the FEDERAL REGISTER issue of July 14, 1977, and is renoticed above to indicate the broadened request for authority with respect to the second territorial description in Part (1).

MOTOR CARRIER INTRASTATE APPLICATION(S)

NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206 (a) (6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Kansas Docket No. 7384, Route No. 71, filed July 29, 1977. Applicant: FRANCIS J. GORRELL, doing business as TOPLIFF TRUCK LINE, 746 North Santa Fe, Salina, Kans. 67401. Applicant's representative: Paul V. Dugan, 2707 West Douglas, Wichita, Kans. 67213. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *General commodities* (except those of unusual value, dangerous explosives, household goods as defined in practices of motor common carrier of household goods, 17 M.C.C. 467, and those injurious or contaminating to other lading), between Salina, Kans., on the one hand, and, Prairie View, Kans., on the other hand, serving intermediate and off-route points of Lebanon, Bellaire, Smth Center, Athol, Kensington, Agra, Gretna, Stuttgart, and Phillipsburg, Kans., following route from Salina, Kans., north on U.S. Highway 81 to Belleville, Kans., thence west on U.S. Highway 36 to Prairie View, Kans. and return over the same route. Intrastate, interstate, and foreign commerce authority sought. Hearing: Date, time, and place scheduled for September 15th and 16th, 1977, at 10 a.m., starting on Thursday at 945 Second Street, North Kansas Savings Association Meeting Room, Phillipsburg, Kans. Requests for procedural information should be addressed to the Kansas State Corporation Commission, State Office Building, Topeka, Kans. 66612 and should not be directed to the Interstate Commerce Commission.

Kansas Docket No. 45376 M, Route No. 4068, filed July 29, 1977. Applicant: FRANCIS J. GORRELL, d.b.a., TOPLIFF TRUCK LINE, 746 North Santa Fe, Salina, Kans. 67401. Applicant's representative: Paul V. Dugan, 2707 West Douglas, Wichita, Kans. 67213. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *Newspapers and light express type merchandise in packages*, not to exceed 150 pounds in weight and $100 in value: To, from, and between Salina, Kans., on the one hand and Phillipsburg, Kans., on the other hand, serving intermediate and off-route points of Glen Elder, Cawker City, Downs, Portis, Harlan, Smith Center, Athol, Kensington, Agra, and Gretna, Kans., over the following route: From Salina, Kans., north on U.S. Highway 81 to the intersection of U.S. Highway 24; thence west on U.S. Highway 24 to intersection of U.S. Highway 281; thence North on U.S. Highway 281 to U.S. Highway 36; thence west to Phillipsburg and return over the same route; and to, from, and between Salina, Kans., on the one hand and Phillipsburg, Kans., on the other hand, serving intermediate and off-route points of Osborne, Bloomington, Alton, Woodston, Stockton, and Glade over the following route: From Salina, Kans., north on U.S. Highway 81 to intersection of U.S. Highway 24; thence west on U.S. Highway 24 to Stockton, Kans.; thence north on U.S. Highway 183 to Phillipsburg, Kans., and return over the same route. Intrastate, interstate, and foreign commerce authority sought. Hearing: Date, time and place scheduled for September 15th and 16th, 1977, at 10 a.m., starting Thursday at 945 Second Street, North Kansas Savings Association Meeting Room, Phillipsburg, Kans. Requests for procedural information should be addressed to the Kansas State Corporation Commission, State Office Building, Topeka, Kans. 66612, and should not be directed to the Interstate Commerce Commission.

Maine Docket No. X-5572 (amendment), filed August 5, 1977. Applicant: LUCIEN BISSON, INC., New Meadows Road, West Bath, Maine 04530. Applicant's representative: Southard, Hunt & Hebert, 128 State Street Augusta, Maine 04106. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *Household goods* as listed in Routes A–1, through A–3 and Scarboro, Maine, for interlining only. Regular routes: A–1 Between Portland-So. Portland and Nobleboro, serving in both directions the following: Portland, South Portland, Freeport, Brunswick, Topsham, Pejepscot, Bath, West Bath, Woolwich, Montsweag, Wiscasset, Sheepscot, Alna, Head Tide, N. Edgecomb along the line of No. 1 highway, Whitehead, Damariscotta Mills, S. Newcastle, Newcastle, Damaruscitta, Walpole, Clark's Cove, So. Bristol, Nobleboro, A–2 Boothbay Harbor to Portland-South Portland as follows: Boothbay Harbor to North Edgecomb including: Boothbay Harbor, Bayville, Edgecomb, Southport, West Bath, Newagen, Trevett, W. Boothbay Harbor, Brunswick, Bath, E. Boothbay, Ocean Point, N. Edgecomb, W. Southport.

Serving to and/or from all points shown above. Wiscasset to Portland-S. Portland including: Wiscasset, Woolwich, Freeport, Yarmouth, Portland-S. Portland. Serving to and from points with only such freight as is shipped from or destined to the points Boothbay-N. Edgecomb shown above.

NOTE.—No freight or merchandise to be picked up at Portland and South Portland to be delivered at Bath and Brunswick and no freight or merchandise to be picked up at Bath and Brunswick to be delivered at Portland and South Portland.

A–3 Portland-S. Portland to Pemaquid, Bristol to Pemaquid including: Bristol, Pemaquid Harbor, Pemaquid, Muscongus, Chamberlain, Bremen, Pemaquid Point, Pemaquid Beach, New Harbor, Medomak, Broad Cove, Round Pond. Serving to and/or from all points.

Pemaquid to Portland-S. Portland, including: Damariscotta, Newcastle, Freeport, Bath, Brunswick, Woolwich, West Bath, Wiscasset, Portland-S. Portland. Serving to and/or from these points with only such freight as is shipped from or destined to points: Bristol, Pemaquid Harbor, Pemaquid, Muscongus, Chamberlain, Bremen, Pemaquid Point, Pemaquid Beach, New Harbor, Medomak, Broad Cove, Round Pond. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to the Maine Public Utilities Commission, State House Annex, Capitol Shopping Center, Augusta, Maine 04330 and should not be directed to the Interstate Commerce Commission.

Montana Docket No. 3389 filed May 11, 1977. Applicant: JAMES VON GUNTEN, doing business as RED RIVER VALLEY STAGE, 1109 11th St., North, Great Falls, Mont. 59401. Applicant's representative: Ray F. Koby, 314 Montana Building, Great Falls, Mont. 59401. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *Passengers, baggage and express* (a) over regular routes from Great Falls, Mont., to East Glacier, Mont. via U.S. Highway 89 from Great Falls to Browning, Mont., and U.S. Highway 2 from Browning to East Glacier, Mont. and return over the same route, serving all intermediate points and the off route point of Valier, Mont. via Montana Highway 216 from its junction with U.S. Highway 89, in Class A service; and (b) in charter service over irregular routes, from all points served in Class A service, to all other points in Montana, in Class B service. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place scheduled for October 4, 1977, in Great Falls, Mont., at a time and place to be later assigned. Requests for procedural information

should be addressed to the Montana Public Service Commission, 1227–11th Avenue, Helena, Mont. 59601 and should not be directed to the Interstate Commerce Commission.

Docket MC 96769, filed August 5, 1977. Applicant: LIBERTY TEX-PACK EXPRESS, INC., Suite 508, Regal Plaza, 1499 Regal Row, Dallas, Tex. 75247. Applicant's representative: Austin L. Hatchell, 1102 Perry Brooks Bldg., Austin, Texas 78701. Authority sought as a *common carrier*, by motor vehicle, over regular routes, as an extension to an existing operations, transporting: *General commodities*, moving in express service, to, from and between all points along the routes appearing below subject to the following restriction: (1) No service shall be provided in the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location on any one day, over U.S. Hwys. 271 and 67 between Mt. Pleasant and Texarkana, Texas, serving the intermediate points of Omaha, Naples and Maud, Tex., coordinating this service with all existing services and interlining with other carriers at appropriate interline points. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to the Texas Railroad Commission, P.O. Drawer 12967, Capitol Station, Austin, Tex. 78711 and should not be addressed to the Interstate Commerce Commission.

Oklahoma Docket No. MC 23190 (Sub-No. 8), filed August 10, 1977. Applicant: OKMULGEE EXPRESS, INC., 207 North Cincinnati, Tulsa, Oklahoma 74103. Applicant's representative: Rufus H. Lawson, 106 Bixler Building, 2400 Northwest 23rd Street, Oklahoma City, Oklahoma 73107. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: *General Commodities* (except classes A and B explosives, commodities in bulk, articles of unusual value, household goods as defined by the Commission, and commodities requiring special equipment), over regular routes, (1) Between Henryetta, Oklahoma, and McAlester, Oklahoma. From Henryetta, Oklahoma over the Indian Nation Turnpike to junction with U.S. Highway 270, thence over U.S. Highway 270 to McAlester, Oklahoma, serving no intermediate points; (2) Between McAlester, Oklahoma, and Poteau, Oklahoma. From McAlester, Oklahoma over U.S. Highway 270 to its junction with U.S. Highway 271, thence over U.S. Highway 271 to Poteau, Oklahoma, serving all intermediate points and the off-route point of Krebs, Oklahoma; (3) Between Poteau, Oklahoma and the Oklahoma-Arkansas State Line. From Poteau, Oklahoma over State Highway 112 to its junction with U.S. Highway 271, thence over U.S. 271 to the Oklahoma-Arkansas State Line, serving the off-route points of Cameron, Rock Island, and Pocola, Oklahoma, and return over the same route; (4) Between Wister, Oklahoma and Hodgens, Oklahoma. From Wister, Oklahoma over U.S. Highway 270 to Hodgens, Oklahoma; (5) Between Hodgens, Oklahoma and Poteau, Oklahoma. From Hodgens, Oklahoma over U.S. Highway 59 to Poteau, Oklahoma, serving the intermediate points of Howe and Heavener, Oklahoma; and (6) Between Poteau, Oklahoma, and Henryetta, Oklahoma. From Poteau, Oklahoma over U.S. Highway 59 to its junction with I–40, thence over I–40 to Henryetta, Oklahoma, serving the intermediate point of Shady Point and Panama, Oklahoma.

NOTE.—Notice is given that application includes the request to unitize applicant's present authority, and, if granted, the authority sought in this application, to provide service to, from and, between all points under applicant's combined authorities. Intrastate, interstate and foreign commerce authority sought.

Hearing: Date, time and place scheduled for November 1, 1977, at 9 a.m., 3rd Floor Jim Thorpe Office Building, Oklahoma City, Oklahoma 73105. Requests for procedural information should be addressed to the Oklahoma Corporation Commission, Jim Thorpe Office Building, Oklahoma City, Okla. 73105 and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-24461 Filed 8-24-77;8:45 am]

[Volume No. 29]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS; CORRECTIONS

Petitions for Modification, Interpretation, or Reinstatement of Operating Rights Authority

In FR Doc. 23082 appearing at page 40723 in the issue for Thursday, August 11, 1977, the following corrections should be made.

1. In the third column on page 40736 the application number which now reads, "MC 123407 (Sub No. 338)", should read, "MC 123407 (Sub No. 388)".

2. In the first column on page 40740 the application which now reads, "MC 13447", should read, "MC 134477".

3. In the third column on page 40744 the application number which now reads, "MC 140065", should read "MC 142065".

[Notice No. 464]

Assignment of Hearings

AUGUST 22, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 97068 (Sub-No. 16), H. S. Anderson Trucking Company, now assigned October 17, 1977, at New Orleans, La., is canceled and reassigned for hearing on October 14, 1977, at Houston, Tex., in a hearing room to be later designated.

MC 142807 Nicholas Marino and Angelina Marino, DBA Farragut Travel Service, now being assigned December 12, 1977 (1 week), at Trenton, N.J., in a hearing room to be later designated.

MC 136605 (Sub-No. 26), Davis Bros. Dist., Inc., now being assigned November 1, 1977 (1 day), for hearing in Billings, Mont., in a hearing room to be later designated.

MC–F 13115 Dixon Bros., Inc.—Control—C. & R. Transfer Company, now being assigned November 2, 1977 (3 days), for hearing in Billings, Mont., in a hearing room to be later designated.

MC 107541 (Sub-No. 45), Washington Oregon Lumber Freighters, Inc., now being assigned November 7, 1977 (2 weeks), for hearing in Portland, Oreg., in a hearing room to be later designated.

MC 116763 (Sub-No. 362), Carl Subler Trucking, Inc., now assigned November 10, 1977 at Columbus, Ohio is cancelled.

MC 123407 (Sub-No. 347), Sawyer Transport, Inc., now being assigned November 29, 1977 (1 day), for hearing in Atlanta, Ga., in a hearing room to be later designated.

MC 114457 (Sub-No. 284), Dart Transit Co., now being assigned November 30, 1977 (1 day), for hearing in Atlanta, Ga., in a hearing room to be later designated.

MC 140010 (Sub-No. 7), Joseph Moving & Storage Co., Inc., DBA St. Joseph Motor Lines, now being assigned December 1, 1977 (1 day), for hearing in Atlanta, Ga., in a hearing room to be later designated.

MC 119789 (Sub-No. 332), Caravan Refrigerated Cargo, Inc., now being assigned December 2, 1977 (1 day), for hearing in Atlanta, Ga., in a hearing room to be later designated.

MC 16903 (Sub-No. 47), Moon Freight Lines, Inc., now being assigned December 5, 1977 (2 days), for hearing in Atlanta, Ga., in a hearing room to be later designated.

MC 94350 (Sub-No. 383), Transit Homes, Inc., now being assigned December 7, 1977 (3 days), for hearing in Atlanta, Ga., in a hearing room to be later designated.

MC 107295 (Sub-697), Pre-Fab Transit Corp., now assigned September 20, 1977, at Nashville, Tenn., is cancelled.

MC 115432 (Sub-6), Pawtuxet Valley Bus Lines, Inc., now assigned September 7, 1977 at Providence, R.I., will be held in The William's Room Holiday Inn, I–95 at Atwells.

MC 133566 (Sub-Nos. 58, 59 & 71), Gangloff & Downham Trucking Co., Inc., now assigned September 12, 1977 at Boston, Mass., will be held on the Fifth Floor, 150 Causeway.

MC 141641 (Sub-4), Wilson Certified Express, Inc., now assigned September 14, 1977 at Boston, Mass., will be held on the Fifth Floor, 150 Causeway.

MC 142603 (Sub-1), Contract Carriers Of America, Inc., now assigned September 16, 1977 at Boston, Mass., will be held on the fifth Floor, 150 Causeway.

MC 138875 (Sub-44), Shoemaker Trucking Co., now assigned September 7, 1977 at San Francisco, Calif., will be held in Room 510, 211 Main Street.

V 42 165 AUG 25 77 UM V

MC 141071 (Sub-0), Laraneta Trucking Co., Inc., now assigned September 8, 1977 at San Francisco, Calif., will be held in Room 510, 211 Main Street.

MC 141431 (Sub-2), Cal-Valley Transportation, Inc., now assigned September 9, 1977 at San Francisco, Calif., will be held in Room 510, 211 Main Street.

MC 142846, Joanne Smith, d b a Smith's Charter Bus Service, now assigned September 12, 1977 at San Francisco, Calif., will be held in Room 510, 211 Main Street.

AB-12 (Sub-35), Southern Pacific Transportation Company Abandonment Between Susanville and Westwood in Lassen County, Calif., now assigned September 19, 1977 at Susanville, Calif., will be held in the Memorial Building, Main Street.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc 77-24640 Filed 8-24-77;8:45 am]

[Ex'e 19, Ex Parte No. 241, 4th Revised Exemption No. 139-A]

EXEMPTION UNDER PROVISION OF MANDATORY CAR SERVICE RULES

To: *All Railroads:* Upon further consideration of Fourth Revised Exemption No. 139 issued August 10, 1977.

It is ordered, That, under authority vested in me by Car Service Rule 19, Fourth Revised Exemption No. 139 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, and it is hereby, vacated and set aside.

This amendment shall become effective 12:01 a.m., August 24, 1977.

Issued at Washington, D.C., August 16, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77 24638 Filed 8-24-77;8:45 am]

IRREGULAR ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

AUGUST 19, 1977.

The following letter notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission by September 5, 1977. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter notices by number.

No. MC 2607 (Sub-No. E88), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 North Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs* (except commodities in bulk), from points in New York to points in Wicomico, Somerset, and Worcester Counties, Md. The purpose of this filing is to eliminate the gateways of points in Caroline, Dorcester, and Talbot Counties, Md.

No. MC 2607 (Sub-No. E95), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 North Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs* (except commodities in bulk), from points in New Jersey to points in Wicomico, Worcester, and Somerset Counties, Md. The purpose of this filing is to eliminate the gateways of points in Caroline, Dorcester, and Talbot Counties, Md.

No. MC 2607 (Sub-No. E120), filed June 4, 1974. Applicant BERRY VAN LINES, 747 North Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs* (except commodities in bulk), from points in Pennsylvania, to points in Somerset, Worcester, and Wicomico Counties, Md. The purpose of this filing is to eliminate the gateways of points in Caroline, Dorchester, and Talbot Counties, Md.

No. MC 7971 (Sub-No. E1), filed June 4, 1974. Applicant: AMERICAN SECURITY VAN LINE, INC., 4410 Wendell Drive NW., Atlanta, Ga. 30336. Applicant's representative: Harold W. Breffle (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) between points in Cook, Du Page, Lake, and Will Counties, Ill., on the one hand, and, on the other, points in Aransas, Bee Brazoria, Brooks, Calhoun, Cameron, Chanbers, Duval, Fort Bend, Galveston, Goliad, Harris, Hidalgo, Jackson, Jefferson, Jim Hogg, Jim Wells, Kenedy, Kleberg, Liberty, Matagordo, Montgomery, Nueces, Orange, Refugio, San Patrico, Starr, Victata, Webb, Wharton, Willacy, and Zapata Counties, Tex., and (2) between points in Lake County, Ind., and those points in Indiana on and east of a line extending from Hammond, Ind., along U.S. Highway 41 to junction U.S. Highway 52, thence along U.S. Highway 52 to Lafayette, Ind., thence along U.S. Highway 231 to Indiana-Kentucky State line, on the one hand, and, on the other, points in Texas on, south and east of a line beginning at the Texas-Louisiana State line and extending along Texas Highway 21 to junction Texas Highway 103 to Lufkin, Tex.; thence along Texas Highway 94 to Huntsville, Tex., thence along Texas Highway 30 to Bryan, Tex.; thence along Texas Highway 21 to junction U.S. Highway 290 to Austin, Tex.; thence along Interstate Highway 35 to San Antonio, Tex.; thence along U.S. Highway 90 to Del Rio, Tex. The purpose of this filing is to eliminate the gateway of Birmingham, Ala.

No. MC 8973 (Sub-No. E49), filed June 4, 1974. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: Nicholas A. Mangino (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum and gypsum products, asphalt and composition roofing products, composition boards, urethane and urethane products, and insulating materials* (except those of unusual value, household goods, as defined by the Commission. Classes A and B explosives, commodities in bulk and those requiring special equipment), (1) from points in Bergen, Essex, Hudson, Middlesex, Passaic, and Union Counties, N.J., to points in Alabama, Arkansas, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Ohio, Tennessee, and West Virginia; (2) from points in Morris County, N.J., to points in Alabama, Arkansas, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Ohio, and Tennessee; (3) from points in Somerset County, N.J., to points in Alabama, Arkansas, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Ohio, and Tennessee; (4) from points in that part of Morris County, N.J., on and west of a line beginning at the junction of New Jersey Highway 23 and Oak Ridge Reservoir and extending along an unmarked road south through Petersburg where it intersects New Jersey Highway 15, thence along New Jersey Highway 15 to junction unmarked road to Kenvil to Succasunna to junction New Jersey Highway 10 and thence south and east to junction unmarked road and thence south along unmarked road to Ralston to junction New Jersey Highway 24, thence south along Rariton River to Morris-Somerset County line to points in West Virginia; (5) from points in Morris County, N.J., to that portion of West Virginia on, south and west of a line beginning at the Ohio-West Virginia State line at Wheeling, W. Va., thence south along West Virginia Highway 2 to junction U.S. Highway 250, thence south and east along U.S. Highway 250 to junction unmarked road, thence south along unmarked road to junction U.S. Highway 19, thence north along U.S. Highway 19 to Fairmont, thence south on an unmarked road to Grafton, thence south on U.S. Highway 250 to Elkins, thence east on U.S. Highway 33 through Brandywine to the West Virginia-Virginia State line.

(6) From points in Somerset County, N.J., to that portion of West Virginia on, south and west of a line beginning at the West Virginia-Pennsylvania State line near Mount Morris and extending south along U.S. Highway 19 through Morgantown to junction West Virginia Highway 7, thence east along West Virginia Highway 7 to the West Virginia-Maryland State line near Oakland, Md., thence commencing at the Maryland-West Virginia State line extending along unmarked highway through Elk Garden, thence south along West Virginia Highway 42 to junction U.S. Highway 50, thence north and east along U.S. Highway 50 to junction U.S. Highway 220 to Keyser, W. Va., thence east along West Virginia Highway 46 to Springfield to junction West Virginia Highway 29 to junction West Virginia Highway 45, thence south along Cacapon River to Capon bridge, thence east along U.S. Highway 50 to the West Virginia-Virginia State line; (7) from that portion of Somerset County, N.J., on, east and north of a line commencing at the Morris-Somerset County line, and extending south along New Jersey Highway 527 to Mount Bethel, N.J., thence south on King George Road to junction Washington Valley Road, thence east on Washington Valley Road to junction New Jersey Highway 525, thence south on New Jersey Highway 525 to junction Chimney Rock Road, thence south on Chimney Rock Road to junction New Jersey Highway 533, thence west and south on New Jersey Highway 533 to junction New Jersey Highway 514, thence east on New Jersey Highway 514 to junction with the track of the Penn Central Railroad Co., thence east along the Penn Central Railroad Track to Middlebush Road, thence south on Middlebush Road to junction Claremont Road, thence east on Claremont Road to the Somerset-Middlesex County line, to points in West Virginia. The purpose of this filing is to eliminate the gateways of New York, N.Y., Edgewater and Carteret, N.J.

No. MC 8973 (Sub-No. E60), filed June 4, 1974. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: Nicholas A. Mangino (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such building materials*, as are embraced in *gypsum and gypsum products, asphalt and composition roofing products, composition boards, urethane and urethane products and insulating materials* (except those of unusual value, household goods as defined by the Commission. Classes A and B explosives, commodities in bulk, and those requiring special equipment), (1) from points in Bergen, Essex, Hudson, Middlesex, Passaic, and Union Counties, N.J., to points in Alabama, Arkansas, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Ohio, Tennessee and West Virginia; (2) from points in Morris County, N.J., to points in Alabama, Arkansas, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Ohio, and Tennessee; (3) from points in Somerset County, N.J., to points in Alabama, Arkansas, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Ohio, and Tennessee; (3) from points in that part of Morris County, N.J., on and east of a line starting at junction New Jersey Highway 23 and New Jersey Highway 513 near Newfoundland, N.J., and extending south along New Jersey Highway 513 to Victory Gardens, N.J., thence along unumbered highway to junction New Jersey Highway 24, thence easterly 2 miles along New Jersey Highway 24 to unnumbered road, thence south to the Morris County line, to points in West Virginia; (5) from points in Morris County, N.J.; to that part of West Virginia on U.S. Highway 22, thence west on U.S. Highway 22 to junction Tea Street, thence south on Tea Street to junction New Jersey Highway 28, thence west on New Jersey Highway 28 to junction Interstate Highway 287, thence south and east on Interstate Highway 287 to junction Elizabeth Ave., thence south on Elizabeth Ave., to junction Pennsylvania-Central Freight Lines, thence east on Pennsylvania-Central Freight Lines to Middlesex-Somerset County line at Voorhees, to points in West Virginia. The purpose of this filing is to eliminate the gateways of New York, N.Y., Edgewater and Carteret, N.J.

No. MC 40215 (Sub-No. E12), filed May 17, 1974. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 N. Fifth Avenue, Salina, Kans. 67401. Applicant's representative: James F. Flint, Ephraim & Polydoroff, Suite 600, 1250 Connecticut Avenue, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) from points in Kansas on and north of a line beginning at Kansas-Missouri State line, and extending along U.S. Highway 24, to junction Kansas Highway 4, to junction Kansas Highway 99, to junction U.S. Highway 50 (formerly U.S. Highway 50S), thence along U.S. Highway 50 to Kansas-Colorado State line, to points in Arizona; (2) from points in Kansas on and east of a line beginning at the Kansas-Nebraska State line, and extending along U.S. Highway 77, thence south along U.S. Highway 77 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Kansas Highway 18 (formerly U.S. Highway 40), to junction U.S. Highway 77, thence along U.S. Highway 77 to junction U.S. Highway 56 (formerly U.S. Highway 50N), to junction U.S. Highway 156 (formerly U.S. Highway 50N) to Garden City, Kans., thence east along U.S. Highway 50 to junction Kansas Highway 99, thence along Kansas Highway 99 to junction Kansas Highway 4, thence along Kansas Highway 4 to junction U.S. Highway 24, thence east along U.S. Highway 24 to the Kansas-Missouri State line, to points in Kansas; (3) from points in Kansas on and north of a line beginning at the Kansas-Missouri State line, and extending along U.S. Highway 24 to junction Kansas Highway 4, to junction Kansas Highway 99, to junction U.S. Highway 50 (formerly U.S. Highway 50S) to Garden City, Kans., and thence along U.S. Highway 50 to Kansas-Colorado State line, to points in California; (4) from points in Kansas beginning at Garden City, Kans., and extending along U.S. Highway 156 and U.S. Highway 50, thence east along U.S. Highway 156 to junction U.S. Highway 56, thence east along U.S. Highway 56 to junction U.S. Highway 81, thence south along U.S. Highway 81 to junction U.S. Highway 50, thence west along U.S. Highway 50 to Garden City, Kans., to points in Colorado; (5) from points in Kansas to points in the District of Columbia.

(6) (a) From those points in Kansas on and south of a line beginning at the Kansas-Colorado State line, and extending along Interstate Highway 70 and U.S. Highway 24, thence east along Interstate Highway 70 and U.S. Highway 24 to junction U.S. Highway 81, thence south along U.S. Highway 81 to junction U.S. Highway 50, thence west along U.S. Highway 50 to the Kansas-Colorado State line, to points in Idaho north and west of a line begining at the Nevada-Idaho State line and extending on U.S. Highway 93, thence north along U.S. Highway 93 to the Montana-Idaho State line; (b) from points in Kansas on and east of a line beginning at the Kansas-Nebraska State line, and extending along U.S. Highway 77, thence south along U.S. Highway 77 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Kansas Highway 18 (formerly U.S. Highway 40) to junction U.S. Highway 77, thence along U.S. Highway 77 to junction U.S. Highway 56 (formerly U.S. Highway 50N) to junction U.S. Highway 156 (formerly U.S. Highway 50N) to Garden City, Kans., thence east along U.S. Highway 50 to junction Kansas Highway 99, thence along Kansas Highway 99 to junction Kansas Highway 4, thence along Kansas Highway 4 to junction U.S. Highway 24, thence east along U.S. Highway 24 to the Kansas-Missouri State line, to points in Illinois; (8) from points in Kansas on and east of a line beginning at the Kansas-Nebraska State

VOL 42 165 AUG 25 77 UM

line and extending along U.S. Highway 77, thence south along U.S. Highway 77 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Kansas Highway 18 (formerly U.S. Highway 40) to junction U.S. Highway 77, thence along U.S. Highway 77 to junction U.S. Highway 56 (formerly U.S. Highway 50N) to junction U.S. Highway 156 (formerly U.S. Highway 50N) to Garden City, Kans., thence east along U.S. Highway 50 to junction Kansas Highway 99, thence along Kansas Highway 99 to junction Kansas Highway 4, thence along Kansas Highway 4 to junction U.S. Highway 24, thence east along U.S. Highway 24 to the Kansas-Missouri State line, to points in Indiana.

(9) From points in Kansas on and south and east of a line beginning at the Kansas-Nebraska State line, and extending along U.S. Highway 77, thence south along U.S. Highway 77 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Kansas Highway 18 (formerly U.S. Highway 40) to junction U.S. Highway 77, thence along U.S. Highway 77 to junction U.S. Highway 56 (formerly U.S. Highway 40) to junction U.S. Highway 156 (formerly U.S. Highway 50N) to Garden City, Kans., thence east along U.S. Highway 50 to junction Kansas Highway 99, thence along Kansas Highway 99 to junction Kansas Highway 4, thence along Kansas Highway 4 to U.S. Highway 24, thence east along U.S. Highway 24 to the Kansas-Missouri State line, to points in Iowa on and north and east of a line beginning at the Iowa-Nebraska State line and extending along Interstate Highway 80, thence east along Interstate Highway 80 to junction U.S. Highway 65, thence south along U.S. Highway 65 to the Iowa-Missouri State line; (10) from points in Kansas on and north of a line beginning at Kansas-Missouri State line, and extending along U.S. Highway 24 to junction Kansas Highway 4, thence along Kansas Highway 4 to junction Kansas Highway 99, thence along Kansas Highway 99 to junction U.S. Highway 50 (formerly U.S. Highway 50S), thence along U.S. Highway 50 to the Kansas-Colorado State line, to points in Louisiana; (11) from points in Kansas to points in Maryland; (12) from points in Kansas on and east of a line beginning at the Kansas-Nebraska State line, and extending along U.S. Highway 77, thence south along U.S. Highway 77 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Kansas Highway 18 (formerly U.S. Highway 40) to junction U.S. Highway 77, thence along U.S. Highway 77 to junction U.S. Highway 56 (formerly U.S. Highway 40) to junction U.S. Highway 156 (formerly U.S. Highway 50N) to Garden City, Kans., thence east along U.S. Highway 50 to junction Kansas Highway 99, thence along Kansas Highway 99 to junction Kansas Highway 4, thence along Kansas Highway 4 to U.S. Highway 24, thence east along U.S. Highway 24 to the Kansas-Missouri State line, to points in Michigan.

(13) From points in Kansas bounded by a line beginning at the Kansas-Nebraska State line and extending along U.S. Highway 77, thence south along U.S. Highway 77 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Kansas Highway 18 (formerly U.S. Highway 40) to junction U.S. Highway 77, thence along U.S. Highway 77 to junction U.S. Highway 56 (formerly U.S. Highway 50N) to junction U.S. Highway 156 (formerly U.S. Highway 50N) to Garden City, Kans., thence east along U.S. Highway 50 to junction Kansas Highway 99, thence along Kansas Highway 99 to junction Kansas Highway 4, thence along Kansas Highway 4 to junction U.S. Highway 24, thence east along U.S. Highway 24 to the Kansas-Missouri State line, to points in Indiana.

(9) From points in Kansas on and south and east of a line beginning at the Kansas-Nebraska State line, and extending along U.S. Highway 77, thence south along U.S. Highway 77 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Kansas Highway 18 (formerly U.S. Highway 40) to junction U.S. Highway 77, thence along U.S. Highway 77 to junction U.S. Highway 56 (formerly U.S. Highway 40) to junction U.S. Highway 156 (formerly U.S. Highway 50N) to Garden City, Kans., thence east along U.S. Highway 50 to junction Kansas Highway 99, thence along Kansas Highway 99 to junction Kansas Highway 4, thence along Kansas Highway 4 to U.S. Highway 24, thence east along U.S. Highway 24 to the Kansas-Missouri State line, to points in Iowa on and north and east of a line beginning at the Iowa-Nebraska State line and extending along Interstate Highway 80, thence east along Interstate Highway 80 to junction U.S. Highway 65, thence south along U.S. Highway 65 to the Iowa-Missouri State line; (10) from points in Kansas on and north of a line beginning at Kansas-Missouri State line, and extending along U.S. Highway 24 to junction Kansas Highway 4, thence along Kansas Highway 4 to junction Kansas Highway 99, thence along Kansas Highway 99 to junction U.S. Highway 50 (formerly U.S. Highway 50S), thence along U.S. Highway 50 to the Kansas-Colorado State line, to points in Louisiana; (11) from points in Kansas to points in Maryland; (12) from points in Kansas on and east of a line beginning at the Kansas-Nebraska State line, and extending along U.S. Highway 77, thence south along U.S. Highway 77 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Kansas Highway 18 (formerly U.S. Highway 40) to junction U.S. Highway 77, thence along U.S. Highway 77 to junction U.S. Highway 56 (formerly U.S. Highway 40) to junction U.S. Highway 156 (formerly U.S. Highway 50N) to Garden City, Kans., thence east along U.S. Highway 50 to junction Kansas Highway 99, thence along Kansas Highway 99 to junction Kansas Highway 4, thence along Kansas Highway 4 to U.S. Highway 24, thence east along U.S. Highway 24 to the Kansas-Missouri State line, to points in Michigan.

(13) From points in Kansas bounded by a line beginning at the Kansas-Nebraska State line and extending along U.S. Highway 77, thence south along U.S. Highway 77 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Kansas Highway 18 (formerly U.S. Highway 40) to junction U.S. Highway 77, thence along U.S. Highway 77 to junction U.S. Highway 56 (formerly U.S. Highway 50N) to junction U.S. Highway 156 (formerly U.S. Highway 50N) to Garden City, Kans., thence east along U.S. Highway 50 to junction Kansas Highway 99, thence along Kansas Highway 99 to junction Kansas Highway 4, thence along Kansas Highway 4 to junction U.S. Highway 24, thence east along U.S. Highway 24 to the Kansas-Missouri State line, to points in Minnesota; (14) from points in Kansas beginning at Garden City, Kans., and extending along U.S. Highway 156, thence east along U.S. Highway 156 to junction U.S. Highway 56, thence east along U.S. Highway 56 to junction U.S. Highway 81, thence south along U.S. Highway 81 to junction U.S. Highway 50, thence west along U.S. Highway 50 to Garden City, Kans., to points in Missouri; (15) from those points in Kansas beginning at Garden City, Kans., and extending along U.S. Highway 156, thence east along U.S. Highway 156 to junction U.S. Highway 56, thence east along U.S. Highway 56 to junction U.S. Highway 81, thence south along U.S. Highway 81 to junction U.S. Highway 50, thence west along U.S. Highway 50 to Garden City, Kans., to points in Nebraska; (16)(a) from points in Kansas on and east of a line beginning at the Nebraska-Kansas State line and extending along U.S. Highway 281, thence south along U.S. Highway 281 to junction U.S. Highway 50, thence east along U.S. Highway 50 to Kansas Highway 99, thence north along Kansas Highway 99 to junction Kansas Highway 4, thence along Kansas Highway 4 to junction U.S. Highway 24, thence east along U.S. Highway 24 to the Kansas-Missouri State line, to points in Nevada; (16)(b) from points in Kansas on, west and south of a line beginning at the Kansas-Nebraska State line, and extending along U.S. Highway 281, thence along U.S. Highway 281 to junction U.S. Highway 50, thence west along U.S. Highway 50 to the Kansas-Colorado State line, to those points in Nevada on and south of a line beginning at the Nevada-California State line, and extending along U.S. Highway 6, thence east along U.S. Highway 6 to junction Nevada Highway 25, thence southeast along Nevada Highway 25 to junction U.S. Highway 93, thence east along U.S. Highway 93 to junction Nevada Highway 25, thence along Nevada Highway 25 to the Nevada-Utah State line; (17) from points in Kansas on and north of a line beginning at the Kansas-Missouri State line, and extending along U.S. Highway 24 to junction Kansas Highway 4, thence along Kansas Highway 4 to junction Kansas Highway 99, thence along Kansas Highway 99 to junction U.S. Highway 50 (formerly U.S. Highway 50S) thence along U.S. Highway 50 to junction Kansas-Colorado State line, to points in New Mexico.

(18) From points in Kansas to points in New York; (19) from points in Kansas on and north of a line beginning at Kansas-Missouri State line, and extending along U.S. Highway 24 to junction Kansas Highway 4, thence along Kansas Highway 4 to junction Kansas Highway 99, thence along Kansas Highway 99 to junction U.S. Highway 50 (formerly U.S. Highway 50S) to Garden City, Kans., and thence along U.S. Highway 50 to the Kansas-Colorado State line, to points in North Carolina; (20) from points in Kansas on and east of a line beginning at the Kansas-Nebraska State line, and extending along U.S. Highway 77, thence south along U.S. Highway 77 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Kansas Highway 18 (formerly U.S. Highway 40) to junction U.S. Highway 77, thence along U.S. Highway 77 to junction U.S. Highway 56 (formerly U.S. Highway 50N) to junction U.S. Highway 156 (formerly U.S. Highway 50N) to Garden City, Kans., thence along east on U.S. Highway 50 to junction Kansas Highway 99, thence along Kansas Highway 99 to Kansas Highway 4, thence along Kansas Highway 4 to U.S. Highway 24, thence along U.S. Highway 24 to the Kansas-Missouri State line, to points in Ohio; (21) from points in Kansas beginning at Garden City, Kans., at the junction U.S. Highway 156 and U.S. Highway 50, thence east along U.S. Highway 156 to junction U.S. Highway 56, thence east along U.S. Highway 56 to junction of U.S. Highway 81, thence south along U.S. Highway 81 to junction U.S. Highway 50, thence west along U.S. Highway 50 to Garden City, Kans., to points in Oklahoma; (22) from points in Kansas to points in Pennsylvania; (23) from points in Kansas on and east of a line beginning at the Kansas-Nebraska State line, and extending along U.S. Highway 77, thence south along U.S. Highway 77 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Kansas Highway 18 (formerly U.S. Highway 40) to junction U.S. Highway 77 to junction U.S. Highway 56 (formerly U.S. Highway 50N) to junction U.S. Highway 156 (formerly U.S. Highway 50N) to Garden City, Kans., thence along east on U.S. Highway 50 to junction Kansas Highway 99, thence along Kansas Highway 99 to Kansas Highway 4, thence along Kansas Highway 4 to U.S. Highway 24, thence along U.S. Highway 24 to the Kansas-Missouri State line, to points in Texas.

(25) From points in Kansas on and east and south of a line beginning at the Kansas-Nebraska State line, and extending along U.S. Highway 281, thence south along U.S. Highway 281 to junction Interstate Highway 40, thence west along U.S. Highway 40 to the Kansas-Colorado State line, thence south on the Colorado-Kansas State line to U.S. Highway 50, thence east along U.S. Highway 50 to junction Kansas Highway 99, thence north along Kansas Highway 99 to junction Kansas Highway 4, thence east along Kansas Highway 4 to junction U.S. Highway 24, thence east along U.S. Highway 24 to the Kansas-Missouri State line, to points in Utah; (26) from points in Kansas to those points in Virginia on and east of a line beginning at the Virginia-North Carolina State line, and extending north along U.S. Highway 501 to junction U.S. Highway 29, thence north along U.S. Highway 29 to junction U.S. Highway 522, thence along U.S. Highway 522 to the Virginia-West Virginia State line; (27) from points in Kansas on and north of a line beginning at Kansas-Missouri State line, and extending along U.S. Highway 24, to junction Kansas Highway 4, thence along Kansas Highway 4 to junction Kansas Highway 99, thence along Kansas Highway 99 to junction U.S. Highway 50 (formerly U.S. Highway 50S) thence along U.S. Highway 50 to the Kansas-Colorado State line, to points in West Virginia; (28) from points in Kansas on and east of a line beginning at the Kansas-Nebraska State line and extending along U.S. Highway 77, thence south along U.S. Highway 77 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Kansas Highway 18 (formerly U.S. Highway 40) to junction U.S. Highway 77, thence along U.S. Highway 77 to junction U.S. Highway 56 (formerly U.S. Highway 50N) to junction U.S. Highway 156 (formerly U.S. Highway 50N), thence east on U.S. Highway 50 to junction Kansas Highway 99, to Kansas Highway 4, thence along Kansas Highway 4 to junction U.S. Highway 24, thence east along U.S. Highway 24 to the Kansas-Missouri State line, to points in Wisconsin; (29) from points in Kansas on and east and south of a line beginning at the Kansas-Nebraska State line, and extending along U.S. Highway 281, thence south along U.S. Highway 281 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Kansas-Colorado State line, thence south on the Colorado-Kansas State line to junction U.S. Highway 50, thence east along U.S. Highway 50 to junction Kansas Highway 99, thence north along Kansas Highway 99 to junction Kansas Highway 4, thence east along Kansas Highway 4 to junction U.S. Highway 24, thence east along U.S. Highway 24 to the Kansas-Missouri State line, to points in Tennessee on and south and east of a line beginning at the Tennessee-Kentucky State line extending along U.S. Highway 25-E to junction Tennessee Highway 33, thence along Tennessee Highway 33 to junction Tennessee Highway 62, thence along Tennessee Highway 62 to junction Tennessee Highway 61, thence along Tennessee Highway 61 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Tennessee-Georgia State line. The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va., and Clarksburg, W. Va.

No. MC 61825 (Sub-No. E1048), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass*, such as is used as construction material, (except commodities in bulk, those of unusual value, commodities requiring special equipment), from points in Harrison County, Ohio, and those points in Tuscarawas County, Ohio within 50 miles of Steubenville, to points in Tennessee on and east and south of a line beginning at the Tennessee-North Carolina State line and extending along U.S. Highway 70 to junction Tennessee Highway 62, thence along Tennessee Highway 62 to junction Tennessee Highway 61, thence along Tennessee Highway 61 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Tennessee-Georgia State line. The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va., and Clarksburg, W. Va.

No. MC 61825 (Sub-No. E1049), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass*, such as is used as construction material, (except commodities in bulk, those of unusual value, commodities requiring special equipment), from points in Fayette County, Pa., within 50 miles of Steubenville, Ohio, to points in Georgia on and west of a line beginning at the Georgia-North Carolina State line and extending along Georgia Highway 69 to junction U.S. Highway 76, thence along U.S. Highway 76 to junction U.S. Highway 441, thence along U.S. Highway 441 to junction Georgia Highway 17, thence along Georgia Highway 17 to junction Georgia Highway 80, thence along Georgia Highway 80 to junction Georgia Highway 24, thence along Georgia Highway 24 to junction Georgia Highway 21, thence along Georgia Highway 21 to Savannah, Ga., at the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va., and Clarksburg, W. Va.

No. MC 61825 (Sub-No. E1050), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass*, such as is used as construction material, (except commodities in bulk and those of unusual value, commodities requiring special equipment), from points in Greene County, Pa., to points in Georgia on and south of a line beginning at the Georgia-South Carolina State line extending along Georgia Highway 72 to junction Georgia Highway 98, thence along Georgia Highway 98 to junction Georgia Highway 323, thence along Georgia Highway 323 to junction Georgia Highway 141, thence along Georgia Highway 141 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction Georgia Highway 20, thence along Georgia Highway 20 to the Georgia-Alabama State line. The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va., and Clarksburg, W. Va.

No. MC 61825 (Sub-No. E1051), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a

Kansas-Nebraska State line, and extending along U.S. Highway 281, thence south along U.S. Highway 281 to junction Interstate Highway 40, thence west along U.S. Highway 40 to the Kansas-Colorado State line, thence south on the Colorado-Kansas State line to U.S. Highway 50, thence east along U.S. Highway 50 to junction Kansas Highway 99, thence north along Kansas Highway 99 to junction Kansas Highway 4, thence east along Kansas Highway 4 to junction U.S. Highway 24, thence east along U.S. Highway 24 to the Kansas-Missouri State line, to points in Utah; (26) from points in Kansas to those points in Virginia on and east of a line beginning at the Virginia-North Carolina State line, and extending north along U.S. Highway 501 to junction U.S. Highway 29, thence north along U.S. Highway 29 to junction U.S. Highway 522, thence along U.S. Highway 522 to the Virginia-West Virginia State line; (27) from points in Kansas on and north of a line beginning at Kansas-Missouri State line, and extending along U.S. Highway 24, to junction Kansas Highway 4, thence along Kansas Highway 4 to junction Kansas Highway 99, thence along Kansas Highway 99 to junction U.S. Highway 50 (formerly U.S. Highway 50S) thence along U.S. Highway 50 to the Kansas-Colorado State line, to points in West Virginia; (28) from points in Kansas on and east of a line beginning at the Kansas-Nebraska State line and extending along U.S. Highway 77, thence south along U.S. Highway 77 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Kansas Highway 18 (formerly U.S. Highway 40) to junction U.S. Highway 77, thence along U.S. Highway 77 to junction U.S. Highway 56 (formerly U.S. Highway 50N) to junction U.S. Highway 156 (formerly U.S. Highway 50N), thence east on U.S. Highway 50 to junction Kansas Highway 99, to Kansas Highway 4, thence along Kansas Highway 4 to junction U.S. Highway 24, thence east along U.S. Highway 24 to the Kansas-Missouri State line, to points in Wisconsin; (29) from points in Kansas on and east and south of a line beginning at the Kansas-Nebraska State line, and extending along U.S. Highway 281, thence south along U.S. Highway 281 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Kansas-Colorado State line, thence south on the Colorado-Kansas State line to junction U.S. Highway 50, thence east along U.S. Highway 50 to junction Kansas Highway 99, thence north along Kansas Highway 99 to junction Kansas Highway 4, thence east along Kansas Highway 4 to junction U.S. Highway 24, thence east along U.S. Highway 24 to the Kansas-Missouri State line, to points in Tennessee on and south and east of a line beginning at the Tennessee-Kentucky State line extending along U.S. Highway 25-E to junction Tennessee Highway 33, thence along Tennessee Highway 33 to junction Tennessee Highway 62, thence along Tennessee Highway 62 to junction Tennessee Highway 61, thence along Tennessee Highway 61 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Tennessee-Georgia State line. The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va., and Clarksburg, W. Va.

No. MC 61825 (Sub-No. E1048), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass*, such as is used as construction material, (except commodities in bulk, those of unusual value, commodities requiring special equipment), from points in Al-legheny, Beaver, Lawrence and Washington Counties, Pa., and those points in Butler and Westmoreland Counties, Pa., within 50 miles of Steubenville, to points in Georgia. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va., and Clarksburg, W. Va.

No. MC 61825 (Sub-No. E1049), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass*, such as is used as construction material, (except commodities in bulk, those of unusual value, commodities requiring special equipment), from points in Fayette County, Pa., within 50 miles of Steubenville, Ohio, to points in Georgia on and west of a line beginning at the Georgia-North Carolina State line and extending along Georgia Highway 69 to junction U.S. Highway 76, thence along U.S. Highway 76 to junction U.S. Highway 441, thence along U.S. Highway 441 to junction Georgia Highway 17, thence along Georgia Highway 17 to junction Georgia Highway 80, thence along Georgia Highway 80 to junction Georgia Highway 24, thence along Georgia Highway 24 to junction Georgia Highway 21, thence along Georgia Highway 21 to Savannah, Ga., at the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va., and Clarksburg, W. Va.

No. MC 61825 (Sub-No. E1050), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass*, such as is used as construction material, (except commodities in bulk and those of unusual value, commodities requiring special equipment), from points in Greene County, Pa., to points in Georgia on and south of a line beginning at the Georgia-South Carolina State line extending along Georgia Highway 72 to junction Georgia Highway 98, thence along Georgia Highway 98 to junction Georgia Highway 323, thence along Georgia Highway 323 to junction Georgia Highway 141, thence along Georgia Highway 141 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction Georgia Highway 20, thence along Georgia Highway 20 to the Georgia-Alabama State line. The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va., and Clarksburg, W. Va.

No. MC 61825 (Sub-No. E1051), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a

V42165 AUG 25 77 UM V

common carrier, by motor vehicle, over irregular routes, transporting: *Glass*, such as is used as construction material, (except commodities in bulk, those of unusual value, commodities requiring special equipment, and those injurious or contaminating to other lading), from points in Allegheny, Beaver, and Lawrence Counties, Pa., and those points in Butler County, Pa., within 50 miles of Steubenville, Ohio, to Gallatin, Tenn., and points in Tennessee on and east of a line beginning at the Tennessee-Kentucky State line, extending along U.S. Highway 230 to the Tennessee-Alabama State line. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va., and Clarksburg, W. Va.

No. MC 61825 (Sub-No. E1052), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass*, such as is used as construction material, (except commodities in bulk, those of unusual value, and commodities requiring special equipment), from points in Westmoreland County, Pa., within 50 miles of Steubenville, Ohio, to Gallatin, Tenn., and points in Tennessee on and west of a line beginning at the Tennessee-Virginia State line extending along Tennessee Highway 70 to junction Tennessee Highway 31, thence along Tennessee Highway 31 to junction U.S. Highway 11-W, thence along U.S. Highway 11-W to junction U.S. Highway 25-E, thence along U.S. Highway 25-E to junction Interstate Highway 40, thence along Interstate Highway 40 to the Tennessee-North Carolina State line, and extending west along U.S. Highway 231 beginning at the Tennessee-Kentucky State line extending to the Tennessee-Alabama State line. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va., and Clarksburg, W. Va.

No. MC 61825 (Sub-No. E1053), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass*, such as is used as construction material (except commodities in bulk, those of unusual value, and commodities requiring special equipment), from points in Washington County, Pa., to points in Tennessee on and east and south of a line beginning at the Tennessee-Virginia State line extending along Tennessee Highway 70 to junction Tennessee Highway 33, thence along Tennessee Highway 33 to junction Tennessee Highway 62, thence along Tennessee Highway 62 to junction Tennessee Highway 61, thence along Tennessee Highway 61 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction Tennessee Highway 96, thence along Tennessee Highway 96 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Tennessee-Alabama State line. The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va., and Clarksburg, W. Va.

No. MC 61825 (Sub-No. E1054), filed May 13, 1974. Applicant: ROY STONE TRASFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass* such as is used as construction material (except commodities in bulk, those of unusual value, and commodities requiring special equipment), from points in Brooke, Hancock, and Ohio Counties, W. Va., to points in Georgia. The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va., and Clarksburg, W.Va.

No. MC 61825 (Sub-No. E1055), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass* such as is used as construction material (except commodities in bulk, those of unusual value, and commodities requiring special equipment), from points in Marshall County, W. Va., and points in Wetzel County, W. Va., within 50 miles of Steubenville, Ohio, to points in Georgia on and south of a line beginning at the Georgia-South Carolina State line extending along U.S. Highway 278 to junction U.S. Highway 78, thence along U.S. Highway 78 to the Georgia-Alabama State line. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va., and Clarksburg, W. Va.

No. MC 61825 (Sub-No. E1057), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass*, such as is used as construction material (except commodities in bulk, those of unusual value, and commodities requiring special equipment), from points in Brooke County, W. Va., to points in Tennessee on and east and south of a line beginning at the Tennessee-Virginia State line and extending along Tennessee Highway 70 to junction Tennessee Highway 33, thence along Tennessee Highway 33 to junction Tennessee Highway 31, thence along Tennessee Highway 31 to junction U.S. Highway 11-W, thence along U.S. Highway 11-W to junction Tennessee Highway 62, thence long Tennessee Highway 62 to junction Tennessee Highway 61, thence along Tennessee Highway 61 to junction U.S. Highway 70, thence long U.S. Highway 96, thence along Tennessee Highway 96 to junction Tennessee Highway 231, thence along U.S. Highway 231 to the Tennessee-Alabama State line. The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va., and Clarksburg, W. Va.

No. MC 92983 (Sub-No. E57) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of April 28, 1976, and republished, as partially corrected, this issue. Applicant: AMERICAN BULK TRANSPORT CO., 818 Grand Ave., P.O. Box 2508, Kansas City, Mo. 64142. Applicant's representative: H. B. Foster (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (E) *Chemicals*, in bulk, from points in Wyoming to points in Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateway of Kansas City, Mo.

NOTE.—The purpose of this partial republication is to correct the territorial description by adding the correct origin state of Wyoming under Part (E). The remainder of this letter-notice remains as previously published.

No. MC 104149 (Sub-No. E1) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER issue of July 27, 1977, and republished, corrected, this issue. Applicant: OSBORNE TRUCK LINE, INC., 518 North 31st, Birmingham, Ala. Applicant's representative: William P. Jackson, Jr., 919 Eighteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (2) *Iron and steel products* (except commodities in bulk), in minimum shipments of 10,000 pounds, between Birmingham, Ala., on the one hand, and, on the other, points in Kentucky, on and east of a line commencing at the Illinois-Kentucky State line and extending along U.S. Highway 45 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 68, thence along U.S. Highway 68 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction Kentucky Highway 453, thence alone Kentucky Highway 453 to the Kentucky-Tennessee State line. (*Plantsite of Revere Copper & Brass, Inc., located approximately 6 miles south of Scottsboro, Ala.). (3) *Aluminum and aluminum products*, the transportation of which, because of size or weight; requires the use of special equipment (except commodities in bulk): (c) between points in Florida on, south and west of a line commencing at the Florida-Georgia State line and extending along Interstate Highway 75 to junction U.S. Highway 441, thence along U.S. Highway 441 to junction Florida Highway 528, thence along Florida Highway 528 to the Atlantic Ocean, on the one hand, and, on the other, points in Ohio, on, north and west of a line commencing at the Ohio-Kentucky State line and extending along Ohio Highway 139 to junction Ohio Highway 93, thence along Ohio Highway 93 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction Ohio Highway 21, thence along Ohio Highway 21 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. 62, thence along U.S. Highway 62 to junction U.S. Highway 422, thence along U.S. Highway 422 to the Ohio-Pennsylvania State line. (*Montgomery, Ala.; and the Plantsite of Revere Copper & Brass, Inc., at or near Scottsboro, Ala.) * * * (g) between points in Georgia, on and south of a line commencing at the Alabama-Georgia State line and extending along Georgia Highway 109 to junction Georgia Highway 18, thence along Georgia Highway 18 to junction Georgia Highway 74, thence along Georgia Highway 74 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction Georgia Highway 22, thence along Georgia Highway 22 to junction U.S. Highway 341, thence along U.S. Highway 341 to junction Georgia Highway 50, thence along Georgia Highway 50 to the Atlantic Ocean, on the one hand, and, on the other, points in Indiana, on and west of a line commencing at the Kentucky-Indiana State line and extending along U.S. Highway 421 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Indiana Highway 101.

Thence along Indiana Highway 101 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Indiana-Ohio State line. (*Birmingham, Ala.; and the plantsite of Revere Copper & Brass, Inc., at or near Scottsboro, Ala.) * * * (j) Between points in Mississippi, on and south of a line commencing at the Louisiana-Mississippi State line and extending along U.S. Highway 84 to junction U.S. Highway 61, thence along U.S. Highway 61 to junction Mississippi Highway 18, thence along Mississippi Highway 18 to junction Interstate Highway 20, thence along Interstate Highway 20 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction Mississippi Highway 16, thence along Mississippi Highway 16 to junction Mississippi 35, thence along Mississippi Highway 35 to junction Mississippi Highway 25, thence along Mississippi Highway 25 to junction U.S. Highway 82, thence along U.S. Highway 82 to the Mississippi-Alabama State line, on the one hand, and, on the other, points in Indiana, on, north and east of a line commencing at the Illinois-Indiana State line and extending along U.S. Highway 41 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Interstate Highway 65, thence along Interstate Highway 65 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Indiana Highway 46, thence along Indiana Highway 46 to junction Indiana Highway 7, thence along Indiana Highway 7 to the Indiana-Kentucky State line. (Birmingham or Decatur, Ala.; and the plantsite of Revere Copper & Brass, Inc., at or near Scottsboro, Ala.*). (10) *Iron and steel articles*, the transportation of which, because of size or weight, require the use of special equipment, and *Fibre pipe and fibre pipe fittings* which are contractors' materials and supplies when their transportation is incidental to the transportation of commodities which, because of size or weight, require the use of special equipment: (b) From points in Alabama, on and east of a line commencing at the Alabama-Florida State line and extending along Alabama Highway 41 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Alabama Highway 83, thence along Alabama Highway 83 to junction Alabama Highway 47, thence along Alabama Highway 47 to junction Alabama Highway 10, thence along Alabama Highway 10 to junction Alabama County Highway 59, thence along Alabama County Highway 59 to junction Alabama County Highway 16, thence along Alabama County Highway 16 to junction Alabama Highway 89, thence along Alabama Highway 89 to junction Alabama Highway 41, thence along Alabama Highway 41 to junction Alabama Highway 22, thence along Alabama Highway 22 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Alabama Highway 150, thence along Alabama Highway 150 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Interstate Highway 65, thence along Interstate Highway 65 to junction Alabama Highway 79, thence along Alabama Highway 79 to junction U.S. Highway 72.

Thence along U.S. Highway 72 to the Alabama-Tennessee State line to points in Oklahoma, restricted against the transportation of commodities used in or in connection with the discovery, development, production, refining, manufacturing, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by products. (*Montgomery or Birmingham, Ala.) * * * (c) From points in Alabama, on and east of a line commencing at the Alabama-Florida State line and extending along Alabama Highway 41 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Alabama Highway 83, thence along Alabama Highway 83 to junction Alabama Highway 47, thence along Alabama Highway 47 to junction Alabama Highway 10, thence along Alabama Highway 10 to junction Alabama County Highway 59, thence along Alabama County Highway 59 to junction Alabama County Highway 16, thence along Alabama County Highway 16 to junction Alabama Highway 89, thence along Alabama Highway 89 to junction Alabama Highway 41, thence along Alabama Highway 41 to junction Alabama Highway 22, thence along Alabama Highway 22 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Alabama Highway 150, thence along Alabama Highway 150 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Interstate Highway 65, thence along Interstate Highway 65 to junction Alabama Highway 79, thence along Alabama Highway 79 to junction U.S. Highway 72, thence along U.S. Highway 72 to the Alabama-Tennessee State line, to points in Arkansas, on and west of a line commencing at the Arkansas-Louisiana State line and extending along U.S. Highway 79 to junction Arkansas Highway 15, thence along Arkansas Highway 15 to junction Arkansas Highway 31, thence along Arkansas Highway 31 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Arkansas Highway 115, thence along Arkansas Highway 115 to the Arkansas-Missouri State line, restricted against the transportation of commodities used in or in connection with the discovery, development, production, refining, manufacturing, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by products. (*Montgomery or Birmingham, Ala.).

(13) Iron and steel products (except commodities in bulk), in minimum shipments of 10,000 pounds, between Birmingham, Ala., and points within 10 miles thereof, on the one hand, and, on the other, points in Kentucky, on and east of a line beginning at the Illinois-Kentucky State line, and extending along U.S. Highway 45 to junction Kentucky Highway 60, thence along Kentucky Highway 60 to junction U.S. Highway 68, thence along U.S. Highway 68 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction Kentucky Highway 453, thence along Kentucky Highway 453 to the Kentucky-Tennessee State line. (*Plantsite of Revere Copper & Brass, Inc., located at or near Scottsboro, Ala). (14) Iron and steel products (except in bulk), the transportation of which, because of size or weight, requires the use of special equipment, in minimum shipments of 10,000 pounds: (b) between points in Georgia, on and south of a line commencing at the Alabama-Georgia State line extending along Georgia Highway 109 to junction Georgia Highway 41, thence along Georgia Highway 41 to junction Georgia Highway 90, thence along Georgia Highway 90 to junction Georgia Highway 32, thence along Georgia Highway 32 to junction Georgia Highway 99, thence along Georgia Highway 99 to junction U.S. Highway 341, thence along U.S. Highway 341 to junction Georgia Highway 50, thence along Georgia Highway 50 to the Atlantic Ocean, on the one hand, and, on the other, points in Kentucky, on, north and west of a line commencing at the Kentucky-Indiana State line, and extending along Interstate Highway 65 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction U.S. Highway Alternate 41, thence along U.S. Highway Alternate 41 to the Kentucky-Tennessee State line. (*Birmingham, Ala.; and the plantsite of Revere Copper & Brass, Inc., located at or near Scottsboro, Ala.).

V42N165 AUG 25 77 UM

The purpose of this filing is to eliminate the gateways indicated by asterisks above.

NOTE.—The purpose of this correction is to correct Paragraph No. 2, 3(c), 3(g), 3(j), 10(b), 10(c), 13, and 14(b). The remainder of this letter-notice remains as previously published.

No. MC 113843 (Sub-No. E149) (correction), filed May 12, 1974, published in the FEDERAL REGISTER issue of October 7, 1975, and republished, as corrected, this issue. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, as defined by the Commission, from Martins Ferry, Ohio, to those points in Illinois on and north of a line beginning at the Indiana-Illinois State line and extending along Interstate Highway 80 to juction Interstate Highway 180, thence along Interstate Highway 180 to junction Illinois Highway 29, thence along Illinois Highway 29 to Peoria, Illinois, thence along Illinois Highway 116 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction U.S. Highway 34, thence along U.S. Highway 34 to the Mississippi River. The purpose of this filing is to eliminate the gateway of Detroit, Mich.

NOTE.—The purpose of this correction is to show the correct territorial description.

No. MC 113843 (Sub-No. E771) (partial correction), filed May 19, 1974, published in the FEDERAL REGISTER issues of July 17, 1975, and July 20, 1977, and republished, as corrected, this issue. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Massachusetts 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, (12) Between Norristown, Pa., on the one hand, and, on the other, those points in Ohio on, north and west of a line beginning at the Ohio-Pennsylvania State line extending along U.S. Highway 20 to Cleveland, thence along U.S. Highway 6 to junction Ohio Highway 13, thence along Ohio Highway 13 to Norwalk, thence along U.S. Highway 20 to junction Ohio Highway 18, thence along Ohio Highway 18 to junction U.S. Highway 224, thence along U.S. Highway 224 to junction U.S. Highway 25, thence along U.S. Highway 25 to junction U.S. Highway 33, thence along U.S. Highway 33 to junction Ohio Highway 29, thence along Ohio Highway 29 to the Ohio-Indiana State line. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

NOTE.—The purpose of this partial correction is to include a portion omitted in Part (12). The remainder of this letter notice remains as previously published.

No. MC 118518 (Sub-No. E1) (partial correction), filed February 24, 1976, published in the FEDERAL REGISTER issue of August 4, 1977, and republished, as corrected, this issue. Applicant: MUKLUK FREIGHT LINES, INC., 3111 C Street, Anchorage, Alaska 99503. Applicant's representative: Leo C. Franey, 918 Sixteenth St. NW., Washington, D.C. 20006.

NOTE.—The purpose of this Notice is to reflect the correct docket number. This case appeared as "No. MC–119518 (Sub-No. E1)" and should read as "No. MC–118518 (Sub-No. E1)". The letter-notice remains as previously published.

No. MC 119657 (Sub-No. E1) (partial correction), filed June 5, 1974, published in the FEDERAL REGISTER issue of November 13, 1974, and republished, as corrected, this issue. Applicant: GEORGE TRANSIT LINE, INC., 760–4 NE. 47th Place, Des Moines, Iowa 50313. Applicant's representative: Kenneth F. Dudley, Yates Building, 611 Church St., P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (3) *Animal and poultry feed ingredients*, dry, in bulk, between points in Illinois on and south of a line from the Illinois-Iowa State line along Illinois Highway 164 to the junction of U.S. Highway 34, thence along U.S. Highway 34 to the Junction of Interstate Highway 74, thence along Interstate Highway 74 to the Illinois-Indiana State line, on the one hand, and, on the other, points in Minnesota (except points east of a line from the Minnesota-Iowa State line along Interstate Highway 35 to Burnsville, thence along unnumbered highway to the junction of Minnesota Highway 52, thence along Minnesota Highway 52 to the junction of Minnesota Highway 55, thence along Minnesota Highway 55 to the Minnesota-Wisconsin State line (points in Polk County, Iowa)*. The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

NOTE.—The purpose of this partial correction is to correct Part (3) Illinois Highway 64 to read Illinois Highway 164 instead. The remainder of this letter notice remains as previously published.

No. MC 141969 (Sub-No. E3 through E33). Applicant: NOBLE TRANSPORT, INC., P.O. Box 17B, Denver, Colo. 80217. Applicant's representative: Richard P. Kissinger, Suite 140, Cherry Creek Center, 360 South Monroe, Denver, Colo. 80209. Notice is hereby given that pursuant to MC–F–12573, the authority set forth in the following FEDERAL REGISTERS for Ashworth, No. MC–1872, has been transferred to Noble Transport. October 28, 1975—Subs E20, E21, E22, E23, E24, E25, E26, E27, E28, E29; July 6, 1977—Subs E6, E7, E9, E13, E14, E19, E30, E31, E32, E33; July 7, 1977—Subs E5, E8; July 13, 1977—Subs E3, E4, E17; July 20, 1977—Subs E10, E11, E12, E15, E16.

By the Commission

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-24636 Filed 8-24-77;8:45 am]

[Notice No. 214]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission by September 26, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC–FC 76995, filed August 19, 1977. Transferee: MERCER BROS. TRUCKING COMPANY, Route 1, Box 248, Wilson, N.C. 27893. Transferor: John Lewis Read (Mrs. Willie S. Read, Administratrix), d.b.a. Read's Truck Line, P.O. Box 664, Warrenton (formerly Norlina), N.C. Applicant's representative: Jerry D. Mercer, P.O. Box 952, Wilson, N.C. 27893. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 70958 issued August 24, 1949, as follows: *Cotton* from Littleton, N.C. and points within 35 miles thereof to Danville and Norfolk, Va. and points in North Carolina; *lumber* from Fuquay Springs, Durham, and Littleton, N.C. and points within 10 miles of Durham and 35 miles of Littleton to Norfolk and Richmond, Va., Baltimore, Md., and the District of Columbia, points in Virginia within 10 miles of Richmond or 25 miles of Norfolk, and those in Maryland or Virginia within 25 miles of either Baltimore, Md. or the District of Columbia; *agricultural commodities* from Littleton, N.C. and points within 35 miles thereof to Petersburg, Emporia, and Suffolk, Va.; *livestock* from Littleton, N.C. and points within 35 miles thereof to Richmond, Va.; *general commodities* with the usual exceptions from Richmond, Norfolk, and Suffolk, Va. to Littleton, N.C. and points within 25 miles thereof; and *empty glass bottles* from Laurens, S.C. to Littleton, N.C. Transferee is presently authorized to operate as a common carrier under Certificate No. MC–124050; application has not been filed for temporary authority under Section 210a(b).

No. MC–FC 77215, filed July 13, 1977. Transferee: COSTA LINES, INC. d.b.a., Trinidad Freight Service, Santa Fe Yards, Trinidad, Colo. 81082. Transferor: Anna Gasperetti and John B. Gasperetti, Jr., d.b.a. The Tri-C Transfer and Storage, 111 West 10th St., Walsenburg, Colo. 81089. Applicants' representative: Joe Costa, Santa Fe Yards, Trinidad, Colo. 81082. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates No. MC–135695 and, MC–135695 (Sub-No. 1) issued January 12, 1972 and April 5, 1972 as follows: *Used household goods*, between points in Alamosa, Baca, Bent, Conejos, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Mineral, Otero, Prowers, Rio Grande, and Saguache Counties, Colo. Also general commodities, except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment, between Walsenburg, Colo., and Gardner, Colo., serving all intermediate points, and the off-route point of Red Wing, Colo. from Walsenburg over Colorado Highway 69 to Gardner, and return over the same route. And *General commodities* except those of unusual value, Classes A and B explosives, commodities in bulk, and those requiring special equipment, between Walsenburg, Colo., on the one hand, and, on the other, points in Huerfano County, Colo. Transferee is presently authorized to operate as a common carrier under Certificate No. MC–136183 and subs thereafter. Application has been filed for temporary authority under Section 210a(b).

No. MC–FC 77225, filed July 20, 1977. Transferee: SPECIALIZED TRUCKING, INC., 4714 Elysian, Houston, Tex., 77009. Transferor: Gregg Construction Co., Inc., P.O. Box 579, White Oak, Tex., 75693. Applicant's representative: Joe G. Fender, 711 Louisiana, No. 1150, S. Tower, Houston, Tex., 77002. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC–99026 (Sub-No. 1), obtained by transferor pursuant to No. MC–FC–76801, consummated March 14, 1977, as follows: various specified commodities wholly within the state of Texas. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC 77230, filed July 25, 1977. Transferee: MOSLEY TRUCKING, INC., Jacksonville, Fla. 32265. Applicants' representative: Sol H. Proctor, Attorney at Law, 1101 Blackstone Bldg., Jacksonville, Fla. 32202. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates No. MC 117675 and, MC–117675 (Sub-No. 7), issued June 16, 1971, and June 12, 1975, respectively, as follows: *Bananas*, from Miami, Tampa, Fort Lauderdale, and Port Everglades, Fla., and Charleston, S.C., to Jacksonville, Fla., with no transportation for compensation on return except as otherwise authorized. From Jacksonville, Fla., to Savannah, Ga., and Charleston, S.C., with no transportation for compensation on return except as otherwise authorized. From Charleston, S.C. to points in Florida, with no transportation for compensation on return except as otherwise authorized. Also *fresh fruits, berries* and *vegetables*, when transported in the same vehicle with bananas (authorized herein), From Jacksonville, Fla., to Savannah, Ga., and Charleston, S.C., with no transportation for compensation on return except as otherwise authorized. And *bananas*, and *fresh fruits, fresh berries and fresh vegetables* when transported in the same vehicle with bananas, from Gulfport, Miss., to points in Florida, with no transportation for compensation on return except as otherwise authorized. Also *bananas*, and *agricultural commodities*, otherwise exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act, when transported in mixed loads with bananas. From Mobile, Ala., to points in Florida and Georgia, with no transportation for compensation on return except as otherwise authorized. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC 77233, filed July 28, 1977. Transferee: JOSEPH CHAIRVOLOTTI, INC., P.O. Box 307, Waverly, N.Y. 14892. Transferor: Joseph Chairvolotti, P.O. Box 307, Waverly, N.Y. 14892. Applicant's representatives: S. Michael Richards, Raymond A. Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC–104222 (Sub-No. 4), issued July 14, 1955, as follows: Such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses, and in connection therewith equipment, materials, and supplies used in the conduct of such business, From Waverly, N.Y., to points in Pennsylvania north of the southern boundaries of Monroe, Carbon, Schuylkill, Northumberland, Union, Centre, Clearfield, Indiana, Armstrong, Butler, and Lawrence Counties, Pa. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC 77240, filed August 4, 1977. Transferee: BARRETT'S PICK UP SERVICE, INC., 478 Deer Trail Road, Chicago Heights, Ill. 60411. Transferor: J. Eugene Weisenberger, d.b.a. Barrett's Pick Up Service, 478 Deer Trail Road, Chicago Heights, Ill. Applicant's representative: Paul J. Maton, Attorney at Law, Suite 1620, 10 So. LaSalle Street, Chicago, Ill. 60603. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC–126755 (Sub-No. 1), issued July 20, 1966, as follows: Name plates, parts, machinery, appliances, wiring, tools, glass bottles, and plastic materials (except commodities in bulk), between Chicago Heights, Ill. and points within 10 miles thereof, and Chicago, Ill. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC 77258, filed August 9, 1977. Transferee: WEST VIRGINIA TRANSFER, INC., 551 28th St. (P.O. Box 2468), Huntington, W. Va. 25725. Transferor: Clyde W. Porter, d.b.a. West End Transfer, 1651 Madison Ave., Huntington, W. Va. 25701. Applicants' representative: Richard J. Bolen, Attorney-at-Law, 6th Ave. & 10th St. (P.O. Box 2185), Huntington, W. Va. 25722. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC–76768, issued July 19, 1962, as follows: *Household goods, office furniture and equipment*, and *store fixtures*, Between Huntington, W. Va., on the one hand, and, on the other, points in Ohio and Kentucky. *Pianos*, new and used, between Huntington, W. Va., on the one hand, and, on the other, points in that part of Lawrence County, Ohio, south of Ohio Highways 141 and 217. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC 77260, filed August 12, 1977. Transferee: GARDEN CITY TRANSPORTATION CO., INC., 2041 Pioneer Court, Suite 1, San Mateo, Calif. 94403. Transferor: G. C. T., Inc., 900 E. Williams St., San Jose, Calif. 95116. Applicants' representative: George M. Carr, Attorney-at-Law, 1620 Russ Building, 235 Montgomery St., San Francisco, Calif. 94104. Authority sought for purchase by transferee of that portion of the operating rights of transferor set forth in Certificate of Registration No. MC–5047 (Sub-No. 12), issued October 26, 1973, as follows: General commodities, excluding newsprint, between specified points in California, subject to certain restrictions, and canned goods, dried fruit, and cannery and dried fruit packing plant machinery, materials and supplies between San Jose and points within ten miles of the City Limits of San Jose on the one hand, and, Sacramento, on the other. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b) of the Act.

No. MC–FC 77261, filed August 11, 1977. Transferee: PAUL L. JOHNS, R.D. No. 1, Paradise, Pa. 17562. Transferor: Walter B. Johns, R.D. No. 3, Ephrata, Pa. 17522. Applicants' representative: John M. Musselman, Attorney-at-Law, 410 North Third St., Harrisburg, Pa. 17108. Authority sought for purchase by transferee of

V 42 N 165 AUG 25 77 UM

the operating rights of transferor set forth in Certificate No. MC 111022, filed June 12, 1950, as follows: Pulverized agricultural limestone, over irregular routes, from points in Lancaster County, Pa., to points in other than incorporated municipalities in Delaware and Maryland. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc 77-24637 Filed 8-24-77;8:45 am]

TRANSPORTATION OF "WASTE" PRODUCTS FOR REUSE OR RECYCLING

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, Ex Parte No. MC 85, 124 MCC 583 (1976).

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission by September 14, 1977. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence within 30 days of the date of its notice in the FEDERAL REGISTER, subject to its tariff publication effective date.

P-11-77 (Special Certificate-Waste Products) filed May 13, 1977. Applicant: SERVICE EXPRESS, INC., P.O. Box 1009, Tuscaloosa, Ala. 35401. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate pursuant to a Certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste products* for reuse and recycling, from points in Louisiana, Arkansas, Mississippi, Tennessee, Georgia, Florida, North Carolina, and South Carolina, to Prattville, Ala., in furtherance of the recognized pollution programs sponsored by Union Camp Corporation of Prattville, Ala. for the purpose of transporting waste products for reuse and recycling.

P-12-77 (Special Certificate-Waste Products) filed June 8, 1977. Applicant: SOUTHERN INTERMODAL LOGISTICS, INC., P.O. Box 1375, Thomasville, Ga. 51792. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate pursuant to a Certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste products for reuse and recycling*, from points in North Carolina, South Carolina, Tennessee, Alabama, Louisiana, Florida and Georgia, to Savannah, Ga., in furtherance of the recognized pollution programs sponsored by Union Camp Corporation of Savannah, Ga., for the purpose of transporting waste products for reuse and recycling.

P-14-77 (Special Certificate-Waste Products) filed July 20, 1977. Applicant: LOVE BENTA AND LEASING CORPORATION, 2028 Calumet Avenue, Toledo, Ohio 43607. Applicant's representative: James Love (same address as applicant). Authority sought to operate pursuant to a Certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier*, over irregular routes, transporting: *Waste paper and waste glass* between points in the United States (except Alaska and Hawaii) in furtherance of a recognized pollution program sponsored by Owens-Illinois, Inc., for the purpose of recycling paper and glass.

P-15-77 (Special Certificate-Waste Products) filed June 30, 1977. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate and foreign commerce, as a *common carrier*, over irregular routes, transporting: *Waste products* for reuse and recycling, from points in the United States (except Alaska and Hawaii) to Palmerton, Pa., in furtherance of the recognized pollution programs sponsored by The New Jersey Zinc Co., a division of the Natural Resources Group, Gulf & Western Industries of Palmerton, Pa., for the purpose of recycling and manufacture of zinc or zinc alloy.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc77-24639 Filed 8-24-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Deposit Insurance Corporation	1
Federal Election Commission	2
Federal Power Commission	3, 4
National Transportation Safety Board	5
Securities and Exchange Commission	6

1

FEDERAL DEPOSIT INSURANCE CORPORATION.

CHANGE IN SUBJECT MATTER OF AGENCY MEETING

At its closed meeting held at 10:30 a.m. on August 22, 1977, the Federal Deposit Insurance Corporation's Board of Directors unanimously voted by recorded vote, pursuant to subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), to remove Case No. 43,152-L, regarding the liquidation of assets acquired by the Corporation from Franklin National Bank, New York, New York—In Liquidation, from the agenda for consideration at that meeting.

The Board further determined by recorded vote that Corporation business required its addition of Case No. 43,170-SR, regarding the liquidation of assets acquired by the Corporation from American Bank & Trust Company, New York, New York, to the agenda for consideration at that meeting and that no earlier notice of a change in the subject matter of the meeting was possible.

Dated: August 22, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION.
ALAN R. MILLER.
Executive Secretary.

[S-1168-77 Filed 8-22-77;5:06 pm]

2

FEDERAL ELECTION COMMISSION.

FEDERAL REGISTER: S-523-5220R1.

PREVIOUSLY ANNOUNCED DATE AND TIME:

Thursday, August 25, 1977, 10:00 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

CHANGE IN MEETING:

Please Add: Office Accounts—Commission Memorandum No. 1439.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone 202-523-4065.

MARJORIE W. EMMONS.
Secretary to the Commission.

[S-1166-77 Filed 8-22-77;2:54 pm]

3

FEDERAL POWER COMMISSION.

FEDERAL REGISTER CITATIONS OF PREVIOUS ANNOUNCEMENT:
(Pub. 8, 23 77, 42 FR 42429.)

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING:
August 24, 1977, 10:00 a.m.

CHANGE IN THE MEETING:
The following item has been added:

Item No., Docket No., and Company

P-11—ER77-529, Columbus & Southern Ohio Electric Company.

KENNETH F. PLUMB,
Secretary.

[S-1170-77 Filed 8-23-77,12:13 pm]

4

AGENCY HOLDING MEETING: Federal Power Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:
(Pub. 8 23 77, 42 FR 42429.)

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING:
August 24, 1977, 10:00 a.m.

CHANGE IN THE MEETING:
The following items have been added:

Item No., Docket No., and Company

G-10—CP77-362, Texas Gas Transmission Corporation.

G-11—CP77-566, Transcontinental Gas Pipe Line Corporation and Michigan Wisconsin Pipe Line Company.

G-12—RP71-130, et al., Texas Eastern Transmission Corporation.

KENNETH F. PLUMB,
Secretary.

[S-1171-77 Filed 8-23-77,12:13 p.m.]

5

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: Thursday, 9:30 a.m., September 1, 1977 (NM-77-26).

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. *Opinion and Order*—Petition of John Doe, Dkt. SM-1163; disposition of petitioner's appeal from the initial decision.

2. *Opinion and Order—Administrator* v. *Beasley*, Dkt. SE-3512; disposition of respondent's appeal.

3. *Opinion and Order—Administrator* v. *Sims and McGhee*, Dkt. SE-3425 and 3426; disposition of Administrator's appeal.

4. *Memorandum* from Chairman Todd, Dated July 20, 1977, subject: Proposed Organizational Redesignation in the Bureau of Accident Investigation.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-755-4930.

[S-1167-77 Filed 8-22-77,3:40 pm]

6

SECURITIES AND EXCHANGE COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:
42 FR 41952, August 19, 1977.

PREVIOUS ANNOUNCED TIME AND DATE:
Tuesday, August 23, 1977, 9:00 a.m. open meeting, Wednesday, August 24, 1977, 3:00 p.m. closed meeting.

CHANGES IN THE MEETING: Rescheduling of agenda listings.
The open meeting scheduled for Tuesday, August 23, 1977, at 9 a.m. has been rescheduled for Wednesday, August 31, 1977, at 10 a.m.
The closed meeting agenda for Wednesday, August 24, 1977, at 3 p.m. will be considered by the Commission on Tuesday, August 30, 1977, at 10 a.m. except for the following closed matters which will be discussed in closed session, immediately following the open meeting scheduled for Thursday, August 25, 1977, at 10 a.m.:
Consideration of *amicus curiae* matter.
Litigation matter.
Chairman Williams, Commissioners Loomis, Evans, and Pollack voted to approve the above changes and determined that no earlier notice thereof was possible.

August 22, 1977.

[S-1169-77 Filed 8-23-77,9:54 am]

V 42 N 165 AUG 25 77 UM

federal register

THURSDAY, AUGUST 25, 1977

PART II



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

■

MERGER AND CONSOLIDATION PROCEDURES

V42165 AUG 25 77 UM

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[FRA Economics Doc. 5, Notice 3]

PART 268—MERGER AND CONSOLIDATION PROCEDURES

AGENCY: Federal Railroad Administration, DOT

ACTION: Final rule.

SUMMARY: This final rule revises a final rule published by the Federal Railroad Administration ("FRA") on January 26, 1977, covering the procedures and format a proponent should observe when filing a proposed transaction for study by the Federal Railroad Administrator ("Administrator") under section 5(3) of the Interstate Commerce Act ("Act"). On February 24, 1977, FRA held a public meeting to discuss the rule in response to a request by the Association of American Railroads ("AAR"). On March 17, 1977, the AAR filed a petition for reconsideration of the rule. Also on March 17, 1977, the Interstate Commerce Commission ("Commission") published its merger and consolidation regulations under sections 5 (2) and (3) of the Act. Based on the Commission's regulations and the public comments received in the FRA rule, the FRA has determined that some of the data requirements of its originally published regulations needed to be revised, redrafted, or eliminated.

The intended effect of these revised regulations is to provide a flexible procedure reflecting the circumstances of each proposed transaction.

EFFECTIVE DATE: August 25, 1977.

ADDRESS: Submissions under this part are to be filed with the Associate Administrator for Policy and Program Development, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Principal attorney: Sander M. Bieber, Office of Chief Counsel, 202–426–8220.

Principal program person: Thomas A. Till, Director, Office of Rail Industry Structure, 202–426–0382.

SUPPLEMENTARY INFORMATION:

Waivers and Modifications

The preamble to the final regulations, as earlier published, noted that:

> The FRA is cognizant that numerous kinds of transactions are covered by section 5(3), and that not all information required by [this part] applies to every transaction that can be proposed, nor can all of the information required by [this part] always be provided by the submitting parties. Section 268.41 [renumbered as 268.45] provides a mechanism by which [a proponent] may request that the Administrator waive or modify any requirement.

This statement, and the wording of the waiver and modification section, were intended to make clear that the regulations could be tailored to fit the particular circumstances of each proposed transaction. Nonetheless, members of the public who attended the February 24 public meeting, and the AAR in its petition for reconsideration, argued that the requirements were too burdensome and rigid.

In order to insure sufficient flexibility, we are now amending the regulations to: (1) Retain the waiver and modification provision, renumbered as § 268.45; (2) change the introductory clause of each of the nine studies sections to begin with the phrase "to the extent applicable to the proposed transaction;" and (3) as discussed below, add a pre-filing conference.

Pre-filing Conference

Based upon the success we have had with the preapplication conference in our title V financial assistance program under the Railroad Revitalization and Regulatory Reform Act of 1976, we have created a pre-filing conference, in § 268.7, for title IV submissions. The conference may be used to discuss anything concerning the proposed transaction. Given the range of transactions that can be proposed under section 5(3) of the Act, the pre-filing conference should be used to discuss the type and detail of information that must be submitted in support of a proposed transaction. Waivers and modifications of submission requirements should be discussed at the conference.

Rejection of Submissions

The AAR, in its petition for reconsideration, recommended that the Administrator's reservation of the right to reject submissions that do not conform with the regulations be deleted. The AAR further recommended that FRA should accept and process any document, noting any insufficiency of information in its report to the Commission.

We believe rejection of nonconforming submissions is warranted and necessary. Section 5(3)(f) requires the Administrator, as the Secretary of Transportation's delegate, to perform the following duties:

1. Publish a summary and a detailed account of the contents of the proposed transaction in the Federal Register.
2. Give notice of the proposed transaction to designated state officials;
3. Conduct an informal public hearing with respect to the proposed transaction;
4. Study each proposed transaction with respect to nine enumerated concerns; and
5. Submit a report to the Commission "setting forth the results of each study conducted * * *," within 10 days after an application is submitted to the Commission. The Administrator would not be fulfilling his/her statutory obligation if his/her report to the Commission is a statement describing his/her inability to perform the study because of noted insufficiencies in the submission.

The treatment of nonconforming submissions is now separately addressed in § 268.11 of the regulations. Section 268.11 (c) emphasizes that if the § 268.7 prefiling conference is appropriately used by the proponent, waivers or modifications of submission requirements and a mutual understanding of what is expected in response to the requirements of this part will have already been reached, facilitating the filing of a conforming submission.

Finally, to address a concern voiced by several participants at our public meeting on February 24, 1977, § 268.7(c) states that the determination of whether a submission is conforming will be made within FRA. Public review of a submission begins only after the submission is accepted by the Administrator. Public comments will be received only on the substance of a submission, not its conformance with the filing requirements.

Needs of Rail Transportation

Comment at our February 24, 1977 public meeting, and the AAR petition, demonstrated the problems created by our request for various traffic analysis data. Our final section 5(3) regulations were published on January 26, 1977, three weeks before the Commission's regulations were served in Ex Parte No. 282 (Sub-No. 1), *Railroad Consolidation Procedures*. Our traffic studies requirement had not been coordinated with the Commission in terms of data collection and presentation techniques, the time period involved, and the possibility that the six month period between filing a submission and filing an application might necessitate the preparation of two traffic studies.

After reviewing these problems, we decided not to conform our regulations with the Commission's traffic studies requirements. Rather, we have decided to forego much of the traffic data required by our previous regulations and by the current Commission regulations. We have, therefore, revised this section along the lies suggested by the AAR. The remaining traffic data requirements in § 268.23 of the regulations will permit us to fulfill the section 5(3)(f)(iv)(A) obligation to study "the needs of rail transportation in the geographical area affected." FRA encourages submission of the underlying traffic data covering the area involved in the proposed transaction, upon which proponent bases its rail transportation analysis.

The requirements pertaining to the financial performance expected to be achieved as a result of the proposed transaction have been retained. The data are relevant to our nine studies required by section 5(3)(f)(iv) of the Act, and are important in coordinating administration of our title V financial assistance programs with our section 5(3) analysis. *See, e.g.*, Regulations Governing Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, 42 FR 28.958 (1977) (to be codified in 49 CFR 258.27(b)(1)).

Environmental Impact

The regulation requiring data relevant to the environmental impact of the proposed transaction and of alternative choices of action has been substantially rewritten to permit greater latitude to the proponent in formulating its response. (Section 268.39.) The FRA environmental impact study is important because it is conducted with a transportation orientation. The important change in the regulations is the recognition that different transactions will have different environmental impacts and different magnitudes of impact.

Other Revisions

In several sections we have made significant editorial changes, and have reorganized the format in which information is requested. The purpose of these editorial revisions is to add clarity and precision to the regulations. For example, the term "applicant" has been replaced by the term "proponent," to eliminate any confusion between a party submitting a proposed transaction to the Administrator—a proponent—and party submitting a merger application to the Commission—an applicant.

There have also been several minor substantive deletions. For the most part, these data requirements were deleted in response to comments made at the February 24 public meeting and the AAR petition. Additionally, any data requirement that a proponent can demonstrate not to apply to its proposed transaction, or to be unduly burdensome, may be waived or modified by the Administrator under section 268.45.

Impact Statements

This document amends and revises regulations previously issued on January 19, 1977 (42 FR 4982 (1977)). For the reasons stated in our earlier publication of these rules, FRA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and Office of Management and Budget Circular A–107.

FRA has evaluated this document in conformance with the Secretary of Transportation's regulatory reform policies (41 FR 16200 (1976)). These regulations govern submissions of proposed transactions which range from complex mergers to joint track usage agreements. The regulations concerning documentation and data requirements relate directly to the nine statutory concerns required to be studied by section 5(3) of the Act, and can be tailored to the particular contours of each proposed transaction with modifications or waivers of the requirements. As determined when these regulations were initially issued, the minimal cost impact of these regulations on the private sector, consumers, and Federal, state, and local governments does not require an evaluation of the effects of these regulations.

In order to facilitate and encourage submission of proposed transactions under these revised regulations, FRA has determined that the public interest is best served by making these regulations effective immediately. Throughout the submission period, FRA staff will provide any resource assistance requested by a proponent.

In consideration of the foregoing, part 268 of title 49 of the Code of Federal Regulations is revised and amended as set forth below:

Subpart A—General Provisions

Sec.
268.1 Applicability.
268.3 Definitions.
268.5 Eligibility.
268.7 Pre-Filing conference.
268.9 Filing procedure, notice of filing.
268.11 Nonconforming submissions.
268.13 Supplemental submissions; time extension.
268.15 Informal public hearings.

Subpart B—Contents of Submissions

268.17 Form and content of consolidation submission.
268.19 Front covers.
268.21 Introductory statement, summary of proposed transaction, and map of proponent.
268.23 Needs of rail transportation.
268.25 Retention and promotion of competition.
268.27 Rationalization of rail system.
268.29 Cost of rehabilitation and modernization compared to alternative choices.
268.31 Impact on shippers, consumers and railroad employees.
268.33 Effect on communities.
268.35 Improvement of rail service.
268.37 Effect on employment.
268.39 Environmental impact.
268.41 Administrator's request for additional information.

Subpart C—Miscellaneous Provisions

268.43 Access to information.
268.45 Waivers and modifications.

Authority: Sec. 8(3) Interstate Commerce Act, 49 U.S.C. 6(3)(f); Department of Transportation Act, 49 U.S.C. 1651 et seq. Regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(u).

Subpart A—General Provisions

§ 268.1 Applicability.

This part prescribes the guidelines and procedures governing merger and consolidation proposals submitted to the Federal Railroad Administrator for evaluation under section 5(3)(f) of the Interstate Commerce Act, 49 U.S.C. 5(3)(f).

§ 268.3 Definitions.

Unless otherwise required by context:

"Act" means the Interstate Commerce Act, 49 U.S.C. 1 et seq.

"Administrator" means the Federal Railroad Administrator, or the designee of the Administrator.

"Application" means the form in which the Interstate Commerce Commission requires the proposed transaction to be submitted to it, following evaluation and study of the proposal by the Administrator.

"Commission" means the Interstate Commerce Commission.

"Consolidation" means all transactions subject to section 5(3) of the Act, including merger, consolidation, unification or coordination project (as described in section 5(c) of the Department of Transportation Act), joint use of tracks or other facilities, or acquisition or sale of assets, which involves any common carrier by railroad subject to Part I of the Act.

"Including" means including but not limited to.

"Lines affected" means those lines which are directly related to or a part of the proposed transaction—either in a marketing, service or operational sense.

"Proponent" means any railroad or railroads submitting a merger or consolidation proposal for evaluation by the Administrator under this part, and all common carriers by railroad subject to Part I of the Act with properties directly involved in the proposed transaction.

"Railroad" means a common carrier by railroad as defined in section 1(3) of Part I of the Act.

"RRRRA" means the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94–210, as amended.

"Secretary" means the Secretary of the Department of Transportation.

"Submission" means the form and content in which data concerning the proposed transaction is to be submitted to the Administrator for evaluation and study, as set forth in this part.

"Supplemental submission" means data concerning the proposed transaction submitted by the proponent for evaluation by the Administrator, which goes beyond the data which is required to be submitted by this part.

§ 268.5 Eligibility.

Any railroad may, in the period prior to December 31, 1981, submit to the Administrator a consolidation proposal for evaluation under this part.

§ 268.7 Pre-Filing Conference.

(a) *Informal meeting.* When a railroad has developed plans for a transaction which it may submit to the Administrator for evaluation under this part, a responsible official of the railroad may request in writing a meeting with the Associate Administrator for Policy and Program Development to discuss those plans. Upon receipt of this request, the Associate Administrator will schedule a meeting within 30 days at which the railroad will present the transaction to representatives of the Federal Railroad Administration and discuss with them information which is required to be submitted by this part. Railroads which utilize the prefiling conference are not required to prepare a draft submission or other special information for the conference; however, railroads should be prepared to discuss information which management has used in making its decision to undertake the proposed transaction.

(b) *Data requirements waived or modified.* A goal of the prefiling conference is to enable a proponent to file a submission with the Administrator which conforms to this part's form, content, and documentation requirements. To that purpose, the Administrator may consider requests of a proponent to waive or modify any requirement of this part, or make any additional requirements considered necessary, at a prefiling conference.

§ 268.9 Filing Procedure.

(a) Each submission shall bear the date of execution, be signed by or on behalf of the proponent and shall bear the

corporate seal in the case of a proponent which is a corporation. Execution shall be by all partners if a partnership, unless satisfactory evidence is furnished of the authority of a partner to bind the partnership or if a corporation, an association or other similar form of organization, by its president or other executive officer having knowledge of the matters set forth in the submission. Persons signing the submission on behalf of the proponent shall also sign a certificate in form as follows:

---------- certifies that
(Name of official)
(he) (she) is the ----------
(Title of official)
of the ---------- authorized
(Name of proponent)
on the part of the proponent to sign and file with the Administrator this submission, that (he) (she) has carefully examined all of the statements contained in the submission relating to the aforesaid ----------
(Name of
----------: that (he) (she) has knowledge of the matters set forth in the submission and that all such statements made and matters set forth in the submission are true and correct to the best of (his) (her) knowledge, information, and belief.

(Name of official)

(Date)

(b) The original submission and supporting papers, including any data considered relevant by the proponent which are not specifically requested by this part and ten copies of the submission for the use of the Administrator, shall be filed with the Associate Administrator for Policy and Program Development of the Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Each copy shall bear the dates and signatures that appear in the original and shall be complete in itself, except to the extent otherwise provided in this part, but the signature on the copies may be stamped or typed.

(c) Each proponent shall file a copy of its submission with the regional offices of the Federal Railroad Administration responsible for the area(s) affected by the proposed transaction. The five regional offices, with their locations, are:

Eastern Region, Independence Bldg., Room 1020, 434 Walnut Street, Philadelphia, Pa. 19106.
Southern Region, Suite 216B, 1503 Willingham Drive, College Park, Georgia 30337.
Central Region, 836 S. Clark St., Room 210, Chicago, Illinois 60605.
Southwest Region, Room 11A234, Federal Office Building, 819 Taylor Street, Fort Worth, Texas 76102.
Western Region, No. 2 Embarcadero Center, Suite 630, San Francisco, California 94111.

(d) Each proponent shall make available to any state Department of Transportation or similar state agency of any state in which any rail facilities of proponent are located a copy of its submission under this part upon request by such agency.

(e) Each proponent shall retain a copy of its submission, and shall make the submission available for public inspection in a reasonable manner at the executive offices of the proponent.

(f) The proponent shall submit such additional information to support its submission as the Administrator may request under § 268.41 of this part.

§ 268.11 Nonconforming submissions.

(a) *Original submission rejected.* The Administrator reserves the right to reject a submission which does not conform to this part's form, content and documentation requirements. Upon the filing of a submission, the Administrator will review the submission and determine whether it conforms with all applicable regulations. If the submission is incomplete, or otherwise defective, the Administrator may reject the submission by written notice to the proponent, specifying the reasons for the rejection, within 30 days from the date of filing of the submission.

(b) *Revised submission.* A revised submission may be submitted, and the Administrator will determine whether the resubmitted submission conforms with all prescribed regulations. The resubmission or refiling of a submission shall be considered a de novo filing for the purpose of computation of the time period prescribed in section 5(3) of the Act, provided that such resubmitted submission is considered complete.

(c) *Purpose.* The purpose of this section is to provide the Administrator with a conforming submission that will enable the Administrator to perform the nine statutory studies and other statutory duties required to be performed by section 5(3)(f) of the Act within a six-month period. Successful use of the § 268.7 pre-filing conference should avoid both rejection of a submission and the delay that might occur in revising a submission to conform to this part's requirements. The review of a submission by the Administrator to determine whether it conforms to this part's requirements shall not be subject to public comment or review.

§ 268.13 Supplemental submissions: time extension.

(a) Sections 268.19 through 268.41 inclusive set forth the minimum data requirements, subject to modification or waiver, for filing an effective submission under this part. Supplemental information may be filed along with the initial submission, or at a later time. A proponent is urged to make its supplemental submissions as similar in form and content to the anticipated application to the Commission as is reasonably possible. The Administrator will use any supplemental information submitted in preparing the Administrator's report for the Commission. To the extent that the supplemental submission corresponds to the filing requirements established by the Commission for section 5(3) applications, the Administrator will be able to comment to a greater degree on the merits of the entire proposed transaction.

(b) If a proponent decides to make a supplemental submission to the Administrator after the original submission and wishes the submission to be considered by the Administrator in the Administrator's findings under section 5(3)(f)(iv) and (v) of the Act, then the proponent and the Administrator will reach agreement on the date on which the proponent will file its application with the Commission. This provision is designed to afford the Administrator sufficient additional time to study the supplemental submission, to conduct any necessary public hearings, and to prepare the Administrator's report.

§ 268.15 Informal public hearings.

(a) Informal public hearings will be conducted with respect to all submissions following acceptance of the initial submission by the Administrator, and may be held with respect to any supplemental submissions made under § 268.13.

(b) Notice of all informal public hearings, together with a basic outline for participation at the informal hearing, will be published in the FEDERAL REGISTER at least 15 days prior to each hearing.

Subpart B—Contents of Submissions

§ 268.17 Form and content of consolidation submissions.

Each submission shall, contain in the order indicated and identified by reference to heading and section numbers, the information required by §§ 268.19 through 268.39. In the event that a full response to the information requirement of one section in Subpart B is contained elsewhere in the submission, the response should reference the portion of the submission where the requested information is contained.

§ 268.19 Front covers.

(a) The front cover shall list—
(1) The full and correct name of the proponent;
(2) The nature of the transaction (e.g., merger, coordination project, trackage rights, etc.); and
(3) If a consolidation or merger is proposed, the proposed name of the resulting company.

(b) An inside front cover shall list—
(1) The business address of the proponent (street and number, city, county, state and zip code);
(2) The name, title, business address and telephone number of the officer or offices to whom correspondence with respect to the submission should be addressed; and
(3) The name, business address and phone number of the proponent's attorney.

§ 268.21 Introductory statement, summary of proposed transaction, and map of proponent.

Each submission shall contain—
(a) A section, written in a narrative form, entitled "Introductory Statement", describing proponent and including the following information concerning proponent:
(1) Whether proponent is an individual, firm, partnership, corporation, company, association, joint-stock company, trustee, receiver, assignee, or other personal representative, and trade name or style, if any, under which proponent is doing business;
(2) Depending upon whether the proponent is a corporation, partnership, or other form of organization or entity, the date and place of incorporation, of partnership formation, of organization, or the name and address of the court, if any, under direction of which proponent is acting, as applicable.
(3) Whether proponent is a railroad;
(4) If proponent is not a railroad, the type of business in which it is engaged, the length of time so engaged, and particulars of its present activities which are or may be related to transportation subject to the Act.
(5) Whether proponent or any subsidiary is affiliated with a motor or water carrier subject to the Act; also the following information with respect to rail, motor or water operations, where applicable. The date of the certificate, permit or temporary authority, and the number of the Commission's docket assigned to the application upon which such certificate, permit, or temporary authority was issued or granted, or if application to engage in interstate or foreign commerce has been made but is still pending the date of the application and the docket number;
(6) Whether proponent is controlled by any other corporation or corporations, and, if so, the name(s) of the controlling corporation(s), the form of control, whether sole or joint, direct or indirect, and its extent.
(7) The measure of control or ownership, if any, now exercised by proponent over any other railroad, or over the properties of a railroad and
(8) Whether there are any intercorporate relationships, not disclosed in responses to prior instructions, through holding companies, ownership of securities, or otherwise, direct or indirect between proponent and any railroad or person affiliated with proponent and any railroad or person affiliated with any railroad, at the time of making the application; if so, the nature and extent of such relationship; and, if proponent owns securities of a railroad corporation or corporations subject to the Act, the name of the corporation, a description of securities, the par value of each class of securities held, and the percentage of total ownership.

(b) The submission shall also contain a narrative summary including—
(1) A brief description of the general nature of the entire proposed transaction;
(2) A brief description of the line or lines of railroads involved in the transaction, the principal points of interchange, city or county and state location, and major terminals and classification points;
(3) A brief description of the terms and conditions of the contract or agreement under which the proposed transaction is to be effected, including the manner in which the parties propose to consummate the transaction;
(4) A brief geographical description (including as applicable, route descriptions) of (i) operations sought to be performed and (ii) other operations presently performed;
(5) The proposed time schedule for consummation of the proposed transaction;
(6) A statement whether any governmental financial assistance involved is in the proposed transaction and, if so, the form, amount, source, and application of such financial assistance;
(7) The state or states in which any part of the properties of the railroads involved in the proposed transaction are situated; and
(8) The public interest factors involved.

(c) At the conclusion of the narrative summary, a general or key map indicating clearly the line or lines of proponent, parts of the line or lines of proponent in their true relation to each other, shortline connections, other rail lines in the territory and the principal geographic points of the region transversed. The map may be drawn using any appropriate scale or key system, so long as it is clear, can be easily reproduced, and effectively presents the required information. Three additional copies of the map shall be furnished, unbound, for the use of the Administrator.

§ 268.23 Needs of rail transportation.

To the extent applicable to the proposed transaction, each submission shall contain—

(a) A discussion and analysis of the present demand for rail transportation, both freight and passenger, in the geographical area affected by the proposed transaction, and how the proposed transaction would better meet such demands or would result in improved rail freight or passenger service, including estimates of trends in growth, direction, and volume of rail traffic in such areas.

(b) A description and analysis of future rail freight and passenger transportation needs that the proposed transaction is designed to meet (such as freight transportation presently handled by other modes, new industries likely to locate in the geographical area affected, new mineral traffic, etc.). If the future rail freight traffic is anticipated to result from anything other than continued growth in existing rail traffic, provide—
(1) A description of the type and amount of such traffic and its true origin/destination patterns; and
(2) Preliminary estimates of revenue gains and losses which will result from the proposed transaction, including those which will be suffered or enjoyed by other rail carriers. Supporting documents shall include an operating plan, a description of employees affected (this may be used in connection with section 268.31), improvements in service, and an estimate of savings to be affected (this may be used in connection with section 268.27).

(c) An analysis of financial strengths and weaknesses of the proponent, including a discussion of the improved financial performance expected to be achieved as a result of the proposed transaction.

(d) Any additional facts tending to establish that the proposed transaction will be consistent with the needs of rail transportation in the geographical area affected.

(e) The discussion and analysis required by this section shall be accompanied by a full explanation of the methodology and reasoning used in making estimates and projections called for by this section.

§ 268.25 Retention and promotion of competition.

To the extent applicable to the proposed transaction, each submission shall contain—

(a) A discussion and analysis of the present intermodal competition for the traffic originated and terminated on the lines affected by the proposed transaction, from true origin station or city to final destination station or city of the shipments. Among other factors, this discussion shall include—
(1) The extent and scope of motor and water carrier ability to meet the service needs, as compared to the existing railroad network;
(2) The identification of the motor and water carriers that compete with the proponent and the proponent's best estimate of the motor and water carriers' tonnage, ton-miles and freight revenues; and
(3) The extent of rail competition for the traffic originated and terminated on the lines affected by the proposed transaction, from true origin station or city to final destination station or city of the shipments.

(b) For all transactions involving railroads serving substantially the same geographical area, a listing of all of the communities on all lines included in the proposed transaction which are served by more than one railroad and an estimate of the share of the rail traffic possessed by each railroad. Include an indication of those points served by more than one railroad that can receive better service by only one railroad, if any.

(c) Proponent's best estimate of the percentage of traffic handled by competitors, if any, which proponent would reasonably expect to attract as a result of the proposed transaction, and a projection of the total rail market share before and after the proposed transaction would take effect, describing the relative market shares of competing modes.

(d) A discussion of any overhead traffic, that is, traffic which neither originates nor terminates on the lines affected by the proposed transaction but which passes over the lines affected by the proposed transaction, if any, including—
(1) The extent and scope of intermodal competition for this traffic;
(2) A discussion of existing and anticipated post-consolidation railroad competition for this traffic; and
(3) An explanation of what steps could and are planned to be taken, if any, to enable proponent to originate or terminate such overhead traffic.

V 42 N 165 AUG 25 77 UM

(e) Any additional facts tending to show the effect of the proposed transaction on the retention and promotion of competition in the provision of rail and other transportation services in the geographical areas affected.

(f) The discussion and analysis required by this section shall be accompanied by a full explanation of the methodology and reasoning used in making estimates and projections called for by this section.

§ 268.27 Rationalization of the rail system.

To the extent applicable to the proposed transaction, each submission shall contain—

(a) A discussion and analysis of the proposed transaction in the context of the findings or facts contained in the reports prepared by the Secretary under sections 503, 504, and 901 of the RRRRA, as those reports are issued.

(b) To the extent altered by the proposed transaction, a description of service presently performed. All significant service improvements and downgradings (e.g., changes in scheduling, service frequency, blocking plans, etc.) are to be listed.

(c) A description of the effect the proposed transaction will have on the total funding needs (Federal, state, and local) of the proponent, examining all programs including those for rail line rehabilitation and improvements, grade crossing needs, highway bridge construction plans, passenger or commuter lines, etc.

(d) An identification of all lines of the proponent in the geographical area affected by the proposed transaction which serve no rail patrons except at junctions with other carriers. A discussion of the practicality of serving all such rail patrons at such points by only one railroad, and a recommendation as to which railroad this should be is required.

(e) An analysis and discussion of the operating savings expected from any service or route changes, following consummation of the proposed transaction, including a breakdown of the significant componets of these savings and a discussion of the quantitative effect of these savings on present operating costs.

(f) An estimate of the additional net revenue to be derived as a result of any longer hauls and increased single-line service.

(g) Any additional information tending to show the effect of the proposed transaction on the achievement of a more efficient or adequate rail system.

(h) The discussion and analysis required by this section shall be accompanied by a full explanation of the methodology and reasoning used in making estimates and projects called for by this section.

§ 268.29 Cost of rehabilitation and modernization compared to alternative choices.

To the extent applicable to the proposed transaction, each submission shall contain—

(a) For those lines affected by the proposed transaction, a description and analysis of the maintenance and rehabilitation needs, slow orders in effect, class of track, rail facilities subject to deferred maintenance, and equipment and other facilities involved in the proposed transaction, in the context of the informational findings or facts contained in the reports prepared by the Secretary under sections 504 and 901 of the RRRRA, when issued.

(b) A discussion of the means by which accelerated maintenance and rehabilitation needs for any lines identified and discussed in subsection (a) are to be met, including—

(1) The amount and availability of private sources of funds, including internally generated fund;

(2) If public funds are desired, the availability of public sources of funds from all levels of governments, describing in detail the amounts and timing of any public funds anticipated;

(3) Identification and discussion of possible alternative courses of action available if such maintenance and rehabilitation needs are not met in the amount or time frame proposed, and a projection of the costs of such alternative courses of action; and

(4) A description of those lines or those portions of lines scheduled for maintenance and rehabilitation, if any, on which shippers with service options from connecting or intersecting railroads are located.

(c) If the proponent has applied or intends to apply for financial assistance under Title V of the RRRRA, full details should be provided regarding the relationship of the request for financial assistance to the proposed transaction, including the nature, amount, timing and purpose of the financial assistance, and the steps which have been taken to secure the financial assistance. Any application filed in the last three (3) years or to be filed for state or local assistance should be similarly discussed, to the extent it relates to the proposed transaction including tax relief, grade crossing programs, etc.

(d) Any additional facts tending to show the cost of rehabilitation and modernization of track, equipment, and other facilities associated with the proposed transaction, with a comparison of the potential savings or losses from other possible choices of action.

(e) The discussion and analysis required by this section shall be accompanied by a full explanation of the methodology and reasoning used in making estimates and projections called for by this section.

§ 268.31 Impact on shippers, consumers, and railroad employees.

To the extent applicable to the proposed transaction, each submission shall contain—

(a) A description of any service, cost, or rate improvements which would result from the proposed transaction including identification of shippers, consumers, and rail employees benefitted, together with a description of the benefit.

(b) A description of any reductions in service quality including identification of shippers, consumers, and rail employees affected together with a quantification of the effect and means of ameliorating the effect.

(c) With regard to rail employees of the proponent—

(1) A description of all projected changes in employment as a result of the proposed transaction;

(2) A list of any increases in rail employment resulting from the creation of any service improvements (e.g., single-line service);

(3) For any projected employment decreases, an explanation of how they will be handled and an estimate of the total costs of labor protection associated with the proposed transaction;

(4) A copy of any contract or agreement with employee organizations entered into as a result of, or as part of, the proposed transaction, and/or a description of any contract or agreement with employee organizations which proponent anticipates entering into as a result of, or as a part of, the proposed transaction; and

(5) A discussion regarding the effect, if any, any consolidation of management and personnel that would result from the proposed transaction would have in improving the present and future rail needs of the geographical area affected.

(d) An analysis which quantifies—

(1) The effect of rehabilitation programs, as discussed under section 268.29 on individual shippers;

(2) The amount of rail employment to be derived directly from the proposed rehabilitation program and any secondary rail employment which would result after completion of the proposed rehabilitation program; and

(3) The effect of rationalization efforts, as discussed under section 268.27 on the quality of service on individual lines and shippers, addressing upgrading and improved services as well as downgrading or abandonments.

(e) Any additional facts tending to show the effect of the proposed transaction on shippers, consumers and railroad employees.

(f) The discussion and analysis required by this section shall be accompanied by a full explanation of the methodology and reasoning used in making estimates and projections called for by this section.

§ 268.33 Effect on communities.

To the extent applicable to the proposed transaction, each submission shall contain—

(a) A description of the effect of service improvements, downgradings, or abandonments resulting from the proposed transaction, if any, on the communities served and on areas adjacent to those communities.

(b) A description of any new industrial development opportunities or losses resulting from the proposed transaction.

(c) If commuter or other passenger services, Amtrak, Autotrain or the like intercity passenger service are operated over the lines of the proponent, a detailed discussion of any impact anticipated on such services, such as delays which may be occasioned because a line is scheduled to handle increased traffic due to route consolidation or improvements resulting from the rehabilitation or rationalization program.

(d) An identification and location of any existing shops, repair facilities, yards, or other major installations or facilities, whenever such operations are or would become significant employers in the community where they are or would be located as a result of the proposed transaction.

(e) Any additional facts tending to show the effect of the proposed transaction on the communities in the geographical areas affected and on the geographical areas contiguous to such areas.

(f) The discussion and analysis required by this section shall be accompanied by a full explanation of the methodology and reasoning used in making estimates and projections called for by this section.

§ 268.35 Improvement of rail service.

To the extent applicable to the proposed transaction, each submission shall contain—

(a) A narrative discussion of all the factors noted in sections 268.23 through 268.33, quantifying all of the benefits and costs of, and assessing the tradeoffs related to, the proposed transaction, to the extent rail service improvements are anticipated. The discussion will include coverage of the following issues:

(1) Single-line service opportunities met;

(2) Competitive gains and losses;

(3) Rehabilitation and rationalization that would be achieved;

(4) Rail employment gains and losses;

(5) Effect on shippers and communities;

(6) Effect on passenger services; and

(7) Other services improved or lost.

(b) Any additional facts tending to show whether the proposed transaction will improve rail services.

(c) The discussion and analysis required by the section shall be accompanied by a full explanation of the methodology and reasoning used in making estimates and projections called for by this section.

§ 268.37 Effect on employment.

To the extent applicable to the proposed transaction, each submission shall contain—

(a) A narrative discussion of all the factors discussed in §§ 268.23 through 268.33, estimating the amount of employment (other than rail employment), both direct and secondary, to be gained or lost as a result of the proposed transaction, and estimating the value to the economy of the geographical area affected by the proposed transaction, of the consummation and implementation of the proposed transaction.

(b) Any additional facts tending to show the effect of the proposed transaction on employment in the geographical areas effected by the proposed transaction.

(c) The discussion and analysis required by this section shall be accompanied by a full explanation of the methodology and reasoning used in making estimates and projections called for by this section.

§ 268.39 Environmental impact.

To the extent applicable to the proposed transaction, each submission shall contain—

(a) A narrative discussion of all the factors discussed in §§ 268.23 through 268.33, estimating the environmental impact, both direct and secondary, reasonably believed to follow from the effectuation of proponent's operating plan, and from effectuation of alternative choices of action.

(b) A description of mitigation measures which may be necessary to assure compatability between rail operations following the effectuation of the proposed transaction, and the surrounding areas and resources.

(c) Any additional facts tending to show the environmental impact of the proposed transaction and of alternative choices of action.

(d) The discussion and analysis required by this section shall be accompanied by a full explanation of the methodology and reasoning used in making estimates and projections called for by this section.

§ 268.41 Administrator's request for additional information.

Proponent shall submit any additional information which the Administrator determines is necessary concerning a submission filed under this part.

Subpart C—Miscellaneous Provisions

§ 268.43 Access to information.

If a proponent wishes any information filed in a submission or in a supplemental submission not be released by the Administrator upon request from a member of the public, the proponent must so state and must set forth the reasons why such information should not be released, including particulars as to any competitive harm which should result from release of such information. The Administrator will keep such information confidential as permitted by law.

§ 268.45 Waiver or modification.

The Administrator, upon good cause shown, may waive or modify any requirement of this part, or make any additional requirements considered necessary.

Dated: August 18, 1977.

JOHN M. SULLIVAN,
Administrator, Federal Railroad Administration.

[FR Doc.77-24550 Filed 8-24-77;8:45 am]

AUG 25 1977 UM

federal register

THURSDAY, AUGUST 25, 1977
PART III



DEPARTMENT OF COMMERCE

Domestic and International Business Administration

■

MATERIALS AND EQUIPMENT ALLOCATION AND PRIORITY PERFORMANCE UNDER CONTRACTS OR ORDERS TO MAXIMIZE DOMESTIC ENERGY SUPPLIES

V42165
AUG 25 77
UM

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

[32A CFR Part 671]

MATERIALS AND EQUIPMENT ALLOCATION AND PRIORITY PERFORMANCE UNDER CONTRACTS OR ORDERS TO MAXIMIZE DOMESTIC ENERGY SUPPLIES

AGENCY: Department of Commerce (DOC), Domestic and International Business Administration (DIBA), Office of Industrial Mobilization (OIM).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The proposed regulation describes the procedure for implementing DIBA functions with regard to the allocation of, or the priority performance under contracts or orders relating to, supplies of materials and equipment in order to maximize domestic energy supplies. Written comments are requested with respect to the proposed regulation.

DATES: Comments by September 15, 1977.

ADDRESS: Any written communications in connection with this proposed regulation should be addressed to: Deputy Assistant Secretary for Domestic Commerce, U.S. Department of Commerce, Washington, D.C. 20230, and marked "Priority and Allocation Regulations".

FOR FURTHER INFORMATION CONTACT:

Richard Smith, Acting Director, Mobilization Operations and Plans Division, Office of Industrial Mobilization, Bureau of Domestic Commerce, Domestic and International Business Administration, Room 4110, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-2233.

Wallace E. Brown, Deputy Assistant General Counsel for Domestic Commerce, Office of the General Counsel, Room 3845, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5303.

SUPPLEMENTARY INFORMATION:

I. Background;
II. Purpose and description of the regulations;
III. Procedures for processing an application for Use of DPA Section 101(c) authority;
IV. Comments requested;
V. Comment procedures;
VI. Miscellaneous.

I. Background

The regulation is the result of Section 104 of the Energy Policy and Conservation Act (EPCA), Public Law No. 94-163, 89 Stat. 878. This Section added a new subsection (c) to Section 101 of the Defense Production Act of 1950, as amended, (DPA), 50 U.S.C. App. 2071(c). DPA Section 101(c)(1) authorizes the President to require the allocation of, or the priority performance under contracts or orders relating to, supplies of materials and equipment in order to maximize domestic energy supplies. This authority may be used only if the President finds, as stated in DPA Section 101(c)(3), that:

(a) Such supplies [of materials and equipment] are scarce, critical, and essential to maintain or further (i) exploration, production, refining, transportation, or (ii) the conservation of energy supplies, or (iii) for the construction and maintenance of energy facilities; and

(b) Maintenance or furtherance of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the authority specified in Section 101(c).

Section 7 of Executive Order No. 11912, 3 CFR, 1976 Comp., P. 114, designates and empowers the Administrator of General Services to perform the functions vested in the President by DPA Section 101(c), with a requirement for a redelegation of such functions by the Administrator of General Services to the Secretary of Commerce. The Administrator of General Services provides for the overall coordination and direction of DPA Section 101(c) functions. The Secretary of Commerce is responsible for administering priorities and allocations of supplies of materials and equipment by issuing appropriate rules and orders pursuant to DPA Section 101(c)(1), if the specified statutory findings of DPA Section 101(c)(3) have been made. With respect to these statutory findings, the Secretary of Commerce has, as required by the Executive Order 11912, redelegated to the Administrator of the Federal Energy Administration (FEA) the function of determining which supplies of materials and equipment are critical and essential to maintain or further exploration, production, refining, transportation or conservation of energy supplies or for the construction and maintenance of energy facilities. The Secretary of Commerce retains the functions of finding whether the supplies of materials and equipment are scarce and whether maintenance or furtherance of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the authority contained in DPA Section 101(c)(1).

II. Purpose and Description of the Regulation

The purpose of the regulation is to describe how OIM/DIBA will discharge the functions delegated to it pursuant to DPA Section 101(c). It describes the procedures OIM/DIBA will follow in considering requests that the findings delegated to it be made.

If findings are made OIM/DIBA will report them to the FEA and authorize the assignment of a priority rating for the required supplies of materials and equipment.

III. Processing an Application for Use of DPA Section 101(c) Authority

The regulation provides that persons who consider work they are performing an appropriate situation for use of the authority contained in DPA Section 101(c) may submit an application to FEA. 10 CFR Part 216.3(a) describes the minimum contents of such an application. FEA will examine this application and make two determinations: (1) Whether or not the program or project on which the applicant is working (and in connection with which the request for assistance is submitted) maximizes domestic energy supplies, and (2) whether or not the supplies of materials and equipment for which assistance is requested are critical and essential to the energy program or project.

Upon the receipt of an application from FEA, OIM/DIBA will determine whether or not (1) the specific supplies of materials and equipment for which priorities/allocations authority has been requested are scarce and (2) the specific energy program or project for which the requested supplies of materials and equipment supports, cannot reasonably be accomplished without exercising the authority specified in DPA Section 101(c)(1).

For the purpose of making the scarcity determination the term "scarcity" implies unusual difficulty for the purchaser in obtaining the materials and equipment from a source of supply in appropriate specification, quality, and quantity, and in a time span consistent with the purposes of the eligible energy program for which the requested material is required. Sources of supply considered for the purpose of the scarcity determination include all persons capable of meeting required product specifications, quality and quantity within the required time frame.

For purposes of determining whether or not the energy program cannot reasonably be accomplished without exercising the authority specified in DPA Section 101(c)(1), DOC will consider such factors as: (1) alternative solutions to the supply problem, (2) impact of exercising the authority on the delivery status of the required material on other national programs, including and specifically, on the other defense and energy programs, and (3) benefits derived from using the authority.

If these two findings are made, the DOC will notify the FEA, and the FEA will inform the applicant that it has been granted the right to use priority ratings as prescribed by OIM/DIBA. If OIM/DIBA is unable to make either of the required findings, FEA and the applicant will be so informed and may petition for reconsideration.

IV. Comments Requested

Persons interested in the procedures to be followed by OIM/DIBA in discharging DPA Section 101(c) functions delegated to it are invited to submit data, views, or arguments with respect to the proposed regulation.

V. Comment Procedures

A. Written Comments

Written comments should be submitted to the address specified in the Address Section of this preamble and identified on the outside of the envelope with the designation "Energy Regulation 1" Allocation Regulations." Three copies should be submitted. All comments received by September 15, 1977 will be considered by the OIM/DIBA before final action is taken on the proposed regulation.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing. Such information will be handled in accordance with the provision of Section 705(e) of the DPA.

VI. Miscellaneous

In providing for implementation of DPA Section 101(c) authority, the involved Federal agencies have worked to avoid duplication of existing procedures implementing DPA Section 101(a) authority. This proposed regulation does not create separate priorities and allocations systems. It is designed to supplement the current DPA materials and equipment allocation and priorities systems operated by the OIM/DIBA by providing the energy related information and evaluation necessary for the implementation of DPA Section 101(c). Regulations concerning performance by the OIM/DIBA of functions pursuant to the DPA may be found in Volume 32A of the Code of Federal Regulations. They are identified as Defense Materials System (DMS) Reg. 1 and Defense Priorities System (DPS) Reg. 1 and will be modified to provide the mechanism for administering the priorities and allocations authority under Section 101(c) of the DPA.

Note.—It is hereby certified that the economic impacts of this proposed regulation have been carefully evaluated in accordance with Executive Order 11821, as amended by Executive Order 11949, and have been determined not to be of a nature that requires an evaluation of economic impact.

PART 671 ENERGY REG. 1—MATERIALS AND EQUIPMENT ALLOCATION AND PRIORITY PERFORMANCE UNDER CONTRACTS OR ORDERS TO MAXIMIZE DOMESTIC ENERGY SUPPLIES

Sec.
1. What this regulation does.
2. Definitions.
3. Requests for assistance.
4. Evaluation by OIM/DIBA of applications.
5. Notification of findings.
6. Requests for reconsideration of appeals.
7. Violations.
8. Communications.

Authority: Defense Production Act of 1950, as amended (64 Stat. 816; 50 U.S.C. App. 2061 et seq); Exec. Order No. 10480, as amended, 3 CFR 1949-1953 Comp., P. 962; 50 U.S.C. App. 2153 (1970) (Supp. V, 1975); DMO 3, 32A CFR Part 103, (1976); Exec. Order No. 11912, DMO-13, 41 FR 43720; Department of Commerce Organization Orders 10-3, 40 FR 59764, as amended, 41 FR 28334, and 40-1, 40 FR 8978; and Department of Commerce, Domestic and International Business Administration Organization and Function Orders 41-1, as amended 39 FR 2780, 39 FR 18490; 45-1, 40 FR 10217, as amended, 42 FR 3673, and 45-2, 40 FR 10218, as amended, 40 FR 42228, 41 FR 4951, 41 FR 22619, and 42 FR 3673 and Department of Commerce Organization Order 20-11, 40 FR 17771.

Section 1. Introduction.

(a) This part describes and establishes the procedures to be used by the Office of Industrial Mobilization (OIM), Domestic and International Business Administration (DIBA) in considering and making certain findings required by Section 101(c) of the Defense Production Act of 1950, as amended, 50 U.S.C. App. 2061 et seq (DPA). Section 101(c) authorizes the allocation of, or priority performance under contracts or orders (other than contracts of employment) relating to, supplies of materials and equipment in order to maximize domestic energy supplies if the findings described in Section 101(c)(3) are made. These findings are that such supplies of materials and equipment are scarce, critical, and essential to maintain or further exploration, production, refining, transportation or the conservation of energy supplies or for the construction and maintenance of energy facilities; and that the maintenance or furtherance of exploration, production, refining, transportation, or the conservation of energy supplies, or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising Section 101(c) authority. The function of determining if such supplies are critical and essential has been delegated to the Administrator of the Federal Energy Administration (FEA) pursuant to Executive Order 11912 of April 13, 1976, 41 FR 15825 (1976), Defense Mobilization Order (DMO) No. 13 dated September 22, 1976, 41 FR 43720, and Department of Commerce, Bureau of Domestic Commerce, Delegation No. 4, effective date December 1, 1976, 41 FR 52331. The function of determining if such supplies are scarce and whether the energy program or project cannot reasonably be accomplished without exercising the authority contained in DPA Section 101(c)(1) has been retained by Commerce and assigned to DIBA:

(b) The purpose of this regulation is to establish the procedures and criteria to be used by the OIM/DIBA in processing applications under authority of DPA Section 101(c) and in making those findings required by DPA Section 101(c)(3) retained in DOC. The finding of scarcity and determination of necessity to exercise the authority of Section 101(c)(1) will be made only for supplies of materials and equipment related to those programs or projects determined by FEA to maximize domestic energy supplies, and found by FEA to be both critical and essential:

(c) If the FEA determines that a program or project maximizes domestic energy supplies and finds that supplies of materials and equipment are critical and essential to maintain or further the exploration, production, refining, transportation or conservation of energy supplies or for the construction and maintenance of energy facilities, such determination and finding will be communicated to the Department of Commerce. If the determination and finding described above are made, OIM/DIBA will determine whether or not (1) the supplies of materials and equipment in question are scarce and (2) maintenance or furtherance of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot be reasonably accomplished without exercising the authority specified in Section 101(c) of the DPA. If these two findings are made, OIM/DIBA will notify the FEA, and the FEA will inform the applicant that it has been granted the right to use priority ratings established by the Department of Commerce. If OIM/DIBA is unable to make either of the two (2) required findings, both FEA and the applicant will be so notified and may petition for reconsideration.

Sec. 2. Definitions.

As used in these regulations:

(a) "Administrator" means the Administrator of the Federal Energy Administration;

(b) "Applicant" means a person requesting priorities or allocation assistance in connection with an energy program or project;

(c) "Application" means the written request of an applicant for assistance;

(d) "Assistance" means use of the discretionary authority vested in the President by DPA Section 101(c) and delegated to DIBA to implement priorities and allocations support;

(e) "Eligible energy program or project" means a designated activity, as determined by the FEA, which maximizes domestic energy supplies by furthering the domestic exploration, production, refining, transportation or conservation of energy supplies or construction and maintenance of energy facilities;

(f) "Energy contractor" means a person using materials or equipment determined by the FEA to be critical and essential to the furtherance or completion of an eligible energy program or project;

(g) "Materials and equipment" means any raw, in-process, or manufactured commodity, equipment, component, accessory, part, assembly or product of any kind, but excludes those listed in Schedule II to Defense Priorities System Reg. 1 (32A CFR Part 651);

(h) "Person" means an individual, corporation, partnership, association, or any other organized group of persons (or legal successor or representative thereof), and includes the United States or any other government and any political subdivisions (or any agency) thereof;

(i) "'Scarcity" means unusual difficulty for a purchaser in obtaining the materials or equipment in appropriate specification, quality, quantity and in a time span consistent with the purposes of the eligible energy program or project;

V 4216 5 AUG 25 77 UM

(j) "Sources of supply" means all persons capable of meeting required product specifications, quality and quantity within the required time frame.

Sec. 3. Requests for Assistance.

(a) Persons who believe that they may qualify as energy contractors, by virtue of performing work associated with a program or project which may qualify as an eligible energy program or project, and wishing to receive assistance as authorized by DPA Section 101(c), may submit an application to the FEA pursuant to 10 CFR Part 216, and this Part, requesting (1) the FEA to determine whether or not the program or project maximizes domestic energy supplies, (2) the FEA to find whether or not specific supplies of materials or equipment identified in the application are critical and essential for a purpose identified in Section 101(c), (3) the OIM/DIBA to find whether or not specific supplies of materials or equipment identified in the application are scarce, and (4) the OIM/DIBA to find whether or not the specific energy program or project identified in the application cannot reasonably be accomplished without exercising the authority of Section 101(c). Such application shall contain the following information:

(1) The name and address of the applicant and that of a duly authorized representative thereof;

(2) A description of the energy program or project for which assistance is requested and an assessment of its impact on the maximization of domestic energy supplies;

(3) The amount of energy to be produced by the program or project which is directly affected by the supplies of the materials or equipment in question;

(4) A statement explaining why the materials or equipment for which assistance is requested are critical and essential to the construction or operation of the energy project or program;

(5) A detailed description of the specific supplies of materials or equipment in connection with which assistance is requested, including: components, performance data (capacity, life duration, etc.), standards, acceptable tolerance in dimensions and specifications, current inventory, present and expected rates of use, anticipated deliveries and substitution possibilities (feasibility of using other materials or equipment);

(6) A detailed description of the sources of supply, including: name of the regular supplying company or companies, other companies capable of supplying the materials and equipment, location of supplying plants or plants capable of supplying the needed materials and equipment, and possible foreign sources of supply;

(7) A detailed description of the delivery situation, including: normal delivery times, promised delivery time without priorities assistance, and delivery time required for timely delivery or completion of the program or project;

(8) Evidence of the applicant's unsuccessful efforts to obtain on a timely basis the materials or equipment in question through normal business channels from regular or other known suppliers;

(9) A detailed estimate of the delay in fulfilling or completing the energy program or project which will be caused by inability to obtain the specified materials and equipment in the usual course of business;

(10) Any known conflicts with rating or allocation orders already issued pursuant to the DPA for supplies of the described materials and equipment.

(b) The OIM/DIBA and FEA may prescribe standard forms of application for use by all persons seeking assistance;

(c) In addition to the information described above, OIM/DIBA or FEA may from time to time request whatever additional information it reasonably believes is relevant to the discharge of its functions pursuant to DPA Section 101(c).

Sec. 4. Evaluation by OIM/DIBA of Applications.

(a) FEA will forward to OIM/DIBA an application for assistance when it has (1) determined the energy program or project specified in the application to be an eligible energy program or project, and (2) found the materials and equipment specified in the application to be both critical and essential to the eligible energy program or project;

(b) Based on the information provided by the applicant and other available information, OIM/DIBA will assess the application and determine (1) whether or not the described supplies of materials and/or equipment are scarce, and (2) whether or not the eligible energy program or project cannot reasonably be accomplished without exercising the authority of DPA Section 101(c);

(c) In determining the scarcity of the supplies of the material and/or equipment referred to in the application, the OIM DIBA will consider all factors which it considers relevant quantitative measures of product availability, including the following: (1) Shipments; (2) consumption; (3) imports and exports; (4) sources of supply; (5) inventories of producers, users, and traders; (6) rates of capacity utilization; (7) volume of new orders; and (8) average lead time for filling orders.

(d) In determining whether the maintenance or furtherance of the eligible energy program or project cannot reasonably be accomplished without exercising the authority specified in DPA Section 101(c)(1), the OIM DIBA will consider all factors which it considers relevant, including:

(1) Alternative solutions to the supply problem; and

(2) To the extent practicable, an assessment of the effects of using the authority for the project in question on other significantly impacted projects.

(e) Increased costs which may be associated with obtaining materials or equipment without assistance shall not be considered a valid reason for finding the materials and equipment to be scarce or determining the necessity of using the authority of DPA Section 101(c).

Sec. 5. Notification of Findings.

(a) The OIM/DIBA will notify the FEA whether or not it has determined that supplies of materials or equipment for which an applicant requested assistance are scarce and that the related eligible energy program or project cannot reasonably be accomplished without exercising the authority specified in DPA Section 101(c)(1) together with whatever information or comments OIM/DIBA believes appropriate.

(b) If the OIM/DIBA notifies FEA that the OIM/DIBA has found that supplies of materials and equipment, for which the applicant requested assistance, are scarce and that the related eligible energy program or project cannot reasonably be accomplished without exercising the authority specified in DPA Section 101(c)(1), the FEA will notify the applicant that the applicant is authorized to place rated orders and/or authorized controlled material orders for specific supplies of materials and equipment pursuant to the provisions of Defense Priorities System Reg. 1 and Defense Materials System Reg. 1, as promulgated by the Department of Commerce;

(c) If the OIM/DIBA has been unable to find that supplies of materials and equipment, for which the applicant requested assistance, are scarce or that the related eligible energy program or project cannot reasonably be accomplished without exercising the authority specified in DPA Section 101(c)(1), the FEA and the applicant will so be notified and may petition for reconsideration.

Sec. 6. Requests for Reconsideration or Appeals.

(a) If the OIM/DIBA concludes that it is unable to make either of the two findings required by DPA Section 101(c)(3), for which it has responsibility, the applicant or FEA may submit a request for reconsideration of the applicant's request for assistance;

(b) Each request for reconsideration shall be in writing, by letter in triplicate, addressed as provided in Section 8(a) of this regulation, and shall set forth all pertinent facts and the nature of the relief sought and shall state the justification thereof;

(c) The OIM/DIBA will consider the petition for reconsideration and either grant or deny the relief requested therein. Written notice of the decision and the reasons therefore will be provided to the applicant;

(d) Any person may appeal to the Appeals Board for Department of Commerce from an adverse decision against him by OIM/DIBA pursuant to this regulation. Each appeal shall be submitted to the Appeals Board not later than 45 days after receipt by the appellant of an adverse decision and shall be in writing, by letter in triplicate, addressed as provided in Section 8(b) of this regulation, and shall set forth all pertinent facts and the nature of the relief sought, and shall state the justification thereof. In addition, one copy of such letter shall be furnished to OIM/DIBA by the appellant, addressed as provided in Section 8(a) of this regulation. The decision of the Appeals Board shall be final within the Department and will be provided in writing to the appellant and to OIM/DIBA.

Sec. 7. Violations.

(a) Any person who willfully violates any provision of this regulation, or who willfully furnishes false information or conceals any material fact in the course of operation under this regulation is guilty of a crime and upon conviction may be punished by fine or imprisonment or both;

(b) Violation of any provisions of this regulation may subject any person committing or participating in such violation to administrative action to suspend such person's privilege of receiving priority deliveries of materials and equipment under DPA Section 101(c). In addition, to such administrative action, an injunction and order may be obtained prohibiting any such violation and enforcing compliance with the provisions thereof.

Sec. 8. Communications.

(a) All written communications concerning this regulation or requests for reconsideration pursuant to Section 7(a) of this regulation will be addressed to the Office of Industrial Mobilization, Domestic and International Business Administration, U.S. Department of Commerce, Room 4104, 14th Street and Constitution Ave. NW., Washington, D.C. 20230.

(b) All appeals pursuant to Section 7(b) of this regulation will be addressed to the Appeals Board, U.S. Department of Commerce, Washington, D.C. 20230.

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Domestic Commerce.

AUGUST 22, 1977.

[FR Doc.77-24588 Filed 8-24-77;8:45 am]

V 42 165 AUG 25 77 UM V

federal register

THURSDAY, AUGUST 25, 1977

PART IV



DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

■

ACREAGE LIMITATIONS

Reclamation Rules and Regulations

V 42 165 AUG 25 77 UM V

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[43 CFR Part 426]

ACREAGE LIMITATION

Reclamation Rules and Regulations

AGENCY: Bureau of Reclamation, Interior

ACTION: Proposed rule

SUMMARY: The Bureau of Reclamation, Department of the Interior, proposes to issue rules and regulations establishing policies and procedures to meet the Secretary's responsibilities in administering the acreage limitation and other provisions of reclamation law. These proposed rules are issued in response to the order of the United States District Court for the District of Columbia in the case of National Land for People, Inc. v. The Bureau of Reclamation, et al., Civil Action No. 76–928. The Department believes that these new regulations will enable the Department to meet fully the mandates of reclamation law.

DATES: Comment Period: November 23, 1977.

ADDRESS: Comments should be submitted to the Commissioner, Bureau of Reclamation, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240, Attention: Code 410.

FOR FURTHER INFORMATION CONTACT:

Mr. Vernon S. Cooper, Special Projects Officer, Division of Water and Land, Bureau of Reclamation (202) 343–5104.

SUPPLEMENTAL INFORMATION: It is the policy of the Department of the Interior to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed regulations to the Bureau of Reclamation. Comments must be received on or before November 23, 1977. Public hearings on the proposed regulations will be scheduled as demand warrants. The Department requests that those interested in public hearings immediately notify in writing the Commissioner of the Bureau of Reclamation or the nearest Bureau of Reclamation office with suggestions for hearing places. The hearings will then be scheduled, and the public notified, in a later edition of the FEDERAL REGISTER.

On August 13, 1976, the United States District Court for the District of Columbia in the case of "National Land for People, Inc. v. The Bureau of Reclamation, et al.," Civil Action No. 76–928, ordered the Department of the Interior to "forthwith initiate public rulemaking proceedings * * * respecting the criteria and procedures to be used by the Bureau of Reclamation, Department of the Interior, to approve 'excess lands' sales under the Federal Reclamation Laws." These proposed rules are in response to this court order.

The proposed regulations embody several important changes in current practices to enforce the excess land (160 acre limitation) and other reclamation laws. They define more specifically the procedures by which excess lands should be sold and who can qualify as purchasers, to fulfill the purpose of reclamation law that low-priced federal water be used as a means of encouraging the establishment of genuine small family farms. The principal changes are as follows:

(1) All new purchasers of excess land benefiting from low-priced federal water must live on or in the neighborhood of the land benefited. Because the regulations address only excess lands, they do not make residency a general requirement for any land served with low-cost federal water pursuant to the reclamation laws. Residency is, however, believed to be a legally required condition of receiving federally-subsidized water, and regulations spelling out how the residency requirement will be reimplemented across-the-board will be prepared as soon as practicable. These rules will outline the procedure by which those landowners who now benefit from low-cost federal water, but who do not live on or in the neighborhood of their land, will be allowed a period of time to bring themselves into compliance while still receiving the low-cost federal water. Such a period of adjustment is deemed appropriate because of the failure to enforce the requirement for many years.

(2) The criteria for determining qualified purchasers of excess land are tightened, to prohibit multiple ownerships (such as partnerships or thrusts) except where there is a family relationship among the owners.

(3) The regulations discourage speculation by allowing the Department to exercise continuing supervision over the sale price of land after it is sold into non-excess status. This reverses the current practice of allowing an excess land purchaser to realize the windfall profits represented by low-priced federal water in an immediate resale.

(4) The proposed regulations place some limitations on the leasing of both excess and nonexcess lands benefited by low-priced federal water, in order to promote farm operations by the actual owners.

(5) The regulations alter the procedures by which excess lands are sold, to allow a large number of prospective purchasers a better opportunity to participate in the reclamation program. For example, the past practice of allowing an excess land seller to arrange privately for sale is abolished. The Department will announce the availability of such lands, and choose among prospective purchasers by lottery or other impartial means.

In connection with these proposed regulations, it should be noted that, pursuant to Pub. L. 95–46, the Department has created a Task Force to study the San Luis Unit of the Central Valley Project in California. The Task Force's report, due January 1, 1978, will include among the other things a study of the excess land law's operation in that area, and may make recommendations to the Department and to the Congress regarding the excess land and residency portions of the reclamation law.

The Department intends to act promptly to promulgate final regulations once public comment has been received and digested and appropriate modifications made. On June 27, 1977, the Secretary ordered a halt to the processing of all excess land sales and the signing of new recordable contracts until final regulations are promulgated, and the Department is also under a court order to promulgate such regulations "forthwith." Therefore, the Department intends to proceed as expeditiously as possible once full opportunity for public comment has been given. For this reason, the Department does not expect to grant any extensions beyond the already generous 90-day comment period.

The primary authors of this document are: John D. Leshy, Associate Solicitor, Energy and Resources, Washington, D.C. (202) 343–5757; John C. McDowell, Deputy Associate Solicitor, Energy and Resources, Washington, D.C. (202) 343–4325; Nicholas P. Goschy, Attorney, Energy and Resources, Washington, D.C. (202) 343–4444; Vernon S. Cooper, Special Projects Officer, Division of Water and Land, Washington, D.C. (202) 343–5104; and Michael S. Hacskaylo, Realty Specialist (Excess Land), Division of Water and Land, Washington, D.C. (202) 343–5104.

It is hereby determined that the publication of this proposed regulation will not significantly affect the quality of the human environment and that no environment impact statement pursuant to section 102(2)(c) of the National Environmental Policy Act, 42 U.S.C. Section 4332(c) is required.

NOTE: The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A–107.

Dated: August 22, 1977.

GUY R. MARTIN,
Assistant Secretary of the Interior.

Pursuant to the authority of the Secretary of the Interior contained in the Administrative Procedure Act, 60 Stat. 237, 5 U.S.C. 552, 553 and in the Reclamation Act of 1902, as amended and supplemented, 32 Stat. 388, 43 U.S.C. 371 et seq., it is hereby proposed to establish a new Part 426 of Title 43 to read as follows:

PART 426—RECLAMATION RULES AND REGULATIONS FOR ACREAGE LIMITATION

Sec.
426.1 Objectives.
426.2 Effective date, applicability.
426.3 Authority.
426.4 Definitions.
426.5 Deliveries of project water to excess land under special circumstances.
426.6 Lands not eligible to receive project benefits.
426.7 Types of land ownership.
426.8 Leases.
426.9 Nonexcess land.
426.10 Disposition of excess lands.
426.11 Commingling.
426.12 Appraisals of excess land.
426.13 Class 1 equivalency.
426.14 Decisions and appeals.

AUTHORITY: Administrative Procedures Act, 60 Stat. 237, (5 U.S.C. 552, 553), Reclamation Act of 1902, as amended and supplemented, 32 U.S.C. 371, et seq.

§ 426.1 Objectives.

The Reclamation Act policies of limiting the area of land for which project water may be supplied and requiring the landowner to reside on or in the neighborhood of the land benefited are designed:

(a) To provide opportunity for a maximum number of farmers on the land.

(b) To distribute widely the benefits from public-supported reclamation because interest-free money and low-priced water are involved.

(c) To promote the family-size owner-operated farm.

(d) To preclude the accrual of speculative gain in the disposition of excess land.

§ 426.2 Effective date, applicability.

(a) These regulations shall become effective upon publication in the FEDERAL REGISTER as final rulemaking.

(b) These regulations apply to all existing excess lands, including those now under recordable contract. Among other things, they define, consistent with but with greater specificity than existing recordable contracts, both those persons qualified to purchase excess lands (as provided in standard recordable contracts) and those procedures to be used in disposing of excess lands. These regulations shall not apply to existing repayment, water service and recordable contracts only to the extent there is a clear, specific and irreconcilable conflict between these regulations and existing valid contracts which are not otherwise inconsistent with the reclamation laws.

(c) Persons who own lands (1) served by more than one Federal project subject to reclamation laws or (2) located in more than one district, the total of which exceeds the acreage limitation, shall have one year from the effective date of these regulations to sign a recordable contract for the sale of excess lands, in order not to interrupt delivery of Federal water to these lands.

§ 426.3 Authority.

These regulations are promulgated pursuant to authority vested in the Secretary by Congress in the Administrative Procedure Act, 60 Stat. 237, 5 U.S.C. 552, 553, and the Reclamation Act of 1902, as amended and supplemented, 32 Stat. 388, 43 U.S.C. 371 et seq. The basic requirement that the Bureau of Reclamation limit the sale of water rights or the delivery of project water to tracts of not more than 160 irrigable acres was initially contained in the Reclamation Act of June 17, 1902, and is, with comparatively few express statutory modifications or exceptions for particular projects, applicable to all reclamation-served lands. The acts pertinent to that basic requirement, as well as to the modifications, waivers, or exemptions, are identified in the following paragraphs.

(a) *Statutory Requirements for Excess Lands.* (1) Section 5, Act of June 17, 1902 (32 Stat. 389, 43 U.S.C. 392, 431, 439).

(2) Act of February 21, 1911 (36 Stat. 925, 43 U.S.C. 523.).

(3) Section 46, Act of May 25, 1926 (44 Stat. 649, 43 U.S.C. 423e).

(b) *Exceptions and modifications*—(1) *Exempt from acreage limitation.* (i) Colorado-Big Thompson Project, Colorado, Act of June 16, 1938 (52 Stat. 764, 43 U.S.C. 386).

(ii) Truckee Storage and Humboldt Projects, Nevada, Act of November 29, 1940 (54 Stat. 1219).

(iii) Owl Creek Unit, Missouri River Basin Project, Act of August 28, 1954 (68 Stat. 890).

(iv) Santa Maria Project, California, Act of September 3, 1954 (68 Stat. 1190).

(v) Beaverhead Valley, Montana, East Bench Unit, Missouri River Basin Project, Act of July 24, 1957 (71 Stat. 309).

(vi) San Felipe Division, Central Valley Project, California (North and South Santa Clara Subareas only), Section 5, Act of August 27, 1967 (81 Stat. 173, 43 U.S.C. 616fff–5).

(vii) Narrows Units, Missouri River Basin Project, Colorado, Act of August 28, 1970 (84 Stat. 830).

(2) *Modifications of acreage limitation.* (i) Projects constructed pursuant to the Water Conservation and Utilization Act of August 11, 1939 (53 Stat. 1418, 16 U.S.C. 5902(2)), as amended by the Act of October 14, 1940 (54 Stat. 1121).

(ii) San Luis Valley Project, Colorado, Act of June 27, 1952 (66 Stat. 282).

(iii) Nonexcess holding set at 480 irrigable acres, Kendrick Project, Wyoming, Act of September 4, 1957 (71 Stat. 608).

(c) *Acreage equivalency*—(1) *Land equivalent to 120 acres of Class 1 land.* (i) Baker Project (Upper Division), Oregon, Act of September 27, 1962 (76 Stat. 634, 43 U.S.C. 616u).

(2) *Land equivalent to 130 acres of Class 1 land.* (i) East Bench Unit (bench lands only), Missouri River Basin Project, Montana, Act of July 24, 1957 (71 Stat. 309).

(3) *Land equivalent to 160 acres of Class 1 land.* (i) Seedskadee Project, Wyoming, Act of August 28, 1958 (72 Stat. 963).

(ii) Savory-Pot Hook Project, Colorado-Wyoming, Act of September 2, 1964 (78 Stat. 852, 43 U.S.C. 616jj).

(iii) Bostwick Park Project, Colorado, Act of September 2, 1964 (78 Stat. 852, 43 U.S.C. 616jj).

(iv) Fruitland Mesa Project, Colorado, Act of September 2, 1964 (78 Stat. 852, 43 U.S.C. 616jj).

(v) Animas-La Plata Project, Colorado-New Mexico, Act of September 30, 1968 (82 Stat. 885).

(vi) Dolores Project, Colorado, Act of September 30, 1968 (82 Stat. 885).

(vii) Dallas Creek Project, Colorado, Act of September 30, 1968 (82 Stat. 885).

(viii) San Miguel Project, Colorado, Act of September 30, 1968 (82 Stat. 885).

(ix) West Divide Project, Colorado, Act of September 30, 1968 (82 Stat. 885).

(x) Riverton Extension Unit, Missouri River Basin Project, Wyoming, Act of September 25, 1970 (84 Stat. 861).

(xi) Polecat Bench Project, Wyoming, Act of March 11, 1976 (90 Stat. 205, 43 U.S.C. 615kkkk).

(xii) Pollock-Herried Project, South Dakota, Act of March 11, 1976 (90 Stat. 208, 43 U.S.C. 615llll).

(xiii) Kanapolis Unit, Pick-Sloan Missouri Basin Project, Kansas, Act of September 28, 1976 (90 Stat. 1324).

(xiv) Oroville-Tonasket Unit Extension, Chief Joseph Dam Project, Washington, Act of September 28, 1976 (90 Stat. 1325).

(xv) Uintah Unit, Central Utah Project, Utah, Act of September 28, 1976 (90 Stat. 1327).

(xvi) Allen Camp Unit, Central Valley Project, California, Act of September 28, 1976 (90 Stat. 1328).

(d) *Use of interest payment for excess lands.* (1) Washoe Project, California-Nevada, Act of August 1, 1956 (70 Stat. 775, 43 U.S.C. 614).

(2) Small Reclamation Projects, Act of August 6, 1956 (70 Stat. 1044, 43 U.S.C. 422a–1), as amended.

(3) Mercedes Division, Lower Rio Grande Rehabilitation Project, Texas, Act of April 7, 1958 (72 Stat. 82).

(4) La Feria Division, Lower Rio Grande Rehabilitation Project, Texas, Act of September 22, 1959 (73 Stat. 641).

(e) *Delivery of project water to certain categories of excess lands.* (1) Involuntary acquisition of excess land

(i) Act of July 11, 1956 (70 Stat. 524, 43 U.S.C. 423e, 544).

(2) Surviving Spouse

(i) Act of September 2, 1860 (74 Stat. 732, 43 U.S.C. 423h).

(3) Columbia Basin Project, Washington, Act of October 1, 1962 (76 Stat. 678, 16 U.S.C. 835–1, 835c).

(4) States, their political subdivisions and agencies thereof, Act of July 7, 1970 (84 Stat. 411, 43 U.S.C. 425).

(5) Naval Air Station, Lemoore, California, Act of August 10, 1972 (86 Stat. 531).

(f) *Excess Land Provisions Modified by Acts of Congress Authorizing Execution of Specific Contracts Negotiated Pursuant to Section 7 of the Reclamation Project Act of 1939 (53 Stat. 1187, 43 U.S.C. 485f).* (1) Kittitas Reclamation District, Kittitas Division, Yakima Project, Washington, Act of May 6, 1949 (63 Stat. 64).

(2) Prosser Irrigation District, Yakima Project, Washington, Act of October 27, 1949 (63 Stat. 943).

(3) Roza Irrigation District, Yakima Project, Washington, Act of June 30, 1954 (68 Stat. 359).

(4) Vale Oregon Irrigation District, Vale Project, Oregon, Act of October 27, 1949 (63 Stat. 943).

(5) Frenchtown Irrigation District, Frenchtown Project, Montana, Act of June 23, 1952 (66 Stat. 153).

(6) Owyhee Irrigation District, Gem Irrigation District, Ridgeview Irrigation District, Advancement Irrigation District, Payette-Oregon Slope Irrigation District, Crystal Irrigation District, Bench Irrigation District, and Slide Irrigation District, Owyhee Project, Idaho-Oregon, Act of June 23, 1952 (66 Stat. 152).

(7) Gering and Ft. Laramie Irrigation District, Goshen Irrigation District, and Pathfinder Irrigation District, North Platte Project, Nebraska-Wyoming, Act of July 17, 1952 (66 Stat. 754).

(8) Hermiston Irrigation District and West Extension Irrigation District, Umatilla Project, Oregon, Act of June 18, 1954 (68 Stat. 254).

(9) North Unit Irrigation District, Deschutes Project, Oregon, Act of August 10, 1954 (62 Stat. 679).

(10) American Falls Reservoir District No. 2, Minidoka Project, Idaho, Act of August 21, 1954 (68 Stat. 762).

(11) Black Canyon Irrigation District, Boise Project, Idaho, Act of August 24, 1954 (68 Stat. 794).

(12) Tulelake Irrigation District, Klamath Project, California-Oregon, Act of August 1, 1956 (70 Stat. 799).

§ 426.4 Definitions.

(a) Irrigable lands, the area to which acreage limitations are applicable, is the net acreage possessing irrigated crop production potential, after excluding areas that are occupied by and currently used for homesites, farmstead buildings, and corollary permanent structures such as feed lots, equipment storage yards, and similar facilities, together with dedicated roads open for general unrestricted use by the public. Areas used for field roads, farm ditches and drains, tail water ponds, temporary equipment storage, and other uses dependent on operational requirements necessary to produce a specific crop, and subject to change at will, are included in the net irrigable acreage.

(b) Nonexcess land is irrigable land beneficially held by one landowner that does not exceed the acreage permitted by statute. Unless otherwise authorized by statute, nonexcess land is 160 irrigable acres in the beneficial ownership of one individual or entity, or 320 acres owned jointly by husband and wife.

(c) Designated nonexcess is the land of an excess landowner which has been selected to be eligible to receive project water as his nonexcess land.

(d) Excess land is irrigable land served with water from any federal project under reclamation laws, exclusive of exempt acreage, beneficially held by one landowner which exceeds the statutory limit of acreage; i.e., which is in excess of that acreage which is nonexcess.

(e) Exempt land is that area of privately owned irrigable land to which the acreage limitation provisions do not apply. Exempt status may be based on the following: (1) Statutory exemptions. (i) Projects are listed in § 426.3(b)(1). (ii) Contracts in § 426.3(f) provide exemption when construction charges are fully paid out. (2) Exemptions based on determination by the Secretary, upon payout of construction charges, that a general pattern of family-size ownership has developed (Sol. Op. M–36634, 68 I.D. 372, 400–401, Note 73 (1961)).

(f) Secretary or contracting officer shall mean the Secretary of the Interior or his duly authorized representative.

(g) District shall mean any entity which has contracted with the United States for a water supply.

(h) Family relationships are persons in a direct lineal descendant relationship (natural or adopted), and their spouses.

(i) Date of initial availability of water shall mean the date that project water becomes available to an irrigation block as determined by the Secretary.

(j) A resident owner is a landowner who has his or her principal place of residence either on land receiving water from a Federal project governed by reclamation law, or in the neighborhood of land receiving water from such a project, as determined by the Secretary.

(k) Neighborhood of the land is an area comprised of a maximum 50-mile radius from the particular tract of land receiving water from a Federal project governed by reclamation law. The Secretary may reduce the maximum radius, depending upon local conditions, where he determines that such reduction is appropriate to encourage family farming and the landowner's occupancy of the land benefited by the project.

(l) Eligible nonexcess owner is an individual who (1) has his or her principal place of residence on or in the neighborhood of the land or who has under oath stated his or her intent to establish such principal place of residence within three years of acquisition of the land; (2) will not, after the acquisition, be the owner of more than 160 acres of land which receives water from any Federal project governed by reclamation law; and (3) has met all other requirements of reclamation law and these rules.

(m) Project water is water that is furnished by or through Federally financed facilities to a District pursuant to a water service or repayment contract with the United States.

(n) Nonproject water is water from any other source to which the District has an appropriative right.

(o) Commingled water is that water comprising project and nonproject water delivered by or through a nonfederally constructed facility. If project and nonproject water is delivered by or through federally financed facilities, the nonproject water shall be considered project water and the acreage limitation and other requirements of Reclamation law shall apply to the users of such water.

(p) Class I equivalency for purposes of applying the class 1 equivalency in determining nonexcess acreage entitlement on those projects for which class 1 equivalency has been authorized, class 1 irrigable land is that arable land which, under a plan of essentially full water supply has the physical capability necessary for sustained long-term irrigation production; and, on the basis of both physical and economic land classification criteria applicable within the climatic limitations of each project, is determined by the Secretary of the Interior to have adequate income potential to support a family and pay water charges when irrigated in farm units of 160 acres or less.

(q) Beneficial owner of land is the entity deriving the benefit of ownership irrespective of the owner of record.

(r) A recordable contract is a document wherein the landowner agrees to sell his designated excess lands upon terms and conditions satisfactory to the Secretary and at prices not to exceed those fixed by the Secretary in order to receive project water for those excess lands. The contract must be recorded in the land records of the county in which the land is situated.

§ 426.5 Deliveries of project water to excess land under special circumstances.

The following circumstances permit delivery of water to excess land.

(a) *Recordable contract.*—(1) Excess land may receive project water only if the owner, under terms and conditions satisfactory to the Secretary, executes a valid recordable contract for the sale of that land to a nonexcess owner. The sale price must not reflect value that can be attributed to the construction of the project. No excess land may become eligible to receive water by the execution of a recordable contract unless such excess land was, on the date of initial availability of water to the district, owned by the landowner requesting execution of the recordable contract. In cases where project water is made available to land through temporary diversion facilities provided by the landowner, the Secretary may establish the date of initial availability of water for that land at the date of such temporary diversion.

(2) Recordable contracts shall provide that: (i) The landowner shall dispose of his excess land at an approved price to an eligible nonexcess owner within 5 years, except that the disposition period of existing recordable contracts or specified in existing water service or repayment contracts shall remain unchanged. Unless otherwise specified in a district's contract entered into prior to the promulgation of these regulations, the recordable contract period shall begin at the date of initial availability of water. (ii) If the disposition of the land is not completed by the end of the required period, irrevocable power of attorney vests in the Secretary as attorney in fact for the landowner to sell the lands under such conditions as are deemed suitable by the Secretary. (iii) Prior to maturity of a recordable contract, excess land may, with approval of the contracting officer, be withdrawn from contract coverage and redesignated nonexcess: *Provided*, That an equal acreage of land theretofore designated nonexcess is substituted and becomes subject to all the terms of the recordable contract as through it were originally included therein. (iv) Recordable contracts shall not terminate until the sale of the land is consummated as approved by the Secretary.

(b) *Involuntary acquisition of excess land.*—Project water may be delivered

to lands which become excess when acquired by foreclosure or other process of law, by conveyance in satisfaction of mortgage, by inheritance, or by devise, subject to the following conditions: (1) Delivery is allowed only for a period of up to 5 years from the date of acquisition. Thereafter, delivery of water shall cease until the land is transferred to an eligible nonexcess owner. (2) The right to such temporary water deliveries is not transferable. (3) During the period of temporary water delivery, the land may be disposed of to nonexcess status without requiring price approval. (4) If the lands are not disposed of during the 5-year period, they become ineligible to receive project water until transferred to an eligible landowner at an approved price. Price approval will be required until one-half of the total construction costs allocated to irrigation have been paid in regular scheduled installments on the total construction obligation to which the lands are subject. (5) Such lands are not eligible to be placed under recordable contract.

(c) *Lands acquired by surviving spouse.*—Nonexcess lands which become excess in the ownership of a surviving spouse upon the death of a husband or wife may receive project water so long as the surviving spouse does not remarry. (1) The right to such temporary water deliveries is not transferable. (2) Prior to remarriage, the surviving spouse may dispose of such land to an eligible buyer without forfeiting the right of the land to receive project water, and without obtaining price approval if such approval is no longer required under § 426.9(b).

(d) *Excess lands owned by States, political subdivisions, and Agencies thereof.*—Such lands are eligible for project water subject to the following conditions: (1) Excess lands are exempt from the acreage limitation provisions so long as they are farmed primarily in the direct furtherance of a non-revenue-producing public function, as determined by the Secretary of the Interior. (2) Excess lands used for a purpose other than that set forth in paragraph (d)(1) of this section may receive project water if a valid recordable contract requiring the sale of such lands within 10 years from the date of such contract has been executed under terms and conditions satisfactory to the Secretary but without limitation upon selling price. (3) Lands not under recordable contract or farmed as a public function as provided in paragraph (d)(1) of this section may be leased until July 7, 1995, to lessees whose fee lands in combination with the leased State lands do not exceed the lessees' nonexcess entitlement. The sale price of such land shall not reflect value that can be attributed to the construction of the project.

(e) *Lands administered or controlled by Federal Agencies.*—If project water is delivered to lessees on Federal lands for farming purposes, the lessee shall be bound by the same acreage limitations as a landowner.

§ 426.6 Lands not eligible to receive project benefits.

(a) Excess lands not covered by a recordable contract shall not be considered eligible to receive water from a project unless exempt from acreage limitation by law.

(b) Land acquired into excess status after the announced date of initial availability of project water thereto is not eligible to be placed under recordable contract.

(c) Excess lands may not be acquired subject to a recordable contract and continue to receive project water by virtue of that contract except that, in the discretion of the Secretary, land involuntarily acquired by inheritance, foreclosure, or other operation of law, may retain the remaining eligibility provided in the recordable contract upon execution of an assumption agreement in a form approved by the Secretary.

§ 426.7 Types of land ownership.

Reclamation law imposes no restriction on the amount of land that may be owned by an individual or group of individuals. The law restricts only the portion of land to which project water may be delivered or which may benefit from project facilities. For purposes of administering the acreage limitation provisions, the eligibility of lands is determined by the status of the owner or owners. After these regulations become effective, the Secretary will approve the sale of excess lands, at a price not reflecting project benefits and established by appraisal as described in §426.12, only to prospective owners who comply with the following forms of ownership.

(a) *Single ownerships.*—(1) A single eligible nonexcess owner holds title to land in a sole and separate ownership. (2) A corporation composed of a single eligible nonexcess owner holds title to land in a sole and separate ownership.

(b) *Multiple ownerships.*—Ownerships, including but not limited to tenancies in common, joint tenancies, and tenancies by the entirety, must comply with the following in order to hold more than 160 acres: (1) A family relationship must exist among all persons having a beneficial interest in the property, and (2) all persons having such beneficial interest must qualify as an eligible nonexcess owner.

(c) *Partnerships.*—A partnership must comply with the following in order to hold more than 160 acres: (1) a family relationship must exist among all the partners, (2) each partner must qualify as an eligible nonexcess owner, and (3) each partner has a right to partition or alienate his share of the property.

(d) *Corporations.*—A corporation must comply with the following in order to hold more than 160 acres: (1) A family relationship must exist among all the shareholders, and (2) each shareholder must qualify as an eligible nonexcess owner.

(e) *Trusts.*—Multiple beneficiary trusts may be utilized to hold up to one nonexcess entitlement of land receiving project water per beneficiary provided: (1) A family relationship exists among all beneficiaries. (2) Each beneficiary qualifies as an eligible nonexcess owner. (3) The trustee is unrelated to the trustor or the beneficiaries and is not an employee of the trustor. (4) The trust is irrevocable and constitutes a grant of all ownership, dominion, and control over a specifically described parcel of land. (5) The trust property consists solely of the land granted. (6) The trust document identifies each person who is a beneficiary and prescribes the undivided interest of each in the trust property, which undivided interest in no event shall represent a share in the total corpus of the trust greater than the ratio of one nonexcess entitlement to the total acreage of the trust. (7) The trustee named receives only compensation for management services, and neither acquires any interest of a beneficiary nor transacts in his individual capacity any business with the trust. Any attempt to do either shall be void. (8) The trustee makes periodic distribution of net returns from operations to beneficiaries in proportion to their undivided interests in the trust property. (9) If at any time the undivided interest of a beneficiary represents an area of land excess to that which he might hold as a nonexcess owner, the trustee shall designate a specific tract of the land in the trust equivalent to such excess. In the absence of such designation all land in the trust shall be deemed excess so long as that situation continues to exist. If a beneficiary acquires other land not in the trust which, together with his beneficial interest, exceeds that which he may hold as a nonexcess owner, the land not in the trust shall to the extent of such excess be deemed excess land. (10) Each beneficiary or guardian has the right, at his option, to a partition within the trust of his interest in the trust.

§ 426.8 Leases.

No person or legal entity shall be entitled to lease more than 160 acres of land served by federal water provided pursuant to the reclamation laws. Each lease of lands served by federal water must be filed with the District, which shall maintain a file for public inspection and report to the Department annually on the outstanding leases of lands within the District served by federal water.

§ 426.9 Nonexcess land.

An owner holding only nonexcess land may receive project water without designating his nonexcess holdings.

(a) *Designation.*—(1) An excess landowner must designate the land that is entitled to receive project water as nonexcess land in accordance with the district contract with the United States. If he or she fails to do so within the specified time, the district shall make the designation and if it fails to do so, the Secretary will make the designation. (2) A landowner may, with the consent of

V 421165 AUG 25 77 UM

the contracting officer, redesignate other lands as nonexcess: *Provided*, That: A like acreage becomes excess under the same terms and conditions as if such land had been excess at the time of the original designation and either (i) the land was acquired from nonexcess status or (ii) the land was acquired from excess status in an approved sale.

(b) *Period for which price approval is required for nonexcess land acquired from excess status.*—Nonexcess land acquired from excess status for an approved price must be sold at a price approved by the Secretary as not reflecting project benefits if resold within 10 years from the date of acquisition into nonexcess status to retain its eligibility to receive project water. For a period after 10 years and until one-half of the total construction costs allocated to irrigation have been paid in regularly scheduled installments on the total construction obligation in which the lands are situated, the Secretary shall monitor any resale to prevent unreasonable profit from accruing to the seller.

§ 426.10 Disposition of excess lands.

(a) Excess lands must be disposed of to an eligible nonexcess owner, at a price approved by the Secretary, based on their bonafide value at date of appraisal without reference to the enhancement attributable to the construction of project works, to become eligible to receive project water in the hands of the purchaser. (1) Price approval for all excess lands will be required until one-half of the total construction costs allocated to irrigation have been paid in regularly scheduled installments on the total construction obligation of the project in which the lands are situated. (2) Price approval will be required for all land under recordable contract, regardless of the status of payment of construction charges.

(b) The excess landowner shall, no later than one year before power of attorney vests in the Secretary, divide his land under recordable contract into parcels of no more than 160 acres. If he or she fails to do so, the District shall, and if it fails to do so, the Secretary shall divide the land. (1) When the excess landowner desires to sell, and in no event less than six months before the power of attorney vests in the Secretary as provided in the recordable contract, the Secretary shall publish widely a notice of availability of such land, which describes the land and its possible uses, and which includes the expiration date of the recordable contract. (2) All prospective eligible nonexcess owners interested in purchasing a particular parcel shall file with the Regional Director a formal expression of interest which will describe their financial and other capacity to own and farm the land. (3) When the owner of the particular parcel under recordable contract desires to sell the land, or when power of attorney vests in the Secretary under the recordable contract, the Bureau shall select, by lottery or other impartial means from those expressing an interest, a purchaser of the land at the approved price; *Provided*, That a person in a family relationship with the excess land seller shall have a preference to buy the land offered. (4) The prospective purchaser shall have ninety days to obtain financing. Extension of this period may be granted upon good cause. Such financing must comply with reasonable terms established by the owner, or, if power of attorney has vested, with the terms of the district contract with the United States.

(c) When several purchasers obtain financing under a single loan instrument, the instrument must provide a partial release upon payment in full on the part of any single landowner.

(d) Lands may not be obligated for the indebtedness of another.

(e) The seller will not be permitted to lease the land back from the purchaser. The seller must not retain any interest in the land sold other than a purchase money mortgage or other equivalent purchase money security instrument.

(f) Personal and nonfixture farm property must be sold separately. The purchaser shall not be required to purchase personal and nonfixture farm property as a condition to purchasing the land.

(g) Appraisals will be made in accordance with the guidelines and principles set forth in the controlling water service or repayment contract or as prescribed in § 426.12.

(h) To be eligible to receive project water, lands disposed of by gift deed must be submitted for approval in the same manner as though the disposition was made in a bona fide sale.

(i) A contract under which the owner of land agrees to sell the land to another person is an acceptable means of transferring the beneficial interest of land only if the contract is recorded and made a part of the official records in the county in which the land lies.

(j) An individual may accumulatively purchase or hold excess lands up to a full entitlement only once.

§ 426.11 Commingling.

(a) Project water may be stored in or transported from, through, or by means of nonfederally constructed facilities used to convey nonproject water if, in the opinion of the Secretary, such mingling is necessary to avoid duplication of facilities. The provisions of Reclamation law and of these regulations shall be applicable only to the quantity of project water thus involved. (1) When mingling of project water with nonproject water is permitted, the contractor shall be required to take such actions, keep such records, and install and maintain such measuring devices as in the opinion of the Secretary are necessary to ensure that at no time is the quantity of water delivered to, or removed as drainage water from, lands ineligible for project irrigation benefits under Reclamation law greater than the quantity introduced from nonproject sources.

(b) The provisions of paragraph (a) of this section shall apply to any irrigation facility constructed jointly by Federal and State interests, unless specifically exempted by Congress.

§ 426.12 Appraisals of excess land.

All appraisals of excess land shall be made consistent with the following provisions:

(a) Such appraisals shall be based on fair market value of the land at the time of appraisal, not including the increment resulting from the construction of a project.

(b) Appraisals of excess land will be made upon request of the landowner or a prospective buyer, or when power of attorney, provided for in a recordable contract, vests in the Secretary.

(c) All appraisals of excess land shall be made by an appraiser or panel of three appraisers designated by the Secretary. The party or parties requesting the appraisal may determine whether the appraisal is to be made by a single appraiser or a panel of appraisers. The cost of the first appraisal, if requested by the landowner or determined necessary by the Secretary, shall be paid by the United States. The cost of all other appraisals shall be paid by the party or parties requesting the appraisal and shall be paid for under terms and conditions determined by the Secretary.

(d) The value of all improvements on excess land such as structures, wells, pumps, permanent plantings and other property that may be included with a sale of excess land consistent with § 426.10(f) shall be appraised on the basis of its fair market value in accordance with standard appraisal procedures.

(e) The Secretary shall determine the amount of nonproject water supply available to the designated property giving consideration to any riparian, adjudicated, or appropriated water rights. If an unadjudicated underground water supply is involved, an allocation will be made of the total available nonproject water in the aquifer as of the date of first water delivery to the district reduced by the quantity that would have been used on the basis of preproject crops and cropping patterns to an amount that would have been available on the date of appraisal, and supplemented by an allocation from the annual nonproject recharge to the aquifer from all locally available sources. The value of the designated property will reflect, among other things, the projected remaining economic life of the nonproject water supply, on the date of appraisal, as determined by the Secretary considering preproject crops and cropping patterns and annual nonproject recharge.

(f) Appraisals of excess lands that are requested after the sale has been consumated will not be approved by the Secretary. Excess lands sold without receiving prior price approval will not be eligible to receive project water until sold in accordance with procedures established by these regulations.

§ 426.13 Class 1 equivalency.

(a) Class I land as defined in § 426.4(p) and irrigable lands in lower land classes will be determined in accordance with established procedures used by the Bureau of Reclamation to classify the irrigable land on a project whereby economic factors such as productive capacity of the land, taking into consideration cropping limitations imposed by latitude and climate, farm production costs and land development costs, are correlated with physical factors such as soil, topography, drainage and quality of water.

(b) Class 1 equivalency factors are determined by comparing the productive potential of class 1 land, under average management, with the productive potential of lower class land so as to quantify the relationship of an acre of class 1 land to an acre of each of the lower classes of land in the project. (1) Class 1 equivalent acreage is determined through the application of factorial equivalents that will approximately equate the farm unit acreage of land of lower economic productivity to the economic productivity potential of class 1 land. Factorial equivalents based on physical and economic criteria shall be determined by the Secretary. For example, class 1=1, class 2=.8, class 3=.6 and class 4=.5, or .8, .6 and .5 acre of class 1 land equals 1 acre of class 2, class 3 and class 4 land respectively.

(c) An individual's nonexcess entitlement using the class 1 equivalency concept, if authorized for a project, will be determined on the basis of his landholding in each land class. Nonexcess acreage of irrigable land classes below class 1 shall be determined through class 1 equivalency factors on the basis of the acres of such lower classes in excess of 160 acres which are necessary in weighted total acres held in single ownership to be equivalent to the acres of class 1 determined by the Secretary as adequate to support a family and pay water charges. The nonexcess entitlement of a landowner will be designated by the landowner, district or the Secretary in accordance with established procedures set forth in standard language used for water service and repayment contracts. The nonexcess entitlement designation may consist of a combination of the acreage of each land class as determined when the designation is made and may not be revised unless prior approval is given by the contracting officer.

(d) Class 1 equivalency can be used by a district only if its repayment or water service contract with the United States is amended to incorporate provision for the use of the class 1 equivalency concept as authorized by law.

(e) Class 1 equivalency factors that are established for a district will be published in the FEDERAL REGISTER at least 60 days prior to their application to lands of the district.

§ 426.14 Decisions and appeals.

The Regional Director acting as designee of the Secretary shall make the determination required under these rules and regulations. A party directly affected by such determination may appeal in writing to the Commissioner of the Bureau of Reclamation within 30 days of receipt of the Regional Director's determination. The affected party shall have an additional 30 days thereafter within which to submit a supporting brief or memorandum to the Commissioner. The Regional Director's determination will be held in abeyance until the Commissioner has reviewed the matter and rendered a decision. Pertinent addresses are shown below:

Commissioner, Bureau of Reclamation, Department of the Interior, 18th and C Street N.W., Washington, D.C. 20240.

Pacific Northwest Region Regional Director, Bureau of Reclamation, Federal Bldg., 550 West Fort St., Boise, Idaho.	*Mailing address* Federal Bldg. and U.S. Court House, 550 West Fort St., Box 043, Boise, Idaho 83724.
Mid-Pacific Region Regional Director, Bureau of Reclamation, Federal Office Bldg., 2800 Cottage Way, Sacramento, Calif.	Federal Office Bldg., 2800 Cottage Way, Sacramento, Calif. 95825.
Lower Colorado Region Regional Director, Bureau of Reclamation, Nevada Highway and Park St., Boulder City, Nev.	P.O. Box 427, Boulder City, Nev. 89005.
Upper Colorado Region Regional Director, Bureau of Reclamation, 125 South State St., Salt Lake City, Utah.	P.O. Box 11568, Salt Lake City, Utah 84147.
Southwest Region Regional Director, Bureau of Reclamation, Herring Plaza, 317 E. 3rd St., Amarillo, Tex.	Herring Plaza, Box H-4377, Amarillo, Tex. 79101.
Upper Missouri Region Regional Director, Bureau of Reclamation Federal Office Bldg., 316 N. 26th St., Billings, Mont.	P.O. Box 2553, Billings, Mont. 59103.
Lower Missouri Region Regional Director, Bureau of Reclamation, Building 20, Denver Federal Center, Denver, Colo.	Denver Federal Center P.O. Box 25247, Denver, Colo. 80225.

[FR Doc.77-24748 Filed 8-24-77;8:45 am]



would you like to know

if any changes have been made in certain titles of the CODE OF FEDERAL REGULATIONS without reading the Federal Register every day? If so, you may wish to subscribe to the "Cumulative List of CFR Sections Affected," the "Federal Register Index," or both.

Cumulative List of CFR Sections Affected **$10.00** per year

The "Cumulative List of CFR Sections Affected" is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register, and is issued monthly in cumulative form. Entries indicate the nature of the changes.

Federal Register Index **$8.00** per year

Indexes covering the contents of the daily Federal Register are issued monthly, quarterly, and annually. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

Note to FR Subscribers: FR Indexes and the "Cumulative List of CFR Sections Affected" will continue to be mailed free of charge to regular FR subscribers.

Mail order form to:
Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

There is enclosed $____ for ____ subscription(s) to the publications checked below:

____ CUMULATIVE LIST OF CFR SECTIONS AFFECTED ($10.00 a year domestic; $12.50 foreign)
____ FEDERAL REGISTER INDEX ($8.00 a year domestic; $10.00 foreign)

Name _____

Street Address _____

City _____ State _____ ZIP _____

Make check payable to the Superintendent of Documents

☆ GPO: 1976—O 58 000

V42165 AUG 25 77 UMI

166

Vol.42—No.166
8–26–77
PAGES
43051–43372

federal register

FRIDAY, AUGUST 26, 1977

highlights

SUNSHINE ACT MEETINGS 43175

TRUCK-MOUNTED SOLID WASTE COMPACTORS
EPA proposes noise emission standards, comments by 11–25–77 (Part IV of this issue) 43225

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN
USDA/FNS revises and reorganizes operation requirements for program; effective 9–26–77; comments by 10–10–77 (Part III of this issue) 43205

SCHOOL FOOD SERVICE PROGRAMS
USDA/FNS gives notice of cash payments to be made to States in lieu of commodities; effective 8–26–77 43110

BAKERY PRODUCTS, LABELING
HEW/FDA proposes to permit leavening agents, yeast nutrients and dough conditioners as ingredient labeling exemption; comments by 10–25–77 43095

GRAS SUBSTANCES
HEW/FDA proposes to affirm as generally recognized as safe brown and yellow mustard and their derivatives as direct human food ingredients; comments by 10–11–77 .. 43092

ANTITUMOR ANTIBIOTIC DRUGS
HEW/FDA lessens restrictions on toxicity tests for an interim period; effective 8–26–77 43061

NEW DRUGS
HEW/FDA sets marketing conditions for certain anti-infective drugs and announces opportunity for hearing; hearing requests due 9–26–77 43125
HEW/FDA withdraws approval of combination drug product containing furazolidone with kaolin and pectin; effective 9–6–77 43126

HUMANELY SLAUGHTERED LIVESTOCK
USDA/FSQS publishes list of establishments operating under Federal inspection pursuant to the Federal Meat Inspection Act (Part VI of this issue) 43279

TUBERCULOSIS IN CATTLE
USDA/APHIS proposes to revise regulations; comments by 10–7–77 43088

COMPREHENSIVE MANPOWER PROGRAMS
Labor/ETA issues guidelines for review of planned performance for FY 1978 (Part V of this issue) 43245

CONTINUED INSIDE

V42 166 AUG 26 77 UM

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202–523–5240.**

FEDERAL REGISTER, Daily Issue:	
Subscription orders (GPO)	**202**–783–3238
Subscription problems (GPO)	**202**–275–3050
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	**202**–523–5022
Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227
PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235
PUBLIC LAWS:	
Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

SERVICES FOR VETERANS

[illegible] Compliance Levels, comments by [illegible]

MEETINGS—

[illegible] Conference of United States [illegible]
9–16–77 43110

166

Vol.42—No.166
8–26–77
PAGES
43051–43372

federal register

FRIDAY, AUGUST 26, 1977

highlights

SUNSHINE ACT MEETINGS 43175

TRUCK-MOUNTED SOLID WASTE COMPACTORS
EPA proposes noise emission standards, comments by 11–25–77 (Part IV of this issue)..... 43225

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN
USDA/FNS revises and reorganizes operation requirements for program; effective 9–26–77; comments by 10–10–77 (Part III of this issue)..... 43205

SCHOOL FOOD SERVICE PROGRAMS
USDA/FNS gives notice of cash payments to be made to States in lieu of commodities; effective 8–26–77..... 43110

BAKERY PRODUCTS LABELING
HEW/FDA proposes to permit leavening agents, yeast nutrients and dough conditioners as ingredient labeling exemption; comments by 10–25–77..... 43095

GRAS SUBSTANCES
HEW/FDA proposes to affirm as generally recognized as safe brown and yellow mustard and their derivatives as direct human food ingredients; comments by 10–11–77.. 43092

ANTITUMOR ANTIBIOTIC DRUGS
HEW/FDA lessens restrictions on toxicity tests for an interim period; effective 8–26–77..... 43061

NEW DRUGS
HEW/FDA sets marketing conditions for certain anti-infective drugs and announces opportunity for hearing; hearing requests due 9–26–77..... 43125
HEW/FDA withdraws approval of combination drug product containing furazolidone with kaolin and pectin; effective 9–6–77..... 43126

HUMANELY SLAUGHTERED LIVESTOCK
USDA/FSQS publishes list of establishments operating under Federal inspection pursuant to the Federal Meat Inspection Act (Part VI of this issue)..... 43279

TUBERCULOSIS IN CATTLE
USDA/APHIS proposes to revise regulations; comments by 10–7–77..... 43088

COMPREHENSIVE MANPOWER PROGRAMS
Labor/ETA issues guidelines for review of planned performance for FY 1978 (Part V of this issue)..... 43245

CONTINUED INSIDE

V42 166 AUG 26 77
UMI

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

Area Code 202 Phone 523–5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202–523–5240.**

FEDERAL REGISTER, Daily Issue:	
Subscription orders (GPO)	**202**–783–3238
Subscription problems (GPO)	**202**–275–3050
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	**202**–523–5022
Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227

PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235
PUBLIC LAWS:	
Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

SERVICES FOR VETERANS
Labor/ETA proposes to update FY 1978 Veterans Preference Indicators of Compliance Levels; comments by 9–26–77 (Part II of this issue) ... 43201

ECONOMIC OPPORTUNITY
Labor/Secy proposes to close out, as of 12–31–77, migrant and seasonal farmworker grants under Title III–B; comments by 9–26–77 ... 43098

FEDERAL AGENCY OCCUPATIONAL SAFETY AND HEALTH PROGRAMS
Labor/OSHA solicits comments by 10–25–77 on evaluation guide (2 documents) ... 43100, 43143

SINGLE-ENTITY CORONARY VASODILATORS
HEW/FDA announces availability of guidelines and methods for evaluating bioavailabilty and effectiveness, and specific marketing conditions ... 43127

FEDERAL SERVICE CONTRACTS
Labor/ESA adds coverage to contracts performed on Canton Island and extends coverage to white collar workers; effective 8–26–77 ... 43098

FERTILIZERS CONTAINING NITROGEN
Commerce/DIBA publishes export monitoring report for January–May, 1977 (Part VII of this issue) ... 43293

MARINE TRANSPORTATION OF CRUDE OIL
FEA clarifies and revises interim regulations; effective 9–1–77 ... 43054

MINIMUM WAGES
Labor/ESA publishes general wage determination decisions for Federal and federally assisted construction projects (Part VIII of this issue) ... 43303

MANAGEMENT REMUNERATION
SEC publishes interpretation of disclosure provisions; effective 8–18–77 ... 43053

MEETINGS—
Administrative Conference of United States; 9–15 thru 9–16–77 ... 43110
Commerce/NOAA: Northern Pacific Fishery Management Council's Scientific and Statistical Committee; 9–15 thru 9–16–77 ... 43113
Western Pacific Fishery Management Council's Scientific and Statistical Committee; 9–14 thru 9–15–77 ... 43114
FEA: Voluntary Agreement and Plan of Action to Implement International Energy Program; 9–8–77 ... 43119
Federal Prevailing Rate Advisory Committee; 9–15 and 9–22–77 ... 43120
HEW/NIE: Laboratory and Center Operations Review Panel; 9–11 thru 9–12–77 ... 43131
Office of Assistant Secretary for Health: National Professional Standards Review Council; 9–12 thru 9–13–77 ... 43132
Interior/BLM: California Desert Conservation Area Advisory Committee, Interim Management Subcommittee; 9–12–77 ... 43134
NPS: Olympic National Park Workshops on Backcountry Shelter Management; 9–20, 9–21 and 9–29–77 ... 43134
VA: Station Committee on Education Allowances; 10–19–77 ... 43174

CHANGED MEETINGS—
State/AID: International Food and Agricultural Development Board; 9–12–77 ... 43174

SEPARATE PARTS OF THIS ISSUE
Part II, Labor/ETA ... 43201
Part III, USDA/FNS ... 43205
Part IV, EPA ... 43225
Part V, Labor/ETA ... 43245
Part VI, USDA/FSQS ... 43279
Part VII, Commerce/DIBA ... 43293
Part VIII, Labor/ESA ... 43303

V 42 166 AUG 26 77 UMI

contents

ADMINISTRATIVE CONFERENCE OF UNITED STATES

Notices

Meetings:
Agency Plenary Sessions 43110

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notices

Meetings:
International Food and Agricultural Development Board 43174

AGRICULTURAL MARKETING SERVICE

Rules

Beef research and information:
Program establishment; terminated 43053
Lemons grown in Calif. and Ariz 43086
Potatoes (Irish) grown in Idaho and Oreg 43053

Proposed Rules

Cotton:
Classification, futures legislation; bona fide spot market 43088

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Food and Nutrition Service; Food Safety and Quality Service; Rural Electrification Administration.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

Notices

Committees; establishment, renewals, etc.:
Drug Abuse Demonstration Review Committee et al 43125

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Proposed Rules

Livestock and poultry quarantine:
Tuberculosis 43088

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM

Notices

Procurement list, 1977; additions and deletions 43114

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:
California - Toronto / Montreal route proceeding 43111
Transatlantic, Transpacific and Latin American mail rates investigation 43111

CIVIL SERVICE COMMISSION

See also Federal Prevailing Rate Advisory Committee.

Rules

Excepted service:
Agriculture Department 43052
Army Department 43051
Commerce Department 43051
Community Services Administration 43053
Defense Department 43052
Executive Office of President 43052
Federal Maritime Commission 43053
Housing and Urban Development Department (2 documents) 43051, 43052
Interior Department 43052
Treasury Department 43051
Veterans Administration 43051

Notices

Noncareer executive assignments:
Defense Department 43111
Health, Education, and Welfare Department (4 documents) 43111, 43112

COMMERCE DEPARTMENT

See Domestic and International Business Administration; Maritime Administration; National Oceanic and Atmospheric Administration.

DEFENSE DEPARTMENT

See Navy Department.

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Notices

Fertilizers; export monitoring reports, 1977:
January to May 43293

DRUG ENFORCEMENT ADMINISTRATION

Notices

Registration applications, etc.; controlled substances:
Ellison, Wayne E., et al 43136

EMPLOYMENT AND TRAINING ADMINISTRATION

Proposed Rules

Employment offices, public, National system, USES/State cooperation:
Veterans services; preference indicators of compliance 43201

Notices

Comprehensive Employment and Training Act programs:
Funds allocation 43139
Grant applications, Title I review guidelines; 1978 fiscal year 43245
Employment transfer and business competition determinations; financial assistance applications 43136
Migrant and other seasonally employed farmworker programs:
Federal assistance preapplications; submission for 1978 fiscal year 43138
Unemployment compensation, emergency:
Federal supplemental or extended benefits; "on" and "off" indicators; various States 43137

EMPLOYMENT STANDARDS ADMINISTRATION

Notices

Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions 43303
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions; correction 43136

ENVIRONMENTAL PROTECTION AGENCY

Rules

Air quality implementation plans; various States, etc.:
New York 43078

Proposed Rules

Noise abatement programs:
Transportation equipment; truck-mounted solid waste compactors 43225

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Rules

Records and reports:
State and local government information report; extension of time for filing 43065

Proposed Rules

706 Agencies; designation 43099

FEDERAL COMMUNICATIONS COMMISSION

Rules

FM broadcast stations; table of assignments:
Georgia 43085
Frequency allocations and radio treaty matters:
Call signs in amateur radio service; editorial changes 43084

Proposed Rules

Telephone companies:
Tariffs, interface of International Telex Service with Domestic Telex and TWX Services; extension of time 43108

Notices

Amateur radio operator examinations; procedure changes for Morse Code 43114
Rulemaking proceedings filed, granted, denied, etc.; petitions by various companies 43115
Satellite communications services; applications accepted for filing 43114
Hearings, etc.:
North Coast Communications, Inc., et al 43115

FEDERAL ENERGY ADMINISTRATION

Rules

Petroleum price regulations, mandatory:
Crude oil, transportation; computation of landed costs 43054

Notices

Committees; establishment, renewals, etc.:
Coal Industry Advisory Committee, et al 43116
Meetings:
International Energy Agency Group of Reporting Companies 43119

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
El Paso Alaska Co 43119

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Notices

Meetings 43120

FEDERAL RESERVE SYSTEM

Rules

Truth-in-lending:
Official staff interpretations 43057

Notices

Federal Open Market Committee:
Domestic policy directives 43123
Applications, etc.:
First Bank System, Inc 43121
First City Bancorporation of Texas, Inc 43121
First of Grandfield Corp 43121
40 Main Street Bank 43121
Harrison Bancorporation 43122
Janesville Holding Co 43120
Kanopolis Bankshares, Inc 43122
NL Industries, Inc 43122
Sedalia Enterprises, Inc 43123
United Bank Corp. of New York 43120

FEDERAL TRADE COMMISSION

Rules

Trade practice rules, various industry guides:
Obsolete CFR Parts rescinded; correction 43058

Proposed Rules

Consent orders:
Public Relations Society of America, Inc.; correction 43091

FISH AND WILDLIFE SERVICE

Rules

Hunting:
Benton Lake National Wildlife Refuge, Mont 43086
Hillside National Wildlife Refuge, Miss 43085

Proposed Rules

Hunting:
Oxbow National Wildlife Refuge, Mass 43108

FOOD AND DRUG ADMINISTRATION

Rules

Biological products:
Blood and blood product standards; cryoprecipitated antihemophilic factor (human); correction 43063
Color additives:
Chromium oxide greens and chromium hydroxide green; correction 43061
Human drugs:
Anesthetic drug products, inhalation; correction 43061
Antitumor antibiotic drugs; toxicity tests 43061

Proposed Rules

Dietary foods; label statements for weight control or diabetics diet; correction 43091
Food additives and GRAS or prior-sanctioned ingredients:
Mustard, brown and yellow, and derivatives 43092
Food labeling:
Bakery products; ingredient labeling exemptions 43095
Milk, evaporated, sweetened condensed, evaporated skimmed and sweetened condensed skimmed; identity standards; correction 43091
Milk, nonfat dry, lowfat dry, dry whole, and dry cream; identity standards; correction 43091

Notices

GRAS or prior-sanctioned ingredients; information availability; correction 43127
Human drugs:
Anti-infective drugs, certain 43125
Coronary vasodilators, single-entity 43127
Furazolidone with kaolin and pectin; approval withdrawn 43126

FOOD AND NUTRITION SERVICE

Rules

Women, infants and children; supplemental food program 43206

Proposed Rules

Women, infants and children; supplemental food program; cross reference 43224

Notices

Child nutrition programs, cash in lieu of commodities; value of donated commodities, FY 1977 43110

FOOD SAFETY AND QUALITY SERVICE

Notices

Humanely slaughtered livestock, identification of carcasses; list of establishments 43279

GENERAL ACCOUNTING OFFICE

Notices

Regulatory reports review; proposals 43124

GENERAL SERVICES ADMINISTRATION

See also National Archives and Records Service.

Rules

Procurement:
Federal; automated data processing software 43079
Federal; contracts interest rates termination 43080

Notices

Property management regulations, temporary:
Authority delegation to Defense Department Secretary (2 documents) 43124
Public utilities; hearings, etc.:
Potomac Electric Power Co 43124

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Alcohol, Drug Abuse, and Mental Health Administration; Food and Drug Administration; Health Care Financing Administration; Health Service Administration; National Institute of Education; National Institutes of Health; Public Health Service.

Notices

Meetings:
National Professional Standards Review Council 43132

HEALTH CARE FINANCING ADMINISTRATION

Rules

Professional standards review:
Area designations; Ohio, boundaries of PSRO areas in 43083

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Land Management Bureau; National Park Service; Outdoor Recreation Bureau.

Notices

Environmental statements; availability, etc.:
Eagle Butte Mine, Campbell County, Wyo 43135
Northwest Alloys Magnesium Plant; Stevens County, Wash 43135

INTERSTATE COMMERCE COMMISSION

Notices

Hearing assignments 43174
Rerouting of traffic:
Birmingham Southern Railroad et al 43174

JUSTICE DEPARTMENT

See Drug Enforcement Administration.

LABOR DEPARTMENT

See also Employment and Training Administration; Employment Standards Administration; Occupational Safety and Health Administration.

Rules

Contracts:
Federal service; labor standards 43063

Proposed Rules

Comprehensive Employment and Training Act:
Economic Opportunity Act programs under title III–B; closeout 43098
Contracts:
Construction, federally financed and assisted, labor standards; nursing home care of veterans and overtime 43098

Notices

Adjustment assistance:
Bulova Watch Co., Inc., et al 43155
C F & I Steel Corp 43152
Gold-Line Connectors et al 43155
Great Western Sugar Co. (15 documents) 43145–43151, 43153, 43154

LAND MANAGEMENT BUREAU

Notices

Applications, etc.:
New Mexico (2 documents) 43133, 43134

V 42 166 AUG 26 77 UMI

Meetings:
California Desert Conservation Advisory Committee; Interim Management Subcommittee... 43134
Withdrawal and reservation of lands, proposed, etc.:
Montana (2 documents)... 43132, 43133

LEGAL SERVICES CORPORATION

Proposed Rules

By-laws; Sunshine Act implementation ... 43100

MANAGEMENT AND BUDGET OFFICE

Notices

Clearance of reports; list of requests (2 documents) ... 43158

MARITIME ADMINISTRATION

Notices

Applications, etc.:
States Steamship Co ... 43112
Diesel engines, slow speed; ship propulsion; domestic manufacture ... 43112

NATIONAL ARCHIVES AND RECORDS SERVICE

Rules

Property management:
Records management; word processing ... 43082

NATIONAL INSTITUTE OF EDUCATION

Notices

Meetings:
Laboratory and Center Operations Review Panel ... 43131

NATIONAL INSTITUTES OF HEALTH

Notices

Carcinogenesis bioassay of dichlorvos; report availability... 43132

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Notices

Endangered species permits; applications ... 43113
Marine mammal permit applications, etc.:
Gulf World, Inc ... 43113
Mystic Marinelife Aquarium... 43112
Meetings:
North Pacific Fishery Management Council ... 43113
Western Pacific Fishery Management Council ... 43114

NATIONAL PARK SERVICE

Notices

Concession permits, etc.:
Lake Mead National Recreation Area ... 43134
Olympic National Park, Wash.; backcountry shelter management, public workshops ... 43134

NAVY DEPARTMENT

Rules

Conduct standards ... 43070

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Proposed Rules

Federal employees health and safety:
Evaluation criteria guide; inquiry ... 43100

Notices

Federal employees health and safety:
Evaluation criteria guide; availability ... 43143

OUTDOOR RECREATION BUREAU

Notices

Environmental statements; availability, etc.:
Oregon Trail route ... 43134

PENSION BENEFIT GUARANTY CORPORATION

Rules

Conduct standards ... 43066

POSTAL RATE COMMISSION

Notices

Visits to postal facilities ... 43157

PUBLIC HEALTH SERVICE

Notices

Organization, functions, and authority delegations:
Health Services Administration ... 43132

RURAL ELECTRIFICATION ADMINISTRATION

Notices

Loan guarantees proposed:
Arizona Electric Power Cooperative, Inc ... 43111

SECURITIES AND EXCHANGE COMMISSION

Rules

Securities Act, Securities Exchange Act, and Investment Company Act:
Management remuneration disclosure; interpretative releases ... 43058

Notices

Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc ... 43157
Depository Trust Co ... 43159
Midwest Stock Exchange, Inc... 43163
Municipal Securities Rulemaking Board ... 43166
Options Clearing Corp. (2 documents) ... 43171
Philadelphia Stock Exchange, Inc ... 43173
Stock Clearing Corp. of Philadelphia ... 43173
Hearings, etc.:
Board Brokers Association ... 43157
Bradford Securities Processing Services, Inc ... 43157
DuPont de Nemours, E. I., & Co., et al ... 43160
F.G. Mutual Fund, Inc ... 43161
Investors Syndicate of America, Inc ... 43162
Jersey Central Power & Light Co., et al ... 43162
Mississippi Power Co ... 43163
Monongahela Power Co., et al... 43165
New England Power Co., et al... 43169
Northeast Utilities, et al ... 43171
Pacific Resources, Inc ... 43172

STATE DEPARTMENT

See Agency for International Development.

VETERANS ADMINISTRATION

Notices

Meetings:
Educational Allowances Station Committee ... 43174

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

5 CFR

213 (12 documents) ... 43051–43053

7 CFR

246 ... 43206
910 ... 43086
945 ... 43053
1260 ... 43053
PROPOSED RULES:
27 ... 43088
246 ... 43224

9 CFR

PROPOSED RULES:
77 ... 43088

10 CFR

212 ... 43054

12 CFR

226 ... 43057

16 CFR

27 ... 43058
PROPOSED RULES:
13 ... 43091

17 CFR

231 ... 43058
241 ... 43058
271 ... 43058

20 CFR

PROPOSED RULES:
653 ... 43202

21 CFR

73 ... 43061
81 ... 43061
310 ... 43061
450 ... 43061
640 ... 43063
PROPOSED RULES:
101 ... 43095
105 ... 43091
131 (2 documents) ... 43091
172 ... 43092
182 ... 43092
184 ... 43092

29 CFR

4 ... 43063
1602 ... 43065
2614 ... 43066
PROPOSED RULES:
5 ... 43098
97 ... 43098
1601 ... 43099
1960 ... 43100

32 CFR

721 ... 43070

40 CFR

52 ... 43078
PROPOSED RULES:
205 ... 43226

41 CFR

1–4 ... 43079
1–8 ... 43080
101–11 ... 43082

42 CFR

101 ... 43083

45 CFR

PROPOSED RULES:
1601 ... 43100

47 CFR

2 ... 43083
73 ... 43084
PROPOSED RULES:
61 ... 43108

50 CFR

32 (2 documents) ... 43084–43085
PROPOSED RULES:
32 ... 43108

V 42 166 AUG 26 77 UMI

CUMULATIVE LIST OF PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR

Ch. I 38891

3 CFR

EXECUTIVE ORDERS:

12006 39081
11126 (Amended by EO 12007) 42839
11221 (See EO 12007) 42839
11472 (Amended by EO 12007) 42839
11514 (See EO 12007 42839
11583 (Amended by EO 12007) 42839
11625 (Amended by EO 12007) 42839
11948 (Superseded in part by EO 12007) 42839
11962 (Revoked by EO 12007) 42839
12007 42839

MEMORANDUMS:

January 2, 1973 (Amended by Memorandum of August 1, 1977) 40169
April 26, 1973 (See Memorandum of August 1, 1977) 40169
December 13, 1973 (See Memorandum of August 1, 1977) 40169
October 29, 1974 (See Memorandum of August 1, 1977) 40169
May 20, 1975 (See Memorandum of August 1, 1977) 40169
August 5, 1975 (See Memorandum of August 1, 1977) 40169
March 25, 1976 (Superseded by Memorandum of August 1, 1977) 40169
April 14, 1976 (See Memorandum of August 1, 1977) 40169
November 5, 1976 (See Memorandum of August 1, 1977) 40169
November 19, 1976 (Supplemented by Memorandum of July 21, 1977) 41401
July 20, 1977 39083
July 21, 1977 41401
August 1, 1977 40169
August 5, 1977 40171
August 11, 1977 42677
August 12, 1977 42185

PROCLAMATIONS:

4514 42299

4 CFR

105 38891

5 CFR

213 ..... 39085, 39657, 40173–40175, 40215, 40866, 40867, 41265–41267, 41813, 41814, 42301, 42302, 42679, 43051–43053
713 40175

PROPOSED RULES:

890 41866

7 CFR

2 39669
16 42841
27 40677
68 40868
246 43206
271 42302
301 42302
318 41267
354 41267
406 39953
409 39956
650 40114
725 40881
905 40882
908 ..... 38892, 39359, 39959, 40678, 41095, 41603 42841
909 42842
910 ..... 39085, 39359, 39669, 40882, 41814, 43086
918 40883
922 41268
926 40678
927 39670
929 40679
944 40885
945 ..... 40886, 43053
946 ..... 39671, 42679
947 41403
948 39360
958 39360
967 39361
980 40175
1011 40888
1040 41603
1205 41404
1260 43053
1421 ..... 40175–40185, 41269
1425 40187
1427 ..... 40421, 42308
1443 41269
1473 41269
1479 41269
1807 42843
1821 ..... 39085, 41815
1822 ..... 39361, 39362, 40679
1832 41815
1888 42843
1980 ..... 39362, 41816
2024 40680
2851 42309
2852 41843
2858 41846

PROPOSED RULES:

27 43088
220 40911
246 43224
657 42359
780 39223
917 ..... 39989, 42691
919 41431
926 41130
927 41644
929 39989
931 41866
945 39395
946 38913
967 ..... 39108, 41431
981 42227
989 41867
991 42227
993 ..... 39672, 41644
1002 41582
1006 38913
1011 39108
1012 38913
1013 38913
1097 41873
1102 41873
1108 41873
1133 40216
1435 40216

8 CFR

236 41847
242 38892

PROPOSED RULES:

108 39672

9 CFR

82 39658
92 41848
112 41849
160 41850
161 41850
319 42309
325 ..... 39086, 42309

PROPOSED RULES:

1 42044
3 42044
51 40911
77 43088
381 41873

10 CFR

0 38893
71 39364
Ch. II 41095
202 41269
210 39959
211 ..... 39959, 41566, 42770
212 ..... 38894, 39195, 39959, 41566, 43054
213 39087
430 39964
460 41270

PROPOSED RULES:

73 42228
205 41242
210 40915
211 ..... 399114, 39395, 39990, 40448, 40915, 41242
212 ..... 39114, 40915, 41242, 41396, 41572
430 ..... 39114, 39673, 40217, 40701, 40826, 42361
450 41645

12 CFR

7 ..... 39969, 42537
202 ..... 39368, 40424
207 41604
220 41604
221 41604
224 41604
226 ..... 40424, 42843–42845, 43057
329 40425
343 40891
505 39368
545 39088
563 39198
563b 39088
571 42691
701 39369

PROPOSED RULES:

308 41130
311 41130
564 39115

13 CFR

120 40900
123 39970
301 39970
317 38896

13 CFR—Continued

PROPOSED RULES:

107 39992

14 CFR

1 ..... 41101, 42187
39 ..... 38896–38900, 39373–39377, 39971, 39972, 41102–41106, 41622–41625, 42188–42192 42845–42846
45 41101
71 ..... 38901, 39378, 39379, 39972–39976, 40690–40693, 41107–41113, 41625–41627, 42192–42194, 42847
73 ..... 39379, 41113
75 39379
91 42187
97 ..... 39380, 41114, 41627, 42847
121 42194
135 42194
152 42849
1204 41628
1241 42679

PROPOSED RULES:

25 41236
39 ..... 38917, 41131–41133, 41647
71 ..... 38917, 39993, 39994, 40710, 40711, 41134–41137, 41648, 42228
75 ..... 38917, 40711
121 ..... 41649, 42874
123 41649
135 41649
241 ..... 39115, 42691
245 ..... 39115, 42691
246 ..... 39115, 42691
378 40450
399 42229

15 CFR

46 39976
70 38901

PROPOSED RULES:

904 40711

16 CFR

2 ..... 39658, 42195
3 ..... 39658, 39977
4 42195
13 ..... 39198, 40681, 42309, 42850
18 39660
22 39660
27 ..... 41270, 43058
35 39660
47 39660
66 39660
105 39660
138 39660
177 39660
191 39660
206 39660
226 39660
433 40426
702 39381
1025 39089
1026 39089
1201 40188
1401 42780

PROPOSED RULES:

13 ..... 40714, 41297, 41431, 41649, 41874, 42692, 43091
423 42875
441 ..... 39995, 42693

16 CFR—Continued

PROPOSED RULES—Continued

453 41651
705 39223
801 ..... 39040, 39995, 41875
802 ..... 39040, 39995, 41875
803 ..... 39040, 39995, 41875
1500 39648
1605 39402

17 CFR

1 42748
140 39033
147 42851
200 ..... 40189, 40900
211 42310
231 ..... 42196, 43058
239 ..... 40900, 41405
240 ..... 38902, 39090, 40900, 41405, 42851
241 ..... 41022, 43058
249 40902
270 41405
271 ..... 42196, 43058

PROPOSED RULES:

1 ..... 39036, 42767
210 41433
211 41433
230 41875
231 41434
239 41139
240 ..... 41138, 41434
241 41434
270 41139
274 41139

18 CFR

1 40191
3 ..... 40191, 41276
4 40191
5 40191
6 40191
16 40191
35 ..... 39660, 41277
101 39661
104 39661
141 39661
154 ..... 41276, 41277
157 ..... 39090, 41276
201 39661
204 39661
260 39661

19 CFR

12 42683
114 42851
133 41278
153 ..... 39200, 41406
159 41630
205 40426
210 40428

PROPOSED RULES:

134 39227

20 CFR

416 ..... 39098, 40191
602 40192
702 42548
901 ..... 39200, 41115
902 39200

PROPOSED RULES:

404 38918
405 39995
653 43202

21 CFR

Ch. I 40904
6 39100
14 41851
20 42526
25 42526
73 43061
81 43061
133 39101
176 ..... 41852, 41853
193 41279
310 ..... 41374, 43061
320 42311
450 43061
510 41854
520 ..... 41854, 42312
522 ..... 39103, 41855
558 41855
561 41279
640 43063
700 41374
801 40215
807 42526
809 42530

PROPOSED RULES:

101 43095
105 43091
131 43091
172 43092
182 ..... 39117, 41299, 41876
184 ..... 39117, 41299, 41876
186 41299
312 41301
320 39675
431 42361
500 40217
514 42361
808 41301
895 42000

22 CFR

123 ..... 39103, 41631, 42851
124 ..... 41631, 42852
127 42852
128 42853
202 40428

23 CFR

160 41279
655 ..... 41280, 41633

PROPOSED RULES:

Ch. I 41651
625 42876
630 42877

24 CFR

25 40193
203 40430
803 42554
811 39209
880 ..... 39212, 42292
881 ..... 39212, 42292
883 39212
888 42554
1914 42312–42317
1915 42794

PROPOSED RULES:

203 42693
204 42693

25 CFR

141 40194
221 41116

V 42 166 AUG 26 77 UMI

25 CFR—Continued

252 40904
258 40904

PROPOSED RULES:

11 42694
54 41435
171 42695
177 42695
182 42695
183 42695

26 CFR

1 42318
7 ..... 39104, 42197
9 42198
11 ..... 39382, 41856
41 42856
404 41856

PROPOSED RULES:

1 ..... 38919, 39227, 39233, 39408 39997
301 ..... 39227, 39233, 39997
404 ..... 39227, 39233, 39997

27 CFR

178 41116

PROPOSED RULES:

4 42230
181 ..... 39316, 40921, 42233

28 CFR

0 ..... 40433, 41407
2 ..... 39668, 39808, 41407
16 ..... 40905, 41408
17 39212
32 39386

PROPOSED RULES:

2 ..... 41435, 41436, 41878
540 41368
541 41368
548 41368
551 41368

29 CFR

4 43063
102 41117
452 ..... 39105, 41280
1601 41280
1602 43065
1908 41386
1952 ..... 40194, 40195, 41857
2602 41858
2606 41858
2610 41858
2614 43066

PROPOSED RULES:

5 43098
70a 39997
97 43098
1061 42022
1601 43099
1910 39120
1960 43100
2608 39120
2610 42361

30 CFR

PROPOSED RULES:

70 42362
2170 42540
2171 42540

31 CFR

51 41859

32 CFR

Ch. I 39213
191 42857
199 41118
286b 39214
290 40433
721 43070
806b 41409
852 42684

PROPOSED RULES:

114 39234
143 41306
286 40552
865 39999

32A CFR

PROPOSED RULES:

671 43038

33 CFR

110 ..... 39386, 40693, 40694
117 ..... 38903, 39386, 41118, 42199
183 41634
204 ..... 40196, 41281
207 40908
274 41118

PROPOSED RULES:

117 ..... 38919, 38920, 42234
154 39408
155 39408
156 39408
157 39999

34 CFR

231 40694

35 CFR

69 40196

36 CFR

67 40436
200 40438
292 39387

37 CFR

PROPOSED RULES:

2 40450
4 40450
201 ..... 41437, 41438, 42362

38 CFR

2 ..... 41409, 41410
13 41410
14 41410

PROPOSED RULES:

8 40452
17 ..... 39409, 41439

39 CFR

111 ..... 38904, 41634

PROPOSED RULES:

111 ..... 39411, 40219, 40922
241 42695
245 42695
246 42695
247 42695
248 42695
265 42695

40 CFR

52 ..... 39389, 39664, 40695, 41121, 42218, 42219, 43078
55 41282

40 CFR—Continued

60 ..... 39389, 41122, 41424, 41754
61 41424
86 40697
136 39977
180 ..... 39977, 40909
204 41635
416 40697
610 40438

PROPOSED RULES:

20 39414
52 ..... 38920, 38921, 39235, 39415, 40220, 42879
61 40452
85 40221
123 42882
124 42882
125 42882
180 ..... 40715, 40922
205 43226
211 41139
700 39182
710 39182
762 42882

41 CFR

1–4 ..... 39215, 41635, 43079
1–8 43080
7–7 42689
Ch. 9 41128
29–1 40197
29–2 40201
29–3 40201
29–12 40205
29–26 40206
29–61 40206
101–11 43082
101–41 41128
101–42 40847
101–43 40847
101–44 40850
101–45 40852
101–46 40858
101–47 40698
105–63 40858
114–25 39978
114–60 42857

PROPOSED RULES:

9–4 40923
24–1 42234
60–4 41378

42 CFR

101 ..... 42857, 43083

43 CFR

423 41122

PUBLIC LAND ORDERS:

5622 42199

PROPOSED RULES:

424 41440
426 43044
1880 40000

45 CFR

100a 40207
100b 42475
121a 42476
121m 42517
122a 42005
166 42016
173 40209
191 42754
194 40207

45 CFR—Continued

196 39218
1015 41282

PROPOSED RULES:

11 41140
146a 40221
170 40926
1601 43100

46 CFR

2 41636
10 39978
35 41636
151 41636

PROPOSED RULES:

162 40000
502 40452

47 CFR

0 42341
2 ..... 42203, 43083
15 39979
73 ..... 38905, 39665, 39981, 39982, 40210, 41123–41125, 41283, 42858, 43084
76 ..... 41127, 41284, 42689
81 39666
87 38906
89 ..... 42203, 42343
91 42203
93 42343

PROPOSED RULES:

1 40715
13 40939
43 40454

47 CFR—Continued

PROPOSED RULES—Continued

61 ..... 40002, 43108
63 39236
73 ..... 40003, 40454, 41141, 41302–41305, 41879, 42700
81 ..... 40223, 40224, 40455
83 40224
89 39560
90 39560
91 ..... 39560, 41143
93 39560
95 42362

49 CFR

99 39220
173 42206
178 42206
192 42865
195 42865
210 42343
268 43030
529 39983
571 ..... 39983, 39984, 42208
580 38906
581 38909
1033 ..... 39221, 39389, 39985, 41424
1036 40444
1051 40860
1057 39666
1100 ..... 40698, 42689
1104 40860
1108 39222
1109 ..... 39390, 39985
1251 39667
1254 39390
1307 42689

49 CFR—Continued

PROPOSED RULES:

173 ..... 40003, 41651
174 ..... 40003, 41651
178 ..... 40003, 41651
179 ..... 40003, 41651
193 42235
1047 40459
1082 40459
1106 39243
1241 42701
1249 42701
1307 41144

50 CFR

17 ..... 39985, 40682–40685, 42351
20 ..... 39106, 39667, 40211, 41636
21 42353
26 ..... 40213, 41425
32 ..... 38909–38912, 39391–39394, 40214, 40445–40447, 40690, 40861–40865, 41127, 41426–41429, 41642, 41861–41865, 42210–42215, 42354–42358, 42866–42873, 43084, 43085
33 ..... 40214, 41426
216 ..... 39394, 41128, 41879
371 40866
601 42216
602 42216
611 ..... 39106, 41430
680 42216

PROPOSED RULES:

17 ..... 38921, 39121, 40716, 40823
20 41145
23 40459
26 42883
32 ..... 40465, 43108
260 41440

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	Date	Pages	Date	Pages	Date
38891–39080	Aug. 1	40421–40675	10	41813–42183	19
38081–39193	2	40677–40845	11	42185–42297	22
39195–39358	3	40847–41094	12	42299–42676	23
39359–39656	4	41095–41264	15	42677–42837	24
39657–39952	5	41265–41399	16	42839–43049	25
39953–40167	8	41401–41602	17	43051–43372	26
40169–40419	9	41603–41812	18		

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

Commerce/NOAA—Coastal zone management research and technical assistance; funding and operation of training programs 38739; 7–29–77

FCC—Signal strength contours for purposes of cable television system regulation; modifying or eliminating use. 36831; 7–18–77

Rules Going Into Effect August 27, 1977

Interior/FWS—Hatchie National Wildlife Refuge, Tenn.; open to squirrel hunting. 38910; 8–1–77

Lake Isom National Wildlife Refuge, Tenn.; open to hunting. 38910; 8–1–77

Reelfoot National Wildlife Refuge, Tenn.; open to hunting 38911; 8–1–77

Rules Going Into Effect August 28, 1977

HEW/FDA—Diagnostic substances for laboratory tests; additional standards. 27585; 5–31–77

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

V 42 166 AUG 26 77 UMI

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of the Treasury

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This amendment changes the title of Secretary to the Special Assistant to the Secretary (Public Affairs) to Secretary to the Assistant Secretary (Public Affairs) because that title reflects the current title of the superior. Also, the positions of External Affairs Officer (Public Affairs) and Special Assistant to the Special Assistant to the Secretary (Public Affairs) have been revoked under the automatic revocation system.

EFFECTIVE DATE: August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3305 (a) (25), (a) (34), and (a) (69) are amended as set out below:

§ 213.3305 Department of the Treasury.

(a) *Office of the Secretary.* * * *

(25) One Secretary to the Assistant Secretary (Public Affairs).

* * * * *

(34) [Revoked].

* * * * *

(69) [Revoked].

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–24566 Filed 8–25–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Army

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: The following positions are excepted under Schedule C because they are confidential in nature: One position of Public Affairs Officer to the Chief of Public Affairs, one position of Staff Assistant to the Under Secretary of the Army, and one position of Special Assistant to the Deputy Under Secretary of the Army.

EFFECTIVE DATE: August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3307 (a) (6), (b) (3) and (4) are added as set out below:

§ 213.3307 Department of the Army.

(a) *Office of the Secretary.* * * *

(6) One position of Public Affairs Officer to the Chief of Public Affairs.

(b) *Office of the Under Secretary.* * * *

(3) One Staff Assistant to the Under Secretary.

(4) One Special Assistant to the Deputy Under Secretary.

* * * * * *

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–24567 Filed 8–25–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: The following positions are excepted under Schedule C because they are confidential in nature: One position of Confidential Assistant to the Assistant Secretary for Domestic and International Business; and one position of Confidential Assistant to the Deputy Assistant Secretary for International Economic Policy and Research.

EFFECTIVE DATE: August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3314(m) (1) is amended and (22) is added as set out below:

§ 213.3314 Department of Commerce

* * * * * *

(m) *Office of the Assistant Secretary for Domestic and International Business.*

(1) One Private Secretary and two Confidential Assistants to the Assistant Secretary.

* * * * * *

(22) One Confidential Assistant to the Deputy Assistant Secretary for International Economic Policy and Research.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–24568 Filed 8–25–77;8:45 am]

PART 213—EXCEPTED SERVICE

Veterans Administration

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This amendment transfers one Confidential Assistant from the Office of the Special Assistant to the Administrator, one Confidential Assistant from the Office of the Executive Assistant to the Administrator, and two Confidential Assistants from the Office of the Assistant Deputy Administrator to the Office of the General Counsel.

EFFECTIVE DATE: August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3327 (a) (1), (a) (7), and (a) (8) are amended and (a) (11) is added as set out below:

§ 213.3327 Veterans Administration.

(a) *Office of the Administrator.* (1) Four Confidential Assistants to the Special Assistant to the Administrator.

* * * * * *

(7) Two Confidential Assistants to the Executive Assistant to the Administrator.

(8) Three Confidential Assistants to the Assistant Deputy Administrator.

* * * * * *

(11) Four Confidential Assistants to the General Counsel.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–24569 Filed 8–25–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Special Assistant to the Assistant Secretary for

V 42 166 AUG 26 77 UMI

Administration is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3384(a)(66) is amended as set out below:

§ 213.3384 Department of Housing and Urban Development.

* * * * *

(a) *Office of the Secretary.* * * *

(66) Two Special Assistants and one Secretary to the Assistant Secretary for Administration.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-24570 Filed 8-25-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment reflects the following: The exception under Schedule C of one position of Special Assistant to the Assistant Secretary for Housing/Federal Housing Commissioner because it is confidential in nature; the revocation under the automatic revocation system of one Private Secretary, five Special Assistants, and three Staff Assistants to the Assistant Secretary—Commissioner; the transfer of one position of Special Assistant to the Assistant Secretary—Commissioner—from the Office of the Assistant Secretary for Housing Management to the Office of the Assistant Secretary for Housing/Federal Housing Commissioner due to a reorganization which resulted in the abolition of the former office.

EFFECTIVE DATE: August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3384(b) is amended and (c) is revoked as set out below:

§ 213.3384 Department of Housing and Urban Development.

* * * * *

(b) *Office of the Assistant Secretary for Housing/Federal Housing Commissioner.* * * *

(6) [Revoked]

* * * * * *

(12) [Revoked]

* * * * *

(20) Three Special Assistants to the Assistant Secretary—Commissioner.

* * * * *

(c) [Revoked]

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-24571 Filed 8-25-77;8:45 am]

PART 213—EXCEPTED SERVICE

Executive Office of the President: Office of Management and Budget

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Special Assistant to the Executive Associate (Assistant) Director for Budget is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 26, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3303(a)(19) is added as set out below:

§ 213.3303 Executive Office of the President.

(a) *Office of Management and Budget.* * * *

(19) One Special Assistant to the Executive Associate (Assistant) Director for Budget.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-24836 Filed 8-25-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Defense

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Private Secretary to the Director of the Department of Defense Strategic Arms Limitation Talks Task Force is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 26, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3306(a)(92) is added as set out below:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* * * *

(92) One Private Secretary to the Director, Department of Defense Strategic Arms Limitation Talks Task Force.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assis'ant to the Commissioners.

[FR Doc.77-24833 Filed 8-25-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Interior

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One Staff Assistant to the Commissioner, Bureau of Reclamation is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 26, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3312(n)(2) is added as set out below:

§ 213.3312 Department of the Interior.

* * * * *

(n) *Bureau of Reclamation.* * * *

(2) One Staff Assistant to the Commissioner.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-24835 Filed 8-25-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Agriculture

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment changes the title of the position of Director of Agricultural Economics to Director of Economics, Policy Analysis and Budget.

EFFECTIVE DATE: August 26, 1977.

FOR FURTHER INFORMATION ON POSITION AUTHORITY CONTACT:

John W. McKee, Civil Service Commission, 202–632–4625.

FOR FURTHER INFORMATION ON POSITION CONTENT CONTACT:

Sylvester B. Pranger, Director of Personnel, Department of Agriculture, 202–447–3585.

Accordingly, the headnote of 5 CFR 213.3313(n) is amended as set out below.

§ 213.3313 Department of Agriculture.

* * * * *

(n) *Economics, Policy Anaylsis and Budget.* * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-24832 Filed 8-25-77;8:45 am]

PART 213—EXCEPTED SERVICE

Federal Maritime Commission

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Secretary to the Chairman is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 26, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3367(e) is added as set out below:

§ 213.3367 Federal Maritime Commission.

* * * * *

(e) One Secretary to the Chairman.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-24834 Filed 8-25-77;8:45 am]

PART 213—EXCEPTED SERVICE

Community Services Administration

NOTE.—The document orginally appeared at page 42679 in the FEDERAL REGISTER for August 24, 1977. It is reprinted in this issue to meet the assigned day-of-the-week publication schedule.

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Staff Assistant, Office of Policy, Planning, and Evaluation, is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 26, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3373(j)(2) is added as set out below:

§ 213.3373 Community Services Administration.

* * * * *

(j) *Office of Policy, Planning, and Evaluation.* * * *

(2) One Staff Assistant.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-24604 Filed 8-23-77;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of $44,415 and establishes a rate of assessment of twenty-six hundredths ($0.0026) cent per hundredweight of potatoes for the functioning of the Idaho-Eastern Oregon Potato Committee. The regulation enables the committee to collect assessments from first handlers on all assessable potatoes handled and to use the resulting funds for its expenses.

EFFECTIVE DATE: June 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: 202–447–3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 98 and Order No. 945, both as amended, regulate the handling of Irish potatoes grown in designated counties in Idaho and in Malheur County, Oregon. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Idaho-Eastern Oregon Potato Committee, established under the order, is responsible for its local administration.

Notice was published in the August 4 FEDERAL REGISTER (42 FR 39395) regarding the proposals. It afforded interested persons an opportunity to file written comments not later than August 19, 1977. None was filed.

After consideration of all relevant matters, including the proposals in the notice, it is found that the following expenses and rate of assessment should be approved.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because this part requires that the rate of assessment for a particular fiscal period shall apply to all assessable potatoes from the beginning of such period.

The regulation is as follows:

§ 945.230 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending May 31, 1978, by the Idaho-Eastern Oregon Potato Committee for its maintenance and functioning and for such other purposes as the Secretary determines to be appropriate will amount to $44,415.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be $0.0026 per hundredweight, or equivalent quantity, of assessable potatoes handled by him as the first handler during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 945.44(b).

(d) Terms used in this section shall have the same meaning as when used in the marketing agreement and this part.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).)

Dated: August 23, 1977.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-24793 Filed 8-25-77;8:45 am]

CHAPTER XI—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MISCELLANEOUS COMMODITIES), DEPARTMENT OF AGRICULTURE

[Docket No. BRIA–1]

PART 1260—BEEF RESEARCH AND INFORMATION

Subpart—Beef Research and Information Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Referendum Results; Termination of Proceeding.

SUMMARY: This document announces that the requisite number of cattle producers voting in a referendum failed to approve the issuance of an order to establish a beef research and information program under the Beef Research and Information Act. Therefore, the order published in the FEDERAL REGISTER on April 15, 1977, adding Subpart—Beef Research and Information Order to 7 CFR Part 1260 will not become effective and this proceeding is terminated.

V 42 166 AUG 26 77 A UMI

DATE: Effective, August 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Ralph L. Tapp, (202) 447-3815.

SUPPLEMENTARY INFORMATION: On April 15, 1977, a decision and order implementing the Beef Research and Information Act (7 U.S.C. 2901 et seq.) were published in the FEDERAL REGISTER (42 FR 19865). As provided in Section 9 of the Act (U.S.C. 2908), the order could become effective only if approved by cattle producers voting in a referendum. Under Procedure for the Conduct of Referendums published in the FEDERAL REGISTER May 17, 1977 (42 FR 25315), producers registered to vote during the period June 6–17, 1977, and voted during the period July 5–15, 1977, to determine whether they approved issuance of the order. Results of the referendum showed that less than the required two-thirds majority of the cattle producers voting favored issuance of the order. Therefore, the order published on April 15 adding 7 CFR Part 1260 shall not become effective and this proceeding is terminated.

Signed at Washington, D.C., on August 22, 1977.

WILLIAM T. MANLEY,
Deputy Administrator
Program Operations.

[FR Doc.77-24852 Filed 8-25-77;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Computation of Landed Costs: Transportation

AGENCY: Federal Energy Administration (FEA)

ACTION: Final rule.

SUMMARY: These amendments refine FEA's interim regulations concerning marine transportation of crude oil. FEA is making these amendments as a result of additional comments and experience with the interim regulations. Problems arising under the regulations during the last seven months are discussed, and FEA's treatment thereof is clarified. The new regulation makes minor changes in the deadfreight calculation, requires notification to FEA by new entrants, clarifies issues relating to subchartering, allows smaller firms to recover costs of land based personnel, and makes several other changes in the interim regulations.

EFFECTIVE DATE: September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Sandra Sherman, Office of General Counsel, (202) 566-9380.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND.

On December 20, 1976, FEA issued interim regulations amending Part 212 of Chapter II of Title 10 of the Code of Federal Regulations, which established standard measures of the cost of marine transportation of crude oil as a component of the landed cost of that crude oil (41 FR 55851, December 23, 1976). Although the revisions to the proposed regulations fell within the scope of the proposal, certain changes were significant, and consequently further public comment was sought before final regulations were promulgated. FEA has now evaluated these comments, which it has supplemented with its experience in administering the regulations, and hereby makes certain revisions in and clarifications to the interim regulations as explained below.

II. EFFECT ON COMPARATIVE DATA SHOWINGS AUTHORIZED UNDER INTERIM REGULATIONS

Companies which utilized the standards in the interim regulations for compiling eighteen-month comparative data justifying their customary accounting procedures, will not be required to adjust such data to reflect the amendments issued today. However, any company denied authority to use its customary procedures, may seek reconsideration of such denial by demonstrating that these final regulations could affect the disposition of its request.

III. REVISIONS AND CLARIFICATIONS

A. GENERAL

1. *Dollar-for-Dollar Passthrough of Costs.*—One comment suggested that to the extent that the proposed regulations provided a notional basis for computing costs, they would deny the dollar-for-dollar passthrough of increased product costs required by the Emergency Petroleum Allocation Act, as amended. The legal basis for the accounting procedures established by FEA was extensively discussed in the preamble to the interim regulations, and FEA believes that they are fully authorized by applicable law.

2. *Customary Accounting Practices in Lieu of Prescribed AFRA or Net Cost Methods.*—In accordance with § 212.85 (b)(2), FEA received a number of requests to use customary accounting practices in lieu of the AFRA or net cost methods prescribed by FEA. In the preamble to the interim regulations, FEA set out the standards which it would apply in considering such requests:

> • • • FEA has strengthened the standards for authorizing firms to retain their customary accounting procedures, so that now a firm may do so only where those procedures result in transportation costs less than or not materially different from costs determined by application of FEA's procedures. To assist in this determination, firms seeking to retain their customary accounting procedures are asked to submit comparative data for an 18-month test period. FEA has included the "materially different" standard to allow for cases in which during the test period costs may exceed the FEA standard but would not be expected to exceed the standard in the future.

Thus, under the 'materially different' standard, customary accounting practices can be allowed, even where costs were unusually excessive during the test period, provided that a demonstrated anomaly unrelated to the operation of those accounting practices (e.g. port diversions due to sudden strikes) was the basis for such cost increase. Moreover, in evaluating whether a firm's historical accounting practices "result in transportation costs less than or not materially different from costs determined by application of FEA's procedures," FEA considered the discretionary features of the firm's practices. If implementation of those practices permitted a significant amount of discretion in calculating transportation costs, FEA's approval to utilize such practices was not granted.

3. *Deadfreight.*—FEA received several comments in this area, including recommendations that the deadfreight limitation be eliminated. For the reasons stated in the preamble to the regulation, FEA believes that a limitation is appropriate. However, in its administration of the deadfreight calculation, FEA has recognized that alternative approaches to the deadfreight issue may be appropriate and is considering issuance of a further proposed amendment to § 212.85(d).

In response to other comments, FEA is revising the manner in which deadfreight is calculated under § 212.85(d)(1)(ii) so that the limitation will apply on a tonnage rather than barrel basis, consistent with the calculation of voyage freight on a cost per long ton basis under § 212.85(d)(1)(i). The deadfreight calculation has been amended to specify the factors in the cost per long ton computation. In order that the cost per long ton of cargo loaded shall not exceed the cost per long ton for the applicable vessel class, the limitation now provides that the cost per long ton is to be derived from the sum of deadfreight and voyage freight divided by long tons for the voyage on which deadfreight is claimed.

FEA considered amending § 212.85(d)(1)(ii) to make explicit the allocation of allowable deadfreight where the crude oil shipped on one vessel in a single voyage is owned by more than one firm. However, the amendment was deemed unnecessary since the allocation of deadfreight cost is required by both § 212.85(c)(1) and (d)(1), which direct that a firm shall establish "its" cost for the shipment of crude oil. That portion of the deadfreight allowable with respect to one party's use of the vessel cannot be a cost of the other party's transportation.

4. *Change from Customary Accounting Practices to AFRA Method.*—One comment suggested that § 212.85(b)(1), which permits firms to change from the Net-Cost Method specified in § 212.85(c) to the AFRA Method in § 212.85(d), be amended so that firms authorized to use customary accounting practices in lieu of the specified Net-Cost Method may also make such change. FEA believes that the purpose of § 212.85(b)(1), to recognize the effect on cost accounting of changes in applicable distribution patterns, would be served by this amendment and has therefore adopted it.

5. *Recomputation of Transportation Element of Landed Cost of May, 1973.*—One comment stated that since it is the purpose of the price rules to measure changes in cost between May, 1973 and the month of measurement, the transportation component of a firm's landed costs must be recalculated in accordance with the accounting procedures required to be adopted under § 212.85. This issue was extensively discussed in the preamble to the interim regulations, and for the reasons given at that time FEA believes that such recomputation is not required.

6. *Active Use.* Section 212.85(e) provides that "In no case shall any transportation cost be allowed for a period when a vessel is not in active use." One comment pointed out that the term 'active use' is unclear, since, for example, lightering vessels legitimately engaged in crude oil transportation may nonetheless spend significant periods awaiting arrival of VLCC's. In response to this comment, FEA wishes to point out that § 212.85(e) is not intended to limit recognition of costs to periods when a ship is actually carrying oil (thereby precluding costs associated with ordinary waiting periods or routine maintenance) but to insure that firms do not abuse § 212.85 by recognizing the full costs of vessels only marginally engaged in crude oil transportation for the firm. The FEA audit staff will, however, carefully scrutinize costs attributable to periods exceeding routine idling or demurrage.

7. *Parity Calculation.* One comment objected to specification in § 212.84(e)(6)(i) of the LR–1 class of vessels for the purpose of calculating the transportation adjustment in connection with FEA's determination of maximum and representative prices for crude oil from a country where there is no reference crude. This issue was discussed in the preamble to the interim regulations, and for the reasons stated therein FEA believes that specification of the LR–1 class of vessel is appropriate.

8. *New Entrants.* Section 212.85(b)(1) as proposed or in its interim form, made no provision for firms first undertaking marine transportation of crude oil after the deadline established by FEA for selection of the AFRA or Net Cost methods. Accordingly, § 212.85(b)(1) has been amended to provide that where a firm first engages in marine transportation of crude oil more than thirty days after the effective date of § 212.85 (i.e. February 1, 1977 or later), it shall notify FEA within thirty days of the first loading as to which method it has selected. Since such new entrants will not have utilized customary accounting procedures for this purpose, they will be ineligible to continue their use in accordance with § 212.85(b)(2).

9. *Phantom Exchanges.*—In the course of administering the interim regulations, FEA has noted a need for clarification with respect to the treatment of transportation costs in the context of "phantom exchanges". (The term is popularly used to designate reciprocal transfers which facilitate the importation of foreign crude oil into the United States. Typically, it involves: (1) A small, inland refiner, the holder of a fee-exempt license, transfers (by passing title, but not physically moving) domestic crude oil to a major firm in return for an equivalent value of that firm's foreign crude oil located outside U.S. customs territory; (2) the foreign crude oil is transported by the major firm to United States customs territory but is imported under the small firm's fee-exempt license; and (3) the domestic and foreign crudes are exchanged back, so that the small firm again has title to its domestic crude, and the major firm again owns its foreign crude.)

Generally, at the conclusion of the phantom exchange, each firm must reflect a cost for the crude oil that it has, which is equivalent to the cost of the crude oil originally transferred (and certain adjustments). Accordingly, the major firm, which began and ended the transaction with foreign oil, should account for the "landed cost" of the foreign oil. These costs include the expense of transporting the crude oil from its country of origin to the United States, established pursuant to § 212.85. Similarly, the small firm, which ultimately receives the domestic crude oil with which it entered the transaction, must account for the cost of its domestic crude in accordance with §§ 212.82 and 212.83. Since the small firm does not determine its costs pursuant to § 212.85, FEA has determined that firms taking the part of the small firm in phantom exchanges should not be subject to that section. In this regard, FEA has amended § 212.85(a) to exempt from § 212.85 transactions in which a person acts as the nominal importer of record, but at no time physically acquires the crude oil so imported.

10. *Subcharters.* — In administering § 212.85, FEA has recognized certain problems associated with subchartering. Primarily, where a firm has chartered vessels which cannot be used economically to transport the firm's crude oil, it may attempt to subcharter such vessels for some or all of the remaining term, increasing the total transportation costs passed through to the consumer by any losses occasioned by the subcharter. While § 212.85 generally permits subchartering costs to be passed through as an element of the landed cost, it is not the purpose of the regulation to permit firms to recognize costs which are incurred primarily in connection with transportation of another firm's crude oil. Accordingly, where a firm recognizes costs associated with the use of vessels by unaffiliated entities, FEA intends to review such costs carefully, and may disallow any costs not incurred principally in connection with transporting the firm's own crude oil.

FEA has also recognized other problems relating to the calculation and allocation of subchartering costs, and intends to issue proposed regulations in this regard in the near future.

11. *Backhauls.*—In the preamble to its interim regulations, FEA stated that it had issued orders to several companies seeking information concerning the amount of backhauling done in connection with crude oil importation, in order to determine whether backhauling was sufficiently important to require that profits therefrom be credited against costs. After analyzing the data submitted, FEA has confirmed its initial judgment that the revenues received from backhauling are insignificant, and therefore no credit will be required.

12. *C.I.F. Purchases.*—FEA has received several requests to exempt from § 212.85 purchases made on a C.I.F. basis. In the near future, FEA intends to propose regulations addressing these requests.

B. AFRA METHOD

1. *Demurrage.* Several comments suggested that the credit against cost for unused laytime in § 212.85(d)(1)(iii) was inconsistent with industry practice, since unused laytime accrues to the vessel owner rather than its charterer. FEA agrees that in light of this practice, the credit would be inappropriate for voyage charter vessels. Although the credit could, theoretically, be applied with respect to equity status vessels, and long-term charters, the "savings" is not actually reflected in accounts. Accordingly, § 212.85(d)(1)(iii) has been amended by deleting the credit for unused laytime for both charter and equity status vessels.

In addition, § 212.85(d)(1)(iii) has been amended to clarify the means of calculating demurrage costs. Since the provision omitted reference to the schedule of demurrage charges contained in Worldscale, but referred only to "the product of the applicable AFRA and Worldscale rates," language was added to make clear that Worldscale demurrage schedule rates should be utilized when performing the calculation.

Finally, § 212.85(d)(1)(iii) was amended to recognize the fact that the charterer is not always the one who incurs demurrage charges. For example, if the ship's pumping system falls below the rate specified in the charter agreement then the charterer is relieved of such charges. Accordingly, § 212.85(d)(1)(iii) now provides for recognition of demurrage costs above allowed laytime, "provided that the charterer is determined to be responsible."

2. *Cargo Loaded.* One comment suggested that § 212.85(d)(1)(i) and (ii) be clarified in order that "gross long tons of cargo loaded" be determined in accordance with the bills of lading furnished the shipper. FEA recognizes that since the regulation requires that calculations be made on a "loaded" basis, the shipper must rely on the bill of lading rather than on subsequent measurements. Accordingly, FEA has adopted this recommendation.

3. *Costs Not Included in Worldscale.* A number of firms suggested that the list in § 212.85(d)(1)(v) of allowed costs other than those in Worldscale, should be enlarged to include certain other costs. FEA recognizes that unusual costs may, from time to time, be incurred.

V 42166 AUG 26 77 UMI

Typically, these will not be on a regular basis. However, the list in § 212.85(d)(1)(v) was very carefully considered in order that it be as inclusive as possible consistent with practicable audit procedures. Therefore, FEA has determined that it should not be further extended. Firms which incur unusual costs may, on hardship grounds, seek an Exception to § 212.85(d)(1)(v) in accordance with Part 205.

4. *Applicable AFRA Rate.* The term "AFRA rate applicable to the month in which readiness to load is tendered," in § 212.85(d)(1)(i)(A), is being amended to read "AFRA rate applicable to the month of first loading of the vessel on each voyage of crude oil imported into the United States." In the course of administering the interim regulations, FEA has encountered problems which have led it to discard, in the final regulations, the concept of readiness to load and to substitute therefor the concept of loading. This is because even though some companies may keep their records on a readiness basis, all companies must keep records of loadings in order to furnish information to FEA on such forms as the F–701–M–0. Accordingly, FEA believes this change will facilitate ease of verification, and eliminate the need for any additional records. In addition, FEA recognizes that some ambiguity remains with respect to multiport loadings. FEA considered amending the regulations to provide specific procedures, but determined that this was unnecessary since Worldscale contains multiport rates.

C. NET COST METHOD

1. *Recovery of Capital Costs.* Some firms objected to the exclusion in the amortization method applicable to equity status vessels under § 212.85(c)(2)(ii)(B), of any provision for recovering the cost of capital. This issue was discussed in the preamble to the interim regulation, and for the reasons stated therein FEA declines to adopt any provision for capital cost recovery.

2. *Land Based Personnel.* Some comments pointed out that small firms do not have employees "solely engaged in marine transportation," and would therefore be unable to consider their salaries as elements of cost. FEA appreciates this concern, and has therefore amended § 212.85(c)(1) to provide that firms with crude oil transportation subsidiaries or departments (or crude oil divisions of general transportation departments) may recognize the salaries of the employees of such subsidiaries, departments, or divisions, while firms without such organizational units may recognize that portion of a person's salary attributable to time spent on crude oil transportation: *Provided,* That such person spends at least one quarter of his time in such activity. Thus, in the case of large firms, which generally have transportation departments, the salaries of those persons who principally facilitate crude oil movements will be recognizable, although the salaries of persons who occasionally consider such issues will not be able to be prorated. In the case of small firms, which generally lack such departments, the salaries of persons who are not solely engaged in crude oil transportation, but who make a significant contribution to such activity, will be able to be recognized to the extent of the contribution. FEA believes that this is an equitable solution, in light of the difficulties of auditing any proration of costs.

One firm also commented that overhead costs in addition to land-based personnel should be recognized. This issue was discussed in the preamble of the interim regulations, and FEA believes that in light of the significant auditing problems that would result from any such allowance, this recommendation cannot be adopted.

3. *Ships' Personnel.* Section 212.85(c)(2)(ii)(B) provides that with respect to the amortization method, allowed transportation costs relating to an equity status vessel shall include, inter alia, "all payments made by the firm to unaffiliated entities incurred in connection with the use and operation of the vessel." One firm pointed out that owners of equity status vessels may also operate their vessels, and that, therefore, the use of the term "unaffiliated" was inappropriate. This term is intended to preclude recognition of costs where one entity merely pays another entity of the same firm. However, FEA agrees that where payment is made not to a shipping subsidiary, but directly to employees, that payment should be recognized. Moreover, with respect to charter status vessels treated under § 212.85(c)(iii)(A) a bareboat charterer may hire employees to operate the vessel, rather than pay another company to supply a crew. Accordingly, FEA has amended paragraphs (c)(2)(ii)(B) and (c)(2)(iii)(A) to provide that the salaries of ships' personnel engaged in crude oil transportation may be recognized to the extent that they participate in the use and operation of a vessel.

(Federal Energy Administration Act of 1974, as amended, Pub. L. 93-275, as amended, Pub. L. 94-385; 39 FR 23185; Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-335; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185)

In consideration of the foregoing, Part 212 of Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below, effective September 1, 1977.

Issued in Washington, D.C., August 18, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 212.85 is amended in paragraph (a) by inserting the subparagraph designation (1) after the designation of paragraph (a) and by adding a new subparagraph (2), in subparagraph (1) of paragraph (b), in subpargraphs (1), (2)(ii)(B) and (2)(iii)(A) of paragraph (c), and in subparagraphs (d)(1)(i) through (iii) to read as follows:

§ 212.85 Transportation.

(a)(1) * * *

(2) This section shall not be applicable to transactions in which a person acts as nominal importer of record, but at no time physically acquires the crude oil so imported.

(b)(1) *Selection of Method.* For the purpose of this section, a firm shall utilize either the Net-Cost Method specified in paragraph (c) of this section, or the AFRA Method specified in paragraph (d) of this section, depending on that firm's historical accounting procedures, for the determination of its crude oil transportation costs. A firm shall utilize the Net-Cost Method if those procedures have been based predominantly on actual costs; it shall utilize the AFRA Method if they have been based predominantly on a nominal-cost approach such as AFRA-Worldscale. Each reporting firm shall notify FEA within 30 days of the effective date of this regulation as to which method it is required to utilize, and where applicable shall specify which of the two methods permitted to be utilized under paragraph (c)(2)(ii) it has adopted. Where a firm first engages in marine transportation of crude oil after this period, it shall make such notification within 30 days of the first loading of the vessel, but shall not be eligible to use customary accounting procedures in accordance with subparagraph (2). A firm using the Net-Cost Method, or customary accounting procedures in lieu of the Net-Cost Method in accordance with subparagraph (2), may at any time request permission to make a one-time-only change to the AFRA Method. FEA will allow that change where a firm demonstrates that due to changes in its distribution patterns use of the Net-Cost Method or its customary accounting procedures is no longer practicable. Any change permitted under this section may be conditioned on a recalculation of transportation costs for earlier months pursuant to the new method adopted.

* * * * *

(c)(1) *The Net-Cost Method.* A firm using the Net Cost Method for determination of its transportation costs shall establish its net transportation cost by (i) determining its allowed transportation costs, as specified in paragraph (c)(2) of this section, and (ii) subtracting therefrom the sum of: (A) Any income received by the firm from unaffiliated entities for the use of vessels (other than "equity" status vessels where transportation costs are calculated in accordance with paragraph (c)(2)(ii)(A)) whose costs are included in the total allowed transportation costs, plus (B) the product of that firm's cost per ton mile for the fiscal year, determined according to subparagraph (3) of this paragraph, times the total ton-miles of shipping during the fiscal year which does not produce income from unaffiliated companies, does not involve crude oil imported into the United States, and uses vessels (other than "equity" status vessels where transportation costs are calculated in accordance with paragraph (c)(ii)(A)) whose cost are included in its allowed transportation costs. Transportation costs not otherwise allocated to particular shipments shall be allocated according to subparagraph (3) of this paragraph. The cost of general overhead may not be included. However, where a firm has a subsidiary or department whose purpose is directly and solely to facilitate marine transportation of crude oil from foreign ports to the United States (or such a division of a general transportation department) the salaries of the land-based personnel in such subsidiary, department, or division may be included; where a firm has no such subsidiary or department, it may include that portion of a person's salary directly attributable to the facilitation of marine transportation of crude oil from foreign ports to the United States, provided that such person spends at least twenty-five percent (25%) of his time in such activity.

(2) * * *

(ii) * * *

(B) The sum of (*1*) all payments made by the firm to unaffiliated entities incurred in connection with the use and operation of the vessel, and that portion of the salaries of ships' personnel employed by the firm who are directly engaged in marine transportation of crude oil from foreign ports to the United States, which is attributable to their activity in this regard, (*2*) the cost of bunker fuel which is supplied by the firm to the vessel for the purpose of transporting crude oil to the United States, priced at the current market price at the location where supplied, and (*3*) annual depreciation as determined in accordance with the customary accounting procedures generally accepted and consistently and historically applied by the firm in financial reports to stockholders.

(iii)(A) Allowed transportation costs for a charter status vessel shall be the sum of all payments made by the firm to unaffiliated entities incurred in connection with the use and operation of the vessel, plus that portion of the salaries of ships' personnel employed by the firm who are directly engaged in marine transportation of crude oil from foreign ports to the United States, which is attributable to their activity in this regard, plus the cost of any bunker fuel which is supplied by the firm to the vessel for the purpose of transporting crude oil to the United States, priced at the current market price at the location where supplied.

* * * * *

(d)(1) * * *

(i) Voyage freight, determined by multiplying the AFRA rate applicable (A) to the month of first loading of the vessel on each voyage of crude oil imported into the United States and (B) to the class of vessel, by the World-scale rate for the voyage and by the gross long tons of cargo loaded as specified in the bill of lading;

(ii) Deadfreight, determined by multiplying the product of the AFRA rate and the Worldscale rate determined as in (i) by the difference between the deadweight available to cargo and the gross long tons of cargo loaded as specified in the bill of lading, provided that the cost per long ton, calculated by dividing the sum of the voyage freight and deadfreight by the long tons of crude oil actually loaded, does not exceed the cost per long ton for the vessel class of the largest fully loaded vessel which can make the voyage between the ports of loading and unloading under normal operating conditions;

(iii) Demurrage costs above the laytime allowed in the Worldscale rate: *Provided,* That the charterer is determined to be responsible, calculated as the product of the applicable AFRA and Worldscale demurrage schedule rates;

* * * * *

[FR Doc.77-24840 Filed 8-24-77;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z; FC–0094 and FC–0102]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official Staff Interpretation(s).

SUMMARY: The Board is publishing the following official staff interpretations of Regulation Z, issued by a duly authorized official of the Division of Consumer Affairs and revoking an official staff interpretation as indicated below.

EFFECTIVE DATE: August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Loney, Attorney, Fair Credit Practices Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202–452–2412.

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR 261.6.

(2) Official staff interpretations may be reconsidered upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2). Every request for reconsideration should clearly identify the number of the official staff interpretation in question, and should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

(3) 15 U.S.C. 1640(f).

(4) Due to a clerical error, an official staff interpretation has been published twice under two different numbers. Since official staff interpretation FC–0094 was published previously as official staff interpretation FC–0085, official staff interpretation FC–0094 is hereby revoked. Official staff interpretation FC–0085 remains in effect.

The official staff interpretations will not be renumbered. Rather, there will not be an official staff interpretation FC–0094.

§ 226.8(b). In connection with guaranteed student loan program, lender must provide disclosures for both interim and repayment period at time interim loan is made.

§ 226.8(d). In connection with guaranteed student loan program, lender must provide disclosures for both interim and repayment period at time interim loan is made.

§ 226.8(b). Use of term "Pro Rata" complies with requirement that creditor identify method of computing unearned portion of finance charge.

Section 226.8(b)(6) applies only to obligations which do not include precomputed finance charges.

Where disclosures fully state method and circumstances under which unearned finance charges will be rebated, circumstances under which there will be no rebate need not be separately disclosed.

AUGUST 3, 1977

This is in response to your letter of * * *, and * * *, raising three questions in regard to the application of Regulation Z to a guaranteed student loan program. By an official staff interpretation of Regulation Z, FC–0010, staff answered a fourth question regarding the loan program but, due to clerical error, inadvertently failed to resolve the three issues discussed below.

Your firm represents several banks which are participating lenders in a student loan program under which a State corporation guarantees repayment of the loan to a bank in return for payment by the student of a loan guarantee premium. The student applies for and receives the loan from the participating bank, and the student's obligation to the bank is evidenced by an original note. The anticipated maturity date of this note is nine months after the student's expected graduation date. However, at the time of the original loan, it is contemplated that the student will, at some point prior to the maturity date, execute a renewal note consolidating all student loans previously made. The renewal note provide for repayment of the loan or loans in instalments over a period of up to 10 years.

At the time the original note is executed, the bank withholds from the loan proceeds the entire guarantee premium, which is remitted to the State corporation. This premium consists of one percent annually of the amount of the loan for the term of the interim period, on the basis of the original maturity date, plus one percent annually of the unpaid principal balance for the repayment period, on the basis of an assumed five-year repayment period. Thus, the first portion of the loan guarantee premium is attributable to the interim period, while the second portion applies to the expected term of the renewal note.

You first ask whether a participating bank is required, at the time the original note is executed, to make Truth in Lending disclosures with regard to the anticipated renewal note. You state that participating banks are currently giving disclosures for both the interim period covered by the original note and the repayment period covered by the renewal note at the time the original note is executed. This approach has been adopted in light of our Public Information Letter 117 stating that a student participating in a guaranteed loan program should be given "a complete disclosure of his annual percentage [rate] for both the inschool and repayment periods."

Public Information Letter 117 relates to Truth in Lending disclosure forms prepared

V 42 166 AUG 26 77 UMI

by [a federal agency], with staff's advice, for use in connection with a federally insured student loan program. One of those forms, given to the student at the time an interim loan is made, provides the requisite disclosures for both the interim and repayment periods. Staff believes that the position taken in Letter 117 is correct and that, in connection with guaranteed student loan programs such as the one which you discuss, the lender must provide disclosures for both the interim and repayment periods prior to consummation of the interim loan. The disclosures required are those prescribed by §§ 226.8 (b) and (d). However, pursuant to footnotes 10 and 11 to Regulation Z, the lender need not disclose the schedule and total of payments or the total amount of the finance charge on the disclosures given at the time of the interim loan. Further, it is staff's opinion that the repayment period disclosures given in connection with a particular interim loan need not reflect any other prior or anticipated interim loans which may eventually be consolidated for repayment purposes.

Your remaining two questions are concerned with the proper method of disclosing the rebate provisions of the loan program. You state that, upon prepayment in full of the loan, rebate of the unearned portion of the interim and/or renewal loan guarantee premiums and interest component of the finance charge will be made as follows:

(a) If the student prepays the loan in full within sixty days of executing the original note, he receives a rebate of the entire interim and renewal premiums.

(b) If the student prepays the loan in full prior to two years before the maturity date, he receives a rebate of the entire renewal premium and a pro rata rebate of the interim premium.

(c) If the student prepays the loan in full within the last two years preceding the maturity date, he receives a rebate of only the renewal premium.

(d) If the student prepays the renewal note within the first three years of the repayment period, he receives a rebate of the unearned portion of the renewal premium calculated in accordance with the Rule of 78's.

(e) In addition, a rebate of the unearned interest component of the finance charge will be made in accordance with the Rule of 78's if the student prepays in full at any time during the repayment period.

You further indicate that the pro rata rebate of the interim premium if the student prepays an interim loan more than two years prior to the maturity date (paragraph (b) above) is calculated by multiplying the premium by a fraction, the numerator of which is the number of months remaining from the date of prepayment to the maturity date, and the denominator of which is the number of months from the date of the original note to the maturity date. You ask whether the participating banks satisfy the disclosure requirements of § 226.8(b)(7) by disclosing that, in the event of such prepayment, the student will receive a rebate of the unearned portion of the interim premium "calculated in accordance with the Pro Rata method." In Public Information Letter 271, staff indicated that use of the term "Pro Rata" would be sufficient to comply with the requirement of § 226.8(b)(7) that the creditor identify "the method of computing any unearned portion of the finance charge in the event of prepayment in full of an obligation which includes precomputed finance charges." Staff's opinion in this regard remains unchanged, and staff continues to believe that use of this term in disclosing the rebate method is sufficient under § 226.8(b)(7). This opinion is further buttressed by reference to Board Interpretation § 226.818.

Finally, you ask whether, under § 226.8(b)(6) or § 226.8(b)(7), participating banks which fully disclose the above described system of rebating the unearned portion of interim and renewal loan guarantee premiums upon prepayment must further specifically enumerate the circumstances when no such rebate will be made (e.g., if the student prepays the original note in full within the last two years preceding the maturity date, there will be a full rebate of the renewal premium but no rebate of the interim premium).

In answer to your question it should first be noted that § 226.8(b)(6), which requires disclosure of any penalty charge that will be imposed for prepayment of an obligation, applies only to obligations which do not involve precomputed finance charges. Therefore, that section is inapplicable to the guaranteed student loan program which is the subject of your inquiry, in which all finance charges are precomputed. Further, with respect to the situation you present, staff is of the opinion that, if the disclosure statement fully informs the customer as to the method (or methods) to be used in rebating unearned finance charges and states the circumstances in which any such method will be used, there is no need under § 226.8(b)(7) to state, conversely, when some portion of the premiums will not be rebated.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited to the facts and issues discussed herein. I trust that this interpretation is responsive to your inquiry.

Sincerely,

JANET HART,
Director.

Board of Governors of the Federal Reserve System, August 19, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-24806 Filed 8-25-77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER B—GUIDES AND TRADE PRACTICE RULES

PART 27—BRICK AND STRUCTURAL CLAY TILE AND ALLIED PRODUCTS INDUSTRY

Rescission of Obsolete Parts

Corrections

In FR Doc. 23521 appearing at page 41270 in the issue for Tuesday August 16, 1977, the following corrections should be made.

1. In paragraph 2, the ninth line of the middle column on page 41271 should be deleted.

2. In the third column, the final line of the authority citation now reading, "45,6,57a); CFR 1 5, 1.6, 17.1.)", should read, "45,6,57a); 16 CFR 1.5, 1.6, 17.1)".

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5856, 34-13872, 35-20142, IC-9900]

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 271—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT COMPANY ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER

Disclosure of Management Remuneration

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation.

SUMMARY: The Commission today emphasized its view that existing disclosure provisions of the securities acts require registrants to disclose in registration statements, reports and proxy and information statements all forms of remuneration received by officers and directors. Salaries, fees, bonuses and certain other forms of remuneration must be included within the aggregate remuneration reported. In addition, personal benefits received by management from the corporation, including certain benefits sometimes referred to as "perquisites," may be forms of remuneration which should be included within the remuneration reported. This action is taken because the staff of the Commission has received inquiries relating to whether personal benefits are forms of remuneration and because recent cases brought by the Commission have revealed that some registrants have not disclosed personal benefits as remuneration.

DATE: Effective August 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Linda L. Griggs, Division of Corporation Finance, 202-755-1750, or Glen Payne, 202-755-0230, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: During the last few months, the staff of the Commission has received many inquiries relating to whether or not various personal benefits received by management from corporations should be included within the remuneration disclosure which is required in registration statements, reports and proxy and information statements filed by corporations under the securities laws. Some of these questions were prompted by the publicity given to recent cases brought by the Commission which revealed the failure of such registrants to include within the reported remuneration the value of various personal benefits received by members of management.[1]

It is the view of the Commission that the existing reporting provisions[2] under the securities act require registrants to include within the remuneration reported all forms of remuneration which are received by management from the corporation, including personal benefits sometimes referred to as "perquisites." This does not mean, however, that all benefits received by management are personal benefits which must be reported. Certain incidental benefits which are ordinary and necessary to the conduct of company business, such as ordinary business lunches, and incidental payments made by the company for items which are directly related to the performance of management's functions at the company plant or offices, such as parking places, may not be reportable forms of remuneration. All payments made by the company for personal benefits received by management which are not directly related to job performance, however, are forms of remuneration which should be included within the reported remuneration.

The Commission believes that this release will provide some guidance to registrants in this area. Some questions may remain unanswered, however; registrants unable to determine how to handle a particular benefit are reminded that the staff is available to assist with questions relating to all areas of disclosure, including the disclosure of remuneration information. In addition, the Commission will continue to review its interpretation in light of any specific problems or comments brought to the attention of the staff by registrants and interested persons.

[1] See, e.g., *SEC* v. *Potter Instrument Corp.*, Civil No. 77-0394 (D.D.C., filed March 9, 1977), Litigation Release No. 7816 (March 9, 1977); *SEC* v. *Kneapler, et al.*, Civil No. 77-969 (D.C. Fla., filed March 25, 1977), Litigation Release No. 7854 (April 4, 1977); *SEC* v. *Ormand Industries, Inc.*, Civil No. 7910 (May 10, 1977), Litigation Release No. 7910 (May 10, 1977)3. Earlier cases involving undisclosed corporate benefits or perquisites include: *SEC* v. *Emersons, Ltd. et al.*, Civil No. 76-0808 (D.D.C., filed May 11, 1976, Litigation Release No. 7392 (May 11 1976); *SEC* v. *Medic-Home Enterprises, Inc. et al.*, Civil No. 75-6627 (S.D.N.Y., filed Dec. 11, 1975), Litigation Release No. 7207 (Dec. 12, 1975). In general, the cases instituted by the Commission have suggested misappropriation of the company's assets in addition to noncompliance with the disclosure provisions.

[2] See discussion at text accompanying footnotes 3-14.

BACKGROUND

The Securities Act of 1933[3] ("Securities Act") (15 U.S.C. 77a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)), the Securities Exchange Act of 1934[4] ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)) and the Investment Company Act of 1940 ("Investment Act") (15 U.S.C. 80a-1 et seq.)[5] provide that the Commission may require disclosure in registration statements filed pursuant to their provisions of the remuneration received by directors and officers. The Exchange Act and the Investment Act further provide that the Commission may prescribe the type of information to be included in annual reports and proxy and information statements filed by companies subject to their provisions.[6]

The Commission has exercised its legislatively granted rulemaking authority under these acts to require registrants to report in various registration statements,[7] annual reports[8] and proxy and information statements[9] the amount of remuneration paid or to be paid by the registrant and its subsidiaries[10] to each of the registrant's directors, each of its three highest paid officers and other persons specified in the provisions[11] whose aggregate direct remuneration exceeded a certain amount[12] and to all officers and directors (and to certain specified persons in filings made by investment companies) as a group.[13]

In general the disclosure items of the Securities Act, the Exchange Act and the Investment Act require separate disclosure of three forms of remuneration: (1) Direct remuneration; (2) annuity, pension and retirement benefits; and (3) direct and indirect remuneration payments proposed to be made in the future which have not already been reported.[14]

DISCUSSION

The remuneration disclosure provisions require registrants to disclose the

[3] Schedule A to the Securities Act (15 U.S.C. 77aa) lists the type of information which should be included in registration statements unless the Commission shall otherwise provide. Item 14 thereto calls for disclosure of the "remuneration, paid or estimated to be paid, by the issuer or its predecessor, directly or indirectly, during the past year and ensuing year, to (a) the directors or persons performing similar functions, and (b) its officers and other persons, naming them whenever such remuneration exceeded $25,000 during such year." Sections 7 and 19 of this Act (15 U.S.C. 77g, 77q) authorize the Commission to require by rules or regulations disclosure of information in addition to that specified in Schedule A.

[4] Subparagraphs (h)(1)(D) and (g)(1) of Section 12(b) of the Exchange Act (15 U.S.C. 78*l*(h)(1)(D), (g)(1)) state that a security may be registered under the Exchange Act by filing with the Commission a registration statement with respect to the security containing such information as the Commission may specify relating to remuneration of directors, officers, underwriters, and security holders holding more than 10 percent of any class of issuer's equity securities. Section 23 of the Exchange Act authorizes the Commission to "make such rules and regulations as may be necessary or appropriate to implement the provisions of this title * * * " (15 U.S.C. 78w).

[5] Investment Act § 8(b), 15 U.S.C. § 80a-8(b).

[6] Exchange Act §§ 13(b), 14(a), 14(c), 15 U.S.C. 78 1(b), m(a), m(c); Investment Act Sections 20(a), 30(a), 15 U.S.C. 80a-20(a), 80a-29(a) (the Investment Act provisions are applicable to proxy and not information statements).

[7] Disclosure is required in registration statements by the following items of certain forms: Item 17 of the Form S-1 (17 CFR 239.11); Item 5 of the Form S-4 (17 CFR 239.14); Item 1 of the Form S-5 (17 CFR 239.15); Instruction 1 of the Form S-6 (17 CFR 239.16); Item 20 of the Form S-11 (17 CFR 239.18); Item 7 of the Form 10 (17 CFR 249.210); Item 12 of the Form 20 (17 CFR 249.220); Items 18 and 25 of Form N-8B-1 (17 CFR 274.11); Items 10 and 18 of Form N-5 (17 CFR 274.5); Items 36, 37 and 38 of the Form N-8B-4 (17 CFR 274.14); Items 31, 32, 33 and 34 of the Form N-8B-2 (17 CFR 274.12); and Items 29, 30, 31, and 32 of the Form N-8B-3 (17 CFR 274.13).

[8] Disclosure is required in annual reports by the following items of certain forms: Item 16 of the Form 10-K (17 CFR 240.310); Item 10 of the Form 20-K (17 CFR 240.320); Items 1.12 and 1.13 of the Form N-1R (17 CFR 274.101) and Items 1.12 and 1.13 to the EDP attachement of this form (17 CFR 274.101a-1, a-2); Items 10 and 18 of the Form N-5R (17 CFR 274.105); Items 22, 23, 24 and 25 of the Form N-30A-2 (17 CFR 274.102); and Items 20, 21, 22 and 23 of the Form N-30A-3 (17 CFR 274.103).

[9] Disclosure is required in proxy and information statements by Item 7 of Schedule 14A (17 CFR 240.14a-101). (Rule 20a-1 under the Investment Act (17 CFR 270.20a-1) provides that proxy statements of registered investment companies should include the information required in proxy statements filed under the Exchange Act.)

[10] In Securities Act Release No. 5758 (Nov. 2, 1976) (41 FR 49495 (Nov 9, 1976)), the Commission published for comment proposed amendments which would require disclosure of the remuneration paid by the registrant and its affiliates to these persons. Final action on the amendments proposed therein is expected in the near future.

[11] The forms promulgated under the Investment Act require disclosure of the remuneration paid to advisory board members and/or certain other affiliated persons, as that term is defined in the Investment Act.

[12] See the items of the forms listed in footnotes 7, 8 and 9 above for the stated amounts.

[13] Disclosure of remuneration paid to all officers and directors as a group is all that is required in registration statements on Form 20 and annual reports on Form 20-K.

[14] The appropriate disclosure relating to options granted to certain officers or directors and to benefits received by officers, directors and various other persons as a result of certain transactions to which the registrant is a party is prescribed by separate provisions, e.g., subparagraphs (d) and (f) of Item 7 of Schedule 14A.

V42166 AUG 26 77 UMI

total amount of remuneration paid or to be paid by the company and its subsidiaries to officers, directors and other persons specified in the disclosure requirements (hereinafter "management personnel") for their services,[15] whether such remuneration be in the form of cash, property or personal benefits. Full disclosure of remuneration is necessary to informed voting and investment decisions regardless of whether the company's board of directors or its security holders have approved the remuneration package received by management [16] because of the substantial influence of management in determining its remuneration. In addition, a determination of the value of any new securities being offered [17] and of any securities already owned,[18] an analysis of the use of corporate funds and assets and an assessment of the value of management to a corporation [19] necessitate the presentation of complete remuneration information.

Therefore, the aggregate remuneration paid to management should include the amount of salaries, fees, bonuses, and other payments made to them and the value of certain personal benefits received by management from the registrant and its subsidiaries.[20] Among the benefits received by management which the Commission believes should be reported as remuneration are payments made by registrants for the following purposes: (1) Home repairs and improvements; (2) housing and other living expenses (including domestic service) provided at principal and/or vacation residences of management personnel; (3) the personal use of company property such as automobiles, planes, yachts, apartments, hunting lodges or company vacation houses; (4) personal travel expenses; (5) personal entertainment and related expenses; and (6) legal, accounting and other professional fees for matters unrelated to the business of the registrant. Other personal benefits which may be forms of remuneration are the following: the ability of management to obtain benefits from third parties, such as favorable bank loans and benefits from suppliers, because the corporation compensates, directly or indirectly, the bank or supplier for providing the loan or services to management; [21] and the use of the corporate staff for personal purposes.

Certain incidental personal benefits which are directly related to job performance may be omitted from aggregate reported remuneration provided they are authorized and properly accounted for by the company. Parking places, meals at company facilities and office space and furnishings at company-maintained offices are a few examples of personal benefits directly related to job performance.

In addition, certain incidental benefits received by management which are ordinary and necessary to the conduct of company business may not be forms of remuneration. These job-related benefits are benefits which are available to management employees generally, which do not relieve the individual of expenditures normally considered to be of a personal nature and which are extended to management solely for the purposes of attracting and maintaining qualified personnel, facilitating their conduct of company business or improving their efficiency in job performance. While itemized expense accounts may be considered job-related benefits whose value would be excluded from the aggregate remuneration reported, some may be forms of remuneration if they are excessive in amount or conferred too frequently. In any case, management is usually in the best position to determine whether a certain benefit should be viewed as a form of remuneration based on the facts and circumstances involved in each situation.

The value [22] of all forms of remuneration should be included within the appropriate item(s) [23] of disclosure. Nonmonetary forms of remuneration must be valued as accurately as possible. The appropriate valuation may be based upon appraisals, the value of the benefit to the recipient, the valuation assigned for tax purposes,[24] or some other appropriate standard.[25]

The Commission expects that this release will help registrants assure that the aggregate remuneration reported in registration statements, reports, and proxy and information statements contains all forms of remuneration, including salary, fees, bonuses and other personal benefits received by management. The Commission notes with approval that, as a step toward improving the data upon which such disclosures are based, some corporations have established procedures by which independent auditors review management remuneration and report to the audit committee of the board of directors; in other corporations, the board of directors may even be responsible for approving or disapproving the aggregate remuneration of all or certain members of management. In view of the all-inclusive nature of the required disclosure, the Commission urges all registrants to analyze thoroughly the internal controls and procedures by which management remuneration is identified and disclosed in order to assure that all required disclosures are made.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 18, 1977.

[FR Doc.77-24805 Filed 8-25-77;8:45 am]

---

[15] This position is consistent with the existing case law relating to the appropriate disclosure of remuneration. See, e.g., *SEC* v. *Kalvex, Inc.*, 425 F. Supp. 310 (S.D.N.Y. 1977); *Lewis* v. *Dansker*, 357 F. Supp. 636 (S.D.N.Y. 1973). In *Kalvex*, the Court held, inter alia, that personal expenses for which Robert Ingis, a director and executive officer of the corporation, was reimbursed should have been disclosed in accordance with Item 7 of Schedule 14A. In Lewis, the Court said that "Items 7(a) through 7(e) of Schedule 14A, title 'Remuneration and Other Transactions with Management and Others,' all require disclosure of remuneration or something of value affirmatively passing from the corporation to the officers or directors." *Lewis* v. *Dansker* at 642. Cf. *U.S.* v. *Dixon*, 536 F. 2d 1388, at 1395 (2d Cir. 1976). In *Dixon*, the Court stated that "the failure to include a statement of Dixon's indebtedness in the proxy statement and a Schedule II of the 10-K report were 'clear violations [of the first clause of Section 32(a) of the Securities Exchange Act of 1934].'" Finding the requisite willful intent, the Court affirmed Dixon's conviction for which he was sentenced to one year's imprisonment and fines of $10,000 each on three counts. Further, the Commission has focused previously on disclosure in registration statements and proxy and information statements of benefits to management. See, e.g., "Atlantic Research Corporation," 41 SEC Decisions and Reports 732, 757 (Dec. 6, 1963) (stop order by the Commission suspending the effectiveness of a registration statement because of, inter alia, the nondisclosure as loans of payments made by the registrant for construction costs relating to improvements on the estate of one of its cofounders, principal officers and stockholders).

[16] *Tannenbaum* v. *Zeller*, 552 F. 2d 402, 433 (2nd Cir. 1977) (holding that the proxy statement of a mutual fund should have disclosed the decision reached by its board of directors to forego recapture of brokerage commissions in favor of using those commissions to reward broker-dealers who furnished sales and research services to the fund "in order for the shareholders to make an informed decision on whether or not to approve the new management contracts or whether or not to continue or renegotiate the current ones"). Cf. *U.S.* v. *Dixon* concurring opinion.

[17] See, e.g., Securities Act Preamble, sections 7, 10, 15 U.S.C. 77a, 77g, 77j. President F. D. Roosevelt said in an address to Congress, "There is, however, an obligation upon us to insist that every issue of securities to be sold in interstate commerce shall be accompanied by full publicity and information, and that no essentially important element attending the issue shall be concealed from the buying public." President Roosevelt's March 29, 1933 message to Congress, H.R. Rep. No. 85, 73rd Cong., 1st Sess. 1, 2 (1933).

[18] Exchange Act section 13(a)(1), 15 U.S.C. 781(a)(1) states that the "Commission may prescribe as necessary or appropriate for the proper protection of investors and to ensure fair dealing in the security, (1) such information and documents as the Commission shall require to keep reasonably current the information and documents required to be included in or filed with an application or registration statement * * *" See also Investment Act section 30(b)(1), 15 U.S.C. 80a-29(b)(1).

The Majority Report of the Commission on Interstate and Foreign Commerce written to accompany H.R. 9323 (the bill proposing the Securities Exchange Act of 1934) emphasized the importance of disclosure to prevent unfair practices on the exchanges. The Committee stated:

> "As a complex society so diffuses and differentiates the financial interests of the ordinary citizen that he has to trust others and cannot personally watch the managers of all his interests as one horse trader watches another, it becomes a condition of the very stability of that society that its rules of law and of business practice recognize and protect that ordinary citizen's dependent position." H.R. Rep. No. 1383, 73d Cong., 2d Sess 5 (1934).

The report states further: "No investor, no speculator, can safely buy and sell securities upon the exchange without having an intelligent basis for forming his judgment as to the value of the securities he buys or sells." Id. at 11.

[19] Some security holders have instigated lawsuits alleging excessive compensation has been paid to management. See, e.g., "Wietschner v. Rapid-American Corporation," Civil No. 4603 (Ch. Del., filed Sept. 30, 1974). Cf. "Levin v. Atkin," Civil No. 75-0095-L(B) (W.D. Ky., filed April 4, 1975) (relating to improper diversion of assets of Ashland Oil, Inc. by certain directors).

[20] Registrants should be aware that the determination of reportable forms of remuneration is not necessarily based upon what has been included by an officer or director in gross income computed for tax purposes

[21] See, e.g., "SEC. v. Sunshine Mining Company," Civil No. 74-4492 (S.D.N.Y., filed Oct. 11, 1974), Litigation Release No. 6544 (October 11, 1974) (consent judgment entered after charge by Commission that compensating loan balances maintained by Sunshine Mining should have been reported in the company's proxy statement because they constituted direct or indirect benefits to the officers and directors who thereby were able to obtain personal bank loans).

[22] A separate description including the valuation of each form of remuneration is not required by the present disclosure provisions. But see Securities Act Release No. 5758 (Nov. 2, 1976) in which the Commission requested comments on whether additional disclosure should be required as to the remuneration of corporate officers and directors and specifically whether "disclosure should be required of the numerous emerging forms of indirect compensation or 'perquisites' now given to management personnel." In response to this particular request, a number of commentators argued that valuation and identification of these indirect forms of compensation are difficult or impossible tasks. See also Securities Exchange Act Release No. 13482 (April 28, 1977) (42 FR 23901) in which the Commission announced a broad re-examination of the proxy rules and requested comments on various matters including whether the proxy rules should provide for "more detailed or comprehensive disclosure of management remuneration."

[23] In some cases, the reporting provisions may require registrants to report the same compensation more than once. For example, a loan extended to an officer at a favorable interest rate may be deemed to be a form of direct remuneration paid him and would also have to be reported on the appropriate schedule and described because it was a loan made to such officer. Disclosure would be required, therefore, in a proxy or an information statement by subparagraphs (a) and (e) of Item 7 of Schedule 14A. Item 7(e) would require a description of the loan, including the amount outstanding and the interest charged; Item 7(a) would require the inclusion within aggregate remuneration reported of the benefit received by the officer or director as a result of the favorable interest rate. Generally, however, no objection would be raised if the value of certain benefits is omitted from the reported aggregate remuneration paid or to be paid provided the omission is clearly noted by cross reference or otherwise.

[24] The valuation of nonmonetary forms of remuneration which must be reported for tax purposes is not clearly defined. The discussion draft of the proposed regulations on the taxation of employee fringe benefits was withdrawn by the Department of the Treasury on December 17, 1976. The release which announced this action quoted Secretary of the Department of the Treasury William Simon as saying: "The comments [received on the draft] demonstrated the problems associated with establishing rules of general applicability with respect to fringe benefits. The myriad forms in which fringe benefits are provided and the difficulty of valuing those benefits, together with the undesirability of mandating the keeping of additional detailed records by employers and employees in certain cases, with the attendant costs and complexities involved, have caused me to conclude that the discussion draft should be withdrawn." Nevertheless, Secretary Simon stated that the "question of whether fringe benefits result in taxable compensation to employees should continue to depend, as it presently does, on the facts and circumstances that exist in individual situations." Department of the Treasury, News Release (December 17, 1976).

[25] If, in the opinion of management, a benefit is impossible to value, the Commission generally would accept a description of the benefit in a note to the remuneration table so long as it is stated clearly that the value of the benefit was not included in the reported aggregate remuneration.

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

[Docket No. 77C-0153]

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

Chromium Oxide Greens and Chromium Hydroxide Green

Correction

In FR Doc. 77-20197 appearing at page 36451 in the issue for Friday, July 15, 1977, make the following corrections:

(1) The Docket Number should have read as set forth in the heading above.

(2) The effective date given throughout the document as "August 15, 1977" should have read "August 16, 1977".

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 76N-0028]

PART 310—NEW DRUGS

Requirements for Inhalation Anesthetic Drug Products; Studies for Carcinogenic and Teratogenic Potential

Correction

In FR Doc. 77-20781, appearing at page 37538 in the issue of Friday, July 22, 1977, make the following changes:

1. On page 37538, second column, the date in the next to the last line of the last paragraph should read, "February 17".

2. On page 37542, first column, the date in the next to the last line of the second full paragraph should read, "February 17".

3. On page 37543, first column, the date in the line immediately preceding the first full paragraph should read "February 17".

[Docket No. 77N-0246]

PART 450—ANTITUMOR ANTIBIOTIC DRUGS

Toxicity Tests and Release of Batches

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule provides that, for an interim period, and subject to specific conditions, certain tests for toxicity (LD_{50} test) normally conducted by the Food and Drug Administration (FDA) to substantiate manufacturers' tests need not be considered as a definitive criterion for the release of batches of the antitumor antibiotics dactinomycin, mithramycin, and doxorubicin hydrochloride. This rule is required in order to continue the supply of these life-sustaining products.

EFFECTIVE DATE: August 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Frederic J. Geissel, Bureau of Drugs (HFD-332), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4340.

SUPPLEMENTARY INFORMATION: Agency regulations in Part 450 (21 CFR Part 450) specify standards of identity, strength, quality, and purity required for certification of batches of antitumor antibiotic drugs. The standards for doxorubicin hydrochloride, dactinomycin, and mithramycin require that manufacturers conduct an "LD_{50}" test and that the results of this test be submitted to FDA as a part of the request for batch certification of these drugs. It is part of FDA certification procedure that the agency substantiate, through its own testing, manufacturers' LD_{50} test results.

The "LD_{50}" test is a measure of drug toxicity. The term "LD_{50}" refers to the dosage of the drug that should be expected to kill 50 percent of the test animals (in this case a specified strain of mice) that receive the drug. LD_{50} values are established by regulations, and the antibiotic drugs subject to the tests must meet the established limitations to be eligible for certification under section 507(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357(a)). The three antitumor antibiotic drugs subject to this notice are, because of their inherent toxicity, the only antibiotic drugs presently required to undergo an LD_{50} determination.

Doxorubicin hydrochloride. Since the approval of the antibiotic application (Form 5) for doxorubicin hydrochloride in 1974, FDA has used an LD_{50} testing procedure that was subsequently codified in a final regulation in the FEDERAL REGISTER of April 2, 1976 (41 FR 14182), to substantiate the LD_{50} test results of the single manufacturer producing the drug.

V 42 166 AUG 26 77 A UMI

The test animals used by FDA for the LD_{50} determination are a specific strain of mice, known as the Flanders Research Farms ICR/FRF–2. The strain of mice is incorrectly identified in § 450.24(b)(4)(ii) (21 CFR 450.24(b)(4)(ii)) as Charles River FRF–2 strain; however, the values stated in the regulations are those for the Flanders strain. Because not all strains of mice are readily available in all parts of the world, the applicant, a foreign drug manufacturer, has used a different strain and different LD_{50} testing procedures and limits from those specified by the regulation. These differences from the method specified in the regulation are approved as part of the manufacturer's approved antibiotic application (Form 5). Early testing by FDA during the antibiotic application approval process established a satisfactory relationship between the two LD_{50} testing methods. Moreover, the Commissioner advises that the use of alternative testing is common and that § 436.2 (21 CFR 436.2) provides for such use when results obtained are of equivalent accuracy to those obtained from the method specified in the regulations.

Until recently, the manufacturer's results of LD_{50} testing of batches of doxorubicin hydrochloride and FDA substantiation of those results have been comparable. During the fall of 1976 a downward trend in the FDA LD_{50} test results began to be observed and in February 1977 the National Center for Antibiotic Analysis, FDA's own testing laboratory for antibiotic drugs, began to find that a number of batches of doxorubicin hydrochloride from the one manufacturer of the product failed the LD_{50} test established by § 450.24(a)(1)(iv) (21 CFR 450.24(a)(1)(iv)). Data from the antibiotic drug manufacturer, however, showed these same batches to meet the LD_{50} limits set for this antibiotic drug as part of the approved antibiotic application (Form 5).

At this point, the Commissioner is not certain of the reason for the disparity in test results.

Dactinomycin. As regards dactinomycin, the agency's LD_{50} tests on one batch of the drug have not been within specified limits in two repeated tests. The test results were slightly below the minimum LD_{50} limit set in the regulations, §§ 450.20a and 450.220 (21 CFR 450.20a and 450.220), although the manufacturer obtained LD_{50} values slightly above the minimum LD_{50} established for this batch. These findings prompted an FDA review of previous LD_{50} test results for this drug. This review shows a gradual decline (but still within the limits specified in the regulations) of the LD_{50} values for both manufacturer and FDA. Here, FDA and the manufacturer use test animals of the same strain and essentially the same testing procedures for LD_{50} determinations.

As with doxorubicin hydrochloride, the cause and significance of the demonstrated test disparity are not yet known, and the Commissioner advises that the agency is working to discover the cause of both the lack of agreement between the manufacturer's and FDA's LD_{50} test results and the gradual decline of the LD_{50} values for dactinomycin.

Mithramycin. During the last 9 months only one batch of mithramycin has been submitted for certification, and that batch has been certified. Although no inconsistent results between FDA's and the manufacturer's LD_{50} test for this one batch were noted, the Commissioner finds that the same factors that may have caused inconsistent results for LD_{50} tests in dactinomycin and doxorubicin hydrochloride could possibly influence LD_{50} testing of any antitumor antibiotic. Therefore, the Commissioner concludes that it is appropriate to consider under this regulation all antitumor antibiotic drugs for which LD_{50} determination is required.

Because of the mode of action of these three drugs, the potency, as determined by microbiological assay described under "Tests and method of assay" in each applicable monograph in Part 450 for these drugs, is directly related to the toxicity as determined by the LD_{50} test. The conduct of these two tests contributes to assuring consistency in the action of these drugs, with each test (LD_{50} and microbiological assay) serving to corroborate the other. In this context it should be noted that microbiological potency assays of the batches that failed the LD_{50} tests, while having slightly greater values than those values obtained in earlier tests, have still been consistently within the specified individual monograph limits, except that one batch of dactinomycin had a microbiological potency above the upper limit.

These three antitumor antibiotic drug products are used in the treatment and management of extremely serious, life-threatening disease conditions and, to be of any therapeutic benefit, must be available to chronically ill patients without interruption. Each of these antitumor antibiotics is available only from one manufacturer so there is no alternative source of supply. It is clear that to refuse release of these products during the time needed to resolve the problems being experienced with the LD_{50} test would seriously disrupt the very limited supply of these drug products to patients. The Commissioner has, accordingly, determined that, pending resolution of these testing problems, it is necessary to the public health to release, under section 507(a) of the act, batches of doxorubicin hydrochloride, dactinomycin, and mithramycin, notwithstanding the results of FDA substantiation tests for LD_{50}.

The Commissioner has not yet determined the reasons for the discrepancies in the LD_{50} tests. Those problems may lie with the test and testing procedure, or may accurately reflect a trend toward increasing toxicity of the drug. Nonetheless, the Commissioner believes it consistent with the best interests of the public health to continue to release batches of these drugs pending resolution of the LD_{50} test discrepancies. During the interim period the Commissioner is imposing, by this notice, certain conditions for release. Primarily, all released batches must still meet all the applicable monograph requirements, as tested by the manufacturer, including the LD_{50} test and, except for the latter, must also be submitted to and pass appropriate substantiation testing by FDA. The agency will, during this temporary period, continue to conduct LD_{50} tests, but will not necessarily view the results of its own LD_{50} tests as dispositive. Moreover, this notice authorizes the Commissioner to require, as conditions of release, that manufacturers (1) ensure that batches of antitumor antibiotics that are released be readily identifiable once in the channels of commerce, and (2) notify physicians, pharmacists, and other health professionals, as directed by the Commissioner, that the toxicity of the drugs has not been substantiated by the FDA LD_{50} tests, and they may accordingly exhibit higher potency than previously certified batches, and therefore may have a higher than usual possibility of producing toxic reactions.

The Commissioner advises that he has, prior to publication of this notice, released certain batches of doxorubicin hydrochloride and dactinomycin in order to avoid interruption of supplies to patients while this document was in preparation. That release was conditional upon the manufacturer's notification to physicians, in the form of a "Dear Doctor" letter of "Important Drug Information" regarding results of LD_{50} testing. (Copies are on file and are available for public review in the office of the Hearing Clerk, Food and Drug Administration, address given below.)

The Commissioner recognizes a number of factors that may affect the reliability and reproducibility of the testing procedures used in LD_{50} determination. Such factors include the genetic reliability of the strain of test animals, conditioning of the test animal population, environmental and nutritional needs, and purity of feed and water supplies. Some of these factors are not within direct control of laboratories being supplied with specific strains of test animals. Other factors, such as conditioning of the test animal population, vary with each laboratory. Since the LD_{50} limits have been established on the basis of testing relatively few batches of the drugs during the development of the particular drug at the time the drug is initially submitted for certification, and as a result of a request received from the manufacturer of doxorubicin hydrochloride that the LD_{50} limits in the regulation be changed from 8 to 20 milligrams per kilogram of body weight (mg/kg) to 6 to 15 mg/kg, FDA is reviewing data and information to determine whether the LD_{50} limits in the regulations are appropriate. A copy of the request has been placed on file in the office of the Hearing Clerk, Food and Drug Administration.

During this interim period of release, FDA will continue to conduct LD_{50} tests on batches of these drugs submitted for release. Both FDA and the manufacturer will conduct the research necessary to determine, as expeditiously as possible, the reasons for disparity between LD_{50} test results.

Documents regarding the LD_{50} test results and other information used as a basis for the Commissioner's determination that the supply of these drugs would be interrupted unless batches were released under the conditions of this notice have been placed on file, for public review, in the office of the Hearing Clerk, Food and Drug Administration, address given below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 450 is amended as follows:

1. By adding new § 450.1, to read as follows:

§ 450.1 Interim requirements for LD_{50} testing.

(a) The Commissioner of Food and Drugs has determined that it is necessary for reasons of the public health to temporarily alter certain prerequisites for certification of certain antitumor antibiotic drugs. These drugs, dactinomycin, mithramycin, and doxorubicin hydrochloride, are considered to be essential for treatment and management of extremely serious, life-threatening disease conditions and must be available to chronically ill patients without interruption.

(b) Results of recent Food and Drug Administration tests to determine the LD_{50}[1] values for doxorubicin hydrochloride and dactinomycin have not been consistent with the comparable tests performed by the manufacturers. At present, the reason for the disparity is unknown. The problem may lie with the test animals and testing procedure, or may accurately reflect a trend toward increasing toxicity of the drugs. Although no inconsistent results for LD_{50} testing have occurred with mithramycin, the same factors that may have caused inconsistent results for LD_{50} tests in doxorubicin hydrochloride and dactinomycin could influence LD_{50} testing for any antitumor antibiotic. Therefore, mithramycin is included in this regulation.

(c) Because of the need to maintain an adequate supply of these drugs, the Commissioner has determined that he cannot withhold supplies from chronically ill patients pending resolution of the test disparity. He has concluded that supplies of these life-sustaining drugs must continue to be made available subject to conditions that will assure, to the extent humanly possible, that the drugs are both safe and effective, notwithstanding that substantiation by the Food and Drug Administration of certain tests performed by the manufacturer may not be applied as a prerequisite for release.

(d) Accordingly, for a temporary period the Food and Drug Administration will not require, as a prerequisite for release, that there be the Food and Drug Administration substantiation of manufacturers' results of LD_{50} tests conducted in accordance with § 450.20a(a)(1)(iv) for sterile dactinomycin, § 450.220(a)(1) for dactinomycin for injection, § 450.240(a)(1) for mithramycin for injection, and § 450.24(a)(1)(iv) for doxorubicin hydrochloride, and will release such batches pursuant to section 507(a) of the act, provided that the drug otherwise complies with applicable monograph requirements, including substantiation testing by the Food and Drug Administration, and each of the following conditions is met:

(1) The manufacturer has submitted data for certification purposes that demonstrate that, as tested by the manufacturer, the drug meets the requirements for LD_{50} as provided in § 450.20a for sterile dactinomycin, § 450.220 for dactinomycin for injection, § 450.240 for mithramycin for injection, and § 450.24 or an approved antibiotic application (Form 5) for doxorubicin hydrochloride, as appropriate;

(2) The manufacturer complies with such conditions that the Commissioner may impose to ensure that batches of antitumor antibiotics subject to the provisions of this section are readily identifiable once released into the channels of commerce; and

(3) The manufacturer notifies physicians, pharmacists, and other health professionals in a manner prescribed by the Commissioner that these drugs have not passed the Food and Drug Administration LD_{50} batch substantiation tests and may accordingly exhibit higher potency than previously certified batches and therefore may have a higher than usual possibility of producing toxic reactions.

(e) The Food and Drug Administration shall endeavor as quickly as possible to resolve the basis for the current discrepancies between present manufacturer and agency LD_{50} testing and thereby remove the interim requirements imposed by this section.

2. Section 450.24 is amended by revising the first sentence of paragraph (b)(4)(ii) to read as follows:

§ 450.24 Doxorubicin hydrochloride.

* * * * *

(b) * * *

(4) * * *

(ii) *Procedure.* Select 50 male mice, weighing between 18 and 22 grams, of the Flanders Research Farms ICR/FRF–2 strain. * * *

* * * * *

Because of the need to continue to supply these life-sustaining products to chronically ill patients, the Commissioner finds, for good cause, pursuant to § 10.40 (c)(4) and (e) (21 CFR 10.40 (c)(4) and (e)), that prior notice and public procedure are contrary to the public interest and that the amendment may become effective upon the day of publication. Interested persons may, on or before September 26, 1977, file with the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments, in four copies. Comments received may be seen in the office of the Hearing Clerk, between 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

Effective date: This amendment becomes effective August 26, 1977.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357))

Dated: August 19, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-24798 Filed 8-25-77;8:45 am]

[1] The term "LD_{50}" refers to the dosage of the drug that should be expected to kill 50 percent of the animals that receive the drug.

SUBCHAPTER F—BIOLOGICS

[Docket No. 76N–0129]

PART 640—ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS

Cryoprecipitated Antihemophilic Factor (Human)

Correction

In FR Doc. 77–20802, appearing at page 37545 in the issue of Friday, July 22, 1977, make the following changes:

1. On page 37546, the fourth and fifth lines of the first column, now reading, "the reference room § 640.60 (f) and (g) to §§ 640.71 and 640.72." should read, "respectively (see the FEDERAL REGISTER of March 12, 1976 (41 FR 10762.".

2. On page 37546, first column, the first word in § 640.53(c), now reading "Manufactures", should read "Manufacturers".

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 4—LABOR STANDARDS FOR FEDERAL SERVICE CONTRACTS

Canton Islands and White Collar Workers; Extension

AGENCY: Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: These amendments to the Service Contract Act regulations are made to conform the regulations to recent amendments to that Act. One amendment added coverage of service contracts performed on Canton Island. The other extended coverage to white collar workers, but continued to exclude executive, administrative, and professional employees.

DATES: These amendments are effective on August 26, 1977, as they merely reflect changes made by amendments to the Service Contract Act.

V 42166 A AUG 26 77 UMI

FOR FURTHER INFORMATION CONTACT:

Alvin Bramow, Deputy Associate Solicitor, General Legal Services, Office of the Solicitor, Room N-2464, New Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone 202-523-8293.

SUPPLEMENTARY INFORMATION: Current Service Contract Act regulations issued as Part 4 of Title 29 do not contain changes made in the Service Contract Act by two recent amendments to the Act.

By Pub. L. 93-57, 87 Stat. 140, effective July 6, 1973, the Service Contract Act coverage was extended to Canton Island.

By Pub. L. 94-489, 90 Stat. 2358, approved October 13, 1976, coverage under the Service Contract Act was extended to white collar workers. Accordingly, the minimum wage protection of the Service Contract Act now extends to all workers (both blue collar and white collar) other than persons employed in a bona fide executive, administrative, or professional capacity as these terms are used in the Fair Labor Standards Act and in Part 541 of Title 29. The extension of coverage to white collar workers was accomplished by amending the Act by adding to Section 2(a)(5) thereof a reference to 5 U.S.C. 5332 and by redefining service employee in Section 8(b) of the Act.

The changes in Part 4 of Title 29 made in this document conform Part 4 to the above described changes in the law.

This document was prepared under the direction and control of Warren D. Landis, Deputy Administrator, Wage and Hour Division, Room S-3502, New Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone 202-523-8305.

Accordingly Part 4 of Title 29 is revised as follows:

1. New paragraphs (b) and (c) are added to § 4.1a, and the present paragraph (b), as amended, is designated paragraph (d), as follows:

§ 4.1a The Act as amended.

* * * * *

(b) The provisions of the Act were amended by Pub. L. 93-57, 87 Stat. 140, effective July 6, 1973, to extend the Act's coverage to Canton Island.

(c) The provisions of the Act were amended by Pub. L. 94-489, 90 Stat. 2358, approved October 13, 1976, to extend the Act's coverage to white collar workers. Accordingly, the minimum wage protection of the Act now extends to all workers, both blue collar and white collar, other than persons employed in a bona fide executive, administrative, or professional capacity as those terms are used in the Fair Labor Standards Act and in Part 541 of Title 29. Pub. L. 94-489 accomplished this change by adding to Section 2(a)(5) of the Act a reference to 5 U.S.C. 5332, which deals with white collar workers, and by amending the definition of service contract employee in Section 8(b) of the Act.

(d) Included in this Subpart A and in Part 6 of this subtitle are provisions to give effect to the amendments mentioned in this section. Until editorial revisions of other provisions of this part can be made to conform to the Act as amended, such provisions should be read in conjunction with the statutory amendments referred to in this section.

2. Section 4.1b is amended to read as follows:

§ 4.1b Definitions and use of terms.

(a) * * *

* * * * *

(7) "Act," "Service Contract Act," or "Service Contract Act of 1965" shall mean the Service Contract Act of 1965 as amended by Pub. L. 92-473, 86 Stat. 789, effective October 9, 1972, Pub. L. 93-57, 87 Stat. 140, effective July 6, 1973, and Pub. L. 94-489, 90 Stat. 2358, effective October 13, 1976.

* * * * *

3. Section 4.3(b) is amended to read as follows:

§ 4.3 Register of wage determinations.

* * * * *

(b) Such wage determinations will set forth for the various classes of service employees to be employed in furnishing services under such contracts in the several localities, minimum monetary wage rates to be paid and minimum fringe benefits to be furnished them during the periods when they are engaged in the performance of such contracts, including, where appropriate under the Act, provisions for adjustments in such minimum rates and benefits to be placed in effect under such contracts at specified future times. The wage rates and fringe benefits set forth in such wage determinations shall be determined in accordance with the provisions of sections 2(a)(1), (2), and (5), 4(c) and 4(d) of the Act from those prevailing in the locality for such employees and from pertinent collective bargaining agreements, with due consideration of the rates that would be paid for direct Federal employment of any classes of such employees whose wages, if federally employed, would be determined as provided in 5 U.S.C. 5341 or 5 U.S.C. 5332. Unless otherwise specified in the wage determination, the wage rates and fringe benefits so determined for any class of service employees to be engaged in furnishing covered contract services in a locality shall be made applicable by contract to all service employees of such class employed to perform such services in the locality under any contract subject to section 2(a) of the Act which is entered into thereafter and before such determination has been rendered obsolete by a withdrawal, modification, or supersedure.

* * * * *

4. Section 4.4(b)(2) is amended to read as follows:

§ 4.4 Notice of intention to make a service contract.

* * * * *

(b) * * *

* * * * *

(2) A listing of those classes of service employees expected to be employed under the contract which, if employed by the agency, would be subject to the wage provisions of 5 U.S.C. 5341 or 5 U.S.C. 5332, together with a specification of the rates of wages and fringe benefits that would be paid by the Government to employees of each such class if such statute were applicable to them. (Under section 2(a)(5) of the Act and § 4.6 the inclusion of such a statement in the service contract is also required.)

* * * * *

5. Section 4.6 is amended to read as follows:

§ 4.6 Labor standards clauses for Federal service contracts exceeding $2,500.

The clauses set forth in the following paragraphs shall be included in every contract (and any bid specification therefor) entered into by the United States or the District of Columbia, in excess of $2,500, the principal purpose of which is to furnish services through the use of service employees:

(a) Service Contract Act of 1965: This contract, to the extent that it is of the character to which the Service Contract Act of 1965, as amended 41 U.S.C. 351), applies, is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor thereunder (this Part 4).

* * * * *

(j)(1) As used in these clauses relating to the Service Contract Act of 1965, as amended, the term "service employee" means any person engaged in the performance of a contract entered into by the United States and not exempted under Section 7, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in Part 541 of Title 29, Code of Federal Regulations, as of July 30, 1976, and any subsequent revision of those regulations); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

(2) The following classes of service employees expected to be employed under the contract with the Government would be subject, if employed by the contracting agency, to the provisions of 5 U.S.C. 5341 or 5 U.S.C. 5332 and would, if so employed, be paid not less than the following rates of wages and fringe benefits:

Employee class	*Monetary wage-fringe benefits*

* * * * *

(m) These clauses relating to the Service Contract Act of 1965 shall not apply to the following:

* * * * *

(8) Any services to be furnished outside the United States. For geographic purposes, the "United States" is defined in section 8(d) of the Service Contract Act to include any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf Lands as defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, Wake Island, Eniwetok Atoll, Kwajalein Atoll, Johnston Island and Canton Island. It does not include any other territory under the jurisdiction of the United States or any U.S. base or possession within a foreign country.

* * * * *

6. Section 4.102 is amended to read as follows:

§ 4.102 The Act.

The McNamara-O'Hara Service Contract Act of 1965 (Pub. L. 89-286, 79 Stat. 1034, 41 U.S.C. 351 et seq.), hereinafter referred to as the Act, was approved by the President on October 22, 1965 (1 Weekly Compilation of Presidential Documents 428). It establishes standards for minimum compensation and safety and health protection of employees performing work for contractors and subcontractors on service contracts entered into with the Federal Government and the District of Columbia. It applies to contracts entered into pursuant to negotiations concluded or invitations for bids issued on or after January 20, 1966. It has been amended by Pub. L. 92-473, 86 Stat. 789; by Pub. L. 93-57, 87 Stat. 140; and by Pub. L. 94-489, 90 Stat. 2358.

7. Section 4.112 is amended to read as follows:

§ 4.112 Contracts to furnish services "in the United States."

(a) The Act covers contract services furnished "in the United States." The geographical area included in the "United States" is defined in section 8(d) as "any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf lands as defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, Wake Islands, Eniwetok Atoll, Kwajalein Atoll, Johnston Island and Canton Island." The definition expressly excludes any other territory under the jurisdiction of the United States (e.g. the Canal Zone) and any United States base or possession within a foreign country. Services to be performed exclusively on a vessel operating in international waters outside the geographic areas named in section 8(d) would not be services furnished "in the United States" within the meaning of the Act.

* * * * *

8. Section 4.113 is amended to read as follows:

§ 4.113 Contracts to furnish services "through the use of service employees".

(a) *Use of "service employees" in contract performance.* (1) As indicated in § 4.110, the Act covers service contracts in which "service employees" will be used in performing the services which it is the purpose of the contract to procure. A service contract otherwise subject to the Act ordinarily will meet this condition if any of the services which it is the principal purpose of the contract to obtain will be furnished through the use of any service employee or employees. Even where it is contemplated that the services (of the kind performed by service employees) will be performed individually by the contractor himself, the contract cannot be considered outside the reach of the Act unless it is known in advance that the contractor will in no event use any service employee during the term of the contract in furnishing the services called for. If the contracting officer knows when advertising for bids or concluding negotiations that no such employee will be used by the contractor in any event in providing the contract services, the Act will not be deemed applicable to the contract and the contract clauses required by § 4.6 or § 4.7 may be omitted. However, in all other cases such clauses must be included in the contract documents, for application in the event service employees are used in furnishing the services. The fact that the required services will be performed by municipal employees or employees of a State would not remove the contract from the purview of the Act, as this Act does not contain any exemption for contracts performed by such employees. Also, where the services the Government wants under the contract are principally of a type that will require the use of service employees as defined in section 8(b) of the Act, the contract is not taken out of the purview of the Act by the fact that the manner in which the services of such employees are performed will be subject to the continuing overall supervision of professional personnel to whose services the Act would not be considered to apply.

* * * * *

(b) *"Service employees" defined.* In determining whether or not any of the contract services will be performed by service employees, the definition of "service employee" in section 8(b) of the Act is controlling. It provides:

"The term 'service employee' means any person engaged in the performance of a contract entered into by the United States and not exempted under section 7, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in part 541 of title 29, Code of Federal Regulations, as of July 30, 1976, and any subsequent revision of those regulations); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.".

It will be noted that the definition expressly excludes those employees who are employed in a bona fide executive, administrative, or professional capacity as defined in Part 541 of this title and as discussed further in § 4.156. Some of the specific types of service employees who may be employed on service contracts are noted in subsequent sections which discuss the application of the Act to employees.

9. Section 4.156 is revised to read as follows:

§ 4.156 Employees in bona fide executive, administrative, or professional capacity.

The term "service employee" as defined in Section 8(b) of the Act does not include persons employed in a bona fide executive, administrative, or professional capacity as those terms are defined in 29 CFR Part 541. Employees within the definition of service employee who are employed in an executive, administrative, or professional capacity are not excluded from coverage, however, even though they are highly paid, if they fail to meet the tests set forth in 29 CFR Part 541. Thus, such employees as laboratory technicians, draftsmen, and air ambulance pilots, though they require a high level of skill to perform their duties and may meet the salary requirements of the regulations in Part 541 of this title, are ordinarily covered by the Act's provisions because they do not typically meet the other requirements of those regulations.

Signed at Washington, D.C., on this 19th day of August, 1977.

XAVIER M. VELA,
Administrator.

[FR Doc.77-24854 Filed 8-25-77;8:45 am]

CHAPTER XIV—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PART 1602—RECORDS AND REPORTS

State and Local Government Information Report, Extension of Deadline for Filing Report

Notice is hereby given that the deadline for filing the 1977 State and Local Government Information (EEO-4) report required by 29 CFR 1602.32 is extended from September 30, 1977 to November 30, 1977. The payroll period for the EEO-4 report remains unchanged.

Signed at Washington, D.C., this 22nd day of August 1977.

ELEANOR HOLMES NORTON,
Chairperson, Equal Employment Opportunity Commission.

[FR Doc.77-24761 Filed 8-25-77;8:45 am]

V 42 166 AUG 26 77 A UMI

CHAPTER XXVI—PENSION BENEFIT GUARANTY CORPORATION

PART 2614—RESPONSIBILITY AND ETHICAL CONDUCT OF EMPLOYEES

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule prescribes standards of conduct applicable to all employees of the Pension Benefit Guaranty Corporation ("PBGC"). It also requires employees occupying certain positions within the PBGC to submit Statements of Employment and Financial Interests and to update such statements annually by the submission of supplemental statements. The PBGC is required to issue this rule by the Civil Service Commission's regulation on Employee Responsibilities and Conduct and by Executive Order 11222. The effect of this rule is to specify standards governing the conduct of PBGC employees while performing official duties and while involved in nonofficial activities which could reflect adversely upon the PBGC as their employer.

EFFECTIVE DATE: August 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Stephen Schreiber, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006, 202–254–3010.

SUPPLEMENTARY INFORMATION: This rule relates solely to PBGC personnel practices. Accordingly, opportunity for public participation in the rule making process and delay in effective date are not required. In consideration of the foregoing, Chapter XXVI of Title 29, Code of Federal Regulations, is hereby amended by adding a new Part 2614 to read as follows:

GENERAL

Sec.
2614.1 Purpose and scope.
2614.2 Definitions.
2614.3 Counseling service.
2614.4 General provisions.
2614.5 Criminal sanctions.

STANDARDS OF CONDUCT

2614.6 Proscribed actions.
2614.7. Gifts, entertainment, reimbursement and favors.
2614.8 Outside employment and other activity.
2614.9 Financial interests.
2614.10 Negotiation for private employment.
2614.11 Use of Government property.
2614.12 Use of information.
2614.13 Indebtedness.
2614.14 Gambling, betting and lotteries.
2614.15 General conduct prejudicial to the Government.
2614.16 Political activity.
2614.17 Strikes.
2614.18 Nondiscrimination.
2614.19 Special Government employees.

STATEMENTS OF EMPLOYMENT AND FINANCIAL INTERESTS

2614.20 Regular Government employees.
2614.21 Listing of positions.
2614.22 Time and place for submission of statements.
2614.23 Supplementary statements.
2614.24 Special Government employees.
2614.25 Interests of employee's relatives.
2614.26 Information not known by an employee.
2614.27 Information not required.
2614.28 Forms.
2614.29 Review procedures.
2614.30 Confidentiality.
2614.31 Review of files.
2614.32 Effect of employee's statement on other requirements.

Appendix A.—Identification of Positions the Incumbents of which must file Financial Statements.

AUTHORITY: Section 4002(b)(3), Pub. L. 93-406, 88 Stat. 1004 (29 U.S.C. § 1302(b)(3) (Supp. V, 1975)); EO 11222, 30 FR 6469, 3 CFR 1964–65, Comp., p. 306; 5 CFR 735.104.

GENERAL

§ 2614.1 Purpose and scope.

(a) *Purpose.* The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by employees and special Government employees is essential to assure the proper performance of the PBGC's business and the maintenance of confidence by citizens in their Government. The avoidance of misconduct and conflicts of interest on the part of employees and special Government employees through informed judgment is indispensable to the maintenance of these standards. To accord with these concepts, this part sets forth the PBGC's regulation prescribing standards of conduct and responsibilities and governing statements of employment and financial interests for employees and special Government employees. It implements the Civil Service Commission regulation (5 CFR Part 735) issued October 1, 1965 in accordance with Executive Order 11222, of May 8, 1965, "Prescribing Standards of Ethical Conduct for Government Officers and Employees."

(b) *Scope.* This part is applicable to all employees of the PBGC.

§ 2614.2 Definitions.

For purposes of this part:

"Employee" means both a regular Government employee and a special Government employee.

"Employing Office" means the office of the PBGC in which an employee is employed.

"Executive Director" means the Executive Director of the PBGC.

"PBGC" or the "Corporation" means the Pension Benefit Guaranty Corporation.

"Regular Government employee" means an officer or employee of the PBGC other than a special Government employee.

"Special Government Employee" means an officer or employee of the PBGC who is retained, designated, appointed or employed by the PBGC or by the President of the United States to perform with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, temporary duties for the PBGC either on a full-time or intermittent basis.

§ 2614.3 Counseling service.

(a) The General Counsel of the PBGC is designated as E'hics Counselor to the Corporation in matters within the scope of this part.

(b) The General Counsel shall designate Deputy Counselors who will be available to counsel employees on questions relating to ethics, standards of conduct and conflicts of interest.

(c) The Branch of Personnel Management, Office of Management Services, PBGC, shall be responsible for:

(1) Advising employees of the times and places where counseling services are available and the names of Deputy Counselors;

(2) Causing employees to be furnished with copies of this part not later than 90 days after it is published in the FEDERAL REGISTER;

(3) Causing each new employee to be furnished with a copy of this part when such employee enters duty;

(4) Annually, and at such other times as circumstances warrant, alerting employees as to the provisions of this part.

§ 2614.4 General provisions.

(a) All employees shall acquaint themselves with the regulations in this part, and the laws and regulations on which these regulations are based, including:

(1) House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the "Code of Ethics for Government Service."

(2) Chapter 11 of title 18, United States Code, relating to bribery, graft and conflicts of interest.

(3) The prohibitions against participating in strikes against the Government (5 U.S.C. 7311, 18 U.S.C. 1918).

(4) The prohibitions against the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783) and the disclosure of confidential information (18 U.S.C. 1905).

(5) The provision relating to the excessive and habitual use of intoxicants (5 U.S.C. 7352).

(6) The prohibition against the use of a Government vehicle for non-official purpose (31 U.S.C. 638a(c)).

(7) The prohibition against the use of the franking privilege for private purposes (18 U.S.C. 1719).

(8) The prohibition against interference with the Civil Service Examination and Placement process (18 U.S.C. 1917).

(9) The prohibition against knowingly and willfully making false or fraudulent statements in any matter within the jurisdiction of any department or agency of the United States (18 U.S.C. 1001).

(10) The prohibiton against counterfeiting and forging transportation requests on a form provided for the use of the Government (18 U.S.C. 508).

(11) The prohibition against concealing, removing, obliterating, mutilating or otherwise destroying public records (18 U.S.C. 2071).

(12) The prohibitions against embezzlement of Government money or property (18 U.S.C. 641), failing to account for public money (18 U.S.C. 643) and embezzlement by a Government employee of the money or property of another person in the possession of such employee by reason of his employment (18 U.S.C. 654).

(13) The prohibition against unauthorized taking or use of documents relating to claims from or by the Government (18 U.S.C. 285).

(14) The prohibitions against political activities in subchapter III of chapter 73 of title 5, United States Code and 18 U.S.C. 602, 606, 607 and 608.

(15) The prohibition against a Government employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

(16) The prohibition against the receipt of excessive honorariums (2 U.S.C. 441(i)).

(b) An employee who fails to comply with any of the provisions of this part shall be subject both to any penalty prescribed by law and also such other disciplinary or remedial action effected in accordance with applicable laws, Executive orders and regulations as may be appropriate to the particular case, including but not limited to:

(1) Disqualification for a particular assignment;

(2) Changes in assigned duties;

(3) Disciplinary action.

§ 2614.5 Criminal sanctions.

Sections 201 through 209 of title 18, United States Code, prohibit, subject to criminal penalties, certain acts by Government employees involving conflict-of-interest situations. These provisions, which contain limited exceptions for special Government employees, include the following prohibitions:

(a) Section 203, in general, prohibits a Government employee from soliciting, receiving or agreeing to receive compensation for services rendered on behalf of another before a Government department or agency in relation to any particular matter in which the United States is a party or has a direct and substantial interest.

(b) Section 205, in general, prohibits a Government employee from acting as agent or attorney for prosecuting any claim against the United States or acting as agent or attorney for anyone before any Federal courts or agencies in connection with any particular matter in which the United States is a party or has a direct and substantial interest. It also prohibits a Government employee from receiving any gratuity, or any share of or interest in any claim against the United States, in consideration of assistance in the prosecution of such claim.

(c) Section 208, in general, prohibits a Government employee, while acting in his official capacity, from participating personally and substantially through decision, approval, disapproval, recommendation, the rendering of advice or otherwise in any particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner or employee or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest.

(d) Section 209, in general, prohibits regular Government employees from receiving salary or supplements to salary as compensation for their Government service from any source other than the United States.

The statutory provisions described in this section are intended to direct attention to potential problem areas and are not intended as a comprehensive description or interpretation of those provisions. Employees needing guidance concerning the scope and application of these provisions should consult a Deputy Counselor.

STANDARDS OF CONDUCT

§ 2614.6 Proscribed actions.

An employee shall take reasonable steps to avoid any action which might result in, or create the appearance of:

(a) Using public office for private gain for himself or another person;

(b) Giving unwarranted preferential treatment to any person or organization;

(c) Impeding Government efficiency or economy;

(d) Losing independence or impartiality;

(e) Making a Government decision outside official channels;

(f) Affecting adversely the confidence of the public in the integrity of the Government or the PBGC.

§ 2614.7 Gifts, entertainment, reimbursement and favors.

(a) *General.* An employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or any other thing of monetary value, from a person who:

(1) Has or is seeking to obtain contractual or other business or financial relations with the PBGC;

(2) Conducts a business enterprise that is subject to the statutory authority of the PBGC;

(3) Has interests that may be substantially affected by the performance or non-performance of the employee's PBGC duties.

(b) *Special rules.* Regular Government employees also shall be subject to the following:

(1) *Contributions and gifts to superiors.* A regular Government employee shall not solicit a contribution from another employee for a gift to an employee who is an official superior, make a donation for a gift to an employee who is an official superior or accept a gift from an employee receiving less pay than himself.

(2) *Payments from non-Government sources.* A regular Government employee shall not receive any salary or supplement to his salary from a non-Government source as compensation for services to the Government.

(c) *Exceptions.* The prohibitions in this section do not apply to the:

(1) Acceptance of unsolicited advertising or promotional material of nominal intrinsic value;

(2) Acceptance of an award for a meritorious public contribution given by a charitable, religious, professional, social, fraternal, non-profit educational, recreational, public service or civic organization;

(3) Acceptance of gifts resulting from obvious family or personal relationships when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;

(4) Acceptance of voluntary gifts of nominal value or donations in a nominal amount made on special occasions such as marriage, illness or termination of employment.

(5) Acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities;

(6) Acceptance of scholarships, fellowships and similar forms of assistance which are incident to education or training pursued by an employee on his own time and on his own initiative;

(7) Acceptance of food, entertainment, refreshments and gifts of nominal value on infrequent occasions in the ordinary course of a meeting, conference or training situation in which the employee properly is in attendance.

(8) Acceptance, when not otherwise proscribed by law, of bona fide reimbursement (including payments made on behalf of an employee) for those reasonable and necessary travel and accommodation expenses for which no Government payment or reimbursement is made.

(d) *Limitation.* An employee is obligated to avoid any activity which creates the appearance of impropriety. Accordingly, an employee may not accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or any other thing of monetary value otherwise permitted by this section if such acceptance would conflict or appear to conflict with the provisions of this part, other applicable laws. Executive orders or regulations.

V 42166 A AUG 26 77 UMI

§ 2614.8 Outside employment and other activity.

(a) A regular Government employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his PBGC employment. Such incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expenses or any other thing of monetary value in circumstances in which acceptance may result in or create the appearance of a conflict-of-interest.

(2) Outside employment which tends to impair his capacity to perform his PBGC duties and responsibilities in an acceptable manner.

(b) The PBGC encourages employees to engage in outside activities such as teaching, lecturing and writing since such activities serve to inform the public concerning the PBGC's activities and programs and to enhance an employee's value to the Government. However, an employee shall not engage in any such activities using information obtained as a result of his PBGC employment unless such information is available to the general public.

(c) This section does not preclude a regular Government employee from:

(1) Participation in the activities of national, state or local political parties when not proscribed by law.

(2) Participation in the affairs of a charitable, religious, professional, social, fraternal, non-profit educational, recreational, public service or civic organization.

(d) An employee who is engaged in or is planning to engage in outside employment, business, professional or other such activities for pay shall obtain clearance:

(1) When such activities raise a question of conflict with this part or any applicable laws, orders, regulations or standards, or

(2) When applicable laws, orders or regulations require clearance of such activities.

(e) A request for clearance shall be in writing and shall include a statement of the nature of and the amount of time to be devoted to the activity. The heads of offices shall receive and review requests for clearance submitted by members of their staff. The Executive Director or his designee shall receive and review requests for clearance submitted by the heads of offices and special Government employees. The employee reviewing the request for clearance may require the employee making the request to furnish such other information as may be appropriate in considering the request and shall consult with the Corporation's Ethics Counselor where appropriate. The request may be granted only if such activity would be consistent with applicable laws, orders and regulations. If the request for clearance is not granted, the employee making the request shall not commence or continue in the activity unless the Executive Director or his designee, upon written request of the employee, determines that such activity would be consistent with applicable laws, orders and regulations.

§ 2614.9 Financial interests.

(a) An employee shall not:

(1) Have a direct or indirect financial interest that conflicts substantially or appears to conflict substantially with his PBGC duties and responsibilities;

(2) Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through the performance of his PBGC duties; or

(3) Engage in, directly or indirectly, a financial transaction which is prohibited by law, regulation or Executive order.

(b) An employee shall not use or appear to use his position within the Corporation to coerce any person, enterprise, company, association, partnership, society, organization or instrumentality to provide a financial benefit to himself or another person.

(c) An employee who is assigned to a matter relating to a business enterprise in which he, his spouse or a minor child has a financial interest or a personal interest as a result of any current, prior or prospective employment, business or professional association, or which was at the time of his association with a firm, a client of such firm, shall submit immediately a written report detailing the nature of such interest to the head of his employing office. Office heads and special Government employees shall report such interests of their own to the Executive Director or his designee. The employee receiving the report shall determine whether, in view of the provisions of this part and the desirability of avoiding situations that create the appearance of a conflict-of-interest, the reporting employee can continue in that assignment and shall note such determination on the report.

§ 2614.10 Negotiation for private employment.

Except as provided in § 2614.9(c) and subject to the provisions of 18 U.S.C. 208, an employee shall not undertake or continue in an assignment if he knows such assignment may affect, directly or indirectly, any person or business enterprise with whom such employee is discussing, negotiating or entertaining a proposal for future employment.

§ 2614.11 Use of Government property.

(a) An employee shall protect and conserve Government property, including equipment, supplies and other property entrusted to him.

(b) An employee shall not directly or indirectly use, or allow the use of Government property of any kind, including property leased to the Government, for other than officially approved activities.

§ 2614.12 Use of information.

An employee shall not use, or allow the use of, official information obtained through the performance of his PBGC duties to further a private interest if such information is not available to the general public.

§ 2614.13 Indebtedness.

(a) An employee shall pay each just financial obligation in a proper and timely manner.

(b) For purposes of this section:

(1) A "just financial obligation" means one imposed by law such as Federal, State or local taxes, or one acknowledged by the employee or reduced to judgment by a court.

(2) "In a proper and timely manner" means in a manner which, under the circumstances, does not reflect adversely on the Corporation as his employer.

§ 2614.14 Gambling, betting, and lotteries.

An employee shall not participate in the operation of a gambling device, in conducting a lottery or pool, in a game for money or property or in selling or purchasing a numbers slip or ticket while on Government-owned or leased property or while on duty for the Government unless such activities are in connection with activities described in section 3 of Executive Order 10927 (dealing with fund raising by employee organizations for limited purposes).

§ 2614.15 General conduct prejudicial to the Government.

An employee shall not engage in criminal, infamous, dishonest, immoral or notoriously disgraceful conduct.

§ 2614.16 Political activity.

(a) *Permitted activities.* Regular Government employees have the right to vote as they choose and to express their opinions on all political subjects and candidates, to engage in those political activities relating to local elections and referenda on questions not specifically identified with a national or state political party as are permitted pursuant to 5 U.S.C. 7324, 7326 and 7327 and 5 CFR Part 733, and to make financial contributions to a political party or organization to the extent permitted by 18 U.S.C. 608.

(b) *Prohibited activities.* Regular Government employees are generally prohibited from taking an active part in political management or campaigns (5 U.S.C. 7324) and from soliciting, receiving, requiring or being concerned with political assessments, subscriptions or contributions for any political purpose whatever from other employees (18 U.S.C. 602, 606 and 607).

§ 2614.17 Strikes.

Federal law prohibits an employee from striking against the Government (5 U.S.C. 7311).

§ 2614.18 Nondiscrimination.

An employee shall not discriminate against any other employee or applicant for employment because of race, color, religion, national origin, sex or age.

§ 2614.19 Special Government employees.

Unless otherwise specifically provided, special Government employees shall be subject to the provisions of this part.

STATEMENTS OF EMPLOYMENT AND FINANCIAL INTERESTS

§ 2614.20 Regular Government employees.

(a) *General.* Statements of employment and financial interests shall be filed by the following regular Government employees:

(1) Those paid at a level of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.

(2) Those classified at GS–13 or above under 5 U.S.C. 5332 who are in positions:

(i) The incumbents of which are responsible for making a PBGC decision or taking a PBGC action in regard to contracting or procurement, administering or monitoring the payment of benefits, regulating or auditing private or other non-Federal enterprises, or other activities where the decision or action has an economic impact on the interests of any non-Federal enterprise; or

(ii) Which the Executive Director has determined have duties and responsibilities which require the incumbent to report employment and financial interests in order to avoid involvement in a possible conflict-of-interest situation and to carry out the purpose of law, Executive order, 5 CFR Part 735 and this part.

(3) Those classified below GS–13 under 5 U.S.C. 5332 who are in positions which otherwise meet the criteria in paragraph (a)(2) of this section, but only when the inclusion of those positions in Appendix A to this part has been specifically justified by the Executive Director in writing to the Civil Service Commission as an exception that is essential to protect the integrity of the PBGC and to avoid employee involvements in possible conflict-of-interest situations.

(b) *Exceptions.* Employees in positions that meet the criteria in paragraph (a) of this section shall not be required to file a statement of employment and financial interest if:

(1) The Executive Director determines that the duties of the position are such that the likelihood of the incumbent's involvement in a conflict-of-interest situation is remote, or the duties of a position are at such a level of responsibility that the submission of such a statement is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect on the integrity of the PBGC, or

(2) The employee is required to report such information to the Chairman of the Civil Service Commission pursuant to Section 401 of Executive Order 11222.

§ 2614.21 Listing of positions.

(a) *General.* Appendix A to this part contains a list of positions the incumbents of which must file statements of employment and financial interests.

(b) *Amendments.* Appendix A may be amended at any time pursuant to the criteria in § 2614.20. Such amendments shall be effective upon the approval of the Executive Director and actual notification to the affected employee.

(c) *Application for review.* An employee who believes that his position has been included in Appendix A improperly may apply to the Executive Director or his designee to have that inclusion reviewed.

(d) *Publication.* Amendments to Appendix A shall be submitted annually for publication in the FEDERAL REGISTER.

§ 2614.22 Time and place for submission of statements.

An employee required to submit a statement of employment and financial interests pursuant to § 2614.20 shall submit that statement to the employee designated in § 2614.29(a) to review such statements on or before the later of:

(a) November 25, 1977.

(b) Thirty days after the reporting employee's entrance on duty; or

(c) Thirty days after the effective date of an amendment which includes an employee's position in Appendix A to this part.

§ 2614.23 Supplementary statements.

(a) An employee required to submit a statement of employment and financial interests pursuant to § 2614.20 also shall submit on or before Sepetmber 30th of each year a supplementary statement showing either changes in or additions to the information contained in the statement of employment and financial interests or that no changes or additions occurred.

(b) The statement required by this section shall be submitted to the employee designated in § 2614.29(a) to review such statements.

§ 2614.24 Special Government employees.

(a) *General.* Each special Government employee shall submit a statement of:

(1) All other employment, and

(2) All financial interests (including the nature of such interests) deemed relevant by the Executive Director in light of the duties such employees is to perform.

(b) *Exception.* The Executive Director may waive the requirement in paragraph (a) of this section if:

(1) The special Government employee is not a consultant or an expert, as defined in chapter 304 of the Federal Personnel Manual, and the Executive Director determines that the duties of the position are of such a nature and at such a level of responsibility that the submission of the statement by the employee is not necessary to protect the integrity of the Corporation.

(2) The special Government employee is required to report such information to the Chairman of the Civil Service Commission pursuant to Section 401 of Executive Order 11222.

(c) *Submission.* Each special Government employee shall submit to the Executive Director the statement required by this section on or before the later of his entrance on duty, or November 25, 1977, and shall keep that statement current throughout his employment with the Corporation by the submission of supplementary statements.

§ 2614.25 Interests of employee's relatives.

(a) For purposes of completing the statements required by §§ 2614.20, 2614.23 and 2614.24 the interest of a spouse, minor child or other member of the employee's immediate household who is related to such employee by blood or marriage shall be considered an interest of the employee.

(b) For purposes of this section, "members of an employee's immediate household" means those blood or marital relations who reside with the employee.

§ 2614.26 Information not known by an employee.

If any information required to be included on a statement required by §§ 2614.20, 2614.23 or 2614.24, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit such information in his behalf.

§ 2614.27 Information not required.

(a) An employee required to file a statement pursuant to §§ 2614.20, 2614.23 or 2614.24 shall not be required to include on such statement any information relating to his connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic or political organization which is not conducted as a business enterprise.

(b) For purposes of this section, the term "business enterprise" shall include educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government.

§ 2614.28 Forms.

(a) The statement of employment and financial interests required by §§ 2614.20 and 2614.24 for use by regular and special Government employees shall be in the form prescribed for such employees by the Civil Service Commission in the Federal Personnel Manual.

(b) The forms prescribed by this section shall be provided to the incumbents of the positions listed in Appendix A to this part by the employee designated in § 2614.29(a) to review such statements or his designee.

§ 2614.29 Review procedures.

(a) The General Counsel, or his designee, shall review the statements of regular Government employees filed pursuant to §§ 2614.20 and 2614.23. The Executive Director, or his designee, shall review the statements of special Government employees filed pursuant to § 2614.24

(b) If it appears that a statement filed pursuant to §§ 2614.20, 2614.23 or 2614.24 discloses a possible or apparent conflict with the provisions of this part, the employee submitting such statement may submit additional evidence in explanation of the possible or apparent conflict.

(c) An employee whose statement is subject to review pursuant to the provisions of this section shall furnish such

V 42166 AUG 26 77 UMI

additional information as may be appropriate in light of the circumstances of the particular case.

(d) If, in light of information known from other sources, the review of a statement filed pursuant to §§ 2614.20, 2614.23 or § 2614.24 discloses a possible or apparent conflict with the provisions of this part, other applicable laws, Executive orders or regulations, the employee who filed the statement shall be so notified. In an appropriate case, or at the request of such employee, the employee's statement and other pertinent information shall be forwarded to the General Counsel for review. If, after a review of all available evidence, the General Counsel finds that a possible or apparent conflict with the provisions of this part, other applicable laws, Executive orders or regulations may exist, he shall forward all available evidence to the Executive Director. If, after reviewing such evidence, the Executive Director finds that such a conflict exists, he or the head of the employing office shall initiate appropriate remedial action pursuant to § 2614.4(b), other applicable law, Executive orders or regulations.

(e) Pending any final determination with regard to a statement filed pursuant to §§ 2614.20, 2614.23 and 2614.24, the head of the employing office or the Executive Director may relieve the reporting employee of any duties which appear to create a conflict with the provisions of this part, other applicable laws, Executive orders and regulations and assign such employee to other duties.

§ 2614.30 Confidentiality.

(a) The Corporation shall hold statements submitted pursuant to §§ 2614.20, 2614.23 or 2614.24 in confidence. Such statements shall be kept in special files maintained by the employees responsible for review of such statements. Such employees shall be responsible for maintaining the statements in confidence and, except as necessary to carry out the purposes of this part or as provided in paragraph (b) of this section, shall not allow examination of any statement or copy thereof.

(b) Information from a statement shall not be made available to the public except as the Executive Director or the Civil Service Commission may determine for good cause shown.

(c) A statement submitted pursuant to §§ 2614.20, 2614.23 or 2614.24 or a copy thereof shall not be included in an employee's personnel file.

§ 2614.31 Review of files.

The General Counsel or his designee may examine any file containing statements submitted pursuant to §§ 2614.20, 2614.23 and 2614.24. He shall report any possible or apparent conflicts with the provisions of this part, other applicable law, Executive order or regulation discovered thereby to the head of the employing office or the Executive Director, as appropriate.

§ 2614.32 Effect of employees' statements on other requirements.

The statements submitted pursuant to §§ 2614.20, 2614.23 and 2614.24 shall be in addition to, and not in substitution for or in derogation of, any similar requirement imposed by law, Executive order or regulation. The submission of such statements shall not permit an employee or any other person to participate in a matter in which the employee's or the other person's participation is prohibited by this part, other applicable law, Executive order or regulation.

APPENDIX A—IDENTIFICATION OF POSITIONS THE INCUMBENTS OF WHICH FILE FINANCIAL STATEMENTS

SPECIFIC POSITIONS

Office of the Executive Director

Deputy Executive Director
Assistants to the Executive Director
Director of Internal Audit
Other Employees GS–13 and above.

Office of the General Counsel

General Counsel
Deputy General Counsel
Assistant General Counsels
Deputy Assistant General Counsels
Executive Assistant to the General Counsel
Special Counsel
Supervisory Attorneys

Office of Program Development

Director
Deputy Director
Chief, Division of Actuarial Services
Chief, Division of Research and Evaluation
Chief, Division of Technical Services
Chief, Division of Program Development
Other Employees GS–13 and above.

Office of Communications

Director
Deputy Director
Chief, Division of Inquiries
Chief, Division of Pension Group Relations

Office of Finance

Director
Deputy Director
Chief, Division of Assets Management
Chief, Division of Accounting
Financial Analysts (Investment Advisor)
Financial analysts (Cash Management)
Other Employees GS–13 and above.

Office of Program Operations

Director
Deputy Director
Chief, Division of Plan Termination
Chief, Division of Plan Review
Chief, Division of Coverage
Chief, Division of Compliance
Chief, Division of Benefits Administration
Supervisory Case Officers
Other Employees GS–13 and above.

Office of Management Services

Director
Deputy Director
Chief, Division of Budget and Management Analysis
Chief, Division of Procurement
Chief, Division of Office Services
Chief, Division of Personnel Management
Contract Specialists, Division of Procurement
Other Employees GS–13 and above.

Office of Information Management

Director
Deputy Director
Chief, Division of Applications Development
Chief, Division of Systems Analysis
Chief, Division of Document Processing
Computer Programmers, Division of Applications Development
Computer System Analysts, Division of Systems Analysis
Other Employees GS–13 and above.

These regulations have been approved by the Civil Service Commission.

Issued in Washington, D.C. this 15th day of August, 1977.

MATTHEW M. LIND,
Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc.77-24796 Filed 8-25-77;8:45 am]

Title 32—National Defense

CHAPTER VI—DEPARTMENT OF THE NAVY

PART 721—STANDARDS OF CONDUCT

Revision

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: These regulations are being revised to implement and conform with the revised policies of the Secretary of Defense on standards of conduct as promulgated in Department of Defense Directive 5500.7, Standards of Conduct, dated January 15, 1977. These revised regulations prescribe and describe the standards of conduct required of military and civilian naval personnel.

EFFECTIVE DATE: August 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander Robert E. Coyle, Head, Finance Branch (Code 134), Office of the Judge Advocate General, Department of the Navy, Washington, D.C. 20370. Telephone 202–694–5267.

SUPPLEMENTARY INFORMATION: Pursuant to the authority conferred under 5 U.S.C. 301, 10 U.S.C. 133 and 5031, the Secretary of the Navy revises 32 CFR Part 721. This revision reflects the changes made to the underlying Secretary of the Navy instruction, SECNAV INST 5370.2 (series), which delineates the Navy's Standards of Conduct. These Standards of Conduct were reorganized and expanded to increase their value as a normative guide for personnel and to ensure their validity as a legal basis for disciplinary action in appropriate cases. The responsibilities of individuals for observing the Standards of Conduct, and the responsibilities of commands for enforcing the standards, are further delineated. Also, provisions concerning the filing, review, and disposition of confidential statements of affiliations and financial interests (DD Form 1555) are expanded; the Under Secretary of the Navy is now required to file an annual report with DOD regarding the Navy's compliance with the filing requirements; and special filing requirements are included for certain potential flag-officer nominees. Further, accession training in the Standards of Conduct is required for all naval personnel regardless of position or duties; the prohibition on commercial solicitations has been expanded to include certain civilian personnel; and the customary exchange of gifts between naval personnel and family members and friends is now authorized under certain circumstances. Finally, the requirement that retired Regular officers provide information on their post-retirement employment by filing a DD Form 1357 has been modified.

This revision, which was adopted on August 4, 1977, reflects changes to the Department of the Navy's Standards of Conduct issued in implementation of the Department of Defense standards codified at 32 CFR Part 40. To the limited extent that this revision could be deemed to originate any requirements within the Department of the Navy, it has been determined that such requirements relate entirely to internal naval management and personnel practices that can be administered more effectively without public participation in the rule-making process. It has therefore been determined that invitation of public comment on this revision would be impracticable and unnecessary and is therefore not required under the provisions of Parts 296 and 701 of 32 CFR.

Accordingly, 32 CFR Part 721 is revised to provide as follows:

Sec.

721.1 Purpose.
721.2 [Reserved]
721.3 Scope and effect.
721.4 Definitions.
721.5 General policies governing the conduct of naval personnel.
721.6 Regulations governing the conduct of naval personnel.
721.7 Related statutes and directives.
721.8 Responsibilities for action.
721.9 Statements of affiliations and financial interests (DD Form 1555).
721.10 Information to personnel.
721.11 Privacy Act consideration.
721.12 Reporting of post-retirement employment.
721.13 Availability of forms.

AUTHORITY: 5 U.S.C. 301; 10 U.S.C. 133 and 5031; E.O. No. 11222, May 8, 1965; 5 CFR Part 735; 32 CFR Part 40.

§ 721.1 Purpose.

Part 721 implements and supplements Part 40 of this title in prescribing required standards of ethical conduct governing all personnel of the Department of the Navy; related requirements applicable to all personnel of certain categories in the Department of the Navy; amplifying policies for the guidance of personnel in interpreting and executing the standards of conduct and related requirements; and responsibilities and procedures for monitoring and enforcing compliance with the standards of conduct and related requirements within the Department of the Navy.

§ 721.2 [Reserved]

§ 721.3 Scope and effect.

(a) *Applicability.* The provisions of this part apply to all naval personnel as defined in § 721.4(a). The provisions of § 721.6(1)(2) apply to all retired naval personnel and members of Reserve components. The provisions of § 721.12 also apply to all retired Regular officers.

(b) *Violations.* The regulations prescribed in § 721.6 are a general order upon which disciplinary or punitive proceedings may be based in appropriate cases. Noncompliance with other provisions of this part are expected to be corrected by timely and appropriate administrative measures.

§ 721.4 Definitions.

(a) *Naval personnel.* All civilian officers and employees and all active-duty military personnel of the Department of the Navy, including special Government employees and personnel of nonappropriated fund instrumentalities.

(b) *Department of Defense (DOD) components.* The Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies, including nonappropriated fund instrumentalities.

(c) *Special government employee.* A person who is retained, designated, appointed, or employed to perform, with or without compensation, not to exceed 130 days during any period of 365 consecutive days, temporary duties, on either a full-time or intermittent basis. The term also includes a Reserve officer while on active duty solely for training for any length of time, one who is serving on active duty involuntarily for any length of time, and one who is serving voluntarily on extended active duty for 130 days or less. It does not include enlisted personnel.

(d) *Gratuity.* Any gift, favor, entertainment, hospitality, transportation, loan, any other tangible item, and any intangible benefit—for example, discounts, passes, and promotional vendor training—given or extended to, or on behalf of, naval personnel or their spouses, minor children, or households, for which fair market value is not paid by the recipient or the U.S. Government.

(e) *Appropriate supervisor.* That superior within the chain of authority who is acquainted with the duties of the naval personnel concerned and can best determine the existence and effect of any conflict of interests of such personnel. Ordinarily, this will be the immediate superior of the person concerned. Each commanding officer or activity head should ensure that all personnel are aware of the identity of their appropriate supervisor.

§ 721.5 General policies governing the conduct of naval personnel.

(a) *Proper conduct of official activities.*

(1) Naval personnel shall become familiar with the scope of authority for, and the limitations concerning, the activities for which they have responsibilities.

(2) The attention of naval personnel is directed to the appropriate statutory prohibitions which apply to the conduct of naval personnel.

(3) Naval personnel shall not make or recommend any expenditure of funds or take or recommend any action known or believed to be in violation of U.S. laws, Executive Orders, or applicable directives, instructions, or regulations.

(4) In cases of doubt of the propriety of a proposed action or decision in terms of regulation or law, naval personnel shall consult legal counsel or, if appropriate, a Standards of Conduct Counsellor or Deputy Counsellor to ensure the proper and lawful conduct of naval programs and activities.

(b) *Conduct prejudicial to the Government.* Naval personnel shall avoid any action, whether or not specifically prohibited by this part, which might result in or reasonably be expected to create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any person or entity;

(3) Impeding Government efficiency or economy;

(4) Losing complete independence or impartiality;

(5) Making a Government decision outside official channels; or

(6) Adversely affecting the confidence of the public in the integrity of the Government.

(c) *Standards of personal judgment.* All naval personnel will adhere strictly to the standards of conduct and related requirements prescribed in this part. In some instances, standards are imposed which require the exercise of personal judgment. Naval personnel must consider each such instance carefully and be prepared to account for the manner in which the judgment is exercised. This is particularly true in situations which involve acceptance of hospitality or favors from persons or entities who do, or seek to do, business with the Department of Defense.

(d) *Dealings with business and industry representatives.* Persons who represent the Government in business dealings with representatives of industry have positions of trust and grave responsibility which require them to observe the highest ethical standards. Practices which may be accepted in the private business world are not necessarily acceptable for naval personnel. No person will allow himself to be placed in a position in which a conflict of interests might arise or might justifiably be suspected. Such a conflict of interests may arise or

V42166 AUG 26 77 UMI

appear to arise by reason of the acceptance of gratuities, or by any other action which could influence or reasonably be interpreted as influencing the strict impartiality that must prevail in all business relationships involving the Government. Strict impartiality is often particularly difficult to maintain when business relationships are allowed to become overly personal. Naval personnel should at all times ensure that persons doing business or attempting to do business with the Department of Defense, or representing such entities, are not permitted to ingratiate themselves to the extent that naval personnel hesitate to deny requests for special treatment made by such persons or otherwise to follow the rule of strict impartiality when dealing with such persons in their official capacities. Acceptance of gratuities (no matter how innocently tendered or received) from those who have or seek business dealings with the Department of the Navy may be a source of embarrassment to the department and to the naval personnel involved, may affect the objective judgment of the recipient, and may impair public confidence in the integrity of business relations between the department and industry. It is emphasized that prohibited conflicts and apparent conflicts of interests can sometimes arise even from relationships and transactions which the personnel concerned perceive as inconsequential. Where there is doubt as to the propriety of accepting gratuities, attending functions, or accepting other invitations of a hospitable nature, naval personnel will refrain therefrom.

(e) *Preferential treatment.* Special treatment must not be accorded to particular individuals or firms unless equivalent treatment is also accorded to other individuals or firms justifiably entitled thereto.

(f) *Acquiring conflicting financial interests.* Notwithstanding the fact that they may have filed confidential statements of affiliations and financial interests (DD Form 1555), naval personnel must at all times avoid acquiring or retaining financial interests which would disqualify them from performing their assigned duties or responsibilities. Some of the more likely situations in which conflicts of interests might arise are where naval personnel have Government duties or responsibilities related to business entities—

(1) With which they, or their spouses, minor children, or household members are associated as employees, officers, owners, directors, members, trustees, partners, advisers, or consultants;

(2) With which they, or their spouses, minor children, or household members are negotiating or have arrangements for prospective employment; or

(3) In which they, or their spouses, minor children, or household members have interests through ownership of stock options, bonds, securities or other financial arrangements, such as trusts, or through participation in pension or retirement plans.

(g) *Membership in associations.* Naval personnel who are members or officers of non-Governmental associations or organizations must avoid activities on behalf of the association or organization that are incompatible with their official Government positions. Secretary of the Navy Instruction (SECNAVINST) 5760.4 (series) sets forth the Department of the Navy policy regarding participation by naval activities and naval personnel in the activities of private associations.

(h) *Equal opportunity.* Naval personnel shall scrupulously adhere to the DoD program of equal opportunity regardless of race, color, religion, sex, age, or national origin, in accordance with equal opportunity directives. See, for example, SECNAVINST 5350.6 (series) and SECNAVINST 5350.10 (series).

(i) *Reporting suspected violations.* Naval personnel who have information which causes them to believe that other DoD personnel have violated a statute or standard of conduct imposed by this part should bring the matter to the attention of the appropriate command authority. The matter thereafter should be brought to the attention of the person concerned, for possible resolution without further command action, unless the command determines that such communication is not likely to remedy the problem or will adversely affect a proper investigation of the matter.

(j) *Resolving violations.* The resolution of standards of conduct violations shall be accomplished promptly by one or more measures, such as divestiture of conflicting interests, disqualification for particular assignments, changes in assigned duties, termination, or other appropriate action, as provided by statute or administrative procedures. Disciplinary actions shall be in accordance with established personnel procedures. See § 721.6(a).

§ 721.6 Regulations governing the conduct of naval personnel.

(a) *Affiliations and financial interests.* Naval personnel shall not engage in any personal, business, or professional activity, or receive or retain any direct or indirect financial interest, which places them in a position of conflict between their private interests and the public interests of the United States related to the duties or responsibilities of their official positions. For the purpose of this prohibition, the private interests of a spouse, minor child, and any household member are treated as private interests of the naval personnel.

(1) Unless otherwise expressly authorized by action taken under 18 U.S.C. 208(b), all naval personnel who have or acquire an affiliation or a financial interest which creates a conflict or appearance of a conflict with their official duties shall report the possibly disqualifying interest to the appropriate supervisor, who shall resolve the matter in accordance with this part. If it is determined that the individual should be disqualified from participation in any official activities that are related to the conflicting interest, a formal disqualification notice must be sent to the concerned individual's appropriate supervisor and immediate subordinates. If the individual cannot adequately perform his official duties after such disqualification, he must divest himself of such involvement or be removed from that position.

(2) Naval personnel need not disqualify themselves under this section, however, for holding shares of a widely held, diversified mutual fund or regulated investment company. Such holdings are exempted as being too remote or inconsequential to affect the integrity of the services of Government personnel.

(b) *Using inside information.* Naval personnel shall not use, directly or indirectly, inside information to further a private gain for themselves or others if that information is not generally available to the public and was obtained by reason of their DoD positions.

(c) *Using naval position.* Naval personnel are prohibited from using their official positions to induce, coerce, or in any manner unlawfully influence any person, including subordinates, to provide any benefit, financial or otherwise, to themselves or others.

(d) *Dealing with present and former military and civilian personnel.* Naval personnel shall not knowingly deal on behalf of the Government with present or former Government personnel, military or civilian, whose participation in the transaction would be in violation of a statute, regulation, or policy set forth in this part. While all applicable prohibitions are within the prohibition established by this paragraph, attention is directed to the prohibition on retired Regular officers selling to the Government through the department in which they hold a retired status, 18 U.S.C. 281; the prohibition on former personnel acting as an agent or attorney for anyone other than the United States in connection with "claims" against the Government, 18 U.S.C. 207; and the prohibition on paying appropriated funds to retired Regular officers who are "selling" to certain Government agencies, 37 U.S.C. 801(c).

(e) *Commercial soliciting by naval personnel.* To eliminate the appearance of coercion, intimidation, or pressure from rank, grade, or position, full-time naval personnel, except special Government employees and Reserve enlisted personnel on active duty for training, are prohibited from making personal commercial solicitations or sales to DoD personnel who are junior in rank or grade, at any time, on or off duty.

(1) This limitation includes, but is not limited to, the solicitation and sale of insurance, stocks, mutual funds, real estate, and any other commodities, goods, or services.

(2) This prohibition is not applicable to the one-time sale by an individual of his own personal property or privately owned dwelling, or to the off-duty employment of naval personnel as employees in retail stores or other situations not including solicited sales.

(3) With regard to solicitation by and of civilian personnel, the limitation applies only to solicitation of personnel under the supervision, at any level, of the solicitor.

(f) *Assignment of Reserve personnel for training.* Naval personnel who are responsible for assigning Reserves for training shall not assign them to duties in which they will obtain information that could be used by them or their private sector employers to gain unfair advantage over civilian competitors.

(g) *Gratuities.* (1) Except as provided in paragraph (g)(2) of this section, naval personnel and their spouses, minor children, and members of their households shall not solicit, accept, or agree to accept any gratuity for themselves, members of their families, or others, either directly or indirectly from, or on behalf of, a defense contractor. A defense contractor is a person or other entity which:

(i) Is engaged in or seeks business or financial relations of any sort with any DoD component;

(ii) Conducts operations or activities that are either regulated by a DoD component or significantly affected by DoD decisions; or

(iii) Has interests that may be substantially affected by the performance or nonperformance of the official duties of DoD personnel.

(2) This general prohibition does not apply to the following:

(i) The continued participation in employee welfare or benefit plans of a former employer when permitted by law and approved by the appropriate Standards of Conduct Counsellor;

(ii) The acceptance of unsolicited advertising or promotional items that are less than $5 in retail value;

(iii) Trophies, entertainment, prizes, or awards for public service or achievement or given in games or contests which are clearly open to the public or which are officially approved for naval personnel participation;

(iv) Things available to the public (such as university scholarships covered by DoD Directive 1322.6 and free exhibitions by Defense contractors at public trade fairs);

(v) Discounts or concessions extended Navy- and Marine Corps-wide and realistically available to all naval personnel;

(vi) Participation by naval personnel in civic and community activities when the involvement of Defense contractors is remote from the business purposes of any contractor who is sponsoring, supporting, or participating in the activity (for example, participation in a little league or Combined Federal Campaign luncheon which is subsidized by a Defense contractor);

(vii) Social activities engaged in by officers in command and other naval officials, or their representatives, with local civic leaders as part of community relations programs of the Department of the Navy in accordance with SECNAVINST 5720.44 (series) (Part 705 of this chapter);

(viii) The participation of naval personnel in widely attended gatherings of mutual interest to Government and industry, sponsored or hosted by industrial, technical, and professional associations (not by individual contractors): *Provided*, That they have been approved in accordance with DoD Instruction 5410.20;

(ix) Situations in which participation by naval personnel at public ceremonial activities of mutual interest to industry or local communities and the Department of the Navy serves the interests of the Government and acceptance of the invitation is approved by the commanding officer or other head of the activity to which the invitee is attached;

(x) Contractor-provided transportation, meals, or overnight accommodations in connection with official business when arrangements for Government or commercial transportation, meals, or accommodations are clearly impracticable and the individual reports the circumstances in writing to his appropriate supervisor as soon as possible;

(xi) Attendance at promotional vendor training sessions when the vendor's products or systems are provided under contract to DoD and the training is to facilitate the utilization of those products or systems by naval personnel;

(xii) Attendance or participation of naval personnel in gatherings, including social events such as receptions, which are hosted by foreign governments or international organizations: *Provided*, That the acceptance of the invitation is approved by the commanding officer or other head of the activity to which the invitee is attached or, when there is doubt as to the propriety of accentance, by higher authority (see SECNAVINST 1650.1 (series) for further information pertaining to gifts from foreign governments);

(xiii) Customary exchanges of gratuities between naval personnel and their friends and relatives or the friends and relatives of their spouses, minor children, or members of their household where the circumstances make it clear that it is that relationship rather than the business of the persons concerned which is the motivating factor for the gratuity and where it is clear that the gratuity is not paid for by any entity described in paragraph (g)(1) of this section; and

(xiv) Situations in which, in the sound judgment of the individual concerned or his superior, the Government's interest will be served by naval personnel participating in activities otherwise prohibited. In any such case, a written report of the circumstances shall be made by the individual or his appropriate superior in advance of acceptance, or, when an advance report is not possible within 48 hours after acceptance, to the appropriate supervisor, if he is not otherwise aware of the acceptance, and to the appropriate Standards of Conduct Counsellor or Deputy Counsellor.

(3) Naval personnel who receive gratuities, or have gratuities received for them, in circumstances not in conformance with the standards of this section, shall promptly report the circumstances to the appropriate supervisor for a determination as to the proper disposition. The appropriate supervisor shall consult with the Standards of Conduct Counsellor or Deputy Counsellor.

(4) Procedures with respect to ROTC staff members are set forth in DoD Directive 1215.8.

(h) *Receipts in connection with official travel.* (1) The acceptance of accommodations, subsistence, or services, furnished in kind, in connection with official travel from sources other than those indicated in paragraph (g)(1) of this section, is authorized only when the individual is to be a speaker, panelist, project officer, or other bona fide participant in the activity attended and when such attendance and acceptance is authorized by the order-issuing authority as being in the overall Government interest.

(2) Except as indicated in paragraph (h)(1) of this section, naval personnel may not accept personal reimbursement from any source for expenses incident to official travel, unless authorized by their commanding officer or the head of their activity, consistent with guidance provided by the appropriate Standards of Conduct Counsellor (pursuant to 5 U.S.C. 4111 or other authority). Rather, reimbursement must be made to the Government by check payable to the Treasurer of the United States. Personnel will be reimbursed by the Government in accordance with regulations relating to reimbursement.

(3) In no case shall naval personnel accept reimbursement, either in kind or in cash, which is extravagant or excessive in nature.

(4) When accommodations, subsistence, or services in kind are furnished to naval personnel by non-Government sources, consistent with this paragraph, appropriate deductions shall be reported and made in the travel, per diem, or other allowances payable.

(i) *Speaking, lecturing, writing, and appearance as expert witness.* (1) Except as provided in paragraph (h) of this section (and further qualified in paragraph (m) of this section), naval personnel are prohibited from accepting fees, reimbursements, or honoraria for speaking, lecturing, or writing, or for appearing as expert witnesses before State agencies, except in instances where all the following conditions exist:

(i) Acceptance of the payment from the person or entity tendering or funding it would not be prohibited under paragraph (g) of this section;

(ii) The individual presents himself as a private citizen and not in an official capacity;

(iii) Such private activities do not interfere with the individual's official duties; and

(iv) The individual's appearance or writing is not part of his official duties, does not involve materials which his official duties require him to prepare or provide, and does not depend on information obtained as a result of Government employment, except when that information has been published or is generally available to the public upon request, or it will be made generally available to the public and the official authorized to release such information for the use of nonpublic information on the basis that the use is in the public interest.

(2) Unless there is a definite Executive Branch, Department of Defense, or De-

V 42166 AUG 26 77 UMI

partment of the Navy position on a matter addressed in the appearance or writing and the individual has been authorized by appropriate superior authorities to present that position officially, he shall expressly present his views on that matter as his own and not as those of the Department of the Navy or Department of Defense.

(j) *Prohibition of contributions or presents to superiors.* Naval personnel shall not solicit a contribution from other DoD personnel for a gift to an official superior, make a donation or a gift to an official superior, or accept a gift from other DoD personnel subordinate to themselves. This section, however, does not prohibit voluntary gifts or contributions of nominal value on special occasions such as marriage, illness, transfer, or retirement, provided any gifts acquired with such contributions shall not exceed a reasonable value.

(k) *Use of Government facilities, property, and manpower.* Naval personnel shall not directly or indirectly use, take, dispose, or allow the use, taking, or disposing of, Government property or facilities of any kind, including property leased to the Government, for other than officially approved purposes. Government facilities, property, and manpower (such as stationery, stenographic and typing assistance, mimeograph and chauffeur services) shall be used only for official Government business. Naval personnel have a positive duty to protect and conserve Government property. These provisions do not preclude the use of Government facilities for approved activities in furtherance of naval community relations, provided they do not interfere with military missions or Government business. See SECNAVINST 5720.44 (series) (Part 705 of this chapter) for community relations guidance.

(l) *Use of civilian and military titles or positions in connection with commercial enterprises.* (1) All naval personnel, except special Government employees, are prohibited from using their grade, rank, title, or position in connection with any commercial enterprise or in endorsing any commercial product. This does not preclude author identification for materials published in accordance with DoD procedures. A commercial enterprise is any entity which engages in activities which produce income as defined in Internal Revenue Code of 1954, section 61, and which has not been exempted from paying income taxes pursuant to Internal Revenue Code of 1954, 501(a).

(2) All retired military personnel and all members of Reserve components, not on active duty, are permitted to use their military titles in connection with commercial enterprises, provided that they indicate their inactive Reserve or retired status. If, however, such use of military titles in any way casts discredit on the Department of the Navy or the Department of Defense or gives the appearance of sponsorship, sanction, endorsement, or approval by the Department of the Navy or the Department of Defense, it is prohibited. In addition, commanders of overseas installations may further restrict the use of titles including use by retired military personnel and members of Reserve components, not on active duty, in overseas areas.

(m) *Outside employment of DoD personnel.* (1) Naval personnel shall not engage in outside employment or other outside activity, with or without compensation, that:

(i) Interferes with, or is not compatible with, the performance of their Government duties;

(ii) May reasonably be expected to bring discredit on the Government or the Department of the Navy; or

(iii) Is otherwise inconsistent with the requirements of this instruction, including the requirements to avoid actions and situations which reasonably can be expected to create the appearance of conflicts of interests.

(2) Enlisted naval personnel on active duty may not be ordered or authorized to leave their post to engage in a civilian pursuit, business, or professional activity if it interferes with the customary or regular employment of local civilians in their art, trade, or profession.

(3) Active duty Regular officers of the Navy or Marine Corps may not be employed by any person furnishing naval supplies or war materials to the United States. If such an officer is so employed, his entitlement to pay ceases for so long as he is so employed.

(4) Off-duty employment of military personnel by an entity involved in a strike is permissible if the person was on the payroll of the entity prior to the commencement of the strike and if the employment is otherwise in conformance with the provisions of this part. After a strike begins and while it continues, no military personnel may accept employment by that involved entity at the strike location.

(5) Naval personnel are encouraged to engage in teaching, lecturing and writing. Naval personnel, however, shall not, either for or without compensation, engage in activities that are dependent on information obtained as a result of their Government employment, except when the information has been published or is generally available to the public, or it will be made generaly available to the public and the official authorized to release such information to the public gives written authorization for the use of nonpublic information on the basis that the use is in the public interest.

(6) Civilian Presidential appointees in the Department of the Navy shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance, the subject matter of which is devoted substantially to naval responsibilities, programs, or operations or which draws substantially from official material which has not become part of the body of public information.

(n) *Gambling, betting, and lotteries.* While on Government owned, leased, or controlled property, or otherwise while on duty for the Government, naval personnel shall not participate in any gambling activity, including a lottery or pool, a game for money or property, or the sale or purchase of a number slip or ticket. The only exceptions are for activities which have been specifically approved by the Secretary of the Navy.

(o) *Indebtedness.* Naval personnel shall pay their just financial obligations in a timely manner, particularly those imposed by law (such as federal, State, and local taxes), so that their indebtedness does not adversely affect the Government as their employer. The Department of the Navy is not required to determine the validity or amount of disputed debts.

§ 721.7 Related statutes and directives.

Attention is directed to the following related matters governed by other directives:

(a) *Reports of defense related employment.* Certain categories of present naval personnel formerly employed by defense contractors, and of former or retired naval personnel presently employed by defense contractors, are required by statute to report their employment—governmental or private. SECNAVINST 5314.5 (series) (Part 722 of this chapter) implements the statutory requirements, provides a form for making the required report (DD Form 1787), and assigns responsibility for ensuring compliance with the filing requirement with commanding officers and other heads of activities. The reports prescribed in SECNAVINST 5314.5 (series) (Part 722 of this chapter) are distinct from the reports or statements prescribed in this part, and failure to file them when required may subject individuals to criminal penalties.

(b) *Political activities.* Chapter 733 of the Federal Personnel Manual, article 6210240 of the Bureau of Naval Personnel Manual, and paragraph 1742.3 of the Marine Corps Manual discuss restrictions on political activities of naval personnel.

(c) *General responsibilities of naval personnel.* Chapter 11 of Navy Regulations, 1973, (Subpart J of Part 700 of this Chapter), prescribes general regulations governing the rights and responsibilities of naval personnel. If any provisions of this part is found to conflict with a provision of Navy Regulations, the latter shall be controlling.

§ 721.8 Responsibilities for action.

(a) *Under Secretary of the Navy.* The Under Secretary of the Navy is assigned overall responsibility for action relating to standards of conduct of naval personnel. Unless a function is specifically reserved herein to the Secretary, the Under Secretary shall act as the designee of the Secretary, with power to redelegate. Specific matters for action by the Under Secretary or his delegee include: (1) Resolution of conflicts or apparent conflicts found in statements of employment and financial affiliations not resolved at lower echelons; (2) extensions of time in excess of 30 days for the submission of such statements; (3) exclusion of positions from the requirement to file DD Forms 1555, except as delegated to commanding officers and other activity heads in § 721.9(k); and (4) the

notification to the Department of Defense required by § 721.9(b)(2).

(b) *Navy Department officials.* The Chief of Naval Operations, the Commandant of the Marine Corps, and the heads of Navy Department offices not under the control of Chief of Naval Operations or Commandant of the Marine Corps shall provide the Under Secretary of the Navy by December 15 of each year with the information regarding naval personnel within their chain of command required to be included in the report by the Under Secretary pursuant to § 721.9(b)(2).

(c) *Commanding officers and heads of activities.* The basic responsibility for complying with the requirements of this part rests with the individual personnel concerned, but the primary responsibility for ensuring such compliance must rest with officers exercising command or similiar authority over personnel. Each commanding officer or head of a command, bureau, office, or activity is specifically responsible for the following:

(1) The continuing dissemination of the applicable information in this part to all naval personnel within his organization at least semiannually, in a manner which will ensure familiarity and compliance with the pertinent provisions of this part by all personnel (this is a continuing requirement and is in addition to the initial briefing required by § 721.10);

(2) The establishment and continuing execution of the procedures and controls prescribed in § 721.9, to ensure that each position is reviewed as required by § 721.9(j), that all naval personnel within his organization who are required to file confidential statements of affiliations and financial interests (DD Form 1555) do file them in a timely manner, and that such statements are promptly and carefully reviewed;

(3) Making determinations pursuant to this part and 18 U.S.C. 208(b) with respect to disqualification of personnel within his organization from performing duties in which they have conflicts or apparent conflicts of interests;

(4) Ensuring that Reservists detailed to perform active duty for training at his organization are assigned duties which will minimize the possibility that they may obtain information that could be used by them or their employers to gain an unfair advantage over civilian competitors; and

(5) Receiving and taking prompt and appropriate action on reports concerning acceptance of gratuities or other violations of this part, including appropriate statutes, by personnel within his organization.

(d) *Inspectors General.* The Naval Inspector General and the Inspector General of the Marine Corps shall ensure that periodic administrative inspections of organizations under their cognizance routinely include inquiry into the effectiveness of the organization's compliance with the provisions of this part.

(e) *Auditor General.* The Auditor General of the Navy shall ensure that the Naval Audit Service audit program routinely includes inquiry into the effectiveness of the organization's compliance with the provisions of this part.

(f) *Judge Advocate General and General Counsel.* The Judge Advocate General and the General Counsel of the Navy are designated as the Standards of Conduct Counsellors for the Department of the Navy. They shall be responsible for advice and proper review of all standards of conduct problems within their respective areas of jurisdiction. The General Counsel shall be consulted concerning problems pertaining to:

(1) Contracting, procurement, or auditing;

(2) Acquisition, management, or disposition of real or personal property;

(3) Procurement matters in the field of patents, inventions, trademarks, or copyrights;

(4) Military Sealift Command matters; or

(5) Office of the Comptroller of the Navy matters.

In addition, the General Counsel shall perform all standards of conduct functions pertaining to the Secretary of the Navy, his Civilian Executive Assistants, and members of their respective staffs. The Judge Advocate General shall be consulted with regard to all other problems.

(g) *Deputy Standards of Conduct Counsellors.* The following are designated as Deputy Standards of Conduct Counsellors and shall be responsible for providing advice and assistance on matters relating to conduct and conflicts of interests, and for providing legal review of statements of affiliations and financial interests which are referred to them:

(1) Within the cognizance of the General Counsel, and in their respective commands or organizations:

Deputy General Counsels;
Assistant to the General Counsel (Litigation);
Counsel for the Commandant of the Marine Corps;
Counsel for the Systems and Facilities Engineering Commands;
Counsel for the Comptroller of the Navy;
Counsel for the Military Sealift Command;
Counsel for the Office of Naval Research; and
Counsel in charge of OGC field and branch offices; and

(2) Within the cognizance of the Judge Advocate General, and in their respective commands or organizations:

Deputy and Assistant Judge Advocates General;
Director, Judge Advocate Division, Headquarters, U.S. Marine Corps;
Officer and civilian attorneys under the supervision of the Judge Advocate General, and assigned to the commands, bureaus, and offices of the Navy Department, as defined in article 0104.3, U.S. Navy Regulations, 1973, (§ 700.104(c) of this title) other than the Office of the Judge Advocate General;
District judge advocates;
Staff or force judge advocates on the staffs of all other commands having general court-martial convening authority; and
Officers in charge of Naval Legal Service Offices.

Other Deputy Standards of Conduct Counsellors may be designated by the General Counsel or by the Judge Advocate General, as required. Where strict adherence to the division of areas of responsibility under § 721.8(f) is impracticable due to such factors as inaccessibility or uncertainty as to jurisdiction, any Deputy Standards of Conduct Counsellor may be consulted. In such a case, the Deputy Standards of Conduct Counsellor will render all possible assistance and then, if appropriate, direct the inquiry into the proper area of responsibility.

(h) *Director of Civilian Personnel.* The Director of Civilian Personnel shall incorporate the provisions of this part concerning civilian employees in appropriate Civilian Personnel Instructions.

(i) *Additional duties of senior officials.* The Commandant of the Marine Corps and the Chief of Naval Material, as appropriate, are responsible for bringing the contents of this part to the attention of the principal officer of each contractor doing significant business with the Department of the Navy. Chiefs and heads of commands, bureaus, and offices, commanding officers, and other senior officials shall periodically utilize the opportunity afforded by conferences with representatives of industry to direct attention to the regulations and policies set forth in this part.

§ 721.9 Statements of affiliations and financial interests (DD Form 1555).

(a) *Personnel required to file.* The following naval personnel are required to submit initial and annual statements of affiliations and financial interests, DD Form 1555 in accordance with this part unless they are expressly exempted.

(1) All civilian naval personnel paid at a rate equal to or in excess of the minimum rate prescribed for employees holding the grade GS–16, including the Executive Schedule.

(2) Officers of flag or general grade.

(3) Commanding officers or heads, and executive officers or deputy heads, of:

(i) Navy shore installations with 500 or more military and civilian personnel (including foreign national and indirect-hire personnel) regularly attached but excluding personnel attached for duty under instruction; and

(ii) all Marine Corps bases and air stations.

(4) Naval personnel classified at GS–13 or above, or at a comparable pay rate under other authority, and members of the military in the grade of lieutenant colonel, commander, or above, when the responsibilities of such personnel require the exercise of judgment in making a Government decision or in taking Government action in regard to activities in which the final decision or action may have a significant economic impact on the interests of any non-federal entity. Included herein, among others, are persons who, as part of their basic duties, sign, negotiate, recommend, or approve contracts or other procurement actions and those who, as part of their basic duties, are engaged in auditing activities,

V 42 166 AUG 26 77 UMI

including supervising others who are engaged in auditing activities or participating in the development of policies and procedures for performing audits.

(5) Special Government employees other than those in the following categories (who may, in any case, be required to file when specifically requested to do so by their appropriate supervisor):

(i) a special Government employee who is not a "consultant" or "expert" as those terms are defined in Chapter 304 of the Federal Personnel Manual.

(ii) Physicians, dentists, and allied medical specialists engaged only in providing service to patients.

(iii) Veterinarians providing only veterinary services.

(iv) Lecturers participating only in educational activities.

(v) Chaplains performing only religious services.

(vi) Individuals in the motion picture and television fields who are utilized only as narrators or actors in DoD productions.

(vii) Members of selection panels for NROTC candidates.

(6) Other naval personnel who are required, with Civil Service Commission approval, to file such statements.

(b) *Time of filing.*—(1) *Initial filing.* The initial filing must be made sufficiently in advance of appointment (in the case of special Government employees), nomination (in the case of designees to positions requiring the approval of the Secretary of the Navy), or the commencement of service or the assumption of duties (in all other cases), so that review and approval of the filing may be completed in advance of appointment, nomination, or commencement of service or assumption of duties. Each officer or employee required to file a statement shall submit it in the prescribed form directly to his appropriate supervisor. In the case that the appropriate supervisor is not the commanding officer or the head of the activity concerned, the appropriate supervisor will ensure that the commanding officer or other head is made aware of any conflict of interest or other matter of which he must be aware to fulfill his responsibilities under § 721.8 (c). Upon transfer or reassignment from one billet or position to another for which the filing of a statement is required, an officer or employee shall file a current statement promptly with the appropriate supervisor of his new billet or position.

(2) *Annual statements.* DD Form 1555 statements shall be filed by October 31 of each year, with information current as of September 30 of that year. Even though no changes have occurred since the last filing, a complete statement is required. The Under Secretary of the Navy shall notify the Office of the Secretary of Defense Standards of Conduct Counsellor no later than December 31 of each year that all required statements have been filed and reviewed, with all problems appropriately resolved, or he shall explain the details of the outstanding cases. (RCS DD–SECNAV 5370–1.)

(3) *Extension of filing deadline.* When required by reason of duty assignment, infirmity, or other good cause, a superior, with the concurrence of the Standards of Conduct Counsellor or Deputy Counsellor, may grant an extension of the filing deadline, not to exceed 30 days. A superior, with the concurrence of the Standards of Conduct Counsellor or Deputy Counsellor and the Under Secretary of the Navy, may grant an extension of the filing deadline in excess of 30 days. Any annual statement filed after October 31 shall include an appropriate notation as to whether any extension of the filing deadline has been granted hereunder.

(4) Omission by a commanding officer or head of an activity to furnish a written reminder, as prescribed in § 721.9(j), shall not relieve an officer or employee from an applicable filing requirement.

(c) *Place of Submission.* (1) All Department of the Navy civilian Presidential appointees shall submit their statements to the DoD General Counsel.

(2) Commanders of unified commands shall submit their statements directly to the OSD Standards of Conduct Counsellor. Other personnel of the unified commands shall submit their statements through their appropriate supervisor to the Deputy Standards of Conduct Counsellor of the unified command.

(3) Commanders who have a dual responsibility as commanders of both joint and naval commands shall submit their statements through naval channels.

(4) Personnel not serving in a DoD component shall submit their statements to the Under Secretary of the Navy.

(5) Other naval personnel shall submit their statements to their appropriate supervisor for review and forwarding in accordance with § 721.9(f).

(6) Naval personnel who report to more than one reporting senior shall meet the filing requirements of each position independent of the other.

(d) *Content.* (1) All information reported shall be current as of September 30 of the filing year.

(2) Interests of others. The interest of a spouse, minor child, or any member of one's household is to be reported in the same manner as the interest of the individual.

(3) Information not known by naval personnel. Naval personnel shall request submission on their behalf of required information known only to other persons. A request that the information submitted be kept confidential will be honored even if it includes not disclosing the information to the person who requests the submission.

(4) Information not required to be submitted. Naval personnel are not required to submit any information relating to their connection with or interest in a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business for profit. For the purpose of this part, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are to be included in a person's statement. Additionally, naval personnel are not required to report ownership of personal savings or checking accounts in financial institutions, or life or property insurance policies, even though they provide for dividends or cash value.

(e) *Confidentiality of statements of DoD personnel.* Naval authorities shall hold each statement in confidence. Information from a statement may be disclosed, as a routine use, to federal officials who, as part of their official duties, require access to the information and who are listed in the applicable system of records notice required under the Privacy Act, 5 U.S.C. 552a (Subparts F and G of Part 701 of this chapter), and to such other persons to whom disclosure is required under the Privacy Act, the Freedom of Information Act, 5 U.S.C. 552 (Subparts A–D of Part 701 of this chapter), or other provision of law. Persons designated to review the statements are responsible for maintaining the statements in confidence.

(f) *Review and disposition.*—(1) *Initial filing.* All initial statements shall be reviewed for apparent conflicts of interests by the appropriate Deputy Standards of Conduct Counsellor and the appropriate supervisor prior to appointment (in the case of special Government employees), nomination (in the case of designees to positions requiring the approval of the Secretary of the Navy), or the commencement of service or the assumption of duties (in all other cases).

(2) *Annual filing.* Upon receipt of annual statements, the appropriate supervisor shall evaluate the statement, in accordance with the standards provided in this part, to determine whether a conflict or apparent conflict of interests is disclosed. The appropriate supervisor shall note the results of that evaluation on the statement, and shall forward the statement to the cognizant Deputy Standards of Conduct Counsellor under § 721.8(f) for legal review.

(3) *Disposition.* (i) If the appropriate supervisor and the Deputy Standards of Conduct Counsellor agree that the statement discloses no conflict of interests or apparent conflict of interests, both shall record their determination on the statement, and the statement shall be filed in the office of the appropriate supervisor. In the case of a flag or general officer, however, the appropriate supervisor shall, before filing the statement, forward a copy to the Chief of Naval Personnel (Pers-OF) or the Commandant of the Marine Corps (CS), as appropriate, to be retained for use in connection with a possible nomination for appointment or reassignment to a 3- or 4-star billet.

(ii) When either the appropriate supervisor or the Deputy Standards of Conduct Counsellor believes that a statement discloses a conflict or apparent conflict of interests, the officer or employee concerned shall be afforded an opportunity to terminate the conflict or to explain the conflict or apparent conflict in writing. If, after review of the

written explanation, both the appropriate supervisor and the Deputy Standards of Conduct Counsellor are satisfied that there is no conflict or apparent conflict, they shall record their determination on the statement and explanation, and the record shall be filed as provided above. Otherwise, the appropriate supervisor and Deputy Standards of Conduct Counsellor shall append their views on the record and, retaining a copy in the office of the appropriate supervisor, forward the original record to the commanding officer or head of the activity for resolution. If the commanding officer or activity head is unable to resolve the controversy, he shall append his comments and recommendations to the record and forward it to:

(A) The Chief of Naval Personnel, in the case of a Navy officer;

(B) The Commandant of the Marine Corps, in the case of a Marine Corps officer; or

(C) The Director of Civilian Personnel, in the case of a civilian employee.

The departmental official thus receiving the record shall refer it to a cognizant Deputy Standards of Conduct Counsellor for legal review and advice. Cases which cannot be resolved by the Chief of Naval Personnel, the Commandant of the Marine Corps, or the Director of Civilian Personnel, as appropriate, shall be forwarded to the Under Secretary of the Navy, via the cognizant department Standards of Conduct Counsellor, for final resolution. Cases referred to the Commandant of the Marine Corps, Chief of Naval Personnel, or Director of Civilian Personnel for review shall, when finally resolved, be filed in the Bureau of Naval Personnel, Marine Corps Headquarters, or the Office of Civilian Personnel, as appropriate, with information to the originating activity concerning the ultimate disposition of the case.

(iii) Initial review and local efforts to resolve conflicts or apparent conflicts disclosed in annual statements shall be accomplished by November 30, if possible, and by December 31 in any event unless the Under Secretary of the Navy has granted extension under § 721.9(b)(3). Review and resolution of initial statements submitted prior to appointment or nomination should be accomplished immediately. Initial review and local resolution efforts concerning other initial statements should be accomplished within 30 days after filing.

(g) *Special requirements concerning executive-level and 3- and 4-star flag and general nominees.* (1) As part of the Secretarial approval process for a nominee to any of the positions described in § 721.9(a)(1), above, the documents submitting the nominee for approval must contain the following certification by the selecting official, on Civil Service Commission Form 917, executive selection form, in item 30:

I certify that (nominee's name), whom I am nominating for the executive level position of (title, grade or PL designation, and organizational location of position) has executed a confidential statement of affiliations and financial interests, DD Form 1555, that I have evaluated it and had it reviewed by a Deputy Standards of Conduct Counsellor, and that I have found the requirements of DoD Directive 5500.7 of January 15, 1977 and SECNAV Instruction 6370.2G to be satisfied.

(2) As part of the process for approving nominees for appointment to 3- and 4-star flag or general officer positions, the Secretary of the Navy must ensure that the nominee has a current DD Form 1555 on file and that the form has been reviewed in relation to the position for which he is being considered. Further, the Secretary of the Navy is required to cause a review of all relevant systems of records maintained by the Department of the Navy, including investigative files, to determine if there is any evidence of the nominee having violated the standards of conduct. Each nomination forwarded to the Secretary of Defense must be accompanied by a certification of the Secretary of the Navy that the required review has been conducted and that the review has or has not disclosed a violation of the standards of conduct.

(h) *Personnel detailed to other DoD components and Government agencies.* Agreements with other DoD components and Government agencies involving detailing of naval personnel shall contain a requirement that the other DoD component or Government agency shall, within 60 days of the filing time specified in paragraphs (b)(1), (b)(2), and (b)(3) of § 721.9, forward to the appropriate Navy Standards of Conduct Counsellor a copy of the detailed individual's statement, if required, and notice concerning the disposition of any conflict or apparent conflict of interests indicated.

(i) *Effect of statements on other requirements.* The statements required of naval personnel are in addition to, and not in substitution for, any similar requirement imposed by law, order, or regulations. Submission of statements does not permit naval personnel to participate in matters in which their participation is prohibited by law, order, or regulation.

(j) *Review of positions.* Each commanding officer or other head of an activity shall include in the description of each position indicated in § 721.9 a statement that the incumbent of the position must file a statement of affiliations and financial interests, as required by this part. All positions shall be reviewed at least annually, prior to September 30, to determine those which require statements. Any individual may request a review of the decision requiring him to file a statement through the established complaint procedures of the Department of the Navy. Additionally, each incumbent in such a billet or position shall be reminded in writing, by September 30, of the requirement to file a statement, and shall be furnished a copy of the required form. Check-off lists shall be utilized to ensure that all statements have been returned by October 31, or by later specified dates where extensions of time have been granted.

(k) *Exclusion of positions.* A commanding officer or other head of an activity may determine that the submission of statements is not necessary for certain positions described in § 721.9(a)(4) because of the remoteness of any impairment of the integrity of the Government and the degree of supervision and review of the incumbents' work. The Under Secretary of the Navy shall make this determination as to any personnel described in paragraphs (a)(1), (a)(2), and (a)(3) of § 721.9.

§ 721.10 Information to personnel.

The Chief of Naval Operations and the Commandant of the Marine Corps shall ensure that all military personnel—regardless of the program in which they are participating or their duty status—receive, as part of their initial or accession training or upon the assumption of duties following initial appointment or enlistment, an oral briefing regarding the provisions of this part. The Chief of Naval Operations and the Commandant of the Marine Corps shall also ensure that all military personnel, except enlisted personnel not required to file statements of affiliations and financial interests (DD Form 1555), receive a copy of this part as part of the oral briefing on this part. The Director of Civilian Personnel shall ensure that all civilian personnel receive a copy of and an oral briefing regarding the provisions of this part preceding employment or upon assumption of duties. All personnel shall attest in writing to their attendance at the required briefing, that they have read this part, and that they understand the requirements imposed hereby.

§ 721.11 Privacy Act consideration.

Confidential statements of affiliations and financial interests (DD Form 1555) and statements of employment (DD Form 1357) contain sensitive personal information and care shall be exercised to ensure that they are seen only by personnel on a need-to-know basis in connection with their official duties. In this regard, see § 721.9(e). Adequate safeguards shall be utilized to prevent inadvertent or unauthorized disclosures of the statements during review, transmittal, and storage. In addition, SECNAV INST 5211.5 (series) (Subparts F and G of Part 701 of this chapter) prescribes other general restrictions and requirements applicable to the collection, use, and dissemination of these records, and contains Rules of Conduct Under the Privacy Act which are applicable to all naval personnel.

§ 721.12 Reporting of post-retirement employment.

(a) Each retired Regular officer of the Navy and Marine Corps shall keep the Department of the Navy advised of his post-retirement employment activities. All retired Regular officers whose names have been on the retired list for three years or less shall file a statement of employment (DD Form 1357). All retired Regular officers whose names have been on the retired list for over three years are encouraged to use DD Form 1357 to report their post-retirement employment activities. In any event, officers whose

V 42166 AUG 26 77 UMI

names have been on the retired list for more than three years shall, at a minimum, keep the Department of the Navy advised as to whether they are employed by any agency, instrumentality, or department of the United States and, if so, the position title and employing agency. In the event that reporting the information required would tend to show that the officer concerned was violating or had violated 18 U.S.C. 281 or any other criminal provision, the filing requirement will be satisfied by a written refusal, signed by the officer concerned, to provide the required information on the basis that the information may tend to incriminate the officer. Each Regular officer retiring hereafter shall file this statement within 30 days after retirement. Whenever the information reported changes, each such officer shall make an appropriate report within 30 days of that change. The Comptroller of the Navy (for Regular Navy officers) and the Commandant of the Marine Corps (for Regular Marine Corps officers) shall advise each officer required to file of the continuing need to report their post-retirement employment activities as set forth above.

(b) Reports of post-retirement employment shall be submitted—

(1) In the case of a retired Regular Navy officer—to the Commanding Officer, Navy Finance Center (Retired Pay Division), Cleveland, OH 44199; or

(2) In the case of a retired Regular Marine Corps officer—to the Commanding Officer, Marine Corps Finance Center, Kansas City, MO 64197.

(c) The Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, shall provide each Regular officer retiring hereafter, as part of the retirement check-out procedures, with clear instructions concerning the requirement under this part to report post-retirement employment. These instructions should be combined, where applicable, with the instructions prescribed in SECNAVINST 5314.5 (series) (Part 722 of this chapter) concerning the possible additional requirement to file reports of DoD and defense related employment (DD Form 1787).

(d) The Comptroller of the Navy or the Commandant of the Marine Corps, as appropriate, is responsible for the review of all reports of post-retirement employment filed by retired Regular Navy and Marine Corps officers, to ensure compliance with applicable laws and regulations.

(e) If an apparent violation of law or regulation is noted upon review of a report of post-retirement employment, a copy of the report shall be transmitted to the Commander, Navy Accounting and Finance Center, or Commandant of the Marine Corps, as appropriate. If that official determines that a violation may have been committed, a copy of the statement shall be forwarded to the Judge Advocate General (Code 13) for such additional review, inquiry, advice, or further action as may be warranted.

§ 721.13 Availability of forms.

Supplies of DD Form 1555 will be available in the Forms and Publications Segment of the Navy Supply System beginning in September 1977 under stock number 0102-LF-001-5550. Supplies of Civil Service Form 917 are available in the Forms and Publications Segment of the Navy Supply System under stock number 0101-LF-417-0002. Supplies of DD Form 1357 are available from the Commanding Officer, Navy Finance Center, Cleveland, Ohio, and are not stocked in the Navy Supply System.

Dated: August 23, 1977.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc.77-24856 Filed 8-25-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 781-8]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces that the Environmental Protection Agency (EPA) is approving a revision to the New York State Implementation Plan (SIP). The action approves a "special limitation" granted by the State under the provisions of Part 225.2 of Title 6 of its Official Compilation of Codes, Rules and Regulations (6 NYCRR 225.2). EPA approval has the effect of continuing a relaxation of the sulfur-in-fuel-oil limitation for the Long Island Lighting Co.'s (LILCO's) Northport Generating Facility (Units 1, 2, and 3) and the LILCO Port Jefferson Generating Facility (Units 3 and 4), both located in Suffolk County, N.Y. The "special limitation" for these facilities permits the use, until May 31, 1930, of fuel oil having a maximum sulfur content of 2.8 percent, by weight. Previously, these facilities were limited by State regulation to the use of fuel oil with a maximum sulfur content of 1.0 percent, by weight. Receipt of the revision request from New York State was announced in the FEDERAL REGISTER on April 25, 1977, at 42 FR 21113, where a full description of the proposed revision is contained.

DATE: This action becomes effective August 26, 1977.

FOR FURTHER INFORMATION CONTACT:

William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, N.Y. 10007 (212-264-2517).

SUPPLEMENTARY INFORMATION: In its April 25, 1977, FEDERAL REGISTER notice, EPA established a 30-day period for receipt of comments from the public on whether or not the proposed revision to the New York State SIP described therein should be approved. In response, EPA received comments from the firm of Hunton & Williams representing the Long Island Lighting Co. (LILCO) and from the State of Connecticut Department of Environmental Protection. The comments from Hunton & Williams included a technical report prepared by LILCO entitled, "Impact of the Proposed Suffolk County Special Limitations on Connecticut."

The report indicates that, at times, the impact of the "special limitation" on Connecticut can be significant; however, the impact is relatively minor under those meteorological conditions when ambient concentrations of sulfur dioxide are elevated. The report concludes that the impact of the proposed revision will not cause or exacerbate contraventions of national ambient air quality standards in Connecticut. EPA concurs with this conclusion.

Besides addressing the impact of the proposed revision on air quality in Connecticut, the comments from Hunton & Williams also discuss the effect on applicable sulfur-in-coal requirements if the Federal Energy Administration (FEA) orders the affected units of the Port Jefferson Generating Facility to convert to coal. FEA has sent LILCO a Notice of Intention to issue Prohibition Orders requiring the use of coal at the Port Jefferson Power Generating Facility, Units 3 and 4. If issued, these orders are not expected to take effect until 1982, after the proposed revision has expired. However, if the proposed revision is in effect at the time of coal conversion, Hunton & Williams stated that, under the approved SIP (6 NYCRR 225.1(b)), LILCO will be permitted to burn coal with a sulfur content related to the allowable sulfur-in-fuel-oil limitation of the "special limitation."

If FEA proceeds to issue Prohibition Orders to the Port Jefferson Generating Facility, pursuant to Section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), EPA, pursuant to Section 3 of ESECA, must certify to FEA the earliest date Port Jefferson Units 3 and 4 can burn coal and comply with all applicable air pollution requirements. Due to the revocable nature of the "special limitation," EPA interprets "all applicable air pollution requirements" to include the 1.0 percent sulfur-in-fuel limitation contained in 6 NYCRR 225. Although coal burning may proceed when the 2.8 percent sulfur-in-fuel limitation approved herein can be met, LILCO must take the steps necessary to meet the 1.0 percent limitation and FEA cannot make its Prohibition Order effective any earlier than the date this more stringent requirement can be met.

In its comments, the State of Connecticut informed EPA that the use by LILCO of high sulfur fuel oil under the "special limitation" currently in effect has not caused any violations of sulfur dioxide ambient air quality standards in Connecticut. Nevertheless, the State of Connecticut opposes the proposed "special limitation" on the belief that approval will make it more difficult to maintain standards and thus jeopardize growth in Connecticut.

EPA believes that the State of Connecticut has voiced a valid concern over the amount of additional sulfur dioxide emissions available for future growth and development if the "special limitation" is continued. However, the available information does not support the finding that this will be of major concern during the three year period of the "special limitation." Consequently, EPA encourages the State of Connecticut to develop additional information indicating whether or not the continued use of higher sulfur fuel oil by LILCO will preclude normal growth and development in Connecticut and thereby limit the State's ability to maintain ambient air quality standards in the future. If such a demonstration shows the inability to maintain standards in Connecticut, EPA will consider revocation of the "special limitation" or restrict its period of applicability.

The State of Connecticut also commented that the increased emissions resulting from the "special limitation" will impact on areas of New York City within the New Jersey-New York-Connecticut Air Quality Control Region (AQCR) which are currently not attaining ambient air quality standards. The approved air quality dispersion model used to project the impact of these two LILCO power plants on the non-attaining monitoring site in New York City showed no contribution assuming all feasible meteorological conditions. Moreover, the State of New York was notified on July 12, 1976 (41 FR 28618) that its SIP is substantially inadequate for the New Jersey-New York-Connecticut AQCR and, because of the revocable nature of the "special limitation," EPA approval does not preclude the use of lower sulfur fuel oil at the LILCO facilities as a possible control measure.

EPA finds that this revision to the New York State Implementation Plan as it relates to the "special limitation" for the LILCO Northport and Port Jefferson Power Generating Facilities is consistent with current EPA policies and goals set forth in the requirements of Section 110(a)(2) (A)-(H) of the Clean Air Act and EPA regulations contained in 40 CFR Part 51 in that it is not expected to result in the contravention of any applicable ambient air quality standard.

(Secs. 110, 301, Clean Air Act, as amended (42 U.S.C. 1857c-5, 1857g).)

Dated: August 23, 1977.

DOUGLAS M. COSTLE,
Administrator, Environmental Protection Agency.

Part 52 of Chapter I, Title 40 Code of Federal Regulations is amended as follows:

Subpart HH—New York

1. In § 52.1670, paragraph (c) is amended by adding new subparagraph (33) as follows:

§ 52.1670 Identification of plans.

* * * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * * *

(33) Revision submitted on March 17, 1977, by the New York State Department of Environmental Conservation which grants a "special limitation" under Part 225. The "special limitation" relaxes until May 31, 1980, the sulfur-in-fuel-oil limitation to 2.8 percent, by weight, for the Long Island Lighting Co.'s Northport Generating Facility (Units 1, 2, and 3) and Port Jefferson Generating Facility (Units 3 and 4).

[FR Doc.77-24863 Filed 8-25-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER I—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 181]

PART 1-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 1-4.11—Procurement and Contracting for Government-Wide Automated Data Processing Equipment, Software, Maintenance Services, and Supplies

ACQUISITION OF ADP SOFTWARE

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This amendment of the Federal Procurement Regulations (FPR) authorizes agencies to use GSA requirements-type contracts to procure selected commercial software. This action is taken in the interest of efficient operation and utilization of automatic data processing equipment by Federal agencies. The intended effect is to lower costs and to provide convenient ordering procedures for using agencies.

EFFECTIVE DATE: September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Philip G. Read, Director of Federal Procurement Regulations, 703-557-8947.

1. Section 1-4.1103-2 is revised to read as follows:

§ 1-4.1103-2 Software.

Except for software performance monitoring packages covered by Subpart 101-32.14 of the FPMR and except for software available through the Federal Software Exchange Center (FSEC) covered by Subpart 101-32.16 of the FPMR, agencies may procure software for use with ADPE without prior approval of GSA when:

(a) The procurement will occur by placing a purchase/delivery order against an applicable GSA requirements-type contract; or

(b) The procurement will occur by placing a purchase/delivery order against an applicable ADP Schedule contract under the terms of the contract, provided such action meets the requirements for competition set forth in § 1-4.1107-2; or

(c) The total procurement for the specific software package does not exceed $7,500 annual lease cost, excluding maintenance, or $10,000 purchase cost; or

(d) The software is provided by the original equipment manufacturer and is not separately priced from the ADPE.

2. Section 1-4.1107-7 is revised to read as follows:

§ 1-4.1107-7 Use of requirements contracts.

GSA makes selected ADPE and software available to agencies through requirements-type contracts that provide for substantially lower equipment and software costs. Where ADPE and software which will satisfy the user's requirements are available from GSA requirements-type contracts, this source shall be used by all agencies as the primary source of supply in accordance with the provisions of these contracts. Copies of the contracts (not contractor's price lists) are distributed to recipients of the schedule FSC Group 70, Part I. Additional copies are available from the General Services Administration (8BR), Building 41, Denver Federal Center, Denver, CO 80225. Some of these requirements-type contracts specify that GSA is responsible for the allocation of the ADPE or software. In these cases, authorization shall be obtained from the General Services Administration (CDP), Washington, DC 20405, before placing an order against the requirements-type contract. Prior to acquiring ADPE or software that is functionally similar to the ADPE or software on a requirements-type contract from another source, the agency shall (a) document the procurement case file, indicating why the requirements-type contract could not be used, and (b) obtain a delegation of procurement authority from GSA if the procurement falls outside the scope of §§ 1-4.1103-1 or 1-4.1103-2.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

NOTE: The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: August 11, 1977.

JOEL W. SOLOMON,
Administrator of General Services.

[FR Doc.77-24820 Filed 8-25-77;8:45 am]

V42166 AUG 26 77 UMI

[FPR Amdt. 182]

PART 1–8—TERMINATION OF CONTRACTS

Interest Rates

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This amendment of the Federal Procurement Regulations (FPR) makes changes in procedures and contract clauses regarding interest paid by contractors under terminated contracts. The changes are necessary because currently all provisions of the FPR pertaining to the rate of interest paid by contractors are not consistent. The intended effect of the action is to provide consistency within the FPR on the subject of interest rates.

EFFECTIVE DATE: September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Philip G. Read, Director of Federal Procurement Regulations, 703–557–8947.

SUPPLEMENTARY INFORMATION: This amendment of the Federal Procurement Regulations provides uniformity in all provisions regarding interest rates charged contractors on amounts owed the Government. Currently, the interest rate prescribed in certain subparts of the FPR is 6 percent. Other provisions of the FPR require contractors to pay interest at the rate established by the Secretary of the Treasury (currently 7⅞ percent) pursuant to Pub. L. 92–41 (50 U.S.C. App. 1215(b)(2)) for the Renegotiation Board. The FPR also provides that the rate of interest established pursuant to Pub. L. 92–41 will be paid by the Government when a contractor's claim is decided in his favor under the Disputes clause.

The FPR further provides that interest owed the Government shall be computed from the date an excess payment was received by the contractor to the date of repayment. However, one FPR provision stipulates that interest shall be computed from the date of the excess payment rather than the date the excess payment was received by the contractor.

In the interest of uniformity, the amendment prescribes the use of interest rates established by the Secretary of the Treasury pursuant to Pub. L. 92–41 whenever a contractor is assessed interest on an excess payment. The amendment also includes a changed procedure which provides that the interest assessment period shall begin on the date the excess payment was received by the contractor.

The changes effected by the amendment appear in procedures (§ 1–8.212–1 (f)), contract clauses (§§ 1–8.701, 1–8.702, 1–8.703, 1–8.704–1, and 1–8.706), and formats (§§ 1–8.804–2(b) and 1–8.806–4 (e)) in the FPR.

Subpart 1–8.2—General Principles Applicable to the Termination for Convenience and Settlement of Fixed-Price and Cost-Reimbursement Type Contracts

Section 1–8.212–1 is amended as follows:

§ 1–8.212–1 Partial payments upon termination.

* * * * *

(f) *Limitation on total amount: effect of overpayment.* The total amount of all partial payments shall not exceed the amount which will, in the opinion of the contracting officer, become due to the contractor by reason of the termination. If the total of partial payments made to the contractor should exceed the amount finally determined to be due on his termination claim, the overpayment shall be repayable to the Government on demand, together with interest computed at the rate established by the Secretary of the Treasury pursuant to Pub. L. 92–41 (50 U.S.C. App. 1215(b)(2)) for the Renegotiation Board, from the date such overpayment was received by the contractor to the date of repayment. However, no interest shall be charged for any such overpayment attributable to a reduction in the contract termination inventory until 10 days after the date of such retention or disposition, or such later date as is set by the contracting officer because of the circumstances; and no interest shall be charged for overpayment under cost-reimbursement research and development contracts (without profit or fee to the contractor) if the overpayments are repaid to the Government within 30 days after demand.

* * * * *

Subpart 1–8.7—Clauses

1. Section 1–8.701 is amended to revise paragraph (j) of fthe clause prescribed by the section. As amended, the clause reads as follows:

§ 1–8.701 Termination clause for fixed-price contracts.

* * * * *

(j) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of this contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury pursuant to Pub. L. 92–41 (50 U.S.C. App. 1215(b)(2)) for the Renegotiation Board, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government: *Provided, however,* That no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until 10 days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

* * * * *

2. Section 1–8.702 is amended to revise paragraph (j) of the clause prescribed by the section. As amended, the clause reads as follows:

§ 1–8.702 Termination clause for cost-reimbursement type contracts.

* * * * *

(j) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of the contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand together with interest computed at the rate established by the Secretary of the Treasury pursuant to Pub. L. 92–41 (50 U.S.C. App. 1215(b)(2)) for the Renegotiation Board, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government: *Provided, however,* That no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until 10 days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

* * * * *

3. Section 1–8.703 is amended to revise paragraph (j) of the clause prescribed by the section. As amended, the clause reads as follows:

§ 1–8.703 Termination clause for fixed-price construction contracts.

* * * * *

(j) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of this contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, together with interest, computed at the rate established by the Secretary of the Treasury pursuant to Pub. L. 92–41 (50 U.S.C. App. 1215(b)(2)) for the Renegotiation Board, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government: *Provided, however,* That no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until 10 days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

* * * * *

4. Section 1–8.704–1 is amended to revise paragraph (f) of the clause prescribed by the section. As amended, the clause reads as follows:

§ 1–8.704–1 Termination clause.

* * * * *

(f) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments against costs incurred by the Contractor in connection with the terminated portion of this contract whenever, in the opinion of the Contracting Officer, the aggregate of such payments is within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand: *Provided,* That if such excess is not so paid upon demand, interest thereon shall be payable by the Contractor to the Government at the rate established by the Secretary of the Treasury pursuant to Pub. L. 92–41 (50 U.S.C. App. 1215(b)(2)) for the Renegotiation Board, beginning 30 days from the date of such demand.

* * * * *

5. Section 1–8.706 is amended to revise paragraph (h) of the clause prescribed by the section. As amended, the clause reads as follows:

§ 1–8.706 Subcontract termination clause.

* * * * *

(h) The buyer may, from time to time, under such terms and conditions as he may prescribe, make partial payments and payments on account against costs incurred by the seller with respect to the terminated portion of the contract whenever in the opinion of the buyer the aggregate of such payments shall be within the amount to which the seller will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed upon or determined to be due under this clause, such excess shall be payable by the seller to the buyer upon demand, together with interest computed at the rate established by the Secretary of the Treasury pursuant to Public Law 92–41 (50 U.S.C. App. 1215(b)(2)) for the Renegotiation Board, for the period from the date such excess payment is received by the seller to the date on which such excess is repaid: *Provided, however,* That no interest shall be charged with respect to any such excess payment attributable to a reduction in the seller's claim by reason of retention or other disposition of termination inventory until 10 days after the date of such retention or disposition, or such later date as determined by the buyer by reason of the circumstances.

* * * * *

Subpart 1–8.8—Formats of Notices, Forms, Warranties, and Agreements

1. Section 1–8.804–2(b) is revised to illustrate the revised Format 804–2 as follows:

§ 1–8.804–2 Format 804–2, Application for Partial Payment.

* * * * *

(b) Page 2 of Format 804–2

SECTION III.—AGREEMENT OF APPLICANT

IN CONSIDERATION OF ANY PARTIAL PAYMENT WHICH MAY BE MADE, THE APPLICANT AGREES AS FOLLOWS:

(1) REPAYMENT OF EXCESS.—If any partial payment made to the contractor is in excess of the amount finally determined to be due on his termination claim, the excess shall be repaid to the Government upon demand, with interest at the rate established by the Secretary of the Treasury pursuant to Public Law 92–41 (50 U.S.C. App. 1215(b)(2)) for the Renegotiation Board. Interest shall be computed for the period from the date the excess payment was received by the contractor to the date of repayment, except that (i) no interest shall be charged for any such excess payment attributable to a reduction in the contract termination claim by reason of retention or other disposition of termination inventory, until 10 days after the date of such retention or disposition, or such later date as determined by the contracting officer by reason of the circumstances, and (ii) no interest shall be charged for overpayment under cost-reimbursement type research and development contracts *(without profit or fee to the contractor)* if the overpayments are repaid to the Government within 30 days after demand.

(2) PROMPT SETTLEMENT OF CLAIM.—The applicant will make every reasonable effort to expedite final settlement of the termination claim and the claims of his subcontractors, if any.

(3) DISPOSAL AND RETENTION OF INVENTORY.—Whenever the amount of any proceeds hereafter received by the applicant on the disposal of termination inventory, plus the cost or agreed value, as the case may be, of any termination inventory which the applicant hereafter elects to retain, exceeds the amount stated by the applicant in this application as the amount of his charges *(Section II, Line 9)* and the amount of such credits has not been included on Section II, Line b *(Disposal and Other Credits)*, the applicant within 10 days will notify the contracting agency of the amount of credits on account of such inventory disposal or retention.

SPECIMEN

SECTION IV.—CERTIFICATE OF APPLICANT

The undersigned certifies that the amount of his own charges *(exclusive of subcontractors' charges)* due as of the date of this application and allocable to the terminated portion of its contract Number _____, dated _____, with _____, is not less than $_____ *(From Sec. II, Line 9)*; that, to the best of applicant's knowledge, the amounts received are as set forth above; and that the applicant has not assigned any moneys payable under this contract, except as set forth above.

NAME OF APPLICANT	BY *(Signature of authorized officials*
	TITLE / DATE

WHERE THE SPACE PROVIDED FOR ANY INFORMATION IS INSUFFICIENT, ATTACH SEPARATE SUPPORTING SCHEDULES

2

* * * * *

2. Section 1–8.806–4 is amended to revise paragraph (e) of Article 6 as follows:

§ 1–8.806–4 Settlement agreement for use in settling cost-reimbursement type prime contracts after complete termination where settlement includes costs.

* * * * *

Article 6. * * *

(e) Claims by the Government against the Contractor which are based upon refunds, rebates, credits, or other accounts not now known to the Government, together with interest thereon, now due or which may become due the Contractor from third parties to the extent that such amounts arise out of transactions for which reimbursement has been made to the Contractor under the contract. Any such amounts which may hereafter become due to the Contractor from any third party or other source shall be paid to the Government within 30 days after receipt by the Contractor. Interest at the rate established by the Secretary of the Treasury pursuant to Public Law 92–41 (50 U.S.C. App. 1215(b)(2)) for the Re-

V 42166 A AUG 26 77 UMI

negotiation Board, shall accrue and shall be paid to the Government on any such accounts as remain unpaid after the 30-day period.

* * * * * *

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: August 11, 1977.

JOEL W. SOLOMON,
Administrator of General Services.

[FR Doc.77-24821 Filed 8-25-77;8:45 am]

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

[FPMR Amdt. B-36]

PART 101-11—RECORDS MANAGEMENT

Subpart 101-11.9—Word Processing

WORD PROCESSING PROGRAM—CLARIFICATIONS AND ADDITIONS

AGENCY: General Services Administration, National Archives and Records Service (NARS).

ACTION: Final rule.

SUMMARY: The increasing use of word processing equipment in the Federal Government has made apparent the need for better management control in acquiring and using this equipment. This revised rule clarifies Federal agencies' program responsibilities and is intended to assist the agencies in improving services and achieving cost savings in managing their internal word processing programs.

EFFECTIVE DATE: August 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Dale Stouder, Deputy Assistant Archivist for Records Management, Office of Records Management, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, 202-376-8851.

SUPPLEMENTARY INFORMATION: On March 31, 1977, NARS published a proposed rule (42 FR 17147) to clarify its requirements for managing word processing in the Federal agencies. The primary purpose of the change was to put word processing in the proper perspective of a technology to be considered when seeking improvements in any of the records management program elements.

Most of the 10 comments received in response to the proposed change were favorable. Several respondents, while agreeing in principle, made constructive suggestions for changes which have been adopted in this regulation.

DISCUSSION OF MAJOR COMMENT

DEFINITION OF WORD PROCESSING

Several respondents wished to retain the word processing definition that was in the FPMR being amended. NARS feels that the original definition and those offered are too broad and they include organizational and personnel considerations not inherently part of word processing. The primary purpose of the proposed change was to put word processing in the proper perspective of a technology to be considered when seeking improvements in correspondence management, directives management, or any other records management program element.

Accordingly, 41 CFR Part 101-11 is amended as follows:

1. By revising §§ 101-11.900, 101-11.901, and 101-11.902 as follows:

§ 101-11.900 Scope.

This subpart sets forth the policies and procedures for managing word processing in the Federal Government.

§ 101-11.901 Word processing.

As used in this subpart, "word processing" is the manipulation of textual material through the use of a keyboarding device capable of controlled storage, retrieval, and automated typing.

§ 101-11.902 Equipment.

Equipment used in word processing applications may include but is not limited to the following:

(a) Dictation recording and transcription equipment;

(b) Automatic repetitive typewriters;

(c) Stand-alone text-editing typewriters;

(d) Stand-alone video-display text-editing typewriters;

(e) Shared-logic systems comprised of keyboard terminals, video-display units, minicomputers, and associated printing devices used primarily for word processing; and

(f) Keyboard terminals and associated printing devices (dedicated primarily to word processing) used to access Government or commercial computer services. Word processing proposals involving remote terminal operations or data systems applications must also comply with Subparts 101-32 and 101-35.

2. By amending §§ 101-11.903 and 101-11.904 as follows:

§ 101-11.903 Federal agency program responsibilities.

Each agency shall:

(a) Assign responsibility for the review and approval of all word processing applications to a specific official or office that will:

(1) Establish and issue procedures for submitting, reviewing, and approving or disapproving all proposals for the installation of word processing systems and equipment; those approval procedures should be reviewed periodically to keep abreast of current technology and records management practices;

(2) Review each proposed installation to:

(i) Ensure that an objective need for increased efficiency and effectiveness has been established and that all reasonable alternatives to the use of word processing equipment have been considered, including such measures as training to improve typing skills, improving correspondence

management practices, work simplification, functional specialization, and using or improving the use of dictation equipment;

(ii) Determine the feasibility of reassigning underutilized word processing equipment within the organization or agency;

(iii) Ensure that a comparative cost analysis of the existing and proposed systems has been made;

(iv) Assess the potential for future expansion within the agency;

(v) Ascertain the feasibility of standardizing equipment in applications involving shared workload; and

(vi) Ensure selection of the appropriate category of equipment for the specific application;

(3) Establish and issue procedures for evaluating the productivity of word processing applications;

(4) Periodically audit word processing installations for conformance with established policies and procedures; and

(5) Develop and maintain a complete inventory of the owned, rented, and leased equipment dedicated to or used primarily for word processing applications within the agency (Agency inventories should be maintained at an organizational level sufficient to ensure optimum use of the equipment. The inventory should include such items as name of manufacturer; model number or designation; location; purchase, rental, or lease cost; date of acquisition; and category as defined in § 101-11.902.);

* * * * *

§ 101-11.904 NARS responsibilities.

* * * * *

(a) * * *

(2) Methods and procedures for conducting word processing feasibility studies;

(3) Cost estimating criteria and guidelines for comparing existing and proposed applications with alternative approaches;

(4) Standards and guidelines necessary to evaluate the productivity of word processing installations; and

(5) Guidelines for selecting appropriate categories of equipment for specific applications;

* * * * *

(c) Conduct periodic reviews of agencies' word processing programs as part of the NARS evaluations prescribed in § 101-11.103, Agency program evaluation; and

* * * * *

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486 (c))

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: August 17, 1977.

JOEL W. SOLOMON,
Administrator of General Services.

[FR Doc.77-24822 Filed 8-25-77;8:45 am]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 101—PROFESSIONAL STANDARDS REVIEW

Professional Standards Review Areas

NOTE.—This document originally appeared at page 42857 in the FEDERAL REGISTER for August 25, 1977. It is reprinted in this issue to meet the assigned day-of-the-week publication schedule.

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final Regulation.

SUMMARY: This regulation redesignates Professional Standards Review Areas in Ohio. Area VI is redesignated to include only the counties of Summit and Portage, and a new Area XIII is established to include the counties of Stark, Trumbull, Mahoning, and Columbiana. As a result of the redesignation, Area VI will be congruent with Health Service Area VIII and both Areas VI and XIII will better coincide with the local medical service areas in northeastern Ohio.

EFFECTIVE DATE: These regulations are effective August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Al Salazar, Room 13A-19, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, (301) 443-6477.

SUPPLEMENTARY INFORMATION: On March 30, 1977, the Department published a Notice of Proposed Rulemaking in the FEDERAL REGISTER (42 FR 16839) to redesignate PSRO Area VI in Ohio to include only the counties of Summit and Portage and to establish a new PSRO Area XIII composed of Stark, Trumbull, Mahoning, and Columbiana Counties. Interested persons were invited to submit written comments, suggestions, or objections on or before May 15, 1977.

One comment was received. It suggested that Ashtabula County be added and Stark County deleted from the proposed new Area XIII. The inclusion of Ashtabula in Area XIII would not, in our view, result in a PSRO Area which better coincides with the local medical service areas. Neither the Ohio State Medical Association medical service areas, nor the Standard Metropolitan Statistical areas for northeastern Ohio combine Ashtabula County with the counties of Trumbull, Mahoning, and Columbiana. Furthermore, residents of the counties of Trumbull, Mahoning, and Columbiana generally seek their secondary medical care in Youngstown located in Mahoning County. Finally, although the suggested change would make the new Area XIII congruent with the Ohio Health Service Area X, established under the National Health Planning and Resources Development Act of 1974 (Pub. L. 93-641), it would also, by adding Stark County to Area VI, make the proposed Area VI less congruent with Health Service Area VIII.

V 42166 AUG 26 77 UMI

For these reasons, the suggestion was rejected, and the proposed redesignation is adopted.

Accordingly, 42 CFR 101.39 is amended to read as follows:

§ 101.39 Ohio.

Thirteen Professional Standards Review Organization Areas are designated in Ohio composed of the following counties:

Area I	
Butler	Clermont
Warren	Brown
Clinton	Highland
Hamilton	Adams
Area II	
Darke	Clark
Shelby	Preble
Champaign	Montgomery
Miami	Green
Area III	
Van Wert	Hardin
Allen	Logan
Hancock	Wyandot
Seneca	Crawford
Mercer	Marion
Auglaize	
Area IV	
Williams	Henry
Fulton	Wood
Lucas	Sandusky
Ottawa	Paulding
Defiance	Putnam
Area V	
Lake	Ashtabula
Geauga	
Area VI	
Summit	Portage
Area VII	
Coshocton	Harrison
Tuscarawas	Belmont
Carroll	Monroe
Jefferson	
Area VIII	
Licking	Morgan
Muskingum	Noble
Guernsey	Athens
Fairfield	Washington
Perry	
Area IX	
Hocking	Jackson
Vinton	Gallia
Meigs	Scioto
Pike	Lawrence
Area X	
Morrow	Franklin
Knox	Fayette
Union	Pickaway
Delaware	Ross
Madison	
Area XI	
Erie	Richland
Lorain	Ashland
Huron	Wayne
Medina	Holmes
Area XII	
Cuyahoga	
Area XIII	
Stark	Mahoning
Trumbull	Columbiana

(Sec. 1102, Social Security Act, 49 Stat. 647 (42 U.S.C. 1302); sec. 1152, Social Security Act, 86 Stat. 1430 (42 U.S.C. 1320c–1).)

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A–107.

Dated: July 21, 1977.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: August 19, 1977.

HALE CHAMPION,
Acting Secretary.

[FR Doc.77–24559 Filed 8–24–77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

Editorial Amendments Concerning Amateur Radio Service Call Signs

AGENCY: Federal Communications Commission.

ACTION: Editorial Order.

SUMMARY: The FCC is amending § 2.302 of its rules, concerning the composition of Amateur Radio Service call signs, to restore a footnote which was inadvertently omitted in a previous Order. The omitted footnote reserves to the Commission the right to require identifying information from Amateur Radio Service operators in addition to their FCC-assigned call signs. We are restoring this footnote because we did not intend to omit it in the previous Order.

EFFECTIVE DATE: September 2, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Erika M. Ziebarth, Personal Radio Division, 202–634–6620.

SUPPLEMENTARY INFORMATION:

Adopted: August 17, 1977.

Released: August 19, 1977.

Order. In the matter of Editorial amendent of § 2.302 of the Commission's rules.

1. On July 13, 1977, the Commission adopted an Order (FCC 77–482, 42 FR 37978) which, among other things, amended § 2.302 of the FCC's rules to permit the letter "X" to appear as the first letter in the suffix of some Amateur Radio Service call signs.

2. In that Order, the footnote to each Amateur Radio Service call sign entry in § 2.302 was inadvertently omitted. The footnote reserved to the Commission the right to require additional identifying data to accompany the transmission of an Amateur call sign. The Commission has relied on the authority contained in the omitted footnote to require additional identifying data from some Amateur Radio Service licensees, such as those operating with interim Amateur permits. The omission of the footnote was unintentional. This Order is issued to correct this error and to amend § 2.302 of the FCC's rules.

3. This amendment is an editorial revision to correct a previous error; therefore, the prior notice and public procedure provisions of the Administrative Procedure Act, 5 U.S.C. 553, are unnecessary. Authority for this amendment is contained in sections 4(i), 5(d) and 303 of the Communications Act of 1934, as amended, and in § 0.231(d) of the Commission's rules.

4. *Accordingly, we order,* That § 2.302 of the FCC's Rules is amended as set forth below, effective September 2, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
R. D. LICHWARDT,
Executive Director.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303).)

Part 2 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. In § 2.302, the table re Amateur Radio Service call signs is amended to read as follows:

§ 2.302 Call signs.

* * * * * * *

Class of station	Composition of call sign	Call sign blocks
* * *	* * *	* * *
Experimental (letter "X" follows the digit).	2 letters, 1 digit, 3 letters	KA2XAA through KZ9XZZ. WA2XAA through WZ9XZZ.
Amateur (letter "X" may not follow digit).	1 letter, 1 digit, 1 letter [4]	K1A through K0Z. N1A through N0Z. W1A through W0Z.
Amateur	1 letter, 1 digit, 2 letters [4]	K1AA through K0ZZ. N1AA through N0ZZ. W1AA through W0ZZ.
Do	1 letter, 1 digit, 3 letters [4]	K1AAA through K0ZZZ. N1AAA through N0ZZZ. W1AAA through W0ZZZ.
Do	2 letters, 1 digit, 1 letter [4]	AA1A through AL0Z. KA1A through KZ0Z. NA1A through NZ0Z. WA1A through WZ0Z.
Do	2 letters, 1 digit, 2 letters [4]	AA1AA through AL0ZZ. KA1AA through KZ0ZZ. NA1AA through NZ0ZZ. WA1AA through WZ0ZZ.
Amateur (letter "X" may not follow digit).	2 letters, 1 digit, 3 letters [4]	AA1AAA through AL0ZZZ. KA1AAA through KZ0ZZZ. NA1AAA through NZ0ZZZ. WA1AAA through WZ0ZZZ.
Standard frequency		WWV, WWVB through WWVJ, WWVL, WWVS.
* * *	* * *	* * *

[4] Plus other identifying data as may be specified.

NOTE: * * *

[FR Doc.77–24810 Filed 8–25–77;8:45 am]

[Docket No. 21238; RM–2632]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in McRae, Ga.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: This action assigns Channel 237A as a first FM assignment to McRae, Ga., after Notice and request by John Davidson. The assignment was based on showings of need and first service at McRae and the petitioner's intention to construct an FM station on the channel.

EFFECTIVE DATE: September 30, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James J. Gross, Broadcast Bureau, 202–632–7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (McRae, Ga.); Docket No. 21238, RM–2632.

REPORT AND ORDER—PROCEEDING TERMINATED

Adopted: August 16, 1977; released: August 22, 1977.

1. The Commission herein considers the Notice of Proposed Rule Making, adopted May 10, 1977, 42 FR 26665, in the above-captioned proceeding, which proposed Channel 237A as a first FM assignment to McRae, Georgia. The proposal originated in a petition by John W. Davidson, licensee of daytime-only AM Station WDAX at McRae.

2. McRae (1970 pop. 3,061), seat of Telfair County (1970 pop. 11,381), is located in south central Georgia some 113 kilometers (70 miles) southeast of Macon and 145 kilometers (90 miles) east of Savannah.

3. In support of his proposal, Davidson submitted comments with respect to McRae and its need for a first FM channel assignment, and reaffirmed his intent to file an application and to promptly construct a station if authorized.

4. Based on the need shown for a first local FM service and first local nighttime service at McRae and Telfair County, and the absence of opposition, we find that the public interest would be served by such an assignment. The Commission's FM assignment policies place high priority on first FM assignments to small, rural communities like McRae.

5. Authority for the adoption of the amendment contained herein appears in section 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules and regulations.

§ 73.202 [Amended]

6. In view of the foregoing, it is ordered, that effective September 30, 1977, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, as regards McRae, Ga., is amended, to read as follows:

City:	*Channel No.*
McRae, Ga	237A

7. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77–24797 Filed 8–25–77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Hillside National Wildlife Refuge, Miss., to the Hunting of Migratory Game Birds and Big Game

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule adds Hillside National Wildlife Refuge to the lists of refuge areas open for the hunting of migratory game birds and big game. The Director has determined that this action is compatible with the major purposes for which this refuge was established and is in the public interest. Hunting will provide for additional public recreational opportunity subject to annual special regulations.

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

V 42 166 AUG 26 77 UMI

Ralph H. Town, Division of National Wildlife Refuges, U.S. Fish and Wildlife Service, Washington, D.C. 20250, telephone 202–343–4305.

SUPPLEMENTARY INFORMATION: Ralph H. Town is the principal author of this final rule. On July 15, 1977, there was published (42 FR 36495) a notice of proposed rulemaking adding Hillside National Wildlife Refuge, Miss., to the list of refuge areas which are open for the hunting of migratory game birds and big game. As a general rule, most areas within the National Wildlife Refuge System are closed to hunting until officially opened by regulation.

The public was provided a 30-day comment period and was advised that an environmental assessment has been prepared on the proposal and was available for public inspection. One favorable comment was received on the proposed rulemaking.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107. Accordingly, 50 CFR Part 32 is amended by the addition of Hillside National Wildlife Refuge as follows:

§ 32.11 List of open areas; migratory game birds.

MISSISSIPPI

Hillside National Wildlife Refuge

§ 32.31 List of open areas; big game.

MISSISSIPPI

Hillside National Wildlife Refuge

Dated: August 23, 1977.

LYNN A. GREENWALT,
Director, U.S. Fish and Wildlife Service.

[FR Doc.77–24807 Filed 8–25–77;8:45 am]

PART 32—HUNTING

Opening of Benton Lake National Wildlife Refuge, Mont., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to hunting of Benton Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1977 through November 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert L. Pearson, P.O. Box 450, Black Eagle, Mont. 59414, 406–716–5266.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of geese, ducks, coots, mergansers and Wilson's snipe on the Benton Lake National Wildlife Refuge, Montana, is permitted only on areas designated by signs as open to public hunting. These areas comprising 2,570 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, P.O. Box 25486, Denver, Colo. 80225.

Hunting shall be in accordance with all applicable state and federal regulations governing the hunting of the aforementioned species subject to the following special conditions:

1. The refuge will be open to hunting from one-half hour before sunrise to 12:00 Noon on October 1 and 2, 1977, only. On October 3 and thereafter hunting hours will be from one-half hour before sunrise to sunset each day.

2. Refuge roads and dikes are closed to hunting.

3. Vehicle use and parking shall be confined to gravelled roads and designated parking areas.

4. Hunters are prohibited from constructing blinds on the refuge. Hunting blinds are provided by the refuge. Daily occupancy of blinds will be on a first come-first served basis.

5. Boats without motors may be used in conjunction with waterfowl hunting activities.

6. Hunters are granted access to the area opened to hunting on and after September 15, 1977, for purposes of selecting hunting sites and training retrievers. Boats without motors may be used.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

ELIZABETH A. BENWAY,
Acting Refuge Manager.

AUGUST 17, 1977.

[FR Doc.77–24795 Filed 8–25–77;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 107]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period August 28–September 3, 1977. This regulation is needed to provide for orderly marketing of fresh lemons for the regulation period because of the production and marketing situation confronting the lemon industry.

EFFECTIVE DATE: August 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of such lemons, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the specified week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation for the quantity of lemons it considers advisable to be handled during the specified week. The recommendation resulted from consideration of the factors covered in the order. The committee further reports the demand for lemons is good on size 140's and smaller, but poorer on larger sizes. Average f.o.b. price was $6.65 per carton the week ended August 20, 1977, compared to $6.63 per carton the previous week. Track and rolling supplies at 150 cars were down 20 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be established as provided in this regulation.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for lemons and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of lemons. It is necessary, to effectuate the declared policy of the act, to make this regulation effective as specified. The committee meeting was held on August 23, 1977.

§ 910.407 Lemon Regulation 107.

* * * * *

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period August 28, 1977, through September 3, 1977, is established at 230,000 cartons.

(2) As used in this section, "handled" and "carton(s)" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).)

Dated: August 24, 1977.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77–25085 Filed 8–25–77;11:29 am]

V 42 166 AUG 26 77 UMI

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 27]

COTTON CLASSIFICATION UNDER COTTON FUTURES LEGISLATION

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: This notice proposes the removal of Augusta, Georgia from the list of bona fide spot cotton markets in § 27.93 of the Regulations for Cotton Classification under Cotton Futures Legislation (7 CFR Part 27). Cotton is no longer traded in such volume and under such conditions in Augusta to qualify this market as a bona fide spot market under the criteria contained in the U.S. Cotton Futures Act (90 Stat. 1841–46; 7 U.S.C. 15b).

DATE: Comments must be received on or before September 26, 1977.

ADDRESS: Comments should be filed in quadruplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 1077 South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Alvin Deck, Marketing Programs Branch, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202–447–2072).

SUPPLEMENTARY INFORMATION: Spot cotton market prices are used by the New York Cotton Exchange to establish settlement differences (premiums and discounts) for cotton delivered on futures contracts whenever the quality delivered deviates from the base quality. The U.S. Cotton Futures Act requires the Secretary of Agriculture to designate cotton markets which may be used to establish such settlement differences. The Act directs the Secretary to designate only those markets in which spot cotton is sold in such volume and under such conditions as customarily to reflect accurately the value of Middling cotton and the differences between the prices or values of Middling cotton and of other grades for which standards have been established.

There are 10 markets so designated by the Secretary at the present time. Prices from only eight of these markets are used for New York Cotton Exchange Futures settlement purposes. The other two, Augusta, Georgia and Fresno, California, are carried as extra or reserve markets.

Factors supporting the proposal that Augusta be removed from the list of bona fide spot markets are as follows:

1. Although Augusta was one of the original bona fide markets designated on August 10, 1915, its importance as a cotton market has declined in recent years. There are only four active marketing firms in Augusta and representatives from only two of these actively participate in price quotations work in the market. Spot purchases reported by the Augusta Cotton Exchange accounted for less than one percent of total purchases during the past five years in all bona fide spot markets.

2. The removal of Augusta as a bona fide spot market was one of the recommendations made by the National Cotton Marketing Study Committee in August 1975. This committee was appointed from industry and government by the Secretary of Agriculture to study and appraise the U.S. cotton marketing system and related foreign trade problems.

3. August has not been used as a settlement market for cotton futures purposes since 1968. There is no legal requirement that reserve markets, such as Augusta and Fresno, be carried as designated bona fide markets for use should the occasion arise. In any event, one reserve market is considered ample and Fresno is a much larger market than Augusta.

§ 27.93 [Amended]

Accordingly, it is proposed that § 27.93 of the regulations (7 CFR 27.93) governing cotton classification under cotton futures legislation be amended by deleting Augusta, Georgia from the list of bona fide spot cotton markets.

Dated: August 23, 1977.

WILLIAM T. MANLEY,
Deputy Administrator,
Program Operations.

[FR Doc.77-24794 Filed 8-25-77;8:45 am]

Animal and Plant Health Inspection Service

[9 CFR Part 77]

CATTLE

Tuberculosis Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to revise regulations which apply to tuberculosis in cattle to bring these regulations into conformity with the current guidelines of Uniform Methods and Rules—Bovine Tuberculosis Eradication, and to include changes made necessary by the issuance of revised regulations under which indemnity may be paid for cattle destroyed because of tuberculosis. This action is required to expedite the eradication of bovine tuberculosis from the United States. The intended effect of this action is to eliminate the last foci of infection from the country at the earliest possible time and to prevent spread of the disease until it can be eradicated.

DATE: Comments on or before October 7, 1977.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 824, Federal Building, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. Ralph W. Bennett, Chief Staff Veterinarian, Tuberculosis Eradication, Cattle Diseases Staff, Animal and Plant Health Inspection Service, Veterinary Services, U.S. Department of Agriculture, Room 802, Federal Building, Hyattsville, Md. 20782, Area code 301–436–8715.

SUPPLEMENTARY INFORMATION: As the goal of complete eradication of tuberculosis in cattle is approached, it is essential that the last foci of infection be eliminated and that all possible means of preventing the spread of the disease be employed.

The proposed revision of Part 77 would adopt recommendations made by the Tuberculosis Committee of the United States Animal Health Association (USAHA) and would: Prohibit the interstate movement of cattle other than in compliance with proposed restrictions; incorporate the Uniform Methods and Rules—Bovine Tuberculosis Eradication for the establishment and maintenance of tuberculosis-free accredited herds of cattle, modified accredited areas, and areas accredited free of bovine tuberculosis in the domestic bovine, as adopted by the USAHA on October 17, 1974, and approved by Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, on January 6, 1975; provide definitions pertinent to this Part; make provision for designating and removing the designations of Accredited-Free States, Modified Accredited Areas and Non-Modified Accredited Areas, respectively, based on determinations by the Deputy Administrator as to compliance with applicable provisions of the current Uniform Methods and Rules—Bovine Tuberculosis Eradication; designate specific areas as Accredited-Free States, Modified Accredited Areas, and Non-Modified Accredited Areas; provide for the movement of cattle from Accredited-Free States, Modified Accredited Areas, and Non-Modified Accredited Areas; require three negative tuberculin tests of cattle in affected herds before such herds may be released from quarantine; provide for the identification and interstate movement of tuberculosis exposed and tuberculosis reactor cattle; require that suspect cattle be moved under those conditions applicable to cattle exposed to tuberculosis; and provide for movements of cattle not specifically provided for in this Part under specific conditions prescribed by the Deputy Administrator, Veterinary Services.

The principal changes being made by this proposal from the present requirements are as follows: (1) Current regulations provide for the designation of Modified Accredited Areas and Non-Modified Accredited Areas only. The addition of an Accredited-Free State status which may be achieved by States qualifying under the provisions of Part XI of the Uniform Methods and Rules—Bovine Tuberculosis Eradication is deemed necessary to recognize a State that has achieved a degree of eradication of tuberculosis higher than that shown by the category of Modified Accredited Area status. (2) The present requirement for designation as a Modified Accredited Area status, that the Deputy Administrator determine that less than one-half of one percent of the cattle in the area is affected with tuberculosis, would be changed to a requirement that he determine that the area is in compliance with all of the requirements of Part X of the Uniform Methods and Rules—Bovine Tuberculosis Eradication. This change is deemed necessary since the requirements as set forth in Part X of the Uniform Methods and Rules—Bovine Tuberculosis Eradication would provide a better indication of the exact tuberculosis status of the cattle in the Modified Accredited Area. (3) Present regulations permit the interstate movement of cattle from herds under State quarantine or from previously infected herds following two negative tuberculin tests conducted at 60 day intervals, whereas the proposed regulations would require a third negative test to be conducted six months following the second negative test as a condition for movement. Experience indicates that two negative tests at 60 day intervals are inadequate to prevent the interstate spread of tuberculosis and it appears that the additional negative test should be required to provide greater assurance that the affected herd will not serve as a reservoir of infection and spread the disease through such movements. (4) Current regulations do not require that tuberculosis exposed cattle from Modified Accredited Areas be identified to qualify for movement interstate, while tuberculosis exposed cattle from Non-Modified Accredited Areas only have to be identified by registration name and number or metal eartag. Further, only exposed cattle moving interstate from Non-Modified Accredited Areas must be moved to slaughter. As a requirement for all interstate movements of tuberculosis exposed cattle, the proposed regulations would mandate that such cattle be moved only to slaughter and be identified by branding with the letter "E" on the left jaw and the tagging of such cattle with a metal eartag in either ear, or in lieu of branding and tagging, that the shipment be accompanied by a Veterinary Services or State representative or moved in vehicles closed with official seals. The identification of tuberculosis exposed cattle, or their escort by a Veterinary Services or State representative, or their movement in sealed vehicles would be required to insure that such animals are moved for slaughter only and to minimize the possibility of their getting into channels of trade and spreading disease. (5) No provisions are made in the current regulations for the interstate movement of cattle which are classified as "suspect" on an official tuberculin test or for the interstate movement of other cattle which have been in contact with "suspect" cattle. The proposed regulations would provide that cattle classified as "suspect" and other cattle in contact with "suspect" cattle shall only be moved interstate directly for immediate slaughter because it is believed that such cattle present a risk of disseminating tuberculosis. In order to minimize the possibility that such disease might be spread, the movement of such cattle should be strictly regulated.

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that, pursuant to the provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of May 31, 1920, and the Act of July 2, 1962 (21 U.S.C. 111–114, 114a, 115–117, 120, 121, 134b, 134f), the Animal and Plant Health Inspection Service is considering revising Part 77, Title 9, Code of Federal Regulations, for the above stated purpose.

Accordingly, Part 77, Title 9, Code of Federal Regulations, would be revised as follows:

PART 77—TUBERCULOSIS IN CATTLE

Subpart A—General Provisions

Sec.

77.1 Definitions.
77.2 General restrictions.
77.3 Designation of States or areas.
77.4 Accredited-free States.
77.5 Modified accredited areas.
77.6 Non-modified accredited areas.

Subpart B—Interstate Movement of Cattle Not Known To Be Affected With or Exposed to Tuberculosis

77.7 Movement from accredited-free States and modified accredited areas.
77.8 Movement from non-modified accredited areas.

Subpart C—Interstate Movement of Cattle Affected With or Exposed to Tuberculosis

77.9 Movement from accredited-free States, modified accredited areas, and non-modified accredited areas.
77.10 Other movements.

AUTHORITY: Secs. 3-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; 41 Stat. 699, sec. 1, 65 Stat. 693, as amended; secs. 3 and 7, 76 Stat. 130, 132 (21 U.S.C. 111, 114, 114a, 115-117, 120, 121, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141).

Subpart A—General Provisions

§ 77.1 Definitions.

As used in this part, the following terms shall have the meanings set forth in this section except as otherwise specified.

(a) *Animal.* All species of animals except man, birds, or reptiles.

(b) *Cattle.* Domestic bovine animals of all ages.

(c) *Tuberculosis.* The contagious, infectious, and communicable disease of cattle caused by *Mycobacterium bovis.*

(d) *Uniform methods and rules—Bovine tuberculosis eradication.* Uniform methods and Rules for the Establishment and Maintenance of Tuberculosis-Free Accredited Herds of Cattle, Modified Accredited Areas, and Areas Accredited-Free of Bovine Tuberculosis in the Domestic Bovine, as adopted by the United States Animal Health Association on October 17, 1974, and approved by Veterinary Services in its publication of January 6, 1975. The provisions of the Uniform Methods and Rules—Bovine Tuberculosis Eradication are hereby incorporated by reference [1] and are the minimum standards for achieving and maintaining herd and area status.

(e) *Official tuberculin test.* Any intradermal test for tuberculosis conducted in accordance with the Uniform Methods and Rules—Bovine Tuberculosis Eradication.

(f) *Negative cattle.* Cattle classified negative to an official tuberculin test in accordance with the guidelines established in Part II, F., 3., b., of the Uniform Methods and Rules—Bovine Tuberculosis Eradication.

(g) *Suspect cattle.* Cattle responding to an official tuberculin test and classified suspect in accordance with the guidelines established in Part II, F., 2., of the Uniform Methods and Rules—Bovine Tuberculosis Eradication.

(h) *Reactor cattle.* Cattle responding to an official tuberculin test and classified reactor in accordance with the guidelines established in Part II, F., 1., of the Uniform Methods and Rules—Bovine Tuberculosis Eradication.

(i) *Herd.* Any group of cattle maintained on common ground for any purpose, or two or more groups of cattle under common ownership or supervision, which are geographically separated, but among which there is an interchange or

---

[1] Copies of the Uniform Methods and Rules—Bovine Tuberculosis Eradication are available upon request from Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Hyattsville, Md. 20782, and were filed as part of this original document.

[2] NOTE.—Incorporation by reference provisions approved by the Director, Office of the Federal Register on August 19, 1977.

V 42166 AUG 26 77 UMI

movement of cattle without regard to health status.

(j) *Affected herd.* A herd of cattle in which tuberculosis has been disclosed in any such cattle by an official tuberculin test or by postmortem examination.

(k) *Cattle not known to be affected.* All cattle except those originating from tuberculosis affected herds or from herds containing tuberculosis suspect cattle.

(l) *Exposed cattle.* Cattle, except reactor cattle, which are part of a known affected herd.

(m) *Department.* The United States Department of Agriculture (USDA).

(n) *Veterinary Services.* The Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture.

(o) *Deputy Administrator.* The Deputy Administrator, Veterinary Services, or any other Veterinary Services official to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

(p) *State.* Any State, Territory, the District of Columbia, or Puerto Rico.

(q) *Interstate.* From one State into or through any other State.

(r) *Moved.* Shipped, transported, or otherwise moved, or delivered or received for movement.

(s) *Person.* Any individual, corporation, company, association, firm, partnership, society, or joint stock company, or other legal entity.

(t) *Veterinary Services representative.* A veterinarian or other person employed by Veterinary Services who is authorized to perform the function involved.

(u) *State representative.* A veterinarian or other person employed in livestock sanitary work of a State or political subdivision thereof and who is authorized by such State or political subdivision thereof to perform the function involved under a Memorandum of Understanding with the Department.

(v) *Accredited veterinarian.* An accredited veterinarian as defined in Part 160 of this chapter.

(w) *Modified accredited area.* A State or portion thereof which complies with all of the procedures in Part X of the Uniform Methods and Rules—Bovine Tuberculosis Eradication.

(x) *Non-modified accredited area.* A State or any portion thereof which has not received Accredited-Free State or Modified Accredited Area status.

(y) *Accredited-free State.* A State which complies with all of the procedures of Part XI of the Uniform Methods and Rules—Bovine Tuberculosis Eradication.

(z) *Accredited herd.* A cattle herd which meets the reoiirements of Part IX of the Uniform Methods and Rules—Bovine Tuberculosis Eradication.

(aa) *Certificate.* An official document issued by a Veterinary Services representative, a State representative, or an accredited veterinarian at the point of origin of a shipment of cattle to be moved under this Part, which shows the identification tag, tattoo, or registration number or similar identification of each animal to be moved, the number, breed, sex, and approximate age of the animals covered by the document, the purpose for which the animals are to be moved, the date and place of issuance, the points of origin and destination, the consignor, and the consignee, and which states that the animal or animals identified on the certificate meet the requirements of this part.

(bb) *Permit.* An official document issued for movement of animals under this Part by a Veterinary Services representative. State representative, or an accredited veterinarian at the point of origin of a shipment of cattle to be moved directly to slaughter, which shows the tuberculosis status of each animal (reactor, suspect, or exposed), the ear tag number of each animal and the name of the owner of such animal, the establishment to which the animals are to be moved, the purpose for which the animals are to be moved, and that they are eligible for such movement under the applicable provisions of §§ 77.9 and 77.10.

(cc) *Transportation document.* Any document accompanying the interstate movement, such as an owner's statement, manifest, switch order, or vehicle record, on which is stated: (1) The point from which the animals are moved interstate; (2) the destination of the animals; (3) the number of animals covered by the document; and (4) the name and address of the owner or shipper.

(dd) *Official seal.* A seal issued by a State or Veterinary Services representative.

§ 77.2 General restrictions.

Cattle may not be moved interstate except in compliance with the regulations in this Part.

§ 77.3 Designation of States or areas.

The Deputy Administrator is authorized to designate States or portions thereof as Modified Accredited Areas, Accredited-Free States, or Non-Modified Accredited Areas, respectively, when he determines that these States or portions thereof come within the appropriate definitions in §§ 77.1 (w), (x), or (y) and to delete any State or portion thereof from any such list at any time when he determines that they no longer come within the appropriate definition.

§ 77.4 Accredited-free States.

(a) Accredited-Free State status shall have a duration of one year. In order to qualify for reaccreditation, such States shall annually, between September 1 and October 30, submit a report to Veterinary Services certifying that the State is in compliance with all the requirements of Part XI of the Uniform Methods and Rules—Bovine Tuberculosis Eradication regarding Accredited-Free States.

(b) The following States are hereby designated Accredited-Free States: North Dakota, Minnesota, Connecticut, Maine, Rhode Island, New Hampshire, New Mexico, Colorado, Utah, and Wyoming.

§ 77.5 Modified accredited areas.

(a) Modified Accredited Area status shall have a duration of one year. In order to qualify for reaccreditation, such States shall annually, between September 1 and October 30, submit a report to Veterinary Services certifying that the State is in compliance with all the requirements of Part X of the Uniform Methods and Rules—Bovine Tuberculosis Eradication regarding Modified Accredited Areas.

(b) The following States or portions thereof are hereby designated as Modified Accredited Areas: All States or portions thereof except those otherwise designated in § 77.4 or § 77.6.

§ 77.6 Non-modified accredited areas.

The following States or portions thereof are hereby designated as Non-Modified Accredited Areas:

Subpart B—Interstate Movement of Cattle Not Known to be Affected With or Exposed to Tuberculosis

§ 77.7 Movement from Accredited-Free States and Modified Accredited Areas.[3]

Cattle not known to be affected with or exposed to tuberculosis, originating in an Accredited-Free State or a Modified Accredited Area, may be moved interstate without restriction.

§ 77.8 Movement from Non-modified Accredited Areas.

Cattle not known to be affected with or exposed to tuberculosis, originating in a Non-modified Accredited Area, shall only be moved interstate if:

(a) Such cattle are accompanied by a certificate stating that such cattle have been classified negative to an official tuberculin test, which was conducted within 30 days prior to the date of movement, however, if such cattle are part of a herd in which any animal has been classified as a reactor animal, such cattle shall be moved interstate only in accordance with § 77.9 or § 77.10. All cattle not individually identified by a registration name and number shall be individually identified by a Veterinary Services approved metal eartag or tattoo; or

(b) Such cattle are from an accredited herd and they are accompanied by a certificate showing the cattle to be from such a herd; or

(c) Such cattle are moved interstate directly to slaughter to an establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or to a State inspected slaughtering establishment which has inspection by a State inspector at the time of slaughter.

Subpart C—Interstate Movement of Cattle Affected With or Exposed to Tuberculosis

§ 77.9 Movement from Accredited-Free States, Modified Accredited Areas, and Non-modified Accredited Areas.

(a) *Reactor cattle.* Cattle which have been classified as reactor cattle may be moved interstate only if they are moved directly to slaughter at an establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or to a State-inspected slaughtering establishment which has inspection by a State inspector at the time of slaughter, and only upon compliance with the following conditions:

(1) The reactor cattle shall be individually identified by branding the letter "T" not less than 2 nor more than 3 inches high on the left jaw and by a Veterinary Services approved metal eartag bearing a serial number and the inscription "U.S. Reactor" or a similar State reactor tag bearing such number and similar description attached to the left ear of each animal; and

(2) The reactor cattle shall be accompanied by a permit; and

(3) The reactor cattle shall not be moved interstate in a means of conveyance containing any animals susceptible to tuberculosis unless all of the animals are being moved directly to slaughter; and

(4) Any person who moves reactor cattle interstate shall plainly write or stamp upon the face of the transportation document the words "Tuberculin Reactor" and the following statement: "This conveyance shall be cleaned and disinfected in accordance with § 77.9(a)(5) of the regulations." and

(5) Each means of conveyance in which reactor cattle have been transported interstate shall be cleaned and disinfected by the carrier, in accordance with the applicable provisions of Part 71 of this subchapter, under the supervision of a Veterinary Services representative or State representative or an accredited veterinarian or other person designated by the Deputy Administrator. If, at the point where the cattle are unloaded, such supervision or proper cleaning and disinfecting facilities are not available, and permission is obtained from a Veterinary Services representative or State representative, the empty means of conveyance may be moved to a location where such supervision and facilities are available for cleaning and disinfecting. Permission shall be granted if such movement does not present a risk of the dissemination of tuberculosis.

(b) *Exposed cattle.* Cattle which have been classified as exposed cattle shall be moved interstate only if they are moved directly to slaughter to an establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or to a State inspected slaughtering establishment which has inspection by a State inspector at the time of slaughter and only in compliance with the following conditions:

(1) Such exposed cattle must be individually identified by branding the letter "E" not less than 2 nor more than 3 inches high on the left jaw and by tagging with a Veterinary Services approved metal eartag bearing a serial number attached to either ear of each animal, except that in lieu of branding, the cattle may be accompanied to slaughter by a Veterinary Services representative or State representative, or may be moved in vehicles closed with official seals. When such cattle are moved in vehicles closed with official seals, said seals shall only be removed by a State or Federal employee specifically designated by the Deputy Administrator; and

(2) Such exposed cattle shall be moved in accordance with the requirements pertaining to reactor cattle contained in paragraphs (a)(2), (a)(3), and (a)(5) of this section.

(c) *Suspect cattle.* Suspect cattle which have not been retested and found negative from herds in which no reactor cattle have been disclosed on an official tuberculin test, and negative cattle from such herds, shall only be moved interstate if they are moved directly to slaughter to an establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 et. seq) or to a State inspected slaughtering establishment which has inspection by a State inspector at the time of slaughter.

§ 77.10 Other movements.

The Deputy Administrator may, with the concurrence of the livestock sanitary officials of the State of destination, upon request in specific cases, permit the movement of cattle not otherwise provided for in this Part which have not been classified as reactor cattle and are not otherwise known to be affected with tuberculosis, under such conditions as he may prescribe in each specific case to prevent the spread of tuberculosis. The Deputy Administrator shall promptly notify the appropriate livestock sanitary officials of the State of destination of any such action.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 804, Hyattsville, Maryland 20782, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 17th day of August 1977.

NOTE: The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

NORVAN L. MEYER,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.77-24403 Filed 8-25-77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 771 0025]

PUBLIC RELATIONS SOCIETY OF AMERICA, INC.

Consent Agreement With Analysis To Aid Public Comment

In FR Doc. 24042 appearing at page 41874 in the issue for Friday, August 19, 1977, the following correction should be made.

In the first full paragraph of the third column on page 41875, in the seventh and eighth lines, the word "completion", should read, "competition".

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 105]

[Docket No. 75N-0318]

SPECIAL DIETARY FOODS LABEL STATEMENTS

Proposed Statement of Reasons, Proposed Findings of Fact, Proposed Conclusions, and Tentative Order

Correction

In FR Doc. 77-20307 appearing at page 37166 in the issue for Tuesday, July 19, 1977, in the penultimate line of the paragraph numbered 54, middle column, page 37174, "WD-GRoss" should read "WD-G-Ross".

[21 CFR Part 131]

[Docket No. 77N-0118]

EVAPORATED MILK, SWEETENED CONDENSED MILK, EVAPORATED SKIMMED MILK AND SWEETENED CONDENSED SKIMMED MILK

Proposed Rulemaking Based on Recommended International Standards

Correction

In FR Doc.77-20578 appearing at page 37013 in the issue for Tuesday, July 19, 1977, make the following changes:

1. In the fourteenth line of the first paragraph, column 3, page 37013, "Part 191" should read "Part 101".

2. In section 5.1 under "5. Methods of Sampling and Analysis", page 37014, "FAC/WHO" should read "FAO/WHO".

3. The percentage in section 2.2, ninth line from the bottom, page 37014, now reading "24.0 pct. m/.", should read "24.0 pct. m/m.".

[21 CFR Part 131]

[Docket No. 77N-0119]

NONFAT DRY MILK, LOWFAT DRY MILK, DRY WHOLE MILK, AND DRY CREAM

Proposal Based on Recommended International Standards

Correction

In FR Doc. 77-20463 appearing at page 37006 in the issue for Tuesday, July 19, 1977, make the following changes:

1. In the third line of the "Summary" paragraph, middle column, page 37006, "lowfat milk" should read "lowfat dry milk".

2. In the sixth line from the end of the paragraph labeled "Supplementary Information", middle column, page 37006, "(21 CFR 131." should read "(21 CFR 131.125)".

3. In the second line under "5. Labeling" at the top of page 37008, "(Reg. No.

[3] The regulations of the State of destination should be consulted before shipments are made from Accredited-Free States and Modified Accredited Areas.

V 42166 AUG 26 77 UMI

CAC/RS 1-1969)" should read "(Ref. No. CAC/RS 1-1969)".

4. In the first line of section 5.1.1 at the top of page 37008, "(a) whole milk powder" should read "(a) Whole Milk powder".

[21 CFR Parts 172, 182, 184]

[Docket No. 77N-0033]

BROWN AND YELLOW MUSTARD AND THEIR DERIVATIVES

Proposed Affirmation of Gras Status as Direct Human Food Ingredients

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: This is a proposal to affirm as generally recognized as safe (GRAS) brown and yellow mustard and their derivatives as direct human food ingredients. The safety of these ingredients has been evaluated pursuant to the comprehensive safety review being conducted by the agency. This proposal would list the ingredients as direct food substances affirmed as GRAS. In addition this proposal would affirm the GRAS status of allyl isothiocyanate which would be deleted from the list of synthetic substances.

DATES: Comments by October 25, 1977.

ADDRESSES: Written comments to the hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: A comprehensive safety review of direct and indirect human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction is being conducted by the Food and Drug Administration. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20040), initiating this review. Pursuant to this review, the safety of allyl isothiocyanate, *p*-hydroxybenzyl isothiocyanate, and brown and yellow mustard has been evaluated. In accordance with the provisions of § 170.35 (formerly § 121.40 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), the Commissioner proposes to affirm the GRAS status of these ingredients.

There are various species of mustard seed. The principal sources of black, brown or oriental mustard seed are the species *Brassica nigra* (L.) Koch, *Brassica juncea* (L.) Czerniaew and *Brassica juncea* Cosson. The seeds of *B. nigra* are produced chiefly in Italy and Holland, whereas the *B. juncea* seeds are produced mainly in northern India and southern Russia. The principal sources of white or yellow mustard seed are the species *Brassica alba* (L.) Boiss, *Brassica hirta* Moench, and *Sinapis alba* (L.). White mustard is a native annual of southern Europe but is now grown in many temperate countries, chiefly in Canada.

Mustard seed is used by the food industry in different forms: Whole seed; ground seed meal; mustard cake which is ground seed from which a part of the fixed oil has been expressed; mustard flour which is the cake with the hulls removed; and prepared mustard. Mustard flour and prepared mustard appear to be the forms most commonly used. Both may contain mustard from more than one source.

The volatile or essential oil of brown (black) mustard constitutes between 0.5 to more than 1.0 percent of the seed, and it contains the glucoside sinigrin. Allyl isothiocyanate is the major derivative of sinigrin and is the major flavoring agent of black (brown) mustard. To extract allyl isothiocyanate it is necessary to remove the fixed oil from the seed by expression, allow the resulting seed cake and endogenous enzyme (myrosinase) to ferment, and distill with steam. As prepared, the distillate consists of more than 90 percent allyl isothiocyanate; the remainder is chiefly allyl cyanide and carbon disulfide. However, most of the allyl isothiocyanate used in food is prepared synthetically. It can be prepared by the reaction of allyl iodide with potassium thiocyanate.

The corresponding major flavoring constituent of yellow (white) or benzyl mustard oil is *p*-hydrovybenzyl isothiocyanate, and it exists in the seed as part of the glucoside sinalbin. It is prepared in a manner analogous to that for allyl isothiocyanate, except for steam distillation. Because *p*-hydroxybenzyl isothiocyanate is only sparingly volatile with steam, it is separated by solvent extraction. However, unlike allyl isothiocyanate, there is no evidence which indicates that *p*-hydroxybenzyl isothiocyanate is used in food. Consequently, its importance in this review is based on the fact that it is a chief constituent of yellow (white) mustard.

Black or brown mustard (*B. nigra*), brown or oriental mustard (*B. juncea*), white or yellow mustard (*B. hirta*) are listed in § 182.10 (formerly § 121.101(e)(1), prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) as GRAS for use in food as spices and other natural seasonings and flavorings, pursuant to a regulation published in the FEDERAL REGISTER of January 19, 1960 (25 FR 404) and subsequently recodified. Mustard is also listed in § 182.20 (formerly § 121.101(e)(2), prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) as GRAS for use in food as an essential oil, oleoresion or natural extractive, pursuant to a regulation published in the same FEDERAL REGISTER and subsequently recodified. Allyl isothiocyanate is listed in § 172.515(b) (formerly § 121.1164(b) prior to recodification) for use in food as a synthetic flavoring substance, pursuant to a regulation published in the FEDERAL REGISTER of October 27, 1964 (29 FR 14625) and subsequently recodified.

A representative cross-section of food manufacturers was surveyed to determine the specific food in which brown and yellow mustard, and allyl isothiocyanate were used and the levels of usage. Information from surveys of consumer consumption was obtained and combined with the manufacturing information to obtain an estimate of consumer exposure to brown and yellow mustard, and allyl isothiocyanate. The total amount of these substances used in food in 1970 was reported to be about: yellow mustard, 48 million pounds; brown mustard, 3 million pounds; and allyl isothiocyanate, 33 thousand pounds.

Mustard and its derivatives have been the subject of a search of the scientific literature from 1920 to the present. The parameters used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutogenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection and (13) processing. A total of 639 abstracts on mustard (brown and yellow), allyl isothiocyanate, and *p*-hydroxybenzyl isothiocyanate was reviewed and 48 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (hereinafter referred to as the Select Committee), selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

The oral LD_{50} of allyl isothiocyanate from brown mustard seed for the rat is reported to be 339 mg per kg; the subcutaneous LD_{50} for mice, 80 mg per kg. For rats, the oral LD_{50} of allyl cyanide, reported to be a constituent of the essential oil of brown mustard, is 115 mg per kg; for rabbits an oral lethal dose of carbon disulfide, also reported to be a constituent of the essential oil of brown mustard, appears to be between 0.47 and 3.5 g (about 0.23 to 1.75 g per kg).

Rats fed a diet containing allyl isothiocyanate (0.02 mg per kg body weight) for 70 days showed an increased level of fatty acid esters and cholesterol in the blood serum. Histologically, some fatty degeneration of the liver was noted but this was most marked when the allyl isothiocyanate was fed in combination with ethyl alcohol (15 ml of a 20 percent ethanol solution per kg animal weight). Allyl isothiocyanate is reported to depress rate of growth slightly when fed to young rats at a level of 0.1 percent in the diet (estimated dose level, about 400 mg per kg) for 5 weeks; a more pronounced decrease in the growth rate occurred when the same amount of allyl isothiocyanate was administered by gavage rather than fed for an additional four weeks. In adult rats fed 2 mg of allyl isothiocyanate per kg body weight it was observed that blood clotting time was reduced, liver succinic dehydrogenase activity was increased, and the activity of both xanthine oxidase and kidney D-amino acid oxidase was decreased significantly when measured 4 hours after feeding.

Two groups of weanling Osborne-Mendel rats (5 males and 5 females in each group) received a daily dose (by stomach tube) of 20 mg per kg and 50 mg per kg body weight of allyl isothiocyanate respectively, for 20 days. Organ and tissue examination showed the following histopathology: Slight to moderate epithelial hyperplasia of the nonglandular part of the stomach with acute to subacute ulcers from 2 to 6.5 mm across in all animals at the higher dose and in half of the animals at the lower dose; and minor inflammatory foci in the liver at the higher dose level. However, the same authors reported that no effects were noted after feeding weanling rats for 26 weeks on a diet containing up to 10,000 ppm (about 500 mg per kg per day) of allyl isothiocyanate. The diet was prepared daily owing to the volatility of the cmopound. It is noted that this dosage is significantly higher than the LD_{50} reported from the same laboratory; reasons for the variation are not clear.

The Select Committee was unable to find reports of long term animal studies on brown mustard or its constituents, or of studies on the absorption or excretion of these substances.

Teratologic evaluation was made of a sample of allyl oil of mustard supplied by FDA and known to have been prepared from black mustard seeds (*B. nigra* L.). The oral administration of up to 18.5 mg per kg body weight daily to pregnant rats (6th through 15th days of gestation), up to 23.8 mg per kg to pregnant hamsters (6th through 10th days of gestation), and up to 12.3 mg per kg to pregnant rabbits (6th through 18th days of gestation), and up to 12.3 mg per effect on nidation or on maternal or fetal survival. The number of abnormalities seen in either soft or skeletal tissues of the test groups did not differ from the number occurring spontaneously in the sham-treated controls. The same result was obtained with pregnant mice at dosage levels up to 6.0 mg per kg (administered on the 6th through 15th days of gestation) but at a level of 28.0 mg per kg there were indications (not statistically significant) of increased fetal deaths and resceptions. These investigations concluded that oil of mustard, at this high level may be fetotoxic in the pregnant mouse without being teratogenic.

Studies of the toxicity and teratogenicity of mustard oil (allyl isothiocyanate) in avian embryos revealed that it was not teratogenic under the conditions employed. Doses up to 16 mg per kg were injected into the air cell or the yolk of fertile eggs before incubation or after 96 hours of incubation. The occurrence of abnormal embryos and those showing head; skeletal, visceral and limb abnormalities was not increased with the administration of mustard oil under any of these conditions. In the same series of experiments, mustard oil was found to be toxic to avian embryos when injected into the air cell of unincubated fertile eggs or after 96 hours of incubation, at a level of 0.6 mg per kg, and embryo mortality was increased with doses as low as 0.04 mg per kg when injected into the yolk.

Mutagenicity studies of mustard oil (allyl isothiocyanate) in which several assay procedures were employed, were uniformly negative. The assay procedures and the doses used were as follows: Host-mediated assay using two strains of *Saccharomyces cerevisiae* at oral doses up to 130 mg of mustard oil per kg in mice; cytogenetic assay, *in vivo*, involving observation of aberrations in bone marrow metaphase chromosomes of rats administered up to 100 mg of mustard oil per kg orally; cytogenetic assay, *in vitro*, involving observation of aberrations in anaphase chromosomes of human embryonic lung cells in tissue culture exposed to levels up to 10 μg of mustard oil per ml; dominant lethal assay in rats using dosages of mustard oil up to 100 mg per kg.

No reports have been found on the testing of allyl cyanide or carbon disulfide for teratogenicity.

Allyl isothiocyanate, applied to the skin of female Sutter albino mice as a 50 percent solution in acetone with 2 percent corn oil twice weekly for 24 weeks, produced papillomas in 10 percent of the animals and carcinomas in 1 animal. A 0.003 normal solution of allyl isothiocyanate in acetone painted on the skin of mice twice weekly for 5 months produced no tumors. No skin tumors were found after 11 months in mice painted three times weekly with allyl isothiocyanate. No reports have been found concerning the potential carcinogenicity of orally administered allyl isothiocyanate.

Carbon disulfide in aqueous solution (concentration not reported) administered orally to dogs and rabbits, produced no tumors in three months. No reports have been found in which the carcinogenic potential of allyl cyanide has been studied by any route.

Based on the eating habits of a number of his patients who had experienced coronary attacks, Blair in 1965 expressed the opinion that allyl isothiocyanate is the underlying cause of atheromatous sclerosis in a majority of cases. He has suggested that restriction of the "hot" condiments, e.g., mustard, pepper, and ginger—offers a means for prevention of essential hypertension and coronary disease. The editor of the Ohio State Medical Journal in which this article appeared, noted that the author's conclusions, while not substantiated, "represents a different viewpoint which may, or may not, be borne out in the experience of others."

The subcutaneous LD_{50} of benzyl mustard oil (presumed to consist principally of *p*-hydroxybenzyl isothiocyanate from yellow mustard seed) for mice is stated to be 150 mg per kg. No data have been found on acute studies of orally administered benzyl mustard oil or its isothiocyanate. Acute toxicity studies, by any route of administration, of sinapine, *p*-hydroxybenzyl alcohol, di-(*p*-hydroxybenzyl) disulfide, *p*-hydroxybenzyl cyanide, or *p*-hydroxybenzyl amine, which are reported to occur in yellow mustard or to be present as decomposition productions of *p*-hydroxybenzyl isothiocyanate have not been found in the literature.

The Select Committee was unable to find reports of short or long term studies on yellow mustard or its constituents, or studies on the absorption or excretion of these substances.

Only one experiment has been found that concerns the metabloic fate of mustard. In man, Perry et al. fed 100 g of mustard to a male adult over a 1.5 hours and collected urine 24 hours after the start of consumption. Chromatographic analysis of the urine revealed the presence of *p*-hydroxybenzyl amine and an unidentified amine, metabolites that were not detectable in the urine when mustard was excluded from the diet. The mustard used was "prepared mustard, made from mustard seed, turmeric and other species," but the source of the seed was not indicated. Since the allyl isothiocyanate of brown mustard could not conceivably give rise to a *p*-hydroxybenzyl metabolite, it can be reasoned that the mustard fed in this experiment was probably of the yellow variety and that the source of the *p*-hydroxybenzyl amine excreted could either be a separate constituent of white mustard seed as reported by Larsen, or could arise as a metabolite of *p*-hydroxybenzyl isothiocyanate; *p*-hydroxybenzyl amine has also been found in barley seeds.

No reports have been found on the carcinogenicity, teratogenicity, or mutagenicity of white mustard seed, or of its reported constituents, or of the degredation products of its constituents.

The oral LD_{50} of the volatile oil of mustard (source not indicated) for the rat was reported to be 148 mg per kg; 50 mg per kg per day was tolerated by rats for eight weeks without noticeable injury.

For 30 days rats were fed a basal diet containing 10 percent mustard cake (source not indicated) supplemented with 20 percent of one of a number of vegetable oils including mustard oil (source not indicated). It is evident that the mustard cake used in the basal diet was mustard seed from which the fatty acid glycerides had been expressed, leaving some or all of the essential oil; and that the mustard oil used was the fatty acid glycerides of mustard seed containing some or all of the essential oil. Serum lipid levels decreased in animals receiving the mustard oil during the early part of the feeding, but subsequently the level showed a steady upward trend. Mustard oil also produced consistent and progressive increases in the liver lipid level. Similar effects were noted with some of the other vegetable oils tested, making it appear that the effects noted with mustard oil were not due to its essential oil constituents. No evidence of toxicity to the animals subjected to this regime was reported by the investigators.

In one study, the nutritive contribution of mustard oil (expressed) appeared to be limited to its fat content. The source of the mustard oil was not indicated. Feeding tests with rats showed that this mustard oil (assumed to be the expressed fatty acid glycerides of mustard seed, containing some or all of the essential oil) was entirely devoid of vitamin A activity, and tended to inactivate vitamin A when mixed with other foods. The tests also showed that, as a fat, mustard oil was as nutritious as other fats, provided adequate vitamin A intake was assured from other sources.

The possibility of synergism between mustard oil (source not indicated, but presumed from the context of the report, to be expressed mustard oil containing the fatty acid gylcerides as well as the essential oil) and cholesterol was studied by including 10 percent of mustard oil in the feed of growing chicks, with or without one percent cholesterol for eight weeks. Chicks on the diet containing mustard oil showed an increase in the level of nonesterified fatty acids in the blood plasma but no change in other plasma lipids. Chicks on diets containing both cholesterol and mustard oil showed an increase in total plasma cholesterol, β-lipoprotein cholesterol, triglycerides, and nonesterified fatty acids. The extent of hypercholesterolemia did not seem dependent on the degree of saturation of the mustard oil. A subsequent report from the laboratory of one of these investigators extended these observations to effects on proportions of the aorta by feeding diets containing 10 percent mustard oil or other oils, with or without one percent cholesterol, to growing chicks for eight weeks. When such oils were fed without cholesterol, there was an increase in phospholipids in the aorta but no change in cholesterol; whereas cholesterol, with or without the oils, increased both cholesterol and phospholipids in the aorta. Further, the hexosamine content of the aorta decreased regardless of whether cholesterol was fed, implying a con-

V 42 166 AUG 26 77 UMI

comitant decrease in acid mucopolysaccharides. The hydroxyproline content of the aorta increased when both oils and cholesterol were fed, indicating that arterial collagen had increased. The latter effect seemed to be proportional to the degree of hypercholesterolemia. Severity of changes were found to be unrelated to either the cholesterol level in the plasma or to the degree of unsaturation of the oils fed. In all respects, mustard oil behaved no differently than coconut, sesame, and hydrogenated peanut oils.

Observations were made of the short term physiological effects due to mustard (source not indicated), lemon, curry, paprika, and sugar fed as condiments in test diets of healthy young men. It was noted that increased in salivary flow was of about the same magnitude for all of these substances, while mustard and paprika were least effective in increasing salivary amylase activity.

Bandyopadhyay and Banerjee fed up to 20 percent of various vegetable oils, including what is presumed to be expressed oil of mustard of unspecified source, with and without cholesterol, in the diet of rhesus monkeys for nine months. In the animals fed diets containing the mustard oil, diminished amounts of cholesterol deposits were found at autopsy in the thoracic and abdominal aortas, the brain, and the skin, while increased amounts of cholesterol were found in the liver. In a similar study, also with rhesus monkeys, Banerjee et al. fed cholesterol and various vegetable oils (up to 20 percent of the diet) for six months. Periodic observations showed that the level of plasma cholesterol was raised and fecal cholesterol was reduced to the same degree, indicating that the vegetable oils probably facilitated intestinal absorption of cholesterol.

Twenty human adult volunteers were fed a breakfast containing 17 percent by weight (about one g per kg) of one of six different vegetable or animal fats, including mustard oil (source not identified but evidently the expressed oil containing the fatty acid glycerides as well as some or all of the essential oil). A blood sample, taken four hours after breakfast, was analyzed. The experiments were repeated on each of five successive days. Feeding mustard oil was found to have no effect on platelet content, serum cholesterol, Stypvan[1] time, or the fibrinolysing property of the blood; whole blood clotting time was reduced as it was after feeding any of the fats, and fibrinogen content decreased, as it also did after feeding sesame oil; platelet adhesiveness increased as it also did after feeding groundnut, sesame or coconut oils.

Two mustard oils were tested for carcinogenic activity in XVII x C57 (black) hybrid mice by oral, cutaneous, subcutaneous, and intraperitoneal routes. There was no evidence of malignancy due to either oil at the site of treatment or in the remote organs even though the animals were observed for their complete life span of over two years. One of the oils was obtained from the Indian Agricultural Research Institute; New Delhi, and the other from the Rah Oil Mills, Bombay. Direct inquiry by the Select Committee of the authors and the Indian Agricultural Research Institute provided little additional information concerning the identity of these oils; the IARI sample was of unknown origin and the Raj sample was a market sample and believed to be a mixture. In more recent work the same investigators found no evidence of carcinogenicity in mice administered laboratory expressed refined mustard oil (see source not indicated) by stomach tube five days each week for their life span. Under the same conditions, one of 27 mice fed a market sample of mustard oil (seed source not indicated) developed transplantable gastric carcinoma in 13 months.

[1] Stypvan: a preparation of Russell's viper venum, used as a thromboplastic agent in the one-stage prothrombin time test.

All of the available safety information on brown and yellow mustard and their derivatives has been carefully evaluated by qualified scientists of the Select Committee. It is the opinion of the Select Committee that:

The two mustards (brown and yellow) commonly used in the United States are derived from two *Brassica* species that differ with respect to the major chemical constituents of their essential oils. The available information shows that the characteristic isothiocyanates, other known constituents, and decomposition products of the essential oils of both mustards, have low orders of oral toxicity in experimental animals. Further, there is no reported evidence that orally administered doses of these constituents are carcinogenic, teratogenic, or mutagenic. However, interpretation of the available information suffers from a general lack of specificity on the part of investigators concerning the identity of the particular mustard used in their experiments, and from the fact that the major constituents of the essential oils are either very volatile or unstable, making it speculative how much of each of these substances was actually present in the preparation tested. The industrial practice of using mixtures of mustards to impart desired flavors compounds the problem of relating the results of toxicological studies to conditions that may exist in foods. For the same reasons, the amounts of the essential mustard oil constituents actually present in foods at the time of consumption are unpredictably variable, but must be less than the amounts calculated from the reported daily human intake levels of mustard.

The Select Committee has made an exhaustive search for information relevant to the health aspects of mustard and mustard oils as food ingredients and is confident that the literature evaluated in this report is representative and significant as a basis for judgment. However, because of the long history of use of the mustards in or on foods without apparent adverse effects on man, and because, as a consequence, they have been generally recognized as safe, there have been few well-defined toxicological studies. The Select Committee is of the opinion that the mustards are examples of substances where more definitive toxicological studies on representative samples of the products actually used by food industry would be useful in confirming the apparent absence of adverse health effects when they are used in or on foods. Moreover, in products like the mustards, which consist of variable mixtures of mustard seeds containing several chemical entities, the toxicological study of the products are actually used, at levels that approximate or exceed those now in current use, would be of greater significance and usefulness than the separate study of constituents known or assumed to be present.

It is the conclusion of the Select Committee that there is no evidence in the available information on allyl isothiocyanate, *p*-hydroxybenzyl isothiocyanate, and brown and yellow mustard that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when they are used at levels that are now current or that might reasonably be expected in the future. Based upon his own evaluation of all available information on brown and yellow mustard, and their derivatives (including reports of teratogenic tests on treated and untreated mustard flour and mutagenic tests on yellow mustard which were not available when the Select Committee formed its conclusion), the Commissioner concurs with this conclusion. The Commissioner therefore concludes that no change in the current GRAS status of brown and yellow mustard and their derivatives is justified. The Commissioner further concludes that the information developed for this safety review forms a sound scientific basis for specifically affirming the GRAS status of allyl isothiocyanate, and he therefore proposes that its use, as described in § 172.515(b), be affirmed as GRAS in Part 184 and deleted from the list of synthetic substances in § 172.515(b).

Copies of the scientific literature review on oil of mustard, and *p*-hydroxybenzyl isothiocyanate, reports of mutagenic tests for yellow mustard and oil of mustard, reports of teratogenic tests for oil of mustard and mustard flour, and the report of the Select Committee are available for review at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22151, as follows:

Title	Order No.	Price code	Price [1]
Oil of mustard (scientific literature review)	PB-221-216	A04	$4.50
Oil of mustard (teratology tests)	PB-223-812/AS	A04	4.50
Para-hydroxyblenzyl isothiocyanate (scientific literature review).	PB-228-545/AS	A02	3.50
Oil of mustard (mutagenic tests)	PB-245-470/AS	A08	6.75
Mustard, yellow (mutagenic tests)	PB-245-503/AS	A03	4.00
Mustard flour—untreated (teratology tests)	PB-245-523/AS	A03	4.00
Mustard flour—treated (teratology tests)	PB-245-525/AS	A03	4.00
Mustard and oil of mustard (select committee report)	PB-254-528/AS	A03	4.00

[1] Price subject to change.

The proposed action does not affect the present use of brown and yellow mustard and their derivatives for pet food or animal feed.

Therefore, under the Federal Food, Drug and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055; 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that Parts 172, 182 and 184 be amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

§ 172.515 [Amended]

1. In § 172.515: Synthetic flavoring substances and adjuvants, by deleting the entry for "Allyl isothiocyanate; mustard oil" from the list of substances in paragraph (b).

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.10 [Amended]

2a. In § 182.10: Spices and other natural seasonings and flavorings, by deleting the entries for "Mustard, black or brown", "Mustard, brown", and "Mustard, white or yellow".

§ 182.20 [Amended]

b. In § 182.20: Essential oils, oleoresins (solvent-free), and natural extractives (including distillates), by deleting the entry for "Mustard".

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. By adding new § 184.1527 to read as follows:

§ 184.1527 Mustard and its derivatives.

(a) Mustard is derived from the seed of certain plants of the family Cruciferae Some of the principal botanical species from which white or yellow (CAS Reg. No. 000057–06–7) mustard is derived are *Brassica hirta* (L.) Moench, *Brassica alba* (L.) *Boiss*, and *Sinapis alba* (L.). Brown (black) or oriental mustard (CAS Reg. No. 977051–38–9 or 977002–01–9) is derived principally from the seeds of *Brassica juncea* (L.) Czerniaew or Cosson, and *Brassica nigra* (L.) Koch. Mustard is used as the whole seed, ground meal or flour with some fixed oil or hulls removed, and as the essential oil which is more than 90 percent allyl isothiocyanate for brown mustard. The essential oil of brown mustard is separated from the macerated seeds by steam distillation after most of the fixed oil has been expressed from the seeds and after the macerated product has undergone endogenous enzymatic activity. Allyl isothiocyanate can be synthesized by reacting allyl iodide with potassium thiocyanate.

(b) Allyl isothiocyanate (C_4H_5NS, CAS Reg. No. 57–06–7) meets the specifications of the Food Chemicals Codex (FCC), 2d Ed. (1972).[2] Brown (black) or oriental, and white or yellow mustard seeds meet the following specifications:

(1) Moisture, not more than 10 percent of total sample weight when determined by drying at 105° C. for 5 hours, and in accordance with the FCC test (p. 931).

(2) Total ash, not more than 5.5 percent on dry weight basis when determined by FCC test (p. 868).

(3) Total heavy metals, not more than 10 ppm on dry weight basis when determined by FCC test (p. 920) as modified by the first supplement to FCC (1974).

(4) Arsenic, not more than 2 ppm on dry weight basis when determined by FCC test (p. 865) as modified by the second supplement to FCC (1975).

(5) Lead, not more than 5 ppm on dry weight basis when determined by FCC test (p. 929).

(6) The allyl isothiocyanate content in *B. nigra* and *B. juncea* should conform to the representation of the vendor when determined by the procedure in the 12th edition of the Official Methods of the Association of Official Analytical Chemists, sections 30.026 and 30.027.[3]

(7) The *p*-hydroxybenzyl isothiocyanate content in *B. alba* should conform to the representation of the vendor when determined by the procedure of Raghavan *et al.*, "Journal of the Science of Food and Agriculture" 22:523–525, 1971.[4]

(c) Mustard and its derivatives are used as flavoring agents and adjuvants as defined in § 170.3(o)(12) of this chapter.

(d) The ingredients are used in foods at levels not to exceed good manufacturing practices. Current good manufacturing practice results in the following maximum levels, as served:

(1) Brown (black) or oriental mustard: 0.3 percent for baked goods as defined in § 170.3(n)(1) of this chapter, 19 percent for condiments and relishes as defined in § 170.3(n)(8) of this chapter, 2 pecent for fats and oils as defined in § 170.3(n)(12) of this chapter, 0.5 percent for gravies and sauces as defined in § 170.3(n)(24) of this chapter, 1.0 percent for nuts and nut products as defined in § 170.3(n)(32) of this chapter, and 1 percent or less for all other food categories;

(2) Yellow (white) mustard: 20 percent for condiments and relishes as defined in § 170.3(n)(8) of this chapter, 1.9 percent for fats and oils as defined in § 170.3(n)(12) of this chapter, 0.2 percent for meat products as defined in § 170.3(n)(29) of this chapter, 1.9 percent for snack foods as defined in § 170.3(n)(37) of this chapter, and 1.7 percent or less for all other food categories; and

(3) Allyl isothiocyanate: 0.05 percent for gravies and sauces as defined in § 170.3(n)(24) of this chapter, and 0.02 percent or less for all other food categories.

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Part 181 (21 CFR Part 181), incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before October 25, 1977, submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A–107.

Dated: August 12, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77–24517 Filed 8–25–77;8:45 am]

[2] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

[3] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

[4] Copies may be obtained from: GRAS Review Branch (HFF–335), Bureau of Foods, Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204.

[21 CFR Part 101]

[Docket Nos. 77P–0016 and 77P–0017]

FOOD LABELING

Ingredient Labeling Exemptions

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposal would permit all ingredients that act as leavening agents, as yeast nutrients, or as dough conditioners in a food to be listed together in the ingredient statement by their specific common or usual names in parentheses following the appropriate collective names "leavening", "yeast nutrients", or "dough conditioners". The proposed amendment would also permit individual ingredients that act as dough conditioners, yeast nutrients, or leavening agents to be listed in parentheses in other than descending order of predominance; and it would provide for the label declaration of those ingredients used intermittently in the manufacture of a food as dough conditioners, yeast nutrients, or leavening agents even though they may not always be present in the food bearing such labeling.

This proposal is based on petitions submitted to the Food and Drug Administration (FDA) by the American Bakers

V 42166 AUG 26 77 UMI

Association and is intended to provide a more flexible ingredient labeling format while retaining complete ingredient disclosure to consumers.

DATE: Written comments by October 25, 1977.

ADDRESS: Written comments to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Howard N. Pippin,
Bureau of Foods (HFF–312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, (202–245–3092).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of January 6, 1976 (41 FR 1156), FDA promulgated regulations amending § 101.4 (21 CFR 101.4, formerly 21 CFR 1.10 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), concerning the manner in which ingredients are to be declared on the labels of finished foods. One of the results of the promulgation of these regulations is that Trade Correspondence Number 94 (TC–94) was revoked in its entirety. TC–94 had provided that manufacturers of bakery products using ingredients acting as leavening, yeast nutrients, and dough conditioners could declare these ingredients as such on labels of bakery products in place of the specific common or usual names of these ingredients.

In a final role published in the FEDERAL REGISTER of February 12, 1976 (41 FR 6242), FDA issued amendments to the definitions and standards of identity for bakery products and required label declaration of all optional ingredients. The effective date for the ingredient labeling portions of both the January and February 1976 regulations is January 1, 1978.

As a result of these actions, leavening agents, yeast nutrients, and dough conditioners added to bakery products as of January 1, 1978 would be required to be declared by their specific common or usual names in their descending order of predominance in the finished food, whether or not such food conforms to a definition and standard of identity for bakery products.

The American Bakers Association (ABA), 2020 K St. NW., Washington, DC 20006, has submitted two petitions requesting relief from the requirement that leavening agents, yeast nutrients, and dough conditioners added to bakery products be declared by their common or usual name in their descending order of predominance.

One petition (Docket No. 77P–0017) proposes that the Commissioner of Food and Drugs amend § 101.4 to permit all ingredients that act as leavening agents, yeast nutrients, or dough conditioners in bakery products to be listed together in order of predominance in parentheses following the appropriate collective term that describes the ingredients' function.

The second petition (Docket No. 77P–0016) requests that the Commissioner amend the definition and standard of identity for bread in § 136.110 (21 CFR 136.110) to permit the declaration of dough conditioners (other than potassium iodate or calcium iodate) that may be added to bakery products so that the label declaration would be the same whether or not specific dough conditioners were present in the finished food, provided that such declarations are followed by the statement "used as needed."

In support of the proposals, the petitioner submits that, for many years, FDA has permitted leavening agents, yeast nutrients, and dough conditioners to be declared by these collective names, under TV–94 issued in 1940. The petitioner states that on January 1, 1978, when the requirements of § 101.4 become effective, consumers will see on the labels of bakery foods, for the first time, the precise chemical names for leavening agents, yeast nutrients, and dough conditioners. The petitioner contends that, unless additional descriptive language indicating the function of the particular ingredient is placed in the ingredient declaration, the result will be a label less informative to the consumer than the current one. The petitioner argues that consumers are familiar with the collective terms for these ingredients through decades of experience with such names, but are not likely to know that ammonium phosphate, for example, is a yeast nutrient or that monocalcium phosphate is a leavening agent. Labeling that merely states that ammonium phosphate is present in baked goods does not inform consumers of the purpose for such ingredients.

In its petition to amend the standard of identity for bread, ABA states that bakers have found it necessary to add certain safe and suitable ingredients from time to time, depending on raw material variations. For example, if a wheat crop is "weak," it may be necessary to add additional dough strengtheners to obtain a uniformly high quality product. Although bakers know that these ingredients may be needed to produce an acceptable food, they find it impossible to predict in advance what ingredients will be needed at any particular time. The petitioner contends that no legitimate interest would be harmed by granting bakers the right to disclose such ingredients on an "as needed" basis in the ingredient declaration because each of the ingredients involved has already been determined by FDA to be safe and suitable for its intended purpose and all ingredients present will be disclosed on the label. The petitioner contends that the declaration of dough conditioners on an "as needed" basis will provide necessary flexibility in the labeling of bakery products and avoid higher labeling costs that may result in increased prices to the consuming public.

Accordingly, ABA proposes: (1) That FDA permit leavening agents, yeast nutrients, and dough conditioners to be listed by an appropriate collective name with the specific ingredients used listed in parentheses following the collective name for these ingredients; and (2) that FDA permit certain optional ingredients, permitted in certain standardized bakery products and used intermittently as dough conditioners, to be declared on the label followed by the statement "used as needed". The petitioner concludes that adoption of these proposals would provide more informative labeling by disclosing to consumers the ingredients present and their function, without unduly lengthening the label, and would provide bakers the flexibility needed to produce quality products without the cost of frequent label changes.

The full petitions are on file with the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857 and may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In addition to these petitions, the agency has received a request for an advisory opinion (Docket No. 77A–0243) concerning the use of the collective names "dough conditioners", "yeast nutrients", and "leavening", when followed by a parenthetical listing of the specific dough conditioners, yeast nutrients, or leavening agents used. The request for this advisory opinion contained arguments similar to those in the petitions.

The agency has responded to this request by issuing an advisory opinion stating that:

> Since the labeling practices suggested do not result in any less ingredient information being provided to the consumer, the agency is of the opinion that for the purposes of § 101.4(b)(2):
>
> (1) Ingredients that act as leavening agents in a food may be declared in the ingredient statement in the order of predominance appropriate for the total of all leavening agents in the food by stating the specific common or usual name of each individual leavening ingredient in descending order of its predominance in parentheses following the collective name "leavening", e.g., "leavening (baking soda, monocalcium phosphate, and calcium carbonate)".
>
> (2) Ingredients that act as yeast nutrients in a food may be declared in the ingredient statement in the order of predominance appropriate for the total of all yeast nutrients by stating the specific common or usual name of each individual yeast nutrient in descending order of predominance in parentheses following the collective name "yeast nutrients", e.g., "yeast nutrients (calcium sulfate and ammonium phosphate)".
>
> (3) Ingredients that act as dough conditioners in a food may be declared in the ingredient statement in the order of predominance appropriate for the total of all dough conditioners in the food by stating the specific common or usual name of each individual dough conditioner in its descending order of predominance in parentheses following the collective name "dough conditioners", e.g., "dough conditioners (L-cysteine, ammonium sulfate)".

A copy of the request for an advisory opinion and the agency's response are also on file in the office of the Hearing Clerk.

The Commissioner has considered both of the petitions submitted by ABA and concludes that the petitions contain sufficient grounds to warrant publication of a proposed regulation. The Commissioner is of the opinion, however, that the requested exemption should not be limited to products conforming to a definition and standard of identity for bakery products. Consequently, the Commissioner is proposing an amendment to § 101.4 to provide that ingredients that act as dough conditioners, yeast nutrients, or leavening agents may be listed by their specific common or usual names in the ingredient statement in parentheses following the appropriate collective names "leavening", "yeast nutrients", or "dough conditioners". The exemption stated in this manner will apply to all foods utilizing these functional ingredients.

The Commsisioner recognizes that there has been widespread use of the collective names "dough conditioners", "yeast nutrients", and "leavening" in describing these functional ingredients of bakery proudcts. The Commissioner also agrees that the listing of these ingredients together following the appropriate collective term will give additional information to consumers and still provide complete ingredient disclosure for consumers.

The Commissioner advises that the collective name "leavening" is understood to mean any safe and suitable food ingredient or combination of ingredients incorporated into a dough or batter for the purpose of producing carbon dioxide in baked goods to impart texture. The collective name "yeast nutrients" is understood to mean any safe and suitable food ingredient or combination of ingredients used solely for the purpose of promoting growth and activity in yeast-leavened dough products. The collective name "dough conditioners" is understood to mean any safe and suitable food ingredient, or combination of ingredients, used to modify the rheological characteristics of a dough either by directly or indirectly acting on the gluten or by modifying the water absorption capacity of the dough.

On the assumption that the manufacturers are unable to predict in advance the specific dough conditioners, yeast nutrients, and leavening agents to be used in a particular food and they are unable to maintain a uniform quantity of these ingredients in a formulation because of raw material variation, the Commissioner is proposing that the specific dough conditioners, yeast nutrients, and leavening agents need not be listed in descending order of predominance.

In addition, the Commissioner is proposing that ingredients that act as dough conditioners, yeast nutrients, or leavening agents in foods, but which are used intermittently in foods, may be declared in the ingredient statement even though they may not be present in the finished food, provided the ingredients are identified by words indicating that they may not be present, such as "dough conditioners (ammonium chloride and/or L-cysteine)" or "dough conditioners (one or more of the following: Ammonium chloride, L-cysteine, potassium bromate)".

Any ingredient that may act as a leavening agent, dough conditioner, or yeast nutrient but which is added for other purposes (e.g., as a preservative or an enrichment) must be listed separately in its own order of predominance because it performs a function other than that implied under the collective names "dough conditioners", "yeast nutrients", or "leavening".

The Commissioner is of the opinion that the proposed exemption from ingredient labeling for foods will provide sufficient flexibility for the baking industry while retaining complete ingredient disclosure for consumers. Furthermore, because the proposed exemption is a general labeling provision applicable to both standardized and nonstandardized foods, there is no need to amend individual standards of identity.

Other petitions have been received concerning the declaration of sweeteners and nutrients (vitamins and minerals), requesting that such ingredients be treated in a similar manner to that proposed here for "dough conditioners", "yeast nutrients", and "leavening". The Commissioner notes that the label declaration of sweeteners and nutrients was not affected by revocation of TC–94 and these ingredients are widely used in foods other than bakery products. These petitions are under active review within the agency but are not dealt with in this proposal. Manufacturers, therefore, will be expected to declare these ingredients by their common or usual names in order of predominance in accordance with § 101.4.

EFFECTIVE DATE

The effective date for compliance with the existing ingredient labeling requirements of § 101.4 is January 1, 1978. However, this proposal may have a bearing on how manufacturers are required to list certain ingredients in bakery products. To impose new labeling requirements on manufacturers while at the same time proposing to amend such requirements would be unreasonable and not in the consumers' best interest. Therefore, the Commissioner advises that, pending the issuance of a final regulation ruling on this proposal, FDA will not initiate regulatory action against any food product on the basis of improper ingredient declaration of dough conditioners, yeast nutrients, or leavening agents, provided such ingredient declarations are in accordance with this proposal.

The Commissioner proposes that the effective date of any final regulation ruling on this proposal be the date of publication of such final regulation in the FEDERAL REGISTER unless the final regulation differs from this proposal, in which case a reasonable period will be provided for labeling revisions.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended, 1047–1048 as amended, 1055 (21 U.S.C. 321, 343, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 101 be amended in § 101.4 by adding new paragraphs (b) (16), (17), and (18) to read as follows:

§ 101.4 Food; designation of ingredients.

* * * * * * *

(b) * * *

(16) Ingredients that act as leavening agents in food may be declared in the ingredient statement by stating the specific common or usual name of each individual leavening agent in parentheses following the collective name "leavening", e.g., "leavening (baking soda, monocalcium phosphate, and calcium carbonate)". The listing of the common or usual name of each individual leavening agent in parentheses shall be in descending order of predominance: *Except*, That if the manufacturer is unable to adhere to a constant pattern of leavening agents in the product, the listing of individual leavening agents need not be in descending order of predominance. Leavening agents not present in the product may be listed if they are sometimes used in the product. Such ingredients shall be identified by words indicating that they may not be present, such as "or", "and/or", "contains one or more of the following:".

(17) Ingredients that act as yeast nutrients in foods may be declared in the ingredient statement by stating the specific common or usual name of each individual yeast nutrient in parentheses following the collective name "yeast nutrients", e.g., "yeast nutrients (calcium sulfate and ammonium phosphate)". The listing of the common or usual name of each individual yeast nutrient in parentheses shall be in descending order of predominance: *Except*, That if the manufacturer is unable to adhere to a constant pattern of yeast nutrients in the product, the listing of the common or usual names of indivdual yeast nutrients need be in descending order of predominance. Yeast nutrients not present in the product may be listed if they are sometimes used in the product. Such ingredients shall be identified by words indicating that they may not be present, such as "or", "and/or", or "contains one or more of the following:".

(18) Ingredients that act as dough conditioners may be declared in the ingredient statement by stating the specific common or usual name of each individual dough conditioner in parentheses following the collective name "dough conditioner," e.g., "dough conditioners (L-cysteine, ammonium sulfate)". The listing of the common or usual name of each

V 42166 AUG 26 77 UMI

dough conditioner in parentheses shall be in descending order of predominance: *Except*, That if the manufacturer is unable to adhere to a constant pattern of dough conditioners in the product, the listing of the common or usual names of individual dough conditioners need not be in descending order of predominance. Dough conditioners not present in the product may be listed if they are sometimes used in the product. Such ingredients shall be identified by words indicating that they may not be present, such as "or", "and/or", or "contains one or more of the following:".

* * * * *

Interested persons may, on or before October 25, 1977, submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: August 22, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc.77–24792 Filed 8–23–77;12:13 pm]

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Part 5]

LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NONCONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT)

AGENCY: Wage and Hour Division, Labor.

ACTION: Proposed rule.

SUMMARY: The variation of the Contract Work Hours and Safety Standards Act which now permits 8 hours a day and 48 hours a week work by contractors providing nursing homecare of veterans before overtime is due is proposed to be revised to permit 8 hours a day and 80 hours in a 14-day period to be worked before overtime is due. This change is to resolve the present conflict between an authorized variation of the Contract Work Hours and Safety Standards Act and the provisions of the Fair Labor Standards Act, which arose as a result of the 1974 amendments to the Fair Labor Standards Act.

DATES: Comments will be received on or before September 26, 1977.

ADDRESS: Written comments may be submitted to the Administrator, Wage and Hour Division, Room S–3502, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210, on or before the above date, following which they will be evaluated and appropriate action taken.

FOR FURTHER INFORMATION CONTACT:

William G. Blackburn, Acting Branch Chief, Division of Government Contracts Regulations, Wage and Hour Division, Employment Standards, Administration, Room S–3518, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210, telephone 202–523–7541.

SUPPLEMENTARY INFORMATION: The Contract Work Hours and Safety Standards Act requires payment of overtime for hours worked in excess of 8 in a day and 40 in a week. Section 105 of that Act authorizes the Secretary to prescribe regulations allowing reasonable variations under certain conditions. Pursuant to that authority, 29 CFR 5.14 (d) (3) was issued which permitted contractors providing nursing home care of veterans to be in compliance with the Contract Work Hours and Safety Standards Act by paying overtime for hours worked in excess of 8 in a day and 48 in a week. The Fair Labor Standards Act permitted such overtime and in the interest of consistency between the two Acts, the variation was issued.

In the 1974 amendments to the Fair Labor Standards Act, the applicable provision was changed to require such employers to pay overtime for hours worked in excess of 8 in a day and 80 in a 14-day period. As contractors must comply with the Fair Labor Standards Act (when it is applicable), the present variance may affirmatively mislead contractors who believe that by compliance with the Contract Work Hours and Safety Standards Act variation, they are complying with the Fair Labor Standards Act also. This proposed amendment will resolve the conflict between the variation and the Fair Labor Standards Act as amended.

This document was prepared under the direction and control of Warren D. Landis, Deputy Administrator, Wage and Hour Division, Room S–3502, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210, telephone 202–523–8305.

It is proposed to amend § 5.14(d) (3) of 29 CFR Part 5 as follows:

§ 5.14 Limitations, variations, tolerances, and exemptions under the Contract Work Hours and Safety Standards Act.

* * * * *

(d) Variations * * *.

(3) In the performance of any contract entered into pursuant to the provisions of 38 U.S.C. 620 to provide nursing home care of veterans, no contractor or subcontractor under such contract shall be deemed in violation of Section 102 of the Contract Work Hours and Safety Standards Act by virtue of failure to pay the overtime wages required by such section for work in excess of 8 hours in any calendar day or 40 hours in the workweek to any individual employed by an establishment which is an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, a work period of 14 consecutive days is accepted in lieu of the workweek of 7 consecutive days for the purpose of overtime compensation and if such individual receives compensation for employment in excess of 8 hours in any workday and in excess of 80 hours in such 14-day period at a rate not less than 1½ times the regular rate at which the individual is employed, computed in accordance with the requirements of the Fair Labor Standards Act of 1938, as amended.

This variance is found necessary and proper and in the public interest to avoid serious impairment of the conduct of Government business.

Signed at Washington, D.C., on this 19th day of August 1977.

XAVIER M. VELA,
Administrator.

[FR Doc.77–24857 Filed 8–25–77;8:45 am]

[29 CFR Part 97]

MIGRANT AND SEASONAL FARMWORKERS

Closeout of Grants Under Title III–B of Economic Opportunity Act

AGENCY: Department of Labor.

ACTION: Proposed Rule.

SUMMARY: The Department of Labor is proposing to close out, as of December 31, 1977, all grants which it administers which were funded under Title III–B of the Economic Opportunity Act of 1964, as amended (Pub. L. 88–452, 78 Stat. 508, as amended), and were transferred to the Department by the Delegation of Authority approved July 6, 1973. The purpose of this proposed regulation is to provide for the closing out of grants which have continued for an extensive period of time.

DATES: Comments on the proposed rule are due by September 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Paul A. Mayrand, Chief, Division of Farmworkers Programs, Employment and Training Administration, Patrick Henry Building, Room 7122, 601 D Street NW., Washington, D.C. 20213.

SUPPLEMENTARY INFORMATION:

WHERE TO SEND COMMENTS

Comments on the proposed rule should be sent to the Assistant Secretary for Employment and Training, Attn: Pierce A. Quinlan, Administrator, Office of Comprehensive Employment Development, Room 6000, 601 D Street NW., Washington, D.C. 20213.

BACKGROUND

Title III–B of the Economic Opportunity Act of 1964, as amended, authorized programs for migrants and seasonal farmworkers. From 1964 until July 1973, these grants were administered by the Office of Economic Opportunity.

In a Delegation of Authority, approved by the President on July 6, 1973, the Director of Office of Economic Opportunity delegated to the Secretary of Labor the authority to administer migrant and seasonal farmworker grants under Title III–B of the Economic Opportunity Act.

Since 1973, when Congress enacted the Comprehensive Employment and Training Act, Congress has not appropriated any funds to the Department of Labor for the administration of migrant and seasonal farmworker programs under Title III–B of the Economic Opportunity Act. The Department has continued funding existing programs under Sec. 303 of the Comprehensive Employment and Training Act.

On January 4, 1975, Congress enacted Pub. L. 93–644, the Headstart, Economic Opportunity, and Community Partnership Act of 1974. That Act amended the Economic Opportunity Act in several ways. The Act created a Community Services Administration as the successor to the Office of Economic Opportunity. Section 9 of Pub. L. 93–644 amended Section 601 of the Economic Opportunity Act to give the Director of the Community Services Administration responsibility for administering Title III–B of the Economic Opportunity Act. Subsection (c) of the amended Section 601 prohibited the Director from delegating any of the responsibilities under Title III–B to any person who was not programmatically and administratively responsible to the Director. Subsection (d) (1) of the amended Section 601, however, stated that:

(d) (1) All official actions taken by the Director of the Office of Economic Opportunity, his designee, or any other person under the authority of the Economic Opportunity Act of 1964 which are in force on the date of the enactment of the Headstart, Economic Opportunity, and Community Partnership Act of 1974, and for which there is continuing authority under the provisions of this Act, shall continue in full force and effect until modified, superseded, or revoked by the Director.

The Department of Labor still retains authority to administer certain migrant and seasonal farmworker program grants initially funded under Title III–B of the Economic Opportunity Act.

A number of grants which were funded in past years under Title III–B of the Economic Opportunity Act have still not been closed out. Several of these grants contain no specific closing dates. Instead, they contain provisions which state that the grants will continue to remain open until the Department establishes a closing date by regulation. The purpose of this document, therefore, is to propose a regulation whereby all grants funded and administered by the Department of Labor under Title III–B of the Economic Opportunity Act will be given a closing date of December 31, 1977.

Accordingly, it is proposed to amend 29 CFR Part 97, Subpart C by adding the following new section:

§ 97.293 Closeout of migrant and seasonal farmworker program grants funded under Title III–B of the Economic Opportunity Act of 1964, as amended.

All programs funded under Title III–B of the Economic Opportunity Act, as amended, which were transferred to the Department of Labor by the Delegation of Authority approved by the President on July 6, 1973, shall terminate as of December 31, 1977. No grant funds shall be expended for such programs after December 31, 1977. At that time, all organizations holding funds under such grants shall close out such grants pursuant to the Department's instructions.

(Title III–B of the Economic Opportunity Act of 1964, as amended, Pub. L. 88–452, 78 Stat. 508, as amended; Delegation of Authority, 38 FR, July 19, 1973.)

Signed at Washington, D.C., this 1st day of August 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc.77–24477 Filed 8–25–77;8:45 am]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

[29 CFR Part 1601]

706 AGENCIES

Proposed Designation

AGENCY: Equal Employment Opportunity Commission.

ACTION: Proposed rule.

SUMMARY: The Equal Employment Opportunity Commission proposes to amend its regulations on designation of certain State and local agencies so that they may handle employment discrimination charges filed with the Commission. Proposed is a Local agency that requested deferral designation as provided under the authority of Title VII of the Civil Rights Act of 1964, as amended. The proposal would authorize the agency listed to process charges deferred to it by the Commission.

DATES: Comments must be received on or before September 9, 1977.

ADDRESS: Comments should be sent to: Equal Employment Opportunity Commission, State and Local Division, Office of Compliance Programs, Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Paul K. Lindsay (202) 634–6040, Desk Officer, Equal Employment Opportunity Commission, Office of Compliance Programs, State and Local Division, 2401 E Street, N.W., Room 4050, Washington, D.C. 20506.

V 42 166 AUG 26 77 7 UMI

SUPPLEMENTARY INFORMATION: Pursuant to § 1601.12(i), Title 29, Chapter XIV of the Code of Federal Regulations as revised and published in the FEDERAL REGISTER, 40 FR 3210M, January 20, 1975, the Equal Employment Opportunity Commission (hereinafter referred to as the Commission) proposes that the agency listed below be designated as a "706 Agency", § 1601.12. There are three (3) purposes for such designation: First, that the agency receives charges deferred by the Commission pursuant to Section 706 (c) and (d) of the Title VII of the Civil Rights Act of 1964, as amended; second, that the Commission accord "substantial weight" to the final findings and orders of the agency pursuant to § 1601.19(e); and third, to commence the 15-day period within which any person or organization may file written comments as provided for under § 1601.12(i)(1).

At the expiration of the 15-day period, the Commission may effect designation of the agency by publishing it as an amendment to § 1601.12(m).

The proposed "706 Agency" is as follows:

Sioux Falls (South Dakota) Human Relations Commission.

Written comments pursuant to this notice must be filed with the Commission on or before September 9, 1977.

Signed at Washington, D.C., this 24th day of August 1977.

ELEANOR HOLMES NORTON,
Chairman, Equal Employment Opportunity Commission.

[FR Doc.77-25038 Filed 8-25-77;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1960]

EVALUATION CRITERIA FOR FEDERAL AGENCY OCCUPATIONAL SAFETY AND HEALTH PROGRAMS

Request for Public Comment

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Cross Reference.

SUMMARY: The purpose of this document is to call attention to a document that is published in the Notices section of this issue and that announces the availability of the Federal Agency Safety Program Evaluation Guide.

That notice also requests comments on the possible need for amending 29 CFR Part 1960 as a result of the issuance of the Guide.

DATES: Comments must be received on or before October 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerard F. Scannell, Director, Office of Federal Agency Safety Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 2100 M Street NW., Room 156, Washington, D.C. 20210, Telephone: 202-653-5502.

Copies of the Guide also may be obtained from regional offices listed in FR Doc. 77-24406 published in the Notices section of this issue.

SUPPLEMENTARY INFORMATION: For the text of the notice described above see FR Doc. 77-24406 published in the Notices section of this issue.

Signed at Washington, D.C., this 18th day of August, 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-24405 Filed 8-25-77;8:45 am]

LEGAL SERVICES CORPORATION

[45 CFR Part 1601]

AMENDMENT OF CORPORATION'S BY-LAWS

AGENCY: Legal Services Corporation.

ACTION: Proposed Amendments to By-Laws.

SUMMARY: Section 1601.44 of the Corporation's By-Laws, 45 CFR 1601.44, provides that the By-Laws may be amended by a vote of a majority of the Directors in office and requires, when feasible, that the proposed amendment shall have been published in the FEDERAL REGISTER at least thirty days before the meeting. Pursuant to this Section, the Legal Services Corporation hereby publishes notice that its Board of Directors will consider certain proposed amendments at the September 14, 1977, meeting.

DATES: Comments should be received by September 9, 1977.

ADDRESSES: Send comments to: Office of General Counsel, Legal Services Corporation, 733 15th Street NW., Suite 700, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT:

Linda Davis, 733 15th Street NW., Suite 700, Washington, D.C. 20005 (202) 376-5113.

SUPPLEMENTARY INFORMATION:

PROPOSED AMENDMENTS

A. The following amendments to the Corporation's By-Laws, Part 1601, will be required if either S. 1303, 95th Cong., 1st Sess. (1976), or H.R. 6666, 95th Cong., 1st Sess. (1976) is enacted. The provisions of Part 1601 dealing with notice of meetings and executive sessions would have to be amended to conform to the requirements of the Government in the Sunshine Act, 5 U.S.C. 552b, which both bills apply to the Corporation. The proposed changes in the By-Laws are contained in the following chart:

CURRENT PROVISION	PROPOSED CHANGES IN BY-LAWS	EXPLANATION
Subpart D—Meetings of Directors **§ 1601.15 Regular meetings.** (a) Regular meetings of the Board shall be held at least four times a year, on the first Friday of March, June, October, and December. If not a legal holiday, then on the next business day following, at 10 a.m., or at such other date and time as shall be determined by a majority of the members of the Board. Such regular meetings shall be held in the District of Columbia unless a majority of the members of the Board otherwise determine. Notice of the place of a regular meeting shall be mailed to each Director at least [five days] before the date of the meeting [or shall be telegraphed or delivered at least five days before such date]. (b) In the event a majority of the members of the Board agree to postpone a regular meeting, notice of such postponement shall be mailed to each Director at least five days before the scheduled date for such meeting or shall be telegraphed or delivered at least three days before such scheduled date. In the event a majority of the members of the Board agree to reschedule a regular meeting to a date in advance of the scheduled date for such meeting, notice of such rescheduling shall be mailed to each Director [at least twenty-one days before the rescheduled date for such meeting or shall be telegraphed or delivered at least fifteen days before such rescheduled date]. Every such notice shall specify the place, day, and hour of the rescheduled meeting.	Delete "five" and add: "seven." Alternative: delete entire phrase enclosed by brackets.	The Sunshine Act requires the Corporation to make "public announcement" at least seven days before the meeting. The change is not required by the Sunshine Act, but it seems reasonable to require that Directors receive notice at approximately the same time as the public announcement.
	Delete matter in brackets and insert in lieu thereof, "at the earliest practical time."	Under the Sunshine Act, the agency may change the time or place of a meeting "only if the agency publicly announces [the] change at the earliest practicable time."
§ 1601.16 Special meetings. Special meetings of the Board may be called by the Chairman of the Board or upon request from five or more members of the Board or from the President of the Corporation and four members of the Board [Notice of any such meeting shall be mailed to each Director at least seven days before the date on which the meeting is to be held or shall be telegraphed or delivered at least three days before such date]. Every such notice shall specify the place, day, and hour of the meeting.	Delete material in brackets. Add: "Unless a majority of the Board determines by a recorded vote that Corporation business requires a meeting to be called at an earlier date, notice of any special meeting shall be mailed to each director at least seven days before the date on which the meeting is to be held."	Under 552b(e)(1), the Corporation would be required to make a public announcement seven days in advance of a special meeting unless a majority of the Board determined by a recorded vote that Corp. business required a meeting to be called at an earlier date.

V 42 N 166 AUG 26 77 UMI

CURRENT PROVISION	PROPOSED CHANGES IN BY-LAWS	EXPLANATION
§ 1601.17 Notice and waiver of notice.	No change.	
§ 1601.18 Agenda. For each regular and special meeting, the Chairman of the Board or the President of the Corporation shall cause to be prepared an agenda of matters to be discussed at the meeting and shall make reasonable effort to mail the agenda to all Directors as far in advance of the meeting as practicable. [When feasible, the agenda shall be posted at the offices of the Corporation, in an area to which the public has access, at least three days before the date on which the meeting is to be held. Any matters appearing on the agenda which the Chairman of the Board or the President of the Corporation believes should be discussed in an executive session in accordance with § 1601.22 shall be so noted.] Matters not appearing on the agenda may also be discussed and acted upon at the meeting[,] but the Chairman of the Board or the President of the Corporation shall endeavor to include as many matters on the agenda as can be reasonably anticipated.	Delete matter in first set of brackets and insert in lieu thereof, "Public notice of the agenda shall be given in the manner prescribed by the Corporation Regulation implementing Section 552b of Title 5 United States Code. Delete matter in second set of brackets and insert in lieu thereof, "Matters not appearing on the agenda may also be discussed and acted upon in the manner prescribed by the Corporation Regulation implementing Section 552b of Title 5, United States Code,"	Before new matters can be added to the agenda, the Sunshine Act requires (1) a recorded vote by a majority of the Board that Corporation business so requires and that no earlier announcement of the change was possible, and (2) that the Corporation publicly announce any such change and the vote of each member upon the change at the earliest practicable time. Notice of changes in the agenda must be published in the Federal Register.
§ 1601.19 General notice. [Concurrently with the giving of notice to the Directors of any meeting of the Board or any rescheduling thereof, such notice shall be filed for publication in the FEDERAL REGISTER and posted at the offices of the Corporation in an area to which the public has access.] Reasonable effort shall be made to communicate such notice, at least three days before the meeting, to the chairman of each state advisory council appointed pursuant to section 1004(f) of the Act and to every recipient. [Failure to provide general notice in accordance with this Section shall] not affect the validity of Board action at such meeting.	Delete matter in brackets and insert in lieu thereof, "Public notice of any meeting of the Board or any rescheduling thereof shall be provided in the manner prescribed by the Corporation Regulation implementing Section 552b of Title 5, United States Code."	Under some circumstances, notice required for directors may not be as great as that required for the public -- some flexibility should be retained here. This makes clear that public notice is governed by the Sunshine Act.
§ 1601.20 Organization of directors meeting.	No change	

CURRENT PROVISION	PROPOSED CHANGES IN BY-LAWS	EXPLANATION
§ 1601.21 Quorum, manner of acting, and adjournment. (b) A majority of the Directors present at a duly convened meeting, whether or not they shall comprise a quorum, may temporarily adjourn the meeting. [Whenever a meeting is temporarily adjourned to a date not more than five business days following such adjournment, it shall not be necessary to give any notice of the adjourned meeting or of the business to be transacted thereat otherwise than by an announcement at the meeting at which such adjournment is taken.]	Delete matter in brackets. Substitute: "When a meeting is temporarily adjourned to a subsequent date, the Corporation shall publicly announce such change at the earliest practicable time."	

UMI

CURRENT PROVISION	PROPOSED CHANGES IN BY-LAWS	EXPLANATION
1601.22 Public meetings; executive sessions. (a) All meetings of the Board shall be open to the public unless two-thirds of the Directors eligible to vote determine that consideration of specific matter on a specific occasion shall be closed to the public. That part of a meeting closed to the public shall be known as an executive session. Agenda and non-agenda items may be considered in an executive session. An executive session shall consider only matter for which the required determination has been made. The chairman of the meeting shall announce the subject of the executive session prior thereto. (b) In determining whether an executive session is required the Board shall be governed by the principle that the public is entitled to the fullest information regarding the decision-making process of the Corporation consistent with the protection of personal privacy or with compelling interests of the Corporation or the public.	Delete in toto. Change heading to "Open Meetings; Closed Meetings" Substitute: "All meetings of the Board shall be open to the public except when closed in accordance with the Corporation Regulation implementing Section 552b of Title 5 of the United States Code.	The current section is superseded by the Sunshine Act. --the change in heading tracks the terminology of the Sunshine Act --under the Sunshine Act a majority of the Board may close a meeting only under specific exemptions.
§ 1601.23 Public participation.	No change.	

CURRENT PROVISION	PROPOSED CHANGES IN BY-LAWS	EXPLANATION
1601.24 Minutes. The minutes of each meeting of the Board, [including an executive session,] shall record the names of the Directors present, the actions taken, and the result of each vote. If there is a division on a vote, the minutes shall record the vote of each Director. [Minutes shall reflect discussions held in executive session, including as much information as possible about such discussions without compromising the purpose for which such meeting was closed to the public.] A copy of the minutes of each meeting shall be supplied to each member of the Board in advance of the next meeting and shall be presented for approval by the Board at such meeting. The minutes of each meeting shall be available for inspection by the public in the form supplied to, and in the form approved by, the Directors.	delete delete Add: "Records of all closed meetings shall be kept and made available to the public in accordance with the Corporation Regulation implementing Section 552b of Title 5, United States Code."	Under 552b(f)(1) of the Sunshine Act, the Corporation will be required to maintain a complete transcript or electronic recording for meetings closed under some of the exemptions. Under others (i.e., meetings relating to adjudicatory proceedings or civil actions) minutes may suffice. The Sunshine Act does not require either a transcript, recording, or minutes for an open meeting.
§ 1601.25 Action by directors without a meeting. Any action which may be taken at a meeting of the Board may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the Directors and general notice of the proposed action is published in the manner prescribed by § 1601.19 on or before the date when such consents are first solicited. Any such action so taken shall be included on the agenda of the next meeting of the Board for discussion, ratification, or such other action as may be indicated by the circumstances.	Delete matter enclosed in brackets and insert in lieu thereof, "When practicable, public notice of the proposed action shall be given on or before the date when such consents are first solicited.	Notation procedure is permitted by the Sunshine Act. There is no notice requirement. §1601.19 procedures for notice are substantially altered by the Sunshine Act.

UMI

CURRENT PROVISION	PROPOSED CHANGES IN BY-LAWS	EXPLANATION
Subpart E—Committees **§ 1601.26 Establishment and appointment of committees.**	No change.	
§ 1601.27 Committee procedures. (a) Except as otherwise provided in these By-laws or in the resolution establishing the committee, a majority of the voting members thereof, or one-half of such members if their number is even, shall constitute a quorum: *Provided*, That if the Chairman of the Board is present, he may be counted in lieu of any absent voting member for quorum purposes. The vote of a majority of the voting members present at the time of a vote, if a quorum is present at such time, shall be the act of the committee. Meetings of each committee shall be called by the chairman of the committee or any two members of the committee, with notice thereof provided to each committee member including the Chairman of the Board. [An agenda shall not be required for a committee meeting, but shall be furnished with the notice when feasible.]	The requirements of the Sunshine Act will apply also to "subdivisions" of the Board. If we require posting of agenda as part of "public announcements" for regular Board meetings, it would be consistent to apply the same requirement to committees of the Board, in which event the matter enclosed in brackets should be deleted. An alternative would be to delete matter enclosed in brackets and add as the last paragraph of paragraph (b): "When practicable, the agenda for a committee meeting shall be furnished as part of the public notice."	
(b) Notice of a committee meeting shall be provided to members of the committee in the manner required for notice of special meetings of the Board by §§ 1601.16 and 1601.17(a). Notice may be waived in the manner described in § 1601.17(b). [When feasible, general] notice of a committee meeting shall be given in the manner described in [§ 1601.19] but failure to provide general notice shall not affect the validity of action at such committee meeting.	Delete "When feasible, general" and add in lieu thereof, "Public"; and delete "§1601.19" and add in lieu thereof, "the Corporation Regulation implementing Section 552b of Title 5, United States Code."	
(c) All meetings of a committee shall be open to the public unless a majority of the voting members of the committee, or one-half of such members if their number is even, determine that part or all of the meeting shall be in executive session closed to the public; provided that, in the case of a committee to which has been delegated the power of the Board to act on any matter, an executive session shall not be held with respect to such matter unless two-thirds of the committee members eligible to vote make such determination pursuant to the provisions of § 1601.22.	Delete all of paragraph (c) and insert in lieu thereof: "All meetings of a committee shall be open to the public unless a majority of voting members of the committee, or one-half of such members if their number is even, determines that part or all of the meeting may be closed in accordance with the Corporation Regulation implementing Section 552b of Title 5, United States Code."	

CURRENT PROVISION	PROPOSED CHANGES IN BY-LAWS	EXPLANATION
§ 1601.27 Committee procedures. (d) [Minutes] shall be kept of each committee meeting in the manner described in § 1601.24. The minutes shall be available for inspection by the public. (e) Any Director and the President of the Corporation shall have access to the records of any committee irrespective of whether he is a member of the committee.	Delete "Minutes" and Add "Records".	
§ 1601.34 The secretary. The Secretary shall (a) ensure that all notices are duly given in accordance with the Act and these By-laws; (b) be the custodian of the seal of the Corporation and affix such seal to all documents the execution of which is authorized by the Board or by any officer or employee of the Corporation to whom the power to authorize the affixing of such seal shall have been delegated; (c) keep, or cause to be kept, in books provided for the purpose, minutes of the meetings of the Board and of each committee of the Board; (d) ensure that the books, reports, statements, and all other documents and records required by law are properly kept and filed; (e) sign such instruments as require the signature of the Secretary; and (f) in general, perform all the duties incident to the office of the Secretary and such other duties as from time to time may be assigned to him.	Delete ";" at end of paragraph (c) and add: "and all other records of meetings of the Board which may be required by law;".	The Sunshine Act requires transcripts or electronic recordings to be kept of some closed meetings.

UMI

B. The following non-substantive, technical amendments to the By-Laws are proposed in order to remove unnecessary, misleading, or ambiguous provisions:

Section 1601.14, regarding compensation of Directors, should be amended to delete references to rates established for consultants to the Federal Government, since such rates are not uniform. The amended provision would read:

§ 1601.14 **Compensation.**

Directors shall be entitled to receive compensation at appropriate rates prescribed by th Board, not in excess of the per diem equivalent of the rate of level V of the Executive Schedule specified from time to time in section 5316 of title 5, United States Code, for their services as members of the Board or of any committee thereof and reimbursement for travel, subsistance, and other expenses necessarily incurred in connection therewith. * * *

Section 1601.28 should be amended by inserting in the third sentence thereof, between "appointed" and "by", "by the Presidet or".

The amended provision would read:

§ 1601.28 **Officers.**

The officers of the Corporation shall be a President, a Secretary, a Treasurer, a Comptroller, and such other officers as the Board determines to be necessary. The President of the Corporation shall be appointed by a majority of the Directors in office. Other officers shall be appointed by the President or by the Board after consultation with the President of the Corporation. * * *

Section 1601.29, concerning the election, term of office and qualifications for officers, should be amended to eliminate the requirement that officers be appointed annually.

The amended provision would read:

§ 1601.29 **Election, term of office and qualifications.**

The officers of the Corporation shall be appointed whenever a vacancy arises. * * *

Section 1601.30 should be amended by inserting, between "removed" and "by", "by the President or". The amended provision would read:

§ 1601.30 **Removal.**

The President of the Corporation may be removed by a majority of the directors in office, and any other officer may be removed by the President or by the Board pursuant to the quorum and voting provisions of § 1601.21 but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

§ 1601.33 [Amended]

Section 1601.33(c), regarding the authority of the President, should be amended by inserting at the end thereof "The President may delegate whatever duties he deems appropriate for delegation.""

§ 1601.35 [Amended]

Section 1601.35, regarding the authority of the Treasurer, should be amended by inserting at the end thereof "The Treasurer may delegate whatever duties he deems appropriate for delegation."

Section 1601.37, dealing wih the compensation of officers, should be amended by deleting from the first sentence thereof "or a Vice President", and inserting, after "by a committee", "or by the President".

The amended provision would read:

§ 1601.37 **Compensation.**

The compensation of the officers shall be fixed from time to time by the Board or in the case of an officer other than the President, by a committee, or by the President or another officer to whom such authority is delegated, at rates not in excess of amounts permitted by law. * * *

ALICE DANIEL,
General Counsel,
Legal Services Corporation.

[FR Doc.77-24418 Filed 8-25-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 61]

[Docket No. 21005]

INTERNATIONAL TELEX SERVICE WITH DOMESTIC TELEX AND TWX SERVICES

Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: This Order extends, at the request of TRT Telecommunications Corporation and ITT World Communications Inc., the time for filing Replies in Docket No. 21005, the Commission's inquiry into the rate structure for international telex service.

DATE: Reply comments must be received on or before September 12, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John F. Copes, International Programs Staff, Common Carrier Bureau, 202-632-3214.

Adopted: August 19, 1977.

Released: August 23, 1977.

Order. In the matter of Interface of the International Telex Service with the Domestic Telex and TWX Service, Docket No. 21005.

1. By order in this proceeding, released August 3, 1977, we set August 22, 1977 as the date for filing replies in the above referenced proceeding. We have before us for consideration Motions for Extension of Time filed by TRT Telecommunications Corp. on August 9, 1977, and by ITT World Communications Inc. on August 12, 1977, in which the petitioners seek extension until September 12 and September 21, 1977, respectively, of the time to file replies. In support of their motions, the petitioners cite the press of other regulatory matters and the absence of key personnel due to the vacation period. The requests were not opposed.

2. We believe that an extension of three weeks will be reasonable and will not unduly delay the resolution of this proceeding. We note that no party has objected to the grant of an extension and it appears that no one will be prejudiced thereby.

3. *Accordingly, it is ordered*, That the time for filing Reply Comments in this proceeding is extended until September 12, 1977.

4. *It is further ordered*, That, pursuant to § 0.303 of the Commission's rules, the above-referenced Motions of ITT World Communications Inc. and TRT Telecommunications Corp. are granted, to the extent provided for herein, but otherwise are denied.

FEDERAL COMMUNICATIONS COMMISSION,
W. RANDOLPH YOUNG,
Acting Chief,
Common Carrier Bureau.

[FR Doc.77-24811 Filed 8-25-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 32]

HUNTING

Oxbow National Wildlife Refuge, Massachusetts

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: Notice is hereby given that it is proposed to add Oxbow National Wildlife Refuge, Massachusetts, to the lists of refuge areas open for the hunting of migratory game birds, upland game and big game. The Director has determined that this action is compatable with the major purposes for which this refuge was established and that there is public demand for additional recreational opportunity. Hunting will provide additional public recreational opportunity subject to annual special regulations.

DATES: Comments must be received on or before September 15, 1977.

ADDRESS: Comments may be addressed to the Director (FWS/RF), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Ralph Town, Division of National Wildlife Refuges, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 202-343-4305.

SUPPLEMENTARY INFORMATION: Ralph H. Town is also the primary author of this proposed rule. Pursuant to the requirements of section 102(2)(C), of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) an environmental assessment has been prepared on this proposal, which is available for public inspection and copying at Room 2340, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240, or by mail, addressing the Director at the address given above. Based on this assessment, the Director has determined that this rulemaking does not constitute a major Federal action signficantly affecting the human environment.

Special circumstances are involved in the promulgation of this rulemaking which limit the amount of time which the Service can allow for public comment. Specifically, this is a cooperative program with the State which will manage the hunting. Opening dates for State hunting seasons are rapidly approaching and the public interest would not be served by delaying the opening of the refuge unnecessarily. Nevertheless, it is the policy of the Department of the Interior whenever practicable to afford the public an opportunity to participate in the rulemaking process. Therefore, interested persons may submit written comments, suggestions or objections regarding the proposal to the Director by September 15, 1977. All relevant comments received will be considered by the Director prior to the issuance of a final rulemaking.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107. Accordingly, it is proposed to amend 50 CFR 32 by the addiiton of Oxbow National Wildlife Refuge to the following sections;

§ 32.11 **List of open areas; migratory game birds.**

MASSACHUSETTS

Oxbow National Wildlife Refuge.

§ 32.21 **List of open areas; upland game.**

MASSACHUSETTS

Oxbow National Wildlife Refuge.

§ 32.31 **List of open areas; big game.**

MASSACHUSETTS

Oxbow National Wildlife Refuge.

Dated: August 23, 1977.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc.77-24865 Filed 8-25-77;8:45 am]

V 42 166 AUG 26 77 A UMI

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Public Meeting

Notice is hereby given, pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, that the membership of the Administrative Conference of the United States, which makes recommendations to administrative agencies, to the President, Congress, and the Judicial Conference of the United States regarding the efficiency, adequacy, and fairness of the administrative procedures used by administrative agencies in carrying out their porgrams, will meet in Plenary Session on Thursday, September 15, 1977 at 1:45 p.m. and on Friday, September 16, 1977 at 9:45 a.m. in Hearing Room B of the Interstate Commerce Commission, 12th Street and Constitution Avenue NW., Washington, D.C.

The Conference will consider the following matters:

1. A proposed recommendation regarding legislative veto of administrative regulations.

2. A proposed recommendation regarding judicial review of actions of the U.S. Customs Service.

3. A proposed recommendation regarding ex parte communications in informal rulemaking proceedings.

Plenary Sessions of the Conference are open to the public. Further information on the meeting, including copies of proposed recommendations and supporting reports, may be obtained from the Office of the Chairman, 2120 L Street NW., Suite 500, Washington, D.C. 20037, telephone 202-254-7020.

Dated: August 22, 1977.

JOSEPH B. SCOTT,
Executive Director.

[FR Doc.77-24812 Filed 8-25-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

CASH IN LIEU OF COMMODITIES

Value of Donated Commodities for Fiscal Year 1977

The Department issued a notice (42 FR 14137) on March 15, 1977, to comply with section 6(b) of the National School Lunch Act, as amended (7 U.S.C. 1755 (b)), and the regulations governing Cash In Lieu of Commodities (7 CFR Part 240) which require the Secretary of Agriculture to make an estimate every February 15 of the value of agricultural commodities and other foods that will be delivered during the fiscal year for school food service programs under the provisions of section 6 of the National School Lunch Act, as amended (7 U.S.C. 1755); section 416 of the Agriculture Act of 1949, as amended (7 U.S.C. 1431); and of section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c). It was determined at that time that the value of commodities and other foods that were to be delivered to school food service programs during fiscal year 1977 would not be less than 90 per centum of the value of the deliveries initially programmed for this year. Therefore, there was no cash payment under section 6(b) on March 15 for fiscal year 1977.

Section 6(e) of the National School Lunch Act, as amended (7 U.S.C. 1755 (e)), requires a minimum national average value per lunch of donated foods or payment of cash in lieu thereof. For fiscal year 1977, this national average value has been established at 11.75 cents per lunch (41 FR 29893) and, as provided in § 240.3(c) of the regulations, a determination was made as of August 1, 1977, that a cash payment would be necessary to meet this requirement.

The Secretary has determined that a shortfall of $34,848,000 will occur in the value of foods to be delivered during the fiscal year ending September 30, 1977, to States which have been receiving donated commodities for use in schools participating in the National School Lunch Program. Notice is hereby given, therefore, that the Secretary will make cash payments to such States not later than September 1 for the fiscal year ending September 30, 1977, in a total amount of $34,848,000 to compensate for such shortfall. These cash payments will be made upon the terms and conditions contained under the Cash In Lieu of Commodities regulations (7 CFR Part 240). Particular attention is called to the following provisions of the regulations:

(1) The share of the total funds to be paid to any State shall bear the same ratio to the total of such payments to all such States as the total number of lunches reported served meeting the requirements of § 210.10 of the National School Lunch Program regulations (7 CFR Part 210) in participating schools in such State from July 1, 1976 through June 30, 1977, plus the estimated number of lunches to be served the following three months based on the lunches served during July, August, and September 1976, bears to the total of all such lunches served in all such States during that period. *Provided, however*, That in any State in which the Food and Nutrition Service Regional Office, hereinafter referred to as FNSRO, administers school food service programs in the nonprofit private schools, the Secretary shall withhold from the funds so determined an amount that bears the same ratio to the total of such funds as the total number of lunches reported served meeting the requirements of § 210.10 of the National School Lunch Program regulations in participating nonprofit private schools in such State bears to the total of such lunches served in all the schools in such State during that period.

(2) The funds to be made available in accordance with this notice shall be distributed to States by means of a Department of the Treasury check. The total funds to be paid to each State are shown in the table below.

(3) State agencies and FNSROs shall promptly and equitably distribute the funds received under this notice to school food authorities participating in the National School Lunch Program.

(4) On or before disbursing funds to participating schools, State agencies and FNSROs shall notify such schools that such funds shall be expended only for the purchase of agricultural commodities and other foods to be used in their nonprofit school lunch program during the fiscal year in which the funds are made available.

Apportionment of funds for cash payments to State agencies and regional offices in lieu of food commodities programmed for distribution to schools during fiscal year 1977:

State	Total	State agency	Regional office
Alabama	$792,032	$777,983	$14,049
Alaska	32,161	32,161	----------
Arizona	353,701	353,701	----------
Arkansas	456,957	448,863	8,094
California	2,305,142	2,305,142	----------
Colorado	408,845	399,167	9,678
Connecticut	343,660	343,660	----------
Delaware	102,786	102,786	----------
District of Columbia	88,905	88,905	----------
Florida	1,419,661	1,419,661	----------
Georgia	1,267,251	1,266,867	384
Guam	22,280	22,280	----------
Hawaii	212,438	200,110	12,328
Idaho	141,826	141,826	----------
Illinois	1,112,887	1,112,887	----------
Indiana	891,845	891,845	----------
Iowa	635,083	635,083	----------
Kansas	(1)	(1)	(1)
Kentucky	758,198	758,198	----------
Louisiana	1,021,658	1,021,658	----------
Maine	186,230	177,229	9,001
Maryland	532,112	532,112	----------
Massachusetts	971,298	971,298	----------
Michigan	1,061,703	1,061,703	----------
Minnesota	737,945	737,945	----------
Mississippi	624,287	621,287	----------
Missouri	815,545	813,565	1,980
Montana	125,915	121,097	4,818
Nebraska	334,551	312,476	22,078
Nevada	81,423	81,423	----------
New Hampshire	128,020	128,020	----------
New Jersey	881,911	881,911	----------
New Mexico	247,052	247,052	----------
New York	2,113,831	2,113,831	----------
North Carolina	1,297,307	1,297,307	----------
North Dakota	127,495	117,534	9,961
Ohio	1,506,666	1,414,513	92,153
Oklahoma	516,669	516,669	----------
Oregon	333,327	333,327	----------

State	Total	State agency	Regional office
Pennsylvania	1,738,765	1,738,765	----------
Puerto Rico	721,046	721,046	----------
Rhode Island	102,015	102,015	----------
Samoa, American	11,557	11,557	----------
South Carolina	683,695	674,164	9,531
South Dakota	144,437	144,437	----------
Tennessee	834,389	823,339	11,050
Texas	2,303,912	2,256,678	47,234
Trust Territory	26,320	26,320	----------
Utah	297,015	297,015	----------
Vermont	77,284	77,284	----------
Virginia	969,152	956,361	12,791
Virgin Islands	27,596	27,596	----------
Washington	457,732	444,395	13,337
West Virginia	310,102	310,102	----------
Wisconsin	720,099	720,099	----------
Wyoming	62,672	62,672	----------
Total	31,818,000	34,569,533	378,467

(1) Received all cash under sec. 16(a) of the National School Lunch Act.

Effective date: This notice shall become effective August 26, 1977.

Dated: August 23, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc.77-24855 Filed 8-25-77;8:45 am]

Rural Electrification Administration

ARIZONA ELECTRIC POWER COOPERATIVE, INC., BENSON, ARIZONA

Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $29,000,000 to Arizona Electric Power Cooperative, Inc., Benson, Arizona. These loan funds will provide AEPCO with the necessary financing required to initially develop the Gamerco Coal Properties located near Gallup, New Mexico. The output of this coal facility will be used as the fuel supply for AEPCO's two new coal-fired generating units, which are presently under construction at the cooperative's existing Apache Station.

Legally organized lending agencies capable of making, holding, and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Jerry Flanders, Assistant Manager, Arizona Electric Power Cooperative, Inc., P.O. Box 670, Benson, Arizona 85602.

In order to be considered, proposals must be submitted on or before September 26, 1977 to Mr. Flanders. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as AEPCO and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 19th day of August 1977.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc.77-24791 Filed 8-25-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 30782]

CALIFORNIA-TORONTO/MONTREAL ROUTE PROCEEDING

Prehearing Conference

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on September 12, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge William A. Kane, Jr.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the Board's Order 77-8-95 dated August 19, 1977, the Notice to All Parties issued by the Administrative Law Judge on August 22, 1977, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 22, 1977.

WILLIAM A. KANE, Jr.,
Administrative Law Judge.

[FR Doc.77-24858 Filed 8-25-77;8:45 am]

[Docket No. 26487]

TRANSATLANTIC, TRANSPACIFIC, AND LATIN AMERICAN MAIL RATES

Change in Date for Oral Argument

Notice is hereby given that the oral argument in this proceeding, heretofore scheduled to be held before the Board on September 14, 1977 (42 FR 41892, August 19, 1977), has been rescheduled to September 28, 1977, at 10 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C. August 22, 1977.

HENRY M. SWITKAY,
Acting Chief Administrative Law Judge.

[FR Doc.77-24859 Filed 8-25-77;8:45 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF DEFENSE

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary (Strategic Programs), Assistant Secretary of Defense (Program Analysis and Evaluation), Office of the Secretary of Defense.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRAY,
Executive Assistant to the Commissioners.

[FR Doc.77-24781 Filed 8-25-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Executive Assistant to the Under Secretary, Office of the Under Secretary, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION.
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-24784 Filed 8-25-77; 8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Director, Service Support Division, Office of Assistant Secretary for Public Affairs, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-24785 Filed 8-25-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Special Assistant

V 42 166 AUG 26 77 UMI

to the Secretary, Immediate Office, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-24782 Filed 8-25-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Under Secretary for Intergovernmental Affairs, Office of the Under Secretary, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-24783 Filed 8-25-77;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-571]

STATES STEAMSHIP CO.

Application

Notice is hereby given that States Steamship Company, 320 California Street, San Francisco, California 94104, has applied, by letter dated August 5, 1977, for a one-year operating-differential subsidy agreement (ODSA) pursuant to Title VI (46 U.S.C. 1171-1183) of the Merchant Marine Act, 1936, as amended (the Act) to provide the same service on Trade Route No. 29 (U.S. Pacific/Far East) that States is presently providing. If the application is granted, the short-term contract would begin upon the termination of States' present ODSA, Contract No. FMB-62, presently due to expire on December 31, 1977, and run until the earlier of (1) December 31, 1978, including voyages in progress that date, or (2) completion of the administrative processing of States' application for a twenty-year contract (Docket No. S-447), to replace Contract No. FMB-62. The number of vessels, service description and sailing maxima under the proposed one-year contract will be the same as in States' present contract, No. FMB-62, i.e.,

Vessels:

		Sailing maximum
5	C4-S-69b breakbulk vessels.	
4	C7-S-95a Ro/Ro vessels, two of which are currently in service and two are expected to enter service, one in August 1977 and the other at a later date.	
Service, (briefly described):		
Line A, U.S. Pacific Northwest/Far East		16
Line B, U.S. Pacific/Far East		41
Line C, California/Far East		38

Interested parties may inspect this application in the Office of the Secretary, Maritime Subsidy Board, Room 3099B, Department of Commerce Building, 14th and E Streets, NW., Washington, D.C. 20230.

Any person having an interest in such application who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20230, by the close of business on September 12, 1977.

The Maritime Subsidy Board will consider these views and comments, and take such action with respect thereto as may be deemed appropriate. (Catalog of Federal Domestic Assistance Program No. 11.504, Operating-Differential Subsidies (ODS)).

Dated: August 23, 1977.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-24799 Filed 8-25-77;8:45 am]

[Docket No. A-118]

DOMESTIC MANUFACTURE OF SLOW SPEED DIESEL ENGINES FOR SHIP PROPULSION

By notice published in the FEDERAL REGISTER of November 9, 1976 (41 FR 49512), the Maritime Administration ("MarAd") announced that it was reconsidering its previously announced policy that for a period of time reasonably required for the development of domestic sources for slow speed marine diesel engines, it would not withhold approval, for purposes of Title V Construction-Differential Subsidy, of vessel designs incorporating slow speed diesels solely on the basis of the presence of foreign components therein. Such policy was announced in the FEDERAL REGISTER on May 7, 1976 (41 FR 18896). The November 9, 1976 publication indicated that comments relevant to reconsideration were invited and that the basis for the Board's final decision on reconsideration would be published in the FEDERAL REGISTER.

On August 9, 1977, the Maritime Subsidy Board rendered its Final Opinion and Order on Reconsideration in this matter, designated Docket No. A-118. The Board made the following findings and conclusions with reference to the Merchant Marine Act, 1936, as amended:

1. The Board has discretionary authority under the "so far as practicable" exception of section 505 of the Act to permit purchase and use of foreign components under the CDS program whenever it finds (a) facts and circumstances which reasonably justify the purchase and use of foreign components, and (b) that such purchase and use would not do violence to the overall intendment of the Act.

2. Facts and circumstances justifying exercise of the "so far as practicable" exception include the lack of an exclusively domestic manufactured slow speed diesel, the difference in design and performance characteristics of the slow speed diesel and other propulsion systems, the advantages of fuel rate consumption and operating costs of the slow speed diesel over other propulsion plants at certain power ranges, and therefore the impracticality of different, less advantageous 100% domestic manufactured power plants in certain power ranges.

3. There is every reasonable expectation that eventually permitting certain limited purchase and use of foreign components in slow speed diesel engines under the CDS program would further and not contravene the purposes, objectives and policy of sections 101, 210, and 505 of the Act.

4. Therefore, the policy contained in the Federal Register Notice of May 7, 1976, entitled Domestic Manufacture of Slow Speed Diesel Engines for Ship Propulsion (41 FR 18896), is reaffirmed, but with two modifications: (i) The words "60 percent" in the third paragraph are modified to read "approximately 60 per cent," but a supplier will be permitted a reasonably higher percentage for initial units if it can be convincingly shown that the higher percentage is essential for its participation and that subsequent units will have a portionately lesser percentage of foreign components. (ii) Any approved manufacturing plan will provide, among other things, that the manufacturer will cooperate in establishing a training course at the federal merchant marine academy for midshipmen and existing sea-going personnel, complete with appropriate training equipment.

Copies of the Board's Final Opinion and Order in Docket No. A-118, served August 12, 1977, may be obtained from the Secretary, Maritime Administration, U.S. Department of Commerce, Room 3099B, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

Dated: August 23, 1977.

So ordered by the Maritime Subsidy Board/Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-24853 Filed 8-25-77;8:45 am]

National Oceanic and Atmospheric Administration

MYSTIC MARINE LIFE AQUARIUM

Issuance of Permit To Take Marine Mammals

On April 26, 1977, notice was published in the FEDERAL REGISTER (42 FR 21306), that an application had been filed with the National Marine Fisheries Service by Mystic Marinelife Aquarium, P.O. Box 190, Mystic, Conn. 06355, for a Permit to take two (2) Atlantic bottlenosed dolphins (*Tursiops truncatus*); and to maintain one (1) beached/stranded harbor porpoise (*Phocoena phocoena*) for the purpose of public display.

The harbor porpoise was taken, under the provisions of the Act, for humane purposes and maintained at the facility until the animal was rehabilitated. The National Marine Fisheries Service has determined that it would be in the best interest and well-being of the harbor propoise to remain in captivity.

Notice is hereby given that on August 15, 1977, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for both the above taking and maintaining to Mystic Marinellfe Aquarium subject to certain conditions set forth therein. The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Mass. 01930.
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard St., Petersburg, Fla. 33702.

Dated: August 15, 1977.

JOSEPH W. SLAVIN,
Acting Deputy Director, National Marine Fisheries Service.

[FR Doc.77-24758 Filed 8-25-77;8:45 am]

VIRGINIA INSTITUTE OF MARINE SCIENCE

Issuance of Endangered Species Permits

On May 10, 1977, notice was published in the FEDERAL REGISTER, (42 FR 23775) that applications had been filed with the National Marine Fisheries Service by Virginia Institute of Marine Science (VIMS) Gloucester Point, Va. 23062, and North Carolina Department of Natural and Economic Resources, Division of Marine Fisheries, P.O. Box 769, Morehead City, N.C. 28557, for Scientific Purposes Permits to take and inspecified number of shortnose sturgeon (*Acipenser brevirostrum*), an endangered species of fish.

Notice is hereby given that on August 17, 1977, The National Marine Fisheries Service issued Scientific Purposes Permits, as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543); to VIMS and North Carolina Department of Natural and Economic Resources, subject to certain conditions set forth therein.

The Permits authorize the Holder to take shortnose sturgeon (*Acipenser brevirostrum*) by conducting the following activities: (1) Capture, weigh, measure, tag, and release sturgeon incidentally taken by commercial fishery operations in the Albemarle Sound area and the Chesapeake Bay and its tributaries; (2) capture, measure, weigh, tag and release sturgeon in the Atlantic Ocean off North Carolina and Virginia; and (3) retain for scientific purposes, of all captured specimens which inadvertently die.

Issuance of these Permits, as required by the Endangered Species Act of 1973, is based on a finding that such Permits; (1) were applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of the Permits; and (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1972. These Permits were also issued in accordance with, and is subject to, Parts 220 and 222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits (39 FR 14357, November 27, 1974).

The Permits are available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Mass. 01930.
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Fla. 33702.

Dated: August 17, 1977.

JOSEPH W. SLAVIN,
Acting Deputy Director, National Marine Fisheries Service.

[FR Doc.77-24759 Filed 8-25-77;8:45 am]

GULF WORLD, INC.

Issuance of Permit To Take Marine Mammals

On April 26, 1977, notice was published in the FEDERAL REGISTER (42 FR 21306) that an application had been filed with the National Marine Fisheries Service by Gulf World, Inc., 15412 West Highway 98, Panama City Beach, Fla. 32407, for a permit to take five (5) Atlantic bottlenosed dolphins (*Tursiops truncatus*), five (5) California sea lions (*Zalophus californianus*) and five (5) harbor seals (*Phoca vitulina*).

Notice is hereby given that on August 15, 1977, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking to Gulf World, Inc., subject to certain conditions set forth therein. The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Fla. 33702.
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731.
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Mass. 01930.

Dated: August 15, 1977.

JOSEPH W. SLAVIN,
Acting Deputy Director, National Marine Fisheries Service.

[FR Doc.77-24760 Filed 8-25-77;8:45 am]

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL'S SCIENTIFIC AND STATISTICAL COMMITTEE

Meeting

Notice is hereby given of a meeting of the North Pacific Fishery Management Council's Scientific and Statistical Committee established by section 302(g) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The North Pacific Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the State of Alaska. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on foreign fishing applications, and conduct public hearings.

The Scientific and Statistical Committee assists the Council in the development, collection, and evaluation of such statistical, biological, economic, social and other scientific information as is relevant to the Council's development and amendment of fishery management plans.

The meetings will be Thursday and Friday, September 15 and 16, 1977, in the Juneau Hilton Hotel, Juneau, Alaska. The meetings will convene at 8:30 a.m., and adjourn at approximately 4:30 p.m. The meeting may be extended or shortened depending upon progress on the agenda.

PROPOSED AGENDA

SEPTEMBER 15

1. Review of High Seas Salmon FMP/DEIS.

SEPTEMBER 16

1. Review of High Seas Salmon Troll—FMP/DEIS.
2. Other SSC business.

This meeting is open to the public and there will be seating for a limited number of public members available on a first-come, first-served basis.

Members of the puolic having an interest in specific items for discussion are also advised that agenda changes are, at times, made prior to the meetings. To receive information on changes, if any, made to the agenda, interested members of the public should contact on or about September 5, 197:

Mr. Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 99510, telephone 907-274-4563.

At the discretion of the Chairman, interested members of the public may be permitted to speak at times which will allow the orderly conduct of business. Interested members of the public who wish to submit written comments should do so by addressing Mr. Jim H. Branson at the above address. The public is permitted to file written statements at any time before or after the meeting. However, to receive due consideration and to facilitate inclusion in the record of the meeting, typewritten statements which relate to the agenda items should be re-

V 42 166 AUG 26 77 A UMI

ceived no later than 10 days after the close of the meeting.

Dated: August 23, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-24861 Filed 8-25-77;8:45 am]

WESTERN PACIFIC FISHERY MANAGEMENT COUNCIL'S SCIENTIFIC AND STATISTICAL COMMITTEE

Public Meeting

Notice is hereby given of a meeting of the Western Pacific Fishery Management Council's Scientific and Statistical Committee established in accordance with Section 302(g)(a) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The Western Pacific Fishery Management Council has authority over fisheries within the fishery conservation zone seaward of Hawaii, Guam and American Samoa. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of autohrity, prepare comments on foreign fishing applications, and conduct public hearings.

The Scientific and Statistical Committee assists the Council in the development, collection and evaluation of such statistical, biological, economic, social and other scientific information as is relevant to the Council's development and amendment of fishery management plans.

The meeting of the Scientific and Statistical Committee will be held on September 14 and 15, 1977, in the conference room of the National Marine Fisheries Service laboratory at 2570 Dole Street, Honolulu, Hawaii, from 9:00 a.m. to 4:30 p.m. The meeting may be extended or shortened depending on progress on the agenda.

PROPOSED AGENDA

1. Consideration of the Minutes of the Third Meeting of the SSC Committee.
2. Review of decisions and recommendations of the Sixth Meeting of the Council.
3. Review of progress of the planning teams.
4. Review of recent directives and guidelines on management plan production.
5. Consideration of a draft management plan for the spiny lobster fishery of Hawaii.
6. Test of decision-making methods by application to a draft coral fishery management plan.

This meeting is open to the public, and there will be seating for approximately 15 members of the public on a first-come first-served basis.

Members of the public having an interest in specific items for discussion are advised that changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact on or about September 2, 1977:

Mr. W. G. Van Campen, Executive Director, Western Pacific Fishery Management Council, Room 1506, 1164 Bishop Street, Honolulu, Hawaii 96813, telephone: 808-523-1368.

At the discretion of the Committee, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Committee business. Interested members of the public who wish to submit written comments should do so by addressing Mr. Van Campen at the above address. To receive due consideration and to facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the Committee meeting.

Dated: August 23, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-24862 Filed 8-25-77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to Procurement List 1977 a commodity to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: August 26, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On March 11, 1977 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (42 FR 13576) of proposed additons to Procurement List 1977, November 18, 1976 (41 FR 50975).

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following commodity is hereby added to Procurement List 1977:

CLASS 3990

Pallet, Material Handling (SH), 3990-00-555-0458. (For Sharpe Army Depot, Lathrop, California only).

C. W. FLETCHER,
Executive Director.

[FR Doc.77-24802 Filed 8-25-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 77-573]

AMATEUR EXAMINATION PROCEDURES

Changes

AUGUST 22, 1977.

The Federal Communications Commission has changed its amateur radio operator examination procedures effective August 18, 1977. Those amateur applicants taking FCC supervised examinations will no longer have to take a separate examination in order to demonstrate their ability to send International Morse Code.

It is a generally accepted fact that persons who communicate by Morse Code build their sending ability at a faster rate than they are able to receive. This is confirmed by the FCC's own experience through the years that virtually everyone who passes the code receiving test is able to pass the sending test. For instance, during May 1977 3,201 applicants passed the FCC receiving test. Only 25 of these (less than one percent) were unable to pass the sending test. Thus, the Commission believes that the applicant who has demonstrated his ability to receive code possesses the ability to send code, and little is gained by requiring a separate sending test.

There has been a five-fold increase in amateur examinations during the past three years and this new examination procedure is intended to help meet these new workload demands on the field examination staff.

No change will occur in the examination procedure for commercial radiotelegraph applicants who are licensed to carry out safety communications related to ships at sea. Additionally, this item does not affect the administration of Morse Code examinations handled by volunteer examiners for Novice licenses.

Action by the Commission August 18, 1977. Commissioners Wiley (Chairman), Fogarty and White acting as a Board.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-24808 Filed 8-25-77;8:45 a.m.]

[Report No. I-381]

INTERNATIONAL AND SATELLITE RADIO

Applications Accepted for Filing

AUGUST 22, 1977.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commisson reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's rules, regulations and its policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

SC 616-DSE-P/L-77 Satellite Systems Corp., Shaw Air Force Base, S.C. For authority to construct, own & operate a domestic communications satellite receive-only earth station at this location. Lat. 33°58'51"N., Long. 80°29'18"W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

AL 617-DSE-P/L-77 Satellite Systems Corp., Redstone Arsenal, Ala. For authority to construct, own & operate a domestic communications satellite receive-only earth station at this location. Lat. 34°40'43"N., Long. 86°38'23"W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

AR 618-DSE-P/L-77 Satellite Systems Corp., Little Rock Air Force Base, Ark. For authority to construct, own & operate a domestic communications satellite receive-only earth station at this location. Lat. 34°54'37"N., Long. 92°09'02"W. Rec. freq: 3700-4200MHz. Emission 36000F9. With a 5 meter antenna.

CT 621-DSE-P/L-77 New World Stratovision, a joint venture, New Milford, Conn. For authority to construct, own & operate a domestic communications satellite receive-only earth station at this location. Lat. 41°35'44" N., Long. 73°22'55" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

LA 622-DSE-P/L-77 Ruston Seemore TV, Inc., Ruston, La. For authority to construct, own & operate a domestic communications satellite receive-only earth station at this location. Lat. 32°31'13" N., Long. 90°40'00" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

CT 623-DSE-ML-77 Rollins Cablevue, Inc. (WB76), North Branford, Conn. Modification of license to permit the reception of signals from the Home Box Office, Inc. and the Madison Square Garden Events, and to provide a joint use of this facility on a nonprofit, cost sharing basis with an unaffiliated cable system.

627-DSE-P/L-77 John Edmund Kiernat, d/b/a Community Cable Company, Ortonville, Minn. For authority to construct, own & operate a domestic communications satellite receive-only earth station at this location. Lat. 45°19'00" N., Long. 96°26'36" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

[FR Doc.77-24757 Filed 8-25-77;8:45 am]

NORTH COAST COMMUNICATIONS, INC. AND HEALDSBURG BROADCASTERS, INC.

Applications for Construction Permit

Adopted: August 17, 1977.

Released: August 23, 1977.

In re applications of North Coast Communications, Inc., Healdsburg, California; Requests: 92.9 MHz, Channel No. 225; 3.6 kW (H & V); 1660 feet (H & V); Docket No. 21232, File No. BPH-9940; Healdsburg Broadcasters, Inc., Healdsburg, Calif.; Requests: 92.9 MHz, Channel No. 225; 3.5 kW (H & V); 1660 feet (H & V); Docket No. 21233, File No. BPH-10,111.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it for consideration the above-captioned mutually exclusive applications of North Coast Communications, Inc. (hereinafter "North Coast") and Healdsburg Broadcasters, Inc. (hereinafter "Healdsburg") for a construction permit for a new FM broadcast station at Healdsburg, Calif.

2. As amended on March 11, 1977, North Coast's financial data reveals that $188,125 will be required to construct and operate the proposed station for one year, without reliance on revenues itemized as follows:

Downpayment on equipment	$16,575
First-year payment on equipment, with interest	13,925
Land	5,000
Miscellaneous	45,750
Principal and interest on bank loan	27,875
Working capital (first year)	79,000
Total	188,125

North Coast plans to finance the above costs with the following funds: Cash on hand or in banks, $1,000; a bank loan of $100,000; and, $60,000 from stock subscriptions. Thus, even if all of these funds were available, North Coast's financial proposal would be $27,125 short of the estimated amount necessary for the station's proposed operation. In addition, we must disregard North Coast's reliance upon $60,000 to be obtained from subscribers for its corporate stock. In this regard, a review of the North Coast application reveals that individuals balance sheets were not submitted for each of the stock subscribers as required by Section III, page 3, paragraph 4(b) of the application (FCC Form 301). Without individual balance sheets we are unable to determine whether each subscriber has the financial ability to comply with the terms of his subscription agreement. Therefore, since North Coast has shown only $101,000 to meet a $188,125 requirement, a financial issue will be specified.

3. Except as indicated above, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

4. *Accordingly, it is ordered,* That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to North Coast Communications, Inc.: (a) The source and availability of additional funds over and above the $101,000 indicated; and, (b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine which of the proposals would, on a comparable basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

5. *It is further ordered,* That to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

6. *It is further ordered,* That the applicants herein shall, pursuant to § 311(a)(2) of the Communications Act of 1934, as amended, and § 1.984 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the Rules, jointly, within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-24809 Filed 8-25-77;8:45 am]

[Report No. 1072]

PETITIONS FOR RECONSIDERATION OF ACTIONS IN RULE MAKING PROCEEDINGS FILED

AUGUST 22, 1977.

Docket or RM No.	Rule No.	Subject	Date received
20496	Part 76	Amendment of pt. 76 of the Commission's rules and regulations to modify or eliminate the use of signal strength contours for purposes of cable television system regulation. Filed by Erwin G. Krasnow and James J. Popham, attorneys for National Association of Broadcasters.	Aug. 17, 1977
		Filed by Michael S. Horne, attorney for Association of Maximum Service Telecasters, Inc.	Do.

NOTE.—Oppositions to petitions for reconsideration must be filed within 15 d on or before Sept. 12, 1977. Replies to an opposition must be filed within 10 d after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary

[FR Doc.77-24756 Filed 8-25-77;8:45 am]

V42166 AUG 26 77 UMI

FEDERAL ENERGY ADMINISTRATION

ADVISORY COMMITTEES

Renewal

This notice is published in accordance with the provisions of section 7 of the Office of Management and Budget Circular No. A-63, as amended. Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act (FACA) and following consultation with the Office of Management and Budget, notice is hereby given that it is in the public interest, in connection with the performance of the duties imposed on the Federal Energy Administration by law, to renew the following advisory committees: Coal Industry Advisory Committee; Consumer Affairs/Special Impact Advisory Committee; Electric Utilities Advisory Committee; Environmental Advisory Committee; Food Industry Advisory Committee; Fuel Oil Marketing Advisory Committee; Gasoline Marketing Advisory Committee; LP-Gas Industry Advisory Committee; Natural Gas Advisory Committee; and the State Regulatory Advisory Committee. These renewals are effective on the date the charters are filed in accordance with section 14(b) of the FACA.

A description of the nature and purpose of these committees is contained in their charters which are published below.

Issued in Washington, D.C., on August 23, 1977.

JOHN F. O'LEARY,
Administrator.

FEDERAL ENERGY ADMINISTRATION

CHARTER

Coal Industry Advisory Committee

A. *Establishment*

The Administrator, Federal Energy Administration (FEA), having determined, after consultation with the Director, Office of Management and Budget, that the establishment of an advisory committee to provide FEA with advice concerning the matters related to the coal industry and related objectives of FEA is in the public interest in connection with duties imposed on the FEA by law, hereby establishes the Coal Industry Advisory Committee pursuant to the Federal Advisory Committee Act (Pub. L. 92-463).

B. *Duties, Functions, and Administrative Provisions*

1. *Objectives and Scope.*—The objectives of the Coal Industry Advisory Committee are to provide the Administrator, FEA, with assistance in encouraging the expansion of a readily-usable energy source—coal—and maintaining fair and reasonable consumer prices for such supplies. The Committee will also advise on technical and economic factors affecting the coal industry.

2. *Committee Tenure.*—In view of the goals and purposes of the Committee, it will be expected to continue for the duration of FEA.

3. *Official to Whom Committee Reports.*—The Committee will report to the Administrator, FEA.

4. *Committee Duties.*—The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

5. *Support Activities.*—Necessary support shall be furnished by the Federal Energy Administration.

6. *Estimated Annual Operating Costs.*—The estimated annual operating costs for the Committee are $24,700 and will involve approximately ½ man-years of staff support.

7. *Meetings.*—The Committee will meet approximately 4 times a year.

8. *Effective Date and Duration.*—The renewal of this Advisory Committee is effective upon filing the Charter with the standing committees of Congress having jurisdiction of the FEA. The Committee will terminate December 31, 1977.

9. *Subcommittee(s).*—To facilitate functioning of the Committee, subcommittee(s) may be formed by the Administrator. The objectives of the subcommittee(s) are to make recommendations to the parent Committee with respect to matters concerning FEA plans and programs which are related to the responsibilities of the parent Committee. The subcommittee(s) shall be comprised of such members of the parent Committee as may be determined by the Chairman of the parent Committee.

All actions of the subcommittee(s) shall be consistent with the provisions of B-1 through B-11.

10. *Members.*—Committee members shall be appointed by the Administrator of the Agency.

11. *Election of Chairman and/or Vice Chairman.*—The Chairman and/or Vice Chairman shall be appointed by the Administrator or, upon the Administrator's request to the Committee, elected by the Committee members, subject to the approval of the Administrator.

Dated: August 23, 1977.

JOHN F. O'LEARY,
Administrator.

FEDERAL ENERGY ADMINISTRATION

CHARTER

Consumer Affairs/Special Impact Advisory Committee

A. *Establishment*

The Administrator, Federal Energy Administration (FEA), having determined, after consultation with the Director, Office of Management and Budget, that the establishment of an advisory committee to provide FEA with advice concerning the impact of FEA policies and programs on consumers and special impact groups is in the public interest in connection with duties imposed on the FEA by law, hereby establishes the Consumer Affairs/Special Impact Advisory Committee pursuant to the Federal Advisory Committee Act (Pub. L. 92-463).

B. *Duties, Functions, and Administrative Provisions*

1. *Objectives and Scope.*—The objectives of the Consumer Affairs/Special Impact Advisory Committee are to provide the Administrator, FEA, with the diversified expertise possessed by a wide range of highly qualified individuals who have been extensively involved in identifying and evaluating the impact of proposed or existing energy policies on the consumer, the poor, the elderly and the handicapped persons in rural and urban America, and planning, developing, and implementing policies and programs to remedy these problems.

2. *Committee Tenure.*—In view of the goals and purposes of the Committee, it will be expected to continue for the duration of FEA.

3. *Official to Whom Committee Reports.*—The Committee will report to the Administrator, FEA.

4. *Committee Duties.*—The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

5. *Support Activities.*—Necessary support shall be furnished by the Federal Energy Administration.

6. *Estimated Annual Operating Costs.*—The estimated annual operating costs for the Committee are $24,700 and will involve approximately ½ man-years of staff support.

7. *Meetings.*—The Committee will meet approximately 4 times a year.

8. *Effective Date and Duration.*—The renewal of this Advisory Committee is effective upon filing the Charter with the standing committees of Congress having jurisdiction of the FEA. The Committee will terminate December 31, 1977.

9. *Subcommittee(s).*—To facilitate functioning of the Committee, subcommittee(s) may be formed by the Administrator. The objectives of the subcommittee(s) are to make recommendations to the parent Committee with respect to matters concerning FEA plans and programs which are related to the responsibilities of the parent Committee. The subcommittee(s) shall be comprised of such members of the parent Committee as may be determined by the Chairman of the parent Committee.

All actions of the subcommittee(s) shall be consistent with the provisions of B-1 through B-11.

10. *Members.*—Committee members shall be appointed by the Administrator of the Agency.

11. *Election of Chairman and/or Vice Chairman.*—The Chairman and/or Vice Chairman shall be appointed by the Administrator or, upon the Administrator's request to the Committee, elected by the Committee members, subject to the approval of the Administrator.

Dated: August 23, 1977.

JOHN F. O'LEARY,
Administrator.

FEDERAL ENERGY ADMINISTRATION

CHARTER

Electric Utilities Advisory Committee

A. *Establishment*

The Administrator, Federal Energy Administration (FEA), having determined, after consultation with the Director, Office of Management and Budget, that the establishment of an advisory committee to provide FEA with advice concerning electric utility interests is in the public interest in connection with duties imposed on the FEA by law, hereby establishes the Electric Utilities Advisory Committee pursuant to the Federal Advisory Committee Act (Pub. L. 92-463).

B. *Duties, Functions, and Administrative Provisions*

1. *Objectives and Scope.*—The objectives of the Electric Utilities Advisory Committee are to provide the Administrator, FEA, with advice with respect to the general electric utilities' aspects of interests and problems related to the policy and implementation of programs to meet the continuing national energy problem.

2. *Committee Tenure.*—In view of the goals and purposes of the Committee, it will be expected to continue for the duration of FEA.

3. *Official to Whom Committee Reports.*—The Committee will report to the Administrator, FEA.

4. *Committee Duties.*—The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

5. *Support Activities.*—Necessary support shall be furnished by the Federal Energy Administration.

6. *Estimated Annual Operating Costs.*—The estimated annual operating costs for the Committee are $27,000 and will involve approximately 1/4 man-years of staff support.

7. *Meetings.*—The Committee will meet approximately 4 times a year.

8. *Effective Date and Duration.*—The renewal of this Advisory Committee is effective upon filing the Charter with the standing committees of Congress having jurisdiction of the FEA. The Committee will terminate December 31, 1977.

9. *Subcommittees.*—The Electric Utilities Advisory Committee shall have two subcommittees as follows: a. Executive Subcommittee; b. Solar Electric Generation Subcommittee. The objectives of these subcommittees are to make recommendations to the parent Committee with respect to matters concerning FEA plans and programs which are related to the responsibilities of the Electric Utilities Advisory Committee. The Subcommittees shall be comprised of such members of the parent Committee as may be determined by the chairman of the parent Committee. All actions of the Subcommittees shall be consistent with the provisions of B-1 through B-11.

10. *Members.*—Committee members shall be appointed by the Administrator of the Agency.

11. *Election of Chairman and/or Vice Chairman.*—The Chairman and/or the Vice Chairman shall be appointed by the Administrator or, upon the Administrator's request to the Committee, elected by the Committee members, subject to the approval of the Administrator.

Dated: August 23, 1977.

JOHN F. O'LEARY,
Administrator.

FEDERAL ENERGY ADMINISTRATION

CHARTER

Environmental Advisory Committee

A. *Establishment*

The Administrator, Federal Energy Administration (FEA), having determined, after consultation with the Director, Office of Management and Budget, that the establishment of an advisory committee to provide FEA with advice concerning the environmental aspects of FEA policies and programs is in the public interest in connection with duties imposed on the FEA by law, hereby establishes the Environmental Advisory Committee pursuant to the Federal Advisory Committee Act (Pub. L. 92-463).

B. *Duties, Functions, and Administrative Provisions*

1. *Objectives and Scope.*—The objectives of the Environmental Advisory Committee are to provide the Administrator, FEA, with advice and information concerning environmental aspects of FEA policies and programs.

2. *Committee Tenure.*—In view of the goals and purposes of the Committee, it will be expected to continue for the duration of FEA.

3. *Official to Whom Committee Reports.*—The Committee will report to the Administrator, FEA.

4. *Committee Duties.*—The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

5. *Support Activities.*—Necessary support shall be furnished by the Federal Energy Administration.

6. *Estimated Annual Operating Costs.*—The estimated annual operating costs for the Committee are $50,000 and will involve approximately ½ man-years of staff support.

7. *Meetings.*—The Committee will meet approximately 6 times a year.

8. *Effective Date and Duration.*—The renewal of this Advisory Committee is effective upon filing the Charter with the standing committees of Congress having jurisdiction of the FEA. The Committee will terminate December 31, 1977.

9. *Subcommittees.*—The Environmental Advisory Committee shall have subcommittees as follows:

a. Coal Policy Subcommittee
b. Energy Conservation Subcommittee
c. OCS/Energy Facility Siting Subcommittee
d. Nuclear Policy Subcommittee
e. Subcommittee on Regulations for Regions in Violation of Air Quality Standards

The objectives of these subcommittees are to make recommendations to the parent Committee concerning environmental aspects of FEA policies and programs.

The Subcommittees shall be comprised of such members of the parent Committee as may be determined by the Chairman of the parent Committee.

All actions of the Subcommittees shall be consistent with the provisions of B-1 through B-11.

10. *Members.*—Committee members shall be appointed by the Administrator of the Agency.

11. *Election of Chairman and/or Vice Chairman.*—The Chairman and/or Vice Chairman shall be appointed by the Administrator or, upon the Administrator's request to the Committee, elected by the Committee members, subject to the approval of the Administrator.

Dated: August 23, 1977.

JOHN F. O'LEARY,
Administrator.

FEDERAL ENERGY ADMINISTRATION

CHARTER

Food Industry Advisory Committee

A. *Establishment*

The Administrator, Federal Energy Administration (FEA), having determined, after consultation with the Director, Office of Management and Budget, that the establishment of an advisory committee to provide FEA with advice concerning how the Government can promote increased energy efficiency within each sector of the food system and how proposed energy policies and ongoing programs impact on the food system is in the public interest in connection with duties imposed on the FEA by law, hereby establishes the Food Industry Advisory Committee pursuant to the Federal Advisory Committee Act (Pub. L. 92-463).

B. *Duties, Functions, and Administrative Provisions*

1. *Objectives and Scope.*—The objectives of the Food Industry Advisory Committee are to provide the Administrator, FEA, with information and advice concerning food industry interests and problems as these relate to national energy policy and conservation programs.

2. *Committee Tenure.*—In view of the goals and purposes of the Committee, it will be expected to continue for the duration of FEA.

3. *Official to Whom Committee Reports.*—The Committee will report to the Administrator, FEA.

4. *Committee Duties.*—The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

5. *Support Activities.*—Necessary support shall be furnished by the Federal Energy Administration.

6. *Estimated Annual Operating Costs.*—The estimated annual operating costs for the Committee are $36,000 and will involve approximately 1/4 man-years of staff support.

7. *Meetings.*—The Committee will meet approximately 4 times a year.

8. *Effective Date and Duration.*—The renewal of this Advisory Committee is effective upon filing the Charter with the standing committees of Congress having jurisdiction of the FEA. The Committee will terminate December 31, 1977.

9. *Subcommittees.*—The Food Industry Advisory Committee shall have subcommittees as follows:

a. Distribution and Transportation Subcommittee.
b. Equipment Efficiency Subcommittee.
c. Retail Stores Subcommittee.
d. Food Service Operations Subcommittee.
e. Industrial Education Subcommittee.
f. Government Regulations Subcommittee.
g. Future Planning Subcommittee.
h. Access to Sources of Energy Subcommittee.
i. Energy Use Data Subcommittee.
j. Energy Audit Programs Subcommittee.
k. Federal Reporting Program (EPCA) Subcommittee.
l. State Programs/Contingency Plans Subcommittee.
m. Agriculture Subcommittee.
n. Financial Incentives Subcommittee.

The objective of these subcommittees is to make recommendations to the parent committee with respect to matters concerning food industry aspects of FEA policies and programs.

The subcommittees shall be comprised of such members of the parent Committee as may be determined by the Chairman of the parent Committee.

All actions of the subcommittees shall be consistent with the provisions of B-1 through B-11.

10. *Members.*—Committee members shall be appointed by the Administrator of the Agency.

11. *Election of Chairman and/or Vice Chairman.*—The Chairman and/or Vice Chairman shall be appointed by the Administrator or, upon the Administrator's request to the Committee, elected by the Committee members, subject to the approval of the Administrator.

Dated: August 23, 1977.

JOHN F. O'LEARY,
Administrator.

FEDERAL ENERGY ADMINISTRATION

CHARTER

Fuel Oil Marketing Advisory Committee

A. *Establishment*

The Administrator, Federal Energy Administration (FEA), having determined, after consultation with the Director, Office of Management and Budget, that the establishment of an advisory committee to provide FEA with advice concerning the trade of selling fuel oil is in the public interest in connection with duties imposed on the FEA by law, hereby establishes the Fuel Oil Marketing Advisory Committee pursuant to the Federal Advisory Committee Act (Pub. L. 92-463).

B. *Duties, Functions, and Administrative Provisions*

1. *Objectives and Scope.*—The objectives of the Fuel Oil Marketing Advisory Commit-

V42166 AUG 26 77 UMI

tee are to provide the Administrator, FEA, with expert and technical advice concerning the trade of selling fuel oil.

2. *Committee Tenure.*—In view of the goals and purposes of the Committee, it will be expected to continue for the duration of FEA.

3. *Official to Whom Committee Reports.*—The Committee will report to the Administrator, FEA.

4. *Committee Duties.*—The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

5. *Support Activities.*—Necessary support shall be furnished by the Federal Energy Administration.

6. *Estimated Annual Operating Costs.*—The estimated annual operating costs for the Committee are $36,000 and will involve approximately 1/4 man-years of staff support.

7. *Meetings.*—The Committee will meet approximately 6 times a year.

8. *Effective Date and Duration.*—The renewal of this Advisory Committee is effective upon filing the charter with the standing committees of Congress having jurisdiction of the FEA. The Committee will terminate December 31, 1977.

9. *Subcommittee(s).*—To facilitate functioning of the Committee, subcommittee(s) may be formed by the Administrator. The objectives of the subcommittee(s) are to make recommendations to the parent Committee with respect to matters concerning FEA plans and programs which are related to the responsibilities of the parent Committee. The subcommittee(s) shall be comprised of such members of the parent Committee as may be determined by the Chairman of the parent Committee. All actions of the subcommittee(s) shall be consistent with the provisions of B–1 through B–11.

10. *Members.*—Committee members shall be appointed by the Administrator.

11. *Election of Chairman and/or Vice Chairman.*—The Chairman and/or Vice Chairman shall be appointed by the Administrator or, upon the Administrator's request to the Committee, elected by the Committee members, subject to the approval of the Administrator.

Dated: August 23, 1977.

JOHN F. O'LEARY,
Administrator.

FEDERAL ENERGY ADMINISTRATION

CHARTER

Gasoline Marketing Advisory Committee

A. *Establishment*

The Administrator, Federal Energy Administration (FEA), having determined, after consultation with the Director, Office of Management and Budget, that the establishment of an advisory committee to provide FEA with advice concerning the wholesale and retail selling of gasoline is in the public interest in connection with duties imposed on the FEA by law, hereby establishes the Gasoline Marketing Advisory Committee pursuant to the Federal Advisory Committee Act (Pub. L. 92–463).

B. *Duties, Functions, and Administrative Provisions*

1. *Objectives and Scope.*—The objectives of the Gasoline Marketing Advisory Committee are to provide the Administrator, FEA, with expert and technical advice concerning the wholesale and retail selling of gasoline.

2. *Committee Tenure.*—In view of the goals and purposes of the Committee, it will be expected to continue for the duration of FEA.

3. *Official to Whom Committee Reports.*—The Committee will report to the Administrator, FEA.

4. *Committee Duties.*—The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

5. *Support Activities.*—Necessary support shall be furnished by the Federal Energy Administration.

6. *Estimated Annual Operating Costs.*—The estimated annual operating costs for the Committee are $60,000 and will involve approximately 1/4 man-years of staff support.

7. *Meetings.*—The Committee will meet approximately 6 times a year.

8. *Effective Date and Duration.*—The renewal of this Advisory Committee is effective upon filing the charter with the standing committees of Congress having legislative jurisdiction of the FEA. The Committee will terminate December 31, 1977.

9. *Subcommittee(s).*—To facilitate functioning of the Committee, subcommittee(s) may be formed by the Administrator. The objectives of the subcommittee(s) are to make recommendations to the parent Committee with respect to matters concerning FEA plans and programs which are related to the responsibilities of the parent Committee. The subcommittee(s) shall be comprised of such members of the parent Committee as may be determined by the Chairman of the parent Committee.

All actions of the subcommittee(s) shall be consistent with the provisions of B–1 through B–11.

10. *Members.*—Committee members shall be appointed by the Administrator of the Agency.

11. *Election of Chairman and/or Vice Chairman.*—The Chairman and/or Vice Chairman shall be appointed by the Administrator or, upon the Administrators request to the Committee, elected by the Committee members, subject to the approval of the Administrator.

Dated: August 23, 1977.

JOHN F. O'LEARY,
Administrator.

FEDERAL ENERGY ADMINISTRATION

CHARTER

LP–Gas Industry Advisory Committee

A. *Establishment*

The Administrator, Federal Energy Administration (FEA), having determined, after consultation with the Director, Office of Management and Budget, that the establishment of an adviory committee to provide FEA with advice concerning independent review on matters related to the policy and implementation of programs that affect the LP–Gas industry is in the public interest in connection with duties imposed on the FEA by law, hereby establishes the LP–Gas Industry Advisory Committee pursuant to the Federal Advisory Committee Act (Pub. L. 92–463).

B. *Duties, Functions, and Administrative Provisions*

1. *Objectives and Scope.*—The objectives of the LP–Gas Industry Advisory Committee are to provide the Administrator, FEA, with advice with respect to the implementation of programs that affect the LP–Gas industry.

2. *Committee Tenure.*—In view of the goals and purposes of the Committee, it will be expected to continue for the duration of FEA.

3. *Official to Whom Committee Reports.*—The Committee will report to the Administrator, FEA.

4. *Committee Duties.*—The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

5. *Support Activities.*—Necessary support shall be furnished by the Federal Energy Administration.

6. *Estimated Annual Operating Costs.*—The estimated annual operating costs for the Committee are $38,000 and will involve approximately 1/4 man-years of staff support.

7. *Meetings.*—The Committee will meet approximately 4 times a year.

8. *Effective Date and Duration.*—The renewal of this Advisory Committee is effective upon filing the charter with the standing committees of Congress having jurisdiction of the FEA. The Committee will terminate December 31, 1977.

9. *Subcommittees.*—The LP–Gas Industry Advisory Committee shall have subcommittees as follows:

a. LP–Gas Supply and Demand Subcommittee.

b. Government Policies and Regulations Subcommittee.

c. LP–Gas Transportation and Storage Subcommittee.

The objective of these Subcommittees is to make recommendations to the parent Committee with respect to policy and implementation of programs that affect the LP-Gas industry.

The Subcommittees shall be comprised of such members of the parent Committee as may be determined by the Chairman of the parent Committee.

All actions of the Subcommittees shall be consistent with the provisions of B–1 through B–11.

10. *Members.*—Committee members shall be appointed by the Administrator of the Agency.

11. *Election of Chairman and/or Vice Chairman.*—The Chairman and/or Vice Chairman shall be appointed by the Administrator or, upon the Administrator's request to the Committee, elected by the Committee members, subject to the approval of the Administrator.

Dated: August 23, 1977.

JOHN F. O'LEARY,
Administrator.

FEDERAL ENERGY ADMINISTRATION

CHARTER

Natural Gas Advisory Committee

A. *Establishment*

The Administrator, Federal Energy Administration (FEA), having determined, after consultation with the Director, Office of Management and Budget, that the establishment of an advisory committee to provide FEA wih advice concerning natural gas transmission & distribution matters is in the public interest in connection with duties imposed on the FEA by law, hereby establishes the Natural Gas Advisory Committee pursuant to the Federal Advisory Committee Act (Pub. L. 92–463).

B. *Duties, Functions, and Administrative Provisions*

1. *Objectives and Scope.*—The objectives of the Natural Gas Advisory Committee are to provide the Administrator, FEA, with advice with respect to the implementation of programs that affect gas transmission and distribution activities.

2. *Committee Tenure.*—In view of the goals and purposes of the Committee, it will be expected to continue for the duration of FEA.

3. *Official to Whom Committee Reports.*—The Committee will report to the Administrator, FEA.

4. *Committee Duties.*—The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

5. *Support Activities.*—Necessary support shall be furnished by the Federal Energy Administration.

6. *Estimated Annual Operating Costs.*—The estimated annual operating costs for the Committee are $33,000 and will involve approximately 1/4 man-years of staff support.

7. *Meetings.*—The Committee will meet approximately 4 times a year.

8. *Effective Date and Duration.*—The renewal of this Advisory Committee is effective upon filing the charter with the standing committees of Congress having jurisdiction of the FEA The Committee will terminate December 31, 1977.

9. *Subcommittees.*—The Natural Gas Advisory Committee shall have five subcommittees as follows:

a. Supplemental Gas Supply Including Alaskan Gas Subcommittee.

b. Gas Utilization Subcommittee.

c. Natural Gas Reserves Subcommittee.

d. Legislation and Regulation Subcommittee.

e. National Energy Outlook Subcommittee.

The objective of these subcommittees is to make recommendations to the parent Committee with respect to matters concerning FEA plans and programs which are related to the responsibilities of the parent Committee. The subcommittees shall be comprised of such members of the parent Committee as may be determined by the Chairman of the parent Committee.

All actions of the subcommittees shall be consistent with the provisions of B–1 through B–11,

10. *Members.*—Committee members shall be appointed by the Administrator of the Agency.

11. *Election of Chairman and/or Vice Chairman.*—The Chairman and/or Vice Chairman shall be appointed by the Administrator or, upon the Administrator's request to the Committee, elected by the Committee members, subject to the approval of the Administrator.

Dated: August 23, 1977.

JOHN F. O'LEARY,
Administrator.

FEDERAL ENERGY ADMINISTRATION

CHARTER

State Regulatory Advisory Committee

A. *Establishment*

The Administrator, Federal Energy Administration (FEA), having determined, after consultation with the Director, Office of Management and Budget, that the establishment of an advisory committee to provide FEA with advice concerning State related matters is in the public interest in connection with duties imposed on the FEA by law, hereby establishes the State Regulatory Advisory Committee pursuant to the Federal Advisory Committee Act (Pub. L. 92–463).

B. *Duties, Functions, and Administrative Provisions*

1. *Objectives and Scope.*—The objectives of the State Regulatory Advisory Committee are to provide the Administrator, FEA, with advice and information concerning its plans and programs which are related to the responsibilities of State regulatory commissions.

2. *Committee Tenure.*—In view of the goals and purposes of the Committee, it will be expected to continue for the duration of FEA.

3. *Official to Whom Committee Reports.*—The Committee will report to the Administrator, FEA.

4. *Committee Duties.*—The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

5. *Support Activities.*—Necessary support shall be furnished by the Federal Energy Administration.

6. *Estimated Annual Operating Costs.*—The estimated annual operating costs for the Committee are $28,000 and will involve approximately ¼ man-years of staff support.

7. *Meetings.*—The Committee will meet approximately 4 times a year.

8. *Effective Date and Duration.*—The renewal of this Advisory Committee is effective upon filing the charter with the standing committees of Congress having jurisdiction of the FEA The Committee will terminate December 31, 1977.

9. *Subcommittees.*—The State Regulatory Advisory Committee shall have subcommittees as follows:

a. Executive Subcommittee.

b. Subcommittee on Legislation.

c. Subcommittee on FEA State Energy Grants.

d. Rate Design Initiatives Subcommittee.

The objectives of these Subcommittees are to make recommendations to the parent Committee with respect to policy and implementation of programs related to the responsibilities of the State regulatory commissions.

The Subcommittees shall be comprised of such members of the parent Committee as may be determined by the Chairman of the parent Committee.

All actions of the Subcommittees shall be consistent with the provisions of B–1 through B–11.

10. *Members.*—Committee members shall be appointed by the Administrator of the Agency.

11. *Election of Chairman and/or Vice Chairman.*—The Chairman and/or Vice Chairman shall be appointed by the Administrator or, upon the Administrator's request to the Committee, elected by the Committee members, subject to the approval of the Administrator.

Dated: August 23, 1977.

JOHN F. O'LEARY,
Administrator.

[FR Doc.77–24800 Filed 8–25–77;8:45 am]

VOLUNTARY AGREEMENT AND PLAN OF ACTION TO IMPLEMENT THE INTERNATIONAL ENERGY PROGRAM

Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94–136) notice is hereby provided of a meeting of the Group of Reporting Companies to the International Energy Agency (IEA) to be held on September 8, 1977, at the offices of the IEA, 2 Rule Andre Pascal, Paris 16, France, beginning at 9:30 a.m. The agenda is as follows:

1. Opening comments.
2. Results of June/July 1976 Emergency Data Systems Test.
3. Review of revised Questionnaires A and B reporting instructions.
4. A. Synchronization of cut-off dates.
B. Transshipment.
C. No present destination oil.
D. Other changes.
5. Japanese reporting instructions.
6. Review of telex transmission instructions and schedule.
7. Comments on proposed 1978 allocation systems test.
8. Closing remarks.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act. this meeting will not be open to the public.

Issued in Washington, D.C., August 23, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77–24851 Filed 8–25–77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CP75–96, etc.]

EL PASO ALASKA CO.

Availability of the Environmental Assessment of Taylor Highway-Klondike Highway Realignment

AUGUST 26, 1977.

Notice is hereby given in the above docket that on August 26, 1977, as required by § 2.82(b) of the Commission's General Policy and Interpretations (18 CFR 2.82(b)), copies of the Environmental Assessment of the Taylor Highway-Klondike Highway Realignment (Assessment) are being transmitted pursuant to the requirements of the National Environmental Policy Act of 1969 and § 2.82(b) of the Commission's General Policy and Interpretations.

The Assessment has been prepared by the staff of the Federal Power Commission pursuant to a directive by the Council on Environmental Quality and the White House Alaska Task Force. The directive results from the recent announcement of the National Energy Board of Canada that transport of Alaskan natural gas through Canada to the lower 48 states should be along the route proposed by the Alcan Pipeline Company (Alcan) with a Taylor Highway-Klondike Highway realignment. This realignment would diverge from the proposed Alcan route at Tetlin Junction, Alaska, and then follow the Taylor Highway to the Alaska-Yukon border. From the border, the realignment would proceed to Dawson, Yukon, and then along the Klondike Highway to Whitehorse, Yukon, where it would coincide with the prime route. Such a route would facilitate the future connection of Mackenzie Delta gas to the proposed Alcan project via a pipeline along the Dempster Highway from the Delta to Dawson.

Based on the Assessment, CEQ has informed the FPC staff that it is their conclusion that no final supplement is required prior to the President's decision on the basic system and technology.

This Assessment has been sent to all persons and governmental agencies who received the Supplemental FEIS for the Alcan Pipeline Project. The Assessment is on file with the Commission and is available for public inspection at its Office of Public Iinformation, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426. Copies of the Assessment are available in limited quantities from the Federal Power Commission's Office

V 42 166 AUG 26 77 UMI

of Public Information, Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24875 Filed 8-24-77;10:11 am]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

CLOSED COMMITTEE MEETINGS

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act. (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, September 15, 1977, and Thursday, September 22, 1977.

The meetings will convene at 10 a.m.; and will be held in Room 5A06A, Civil Service Commission Building, 1900 E Street, NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership on the Committee is provided for in Section 5347 of the Prevailing Rate Act of 1972 (Pub. L. 92-392).

The Committee's primary responsibility is to review the prevailing rate system and from time to time advise the Civil Service Commission thereon.

At these scheduled meetings, the Committee will consider proposed plans for implementation of the Prevailing Rate Act of 1972 (Pub. L. 92-392), which law establishes pay systems for Federal prevailing rate employees.

The meetings will be closed to the public on the basis of a determination made by the Chairman of the Civil Service Commission under Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C., section 552b(c)(9)(B), that the closing is necessary in order to provide this labor-management Committee with the opportunity to advance proposals and counterproposals in meaningful debate on issues related solely to the Federal Wage System with the view toward ultimately formulating advisory policy recommendations for the consideration of the Civil Service Commission.

Summary minutes of these meetings will be made available to the public, upon written request to the Committee Secretary, after the pay policy issues discussed at these meetings have been finalized by Civil Service Commission action. Annually, the Committee publishes for the Civil Service Commission, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Secretary, Federal Prevailing Rate Advisory Committee, Room 1338, 1900 E Street, NW., Washington, D.C. 20415 (202-632-9710).

JEROME H. ROSS,
Chairman, Federal Prevailing Rate Advisory Committee.

AUGUST 22, 1977.

[FR Doc.77-24786 Filed 8-25-77;8:45 am]

FEDERAL RESERVE SYSTEM

JANESVILLE HOLDING CO.

Formation of Bank Holding Company

Janesville Holding Company, Janesville, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 per cent or more of the voting shares of Janesville State Bank, Janesville, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 16, 1977.

Board of Governors of the Federal Reserve System, August 22, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-24787 Filed 8-25-77;8:45 am]

UNITED BANK CORPORATION OF NEW YORK

Order Approving Acquisition of Bank

AUGUST 22, 1977.

United Bank Corporation of New York, Albany, New York, a bank holding company within the meaning of the Bank Holding Company Act, has applied for approval of the Board of Governors of the Federal Reserve System under Section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of the successor by merger to Hempstead Bank, Hempstead, New York ("Bank").[1] The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with Section 3(b) of the Act. The time for filing comments has expired, and none has been timely received. The application has been considered in light of the factors set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the seventeenth[2] largest banking organization in New York State, controls three banks with aggregate deposits of $1.29 billion, representing 1.2 percent of total commercial bank deposits in the State. Acquisition of Bank, deposits of $185 million, will increase Applicant's share of State deposits to 1.3 percent, and will increase Applicant's ranking among New York banking organizations to thirteenth. Accordingly, acquisition of Bank would not result in a significant increase in the concentration of banking resources in New York State.

Bank is located in the Metropolitan New York Market[3] where it has 27 branches and 47 automated, point-of-sale terminals. It is the 34th largest of 120 banking organizations in the Metropolitan New York Market, controlling .2 percent of the market's deposits.

Approval of the proposal would not eliminate a significant amount of existing competition inasmuch as Applicant is not presently represented in the Metropolitan New York Market and its nearest subsidiary, the Valls Gate office of Highland National Bank of Newburgh, Newburgh, New York, is located approximately 80 road miles from Bank. In addition, Applicant's subsidiaries derive only a negligible amount of business from Bank's service area, while Bank derives virtually no business from the service areas of Applicant's subsidiaries. De novo entry by Applicant subsidiaries. De novo entry by Applicant is considered unlikely because of the relatively high density of banking organizations in the relevant market and the trend toward slower population growth in that portion of the market served by Bank. The proposed acquisition would not foreclose a significant amount of potential competition between Applicant and Bank in view of Applicant's unfamiliarity with the Metropolitan New York Market and the lack of concentration in that market. Moreover, numerous small and medium sized banks would continue to be available for acquisition by the few remaining organizations that may be likely entrants. Accordingly, it is concluded that consummation of the proposed acquisition would not have any significant adverse effects on existing or potential competition in any relevant area. Thus, competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks, and Bank are regarded as satisfactory. Although there is no evidence in the record that the needs of the community to be served are not being adequately met, affiliation with Applicant will permit Bank to offer expanded or improved services in the trust, lease financing and commercial lending areas. Considerations relating to the convenience and needs of the area to be served lend sufficient weight to warrant approval of the application.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Federal Reserve Bank of New York, acting for the Board of Governors pursuant to delegated authority, effective August 18, 1977.

A. MARSHALL PUCKETT,
Vice President,
Federal Reserve Bank of New York.

AUGUST 18, 1977.

[FR Doc.77-24788 Filed 8-25-77; 8:45 am]

[1] By order of August 18, 1977, the Federal Reserve Bank of New York has approved the related application by 40 Main Street Bank, Hempstead, New York for approval to merge with Bank.

[2] Deposit data are as of December 31, 1976 except for data concerning the Metropolitan New York Market which are as of June 30, 1976. Data regarding banking offices are as of June 30, 1977.

[3] The Metropolitan New York Market, defined geographically, consists of the five boroughs of New York City plus Nassau, Westchester, Putnam and Rockland Counties and western Suffolk County in New York State, as well as the northern two-thirds of Bergen County and eastern Hudson County in New Jersey, plus southwestern Fairfield County in Connecticut.

FEDERAL RESERVE BANK OF NEW YORK, 40 MAIN STREET BANK

Order Approving Application for Merger of Banks

The 40 Main Street Bank, Hempstead, N.Y. ("MSB"), a proposed State member bank of the Federal Reserve System, has applied for approval of the Board of Governors of the Federal Reserve System, pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), of the merger of that bank with Hempstead Bank, Hempstead, N.Y. ("Hempstead"), under the charter of MSB and the name of Hempstead, as a means to facilitate the acquisition of the voting shares of Hempstead by United Bank Corporation of New York, Albany, N.Y., a bank holding company.[1]

As required by the Act, notice of the proposed merger, in form approved by the Board, has been published, and reports on competitive factors have been requested from the Attorney General, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation.

This Reserve Bank has considered this application and all comments and views in light of the factors set forth in the Act.

On the basis of the record, the application is approved for the reasons summarized in this Reserve Bank's Order of this date relating to the application of United Bank Corporation of New York to acquire the successor by merger to Hempstead. This transaction shall not be consummated (a) before the thirtieth calendar day following the date of this order, or (b) later than three months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Federal Reserve Bank of New York, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective August 18, 1977.

A. MARSHALL PUCKETT,
Vice President, Federal Reserve Bank of New York.

AUGUST 18, 1977.

[FR Doc.77-24789 Filed 8-25-77, 8:45 am]

[1] By order of August 18, 1977, the Federal Reserve Bank of New York has approved the related application by United Bank Corporation of New York for approval to acquire 100 percent of the shares of the successor by merger to Hempstead, and has also approved, by letter, an application by MSB for membership in the Federal Reserve System.

FIRST BANK SYSTEM, INC.

Acquisition of Bank

First Bank System, Inc., Minneapolis, Minn., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of Granite City National Bank of St. Cloud, St. Cloud, Minn., a proposed new bank. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 19, 1977.

Board of Governors of the Federal Reserve System, August 22, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-24825 Filed 8-25-77;8:45 am]

FIRST CITY BANCORPORATION OF TEXAS, INC.

Request for Determination and Notice Providing Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors of the Federal Reserve System, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)(3)) ("the Act"), by First City Bancorporation of Texas, Inc., Houston, Tex. ("First City"), for a determination that with respect to the sale by First City of its stock interest in First Bank and Trust of Richardson, Richardson, Tex. ("Bank"), to Mr. Kenneth L. Terry, as trustee for himself and six other individuals, First City is not nor will be capable of controlling Bank through Kenneth L. Terry or any of the other purchasers, notwithstanding the fact that certain of the purchasers are otherwise indebted to another subsidiary of First City.

Section 2(g)(3) of the Act provides that shares transferred after January 1, 1966, by any bank holding company (or any company which but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor, unless the Board, after opportunity for hearing, determines that the transferor is not, in fact, capable of controlling the transferee.

Notice is hereby given, that, pursuant to section 2(g)(3) of the Act, an opportunity is provided for filing a request for oral hearing. Any such request or written comments on the application should be submitted in writing (in duplicate) to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than September 19, 1977. If a request for oral hearing is filed, each request should contain a statement of the nature of the requesting person's interest in the matter, his reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which such person wishes to give testimony. The Board subsequently will designate a time and place for any hearing it orders, and will give notice of such hearing to the transferor, the transferee, and all persons that have requested an oral hearing. In the absence of a request for an oral hearing, the Board will consider the requested determination on the basis of documentary evidence filed in connection with the application.

Board of Governors of the Federal Reserve System, August 22, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-24826 Filed 8-25-77;8:45 am]

FIRST OF GRANDFIELD CORP.

Order Approving Formation of Bank Holding Company

First of Grandfield Corporation, Grandfield, Okla., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of First State Bank, Grandfield, Okla. ("Bank").

Notice of the application, affording opportunity for interested persons to sub-

V 42 166 AUG 26 77 UMI

mit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the application and all comments received have been considered in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a corporation recently formed for the purpose of becoming a bank holding company through the acquisition of Bank. Upon acquisition of Bank (deposits of $4.2 million), Applicant would control the 397th largest of 474 banks in Oklahoma, holding 0.04 percent of total deposits in commercial banks in the State.[1] Bank ranks eleventh among the twelve banking organizations operating in the relevant market,[2] controlling 0.7 percent of the deposits therein.

Three of Applicant's principal shareholders are shareholders in another one-bank holding company located in Tillman County 30 miles from Bank. Inasmuch as this proposal represents the restructuring of the existing ownership of Bank, and since the other bank in which Applicant's principals are involved is not located in the same market as Bank, it appears that consummation of the proposal would not have an adverse effect on existing or potential competition. Accordingly, it is concluded that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, which are largely dependent upon those of Bank, are considered generally satisfactory and consistent with approval. Debt of $600,000 will be incurred by Applicant; however, acquisition of Bank will have no adverse effect on the financial condition of either Applicant or Bank. Therefore, considerations relating to banking factors are regarded as being consistent with approval.

Consummation of the transaction would effect no changes in the banking services offered by Bank, and considerations relating to the convenience and needs of the community to be served are consistent with approval. It has been determined that consummation of the transaction would be consistent with the public interest and the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The acquisition of Bank shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

[1] All banking data are as of December 31, 1976.

[2] The market is approximated by the Wichita Falls SMSA (Wichita and Clay Counties in Texas), the southwest corner of Cotton County, Okla., and the southeast corner of Tillman County, which includes Grandfield.

By order of the Secretary of the Board, acting pursuant to delegated authority for the Board of Governors, effective August 19, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-24827 Filed 8-25-77;8:45 am]

HARRISON BANCORPORATION

Formation of Bank Holding Company

Harrison Bancorporation, Cynthiana, Ky., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of The Harrison Deposit Bank and Trust Company, Cynthiana, Ky. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 20, 1977.

Board of Governors of the Federal Reserve System, August 23, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-24828 Filed 8-25-77;8:45 am]

KANOPOLIS BANKSHARES, INC.

Formation of Bank Holding Company

Kanopolis Bankshares, Inc., Kanopolis, Kans., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 per cent or more of the voting shares of Kanopolis State Bank, Kanopolis, Kans. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 20, 1977.

Board of Governors of the Federal Reserve System, August 22, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-24829 Filed 8-25-77;8:45 am]

NL INDUSTRIES, INC.

Order Granting Determination Under Bank Holding Company Act

NL Industries, Inc., New York, N.Y. ("NL"), a bank holding company within the meaning of section 2(a) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841(a)) ("Act"), by virtue of its ownership on January 15, 1969, of over 99 per cent of the issued and outstanding voting shares of Lake View Trust and Savings Bank, Chicago, Ill. ("Bank"), seeks to terminate said status and has requested a Board determination, pursuant to section 2(g)(3) of the Act (12 U.S.C. 1841(g)(3)), that NL is not in fact capable of controlling Mr. Lane or Bank, notwithstanding the indebtedness incurred by Mr. Lane to NL in connection with his purchase of all of NL's shares of Bank.

Under the provisions of section 2(g)(3) of the Act (12 U.S.C. 1841(g)(3)), shares transferred after January 1, 1966, by any bank holding company to a transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, are deemed to be indirectly owned or controlled by the transferor unless the Board, after opportunity for hearing, determines that the transferor is not in fact capable of controlling the transferee.

Notice of an opportunity for hearing with respect to NL's request for a determination under section 2(g)(3) was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3357), and the time provided for requesting a hearing has expired. No such request has been received by the Board, nor has any evidence been received to show that NL is in fact capable of controlling or exerting a controlling influence, directly or indirectly, over Mr. Lane or over Bank.

It is hereby determined that NL is not in fact capable of controlling Mr. Lane or Bank. This determination is based upon the evidence of record in this matter, including the following facts. NL is a publicly-owned corporation of substantial size and is not affiliated with Mr. Lane or any business activity in which Mr. Lane has an interest. By letter dated May 1, 1972, NL filed an irrevocable declaration, pursuant to section 4(c)(12) of the Act and § 225.4(d) of Regulation Y (12 CFR 225.4(d)), that it would divest Bank and thus cease to be a bank holding company by 1981. In compliance therewith, NL sold Bank to Mr. Lane on March 25, 1976, in a transaction that appears to have been the result of arms-length negotiations. There are no interlocking director, officer or employee relationships between NL or its direct or indirect subsidiaries and Mr. Lane or the companies with which he has an ownership or management interest. Mr. Lane's personal financial resources are substantial and would appear to support further the conclusion that NL is not in fact capable of controlling him or Bank. The board of directors of NL has submitted a resolution disclaiming its capability of control over Mr. Lane and Bank, and an affidavit was submitted by Mr. Lane stating that NL is not in fact capable of controlling him or Bank.

It is noted that the agreement between NL and Mr. Lane pursuant to which NL sold its shares of Bank affords Mr. Lane the option of converting his debt to NL into nonvoting, cumulative dividend preferred shares of a proposed new bank holding company that would acquire Mr. Lane's shares of Bank. Notwithstanding the nonvoting character of such preferred shares,[1] the conversion of NL's debt into a significant percentage of the equity of a bank holding company could lead the Board to conclude that NL was engaged through Bank in the business of banking and therefore had again become a bank holding company. NL has indicated its willingness, in the event such conversion occurs, to place such shares in an irrevocable trust under an agreement with the Board. The determination herein that NL is not in fact capable of controlling Mr. Lane or Bank is subject to the condition that in the event Mr. Lane's debt to NL is converted into preferred shares of a bank holding company the Board may enter such further order in this matter as it deems appropriate to ensure that NL will not thereby resume status as a bank holding company.

Accordingly, it is ordered, That the request of NL for a determination pursuant to section 2(g)(3) be and hereby is granted, subject to the condition stated above. This determination is based upon the representations made to the Board by NL and Mr. Lane. In the event the Board should hereafter determine that facts material to this determination are otherwise than as represented, or that NL or Mr. Lane failed to disclose to the Board other material facts, this determination may be revoked, and any change in the facts or circumstances relied upon by the Board in making this determination could result in the Board reconsidering the determination made herein.

By order of the Board of Governors, acting through its General Counsel, pursuant to delegated authority (12 CFR 265.2(b)(1)), effective August 22, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-24831 Filed 8-25-77;8:45 am]

SEDALIA ENTERPRISES, INC.

Order Granting Determination Under the Bank Holding Company Act

Sedalia Enterprises, Inc., Sedalia, Missouri ("Sedalia"), which has transferred all of its shareholdings in Sedalia Bank & Trust Company, Sedalia, Mo. ("Bank"), to Mercantile Bancorporation, Inc., St. Louis, Mo. ("Mercantile"), has requested a determination, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act (12 U.S.C. 1841(g)(3)) ("the Act"), that Sedalia is not in fact capable of controlling Mercantile, notwithstanding the fact that Mercantile is indebted to Sedalia as a result of its purchase of approximately 82 percent of the voting shares of Bank from Sedalia.

Under the provisions of section 2(g)(3) of the Act, shares transferred after January 1, 1966, by any bank holding company to a transferee that is indebted to the transferor or has one or more officers, directors, trustees or beneficiaries in common with or subject to control by the transferor, are deemed to be indirectly owned or controlled by the transferor unless the Board, after opportunity for hearing, determines that the transferor is not in fact capable of controlling the transferee.

Notice of an opportunity for a hearing with respect to Sedalia's request for a determination has been published in the FEDERAL REGISTER (41 FR 27784 (1976)), and the time provided for requesting a hearing has expired. No such request has been received by the Board, nor has any evidence been received suggesting that Sedalia is in fact capable of controlling Mercantile.

By Order dated October 12, 1973, the Board approved an application by Mercantile, filed pursuant to section 3(a)(3) of the Act, to acquire 90 percent or more of Bank's voting shares. On November 16, 1973, Sedalia exchanged all of its shares of Bank for a series of notes of Mercantile aggregating $2,396,700 at 6.5 per cent interest, maturing annually, the last of which is due November 8, 1994. The notes of Mercantile held by Sedalia do not have any voting rights. Furthermore, default on Mercantile's notes to Sedalia would not necessarily result in the return of shares of Bank to Sedalia because such shares are not pledged as collateral for such notes.

Mercantile, the largest banking organization in Missouri, controls 28 subsidiary banks with aggregate deposits of more than $2.1 billion. Mercantile has total assets in excess of $3.1 billion. In comparison, Sedalia has total assets of approximately $2.7 million, almost all of which are represented by the notes of Mercantile. Currently, Mercantile has total long term debt of approximately $63.5 million, of which slightly more than $2 million is owed to Sedalia. With the exception of the above-described notes of Mercantile, Sedalia does not hold any securities of Mercantile. No officer, director or employee with policy-making functions of Sedalia serves in any such capacity with Mercantile or any of its subsidiaries.

Based upon all of the facts of record, including the disparate sizes of Mercantile and Sedalia, the relatively small debt owing Sedalia in comparison to Mercantile's total long term debt, Sedalia's lack of any voting interest in Mercantile, the absence of a security interest in the shares of Bank transferred to Mercantile and the absence of any director, officer or employee interlocking relationships between the two companies, it is hereby determined that Sedalia is not in fact capable of controlling Mercantile.

Accordingly, it is ordered, That the request of Sedalia for a determination pursuant to section 2(g)(3) be and hereby is granted. This determination is based upon the representations made to the Board by Sedalia and Mercantile. In the event the Board should hereafter determine that facts material to this determination are otherwise than as represented, or that Sedalia or Mercantile has failed to disclose to the Board other material facts, this determination could result in the Board reconsidering the determination made herein.

By order of the Board of Governors, acting through its General Counsel, pursuant to delegated authority (12 CFR 265.2(b)(1)), effective August 22, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-24830 Filed 8-25-77;8:45 am]

FEDERAL OPEN MARKET COMMITTEE

Domestic Policy Directive of July 19, 1977

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on July 19, 1977.[1]

The information reviewed at this meeting suggests that real output of goods and services grew in the second quarter at about the rapid rate of the first quarter. In June industrial output continued to expand at a substantial pace. The rise in employment moderated, and the unemployment rate edged up from 6.9 to 7.1 percent. Total retail sales remained at about the level reached in March; for the second quarter as a whole, however, sales were moderately above the first-quarter level. The wholesale price index for all commodities declined in June, owing to sharp decreases among farm products and foods; as in May, average prices of industrial commodities rose appreciably less than in earlier months of 1977. The index of average hourly earnings rose over the first half of the year at about the same pace that it had on the average during 1976.

The average value of the dollar against leading foreign currencies has declined more than 1 percent over the past month; the declines were especially marked against the Japanese, German, and Swiss currencies. In May the U.S. foreign trade deficit diminished somewhat from the high rate in the first 4 months of the year.

M-1, after rising at an exceptionally rapid rate in April, increased little in May and grew at a moderate pace in June. Growth in M-2 and M-3 also was moderate in June. Inflows to banks of the time and savings deposits included in M-2 picked up somewhat, after having slackened for a number of months, and inflows to nonbank thrift institutions remained sizable. Business short-term borrowing expanded sharply in June. Market interest rates in general have changed little in recent weeks.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster bank reserve and other financial conditions that will encourage continued economic expansion and help resist inflationary pressures, while contributing to a sustainable pattern of international transactions.

Growth in M-1, M-2, and M-3 within ranges of 4 to 6½ percent, 7 to 9½ percent, and

[1] The Record of Policy Actions of the Committee for the meeting of July 19, 1977, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

[1] Although such shares may not have voting rights under the articles of incorporation, it appears that applicable state law would permit such shares to vote as a class on certain types of corporate action.

V 42 166 AUG 26 77 UMI

8½ to 11 percent, respectively, from the second quarter of 1977 to the second quarter of 1978 appears to be consistent with these objectives. These ranges are subject to reconsideration at any time as conditions warrant.

The Committee seeks to encourage near-term rates of growth in M–1 and M–2 on a path believed to be reasonably consistent with the longer-run ranges for monetary aggregates cited in the preceding paragraph. Specifically, at present, it expects the annual growth rates over the July–August period to be within the ranges of 3½ to 7½ percent for M–1 and 6½ to 10½ percent for M–2. In the judgment of the Committee such growth rates are likely to be associated with a weekly-average Federal funds rate of about 5⅞ percent. If, giving approximately equal weight to M–1 and M–2, it appears that growth rates over the 2-month period will deviate significantly from the midpoints of the indicated ranges, the operational objective for the Federal funds rate shall be modified in an orderly fashion within a range of 5¼ to 5¾ percent.

If it appears during the period before the next meeting that the operating constraints specified above are proving to be significantly inconsistent, the Manager is promptly to notify the Chairman who will then decide whether the situation calls for supplementary instructions from the Committee.

NOTE.—On August 5, 1977, the Committee modified the intermeeting range for the Federal funds rate specified in the next-to-last paragraph of the domestic policy directive issued on July 19, 1977, by increasing the upper limit from 5¾ to 6 per cent.

By order of the Fedral Open Market Committee, August 19, 1977 .

ARTHUR L. BROIDA,
Secretary.

[FR Doc.77-24824 Filed 8-25-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Recepit of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on August 22, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FEA request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before September 13, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

FEDERAL ENERGY ADMINISTRATION

The FEA requests clearance of a new Form FEA–P–336–M–0 entitled "Retail Motor Fuels Service Station Survey." The FEA–P336–M–0 is designed to provide the data needed by the FEA to monitor prices, margins and volumes to motor fuels. In addition, the FEA–P336–M–0 has been designed to collect market shares data currently collected on other FEA forms. Those forms will at some point in the future be phased out of the FEA system. FEA estimates potential respondents to the FEA–P336–M–0 number approximately 18,000 service stations, a sample selected from some 240,000 service stations, and that the reporting burden on the FEA–P336–M–0 which will be filed monthly averages 45 minutes per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-24845 Filed 8-25-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Intervention Notice No. 36]

DISTRICT OF COLUMBIA PUBLIC SERVICE COMMISSION, POTOMAC ELECTRIC POWER CO. FORMAL CASE 685

Proposed Intervention in Electric Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the District of Columbia Public Service Commission concerning an application by the Potomac Electric Power Company for an increase in its tariffed rates for intrastate electric service. The GSA represents the interests of the executive agencies of the United States Government, as users of utility services.

Persons desiring to make inquiries concerning this case to GSA should submit them, is writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets, NW., Washington, DC 20405, telephone 202–566–0726, on or before September 26, 1977, and refer to this notice number .

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act (40 U.S.C. 481(a)(4)))

Dated: August 11, 1977.

JOEL W. SOLOMON,
Administrator of General Services.

[FR Doc.77-24815 Filed 8-25-77; 8:45 am]

[Federal Property Management Regs.; Temporary Reg. F–439]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the interests of the executive agencies of the Federal Government in a telephone rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Virginia State Corporation Commission involving the application of the Chesapeake & Potomac Telephone Company of Virginia for changes in business telephone rates. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: August 12, 1977.

JOEL W. SOLOMON,
Administrator of General Services.

[FR Doc.77-24814 Filed 8-25-77;8:45 am]

[Federal Property Management Regs.; Temporary Reg. F–438]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the interests of the Executive Agencies of the Federal Government in an interstate rate increase proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* (a) Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Executive Agencies of the Federal Government before the Federal Communications Commission involving the application of the American Telephone and Telegraph Company for increase in its SCAN rates. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

(b) The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

(c) This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

JOEL W. SOLOMON,
Administrator of General Services.

AUGUST 12, 1977.

[FR Doc.77-24813 Filed 8-25-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEE

Renewals

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces the renewal by the Secretary, Department of Health, Education, and Welfare, with the concurrence of the Office of Management and Budget Committee Management Secretariat, of the following advisory committees:

Drug Abuse Demonstration Review Committee
Drug Abuse Prevention Review Committee
Drug Abuse Training Review Committee

Authority for these committees will expire September 30, 1977, unless the Secretary formerly determines that continuance is in the public interest.

Dated: August 17, 1977.

FRANCIS N. WALDROP,
Deputy Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77-24425 Filed 8-25-77;8:45 am]

Food and Drug Administration

[Docket No. 76N–0300; DESI 6002]

CERTAIN ANTI-INFECTIVE DRUGS

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice sets forth the conditions for marketing the anti-infective drug products described below for the indications for which they continue to be regarded as effective and offers an opportunity for a hearing concerning those indications regarded as lacking substantial evidence of effectiveness.

DATES: Hearing requests due on or before September 26, 1977. Supplements to approved NDA's due on or before October 25, 1977.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 6002 directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements (identify with NDA number): Division of Anti-Infective Drug Products (HFD–140), Rm. 12B–45, Bureau of Drugs.

Abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Requests for Hearing (identifying with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC–20), Rm. 4–65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFC–18), Rm. 4–62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD–32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 6002; Docket No. FDC–D–309 (now Docket No. 76N–0300)) published in the FEDERAL REGISTER of August 7, 1971 (36 FR 14662), the Food and Drug Administration announced its conclusions that certain anti-infective drug products are effective for the treatment of various infections and less than effective (probably effective or possibly effective) for certain other indications. In response to the August 7, 1971 notice, no person submitted data in support of the possibly effective or probably effective indications of the drug products described below. This notice offers an opportunity for hearing concerning those indications, which are now reclassified as lacking substantial evidence of effectiveness, and states the conditions for marketing the drugs for the indications for which they continue to be regarded as effective. Other products named in the August 7, 1971 notice are not affected by this notice. Bryrel with Superinone Syrup containing piperazine hexahydrate with tyloxapol, which was included in the August 7, 1971 notice, will be the subject of a future FEDERAL REGISTER notice.

1. NDA 6–441: Camoquin Hydrochloride Tablets containing amodiaquine hydrochloride; Parke, Davis & Co., Joseph Campau at the River, Detroit, MI 48232.

2. NDA 6–459; Hetrazan Tablets and Syrup containing diethylcarbamazine citrate; Lederle Laboratories Division, American Cyanamid Co., Pearl River, NY 10965.

3. NDA 6–903; Milibis Tablets containing glycobiarsol; Winthrop Laboratories, 90 Park Ave., New York, NY 10016.

4. NDA 9–166; Sterile Hydroxystilbamidine Isethionate; Merrell-National Laboratories, Division Richardson-Merrell, Inc., 110 E. Amity Rd., Cincinnati, OH 45215.

5. NDA 9–768; Plaquenil Sulfate Tablets containing hydroxychloroquine sulfate; Winthrop Laboratories.

6. NDA–943; Plaquinol Tablets containing hydroxychloroquine sulfate; Winthrop Products, 90 Park Ave., New York, NY 10016.

In a notice published in the FEDERAL REGISTER of February 8, 1972 (37 FR 2852), the approval of NDA 9–943 for Plaquinol Tablets was withdrawn on the ground of failure to submit required reports under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)). At the time that notice was published, no final conclusions concerning its less-than-effective (probably effective) indication had been reached. Those conclusions have now been reached and the purpose of including Plaquinol (hydroxychloroquine sulfate) Tablets (NDA 9–943) in this notice is to inform all interested persons of the conclusions and offer them the opportunity to request a hearing concerning all issues relating to its legal status.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, the notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drugs are effective for the indications listed in the labeling conditions below. The drugs now lack substantial evidence of effectiveness for the other indications evaluated as probably or possibly effective in the August 7, 1971 notice.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* a. Diethylcarbamazine citrate is in tablet or syrup form.

b. Hydroxystilbamidine isethionate is in sterile powder form suitable, after

V 42 166 AUG 26 77 UMI

reconstitution, for intravenous administration.

c. The remainder of the drugs are in tablet form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement,

Caution: Federal law prohibits dispensing without prescription.

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

Amodiaquine hydrochloride: For the suppressive treatment and for the treatment of acute attacks of malaria due to *P. vivax, P. malariae, P. ovale,* and susceptible strains of *P. falciparum.*

Hydroxychloroquine sulfate: For the suppressive treatment and treatment of acute attacks of malaria due to *P. vivax, P. malariae, P. ovale,* and susceptible strains of *P. falciparum.* It is also indicated for the treatment of discoid and systemic lupus erythematosus, and rheumatoid arthritis.

Glycobiarsol: For the treatment of intestinal amebiasis in adults and children weighing over 80 pounds, but it is not considered to be the drug of choice.

Diethylcarbamazine citrate: For the treatment of Bancroft's filariasis, onchocerciasis, ascariasis, tropical eosinophilia, and loiasis.

Hydroxystilbamidine isethionate: For the treatment of visceral leishmaniosis (kala azar) and American mucocutaneous leishmaniasis. It is also indicated for the treatment of North American blastomycosis, but it is not considered to be the drug of choice.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before October 25, 1977, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1 (c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. Notice of opportunity for hearing. On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice, on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before September 26, 1977, a written notice of appearance and request for hearing, and (2) on or before October 25, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m. Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: August 18, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-24515 Filed 8-25-77;8:45 am]

[Docket No. 77N-0226; DESI 7358]

COMBINATION PRODUCT CONTAINING FURAZOLIDONE WITH KAOLIN AND PECTIN

Withdrawal of Approval of Part of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice withdraws approval of that part of NDA 11-323 pertaining to Furoxone Liquid containing furazolidone with kaolin and pectin. The product has been used as an antibacterial agent.

DATE: Effective September 6, 1977.

ADDRESSES: Requests for opinion of the applicability of this notice to a specific product should be directed to: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing (DESI 7358; Docket No. FDC-D-520 (now Docket No. 77N-0226) published in the FEDERAL REGISTER of March 29, 1973 (38 FR 8186), the Commissioner of Food and Drugs proposed to issue an order withdrawing approval of the new drug application (NDA) for Furoxone Liquid containing furazolidone with kaolin and pectin. The basis of the proposed order was that the drug lacks substantial evidence of effectiveness and is not shown to be safe for use. The holder of the NDA, Norwich Pharmacal Co., filed a request for hearing for the combination product. A notice published in the FEDERAL REGISTER of May 30, 1975 (40 FR 23501) amended March 29, 1973 notice to cite the policy for fixed combination prescription drugs for humans (21 CFR 300.50) because that policy had not been specifically referred to in the March 29, 1973 notice. No data were submitted in response to either notice in support of a hearing for the combination product Furoxone Liquid. By letter of April 28, 1977, Norwich Pharmacal Co. withdrew its hearing request, and approval of the part of the following new drug application pertaining to the product is now being withdrawn:

That part of NDA 11-323 pertaining to Furoxone Liquid containing furazolidone with kaolin and pectin; Norwich Pharmacal Co., division of Morton Norwich, Inc., 17 Eaton Ave., Norwich, NY 13815.

Other products that were included in the March 29, 1973 notice are not affected by this notice, nor is the singleentity Furoxone Liquid containing furazolidone, which was the subject of a FEDERAL REGISTER notice of August 16, 1976 (41 FR 34662).

Any drug product that is identical, related, or similar to the drug product named above, and not the subject of an approved new drug application, is covered by that part of the new drug application reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (HFD-210), (address given above).

No other person filed a written appearance of election with respect to a combination of furazolidone, kaolin, and pectin, as provided by said notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.82), finds that (1) new information before him with respect to the drug product, evaluated together with the evidence available to him at the time of approval of the application, shows there is a lack of substantial evidence that the drug product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling; and (2) tests by methods not deemed reasonably applicable when the application was approved, evaluated together with the evidence available when the application was approved, reveal that the drug is not shown to be safe for use under the conditions of use on the basis of which the application was approved.

Therefore, pursuant to the foregoing finding, approval of that part of new drug application 11-323 pertaining to the combination product Furoxone Liquid, and all amendments and supplements applying thereto, is withdrawn effective September 6, 1977.

Shipment in interstate comerce of the above product or of any identical, related, or similar product, not the subject of an approved new drug application, will then be unlawful.

Dated: August 18, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-24514 Filed 8-25-77;8:45 am]

[Docket No. 77N-0030]

GRAS AND PRIOR-SANCTIONED HUMAN FOOD INGREDIENTS

Availability of Information; Correction

AGENCY: Food and Drug Administration.

ACTION: Correction.

SUMMARY: In FR Doc. 77-16637, appearing on page 30431 in the FEDERAL REGISTER of Tuesday, June 14, 1977, the following correction is made in the table on page 30432: In the table labeled "Reports of the select committee," the ordering number for the substance "Agaragar" should read, "PB-265-502/AS."

[Docket No. 77N-0240]

SINGLE-ENTITY CORONARY VASODILATORS

Drugs for Human Use; Drug Efficacy Study Implementation; Permission for Drugs To Remain on the Market; Amendment

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice announces (1) the availability of guidelines and methods for evaluating the bioavailability and effectiveness of coronary vasodilators, and (2) the specific conditions under which these products may be marketed while such studies are in progress.

DATES: Notices of intent to conduct bioavailability studies are due on or before September 26, 1977.

Bioavailability studies must be initiated on or before November 25, 1977.

Clinical studies of effectiveness must be completed and submitted by FDA by August 27, 1979.

ADDRESSES: Communications in response to this notice should be identified with the NDA or ANDA number (if any) and the following in a box in the upper portion of the cover letter: "Paragraph XIV Drug—Category I; Coronary Vasodilator" directed to the attention of the office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Supplements (identify with NDA number): Division of Cardio-Renal Drug Products (HFD-110), Rm. 16B-30, Bureau of Drugs.

Abbreviated New Drug Applications: Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for guidelines for bioavailability studies: Division of Biopharmaceutics (HFD-520), Rm. 16-62, Bureau of Drugs.

Requests for guidelines for clinical studies: Division of Cardio-Renal Drug Products (HFD-110), Rm. 16B-30, Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

All other submissions required by this notice: Division of Cardio-Renal Drug Products (HFD-110), Rm. 16B-30, Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Robert H. Hahn, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Educa-

V 42166 AUG 26 77 UMI

tion, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In notices published in the FEDERAL REGISTER on February 17, 1971 (36 FR 3078) (DESI 12836) and February 25, 1972 (37 FR 4001 (DESI 1786), FDA published its conclusions pursuant to evaluation of reports from the National Academy of Sciences-National Research Council (NAS/NRC), Drug Efficacy Study Group concerning conventional and controlled release dosage forms of certain coronary vasodilators, stating that the drugs are possibly and probably effective and lacking substantial evidence of effectiveness for their labeled indications.

A notice was published in the FEDERAL REGISTER of December 14, 1972, informing manufacturers and distributors of prescription drugs for human use of the order entered October 11, 1972, by Judge William B. Bryant of the U.S. District Court for the District of Columbia, directing the future schedule for implementation of the Drug Efficacy Study. Paragraph XIV of the court order provided that a limited number of drugs, for which there is compelling justification of medical need, may remain on the market pending completion of scientific studies to determine their effectiveness, and it provided for future additions to or deletions from that list. These drugs are referred to as "paragraph XIV drugs." The drugs listed in Category I in that notice are conventional dosage forms of certain coronary vasodilators containing a single active drug entity. A notice was published in the FEDERAL REGISTER of July 11, 1973 (38 FR 18477), and corrected on July 25, 1973 (38 FR 19920), adding other such drugs to the list. Pursuant to petitions to permit controlled release forms of the drugs also to remain on the market pending clinical studies to determine effectiveness, the July 11, 1973 notice provided that controlled release forms could remain on the market on a product-by-product basis pending completion of scientific studies showing that the product is released in a defined manner, which would permit qualified products to be added to the list of drugs allowed to remain on the market pending completion of clinical trials to determine effectiveness. The notice required that data from such studies be submitted to the Food and Drug Administration no later than November 1, 1973. For reasons set forth below, this proved impossible. By this notice, the Commissioner is formally adding controlled release dosage forms of certain of these drugs to Category I under paragraph XIV. These are now being included on the same basic justification as the conventional forms, together with several additional factors relevant to their medical need. Given the prophylactic purpose of these drugs in treatment of angina, a prolonged duration of action can provide a significant advantage. While there is an effective drug for prophylaxis of angina that can be taken as little as three times per day (propranolol), some patients cannot tolerate this alternative longer acting drug and must turn to a drug of the organic nitrate class. Although certain conventional release products in this class are labeled for four times daily dosage, it is not at all certain and appears unlikely, that they will prove to have a 6 hour duration of action. It is therefore important to determine whether the controlled release formulations can provide a reasonably prolonged action and it is appropriate for these products to remain available for patients while this is determined. As evidenced by current usage patterns, many angina patients prefer a dosage form that may have a longer effect and thus be taken less frequently than conventional forms. Methods not available when the July 11, 1973 notice was published are now available and are suitable for evaluating controlled release as well as conventional forms. If controlled release forms are ultimately shown to be effective, their prolonged activity would be of significant benefit to angina patients.

Also now being included are certain dosage forms of nitroglycerin and of erythrityl tetranitrate. Although they were not included in the Drug Efficacy Study, they are regarded as related drugs which should be studied for bioavailability and effectiveness.

Therefore, Category I published in the December 14, 1972 notice, as amended by the July 11, 1973 notice, is amended to read as follows:

I. CORONARY VASODILATORS (ANTIANGINAL DRUGS) (SINGLE ACTIVE DRUG ENTITY)

Isosorbide dinitrate (sublingual, chewable, and conventional oral forms and controlled release forms).

Mannitol hexanitrate (conventional, oral and controlled release forms).

Trolnitrate phosphate (conventional oral and controlled release forms).

Pentaerythritol tetranitrate (conventional oral and controlled release forms).

Nitroglycerin (topical ointment forms, conventional oral forms, and controlled release forms).

Dipyridamole (conventional oral form).

Erythrityl tetranitrate (sublingual, conventional oral, and chewable forms, and controlled release forms).

It has been difficult to determine the bioavailability and effectiveness of the organic nitrate class of antianginal drugs. Effectiveness has been difficult to measure because of the relative insensitivity and variability of the clinical measures used in the evaluation of these drugs. Bioavailability has also been difficult to determine because these drugs are extensively metabolized and conventional blood or urine assay methods are not applicable. Suitably sensitive chemical assay methods for routine use with this class of drugs do not exist at present. Even if it were possible to meaure these drugs and their metabolites in biological fluids, the clinical and pharmacological significance of the blood level of any given metabolite would still be unclear. Although several sponsors submitted physiologic studies to support bioavailability, only one of these studies was found adequate to even suggest that an orally administered organic nitrate may be sufficiently bioavailable to possibly have some clinical effectiveness. The development of appropriate physiologic methods, however, had not been adequately addressed by investigators. For these reasons the requirements set forth in the December 14, 1972 and July 11, 1973 notices have not been met by manufacturers of coronary vasodilator drug products. The possible medical importance of these drugs, including controlled release dosage forms, remains, however, and FDA has sought to overcome some of the methodological deficiencies impeding evaluation of this drug class.

Under FDA sponsorship, research was conducted in an effort to develop methods for evaluating the bioavailability of the antianginal drug products that do not depend on blood level measurements of nitrates. Guidelines and methods for the evaluation of the physiological effects and comparative bioavailability of organic nitrate antianginal drug products were developed by Victor F. Smolen, Ph. D. and Edward J. Williams, Ph. D., School of Pharmacy and Pharmacal Sciences, Purdue University, West Lafayette, Indiana 47907. (The project was entitled "A Study of Drug Bioavailability as Related to Physiological Respone." Food and Drug Administration Contract No. 223–73–3023). This work clearly indicates that physiologic response monitoring can provide reliable, sensitive, convenient, and meaningful measures of the drugs' bioavailability, although at this time this method cannot be used to assess clinical effectiveness. Demonstration of such effectiveness requires the performance of clinical trials. If physiologic responses can be shown to correlate well with clinical effectiveness, then it may be possible in the future to rely upon physiologic response studies to assess the effectiveness of newly formulated organic nitrate drug products.

The FDA-sponsored studies indicate that response variables derived from digital plethysmography (DPG) and electrocardiographic recordings are useful measures of the bioavailability of organic nitrate drugs, i.e., can demonstrate that sufficient drug has been absorbed to elicit a positive measurable indication of pharmacologic activity. Although many response variables appear to show some association with bioavailability, including: (1) Diastolic amplitude, (2) systolic amplitude, (3) cardiac output computed as the products of systolic pulse pressure and heart rate, (4) heart rate, (5) DPG, (6) apparent left ventricular ejection time, and (7) systolic time interval, heart rate and diastolic amplitude appear to correlate best. While Dr. Smolen, the original investigator, acquired his data in a form which could be and was computerized, all of these measurements, except for cardiac output, can readily be manually obtained directly from DPG strip chart recordings without the need for expensive and sophisticated recording and computational equipment. Copies of the detailed guidelines and methods developed by Dr. Smolen for the evaluation of the physiologic responses and comparative bioavailability of organic nitrate antianginal drug products are available on request from the Division of Biopharmaceutics.

As a result of the availability of new and adequate methods for determining the bioavailability of not only the conventional and controlled release forms of coronary vasodilators, but of the sublingual, chewable, and topical forms as well, the Commissioner is now able to state definitively the conditions for their marketing. Those conditions are set forth in this notice and include requirements for both bioavailability and clinical testing. The demonstration of bioavailability had not previously been a prerequisite to conducting clinical trials of the conventional dosage forms. The time required to conduct and analyze clinical trials, however, is often great, and there is no valid reason to permit continued marketing of a drug product during this period if there is little likelihood that the drug will prove effective. It is thus appropriate to require demonstration of bioavailability as an indication of the possibility of effectiveness before permitting a drug to be marketed during clinical testing. Bioavailability testing may also aid in choosing proper dosages and dose intervals for the clinical trials.

As stated in the DESI notices cited above, such products are regarded as new drugs (21 U.S.C. 321(p)). Continued marketing, will, therefore, only be permitted for coronary vasodilator products whose sponsors first perform adequate studies that demonstrate the bioavailability of their products, and subsequently conduct well-controlled studies to demonstrate clinical effectiveness; in addition, an abbreviated new drug application (ANDA) will be required for any product now on the market without an approved new drug application. The Food and Drug Administration intends to act at the earliest possible date to remove from the market products not fulfilling the conditions of this notice.

Following is a list of new drug applications providing for single entity coronary vasodilators. Not all of these were specifically reviewed by the NAS/NRC or named in a DESI notice. Those which were reviewed by the Academy and named in DESI notices are identified by DESI numbers.

DESI 1786

a. Metamine Tablets containing trolnitrate phosphate; Pfizer Laboratories, Division Charles Pfizer & Co., Inc., 235 East 42nd St., New York, NY 10017 (NDA 8–294).

b. Metamine Sustained Tablets containing trolnitrate phosphate; Pfizer, Inc. (NDA 10–131).

c. Nitretamine and Nitretamine-10 Tablets containing trolnitrate phosphate; Squibb Pharmaceutical Co., Division of E. R. Squibb & Sons, Inc., P.O. Box 4000, Princeton, NJ 08540 (NDA 9–196).

d. Penta-Erythritol Tetranitrate Nyscaps containing pentaerythritol tetranitrate; USV Laboratories, Division USV Pharmaceutical Corp., 1 Scarsdale Rd., Tuckahoe, NY 10707 (NDA 12–317).

e. Peritrate Tablets containing pentaerythritol tetranitrate; Warner-Chilcott Laboratories, Division of Warner-Lambert Pharmaceutical Co., 201 Tabor Rd., Morris Plains, NJ 07950 (NDA 8–072).

f. Peritrate SA Tablets containing pentaerythritol tetranitrate; Warner-Chilcott Laboratories (NDA 11–109).

g. Pencard and Pencard No. 2 Tablets containing pentaerythritol tetranitrate; Cole Pharmacal Co., P.O. Box 14404, St. Louis, MO 63108 (NDA 8–852).

h. Maxitate Tablets containing mannitol hexanitrate; Pennwalt Prescription Products Division, P.O. Box 1766, Rochester, NY 14603 (NDA 1–786).

i. Nitranitol Tablets containing mannitol hexanitrate; Merrell-National Laboratories, Division of Richardson-Merrell, Inc., P.O. Box 15260, Cincinnatti, OH 45215 (NDA 3–193).

j. Mannitol Hexanitrate Tablets; S. F. Durst and Co., Inc., Division of O'Neal, Jones, and Feldman, Inc., 1683 Winchester Rd., Philadelphia, PA 19020 (NDA 4–730).

k. Isordil Tablets containing isosorbide dinitrate; Ives Laboratories, Inc., 685 Third Ave., New York, NY 10017 (NDA 12–093).

l. Isodril Sublingual Tablets containing isosorbide dinitrate; Ives Laboratories, Inc. (NDA 12–940).

m. Timed Pentryate Stronger Capsules containing pentaerythritol tetranitrate; Fellows-Testagar, Subdivision of Chromalloy Pharmaceuticals, Inc., 12741 Capital Ave., Oak Park, MI 48237 (NDA 12–646).

n. Pentestan-80 Stancaps containing pentaerythritol tetranitrate; Standex Laboratories, 585 West Second Ave., Columbus, OH 43215 (NDA 12–488).

o. Pentritol Tempules containing pentaerythritol tetranitrate; Armour Pharmaceutical Co., Greyhound Tower, Phoenix, AZ 85077 (NDA 12–311).

p. Duotrate-45 Plateau Caps containing pentacrythritol tetranitrate; Marion Laboratories, Inc., 10236 Bunker Ridge Rd., Kansas City, MO 64137 (NDA 12–748).

q. Metranil Duracaps containing pentaerythritol tetranitrate; Meyer Laboratories, Inc., 1900 W. Commercial Blvd., Ft. Lauderdale, FL 33309 (NDA 12–529).

r. Tetrasule-80 Timesules containing pentaerythritol tetranitrate; Storck Pharmaceuticals, Inc., Division Arnar-Stone Laboratories, Inc., 601 East Kensington Rd., Mount Prospect, IL 60056 (NDA 12–450).

s. Nitroglyn Sustained Action Tablets containing nitroglycerin; Key Pharmaceuticals, Inc., P.O. Box 3670, Miami, FL 33169 (NDA 9–599).

t. Isordil Tembids containing isosorbide dinitrate; Ives Laboratories, Inc. (NDA 12–882).

DESI 12836

Persantine Tablets containing dipyridamole; Geigy Pharmaceuticals, Division of Ciba-Geigy Corp., Ardsley, NY 10502 (NDA 12–836).

THE FOLLOWING NDA'S WERE NOT REVIEWED BY THE NAS/NRC

1. Metamine Tablets containing trolnitrate phosphate; Leeming/Paquin, Division Charles Pfizer & Co., Inc., 235 East 42nd St., New York, NY 10017 (NDA 8–798).

2. Sorbitrate (Sublingual and Oral) Tablets containing isosorbide dinitrate; Stuart Pharmaceuticals, Division of I.C.I. United States, Inc., P.O. Box 751, Wilmington, DE 19899 (NDA's 16–191 and 16–192 respectively).

3. Pentaerythritol Tetranitrate Tablets; Philips Roxane Laboratories, Division of Philips Roxane, Inc., P.O. Box 1738, Columbus OH 43216 (NDA 16–425).

4. Vasitol Tablets containing pentaerythritol tetranitrate; Rowell Laboratories, Inc., 210 Main St., West Baudette, MN 56623 (NDA 16–436).

5. Tranite Tablets containing pentaerythritol tetranitrate; Westfield Laboratories, Inc., Division of O'Neal, Jones, & Feldman, Inc., 3941 Brotherton Rd., Cincinnati, OH 45209 (NDA 16–445).

6. Dipentrate Tablets containing pentaerythritol tetranitrate; Invenex Pharmaceuticals, Division of The Mogul Corp., 2303 Schultz Rd., St. Louis, MO 63141 (NDA 16–449).

7. Pentaerythritol Tetranitrate Tablets; Kirkman Laboratories, Inc., P.O. Box 3929, Portland, OR 97208 (NDA 16–459).

8. Nitrin Tablets containing pentaerythritol tetranitrate; The Vale Chemical Co., Inc., 1201 Liberty St., Allentown, PA 18102 (NDA 16–502).

9. Pentaerythritol Tetranitrate Tablets; Davis-Edwards Pharmacal Corp., Backus Ave., Danbury, CN 06810 (NDA 16–537).

10. Pentaerythritol Tetranitrate Tablets; Lit Drug Co., 2530 Polk St., Union, NJ 07083 (NDA 16–545).

11. Pentran Tablets containing pentaerythritol tetranitrate; Halsey Drug Co., Inc., 1827 Pacific St., Brooklyn, NY 11233 (NDA 16–553).

12. Pentaerythritol Tetranitrate Tablets; Zenith Laboratories, Inc., 140 LeGrand Ave., Northvale, NJ 07647 (NDA 16–555).

13. Pentaerythritol Tetranitrate Tablets; West-Ward, Inc., 745 Eagle Ave., Bronx, NY 10456 (NDA 16–558).

14. Pentaerythritol Tetranitrate Tablets; Stanlabs, Inc., Box 3108, Portland, OR 97208 (NDA 16–561).

15. Pentaerythritol Tetranitrate Tablets; Tutag Pharmaceuticals, Inc., 2599 W. Midway Blvd., Broomfield, CO 80020 (NDA 16–567).

16. Pentaerythritol Tetranitrate Tablets; American Pharmaceutical Co., Inc., P.O. Box 448, Passaic, NJ 07055 (NDA 16–593).

17. Pentaerythritol Tetranitrate Tablets; Bolar Pharmaceutical Co., Inc., 130 Lincoln St., Copiague, Long Island, NY 11726 (NDA 16–625).

18. Dilivas Tablets containing pentaerythritol tetranitrate; Ferndale Laboratories, Inc., 780 West Eight Mile Rd., Ferndale, MI 48220 (NDA 16–661).

19. Sorbitrate Chewable Tablets containing isosorbide dinitrate; Stuart Pharmaceuticals, Division of I.C.I. United States, Inc. (NDA 16–776).

20. Hydronal Oral Solution containing isosorbide; Stuart Pharmaceuticals, Division of I.C.I. United States, Inc. (NDA 17–063).

21. Corodyl Forte Sustained Release Tablets containing pentaerythritol tetranitrate; Bock Pharmacal Co., 5435 Highland Park Dr., St. Louis, MO 63110 (NDA 12–519).

22. Pent-T–80 Sustained Release Capsules containing pentaerythritol tetranitrate; Merlcon Industries, Inc., 420 S.W. Washington St., Peoria, IL 61602 (NDA 12–613).

23. Tetrate-80 Time Disintegrating Capsules containing pentaerythritol tetranitrate; Pasadena Research Laboratories, Inc., 2107 E. Villa St., Pasadena, CA 91107 (NDA 13–303).

24. Tranite D-Lay Sustained Release Capsules containing pentaerythritol tetranitrate; Westerfield Laboratories, Inc., (NDA 16–499[1]).

25. Pentitrol Tempules (Sustained Release Capsules) containing pentaerythritol tetra-

[1] Approved post-1962 continent upon future conclusions resulting from the Drug Efficacy Study.

V 42166 A AUG 26 77 UMI

nitrate; Armour Pharmaceutical Co., (NDA 16-457[1]).

26. Duotrate-30 Plateau Capsules containing pentaerythritol tetranitrate; Marion Laboratories, Inc., (NDA 16-470[1]).

27. Nitroglyn Sustained Action Tablets; Key Pharmaceuticals, Inc., (NDA 9-599).

28. Nitro-Bid (controlled release) Capsules; Marion Laboratories, Inc., (NDA's 16-518 and 16-975).

29. Nitrong (controlled release) Tablets; Wharton Laboratories, Inc., Division U.S. Ethicals, Inc., 37-02 48th Ave., Long Island City, NY 11101 (NDA 17-384).

30. Nitrospan (controlled release) Capsules; USV Laboratories, Division USV Pharmaceutical Corp., (NDA 16-447).

31. Perispan Timed Disintegration Capsules containing pentaerythritol tetranitrate; USV Laboratories (NDA 12-317).

32. Duotrate-45 Plateau Capsules (sustained release) containing pentaerythritol tetranitrate; Marion Laboratories, Inc. (NDA 12-748).

This notice applies not only to present holders of new drug applications covering the drugs listed but to all persons who manufacture or distribute any drug product that is identical, related, or similar to these, as set forth in 21 CFR 310.6, including erythrityl tetranitrate and nitroglycerin ointment, not the subject of an approved new drug application, except that it does not apply to nitroglycerin in sublingual form. Reference sources such as "American Drug Index" and "Drug Topics Red Book" indicate that numerous firms supply such products. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Division of Drug Labeling Compliance (address given above).

The Commissioner concludes that any such product, whether or not it is now marketed and whether or not it is now the subject of an approved new drug application, may be marketed in order to fulfill the critical medical need for antianginal preparations with more prolonged activity than sublingual nitroglycerin only if it meets the requirements of this notice. The Commissioner emphasizes that FDA will take regulatory action to terminate marketing of any product not in compliance with this notice.

REQUIREMENTS FOR PRODUCTS NOW SUBJECTS OF APPROVED NDA'S

Proceedings to withdraw approval of new drug applications which are in approved status on August 26, 1977, will not be taken provided that each of the following conditions is met:

1. On or before September 26, 1977, an applicant who intends to conduct bioavailability studies for one or more dosage forms notifies the Division of Cardio-Renal Drug Products.

Bioavailability studies are begun by November 25, 1977, and the Division of Cardio-Renal Drug Products is notified within 10 days after studies are begun.

3. Bioavailability studies are completed and submitted to the Division of Cardio-Renal Drug Products within 30 days after their completion or 6 months after their initiation, whichever is earlier.

4. Clinical trials are begun not later than 4 months after notification by FDA that the bioavailability data are satisfactory. They may, of course, be begun earlier than this. (If FDA determines that the bioavailability data do not indicate the product is bioavailable, proceedings will be initiated to withdraw approval of the application and future clinical trials would necessitate an IND.)

5. An analyzed progress report of the clinical trials is submitted annually to the Division of Cardio-Renal Drug Products and a brief progress report is submitted at 6-month intervals.

6. Clinical trials are completed and the results submitted to the Division of Cardio-Renal Drug Products by August 27, 1979. If the studies are completed before that time, the results shall be submitted within 30 days after their completion.

REQUIREMENTS FOR PRODUCTS NOT NOW SUBJECTS OF APPROVED NDA'S

Regulatory proceedings to remove from the market such products that were marketed commercially on August 26, 1977, will not be taken provided that each of the following conditions is met:

1. On or before September 26, 1977, the sponsor notifies the Division of Cardio-Renal Drug Products of his intent to conduct bioavailability studies for one or more dosage forms.

2. By November 25, 1977, the sponsor submits an abbreviated new drug application (ANDA) (21 CFR 314.1(f)) for the product(s) to the Division of Generic Drug Monograph (HFD-530), Bureau of Drugs. If the information in the ANDA is complete and satisfactory, it will be conditionally approved, pending results of bioavailability and clinical studies. Such conditionally approved products will have the same legal status as products that are subjects of "deemed approved" applications reviewed in the Drug Efficacy Study; that is, as products for which safety is not in question but for which effectiveness has not been proven.

3. Bioavailability studies are begun by November 25, 1977, and the Division of Cardio-Renal Drug Products is notified within 10 days after studies are begun.

4. Bioavailability studies are completed and submitted to the Division of Cardio-Renal Drug Products within 30 days of their completion or 6 months after their initiation whichever is earlier.

5. FDA has not issued a non-approvable letter to the applicant concerning the ANDA.

6. The ANDA is conditionally approved by May 23, 1978.

7. Clinical trials are begun no later than 4 months after notification by the Division of Cardio-Renal Drug Products that the bioavailability data are satisfactory. They may, of course, be begun earlier than this. (If FDA determines that the bioavailability data do not indicate the product is bioavailable, proceedings will be commenced to withdraw or refuse approval of the application and future clinical trials would necessitate an IND).

8. An analyzed progress report of the clinical trials is submitted annually to the Division of Cardio-Renal Drug Products and a brief progress report is submitted at 6-month intervals.

9. Clinical trials are completed and the results submitted to the Division of Cardio-Renal Drug Products by August 27, 1979. If the studies are completed before that time, the results shall be submitted within 30 days after their completion.

REQUIREMENTS FOR PRODUCTS ENTERING THE MARKET AFTER AUGUST 26, 1977

Regulatory action will not be taken against a product that enters the market after August 26, 1977 provided that each of the following conditions is met:

1. Prior to marketing the product, the sponsor submits an ANDA (21 CFR 314.-1(f)) and his commitment to conduct bioavailability and clinical studies. If the information in the ANDA is complete and satisfactory, it will be conditionally approved pending results of bioavailability and clinical studies. Such conditionally approved products will have the same legal status as products that are subject of "deemed approved" applications reviewed in the Drug Efficacy Study; that is, as products for which safety is not in question but for which effectiveness has not been proven.

2. The FDA does not issue a non-approvable letter regarding such application.

3. The ANDA is conditionally approved within 180 days after it is submitted.

4. Bioavailability studies are begun within 10 days after submitting the application.

5. Bioavailability studies are completed and submitted to the Division of Cardio-Renal Drug Products within 30 days after their completion or 6 months after their initiation, whichever is earlier.

6. Clinical studies are begun no later than 4 months after notification by the Division of Cardio-Renal Drug Products that bioavailability data are satisfactory. They may, of course, be begun earlier than this. (If FDA determines that the bioavailability data do not indicate the product is bioavailable, proceedings will be initiated to withdraw or refuse approval of the application and future clinical trials would necessitate an IND.)

7. An analyzed progress report of the clinical trials is submitted annually to the Division of Cardio-Renal Drug Products and a brief progress report is submitted at 6-month intervals.

8. Clinical trials are completed and the results submitted to the Division of Cardio-Renal Drug Products by August 27, 1979. If the studies are completed before that time, the results shall be submitted within 30 days after their completion.

The Commissioner points out that the time limit for completion and submission of clinical studies is the same as for products already on the market on August 26, 1977. To extend the time simply because a product entered the market after that date is regarded as inconsistent with the FDA policy to resolve effectiveness questions on paragraph XIV drugs at the earliest possible time and to require all marketed products to be subject to testing requirements. Thus, persons desiring to market new products in this category significantly late in the timetable set forth in this notice will probably have to join a collaborative study (discussed below) in order to meet this condition.

BIOAVAILABILITY STUDIES

All products in this category must be tested using either the guidelines that were developed under the FDA (Smolen) contract or another well-documented method. Other methods can be used only if the sponsor submits evidence, in advance, that they are equally applicable and maintains compliance with the schedule described below.

Bioavailability studies must be performed for each dosage form marketed (including controlled release products), but not each strength, provided the formulations involve the same inactive ingredients in approximately the same ratios. It will not be necessary to perform clinical trials with each dosage form provided those dosage forms not subjected to clinical trials are similar in their bioavailability characteristics to the drug products which are tested clinically. If a product with a controlled release claim is tested in clinical trials, it must be compared with a conventional dosage form in such a manner to enable FDA to determine that the prolonged effect of the controlled release product is not due merely to its greater drug content (i.e., dose dumping) and that it is comparable in effect to the immediate release product given at appropriate intervals. If any product is administered at levels which exceed the largest dose recommended for that drug by any of its manufacturers in currently approved or permitted labeling, a Notice of Claimed Investigational Exemption for a New Drug (IND) will be needed for the study.

Guidelines for bioavailability studies are available from the Division of Biopharmaceutics. Sponsors who elect to use alternative methods must obtain advance approval from the Division of Biopharmaceutics, but the times for starting and completing such studies will not be extended beyond those stated above. Upon notification that the submitted bioavailability data are satisfactory, the sponsor must then go on to clinical trials for effectiveness as outlined below. If the bioavailability data are not satisfactory, regulatory action will be taken to remove the drug from the market.

Bioavailability data will be considered satisfactory to permit entry into clinical trials only if the dosage for which a pharmacologic effect is demonstrated does not exceed the largest dose recommended for that drug by any of its manufacturers in currently approved or permitted labeling.

If a firm elects to study clinically a dosage higher than in its current labeling, but no higher than in another firm's labeling, it must do a pilot safety study. While larger doses than this may be studied under an IND, failure to demonstrate that the currently recommended dosage is acceptably bioavailable will be considered grounds for revoking its paragraph XIV exemption, and regulatory action will be taken to remove the drug from the market.

To be considered bioavailable, the product must be tested using an approved protocol and shown to be different, according to criteria set forth in FDA's guidelines for bioavailability, from placebo with respect to its effect on the physiologic measurement during an interval appropriate to the recommended dosing intervals.

CLINICAL STUDIES

After bioavailability data are submitted and FDA determines that they are adequate, clinical trials for effectiveness must be conducted for each coronary vasodilator drug product, except that (1) manufacturers of drugs with the same active ingredient and acceptable bioavailability characteristics may elect to conduct collaborative studies, and (2) manufacturers of several dosage forms of the same drug may choose one of those dosage forms for clinical trials provided that those dosage forms not subjected to clinical trials have bioavailability characteristics similar to those of the selected products. The choice of dosage and dosage interval to be studied may be influenced by the results of bioavailability studies; as noted above, however, the dosage used in studies conducted under the provisions of this notice may not exceed the largest dose recommended for that drug by any of its manufacturers in current permitted or approved labeling.

If a firm elects to study clinically a dosage higher than in its current labeling, but no higher than in another firm's labeling, it must do a small pilot safety study.

Guidelines for the clinical study of coronary vasodilators are available on request from the Division of Cardio-Renal Drug Products as follows:

a. *Sublingual Isosorbide Dinitrate, Sublingual Erythrityl Tetranitrate.* Final guidelines have been developed for the study of a drug in acute angina pectoris by the FDA Cardiovascular-Renal Advisory Committee. These guidelines involve treatment of an acute attack only. Because claims are also being made for prophylaxis of an acute attack, sponsors will also need to develop and submit protocols for study of sublingual isosorbide dinitrate or sublingual erythrityl tetranitrate given prior to an exercise tolerance test.

b. *Oral Organic Nitrates, Controlled Release and Topical Nitroglycerin and Conventional Oral Dipyridamole.* Guidelines that have similarly been developed by the FDA Cardiovascular-Renal Advisory Committee for assessment of oral antianginal investigational new drugs may be utilized for the Phase III clinical studies required to demonstrate effectiveness for the oral organic nitrates, controlled release and topical nitroglycerin and dipyridamole. Bioavailability studies should also be conducted in some patients undergoing clinical trials to attempt to show a correlation between physiologic and clinical effects. It is recommended that such physiologic effects be measured once in the placebo baseline period, at the onset of the drug (or placebo) treatment period, and midway through the treatment period.

All submissions (e.g., notice of intent, protocol, progress report, study results) pursuant to this notice shall be identified by including the NDA or ANDA number and the following in a box in the upper portion of the cover letter:

"Paragraph XIV Drug– Category I: Coronary Vasodilator."

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 505, 701, 52 Stat. 1052–1053, as amended, 1055–1056, as amended (21 U.S.C. 355, 371)), the Administrative Procedure Act (U.S.C. 553, 554), and under authority delegated to the Commissioner (21 CFR 5.1).

Dated: August 22, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-24750 Filed 8-25-77;8:45 am]

National Institute of Education

PANEL FOR THE REVIEW OF LABORATORY AND CENTER OPERATIONS

Meeting

AGENCY: National Institute of Education.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the first meeting of the Panel for the Review of Laboratory and Center Operations. It also describes the function of the Panel. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C., Appendix 1, 10(a)). This document is intended to notify the general public of its opportunity to attend.

DATES: The Panel will meet Sunday, September 11 from 7 p.m. to 10 p.m. and Monday, September 12 from 9 a.m. to 5 p.m.

ADDRESS: National Institute of Education, Room 823, 1200 19th Street NW., Washington, D.C. 20208.

FOR FURTHER INFORMATION CONTACT:

Mr. John O'Brien, Laboratory and Center, Task Force, National Institute of Education, 1200 19th Street NW., Washington, D.C. 20208.

The Panel for the Review of Laboratory and Center Operations was established under the provisions of Section 403 of the Education Amendments of 1976. The Panel is directed to:

(A) Review and prepare recommendations on initial long-range plans of the laboratories and centers.

(B) Review the operations of the laboratories and centers receiving assistance and make recommendations for the

V 42 166 AUG 26 77 7 UMI

improvement and continuation of individual laboratories and centers and for the support of new laboratories and centers.

(C) Not later than January 1, 1979 submit a final report to the Director and to the Congress containing such recommendations as the Panel considers appropriate and such interim reports as the Panel considers appropriate.

The proposed agenda for the September 11–12 meeting includes the following:

SEPTEMBER 11

Review of Laboratory and Center Panel Charter.
Charge to the Panel.

SEPTEMBER 12

Historical Review of NIE's Relationship with the Laboratories and Centers.
Discussion of the Panel's Operating Style.
Discussion of Tasks and Workplans.

Records shall be kept of all Panel proceedings and shall be available 14 days after the meeting for public inspection at the National Institute of Education located at 1200 19th Street NW., Washington, D.C. 20208.

Signed at Washington, D.C., on August 24, 1977.

JOHN CHRISTENSEN,
Acting Director.

[FR Doc.77-25044 Filed 8-25-77;10:00 am]

National Institutes of Health

REPORT ON BIOASSAY OF DICHLORVOS FOR POSSIBLE CARCINOGENICITY

Availability

Dichlorvos has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for the possible carcinogenicity of technical-grade dichlorvos was conducted using Osborne-Mendel rats and B6C3F1 mice. The test material was administered in the diet at two concentrations for 80 weeks to groups of 50 animals of each species and sex. The test animals were held for observation, and surviving rats were killed at 110–111 weeks and surviving mice at 92–94 weeks from initiation of the study. Initial doses in both species were not well tolerated and they were lowered after a few weeks. Time-weighted average doses for both males and females were 150 and 326 ppm for rats and 318 and 635 ppm for mice. The matched controls consisted of 10 rats of each sex and 10 mice of each sex; the pooled controls consisted of 60 rats of each sex, 100 male mice, and 80 female mice. All surviving rats were killed at 106 to 109 weeks; surviving mice, at 92 to 94 weeks.

After the doses were reduced, no toxic signs directly attributable to the compound were observed. However, average weights of high-dose animals were slightly depressed. Survival was not dose-related in either species. Microscopic study of the tissues of treated animals and matched and pooled controls revealed no statistically significant increase in the incidence of tumors attributable to exposure to dichlorvos in either animal species. The significance of the three esophageal tumors in male and female mice and of malignant fibrous histiocytomas in male mice is unclear and there is insufficient evidence to indicate they were associated with dichlorvos treatment. Thus under the conditions of this study, dichlorvos was not demonstrated to be carcinogenic.

Single copies of the 98-page report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: August 5, 1977.

THOMAS E. MALONE,
Acting Director,
National Institutes of Health.

[FR Doc.77-24190 Filed 8-25-77;8:45 am]

Office of the Assistant Secretary for Health

NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Council meeting:

NAME: National Professional Standards Review Council.

DATE AND TIME: September 12, 1977 (10:00 a.m. to 5:00 p.m.); September 13, 1977 (9:00 a.m. to 1:00 p.m.).

PLACE: Auditorium (first floor), DHEW North Building, 330 Independence Avenue SW., Washington, D.C.

PURPOSE OF MEETING: The Council was established to advise the Secretary of Health, Education, and Welfare on the administration of Professional Standards Review (Title XI, Part B, Social Security Act). Professional Standards Review is the procedure to assure that the services for which payment may be made under the Social Security Act are medically necessary and conform to appropriate professional standards for the provision of quality health care. The Council's agenda will include discussion of a variety of issues relevant to the implementation of the PSRO program.

Meeting of the Council is open to the public. Public attendance is limited to space available.

Any member of the public may file a written statement with the Council before, during, or after the meeting. To the extent that time permits, the Council Chairman will allow public presentation of oral statements at the meeting.

All communications regarding this Council should be addressed to William D. Coughlan, Staff Director, National Professional Standards Review Council, Office of Quality Standards, Room 16A-09, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301–443–4990.

Dated: August 16, 1977.

WILLIAM B. MUNIER,
Executive Secretary, National Professional Standards Review Council.

[FR Doc.77-24955 Filed 8-25-77;8:45 am]

Public Health Service

HEALTH SERVICES ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HS, Health Services Administration, of the Statement of Organizations, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (41 FR 6788, February 13, 1976) is amended to reflect the establishment in the Indian Health Service (HSN) of the California Program Office (HSNFQ).

"Section HS–B, Organization and Functions," is amended by adding the California Program Office (HSNFQ). No change is made in the current function statement for the Indian Health Service Area and Program Offices.

Dated: August 15, 1977.

JOHN D. YOUNG,
Assistant Secretary for Management and Budget.

[FR Doc.77-14459 Filed 8-25-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M 21435]

MONTANA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

AUGUST 16, 1977.

The Department of Agriculture filed application, Serial No. M 21435, on May 3, 1972, for a withdrawal in relation to the following described lands:

PRINCIPAL MERIDIAN, MONTANA

DEERLODGE NATIONAL FOREST

Spire Rock Spike Camp

T. 2 N., R. 5 W.,
Sec. 6, SE¼ of Lot 4, Lot 5.
Total area—53.89 acres.

Rock Creek Spike Camp

T. 6 N., R. 7 W.,
Sec. 20, Lot 4 and NE¼NW¼SE¼.
Total area—47.54 acres.

Douglas Creek Administrative Site

T. 9 N., R. 12 W.,
Sec. 28, N½N½SW¼SW¼ and S½S½-NW¼SW¼.
Total area—20 acres.

East Fork of Rock Creek Trail Head Facilities

T. 4 N., R. 14 W.,
Sec. 17, W½SW¼NE¼ and E½SE¼NW¼.
Total area—40 acres.

Carp Lakes Trail Head Facilities

T. 3 N., R. 15 W.,
Sec. 11, N½NW¼NW¼.
Total area—20 acres.

Fuse Lake Recreation Area

T. 6 N., R. 17 W.,
Sec. 27, S½NW¼NW¼ and N½SW¼NW¼; and
Sec. 28, SE¼NE¼NE¼ and NE¼SE¼NE¼
Total area—60 acres.

Rock Creek Trail End Facility

T. 2 S., R. 3 W.,
Sec. 6, SE¼ of Lot 6 and NE¼ of Lot 8.
Total area—15 acres.

The areas described aggregate 256.43 acres in Jefferson, Granite, and Madison Counties, Mont.

The applicant desires that the lands be reserved for administrative sites and recreation areas.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on June 1, 1972, Volume No. 37, Page No. 10964, Doc. No. 72–8263.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Mont. 59107, on or before September 27, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 27, 1977.

The above-described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, P.O. Box 30157, Billings, Mont. 59107.

ROLAND F. LEE,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-24753 Filed 8-25-77;8:45 am]

[NM 31410]

NEW MEXICO

Application

AUGUST 18, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 22 S., R. 21 E.,
Sec. 1, lot, 2, SW¼NE¼, N½SE¼ and SE¼SE¼.
T. 22 S., R. 22 E.,
Sec. 6, lot 7 and SE¼SW¼;
Sec. 7, W½NW¼ and NE¼NW¼.

These pipelines will convey natural gas across 1.791 miles of public lands in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-24752 Filed 8-25-77;8:45 am]

[M 37275]

MONTANA

Proposed Withdrawal and Reservations of Lands

AUGUST 16, 1977.

The Bureau of Reclamation, Department of the Interior, on May 19, 1977, filed application, No. M 37275, for the withdrawal of the following described public lands from settlement, sale, location, or entry under all the general land laws, including the mining laws but excluding the mineral leasing laws, subject to valid existing rights:

PRINCIPAL MERIDIAN, MONTANA

T. 30 N., R. 1 W.,
Sec. 2, Lot 4.
T. 30 N., R. 1 E.,
Sec. 17, SE¼NE¼.
T. 30 N., R. 2 E.,
Sec. 26, NE¼NE¼.
T. 30 N., R. 3 E.,
Sec. 19, Lot 13 and SE¼SW¼; and
Sec. 30, Lot 1.
T. 30 N., R. 4 E.,
Sec. 13, NW¼NE¼; and
Sec. 28, N½NW¼.

The areas described aggregate 338.72 acres in Liberty and Toole Counties.

The applicant desires the lands for multipurpose development in accordance with the Tiber Reservoir Management plans of the Pick-Sloan Missouri Basin Program.

On or before September 27, 1977, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below by September 27, 1977. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

For a period of two years from the date of publication of this notice in the FEDERAL REGISTER, the lands will be segregated from entry as specified above unless the application is rejected or the withdrawal is approved prior to that date. If the withdrawal is approved by the Secretary, the lands will remain segregated for the term of the withdrawal.

All communications in connection with this withdrawal (except public hearing requests) should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Montana State Office, P.O. Box 30157, Billings, Mont. 59107.

ROLAND F. LEE,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-24751 Filed 8-25-77;8:45 am]

V 42166 AUG 26 77 UMI

[NM 31265, 31270, 31272, 31273]

NEW MEXICO

Applications

AUGUST 18, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 8⅝-inch, one 4½-inch natural gas pipelines and two underground cable rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 28 N., R. 5 W.,
Sec. 21, W½NE¼ and E½NW¼.
T. 29 N., R. 8 W.,
Sec. 1, lots 1, 2 and SW¼NE¼;
Sec. 12, W½W½.
T. 30 N., R. 8 W.,
Sec. 8, S½NE¼ and NE¼SE¼.
T. 31 N., R. 11 W.,
Sec. 2, SW¼SW¼.

The pipelines and cables will be used in connection with natural gas operations and will cross 2.420 miles of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-24754 Filed 8-25-77;8:45 am]

INTERIM MANAGEMENT SUBCOMMITTEE OF CALIFORNIA DESERT CONSERVATION AREA ADVISORY COMMITTEE

Meeting

Notice is hereby given that the Interim Management Subcommittee of the California Desert Conservation Area Advisory Committee (CDCAAC) will meet at 10 a.m. on September 12, 1977. The meeting will be in the Garden Room of the Host of Sacramento Hotel at the Sacramento airport.

The purpose of the meeting is to discuss, review and provide guidance to BLM officials on interim management items and proposals in advance of the CDCAAC meeting scheduled for September 23–24, 1977. The Subcommittee will also address its future role so as to prepare a recommendation to BLM officials and the CDCAAC.

Specific interim management items to be reviewed and assessed for their desert-wide implications or irreversibility will be the Yuha, Red Mountain, and El Paso MFP implementation plans; Cadiz and East Mesa ORV event environmental assessments; and the East Mojave MFP. These same items will be presented indepth to the CDCAAC on September 23–24. Subcommittee review will consist of advising District Managers on approach, presentation, prioritization, and to provide advance briefing so the Subcommittee may present recommendations to the full committee.

Dated: August 18, 1977.

ED HASTEY,
State Director.

[FR Doc.77-24816 Filed 8-25-77;8:45 am]

Bureau of Outdoor Recreation

[INT FES (77-32)]

DESIGNATION OF OREGON TRAIL ROUTE AS ELEMENT OF PROPOSED NATIONAL HISTORIC TRAIL SYSTEM

Availability of Final Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for a proposal to designate the route of the Oregon Trail as a National Historic Trail.

Copies are available for inspection at the following locations:

Division of Resource Area Studies Bureau of Outdoor Recreation, Interior South Building, Washington, D.C. 20240, Telephone 202-343-5772.
Office of the Regional Director, Northwest Region, Bureau of Outdoor Recreation, 915 Second Avenue, Room 990, Seattle, Wash. 98174. Telephone 206-442-4706.
Budget Division, Department fo Administration, First Floor—Statehouse, Topeka, Kans. 66612.
State Planning Corrdinator, Office of the Governor, Capitol Building, Cheyenne, Wyo. 82001.
Federal Aid Coordination Section, Intergovernmental Relations Division, 204 Cottage Street SE., Salem, Oreg. 97310.
Office of the Regional Director, Mid-Continent Region, Bureau of Outdoor Recreation, P.O. Box 25387, Bldg. 41, Denver Federal Center, Denver, Colo. 80225, Telephone 303-234-2634.
Office of Administration, Division of State Planning and Analysis, P.O. Box 809, State Capitol, Jefferson City, Mo. 65101.
State Office of Planning and Programming, State Capitol, Box 94601, Lincoln, Neb. 68509.
Division of State Planning, Statehouse, Room 122 Boise, Idaho 83720.
Office of Program Planning and Fiscal Management, 106 House Office Building, Olympia, Wash. 98504.

A limited number of single copies are available and may be obtained by writing to the Regional Director, Northwest Region, Bureau of Outdoor Recreation, 915 Second Avenue, Room 990, Seattle, Wash. 98174.

Dated: August 22, 1977.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc.77-24818 Filed 8-25-77;8:45 am]

National Park Service

LAKE MOHAVE RESORT, INC.

Intention To Extend Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on or before September 26, 1977, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with Lake Mohave Resort, Inc., authorizing it to continue to provide concession facilities and services for the public at Lake Mead National Recreation Area for a period of two (2) years from January 1, 1977, through December 31, 1978.

It has been determined that the proposed extension of this contract does not have potential for causing significant environmental impact and therefore preparation of an environmental assessment is not required.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1976, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Lake Mohave Resort, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new contract and a preference in the award of the contract, if the offer of Lake Mohave Resort, Inc., is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before September 26, 1977.

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: August 16, 1977.

DANIEL J. TOBIN, JR.,
Acting Associate Director, National Park Service.

[FR Doc.77-24804 Filed 8-25-77;8:45 am]

OLYMPIC NATIONAL PARK

Public Workshops

Notice is hereby given that six public workshops will be held regarding backcountry shelter management in Olympic National Park. The purpose of the workshops is to determine the most suitable policy for managing park shelters in the park.

The first two workshops will be in the Huntley Cafeteria at the Aberdeen High School in Aberdeen, Wash., on Tuesday, September 20, 1977. Times for the two workshops are 2:00 p.m. to 5:00 p.m. and 7:00 p.m. to 10:30 p.m. The second two workshops will be held in room 19 at Peninsula College, Port Angeles, Washington on Wednesday, September 21, 1977. The times for these two workshops are 1:30 p.m. to 5:00 p.m. and 7:00 p.m. to 10:30 p.m.

The third two workshops will be held in The Blakely Room at the Seattle Center in Seattle, Washington on Thursday, September 29, 1977 Times for these two workshops are 1:30 p.m. to 5:00 p.m. and 7:00 p.m. to 10:30 p.m.

Written statements may be submitted to the Superintendent up to 30 days following the final workshop. The address is: Superintendent Olympic National Park, 600 East Park Avenue, Port Angeles, Washington 98362.

EDWARD J. KURTZ,
Acting Regional Director, Pacific Northwest Region.

[FR Doc.77-24926 Filed 8-25-77;8:45 am]

Office of the Secretary

[Int FES 77-33]

ENVIRONMENTAL IMPACT STATEMENT, EAGLE BUTTE MINE, CAMPBELL COUNTY, WYOMING

Availability of Final Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental impact statement on the Eagle Butte coal strip mining operation proposed by Amax Coal Company in Campbell County, Wyoming. The final statement assesses the environmental impacts of the lessee's plan for the strip mining of the federally and State owned coal and the concurrent reclamation and revegetation of surface lands. The proposed action is on Federal coal lease W-0313773 and State coal lease O-27078, T. 51 N., R. 72 W., 6th Prin. Mer.

Comments received on the draft environmental statement during the comment period were considered in the preparation of the final environmental statement and are reproduced in its appendix.

The proposed mining and reclamation plan assessed in this statement was one of the mining proposals identified in the preparation of the regional analysis (Part I) of the Department's final environmental statement, FES 74-55, entitled "Proposed Development of Coal Resources in the Eastern Powder River Coal Basin of Wyoming," which was filed with the Council on Environmental Quality on October 18, 1974.

The final environmental statement is available for public review in the U.S. Geological Survey Public Inquiries Office, Room 1012, Federal Building, Denver, Colorado 80202; the U.S. Geological Survey Library, Building 25, Denver Federal Center, Denver, Colorado 80225; the U.S. Geological Survey Library, Room 4A100, USGS National Center, Reston, Virginia 22092; the Converse County Library, 300 Walnut Street, Douglas, Wyoming 82633; the George Amos Memorial Library, 412 South Gillette Avenue, Gillette, Wyoming 82716; the Library of Natrona County, 307 East Second, Casper, Wyoming 82601; and the State Library, State of Wyoming, Supreme Court Building, Cheyenne, Wyoming 82002.

A limited number of copies are available from the U.S. Geological Survey, Land Information and Analysis Office, Environmental Impact Analysis Program, Denver Federal Center, Box 25046, Denver, Colorado 80-225; and, over the counter only, from the U.S. Geological Survey Public Inquiries Office, Room 1012, Federal Building, Denver, Colorado.

Dated: August 19, 1977.

JOAN M. DAVENPORT,
Assistant Secretary of the Interior.

[FR Doc.77-24790 Filed 8-25-77;8:45 am]

[INT FES 77-31]

NORTHWEST ALLOYS MAGNESIUM PLANT, WASHINGTON

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bonneville Power Administration has prepared an Environmental Statement on Electrical Service to the Northwest Alloys Magnesium Plant in Addy, Wash. The proposal addressed in this statement involves the provision of full electrical service to the Northwest Alloys plant located in Stevens County, Wash. now scheduled to occur during the fall of 1977.

Copies of the Final Environmental Statement are available for inspection in the library of the headquarters office of Bonneville Power Administration, 1002 Northeast Holladay Street, Portland, Ore. 97232; the Washington, D.C., Office in the Interior Building, Room 5600; and at the BPA's Spokane Area Office, Room 561, U.S. Court House, W. 920 Riverside Avenue, Spokane, Wash. 99201.

Copies are also available at Government Depository Libraries (see attached list below).

A limited number of single copies are available and may be obtained by writing to the Environmental Manager, Bonneville Power Administration, P.O. Box 3621, Portland, Ore. 97208.

Dated: August 22, 1977.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

GOVERNMENT DEPOSITORY LIBRARIES

IDAHO

Boise Public Library, Reference Department, 715 Capitol Blvd., Boise, Idaho 83706.
University of Idaho, Library—U.S. Documents, Moscow, Idaho 83843.
Documents Division, Idaho State University Library, Pocatello, Idaho 83209.
Boise State College Library, Boise, Idaho 83725.
Idaho State Library, 325 West State Street, Boise, Idaho 83702.
Ricks College, David O. McKay Library, Rexburg, Idaho 83440.
Idaho State Law Library, Documents Librarian, Pocatello, Idaho 83201.
College of Idaho, Terteling Library, 2112 Cleveland Blvd., Caldwell, Idaho 83605.
College of Southern Idaho, Documents Library—Box 1238, 315 Falls Ave., Twin Falls, Idaho 83301.

MONTANA

Documents Librarian, Montana State University Library, Bozeman, Mont. 59715.
University of Montana Library, Documents Division, Missoula, Mont. 59801.

OREGON

Southern Oregon State College Library, Documents Section, Ashland, Oreg. 97520.
Documents Division, William Jasper Kerr Library, Oregon State University, Corvallis, Oreg. 97331.
University of Oregon Library, Documents Section, Eugene, Oreg. 97403.
Harvey W. Scott Memorial Library, Pacific University, Forest Grove, Oreg. 97116.
Eastern Oregon State College Library, Eighth at K, La Grande, Oreg. 97850.
Northus Library, Linfield College, McMinnville, Oreg. 97128.
Oregon College of Education Library, Monmouth, Oreg. 97361.
Aubrey R. Watzek Library, Lewis and Clark College, Attention: Reference Department, 0615 Southwest Palatine Hill Road, Portland, Oreg. 97219.
Library Association of Portland, 801 Southwest Tenth Avenue, Portland, Oreg. 97205.
Documents Librarian, Portland State University Library, P.O. Box 1151, Portland, Oreg. 97207.
Eric V. Hauser Memorial Library, Reed College, 3203 Southeast Woodstock, Portland, Oreg. 97202.
Oregon State Library, State Library Building, Salem, Oreg. 97301.
Willamette University Library, 900 State Street, Salem, Oreg. 97301.
Oregon Supreme Court Library, 12th and State Streets, Salem, Oreg. 97310.

WASHINGTON

Documents Division, Mable Zoe Wilson Library, Western Washington State College, 516 High Street, Bellingham, Wash. 98225.
Documents Department, Victor J. Bouillon Library, Central Washington State College, Ellensburg, Wash. 98926.
Everett Community College Library, 801 Wetmore Avenue, Everett, Wash. 98201.
Documents Center, Washington State Library, Olympia, Wash. 98501.
University of Puget Sound, Everill S. Collins Memorial Library, Tacoma, Wash. 98416.
Eastern Washington State College, John F. Kennedy Memorial Library, Cheney, Wash. 99004.
Evergreen State College, Daniel J. Evans Library, Olympia, Wash. 98505.
Seattle Public Library, 1000 Fourth Avenue, Seattle, Wash. 98104.
University of Washington, School of Law Library, 300 Condon Hall, Seattle, Wash. 98105.
Tacoma Public Library, 1102 Tacoma Avenue South, Tacoma, Wash. 98402.
Everett Public Library, 2702 Hoyt Avenue, Everett, Wash. 98201.
North Olympic Library System, Library Service Center, 2210 South Peabody, Port Angeles, Wash. 98362.
Spokane Public Library, Comstock Bldg., West 906 Main Avenue, Spokane, Wash. 99201.
Port Angeles Public Library, 207 South Lincoln Street, Port Angeles, Wash. 98362.

[FR Doc.77-24817 Filed 8-25-77;8:45 am]

V42166A AUG 26 77 UMI

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 76-7]

WAYNE E. ELLISON, d.b.a. WAYNE'S PHARMACY AND NORTH STRINGTOWN PLAZA, INC., d.b.a. WAYNE'S PHARMACY

Final Order

On February 25, 1976, the Administrator of the Drug Enforcement Administration (DEA) issued to Wayne E. Ellison, doing business as Wayne's Pharmacy, Evansville, Ind., an Order to Show Cause proposing to revoke Respondent Ellison's DEA Certificate of Registration, AE4124284, for reason that on February 6, 1976, in the United States District Court for the Southern District of Indiana, Mr. Ellison was convicted in several counts of distributing, and conspiring to distribute, controlled substances. Simultaneously with service of the Order to Show Cause upon Mr. Ellison, the Administrator suspended the registration of Wayne's Pharmacy and seized all controlled substances acquired under and possessed pursuant to that registration. Subsequently, through counsel, Respondent Ellison requested a hearing on the issues raised by the Order to Show Cause.

As proceedings preliminary to the requested hearing progressed, the Drug Enforcement Administration received an application for registration of a newly formed corporate entity, North Stringtown Plaza, Inc., doing business as Wayne's Pharmacy. On September 24, 1976, the Administrator issued an Order to Show Cause proposing to deny Respondent North Stringtown Plaza's application based upon information that "Wayne E. Ellison remain[ed] associated with and, for all intents and purposes, in control of Wayne's Pharmacy." On October 7, 1976, counsel for North Stringtown Plaza, Inc., requested a hearing on the second Order to Show Cause. Subsequently, on October 22, 1976, the Honorable Francis L. Young, Administrative Law Judge, ordered that the two matters be consolidated under Docket No. 76-7. After further preliminary proceedings, including a prehearing conference held in Washington, D.C., in January, 1977, the consolidated matters were set for hearing to commence on June 14, 1977, in Indianapolis, Ind.

On June 13, 1977, counsel for the Government and the Respondents agreed upon a stipulation of settlement which was intended to dispose of all of the issues in these matters. On June 14, 1977, the stipulation of settlement was presented to the Administrative Law Judge who accepted the agreement and entered judgment by consent. On June 20, 1977, Judge Young certified and transmitted to the Administrator his report of these proceedings, including the Administrative Law Judge exhibits, the docket, the transcript, the Stipulation of Settlement dated June 13, 1977, and the Judgement by Consent dated June 14, 1977.

Judge Young recommended, inter alia, that a final order be issued revoking the registration of Wayne E. Ellison, d.b.a. Wayne's Pharmacy, pursuant to the Order to Show Cause of February 25, 1976.

On August 17, 1977, the Administrative Law Judge transmitted to the Administrator an amendment to the original stipulation of settlement filed in this case. Judge Young noted that the amendment was apparently necessitated by the Respondent's inability to obtain certain licenses from the State of Indiana. The Administrator hereby accepts and endorses the stipulated settlement of these matters, as amended, and as recommended by the Administrative Law Judge.

Therefore, pursuant to the authority granted to the Attorney General by the Controlled Substances Act, Title 21, United States Code, Section 801, et seq., and redelegated to the Administrator of the Drug Enforcement Administration, the Administrator hereby finds that there is a lawful basis for the revocation of the registration previously issued to Wayne E. Ellison, d.b.a. Wayne's Pharmacy, number AE4124284, based upon Mr. Ellison's having been convicted of felony offenses related to controlled substances.[1] The Administrator hereby orders that the aforementioned registration be, and it hereby is, revoked, effective immediately. The application for registration of North Stringtown Plaza, Inc., d.b.a. Wayne's Pharmacy, executed July 15, 1977, is hereby granted upon conditions as set forth in the stipulation of settlement, as amended, these conditions including, inter alia, the total exclusion of Mr. Ellison from the ownership, management and operation of Wayne's Pharmacy. All prior applications submitted by, or on behalf of, North Stringtown Plaza, Inc., will be considered as withdrawn by the Respondents pursuant to their agreement with the Government. The Administrator further orders that all controlled substances seized from the premises of Wayne's Pharmacy pursuant to Title 21 United States Code, section 824(f) be, and they hereby are, declared forfeit to the United States. Mitigation of forfeiture, in accordance with the terms of the stipulation of settlement will take place as soon as appropriate arrangements are made.

Dated: August 23, 1977.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc.77-24860 Filed 8-25-77;8:45 am]

[1] The Administrator takes official notice of the fact that on June 29, 1977, the U.S. Court of Appeals for the Seventh Circuit affirmed Mr. Ellison's convictions.

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

Correction

In FR Doc. 77-23789, appearing at page 42062 in the issue of Friday, August 19, 1977, Modifications page nine, which was mistakenly omitted, should have appeared on page 42069 as follows:

MODIFICATIONS P. 9

DECISION #TN77-1080 - Mod. #1
(42 FR 37764 - July 22, 1977)
Hamilton (Building and Heavy Construction); Bradley, Marion, Meigs, Polk & Rhea (Building Construction Only) Counties, Tennessee

OMIT:

Bradley and Meigs Counties

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to:

Deputy Assistant Secretary for Employment and Training, 601 D St. NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 22d day of August 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

Applications received during the week ending Aug. 19, 1977

Name of applicant	Location of enterprise	Principal product or activity
CTC Partnership	Frederick, Md.	Motel, restaurant and truck services and truck service repairs.
The Cresey Co. of Huntington, Inc.	Kenova, W. Va.	General line groceries.
Montgomery Mining Machinery Manufacturing Co.	Abingdon, Va.	Manufacture of heavy machinery and equipment used by the mining industries.
McKinley Walker, Jr.	Mt. Sterling, Ky.	Nursing home.
Day Co. Inc. (tenant of city of Cuthbert).	Cuthbert, Ga.	Manufacture of hardwood and plywood.
Pigeon Valley Rest Home, Inc.	Canton, N.C.	Intermediate care institutional services.
Dareware Corp.	Manteo, N.C.	Retail hardware.
Teclnic Corp.	Ronda, N.C.	Manufacture of ladies' and girls' underwear.
A&R Stone, Inc.	Columbia, Ky.	Mining of limestone.
Tice Yarns, Inc.	Sugar Valley, Ga.	Manufacture of textile-carpet yarn.
Glen Jones	Cairo, Ill.	Motel, restaurant and truck stop.
Century Development Co.	West City, Ill.	Restaurant.
Centerville Building and Developing Corp.	Centerville, Iowa	General contractor engaged in construction of sewer, water and utility lines.
Clear Lake Development Corp.	Clear Lake, S.D.	Manufacture of sports clothing.

[FR Doc.77-24844 Filed 8-25-77;8:45 am]

FEDERAL SUPPLEMENTAL BENEFITS (EMERGENCY UNEMPLOYMENT COMPENSATION)

Ending of Federal Supplemental Benefit Period in Illinois

This notice announces the ending of the Federal Supplemental Benefit Period in the State of Illinois, effective on August 27, 1977.

BACKGROUND

The Emergency Unemployment Compensation Act of 1974 (Pub. L. 93-572, enacted December 31, 1974) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable to eligible individuals is up to 13 weeks. A Federal Supplemental Benefit Period commenced in the State of Illinois on January 5, 1975.

The Act also provides that a Federal Supplemental Benefit Period in a State will trigger off when the rate of insured unemployment in the State averages less than 5.0 percent over a period of thirteen consecutive calendar weeks. The benefit period actually terminates at the end of the third week after the week for which there is an "off" indicator, if the benefit period will have been in effect for a minimum duration of 13 weeks.

DETERMINATION OF "OFF" INDICATOR

The employment security agency of the State of Illinois has determined under the Act and 20 CFR 618.19(b) (published in the FEDERAL REGISTER on March 23, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending on August 6, 1977, and the immediately preceding twelve weeks, was less than 5.0 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 618.19 (b), and as authorized by the Secretary of Labor's Order 4-75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "off" indicator in the State of Illinois for the week ending August 6, 1977, and that the Federal Supplemental Benefit Period in that State terminates on August 27, 1977.

INFORMATION FOR CLAIMANTS

Any individual to whom Federal Supplemental Benefits or Federal-State Extended Benefits were payable in the State (whether or not any payment actually was made), for any portion of the last week of the Federal Supplemental Benefit Period, will have an additional eligibility period beginning immediately following the end of the Federal Supplemental Benefit Period. During the additional eligibility period the individual will be entitled to Federal Supplemental Benefits to the same extent as if the Federal Supplemental Benefit Period continued to be in effect. The additional eligibility period will have a duration of 13 weeks, unless it is terminated sooner by reason of the beginning of a new Federal Supplemental Benefit Period in the State.

Individuals currently filing claims for Federal Supplemental Benefits will receive written notices from the Illinois Department of Labor of the end of the Federal Supplemental Benefit Period in that State and its effect on their entitlement to Federal Supplemental Benefits. The notice to any individual who will have an additional eligibility period following the Federal Supplemental Benefit Period will include information concerning potential entitlement to Federal Supplemental Benefits during the additional eligibility period.

Persons who wish information about their rights to Federal Supplemental Benefits in the State of Illinois should contact the nearest Employment Office of the Illinois Department of Labor in their locality.

Signed at Washington, D.C., on August 23, 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc.77-24846 Filed 8-25-77;8:45 am]

V 421 66 AUG 26 77 UMI

MIGRANT AND SEASONAL FARMWORKER PROGRAMS

Submission of Preapplications for Federal Asssitance for Fiscal Year 1978

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: Pursuant to 29 CFR 97.211, the Employment and Training Administration announces the list of applicants intending to apply for Fiscal Year 1978 funds for Migrant and Other Seasonally Employed Farmworker Programs authorized by Section 303 of the Comprehensive Employment and Training Act (CETA) of 1973.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul A. Mayrand, Director, Office of Farmworker Programs, Room 7122, 601 D Street NW., Washington, D.C. 20213.

SUPPLEMENTARY INFORMATION: The list contains the names and addresses of all applicants which have submitted the Preapplication for Federal Assistance Form, Part I, OMB, No. 29-RO218 by August 1, 1977. No funding requests received for those areas to be renewed without competition as listed in the July 8, 1977, FEDERAL REGISTER, Volume 42, Number 131, page 35330 shall be considered for funding.

Organizations listed below may submit funding requests as described in 29 CFR 97.214. However, no determination has been made as to the legal eligibility of applicants listed to receive CETA Section 303 funds. The final determination of eligibility to receive funds will be made during the funding request review (29 CFR 97.215).

Applicants which have submitted a Preapplication for Federal Assistance Form Part I, by August 1, 1977, and are not listed below, should contact the U.S. Department of Labor at the address provided in 29 CFR 97.214(a) immediately. Pursuant to 29 CFR 97.211, applicants wishing to comment on the funding request of other applicants in the same State, must request a copy of the funding request from the applicant concerned. The following is the list of applicants exclusive of the noncompetitive sponsors which have submitted Preapplications for Federal Assistance Forms, Part I, by State for areas open to competition this year:

Preapplicants for CETA Section 303 Funds:

REGION I

CONNECTICUT

New England Farmworkers Council, 3562 Main Street, Springfield, Mass. 01107.

MAINE

Penobscot Consortium, Training and Employment Administration, 166 Union Street, Bangor, Maine 04401.

MASSACHUSETTS

New England Farmworkers Council, Inc., 3502 Main Street, Springfield, Mass. 01107.

RHODE ISLAND

New England Farmworkers Council, Inc., 3502 Main Street, Springfield, Mass. 01107.

VERMONT

State of Vermont, Comprehensive Employment and Training, 79 River Street, Montpelier, Vt. 05602.

NEW HAMPSHIRE

No applications received.

REGION II

NEW JERSEY

Farmworker's Corporation of New Jersey, 36 West Landis Avenue, Vineland, N.J. 08360.

NEW YORK

Program Funding, Inc., Suite 730, Powers Building, Rochester, N.Y. 14614.
State University of New York, College at Fredonia, Fredonia, N.Y. 14063.
Orange County, 168 Main Street, Goshen, N.Y. 10924.

PUERTO RICO

Center of Development Opportunities of Puerto Rico, Inc., Las Violetas 2007, Apt. 6A, Santurce, Puerto Rico 00915.
Commonwealth of Puerto Rico, Department of Labor, 414 Barbosa Avenue, Hato Rey, Puerto Rico 00917.

REGION III

DELAWARE

Delmarva Ecumenical Agency, Rural Ministries, Blue Hen Mall, Dover, Del. 19901.
Migrant and Seasonal Farmworkers Association, 3929 Western Blvd., POB 33315, Raleigh, N.C. 27606.
A. Philip Randolph Institute, 260 Park Avenue South, New York, N.Y. 10010.

MARYLAND

Delmarva Ecumenical Agency, Rural Ministries, Blue Hen Mall, Dover, Del. 19901.
Migrant and Seasonal Farmworkers Association, 3929 Western Blvd., POB 33315, Raleigh N.C. 27606.
State of Maryland Department of Human Resources, 1100 North Eutaw Street, Baltimore, Md. 21201.

PENNSYLVANIA

Farm Labor Services Center, Inc., 633 West Girard Avenue, Philadelphia, Pa. 19122.
Farmworkers Corporation of New Jersey, 36 West Landis Avenue, Vineland, N.J. 08360.
Pennsylvania Council of Farmworkers, 1331 Hamilton Street, Allentown, Pa. 18102.
Operational Innovations, Inc., 508 Main Street, Bethlehem, Pa. 18016.
Philadelphia Opportunities Industrialization Center, Inc., 1231 North Broad Street, Fourth Floor, Philadelphia, Pa. 19122.
Susquehanna Human Services, Inc., 42 East Third Street, Bloomsburg, Pa. 17815.
National Council on Agricultural Life and Labor Research Fund, Inc., 155 South Bradford Street, Dover, Del. 19901.
Commonwealth of Pennsylvania, Department of Community Affairs, Bureau of Human Resources, Box 155, Harrisburg, Pa. 17120.

VIRGINIA

Migrant and Seasonal Farmworkers Association, Inc., 3929 Western Blvd., POB 33315, Raleigh, N.C. 27606.
Delmarva Ecumenical Agency, Rural Ministries Coalition, Blue Hen Mall, Dover, Del. 19901.
Virginia Employment Commission, 703 East Main Street, Richmond, Va. 23211.

WEST VIRGINIA

State of West Virginia, Governor's Manpower Office, 5790A MacCorkle Avenue SE., Charleston, W. Va. 25304.

REGION IV

FLORIDA

Florida Farmworker's Council, 1975 East Sunrise Blvd., Suit 850, Ft. Lauderdale, Fla. 33304.
Florida Department of Education, Vocational Education Division, Capitol Building, Tallahassee, Fl. 32304.
A. Philip Randolph Research Foundation, 135 South Monroe, Suite 100C, Tallahassee, Fla. 32304.
A. Philip Randolph Institute, 260 Park Avenue South, New York, N.Y. 10010.

GEORGIA

Office of the Governor, Georgia Department of Labor, 501 Pulliam Street SW., Atlanta, Ga. 30012.
Migrant and Seasonal Farmworkers Association, Inc., 3929 Western Blvd., POB 33315, Raleigh, N.C. 27606.
Supplemental Education Services, Inc., POB 793, Butler, Ga. 31006.

KENTUCKY

Tennessee Opportunity Programs for Seasonal Farmworkers, Inc., 2803 Foster Avenue, Nashville, Tenn. 37211.

MISSISSIPPI

Mississippi Delta Council for Farm Workers Opportunities, Inc., 1933 Fourth Street, Clarksdale, Miss. 38614.

NORTH CAROLINA

Migrant and Seasonal Farmworker Association, Inc., 3929 Western Blvd., POB 33315, N.C. 27606.

SOUTH CAROLINA

Office of the Governor, 1800 St. Julian Place, INA Bldg., Columbia, S.C. 29204.
South Carolina Resources Development Corporation, 3015 South Church Street, Spartanburg, S.C. 29301.
A. Philip Randolph Institute, 260 Park Avenue South, New York, N.Y. 10010.

REGION V

ILLINOIS

Illinois Migrant Council, 202 South State Street, Chicago, Ill. 60604.

INDIANA

Office of Manpower Development, 150 West Market Street, 7th Floor, Indianapolis, Ind. 46204.
AMOS, Inc., 2802 North Delaware, Indianapolis, Ind. 46205.
A. Philip Randolph Institute, 260 Park Avenue South, New York, N.Y. 10010.

OHIO

La Raza Unida de Ohio, 1007 Revere Drive, Bowling Green, Ohio 43402.
State of Ohio BOS, Office of Manpower Development, 30 East Broad Street, 27th Floor, Columbus, Ohio 43215.

REGION VI

ARKANSAS

Arkansas Department of Labor, Capitol Hill Building, Little Rock, Arkansas 72201.
Arkansas Council of Farmworkers, 1200 Westpark Drive, POB 4241—Asher Station, Little Rock, Ark. 72214.

OKLAHOMA

Arkansas Council of Farmworkers, 1200 Westpark Drive, POB 4241—Asher Station, Little Rock, Ark. 72214.
ORO Development Corporation, 1100 North Classen Drive, POB 60126, Oklahoma City, Okla. 73106.

TEXAS

Associated City-County Economic Development Corporation, Inc., 1304 South 25th Street, Edinburg, Tex. 78539.
Governor's Office of Migrant Affairs, POB 12428, Capitol Station, Austin, Tex. 77327.

REGION VII

KANSAS

American GI Forum of Kansas, 676 South 9th Street, Salina, Kans. 67401.
ORO Development Corporation, 1100 North Classen Drive, POB 60126, Oklahoma City, Okla. 73106.

MISSOURI

Rural Missouri, Inc., 418 Madison Street, POB 204, Jefferson City, Mo. 65101.
A. Philip Randolph Institute, 260 Park Avenue South, New York, N.Y. 10010.
Office of Manpower Planning, National Migrant and Seasonal Workers, 226 East Dunklin, Jefferson City, Mo. 65101.

NEBRASKA

Migrant Action Program, POB 778, 220 East State Street, Mason City, Iowa 50401.
State of Nebraska, Department of Labor, 124 North 11th Street, Lincoln, Nebr. 68501.
A. Philip Randolph Institute, 260 Park Avenue South, New York, N.Y. 10010.

REGION VIII

COLORADO

Colorado Council on Migrant and Seasonal Agricultural Workers and Families, 665 Grant Street, Denver, Colo. 80203.
A. Philip Randolph Institute, 260 Park Avenue South, New York, N.Y. 10010.

MONTANA

State of Montana Governor's Office, POB 162 State Capitol Bldg., Helena, Mont. 59601.

NORTH DAKOTA

North Dakota Migrant Council, P.O. Drawer X, Grand Forks, N. Dak. 58201.
Minnesota Migrant Council, POB 1231, St. Cloud, Minn. 56301.

SOUTH DAKOTA

Migrant Action Program, Inc., POB 778, 220 East State Street, Mason City, Iowa 50401.
Minnesota Migrant Council, POB 1231, St. Cloud, Minn. 56301. Northwestern Community Action Programs of Wyoming, Inc., POB 431, Worland, Wyo. 82401.

UTAH

Utah Migrant Council, Inc., 12 East Center Street, Midvale, Utah 84047.

WYOMING

Northwestern Community Action Programs of Wyoming, Inc., POB 431, Worland, Wyo. 82401.

REGION IX

ARIZONA

MOPportunities, Inc., 6611 South Central Avenue, Phoenix, Ariz. 85040.

CALIFORNIA

Center for Employment and Training, Migrnat Division, 1318 North Santa Fe Avenue, Vista, Calif. 92083.
National Farm Workers Service Center, Inc., POB 48, La Paz-Keene, Calif. 93531.
Kern & Ventura Educational Program, 710 Union Avenue, Bakersfield, Calif. 93307.
Proteus Adult Training, Inc., 1640 West Mineral King, POB 727, Visalia, Calif. 93277.
California Human Development Corporation, 2462 Mendocino Avenue, Santa Rose, Calif. 95401.
Greater California Education Project, POB 11367, Fresno, Calif. 93783.
County of Kern, 1415 Truxton Avenue, Bakersfield, Calif. 93301.
Tulare County, Human Services—Employment and Training, 160 West Mineral King No. D, Visalia, Calif. 93277.
County of San Mateo, Manpower Administration, County Government Center, 401 Marshall, Redwood City, Calif. 94063.
Central Coast County Development Corporation, 110 South "A" Street, Madera, Calif. 93673.
Campesinos Unidos, Inc., POB 203, Brawley, Calif. 92227.
Campesinos Progresistas, Inc., 160 North First Street, Dixon, Calif. 95620.
Inland Manpower Association, 336 North La Cadena Drive, Colton, Calif. 92324.
El Progreso Del Desierto No. 1, Inc., 47-94 Van Buren Avenue, Indio, Calif. 92201.
City of Stockton, Employment and Training Opportunity Department, City Hall, Stockton, Calif. 95202.
Center for Employment and Training, 11131 Clarissa, Garden Grove, Calif.
The Terrena Corporation, 300 South C Street, Oxnard, Calif. 93030.
County of San Luis Obispo, Employment and Training Services, 303 Higuere, San Luis Obispo, Calif. 93401.
County Care and Development Services, 1450 West Venice Blvd., Los Angeles, Calif. 90006.
A. Philip Randolph Institute, 260 Park Avenue South, New York, N.Y. 10010.
Center for Employment Training of the Central Coast Counties, 425 South Market Street, San Jose, Calif. 95113.
Centro De Entrenamiento Para Trabajo De Riverside/San Bernardino Counties, 84-915 Avenue 48, Coachella, Calif. 92236.

HAWAII

State of Hawaii, Department of Labor and Industrial Relations, 825 Mililani Street, Honolulu, Hawaii 96813.

REGION X

IDAHO

Idaho Migrant Council, Inc., 415 South 8th Street, Boise, Idaho 83706.

OREGON

Oregon Rural Opportunities, 5103 Portland Road NE., Salem, Oreg. 97303.
Southern Oregon Liaison, 107 East Main Street, Suite No. 1, Medford, Oreg. 97501.
Chicano Affairs Center, 380 West 13th Avenue, Eugene, Oreg. 97401.

WASHINGTON

Northwest Rural Opportunities, Inc., 305 Euclid, Grandview, Wash. 98930.

Signed in Washington, D.C., this 18th day of August 1977.

LAMOND GODWIN,
Administrator,
Office of National Programs.

[FR Doc.77-24847 Filed 8-25-77;8:45 am]

DISCRETIONARY ECONOMIC STIMULUS PACKAGE ALLOCATIONS UNDER TITLE VI OF COMPREHENSIVE EMPLOYMENT AND TRAINING ACT ("CETA")

Allocations for FY 1977 and 1978

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice lists the proposed allocation of discretionary funds under Title VI of the Comprehensive Employment and Training Act pursuant to the regulations of 29 CFR 99.2 and 29 CFR 96.2. The purpose of this notice is to afford the public the opportunity to comment on the discretionary portion of that distribution before the discretionary distribution is finalized.

FOR FURTHER INFORMATION CONTACT:

Albert J. Angebranndt, Administrator for Administration and Management, Room 4000, 601 D Street NW., Washington, D.C. 20213, telephone No. 202-376-7563.

DATES: Pursuant to section 14 of Pub. L. 94-444, the proposed distribution which follows is published for the purpose of receiving public comment for 30 days from the date of this publication. You are asked to address your comments in writing to Albert J. Angebranndt, Administrator for Administration and Management, Room 4000, 601 D Street NW., Washington, D.C. 20213.

SUPPLEMENTARY INFORMATION: This notice has been prepared under the direction and control of Albert J. Angebranndt, Administrator for Administration and Management, Employment and Training Administration. This notice lists proposed allocations for Title VI discretionary funds under the Economic Stimulus Appropriation. Concern has been raised that the method by which the Department distributed the Title VI discretionary allocation under the Economic Stimulus Appropriation did not first provide funds to those prime sponsors who, during the period the continuing resolution was in effect, received insufficient funds to sustain June 30, 1976, enrollment levels through September 1977. As a result, the Department is allocating additional discretionary funds in such a manner that, had the Department first distributed $125 million for sustainment and the remainder ($310M) by the 3-part formula contained in Section 603(a) of CETA, those prime sponsors which would have received more funds by this method will now receive additional resources from the Secretary. The increased funding by this method will be $73 million. The following list contains these allocations:

V 42 166 AUG 26 77 UMI

U.S. DEPARTMENT OF LABOR – EMPLOYMENT AND TRAINING ADMINISTRATION
PUBLIC SERVICE JOBS PROGRAM
ECONOMIC STIMULUS PACKAGE
AS OF 8/2/77

PAGE 1
OAM

TITLE VI DISCRETIONARY

BRIDGEPORT CONSORTIUM	432,733
HARTFORD CONSORTIUM	146,443
CONNECTICUT	579,176
CUMBERLAND COUNTY	335,882
MAINE	335,882
REGION I	915,058
ATLANTIC COUNTY	286,871
BURLINGTON COUNTY	175,658
HUDSON CO CRST	600,062
OCEAN COUNTY	82,529
TRENTON CITY	196,823
NEW JERSEY	1,291,943
BUFFALO CITY	1,190,928
ONEIDA COUNTY	137,306
ORANGE COUNTY	204,219
SARATOGA COUNTY	65,340
STEUBEN COUNTY	9,267
NEW YORK	1,607,060
BAYAMON MUNICIPIO	305,122
CAGUAS MUNICIPIO	132,482
MAYAGUEZ MUNICIPIO	591,242
PONCE MUNICIPIO	333,478
BALANCE OF PUERTO RICO	3,376,176
PUERTO RICO	4,738,500
REGION II	7,637,503
WILMINGTON CITY	230,685
DELAWARE	230,685
DISTRICT OF COLUMBIA	1,595,883

U.S. DEPARTMENT OF LABOR – EMPLOYMENT AND TRAINING ADMINISTRATION
PUBLIC SERVICE JOBS PROGRAM
ECONOMIC STIMULUS PACKAGE
AS OF 8/2/77

PAGE 2
OAM

TITLE VI DISCRETIONARY

DIST OF COLUMBIA	1,595,883
BALANCE OF MARYLAND	112,225
MARYLAND	112,225
LEHIGH VALLEY CONSORTIUM	135,421
PHILADELPHIA CITY/COUNTY	3,961,310
BAL OF LACKAWANNA COUNTY	74,480
SCRANTON CITY	20,136
LUZERNE COUNTY	242,230
PITTSBURGH CITY	416,984
SOUTHERN ALLEGANY CSRT	97,352
PENNSYLVANIA	4,947,913
WEST VIRGINIA STATEWIDE	4,589,792
WEST VIRGINIA	4,589,792
REGION III	11,476,498
BALANCE OF FLORIDA	33,956
BREVARD COUNTY	851,311
ESCAMBIA COUNTY	6,868
HEARTLAND MANPOWER CSRT	412,041
PALM BEACH COUNTY	213,663
FLORIDA	1,199,859
CSRA CONSORTIUM	142,692
ATLANTA CITY	1,153,203
COLUMBUS AREA CONSORTIUM	100,914
MID GEORGIA CONSORTIUM	33,902
GEORGIA	1,430,711
BALANCE OF KENTUCKY	364,324
KENTUCKY	364,324
CHARLOTTE CITY	113,791

U.S. DEPARTMENT OF LABOR – EMPLOYMENT AND TRAINING ADMINISTRATION
PUBLIC SERVICE JOBS PROGRAM
ECONOMIC STIMULUS PACKAGE
AS OF 8/2/77

PAGE 3
OAM

TITLE VI DISCRETIONARY

DURHAM CONSORTIUM	94,356
RALEIGH CONSORTIUM	48,881
WINSTON-SALEM CONSORTIUM	582,713
DAVIDSON COUNTY	181,216
NORTH CAROLINA	857,957
SOUTH CAROLINA STATEWIDE	4,158,838
SOUTH CAROLINA	4,158,838
CHATTANOOGA CITY	39,135
BAL OF HAMILTON COUNTY	68,315
TENNESSEE	107,450
REGION IV	8,119,139
MADISON COUNTY CONSORTIUM	393,942
ST CLAIR CONSORTIUM	50,143
EAST ST LOUIS CITY	877,516
SHAWNEE CONSORTIUM	671,322
ILLINOIS	1,992,923
ELKHART COUNTY	38,856
SOUTHWESTERN CONSORTIUM	411,103
INDIANA	449,959
FLINT/GENESSEE CONSORTIUM	747,070
JACKSON CONSORTIUM	241,074
KENT CONSORTIUM	788,620
DETROIT CITY	230,600
BAY COUNTY	16,000
CALHOUN COUNTY	86,197
BAL OF MACOMB COUNTY	39,685
OAKLAND COUNTY	687,181
OTTAWA COUNTY	101,394
SAGINAW COUNTY	239,708
ST. CLAIR COUNTY	1,654,184

U.S. DEPARTMENT OF LABOR – EMPLOYMENT AND TRAINING ADMINISTRATION
PUBLIC SERVICE JOBS PROGRAM
ECONOMIC STIMULUS PACKAGE
AS OF 8/2/77

PAGE 4
OAM

TITLE VI DISCRETIONARY

ANN ARBOR CITY	285,537
MICHIGAN	5,117,250
DAKOTA COUNTY	180,628
ST. PAUL CITY	730,375
QUAD COUNTIES CSRT	274,628
REGION III CONSORTIUM	130,966
BALANCE OF MINNESOTA	898,717
MINNESOTA RURAL CEP	1,104,434
BAL OF HENNEPIN COUNTY	583,984
MINNEAPOLIS CITY	50,167
MINNESOTA	3,953,891
LORAIN COUNTY	3,063
LAKE/ASHTABULA CSRT	428,980
PORTAGE COUNTY	98,595
OHIO	530,538
ROCK COUNTY	157,448
MILWAUKEE COUNTY	495,607
MADISON/DANE CONSORTIUM	34,893
BALANCE OF WISCONSIN	713,684
WISCONSIN	1,401,332
REGION V	13,445,963
PARISHES	57,364
BATON ROUGE CITY	47,685
CALCASIEU/JEFF CONSORTIUM	105,640
NEW ORLEANS CITY	2,559,443
JEFFERSON PARISH	326,763
BALANCE OF LOUISIANA	2,830,083
LOUISIANA	5,921,978
ALBUQUERQUE CONSORTIUM	900,820
BALANCE OF NEW MEXICO	732,324

UMI

U.S. DEPARTMENT OF LABOR – EMPLOYMENT AND TRAINING ADMINISTRATION — PAGE 6 OAM
PUBLIC SERVICE JOBS PROGRAM
ECONOMIC STIMULUS PACKAGE
AS OF 8/2/77

	TITLE VI DISCRETIONARY
NORTH DAKOTA	1,432,965
WYOMING STATEWIDE CSBT	235,248
WYOMING	235,248
REGION VIII	3,066,390
PHOENIX CITY	11,986
ARIZONA	11,986
OAKLAND CITY	546,542
SAN FRANCISCO CITY/COUNTY	1,707,328
BAL OF LOS ANGELES CNTY	3,887,446
LOS ANGELES CITY	3,78,236
BALANCE OF CALIFORNIA	1,500,095
HUMBOLDT COUNTY	99,369
SOLANO COUNTY	77,351
STANISLAUS COUNTY	157,830
FRESNO CITY/COUNTY	744,834
SAN DIEGO RETC	1,600,823
CALIFORNIA	10,679,854
HAWAII BAL OF STATE	352,225
HONOLULU CITY/COUNTY	133,628
HAWAII	485,853
LAS VEGAS CONSORTIUM	165,016
WASHOE COUNTY	352,320
NEVADA	518,236
REGION IX	11,695,429
BALANCE OF ALASKA	406,106
ALASKA	406,106
IDAHO STATEWIDE CSBT	655,237

U.S. DEPARTMENT OF LABOR – EMPLOYMENT AND TRAINING ADMINISTRATION — PAGE 5 OAM
PUBLIC SERVICE JOBS PROGRAM
ECONOMIC STIMULUS PACKAGE
AS OF 8/2/77

	TITLE VI DISCRETIONARY
NEW MEXICO	1,632,344
BAL OF CLEVELAND COUNTY	449,994
OKLAHOMA	449,994
TEX PANHANDLE MIDWEST	25,000
CAMERON COUNTY	261,457
BAL OF DALLAS COUNTY	165,456
LUBBOCK CITY	212,826
WEST TEXAS TEXAS CSBT	212,826
BAL OF FORT WORTH CITY	26,370
CEN TEXAS MANPOWER CSBT	12,278
HIDALGO COUNTY CONSORTIUM	345,188
WERB COUNTY	276,064
TEXAS	1,442,010
REGION VI	9,437,326
BALANCE OF KANSAS	462,110
KANSAS CITY CONSORTIUM	237,830
KANSAS	699,940
BAL OF JACKSON COUNTY	7,259
KANSAS CITY CONSORTIUM	269,151
INDEPENDENCE CITY	100,629
MISSOURI	376,039
LINCOLN CITY	4,224
NEBRASKA	4,224
REGION VII	1,075,212
BALANCE OF MONTANA	1,392,177
MONTANA	1,392,177
N DAKOTA STATEWIDE CSBT	1,432,965

U.S. DEPARTMENT OF LABOR – EMPLOYMENT AND TRAINING ADMINISTRATION — PAGE 7 OAM
PUBLIC SERVICE JOBS PROGRAM
ECONOMIC STIMULUS PACKAGE
AS OF 8/2/77

	TITLE VI DISCRETIONARY
IDAHO	655,237
JACKSON COUNTY CONSORTIUM	98,205
BALANCE OF OREGON	128,034
OREGON	226,239
KING/SNOHOMISH CONSORTIUM	1,132,896
KITSAP COUNTY	412,492
YAKIMA COUNTY	475,480
BALANCE OF WASHINGTON	2,559,713
WASHINGTON	4,580,581
REGION X	5,868,163
NATIONAL TOTAL	72,730,661

After preparing the distribution of the $73 million, the Department found that there are 9 prime sponsors which still lack sufficient funds to maintain their sustainment enrollment levels through FY 1978. For these prime sponsors only the Department has allocated additional discretionary funds to make up these shortfalls. The 9 prime sponsors and the dollar distribution of these additional funds is as follows:

Shawnee Consortium, Ill	$62,539
Elkhart County, Ind	407,673
St. Clair County, Mich	1,159,394
Ann Arbor, Mich	84,722
Minnesota rural cep	299,662
Madison/Dane, Wis	179,312
Calcasieu/Jeff, La	279,460
Balance of Cleveland County, Okla	386,790
North Dakota	3,618,558
Total	6,478,110

Signed in Washington, D.C., this 12th day of August 1977.

ALBERT J. ANGEBRANNDT,
Administrator,
Administration and Management.

[FR Doc.77-24848 Filed 8-25-77;8:45 am]

Occupational Safety and Health Administration

EVALUATION CRITERIA FOR FEDERAL AGENCY OCCUPATIONAL SAFETY AND HEALTH PROGRAMS

Request for Public Comment

The Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1590 et seq., 29 U.S.C. 651 et seq.) (OSHA) requires, in part, that the head of each Federal agency establish and maintain an effective and comprehensive occupational safety and health program covering the employment and places of employment of the agency's employees. This obligation, created by section 19 of OSHA (29 U.S.C. 668), is further defined in Executive Order 11807 of September 28, 1974, and in regulatory guidelines promulgated by the Secretary of Labor (the Secretary) at Title 29, Code of Federal Regulations Part 1960. Pursuant to section 19 of OSHA, the Executive Order, and the regulatory guidelines, the Secretary is required to monitor, evaluate, and report upon the progress of the agencies in developing and implementing their safety and health programs; while the agencies are required to cooperate with and to assist the Secretary in the performance of these duties by, for example, submitting reports to the Secretary, making records accessible to the Secretary, and observing the guidelines promulgated by the Secretary. Sections 19 (a) (3), (4), and (5), 19(b) and 19(d) of OSHA; sections 2 (2), (5), (6), and (7) and 3 (1), (5), and (6) of the Executive Order; 29 CFR Part 1960, Subpart B. The key provisions setting forth the duties of the Secretary in this regard are sections 3 (5) and (6) of the Executive Order, which require the Secretary to "[e]valuate the occupational safety and health programs of agencies, and submit to the President reports of such evaluations, together with agency responses thereto" and to "[s]ubmit to the President each year a summary report of the status of the Federal agency occupational safety and health program, as well as analyses of individual agency progress and problems in correcting unsafe and unhealthful working conditions, together with recommendations for improving their performance."

DEVELOPMENT OF THE PROGRAM EVALUATION GUIDE

Primary responsibility for implementation of the Secretary's responsibilities under the Federal agency occupational safety and health program has been delegated to the Department of Labor's Occupational Safety and Health Administration, Office of Federal Agency Safety Programs (OFASP). In order to effectively carry out the Secretary's duties with respect to program evaluation and in response to suggestions of Federal agency representatives, OFASP's Division of Agency Evaluation developed a draft standardized form (program evaluation guide) for use by its personnel in evaluating the occupational safety and health programs of the Federal agencies. This staff document was subsequently reviewed by a subcommittee of of the Federal Advisory Council on Occupational Safety and Health (FACOSH). The subcommittee recommended various changes that were incorporated into the draft of the program evaluation guide. On November 3, 1976, at a previously announced public meeting, the subcommittee reported to FACOSH its recommendation that the program evaluation guile be promulgated as a new subpart to Title 29, Code of Federal Regulations, Part 1960—Safety and Health Provisions for Federal Employees. In response, FACOSH adopted a resolution approving in concept the draft of the proposed new subpart and urging publication of the document in the Federal Register for public comment. In adopting this resolution, FACOSH clearly indicated that it would conduct a subsequent, more detailed review of the contents of the program evaluation guide after public comments were received.

RESPONSE TO FACOSH RECOMMENDATION

After fully considering the FACOSH recommendation, we have concluded that the draft of the program evaluation guide should not be published at this time as a proposed new subpart of 29 CFR Part 1960. The purpose of the program evaluation guide is to standardize the evaluations conducted by the OFASP of the safety and health programs of the various Federal agencies. The guide divides each agency program into ten basic component elements: Employee involvement, executive support and duties, safety and health staff and functions, operating management and supervisory duties, safety and health standards adoption, safety and health training activities, inspection and hazard abatement procedures, recordkeeping and reporting procedures, promotional and inter-agency activities, and intra-agency evaluation procedures. Each element is further subdivided into more detailed categories (referred to as "program element activities") that are listed in conjunction with references to relevant provisions of OSHA, the Executive Order, and 29 CFR Part 1960 defining the agencys' responsibilities with regard to the activity. In some instances, a brief statement is included as to the determination to be made by the evaluator in connection with the listed activity. In other instances, instructions are given to the evaluator to obtain official documentation by the agency of the manner in which it has carried out the listed activity.

It is clear from the foregoing description of the program evaluation guide that the guide is an internal staff working document and not a regulatory guideline. The guide simply reflects existing obligations of the Federal agen-

V 42166 AUG 26 77 UMI

cies and, thus, it does not alter an agency's duty to comply with section 19 of OSHA; nor does it alter the provision of the Executive Order requiring agency heads to "[o]bserve the guidelines published by the Secretary" at 29 CFR Part 1960. Moreover, the basis of the determination to be made by the OFASP evaluators remains the same, that is, whether and to what extent the agency safety and health program complies with section 19 of OSHA, the Executive Order, and the regulatory guidelines. The program evaluation guide is nothing more than an aid to the evaluator in making this determination.

In particular, it should be noted that the program evaluation guide is not intended as a regulatory guideline defining the manner in which the agencies should implement their responsibilities under 29 CFR 1960.16(b)(4) to establish "plans and procedures for evaluating the agency's occupational safety and health program effectiveness at all operational levels." In view of the variations in the mission, size, and scope of the different Federal agencies and the corresponding flexibility granted to the agencies under the Federal agency occupational safety and health program, a tentative conclusion has been reached that it is impractical to develop a single document that would be applicable to all agencies in performing their internal evaluations. We further note that, while OFASP is primarily concerned with evaluating the overall operation of the Federal agency's occupational safety and health program, the Federal agency itself, in developing its internal evaluation program, should be primarily concerned with the effectiveness of the actions taken by the agency's component offices and administrations and other subdivisions. However, even though the program evaluation guide was not developed for use by the Federal agencies in the internal evaluation of their own safety and health programs, it may be used as a general model by the agencies in developing their own internal evaluation guides; and agencies are encouraged to utilize the document in this manner.

Furthermore, the program evaluation guide does not represent an undertaking by the Secretary of any new obligations toward the Federal agencies. The Secretary's duty to evaluate and report upon each agency's occupational safety and health program is established in section 19 of OSHA and the Executive Order, whereas the provisions (criteria) to be considered by him in making these evaluatinos are contained in the above referenced documents and in the Regulations and Guidelines, 29 CFR Part 1960. In this regard, it should be noted that FACOSH recommended inclusion in the proposed subpart of the following language: "Changes to the Program Evaluation Guide can be made only with the review of FACOSH and approval of the Secretary of Labor." This recommendation has tentatively been rejected. Since the program evaluation guide is merely an internal staff working document, which does not impose any obligations upon the Federal agencies, this proposed limitation upon OFASP's authority to revise the guide is unnecessarily and unduly rigid, particularly in view of the fact that it will be necessary from time to time to revise the guide whenever any amendment is made to 29 CFR Part 1960.

In sum, since the program evaluation guide is not a document in which the Secretary either imposes an obligation upon the Federal agencies or undertakes any new obligation toward the Federal agencies, it is not a regulatory guideline within the meaning of sections 2(7) and 3(1) of the Executive Order and it should therefore not be promulgated as a new subpart to 29 CFR Part 1960.

Public Comment Invited

On the other hand, FACOSH's recommendation that public comment on the draft be invited is meritorious. Accordingly, interested persons are invited to comment on the contents of the program evaluation guide and upon the following questions: (1) Is there a need to amend 29 CFR Part 1960 to reflect OFASP's final adoption of a uniform program evaluation guide; (2) If so, what should be contained within the new regulatory guidelines; and (3) If not, what means should be utilized by the Secretary to disseminate to the Federal agencies and Federal employees the information that a standardized program evaluation guide has been adopted. Interested persons can obtain copies of the draft of the program evaluation guide from Gerard F. Scannell, Director, Office of Federal Agency Safety Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 2100 M Street NW., Room 156, Washington, D.C. 20210. Copies can also be obtained from the following field personnel:

Region I—Boston

CONNECTICUT, MAINE, MASSACHUSETTS, NEW HAMPSHIRE, RHODE ISLAND AND VERMONT

Edward C. Garvin, Department of Labor, OSHA, JFK Federal Building, Room 1803, Boston, Massachusetts 02203.

Region II—New York

NEW YORK, NEW JERSEY, PUERTO RICO, VIRGIN ISLANDS, AND THE CANAL ZONE

Dennis Gaughan, Department of Labor, OSHA, 1515 Broadway, Room 3445, New York, New York 10036.

Region III—Philadelphia

DELAWARE, DISTRICT OF COLUMBIA, MARYLAND, PENNSYLVANIA, VIRGINIA, AND WEST VIRGINIA

Harry Sachkar, Department of Labor, OSHA, William J. Green Federal Building, 600 Arch Street, Room 4227, Philadelphia, Pennsylvania 19106.

Region IV—Atlanta

ALABAMA, FLORIDA, GEORGIA, KENTUCKY, MISSISSIPPI, NORTH CAROLINA, SOUTH CAROLINA, AND TENNESSEE

William O. Masters, Department of Labor, OSHA, 1375 Peachtree Street, N.E., Suite 587, Atlanta, Georgia 30309.

Region V—Chicago

ILLINOIS, INDIANA, MINNESOTA, MICHIGAN, OHIO, AND WISCONSIN

Charles S. Wolff, Department of Labor, OSHA, 230 South Dearborn Street, Room 3259, Chicago, Illinois 60604.

Region VI—Dallas

ARKANSAS, LOUISIANA, NEW MEXICO, OKLAHOMA, AND TEXAS

James Valesquez, Department of Labor, OSHA, 555 Griffin Square, Room 602, Dallas, Tex 75202.

Region VII—Kansas City

IOWA, KANSAS, MISSOURI, AND NEBRASKA

James Barnes, Department of Labor, OSHA, 911 Walnut Street, Room 300, Kansas City, Missouri 64106.

Region VIII—Denver

COLORADO, MONTANA, NORTH DAKOTA, SOUTH DAKOTA, UTAH, AND WYOMING

Raleigh M. Kay, Department of Labor, OSHA, 8527 W. Colfax Avenue, Lakewood, Colorado 80215.

Region IX—San Francisco

ARIZONA, CALIFORNIA, HAWAII, NEVADA, GUAM, AMERICAN SAMOA, AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS

Lawrence E. Gromachey, Department of Labor, OSHA, 9470 Federal Building, 450 Golden Gate Avenue, P.O. Box 36017, San Francisco, California 94102.

Region X—Seattle

ALASKA, IDAHO, OREGON, AND WASHINGTON

Jack R. Jones, Department of Labor, OSHA, Room 6048, Federal Office Bldg., 909 First Avenue, Seattle, Washington, 98174.

In addition, OFASP has mailed a copy of the draft program evaluation guide to the designated safety and health official of each Federal agency that has over 1,000 employees.

Written data, views, and arguments concerning the program evaluation guide and the issues raised above must be submitted to Gerald F. Scannell, Director, OFASP, at the address given above no later than October 25, 1977. Upon the closing of this comment period, the program evaluation guide will be reviewed again by OFASP and revised, if such revision is deemed necessary and appropriate, in accordance with the comments received. It will then be submitted to FACOSH for further review and approval. If the comments reveal a need for revision of 29 CFR Part 1960 in connection with the adoption of a standardized guide, that revision will be effectuated through further rule-making proceedings.

Signed at Washington, D.C., this 18th day of August 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-24406 Filed 8-25-77;8:45 am]

Office of the Secretary

[TA-W-1637]

GREAT WESTERN SUGAR CO., JOHNSTOWN MOLASSES FACTORY JOHNSTOWN, COLO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1637: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 7, 1977 in response to a worker petition received on January 31, 1977 which was filed by the International Brotherhood of Teamsters, Chauffers, Warehousemen and Helpers on behalf of workers and former workers producing sugar at the Johnstown Molasses Factory, Johnstown, Colo., a facility of the Great Western Sugar Company, Denver, Colo.

The notice of investigation was published in the FEDERAL REGISTER on March 4, 1977 (42 FR 12496). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials and publications of Great Western Sugar Company, the U.S. Department of Commerce, the U.S. Department of Agriculture, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all four of the above criteria have been met.

Significant Total or Partial Separations

Average employment of production workers at the Johnstown Molasses Factory declined 6.9 percent in the first quarter of 1977 compared to the same period in 1976.

Sales or Production, or Both, Have Decreased

Production at the Johnstown Molasses Factory declined 14.2 percent in the first quarter of 1977 compared to the corresponding quarter of 1976. Production at the Johnstown Molasses Factory permanently ceased during April 1977.

Increased Imports

Imports of sugar decreased 2 percent between 1972 and 1973, moving from 5.46 million short tons to 5.33 million short tons. In 1974, sugar imports increased to 5.77 million short tons. Imports in 1975 totalled 3.88 million short tons and imports in 1976 increased 20 percent to 4.66 million short tons; the ratio of imports to domestic production increased from 59 percent in 1975 to 66 percent in 1976.

Contributed Importantly

Prior to 1975, imports of sugar were regulated by statute. Since the expiration of the Sugar Act on December 31, 1974, imported sugar has entered the United States in the absence of price restrictions and quota levels. As a result, domestic prices of sugar have been merged with world sugar prices subjecting domestic prices to the competitive forces of an increased supply of sugar in a previously regulated market.

The world sugar supply currently surpasses demand by about 4 million tons annually. Sugar prices have dropped from the sharp increases in 1974 when prices rose to 57.3 cents per pound. Presently the price of raw sugar is under 11.0 cents per pound.

Profitable operation of the domestic sugar beet industry is dependent upon numerous factors, including production costs, yield of the sugar beet harvest, and prices of crops substitutable for sugar beets. However, the single most important determinant of profitable operation is the price of sugar. Depressed sugar prices resulting from increased imports made continued operation of Great Western's Johnstown Molasses Factory economically unfeasible. The company therefore permanently ceased production at that plant in April 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with sugar products produced at the Johnstown Molasses Factory, Johnstown, Colo., a facility of the Great Western Sugar Company, Denver, Colo. contributed importantly to the total or partial separations of the workers at that plant. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers at the Johnstown Molasses Factory, Johnstown, Colo., of Great Western Sugar Company, Denver, Colo., who became totally or partially separated from employment on or after January 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24484 Filed 8-25-77;8:45 am]

[TA-W-1791]

GREAT WESTERN SUGAR CO., FORT MORGAN, COLO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1791: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 15, 1977 in response to a worker petition received on February 22, 1977 which was filed by the International Brotherhood of Teamsters, Chauffers, Warehousemen and Helpers on behalf of workers and former workers producing sugar at the Fort Morgan, Colo. plant of the Great Western Sugar Company, Denver, Colo.

The Notice of Investigation was published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16199). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Great Western Sugar Company, the U.S. Department of Commerce, the U.S. International Trade Commission, the U.S. Department of Agriculture, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation has revealed that criterion (4) has not been met.

Production of sugar from sugar beets is a seasonal activity, commencing with

V 42 166 AUG 26 77 UMI

the sugar beet harvest in late September or early October and continuing until the harvest is processed in January or February. Production is therefore dependent on the yield of the beet harvest.

Great Western contracts with individual beet growers, through various grower associations, to supply its factories with sugar beets. Prior to the 1976 growing season, contract difficulties arose between Great Western and the sugar beet growers. Contract difficulties were related to technical factors concerning extraction of sugar from sugar beets and were totally unrelated to imports of sugar. Contract agreement was reached in the spring of 1976 at the end of the usual planting season. Great Western then contracted with individual growers for sugar beet acreage equal to that contracted in 1975. The 1976 beet harvest was below the 1975 because of normal variations in harvest yield and the abnormally late planting. In the fall of 1976, Great Western accepted all beets contracted in the spring of that year, and processed all beets delivered into sugar.

Similar contract difficulties arose between Great Western and the beet growers in February 1977. Because contracts could not be assured, Great Western temporarily suspended operations at its Fort Morgan plant after the 1976 harvest had been processed.

With the signing of a new contract in March 1977, Great Western reopened the Fort Morgan plant and resumed normal maintenance operations, in anticipation of the 1977 beet harvest.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with sugar produced at the Fort Morgan, Colo. plant of the Great Western Sugar Company, Denver, Colo., did not contribute importantly to the total or partial separations of workers at that plant.

Signed at Washington, D.C., this 16th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24485 Filed 8-25-77;8:45 am]

[TA-W-1792]

GREAT WESTERN SUGAR CO. DENVER, COLO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1792: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 15, 1977 in response to a worker petition received on February 22, 1977 which was filed by the International Brotherhood of Teamsters, Chauffers, Warehousemen and Helpers on behalf of workers and former workers at the Denver, Colo. facility of the Great Western Sugar Company, Denver, Colo.

The Notice of Investigation was published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16199). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Great Western Sugar Company, the U.S. Department of Commerce, the U.S. International Trade Commission, the U.S. Department of Agriculture, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation has revealed that criterion (1) has not been met.

The Denver facility is the administrative headquarters of the Great Western Sugar Company. No production of sugar occurs at the Denver facility. Production of sugar at all Great Western plants is directed by the Operations Department at the Denver facility. No other departments are engaged in activities directly related to production at Great Western plants.

No involuntary separations occurred in the Operations Department of the Denver facility during the 1976–77 production year, and no involuntary separations have occurred in this department thus far in the 1977–78 production year.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that employment at the Denver, Colo. facility of the Great Western Sugar Company, Denver, Colo., has not declined as required for certification under Section 222 of the Trade Act of 1974. The petition is, therefore, denied.

Signed at Washington, D.C., this 16th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-24486 Filed 8-25-77;8:45 am]

[TA-W-1793]

GREAT WESTERN SUGAR CO., GREELEY, COLO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1793: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 15, 1977 in response to a worker petition received on February 22, 1977 which was filed by the International Brotherhood of Teamsters, Chauffeurs, warehousemen and Helpers on behalf of workers and former workers producing sugar at the Greeley, Colo. plant of the Great Western Sugar Company, Denver, Colo.

The Notice of Investigation was published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16199). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Great Western Sugar Company, the U.S. Department of Commerce, the U.S. International Trade Commission, the U.S. Department of Agriculture, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation has revealed that criterion (4) has not been met.

Production of sugar from sugar beets is a seasonal activity, commencing with the sugar beet harvest in late September or early October and continuing until the harvest is processed in January or February. Production is therefore dependent on the yield of the beet harvest.

Great Western contracts with individual beet growers, through various grower associations, to supply its factories with supar beets. Prior to the 1976 growing season, contract difficulties arose between Great Western and the sugar beet growers. Contract difficulties were related to technical factors concerning extraction of sugar from sugar beets and were totally unrelated to imports of sugar. Contract agreement was reached in the spring of 1976 at the end of the usual planting season. Great Western then contracted with individual growers for sugar beet acreage equal to that contracted in 1975. The 1976 beet harvest was below the 1975 because of normal variations in harvest yield and the abnormally late planting. In the fall of 1976, Great Western accepted all beets contracted in the spring of that year, and processed all beets delivered into sugar.

Similar contract difficulties arose between Great Western and the beet growers in February 1977. Because contracts could not be assured, Great Western temporarily suspended operations at its Greeley plant after the 1976 harvest had been processed.

With the signing of a new contract in March 1977, Great Western reopened the Greeley plant and resumed normal maintenance operations, in anticipation of the 1977 beet harvest.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with sugar produced at the Greeley, Colo. plant of the Great Western Sugar Company, Denver, Colo., did not contribute importantly to the total or partial separations of workers at that plant.

Signed at Washington, D.C. this 16th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24487 Filed 8-25-77;8:45 am]

[TA-W-1794]

GREAT WESTERN SUGAR CO., LOVELAND, COLO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1794: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 15, 1977 in response to a worker petition received on February 22, 1977 which was filed by the International Brotherhood of Teamsters, Chauffers, Warehousemen and Helpers on behalf of workers and former workers producing sugar at the Loveland, Colo. plant of the Great Western Sugar Company, Denver, Colo.

The Notice of Investigation was published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16199). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Great Western Sugar Company, the U.S. Department of Comerce, the U.S. International Trade Commission, the U.S. Department of Agriculture, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation has revealed that criterion (4) has not been met.

Production of sugar from sugar beets is a seasonal activity, commencing with the sugar beet harvest in late September or early October and continuing until the harvest is processed in January or February. Production is therefore dependent on the yield of the beet harvest.

Great Western contracts with individual beet growers, through various grower associations, to supply its factories with sugar beets. Prior to the 1976 growing season, contract difficulties arose between Great Western and the sugar beet growers. Contract difficulties were related to technical factors concerning extraction of sugar from sugar beets and were totally unrelated to imports of sugar. Contract agreement was reached in the spring of 1976 at the end of the usual planting season. Great Western then contracted with individual growers for sugar beet acreage equal to that contracted in 1975. The 1976 beet harvest was below the 1975 because of normal variations in harvest yield and the abnormally late planting. In the fall of 1976, Great Western accepted all beets contracted in the spring of that year, and processed all beets delivered into sugar.

Similar contract difficulties arose between Great Western and the beet growers in February 1977. Because contracts could not be assured, Great Western temporarily suspended operations at its Greeley plant after the 1976 harvest had been processed.

With the signing of a new contract in March 1977, Great Western reopened the Greeley plant and resumed normal maintenance operations, in anticipation of the 1977 beet harvest.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with sugar produced at the Greeley, Colo. plant of the Great Western Sugar Company, Denver, Colo., did not contribute importantly to the total or partial separations of workers at that plant.

Signed at Washington, D.C., this 16th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24488 Filed 8-25-77;8:45 am]

[TA-W-1795]

GREAT WESTERN SUGAR CO., STERLING, COLO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1795: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 15, 1977 in response to a worker petition received on February 22, 1977 which was filed by the International Brotherhood of Teamsters, Chauffers, Warehousemen and Helpers on behalf of workers and former workers producing sugar at the Sterling, Colo. plant of the Great Western Sugar Company, Denver, Colo.

The Notice of Investigation was published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16199). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Great Western Sugar Company, the U.S. Department of Commerce, the U.S. International Trade Commission, the U.S. Department of Agriculture, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced b ythe firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

V 42166 AUG 26 77 UMI

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation has revealed that criterion (4) has not been met.

Production of sugar from sugar beets is a seasonal activity, commencing with the sugar beet harvest in late September or early October and continuing until the harvest is processed in January or February. Production is therefore dependent on the yield of the beet harvest.

Great Western contracts with individual beet growers, through various grower associations, to supply its factories with sugar beets. Prior to the 1976 growing season, contract difficulties arose between Great Western and the sugar beet growers. Contract difficulties were related to technical factors concerning extraction of sugar from sugar beets and were totally unrelated to imports of sugar. Contract agreement was reached in the spring of 1976 at the end of the usual planting season. Great Western then contracted with individual growers for sugar beet acreage equal to that contracted in 1975. The 1976 beet harvest was below the 1975 because of normal variations in harvest yield and the abnormally late planting. In the fall of 1976, Great Western accepted all beets contracted in the spring of that year, and processed all beets delivered into sugar.

Similar contract difficulties arose between Great Western and the beet growers in February 1977. Because contracts could not be assured, Great Western temporarily suspended operations at its Sterling plant after the 1976 harvest had been processed.

With the signing of a new contract in March 1977, Great Western reopened the Sterling plant and resumed normal maintenance operations, in anticipation of the 1977 beet harvest.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with sugar produced at the Sterling, Colo. plant of the Great Western Sugar Company, Denver, Colo., did not contribute importantly to the total or partial separation of workers at that plant.

Signed at Washington, D.C., this 16th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24489 Filed 8-25-77;8:45 am]

[TA-W-1796]

GREAT WESTERN SUGAR CO., OVID, COLO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1796: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 15, 1977 in response to a worker petition received on February 22, 1977 which was filed by the International Brotherhood of Teamsters, Chauffers, Warehousemen and Helpers on behalf of workers and former workers producing sugar at the Ovid, Colo. plant of the Great Western Sugar Company, Denver, Colo.

The Notice of Investigation was published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16199). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Great Western Sugar Company, the U.S. Department of Commerce, the U.S. International Trade Commission, the U.S. Department of Agriculture, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation has revealed that criterion (4) has not been met.

Production of sugar from sugar beets is a seasonal activity, commencing with the sugar beet harvest in late September or early October and continuing until the harvest is processed in January or Ferbuary. Production is therefore dependent on the yield of the beet harvest.

Great Western contracts with individual beet growers, through various grower associations, to supply its factories with sugar beets. Prior to the 1976 growing season, contract difficulties arose between Great Western and the sugar beet growers. Contract difficulties were related to technical factors concerning extraction of sugar from sugar beets and were totally unrelated to imports of sugar. Contract agreement was reached in the spring of 1976 at the end of the usual planting season. Great Western then contracted with individual growers for sugar beet acreage equal to that contracted in 1975. The 1976 beet harvest was below the 1975 because of normal variations in harvest yield and the abnormally late planting. In the fall of 1976, Great Western accepted all beets contracted in the spring of that year, and processed all beets delivered into sugar.

Similar contract difficulties arose between Great Western and the beet growers in February 1977. Because contracts could not be assured, Great Western temporarily suspended operations at its Ovid plant after the 1976 harvest had been processed.

With the signing of a new contract in March 1977, Great Western reopened the Ovid plant and resumed normal maintenance operations, in anticipation of the 1977 beet harvest.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with sugar produced at the Ovid, Colo. plant of the Great Western Sugar Company, Denver, Colo., did not contribute importantly to the total or partial separations of workers at that plant.

Signed at Washington, D.C., this 16th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24490 Filed 8-25-77;8:45 am]

[TA-W-1797]

GREAT WESTERN SUGAR CO., GERING, NEBR.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1797: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 15, 1977 in response to a worker petition received on February 22, 1977 which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers on behalf of workers and former workers producing sugar at the Gering, Nebr. plant of the Great Western Sugar Company, Denver, Colo.

The Notice of Investigation was published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16199). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Great Western Sugar Company, the U.S. Department of Commerce, the U.S. International Trade Commission, the U.S. Department of Agriculture, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation has revealed that criterion (4) has not been met.

Production of sugar from sugar beets is a seasonal activity, commencing with the sugar beet harvest in late September or early October and continuing until the harvest is processed in January or February. Production is therefore dependent on the yield of the beet harvest.

Great Western contracts with individual beet growers, through various grower associations, to supply its factories with sugar beets. Prior to the 1976 growing season, contract difficulties arose between Great Western and the sugar beet growers. Contract difficulties were related to technical factors concerning extraction of sugar from sugar beets and were totally unrelated to imports of sugar. Contract agreement was reached in the spring of 1976 at the end of the usual planting season. Great Western then contracted with individual growers for sugar beet acreage equal to that contracted in 1975. The 1976 beet harvest was below the 1975 because of normal variations in harvest yield and the abnormally late planting. In the fall of 1976, Great Western accepted all beets contracted in the spring of that year, and processed all beets delivered into sugar.

Similar contract difficulties arose between Great Western and the beet growers in February 1977. Because contracts could not be assured, Great Western temporarily suspended operations at its Gering plant after the 1976 harvest had been processed.

With the signing of a new contract in March 1977, Great Western reopened the Gering plant and resumed normal maintenance operations, in anticipation of the 1977 beet harvest.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with sugar produced at the Gering, Nebr. plant of the Great Western Sugar Company, Denver, Colo., did not contribute importantly to the total or partial separations of workers at that plant.

Signed at Washington, D.C., this 16th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24491 Filed 8-25-77;8:45 am]

[TA-W-1798]

GREAT WESTERN SUGAR CO., MITCHELL, NEBR.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1798: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 15, 1977 in response to a worker petition received on February 22, 1977 which was filed by the International Brotherhood of Teamsters, Chauffers, Warehousemen and Helpers on behalf of workers and former workers producing sugar at the Mitchell, Nebr. plant of the Great Western Sugar Company, Denver, Colo.

The Notice of Investigation was published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16199). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Great Western Sugar Company, the U.S. Department of Commerce, the U.S. International Trade Commission, the U.S. Department of Agriculture, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation has revealed that criterion (4) has not been met.

Production of sugar from sugar beets is a seasonal activity, commencing with the sugar beet harvest in late September or early October and continuing until the harvest is processed in January or February. Production is therefore dependent on the yield of the beet harvest.

Great Western contracts with individual beet growers, through various grower associations, to supply its factories with sugar beets. Prior to the 1976 growing season, contract difficulties arose between Great Western and the sugar beet growers. Contract difficulties were related to technical factors concerning extraction of sugar from sugar beets and were totally unrelated to imports of sugar. Contract agreement was reached in the spring of 1976 at the end of the usual planting season. Great Western then contracted with individual growers for sugar beet acreage equal to that contracted in 1975. The 1976 beet harvest was below the 1975 because of normal variations in harvest yield and the abnormally late planting. In the fall of 1976, Great Western accepted all beets contracted in the spring of that year, and processed all beets delivered into sugar.

Similar contract difficulties arose between Great Western and the beet growers in February 1977. Because contracts could not be assured, Great Western temporarily suspended operations at its Mitchell plant after the 1976 harvest had been processed.

With the signing of a new contract in March 1977, Great Western reopened the Mitchell plant and resumed normal maintenance operations, in anticipation of the 1977 beet harvest.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with sugar produced at the Mitchell, Nebr. plant of the Great Western Sugar Company, Denver, Colo., did not contribute importantly to the total or partial separations of workers at that plant.

V 42166 AUG 26 77 UMI

Signed at Washington, D.C., this 16th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24492 Filed 8-25-77;8:45 am]

[TA-W-1799]

GREAT WESTERN SUGAR CO., SCOTTSBLUFF, NEBR.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1799: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 15, 1977 in response to a worker petition received on February 22, 1977 which was filed by the International Brotherhood of Teamsters, Chauffers, Warehousemen and Helpers on behalf of workers and former workers producing sugar at the Scottsbluff, Nebr. plant of the Great Western Sugar Company, Denver, Colo.

The Notice of Investigation was published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16199). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Great Western Sugar Company, the U.S. Department of Commerce, the U.S. International Trade Commission, the U.S. Department of Agriculture, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation has revealed that criterion (4) has not been met.

Production of sugar from sugar beets is a seasonal activity, commencing with the sugar beet harvest in late September or early October and continuing until the harvest is processed in January or February. Production is therefore dependent on the yield of the beet harvest.

Great Western contracts with individual beet growers, through various grower associations, to supply its factories with sugar beets. Prior to the 1976 growing season, contract difficulties arose between Great Western and the sugar beet growers. Contract difficulties were related to technical factors concerning extraction of sugar from sugar beets and were totally unrelated to imports of sugar. Contract agreement was reached in the spring of 1976 at the end of the usual planting season. Great Western then contracted with individual growers for sugar beet acreage equal to that contracted in 1975. The 1976 beet harvest was below the 1975 because of normal variations in harvest yield and the abnormally late planting. In the fall of 1976, Great Western accepted all beets contracted in the spring of that year, and processed all beets delivered into sugar.

Similar contract difficulties arose between Great Western and the beet growers in February 1977. Because contracts could not be assured, Great Western temporarily suspended operations at its Scottsbluff plant after the 1976 harvest had been processed.

With the signing of a new contract in March 1977, Great Western reopened the Scottsbluff plant and resumed normal maintenance operations, in anticipation of the 1977 beet harvest.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with sugar produced at the Scottsbluff, Nebr. plant of the Great Western Sugar Company, Denver, Colo., did not contribute importantly to the total or partial separations of workers at that plant.

Signed at Washington, D.C., this 16th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24493 Filed 8-25-77;8:45 am]

[TA-W-1800]

GREAT WESTERN SUGAR CO., BAYARD, NEBR.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1800: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 15, 1977 in response to a worker petition received on February 22, 1977 which was filed by the International Brotherhood of Teamsters, Chauffers, Warehousemen and Helpers in behalf of workers and former workers producing sugar at the Bayard, Nebr. plant of the Great Western Sugar Company, Denver, Colo.

The Notice of Investigation was published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16199). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Great Western Sugar Company, the U.S. Department of Commerce, the U.S. International Trade Commission, the U.S. Department of Agriculture, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are theratened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation has revealed that criterion (4) has not been met.

Production of sugar from sugar beets is a seasonal activity, commencing with the sugar beet harvest in late September or early October and continuing until the harvest is processed in January or February. Production is therefore dependent on the yield of the beet harvest.

Great Western contracts with individuals beet growers, through various grower associations, to supply its factories with sugar beets. Prior to the 1976 growing season, contract difficulties arose between Great Western and the sugar beet growers. Contract difficulties were related to technical factors concerning extraction of sugar from sugar beeets and were totally unrelated to imports of sugar. Contract agreement was reached in the spring of 1976 at the end of the usual planting season. Great Western then contracted with individual growers for sugar beet acreage equal to that contracted in 1975. The 1976 beet harvest was below the 1975 because of normal variations in harvest yield and the abnormaly late planting. In the fall of 1976, Great Western accepted all beets contracted in the spring of that year, and processed all beets delivered into sugar.

Similar contract difficulties arose between Great Western and the beet growers in February 1977. Because contracts could not be assured, Great Western temporarily suspended operations at its Bayard plant after the 1976 harvest had been processed.

With the signing of a new contract in March 1977, Great Western reopened the Bayard plant and resumed normal maintenance operations, in anticipation of the 1977 beet harvest.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with sugar produced at the Bayard, Nebr. plant of the Great Western Sugar Company, Denver, Colo., did not contribute importantly to the total or partial separations of workers at that plant.

Signed at Washington, D.C., this 16th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24494 Filed 8-25-77;8:45 am]

[TA-W-1801]

GREAT WESTERN SUGAR CO., GOODLAND, KANS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1801: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 15, 1977 in response to a worker petition received on February 22, 1977 which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers on behalf of workers and former workers producing sugar at the Goodland, Kans. plant of the Great Western Sugar Company, Denver, Colo.

The Notice of Investigation was published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16199). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Great Western Sugar Company, the U.S. Department of Commerce, the U.S. International Trade Commission, the U.S. Department of Agriculture, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation has revealed that criterion (4) has not been met.

Production of sugar from sugar beets is a seasonal activity, commencing with the sugar beet harvest in late September or early October and continuing until the harvest is processed in January or February. Production is therefore dependent on the yield of the beet harvest.

Great Western contracts with individual beet growers, through various grower associations, to supply its factories with sugar beets. Prior to the 1975 growing season, contract difficulties arose between Great Western and the sugar beet growers. Contract difficulties were related to technical factors concerning extraction of sugar from sugar beets and were totally unrelated to imports of sugar. Contract agreement was reached in the spring of 1976 at the end of the usual planting season. Great Western then contracted with individual growers for sugar beet acreage equal to that contracted in 1975. The 1976 beet harvest was below the 1975 because of normal variations in harvest yield and the abnormaly late planting. In the fall of 1976, Great Western accepted all beets contracted in the spring of that year, and processed all beets delivered into sugar.

Similar contract difficulties arose between Great Western and the beet growers in February 1977. Because contracts could not be assured, Great Western temporarily suspended operations at its Goodland plant after the 1976 harvest had been processed.

With the signing of a new contract in March 1977, Great Western reopened the Goodland plant and resumed normal maintenance operations, in anticipation of the 1977 beet harvest.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with sugar produced at the Goodland, Kans. plant of the Great Western Sugar Company, Denver, Colo., did not contribute importantly to the total or partial separation of workers at that plant.

Signed at Washington, D.C., this 16th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24495 Filed 8-25-77;8:45 am]

[TA-W-1802]

GREAT WESTERN SUGAR CO., LOVELL, WYOMING

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1802: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 15, 1977 in response to a worker petition received on February 22, 1977 which was filed by the International Brotherhood of Teasmsters, Chauffers, Warehousemen and Helpers on behalf of workers and former workers producing sugar at the Lovell, Wyoming plant of the Great Western Sugar Company, Denver, Colorado.

The Notice of Investigation was published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16199). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Great Western Sugar Company, the U.S. Department of Commerce, the U.S. International Trade Commission, the U.S. Department of Agriculture, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation has revealed that criterion (4) has not been met.

V 42166 A AUG 26 77 UMI

Production of sugar from sugar beets is a seasonal activity, commencing with the sugar beet harvest in late September or early October and continuing until the harvest is processed in January or February. Production is therefore dependent on the yield of the beet harvest.

Great Western contracts with individual beet growers, through various grower associations, to supply its factories with sugar beets. Prior to the 1976 growing season, contract difficulties arose between Great Western and the sugar beet growers. Contract difficulties were related to technical factors concerning extraction of sugar from sugar beets and were totally unrelated to imports of sugar. Contract agreement was reached in the spring of 1976 at the end of the usual planting season. Great Western then contracted with individual growers for sugar beet acreage equal to that contracted in 1975. The 1976 beet harvest was below the 1975 because of normal variations in harvest yield and the abnormally late planting. In the fall of 1976, Great Western accepted all beets contracted in the spring of that year, and processed all beets delivered into sugar.

Similar contract difficulties arose between Great Western and the beet growers in February 1977. Because contracts could not be assured, Great Western temporarily suspended operations at its Lovell plant after the 1976 harvest had been processed.

With the signing of a new contract in March 1977, Great Western reopened the Lovell plant and resumed normal maintenance operations, in anticipation of the 1977 beet harvest.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with sugar produced at the Lovell, Wyoming plant of the Great Western Sugar Company, Denver, Colorado, did not contribute importantly to the total or partial separations of workers at that plant.

Signed at Washington, D.C., this 16th day of August 1977.

JAMES F. TAYLOR,
Director,
Office of Management, Administration, and Planning.

[FR Doc.77-24496 Filed 8-25-77;8:45 am]

[TA-W-1513]

CF&I STEEL CORP., SUBSIDIARY OF CRANE CO., PUEBLO, COLORADO

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1531: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 22, 1976 in response to a worker petition received on December 22, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel products at CF&I Steel Corporation, a subsidiary of Crane Co., Pueblo, Colorado.

The Notice of Investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3370). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from information and publications provided by officials of CF&I Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met for workers engaged in employment related to the production of one of the following products: carbon steel rolled products; carbon steel wire products; coke and coke by-product chemicals; and carbon steel pipe.

The investigation has further revealed that for workers engaged in employment related to the production of rails and mining products, without regard to whether any of the other criteria have been met, criterion (3) has not been met; that for workers engaged in employment related to the production of cutting edges, although criteria (1) and (2) have been met, criteria (3) and (4) have not been met; and that for workers engaged in employment related to the production of carbon steel wire rods, without regard to whether any of the other criteria have been met, criterion (2) has not been met.

ROLLED PRODUCTS

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The category Rolled Products includes srtuctural shapes, hot rolled carbon steel bars, bar-size light shapes and concrete reinforcing bars. Employees work interchangeably on these products.

Employment related to the production of rolled products declined 42.2 percent in the fourth quarter of 1975 compared to the fourth quarter of 1974, and declined 2.5 percent in 1976 from 1975. Employment declined in the first and fourth quarters of 1976 compared to the like quarter of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of rolled products declined 10.6 percent in the fourth quarter of 1975 and declined 7.1 percent and 38.5 percent in the first and fourth quarters of 1976, respectively, compared to the like quarters of the previous year.

INCREASED IMPORTS

Imports of rolled products declined from 3339.0 thousand short tons in 1972 to 2717.5 thousand short tons in 1973, increased to 2833.0 thousand short tons in 1974, declined to 1537.1 thousand short tons in 1975, then increased to 2092.1 thousand short tons in 1976. The ratio of imports to domestic shipments declined from 20.6 percent in 1972 to 14.2 percent in 1973, increased to 14.8 percent in 1974, decreased to 11.2 percent in 1975, then increased to 15.4 percent in 1976.

CONTRIBUTED IMPORTANTLY

Customers indicated that they have reduced purchases of rolled products from CF&I Steel and have increased their purchases of imports.

WIRE PRODUCTS

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment related to the production of wire products declined 9.1 percent in the fourth quarter of 1975 compared to the fourth quarter of 1974 and declined 2.9 percent in 1976 from 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of wire products decreased 24.4 percent in the fourth quarter of 1975 and declined 25.6 percent in the first quarter of 1976 compared to the like quarter of the previous years. Sales increased 17.4 percent in 1976 from 1975.

INCREASED IMPORTS

Imports of carbon steel wire products increased from 628.5 thousand tons in 1972 to 894.2 thousand tons in 1973 and to 991.5 thousand tons in 1974. Imports declined to 602.6 thousand tons in 1975, then increased to 695.6 thousand tons in 1976. The ratio of imports to domestic shipments increased from 21.9 percent in 1972 to 28.3 percent in 1973 and to 32.0 percent in 1974. The ratio declined to 28.5 percent in 1975, then increased to 28.9 percent in 1976.

CONTRIBUTED IMPORTANTLY

Customers indicated that they had increased their purchases of imported wire products, either in absolute quantities or relative to purchases from CF&I.

COKE

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment related to the production of coke and coke by-product chemicals declined 6.4 percent in 1976 from 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of coke and chemicals declined 1.3 percent in 1976 from 1975.

CONTRIBUTED IMPORTANTLY

CF&I produces coke and chemicals primarily for internal consumption. The production of coke and chemicals is one of the early stages of production in the fully integrated production processes used in the manufacture of all of CF&I's product lines.

STEEL PIPE

SIGNIFICANT TOTAL OR PARTIAL SEPARATION

Employment related to the production of steel pipe decreased 3.6 percent in 1976 from 1975. Employment increased 9.9 percent in the first quarter but decreased in the last three quarters of 1976 compared to the like quarters of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of steel pipe declined 20.0 percent in 1976 from 1975.

INCREASED IMPORTS

Imports of carbon steel pipe and tubing declined from 1768.1 thousand short tons in 1972 to 1574.6 thousand short tons in 1973. Imports increased to 1781.5 thousand short tons in 1974, then in 1975 decreased to 1542.5 thousand short tons. In 1976, imports increased to 1820.7 thousand short tons. The ratio of imports to domestic shipments declined from 28.6 percent in 1972 to 20.3 percent in 1973, then increased to 21.5 percent in 1974, to 22.8 percent in 1975, and to 35.8 percent in 1976.

CONTRIBUTED IMPORTANTLY

Customers indicated that they reduced purchases of steel pipe from CF&I while increasing purchases of imports.

RAILS

INCREASED IMPORTS

Imports of steel rails declined from 42.3 thousand tons in 1972 to 42.1 thousand tons in 1973. Imports increased to 53.1 thousand tons in 1974 and to 96.2 thousand tons in 1975. In 1976, imports declined to 71.8 thousand tons. The ratio of imports to domestic shipments was 4.4 percent in 1972 and 1973, increased to 5.4 percent in 1974 and to 7.7 percent in 1975, then declined to 5.4 percent in 1976.

MINING PRODUCTS

INCREASED IMPORTS

Grinding media account for 77 percent of production in this product line. Imports of grinding media increased from 12.2 thousand tons in 1972 to 15.6 thousand tons in 1973 and to 20.6 thousand tons in 1974, then declined to 17.7 thousand tons in 1975 and to 13.2 thousand tons in 1976. The ratio of imports to domestic production rose from 3.9 percent in 1972 to 4.8 percent in 1973, remained unchanged at 4.8 percent in 1974, then declined to 4.5 percent in 1975 and to 3.4 percent in 1976.

WIRE RODS

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of wire rod increased 50.1 percent in 1976 from 1975.

Production of wire rod increased 53.9 percent in 1976 from 1975.

CUTTING EDGES

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment related to the production of cutting edges declined 21.4 percent in 1976 from 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of cutting edges declined 25.5 percent in 1976 from 1975.

INCREASED IMPORTS

Imports of cutting edges increased in each year from $511 thousand in 1972 to $2370 thousand in 1975. In 1976, imports declined to $808 thousand. The ratio of imports to domestic production increased in each year from 0.26 percent in 1972 to 0.85 percent in 1975 before declining to 0.34 percent in 1976.

CONTRIBUTED IMPORTANTLY

Customers indicated that they purchased no imported cutting edges.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with carbon steel rolled products, carbon steel wire products and carbon steel pipe produced at the Pueblo, Colorado plant of CF&I Steel Corporation, a subsidiary of Crane Co., contributed importantly to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certifications:

All workers engaged in employment related to be production of one of the following products: Carbon steel rolled products; coke and coke by-product chemicals; and all employees engaged in finishing, shipping and warehousing operations at the Pueblo, Colorado plant of CF&I Steel Corporation, a subsidiary of Crane Company, who became totally or partially separated from employment on or after December 3, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

All workers engaged in employment related to the production of carbon steel wire products at the Pueblo, Colorado plant of CF&I Steel Corporation, a subsidiary of Crane Company, who became totally or partially separated from employment on or after December 3, 1975 and before March 31, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

All workers engaged in employment related to the production of carbon steel pipe at the Pueblo, Colorado plant of CF&I Steel Corporation, a subsidiary of Crane Co., who became totally or partially separated from employment on or after April 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that imports of rails and mining products have not increased as required for certification under Section 222 of the Trade Act of 1974, that neither sales nor production of carbon steel wire rods has decreased as required for certification under Section 222 of the Trade Act of 1974; and that increases of imports of articles like or directly competitive with cutting edges produced at the Pueblo, Colorado plant of CF&I Steel Corporation, a subsidiary of Crane Co., have not contributed importantly to the total or partial separations of workers in those subdivisions at that plant. Therefore workers engaged in employment related to the production of rails, cutting edges, mining products and carbon steel wire rod at the Pueblo, Colorado plant of CF&I Steel Corporation are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 17th day of August 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc.77-24481 Filed 8-25-77;8:45 am]

[TA-W-1635]

GREAT WESTERN SUGAR CO., BRIGHTON, COLO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1635: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 7, 1977 in response to a worker petition received on January 31, 1977 which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers on behalf of workers and former workers producing sugar at the Brighton, Colo. plant of the Great Western Sugar Company, Denver, Colo.

The Notices of Investigation were published in the FEDERAL REGISTER on March 4, 1977 (42 FR 12496). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials and publications of Great Western Sugar Company, the U.S. Department of Commerce, the U.S. Department of Agriculture, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility re-

V 42 166 AUG 26 77 7 UMI

quirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at the Brighton plant declined 31.4 percent in the first quarter of 1977 compared to the same period in 1976.

Permanent layoffs of nonseasonal workers at the Brighton plant began February 1, 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED

Production at the Brighton plant declined 18.0 percent from the 1975/76 campaign to the 1976/77 campaign. Production at the Brighton plant permanently ceased during January 1977.

INCREASED IMPORTS

Imports of sugar decreased 2 percent between 1972 and 1973, moving from 5.46 million short tons to 5.33 million short tons. In 1974, sugar imports increased to 5.77 million short tons. Imports in 1975 totalled 3.88 million short tons and imports in 1976 increased 20 percent to 4.66 million short tons; the ratio of imports to domestic production increased from 59 percent in 1975 to 66 percent in 1976.

CONTRIBUTED IMPORTANTLY

Prior to 1975, imports of sugar were regulated by statute. Since the expiration of the Sugar Act on December 31, 1974, imported sugar has entered the United States in the absence of price restrictions and quota levels. As a result, domestic prices of sugar have been merged with world sugar prices subjecting domestic prices to the competitive forces of an increased supply of sugar in a previously regulated market.

The world sugar supply currently surpasses demand by about 4 million tons annually. Sugar prices have dropped from the sharp increases in 1974 when prices rose to 57.3 cents per pound. Presently the price of raw sugar is under 11.0 cents per pound.

Profitable operation of the domestic sugar beet industry is dependent upon numerous factors, including production costs, yield of the sugar beet harvest, and prices of crop substitutable for sugar beets. However, the single most important determinant of profitable operation is the price of sugar. Depressed sugar prices resulting from increased imports made continued operation of Great Western's Brighton plant economically unfeasible. The company therefore permanently ceased production at the Brighton plant in January 1977, with the end of 1976–77 sugar beet campaign.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with sugar products produced at the Brighton, Colo. plant of the Great Western Sugar Company, Denver, Colo. contributed importantly to the total or partial separations of the workers at that plant. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers of the Brighton, Colo. plant of the Great Western Sugar Company, Denver, Colo., who became totally or partially separated from employment on or after February 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washintgon, D.C., this 16th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24482 Filed 8-25-77;8:45 am]

[TA-W-1636]

GREAT WESTERN SUGAR CO., LONGMONT, COLO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1636: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 7, 1977 in response to a worker petition received on January 31, 1977 which was filed by the International Brotherhood of Teamsters, Chauffers, Warehousemen and Helpers on behalf of workers and former workers producing sugar, at the Longmont, Colo. plant of the Great Western Sugar Company, Denver, Colo.

The Notice of Investigation was published in the FEDERAL REGISTER on March 4, 1977 (42 FR 12496). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials and publications of Great Western Sugar Company, the U.S. Department of Commerce, the U.S. Department of Agriculture, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at the Longmont plant declined 7.9 percent in the first quarter of 1977 compared to the same period in 1976.

Permanent layoffs of nonseasonal workers at the Longmont plant began February 24, 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED

Production at the Longmont plant declined 6.4 percent from the 1975–76 campaign to the 1976–77 campaign. Production at the Longmont plant permanently ceased during February 1977.

INCREASED IMPORTS

Imports of sugar decreased 2 percent between 1972 and 1973, moving from 5.46 million short tons to 5.33 million short tons. In 1974, sugar imports increased to 5.77 million short tons. Imports in 1975 totalled 3.88 million short tons and imports in 1976 increased 20 percent to 4.66 million short tons; the ratio of imports to domestic production increased from 59 percent in 1975 to 66 percent in 1976.

CONTRIBUTED IMPORTANTLY

Prior to 1975, imports of sugar were regulated by statute. Since the expiration of the Sugar Act on December 31, 1974, imported sugar has entered the United States in the absence of price restrictions and quota levels. As a result, domestic prices of sugar have been merged with world sugar prices subjecting domestic prices to the competitive forces of an increased supply of sugar in a previously regulated market.

The world sugar supply currently surpasses demand by about 4 million tons annually. Sugar prices have dropped from the sharp increases in 1974 when prices rose to 57.3 cents per pound. Presently the price of raw sugar is under 11.0 cents per pound.

Profitable operation of the domestic sugar beet industry is denpendent upon numerous factors, including production costs, yield of the sugar beet harvest, and prices of crops substitutable for sugar beets. However, the single most important determinant of profitable operation is the price of sugar. Depressed sugar prices resulting from increased imports made continued operation of Great Western's Longmont plant economically unfeasible. The company therefore permanently ceased production at the Longmont plant in February 1977, with the end of 1976–77 sugar beet campaign.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with sugar products produced at the Longmont, Colo. plant of the Great Western Sugar Company, Denver, Colo. contributed importantly to the total or partial separations of the workers at that plant. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers at the Longmont, Colo. plant of the Great Western Sugar Company, Denver, Colo., who became totally or partially separated from employment on or after February 24, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of August 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-24483 Filed 8-25-77;8:45 am]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 6, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 6, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 17th day of August 1977.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/ workers or former workers of -	Location	Date received	Date of petition	Petition No.	Articles produced
Bulova Watch Co., Inc. (Tool & Diemakers Independent Union).	Jackson Height, N.Y.	Aug. 16, 1977	Aug. 11, 1977	TA-W-2,268	Watches.
Do	Woodside, N.Y.	do	do	TA-W-2,269	Watch crystals.
Grieco Bros., Inc. (workers).	Lawrence, Mass.	do	Aug. 9, 1977	TA-W-2,270	Men's clothing.
Do	Stoneham, Mass.	do	do	TA-W-2,271	Do.
Kroh, Inc. (United Garment Workers of America).	Ashland, Ohio	Aug. 15, 1977	Aug. 12, 1977	TA-W-2,272	Men's leather coats.
Ohio Ferro Alloys Corp. (United Steelworkers of America).	Powhatan Point Ohio	Aug. 16, 1977	do	TA-W-2,273	Silicon metal.
Do	Brilliant, Ohio	do	do	TA-W-2,274	Ferrosilicon metal and silicon metal.

[FR Doc.77-24479 Filed 8-25-77;8:45 am]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILTY TO APPLY FOR WORKER ADJUSTMENT ASSSTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 6, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 6, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 16th day of August 1977.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

V 42 166 AUG 26 77 UMI

APPENDIX

Petitioner: union/ workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Gold-Line Connectors (workers).	New Bedford, Mass...	Aug. 15, 1977	Aug. 10, 1977	TA-W-2,260	Citizen band radio accessories.
Do	East Norwalk, Coun.....do		do	TA-W-2,261	Do.
Reece Corp. (workers).	Waltham, Mass.....do		Aug. 11, 1977	TA-W-2,262	Industrial sewing equipment.
Salamanca Yarns, Inc. (workers.	Salamanca, N.Y.....	Aug. 16, 1977	Aug. 2, 1977	TA-W-2,263	Knitted yarns for clothing.
Tevil Industries, Inc. (workers).	Ontario, Calif.....do		Aug. 12, 1977	TA-W-2,264	Polyester double knit fabrics.
Trimfoot Co., Inc. (Hoot & Shoe Workers Union).	Farmington, Mo.....do		Aug. 8, 1977	TA-W-2,265	Infants and babies footwear.
Alan Wood Steel Co. United Steelworkers of America).	Ivy Rock, Pa.....	Aug. 17, 1977	July 15, 1977	TA-W-2,266	Hot rolled sheet and strip, plate, cold rolled sheet and strip and related carbon steel products.
Do	Swedeland, Pa.....do		do	TA-W-2,267	Do.

[FR Doc. 77-24480 Filed 8-25-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on August 19, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF DEFENSE

Department of the Air Force, Individual Ready Reserve Market Study, single-time, 16-21 year old male civilians and their parents, Richard Eisinger, National Security Division, 395-6140.

REVISIONS

VETERANS ADMINISTRATION

Vocational Placement Follow-Up, 10-2895, on occasion, government employment agencies, Caywood, D. P., 395-3443.

U.S. INTERNATIONAL TRADE COMMISSION

Synthetic Organic Chemicals: U.S. Production and Sales, CD-A1, annually, original manufacturers of synthetic organic chemicals, C. Louis Kincannon, 395-3211.

DEPARTMENT OF AGRICULTURE

Economic Research Service, Survey of Food Wholesalers, single time, business firms, C. Louis Kincannon, 395-3211.

DEPARTMENT OF LABOR

Employment and Training Administration, CETA Forms Preparation Handbook—Titles I, II, III, and VI, MA 2-202,203 219,220, MA-5-134-136, 145, 145A, other (see SF-83), State and local agencies, Caywood, D.P., Budget Review Division, 395-3443.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration, Defense Bridges and Critical Highway Facilities Reports, annually, State highway departments, Marsha Traynham, 395-4529.

EXTENSIONS

DEPARTMENT OF DEFENSE

Department of the Air Force, Youth Attitude Tracking Study, semiannually, 16-21 year old, male civilians, Richard Eisinger, National Security Division, 395-6140.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc 77-24922 Filed 8-25-77;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on August 22, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

A Survey of Graduates of Two-Year Energy-Related Technology Programs, other (see SF-83), Graduates of two-year energy technology programs, Strasser, A., 395-5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary:
Improvement of consumer complaint-handling, A—State and local government, private voluntary organization questionnaire; B—Business questionnaire; OS-11-77, single time, 526 government voluntary agencies, 300 businesses, human resources division, Raynsford, R., 395-3532.

Office of Education:
Financial status and performance reports for special community, OE-1280, 1 and 2, semiannually, institutions of higher education, budget review division, Lowry, R. L., 395-4775.
Initial Request for Advance Funds, OE-585, annually, State and nonprofit private guarantee agencies, Budget Review Division, 395-4775.

Health Care Financing Administration (Departmental), Impact of Written Criteria on the Concurrent Review Process, HCFA-L14T through 18T, single time, 65 PSRO Directors and 1,900 review coordinators, Richard Eisinger, 395-6140.

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration, LEAA Standards and Goals National Assessment Report Form, single time, selected LE/CJ agencies throughout the United States, economics and general government division, Raynsford, R., 395-3451.

DEPARTMENT OF THE INTERIOR

Mining Enforcement and Safety Administration:
Quarterly Mine Employment and Coal Production Report, 7000-2, quarterly, all mine operators, Strasser, A., 395-5867.
Mine Accident, Injury, and Illness Report, 7000-1, on occasion, all coal, metal, and nonmetal mine operators, Strasser, A., Ellett, C. A., 395-5867.

REVISIONS

VETERANS ADMINISTRATION

Pretest of Nationwide Survey of Veterans, single time, male veterans in civilian noninstitutional population, Raynsford, Robert W., 395-3814.

DEPARTMENT OF COMMERCE

Bureau of Census:
(Part of 1980 Decennial Census of Population and Housing), precanvass address register—1977 Census of Oakland, Calif., DH-103, A&B, single time, all households in dress rehearsal areas; Maria Gonzalez, 395-6132.
Industrial Gases, Monthly Report on Production, M28A.2, monthly, manufacturers, C. Louis Kincannon, 395-3211.
Inorganic Fertilizer Chemicals (Production and Stocks), M28B.1, monthly, chemical manufacturers, C. Louis Kincannon, 395-3211.
Major Household Appliances, MA-36F, annually, manufacturing establishments, C. Louis Kincannon, 395-3211.
Cotton and Linters in Public Storage and at Compress (annual), MA-22N, annually, warehouses holding raw cotton and linters, C. Louis Kincannon, 395-3211.
Phosphatic Fertilizer Materials—Monthly Report on Production, Shipments and Stocks, M28B.2, monthly, fertilizer manufacturers, C. Louis Kincannon, 395-3211.

EXTENSIONS

DEPARTMENT OF COMMERCE

Maritime Administration: Supplemental Unitized Cargo Container Report, MA 578A, on occasion, shipping companies, Marsha Traynham, 395-4529.
Bureau of Census: Clay Construction Products—Monthly Report on Production and Shipments, M32D, monthly, manufacturers of clay construction products, Marsha Traynham, 395-4529.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management: Monthly Report of Excess Income—Section 236, HUD 93104A, monthly, owners of sec. 236 multifamily projects, Housing, Veterans, and Labor Division, 395-3532.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration: Application for permission to Export Controlled Substances, DEA 161, on occasion, drug firms registered to export controlled substances, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-24923 Filed 8-25-77;8:45 am]

POSTAL RATE COMMISSION

PRESENTATION AND VISIT TO POSTAL FACILITY

AUGUST 22, 1977.

Notice is hereby given that on August 15, 1977, Chairman DuPont visited the Dallas, Texas, Post Office for the purpose of acquiring general background knowledge of postal delivery operations.

Notice is also given that on August 16, 1977, Chairman DuPont presented a briefing to the executive council of the Dallas Postal Customer Council regarding the Postal Rate Commission and its functions.

A report of the visit will be on file in the Commission's docket room.

DAVID F. HARRIS,
Secretary.

[FR Doc.77-24819 Filed 8-25-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13876; File No. SR-BSPS-77-4]

BRADFORD SECURITIES PROCESSING SERVICES, INC.

Order Approving Rule Change Providing for Establishment of Additional Branch Facilities

AUGUST 19, 1977.

On June 28, 1977 Bradford Securities Processing Services, Inc. ("BSPS"), 80 Pine Street, New York, New York 10005, filed a proposed rule change pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act") relating to the establishment of branch facilities in Houston, Texas and Denver, Colorado. As part of its filing, BSPS made representations relating to procedures and safeguards for the handling of securities and funds.

In accordance with Section 19(b) of the Act and Rule 19b-4 thereunder, the rule change was published in the FEDERAL REGISTER (42 F.R. 36571, July 15, 1977) and the public was invited to submit comments until August 5, 1977. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 13729, July 8, 1977. No letters of comment were received.

The Commission has reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the rule change contained in File No. SR-BSPS-77-4 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77 24764 Filed 8-25-77;8:45 am]

[Release No. 34-13867; SR-CBOE-77-4]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Order Approving Proposed Rule Change

AUGUST 17, 1977.

On March 3, 1977, the Chicago Board Options Exchange, Inc., LaSalle at Jackson, Chicago, Illinois, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change to amend CBOE Rule 6.10(a) which would eliminate the requirement that member firms qualified to conduct a nonmember customer business obtain, on an annual basis, renewal of written authorization to maintain a discretionary account.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-13734 (July 15, 1977)) and by publication in the FEDERAL REGISTER (42 FR 36572 (July 15, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-24765 Filed 8-25-77;8:45 am]

[Release No. 13869; File No. SR-CBOE-77-6]

CHICAGO BOARD OPTIONS EXCHANGE, INC., BOARD BROKERS ASSOCIATION

Order Denying Stay Approving Rule Change

AUGUST 18, 1977.

On July 11, 1977, the Board Brokers Association (the "Association"), which is composed of board broker members of the Chicago Board Options Exchange, Inc. (the "CBOE"), applied to the Commission for a stay pending judicial review of the Commission's order[1] approving, pursuant to section 19(b)(2) of the Securities Exchange Act of 1934 ("the Act")[2] and Rule 19b-4 thereunder,[3] a rule change filed by the CBOE[4] on March 28, 1977. The rule change, among other things, provides the enabling authority for the award of board broker appointments on the basis of competitive bidding (along with an evaluation of an applicant's qualifications) and for an assessment of exchange fees upon members who utilize board broker services.

Under Section 25(c)(2) of the Act,[5] the Commission may stay an order of rule pending judicial review if it finds that "justice so requires." In view of the arguments presented by the Association for a stay,[6] including its repetition of arguments previously made, the Commission has determined to set forth in detail its reasons for approving the CBOE rule change in the first instance, together with its discussion of the additional arguments presented by the Association in its application for a stay.

In considering whether justice requires a stay of the order approving the CBOE rule change, the Commission notes at the outset that the subject rule change is not self-executing. The rule change approved by the Commission permits the CBOE to plan the further development of its board broker program in an orderly fashion. Before the CBOE may terminate the appointment of any person cur-

[1] Securities Exchange Act Release No. 13673 (June 24, 1977), 42 FR 33826 (July 1, 1977).
[2] 15 U.S.C. 78s(b)(2).
[3] 17 CFR 240.19b-4.
[4] SR-CBOE-77-6 (filed March 28, 1977). Notice of the proposed rule change was provided in Securities Exchange Act Release No. 13434 (April 6, 1977), and the proposal was published in 42 FR 20870 (April 22, 1977).
[5] 15 U.S.C. 78y(c)(2).
[6] Board Brokers Association, Application for Stay of the Commission's Order dated June 24, 1977, Pending Judicial Review (July 8, 1977) (the "Application").

V 42166 AUG 26 77 UMI

rently serving as a board broker as part of a program to appoint board brokers on the basis of the subject rule change,[7] the CBOE is required to submit additional proposed rule changes to the Commission. Those proposals must detail the bidding procedure for board broker appointments and the level of fees which the CBOE will assess for services provided by board brokers. The Commission finds that justice does not require that a stay be granted in this instance because (i) the CBOE cannot implement its program with respect to board brokers without further Commission action; [8] (ii) as a result, the Association will have a further opportunity to present data, views, and arguments to the Commission before the CBOE can take any final action affecting the interests of Association members; [9] and (iii) the members of the Association do not need a say to protect their interests and the granting of a stay would likely impede the CBOE's further planning efforts.

The Association submits, in support of its Application, that the board brokers were not given an opportunity for a hearing concerning the subject rule change. The Act, however, does not require the Commission to conduct a hearing before it approves the rule change of a self-regulatory organization.[10] Moreover, the Commission concluded that the proposed rule change did not deprive board brokers of any "vested right" since any such "right," if it exists, is acquired under, and remains subject to, the governing rules of that exchange, as they may be amended from time to time, insofar as those rules and amendments thereto are consistent with the Act and the rules and regulations promulgated thereunder.

In addition to the grounds noted above, the Association states in its Application that:

[T]he system comprehended by the proposed rule changes conflicts in many respects with the requirements of the Act and wholly fails to satisfy any rationally perceived need for change or the achievement of any generally accepted policy objective.[11]

In approving the proposed rule change, however, the Commission reviewed the objections raised by the Association in its initial comments submitted to the Commission on May 13, 1977, and found them unpersuasive. The Commission reiterates here its finding that the challenged CBOE rule changes are consistent with the requirements of the Act and rules and regulations thereunder.

The Association had asserted in its initial comments that the subject rules, since they permit the CBOE to award board broker appointments on the basis of competitive bidding and to assess exchange fees upon those utilizing the services of board brokers, would violate Section 6(e) of the Act by "creat[ing] a simple flow-through of revenues to circumvent the prohibition of fixed member rates." [12]

The CBOE rule change approved by the Commission, however, establishes only a broad framework within which the CBOE may develop a system of fees and board broker compensation. That rule change does not, on its face, establish or require any simple flow-through of revenues at fixed rates. It will instead permit the CBOE to compensate each appointed board broker according to the individual terms of his competitive bid. For that reason, the Commission adheres to its determination that the enabling authority in the CBOE rule change, by itself, is consistent with Section 6(e) and Rule 19b-3. The Commission will review further proposed rule changes filed by the CBOE to determine whether, viewed in conjunction with the rule change approved and the system thereby created, they are consistent with those provisions.

The Association also argued, in its initial submission, that the subject rule change violates Section 6(b)(4) of the Act, which requires that exchange rules "provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities." The Commission remains unpersuaded by this argument because it is also premature. Since the rules in question are enabling in nature and do not prescribe any particular level of fees, or any allocation of fees, determinations of reasonableness and equitable allocation may be made only when further submissions are made by the CBOE pursuant to Section 19(b)(3)(A)(ii) of the Act.[13] The Commission may summarily abrogate any such fees, and require further proceedings under Section 19(b) of the Act, if such action appears necessary or appropriate.

In addition, the Association asserted that the CBOE rule changes are inconsistent with Section 6(b)(5) of the Act in that they unfairly discriminate against board brokers by requiring them, alone among all classes of CBOE members, to bid competitively for their appointments. "Unfair discrimination," however, is found where other groups similarly situated are accorded different treatment, without any rational basis.[14] The members of no group other than the board brokers, however, occupy a monopoly position on the CBOE floor.[15] Accordingly, the absence of parallel regulation of other distinct classes of members does not demonstrate any unfair discrimination.

The Association also advanced the argument that the rules in question impose a "burden on competition not necessary or appropriate in furtherance of the purposes of (the Act)," in contravention of Section 6(b)(8). The Commission's rejection of this assertion remains founded on the fact that a board broker's appointment represents, in effect, a monopoly franchise.[16] Consequently, with respect to the 88 classes of options traded solely on the CBOE, out of a total of 101 classes of options traded on that exchange,[17] it would not appear that there are any significant competitive forces at work controlling the amount of brokerage commissions charged by CBOE board brokers. Accordingly, the Commission rejected the Association's assertion that awarding board broker appointments on a basis which takes into account competitive bidding constitutes an unnecessary or in appropriate burden on competition.

Moreover, Section 11A(a)(1)(C)(ii) of the Act[18] calls for fair competition not only among brokers and dealers but also among exchange markets. The Commission believes the subject rule will enable the CBOE to compete more effectively with other exchanges in providing limit order executions of dually traded options. In that connection, other exchanges have had the ability in the past to provide limit order execution in dually traded options at lower prices than those charged on the CBOE.[19] The enabling authority encompassed in the subject rule change provides the CBOE with the flexibility to compete with fees which may be available on the other exchanges for the execution of limit orders and may thus enhance fair competition among securities markets. Primarily for that reason, the Commission also found that the CBOE rule change would tend to further the goal, set forth in Section 6(b)(5) of the Act, of "remov[ing] impediments to and perfect[ing] the mechanism of a free and open market and a national market system." [20]

For the reasons set forth above, upon consideration of the application of the Association, the Commission finds that justice does not require a stay of its approval order pending judicial review.

It is therefore ordered, pursuant to Section 25(c)(2) of the Act, that the application of the Association for stay of the Commission's order approving the rule change of the Chicago Board Options Exchange, Inc., filed with the Commission on March 28, 1977, be, and it hereby is, denied.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc 77-24763 Filed 8-25-77;8:45 am]

---

[7] Of course, the appointment of a person serving as a board broker, prior to the rule change, was subject to termination for various reasons, such as poor performance. See former CBOE Rule 7.3. This authority of the CBOE to terminate a board broker's appointment continues under CBOE Rule 7.3(b) as amended by the subject rule change.

[8] Bidding procedures to be established by the CBOE cannot become effective unless filed with the Commission for consideration under Section 19(b)(2) of the Act, 15 U.S.C. 78s(b)(2), and approved by further order of the Commission under that Section. Cf. Letter from George A. Fitzsimmons to James E. Buck, Secretary of the New York Stock Exchange, Inc. [1976-1977 Transfer Binder] Fed. Sec. L. Rep. (CCH) Para. 80,404 (October 20, 1976).

[9] The Association, in its letter of August 3, 1977, to the Commission, has urged as an additional ground for a stay the proposition that the CBOE would otherwise be subject to "a most painful and disruptive unwinding process" should the Court of Appeals vacate the Commission's order of June 24, 1977. Id. at 2. Since, however, further Commission action is required before the CBOE can take final action to implement its new board broker program, the Commission finds that new ground urged by the Association unpersuasive.

[10] In connection with the initial filing of a proposed rule change under Section 19(b)(1), the Commission is required merely to publish notice and give interested persons an opportunity to submit written data, views, and arguments. Section 19(b)(2) provides that the Commission shall approve a proposed rule change if it makes the findings enumerated in that Section; upon making those findings, the Commission is to grant approval under Section 19(b)(2)(A) without further proceedings. On the other hand, if the Commission does not make such findings, it is required to initiate a proceeding pursuant to Section 19(b)(2)(B) of the Act to determine whether to disapprove a proposed rule change and is required to provide notice of the grounds for disapproval under consideration and opportunity for hearing.

With respect to the CBOE rules challenged by the Association, the Commission was able to make the requisite findings, without initiating such further proceeding, on the basis of the CBOE's filing on Form 19b-4A, 17 CFR 249.19a; the submissions of written data, views, and arguments; and the Commission's own expertise in overseeing the operation of the national securities exchanges.

[11] Application, at 4.

[12] In that connection, the Association refers to an earlier CBOE proposed rule change, under which the CBOE proposed to establish a schedule of fees to be charged by the CBOE to those receiving board broker services. The proposed fees would have corresponded to the fixed commission rate schedule then used by board brokers. Pursuant to Rule 19b-3 under the Act, 17 CFR 240.19b-3, the CBOE was required to eliminate that fixed rate schedule no later than May 1, 1976. Under its earlier proposed rule change, the CBOE proposed to collect brokerage commissions on specific transactions and transmit them to the board broker effecting such transactions, less a charge imposed by the CBOE. In that regard, it appeared to the Commission that the proposed rule change would merely interpose the CBOE as a conduit in the process of collecting and disbursing brokerage commissions fixed at exchange-prescribed rates. The Commission ordered the institution of a proceeding to determine whether to disapprove that proposed rule change based, in part, on the question whether the proposed CBOE rule would violate Section 6(e) of the Act and Rule 19b-3. Securities Exchange Act Release No. 12358 (April 22, 1976), 41 FR 17984 (April 29, 1976). The CBOE withdrew the challenged rule change on May 3, 1976.

[13] We note that such submissions and the additional provisions embodied in rules governing the bidding procedures will have to address, among other things, the contemplated requirement that the compensation to be received by the board brokers will be in lieu of any other revenues or fees to be received by them in return for providing board brokerage services.

[14] In that respect, the standards in determining the existence of "unfair discrimination" appear analagous to those applicable to "equal regulation." See Section 3(a)(36) of the Act. As to the latter, "'[E]qual regulation' is not a meaningful guide to regulatory action unless persons similarly situated in terms of the purpose of the regulation are first identified." Report of the Senate Comm. on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 16 (1975) [emphasis added].

[15] In addition, the services associated with maintenance of a limit order book need not be performed by a member at all. For example, the Pacific Stock Exchange and the Midwest Stock Exchange use salaried employees ("order book officials") rather than members to handle the limit order books.

[16] To further the orderly and efficient execution of public limit orders, it has been the practice of the CBOE to appoint only one board broker to handle the limit order "book" for a particular class of options. In addition, the CBOE accords priority to limit orders on that book over public orders in the crowd and most proprietary orders of members. CBOE Rule 6.45.

[17] Some classes of options are listed only on the CBOE. Others—"dually traded options"—are listed on more than one exchange. In the case of dually traded options, the competition offered by the other exchange currently may serve to control the pricing of board broker services on the CBOE. It does not appear that the rule change approved by the Commission would impose any burden on that competition which would not be necessary or appropriate in furtherance of the purposes of the Act. See Section 6(b)(8) of the Act.

[18] 15 U.S.C. 78k-1(a)(C)(ii).

[19] On the American Stock Exchange, limit order services are provided by specialists who also function as dealers—that is, trade as principals for their own accounts. Accordingly, these specialists have had the ability and the incentive (the desire for an increased order flow for their dealer activity) to lower significantly—or even to eliminate—charges for executing limit orders in dually traded options. On the Pacific and Midwest Stock Exchanges, limit order services are provided by exchange employees; thus those exchanges can directly control the fees charged for such services.

[20] The Association advanced a number of other theories in their initial submission in contending that the Commission should institute proceedings to determine whether to disapprove the subject rule change. The Commission considered all these arguments, and found them not to be properly grounded in the Act.

[Release No. 34-13865; File No. SR-DTC-77-7]

DEPOSITORY TRUST CO.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 1, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change permits Participants of The Depository Trust Company (DTC) to accept through DTC certain exchange offers and cash tender offers for securities on deposit with DTC. Under the proposed procedures, Participants will be able to take advantage of exchange offers and cash tender offers without withdrawing from DTC certificates evidencing securities subject to such offers.

The proposed rule change is attached as Exhibit 2 to DTC's filing on Form 19b-4A, File No. SR-DTC-77-7.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of the proposed rule change is to permit DTC's Participants to take advantage of certain exchange offers and cash tender offers through DTC. An exchange offer is an offer of securities of one issue in return for securities of another issue voluntarily surrendered. A cash tender offer is an offer of cash in return for securities voluntarily surrendered. The proposed service will enable Participants to accept exchange offers or cash tender offers on certain qualifying securities without withdrawing the subject securities from the DTC system. Under its present procedures, DTC must usually make ineligible for depository services a security issue which has been eligible but has become the subject of an exchange offer or cash tender offer.

The proposed rule change relates to DTC's carrying out the purposes of Section 17A of the Securities Exchange Act of 1934 (the Act) by encouraging the immobilization of certificates evidencing securities subject to exchange offers and cash tender offers.

Comments regarding the proposed voluntary offering service were solicited from DTC Participants and Pledgees by articles in numerous DTC Newsletters in 1976 and 1977. Draft procedures for the proposed service, similar to the procedures set forth in Exhibit 2 to DTC's filing, were sent to all Participants and Pledgees in February 1977. Written comments were received from three Participants and are attached as Exhibit 3 to DTC's filing.

V 42166 AUG 26 77 UMI

DTC believes that no burden will be placed on competition by the proposed rule change.

On or before September 30, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should be submitted on or before September 16, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 16, 1977.

[FR Doc 77-24778 Filed 8-25-77;8:45 am]

[Release No. 9898; 812-4115]

E. I. DU PONT DE NEMOURS AND CO. AND REMINGTON ARMS COMPANY, INC.

Filing of Application for Order Exempting Proposed Transactions

AUGUST 18, 1977.

Notice is hereby given that E. I. du Pont de Nemours and Company ("Du Pont"), 1007 Market Street, Wilmington, Delaware 19898, a Delaware corporation, and Remington Arms Company, Inc. ("Remington"), 939 Barnum Avenue, Bridgeport, Connecticut 06602, herein referred to together with Du Pont as ("Applicants"), a Delaware corporation, have filed an application on April 1, 1977, and an amendment thereto on July 28, 1977, pursuant to Sections 6(c) and 17 (b) of the Investment Company Act of 1940 (the "Act") for an order exempting from the provisions of Section 17(a) of the Act proposed modifications of their policies respecting lending money to, and purchasing residential property from, their employees. Du Pont and Remington are described, in the application, as companies presumed to be controlled by Christiana Securities Company ("Christiana"), registered under the Act as a closed-end, non-diversified, management investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

BACKGROUND

The application states that Applicants have each had a policy of assisting their employees in meeting costs incurred when they are transferred to new locations, and that this assistance may take the form of loans, advances, or purchases of residential property.

According to the application, Applicants, in furtherance of those policies, have in the past sought and received certain exemptive orders of the Commission with respect to loans and advances proposed to be made by them to their employees. In particular, pursuant to orders dated June 24, 1953, February 9, 1959, and April 10, 1970,[1] such loans and advances are subject to the following limitations: (1) No loan shall be made to any director or officer of Du Pont or Remington, respectively, or of any affiliated company; (2) the amount on loan or advance to an individual at any time shall not exceed the lesser of $25,000 or three years' gross salary of the borrowing employee; and (3) such loans and advances in the aggregate outstanding at any one time shall not exceed $250,000 (in the case of Remington), or $3,000,000 (in the case of Du Pont).

An order of the Commission dated May 1, 1959,[2] exempts from the provisions of Section 17(a) of the Act occasional purchases of residential property by Du Pont from its transferred employees, such transactions having been proposed to be negotiated on the basis of then current real estate values. Applicants state that in 1974, Du Pont requested and received a "no-action" position from the Commission staff with respect to a proposal by Du Pont to modify, without amendment to the aforementioned 1959 order, its policy with respect to such transactions to the effect that, inter alia, purchases would be made (1) on a basis which might be deemed to be more frequent than "occasional", and (2) subject to the conditions described in the following paragraph.

When an employee's transfer is announced, Du Pont, while encouraging sales on the open market, will obtain two appraisals of the employee's property from professional appraisers and make a standing offer to purchase the property, subject to specified time limits, at the greater of (1) the average of those two appraisals or (2) the invested value, which is generally defined as documented purchase price plus cost of allowable improvements.

If appraised value exceeds invested value the offer is limited to a maximum of four times the employee's gross annual salary; if invested value exceeds appraised value, the offer is limited to the lesser of four times annual salary or $85,000.

Applicants state further that, on the basis of the aforementioned "no-action" position and advice of its counsel, Remington implemented the identical modification to its employee relocation policy. Remington states that it seeks the assurance of the exemptive order requested herein as a basis for proceeding with such purchases in the future, on the same terms and conditions requested by Du Pont.

According to the application, most purchases of residential property by the Applicants are made at appraised value. The application states that the "invested value" provision is included in the policy to minimize the number of cases where an employee transferring at Applicants' request would suffer a loss on his investment, and that the limitations in the policies are intended to place a reasonable ceiling on the Applicants' commitments with respect to properties with high appraised values, and to protect Applicants from commitments to purchase properties with excessive investment values.

APPLICANTS' PROPOSAL

Applicants assert that various dollar limits described above have become unduly restrictive. They state that the existing $25,000-per-employee loan limit was adopted in 1968, whereas, since January, 1968, the Homeowner's Component of the Consumer Price Index, published by the U.S. Bureau of Labor Statistics, has approximately doubled—from 102.2 in January 1968, to 194.8 in November 1976. Applicants therefore propose, in light of this increase, to revise their per-employee loan limit to $40,000, subject to receipt of an appropriate order from the Commission.

Applicants expect that those proposed higher individual limits for loans will affect the appropriateness of the aggregate limits as loans are made in larger amounts. They therefore believe that it would be appropriate to increase their applicable aggregate loan limitations by at least 100 percent. Applicants accordingly propose to increase Remington's aggregate loan limit from $250,000 to $500,000, which they deem to be adequate in light of the relatively few transfers involved. With respect to Du Pont, however, Applicants assert that there are considerably more employee transfers involved, and that more transferees than originally anticipated are closing on their new homes before closing on their old homes, resulting in higher utilization of short-term equity loans. The application submits that for this reason, in addition to inflationary considerations, it would be appropriate to increase DuPont's aggregate limit by a total of 150%, so that the new limit would be $7,500,000.

Finally, Applicants state that the aforementioned $85,000 limit with respect to the purchase of an employee's residential property was set in 1974; since January 1974, the Homeowner's Component of the Consumer Price Index has increased by approximately 26%—from 154.8 in January, 1974, to 194.8 in November, 1976. Applicants state that, in light of this increase, they have adopted a $100,000 limit for this purpose, subject to receipt of an appropriate order of the Commission.

STATUTORY STANDARDS

The application states that Christiana owns approximately 27.8% of the outstanding common stock of Du Pont which, in turn, owns approximately 69.5 percent of the outstanding common stock of Remington. Applicants conclude that (1) Applicants are presumed to be controlled by Christiana, and (2) Applicants' employees are affiliated persons of an affiliated person of Christiana, for purposes of the Act.

Section 17(a) of the Act provides, in part, that it shall be unlawful for any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, (1) knowingly to sell any security or other property to such registered company or to any company controlled by such registered company, or (2) to borrow money or other property from such registered company or from any company controlled by such registered company. Applicants state that the proposed transactions, if made beyond the limits currently permitted, may be prohibited by Section 17(a) of the Act. Applicants therefore request an order, pursuant to Sections 17(b) and 6(c) of the Act, exempting the proposed transactions from the provisions of Sections 17(a).

Section 17(b) of the Act provides that the Commission, upon application, shall exempt a proposed transaction from the provisions of Section 17(a) of the Act if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants assert that the terms of the proposed transactions are reasonable and fair and do not involve overreaching on the part of any person concerned. They state that the proposed modification of the current dollar limitations to conform to those described above would have a favorable effect on their relations with employees, and that the modified limitations would operate to ease further the hardship imposed on employees who are required to move at their employer's request.

The application submits that the proposed aggregate limitations on loans and advances are insignificant compared to the size of Applicants' businesses. The application submits that (1) with respect to Du Pont, the proposed limit of $7,500,000 is about 0.6 percent of its consolidated accounts receivable, which were approximately $1,178,800,000 at December 31, 1976, and (2) with respect to Remington, the proposed aggregate limit of $500,000 is approximately 0.7 percent of its average consolidated accounts receivable during 1976 of about $75,000,000. Applicants assert that, for purposes of the foregoing comparison, the use of Remington's average (rather than year-end) consolidated accounts receivable is appropriate, in view of the highly seasonal nature of Remington's business.

Finally, Applicants submit that the proposed transaction is consistent with the policies of Christiana and with the general purposes of the Act.

Notice is further given that any interested person may, not later than September 12, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be quest. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc 77-24766 Filed 8-25-77;8:45 am]

[Release No. 9899; 811-2154]

F. G. MUTUAL FUND, INC.

Filing of Application for an Order Declaring That Company Has Ceased To Be an Investment Company

AUGUST 18, 1977.

Notice is hereby given that F. G. Mutual Fund, Inc. ("Applicant"), 4680 Wilshire Boulevard, Los Angeles, California 90010, a California corporation registered as an open-end, non-diversified, management investment company under the Investment Company Act of 1940 ("Act"), filed an application on July 21, 1977, pursuant to Section 8(f) of the Act, for an order declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant represents that at a special meeting of Applicant's shareholders held on December 30, 1976, the sale of substantially all of Applicant's assets to New World Fund, Inc. ("New World") was authorized by a vote of Applicant's shareholders. New World, an open-end, diversified, management investment company registered under the Act, acquired substantially all of the assets of Applicant on December 31, 1976, in exchange for common stock of New World.

Applicant further represents that the shares of New World received by Applicant in connection with the sale of its assets have been distributed pro rata to Applicant's shareholders, and that consequently, Applicant has no assets or shareholders. Applicant states that on or about June 30, 1977 a Certificate of Dissolution of Applicant was filed with the state of California and that the dissolution of Applicant was effective as of that filing.

Applicant finally states that all liabilities and expenses of Applicant incurred in connection with the sale of its assets and subsequent dissolution have been paid or assumed by Farmers New World Management Company, its former investment adviser, and that Applicant's investment advisory contract with Farmers New World Management Company has been cancelled.

Section 8(f) of the Act provides, in part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 12, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the

[1] See Investment Company Act Release Nos. 1880, 2826 and 6029, respectively.

[2] See Investment Company Act Release No. 2873.

V 42 166 AUG 26 77 7 UMI

rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-24767 Filed 8-25-77;8:45 am]

[Rel. No. 9901 (812-4143)]

INVESTORS SYNDICATE OF AMERICA, INC.

Filing of Application for an Order Approving an Amendment to a Depository Agreement Covering Face-Amount Certificates Issued by Applicant

AUGUST 22, 1977.

Notice is hereby given that Investors Syndicate of America, Inc., IDS Tower, Minneapolis, Minnesota 55402 ("Applicant"), a face-amount certificate company registered under the Investment Company Act of 1940 ("Act"), has filed an application on June 6, 1977, and an amendment thereto on August 11, 1977, pursuant to Section 28(c) of the Act, for an order of the Commission approving an amendment of the general depository agreement (the "Agreement") between Applicant and the Marquette National Bank of Minneapolis (the "Bank") so as to require annual rather than semi-annual certification of the financial statements of Applicant by an independent public accountant. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Section 28(c) provides, among other things, that the Commission shall by rule, regulation, or order in the public interest or for the protection of investors, require a registered face-amount certificate company to deposit and maintain, upon such terms and conditions as the Commission shall prescribe and as are appropriate for the protection of investors, with one or more institutions, having the qualifications required by Section 26(a)(1) of the Act for a trustee of a unit investment trust, all or any part of the investments maintained by such company as certificate reserve requirements under the provisions of Section 28(b) of the Act.

On November 16, 1974, the Commission issued an order (Investment Company Act Release No. 18) approving the Agreement requiring Applicant to deposit and maintain, in accordance with the terms and conditions set forth in the Agreement, with the Bank or with some other trustee or trustees having the qualifications required by paragraph 1 of Section 26(c) of the Act, qualified assets at least equal to the certificate reserve requirements of Section 28 of the Act for certain outstanding certificates. The Agreement further provides that the semi-annual and annual statements regarding the aggregate value of Applicant's assets, required to be filed with the Bank in January and July of each year, be audited and certified by independent accountants.

Subsequently, the Commission has issued orders, contained in Investment Company Act Release Nos. 792, 1895, 3105, 3552, 3751, 4390, 6810, 8551, 8821 and 9188, granting applications for amendments to the Agreement to include coverage of new series of securities proposed to be issued by Applicant.

The amendment to the Agreement, for which an order by the Commission is presently requested, seeks to eliminate the requirement that the semi-annual report, filed with the Bank in July of each year, be audited and certified by independent accountants, in favor of verification under oath of such report by a responsible officer of Applicant. Applicant represents that the annual statement required to be filed with the Bank in January of each year will continue to be certified by an independent accountant. Applicant further agrees to continue to file with the Commission on or before the twentieth days of January, April, July and October of each year, a statement showing the aggregate value of Applicant's assets on deposit with the Bank to meet face-amount certificate liability requirements and the amount of such certificate liability requirements. The value and amount are to be determined as of the last day of the preceding month. Market or fair values are to be shown as well as values determined in accordance with the provisions of the Code of the District of Columbia and the rules, regulations and orders prescribed by the Commission.

In support of the application, Applicant asserts that the Act only requires the annual reports to shareholders and annual reports to the Commission to be audited and certified by independent accountants. Applicant further asserts, with the concurrence of the Bank and its independent, certified accountant, that the annual examination of its assets by an independent certified accountant makes semi-annual audited reports unjustified in terms of time and money.

Notice is further given that any interested person may, not later than September 15, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-24768 Filed 8-25-77;8:45 am]

[Rel. No. 20145; 70-6041]

JERSEY CENTRAL POWER & LIGHT CO., ET AL.

Proposed Acquisition of Evidences of Indebtedness From Residential Electric Customers Pursuant to a Residential Insulation and Related Improvements Program

AUGUST 22, 1977.

In the matter of Jersey Central Power & Light Company, Madison Avenue at Punchbowl Road, Morristown, New Jersey 07960, Metropolitan Edison Company, 2800 Pottsville Pike, Reading, Pennsylvania 19603, Pennsylvania Electric Company, 1001 Broad Street, Johnstown, Pennsylvania 15907.

Notice is hereby given that Jersey Central Power & Light Company ("Jersey Central"), Metropolitan Edison Company ("Met-Ed"), and Pennsylvania Electric Company ("Penelec"), each an electric utility subsidiary of General Public Utilities Corporation, a registered holding company, have filed an application and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a)(1) and 10 of the Act and Rule 40 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Jersey Central, Met-Ed and Penelec request authorization for the acquisition, from time to time, of evidences of indebtedness from their respective residential electric customers arising from such customers' purchases of insulation, attic ventilation fans and automatic night/day thermostats. It is stated that the acquisition of such obligations is designed to facilitate the financing of such energy saving improvements and thereby promote energy conservation.

The program for which authorization is sought is that set out in an order of the Board of Public Utility Commissioners of the State of New Jersey on May 12, 1977, under which order all New Jersey utilities, including Jersey Central, must provide a mechanism for the financing of home insulation and related improvements by their heating customers. Under that program, which covers the financing of insulation, attic ventilation fans and automatic night/day thermostats, a customer would arrange to have the work performed by an eligible contractor, who would be paid by the utility (unless the customer obtained government or private financing). The customer would have 3 years to repay the loan, and interest would be charged at the rate of 1 percent per month on the unpaid balance (unless the customer repaid the loan within 90 days, in which case there would be no interest charge). The financing limit would be $500 for insulation plus the cost of a day/night thermostat and attic fan, if requested. It is contemplated that Met-Ed and Penelec will institute identical programs—a financing limit of $500 for insulation plus the cost of a day/night thermostat and attic fan, if requested, and with interest at the rate of 1 percent per month on the unpaid balance (unless the customer repaid the loan within 90 days)—for their electric heating customers. It is estimated that the programs for each utility will begin in September 1977.

It is stated that these financing programs may be modified, pursuant to utility or regulatory commission initiative, from time to time as experience dictates. No such modification will be implemented prior to the obtaining of Commission approval through a post-effective amendment to this application.

Jersey Central, Met-Ed and Penelec each request authorization to acquire in the aggregate up to $50,000 of their respective customers' obligations and to incur administrative and other related expenses of up to $12,500 respectively, for the one year period commencing on the date this application is granted. Authorization to exceed these limits or to extend the programs beyond the initial one year period will be sought by post-effective amendment. It is stated that the funds required by these programs are expected to arise from normal cash generation and, if necessary, from short-term borrowing.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $39,500 ($2,000 filing fee plus $37,500 of administrative and other related expenses), exclusive of legal fees, which will be supplied by further amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction, except to the extent that any particular program is mandated by order of a state or federal commission.

Notice is further given that any interested person may, not later than September 16, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the application, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended or as it may be further amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-24765 Filed 8-25-77;8:45 am]

[Release No. 1378; SR-MSE-77-22]

MIDWEST STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

AUGUST 19, 1977.

On July 11, 1977, the Midwest Stock Exchange, Incorporated, 120 South LaSalle Street, Chicago, Illinois 60603, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts" Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change to allow representatives of the MSE Floor Procedure Committee to authorize deviations from MSE option quotation parameters when it would be impossible or impracticable to convene a meeting of the full Floor Procedure Committee. This filing was amended August 15, 1977.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13735, (July 11, 1977)) and by publication in the FEDERAL REGISTER (42 FR 36575 (July 15, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the proposed rule change, as amended, filed with the Commission on July 11, 1977, be, and it hereby is, approved.

For the Commission by the Division of Market Regulations, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-24770 Filed 8-25-77;8:45 am]

[Release No. 20141; 70-6044]

MISSISSIPPI POWER CO.

Proposed Agreements With County for Construction of Pollution Control Facilities Financed by Sale of Revenue Bonds Secured by Collateral Trust Bonds; Exception From Competitive Bidding

AUGUST 18, 1977.

Notice is hereby given that Mississippi Power Company ("Mississippi"), 2992 West Beach, Gulfport, Mississippi 39501, a wholly-owned electric utility subsidiary of The Southern Company, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(a), 7, 9 and 12(d) of the Act and Rules 44(b)(3) and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Mississippi states that in order to comply with prescribed air and water quality standards of the State of Mississippi it will be necessary to construct certain pollution control facilities. The present filing relates to Mississippi's proposed disposition and acquisition of and financing of pollution control facilities for use in connection with its Plant Daniel ("Plant") in Jackson County, Mississippi ("County"). It is proposed that the County will issue its pollution control revenue bonds ("Revenue Bonds") for the purpose of paying the costs of the construction and equipping of the pollution control facilities at the Plant ("Project").

Mississippi proposes to enter into an Installment Sale Agreement ("Agreement") with the County which will provide for the construction and equipping of the Project by the County and for the issuance by the County of Revenue Bonds in an aggregate principal amount presently estimated not to exceed $19,000,000. It is also proposed that the County will issue a separate issue of its revenue bonds ("Small Issue Bonds") in an aggregate principal amount of $1,000,000 for the purpose of paying the costs of the acquisition and construction of certain other pollution control facilities at the Plant (the "Small Issue Project"). It is stated that the tax exempt status of the Small Issue Bonds

V 42 166 AUG 26 77 UMI

is based upon Section 103(b)(6) of the Internal Revenue Code of 1954 as amended. The proceeds derived from the sale of the Revenue Bonds will be deposited by the County with a Trustee under an indenture to be entered into between the County and the Trustee ("Indenture") pursuant to which the Revenue Bonds are to be issued and secured. Such proceeds will be applied to payment of the cost of construction of the Project. The Agreement will further provide for the sale of the Project to Mississippi, on a semi-annual installment payment basis over a term of years, and for the assignment to the Trustee of the County's interest in, and of the moneys receivable by the County under, the Agreement. The Agreement will provide that the purchase price of the Project payable by Mississippi will be such amount, including interest thereon, as shall be sufficient (together with other moneys held by the Trustee under the Indenture for that purpose) to pay the principal of, premium, if any, and interest on the Revenue Bonds as the same become due and payable. The Agreement wil also obligate Mississippi to pay the fees and charges of the Trustee. The Indenture will provide that the Revenue Bonds will be redeemable (a) at any time on or after 10 years from the date of issuance, in whole or in part, at the option of Mississippi initially with a premium of 3 percent of the principal amount and declining by ½ of 1 percent thereafter and (b) in whole, without premium, at the option of Mississippi under certain other specified conditions. The Revenue Bonds will mature 30 years from the first day of the month in which such bonds are initially issued and will be entitled to the benefit of mandatory redemption sinking funds calculated to retire not less than 25 percent of the aggregate principal amount of the issue prior to maturity.

Mississippi proposes to enter into a separate installment sale agreement (the "Small Issue Agreement") and indenture (the "Small Issue Indenture") with respect to the Small Issue Bonds which will be substantially similar to the Agreement and the Indenture relating to the Revenue Bonds. It is stated that in connection with the Small Issue Bonds, it may be necessary for Federal tax purposes to grant the County a lien on certain property of Mississippi. Said lien shall be created by a deed of trust and shall be subordinate to the lien of the indenture dated as of September 1, 1941, between Mississippi and Morgan Guaranty Trust Company of New York, as Trustee ("Indenture Trustee"), as supplemented and amended ("Mortgage").

Mississippi states that in order to obtain the benefit of a rating for the Revenue Bonds and the Small Issue Bonds equivalent to the rating enjoyed by the first mortgage bonds outstanding under its Mortgage which rating Mississippi has been advised may be thus attained, Mississippi proposes to obtain the authentication of two series of first mortgage bonds ("Collateral Bonds") under the Mortgage, as proposed to be supplemented by two further supplemental indentures ("Supplemental Indentures") to be dated as of the first day of the month in which the Collateral Bonds are to be authenticated and delivered. To secure its obligations under the Agreement and the Small Issue Agreement, Mississippi proposes to deliver to the Trustee, to be held as collateral, the Collateral Bonds in principal amount equal to the principal amount of the Revenue Bonds and Small Issue Bonds, respectively. The Collateral Bonds will bear interest at a rate equal to the interest rate per annum to be borne by the Revenue Bonds and Small Issue Bonds, will mature on the maturity date of such Bonds, and will be nontransferable by the Trustee. The Supplemental Indentures will provide, however, that the obligation of Mississippi to make payment with respect to the Collateral Bonds will be satisfied to the extent that payments are made under the Agreement and the Small Issue Agreement sufficient to meet payments when due in respect of the Revenue Bonds and Small Issue Bonds, respectively. The Supplemental Indentures will provide that, upon acceleration by the Trustee of the principal amount of all outstanding Revenue Bonds or Small Issue Bonds, the Trustee may demand the mandatory redemption of the related Collateral Bonds then held by it as collateral at a redemption price equal to the principal amount thereof plus accrued interest, if any, to the date fixed for redemption. The Supplemental Indentures will also provide that, upon the optional redemption of the Revenue Bonds or Small Issue Bonds, in whole or in part, at any time after they have been outstanding for 10 years, an equal principal amount of the related Collateral Bonds will be redeemed at an initial premium of 3 percent declining by ½ percent every year. Because interest accrues in respect of both series of the Collateral Bonds until satisfied by payments under the Agreement or Small Issue Agreement, "annual interest charges" in respect of the Collateral Bonds will be included in computing the "interest earnings requirement" restricting the amount of first mortgage bonds which may be issued and sold to the public in relation to Mississippi's net earnings. The Collateral Bonds will be issued on the basis of unfunded net property additions.

The Indenture and the Small Issue Indenture will each provide that, upon deposit with the Trustee of funds sufficient to pay or redeem all or any part of the Revenue Bonds or Small Issue Bonds, or upon direction to the Trustee by Mississippi to so apply funds available therefor, or upon delivery of outstanding Revenue Bonds or Small Issue Bonds to the Trustee by or for the account of Mississippi, the Trustee will be obligated to deliver to Mississippi or for the account of Mississippi the related Collateral Bonds then held as collateral in an aggregate principal amount equal to the aggregate principal amount of Revenue Bonds or Small Issue Bonds for the payment or redemption of which such funds have been deposited or applied or which shall have been so delivered.

In order to comply with the appropriate statute of the State of Mississippi, it will be necessary for Mississippi to convey to the County such portions of the Project and Small Issue Project as are now owned by Mississippi ("Existing Facilities") subject to the Mortgage. Under the Agreement and the Small Issue Agreement, Mississippi will receive, out of the proceeds of the Revenue Bonds and Small Issue Bonds, an amount equal to Mississippi's original cost for the Existing Facilities. The Existing Facilities will thereupon become a part of the Project and Small Issue Project which is to be provided by the County and which Mississippi proposes to purchase as provided in the Agreement and Small Issue Agreement.

It is contemplated that the Revenue Bonds and Small Issue Bonds will be sold contemporaneously by the County pursuant to arrangements with one or more underwriters. In accordance with the laws of the State of Mississippi, the interest rate to be borne by the Revenue Bonds and the Small Issue Bonds will be fixed by the County. Mississippi will not be a party to the underwriting arrangements for the Revenue Bonds or the Small Issue Bonds. Bond counsel will issue an opinion that interest on the Revenue Bonds and Small Issue Bonds will be exempt from Federal income taxation. Mississippi has been advised that the annual interest rate on obligations, the interest on which is tax exempt, historically have been and can be expected at the time of issue of the Revenue Bonds and Small Issue Bonds to be 1½ percent to 2½ percent lower than the rates of obligations of like tenor and comparable quality, interest on which is fully subject to Federal income tax.

The application-declaration states that the fees incident to the proposed disposition of the Existing Facilities, the issuance of the Collateral Bonds and the acquisition of the Project and Small Issue Project (as distinguished from and excluding fees, commissions and expenses incident to the sale of the Revenue Bonds and Small Issue Bonds by the County payable out of the proceeds of such sales and in connection with the determination of the tax status of the Revenue Bonds and Small Issue Bonds) will be filed by amendment. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the issuance of the Collateral Bonds. It is further stated that the execution, delivery and performance by Mississippi of the Agreement and Small Issue Agreement, the disposition of the Existing Facilities and acquisition of the Project and Small Issue Project by Mississippi is subject to the jurisdiction of the Mississippi Public Service Commission and that no other state or federal commission, other than this Commission, has jurisdiction in respect thereof. Mississippi states further that the competitive bidding requirements of Rule 50 in respect of the issuance of the Collateral Bonds are inappropriate under the circumstances described herein, inasmuch as the Collateral Bonds are to be issued and pledged solely to secure Mississippi's obligations to the County and no public offering of the Collateral Bonds is to be made.

Notice is further given that any interested person may, not later than September 14, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc.77-24771 Filed 8-25-77;8:45 am]

[Release No. 20144; 70-5844]

MONONGAHELA POWER CO., ET AL

Proposed Increase in Amount of Short-Term Notes To Be Issued and Sold to Banks and to Dealers in Commercial Paper: Supplemental Order Authorizing Limited Increase in Sale of Short-Term Notes

AUGUST 19, 1977.

In the matter of Monongahela Power Company, 1310 Fairmont Avenue, Fairmont, West Virginia 26554, the Potomac Edison Company, Downsville Pike, Hagerstown, Maryland 21740, West Penn Power Company, 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601.

Notice is hereby given that Monongahela Power Company ("Monongahela"), the Potomac Edison Company and West Penn Power Company, all of which are electric utility subsidiary companies of Allegheny Power System, Inc., a registered holding company, have filed a post-effective amendment to an application previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended application, which is summarized below, for a complete statement of the proposed transaction.

On May 4, 1976 a release (HCAR No. 19510) was issued in this matter giving notice that Monongahela proposed to issue and sell through December 31, 1977, short-term notes to banks and to dealers in commercial paper in a maximum aggregate principal amount of $44,000,000 at any one time outstanding. On June 4, 1976 an order (HCAR No. 19557) was issued authorizing Monongahela to issue the proposed short-term notes but limiting the maximum principal amount of such notes at any one time outstanding to $40,000,000, jurisdiction being reserved to grant Monongahela further relief when applied for, in whole or in part. Jurisdiction was also reserved to grant West Penn Power Company further relief when applied for. As of July 31, 1977, Monongahela had no short term debt outstanding, but the Public Service Commission of West Virginia has ordered Monongahela to refund to its customers approximately $53,000,000 plus interest which was collected between June 1975 and April 1977. As a result, Monongahela estimates that it will be required to issue short term debt of approximately $46,000,000.

Therefore, Monongahela proposes to issue and sell through December 31, 1977, short term notes to banks and to dealers in commercial paper in a maximum aggregate principal amount of $46,000,000 at any one time outstanding. The notes and commercial paper will be issued and renewed from time to time as funds may be required prior to December 31, 1977: *Provided*, That no such notes or commercial paper will mature after April 1, 1978.

Seven designated commercial banks have made available to Monongahela varying lines of credit aggregating $125,000,000, provided that borrowings will at no time exceed the total amount authorized by this Commission. It is stated that the unsecured promissory notes, to be issued to the banks as evidence of such borrowings, will mature not more than 270 days after issuance or renewal, will be prepayable at any time without premium or penalty, and will bear interest at a rate not exceeding the prime rate of each lending bank in effect at the date of the borrowing. It is anticipated that the banks will require compensating balances at levels generally approximating 10 percent of the line of credit plus 10 percent of the amount of notes outstanding; thus, if balances were maintained solely to fulfill compensating balance requirements for borrowings, the effective interest cost to each applicant, assuming a prime rate of 7 percent, would be approximately 8.75 percent.

Monongahela proposes to issue and sell commercial paper, in the form of promissory notes in denominations of not less than $50,000, nor more than $5.000,000, to commercial paper dealers at a discount not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and of like maturity sold to commercial paper dealers. It is stated that the commercial paper notes will be of varying maturities, with no maturity more than 270 days after the date of issue, and that they will not be prepayable. Monongahela further states that it may issue the commercial paper notes if the interest cost thereof is equal to or less than the effective interest cost at which funds could be borrowed from the seven commercial banks with which it has lines of credit or if it cannot at that time borrow the same amount for the same period of time from such banks. It is expected that the commercial paper dealers will reoffer the commercial paper notes to not more than 200 of their customers, identified and designated in a non-public list prepared in advance by the dealers, at a discount rate of ⅛ of 1 percent per annum less than the discount rate to Monongahela. It is expected that the dealers' customers will hold the commercial paper notes to maturity; but, if any such customers wish to resell prior to maturity, their dealers will repurchase the notes pursuant to a verbal repurchase agreement and will reoffer them to other customers on their non-public lists.

Monongahela requests that the proposed issue and sale of commercial paper notes be excepted from the competitive bidding requirements of Rule 50 pursuant to a finding by this Commission under Rule 50(a)(5).

It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than September 12, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended or as it may be further amended, may be granted effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the

V 42 166 AUG 26 77 UMI

hearing (if ordered) and any postponements thereof.

Due notice of the filing of a portion of said amended application has been given in the manner prescribed in Rule 23 promulgated under the Act (HCAR No. 19510), and no hearing has been requested of or ordered by the Commission. Upon the basis of the facts in the record, it is hereby found that the applicable standards of the Act and the rules thereunder are satisfied with respect to that portion of the amended application and that no adverse findings are necessary; and that it is appropriate in the public interest and in the interest of investors and consumers that said application, as amended, be granted in part:

It is ordered, Pursuant to the applicable provisions of the Act and the rules thereunder, that the jurisdiction reserved in the order of June 4, 1976, with respect to Monongahela be, and it hereby is, released and that Monongahela be, and it hereby is, authorized effective forthwith to issue and sell short term notes to designated banks and commercial paper to commercial paper dealers, through December 31, 1977, in an aggregate principal amount not to exceed $44,000,000 outstanding at any one time, subject to the terms and conditions prescribed in Rule 24 promulgated under the Act.

It is further ordered, That the jurisdiction reserved in the Order of June 4, 1976 with respect to West Penn Power Company be, and it hereby is, retained.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-24772 Filed 8-25-77;8:45 am]

[Release No. 34-13871; File No. SR-MSRB-77-9]

MUNICIPAL SECURITIES RULEMAKING BOARD

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 17, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change (designated proposed rule G-11) filed by the Municipal Securities Rulemaking Board (the "Board") establishes certain terms and conditions for sales of new issue municipal securities during the underwriting period. The text of the proposed rule change appears below.

The principal terms and conditions of proposed rule G-11 are as follows:

1. A municipal securities dealer that submits an order to a syndicate or a member of a syndicate for securities held by the syndicate must disclose at the time of submission of the order if the securities are being purchased for its dealer account, for the account of a municipal securities investment portfolio[1] affiliated with such municipal securities dealer (a "related portfolio"), for a municipal securities investment trust sponsored by such municipal securities dealer (an "affiliated investment trust"), or for an accumulation or similar account established in connection with such a trust (an "accumulation account"). This disclosure is designed to permit the syndicate manager to evaluate on an informed basis for allocation purposes all orders submitted to the syndicate, particularly in terms of the buying interest represented by related portfolios, affiliated investment trusts, and other investors in contrast to buying interest represented by dealer trading accounts.

2. The senior syndicate manager must promptly disclose to other syndicate members, upon request made prior to final settlement of the syndicate account, each order for securities held by the syndicate submitted by, or on behalf of, a related portfolio, an affiliated investment trust, or an accumulation account. The required disclosure must include the identity of the related portfolio, affiliated investment trust or accumulation account, and the maturity dates and aggregate face amount of the securities in each maturity which are the subject of the order. This provision is designed to afford all syndicate members the same information as is available to the syndicate manager concerning orders submitted on behalf of affiliated accounts.

3. Confirmations of sales must be made directly to the related portfolio, affiliated investment trust, or accumulation account acquiring securities held by the syndicate. A conforming amendment will be made in proposed rule G-15 on customer confirmations, if proposed rule G-11 is approved by the Commission. This requirement will enable the syndicate to maintain appropriate records of sales to related portfolios, affiliated investment trusts, and accumulation accounts. It would not preclude the designation of sales credit for such orders.

4. Every syndicate must provide for the priority to be accorded to different types of orders for the purchase of securities from the syndicate and, if such priority may be changed, the procedure for making changes. Under proposed rule G-11, this requirement cannot be satisfied solely by a provision permitting a syndicate manager to determine in its discretion the order of priority. However, a syndicate could include a provision permitting the syndicate manager on a case-by-case basis to allocate securities in a manner other than in accordance with the agreed upon order of priority, if the syndicate manager determines in its discretion that it is in the best interests of the syndicate. Provisions regarding the priority of orders and whether the exercise of manager's discretion will be permitted must be determined by the syndicate in accordance with the syndicate's procedures for making such determinations, whether by majority vote or otherwise. These provisions are designed to require the establishment of procedures for the allocation of new issue securities, to be followed by syndicates on a consistent basis.

5. Prior to the first offer of any securities by a syndicate, the senior syndicate manager must communicate to the other members of the syndicate (a) the priority to be accorded to different types of orders, (b) the procedure, if any, by which such priority may be changed, (c) if the senior syndicate manager or managers are to be permitted on a case-by-case basis to allocate securities in a manner other than in accordance with the agreed upon order of priority, the fact that they are to be permitted to do so, and (d) if there is to be an order period, whether orders may be confirmed prior to the end of the order period. An order period is defined in the proposed rule as a period announced by the syndicate during which orders will be solicited for the purchase of securities held in syndicate. Any change in the order of priority must be communicated promptly by the senior syndicate manager to the other members of the syndicate. Syndicate members must promptly communicate the foregoing information to others, including non-member municipal securities dealers and investors, upon request. These requirements are designed to afford all syndicate members and other interested persons timely information concerning the syndicate's allocation procedures and thus to enable prospective purchasers to frame their orders in an informed manner if they wish to obtain a favorable priority. In addition, the syndicate manager's allocation policies will be subject to evaluation in light of the announced order of priority.

6. At or before the final settlement of the syndicate account, the senior syndicate manager must furnish to the other members of the syndicate an itemized statement setting forth the nature and amounts of all expenses incurred on behalf of the syndicate. Although items of expense would be required to be shown in detail, the expense statement could contain an item such as "miscellaneous;"; *Provided,* The amount shown under it is not disproportionately large in relation to the other items of expense shown on the statement and includes only minor items of expense which cannot be easily categorized elsewhere in the statement. This provision is designed to afford syndicate members detailed information concerning the operation of the syndicate account.

[1] The term "municipal securities investment portfolio" is defined in section 3(a)(33) of the Securities Exchange Act of 1934, as amended, to mean • • • all municipal securities held for investment and not for sale as part of a regular business by a municipal securities dealer or by a person, directly or indirectly, controlling, controlled by, or under common control with a municipal securities dealer.

7. Prior to the submission of a bid, in the case of a competitive sale, or prior to the execution of a purchase contract with the issure, in the case of a negotiated sale, a syndicate manager must disclose to syndicate members discretionary fees to be charged by the syndicate manager for clearance costs, and management fees, if any. The Board believes such information is useful to syndicate members in determining whether to participate in a syndicate account.

8. The term "syndicate" as used in proposed rule G-11 is defined to exclude a sole underwriter.

9. The term "related portfolio" as used in proposed rule G-11 is defined to track the statutory definition of "municipal securities investment portfolio" in section 3(a)(33) of the Securities Exchange Act of 1934, as amended (the "Act"). In the Board's view, this includes discretionary accounts, trust accounts, bank investment portfolios and securities firm investment accounts. Managed investment companies, to the extent they are related portfolios, would also be subject to proposed rule G-11.

10. There is no exemption in proposed rule G-11 for short-term issues.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the proposed rule change are as follows:

PURPOSE OF PROPOSED RULE CHANGE

The proposed rule change is intended to address the Congressional directive in section 15B(b)(2)(K) of the Act that the Board adopt a rule or rules either prohibiting municipal securities dealers from selling new issue municipal securities to their related portfolios, or establishing the terms and conditions pursuant to which such sales may be made. Although Congress focused specifically on bank-related portfolios, the Board sees no reason to distinguish for purposes of its proposed rule between such portfolios, on the one hand, and affiliated investment trusts or related portfolios of securities firms, on the other.

Proposed rule G-11 is designed to meet the Board's statutory mandate by increasing the scope of information availalbe to syndicate managers and members, other municipal securities professionals and the investing public, in connection with the distribution and purchase of new issue municipal securities. The Board believes that such information will, among other matters, (a) enable syndicates to make more informed decisions in allocating securities among prospective purchasers because purchases for related portfolios and affiliated investment trusts will be identified as such; (b) enable prospective purchasers to frame their orders to the syndicate in a manner that will enhance their ability to obtain securities since the syndicate's allocation procedures will be known; and (c) render syndicate managers accountable for the allocation of securities in accordance with their announced allocation procedures.

In addition, disclosure of syndicate expenses, as required by paragraph (f) of the proposed rule, will enable syndicate members to analyze the operation of the syndicate account and, with respect to a syndicate manager's clearance and management fees, to make an initial determination whether to participate in the syndicate.

In its Report on the Securities Acts Amendments of 1975, the Senate Committee on Banking, Housing and Urban Affairs (the "Senate Committee") stated that

> [t]he economic power accruing to banks by virtue of their sole as major consumers as well as underwriters of new issue municipals • • • permit[s] banks to be underwriter distributors of new issues of municipal bonds and at the same time and in the same new issue give their own investment portfolio the prerogatives and priorities of public institutional orders. (S. Rep. 94-75, 94th Cong., 1st Sess. at 49)

In its Report, the Senate Committee cited the interpretation of the National Association of Securities Dealers, Inc. (the "NASD") concerning "free-riding and withholding," applicable to the corporate markets, as a possible approach to regulation of the municipal markets. Under the NASD's interpretation, NASD members and persons associated with them are prohibited from acquiring "hot issue" securities during the underwriting period. As the Senate Committee noted, if this policy were applied to the municipal markets, investment portfolions associated with municipal securities dealers would be prohibited from buying municipal securities during the underwriting period. However, the Senate Committee noted the importance of related portfolios as purchasers of new issue municipal securities and stated that prohibiting such purchases "could adversely affect the ability of municipalities to obtain the lowest possible rate of interest on their bonds." (Id.)

The Senate Committee's concern on this point is underscored by the following statement from its Report:

> The Committee expects that the Board will permit municipal securities investment portfolios to continue to purchase new issues of municipal securities like any other public investor. However, the Committee also expects the Board to assure that municipal securities investment portfolios, in their purchase of new issues of municipal securities during the underwriting period, do not have an advantage in comparison with other public investors solely by reason of their affiliation with municipal securities dealers. (Id.)

In formulating proposed rule G-11, the Board issued a series of proposals in the form of exposure drafts, which took various approaches to the regulation of new issue underwriting activity. In the course of the public discussion and comment generated by these proposals and extended deliberations on the Board's part, it has not been demonstrated that related portfolios obtain advantages in acquiring new issue municipal securities solely by reason of their affiliation with municipal securities dealers. Therefore, the Board believes that a case has not been made at the present time for prohibiting purchases of new issue municipal securities by related portfolios, whether such purchases are made from a syndicate or from a related municipal securities dealer, or for mandating a lower priority for related portfolios in the allocation of new issue municipal securities than for other investors. The Board is of the view, however, that buying interest on the part of related portfolios and affiliated investment trusts should be properly identified to the syndicate, rather than being represented as dealer interest, and that a syndicate should establish and disclose rules of priority for the allocation of securities.

The Board also believes that the adoption at this time of a more restrictive regulatory approach than that contained in proposed rule G-11 could have a profoundly adverse impact on municipal issuers. In the Board's view, present syndicate allocation procedures, under which related portfolios often obtain new issue municipal securities in large quantities, result in a lower interest cost to the issuer than might otherwise obtain if securities were not allocated to such investors or were allocated to such investors on the basis of a lower priority, solely by reason of their affiliation with a municipal securities dealer, than that accorded other investors.

The Board intends to consider the appropriateness of adopting additional or modified rules relating to sales of new issue municipal securities in the light of experience gained under the proposed rule, if it is approved by the Commission, and other pertinent factors, if any, that may be brought to bear on the subject in the future.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The Board adopted proposed rule G-11 pursuant to sections 15B(b)(2)(C) and 15B(b)(2)(K) of the Act. Section 15B(b)(2)(C) provides that the Board's rules must:

> Be designed • • • to promote just and equitable principles of trade • • • to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest; and [must] not be designed to permit unfair discrimination between customers • • •.

Section 15B(b)(2)(K) authorizes and directs the Board to adopt rules to:

> • • • establish the terms and conditions under which any municipal securities dealer may sell, or prohibit any municipal securities dealer from selling, any part of a new issue of municipal securities to a municipal securities investment portfolio during the underwriting period.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHER ON PROPOSED RULE CHANGE

The Board circulated for comment three separate exposure drafts on the general subject of sales of new issue municipal securities during the underwriting period. These exposure drafts were issued on April 20, 1976, September 8 and November 17, 1976 (the second exposure draft was issued in two parts),

V 42166 AUG 26 77 UMI

and March 16, 1977. Each succeeding exposure draft was materially different in certain respects from the prior draft. Accordingly, the analysis of the letters of comment under this item 5 focuses on the letters of comment received by the Board on its March 16, 1977 exposure draft (the "March 16 exposure draft"). Many of the comments made with respect to the prior exposure drafts were also made on the March 16 exposure draft.

The Board received letters of comment on the March 16 exposure draft from the following persons:

Bache Halsey Stuart Inc. ("Bache").
Bosworth Sullivan & Company, Inc. ("Bosworth Sullivan").
Dealer Bank Association (the "DBA").
INA Capital Advisors, Inc. ("INA").
Merrill Lynch, Pierce, Fenner & Smith Inc. ("Merrill Lynch").
National Association of Securities Dealers, Inc. (the "NASD").
John Nuveen & Co. Incorporated ("Nuveen").
Public Securities Association (the "PSA").
Rainier National Bank ("Rainier").
Salomon Brothers.
Director of the Division of Market Regulation of the Securities and Exchange Commission (the "Commission staff").
Securities Industry Association, Public Finance Committee (the "SIA").
Shearson Hayden Stone Inc. ("Shearson").
Standard & Poor's Corporation.
State Farm Mutual Automobile Insurance Company ("State Farm").
Stifel, Nicolaus & Company Incorporated.
Wauterlek & Brown, Inc. ("Wauterlek").
Weeden & Co. Incorporated ("Weeden").
Willkie Farr & Gallagher ("Willkie Farr").

Copies of the above letters of comment are on file at the office of the Securities and Exchange Commission (the "Commission") and the Board.

Several commentators, including the Commission staff, expressed concern that draft rule G–11A included in the March 16 exposure draft was too restrictive, particularly the provisions which would have prohibited sales of syndicate securities held in a dealer's trading account to a related portfolio or an affiliated investment trust. Other commentators took the opposite position, and suggested that the Board impose additional restrictions on sales of new issue municipal securities to such entities. For example, Bache and the NASD indicated their belief that there is a need for rules prescribing a bona fide offering period during which securities acquired during the pre-sale period must be sold at a stated price.

As indicated above, the Board does not believe that a showing has been made that related portfolios enjoy advantages in acquiring new issue municipal securities solely by reason of their affiliation with municipal securities dealers. Because of this, the Board believes that any more restrictive approach to regulation of the new issue municipal securities markets than that contained in proposed rule G–11 is unwarranted and could have an unnecessary and unjustifiable adverse impact on municipal issuers.

Many of the comments on the March 16 exposure draft are moot in view of the changes made in proposed rule G–11. The following discussion therefore focuses only on the proposed rule as filed with the Commission.

Certain commentators stated the "discretionary accounts" and "trust accounts" should not be excluded from the definition of "related portfolios." The Board believes it to be consistent with the purposes of the proposed rule to include these types of accounts.

In the March 16 exposure draft, the Board expressed the view that managed investment companies (as opposed to affiliated investement trusts) are not municipal securities investment portfolios within the meaning of the statutory definition. Under certain circumstances, however, managed investment companies may be related portfolios of municipal securities dealers, e.g. if the managed investment company is managed by an entity under common control with the municipal securities dealer. Proposed rule G–11 would apply in such cases, and the Board believes this application to be appropriate.

In its comment letter, the Commission staff suggested that managed investment companies should be excluded from the coverage of proposed rule G–11 "on the same basis as would be applied in excluding discretionary accounts." As noted above, the Board has determined not to exclude discretionary accounts or trust accounts from the rule. The Board is also of the view that managed investment companies, to the extent that they are related portfolios, should not be excluded from the rule. It should be noted that proposed rule G–11 would not restrict sales of new issue securities to discretionary or trust accounts, or to managed investment companies, but rather requires certain disclosures to be made concerning orders submitted for such investors.

One commentator recommended that draft rules G–11A and G–11B be modified to clarify the responsibilities of a sole underwriter. The Board has decided to exclude a sole underwriter from the coverage of proposed rule G–11, and has therefore defined the term "syndicate" to mean an account formed by "*two* or more persons" (emphasis added). The Board believes that without such exclusion, the requirements of proposed rule G–11 would be inappropriate for a sole underwriter that makes a distribution of the issue.

Several commentators objected to the proposal in draft rule G–11B included in the March 16 exposure draft permitting a syndicate manager to allocate securities on a case-by-case basis in a manner other than in accordance with the agreed upon order of priority, if the syndicate manager determines that it is in the best interests of the syndicate. One commentator recommended that the provision be changed to permit the syndicate manager to exercise such discretion only "in exceptional situations where it would otherwise be impracticable to consult with members of the account." Certain commentators also recommended that the Board require a majority vote of the syndicate members, based on participation, in order for a syndicate's established allocation procedures to be changed.

The Board included the provision in proposed rule G–11 regarding the exercise of manager's discretion in recognition of the fact that in certain syndicates, whether because of the number of participants in the syndicate or otherwise, it may be in the best interests of the syndicate to permit the syndicate manager to exercise such discretion. The ultimate decision on whether such discretion may be exercised by the syndicate manager would rest with the members of the syndicate. The members could restrict such discretion and require that a change in the order of priority be approved by a stated percentage of the syndicate. The Board believes that these decisions should properly be left to the members of each syndicate, and that it is not an appropriate subject for regulation.

One commentator recommended that the Board consider requiring syndicate managers to account to syndicate members regarding expenses. The Board believes this to be an appropriate suggestion and has included a provision in proposed rule G–11 requiring a syndicate manager to furnish to the other syndicate members an itemized statement of expenses. The Board has also included in the proposed rule a requirement that syndicate managers disclose to syndicate members management fees and discretionary fees for clearance costs, if any. Such disclosure would be made prior to the submission of a bid, in the case of a competitive sale, or prior to the execution of a purchase contract, in the case of a negotiated sale.

Another commentator recommended that "any adjustments of price, concession or take-down" be required to be disclosed. In many syndicates any such adjustments must be approved by a majority vote of the syndicate members, based on participation, and such adjustments are disclosed to syndicate members on a regular basis. The Board does not believe, however, that the necessity for mandatory disclosure of this information has been shown.

It was also recommended that a provision be added to draft rule G–11B to require a syndicate manager to disclose to syndicate members, upon request, information showing the actual allocation of securities among syndicate members and customers and the orders which were designated. The Board is of the view that such disclosure is not necessary to ensure compliance with proposed rule G–11. Allocation of securities by the syndicate will be subject to examination by the appropriate regulatory authorities.

One commentator questioned the appropriateness of an exemption for short-term notes. The Board has decided not

to include such an exemption in proposed rule G–11 because in the Board's view the disclosure requirements of the proposed rule appropriately apply to underwritings of short-term notes.

The Board is of the opinion that the proposed rule change will not impose any burden on competition but, to the contrary, will promote competition by increasing the information available in the market place regarding the distribution of new issue municipal securities.

On or before September 30, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned selfregulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 30, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 18, 1977.

RULE G–11. SALES OF NEW ISSUE MUNICIPAL SECURITIES DURING THE UNDERWRITING PERIOD

(a) Definitions. For purposes of this rule, the following terms have the following meanings:

(i) The term "accumulation account" means an account established in connection with a municipal securities investment trust to hold securities pending their deposit in such trust.

(ii) The term "customer" means any person other than a broker, dealer, or municipal securities dealer acting in its capacity as such.

(iii) The term "municipal securities investment trust" means a unit investment trust, as defined in the Investment Company Act of 1940, the portfolio of which consists in whole or in part of municipal securities.

(iv) The term "related portfolio," when used with respect to a municipal securities dealer, means a municipal securities investment portfolio of such municipal securities dealer or of any person directly or indirectly controlling, controlled by or under common control with such municipal securities dealer.

(v) The term "syndicate" means an account formed by two or more persons for the purpose of purchasing, directly or indirectly, all or any part of a new issue of municipal securities from the issuer, and making a distribution thereof.

(vi) The term "underwriting period" means the period commencing with the first submission to a syndicate of an order for the purchase of new issue municipal securities or the purchase of such securities from the issuer, whichever first occurs, and ending at such time as the issuer delivers the securities to the syndicate.

(b) Disclosure of Capacity. Every municipal securities dealer that submits an order to a syndicate or to a member of a syndicate for the purchase of municipal securities held by the syndicate shall disclose at the time of submission of such order if the securities are being purchased for its dealer account, for the account of a related portfolio of such municipal securities dealer, for a municipal securities investment trust sponsored by such municipal securities dealer, or for an accumulation account established in connection with such a municipal securities investment trust. The senior syndicate manager shall promptly disclose to the other members of the syndicate, upon request made prior to final settlement of the syndicate account, each order submitted for such a related portfolio, municipal securities investment trust, or accumulation account, indicating the identity of the related portfolio, municipal securities investment trust, or accumulation account, the aggregate face amount of each maturity and the maturity dates of the securities which are the subject of the order.

(c) Confirmations of Sale. Sales of securities held by a syndicate to a related portfolio, municipal securities investment trust or accumulation account referred to in paragraph (b) above shall be confirmed by the syndicate manager directly to such related portfolio, municipal securities investment trust or accumulation account. Nothing herein contained shall be construed to require that sales of municipal securities to a related portfolio, municipal securities investment trust or accumulation account be made by the syndicate.

(d) Priority of Orders. Every syndicate shall provide for the priority to be accorded to different types of orders for the purchase of securities from the syndicate during the underwriting period and, if such priority may be changed, the procedure for making changes. For purposes of this rule, the requirement to provide for priority shall not be satisfied solely by a provision permitting the syndicate manager or managers to determine in the manager's or managers' discretion the priority to be accorded different types of orders. Notwithstanding the foregoing, a syndicate may include a provision permitting the syndicate manager or managers on a case-by-case basis to allocate securities in a manner other than in accordance with the agreed upon order of priority, if the syndicate manager or managers determine in its or their discretion that it is in the best interests of the syndicate.

(e) Communications Relating to Priority of Orders and Ordered Period. Prior to the first offer of any securities by a syndicate, the senior syndicate manager shall communicate to the other members of the syndicate (i) the priority to be accorded to different types of orders for securities to be distributed by the syndicate, (ii) the procedure, if any, by which such priority may be changed, (iii) if the senior syndicate manager or managers are to be permitted on a case-by-case basis to allocate securities in a manner other than in accordance with the agreed upon order of priority, the fact that they are to be permitted to do so, and (iv) if there is to be an order period, whether orders may be confirmed prior to the end of the order period. For purposes of this provision, the term "order period" shall mean a period of time announced by the syndicate during which orders will be solicited for the purchase of securities held in syndicate. Any change in the provisions governing the priority of orders shall be promptly communicated by the senior syndicate manager to the other members of the syndicate. Syndicate members shall promptly communicate the information described in this paragraph to others, upon request.

(f) Disclosure of Syndicate Expenses. At or before the final settlement of a syndicate account, the senior syndicate manager shall furnish to the other members of the syndicate an itemized statement setting forth the nature and amounts of all actual expenses incurred on behalf of the syndicate. Notwithstanding the foregoing, any such statement may include an item for miscellaneous expenses: *Provided*, That the amount shown under such item is not disproportionately large in relation to other items of expense shown on the statement and includes only minor items of expense which cannot be easily categorized elsewhere in the statement. Discretionary fees for clearance costs and management fees to be imposed by a syndicate manager shall be disclosed to syndicate members prior to the submission of a bid, in the case of a competitive sale, or prior to the execution of a purchase contract with the issuer, in the case of a negotiated sale.

[FR Doc. 77-24780 Filed 8-25-77;8:45 am]

[Rel. No. 20143; 70-6045]

NEW ENGLAND POWER CO. ET AL.

Proposed Guaranty of Payment of Retrospective Insurance Premiums

AUGUST 19, 1977.

In the matter of New England Power Company, 20 Turnpike Road, Westborough, Mass. 01581, The Connecticut Light and Power Company, Selden Street, Berlin, Conn. 06037, The Hart-

V 42166 AUG 26 77 UMI

ford Electric Light Company, 175 Cumberland Avenue, Wethersfield, Conn. 06109, Western Massachusetts Electric Company, 174 Brush Hill Avenue, West Springfield, Mass. 01089.

Notice is hereby given that New England Power Company ("NEPCO"), an electric utility subsidiary of New England Electric System, a registered holding company, and The Connecticut Light and Power Company ("CL&P"), The Hartford Electric Light Company ("HELCO") and Western Massachusetts Electric Company ("WEMCO"), each of the last three named companies being an electric utility subsidiary of Northeast Utilities, a registered holding company, have filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 12(b) and 12(f) of the Act and Rule 45 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

The declarants, together with other New England electric utilities, are sponsors and stockholders of four nuclear power generating companies in New England: Yankee Atomic Electric Company ("Yankee Atomic"), Connecticut Yankee Atomic Power Company ("Connecticut Yankee"), Vermont Yankee Nuclear Power Corporation ("Vermont Yankee") and Maine Yankee Atomic Power Company ("Maine Yankee") (collectively the "Yankee Companies"). The declarants and other sponsors have entered into power contracts with each of the Yankee Companies which obligate each sponsor to purchase its entitlement percentage of the output and capacity of the nuclear plant of each Yankee Company at a purchase price equal to the Yankee Company's cost, including depreciation and a return on equity. The declarants' respective percentages of common stock owned of and entitlements in each Yankee Company are as follows:

	Entitlement percentage in—			
	Yankee Atomic	Connecticut Yankee	Vermont Yankee	Maine Yankee
NEPCO	20.0	15.0	20.0	20
CL&P	15.0	25.0	6.0	8
HELCO	9.5	9.4	3.4	4
WMECO	7.0	9.5	2.5	3

The "Indemnification and Limitation of Liability" provisions (the "Price-Anderson Act") of the Atomic Energy Act of 1954 were added by amendment in 1957. The purpose of the Price-Anderson Act was to require certain nuclear licensees, including reactor operators to provide financial protection against public liability in the event of any nuclear incident and, since privately available protection was limited to $60 million of nuclear liability insurance, to provide for additional indemnification by the then Atomic Energy Commission (now Nuclear Regulatory Commission ("NRC")) in an amount up to $500 million. The Price-Anderson Act also established a limitation on the aggregate liability to the public equal to the sum of these two amounts, or $560 million. The NRC charges each licensee an annual fee for providing this indemnification. In the intervening years the amount of insurance available from the private sector has gradually increased to $140 million, and the NRC indemnification has correspondingly decreased because the $560 million limit of liability has remained fixed.

In 1975 the Atomic Energy Act of 1954 was again amended to provide an additional layer of insurance protection from private sources (namely, an industry retrospective rating plan) which would be available to be applied toward satisfaction of public damage claims before resorting to the federally funded indemnification. This additional private sector protection is created by assessments of up to $5 million per operating plant per incident ($10 million maximum per year) and presently, with 61 operating nuclear plants, would amount to $305 million. This significantly reduces the amount of federal indemnity which might be needed, and the NRC indemnification fees are therefore being sharply reduced.

This statutory requirement was implemented by NRC regulations of January 3, 1977, which require each licensee on and after August 1, 1977, to maintain financial protection in an amount equal to the sum of $140,000,000 and the amount available as secondary financial protection (in the form of private liability insurance available under an industry retrospective rating plan providing for deferred premium charges). In July, 1977, the NRC and two groups of insurance underwriters reached agreement on a draft form of Master Policy and Binders, setting forth the provisions of such secondary insurance. The insurance program provides that if after a nuclear incident at any reactor the aggregate damage claims exceed the amount available under the $140 million of primary insurance coverage, then an assessment of up to $5,000,000 in retrospective premiums may be made against each nuclear power plant for each incident (up to a maximum of $10,000,000 per year) to create an additional fund for meeting such damage claims, which fund would have to be exhausted before the federal indemnity were used. The insurance underwriters will administer that additional fund, process all claims, and guarantee up to an aggregate of $30,000,000 in retrospective premiums for licensees defaulting in the payment of their retrospective premiums. The licensees will each pay an annual premium of $6,000 in connection with this guarantee.

Since the Yankee Companies are single-purpose corporations with no significant assets other than their nuclear generating facilities, the insurance companies required that the Binders for each Yankee Company evidence not only the obligation of that Yankee Company to pay its retrospective premium but also the several undertakings of its sponsor companies to pay up to their respective entitlement percentages of that retrospective premium should the Yankee Company default. It is proposed that declarants' guarantees of their respective shares of the Yankee Companies retrospective premiums be authorized.

It is stated that the time constraints of the stautorily imposed August 1, 1977, deadline made it impossible to obtain Commission authorization for these undertakings of those sponsor companies to which the Act applies prior to that date, and that therefore declarants obligations under the Binders have been expressly made subject to obtaining necessary Commission approval.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $2,000, exclusive of legal fees, which will be filed by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than September 8, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed, or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20 (a), and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-24773 Filed 8-25-77;8:45 am]

[Release No. 20146; 70-5734]

NORTHEAST UTILITIES, ET AL.

Post-Effective Amendment Related to Financing of Nuclear Fuel

AUGUST 22, 1977.

In the matter of Northeast Utilities, Hartford, Connecticut, the Connecticut Light and Power Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, Northeast Nuclear Energy Company.

Northeast Utilities ("Northeast"), a registered holding company; The Connecticut Light and Power Company ("CL&P"), The Hartford Electric Light Company ("HELCO"), and Western Massachusetts Electric Company ("WMECO"), public-utility subsidiary companies of Northeast; and Northeast subsidiary company of Northeast formerly known as The Millstone Point Company, have filed with this Commission a further post-effective amendment to the application-declaration in this proceeding pursuant to Sections 9(a), 10, 12, and 13 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43 and 45 promulgated thereunder regarding the following proposed transactions.

CL&P, HELCO, and WMECO are the owners as tenants-in-common ("Owners") of the nuclear generating units known as Millstone Unit Nos. 1 and 2 located at the Millstone Nuclear Power Station, with 53 percent, 28 percent, and 19 percent ownership interests, respectively. NNEC is acting as the agent of the Owners with respect to the operation of these units pursuant to an Operating Agreement. It receives no fee for this service, and all costs are paid by the Owners. NNEC owns the fuel for the Unit Nos. 1 and 2 reactors. It has issued its own securities to pay for the fuel. The use of the fuel is governed by a Fuel Supply Contract with CL&P, HELCO, and WMECO.

By Orders in this proceeding dated October 21, 1975, January 16, 1976, October 22, 1976, and March 25, 1977 (HCAR Nos. 19218, 19346, 19726, and 19960), the Commission authorized NNEC to engage in certain financing of its nuclear fuel cores and related transactions, including the amending of the Fuel Supply Contract in certain respects. In said orders the Commission reserved jurisdiction over a proposal to increase NNEC's overall rate of return on total capitalization to an amount in excess of 10 percent per annum.

The Northeast system now proposes to amend the Fuel Supply Contract in two respects. First, it is proposed to exclude from NNEC's rate of return computation all costs of debt (both short and long-term) and other senior capital issued to nonaffiliates and to provide instead that the expenses for which the Owners would reimburse NNEC will include all expenses (interest, dividends, commitment fees, etc.) relating to NNEC's short and long-term debt and other senior capital issued to nonaffiliated persons to finance nuclear fuel. Second, the rate of return provision would thus become solely a return on NNEC's total equity capitalization (including common stock, retained earnings, capital contributions, etc., and all evidences of indebtedness issued by NNEC to the Owners, Northeast, or to any other associate company), and such equity return provided to NNEC by the Owners would be revised to be set at a rate equal to the weighted (on an ownership basis) average return on equity granted to the Owners in their most recent retail rate proceedings before the Connecticut and Massachusetts regulatory commissions.

The proposed amendment to the Fuel Supply Contract would be effective as of January 1, 1977. Accordingly, the annual equity return and the overall rate of return on NNEC's capital for the calendar year 1977 under the computation proposed for the Fuel Supply would be 13.095 percent and 11.440 percent, respectively.

As of January 1, 1977, the capitalization of NNEC was as follows:

Total long-term debt	$29,000,000
Equity:	
Common stock	15,000
Paid in capital	13,300,000
Retained earnings	5,018,000
Total equity	18,333,000
Total capitalization	47,333,000

It is stated that no consent or approval of any State commission or any Federal commission, other than this Commission, is required for the transactions proposd, except that the approval or prior authority of the Connecticut Public Utilities Control Authority is being sought in connection with the proposed amendment to the Fuel Supply Contract.

Notice is further given that any interested person may, not later than September 20, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-24774 Filed 8-25-77;8:45 am]

[Release No. 13868; File No. SR-OCC-77-10]

OPTIONS CLEARING CORP.

Order Approving Rule Change To Extend Time for Tendering an Exercise Notice on Certain Business Days

AUGUST 18, 1977.

On June 28, 1977, The Options Clearing Corporation ("OCC"), 5950 Sears Tower, Chicago, Illinois 60606, submitted, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), a proposed rule change to extend the time for tendering an exercise notice to 3:30 p.m. Central Time (4:30 p.m. Eastern Time) on business days other than the business day prior to the expiration date of the option contract.

Inaccordance with Section 19(b) of the Act and Rule 19b-4 thereunder, the proposed rule change was published in the FEDERAL REGISTER (42 FR 36579, July 15, 1977), and the public was invited to submit comments until August 5, 1977. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 13730, July 8, 1977. No letters of comment were received.

The Commission has reviewed the OCC submission and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of Section 17A and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR-OCC-77-10 be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-24775 Filed 8-25-77;8:45 am]

[Release No. 34-13864;
File No. SR-OCC-77-11]

OPTIONS CLEARING CORP.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 28, 1977, the above-mentioned self-regulatory organization filed with the Securities and Ex-

V 42 166 AUG 26 77 UMI

change Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change would permit the deposit of Government securities as margin in approved depositories, a broader class of institutions than approved banks.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the proposed rule change is as follows:

The purpose of the proposed amendment to Rule 604 is to enlarge the class of institutions in which Government securities may be deposited for margin purposes. The term "approved depository" defined in Article I, Section 1 (aaa) of OCC's By-Laws includes an approved trust company as well as an approved bank and the proposed rule change would thus permit Government securities held as margin to be deposited in securities depositories organized as trust companies.

The proposed rule change contributes to the protection of investors and the public interest by enabling Clearing Members to deposit Government securities for margin purposes in a wider variety of institutions.

Comments were not and are not intended to be solicited with respect to the proposed rule change.

OCC does not believe that the proposed rule change would impose any burden on competition.

On or before September 30, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 16, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 16, 1977.

[FR Doc.77-24777 Filed 8-25-77;8:45 am]

[Release No. 13870; File No. 7-4933]

PACIFIC STOCK EXCHANGE, INC.

Order Directing an Additional Comment Period Regarding Application for Unlisted Trading Privileges in Common Stocks of Pacific Resources, Inc.

AUGUST 18, 1977.

On March 23, 1977, the Pacific Stock Exchange, Inc. ("PSE") filed, pursuant to Section 12(f)(1)(C) of the Securities Exchange Act of 1934 (the "Act"), an application for unlisted trading privileges in the common stock of Pacific Resources, Inc. ("PRI").[1] The National Association of Securities Dealers ("NASD") filed a written submission, dated April 22, 1977, in which it requested a hearing on the PSE application. Submissions in opposition to the application were also received from PRI and potential over-the-counter ("OTC") market-makers in the stock. We considered the application and these submissions and on June 22, 1977 issued an order directing a hearing on whether the PSE application should be granted.[2]

In response to the Order Directing a Hearing, submissions addressing the issues set forth in the order were filed by PRI, PSE and the NASD.[3] In its submission and a letter dated August 10, 1977, the NASD has requested that we allow an additional comment period so that it might have the opportunity to respond in rebuttal to certain representations contained in the PSE filing.[4] We have also received a letter dated August 12, 1977 by which the PSE objects to the NASD requests.[5]

We believe that an additional comment period may be useful in providing a more complete record to review in considering the PSE application and that such additional comment period may be provided without jeopardizing the time frame which we anticipated in the order granting the delisting of PRI common stock. When persons have expressed a willingness to provide additional factual or policy arguments concerning matters being considered by the Commission, we have generally taken a liberal stance in allowing such information to be included in the record. This policy is particularly appropriate here since numerous novel and complex issues are presented by the PSE application. We believe that the information which the NASD has requested to file would be pertinent to the issues raised by the Order Directing a Hearing and may thereby assist us in our deliberations.

Further, in fairness to the other commentators and to facilitate action on the PSE application within the anticipated 120-day time period, we are limiting the additional comment period to the receipt of information in response to the submissions of the initial three commentators and providing that the additional comment period will terminate on September 2, 1977.[6]

Accordingly, as set forth above, we hereby order that interested persons may file submissions in response to submissions received pursuant to the Order Directing a Hearing issued on June 22, 1977. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 2, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-24762 Filed 8-25-77;8:45 am]

[Release No. 34-13858; File No. SR-PHLX 77-10]

PHILADELPHIA STOCK EXCHANGE, INC.

Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 29, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

PHILADELPHIA STOCK EXCHANGE'S STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Philadelphia Stock Exchange ("PHLX") proposes to decrease the subsequent option fee from $7,500 to $5,000 effective July 18, 1977 through August 18, 1977, then increase the subsequent option fee to $33,000 from August 19, 1977 and thereafter.

STATEMENT OF BASIS AND PURPOSE

PHLX has stated that "[t]he purpose of the proposed rule change is to promote the free trading in the secondary market of memberships with options privileges."

In a notice to its members (Circular No. 17-16), the Exchange states that "[t]he availability of the $7,500 fee combined with the current market for memberships has effected a ceiling of $7,500 in the secondary market for option trading privileges. Present holders of options trading privileges who are desirous of removing the ceiling requested the Board, through the Committee on Options, to take action to eliminate the $7,500 ceiling."

The proposed rule change relates to the fair administration of the Exchange.

The proposed rule change was initiated at the request of the Committee on Options acting at the suggestion of members who held memberships with option privileges.

The Exchange believes that the proposed rule change does not impose any burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934. The proposed Rule Change changes the subsequent options fee and is a stated policy, practice or interpretation with respect to the meaning of the Option Plan of the PHLX. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 "L" Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number references in the caption above and should be submitted on or before September 16, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 15, 1977.

[FR Doc.77-24776 Filed 8-25-77;8:45 am]

[Release No. 34-13866; File No. SR-SCCP-77-2]

STOCK CLEARING CORP. OF PHILADELPHIA

Self-Regulatory Organizations; Proposed Rule Changes

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 1, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

Stock Clearing Corporation of Philadelphia proposes rule changes which will give it authorization to participate in interface agreements with other clearing corporations and to clear over-the-counter securities. In addition, the rule changes authorize the Board of Directors to require selected trades to be settled on an ex-clearing basis. The proposed rule changes are attached hereto as Exhibit No. 1.

STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule changes is to remove impediments from one account settlement at Stock Clearing Corporation of Philadelphia.

The basis under the Act for the proposed rule changes is to remove impediments to, and perfect the mechanism of, a national system for the prompt and accurate clearance and settlement of securities transactions.

Comments from members were not solicited regarding the proposed rule changes.

Stock Clearing Corporation of Philadelphia believes that no burdens on competition will be imposed by the proposed rule changes.

On or before September 30, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule changes; or

(b) Institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing and accompanying exhibits with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 16, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 16, 1977.

EXHIBIT 1

TEXT OF PROPOSED RULE CHANGE

Transactions between Members (italics indicate new material and brackets indicate deletions.)

Rule 2. All purchases and sales of [cleared] securities made on the floor of the *Philadelphia Stock* Exchange between clearing members shall be [cleared and settled] *confirmed* through Stock Clearing Corporation *of Philadelphia, (SCCP). Clearing members of SCCP may designate whether their side of each trade will be settled through SCCP, will be interfaced to another clearing corporation, or will be settled on an ex-clearing basis.* Purchases and sales [of cleared securities] made on other exchanges [between clearing members also] *or over the counter* may be cleared and settled through the Stock Clearing Corporation of Philadelphia. *Such trades shall be reported promptly to SCCP directly by members or by another clearing corpora-*

[1] The application for unlisted trading privileges was prompted by PRI's application on March 23, 1977, to withdraw its common stock from listing and registration on the PSE. We have since granted that application. See, Securities Exchange Act of 1934 Release No. 13657, June 22, 1977 ("Order Granting (PRI) Application to Strike From Listing and Registration (on PSE) Subject to Certain Terms and Exempting Certain Persons and Securities from the Provisions of Rule 17a-15").

[2] Securities Exchange Act of 1934 Release No. 13658, June 22, 1977 ("Order Directing A Hearing").

[3] Letters from Alan S. Holzman (July 28, 1977), Robert E. Denham (July 29, 1977), and Frank J. Wilson (August 3, 1977), respectively, to George A. Fitzsimmons.

[4] In particular, the NASD states that its response would relate only to "PSE misstatements regarding the size of the spread in NASDAQ, statistical data concerning the relative proportion of volume executed on PSE and in the over-the-counter market, quotation information for PSE limited to open and close (sic), innuendo concerning the rationale of market makers in objecting to last sale reporting, representations regarding access to the floor of PSE and unsubstantiated statements concerning double reporting."

[5] The PSE's stated reasons for its objection were that (1) the hearing procedure does not provide for rebuttal; (2) the revision of the procedure would further delay the decision regarding PSE's application; (3) any further submissions would merely be cumulative; and (4) PSE's submission has been available to the NASD since it was filed on July 29, 1977 and thus could have been reviewed by the NASD before filing its comments on August 3, 1977.

To clarify point 4 above, when the Commission staff informally gave the NASD a two working-day extension for it to file its submission, the NASD consented not to seek access to the public PSE filing until after the NASD filed its submission on August 3. The staff felt it would not be equitable for one commentator to have the advantage of using another commentator's timely filing in preparing a submission to be received after the formal filing deadline.

[6] This comment period will thereby also allow PSE, PRI and other interested parties to respond to any information submitted in the original comments.

V 42 166 AUG 26 77 7 UMI

tion which has performed the comparison function. Loans or other deliveries of [cleared] securities between clearing members may be cleared and settled through Stock Clearing Corporation of Philadelphia.

The Board of Directors of SCCP may designate from time to time the size of trades of individual issues which must be settled on an ex-clearing basis.

REPORTS AND CONFIRMATIONS

Rule 3. All transactions [made on the Exchange] *to be cleared and/or settled through Stock Clearing Corporation of Philadelphia* will be promptly reported *to it* [from the floor of the Exchange to Stock Clearing Corporation. All transactions made on other exchanges, if such are to be cleared also shall be promptly reported to Stock Clearing Corporation].

A confirmation of each transaction [will be prepared by Stock Clearing Corporation] *including transactions representing shipments of trades to other clearing corporations* [and a copy] *will be* distributed to both the buyer and seller *as soon as possible* [shortly] after the transaction has been effected. On the buyers confirmation will be listed the settlement date, exchange where executed, [sellers] *contra side* clearing number, number of shares, name of security price, amount *and transaction identification number*. On the seller's confirmation will be listed the settlement date, exchange where executed [buyer's], *contra side* clearing number, number of shares, name of security, price, amount *and transaction identification number*.

Clearing members shall verify each confirmation upon receipt, and incorrect in any particular, shall [return it promptly to] *notify SCCP prior to settlement date. In addition, members shall notify SCCP of any transactions for which a confirmation was not received. Members shall be liable for any loss resulting from their failure to notify SCCP of any such discrepancies.*

[FR Doc.77-24779 Filed 8-25-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Amended Notice of Meeting

In Volume 42 FR 41942, August 19, 1977, A.I.D. announced a meeting of the Board for International Food and Agricultural Development to be held in Room 1107, State Department Building, on September 12, 1977, from 8:30 a.m. to 12:30 p.m. The purpose of this notice is to indicate that the time of the meeting has been changed to begin at 10:00 a.m. and adjourn at 3:00 p.m.

Dated: August 23, 1977.

ERVEN J. LONG,
A.I.D. Advisory Committee Representative, Board for International Food and Agricultural Development.

[FR Doc.77-24803 Filed 8-25-77;8:45 am]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATION ALLOWANCES

Meeting

Notice is hereby given pursuant to Section V, Review Procedures and Hearings, Rules, Station Committee on Education Allowances, that on October 19, 1977 at 10:00 a.m., the Baltimore Regional Station Committee on Educational Allowances shall at the Federal Building, Room 212, 31 Hopkins Plaza, Baltimore, Maryland, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Maryland School for Education, Business and Vocational Skills, 5526 Harford Road, Baltimore, MD 21214, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: August 22, 1977.

JOHN W. RUE,
Director, VA Regional Office, Federal Building, 31 Hopkins Plaza, Baltimore, MD 21201.

[FR Doc.77-24823 Filed 8-25-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[No. 465]

ASSIGNMENT OF HEARINGS

AUGUST 23, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 140829 (Sub-No. 32), Cargo Contract Carrier Corp., now assigned September 15, 1977 in St. Paul, Minn. is cancelled and application dismissed.

MC 117765 (Sub-226), Hahn Truck Line, Inc., now being assigned September 15, 1977 (1 day), at St. Paul, Minn., in the Federal Bldg., 316 N. Robert Street.

MC-C 9687, *Greyhound Lines, Inc. v. Sway Seymour* Individually and Swan Seymour DBA Swan Seymour Bus Lines now assigned September 8, 1977 at Memphis Tenn. is cancelled and reassigned for the 5th day of December, 1977 (1 week), at Knoxville, Tenn. in a hearing room to be later designated.

MC 116004 (Sub-No. 42), Texas Oklahoma Express, Inc., now being assigned November 7, 1977 (2 weeks), at Oklahoma City, Okla., in a hearing room to be later designated.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-24842 Filed 8-25-77;8:45 am]

[I.C.C. Order No. 1, Amdt. 3; Rev. S.O. No. 1252]

BIRMINGHAM SOUTHERN RAILROAD AND LOUISVILLE AND NASHVILLE RAILROAD CO.

Rerouting or Diversion of Traffic

Upon further consideration of I.C.C. Order No. 1 and good cause appearing therefor:

It is ordered, That:

I.C.C. Order No. 1 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 11:59 p.m., October 31, 1977, unless otherwise modified, changed or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., July 31, 1977, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 26, 1977.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc.77-24843 Filed 8-25-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Civil Aeronautics Board	1
Equal Employment Opportunity Commission	2
Federal Home Loan Bank Board	3, 4
Federal Home Loan Mortgage Corporation	5
Federal Maritime Commission	6
Federal Reserve System Board of Governors	7
Indian Claims Commission	8
International Trade Commission	9
Interstate Commerce Commission	10
National Railroad Passenger Corporation	11
Occupational Safety and Health Review Commission	12
Securities and Exchange Commission	13

1

CIVIL AERONAUTICS BOARD.

[MA-27 amending M-46]

DELETION OF ITEM FROM THE AUGUST 25, 1977 MEETING AGENDA

AUGUST 22, 1977.

TIME AND DATE: 10:00 am., August 25, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 3. Docket 29123, Petition for reconsideration of Order 77-3-62, March 11, 1977, filed by Pan American (Memo Number 6849-D, BE, BIA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Chairman Kahn has indicated that he will not participate in item 3 on the August 25, 1977 meeting agenda. Therefore, there will not be a quorum on this item. The following Members have voted that agency business requires the deletion of item 3 from the August 25, 1977 agenda and that no earlier announcement of this change was possible:

Chairman Alfred E. Kahn, Vice Chairman Richard J. O'Melia, Member G. Joseph Minetti, Member Lee R. West, Member Elizabeth E. Bailey.

[S-1179-77 Filed 8-23-77;4:46 pm]

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (Eastern time), Tuesday, August 30, 1977.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. *Freedom of Information Act Appeal 77-6-FOIA-132.* Request by an attorney, on behalf of an employer charged with discrimination, for documents in the Commission's investigative file.

2. *Freedom of Information Act Appeal 77-6-FOIA-142.* Request by an attorney, on behalf of an employer charged with discrimination, for documents in the Commission's investigative file.

Portions closed to the public:

Litigation Authorization; General Counsel Recommendations. Matters closed to the public under § 1612.13(a) of the Commission's regulations. (42 FR 13830, March 14, 1977).

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202-634-6748.

This Notice Issued August 23, 1977.

[S-1185-77 Filed 8-24-77;11:02 am]

3

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: August 31, 1977, at the conclusion of the open meeting to be held at 9:00 a.m.

PLACE: 320 First Street, NW., Room 630, Washington, D.C.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-376-3012.

MATTERS TO BE CONSIDERED:

Application for Permission to Organize a Federal Association.

No. 63, August 23, 1977.

[S-1180-77 Filed 8-23-77;4:46 pm]

4

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:00 a.m., August 31, 1977.

PLACE: 320 First Street, NW., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-376-3012.

MATTERS TO BE CONSIDERED:

Application for Expansion of RSU Project—Florida Savings and Loan Development Corporation, Orlando, Florida.

Application for Permission to Organize a New Federal Association—Charles C. Culotta, et al., Morgan City, Louisiana.

Limited Facility Application—First Federal Savings and Loan Association of Lincoln, Lincoln, Nebraska.

Branch Office Application—United Federal Savings and Loan Association of Rocky Mount, Rocky Mount, North Carolina.

Consideration of Association Request for Extension of Time to Open Branch Office—Laguna Federal Savings and Loan Association, Laguna Beach, California.

Application for Modification of RSU Project—Bay Colony Federal Savings and Loan Association, South Yarmouth, Massachusetts.

Satellite Office Application—Clearwater Federal Savings and Loan Association, Clearwater, Florida.

Application for Increase in Accounts of an Insurable Type by Merger—Building Association of London Grove, Avondale, Pennsylvania Into Brandywine Savings and Loan Association, Downingtown, Pennsylvania.

Concurrent Consideration of Two Branch Office Applications—Winter Park Federal Savings and Loan Association, Winter Park, Florida and Security First Federal Savings and Loan Association, Daytona Beach, Florida.

No. 62, August 23, 1977.

[S-1181-77 Filed 8-23-77;4:46 pm]

5

FEDERAL HOME LOAN MORTGAGE CORPORATION.

TIME AND DATE: August 30, 1977, 2:30 p.m.

PLACE: 320 First Street, NW., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Henry Judy, 202-624-7107.

V 42 166 AUG 26 77 7 UMI

MATTERS TO BE CONSIDERED: Consideration of Status Report on New FHLBB Building; Consideration of Commitment Authority; Consideration of Permissible Investments.

No. 64, August 23, 1977.

RONALD A. SNIDER,
Assistant Secretary.

[S-1178-77 Filed 8-23-77;4:12 pm]

6

FEDERAL MARITIME COMMISSION.

TIME AND DATE: August 31, 1977, 10:00 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agreement No. 6060-18: Application of the Pacific Indonesian Conference for intermodal authority.

2. Agreement No. 10012-2: Application for Extension of Australia—Pacific Coast Rate Agreement for an Unlimited Duration.

3. Docket No. 77-12: Rules of Practice and Procedure; Designation of Parties in Rate Cases—Final Rules.

4. Docket No. 77-17: Sea-Land Service, Inc.—Amendment to Freight, All Kinds in the U.S. Atlantic/Puerto Rico Trade, Determination whether to Review Discontinuance of Administrative Law Judge.

Portions closed to the public:

1. Agreement Nos. 9847-3 and 10028-5: Pooling agreements in U.S. Atlantic/Brazilian trades—Modifications regarding parties, transshipment of cargo, accounting, minimum sailings and duration of the agreements.

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Acting Secretary, 202-523-5727.

[S-1173-77 Filed 8-23-77;1:14 pm]

7

S-1175-77

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10:00 a.m., Wednesday, August 31, 1977.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Issues related to simplification of the advertising and open end credit provisions of the Truth in Lending Act.

2. Postponement of the effective date of the descriptive billing requirements of Regulation 2 (Truth in Lending) relating to cash advance checks.

3. Possible amendments to (a) Regulation R (Membership of State Banking Institutions in the Federal Reserve System) to require that State member banks, or subsidiaries, that are registered clearing agencies must fle notice with the Board of all final disciplinary sanctions imposed by them on firms participating in the operations of the clearing agency, and (b) Regulation H and Regulation Y (Bank Holding Companies), pursuant to requirements of the Securities Exchange Act, to establish procedures for requesting stays and review by the Board of disciplinary sanctions and denials of participation imposed by bank clearing agencies. (Proposed earlier for public comment: Docket No. R-0042).

4. Proposed amendments to the Board's Rules Regarding Delegation of Authority, concerning approval of certain categories of foreign branch applications.

5. Report to the Federal Deposit Insurance Corporation regarding the competitive factors involved in the proposed merger of The First National Bank of Canton, Canton, Mississippi, with The Mississippi Bank, Jackson, Mississippi.

6. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204

Dated: August 23, 1977.

GRIFFITH I. GARWOOD,
Deputy Secretary of the Board.

[S 1175-77 Filed 8-23-77;1:14 pm]

8

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., Auugst 31, 1977.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the public.

Dockets 74 and 332-C, *Sioux.*
Docket 182, *Fort Sill Apache.*

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, telephone 202-653-6184.

[S-1183 7 Filed 8-24-77;9:52 am]

9

[USITC SE-77-50A]

AGENCY HOLDING THE MEETING: United States International Trade Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 F.R. 41521, August 17, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Thursday, August 25, 1977.

CHANGES IN THE MEETING: Item on the agenda expanded as follows:

1. Investigation AA19121-167 (Pressure-Sensitive Plastic Tape from Italy) and Investigation AA1921-168 (Pressure-Sensitive Plastic Tape from West Germany)—vote and approval of report.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[FR Doc 77-S-1176-77 Filed 8-23-77;4:12 pm]

10

AUGUST 23, 1977.

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 2:30 p.m. Monday, August 29, 1977.

PLACE: Room 5124, Interstate Commerce Commission Building, 12th and Constitution Avenue, NW., Washington, D.C.

STATUS: Notice of open meeting.

MATTER TO BE CONSIDERED:

Division 3, Division Chairman Brown and Commissioners MacFarland and Christian voted unanimously to hold a meeting to consider the following agenda:

1. Review of present Division work load.

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Hildred Hersman, Confidential Assistant to Commissioner Brown, Telephone 202-275-7535.

[S-1177-77 Filed 8-23-77;4:12 pm]

11

NATIONAL RAILROAD PASSENGER CORPORATION

ADDITIONAL AGENDA ITEM FOR MEETING

In accordance with rule 4d. of Appendix A of the By-laws of the National Railroad Passenger Corporation, notice is given that the following item will be added to the agenda for the Board of Directors meeting of August 31, 1977:

Fall 1977 Frequency Reductions.

Board members Besson, Lorentzsen, MacDonald, Luna, Quinn, Head and Langdon determined by recorded vote that the business of the Corporation requires the change in subject matter by addition of the agenda item, and affirmed that no earlier announcement of the change was possible, and directed the issuance of this notice at the earliest practicable time. Mr. Reistrup voted no. Board members Jacobs, Adams and Dunlop could not be reached for the vote.

The revised agenda to be discussed at the meeting follows:

AGENDA

NATIONAL RAILROAD PASSENGER CORPORATION MEETING OF THE BOARD OF DIRECTORS, AUGUST 31, 1977

(9:30 a.m.) *Closed Session:*
1. *Internal Personnel Matters.*
2. *Fare Increase Strategy.*

(10:00 a.m.) *Open Session:*
3. *Approval of Minutes of Regular Meeting of July 27, 1977.*
4. *Commitment Approval Requests:*
75-245R—Purchase Teletypewriters.
77-35R—Ticket-By-Mail EDP Equipment.
77-194—Bridge Repairs, Northeast Corridor Spur Lines.
77-208—Omaha Station and Trackage.
77-218—Station Modifications, Charleston, West Virginia.
77-219—Elevator, Penn Station, New York.
77-221—Construct Station, Schenectady, New York.
5. *Board Committee Reports:*
A. Track Policy: (1) Track Policy Final Report.
B. Northeast Corridor Improvement Project:
(1) Status of Improvement Master Plan.
(2) Status of 1977 Program.
(3) Status of Clean-Up Program Contracts.
(4) Status of Woonasquatucket River Bridge.
(5) Labor Situation.
C. Planning/Equipment:
(1) Baltimore-Washington International Intermodal Facility Status Report.
(2) Route Criteria, Butte and Helena, Montana.
6. *President's Reports:*
A. Operations:
(1) National Operations.
(2) Operations Support.
(3) Northeast Corridor Operations.
B. Marketing.
C. Government Affairs.
D. Other: (1) Fall 1977 Frequency Reductions.
7. *Financial Reports.*
8. *General Fare Increase.*
9. *Status of Floridian.*
10. *New Business.*
11. *Adjournment.*

Inquiries regarding the agenda for the August 31, 1977, Board meeting should be directed to the Corporate Secretary at (202) 484-7679.

Dated: August 24, 1977.

ELYSE G. WANDER,
Corporate Secretary.

[S-1184-77 Filed 8-24-77;9:52 am]

12

[FORM 1]

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10:00 a.m., August 26, 1977.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: This meeting is subject to being closed by a vote of the Commissioners taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudication process.

CONTACT PERSONS FOR MORE INFORMATION:

Mrs. Nori Heuberger or Ms. Lottie Richardson, 202-634-7970.

Dated: August 23, 1977.

[S-1182-77 Filed 8-24-77;8:46 am]

13

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of August 29, 1977, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, August 30, 1977, at 10 a.m. and after the open meeting scheduled for 2:30 p.m.

Open meetings will be held on Tuesday, August 30, 1977, at 2:30 p.m. and on Wednesday, August 31, 1977, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Cetrain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b (c)(4)(8)(9)A and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Williams, Commissioners Loomis, Evans, and Pollack voted to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, August 30, 1977, at 10 a.m. will be:

Formal orders of investigation.
Institution of injunctive actions.
Offers of settlement of injunctive actions and administrative proceedings.
Request for confidential treatment.
Termination of injunctive action.
Referral of investigative files to Federal, State or Self Regulatory authorities.
Authorization of former staff members to testify.
Consideration of *amicus curiae* matter.
Freedom of Information Act appeals.
Discusstion of Rule 2(e) proceeding.
Other litigation matters.

The subject matter of the closed meeting scheduled for Tuesday, August 30; 1977, after the open meeting scheduled for 2:30 p.m., will be:

Post-oral argument discussion.

The subject matter of the open meeting scheduled for Tuesday, August 30, 1977, at 2:30 p.m. will be:

1. Oral argument on an application filed by John C. Gebura for a review of the disciplinary action taken against him by the National Association of Securities Dealers.

The subject matter of the open meeting scheduled for Wednesday, August 31, 1977, at 10 a.m. will be:

1. Consideration of a petition filed by Steadman Security Corporation requesting an extension of the forty-five day period which management companies now have to transmit annual reports to shareholders.

2. Consideration of the amendment of the Commission's Statement of Policy relating to investment company sales literature.

3. Consideration of an interpretive release concerning the bearing of distribution expenses by mutual funds. (Rescheduled from Tuesday, August 23, 1977, at 9 a.m.).

4. Consdieration of an application filed by Midwest Stock Exchange Incorporated for Commission Review of the Denial of Access to the Common Message Switch ("CMS") of the Securities Industry Automation Corporation. (CMS is an automated data processing device).

5. Consideration of the adoption of Rule 17Ac3-1 and Related Form TA-W, which prescribe procedures to be used for withdrawing the registrations of transfer agents registered with the Commission.

6. Consideration of a submission by Securities Investor Protection Corporation proposing to repeal a bylaw requiring quarterly meetings of the Board of Directors.

7. Consideration of an extension of time for concluding proceedings in connection with the applications for registrations of the following clearing agencies: The Depository Trust Company; Bradford Securities Processing Services, Inc.; Stock Clearing Corporation of Philadelphia; Boston Stock Exchange Clearing Corporation; Midwest Securities Trust Company; The Options Clearing Corporation; Midwest Clearing Corporation; Pacific Securities Depository Trust Company; Pacific Clearing Corporation and TAD Depository Corporation.

8. Consideration of a proposed rule change filed by the American Stock Exchange, Inc. to establish alternate criteria for the original listing of common stock.

9. Consideration of the publication of a list of foreign issuers which have submitted information required by the exemption relating to certain foreign securities under the Securities Exchange Act of 1934.

FOR FURTHER INFORMATION CONTACT:

John P. Sweeney at 202-376-8003 or Susan E. Auerbach at 202-376-8097.

AUGUST 23, 1977.

[S-1172-77 Filed 8-23-77;1:14 pm]

V 42166 AUG 26 77 UMI

federal register

FRIDAY, AUGUST 26, 1977

PART II



DEPARTMENT OF LABOR

Employment and Training Administration

■

SERVICES FOR VETERANS

FY 1978 Veterans Preference Indicators of Compliance Levels

V 42 1 66 AUG 26 77 UMI

DEPARTMENT OF LABOR

Employment and Training Administration

[20 CFR Part 653]

SERVICES FOR VETERANS

FY 1978 Veterans Preference Indicators of Compliance Levels

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The Employment and Training Administration of the Department of Labor is proposing to issue its first annual updating of the levels for the Veterans Preference Indicators of Compliance. The Veterans Preference Indicators of Compliance are used by the Department to monitor State employment service agencies to insure that veteran applicants receive priority service as required by 38 U.S.C. Chapters 41 and 42 and by 20 CFR Part 653, Subpart C.

DATES: Comments due on or before September 26, 1977. Comments on the proposed rule should be sent to the Assistant Secretary for Employment and Training. Attn: William B. Lewis, Administrator, United States Employment Service; Room 8000, 601 D Street, NW., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT:

Peter Rell, Director, Office of Program Review; United States Employment Service; Room 8324; 601 D Street NW., Washington, D.C. 20213, 202-376-6914.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Chapters 41 and 42 of Title 38 U.S. Code, provide for job counseling, training and placement services for veterans. The Secretary issued regulations to implement 38 U.S.C. Chapters 41 and 42 on November 2, 1976 at 41 FR 48250. The regulations are found at 20 CFR Part 653, Subpart C. Sections 653.221-226 of that subpart set forth standards of performance governing State agency services to veterans. 20 CFR 653.230(a) states:

To help in determining whether the standards of performance set forth in §§ 653.221-226 are being met, the ETA shall use the floor levels and the veterans preference indicators of compliance set forth in this section to compare the level of services provided to veterans and eligible persons with the level of services provided to nonveterans.

20 CFR 653.230(c) states in pertinent part:

ETA shall establish numerical values for the veterans preference indicators of compliance for each Federal fiscal year for: (1) Veterans versus nonveterans; (2) Veterans of the Vietnam era versus nonveterans; and (3) Disabled veterans versus nonveterans.

Information regarding methodology for determining values is available upon request from Mr. Rell (see FOR FURTHER INFORMATION CONTACT section above).

Accordingly, 20 CFR 653.230, is proposed to be revised as follows:

§ 653.230 Veterans preference indicators of compliance.

(a) To help in determining whether the standards of performance set forth in §§ 653.221-226 are being met, the ETA shall use the floor levels and the veterans preference indicators of compliance set forth in this section to compare the level of services provided to veterans and eligible persons with the level of services provided to nonveterans.

(b) The term "applicants" as used in this section shall mean individuals who filed or renewed job applications during the fiscal year. To improve statistical comparability, the term "nonveteran" as used in this section shall not include women and persons 19 years of age or younger. The term "veteran" as used in this section, shall include eligible persons. The term "disabled veteran", as used in this section, shall include "special disabled veteran".

(c) To prevent State agencies which are actually performing at low levels of accomplishment from mathematically appearing, according to the veterans preference indicators of compliance, to be doing well, the ETA shall establish a floor (minimum) level of expected accomplishment for each reportable service for each Federal fiscal year. Only after a State agency reaches its expected floor level of accomplishment shall the veterans preference indicators of compliance be applied. Each year ETA shall consider each State agency's past year's complishments as a major factor in establishing the floor level of accomplishment for the next Federal fiscal year. Computation of the floor levels shall also be based on external and other appropriate factors.

(1) The floor levels shall be stated as the ratio of veteran individuals served to the number of veterans applying for service, rather than the number of veterans served, to avoid the difficulties associated with establishing absolute numbers under varying conditions, time periods and locations. The floor levels of accomplishment for FY 1978 shall be as follows:

(i) A minimum of 6 percent of those veterans applying for service shall be counseled.

$$\frac{\text{Veterans counseled}}{\text{Veteran applicants}} \times 100\% = 6\%$$

(ii) A minimum of 1.5 percent of all veteran applicants shall be enrolled in training.

$$\frac{\text{Veterans enrolled in training}}{\text{Veteran applicants}} \times 100\% = 1.5\%$$

(iii) A minimum of 7.5 percent of all veteran applicants shall be provided job development.

$$\frac{\text{Veterans provided job development}}{\text{Veteran applicants}} \times 100\% = 7.5\%$$

(iv) A minimum of (individual State values) percent of all veteran applicants shall be placed in jobs.

$$\frac{\text{Veterans placed}}{\text{Veteran applicants}} \times 100\% = \text{(see list below for State values)}$$

(v) A minimum of (individual State values) percent of all veteran applicants shall be inactivated with some reportable service.

$$\frac{\text{Veterans inactivated with some service}}{\text{Veteran applicants}} \times 100 = \text{(see list below for State values)}$$

	(4)	(5)
Reg. I (Boston):		
Connecticut	9	36
Maine	23	50
Massachusetts	11	30
New Hampshire	20	29
Rhode Island	11	38
Vermont	20	45
Reg. II (New York):		
New Jersey	14	39
New York	14	40
Puerto Rico	8	31
Reg. III (Philadelphia):		
Delaware	8	29
District of Columbia	12	26
Maryland	10	26
Pennsylvania	14	26
Virginia	17	39
West Virginia	19	39
Reg. IV (Atlanta):		
Alabama	23	37
Florida	23	49
Georgia	20	46
Kentucky	23	42
Mississippi	23	51
North Carolina	22	41
South Carolina	18	42
Tennessee	19	40
Reg. V (Chicago):		
Illinois	14	31
Indiana	15	37
Michigan	12	26
Minnesota	17	29
Ohio	12	34
Wisconsin	18	34
Reg. VI (Dallas):		
Arkansas	23	44
Louisiana	23	42
New Mexico	23	46
Oklahoma	23	31
Texas	23	31
Reg. VII (Kansas City):		
Iowa	23	31
Kansas	23	31
Missouri	20	34
Nebraska	23	31
Reg. VIII (Denver):		
Colorado	17	49
Montana	23	31
North Dakota	23	1
South Dakota	23	1
Utah	21	42
Wyoming	23	31
Reg. IX (San Francisco):		
Arizona	20	40
California	16	30
Hawaii	15	24
Nevada	18	32
Reg. X (Seattle):		
Alaska	23	39
Idaho	23	50
Oregon	22	39
Washington	17	38

(d) The ETA shall compare the level of State agency services for veterans versus that for nonveterans by examining rates of service rather than the numbers of persons served to compensate for the differing sizes of comparison groups and to avoid the difficulties associated with establishing absolute numbers under varying conditions, time periods and locations. In addition, the two groups, veterans and nonveterans, shall be compared after adjustments for demographic and other appropriate characterstics to make them as comparable as possible within the limitations of available data systems.

(e) ETA shall establish numerical values for the veterans preference indicators of compliance for each Federal fiscal year for:

(1) Veterans versus nonveterans;

(2) Veterans of the Vietnam era versus nonveterans; and

(3) Disabled veterans versus nonveterans.

(f) Veterans preference indicators of compliance for service to all veterans shall be as follows for FY 1978:

(1) The ratio of veteran applicants counseled to the total number of veteran applicants shall exceed the ratio of nonveteran applicants counseled to the total number of nonveteran applicants by at least 25 percent.

$$\frac{\text{Veteran counseled}}{\text{Veteran applicants}} \div \frac{\text{Nonveterans counseled}}{\text{Nonveteran applicants}} - 1.00 = 25\%$$

(2) The ratio of veteran applicants enrolled in training to the total number of veteran applicants shall exceed the ratio of nonveteran applicants enrolled in training to the total number of nonveteran applicants by at least 5 percent.

$$\frac{\text{Veterans enrolled in training}}{\text{Veteran applicants}} \div \frac{\text{Nonveterans enrolled in training}}{\text{Nonveteran applicants}} - 1.00 = 5\%$$

(3) The ratio of job development contacts made for veterans to the total number of veteran applicants shall exceed the ratio of job development contacts made for nonveterans to the total number of nonveteran applicants by at least 50 percent.

$$\frac{\text{Job development contacts for veterans}}{\text{Veteran applicants}} \div \frac{\text{Job development contacts for nonveterans}}{\text{Nonveteran applicants}} - 1.00 = 50\%$$

(4) The ratio of veteran applicants placed in jobs to the total number of veteran applicants shall exceed the ratio of nonveteran applicants placed in jobs to the total number of nonveteran applicants by at least 10 percent.

$$\frac{\text{Veterans placed}}{\text{Veteran applicants}} \div \frac{\text{Nonveterans placed}}{\text{Nonveteran applicants}} - 1.00 = 10\%$$

(5) The ratio of veteran applicants inactivated with some service to the total number of veteran applicants shall be more than the ratio of nonveteran applicants inactivated with some service to the total number of nonveteran applicants by at least 15 percent.

$$\frac{\text{Veterans inactivated with some service}}{\text{Veteran applicants}} \div \frac{\text{Nonveterans inactivated with some service}}{\text{Nonveterans applicants}} - 1.00 = 15\%$$

(g) Veterans preference indicators of compliance for service to veterans of the Vietnam era are as follows:

(1) The ratio of Vietnam-era veteran applicants counseled to the total number of Vietnam-era applicants shall exceed the ratio of nonveteran applicants counseled to the total number of nonveteran applicants by at least 35 percent.

$$\frac{\text{Vietnam-era veterans counseled}}{\text{Vietnam-era veteran applicants}} \div \frac{\text{Nonveterans counseled}}{\text{Nonveteran applicants}} - 1.00 = 35\%$$

(2) The ratio of Vietnam-era veteran applicants enrolled in training to the total number of Vietnam-era veteran applicants shall exceed the ratio of nonveteran applicants enrolled in training to the total number of nonveteran applicants by at least 10 percent.

$$\frac{\text{Vietnam-era veterans enrolled in training}}{\text{Vietnam-era veteran applicants}} \div \frac{\text{Nonveterans enrolled in training}}{\text{Nonveteran applicants}} - 1.00 = 10\%$$

(3) The ratio of job development contacts made for Vietnam-era veterans to the total number of Vietnam-era veteran applicants shall exceed the ratio of job development contacts made for nonveterans to the total number of nonveteran applicants by at least — percent.

$$\frac{\text{Job development contacts for Vietnam-era veterans}}{\text{Vietnam-era veteran applicants}} \div \frac{\text{Job development contacts for nonveterans}}{\text{Nonveteran applicants}} - 1.00 = 60\%$$

V 42 166 AUG 26 77 UMI

(4) The ratio of Vietnam-era veteran applicants placed in jobs to the total number of Vietnam-era veteran applicants shall exceed the ratio of nonveteran applicants placed in jobs to the total number of nonveteran applicants by at least 15 percent.

$$\frac{\text{Vietnam-era veterans placed}}{\text{Vietnam-era veteran applicants}} \div \frac{\text{Nonveterans placed}}{\text{Nonveteran applicants}} - 1.00 = 15\%$$

(5) The ratio of Vietnam-era veteran applicants inactivated with some service to the total number of Vietnam-era veteran applicants shll be more than the ratio of non-veteran applicants inactivated with some service to the total number of nonveteran applicants by at least 20 percent.

$$\frac{\text{Vietnam-era veterans inactivated with some service}}{\text{Vietnam-era veteran applicants}} \div \frac{\text{Nonveterans inactivated with some service}}{\text{Nonveteran applicants}} - 1.00 = 20\%$$

(h) Veterans preference indicators of compliance for service to disabled veterans are as follows:

(1) The ratio of disabled veteran applicants counseled to the total number of disabled veteran applicants shall exceed the ratio of nonveteran applicants counseled to the total number of nonveteran applicants by at least 100 percent.

$$\frac{\text{Disabled veterans counseled}}{\text{Disabled veteran applicants}} \div \frac{\text{Nonveterans counseled}}{\text{Nonveteran applicants}} - 1.00 = 100\%$$

(2) The ratio of disabled veteran applicants enrolled in training to the total number of disabled veteran applicants shall exceed the ratio of nonveteran applicants enrolled in training to the total number of nonveteran applicants by at least 15 percent.

$$\frac{\text{Disabled veterans enrolled in training}}{\text{Disabled veteran applicants}} \div \frac{\text{Nonveterans enrolled in training}}{\text{Nonveteran applicants}} - 1.00 = 15\%$$

(3) The ratio of job development made for disabled veterans to the total number of disabled veteran applicants shall exceed the ratio of job development contacts made for nonveterans to the total number of nonveteran applicants by at least 75 percent.

$$\frac{\text{Job development contacts for disabled veterans}}{\text{Disabled veteran applicants}} \div \frac{\text{Job development nonveterans}}{\text{Nonveteran applicants}} - 1.00 = 75\%$$

(4) The ratio of disabled veteran applicants placed in jobs to the total number of disabled veteran applicants shall exceed the ratio of nonveteran applicants placed in jobs to the total number of nonveteran applicants by at least 20 percent.

$$\frac{\text{Disabled veterans placed}}{\text{Disabled veteran applicants}} \div \frac{\text{Nonveterans placed}}{\text{Nonveteran applicants}} - 1.00 = 20\%$$

(5) The ratio of disabled veteran applicants inactivated with some service to the total number of disabled veteran applicants shall exceed the ratio of nonveterans inactivated with some service to the total number of nonveteran applicants by at least 25 percent.

$$\frac{\text{Disabled veterans inactivated with some service}}{\text{Disabled veteran applicants}} \div \frac{\text{Nonveterans inactivated with some service}}{\text{Nonveteran applicants}} - 1.00 = 25\%$$

(i) The veterans preference indicator of compliance for State agency action under the mandatory job listing requirements of 38 U.S.C. 2012 shall be: The ratio of the total number of veterans of the Vietnam era and special disabled veterans placed in mandatory listing job openings to total number of individuals placed in mandatory listing job openings shall exceed 7 percent.

(j) Following analysis of the past year's accomplishments, the numerical value for each of the veterans preference compliance indicators will be published in the FEDERAL REGISTER as amendments to paragraphs (f), (g), and (h) of this section.

(k) State agency performance under this subpart shall be reviewed on a quarterly basis by the ETA regional offices during the conduct of regular Operational Planning and Review System (OPRS) reviews. In addition, State agency performance under this subpart shall be formally reviewed by the ETA national office on an annual basis using the floor levels of accomplishment and the veterans preference indicators of compliance. The full results of these reviews shall be incorporated into the Secretary's annual report to the Congress. If a State agency fails to meet three of the five floor levels of accomplishment set forth at paragraph (c) of this section, including the floor level for placement, or if it fails to meet more than one-half of the total number of veterans preference indicators of compliance, with each placement indicator having double weight, ETA shall consider this as evidence that the State agency is not complying with the performance standards at §§ 653.221–226. Such State agencies shall be required to provide documentary evidence to the ETA that their failure is based on good cause. If good cause is not shown, the ETA, pursuant to Subpart H of Part 658 of this chapter, shall formally designate the State agency as out of compliance, shall require it to submit a corrective action plan for the following Federal fiscal year, and may take other action against the State agency pursuant to Subpart H of Part 658 of this chapter.

(l) Even though a State agency veterans' services statistics, including the floor levels of accomplishment and the veterans preference indicators of compliance, indicate adequate services to veterans, the ETA may take corrective action against a State agency pursuant to Subpart H of Part 658 of this chapter if other information comes to the attention of the ETA which indicates that a State agency is not complying with the requirements of this subpart.

Signed at Washington, D.C. this 1st day of August 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc.77-24478 Filed 8-25-77;8:45 am]

federal register

FRIDAY, AUGUST 26, 1977
PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN

Revision, Reorganization and Republication

V 42 166 A AUG 26 77 UMI

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—CHILD NUTRITION PROGRAMS

PART 246—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN

Revision, Reorganization and Republication

AGENCY: Food and Nutrition Service, U.S.D.A.

ACTION: Final rule.

SUMMARY: These regulations promulgate various changes in requirements for the operation of the Special Supplemental Food Program for Women, Infants and Children (WIC Program). The major changes concern certification of persons, selection of local agencies and food delivery systems and are included to better ensure that Program benefits reach the neediest persons as well as to further ensure Program accountability and operating efficiency.

DATES: The final rules are effective September 26, 1977. Comments are due on the unresolved issues on or before October 10, 1977.

ADRESSES: Send comments to the address below.

FOR FURTHER INFORMATION CONTACT:

Gene Dickey, Director, Special Supplemental Food Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–8206.

SUPPLEMENTAL INFORMATION: On February 11, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 8647) to revise the regulations for the Special Supplemental Food Program for Women, Infants and Children (WIC).

The proposals were based on comments received on the interim regulations which were published on January 12, 1976 (41 FR 1743, 4251) to implement Pub. L. 94–105, which had amended the authorizing legislation (Section 17 of the Child Nutrition Act of 1966, as amended, 42 U.S.C. 1786).

The Department received 416 responses to the proposed rulemaking. The substantive comments received and the actions taken are discussed below.

DEFINITIONS

Several commenters requested a definition of "members of populations." Since this term might be open to various interpretations, a definition is added which identifies members of populations as a group of persons with a common special need that do not necessarily reside in a defined geographic area, such as migrant populations or off-reservation Indians.

A number of commenters believed that the term "administrative costs" does not clearly identify clinic and nutrition education costs as allowable administrative costs. They suggested that the term "operating costs" was more reflective of the types of costs incurred in administering the WIC Program. Therefore, the term is changed to "operational and administrative costs." Additionally, a few comments were received recommending that the Department allow for the inclusion of outreach expenditures in such costs. It has come to the Department's attention that many needy persons are not aware of the WIC Program. Therefore, in order to extend Program benefits to as many needy persons as possible, the Department has decided to authorize outreach as an allowable operational and administrative cost.

Some comments were received regarding the tax exempt status requirement under the definition of "nonprofit agency." The commenters supported liberalization of the requirement, such as allowing the agency a one-year period to work towards obtaining official tax exempt status. However, the possibility of numerous ineligible agencies participating in the Program may create funding and administrative problems which would damage Program operations. Therefore, the Department stands with the requirement that nonprofit agencies have tax exempt status prior to entering the Program.

Several comments received addressed the definition of "health services." Some desired a narrower definition, others requested more flexibility, and some suggested clarification of the existing definition. In order for the Program to be an adjunct to good health care, some parameters for health services are needed. The definition in the proposed rules did not sufficiently specify what types of health care were required to be made available, but did give examples of typical health services. Consequently, the definition is changed and now defines health services as ongoing, routine pediatric and obstetrical care, with the examples of typical health services remaining.

Many commenters requested changes in the definition of "nutritional need." Most requested the inclusion of other criteria in the nutritional need definition, such as socioeconomic factors and the presence of various diseases and indicators of high risk pregnancy. A number of commenters suggested more specific standards for the given indicators of nutritional need. The Department believes that the criteria in the nutritional need definition are broad enough to encompass all acceptable standards of nutritional need. However, it is the view of the Department and many health and nutrition professionals that merely being an infant of a WIC Program recipient who participated during pregnancy is a nutritional need factor in itself. Since these infants are not likely to exhibit overt nutritional need conditions, it is difficult to assess their need. Consequently, these infants are expressly addressed in the nutritional need definition and in the priority system. In addition, a separate paragraph is added to the definition which is specifically suited to a breastfeeding woman and her nutritional need criteria.

The "State Plan of Management and Operations" is now referred to as the "State Plan of Program Operation and Administration" in order to more clearly describe the general function of the Plan.

REQUIREMENTS OF LOCAL AGENCIES

The section in the proposed rules entitled "Eligibility of local agencies" is changed to "Selection of local agencies" and is reorganized to include all aspects a state agency must consider in selecting a local agency. The section now addresses the Affirmative Action Plan, application by local agencies, Program initiation and expansion, and the local agency priority system.

The proposed rules prescribe a priority system for use by the State agency in selecting new local agencies in a particular area. First consideration is to be given to an agency which could perform all health and administrative services required for participation as a local agency. Second consideration is to be given to a health agency joined with a welfare agency which, in conjunction, can perform all required health and administrative services. Third consideration is to be given to a welfare agency and private physician which, in conjunction, can perform all required health and administrative services.

It was brought to the Department's attention that there are circumstances where a health clinic can work in conjunction with a private physician to provide WIC Program services. An example is a maternal and infant care clinic which provides health care and WIC Program benefits to women and infants, but not to children. If these children were allowed to receive health care through a private physician, the clinic could provide them with all other WIC Program services. The Department believes provision should be made for this type of circumstance. Therefore, in the priority system for the selection of local agencies, third consideration is to be given to a health agency which works in conjunction with a private physician to provide health services to a specific category of recipient, while fourth consideration is to be given to the welfare agency which operates in conjunction with a private physician.

Several commenters opposed the priority system for the selection of local agencies in each area of need. They believed that the State agency should select the types of local agencies as the State agency sees fit. However, the Department believes that if a health agency exists in an area, that agency should receive preference to operate a WIC Program. The primary reason for allowing a welfare agency (which must work with physicians to provide health services) to operate the Program is to reach areas which have no local health agency. Therefore, the priority system for local agencies will remain. Additionally, a commenter suggested that the State agency notify all potential local agencies in the areas in which it is planning to open a WIC Program. If no agency in the area next in line according to the Affirmative Action Plan indicates an interest in operating the Program within 30 days of the public notification, the State agency may then fund an agency from the next area on the Affirmative Action Plan. This suggestion is adopted in the regulations.

Several commenters pointed out that it is inequitable to judge the degree of need of members of populations by the area in which they reside. Therefore, a requirement is added to the Affirmative Action Plan that the State agency rank members of populations according to the need of the population, not the area in which the members are located.

Several commenters supported the rule allowing a welfare agency which enters into written agreements with private physicians to operate a WIC Program. Many commenters requested that the welfare agency compensate the physician for providing health services. However, the legislative purpose of the WIC Program is to provide supplemental foods as an "adjunct to good health care," so WIC resources should be directed toward assuring that food is effectively provided to recipients rather than supplementing existing health services. Therefore, the rule will remain unchanged. However, the Department does concur with the commenters who suggested that private physicians should be allowed to receive program funds for medical tests performed for certification purposes. Financial management instructions will be issued which will outline this as an allowable cost and delineate the circumstances under which it will be allowed.

A number of commenters asked that State agencies be required to notify applicant agencies as to the status of their applications within a specified time period. Additionally, many commenters asked that FNS be required to notify State agencies concerning their Plan of Program Operation and Administration within a specified time limit. These suggestions are adopted in the regulations. State agencies are required to notify applicant agencies within 30 days and FNS must notify State agencies within 30 days. However, notification refers only to the status of the agency's application or Plan. It does not require a decision to be made on the application or Plan within the specified time.

A few commenters requested that the Department allow the WIC Program and the Supplemental Food Program (SFP) to operate in the same geographical area. Many commenters asked that the Department allow the local agencies' geographic areas to overlap. However, the Department believes that this would not be in the best interest of good management or the best use of resources, since both programs have limited funds. This is especially true when other needy areas are waiting to be served. Therefore, the proposed rule will remain unchanged.

Several commenters requested that eligibility determinations be made within ten days of application, and food be provided within ten days of an affirmative determination. The Department believes, however, that the ten day time limit would be overly restrictive. Adequate time must be allowed for the clinic to schedule appointments, complete laboratory work and contact the recipient. Therefore, the rule has been changed to require a determination of a person's eligibility to be made within 20 days of the person's first visit to the local agency to apply for participation in the Program. Food must be provided to that person within ten days of an affirmative determination.

Many comments were received concerning the requirement that the local agency assure that WIC Program recipients are enrolled in a health care system. Several commenters opposed the requirement; many commenters asked that recipients be encouraged, not required, to participate in health services; some commenters supported requiring participation in health services; and a few commenters asked that the rule define the term "enrollment." The intent of the enrollment requirement was to ensure that the WIC Program genuinely operates "as an adjunct to good health care," as mandated by the authorizing legislation. However, it is evident from the comments that this requirement was not well understood by some and opposed by many who operate the WIC Program at the local level. Therefore, the section is changed to only encourage recipients to participate in health services.

Numerous comments were received concerning the proposed requirement that the local agency provide health services. Several commenters suggested that in areas where no health care agency is available, the Department should allow an agency which can perform nutritional assessments and provide nutrition education to operate as a local agency. However, it is believed that Congressional intent is to keep the WIC Program an adjunct to good health care. Consequently, it is necessary to require that local agencies provide certain health services. Also, many commenters objected to the requirement that local agencies offer nursing and physician services, with most commenters arguing that either nursing or physician services were adequate. The Department is aware that there are disparities in the type of health services offered by communities. Therefore, the requirement that local agencies offer nursing and physician services has been deleted. It is required only that appropriate health services be made available to recipients through the local agency.

STATE AGENCY PLAN OF PROGRAM OPERATING AND ADMINISTRATION

The section in the proposed rules entitled "State agency operations" is changed to "State agency Plan of Program Operation and Administration" and is devoted entirely to the requirements pertaining to the State Plan.

The proposed rules require that the average levels and ranges of expenditure and participation over the past two years be provided in the State Plan. Several commenters noted that this information is already contained in reports submitted to FNS. Therefore, the requirement is deleted.

A number of comments were received which addressed the difficulties migrant farmworkers and their families encountered in continuing their participation in the WIC Program. The primary concern was that a person is required to be certified at each new local agency where he applies to participate in the WIC Program. In the case of migrant families who move frequently due to the nature of their employment, this requirement was burdensome for both the local agencies and migrants. Therefore, the regulations contain a provision under which the State agency may allow local agencies to accept a verification of certification from another local agency where the migrant previously participated in the WIC Program, as long as the migrant's certification period is still valid.

INCOME REQUIREMENTS

The proposed rule contained a requirement that all recipients have a gross family income at or below 195 percent of the Secretary's income poverty guidelines. Some commenters supported the income standard, while other commenters opposed setting a uniform income eligibility standard. The reasons most frequently given for opposing the income requirement were the need to preserve the WIC Program as a health-oriented, rather than welfare-oriented, programs and the possible administrative burdens on the local agencies which offer free health care to all persons. Commenters in support of the income requirement emphasized the importance of directing WIC Program benefits to those with low incomes.

The Department strongly believes that the WIC Program should target its resources to low income persons. However, it is also important to strengthen the connection between the WIC Program and the provision of health services, and to maintain the WIC Program as a health and nutrition program. In view of the opposition to the income standard from health and administrative professionals, the Department has decided to delete the proposed income standard for WIC Program eligibility, pending further study of this alternative.

However, Pub. L. 94–105 does require that persons be determined to be "at nutritional risk because of inadequate income and inadequate nutrition." Therefore, inadequate income should be one of the criteria used to determine eligibility for the WIC Program. This criterion should be designed to easily integrate the WIC Program with the health services offered by the local agency and to reduce the administrative burden on the local agency.

The Department has decided to adopt a requirement similiar to that contained in the interim regulations.

Recipients must be eligible for free or reduced price health care at the local agency. That is, if there are income requirements in use in other health pro-

V 42 166 AUG 26 77 7 UMI

grams operated by the local agency, recipients would have to meet one of those income standards in order to be eligible for the WIC Program. If the local agency offered free health care to all, then no income standard would be required for WIC Program participation. However, there is one change from the requirement as given in the interim regulations: The State agency may set or approve an income standard for use by local agencies that is different from the income standards in use in other health programs. The Department believes that this procedure will allow the State agency the necessary flexibility to set income requirements to suit local conditions, maintain the link between the WIC Program and the provision of health services and assure that WIC benefits go to those most in need.

Many commenters requested that certification of recipients be carried out on the basis of inadequate income alone. They believed there was a direct correlation between having low income and being at nutritional risk. Several commenters suggested that eligibility should be based on nutritional need criteria only after the local agency had reached its maximum participation level. At that point, when a caseload slot becomes available, persons waiting to participate in the WIC Program would be selected based on income and nutritional need. The Department has not made a decision on this issue and would like all interested persons to submit comments. For a discussion of the issue and timetable for submission of comments, please refer to the end of this preamble.

NUTRITIONAL NEED PRIORITY SYSTEM

Many commenters opposed the requirement of a nutritional need priority system on the grounds that it would be difficult to administer and the decision as to priority status should be made by the competent professional authority. As more State agencies reach their maximum funding authorization, and their local agencies reach their maximum participation levels, the problem of assigning priority will become even more important. All local agencies should have an equitable and effective means of determining who shall receive Program benefits first. The proposed priority system was developed with the assistance of medical professionals with expertise in maternal and pediatric nutrition and local, State and Federal administrators.

Under the rule, the competent professional is given wide flexibility within each priority category. Therefore, the requirement of a priority system will remain. In addition, several commenters requested that the Department consider an inadequate dietary pattern as equal in priority to anthropometric and hematological indicators, instead of lower in priority. Due to the difficulties of determining an inadequate dietary pattern as an indicator of nutritional need, the Department believes that those persons suffering from anemia, abnormal patterns of growth or medical conditions are deserving of a higher priority level than those with no clinical indicator of nutritional need; therefore, those persons certified on the basis of an inadequate dietary pattern will receive lower priority than persons with clinical indicators of nutritional need.

It was decided that there are some defects in the priority system as contained in the proposed rules. While many commenters supported the rule placing infants of WIC recipients on the Program without a nutritional need determination, these infants were given no place in the priority system. The effect of this rule was that infants of WIC recipients could be placed on the WIC Program before any other eligible person. For example, a relatively healthy infant of a WIC recipient might be placed on the WIC Program before a low birth weight baby. Therefore, in order to remain consistent with the intent of the priority system, infants of WIC recipients are placed in the second priority category. If the infant also exhibits some clinical indicator of nutritional need, then he is given first priority. Additionally, in the proposed rules, pregnant women, infants (or their lactating mother) and children with inadequate dietary patterns were all included in Priority III. However, to be consistent with the purpose of the priority system, it was believed that the women and infants should have priority over children with inadequate dietary patterns. Therefore, the regulations place pregnant women, breastfeeding women and infants with inadequate dietary patterns in Priority IV, and children with inadequate dietary patterns in Priority V. Also, one commenter asked that the rule clarify the place of breastfeeding women in the priority system. The intent of the rule is that a breastfeeding woman may be certified and placed in the priority system on the basis of her own or her infant's nutritional need condition. Therefore, the definition of nutritional need is changed to more clearly reflect this intent.

RECERTIFICATION

A few commenters supported the proposed rule requiring bloodwork at recertification only if the recipient was initially determined to be in nutritional need because of anemia. However, many commenters supported requiring bloodwork for all recipients at recertification. The Department agrees that the local agency should perform a hemoglobin or hematocrit test at all eligibility determinations to detect regression in the recipient's health status, to maintain an ongoing record of the recipient's health status, and for evaluative purposes. Therefore, the regulations require a hemoglobin or hematocrit test for all recipients at each certification visit, if the necessary equipment is available.

A number of commenters supported the provision in the proposed rules that WIC Program recipients may remain in the Program as long as there is a danger of regression in nutritional status without the supplemental foods. Many commenters asked that recipients remain in the Program on the basis of residency and income criteria alone until the local agency reaches 100 percent of its maximum participation level. A few commenters supported the provision in the proposed rules that the competent professional authority may drop recipients from the Program if there are others waiting who are in greater need. An effective nutrition education component should teach recipients to make the proper food choices, and therefore enable them to obtain an adequate diet without participating in the WIC Program. The Department believes that the competent professional authority should retain recipients in the Program if there is a danger of regression in nutritional status, but if there is no such danger and the recipient does not meet the nutritional need criteria, there is no reason for that person to continue in the Program when persons in greater need are waiting to participate in the Program. Therefore, the statement in the proposed rules that recipients may remain in the Program as long as there is a danger of regression in nutritional status without the supplemental foods, remains.

As a result of the changes reflected in the regulations, there is no longer any reason to distinguish between initial certification and recertification, since no distinction is made in the priority system between current recipients and new applicants, and bloodwork is now required in all certifications, if the necessary equipment is available.

Therefore, at each six-month interval, recipients will be required to undergo a complete certification, as if they had just applied for the Program. Thus, any reference to recertification in the proposed rules is delted in the final regulations. An exception is that pregnant women, who may remain on the Program until six weeks postpartum without undergoing another certification.

CERTIFICATION FORMS

The Department received a number of comments on the certification form prescribed in the proposed rules. Many commenters asked that all statements in the form requiring affirmation by the applicants be deleted. A large number of commenters opposed the statement that all food obtained under the WIC Program must be used solely by the recipient, and not shared with the rest of the family. The commenters felt that this issue was an appropriate topic for nutrition education. Some commenters opposed the statement informing applicants that they would be subject to prosecution if they misrepresented information. Much of the opposition to these statements centered on the increased complexity they would bring to the certification form. The Department agrees with these comments as they pertain to all statements, except the one informing recipients that they are subject to prosecution if they misrepresent information. This statement is retained, because it is important that individuals furnish correct information during the certification visit. However, the statement has been rewritten to clarify that it refers only to information provided to determine the eligibility of the applicants, i.e., residence and income eligibility data. The requirement of a statement on who may use food obtained under the Program is deleted altogether. All other statements will still have to be read to the recipients by local agency staff, but they need not be printed on the form.

NOTICE OF INELIGIBILITY

Several commenters opposed the requirement that written notification be given to recipients who are dropped from the Program, as they felt it to be an unnecessary administrative burden. However, the Department continues to believe that the local agency has an obligation to notify a recipient if he is not eligible and to advise the recipient of his right to a fair hearing. Therefore, in addition, the regulations require that the recipient receive written notification within 15 days when the recipient is dropped from the Program between six-month certifications. For example, if a recipient is removed because he or she fails to pick up vouchers within a required time, a written notification, giving the reason for termination, is required. A person found ineligible at a certification visit must be advised in writing that he is ineligible and why he is ineligible. Further, the regulations require that each recipient receive notification, shortly before his certification period expires, that his eligibility for the Program is due to expire.

NUTRITION EDUCATION

A few commenters felt the Department should delete the requirement that the State agency evaluate the progress of nutrition education objectives in areas such as knowledge, attitudes and skills. They felt that it is impossible to assess measurable progress in these areas. The Department agrees that this is difficult to do; therefore, the reference to evaluating knowledge, attitudes and skills is deleted, but the requirement for evaluating nutrition education remains.

SUPPLEMENTAL FOODS

Many commenters opposed the requirement that the competent professional authority tailor the food package to the individual's nutritional needs because they considered the process time-consuming and an administrative burden. However, this requirement corresponds with the intent of the WIC Program, which is targeted to specific individuals determined to be in nutritional need. In addition, the Department feels it is not cost effective to provide food in greater quantities than indicated in the nutritional need determination, or to provide more food than an individual can consume. Additionally, the local agency can use the funds saved through eliminating the excess food to serve more persons. Therefore, the requirement remains.

A few commenters opposed the requirement that the local agency assure that supplemental foods are provided for home consumption only. The requirement is clarified to state that supplemental foods are not for use in institutions such as day care centers or orphanages where meals are provided by the institution.

Several comments were received asking that the Department allow physicians to prescribe infant formula which is not iron-fortified. However, iron is one of the nutrients specifically identified in the authorizing legislation as an essential component of the supplemental foods to be provided. Therefore, it is not appropriate to provide formula which is not fortified with iron, and the rule remains.

A large number of commenters requested a change in the requirements for cereals in the food package for women and children. Commenters were concerned about the level of iron fortification in cereals, the need for the inclusion of whole grain cereals, the sugar content of the cereals, and the artificial flavorings and colorings used in some of the currently authorized cereals. The Department has not made a decision and would like all interested persons to submit comments. For a discussion of the issues and a timetable for submission of comments, please refer to the end of this preamble.

Several commenters requested that infants be allowed to receive adult cereal. However, a diet containing high levels of iron is considered essential for infants up to one year of age. Substituting adult cereals for infant cereals would substantially lower the amount of iron provided. Therefore, the Department has decided not to provide adult cereals to infants.

Several commenters requested that the Department provide an enhanced food package to women who are breastfeeding. The Department believes that the current package provides sufficient supplemental foods for the breastfeeding mother. Therefore, no unique package is provided.

Many commenters supported the supplemental food package directed towards children with special dietary needs. However, many commenters requested that the Department authorize additional foods for these children, including eggs and a greater amount of juice. The special package was designed to provide sufficient nutrients for children who need primarily infant formula. To authorize the provision of foods other than those set forth in the rule would be excessive and unnecessary. Therefore, the special package remains unchanged in the regulations.

FISCAL MANAGEMENT AND ACCOUNTABILITY

Many commenters opposed the changes in the fiscal management and accountability system prescribed for State agencies in the proposed rules. Most believed this would result in an unnecessary administrative burden to State agencies which were already administering the WIC Program in a financially responsible manner. They also opposed the centralization of responsibility at the State level. Proper accounting for funds is one of the most serious problems in a grant program. The Department strongly believes that the State agency must account for funds received and expended, must know at any one time how much money is obligated and must provide accurate and timely reports on expenditures to FNS. Therefore, the requirements for fiscal accountability remain unchanged.

There is some confusion as to the distinction between a fiscal management and accountability system and the State agency's financial management system. Accordingly, the two sections are combined in the regulations under the heading of "Financial management systems" since both systems utilize similar accounting and management principles.

A number of commenters opposed the requirement that the State agency reconcile the value of individual food instruments issued with the value of individual food instruments redeemed. They claim that this is an administrative burden and costly to accomplish. However, the Department believes that it is impossible to properly account for obligations if the issuance and redemption of individual food instruments is not reconciled. Therefore, the requirement of reconciling individual food instruments' dollar value remains in the regulations. A few commenters asked that the rule allow reconciliation of food instruments at the local level. The Department has no objection if the State agency uses local records to reconcile food instruments. The local agency could reconcile the dollar value and send the information to the State agency. However, the State agency bears the responsibility of providing this information to FNS, and must therefore know the number and value of food instruments distributed and the amount of obligations outstanding, as determined by reconciling the value of the individual food instruments issued with the value of individual food instruments redeemed.

FOOD DELIVERY SYSTEM

A substantial number of commenters opposed the requirement of a uniform food delivery system within the jurisdiction of the State agency. They wanted to retain local systems which they claimed are more suited to local needs. A few commenters supported the uniformity requirements set forth in the proposed rules. Several commenters asked for clarification. The Department believes that it is difficult, if not impossible, for the State to properly control a myriad of different local systems, all using different food instruments, different forms and different methods of distributing food. The result is that the State agency never has a clear idea of the amount of funds obligated and expended until the final closeout reports. Therefore, it is the Department's view that some degree of uniformity is desirable. The Department does recognize, however, that there are many situations when the use by the local agency of a different food delivery system than that of the State agency

V 42 166 AUG 26 77 7 UMI

is necessary to serve the needs of recipients. For example, a lack of retail outlets may require one local agency to use a home delivery system. Also, commenters have indicated that under the proposed uniformity requirement, some State agencies would probably request a great number of exceptions, leading to administrative delays. Therefore, the regulations allow the State agency to operate up to three kinds of food delivery systems—home delivery, retail purchase, and direct distribution. However, each type of system must be uniform throughout the jurisdiction of the State agency. This provision will allow the State agency to account for local conditions in designing its food delivery system, while retaining the benefits of a uniform system.

It has come to the attention of the Department that some State agencies have food delivery systems in which the maximum purchase price on the food instrument is the average market price of the supplemental foods provided in that area. Food vendors are paid the maximum purchase price, regardless of the actual purchase price of the supplemental foods. Consequently, recipients who go to stores where prices are above the average must pay the difference between the actual price and the maximum purchase price on the food instrument, and stores with prices below the average price in that area retain the difference. The Department finds it unacceptable that recipients must pay for even a part of the cost of WIC Program foods. Authorizing legislation requires that funds be provided so that supplemental foods will be made available to women, infants and children. It is the purpose of the Program to provide recipients with food that they are unlikely or unable to buy themselves. It is directly contrary to this purpose to require recipients to pay for food. Furthermore, the Department believes that food vendors should not be paid more than the actual price of the supplemental foods at that store. Therefore, a requirement is added in the section on food delivery systems that recipients must receive supplemental food free of charge, and that the food vendor may not be reimbursed for more than the actual purchase price of the supplemental foods.

Several commenters opposed the requirement that the State agency must enter into written agreements with all food vendors participating in the Program. They felt that it would be administratively difficult for the State agency to enter into written agreements with all food vendors, and that the local agency could perform this function. The Department has no objection to the local agency signing the written agreements with food vendors. Therefore, the regulations have been rewritten to allow either the State agency or the local agency to enter into written agreements with food vendors.

The proposed rules also allowed the agreement between the State agency and the food vendor to be achieved through a statement on the food instrument. This was proposed because it would be administratively difficult for the State agency to sign a prior agreement with all food vendors. In view of the fact that local agencies are now allowed to enter into agreements with food vendors, the Department believes that it is no longer desirable to allow the agreement to be achieved through the food instrument. As this type of agreement is a relatively ineffective means of communicating to the food vendor his responsibilities under the Program, the provision allowing the food vendor agreement to be executed through the food instrument has been deleted in the final regulations. All agreements with food vendors will have to be signed, written agreements between the food vendor and the State or local agency.

A number of comments were received on the provisions concerning the controls on recipient and vendor abuse. Some commenters opposed allowing the State agency to remove recipients who abuse the Program. A few commenters supported this section. The Department believes that the State agency should have the discretion to remove recipients who abuse the Program. The State agency can deal with less serious abuses by a warning or other means as the State agency wishes. The provisions concerning recipient and vendor abuse therefore remain unchanged.

Food Instruments

Many commenters asked that we allow the local agency to print food instruments. Some commenters asked that the State agency delegate the responsibility for paying vendors to local agencies. These sections are rewritten to make it clear that the local agency may pay food vendors and print food instruments, except that the food instruments must follow the design of the State agency's uniform food instruments, and bear serial numbers designated by the State agency.

Some commenters opposed the restrictions on mailing of food instruments imposed by the proposed rules, one commenter supported the rule, and a few commenters asked that the Department prohibit the mailing of food instruments altogether. The Department believes that it is important to control the mailing of food instruments, both for reasons of accountability, and because mailing may weaken a major function of the WIC Program, that of providing health services and nutrition education at the local agency. However, the commenters pointed out that forcing recipients to come to the clinic to pick up food instruments could disrupt clinic operations, and in some situations impose hardships on clinics and recipients. Assuming that the State agency is familiar with the local agency's situation in this regard, the rule is changed to give the State agency, rather than FNS, the authority to approve the mailing of food instruments on a local agency-wide basis. However, the State agency must approve a local agency's request to mail food instruments as long as accountability is assured and there are either measures to provide a reasonable level of health care and nutrition education services or the State agency determines that persons in need in rural areas will be unable to participate in the program if food instruments are not mailed.

The Department is aware that some local agencies are issuing up to a six-month supply of food instruments at one visit. In these cases, as in some delivery systems which mail food instruments, it is doubtful that the recipients receive either nutrition education or health services at the clinic during the six-month period. Therefore, the final regulations contain a requirement that the local agency issue not more than a three-month supply of food instruments to each recipient at a single time. This requirement will encourage recipients to attend the clinic more frequently than once every six months, and thus take part in nutrition education classes and health services.

The proposed rules contain a requirement that recipients sign their names upon receipt of foods or food instruments. A few commenters requested that this requirement be deleted in the case of recipients who receive their food instruments in the mail. As it is difficult to require recipients to sign for food instruments which are sent in the mail, this suggestion is adopted in the regulations.

Several commenters requested that the recipients be given a longer period of time than the time allowed by some local agencies for the redemption of food instruments. Apparently, some local agencies give recipients a week or less to use the food instrument. The Department believes that participation in the WIC Program should not place undue burdens on the recipients, especially when such burdens serve no obvious Program purpose, as many recipients may live in remote areas, or have difficulty getting to a retail outlet. It is difficult to see any benefit in requiring recipients to redeem food instruments within one or two weeks, although some limit is needed to allow the State agency to determine its outstanding obligations. Therefore, the regulations require the local agency to allow 30 days for the recipient to use the food instrument to obtain supplemental foods and to print both the date the food instrument may be first used and expiration date on the food instrument. In order not to disrupt existing food delivery systems, an exception to this requirement is provided if the recipient receives the food instrument after the beginning of the month. In that case, the State agency may allow the recipient only to the end of the month to use the food instrument. For the next month, however, the State agency must allow the recipient 30 days to use the food instrument.

The proposed rules require that the food vendor submit the food instrument to the State agency within 60 days of its issuance date. Some commenters opposed this requirement, on the ground that too short a time was allowed. Therefore, the requirement has been changed to allow the food vendor to submit the food instrument 60 days from the last day the food instrument may be used by the recipient. Since in most cases the recipient will have 30 days to use the food instrument, this change will allow the food vendor a maximum of 90 days from the date of issuance to submit the food instrument to the State agency for payment.

The proposed rules require that the food instrument include a statement that food must be used by WIC Program recipients only, and may not be shared with other family members. Many commenters opposed this requirement. In keeping with the deletion of a similar statement from the certification form, this requirement is deleted.

Program Costs

Several commenters requested that allowable costs under nutrition education include the costs of training the staffs of local agencies and of classes which are not directed solely at WIC recipients. The regulations make clear that the expense of training local agencies' staffs is an allowable nutrition education cost. WIC funds should be used to develop nutrition education materials which are directed toward the special needs of WIC recipients; however, it is acceptable for WIC materials and resources to be utilized in classes for both WIC and non-WIC recipients. Similarly, materials and resources developed primarily for other target groups may be used for WIC nutrition education and WIC funds may be used to pay the pro rata share of the costs. When other programs or groups are sharing resources and materials with WIC, the costs should be allocated among the programs on an equitable basis.

Many commenters requested that the reference to "studies" as an unallowable cost be clarified. Upon further review, the Department has decided that there is no need to expand upon the explanation of studies as a cost, as this is addressed in FMC 74-4, Attachment B. Therefore, the reference to studies is deleted in the regulations.

Several commenters requested that FNS allow the cost of medical equipment. The WIC Program is designed to operate as an adjunct to good health care and is to be carried out in agencies that provide health services. WIC Program funds should not be used to equip medical clinics. Therefore, acquisition of medical equipment is not an allowable cost. Also, guidance was requested as to what kind of capital expenditures are allowable. FMC 74-4 states that capital expenditures are allowable at the discretion of FNS, but gives no dollar limit. Therefore, in order to avoid confusion on the part of State and Federal administrators, the regulations require that FNS approve only those capital expenditures above $2,500.

Management Evaluations

In the proposed rules the Department allowed a four-month implementation period for a State agency to establish a management system to evaluate progress on Program objectives. It appears that most State agencies already are using management evaluation techniques which meet the requirements of the rules. Therefore, the four-month implementation period is deleted in the regulations and all State agencies are expected to conduct management evaluations after the regulations are effective.

Administrative Appeal of State Agency Decisions

There was some confusion over what rights food vendors have to appeal decisions regarding their participation in the Program. To clarify this question, the section on administrative appeals is rewritten to include food vendors in the appeal procedure.

Issues for Comment

Eligibility based on low income alone

Presently, the regulations require that persons be found at nutritional risk because of nutritional need and inadequate income in order to participate in the WIC Program. Priorities were set among various nutritional need factors in order to assure that the persons most in need received WIC Program benefits first. The Department has believed that certifying a person on the basis of income alone might weaken the connection between the WIC Program and the provision of health services.

However, the Department also acknowledges that several surveys and studies have demonstrated a link between low income and nutritional risk in children. Also, some medical professionals have expressed the opinion that the medical and nutritional criteria used for determining nutritional need are imprecise and that low income alone is a sufficient indicator of nutritional need.

Therefore, the Department is looking further into this issue. One possible alternative which might be proposed is to add a seventh nutritional need priority level which would include those low income infants and children who because of inadequate economic resources are determined to be at nutritional risk. This would allow local agencies, after giving consideration to Priorities I through VI, to include as Priority VII infants and children who are of low income. This would entail setting an income level under which infants and children must fall in order to be eligible for Priority VII.

The Department would like to receive comments on this issue and suggestions on how to implement such a provision.

Improved Service in Rural Areas

The Department is interested in providing improved service in all its food assistance programs to low income persons in rural areas. The Department would like to receive comments on how the WIC Program could serve this objective, and suggestions on possible modifications in WIC that might facilitate the realization of this goal.

Food Package Cereals

Presently the food package is designed to increase the consumption of foods that provide the nutrients specified in the law known to be lacking in the diets of women and children at nutritional risk: high-quality protein, iron, calcium, vitamin C, and vitamin A. The authorized supplemental foods are iron-fortified infant formula, milk, cheese, iron-fortified breakfast cereal or infant cereal, full-strength fruit or vegetable juice which contains vitamin C, and eggs.

Many comments were received pertaining to the cereals currently meeting the requirements of the WIC food packages for women and children. Specifically, commenters were concerned about the exclusion of cereals not meeting the current requirement for iron fortification, the need for inclusion of whole grain cereals, the sugar content of the cereals, and the artificial colorings and flavorings used in some of the currently authorized cereals. Some commenters requested changes because they believe some of the cereals may be contributory to health problems, may not be in keeping with exemplary food choices, and the WIC food packages should contain only foods that provide an effective educational message. We would like to receive comments on this issue.

The only WIC Program nutrient requirement for cereals is iron. Presently, the regulations specify a minimum iron content of 28 milligrams (mg.) of iron per 100 grams of dry cereal. A one ounce serving of dry cereal fortified at this level would provide 45 per cent of the U.S. RDA for iron for women and children over four years of age. (The U.S. Recommended Daily Allowances (U.S. RDA) refers to a set of standards used by the Food and Drug Administration (FDA) in regulation of food labeling for nutrient content. The Recommended Dietary Allowances (RDA) refers to a set of standards developed by the National Academy of Sciences and are used by the Department for evaluating the nutrient content of the food packages.) To our knowledge, nine cereals meet this requirement. They are: Product 19, Concentrate, Buc Wheats, Corn Total, Kaboom, Total, Malt-O-Meal, Cream of Wheat, and King Vitaman. The Department is seriously considering changing the requirements for cereals and would like to receive further comments on this issue to determine which changes would be in the best interests of the target population.

Exclusion of High Sugar Cereals From the Food Package

The establishment by the Department of a maximum level of sugar for cereals authorized for use in the WIC Program was requested by commenters because of the possible relationship between sugar consumption and (1) dental caries, (2) obesity, and (3) the development of a "sweet tooth." The Department is also concerned about the possible role of sugar in the development of these prevalent health problems in the United States. However, before the Department makes a decision on this request, we would like to solicit further comments in order to clarify the issue. Many sugars, both monosaccharides and disaccharides, are used in food products. These are added to

V4 21166 AUG 26 77 7 UMI

foods in the form of refined sugar, honey, molasses, corn syrups, etc. The comments we received to the proposed rules only specified that "sugar" be limited. Since there is some disagreement in the scientific literature regarding the correlation between various sugars and health problems, we would like to know which sugars commenters would like restricted and at what level. The rationale upon which comments are based is also requested.

Currently, FDA does not require manufacturers to list the sugar content of food products on labels. If the Department establishes a maximum level for the sugar content of cereals to be used in the WIC Program, a mechanism by which this level can be ascertained will have to be implemented. Any suggestions regarding this will be appreciated.

EXCLUSION OF HIGHLY FORTIFIED CEREALS FROM THE FOOD PACKAGE

Some of the cereals that meet the iron requirement contain 100 percent of the U.S. RDA for some nutrients. A few commenters requested the exclusion of cereals that supply this level of any nutrient. It is alleged that consumption of these cereals, especially in large quantities by young children, may result in the ingestion of excessive and possibly toxic levels of some nutrients, particularly vitamins A and D. Since the percentage is based on the U.S. RDA for adults and children over four years of age, the nutrient levels for a serving of cereal may actually contain a larger percentage of the U.S. RDA for children under four years of age. Additionally, the provision of cereals fortified to 100 percent of the U.S. RDA is contradictory to the basic nutrition education premise that nutrients should be obtained from a variety of foods. Eating a variety of foods will provide the essential nutrients, thereby eliminating the need for dietary supplements.

Disallowing cereals which supply 100 percent of the U.S. RDA for any nutrient would decrease the number of cereals eligible for the WIC Program unless additional changes in the current requirement are also instituted. The Department is requesting comments on whether or not cereals containing 100 percent of the U.S. RDA for nutrient(s) should be authorized in this Program. The rationale upon which comments are based is also requested.

REDUCTION OF THE IRON REQUIREMENT FOR CEREALS

A number of commenters requested that we lower the minimum iron requirement for cereals from 45 percent to 25 percent of the U.S. RDA. The reasons for this request were to increase the variety of cereals that are eligible for use in the Program. In addition, comments have been received that suggest the cereals now eligible for use are not well accepted by recipients and consequently are not consumed. Since this change of the iron requirement would allow a large number of pre-sweetened cereals to be eligible for the Program, some commenters requested that a maximum requirement for sugar level be established simultaneously.

Currently, the total food package provides a minimum of 12 mg. of iron per day which is 80 percent of the RDA for iron for children, and 65 percent of the RDA for iron for pregnant and breastfeeding women. If the required iron level for cereal were lowered to 25 percent of the U.S. RDA, the food package would provide a minimum of 7.5 mg. of iron per day which is 50 percent of the RDA for iron for children and 40 percent of the RDA for iron for pregnant and breastfeeding women.

The Department is soliciting comments on whether or not the required iron level for cereals should be lowered. The rationale for comments is also requested.

INCLUSION OF WHOLE GRAIN CEREALS

A few commenters requested that we allow whole grain cereals that contain no more than 15–20 percent sugar, regardless of the iron content. This was requested in order to increase the variety of cereals offered and provide for a source of dietary fiber, certain B vitamins, and trace minerals in the food package. Whole grain cereals would include cereals such as cracked wheat/oats, corn meal, barley, buckheat, shredded wheat, oatmeal, brown rice, bran cereals, etc. The total food package with whole grain cereals would provide a minimum of 3 mg. of iron per day which is 20 percent of the RDA for iron for children and 15 percent of the RDA for iron for pregnant and breastfeeding women.

Please submit your comments regarding this issue.

EXCLUSION OF CEREALS THAT CONTAIN ARTIFICIAL FLAVORINGS AND COLORINGS

A few commenters requested that we exclude any cereal that contains any artificial flavoring or colorings. We would like to solicit comments regarding this request and the rationale upon which such comments are based.

Interested persons may submit comments regarding the above issues to the Director, Special Supplemental Food Program (WIC), Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250. To be assured of consideration, such comments should be delivered in person or by mail postmarked on or before October 10, 1977. Copies of all written submissions received will be made available for public inspection in Room 4301, Food and Nutrition Service, 201 14th Street SW., Washington, D.C., during regular business hours (8:30 a.m. to 5 p.m.). All comments will be considered before final rules are published on these issues.

Several comments suggested changes to the regulations which are not in accordance with the provisions of section 17 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1786). Since the regulations must follow the statutory requirements these suggestions cannot be adopted. In arriving at the revised regulations set forth below, each of the comments received was carefully and fully considered. To the extent that the provisions of the final regulations are at variance with any of the views expressed in the comments, any suggestions or proposals contained in the comments are hereby denied and any objections are overruled for the reasons previously stated.

Accordingly, Part 246 is revised to read as follows:

Sec.
246.1 General purpose and scope.
246.2 Definitions.
246.3 Administration.
246.4 Selection of local agencies.
246.5 State Agency Plan of Program Operation and Administration.
246.6 Agreements with local agencies.
246.7 Certification of persons.
246.8 Supplemental foods.
246.9 Nutrition education.
246.10 Food delivery systems.
246.11 Financial management systems.
246.12 Program costs.
246.13 Program income.
246.14 Distribution of funds.
246.15 Redistribution of funds.
246.16 Records and reports.
246.17 Grant closeout procedures.
246.18 Procurement and property management standards.
246.19 Claims.
246.20 Management evaluation and reviews.
246.21 Audits.
246.22 Investigations.
246.23 Nondiscrimination.
246.24 Fair hearing procedures for recipients.
246.25 Administrative appeal of State agency decisions.
246.26 Miscellaneous provisions.

AUTHORITY: Sec. 10, Pub. L. 89–642, 80 Stat. 889 (42 U.S.C. 1779); sec. 14, Pub. L. 94–105, 89 Stat. 518 (42 U.S.C. 1786).

§ 246.1 General purpose and scope.

(a) This part announces the policies and prescribes the regulations for the Special Supplemental Food Program for Women, Infants and Children, carried out by the U.S. Department of Agriculture (USDA) under section 17 of the Child Nutrition Act of 1966, as amended. Section 17 states that "The Congress finds that substantial numbers of pregnant women, infants and young children are at special risk in respect to their physical and mental health by reason of poor or inadequate nutrition or health care, or both. It is, therefore, the purpose of the program authorized by this section to provide supplemental nutritious food as an adjunct to good health care during such critical times of growth and development in order to prevent the occurrence of health problems."

(b) Section 17 authorizes payment of cash grants to health departments or comparable agencies of States; or to Indian tribes, bands or groups recognized by the Department of the Interior; or to the Indian Health Service (IHS) of the U.S. Department of Health, Education, and Welfare. These entities administer the WIC Program through public health or welfare agencies or private, nonprofit agencies of States, or Indian tribes, or IHS service units. Supplemental foods and nutrition education are provided, as set forth in this part, to infants, children, and pregnant, postpartum and breastfeeding women determined by a competent professional authority to be at nutritional risk due to inadequate nutrition and inadequate income, in order to improve their health status.

§ 246.2 Definitions.

For the purpose of this part and of all contracts, guidelines, instructions, forms, and other documents related hereto, the term:

"Breastfeeding women" means women up to one year postpartum who are breastfeeding their infants.

"Certification" means the use of criteria and procedures to assess and document each potential recipient's eligibility for the Program.

"Children" means persons who are at least one year of age but have not reached their fifth birthday.

"Clinic" means a facility where recipients are certified.

"Competent professional authority" means physicians, registered nurses, nutritionists, dietitians or State or local medically-trained health officials, or persons designated by physicians or State or local medically-trained health officials as being competent professionally to evaluate nutritional need and to authorize supplemental foods.

"Department" means the U.S. Department of Agriculture.

"Dual participation" means simultaneous participation by a recipient in the Program in more than one local agency, or participation in the Program and in the Supplemental Food Program (7 CFR Part 250), during the same period of time.

"Fiscal year" means the period of 12 calendar months beginning October 1 of any calendar year and ending September 30 of the following calendar year.

"FMC 74–4" means Federal Management Circular 74–4, which sets forth principles and standards for determining costs applicable to grants and contracts.

"FMC 74–7" means Federal Management Circular 74–7 which sets forth uniform standards in the administration of grants.

"FNS" means the Food and Nutrition Service of the U.S. Department of Agriculture.

"Food costs" means the acquisition cost of the supplemental foods provided to State or local agencies or to recipients, whichever receives the foods first.

"Food delivery system" means the method used by State and local agencies to provide supplemental foods to recipients under the Program.

"Food instrument" means a voucher, check, coupon or other document that evidences an obligation to a food vendor for supplemental foods delivered to a recipient.

"Health services" means ongoing, routine pediatric and obstetrical care such as infant and child care, prenatal and postpartum examinations, nutritional examinations or screening, diagnosis and treatment or referral for treatment.

"IHS" means the Indian Health Service of the U.S. Department of Health, Education and Welfare.

"Infants" means persons under one year of age.

"Local agency" means a public health or welfare agency or a private, nonprofit health or welfare agency, which directly, or through an agency or a physician with which it has contracted pursuant to § 246.4 of this part, provides health services to recipients. It also means an IHS service unit, or an Indian tribe, band or group which is recognized by the Department of the Interior and operates a health clinic or is provided health services by an IHS service unit.

"Members of populations" means persons with a common special need that do not necessarily reside in a specific geographic area, such as off-reservation Indians or migrant families.

"Nonprofit agency" means a private agency which is exempt from income tax under the Internal Revenue Code of 1954, as amended.

"Nutritional need" means one or more of the following:

(1) For a pregnant, or postpartum woman—

(i) Anemia;

(ii) High risk pregnancy, or a history of premature births, miscarriages, or high risk pregnancies;

(iii) Abnormal pattern of growth such as underweight or obesity;

(iv) Inadequate nutritional pattern.

(2) For an infant or child—

(i) Anemia;

(ii) Abnormal pattern of growth such as underweight, obesity or stunting; including for infants, a birth weight of 2500 grams or less;

(iii) Inadequate nutritional pattern;

(iv) Status as an infant (up to six months of age) of a mother who was a recipient during pregnancy.

(3) For a breastfeeding woman—

(i) Anemia of the breastfeeding woman or the infant she is breastfeeding;

(ii) Abnormal pattern of growth of the breastfeeding woman or the infant she is breastfeeding, such as underweight, obesity or stunting; including, for the infant, a birth weight of 2500 grams or less;

(iii) Inadequate nutritional pattern of the breastfeeding woman or the infant she is breastfeeding;

(iv) A history of premature births, miscarriages, or high risk pregnancies in the breastfeeding woman.

"Nutritional risk" means special risk by reason of both inadequate income and nutritional need.

"Operational and administrative costs" means those direct and indirect costs, exclusive of food costs, which State and local agencies determine to be necessary to support Program operations. Such costs include, but are not limited to, the cost of Program administration, monitoring, auditing, nutrition education, startup, outreach, certification, and developing and printing food instruments.

"Plan of Program Operation and Administration" means the document which describes the manner in which the State agency intends to implement and operate all aspects of Program administration within its jurisdiction.

"Postpartum women" means women up to six months after termination of pregnancy.

"Pregnant women" means women determined to have one or more fetuses in utero.

"Program" means the Special Supplemental Food Program for Women, Infants and Children authorized by section 17 of the Child Nutrition Act of 1966, as amended.

"Recipient participation" means the number of persons for whom supplemental foods or food instruments have been issued for the reporting period.

"Recipients" means pregnant women, breast-feeding women, postpartum women, infants, and children who are receiving supplemental foods or food instruments under the Program.

"SSFD" means the Special Supplemental Food Division of the Food and Nutrition Service of the U.S. Department of Agriculture.

"Secretary" means the Secretary of the U.S. Department of Agriculture.

"State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"State agency" means the State health department or agency with comparable responsibilities of a State; or an Indian tribe, band or group recognized by the Department of the Interior; or an intertribal council or group which is an authorized representative of Indian tribes, bands or groups recognized by the Department of the Interior and which has an ongoing relationship with such tribes, bands or groups for other purposes and has contracted with them to administer the Program; or the appropriate area office of the IHS.

"Supplemental foods" means foods which meet the specifications of this part.

§ 246.3 Administration.

(a) Within the Department, FNS shall act on behalf of the Department in the administration of the Program. Within FNS, SSFD and the Regional Offices are responsible for Program administration. FNS will provide assistance to State and local agencies and evaluate all levels of Program operations to assure that the goals of the Program are achieved in the most effective and efficient manner possible.

(b) The State agency is responsible for all operations under the Program within its jurisdiction and shall administer the Program in accordance with the requirements of this part, FMC 74–4, FMC 74–7, and FNS guidelines and instructions. The State agency shall provide guidance to local agencies on all aspects of Program operations.

(c) Each State agency desiring to take part under the Program shall annually enter into a written agreement with the Department for the administration of the

V 42166 AUG 26 77 UMI

Program in the jurisdiction of the State agency in accordance with the provisions of this part.

(d) The local agency shall provide Program benefits to recipients in the most effective and efficient manner, and shall comply with this part, FMC 74-4, FMC 74-7, and State agency and FNS guidelines and instructions.

§ 246.4 Selection of local agencies.

(a) *General.* This section sets forth the procedures the State agency shall perform in the selection of each agency which desires to operate under the Program.

(b) *Application of local agencies.* The State agency shall require each agency which desires approval as a local agency to submit an application which contains sufficient information to enable the State agency to make a determination as to the eligibility of that agency. The State agency shall make the determination in accordance with the eligibility requirements for a local agency as prescribed in this section. The State agency shall notify the agency of the status of its application within 30 days of receipt of the agency's application. If the application is denied, the State agency shall advise the agency of the reasons for denial and the right to appeal as set forth in § 246.25 of this part.

(c) *Program initiation and expansion.* The State agency shall ensure that all Program initiation and expansion within its jurisdiction are executed in accordance with the Affirmative Action Plan, which is established in accordance with paragraph (d) of this section and which is approved by FNS in the State agency's Plan of Program Operation and Administration. The State agency may fund new local agencies without FNS approval as long as the requirements of this part are met. However, the State agency shall submit to FNS for approval, as an amendment to the Plan of Program Operation and Administration, a description of any operations of the new local agency which are inconsistent with State agency operations as approved in the Plan of Program Operation and Administration. The State agency shall assure that there is no operation under the Program in the same geographic area as the Supplemental Food Program (7 CFR Part 250), except where the local agency serves members of populations.

(d) *Affirmative Action Plan.* The State agency shall establish, and when necessary update, an Affirmative Action Plan which provides, in priority order based on relative need, a list of all areas and populations, including a description of such populations, within the jurisdiction of the State agency (except areas under the Supplemental Food Program (7 CFR 250.14)) which are not now operating under the Program or are requesting expansion of their existing operations. The State agency shall submit its Affirmative Action Plan to FNS as a part of the State agency's Plan of Program Operation and Administration. The State agency shall meet the following requirements in connection with the Affirmative Action Plan:

(1) The Affirmative Action Plan shall state the criteria used to determine the relative need of areas and populations included in the Plan. These criteria may include infant mortality, low birth weight, low income and other criteria which are consistent with the intent of the authorizing legislation to make Program benefits an adjunct to good health care. Members of populations shall be given consideration in the Affirmative Action Plan based on criteria which identify the needs of the populations and not the geographic area where they reside. The Affirmative Action Plan may not be approved by FNS unless Indian and migrant populations which exist within the jurisdiction of the State agency are given consideration.

(2) The State agency shall fund those areas or populations most in need first, in accordance with their order of priority as listed in the Affirmative Action Plan. The selection criteria cited in paragraph (e) of this section shall be applied in each area or population before eliminating that area from consideration and serving the next area or population.

(3) The State agency shall provide a written justification for not funding the highest priority area or population, such as inability to administer the Program, lack of interest expressed for operating under the Program, or, for those areas or populations which are under consideration for expansion of an existing operation, a determination by the State agency that there is a greater need for funding in an area or population not operating under the Program.

(e) *Local agency priority system.* If the State agency has not received an application from a public or nonprofit, private health agency which can provide health and administrative services in the area next in line according to the Affirmative Action Plan, before funding a new local agency the State agency shall publish a notice in the media of that area. The notice shall include a brief explanation of the Program, a description of the local agency priority system cited in this paragraph and a request that potential local agencies notify the State agency of their interest within 30 days. Additionally, the State agency shall contact all potential agencies in an area to ensure that they are aware of the opportunity to apply for participation under the Program. If no agency expresses interest within 30 days, the State agency may then proceed with the selection of a local agency in the area next in line according to the Affirmative Action Plan. A State agency may give notice and consider applications in more than one area at the same time, but shall fund new local agencies in conformance with the sequential ranking of the Affirmative Action Plan. The State agency may select as a local agency the following types of agency arrangements, assigning priority to such arrangements in the following order:

(1) First consideration shall be given to a public or nonprofit health agency which can provide health and administrative services.

(2) Second consideration shall be given to a public or private, nonprofit health or welfare agency which must enter into a written agreement with another such agency for either health or administrative services.

(3) Third consideration shall be given to a public or private, nonprofit health agency which must enter into a written agreement with a private physician in order to provide health services to a specific category of recipient—women, infants or children.

(4) Fourth consideration shall be given to a public or private, nonprofit welfare agency which must enter into a written agreement with a private physician to provide health services.

(f) When a health and welfare agency comprise the local agency, both agencies shall in conjunction meet all the requirements of this part and shall enter into a written agreement which outlines all Program responsibilities of each agency. The agreement shall be approved by the State agency during the local agency application process, and shall be on file at both the State and local agency. No program funds shall be used to reimburse the health agency for the health services provided.

(g) When a health or welfare agency and private physicians comprise the local agency, the agency shall have a written agreement **with the private physicians** and shall provide guidance to the private physicians regarding their responsibilities under the Program. The agency shall advise the State agency on its application of the names and addresses of the private physicians participating and obtain State agency approval of the written agreement. A competent professional authority on the staff of the welfare agency shall be responsible for the certification of recipients. No Program funds shall be used to reimburse the private physicians for the health services provided.

§ 246.5 State agency Plan of Program Operation and Administration.

(a) *Requirements for the State agency Plan of Program Operation and Administration.* Each year the State agency shall submit to FNS for approval a State agency Plan of Program Operation and Administration for the following fiscal year. Approval of the Plan by FNS is a prerequisite to the payment of funds to the State agency for operation under the Program. Guidance for the preparation of the Plan shall be provided by FNS. The Plan and all amendments thereto shall be signed by the Chief Health Officer of the State agency (or his equivalent). The Plan shall provide the following:

(1) The names and addresses of the local agencies which are currently operating or are expected to operate during the fiscal year, the area or population served by each local agency, and the number of clinics of each local agency.

(2) A map indicating the areas and populations which will be served under the Program.

(3) A copy of the form to be used for the agreement between the State agency and local agencies.

(4) A current Affirmative Action Plan which is in accordance with the requirements of § 246.4(d).

(5) An estimate of recipient participation for the next fiscal year by category of women, infants, and children.

(6) A description of the financial management system, including a detailed breakdown of the proposed expenditure among the cost categories of operational and administrative costs and food costs.

(7) A description of the methods used to determine nutritional risk which shall include:

(i) For determinations of inadequate income, a description of the income standards prescribed or approved by the State agency for use by local agencies. Such description shall include the procedures used to determine income eligibility under those standards.

(ii) For determinations of nutritional need, a list of the specific nutritional need criteria which cites conditions and indices to be used to determine a person's nutritional need. These criteria shall be listed under each of the six levels of the priority system outlined in § 246.7(b)(2)(ii). The State agency may set further priorities within each nutritional need priority category, according to degree of nutritional risk or age of recipient. These priorities shall be listed in the Plan. If the State agency has no uniform list for use in all local agencies, it must provide in the Plan a description of the State agency criteria used to approve local agency nutritional need criteria.

(8) A plan for the provision of nutrition education services for the fiscal year, including the procedures which shall be used to meet the special nutrition education needs of migrants and Indians. The nutrition education portion of the Plan shall include:

(i) Measurable objectives consistent with the Program nutrition education goals;

(ii) A means of implementing each objective;

(iii) An evaluation component for each objective which includes a systematic procedure for recipient input; and

(iv) The results of the evaluations of the objectives for the prior fiscal year.

(9) A description, in detail, of the type of food delivery system to be used which complies with § 246.10, and where food instruments are used, a sample or facsimile of the food instrument.

(10) A plan for the detection of dual participation within the jurisdiction of the State agency.

(11) A description of the State agency monitoring procedures which comply with the requirements of § 246.20, including the number of reviews of local agencies performed in the last four quarters and the number planned for the upcoming fiscal year.

(12) A description of the State agency audit program procedures which comply with the requirements of § 246.21, including the number of audits performed of local agencies in the last four quarters, the number of local agencies audited in the last four quarters, and the number of audits planned and number of local agencies to be audited in the upcoming fiscal year.

(13) A description of the procedures used to comply with the requirements of title VI of the Civil Rights Act of 1964, including racial and ethnic participation data collection, public notification procedures and the annual civil rights compliance review process.

(14) A description of the resources and staff available to perform State agency responsibilities and to assist local agencies in Program operations, such as any necessary supervision, reviews, training and guidance.

(b) *Amendments.* At any time, the State agency may amend the Plan of Program Operation and Administration to accommodate any changes or budget increases requested. The State agency shall submit such amendments to FNS for approval.

(c) *Submission of Plan to the Governor.* All State agencies, except Indian State agencies, shall submit their Plan of Program Operation and Administration annually to the Governor or his delegated authority for comment as required by Circular A-95 (38 FR 32874), issued by the Office of Management and Budget, September 13, 1973. A period of 45 days from the date the Governor receives the Plan of Program Operation and Administration shall be afforded for such comments prior to submission to FNS. The comments shall be submitted in the Plan of Program Operation and Administration. If the Governor makes no comment, a statement to that effect shall be attached to the Plan of Program Operation and Administration. Amendments to the Plan of Program Operation and Administration need not be submitted to the Governor unless there is a significant change. Although not required, Indian State agencies are encouraged to consult area-wide Federal planning offices in the development of their Plan of Program Operation and Administration.

(d) *State agency notification.* FNS shall notify the State agency in writing of the status of its Plan of Program Operation and Administration within 30 days of the submission of a completed Plan.

(e) *Retention of copy.* A copy of the approved Plan of Program Operation and Administration shall be kept on file at the State agency for public inspection.

§ 246.6 Agreements with local agencies.

(a) The State agency shall enter into a signed written agreement with each local agency which sets forth the local agency's responsibilities under the Program as prescribed in this part. Copies of the agreement shall be kept on file at both the State and local agency for purposes of review and audit in accordance with §§ 246.20 and 246.21.

(b) Each Indian State agency shall assure that all local agencies under its jurisdiction serve primarily Indian populations.

(c) The agreement between the State agency and each local agency shall include provisions assuring that local agencies shall:

(1) Comply with all the fiscal and operational requirements prescribed by the State agency pursuant to this part and FNS guidelines and instructions;

(2) Have the competent professional authority and the facilities and equipment necessary to perform the certification procedures;

(3) Make available appropriate health services to recipients;

(4) Implement a food delivery system prescribed by the State agency pursuant to § 246.10 and approved by FNS;

(5) Provide on a timely basis to the State agency all required information regarding fiscal and program administration in accordance with this part;

(6) Maintain complete, accurate, documented and current accounting of all Program funds received and expended; and

(7) Maintain on file and have available for review and audit all criteria used for certification, including residence information, income standards or other standards used to determine eligibility for free or reduced cost health care and a list of the specific criteria used to determine nutritional need.

§ 246.7 Certification of persons.

(a) *State agency responsibilities.* In determining the eligibility of persons for supplemental foods, the State agency shall perform the following responsibilities:

(1) The State agency shall provide guidance to local agencies regarding eligibility requirements and certification procedures in accordance with this section.

(2) The State agency shall provide or approve standards used by local agencies to determine inadequate income.

(3) The State agency shall maintain a file of all economic standards authorized for use in determining eligibility for the Program, and information supporting approval of the standards, for the purpose of review and audit by the Department as set forth in §§ 246.20 and 246.21.

(4) The State agency shall provide local agencies with a list of specific criteria for use in determining nutritional need which is in accordance with the priorities listed in paragraph (b)(2)(ii) of this section, or approve such a list which is used by local agencies. Such list or lists shall be on file at the State agency.

(5) The State agency shall provide local agencies with a certification form meeting the requirements of paragraph (e) of this section, or approve such forms which are used by local agencies.

(b) *Certification of persons.* To be certified as eligible to receive the supplemental foods under the Program, infants, children and pregnant, post-

V 4 21 66 A AUG 26 77 UMI

partum and breastfeeding women shall meet the following requirements:

(1) *Residence.* They shall be residents of areas or members of populations served by the local agency. If the person is a member of a population and resides outside the local agency's service area, this information shall be noted in the person's certification file.

(2) *Nutritional risk.* They shall be at nutritional risk because of both inadequate income and nutritional need.

(i) *Inadequate income.* Recipients shall meet an income standard provided or approved by the State agency. If none are so provided or approved, they shall be eligible for health care free or at less than the full charge customarily made for health services by the local agency.

(ii) *Nutritional need.* A competent professional authority on the staff of the local agency shall determine if a person is in nutritional need through a medical or nutritional assessment. This determination may be based on data submitted by another competent professional authority. The person's height or length and weight shall be measured, and a hemoglobin or hematocrit test shall be performed if the necessary equipment for such tests is available. However, such hemoglobin or hematocrit tests are not required for infants under six months of age. The competent professional authority shall assure that those persons in greatest nutritional need are placed in the Program first. In determining a person's need for participation in the Program, the following priorities shall be applied when vacancies occur after a local agency has reached its maximum participation level:

(A) *Priority I.* Pregnant women, breastfeeding women and infants in nutritional need as demonstrated by hematological or anthropometric measurements, or other documented medical conditions which demonstrate the person's need for supplemental foods.

(B) *Priority II.* Infants (up to 6 months of age) of WIC recipients who participated during pregnancy, except for infants who qualify for Priority I.

(C) *Priority III.* Children in nutritional need as demonstrated by hematological or anthropometric measurements or other documented medical conditions which demonstrate the child's need for supplemental foods.

(D) *Priority IV.* Pregnant women, breastfeeding women, and infants in nutritional need because of an inadequate dietary pattern, as documented by a person qualified in such assessments.

(E) *Priority V.* Children in nutritional need because of an inadequate dietary pattern, as documented by a person qualified in such assessments.

(F) *Priority VI.* Postpartum women in nutritional need.

(c) *Regression in nutritional status.* Recipients may remain in the Program as long as they are eligible according to economic and residential criteria and there is a possibility of regression in nutritional status without the supplemental foods. However, the competent professional authority determining nutritional need may remove a recipient from the Program at a certification visit if that person, in the competent professional's judgment, is no longer believed to be in nutritional need, or if there are potential recipients waiting who, according to the priority system, are in greater nutritional need.

(d) *Schedule of certification.* The local agency shall certify persons at the time of their entrance into the Program, and at 6 month intervals thereafter, except that pregnant women shall be certified for the duration of their pregnancy and for 6 weeks postpartum. When there are funds available to serve a person, the local agency shall certify the person, or notify the person of his ineligibility for the Program, within 20 days of the person's first visit to the local agency to apply for participation in the Program. During the first visit the person's name, address and date shall be recorded on a certification form which shall be completed at the time of certification. A person who is determined eligible shall receive supplemental foods or food instruments within 10 days of notification of his eligibility.

(e) *Certification forms.* All certification data for each person shall be recorded on a form (or forms) which are provided by or approved by the State agency. The information on the form shall include the following:

(1) The person's name and address.

(2) Date of initial visit to apply for participation.

(3) The criteria used to determine the person's economic eligibility for the Program.

(4) The date of the certification.

(5) The person's height or length, weight and, if taken, hemoglobin and hematocrit test results.

(6) The person's specific nutritional need which qualifies him for the supplemental foods.

(7) The signature and title of the administrative personnel collecting the residence and income data, and the signature and title of the competent professional authority making the nutritional need determination.

(8) A statement saying, "This certification form is being made in connection with the receipt of Federal funds. Program officials may verify information on this form. Deliberate misrepresentation may subject you to prosecution under applicable State and Federal statutes."

(9) After the person has been advised of his rights and obligations as set forth in paragraph (f) of this section, the person or his parent or guardian shall read or be read the following statement and shall undersign on the form:

I have been advised of my rights and obligations under the Program. I certify that the information I have provided for my eligibility determination is correct, to the best of my knowledge.

(f) *Recipient rights and obligations.* The following sentences shall be read by, or read to, the person or his parent or guardian at the time of certification. Where a significant proportion of the area served by a local agency is composed of non-English or limited English speaking persons who speak the same language, the sentences shall be stated to such persons in a language they understand.

(1) Standards for participation in the Program are the same for everyone regardless of race, color, creed, national origin, political beliefs, or sex.

(2) You have the opportunity to appeal any decision made by the local agency regarding your eligibility for the Program.

(3) This local agency will make health services available to all recipients who participate in the Program. You are encouraged to participate in these health services.

(g) *Retention of certification data.* For each person, all pertinent certification data, including the person's certification forms, shall be kept on file. Such files shall be maintained for Federal or State audit or review for a period of three years following the date of submission of the final expenditure report for the period for which the records pertain. The provisions of § 246.16(c)(2) shall be applicable to such files, including the longer retention period which may be required by FNS under certain circumstances.

(h) *Notice of recipient ineligibility or expiration of eligibility.* The following responsibilities shall be performed by the State or local agency:

(1) A person found ineligible for the Program during a certification visit shall be advised in writing of his ineligibility, the reasons for his ineligibility and his right to a fair hearing.

(2) A person found ineligible for the Program at any time after his certification shall be advised, in writing, 15 days before termination of his eligibility, of the reasons for his ineligibility and his right to a fair hearing.

(3) Each recipient shall be notified shortly before the expiration of his certification period that his eligibility for the Program is about to expire.

(i) *Certification of migrant farmworker recipients and dependents.* The State agency may allow the local agencies under its jurisdiction to accept verification of certification from migrant farmworker recipients, or their dependents, who have been participating in the Program in another local agency within or outside of the jurisdiction of the State agency. The verification of certification is valid until the certification period expires. The verification of certification shall include the date certification was performed, the nutritional need criteria of the recipient, the name of the recipient, the date the certification period expires, and the signature of the local agency official.

§ 246.8 Supplemental foods.

(a) *General.* This section prescribes the requirements for providing supplemental foods to recipients.

(b) *State agency responsibilities.* State agencies shall:

(1) Identify foods which are acceptable for use under the Program in accordance with the requirements of this section and provide a list of acceptable foods and maximum monthly quantities to local agencies, State auditors and Department auditors; and

(2) Ensure that local agencies are able to make available at least one food from each group in each food package listed in paragraph (d) of this section. However, this does not mean that the local agency must provide each recipient with a food from each food group.

(c) *Local agency responsibilities.* The State agency shall ensure that the local agencies:

(1) Make available to recipients the supplemental foods, as authorized in paragraph (d) of this section; and

(2) Designate a competent professional authority to prescribe supplemental foods in quantities necessary to satisfy the individual nutritional needs of each recipient, taking into consideration, at each certification, the recipient's age and dietary needs. In the case of breastfeeding infants, consideration shall be given as to whether the mother's breast milk alone is sufficient for the infant's dietary needs. The amount of supplemental foods shall not exceed the maximum quantities specified in this section.

(d) *Food packages.* There are three food packages available under the Program which may be provided to recipients. The authorized supplemental foods shall be prescribed from food packages according to the category and nutritional need of recipient. The food packages are as follows:

NOTE.—The metric units given are mathematical conversions. If packaging practices change, the authorized food quantities will be revised accordingly:

(1) *Food Package I—Infants.* (i) Iron-fortified formula intended for use by infants, which is a complete formula not requiring the addition of any ingredients other than water prior to being served in a liquid state, and which contains at least 10 milligrams of iron per liter of formula at standard dilution which supplies 67 kilocalories per 100 milliliters, i.e., approximately 20 kilocalories per fluid ounce of formula at standard dilution. Concentrated liquid or powdered formula shall be provided, except that ready-to-feed formula may be authorized when the competent professional authority determines and documents that there is an unsanitary or restricted water supply, that there is poor refrigeration or that the person who is caring for an infant may have difficulty in correctly diluting concentrated liquid or powdered formula.

Substitutes. The following types of milk may be substituted for all or part of the iron-fortified formula for any infant beginning at six months of age: Pasteurized whole fluid milk which contains 400 International Units of vitamin D per quart (.946 liters); or evaporated milk which contains 400 International Units of vitamin D per reconstituted quart (.946 liters), or, in Puerto Rico, the Virgin Islands, Alaska, Guam, Hawaii, and the Trust Territory of the Pacific Islands only, dry whole milk which contains 400 International Units of vitamin D per reconstituted quart (.946 liters). However, the recipient's parent or guardian shall be informed that the substitution will result in a reduction of the iron content in the infant food package.

(ii) Infant cereal which contains a minimum of 45 milligrams of iron per 100 grams of dry cereal.

(iii) Single strength fruit juice which contains a minimum of 30 milligrams of vitamin C per 100 milliliters; or concentrated fruit juice which contains a minimum of 30 milligrams of vitamin C per 100 milliliters of reconstituted juice; or infant juice which contains a minimum of 30 milligrams of vitamin C per 100 milliliters.

(iv) The maximum quantity of supplemental foods authorized per month is as follows:

Food	*Quantity*
Iron fortified infant formula:	
Concentrated liquid formula	403 fluid oz. (11.919 l).
Powdered formula	May be substituted at the rate of 8 lb (3.6 kg)/403 fluid oz. (11.919 l) of concentrated liquid formula.
Ready-to-feed liquid formula.	May be substituted at the rate of 26 fluid oz. (.767 l)/13 fluid oz. (.384 l) of concentrated liquid formula.
Whole fluid milk	May be substituted for formula beginning at age 6 mo. at the rate of 1 qt. (.946 l) of whole fluid milk per 13 fluid oz. (.394 l) of concentrated liquid formula.
Evaporated milk	May be substituted for milk beginning at age 6 mo. at the rate of 13 fluid oz. (.384 l) per 13 fluid oz. (.384 l) of concentrated liquid formula.
Whole dry milk	In Puerto Rico, the Virgin Islands, Alaska, Guam, Hawaii, and the Trust Territory of the Pacific Islands only, may be substituted for formula beginning at age 6 mo. at the rate of 1 lb. (.45 kg.)/39 fluid oz. (1 15 l) of concentrated liquid formula.
Infant cereal	24 oz., dry (680.39 g).
Juices:	
Single strength juices	92 fluid oz. (2.721 l).
Frozen, concentrated juices.	May be substituted as long as the reconstituted volume is no greater than the amount authorized for single strength juices.
Infant juice	May be substituted at the rate of 63 fluid oz. (1.863 l)/92 fluid oz. (2.721 l) of single strength juice.

(2) *Food Package II Children and pregnant, postpartum or breastfeeding women.* (i) Pasteurized whole fluid milk which is flavored or unflavored and which contains 400 International Units of vitamin D per quart (.946 liters); or evaporated milk which contains 400 International Units of vitamin D per reconstituted quart (.946 liters); or pasteurized skim or lowfat fluid milk which is flavored or unflavored and which contains 400 International Units of vitamin D and at least 1500 International Units of vitamin A per fluid quart (.946 liters) or the minimum amount required by the Food and Drug Administration, whichever is greater; or nonfat dry milk which contains 400 International Units of vitamin D and at least 2000 International Units of vitamin A per reconstituted quart (.946 liters); or pasteurized cultured buttermilk which contains 400 International Units of vitamin D and at least 1500 International Units of vitamin A per fluid quart (.946 liters); or in Puerto Rico, the Virgin Islands, Alaska, Guam, Hawaii and the Trust Territory of the Pacific Islands only, dry whole milk which contains 400 International Units of vitamin D per reconstituted quart (.946 liters); or domestic cheese (pasteurized process American, Monterey Jack, Colby, natural cheddar or Swiss).

(ii) Cereal (hot or cold) which contains a minimum of 28 milligrams of iron per 100 grams of dry cereal.

(iii) Single strength fruit juice or vegetable juice, or both, which contains a minimum of 30 milligrams of vitamin C per 100 milliliters; or concentrated fruit or vegetable juice, or both, which contains a minimum of 30 milligrams of vitamin C per 100 milliliters of reconstituted juice.

(iv) Eggs, or dried egg mix.

(v) The maximum quantity of supplemental foods authorized per month is as follows:

Food	*Quantity*
Whole fluid milk	28 qt. (26.488 l).
Evaporated milk	May be substituted for whole fluid milk at the rate of 13 fluid ounces (.384 l) per quart (.946 l) of whole fluid milk.
Skim or lowfat milk	May be substituted for whole fluid milk on a quart-for-quart (.946 l) basis.
Nonfat dry milk	May be substituted for whole fluid milk at the rate of 1 pound (.45 kg) per 5 qt (4.73 l) of whole fluid milk.
Cultured buttermilk	May be substituted for whole fluid milk on a quart-for-quart (.946 l) basis.
Whole dry milk	In Puerto Rico, the Virgin Islands, Alaska, Guam, Hawaii, and the Trust Territory of the Pacific Islands only, may be substituted for whole fluid milk at the rate of 1 lb (.45 kg) per 3 qt (2.838 l) of whole fluid milk.
Cheese	May be substituted for whole fluid milk at the rate of 1 lb. (.45 kg) per 3 qt. (2.838 l) of whole fluid milk.
Eggs	2½ doz.
Dried egg mix	May be substituted at the rate of 2 lbs (.9 kg) egg mix per 2½ doz. fresh eggs.
Cereals (hot or cold)	36 oz., dry (1,020 g.).
Juices:	
Single strength juices	276 fluid ounces (8.142 l).
Frozen, concentrated juices	May be substituted as long as the reconstituted volume is no greater than the amount authorized for single strength juices.

V 42166 AUG 26 77 7 UMI

(3) *Food Package III—Children with special dietary needs.* Children with special dietary needs may receive the following supplemental foods if the physician determines and documents that such a child's condition precludes the use of the supplemental foods specified in paragraph (d)(2) of this section.

(i) Iron-fortified infant formula which is a complete formula not requiring the addition of any ingredients other than water prior to being served in a liquid state and which contains at least 10 milligrams of iron per liter at standard dilution which supplies 67 kilocalories per 100 milliliters, i.e., approximately 20 kilocalories per fluid ounce of formula at standard dilution. Concentrated liquid or powdered formula shall be provided except that ready-to-feed liquid formula may be authorized when the competent professional authority determines and documents that there is an unsanitary or restricted water supply, that there is poor refrigeration or that the person caring for a child may have difficulty in correctly diluting concentrated liquid or powdered formula.

(ii) Cereal (hot or cold) which contains a minimum of 28 milligrams of iron per 100 grams of dry cereal.

(iii) Single strength fruit juice or vegetable juice, or both, which contains a minimum of 30 milligrams of vitamin C per 100 milliliters; or concentrated fruit or vegetable juice, or both, which contains a minimum of 30 milligrams of vitamin C per 100 milliliters of reconstituted juice.

(iv) The maximum quantity of supplemental foods authorized per month is as follows:

Foods	Quantities
Iron-fortified infant formula:	
Concentrated liquid formula	403 fluid ounces (11.919 l).
Powdered formula	May be substituted at a rate of 8 lb. (3.6 kg.) per 403 fluid ounces (11.919 l) concentrated liquid formula.
Ready-to-feed liquid formula	May be substituted at a rate of 26 fluid ounces (.767 l) per 13 fluid ounces (.384 l) of concentrated liquid formula.
Cereals (hot or cold)	36 ounces, dry (1020 grams).
Juices:	
Frozen concentrated juices	138 fluid ounces (4.082 l).
Single strength juices	May be substituted as long as the reconstituted volume is no greater than the amount authorized for single strength juice.

§ 246.9 Nutrition education.

(a) *General.* Nutrition education shall be thoroughly integrated into Program operations. Nutrition education shall be designed to be easily understood by individual recipients and shall bear a practical relationship to their nutritional needs and household situations.

(b) *Goals.* Nutrition education shall be based on the following two broad goals:

(1) To emphasize the relationship of proper nutrition to the total concept of good health, with special emphasis on the nutritional needs of pregnant, postpartum, and breastfeeding women, infants and children under five years of age; and

(2) To assist the individual at nutritional risk in obtaining a positive change in food habits, resulting in improved nutritional status and in the prevention of nutrition-related problems through maximum use of the supplemental and other nutritious foods. This use is to be within the context of ethnic, cultural and geographic preferences and with consideration given to environmental limitations.

(c) *State agency responsibilities.* The following are the State agency responsibilities for nutrition education:

(1) When developing nutrition education services for the Program, the State agency shall take into consideration local agency plans and needs, and shall coordinate planning and implementation of Program nutrition education activities with those provided by other sources.

(2) The State agency shall utilize at least one professional person on a full-time, part-time, or consulting basis who is trained as a nutritionist (M.S. or M.P.H.) or dietitian (registered or eligible to take the registration examination). This person shall have the responsibility to plan, direct and coordinate nutrition education under the Program. Where necessary, this person shall provide instructional and technical assistance to local agencies, and shall also provide inservice training in nutrition and instruction techniques for the local agencies' staff.

(3) The State agency shall ensure that the local agency fully performs its responsibilities as set forth in paragraph (d) of this section.

(d) *Local agency responsibilities.* (1) The local agency shall make nutrition education available to all adult recipients and to parents or guardians of infant and child recipients. Where appropriate, nutrition education for child recipients is encouraged.

(2) The local agency shall direct Program funds for nutrition education to the benefit of recipients and local agency staff members in accordance with this part and FNS guidelines.

(3) The local agency shall conduct nutrition education in a manner consistent with the State agency's nutrition education portion of the Plan of Program Administration.

(4) The local agency shall include the following subject matter areas in the instruction given to recipients:

(i) An explanation of the recipient's nutritional need condition, and the importance of the supplemental foods being consumed by the recipient for whom they are prescribed rather than the whole family;

(ii) Reference to the special nutritional needs of recipients and ways to provide them with adequate diets;

(iii) An explanation of the Program as a supplemental rather than a total food program;

(iv) Information on the use of the supplemental foods and on the nutritional value of these foods; and

(v) An explanation of the importance of health care.

§ 246.10 Food delivery systems.

(a) *General.* This section sets forth design and operational requirements for State and local agency food delivery systems.

(b) *Uniform food delivery systems.* The State agency may operate up to three types of food delivery systems: retail purchase, home delivery or direct distribution. Within ten months of the effective date of this part, each type of food delivery system shall be uniform within the jurisdiction of the State agency. When used, food instruments shall be uniform within each type of system.

(c) *State agency responsibilities.* Each State agency is responsible for the fiscal management of, and accountability for, food delivery systems under its jurisdiction and shall comply with the following requirements:

(1) The State agency shall describe in the Plan of Program Operation and Administration all food delivery systems to be used by local agencies under its jurisdiction. FNS may, for a stated cause and by written notice, require revision of a proposed or operating food delivery system and shall allow a reasonable time for the State agency to effect such a revision.

(2) The State agency shall ensure payment to food vendors for food costs incurred by the food vendor in providing supplemental foods to recipients. Actual payment to food vendors may be made by local agencies.

(3) The State agency shall ensure that all food vendors participating in the Program enter into written agreements with the State or local agency. Copies of these agreements shall be on file at the State agency. The agreements shall require the food vendors to:

(i) Ensure that they will provide only the supplemental foods specified in this part when providing foods under the Program;

(ii) Provide supplemental foods at the current price or at less than the current price charged to customers other than recipients;

(iii) When food instruments are used, submit those food instruments for payment within the allowed time limit and accept food instruments from recipients only within the allowable time limit; and

(iv) Comply with the nondiscrimination requirements of Department regulations (7 CFR Part 15).

(4) The State agency shall ensure that food vendors are provided guidance concerning the authorized supplemental foods and applicable FNS guidelines and instructions. This shall include, but not be limited to:

(i) On-site reviews by State or local agency personnel of those food vendors accepting food instruments;

(ii) Transmittal of pertinent information by State or local agencies to participating food vendors; and

(iii) State or local agency training sessions for participating food vendors.

(5) The State agency shall implement a system of management review to limit food vendor and recipient abuses of the Program. The system shall include the following:

(i) The State agency shall ensure that food vendors, after exhausting all rights outlined in § 246.25, are suspended from participation under the Program for a reasonable period of time, not to exceed three years, upon determination that they have committed any of the following abuses of the Program: Providing cash, unauthorized foods, or other items of value to recipients in lieu of authorized supplemental foods; providing less food than called for on and payable with the food instrument; and charging the Program more for supplemental foods than charged other customers for the same food items. Other abuses by food vendors may be dealt with at the discretion of the State agency. Adequate procedure for an appeal from a suspension from participation under the Program shall be provided by the State agency. A food vendor's disqualification from participation in any other FNS program may be grounds for suspension from the Program without a hearing procedure. The food vendor's privilege of serving the Program may not be reinstated until the other program, with regard to which the food vendor was originally disqualified, reinstates the food vendor's privilege.

(ii) The State agency shall establish procedures designed to control recipient abuse of the Program. Recipient abuse includes, but is not limited to, sale of supplemental foods or food instruments to (or exchange with) other individuals or entities and receipt from food vendors of cash or credit toward purchase of unauthorized food, or other items of value in lieu of authorized food. The State agency shall establish sanctions for recipient abuse. Such sanctions may, at the State agency's discretion, include suspension or removal from the Program. Warnings may be given prior to the imposition of sanctions. Before a recipient is suspended or removed from the Program for alleged abuse, that recipient shall be given full opportunity to appeal a suspension or removal as set forth in § 246.24.

(iii) The provision of sanctions for Program abuse to be imposed on food vendors and recipients shall not be construed as excluding or replacing any criminal or civil sanctions or other remedies that may be applicable under any Federal and State statute or local ordinance.

(6) The State agency shall ensure that the food delivery system is compatible with the delivery of health and nutrition education services to the recipients.

(7) The State agency shall control the receipt and issuance of supplemental foods and food instruments.

(8) The State agency shall reconcile the records of receipt, issuance and redemption of supplemental foods or food instruments in accordance with § 246.11 and identify and document the expired, unredeemed food instruments and their value.

(9) The State agency shall ensure that supplemental foods are not issued for use in institutions, such as day care centers.

(10) The State agency shall ensure that recipients sign upon the receipt of supplemental foods or food instruments. This requirement shall not pertain to systems which mail food instruments.

(11) The State agency shall ensure that no conflict of interest exists between any local agency and the food vendor or vendors within the local agency's jurisdiction.

(12) The State agency shall ensure that all local agency food delivery systems are consistent with the requirements of this section.

(d) *Retail purchase systems.* Retail purchase food delivery systems are systems in which recipients obtain supplemental foods by submitting a food instrument to local retail outlets. All retail purchase food delivery systems shall meet the following requirements:

(1) The State agency shall use uniform food instruments within its jurisdiction. The State agency is responsible for the design and printing of the uniform food instruments, and control of the serialization.

(2) The State agency shall develop guidelines for the mailing of food instruments to recipients. Food instruments may be mailed to recipients on a local agency-wide basis only if approved by the State agency. In making its determination regarding the mailing of food instruments by a local agency, the State agency shall consider participation and hardships which may be encountered by the target population of the local agency if food instruments are not mailed. The State agency shall approve a local agency's request for the mailing of food instruments if accountability is ensured and if either a reasonable level of health and nutrition education services can be provided, or the State agency determines that persons in need of the Program in rural areas will be unable to participate in the program if food instruments are not mailed to them. Mailing food instruments on an individual recipient basis shall be permitted only if:

(i) Individual recipients encounter difficulties in personally obtaining food instruments for such reasons as illness, nearness to termination of pregnancy, inclement weather conditions, distances to travel, high cost of travel, or inability to get to the local agency during business hours;

(ii) The reasons for such an individual determination are documented by the State or local agency in the recipient's certification file; and

(iii) The mailing of food instruments to the recipient is discontinued if the recipient's initial hardship is resolved.

(3) All food instruments shall have, clearly indicated on the face, the following:

(i) The first date from which the food instrument may be used by the recipient to obtain supplemental foods.

(ii) The last date for which the recipient may use the food instrument to obtain supplemental foods. This date shall be either 30 days from the date specified in subdivision (i) of this subparagraph or the end of the month for which the food instrument is valid.

(iii) An expiration date by which the food vendor shall be required to submit the food instrument for payment. This date shall be 60 days from the date specified in subdivision (ii) of this subparagraph.

(4) Food vendors may not be paid for food instruments submitted after the expiration date without the approval of FNS.

(5) All food instruments shall have clearly printed on the face, a unique and sequential serial number.

(6) All food instruments shall have clearly indicated on the face, a maximum purchase value.

(7) The State or local agency may not issue to any recipient more than three months supply of food instruments at one time.

(8) The State or local agency shall enter into agreements with more than one food vendor in each local agency service area, unless the State agency determines that it is impossible to enter into agreements with more than one food vendor in the area because of a lack of retail outlets.

(9) The State agency shall ensure that recipients are provided food free of charge. A food instrument may not have a maximum purchase price which is lower than the price of the food for which it will be used. Also, the State agency may not reimburse the food vendor for more than the actual purchase price of the supplemental foods.

(e) *Home food delivery systems.* Home food delivery systems are systems in which food is delivered to the recipient's home. Systems for home delivery of food shall provide for:

(1) Uniform food instruments, where applicable, which comply with all requirements set forth under paragraph (d) of this section;

(2) Procurement of supplemental foods, in accordance with §246.18 which may entail measures such as the purchase of food in bulk lots by the State agency and the use of discounts that may be available to States; and

(3) The accountable delivery of supplemental foods to recipients.

(f) *Direct distribution systems.* Direct distribution food delivery systems are systems in which recipients pick up food from storage facilities operated by the State or local agency. Systems for direct distribution of food shall provide for:

(1) Uniform food instruments, where applicable, which comply with all requirements set forth under paragraph (d) of this section;

(2) Adequate storage and insurance coverage that minimizes the dangers of

V 42166 AUG 26 77 UMI

loss due to theft, infestation, fire, spoilage, or other causes;

(3) Adequate inventory control of food received, in stock, and issued;

(4) Procurement of supplemental foods in accordance with § 246.18, which may entail measures such as purchase of food in bulk lots by the State agency and the use of discounts that may be available to States;

(5) The availability of Program benefits to recipients and potential recipients who live at great distances from storage facilities; and

(6) The accountable delivery of supplemental foods to recipients.

§ 246.11 Financial management systems.

(a) The State agency shall maintain a financial management system which provides accurate current and complete disclosure of the financial status of the Program and includes an accounting for all Program funds received and expended each fiscal year.

(b) The State agency shall maintain its financial accounts in a manner sufficient to permit the preparation of the reports required in § 246.16.

(c) The State agency shall maintain records which identify adequately the source and application of funds expended for Program activities. These records shall contain, but are not limited to, information pertaining to authorizations, receipt of funds, obligations, unobligated balances, assets, liabilities, outlays, and income.

(d) The State agency shall maintain effective control over and accountability for all Program funds, property, and other assets.

(e) The State agency shall compare current and projected funding needs, and develop cost data that identify trends for future budget planning and Program funds control, including, but not limited to, comparisons of actual Program expenditures with budgeted amounts and the development of financial data which provide average food costs and operational and administrative costs.

(f) The State agency shall implement procedures which ensure prompt and accurate payment of allowable costs, and ensure the allowability and allocability of costs in accordance with the cost principles and standard provisions of this part, FMC 74–4 and FNS guidelines and instructions.

(g) The State agency shall implement procedures which accurately identify obligated Program funds at the time obligations are made.

(h) The State agency shall implement procedures which ensure timely and appropriate resolution of audit findings and recommendations.

(i) The State agency shall observe the national goal of expanding the opportunities for minority business enterprises, by encouraging the use of minority-owned banks.

(j) The State agency shall, where applicable, implement procedures to reconcile the number of food instruments issued with food instruments redeemed, and the value of individual food instruments issued with the value of individual food instruments redeemed.

(k) The State agency shall, where applicable, implement procedures to identify unredeemed, expired and unexpired, food instruments and their issuance value, and to make the appropriate adjustments to records and reports on obligations and expenditures.

(l) The State agency shall have procedures for minimizing the time elapsing between the transfer of cash and its disbursement at both State and local agencies.

(m) The State agency shall ensure that all local agencies develop and implement a financial management system consistent with the requirements prescribed by the State agency pursuant to the requirements of this section.

§ 246.12 Program costs.

(a) *General.* The two categories of allowable costs under the Program are as follows:

(1) *Food costs.* Food costs shall not exceed the food vendor's customary price for supplemental foods delivered to the State agency, the local agency, or the recipient, whichever is the first to receive the supplemental foods.

(2) *Operational and administrative costs.* FNS shall reimburse State agencies for allowable operational and administrative costs up to 25 percent of the actual foods costs incurred, except that funds other than Program funds used to purchase food under the Program may not be used as a base for computing the State's allowance for operational and administrative costs. The two types of operational and administrative costs are:

(i) *Direct costs.* Those direct costs which are allowable under FMC 74–4; and

(ii) *Indirect costs.* Those indirect costs which are allowable under FMC 74–4. Food costs may not be used as a basis for computing indirect costs.

(b) *Specific allowable costs.* The following items of cost are specifically identified as illustrative of costs allowable under the Program:

(1) Food costs.

(2) The cost of nutrition education services provided to recipients and parents and guardians of recipients, and used for training of local agency staff members.

(3) The cost of certification procedures including:

(i) Laboratory fees incurred for tests conducted to determine the eligibility of persons to participate in the Program; and

(ii) Expendable medical supplies necessary to determine the eligibility of persons to participate in the Program.

(4) The cost of outreach services.

(5) The cost of administering the food delivery system.

(6) The cost of capital expenditures; *Provided*, That capital expenditures over $2500 are approved by FNS.

(c) *Specific unallowable cost.* The cost of nonexpendable medical equipment is not allowable.

§ 246.13 Program income.

(a) Interest earned on Program funds at the State or local levels shall be used in accordance with Attachment E, FMC 74–7.

(b) Proceeds from the sale of personal property purchased in whole or in part with Program funds shall be handled in accordance with Attachment N, FMC 74–7.

(c) Royalties received from copyrights and patents during the grant period shall be retained by the State agency and be added to the funds already committed to the Program. After termination or completion of the grant, the Federal share of royalties in excess of $200 received annually shall be returned to FNS.

§ 246.14 Distribution of funds.

(a) This section prescribes the procedures for the distribution by FNS of available funds to participating State agencies and by State agencies to local agencies. All Program funds shall be used only for Program purposes. As a prerequisite to the receipt of funds, the State agency shall have executed an agreement with the Department and shall have received approval of its Plan of Program Operation and Administration.

(b) All funds made available to the Department for the Program in any fiscal year shall be provided by FNS to participating State agencies by means of Letters of Credit unless other funding arrangements are made with FNS, except that sufficient funds shall be withheld for funding Federal operating expenses. Program funds shall be used by State agencies to cover those allowable and documented Program costs, as defined in § 246.12, which are incurred by the State agency and participating local agencies within its jurisdiction.

(c) All funds provided by FNS to a participating State agency shall be made available by the State agency to local agencies within its jurisdiction, on the basis of claims submitted monthly, with the exception of those allowable food costs and operational and administrative costs deemed necessary and appropriate for use by the State agency in administering the Program. Funds provided to local agencies may be used only to cover allowable food costs and operational and administrative costs incurred by the local agencies.

(d) Distribution of funds to State agencies shall reflect any changes necessary due to the recovery of unspent funds and shall be consistent with § 246.15.

§ 246.15 Redistribution of funds.

(a) FNS may recover and redistribute funds from a State agency under any of the following conditions:

(1) If FNS determines, through a review of the State agency's reports, program or financial analysis, monitoring, audit or otherwise, that the State agency's performance is inadequate or that the State agency has failed to comply with this part or FNS guidelines and instructions.

(2) If FNS determines, based on State agency reports of expenditures and operations, that the State agency is not expending funds at a rate commensurate with the amount of funds distributed or provided for expenditure under the Program.

(3) If FNS determines that a State agency is not providing full and timely reports in accordance with § 246.16.

(b) FNS shall effect such recoveries of funds through adjustments in the amount of funds provided under the Program.

§ 246.16 Records and reports.

(a) *Recordkeeping requirements.* Each State and local agency shall maintain full and complete records concerning Program operations which comply with the following requirements:

(1) Records shall include, but not be limited to, information pertaining to financial operations, food delivery systems, food instrument issuance and redemption, equipment purchases and inventory, certification procedures, nutrition education, civil rights and fair hearing procedures.

(2) All records shall be retained for three years following the date of submission of the final expenditure report for the period to which the reports pertain. However, FNS may, by written notice, require longer retention of any records deemed by it to be necessary for resolution of an audit or of any litigation. If FNS deems any of the Program records to be of historical interest, it may require the State or local agency to forward such records to FNS whenever either agency is disposing of them. All records, except medical case records of individual recipients (unless they are the only source of certification data), shall be available during normal business hours for representatives of the Department and of the General Accounting Office of the United States to inspect, audit, and copy. Any reports resulting from such examinations shall not divulge names of individuals.

(b) *Financial reports.* All financial data shall be submitted as required by FNS, at a frequency prescribed by FNS.

(c) *Program reports.* All program performance data shall be submitted as required by FNS, at a frequency prescribed by FNS.

(d) *Civil rights.* Each local agency participating under the Program shall submit a report of racial and ethnic participation data, at a frequency prescribed by FNS.

(e) *Audit acceptability of reports.* To be acceptable for audit purposes, all financial and program performance reports shall be traceable to source documentation.

(f) *Certification of reports.* Financial and program reports shall be certified as to their completeness and accuracy by the person given that responsibility by the State agency.

(g) *Use of Reports.* FNS shall use State agency reports to measure progress in achieving objectives set forth in the Plan of Program Operation and Administration. If it is determined, through review of State agency reports, program or financial analysis, or an audit, that a State agency is not meeting the objectives set forth in its Plan of Program Operation and Administration, FNS may request additional information including, but not limited to, reasons for the failure to achieve its objectives.

§ 246.17 Grant closeout procedures.

(a) *General.* State agencies shall submit preliminary and final grant closeout reports for each fiscal year or part thereof. All obligations shall be liquidated before final closure of a fiscal year grant. Obligations shall be reported for the fiscal year in which they occur.

(b) *Grant closeout reports.* State agencies:

(1) Shall submit to FNS, within 30 days after the end of the fiscal year, preliminary financial reports which show cumulative actual expenditures and obligations for the fiscal year, or part thereof, for which Program funds were made available.

(2) Shall submit to FNS, within 90 days after the end of the fiscal year, final fiscal year closeout reports; and

(3) May submit revised closeout reports at any time. However, FNS shall not be responsible for reimbursing unpaid obligations later than one year after the close of the fiscal year in which they were incurred.

(c) *Termination for cause.* FNS may terminate a State agency's participation under the Program, in whole or in part, whenever FNS determines that the State agency has failed to comply with the conditions prescribed in this part, and in FNS guidelines and instructions. FNS shall promptly notify the State agency in writing of the termination and the reasons for the termination, together with the effective date. A State agency shall terminate a local agency's participation under the Program by written notice whenever it is determined by FNS or the State agency that the local agency has failed to comply with the requirements of the Program. When a State agency's participation under the Program is terminated for cause, any payments made to the State agency, or any recoveries by FNS from the State agency, shall be in conformance with the legal rights and liabilities of the parties.

(d) *Termination for convenience.* FNS or the State agency may terminate the State agency's participation under the Program, in whole or in part, when both parties agree that continuation under the Program would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date thereof and, in the case of partial termination, the portion to be terminated. The State agency shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. FNS shall allow full credit to the State agency for the Federal share of the noncancellable obligations, properly incurred by the State agency prior to termination.

§ 246.18 Procurement and property management standards.

(a) State and local agencies shall comply with the requirements of FMC 74–7 and FMC 74–4 procedures for the procurement and allowability of food in bulk lots, supplies, equipment and other services with Program funds. These requirements are adopted by FNS to ensure that such materials and services are obtained for the Program in an effective manner and in compliance with the provisions of applicable law and executive orders.

(b) The standards contained in FMC 74–7 and FMC 74–4 do not relieve the State or local agency of the responsibilities arising under its contracts. The State agency is the responsible authority, without recourse to FNS, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in connection with the Program. This includes, but is not limited to: Disputes, claims, protests of award, source evaluation, or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State or Federal authority as may have proper jurisdiction.

(c) The State or local agency may use its own procurement regulations which reflect applicable State and local regulations, provided that procurements made with Program funds adhere to the standards set forth in FMC 74–4 and FMC 74–7.

(d) State and local agencies shall observe the standards prescribed in FMC 74–7, Attachment N, in their utilization and disposition of property acquired in whole or in part with Program funds.

§ 246.19 Claims.

If FNS determines that any Program funds provided to a State agency for food delivery or administrative purposes were, through State agency or local agency negligence or fraud, misused or otherwise diverted from Program purposes, a claim shall be made by FNS against the State agency, and the State agency shall pay promptly to FNS a sum equal to the amount of the administrative funds or the value of supplemental foods or food instruments so misused or diverted. Further, if FNS determines that any part of the money received by a State agency, or supplemental foods purchased or food instruments, were lost as a result of thefts, embezzlements, or unexplained causes, the State agency shall, on demand by FNS, pay to FNS a sum equal to the amount of the money or the value of the supplemental foods or food instruments so lost. The State agency shall have full opportunity to submit evidence, explanation or information concerning alleged instances of noncompliance or diversion before a final determination is made in such cases.

V 42166 AUG 26 77 UMI

§ 246.20 Management evaluation and reviews.

(a) *General.* FNS and each State agency shall establish a management evaluation system in order to assess the accomplishment of Program objectives.

(b) *Responsibility of FNS.* FNS shall establish evaluation procedures to determine whether State agencies carry out the purposes and provisions of this part, the State agency Plan of Program Operation and Administration, and FNS guidelines and instructions. FNS shall take appropriate action as set forth in this part when FNS determines that a State agency has failed to comply with any requirement of this part.

(c) *Responsibility of State agencies.* The State agency is responsible for meeting the following requirements:

(1) The State agency shall establish evaluation and review procedures and document the results of such procedures. The procedures shall include, but not be limited to:

(i) Monitoring of all local Program areas to evaluate management, nutrition education, civil rights compliance, accountability, and financial management systems. The operation of each local agency shall be reviewed annually. However, more frequent reviews may be performed as the State agency deems necessary. The State agency shall provide a continuing evaluation of each local agency through on-site reviews, reviews of local agency reports, and claims;

(ii) Reviewing, or requiring local agencies to review, local food vendors, including on-site visits; and

(iii) Instituting the necessary follow-up procedures to correct identified problem areas.

(2) On its own initiative or when required by FNS, the State agency shall provide special reports on Program activities.

(3) The State agency shall require that local agencies establish Program review procedures to be used in reviewing their operations and those of subsidiaries or contractors.

§ 246.21 Audits.

(a) The Secretary, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records (except medical case records of individuals unless that is the only source of certification data) of the State and local agencies and their contractors, for the purpose of making surveys, audits, examinations, excerpts, and transcripts.

(b) The State agency may take exception to particular audit findings and recommendations. The State agency shall submit a response or statement to FNS as to the action taken or planned regarding the findings.

(c) FNS shall determine whether Program deficiencies have been adequately corrected. If additional corrective action is necessary, FNS shall schedule a follow-up review, allowing a reasonable time for such corrective action to be taken.

(d) Each State agency shall provide for an independent audit of the financial operations of the State agency and local agencies. Audits may be conducted by State and local government audit staffs or by certified public accountants and audit firms under contract to the State or local agencies. Audits shall conform to "The Standards of Audit of Governmental Organizations, Programs, Activities and Functions", issued by the Comptroller General of the United States (1972, for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402, price 70 cents). An audit shall be used to determine:

(1) Whether financial operations are properly conducted;

(2) Whether the financial reports are fairly presented; and

(3) Whether the entity has complied with applicable laws, regulations, and administrative requirements pertaining to financial management.

(e) Each State agency shall make all State or local agency sponsored audit reports of Program operations under its jurisdiction available for the Department's review upon request. The cost of these audits shall be considered a part of operational and administrative costs and funded from the State or local agency operational and administrative funds, as appropriate.

(f) When completing the Plan of Program Operation and Administration, each State agency shall include a plan for the conduct of audits. The plan shall:

(1) State the scope and frequency of audits of the State agency and local agencies and delineate the procedures that assure audit frequency of not less than once every two years;

(2) Provide a description of the State agency in sufficient detail to demonstrate the independence of the audit organization. Local agencies under the State agency's jurisdiction may be required to submit similar information to the State agency for its use in assuring compliance with this section; and

(3) Provide a description of the method used by the State agency to assure timely and appropriate resolution of audit findings and recommendations.

§ 246.22 Investigations.

(a) The Department may make an investigation of any allegation of noncompliance with this part and FNS guidelines and instructions. The investigation may include, where appropriate, a review of pertinent practices and policies of any State or local agency, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the State or local agency has failed to comply with the requirements of this part.

(b) No State or local agency, recipient, or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege under this part because he has made a complaint, formal allegation, or testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of every complainant shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

§ 246.23 Nondiscrimination.

(a) The State agency shall comply with the requirements of title VI of the Civil Rights Act of 1964, and the Department's regulations concerning nondiscrimination issued thereunder (7 CFR Part 15), including requirements of racial and ethnic participation data collection, public notification of the nondiscrimination policy and annual reviews to assure compliance with such policy, to the end that no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the Program.

(b) The State agency shall further ensure that no person is subject to any discrimination under the Program because of creed, political beliefs, or sex.

(c) Where a significant proportion of the area served by a local agency is composed of non-English or limited English speaking persons who speak the same language, the State agency shall take action to ensure that Program information in an appropriate language is provided to such persons.

(d) Complaints of discrimination filed by applicants or recipients shall be referred to the Director, Special Supplemental Food Program (WIC), Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

§ 246.24 Fair hearing procedure for recipients.

(a) Each potential recipient shall be informed of the right to a fair hearing during the initial Program certification. Whenever a person is determined to be ineligible to participate in the Program, the person shall be notified in writing of the reason for his ineligibility and his right to a fair hearing.

(b) Each State agency participating in the Program shall establish a hearing procedure under which a person, or the person's parent or guardian, can appeal from a decision made by a local agency denying such person participation in the Program or suspending such person's participation. If the recipient was already participating in the Program, he shall continue to receive Program benefits until a decision is reached in the fair hearing proceedings. Such hearing procedure shall provide:

(1) A simple, publicly announced method for a person to make an oral or written request for a hearing;

(2) An opportunity for the program to be assisted or represented by an attorney or other persons;

(3) An opportunity to examine, prior to and during the hearing, the documents and records presented to support the decision under appeal;

(4) That the hearing be held within three weeks from the date of receipt of request, be convenient to the person, and that a minimum of ten days written notice be given to the person as to the time and place of the hearing;

(5) An opportunity for the person or his representative to present oral or documentary evidence and arguments supporting his position in accordance with procedures established by the hearing official, and that such procedures shall not be unduly complex or legalistic, and shall take into consideration the person's background and education;

(6) An opportunity for the person or his representative to question or refute any testimony or other evidence and to confront and cross-examine any adverse witnesses;

(7) That the hearing be conducted and the decision made by a hearing official who did not participate in making the decision under appeal or in any previously held conferences;

(8) That the decision of the hearing official be based on the oral and documentary evidence presented at the hearing and that such decision be made a part of the hearing record;

(9) That the person, and any designated representative, be notified in writing of the decision of the hearing official within 45 days from the date of the request for hearing;

(10) That a written record be prepared with respect to each hearing, which shall include the decision under appeal, any documentary evidence admitted and a summary or verbatim transcript of any oral testimony presented at the hearing, the decision of the hearing official, including the reasons therefor, and a copy of the notification to the family concerned of the decision of the hearing official; and

(11) That such written records of each hearing be preserved for a period of three years and be available for examination by the person, or his representative, at any reasonable time and place during such period.

§ 246.25 Administrative appeal of State agency decisions.

The State agency shall provide a hearing procedure whereby an agency whose application is denied by the State agency, or a food vendor which is denied participation in the Program may appeal the denial. Such a procedure at a minimum shall provide for:

(a) An opportunity for the aggrieved agency or food vendor or its representative to present its case;

(b) The opportunity for the agency or food vendor to confront and cross-examine adverse witnesses;

(c) The opportunity for the agency or food vendor to be represented by counsel, if desired; and

(d) An impartial decision-maker, whose conclusion as to the agency's or food vendor's eligibility shall rest solely on the evidence presented at the hearing and the statutory and regulatory provisions governing the Program. The basis for the conclusion shall be stated in writing, though it need not amount to a full opinion or contain formal findings of fact and conclusions of law.

(e) The agency or food vendor shall be notified in writing of the decision concerning the appeal within 60 days from the date of the request for a hearing.

§ 246.26 Miscellaneous provisions.

(a) The value of benefits or assistance available under the Program shall not be considered as income or resources of recipients or their families for any purpose under Federal, State or local laws, including, but not limited to, laws relating to taxation, welfare and public assistance programs.

(b) FNS reserves the right to use information obtained under the Program in a summary, statistical or other form which does not identify particular individuals.

(c) FNS may require the State or local agencies to supply medical data and other information collected under the Program in a form that does not identify particular individuals, to enable the Secretary or the State agencies to evaluate the effect of food intervention upon individuals determined to be at nutritional risk.

(d) Each State agency shall restrict the use or disclosure of information obtained from Program applicants or recipients to persons directly connected with the administration or enforcement of the Program.

(e) Any person who wishes information, assistance, records or other public material shall request such information from the State agency, or from the FNS Regional Office serving the appropriate State as listed below:

(1) Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont: U.S. Department of Agriculture, FNS, New England Region, Northwest Park, 34 Third Avenue, Burlington, Mass. 01803.

(2) Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, West Virginia: U.S. Department of Agriculture, FNS, Mid-Atlantic Region, One Vahlsing Center, Robbinsville, N.J. 08691.

(3) Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee: U.S. Department of Agriculture, FNS, Southeast Region, 1100 Spring Street NW., Atlanta, Ga. 30309.

(4) Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin: U.S. Department of Agriculture, FNS, Midwest Region, 536 South Clark Street, Chicago, Ill. 60605.

(5) Arkansas, Louisiana, New Mexico, Oklahoma, Texas: U.S. Department of Agriculture, FNS, Southwest Region, 1100 Commerce Street, Room 5-D-22, Dallas, Tex. 75202.

(6) Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming: U.S. Department of Agriculture, FNS, Mountain Plains Region, 1823 Stout Street, Denver, Colo. 80202.

(7) Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, Washington: U.S. Department of Agriculture, FNS, Western Region, 550 Kearney Street, Room 400, San Francisco, Calif. 94108.

NOTE.—The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

(Catalog of Federal Domestic Assistance, Program No. 10.557, National Archives Reference Service.)

Signed at Washington, D.C., on August 23, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc.77-24837 Filed 8-25-77;8:45 am]

V 42166 AUG 26 77 UMI

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Part 246]

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN

Revision, Reorganization, and Republication

CROSS REFERENCE: In the rules section of today's FEDERAL REGISTER the Food and Nutrition Service has Promulgated final regulations for the Special Supplemental Food Program for Women, Infants and Children (WIC Program). However, the Food and Nutrition Service is requesting additional comments on certain unresolved issues. For an explanation of the issues involved, see FR Doc. 77-24837, which appears as a separate part in this issue.

federal register

FRIDAY, AUGUST 26, 1977

PART IV

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

ENVIRONMENTAL PROTECTION AGENCY

NOISE EMISSION STANDARDS FOR NEW TRUCK-MOUNTED SOLID WASTE COMPACTORS

V42166 AUG 26 77 UMI

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 205]

[FRL 762-8]

NEW TRUCK-MOUNTED SOLID WASTE COMPACTORS

Noise Emission Standards

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes noise emission standards for truck-mounted solid waste compactors. This action is being taken under authority of the Noise Control Act of 1972. Compliance with the proposed standards should, on the average, reduce noise from new conventional truck-mounted solid waste compactors by from 4 to 8 decibels in 1979, and by an additional 3 decibels in 1982. In terms of reduced impact on the nation's population, these reductions, when considered in combination with existing Federal standards for new medium and heavy trucks, should result in a reduction of approximately 71 percent in the severity and extensiveness of noise impact due to solid waste collection by the year 1991. The estimated reduction in noise impact is due in approximately equal measure to the reductions in collection cycle noise brought about by the Federal noise regulation for medium and heavy trucks and to the additional noise reduction expected as a result of this proposed regulation.

DATES: The official docket (Docket Number ONAC 77-1) for the proposed noise emission regulation for Truck-Mounted Solid Waste Compactors will remain open for the submittal of comment until November 25, 1977. At that time, all materials submitted for the record, including transcripts of all public hearings, will become part of the official record. Public hearings will be held on September 27, 1977, commencing at 9:00 a.m. in the Americana City Squire Inn; 790 7th Avenue, New York, New York and on September 29, 1977, commencing at 9:00 a.m., in the Salt Palace, Salt Lake City, Utah.

ADDRESSES: Persons submitting written comments and/or wishing to make a statement at the public hearings should write to the following address:

Director, Standards and Regulations Division, Office of Noise Abatement and Control (AW-471), Truck-Mounted Solid Waste Compactor Docket No.: ONAC 77-1, U.S. Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Fred Mintz, Program Manager, General Products Branch, at the above address or phone (703) 557-2710.

To receive copies of the Proposed Rule contact:

Mr. Charles Mooney, U.S. Environmental Protection Agency, EPA Public Information Center (PM-215), Room 2194 D Waterside Mall, Washington, D.C. 20460, (202) 755-0717.

SUPPLEMENTARY INFORMATION:

1.0 Introduction

Through the Noise Control Act of 1972, Pub. L. 92-574, 86 Stat. 1234 et seq. 42 U.S.C. 4901 et seq. (the "Act"), Congress established a National policy "to promote an environment for all Americans free from noise that jeopardizes their health and welfare." In pursuit of that policy, Congress stated, in section 2 of the Act, "that, while primary responsibility for control of noise rests with State and local governments, Federal action is essential to deal with major noise sources in commerce, control of which requires National uniformity of treatment."

As part of this Federal action, section 5(b)(1) of the Act requires the Administrator, after consultation with appropriate Federal agencies, to publish a report or series of reports "identifying products (or classes of products) which in his judgment are major sources of noise." The Administrator published in the FEDERAL REGISTER (40 FR 23105, May 28, 1975) a report which identified "truck-mounted solid waste compactors", a class of products in the surface transportation category, as a major source of noise. For brevity, this product may be referred to hereinafter as either "TMSWC", or "compactors."

Section 6(a) of the Act requires the Administrator to publish a proposed regulation for each product which is identified or which is part of a product class identified as a major source of noise, where in his judgment noise standards are feasible. Such regulations are to include standards that set limits on the noise emission from new products which are requisite to protect public health and welfare, taking into account the magnitude and conditions of use of such products (alone or in combination with other noise sources), the degree of noise reduction achievable through the application of the best available technology and the cost of compliance.

Section 6(d)(1) of the Act specifies that the manufacturer of each new product shall warrant to the ultimate purchaser and each subsequent purchaser that the product is designed, built, and equipped so as to conform at the time of sale with the regulation.

Under section 6(e)(1), no State or political subdivision thereof may adopt or enforce any law or regulation which sets a limit on noise emissions from new products regulated by EPA, unless such law is identical to the applicable EPA regulation. The requirement to be "identical" applies to the standard and those elements of the measurement methodology which define the standard; these must be identical to those in the EPA regulation. However, other elements of the State or local law need not be identical. Such elements include the list of persons subject to the regulations, sanctions, enforcement procedures and correlatable or equivalent "short tests" used for enforcement purposes.

Section 6(e)(2) of the Act specifies that nothing in section 6 shall preclude or deny the right of any State or political subdivision thereof to establish and enforce controls on environmental noise and sources thereof through the licensing, regulation, or restriction of the use, operation, or movement of any product or combination of products. Such controls which are reserved to State and local authority under this section include, but are not limited to, the following:

(1) Controls on the time of day during which products may be operated.

(2) Controls on the places or zones in which products may be used.

(3) Controls on the noise emission level of products during use and operation that are enforceable against the consumer.

(4) Controls on the number of products which may be operated at the same time.

(5) Controls on noise emission level from the properties on which products are used.

(6) Controls on the licensing of products.

(7) Controls on the manner of operation of products.

State and local time-of-sale noise emission regulations applicable to products which are not covered by Federal regulation are in no way preempted by these regulations.

Section 10 of the Act establishes prohibited acts in relation to products for which section 6 regulations are applicable. Distribution in commerce of any new product manufactured after the effective date of regulations pursuant to section 6, is prohibited, unless it is in conformity with such regulations. Removal or rendering inoperative of any device or element of design incorporated into any product in compliance with section 6 regulations, other than for purposes of maintenance, repair, or replacement, prior to its sale or delivery to the ultimate purchaser or while it is in use is prohibited. The use of a product which has been tampered with is also prohibited.

Section 11 of the Act specifies enforcement penalties for violation of any prohibited act under section 10. Such penalties for first violations include a fine of not more than $25,000 per day of violation, or imprisonment for not more than one year, or both for knowing or willful violations. The penalties double for subsequent violations.

Section 13 of the Act provides the authority for the Administrator to require a manufacturer to establish and maintain records and make such reports and provide such information as is necessary for him to determine compliance.

Section 15 of the Act establishes a process by which the Federal Government will give preference in its purchasing to products whose noise emissions are significantly below those required by the Federal noise emission standards promulgated pursuant to Section 6 of the Act. Accordingly, the EPA has published procedures for Certification of Low-Noise-Emission Products (LNEP) (40 CFR Part 203). For truck-mounted solid waste compactors, the specific noise emission level criteria required for LNEP determination are contained in § 205.202 (d) subpart F, of the proposed regulation, and are discussed in section 2 of this preamble.

Section 16(d) grants the Administrator the authority to issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents to assist him in obtaining information to carry out the purposes of the Act.

2.0 The Proposed Regulation

The proposed regulation will establish standards for noise emissions resulting from the operation of newly manufactured truck-mounted solid waste compactors. The proposed standard specifies the energy-averaged sound level, in dBA, measured at an 'on axis' distance of 7 meters (23 feet) from the front, rear, and sides of the truck-mounted solid waste compactor, using fast meter response. The measurement procedure used to obtain the data upon which the standards are based is presented in section 205.204 of the proposed regulation. A detailed technical discussion is contained in the "Environmental Impact Statement, Economic Impact Statement and Background Document for Noise Emission Standards for Truck-Mounted Solid Waste Compactors", referred to hereafter as the "Background Document."

The proposed regulation is established in two steps, the first step of which is to take effect January 1, 1979. The second step of the regulation is scheduled to become effective January 1, 1982, concurrently with the second step of the noise regulation for medium and heavy trucks (41 FR 15538, April 13, 1976). The reduced (80 dBA) sound level limit (at full throttle, maximum engine speed) for new trucks in 1982 should permit attainment of the reduced (75 dBA) limit (during the compaction cycle) for compactors with no additional application of noise control technology.

Effective on the dates listed, truck-mounted solid waste compactors shall not produce a sound level in excess of the level shown in Table 2-1, when operated and evaluated according to the methodology provided in § 205.204 of Subpart F.

TABLE 2-1—PROPOSED REGULATORY NOISE EMISSION STANDARDS

Effective date	*Not-to-Exceed sound level*
January 1, 1979	78 decibels.
January 1, 1982	75 decibels.

Machinery-related impulse[1] sounds shall not exceed the average sound level limits by more than 5 decibels.

[1] See discussion of impulse sounds unded 3.5.3.

To ensure lasting benefits from this proposed regulation, the Agency proposes to require that manufacturers design and build each product such that, when properly maintained and used, it will not degrade (increase) in sound level above the applicable levels in Table 2-1 for a specified period of time or use from the date of the product's delivery to the ultimate purchaser. This period is defined by the Agency as the Acoustical Assurance Period (AAP). In the case of truck-mounted solid waste compactors, the Acoustical Assurance Period is 3 years or 7500 operating hours, whichever occurs first.

A manufacturer must develop pursuant to section 205.208-4 of subpart F, an anticipated increase in the sound level of his products during the AAP. The manufacturer must take into account the increase in sound level, expressed as a Sound Level Degradation Factor (SLDF), when making test measurements to show compliance with the applicable standard. Accordingly, the manufacturer must show that his product conforms to a sound level limit defined by the applicable standard of Table 2-1 less the SLDF value.

The Administrator has determined, based upon studies of the noise control technology for compactors, that the proposed standards are feasible and represent those levels of noise requisite to protect the public health and welfare, taking into account the magnitude and conditions of use of such product (alone or in combination with other noise sources), the degree of noise reduction achievable through the application of the best available technology and the cost of compliance as required by section 6(c)(1) of the Noise Control Act.

A subsection of this regulation specifies a Low Noise Emission Product (LNEP) level of 70 dBA, effective January 1, 1978. Ordinarily the LNEP level is set 5 dBA below the regulatory limit, allowing 2 dBA for manufacturing variation and 3 dBA for improved performance. However, for compactors the LNEP level has been set at 70 dBA, 8 dBA below the initial regulatory limit. The reason for this choice is that certain gasoline-powered trucks which use front drive for the pumps, already are close to meeting a 73 dBA level, and therefore an LNEP level of 73 dBA would provide no incentive for further development of technology or acoustical quality control. In addition, there are indications that an electric truck of foreign manufacturers also can meet a 73 dBA limit readily (and possibly 70 dBA as well) so that a 73 dBA level would provide no incentive for improvement on this existing model.

The proposed regulation also incorporates an enforcement program which includes production verification, selective enforcement auditing procedures, warranty, maintenance, compliance labeling and anti-tampering provisions.

EPA is unaware at this time of any manufacturer who would be unable to comply with the proposed standards by the specified effective dates. The Agency solicits submittal of such data or information during the public comment period that substantiates or refutes this view.

3.0 Background Information

3.1 General

The proposed regulation is one of a series of surface transportation noise regulations to be proposed. In arriving at the proposed regulation, the Agency carried out detailed investigations of truck-mounted solid waste compactor design, manufacturing and assembly processes; available noise control technology; noise measurement methodologies; costs attendant to noise control methods; the cost to test machines for compliance; the cost of recordkeeping; possible economic impacts; and the potential environmental and health and welfare benefits associated with the application of various noise control measures. The information summarized briefly herein is presented in detail in the "Background Document".

To meet the requirements of the Act, to consider "the best available technology, taking into account the cost of compliance," the Agency constructed definitions of the terms "best available technology" and "cost of compliance." In doing so, the Agency carefully considered the strict language of the Act, its legislative history, and other relevant data. Based thereon, the following definitions have been established by the Administrator for the purposes of this regulation.

3.1.1 "Best available technology". EPA considers the level "achievable through the application of the best available technology" to be the lowest noise level which can be reliably predicted, based on engineering analysis of products subject to the standard, that manufacturers will be able to meet by the effective date, through application of currently known noise attenuation techniques and materials. In order to assess what can be achieved, EPA has (1) identified the sources of TMSWC noise and the levels to which each of these sources can be reduced, using currently known techniques; (2) determined the level of overall TMSWC noise that will result; (3) assured that such techniques may be applied to the general TMSWC population; (4) assured that such techniques are adaptable to production line assembly; and (5) assured that sufficient time is allowed for the design and application of this technology by the effective dates of the standards.

3.1.2 "Cost of compliance" is defined as the cost of identifying what action must be taken to meet the specified noise emission level, the cost of taking that action, any additional cost of operation and maintenance caused by that action, and costs of noise testing and record keeping required by the regulation.

3.1.3 To determine what constitutes the best available technology and the cost of compliance, the Agency amassed information from a range of sources including: (1) Studies performed by

V 42166 AUG 26 77 7 UMI

Agency personnel; (2) studies performed under contract with the Agency; (3) submissions by other Federal agencies; (4) submission by industry; and (5) data in the available literature.

Representatives of the Agency carried out extensive interviews with key members of firms and trade associations in the TMSWC industry to gain first-hand knowledge of the industry and its products and to obtain and verify technological and financial information. Similar interviews were conducted with key persons in the solid waste collection and management industries, and State and local governments.

3.2 PRODUCT DEFINITION

A truck-mounted solid waste compactor is defined, for purposes of this regulation, as a vehicle comprising a mechanically powered truck cab and chassis or trailer, equipped with a body and machinery for receiving compacting, transporting, and unloading solid waste. The body, which includes a waste-receiving hopper, houses machinery which typically consists of hydraulic actuators (rams) with requisite hydraulic pump, valves, piping, and controls. The hydraulic actuators operate various components that sweep the waste matter into the container portion of the body and compact it. Power generally is drawn from the truck engine by means of a power take-off (PTO) unit, coupled by gears or other mechanical connection to the transmission, engine drive shaft, or fly wheel.

Truck-mounted solid waste compactors are used for the collection of solid wastes in residential and commercial areas. It is estimated that as of 1976 there were approximately 79,000 such units in use, distributed in the following categories:

	Units
Rear-loaders	57,700
Side-loaders	10,900
Front-loaders	10,400

3.2.1 Rear-loaders have a hopper at the rear into which waste materials are dumped by hand or from a container lifted by a winch or hydraulic lift. The waste is swept forward into the main body where it is compacted by hydraulically-operated blades. Rear-loaders typically are used in densely populated urban and suburban areas where handloading of trash generally is necessary.

3.2.2 Side-loaders have a body with openings on either side forward of the midsection. Waste materials are loaded either by hand or by means of a mechanical container lift, and compacted toward the rear by a ram-operated blade. Side-loaders are used mainly for collecting waste and trash in residential areas comprising one or two family housing units.

3.2.3 Front-loaders generally are used to collect waste from commercial facilities and residential apartment complexes. A front-loader is equipped with a pair of hydraulically-operated lifting arms which extend forward of the cab to pick up a specially-designed container. The container is lifted over the cab, inverted, and dumped through an opening in the top of the body into a receiving hopper; the container then is lowered to the ground and the waste is compacted toward the rear of the compactor body.

3.3 SOUND LEVEL DATA

The average maximum steady sound level of the various configurations of TMSWC, during their typical compaction cycles, are summarized in the following listing. The sound level listed for each configuration is the arithmetic means of the sound levels determined for each unit of that type using the measurement procedure outlined in section 3.5 of this preamble.

Type of Unit	
Rear loaders:	
Conventional units, gasoline-powered	[1] 79.9
Conventional units, gasoline ered	[1] 81.8
Quieted units, gasoline powered	[1] 74.0
Front loaders: Conventional units, diesel powered	[1] 83.8
Side loaders:	
Gasoline powered (1 unit)	[1] 77.0
Quieted, diesel powered (1 unit)	[1] 74.0

[1] Mean sound level of units of specified types dBA.

3.4 NOISE SOURCES IN TRUCK-MOUNTED SOLID WASTE COMPACTORS

The major sources of noise in TMSWC's may be categorized as:

Primary power supply: truck engine; auxiliary engine.
Power transmission features: transmission power take-off (PTO); flywheel PTO; front PTO; other.
Mechanical features of compactor: hydraulic system; container loading system (winch, hydraulic lift); compactor actuation mechanism (ram); hopper closure.

Although not readily susceptible to categorization, other noise sources occur in the operation of a TMSWC including truck brake squeal, the hiss of brake air release, waste compaction related noise, and impulse noises due to impacts between components of the compacting machinery and to banging of cans or containers against the hopper walls by collection personnel. The first type, i.e. machinery-related impacts, can be controlled by design, and the regulation addresses this type. The second type, although partially controllable by use of rubber or similar materials at impact areas, is due mainly to operating practices and the design of containers. Control of this type of impulse noise will depend on appropriate industry practices, with guidance or incentive provided by local regulations regarding waste collection practices and container materials and design.

3.4.1 Primary Power Supply. Truck engines, the primary power source for most compactors may be either gasoline or diesel-fueled. Auxiliary engines, which provide the power on a few units, also may be gasoline or diesel, but generally are gasoline fueled. An electrically-powered truck has appeared on the European market, but is not yet available in the United States.

3.4.2 Power Transmission. A power take off unit, mounted to (1) the engine transmission, (2) the engine flywheel, or (3) connected to the front end of the engine crankshaft, transfers engine power to the hydraulic pump(s) which energizes the compactor's hydraulic system.

3.4.3 Loading Devices. Two types of hydraulically driven container-loading devices are used: mechanical linkages and winches. The front-loader employs a complex, powerful mechanical linkage system which is essential to its operation. Side-loaders and rear-loaders may have either mechanical linkages or winches, but are generally loaded by hand.

3.4.4 Compaction Devices. The compaction of waste materials in front- and side-loaders is achieved through the use of a pusher blade or ram that spans the compactor body and is swept the length of the body by means of a telescoping hydraulic cylinder. Rear-loaders generally use an articulated blade to compact the waste in the hopper and sweep it forward into the body. Other types of compacting mechanisms or principles also may be used. One design employs a rotating auger-like device. Another has a cylindrical body with internal helical ribs that shred and propel the waste materials forward as the cylinder rotates.

3.5 NOISE MEASUREMENT PROCEDURES

3.5.1 Compactor load. There is some evidence that the quantity and type of waste materials loaded in a compactor body affect the noise emission characteristics of the unit in the compacting operation. However, to avoid the difficulties inherent in attempting to define and use a reproducible load of waste materials (standard compactor load), EPA has selected a load condition of no waste material as being the most suitable one for use in measuring the noise emissions of a compactor. This easily controlled and reproducible condition provides a consistent standard for comparison of all types of compactor units. The data collected by EPA has enabled the Agency to establish a correlation between the noise emissions measured in this manner and the noise emitted by TMSWC's in use during a typical collection and compaction process.

3.5.2 Engine Speed. The noise of a truck-mounted solid waste compactor increases markedly with the speed of the engine that powers the compactor. Some units use an engine speed governor, i.e., speed control device, during the compaction cycle to obtain the desired operating conditions and cycle time. If the unit is equipped with such a governor, then the noise measurements are to be made at governed speed, with automatic operation. If the unit is not so equipped, then the noise measurement is to be made at the maximum allowable speed in revolutions per minute (rpm) of the engine or the hydraulic pump, whichever is the lower.

3.5.3. Measurement criteria. During operation of a truck-mounted solid waste compactor, two general types of noise occur. One is a continuous sound due to

operation of the engine, PTO, hydraulic pump and compacting mechanisms throughout the compaction cycle (or loading and compaction cycle if a container is involved). The level of this sound may vary during the compaction cycle. A continuous noise of this type is chararacterized well by the A-weighted sound level, measured on a Sound Level Meter that meets type 1 criteria of ANSI Standard S1.4–1971, using the "fast" meter response. Accordingly, the noise measurement procedure in this regulation calls for observation (or recording) of the average maximum A-weighted sound level, in decibels, that occurs during normal operation of the compactor.

The second type of noise is generally due to impacts between metal parts of the compactor mechanism, e.g., ram cylinder and stop or between a trash container and the compactor walls or blade. The Agency has determined that the A-weighted energy in the impulse, averaged over a 0.125 second time interval, is an appropriate measure of an impulsive sound. This quantity is approximated well by a sound level reading using fast meter response.

3.5.4. Measurement Procedure. The noise sources of a truck-mounted solid waste compactor are found at various locations on the vehicle. To take account of these diverse locations, multiple measurement positions are necessary. However, to provide a measurement procedure that is reasonably simple to carry out and not excessively costly, it is desirable to use the minimum number of measurement positions that will define the sound emissions with acceptable accuracy and repeatability.

Two important aspects of microphone location are the distance of the microphone from the noise source, and the size of the clear test area required to obtain a measurement without significant sound reflections or other interferences.

In addition, the possibility of applying a simplified version of the measurement procedure for in-use enforcement measurements on urban streets suggests the desirability of a relatively close microphone position, because of space and building separation factors.

Consideration of the foregoing factors, discussed in detail in the Background Document, has led the Agency to adopt a measurement procedure for acquiring sound level data on compactor vehicles based on four microphone positions located 7 meters (23 feet) "on axis" from the front, rear, and side surfaces of the vehicle. The measurement obtained at each microphone location is the A-weighted sound pressure level, or sound level, L, in decibels, frequently abbreviated as dBA. The sound levels measured at these four microphone locations are combined on an energy averaged basis.

4.0 RATIONALE FOR STANDARD SELECTION

In arriving at the proposed standards, the Agency examined the various types of residential neighborhoods in which the truck-mounted solid waste compactor contributes to environmental noise. Studies were conducted to determine the contribution by the truck-mounted solid waste compactor to total residential neighborhood noise associated with operation of these units. These investigations indicate that the truck-mounted solid waste compactor is a significant contributor to noise caused annoyance and probability of sleep and speech interference, in urban neighborhoods.

The Agency examined the technology, costs, and economic impact to achieve various reduced noise levels of truck-mounted solid waste compactors. (See section 5.2 of this preamble.) The noise levels examined ranged in value from the present mean levels for the various configurations (from 74 to 84 dBA) to 70 dBA measured at 7 meters. Estimates of the costs to quiet compactor trucks were developed from engineering cost data provided by industry and independent Agency estimates, taking into consideration industry accounting practices and list prices of solid waste compactors.

The Agency also examined the health and welfare benefits that various levels of reduced noise emissions from truck-mounted solid waste compactors would provide to the noise-impacted population. The public health and welfare impact associated with these proposed regulations has been assessed in terms of the number of people impacted by the noise of truck-mounted solid waste compactors, the severity of impact, and the noise impact relief that would be achieved by quieting the compactors. Since the truck engine is a major source of compactor noise, these assessments have taken into account the benefits independently resulting from EPA's recently promulgated regulations, for new medium and heavy trucks.

The benefits attendant to the study levels were assessed using a "fractional noise impact" method. This method determines impact in terms of both extensiveness (i.e., the number of people impacted) and the intensiveness (severity) of impact. Analyses were performed to determine the total potential benefits from the regulation of compactor noise in combination with medium and heavy trucks which are already subject to Federal noise emission standards.

In order to quantify the public health and welfare impact, the number of people impacted at noise exposure levels above L_{dn}=55 were determined and weighting factors were applied to account for severity of exposure. The result was a series of measurements of benefit in terms of reduction in extensiveness and severity of impact relating to annoyance, possibility of sleep and speech interference, and related factors.

The attainment of the estimated health and welfare benefits from reduction in the noise levels of compactors is dependent on the continued compliance of these products with the Federal not-to-exceed noise emission standard. To ensure that manufacturers develop and apply durable sound reduction measures to their products, the Agency believes it is necessary to establish a specific period of time or use during which newly manufactured products must, as a minimum requirement, comply with the Federal standard. It is the Agency's opinion that this time period should be of a duration that is commensurate with average major component repair, replacement or proudct overhaul time periods. The Agency beleives that if a truck mounted solid waste compactor complies with the standard during this initial period (the Acoustical Assurance Period), it is unlikely that the noise emisisons of the compactor will degrade (increase) above the standard for the remainder of the expected life of the product: *Provided*, That the product is properly maintained and used. This places a burden on several parties. First, it requires the manufacturer to design and build the product so that if it is properly maintained and operated, the product will be capable of performing at or below the requisite sound level, and second it relies on the owner/user to properly maintain and use the product. (The responsibility of the owner/user is discussed in other portions of this preamble; see discussion of antitampering infra.)

The Agency considers the concept of an Acoustical Assurance Period necessary because if the product is not built such that it is even minimally capable of meeting the standard while in use over this initial period, when properly used and maintained, then the standard itself becomes a nullity and the anticipated health and welfare benefits become illusory.

The Agency considers the concept reasonable because, in the information available to the Agency, it finds little evidence that the noise levels of compactors will increase significantly over the initial 3 years or 7500 operating hours when the product is properly used and maintained.

In making the determination that the Acoustical Assurance Period for truck-mounted solid waste compactors should be 3 years or 7500 operating hours, EPA took into account the degree and conditions of use of these products, the best maintenance practices attendant to noise control, and the cost of compliance, Among specific factors considered were:

1. The likelihood that acoustical degradation of noise control features and the resultant increase in noise level above the standard would not occur during the Acoustical Assurance Period if the manufacturer uses proper design and quality materials and workmanship;

2. The maintenance normally required on compactors during their early years of use;

3. The relative usage cycles of these products during their early years of use.

It is important to understand what AAP means to the manufacturer. The manufacturer will be held responsible for producing a product that is capable of meeting the standard. He can design and build the product at the level of the standard assuming no degradation in noise control features with time, or build it with noise levels somewhat below the standard to account for some degradation with time. But in neither event can the product exceed the stand-

V42166 AUG 26 77 UMI

ard during the Acoustical Assurance Period.

In fact, in assessing the noise control technology which is needed for compliance with the proposed compactor standards, the Agency found no components which cannot be built to assure minimal or no degradation (increase) in the compactor's sound level, provided that the compactor is well maintained and is operated in a manner consistent with the manufacturers instructions. The compactor industry has stated that it strives to produce a long lasting, durable product by using component parts of high quality and compactor designs which can withstand extensive use. As a result, the Agency has concluded that the AAP requirement will not impose additional maintenance or equipment costs over those already estimated as attributable to the proposed regulation.

EPA is also proposing a procedure whereby the manufacturer must account for sound level degradation in his compliance testing and verification program by applying a Sound Level Degradation Factor (SLDF) to the noise emission standard. This may result in a manufacturer-specific production test level which is lower than that specified by the standard. For example, if a manufacturer estimates that the noise level of his product may increase 3 dBA during the AAP the SLDF would be 3 dBA. Then, for production verification (discussed below), the manufacturer would have to establish that the sound level of his product is 3 dBA lower than that specified by the standard. If a product is not expected to degrade during the AAP, the SLDF would be near or equal to zero. It is EPA's evaluation that in most cases the SLDF would be near or equal to zero.

Manufacturers would be subject to Federal enforcement actions consistent with section 11 of the Noise Control Act if the noise emission level during the AAP exceeds the noise emission standard. It should be clearly understood that this concept does not impose any additional burden on the manfacturer for proper maintenance and use. That is, if the product is not properly maintained and used the manufacturer is relieved of subsequent resulting liability. The responsibility of properly maintaining and using the product rests with the owner/user.

EPA invites comments on the approach it has taken to attain the health and welfare benefits requisite to this regulatory action. EPA also solicits comments on the length of the AAP together with the rationale and data to support the position taken.

5.0 Estimated Impact of Proposed Regulation

5.1 HEALTH AND WELFARE.

The EPA estimates that approximately 17 million persons currently are exposed to residential neighborhood noise levels due to operation of truck-mounted solid waste compactors at noise exposure levels above $L_{dn} = 55$. It is estimated that compliance of compactors with the proposed standards will result in a reduction in the number of persons so exposed to about 6 million persons by 1991, representing about a 65 percent decrease.

As pointed out in section 4.0, the reduction in extensiveness and severity of impact can be evaluated in terms of effects due to individual noisy events, such as sleep and speech interference, as well as effects due to generalized annoyance which can be assessed by reductions in L_{dn}. Detailed information on these impacts is provided in the Background Document. From fractional impact analysis of general annoyance, EPA estimates that the "equivalent number of persons impacted" will decrease from about 1,600,000 in the base year, 1976, to about 470,000 persons in 1991, a relative change in impact of about 71 percent. Part of the estimated reduction in impact is due to the effect of recently promulgated noise standards for medium and heavy trucks; in 1991, the reduced truck noise alone accounts for a reduction of 600,000 equivalent persons impacted. The balance of the estimated reduction, 530,000 equivalent persons, is due entirely to the compactor noise regulation.

Recognition of the intrusive nature of TMSWC noise impact led the Agency to a single-event noise exposure analysis for assessing the health and welfare impact of TMSWC noise control. The benefits of the proposed compactor noise regulation in terms of reduction of single-event impacts, relate to sleep awakening, sleep disturbance, and speech interference. For example, the estimated number of probably sleep disruption events (and similarly for speech interference occurrences) decreases from about 32 million in 1976 to about 7.4 million in 1991 as a result of the regulation.

The foregoing figures indicate that major reductions in health and welfare impact will result from promulgation of the proposed compactor noise regulation. These health and welfare benefits due to reduced trash collection noise will be additive to the benefits obtained as a result of reduced urban noise brought about by the medium and heavy truck noise regulation.

5.2 COST AND ECONOMIC IMPACT.

The cost impact of quieting compactors to meet the proposed regulatory standard may be expressed in terms of increased list price. The Agency's studies indicate that average list price increases for the compactor-truck assembly will range from 6.4 to 12.8 percent, depending on machine type and size, resulting in overall average list price increase of about 10.3 percent for all regulated machines. There are indications that a few small firms in the industry, by virtue of their small market share and related financial and operation factors, would incur higher manufacturing costs resulting in slightly higher list price increases. The Agency will continue to study these potential impacts because it is desirable to achieve the public health and welfare goals of the Act with minimal disruptive impacts from EPA noise regulations. The price elacticity of demand for this equipment is —1.0 (or smaller) which could possibly result in a decrease in demand of 9 percent; manufacturers' total revenues should remain essentially unchanged because of price increases. Some pre-buying is expected to occur prior to the effective date(s) of the regulation. However, the Agency believes this activity will be limited by the available excess production capacity of about 4,000 units, almost entirely rear loaders.

In terms of societal resources, capital costs for the first year of compliance are estimated at about $27 million, with annual costs (including amortized capital cost, operation and maintenance) at $6.5 million. Costs are expected to pass through to the end user, and ultimately the consumer, of waste collection services. Because equipment costs represent a small portion of the total costs of solid waste collection the consequent cost increase for service is expected to be small, an estimated 0.5 percent or less.

Other aspects of potential economic impact due to promulgation of this regulation are detailed below.

1. *Impacts on manufacturers and employment.* Employment is not expected to change significantly. It is possible that from one to three manufacturers of truck-mounted solid waste compactor bodies may cease production of that line of equipment due to industry pressure and competition. Persons who might be affected by such reduction of production amount to less than two percent of the employed population of about 2900 persons within the industry and produce less than three percent of the total units estimated. An offsetting increase in employment is expected to occur due to testing and compliance activity and procurement of noise control components and materials resulting from the regulation.

2. *Impacts on Exports and Imports.* As the noise control treatment generally represents add-on materials or substitute components, or both, machines for export generally can be produced without noise control treatment, if desired. Units produced solely for export need not comply with U.S. noise standards; consequently, impact on exports should be minimal. With respect to imports, the regulation will apply to imported compactors. Consequently, domestic and foreign manufacturers will be affected equally, no adverse competitive impact will result and, therefore, the proposed regulation should have no appreciable impact on the U.S. balance of payments.

3. *Impact on energy use and costs.* The changes in compactor operating conditions associated with the noise control treatment are expected to result in an annual fuel savings of approximately $95 per unit. This should provide a net savings in operating costs, taking into account possible increases in maintenance costs.

5.3 SUMMARY

The Agency has concluded that at this time the regulatory levels and schedule selected represent optimal noise reduction standards for truck-mounted solid waste compactors. Implementation of the regulations is expected to result in a substantial reduction in the number of people impacted by compactor noise.

Technology to achieve the selected levels has been demonstrated, and the effective dates for the noise level limits are coordinated with those for the truck noise standards. The Agency believes that the time schedule for application of the noise standards, corresponding with reduced noise limits for trucks, should allow the manufacturers the lead time requisite to incorporate the necessary design and component changes without production or market disruption.

The cost of compliance and possible economic impacts have been considered and are believed to be reasonable.

6.0 Enforcement

6.1 GENERAL

The EPA enforcement strategy places a major share of the responsibility on the manufacturers for pre-sale testing to determine the compliance of truck-mounted solid waste compactors with these regulations and noise emission standards. This approach leaves the manufacturer in control of many aspects of the compliance program and imposes a minimal burden on the industry. The effectiveness of this strategy necessitates monitoring by EPA personnel of the tests conducted and actions taken by the manufacturers in compliance with this regulation.

The enforcement strategy proposed in this regulation consists of three parts: (1) Production Verification, (2) Selective Enforcement Auditing, and (3) In-Use Compliance.

6.2 PRODUCTION VERIFICATION (PV)

PV is the testing by a manufacturer of early production models of a category or configuration of the product, and submitting a report of the results to the EPA. This process, using the proposed methodology, gives the EPA some assurance that the manufacturer has the requisite noise control technology in hand and the capability to apply it to the production process. Models selected for testing must have been assembled using the manufacturer's normal assembly method and must be units assembled for sale.

PV does not involve any formal EPA approval or issuance of certificates subsequent to manufacturer testing. The proposed regulations would require that prior to the distribution in commerce of any regulated product, that product must undergo production verification. Section 205.205–2(a) would allow a conditional and temporary waiver of this requirement under special circumstances. Responsibility for testing lies with the manufacturer. However, the Administrator reserves the right to be present to monitor any test (including simultaneous testing with Agency equipment) or to require that a manufacturer ship products for testing to the EPA's Noise Enforcement Facility in Sandusky, Ohio, or to any other site the Administrator may find appropriate.

The basic production unit selected for testing purposes is a product configuration, which is a set of compactors grouped together on the basis of parameters proposed in § 205.205–3.

The manufacturer would be required to verify production products of each configuration. The regulation allows manufacturers to group configurations into categories based on the parameters proposed in § 205.205–2 and to verify by category. This is done by selecting the configuration in each category that has the highest level of noise emissions at the end of its defined Acoustical Assurance Period (based on tests or on engineering judgment). If when tested in accordance with the test procedure, that configuration does not exceed a noise level defined by the new product standard minus that configuration's expected noise degradation over its Acoustical Assurance Period, then all configurations in that same category are considered production verified.

The Administrator also reserves the right to test products at a manufacturer's test facility using either Agency equipment or the manufacturer's equipment. This will provide the Administrator an opportunity to determine that the manufacturer's test facility and test equipment meet the specifications proposed in § 205.204. If it is determined that the facility or equipment does not meet these specifications, the Administrator may disqualify them from further use for testing under this subpart.

Under § 205.206(a)(1), the Administrator may require that manufacturers submit to the Agency any product tested or scheduled to be tested pursuant to this regulation or untested products at such time and place as he may designate.

If a manufacturer proposes to add a new configuration to his product line or change or deviate from an existing configuration with respect to any of the parameters which define a configuration, the manufacturer must verify the new configuration either by testing a product and submitting data or by filing a report which demonstrates verification on the basis of previously submitted data. A manufacturer may production verify a configuration at any time during the model year or in advance of the model year if desired.

Production verification is an annual requirement. However, the Administrator, upon request by a manufacturer, may permit the use of data from previous production verification reports for specific configurations or categories.

Production verification performed on the early production models demonstrates that the models conform to the applicable noise emission standard and limits the possibility that non-conforming products are distributed in commerce. Because the possibility still exists that subsequently produced compactors may not conform, selective enforcement auditing (SEA) testing is incorporated in this proposed regulation.

6.3 SELECTIVE ENFORCEMENT AUDITING

Selective enforcement auditing (SEA) is the testing of a statistical sample of assembly line (production) products from a specified product configuration or category to determine whether these products comply with the applicable noise emission standards.

SEA testing is initiated when a test request is issued to the manufacturer by the Assistant Administrator for Enforcement or his designated representative. The test request will require the manufacturer to test a batch of products of a specified category or configuration produced at a specified plant. An alternative category or configuration may be designated in the event that products of the first category or configuration are not available for testing.

The SEA plan employs a technique known as inspection by attributes. The basic criterion for acceptance or rejection of a batch is the number of sample products in the batch which meet the standard rather than the average noise level of the products tested.

A sequential batch sampling inspection plan will be used for SEA testing. Sequential sampling differs from single sampling in that small test samples are drawn from consecutive batches and tested sequentially until a statistically significant conclusion can be drawn rather than one large sample being drawn and tested all at once. It offers the advantage of keeping the number of products tested to a minimum when the majority of products are meeting the standards.

A batch will be defined as the number of products produced during a time period specified in the test request. This will allow the Administrator to select batch sizes small enough to keep the number of products to be tested at a minimum and still to draw statistically valid conclusions about the noise emission performance of all products in that category or configuration.

The sampling plans proposed in this regulation are arranged according to the size of the batch from which a sample is to be drawn. Each plan specifies the sample size and the acceptance and rejection number for the established acceptance quality level (AQL). This AQL is the maximum percentage of products exceeding the applicable noise emission standard that for purposes of sampling inspection can be considered satisfactory. An AQL of 10% was chosen for compactors to take into account some test variability. The number of failing products in a sample is compared to the acceptance and rejection numbers for the appropriate sampling plan. If the number of failures is less than or equal to the acceptance number, then there is a high probability that the percentages of noncomplying products in the batch is less than the AQL and the batch is accepted. If the number of failing products is greater than or equal to the rejection number, then there is a high probability that the percentage of non-complying products in the batch is

V 42166 AUG 26 77 UMI

greater than the AQL and the batch fails.

Since the sampling strategy involves a multiple sampling plan, in some instances the number of failures in a test sample may not allow acceptance or rejection of a batch so that continued testing may be required until a decision can be made to either accept or reject a batch.

When a batch sequence is tested and accepted in response to a test request, the testing is terminated. When a batch sequence is tested and rejected, the manufacturer must cease introducing these products into commerce. If the manufacturer desires to continue production and introduction into commerce of the failed configuration (category), this may be done provided that, under proposed § 205.207–8, all of the products in that category or configuration produced at that plant are tested. The manufacturer may then distribute the individual products that pass the test.

Regardless of whether a batch is accepted or rejected, failed products would have to be repaired or adjusted and pass a retest before they can be distributed in commerce.

The manufacturer can request a hearing on the issue of non-compliance of the rejected category or configuration.

Since the number of compactors tested in response to a test order may vary considerably, a fixed time limit cannot be placed on completing all testing. The proposed approach is to establish a limit on test time per product. It is estimated that manufacturers can test a minimum of five (5) products per day. However, manufacturers are requested to present any data or information that may effect a revision of this estimate.

6.4 ADMINISTRATIVE ORDERS

Section 11(d)(1) of the Act provides that: "Whenever any person is in violation of section 10(a) of this Act, the Administrator may issue an order specifying such relief as he determines is necessary to protect the public health and welfare."

This provision grants the Administrator discretionary authority to issue remedial orders to supplement the criminal penalties of section 11(a). The proposed regulation provides for several types of orders in specified circumstances: (1) Recall orders for failure of products to comply with the regulation (§ 205.209); (2) cease-to-distribute orders for products not properly production verified (§ 205.205–10); and (3) cease-to-distribute orders for failure to test (§ 205.207–9).

In addition, 40 CFR § 205.4(f) provides for cease-to-distribute orders for substantial infractions of regulations requiring entry to manufacturers' facilities and reasonable assistance. These provisions do not limit the Administrator's authority to issue orders, but give notice of cases where such orders would in his judgment be appropriate. In all such cases notice and opportunity for a hearing will be given.

6.5 COMPLIANCE SECTION

The proposed regulation requires that subject compactors be labeled to provide notice that the product complies with the noise emission standard. The label shall contain a notice of tampering prohibitions. The label also contains the effective date of the standard to which the product complies. The EPA is considering requiring that the actual not-to-exceed level of the standard be stated on the label. This would be intended to aid State and local officials in field testing and enforcement of complementary in-use standards. Specific comments on the advantages and disadvantages of including the level of the standard on the compliance label are solicited from all concerned parties. A coded rather than actual date of manufacture has been provided for so as to avoid possible disruption of marketing and distribution patterns.

6.6 IN-USE COMPLIANCE

In-use compliance provisions are included in proposed §§ 205.208–1, 205.208–2, and 205.208–3 to ensure that compactor noise levels are reasonably maintained for the life of the product provided that the compactors are properly maintained, used and repaired. These provisions include a requirement that the manufacturers provide a time-of-sale warranty to purchasers, assist the Administrator in defining those acts that constitute tampering, and finally provide purchasers with instructions specifying the maintenance, use, and repair required to minimize or negate degradation during product use. It should be noted that the warranty is a time-of-sale warranty. Section 6 of the Act requires that a manufacturer warrant to the ultimate purchaser and all subsequent purchasers that at the time-of-sale the product was designed, built, and equipped to comply with the regulations. A warranty claim can be made by a purchaser at any time throughout the actual life of the product so long as it relates back to a non-compliance at the time-of-sale.

6.7 ACOUSTICAL ASSURANCE PERIOD

The manufacturer must design products which will meet the noise standard for the period of time specified as the Acoustical Assurance Period beginning at the date of sale to an ultimate purchaser. EPA does not specify what testing or analysis a manufacturer must conduct to determine that compactors will meet the Acoustical Assurance Period requirement. However, under proposed § 205.208–4, the manufacturer is required to make a determination regarding the expected degradation and to maintain records of the test data or other information upon which the determination was based. This determination may be based on information such as tests of critical noise producing or abatement conponents, rates of noise control deterioration, engineering judgments based on previous experience, and physical durability characteristics of the product or product components.

The mechanism used in this regulation to express the amount of expected degradation, if any, is the sound level degradation factor (SLDF). The SLDF is the degradation (increase in A-weighted sound level which the manufacturer expects will occur on a configuration during the period of time specified as the Acoustical Assurance Period. The manufacturer must determine an SLDF for each product configuration. SLDF for each product configuration.

To ensure that the products will meet the noise standard throughout the Acoustical Assurance Period, proposed § 205.202(c)(2) requires the product to emit a time-of-sale noise level less than or equal to the new product noise emission standard minus the SLDF. In no case shall this noise level exceed the Federal noise standards; i.e. a negative SLDF may not be used. Production verification and selective enforcement audit testing both embody this principle.

If the product's noise level is not expected to deteriorate during the Acoustical Assurance Period when properly used and maintained, the SLDF is zero. If a manufacturer determines that a product configuration will become quieter during the period, the configuration must still meet the standard at the time of sale and an SLDF of zero must be used for that configuration.

It may be that most of the data required to determine an SLDF will already be in the hands of the manufacturer since this information is typically used for general product development work. In any event, EPA is not now proposing to require long term durability tests to be run as a matter of course.

6.8 APPLICABILITY OF PREVIOUSLY PROMULGATED REGULATIONS

Manufacturers who will be subject to the proposed regulation must also comply with the general provisions of 40 CFR Part 205 Subpart A. These include the requirements for inspection and monitoring of manufacturer's actions taken in compliance with the proposed regulation and the requirements for requesting and granting exemptions from this proposed regulation.

Manufacturers producing products subject to the proposed regulation may also be subject to selective enforcement auditing under the Medium and Heavy Duty Truck regulations of 40 CFR Part 205 Subpart B, as subsequent manufacturers. Comments are invited as to each of the above points.

A more detailed description of the enforcement regulation may be found in the Background Document.

7.0 FUTURE INTENT

The Agency is pursuing a strategy through which major contributors to overall residential neighborhood noise will be identified and subsequently regulated. This coordinated approach is necessary because, in residential neighborhoods, a number of different noise sources may be operating at the same time and the quieting of only one such source may not in itself be sufficient to reduce the noise in residential neighborhoods to a level the Agency believes is requisite to protect the public health and welfare.

As indicated in the first EPA Identification of Major Sources of Noise Report (39 FR 22297–99, June 21, 1974), the principal candidates for potential future regulatory efforts are known.

The Agency has underway, or intends to commence, further regulatory action on other noise sources. These include wheel and crawler tractors, buses, motorcycles, pavement breakers and rock drills, and lawnmowers. The levels chosen for the time-phased standards in this proposed rulemaking, while believed to be optimal at present, may be lowered in the future, to be consistent with the overall objective to quiet all major noise sources in order to reduce noise in residential areas.

The Agency believes that the standards here proposed are necessary to protect the public health and welfare and are achievable by the best available technology taking into account the cost of compliance. However, as technological advances occur lower levels may be achievable with such advanced technology. The Agency will consider all new information and data which become available or are presented to it, and may subsequently revise the regulation proposed herein.

8.0 PUBLIC COMMENT

The Agency is committed by statute and policy to public participation in the decision making process for its environmental regulations. Accordingly, EFA encourages and solicits communications and contributions to the public docket on all aspects of the proposed rulemaking, including the identification of truck-mounted solid waste compactors as a major source of noise under section 5 (b)(1) of the Act, (40 FR 23107, May 28, 1975). These contributions are desired from as many diverse views as possible. When received, such information will be fully analyzed and any appropriate changes in the proposed rules will be made and explained in the promulgation of final regulation.

All interested parties are invited to attend public hearings concerning the proposed noise emission regulation for truck-mounted solid waste compactors. Hearings will be held on September 27, 1977, commencing at 9 a.m., in the Americana City Squire Inn, 790 7th Avenue, New York, N.Y., and on September 29, 1977, commencing at 9 a.m., in the Salt Palace, Salt Lake City, Utah. Persons wishing to present their views at either public hearing should notify the Director, Standards and Regulations Division, at the address specified at the beginning of this notice no later than September 9, 1977, so that presentations may be scheduled. It is requested that presentations be limited to 20 minutes to enable all prescheduled persons an opportunity to speak and to permait a question and answer period following each presentation. To the extent that time permits, persons who have not given notice of their intent to speak will be heard following the scheduled statements. It is requested that speakers submit, if practicable, five (5) copies of their statement to the Director, Standards and Regulations Division, prior to the hearing date.

9.0 BACKGROUND DOCUMENT

The EPA has determined that this document contains a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Eexecutive Order 11949 and OMB Circular A–107 and certifies that an Economic Impact Statement has been prepared.

The document entitled "Environmental Impact Statement, Economic Impact Statement and Background Document for Noise Emission Standards for Truck-Mounted Solid Waste Compactors" may be obtained from:

U.S. Environmental Protection Agency, EPA Public Information Center (PM–215), Room 2194D, Waterside Mall, Washington, D.C. 20460. Secs. 6, 10, 11, 13, and 15, Noise Control Act, Pub. L. 92–574, 86 Stat. 1237, 1242, 1244, and 1245 (42 U.S.C. 4905, 4909, 4910, 4912, and 4914).

Dated: August 12, 1977.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, it is proposed to amend Part 205 by adding Subpart F as follows:

Subpart F—Truck-Mounted Solid Waste Compactors

Sec.
- 205.200 Applicability.
- 205.201 Definitions.
- 205.202 Noise emission standards.
- 205.203 Maintenance of records; submittal of information.
- 205.204 Test procedures.
- 205.205 Production verification.
- 205.205–1 General requirements.
- 205.205–2 Production verification: Compliance with standards.
- 205.205–3 Configuration identification.
- 205.205–4 Production verification report: Required data.
- 205.205–5 Test sample selection.
- 205.205–6 Test preparation.
- 205.205–7 Testing.
- 205.205–8 Addition of, changes to and deviation from a compactor configuration during the year.
- 205.205–9 Production verification based on data from previous years.
- 205.205–10 Cessation of distribution.
- 205.205–11 Labeling-compliance.
- 205.206 Testing by the Administrator.
- 205.207 Selective enforcement auditing requirements.
- 205.207–1 Test request.
- 205.207–2 Test sample selection.
- 205.207–3 Test sample preparation.
- 205.207–4 Testing procedures.
- 205.207–5 Reporting of the test results.
- 205.207–6 Acceptance and rejection of batches.
- 205.207–7 Acceptance and rejection of batch sequence.
- 205.207–8 Continued testing.
- 205.207–9 Prohibition of distribution in commerce: manufacturer's remedy.
- 205.208 In-use requirements.
- 205.208–1 Warranty.
- 205.208–2 Tampering.
- 205.208–3 Instructions for maintenance, use and repair.
- 205.208–4 Sound level degradation factor (SLDF) and retention of durability data.
- 205.209 Recall of non-complying compactors.

Appendix I.

AUTHORITY: Sec. 6, Noise Control Act (42 U.S.C 4095) and additional authority as specified.

Subpart F—Truck-Mounted Solid Waste Compactors

§ 205.200 Applicability.

(a) Except as otherwise provided for in these regulations the provisions of this subpart apply to any truck mounted solid waste compactor (hereinafter compactor) which meets the definition of the term "new product" in the Act.

(b) The provisions of the subpart do not apply to: (1) Non-compacting vehicles that pick up solid waste containers; (2) Non-compacting collection vehicles; (3) Stationary trash compactors; (4) Solid waste containers.

§ 205.201 Definitions.

(a) As used in this subpart, all terms not defined herein shall have the meaning given them in the Act or in other subparts of this part.

(1) "Acceptable Quality Level" (AQL) means the maximum percentage of failing compactors that, for purposes of sampling inspection, can be considered satisfactory as a process average.

(2) "Acceptance of a batch" means that the number of non-complying compactors in the batch sample is less than or equal to the acceptance number as determined by the appropriate sampling plan.

(3) "Acceptance of a batch sequence" means that the number of rejected batches in the sequence is less than or equal to the acceptance number as determined by the appropriate sampling plan.

(4) "Acceptance of a compactor" means that the measured emissions of the compactor when measured in accordance with the applicable procedure, as delineated in this subpart, conform to the applicable standard.

(5) "Batch" means the collection of compactors of the same category or configuration as designated by the Administrator in a test request, from which a batch sample is to be drawn, and inspected to determine conformance with the acceptability criteria.

(6) "Batch size" means the number as designated by the Administrator in the test request of compactors of the same category or configuration in a batch.

(7) "Batch sample" means the collection of compactors of the same category or configuration which are drawn from a batch.

(8) "Batch sample size" means the number of compactors of the same category or configuration in a batch sample.

(9) "Category" means a group of compactor configurations which are identical in all material aspects with respect to the parameters listed in § 205.205–2.

V 42 166 AUG 26 77 UMI

(10) "Compactor" means a truck mounted solid waste compactor, which comprises an engine powered truck cab and chassis or trailer, equipped with machinery for receiving, compacting, transporting and unloading solid waste.

(11) "Configuration" means the basic classification unit of a manufacturer's product line and is comprised of all compactor designs, models or series which are identical in material aspects with respect to the parameters listed in § 205.-205–3.

(12) "Exhaust system" means the system comprised of a combination of components which provide for enclosed flow of exhaust gas from engine exhaust port to the atmosphere.

(13) "Failing compactor" means that the measured emissions of the compactor when measured in accordance with the applicable procedure, as delineated in this subpart, exceed the applicable standard.

(14) "Inspection criteria" means the rejection and acceptance numbers associated with a particular sampling plan.

(15) "Model year" means the manufacturer's annual production period which includes January 1 of such calendar year: *Provided*, That if the manufacturer has no annual production period, the term "model year" shall mean the calendar year.

(16) "Noise control system" includes any part, component or system the primary purpose of which is to control or cause the reduction of noise emitted from a compactor.

(17) "Noise emission test" means a test conducted pursuant to the measurement methodology specified in this subpart.

(18) "Production verification compactor" means any compactor selected for testing, tested or verified pursuant to the production verification requirements of this subpart.

(19) "Rejection of a batch" means the number of non-complying compactors in the batch sample is greater than or equal to the rejection number as determined by the appropriate sampling plan.

(20) "Rejection of a batch sequence" means that the number of rejected batches in a sequence is equal to or greater than the rejection number as determined by the appropriate sampling plan.

(21) "Shift" means the regular production work period for one group of workers.

(22) "Tampering" means those acts prohibited by section 10(a)(2) of the Act.

(23) "Test compactor" means a compactor in a test sample or a production verification compactor.

(24) "Test sample" means the collection of compactors from the same category or configuration which is drawn from the batch sample and which will receive noise emission tests.

(25) "Test sample size" means the number of compactors of the same category or configuration in a test sample.

(26) "Low Noise Emission Product" (LNEP) means any product which emits noise in amounts significantly below the levels specified in noise emission standards under the applicable regulation.

(27) "Sound Level Degradation Factor" (SLDF) means the increase in A-weighted sound level which the product configuration is projected to undergo during the Acoustical Assurance Period when properly maintained and used.

(28) "Warranty" means the warranty required by section 6(d)(1) of the Act.

§ 205.202 Noise emission standards.

(a) *Time-of-sale standard.* Truck-mounted solid waste compactors which are manufactured after the dates listed below shall be designed, built, and equipped so that at the time of sale they will not produce sound emissions in excess of the limits specified for the dates listed.

Effective date:	*Maximum steady sound level limit*
January 1, 1979	78 decibels.
January 1, 1982	75 decibels.

Machinery-related impulse sounds shall not exceed the maximum steady sound level limits by more than 5 decibels.

(b) The standards set forth in paragraph (a) of this section refer to the sound emissions as measured in accordance with the procedures prescribed in § 205.204.

(c) *In-Use Standard.* Following the effective date of the applicable standard, truck-mounted solid waste compactors shall continue to meet the standard for an Acoustical Assurance Period of 3 years or 7500 operating hours after sale to the ultimate purchaser, provided that the product is properly maintained and used in accordance with manufacturers' recommendations: *And provided*, That there has been no tampering with noise control components. At the time of product verification (PV) testing in § 205.205 and selective enforcement auditing (SEA) testing in § 205.207, new truck mounted solid waste compactors must comply with the standards set forth in paragraph (a) of this section minus the sound level degradation factor (SLDF) developed in accordance with § 205.208–4.

(d) *Low Noise Emission Product.* For the purpose of Low-Noise-Emission-Product Certification (LNEP) pursuant to 40 CFR Part 203, truck mounted solid waste compactors subject to this subpart which are procured after January 1, 1978, shall not emit noise in excess of 70 dBA when determined in accordance with the procedures prescribed in § 205.204. LNEP products must meet all requirements contained in paragraph (c) of this section.

(Sec. 10, 15 of the Noise Control Act (42 U.S.C. 4909, 4914).)

§ 205.203 Maintenance of records; submittal of information.

(a) Except as otherwise provided for in the regulation, the manufacturer of any new compactor subject to any of the standards or procedures prescribed in this subpart shall establish, maintain and retain the following adequately organized and indexed records:

(1) General records: (i) Identification and description by category and configuration parameters of all compactors composing the manufacturer's product line for which testing is required under this subpart and the identification and description of all devices incorporated into the compactor for the purpose of noise control and attenuation.

(ii) A description of any procedures other than those contained in this regulation used to perform noise tests on any test compactor.

(iii) A record of the calibration of the acoustical instrumentation as is required by § 205.204.

(iv) A record of the date of manufacture of each compactor subject to this part, keyed to the serial number or other coded identification contained on the label affixed to each compactor pursuant to § 205.205–11.

(2) Individual records for test compactors:

(i) A complete record of all noise emission tests performed for PV and SEA (except tests performed by EPA directly), including all individual worksheets and/or other documentation relating to each test, or exact copies thereof.

(ii) A record and description of all repairs, maintenance and other servicing performed on PV and SEA test products giving the date and time of the maintenance or service, the reason for it, the person authorizing it, and the names of supervisory personnel responsible for the conduct of the maintenance or service.

(3) A properly filed production verification report following the format prescribed by the Administrator in § 205.-205–4 fulfills the requirements of paragraphs (a)(1)(i), (ii), (iii), and (a)(2)(i) and (ii) of this section.

(4) All records required to be maintained under this part shall be retained by the manufacturer for a period of three (3) years from the production verification date. Records may be retained as hard copy or alternatively reduced to microfilm, punch cards, etc., depending on the record retention procedures of the manufacturer; however, if an alternate method is to be used, all required information shall be retained relative to that alternative method.

(b) The manufacturer shall, pursuant to a request made by the Administrator, submit to the Administrator the following information with regard to new compactor production:

(1) Number of compactors, by category or configuration, scheduled for production for the time period designated in the request.

(2) Number of compactors, by category or configuration, produced during the time period designated in the request.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 205.204 Test procedures.

Conformity of compactors with the standards specified in § 205.202 shall be determined according to the test procedures specified in this section.

(a) *General.* This section prescribes the conditions under which noise emission standard compliance testing shall be conducted and the measurement procedures that shall be used to measure the sound level and to calculate the average sound level of truck-mounted solid waste compactors for which the test is conducted.

(b) *Test site description.* The test site shall consist of an open area above a hard reflecting plane. The reflecting plane shall consist of a surface of sealed concrete or sealed asphalt, shall be flat with ±0.05 meters, and shall extend 1 meter beyond each microphone location. No reflecting surface such as a building, signboard, hillside, etc. shall be located within 15 meters of a microphone location.

(c) *Measurement equipment.* The measurement equipment to be used during noise standard compliance testing shall consist of the equivalent of the following:

(1) Sound level meter and microphone system conforming to the Type I requirements of American National Standards Institute (ANSI) S1.4.1971, "Specification for Sound Level Meters".

(2) As an alternative to making direct measurements using a sound level meter, a microphone or sound level meter may be used with a magnetic tape recorder and/or a graphic level recorder or indicating meter, providing the system meets the requirements of SAE Recommended Practice J184, Qualifying a Sound Data Acquisition System.

(3) A windscreen shall be employed with the microphone during all measurements of compactor noise when the wind speed exceeds 11 km/hr (7 mph). The windscreen shall not affect sound levels from the compactor in excess of 0.5 decibel.

(4) The entire acoustical instrumentation system including the microphone and cable shall be calibrated before and after each test series. A sound level calibrator accurate within ±0.5 dB shall be used to calibrate the acoustic measuring system. A calibration of the instrumentation shall be performed at least annually using methodology of sufficient precision and accuracy to determine compliance with ANS S1.4–1971 and IEC 179. This calibration shall consist, at a minimum, of an overall frequency response calibration and attenuator (gain control) calibration plus a measurement of dynamic range and instrument noise floor.

(5) An anemometer or other device accurate to within ±10 percent shall be used to measure wind velocity.

(6) An indicator accurate to within ±2 percent shall be used to measure speed in RPM of the engine used as a prime mover for the compactor operation.

(7) A barometer accurate to within ±5 percent shall be used for measuring atmospheric pressure.

(8) A stopwatch having an accuracy of better than 1 percent shall be used to measure time intervals.

(9) A thermometer accurate to within ±1 degree shall be used to measure ambient temperature.

(d) *Microphone locations.* The microphone shall be located 1.2±0.1 meters (4 ft±½ ft) above the ground plane and 7±0.3 meters (23 feet±1 ft) from the mid-point of the surface of the truck on the side on which the measurements are being made. Measurements will be made at four microphone positions to the front, rear and each side of the vehicle. (See Figure 1 for layout of microphones at test site.)

(e) *Test conditions.* Noise standard compliance testing shall be carried out under the following conditions:

(1) Zero rain or other precipitation.

(2) Wind speed less than 19 km/hr.

(3) No observer located within 2 meters in any direction of any microphone location, nor shall any person be located between the test machine and microphone(s).

(4) The reflecting plane, described in paragraph (b) of this section, shall be free of flowing or standing water, snow or other covering and any extraneous materials such as gravel.

(5) Sound levels produced by the test compactor shall be at least 10 dB greater than the test site background sound level.

(f) *Test procedure.* (1) The waste compactor equipment shall be operated with the vehicle stationary.

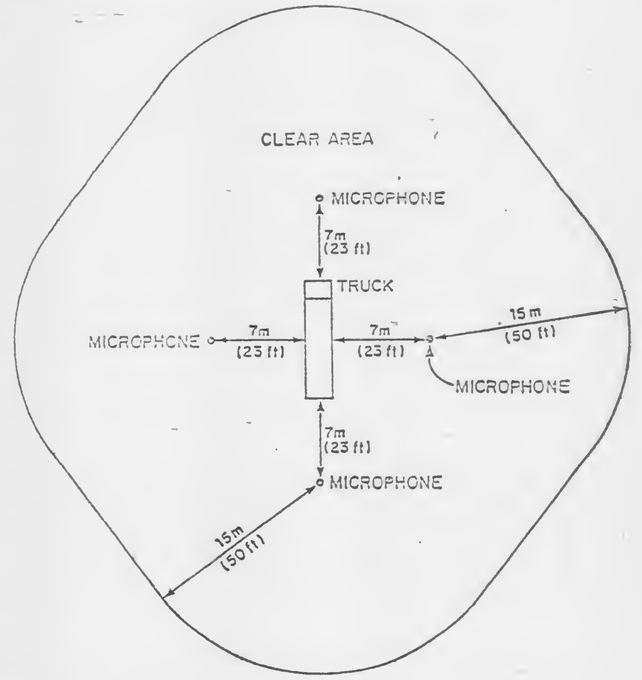


Figure 1 Noise Measurement Site

(2) The vehicle engine will be started and allowed to reach its recommended operating temperature. In addition, if the ambient temperature is below 60°F, the compaction equipment will be operated for enough cycles to allow the hydraulic oil and components to reach a stable operating temperature.

(3) The compaction equipment shall be operated empty. Trucks which normally load containers will be measured loading an empty container.

(4) The compaction equipment shall be operated in accordance with its normal operating procedures. The truck engine will be operated at its speed which is governed for the cycle or, if there is no such speed, the maximum allowable engine or pump speed, whichever is lower.

(5) The waste compaction equipment shall be run through two complete compaction cycles for each noise measurement taken. If the readings differ by more than 2 dB, further readings will be

V 42 166 AUG 26 77 UMI

taken until two agree within 2 dB and the average will be taken.

(6) The meter shall be set for "fast" response and on the "A" weighting network.

(7) Waste compaction equipment cycling noise. The waste compaction equipment will be operated through its normal cycle. The maximum sound level, ignoring any peaks due to impacts, will be recorded with the meter set for "fast" response and "A"-weighting.

(8) Waste compaction equipment impact noise. The waste compaction equipment will be operated through its normal cycle. The peak sound level due to impacts will be recorded with the meter set for "fast" response and "A"—weighting.

(9) The waste compaction equipment will be operated through its normal cycle. The time from the beginning to the end of the cycle will be recorded.

(10) Sound level measurements shall be taken at each of the four microphone positions around the vehicle and the following data will be reported:

(i) Maximum sound level during the compaction and operating cycle at each location, ignoring impacts.

(ii) Maximum impact sound level.

(iii) The four-location energy average for each of the above two data categories computed according to the equation.

$$\overline{L} = 10 \log \left(\sum_{i=1}^{4} 10^{L_i/10} \right) - 6\text{dB}$$

where:

$\overline{L}$ = average sound level, in decibels L_i is the A-weighted sound level corresponding to the i'th microphone location.

(iv) Cycle time.

(g) The Administrator may approve applications from manufacturers for the use of test procedures which differ from those contained in this subpart so long as the alternate procedures have been demonstrated to correlate with the prescribed procedure. To be acceptable, alternate testing procedures shall be such that the test results obtained will identify all those test units which would not comply with the noise emission limit prescribed in § 205.202 when tested in accordance with the procedures contained in § 205.204–1(a). Tests conducted by manufacturers under approved alternate procedures may be accepted by the Administrator for all purposes, including, but not limited to, production verification testing and selective enforcement audit testing.

(h) *References.* Suggested reference material is as follows:

ANSI S1.1–1960 Acoustical Terminology.

ANSI S1.2–1967 Physical Measurement of Sound.

ANSI S1.4–1971 Specifications for Sound Level Meters.

SAE Recommended Practice J 184—Qualifying a Sound Data Acquisition System.

Requests for copies of these documents should be addressed to the American National Standards Institute, Inc., 1430 Broadway, New York, N.Y. 10018; or The Society of Automotive Engineers, Incorporated, Two Pennsylvania Plaza, New York, N.Y. 10001.

§ 205.205 Production verification.

§ 205.205–1 General requirements.

(a) Every new compactor manufactured for distribution in commerce in the United States which is subject to the standards prescribed in this subpart and not exempted in accordance with § 205.5:

(1) Shall be verified in accordance with the production verification procedures described in this subpart;

(2) Shall be represented in a production verification report, as required by § 205.205–4;

(3) Shall be labeled in accordance with the requirements of § 205.205–11 of this subpart; and

(4) Shall conform to the applicable noise emission standards established in § 205.202 of this regulation.

(b) The requirements of paragraph (a) of this section apply to the new products at the time they first conform to the definition of compactors in this regulation. The responsibility for complying with the requirement of paragraph (a) of this section rests with the manufacturer of the new product at the time the product first conforms to the definition of truck-mounted solid waste compactor in this regulation.

(c) Subsequent manufacturers of a new product which conforms to the definition of truck mounted solid waste compactors in this regulation when received by them from a prior manuufacturer, need not fulfill the requirements of paragraph (a)(1), (2) or (3) of this section where such requirements have already been complied with by a prior manufacturer: *Provided*, That such subsequent manufacturing does not constitute tampering as defined pursuant to § 205.208–2.

(Secs. 10 and 13 of the Noise Control Act (42 U.S.C. 4909, 4912).)

§ 205.205–2 Production verification: compliance with standards.

(a)(1) Prior to distribution in commerce of a compactor of a specific configuration, the first manufacturer of such compactor must verify such configuration in accordance with the requirements of this subpart. However, production verification of a configuration is automatically and conditionally waived by the Administrator without request by a manufacturer for a period of up to 45 consecutive days from the date of distribution in commerce by a manufacturer of the first compactor of that configuration, in order to enable a manufacturer to distribute compactors in commerce pending compliance and to avoid disruption of the manufacturing process. To qualify for such waiver, a manufacturer must conduct any tests required in paragraphs (b) or (c) of this section as soon as weather conditions at a manufacturer's test facility permit after distribution in commerce of the first compactor of a configuration. Such conditions must be documented by the manufacturer and provided to the Administrator on request. Failure to test on such first day will result in automatic and retroactive rescission of the waiver and will render the manufacturer liable for illegal distribution of products in commerce.

(2) At the completion of any 45-day period, the conditional waiver granted under paragraph (a)(1) of this section is rescinded for that configuration unless the manufacturer has complied with the requirements of paragraphs (b) or (c) of this section as appropriate; except that, upon application by a manufacturer and a showing that the weather conditions at the manufacturer's test facility or other conditions beyond the control of the manufacturer made it impossible to conduct the required testing, and that documentation of such conditions is submitted by the manufacturer, the Administrator at his option may extend for a specified period (not to exceed 45 days) conditional production verification for a configuration to enable the manufacturer to comply with the requirements of paragraph (b) or (c) of this section; or he may require pursuant to § 205.207 that the manufacturer ship the test compactor to the EPA test facility for testing by the Administrator.

(b) The production verification requirements with regard to each compactor configuration consist of:

(1) Testing in accordance with § 205.204 of a compactor selected in accordance with § 205.205–5;

(2) Compliance of the test compactor with a sound level such that the arithmetic addition of the Sound Level Degradation Factor (SLDF, determined in accordance with § 205.208–4) to that sound level does not exceed the applicable standards, when tested in accordance with § 205.204.

(3) Submission of a production verification report pursuant to § 205.205–4.

(c)(1) In lieu of testing products of every configuration as described in paragraph (b) of this section, the manufacturer may elect to verify the configuration based on representative testing, the requirements of which consist of:

(i) Grouping configurations into a category where each category will be determined by a separate combination of at least the following parameters (a manufacturer may use more parameters):

(A) Truck Engine Fuel Type: (*1*) Gasoline; (2) Diesel; (3) Other.

(B) Truck Engine Type: (*1*) Piston; (2) Rotary; (3) Turbine; (*4*) Other.

(C) Compactor Type: (*1*) Front Loader; (*2*) Side Loader; (*3*) Rear Loader.

(D) Compactor Power System: (*1*) Direct Drive; (2) Auxiliary Engine; (3) Power Take Off: (*i*) Transmission Mounted; (*ii*) Crankshaft Mounted; (*iii*) Flywheel Mounted.

(E) Hydraulic Power System (*1*) Pump;

(ii)(A) Identifying the configuration within each category which emits the highest sound level (in dBA) at the end of the defined Acoustical Assurance Period based on best technical judgment, emission test data, or both;

(B) If two or more configurations would emit the same sound level described in (c)(1)(ii)(A) of this section, then identifying the configuration that emits the highest sound level when distributed into commerce;

(iii) Testing in accordance with § 205.204 of a compactor selected in accordance with § 205.205–5 which must be a compactor of the configuration which is identified pursuant to paragraph (c)(1)(ii) of this section as having the highest sound level (estimated or actual) within the category;

iv) Compliance of the test compactor with a sound level such that the arithmetic addition of the SLDF to that level does not exceed the applicable standards when tested in accordance with § 205.204; and

(v) Submission of a production verification report pursuant to § 205.205–4.

(2) Where the requirements of paragraph (c)(1) of this section are complied with, all those configurations contained within a category are considered to be represented by the tested compactor and are considered to be production verified.

(3) Where all other requirements of paragraph (c)(1) of this section are complied with except that the manufacturer tests a configuration which does not have the highest sound level in a category [as identified in paragraph (c)(1)(ii) of this section], all those configurations in the category which have sound levels no greater than the tested compactor are considered to be production verified; however, a manufacturer must production verify according to the requirements of paragraphs (b)(1) and/or (c)(1) of this section any configurations in the subject category which have a higher sound level than the compactor configuration tested.

(d) A manufacturer may elect to production verify using representative testing pursuant to paragraph (c) of this section, all or part of his product line.

(e) The manufacturer may, at his option, proceed with any of the following alternatives with respect to any compactor determined not in compliance with applicable standards.

(1) Delete that configuration from the production verification report. Configurations so deleted may be included in a later report under § 205.205–4. However, in the case of representative testing a new test compactor from another configuration must be selected and production verified according to the requirements of paragraph (c) of this section, in order to production verify the category represented by the non-compliant compactor.

(2) Modify the test compactor and demonstrate by testing that it meets applicable standards. All modifications and test results shall be reported in the production verification report. The manufacturer shall modify all production compactors of the same configuration in the same manner as the test compactor before distribution into commerce.

(f) Upon request by the Director, Noise Enforcement Division, the manufacturer shall notify said Director of any production verification testing scheduled by the manufacturer pursuant to this section so that EPA Enforcement Officers may be present to observe and monitor such testing or conduct the testing in lieu of the manufacturer.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 205.205–3 Configuration identification.

(a) A separate product configuration shall be determined by each combination of the following parameters:

(1) Category parameters listed in § 205.205–2.

(2) Truck Chassis Manufacturer.

(3) Truck Engine Type: (i) Gasoline; (ii) Diesel; (iii) Piston; (iv) Rotary; (v) Turbine; (vi) Number of cylinders and configuration; (vii) Displacement; (viii) Horsepower; (ix) Full load RPM.

(4) Transmission: (i) Automatic; (ii) Manual.

(5) Truck Exhaust System: (i) Horizontal; (ii) Vertical.

(6) Compactor Type: (i) Front loader; (ii) Side loader; (iii) Rear loader.

(7) Compactor Capacity.

(8) Compactor Power System: (i) Power take-off: (A) Transmission mounted; (B) Flywheel mounted; (C) Crankshaft mounted; (D) Full load RPM; (E) Ratio; (F) Manufacturer; (G) Manufacturer's model designation.

(ii) Auxiliary engine: (A) Type: (a) Gasoline; (b) Diesel; (c) Other.

(B) Number of cylinders and configuration.

(C) Manufacturer.

(D) Horsepower.

(E) Displacement.

(F) Full load RPM.

(G) Cooling system.

(H) Manufacturer's model designation.

(I) Exhaust system.

(iii) Direct drive.

(9) Hydraulic power system: (i) Pump: (A) Manufacturer.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 205.205–4 Production verification report: required data.

(a) Prior to distribution in commerce of any product to which these regulations apply, the manufacturer shall submit a production verification report to the Director, Noise Enforcement Division (EN–387), U.S. Environmental Protection Agency, Washington, D.C. 20460, unless product verification is waived in accordance with § 205.205–2(a) (1) and (2). A manufacturer may choose to submit separate production verification reports for different parts of his product line.

(b) The report shall be signed by an authorized representative of the manufacturer and shall include the following:

(1) The name, location and description of the manufacturer's noise emission test facilities which meet the specifications of § 205.204 and have been utilized to conduct testing pursuant to this subpart: Except that a test facility that has been described in a previous submission under this subpart need not again be described but must be identified as such.

(2) A description of normal predelivery maintenance procedure.

(3) A description of all compactor configurations, as determined in accordance with § 205.205–3, to be distributed in commerce by the manufacturer, including the sound level degradation factor for each configuration and a list identifying or defining any device or element of design (including its location and method of operation) incorporated into compactors for the purpose of noise control and any device that affects noice emission from the compactor and does not operate during the normal operating modes of the compactor. The manufacturer may satisfy the compactor configuration description requirements of this parargaph by submitting as part of the production verification report a copy of his technical sales literature that describes his product line including options, provided that this literature is supplemented with any additional information necessary to fulfill the requirements of this section. If a manufacturer elects to production verify pursuant to § 205.205–2(c), the configuration, within each category, which is estimated to have the highest A-weighted sound level at the end of its Acoustical Assurance Period shall be identified. The manufacturer may estimate the average sound level based on his best technical judgment or data. The criteria used to estimate each sound level shall be stated with the estimates.

(4) The following information for each noise emission test conducted:

(i) The completed data sheet required by § 205.204 for all official tests conducted in accordance with § 205.205–7 including, for each invalid test, the reason for invalidation.

(ii) A complete description of any preparation, maintenance or testing which was performed on the test compactor and which will not be performed on all other production compactors.

(iii) The reason for replacement where a replacement compactor was necessary, and test results, if any, for replaced compactors.

(5) A complete description of the sound data acquisition system if other than those specified in § 205.204.

(6) The following statement and endorsement:

This report is submitted pursuant to Section 6 and Section 13 of the Noise Control Act of 1972. All testing for which data is reported herein is conducted in strict conformance with applicable regulations under 40 CFR Part 205, et. seq. All the data reported herein is a true and accurate representation of such testing. All other information reported herein is, to the best of _____

(company name)

knowledge, true and accurate. I am aware of the penalties associated with violations of the Noise Control Act of 1972 and the regulations thereunder.

(Signed)

_____

(authorized representative)

V 42166 AUG 26 77 UMI

(c) Where a manufacturer elects to submit separate production verification reports for portions of his product line as provided for in paragraph (a) of this section, information provided in previous reports need not be resubmitted: Except, that information necessary to update or make current previously submitted information must be submitted.

(d) Any change with respect to information reported pursuant to this subpart shall be reported as soon as the information becomes available.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 205.205–5 Test sample selection.

Test compactors of a configuration for which production verification testing is required § 205.205–2 shall be a compactor of the subject configuration which has been assembled using the manufacturer's normal production processes and will be sold or offered for sale in commerce.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 205.205–6 Test preparation.

(a) Prior to the official test, the test compactor selected in accordance with § 205.205–5 shall not be prepared, tested, modified, adjusted, or maintained in any manner unless such adjustments, preparation, modification or tests are part of the manufacturer's prescribed manufacturing and inspection procedures, and are documented in the manufacturer's internal compactor assembly and inspection procedures, or unless such adjustments or tests are required or permitted under this subpart or are approved in advance by the Administrator. The manufacturer may perform adjustments, preparations, modifications or tests normally performed at the port of entry of the manufacturer to prepare the compactor for delivery to a dealer or customer, provided that such adjustments, preparation, modification, or tests are documented in the production verification report.

(b) Equipment or fixtures necessary to conduct the test may be installed on the compactor: *Provided*, That such equipment or fixtures shall have no effect on the noise emissions of the compactor, as determined by the measurement methodology.

(c) In the event of a compactor malfunction (i.e., failure to start) the manufacturer may perform the maintenance that is necessary to enable the compactor to operate in a normal manner: *Provided*, That such maintenance is documented and reported in the final report prepared and submitted in accordance with this subpart.

(d) No quality control, quality assurance testing, assembly or selection procedures shall be used on the test compactor or any portion thereof, including parts and subassemblies, that will not normally be used during the production and assembly of all other compactors of the category which will be distributed in commerce, unless such procedures are required or permitted under this subpart, or are approved in advance by the Administrator.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 205.205–7 Testing.

(a) The manufacturer shall conduct one valid test in accordance with the test procedures specified in § 205.204 for each compactor selected for verification testing.

(b) No maintenance will be performed on the test compactors except as provided for by § 205.205–6.

(c) In the event a compactor is unable to complete the noise test, the manufacturer may replace the compactor. Any replacement compactor will be a production compactor of the same configuration as the replaced compactor and will be subject to all the provisions of these regulations. Any replacement shall be reported in the production verification report including the reason for the replacement.

(d) In the event a compactor fails to comply with the standards of this subpart when tested in accordance with the procedures specified in paragraph (a) of this section, the manufacturer may proceed in accordance with § 205.205–2(e).

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 205.205–8 Addition of changes to and deviation from a compactor configuration during the year.

(a) Any change to a configuration with respect to any of the parameters stated in § 205.205–3 shall constitute the addition of a new and separate configuration or category to the manufacturer's product line.

(b) (1) When a manufacturer introduces a new category or configuration to his product line, he shall proceed in accordance with § 205.205–2.

(2) If the configuration to be added can be grouped within a verified category and the new configuration is estimated to have a lower A-weighted sound level than a previously verified configuration with the same category, the configuration shall be considered verified: *Provided*, That the manufacturer submits a report pursuant to § 205.205–4 with respect to such configuration.

(Sec. 13 of the Noise Control Act, (42 U.S.C. 4912).)

§ 205.205–9 Production Verification based on data from previous years.

(a) Production verification of each configuration will be required at the beginning of each year except that in certain instances, the Administrator, upon request by the manufacturer, may permit the use of production verification data for specific configurations from previous production verification reports. Considerations relevant to his decision may include, but are not limited to:

(1) The level of the standard in effect for the year in question;

(2) Performance based on production verification data for previous years;

(3) Performance based on data obtained from selective enforcement testing during previous years; and

(4) The number and type of noise emission design changes incorporated in the new models that affect the noise emission level of that model.

(Sec. 13 of the Noise Conrtol Act (42 U.S.C. 4912).)

§ 205.205–10 Cessation of distribution.

(a) If a category or configuration is found to be non-conforming to this subpart by reason of failure to be properly verified, as required by § 205.205–2, the Administrator may issue an order to the manufacturer to cease to distribute in commerce compactors of that category or configuration. However, such an order shall not be issued if the manufacturer has made a good faith attempt to properly production verify the category or configuration. The burden of establishing such good faith shall rest with the manufacturer.

(b) Any such order shall be issued after notice and opportunity for a hearing.

(Sec. 11 of the Noise Control Act (42 U.S.C. 4910).)

§ 205.205–11 Labeling—compliance.

(a) (1) The manufacturer of any compactor subject to the standards prescribed in §205.202 shall, at the time of manufacture, affix a permanent, legible label, of the type and in the manner described in paragraphs (a) (2), (3) and (4) of this section, containing the information specified in this section, to all such compactors to be distributed in commerce.

(2) A plastic or metal label shall be welded, riveted, or otherwise permanently attached in a readily visible position, on the forward driver's side of the compactor unit body.

(3) The label shall be affixed by the compactor manufacturer, who has verified such compactor pursuant to § 205.205–2, in such a manner that it cannot be removed without destroying or defacing the label, and shall not be affixed to any piece of equipment that is easily detached from such compactor.

(4) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(i) The label heading Product Noise Emission Control Information;

(ii) Full corporate name and trademark of manufacturer;

(iii) Identification number;

(iv) Date of manufacture, which may consist of a serial number of code in those instances where records specified in § 205.203(a)(1)(iv) are maintained; and

(v) The statement:

This compactor, when new, is warranted not to exceed the applicable standard effective on (month/year) when tested as prescribed by U.S. EPA. Tampering with any product noise control device or element of design (see owner's manual) or use of this product after such tampering is prohibited by Federal Law.

(b) Any compactor manufactured solely for use outside the United States and not conforming to the noise emission standards for this regulation shall be clearly labeled "For Export Only."

(Sec. 13 of the Noise Control Act, (42 U.S.C. 4912).)

§ 205.206 Testing by the Administrator.

(a) (1) The Administrator may require that a product to be tested pursuant to these regulations or any untested product be submitted to him at such time and place as he may designate for the purpose of conducting tests in accordance with the test procedures described in § 205.204 to determine whether such products conform to applicable regulations.

(2) The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment of the type required by these regulations shall be made available by the manufacturer for test operations. The Administrator may conduct such tests with Agency equipment, which shall equal or exceed the performance specifications of the instrumentation and equipment specified by the Administrator in this regulation.

(b) (1) If, based on tests conducted by EPA, or other relevant information, the Administrator determines that the test facility does not meet the requirements of § 205.204 (b) and (c) (including any alternate procedures that may be approved under § 205.204(h)), he will notify the manufacturer in writing of his determination and the reasons therefor.

(2) After any notification issued under paragraph (b)(1) of this section has taken effect, no data thereafter derived from such test facility will be acceptable for purposes of this subpart and the Administrator may issue an order to the manufacturer, with respect to the product category or configuration in question, to cease to distribute in commerce compactors of such category or configuration: Except that any such order shall be issued only after notice and opportunity for a hearing. Such notification may be included in any notification under paragraph (b)(1) of this section. A manufacturer may request that the Administrator grant a hearing; such request shall be made not later than 15 days, or other such period as may be allowed by the Administrator, subsequent to notification of the Administrator's intent to issue an order to cease to distribute.

(3) The manufacturer may request in writing that the Administrator reconsider his determination in paragraph (b)(1) of this section based on data or information which indicates that changes have been made to the test facility and such changes have resolved the reasons for disqualification.

(4) The Administrator will notify the manufacturer of his determination with regard to the requalification of the test facility within 10 days of the manufacturer's request for reconsideration pursuant to paragraph (b)(3) of this section.

(Secs. 11 and 13 of the Noise Control Act (42 U.S.C. 4910, 4912).)

§ 205.207 Selective enforcement auditing requirements.

§ 205.207–1 Test request.

(a) The Administrator will request all testing under this subpart by means of a test request addressed to the manufacturer.

(b) The test request will be signed by the Assistant Administrator for Enforcement or his designee. The test request will be delivered by an EPA Enforcement Officer to the plant manager or other responsible official as designated by the manufacturer.

(c) The test request will specify the compactor category or configuration selected for testing, the batch selected for testing, the batch size, the manufacturer's plant or storage facility from which the compactors shall be selected, and the time at which a compactor shall be selected. The test request will also provide for situations in which the selected configuration or category is unavailable for testing. The test request may include an alternative category or configuration selected for testing in the event that compactors of the first specified category or configuration are not available for testing because the units are not being manufactured at the specified plant, are not being manufactured during the specified time, or are not being stored at the specified plant or storage facility.

(d) Any manufacturer shall, upon receipt of the test request: (1) If the manufacturer produces less than 4 of the specified category or configuration of compactor per given period of time specified in the test request, test every compactor produced in two consecutive batches in accordance with this regulation and the conditions specified in the test request.

(i) If one or more of the compactors in a test batch fails to meet the standard, the batch is rejected.

(ii) If one batch is rejected then the batch sequence determined under this paragraph is rejected.

(2) If he produces 4 or more of the specified category or configuration of compactors per given period of time as specified in the test request, select and test a batch sample of compactors from two consecutively produced batches of the compactor category or configuration specified in the test request in accordance with these regulations and the conditions specified in the test request.

(e) (1) Any testing conducted by the manufacturer pursuant to a test request shall be initiated within such period as is specified within the test request. Such test initiation may be delayed for increments of 24 hours or one business day where ambient test site weather conditions in any 24-hour period do not permit testing: *Provided*, That the ambient test site weather conditions for that period are recorded.

(2) The manufacturer shall complete noise emission testing on a minimum of five compactors per day unless otherwise provided for by the Administrator or unless ambient test site conditions permit only the testing of a lesser number: *Provided*, That ambient test site weather conditions for that period are recorded.

(3) The manufacturer shall be allowed 24 hours to ship compactors from a batch sample from the assembly plant to the testing facility if the facility is not located at the plant or in close proximity to the plant: Except, that the Administrator may approve more time based upon a request by the manufacturer accompanied by a satisfactory justification.

(f) The Administrator may issue an order to the manufacturer to cease to distribute in commerce compactors of a specified category or configuration being manufactured at a particular facility if:

(1) The manufacturer refuses to comply with the provisions of a test request issued by the Administrator pursuant to this section; or

(2) The manufacturer refuses to comply with any of the requirements of this section.

(g) A cease-to-distribute order shall not be issued under paragraph (f) of this section if such refusal is caused by conditions and circumstances outside the control of the manufacturer which render it impossible to comply with the provisions of a test request or any other requirements of this section. Such conditions and circumstances shall include, but are not limited to, any uncontrollable factors which result in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure, or illness of personnel, but shall not include failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(h) Any such order to cease to distribute shall be issued only after a notice and opportunity for a hearing.

(Secs. 11, 13 of the Noise Control Act (42 U.S.C. 4910, 4912).)

§ 205.207–2 Test sample selection.

(a) Compactors comprising the batch sample which are required to be tested pursuant to a test request in accordance with this subpart will be selected in the manner specified in the test request from a batch of compactors of the category or configuration specified in the test request. If the test request specifies that the compactors comprising the batch sample must be selected randomly, the random selection will be achieved by sequentially numbering all of the compactors in the batch and then using a table of random numbers to select the number of compactors as specified in paragraph (c) of this section based on

V 42166 AUG 26 77 UMI

the batch size designated by the Administrator in the test request. An alternative random selection plan may be used by a manufacturer: *Provided*, That such a plan is approved by the Administrator. If the test request does not specify that test compactors must be randomly selected, the manufacturer shall select test compactors consecutively. The provisions of § 205.205–7 (b) and (c) shall also pertain to this section.

(b) The Acceptable Quality Level is 10 percent. The appropriate sampling plans associated with the designated AQL are contained in Appendix I, Table II of this subpart.

(c) The appropriate batch sample size will be determined by reference to Appendix I, Tables I and II. A code letter is obtained from Table I based on the batch size designated by the Administrator in a test request. The batch sample size will be obtained from Table II of Appendix I of this subpart. The batch sample size will be equal to the maximum cumulative sample size for the appropriate code letter obtained from Table I plus an additional 10 percent rounded off to the next highest number.

(d) Compactors comprising the test sample will be randomly selected from the batch sample using the same random selection plan as in paragraph (a) of this section. Test sample size will be determined by using Table II of Appendix I of this subpart.

(e) The test compactors of the category or configuration selected for testing shall have been assembled by the manufacutrer for distribution in commerce using the manufacturer's normal production process.

(f) Unless otherwise indicated in the test request, the manufacturer will select the batch sample from the production batch next scheduled after receipt of the test request, of the category or configuration specified in the test request.

(g) Unless otherwise indicated in the test request, the manufacturer shall select the compactors designated in the test request for testing.

(h) At their discretion, EPA enforcement officers, rather than the manufacturer, may select the compactors designated in the test request.

(i) The manufacturer will keep on hand all products in the batch sample until such time as the batch is accepted or rejected in accordance with § 205.207–6: Except, that compactors actually tested and found to be in conformance with this regulation need not be kept.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 205.207–3 Test sample preparation.

Prior to the official test, the test compactor selected in accordance with § 205.207–2 will be prepared in accordance with § 205.205–6.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 205.207–4 Testing procedures.

(a) The manufacturer shall conduct one valid test in accordance with the test procedures specified in § 205.204 of this subpart for each compactor selected for testing pursuant to this subpart.

(b) No maintenance will be performed on test compactors except as provided for by § 205.207–3. In the event a compactor is unable to complete the emission test, the manufacturer may replace the compactor. Any replacement product will be a production compactor of the same configuration as the replaced compactor. It will be randomly selected from the batch sample and will be subject to all the provisions of these regulations.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 205.207–5 Reporting of the test results.

(a) (1) The manufacturer shall submit a copy of the test report for all testing conducted pursuant to § 205.207 at the conclusion of each 24-hour period during which testing is done.

(2) For each test conducted the manufacturer will provide the following information:

(i) Configuration and category identification where applicable;

(ii) Sound level degradation factor;

(iii) Year, make, assembly date, and model of compactor;

(iv) Compactor serial number;

(v) Test results by serial numbers; and

(vi) Serial number of the vehicle on which manufacturer has installed the compactor in subdivision (iv) of this subparagraph.

(3) The first test report for each batch sample will contain a listing of all serial numbers in that batch.

(b) In the case where an EPA enforcement officer is present during testing required by this subpart, the written reports requested in paragraph (a) of this section may be given directly to the enforcement officer.

(c) Within 5 days after completion of testing of all compactors in a batch sample, the manufacturer shall submit to the Administrator a final report which will include the information required by the test request in the format stipulated in the test request in addition to the following:

(1) The name, location, and description of the manufacturer's noise emission test facilities which meet the specifications of § 205.204 and were utilized to conduct testing reported pursuant to this section: Except, that a test facility that has been described in a previous submission under this subpart need not again be described, but must be identified as such.

(2) A description of the random compactor selection method used, referencing any tables of random number selection used, name of the person in charge of the random number selection, if the compactor test request specifies a random compactor selection.

(3) The following information for each noise emission test conducted:

(i) The completed data sheet required by § 205.204 for all noise emission tests including for each invalid test, the reason for invalidation.

(ii) A complete description of any modification, repair, preparation, maintenance, and/or testing which was performed on the test compactor and will not be performed on all other production compactors.

(iii) The test results for any replaced compactor and the reason for replacement of the compactor.

(4) A complete description of the sound data acquisition system if other than those specified in § 205.204.

(5) The following statement and endorsement:

This report is submitted pursuant to Section 6 and Section 13 of the Noise Control Act of 1972. All testing for which data is reported herein was conducted in strict conformance with applicable regulations under 40 CFR Part 205 *et seq*. All the data reported herein is a true and accurate representation of such testing. All other information reported here is, to the best of ----------

---

(company name)

knowledge, true and accurate. I am aware of the penalties associated with violations of the Noise Control Act of 1972 and the regulations thereunder.

(authorized representative)

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 205.207–6 Acceptance and rejection of batches.

(a) A failing product is one whose measured sound level is in excess of the sound level equal to the applicable noise emission standard set forth in § 205.202 minus the sound level degradation factor as determined in § 205.208–4 for the category or configuration being tested.

(b) The batch from which a batch sample is selected will be accepted or rejected based upon the number of failing compactors in the batch sample. A sufficient number of test samples will be drawn from the batch sample until the cumulative number of failing compactors is less than or equal to the acceptance number, or greater than or equal to the rejection number appropriate for the cumulative number of compactors tested. The acceptance and rejection numbers listed in Appendix I of this subpart, Table II at the appropriate code letter obtained according to § 205.207–2 will be used in determining whether the acceptance or rejection of a batch has occurred.

(c) Acceptance or rejection of a batch takes place when a decision that a compactor is a failing unit is made on the last compactor required to make a decision under paragraph (b) of this section.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 205.207–7 Acceptance and rejection of batch sequence.

(a) The manufacturer will continue to inspect consecutive batches until the batch sequence is accepted or rejected. The batch sequence will be accepted or rejected based upon the number of rejected batches. A sufficient number of consecutive batches will be inspected until the cumulative number of rejected batches is less than or equal to the sequence acceptance number, or greater than or equal to the sequence rejection number appropriate for the cumulative number of batches inspected. The acceptance and rejection numbers listed in Table III of Appendix I of this subpart at the appropriate code letter obtained according to § 205.207–2 will be used in determining whether the acceptance or rejection of a batch sequence has occurred.

(b) Acceptance or rejection of a batch sequence takes place when the decision is made on the last compactor required to make a decision under paragraph (a) of this section.

(c) If the batch sequenee is accepted, the manufacturer will not be required to perform any additional testing on products from subsequent batches pursuant to the initiating test request.

(d) The Administrator may terminate testing earlier than required in paragraph (b) of this section based on a request by the manufacturer, accompanied by voluntary cessation of distribution in commerce, from all plants, of compactors from the category or configuration in question: *Provided*, That once production is reinitiated the manufacturer must take the action described in § 205.207–9 (a) (1) and (a) (2) prior to distribution in commerce of any compactor from any plant of the compactor category or configuration in question.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 205.207–8 Continued testing.

(a) If a batch sequence is rejected in accordance with paragraph (b) of § 205.207–7, the Administrator may require 100 percent testing of all compactors of that category or configuration produced at that plant.

(b) The Administrator will notify the manufacturer in writing of his intent to require 100 percent testing of compactors pursuant to paragraph (a) of this section.

(c) Any tested compactor which demonstrates conformance with the applicable standard may be distributed into commerce.

(d) Any knowing distribution into commerce of a compactor which does not comply with the applicable standard is a prohibited act.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 205.207–9 Prohibition of distribution in commerce; manufacturer's remedy.

(a) The Administrator will permit the cessation of continuous testing under § 205.207–8 once the manufacturer has taken the following actions:

(1) Submits a written report to the Administrator which identifies the reason for the non-compliance of the compactors, describes the problem and describes the proposed quality control or quality assurance remedies to be taken by the manufacturer to correct the problem or follows the requirements for an engineering change pursuant to § 205.205–9; and

(2) Demonstrates that the specified compactor category or configuration has passed a retest conducted in accordance with § 205.207, and the conditions specified in the initial test request.

(b) Any compactor failing the prescribed noise emission tests conducted pursuant to this Subpart F may not be distributed into commerce until necessary adjustments or repairs have been made and the compactor passes a retest.

(c) No compactors of a rejected batch which are still in the hands of the manufacturer may be distributed in commerce unless the manufacturer has demonstrated to the satisfaction of the Administration that such compactors do in fact conform to the regulation: Except, that any compactor that has been tested and does, in fact, conform with this regulation may be distributed into commerce.

(Secs. 11, 13 of the Noise Control Act (42 U.S.C. 4910, 4912).)

§ 205.208 In-use requirements.

§ 205.208–1 Warranty.

(a) The manufacturer of a compactor who is required to production verify under this part shall include in the owner's manual or in other information supplied to the ultimate purchaser the following statement:

NOISE EMISSIONS WARRANTY

The manufacturer warrants to the first person who purchases this compactor for purposes other than resale and each subsequent purchaser that this compactor was designed, built and equipped to conform, at the time of sale to such first purchaser, with all applicable U.S. EPA noise control regulations.

This warranty is not limited to any particular part, component or system of the compactor. Defects in the design, assembly, or in any part, component, or system of the compactor, which at the time of sale to such first purchaser, cause noise emission levels to exceed Federal standards, are covered by this warranty for the actual life of the compactor.

(b) Not later than the date of submission of the product verification report required by § 205.205–4, the manufacturer shall submit to the Administrator two (2) copies of the written noise emission warranty required by paragraph (a) of this section and two (2) copies of all other information provided to the ultimate purchaser which could reasonably be construed as impacting on the warranty.

(c) Not later than ten (10) days after dissemination, the manufacturer shall submit two (2) representative copies of all information of a general nature, or modifications thereto, which is provided to dealers, zone representatives, or other agents of the manufacturer regarding the administration and application of the noise emission warranty. Information regarding noise emission warranty claims which is provided to a dealer or representative in response to a particular warranty claim or dealer inquiry is not considered to be information of a general nature, if such information does not receive broad dissemination to dealers.

(d) All information required to be forwarded to the Administrator pursuant to this section shall be addressed to: Director, Noise Enforcement Division, (EN–387), U.S. Environmental Protection Agency, Washington, D.C. 20460.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 205.208–2 Tampering.

(a) For each model year and for each configuration of compactors covered by this part, the manufacturer shall submit to the Administrator a list of those acts which, in the manufacturer's estimation, migh be done to the compactor in use on more than an occasional basis, and result in an increase in noise emission levels above the standards prescribed in § 205.22. The manufacturer shall state his estimate, wherever possible, of the amount of this increase in noise level.

(b) The above information shall be submitted to the Administrator within adequate time prior to the introduction into commerce of each configuration to allow for the development and printing of tampering lists, as provided in paragraphs (c) and (d) of this section.

(c) On the basis of the above information, the Administrator will develop a list of acts which, in his judgment, constitute the removal or rendering inoperative, totally or partially, other than for purposes of maintenance, repair, or replacement, of noise control devices or elements of design of the compactor. This list shall be provided to the manufacturer by the Administrator within 30 days of the date on which the information required in paragraph (a) of this section is submitted by the manufacturer. The list shall be included in the statement to the ultimate purchaser as required by paragraph (d)(2) of this section. If the list is not provided by the Administrator within 30 days of the date on which the information required in paragraph (a) of this section is submitted, the manufacturer shall include only the statement in paragraph (d) (1) of this section until such time as the list has been provided and the owner's manual is reprinted for other purposes.

(d) The manufacturer shall include in the owner's manual the following information:

(1) The statement:

TAMPERING WITH NOISE CONTROL SYSTEM PROHIBITED

Federal law prohibits the following acts or the causing thereof: (1) The removal or rendering inoperative by any person other than for purposes of maintenance repair, or replacement, of any device or element of design incorporated into any new compactor for the purpose of noise control prior to its sale or delivery to the ultimate purchaser or while it is in use, or (2) the use of the compactor after such device or element of design has been removed or rendered inoperative by any person.

(2) The statement:

Among those acts presumed to constitute tampering are are acts listed below.

Immediately following this statement, the manufacturer shall include the list

V 42166 AUG 26 77 7 UMI

developed by the Administrator under paragraph (c) of this section.

(e) Any act included in the list prepared pursuant to paragraph (c) of this section is presumed to constitute tampering; however, in any case in which a prohibited act has been committed and it can be shown that such act resulted in no increase in the sound level of the unit or that the unit still meets the noise emission standard of § 205.202, such act will not constitute tampering.

(f) The provisions of this section are not intended to preclude any State or local jurisdiction from adopting and enforcing its own prohibitions against the removal or rendering inoperative of noise control systems on compactors subject to this part.

(g) All information required by this section to be furnished to the Administrator shall be sent to the following address:

Director, Noise Enforcement Division (EN-387), U.S. Environmental Protection Agency, Washington, D.C. 20460.

(Secs. 10, 13 of the Noise Control Act (42 U.S.C. 4909, 4912).)

§ 205.208–3 Instructions for maintenance, use and repair.

(a)(1) The manufacturer shall provide to the ultimate purchaser of each compactor covered by this subpart written instructions for the proper maintenance, use and repair of the compactor in order to provide reasonable assurance of the elimination or minimization of noise emission degradation throughout the life of the compactor.

(2) The purpose of the instructions is to inform purchasers and mechanics of those acts necessary to reasonably assure that degradation of noise emission level is eliminated or minimized during the life of the compactor. Manufacturers shall prepare the instructions with this purpose in mind. The instructions shall be clear and, to the extent practicable, written in nontechnical language.

(3) The instructions shall not be used to secure an unfair competitive advantage. They shall not restrict replacement equipment to original manufacturer equipment or service to dealer service, unless such manufacturer makes public the performance specifications on such equipment.

(b) For the purpose of encouraging proper maintenance, the manufacturer shall provide a record or log book which shall contain a schedule for the performance of all required noise emission control maintenance. Space shall be provided in this record book so that the purchaser can note what maintenance was done, by whom, where and when.

(c) Not later than the date of submission of the production verification report required by § 205.205–4, the manufacturer shall submit to the Administrator two (2) copies of the maintenance instructions (including the record book) required by paragraphs (a) and (b) of this section.

(d) The Administrator will require modifications to the instructions if they are not sufficient to fulfill the requirements of paragraph (a) of this section.

(e) Information required to be submitted to the Administrator pursuant to this section shall be sent to the following address:

Director, Noise Enforcement Division (EN-387), U.S. Environmental Protection Agency Washington, D.C. 20460.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 205.208–4 Sound Level Degradation Factor (SLDF) and retention of durability data.

(a) Each manufacturer responsible for compliance with the standards specified in § 205.202 shall develop a Sound Level Degradation Factor (SLDF) for each of its compactor configurations utilizing the records compiled under section (b) of this section.

(b)(1) The manufacturer shall establish and maintain records which demonstrate the increase in noise level which will occur for each product configuration during the specified Acoustical Assurance Period.

(2) The records may include, but need not be limited to, the following:

(i) Durability data and actual noise testing on critical noise producing or attenuating components.

(ii) Sound level deterioration curves on the entire product.

(iii) Data from products in actual use.

(c) The SLDF is to be used in all Production Verification testing and Selective Enforcement Audit testing to determine compliance.

(d) If the manufacturer determines the product's sound level will not increase during the Acoustical Assurance Period when properly used and maintained, the SLDF is zero.

(e) If the manufacturer determines that a product's sound level does not increase, but rather decreases with use, yielding a negative SLDF, he shall use zero as the SLDF in all testing under these regulations, but shall determine and record the actual SLDF.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 205.209 Recall of non-complying compactors.

(a) Pursuant to section 11(d)(1) of the Act, the Administrator may issue an order to the manufacturer to recall and repair or modify any compactor distributed into commerce which is not in compliance with this subpart.

(b) A recall order issued pursuant to this section shall be based upon a determination by the Administrator that compactors of a specified category or configuration have been distributed in commerce which do not conform to the regulation. Such determination may be based on:

(1) A technical analysis of the noise emission characteristics of the category or configuration in question; or

(2) Any other relevant information, including test data.

(c) For the purposes of this section, noise emissions may be measured by the test prescribed in § 205.204 for testing prior to distribution in commerce or any other test which has been demonstrated to correlate with the prescribed test procedure in accordance with § 205.204(g).

(d) Any order to recall shall be issued only after notification and an opportunity for a hearing.

(e) All costs, including labor and parts, associated with the recall and repair or modification of non-complying compactors under this section shall be borne by the manufacturer.

(f) This section shall not limit the discretion of the Administrator to take any other actions which are authorized by the Act.

(Sec. 11 of the Noise Control Act (42 U.S.C. 4910).)

APPENDIX I

TABLE I—SAMPLE SIZE CODE LETTERS

Batch size:	Code letter
4 to 8	A
9 to 15	B
16 to 25	C
26 and larger	D

TABLE II.—*Sampling plans for inspecting batches*

Sample size code letter	Test sample	Test sample size	Cumulative test sample size	Batch inspection criteria: Acceptance number	Batch inspection criteria: Rejection number
A	1st	4	4	0	1
B	1st	3	3	0	1
C	1st	3	3	0	2
	2d	3	6	1	2
D	1st	2	2	(1)	2
	2d	2	4	(1)	2
	3d	2	6	0	2
	4th	2	8	0	2
	5th	2	10	1	2
	6th	2	12	1	2
	7th	2	14	2	2

[1] Batch acceptance not permitted at this sample size.

TABLE III.—*Batch sequence plans*

Sample size code letter	Number batches	Cumulative number batches	Sequence inspection criteria: Acceptance number	Sequence inspection criteria: Rejection number
A	2	3	1	(1)
	3	4	2	4
	4	5	3	5
	5	6	4	5
B	2	4	0	(1)
	3	5	1	4
	4	6	2	5
	5	7	3	5
	6	8	4	5
	7	9	5	6
	8	10	6	6
	9	11	7	6
	10	12	8	6
C	2	4	0	2
	3	5	1	3
	4	6	2	3
	5	7	3	3
	6	8	4	3
	7	9	5	4
	8	10	6	4
	9	11	7	4
	10	12	8	4
D	2	4	0	2
	3	5	1	3
	4	6	2	3
	5	7	3	4
	6	8	4	4
	7	9	5	4
	8	10	6	4
	9	11	7	4
	10	12	8	4

[1] Batch sequence rejection not permitted for this number of batches.
[2] Batch sequence acceptance not permitted for this number of batches.

TABLE IV.—*Noise emission test data sheet; Truck-mounted solid waste compactor*

Test Report No. _____

I. Compactor characteristics:
Manufacturer _____ Model _____ Serial No. _____
Rated speed _____ Rated rpm _____ Capacity _____ Yd³ (m)³
Configuration identification _____ Category identification _____
Compactor identification No. _____ Build date _____ Truck identification No. _____

II. Test conditions:
Manufacturer test site identification and location _____
_____
Ambient sound levels: (a) Beginning of test _____ dBA (b) End of test _____ dBA
Ambient wind speed _____ mi/h (km/hr) Atmospheric pressure _____ lb/in² (kPa)
Temperature _____ °F (°C)

III. Instrumentation:
Microphone manufacturer _____ Model No. _____ Serial No. _____
Sound level meter manufacturer _____ Model No. _____ Serial No. _____
Acoustical calibrator manufacturer _____ Model No. _____ Serial No. _____
Other _____ Model No. _____ Serial No. _____

IV. Sound level data (dB reference 2×10^{-5} Pascals s.

	A-weighted sound levels in dBA: Compactor reference surface: Front	L.H. side	Rear	R.H. side	Calculated average test level	Sound level degradation factor	Final calculated average level
Compactor operating cycle							
Maximum steady level							
Maximum impulse level							

V. Test personnel and witnesses:
Tested by: _____ Date _____
Reported by: _____ Date _____
Checked by: _____ Date _____

[FR Doc.77-24864 Filed 8-26-77;8:45 am]

V 42 166 AUG 26 77 UMI

federal register

FRIDAY, AUGUST 26, 1977
PART V



DEPARTMENT OF LABOR

Employment and Training Administration

■

COMPREHENSIVE MANPOWER PROGRAMS

Guidelines for Review of Planned Performance

V42166 AUG 26 77
UMI

DEPARTMENT OF LABOR

Employment and Training Administration

[Field Memorandum 347–77]

COMPREHENSIVE MANPOWER PROGRAMS

Guidelines for Review of Planned Performance

In order to provide a common framework of national and regional experience against which to compare performance goals and to identify potential problems with program design and delivery, the Department of Labor has developed guidelines to review prime sponsors' planned performance for Fiscal Year 1978 under title I of the Comprehensive Employment and Training Act (CETA) of 1973, as amended.

The entire text of Field Memorandum No. 347–77 is published here to inform all interested parties of the Department's review procedures.

[Field Memorandum No. 347–77]

TO: ALL REGIONAL ADMINISTRATORS

FROM: FLOYD E. EDWARDS
Administrator, Field Operations

SUBJECT: CETA Title I Review Guidelines for FY 1978

1. *Purpose.* To transmit guidelines for the review of CETA title I annual plans for FY 1978.

2. *Reference.* FM 209–77.

3. *Background.* Grant review guidelines were implemented for the first time in the review of FY 1977 CETA title I grant applications. Much of the criticism of this initial effort was directed toward the technical adequacy of the indicators themselves and the fact that participation in decisions relating to the choice and use of the indicators was limited. In response to this, a work group, consisting of one prime sponsor from each region and one representative from each regional office, was created to identify the best indicators to measure performance and to define methods of computation, given the constraints of the existing data system. Additional projects related to the use of the indicators, including grant review guidelines and FY 1978 performance assessment, were also planned. The group produced a final document (FM–209–77) setting forth 13 performance indicators, grouped into four clusters and related interpretive factors. The cluster approach was used since CETA represents a multiplicity of goals and objectives for which no one performance indicator can adequately measure the effectiveness of a local program.

A subgroup was designated to analyze the data and propose a mechanism to assist in the review of FY 1978 annual plans. The subgroup consisted of three prime sponsor representatives and three regional office representatives, from the larger group, as well as two national office representatives.

4. *Objectives and Mechanism of Review Guidelines.* The primary objective of such a tool is to provide a common framework against which prime sponsors and regional offices can compare FY 1978 annual plans and performance goals to national and regional experience. The subgroup developed a review mechanism to compare planned performance with actual national and regional experience, based on the performance indicators developed by the larger group. This mechanism is to be followed in the review of FY 1978 title I annual plans.

Data for each indicator will be displayed in terms of lowest and highest performance, median (mid-point) and first and third quartiles on both a national and regional level. The exact meaning of median and quartile is in section 6(b) of this memorandum, and in Attachment I, section I.A.

Planned performance in relationship to the regional median and trend toward the first or third quartile will be emphasized in the plan review. Each indicator cluster will include a list of factors the presence or absence of which may affect performance in either direction from the median. Such a list is not intended to be all inclusive nor is it intended to substitute for the knowledge of a Federal Representative and prime sponsor staff about the appropriateness of a plan.

The data displays are intended to provide a good starting point from which to identify potential problems with program design and delivery *before* they are reflected in poor performance.

The review guidelines are *not* to be considered as *performance standards*. The median and other reference points of regional and national experience served only as convenient benchmarks against which prime sponsors' plans can be reviewed and analyzed.

5. *Indicators.* The indicators to be used as the basis for the review of FY 1978 title I annual plans are those developed by the Performance Indicators Work Group published in the FEDERAL REGISTER. However, several indicators have been excluded from this exercise; these are in the earnings cluster, for which no information is available in the planning documents, and the expenditure rate in the fund utilization cluster, because it is the complement of the carry-out rate included in these review guidelines. The following indicators have been included.

a. *Termination Cluster*
- Positive Termination Rate
- Entered Employment Rate—Total Terminations Based
- Entered Employment Rate—Total Positive Terminations Based
- Nondirect Placement Rate—Total Terminations Based
- Nondirect Placement Rate—Total Entered Employment Based

b. *Cost Cluster*
- Cost Per Positive Termination
- Cost Per Entered Employment
- Cost Per Nondirect Placement

c. *Fund Utilization Cluster*
- Carry-out Rate
- Administrative Cost Rate

A description and method of computation for each indicator are included in Attachment II.

6. *Description of Data.*

a. *Data Base.* Data covering FY 1976 and the transition quarter, for 431 prime sponsors, were used to compute the 10 indicators and to determine national and regional medians, quartiles and high and low performance against which the prime sponsor's planned performance will be compared. The data were obtained from the CETA Program Status Summary (PSS), Financial Status Report (FSR) and obligations contained in the Grant Signature Sheet and modifications. Data from these documents are recived in the national office through the Regional Automated System (RAS).

This is the latest data for a full program year that will be available in time for the FY 1978 annual plan review which is to take place during the fourth quarter of FY 1977. A full program year was selected instead of a combination of FY 1976 and FY 1977 to provide later data for a 12-month period because activities associated with a new year would distort termination and cost data. Also, there would be no basis for determining a carry-out rate.

Data for the base period were obtained by a special RAS computer run from reports in the system through November 30, 1976. Missing data were obtained from later regular RAS computer runs or from special runs. Substantially, all of the PSS and FSR data are in the final RAS/QPR run for the subject period dated December 10, 1976. Due to the carry out of unexpended funds into FY 1977, fund availability was understated for a number of prime sponsors. In these cases an upward adjustment was made.

b. *Computation of Quartiles and Medians.* The performance of each prime sponsor was computed for each of the 10 indicators. The results expressed as a percent or dollars were then arrayed in ascending order regionally and nationally starting with the prime sponsor with the lowest computed value to the prime sponsor with the highest computed value. This array was divided into four equal parts, each part containing the performance of 25 percent of all prime sponsors.

The boundary dividing the lower half of the array into two quarters, each containing 25 percent of the sponsors, is designated as the first quartile (Q_1). The boundary dividing the array in half is designated as the median (M) or second quartile. The boundary dividing the upper half of the array in two quarters, each containing 25 percent of sponsors is designated as the third quartile (Q_3). The quartile divisions serve as convenient reference points in the array against which to compare prime sponsor planning goals.

c. *Interpretive Factors.* Data for interpretive factors preprinted in the interpretive factor worksheet (see Attachment I) include selected client characteristics, pre-CETA and post-CETA median wages, percent of cumulative enrollment by activity, percent of accrued expenditures by activity and the local unemployment rate. Data, except for the local unemployment rate, were obtained from the PSS for enrollment, the FSR for accrued expenditures and the Quarterly Summary of Participant Characteristics (QSPC) for characteristics and wage data. The data base for these factors, as for the performance indicators, include cumulative data for FY 1976 and the transition quarter. Prime sponsor data will be compared against the national and regional totals from the final RAS printout for this period dated December 10, 1976. For comparison, the Federal Representative should fill in the appropriate data in the interpretive factor worksheet for the prime sponsor under review to explain program performance. Instructions for completing "sponsor" column are in the worksheets, Attachment I, section II.

7. *Application of review guidelines.* There are separate worksheets for each of the indicator clusters and a worksheet for the interpretive factors to be utilized in annual plan reviews. See Attachment I for an explanation of the five reference points and instructions for the use of the worksheets.

In reviewing prime sponsor planning goals, the following procedures should apply:

a. *Computation of Planning Goals.* The Federal Representative should first compute the FY 1978 performance goals for each of the indicators in the three performance clusters by substituting cumulative planning data through the fourth quarter from the PPS and BIS of the annual plan for the data elements of the formulas in the worksheets. The computed values should be placed in the "results" column of the worksheets.

b. *Comparison to Regional Median.* Planned performance in relation to the regional median will be emphasized in the review process for each indicator in the performance clusters to determine if significant deviation requires an explanation. The national reference points show the relationship between prime sponsor planning goals and regional and national experience. Use of regional comparative data as the reference points against which prime sponsor plans are to be compared to determine significant deviation takes into account programmatic and other facors unique to a particular region, thereby ensuring equitable treatment for as many prime sponsors as possible.

c. *Significant Deviations from the Median.* In general, planned performance close to the middle of the comparative data (median) need not be explained. However, planned performance as indicated on the PPS and BIS should be consistent with the program narrative in the annual plan. In addition, planned performance falling above the regional median for the "termination cluster" and below the regional median for the "cost cluster" and the administrative cost rate in the "fund utilization cluster" may not need explanation. Higher than median positive outcome rates, lower than median costs for positive outcomes and administrative cost rates generally indicate desirable performance and should not require explanation unless there are programmatic or other reasons for doing so. Because the carry-out rate of the "fund utilization cluster" is high for many regions, an explanation may be required for significant deviation below the regional median to be determined by the RA, see 7.c.(1) below. In conducting the review of the annual plan, the following should be observed concerning significant deviation from the median.

(1) *Significant Deviation from the Median which may not Require Explanation.* The review process is designed to examine closely planned performance below the first quartile or above the third quartile, depending on the indicator or cluster being reviewed. RA's should not require written explanation of prime sponsor planning goals which deviate from the regional median to and including the first quartile for indicators in the "termination cluster," and the carry-out rate in the "fund utilization cluster," and from the regional median to and including the third quartile for indicators in the "cost cluster" and the "fund utilization cluster." RA's may request an explanation of planned performance within the limits outlined above when, the reviewer believes the planning goals are unrealistic or serious programmatic problems are evident. This may include planned performance which differs substantially from previous performance without a significant change occurring in program operations or planned performance which may not be achieved because of serious administrative, managerial or fiscal problems. The RA may determine appropriate situations and the amount of detail required for any explanation. The most important thing is consistency between the program narrative and whatever performance is planned. Therefore, even though an explanation of deviation from the median, may not be required, consistency should be insured.

(2) *Significant Deviations from the Median for Which an Explanation is Mandatory.* Where planned performance deviates from the median to fall below the first quartile (Q_1) for indicators in the "termination cluster" and above the third quartile (Q_3) for indicators in the "fund utilization cluster" and "cost cluster," an explanation/justification will be required. This explanation must be as complete and detailed as possible.

Significant deviations from the median where an explanation is mandatory or may be required as determined by the RA, should be explained by the absence or presence of environmental, programmatic and other locally relevent situations which may influence performance from the median. These factors will be discussed in item 8 of this FM.

d. *Incremental Improvement.* In evaluating plans for FY 1978, an additional key element to be considered is each sponsor's previous performance. The concept of incremental improvement is critical to reviewing a sponsor's plan. To determine the extent of improvement over previous performance, Federal Representatives should compute the sponsor's actual achievement for each of the indicators, using the most recent data available in the regional office. Where a prime sponsor's plan deviates significantly from the median, but reasonable improvement over previous performance is planned, such improvement may serve as adequate explanation for deviations. A prime sponsor performing above the median for the termination cluster and below it for the others, should not be permitted "slippage" unless there has been a drastic change in local conditions. In fact, such sponsors may be expected to improve on their performance.

e. *Special Considerations in the Review.* Because of the nature of the data for a few indicators, the following information is provided for your consideration:

(1) For the *carry-out rate* of the "fund utilization cluster," FY 1976 and the transition quarter national and regional experience upon which the guidelines are based indicate median carry-out rates of 11 percent or greater nationally and for nine of the ten regions. This would indicate that expenditures for FY 1976 and the transition quarter were on the low side resulting in a large carry-out of funds into FY 1977. While it is recognized that a certain amount of funds may be necessary to be carried out into the following year providing for a smooth transition of the program, this should be kept to a minimum. Therefore, explanation of deviation from the median below to the first quartile and above to the third quartile may be requested as determined by the RA. An explanation for deviation above the third quartile is mandatory. Additionally, comparison should always be made with the carry-out rate of previous experience. If the planning goal significantly deviates from the median, but a reasonable improvement in the carryout rate is planned when compared to the actual carry-out rate for FY 1976 and the transition quarter, no further explanation may be necessary.

(2) For the *administrative cost rate* in the "fund utilization cluster," the regulations already mandate an adequate explanation with supporting documentation if the planned rate exceeds 20 percent. It is suggested that explanation for significant deviation should not be required above the median for the planning goal until it exceeds 20 percent. In all regions, administrative cost rates above 20 percent will fall above the third quartile (Q_3) and will require an explanation as complete and detailed as possible. The documentation contained in the annual plan should be cited if this is adequate.

8. *Interpretive Descriptions and Interpretive Factors.* Each performance cluster worksheet (see Attachment I to this FM) contains a preprinted list of programmatic and environmental factors, under the heading of Interpretive Descriptions, which may be of assistance in explaining, or raising questions about prime sponsor planned performance. The list, located in the lower left side of each worksheet, is not intended to be all inclusive. The Federal Representative may be aware of other factors unique to the region or prime sponsor area that could explain planned performance. Among the influential factors (whether or not listed in the interpretive description section of the attached cluster worksheets) are those dealing with the prime sponsor's program mix, enrollee characteristics, enrollee pre-CETA and post-CETA wages, and the local unemployment rate.

These factors are all quantifiable and are designated as interpretive factors. They are contained on a separate worksheet in Attachment I for convenience of comparing these factors and using them in combination to explain a significant deviation. Since these factors, except for enrollee wages and the local unemployment rate, can be broken down by their proportion of the prime sponsor's total program, each factor can be compared with other elements of the sponsor's program and regional experience data.

The interpretive factors worksheet will contain regional and national experience data for FY '76 and the transition quarter which has been preprinted on the worksheets. Prime sponsor data to be compared within the program and with regional totals will be filled in by the Federal Representative in a column marked "sponsor." (See Attachment I, section II, for additional instructions.)

The right side of the worksheet contains a short presentation on the use of each of the interpretive factor groups. This presentation is limited but is included to give the Federal Representative an understanding of how the various interpretive factors may be used. The following examples provide the Federal Representative with a fuller range of implications that these factors may have on planned performance:

a. *Enrollee Characteristics.* The Federal Representative should pay particular attention to the types of participants to be enrolled in the program and the possible correlations to the percent of expenditures, cumulative enrollments by program activity, planned performance goals, and program objectives. Prime sponsors may develop and operate programs designed to increase the employability of particular groups of enrollees, with placement in unsubsidized employment not being a program objective. A prime sponsor proposing to serve a significant number of youth and full-time students may be expected to allocate a sizeable portion of funds for work experience activities and have a sizeable percentage of enrollments in work experience activities, accompanied by a relatively low planned "entered employment rate, a relatively high planned "cost per entered empolyment," and a relatively high planned "positive termination" rate. The Federal Representative should then compare planned performance goals for the affected indicators against regional comparative data for the interpretive factors. This comparison may explain significant deviations.

Prime sponsors operating programs or activities stressing service to other groups, generally considered to be "hard to place," e.g., minorities, persons with limited English-speaking ability, older workers and handicapped, may be expected to propose relatively low positive termination rates through frequent turnover, low entered employment rates, high costs per positive termination and high costs per entered employment.

b. *Program Mix.* Prime sponsors may plan to allocate a sizeable portion of funds to classroom training and OJT. These are placement-related activities and planned performance should reflect this. Planned goals for other indicators may be similarly affected by such a distribution of funds. The Federal Representative should review regional data for the affected indicators and the interpretive factors for possible explanation of the sponsor's planned performance.

The interpretive factors and other environmental and programmatic influences, must

V 42 I 166 AUG 26 77 7 UMI

be used with care. Although there may be a precedent to draw certain conclusions from an established correlation of some of these with the planning goals, the danger is to rationalize relationships for others where the correlation is weak or does not exist. It will be incumbent on the Federal Representative, who is knowledgeable concerning the environmental and programmatic aspects of the prime sponsor, to make judgments as to the factors and the strength of the factors considered to be operating to determine if they are adequate to explain planned performance. Where an explanation for deviation from the median is required, it should be documented with appropriate backup in the annual plan and by information available from other sources. Again, consistency between the narrative and planned performance is imperative. Regional offices may wish to establish "review" committees to assure consistency in the application of the interpretive influences on a regional level. Prime sponsors with similar profiles on the interpretive influences could be reviewed together to determine whether legitimate explanations for program deviations in planned performance goals exist.

9. *Training.*

a. *Federal Staff.* In order to ensure a uniform understanding of how to apply the guidelines in your region, it is recommended that regional staff be trained as early as possible. The national office has contacted regional offices offering them assistance in training. For those regions accepting, arrangements were made for selected members of the review guidelines work group and a member of the performance indicators work group to assist in training in the regions.

b. *Prime Sponsor.* Prime sponsors should be provided with a copy of the review guidelines memorandum and attachments as early as possible to become aware of how their plans will be reviewed. Whether prime sponsors are called together for a general orientation to the guidelines or the Federal Representatives review the guidelines with them individually should be decided by the RA.

10. *Action Required.* RAs should distribute this FM as soon as possible to regional staff, prime sponsors and any other person requiring this information. They should also inform prime sponsors and others that these guidelines will be published in the FEDERAL REGISTER.

11. *Inquiries.* Questions should be directed to Henry Rosenbloom or Ric Campbell on 8-376-6390.

12. *Attachments.* (RAs only.)

I. Worksheets.

II. Description of Indicators.

ATTACHMENT I

WORKSHEETS

I. *Performance Cluster Worksheets.* Separate worksheets have been developed fro each of the indicator clusters which include a list of interpretive environmental and programmatic factors to be utilized in plan reviews. The following will describe the format of the cluster worksheets and general procedure for review.

A. The upper part of each worksheet lists the component parts of the cluster, the computation formula; and a space for entering planned outcomes for the prime sponsor being reviewed. Next to the planned result, comparative data, to be used as reference points in either percents or dollars, will be preprinted. The comparative data will be disregions. Five reference points will be included.

1. Lowest Performance (L).
2. First Quartile (Q_1).
3. Median (Mid Point) (M).
4. Third Quartile (Q_3).
5. Highest Performance (H).

The first quartile refers to the point which 25 percent of the prime sponsors fall below in performance.

The third quartile refers to the point in performance where 25 percent of the sponsors fall above.

(The first and third quartiles represent boundaries which include the middle 50 percent, in terms of performance, of prime sponsors.)

In reviewing the plan the regional median will be used as the main reference point by the Federal Representative (see item 7.b of FM). Significant deviations above or below the median, depending on the performance cluster, should be analyzed in terms of various interpretive environmental and programmatic factors.

B. The bottom left hand side of the worksheets will contain a list of interpretive descriptions. These consist of environmental and programmatic factors the presence or absence of which may influence performance. These will be used as a basis for explaining deviations of planning goals. The list will be preprinted on the worksheets but will not be all inclusive. Federal Representatives may be aware of other factors unique to the region or sponsor. In any event, it will be incumbent upon the Federal Representative (working with the prime sponsors) to document the absence or presence of influential factors. Important factors in the interpretive description lists that can be very useful in explaining planned performance are those dealing with program mix, enrollee characteristics, pre-CETA and post-CETA wages and the local unemployment rate. These are classed as interpretive factors and are listed on a separate worksheet of the review guideline package. This worksheet will be discussed in Section II of this Attachment.

C. The bottom right hand side of the worksheets provides space for explanation of planned performance. In general, explanation of planned performance may not be required under the following circumstances:

1. Planned performance which is close to the median.

2. Planned performance falling above the median for indicators in the "termination cluster" and below the median for indicators in the "cost cluster," and for the administrative cost rate in the "fund utilization cluster," unless planning goals are unrealistic or serious programmatic problems are evident.

3. Prime sponsor planning goals deviating significantly from the median, but a reasonable improvement over recent previous performance is planned. A prime sponsor performing above the median for the termination cluster and below it for the others should not be permitted "slippage" unless there has been a drastic change in local conditions. In fact, such sponsors may be expected to improve on their performance.

Significant deviations from the median where an explanation may be required:

The review process is designed to examine closely planned performance below the first quartile or above the third quartile, depending on the indicator or cluster being reviewed. RA's should not require written explanation of prime sponsor planning goals deviating from the regional median to and including the first quartile for indicators in the "termination cluster," and the carryout rate in the "fund utilization cluster," and from the regional median to and including the third quartile for indicators in the "cost cluster" and the "fund utilization cluster." RAs may request an explanation of planned performance within the limits outlined above when, in the opinion of the reviewer, the planning goals are unrealistic or serious programmatic problems are evident. This may include planned performance which differs substantially from previous performance without a significant change occurring in program operations, or planned performance which may not be achieved because of serious administrative, managerial or fiscal problems. The RA may determine appropriate situations and the amount of detail required for any explanation.

Significant deviations from the median where an explanation is mandatory:

An explanation of planning goals falling below the first quartile (Q_1) for indicators in the "termination cluster" and above the third quartile (Q_3) for indicators in the "fund utilization cluster" and "cost cluster," is mandatory. If these deviations occur, an explanation/justification should be as complete and detailed as possible.

Significant deviations from the median for which an explanation may be required or is mandatory, should be explained by the absence or presence of interpretive environmental and programmatic factors which may influence performance from the median. These factors will be pre-printed under the heading of interpretive descriptions on the left hand side of the performance cluster worksheets and on a separate interpretive factor worksheet described in this attachment. Any explanation provided should be documented by appropriate backup in the annual plan and by information available from sources outside the plan.

II. *Interpretive Factors.* An additional worksheet, assisting Federal Representatives in displaying performance in terms of various interpretive factors, is contained in the worksheet package. These factors should be used in conjunction with other influential factors, which are listed in the interpretive description section of the indicator cluster worksheets explaining prime sponsor performance. The interpretive factors include categories of program mix, selected enrollee characteristics, pre-CETA and post-CETA wages and local unemployment rates. The right hand side of the worksheet contains a short description on the use of each section of the interpretive factors which should assist the Federal Representative. The left hand side of the worksheet contains preprinted total national and regional experience based on FY 1976 and the transition quarter. Prime sponsor data to be compared with the preprinted regional and national totals explaining performance should be filled in by the Federal Representative in the "sponsor" column as follows:

A. *Program Mix.*

1. *Percent of Expenditures by Program Activity.* Data for these interpretive factors will be obtained from Section F. of the BIS of the FY 1978 annual plan. Cumulative fourth quarter expenditure data for each activity from F.2.a. through F.2.f. should be divided by cumulative fourth quarter total projected expenditures by program, F.2. The result should be multiplied by 100 and placed in the "sponsor" column beside the appropriate activity.

2. *Percent of Cumulative Enrollment by Program Activity.* Data for these interpretive factors will be obtained from Section II of the PPS of the FY 1978 annual plan. Cumulative fourth quarter total enrollments (a) for each activity from II.A. through II.E. should be added. Cumulative total enrollments (a) through the fourth quarter for each activity should be divided by the total obtained for all activities. The results should be multiplied by 100 and placed in the "sponsor" column beside the activity. Since "other activities" is now receiving special consideration, an entry need not be made on the interpretive factors worksheet. However, if "other activities" is useful in explaining performance, this should be considered in the analysis.

B. *Selected Enrollee Characteristics.* Data for selected enrollee characteristics will be based on the QSPC for FY 1976, including the transition quarter. Since all of the planned enrollee characteristics needed are not available in FY 1978 annual plans, comparable actual data for the previous full year will be used. The assumption is that the characteristics will be similar to the sponsor's FY 1978 program. The proportions of selected characteristics for prime sponsors should be obtained from the final report of the September 1976 RAS/QSPC dated December 10, 1976. This report is available in the regions.

C. *Pre-CETA and Post-CETA Median Wage.* Data for the pre-CETA and post-CETA median wage will also be based on the QSPC for FY 1976, including the transition quarter. Since wages are not available in the FY 1978 planning data, comparable actual data, will be used. The median wages should be obtained from the final report of the September 1976 RAS/QSPC dated December 10, 1976. This report is available in the regions.

D. *Unemployment Rates.* Unemployment rate data will not be included in the interpretive factors worksheet, except for a short description on their use. However, the region should arrange to obtain local, regional and national unemployment rates from sources within the ETA regional office or from the regional office of the Bureau of Labor Statistics. These rates should be compared with unemployment rates of recent periods noting trends that may assist in explaining deviations.

V 42 166 AUG 26 77 UMI

III. Also included is a chart which provides for the display of national and regional reference points and prime sponsor planning goals. Examples of how to complete the chart are provided below and the Federal Representative may display the required data for each indicator similarly. This display is optional and may be helpful to the region and prime sponsor to see relationships more clearly.

Chart Examples

Positive Termination Rate



Cost Per Entered Employment



NAT. - National Reference Points, P.S. - Prime Sponsor FY 1978 Planning Goal, REG. - Regional Reference Points

PERFORMANCE GUIDELINES WORKSHEETS- REGION I

PRIME SPONSOR _____

FEDERAL REPRESENTATIVE _____

DATE REVIEWED _____

PRIME SPONSOR _____ FEDERAL REPRESENTATIVE _____

Termination Cluster	Formula	Result	COMPARATIVE DATA									
			Region I					National				
			L	Q_1	M	Q_3	H	L	Q_1	M	Q_3	H
Total Positive as a % of Total Terminations	PPS 1.B.1. + 1.B.2. / PPS 1.B. x 100		45	59	67	74	81	21	59	70	78	89
Entered Employment as a % of Total Terminations	PPS 1.B.1. / PPS 1.B. x 100		14	26	36	48	71	2	22	32	43	87
Non-Direct Placements as a % of Total Terminations	PPS 1.B.1.b. + 1.B.1.c. / PPS 1.B. x 100		8	20	31	40	53	2	17	23	33	73
Entered Employment as a % of Total Positive	PPS 1.B.1. / PPS 1.B.1. + 1.B.2. x 100		28	41	61	68	90	3	34	51	66	100
Non-Direct as a % of Entered Employment	PPS 1.B.1.b. + 1.B.1.c. / PPS 1.B.1. x 100		20	67	82	99	100	5	63	86	97	100

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

TERMINATION CLUSTER

Lower total positive termination rates (or high non-positive rates) may be due to:

1. High enrollment of hard-to-place groups;
2. High local unemployment rates;
3. Inadequacies in program operation (e.g., assessment, counselling, job development) or in program design (e.g., long "holding" periods before placement, poor coordination between components, classifying applicants as participants prior to actual enrollment in program activities, etc.).

Lower entered employment rates: any of the above plus local emphasis on "employability development" activities (e.g., high school equivalency, youth work experience, etc.) or intertitle transfers leading to other positive "terminations."

Lower nondirect-employment rates: any of the above plus inclusion of direct job referral activities.

PRIME SPONSOR _____ FEDERAL REPRESENTATIVE _____

Fund Utilization Cluster	Formula	Result	COMPARATIVE DATA									
			Region I					National				
			L	Q_1	M	Q_3	H	L	Q_1	M	Q_3	H
Carryout: % of Available Funds	100% - BIS E.2 / BIS E.7.i. x 100		3	8	11	14	34	0	8	13	21	53
Administrative Cost Rate	BIS E.1.d. / BIS E.7.d. x 100		10	15	17	19	25	3	12	16	19	32

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

FUND UTILIZATION CLUSTER

CARRY OUT RATE: May be increased by:

- Start up of new activities;
- Supplemental appropriations received late in fiscal year;
- Internal administrative, management, processing or contracting problems;
- Unplanned for events, since original grant approvals.

ADMINISTRATIVE COST RATE: May be increased by:

- High local cost structure, especially salaries, rent;
- Stress on activities requiring proportionally more administration (e.g., classroom training vs. work experience);
- Stress on non-stipended activities (e.g., services);
- Heavy reliance on contractors, subgrants;
- Unplanned carry out of non-administrative costs;
- Heavy use of computers or other hardware;
- High indirect cost rates.

V 42 166 A AUG 26 77 UMI

PRIME SPONSOR: _____ FEDERAL REPRESENTATIVE: _____

Cost Cluster	Formula	Results	Comparative Date									
			Region I					National				
			L	Q_1	M	Q_3	H	L	Q_1	M	Q_3	H
Cost per positive termination	BIS F.2. / PPS I.B.1. + I.B.2.		1132	1925	2453	3598	5758	355	1269	1888	2606	8598
Cost per entered employment	BIS F.2. / PPS I.B.1.		1353	3398	4324	6150	15066	405	2857	4254	6586	65,705
Cost per non-direct placement	BIS F.2. / PPS I.B.1.b. + I.B.1.c.		2588	3894	6144	7928	23859	863	3693	5628	8235	65,705

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

COST CLUSTER

Higher Costs per positive outcome may be due to any of the factors leading to lowered positive termination rates, (see termination cluster worksheet) plus:

1. High local cost structures for standard items (e.g., wage rates, rental costs);
2. Use of more costly resources (e.g., proprietary schools, computers, special equipment);
3. Emphasis on supportive services (transportation, day care, etc.), classroom training, employability development;
4. Higher than minimum rates for participant stipends, wages;
5. Stress on longer term training for higher skill jobs.

Higher Costs Per Entered Employment may be due to any of the factors contributing to higher positive outcome costs indicated above plus those leading to lowered entered employment rates (see termination cluster worksheet).

Higher Costs Per Nondirect Placement may be due to any of the factors contributing to higher positive outcome costs indicated above plus the inclusion of direct job referral activities.

PRIME SPONSOR: _____ FEDERAL REPRESENTATIVE _____

INTERPRETIVE FACTORS	Sponsor*	FY 1976 (9/76) Actual Data: Region I	National
A. Program Mix			
1. Percent of Expenditures			
Classroom	_____	23	30
On-job training	_____	10	9
Public Service Employment	_____	18	11
Work Experience	_____	41	40
Services	_____	9	8
Other Activities	_____	**	1
	100%	100%	100%
2. Percent of Cumulative Enrollments			
Classroom - prime sponsor	_____	24	24
Classroom - Voc. Educ.	_____	5	9
On-job training	_____	7	9
Public Service Employment	_____	8	4
Work Experience	_____	40	48
Other Activities	_____	16	7
	100%	100%	100%
b. Enrollee Characteristics			
1. Youth: 18 & under	_____	34	36
19 - 21	_____	20	21
2. Education: 8 & under	_____	14	12
9 - 11	_____	43	43
3. Minority: Black	_____	20	37
Spanish-American	_____	12	14
4. Handicapped	_____	6	4
5. Full-time Student	_____	24	32
6. Offender	_____	8	5
C. Median Wage			
1. Post-CETA	$ _____	$ 3.08	$2.88
2. Pre-CETA	$ _____	$ 2.78	$2.67

*Column to be filled in by Federal Representative. See instructions contained in Attachment 1, Section II.
** Less than 0.5%

USE OF INTERPRETIVE FACTORS

A. PROGRAM MIX

1. Expenditures: A high proportion of total funds in classroom, OJT and other activities stressing higher skills increase "costs per." A high proportion in work experience may lower entered employment rates and thereby increase "costs per."

2. Enrollees: A high percentages of enrollees in classroom and OJT should raise expected entered employment and nondirect placement rates; a high percent of enrollees in work experience may lower entered employment rates but should raise expected other positive termination rates.

B. ENROLLEE CHARACTERISTICS: Higher proportions of youth, minorities, high school dropouts, handicapped, offenders and other locally determined groups indicate a stress on services for those most difficult to place, and may lead to longer term or higher cost activities, and may result in lower positive termination rates.

C. POST-CETA, WAGE LEVELS: High post-CETA wages, and wage increases relative to pre-CETA wages may provide evidence for an emphasis on higher quality training and higher skilled jobs, high increases may also indicate a high proportion of participants without prior work experience.

D. LOCAL UNEMPLOYMENT RATES: Also to be considered, but not shown in the interpretive indicator table are local unemployment rates. High local unemployment rates may cause more difficulty in obtaining placements, and may influence sponsors' choice of activities and characteristics of enrollees (less disadvantaged).

REGION I*

COMPARISON OF PRIME SPONSOR FY 1978 PLANNING GOALS WITH REGIONAL AND NATIONAL PERFORMANCE BASED ON FY 1976 (9/76) DATA FOR ALL INDICATORS

TERMINATION CLUSTER

- TOTAL POSITIVE TERMINATION RATE — NAT. / P.S. / REG.
- TOTAL ENTERED EMPLOYMENT RATE — NAT. / P.S. / REG.
- TOTAL NONDIRECT PLACEMENT RATE — NAT. / P.S. / REG.
- ENTERED EMPLOYMENT PER POSITIVE — NAT. / P.S. / REG.
- NONDIRECT PER TOTAL PLACEMENT RATE, — NAT. / P.S. / REG.

FUND UTIL. CLUSTER

- CARRY-OUT RATE — NAT. / P.S. / REG.
- ADMINISTRATIVE COST RATE — NAT. / P.S. / REG.

PRIME SPONSOR: _____ FEDERAL REPRESENTATIVE: _____

COST CLUSTER CONTINUED ON NEXT PAGE

COMPARISON OF PRIME SPONSOR FY 1978 PLANNING GOALS WITH REGIONAL AND NATIONAL PERFORMANCE BASED ON FY 1976 (9/76) DATA FOR ALL INDICATORS

COST CLUSTER

- COST PER POSITIVE TERMINATION — NAT. / P.S. / REG.
- COST PER ENTERED EMPLOYMENT — NAT. / P.S. / REG.
- COST PER NONDIRECT PLACEMENT — NAT. / P.S. / REG.

* This chart used to plot medians, other reference points and prime sponsor planning goals for indicators in the termination, fund utilization and cost cluster is the same for all regions. Therefore, the chart will only be included in the worksheets for Region I for purposes of publication in the Federal Register.

PRIME SPONSOR: _____ FEDERAL REPRESENTATIVE: _____

V 42 166 AUG 26 77 UMI

PERFORMANCE GUIDELINES WORKSHEETS- REGION II

PRIME SPONSOR _____

FEDERAL REPRESENTATIVE _____

DATE REVIEWED _____

PRIME SPONSOR _____ FEDERAL REPRESENTATIVE _____

Termination Cluster	Formula	Result	Comparative Data: Region II L	Q_1	M	Q_3	H	National L	Q_1	M	Q_3	H
Total Positive as a % of Total Terminations	PPS I.B.1. + I.B.2. / PPS I.B. x 100		33	59	67	72	95	21	59	70	78	9
Entered Employment as a % of Total Terminations	PPS I.B.1. / PPS I.B. x 100		6	23	34	46	84	2	22	32	43	8
Non-Direct Placements as a % of Total Terminations	PPS I.B.1.b. + I.B.1.c. / PPS I.B. x 100		4	16	24	33	56	2	17	23	33	7
Entered Employment as a % of Total Positive	PPS I.B.1. / PPS I.B.1. + I.B.2. x 100		8	38	56	71	95	1	34	51	66	10
Non-Direct as a % of Entered Employment	PPS I.B.1.b. + I.B.1.c. / PPS I.B.1. x 100		5	61	72	91	100	5	63	86	97	10

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

TERMINATION CLUSTER

Lower total positive termination rates (or high non-positive rates) may be due to:

1. High enrollment of hard-to-place groups;
2. High local unemployment rates;
3. Inadequacies in program operation (e.g., assessment, counselling, job development) or in program design (e.g., long "holding" periods before placement, poor coordination between components, classifying applicants as participants prior to actual enrollment in program activities, etc.).

Lower entered employment rates: any of the above plus local emphases on "employability development" activities (e.g., high school equivalency; youth work experience, etc.) or intertitle transfers leading to other positive "terminations."

Lower nondirect-employment rates: any of the above plus inclusion of direct job referral activities.

PRIME SPONSOR _____ FEDERAL REPRESENTATIVE _____

Fund Utilization Cluster	Formula	Result	Comparative Data: Region II L	Q_1	M	Q_3	H	National L	Q_1	M	Q_3	H
Carryout: % of Available Funds	100% - BIS F.2 / BIS E.1.f. x 100		0	5	9	14	36	0	8	13	21	53
Administrative Cost Rate	DIS E.1.d. / BIS E.7.d. x 100		9	13	16	19	26	3	12	16	19	37

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

FUND UTILIZATION CLUSTER

CARRY OUT RATE: May be increased by:

- Start up of new activities;
- Supplemental appropriations received late in fiscal year;
- Internal administrative, management, processing or contracting problems;
- Unplanned for events, since original grant approvals.

ADMINISTRATIVE COST RATE: May be increased by:

- High local cost structure, especially salaries, rent;
- Stress on activities requiring proportionally more administration (e.g., classroom training vs. work experience);
- Stress on non-stipended activities (e.g., services);
- Heavy reliance on contractors, subgrants;
- Unplanned carry out of non-administrative costs;
- Heavy use of computers or other hardware;
- High indirect cost rates.

PRIME SPONSOR: _____ FEDERAL REPRESENTATIVE: _____

Cost Cluster	Formula	Results	Comparative Data: Region II L	Q_1	M	Q_3	H	National L	Q_1	M	Q_3	H
Cost per positive termination	BIS F.2. / PPS I.B.1. + I.B.2.		355	1711	2393	3171	6855	355	1269	1888	2606	8598
Cost per entered employment	BIS F.2. / PPS I.B.1.		405	3415	4678	6432	18069	405	2857	4254	6586	65,705
Cost per non-direct placement	BIS F.2. / PPS I.B.1.b. + I.B.1.c.		2557	5128	6521	8637	24187	863	3693	5628	8235	65,705

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

COST CLUSTER

Higher costs per positive outcome may be due to any of the factors leading to lowered positive termination rates, (see termination cluster worksheet) plus:

1. High local cost structures for standard items (e.g., wage rates, rental costs);
2. Use of more costly resources (e.g., proprietary schools, computers, special equipment);
3. Emphasis on supportive services (transportation, day care, etc.), classroom training, employability development;
4. Higher than minimum rates for participant stipends, wages;
5. Stress on longer term training for higher skill jobs.

Higher Costs Per Entered Employment may be due to any of the factors contributing to higher positive outcome costs indicated above plus those leading to lowered entered employment rates (see termination cluster worksheet).

Higher Costs Per Nondirect Placement may be due to any of the factors contributing to higher positive outcome costs indicated above plus the inclusion of direct job referral activities.

V 42 166 AUG 26 77 A UMI

PRIME SPONSOR: _____ FEDERAL REPRESENTATIVE _____

INTERPRETIVE FACTORS		FY 1976 (9/76) Actual Data	
	Sponsor*	Region II	National
A. Program Mix			
1. Percent of Expenditures			
Classroom	____	24	30
On-job training	____	11	9
Public Service Employment	____	14	11
Work Experience	____	42	40
Services	____	7	8
Other Activities	____	1	1
	100%	100%	100%
2. Percent of Cumulative Enrollments			
Classroom - prime sponsor	____	18	24
Classroom - Voc. Educ.	____	4	3
On-job training	____	10	9
Public Service Employment	____	4	4
Work Experience	____	53	48
Other Activities	____	12	7
	100%	100%	100%
B. Enrollee Characteristics			
1. Youth: 18 & under	____ %	37 %	36 %
19 - 21	____	21	21
2. Education: 8 & under	____	13	12
9 - 11	____	41	41
3. Minority: Black	____	19	33
Spanish-American	____	27	14
4. Handicapped	____	3	4
5. Full-time student	____	35	32
6. Offender	____	4	5
C. Wage Rate			
1. Post-CETA	$ ____	$2.98	$2.88
2. Pre-CETA	$ ____	$2.78	$2.67

*Column to be filled in by Federal Representative. See instructions contained in Attachment 1, Section II.

USE OF INTERPRETIVE FACTORS

A. PROGRAM MIX

1. Expenditures: A high proportion of total funds in classroom, OJT and other activities stressing higher skills increase "costs per." A high proportion in work experience may lower entered employment rates and thereby increase "costs per."

2. Enrollees: A high percentages of enrollees in classroom and OJT should raise expected entered employment and nondirect placement rates; a high percent of enrollees in work experience may lower entered employment rates but should raise expected other positive termination rates.

B. ENROLLEE CHARACTERISTICS: Higher proportions of youth, minorities, high school dropouts, handicapped, offenders and other locally determined groups indicate a stress on services for those most difficult to place, and may lead to longer term or higher cost activities, and may result in lower positive termination rates.

C. POST-CETA, WAGE LEVELS: High post-CETA wages, and wage increase relative to pre-CETA wages may provide evidence for an emphasis on higher quality training and higher skilled jobs, high increases may also indicate a high proportion of participants without prior work experience.

D. LOCAL UNEMPLOYMENT RATES: Also to be considered, but not shown in the interpretive indicator table are local unemployment rates. High local unemployment rates may cause more difficulty in obtaining placements, and may influence sponsors' choice of activities and characteristics of enrollees (less disadvantaged).

PERFORMANCE GUIDELINES WORKSHEETS- REGION III

PRIME SPONSOR _____

FEDERAL REPRESENTATIVE _____

DATE REVIEWED _____

PRIME SPONSOR _____ FEDERAL REPRESENTATIVE _____

Termination Cluster	Formula	Result	COMPARATIVE DATA Region III L	Q_1	M	Q_3	H	National L	Q_1	M	Q_3	H
Total Positive as a % of Total Terminations	PPS I.B.1. + I.B.2. / PPS I.B. x 100		43	62	72	79	93	21	59	70	78	95
Entered Employment as a % of Total Terminations	PPS I.B.1. / PPS I.B. x 100		2	19	26	33	68	2	22	32	43	87
Non-Direct Placements as a % of Total Terminations	PPS I.B.1.b. + I.B.1.c. / PPS I.B. x 100		2	.18	21	29	57	2	17	23	33	73
Entered Employment as a % of Total Positive	PPS I.B.1. / PPS I.B.1. + I.B.2. x 100		3	26	37	55	88	3	34	51	66	100
Non-Direct as a % of Entered Employment	PPS I.B.1.b. + I.B.1.c. / PPS I.B.1. x 100		24	76	95	99	100	5	63	86	97	100

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

TERMINATION CLUSTER

Lower total positive termination rates (or high non-positive rates) may be due to:

1. High enrollment of hard-to-place groups;

2. High local unemployment rates;

3. Inadequacies in program operation (e.g., assessment, counselling, job development) or in program design (e.g., long "holding" periods before placement, poor coordination between components, classifying applicants as participants prior to actual enrollment in program activities, etc.).

Lower entered employment rates: any of the above plus local emphases on "employability development" activities (e.g., high school equivalency; youth work experience, etc.) or intertitle transfers leading to other positive "terminations."

Lower nondirect-employment rates: any of the above plus inclusion of direct job referral activities.

PRIME SPONSOR _____ FEDERAL REPRESENTATIVE _____

Fund Utilization Cluster	Formula	Result	COMPARATIVE DATA Region III L	Q_1	M	Q_3	H	National L	Q_1	M	Q_3	H
Carryout: % of Available Funds	100% - BIS F.2 / BIS E.7.f. x 100		0	7	11	17	35	0	8	13	21	53
Administrative Cost Rate	BIS E.1.d. / BIS E.7.d. x 100		3	10	12	17	29	3	12	16	19	37

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

FUND UTILIZATION CLUSTER

CARRY OUT RATE: May be increased by:

- Start up of new activities;
- Supplemental appropriations received late in fiscal year;
- Internal administrative, management, processing or contracting problems;
- Unplanned for events, since original grant approvals.

ADMINISTRATIVE COST RATE: May be increased by:

- High local cost structure, especially salaries, rent;
- Stress on activities requiring proportionally more administration (e.g., classroom training vs. work experience);
- Stress on non-stipended activities (e.g., services);
- Heavy reliance on contractors, subgrants;
- Unplanned carry out of non-administrative costs;
- Heavy use of computers or other hardware;
- High indirect cost rates.

V42166A AUG 26 77 UMI

PRIME SPONSOR: _____ FEDERAL REPRESENTATIVE: _____

Cost Cluster	Formula	Results	Comparative Data									
			Region III					National				
			L	Q_1	M	Q_3	H	L	Q_1	M	Q_3	H
Cost per positive termination	BIS F.2. / PPS I.B.1. + I.B.2.		480	1587	2170	2544	7183	355	1269	1888	2606	8598
Cost per entered employment	BIS F.2. / PPS I.D.1.		720	4028	5307	8100	65705	405	2857	4254	6586	65,705
Cost per non-direct placement	BIS F.2. / PPS I.D.1.b. + I.B.1.c.		1122	4762	6790	8695	65705	863	3693	5628	8235	65,705

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

COST CLUSTER

Higher costs per positive outcome may be due to any of the factors leading to lowered positive termination rates, (see termination cluster worksheet) plus:

1. High local cost structures for standard items (e.g., wage rates, rental costs);
2. Use of more costly resources (e.g., proprietary schools, computers, special equipment);
3. Emphasis on supportive services (transportation, day care, etc.), classroom training, employability development;
4. Higher than minimum rates for participant stipends, wages;
5. Stress on longer term training for higher skill jobs.

Higher Costs Per Entered Employment may be due to any of the factors contributing to higher positive outcome costs indicated above plus those leading to lowered entered employment rates (see termination cluster worksheet).

Higher Costs Per Nondirect Placement may be due to any of the factors contributing to higher positive outcome costs indicated above plus the inclusion of direct job referral activities.

PRIME SPONSOR: _____ FEDERAL REPRESENTATIVE _____

INTERPRETIVE FACTORS	Sponsor*	FY 1976 (9/76) Actual Data: Region III	National
A. Program Mix			
1. Percent of Expenditores			
Classroom	_____	28	30
On-job training	_____	6	9
Public Service Employment	_____	16	11
Work Experience	_____	41	40
Services	_____	9	8
Other Activities	_____	1	1
	100%	100%	100%
2. Percent of Cumulative Enrollments			
Classroom - prime sponsor	_____	26	24
Classroom - Voc. Educ.	_____	7	9
On-job training	_____	7	9
Public Service Employment	_____	6	4
Work Experience	_____	54	48
Other Activities	_____	1	7
	100%	100%	100%
B. Enrollee Characteristics			
1. Youth: 18 & under	_____ %	38 %	36 %
19 - 21	_____	23	21
2. Education: 8 & under	_____	11	12
9 - 11	_____	42	43
3. Minority: Black	_____	49	37
Spanish-American	_____	7	14
4. Handicapped	_____	1	4
5. Full-time student	_____	33	32
6. Offender	_____	6	5
C. Median Wage			
1. Post-CETA	$ _____	$2.86	$2.88
2. Pre-CETA	$ _____	$2.70	$2.67

*Column to be filled in by Federal Representative. See Instructions contained in Attachment 1, Section II.

USE OF INTERPRETIVE FACTORS

A. PROGRAM MIX

1. Expenditures: A high proportion of total funds in classroom, OJT and other activities stressing higher skills increase "costs per." A high proportion in work experience may lower entered employment rates and thereby increase "costs per."

2. Enrollees: A high percentages of enrollees in classroom and OJT should raise expected entered employment and nondirect placement rates; a high percent of enrollees in work experience may lower entered employment rates but should raise expected other positive termination rates.

B. ENROLLEE CHARACTERISTICS: Higher proportions of youth, minorities, high school dropouts, handicapped, offenders and other locally determined groups indicate a stress on services for those most difficult to place, and may lead to longer term or higher cost activities, and may result in lower positive termination rates.

C. POST-CETA, WAGE LEVELS: High post-CETA wages, and wage increases relative to pre-CETA wages may provide evidence for an emphasis on higher quality training and higher skilled jobs, high increases may also indicate a high proportion of participants without prior work experience.

D. LOCAL UNEMPLOYMENT RATES: Also to be considered, but not shown in the interpretive indicator table are local unemployment rates. High local unemployment rates may cause more difficulty in obtaining placements, and may influence sponsors' choice of activities and characteristics of enrollees (less disadvantaged).

PERFORMANCE GUIDELINES WORKSHEETS- REGION IV

PRIME SPONSOR _____

FEDERAL REPRESENTATIVE _____

DATE REVIEWED _____

PRIME SPONSOR _____ FEDERAL REPRESENTATIVE _____

Termination Cluster	Formula	Result	COMPARATIVE DATA									
			Region IV					National				
			L	Q_1	M	Q_3	H	L	Q_1	M	Q_3	H
Total Positive as a % of Total Terminations	PPS I.B.1. + I.B.2. / PPS I.B. x 100		28	55	71	76	96	21	59	70	78	95
Entered Employment as a % of Total Terminations	PPS I.B.1. / PPS I.B. x 100		6	16	25	33	56	2	22	32	43	87
Non-Direct Placements as a % of Total Terminations	PPS I.B.1.b. + I.B.1.c. / PPS I.B. x 100		5	13	17	23	55	2	17	23	33	78
Entered Employment as a % of Total Positive	PPS I.B.1. / PPS I.B.1. + I.B.2. x 100		6	21	41	56	95	3	34	51	66	100
Non-Direct as a % of Entered Employment	PPS I.B.1.b. + I.B.1.c. / PPS I.B.1. x 100		32	82	87	98	100	5	63	86	97	100

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

TERMINATION CLUSTER

Lower total positive termination rates (or high non-positive rates) may be due to:

1. High enrollment of hard-to-place groups;

2. High local unemployment rates;

3. Inadequacies in program operation (e.g., assessment, counselling, job development) or in program design (e.g., long "building" periods before placement, poor coordination between components, classifying applicants as participants prior to actual enrollment in program activities, etc.).

Lower entered employment rates: any of the above plus local emphases on "employability development" activities (e.g., high school equivalency; youth work experience, etc.) or interstate transfers leading to other positive "terminations."

Lower nondirect-employment rates: any of the above plus inclusion of direct job referral activities.

V 42 166 AUG 26 77 UMI

PRIME SPONSOR _____ FEDERAL REPRESENTATIVE _____

Fund Utilization Cluster	Formula	Result	Comparative Data									
			Region IV					National				
			L	Q_1	M	Q_3	H	L	Q_1	M	Q_3	H
Carryout: % of Available Funds	$100\% - \frac{\text{BIS F.2}}{\text{BIS E.7.f.}} \times 100$		0	7	12	21	42	0	8	13	21	53
Administrative Cost Rate	$\frac{\text{BIS E.1.d.}}{\text{BIS E.7.d.}} \times 100$		4	11	15	18	23	3	12	16	19	37

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

FUND UTILIZATION CLUSTER

CARRY OUT RATE: May be increased by:

- Start up of new activities;
- Supplemental appropriations received late in fiscal year;
- Internal administrative, management, processing or contracting problems;
- Unplanned for events, since original grant approvals.

ADMINISTRATIVE COST RATE: May be increased by:

- High local cost structure, especially salaries, rent;
- Stress on activities requiring proportionally more administration (e.g., classroom training vs. work experience);
- Stress on non-stipended activities (e.g., services);
- Heavy reliance on contractors, subgrants;
- Unplanned carry out of non-administrative costs;
- Heavy use of computers or other hardware;
- High indirect cost rates.

PRIME SPONSOR: _____ FEDERAL REPRESENTATIVE: _____

Cost Cluster	Formula	Results	Comparative Data									
			Region IV					National				
			L	Q_1	M	Q_3	H	L	Q_1	M	Q_3	H
Cost per positive termination	$\frac{\text{BIS F.2.}}{\text{PPS I.B.1. + I.B.2.}}$		372	1112	1587	2144	6563	355	1269	1888	2606	8598
Cost per entered employment	$\frac{\text{BIS F.2.}}{\text{PPS I.B.1.}}$		492	2974	5407	7892	21866	405	2857	4254	6586	65,705
Cost per non-direct placement	$\frac{\text{BIS F.2.}}{\text{PPS I.B.1.b. + I.B.1.c.}}$		863	4329	7167	9612	21866	863	3693	5628	8235	65,705

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

COST CLUSTER

Higher costs per positive outcome may be due to any of the factors leading to lowered positive termination rates, (see termination cluster worksheet) plus:

1. High local cost structures for standard items (e.g., wage rates, rental costs);
2. Use of more costly resources (e.g., proprietary schools, computers, special equipment);
3. Emphasis on supportive services (transportation, day care, etc.), classroom training, employability development;
4. Higher than minimum rates for participant stipends, wages;
5. Stress on longer term training for higher skill jobs.

Higher Costs Per Entered Employment may be due to any of the factors contributing to higher positive outcome costs indicated above plus those leading to lowered entered employment rates (see termination cluster worksheet).

Higher Costs Per Nondirect Placement may be due to any of the factors contributing to higher positive outcome costs indicated above plus the inclusion of direct job referral activities.

PRIME SPONSOR: _____ FEDERAL REPRESENTATIVE _____

INTERPRETIVE FACTORS	Sponsor*	FY 1976 (9/76) Actual Data: Region IV	FY 1976 (9/76) Actual Data: National
A. Program Mix			
1. Percent of Expenditures			
Classroom		35	30
On-job training		6	9
Public Service Employment		11	11
Work Experience		40	40
Services		9	8
Other Activities		**	1
	100%	100%	100%
2. Percent of Cumulative Enrollments			
Classroom - prime sponsor		24	24
Classroom - Voc. Educ.		9	9
On-job training		7	9
Public Service Employment		4	4
Work Experience		50	48
Other Activities		6	7
	100%	100%	100%
B. Enrollee Characteristics			
1. Youth: 18 & under	%	40 %	36 %
19 - 21		19	21
2. Education: 8 & under		14	12
9 - 11		44	43
3. Minority: Black		49	37
Spanish-American		5	14
4. Handicapped		3	4
5. Full-time student		38	32
6. Offender		3	5
C. Median Wage			
1. Post-CETA	$	$2.71	$2.88
2. Pre-CETA	$	$2.61	$2.67

*Column to be filled in by Federal Representative. See instructions contained in Attachment 1, Section II.
** Less than 0.5%.

USE OF INTERPRETIVE FACTORS

A. PROGRAM MIX

1. Expenditures: A high proportion of total funds in classroom, OJT and other activities stressing higher skills increase "costs per." A high proportion in work experience may lower entered employment rates and thereby increase "costs per."

2. Enrollees: A high percentages of enrollees in classroom and OJT should raise expected entered employment and nondirect placement rates; a high percent of enrollees in work experience may lower entered employment rates but should raise expected other positive termination rates.

B. ENROLLEE CHARACTERISTICS: Higher proportions of youth, minorities, high school dropouts, handicapped, offenders and other locally determined groups indicate a stress on services for those most difficult to place, and may lead to longer term or higher cost activities, and may result in lower positive termination rates.

C. POST-CETA, WAGE LEVELS: High post-CETA wages, and wage increase relative to pre-CETA wages may provide evidence for an emphasis on higher quality training and higher skilled jobs, high increases may also indicate a high proportion of participants without prior work experience.

D. LOCAL UNEMPLOYMENT RATES: Also to be considered, but not shown in the interpretive indicator table are local unemployment rates. High local unemployment rates may cause more difficulty in obtaining placements, and may influence sponsors' choice of activities and characteristics of enrollees (less disadvantaged).

PERFORMANCE GUIDELINES WORKSHEETS- REGION V

PRIME SPONSOR _____

FEDERAL REPRESENTATIVE _____

DATE REVIEWED _____

V 42 166 A AUG 26 77 UMI

PRIME SPONSOR _____ FEDERAL REPRESENTATIVE _____

Termination Cluster	Formula	Result	Comparative Data: Region V L	Q_1	M	Q_3	H	National L	Q_1	M	Q_3	H
Total Positive as a % of Total Terminations	PPS I.B.1. + I.B.2. / PPS I.B. x 100		21	57	66	77	91	21	59	70	76	92
Entered Employment as a % of Total Terminations	PPS I.B.1. / PPS I.B. x 100		8	18	27	36	87	2	22	32	43	87
Non-Direct Placements as a % of Total Terminations	PPS I.B.1.b. + I.B.1.c. / PPS I.B. x 100		4	15	26	40	44	2	17	23	33	72
Entered Employment as a % of Total Positive	PPS I.B.1. / PPS I.B.1. + I.B.2. x 100		7	28	46	58	100	1	34	51	66	100
Non-Direct as a % of Total Positive	PPS I.B.1.b. + I.B.1.c. / PPS I.B.1. + I.B.2. x 100		33	70	86	95	100	5	63	86	97	100

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

TERMINATION CLUSTER

Lower total positive termination rates for high non-positive rates may be due to:

1. High enrollment of hard-to-place groups;

2. High local unemployment rates;

3. Inadequacies in program operation (e.g., assessment, outreach, job development) or in program design (e.g., long "holding" period before placement, poor coordination between components, classifying applicants as participants prior to actual enrollment in program activities, etc.).

Lower entered employment rates: any of the above plus local emphasis on "employability development" activities (e.g., high school equivalency; youth work experience, etc.) or intensive trainees leading to other positive "terminations."

Lower non-direct placement rates: any of the above plus local emphasis on direct job referral activities.

PRIME SPONSOR _____ FEDERAL REPRESENTATIVE _____

Cost Cluster	Formula	Result	Comparative Data: Region V L	Q_1	M	Q_3	H	National L	Q_1	M	Q_3	H
Cost per positive termination	BIS F.2. / PPS I.B.1. + I.B.2.		527	1364	2080	2789	8210	355	1269	1888	2606	8598
Cost per entered employment	BIS F.2. / PPS I.B.1.		1125	3383	4958	7944	28129	405	2857	4254	6586	65,705
Cost per non-direct placement	BIS F.2. / PPS I.B.1.b. + I.B.1.c.		1844	4099	6514	10344	28313	863	3693	5628	8235	65,705

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

UTILIZATION CLUSTER

Lower cost rates: May be increased by:

- Start up of new activities;
- Supplemental appropriations received late in fiscal year;
- Internal administrative, management, processing or contracting problems;
- Influence of events since original grant approvals.

Higher cost rates may be increased by:

- High local cost structure, especially salaries, rent;
- Stress on activities requiring proportionally more administration (e.g., classroom training vs. work experience);
- Stress on non-stipended activities (e.g., services);
- Heavy reliance on contractors, subgrants;
- Unplanned carry out of non-administrative costs;
- Heavy use of computers or other hardware;
- High indirect cost rates.

PRIME SPONSOR _____ FEDERAL REPRESENTATIVE _____

Cost Cluster	Formula	Result	Comparative Data: Region V L	Q_1	M	Q_3	H	National L	Q_1	M	Q_3	H
Output: % of Available Funds	100% - BIS F.4. / BIS E.1.g. x 100		0	4	16	21	53	0	0	13	21	53
Administrative Cost Rate	BIS E.1.f. / BIS E.1.d. x 100		3	12	15	19	37	3	12	16	19	37

Comparability Cluster: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

PROGRAM MIX: May be increased by:

- Start up of new activities;
- Supplemental appropriations received late in fiscal year;
- Internal administrative, management, processing or contracting problems;
- Influence of events since original grant approvals.

PROGRAM COST RATE: May be increased by:

- High local cost structure, especially salaries, rent;
- Stress on activities requiring proportionally more administration (e.g., classroom training vs. work experience);
- Stress on non-stipended activities (e.g., services);
- Heavy reliance on contractors, subgrants;
- Unplanned carry out of non-administrative costs;
- Heavy use of computers or other hardware;
- High indirect cost rates.

PRIME SPONSOR: _____ FEDERAL REPRESENTATIVE: _____

Cost Cluster	Formula	Results	Comparative Data: Region V L	Q_1	M	Q_3	H	National L	Q_1	M	Q_3	H
Cost per positive termination	BIS F.2. / PPS I.B.1. + I.B.2.		527	1364	2080	2789	8210	355	1269	1888	2606	8598
Cost per entered employment	BIS F.2. / PPS I.B.1.		1125	3383	4958	7944	28129	405	2857	4254	6586	65,705
Cost per non-direct placement	BIS F.2. / PPS I.B.1.b. + I.B.1.c.		1844	4099	6514	10344	28313	863	3693	5628	8235	65,705

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

COST CLUSTER

Higher costs per positive outcome may be due to any of the factors leading to lowered positive termination rates, (see termination cluster worksheet) plus:

1. High local cost structures for standard items (e.g., wage rates, rental costs);
2. Use of more costly resources (e.g., proprietary schools, computers, special equipment);
3. Emphasis on supportive services (transportation, day care, etc.), classroom training, employability development;
4. Higher than minimum rates for participant stipends, wages;
5. Stress on longer term training for higher skill jobs.

Higher Costs Per Entered Employment may be due to any of the factors contributing to higher positive outcome costs indicated above plus those leading to lowered entered employment rates (see termination cluster worksheet).

Higher Costs Per Nondirect Placement may be due to any of the factors contributing to higher positive outcome costs indicated above plus the inclusion of direct job referral activities.

PRIME SPONSOR: _____ FEDERAL REPRESENTATIVE _____

INTERPRETIVE FACTORS	Sponsor*	FY 1976 (9/76) Actual Data: Region V	National	USE OF INTERPRETIVE FACTORS
A. Program Mix				A. PROGRAM MIX
1. Percent of Expenditures				1. Expenditures: A high proportion of total funds in classroom, OJT and other activities stressing higher skills increase "costs per." A high proportion in work experience may lower entered employment rates and thereby increase "costs per."
Classroom	_____	10	10	
On-job training	_____	7	9	
Public Service Employment	_____	6	11	
Work Experience	_____	45	40	
Services	_____	7	8	
Other Activities	_____	1	1	
	100%	100%	100%	
2. Percent of Cumulative Enrollments				2. Enrollees: A high percentages of enrollees in classroom and OJT should raise expected entered employment and nondirect placement rates; a high percent of enrollees in work experience may lower entered employment rates but should raise expected other positive termination rates.
Classroom - prime sponsor	_____	25	24	
Classroom - Voc. Educ.	_____	10	9	
On-job training	_____	6	9	
Public Service Employment	_____	3	4	
Work Experience	_____	48	48	
Other Activities	_____	9	7	
	100%	100%	100%	
B. Enrollee Characteristics				B. ENROLLEE CHARACTERISTICS: Higher proportions of youth, minorities, high school dropouts, handicapped, offenders and other locally determined groups indicate a stress on services for those most difficult to place, and may lead to longer term or higher cost activities, and may result in lower positive termination rates.
1. Youth: 18 & under	_____ %	35 %	36 %	
19 - 21	_____	23	21	
2. Education: 8 & under	_____	12	12	
9 - 11	_____	44	43	
3. Minority: Black	_____	43	37	
Spanish-American	_____	8	14	
4. Handicapped	_____	4	4	
5. Full-time student	_____	24	12	
6. Offender	_____	5	5	
C. Median Wage				C. POST-CETA, WAGE LEVELS: High post-CETA wages, and wage increase relative to pre-CETA wages may provide evidence for an emphasis on higher quality training and higher skilled jobs, high increases may also indicate a high proportion of participants without prior work experience.
1. Post-CETA	$ _____	$3.12	$2.88	
2. Pre-CETA	$ _____	$2.74	$2.67	
				D. LOCAL UNEMPLOYMENT RATES: Also to be considered, but not shown in the interpretive indicator table are local unemployment rates. High local unemployment rates may cause more difficulty in obtaining placements, and may influence sponsors' choice of activities and characteristics of enrollees (less disadvantaged).

*Column to be filled in by Federal Representative. See instructions contained in Attachment 1, Section II.

V 42 166 A AUG 26 77 UMI

PERFORMANCE GUIDELINES WORKSHEETS- REGION VI

PRIME SPONSOR _____

FEDERAL REPRESENTATIVE _____

DATE REVIEWED _____

PRIME SPONSOR _____ FEDERAL REPRESENTATIVE _____

Termination Cluster	Formula	Result	Comparative Data									
			Region VI					National				
			L	Q_1	M	Q_3	H	L	Q_1	M	Q_3	H
Total Positive as a % of Total Terminations	$\frac{\text{PPS I.B.1.} + \text{I.B.2.}}{\text{PPS I.B.}} \times 100$		44	69	76	86	95	21	59	70	78	95
Entered Employment as a % of Total Terminations	$\frac{\text{PPS I.B.1.}}{\text{PPS I.B.}} \times 100$		24	30	43	53	66	2	22	32	43	87
Non-Direct Placements as a % of Total Terminations	$\frac{\text{PPS I.B.1.b.} + \text{I.B.1.c.}}{\text{PPS I.B.}} \times 100$		7	21	27	36	57	2	17	23	33	71
Entered Employment as a % of Total Positive	$\frac{\text{PPS I.B.1.}}{\text{PPS I.B.1.} + \text{I.B.2.}} \times 100$		31	42	57	69	87	3	34	51	66	100
Non-Direct as a % of Entered Employment	$\frac{\text{PPS I.B.1.b.} + \text{I.B.1.c.}}{\text{PPS I.B.1.}} \times 100$		28	58	72	89	100	5	63	86	97	100

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

TERMINATION CLUSTER

Lower total positive termination rates (or high non-positive rates) may be due to:

1. High enrollment of hard-to-place groups;
2. High local unemployment rates;
3. Inadequacies in program operation (e.g., assessment, counselling, job development) or in program design (e.g., long "holding" periods before placement, poor coordination between components, classifying applicants as participants prior to actual enrollment in program activities, etc.).

Lower entered employment rates: any of the above plus local emphases on "employability development" activities (e.g., high school equivalency; youth work experience, etc.) or intertitle transfers leading to other positive "terminations."

Lower nondirect-employment rates: any of the above plus inclusion of direct job referral activities.

PRIME SPONSOR _____ FEDERAL REPRESENTATIVE _____

Fund Utilization Cluster	Formula	Result	Comparative Data									
			Region VI					National				
			L	Q_1	M	Q_3	H	L	Q_1	M	Q_3	H
Carryout: % of Available Funds	$100\% - \frac{\text{BIS F.2}}{\text{BIS E.7.f.}} \times 100$		0	9	11	15	29	0	8	13	21	53
Administrative Cost Rate	$\frac{\text{BIS E.1.d.}}{\text{BIS E.7.d.}} \times 100$		4	12	15	19	27	3	12	16	19	37

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

FUND UTILIZATION CLUSTER

CARRY OUT RATE: May be increased by:

- Start up of new activities;
- Supplemental appropriations received late in fiscal year;
- Internal administrative, management, processing or contracting problems;
- Unplanned for events, since original grant approvals.

ADMINISTRATIVE COST RATE: May be increased by:

- High local cost structure, especially salaries, rent;
- Stress on activities requiring proportionally more administration (e.g., classroom training vs. work experience);
- Stress on non-stipended activities (e.g., services);
- Heavy reliance on contractors, subgrants;
- Unplanned carry out of non-administrative costs;
- Heavy use of computers or other hardware;
- High indirect cost rates.

PRIME SPONSOR: _____ FEDERAL REPRESENTATIVE: _____

Cost Cluster	Formula	Results	Comparative Data									
			Region VI					National				
			L	Q_1	M	Q_3	H	L	Q_1	M	Q_3	H
Cost per positive termination	$\frac{\text{BIS F.2.}}{\text{PPS I.B.1.} + \text{I.B.2.}}$		671	1110	1350	1754	3565	355	1269	1888	2606	8598
Cost per entered employment	$\frac{\text{BIS F.2.}}{\text{PPS I.B.1.}}$		1063	1991	2505	3158	5743	405	2857	4254	6586	65,705
Cost per non-direct placement	$\frac{\text{BIS F.2.}}{\text{PPS I.B.1.b.} + \text{I.B.1.c.}}$		1063	2701	3663	5050	11818	863	3693	5628	8235	65,705

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

COST CLUSTER

Higher costs per positive outcome may be due to any of the factors leading to lowered positive termination rates, (see termination cluster worksheet) plus:

1. High local cost structures for standard items (e.g., wage rates, rental costs);
2. Use of more costly resources (e.g., proprietary schools, computers, special equipment);
3. Emphasis on supportive services (transportation, day care, etc.), classroom training, employability development;
4. Higher than minimum rates for participant stipends, wages;
5. Stress on longer term training for higher skill jobs.

Higher Costs Per Entered Employment may be due to any of the factors contributing to higher positive outcome costs indicated above plus those leading to lowered entered employment rates (see termination cluster worksheet).

Higher Costs Per Nondirect Placement may be due to any of the factors contributing to higher positive outcome costs indicated above plus the inclusion of direct job referral activities.

V42166 AUG 26 77 UMI

PRIME SPONSOR: _____ FEDERAL REPRESENTATIVE _____

INTERPRETIVE FACTORS	Sponsor*	FY 1976 (9/76) Actual Data: Region VI	National
A. Program Mix			
1. Percent of Expenditures			
Classroom	____	32	30
On-job training	____	11	9
Public Service Employment	____	5	11
Work Experience	____	43	40
Services	____	8	8
Other Activities	____	1	1
	100%	100%	100%
2. Percent of Cumulative Enrollments			
Classroom - prime sponsor	____	23	24
Classroom - Voc. Educ.	____	12	9
On-job training	____	11	9
Public Service Employment	____	2	4
Work Experience	____	50	48
Other Activities	____	2	7
	100%	100%	100%
B. Families Characteristics			
1. Youth: 18 & under	____ %	39 %	16 %
19 - 21	____	20	21
2. Education: 8 & under	____	13	12
9 - 11	____	44	41
3. Minority: Black	____	37	37
Spanish-American	____	25	14
4. Handicapped	____	4	4
5. Full-time student	____	34	32
6. Offender	____	3	5
C. Median Wage			
1. Post-CETA	$ ____	$ 2.67	$2.88
2. Pre-CETA	$ ____	$ 2.51	$2.67

*Column to be filled in by Federal Representative. See instructions contained in Attachment 1, Section II.

USE OF INTERPRETIVE FACTORS

A. PROGRAM MIX

1. Expenditures: A high proportion of total funds in classroom, OJT and other activities stressing higher skills increase "costs per." A high proportion in work experience may lower entered employment rates and thereby increase "costs per."

2. Enrollees: A high percentages of enrollees in classroom and OJT should raise expected entered employment and nondirect placement rates; a high percent of enrollees in work experience may lower entered employment rates but should raise expected other positive termination rates.

B. ENROLLEE CHARACTERISTICS: Higher proportions of youth, minorities, high school dropouts, handicapped, offenders and other locally determined groups indicate a stress on services for those most difficult to place, and may lead to longer term or higher cost activities, and may result in lower positive termination rates.

C. POST-CETA, WAGE LEVELS: High post-CETA wages, and wage increase relative to pre-CETA wages may provide evidence for an emphasis on higher quality training and higher skilled jobs, high increases may also indicate a high proportion of participants without prior work experience.

D. LOCAL UNEMPLOYMENT RATES: Also to be considered, but not shown in the interpretive indicator table are local unemployment rates. High local unemployment rates may cause more difficulty in obtaining placements, and may influence sponsors' choice of activities and characteristics of enrollees (less disadvantaged).

PERFORMANCE GUIDELINES WORKSHEETS- REGION VII

PRIME SPONSOR _____

FEDERAL REPRESENTATIVE _____

DATE REVIEWED _____

PRIME SPONSOR _____ FEDERAL REPRESENTATIVE _____

Termination Cluster	Formula	Result	COMPARATIVE DATA: Region VII L	Q_1	M	Q_3	H	National L	Q_1	M	Q_3	H
Total Positive as a % of Total Terminations	PPS I.B.1. + I.B.2. / PPS I.B. x 100		50	63	76	83	88	21	59	70	78	99
Entered Employment as a % of Total Terminations	PPS I.B.1. / PPS I.B. x 100		17	27	37	50	74	2	22	32	43	87
Non-Direct Placements as a % of Total Terminations	PPS I.B.1.b. + I.B.1.c. / PPS I.B. x 100		15	21	28	43	71	2	17	23	33	73
Entered Employment as a % of Total Positive	PPS I.B.1. / PPS I.B.1. + I.B.2. x 100		20	36	48	83	97	3	34	51	66	100
Non-Direct as a % of Entered Employment	PPS I.B.1.b. + I.B.1.c. / PPS I.B.1. x 100		58	69	87	99	100	5	63	86	97	100

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

TERMINATION CLUSTER

Lower total positive termination rates (or high non-positive rates) may be due to:

1. High enrollment of hard-to-place groups;

2. High local unemployment rates;

3. Inadequacies in program operation (e.g., assessment, counselling, job development) or in program design (e.g., long "holding" periods before placement, poor coordination between components, classifying applicants as participants prior to actual enrollment in program activities, etc.).

Lower entered employment rates: any of the above plus local emphases on "employability development" activities (e.g., high school equivalency; youth work experience, etc.) or intertitle transfers leading to other positive "terminations."

Lower nondirect-employment rates: any of the above plus inclusion of direct job referral activities.

PRIME SPONSOR _____ FEDERAL REPRESENTATIVE _____

Fund Utilization Cluster	Formula	Result	COMPARATIVE DATA: Region VII L	Q_1	M	Q_3	H	National L	Q_1	M	Q_3	H
Carryout: % of Available Funds	100% - BIS F.2 / BIS E.7.f. x 100		4	9	12	17	33	0	8	13	21	53
Administrative Cost Rate	OIS E.1.d. / BIS E.7.d. x 100		8	11	15	19	26	3	12	16	19	37

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

FUND UTILIZATION CLUSTER

CARRY OUT RATE: May be increased by:

- Start up of new activities;
- Supplemental appropriations received late in fiscal year;
- Internal administrative, management, processing or contracting problems;
- Unplanned for events, since original grant approvals.

ADMINISTRATIVE COST RATE: May be increased by:

- High local cost structure, especially salaries, rent;
- Stress on activities requiring proportionally more administration (e.g., classroom training vs. work experience);
- Stress on non-stipended activities (e.g., services);
- Heavy reliance on contractors, subgrants;
- Unplanned carry out of non-administrative costs;
- Heavy use of computers or other hardware;
- High indirect cost rates.

V 42 166 A AUG 26 77 UMI

PRIME SPONSOR: _____ FEDERAL REPRESENTATIVE: _____

Cost Cluster	Formula	Results	Comparative Data: Region VII L	Q1	M	Q3	H	National L	Q1	M	Q3	H
Cost per positive termination	BIS F.2. / PPS I.B.1. + I.B.2.		733	1049	1452	2372	4240	355	1269	1880	2606	8598
Cost per entered employment	BIS F.2. / PPS I.B.1.		1059	2035	3678	4946	7220	405	2857	4254	6586	65,705
Cost per non-direct placement	BIS F.2. / PPS I.B.1.b. + I.B.1.c.		1374	2717	3962	5860	8904	861	3693	5628	8235	65,705

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

COST CLUSTER

Higher costs per positive outcome may be due to any of the factors leading to lowered positive termination rates, (see termination cluster worksheet) plus:

1. High local cost structures for standard items (e.g., wage rates, rental rates);
2. Use of more costly resources (e.g., proprietary schools, computers, special equipment);
3. Emphasis on supportive services (transportation, day care, etc.), classroom training, employability development;
4. Higher than minimum rates for participant stipends, wages.
5. Stress on longer term training for higher skill jobs.

Higher Costs Per Entered Employment may be due to any of the factors attributed to higher positive outcome costs indicated above plus those leading to lowered entered employment rates (see termination cluster worksheet).

Higher Costs Per Nondirect Placement may be due to any of the factors contributing to higher positive outcome costs indicated above plus the inclusion of direct job referral activities.

PRIME SPONSOR: _____ FEDERAL REPRESENTATIVE _____

FY 1976 (9/76) Actual Data

INTERPRETIVE FACTORS	Sponsor*	Region VII	National
A. Program Mix			
1. Percent of Expenditures			
Classroom	_____	31	30
On-job training	_____	12	9
Public Service Employment	_____	25	11
Work Experience	_____	24	40
Services	_____	9	8
Other Activities	_____	1	1
	100%	100%	100%
2. Percent of Cumulative Enrollments			
Classroom - prime sponsor	_____	22	24
Classroom - Voc. Educ.	_____	8	9
On-job training	_____	15	9
Public Service Employment	_____	6	4
Work Experience	_____	38	36
Other Activities	_____	11	7
	100%	100%	100%
B. Enrolling Characteristics			
1. Youth: 18 & under	_____ %	31 %	16 %
19 - 21	_____	22	21
2. Education: 8 & under	_____	10	12
9 - 11	_____	41	43
3. Minority: Black	_____	30	37
Spanish-American	_____	3	14
4. Handicapped	_____	5	4
5. Full-time student	_____	28	32
6. Offender	_____	6	5
C. Median Wage			
1. Post-CETA	$ _____	$2.88	$2.88
2. Pre-CETA	$ _____	$2.64	$2.67

*Column to be filled in by Federal Representative. See instructions contained in Attachment 1, Section II.

USE OF INTERPRETIVE FACTORS

A. PROGRAM MIX

1. Expenditures: A high proportion of total funds in classroom, OJT and other activities stressing higher skills increase "costs per." A high proportion in work experience may lower entered employment rates and thereby increase "costs per."

2. Enrollees: A high percentages of enrollees in classroom and OJT should raise expected entered employment and nondirect placement rates; a high percent of enrollees in work experience may lower entered employment rates but should raise expected other positive termination rates.

B. ENROLLEE CHARACTERISTICS: Higher proportions of youth, minorities, high school dropouts, handicapped, offenders and other locally determined groups indicate a stress on services for those most difficult to place, and may lead to longer term or higher cost activities, and may result in lower positive termination rates.

C. POST-CETA, WAGE LEVELS: High post-CETA wages, and wage increases relative to pre-CETA wages may provide evidence for an emphasis on higher quality training and higher skilled jobs, high increases may also indicate a high proportion of participants without prior work experience.

D. LOCAL UNEMPLOYMENT RATES: Also to be considered, but not shown in the interpretive indicator table are local unemployment rates. High local unemployment rates may cause more difficulty in obtaining placements, and may influence sponsors' choice of activities and characteristics of enrollees (less disadvantaged).

PERFORMANCE GUIDELINES WORKSHEETS- REGION VIII

PRIME SPONSOR _____

FEDERAL REPRESENTATIVE _____

DATE REVIEWED _____

PRIME SPONSOR _____ FEDERAL REPRESENTATIVE _____

Termination Cluster	Formula	Result	COMPARATIVE DATA: Region VIII L	Q1	M	Q3	H	National L	Q1	M	Q3	H
Total Positive as a % of Total Terminations	PPS I.B.1. + I.B.2. / PPS I.B. x 100		59	75	77	83	93	21	59	70	78	99
Entered Employment as a % of Total Terminations	PPS I.B.1. / PPS I.B. x 100		23	42	47	59	77	2	22	32	43	87
Non-Direct Placements as a % of Total Terminations	PPS I.B.1.b. + I.B.1.c. / PPS I.B. x 100		23	30	40	46	59	2	17	23	33	71
Entered Employment as a % of Total Positive	PPS I.B.1. / PPS I.B.1. + I.B.2. x 100		27	55	62	77	95	3	14	51	66	100
Non-Direct as a % of Entered Employment	PPS I.B.1.b. + I.B.1.c. / PPS I.B.1. x 100		36	60	89	100	100	5	63	86	97	100

INTERPRETIVE DISCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

TERMINATION CLUSTER

Lower total positive termination rates (or high non-positive rates) may be due to:

1. High enrollment of hard-to-place groups;
2. High local unemployment rates;
3. Inadequacies in program operation (e.g., assessment, counselling, job development) or in program design (e.g., long "holding" periods before placement, poor coordination between components, classifying applicants as participants prior to actual enrollment in program activities, etc.).

Lower entered employment rates: any of the above plus local emphases on "employability development" activities (e.g., high school equivalency, youth work experience, etc.) or intertitle transfers leading to other positive "terminations."

Lower nondirect-employment rates: any of the above plus inclusion of direct job referral activities.

V 42 166 AUG 26 77 UMI

PRIME SPONSOR _____ FEDERAL REPRESENTATIVE _____

Fund Utilization Cluster	Formula	Result	COMPARATIVE DATA									
			Region VIII					National				
			L	Q_1	M	Q_3	H	L	Q_1	M	Q_3	H
Carryout: % of Available Funds	100% - DIS F.2 / DIS E.7.f. x 100		4	14	21	27	39	0	8	13	21	53
Administrative Cost Rate	DIS E.1.a.b. / DIS E.7.a.b. x 100		9	13	16	20	28	3	12	16	19	37

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets.

EXPLANATION/JUSTIFICATION:

FUND UTILIZATION CLUSTER

CARRY OUT RATE: May be increased by:

- Start up of new activities;
- Supplemental appropriations received late in fiscal year;
- Internal administrative, management, processing or contracting problems;
- Unplanned for events, since original grant approvals.

ADMINISTRATIVE COST RATE: May be increased by:

- High local cost structure, especially salaries, rent;
- Stress on activities requiring proportionally more administration (e.g., classroom training vs. work experience);
- Stress on non-stipended activities (e.g., services);
- Heavy reliance on contractors, subgrants;
- Unplanned carry out of non-administrative costs;
- Heavy use of computers or other hardware;
- High indirect cost rates.

PRIME SPONSOR: _____ FEDERAL REPRESENTATIVE: _____

Cost Cluster	Formula	Results	Comparative Data									
			Region VIII					National				
			L	Q_1	M	Q_3	H	L	Q_1	M	Q_3	H
Cost per positive termination	DIS F.2. / PDS I.B.1. + I.B.2.		641	903	1271	1714	8543	355	1269	1888	2606	8598
Cost per entered employment	DIS F.2. / PDS I.B.1.		722	1010	1916	4058	133162	405	2857	4254	6586	65,705
Cost per non-direct placement	DIS F.2 / PDS I.B.1.b. + I.B.1.c.		1271	1901	2808	3519	1 [illegible]	863	3693	5628	8235	65,705

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets.

EXPLANATION/JUSTIFICATION:

COST CLUSTER

Higher costs per positive outcome may be due to any of the factors leading to lower positive termination rates, (see termination cluster work sheet) plus:

1. [illegible] cost structures for standard items (e.g., wage rates, rental costs);
2. Use of specialty services (e.g., proprietary schools, computers, special equipment);
3. Emphasis on supportive services (transportation, day care, etc.), classroom training, employability development;
4. Higher than minimum rates for participant stipends, wages;
5. Stress on longer term training for higher skill' [illegible].

Higher costs for entered employment may be due to any of the factors attributed to higher positive outcome costs indicated above plus those leading to lower entered employment rates (see termination cluster work sheet).

Higher costs per positive placement may be due to any of the factors attributing to higher positive outcome costs indicated above plus the inclusion of direct job referral activities.

PRIME SPONSOR: _____ FEDERAL REPRESENTATIVE _____

INTERPRETIVE FACTORS	Sponsor*	FY 1976 (9/76) Actual Data Region VIII	National
A. Program Mix			
1. Percent of Expenditures			
Classroom	_____	35	30
On-job training	_____	17	9
Public Service Employment	_____	12	11
Work Experience	_____	22	40
Services	_____	14	8
Other Activities	_____	1	1
	100%	100%	100%
2. Percent of Cumulative Enrollments			
Classroom - prime sponsor	_____	32	24
Classroom - Voc. Educ.	_____	9	9
On-job training	_____	18	9
Public Service Employment	_____	7	4
Work Experience	_____	34	48
Other Activities	_____	0	7
	100%	100%	100%
B. Enrollee Characteristics			
1. Youth: 18 & under	_____	31	36
19 - 21	_____	22	21
2. Education: 8 & under	_____	9	12
9 - 11	_____	38	43
3. Minority: Black	_____	6	37
Spanish-American	_____	18	14
4. Handicapped	_____	10	4
5. Full-time student	_____	22	32
6. Offender	_____	4	5
C. Median Wage			
1. Post-CETA	$ _____	$2.84	$2.88
2. Pre-CETA	$ _____	$2.65	$2.67

*Column to be filled in by Federal Representative. See instructions contained in Attachment 1, Section II.

USE OF INTERPRETIVE FACTORS

A. PROGRAM MIX

1. Expenditures: A high proportion of total funds in classroom, OJT and other activities stressing higher skills increase "costs per." A high proportion in work experience may lower entered employment rates and thereby increase "costs per."

2. Enrollees: A high percentages of enrollees in classroom and OJT should raise expected entered employment and nondirect placement rates; a high percent of enrollees in work experience may lower entered employment rates but should raise expected other positive termination rates.

B. ENROLLEE CHARACTERISTICS: Higher proportions of youth, minorities, high school dropouts, handicapped, offenders and other locally determined groups indicate a stress on services for those most difficult to place, and may lead to longer term or higher cost activities, and may result in lower positive termination rates.

C. POST-CETA, WAGE LEVELS: High post-CETA wages, and wage increases relative to pre-CETA wages may provide evidence for an emphasis on higher quality training and higher skilled jobs, high increases may also indicate a high proportion of participants without prior work experience.

D. LOCAL UNEMPLOYMENT RATES: Also to be considered, but not shown in the interpretive indicator table are local unemployment rates. High local unemployment rates may cause more difficulty in obtaining placements, and may influence sponsors' choice of activities and characteristics of enrollees (less disadvantaged).

PERFORMANCE GUIDELINES WORKSHEETS- REGION IX

PRIME SPONSOR _____

FEDERAL REPRESENTATIVE _____

DATE REVIEWED _____

V42166A AUG 26 77 UMI

PRIME SPONSOR _____ FEDERAL REPRESENTATIVE _____

Termination Cluster	Formula	Result	Comparative Data: Region IX L	Q_1	M	Q_3	H	National L	Q_1	M	Q_3	H
Total Positive as a % of Total Terminations	PPS I.B.1. + I.B.2. / PPS I.B. x 100		22	56	67	79	99	21	59	70	78	99
Entered Employment as a % of Total Terminations	PPS I.B.1. / PPS I.B. x 100		10	27	36	44	78	2	22	32	43	87
Non-Direct Placements as a % of Total Terminations	PPS I.B.1.b. + I.B.1.c. / PPS I.B. x 100		6	18	25	36	55	2	17	23	33	71
Entered Employment as a % of Total Positive	PPS I.B.1. / PPS I.B.1. + I.B.2. x 100		11	47	64	69	91	3	34	51	66	100
Non-Direct as a % of Entered Employment	PPS I.B.1.b. + I.B.1.c. / PPS I.B.1. x 100		19	65	86	98	100	5	63	86	97	100

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

TERMINATION CLUSTER

Lower total positive termination rates (or high non-positive rates) may be due to:

1. High enrollment of hard-to-place groups;
2. High local unemployment rates;
3. Inadequacies in program operation (e.g., assessment, counselling, job development) or in program design (e.g., long "holding" periods before placement, poor coordination between components, classifying applicants as participants prior to actual enrollment in program activities, etc.).

Lower entered employment rates: any of the above plus local emphases on "employability development" activities (e.g., high school equivalency; youth work experience, etc.) or intertile transfers leading to other positive "terminations."

Lower nondirect-employment rates: any of the above plus inclusion of direct job referral activities.

PRIME SPONSOR _____ FEDERAL REPRESENTATIVE _____

Fund Utilization Cluster	Formula	Result	Comparative Data: Region IX L	Q_1	M	Q_3	H	National L	Q_1	M	Q_3	H
Carryout: % of Available Funds	100% - BIS F.2 / BIS E.7.f. x 100		0	10	18	24	53	0	8	13	21	53
Administrative Cost Rate	BIS E.1.d. / BIS E.7.d. x 100		10	14	18	20	26	3	12	16	19	37

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

FUND UTILIZATION CLUSTER

CARRY OUT RATE: May be increased by:

- Start up of new activities;
- Supplemental appropriations received late in fiscal year;
- Internal administrative, management, processing or contracting problems;
- Unplanned for events, since original grant approvals.

ADMINISTRATIVE COST RATE: May be increased by:

- High local cost structure, especially salaries, rent;
- Stress on activities requiring proportionally more administration (e.g., classroom training vs. work experience);
- Stress on non-stipended activities (e.g., services);
- Heavy reliance on contractors, subgrants;
- Unplanned carry out of non-administrative costs;
- Heavy use of computers or other hardware;
- High indirect cost rates.

PRIME SPONSOR: _____ FEDERAL REPRESENTATIVE: _____

Cost Cluster	Formula	Results	Comparative Data: Region IX L	Q_1	M	Q_3	H	National L	Q_1	M	Q_3	H
Cost per positive termination	BIS F.2. / PPS I.B.1. + I.B.2.		358	1386	1636	2484	4842	355	1269	1888	2606	8598
Cost per entered employment	BIS F.2. / PPS I.B.1.		480	2318	3406	5599	8586	405	2857	4254	6586	65,705
Cost per non-direct placement	BIS F.2. / PPS I.B.1.b. + I.B.1.c.		2236	2979	4296	6189	15025	863	3693	5628	8235	65,705

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

COST CLUSTER

Higher costs per positive outcome may be due to any of the factors leading to lowered positive termination rates, (see termination cluster worksheet) plus:

1. High local cost structures for standard items (e.g., wage rates, rental costs);
2. Use of more costly resources (e.g., proprietary schools, computers, special equipment);
3. Emphasis on supportive services (transportation, day care, etc.), classroom training, employability development;
4. Higher than minimum rates for participant stipends, wages;
5. Stress on longer term training for higher skill jobs.

Higher Costs Per Entered Employment may be due to any of the factors contributing to higher positive outcome costs indicated above plus those leading to lowered entered employment rates (see termination cluster worksheet).

Higher Costs Per Nondirect Placement may be due to any of the factors contributing to higher positive outcome costs indicated above plus the inclusion of direct job referral activities.

PRIME SPONSOR: _____ FEDERAL REPRESENTATIVE _____

INTERPRETIVE FACTORS	Sponsor*	FY 1976 (9/76) Actual Data: Region IX	National
A. Program Mix			
1. Percent of Expenditures			
Classroom	_____	35	30
On-job training	_____	12	9
Public Service Employment	_____	5	11
Work Experience	_____	36	40
Services	_____	9	8
Other Activities	_____	2	1
	100%	100%	100%
2. Percent of Cumulative Enrollments			
Classroom - prime sponsor	_____	28	24
Classroom - Voc. Educ.	_____	11	9
On-job training	_____	11	9
Public Service Employment	_____	2	4
Work Experience	_____	42	48
Other Activities	_____	5	7
	100%	100%	100%
B. Enrollee Characteristics			
1. Youth: 18 & under	_____ %	32 %	16 %
19 - 21	_____	20	21
2. Education: 8 & under	_____	9	12
9 - 11	_____	41	43
3. Minority: Black	_____	21	37
Spanish-American	_____	12	14
4. Handicapped	_____	4	4
5. Full-time student	_____	29	32
6. Offender	_____	9	5
C. Median Wage			
1. Post-CETA	$ _____	$1.10	$2.88
2. Pre-CETA	$ _____	$2.71	$2.67

*Column to be filled in by Federal Representative. See instructions contained in Attachment 1, Section II.

USE OF INTERPRETIVE FACTORS

A. PROGRAM MIX

1. Expenditures: A high proportion of total funds in classroom, OJT and other activities stressing higher skills increase "costs per." A high proportion in work experience may lower entered employment rates and thereby increase "costs per."
2. Enrollees: A high percentages of enrollees in classroom and OJT should raise expected entered employment and nondirect placement rates; a high percent of enrollees in work experience may lower entered employment rates but should raise expected other positive termination rates.

B. ENROLLEE CHARACTERISTICS: Higher proportions of youth, minorities, high school dropouts, handicapped, offenders and other locally determined groups indicate a stress on services for those most difficult to place, and may lead to longer term or higher cost activities, and may result in lower positive termination rates.

C. POST-CETA, WAGE LEVELS: High post-CETA wages, and wage increase relative to pre-CETA wages may provide evidence for an emphasis on higher quality training and higher skilled jobs, high increases may also indicate a high proportion of participants without prior work experience.

D. LOCAL UNEMPLOYMENT RATES: Also to be considered, but not shown in the interpretive indicator table are local unemployment rates. High local unemployment rates may cause more difficulty in obtaining placements, and may influence sponsors' choice of activities and characteristics of enrollees (less disadvantaged).

V42166A AUG 26 77 UMI

PERFORMANCE GUIDELINES WORKSHEETS- REGION X

PRIME SPONSOR _____

FEDERAL REPRESENTATIVE _____

DATE REVIEWED _____

PRIME SPONSOR _____ FEDERAL REPRESENTATIVE _____

Termination Cluster	Formula	Result	COMPARATIVE DATA									
			Region X					National				
			L	Q_1	M	Q_3	H	L	Q_1	M	Q_3	H
Total Positive as a % of Total Terminations	PPS I.B.1. + I.B.2. / PPS I.B. x 100		40	57	63	71	78	21	59	70	78	99
Entered Employment as a % of Total Terminations	PPS I.B.1. / PPS I.B. x 100		19	25	31	36	60	2	22	32	43	87
Non-Direct Placements as a % of Total Terminations	PPS I.B.1.b. + I.B.1.c. / PPS I.B. x 100		10	21	24	29	41	2	17	23	33	71
Entered Employment as a % of Total Positive	PPS I.B.1. / PPS I.B.1. + I.B.2. x 100		26	40	50	67	80	3	34	51	66	100
Non-Direct as a % of Entered Employment	PPS I.B.1.b. + I.B.1.c. / PPS I.B.1. x 100		37	57	93	96	99	5	63	86	97	100

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

TERMINATION CLUSTER

Lower total positive termination rates (or high non-positive rates) may be due to:

1. High enrollment of hard-to-place groups;
2. High local unemployment rates;
3. Inadequacies in program operation (e.g., assessment, counselling, job development) or in program design (e.g., long "holding" periods before placement, poor coordination between components, classifying applicants as participants prior to actual enrollment in program activities, etc.).

Lower entered-employment rates: any of the above plus local emphases on "employability development" activities (e.g., high school equivalency; youth work experience, etc.) or intertitle transfers leading to other positive "terminations."

Lower indirect-employment rates: any of the above plus inclusion of direct job referral activities.

PRIME SPONSOR _____ FEDERAL REPRESENTATIVE _____

Fund Utilization Cluster	Formula	Result	COMPARATIVE DATA									
			Region X					National				
			L	Q_1	M	Q_3	H	L	Q_1	M	Q_3	H
Carryout: % of Available Funds	100% - BIS F.2 / BIS E.7.f. x 100		7	12	20	25	44	0	8	13	21	53
Administrative Cost Rate	BIS E.1.d. / BIS E.7.d. x 100		7	15	17	19	20	3	12	16	19	37

INTERPRETIVE DESCRIPTION: See interpretive factors .. contained in worksheets

EXPLANATION/JUSTIFICATION:

FUND UTILIZATION CLUSTER

CARRY OUT RATE: May be increased by:

- Start up of new activities;
- Supplemental appropriations received late in fiscal year;
- Internal administrative, management, processing or contracting problems;
- Unplanned for events, since original grant approvals.

ADMINISTRATIVE COST RATE: May be increased by:

- High local cost structure, especially salaries, rent;
- Stress on activities requiring proportionally more administration (e.g., classroom training vs. work experience);
- Stress on non-stipended activities (e.g., services);
- Heavy reliance on contractors, subgrants;
- Unplanned carry out of non-administrative costs;
- Heavy use of computers or other hardware;
- High indirect cost rates.

PRIME SPONSOR: _____ FEDERAL REPRESENTATIVE: _____

Cost Cluster	Formula	Results	Comparative Data									
			Region X					National				
			L	Q_1	M	Q_3	H	L	Q_1	M	Q_3	H
Cost per positive termination	BIS F.2. / PPS I.B.1. + I.B.2.		612	1858	1987	2593	5981	355	1269	1888	2606	8598
Cost per entered employment	BIS F.2. / PPS I.B.1.		762	3555	4563	6932	9704	405	2857	4254	6586	35,705
Cost per non-direct placement	BIS F.2. / PPS I.B.1.b. + I.B.1.c.		2048	4626	6385	7631	10795	863	3693	5628	8235	35,705

INTERPRETIVE DESCRIPTION: See interpretive factors contained in worksheets

EXPLANATION/JUSTIFICATION:

COST CLUSTER

Higher costs per positive outcome may be due to any of the factors leading to lowered positive termination rates, (see termination cluster worksheet) plus:

1. High local cost structures for standard items (e.g., wage rates, rental costs);
2. Use of more costly resources (e.g., proprietary schools, computers, special equipment);
3. Emphasis on supportive services (transportation, day care, etc.), classroom training, employability development;
4. Higher than minimum rates for participant stipends, wages;
5. Stress on longer term training for higher skill jobs.

Higher Costs Per Entered Employment may be due to any of the factors contributing to higher positive outcome costs indicated above plus those leading to lowered entered employment rates (see termination cluster worksheet).

Higher Costs Per Nondirect Placement may be due to any of the factors contributing to higher positive outcome costs indicated above plus the inclusion of direct job referral activities.

V 42 166 A UG 26 77 UMI

PRIME SPONSOR: _____ FEDERAL REPRESENTATIVE _____

INTERPRETIVE FACTORS	Sponsor*	FY 1976 (9/76) Actual Data: Region X	National	USE OF INTERPRETIVE FACTORS
A. Program Mix				A. PROGRAM MIX
1. Percent of Expenditures				1. Expenditures: A high proportion of total funds in classroom, OJT and other activities stressing higher skills increase "costs per." A high proportion in work experience may lower entered employment rates and thereby increase "costs per."
Classroom	____	35	30	
On-job training	____	13	9	
Public Service Employment	____	7	11	
Work Experience	____	38	40	
Services	____	11	8	
Other Activities	____	1	1	
	100%	100%	100%	
2. Percent of Cumulative Enrollments				2. Enrollees: A high percentages of enrollees in classroom and OJT should raise expected entered employment and nondirect placement rates; a high percent of enrollees in work experience may lower entered employment rates but should raise expected other positive termination rates.
Classroom - Prime Sponsor	____	25	24	
Classroom - Voc. Educ.	____	14	9	
On-job training	____	12	9	
Public Service Employment	____	1	4	
Work Experience	____	46	48	
Other Activities	____	2	2	
	100%	100%	100%	
B. Enrollee Characteristics				B. ENROLLEE CHARACTERISTICS: Higher proportions of youth, minorities, high school dropouts, handicapped, offenders and other locally determined groups indicate a stress on services for those most difficult to place, and may lead to longer term or higher cost activities, and may result in lower positive termination rates.
1. Youth: 18 & under	____ %	15 %	36 %	
19 - 21	____	19	21	
2. Education: 8 & under	____	9	13	
9 - 11	____	41	43	
3. Minority: Black	____	11	37	
Spanish-American	____	6	14	
4. Handicapped	____	3	4	
5. Full-time student	____	26	33	
6. Offender	____	10	5	
C. Median Wage				C. POST-CETA, WAGE LEVELS: High post-CETA wages, and wage increase relative to pre-CETA wages may provide evidence for an emphasis on higher quality training and higher skilled jobs, high increases may also indicate a high proportion of participants without prior work experience.
1. Post-CETA	$ ____	$1.23	$2.88	
2. Pre-CETA	$ ____	$2.81	$2.67	
				D. LOCAL UNEMPLOYMENT RATES: Also to be considered, but not shown in the interpretive indicator table are local unemployment rates. High local unemployment rates may cause some difficulty in obtaining placements, and may influence sponsors' choice of activities and characteristics of enrollees (less disadvantaged).

*Columns to be filled in by Federal Representative. See Instructions contained in Attachment 1, Section II.

ATTACHMENT II

INDICATORS

The indicator utilized in this process were developed by the Performance Indicators Work Group as a result of its deliberations during December 1976 and January 1977. However, it was determined that use of the "Earnings Clustre" indicators, would not be practical, since data would not be available from the appropriate planning documents (PPS and BIS). Additionally, the "Expenditure Rate" indicator was omitted.

Termination Rate Cluster. This group of measures indicates the proportions of participants leaving the CETA program achieving the several types of objectives included in the employment and positive outcome categories. Obviously, no one of the measures is sufficient in analyzing or explaining participant outcomes. The cluster must, in addition, be examined in relation to costs, and the interpretive factors.

1. *Positive termination rate:*

$$\frac{\text{Total positive terminations}}{\text{Total terminations}} \times 100$$

This indicator provides a broad measure of planned prfogram success in accomplishing multiple goals. The inclusion of other positive terminations recognize that programs may have additional planned outcomes other than placement. The inclusion of intertitle transfers in other positive terminations and total terminations represents a troublesome distortion which cannot be avoided.

2. *Entered employment rate-total terminations based:*

$$\frac{\text{Entered employment}}{\text{Total termination}} \times 100$$

This indicator provides a general measure of the degree CETA participation will result in employment. The measure disregards the amount of service provided or the source of placements, but these factors should be taken into account during analysis of this indicator.

3. *Entered employment rate-total positive terminations based:*

$$\frac{\text{Entered employment}}{\text{Total positive terminations}} \times 100$$

This indicator provides another method of analyzing the degree CETA participation will result in employment. It focuses on the internal composition of positive outcomes.

4. *Nondirect placement rate-total terminations based:*

$$\frac{\text{Nondirect placements}}{\text{Total terminations}} \times 100$$

This indicator measures the degree employment will result for participants who receive more than a minimal level of CETA services. The obtained employment group is included to take into account those participants who receive significant CETA services and gain employment but for whom the sponsor cannot take actual placement credits.

5. *Nondirect placement rate-total entered employment based:*

$$\frac{\text{Nondirect placements}}{\text{Entered employment}} \times 100$$

This indicator is another measure of employment results for participants receiving more than minimal CETA services. It highlights the composition of the entered employment category.

Cost cluster. This group of indicators measures the costs in achieving positive outcomes in CETA programs. This cluster consists of the rates of total expenditures to termination categories. In addition, the cost factors must be related to quality outcome, difficulty of clientele, and external factors. It should be noted that the ratios for the indicators in the "cost cluster" used to compute the quartile reference points and for planning goals do not represent actual dollars spent or planned to be spent on each enrollee terminating positively, each enrollee entering employment and each enrollee nondirectly placed. This is because total accrued or planned expenditures into which the outcomes are divided reflect costs for all aspects of the prime sponsor's program rather than for any specific outcome. Actual costs can only be obtained by appropriate longitudinal studies. The purpose of these indicators is to provide a common base for comparing prime sponsors. Therefore, the high "costs" obtained for these indicators, especially the highest national and regional reference points for the cost per entered employment and the cost per nondirect placement, and those which may be obtained for planning goals, should be understood in this context.

1. *Cost per positive termination.*

$$\frac{\text{Planned expenditures}}{\text{Total number of positive terminations}}$$

This indicator provides a measure of costs in relation to broad program results, including accomplishment of goals other than placement in employment.

2. *Cost per entered employment:*

$$\frac{\text{Planned expenditures}}{\text{Total number entering employment}}$$

This measure relates costs to the total employment results of a CETA program.

3. *Cost per nondirect placement:*

$$\frac{\text{Planned expenditures}}{\text{Total number of nondirect placements}}$$

This indicator provides a measure of costs in relation to employment results for participants receiving CETA services beyond intake, assessment, and job referral placement.

Fund utilization cluster. These indicators measure the extent total available funds will be utilized during the fiscal year. Since there is general concern about reducing the amount of unspent funds remaining at the end of each fiscal year, a specific measure related to planned carry-out for the year is included. In addition, an indicator on administrative costs is included. Regulations prohibit administrative cost rates of more than 20 percent of total planned costs for all program activities other than PSE.

1. *Carry-out rate:*

$$\frac{\text{Planned carry-out funds}}{\text{Total funds available}} \times 100$$

This indicator describes trends in spending rates.

2. *Administrative cost rate:*

$$\frac{\text{Planned administrative costs}}{\text{Planned expenditures}}$$

This measure relates administrative costs to the overall expenses of a program.

Signed at Washington, D.C., this 11th day of August 1977.

ROBERT J. MCCONNON,
Deputy Assistant Secretary for Employment and Training Administration.

[FR Doc.77-24849 Filed 8-25-77;8:45 am]

V42166 AUG 26 77 UMI

federal register

FRIDAY, AUGUST 26, 1977

PART VI

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

■

HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses; List of Establishment

V42166A AUG 26 77 UMI

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses; List of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 391.1, the following table lists the establishments operating under Federal inspection pursuant to the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.), which have been officially reported as using humane methods of slaughter and incidental handling of the species of livestock respectively designated for such establishments in the table. Additions to and deletions from this list will be made from time to time as the facts may warrant by notices published in the FEDERAL REGISTER. The establishment number given with the name of the establishment is branded on each carcass of livestock inspected and passed at that establishment. The table should not be understood to indicate that all species of livestock slaughtered at a listed establishment are slaughtered and handled by humane methods unless all such species are listed for that establishment in the table. Nor should the table be understood to indicate that the affiliates of any listed establishment use only humane methods.

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 2 OF 24 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	SWINE	GOATS
MBPXL CORPORATION	2AT	(*)				
MBPXL CORPORATION	2C	(*)				
UTICA VEAL COMPANY INC	2CC	(*)				
FARM'S DIV CONSOLIDATED FOODS CORP	25A		(*)			
FARMER PACKING COMPANY	25D				(*)	
LAREDO PACKING COMPANY	92	(*)				
SUGARDALE FOODS INC	93	(*)				
LANE PACKING COMPANY	95	(*)				
CENTRAL PACKING COMPANY INC	96	(*)				
A KOCHS SONS	98	(*)				
ARMOUR & COMPANY	100	(*)				
LAKESIDE PACKING COMPANY	101	(*)				
WILSON FOODS CORPORATION	113	(*)				(*)
M E R PACKING COMPANY	114					(*)
M E R PACKING COMPANY	114M					
FARMERS PACKING COMPANY	115	(*)			(*)	
THE MERCHANTS COMPANY	116					
MARHOEFER PACKING COMPANY INC	121	(*)			(*)	
JOHN MORRELL & COMPANY	124	(*)			(*)	
CASSADY PACKING INC	126	(*)			(*)	
JOHN ROTHS SAUSAGE	127	(*)			(*)	
FERRARA MEAT COMPANY INC	130	(*)				
NEBRASKA BEEF PACKERS INC	135	(*)				
ALBRICE PACKING COMPANY	142					
DALLAS CITY PACKING INC	154	(*)				
OLLIE MELCH MEAT COMPANY INC	155	(*)				
DALLAS CITY PACKING INC	156	(*)				
GREAT PLAINS BEEF COMPANY	157	(*)				
CORNELL UNIVERSITY ANIMAL SCIENCE	158	(*)	(*)		(*)	
E W KNEIP INC	169	(*)				
THE MEAT PACKING INC	171					
THE DAVIS PACKING CORPORATION	180	(*)				
THE RATH PACKING COMPANY	180F	(*)				
CARL'S SAUSAGE COMPANY	188	(*)				
SEATTLE PACKING COMPANY	191	(*)				
EDGE PACKING COMPANY	192	(*)	(*)			
HYNES PACKING COMPANY	199	(*)			(*)	
UNITED PACKING COMPANY	199A	(*)				
GEORGE A HORMEL & COMPANY	199D	(*)			(*)	
GEORGE A HORMEL & COMPANY	199H	(*)			(*)	
GEORGE A HORMEL & COMPANY	199I					
GEORGE A HORMEL & COMPANY	199N	(*)			(*)	
GEORGE A HORMEL & COMPANY	199O	(*)			(*)	
CAVINESS PACKING COMPANY INC	200	(*)				
DUGDALE PACKING COMPANY	203	(*)				
NATIONAL BEEF PACKING COMPANY	205	(*)			(*)	
PENN PACKING COMPANY	210A	(*)				
E W KNEIP INC	212					
KASKIN MEAT COMPANY INC	213	(*)			(*)	
LINCOLN MEAT COMPANY INC	215	(*)				
YORK PACKING COMPANY INC	217	(*)				
ITT GWALTNEY INC	221	(*)			(*)	
BROOKFIELD FARMS	221A	(*)			(*)	
MYGRADE FOOD PRODUCTS CORPORATION	223	(*)	(*)			
MYGRADE FOOD PRODUCTS CORPORATION	224	(*)			(*)	
INDEPENDENCE MEAT COMPANY	226B	(*)				
JOHN MORRELL BEEF PROCESSORS INC	226	(*)	(*)		(*)	
TEXAS TECHNOLOGICAL SOIL ANIMAL HUSBANDRY	230	(*)				
RASKIN PACKING COMPANY	236	(*)				
SHREVEPORT PACKING COMPANY INC OF KANSAS	237	(*)				
KANSAS BEEF PACKERS	239	(*)	(*)			
GREENWOOD PACKING PLANT	240	(*)				
	242	(*)			(*)	

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 1 OF 24 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	SWINE	GOATS
ARMOUR & COMPANY	2AT				(*)	
ARMOUR & COMPANY	2C	(*)				
ARMOUR & COMPANY	2CC	(*)				
ARMOUR & COMPANY	25A		(*)			
ARMOUR & COMPANY	25D				(*)	
ARMOUR & COMPANY	2M				(*)	
SWIFT & COMPANY	2MM	(*)	(*)			
SWIFT & COMPANY	3AE				(*)	
SWIFT & COMPANY	3BW		(*)	(*)		
SWIFT & COMPANY	3C				(*)	
SWIFT FRESH MEATS COMPANY	3CC	(*)				
SWIFT & COMPANY	3D	(*)				
SWIFT FRESH MEATS COMPANY	3GC	(*)				
SWIFT & COMPANY	3GM	(*)				
SWIFT & COMPANY	3H				(*)	
SWIFT & COMPANY	3L				(*)	
SWIFT & COMPANY	3N	(*)				
SWIFT & COMPANY	3R	(*)			(*)	
SWIFT & COMPANY	3S				(*)	
SWIFT FRESH MEATS COMPANY	3TA	(*)				
SWIFT & COMPANY	3Y	(*)				
SWIFT & COMPANY	3Z	(*)				
LYKES BROS INC	8	(*)	(*)			
LYKES BROS INC	8B	(*)	(*)			
FARMERS PACKING COMPANY INC	10	(*)				
FRENCH CITY MEATS INC	11	(*)				
HYGRADE FOOD PRODUCTS CORPORATION	12A				(*)	
HYGRADE FOOD PRODUCTS CORPORATION	12FH	(*)	(*)			
HYGRADE FOOD PRODUCTS CORPORATION	12P	(*)				
JOHN MORRELL & COMPANY	17D	(*)		(*)	(*)	
JOHN MORRELL & COMPANY	17G	(*)				
JOHN MORRELL & COMPANY	17U	(*)				
WILSON FOODS CORPORATION	18				(*)	
WILSON FOODS CORPORATION	18M	(*)			(*)	
WILSON FOODS CORPORATION	20I				(*)	
WILSON FOODS CORPORATION	20MO				(*)	
WILSON FOODS CORPORATION	20O	(*)			(*)	
SWIFT FRESH MEATS COMPANY	20Y	(*)	(*)		(*)	
PATRICK CUDAHY WISCONSIN INC	23	(*)	(*)		(*)	
KEYSTONE MEAT COMPANY INC	28					
SUPERIOR BRAND MEATS INC	30	(*)				
THE ROEGELEIN COMPANY	31	(*)			(*)	
THE ROEGELEIN COMPANY	32					
WILSON FOODS CORPORATION	32A	(*)	(*)		(*)	
KENTON PACKING CO INC	34	(*)	(*)			
TOP-LINE PACKING COMPANY	36	(*)	(*)		(*)	
SUNNYLAND FOODS INC	37	(*)			(*)	
BRIGHT PACKING COMPANY	43				(*)	
IDAHO MEAT PACKERS	43B	(*)				
DUGDALE PACKING COMPANY	56	(*)				
SUNNYLAND PACKING COMPANY OF ALABAMA	56	(*)				
SUNNYLAND PACKING COMPANY OF ALABAMA	56A				(*)	
CLOVER PACKING COMPANY	60	(*)				
GLOVER PACKING COMPANY	60A	(*)			(*)	
GOOCH PACKING COMPANY INC	61	(*)			(*)	
SANDHILL BEEF PACKERS INC	62	(*)			(*)	
SANDHILL BEEF PACKERS INC	63	(*)			(*)	
BARC MEAT PROCESS PLANT	68	(*)			(*)	
AUBURN UNIVERSITY MEAT LABORATORY	71	(*)			(*)	
OLIVER THOMPSON & SON	73	(*)			(*)	
DUGDALE PACKING COMPANY	79A	(*)			(*)	
DINNER BELL FOODS INC	79B	(*)			(*)	
EDGAR PACKING COMPANY	84	(*)	(*)			
MBPXL CORPORATION	86	(*)				
MBPXL CORPORATION	86O	(*)				

V 42 166 AUG 26 77 UMI

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 3 OF 24 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
IOWA BEEF PROCESSORS INC	245	-(●)					
IOWA BEEF PROCESSORS INC	245A	-(●)					
IOWA BEEF PROCESSORS INC	245B	-(●)					
IOWA BEEF PROCESSORS INC	245D	-(●)					
IOWA BEEF PROCESSORS INC	245E	-(●)					
JOHN MORRELL & COMPANY	246	-(●)				(●)	
FEDERAL PACKING COMPANY INC	249	-(●)					
LONG PRAIRIE PACKING CO	253	-(●)					
MAGIC VALLEY PACKING COMPANY	258	-(●)					
MYPLAINS DRESSED BEEF INC	262	-(●)					
THE JONES DAIRY FARM	263					(●)	
FARM PAC KITCHENS INC	266	-(●)					
PACIFIC MEAT COMPANY INC	267	-(●)					
GOLDEN VALLEY PACKING COMPANY	271	-(●)					
TOG PACKING COMPANY INC	273	-(●)					
ALPHA BETA ACME MARKETS INC	279	-(●)	-(●)				
PARNETT PACKING CORPORATION	283	-(●)					
SOLANO MEAT COMPANY	285	-(●)	-(●)				
FLAVORLAND INDUSTRIES INC	288	-(●)					
ARDOGAST AND BASTIN INC	289					(●)	
SAN JOSE MEAT COMPANY INC	291	-(●)					
ARMOUR & COMPANY	292					(●)	
IOWA BEEF PROCESSORS INC	292A	-(●)					
GUS JUENGLING AND SON INC	296	-(●)					
UNION PACKING COMPANY	305	-(●)					
SERV U MEAT PACKING COMPANY	306	-(●)					
A GEMMEN & SONS INC	308	-(●)					
KAUFMAN MEATS	310	-(●)					
RUDYS FARM COMPANY	315					(●)	
ESTES PACKING COMPANY	319	-(●)					
STADLER PACKING COMPANY INC	320	-(●)				(●)	
PIERCE PACKING	322	-(●)	-(●)	-(●)	-(●)		
RUDNICK PACKING COMPANY INC	325	-(●)					
GOLDEN STATE FOODS CORPORATION	327	-(●)					
C & M MEAT PACKING CORPORATION	329	-(●)					
ROYAL PACKING COMPANY	331A	-(●)					
SHAPIRO PACKING COMPANY INC	332	-(●)					
GREAT WESTERN PACKING COMPANY INC	334	-(●)					
NOBLES MEAT COMPANY	335	-(●)	-(●)				
CHINO VALLEY MEAT PACKING COMPANY INC	336	-(●)	-(●)			●	
SAN KANE BEEF PROCESSORS INC	337	-(●)	-(●)				
QUEEN & OLIVER SAUSAGE COMPANY	338					(●)	
MIDLAND EMPIRE PACKING COMPANY INC	339	-(●)					
BOUKEY PACKING COMPANY	340	-(●)					
PUCKETT PACKING COMPANY	343	-(●)					
GOLD-PAK MEAT COMPANY INC	344	-(-)	-(●)				
ANZA MEAT PACKING COMPANY	345	-(●)					
UNION PACKING COMPANY INC	351	-(●)					
FRESNO MEAT PACKING COMPANY	354	-(●)					
MC CANDLESS PACKING COMPANY INC	355	-(●)					
SUNSTAR FOODS	357	-(●)					
CLOUGHERTY PACKING COMPANY	360					(●)	
MYERS PACKING COMPANY	363	-(●)					
JAMES ALLAN AND SONS	365	-(●)		(●)		(●)	
KERSEY MEAT PROCESSING COMPANY	366	-(●)		(●)		(●)	
WILSON & COMPANY INC	374	-(●)				(●)	
SALINAS MEAT COMPANY	378	-(●)	-(●)	-(●)			
EMGE PACKING COMPANY INC	380	-(●)				(●)	
SMITHFIELD PACKING COMPANY INC	382					(●)	
AMERICAN STORES PACKING COMPANY	384	-(●)					
FREEDMAN PACKING INC	387	-(●)					
DUGDALE PACKING COMPANY	390	-(●)					
OLDHAM'S FARM SAUSAGE COMPANY INC	392					(●)	
HUISKEN MEAT CENTER	394	-(●)				(●)	
DUBUQUE PACKING COMPANY	396	-(●)	-(●)	-(●)		(●)	
DUBUQUE PACKING COMPANY	396C	-(●)					
DUBUQUE PACKING COMPANY	396D	-(●)					
DUBUQUE PACKING COMPANY	396E	-(●)				(●)	

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 4 OF 24 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
DUBUQUE PACKING COMPANY	396H	-(●)					
WATSONVILLE DRESSED BEEF INC	398	-(●)					
LOS BANOS ABATTOIR	400	-(●)					
OAKRIDGE SMOKEHOUSE	401	-(●)				(●)	
OWENS COUNTRY SAUSAGE INC	403					(●)	
WILLISTON PACKING COMPANY INC	405	-(●)					
NEUHOFF BROS	406	-(●)					
GREEN BAY DRESSED BEEF INC	410	-(●)					
ALPINE PACKING COMPANY	412	-(●)					
THE LUNDY PACKING COMPANY	413					(●)	
THE LUNDY PACKING COMPANY	413A					(●)	
FROSTY MORN MEATS	414	-(●)				(●)	
S BONACCURSO & SONS INC	418	-(●)					
MURRAY PACKING COMPANY INC	421	-(●)					
E W KNEIP INC OF IOWA	422	-(●)					
THE COLLINS PACKING COMPANY	423					(●)	
KENOSHA BEEF INTERNATIONAL LTD	425	-(●)					
FINEBERG PACKING COMPANY	428	-(●)	-(●)	-(●)		(●)	
SCHNEIDER PACKING COMPANY	439	-(●)					
OMAHA DRESSED BEEF COMPANY INC	441	-(●)					
OMAHA DRESSED BEEF COMPANY INC	441A	-(●)					
GEL CURTO MEAT COMPANY	445	-(●)	-(●)				
THE CICILLO CORPORATION	448	-(●)					
ECONOMY PACKING HOUSE	451	-(●)	-(●)				
GEWITT PACKING CORPORATION	456	-(●)	-(●)				
MORRIS RIFKIN & SONS INC	460	-(●)					
PIONEER BONELESS BEEF INC	461	-(●)					
LANCASTER PACKING COMPANY	462	-(●)					
LITVAK PACKING COMPANY	465	-(●)					
BECKAR PACKING COMPANY	467	-(●)				(●)	
CORNHUSKER PACKING COMPANY	468	-(●)					
STOUKLAND BEEF PROCESSING COMPANY	476	-(●)					
ARMOUR & COMPANY	477	-(●)					
GOTHAM PROVISION COMPANY INC	481	-(●)	-(●)	-(●)	-(●)	-(●)	
ST CROIX ABATTOIR	482	-(●)	-(●)	-(●)	-(●)	-(●)	
ROBEL BEEF PACKERS INC	485	-(●)					
EAST TENNESSEE PACKING COMPANY	487	-(●)				(●)	
BURING FOOD GROUP INC	488	-(●)				(●)	
E W KNEIP INC	489	-(●)					
WARD FOODS INC	490	-(●)	-(●)	-(●)			
FAIRBANK FARMS INC	492	-(●)	-(●)				
KAPLAN MEAT PACKERS INC	494	-(●)	-(●)				
BARTELL'S MEAT COMPANY	497	-(●)	-(●)				
PELLA PACKING COMPANY INC	498	-(●)					
HEIM BROTHERS PACKING COMPANY INC	499	-(●)				(●)	
STUTZMAN SLAUGHTERHOUSE	507	-(●)	-(●)	-(●)		(●)	
SHEN VALLEY MEAT PACKERS INC	511	-(●)				(●)	
SNIDER BROS INC	512	-(●)	-(●)				
CAPITOL PACKING COMPANY	513	-(●)					
PORK PACKERS INTERNATIONAL INC	520					(●)	
RANCHO FEEDING CORPORATION	527	-(●)	-(●)				
ARMOUR & COMPANY	528	-(●)					
SMALLWOOD PACKING COMPANY INC	529	-(●)					
MARYSVILLE MEAT PACKING COMPANY INC	533	-(●)					
PEPPER PACKING COMPANY	536	-(●)					
OSCAR MAYER & COMPANY	537A	-(●)				(●)	
OSCAR MAYER & COMPANY	537B	-(●)				(●)	
OSCAR MAYER & COMPANY INC	537C	-(●)				(●)	
OSCAR MAYER & COMPANY	537E	-(●)				(●)	
MIDWEST PACKING COMPANY	538	-(●)					
GOEHRING MEAT PRODUCTS CORPORATION	548	-(●)				(●)	
L A BEEFLAND INC	549	-(●)	-(●)				
CASCADE MEAT PACKING COMPANY	550	-(●)		(●)		(●)	
BLACK HILLS PACKING COMPANY	554	-(●)					
MID SOUTH PACKERS INC	557	-(●)				(●)	
O & W PACKING COMPANY	560	-(●)				(●)	
UNITED DRESSED BEEF COMPANY INC	561	-(●)	-(●)				
PACKERLAND PACKING COMPANY	562	-(●)					

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 5 OF 24 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
PECK MEAT PACKING CORPORATION	567	-(●)					
ELMER DEVOER & SON INC	569	-(●)	-(●)	-(●)			
PERRETTA PACKING COMPANY INC	571	-(●)					
COIL INC	575	-(●)					
FROSTY MORN MEATS INC	576					(●)	
MONARCH PACKING COMPANY	581	-(●)					
COFFEYVILLE PACKING COMPANY INC	583	-(●)					
FREDERICK & HERRLIG INC	586					(●)	
DAWSON-BAKER PACKING COMPANY INC	588	-(●)					
COMO MEAT PACKING INC	593	-(●)					
ELK GROVE MEAT COMPANY	601	-(●)					
SAN ANTONIO PACKING COMPANY	602	-(●)		(●)	-(●)		
SAN ANTONIO PACKING COMPANY	602A	-(●)		(●)			
WRIGHT PACKING COMPANY INC	603	-(●)					
COPPER STATE PHOENIX MEAT COMPANY	604	-(●)	-(●)				
WILSON FOODS CORPORATION	606					(●)	
WESTERN MEATS	608	-(●)					
EASTERN OREGON MEAT COMPANY INC	611	-(●)				(●)	
DONNER PACKING COMPANY	614	-(●)					
KUMMER MEAT COMPANY INC	617	-(●)	-(●)	-(●)			
DOSKOCIL SAUSAGE INC	623					(●)	
LUMBERJACK MEATS INC	626					(●)	
BIG FOOT PACKING COMPANY INC	627	-(●)					
E A MILLER & SONS PACKING COMPANY INC	628	-(●)	-(●)				
H H KEIM COMPANY	630	-(●)					
FLANERY MEATS INC	643	-(●)					
TRANSCONTINENT PACKING COMPANY E	646					(●)	
BIRO PROVISION COMPANY	647					(●)	
SPENCER FOODS INC	648	-(●)					
SCHLOERBERG-KUROLE COMPANY INC	649					(●)	
JOHN MORRELL & COMPANY	650					(●)	
BAUMS BOLOGNA INC	657	-(●)					
QUALITY MEAT PACKING COMPANY	661	-(●)					
COLORADO WEST PACKERS INC	662	-(●)				(●)	
GLOBE PACKING COMPANY	663	-(●)					
WEBER FARMS INC	665					(●)	
CROWN PACKING COMPANY	666					(●)	
FLANERY FOODS INC	667	-(●)					
UNION PACKING COMPANY INC	673	-(●)					
S & S PACKING COMPANY INC	674	-(●)					
CAVINESS PACKING COMPANY INC	675	-(●)					
JACOB BAUERS SONS INC	678	-(●)	-(●)				
CALDWELL PACKING COMPANY INC	683	-(●)					
CALLAWAY PACKING COMPANY	688	-(●)					
PIERCE PACKING COMPANY	691					(●)	
BRYAN MEAT COMPANY	693	-(●)	-(●)				
KANSAS STATE UNIV ANIMAL SCIENCE & INDUSTRY	694	-(●)					
GALF PACKING COMPANY	696	-(●)					
TRIOLO BROTHERS	706					(●)	
CENTRAL NEBRASKA PACKING COMPANY E	713					(●)	
DAVENPORT PACKING COMPANY INC	716	-(●)					
FARMLAND FOODS INC	717					(●)	
FARMLAND FARMS	717CR					(●)	
A DARLINGTON STRODE	718					(●)	
SWIFT & COMPANY	726	-(●)				(●)	
DECKER & SON	727					(●)	
ROODE PACKING COMPANY INC	729	-(●)					
FROSTY LANDS FOODS INTERNATIONAL INC	731	-(●)					
EILER & SON INC	732	-(●)	-(●)			(●)	
WESTERN PACKERS	733	-(●)					
OHIO PACKING COMPANY	736	-(●)	-(●)			(●)	
PARNELLS PACKING COMPANY	738	-(●)	-(●)	-(●)			
THE JACOB SCHLACHTER'S SON & COMPANY	739	-(●)					
MID STATE MEAT COMPANY	741	-(●)					
THE O K PACKING COMPANY	749	-(●)	-(●)				
JACK'S MEAT PACKING PLANT	754	-(●)		(●)		(●)	
SEITZ FOODS INC	756A	-(●)					
THE AMERICAN MEAT PACKING CORPORATION	760					(●)	

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 6 OF 24 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
SCHAAKE PACKING COMPANY INC	761	-(●)					
KARLER PACKING COMPANY	767	-(●)					
SHERIDAN MEAT COMPANY INC	768	-(●)				(●)	
CARL C GIBBS INC	770	-(●)					
HANFORD MEAT PACKING COMPANY	773	-(●)	-(●)				
BRISTOL FOODS INC	775	-(●)					
CENTRAL PACKING COMPANY	777	-(●)					
THE CUDAHY PACKING COMPANY	779	-(●)				(●)	
BRYAN PACKING COMPANY INC	780	-(●)				(●)	
DIAMOND MEAT COMPANY INC	783	-(●)					
GRANITE STATE PACKING COMPANY	785	-(●)	-(●)				
AURORA PACKING COMPANY INC	788	-(●)					
HATFIELD PACKING COMPANY	791					(●)	
BAUMS MEAT PACKING	792	-(●)	-(●)				
HURON DRESSED BEEF	796	-(●)					
AMERICAN BEEF PACKERS INC	807	-(●)					
THE G ERHARDT SONS INC	810	-(●)					
S & R BEEF COMPANY	811	-(●)					
FLOYD VALLEY PACKING COMPANY	812					(●)	
ROCHESTER INDEPENDENT PACKER INC	817	-(●)					
J H ROUTH PACKING COMPANY	818					(●)	
STRAUB & SMITH PACKING CORP	820	-(●)	-(●)			(●)	
STERLING COLORADO BEEF COMPANY	823	-(●)					
FOREMOST PACKING COMPANY	824					(●)	
SUPERIOR PACKING COMPANY INC	825			(●)			
LOOKOUT MOUNTAIN PACKERS INC	826	-(●)					
BERGHEMS MEAT COMPANY	830	-(●)					
LEE-JOHNSON INC	835	-(●)					
FREDERICK COUNTY PRODUCTS INC	838	-(●)					
VALLEYDALE PACKERS INC	840	-(●)				(●)	
G BARTUSCH PACKING CO	843	-(●)					
THE ALLEN PACKING COMPANY	845	-(●)				(●)	
ARENA DRESSED BEEF COMPANY	853	-(●)					
FLAVORLAND INDUSTRIES INC	857I	-(●)					
FLAVORLAND INDUSTRIES INC	857J	-(●)					
JORDAN MEAT & LIVESTOCK COMPANY INC	858	-(●)	-(●)	-(F)	-(●)		
O'NEILL MEAT COMPANY	862	-(●)	-(●)				
TENNESSEE DRESSED BEEF COMPANY	865	-(●)					
HAROY & COMPANY INC	869	-(●)	-(●)				
PAHLER PACKING CORPORATION	880	-(●)					
SWANTON PACKING INC	883	-(●)					
ALCO PACKING COMPANY INC	885	-(●)	-(●)			(●)	
WALTER H LYONS INC	886	-(●)					
HAMILTON PACKING COMPANY	891	-(●)	-(●)			(●)	
SAMBOL PACKING COMPANY	892	-(●)					
TORIN PACKING COMPANY INC	893					(●)	
VERNON CALHOUN PACKING COMPANY	897	-(●)					
SIGMAN MEAT COMPANY INC	901A						
PARTY PACKING CORPORATION	902	-(●)					
LIBERTY MEAT PACKING CORPORATION	910	-(●)					
B CONSTANTINO & SONS COMPANY	918	-(●)					
ALICE PACKING COMPANY	921	-(●)					
VALLEYDALE PACKERS INC	922	-(●)	-(●)			(●)	
WISCONSIN PACKING COMPANY	924	-(●)					
NEVADA WEST PACKING INC	925	-(●)					
PARSONS BEEF COMPANY INC	932	-(●)					
E B MANNING AND SON	934	-(●)					
VOLZ PACKING COMPANY	938	-(●)					
GENTNER PACKING COMPANY INC	941	-(●)					
WHITEHALL PACKING COMPANY	946	-(●)					
NEILMAN FOOD INDUSTRIES INC	946B	-(●)					
M BRIZER & COMPANY	948	-(●)					
JOE DOCTORMAN & SON PALKING COMPANY INC	949	-(●)					
KENNEDYS SAUSAGE COMPANY	950					(●)	
BOB EVANS FARMS MICHIGAN INC	952					(●)	
GREATER OMAHA PACKING COMPANY INC	960	-(●)					
POTTER SAUSAGE PRODUCT INC	961					(●)	
VIRGINIA PACKING COMPANY INC	963	-(●)	-(●)				

UMI

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 8 OF 24 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CALF	CHEEP	GOAT	SWINE
SPENCER FOODS INC	2379	-(0)-			
MARTIN SAUSAGE COMPANY	2385				
KEARNEY MEAT PACKING INC	2386	-(0)-			
LONGHORN MEAT PACKERS INC	2394	-(0)-			
BANNER BEEF COMPANY	2396	-(0)-			
SHAMROCK PACKING COMPANY	2398	-(0)-			
ALLEN BROTHERS MEATS INC	2399	-(0)-	-(0)-	-(0)-	-(0)-
P M CUSTOM MEATS INC	2435	-(0)-			
HILLSHIRE FARM COMPANY	2439	-(0)-	-(0)-	-(0)-	-(0)-
RANCHLAND PACK INC	2450	-(0)-			
A F MOYER & SON- CONSOLIDATED FOODS CORP	2533	-(0)-			
LINK BROS INC	2672	-(0)-	-(0)-	-(0)-	-(0)-
MENNING PACKING COMPANY INC	2533	-(0)-			
DOUBLE K PACKING CO	2585	-(0)-			
HEYMUPF BROS PACKING COMPANY	2586	-(0)-			
BARTLOW BROS INC	2595	-(0)-			
THE TEETERS PACKING COMPANY	2598	-(0)-			
GOLDEN GATE PACKING COMPANY	2599	-(0)-			
MCDONALD MEAT PROCESSORS	2604	-(0)-			
FOUTCH PACKING CO	2605	-(0)-			
J W TREUTH & SON INC	2612	-(0)-			
LADMIS AS FROZEN FOODS ABATTOIR	2621A	-(0)-			
LOUISVILLE BEEF PACKERS INC	2636	-(0)-			
CURTIS PACKING COMPANY	2644	-(0)-			
MORRIS PACKING PLANT	2657	-(0)-	-(0)-		-(0)-
H H BEALE & SONS INC	2682				
MAYFIELD PACKING	2698	-(0)-			
YODERS LOCKER PLANT-SLAU	2707	-(0)-			
O & E COUNTRY BUTCHERS	2751	-(0)-			
WAGNER PROVISION COMPANY INC	2770	-(0)-	-(0)-		-(0)-
MOORES FROZEN FOODS INC	2783	-(0)-			
DOUGLAS J OSGOOD MEAT COMPANY	2787	-(0)-			
GEORGE BROWN	2794	-(0)-			
STEVENS BROTHERS	2800	-(0)-	-(0)-		
ROCKY MOUNTAINS	2825	-(0)-	-(0)-		
LEWIS & MCDERMOTT	2847	-(0)-			
VISTA MEAT PACKING COMPANY INC	2854	-(0)-	-(0)-		
GRANITE MEAT & LIVESTOCK COMPANY	2856	-(0)-			
JOHNSTON MEATS	2912	-(0)-	-(0)-		
MADISON FOOD INC	2925	-(0)-			
MARYVILLE PACKING COMPANY	2927	-(0)-	-(0)-		-(0)-
PETTIS COUNTY LOCKER SYSTEM	2929	-(0)-			
HUNTER FROZEN FOOD SERVICE	2932	-(0)-	-(0)-		-(0)-
WOODS LOCKER & ABATTOIR	2936	-(0)-	-(0)-		-(0)-
YONTZ PACKING COMPANY	2938	-(0)-			
WEST PLAINS PACKING COMPANY	2939	-(0)-			
G & C PACKING COMPANY	2944	-(0)-			
P & M MEATS INC	2945	-(0)-			
KOCH MEAT HOUSE	2946	-(0)-	-(0)-		-(0)-
L A PREY & SONS INC	2948	-(0)-			
MARION MEAT PROCESSING	2949	-(0)-			
CENTENO MEAT COMMISSARY	2950	-(0)-			
LAMESA MEAT COMPANY	2951	-(0)-			
AMARILLO PACKING COMPANY	2956	-(0)-			
MARLAND MEAT PACKERS COMPANY	2959	-(0)-			
BEN GRAY MEAT PACKERS	2962	-(0)-	-(0)-		-(0)-
OAKWORTH PACKING COMPANY INC	2963	-(0)-			
BARKER ENTERPRISES INC	2965	-(0)-			
MOUNTAIN PACKING COMPANY	2966	-(0)-			
HEIMS MEAT MARKET INC	2969	-(0)-			
CORNETT PACKING COMPANY	2970	-(0)-			
AMANA SOCIETY	2972	-(0)-			
MILLS NAME & SONS INC	2975	-(0)-			
KINGHAM & SONS MEAT PACKING INC	2977	-(0)-			
GROTE MEAT COMPANY	2978	-(0)-			
CLAYTON PACKING COMPANY	2982	-(0)-			
SMITH & SON INC	2985	-(0)-			
T L LAY PACKING COMPANY	967	-(0)-			
MONFORT PACKING COMPANY	970	-(0)-			
KEARNEY MEAT PROCESSING INC	976	-(0)-			
LONGHORN MEAT PACKERS INC	985	-(0)-			
BANNER BEEF COMPANY	987	-(0)-			
SHAMROCK PACKING COMPANY	993	-(0)-			
ALLEN BROTHERS MEATS INC	1029	-(0)-	-(0)-	-(0)-	-(0)-
THE HOME PRIDE PROVISIONS INC	1035	-(0)-			
ARMOUR & COMPANY	1171	-(0)-	-(0)-		-(0)-
LANDT PACKING COMPANY	1311	-(0)-			
A F MOYER & SON- CONSOLIDATED FOODS CORP	1312	-(0)-			
MCCABE PACKING PLANT	1313	-(0)-	-(0)-		-(0)-
H & M PACKING INC	1315	-(0)-			
MENNING PACKING COMPANY INC	1358	-(0)-			
LA BRIER MEAT PROCESSING COMPANY	1463	-(0)-			
ASSOCIATED MEAT PACKERS INC	1472	-(0)-	-(0)-		-(0)-
STEVENS MEAT COMPANY INC	1485	-(0)-	-(0)-		-(0)-
DOUBLE K PACKING CO	1504	-(0)-			
HENDERSON MEAT PROCESSORS	1527	-(0)-			
MULLEN PACKING COMPANY	1585	-(0)-			
DOUBLE J MEAT COMPANY	1669	-(0)-			
LADMIS AS FROZEN FOODS ABATTOIR	1733	-(0)-			
DE KALB COUNTRY PACKING INC	1737	-(0)-			
ROBERT L RUNTZ INC	1750	-(0)-			
LITTLE RIVER PACKING	1771	-(0)-			
PARKER BEEF PACKERS INC	1772	-(0)-			
GOLDEN WEST MEAT COMPANY INC	1796	-(0)-			
ROCK DELL MEATS & PROCESSING	1894	-(0)-			
MINDEN BEEF COMPANY	1914M	-(0)-			
CONSOLIDATED FOODS CORP	2033	-(0)-			
MC BEEF PACKING COMPANY	2061	-(0)-	-(0)-		-(0)-
BRAUNFELS MEATS INC	2083	-(0)-			
ODOM SAUSAGE COMPANY OF KENTUCKY INC	2094	-(0)-			
ACKERS BEEF HOUSE	2104	-(0)-			
BALLAROS FARM SAUSAGE INC	2108	-(0)-			
P & M PACKING COMPANY INC	2211	-(0)-	-(0)-		-(0)-
MANDY PACKING COMPANY INC	2215	-(0)-	-(0)-		-(0)-
WOODS PACKING COMPANY	2216	-(0)-			
CLARK PACKING COMPANY	2219	-(0)-			
BURLISON PACKING COMPANY	2224	-(0)-			
PACE PACKING COMPANY	2228	-(0)-			
HUNTER FROZEN FOOD SERVICE	2230	-(0)-	-(0)-		-(0)-
SOUTH TEXAS PACKERS INC	2230	-(0)-	-(0)-		-(0)-
GEORGE BRAUN PACKING COMPANY INC	2239	-(0)-			
BRYAN SAUSAGE COMPANY INC	2249	-(0)-			
KUEHNE PACKING COMPANY INC	2260	-(0)-			
G & C PACKING COMPANY	2262	-(0)-			
RIDLEY PACKING COMPANY	2265	-(0)-			
L A PREY & SONS INC	2266A	-(0)-			
MARION MEAT PROCESSING	2269	-(0)-			
CENTENO MEAT COMMISSARY	2271	-(0)-			
LAMESA MEAT COMPANY	2272	-(0)-			
AMARILLO PACKING COMPANY	2273	-(0)-			
MARLAND MEAT PACKERS COMPANY	2294	-(0)-			
BEN GRAY MEAT PACKERS	2296	-(0)-	-(0)-		-(0)-
OAKWORTH PACKING COMPANY INC	2296	-(0)-			
BARKER ENTERPRISES INC	2315	-(0)-			
MOUNTAIN PACKING COMPANY	2316	-(0)-			
HEIMS MEAT MARKET INC	2333	-(0)-			
CORNETT PACKING COMPANY	2333	-(0)-			
AMANA SOCIETY	2357	-(0)-			
MILLS NAME & SONS INC	2358	-(0)-			
KINGHAM & SONS MEAT PACKING INC	2366	-(0)-			
GROTE MEAT COMPANY	2369	-(0)-			
CLAYTON PACKING COMPANY	2373	-(0)-	-(0)-		
SMITH & SON INC	2376	-(0)-			

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 10 OF 24 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CALF	CHEEP	GOAT	SWINE
STEIGER'S SLAUGHTER HOUSE	4490	-(0)-			
ORLEANS MEAT PROCESSING COMPANY	4490	-(0)-			
PAT ROBUSTON INC	4491	-(0)-			
DILLION'S SLAUGHTER HOUSE	4492	-(0)-			
EUREKA SLAUGHTER HOUSE	4498	-(0)-			
CUOLINI'S MARKET-BOUCHER	4528	-(0)-			
CLIFFORD H SCHRADER	4529	-(0)-			
JOHN BRITT OF NEW YORK AT ALFRED AGRI & TECH	4530	-(0)-			
OMASCO MEAT COMPANY	4531	-(0)-			
DIETRICH'S COUNTRY MEATS	4532	-(0)-	-(0)-		-(0)-
HOPKINS FARMS	4533	-(0)-			
MOST ACRES FARMS QUALITY MEATS	4025	-(0)-			
CLARENCE W CRAMER	4043	-(0)-			
FARMLAND MEATS	4049	-(0)-			
LOCKE PACKING COMPANY	4055	-(0)-			
THE DEVEREUX FOUNDATION FARM	4065	-(0)-			
TALONE PACKING COMPANY	4152	-(0)-			
UPLAND PACKING COMPANY	4165	-(0)-			
TIMPTON MEAT SERVICE INC	4202	-(0)-			
TINY'S MEATS	4211	-(0)-			
VALLEY MEATS INC	4212	-(0)-			
HAMARDEN OF IOWA INC	4216	-(0)-			
PAUL WERMER DUAL MEAT PROCESSING	4220	-(0)-			
WEBSTER CITY CUSTOM MEATS INC	4245	-(0)-			
JOE PAGLUSO & BROS INC	4253	-(0)-			
SCHNEIDER SONS MARKET INC	4254	-(0)-			
LAKE VIEW PACKING CO	4261	-(0)-			
POOK'S WHOLESALE MEATS INC	4285	-(0)-			
STATE UNIV OF NEW YORK AGRI & TECH COLLEGE	4340	-(0)-			
JIM SIMONI'S MEATS	4346	-(0)-			
S & S SLAUGHTERHOUSE	4350	-(0)-			
P & L SON INC	4355	-(0)-			
KLINCK BROS INC	4356	-(0)-			
DONALD H CLOSE	4365	-(0)-			
EDWARD F BOSS	4366	-(0)-			
SMITH PACKING COMPANY	4372	-(0)-	-(0)-	-(0)-	
CARLSON BROTHERS MEATS INC	4373	-(0)-			
J M BOSTWICK AND SONS INC	4376	-(0)-			
ROBERT'S MIAMI CAMP	4383	-(0)-			
SIPPERLY BROS INC-MAIN PROCESSORS INC	4384	-(0)-			
MESSLE BROTHERS MEATS	4387	-(0)-			
WALLKILL CORRECTIONAL FACILITY	4410	-(0)-			
MAPLE HILL CORRECTIONAL FACILITY	4416	-(0)-			
FIORENTINO BROS MEAT PROCESSORS	4418	-(0)-			
L & C MEATS COMPANY	4421	-(0)-			
LOUIS A IVES	4422	-(0)-			
HERBERT M ALTOFF INC	4423	-(0)-			
SHAPPEE & SHEIVE MEAT PLANT	4426	-(0)-			
P BRENNAN INC	4429	-(0)-			
WILLIAM MEAT PACKING COMPANY	4430	-(0)-			
GREEN HAVEN CORRECTIONAL FACILITY	4431	-(0)-			
FRANK BROTHERS FARM INC	4463	-(0)-			
ROBERTS WHOLESALE MEATS	4468	-(0)-			
POWER CUSTOM SLAUGHTERING	4470	-(0)-	-(0)-	-(0)-	-(0)-
PACKER'S WHOLESALE MEATS	4471	-(0)-			
LUTZ PACKERS INC	4472	-(0)-	-(0)-	-(0)-	-(0)-
GREENVILLE PACKING CORPORATION	4474	-(0)-			
BRINGHURST BROS INC	4475	-(0)-	-(0)-	-(0)-	-(0)-
JOSEF MEILLER'S SLAUGHTERHOUSE INC	4476	-(0)-	-(0)-	-(0)-	-(0)-
CROGHAN MEAT MARKET INC	4480	-(0)-			
P J LEWIS	4482	-(0)-			
MARKS SLAUGHTERHOUSE	4483	-(0)-			
STEINER PACKING COMPANY INC	4486	-(0)-	-(0)-		-(0)-
VICTORIA POLYMIAK	4488	-(0)-	-(0)-		-(0)-

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 9 OF 24 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CALF	CHEEP	GOAT	SWINE
OZARK PACKING COMPANY	2986A	-(0)-			
HIGHLANDVILLE PACKING COMPANY	2987	-(0)-			
PERRY'S CUSTOM BUTCHERING	2989	-(0)-			
PEARL RIVER PACKING COMPANY INC	2990	-(0)-			
MERROD PACKING COMPANY INC	2993	-(0)-			
HOLDEN LOCKER PLANT	2993	-(0)-			
COUNTRY BUTCHER SHOP	2995	-(0)-			
CORNELL LOCKER PLANT	2995A	-(0)-			
MISSOURI STATE PENITENTIARY FOR MEN	3998	-(0)-			
GEHMAN'S QUALITY MEATS	4014	-(0)-	-(0)-		
DIETRICH'S COUNTRY MEATS PACKING	4022	-(0)-			
HOPKINS FARMS	4025	-(0)-			
MOST ACRES FARMS QUALITY MEATS	4034	-(0)-			
CLARENCE W CRAMER	4043	-(0)-			
FARMLAND MEATS	4049	-(0)-			
LOCKE PACKING COMPANY	4055	-(0)-			
THE DEVEREUX FOUNDATION FARM	4065	-(0)-			
TALONE PACKING COMPANY	4152	-(0)-			
UPLAND PACKING COMPANY	4165	-(0)-			
TIMPTON MEAT SERVICE INC	4202	-(0)-			
TINY'S MEATS	4211	-(0)-			
VALLEY MEATS INC	4212	-(0)-			
HAMARDEN OF IOWA INC	4216	-(0)-			
PAUL WERMER DUAL MEAT PROCESSING	4220	-(0)-			
WEBSTER CITY CUSTOM MEATS INC	4245	-(0)-			
JOE PAGLUSO & BROS INC	4253	-(0)-			
SCHNEIDER SONS MARKET INC	4254	-(0)-			
LAKE VIEW PACKING CO	4261	-(0)-			
POOK'S WHOLESALE MEATS INC	4285	-(0)-			
STATE UNIV OF NEW YORK AGRI & TECH COLLEGE	4340	-(0)-			
JIM SIMONI'S MEATS	4346	-(0)-			
S & S SLAUGHTERHOUSE	4350	-(0)-			
P & L SON INC	4355	-(0)-			
KLINCK BROS INC	4356	-(0)-			
DONALD H CLOSE	4365	-(0)-			
EDWARD F BOSS	4366	-(0)-			
SMITH PACKING COMPANY	4372	-(0)-	-(0)-	-(0)-	
CARLSON BROTHERS MEATS INC	4373	-(0)-			
J M BOSTWICK AND SONS INC	4376	-(0)-			
ROBERT'S MIAMI CAMP	4383	-(0)-			
SIPPERLY BROS INC-MAIN PROCESSORS INC	4384	-(0)-			
MESSLE BROTHERS MEATS	4387	-(0)-			
WALLKILL CORRECTIONAL FACILITY	4410	-(0)-			
MAPLE HILL CORRECTIONAL FACILITY	4416	-(0)-			
FIORENTINO BROS MEAT PROCESSORS	4418	-(0)-			
L & C MEATS COMPANY	4421	-(0)-			
LOUIS A IVES	4422	-(0)-			
HERBERT M ALTOFF INC	4423	-(0)-			
SHAPPEE & SHEIVE MEAT PLANT	4426	-(0)-			
P BRENNAN INC	4429	-(0)-			
WILLIAM MEAT PACKING COMPANY	4430	-(0)-			
GREEN HAVEN CORRECTIONAL FACILITY	4431	-(0)-			
FRANK BROTHERS FARM INC	4463	-(0)-			
ROBERTS WHOLESALE MEATS	4468	-(0)-			
POWER CUSTOM SLAUGHTERING	4470	-(0)-	-(0)-	-(0)-	-(0)-
PACKER'S WHOLESALE MEATS	4471	-(0)-			
LUTZ PACKERS INC	4472	-(0)-	-(0)-	-(0)-	-(0)-
GREENVILLE PACKING CORPORATION	4474	-(0)-			
BRINGHURST BROS INC	4475	-(0)-	-(0)-	-(0)-	-(0)-
JOSEF MEILLER'S SLAUGHTERHOUSE INC	4476	-(0)-	-(0)-	-(0)-	-(0)-
CROGHAN MEAT MARKET INC	4480	-(0)-			
P J LEWIS	4482	-(0)-			
MARKS SLAUGHTERHOUSE	4483	-(0)-			
STEINER PACKING COMPANY INC	4486	-(0)-	-(0)-		-(0)-
VICTORIA POLYMIAK	4488	-(0)-	-(0)-		-(0)-

V 4216 6 AUG 26 77 UMI

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 12 OF 24 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CAT. LEP.	CAT. SEN.	GOAT	SWINE	EQUINE
LUMSKY LOCKER	5788		-(0)			
SEALTH MEAT COMPANY	5791		-(0)		-(0)	-(0)
PARIS LOCKER & ABATTOIR	5795		-(0)		-(0)	-(0)
AREND PACKING COMPANY	5797		-(0)			
GOLDEN VALLEY SLAUGHTER INC	5798		-(0)			
HERB LOCKER & SLAUGHTER INC	5811		-(0)			-(0)
CENTRAL FOODS INC	5813		-(0)			
HEMLETT WHOLESALE MEATS	5824		-(0)			
SIOUX PORK PACKING COMPANY	5537					-(0)
JOHN PETERSEN PACKING COMPANY	5561		-(0)			
IOLA MEAT PROCESSORS INC	5555		-(0)			
MOTT'S FOOD LOCKERS ABATTOIR	5821		-(0)			
SIKESTON SLAUGHTERHOUSE	5824		-(0)			
THE FANESTIL PACKING COMPANY INC	5562		-(0)			
HAVILAND BEEF PACKING COMPANY INC	5565		-(0)			-(0)
TAMPA MEAT PACKING CO INC	5568		-(0)			
STANKO PACKING COMPANY	5572		-(0)			
BUTCHERS INC	5575		-(0)			-(0)
KEEN KUT PRODUCTS INC	5601		-(0)			-(0)
HERMAN THE GERMAN SLAUGHTERHOUSE	5602		-(0)			
ELLIOTT FOOD PRODUCTS INC	5608		-(0)			-(0)
ORO COLO STORAGE	5610		-(0)			-(0)
THE JIMMY DEAN MEAT COMPANY INC	5612		-(0)			-(0)
OTTE PACKING	5635					-(0)
E & E MEATS PROCESSING	5639		-(0)			-(0)
J & S SAUSAGE COMPANY INC	5640		-(0)			-(0)
PETERSON'S LOCKERS INC	5641		-(0)			-(0)
TATUM'S PROCESSING PLANT	5649		-(0)			-(0)
CUSTOM PACK INC	5650		-(0)			
MARTY MEAT CUT	5652		-(0)			-(0)
VERLING LOCKER	5654		-(0)			-(0)
BELINDE'S LOCKER PLANT	5656		-(0)			-(0)
EPLER MERCANTILE COMPANY	5655		-(0)			-(0)
EDWARDS MEAT CENTER	5656		-(0)			-(0)
TRAUTMAN'S MEAT CENTER	5658		-(0)			-(0)
UNIV OF NEBRASKA LOEFFEL MEAT LABORATORY	5660		-(0)			
BUTLER'S BEEF ACRES	5662		-(0)			-(0)
PETERSBURG PACKING COMPANY INC	5670		-(0)			-(0)
YOST PACK INC	5673		-(0)			-(0)
HOLLSTEIN PACKING COMPANY	5770		-(0)			-(0)
HASTE PACKING COMPANY	5772		-(0)			-(0)
HARRIS'S SLAUGHTERING & PROCESSING	5775		-(0)			-(0)
PRIGIO FOOD SERVICE INC	5776		-(0)			-(0)
UNIVERSITY OF MISSOURI FS & N DEPT	5777		-(0)			-(0)
SPRAGUE SLAUGHTER HOUSE	5779		-(0)			-(0)
SPRAGUE BEEF PACKING	5781		-(0)			-(0)
THE BEEF PLACE INC	5782		-(0)			-(0)

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 14 OF 24 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CAT. LEP.	CAT. SEN.	GOAT	SWINE	EQUINE
YAUCO MUNICIPAL GOVERNMENT	6378		-(0)			
MANATI SLAUGHTER HOUSE	6379		-(0)		-(0)	-(0)
MUNICIPAL SLAUGHTER HOUSE	6380		-(0)		-(0)	
MUNICIPALITY OF MIEQUES	6381		-(0)			
AGROPECUARIA DEL SUR INC	6382		-(0)		-(0)	
NAGUABO REGIONAL ABATTOIR	6384		-(0)		-(0)	
SAN SEBASTIAN ABATTOIR	6387		-(0)		-(0)	
LARES SLAUGHTERING HOUSE	6389		-(0)		-(0)	
PELL CITY MEAT PROCESSING	6728		-(0)		-(0)	
PROVIMI DE PUERTO RICO INC	6729		-(0)			
MUNICIPAL SLAUGHTER HOUSE INC	6750		-(0)			
PRIMO MEAT COMPANY	6758		-(0)		-(0)	
STAR MEAT COMPANY	6760		-(0)			
WALTER PACKING INC	6786		-(0)			
HELTON & COMPANY	6775		-(0)			
HELTON & COMPANY INCORPORATED	6777		-(0)			
THE ROSE ABATTOIR COMPANY	6785		-(0)		-(0)	
BERGMAN MEAT PACKING COMPANY INC	6788		-(0)			
ELLIS MEATS INC	6792		-(0)			
EVANS FARMS	6793		-(0)			
UTICA PACKING COMPANY	6832		-(0)			
COLUMBIA PACKING COMPANY INC	6853		-(0)			
MEMPHIS PACKING COMPANY	6863		-(0)			
NEMETZ PACKING COMPANY	6866		-(0)			
MITCH PACKING COMPANY INC	6887		-(0)			
MILLER PROCESSING COMPANY INC	6889		-(0)			
CAMPBELL SAUSAGE COMPANY	6893		-(0)			
ROCKVILLE PACKING COMPANY INC	6910		-(0)		-(0)	
ECKERTS INC	6911		-(0)			
MEATSCORP FOODS INC	6920		-(0)		-(0)	
THE CUYAHOGA MEAT COMPANY	6957		-(0)			
ABE MAY PACKING COMPANY	6963		-(0)			
SELECTED MEATS	6979		-(0)			
KUHLMAN PACKING CO	6982		-(0)			
JUDSON PACKING INC	6992		-(0)			
PURDUE UNIVERSITY MEAT SCIENCE LABORATORY	6999		-(0)			
SCHWARTZMAN PACKING COMPANY	7003		-(0)			
SCHWARTZMAN MEAT PACKING COMPANY	7007		-(0)			
CATTLEMENS MEAT PACKING COMPANY	7005		-(0)			
JIMMY DEAN MEAT COMPANY INC	7012		-(0)			
HUNTSVILLE PACKING COMPANY INC	7015		-(0)			
WESTERN MEAT PACKERS INC	7028					
SIXTY-SIX PACKING COMPANY	7021		-(0)			
RALPH A PACKING COMPANY	7040					
RALPH A PACKING COMPANY INC	7041		-(0)			
CRONS MEAT COMPANY	7054		-(0)			
ROCKING V BEEF INC	7055		-(0)			
BROWNS MEAT LOCKER	7056		-(0)			
TEAPAK INC	7057		-(0)			
BROWN PACKING COMPANY INC	7064		-(0)			-(0)
RUNYAN PACKING COMPANY	7065		-(0)			
PARKS SAUSAGE COMPANY	7074		-(0)			
COMMUNITY ABATTOIR INC	7076		-(0)			
HUGHSON MEAT COMPANY INC	7080		-(0)			
CLENNIN MEATS	7090		-(0)			
TUCKER PACKING	7097		-(0)			
E-TEX PACKING COMPANY	7122		-(0)			
ROSEVILLE PACKING COMPANY	7127		-(0)		-(0)	
FELICIANA MEAT SUPPLY	7128		-(0)		-(0)	
WESTERN SLAUGHTERING SERVICES	7130		-(0)		-(0)	
WICKHAM PACKING COMPANY INC	7139		-(0)		-(0)	

V 4216 6 AUG 26 77 UMI

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 16 OF 24 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CAT	SLEEP	GOAT	SWINE	CATTLE
A & B PACKING COMPANY	7611			(●)		
ARMOUR PACKING COMPANY	7610			(●)		
DON MCDONELL MAT PACKING COMPANY	7152			(●)		
SOUTHERN MEAT PACKERS INC	7157					
BAUER & SON PACKING COMPANY	7159			(●)		
BAUER & SON PACKING COMPANY	7158			(●)		
ALL-STATE PACKING COMPANY	7193			(●)		
SHALOUP PACKING COMPANY INC	7201			(●)		
CONCHO PACKING COMPANY	7209			(●)		
PRIVETT PACKING COMPANY	7214			(●)		
TEXAS MEAT PACKERS INC	7235			(●)		
AMERICAN MEAT PACKERS	7237			(●)		
AMERICAN PACKING COMPANY INC	7238			(●)		
CHAMPION MEAT COMPANY	7255			(●)		
H & H PRODUCTS COMPANY INC	7259			(●)		
ROBERTS PACKING COMPANY	7270			(●)		
HOBSONS MEATS SLAUGHTER & PROCESSING	7274			(●)		
PALACE MEAT PACKING	7275			(●)		
PALO DURO MEAT PROCESSING INC	7282			(●)		
BAER PACKING COMPANY	7286			(●)		
MONTGOMERY PACKING COMPANY	7283			(●)		
KENTUCKY SAUSAGE COMPANY INC	7300			(●)		
DUFFY BONELESS BEEF COMPANY	7301			(●)		
EMPIRE BEEF COMPANY	7304			(●)		
ENTERPRISE MEAT COMPANY INC	7306			(●)		
CHEROKEE PACKING COMPANY	7319			(●)		
OLE SALEM PACKING COMPANY	7323			(●)		
MC-BAR PACKING	7326			(●)		
JEFFERSON MEAT PROCESSING	7330			(●)		
OVER & WITSON	7343			(●)		
ILLINI BEEF PACKERS INC	7345			(●)		
PEOPLES MEAT COMPANY	7346			(●)		
J-F-J PROCESSORS	7371			(●)		
ST THOMAS ABATTOIR	7385			(●)		
SAN GERMAN SLAUGHTERHOUSE	7386			(●)		
CARIBBEAN MEAT PACKERS	7387			(●)		
ANDRES F PEREZ GRESPO SLAUGHTERHOUSE	7388			(●)		
MACELO DE AIBONITO	7390			(●)		
COLEMAN SAUSAGE COMPANY	7401					
COLLEGE STATION MEAT COMPANY	7404			(●)		
HARRISONBURG WHOLESALE MEAT COMPANY	7406			(●)		
FARMERS WHOLESALE PRODUCTS	7425			(●)		
HAMPTON'S MEATS	7429			(●)		
SAN ANTONIO SLAUGHTERING	7430			(●)		
DINNER BELL MEAT PRODUCTS	7432			(●)		
BLUE RIDGE BEEF PLANT INC	7445			(●)		
BLUE RIDGE BEEF PLANT INC	7445A			(●)		
MILLER PACKING COMPANY	7455					
F B PURNELL SAUSAGE COMPANY INC	7466					
DIAMOND MEAT COMPANY INC	7465					
HOLMES MEAT MARKET	7466			(●)		
FELTON PACKING COMPANY	7467			(●)		
M E R CUSTOM SLAUGHTERING	7472			(●)		
BRUNSWICK SAUSAGE COMPANY	7475					
TENNESSEE PACKERS & PROCESSORS	7482			(●)		
D W LANCE MEAT PRODUCTS COMPANY	7486			(●)		
OSALMAN ENTERPRISES INC	7562			(●)		
GARTNER-HARF COMPANY	7576			(●)		
OLDE SALEM MEAT COMPANY	7600			(●)		
ABERCROMBIE MEAT PROCESSING COMPANY	7601			(●)		
M & M BEEF PACKERS	7602			(●)		
MISSOURI VALLEY MEAT COMPANY	7604			(●)		
CEDAR RIDGE MEAT SERVICE	7607			(●)		
HOPE LOCKER PLANT	7609			(●)		

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 17 OF 24 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CAT	SLEEP	GOAT	SWINE	CATTLE
BURNETT'S SLAUGHTER PLANT	7908			(●)		
PARKER'S SAUSAGE COMPANY	7930			(●)		
ELM HILL MEATS INC	7936			(●)		
KOCH BEEF COMPANY	7937			(●)		
MUD CREEK MEAT PRODUCTION	7944			(●)		
CHARLES J SCHMIOT & COMPANY	7945			(●)		
DREHER PACKING COMPANY	7957					
LOUISVILLE BEEF CORPORATION	7969			(●)		
KLEIN MEAT PRODUCTS	7993			(●)		
METZGER BROTHERS	8003			(●)		
MOMER & DENNIS JEANES MEAT PROCESSING PLANT	8030			(●)		
UNIVERSITY OF KENTUCKY MEAT LABORATORY	8033					
KEARNEY PACKING	8022			(●)		
COUNTRY CORNER MEAT CENTER	8024					
INTERRELATED INDUSTRIES INC	8025			(●)		
BOURBON PACKING COMPANY	8027			(●)		
BOURBON PACKING COMPANY PLANT	8028			(●)		
BILL WHEELER SLAUGHTER HOUSE	8031			(●)		
HARRY ROSS PACKING COMPANY	8042			(●)		
GARRETT'S PROCESSING COMPANY	8049			(●)		
MEATS PACKERS INC	8054			(●)		
HUGHES MARKET PACKING	8055			(●)		
GRISSOM'S PROCESSED MEAT	8056			(●)		
JUENGLING COMMODITIES CORPORATION	8050			(●)		
KANSAS BEEF PACKERS INC	8062			(●)		
LORETTO MEAT COMPANY	8066			(●)		
GRIBBLE'S PROCESSING	8060			(●)		
BILLS MEAT BLOCK PROCESSING PLANT	8068			(●)		
BOONE'S BUTCHER SHOP	8072			(●)		
BOONE'S SLAUGHTER HOUSE	8073			(●)		
GREGORY SLAUGHTER HOUSE INC	808			(●)		
ELMORE & PAYNE PACKING COMPANY INC	808			(●)		
LEWIS MEATS INC	8095			(●)		
TEXAS MEATS COMPANY	8115			(●)		
IGNACIO FOOD STORE INC	8122			(●)		
STEAMBOAT PACKING COMPANY	8124			(●)		
BEACH PACKING COMPANY-PROCESSING INC	812			(●)		
BRONXDALE MEAT SERVICE INC	813			(●)		
SOL'S PACKING	815			(●)		
SIMPANZERA COMPANY	8271			(●)		
FALCON WHOLESALE MEAT	8310			(●)		
FULLER SLAUGHTER PLANT	8312			(●)		
FORTENBERRY SAUSAGE COMPANY	8313			(●)		
SAUSAGE KITCHEN SAUSAGE COMPANY INC	8314			(●)		
WADE AUSMUS SAUSAGE	8315			(●)		
HERRON PACKING COMPANY	8316			(●)		
LINDO PACKING COMPANY	831			(●)		
SELL MEAT COMPANY INC	8320			(●)		
WADE BULLA SLAUGHTER HOUSE	8321			(●)		
MADISON PACKING COMPANY	8322			(●)		
WESTERN MEAT PROCESSING	8327			(●)		
B & B PACKING COMPANY INC	8328			(●)		
Q R S MEAT COMPANY INC	8332			(●)		
GOOD DAY MEAT PRODUCTS	8334			(●)		
CUSTOM PACKING INTERNATIONAL	8332			(●)		
HOLLAND & DODSON SLAUGHTER & PROCESSING	8335			(●)		
CITY PACKING COMPANY	8339			(●)		
CITY PACKING PLANT	8341			(●)		
SOUTH PRODUCTS INC	8342			(●)		
EMORY RIVER PROCESSING COMPANY	8346			(●)		
R G GUNNOE FARMS INC	8353			(●)		
TURNER FARM MEAT PROCESSING	8392			(●)		
ROBINSON SAUSAGE COMPANY	8401			(●)		
	8109			(●)		

V 42166 AUG 26 77 UMI

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 19 OF 24 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
OYLER'S LOCKER SERVICE	8706	-(•)				-(•)	
NOVINGER FOOD LOCKER	8707	-(•)				-(•)	
HALE LOCKER PLANT	8710	-(•)					
ELMERS PLACE	8714	-(•)					
WENTZVILLE CATTLE INVESTMENT COMPANY	8715	-(•)	-(•)	-(•)	-(•)		
BOUCHART PACKING COMPANY	8716	-(•)				-(•)	
KELLER PROCESSING SERVICE	8717	-(•)				-(•)	
GROVES PACKING COMPANY	8724	-(•)				-(•)	
GOLDEN CITY MEAT COMPANY	8725	-(•)				-(•)	
ALMA COOP LOCKER ASSN	8728	-(•)				-(•)	
BOONER PACKING COMPANY INC	8729	-(•)	-(•)			-(•)	
LEWISTOWN LOCKER SERVICE	8730	-(•)				-(•)	
UPTOWN SLAUGHTER HOUSE	8731	-(•)				-(•)	
PLEASANT HILL MEAT COMPANY	8734	-(•)					
MAUPIN PROCESSING PLANT	8735	-(•)					
ADRIAN MEATS	8737	-(•)				-(•)	
STONYHILL MEAT	8738	-(•)				-(•)	
BAKER PACKING COMPANY	8743	-(•)				-(•)	
SCHOOL OF THE OZARKS	8745	-(•)					
GLASGOW LOCKER PLANT	8747	-(•)				-(•)	
HAMILTON LOCKER	8748	-(•)				-(•)	
THERIAULT'S ABATTOIR INC	8772	-(•)					
CLARK PACKING COMPANY	8799					-(•)	
IRELL PORK COMPANY INC	8850	-(•)	-(•)				
AMFRAN PACKING COMPANY INC	E 8861						-(•)
OXFORD ABATTOIR	8866	-(•)					
JOHN F MARTIN & SONS INC	8888	-(•)	-(•)	-(•)		-(•)	
W DOVER BUTCHER SHOP	8892	-(•)	-(•)	-(•)			
GREGGWOOD FARM	8901					-(•)	
ERDMAN SUPERMARKETS INC	8905	-(•)					
MCDONALD'S FOOD MARKET	8915	-(•)				-(•)	
ST JOSEPH MEAT MARKET INC	8916	-(•)	-(•)			-(•)	
FROZ-N-FOODS COMPANY	8917	-(•)				-(•)	
GORDHAMER FOOD MARKET	8920	-(•)					
RUCK'S MEAT PROCESSING CENTER INC	8921	-(•)				-(•)	
THOMPSON PROCESSING SERVICE	8922	-(•)	-(•)				
IMDIEKE'S MEATS	8927	-(•)				-(•)	
RAPIDS LOCKER	8928	-(•)			-(•)	-(•)	
PLANTENBERG MARKET INC	8931	-(•)				-(•)	
KETTERS MEATS	8937	-(•)	-(•)	-(•)		-(•)	
CARLSON MEAT PROCESSING INC	8948	-(•)					
DAVE & TED'S LOCKERS	8950	-(•)			-(•)	-(•)	
FERGUS LOCKER PLANT	8952	-(•)				-(•)	
LAKELAND MEATS INC	8953	-(•)					
SPIKES LOCKERS	8954	-(•)					
HERGES MEAT MARKET INC	8959	-(•)					
CITY MEAT MARKET	8960	-(•)	-(•)			-(•)	
NEW MUNICH LOCKER PLANT	8961	-(•)				-(•)	
PETER'S FOOD MARKET	8963	-(•)				-(•)	
FORSTER PACKING COMPANY INC	8966	-(•)	-(•)	-(•)		-(•)	
PARROT MARKET INC	8968	-(•)				-(•)	
DREWES FROZEN FOOD CENTER	8971	-(•)				-(•)	
FOSSTON CO-OP ASSN LOCKER DEPT	8974	-(•)	-(•)			-(•)	
CITY MEAT MARKET	8975	-(•)					
LYNCH'S FOODS	8976	-(•)					
GENEVA MEATS & PROCESSING SERVICE	8979	-(•)					
GREENWALD LOCKER PLANT	8982	-(•)					
DELFT BLUE-PROVIMI INC	8984		-(•)				
JOPPRU INC	8986	-(•)				-(•)	
WIDBOOM MEAT SERVICE	8989	-(•)				-(•)	
COUNTRY SIDE MEATS	9003	-(•)		-(•)	-(•)		
CALIFORNIA STATE UNIV MEAT LABORATORY	9004	-(•)	-(•)				
JOHANSEN'S MEAT MARKET	9008	-(•)		-(•)			
MOXON'S GOLD STAR MEAT	9024	-(•)				-(•)	
SWINGLE MEAT COMPANY	9032	-(•)				-(•)	
MERIDIAN MEAT COMPANY	9033	-(•)	-(•)	-(•)	-(•)	-(•)	
THOS G EVART MEAT COMPANY	9049	-(•)	-(•)	-(•)	-(•)	-(•)	
MOOOG MEAT PACKERS	9053	-(•)		-(•)		-(•)	

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 20 OF 24 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
WAMPLER WHOLESALE MEATS INC	9065	-(•)				-(•)	
SMITH'S MEAT PROCESSING COMPANY	9073	-(•)		-(•)		-(•)	
SNOW HILL PROCESSING PLANT	9075	-(•)				-(•)	
GOLD KIST INC	9084	-(•)				-(•)	
SNAPPS FERRY PROCESSING COMPANY	9085	-(•)				-(•)	
W R DECOSTER SAUSAGE COMPANY	9086	-(•)				-(•)	
CELINA PACKING COMPANY	9091	-(•)				-(•)	
LAUDERDALE FARMS COMPANY	9095					-(•)	
NEWBERRY PACKING COMPANY	E 9105						-(•)
BLAIR MEAT PACKING COMPANY	9107	-(•)				-(•)	
CAUDELL'S MEAT PROCESSING COMPANY	9108	-(•)				-(•)	
ELLIOTT & SONS	9111	-(•)				-(•)	
VOLUNTEER MEAT PROCESSORS INC	9129	-(•)				-(•)	
JACKSON PACKING COMPANY	9133	-(•)				-(•)	
THE BUTCHER SHOP	9131					-(•)	
JUSTICE PACKING COMPANY	9136	-(•)					
SOWEGA MEAT COMPANY	9142	-(•)				-(•)	
SOUTHERN ABATTOIR MEAT SUPPLY COMPANY	9143	-(•)					
MICKEY'S MEATS	9144	-(•)					
BILL OPELL'S MEAT PROCESSING	9148	-(•)					
MCLENDON MEAT COMPANY	9159	-(•)		-(•)		-(•)	
SCOTT MEAT PACKERS INC	9160	-(•)	-(•)			-(•)	
SHULL SAUSAGE COMPANY INC	9161					-(•)	
LAKEVIEW PACKING COMPANY	9166	-(•)				-(•)	
TENN FRONTIER MEATS	9173	-(•)	-(•)			-(•)	
PASTURES INC	E 9174						-(•)
CATTLEMAN PACKING COMPANY	9177	-(•)				-(•)	
CARROLL PACKING COMPANY	9185	-(•)				-(•)	
PARIS MEAT PROCESSING COMPANY	9187	-(•)				-(•)	
FARM FRESH MEATS INC	9189	-(•)				-(•)	
CLEATT-WELLS COUNTRY STYLE WHOLE HOG SAUSAGE	9190					-(•)	
UNIVERSITY OF TENNESSE MEAT LABORATORY	9193					-(•)	
SOUTHEASTERN MEAT PROCESSING	9196	-(•)					
HILL MEAT COMPANY INC	9201	-(•)				-(•)	
DELTA MEAT INC	9209	-(•)		-(•)		-(•)	
SANTIAM MEAT PACKERS	9220	-(•)		-(•)	-(•)	-(•)	
OREGON STATE UNIV MEAT SCIENCE LABORATORY	9223	-(•)				-(•)	
CARLTON PACKING COMPANY	9228	-(•)	-(•)	-(•)		-(•)	
DAYTON MEAT COMPANY	9230	-(•)		-(•)		-(•)	
HABERMANS MEAT SERVICE	9232	-(•)				-(•)	
STAFFORD'S MEATS	9233	-(•)				-(•)	
JACOBSMUHLENS MEATS	9234	-(•)					
A & B MEAT PACKING	9239	-(•)				-(•)	
POPE'S MERRILL MEAT COMPANY	9240	-(•)		-(•)		-(•)	
PONDEROSA PACKING & PURVEYORS	9242	-(•)				-(•)	
FARMER PACKING COMPANY	9243	-(•)				-(•)	
BOYER MEAT COMPANY	9246	-(•)	-(•)	-(•)		-(•)	
BROMAN PACKING COMPANY	9249	-(•)		-(•)		-(•)	
GREENE MEAT COMPANY	9251	-(•)	-(•)	-(•)		-(•)	
MOHAWK PACKING COMPANY	9252	-(•)		-(•)		-(•)	
SPRINGFIELD SLAUGHTER PLANT	9256	-(•)				-(•)	
MICKMAN'S MEATS	9257	-(•)					
MOLALLA MEATS	9263	-(•)		-(•)	-(•)	-(•)	
LEE MEAT COMPANY	9264	-(•)		-(•)		-(•)	
MARKS MEAT COMPANY	9265	-(•)			-(•)		
IOWA BEEF PROCESSORS INC	9268	-(•)					
MT ANGEL MEAT COMPANY	9270	-(•)			-(•)		
OREGON STATE PENITENTIARY ANNEX	9272	-(•)					
BAKER'S CUSTOM MEAT COMPANY	9273	-(•)			-(•)	-(•)	
MC KILLIP BROTHERS MEAT	9274	-(•)				-(•)	
BOSTON'S BEEF HOUSE INC	9275	-(•)					
HOPKINS WHOLESALE MEATS	9277	-(•)					
JOHN DAY VALLEY PACKING COMPANY	9286	-(•)			-(•)		
O & L MEAT COMPANY	9287	-(•)			-(•)		
WILDER MEAT COMPANY	9289	-(•)					
CROOKED RIVER MEAT COMPANY	9291	-(•)					
OWYHEE MEAT COMPANY	9296	-(•)					
RIGGS MEATS INC	9296	-(•)			-(•)		

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 21 OF 24 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
WALT'S CUSTOM SLAUGTERING	9300	-(•)					
TERRY BROS INC	9315	-(•)	-(•)	-(•)			
VERNS MOSES LAKE MEATS	9318	-(•)				-(•)	
CURCIO'S MEAT COMPANY	9319	-(•)					
WASHINGTON STATE UNIV MEAT SCIENCE LAB	9322	-(•)				-(•)	
PONDIS PACKING & CATTLE COMPANY	9324	-(•)				-(•)	
LAMPAERT MEATS	9325	-(•)	-(•)			-(•)	
OWENS PACKING COMPANY	9331	-(•)	-(•)				
COLVILLE MEAT PROCESSORS	9336	-(•)				-(•)	
MC INRAY MEAT COMPANY	9335	-(•)					
WENATCHEE PACKING COMPANY	9338	-(•)	-(•)			-(•)	
MIDWAY MEATS	9347	-(•)	-(•)			-(•)	
OWIGHT GORDON	9351	-(•)					
FAIR VIEW FARM	9353	-(•)		-(•)		-(•)	
AUDOLPH MANUCA	9357		-(•)	-(•)			
HARVEY E OELP	9359	-(•)	-(•)			-(•)	
BALTHASER'S MEAT MARKET	9360	-(•)				-(•)	
MERVIN F MOYER	9363	-(•)					
GRETTLER MEAT PACKERS	9366	-(•)	-(•)			-(•)	
ALLENS MILLS FRESH MEATS	9367	-(•)		-(•)		-(•)	
MIKE IRLE MEAT	9368	-(•)					
ALEX PROEHLICH PACKING COMPANY	9369	-(•)	-(•)	-(•)		-(•)	
J T BARTON	9371	-(•)		-(•)		-(•)	
HUTZABAUGH SLAUGHTER HOUSE	9372	-(•)	-(•)	-(•)			
H L PEACHEY JR	9373	-(•)		-(•)			
GREGORY'S TROY MEAT PROCESSING COMPANY	9374	-(•)		-(•)		-(•)	
STOCKDALE MEAT & PROVISION	9375	-(•)				-(•)	
WILLIAMSON'S WHOLESALE MEATS INC	9376	-(•)				-(•)	
HENNINGER'S MEAT MARKET	9377	-(•)		-(•)		-(•)	
BIERLY MEAT MARKET	9380	-(•)		-(•)		-(•)	
ELMO MANIERI	9381	-(•)	-(•)	-(•)	-(•)		
MIKE'S PACKING COMPANY	9382	-(•)		-(•)			
WARRINGTON MEAT PACKING COMPANY INC	9386					-(•)	
GREEN VALLEY PACKING COMPANY	9385			-(•)		-(•)	
ADAM BUTZ JR	9389	-(•)	-(•)				
SHAW BROS INC	9390	-(•)	-(•)			-(•)	
DIXON'S MEATS	9398	-(•)		-(•)		-(•)	
BRISTOL BEEF COMPANY INC	9399	-(•)	-(•)	-(•)	-(•)		
J V TAYLOR INC	9400	-(•)					
BATTLES MEAT PROCESSING PLANT	9401	-(•)				-(•)	
JOE DEFELICE & SONS	9402	-(•)		-(•)		-(•)	
GILLO BROS	9403	-(•)				-(•)	
T P CUNNINGHAM MEATS	9410	-(•)	-(•)			-(•)	
SHUPES HOME DRESSED MEATS	9413	-(•)		-(•)		-(•)	
GINO GIULIANI	9414	-(•)				-(•)	
EDWARD GALVANEK & SONS	9415	-(•)				-(•)	
FRANCONIA MEATS INC	9417	-(•)	-(•)			-(•)	
LOVE WELLS COUNTRY MARKET	9419	-(•)				-(•)	
RICCI'S MEAT MARKET	9420	-(•)				-(•)	
KVERAGAS MEAT PLANT	9422	-(•)				-(•)	
STEELY MEATS	9423	-(•)	-(•)			-(•)	
BEN'S MEAT MARKET	9425	-(•)		-(•)		-(•)	
ZECHMAN BUTCHER SHOP	9430	-(•)	-(•)			-(•)	
EDWARDS BROS PACKING COMPANY	9431	-(•)				-(•)	
YAMBROVICH MEATS	9435	-(•)	-(•)	-(•)		-(•)	
RUPERT'S BUTCHER SHOP	9437	-(•)					
THREE SONS MEAT MARKET	9438	-(•)	-(•)				
BURKHOLDER'S MEAT MARKET	9440	-(•)					
GROFF'S MEATS	9442	-(•)	-(•)			-(•)	
KREISL COMPANY INC	9444	-(•)				-(•)	
SMITH'S SUPER MARKET INC	9445	-(•)	-(•)	-(•)		-(•)	
GRELL'S BUTCHER SHOP	9448	-(•)					
GEORGE N BYERLY	9450	-(•)				-(•)	
SHAMOKIN PACKING COMPANY	9451	-(•)	-(•)			-(•)	
GIORDANO SAUSAGE	9456		-(•)	-(•)		-(•)	
RENDULIC PACKING COMPANY	9457						
ARTHUR B WENGER	9459	-(•)					
R E HERSHEY INC	9464	-(•)					

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 22 OF 24 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
HERFURTH BROS MEAT COMPANY	9465	-(•)				-(•)	
MYERS BROTHERS	9469	-(•)	-(•)	-(•)		-(•)	
RANCK'S MEAT MARKET	9473	-(•)		-(•)			
U S PENITENTIARY	9474	-(•)				-(•)	
E B HOSTOFFER & SONS	9480	-(•)	-(•)	-(•)		-(•)	
ESPEY'S MEAT MARKET	9482	-(•)		-(•)		-(•)	
R V WANTZ & SONS	9483					-(•)	
WALTER Z DILLON	9484	-(•)					
WALTER J MILLER	9487	-(•)					
WERRY PROVISION	9489	-(•)		-(•)		-(•)	
CHRISTMAN & FOX	9494	-(•)				-(•)	
NAGE'S QUALITY MEATS	9496	-(•)					
THORNTON MEATS	9497	-(•)					
INDIANA SLAUGHTERING COMPANY	9498	-(•)				-(•)	
WINDSOR MEAT MARKET	9500	-(•)		-(•)		-(•)	
STONEDRIDGE FARM BUTCHER SHOP INC	9509	-(•)	-(•)			-(•)	
FRED E SHIVELY	9511	-(•)		-(•)		-(•)	
R P HOWRY	9513		-(•)	-(•)		-(•)	
LEIDY'S INC	9520			-(•)		-(•)	
WEISS PACKING COMPANY INC	9528	-(•)	-(•)	-(•)	-(•)	-(•)	
BRIGHT BYERLY	9536	-(•)					
KEN WEAVER MEATS	9538	-(•)					
CLYDE R ALBERTSON	9540	-(•)				-(•)	
ANDERSON QUALITY MEAT MARKET	9541	-(•)	-(•)	-(•)	-(•)	-(•)	
EMERSON KNIGHT	9544	-(•)				-(•)	
EZRA W MARTIN COMPANY	9547					-(•)	
WAYNE & CHARLES NELL SLAUGHTERHOUSE	9548	-(•)	-(•)	-(•)		-(•)	
JOHN J KOHLER	9549	-(•)				-(•)	
BEACH MEAT MARKET	9550	-(•)				-(•)	
STERNER'S SLAUGHTERHOUSE INC	9550	-(•)				-(•)	
C P RHOADES & SON INC	9551	-(•)	-(•)	-(•)			
FORREST O KISTLER	9561	-(•)				-(•)	
GERALD ANDERSON	9562	-(•)				-(•)	
CHARLES T HEARD & COMPANY	9567	-(•)					
PUTNAK PACKING COMPANY	9564	-(•)				-(•)	
PERRY PACKING	9566	-(•)	-(•)	-(•)	-(•)	-(•)	
PIERCE CUSTOM SLAUGHTER COMPANY	9567	-(•)	-(•)	-(•)		-(•)	
CLOVERBLOOM MARKET	9570	-(•)	-(•)	-(•)		-(•)	
STEVE FICHERA WHOLESALE MEATS	9576	-(•)	-(•)	-(•)	-(•)	-(•)	
GOULDEY & SONS INC	9577	-(•)	-(•)	-(•)		-(•)	
FALK BROTHERS	9578	-(•)	-(•)			-(•)	
O J HYNES	9579	-(•)		-(•)		-(•)	
GOURLEY PACKING COMPANY INC	9580	-(•)				-(•)	
LIVINGSTON PACKING COMPANY	9581	-(•)				-(•)	
JONES ABATTOIR	9584	-(•)				-(•)	
LOUIS KLINE INC	9589	-(•)	-(•)	-(•)		-(•)	
GEORGE'S MEATS	9590	-(•)				-(•)	
PRIM PACKING COMPANY	9592	-(•)	-(•)	-(•)		-(•)	
HAROLD A DOMB	9605	-(•)		-(•)		-(•)	
DOWNINGTOWN WHOLESALE MEATS	9606	-(•)		-(•)		-(•)	
FRANK ESPOSITO & SONS	9607	-(•)					
GOODHART MEATS	9609	-(•)		-(•)			
LUCON MEATS	9616	-(•)	-(•)	-(•)			
MOCCIO PACKING	9618	-(•)				-(•)	
GEORGE'S MEAT MARKET INC	9620	-(•)				-(•)	
CHARLES J PUGLINER	9622	-(•)	-(•)	-(•)	-(•)	-(•)	
RHODES MEAT MARKET	9623	-(•)	-(•)	-(•)	-(•)	-(•)	
STOLZFUS LOCKER & IGA FOOD MARKET	9625	-(•)				-(•)	
EBLING'S MEAT MARKET	9630	-(•)					
PIFFERETTI PACKING COMPANY	9631	-(•)		-(•)	-(•)	-(•)	
BURKHOLDER MEAT PRODUCTS	9632	-(•)		-(•)	-(•)	-(•)	
JONATHAN L KING	9633	-(•)					
TURNER FARMS INC	9634	-(•)				-(•)	
R D KELLY MEAT PACKING	9635	-(•)				-(•)	
M LEPIDI & SONS INC	9636	-(•)	-(•)	-(•)			
KRALL'S MEAT MARKET	9638	-(•)				-(•)	
P & S MEATS	9639	-(•)				-(•)	
GLEN J ROSENBERRY	9640	-(•)					

UMI

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 24 OF 24 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINES
POTTEIGER MEATS	9817	-(•)-	—(•)—	—(•)—	——	——	——
THE COUNTRY BUTCHER SHOP	9819	-(•)-	———	—(•)—	—(•)—	—(•)—	———
KEITH TAYLOR MEAT INC	9821	-(•)-	—(•)—	———	———	———	———
LAUDERMILCH MEATS	9823	-(•)-	———	—(•)—	———	———	—(•)—
PHARES A LONGENECKER & SONS INC	9827	-(•)-	———	———	———	———	—(•)—
CLOVER MEAT PACKERS INC	9828	-(•)-	———	———	———	(•)	———
MIKE LUCHMAN & SONS	9832	-(•)-	—(•)—	———	———	———	———
QUENN J BEASLEY	9834	-(•)-	———	———	———	———	———
NORMAN ZIMMERMAN & SON	9836	-(•)-	———	———	———	———	———
GEORGE E ZIMMERMAN	9837	-(•)-	———	———	———	———	———
QUENN E HENRY	9838	-(•)-	———	———	———	———	———
FRANCIS BONANNO PACKING COMPANY	9841	-(•)-	—(•)—	———	———	(•)	———
MOONEY LOBDELL PEANUT INC	9842	-(•)-	—(•)—	———	———	(•)	———
ROSS LABORATORY MEATS LABORATORY	9843	-(•)-	—(•)—	———	———	(•)	———
CHARLES YOUDT & SONS	9844	-(•)-	———	———	———	———	———
FENTONS MEATS	9846	-(•)-	———	———	———	———	———
OLINYK BROTHERS	9847	-(•)-	—(•)—	———	———	———	———
ALL GAS MEAT INC	9848	-(•)-	—(•)—	———	———	———	———
KERN COUNTY SHERIFF	9850	-(•)-	—(•)—	———	———	———	———
CALIFORNIA STATE UNIV FRESNO MEAT LABORATORY	9892	-(•)-	———(•)———	———	———	———	———
CAVALIER EXPORT COMPANY	E 9910	———	———	———	———	———	———(•)-
CORNELIUS THOMASONIC HOMES	9913	———	———	———	———	———	———
MCGUIRE MEATS	9915	———	———	———	———	———	———
DONALD M SEIDLE	9921	-(•)-	———	———	———	———	———
NEWPORT PACKING COMPANY	9926	-(•)-	———	———	———	———	———
KEITH BLAKE	9927	-(•)-	—(•)—	———	———	———	———
A WENTZEL'S MEAT MARKET	9951	-(•)-	———	———	———	———	———
SCHALLER'S SLAUGHTERHOUSE	9955	-(•)-	—(•)—	———	———	———	———
NASER PACKING COMPANY	9958	-(•)-	—(•)—	—(•)—	—(•)—	—(•)—	———
GOODMAN FARMS INC	9961	-(•)-	———	—(•)—	———	—(•)—	———
JOHN H BOWMAN & SONS	9971	-(•)-	———	———	———	—(•)—	———
AMOS BAWELL & SONS	9974	-(•)-	—(•)—	———	———	—(•)—	———

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 23 OF 24 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINES
ALBA'S MEAT MARKET	9643	-(•)-	———	———	———	———	———
MISS FORTH UNDILLA	C 9644	-(•)-	———	———	———	———	———
SOUTHEASTERN MEAT INC	9645	-(•)-	———	(•)-	-(•)-	———	———
YOST QUALITY MEATS	9646	-(•)-	—(•)—	———	———	—(•)—	———
WATSON'S HOME DRESSED MEATS	9647	-(•)-	———	———	———	—(•)—	———
BROWN'S MEAT MARKET	9658	-(•)-	———	(•)-	———	———	———
JOHNSON'S DRESSED BEEF	9668	-(•)-	———	———	———	———	———
BALDERSTON BROS	9670	-(•)-	—(•)—	———	———	—(•)—	———
PRINCE'S HOME DRESSED MEATS	9673	-(•)-	—(•)—	———	———	———	———
NEAL PIERRO MARKET	9674	-(•)-	———	—(•)—	———	—(•)—	———
CASEY MEAT PACKERS	9679	-(•)-	———	———	———	———	———
CONICK BROS MEAT PACKERS INC	9682	-(•)-	———	———	———	———	———
PAINTER'S MEAT PRODUCTS	9683	-(•)-	———	———	———	(•)	———
KECK'S MEAT PLANT	9684	-(•)-	———	———	———	———	———
FRED'S MEAT MARKET	9685	-(•)-	———	———	———	(•)	———
MARK BOWMAN MEAT MARKET	9686	-(•)-	———	———	———	(•)	———
LEE BIXLER	9687	-(•)-	———	———	———	———	———
BOYER'S MEATS	9688	-(•)-	—(•)—	———	———	(•)	———
KAUFMAN MEAT MARKET	9689	-(•)-	—(•)—	———	———	(•)	———
PLEASANT UNITY PACKING COMPANY INC	9692	-(•)-	———	———	———	(•)	———
CARL VENEZIA	9693	-(•)-	—(•)—	———	———	———	———
PAUL M SCHNECK	9695	———	———	———	———	———	———
ROBERT E LEE	9696	-(•)-	———	———	———	(•)	———
SMITH'S MEATSMAN	9697	-(•)-	———	———	———	———	———
MOLLAND BROS MEAT	9701	-(•)-	———	———	———	(•)	———
ALPERY'S SAUSAGE COMPANY INC #2	9702	-(•)-	—(•)—	———	———	(•)	———
ERIE MEAT COMPANY	9706	-(•)-	———	———	———	(•)	———
WILMER BARINGER	9707	-(•)-	———	———	———	———	———
MAGERS MEAT MARKET	9707	-(•)-	———	———	———	———	———
HANSON'S FREEZER MEATS	9711	-(•)-	—(•)—	———	———	———	———
CORPARO CUSTOM BUTCHERING	9712	-(•)-	———	———	———	(•)	———
CLOVER MEAT PACKERS INC	9713	-(•)-	———	———	———	(•)	———
THOMA'S MEAT MARKET	9714	-(•)-	———	———	———	(•)	———
DAVE FINE MEAT PACKER INC	9715	-(•)-	———	———	———	(•)	———
LOUTSION PACKING COMPANY	9716	-(•)-	———	———	—(•)—	———	———
LEE ENGLE MEAT CO INC	9717	-(•)-	———	———	———	(•)	———
AMERICAN FOODS INC	9718	-(•)-	———	———	———	(•)	———
STEALE & PACKING COMPANY	9719	-(•)-	———	———	———	———	———
SMITH'S FROZEN FOODS	9720	-(•)-	—(•)—	———	———	(•)	———
NELSON'S MEATS INC	9723	-(•)-	———	———	———	(•)	———
WALTER'S MEATS	9726	-(•)-	———	———	———	(•)	———
HILLCREST PACKING COMPANY	9742	-(•)-	—(•)—	—(•)—	—(•)—	———	———
LEMMENEY BUTCHER SHOP INC	9755	-(•)-	———	———	———	———	———
MAGNOLIA MEAT CO INC	9758	-(•)-	———	———	———	———	———
REWIG'S QUALITY MEATS INC	9759	-(•)-	———	———	———	———	———
FRANK O GILBERT & SON	9762	———	———	———	———	———	———
HEINTZELMAN'S MEAT MARKET	9763	-(•)-	———	———	———	———	———
KEITH BLAKE	9765	-(•)-	———	———	———	———	———
WILLIAM MULTSCH	9766	-(•)-	———	———	———	(•)	———
JOHN J ELNITSKI	9767	-(•)-	———	———	———	———	———
WALTER JURCZAK	9770	-(•)-	———	———	———	———	———
ALBERT CAUDILL	9776	-(•)-	———	———	———	———	———
MAYNARD CAUDILL	9777	-(•)-	—(•)—	—(•)—	—(•)—	—(•)—	———
LEONA MEATS	9784	-(•)-	———	———	—(•)—	—(•)—	———
J C B MEAT PLANT	9785	-(•)-	———	———	—(•)—	———	———
WILLIAM STEPNIAK	9786	-(•)-	———	———	———	———	———
MUSSER'S INC	9787	-(•)-	———	———	———	———	———
YOUNDT BROS	9789	-(•)-	———	———	———	———	———
C M THOMAS SONS INC	9790	-(•)-	———	———	———	———	———
ANDIS STOLTZFUS	9792	-(•)-	———	———	———	———	———
ADOLPH GOBEL INC COMPANY	9793	-(•)-	—(•)—	———	———	———	———
ALLEN I ROMBERGER	9800	———	———	———	———	———	———
PEZZNER BROTHERS INC	9808	-(•)-	———	———	———	———	———
ROOZEN'S INC	9809	-(•)-	———	———	———	———	———
MARKS MEATS MARKETS INC	9810	-(•)-	———	———	———	———	———
TWIN PINE FARM	9815	-(•)-	———	———	———	———	———
WINTER GARDENS	9816	-(•)-	—(•)—	———	—(•)—	———	———
J A MARGLEROAD & SONS	9816	-(•)-	—(•)—	———	—(•)—	———	———

Done at Washington, D.C., on August 17, 1977.

ROBERT ANGELOTTI,
Administrator, Food Safety and Quality Service.

[FR Doc.77-24368 Filed 8-25-77;8:45 am]

federal register

FRIDAY, AUGUST 26, 1977
PART VII

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

EXPORT MONITORING REPORT FOR FERTILIZERS

January–May, 1977

V 42166 AUG 26 77 7 UMI

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

EXPORT MONITORING REPORT FOR FERTILIZERS

January–May 1977

United States exports of nitrogen containing fertilizers during the months of January, February, March, April and May 1977, totaled 438,086 content tons. This represents a decrease of 9.1 percent in the export trade in these commodities from the comparable period of 1976, when 482,005 content tons were exported.

Imports of nitrogen containing fertilizers during the January through May period increased 67 percent over the import level of the comparable five months in 1976. Total U.S. imports of nitrogen containing fertilizers during January through May 1977 amounted to 970,679 content tons. This compares with imports during January through May 1976, of 579,434 content tons.

Ammonium phosphate was the nitrogen containing fertilizer material exported in the largest quantity during the five months considered in this report. In the January through May period, 1,270,783 short tons of ammonium phosphate were shipped abroad. This was an increase of 256,149 short tons, or slightly more than 25 percent, above the 1,014,634 short tons of ammonium phosphate exported during the first five months of 1976. Exports of anhydrous ammonia during the first five months of 1977, also exceeded the export level for the same period in 1976. This year, 137,226 short tons of anhydrous ammonia were exported during January through May, an increase of 12,911 short tons, or slightly more than 10 percent above the comparable five months' exports in 1976, of 124,315 short tons. Exports of all the other nitrogen containing fertilizer commodities under monitoring declined from 1976 levels. The 1977 ammonium nitrate exports of 5,849 short tons through May were 13 percent less than the 6,609 short tons shipped abroad during January through May 1976. Urea exports of 125,578 short tons for the first five months of this year, were 51 percent below the 1976 level of 256,748 short tons. Exports of mixed fertilizers totaling 87,360 short tons fell 28 percent from the previous year's level of 121,845 short tons; while ammonium sulfate exports of 138,253 short tons during the first five months of this year were 51.5 percent lower than the 285,419 short tons shipped abroad during January through May 1976.

Of the nitrogen containing fertilizer materials imported, the commodity obtained in the greatest quantity during the five months of January through May, 1977, was urea. A total of 840,123 short tons of this commodity was imported this year, an increase of 231 percent over the 253,645 short tons of urea imported during the same five months of 1976. This exceptionally large increase in urea imports may have resulted from orders placed by apprehensive buyers during the cold spell of December and January, when severe cutbacks in the production of ammonia were anticipated as the result of natural gas curtailments. Because the severe cold spell did not last beyond February, and new ammonia plant production has offset last winter's curtailed output, imports of urea may decrease to more historic levels in forthcoming months. Anhydrous ammonia was the nitrogen containing fertilizer imported in the second largest quantity in the January through May period. The 477,322 short tons of anhydrous ammonia imported during these five months represented a 152,836 short ton increase over the 324,486 short tons imported during the same five months a year earlier.

At the end of May, 1977, contracts for the export of nitrogen containing fertilizer materials through the end of 1977 were slightly less than the quantity committed for export at the end of May, 1976. In May 1977, total export contracts for nitrogenous fertilizers for the remainder of the calendar year were 151,759 content tons. In May 1976, export contracts for the rest of 1976 totaled 188,151 content tons. However, by the end of December 1977, actual total exports will undoubtedly exceed the 151,759 content tons now under contract, as spot sales, which have always constituted a large part of the export trade in these commodities, are not reflected in this contract figure.

Despite some production losses in January and February due to severe winter weather and natural gas curtailment, production during March, April and May was sufficiently above the previous year's level to raise total production of nitrogen containing fertilizer materials during the January–May period covered by this report to slightly over the total for the same five month interval a year earlier. Anhydrous ammonia production was 6,949 short tons during the first five months of 1977, whereas during the same period of 1976 it had totaled 6,863 short tons. Urea production was nearly identical in both 1976 and 1977: 1,720 short tons the first five months of this year; 1,702 short tons in 1976. During the first five months of 1977, there was a 10 percent increase in the output of ammonium nitrate over the preceding year: 3,262 short tons were produced in January–May 1977, compared to production of 2,972 short tons in the like period a year earlier. During the first five months of 1977, ammonium phosphate production also increased 13 percent over the comparable period of 1976, reaching 4,067 short tons compared to the 1976 output of 3,577 short tons.

At the end of the reporting period, it was evident that there would be an adequate world supply of nitrogen containing fertilizers during the crop year ending June 30, 1977, and based on current projections, for the next two or three crop years. About 3 million tons of new anhydrous ammonia capacity is scheduled to become operational in 1977, and, in 1978, another 2.8 million tons of capacity is scheduled to come on-line. World consumption of nitrogen for the 1976 crop year is estimated to have totaled 46.5 million tons of nutrient. While world consumption is expected to increase by about 7 percent in the coming year, production should increase by about 9 percent.

Producers' prices for anhydrous ammonia were reduced from December's level of $180–$190 per ton, to January's $120–$140 per ton, to bring the producers' prices more in line with actual transaction prices and thereby reduce severe discounting. Throughout the remaining months covered in this report, the posted producers' prices for nitrogen containing fertilizer materials remained stable. Actually, transaction prices increased slightly over the five month period. Some of this increase occurred because of fears generated by the mid-winter cold spell that natural gas curtailments, with a consequent loss of ammonia production, would persist. However, as this threat proved short-lived, transaction price increases were minor and temporary, and were never reflected in the posted producers' prices.

Tables of exports, imports, inventories, domestic production and prices follow: [1]

[1] World supply and demand data are not available on a monthly basis. More extensive data on world supply and demand than that contained herein will be included in the Semi-Annual Report to Congress on operations of the Office of Export Administration covering the period ending with the third quarter of 1977.

TABLE 1

U. S. Trade in Nitrogen Fertilizer, January 1975 - May 1977
Export Contracts for June 1977 - December 1977
In Content Tons

	Jan-Jun 1975	Jul-Dec 1975	Jan-Jun 1976	Jul-Dec 1976	Jan-May 1977	Feb 1977	Mar 1977	Apr 1977	May 1977	Jun 1977	Jul-Sep 1977	Oct-Dec 1977	Jan-Mar 1978
Imports													
Nitrogenous fertilizers In Content Tons 1/	709,546	540,412	683,661	723,325	970,679	155,154	126,381	185,814	266,099	237,231			
Exports													
Nitrogenous fertilizers In Content Tons	601,858	595,605	585,709	699,543	438,086	101,494	94,672	80,909	59,863	101,148	103,108	30,053	8,968	8,930

1/ Includes Nitrogen Solution, Nitrogenous Fert, and Ammonium Nitrate fertilizers, not listed in subsequent tables.

Source: Office of Export Administration and Bureau of the Census.

V 42166 AUG 26 77 UMI

TABLE 2
--U.S. Exports of Fertilizers Containing Nitrogen, January 1975 - May, 1977
--Export Contracts for June 1977 - December 1977
(In short tons)

EXPORTS

Commodity	Jan-Jun 1975	Jul-Dec 1975	Jan-Jun 1976	Jul-Dec 1976	Jan-May 1977	Jun 1977	Feb 1977	Mar 1977	Apr 1977	May 1977
Anhydrous Ammonia 1/	200,236	99,492	173,919	262,752	137,226	37,453	30,212	764	21,192	47,605
Urea	272,457	224,653	205,871	235,924	127,[illegible]8	17,[illegible]4	27,303	48,379	18,851	13,911
Ammonium Nitrate	14,189	31,847	8,063	4,035	5,849	128	363	248	1,289	3,521
Ammonium Sulfate	288,242	426,800	425,156	318,413	138,253	7,960	26,894	10,554	52,730	40,115
Ammonium Phosphate	1,167,979	1518,388	1,202,697	1,620,207	1,270,783	328,[illegible]09	272,811	313,079	116,000	240,785
Mixed Fertilizer	245,059	79,257	138,919	103,175	87,360	16,128	19,023	21,291	10,477	20,441

CONTRACTS

Commodity	Jun 1977	Jul-Sep 1977	Oct-Dec 1977	Jan-Mar 1978
Anhydrous Ammonia 1/	16,500	--	--	--
Urea	32,929	856	300	--
Ammonium Nitrate	2,044	--	--	--
Ammonium Sulfate	63,823	21,423	--	--
Ammonium Phosphate	313,664	139.176	49,608	49,608
Mixed Fertilizer	26,778	7,580	--	--

1/ Also includes non-fertilizer grades of anhydrous ammonia.

Source: Office of Export Administration and Bureau of the Census.

TABLE 3
U.S. Imports of Fertilizers Containing Nitrogen January 1975 - May 1977
(in Short Tons)

Commodity	Jan-Jun 1975	Jul-Dec 1975	Jan-Jun 1976	Jul-Dec 1976	Jan-May 1977	Jan 1977	Feb 1977	Mar 1977	Apr 1977	May 1977
Anhydrous Ammonia	415,936	391,003	375,758	353,895	477,322	72,603	72,634	111,932	108,001	112,152
Urea	434,525	216,677	307,925	533,702	840,123	154,904	120,263	228,311	183,333	153,312
Ammonium Nitrate	140,960	103,912	191,523	120,005	146,566	24,214	28,568	36,732	76,083	46,269
Ammonium Sulfate	139,903	78,679	341,646	224,660	201,626	23,460	47,608	42,281	54,035	34,242
Ammonium Nitrate Limestone	55,858	9,890	12,225	16,648	44,145	100	-0-	-0-	31,102	12,943
Ammonium Phosphate	141,100	161,860	177,809	171,555	206,889	23,340	39,439	56,893	49,283	37,935

Source: Bureau of the Census

TABLE 4
U.S. Production of Fertilizers Containing Nitrogen, July 1974 - May 1977
(1,000 Short Tons)

Commodity	Jul-Jun 1974-75	Jul-Jun 1975-76	%Change 76/75	Jul-Dec 1976	Jan 1977	Feb 1977	Mar 1977	Apr 1977	May 1977
Anhydrous Ammonia	15,944	16,442	3.1	8,182	1,104	1,149	1,530	1,617	1,549
Urea	3,645	3,822	4.9	1,872	247	299	385	384	405
Ammonium Nitrate	7,464	7,003	-6.2	3,599	549	557	725	707	724
Ammonium Sulfate 1/	2,505	2,463	-13	1,085	183,310	191,307	215,625	N/A	N/A
Ammonium Phosphate 2/	9,695	8,255	18.5	4,780	750	710	842	887	878

1/ Includes coke oven byproduct
2/ Gross Weight
N/A Not available
Source: Bureau of the Census

UMI

TABLE 5
U.S. Producers' Inventories of Fertilizer Materials Containing Nitrogen
(Short tons)

Commodity	Jan 1976	Jan 1977	Feb 1976	Feb 1977	Mar 1976	Mar 1977	Apr 1976	Apr 1977	May 1976	May 1977
Anhydrous Ammonia	2,365,861	2,365,751	2,516,176	2,332,419	2,352,604	2,290,174	1,513,096	1,243,752	1,478,708	1,106,365
Urea	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Ammonium Nitrate	391,409	383,714	363,639	303,206	279,878	164,968	182,711	117,307	105,625	127,406
Ammonium Sulfate	406,511	301,182	389,600	262,151	1/	216,168	1/	N/A	1/	N/A
Diammonium Phosphate	327,948	196,904	327,701	209,759	320,782	118,702	195,411	132,247	241,545	201,695

1/ Inventory data withheld by Bureau of the Census to avoid disclosing figures for individual companies.
N/A Not available

Source: Bureau of the Census

TABLE 6
U.S. Producers' Prices of Nitrogen Containing Fertilizer Materials
(In $ Per Short Ton)

Commodity	Oct.24 1973 1/	Jan '75 Low	Jan '75 High	Jan '76 Low	Jan '76 High	Jan '77 Low-High	Feb '77 Low-High	Mar '77 Low-High	Apr '77 Low-High	May '77 Low-High
Anhydrous Ammonia	65	190	210	120	140	120-140	120-140	120-140	120-140	120-140
Urea	72	160	175	130	140	160-175	160-175	160-175	160-175	160-175
Ammonium Nitrate	62	91	115	91	115	91-115	91-115	91-115	91-115	91-115
Ammonium Phosphate	75	145	165	135	135	110-125	110-125	110-125	110-125	110-125

1/ Fertilizer prices prior to decontrol by Cost of Living Council on Nov. 19, 1973

Source: Column 1 - Cost of Living Council
Columns 2 through 7 Chemical Marketing Reporter

TABLE 7
Export Prices of Selected Fertilizers
May (In $ Per Short Ton)

Commodity	High	Low	Average
Ammonia			
Shipments	135	78	87
Remain.Contracts	67	67	67
Urea			
Shipments	138	90	119
Remain.Contracts	122	72	87
Diammonium Phosphate			
Shipments	465	111	116
Remain.Contracts	228	104	126

Source: Office of Export Administration

UMI

TABLE 8
Exports by Commodity and Area of Destination, January through May 1977, and Anticipated Exports by Commodity and Area of Destination, June 1977-March 1978

Commodity and Area of Destination 1/	EXPORTS					CONTRACTS			
	Jan 1977	Feb 1977	Mar 1977	Apr 1977	May 1977	June 1977	Jul-Sep 1977	Oct-Dec 1977	Jan-Mar 1978
In Content Tons									
Nitrogen (N)									
Western Hemisphere	33,691	39,156	35,715	33,689	62,390	35,044	10,814	--	--
Western Europe	32,690	24,411	25,921	14,725	20,450	40,153	7,260	8,908	8,908
Communist Areas in Europe	--	--	--	--	--	--	--	--	--
Asia	27,204	22,901	17,696	9,874	16,621	22,345	12,669	--	--
Australia and Oceania	668	2,991	1,035	772	92	32	--	--	--
Africa	7,177	5,213	713	176	2,159	1,177	3,924	--	--
In Short Tons									
Ammonia 2/									
Western Hemisphere	15,278	18,252	366	5,034	30,933	--	--	--	--
Western Europe	16,248	5,442	100	15,998	16,476	16,000	--	--	--
Communist Areas in Europe	--	--	--	--	--	--	--	--	--
Asia	18	163	17	10	56	--	--	--	--
Australia and Oceania	74	23	2	--	84	--	--	--	--
Africa	5,835	6,332	279	150	56	--	--	--	--
Exported to Developing Countries	55.3%	77.3%	52.4%	1.4%	58.2%				
Urea									
Western Hemisphere	17,120	5,522	26,738	2,484	4,349	3,575	856	300	
Western Europe	--	--	12	--	62	--	--	--	--
Asia	14	21,781	21,629	16,367	9,474	29,354	--	--	--
Africa	--	--	--	--	--	--	--	--	--
Australia and Oceania	--	--	--	--	26				
Exported to Developing Countries	62.0%	79.8%	81.2%	88.8%	77.9%				
Ammonium Nitrate									
Western Hemisphere	428	287	238	942	3,500	2,792	--	--	--
Western Europe	--	--	--	--	--	--	--	--	--
Asia	--	--	--	115	21	57	--	--	--
Australia and Oceania	--	76	--	76	--	95	--	--	--
Africa	--	--	--	156	--	--	--	--	--
Exported to Developing Countries	31.0%	63.9%	0.0%	34.2%	6.1%				

TABLE 8 Continued
Exports and Anticipated Exports, by Commodity and Area of Destination, January-May 1977, and Anticipated Exports by Commodity and Area of Destination June 1977-May 1978

Commodity and Area of Destination 1/	EXPORTS					CONTRACTS			
	Jan 1977	Feb 1977	Mar 1977	Apr 1977	May 1977	Jun 1977	Jul-Sep 1977	Oct-Dec 1977	Jan-Mar 1978
Mixed Fertilizer									
Western Hemisphere	5,189	9,800	19,894	8,678	16,739	12,283	3,110	--	--
Western Europe	164	763	1,197	1,675	394	--	--	--	--
Asia	10,686	8,450	185	103	3,239	14,495	4,470	--	--
Australia and Oceania	88	10	9	14	69	--	--	--	--
Africa	1	--	--	--	--	--	--	--	--
%Exported to Developing Countries	69.6%	69.5%	31.9%	8.6%	33.1%				
Ammonium Sulfate									
Western Hemisphere	7,960	26,894	8,675	49,644	40,155	63,823	21,423	--	--
Western Europe	--	--	--	--	--	--	--	--	--
Asia	--	--	19	--	--	--	--	--	--
Australia and Oceania	--	--	15	--	--	--	--	--	--
Africa	--	--	--	--	--	--	--	--	--
%Exported to Developing Countries	94.4%	99.1%	91.4%	79.7%	98.8%				
Diammonium Phosphate and Other Ammonium Phosphate									
Western Hemisphere	59,401	80,631	101,681	91,640	127,900	96,273	30,528	--	
Western Europe	108,565	111,370	144,081	7,354	35,262	151,782	40,784	49,608	49,608
Asia	143,313	64,186	43,258	12,819	65,750	36,817	67,241	--	--
Australia and Oceania	3,333	16,543	5,781	4,187	--	--	--	--	--
Africa	13,408	81	2,721	--	11,873	6,614	22,046	--	--
%Exported to Developing Countries	57.1%	52.0%	46.5%	36.6%	66.1%				

1/ The data in this table with respect to "Contracts" is based on information obtained from exporters by the Office of Export Administration subject to the confidentiality provisions of the Export Administration Act of 1969, as amended. In a number of instances only one exporter is involved in exports of a stated commodity to a particular country. Therefore, the publication of the data by country of destination could effectively reveal information required to be held confidential. Accordingly, in order to maintain the confidentiality of the information supplied by exporters, this data is published by the area of destination.

2/ Includes non-fertilizer grades of anhydrous ammonia.

Source: Office of Export Administration, Bureau of the Census

S. STANLEY KATZ,
Acting Assistant Secretary
for Domestic and International Business.

[FR Doc.77-24722 Filed 8-25-77;8:45 am]

UMI

federal register

FRIDAY, AUGUST 26, 1977

PART VIII



DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

federal

V42166 AUG 26 77 UMI

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

Kentucky	KY77-1102
North Carolina	NC77-1109

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alabama:		
	AL77-1085	July 22, 1977.
Connecticut:		
	CT77-5001	Jan. 8, 1977.
Delaware:		
	CT77-5001	Do.
	DE77-3042	Apr. 1, 1977.
Illinois:		
	IL77-5038	Apr. 8, 1977.
Indiana:		
	IL77-5038	Do.
Iowa:		
	IA76-4172; IA76-4175	Oct. 15, 1976.
	IA77-4090; IA77-4091; IA 77-4092; IA77-4093; IA 77-4094; IA77-4095; IA 77-4096.	May 6, 1977.
	IA77-4099; IA77-4100	May 13, 1977.
Maine:		
	CT77-5001	Jan. 8, 1977.
Maryland:		
	CT77-5001	Do.
Massachusetts:		
	CT77-5001	Do.
Michigan:		
	IL77-5038	Apr. 8, 1977.
Minnesota:		
	IL77-5038	Do.
Mississippi:		
	MS77-1078	June 17, 1977.
Nebraska:		
	NE77-4067	Mar. 18, 1977.
	NE77-4115; NE77-4135	July 1, 1977.
New Hampshire:		
	CT77-5001	Jan. 8, 1977.
New Mexico:		
	NM77-4116	June 17, 1977.
New Jersey:		
	CT77-5001	Jan. 8, 1977.
	NJ77-3079	June 17, 1977.
New York:		
	CT77-5001	Jan. 8, 1977.
	IL77-5038	Apr. 8, 1977.
Ohio:		
	IL77-5038	Do.
	OH77-2061	Apr. 15, 1977.
	OH77-2086	May 20, 1977.
Oklahoma:		
	OK77-4150	July 1, 1977.
	OK77-4163; OK77-4165; OK77-4167.	July 15, 1977.
Pennsylvania:		
	CT77-5001	Jan. 8, 1977.
	IL77-5038	Apr. 8, 1977.
	PA77-3023	Jan. 28, 1977.
	PA77-3029; PA77-3030. PA 77-3033.	Feb. 18, 1977.
	PA77-3032	Mar. 25, 1977
	PA77-3031; PA77-3043	Apr. 8, 1977
	PA77-3028; PA77-3034	Apr. 15, 1977.
	PA77-3049	Apr. 22, 1977.
	PA77-3050; PA77-3054; PA 77-3056; PA77-3057	May 13, 1977.
	PA77-3059	May 20, 1977.
	PA77-3100	July 15, 1977.
	PA77-3102; PA77-3103; PA 77-3104.	July 22, 1977.
Rhode Island:		
	CT77-5001	Jan. 8, 1977.
West Virginia:		
	WV77-3101	July 22, 1977.
Wisconsin:		
	IL77-5038	Apr. 8, 1977.
	WI77-2102	July 15, 1977.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Ohio:
OH77-2079 and OH77-2081 (OH77-2131). May 13, 1977.
Pennsylvania:
PA77-3016 (PA77-3107) --- Jan. 28, 1977.
Wisconsin:
WI77-2042 (WI77-2126) --- Apr. 8, 1977.

NEW DECISION

STATE: North Carolina
DECISION NO.: NC77-1109
DESCRIPTION OF WORK: Residential Construction (includes single family homes and garden type apartments up to and including four stories)
COUNTY: Mecklenburg
DATE: Date of publication

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanic	5.03				
Bricklayers	5.74				
Carpenters	4.88				
Cemnt masons	4.61				
Dry wall hangrs	5.00				
Electricians	5.14				
Insulation installer	3.57				
Laborers:					
Laborers	3.00				
Mason tenders	3.69				
Mortar mixers	3.77				
Pipelayers	4.11				
Painters, spray	4.21				
Plumbers & pipefitters	4.47				
Roofers	5.66				
Sheet metal workers	5.31				
Soft floor layers	4.52				
Tile setters	4.50				
Truck drivers	5.00				
	3.82				
POWER EQUIPMENT OPERATORS:					
Asphalt paver	4.50				
Backhoe	4.00				
Bulldozer	4.00				
Front end loader	4.00				
Grader	4.08				
Roller	4.30				
Scraper	4.20				
Screed	3.85				
Tractor					

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.
Georgia:
AR-4038 (GA77-1103); AR-4038 (GA77-1104); AR-4038 (GA77-1111). Sept. 27, 1977.
Kentucky:
KY77-1010 (KY77-1108); KY77-1011 (KY77-1110); KY77-1058 (KY77-1106); KY77-1059 (KY77-1105); KY77-1088 (KY77-1107) --- July 1, 1977.
Nebraska:
NE77-4021 (NE77-4208) --- Feb. 11, 1977.

NEW DECISION

STATE: KENTUCKY
DECISION NO.: KY77-1102
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4-stories)
COUNTIES: KNOX, LAUREL, McCREARY, PULASKI, ROCKCASTLE, WAYNE, & WHITLEY
DATE: DATE OF PUBLICATION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bellmakers	$10.80	.75	1.00		.02
Bricklayers	7.50				
Carpenters	6.75				
Electrician	8.16				
Glaziers	9.50				
Ironworkers - structural, reinforcing & ornamental	6.87				
Laborers:					
Unskilled	4.30				
Mason tenders	4.65				
Air tool operators	5.77				
Millwrights	12.00	.30	.35		.05
Painters	7.28				
Plumbers & Pipefitters	9.21				
Roofers	4.68				
Sheet metal workers	7.05				
Tile setters	7.93				
Welders - rate for craft					
POWER EQUIPMENT OPERATORS:					
Air compressor	7.51	.35	.35		.05
Backhoe	7.60				
Bulldozer	8.00				
Crane	7.55	.30	.30		.05
Front end loader	9.20				

Signed at Washington, D.C., this 19th day of August 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

V42166 AUG 26 77 UMI

V4211166 AUG 26 77
UMI

DECISION #DE77-3042 - Mod. #5
(42 FR-17756 - April 1, 1977)
State of Delaware

Change:
Soft Floor Layers:
New Castle & Kent Counties

Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
$9.70	1.29	.74		.02

MODIFICATIONS P. 3

DECISION NO. IL77-5038 - Mod. #2
(42 FR 18802 - April 8, 1977) c
Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin.

CHANGE:

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Drill Boats:					
Engineers	$10.07	.50	.43	C	
Blasters	10.20	.50	.43	C	
Firemen	9.69	.50	.43	C	
Drillers, Welders or Machinists	10.08	.50	.43	C	
Oilers	9.49	.50	.43	C	

FOOTNOTE:

c. 8 Paid Holidays: A through F, plus Washington's Birthday and Veterans' Day; 6 1/2 days vacation with pay for 84 days of service, one additional day of vacation with pay for each additional 21 2/3 days of service, all in one calendar year. Employees not qualifying for vacation, as set forth above, are to receive one day's vacation with pay for each full 20 days of service in one calendar year.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

MODIFICATIONS P. 4

DECISION # AL77-1085 - Mod. #1
(42 FR-17715 July 22, 1977)
Mobile County, Alabama

Change:

Sheet Metal Workers

Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
10.73	.50	.55		.04

MODIFICATIONS P. 1

DECISION NO. CT77-5001 - Mod. #1
(42 FR 999 - January 6, 1977)
Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania and Rhode Island.

CHANGE:

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Drill Boats:					
Engineers	$10.07	.50	.43	b	
Blasters	10.20	.50	.43	b	
Firemen	9.69	.50	.43	b	
Drillers, Welders or Machinists	10.08	.50	.43	b	
Oilers	9.49	.50	.43	b	

FOOTNOTE:

b. 8 Paid Holidays: A through F, plus Washington's Birthday and Veterans' Day; 6 1/2 days vacation with pay for 84 days of service, one additional day of vacation with pay for each additional 21 2/3 days of service, all in one calendar year. Employees not qualifying for vacation as set forth above will receive one day's vacation with pay for each full 20 days of service in one calendar year.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.

MODIFICATIONS P. 2

MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #IA76-4175- Mod. # 4 (41 FR 45811- Oct. 15,1976) Woodbury County (City of Sioux City and abutting municipalities), Iowa					
Change:					
Electrician	$11.21	.40	3%+.50		1%
Laborers:					
Group 1	7.435	.66	.365	.50	
Group 2	7.585	.66	.365	.50	
Painters:					
Group 1	8.88	.77	.45		
Group 2	9.38	.77	.45		
Plumbers and Steamfitters	10.62	.74	.55		.10
Roofers:					
Roofer	8.71				
Kettlemen	8.47				
Decision #IA 76-4172- Mod. # 4 (41 FR 45802- Oct. 15,1976) Scott County, Iowa					
Change:					
Building Construction:					
Asbestos Workers	$11.55	.40	.60		.10
Carpenters:					
Millwright	12.00	.45	.85		.20
Elevator Constructors	10.87	.495	.32	4%+a	.02
Laborers:					
Group 1	9.17	.40	.60		.035
Group 2	9.42	.40	.60		.035
Group 3	9.67	.40	.60		.035
Painters:					
Brush, rollers	9.77	.45	.70		.12
Spray, structural steel	10.02	.45	.70		.12
Sheetmetal Workers	10.66	.45	.44		.10
Heavy and Highway:					
Carpenters	10.53	.45	.70		.04

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #IA77-4000-Mod. # 1 (42 FR 23349- May 6,1977) Cerro Gordo County (City of Mason City), Iowa					
Change:					
Building, Water Treatment Plants & Sewage Disposal Plants Construction					
Bricklayers & Stonemasons	$ 9.44		.50		
Cement Masons	9.84				
Electricians	11.19	.45	3%		3/4%
Laborers:					
Group 1	7.39	.30	.40		
Group 2	7.64	.30	.40		
Group 3	7.89	.30	.40		
Painters:					
Brush	8.50		.50		
Tapers	8.60		.50		
Spray	9.00		.50		
Plasterers	9.00				
Plumbers & Steamfitters	10 30	.65	.55		.04
Heavy and Highway:					
Carpenters & Piledrivermen	8.13	.45			
Cement Masons	8.13	.45			

MODIFICATIONS P. 7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #IA77-4001- Mod. # 1 (42 FR 23351- May 6,1977) Dubuque County (City of Dubuque and abutting municipalities), Iowa					
Change:					
Building, Water Treatment Plants & Sewage Disposal Plants Construction					
Asbestos Workers	$11.55	.40	.60		.10
Bricklayers & Stonemasons	9.56	.45	.25		
Carpenters:					
Carpenters	9.49		.37		
Millwright	9.99		.37		
Piledrivermen	9.89		.37		
Electricians	10.90	.35	3%+.35		1%
Laborers:					
Group 1	7.88	.30	.20		
Group 2	7.98	.30	.20		
Group 3	8.13	.30	.20		
Lathers	10.00				
Marble Setters	9.31	.45	.25		
Painters:					
Brush or roller epoxy; Paperhanging; Tapers	8.40		.30		
High work and steel; spraying	8.95		.30		
Sheetmetal Workers	10.51	.45	.44		.10
Terrazzo Workers	9.31	.45	.25		
Tilesetters	9.31	.45	.25		
Heavy and Highway:					
Carpenters and Piledrivermen	8.13	.45			
Cement Masons	8.13	.45			

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #IA77-4092- Mod. # 1 (42 FR 23354- May 6, 1977) Johnson County (City of Iowa City and abutting municipalities), Iowa					
Change:					
Building, Water Treatment Plants & Sewage Disposal Plants Construction					
Asbestos Workers	$11.55	.40	.60		.10
Bricklayers & Stonemasons	11.62		.55		
Sheetmetal Workers	11.39		.55		.01
Heavy and Highway:					
Carpenters and Piledrivermen	8.13	.45			
Cement Masons	8.13	.45			
Decision #IA77-4093- Mod. # 1 (42 FR 23357- May 6,1977) Linn county, Iowa					
Change:					
Building, Water Treatment Plants & Sewage Disposal Plants Construction					
Asbestos Workers	$11.55	.40	.60		.10
Bricklayers & Stonemasons	11.62		.55		
Laborers:					
Group 1	8.185	.30	.67		
Group 2	8.535	.30	.67		
Group 3	8.535	.30	.67		
Sheetmetal Workers	11.39		.55		.01
Heavy and Highway:					
Carpenters and Piledrivermen	8.13		.45		
Cement Masons	8.13		.45		

UMI

MODIFICATIONS P. 10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #IA77-4095- Mod. #1 (42 FR 23393- May 6,1977) Story County (City of Ames and abutting municipalities)					
Change: Building, Water Treatment Plants & Sewage Disposal Plants Construction Boilermaker	$11.30	.85	1.00		.02
Carpenters: Piledrivermen Millwright	9.45 9.00		.50 .50		
Line Construction: Group 1 Group 2 Group 3 Group 4 Group 5	9.32 6.06 6.24 7.46 5.13	.45 .45 .45 .45 .45	7% 7% 7% 7% 7%	b b b b b	2% 2% 2% 2% 2%
Painters: Group 1 Group 2 Group 3	10.11 10.36 10.61		.40 .40 .40		.03 .03 .03
Plumbers and Steamfitters Sheetmetal Workers Heavy and Highway:	11.55 12.40	.55 .50	.75 .66		.10 .07
Carpenters & Piledrivermen Cement Masons	8.13 8.13	.45 .45			

MODIFICATIONS P. 12

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #IA77-4100- Mod. #1 (42 FR 24609- May 13,1977) Des Moines County (City of Burlington & abutting municipalities & Burlington Ordnance Plant), Iowa					
Change: Building, Water Treatment Plants & Sewage Disposal Plants Construction: Asbestos Workers	$11.55	.40	.60		.10
Carpenters: Carpenters Millwrights & Piledrivermen	9.98 10.66	.60 .60	.85 .85		.04 .04
Electricians Painters: Group 1 Group 2 Group 3 Group 4 Group 5	11.04 8.95 9.05 9.45 9.65 9.95	.40	3% .25 .25 .25 .25 .25		3% .10
Plumbers and Steamfitters Roofers Sheetmetal Workers Heavy and Highway:	11.05 9.20 10.41	.40 .45	1.15 .44		.05 .10
Carpenters and Piledrivermen Cement Masons	8.13 8.13	.45 .45			

MODIFICATIONS P. 9

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #IA77-4096- Mod. #1 (42 FR 24610- May 6,1977) Polk County, Iowa					
Change: Building, Water Treatment Plants & Sewage Disposal Plants Construction Boilermakers	$11.30	.85	1.00		.02
Line Construction: Group 1 Group 2 Group 3 Group 4 Group 5	9.32 6.06 6.24 7.46 5.13	.45 .45 .45 .45 .45	7% 7% 7% 7% 7%	b b b b b	2% 2% 2% 2% 2%
Painters: Group 1 Group 2 Group 3	10.11 10.61 10.36		.40 .40 .40		.03 .03 .03
Plumbers and Steamfitters Sheetmetal Workers Heavy and Highway:	11.55 11.21	.55	.75		.10
Carpenters & Piledrivermen Cement Masons	8.13 8.13	.45 .45	.66		.07

MODIFICATIONS P. 11

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #IA77-4098- Mod. #2 (42 FR 23363- May 6,1977) Webster County (City of Fort Dodge), Iowa					
Change: Building, Water Treatment Plants & Sewage Disposal Plants Construction Electricians	$10.80	.40	3%		1%
Laborers: Group 1 Group 2 Group 3	5.95 6.15 6.20		.30 .30 .30		
Roofers	6.40				
Decision #IA77-4099- Mod. #1 (42 FR 24607-May 13,1977) Clinton County (City of Clinton and abutting municipalities)					
Change: Building, Water Treatment Plants & Sewage Disposal Plants Construction Asbestos Workers	$11.55	.40	.60		.10
Carpenters: Carpenters Piledriver Millwright	9.40 9.80 12.00	.45 .45 .45	.70 .70 .85		.04 .04 .20
Marble Setters Painters: Brush	10.55	.35	.50		
Spray, Structural steel Sheetmetal Workers Softfloor Layers	9.77 10.02 10.66 9.40	.45 .45 .45 .45	.70 .70 .69 .70		.12 .12 .10
Heavy and Highway: Other heavy and highway construction: Carpenters & Piledrivermen Cement Masons	8.13 8.13	.45 .45			

V42166 AUG 26 77 UMI

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Decision # [illegible] - Mod. # 1 (42 FR [illegible] - June 17, 1977) Lowndes County, Columbus, Caledonia Columbus Lock and Dam and Tennessee Tombigbee Project) Mississippi					
Change:					
Roofers	3.50				
Add:					
Ironworkers, reinforcing	9.25	.60	.815		.06
Decision # WW77-4035- Mod. # 2 (42 FR 34202- July 1,1977) Douglas, Sarpy, and Otoe Counties, Nebraska					
Changes:					
Steamfitters	$11.99	.60	.75		.15
Residential Rehabilitation	10.20	.60	.75		.15
Decision # WW77-4035 Mod.- # 1 (42 FR 34201- July 1,1977) Lancaster County, Nebraska					
Changes:					
Painters:					
Brush	$7.95	.45	.30		
Spray, steel, swing stage	8.45	.45	.30		
Paperhangers, taper	8.20	.45	.30		
Decision # WW77-4067- Mod. # 1 (42 FR 19277- March 18,1977) Cedar, Cuming, Pierce, Stanton, and Wayne Counties, Nebraska					
Change:					
Electricians	$6.50				

DECISION NO. WW77-4116 - Mod. #5
(42 FR 31096 - June 17, 1977)
Statewide, New Mexico

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.

CHANGE DESCRIPTION OF WORK TO READ "Building and Heavy Construction (Heavy construction consists of modifications, addition, alterations or repairs on railroad construction projects, drainage project, aqueducts, irrigation projects, flood control projects, reclamation projects, reservoirs, water supply projects (exclusive of distribution lines and appurtenances and filtration plants earth dams (over 1 million yards), concrete dams, dikes, levees, revetments, channels, channel cutoffs, intakes, dredging projects, jetties, breakwaters, docks, harbors, excavation and disposals by contract or overburden and the excavation and loading of all material from which the overburden has been removed, open-pit strip mining, viaducts, pedestrian tunnels, picks, abutments and clearing, and grubbing, incidental to such heavy construction projects (exclusive of such work in connection with highway, building and light construction projects), subways, tunnels, shafts, missile silos and missile projects. (Except buildings underground), hydro-electric power plant projects and power plant facilities in their entirety (exclusive of steam plants), electric transmission lines, and including the operation, maintenance and repair of all land and floating plant, equipment, vehicles and other facilities used in connection with and serving the aforementioned work and services incidental to such projects (also, including Residential construction in Santa Fe, Bernalillo, Rio Arriba, Taos, Sandoval and Valencia Counties)."

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
[illegible] - Mod. #1 (42 FR 61 [illegible] - Jan. 1, 1977) Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth and Salem Counties, New Jersey					
Change:					
Air Conditioning & Refrigeration Mechanics:					
Installation of refrigeration equipment for air type of building where the refrigeration compressor size is [illegible] expressed [illegible] of water [illegible] condenser heat [illegible] exceed ten tons (including piping & connecting work) and the erection of the water tower(s) installation of air-cooled air cooled, 15 ton	8.48	.615	.31	r	.04
Asbestos Workers:					
Zone 1	12.17	.80	.90		
Zone 2	11.60	.80	.90		.025
Zone 4	12.[illegible]	.[illegible]	1.00		.03
Zone 5	12.02	.80	.90		.06
Bricklayers, Stonemasons, marble masons, tile setters, plasterers and terrazzo workers:					
Zone 1	10.55	.65	1.00		.03
Zone 5	11.45		.605		
Dockbuilder and pile-driver:					
Zone 2	11.55	1.40	1.76	.76	.02
Electricians and cable splicers:					
Zone 1	11.70	6%	3%+1.35		.01
Zone 2	13.20	6	4%+.40		.13
Zone 3	11.90	6	4%+.45		.05
Zone 4	11.80	6	3%+.30		.04
Zone 5	11.41	6	4%+.35		.02

DECISION #WW77-3074 - Mod. #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Ironworkers-structural, ornamental & reinforcing					
Zone 2	12.25	.84	1.36		
Zone 3	12.40	.84	1.36		.03
Lathers:					
Zone 1	10.90	.15	.40		.02
Line construction:					
Zone 1					
Linemen, cable splicers & equipment operators	11.70	6%	3%+1.35		1/2 of 1
Groundmen	9.75	6%	3%+1.35		1/2 of 1
Zone 2					
Linemen, cable splicers & equipment operators	13.20	6%	4%+.40		1/2 of 1
Groundmen	10.55	6%	4%+.40		1/2 of 1
Zone 3					
Linemen	11.90	6%	3%+.45		1/2 of 1
Groundmen & winch operators	9.50	6%	3%+.45		1/2 of 1
Zone 4					
Linemen	11.80	6%	3%+.30		1/2 of 1
Line digger truck drivers	7.33	6%	3%+.30		1/2 of 1
Groundmen	8.48	6%	3%+.30		1/2 of 1
Zone 5					
Linemen, equipment operators, technicians & certified linemen welders	11.75	.25	3%+.60		1/2 of 1
Truck drivers	8.33	.25	3%+.60		1/2 of 1
Groundmen	7.74	.25	3%+.60		1/2 of 1
Painters:					
Zone 4					
New Construction:					
Brush or roller, paperhanging & vinyl wall covering	11.00	.65	.65		.05
Work on all structural steel and iron, steeples, stacks, tanks, flagpoles, all swing work & window jack work above 2 stories, spray painting & sandblasting & line striping by machinery, all power tools & hazardous					

UMI

MODIFICATIONS P. 17

DECISION #OK77-407 - Mod. #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and or Appr. Tr.
PAINTERS: (CONT'D)					
materials (ie., creosote, epoxy, acid, pitchmastic and urethanes	12.00	.65	.65		.05
Repaint Construction: Brush or roller, paperhanging, vinyl wall covering	8.40	.65	.65		.05
Work on all structural steel & iron, steeples, stacks, tanks, flagpoles, all swing work & window jack work above 2 stories, spray painting & sandblasting & line striping by machinery, all power tools & hazardous materials (ie. creosote, epoxy, acid, pitchmastic & urethanes	9.40	.65	.65		.05
Plumbers & Pipefitters:					
Zone 3	12.09	1.04	.90		.20
Zone 4	12.09	1.04	.90		.20
Zone 5	12.09	1.04	.90		.20
Zone 6	12.09	1.04	.90		.20
Power Equipment Operators:					
Group 1	15.31	7%	15%	f	3%
Group 2	13.49	7%	15%	f	3%
Group 3	12.61	7%	15%	f	3%
Group 4	12.50	7%	15%	f	3%
Group 5	12.27	7%	15%	f	3%
Group 6	11.78	7%	15%	f	3%
Group 7	11.49	7%	15%	f	3%
Group 8	11.32	7%	15%	f	3%
Group 9	11.27	7%	15%	f	3%
Group 10	11.15	7%	15%	f	3%
Group 11	11.10	7%	15%	f	3%
Group 12	10.86	7%	15%	f	3%
Group 13	10.46	7%	15%	f	3%
Group 14	10.29	7%	15%	f	3%
Group 15	9.95	7%	15%	f	3%

Additional 50¢ per hour on machines where "Cat Head" or "Sheave Point" is at least 100 feet above ground; additional 75¢ per hour on machines where "Cat Head" or "Sheave Point" is 140 feet or over above ground level

MODIFICATIONS P. 18

DECISION #OK77-407 - Mod. #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Steel erection:					
Group 1	17.12	7%	15%	f	3%
Group 2	15.31	7%	15%	f	3%
Group 3	14.40	7%	15%	f	3%
Group 4	13.66	7%	15%	f	3%
Group 5	11.88	7%	15%	f	3%
Group 6	11.49	7%	15%	f	3%
Group 7	11.34	7%	15%	f	3%
Group 8	10.97	7%	15%	f	3%
Group 9	10.41	7%	15%	f	3%
Add:					
Power Equipment Operators:					
Group 9 - Field Engineer: Party Chief	11.27	7%	15%	f	3%
Group 15 - Field Engineer: transit/instrument man	9.95	7%	15%	f	3%
Group 16 - Field Engineer - rodman/ chainman	7.97	7%	15%	f	3%

MODIFICATIONS P. 19

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. OH77-2061 - Mod. #1 (42 FR 20097 - April 15, 1977) Medina County, Ohio					
Change: Electricians	$7.25	.47	3%		.2%
DECISION NO. OH77-2086 - Mod. #1 (42 FR 20095 - May 20, 1977) Belmont, Monroe, & Noble Counties, Ohio					
Change: Carpenters: Belmont & Monroe Cos.	7.63	.50	.60		.02
Noble Co.	5.60	.40	.70		.02

MODIFICATIONS P. 20

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. OK77-4150 - Mod. #3 (42 FR 34228 - July 1, 1977) Comanche County, Oklahoma					
CHANGE: PLUMBERS-PIPEFITTERS	$10.97	.60	.85		.10
DECISION NO. OK77-4163 - Mod. #3 (42 FR 36764 - July 15, 1977) Garfield County, Oklahoma					
CHANGE: CARPENTERS: Carpenters	$8.35		.25		.05
Millwrights-Piledrivermen	9.50	.45	.45		.09
DECISION NO. OK77-4165 - Mod. #2 (42 FR 36769 - July 15, 1977) Wagoner County, Oklahoma					
CHANGE: ELECTRICIANS (ZONE III): Cable splicers	$10.90	.46	3%+.40	.30	.07
DECISION NO. OK77-4167 - Mod. #2 (42 FR 36773 - July 15, 1977) Pittsburg County, Oklahoma					
CHANGE: ELECTRICIANS: Cable splicers	$10.90	.46	3%+.40	.30	.07

UMI

MODIFICATIONS P. 21

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA77-3023 - Mod. # 5 (42 FR 20100 - April 15, 1977) Butler, Clarion, Erie, Forest, Jefferson, Venango, Warren and York Counties, Pa.					
Changes:					
Asbestos Workers	$10.41	.42	.40		.01
Boilermakers	13.10	.75	1.00		.02
Sheet Metal Workers	10.65	1.39	1.14		.05
DECISION #PA77-3029 - Mod. # 6 (42 FR 10276 - February 15, 1977) Berks County, Pennsylvania					
Changes:					
Asbestos Workers	10.91	.52	.90		.01
Boilermakers	13.10	.75	1.00		.02
Roofers: Albany, Maxstany and Widsor: Composition and Slate	11.53	.15	.60		.05
Sheet Metal Workers	10.05	1.39	1.15		
DECISION NO. PA77-3030 - Mod. #5 (42 FR 10276 - February 15, 1977) Cumberland, Dauphin, Perry, Juniata, New Cumberland Depot In York County, Pennsylvania					
Changes:					
Asbestos Workers	10.91	.52	.90		.01
Boilermakers	13.10	.75	1.00		.02
Sheet Metal Workers	10.05	1.39	1.13		.05

MODIFICATIONS P. 24

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA77-3043 - Mod. # 4 (42 FR 18783 - April 5, 1977) Carbon, Monroe County, Includin; Tobyhanna Army Depot, and Pike County, Pennsylvania					
Changes:					
Boilermakers	$13.10	.75	1.00		.02
Bricklayers & Stonemasons Zone 5	10.52	.60	.40		
Cement Masons Zone 2	10.52	.60	.40		
Electricians Zone 2	10.77	.55	3%+.25	a	b
Marble Setters Zone 3	10.52	.60	.40		
Plasterers Zone 5	10.52	.60	.40		
Plumbers Zone 1	11.49	.40	.75		.04
Tile Setters Zone 3	10.52	.55	.30		
DECISION NO. PA77-3049 - Mod. #5 (42 FR 21043 - April 22, 1977) Northumberland County, Pennsylvania					
Changes:					
Boilermakers	13.10	.75	1.00		.02
DECISION #PA77-3050 - Mod. #4 (42 FR 24669 - May 13, 1977) Lackawanna, Susquehanna, Wayne, and Wyoming Counties, Pennsylvania					
Changes:					
Boilermakers	13.10	.75	1.00		.02
Pipefitters	11.04	.65	.95		.04

MODIFICATIONS P. 23

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA77-3031 - Mod. #7 (42 FR 18339 - April 5, 1977) Lebanon County, Pennsylvania					
Changes:					
Sheet Metal Workers	$10.05	1.39	1.18		.05
DECISION #PA77-3032 - Mod. #6 (42 FR 16373 - March 29, 1977) Lycoming County, Pennsylvania					
Changes:					
Boilermakers	13.10	.75	1.00		.02
DECISION #PA77-3033 - Mod. #5 (42 FR 10268 - February 15, 1977 Northampton County, Pennsylvani					
Changes:					
Asbestos Workers	10.91	.52	.90		.01
Boilermakers	13.10	.75	1.00		.02
Roofers, Composition, Slate & Tile	11.53	.15	.80		
Sheet Metal Workers	10.05	1.39	1.13		.05
Addi:					
Soft Floor Layers	8.55	.44	.72	.45	
DECISION #PA77-3034 - Mod. # 6 (42 FR 20100 - April 15, 1977) Schuylkill County, Pennsylvania					
Changes:					
Boilermakers	13.10	.75	1.00		.02
Asbestos Workers	10.91	.52	.90		.01
Electricians: North Union, East Union, West Mahony, (excluding Frackville Borough), Mahony, Delano, Kline, Rush, Ryan, Blythe, Schuylkill, Walker Rahn, East Brunswick and West Penn. Twps.	10.77	.55	3%+.25	f	g

V 42 166 AUG 26 77 A UMI

DECISION #PA77-3054 - Mod. #4 (42 FR 24677 - May 13, 1977) Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Crawford & Venango Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians					
Zone 4	$12.35	3%	3%+2%		½%
Laborers:					
Zone 2					
Class 1	8.08	.77	.66		
Class 2	8.155	.77	.66		
Class 3	8.18	.77	.66		
Class 4	8.23	.77	.66		
Class 5	8.33	.77	.66		
Class 6	8.58	.77	.66		
Class 7	8.63	.77	.66		
Landscape:					
Zone III					
Class I	7.48	8%	6.5%		3.5%
Painters:					
Zone I					
Commercial					
Brush	9.04	.75	.45		.12
Spray	9.54	.75	.45		.12
Industrial					
Brush	10.04	.75	.45		.12
Spray	10.54	.75	.45		.12
Omit:					
Painters:					
Zone 1					
Roller (Classification Only)	10.45	.65	.45		.12

DECISION #PA77-3056 - Mod. #3 (42 FR 24695 - May 13, 1977) Lehigh County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	$10.91	.52	.90		.01
Boilermakers	13.10	.75	1.00		.02
Roofers:					
Remainder of County:					
Composition & Slate	11.53	.15	.80		
Composition & Slate Helpers	7.21	.15	.80		
Sheet Metal Workers	10.05	1.39	1.18		.05
Truck Drivers	8.45	f	g	h	
Footnotes:					
f. Employer Contributes $72.20 per month to Health & Welfare Fund.					
g. Employer Contributes $52.01 per month to a Pension Fund.					
Add:					
Soft Floor Layers	8.55	.72	.45		
DECISION #PA77-3057 - Mod. # 3 (42 FR 24700 - May 13, 1977) Sullivan County, Pennsylvania					
Change:					
Boilermakers	13.10	.75	1.00		.02
DECISION #PA77-3059 - Mod. #3 (42 FR 26176 - May 20, 1977) Luzerne County, Pennsylvania					
Change:					
Boilermakers	13.10	.75	1.00		.02
Electricians:					
Hazleton:					
Commercial	10.77	.55	3%+.25	a	b
Lathers:					
Remainder of County	11.78		.35		.01
Plumbers & Steamfitters					
Pittston	11.04	.65	.95		.04

DECISION #PA77-3100 - Mod. # 2 (42 FR 36775 - July 15, 1977) Columbia, Montour & Snyder Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Boilermakers	$13.10	.75	1.00		.02
Asbestos Workers					
Zone II	10.91	.52	.90		.01
Electricians					
Zone II	10.77	.55	3%+.25	a	.12
Modification #1, dated, July 15, 1977, in 42 FR 36775, to read Columbia, Montour and Snyder Counties					
DECISION #PA77-3103 - Mod. #1 (42 FR 37759 - July 22, 1977) Bradford, Tioga & Union Counties, Pennsylvania					
Change:					
Boilermakers	13.10	.75	1.00		.02
Bricklayers & Stonemasons	9.75	.65	.50		.015
Electricians					
Zone III	10.65	.50	3%+.50	.50	.10
Plumbers & Steamfitters					
Zone II	11.49	.40	.75		.04
Roofers:					
Composition & Kettleman	9.65	.85	.80		

DECISION #PA77-3102 - Mod. # 2 (42 FR 37754 - July 22, 1977) Clinton, Centre, Huntingdon, Mifflin & Centre Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers					
Zone 2	$10.91	.52	.90		.01
Boilermakers	13.10	.75	1.00		.02
Sheet Metal Workers					
Zone 2	10.05	1.39	1.18		.05
Painters:					
Zone 2					
Commercial					
Brush & Roller	9.04	.75	.45		.12
Spray	9.54	.75	.45		.12
Industrial					
Brush, Steel & Tank	10.04	.75	.45		.12
Spray	10.54	.75	.45		.12
DECISION #PA77-3104 - Mod. # 1 (42 FR - 37762 - July 22, 1977) Lancaster County, Pennsylvania					
Change:					
Asbestos Workers	10.91	.52	.90		.01
Boilermakers	13.10	.75	1.00		.02
Marble Setters	8.20	.45	.45		
Sheet Metal Workers	10.05	1.39	1.18		.05
Terrazzo Workers	8.20	.45	.45		
Tile Setters	8.20	.45	.45		

UMI

MODIFICATIONS P. 29

	REMAINT	NEW	Fringe Benefits Payments			
	Basic Hourly Rates	Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:						
AREA 7						
Air Compressor Operator	$7.56	8.38	.55			.02
Brush Painting	7.56	8.38	.55			.02
Roller, Dry-Wall Pointers & Tapers, Dipping & Mitten	7.92	8.70	.55			.02
Work & Spray						
Water Blasters, Steam Jenny Nozzle Men, Swinging Scaffold & Boatswain Chair	8.67	9.23	.55			.02
Window Jack Work						
Brush Painters on Bridges, Needle Beam, Cable Work, Power Tool Work, Brush & Flame Cleaning	9.10	9.61	.55			.02
Operating Mechanical Taping Machines	9.32	9.97	.55			.02
Sand Blasters	9.43	9.94	.55			.02
All Stacks, Vent. Pipe, Flag Poles in excess of 30' high, all Towers Water Towers, Elevated Towers, Electrical Switch Yards, Transformer Banks & Television Towers	10.49	10.89	.55			.02
Vinyl hangers & Paper hangers (with tools)	7.91	8.70	.55			.02

MODIFICATIONS P. 30

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plasterers:					
Area 1	$11.54	.30	.30		.01
Area 2	10.75	.30	.30		.01
Plasterers:					
AREA 6					
New Construction:					
Brush	9.56		.30		.01
Roller	9.82		.30		.01
Spray & blast	10.56		.30		.01
Pot-men	10.58		.30		.01
Commercial Repaint:					
Brush	8.14		.30		.01
Roller	8.42		.30		.01
Paperhanger	9.56		.30		.01
Drywall	10.01		.30		.01
Spray, pot-men	10.58		.30		.01
Paper & vinyl hangers	9.56		.30		.01
Open structural steel	9.91		.30		.01
Drywall painters & tapers	10.01		.30		.01
Liquid tile brush	10.33		.30		.01
Stacks, vent pipes, flag poles, electrical, radio & T.V. towers & tanks over 30' high	10.51		.30		.01
Hydroject, steam cleaning & glove work	10.58		.30		.01
Operating mechanical taping machines	11.01		.30		.01

MODIFICATIONS P. 32

DECISION NO. WI77-2102 - Mod. #2	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
(42 FR 36701 - July 15, 1977)					
Statewide, Wisconsin					
Change:					
DESCRIPTION OF WORK: Highway and Airport Runway and Taxiway Construction (does not include bridges over navigable water; tunnels; buildings in highway rest areas; and railroad construction)					

MODIFICATIONS P. 31

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers & Pipefitters:					
Area 5	$10.45	.60	1.40		.02
Zone 1	11.04	.60	1.40		.02
Zone 2	11.24	.60	1.40		.02
Zone 3	11.43	.60	1.40		.02
Zone 4					
Limit:					
Steel erection, interior water pipe, tile layer					
Welder:					
Cable, electric, TV, radio, water mains	7.93	.0	.30		
Add:					
Scaffold, pressure, tile [illegible] of the shell, cleaning the [illegible] Hanger, shell preparation, [illegible] Manhole, pipe, [illegible] Asbestos Fitters:	6.75	.65			
Fitters	5.60	.45			
Refrigeration fitter	6.00	.45			
Cable, [illegible]					
Welder, [illegible]	7.03	.30	.30		

V 42 166 AUG 26 77 A UMI

SUPERSEDES DECISION

STATE: GEORGIA

DECISION NO.: GA77-1111 DATE: DATE OF PUBLICATION

Supersedes Decision No. AD-4104, dated September 27, 1974, in 39 FR 34904.

COUNTIES: Baldwin, Bryan, Bulloch, Burke, Butts, Calhoun, Camden, Candler, Chatham, Chattahoochee, Clarke, Clayton, Clinch, Coffee, Colquitt, Columbia, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Effingham, Elbert, Emanuel, Evans, Fayette, Glascock, Glynn, Grady, Greene, Hancock, Harris, Heard, Houston, Irwin, Jasper, Jeff Davis, Jefferson, Jenkins, Johnson, Lamar, Lanier, Laurens, Lee, Liberty, Lincoln, Long, Lowndes, Macon, McDuffie, McIntosh, Meriwether, Miller, Mitchell, Monroe, Montgomery, Morgan, Muscogee, Newton, Oconee, Oglethorpe, Peach, Pierce, Pike, Pulaski, Putnam, Quitman, Randolph, Richmond, Schley, Screven, Seminole, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Taylor, Telfair, Terrell, Thomas, Tift, Toombs, Troup, Turner, Twiggs, Upson, Walker, Walton, Ware, Washington, Wayne, Webster, Wheeler, Wilcox, Wilkes, Wilkinson, Worth (County 11)

DESCRIPTION OF WORK: Highway Construction (does not include airport runways and taxiways; bridges over navigable waters; tunnels; rest areas which include buildings; generators; railroad construction; and paving associated with building construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Apprt. Tr.
Carpenters	$ 4.38				
Cement masons	4.18				
Form setters	4.38				
Ironworkers - reinforcing	5.00				
Laborers:					
Air tool, chain saw & power saw operators	3.25				
Asphalt rakers	3.57				
Drill operators	3.76				
Pipelayers	3.75				
Unskilled	3.07				
Truck drivers	3.08				
Welders: Receive rate prescribed for craft performing operation to which welding is incidental.					
POWER EQUIPMENT OPERATORS:					
Asphalt distributor	4.20				
Asphalt paving machine (Asphalt screed, Asphalt spreader)	4.28				
Backhoe	4.05				
Bulldozer	4.52				
Crane, derrick, dragline	4.78				
Front end loader	4.31				
Mechanic	3.96				
Motor grader (patrol)	4.06				
Oiler - greaser	3.60				
Pans - scraper	4.91				
Roller	4.06				
Shovel	4.43				
Tractor	3.54				

Page 2

DECISION NO. GA77-1111

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Apprt. Tr.
POWER EQUIPMENT OPERATORS:					
Aggregate spreader, stone spreader	$ 3.35				
Asphalt distributor	3.37				
Asphalt paving machine	3.65				
Batching plant scaleman	3.50				
Bulldozer	3.68				
Concrete paving machine	3.65				
Crane, derrick, dragline	4.76				
Front end loader	3.50				
Mechanic	4.11				
Motor grader (patrol)	3.95				
Oiler - greaser	3.00				
Filedriver	4.00				
Roller	3.50				
Scraper - pan	3.64				
Tractor (farm type)	2.94				

SUPERSEDES DECISION

STATE: GEORGIA

DECISION NO. GA77-1111 DATE: DATE OF PUBLICATION

Supersedes Decision No. AD-4104, dated September 27, 1974, in 39 FR 34904.

COUNTIES: Baldwin, Bryan, Bulloch, Burke, Butts, Calhoun, Camden, Candler, Chatham, Chattahoochee, Clarke, Clayton, Clinch, Coffee, Colquitt, Columbia, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Effingham, Elbert, Emanuel, Evans, Fayette, Glascock, Glynn, Grady, Greene, Hancock, Harris, Heard, Houston, Irwin, Jasper, Jeff Davis, Jefferson, Jenkins, Johnson, Lamar, Lanier, Laurens, Lee, Liberty, Lincoln, Long, Lowndes, Macon, McDuffie, McIntosh, Meriwether, Miller, Mitchell, Monroe, Montgomery, Morgan, Muscogee, Newton, Oconee, Oglethorpe, Peach, Pierce, Pike, Pulaski, Putnam, Quitman, Randolph, Richmond, Schley, Screven, Seminole, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Taylor, Telfair, Terrell, Thomas, Tift, Toombs, Troup, Turner, Twiggs, Upson, Walker, Walton, Ware, Washington, Wayne, Webster, Wheeler, Wilcox, Wilkes, Wilkinson, Worth (County 11)

DESCRIPTION OF WORK: Highway Construction (does not include airport runways and taxiways; bridges over navigable waters; tunnels; rest areas which include buildings; generators; railroad construction; and paving associated with building construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Apprt. Tr.
Carpenters	$ 4.37				
Concrete finishers	3.98				
Form setters	3.00				
Ironworkers - reinforcing	4.85				
Laborers:					
Asphalt rakers	3.55				
Pipelayers	2.92*				
Slip formers, guardrail & fence driving operators, power-boom operators, striping machine operators	3.09				
Unskilled	2.78				
Truck drivers	2.98				
Welders: Receive rate prescribed for craft performing operation to which welding is incidental.					

V 42 166 AUG 26 77 A UMI

DECISION NO. KY[illegible]

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Area 1 - within a 30 mile radius of 17th St. and Winchester Ave., Ashland	[illegible]	[illegible]	[illegible]	[illegible]	
Area 2 - over a 30 mile radius of 17th St. and Winchester Ave., Ashland	[illegible]	[illegible]	[illegible]	[illegible]	
Area 3 - over 15 miles and within a 30 mile radius of 17th St. and Winchester Ave., Ashland	10.6[illegible]	.60	.[illegible]	1.[illegible]+1	
Area 4 - over a 30 mile radius of 17th and Winchester Ave., Ashland	10.92	.60	.85	1.06+1	
ROOFERS:					
New construction	10.45		.40		
Re-roofing	7.00		.10		
SHEET METAL WORKERS	11.05	.86	.55		.05
SOFT FLOOR LAYERS	9.72	.40	.50		.03
SPRINKLER FITTERS	11.65	.65	.95		.06
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.					

SURROUNDING DECISIONS

COUNTY: LOYD

[illegible]

[illegible]

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
ASBESTOS WORKERS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
BOILERMAKERS	10.80	.75	1.[illegible]		.[illegible]
BRICKLAYING & STONE MASONS	11.43				.[illegible]
CARPENTERS	9.72	.40	.50		.03
CEMENT MASONS	11.12		.60		
ELECTRICIANS:					
Wireman	11.02	.50	3[illegible] + 5%	1.02	.04
Cable splicer	11.57	.50	3[illegible] + 5%	1.02	.04
ELEVATOR CONSTRUCTORS:					
Mechanics	10.945	.545	.35	4%+a+b	.02
Helpers	7.66	.545	.35	4%+a+b	.02
Probationary Helpers	5.47		.50		
GLAZIERS	10.00				
IRONWORKERS - Structural, Ornamental & Reinforcing	11.27	.90	1.05		.01
LATHERS	10.925		.10		
LEADBURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION:					
Linemen	11.08	.45	3% + 5%	1.02	2 of 1%
Cable splicers	12.19	.45	3% + 5%	1.02	2 of 1%
Groundmen	8.86	.45	3% + 5%	1.02	2 of 1%
Mechanical equipment operator	11.08	.45	3% + 5%	1.02	2 of 1%
MILLWRIGHTS	10.79	.40	.37		.03
PAINTERS:					
Brush & paperhanger	8.18		.40		
Roller, drywall, & taping	8.34		.40		
Spray	8.70		.40		
Steamcleaning	8.92		.40		
Mittens or rags	9.23		.40		
Sandblasting	9.39		.40		
Drywall machine operator	9.60		.40		
PILEDRIVERMEN	10.01	.40	.50		.03
PLASTERERS	11.12		.60		

Page 1

DECISION NO. KY[illegible]

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Class A	$10.45	.40	.45		.05
Class B	8.01	.40	.45		.05
Class C	7.34	.40	.45		.05

CLASSIFICATIONS DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (2½ cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, hoe type engine, hoist (4-drum when used for stack or chimney construction or repair), hoisting engine (2- or more drums), locomotive, motor scraper, motor-all scoop, multiplate, money duty welder, mechanic (crane-pedestal boom, shovel, truck crane, when truck, (bituminous) scarifier, shovel, tractor shovel, truck crane, when truck, push dozer, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hoptoe, hyster, pumpcrete, Rex carrimix, scoop, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, aeromobile, KoCal loader, tower cranes (French, German and other types), hydroforms, backfiller, gurries, sub-grader;

Class B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, joint sealing machine, concrete mixer (under 2½ cu. ft.), form grader, roller (rock), tractor (50 hp and over), bull float, finish machine, truck mounted mixer boat, flexplane, firemen, locomotive, boom type tamping machine, track crane oiler, greaser on grease facilities, locomotive, oiler, self-propelled switchman or brakeman, mechanic helper, whirley oil, oiler, self-propelled compactor, tractair and road widening, trencher, front end loader, elevator (remarkes attachments except backhoe, hitalift and trencher), elevator (remarkes of ownership when used for hoisting materials), roadside engine (1-drum or tuck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor;

Class C - Bituminous distributor, cement gun, conveyor, end deck, paving joint machine, roller (earth), tamping machine, tractors (under 50hp), vibrator, oiler, concrete saw, burlap and carpet machine, hydro-seeder, power form handling equipment, deckhand fisherman, hydraulic post driver, drill helper.

Page 2

DECISION NO. KY[illegible]

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
LABORERS:					
Group 1	$ 7.86	.35	.47		
Group 2	8.01	.35	.47		
Group 3	8.03	.35	.47		
Group 4	8.06	.35	.47		
Group 5	8.11	.35	.47		
Group 6	8.36	.35	.47		
Group 7	8.56	.35	.47		
Group 8	9.06	.35	.47		

CLASSIFICATIONS DEFINITIONS

Group 1 - Laborers, carpenter tenders, concrete men, wreckers, wall men, handlers of empty oxygen and acetylene bottles;

Group 2 - Hod carriers, mortar men, cement finisher tenders, lather and plaster tenders;

Group 3 - Wrapping, heating and applying hot and cold tar on all pipes, applying tape on pipes and operating of a Tester;

Group 4 - Deck hand and scow men;

Group 5 - Jackhammer and electrical, gas or air power driven tools, burning torch, wagon drill operators, handling of all creosote material, signal men, and asphalt rakers;

Group 6 - Rock and powder men;

Group 7 - Sand hog or muckers, and tunnel miners

Group 8 - Caisson workers

V 42 166 AUG 26 77 UMI

DECISION NO. KY77-1106

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CLASSIFICATIONS:					
Group 1	$ 9.10	e	f		
Group 2	9.10	e	f		
Group 3	9.33	e	f		
Group 4	9.38	e	f		
Group 5	9.43	e	f		
Group 6	9.46	e	f		
Group 7	9.73	e	f		

CLASSIFICATIONS DEFINITIONS

Group 1 - Warehousemen, yardmen, truck helpers, pickups, station wagons, panel trucks, flat-body material trucks (straight jobs), groucers, washers, firemen, dump trucks (up to 5 cu. yds.);
Group 2 - Tank trucks (straight);
Group 3 - Dump trucks (5 cu. yds. or over), semi-dump trucks, semi-trailers (whether flat,rack or pole and hauled or pushed by trucks or tractors), agitator or mixer trucks (up to 5 cu. yds.), tank trucks (semi);
Group 4 - Lowboy trailers, winch trucks, fork trucks, distributor trucks (front and back end), truck cranes, monirail trucks;
Group 5 - Material checkers & receivers, mechanics helpers;
Group 6 - Agitator or mixer trucks (5 cu. yds. and over);
Group 7 - Tri-axle dump trucks, hydraulic lifts, tailgate trucks, farm type tractors, rose carriers, athey wagons or similar equipment. A-frame, hydro-lifts, dual purpose trucks, end dumpsters, mechanics.

DECISION NO. KY -

FOOTNOTES:

a. Six Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day.

b. Employer contributes 4% of the basic hourly rate for 5 years or more of service, or 2% of the basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Nine Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve, and Christmas Day provided the employee has worked 30 full days during the 30 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

d. Two Paid Holidays: Independence Day and Christmas Day.

e. Employer contributes $82.33 per month per employee employed 30 days or more.

f. Employer contributes $52.00 per month per employee employed 30 days or more.

SUPERSEDEAS DECISION

STATE: KENTUCKY

COUNTIES: HARDIN, JEFFERSON MEADE

DECISION NO.: KY77-1106

DATE: DATE OF PUBLICATION

Supersedes Decision No. KY77-1058, dated May 13, 1977, in 42 FR 24612

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4-stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.66	.50	1.00		
BOILERMAKERS	10.80	.75	1.00		.02
BRICKLAYERS & STONE MASONS	9.83	.40	.40		
CARPENTERS	9.95	.45	.45		.05
CEMENT MASONS	9.28	.60	.30		
ELECTRICIANS	11.60	.50	3% + .40		½ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	11.00	.545	.35	1%a+b	.02
Helpers	7.70	.545	.35	4%a+b	.02
Probationary helpers	5.50				
GLAZIERS	8.90	.35	.45		
IRONWORKERS:					
Structural, ornamental, reinforcing, riggers, fence erectors, sheeters, machinery movers, and conveyormen	10.95	.90	1.15		.06
LATHERS	10.79		.20		.01
LEADBURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION:					
Lineman, line truck operators, & hole diggers	11.60	.50	3% + .40		½ of 1%
MARBLE MASONS	9.70	.40	.40		
MARBLE FINISHERS	8.60				
MILLWRIGHTS	11.05	.45	.65		.02
PAINTERS:					
AREA 1 - 35 mile radius from the Jefferson County Courthouse, Louisville, Ky.:					
Brush, roller, drywall painting, taping & finishing, and paperhanging	8.62	.35	.20		.03
Steeple jack work, boatswain chairs, safety-belt work, steamcleaning, sandblasting, exterior stage work and window jack work over 50' in height	8.97	.35	.20		.03
Spray	9.07	.35	.20		.03

DECISION NO. KY77-1106

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS - AREA 1 (Cont'd)					
REPAINT WORK:					
Brush, roller, drywall painting, taping & finishing, and paperhanging	$ 8.08	.35	.20		.03
Spray	8.53	.35	.20		.03
AREA 2 - over a 35 mile radius from the Jefferson County Courthouse, Louisville, Ky.:					
Brush, roller, drywall painting, taping & finishing, and paperhanging	8.97	.35	.20		.03
Steeple jack work, boatswain chairs, safety-belt work, steamcleaning, sandblasting, exterior stage work and window jack over 50' in height	9.32	.35	.20		.03
Spray	9.42	.35	.20		.03
REPAINT WORK:					
Brush, roller, drywall painting, taping & finishing, and paperhanging	8.43	.35	.20		.03
Spray	8.88	.35	.20		.03
PILEDRIVERMEN	10.20	.45	.45		.05
PLASTERERS	10.35				
PLUMBERS & PIPEFITTERS:					
AREA 1 - Jefferson County:					
Plumbers	11.15	.60	.90	.77	.10
Pipefitters	12.24	.64	1.15		.09
AREA 2 - Hardin (northern portion of county up to but not including Elizabethtown) and Meade Counties:					
Plumbers	11.60	.60	.90	.77	.10
Pipefitters	12.69	.64	1.15		.09
AREA 3 - Hardin (remainder of county) County:					
Plumbers	11.85	.60	.90	.77	.10
Pipefitters	12.94	.64	1.15		.09

UMI

Page 4

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
[illegible]					
[illegible]					
[illegible]					

Page 1

DECISION NO. KY77-[illegible]

FOOTNOTES:

a. Six Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day.

b. Employer contributes 4% of the basic hourly rate for 5 years or more of service, or 2% of the basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Nine Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve, and Christmas Day provided the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

d. Employer contributes $21.00 per week per employee whose name appears on the payroll and has been employed a minimum of 20 work days within any 90 consecutive day period.

e. Employer contributes $20.00 per week per employee whose name appears on the payroll and has been employed a minimum of 20 work days within any 90 consecutive day period.

f. Employee who has been regularly employed on a project for one year and who has worked a minimum of 1200 hours during the year shall receive vacation and pay equal to 40 hours.

SUPERSEDEAS DECISION

STATE: KENTUCKY

COUNTIES: BOONE, CAMPBELL, KENTON, PENDLETON

DECISION NO.: KY77-1107

DATE: DATE OF PUBLICATION

Supersedes Decision No. KY77-1088, dated July 1, 1977, in 42 FR 34192.

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4-stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.46	.75	.85		.02
BOILERMAKERS	10.80	.75	1.00		.02
BRICKLAYERS & STONE MASONS	12.095	.55	.35		.02
CARPENTERS	11.40	.60	.65		.075
CEMENT MASONS	11.43	.75	.70		.15
ELECTRICIANS	11.85	.70	3% + .40		½ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	11.15	.545	.35	4%+a+b	.02
Helpers	7.805	.545	.35	4%+a+b	.02
Probationary helpers	5.575				
GLAZIERS	10.10		.35		.005
IRONWORKERS:					
Structural & Ornamental	11.48	.90	1.05		.03
Reinforcing	10.63	.90	1.85		.02
LATHERS	12.52		.25		.025
LEADBURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION:					
Linemen & Machine operators	11.30	.70	3% + .40		½ of 1%
Groundmen	8.48	.70	3% + .40		½ of 1%
MARBLE SETTERS	10.985	.55	.35		
MARBLE SETTER FINISHERS	10.035				
MILLWRIGHTS	11.64	.50	.85		.10
PAINTERS:					
Brush, roller, taping, paperhanging, wall covering, washing	11.25		.25		
Steamcleaning	11.40		.25		
Spray	11.65		.25		
Drywall machine operators	11.75		.25		
Sandblasting & waterblasting	12.05		.25		
PILEDRIVERMEN	11.40	.60	.65		.075
PIPEFITTERS	12.20	.90	1.225		.08
PLASTERERS	12.195		.50		.02
PLUMBERS & GAS FITTERS	$12.07	.75	1.05		.05
RESILIENT FLOOR LAYERS	8.70	.60	.65		.05
ROOFERS	12.32		.85		.01
SHEET METAL WORKERS	12.035	.90	.81		.04
SPRINKLER FITTERS	11.65	.65	.95		.08
TERRAZZO WORKERS	10.935	.55	.35		
TERRAZZO FINISHERS	9.985				
TILE SETTERS	10.935	.55	.35		
TILE FINISHERS	9.935				

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

DECISION NO. KY77-1107

UMI

DECISION NO. KY77-104

LABORERS - Boone, Campbell, & Kenton Counties:	Basic hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$10.00	.60	.50		.05
Group 1	10.10	.60	.50		.05
Group C	10.15	.60	.50		.05
Group D	10.20	.60	.50		.05
Group E	10.35	.60	.50		.05
Group F	10.50	.60	.50		.05
Group G	10.75	.60	.50		.05

CLASSIFICATIONS DEFINITIONS

Group A - Common laborers, cement mason tenders, hand operated mechanical mule, mechanical sweeper, signal man;

Group B - Bottom man, pipe layers;

Group C - Burning torch operator, jack hammer, mechanical and air tamper operator, mechanical concrete buggies, power operated mechanicas mule, concrete pump hose man, vibrator man;

Group D - Plaster tender, mason tender, stone mason tender, bottom jack-hammer man;

Group E - Plaster mixer pump operator;

Group F - Tunnel laborer;

Group G - Gunnite nozzle operator.

DECISION NO. KY77-1107

LABORERS - Pendleton County:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 6.85	.35	.47		
Group 2	7.05	.35	.47		
Group 3	7.20	.35	.47		
Group 4	7.25	.35	.47		
Group 5	7.35	.35	.47		
Group 6	7.45	.35	.47		
Group 7	8.05	.35	.47		

CLASSIFICATIONS DEFINITIONS

Group 1 - Construction laborers, carpenter tenders, landscapers, roofers' helpers, sheeting and shoring;

Group 2 - Air track drills, jackhammers, wagon drills, pavement breakers, chain saws, Barco tampers, all types of vibrators for concrete and grade work, concrete saws, sewer pipe layers, all storm sewers, sanitary sewers, signal man, asphalt men, rakers, batchmen, plant scale men, form setters (street or high-way), hand spiker, all types of tampers, bush & chipping hammers, motorbug opers.;

Group 3 - Mason tenders, plaster tenders, bug operators;

Group 4 - Gunnite nozzle men, powderman helpers, fork lift, pumpmen;

Group 5 - Gunnite nozzle machine, powdermen & blasters, tunnels & cofferdams;

Group 6 - Miners - tunnels or cofferdams;

Group 7 - Caisson holes (6' and over including tools), sand hogs (pressured air).

DECISION NO. KY77-1107

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr. Tr.
GROUP A	$11.11	.46	1.00		.11
GROUP B	10.95	.46	1.00		.11
GROUP C	10.59	.46	1.00		.11
GROUP D	9.81	.46	1.00		.11
GROUP E	9.48	.46	1.00		.11
GROUP F	8.03	.46	1.00		.11

CLASSIFICATION DEFINITIONS

GROUP A - A-frames, air compressor on steel erection, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator manned in crane (all types), boom trucks (all types), cableways, clamshell pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), derricks, dredge (clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, Helicopter operator and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or flexi-float operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer pumps (multiple drum), mobile concrete pumps with boom, pavers (all types on steel), pile driver, power shovels, side booms, slip form pavers, stressing engineers (welder; construction on site), turnerhead tower cranes, trench excavator (over 24" wide), tug boat.

GROUP B - Asphalt paver, bulldozer, C.M.I. type equipment, endloaders, Kohlrin type loaders (mart loading), mucking machines, power grader, power dozers, power scrapers, push cat.

GROUP C - Air compressor (pressurizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), submersible pumps (4" and over discharge), trenchers 24" and under.

GROUP D - Oiler assigned on building construction, conveyors (building material), generators, mortar mixers, mixers (asphalt, more than one bag), mixers (one bag capacity, side loader), post driver, post hole digger, pavement breaker (hydraulic or cable), road widener trencher, rollers, welder operator.

GROUP E - Backfillers & tampers, batch plant, bar and joint installing machines, bull floats, burlap and curing machines, chesplanes, concrete spreader mach., crushers, deck hands, farm tractor (asphalt), farm type tractors pulling attachments, finishing machines, form trenchers, high pressure pumps over 1/2" discharge, hydro seeder, self propelled screw spreader, self propelled sub-grader, tire repairmen, tractors pulling scoops foot roller or grader, vibratory compactors (with integral power).

GROUP F - Oiler, helper, signalman, inboard & outboard motor boat launch, light plant operator, power driven heaters (oil fired), power boilers (1 ton steam 15 lbs. pressure, pumps under 4" discharge, submersible pumps under 4" discharge.

DECISION NO. KY77-1107

FOOTNOTES:

a. Six Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day.

b. Employer contributes 4% of the basic hourly rate for 5 years or more of service, or 2% of the basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Nine Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve, and Christmas Day, provided the employee has worked 30 full days during the 90 calendar days prior to the holiday and regular scheduled work days immediately preceding and following the holiday.

UMI

SUPERSEDEAS DECISION

STATE: KENTUCKY COUNTY: FAYETTE
DECISION NO.: KY77-1108 DATE: DATE OF PUBLICATION
Supersedes Decision No. KY77-1016, dated February 11, 1977, in FR
DESCRIPTION OF WORK: Building Construction (except [illegible] which [illegible] prior to apartments up to and including 4-stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
[illegible]	$10.06	.50	1.00		
[illegible]	10.80	.75	1.00		.[illegible]
[illegible]	[illegible]	.35	.40		
[illegible]	10.41	.41	.30		
[illegible]	10.55				
[illegible]	11.60	.45	3%+.50		.06
ELECTRICAL CONTRACTORS:					
Inside wire	11.00	.515	.35	6%+a+b	.06
Helpers	7.70	.515	.35	6%+a+b	.02
Probationary helpers	5.50				
ELEVATORS	9.50				
ENGINEERING - Structural, Commercial & Reinforcing	10.95	.90	1.15		.06
LATHERS	9.74		.10		
LEAD BURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION:					
Lineman & equipment operators	11.70	.45	3%		½ of 1%
Cable splicers	11.95	.45	3%		½ of 1%
Groundman truck driver with winch	9.95	.45	3%		½ of 1%
Groundman-truck driver	9.36	.45	3%		½ of 1%
MARBLE SETTERS	8.95	.35	.50		
MARBLE FINISHERS	7.95				
MILLWRIGHTS	10.95	.45	.30		
PAINTERS:					
Brush, drywall finishers, paperhangers	9.25				
Steeple jack work, window jack work, work in enclosed buildings over 35' in height above permanent working floor area, steam cleaning, sandblasting	9.75				
Spray	10.00				
Shift brush	10.50				
PILEDRIVERMEN	10.95	.45	.30		
PLASTERING	9.65				
PLUMBING & PIPEFITTERS	10.95	.35	.70		.02
ROOFING	7.00	.40			
SHEET METAL WORKERS	11.26	1.09	1.05		.14

Page 2

DECISION NO. KY77-[illegible]

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
SOFT FLOOR LAYERS	$10.[illegible]	.[illegible]	.30		
STEAM [illegible]	11.[illegible]	.[illegible]	.[illegible]		
[illegible]	[illegible]	.[illegible]	.[illegible]		
[illegible]	[illegible]				
TILE SETTERS	[illegible]	.[illegible]	.[illegible]		
TILE FINISHERS	7.[illegible]				
TRUCK DRIVERS:					
2 axle, 4 tire;	9.[illegible]	d	e		
Over 2 axles, semi-trailer; or pole trailer, dump trucks, trailer-mix, farm tractors when used to haul building materials or equipment;	6.[illegible]	d	e		
Truck mechanics, concrete mixer trucks (all types, hauling only or job sites);	7.[illegible]	d	e		
Greasers, tire changers, mechanic helpers;	6.67	d	e		
Euclids and other heavy moving equipment, lowboy winch trucks when used to transport building materials.	7.[illegible]	d	e		

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Page 3

DECISION NO. KY77-1108

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 6.85	.35	.47		
Group 2	7.05	.35	.47		
Group 3	7.20	.35	.47		
Group 4	7.25	.35	.47		
Group 5	7.35	.35	.47		
Group 6	7.45	.35	.47		
Group 7	8.05	.35	.47		

CLASSIFICATIONS DEFINITIONS

Group 1 - Construction laborers, carpenter tenders, landscapers, roofers' helpers, sheeting and shoring;

Group 2 - Air track drills, jackhammers, wagon drills, pavement breakers, chain saws, Barco tampers, all types of vibrators for concrete and grade work, concrete saws, sewer pipe layers, all storm sewers, sanitary sewers, signal man, asphalt men, rakers, batchmen, plant scale men, form setters (street or highway), hand spiker, all types of tampers, bush & chipping hammers, motorbug opers.;

Group 3 - Mason tenders, plaster tenders, bug operators;

Group 4 - Gunnite nozzle men, powderman helpers, fork lift, pumpmen;

Group 5 - Gunnite nozzle machine, powdermen & blasters, tunnels & coffordams;

Group 6 - Miners - tunnels or coffordams;

Group 7 - Caisson holes (6' and over including tools), sand hogs (pressured air).

Page 4

DECISION NO. KY77-1108

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class A	$10.45	.40	.45		.05
Class B	8.01	.40	.45		.05
Class C	7.34	.40	.45		.05

CLASSIFICATIONS DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, buildozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifer, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradeall, hoist, hyster, pumperete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KoCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, sub-grader;

Class B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor;

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50hp), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper.

UMI

Page 2

DECISION NO. KY77-1110

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	$ 8.51	.60	.65	.75	.01
PLUMBERS & PIPEFITTERS	10.60		.10	.50	.08
ROOFERS	6.20		1.05		.03
SHEET METAL WORKERS	11.26	1.09	.25		.14
SOFT FLOOR LAYERS	8.90	.45	.95		.08
STEAMFITTER FITTERS	11.65	.65			
TRUCK DRIVERS:					
Trucks up to but not including 5 tons, such as station wagons, auto, pick-up trucks, dump trucks, flat bede and stake bodies;	7.25		.55		
Trucks 5 tons and over, including special equipment such as Euclids, winch trucks, dumpsters, dumpsters, crawler type trucks, tandem dump trucks, mechanics, all ready-mix trucks, tractor trailers, low boys, distributor trucks, water tank trucks, fork lift;	7.90		.55		
Greasers, tire changers, materials checkers	7.85		.55		
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

SUPERSEDEAS DECISION

STATE: KENTUCKY
DECISION NO.: KY77-1101
Supersedes Decision No. KY77-1101, dated February 11, 1977, in 42 FR 8944.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4-stories).

COUNTY: McCRACKEN
DATE: DATE OF PUBLICATION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.50	.45	.40		.03
BOILERMAKERS	10.80	.75	1.00		.02
BRICKLAYERS, STONE MASONS, MARBLE MASONS, TILE SETTERS, & TERRAZZO WORKERS	9.30		.25		
CARPENTERS	8.80	.45	.35		
ELECTRICIANS	7.80	.60			
ELECTRICIANS:					
Wireman	10.75	.40	3%		½ of 1%
Cable Splicers	11.00	.40	3%		½ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanic	11.00	.545	.35	4%+a+b	.02
Helper	7.70	.545	.35	4%+a+b	.02
Preshaftsmen	5.50				
GLAZIERS	10.105	.48	.50		.25
IRONWORKERS - Structural, Ornamental & Reinforcing	9.90	.45	.65		.02
LATHERS	7.16		.20		.01
LEAD BURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION:					
Lineman & equipment operators	10.70	.45	3%		½ of 1%
Cable splicers	10.95	.45	3%		½ of 1%
Groundmen truck drivers	8.02	.45	3%		½ of 1%
Groundmen	7.73	.45	3%		½ of 1%
PAINTERS:					
Brush & roller	7.10	.40			
Sandblast & power tools	8.00	.40			
Steeple jack work	9.95	.40			
Free Fall Premium Rate:					
0 to 80' + 50¢ over base rate of work classification					
80' to 120' + 75¢ over base rate of work classification					
Over 120' + $1.00 over base rate of work classification					
PILEDRIVERMEN & MILLWRIGHTS	9.15	.45	.25		

V 42 166 AUG 26 77 UMI

PAGE 3

DECISION NO. KY77-1110

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
LABORERS:					
Group 1	$ 6.05	.35	.47		
Group 2	6.23	.35	.47		
Group 3	6.63	.35	.47		

LABORERS CLASSIFICATIONS

Group 1 - General laborers; wrecking; labor on buildings, clearing right-of-way and building site; carpenter tenders; truck spotters and dumpers; axe and cross cut saw filer; concrete puddlers and form strippers.

Group 2 - All power driven tools; hod carriers; mason tenders; finisher tenders; mortar mixers; jack hammers; vibrators; wagon drill; core drill; test drill; well drill; concrete pump machine; tunnel boring machine; men in tunnel and crib ditch work; signal men; riprap rock setters and handlers; asphalt rakers; tampers and smoothers; pipelayers; grout pump men; chain saw; pipe cleaning; doping and wrapping; swampers and straight cable hooking; cement guns; grade checkers machine excavating; batch plant scale man; sand hog free air; sand hog compressed air; cutting torch man on salvage work; road form setters; brick slingers; hand spikers; power buggy; handling of creosote material; sandblasters; curing of concrete and apply hardner; air and gas tampers; concrete saw; power posthole diggers and green cut men on concrete work.

Group 3 - Powdermen; blasters.

Page 4

DECISION NO. KY77-1110

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Class A	$10.45	.40	.45		.05
Class B	8.01	.40	.45		.05
Class C	7.31	.40	.45		.05

CLASSIFICATIONS DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, chamfer, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, Rex type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradeall, hoist, hyster, pumperete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, sub-grader;

Class B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), roll points, grout pump, throttle-valve man, tugger, electric vibrator compactor;

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50hp), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand steerman, hydraulic post driver, drill helper.

Page 5

DECISION NO. KY77-1110

FOOTNOTES:

a. Six Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day.

b. Employer contributes 4% of the basic hourly rate for 5 years or more of service, or 2% of the basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Nine Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve, and Christmas Day, provided the employee has worked 30 full days during the 90 calendar days prior to the holiday and regular scheduled work days immediately preceding and following the holiday.

UMI 77 9N GCA 99INAV

STATE: [illegible]

COUNTIES: [illegible]

[illegible]: PA77-4298

[illegible]: Date of Publication

[illegible] Supersedes Decision No. PA77-4061 dated February 11,1977 in 42 FR 8946

[illegible] Construction (Locks and [illegible] the waters of)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
[illegible]	$9.11	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	9.735	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	9.[illegible]	[illegible]	[illegible]		
[illegible] Crane Operator	8.80	[illegible]	.55	1.00	
LABORERS:					
Common Laborer	[illegible]	.[illegible]	.30	.15	.05
Tenders and Laying Brick Mason	[illegible]	.35	.30	.15	.05
Form Setter Helpers	6.40	.35	.30	.15	.05
[illegible] Operators on Asphalt work; Concrete Mixer; Chain Saw Operator	[illegible]	.35	.30	.15	.05
Pipelayers; Concrete [illegible] Operator	6.40	.35	.30	.15	.05
Form Setters and Precast Manhole Setter, Inlet Builders and Manhole Setters	6.45	.35	.30	.15	.05
LINE CONSTRUCTION:					
Linemen	9.51	.45	1%		1/2%
Cable Splicers	9.91	.45	1%		1/2%
Truck Driver	6.87	.45	1%		1/2%
Equipment Operator	8.94	.45	1%		1/2%
GUNITERS:					
(Inexperienced) 1st 6 months	3.17	.45	1%		1/2%
(Inexperienced) 2nd 6 months	4.67	.45	1%		1/2%
Thereafter	6.20	.45	1%		1/2%
POWER EQUIPMENT OPERATORS:					
Group: 1	7.37	.50	.40		
Group: 2	7.45	.50	.40		
Group: 3	7.85	.50	.40		
Group: 4	8.23	.50	.40		
Group: 5	9.11	.50	.40		
Group: 6	9.33	.50	.40		
Group: 7	9.50	.50	.40		
Group: 8	9.67	.50	.40		

DECISION NO. PA77-4298 Page 2

CLASSIFICATION EXHIBITION:

Group: 1 - Oilers; Greasers; Mechanic's Helper; Spread Oiler (less than one year experience)

Group: 2 - Oiler Driver

Group: 3 - Tractor under 30 HP; Air Compressors; Pump-welding machine; Spray machines; Form Trenchers; Felt Machine

Group: 4 - Concrete Mixer; Concrete Pumps; Hydro-Hammer

Group: 5 - Spreader Oiler (after one year experience in classification)

Group: 6 - Concrete Spreader; Concrete Finishing Machine; Bulldozer; Roller; Trenchmaster; Forklift; Winch Truck; One Drum Hoist; Oil Distributor; Asphalt Roller

Group: 7 - Blade (patrol); Scraper

Group: 8 - Hoist, 2 Drums; Trenching Machine; Pavin; Mixer; Piledriver; Heavy duty Mechanic; Welder; Shovel; Dragline; Clamshell; Orange Peel; Backhoe; Derrick; Crane; Locomotive; Fireman or Boiler; Drydock Machine; Two Drum Winch Truck; Side Boom Cat; Pug Mill Operator on Asphalt Plant; Leverman on Dredge; Engineer on Dredge; Turbine Operator; Gradall Operator; Rotary Well Drilling Operator; Hydreerane; Cleveland type Backfiller; Self-Propelled Spreader Vibrator; Slip Form Paver.

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group: 1 - Single Axle, Tuck and Spreader Truck	$6.93	.50	.40		
Group: 2 - Tandem Axle Trucks, Euclid Trucks, Power Lift Form Trucks and Spreader Trucks	6.99	.50	.40		
Group: 3 - Three-Axle Tandem	7.04	.50	.40		
Group: 4 - Lowboys-Tractor Trailer, Water Pulls	7.12	.50	.40		
Group: 5 - Tandem Dump with Auxiliary End Dump Trailer	7.17	.50	.40		
Group: 6 - Lumber Carrier	7.29	.50	.40		

SUPERSEDEAS DECISION

STATE: OHIO

COUNTIES: *SEE BELOW

DECISION NUMBER: OH77-2131

DATE: Date of Publication

Supersedes Decision Nos.: OH77-2079, dated May 13, 1977, in 42 FR 24652 & OH77-2081, dated May 13, 1977, in 42 FR 24661

DESCRIPTION OF WORK: Building Construction (Does not include family homes & garden type apartments up to and including 4 stories)

*ADAMS, BROWN, BUTLER, CLARK, CLERMONT, CLINTON, DARKE, FAYETTE, FRANKLIN, GREENE, HAMILTON, HIGHLAND, LAWRENCE, LICKING, MADISON, MIAMI, MONTGOMERY, MUSKINGUM, PICKAWAY, PIKE, PREBLE, ROSS, SCIOTO, SHELBY, & WARREN

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Adams, Brown, Butler (excluding Middletown & vic.), Clermont, Hamilton, Highland, & Warren (excluding Twps. of Clear Creek, Franklin, Massie, Turtle Creek, & Wayne) Cos.	$11.46	.75	.85		.02
Butler (Middletown & vic.), Clark, Clinton, Darke, Greene, Miami, Montgomery, Preble, Shelby, & Warren (Twps. of Clear Creek, Franklin, Massie, Turtle Creek, & Wayne) Cos.	11.07	.75	1.00		.02
Fayette, Franklin, Licking, Madison, Muskingum, Pickaway, & Ross Cos.	12.67	.45	.85		.02
Lawrence, Pike, & Scioto Cos.	11.05	.50	.70		.03
BOILERMAKERS:					
Darke & Shelby Cos.	13.10	.70	1.00		.03
Remaining Cos.	9.40	.75	1.00	1.40	.02
BRICKLAYERS; Caulkers; Cleaners; Marble setters; Pointers; Stonemasons; Terrazzo workers; & Tile setters:					
Adams & Scioto Cos.: Bricklayers; Caulkers; Cleaners; Marble setters; Pointers; & Stonemasons	9.90				
Brown, Butler, Clermont, Hamilton, Preble (Twps. of Dixon, Israel, Lanier, Somers, & Gratis), & Warren Cos.: Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons	12.095	.55	.35		.02
Marble setters	10.985	.55	.35		
Terrazzo workers & Tile setters	10.935	.55	.35		
Clark Co.	10.60				
Clinton & Highland Cos.	8.50				
Darke, Miami, & Shelby Cos.	10.35	.75	.25		.02

Page 2

DECISION NO. OH77-2131

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Fayette, Pike, & Ross Cos.: Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons	$11.35				
Franklin, Madison, & Pickaway Cos.: Bricklayers; Stonemasons	10.64	.80	.80		.02
Rubble work	10.24	.40	.80		.01
Marble setters; Terrazzo workers; & Tile setters	10.65				
Greene, Montgomery, & Preble (Rem. of Co.) Cos.: Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons	10.35	.75	.75		.02
Marble setters; Terrazzo workers; & Tile setters	9.16	.75	.25		
Lawrence Co.	10.70		.50		.05
Licking & Muskingum Cos.	10.33	.60	.50		.02
CARPENTERS; Millwrights; Piledrivermen; & Soft floor layers:					
Adams, Fayette, Highland, Lawrence, Pike, Ross, & Scioto Cos.: Carpenters; Soft floor layers	10.17	.50	.75		.03
Piledrivermen	10.46	.50	.75		.03
Millwrights	10.79	.40	.37		.03
Brown, Butler, Clermont, Clinton, Hamilton & Warren Cos.: Carpenters; Piledrivermen	11.40	.60	.65		.075
Millwrights	11.64	.50	.85		.10
Soft floor layers	8.70	.60	.65		.05
Clark, Franklin, Licking, Madison, Muskingum, & Pickaway Cos.: Carpenters	9.80	.50	.70		.02
Millwrights	10.92	.40	.70		.02
Piledrivermen	10.10	.50	.70		.02
Soft floor layers	9.40	.50	.70		.02
Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.: Carpenters; Piledrivermen	10.35	.65	1.00		.05
Millwrights	10.16	.65	1.00		
Soft floor layers	9.30	.65	.70		.05

UMI

Page 3

DECISION NO. OH77-2131

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS:					
Adams, Pike, & Scioto Cos.	$11.02		.60		
Brown, Butler, Clermont, Hamilton, Highland, & Warren Cos.	11.43	.75	.70		.15
Clark Co.	10.60				
Clinton, Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.	9.78	.50	.60		.07
Fayette, Franklin, Licking, Madison, Muskingum, Pickaway, & Ross Cos.	9.90	.50	.20		.03
Lawrence Co.	9.00				
ELECTRICIANS:					
Adams, Pike (S. part), & Scioto Cos.	10.75	.50	3%+.50	1.02	.04
Brown, Clermont & Hamilton Cos.:					
Up to & incl. 18 mi. radius from Hamilton Co. Court House	11.85	.70	3%+.40		.5%
18 to 21 mi. radius from Hamilton Co. Court House	12.15	.70	3%+.40		.5%
21 to 25 mi. radius from Hamilton Co. Court House	12.25	.70	3%+.40		.5%
Over 25 mi. radius from Hamilton Co. Court House	12.40	.70	3%+.40		.5%
Butler & Warren (City of Lebanon & South) Cos.:					
Electricians	11.40	.40	3%+.65		½%
Cable splicers	11.90	.40	3%+.65		½%
Clark, & Madison (Twps. of Paint, Pike, Somerford, Stokes, & Union) Cos.	10.44	.45	3%+.75		.04
Clinton, Darke, Greene, Miami, Montgomery, Preble, & Warren (North part excluding city of Lebanon) Cos.:					
Electrical communications installers within 11 mi. radius of 3rd & Main Street, Dayton	11.43	.50	3%+1.00		.5%
Electrical communications installers beyond 11 mi. radius of 3rd & Main Street, Dayton	11.66	.50	3%+1.00		.5%

Page 4

DECISION NO. OH77-2131

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Fayette, Highland, Pickaway (S. part), Pike (N. part), & Ross Cos.	$10.95	.29	3%		.02
Franklin, Madison (E. portion), Pickaway (N. & central portions) Cos.	11.48	.40	3%+.87		.03
Lawrence Co.	11.02	.50	3%+.50	1.00	.04
Licking Co.	10.90	.28	3%+.60		.03
Muskingum Co.	10.45	.28	3%+.60		.03
Shelby Co.	10.94	.32	3%+.37		.04
ELEVATOR CONSTRUCTORS:					
Adams, Brown, Butler, Clermont, Clinton, Darke, Hamilton, Highland, Miami, Preble, & Warren Cos.:					
Elevator constructors	11.15	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
Clark, Fayette, Franklin, Licking, Madison, Muskingum, Pickaway, Ross, & Shelby Cos.:					
Elevator constructors	11.16	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
Greene & Montgomery Cos.:					
Elevator constructors	10.635	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
Lawrence, Pike, & Scioto Cos.:					
Elevator constructors	10.945	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Adams Co.	10.00		.50		
Brown, Butler (Hamilton & Vic.), Clermont, Clinton, Hamilton, Highland (Part), & Warren (Lebanon & South) Cos.	10.10		.35		.005

Page 5

DECISION NO. OH77-2131

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Butler (excluding Hamilton & Vic.), Clark, Darke, Fayette, Highland (Part), Miami, Montgomery, Preble, Shelby, & Warren (North of Lebanon) Cos.	$9.88		.50		.01
Franklin, Licking, Madison, Muskingum, Pickaway, Pike, & Ross Cos.	10.52		.57		.005
Lawrence & Scioto Cos.	10.00		.50		
IRONWORKERS:					
Adams (Part), Lawrence, Pike (Part), & Scioto Cos.:					
To 10 mi. from Union Hall in Ashland, Kentucky	11.27	.90	1.05		.01
10 to 15 mi. from Union Hall in Ashland, Kentucky	11.42	.90	1.05		.01
15 to 20 mi. from Union Hall in Ashland, Kentucky	11.52	.90	1.05		.01
20 mi. & over from Union Hall in Ashland, Kentucky	11.62	.90	1.05		.01
Adams (Part), Brown, Butler (S. ½ of Co.), Clermont, Hamilton & Warren (S. ½ of Co.) Cos.:					
Ornamental; Structural	11.48	.90	1.05		.03
Reinforcing	10.63	.90	1.85		.02
Butler (N. ½ of Co.), Clark (W 3/4), Clinton, Darke, Fayette (Part), Greene, Highland (W 4/5), Miami, Montgomery, Preble, Shelby, & Warren (N. ½) Cos.:					
Within 15 mi. radius of Local Union #290 office	10.96	.90	1.25		.04
Beyond 15 mi. radius of Local Union #290 office	11.11	.90	1.25		.04
Clark (E. ¼), Fayette (Part), Highland (E. 1/5), Muskingum, Pike (Part), & Ross Cos.	11.10	.90	1.55		.05
Franklin Co.	10.85	.90	1.55		.05
Licking, Madison, & Pickaway Cos.	11.00	.90	1.55		.05

Page 6

DECISION NO. OH77-2131

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Adams, Brown, Pike, & Scioto Cos.	9.315		.10		
Butler, Clinton, Darke, Fayette, Greene, Miami, Montgomery, Preble, Shelby, & Warren (N. ½) Cos.	11.04		.20		.01
Clark, Franklin, Licking, Madison, Muskingum, Pickaway, & Ross Cos.	10.65		.10		.01
Clermont, Hamilton, Highland, & Warren (S. ½) Cos.	12.52		.25		.025
Lawrence Co.	10.925		.10		
LEADBURNERS	10.75	.40		c	.01
LINE CONSTRUCTION:					
Adams, Lawrence, Pike (Twps. of Camp Creek, Marion, Newton, Scioto, Sunfish, & Union), & Scioto Cos.:					
Linemen; Operators: All mechanized equipment	11.08	.45	3%+.50	1.00	½%
Cable splicers; Linemen welder	12.19	.45	3%+.50	1.00	½%
Groundmen	8.86	.45	3%+.50	1.00	½%
Brown, Clermont, & Hamilton Cos.:					
Linemen up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati	11.85	.70	3%+.40		½%
Linemen over 18 to & incl. 21 mi. radius from Hamilton Co. Court House, Cincinnati	12.15	.70	3%+.40		½%
Linemen over 21 to & incl. 25 mi. radius from Hamilton Co. Court House, Cincinnati	12.25	.70	3%+.40		½%
Linemen over 25 mi. radius from Hamilton Co. Court House, Cincinnati	12.40	.70	3%+.40		½%
Butler & Warren (Twps. of Deerfield, Hamilton, Harlem, Massie, Salem, Turtle Creek, Union & Washington) Cos.:					
Inside city limits of Middletown & Hamilton:					
Equipment ops.; Linemen	11.40	.40	3%+.65		½%

UMI

Page 8

DECISION NO. OH77-2131

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Franklin Co.:	9.86	.35	3%		3%
Cable splicers; Linemen					
Equipment operator:					
0 to 1 yr.	6.30	.35	3%		3%
1 to 1 yr.	7.57	.35	3%		3%
1 yr. or more	8.81	.35	3%		3%
Groundman or truck drivers:					
0 to 1 yr.	5.13	.35	3%		3%
1 yr. or more	6.06	.35	3%		3%
Licking Co.:					
Cable splicers	12.46	.50	3%		3%
Equipment ops.; Linemen	11.73	.50	3%		3%
Groundmen; truck drivers:					
Over 1 yr.	9.31	.50	3%		3%
0 - 1 yr.	8.32	.50	3%		3%
Madison Co. (Twps. of Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range, & Pleasant), & Pickaway Co. (Twps. of Darby, Circleville, Harrison, Jackson, Madison, Monroe, Muhlenberg, Scioto, Walnut, & Washington):					
Cable splicers; Equipment ops.; Linemen	12.41	.35	3%		3%
Groundmen:					
0 to 6 mos.	5.92	.35	3%		3%
After 6 mos.	6.30	.35	3%		3%
After 12 mos.	6.72	.35	3%		3%
After 18 mos.	7.11	.35	3%		3%
Muskingum Co.:					
Cable splicer; Equipment ops.; & Linemen	10.98	.35	3%		3%
Groundmen:					
0 to 6 mos.	5.92	.35	3%		3%
After 6 mos.	6.30	.35	3%		3%
After 12 mos.	6.72	.35	3%		3%
After 18 mos.	7.11	.35	3%		3%

Page 7

DECISION NO. OH77-2131

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Outside & East of Interstate Hwy #71:	$11.75	.40	Push 4.5		3%
Equipment ops.; Linemen					
Outside & East of Interstate Hwy #71:					
Equipment ops.; Linemen	11.05	.40	3%+4.5		3%
Clark Co.:					
Cable splicers; Linemen	9.11	.35	3%		.25%
Equipment ops.:					
0 to 1 yr.	5.44	.35	3%		.25%
1 to 1 yr.	6.54	.35	3%		.25%
1 yr. or more	7.60	.35	3%		.25%
Groundmen or truck drivers:					
0 to 1 yr.	4.47	.35	3%		.25%
1 yr. or more	5.27	.35	3%		.25%
Clinton, Darke, Greene, Miami, Montgomery, Preble, Warren (Twps. of Wayne, Clear Creek & Franklin) Cos.:					
Electrical communications installers within 11 mi. radius of 3rd & Main Street, Dayton	11.43	.50	3%+1.00		.5%
Electrical communications installers beyond 11 mi. radius of 3rd & Main Street, Dayton	11.66	.50	3%+1.00		.5%
Fayette, Highland, Pickaway (Deer Creek, Perry, Pickaway, Salt Creek, & Wayne Twps.), Pike (excluding Camp Creek, Marion, Newton, Scioto, Sunfish, & Union Twps.), & Ross Cos.:					
Equipment ops.; Linemen	10.95	.28	3%		3%
Truck drivers	6.47	.28	3%		3%
Groundman	6.17	.28	3%		3%

Page 10

DECISION NO. OH77-2131

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Adams, Highland, Pike, & Scioto Cos.:					
Brush; Paperhangers; Tapers; Wall covering, washing; Exterior buildings under 40'	$11.00		.40		
Rollers; Floor sanding; Power tools	11.25		.40		
Sandblasting; Steamcleaning; Hazardous material; & Burning	12.00		.40		
Brown, Clermont, & Hamilton Cos.:					
Commercial:					
Brush	11.25		.25		
Spray	11.65		.25		
Industrial:					
Brush	11.40		.25		
Spray	11.80		.25		
Butler & Warren Cos.:					
Commercial:					
Brush	10.08				
Spray	10.58				
Industrial:					
Brush	10.23				
Spray	10.73				
Clark Co.:					
Brush; Paperhangers (Tools furnished)	7.80	.10	.25		
Swing stage	8.15	.10	.25		
Spray	8.50	.10	.25		
Structural steel	8.35	.10	.25		
Clinton, Darke, Greene, Miami, Montgomery, & Preble Cos.:					
Brush; Roller	11.05	.40	.40		.02
Scaffolds; Structural steel; & swing stage	11.45	.40	.40		.02
Sandblasting; Spray; & Steam-cleaning	11.55	.40	.40		.02
Paperhangers	11.30	.40	.40		.02
Spackling & finishing; & Taping	11.05	.40	.40		.02
Steeple jack work	11.80	.40	.40		.02

Page 9

DECISION NO. OH77-2131

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Pickaway (Twps. of Deer Creek, Perry, Pickaway, Salt Creek, & Wayne), Pike (N. part), & Ross Cos.:					
Equipment ops.; & Linemen	$10.95	.28	3%		3%
Truck drivers	6.47	.28	3%		3%
Groundmen	6.17	.28	3%		3%
Shelby Co.:					
Linemen	11.68	.45	3%		3%
Groundmen; Truck drivers	7.57	.45	3%		3%
Equipment operators	10.51	.45	3%		3%
MARBLE SETTERS' HELPERS; TERRAZZO WORKERS' HELPERS; TILE SETTERS' HELPERS:					
Adams, Brown, Butler, Clermont, Fayette, Hamilton, Highland, Lawrence, Pike, Ross, Scioto, & Warren Cos.:					
Marble setters' helpers	10.035				
Marble sanders; Polishers; Stockmen; Waxers; & Sawyers	10.20				
Terrazzo workers' helpers; & grinders	9.985				
Terrazzo base grinders (While operating base grinding machine)	10.405				
Tile setters' helpers	9.935				
Clark, Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.	8.34				
Franklin, Madison, & Pickaway Cos.:					
Marble setters' helpers; Terrazzo workers' helpers; & Tile setters' helpers	8.50				
Terrazzo base grinders	8.85				
Terrazzo floor grinders	8.65				

V 42 166 A AUG 26 77 UMI

DECISION NO. OH77-2131

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Fayette, Franklin, Madison, & Pickaway Cos.:					
Brush; Paperhangers; Rollers; & Wall washing	9.99	.55	.55		.02
Spray	10.49	.55	.55		.02
Structural steel; & Swing stage	10.29	.55	.55		.02
Sandblasting; Steamcleaning; & Water tanks	10.69	.55	.55		.02
Drywall tapers & finishers	10.39	.55	.55		.02
Lawrence Co.:					
Brush; Roller	7.65				
Drywall taping; & Structural steel	8.50				
Spray	9.00				
Paperhangers; & Wall washing	8.15				
Licking & Muskingum Cos.:					
Brush; & Paperhangers	7.50				
Structural steel	8.00				
Spray	7.95				
Smoke stacks; Tanks; & Water towers	8.00				
Ross Co.:					
Brush; Roller; & Tape	9.00				
Structural steel	9.25				
Sandblast; & Spray	9.75				
Shelby Co.:					
Brush; Roller; Drywall taping	8.15	.73	.50		.03
Wallcovering; Swing stage; Safety belts; Spiders; Cherry pickers - brush or rollers	8.40	.73	.50		.03
Spray; Sandblasting; Steam-cleaning; Mitts; high pressure water cleaning; & blow down	8.65	.73	.50		.03
Stilts & automatic drywall tools	8.90	.73	.50		.03
Petroleum storage tanks (over 30' high) brush, rollers	8.55	.73	.50		.03
Structural steel (open skeleton) - brush or rollers	8.45	.73	.50		.03
Elevated water tanks & stacks - brush, roller or spray	9.65	.73	.50		.03

DECISION NO. OH77-2131

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Adams, Lawrence (except Twps. of Fayette, Union, & Rome), Pike, & Scioto Cos.	$11.02		.60		
Brown, Butler, Clermont, Hamilton, Highland, & Warren Cos.	12.195		.50		.02
Clark, Clinton, Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.	11.25				
Fayette, Franklin, Licking, Madison, Muskingum, Pickaway, & Ross Cos.	9.94	.50	.30		.02
Lawrence Co. (Twps. of Fayette, Union, & Rome)	10.70		.50		.05
PLUMBERS; Steamfitters:					
Adams, Highland, Lawrence, Pike, & Scioto Cos.:					
Within 10 mi. radius of Portsmouth	11.67	.55	.75		
10 - 20 mi. radius of Portsmouth	11.92	.55	.75		
20 - 35 mi. radius of Portsmouth	12.02	.55	.75		
Over 35 mi. radius of Portsmouth	12.27	.55	.75		
Brown, Clermont, Hamilton, & Warren (N. of Rte #63 excl. Lebanon & S. Lebanon) Cos.:					
Plumbers; Gas fitters	12.07	.75	1.05		.05
Pipefitters; Steamfitters	12.20	.90	1.225		.08
Butler Co. (N. ½)	12.05	.60	1.00		.05
Butler (S. ½) & Warren (S. of Rte #63 incl. Lebanon & S. Lebanon) Cos.	11.82	.65	1.10		.02
Clark, Greene (Twps. of Cedarville, Ross, Jefferson, Ceasar Creek, & New Jasper), & Madison (W. of Rte #38 incl. city of London) Cos.	11.41	.58	.80		.04

DECISION NO. OH77-2131

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Clinton, Darke, Fayette, Greene (excl. Twps. of Miami, Cedarville, Ross, Jefferson, Ceasar Creek, & New Jasper), Miami, Montgomery, & Preble Cos.	$11.81	.55	.70		.03
Shelby Co.	12.00	.50	.75		.05
Franklin, Licking, Madison (E. of Rte #38 not incl. city of London), Pickaway, & Ross Cos.	12.32	.55	.80		.05
Muskingum Co.	10.93	.35	.50		.08
ROOFERS:					
Adams, Lawrence, Muskingum, Pike, & Scioto Cos.	10.45		.40		
Brown, Butler, Clermont, Hamilton, Highland, & Warren Cos.:					
Roofers	12.32		.85		.01
Pitch	12.92		.85		.01
Clark, Clinton, Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.:					
Slate, tile, & asbestos	10.72	.80	.50		
Composition, damp & waterproof workers	10.50	.80	.50		
Fayette, Franklin, Licking, Madison, Pickaway, & Ross Cos.	11.195	.60	.65		.01
SHEET METAL WORKERS:					
Adams, Fayette, Franklin, Lawrence, Licking, Madison, Muskingum, Pickaway, Pike, Ross, & Scioto Cos.	10.82	.45+d	1.05		.10
Brown, Clermont, Hamilton, & Highland Cos.	12.035	.90	.81		.04
Butler, Clark, Clinton, Darke, Greene, Miami, Montgomery, Preble, Shelby, & Warren Cos.	10.95	.55+d	.84		.15
SPRINKLER FITTERS	12.30	.65	.95		.08

DECISION NO. OH77-2131

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 6 paid holidays: A through F
b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
c. 9 paid holidays: A through F, plus Washington's Birthday, Good Friday, and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.
d. 3% of gross earnings to SASMI

Page 16

DECISION NO. OH77-2131

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
blacktop rakers; Wall wrecker & bar man on demolition; Sand & vacuum cleaning; Gunite nozzle man; Wagon & churn drill ops.; Concrete saw op. & brush feeders on pulverizers; Pipelayers; Bottom man; Laser gun. Burners; Sandblasting of concrete; Vibrator man; Signal man; Caisson bottom man; & Forklift op.	8.29	.55	.40		.05
Darke, Greene, Miami, Montgomery, & Preble Cos.:					
Unskilled	8.44	.55	.40		.05
All machine & Power driven tools; Power buggies; Vibrators; Chipping hammers, & railroad spikers by hand; Swinging scaffold over 15'	8.59	.55	.40		.05
Jackhammer; Air drill; Sand blaster; Sewer pipe layers; Man-hole builders, & Bottom men	8.64	.55	.40		.05
Caisson work; Scaffold with power tools	8.69	.55	.40		.05
Torch man on wrecking	8.74	.55	.40		.05
Caisson work with jackhammer	8.89	.55	.40		.05
Gunnite op.; Wagon drill op.; & blaster-powder man	8.94	.55	.40		.05
Tenders to bricklayers & masons	9.07	.55	.40		.05
Tenders to lathers & plasterers	9.11	.55	.40		.05
Adams, Highland, Lawrence, Pike, & Scioto Cos.:					
Common laborers; Signalmen	7.77	.65	.55		.10
Sheeting & Shoring men	7.87	.65	.55		.10
Bottom men; Carpenters' tenders; Mason tenders; Mortar mixers; Plasterers' tenders; & Sewer pipe layers	7.92	.65	.55		.10

Page 15

DECISION NO. OH77-2131

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
LABORERS:					
Clark Co.:					
Laborers general; Carpenters' tenders; Waterboy; Flagman; & Signalman	$7.60	.55	.40		.05
Plasterers' tenders; Mason tenders; Mortar mixers; Air & machine driven tool ops.; Jackhammer; Barko & chain saw; Sewer pipe layer; Bottom man; Wagon drill; Hand spikers; Asphalt raker & tamper; Power concrete & buggies; Gunnite machine op. & nozzle man	7.85	.55	.40		.05
Miners & muckers for tunnel & caisson; Powder man & blaster	8.10	.55	.40		.05
Fayette, Franklin, Madison, & Pickaway Cos.:					
Common laborers; Carpenter tenders; Pouring of all concrete; Cleaning debris; Cleaning of all material; General clean up; Landscape; Sod layers; Salamander; Flagmen; Wire mesh handlers or setters; Loading & unloading all trucks; Handling & conveying all material; Washing of all windows; A man on bucket pouring concrete; Conveyor belt	8.09	.55	.40		.05
Brick tender; Stone mason tender; Plasterers' tenders; Mortar mixers & Operator; Cement mason tender; All scaffold builders (swinging scaffolds); Jack hammer op.; Air or electrical pneumatic tool op.; Power driven tools; Power buggy ops.; Power wheelbarrow ops.; Asphalt &					

Page 18

DECISION NO. OH77-2131

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
Muskingum Co.:					
Planters (landscape); Tree trimmers; Plumbers' helpers; Carpenters' tenders; Building & construction laborers	$8.27	.55	.40		.05
Air & machine driven tool ops.; Asphalt plant aggremeter ops.; Asphalt plant mixermen; Brick slingers; Car pushers & tunnel laborers; Caulkers; yarners & Wrenchmen; Cement handlers; Concrete puddlers (behind mixers); Curb cutters & setters; Hand spikers ops.; Jackhammer ops.; Muckers; Mason tenders; Mortar mixers; Pipe layers; Proportioning plant ops.; Pump men (under 4"); Road form setters; Sewer bottom men; Stone mason tenders; Sheeting & shoring men; Vibrator operators; Cutting with burning torches; Dumpmen (batch trucks)	8.37	.55	.40		.05
Brick droppers; Lock tenders; Powderman or blasters	8.52	.55	.40		.05
Ross Co.:					
Brick tenders; Stonemasons' tenders; Plasterers' tenders; Mortar mixer & ops.; Cement mason tenders; All scaffold builders (Swinging scaffolds), Jackhammer ops.; Air or electrical pneumatic tool ops.; Power driven tools; Power buggy ops.; Fork lift ops.; Power wheelbarrow ops.; Asphalt & blacktop rakers; Wall wrecker & bar man on demolition; Sandblasting; Welders on demolition; Gunite					

Page 17

DECISION NO. OH77-2131

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
Air & machine driven tool op.; Asphalt rakers & smoothers; Burning & cutting torches; Chainsaw; & Powered concrete buggies; Hand spikers; Gunite machine op.; Gunnite nozzlemen; Powdermen & blasters	$8.02 8.34	.65 .65	.55 .55		.10 .10
Licking Co.:					
Brick tender; Stonemason tender; Plasterer tender; Mortar mixer & operator; Cement mason tender; All scaffold builders; Swinging scaffolds; Jackhammer ops.; Air or electrical pneumatic tool ops.; Power driven tools; Power buggy ops.; Fork lift ops.; Power wheelbarrow ops.; Asphalt & blacktop rakers; Wall wrecker & bar man on demolition; Sandblasting; Welders on demolitions; Gunite nozzle man; Wagon & churn drill ops.; Concrete saw ops.; Brush feeders on pulverizers; Pipe layers; Bottom man; Laser gun; Burners; Sandblasting of concrete; Vibrator man;	8.19	.55	.40		.05
Common laborers; Carpenter tender; Pouring of all concrete; Cleaning of all material; General clean-up incl. vacuum cleaning; Landscape; Sod layers; All portable heaters; Loading & unloading all trucks; Handling & conveying all materials Washing of all windows; A man on bucket pouring concrete; Conveyor belt; Water pumps up to & incl. 4" intake	7.97	.55	.40		.05

V 42 166 A AUG 26 77 UMI

DECISION NO. 0H77-2131

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
nozzle man; Wagon & churn drill ops.; Concrete saw ops.; Brush feeders on pulverizers; Pipe layers; Bottom man; Laser gun; Burners; Sandblasting of concrete; Vibrator man; Carpenters' tenders	$8.26	.55	.40		.05
Common laborers; Pouring of all concrete; Cleaning debris; Clean-up incl. vacuum cleaning; Landscape; Sod layers; Loading & unloading all trucks; Handling & conveying all materials; Washing of all windows; A man on bucket pouring concrete; Conveyor belt; All water pumps up to & incl. 3" intake	8.06	.55	.40		.05
Butler & Warren Cos.:					
Common laborers	9.34	.55	.40		.05
Asphalt rakers; Tampers; Smoothers hand air pump; Hand air tamper chisel; Vibrator power tamper op.	9.44	.55	.40		.05
Gunnite operators; Sandblaster; Concrete pumps & hose men	9.69	.55	.40		.05
Mason tenders; Mortar mixers; & scaffold builders	9.67	.55	.40		.05
Brown, Clermont, Clinton, & Hamilton Cos.:					
GROUP 1	10.00	.60	.50		.05
GROUP 2	10.10	.60	.50		.05
GROUP 3	10.15	.60	.50		.05
GROUP 4	10.20	.60	.50		.05
GROUP 5	10.35	.60	.50		.05
GROUP 6	10.50	.60	.50		.05
GROUP 7	10.75	.60	.50		.05
GROUP 8	8.77	.55	.40		.05
GROUP 9	8.92	.55	.40		.05

DECISION NO. 0H77-2131

LABORERS (CONT'D):
GROUP 1: Caisson laborers; Cement masons' helpers; Hand operated mechanical mule; Mechanical sweeper; Signal man
GROUP 2: Bottom man; Pipelayer
GROUP 3: Burning torch operator; Jackhammer; Mechanical & air tamper operator; Mechanical concrete buggies; Power operated mechanical mule; Concrete pump hose man; Vibrator man
GROUP 4: Plasterers' tender; Mason tender; Stone mason tender; Bottom jackhammer man
GROUP 5: Plaster mixer pump operator
GROUP 6: Tunnel laborer
GROUP 7: Gunnite nozzle operator
GROUP 8: Demolition Construction - Wrecking laborers
GROUP 9: Demolition Construction - Jackhammer man; burner; & wall man

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Shelby Co.:					
Building laborers; Laser beam; Power wheelbarrow or Power buggy	$7.85	.55	.40		.05
Vibrators; Spikers by hand (Railroad); Cement finishers' helpers	8.00	.55	.40		.05
All machine driven tools (gas, electric, air); Asphalt rakers; Caisson; Cofferdam; Demolitions; Packers; Pot tenders; Pump man under 4" discharge; Tampers; Torch man; Tunnel	8.00	.55	.40		.05
Blaster helper; Cylinder, shaft; Jackhammer; Man-hole builders; Mason tenders; Mortar mixers; Plasterers' tenders; Sewer bottom man; Sewer pipelayer; Sewer, water conduit, gas, oil, pipeline, except mainlines; & Wagon drill helper	8.15	.55	.40		.05
Blaster-Powder man; Gunite ops.; Muckers & miners (tunnel & caisson) free air; Sandblasters; & Wagon drill/operator	8.35	.55	.40		.05

DECISION NO. 0H77-2131

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$11.11	.46	1.00		.11
GROUP B	10.95	.46	1.00		.11
GROUP C	10.59	.46	1.00		.11
GROUP D	9.81	.46	1.00		.11
GROUP E	9.48	.46	1.00		.11
GROUP F	8.03	.46	1.00		.11

CLASSIFICATION DEFINITIONS

GROUP A: A-frame; Air compressor on steel erection; All rotary drills used on caisson work for foundations & sub-structure work; Boiler operator or compressor operator (when compressor or boiler is mounted on crane, piggyback op.); Boom trucks; Cableways; Cherry pickers; Combination concrete mixer & tower; Concrete pumps; Cranes; Derricks; Draglines; Elevating grader or Euclid loader; Floating equipment; Gradalls; Helicopter op. hoisting building materials; Helicopter winch operator hoisting builders material; Hoes; Hoisting engines (2 or more drums); Lift slab or panel jack operators; Locomotives; Maintenance engineer (mechanic or welder); Mixer paving (multiple drum); Mobile concrete pumps w/boom; Panelboard (all types on site); Piledriver; Power shovels; Side booms; Slip form pavers; Straddle carriers (building construction on site); Tower derricks; Trench machines (over 24" wide)
GROUP B: Asphalt paver; Bulldozer; CMI type equipment; End loaders; Kohlman type loaders (dirt loading); Mucking machines; Power grader; Power scoops; Power scrapers; Push cats
GROUP C: Air compressor (pressurizing shafts or tunnels); All asphalt rollers; Fork lifts; Hoist (1 drum); House elevators; Man lift; Power boilers (over 15 lbs. pressure); Pump op. installing or operating well points or other type of dewatering system; Pumps (4" & over discharge); Submersible pumps (4" & over discharge); Trenchers (24" & under)
GROUP D: Compressors on building construction; Conveyors (building material); Gunite machines; Mixers (cap. more than 1 bag); Mixers (1 bag cap. side 1 loaders); Post driver; Post hole digger; Pavement breaker (hydraulic or cable); Road widening trencher; Rollers; Welder op.
GROUP E: Back fillers & tampers; Batch plant; Bar & joint installing machine; Bullfloats; Burlap & curing machines; Clefplanes; Concrete spreading machines; Crushers; Drum fireman (asphalt); Farm type tractor (pulling attachments); Finishing machines; Form trenchers; High pressure pumps (over ½' discharge); Hydro seeders; Self-propelled power spreaders; Self-propelled sub-grader; Tire repairman; Tractors pulling sheep foot roller or grader; Vibratory compactors (with integral power)
GROUP F: Oiler; Helper; Signalman; Light plant operator; Power driven heaters (oil fired); Power boilers (less than 15 lbs., pressure); Pumps (under 4" discharge); Submersible pumps (under 4" discharge)

DECISION NO. 0H77-2131

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Adams, Brown, Highland, Lawrence (W. of Coal Grove & W. of St. Rte #75), Pike, Ross, & Scioto Cos.: Jeep; Station wagons; Pickups; Fuel trucks; Dumps to & incl. 2 tons; Bus drivers (incl. all equipment used for hauling men & materials)	$8.22	$16.50a			
Dumps over 2 tons; Tandems; Semi-tractor; Lowboys; Fork lifts (incl. mason tending work); Euclids	9.14	16.50a			
Butler Co. (N. ½):					
Tandem axle trucks; Tandem axle dump trucks; Winch trucks; Fork lifts; Truck warehouse men	8.59	23.00b	25.00a		
Single axle trucks; Jeeps; Pickups	8.44	23.00b	25.00a		
Euclid trucks; Mechanics	8.89	23.00b	25.00a		
Lowboys & drags	8.85	23.00b	25.00a		
Semi combination & combination of hauling units	8.69	23.00b	25.00a		
Clinton, Darke, Greene, Miami, Montgomery, & Preble Cos.:					
Straight flat & dump truck; Winch truck	6.03	19.00a	8.00a	c	
Fayette, Franklin, Madison, & Pickaway Cos.:					
Dump & straight	8.46	17.00a			
Tandem & semi-farm tractor	8.56	17.00a			
Lowboy	8.66	17.00a			

UMI

Page 24

DECISION NO. [illegible]

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr
TRUCK DRIVERS (Continued):					
Dump trucks (5 cubic yds. & over); Semi-dump trucks; Semi-trailers (whether flat, rack or pole & hauled or pulled by truck or tractors); Agitator or mixer trucks (up to 5 cubic yds.); Tank truck (semi)	9.40	82.33d	52.00d	1.00	
Low boy trailers; Winch trucks; Fork trucks; Distributer trucks (front end & back end); Truck crane; Monorail truck	9.45	82.33d	52.00d	1.00	
Material checker & receiver	9.50	82.33d	52.00d	1.00	
Agitator or mixer truck (5 cubic yards & over)	9.55	82.33d	52.00d	1.00	
Mechanic's helper	9.50	82.33d	52.00d	1.00	
Mechanic	9.80	82.33d	52.00d	1.00	
Tri-axle dump trucks; Hydraulic lift tailgate truck & farm type tractors; End dumpsters; Turnarockers; Ross carriers; Athey wagon or similar equipment; A-frame; Hydrolift; Dual purpose trucks	9.80	82.33d	52.00d	1.00	

FOOTNOTES:
a. per week per employee
b. per week per employee providing employee has been on payroll at least 30 days
c. 1 yr's employment - 1 wk's paid vacation; 7 yrs' employment - 2 wks' paid vacation providing the employee has been on payroll for 8 months during the previous 12 month period.
d. per month per employee

SUPERSEDEAS DECISION

STATE: Pennsylvania

COUNTIES: Bucks, Chester Delaware, Montgomery & Philadelphia

DECISION NO.: PA77-3107

DATE: Date of Publication

Supersedes Decision No.: PA77-3016 dated January 28, 1977 in 42 FR 5632

DESCRIPTION OF WORK: Building Construction, including single family homes and garden type apartments up to & including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS					
ZONE 1	$12.22	.80	.90		.06
ZONE 2	11.10	.70	.75		.025

AREA COVERED BY ASBESTOS WORKERS

ZONE 1 - Chester, Delaware, Montgomery, Philadelphia and Remainder of Bucks County

ZONE 2 - Bridgeton, Durham, Lower Makefield, Middletown Falls, Morristown, New Hope, Newton, Noxkamixon, Plumstead Riegelsville, Solebury, Tullytown, Tinicum, Upper Makefield and Yardley Townships in Bucks County

BOILERMAKER	13.10	.75	1.00		.02
BRICKLAYERS:					
Rehabilitation work on residential structures to include demolition, repair, and alteration, on any existing structures of not more than four (4) stories which is intended for predominently residential use:					
ZONE 1	8.75	.89	.50		.03
All other work:					
ZONE 1	10.88	1.10	1.00		.02
ZONE 2	10.46	.62	1.50		.01
ZONE 3	10.96	.95	1.07		.02

AREA COVERED BY BRICKLAYERS ZONES

ZONE 1 - Bucks, Chester, Philadelphia Counties, Radnor and Haverford Township in Delaware County, Lower Marion, Abington, Upper Moreland and Cheltenhan Townships in Montgomery COunty

ZONE 2 - Remainder of Delaware County

ZONE 3 - Remainder of Montgomery County

Page 2

DECISION NO. PA77-3107

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Rehabilitation work on residential structures to include demolition, repair, and alteration, or any existing structure of not more than four (4) stories which is intended for predominantly resident use	8.77	1.88	1.30		.12
All other work	10.12	2.13	1.30		.12
CEMENT MASONS:					
Rehabilitation work on residential structures to include demolition, on any existing structures of not more than four (4) stories which is intended for predominently residential use:					
ZONE 1	9.00	1.19	1.55		
All other work:					
ZONE 1	10.00	1.74	1.55		
ZONE 2	8.70	.58	.42		
ZONE 3	9.69		.50		

AREA COVERED BY CEMENT MASONS ZONES

ZONE 1 - Bucks, Delaware and Philadelphia Counties, Remainder of Chester County and Remainder of Montgomery County

ZONE 2 - Oxford, Kenneth Square, Avondale and Longwood Townships in Chester County

ZONE 3 - Pennsburg and Pottstown Townships in Montgomery County

UMI

DECISION NO. PA77-3107	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and or Appr. Tr.
DRYWALL FINISHERS:					
Rehabilitation work on residential structures to include demolition, repair and alteration, or any existing structures of not more than four (4) stories which is intended for predominently residential use	8.75	.89	.50		.03
All other work	9.75	.94	.75	.05	.03
ELECTRICIANS:					
Rehabilitation work on residential structures to include demolition, repair and alteration, or any existing structures of not more than four (4) stories which is intended for predominently residential use:					
ZONE 1	12.02	.72	.48		.24
ZONE 2	11.20	.50	.40		.17
ZONE 3	11.34	.50	.37		.06
ELECTRICIANS					
ZONE 1					
Commercial	12.59		3%+.76		2%
Residential up to and including 4 stories	11.77	6%	3%+.71		2%
ZONE 2					
Commercial	12.20	4.4%	1%+2.6%		1.5%
Residential up to and including 3 stories	10.57	3.4%	1%+2.6%		1.5%
ZONE 3					
Commercial	12.34	4.4%	1%+3.5%		1/2 of 1%
Residential up to and including 3 stories	8.725	4.4%	1%+3%		1/2 of 1%
ZONE 4					
Commercial	10.64	9½%	7%		1/4 of 1%
ZONE 5					
Commercial	10.49	.73	3%		.03
ZONE 6					
Commercial	11.20	6%	3%+1.00		.02
ZONE 7					
Commercial	10.90	.35	3%+.80		.02
ZONE 8					
Commercial	12.80	6%	1%+.40		.13

AREA COVERED BY ELECTRICIANS ZONES

ZONE 1

Bucks County - starting at the Delaware River and following the west limits of the Borough of Bristol, along the continuation of U.S Highway 13 and under the Pennsylvania Railroad bridge to Route 09113, north 09113 to Route 152, north along Route 152 to the Hulmeville Road, east on Hulmeville Road to Route 344 north on Route 344 to the junction of Spurs 261 and 252, continue north on Spur 252 to Route 09028, west on 09028 to Route 152, north on 152 to TR 232, north on TR 532 to Tr 113, north on TR 113 to TR 232 at Anchor Inn, northeast on TR 232 and continue northeast along Route 609 to Route 09060, west on 09060 to Route 402, north on 402 to the Borough line at the southwest corner of the Borough of New Hope. The Borough of New Hope is excluded.

starting at the Delaware River and proceeding southwest along the Plumstead-Solebury and the Plumstead-Buckingham Township lines to Route 09064, northwest on 09064 to U.S. Highway 611 south on 611 to the spur of Route 270, northwest along the spur to Route 397, southwest on 397 to Route 350, southeast on 350 to Route 395, southwest on 395 to Route 09069, south east on 09069 to Route 09041 southwest on 09041 to the Montgomery County line.

Delaware County - that portion east of a line following State Highway 320 from Montgomery County to Maple, then along the Springfield Road to Saxer Avenue, along Saxer Avenue to Powell Road, along Powell Road to State Highway 420 and continuing in a straight line to the Delaware River.

Montgomery County - that portion southeast of a line following Lower State Road from Bucks County southwest to the Bethlehem Pike (U.S. Highway 309), south on the Bethlehem Pike to the Penllyn Pike, southwest on the Penllyn and Blue Bell Piken to the Wissahickon Creek, southeast on the Wissahickon Creek to the Butler Pike to North Lane near Conshohocken Borough southwest onNorth Lane to Schuylkill River and continuing southeast in a line to the SPring Hill Road and southwest on the Spring Mill Road to Delaware County.

Philadelphia County - In its entirety.

ZONE 2

Bucks County - Hilltown and New Britain Townships in their entirety; that portion of telford Borough northeast of County Line Road (Main Street) and bounded by West Rockhill and Hilltown Township; that portion of Dublin Borough west of State Highway 313, and that portion of Doylestown and Warrington Townships and Doylestown Borough northwest of a line following U.S. Highway 611 south from Route 03064 to the spur of Route 270, and proceeding northwest along the spur to Route 397, southwest on 397 to Route 350, southeast on 350 to Route 395, southwest on 395 to Route 09069, southeast on 09069 to Route 09041, southwest on 09041 to the Montgomery County Line.

Chester County - East Coventry, East Vincent, West Vincent, East Pikeland. West Pikeland, Uwchlan, Upper Uwchlan, East Brandywine, Schuylkill and Charlestown Townships in their entirety, and that portion of Caln, East Caln, West Whiteland, East Whiteland, Tredyffrin, Willstown, Easttown Townships and the Borough of Downingtown north of U. S. Highway 30.

Delaware County - That portion of Radnor Township north of U.S. Highway 30 and west of State Highway 320

Norristown, Montgomery County - That portion northwest of a line following Lower State Road from Bucks County southwest to the Bethlehem Pike (U.S. Highway 309) south on Bethlehem Pike to the Penllyn Pike, southwest on the Penllyn and BLue Bell Pikes to Wissahickon Creek, southeast on the Wissahickon Creek to the Butler Pike, southwest on the Butler Pike,to North Lane near Conshohocken Borough, southeast on North Lane to the Schuylkill River and continuing southeast in a line to the Spring Mill Road, southwest on the Spring Mill Road to Delaware County; but excluding Upper Hanover, Douglas, Upper Pottsgrove, West Pottsgrove Townships and also excluding that portion of the

Borough of Pottstown north and west of a line drawn northeast on Keim Street from the Schuylkill River to the Reading Railroad northwest on the railroad to Madison Street, to High Street, east on High Street to Green Street, north on Green Street and northeast on Mintzer Street to the Lower Pottsgrove Township Line, along this township line and the borough line northwest to Adams Street and the Beehive Road, northeast on the Beehive Road to the Township Line at Morvine Street in the State of Pennsylvania.

ZONE 3

Chester County - That portion south of U.S. Highway 30 and north and west of U. S. Highway 1

Delaware County - That portion south of U.S. Highway 30 and north of that part of U.S. Highway 1 between U.S. Highway 202 and the Chester County Line, and east of that part of U.S. Highway 202 between U.S. Highway 1 and the Delaware Line, and west of a line extending from Montgomery County along State Route 320 to Maple, then along the Springfield Road to Saxer Avenue, along Saxer Avenue to Powell Road; along Powell Road to State Highway 420; along 420 and continuing in a straight line to the Delaware River in the State of Pennsylvania.

ZONE 4

Chester County - Oxford, Avondale and Kenneth Square Twps.

ZONE 5

Chester County - West Clan, West Brandywine, Honey Brook, Wallace, West Nantmeal, East Nantmeal, Warwick, South Coventry, Valley Twps. and Coatesville.

UMI

DECISION NO.: PA77-3107

Montgomery County - West Pottsgrove, Upper Pottsgrove, Douglas Twps. Pottstown.

ZONE 6
Bucks County - Plumstead, Bedminister, Tinicum, Nockamixon, Bridgeton and Durham Townships in their entireties, and that portion of Haycock and Springfield Townships east of a line following State Highway 412, from Northampton County south to Route 09071 to State Highway 212, along highway 212 to Route 09068, and along 09068 to State Highway 313. Also included in that portion of Bublin Borough east of State Highway 313.

ZONE 7
Bucks County - East Rock Hill, West Rock Hill, Milford and Richland Townships in their entirety and that portion of Haycock and Springfield Townships West of a line following State Highway 212 from Northampton County South to Route 09071 along 09071 to State Highway 212, along Highway 212 to Route 09068 and along 09068 to State Highway 313

Montgomery County - Upper Hanover in its entirety

ZONE 8
Bucks County - That portion east of a line starting at the Delaware River and following the west limits of the Borough of Bristol, along the continuation of U.S. Highway 13 and under the Pennsylvania Railroad Bridge to Route 09113, north along 09113 to Route 152, north along Route 152 to the Hulmeville Rd., east on the Hulmeville to Route 344, north on Route 344 to the junction of Spurs 281 and 252 continue north on Spur 252 and Route 09028, west on 09028 to Route 152, north on 152 to TR 532, north on TR 532 to TR 113, north on TR 113 to TR 232 as Anchor Inn northeast on TR 232 and continue northeast along Route 659 to Route 09060, West on 09060 to Route 402, north on 402 to the Borough line at the southwest corner of the Borough of New Hope. The Boroughs of New Hope and Bristoe are included.

DECISION NO. PA77-3107

	Basic hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Elevator Constructors	12.47	.745	.56	4%a+b	.025
Elevator Constructors Helpers	8.73	.745	.56	4%a+b	.025
Elevator Constructors Helpers (Prob.)	6.235				
GLAZIERS					
ZONE 1	10.53	.50	.30		.01
ZONE 2	8.89	.40	.30		.01

AREA COVERED BY GLAZIERS ZONES

ZONE 1 - Delaware and Philadelphia Counties, Remainder of Bucks, Chester and Montgomery Counties

ZONE 2 - Milford, West Rockville, Richland, E. Rockville, Haycock, Durham, Springfield, Richlandtown, Stoberton, Nockamixon Townships in Bucks County, Warwock, S. Coventry, E. Coventry, N. Coventry, Spring City and Royersford Townships in Chester County, Pottstown, Lower Pottsgrove, Limrick, Lower Frederick, Upper Salford, Sounderton, Greeland, Upper Hanover, New Hanover, Douglas, Marlboro Twps. in Montgomery County

IRONWORKERS:					
Rehabilitation work on residential structures to include demolition, repair and alteration, or any existing structures of not more than four (4) stories which is intended for predominently residential use:					
ZONE 1	10.67	2.05			.04
All other work					
ZONE 1	10.36	.79	1.11		.05
ZONE 2	10.53	.79	1.11		.05
ZONE 3					
Structural & Ornamental	12.32	.84	1.36		.04
Reinforcing	12.07	.84	1.61		.01

DECISION NO. PA77-3107

AREA COVERED BY IRONWORKERS ZONES

ZONE 1 - Bucks County

ZONE 2 - Chester County

ZONE 3 - Delaware, Montgomery and Philadelphia Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Rehabilitation work on residential structures to include demolition, repair and alteration, or any existing structures of not more than four (4) stories which is intended for predominently residential use:					
CLASS I	6.95	.90	.65		
CLASS II	7.05	.90	.65		
CLASS III	7.10	.90	.65		
CLASS IV	7.25	.90	.65		
CLASS V	7.35	.90	.65		
CLASS VI	6.89	.90	.65		

CLASSIFICATIONS DEFINITIONS

CLASS I - Stripping & dismantling concretef orm work, loading, carrying 7 handling of all reinforced steel 7 steel mesh, handling lumber and other building materials, operating jackhammers, paving breakers 7 all other pheumatic tools, building scaffolds, raking, shoveling 7 tamping of asphalt, spading & concretepit work, grading, form pinning, shoring, demolition except burners, laying conduits and ducts, sheathing, lagging, laying non metallic pipe & caulking, all other types of Laborers

CLASS II - Mason tender, power buggies, burners on demolition

CLASS III - Wagon drill operator (single)

CLASS IV - Powdermen, wagon drill operator (multiple), circular caissons excavation: Caisson groundmen, Underpinning excavation: Laborers, working at depth of 8 feet or under

CLASS V - Caisson bottom man

CLASS VI - Yard workers

DECISION NO. PA77-3107

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
All other work					
CLASS I	8.50	.90	.65		
CLASS II	8.60	.90	.65		
CLASS III	8.65	.90	.65		
CLASS IV	8.80	.90	.65		
CLASS V	8.90	.90	.65		
CLASS VI	8.44	.90	.65		

CLASSIFICATIONS DEFINITIONS

CLASS I - Stripping & dismantling concretef orm work, loading, carrying 7 handling of all reinforced steel 7 steel mesh, handling lumber and other building materials, operating jackhammers, paving breakers 7 all other pheumatic tools, building scaffolds, raking, shoveling 7 tamping of asphalt, spading & concretepit work, grading, form pinning, shoring, demolition except burners, laying conduits and ducts, sheathing, lagging, laying non metallic pipe & caulking, all other types of Laborers

CLASS II - Mason tender, power buggies, burners on demolition

CLASS III - Wagon drill operator (single)

CLASS IV - Powdermen, wagon drill operator (multiple), circular caissons excavation: Caisson groundmen, Underpinning excavation: Laborers, working at depth of 8 feet or under

CLASS V - Caisson bottom man

CLASS VI - Yard workers

LANDSCAPE LABORERS:					
CLASS I	7.00	.95	.65	c	
CLASS II	7.50	.95	.65	c	

CLASSIFICATIONS DEFINITIONS

CLASS I - Landscape Laborers

CLASS II - Farm tractor driver, hydroseeder nozzle man and mulcher nozzle man

UMI

DECISION NO. PA77-3107

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
ZONE 1	8.61	.225	.10		
ZONE 2	9.15	.50	.15		.01
ZONE 3	7.69	.40	.25		
ZONE 4	7.75	.25	.25		.02

AREA COVERED BY LATHERS ZONES

ZONE 1 - Delaware, Montgomery and Philadelphia Counties, Remainder of Bucks and Chester Counties

ZONE 2 - Coatesville & lower part of Chester COunty

ZONE 3 - Milford, Trumbersville, Richland, Quakertown, Springfield, Durham, Riegelsville, Bridgetown, Nockamixon, Tinicum, Plumstead, Dublin, Bedminister, Haycock, East Rockhill, Perkasie, Sellersville, West Rockhill Townships in Bucks County

ZONE 4 - Solebury, New Hope, Upper Makefield, Wrightstown, Newton, Yardley, Lower Makefield, Morrisville, Falls, Tullytown Townships in Bucks County

LEAD BURNERS	10.75	.40	.25	d	.01
LINE CONSTRUCTION					
Linemen	13.76	.40	3%		1%
Groundmen	8.22	.40	3%		1%
Winch truck operator	9.60	.40	3%		1%
MARBLE SETTERS	10.20	.87	.97		
MILLWRIGHTS	10.62	2.13	1.30		.12
PAINTERS:					
Rehabilitation work on residential structures to include demolition, repair, and alteration, on any existing structures of not more than four (4) stories which is intended for predominently residential use:					
ZONE 1	8.00	.825	.40		.06
All other work:					
ZONE 1					
Brush	9.295	.825	.40	.40	.06
Spray, steel & swing	9.545	.825	.40	.40	.06
Roller	9.295	.825	.40	.40	.06

DECISION NO. PA77-3107

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 2					
Commercial, brush	9.73	.75	.90		
Commercial, spray	10.23	.75	.90		
ZONE 3					
Brush	8.95	.70	.55		
Steel and spray	10.00	.70	.55		
Roller	8.95	.70	.55		
ZONE 4					
Brush	9.99	.85	.85	.90	
Steel	10.71	.85	.85	.90	

AREA COVERED BY PAINTERS ZONES

ZONE 1 - Bucks & Philadelphia Counties: Randnor, Haverford, Newton, Maple, Springfield, Upper Darby, Barby, Ridley, Tinicum & Yeondon Townships in Delaware County, Cheltenahm, Abington, Upper and Lower Moreland, Springfield Whitemarsh, Plymouth, Upper Dubling, Horsham, Whitpain, Upper and Lower Gwynodd, Lower Marion, Upper SOuthampton, Lower Southampton Townships in Montgomery County

ZONE 2 - Chester County and Remainder of Delaware County

ZONE 3 - Pottstown, Pottsgrove, New Hanover and Douglas Townships in Montgomery County

ZONE 4 - Remainder of Montgomery County

PAPERHANGERS:					
Rehabilitation work on residential structures to include demolition, repair, and alteration, or any existing structures of not more than four (4) stories which is intended for predominently residential use	8.54	.55	.35		
PILEDRIVERMEN	10.77	2.13	1.30	g	.12
POINTERS, CAULKERS AND CLEANERS	10.00	.85	.60		

DECISION NO. PA77-3107

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Rehabilitation work on residential structures to include demolition, repair, and alteration, or any existing structures of not more than four (4) stories which is intended for predominently residential use:					
ZONE 1	8.825	.78			.01
All other work					
ZONE 1	9.47	.53			.01
ZONE 2	9.71		.53		.01
ZONE 3	8.97	.65			.01
ZONE 4	9.45				.01

AREA COVERED BY PLASTERERS ZONES

ZONE 1 - Bucks & Philadelphia Counties; remainder of Chester County, Remainder of Montgomery County

ZONE 2 - Pennsburg Township in Montgomery County

ZONE 3 - Longwood, Kennett Square, Avondale and Oxford Townships in Chester County

ZONE 4 - Delaware County

PLUMBERS:					
Rehabilitation work on residential structures to include demolition, repair, and alteration, or any existing structures or not more than four (4) stories which is intended for predominently residential use:					
ZONE 1	11.24	.81	1.30		.14

DECISION NO. PA77-3107

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
All other work:					
ZONE 1	12.84	.57	1.00		.11
ZONE 2	8.50	.485	.82		.035
ZONE 3	10.02	.57	.92		.08

AREA COVERED BY PLUMBERS ZONES

ZONE 1 - Delaware & Philadelphia Counties; Remainder of Bucks County: Tedyffrin, E. Whiteland, W. Whiteland, Easttown, E. Goshen, W. Goshen, W. Chester, E. Bradford, Westown, Birmingham, Twps. & Thornbury City Townships in Chester County, Lower Marion, Horsham, Upper Dublin, Moreland, Lower Moreland, Abington, Springfield and Cheltenham Townahips in Montgomery County

ZONE 2 - Remainder of Chester & Montgomery County

ZONE 3 - Milford, Trumbaversville, West Rockhill, Sellerville, Perkasie, East Rockhill, Richland, Quackertown, Haycock, Nockamixon, Bridgeton, Durham, Riegelsville Townships in Bucks County

ROOFERS:					
Rehabilitation work on residential structures to include demolition, repair and alteration, or any existing structures or not more than four (4) stories which in intended for predominently residential use:					
ZONE 1					
Composition, damp and waterproofers	9.32	.65	.55		
Slate tile	8.10	1.00	.50		
All other work:					
ZONE 1					
Commercial					
Composition, damp & waterproofers	12.03	1.30	.82	e	
Roofers Assistant	5.50	1.30	.82	e	
Slate, tile and asbestos	10.75	1.00	.50		
Asphalt shingle	8.91	1.00	.50		

UMI

DECISION NO. PA77-3107	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS: CONT'D					
ZONE 2					
Commercial					
Composition & slate	8.35	.25	.25		
Helpers	4.63	.25	.25		
ZONE 3					
Commercial					
Composition roofers	9.70	.40	.50		
ZONE 4					
Commercial					
Composition, damp & water-proofing	10.60	.45	.25	f	
Slate, tile & angentos	11.15	.45	.25	f	
Precast Slab	11.40	.45	.25	f	
ZONE 5					
Residential reroofers	9.32	.65	.55		
Residential reroofers helpers	3.75	.65			

AREA COVERED BY ROOFERS ZONES

ZONE 1 - Delaware, Montgomery and Philadelphia Counties, Remainder of Bucks and Chester Counties

ZONE 2 - Milford, Trumbbaversville, Richland, Quakertown, Strongfield, Durham, Reiglville Townships in Bucks County

ZONE 3 - Solesbury, New Hope, Upper Makefield, Wrightstown, Newton, Yardley, Lower Makefield, Morrisville, Falls, Tullytown and Bistol Townships in Bucks County

ZONE 4 - Parksbury Township in Chester County

SHEET METAL WORKERS					
ZONE 1 (Commercial)	12.61	1.04	.65		.03
ZONE 2 (Residential)	7.15				

DECISION NO. PA77-3107

AREA COVERED BY SHEET METAL WORKERS ZONES

ZONE 1 - Bucks, Chester, Delaware, Montgomery & Philadelphia Counties

ZONE 2 - Chester, Delaware, Montgomery Counties and Bucks County excluding the Townships of Falls, Buckingham, Newton, Upper and Lower Makefield, Solebury, Plumstead and Wrightstown

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
Rehabilitation work on residential structures to include demolition, repair, and alteration, on any existing structures of not more than four (4) stories which is intended for predominently residential use	7.58	1.58	1.30		.12
All other work	8.83	1.83	1.30		.12
SPRINKLER FITTERS					
ZONE 1	11.86	.65	.95		.08
ZONE 2	12.04	.60	.90		.10

AREA COVERED BY SPRINKLER FITTERS ZONES

ZONE 1 - Bucks, Chester, Delaware & Montgomery COunties

ZONE 2 - Philadelphia County

DECISION NO. PA77-3107	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
STEAMFITTERS					
ZONE 1	12.10	.80	1.45		.11

AREA COVERED BY STEAMFITTERS ZONES

ZONE 1 - Bucks, Delaware, Philadelphia Counties and Reainder of Montgomery County

STONE MASONS					
ZONE 1	11.47	.87	.97		
ZONE 2	10.26	1.07	.95		.01
ZONE 3	10.75	.95	.78		.01
ZONE 4	9.30	.77	.75		

AREA COVERED BY STONE MASONS ZONES

ZONE 1 - Delaware & Philadelphia Counties; Remainder of Bucks County

ZONE 2 - Montgomery County

ZONE 3 - Chester County

ZONE 4 - Bristol Township in Bucks County

TERRAZZO WORKERS	9.05	.87	.97		
TILE SETTERS					
Rehabilitation work on residential structures to include demolition, repair and alteration, on any existing structures of not more than four (4) stories which is intended for predominently residential	9.25	1.10	.90		.14
All other work	9.47	1.25	1.03		.13
WELDERS - rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. PA77-3107

Paid Holidays (Where Applicalbe):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E- Thanksgiving Day; F- Christmas Day.

Footnotes:

a. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F.

c. Holidays: July 4th; Labor Day and Thanksgiving Day.

d. Holidays, A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 days for the employer during the 120 days prior to the holiday, and is available for work the day preceding and following the holiday.

e. Holidays: Election Day

f. Holidays: Labor Day and Election Day

g. Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve providing the employee has worked 45 full days for the same employer during the 120 calendar days prior to the holiday & is available for work the days preceding & following the holiday.

UMI

DECISION NO. PA77-3107

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
POWER EQUIPMENT OPERATORS					
CLASS I	12.60	5.5%	9.5%	a	1.2%
CLASS II	12.34	5.5%	9.5%	a	1.2%
CLASS III	11.47	5.5%	9.5%	a	1.2%
CLASS IV	11.26	5.5%	9.5%	a	1.2%
CLASS V	10.95	5.5%	9.5%	a	1.2%
CLASS VI	10.78	5.5%	9.5%	a	1.2%
CLASS VII	10.27	5.5%	9.5%	a	1.2%
CLASS VIII	9.53	5.5%	9.5%	a	1.2%

CLASSIFICATIONS DEFINITIONS

CLASS I - Handling steel and stone in connection with erection; cranes doing hook work; any machines handling machinery; cable spinning machines; Helicopters; machines similar to the above

CLASS II - Engineers working with dock builders and pile drivers, all types of cranes, all types of hackhoes; cableways; draglines; keystones, all types of shovels; derricks; trench shovels; trenching machines; pippin type backhoes; hoist with two towers; pavers 21E and over; all types overhear cranes; building hoists - double drum (unless used as single drum); mucking machines in tunnel; gradalls; front-end loaders over 3 cu. yd., boat captain; tandem scraper; tower type crane operation, erecting, dismantling, jumping or jacking; drill self-contained (drillmaster type); fork lift (20 ft. and over), mortar patrols (fine grade), batch plant with mixer: Machines similar to the above

CLASS III - Conveyors (except building conveyors), building hoists (single drum), scrapers and tournapulls, asphalt plant engineers, roller (high grade finishing); caterpillar-type tractors with frontend overhead loaders and rubbertired loaders 2 c.y. up to & including 3 c.y., maintenance engineers with tools; spreaders, high or low pressure boilers, concrete pumps, well drillers, forklift trucks of all types; bulldozers D-7 or equivalent and over; ditch witch type trencher, motor patrol; machines similar to the above

CLASS IV - Concrete breaking machines, rollers and machines similar to the above

CLASS V - All bulldozers under D-7, tractors including rubber-tired type with front and overhead loaders under 2 c.y., seaman pulverizing mixer, welders and maintenance engineers, fireman on power equipment, maintenance engineer (Power boat), and machines similar to the above

DECISION NO. PA77-3107

CLASSIFICATIONS DEFINITIONS CONT'D

CLASS VI - Conveyors (building), welding machines, heaters, wellpoint[illegible] compr[illegible] farm tractors, form line graders, road finishing machines, pumps, [illegible] (self contained), Seed spreader and machines similar to the above

CLASS VII - Fireman

CLASS VIII - Oilers and deck hand (personnel boats)

FOOTNOTE:
a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day providing the employee works the day before and after the holiday.

DECISION NO. PA77-3107

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
CLASS I	8.32	.6425	.625	a+b	
CLASS II	8.42	.6425	.625	a+b	
CLASS III	8.62	.6425	.625	a+b	

CLASSIFICATIONS DEFINITIONS

CLASS I - Warehouseman, checker, fork lift driver, stake body truck (single axle), 1½ ton and under vehicles

CLASS II - Truck driver over 1½ tons, dump trucks, tandem and batch trucks, semi-trailers, agitator mixer trucks, and dumpcrete type vehicles, asphalt distributors, farm tractor when used for transportation, stake body truck (tandem)

CLASS III - Euclid type, off-highway equipment - back or belly dump trucks and double - hitched equipment straddle (Ross) carrier, lowbed trailers

FOOTNOTES:
a. Employer will earn one (1) vacation day every two (2) months up to a maximum of five (5) vacation days (40 hours pay) per calendar year. During each two (2) consecutive month period, employee must have worked twenty-six (26) days in that two month period. After 130 workdays the employee will be entitled to all days of vacation, employees with five (5) years or more senority shall be eligible for two (2) weeks of vacation.

b. Paid Holidays: Memorial Day; Independence Day; Labor Day and (5) personal holidays for employees who have worked a minimum of thirty days and are on the employer's senority list, provided he works the schedule work days before and after the said holidays.

UMI

SUPERSEDEAS DECISION

STATE: Wisconsin
COUNTY: Statewide
DECISION NUMBER: WI77-2126
DATE: Date of Publication
Supersedes Decision No. WI77-2042, dated April 8, 1977 in 42 FR 18041
DESCRIPTION OF WORK: Heavy, Sewer, Tunnel & Water Construction.

BRICKLAYERS & STONEMASONS:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - BARRON, BUFFALO, CHIPPEWA, DUNN, EAU CLAIRE, PEPIN, PIERCE, POLK, RUSK, ST. CROIX, & SAWYER COUNTIES, BURNETTE County South of Hwy. 70 including the City of Grantburgh the Northern ½ of TREMPEALEAU County, and the Southern ½ of WASHBURN County	$ 9.75	.65	.25		.04
ZONE 2 - FOND DU LAC County	9.20	.65	.40		.02
ZONE 3 - BROWN, CALUMET, DOOR, FLORENCE, GREEN LAKE, KEWAUNEE, MANITOWOC, MARINETTE, MARQUETTE, OCONTO, OUTAGAMIE, WAPACA, WASHARA, & WINNEBAGO Counties and all of SHAWANO County except the North West panhandle	9.20	.65	.40		.02
ZONE 4 - GREEN, LAFAYETTE & ROCK Counties	10.33	.65	.30		.02
ZONE 5 - CRAWFORD, JACKSON, JUNEAU, LA CROSSE & VERNON Counties and the remainder of TREMPEALEAU County	9.70	.40	.25		
ZONE 6 - WALWORTH County	11.05	.60	.60		.05
ZONE 7 - DANE, GRANT, IOWA & RICHLAND COUNTIES	9.40	.55	.60	.50	
ZONE 8 - MILWAUKEE, OZAUKEE, WASHINGTON & WAUKESHA COUNTIES	10.69	1.07	.90	.56	
ZONE 9 - COLUMBIA & SAUK Counties	10.10	.65	.30		
ZONE 10 - KENOSHA & RACINE Counties	11.05	.60	.60		.05
ZONE 12 - ASHLAND, BAYFIELD, DOUGLAS & IRON Counties and the remainder of BURNETT & WASHBURN Counties	10.06	.45	.45		.01
ZONE 13 - DODGE & JEFFERSON Counties	10.25	.55	.25		
ZONE 14 - ADAMS, CLARK, FOREST, LANGLADE, LINCOLN, MARATHON, MENOMINEE, ONEIDA, PORTAGE, PRICE, TAYLOR, VILAS & WOOD Counties and the remainder of SHAWANO County	9.30	.65	.30		.04

DECISION NO. WI77-2126

CARPENTERS & PILEDRIVERMEN	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - ASHLAND & IRON Counties and the East ½ of BAYFIELD CO.					
Carpenters	7.94	.30	.25	.15	
Piledrivermen	8.14	.30	.25	.15	
ZONE 2 - BARRON, BURNETT, CHIPPEWA DUNN, EAU CLAIRE, PEPIN, PIERCE, POLK, RUSK, SAWYER & WASHBURN Counties the North ½ of BUFFALO, JACKSON & TREMPEALEAU Counties, CLARK County, West of Hwy. 73 & TAYLOR Co. West of Hwy. 73 & North of Hwy. 64 to Hwy 13 to PRICE County line					
Carpenters	9.67	.45	.50		.03
Piledrivermen	10.07	.45	.50		.03
ZONE 3 - BROWN, CALUMET, DOOR, FOND DU LAC, GREEN LAKE, KEWAUNEE, MANITOWOC, MARQUETTE, MENOMINEE, OCONTO, OUTGAMIE, SHAWANO, WAUPACA, & WAUSHARA Counties & the South ½ of MARINETTE County					
Carpenters	9.32	.45	.50		.03
Piledrivermen	9.72	.45	.50		.03
ZONE 4 - GREEN & ROCK Counties & JEFFERSON County South of Hwy 30					
Carpenters	10.20	.50	.50		.07
Piledrivermen	10.43	.50	.50		.07
ZONE 5 - KENOSHA County					
Carpenters	10.10	.60	.85		.05
Piledrivermen	10.10	.60	.85		.05
ZONE 6 - LA CROSSE, MONROE & VERNON Counties, the remainder of BUFFALO, JACKSON & TREMPEALEAU Counties & in JUNEAU County, West of County tract 80 & South of Hwy. 21					
Carpenters	9.32	.45	.50		.03
Piledrivermen	9.72	.45	.50		.03

DECISION NO. WI77-2126

CARPENTERS & PILEDRIVERMEN CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 7 - CRAWFORD, COLUMBIANA, DANE, DODGE, GRANT, IOWA, LAFAYETTE, RICHLAND & SAUK Counties and the remainder of ADAMS, JEFFERSON AND JUNEAU Counties					
Carpenters	9.77	.45	.50		.03
Piledrivermen	10.17	.45	.50		.03
ZONE 8 - FLORENCE County & the remainder of MARINETTE County					
Carpenters	9.24	.60	.60		.01
Piledrivermen	9.44	.60	.60		.01
ZONE 9 - MILWAUKEE, OZAUKEE, WASHINGTON & WAUKESHA Counties					
Carpenters	10.37	.80	.80	.51	.06
Piledrivermen	10.91	.80	.80	.51	.06
ZONE 10 - RACINE County East of Highway 75					
Carpenters	10.10	.60	.85		.05
Piledrivermen	10.18	.60	.85		.05
ZONE 11 - SHEBOYGAN County					
Carpenters	9.25	.75	.30		
Piledrivermen	10.29	.75	.30		
ZONE 12 - DOUGLAS County & the West ½ of BAYFIELD County					
Carpenters	9.45	.30	.40	.30	
Piledrivermen	9.45	.30	.40	.30	
ZONE 13 - WALWORTH County and RACINE County West of Hwy. 75					
Carpenters	10.28	.50	.50		.07
Piledrivermen	10.43	.50	.50		.07
ZONE 14 - FOREST, LANGLADE, LINCOLN, MARATHON, ONEIDA, PORTAGE, PRICE, VILAS & WOOD Counties and the remainder of ADAMS, CLARK, JUNEAU & TAYLOR Counties					
Carpenters	9.32	.45	.50		.03
Piledrivermen	9.72	.45	.50		.03

DECISION NO. WI77-2126

CEMENT MASONS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 -ASHLAND, BAYFIELD, DOUGLAS & IRON Counties & the North ½ of BURNETTE & WASHBURN Counties	9.24	.45	.45		
ZONE 2 - BARRON, CHIPPEWA, DUNN, POLK, RUSH, ST. CROIX, & SWAYER Counties and the remainder of BURNETTE & WASHBURN Counties	9.75	.65	.25		.04
ZONE 3 - ADAMS, CLARK, FOREST, LANGLADE, LINCOLN, MARATHON, MENOMINEE, ONEIDA, PORTAGE, PRICE, TAYLOR, VILAS & WOOD Counties and the Northwest panhandle of SHAWANO County	8.80	.65	.30		.04
ZONE 4 - EAU CLAIRE, PEPIN & PIERCE Counties & the North ½ of BUFFALO, JACKSON & TREMPEALEAU Counties	9.29	.45	.25		.03
ZONE 5 - BROWN, CALUMET, DOOR, FLORENCE, GREEN LAKE, KEWAUNEE, MANITOWOC, MARINETTE, MARQUETTE, OCONTO, OUTAGAMIE, WAUPACA, WAUSHARA & WINNEBAGO Counties and the remainder of SHAWANO County	8.70	.65	.40		.02
ZONE 6 - CRAWFORD, JUNEAU, LA CROSSE, MONROE, RICHLAND & VERNON Counties & the Remainder of BUFFALO, JACKSON & TREMPEALEAU Counties	9.18	.45	.25		
ZONE 7 - SHEBOYGAN COUNTY	8.70	.65	.40		.02
ZONE 8 - FOND DU LAC County	8.70	.65	.40		.02
ZONE 9 - DODGE & JEFFERSON Cos.	9.75	.55	.25		
ZONE 10 - COLUMBIA & SAUK Counties	9.35	.55	.40		
ZONE 11 - MILWAUKEE, OZAUKEE, WASHINGTON & WASKESHA Counties	9.83	1.00	.80	.51	
ZONE 12 - DANE, GREEN, IOWA, LAFFAYETTE & ROCK Counties	9.50	.65	.65		
ZONE 13 - GRANT County	9.28				
ZONE 14 - WALWORTH County	9.76	.60	.60		.05
ZONE 15 - RACINE COUNTY	8.76	.40	.60	.50	
ZONE 16 - KENOSHA County	8.76	.40	.60	.50	

UMI

PAGE 6

DECISION NO. WI77-2126

ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 4 - FLORENCE & FOREST Con. and that portion of MARINETTE County North of Amherst Athelstane & Silver Cliff Twps.	10.63	.40	12		.50%
ZONE 5 - KENOSHA County	12.74	.51	3%	.25	.75%
ZONE 6 - CRAWFORD, GRANT, JUNEAU, LA CROSSE, MONROE, RICHLAND & VERNON Cos. & the remainder of BUFFALO, JACKSON & TREMPEALEAU Counties	10.40	.55	1%		
ZONE 7 - WALWORTH County	10.70	.45	3%	7%	.50%
ZONE 8 - COLUMBIA, DANE, DODGE, IOWA & SAUK Counties & the remainder of GREEN LAKE & MARQUETTE Counties	9.95	.74	3%	7%	.75%
ZONE 9 - SHEBOYGAN County the remainder of CALUMET County and Schleswig Township in MANITOWOC County	9.19	.85	1%+.20	10%	1%
ZONE 10 - ASHLAND, BAYFIELD, DOUGLAS & IRON & the remainder of BURNETT, PRICE, SAWYER & WASHBURN COUNTIES	10.80	4%	3%	11%	3%
ZONE 11 - LANGLADE, LINCOLN, MARATHON, ONEIDA & VILAS Cos.; the remainder of SHAWANO Co. & all of MENOMINEE West of a line six miles West of Oconto County line	10.20	.45	1%	8%	1/8%
ZONE 12 - ADAMS PORTAGE & WOOD Counties	10.20	.45	1%	8%	1/8%
ZONE 13 - FOND DU LAC County	9.19	.85	1%+.20	10%	1.25%
ZONE 14 - GRUEN, JEFFERSON LA FAYETTE, & ROCK Counties	10.70	.45	3%	7%	.50%
ZONE 15 - RACINE County	12.27	.55	3%		.75%
ZONE 16 - MILWAUKEE, OZAUKEE, WASHINGTON & WAUKESHA Cos.	11.13	.92	3%+.35	10%	1.25%
ZONE 17 - The remainder of MARINETTE, MENOMINEE & OCONTO Counties	10.93	.60	3%		1/8%
ZONE 18 - The remainder of MANITOWOC County	10.93	.60	3%		1/8%

PAGE 5

DECISION NO. WI77-2042

ELECTRICIANS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - OUTAGAMIE, WAUPACA, WAUSHARA & WINNEBAGO Counties; All of CALUMET County except the township of New Holstein; Berlin RR. Route and Seneca Townships in GREEN LAKE County, and Crystal Lake, Neshkoro, Newton and Springfield Townships in MARQUETTE County	$ 10.43	.60	3%		
ZONE 2 - BARRON, CHIPPEWA, CLARK, DUNN, EAU CLAIRE, PEPIN, PIERCE, POLK, RUSK & TAYLOR Cos. in their entirety; & that portion of PRICE County North & Wausaukee Twps. in MARINETTE Co., that portion South of Lincoln, Newton, Duck Creek and Lake Twps. and West of Lincoln, Morgan, Saint Louis and West Marchland Twps., in JACKSON County	10.93	.60	4%	3%	
ZONE 3 - ADAMS, COLUMBIA, CRAWFORD, DANE, GRANT, GREEN LAKE, IOWA, JUNEAU, LA CROSSE, MARATHON, MARQUETTE, MENOMINEE, MONROE, PORTAGE, RICHLAND, SAUK, VERNON, WAUPACA, WAUSHARA, WINNEBAGO, & WOOD Counties; the remainder of CLARK FOREST, & JACKSON Counties; the West 2/3 of DODGE & SHAWANO Counties the West ½ of POND DU LAC Co. All of GREEN County except all of JEFFERSON County except the extreme Eastern portion; the West 1/3 of OUTAGAMIE County; the Townships of Egerton, Evansville, Milton & Porterville in ROCK County & the North-West corner of WALWORTH County including the town of Whitewater	10.92	4%	3%		.25%
	10.93	.60	3%		1/8%

PAGE 8

DECISION NO. WI77-2126

IRONWORKERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 4 - BROWN, CALUMET, DOOR, KEWAUNEE, MANITOWOC, MARINETTE, MILWAUKEE, OZAUKEE, RACINE, SHEBOYGAN, WASHINGTON, & WAUKESHA Counties; the remainder of DODGE, FLORENCE, FOND DU LAC, JEFFERSON, OCONTO, OUTAGAMIE & SHAWANO Cos.; & the East ½ of WALWORTH	10.66	1.10	.80	1.15	.15
ZONE 5 - The remainder of GREEN, ROCK & WALWORTH Counties	12.60	.65	.375		.10
LINE CONSTRUCTION					
Linemen	9.37	.35	5%		.5%
Equipment Operator	7.77	.35	5%		.5%
Truck Drivers With Boom, Jigger, Tractor or 5th Wheel	6.46	.35	5%		.5%
Groundman	5.88	.35	5%		.5%
Groundman 1st 6 months	5.09	.35	5%		.5%
Truck Drivers	6.16	.35	5%		.5%
PAINTERS:					
ZONE 1 - LANGLADE, LINCOLN, MENOMINEE, ONEIDA & PRICE COUNTIES The West 3/4 of FOREST County; In MARATHON Co. West of Hwy. 97 & South to Hwy. 153 & TAYLOR County North of Hwy. 64					
Brush	9.25				
Spray	9.75				
ZONE 2 - BARRON, BUFFALO, BURNETT, CHIPPEWA, DUNN, EAU CLAIRE, PEPIN, PIERCE, POLK, RUSK, St. CROIX, SAWYER, TREMPEALEAU & WASHBURN Counties					
Brush	8.80			5%	
Spray	9.30			5%	
Steel	9.05			5%	

PAGE 7

IRONWORKERS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - BARRON, BUFFALO, CHIPPEWA, DUNN, EAU CLAIRE, PEPIN PIERCE, POLK, ST. CROIX & TREMPEALEAU Counties; the Southwest ½ of BURNETT, RUSK & TAYLOR Counties; & the N. W. ½ of CLARK & JACKSON Counties	10.85	.75	.60		.02
ZONE 2 - ASHLAND, BAYFIELD, DOUGLAS, IRON, LINCOLN, ONEIDA, PRICE, SAWYER, VILAS, WASHBURN Counties; the remainder of BURNETT, RUSK & TAYLOR COUNTIES THE N. W. ½ of FOREST COUNTIES AND THE N. W. 1/3 of FLORENCE County	11.35	.30	.55		.02
ZONE 3 - ADAMS, COLUMBIA, CRAWFORD, DANE, GRANT, GREEN LAKE, IOWA, JUNEAU, LA CROSSE, LAFAYETTE, LANGLADE, MARATHON, MARQUETTE, MENOMINEE, MONROE, PORTAGE, RICHLAND, SAUK, VERNON, WAUPACA, WAUSHARA, WINNEBAGO, & WOOD Counties; the remainder of CLARK FOREST, & JACKSON Counties; the West 2/3 of DODGE & SHAWANO Counties the West ½ of POND DU LAC Co. All of GREEN County except the South-East corner; all of JEFFERSON County except the extreme Eastern portion; the West 1/3 of OUTAGAMIE County; the Townships of Egerton, Evansville, Milton & Porterville in ROCK County & the North-West corner of WALWORTH County including the town of Whitewater	10.22	.50	.25		.03

V42116 6 AUG 26 77 A UMI

PAGE 10

DECISION NO. WI77-2126

PAINTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 12 - KING DU LAC, OTHER PARTS, MANITOWOC, OUTAGAMIE, SAUK, WASHARA, WAUPACA & WINNEBAGO Counties & the remainder of Calumet County					
Brush & Steel	8.80	.70	.10		.01
Spray	9.30	.70	.10		.03
ZONE 13 - RACINE County					
Brush	9.20	.40	.60		.05
Steel	9.35	.40	.60		.05
Spray	9.95	.40	.60		.05
ZONE 14 - SHEBOYGAN County					
Brush & Steel	7.25	.40	.30	.30	
Spray	7.75	.40	.30	.30	
ZONE 15 - ASHLAND, BAYFIELD, DOUGLAS, IRON & VILAS Counties					
Brush	9.43	.30	.40		.08
Spray & Steel	9.93	.30	.40		.08
LABORERS					
ZONE 1 - MILWAUKEE, OZAUKEE, WASHINGTON & WAUKESHA Counties					
GROUP 1 - Yard & landscape laborer	9.20	.70	.80	.50	
GROUP 2 - Raking laborer on surface, pipe layer tender, top man behind machine, kettle man, top man	9.25	.70	.80	.50	
GROUP 3 - General laborer on surface, pipe layer tender, top man behind machine, kettle man, top man	9.37	.70	.80	.50	
GROUP 4 - Gunnite man on top, scaffold man, mud mixer	9.42	.70	.80	.50	
GROUP 5 - Mucker, form stripper, bottom digger miscellanious	9.59	.70	.80	.50	
GROUP 6 - Concrete manhole builder, caisson worker, miner pipelayer, caulker, joint man, pipe yarner, timber man, concrete brusher, braeer in trench behind machine, braeer in tight sheeting, concrete formsetter, shovnler, concrete buster, jack hammer op. rock driller	9.90	.70	.80	.50	

PAGE 9

DECISION NO. WI77-2126

PAINTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 3 - BROWN, DOOR, KEWAUNEE, & OCONTO Counties					
Brush	$ 7.95	.60			
Spray	8.35	.60			
ZONE 4 - FLORENCE Co. & the Northern ½ of MARINETTE Co.					
Brush	8.95			.75	
Steel	8.95			.75	
ZONE 5 - MENOMINEE COUNTY					
Brush	9.025	.40	.40		
Steel	9.175	.40	.40		
Spray	9.77	.40	.40		
ZONE 6 - ADAMS, CLARK, CRAWFORD, JACKSON, JUNEAU, LA CROSSE, MONROE, PORTAGE, VERNON & WOOD Counties, & the remainder of MARATHON & TAYLOR COUNTIES					
Brush	8.43		.45		
Steel	8.70		.45		
Spray	9.12		.45		
ZONE 7 - HALBORTH County					
Brush	9.025	.40	.40		
Steel	9.175	.40	.40		
Spray	9.77	.40	.40		
ZONE 8 - COLUMBIA, DANE, DODGE, GRANT, GREEN, IOWA, LAFAYETTE RICHLAND, ROCK & SAUK Counties					
Brush	9.22	.70	.30	.30	.01
Spray	10.04	.70	.30	.30	.01
ZONE 9 - MANITOWOC County & the South ½ of Calumet County					
Brush	7.55				
Spray and Steel	8.05				
ZONE 10 - The remainder of MARINETTE & FOREST Counties					
Brush	6.70			.45	
Spray	7.20			.45	
ZONE 11 - JEFFERSON, MILWAUKEE, OZAUKEE, WASHINGTON & WAUKESHA Counties					
Brush	9.45	.96	.80	.50	.02
Steel and Spray	9.80	.96	.80	.50	.02

PAGE 12

DECISION NO. WI77-2126

LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 2 - DANE COUNTY					
GROUP 1 - Laborer, wellpoint installation, wire mesh & reinforcement, concrete worker, form stripper, stockpile worker	8.50	.40	.35		.02
GROUP 2 - Machine equipment op. sheeting, formsetting, pitch-finisher, bottomman, gunnite man, manhole builder, welder, torchman, blaster, caulker, braeer, bull float, conduit worker, all power driven tools, mucker, pusher, cokerman	8.70	.40	.35		.02
GROUP 3 - Pipelayer, miner, laser operator	9.05	.40	.35		.02
ZONE 3 - COLUMBIA, IOWA, SAUK, & the North ½ of JEFFERSON Counties					
Group 1 - Laborers, wellpoint installation wire mesh & reinforcement, concrete worker, stripper, strike-off worker, form	7.80	.40	.35		.02
GROUP 2 - Machine & Equipment op. sheeting, formsetting, joint sawer, gunnite man, manhole builder, welder, torchman, blaster, caulker, braeer, bull float, conduit worker, all power driven tools, mucker, car puller raker, lutemen	8.00	.40	.35		.02
GROUP 3 - Pipelayer, miner, laser operator	8.35	.40	.35		.02
ZONE 4 - BAYFIELD, BURNETT, DOUGLAS, IRON, SAWYER, & WASHBURN Counties					
GROUP 1 - Topman	8.50	.30	.30		

PAGE 11

DECISION NO. WI77-2126

LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 7 - Blaster Timber-Free AIR	10.14	.70	.80	.50	
GROUP 8 - Tower man, general laborer on surface	9.37	.70	.80	.50	
GROUP 9 - Saw man, top man	9.42	.70	.80	.50	
GROUP 10 - Form stripper, car pusher	9.59	.70	.80	.50	
GROUP 11 - Mucker, mucking machine, dinkey, welder on surface	9.69	.70	.80	.50	
GROUP 12 - Concrete manhole builder, concrete buster, jack hammer op., rock driller, caisson workers, caulker, joint man, pipe yarner, braceman, on gunnite, timber man, concrete brusher	9.98	.70	.80	.50	
GROUP 13 - Miner, mining machine welder in tunnel	10.08	.70	.80	.50	
GROUP 14 - Blaster Timber COMPRESSED AIR	10.14	.70	.80	.50	
GROUP 15 - Welder on surface	9.69	.70	.80	.50	
GROUP 16 - Lock tender on surface	10.00	.70	.80	.50	
GROUP 17 - Form stripper, car pusher	10.09	.70	.80	.50	
GROUP 18 - Mucker, mucking machine, dinkey	10.19	.70	.80	.50	
GROUP 19 - Lock tender in tunnel concrete buster, jack hammer, rock driller, caisson workers, pipe layer, caulker, joint man, pipe yarner, braceman, nozzle man on gunnite, timber man, concrete brusher	10.36	.70	.80	.50	
GROUP 20 - Miner, Mining machine welder in tunnel	10.46	.70	.80	.50	
GROUP 21 - Blaster	10.53	.70	.80	.50	

V 42166 A AUG 26 77 UMI

DECISION NO. WI77-2126

LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 2 - Bracer builder, caulker bottomman	8.65	.30	.35		
GROUP 3 - Cement manhole, builder pipelayer, air or electric tool operator	8.75	.30	.35		
GROUP 4 - Blaster	8.95	.30	.35		
ZONE 5 - KENOSHA County					
GROUP 1 Topman	7.80	.40	.60	.60	
GROUP 2 - bracer, builder, caulker, pipelayer, bottomman, air or electric tool operator	8.15	.40	.60	.60	
GROUP 3 - Blaster, cement manhole builder	8.50	.40	.60	.60	
ZONE 6 - RACINE County					
GROUP 1 - Topman	7.80	.40	.60	.60	
GROUP 2 - Bracer Builder, caulker, pipelayer, bottomman, air or electric tool operator	8.15	.40	.60	.60	
GROUP 3 - Blaster, cement manhole builder	8.50	.40	.60	.60	
ZONE 7 - ASHLAND County					
GROUP 1 - Laborer, wellpoint inst., wire mesh & reinforcement	7.80	.40	.35		.02
GROUP 2 - Mach. & Equipment Ops., sheeting, formsetting, patch finisher, bottomman, jointsawer, gunnite man, manhole builder, welder, torchman, blaster, caulker, bracer, bull float, conduit worker, all power driven tools, mucker, car pusher, raker and luteman	8.00	.40	.35		.02
GROUP 3 - Pipelayers, miners & laser operators	8.50	.40	.35		.02

DECISION NO. WI77-2126

LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 8 - Remainder of State					
GROUP 1 - Laborer, wellpoint inst., wire mesh & reinforcement	7.00	.40	.35		.02
GROUP 2 - Mach. & Equipment Op., Sheeting, formsetting patch-finisher, bottomman, jointsawer, gunnite man, man builder, air or electric tool op., welder, torchman, blaster, caulker, bracer	8.00	.40	.35		.02
GROUP 3 - Pipelayer, laser op. Tunnel work, 15 additional	0.50	.40	.35		.02

DECISION NO. WI77-2126

POWER EQUIPMENT OPERATORS
Heavy, Tunnel & Sewer Construction

Area 1 - Kenosha, Milwaukee, Ozaukee, Racine, Washington & Waukesha Counties	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.67	.75	.90		.10
GROUP II	10.42	.75	.90		.10
GROUP III	10.12	.75	.90		.10
GROUP IV	10.02	.75	.90		.10
GROUP V	9.81	.75	.90		.10
GROUP VI	9.57	.75	.90		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, skid rigs, derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p.), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, tractor, Bulldozer, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type), Assistant engineer, "A" frame and winch trucks, concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, safety Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3" Augers (vertical and horizontal), combination small equipment operator, Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

DECISION NO. WI77-2126

POWER EQUIPMENT OPERATORS
Heavy, Tunnel & sewer Construction

Area 2 - Remainder of Counties	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.67	.70	.75		.10
GROUP II	10.42	.70	.75		.10
GROUP III	10.12	.70	.75		.10
GROUP IV	10.02	.70	.75		.10
GROUP V	9.81	.70	.75		.10
GROUP VI	9.57	.70	.75		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, skid rigs, derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p.), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, tractor, Bulldozer, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type), Assistant engineer, "A" frame and winch trucks, concrete auto breaker, hydro-hammer (small)), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, safety Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3" Augers (vertical and horizontal), combination small equipment operator, Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

UMI

[illegible] NO. WI77-2126

[illegible] DRIVERS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
[illegible] 1					
[illegible] 1	8.34	27.50a	25.00a	c.35	
[illegible] 2	8.49	27.50a	25.00a	c.35	
[illegible] 2					
[illegible] 1	8.34	123.04b	25.00a	c.35	
[illegible] 2	8.49	123.04b	25.00a	c.35	
[illegible] 3					
[illegible] 1	8.34	119.16b	25.00a	c.35	
[illegible] 2	8.49	119.16b	25.00a	c.35	

ZONE 1 - MILWAUKEE, OZAUKEE, WASHINGTON & WAUKESHA Counties
ZONE 2 - KENOSHA & RACINE Counties
ZONE 3 - Remainder of State

CLASSIFICATION IDENTIFICATION

GROUP 1 Truck Driver, 2 axle trucks - Mechanics helpers, truck
GROUP 2 Truck driver, 3 or more axle trucks - Euclid or dumpster type hauling units - Mechanic, truck

FOOTNOTES:
a. Per week per employee on payroll 30 days or longer.
b. Per month per employee on payroll 30 days or longer.
c. $.25 per hour vacation and $.10 per hour for holiday pay.

[FR Doc.77-24460 Filed 8-25-77;8:45 am]

UMI

167

Vol.42—No.167
8–29–77
PAGES
43373–43613

federal register

MONDAY, AUGUST 29, 1977

highlights

PRESIDENTIAL MANAGEMENT INTERN PROGRAM
Executive order establishing the program..... 43373

REORGANIZATION OF EXECUTIVE BRANCH
Presidential memorandums on review of:
Economic analysis and policy machinery..... 43375
Emergency preparedness and disaster assistance..... 43377
Food and nutrition policy..... 43379
Justice system improvement activities..... 43381
Legal representation system..... 43383

SUNSHINE ACT MEETINGS..... 43473

NUCLEAR POWER FACILITIES
NRC amends reporting requirements; effective 8–29–77.. 43385

COASTAL ZONE MANAGEMENT
Commerce/NOAA publishes proposed amendments; comments by 10–28–77 (Parts IV and V of this issue) (2 documents)..... 43551, 43585

SAINT LAWRENCE SEAWAY
DOT/SLS proposes to revise Tariff of Tolls; comments by 10–31–77 (Part VI of this issue)..... 43611

MIGRATORY CHILDREN
HEW/OE extends comment period for interim regulations on special educational needs; comments by 12–9–77 43396

AIRLINE TARIFFS
CAB proposes to exempt air carriers from filing tariffs for interstate and overseas charters; comments by 9–23–77 43409

AIRLINE CHARTERS
CAB permits tour operators to offer rental cars as part of tour package; effective 8–23–77..... 43389

AIRPLANE SAFETY
DOT/FAA proposes to prohibit three pointer altimeters; comments by 11–28–77..... 43408

AIR TAXI OPERATORS AND COMMERCIAL OPERATORS
DOT/FAA proposes revised requirements; comments by 11–28–77 (Part II of this issue)..... 43489

SMALL PASSENGER BOATS
DOT/CG proposes to amend inspection sticker requirements; comments by 11–28–77..... 43413

CONTINUED INSIDE

V 42 167 AUG 29 77
UMI

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202–523–5240.**

FEDERAL REGISTER, Daily Issue:	
Subscription orders (GPO)	**202**–783–3238
Subscription problems (GPO)	**202**–275–3050
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	**202**–523–5022
Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227
PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235
PUBLIC LAWS:	
Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

FRUITS FROM FLORIDA
USDA/AMS proposes to amend marketing agreement and order for fresh oranges, grapefruit, tangerines, and tangelos **43398**

ELECTRIC TOYS
CPSC amends date labeling requirements; effective 8–29–77 ..... **43391**

PLASTIC BALLOON TOYS
CPSC reissues exemption from FHSA ban; effective 8–29–77 ..... **43390**

PRIVACY ACT
HUD/Secy adopts new systems of records; effective 8–29–77 ..... **43455**

MEETINGS—
Commerce/DIBA: Semiconductor Technical Advisory Committee, 9–15–77 ..... **43423**
Commission on Federal Paperwork, 9–9–77 ..... **43424**
DOT/NHTSA: National Highway Safety Advisory Committee and National Motor Vehicle Safety Advisory Council, Truck and Bus Subcommittees, 9–19 and 9–20–77 ..... **43469**
Electronic Fund Transfers National Commission, 9–6 thru 9–9–77 ..... **43458**
EPA: Emission Control System Performance, Warranty Regulations, 9–23, 9–28, and 9–30–77 ..... **43412**
ERDA: Procurement Policy Advisory Committee, 9–27–77 ..... **43427**
FEA: Consumer Affairs/Special Impact Advisory Committee, 8–20–77 ..... **43428**
Consumer Affairs/Special Impact Advisory Committee, subcommittees, 8–19–77 ..... **43428**
HEW/OE: Vocational Education National Advisory Council, 9–21 and 9–22–77 ..... **43455**
NRC: Reactor Safeguards Advisory Committee, Working Group No. 1 of the Subcommittee on Reactor Safety Research, 9–14 and 9–15–77 ..... **43460**
Reactor Safety Advisory Committee, Subcommittee on Green County Nuclear Power Plant, 9–21 and 9–22–77 ..... **43461**
SBA: Miami and Jacksonville District Advisory Council, 9–23–77 ..... **43466**

CHANGED MEETINGS—
NRC: Reactor Safeguards Advisory Committee, Subcommittee on the Atlantic Generating Station, 8–31–77 ..... **43462**
NSF: Task Group No. 3, 9–9–77 ..... **43458**

HEARINGS—
DOT/SLS: Tariff of Tolls, 10–13 and 10–19–77 (Part VI of this issue) **43611**
FEA: Anthracite Coal Conference, 9–16–77 ..... **43427**
Treasury/IRS: Mergers and Consolidation of Plans, and Transfer of Plan Assets or Liabilities, 9–30–77 ..... **43412**

RESCHEDULED HEARING—
Commerce/NOAA: International Whaling Commission, 9–12–77 ..... **43424**

PUBLIC CONFERENCES
DOT/OHMO: Blasting agents, 9–23–77 ..... **43416**

SEPARATE PARTS OF THIS ISSUE
Part II, DOT/FAA **43489**
Part III, HUD/FIA **43541**
Part IV, Commerce/NOAA **43551**
Part V, Commerce/NOAA **43585**
Part VI, DOT/SLS **43611**

V 42 167 AUG 29 77 UMI

contents

THE PRESIDENT

Executive Orders

Management Intern Program, Presidential; establishment---- 43373

Memorandums

Reorganization of Executive Branch:
- Economic analysis and policy machinery; review---------- 43375
- Emergency preparedness and disaster assistance; study---- 43377

Food and nutrition policy; review ---------- 43379
Justice system improvement activities; study---------- 43381
Legal representation system; examination ---------- 43383

EXECUTIVE AGENCIES

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notices

Authority delegations:
- Latin America Region-Class II, Mission Directors, et al.; loans, grants, and guarantee agreements ---------- 43466
- Latin America Region-Class I, Assistant Mission Directors, et al.; loans grants, and guarantee agreements------- 43467
- Lebanon, Representative; sign contracts, grants, etc------- 43468

Housing guarantee programs:
- Korea ---------- 43467

AGRICULTURAL MARKETING SERVICE

Proposed Rules

Oranges, grapefruit, tangerines, and tangelos grown in Fla------ 43398

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service.

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM

Notices

Procurement list, 1977; additions and deletions---------- 43424

CIVIL AERONAUTICS BOARD

Rules

Charters:
- One-stop inclusive tours; rental cars included in tour package- 43389

Proposed Rules

Charters, etc.:
- Passenger charter operations; rate tariff filing, exemption-- 43409

Notices

Hearings, etc.:
- Allegheny Airlines, Inc-------- 43417
- Arizona service investigation-- 43419
- International Air Transport Association ---------- 43419

CIVIL RIGHTS COMMISSION

Notices

Meetings, State advisory committees:
- Indiana ---------- 43422
- Kansas ---------- 43422
- New Hampshire---------- 43422
- New York---------- 43422
- North Carolina---------- 43422
- Ohio ---------- 43423
- South Dakota---------- 43423

COAST GUARD

Proposed Rules

Passenger vessels:
- Inspection and certification; expiration date stickers----- 43413

COMMERCE DEPARTMENT

See Domestic and International Business Administration; Economic Development Administration; National Oceanic and Atmospheric Administration.

CONSUMER PRODUCT SAFETY COMMISSION

Rules

Hazardous substances and articles; administration and enforcement:
- Balloon novelty items, plastic; exemption from banned classification ---------- 43390

Toys, electrically operated, etc.:
- Labeling requirements; manufacture date---------- 43391

CUSTOMS SERVICE

Notices

Instruments of international traffic:
- Cigarette paper, tubes and filter tubing, containers for transporting ---------- 43469
- Styrofoam trays for transporting worms---------- 43470

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Notices

Meetings:
- Semiconductor Technical Advisory Committee---------- 43423

ECONOMIC DEVELOPMENT ADMINISTRATION

Notices

Import determination petitions:
- Lumured Corp---------- 43423

EDUCATION OFFICE

Rules

Migratory children, special educational needs; grants to State educational agencies; extension of comment period; hearings-- 43396

Notices

Meetings:
- Vocational Education National Advisory Council; Administration and Operation of Bureau of Occupational and Adult Education Task Force et al---------- 43455

ELECTRONIC FUND TRANSFERS, NATIONAL COMMISSION

Notices

Meetings ---------- 43458

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Notices

Meetings:
- Procurement Policy Advisory Committee ---------- 43427

ENVIRONMENTAL PROTECTION AGENCY

Proposed Rules

Air pollution control, new motor vehicles and engines:
- Emission control system performance warranty; short test establishment and failure, manufacturer repairs; workshops ---------- 43412

ENVIRONMENTAL QUALITY COUNCIL

Notices

Environmental statements; availability, etc---------- 43425

FEDERAL AVIATION ADMINISTRATION

Rules

Air carriers certification and operations:
- Domestic, flag, and supplemental air carriers and commercial operators of large aircraft; flight recorders and cockpit voice recorders; correction ---------- 43390
- Domestic, flag, and supplemental air carriers and commercial operators of large aircraft; proficiency check requirements ---------- 43388

Airworthiness directives:
- Boeing ---------- 43385
- Rolls Royce---------- 43386

Control zones and transition areas ---------- 43387
Control zones and transition areas; correction---------- 43388
Transition areas---------- 43387

Proposed Rules

Air carriers certification and operations:
- Regulatory review program; air taxi and commercial operators ---------- 43489

Air traffic operating and flight rules, and air carriers certification and operations:
- Altimeters, three pointer; prohibition; inquiry---------- 43408

Airworthiness directives:
- Bell; withdrawn---------- 43407
- McDonnell Douglas---------- 43407
- Messerschmitt - Bolkow - Blohm et al.; withdrawn---------- 43406

Transition areas; correction----- 43408

Notices

Committees; establishment, renewals, terminations, etc.:
- Citizens Advisory Committee on Aviation ---------- 43468
- Flight Information Advisory Committee ---------- 43468
- Microwave Landing System Advisory Committee---------- 43468
- Obstacle Clearance Requirements, United States Advisory Committee ---------- 43468
- Southern Region Air Traffic Control Advisory Committee- 43468
- Terminal Instrument Procedures, United States Advisory Committee ---------- 43468
- Visual Aids to Approach and Landing, United States Advisory Committee---------- 43469

FEDERAL ENERGY ADMINISTRATION

Notices

Anthracite Coal Conference; hearings ---------- 43427

Meetings:
- Consumer Affairs/Special Impact Advisory Committee (2 documents) ---------- 43428

FEDERAL HIGHWAY ADMINISTRATION

Proposed Rules

Motor carrier safety regulations:
- Parts and accessories; rear end underride protection; inquiry- 43414

FEDERAL INSURANCE ADMINISTRATION

Rules

Flood Insurance Program, National:
- Flood elevation determinations, etc. (18 documents) ---- 43542–43549

FEDERAL MARITIME COMMISSION

Notices

Complaints filed:
- Hawaii Meat Co., Ltd. v. Matson Navigation Co---------- 43429

Agreements filed, etc.:
- Continental North Atlantic Westbound Freight Conference ---------- 43429
- Europe Pacific Coast Rate Agreement ---------- 43429
- U.S. Atlantic and Gulf Ports/Central, South America, and Caribbean Ports Trades Conferences ---------- 43428

FEDERAL PAPERWORK COMMISSION

Notices

Meetings ---------- 43424

FEDERAL POWER COMMISSION

Notices

Environmental statements; availability, etc.:
- El Paso Eastern Co. et al------ 43434

Hearings, etc.:
- Alabama-Tennessee Natural Gas Co---------- 43430
- Arkansas Louisiana Gas Co---- 43430
- Arkansas Power & Light Co---- 43431
- Bates Manufacturing Co. et al- 43431
- Boston Edison Co---------- 43431
- Central Illinois Public Service Co ---------- 43431
- Cities Service Gas Co. (4 documents) ---------- 43432, 43433
- Consolidated Gas Supply Corp- 43434
- Eastern Shore Natural Gas Co- 43434
- Gas Research Institute-------- 43435
- Inter-City Minnesota Pipelines Ltd., Inc---------- 43435
- Kentucky Gas Storage Co----- 43435
- Lake Superior District Power Co ---------- 43437
- McCulloch Interstate Gas Corp- 43437
- Michigan Wisconsin Pipe Line Co ---------- 43437
- Michigan Wisconsin Pipe Line Co. et al---------- 43438
- Midwestern Gas Transmission Co---------- 43439
- Mississippi Power & Light Co--- 43439
- Mullins & Prichard---------- 43439
- Natural Gas Pipeline Co. of America (3 documents)----- 43440
- Niagara Mohawk Power Corp-- 43441
- North Penn Gas Co---------- 43441
- Northern Natural Gas Co------ 43441
- Northwest Pipeline Corp. (2 documents) ---------- 43442, 43443
- Pacific Gas & Electric Co------ 43443
- Panhandle Eastern Pipe Line Co ---------- 43443
- Pennzoil Co---------- 43444
- Public Service Co. of New Mexico (2 documents)---------- 43444
- Puget Sound Power & Light Co- 43444
- Southern California Edison Co- 43445
- Southern Natural Gas Co. (2 documents) ---------- 43445
- Stingray Pipeline Co---------- 43446
- Sun Oil Co---------- 43446
- Tennessee Gas Pipeline Co. (2 documents) ---------- 43446, 43447
- Transcontinental Gas Pipeline Corp. (4 documents) --- 43448–43450
- Transcontinental Gas Pipeline Corp. et al---------- 43477
- United Gas Pipe Line Co------- 43451
- Washington Water Power Co-- 43451
- Western Gas Interstate Co. (2 documents) ---------- 43451, 43452
- Yinger, W. R. (Operator), et al- 43453

FEDERAL RESERVE SYSTEM

Notices

Unionization and collective bargaining; policy---------- 43453

Applications, etc.:
- First National Boston Corp---- 43453

FEDERAL TRADE COMMISSION

Proposed Rules

Mergers and acquisitions; financial transactions and institutions; premerger notification: Coverage; extension of time---- 43412

FISH AND WILDLIFE SERVICE

Rules

Hunting:
- Bombay Hook National Wildlife Refuge, Del. (3 documents)-- 43394, 43395
- Flint Hills National Wildlife Refuge, Kans. (5 documents)- 43393, 43394, 43396
- Prime Hook National Wildlife Refuge, Del. (3 documents)-- 43395, 43396

HAZARDOUS MATERIALS OPERATIONS OFFICE

Proposed Rules

Blasting agents; public conference ---------- 43416

HISTORIC PRESERVATION, ADVISORY COUNCIL

Notices

Historic and cultural properties preservation; memorandums of agreement ---------- 43417

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Education Office.

HOUSING AND URBAN DEVELOPMENT

See also Federal Insurance Administration.

Notices

Authority delegations:
- Camden Area Office, low-income housing assistance payments program; withdrawn-------- 43455

Privacy Act; systems of records--- 43455

INTERIOR DEPARTMENT

See Fish and Wildlife Service; National Park Service.

INTERNAL REVENUE SERVICE

Proposed Rules

Income taxes:
- Retirement plans; mergers, consolidations, and transfer of assets or liabilities; hearing---- 43412

Notices

Authority delegations:
- Personnel Division Director---- 43470

INTERSTATE COMMERCE COMMISSION

Notices

Hearing assignments---------- 43470
Motor carriers:
- Transfer proceedings---------- 43470

JUSTICE DEPARTMENT

Rules

Organization, functions, and authority delegations:
- Executive Office for U.S. Attorneys Director; personnel and administrative matters------ 43392

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notices

Patent licenses, foreign exclusive:
- Japan Engineering Development Co ---------- 43458

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Proposed Rules

Motor vehicle safety standards:
- Rear end underride protection; inquiry ---------- 43414

Notices

Meetings:
- Truck and Bus Safety Subcommittees ---------- 43469

Motor vehicle safety standards; exemption petitions, etc.:
- Harborough Construction Co., Ltd. et al.; glazing materials on electric trucks---------- 43469

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Proposed Rules

Coastal zone management:
- Approval regulations---------- 43552
- Federal consistency procedures- 43585

VOL 42 167 AUG 29 77 UMI

V 42 167 A AUG 29 77 UMI

CONTENTS

Notices

Fishery management plans, preliminary; draft; environmental statements, meetings, etc.:
Whales, bowhead; Alaska; hearing date change 43424

NATIONAL PARK SERVICE

Notices

Development concept plans, etc.:
Canyon de Chelly National Monument, Ariz.; headquarters area 43457

NATIONAL SCIENCE FOUNDATION

Notices

Meetings:
National Science Foundation Advisory Council; Task Group #3; correction 43458

NUCLEAR REGULATORY COMMISSION

Rules

Production and utilization facilities; licensing, and financial protection requirements and indemnity agreements:
Reporting requirements revocation and modification 43385

Notices

Meetings:
Reactor Safeguards Advisory Committee (3 documents) 43460–43462

Regulatory guides; issuance and availability (2 documents) 43463, 43464

Safety analysis reports and design approvals; nuclear steam supply systems:
Fluor Pioneer Inc 43463

Applications, etc.:
Babcock & Wilcox Co 43462
Detroit Edison Co. (2 documents) 43458
Duke Power Co 43458
General Electric Co., et al 43459
Omaha Public Power District 43460
Public Service Co. of Indiana, Inc 43460
Tennessee Valley Authority 43460
Virginia Electric & Power Co 43459

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Notices

Tariff of tolls; inquiry 43611

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:
Capital Liquidity, Inc 43464
Tudor Industries Corp 43464

SMALL BUSINESS ADMINISTRATION

Notices

Disaster areas:
West Virginia 43466

Meetings, advisory councils:
Miami and Jacksonville District 43466

STATE DEPARTMENT

See also Agency for International Development.

Notices

Environmental statements; availability, etc.:
Panama Canal draft treaty 43466

TEXTILE AGREEMENTS IMPLEMENTATION COMMITTEE

Notices

Cotton and man-made textiles:
Philippines, Republic of; correction 43424

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration; Federal Highway Administration; Hazardous Materials Operations Office; National Highway Traffic Safety Administration; Saint Lawrence Seaway Development Corporation.

TREASURY DEPARTMENT

See Customs Service; Internal Revenue Service.

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR

EXECUTIVE ORDERS:
12008 43373
MEMORANDUMS:
August 25, 1977 (5 documents) 43375–43383

7 CFR

PROPOSED RULES:
905 43398

10 CFR

50 43385
140 43385

14 CFR

39 (2 documents) 43385, 43386
71 (3 documents) 43387, 43388
121 (2 documents) 43388, 43390
135 43390
378a 43389

PROPOSED RULES:
39 (3 documents) 43406, 43407
71 (2 documents) 43408
91 43408
121 (2 documents) 43408, 43490
123 43408
135 (2 documents) 43408, 43490

14 CFR—Continued

PROPOSED RULES—Continued
207 43409
208 43409
221 43409
371 43409
372 43409
372a 43409
372a 43409
373 43409
378 43409
378a 43409

15 CFR

PROPOSED RULES:
923 43552
930 43552

16 CFR

1500 43390
1505 43391

PROPOSED RULES:
801 43412

24 CFR

1917 (18 documents) 43542–43549

26 CFR

PROPOSED RULES:
1 43412

28 CFR

0 43392

40 CFR

PROPOSED RULES:
85 43412

45 CFR

116d 43396

46 CFR

PROPOSED RULES:
176 43413

49 CFR

PROPOSED RULES:
172 43416
173 43416
174 43416
176 43416
393 43414
571 43414

50 CFR

32 (10 documents) 43393–43396
33 43396

CUMULATIVE LIST OF PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR

Ch. I 38891

3 CFR

EXECUTIVE ORDERS:

11126 (Amended by EO 12007) 42839
11221 (See EO 12007) 42839
11472 (Amended by EO 12007) 42839
11514 (See EO 12007 42839
11583 (Amended by EO 12007) 42839
11625 (Amended by EO 12007) 42839
11948 (Superseded in part by EO 12007) 42839
11962 (Revoked by EO 12007) 42839
12006 39081
12007 42839
12008 43373

MEMORANDUMS:

January 2, 1973 (Amended by Memorandum of August 1, 1977) 40169
April 26, 1973 (See Memorandum of August 1, 1977) 40169
December 13, 1973 (See Memorandum of August 1, 1977) 40169
October 29, 1974 (See Memorandum of August 1, 1977) 40169
May 20, 1975 (See Memorandum of August 1, 1977) 40169
August 5, 1975 (See Memorandum of August 1, 1977) 40169
March 25, 1976 (Superseded by Memorandum of August 1, 1977) 40169
April 14, 1976 (See Memorandum of August 1, 1977) 40169
November 5, 1976 (See Memorandum of August 1, 1977) 40169
November 19, 1976 (Supplemented by Memorandum of July 21, 1977) 41401
July 20, 1977 39083
July 21, 1977 41401
August 1, 1977 40169
August 5, 1977 40171
August 11, 1977 42677
August 12, 1977 42185
August 25, 1977 43375

PROCLAMATIONS:

4514 42299

4 CFR

105 38891

5 CFR

213 ..... 39085, 39657, 40173–40175, 40215, 40866, 40867, 41265–41267, 41813, 41814, 42301, 42302, 42679, 43051–43053
713 40175

PROPOSED RULES:

890 41866

7 CFR

2 39669
16 42841
27 40677
68 40868
246 43206
271 42302
301 42302
318 41267
354 41267
406 39953
409 39956
650 40114
725 40881
905 40882
908 ..... 38892, 39359, 39959, 40678, 41095, 41603, 42841
909 42842
910 ..... 39085, 39359, 39669, 40882, 41814, 43086
918 40883
922 41268
926 40678
927 39670
929 40679
944 40885
945 ..... 40886, 43053
946 ..... 39671, 42679
947 41403
948 39360
958 39360
967 39361
980 40175
1011 40888
1040 41603
1205 41404
1260 43053
1421 ..... 40175–40185, 41269
1425 40187
1427 ..... 40421, 42308
1443 41269
1473 41269
1479 41269
1807 42843
1821 ..... 39085, 41815
1822 ..... 39361, 39362, 40679
1832 41815
1888 42843
1980 ..... 39362, 41816
2024 40680
2851 42309
2852 41843
2858 41846

PROPOSED RULES:

27 43088
220 40911
246 43224
657 42359
780 39223
905 43398
917 ..... 39989, 42691
919 41431
926 41130
927 41644
929 39989
931 41866
945 39395
946 38913
967 ..... 39108, 41431
981 42227
989 41867
991 42227
993 ..... 39672, 41644
1002 41582
1006 38913
1011 39108
1012 38913
1013 38913
1097 41873
1102 41873
1108 41873
1133 40216
1435 40216

8 CFR

235 41847
242 38892

PROPOSED RULES:

108 39672

9 CFR

82 39658
92 41848
112 41849
160 41850
161 41850
319 42309
325 ..... 39086, 42309

PROPOSED RULES:

1 42044
3 42044
51 40911
77 43088
381 41873

10 CFR

0 38893
50 43385
71 39364
140 43385
Ch. II 41095
202 41269
210 39959
211 ..... 39959, 41566, 42770
212 ..... 38894, 39195, 39959, 41566, 43054
213 39087
430 39964
460 41270

PROPOSED RULES:

73 42228
205 41242
210 40915
211 ..... 39914, 39395, 39990, 40448, 40915, 41242
212 ..... 39114, 40915, 41242, 41396, 41572
430 ..... 39114, 39673, 40217, 40701, 40826, 42361
450 41645

12 CFR

7 ..... 39969, 42537
202 ..... 39368, 40424
207 41604
220 41604
221 41604
224 41604
226 ..... 40424, 42843–42845, 43057
329 40425
343 40891
505 39368

12 CFR—Continued

545 39088
563 39198
563b 39088
571 42691
701 39369

PROPOSED RULES:

308 41130
311 41130
564 39115

13 CFR

120 40900
123 39970
301 39970
317 38896

PROPOSED RULES:

107 39992

14 CFR

1 ..... 41101, 42187
39 ..... 38896–38900, 39373–39377, 39971, 39972, 41102–41106, 41622–41625, 42188–42192, 42845–42846, 43385, 43386
45 41101
71 ..... 38901, 39378, 39379, 39972–39976, 40690–40693, 41107–41113, 41625–41627, 42192–42194, 42847, 43387, 43388
73 ..... 39379, 41113
75 39379
91 42187
97 ..... 39380, 41114, 41627, 42847
121 ..... 42194, 43388, 43390
135 ..... 42194, 43390
152 42849
378a 43389
1204 41628
1241 42679

PROPOSED RULES:

25 41236
39 ..... 38917, 41131–41133, 41647, 43406, 43407
71 ..... 38917, 39993, 39994, 40710, 40711, 41134–41137, 41648, 42228, 43408
75 ..... 38917, 40711
91 43408
121 ..... 41649, 42874, 43408, 43490
123 ..... 41649, 43408
135 ..... 41649, 43408, 43490
207 43409
208 43409
221 43409
241 ..... 39115, 42691
245 ..... 39115, 42691
246 ..... 39115, 42691
371 43409
372 43409
372a 43409
373 43409
378 ..... 40450, 43409
378a 43409
399 42229

15 CFR

46 39976
70 38901

PROPOSED RULES:

904 40711
923 43552
930 43586

16 CFR

2 ..... 39658, 42195
3 ..... 39658, 39977
4 42195
13 ..... 39198, 40681, 42309, 42850
18 39660
22 39660
27 ..... 41270, 43058
35 39660
47 39660
66 39660
105 39660
138 39660
177 39660
191 39660
206 39660
226 39660
433 40426
702 39381
1025 39089
1026 39089
1201 40188
1401 42780
1500 43390
1505 43391

PROPOSED RULES:

13 ..... 40714, 41297, 41431, 41649, 41874, 42692, 43091
423 42875
441 ..... 39995, 42693
453 41651
705 39223
801 ..... 39040, 39995, 41875, 43412
802 ..... 39040, 39995, 41875
803 ..... 39040, 39995, 41875
1500 39648
1605 39402

17 CFR

1 42748
140 39033
147 42851
200 ..... 40189, 40900
211 42310
231 ..... 42196, 43058
239 ..... 40900, 41405
240 ..... 38902, 39090, 40900, 41405, 42851
241 ..... 41022, 43058
249 40902
270 41405
271 ..... 42196, 43058

PROPOSED RULES:

1 ..... 39036, 42767
210 41433
211 41433
230 41875
231 41434
239 41139
240 ..... 41138, 41434
241 41434
270 41139
274 41139

18 CFR

1 40191
3 ..... 40191, 41276
4 40191
5 40191
6 40191
16 40191
35 ..... 39660, 41277
101 39661
104 39661
141 39661
154 ..... 41276, 41277
157 ..... 39090, 41276
201 39661
204 39661
260 39661

19 CFR

12 42683
114 42851
133 41278
153 ..... 39200, 41406
159 41630
205 40426
210 40428

PROPOSED RULES:

134 39227

20 CFR

416 ..... 39098, 40191
602 40192
702 42548
901 ..... 39200, 41115
902 39200

PROPOSED RULES:

404 38918
405 39995
653 43202

21 CFR

Ch. I 40904
6 39100
14 41851
20 42526
25 42526
73 43061
81 43061
133 39101
176 ..... 41852, 41853
193 41279
310 ..... 41374, 43061
320 42311
450 43061
510 41854
520 ..... 41854, 42312
522 ..... 39103, 41855
558 41855
561 41279
640 43063
700 41374
801 40215
807 42526
809 42530

PROPOSED RULES:

101 43095
105 43091
131 43091
172 43092
182 ..... 39117, 41299, 41876
184 ..... 39117, 41299, 41876
186 41299
312 41301
320 39675
431 42361
500 40217
514 42361
808 41301
895 42000

22 CFR

123 ..... 39103, 41631, 42851
124 ..... 41631, 42852
127 42852
128 42853
202 40428

V 42 167 AUG 29 77 UMI

22 CFR—Continued

41 ... 42856
404 ... 41856

23 CFR

160 ... 41279
655 ... 41280, 41633

PROPOSED RULES:

Ch. I ... 41651
625 ... 42876
630 ... 42877

24 CFR

25 ... 40193
203 ... 40430
803 ... 42554
811 ... 39209
880 ... 39212, 42292
881 ... 39212, 42292
883 ... 39212
888 ... 42554
1914 ... 42312–42317
1915 ... 42794
1917 ... 43542–43549

PROPOSED RULES:

203 ... 42693
204 ... 42693

25 CFR

141 ... 40194
221 ... 41116
252 ... 40904
258 ... 40904

PROPOSED RULES:

11 ... 42694
54 ... 41435
171 ... 42695
177 ... 42695
182 ... 42695
183 ... 42695

26 CFR

1 ... 42318
7 ... 39104, 42197
9 ... 42198
11 ... 39382, 41856

PROPOSED RULES:

1 ... 38919, 39227, 39233, 39408, 39997, 43412
301 ... 39227, 39233, 39997
404 ... 39227, 39233, 39997

27 CFR

178 ... 41116

PROPOSED RULES:

4 ... 42230
181 ... 39316, 40921, 42233

28 CFR

0 ... 40433, 41407, 43392
2 ... 39668, 39808, 41407
16 ... 40905, 41408
17 ... 39212
32 ... 39386

PROPOSED RULES:

2 ... 41435, 41436, 41878
540 ... 41368
541 ... 41368
548 ... 41368
551 ... 41368

29 CFR

4 ... 43063
102 ... 41117

29 CFR—Continued

452 ... 39105, 41280
1601 ... 41280
1602 ... 43065
1908 ... 41386
1952 ... 40194, 40195, 41857
2602 ... 41858
2606 ... 41858
2610 ... 41858
2614 ... 43066

PROPOSED RULES:

5 ... 43098
70a ... 39997
97 ... 43098
1061 ... 42022
1601 ... 43099
1910 ... 39120
1960 ... 43100
2608 ... 39120
2610 ... 42361

30 CFR

PROPOSED RULES:

70 ... 42362
2170 ... 42540
2171 ... 42540

31 CFR

51 ... 41859

32 CFR

Ch. I ... 39213
191 ... 42857
199 ... 41118
286b ... 39214
290 ... 40433
721 ... 43070
806b ... 41409
852 ... 42684

PROPOSED RULES:

114 ... 39234
143 ... 41306
286 ... 40552
865 ... 39999

32A CFR

PROPOSED RULES:

671 ... 43038

33 CFR

110 ... 39386, 40693, 40694
117 ... 38903, 39386, 41118, 42199
183 ... 41634
204 ... 40196, 41281
207 ... 40908
274 ... 41118

PROPOSED RULES:

117 ... 38919, 38920, 42234
154 ... 39408
155 ... 39408
156 ... 39408
157 ... 39999

34 CFR

231 ... 40694

35 CFR

69 ... 40196

36 CFR

67 ... 40436
200 ... 40438
292 ... 39387

37 CFR

PROPOSED RULES:

2 ... 40450
4 ... 40450
201 ... 41437, 41438, 42362

38 CFR

2 ... 41409, 41410
13 ... 41410
14 ... 41410

PROPOSED RULES:

8 ... 40452
17 ... 39409, 41439

39 CFR

111 ... 38904, 41634

PROPOSED RULES:

111 ... 39411, 40219, 40922
241 ... 42695
245 ... 42695
246 ... 42695
247 ... 42695
248 ... 42695
265 ... 42695

40 CFR

52 ... 39389, 39664, 40695, 41121, 42218, 42219, 43078
55 ... 41282
60 ... 39389, 41122, 41424, 41754
61 ... 41424
86 ... 40697
136 ... 39977
180 ... 39977, 40909
204 ... 41635
416 ... 40697
610 ... 40438

PROPOSED RULES:

20 ... 39414
52 ... 38920, 38921, 39235, 39415, 40220, 42879
61 ... 40452
85 ... 40221, 43412
123 ... 42882
124 ... 42882
125 ... 42882
180 ... 40715, 40922
205 ... 43226
211 ... 41139
700 ... 39182
710 ... 39182
762 ... 42882

41 CFR

1–4 ... 39215, 41635, 43079
1–8 ... 43080
7–7 ... 42689
Ch. 9 ... 41128
29–1 ... 40197
29–2 ... 40201
29–3 ... 40201
29–12 ... 40205
29–26 ... 40206
29–61 ... 40206
101–11 ... 43082
101–41 ... 41128
101–42 ... 40847
101–43 ... 40847
101–44 ... 40850
101–45 ... 40852
101–46 ... 40858
101–47 ... 40698
105–63 ... 40858

41 CFR—Continued

114–25 ... 39978
114–60 ... 42857

PROPOSED RULES:

9–4 ... 40923
24–1 ... 42234
60–4 ... 41378

42 CFR

101 ... 42857, 43083

43 CFR

423 ... 41122

PUBLIC LAND ORDERS:

5622 ... 42199

PROPOSED RULES:

424 ... 41440
426 ... 43044
1880 ... 40000

45 CFR

100a ... 40207
100b ... 42475
116d ... 43396
121a ... 42476
121m ... 42517
122a ... 42005
166 ... 42016
173 ... 40209
191 ... 42754
194 ... 40207
196 ... 39218
1015 ... 41282

PROPOSED RULES:

11 ... 41140
146a ... 40221
170 ... 40926
1601 ... 43100

46 CFR

2 ... 41636
10 ... 39978
35 ... 41636
151 ... 41636

PROPOSED RULES:

162 ... 40000
176 ... 43413
502 ... 40452

47 CFR

0 ... 42341
2 ... 42203, 43083
15 ... 39979
73 ... 38905, 39665, 39981, 39982, 40210, 41123–41125, 41283, 42858, 43084
76 ... 41127, 41284, 42689
81 ... 39666
87 ... 38906
89 ... 42203, 42343
91 ... 42203
93 ... 42343

PROPOSED RULES:

1 ... 40715
13 ... 40939
43 ... 40454
61 ... 40002, 43108
63 ... 39236
73 ... 40003, 40454, 41141, 41302–41305, 41879, 42700
81 ... 40223, 40224, 40455
83 ... 40224
89 ... 39560
90 ... 39560
91 ... 39560, 41143
93 ... 39560
95 ... 42362

49 CFR

99 ... 39220
173 ... 42206
178 ... 42206
192 ... 42865
195 ... 42865
210 ... 42343
268 ... 43030
529 ... 39983
571 ... 39983, 39984, 42208
580 ... 38906
581 ... 38909
1033 ... 39221, 39389, 39985, 41424
1036 ... 40444
1051 ... 40860
1057 ... 39666

49 CFR—Continued

1100 ... 40698, 42689
1104 ... 40860
1108 ... 39222
1109 ... 39390, 39985
1251 ... 39667
1254 ... 39390
1307 ... 42689

PROPOSED RULES:

172 ... 43416
173 ... 40003, 41651, 43416
174 ... 40003, 41651, 43416
176 ... 43416
178 ... 40003, 41651
179 ... 40003, 41651
193 ... 42235
393 ... 43414
571 ... 43414
1047 ... 40459
1082 ... 40459
1106 ... 39243
1241 ... 42701
1249 ... 42701
1307 ... 41144

50 CFR

17 ... 39985, 40682–40685, 42351
20 ... 39106, 39667, 40211, 41636
21 ... 42353
26 ... 40213, 41425
32 ... 38909–38912, 39391–39394, 40214, 40445–40447, 40690, 40861–40865, 41127, 41426–41429, 41642, 41861–41865, 42210–42215, 42354–42358, 42866–42873, 43084, 43085, 43393–43396
33 ... 40214, 41426, 43396
216 ... 39394, 41128, 41879
371 ... 40866
601 ... 42216
602 ... 42216
611 ... 39106, 41430
680 ... 42216

PROPOSED RULES:

17 ... 38921, 39121, 40716, 40823
20 ... 41145
23 ... 40459
26 ... 42883
32 ... 40465, 43108
260 ... 41440

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	Date	Pages	Date	Pages	Date
38891–39080	Aug. 1	40421–40675	10	41813–42183	19
38081–39193	2	40677–40845	11	42185–42297	22
39195–39358	3	40847–41094	12	42299–42676	23
39359–39656	4	41095–41264	15	42677–42837	24
39657–39952	5	41265–41399	16	42839–43049	25
39953–40167	8	41401–41602	17	43051–43372	26
40169–40419	9	41603–41812	18	43373–43613	29

V42167 AUG 29 77 UMI

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

FCC—Marine Utility Stations; redefinitions, and new requirements for public correspondence service.... 38178; 7–27–77

HEW/FDA—Aluminum powder; listing for use in externally applied drugs and cosmetics..... 38563; 7–29–77

Biologics; normal serum albumin (human) and plasma protein fraction (human); standards.. 27575; 5–31–77

Ferric ammonium ferrocyanide for use in externally applied drugs and cosmetics..... 38562; 7–29–77

Macrolide antibiotic drugs; erythromycin pH determination.... 38564; 7–29–77

Mica; listing for use in externally applied drugs and cosmetics..... 38561; 7–29–77

ICC—Licensing of brokers; limiting required proofs..... 21782; 4–29–77

DOT/FAA—Airworthiness directives:

British Aircraft Corp. BAC 1–11 200 and 400 airplanes..... 38338; 7–28–77

Hawker Siddeley Aviation Ltd., Model H.S. 748 Series 2A airplanes. 38339; 7–28–77

Israel Aircraft Industries, Ltd. Model 1123 Airplanes..... 38337; 7–28–77

Morane Sauliner Model MS 760 and MS 760A Airplanes..... 38338; 7–28–77

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

presidential documents

Title 3—The President

Executive Order 12008 • August 25, 1977

Presidential Management Intern Program

By virtue of the authority vested in me by Sections 3301 and 3302 of Title 5 of the United States Code, Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. There is hereby established the Presidential Management Intern Program, hereafter referred to as the Program, the purpose of which is to attract to Federal service men and women of exceptional management potential who have received special training in planning and managing public programs and policies.

SEC. 2. Outstanding individuals who have pursued a course of study oriented toward public management at a graduate-level educational institution and who, at the time of application, have recently received or will shortly receive an appropriate advanced degree, are eligible to apply for participation in the Program.

SEC. 3. The United States Civil Service Commission, hereafter referred to as the Commission, shall develop appropriate procedures for the recruitment, screening, and selection of applicants possessing the qualifications described in Section 2 of this order. In developing these procedures, the Commission shall be guided by the following principles and policies:

(a) The number of interns participating in the Program shall at no time exceed five hundred.

(b) Final selection of interns shall be made by the head of the department, agency, or component within the Executive Office of the President in which the intern is to be employed, or by the designee thereof.

(c) The procedures so developed shall provide for such affirmative actions as the Commission deems appropriate to assure equal employment opportunity.

(d) To the extent permitted by law, the Commission is authorized to enter into appropriate cooperative arrangements with State and local officials and appropriate private institutions for recruitment and screening of candidates for the Program.

SEC. 4. Upon selection, candidates shall be appointed as interns to positions in Schedule A of the excepted service for a period not to exceed two years. Their tenure shall be governed by the following principles and policies:

V 42 167 AUG 29 77 7 UMI

(a) Interns shall be assigned responsibilities consistent with their public management backgrounds and the purposes of this Program.

(b) Continuation in the Program shall be contingent upon satisfactory performance by the interns throughout the internship period.

(c) Except as provided in subsection (d) of this Section, service as interns shall confer no rights to further Federal employment in either the competitive or excepted service upon expiration of the two-year internship period.

(d) Interns may be granted competitive civil service status if they satisfactorily complete their two-year internships and meet all other requirements prescribed by the Commission.

SEC. 5. The Commission shall prescribe such regulations as may be necessary to carry out the purposes of this order.

Jimmy Carter

THE WHITE HOUSE,
August 25, 1977.

[FR Doc.77-25148 Filed 8-25-77;3:27 pm]

EDITORIAL NOTE: The President's remarks of Aug. 25, 1977, on signing Executive Order 12008, are printed in the Weekly Compilation of Presidential Documents (vol. 13, no. 35).

Memorandum of August 25, 1977

Review of the Economic Analysis and Policy Machinery in the Federal Government

Memorandum for the Heads of Executive Departments and Agencies

THE WHITE HOUSE,
Washington, August 25, 1977.

I have directed my Reorganization Project staff at the Office of Management and Budget to begin a review of the economic policy and analysis machinery of the Federal Government, to look for ways to improve the way economic policy decisions are made and carried out.

This review will focus primarily on the economic policymaking system outside the Executive Office of the President. It will involve 33 agencies employing approximately 5,000 economists.

The review will examine and develop recommendations about the best ways to:

- Eliminate overlapping functions among economic agencies;
- Repair weaknesses or gaps in the Federal Government's capacity to conduct economic analyses of particular industries or regions;
- Link foreign policy with economic decisions; and
- Ensure that economic decisions are carried out.

This effort will require the active participation of Federal departments and agencies. You may be asked to contribute time, resources, and staff assistance. I know that I can count on your support.

In order to inform all affected parties that this review is underway, I have directed that this memorandum be published in the FEDERAL REGISTER.

Jimmy Carter

[FR Doc.77-25149 Filed 8-25-77;3:28 pm]

V42167 AUG 29 77 UMI

Memorandum of August 25, 1977

Reorganization Study of Federal Preparedness and Response to Disasters

Memorandum for the Heads of Executive Departments and Agencies

THE WHITE HOUSE,
Washington, August 25, 1977.

I have directed my Reorganization Project staff at the Office of Management and Budget to carry out a comprehensive study of the Federal Government's role in preparing for and responding to natural, accidental, and wartime civil disasters.

Three different departments have major responsibility for disaster and civil defense preparedness. Many other Federal organizations have some disaster planning, relief, or recovery responsibilities. In national emergencies the resources of the entire Federal Government are on call, but they must be deployed effectively. After local disasters Federal agencies should be effectively coordinated to be able to assist State and local authorities without delay.

A preliminary review indicates that there are opportunities for the Executive Branch to improve its performance in planning for and helping to cope with the effects of major disaster. But this is a shared responsibility. The cooperation of State and local government, Congress, private sector organizations, and individual citizens is essential. Successful completion of this important reorganization study will require their participation as well as the full cooperation of Federal departments and agencies. If you are asked to contribute staff support or other assistance to this effort, I encourage you to do so.

In order to inform all affected parties that the review is underway, I have directed that this memorandum be published in the FEDERAL REGISTER.

Jimmy Carter

[FR Doc.77-25150 Filed 8-25-77;3:29 pm]

V 42 167 A AUG 29 77 7 UMI

Memorandum of August 25, 1977

Comprehensive Review of Federal Food and Nutrition Policy

Memorandum for the Heads of Executive Departments and Agencies

THE WHITE HOUSE,
Washington, August 25, 1977.

I have directed my Reorganization Project staff at the Office of Management and Budget to begin a thorough review of the organization and structure of Federal food and nutrition programs.

The Federal Government is unable to respond as effectively as it should to the important changes taking place in the production, processing, marketing, and consumption of food. As a result, our capability to develop and implement a coherent food and nutrition policy is severely hampered.

This review will focus on seven major areas:

- Production and marketing of food;
- Regulatory activities affecting food which now involve 14 agencies and over 2000 regulations;
- Food research and education which is now conducted by 12 different organizations;
- International activities which involve 12 different organizations;
- Commodity procurement and distribution including the Federal feeding programs;
- Aquaculture activities which are dispersed among three major departments, and
- Conservation activities which affect the availability of good soil and water to grow crops.

The objective of this review is to improve the Government's capability to address the Nation's needs for adequate supplies of reasonably priced, safe, and nutritious foods.

As part of this overall project I have directed OMB's new Regulatory Policy and Reports Management staff to begin a specific review of Federal food inspection, labeling and grading as well as other related food regulatory practices. The comprehensive food and nutrition policy review and the food regulatory policy review will be closely coordinated within the Reorganization Project.

This important effort will need the active participation of the Congress, Federal Departments and Agencies, State and local officials, and the public.

You may be asked to contribute time, resources, and staff assistance to this effort. If so, I hope you will make your best effort to do so.

In order to inform all affected parties that this review is underway, I have directed that this memorandum be published in the FEDERAL REGISTER.

Jimmy Carter

[FR Doc.77-25151 Filed 8-25-77;3:30 pm]

V 42 167 AUG 29 77 UMI

Memorandum of August 25, 1977

Study of Federal Justice System Improvement Activities

Memorandum for the Heads of Executive Departments and Agencies

THE WHITE HOUSE,
Washington, August 25, 1977.

The weaknesses of our present system of justice are painfully clear to many citizens. Lawyers are often available only to the wealthy or the very poor. There are substantial backlogs in the courts. While many people have proposed plans for resolving disputes outside of the courts, few of these plans are now operating. The Federal Government does not bear full responsibility for correcting these inequities, but it should make its own system a model and encourage State and local governments to improve the quality of their systems of justice.

I have therefore directed my Reorganization Project Staff at the Office of Management and Budget to review all Federal activities designed to improve the system of justice in this country. These include: (1) justice research programs; (2) justice information and statistical services; (3) justice policy and planning offices; (4) financial assistance for State and local systems; and (5) other reform activities such as juvenile justice and delinquency prevention programs.

This review will rely heavily on advice and counsel from Congress, Executive departments and agencies, the Judiciary, State and local officials, and the public.

You may be asked to contribute time, resources, and staff support to this effort. I consider this to be a high priority matter, and I know I can count on your cooperation and assistance.

In order to inform all affected parties that this review is underway, I have directed that this memorandum be published in the FEDERAL REGISTER.

Jimmy Carter

[FR Doc.77-25152 Filed 8-25-77;3:31 pm]

V 42 167 AUG 29 77 UMI

Memorandum of August 25, 1977

Examination of the Federal Government's Legal Representation System

Memorandum for the Heads of Executive Departments and Agencies

THE WHITE HOUSE,
Washington, August 25, 1977.

I have directed my Reorganization Project Staff at the Office of Management and Budget to review the Federal Government's system for providing legal advice and representation to its departments, agencies, and regulatory commissions.

This study is designed to improve the way governmental units use the legal resources at their disposal, which include their own legal offices and the services of the Department of Justice, including United States Attorneys. Better use of these resources should help prevent unnecessary litigation and administrative delay by enabling the Federal Government to do a better job of complying with its own rules and regulations.

A second objective will be to improve the way litigation is conducted in order to ensure better and more uniform application of the law.

This study will rely heavily on the advice and counsel of the Congress, Federal departments, agencies, and regulatory commissions, State and local officials, private organizations and the public.

I consider the effective use of legal resources to be a vital part of my Administration's effort to improve the performance of the Federal government; accordingly, I ask for your cooperation in providing staff assistance and other resources to assure the success of this review.

In order to inform all interested parties that this study is underway, I have directed that this memorandum be published in the FEDERAL REGISTER.

Jimmy Carter

[FR Doc.77-25153 Filed 8-25-77;3:32 pm]

V42167A AUG 29 77 UMI

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

Revocation or Modification of Certain Reporting Requirements

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulation "Licensing of Production and Utilization Facilities" to revoke the requirement that if the construction or modification of a facility is completed before the earliest date specified in the construction permit the holder of the construction permit shall promptly notify the Commisston for the purpose of accelerating the final inspection. The Commission also is amending its regulation "Financial Protection Requirements and Indemnity Agreements" to modify the repetitive reporting requirements set out in special provisions applicable to licensees furnishing financial protection in whole or in part in the form of adequate resources. These amendments reduce the reporting burden on NRC licensees.

EFFECTIVE DATE: August 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerald L. Hutton, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C 20555. Tel. 301–492–7211.

SUPPLEMENTARY INFORMATION: Section 50.55(a) of 10 CFR Part 50 requires that if the construction or modification of a facility is completed before the earliest date specified in the construction permit, the holder of the construction permit shall promptly notify the Commission for the purpose of accelerating the final inspection. A separate report for this event is not necessary and this reporting requirement is being revoked.

Section 140.18 of 10 CFR Part 140 requires that in any case where a licensee undertakes to maintain financial protection in the form specified in § 140.14(a)(2) for all or part of the financial protection required by Part 140, the licensee shall file with the Commission a balance sheet and operating statement prepared and certified by a certified public accountant. This section is being revised so that it no longer requires repetitive reports, but states that the Commission may require the licensee to file with the Commission such financial information as the Commission determines to be appropriate for the purpose of determining whether the licensee is maintaining financial protection as required by Part 140.

Since the amendments set forth below relate to minor matters and are intended to provide relief from, rather than to impose, restrictions under regulations currently in effect, the Commission has found that good cause exists for omitting general notice of proposed rule making and public procedure thereon as unnecessary and for making the rule effective on August 29, 1977, without the customary 30 day waiting period.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended and Sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 50 and 140 are published as a document subject to codification.

§ 50.55 [Amended]

1. Section 50.55 of 10 CFR Part 50 is amended by deleting the second sentence of paragraph (a).

2. Section 140.18 of 10 CFR Part 140 is revised to read as follows:

§ 140.18 Special provisions applicable to licensees furnishing financial protection in whole or in part in the form of adequate resources.

In any case where a licensee undertakes to maintain financial protection in the form specified in § 140.14(a)(2) for all or part of the financial protection required by this part, the Commission may require such licensee to file with the Commission such financial information as the Commission determines to be appropriate for the purpose of determining whether the licensee is maintaining financial protection as required by this part.

(Sec. 161, Pub. L. 83–703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201 Pub. L. 93–438, 88 Stat. 1242 (42 U.S.C. 5841).)

Dated at Bethesda, Md., this 17th day of August 1977.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc.77-24967 Filed 8-26-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77–NW–21–AD, Amdt. 39–3025]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Models B–17 F and G

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This AD is being issued to require inspection of the wing rear spar lower cap on the wing center section. There has been one reported instance of complete spar cap failure.

EFFECTIVE DATE: September 6, 1977.

ADDRESSES: Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Wash. 98124. FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108.

FOR FURTHER INFORMATION CONTACT:

Iven Connally, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108. Telephone 206–767–2516.

SUPPLEMENTARY INFORMATION: There has been a complete failure of the rear spar lower cap on the wing center section of a Boeing B–17G that resulted in partial wing failure. A fatigue crack initiated in the spar chord at a $\frac{3}{8}$" dia bolt hole common to the terminal plate. Since this condition is likely to exist or develop in other airplanes of the same design, an airworthiness directive is being issued to require inspection of the rear repair as necessary on all B–17 F and G airplanes.

DRAFTING INFORMATION

The principal authors of this document are Iven Connally, Engineering and Manufacturing Branch, and Jonathan Howe, Regional Counsel, FAA Northwest Region.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

V 42 167 AUG 29 77 UMI

BOEING. Applies to all B–17 F and G airplanes certified in all categories.

Compliance required within the next 25 hours' time-in-service or within 6 months after the effective date of this AD, whichever comes first, unless already accomplished within the last 25 hours time in service or 6 months, and thereafter at intervals not to exceed 50 hours time in service or 12 months, whichever comes first (from the last inspection).

To detect cracking in the rear spar lower cap center section, P/N 75–3425–2 or 85–3425–2, accomplish the following:

1. Remove the 3 most inboard bolts from the 14 bolt pattern attaching the rear spar center section lower chord P/N 75–3425–2 or 85–3425–2 to the terminal plates, left and right hand sides. These bolts are approximately 40 to 42 inches from the airplane centerline. Using eddy current inspection procedures or boroscope methods in conjunction with dye penetrants, inspect the rear spar lower chord center section for cracks around the bolt holes in both the forward and aft walls of the tube.

2. If cracks are found, replace the spar cap with a serviceable part of the same part number, or repair in accordance with Army T.O. No. 01–20E or other methods approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

3. After repairs per (2) have been accomplished, reinspect in accordance with (1) at intervals not to exceed 50 hours time in service or every 12 months whichever comes first.

This amendment becomes effective September 6, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Seattle, Wash., on August 18, 1977.

J. H. TANNER,
Acting Director,
Northwest Region.

NOTE.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.77–24935 Filed 8–26–77;8:45 am]

[Docket No. 14815, Amdt. 39–3027]

PART 39—AIRWORTHINESS DIRECTIVES

Rolls Royce Dart Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspections for wear and replacement, as necessary, of the flame tube liners and suspension pins on Rolls Royce Dart engines Series 528, 529, and 532 to prevent possible overheating of the turbine rotors which could result in uncontained rotor disc failures.

EFFECTIVE DATE: September 28, 1977.

ADDRESS: The applicable Rolls Royce alert service bulletin may be obtained from Rolls Royce, Ltd., P.O. Box 31, Derby DE 2 8BJ, England.

A copy of the service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Donald C. Jacobsen, Chief, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium. Tel. 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring inspections for wear and replacement, as necessary, of flame tube liners and suspension pins on Rolls Royce Dart series 528, 529, and 532 engines was published at 40 FR 31624. The proposal was prompted by instances where failure of the flame tube suspension system caused overheating of the turbine rotors resulting in uncontained rotor disc failures.

Interested persons have been afforded an opportunity to participate in the making of the amendment, and several comments have been received.

DISCUSSION OF COMMENTS

One commentator stated that its flame tube suspension system inspection program was adequate to correct the problem. The FAA does not have sufficient information to determine whether the commentator's inspection program would be acceptable. However, the proposed AD does provide for the use of an equivalent method of compliance if approved by the Chief, Aircraft Certification Staff, FAA European Region. In addition, a provision has been added to the AD to allow the approval of an increase in the inspection intervals.

This same commentator questioned as to what effect the incorporation of Dart Modification 1736 would have on the proposed AD. The FAA believes, based on the information presently available, that the incorporation of Modification 1736 would not eliminate the need for the actions specified in the proposed AD.

This commentator further questioned whether the FAA approval for an equivalent means of compliance could be obtained from other than the Chief, Aircraft Certification Staff, FAA European Region. Since the FAA European office has the principal responsibility on matters related to this AD, the FAA believes that approval for an equivalent means of compliance with the AD should be obtained from the FAA European office.

Another commentator recommended that the provision in the AD stating that compliance is not necessary if already accomplished within the previous 1,000 hours, be revised to state "unless accomplished within the previous 1,000 hours in accordance with the limits in Dart Service Bulletin Da 72–A413" to indicate that the limits specified in Dart Maintenance Manual are not acceptable for the purpose of this AD. The FAA does not believe the revision is necessary since "unless accomplished" means unless the provisions contained in the AD have been accomplished and the AD references Da 72–A413. However, it should be noted that the reference to 1,000 hours has been deleted to avoid a possible conflict with a repetitive inspection interval which may have already been established by an operator in accordance with Rolls Royce Service Bulletin Da 72–A413.

This commentator also stated that, to be consistent with the service bulletin, no reference should be made to suspension pin wear in paragraphs (c) and (d) of the AD in determining the appropriate reinspection interval. The FAA agrees and the proposed AD is revised accordingly.

Finally, in addition to clarifying changes of a nonsubstantive nature, the proposed AD has been revised to include a new paragraph requiring a reduction of the fleet reinspection time-interval in accordance with paragraph 4B of Rolls Royce Service Bulletin Da 72–A413 if, during a repetitive inspection, flame tube liner wear is found to exceed 0.03 inches on any flame tube of an engine in the operator's fleet. This provision is contained in the referenced service bulletin and was inadvertently omitted in the proposed AD. One commentator objected to this provision in the service bulletin as being an unnecessary burden. The FAA believes that this provision is appropriate in view of the likelihood of the same wear occurring on other engines of the same type that are used in similar operating conditions. Since a situation exists that requires the immediate adoption of this regulation with respect to the reduction in the reinspection interval when appropriate, it is found that notice and public procedure hereon are impracticable and that good cause exists for including the reduction requirement in this amendment.

DRAFTING INFORMATION

The principal authors of this document are F. J. Karnowski, Europe, Africa, and Middle East Region, J. F. Zahringer, Flight Standards Service, and K. May, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

ROLLS ROYCE (1971) LIMITED. Applies to Dart engines Series 528, 529, 532, and variants featuring Modifications 748, 1243, 1244, 1432, 1448, or 1607 used on but not limited to Fokker F–27 Marks 200, 400, 600; Fairchild F–27A, F–27F, F–27G, F–27J, F–27M, FH–227, FH–227B, FH–227C, FH–227D, FH–227E; Hawker Siddeley H.S.–748 Series 2A; and Grumman G–159 aircraft.

Compliance is required within the next 500 hours engine time in service after the effective date of this AD, unless already accomplished, and thereafter as indicated.

To prevent excessive wear in flame tube liners and suspension pins that may result in loss of flame tube support causing overheating of turbine rotors and uncontained rotor disc failures, accomplish the following:

(a) Inspect the flame tube liner and suspension pin for wear in accordance with the instructions contained in paragraph 4D of Rolls Royce Dart Alert Service Bulletin Da 72–A413, dated May 2, 1975 (hereafter Rolls Royce Bulletin 72–A413), or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region, c/o American Embassy, APO New York, N.Y. 09667 (hereafter FAA-approved equivalent).

(b) If, as a result of any inspection required by this AD, flame tube linear or suspension pin wear is found to exceed the limits given in paragraph 4A.2 of Rolls Royce Bulletin 72–A413, or an FAA-approved equivalent, before further flight, except that the aircraft may be flown in accordance with FAR §§ 21.197 and 21.199 to a base where the work can be performed, replace the affected part with a serviceable part and reinspect in accordance with either paragraph (c), (d), or (e) of this AD, as applicable.

(c) If, as a result of the initial inspection required by this AD, flame tube liner wear is in excess of 0.030 inch on any one flame tube of an engine in the operator's fleet, determine the flame tube time in service since new or overhauled, establish a fleet reinspection time-interval in accordance with the instructions in paragraphs 4.A(3) and 4.A(4) of Rolls Royce Bulletin 72–A413, or an FAA-approved equivalent, and reinspect in accordance with paragraph (a) of this AD.

(d) If, as a result of any inspection required by this AD, flame tube liner wear does not exceed 0.030 inches for each flame tube of all engines in the operator's fleet, reinspect in accordance with paragraph (a) of this AD at intervals not to exceed 1,500 engine hours time in service from the last inspection.

(e) If, as a result of a repetitive inspection required by this AD, flame tube liner wear exceeds 0.030 inches on any one flame tube of an engine in the operator's fleet, reduce the reinspection time-interval for all engines in the fleet in accordance with paragraph 4B of Rolls Royce Bulletin 72–A413, or an FAA-approved equivalent.

(f) Upon the request of an operator, the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region, may adjust the initial inspection time and the reinspection intervals specified in this AD if the request contains substantiating data to justify the adjustment for that operator.

This amendment becomes effective September 28, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C., on August 19, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77–24934 Filed 8–26–77;8:45 am]

[Airspace Docket No. 76–AL–14]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area at Aniak, Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment provides additional airspace (control zone, transition area) to protect aircraft executing approach and departure procedures at Aniak, Alaska.

EFFECTIVE DATE: 0901 G.m.t. December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

John G. Costello, Operations, Procedures, and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. Telephone 907–265–4271.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the Aniak, Alaska, control zone and transition area. The NPRM was published in the FEDERAL REGISTER on January 10, 1977 (42 FR 2078) and a revised NPRM was published in the FEDERAL REGISTER on June 27, 1977 (42 FR 32555). The proposal resulted from a change to the NDB instrument approach procedure and the establishment of a new ILS/DME instrument approach procedure. Interested parties were given 30 days in which to reply. Valid aeronautical objections were received on the original proposal; no objections were received on the revised proposal.

DRAFTING INFORMATION

The principal authors of this document are John Costello, Air Traffic Division, and Donald H. Boberick, Esq., Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., December 1, 1977.

§ 71.171 [Amended]

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by amending the Aniak, Alaska, control zone as follows:

ANIAK, ALASKA

Within a 5-mile radius of the Aniak airport (latitude 61°35′ N., longitude 159°32′ W.); within 3 miles each side of the 114° (094° M) bearing from Aniak NDB, extending from the 5-mile radius zone to 8 miles SE of the NDB, and within 2 miles each side of the Aniak localizer (latitude 61°35′02″ N., longitude 159°33′01″ W.) west course extending from the 5-mile radius zone to 6.5 miles west of the localizer. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Flight Information Publication Supplement Alaska.

§ 71.181 [Amended]

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by amending the Aniak, Alaska, transition area as follows:

ANIAK, ALASKA

That airspace extending upward from 700-feet above the surface within a 22.5 mile radius of the Aniak localizer (latitude 61°35′02″ N., longitude 159°33′01″ W.) extending from a bearing of 238° (218° M) clockwise to 049° (029° M) from the Aniak NDB; within 4.5 miles southwest and 9.5 miles northeast of the Aniak localizer west course extending from the localizer to 25.5 miles west of the localizer; within 9.5 miles southwest and 4.5 miles northeast of the Aniak NDB 114° (094° M) bearing extending from the NDB to 22 miles southeast of the NDB; and within 9.5 miles southeast and 4.5 miles northwest of the Aniak NDB 230° (210° M) bearing extending from the NDB to 24 miles southwest of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and of sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Anchorage, Alaska, on August 12, 1977.

LYLE K. BROWN,
Director, Alaskan Region.

[FR Doc.77–24937 Filed 8–26–77;8:45 am]

[Docket No. 77–SO–36]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Alabaster, Ala., Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends § 71.181 of Part 71 of the Federal Aviation Regulations by altering the Alabaster, Ala., transition area. The existing transition area will be extended two miles Southwest. This is necessary due to establishment of a NDB instrument approach

V42167 AUG 29 77 UMI

procedure to Runway 5 at the Bessemer Municipal Airport.

EFFECTIVE DATE: 0901 Gmt., October 6, 1977.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

William F. Herring, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320; Telephone: 404–763–7947.

SUPPLEMENTARY INFORMATION

A new public NDB instrument approach procedure has been developed to Runway 5 at the Bessemer Municipal Airport, Bessemer, Ala. The approach procedure requires that the transition area be extended two miles Southwest and that the floor of controlled airspace be lowered from 1200 to 700 feet within the extension to protect aircraft executing the approach. Therefore, it is necessary to alter the transition area to accommodate the new approach procedure. Since this alteration is minor in nature, notice and public procedure hereon are not considered necessary.

DRAFTING INFORMATION

The principal authors of this document are William F. Herring, Airspace and Procedures Branch, Air Traffic Division, and Eddie L. Thomas, Office of Regional Counsel, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

ADOPTION OF AMENDMENT

Accordingly, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, October 6, 1977, by altering the Alabaster, Ala., transition area, as follows:

"* * * long. 86°55'29" W.) * * *" would be deleted and "* * * long. 86°56'29" W.) within 3 miles each side of the 241° bearing from Bessemer RBN (lat. 33°18'42" N., long. 86° 55'25" W.) extending from the 6.5 mile radius to 8.5 miles Southwest of the RBN; excluding that portion which coincides with the Birmingham transition area * * *" would be substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in East Point, Ga., on August 17, 1977.

PHILIP M. SWATEK,
Director, Southern Region.

[FR Doc.77-24936 Filed 8-26-77;8:45 am]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area, Albany, N.Y.

Correction

In FR Doc.77–23316 appearing on page 41107 in the issue for Monday, August 15, 1977, the following correction should be made.

In the amendments to § 71.171 appearing after the signature in the third column, line 14 of the quoted amendment now reading, "miles east of the VORTAC; within 2 miles", should read, "miles each side of the Albany VORTAC 181°".

[Docket No. 14245, Amdt. No. 121–136]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Proficiency Check Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment allows a pilot-in-command to satisfy the proficiency check requirements wtihout performing the maneuver to a landing with simulated powerplant failure during each required proficiency check or course of training. The amendment is needed to provide greater operational flexibility and to lessen the need to perform the maneuver in an airplane if the visual simulator is inoperative.

EFFECTIVE DATE: August 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Telephone 202–755–8716.

SUPPLEMENTARY INFORMATION:

HISTORY

This amendment is based on a notice of proposed rule making (Notice No. 76–17) published in the FEDERAL REGISTER on August 26, 1976 (41 FR 36036). That notice invited comment by all persons interested in the making of the proposed rule. All persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all matters presented. Four commentators responded to Notice No. 76–17 and all support adoption of the proposal.

DISCUSSION OF COMMENTS

One commentator expressed concern regarding two aspects of the proposal. Opposition was expressed to the requirement that the maneuver be observed by a check airman during the preceding proficiency check or simulator course of training. It was noted that some air carriers use instructors rather than check airman to conduct simulator courses of training and this would compromise their usefulness. The FAA believes that while the subject maneuver may be omitted from a simulator course of training or a proficiency check, the rule should provide that an individual be checked on the maneuver at least once a year by an FAA-designated check airman. If, as the commentator suggests, an individual accomplishes the maneuver during a course of training conducted by a simulator instructor not designated as a check airman, then the maneuver could be omitted on the subsequent proficiency check, and if the cycle continued, the individual could indefinitely avoid being checked on the maneuver by an FAA-designated check airman. This is not the intent of the amendment.

The commentator noted that the proposal would require completion of a proficiency check or course of training within the preceding six calendar months, in order to take advantage of the flexibility to omit the simulated powerplant failure maneuver. Concern was expressed over the effect that this requirement would have on the "grace month" provision of § 121.401(b) of the Federal Aviation Regulations. It is not the intent of this amendment to nullify the grace month rule and reference to the preceding six calendar months has been deleted. Instead, the amendment refers to the preceding proficiency check or simulator course of training under a check airman, whichever was completed later.

Another commentator stated that Notice 76–17 did not properly respond to the overall need for improved visual simulation and that it may encourage airlines to postpone acquisition of improved visual systems. This comment is outside the scope of the notice and is not considered in this rulemaking action.

DRAFTING INFORMATION

The principal authors of this document are William T. Brennan, Air Carrier Regulations Branch, Flight Standards Service, and Peter J. Lynch, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, Appendix F of Part 121 of the Federal Aviation Regulations (14 CFR Part 121) is amended, effective August 29, 1977, by deleting the last sentence in paragraph V(d)(2) and by adding a sentence to the flush paragraph immediately following that paragraph, as follows:

APPENDIX F—PROFICIENCY CHECK REQUIREMENTS

* * * * *

V. Landings and approaches to landings:

* * * * *

(d) Maneuvering to a landing with simulated powerplant failure as follows:

(1) In the case of 3-engine airplanes, maneuvering to a landing with an approved procedure that approximates the loss of two powerplants (center and one outboard engine); or

(2) In the case of other multiengine airplanes, maneuvering to a landing with a simulated failure of 50 percent of available powerplants, with the simulated loss of power on one side of the airplane.

Notwithstanding the requirements of subparagraphs (d)(1) and (d)(2) of this paragraph, in a proficiency check for other than a pilot-in-command, the simulated loss of power may be only the most critical powerplant. However, if a pilot satisfies the requirement of subparagraph (d)(1) or (d)(2) of this paragraph in a visual simulator, he also must maneuver in flight to a landing with a simulated failure of the most critical powerplant. In addition, a pilot-in-command may omit the maneuver required by subparagraph (d)(1) or (d)(2) of this paragraph during a required proficiency check or simulator course of training if he satisfactorily performed that maneuver during the preceding proficiency check, or during the preceding approved simulator course of training under the observation of a check airman, whichever was completed later.

* * * * *

(Secs. 313(a), 601, 602, 604, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1424); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C., on August 22, 1977.

LANGHORNE BOND,
Administrator.

[FR Doc.77-24931 Filed 8-26-77;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER D—SPECIAL REGULATIONS

[Reg. SPR–130, Amdt. 11]

PART 378a—ONE-STOP-INCLUSIVE TOUR CHARTERS

Inclusion of Rental Cars in Tour Package

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule removes a restriction in the Board's One-stop-inclusive Tour Charter (OTC) regulations so as to permit the charter tour operator to offer rental cars or other prepaid individual transportation as part of the tour package. This proceeding was instituted by petition of an operator of OTC's.

DATES: Adopted: August 23, 1977; Effective: August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Simon J. Ellenberg, Rules Division, Office of General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202–673–5442).

SUPPLEMENTARY INFORMATION: By Notice of Proposed Rulemaking SPDR–57, March 22, 1977, the Board proposed to eliminate a restriction in the OTC rule[1] which prohibits the inclusion of rental cars or other forms of prepaid individual transportation, even on an optional basis, in the ground accommodations and services of the tour package. This unique restriction was originally adopted as one of several elements serving to distinguish the OTC from scheduled services and was premised on a concern that inclusion of rental cars in a tour package might lead to unused, or "throwaway," sleeping accommodations and the resultant abuse of the OTC as a subterfuge for point-to-point transportation plus individual ground transportation at the destination. However, in SPDR–57, the Board pointed out that the restriction no longer appeared to be necessary in light of actual OTC marketing experience and in view of the intervening establishment of the Advance Booking Charter (ABC) rule[2] as a charter mode for air-only transportation.

Pursuant to the Notice, sixteen comments[3] were filed, of which twelve fully supported the proposed rule and three supported it in part.

Supporters of the proposed rule argue that the underlying premise of the rental car restriction is erroneous, in that the availability of rental cars will no more lead to throwaway accommodations than will other tour package elements to which no parallel restrictions apply. It is also contended that the restriction is ineffectual in any event, since rental cars are available to OTC participants by arrangements through retail travel agents or directly with large nationwide rental companies having toll-free telephone reservation systems. These commenters thus argue that the principal effect of the restriction has been to raise costs to OTC travelers (for example, by precluding the use of group car rental rates for which the tour operator could easily arrange) and to render the OTC less marketable, particularly in contrast to the popular "fly/drive" tours available on scheduled services. It is also asserted that the car rental prohibition is legally unnecessary, since the OTC is subject to other substantial restrictions which amply distinguish it from individually ticketed services.

Of the commenters expressing less than full support for the proposed rule, the Board's Office of Consumer Advocate (OCA) and the Office of Consumer Affairs of the Department of Health, Education, and Welfare (HEW) favor a liberalization of the rental car restriction but only to the extent of permitting rental cars to be offered as optional, extra-cost supplements to the tour package. OCA argues that the possibility of throwaway ground accommodations is substantial enough to warrant the retention of some restriction on the tour operator's offering of rental cars. HEW maintains that inclusion of rental cars in the tour package on a nonoptional basis would result in some participants paying for a service which they would neither desire nor use. United Air Lines favors the proposed rule as written, but conditions its support upon retention of the advance purchase period for OTC's.[4] Only TWA opposes any modification of the rental car restriction, on the grounds that the requirement is legally necessary and its elimination would have an adverse effect on both scheduled services and ABC operations.

At the outset, we believe that the comments of tour operators and others are persuasive in demonstrating that the rental car restriction has been costly to OTC operators and participants alike. It seems clear that those OTC travelers who independently make arrangements for rental cars are often prevented by this restriction from enjoying the lower rental rates which would very likely result from the purchasing power of a tour group. Moreover, inasmuch as the tour operator is forbidden from entering the market for OTC rental cars, the operator's loss of potential revenue from that package component cannot help but exert an upward pressure on OTC prices for all participants.

We also agree with the many commenters who contend that there is no legal impediment to the removal of this restriction. As we noted in proposing this amendment, the prohibition on the offering of rental cars places a unique emphasis on only one of several types of goods and services which could theoretically entice the OTC traveler to throw away the remainder of the ground accommodations and use the OTC for point-to-point transportation. Yet no participant in this proceeding has attempted to furnish evidence of, or even

---

[1] 14 CFR Part 378a.

[2] 14 CFR Part 371.

[3] Comments were received from American Automobile Association, Inc., Adventure Tours USA, Inc. and Travel-Go-Round, Inc. jointly, American Express Company, American Society of Travel Agents, Inc., Budget Rent-A-Car, Inc., Charter Travel Corporation, Elkin Tours, Inc. and Del E. Webb World Travel Corporation jointly, Duncan Travel Service, Office of Consumer Affairs of the Department of Health, Education, and Welfare, National Air Carrier Association, Office of Consumer Advocate of the Civil Aeronautics Board, Pan American World Airways, Inc., Donald L. Peysner, Pleasant-Hawaiian Holidays, Inc., Trans World Airlines, Inc., and United Air Lines, Inc.

[4] The possible elimination of the "advance purchase" requirement from the OTC rule is under consideration in another rulemaking proceeding, to which United refers. See Notice of Proposed Rulemaking SPDR–56, February 24, 1977, 42 FR 12066, March 2, 1977, Docket 29926.

V 42 167 AUG 29 77 UMI

allege, any actual occurrence of throwaways in connection with any particular OTC program. In contrast, several commenters have offered market data which tends to substantiate their claim that the non-use of OTC ground accommodations is not practicable in actual experience, and that the OTC is used by travelers who genuinely want to purchase a tour package. Furthermore, any fear of throwaways the Board had at the time the OTC rule was adopted has been largely vitiated by the introduction of the ABC as a lawful means of point-to-point charter air transportation for those prospective passengers who do not actually want a tour package.

In regard to HEW's concern over mandatory inclusion of rental cars in the OTC tour package, we should point out that the concern is misplaced, since we are not now requiring rental cars to be included in the package of ground accommodations; we are simply removing a restriction on the freedom of the tour operator to include such a service in whatever manner he believes will make the total tour package most attractive to consumers at the OTC price that he offers. How widely the service is offered, whether it is made an optional addition to or an integral part of the OTC package, are questions that we believe are best left to the competitive response of the marketplace.

The Board finds that, because this amendment relieves a restriction and public benefit will be derived from putting it into effect without delay, there is good cause to make it effective immediately.

Accordingly the Civil Aeronautics Board hereby amends Part 378a of its Special Regulations (14 CFR Part 378a) effective August 23, 1977, as set forth below:

1. § 378a.2 is amended to read as follows:

§ 378a.2 Definitions.

As used in this part, unless the context otherwise requires—

* * * * *

"Ground accommodations and services" include, but are not limited to, sleeping accommodations for each night of the tour as well as necessary surface transportation for tour participants traveling together between all places on the itinerary, including transportation to and from air and surface carrier terminals utilized at such places other than the point of origin.

* * * * *

2. Section 378a.102 is amended to read as follows:

§ 378a.102 Definitions.

As used in this subpart, unless the context otherwise requires—

* * * * *

"Ground accommodations and services" include, but are not limited to, sleeping accommodations for each night of the tour, necessary surface transportation, and admission to the special event, through the furnishing of tickets or other documents necessary to enable a charter participant to attend the event for each day of the charter during which attendance is feasible.

* * * * *

(Secs. 101, 204, Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743; (49 U.S.C. 1301, 1324).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-25019 Filed 8-26-77;8:45 am]

[Docket Nos. 16388 and 16389; Special Federal Aviation Regulation No. 33-1]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

PART 135—AIR TAXI OPERATOR AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT

Flight Recorders and Cockpit Voice Recorders

Correction

In FR Doc. 77-24150 appearing at page 42194 in the issue for Monday, August 22, 1977, the effective date now reading "September 12, 1977" should have read "September 21, 1977".

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER C—FEDERAL HAZARDOUS SUBSTANCES ACT REGULATIONS

PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS

Exemption of Plastic Balloon Novelty Items From Classification as Banned Hazardous Substances

AGENCY: Consumer Product Safety Commission.

ACTION: Reissuance of final regulation.

SUMMARY: The Commission reissues a regulation to exempt novelties, consisting of a mixture of polyvinyl acetate, U.S. Certified Colors, and acetone in amounts not exceeding 25 percent by weight, intended for blowing plastic balloons, from classification as "banned hazardous substances" under the Federal Hazardous Substances Act. The Commission exemption regulation requires that the novelty items bear adequate directions and warnings for safe use. The Commission had preproposed the regulation because doubts were raised as to the validity of the exemption as originally issued in 1967, by the Food and Drug Administration.

EFFECTIVE DATE: August 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Elaine Besson, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207 (301-492-6453).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of April 7, 1976 (41 FR 14790), the Commission reproposed for comment, 16 CFR 1500.85(a)(6), a regulation exempting novelty items intended for blowing plastic balloons from classification as "banned hazardous substances" as that term is used in the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261). The novelty items covered by the regulation are mixtures of polyvinyl acetate, U.S. Certified Colors, and acetone in amounts not exceeding 25 percent by weight.

This exemption regulation was originally promulgated by the Food and Drug Administration (FDA) on October 28, 1967 (32 FR 14946) without a notice of opportunity for comment. Issued by FDA as 21 CFR 191.65(a)(6), the regulation was recodified by the Commission on September 27, 1973 (38 FR 27012), as 16 CFR 1500.85(a)(6), due to the transfer of functions under the Federal Hazardous Substances Act to the Consumer Product Safety Commission effective May 14, 1973, by section 30(a) of the Consumer Product Safety Act (15 U.S.C. 2079(a)).

In the April 7, 1976 FEDERAL REGISTER document the Commission explained its decision to propose the plastic balloon novelty item exemption regulation for public comment primarily on the basis of doubts which had been raised as to the validity of FDA's action.

Pending completion of this proceeding and the issuance of a final regulation, the existing exemption has been continued in effect.

COMMENTS ON THE REGULATION

In response to its document of April 7, 1976, inviting comments, the Commission received three responses supporting the exemption, one response which neither supported nor opposed it, and two comments which opposed the exemption. A list summarizing the comments follows.

1. A parent who used the product as a child stated that Federal regulation cannot replace parental guidance and that the relatively low degree of danger presented does not justify removing the plastic balloon mixtures from the market.

2. A consumer, favoring the exemption, expressed his view that the Commission has the burden of finding a product unsafe before removing it from the market.

3. A law firm representing a manufacturer of the product stated that the manufacturer has no knowledge of any claims of physical harm resulting from the use of its product in 6 years of marketing over 55 million tubes of the plastic balloon mixture.

4. The Office of Consumer Affairs (OCA) of the Department of Health, Education and Welfare expressed approval of the Commission's inviting comments on the regulation, but stated that since it had received only one letter in reference to the plastic balloon novelty items, it had insufficient data to either

support or deny the exemption. The one letter which OCA received, written before the Commission's April 7, 1976 request for comments, stated that labeling alone does not make the product safe for small children to use.

5. A consumer, opposed to the exemption, asserted that the many warnings found on the package of one brand of plastic balloon mixtures clearly indicates that the product is hazardous.

6. Another consumer stated that children should not play with the plastic balloon mixture because of the presence of acetone and that any possible instructions for safe use would be inadequate to protect children.

THE COMMISSION'S CONCLUSION

The term "banned hazardous substance" is defined in section 2(q)(1)(A) of the FHSA. A proviso to this section found at 2(q)(1)(B)(i) authorizes the Commission, by regulation, to grant exemptions from classifications as banned hazardous substances for

* * * articles, such as chemical sets, which by reason of their functional purpose require the inclusion of the hazardous substance involved, or necessarily present an electrical, mechanical, or thermal hazard and which bear labeling giving adequate directions and warnings for safe use and are intended for use by children who have attained sufficient maturity, and may reasonably be expected to read and heed such directions and warnings * * *

The Commission concludes that these plastic balloon novelty items meet the above requirements for exemption from classification as banned hazardous substances.

The Commission recognizes that the novelty items contain the hazardous substance, acetone, but finds that the substance's presence is necessary because of its functional purpose. The Commission believes that mixtures intended for blowing plastic balloons which contain not more than 25 per cent by weight of acetone are not capable of causing substantial personal injury or illness. In addition, the exemption regulation requires that the articles bear adequate directions and warnings for safe use. Further it is reasonably expected that since the product is difficult to manipulate, the children using these products will be old enough to be able to read and heed such warnings and directions.

On June 20, 1974, the Commission denied on its merits a petition from Consumers' Union to repeal the exemption regulation and to propose a regulation to classify plastic balloon novelties containing acetone as a banned hazardous substance under the provisions of the FHSA. (petition number HP 74-4). No new data has been brought to the attention of the Commission by commentors on the April 7, 1976 notice or others which convinces the Commission that the existing exemption should now be revoked.

Therefore, the Commission finds that the regulation exempting novelty items intended for blowing plastic balloons should be reissued.

The Commission also finds that the 30-day delayed effective date required by section 553(d) of the Administrative Procedure Act for substantive rules is inapplicable to this regulation because the regulation falls within the exception to the 30-day requirement for rules granting or recognizing an exemption or relieving a restriction. (section 553(d)(1)).

Accordingly, pursuant to provisions of the Federal Hazardous Substances Act (sec. 2(q)(1)(A), proviso, (i), 74 Stat. 374, as amended 80 Stat. 1304-05; 15 U.S.C. 1261(q)(1)(A), proviso (i)) and under authority vested in the Commission by the Consumer Product Safety Act (sec. 30(a), Stat. 1231; 15 U.S.C. 2079(a)), the Commission reissues the regulation at 16 CFR 1500.85(a)(6) as follows:

§ 1500.85 Exemptions from classification as banned hazardous substances.

(a) The term "banned hazardous substances" as used in section 2(q)(1)(A) of the act shall not apply to the following articles provided that these articles bear labeling giving adequate directions and warnings for safe use:

* * * * *

(6) Novelties consisting of a mixture of polyvinyl acetate, U.S. Certified Colors, and not more than 25 per cent by weight of acetone, and intended for blowing plastic balloons.

NOTE.—Because this exemption regulation was not proposed for public comment before being issued by the Food and Drug Administration at October 28, 1967 (32 FR 14946), the Commission proposed the exemption for public comment on April 7, 1976 (41 FR 14790), and reissued it on August 29, 1977. The exemption has continued in effect without interruption during these proceedings.

AUTHORITY: Sec. 2(q)(1)(A)(i), 74 Stat. 374, as amended 80 Stat. 1304-05; 15 U.S.C. 1261(q)(1)(A)(i); sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a).

Effective Date: August 29, 1977.

Dated: August 24, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-24969 Filed 8-26-77;8:45 am]

PART 1505—ELECTRICALLY OPERATED TOYS OR OTHER ARTICLES INTENDED FOR USE BY CHILDREN

Amendment to Labeling Requirement for Date of Manufacture

AGENCY: Consumer Product Safety Commission.

ACTION: Amendment to regulation.

SUMMARY: The Commission issues an amendment to its requirements for electrically operated toys or other electrically operated articles intended for use by children to change the labeling requirement concerning the date of manufacture. The current regulation requires that the shelf pack or package and the instructions provided with the toy be labeled with the date (month and year) of manufacture (or appropriate codes). The amendment will allow as an alternative the date of manufacture to be placed on the toy itself rather than on the instructions provided with the toy. The shelf package is still required to bear the date of manufacture. The Commission believes this amendment will provide some economic benefit to manufacturers while assuring that consumers are as well or better protected as they were before the amendment.

EFFECTIVE DATE: The amendment is effective August 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Elaine Besson, Office of Program Management, CPSC, Washington, D.C. 20207 (301-492-6453).

SUPPLEMENTARY INFORMATION: On September 12, 1974, the Commission received a petition from Hasbro Industries, Inc. requesting that 16 CFR 1505.3, which establishes labeling Requirements for Electrically Operated Toys or Other Electrically Operated Articles Intended for Use by Children, be changed to allow the manufacturer, at his discretion, to put the required date of manufacture label on either the instruction sheet or the toy itself, in addition to putting it on the shelf pack or package. Presently, the regulation requires that the date of manufacture be placed on both the shelf pack of the toy and the instructions that are provided with the toy.

The petitioner points out that if the date labeling were permitted to be placed on the toy, instead of on the instruction sheet, the date labeling would remain with the toy until the toy is eventually discarded. On the other hand, date labeling on the instruction sheet would be lost if the instruction sheet were to be discarded shortly after the toy's purchase.

The Commission agrees with the petitioner that the option of allowing the manufacturer to place the date code on the toy itself instead of on the instruction sheet is as adequate in protecting children from potential electric hazards as the present requirement. The reason that placement of the date code on the instruction sheet was initially required was a concern that the consumer might not keep the shelf pack. The Commission notes that placement of the date on the toy addresses this concern. In addition, the Commission believes the amendment will provide a small economic benefit for manufacturers who prefer not to reprint or date stamp their stocks of instruction sheets or coordinate dated instruction sheets with the appropriate production units of toys.

The Commission is issuing this amendment as a final document without notice and comment procedures because the Commission, for good cause, finds, in accordance with 5 U.S.C. 553(b)(B), the Administrative Procedure Act, that notice and public procedure thereon are unnecessary. Under the amendment manufacturers retain the option (previously the requirement) of placing the date of manufacture on the instruction

V42167 AUG 29 77 UMI

sheet. Therefore, the amendment results in only a minor change to the electrical toy regulation's labeling provisions. In addition, consumers are as well or better protected if manufacturers choose to exercise their option of placing date codes on the toys themselves.

The Commission also notes in accordance with 5 U.S.C. § 553(d)(2), that the normal 30 day period between publication and effective date is inapplicable to this amendment. Section 553(d)(2) creates an exception to the delayed effective date requirement for any substantive rule "which grants or recognizes an exemption or relieves a restriction." Since the amendment relieves a restriction by allowing manufacturers the option of date coding the toys themselves or the instruction sheets, it falls within the exception. The amendment is, therefore, effective immediately upon publication in the FEDERAL REGISTER.

Accordingly, pursuant to provisions of the Federal Hazardous Substances Act (secs. 2(f)(1)(D), (r), (s), (t), 3(e)(1), 74 Stat. 372, 374, 375, as amended, 83 State 187–189; 15 U.S.C. 1261, 1262), and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92–753, sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission amends 16 CFR 1505.3 by adding a new paragraph (b)(1)(iii) and by amending paragraph (b)(3), as follows (paragraph (d) is included for purposes of clarity):

§ 1505.3 Labeling.

(a) * * *

(b) *Specific items.* (1) The toy shall be marked in accordance with the provisions of paragraph (d) of this section to indicate:

(i) * * *

(ii) * * *

(iii) The date (month and year) of manufacture (or appropriate codes). As an alternative to putting this information on the toy itself, it may be included in the instructions provided with the toy (see paragraph (b)(3) of this section below).

(2) * * *

(3) Each toy shall be provided with adequate instructions that are easily understood by children of those ages for which the toy is intended. The instructions shall describe the applicable installation, assembly, use, cleaning, maintenance (including lubrication), and other functions as appropriate. Applicable precautions shall be included as well as the information required by paragraphs (b)(1) and (b)(2) of this section, except that the date of manufacture information described in paragraph (b)(1)(iii) of this section need not be included in the instructions provided with the toy if it is placed on the toy itself. The instructions shall also contain a statement addressed to parents recommending that the toy be periodically examined for potential hazards and that any potentially hazardous parts be repaired or replaced.

* * * * *

(d) *Markings.* (1) The markings required on the toy by paragraph (b) of this section shall be of a permanent nature, such as paint-stenciled, die-stamped, molded, or indelibly stamped. The markings shall not be permanently obliterable by spillage of any material intended for use with the toy and shall not be readily removable by cleaning with ordinary household cleaning substances. All markings on the toy and labeling of the shelf pack or package required by paragraph (b) of this section shall contrast sharply with the background (whether by color, projection, or indentation) and shall be readily visible and legible. Such markings and labeling shall appear in lettering of a height not less than that specified in paragraph (d)(2) of this section, except that those words shown in capital letters in paragraph (e) of this section shall appear in capital lettering of a height not less than twice that specified in paragraph (d)(2) of this section.

(2) Minimum lettering heights shall be as follows:

SURFACE AREA DISPLAY MARKING, MINIMUM HEIGHT OF LETTERING

Square Inches:	*Inches*
Under 5	1/16
5 or more and under 25	1/8
25 or more and under 100	3/16
100 or more and under 400	1/4
400 or more	1/2

Effective date: The amendment is effective August 29, 1977.

Dated: August 24, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-24968 Filed 8-26-77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 747-77]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart X—Authorization with Respect to Personnel and Certain Administrative Matters

DELEGATING PERSONNEL AUTHORITY TO THE DIRECTOR, EXECUTIVE OFFICE FOR U.S. ATTORNEYS

AGENCY: Department of Justice.

ACTION: Final rule.

EFFECTIVE DATE: June 5, 1977.

SUMMARY: Under existing Justice Department regulations, the Office of Management and Finance has authority with respect to non-attorney personnel in U.S. Attorney's Offices, and the Executive Office of U.S. Attorneys. This order transfers to the Director of the Executive Office for U.S. Attorneys, subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the authority of the Attorney General to take final action in matters pertaining to the employment, direction, and general administration of U.S. Attorney and Executive Office personnel in General Schedule grades, GS–1 through GS–15, and in Wage Board positions, but excluding therefrom all attorney positions. The purpose of this order is to formally announce the transfer of certain authority to the Director of the Executive Office for U.S. Attorneys and to accurately reflect shifts in personnel responsibility within the Department.

FOR FURTHER INFORMATION CONTACT:

William B. Gray, Director, Executive Office for U.S. Attorneys, Department of Justice, Washington, D.C. 20530 (202–739–2121).

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, Chapter I of Title 28, Code of Federal Regulations, is hereby amended effective June 5, 1977, as follows:

Section 0.138 of Subpart X is amended to read as follows:

§ 0.138 Bureau of Prisons, Federal Prison Industries, Immigration and Naturalization Service, Drug Enforcement Administration, Executive Office for U.S. Attorneys, and Law Enforcement Assistance Administration.

The Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, the Commissioner of the Immigration and Naturalization Service, the Administrator of the Drug Enforcement Administration, and the Director of the Executive Office for U.S. Attorneys are, as to their respective jurisdictions, authorized to exercise the power and authority vested in the Attorney General by law to take final action in matters pertaining to the employment, direction and general administration (including appointment, assignment, training, promotion, demotion, compensation, leave, classification, and separation) of personnel in General Schedule grades GS–1 through GS–15 and in Wage Board positions, but excluding therefrom all attorney positions. Such officials and the Administrator of the Law Enforcement Assistance Administration, are, as to their respective jurisdictions, authorized to exercise the power and authority vested in the Attorney General by law to employ on a temporary basis experts or consultants or organizations thereof, including stenographic reporting services (5 U.S.C. 3109(b)). All personnel actions taken under this section shall be subject to postaudit and correction by the Assistant Attorney General for Administration.

Dated: August 17, 1977.

GRIFFIN B. BELL,
Attorney General.

[FR Doc.77-25037 Filed 8-26-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Flint Hills National Wildlife Refuge, Kansas, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to hunting of Flint Hills National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: As established by State law.

FOR FURTHER INFORMATION CONTACT:

Michael J. Long, P.O. Box 128, Hartford, Kansas 66854, telephone 316–364–8381.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; Big game, for individual wildlife refuge areas.

Public hunting of deer, with bow and arrows, on the Flint Hills National Wildlife Refuge, Hartford, Kansas, is permitted during periods as established by Kansas State law, but only on the area designated by signs as open to hunting. This open area is delineated on maps available at refuge headquarters, P.O. Box 128, Hartford, Kansas 66854, and from the Area Manager, U.S. Fish and Wildlife Service, Federal Building Room 1748, 601 East 12th Street, Kansas City, Missouri 64106. Refuge hunting shall be subject to the following special conditions:

1. The area is open to big game hunting for white-tailed deer only.

2. The use of rifles or pistols are prohibited on the refuge.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: August 22, 1977.

MICHAEL J. LONG,
Refuge Manager.

[FR Doc.77-24999 Filed 8-26-77;8:45 am]

PART 32—HUNTING

Opening of Flint Hills National Wildlife Refuge, Kansas, to Sport Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport hunting of Flint Hills National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Hunting Seasons determined by applicable State Laws.

FOR FURTHER INFORMATION CONTACT:

Michael J. Long, P.O. Box 128, Hartford, Kansas 66854, telephone 316–364–8381.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

The public hunting of small game animals, upland game birds, fur bearing animals and non game animals on the Flint Hills National Wildlife Refuge, Kansas, is permitted from October 1, 1977, through September 30, 1978, inclusive, but only on the area designated by signs as open to hunting. This open area is delineated on maps available at refuge headquarters, Hartford, Kansas, and from the Area Manager, U.S. Fish and Wildlife Service, Federal Building Room 1748, 601 East 12th Street, Kansas City, Missouri 64106. Hunting shall be in accordance with all applicable State laws and regulations governing the hunting of small game animals, upland game birds, fur bearing animals and non game animals subject to the following special conditions:

1. The use of rifles or pistols are prohibited on the refuge.

2. Vehicle access shall be restricted to designated parking areas and existing roads.

3. Dogs may be used only for hunting and retrieving small game animals and game birds. Dogs may not be used for hunting fur bearing animals and non-game animals, either by sight or trailing by scent.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: August 11, 1977.

MICHAEL J. LONG,
Refuge Manager.

[FR Doc.77-25000 Filed 8-26-77;8:45 am]

PART 32—HUNTING

Opening of Flint Hills National Wildlife Refuge, Kansas, to Sport Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport hunting of Flint Hills National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Season dates as established by State and Federal Laws.

FOR FURTHER INFORMATION CONTACT:

Michael J. Long, P.O. Box 128, Hartford, Kansas 66854, telephone 316–364–8381.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; Migratory Game Birds hunting; for individual wildlife refuge areas.

Public hunting of ducks, geese, coots and mergansers on the Flint Hills National Wildlife Refuge, Kansas, is permitted, but only on the area designated by signs as open to hunting. This open area is delineated on maps available at refuge headquarters, Hartford, Kansas, and from the Area Manager, U.S. Fish and Wildlife Service, Federal Building Room 1748, 601 East 12th Street, Kansas City, Missouri 64106. All applicable opening and closing hunting dates as established by State and Federal Laws apply, as well as all other State and Federal regulations. Refuge hunting shall be subject to the following special conditions:

1. Vehicle access shall be restricted to designated parking areas and to existing roads.

2. Blind construction by the public is permitted but limited to temporary above ground construction. Constructed blinds become the property of the government. Blind construction does not constitute a reservation of hunting space. Daily occupancy of blinds erected on refuge hunting units will be determined on a first-come-first-serve basis.

V 42 167 AUG 29 77 UMI

3. The transportation or possession of firearms is not permitted on the Neosho River from the northern refuge boundary to and including the point where the river empties into John Redmond Reservoir, and extending to the southern refuge boundary, as marked by buoys.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 22, 1977.

MICHAEL J. LONG,
Refuge Manager.

[FR Doc.77-25001 Filed 8-26-77;8:45 am]

PART 32—HUNTING

Opening of Flint Hills National Wildlife Refuge, Kansas, to Sport Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport hunting of Flint Hills National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Season dates as established by State and Federal Laws.

FOR FURTHER INFORMATION CONTACT:

Michael J. Long, P.O. Box 128, Hartford, Kansas 66854, Telephone 316-364-8381.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; sport hunting; for individual wildlife refuge areas.

Public hunting of ducks, geese, coots and mergansers on the Flint Hills National Wildlife Refuge, Kansas, is permitted, but only on the area designated by signs as open to hunting. This open area is delineated on maps available at refuge headquarters, Hartford, Kansas, and from the Area Manager, U.S. Fish and Wildlife Service, Federal Building Room 1748, 601 East 12th Street, Kansas City, Missouri 64106. All applicable opening and closing hunting dates as established by State and Federal Laws apply, as well as all other State and Federal regulations. Refuge hunting shall be subject to the following special conditions:

1. Vehicle access shall be restricted to designated parking areas and to existing roads.

2. Blind construction by the public is permitted but limited to temporary above ground construction. Constructed blinds become the property of the government. Blind construction does not constitute a reservation of hunting space. Daily occupancy of blinds erected on refuge hunting units will be determined on a first-come-first-serve basis.

3. The transportation or possession of firearms is not permitted on the Neosho River from the northern refuge boundary to and including the point where the river empties into John Redmond Reservoir, and extending to the southern refuge boundary, as marked by buoys.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at anytime.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 11, 1977.

MICHAEL J. LONG,
Refuge Manager.

[FR Doc.77-25002 Filed 8-26-77;8:45 am]

PART 32—HUNTING

Opening of the Bombay Hook National Wildlife Refuge, Delaware, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Bombay Hook National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 17, 1977 through January 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Don Perkuchin, Bombay Hook National Wildlife Refuge, R.D. No. 1, Box 147, Smyrna, Delaware 19977, telephone 302-653-9345.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public archery hunting of deer is permitted only on the Deer Hunting Area and South Upland Hunting Areas. These open deer hunting areas are shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. Hunting shall be in accordance with all State regulations covering archery hunting of deer subject to the following special conditions:

1. Hunting by bow and arrow on the Regular Deer Hunting Area is permitted on the first four Saturdays of the season from September 17 through October 8.

2. Hunting by bow and arrow on South Upland Hunting Area is permitted during the entire State season.

3. The number of hunters admitted to the Regular Deer Hunting Area at any one time will be restricted to 80.

4. Permits are required for the Deer Hunting Areas and will be issued on a first-come, first-served basis one hour before shooting time.

5. Hunters using the Deer Hunting Area and the South Upland Hunting Area must show proof of completion of an archery qualification test. This test will consist of placing three out of five arrows in the 9 x 14 inch chest area of a standard size deer target at 25 yards. Hunters qualified in 1974 must requalify. The qualification is valid for three years only.

6. Only blinds, platforms or scaffolds that are erected and removed each day of the hunt may be used. Written permission from the refuge manager is required for the construction or use of any such artificial structure.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107. Administrative needs require that the Bombay Hook Refuge deer hunting season be held concurrent with the Delaware State deer hunting season. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

WILLIAM C. ASHE,
Acting Regional Director,
Fish and Wildlife Service.

AUGUST 19, 1977.

[FR Doc.77-25003 Filed 8-26-77;8:45 am]

PART 32—HUNTING

Opening of the Bombay Hook National Wildlife Refuge, Delaware, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Bombay Hook National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: (September 15, 1977 through February 28, 1978).

FOR FURTHER INFORMATION CONTACT:

Don Perkuchin, Bombay Hook National Wildlife Refuge, R.D. No. 1, Box 147, Smyrna, Del. 19977, Telephone No. 302-653-9345.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of upland game on the South Upland Hunting Area is permitted during the regular State season. This open area, comprising 169 acres, is delineated on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.

Hunting shall be in accordance with all State and Federal regulations covering the hunting of upland game.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107. Administrative needs require that the Bombay Hook Refuge upland game season be held concurrent with the Delaware State hunting season. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

WILLIAM C. ASHE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

AUGUST 19, 1977.

[FR Doc.77-25004 Filed 8-26-77;8:45 am]

PART 32—HUNTING

Opening of the Bombay Hook National Wildlife Refuge, Delaware, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Bombay Hook National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: (September 1, 1977 through January 31, 1978).

FOR FURTHER INFORMATION CONTACT:

Don Perkuchin, Bombay Hook National Wildlife Refuge, RD No. 1, Box 147, Smyrna, Del., 19977 Telephone No. 302-653-9345.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of rails and gallinules, mourning doves, woodcock, crows and common snipe on the South Upland Hunting Area is permitted during the regular State seasons. This open area, comprising 169 acres, is shown on a map available at the refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.

Hunting shall be in accordance with all Federal and State regulations covering the hunting of rails and gallinules, mourning doves, woodcock, and common snipe.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107. Administrative needs require that the Bombay Hook Refuge migratory game bird season be held concurrent with the Delaware State hunting season. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

WILLIAM C. ASHE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

AUGUST 19, 1977.

[FR Doc.77-25005 Filed 8-26-77;8:45 am]

PART 32—HUNTING

Opening of the Prime Hook National Wildlife Refuge, Delaware, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Prime Hook National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: (September 1, 1977 through January 31, 1978).

FOR FURTHER INFORMATION CONTACT:

William McCoy, Prime Hook National Wildlife Refuge, RD No. 1, Box 195, Milton, Del. 19968, Telephone No. 302-684-8419.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of rails, gallinules, mourning doves, common snipe, woodcock, and crows is permitted only on the North Hunting Area. This open area, comprising approximately 2,320 acres, is shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158. Hunting shall be in accordance with all State regulations covering the hunting of deer subject to the following conditions:

1. Archery hunters must show proof of completion of an archery qualification test. This test will consist of placing three out of five arrows in the 9x14 inch chest area of a standard size deer target at twenty-five yards. Hunters qualified in accordance with all Federal and State regulations covering the hunting of rails, gallinules, mourning doves, woodcock, common snipe and crows.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107. Administrative needs require that the Prime Hook Refuge migratory game bird season be held concurrent with the Delaware State hunting season. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

WILLIAM C. ASHE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

AUGUST 19, 1977.

[FR Doc.77-25006 Filed 8-26-77;8:45 am]

PART 32—HUNTING

Opening of the Prime Hook National Wildlife Refuge, Delaware, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Prime Hook National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: (September 17, 1977 through January 31, 1978).

FOR FURTHER INFORMATION CONTACT:

William McCoy, Prime Hook National Wildlife Refuge, R.D. No. 1 Box 195, Milton, Del. 19968, Telephone No. 302-684-8419.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public archery hunting of deer is permitted only on the North Hunting Area. This open deer hunting area, comprising approximately 2.320 acres, is delineated on a map available at the refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158. Hunting shall be in accordance with all State regulations covering the hunting of deer subject to the following conditions:

1. Archery hunters must show proof of completion of an archery qualification test. This test will consist of placing three out of five arrows in the 9x14 inch chest area of a standard size deer target at twenty-five yards. Hunters qualified

V 42 167 AUG 29 77 UMI

in 1974 must requalify. The qualification is valid for three years only.

2. Seasonal permits are required for the North Hunting Area and will be issued at the Prime Hook Refuge office Mondays through Fridays between 7:30 a.m. and 4 p.m. Permits may also be requested by mail. Those permits must be returned to the refuge office by the end of the deer hunting seasons.

3. Only blinds, platforms or scaffolds that are erected and removed each day of the hunt may be used. Written permission from the refuge manager is required for the construction or use of any such artificial structure.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107. Administrative needs require that the Prime Hook Refuge archery deer season be held concurrent with the Delaware State archery deer hunting season. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

WILLIAM C. ASHE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

AUGUST 19, 1977.

[FR Doc.77-25007 Filed 8-26-77;8:45 am]

PART 32—HUNTING

Opening of the Prime Hook National Wildlife Refuge, Delaware, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Prime Hook National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: (September 1, 1977 through February 28, 1978).

FOR FURTHER INFORMATION CONTACT:

William McCoy, Prime Hook National Wildlife Refuge, RD No. 1, Box 195, Milton, Del. 19968, Telephone No. 302-684-8419.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations: upland game: for individual wildlife refuge areas.

Public hunting of upland game is permitted only on the North Hunting Area. This open upland game hunting area, comprising approximately 2,320 acres, is shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.

Hunting shall be in accordance with all State and Federal regulations covering the hunting of upland game subject to the following conditions:

1. Hunting hours will be from one-half hour before sunrise to one-half hour after sunset.

2. Field possession of waterfowl or coots is prohibited on the North Hunting Area.

3. Practice and target shooting is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107. Administrative needs require that the Prime Hook Refuge upland game season be held concurrent with the Delaware State hunting season. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

WILLIAM C. ASHE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

AUGUST 19, 1977.

[FR Doc.77-25008 Filed 8-26-77;8:45 am]

PART 33—SPORT FISHING

Opening of Flint Hills National Wildlife Refuge, Kansas, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Flint Hills National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Fishing Seasons as determined by applicable State Laws.

FOR FURTHER INFORMATION CONTACT:

Michael J. Long, P.O. Box 128, Hartford, Kansas 66854, telephone 316-364-8381.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations: sport fishing: for individual wildlife refuge areas.

Sport fishing, including the taking of frogs, on the Flint Hills National Wildlife Refuge, Kansas, is permitted only on the areas designated as open to fishing. These open areas, comprising 1,500 acres of reservoir waters and approximately 28 miles of river and stream channel, are delineated on maps available at refuge headquarters, Hartford, Kansas, and from the Area Manager, U.S. Fish and Wildlife Service, Federal Building Room 1748, 601 East 12th Street, Kansas City, Missouri 64106. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

1. During the period October 1, 1977 through December 31, 1977 only Eagle Creek, the Neosho River and impoundments in the Eagle Creek and Hartford hunting units are open to public fishing, except the Neosho River Oxbow northeast of the Strawn townsite is closed, as marked by buoys.

2. Immediately following the close of the 1977-78 Waterfowl Season, as determined by State and Federal law, all waters within the Flint Hills Refuge are open to sport fishing and the taking of bull frogs through September 30, 1978.

3. Vehicle access shall be confined to existing roads and trails not otherwise marked as closed to vehicle use.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 22, 1977.

MICHAEL J. LONG,
Refuge Manager.

[FR Doc.77-24998 Filed 8-26-77;8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 116d—GRANTS TO STATE EDUCATIONAL AGENCIES TO MEET THE SPECIAL EDUCATIONAL NEEDS OF MIGRATORY CHILDREN

Extension of Comment Period on Interim Regulations and Proposed Scheduling of Additional Hearings

AGENCY: Office of Education, HEW.

ACTION: Extension of Comment Period for Development of Permanent Final Regulations and Scheduling of Additional Hearings.

SUMMARY: In the FEDERAL REGISTER of July 13, 1977 (42 FR 36076-36085), the Office of Education published Interim Final Regulations governing the Title I Elementary and Secondary Education Act program for grants to State educational agencies for programs for migratory children. Interested parties were given until August 29, 1977, to comment on these Interim Final Regulations for the purpose of developing permanent final regulations in the future. However, several parties interested in commenting on these regulations have requested the Commissioner of Education to extend the time for comment. In light of this, the Commissioner is taking the following action:

(a) *Extension of Comment Period.* The Commissioner hereby extends the period for receiving written comments for purposes of developing the permanent final regulations for the Program for Grants to State Educational Agencies to Meet the Special Educational Needs of Migratory Children, until December 9, 1977.

(b) *Scheduling of Additional Hearings in Texas and Florida.* The Commissioner will also schedule two more hearings for purposes of gathering further testimony from migratory workers and others interested in the education of migratory children for the development of permanent final regulations for the Title I Elementary and Secondary Education Act Program for Grants to State Educational Agencies for Programs to Meet the Special Educational Needs of Migratory Children. The hearings will be held during November of 1977 in Texas and Florida. If an additional site is necessary, it will be announced later in the FEDERAL REGISTER. The exact locations, dates, and times of these additional hearings will be published in due course in a future notice in the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Mr. Vidal Rivera, telephone 202-245-2427.

Dated August 25, 1977.

JOHN ELLIS,
Acting U.S. Commissioner
of Education.

[FR Doc.77-25267 Filed 8-26-77;10:10 am]

V 42167 AUG 29 77 UMI

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 905]

[Docket No. AO-85-A8]

ORANGES, GRAPEFRUIT, TANGERINES AND TANGELOS GROWN IN FLORIDA

Decision on Proposed Further Amendment of the Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision would amend the Federal marketing agreement and order for fresh oranges, grapefruit, tangerines and tangelos grown in Florida. Growers of these fruits will vote in a referendum to determine if they favor the proposed changes in the order.

The proposed amendment would merge the Shippers Advisory Committee and Growers Administrative Committee to form an administrative committee which reflects both shipper and grower interests. The proposals would authorize separate regulations for Dancy and Robinson varieties of tangerines to recognize seasonal and other differences between the two varieties. In addition, it would change provisions relating to a percentage grade or size limitation to authorize a broader, more representative, basis for computation of shipments of a specified grade or size. It would also make other minor changes in the order to reflect current practices.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing—Issued February 18, 1977; published February 23, 1977 (42 FR 10693); Notice of Recommended Decision—Issued June 7, 1977; published June 13, 1977 (42 FR 30198).

PRELIMINARY STATEMENT

A public hearing was held upon proposed further amendment of the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), (hereinafter referred to collectively as the "order") regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Lakeland, Florida, on March 10, 1977, pursuant to notice thereof issued on February 18, 1977.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Administrator, on June 7, 1977, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto. Exceptions were filed by two persons.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to correction of inadvertent, grammatical or obvious errors.

Material issues. The material issues of record are as follows: (FEDERAL REGISTER—June 13, 1977 (42 FR 30198))

Material issues. The material issues of record are as follows:

1. Change the definition of "Secretary", "Fruit", "Variety", and "Producer"; replace "standard packed box" with "standard packed carton"; and add a definition of "Committee".

2. Update order provisions relating to district and redistricting.

3. Merge the Shippers Advisory Committee and Growers Administrative Committee into a single committee titled Citrus Administrative Committee.

4. Add authority for a public member to the committee.

5. Revise provisions relating to the committee with respect to: nomination, selection, duties, compensation, and procedure.

6. Delete reference to "supplies on track" from market factors required to be considered by the committee in formulating recommendations for regulation of shipments.

7. Change order provisions relating to a limitation of a portion of a grade or size.

8. Delete the section pertaining to exemptions.

9. Make conforming changes.

Findings and conclusions. The following findings and conclusions on the material issues are based on the record of hearing: (FEDERAL REGISTER—June 13, 1977 (42 FR 30198))

(1) The term "Secretary" should be modified to make it clear that this term includes officials and employees of the Department to whom authority has been delegated by the Secretary of Agriculture to act in his stead. This would recognize that it is not physically possible for the Secretary to perform all of the tasks involved in the administration of all the programs under his jurisdiction. The Secretary has the authority to so delegate and it is customary for him to exercise such authority by arranging for some such tasks to be performed under delegation of authority by persons under his supervision. The current definition does not make this clear, hence, the definition shoud be revised as hereinafter set forth.

Authority should be provided in the order to regulate the handling of Dancy and Robinson tangerines as separate varieties of fruit. Currently, the Dancy and Robinson varieties are included in the same varietal classification. Hence, both varieties are requried to be under the same regulations. This does not permit recognition of the different characteristics of the two varieties. Robinson variety tangerines mature earlier than tangerines of the Dancy variety and attain a slightly larger size at maturity than the Dancy. Hence, a size regulation which permits shipment of smaller sizes of mature Robinson tangerines also permits shipment of immature Dancy tangerines. Inasmuch as there is no current authority to provide separate regulations for Dancy and Robinson tangerines it has been difficult to apply a regulation which recognizes the size and related maturity differences between the varieties. Authority for separate regulation would enable issuance of regulations more appropriate for each variety. Persons familiar with Dancy and Robinson tangerines, including inspectors, can distinguish between the two varieties. Hence, the issuance of regulation recognizing differences in such characteristics as size or quality is appropriate and practical, and would tend to effectuate the purposes of the order and the act and the definition of "variety" should be amended as hereinafter set forth.

An exception was filed by Jeff B. Huppel, Orlando, Fla. This exception commented on Robinson and Dancy varieties of tangerines and the need to recognize seasonal and other differences between the two varieties. As discussed above, such differences are recognized in the authority to issue separate regulations.

The name of the fruit designated in the order as "Murcott Honey oranges" should be changed to "Honey tangerines". The designation of Honey tangerines is descriptive of this variety of fruit as it exhibits features characteristic of the tangerine. This fruit is commonly referred to in the industry as the "Honey tangerine". This has been recognized in the development of State grades applicable to fresh intrastate shipments of this fruit. These standards are identical to the U.S. Standards for Grades of Florida Tangerines with minor exceptions, and in recent years regulations for this fruit under the order have been based on these standards. Therefore, it

is appropriate that the name of this fruit be changed to Honey tangerines, as hereinafter set forth.

The order should provide authority for the committee, with the approval of the Secretary, to recommend inclusion under the order of other varieties of the specified citrus fruits.

The order currently provides for regulation of oranges, grapefruit, tangerines, and tangelos grown in the production area in Florida. Regulation may be applied to new varieties which closely resemble one of the standard varieties but this may not be entirely appropriate and occasionally an unlike variety may be designated and produced in significant quantities. These varieties compete with varieties regulated under the order but are not regulated. The shipment of varieties which are not regulated under the order can adversely affect returns to producers of varieties which are regulated. Hence, the order should contain authority enabling any variety which compete with varieties regulated under the order to be made subject to appropriate requirements the same as varieties covered under the order.

The term "producer" should be redefined as hereinafter set forth to identify those persons who are eligible to participate in referenda and in the election of nominees for positions on the committee and those who are eligible to serve as producer members on the committee. Presently, "producer" is defined in the order as "any person engaged in the production of fruit." Such definition is too broad and could include other individuals who are not recognized by the industry as producers, such as part-time grove employees. The consensus of the industry is that the definition should be amended to make it clear that "producer" or "grower" is a person owning or having control of the disposition of his production. Thus, a producer should be defined as follows: "producer" is synonymous with "grower" and means any person who is engaged in the production for market of fruit in the production area and who has a proprietary interest in the fruit so produced.

The order currently contains a definition of "standard packed box." This is a unit of measure equivalent to one and three-fifths (1⅗) United States bushels of fruit. That term was included in the order to provide a convenient unit upon which to base assessments and reports of fresh shipments. At the time this term was included in the order, and for several years thereafter, the principal container used for shipping fresh citrus fruit was a wood box with a capacity of 1⅗ bushels. This container has now been replaced by a corrugated paperboard carton with a capacity of four-fifths of a bushel. In recognition of this, the Fruit and Vegetable Inspection Division of the Florida Department of Agriculture at Winter Haven, which compiles much of the data used by the committee, has converted all of its fresh citrus records to a four-fifths bushel carton basis. In addition, the Florida Department of Citrus eliminated the 1⅗ bushel box as an approved container, and under the Department of Citrus rules, Chapter 20-39.02, it has adopted the four-fifths bushel as the standard container for shipping fresh citrus. Since the standard packed box is no longer used for packaging citrus fruits, the definition of such term should be deleted from the order. A definition of "carton or standard packed carton" should be included in the order. Carton or standard packed carton should be defined as hereinafter set forth to mean a unit of measure equivalent to four-fifths (⅘) of a bushel of fruit. Likewise, §§ 905.41 Assessments and 905.70 Manifest report should be amended so that such sections refer to "carton or standard packed carton", as hereinafter set forth, as the assessment unit and shipping records of the committee should be related to the standard container commercially used by the industry.

The provisions of current § 905.12, § 905.13, § 905.14, § 905.15, § 905.16, should be redesignated as § 905.13, § 905.15, § 905.16, § 905.17, and § 905.18, respectively in the order to facilitate addition of new § 905.12 Committee. The term "committee" should be defined to mean "the Citrus Administrative Committee established pursuant to § 905.19" as hereinafter discussed.

(2) Redesignated § 905.13 should define the geographic districts into which the production area is divided for purposes of allocating grower positions on the committee. The order contains authority for the committee, with the Secretary's approval, to redefine the districts. Such redefinition was effected most recently in 1966 by amendment of the committee's administrative rules. This action resulted in the reduction of the number of districts from seven to five, and is reflected in the definition of districts set forth in § 905.125. These districts currently constitute an appropriate basis for allocation of producer representation. Since the definition of districts set forth in § 905.12 is obsolete such definition should be replaced with the definition described in § 905.13 hereinafter set forth.

Paragraph (k) of current § 905.31 authorizes the committee, with the approval of the Secretary, to redistrict and reapportion members among districts. The text of § 905.31(k) should be revised and redesignated as § 905.14 in the order. The revision should simplify the language and clearly indicate that only grower membership of the committee is subject to reapportionment. In addition, the date "1980–81" should be substituted for "1965–66." The order currently requires the committee to consider redistricting and reapportionment during the 1965–66 fiscal period, and in each fifth fiscal period thereafter. Since the record indicates that the districts and allocation of members are presently appropriate, the committee should not be required to consider redistricting and reapportionment until the season 1980–81.

(3)–(4) Currently, there are two committees established under the order. The Shippers Advisory Committee (SAC) and the Growers Administrative Committee (GAC). As the name implies, the duties of SAC are largely advisory, its principal function being to evaluate the economic factors enumerated in the order relating to citrus produced in Florida and other states, and, if it deems advisable to regulate any variety as provided in the order, to make a recommendation to the GAC. The GAC has a number of duties which are enumerated in the order. These are largely administrative but they include the responsibility of submitting to the Secretary any recommendation of SAC together with its own recommendations and supporting information related to the economic factors enumerated in the order which have a bearing on the recommendation.

The SAC is comprised of 8 members and alternates, all shippers. At least three positions on SAC are to be filled by persons affiliated with cooperative marketing organizations, and the remainder are to be filled by persons not so affiliated. The GAC is comprised of 8 or 9 members and alternates, currently 9, all growers. The positions on GAC are apportioned among five geographic districts as specified in the order. At least three such positions are to be filled by growers affiliated with cooperative marketing organizations.

At the time the provision for two committees was included in the order, it was believed that the interests of shippers and growers were sufficiently different as to require them to function on different bodies. In recent years these differences have tended to become obscure and the two committees have found it advantageous to meet together in the consideration of matters under the order.

In the consideration of recommendations for regulations the committees normally meet several times each year during the marketing season. Often conditions develop which make it desirable for meetings to be scheduled on short notice. In recent years the Federal Advisory Committee Act which applies to meetings of SAC has affected committee operations in that it requires publication of meeting notices in the FEDERAL REGISTER at least 7 days, and preferably 15 days, in advance of meetings. Since the committees have found that the members of both GAC and SAC can operate in harmony in meetings and other activities under the order, the merging of the two committees into one administrative body would be a reasonable and appropriate means of providing the marketing expertise of shippers to such body without retaining the cumbersome procedures now involved in the operation of SAC. Hence, it is concluded that the order should be amended to abolish GAC and SAC and to provide for establishment and membership of a committee comprised of 8 or 9 grower members and alternates and 8 shipper members and alternates to be named the Citrus Administrative Committee (CAC).

Also, the public interest is to be observed in actions taken under marketing orders, hence, the interests of all groups including growers, handlers, and consumers should be considered. Therefore, the order should provide for a public member on the CAC. Although all com-

V 42 167 A AUG 29 77 7 UMI

mittee meetings are open to the public, there has been little participation by consumers. A public representative on the committee would be in a position to contribute the views of the public, other than that of the industry, to the development of recommendations for regulation designed to serve the interest of both the industry and the public generally. Therefore, it is concluded that the orders should be amended as hereinafter set forth to provide authority for a position of nonindustry member on the committee. Such member should have the same rights and privileges as other members of the committee. It would be appropriate for the grower and shipper members of CAC, with the approval of the Secretary, to establish by an administrative rule specifying the term of office, qualifications, and manner of nomination for persons to fill the public member position and the order should so provide.

(5) Current provisions of the order relating to term of office of members and alternate members of present committees under the order are contained in § 905.21 and § 905.24, respectively. These provisions have proved effective in order operations and should be appropriately modified to make them applicable to the members and alternate members of the Citrus Administrative Committee as hereinafter specified in § 905.20.

Provision for selection of initial members of the Citrus Administrative Committee should be included in the order. The record indicates that an orderly transition from the two committee system to the single committee could be effected if the members and alternate members serving on the present committees under the order were to become the members and alternates of the Citrus Administrative Committee. Inasmuch as the record indicates that the new Citrus Administrative Committee should be comprised of the same number of grower and shipper members as the present committees and qualifications the same, this would be appropriate. It is therefore concluded the order should provide, as hereinafter set forth, that the initial members and alternate members of the Citrus Administrative Committee shall be the same as those serving on the GAC and SAC when the amendment becomes effective establishing CAC.

Provisions relating to nomination of members and alternate members of the GAC and SAC are contained in § 905.22 and § 905.25, respectively. These provisions, with editorial changes and minor revisions, should be made applicable to the nomination of the grower and shipper members and alternate members of CAC as hereinafter specified in § 905.22.

Currently, the order requires the Secretary to give notice of meetings for the purpose of nominating members and alternate members to the GAC and SAC. This function should be assumed by CAC.

The number of committee member and alternate member nominees required to be submitted to the Secretary should be changed in the order to conform to the number of members and alternates to be selected by him. Currently the order requires submission of a specified larger number of nominees for positions to be filled. Evidence indicates that such provision has served no useful purpose in the operation of the order. In selecting members and alternate members to the committee, the order authorizes the Secretary to select from other eligible persons, in addition to the nominees, to insure that the best qualified individuals are selected. Hence, the Secretary may exercise a choice, and submission of a larger number of nominees is unnecessary.

Provisions relating to selection of members and alternate members of the GAC and SAC are contained in § 905.23 and § 905.26, respectively. These provisions, with editorial changes and minor revision, should be made applicable to the selection of members and alternate members of the CAC as hereinafter specified in § 905.23.

Allocation of grower membership among districts should be as set forth in § 905.126 *Subpart—Rules and Regulations*. The allocation set forth in § 905.23 is no longer appropriate. Therefore, the order should be amended, as hereinafter set forth. As so amended § 905.23(a) applicable to grower membership on the Citrus Administrative Committee would reflect the allocation currently set forth in § 905.126. The requirement that at least three of the independent shipper members and alternate members shall also be producers should be deleted. This provision which was designed to assure that SAC would have access to grower expertise within its ranks is inappropriate and unnecessary in the establishment of an administrative committee consisting of both producers and shippers as the interests of both groups are adequately represented on the single committee.

The duties of the GAC contained in § 905.31 should be the duties of the new CAC with two exceptions. The duty to notify the SAC of meetings of the GAC contained in § 905.31(j) should be deleted as GAC and SAC should be abolished as separate entities. As previously discussed, § 905.31(k) which relates redistricting and reapportionment of membership among districts should be redesignated as § 905.14. Therefore, § 905.31 (k) should be deleted. Likewise, in the light of the foregoing, § 905.32 *Duties of the Shippers Advisory Committee* should be deleted.

The order should be amended, as hereinafter set forth, to provide that an alternate member may be reimbursed for reasonable expenses necessarily incurred by him in attendance of meetings and in the performance of other committee business. Authorizing the payment of compensation for alternate members would encourage greater participation in committee activities. Such participation is desirable as it makes available to the committee a broader base of experience and it facilitates alternate members gaining experience in dealing with problems facing the committee. Hence, alternate members would be better prepared to deal with situations in which they may serve as a member. Moreover, since the alternate is serving the interests of the industry, it appears equitable that he be reimbursed for reasonable expenses incurred by him in attending committee meetings or performing other committee business.

The order should provide, as hereinafter set forth, that ten members or alternates acting as members of the CAC shall be necessary to constitute a quorum and ten members, including five grower members, must concur to validate a decision. This is an appropriate requirement and would provide for consideration of matters affecting the industry by a majority of the committee while assuring that growers continue to retain a prominent role in decision-making. Currently, the order provides that five members of either committee are necessary to form a quorum or pass a decision except that the GAC may recommend a regulation of shipments of grapefruit grown in Regulation Area I or Regulation Area II which meet the requirements of Improved No. 2 Grade only upon the affirmative vote of a majority of its members from the regulation area affected. This provision should be carried forward in § 905.34(b) of the amended order to permit such recommendation by a majority of the members from either Regulation Area I or Regulation Area II on the Citrus Administrative Committee.

The notice of hearing contained a proposal which would permit the committee, in cases of emergency, to vote by telephone with the stipulation that two dissenting votes would prevent its adoption.

The proponents stressed that the authority for the committee to consider proposals and vote by telephone is needed to provide flexibility in the operation of the order. They pointed out that situations such as those brought about by hurricanes and freezing temperatures occur and call for quick action which would be facilitated by authorization to vote by telephone. An example was given of a situation which developed as a result of the recent freeze in which action by the Secretary was needed to relax a regulation so the industry could move fruit before the onset of the State's embargo. The committee's action was limited to providing the Secretary with the results of a telephone poll of the members of SAC and GAC and a request that the Secretary relax the regulation. The telephone poll thus taken and the accompanying request did not have the same standing as a formal recommendation developed in accordance with procedures provided under the order.

The opponents objected to the proposal primarily on the basis that telephone voting does not permit the full discussion provided by an assembled meeting. With respect to those situations when action may be needed but the committee finds it difficult or impossible to assemble, they suggested that the Secretary could act without a formal recommendation from the committee.

The advantages of an assembled meeting are recognized, and it is a fact that the Secretary may take actions relative to the order without a formal recommendation from the committee. However, it is recognized also that the committee is established under the order to provide the Secretary with information and recommendations for his consideration in taking actions relative to the order. A committee recommendation arrived at by an authorized telephone vote of the committee along with other available information is of greater assistance to the Secretary than no formal committee recommendation. It is particularly important that the industry sentiment as reflected by an action of the committee be available to the Secretary when he takes action in an emergency situation.

The record indicates that if two dissenting votes are remeived when a matter is presented in a telephone vote this should prevent its adoption. This would appear to constitute an ample safeguard to prevent abuse of the telephone voting procedure. If in the conduct of a telephone vote two members vote in opposition, this may be taken as a signal that an assembled meeting should be scheduled at which the matter can be subjected to a full discussion. Therefore, it is concluded that consistent with the foregoing, and as hereinafter set forth, the order should be amended to authorize the committee to vote by telephone.

Currently, § 905.34(c) relates to giving notice of meetings of the Growers Administrative Committee. This should be made applicable to the Citrus Administrative Committee and designated as § 905.34(d).

(6) In developing its recommendations the Growers Administrative Committee is required by § 905.51 of the order to consider factors relating to citrus fruit produced in Florida and other States including "amount on hand at the principal markets, as evidenced by supplies on track". When the order was initially made effective most of the citrus crop was shipped by rail. The record indicates that in 1975–76 rail shipments accounted for less than 2.5 percent of fresh citrus shipments from Florida. In that year and during the subsequent season the substantial portion of Florida citrus was shipped by truck. Also, trucks are the principal mode of transportation of Texas and California-Arizona citrus fruits. Thus, information as to track supplies of citrus fruits from the different producing areas is no longer indicative of the amount of fruit at the principal markets or suggestive of demand prospects. In view of this development, consideration of the amount on hand at principal markets as evidenced by track supplies should be made non-compulsory.

Ample information is available to the committee at each meeting which is relevant to the analysis of the market for Florida citrus. Section 905.51 of the order requires consideration by the committee of each of the different factors having a bearing on the demand situation. This section should be amended (1) to empower the Citrus Administrative Committee to make recommendations to the Secretary on the basis of specified available information and (2) to make minor editorial changes relative to the deletion of the reference to the Shippers Advisory Committee.

(7) The title of § 905.52 of the order should be changed to "Issuance of Regulations" consistent with terminology currently used in more recently issued marketing orders. The references to Shippers Advisory Committee and Growers Administrative Committee should be deleted and the text revised to reflect the shift to the Citrus Administrative Committee. In addition, the proviso in paragraph (a)(1) pertaining to regulations which provide for regulations limiting a portion of a specified grade or size of a variety should be revised to provide a new basis for determining such percentage. Considerable difficulty has been experienced in achieving compliance when regulations have been in effect under this provision. Initially, the order authorized the limitation of a percentage of a grade or size of fruits on a weekly basis and provided that the quantity permitted to be shipped by a handler would be determined as a percentage of the total quantity of such variety shipped by the handler during the same regulation week. This resulted in violations when handlers based the limited quantity on the quantity they intended to ship and the total quantity actually shipped was less. Reasons given for such discrepancy included interferences such as rain, harvesting delays, and late arrival of trucks at the packinghouse. This resulted in an amendment to the order to provide that the portion of a grade or size of a variety a handler could ship would be set as a percentage of the handler's total shipments of the variety he shipped during the last week preceding the regulation week within the current season. This change was intended to resolve compliance difficulties by permitting handlers to make the calculation of such shipments of a variety based on a known volume of shipments. However, this basis for determining shipments of a portion of a grade or size has likewise produced a substantial number of violations largely due to errors in computation by handlers. The record indicates that compliance and administration of this provision could be improved if the committee performs the computing and notifies each handler of the quantity representing his portion of a grade or size he is permitted to ship when a regulation under this provision is in effect.

The evidence indicates that a further improvement can be made if the determination of such quantity is based on shipments of a period longer than one week. Basing the percentage only on shipments of a preceding week ignores circumstances which may cause a handler to ship a smaller quantity than normal of the variety during a given week, and basing the handler's permitted shipments on that week would result in his being permitted to ship only at a correspondingly reduced level. Consequently, basing the portion on a longer representative prior period would be a more equitable basis for determining the quantity of a portion of a grade or size permitted to be shipped by a handler. To recognize the differences in varieties and seasons the order could provide that the representative period may be different for each variety of fruit as recommended by the committee and approved by the Secretary. It was advanced that a more equitable representative period may be one or two prior seasons and the elapsed number of weeks during the then current season, providing that any implementing rule would provide opportunity for new shippers who have no record of shipments during the representative period to participate and transfers between handlers should be permitted. The notice of hearing contained a proposal to amend § 905.52(a)(5) by substituting "State of Florida Citrus Fruit Laws" for the designation "Florida Citrus Code" which now is seldom used. A modification to the proposal was proposed and supported at the hearing. The modification which would delete "Florida Citrus Code" and insert in lieu thereof "Chapter 601 of the Florida Statutes and Regulations Effective Thereunder" would provide a more specific reference. Therefore, in consideration of the foregoing it is concluded that § 905.52 of the order should be amended, as hereinafter set forth.

(8) Exemption provisions in § 905.54 should be deleted. The exemption procedure therein specified has been effective under rules and regulations for over twenty years. During that time very few growers have applied for exemption and the industry conditions which justified exemptions have changed. The exemption provisions were designed to deal with a situation in which a grower was prevented by regulation from shipping a percentage of his fruit equal to the percentage set forth in the committee's marketing policy. When these provisions were included in the order the major portion of the fruits were shipped to fresh market and there was concern that regulation might prevent a grower from shipping at least the specified share of his crop to fresh outlets. Currently, the processing outlet utilizes a dominant share of the orange and grapefruit crops and a large portion of other citrus fruits. Hence, fruit which does not meet fresh market requirements can be marketed in the processing outlet. Moreover, with an abundance of fruit meeting fresh market requirements it would be extremely difficult to market lower quality fruit under an exemption. It would be detrimental to the interest of the industry to permit the marketing of inferior fruit in fresh channels when ample alternatives exist to permit constructive disposition. Therefore, the exemption provision should be eliminated from the order.

(9) The amendment heretofore recommended will make it necessary to make certain conforming changes in sections not specifically discussed in connection therewith. All such changes should be incorporated in the order as hereinafter set forth.

V 42 167 AUG 29 77 UMI

Rulings on exceptions: One exception was filed by Wilson C. McGee, United Growers and Shippers Association, Inc., Orlando, Fla. The exception expressed views in opposition to: redefining "Secretary" to include officers or employees of the Department to whom authority may be delegated; adding a public member to the committee; merging the Growers Administrative Committee and Shippers Advisory Committee; reimbursing alternate members for expenses incurred in attending committee meetings; revising committee quorum and voting requirements; authorizing the committee to vote by telephone; and revising provisions relating to a limitation of a portion of a grade or size. For the reasons set forth in the recommended decision, each objection submitted by Wilson C. McGee in his exception has been considered in adopting this decision and they are hereby overruled and denied.

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions to the recommended decision was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Order Amending the Order, as Amended, Regulating the Handling of Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida," and "Marketing Agreement, as Further Amended, Regulating the Handling of Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the annexed marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the annexed order which is published with this decision.

Referendum order. It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 et seq.), to determine whether the issuance of the annexed order as amended and as hereby proposed to be amended, regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the production area in the production of the regulated commodity for market.

The representative period for the conduct of such referendum is hereby determined to be August 1, 1976, through July 31, 1977.

The agents of the Secretary to conduct such referendum, jointly or severally, are hereby designated to be William C. Knope and John R. Toth, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, P.O. Box 9, Lakeland, Fla. 33802.

Signed at Washington, D.C. on August 24, 1977.

ROBERT H. MEYER,
Assistant Secretary for Marketing Services.

Order[1] Amending the Order, As Amended, Regulating the Handling of Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendment of the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida.

Upon the basis of the record it is found that:

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as amended, and as hereby further amended, regulates the handling of oranges (including Temple oranges), grapefruit, tangerines (including Honey tangerines), and tangelos grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The order, as amended, and as hereby further amended, prescribes, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of oranges (including Temple oranges), grapefruit, tangerines (including Honey tangerines), and tangelos grown in the production area; and

(5) All handling of oranges (including Temple oranges), grapefruit, tangerines (including Honey tangerines), and tangelos grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof the handling of oranges (including Temple oranges), grapefruit, tangerines (including Honey tangerines), and tangelos shall be in conformity to and in compliance with the terms and conditions of the order, as hereby amended as follows:

The provisions of the proposed marketing agreement and order, amending the order, contained in the recommended decision issued by the Acting Administrator on June 7, 1977, and published in the FEDERAL REGISTER on June 13, 1977 (42 FR 30198; FR Doc. 77-16664), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

1. Section 905.1 *Secretary* is revised to read as follows:

§ 905.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the United States Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

2. Section 905.4 *Fruit* is revised by amending paragraph (f) to read as follows:

§ 905.4 Fruit.

* * * * *

(f) Honey tangerines.

3. Section 905.5 *Variety* is revised by amending paragraphs (i), (j), and (k), and adding new paragraphs (l) and (m). As amended § 905.5 reads as follows:

§ 905.5 Variety.

* * * * *

(i) Dancy and similar tangerines, excluding Robinson and Honey tangerines;

(j) Robinson tangerines;

(k) Honey tangerines;

(l) Naval oranges; and

(m) Other varieties of citrus fruits specified in § 905.4 as recommended by the committee and approved by the Secretary.

4. Section 905.6 *Producer* is revised to read as follows:

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

§ 905.6 Producer.

"Producer" is synonymous with "grower" and means any person who is engaged in the production for market of fruit in the production area and who has a proprietary interest in the fruit so produced.

5. Section 905.10 *Standard packed box* is revised to read as follows:

§ 905.10 Carton or standard packed carton.

"Carton or standard packed carton" means a unit of measure equivalent to four-fifths (⅘) United States bushels of fruit, whether in bulk or in any container.

6. The provisions of §§ 905.12, 905.13, 905.14, 905.15, 905.16 are redesignated as §§ 905.13, 905.15, 905.16, 905.17, and 905.18, respectively, and a new § 905.12 is added reading as follows:

§ 905.12 Committee.

"Committee" means the Citrus Administrative Committee established pursuant to § 905.19.

7. Section 905.13 is revised and a new § 905.14 is added to read as follows:

§ 905.13 District.

(a) "Citrus District One" shall include the Counties of Hillsborough, Pinellas, Pasco, Hernando, Citrus, Sumter, and Lake.

(b) "Citrus District Two" shall include the Counties of Osceola, Orange, Seminole, Alachua, Putnam, St. Johns, Flagler, Marion, Levy, Duval, Nassau, Baker, Union, Bradford, Columbia, Clay, Gilchrist, and Suwannee, and County Commissioner, Districts One, Two, and Three of Volusia County, and that part of the Counties of Indian River and Brevard not included in Regulation Area II.

(c) "Citrus District Three" shall include the County of St. Lucie and that part of the Counties of Brevard, Indian River, Martin, and Palm Beach described as lying within Regulation Area II, and County Commissioner's Districts Four and Five of Volusia County.

(d) "Citrus District Four" shall include the Counties of Manatee, Sarasota, Hardee, Highlands, Okeechobee, Glades, De Sota, Charlotte, Lee, Hendry, Collier, Monroe, Dade, Broward, and that part of the Counties of Palm Beach and Martin not included in Regulation Area II.

(e) "Citrus District Five" shall include the County of Polk.

8. Section 905.14 is revised to read as follows:

§ 905.14 Redistricting.

The committee may with the approval of the Secretary, redefine the districts into which the production area is divided or reapportion or otherwise change the grower membership of districts, or both: *Provided,* That the membership shall consist of at least eight but not more than nine grower members, and any such change shall be based, so far as practicable, upon the respective averages for the immediately preceding five fiscal periods of (1) the volume of fruit shipped from each district; (2) the volume of fruit produced in each district; and (3) the total number of acres of citrus in each district. The committee shall consider such redistricting and reapportionment during the 1980–81 fiscal period, and only in each fifth fiscal period thereafter, and each such redistricting or reapportionment shall be announced on or before March 1 of the then current fiscal period.

9. Delete §§ 905.20 through 905.26 and insert in lieu thereof the following:

§ 905.19 Establishment and membership.

(a) There is hereby established a Citrus Administrative Committee consisting of at least 8 but not more than 9 grower members, and 8 shipper members. Grower members shall be persons who are not shippers or employees of shippers. Shipper members shall be shippers and employees of shippers. The committee may be increased by one non-industry member nominated by the committee and selected by the Secretary. The committee, with the approval of the Secretary, shall prescribe qualifications, term of office, and the procedure for nominating the non-industry member.

(b) Each member shall have an alternate who shall have the same qualifications as the member for whom he is an alternate.

§ 905.20 Term of office.

The term of office of members and alternate members shall begin on the first day of August and continue for one year and until their successors are selected and have qualified. The consecutive terms of office of a member shall be limited to three terms. The terms of office of alternate members shall not be so limited. Members, their alterantes, and their respective successors shall be nominated and selected by the Secretary as provided in §§ 905.22 and 905.23.

§ 905.21 Selection of initial members of the committee.

The initial members of the Citrus Administrative Committee and their respective alternates shall be the members and alternates of the Growers Administrative Committee and the Shippers Advisory Committee serving on the effective date of his amendment. Each member and alternate shall serve until completion of the term for which he was selected and until his successor has been selected and qualified.

§ 905.22 Nominations.

(a) *Grower member.* (1) The committee shall give public notice of a meeting of producers in each district to be held not later than July 10 of each year, for the purpose of making nominations for grower members and alternate grower members. The committee, with the approval of the Secretary, shall prescribe uniform rules to govern such meetings and the balloting thereat. The chairman of each meeting shall publicly announce at such meeting the names of the persons nominated, and the chairman and secretary of each such meeting shall transmit to the Secretary their certification as to the number of votes so cast, the names of the persons nominated, and such other information as the Secretary may request. All nominations shall be submitted to the Secretary on or before the 20th day of July.

(2) Each nominee shall be a producer in the district from which he is nominated. In voting for nominees, each producer shall be entitled to cast one vote for each nominee in each of the districts in which he is a producer. At least three of the nominees and their alternates so nominated shall be affiliated with a bona fide cooperative marketing organization.

(b) *Shipper members.* (1) the Committee shall give public notice of a meeting for bona fide cooperative marketing organizations which are handlers, and a meeting for other handlers who are not so affiliated, to be held not later than July 10 of each year, for the purpose of making nominations for shipper members and their alternates. The committee, with the approval of the Secretary, shall prescribe uniform rules to govern each such meeting and balloting thereat. The chairman of each such meeting shall publicly announce at the meeting the names of the persons nominated and the chairman and secretary of each such meeting shall transmit to the Secretary their certification as to the number of votes cast, the weight by volume of those shipments voted, and such other information as the Secretary may request. All nominations shall be submitted to the Secretary on or before the 20th day of July.

(2) Nomination of at least three members and their alternates shall be made by bona fide cooperative marketing organizations which are handlers. Nominations for not more than five members and their alternates shall be made by handlers who are not so affiliated. In voting for nominees, each handlers or his authorized representative shall be entitled to cast one vote, which shall be weighted by the volume of fruit by such handler during the then current fiscal period.

§ 905.23 Selection.

(a) From the nominations made pursuant to § 905.22(a) or from other qualified persons, the Secretary shall select one member and one alternate member to represent District 2 and two members and two alternate members each to represent District 1, 3, 4, and 5 or such other number of members and alternate members from each district as may be prescribed pursuant to § 905.14. At least three such members and their alternates shall be affiliated with bona fide cooperative marketing organizations.

(b) From the nominations made pursuant to § 905.22(b) or from other qualified persons, the Secretary shall select at least three members and their alternates to repersent bona fide cooperative marketing organizations which are handlers, and the remaining members and their alternates to represent handlers who are not so affiliated.

10. Section 905.31 *Duties of Growers Administrative Committee* is revised by: (1) Revising the title and introductory

V 42 167 AUG 29 77 UMI

sentence thereof; and (2) deleting paragraphs (j) and (k). As amended § 905.31 reads as follows:

§ 905.31 Duties of Citrus Administrative Committee.

It shall be the duty of the Citrus Administrative Committee:

* * * * *

(j) [Deleted]
(k) [Deleted]

§ 905.32 [Revoked]

11. Section 905.32 *Duties of Shippers Advisory Committee* is deleted.

12. Section 905.33 *Compensation and expenses of committee members* is revised to read as follows:

§ 905.33 Compensation and expense of committee members.

The members and alternate members of the committee shall serve without compensation but may be reimbursed for expenses necessarily incurred by them in attending committee meetings and in the performance of their duties under this part.

13. Section 905.34 *Procedure of committees* is revised to read as follows:

§ 905.34 Procedure of committee.

(a) Ten members of the committee shall constitute a quorum.

(b) For any decision or recommendation of the committee to be valid, ten concurring votes, five of which must be grower votes, shall be necessary: *Provided*, That the committee may recommend a regulation restricting the shipment of grapefruit grown in Regulation Area I or Regulation Area II which meets the requirements of the Improved No. 2 grade or the Improved No. 2 Bright grade only upon the affirmative vote of a majority of its members present from the regulation area in which such restriction would apply; and whenever a meeting to consider a recommendation for release of such grade is requested by a majority of the members from the affected area, the committee shall hold a meeting within a reasonable length of time for the purpose of considering such a recommendation. If after such consideration the requesting area majority present continues to favor such release for their area the request shall be considered a valid recommendation and shall be transmitted to the Secretary. The votes of each member cast for or against any recommendation made pursuant to this subpart shall be duly recorded. Whenever an assembled meeting is held each member must vote in person.

(c) The committee may, in cases of emergency, vote by telephone and all such votes must be confirmed in writing. Any proposition so voted upon shall first be fully explained to all members or alternates acting as members. When any proposition is submitted to be voted on by telephone, two (2) dissenting votes shall prevent its adoption.

(d) The committee shall give the Secretary the same notice of meetings as is given to the members thereof.

14. Section 905.51 *Recommendations for regulation* is amended by revising paragraph (a), by deleting paragraph (b) and substituting "committee" for "Growers Administrative Committee" in paragraph (c) and by redesignating paragraph (c) as paragraph (b). As amended § 905.51 reads as follows:

§ 905.51 Recommendations for regulation.

(a) Whenever the committee deems it advisable to regulate any variety in the manner provided in § 905.52, it shall give due consideration to the following factors relating to the citrus fruit produced in Florida and in other States: (1) Market prices, including prices by grades and sizes of the fruit for which regulation is recommended; (2) maturity, condition, and available supply, including the grade and size thereof in the producing areas; (3) other pertinent market information and (4) the level and trend of consumer income. The committee shall submit to the Secretary its recommendations and supporting information respecting the factors enumerated in this section.

(b) The committee shall give notice of any meeting to consider the recommendation of regulations pursuant to § 905.52 by mailing a notice of meeting to each handler who has filed his address with the committee for this purpose. The committee shall give the same notice of any such recommendation before the time it is recommended that such regulation become effective.

15. Section 905.52 *Regulation by the Secretary* is revised by:

(1) Revising the title thereof;

(2) Substituting "committee" for "Shippers Advisory Committee" and the "Growers Administrative Committee" in the first sentence of paragraph (a);

(3) Revising the proviso in subparagraph (1) of paragraph (a);

(4) Substituting "Chapter 601 of the Florida Statutes and regulations effective thereunder" for the "Florida Citrus Code" in subparagraph (5) of paragraph (a);

(5) Deleting "Growers Administrative Committee" in paragraph (b) and "Shippers Advisory Committee and the Growers Administrative Committee" in paragraph (c) and substituting therefor the word "committee"; and

(6) Adding "of any variety" following the words "to any or all shipments" in the first sentence of paragraph (c). As amended § 905.52 reads as follows:

§ 905.52 Issuance of regulations.

(a) Whenever the Secretary shall find from the recommendations and reports of the committee, or from other available information, that to limit the shipment of any variety would tend to effectuate the declared policy of the act, he shall so limit the shipment of such variety during a specified period or periods. Such regulations may:

(1) Limit the shipments of any grade or size, or both, of any variety, in any manner as may be prescribed, and any such limitation may provide that shipments of any variety grown in Regulation Area II shall be limited to grades and sizes different from the grade and size limitations applicable to shipments of the same varieties grown in Regulation Area I: *Provided*, That whenever any such grade or size limitation restricts the shipment of a portion of a specified grade or size of a variety, the quantity of such grade or size that may be shipped by a handler during a particular week shall be established as a percentage of the total shipments of such variety by such handler in such prior period established by the committee with the approval of the Secretary, in which he shipped such variety.

* * * * *

(5) Fix the size, capacity, weight, dimensions, or pack of the container or containers which may be used in the shipment of fruit for export, other than to Canada and Mexico: *Provided*, That such regulation shall not authorize the use of any container which is prohibited for use for fruit under the provisions of Chapter 601 of the Florida Statutes and regulations effective thereunder.

(b) Prior to the beginning of any such regulations, the Secretary shall notify the committee of the regulation issued by him, and the committee shall notify all handlers by mailing a copy thereof to each handler who has filed his address with the committee for this purpose.

(c) Whenever the Secretary finds from the recommendations and reports of the committee, or from other available information, that a regulation should be modified, suspended, or terminated with respect to any or all shipments of any variety of fruit in order to effectuate the declared policy of the act, he shall so modify, suspend, or terminate such regulation. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the act, he shall suspend or terminate such regulation. On the same basis, and in like manner, the Secretary may terminate any such modification or suspension.

(d) * * *

§ 905.54 [Revoked]

16. Section 905.54 *Exemptions* is deleted.

§ 905.14 [Redesignated]

A typographical error in § 905.14 (redesignated herein as § 905.16) is corrected by substituting "Township 15 South, Range 32 East;" for "Township 18 South, Range 32 East". As so revised and redesignated said section reads as follows:

§ 905.16 Regulation Area II.

"Regulation Area II" shall include that part of the State of Florida particularly described as follows:

Beginning at a point on the shore of the Atlantic Ocean where the line between Flagler and Volusia Counties intersects said shore, thence follow the line between said two counties to the Southwest corner of Section 23, Township 14 South, Range 31 East; thence continue South to the Southwest corner of Section 35, Township 14 South, Range 31 East; thence East to the Northwest corner of Township 15 South, Range 32 East; * * *

17. The following sections are revised by substituting "committee" for references to "Growers Administrative Committee and Shippers Advisory Committee".

§ 905.27 Failure to nominate.

In the event nominations for a member or alternate member of the committee are not made pursuant to the provisions of § 905.22 * * *

§ 905.28 Acceptance of membership.

Any person selected by the Secretary as a member or alternate member of the committee * * *

§ 905.29 Inability of members to serve.

(a) An alternate for a member of the committee * * *

(b) In the event of the death, removal, resignation, or disqualification of any person selected by the Secretary as a member or an altenate member of the committee * * *

§ 905.30 Powers of the committee.

The committee, * * *

§ 905.35 Right of the Secretary.

The members of the committee (including successors and alternates), and any agent or employee appointed or employed by the committee shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination, or other act of the committee, * * *

§ 905.36 Funds.

(a) All funds received by the committee * * *

(b) The Secretary may, at any time, require the committee * * *

(c) Upon the removal or expiration of the term of office of any member of the committee * * *

EXPENSES AND ASSESSMENTS

§ 905.40 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred to carry out the functions of the committee * * *

§ 905.41 Assessments.

(a) Each handler who first handles fruit shall pay to the committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds will be incurred by the committee for the maintenance and functioning, during each fiscal period, of the committee established under this subpart. Each such handler's share of such expenses shall be that proportion thereof which the total quantity of fruit shipped by such handler as the first handler thereof during the applicable fiscal period is of the total quantity of fruit so shipped by all handlers during the same fiscal period. The Secretary shall fix the rate of assessment per standard packed carton of fruit to be paid by each such handler. The payment of assessments for the maintenance and functioning of the committee * * *

(b) At any time during or after the fiscal period, the Secretary may increase the rate of assessment so that the sum of money collected pursuant to the provisions of this section shall be adequate to cover the said expenses. Such increase shall be applicable to all fruit shipped during the given fiscal period. In order to provide funds to carry out the functions of the committee established under § 905.19, handlers may make advance payment of assessments.

§ 905.42 Handler's accounts.

(a) * * *

(b) The committee * * *

REGULATIONS

§ 905.50 Marketing policy.

(a) Before making any recommendations pursuant to § 905.51 for any variety of fruit the committee shall, with respect to the regulations permitted by § 905.52, submit to the Secretary a detailed report setting forth an advisable marketing policy for such variety for the then current shipping season. Such report shall set forth the proportion of the remainder of the total crop of such variety of fruit (determined by the committee to be available for shipment during the remainder of the shipping season of such variety) deemed advisable by the committee to be shipped during such season.

(b) In determining each such marketing policy and advisable proportion, the committee shall give due consideration to the following factors relating to citrus fruit produced in Florida and in other States: (1) The available crop of each variety of citrus fruit in Florida, and in other States, including the grades and sizes thereof, which grades and sizes in Florida shall be determined by the committee * * *

(c) In addition to the foregoing, the committee shall set forth a schedule of proposed regulation for the remainder of the shipping season for each variety of fruit for which recommendations to the Secretary pursuant to § 905.51 are contemplated. Such schedules shall recognize the practical operations of harvesting and preparation for market of each variety and the change in grades and sizes thereof as the respective seasons advance. In the event it is deemed advisable to alter such marketing policy or advisable proportion as the shipping season progresses, in view of changed demand and supply conditions with respect to fruit, the committee shall submit to the Secretary a report thereon.

(d) The committee * * *

§ 905.53 Inspection and certification.

(a) Whenever the handling of a variety of a type of fruit is regulated pursuant to § 905.52, each handler who handles any variety of such type of fruit shall, prior to the handling of any lot of such variety, cause such lot to be inspected by the Federal-State Inspection Service and certified by it as meeting all applicable requirements of such regulation: *Provided*, That such inspection and certification shall not be required if the particular lot of fruit previously had been so inspected and certified unless such prior inspection was not performed within such time limitations as may be prescribed pursuant to paragraph (b) of this section. Each handler shal promptly submit, or cause to be submitted, to the committee a copy of each certificate of inspection issued to him covering varieties so handled.

(b) With respect to any variety regulated pursuant to § 905.52(a)(4), the committee * * *

HANDLER'S REPORT

§ 905.70 Manifest Report.

The committee may request information from each handler regarding the variety, grade, and size of each standard packed carton of fruit shipped by him and may require such information to be mailed or delivered to the committee or its duly authorized representative, within 24 hours after such shipment is made, in a manner or by such method as the committee may prescribe, and upon such forms as may be prepared by it.

§ 905.71 Other information.

Upon request of the committee, made with the approval of the Secretary, every handler shall furnish the committee, * * *

MISCELLANEOUS PROVISIONS

§ 905.80 Fruit not subject to regulation.

Except as otherwise provided in this section, any person may, without regard to the provisions of §§ 905.52 and 905.53 and the regulations issued thereunder, ship any variety for the following purposes: (a) To a charitable institution for consumption by such institution; (b) to a relief agency for distribution by such agency; (c) to a commercial processor for conversion by such processor into canned or frozen products or into a beverage base; (d) by parcel post; or (e) in such minimum quantities, types of shipments, or for such purposes as the committee * * *

§ 905.84 Proceedings after termination.

(a) Upon the termination of the provisions of this part, the then functioning members of the committee shall continue as joint trustees, for the purpose of liquidating the affairs of the committee, of all the funds and property then in the possession of or under control of committee, * * *

(b) The said trustees (1) shall continue in such capacity until discharged by the Secretary, (2) shall, from time to time, account for all receipts and disbursements or deliver all property on hand, together with all books and records of the committee and of the joint trustees, to such person as the Secretary may direct; and (3) shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the com-

V 42167 A AUG 29 77 UMI

mittee, or the joint trustees pursuant to this part.

(c) * * *

(d) Any person to whom funds, property, or claims have been transferred or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the committee and upon the said joint trustees.

§ 905.88 Personal liability.

No member or alternate of the committee * *

Subpart—Rules and Regulations

§ 905.120 Nomination procedure.

Meetings shall be called by the committee in accordance with the provisions of § 905.22 for the purpose of making nominations for members and alternate members of the committee. The manner of nominating members and alternate members of the committee shall be as follows:

(a) At each such meeting the Secretary's agent shall announce the requirements as to eligibility for voting for nominees and the procedure for balloting, and shall explain the duties of the committee under §§ 905.51 through 905.89, inclusive.

(b) A chairman and a secretary of each meeting shall be selected.

(c) At each meeting there shall be presented for nomination and there shall be nominated not less than the number of nominees required under the provisions of §§ 905.19 and 905.22, all of whom shall have the qualifications therein provided.

(d) At the meetings of handlers, any person authorized to represent a handler may cast a ballot for such handler.

(e) At each meeting there may be cast at least the number of persons required to be nominated to represent the several districts or groups, as the case may be.

(f) All voting shall be by ballot and all ballots shall be delivered by the chairman or the secretary of the meeting to the agent of the Secretary.

§ 905.125 [Revoked]

§ 905.126 [Revoked]

§ 905.130 [Revoked]

§ 905.132 [Revoked]

Section 905.125 *Redefinition of districts*, § 905.126 *Changes in district representation*, § 905.130 *Exemption certificates*, § 905.131 Issuance of certificates, and § 905.132 *Reports* are deleted.

NON-REGULATED FRUIT

§ 905.140 Gift packages.

During any day any handler may, without regard to the provisions of § 905.52 and § 905.53 and the regulations issued thereunder, ship any variety for the following purpose, and in the following quantity, and types of shipment: (a) To any person one gift package containing such variety, individually addressed to such person, not in excess of two standard packed cartons if such packages are shipped direct to the addressee for use by such person other than for resale; or (b) to any distributor individually addressed gift packages of such variety not in excess of two standard packed cartons each for distribution by such distributor to the respective addressee, but not for resale.

§ 905.141 Minimum exemption.

Any shipment of fruit which meets each of the following requirements may be transported from the production area during any one day by any person or by occupants of one vehicle exempt from the requirements of § 905.52 and § 905.53 and regulations issued thereunder:

(a) The shipment does not exceed a total of 15 standard packed cartons (12 bushels) of fruit either a single fruit or a combination of two or more fruits;

(b) The shipment consists of fruit not for resale; and

(c) Such exempted quantity is not included as a part of a shipment exceeding 15 standard packed cartons (12 bushels) of fruit.

§ 905.145 Certification of certain shipments.

Whenever a regulation pursuant to § 905.52 restricts the shipment of a portion of a specified grade or size of a variety, each handler shipping such variety during the regulation period shall, with respect to each such shipment, certify to the U.S. Department of Agriculture and the committee the quantity of the partially restricted grade or size, or both, contained in such shipment. Such certification shall accompany the manifest of such shipment which the handler furnishes to the Federal-State Inspection Service.

[FR Doc.77-25026 Filed 8-26-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 15696]

AIRWORTHINESS DIRECTIVES

Gliders

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This notice withdraws a proposal to adopt an airworthiness directive (AD) that would have required an inspection of all control cables and cable sleeves and replacement of specified cables and cable sleeves for certain foreign manufactured gliders. The agency has determined that a lack of unsatisfactory service experience warrants the withdrawal of the proposed AD.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: A notice was published in the FEDERAL REGISTER on May 6, 1976, at 41 FR 18681 which proposed to adopt an AD applicable to certain Messerschmitt-Bolkow-Blohm GmbH(MBB), Glasflugel, Schleicher, Start and Flug GmbH, Scheibe, and Schempp Hirth gliders. The proposed AD would have required an inspection of the flight control cable system to check the diameter of cables and sleeves manufactured according to certain specifications and by certain manufacturers and the replacement of specified cables and cable sleeves. Comments from interested persons were invited.

Fourteen comments were received in response to the proposed AD. Only one of the commentators was in favor of adopting the AD as proposed. The major objection raised by the commentators was that the only service experience supporting any AD action involves a single glider model and that the problem with that glider is related to the particular design of that model's rudder control system. Other commentators indicated that they had inspected their control cable systems after receipt of the proposed AD and discovered no defective cables.

Based on these comments, the FAA has reevaluated the need for the proposed AD and has determined that justification does not exist for adopting the AD as proposed and that the proposal should, therefore, be withdrawn. The FAA is continuing to evaluate the need for AD action and, if needed, the form of action to be taken, for the glider model referred to by the commentators.

Withdrawal of this notice of proposed rulemaking constitutes only such action, and does not preclude the agency from issuing another notice in the future, or commit the agency to any course of action in the future.

DRAFTING INFORMATION

The principal authors of this document are D.C. Jacobsen, Europe, Africa, and Middle East Region, T. J. Loftus, Flight Standards Service, and S. Podberesky, Office of the Chief Counsel.

WITHDRAWAL OF THE NOTICE

Accordingly, and pursuant to the authority delegated to me by the Administrator, the proposed airworthiness directive published in the FEDERAL REGISTER on May 6, 1976, 41 FR 18681), titled "Airworthiness Directives—Gliders", is hereby withdrawn.

(Sec. 313(a), Federal Aviation Act of 1958 as amended, (49 U.S.C. 1354(a); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 19, 1977.

P. R. SKULLY,
Director, Flight Standards Service.

[FR Doc.77-24938 Filed 8-26-77;8:45 am]

[14 CFR Part 39]

[Airworthiness Docket No. 77-SW-24]

AIRWORTHINESS DIRECTIVES

Bell Models 206A, 206B, 206A-1, and 206B-1 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of Notice of Proposed Airworthiness Directive.

SUMMARY: A proposal to amend Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to add an Airworthiness Directive that would require a one-time magnetic particle inspection of the main rotor hub trunnion, P/N 206-011-113-1, within 100 hours on all Bell Models 206A, 206B, 206A-1, and 206B-1 helicopters was published in 42 FR 31171. In response to comments received as described below, the agency has determined that the proposed Airworthiness Directive be withdrawn.

DATES: Effective August 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Tom A. Dragset, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone 817-624-4911, extension 517.

SUPPLEMENTARY INFORMATION: In response to the proposal, seven letters were received from helicopter operators, one from Bell Helicopter Textron, and one from the British Civil Aviation Authority objecting to the proposal. One letter was received from the National Transportation Safety Board supporting the proposal. The general consensus of those objecting to the proposal is that if the main rotor hub trunnion, P/N 206-011-113-1, is properly inspected every 1200 hours in accordance with the Bell Helicopter published maintenance and overhaul procedures, as acceptable level of safety would be insured. The findings of the NTSB suggests a lapse in the inspection standards of the overhaul agency, and it is thought inequitable that all other operators should be unduly burdened. Therefore, the agency has determined that the proposed AD is no required at this time.

DRAFTING INFORMATION

The principal authors of this document are Tom A. Dragset, Aerospace Engineer, Flight Standards Division, and Joseph A. Kovarik, Regional Counsel, Southwest Region, FAA.

WITHDRAWAL OF THE NOTICE

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), the proposed airworthiness directive published in the FEDERAL REGISTER on June 20, 1977 (42 FR 31171), is hereby withdrawn.

Withdrawal of this Notice of Proposed Rule Making constitutes only such action and does not preclude the agency from issuing another Notice in the future or commit the agency to any course of action in the future.

Sections 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423; Section 6(c)), Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Texas, on August 5, 1977.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.77-24916 Filed 8-26-77;8:45 am]

[14 CFR Part 39]

[Docket No. 77-WE-27-AD]

AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-8 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require installation of an elevator position indicator system, and modifications to improve clearances on McDonnell Douglas Model DC-8 Series airplanes to preclude jamming of the elevator.

DATES: Comments must be received on or before October 3, 1977.

ADDRESSES: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

Persons affected by this AD may obtain copies of Douglas DC-8 Service Bulletins 27-254 and 27-262 by writing to: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California, 90846. Attention: L. A. Eisenberg, CI-750, 54-60.

Copies of the service bulletins are contained in the: Rules Docket in Room 916, 800 Independence Avenue S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: AD 77-10-12, Amendment 39-2906 (42 FR 26201), appeared in the FEDERAL REGISTER on May 23, 1977. The AD was issued to require an inspection of the elevator geared tab crank arm assemblies, the gust lock assembly, and existing clearances between the crank arm assemblies and the box section. The inspections were required to preclude crank arm failure or interference which could cause jamming of the elevator surface.

The need for such an inspection became evident as the result of a take-off accident. Investigation of the accident indicated that the airplane was subjected to high tail winds while parked with the gust lock disengaged or broken. These high winds had apparently driven the elevator beyond normal movement limits and caused link failure and jamming of the elevator surface in an airplane nose up position. The jammed elevator was not detected on the subsequent take-off until the plane was ready to lift off.

To preclude the possiblity of such failure and jamming during any future high tail wind or jet blast conditions, McDonnell Douglas has designed modifications to increase clearances between the geared tab links and the geared tab structure. These changes have been issued as McDonnell Douglas DC-8 Service Bulletin 27-262.

Another possible source of elevator jamming prior to take-off is a foreign object becoming lodged between the elevator leading edge and the rear spar of the horizontal stabilizer. The manufacturer has designed an elevator position indicator system which will give positive indication of elevator movement during the preflight control freedom-of-movement check. This system has been issued as McDonnell Douglas DC-8 Service Bulletin 27-254.

Since the possibility of linkage failure during travel beyond normal limits and subsequent elevator jamming or jamming due to foreign objects is likely to exist or develop in other aircraft of the same type design, the proposed AD would require compliance with the clearance rework requirements of DC-8 Service Bulletin 27-262 and the installation requirements of DC-8 Service Bulletin 27-254.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Information on the economic environmental, and energy impact that might result because of the adoption of the proposed rule is also requested. Communications should identify the airworthiness docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. All communications received before the closing date will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in the notice may be changed in light of comments received. All comments will be available, both before and after the closing date for comments, in the Airworthiness Rule Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rule Docket.

V 42 167 AUG 29 77 UMI

DRAFTING INFORMATION

The principal authors of this document are Everett W. Pittman, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

MCDONNELL DOUGLAS: Applies to Model DC-8 Series airplanes, certificated in all categories.

Compliance required as indicated.

To prevent failure of the elevator geared tab crank arms and jamming of the elevator surface, comply with the following:

(a) Within the next 12 months after the effective date of this AD, unless already accomplished, improve the elevator geared tab crank assembly clearance by modifying the elevator leading edge cutouts and covers, and modify and reidentify the elevator geared tab link rod end, in accordance with McDonnell Douglas DC-8 Service Bulletin 27-262 dated July 15, 1977 or later FAA approved revision.

(b) Within the next 18 months after the effective date of this AD, unless already accomplished, install an elevator position indicator system in accordance with McDonnell Douglas DC-8 Service Bulletin 27-254 dated March 5, 1975 or later FAA approved revision.

(c) Equivalent modifications may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(d) Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to authorize operation of an airplane to a base for the accomplishment of the modifications required by this AD.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, California on August 18, 1977.

HERMAN C. BLISS,
Acting Director,
FAA Western Region.

[FR Doc.77-24933 Filed 8-26-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-Ea-69]

TRANSITION AREA, WURTSBORO, N.Y.

Proposed Designation

Correction

In FR Doc. 24154 appearing at page 42228 in the issue for Monday, August 22, 1977, the following corrections should be made.

1. On line 20 of the first column on page 42229, the bearing reading, "385°", should read, "335°".

2. On line 26, the radial reading, "228°", should read, "288°".

[14 CFR Parts 91, 121, 123, and 135]

[Docket No. 17151; Notice No. 77-18]

THREE POINTER ALTIMETERS

Proposed Prohibition of Use

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration is considering rule making to prohibit the use of three pointer altimeters on large turbine-powered airplanes. Such a prohibition was recommended by the Special Air Safety Advisory Group. This notice is being issued to invite public comment on this recommendation because insufficient information is presently available to determine whether rule making is warranted.

DATE: Comments must be received on or before November 28, 1977.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-24) Docket No. 17151, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-755-8716.

SUPPLEMENTARY INFORMATION: This advance notice of proposed rulemaking is being issued in accordance with the FAA's policy for early institution of public proceedings in actions related to rulemaking. An advance notice is issued to invite early public participation in the identification and selection of a course or alternate courses of action with respect to a particular rulemaking problem.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before November 28, 1977, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

The Special Air Safety Advisory Group (SASAG), comprised of six retired airline captains, was appointed by the FAA in March 1975, to conduct an independent evaluation of the National Aviation System and to submit a report of its findings and recommendations. One recommendation was to prohibit the use of the three pointer altimeter in large, turbine-powered airplanes as a hazard to flight safety because it is easily misread by pilots. Two incidents of near crashes allegedly caused by such misreading were offered to substantiate that finding. Also cited by SASAG were the results of a Naval Research Laboratory (NRL) test on pilot misreadings of three pointer altimeters and NRL altimeter comparison projects which found the three pointer altimeter to be the least desirable type.

An FAA project report on Development of an Independent Altitude Monitor Concept, No. FAA-RD-73-168, dated September 1973, indicates that of the 10.9 percent (average) of total accidents involving flight below a safe level for any reason, only 0.5 percent were related to misreading, mis-setting or malfunctioning of altimeters.

National Transportation Safety Board records for the period of 1966 through 1975 do not directly relate any accidents involving turbine-powered airplanes to misreading of the three pointer altimeter. Furthermore, there have been no complaints, except that of SASAG, or other records on file within the FAA which would identify the three pointer altimeter as a hazard to flight safety.

The FAA believes, however, that because of the SASAG and NRL reports concerning deficiencies in the three pointer altimeter that some action should be taken. In order to make a proper determination, additional information is necessary. To this end, the FAA solicits comments and supporting data from operators, manufacturers, and other interested persons, particularly on the following questions.

1. Is the three pointer altimeter unsafe? Why?

2. What time period should be allowed for replacement of three pointer altimeters, if deemed appropriate, by other approved types, taking into consideration the possible future transition to metric scale measurements? Why?

3. Should installation of three pointer altimeters be allowed in airplanes if they are in addition to other approved types installed at each pilot station which are used as the primary source of altitude information? Why?

4. What economic burden, for each airplane and overall, would each operator be subjected to by replacing each three pointer altimeter now in service on its airplanes? Explain in detail.

DRAFTING INFORMATION

The principal authors of this document are C. E. Radawick, Air Carrier Regulation Branch, Flight Standards Service, and Peter J. Lynch, Office of the Chief Counsel.

(Secs. 313(a), 601, and 604, Federal Aviation Act of 1958 as amended (49 U.S.C. 1354(a), 1421, and 1424); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c).)

Issued in Washington, D.C., on August 22, 1977.

R. P. SKULLY,
Director,
Flight Standards Service.

[FR Doc.77-24932 Filed 8-26-77;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 207, 208, 221, 371, 372, 372a, 373, 378, 378a]

[EDR-332, SPDR-60; Docket No. 30654; Dated August 23, 1977]

EXEMPTION OF AIR CARRIERS FROM FILING TARIFFS FOR INTERSTATE AND OVERSEAS CHARTERS

Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Air carriers must generally file tariffs with the Board showing their rates, fares, and charges (as well as practices affecting their rates, fares and charges). This notice proposes to exempt air carriers from filing rate tariffs for their interstate and overseas charters. It is in response to a petition by the for their interstate and overseas charters. It is in response to a petition by the National Air Carrier Association asking for a rulemaking to exempt air carriers from filing rate tariffs for all passenger charters (including foreign charters).

DATES: Comments by September 23, 1977.

ADDRESSES: Comments should be sent to Docket 30654, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Docket comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Juhnke, Associate General Counsel, Rates and Agreements, 1825 Connecticut Avenue, NW., Washington, D.C., 20428 (202-673-5436).

SUPPLEMENTARY INFORMATION: Section 403(a) of the Federal Aviation Act requires air carriers to file tariffs stating their rates as well as rules and practices affecting their rates; section 403(b) prohibits the carriers from deviating from the rates and practices in their tariffs.[1] The National Air Carrier Association (NACA)[2] has filed a petition asking the Board to institute a rulemaking proceeding that would exempt air carriers from section 403 with respect to passenger charter rate tariffs. As proposed by NACA, the exemption would cover the air carriers' passenger charter operations whether interstate, overseas or foreign. NACA's exemption would not apply to cargo charters or to rules tariffs. In lieu of passenger charter rate tariffs, NACA proposes monthly reports of charter traffic and revenue to permit the Board to monitor charter rates.[3]

Under NACA's proposal, carriers would remain subject to the substantive rate requirements of section 404—i.e., to charge rates that are just, reasonable, nondiscriminatory and not unduly preferential or prejudicial. Thus, the Board would retain the power to investigate charter rates under section 1002 of the Act and, after notice and hearing, to find such rates unlawful and order them canceled. The Board would not have formal advance notice of charter rates with accompanying tariff justifications; nor could the Board use the tariff suspension power in subsections 1002(g) and (j) of the Act to prevent a rate from becoming effective pending an investigation of its lawfulness. If the Board suspected that an individual carrier were charging unlawful rates in a particular market, NACA proposes that it issue an order revoking the tariff-filing exemption for that carrier in that market. The carrier would then file the suspect rate in a tariff and the Board could investigate and suspend the rate.

In support of its proposal, NACA asserts that charter transportation is characterized by arm's length bargaining between the direct air carrier and the tour operator. The result of such bargaining is individualized rates that may vary by length of haul, time of day, day of week, number of flights per program, number of stops per flight, ferry mileage, and in-flight services. Therefore, NACA asserts that charter tariff rates are not readily comparable to one another and are not useful to inform or protect either the public or tour operators.

NACA further claims that tariff filing is a burden on the carriers, both financially[4] and because the 30-day advance-filing requirement prevents carriers from responding to last-minte changes in circumstances. For example, if a tour operator fails to obtain sufficient sales to fill the wide bodied aircraft for which it originally contracted, the carrier cannot substitute smaller equipment at a lower rate unless an appropriate tariff can be filed and put into effect. The proposed post-charter reporting requirement is designed to enable the Board to monitor charter rates to prevent unjust discrimination without the above-described burden to carriers. By revoking the proposed exemption for individual carriers in specific markets, the Board could revert to the traditional means of regulating charter rates where it suspects unlawful pricing.

The Board's Office of Consumer Advocate (OCA) has filed an answer generally supporting NACA's proposal on the theory that the elimination of tariffs will produce cost savings, thereby lowering prices to the ultimate consumer. However, OCA has proposed certain alterations of the scope and duration of the exemption to be granted. Those alterations are discussed below.

Three scheduled carriers (American, Pan American and United) challenge NACA's characterization of the charter market as well as the legal conclusion it draws from that characterization. Those carriers allege that they operate charters pursuant to mileage rate tariffs or widely applicable point-to-point tariffs and find no need to use the negotiated point-to-point rates employed by other carriers. They assert that there are no inherent distinctions between scheduled and charter service that preclude uniform tariffs for the latter, and that the specific factors cited by NACA in this regard—e.g., day-of-week and time-of-day pricing—are common to both types of service By encouraging individually negotiated rates, the scheduled carriers claim that NACA openly seeks to legitimize the type of unjust discrimination that Congress sought to prevent by requiring public tariffs. Without tariffs, smaller tour operators will have no notice of rates which large competitors receive, and the discrepancy in negotiating power of large and small operators will arguably be greater. Moreover, the scheduled carriers fear that tour operators will use their power to evoke uneconomic rates from carriers with excess capacity and to encourage last minute contract breaches.

The scheduled carriers also claim that NACA has overstated the burdens of tariff filing, arguing that NACA's own figures show that tariff-filing expenses are an insignificant portion of total charter costs (12 cents per passenger, or .03 cents per revenue passenger-mile). The scheduled carriers dispute the claim that tariff filing impedes legitimate flexibility. NACA's example on this point—substitution of smaller equipment—amounts to a shifting of the risk of unsold charter seats from the tour operator to the direct air carrier in contravention of the Board's intent under its special charter regulations.

In sum, the scheduled carriers argue that NACA has not shown that tariff filing is an undue burden by reason of special circumstances affecting the operation of passenger charters, or that the proposed exemption from tariff filing is in the public interest. Both findings are required to justify the use of 416(b) of the Act.

Finally, the scheduled carriers argue that the Board has an obligation to insure that charter rates are just, reasonable, and not unjustly discriminatory or unduly preferential or prejudicial. Without tariff filings, the Board cannot prevent by unlawful rate from going into

---

[1] 72 Stat. 758, as amended; 49 U.S.C. 1373.

[2] NACA represents the following supplemental air carriers: Evergreen, McCulloch, Overseas National, Trans International and World.

[3] Specifically such reports would include: (1) By geographic region—revenue aircraft-miles, available seat-miles, revenue passenger-miles, and revenue; and (2) by flight—complete itinerary, revenue aircraft-miles, revenue, seats, and type of charter.

[4] NACA states, "One of the larger supplemental air carriers has estimated that these additional costs exceed $75,000 annually." NACA Petition, p. 13.

V 42 N 167 AUG 29 77
UMI

effect, and it will lose the benefit of scrutiny by third parties who, under the existing scheme, seek to convince the Board to exercise its suspension power. Thus, the scheduled carriers claim that NACA's scheme does not provide the Board a mechanism to fulfill its responsibility to insure lawful charter rates.

Upon consideration of the pleadings, the Board has tentatively determined to adopt a rule exempting carriers from charter tariff filing along the lines suggested by NACA, with certain modifications discussed below. Tariff filing imposes a definite burden, in terms of both its financial effect on the carriers and in terms of the rigidity it imposes on charter marketing. Moreover, tariffs burden the Board's limited resources. We recognize that such burdens may not be overwhelming in an absolute sense, particularly when their effect is spread over the total number of charter passengers. Nevertheless, the burden of charter tariff filing should be measured in relation to the regulatory need for tariffs.

In the five years ended in 1976, the Board has issued only four orders suspending and investigating domestic charter tariffs—three passenger and one cargo. There were no such orders in 1976. Out of several hundreds of domestic charter tariff filings received each year, we have received an average of about three complaints per year. In short, the regulatory activity over charter tariffs, whether on the Board's own motion or upon third-party complaint, has been de minimis in recent years. In view of the lack of active use of charter tariffs as a regulatory tool, we question whether there is sufficient regulatory need to justify the burden of charter tariff filing.

Our action does not imply agreement with NACA's characterization of the marketing of charter trasportation, and we specifically invite comment on the characteristics of charter transportation that bear on the need for tariffs. However, we do note that, under that Board's special charter regulations, we have already exempted tour operators from filing tariffs governing the sale of air transportation to the ultimate consumer. Presumably, there is even less need for tariffs governing the wholesale operations. Finally, we note the regulatory barriers to entry are lower for charters than for scheduled service.[4]

For all of the above reasons, we have tentatively determined that the filing of charter rate tariffs may be an undue burden by reason of special circumstances affecting those operations. However, we have determined to modify NACA's proposal in several ways. NACA's proposed rule applies to interstate, overseas and foreign passenger charters operated by air carriers. NACA has not proposed a similar exemption for charters operated by foreign air carriers. Indeed, NACA finds authority for its exemption proposal in section 416(b) of the Act,[1] and it admits that section 416(b) does not grant authority to exempt foreign air carriers from provisions in the Act. NACA suggests in a footnote that the Board could afford foreign air carriers "similar relief" by amending their foreign air carrier permits. We can find no precedent for granting foreign air carriers an exemption from provisions of the Act by amending their permits. Moreover, there is some question that the Board legally can accomplish through a permit condition what Congress has specifically omitted from its exemption authority. Thus, we have tentatively concluded that we are without authority to exempt foreign air carriers from section 403. Lacking such authority, we do not propose to give air carriers an advantage over their foreign competitors by exempting air carriers from filing tariffs for their foreign charters. Accordingly, the proposed rule applies only to interstate and overseas charters.

Second, while NACA seeks an exemption only for passenger charters, we have tentatively concluded that the regulatory need for cargo charter tariffs is equally insufficient to justify filing cargo charter tariffs. Indeed, if anything, carrier-made cargo charter rates have raised fewer problems than passenger charter rates. Accordingly, the proposed rule covers both passenger and cargo charters.

Third, NACA has proposed a new regular charter reporting requirement outlined in footnote 3 above. Each of the items to be reported appear in the Board's Form 41, Schedule T–6 with two exceptions: revenue passenger-miles and flight itineraries. The former can be derived from items on the T–6, and the latter can be approximated. Accordingly, we have tentatively concluded that the proposed reporting requirement is duplicative and unnecessary.

Fourth, NACA has proposed a specific procedure for market-by-market and carrier-by-carrier revocation of the exemption in the event that the Board concludes that a carrier has charged or is charging an unlawful rate. NACA's proposal for revocation is open-ended, i.e., there is no procedure for reinstating the exemption once it has been revoked. Additionally, we note that the Board has the power to revoke an exemption once granted without specific procedures in this rulemaking. Therefore, we have tentatively determined not to include revocation procedures in the rule.

Fifth, we note that NACA has not proposed to exempt carriers from filing charter rule tariffs. It does not explain why it proposes to treat these tariffs differently or indeed why these tariffs are needed at all. We have followed the NACA's suggestion in this regard, and the proposed rule continues to require the filing of charter rule tariffs that are specified in § 221.38 of our Economic Regulations (14 CFR 221.38.) We recognize, as does the Consumer Advocate, that certain tariff rules may give consumers greater protection than they would otherwise have. For example, a carrier might well attempt to limit by contract its liability for loss or damage to baggage to a greater extent than the Board currently permits in tariff rules. See e.g., Orders 77–2–9, 77–4–73, 77–4–82, 77–5–132. However, a great many tariff rules merely restate requirements of the Board's charter regulations or other matters of concern only to carriers and tour organizers that could easily be specified in their contract alone and not in tariff rules. We specifically invite comment on the need for filing charter tariff rules and the extent to which carriers should be exempt from filing some, or all, of such rules.[5]

Finally, we have tentatively determined not to include the two provisions requested by OCA. OCA would alter NACA's proposal to make carriers file tariffs for any rate which increases a rate in an existing contract. OCA would also limit the conditions under which the Board should permit such increases. The reason we have tentatively determined not to include these proposals is that in the absence of tariffs, changes in contractual rates are properly a matter for courts to resolve, just as would be the case in unregulated industries. To the extent that OCA seeks to avoid price increases to the ultimate passengers, we conclude that such concerns are best met in the context of rules affecting the tour operator/passenger relationship, rather than by regulation of the direct air carrier/tour operator relationship.

Additionally, we have not included OCA's suggestion that the tariff-filing exemption expire in 18 months unless the Board determines that renewal is in the public interest. Once the rule is adopted, the Board can revoke the exemption whenever it finds that it no longer in the public interest. OCA has not shown any reason for requiring an affirmative renewal of the exemption in 18 months.

Accordingly, it is proposed to amend Parts 207, 208, and 221 of the Board's Economic Regulations (14 CFR Parts 207, 208, 221) and Parts 371, 372, 372a, 373, 378, and 378a of the Board's Special Regulations (14 CFR Parts 371, 372, 372a, 373, 378, 378a) as set forth below:

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

1. Amend § 207.4(a) to read as follows:

§ 207.4 Tariffs to be filed for charter trips and special services.

(a) No air carrier shall perform any charter trips or other special services unless such air carrier shall have on file with the Board, to the extent required by this chapter, a currently effective tariff showing all rates, fares, and charges for such charter trips and other special services, and showing the rules, regulations, practices, and services in connection with such transportation including the eligibility requirements for charter groups not inconsistent with those established in this part.

* * * * *

PART 208—TERMS, CONDITIONS AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

2. Amend § 208.32 (a) and (b) to read as follows:

§ 208.32 Tariffs and terms of service.

(a) No air carrier shall perform any supplemental air transportation unless such air carrier shall have on file with the Board, to the extent required by this chapter, a currently effective tariff showing all rates, fares, and charges for the use of the entire capacity or less than the entire capacity (see § 208.6(c)) of one or more aircraft in such supplemental air transportation and showing all rules, regulations, practices, and services in connection with such supplemental air transportation, including eligibility requirements for charter groups not inconsistent with those established in this part.

(b) To the extent that the direct air carrier is required by this chapter to file tariffs covering its charter operations, the total charter price and other terms of service rendered pursuant to this part shall conform to those set forth in the applicable tariff on file with the Board and in force at the time of the respective charter flight, and the contract must be for the entire capacity or for less than the entire capacity (see § 208.6(c)) of one or more aircraft. Where a carrier's charter charge computed according to a mileage tariff includes a charge for ferry mileage, the carrier shall refund to the charterer any sum charged for ferry mileage which is not in fact flown in the performance of the charter: *Provided*, That the carrier shall not charge the charterer for ferry mileage flown in addition to that stated in the contract unless such mileage is flown for the convenience of and at the express direction of the charterer.

* * * * *

PART 221—CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

3. Amend § 221.3 to add a new paragraph (d) to read as follows:

§ 221.3 Carrier's duty.

* * * * *

(d) *Exemption of direct air carriers' interstate and overseas charter operations.* Notwithstanding any provisions of this chapter, direct air carriers are exempt from section 403 of the Act with respect to charter operations performed in interstate or overseas air transportation: *Provided*, That the exemption granted by this paragraph shall not relieve direct air carriers from filing tariffs setting forth the rules, regulations and practices applicable to charter operations as specified in § 221.38.

PART 371—ADVANCE BOOKING CHARTERS

4. Amend § 371.42 to read as follows:

§ 371.42 Tariffs to be on file for charter trips.

No direct air carrier shall perform any charter trips pursuant to this part unless such air carrier shall have on file with the Board, to the extent required by this chapter, a currently effective tariff for such transportation.

PART 372—OVERSEAS MILITARY PERSONNEL CHARTERS

5. Amend § 372.26 to read as follows:

§ 372.26 Prohibition on operations unless tariffs are observed.

To the extent that the direct air carrier is required by this chapter to file tariffs covering its charter operations, no charter operator shall charter aircraft to provide air transportation to charter participants except in accordance with the rates, fares, and charges and all applicable rules, regulations, and other provisions for such transportation as set forth in the currently effective tariff or tariffs of the direct air carrier or foreign air carrier transporting charter participants; and no such operator shall demand, collect, accept, or receive, in any manner or by any device, directly or indirectly, or through any agent or broker, or otherwise, any portion of the rates, fares, or charges so specified in the tariffs of such air carrier or foreign air carrier, and shall not demand, accept, or receive, either directly or indirectly, any privilege, service, or facility except those specified in the currently effective tariffs of such direct air carrier or foreign air carrier.

PART 372a—TRAVEL GROUP CHARTERS

6. Amend § 372a.26 to read as follows:

§ 372a.26 Prohibition on operations unless tariffs are observed.

To the extent that the direct air carrier is required by this chapter to file tariffs covering its charter operations, no charter organizer shall charter aircraft to provide air transportation to charter participants, and no direct air carrier shall operate such aircraft, except in accordance with the rates, fares, and charges and all applicable rules, regulations, and other provisions for such transportation as set forth in the currently effective tariff or tariffs of the direct air carrier transporting charter participants; and no such organizer shall demand, collect, accept, or receive, in any manner or by any device, directly or indirectly, or through any agent or broker, or otherwise, any portion of the rates, fares, or charges so specified in the tariffs of such direct air carrier, and shall not demand, accept or receive, either directly or indirectly, any privilege, service, or facility except those specified in the currently effective tariffs of such direct air carrier or foreign air carrier: *Provided, however*, That no direct air carrier shall file a tariff which has the effect of changing the charter price specified in any option or proposed charter contract previously filed under § 327.22, except that, if so provided in an option or proposed charter contract filed after January 7, 1974, a direct air carrier may subsequently file a tariff which will have the effect of changing, no later than 60 days prior to the scheduled date of flight departure, the pro rata charter price, but the effect of such change shall be limited either (a) to cause or be a factor in causing the pro rata charter price to increase up to a maximum of 20 percent over the minimum pro rata charter price, or (b) if the increase is more than 20 percent, to require cancellation of the TGC.

PART 373—STUDY GROUP CHARTERS BY DIRECT AIR CARRIERS AND STUDY GROUP CHARTERS

7. Amend § 373.14 to read as follows:

§ 373.14 Tariffs to be filed for charter trips.

No direct air carrier shall perform any charter trips for study group charters unless such air carrier shall have on file with the Board, to the extent required by this chapter, a currently effective tariff for such transportation.

PART 378—INCLUSIVE TOUR CHARTERS

8. Amend § 378.15 to read as follows:

§ 378.15 Tariffs to be filed for charter trips.

No direct air carrier shall perform any charter trips for inclusive tours unless such carrier shall have on file with the Board, to the extent required by this chapter, a currently effective tariff for such transportation.

[1] Section 461(b) provides, in part, "The Board may * * * exempt from the requirements of this title or any provisions thereof * * * any air carrier or class of air carriers, if it finds that the enforcement of this title or such provision * * * is or would be an undue burden on such air carrier or class of air carriers by reason of the limited extent of, or unusual circumstances affecting, the operations of such air carrier or class of air carriers and is not in the public interest."

[4] Orders 72–1–68, 73–3–78, 75–2–18, 75–8–119.

[5] *See, Application of Horbach*, Order 77–3–88 9, p. 4

[5] We note that each of our special charter rules requires the direct air carrier to have on file with the Board a tariff showing its rates, fares and charges in connection with the charter transportation it provides. With the exception of §§ 371.42 and 378a.42 (14 CFR 371.42 and 378a.42), those rules also require tariffs to show the rules, regulations, practices, and services in connection with, such transportation. In proposing editorial amendments to our special charter regulations to effect the proposed exemption in Part 221, we would simplify the special charter regulations by indicating only that the carrier must have tariffs on file to the extent required by Chapter II of Title 14 of the Code of Federal Regulations, without reference to whether such tariffs must contain rates and/or rules.

V 42 167 AUG 29 77 UMI

PART 378a—ONE-STOP-INCLUSIVE TOUR CHARTERS

9. Amend § 378a.42 to read as follows:

§ 378a.42 Tariffs to be on file for charter trips.

No direct air carrier shall perform any charter trips pursuant to this part unless such air carrier shall have on file with the Board, to the extent required by this chapter, a currently effective tariff for such transportation.

REQUEST FOR COMMENTS

Interested persons may take part in the rulemaking by submitting 20 copies of written data, views, or arguments on the subjects discussed. All relevant material received by the dates shown at the beginning of this notice will be considered by the Board before taking final action on the proposed rules.

Individual members of the general public who wish to express their interest as consumers by informally taking part in this proceeding may do so by submitting comments in letter form to the Docket Section, without having to file additonal copies.

(Sec. 102, 204, 403, 416, Federal Aviation Act of 1958, as amended, 72 Stat. 740, 743, 758, 771; (49 U.S.C. 1302, 1324, 1373, 1386))

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-25017 Filed 8-26-77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 801]

MERGERS AND ACQUISITIONS

Proposed Rulemaking; Extension of Time for Filing Comments

AGENCY: Federal Trade Commission.

ACTION: Extension of time for filing comments.

SUMMARY: The last day for receipt of comments concerning the revised proposed rules implementing Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (relating to premerger notification) is hereby extended to September 30, 1977. The revised proposed rules and a proposed Notification and Report Form were published in the FEDERAL REGISTER, 42 FR 39040, on August 1, 1977. In extending the comment period, the Commission also stated that it does not expect to grant further extension of the comment period beyond September 30, 1977, in view of its obligation to implement the premerger notification requirements of the statute at the earliest possible date.

DATES: Comments must be received on or before September 30, 1977.

ADDRESSES: Send comments to both (1) the Secretary, Federal Trade Commission, Room 172, Washington, D.C. 20580 and (2) Assistant Attorney General, Antitrust Division, Department of Justice, Room 3214, Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, telephone 202-523-3894.

By direction of the Commission.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc.77-24939 Filed 8-26-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-252-74]

INCOME TAX

Mergers and Consolidations of Plans and Transfers of Plan Assets or Liabilities; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to mergers and consolidations of retirement plans and transfers of plan assets or liabilities.

DATES: The public hearing will be held on September 30, 1977 beginning at 10:00 A.M. Outlines of oral comments must be delivered or mailed by September 19, 1977.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

George Bradley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 401 (a) (12) and 414(1) of the Internal Revenue Code of 1954. These proposed regulations appeared in the FEDERAL REGISTER for July 1, 1977 (42 FR 33770).

Internal Revenue Code sections 401(a) (12) and 414(l) were enacted by the Employee Retirement Income Security Act of 1974 (Pub. L. 93-406). Title I of that Act also enacted into law a substantially identical provision to section 414(l) of the Code to be administered by the Department of Labor. For this reason, the Internal Revenue Service has invited representatives of the Department of Labor to be present at the scheduled hearing, and these representatives may address questions to persons making oral presentations at the hearing.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by September 19, 1977. The outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T (LR-252-74), Washington, D.C. 20224. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

ROBERT A. BLEY,
Director, Legislation and Regulations Division.

[FR Doc.77-25018 Filed 8-26-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 85]

[FRL 782-1]

EMISSION CONTROL SYSTEM PERFORMANCE WARRANTY REGULATIONS

Public Workshops

AGENCY: Environmental Protection Agency.

ACTION: Notice of Public Workshops.

SUMMARY: Notice is hereby given that the Environmental Protection Agency will hold three workshops to discuss the two Notices of Proposed Rulemaking presently pending regarding the Emission Performance Warranty of section 207(b) of the Clean Air Act. Those Notices were published on May 25, 1977 at 42 FR 26742 (regarding the short test of section 207 (b) (1) of the Act), and at 42 FR 26757 (regarding the warranty of section 207 (b) (2) of the Act). The comment periods for these proposed regulations have previously been extended to October 7, 1977, by notices published on August 9, 1977 (42 FR 40221).

DATES AND ADDRESS: The workshops will be held from 9:00-12:00 (warranty) and 1:30-4:30 (short test) at the following locations and dates:

SEPTEMBER 23

John C. Kluczynski Federal Building, Room 3619, 230 South Dearborn Street, Chicago, Ill. 60604.

SEPTEMBER 28

Federal Building, 26 Federal Plaza, Room 305, New York, N.Y. 10007.

SEPTEMBER 30

Pacific Power and Light Company Building, Second floor Auditorium, 920 SW. 6th Street, Portland, Oreg. 97204.

FOR FURTHER INFORMATION CONTACT:

Mr. David Feldman, Mobile Source Enforcement Division, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-755-0298; or Mr. Paul Lapsley, Regulatory Management Staff, Office of Mobile Source Air Pollution Control, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-755-0596.

SUPPLEMENTARY INFORMATION: The goal of these workshops is to meet with those parties potentially affected by the Performance Warranty (section 207 (b) of the Clean Air Act). These parties include individuals engaged in or facing implementation of automotive inspection/maintenance (I/M) programs, the aftermarket parts and service industry, automobile manufacturers and dealers, public interest groups, automobile owner associations, and vehicle owners. The discussion will center around the day-to-day difficulties encountered in setting up and operating I/M programs. Although the Environmental Protection Agency (EPA) is not required to seek this additional public participation, EPA believes that these discussions will facilitate the rulemaking process.

The workshops will be informal. EPA representatives will answer questions regarding the interpretation and rationale for the provisions of the proposed regulations. Comment is requested concerning the anticipated effectiveness of the regulations, and suggestions and criticisms are welcomed.

EPA is particularly interested in eliciting comment on the warranty issues arising as a result of the August 7, 1977, passage of amendments to the Clean Air Act. Among the changes in the Clean Air Act which affect the 207(b) warranty are:

1. A reduction of the performance warranty to 24 months or 24,000 miles, except that with respect to the "emission control device or system," coverage by the performance warranty is for 5 years or 50,000 miles, whichever occurs first.

2. Burden of proof of proving owner's abuse or improper maintenance to invalidate the warranty.

3. Establishment of rights of the owner to have section 207(b) warranty service provided by any establishment using certified parts, to the extent permitted by the Magnuson-Moss Act or any other act affecting warranties.

4. Addition of provisions making it a prohibited Act to not honor a section 207(b) warranty claim.

5. Addition of provisions intended to lessen the anti-competitive effects of the warranty.

Due to these changes the Agency has determined that the warranty aspects of the May 25 publication (42 FR 26759) will be reproposed in total in the near future, with a subsequent period for the submission of written comments allowed. Nevertheless, the Agency wishes to encourage submission of comments to the May 25 proposal with regard to all aspects of the warranty regulations—including suggestions for modifications or additions under the new legislation. Those parties wishing to withhold comment until viewing the revised publication should note that the comment period will be held to a maximum of 60 days given the fact that much of the reproposal will be unchanged from the present package.

The above does not apply to the Short Test Establishment proposal of May 25 (42 FR 26742) which is unaffected by the new Clean Air Act Amendments and thus is not expected to be reproposed. All comments to that aspect of the Emissions Performance Warranty must be submitted by October 7, 1977, to ensure full consideration prior to final rulemaking.

With regard to the Short Test Establishment proposal, EPA is particularly interested in discussing:

1. Suggestions for a uniform format to be used in recording the results of short tests administered in inspection lanes.

2. Who would most appropriately establish the short test cutpoints—EPA or the individual states which would be employing the short tests in I/M programs?

3. Anticipated problems in assuring that vehicles are tested under proper conditions (e.g., engine operated at 2500 rpm for 15-30 seconds prior to initiating idle test, vehicle in neutral during idle test, proper inertia weight used in loaded test, etc.)

4. Suggestions on labeling of vehicles to make certain that they are properly identified by the inspection lane operators (i.e., should the necessary information be incorporated into the vehicle identification number or be placed on an under-the-hood label).

Dated: August 23, 1977.

RICHARD D. WILSON,
Acting Assistant Administrator for Enforcement.

[FR Doc.77-25041 Filed 8-26-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 176]

[CGD 76-162]

EXPIRATION DATE STICKERS

Proposed Requirements

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing to amend the regulations for small passenger vessels under 100 gross tons that carry passengers or passengers for hire under the provisions of Subchapter T by requiring them to display an expiration date sticker that terminates concurrently with the vessel's Certificate of Inspection. The purpose of this proposed rule is to make the public aware of small passenger vessels not in compliance with the Coast Guard inspection requirement and thereby reduce the likelihood of similar casualties.

DATE: Comments must be received on or before November 28, 1977.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-1477).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include his name and address, identify this notice (CGD 76-162) and the specific section of the proposal to which his comment applies, and give the reasons for his comment. The proposal may be changed in light of comments received. No public hearing is planned, but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Mr. John A. Crawford, Project Manager, Office of Merchant Marine Safety, and Lieutenant William R. Kerivan, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATION

The National Transportation Safety Board stated recently, in the review of the foundering of a small passenger vessel, that Coast Guard safety regulations for small passenger vessels are not fully effective unless the public knows that these vessels are required to carry a current Certificate of Inspection. The Board further recommended that the boating public (passengers and owners) be made more aware of the existing laws and regulations covering small passenger vessels.

The Coast Guard believes that this may best be accomplished by the issuance of a distinctive inspection sticker. When an inspection of small passenger vessels determines that they are in compliance with all applicable rules and regulations they will be issued an inspection sticker.

The sticker will state the expiration date of the vessel's Certificate of Inspection and must be displayed on the exterior of the vessel so that it is visible

V42167 AUG 29 77 UMI

to passengers or prospective boarding teams. The Coast Guard believes that this will deter the operation of non-certificated small passenger vessels because the public and Coast Guard boarding teams will be able to easily recognize those vessels not in compliance with the inspection regulations.

In consideration of the foregoing, it is proposed that Part 176 of Title 46 of the Code of Federal Regulations be amended by adding a new § 176.01-45 to follow § 176.01-40 and to read as follows:

§ 176.01-45 Certification expiration date sticker.

(a) The owner of a vessel that is issued a Certificate of Inspection under the provisions of this subchapter shall ensure that a Certification Expiration Date Sticker CG------ is affixed on a place that is

(1) On the vessel;

(2) On a glass or smooth metal surface from which the sticker may be easily removed.

(3) Readily visible to each boarding passenger and to patrolling Coast Guard law enforcement personnel; and

(4) Acceptable to the Coast Guard marine inspector.

(b) A Certification Expiration Date Sticker CG------ is provided by the Officer in Charge, Marine Inspection upon issuance or renewal of the Certificate of Inspection.

NOTE.—Because of different vessel configurations more than one CG------ sticker may be required on some vessels to comply with the requirements of this section.

(Sec. 3, 70 Stat. 152, 46 U.S.C. 390b, Sec. 6(b), 80 Stat. 937, 49 U.S.C. 1655(b)(1), 49 CFR 1.46(b).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: August 19, 1977.

O. W. SILER,
Admiral,
U.S. Coast Guard Commandant.

[FR Doc.77-24866 Filed 8-26-77;8:45 am]

Federal Highway Administration
National Highway Traffic Safety Administration
[49 CFR Parts 393 and 571]
[BMCS Docket No. 77; Notice No.77-6]
[NHTSA Docket No. 1-11; Notice 07]

MOTOR CARRIER SAFETY
Rear End Underride Protection

AGENCY: Federal Highway Administration and National Highway Traffic Safety Administration, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Department of Transportation issues this advance notice to solicit comments and information on revisions to the Federal Motor Carrier Safety Regulations Section 393.86 and the Federal Motor Vehicle Safety Standards Part 571. Such amendments would consider the means for providing improved rear end protection on heavy motor vehicles manufactured after a certain date to prevent the underriding of vehicles which impact the rear of these heavy vehicles.

DATE: Comments must be received on or before November 30, 1977.

ADDRESS: BMCS Docket No. 77, Room 3402, Bureau of Motor Carrier Safety, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. D. W. Morrison, Chief, Vehicle Requirements Branch, Bureau of Motor Carrier Safety (202-426-1700); or Mrs. K. S. Markman, Attorney, Office of the Chief Counsel (202-426-0786), Federal Highway Administration. Mr. Timothy Hoyt, Office of Crashworthiness, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-2264).

SUPPLEMENTARY INFORMATION: The Department of Transportation has in effect regulations applicable to commercial vehicles operated in interstate or foreign commerce (Section 393.86 of the Federal Motor Carrier Safety Regulations) which address the problem of rear underride. In 1969 the Department of Transportation proposed rulemaking on Rear Underride Protection for all trailers and trucks with gross vehicle weight rating over 10,000 pounds. The Department concluded in June of 1971 that the safety benefits achievable in terms of lives and injuries saved would not be commensurate with the cost of implementing the proposed requirements.

The principal reasons for issuing this advance notice are: First, the need to reassess the requirements of Section 393.86 of the FMCSR and to reassess the need for a Federal motor vehicle safety standard. The condition of traffic and the mix of large and small motor vehicles in highway transportation has changed and will continue to change. The question now is whether the present rear end protective requirements are adequate. Second, Congressional interest is high as evidenced by the Subcommittee for Consumer of the Senate Committee on Commerce, Science, and Transportation which held oversight hearings on auto-truck crash safety on March 16, 1977. Third, the Insurance Institute for Highway Safety (IIHS) of Washington, D.C., recently petitioned for more stringent rear end protection than currently required by the Department of Transportation.

A research report accompanied that petition containing data concerning impacts of compact and subcompact cars against two types of rear end protection devices mounted on trailers. Motion pictures documented these crash tests. One of the devices met the present underride requirements of the FMCSR (49 CFR 393.86). The other device not only met but exceeded the present protective standards required by Section 393.86, being lower and stronger with little or no added weight. That device was designed by the researcher. Complimentary copies of the report, "Eliminating Automobile Occupant Compartment Penetration in Moderate Speed Truck Rear Underride Crashes: A Crash Test Program," are available upon request from the: Insurance Institute for Highway Safety, Attention: Dr. William Haddon, Jr., Watergate Six Hundred, Washington, D.C. 20037.

The intent of considering more stringent rear end underride prevention requirements (lower and stronger) and broader application of those requirements would be to reduce the severity of accidents in which passenger cars collide with the rear ends of heavy motor vehicles. When an accident of this type occurs, the front end of the car can penetrate uder the rearmost structure of the heavy vehicle. The result can be serious injury to, or death of, occupants of the passenger car.

Engineering changes in the design and manufacture of heavy vehicles could reduce the severity of these accidents. Configuration of the rear end of the truck or trailer so that the substantive structure of the front end of a passenger car would impact a rear end protection device could prevent underride and dissipate crash forces thereby decreasing the severity of the accident.

The potential scope of the problem can be examined through existing information on rear end collisions. In 1974, 575 accidents which involved rear end collisions with commercial motor vehicles were reported by motor carriers subject to the requirements of 49 CFR 394. Those accidents resulted in 57 deaths and 727 injuries. In 1975, the comparable figures were 936 accidents, 49 deaths, and 1,268 injuries. Increased production, sale and use of smaller passenger cars can compound the problem. Estimates from 1976 data are 988 accidents, 87 deaths and 1,258 injuries. It should be noted that these data are only a subset of all truck/auto accidents, since they are limited to reports submitted by interstate commercial carriers. These accident data cover rear end collisions where both vehicles are moving, where truck are stopped for traffic lights, or where trucks are parked. The FHWA accident data does not show other causal factors such as speed of automobile, alcohol involvement, or other automobile driver effects. To determine the effect of these factors special studies utilizing followup questionnaires or field investigations would be required. Notwithstanding who was at fault, there is a need to reassess the adequacy of the rear end protection requirements to improve the survivability of persons involved in these type collisions.

Information available from the National Highway Traffic Safety Administration's (NHTSA) Fatal Accident Reporting System (FARS) and State Accident Summary data indicate the incidence of automobile rear end collisions with trucks may be as high as 40,000 collisions, and result in as many as 200 to 300 fatalities and approximately 8,600 personal injuries. The extent to which underride protection could have reduced the severity cannot currently be ascertained.

The imposition of more stringent requirements for rear underride protection was first considered in 1967, when an Advance Notice of Proposed Rulemaking (ANPRM) was issued (32 FR 200 on October 14, 1967) inviting the public to comment on the question of whether a Federal motor vehicle safety standard on underride protection should be issued under the authority of Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392 (32 FR 14279). On March 13, 1969, the Department issued a Notice of Proposed Rulemaking, which proposed a rear underride protection standard applicable to trailers and trucks having a gross vehicle weight rating of more than 10,000 pounds, except for pole trailers and truck tractors (34 FR 5383). That notice proposed to require a maximum clearance of 18 inches for rear end protection devices and to require those devices to withstand a static forward load of 75,000 pounds. A second Notice of Proposed Rulemaking issued on August 11, 1970 (35 FR 12956), reduced the proposed loading requirement to 50,000 pounds but retained the 18-inch maximum ground clearance feature.

The proposed Federal motor vehicle safety standard on rear underride protection evoked a large number of comments. The comments argued that the proposed standard would impose impracticable burdens on the motor carrier industry, and that the requirement for an underride guard that fell within 18 inches from the ground (with the vehicle unloaded) would create severe operational difficulties. Finally, the NHTSA, which administers the Federal motor vehicle safety standards, terminated the effort to create a standard on rear underride protection in a notice issued on June 15, 1971 (36 FR 11750). The agency concluded that the benefits achievable by such underride devices were few and were outweighed by the cost of implementing the requirements.

Nevertheless it is the conclusion of the Department of Transportation that the present requirements should be reexamined because the problem of rear underride accidents remains, and it is likely to become more severe as automobiles become smaller and are used in greater numbers. Improved rear end protection devices on heavy motor vehicles that may contribute substantially to saving lives and preventing injuries may be possible without incurring either unacceptable costs or unacceptable restrictions on operations.

Section 393.86 currently requires every commercial motor vehicle, except truck tractors, pole trailers, and vehicles engaged in driveaway-towaway operations, manufactured after 1952 to be equipped with a rear end protection device constructed in such a manner that the clearance from the ground does not exceed 30 inches with the vehicle unloaded; that the device shall not be more than 24 inches forward from the rear of the vehicle, and that the width shall not be less than 18 inches inboard from each side. Vehicles which are constructed in a manner in which the body, chassis, wheels or other parts afford the equivalent protection need not have additional devices. The rule has not been changed in 25 years.

It is to be noted that safety authority of the FMCSR covers only commercial vehicles engaged in interstate commerce. To the extent, however, that States have adopted the FMCSR as intrastate requirements they tend to influence the application of new or more stringent requirements on fleets under State jurisdiction. At present, 30 States have adopted § 393.86 as law. Further, the issuance of a Federal motor vehicle safety standard by the NHTSA could extend underride protection criteria to all trucks and trailers manufactured after the effective date of the standard.

With respect to research on this problem, a few studies have been directly associated with vehicle penetration into the rear of heavy vehicles. The recent IIHS study is the latest. The NHTSA completed a study in 1971 entitled "Underride/Override of Automobile Front Structures in Intervehicular Collisions." It was conducted by Cornell Aeronautical Laboratory, Inc. (now CALSPAN, Inc.), in Buffalo, New York. Their principal recommendations were:

1. Energy absorbing (yielding) rear underride guards for optimum protection of large sized passenger cars.

2. Additional testing needed for underride guard strength and width requirements.

3. Underride guard to ground clearance should not exceed 24 inches and preferably 18 inches for smaller cars.

4. Underride protection should be mounted on the extreme rear of the vehicle.

The FHWA has a major multiyear heavy truck research project underway, including finite examination of a selected nationwide sample of truck collisions which should provide more information on automobile-truck collisions. These data will not be available for about another year.

Currently, the FHWA is formulating a new research effort to establish the level of rear underride protection needed to reduce injuries and fatalities in a variety of realistic accident situations. This will be an attempt to develop a number of rear underride designs to determine the desired level of performance, giving due consideration to cost, weight, and operational problems. Results of this contract effort will be used in determining what form any amendments to FMCSR Section 393.86 and FMVSS Part 571 should take.

In the mean time, public comments are requested on the following specific areas of interest to assist in developing effective underride performance requirements for heavy duty motor vehicles:

1. What should be the maximum allowed clearance between the ground and the bottom of the rear underride protection device with the vehicle unloaded, and why?

2. How far forward should the device be permitted from the rearmost protrusion of the vehicle, and why?

3. What should the longitudinal static strength be, and why?

4. What considerations should be given to other parts of the rear end of the vehicle such as tires, axles, body, and frame?

5. How wide should the protective device be? Should it extend its protection to the entire width of the vehicle's rear end, or why not?

6. What vehicles, if any, should be excluded from the underride requirements, and why?

7. Should some vehicles because of operational difficulties, such as loading or unloading, be permitted to use hinged or folding devises? A sketch or photograph may clarify.

8. What are the initial costs and weights, fuel operating costs and load revenue losses, dimensions, and strengths of rear end protection devices presently installed on new motor vehicles? Also, what are the production volumes which this information is based on?

9. What percentage of the annual commercial vehicle mileage is traveled with loads: (a) within 200 pounds of GVWR, (b) within 100 pounds of CVWR, (c) within 50 pounds of GVWR, (d) at GVWR, (e) in excess of GVWR?

10. What percentage of trucks and trailers have structures that would effectively prevent underride located permanently within (a) 15 inches of the rearmost protrusion of the vehicle, (b) 24 inches of the rearmost protrusion of the vehicle?

11. What rear end protection devices would you recommend? What vehicle types would these be applicable to? If designs are available please furnish drawings, material specifications and estimated costs and weights. Also, please estimate fuel operating costs and load revenue losses.

Those desiring to comment on this advance notice of proposed rulemaking are asked to submit in writing 4 copies of their views, data, and arguments. All communications received will be considered before taking action to propose revisions to the present requirements for underride protection. Any proposed ideas contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date, for examination by interested persons in the docket room of the Bureau of Motor Carrier Safety, Room 3402, 400 Seventh Street SW., Washington, D.C. 20590. If it is determined to be in the public interest to proceed further after summarizing the comments and considering the available data and comments received in response to this advance notice, a notice of proposed rulemaking will be issued.

V 42 167 AUG 29 77 UMI

The principal authors of this notice are Mr. D. W. Morrison, Vehicle Requirements Branch (BMCS), and Mrs. K. S. Markman, Office of Chief Counsel (BMCS).

This advance notice of proposed rulemaking is issued under the authority of Section 204 of the Interstate Commerce Act (49 U.S.C. § 304), Section 6 of the Department of Transportation Act (49 U.S.C. § 1655), and the delegations of authority by the Secretary of Transportation and the Federal Highway Administrator at 49 CFR 1.48 and 49 CFR 301.60, respectively. This notice is also promulgated under the authority of the NHTSA found at: Sec. 103, 112, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407); delegation of authority at 49 CFR 1.50.

Issued on August 25, 1977.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety, Office of Safety, Federal Highway Administration.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs, National Highway Traffic Safety Administration.

[FR Doc.77-25092 Filed 8-26-77;8:45 am]

Office of Hazardous Materials Operations

[49 CFR Parts 172, 173, 174, and 176]

[Docket No. HM-143; Notice 76-11]

BLASTING AGENTS

Public Conference

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Public Conference.

SUMMARY: A Public Conference will be held on September 23, 1977, in Room 3201 of the Trans Point Building located at 2100 Second Street SW., Washington, D.C. The Conference will open at 9:30 a.m., and will be for the purpose of discussing the proposals in Docket HM-143; Notice 76-11. This will be an informal conference and not a judicial or evidentiary type hearing. There will be no cross-examination of persons presenting statements.

DATES: Date of Conference September 23, 1977. Docket No. HM-143; Notice 76-11 will be reopened on September 16, 1977, and comments may be submitted through October 10, 1977. All comments should be addressed to the Section of Dockets at the following address.

ADDRESSES: Any person wishing to present oral or written statements at the Conference should notify the Section of Dockets, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590 (202-426-2077) prior to September 20, 1977.

SUPPLEMENTARY INFORMATION: On November 26, 1976, the Materials Transportation Bureau (MTB) published in Docket HM-143 a Notice of Proposed Rulemaking (41 FR 52083) which proposed the following amendments to Parts 172, 173, 174, and 176 of the Department's Hazardous Materials Regulations:

1. Remove the shipping name, Nitro Carbo Nitrate (NCN);
2. Add a new shipping name, Blasting Agent, n.o.s., and a new class, Blasting Agent;
3. Provide packagings for blasting agents; and
4. Provide a new label and a new placard for blasting agents.

On July 25, 1977, Monsanto Company petitioned MTB for an informal conference on blasting agents, in accordance with 49 CFR § 102.25. Monsanto objected to the proposed rule on the general ground that the proposal would create a new hazard class based not upon the intrinsic characteristics, kind, or degree of hazard presented by the material but upon the material's end use. In support of their petition for a public conference, Monsanto argued that NCN is an oxidizer with an excellent safety record and it was wrong in principle to include in a single class materials which differ greatly in the degree and kind of hazard simply because they may be used for the same purpose. Further, Monsanto believes if the facts were fully understood the proposal would be either dropped or modified to retain the oxidizer classification for NCN. Monsanto asserted that there is wide-spread opposition to the proposal and that a public conference could explore the objections of other interested parties in addition to permitting Monsanto to explain its position and answer questions from the Office of Hazardous Materials Operations.

AUTHORITY: 49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e) and paragraph (a)(4) of App. A to Part 102.

Issued in Washington, D.C., on August 24, 1977.

ALAN I. ROBERTS,
Director, Office of Hazardous Materials Operations.

[FR Doc.77-25286 Filed 8-26-77;11:13 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

EXECUTED MEMORANDA OF AGREEMENT

Pursuant to Section 800.6(a) of the Council's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR Part 800), notice is hereby given that the following Memoranda of Agreement were executed during the months of June, July, and August 1977. The Memoranda of Agreement were executed in fulfillment of Federal agencies' responsibilities for protection of properties on or eligible for inclusion in the National Register of Historic Places in accordance with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f, as amended, 90 Stat. 1320).

Los Esteros, Guadalupe County, New Mexico, affected by the proposal to construct the Los Esteros Dam and Reservoir, undertaken by the U.S. Army, Corps of Engineers (6/6/77).

Old Stone Star Brewery, Bexar County, San Antonio, affected by the restoration of the Old Star Brewery complex, undertaken by the U.S. Department of Commerce, Economic Development Administration (6/13/77).

Knife River Indian Villages National Historic Site, Billings County, North Dakota, affected by archeological investigations, undertaken by the U.S. Department of the Interior, National Park Service (6/13/77).

Historic Property at 401 South Mill Avenue, City of Tempe, Maricopa County, Arizona, affected by the completion of the University-Hayden Butte Neighborhood Development Program, undertaken by the City of Tempe (6/15/77).

Middletown South Green Historic District, Middletown, Connecticut, affected by the development of low income apartments for the elderly, undertaken by the U.S. Department of Housing and Urban Development (6/21/77).

700-714 Spruce Street, Society Hill Historic District, Philadelphia County, Philadelphia, Pennsylvania, affected by the proposal to approve HUD Project No. PA-A-4-21 in the Washington Square East Urban Renewal area, undertaken by the U.S. Department of Housing and Urban Development (6/22/77).

Hudson-Meng Bison Kill Site, Nebraska, affected by the permit for archeological research, undertaken by the U.S. Department of Agriculture, Forest Service (7/7/77).

Riverside Historic District, Evansville, Indiana, affected by the proposal to fund a Housing Rehabilitation Program, undertaken by the City of Evansville, Department of Metropolitan Development (7/11/77).

Cape Lookout National Seashore, Carteret County, North Carolina, affected by the use of a trailer for temporary restrooms, undertaken by the U.S. Department of Interior, National Park Service (7/11/77).

Lander Cutoff, Oregon Trail, Lincoln County, Wyoming, affected by improvements to U.S. 89 (Wyoming Project F-010-3(19)), undertaken by the U.S. Department of Transportation, Federal Highway Administration (7/11/77).

F. E. Booth Company, F. Alioto Fish Company Pier, Point Reyes National Seashore, California, affected by their proposed demolition, undertaken by the U.S. Department of the Interior, National Park Service (7/13/77).

Navajo Indian Reservation, New Mexico, affected by the proposal to authorize landmodifying activities to facilitate the development of the Navajo Indian Irrigation Project, undertaken by the U.S. Department of the Interior, Bureau of Indian Affairs (7/13/77).

Bank Street Historic District, New London, Connecticut, affected by the construction of a boardwalk, undertaken by the New London Redevelopment Agency (7/20/77).

Bank Street Historic District, New London, Connecticut, affected by the facade and interior improvement program, undertaken by the New London Redevelopment Agency (7/20/77).

Historic Properties, City of Albany, New York, affected by the funding of community development projects, undertaken by the City of Albany Urban Renewal Agency (7/21/77).

Haydenville Historic Town, Haydenville, Hocking County, Ohio, affected by the abandonment of the rail line between Nelsonville and Oldtown undertaken by Interstate Commerce Commission (7/22/77).

Santa Cruz River Park Archeological District and Convento, Arizona, affected by the development of the Santa Cruz River Park undertaken by the City of Tucson (7/25/77).

Alamo Canyon, Bandelier National Monument, New Mexico, affected by the proposal to conduct a data recovery program at archeological sites numbered LA-13659 and LA-12117, undertaken by the U.S. Department of the Interior, National Park Service (7/25/77).

Historic Properties, Norfolk, Virginia, affected by the proposal to execute the Downtown-West Conservation Project, undertaken by the Norfolk Redevolpment and Housing Authority (7/25/77).

Historic Properties, Seattle, Washington, affected by the implementation of the project I-90-1 from the Junction of SR 5 to Junction of SR 405, undertaken by the U.S. Department of Transportation, Federal Highway Administration (7/31/77).

Main Post Office, Cleveland, Cuyahoga County, Ohio, affected by the proposal to replace the exterior façade, undertaken by the U.S. Postal Service (8/1/77).

Pipestone Architectural District, Pipestone, Minnesota, affected by the proposal to fund Year III, Community Development Project-Historic Preservation of Central Business District, undertaken by the City of Pipestone (8/3/77).

Ninety Six National Site, Greenwood County, South Carolina, affected by archeological investigations, undertaken by the U.S. Department of the Interior, National Park Service (8/3/77).

Lamberton Street Interceptor, Trenton, New Jersey, affected by the construction of a sewer interceptor, undertaken by the Environmental Protection Agency (8/15/77).

North Fork Lake and Granger Lake Archeological Districts, Williamson County, Texas, affected by the construction of North Fork Lake and Granger Lake, undertaken by the U.S. Army, Corps of Engineers (8/15/77).

Historic Properties, Baltimore, Maryland, affected by the construction of City Boulevard and Interstate Highway I-395, undertaken by the U.S. Department of Transportation, Federal Highway Administration (8/15/77).

ROBERT M. UTLEY,
Deputy Executive Director.

[FR Doc.77-24954 Filed 8-26-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket Nos. 31053, 31054, 31055, 31058, 31310; Order 77-8-109]

ALLEGHENY AIRLINES, INC.

Order Dismissing Complaints and Soliciting Comments on Use of Discount Fares to Stimulate Long-Term Efficiencies

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23rd day of August 1977.

Alegheny Airlines, Inc. (Allegheny) proposes a one-way "SimpleSaver" fare in nine major, dense-traffic markets.[1] Allegheny does not hold nonstop authority in any of the markets and operates through-plane service in only a few. It is a minor traffic participant in all the markets. The proposal is made as a one-year experiment; the fares are discounted approximately 30 percent from Allegheny's normal coach fares; and their availability would be limited to the 35-percent capacity limitation now applicable for "Freedom" fare travel. The fares are not combinable with other fares for beyond-segment travel, and are subject to a total of 11 blackout days around Thanksgiving, Christmas, and the New Year. As indicated, the fare is necesarily available inly in multistop or connecting service by virtue of Allegheny's certificate authority.

Allegheny supports its proposal on the basis of what the fares will produce for its system—it makes no attempt to evaluate the effect of the fares if extended more widely throughout the domestic airline network, and alleges that its concept is closely patterned after the "economy" fare offered by Texas International Airlines, Inc. (TXI) on its Dallas/Ft. Worth-Los Angeles multistop service.[2]

---

[1] Revisions to Airline Tariff Publishing Company, Agent, Tariffs CAB Nos. 259 and 142. The markets: Boston-Chicago, Boston-St. Louis, Chicago-New York, Chicago-Providence, Chicago-Hartford, Chicago-Albany, New York-Detroit, New York-Louisville. Allegheny withdrew the fare in the New York-Cincinnati market.

[2] Order 77-5-68, May 13, 1977.

V42167 AUG 29 77 UMI

Allegheny's justification rests substantially upon an alleged significant price elasticity in the markets involved. "A reduction in the price of air transportation," the carrier says, "results in a more than proportionate increase in the number of passengers who can afford to travel." The carrier clearly sees the "SimpleSaver" as highly elastic since it forecasts a 70 30-percent generation' diversion ratio, and a resulting $3.6 million net contribution to its profit.[5] It also refers to its inferior operating authority in these nine markets, and consequent small participation, as "built-in" safeguards against significant diversion from the primary carriers. Finally, Allegheny contends that "even with strict application of capacity controls, so as to assure that no full-fare passengers traveling over the intermediate segments will be displaced by the discount passengers, there will be more than adequate capacity to accommodate the projected 'SimpleSaver'-fare passengers."

American Airlines, Inc. (American), Northwest Airlines, Inc. (Northwest), Trans World Airlines, Inc. (TWA), and United Airlines, Inc. (United) have filed complaints covering a wide range of issues. In their broadest outline, the key targets are (1) "ratesetting" by a minor participant with minimal exposure to risk; (2) certain structural problems, as detailed below, which result from differences in the way local service carriers and trunkline carriers are regulated for ratemaking purposes; (3) the economic "dead-weight loss" of an artificial pricing situation which will shift traffic from lower-cost nonstop to higher-cost multistop and or connecting services; (4) Allegheny's narrow calculation of "generation" and its implication that the "SimpleSaver" fare would be economically sound on an industry basis; and (5) the investigation now in progress of an allegedly "less disruptive" "SimpleSaver" prototype—the Dallas Fort Worth-Los Angeles "economy" fare offered by TXI—which allegedly should be resolved before further "experiments" of this type are begun.

The allegations relating to "structural problems" focus upon Allegheny's flexibility as a local service carrier both to directly subsidize "SimpleSaver" fares by pricing the short-haul intermediate segments up to 130 percent of the Phase 9 formula coach fare,' to offset revenue loss over the long-haul "SimpleSaver" multisegment markets, and to "take" a general fare increase for itself by raising fares in its monopoly markets any time it wishes up to the 130-percent level. The complainants contend that trunkline carriers are, on the other hand, denied this cross-subsidy flexibility, and that "SimpleSaver" will eventually cost them a needed general fare increase. It is argued that they either allow Allegheny to siphon off their traffic and reduce their load factors, or that they match the fares. In the former case, future calculations of return on investment will disallow certain real costs because the trunkline carriers will have failed to meet the load-factor standard. In the latter case, certain real costs will be disallowed because of the discount-fare adjustment. In essence, this is a "Catch-22" situation from the complainants point of view.

The argument that traffic will shift from less costly nonstop services to more costly multistop services as a result of the "SimpleSaver" price advantage is most fully developed by TWA. TWA argues that long-haul traffic, which should be most efficiently transported on nonstop flights, may be diverted to multistop flights by an arbitrary pricing scheme which reflects more the quality of service than the cost of producing it. Thus, the essence of TWA's point is that to meet Allegheny's fare the nonstop carriers will be forced to adopt Allegheny's short-haul approach, even though it conflicts with the underlying long-haul nature of their operations.

All of the complainants contest Allegheny's estimate of new traffic "generation" from the fare, contending that its narrow focus, restricted as it is to its own operations, conceals a bald-faced grab for its competitor's traffic. The complainants agree in contending that competitive response in matching the fare requires that it be evaluated from the standpoint of overall industry generation, and that diversion of revenue from major operators in the markets must be netted against the profits which Allegheny foresees for itself. American and Northwest estimate the "worst-case" systemwide diversion of revenue from the "SimpleSaver" fare as "more than $7 million" and "$7.6 million", respectively. This compares with Allegheny's projected $3.6 million profit for its own operation.

The final point made by the complainants is that "SimpleSaver' is not a "novel experiment" deserving of an opportunity to prove itself but, rather, is only a derivative of an earlier "experiment" instituted by TXI, now currently under investigation. They caution against further expansion of an as yet inadequately tested concept and interim extension of that experiment into additional markets. Several complainants also point out that "SimpleSaver' is potentially much more disruptive than TXI's fare, both because of the greater number of markets involved (nine versus TXI's one) and the fact that Allegheny has a much larger presence in several of these markets.[6]

In answer Allegheny alleges that it will "enforce capacity control provisions to assure no impact upon passengers in the intermediate and beyond markets"; sharply contests claims that all of its "SimpleSaver" traffic will be diverted from other carriers (without, however, providing any estimate of that portion of "generated" traffic which would not otherwise have flown); and argues poverty, deficits and its evident need for additional revenue. The carrier further contends that the estimates of revenue dilution put forth by American and Northwest are overstated because they take no account of generation from surface modes, which Allegheny anticipates. Finally, Allegheny contends that the specific nature of these particular markets (principally stagnant long-term traffic growth) and the inherent inferiority of its multistop service create natural restrictions on the spread of a similar fare approach throughout the domestic system.

Upon consideration the Board finds that the complaints do not set forth sufficient facts to warrant investigation and consequently the requests for suspension will be denied and the complaints dismissed.

In our last formal evaluation of discount fares, Phase-5 of the DPFI, we observed that "the tension between the long and short-term impact of promotional fares poses a serious dilemma for economic regulation."[8] We said that the difficulty with the argument in favor of discount fares is "that there is no showing on this record (Phase 5) which would support a finding that the additional traffic volume generated by the discount fares results in significantly lower overall unit costs in the long run. Rather the evidence is to the contrary."[7] At that time, discount fares seemed profitable in the short run but the record clearly showed that they burdened profits over the longer term—that carriers were arranging equipment purchases and operating flights based upon gross traffic (including those passengers traveling at so-called "fill-up" fares) and that, once having introduced a discount fare, carriers found it competitively difficult to withdraw it.

In the intervening years since the Board evaluated the role of discount fares, operating conditions in the industry have changed substantially. Generally speaking, carriers are replacing and revamping present aircraft and are not investing in major re-equipment programs. The carriers are adding seats in planes already owned and operating. The cost of fuel is now three times the level just a few years ago, and amounts to some twenty percent of total operating cost. In a word, the economics of the industry is considerably tighter than when we expressed our concerns that an unregulated array of discount fares could lead to normal-fare passengers shouldering the cost of excess capacity. We intend to evaluate Allegheny's fare against this background.

In its request for suspension, TWA, in particular among the complainants, argues that nonstop service is the most

[5] Allegheny is essentially projecting a more-than-tripling of traffic from a less-than-one-third reduction in price. This is, however, based upon traffic generation to its own services, as opposed to overall attraction of new air travel in the markets, contrary to the presumption in Phase 5 of the Domestic Passenger-Fare Investigation, (DPFI) that estimates of generation should relate to the system as a whole.

[6] Order 74-3-82, March 18, 1974.

[7] Particularly Chicago-Providence, New York-Louisville, and Boston-St. Louis.

[8] Order 72-12-18, December 5, 1972.

[7] Ibid., p. 47.

efficient to provide, as well as the most satisfactory for the consumer. We do not dispute this contention in the abstract. However, in particular circumstances and markets, nonstop service may not be the most economic to provide from the viewpoint of the air transportation system as a whole. The answer may depend on the carriers' various operations in particular markets and on the behavior of traffic in the market place. Stated differently, there may be long-term cost savings to carriers, particularly important to them in the present high-cost environment, which can be fairly traded for offering the traveling public a special lower price for an admittedly lesser quality service.

This is the essential question posed by such fare concepts as the "SimpleSaver" fare: Whether or not long-term benefits—which may be gained by encouraging traffic to switch from nonstop services to multistop/connecting services by appropriately structured fare discounts — outweigh considerations of short-run profit-impact. Inducing long-haul traffic to function as "fill-up" traffic on multistop/connecting flights, being operated in any event to serve intermediate-point markets, may enable the industry to provide adequate services to the longer-haul traffic market with less capacity. The multistop / connecting flights serve the longer-haul market as a common product, and the longer-haul traffic which can switch to such services can be carried at fares reflecting the marginal costs of "fill-up" traffic rather than at the full cost of a nonstop service. Thus, a special lower fare for the "secondary" service has the potential of enabling the carriers to provide adequate service at lower cost and, at the same time, to offer a price/quality of service option to the traveling public.

This price/quality option is premised on two crucial assumptions: that the "SimpleSaver" market traffic will be carried on a "fill-up" basis and will not burden the primary traffic (the local traffic in the respective intermediate markets) in terms of higher fares or reduced service quality, and that the longer-haul carriers reduce nonstop capacity to reflect the reduced demand for this service.[9] If these assumptions prove untrue and are not achieved, the economic justification for the price/service option is destroyed.

The air transport network is a complex of intertwined flights and many "nonstop" markets of any distance, such as New York–Chicago for the complainant carriers in this case, are in fact "multi-stop" flights in other "nonstop" markets. Flights are operated for a variety of reasons which go beyond optimizing load factor; flights are operated for aircraft positioning purposes, to provide primarily mail and cargo service, to pick up high-revenue feeder traffic for carriage to beyond points or to supplement through traffic with traffic at intermediate points, etc. Thus, it is not always easy to distill the primary purposes of a flight from the bundle of services offered, and forecasting the marketplace reaction to application of theoretically sound pricing concepts is complex indeed. For these reasons, the Board has decided that, although we will dismiss the complaints, we will at the same time solicit comments from industry and any interested persons on whether or not, in view of present circumstances in the industry, we should encourage carrier discount-fare filings premised on a price/quality of service option such as is discussed in this order. We do not intend this request for views to impinge in any way on the formal rulemaking review of discount-fare policy as announced in the Board's advance notice of proposed rulemaking (PSDR-47). In summary, our action in this order approves what we believe to be a sound pricing concept, but seeks comments to assist us in our consideration of future discount-fare proposals in which the same or similar concepts may appear.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002:

It is ordered, That: 1. The complaints in Dockets 31053, 31054, 31055, and 31058 be dismissed;

2. All persons interested in commenting on the question of whether or not discount-fare pricing, through cost-quality of service tradeoffs, can encourage a more efficient reallocation of resources and lower fares be directed to file an original and three copies of such comments in Docket 31310 no later than 15 days after service of this order. Responsive comments may be filed no later than thirty days after service of this order.

3. Individual members of the general public who wish to express their interest as consumers by informally taking part in the proceeding may do so by submitting comments in letter form to the Docket Section, Docket 31310, without having to file additional copies; and

4. Copies of this order will be served upon all certificated scheduled carriers.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[9]
Secretary.

[FR Doc.77-24986 Filed 8-26-77;8:45 am]

[9] Two other factors are involved. A discount is necessary to cause longer-haul passengers to use the inferior multistop service and can be justified by the lower marginal costs of carrying this traffic on multistop service. A more difficult question is how much of a discount is needed to cause this shift. Also of concern is the quality of service vis-a-vis the price paid by the passengers using the intermediate-point services.

[9] All members concurred.

[Docket No. 30635]

ARIZONA SERVICE INVESTIGATION

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held commencing on October 4, 1977, at 9:30 a.m. (local time) in the Regency Ballroom D, Hyatt Regency Hotel, 122 N. 2d Street, Phoenix, Arizona, before the undersigned Administrative Law Judge.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the Prehearing Conference Report, served on August 8, 1977, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 23, 1977.

FRANK M. WHITING,
Administrative Law Judge.

[FR Doc.77-24987 Filed 8-26-77;8:45 am]

[Docket No. 30332; Agreement C.A.B. 27601 R-2—R-4 et al; Order 77-8-114]

IATA

Agreements Adopted Relating to Cargo Matters; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 23rd day of August, 1977.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). (Docket 30332, Agreement C.A.B. 26701 R-2 through R-4, R-6, R-8, R-10; Agreement C.A.B. 26703; Agreement C.A.B. 26704; Agreement C.A.B. 26707, R-1 through R-5, R-7 through R-18, R-20 through R-24, R-26, R-29, R-30.) The agreements were adopted at the Composite Cargo Conference held in Vancouver during May 1977, or at the 9th Meeting of the Cargo Traffic Procedures Committee held in Geneva, February 28–March 4, 1977.

AGREEMENT C.A.B. 26707

This agreement, adopted at the Vancouver Conference, would revalidate without change numerous existing resolutions governing matters such as rate construction rules and charges for ancillary services. The bulk of the amendments proposed are of a technical or procedural nature. Substantive amendments of concern to the Board include those on live animal rates, excess value charges, charges for disbursements, and charges for preparation of air waybills.

Live Animal Rates—For U.S. points, the agreement generally proposes rates equal to 100 percent of the general cargo rate (GCR) for cold-blooded animals (defined as fish, frogs, iguanas, insects, reptiles, turtles and worms), and equal to 110 percent of the general cargo rate for warm-blooded animals; minimum charges for all live-animal shipments would be set at 110 percent of the usual minimum charge. However, such rate

V 42 N 167 AUG 29 77 UMI

levels would apply only on transportation within the Western Hemisphere and transpacific areas. For transatlantic transportation, the 100 and 110 percent rate levels would apply only from the United States; the resolution is silent on transportation to the United States, and would thus leave carriers free to continue charging the higher rates currently in effect in their tariffs for shipments to the United States from certain countries.[1]

The proposed live animal rates represent an improvement over the previous IATA levels of 125 percent of the GCR for cold-blooded animals and 150 percent for warm-blooded animals, which the Board disapproved last year.[2] The new agreement is in general conformance with the Board's June 26, 1973, decision in the U.S. domestic Investigation Of Premium Rates for Live Animals and Birds, Docket 21474, and will be approved subject to several conditions. First, as indicated the agreement does not cover transatlantic transportation to the United States and we will therefore condition our approval to require that the 100 and 110 percent levels apply equally in both directions.[3] Second, although cold-blooded animals would be charged no premium over the GCR, minimum charges per shipment would be subject to the same 10 percent premium over the general minimum charges as would shipments of warm-blooded animals. There would seem to be little rationale for this discrepancy, and the Board will therefore apply a condition to limit the minimum charge for cold-blooded animals to the regular general commodity minimum charge. Finally, we will condition the proposed definition of cold-blooded animals, which seems unduly restrictive, to include all animals which can be shipped in sealed containers and require no ventilation.[4]

Excess-Valuation Charges—Charges for excess value have long been a matter of serious concern to the Board. By Order 76–1–17, we disapproved the provision of IATA Resolution 503 which reflected a charge of 0.40 percent (i.e., 40 cents per $100 valuation) on that portion of the shipper's declared value for carriage which is in excess of the Warsaw Convention liability limit of $20.00 per kg., as well as the minimum excess value charge of $1.00. The Board disapproved the 0.40 percent charge and the $1.00 minimum on the basis that only two carriers had submitted any data in support of the charge, and their submissions were inadequate or unpersuasive.

The new agreement again proposes a charge of 0.40 percent on the excess valuation. We have reviewed the carriers' current tariff provisions on excess-value charges, and find that most carriers still apply a charge of 0.40 percent on the total declared value, contrary to the Board's policy that excess-value charges should apply only to the declared value not already covered by the carriers' basic liability under Warsaw; in addition, the carriers generally apply a minimum charge ranging from 40 cents to $1.00. In these circumstances, the Board believes that the public and shippers' interest will be best served by approving the new resolution, which properly applies the excess-value charge only to excess value. However, we still have serious reservations about the level of the charge and thus will limit our approval to one year. Extension of Board approval will depend on carrier justification to be submitted at the end of a one-year period, showing actual experience under the revised resolution.[5]

Charges for Disbursements—Currently, IATA Resolution 509 and the carriers' tariffs provide a charge for collection by the carrier from the consignee for disbursements of three percent of the total disbursement, with a minimum of $5.50, from the United States; and a charge of five percent with a minimum of $10.00, to the United States. The carriers now propose increased charges of five percent (minimum $7.50) from the U.S. and seven percent (minimum $15.00) to the U.S. The U.S. carriers' domestic tariff provisions generally set forth a charge of three percent, with a minimum of $5.50, for similar service in domestic and U.S./Canada transborder transportation, and we perceive no reason why the costs of providing this service should be so much higher in other, international markets as to justify the substantially higher charges proposed here. No showing in support of this discrepancy has ever been made. We will therefore disapprove the proposed increases and hold the charges at their current levels. The carriers are, of course, free to present such data as may cost-justify the proposed charges.

AGREEMENT C.A.B. 26701

Adoped at the 9th Cargo Traffic Procedures Committee Meeting, this agreement would revalidate and amend various resolutions governing live animals regulations, C.O.D. procedures, use of unit load devices, air waybill format and related matters. Most of the amendments are of a technical or clarifying nature. Of more substance are the changes proposed in the live animals regulations and C.O.D. procedures. Resolutions 511a (IATA Live Animal Regulations) and 512a (C.O.D. Procedures) would be amended to prohibit acceptance of live animal consignments on a C.O.D. basis. This proposal is based on Recommendation No. 7 of the International Conference on Transportation of Live Animals, which urged acceptance of live animals on a prepaid basis only.[6] As this proposal may be of particular interest to shippers, we are not taking action on it in this order, but will establish procedures for the receipt of carrier justification, comments from interested persons, and replies.[7]

AGREEMENT C.A.B. 26703

This agreement, adopted at the Vancouver Conference, would amend Resolution 021LL (Special Rules for Currency Adjustments—Cargo Rates) governing currency conversion procedures for cargo rates. Briefly, the agreement would amend the conversion rules for payment outside the country where transportation commences. Currently, such rates are converted from the currency of the country of origin into the currency of payment by using the market rate of exchange or the IATA Resolution 021b rate, whichever produces the higher amount.[8] The amendments propose a process by which such conversions would take place, in effect, at a rate about midway between the market rate and the 021b rate. The minutes of the conference make it clear that the reason for the proposed change is numerous complaints from importers in strong-currency countries over continued use of the 021b rates and the fear of government action in response to such complaints. For instance, a shipment from the United States to Germany, rated at $106, is currently converted to deutschemarks at the 021b rate of $1=3.250 DMK for collect payment, resulting in a charge of DMK 344.50, whereas the market rate of about 2.34 would result in a charge of DMK 248.50; under the new agreement use of the 021b rate would be modified to produce a charge of DMK 292.50.

The Board will approve the agreement, but cautions the carriers that our conditions on 021LL imposed by Orders 74–4–145, April 26, 1974, and 72–2–22, February 3, 1977, covering U.S.-destined and U.S.-originating transportation, respectively, remain in force. Under Order 74–4–145, foreign-currency rates for shipments destined to U.S. points, whether prepaid or collect, must be converted at the market rate of exchange for payment in U.S. dollars. And under Order 77–2–22, U.S. dollar rates for U.S.-originating collect shipments must be converted at the market rate of exchange where payment is made in another currency.[9] We fail to understand why the IATA carriers persist in using the old 021b exchange rates for conversion into the actual currency of payment when such rates are totally unrealistic in terms of today's currency values. We recognize that some carriers favor use of the market rates of exchange, and they are to be commended for their position. One can only assume that other carriers wish to continue overcharging passengers and shippers by using the 021b rates. The usual rationale advanced in support of the 021b rates, the avoidance of "losses in revenue," is unconscionable, and we would emphasize that the Board intends to maintain its conditions on the various IATA resolutions concerning the use of market rates of exchange.

AGREEMENT C.A.B. 26704

Also adopted at Vancouver, this agreement would revise various currency-related surcharges on cargo rates from foreign points to align such rates more closely to current currency values, and will be approved.

The Board, acting pursuant to section 102, 204(a) and 412 of the Act, makes the following findings:

1. It is not found that the following resolutions, incorporated in the agreements indicated, are adverse to the public interest or in violation of the Act provided that approval is subject, where applicable, to conditions previously imposed by the Board:

Agreement CAB	IATA No.	Title	Application
26707:			
R-1	001ll	Closing and Opening of Ndola Airport (Revalidating and Amending)	2;1/2;2/3.
R-2	002	Standard Revalidation Resolution	1;2;3;1/2;2 3;3 1; 1/2 3.
R-3	003	Standard Rescission Resolution	2;3;1 2;2 3;1 2 3.
R-4	012b	Definition of Middle East (Amending)	1;2;3;1 2;2 3;3 1; 1/2 3.
R-5	023b	Rounding Off Cargo Rates (Amending)	1;2;3;1/2;2/3;3/1; 1/2 3.
R-8	200c	Transportation of Human Eyes and Dehydrated Corneas (New)	2;3;1 2;2 3;1 2 3.
R-9	502	Low Density Cargo (Revalidating and Amending)	1;2;3;1/2;2/3;3/1; 1/2 3.
R-11	507b	Use of Surface Transportation (Revalidating/Readopting and Amending).	1;2;3;1/2;2/3;3/1; 1/2 3.
R-12	508	Chargse for Stalls (Revalidating and Amending)	1.
R-13	508	Charges for Stalls (Revalidating and Amending)	2;3;1 2;2 3;3 1;1/2 3.
R-16	511	Rates for Live Animals (Revalidating and Amending)	2.
R-18	512b	Air Cargo Rates—Airport to Airport (Revalidating/Readopting and Amending).	1;2;3;1/2;2/3;3[1; 1/2 3.
R-20	513	Charges on Mixed Consignments (Revalidating and Amending)	1;2;3;1/2;2/3;3/1; 1/2 3.
R-21	520a	General Rules for the Use of Unit Load Devices (Revalidating and Amending).	1;2;3;1/2;2/3;3/1; 1/2 3.
R-22	594	Definition of Valuable Cargo (New)	1;2;3;1/2;2/3;3/1; 1/2 3.
R-23	595	Special Rates for Valuable Cargo (Amending)	1;2;3;1/2;2/3;3/1; 1/2 3.
R-24	600j	Manual Air Waybill/Consignment Note (AWB) (Amending)	1;2;3.
R-26	680	Diplomatic Bags (Amending)	1;2;3;1/2;2/3;3/1; 1/2 3.
R-29	1008	Glossary of Air Traffic Terms Commonly Used (Amending)	1;2;3.
R-30	1600j	Instructions for Use of Manual Air Waybill (Amending)	1;2;3.
26701:			
R-2	003	Standard Resission Resolution	1;2;3;1/2;2/3;3/1; 1/2 3.
R-3	023	Fractionless Billing (New)	1;2;3;1 2;2 3;3;1; 1 2 3.
R-4	509	Charges for Disbursements (Amending)	1;2;3;1/2;2/3;3/1; 1/2 3.
R-6	511b	IATA Live Animals Board (Revalidating and Amending)	1;2;3.
R-8	520	Unit Load Devices Board (Revalidating and Amending)	1;2;3;1;2;2 3;3 1; 1/2 3.
R-10	600j	Manual Air Waybill/Consignment Note (AWB) (Amending)	1;2;3.
26703	021LL	Expedited—Special Rules for Currency Adjustments (Cargo Rates) (Revalidating and Amending).	1;2;3.
26704	022gg	JT12 (North Atlantic) Adjustment Factors for Sales of Cargo Air Transportation (New).	1/2.

C.A.B. 26707 as indicated, are adverse to the public interest or in violation of the Act provided that approval is subject, where applicable, to conditions previously imposed by the Board and, in additon, subject to the conditions set forth below:

Agreement CAB	IATA No.	Title	Application
26707:			
R-7	116a	Meeting Cargo Rates and Practices (New)	1; 2; 3; 1/2; 2 3; 3 1; 1/2 3.
		Provided that all notices sent or received pursuant to Resolution 116a shall be filed with the Board at the same time and in the same manner as circulated to the carriers; provided further that any unprotested amendment, change, deletion, or addition to the North Atlantic, Pacific or Western Hemisphere Cargo rate sinuctures and related resolutions, whether or not in air transportation as defined by the act, shall be filed with the Board under sec. 412 of the act and approved by the Board prior to being placed in effect.	
R-10	503	Charges in Relation to Value (Revalidating and Amending)	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.
		Provided that approval is limited through Sept. 30, 1978.	

[1] From the U.K., for instance, the tariffs provide for levels of 125 percent of the GCR for cold-blooded animals and 150 percent of the GCR for warm-blooded animals.

[2] Order 76–1–17, January 5, 1976.

[3] The proposed resolution apparently does not cover U.S. points in Traffic Conference 3 (Asia/Australia/Interpacific) and we will apply a similar condition there.

[4] These last two conditions on cold-blooded animals are consistent with similar conditions the Board placed on an earlier IATA live animal rate resolution, in Order 74–8–68, August 16, 1974.

[5] That report should include data showing the total shipments and number of shipments assessed excess value charges; amount of excess-value revenues; number of claims filed; and costs directly related to excess value such as claims expense on excess-value shipments.

[6] The International Conference was attended by representatives of governments, carriers, the IATA Secretariat, the Air Transport Association, the International Committee on Laboratory Animals, the International Society for the Protection of Animals, the International Union for Conservation of Nature and Natural Resources, and the World Wildlife Fund.

[7] We will also request comments on Resolution 512c (Agreement C.A.B. 26707, R–19) which proposes a charge of $2.50 for preparation of air waybills.

[8] The Resolution 021b rates reflect the parities of the U.S. dollar with other currencies prior to the February 1973 devaluation of the dollar.

[9] Where collect payment on such U.S.-originating shipments is made in U.S. dollars, the charges must not exceed the U.S. dollar amounts published in the carrier's official tariff on file with the Board.

V 42167 AUG 29 77 UMI

Agreement CAB	IATA No.	Title	Application
R-14	509	Charges for Disbursements (Revalidating and Amending).	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.
		Provided that approval of the resolution shall not constitute approval of any increase in the level of charges to or from United States points.	
R-15	511	Rates for Live Animals (Revalidating and Amending). Provided that: a. Cold-blooded animals are those which can be shipped in sealed containers and require no outside ventilation and include, but are not limited to, fish, frogs, iguanas, insects, reptiles, turtles and worms. b. The minimum charge to/from United States points for cold-blooded animals shall not exceed the applicable minimum charge specified in Resolution 501.	1.
R-17	511	Rates for Live Animals (Revalidating and Amending). Provided that: a. Cold-blooded animals are those which can be shipped in sealed containers and require no outside ventilation and include, but are not limited to, fish, frogs, iguanas, insects, reptiles, turtles, and worms. b. The minimum charge to/from United States points for cold-blooded animals shall not exceed the applicable minimum charge specified in Resolution 501. c. The rates and minimum charges to/from United States points for warm-blooded aninials shall not exceed 110 pct of the applicable general cargo rates and minimum charges, respectively.	3;1/2;2/3;3/1;1/2/3.

Accordingly, *it is ordered, That:*

1. Those portions of Agreements C.A.B. 26707, C.A.B. 26701, C.A.B. 26703 and C.A.B. 26704 set forth in finding paragraph 1 above be approved subject, where applicable, to conditions previously imposed by the Board;

2. Those portions of Agreement C.A.B. 26707 set forth in finding paragraph 2 above be approved subject, where applicable, to conditions previously imposed by the Board and subject in addition to the conditions stated therein;

3. Tariff provisions implementing the agreements approved here shall be marked to expire not later than September 30, 1979, with the exception of tariff provisions implementing Agreement C.A.B. 26707, R-10, which shall be marked to expire not later than September 30, 1978;

4. Carrier justifications and comments from interested persons regarding Agreement C.A.B. 26701, R-5 and R-7, and Agreement C.A.B. 26707, R-19, shall be submitted not later than 30 days after the date of service of this order; and

5. Replies to justifications and comments received in response to ordering paragraph 4 above shall be submitted not later than 45 days after the date of service of this order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-24988 Filed 8-26-77;8:45 am]

COMMISSION ON CIVIL RIGHTS

INDIANA ADVISORY COMMITTEE

Agenda of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a conference of the Indiana Advisory Committee (SAC) of the Commission will convene at 6 p.m. on September 30, 1977 and will end at 7 p.m. at Holiday Inn, U.S. 20 and I 94 at IN 249, Portage, Ind., and will reconvene Saturday, October 1, 1977 at 8 a.m. and will end at 4:30 p.m., Indiana University Northwest Campus, 3400 Broadway, Academic Building B, Room 102, Gary, Indiana.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 Southdearn Street, 32nd Floor, Chicago, Ill. 60604.

The purpose of this conference is to focus on open housing problems in Indiana.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 23, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-24991 Filed 8-26-77;8:45 am]

KANSAS ADVISORY COMMITTEE

Agenda of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a Conference of the Kansas Advisory Committee (SAC) of the Commission will convene at 1:00 p.m. on September 29th and will end at 4:30 p.m. September 30, 1977, Holiday Inn South, 3802 Topeka, Kans.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, 911 Walnut Street, Kansas City, Mo. 64106.

The purpose of this meeting is to attend a conference on corrections in the State of Kansas.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. August 23, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-24992 Filed 8-26-77;8:45 am]

NEW HAMPSHIRE ADVISORY COMMITTEE

Agenda of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Hampshire Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 10:00 p.m. on September 27, 1977, New Hampshire State Hospital Twitehele Building, 105 Pleasant Street, Concord, N.H.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss the status of the existing projects.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. August 23, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-24993 Filed 8-26-77;8:45 am]

NEW YORK ADVISORY COMMITTEE

Agenda of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a Conference of the New York Advisory Committee (SAC) of the Commission will convene at 8:30 a.m. and will end at 5:00 p.m. on September 28, 1977, New York Society for Ethical Culture, Library—Room 507 2 East 64 Street, New York, N.Y. 10023.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this conference Symposium—Root causes of Western Hemisphere Immigration.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 23, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-24994 Filed 8-26-77;8:45 am]

NORTH CAROLINA ADVISORY COMMITTEE

Agenda of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the North Carolina Advisory Committee (SAC) of the Commission will convene at 8:30 a.m. and will end at 6:00 p.m. on September 17, 1977, Federal Building Century Station, 300 Fayetteville Street Mall, Conference Room No. 303, Raleigh, N.C 27602.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, 75 Piedmont Avenue, N.E., Atlanta, Ga. 30303.

The purpose of this factfinding meeting is to conduct the North Carolina Advisory Committee's open meeting on conditions of migrants in North Carolina.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. August 23, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-24995 Filed 8-26-77;8:45 am]

OHIO ADVISORY COMMITTEE

Agenda of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Ohio Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 4:00 p.m. on September 24, 1977, Hollenden House, East Sixth Street and Superior, Cleveland, Ohio 44114.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Ill. 60604.

The purpose of this open meeting is to review information gathered on the Cleveland Affirmative Action Plan, discuss draft report on findings, and make plans for follow-up activities, discuss and decide the next phase of the Cleveland Study.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 23, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-24996 Filed 8-26-77;8:45 am]

SOUTH DAKOTA ADVISORY COMMITTEE

Agenda of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the South Dakota Advisory Committee (SAC) of the Commission will convene at 9:30 a.m. and will end at 1:00 p.m. on September 16, 1977, at the State Capital Building, Room 499, Pierre, S. Dak.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, 1405 Curtis Street, Denver, Colo. 80202.

The purpose of this meeting is to discuss current committee projects and make plans for future program.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C. August 24, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-24997 Filed 8-26-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

SEMICONDUCTOR TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Semiconductor Technical Advisory Committee will be held on Thursday, September 15, 1977, at 9:30 a.m. in Room 3817, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Semiconductor Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration, approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to semiconductor products, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has seven parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public.
(3) Review of membership status.
(4) Selection of new committee chairman.
(5) Review of export control regulations including the Commodity Control List with a view towards their simplification and clarification.
(6) New business.

EXECUTIVE SESSION

(7) Discussion of matters properly classified under Executive Order 11652 dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (7), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, P.L. 94-409 that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202-377-4196.

The Complete Notice of Determination to close portions of the series of meetings of the Semiconductor Technical Advisory Committee and of any subcommittees thereof was published in the FEDERAL REGISTER on March 2, 1977 (42 FR 12078).

Dated: August 24, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.77-24949 Filed 8-26-77;8:45 am]

Economic Development Administration

LUMURED CORP.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Lumured Corporation, 292 Smith Street, Woodbridge, New Jersey 07095, a producer of ladies' handbags, was accepted for filing on August 22, 1977, pursuant to Section 251 of the Trade Act of 1974 (P.L. 93-618) and Sec-

V 42 167 AUG 29 77 UMI

tion 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-24942 Filed 8-26-77;8:45 am]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

INTERNATIONAL WHALING COMMISSION REGULATION PROHIBITING ALL TAKE OF BOWHEAD WHALES

Modification of Public Hearing Date

On August 18, 1977, notice was given in the FEDERAL REGISTER (42 F.R. 41655) that informal public hearings would be held in Washington, D.C., and Alaska to facilitate the presentation of comments from interested persons on the International Whaling Commission's deletion of native exemption for the subsistence harvest of bowhead whales.

The hearing time and date scheduled for Barrow, Alaska, has been changed from 1:00 p.m., September 13, 1977, to 9:00 a.m., September 12, 1977. All other hearing dates, times, and places remain as published in the August 18, 1977, FEDERAL REGISTER Notice (42 FR 41655).

Dated: August 24, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-24944 Filed 8-26-77;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN MAN-MADE FIBER TEXTILE PRODUCTS FROM THE PHILIPPINES

Level of Restraint; Correction

AUGUST 24, 1977.

On August 9, 1977, there was published in the FEDERAL REGISTER (42 FR 40304) a letter dated August 5, 1977 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs amending and extending the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 15, 1975, between the Governments of the United States and the Republic of the Philippines. The level of restraint established in the August 5 letter for knit T-shirts, other shirts (including blouses), and tops and vests in Category 218/219/224 (part) should have been expressed in dozens, instead of square yards equivalent.

Accordingly, there is published below a letter of August 24, 1977 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs amending the directive of August 5, 1977, effective on August 29, 1977, to show a level of restraint of 719,393 dozen for Category 218/219/224 (part), instead of 11,292,334 square yards equivalent.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

August 24, 1977.

COMMISSIONER OF CUSTOMS,
Department of the Treasury, Washington, D.C.

DEAR MR. COMMISSIONER: This directive amends but does not cancel, the directive issued to you on August 5, 1977 by the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain specified categories of cotton and man-made fiber textile products, produced or manufactured in the Philippines.

The second paragraph of the directive of August 5, 1977 is amended, effective on August 29, 1977, to show the following level of restraint for Category 218/219/224 (part), produced or manufactured in the Philippines and exported to the United States during the fifteen-month period which began on October 1, 1976 and extends through December 31, 1977:

Category:	*15-mo level of restraint* [1]
218/219/224 (part) [2]------	719,393 doz.

[1] The level of restraint has not been adjusted to reflect any imports after Sept. 30, 1976.

[2] In Category 224, only T.S.U.S.A. Nos. 382.-0455 and 382.7879.

The actions taken with respect to the Government of the Republic of the Philippines and with respect to imports of man-made fiber textile products from the Philippines have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.77-24966 Filed 8-26-77;8:45 am]

COMMISSION ON FEDERAL PAPERWORK

PUBLIC MEETING

Notice is hereby given of the fifteenth regular meeting of the Commission on Federal Paperwork to be held on September 9, 1977, in Room 2154, Rayburn House Building, Washington, D.C.

The meeting will begin at 9 a.m. and will continue until approximately 12 noon. The meeting will be open to the public. The Commission will review progress on approved projects, including reports in the following areas: Information Resource Management, Federal Reports Act of 1942/The Clearance Process, Ombudsman Activities, Summary Impact Studies, Information Value/Burden Assessment, Service Management and the Final Summary Report.

Anyone wishing to attend the meeting is invited. For further details, contact the Commission on Federal Paperwork, Room 2000, 1111 20th Street NW., Washington, D.C. 20582, telephone 202-653-5400.

FRANK HORTON,
Chairman.

[FR Doc.77-25059 Filed 8-26-77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to Procurement List 1977 a service to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: August 29, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On July 1, 1977 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (42 FR 33788) of proposed additions to Procurement List 1977, November 18, 1976 (41 FR 50975).

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following service is hereby added to Procurement List 1977:

SIC 7349

Janitorial Services, Naval Air Station, Whidbey Island, Oak Harbor, Washington. For the following buildings only: 12, 18, 100, 103, 108, 110, 113, 116, 124, 126, 365, 369, 371, 385, 386, 960, 961, 975, 994 and 2547.

C. W. FLETCHER,
Executive Director.

[FR Doc. 77-25083 Filed 8-26-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

The following is a list of environmental impact statements received by the Council on Environmental Quality from August 15 to August 19, 1977. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (October 10, 1977) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Errett Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 307A, Washington, D.C. 20250 (202-447-6827).

FOREST SERVICE

Final

Buck Creek and Yellow Mules Permit, Gallatin National Forest, Gallatin and Madison Counties Mont., Aug. 19: The proposed action is the granting of a special use permit to Burlington Northern Railroad to construct a road through sections of the Gallatin National Forest, Montana. The purpose of the 3.4 miles of road is to allow Yellowstone Pine Lumber Company to gain access to Burlington Northern lands for timber harvest. The timber site is intermingled with 27.1 acres in the Buck Creek and Yellow Mule drainages of Gallatin National Forest. The project will affect water quality and quantity, wildlife habitat, esthetics, and increase wildfire hazards. Comments made by: EPA, DOI, USDA, State and local agencies. (ELR Order No. 71020.)

SOIL CONSERVATION SERVICE

Draft

Roosevelt Water Conservation District Floodway, Maricopa and Pinal Counties, Ariz. Aug. 16: Proposed is the construction of a structural measure for watershed protection and flood prevention located in Maricopa and Pinal Counties, Arizona. The flood prevention purposes will be achieved by installing 27.36 miles of floodway. The floodway will provide an outlet for flood flows, for existing and planned floodwater structures, through the Gila River Indian Reservation to the Gila River. It will also provide an outlet for the coordinated system of floodwater drains that will be installed between the existing and planned floodwater retarding structures and the floodway. (ELR Order No. 70998.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202-377-4335)

NATIONAL OCEANIC AND ATMOSPHERIC ADMIN.

Final

California Coastal Zone Management Program, California, Aug. 16: Proposed is the approval of the Coastal Zone Management Program application of the State of California pursuant to Pub. L. 92-583. Approval would permit implementation of the proposed program, allowing program administrative grants to be awarded to the State, and require that Federal actions be consistent with the program. Approval and implementation of the program will restrict or prohibit land and water uses in certain parts of the California coast, while promoting and encouraging the development and use activities in other parts. Comments made by: AHP, USDA, DOC, COE, DOD, HEW, HUD, DOI, DOT, ERDA, EPA, State and local agencies, concerned groups and individuals. (ELR Order No. 70994.)

DEPARTMENT OF DEFENSE

AIR FORCE

Contact: Col. Luis F. Dominguez, Department of the Air Force, Room 5D 431, Pentagon, Washington, D.C. 20330 (202-697-7799).

Draft

Space Shuttle Program, Vandenberg AFB, Santa Barbara County, Calif., Aug. 18: The proposed action comprises construction, activation, and operation of Space Shuttle facilities at Vandenberg AFB and Port Hueneme Harbor, Calif. There are seven elements in the proposed action, namely: Landing strip extension and other modifications; New Orbiter processing facilities adjacent to VAFB; new facilities at Port Hueneme Harbor to receive, process, and store Shuttle Extenal Tanks (ETs) and recovered spent Solid Rocket Boosters (SRBs) delivered by sea; new marine facility on the VAFB coast for receipt of ETs and SRBs; a tow route for transporting the Orbiter; and modified, expanded support facilities at SLC-6 for handling of cryogenic propellants. (ELR Order No. 71012.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314 (202-693-6795).

Draft

Michigan City Harbor, O & M, Porter and LaPorte Counties, Ind., Aug. 18: Proposed is the continued operation and maintenance of the Michigan City Harbor, Indiana Navigation Project. A diked containment structure for the polluted dredged material removed from the Harbor, with an incorporated effluent filter, will be constructed on a 3.5 acre land site adjacent to Trail Creek. Harbor sediments classified as unpolluted or suitable for unrestricted or open-lake disposal by Region 5, USEPA, will be dredged as needed to provide for safe navigation and deposited in an open-lake disposal site. Adverse effects include permanent loss of terrestrial vegetation and associated wildlife occupying the contained disposal site. (Chicago) (ELR Order No. 71008.)

Broadway Lake Demonstration Project, Anderson County, S.C., Aug. 18: The proposed action consists of a demonstration project in which the U.S. Army Corps of Engineers will present a plan to remove sediment and aquatic weeds from shoaled areas in the upper reaches of Broadway Lake in South Carolina in order to restore environmental quality. Lake biota would be adversely impacted by the combined effects from dredging and lake drawdown. Adverse effects would range from overt, acute effects visible in the form of fish kills to the less obvious subtle change or degradation in aquatic community structures. (Savannah District.) (ELR Order No. 71007.)

Final

Town Bluff Dam and Sam Rayburn Dam, several counties in Texas, Aug. 17: Proposed is an integrated operation and maintenance program at the Town Bluff Dam—B.A. Steinhagen Lake and the Sam Rayburn Dam and Reservoir. The program consists of flood control, generation of hydroelectric power, water conservation, fish and wildlife conservation and public recreational facilities development. Adverse effects include increased sanitation problems, altered water quality and chemistry caused by storage, and the displacement of some wildlife species. (Fort Worth District.) Comments made by: EPA, DOI, USDA, DOC, FPC, HEW, DOT, State and local agencies interest groups. (ELR Order No. 71006.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Please refer to the separate notice published by EPA in this issue of the FEDERAL REGISTER for the appropriate EPA contact.

Draft

Ottumwa Generating Station, NPDES Permit, Iowa, Aug. 16: Proposed is the issuance of a new source NPDES permit for discharge of wastewaters from Iowa Southern Utilities' proposed Ottumwa Generating Station (OGS). The proposed site for the 727 megawatt coal-fired steam-electric generating station is located adjacent to the Des Moines River approximately 8 miles northwest of Ottumwa, Iowa. OGS will utilize a closed-cycle cooling system and will require make-up water at a rate of 17 cfs at maximum load conditions. Total discharge to the Des Moines River is estimated to be 1.4 cfs at maximum load conditions. The Des Moines River will be impacted by water withdrawal and wastewater discharge. (Region VII.) (ELR Order No. 70997.)

Ghent Generating Station, Units 3 and 4, Carroll County, Ky., Aug. 19: Proposed is the expansion by Kentucky Utilities of the Ghent Station by adding two 500 megawatt units which will approximately double the station's electrical generating capacity. The expansion will involve: the additional clearing of 13.3 acres to add to 60 acres formerly cleared during construction of the existing units 1 and 2, two generating units, a 660 foot stack, two mechanical draft cooling towers, expansion of the switchyard, expansion of ash pond, new water intake and discharge structures and a 40 mile long 345 kilovolt transmissionline to the Frankfort area. Adverse effects include increased noise and air pollution during construction. (ELR Order No. 71019.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410 (202-755-6308).

V 42 167 A AUG 29 77 UMI

Draft

Oak Park Development, Ventura County, Calif., Aug. 17: The proposed project provides for the development of 6517 dwelling units in an urbanized portion of Ventura County, California. The project will include 1445 units of detached single family housing and 600 apartment units. The project will contain 2847 acres; 1,246 acres will be developed for the above uses and the balance will remain in open space. HUD will insure a mortgage on the land to enable the developer to borrow funds to grade the site, construct roads, sewers, storm drainage, and water lines, and provide other on-site improvements. Adverse impacts will effect identified Chumash Indian sites, ambient air quality, and public services. (ELR Order No. 71003.)

Riverside Green and Riverside Hills Subdivisions, Franklin County, Ohio, Aug. 19: Proposed is the development of two subdivisions in Columbus, Ohio. Riverside Green development involves the subdivision of a 164 acre tract of land into 880 dwelling units, including school and commercial areas. The Riverside Hills project involves the development of a 155 acre tract of land into 568 dwelling units, including space for schools and commercial use. Adverse effects include the removal of vegetation and wildlife habitat, increased storm water run-off, conversion of agricultural land to urban use, and increased traffic and air and noise pollution levels. (ELR Order No. 71018.)

Final

Proposed Cimarron Subdivision, Harris County, Tex., Aug. 15: The proposed action is the acceptance for HUD home mortgage insurance purposes of the Harris Co. Municipal Utility District No. 148, known as the Cimarron Subdivision, in Harris County, Texas. The project will consist of 2688 single family homes plus recreational facilities. Adverse impacts include removal of potential forest land and livestock grazing land and an increased demand on fossil fuels through heavy dependence on the automobile for transportation. Comments made by: COE, AHP, USDA, EPA, DOT, State and local agencies, concerned interest groups. (ELR Order No. 70993.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240 (202-343-3891).

BUREAU OF LAND MANAGEMENT

Final

Pacific Power and Light Co., 500 kV Powerline, Oregon, Aug. 15: Proposed is the construction, operation, and maintenance of a 500,000 volt electric transmission line by Pacific Power and Light Company. The project would be located between the Midpoint Idaho substation and a new substation site northeast of Midford, Oregon. Capable of carrying 1500 megawatts of electric energy, the new powerline would utilize the large blocks of excess Wyoming Power. The proposed action would result in an increment of damage to the soil, vegetation, wildlife population and habitat, and the cultural and esthetic resources of the area. Comments made by: AHP, USDA, EPA, DOI, State and local agencies concerned interest groups. (ELR Order No. 70990.)

BUREAU OF RECLAMATION

Draft

Pecos R. Basin Water Salvage Project, New Mexico and Texas, Aug. 18: The proposed project is a phreatophyte management program consisting of the selective cleaning of saltcedar from the flood plain of the Pecos River from Santa Rosa, New Mexico to Girvin, Texas. The area of clearing extends through Guadalupe, DeBaca, Chaves, and Eddy Counties in New Mexico and through Loring, Reeves, Ward, Crane, and Pecos Counties in Texas. To date, 53,950 acres have been selectively cleared; additional clearing is planned on 24,000 acres—14,000 acres scheduled for selective clearing and 10,000 (within McMillan Delta) deferred until provision has been made for replacement of terminal storage. (ELR Order No. 71010.)

Final

San Juan Powerplant Expansion, San Juan County, N. Mex., Aug. 18: Proposed is the construction and operation of 3 additional operating units at the existing San Juan plant, 12 miles north of Farmington. At the projected date of completion in 1981 the four units will produce a net total generating capacity of 1588 MWe. As each unit becomes operational, new areas will be mined on the existing Western Coal Company mine lease area. The primary adverse impact of project implementation is the temporary disturbance of 2,800 acres of land during the mining operation. Comments made by: AHP, USDA, COE, DOC, HEW, DOI, DOT, EPA, ICC, State and local agencies concerned groups and individuals. (ELR Order No. 71009.)

Esquatzel Coulee Wasteway, Franklin County, Wash., Aug. 18: The proposed project would enlarge 3.2 miles of constructed temporary channel of the Esquatzel Coulee Wasteway in Franklin, Washington. The constructed reach would be extended .9 mile downstream and 1.5 miles of constructed channel upstream from the reach would be abandoned. Five thousand linear feet of unstable banks in the natural reaches of the wasteway would be sloped and stabilized. Adverse impacts include reduction of vegetation at borrow sites; displacement of 85 acres of agricultural land and 10 acres of undisturbed land; and acquisition of 300 acres of farm land and 1,500–2,000 acres of rangeland. Comments made by: DOI, USDA, COE, HEW, AHP, EPA, FPC, HUD, DOT, State and local agencies concerned groups and individuals. (ELR Order No. 71011.)

NATIONAL PARK SERVICE

Draft

Cumberland Island National Seashore, Ga., Aug. 16: This statement consists of a general management plan and wilderness proposal for Cumberland Island National Seashore, Georgia, to provide for development of visitor facilities on the island and mainland, establish visitor programs and use levels, generate resource management policies, and propose 20,645 acres for wilderness designation. Cumberland Island is situated in southeastern Georgia just north of the St. Mary's River, which forms the Georgia/Florida state line. Adverse effects of the proposed plan include disturbance of natural features as a result of visitor developments and intensified use. (ELR Order No. 70995.)

Draft

Cumberland Gap N.P. Master Plan, Kentucky, Tennessee, and Virginia, Aug. 19: Proposed is a master plan for the Cumberland Gap National Historical Park, located in Kentucky, Virginia, and Tennessee. The plan calls for relocation of U.S. 25E, re-creating the wilderness appearance of historic Cumberland Gap, construction of a motor-history trail serving Hensley Settlement, and boundary changes requiring land acquisition in Kentucky and Tennessee. The relocation of U.S. 25E will have significant economic, ecologic, and sociologic impacts on the park and region. (ELR Order No. 71015.)

Supplement

Olympic National Park, Master Plan (S-1), Wash., Aug. 16: This statement supplements a final EIS filed with CEQ in July 1976. The supplement presents additional information on two proposals in the final statement on the master plan—i.e., addition of the Point of the Arches area to the park and deletion of lands at La Push from the park. Addition of lands along the shore of Ozette Lake, which was mentioned in the final EIS, is discussed more thoroughly since it was included in the act of October 21, 1976, which revised the boundary of Olympic National Park (ELR Order No. 70996.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426-4357.

FEDERAL AVIATION ADMINISTRATION

Final

Hollywood-Burbank Airport, Calif., Aug. 19: Proposed is the public acquisition and continued operation of the existing Hollywood-Burbank Airport. Lockheed Air Terminal, Inc., the current owner/operator, has given notice that it will close the airport to public use, and divest itself of the airport facility. The alternatives to public acquisition and operation of the airport consist of two basic options: "No Action" and the substitution of "Alternative Transportation Modes" for the transportation functions presently served by the Airport. (Western Region.) Comments made by: EPA, HUD, DOT, State and local agencies, concerned groups and individuals. (ELR Order No. 71013.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

Hooper Rd. and Hardin Blvd.—Hooper Rd. Connection, East Baton Rouge Parish, La., Aug. 16: This statement discusses the impacts which may result from the construction of two projects in East Baton Rouge Parish, Louisiana, State Project No. 255–02–20 begins at the junction of Plank Road and Harding Boulevard and continues in a northeasterly direction for approximately 2,700 feet, where it merges into the existing alignment of Hooper Road. It is at this point that State Project No. 255–02–14 begins. This project proceeds east along the existing alignment of Hooper Road, for a distance of approximately 3.9 miles, to its terminus approximately 1,000 feet east of Blackwater Bayou. A 4(f) statement is included. (Region 6.) (ELR Order No. 70999.)

Route 168—Great Bridge By-pass, Chesapeake County, Va., Aug. 15: Proposed is the construction of Route 168 Great Bridge By-pass located within the city of Chesapeake. The facility will consist of two 24 foot wide lanes separated by a 40 foot wide depressed median, beginning just south of Kegman Road and proceeding in a northerly direction for 4.4 miles to the intersection of Oak Grove Road and Battlefield Boulevard. The entire facility will be on new location and will cross the Chesapeake and Albemarle Canals. Adverse effects include the relocation of 29 families and 2 businesses and the destruction of approximately 2.6 acres of wetlands. (Region 3.) (ELR Order No. 70992.)

Washington Forest Highway, Route 32 Improve, Skagit and Whatcom Counties, Wash., Aug. 17: The proposed action is to reconstruct the Bacon Creek to Goodell Creek segment of Washington FH 32 following the existing highway alignment with minor exceptions. This route is located in Skagit and Whatcom Counties and follows the Skagit River along the north shore. The proposal will provide a two-lane, paved road adequate for diversified highway uses, which include local, residential, and community travel, but predominantly recreational travel. The proposed project is approximately 9.4 miles in length. Approximately 153 acres of land will be required for right-of-way. (Region 10.) (ELR Order No. 71005.)

Final

I-35E, South Junction I-35 to Junction T.H. 110, Dakota County, Minn., Aug. 17: Proposed is the building of 13 miles of a four to six lane freeway, designated I-35E, on new alignment through north-western Dakota County, Minnesota. The proposed action would begin at its interchange with I-35 in Burnsville, pass through the cities of Apple Valley and Eagan, and terminate near its interchange with T.H. 110 in Mendota heights. Adverse effects include the displacement of 20 existing homes and 250 acres of farm lands, removal of 28 acres of wetland, 275 acres of deciduous trees, and several hundred acres of wildlife habitat. (Region 5.) Comments made by: DOI, USDA, COE, EPA, DOT, AHP, State and local agencies, interest groups. (ELR Order No. 71004.)

Ocean Boulevard, Morris-Ocean Ave., Monmouth County, N.J., Aug. 16: Proposed is the construction on new alignment of an urban highway, Ocean Boulevard, from its present terminus at Morris Avenue North to Ocean Avenue (N.J. Route 36) in the City of Long Branch, N.J. The total project length is approximately 9000 feet or 1.6 miles. The minimum right-of-way of 110 feet will provide for a land-service facility with two travel lanes plus paved shoulders in each direction separated by a narrow grassed mall. Adverse effects include the displacement of 158 individuals and 11 businesses. A preliminary 4(f) discussion is also included. (Region I.) Comments made by: AHP, FEA, USCG, USDA, HEW, HUD, DOI, EPA, State, and local agencies. (ELR Order No. 71000.)

Sprain Brook Pkwy., Westchester County, N.Y., Aug. 19: The proposed project is the extension of the Sprain Brook Parkway from the Cross Westchester Expressway (CWE) (I-287) northerly to the Hawthorne Interchange, a distance of 2.7 miles. This project originates in the Village of Elmsford at the interchange with CWE and continues northerly until it passes under Grasslands Road about 800 feet west of the Bradhurst Ave.-Knollwood Rd. intersection. The project terminates about 1000 feet north of N. Hospital Rd. after passing under it. The proposed section would be the third and final section, completing the Parkway. Subject to the alternate chosen, 8 to 46 residences will be displaced. (Region 1.) Comments made by: USDA, HEW, DOI, FPC, EPA, USCG, State, and local agencies interest-groups. (ELR Order No. 71014.)

Freeman Mill Road, Meadowview to Randleman Rds., Guilford County, N.C., Aug. 17: Proposed is the relocation of Freeman Mill Road (S.R. 1398) in the City of Greensboro, N.C., from the proposed relocation of U.S. 220 at Meadowview Road to Randleman Road, a freeway into the central area of the city. The proposed action will serve as a connector between these two freeway facilities, and is approximately 1.4 miles in length. Adverse effects include the acquisition of private land for public use and the relocation of 121 families, two churches, and 7 businesses. (Region 4.) Comments made by: DOI, USDA, EPA, GSA, HEW, HUD, State, and local agencies. (ELR Order No. 71002.)

U.S. 69, Bryan County, Okla., Aug. 15: Proposed is the improvement of U.S. 69 near Armstrong in Bryan County northerly 25.0 miles to just south of Atoka in Atoka County. Adverse effects include the displacement of 25 families, 10 businesses, the reduction of 1000 acres of private rural lands, and the taking of 16 acres of Durant Fish Hatchery Lands, a Section 4(f) undertaking. (Region 6.) Comments made by: DOI, State, and local agencies. (ELR Order No. 70991.)

Supplement

I-380, Black Hawk County (S-1), Iowa, Aug. 19: This statement supplements a final EIS filed with CEQ in June 1975 concerning I-380 in Linn, Benton, Buchanan and Black Hawk Counties. The supplement relates to the section of I-380 from near U.S. 218 in Waterloo easterly through Evansdale to Iowa 297. Adverse impacts include the additional acquisition of 25 acre of agricultural cropland, 24 acre of municipal row-crop, 16 acres of woodland, and 3 acres of residential land. (ELR Order No. 71017.)

The CEQ FEDERAL REGISTER notice of August 5, 1977 listed the Final environmental impact statements for Loop 1 (Mo Pac Blvd.)—South Section (ELR Order No. 70925) and Loop 1 (Mo Pac Blvd.)—North Section (ELR Order No. 70926), but omitted the word "Final" before these two listings.

NICHOLAS C. YOST,
Acting General Counsel.

[FR Doc.77-24953 Filed 8-26-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

PROCUREMENT POLICY ADVISORY COMMITTEE

Meeting

AUGUST 23, 1977.

In accordance with provisions of Public Law 92-463 (Federal Advisory Committee Act) the Procurement Policy Advisory Committee will hold its next meeting from 9:00 a.m. to 3:30 p.m., Tuesday, September 27, 1977, in Building 1, Lobby 1, Hughes Aircraft Company, Centinela and Teale Avenues, Culver City, California. This meeting will be open to the public. The purpose of the meeting is to discuss those subjects included on the following agenda:

9–9:15 a.m.—Opening remarks.
9:15–10:15 a.m.—Summary Report on New Department of Energy.
10:15–10:30 a.m.—Break.
10:30 –12m—Discussion of Committee Recommendations: a. Organizational Conflicts of Interest; b. Standard Reporting Requirements; c. Contract Funding Problems.
12m–1:15 p.m.—Lunch.
1:15–2:30 p.m.—Discussion of Committee Recommendations (continued): d. Handling and Protection of Intellectual Property; e. ERDA Procurement Practices.
2:30–2:45 p.m.—Break.
2:45–3:15 p.m.—f. ERDA's Role and Mission.
3:15–3:30 p.m.—Closing remarks.
3:30 p.m.—Adjournment.

Practical considerations may dictate unannounced alterations in the agenda or schedule.

Mr. Stephen W. Rowen, Chairman of the Committee, will preside.

With respect to public participation in agenda items, scheduled above, the following requirements shall apply:

(a) Persons wishing to submit written statements on agenda items may do so by mailing 12 copies thereof post-marked no later than September 15, 1977, to the Director of Procurement, Room C-167, U.S. Energy Research and Development Administration, Washington, D.C. 20545. Comments shall be directly relevant to the above agenda items. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call on September 20, 1977, to Mr. Harry Tayloe, Division of Procurement, on 301–353–5526 between 8:30 a.m. and 5:00 p.m., e.s.t.

(c) Questions at the meeting may be propounded only by members of the committee and ERDA officials assigned to participate with the committee in its deliberations.

(d) Seating will be made available to the public on a first-come, first-served basis.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Copies of minutes will be made available for copying, following their certification by the chairman, in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545, upon payment of all charges required by law.

HARRY L. PEEBLES,
Deputy Advisory Committee Management Officer.

[FR Doc.77-24874 Filed 8-26-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

ANTHRACITE COAL CONFERENCE

Public Hearing

Notice is hereby given that the Federal Energy Administration (FEA) on behalf of the Anthracite Coal Conference, will hold a public hearing on Friday, September 16, 1977, 10:00 a.m., at the Gus Genetti Motor Lodge, Route 309, Hazleton, Pennsylvania 18201.

The objectives of the Anthracite Coal Conference are to make recommendations to the FEA with respect to the increased utilization of anthracite coal as a readily available energy source and the maintenance of fair and reasonable consumer prices for such supplies. In support of this commitment, Mr. Schlesinger has charged the FEA with the responsibility for studying ways to improve the production of anthracite coal. This is an essential part of meeting the National Energy Plan of increasing coal production by ⅔ (over one billion tons) by 1985. It is the first important step in identifying specific measures for increasing our reliance on coal and as a result of this prototype study similar efforts concerning other types of coal can commence. The study of the utilization of anthracite coal must be completed and presented to Mr. Schlesinger

V42167 AUG 29 77 UMI

by mid-October, closely coinciding with the formation of the Department of Energy.

The Anthracite Coal Conference, which is composed of senior level Federal and State officials, industry representatives and other individuals with extensive anthracite experience, is in the process of developing policy recommendations for the final report to Mr. Schlesinger. As a result, it has been determined that a public hearing will provide the FEA an opportunity to receive comments and recommendations from interested persons who have expertise in various areas of anthracite coal.

The Chairman of the meeting is empowered to conduct the hearing in a fashion that will, in his judgment, facilitate the orderly conduct of business. Oral presentations will be limited to fifteen minutes. Any member of the public who wishes to file a written statement will be permitted to do so, either before or ten days after the hearing. Those wishing to present oral statements must notify Stephen Minihan or Beth Nelson, FEA Headquarters, Room 3502, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461 (202) 566-6230. These requests to appear must be received by Friday, September 9, 1977, to be accompanied by three copies of the prepared statement.

Transcripts of the hearing will be available for public review and copying at the Freedom of Information Public Reading Room, Room 2107, FEA Headquarters, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461 between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C. on August 23, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-24869 Filed 8-26-77;8:45 am]

CONSUMER AFFAIRS/SPECIAL IMPACT ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given that the Consumer Affairs/Special Impact Advisory Committee will meet Tuesday, September 20, 1977, at 9 a.m., Room 5041, FEA Headquarters, 12th and Pennsylvania Avenue NW., Washington, D.C.

The purpose of the Committee is to provide the Federal Energy Administration with advice concerning the impact of FEA policies nd programs on consumers and special impact groups.

The agenda for the meeting is as follows:

1. Old Business. Report on the Status of CA/SI Advisory Committee Recommendations and Requests and FEA Commitments
2. Pending Policy Issues.
3. Subcommittee Reports: Energy Consumption Problems and Utilities; Transportation Programs; Energy Legislation and Regulations; Energy Efficiency Standards Conservation and Ecology.
4. Discussion. Status of the National Energy Act.
5. Items for Discussion at the Next Meeting.
6. Public Comment.

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Acting Director, Advisory Committee Management (202) 566-9996, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

The transcript of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 2107, FEA, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on August 23, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc 77 24867 Filed 8-26-77;8:45 am]

CONSUMER AFFAIRS/SPECIAL IMPACT ADVISORY COMMITTEE SUBCOMMITTEES

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given that subcommittees of the Consumer Affairs/Special Impact Advisory Committee will meet Monday, September 19, 1977, at the location and time indicated below.

The objective of the subcommittees is to make recommendations to the parent Committee with respect to matters concerning consumer aspects of FEA policies and programs.

The agenda and schedule of meetings is as follows:

ENERGY CONSUMPTION PROBLEMS AND UTILITIES

Room 3000A, FEA Headquarters, 12th and Pennsylvania Avenue, NW., Washington, D.C. 9 a.m.

Agenda: Discussion and Development of Recommendations on the National Energy Act—Utility Issues.

TRANSPORTATION PROGRAMS

Room 5041, FEA Headquarters, 12th and Pennsylvania Avenue, NW., Washington, D.C. 9 a.m.

Agenda: Discussion and Development of Recommendations on National Energy Act—Transportation Issues; Gasohol.

ENERGY LEGISLATION AND REGULATIONS

Room 3000A, FEA Headquarters, 12th and Pennsylvania Avenue, NW., Washington, D.C., 1 p.m.

Agenda: Discussion and Development of Recommendations on National Energy Act; Proposed FEA Regulations; Other Energy Related Legislation.

ENERGY EFFICIENCY STANDARDS CONSERVATION AND ECOLOGY

Room 5041, FEA Headquarters, 12th and Pennsylvania Avenue, NW., Washington, D.C., 1 p.m.

Agenda: Discussion and Development of Recommendations on National Energy Act—Conservation Issues; Solar Energy.

The subcommittee meetings are open to the public. The Chairman of each subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with a subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Acting Director, Advisory Committee Management (202) 566-9996, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning these meetings may be obtained from the Advisory Committee Management Office.

The transcript of the meetings will be available for public review at the Freedom of Information Public Reading Room 2107, FEA, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C. on August 23, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-24868 Filed 8-26-77; 8:45a.m.]

FEDERAL MARITIME COMMISSION

CONFERENCES IN THE TRADES TO, FROM AND BETWEEN UNITED STATES ATLANTIC AND GULF PORTS AND PORTS IN CENTRAL AND SOUTH AMERICA AND THE CARIBBEAN

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to Section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 19, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the Commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Wade S. Hooker, Esquire, Casey, Lane & Mittendorf, 26 Broadway, New York, N.Y. 10004.

Agreements to modify the respective organic agreements of the following seven members of the Associated Latin American Freight Conferences (ALAFC) have been assigned the agreement number shown:

Atlantic and Gulf/West Coast of South America Conference—2744-40
Atlantic and Gulf/Panama Canal Zone, Colon and Panama City Conference—3868-25
United States Atlantic and Gulf-Jamaica Conference—4610-26
United States Atlantic and Gulf-Santo Domingo Conference—6080-25
Leeward and Windward Islands and Guianas Conference—7540-30
East Coast Colombia Conference—7590-26
United States Atlantic and Gulf-Haiti Conference—8120-20

The Agreements provide that the self-policing, enforcement and cargo inspection activities for each conference are to be conducted pursuant to the provisions relevant thereto as set forth in the organic agreement of the ALAFC and that such activities are to be carried out by the neutral body engaged by ALAFC for that purpose.

By Order of the Federal Maritime Commission.

Dated: August 22, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-25014 Filed 8-26-77;8:45 am]

CONTINENTAL NORTH ATLANTIC WESTBOUND FREIGHT CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to Section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 19, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the Commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Howard A. Levy, Esq., Suite 727, 17 Battery Place, New York, N.Y. 10004.

Agreement No. 8210-36, among the members of the above-named conference, adds traffic to inland U.S. points via North Atlantic ports to the scope of the agreement. The conference at present has such inland authority only in Europe on cargo moving via Bordeaux/Hamburg range ports.

Cargo moving on a through bill of lading and transhipped at a conference port as part of an all-water movement to or from ports outside the scope of the conference is excepted from the agreement.

By Order of the Federal Maritime Commission.

Dated: August 24, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-25015 Filed 8-26-77;8:45 am]

EUROPE PACIFIC COAST RATE AGREEMENT

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to Section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 19, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the Commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

EUROPE PACIFIC COAST RATE AGREEMENT

(MODIFICATION OF AGREEMENT)

Notice of Agreement Filed by:

H. G. Brandt, Secretary, P.O. Box 341, Westplein 14, Rotterdam, The Netherlands.

Agreement No. 10023-8 requests extension of the terms of the basic agreement.

By order of the Federal Maritime Commission.

Dated: August 24, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-25013 Filed 8-26-77;8:45 am]

[No. 77-45]

HAWAII MEAT CO., LIMITED V. MATSON NAVIGATION CO.

Filing of Complaint

AUGUST 22, 1977.

Notice is hereby given that a complaint filed by Hawaii Meat Company Limited against Matson Navigation Company was served August 22, 1977. The complaint alleges violations by respondent of section 16, 18, and 19 of the Shipping Act, 1916 in connection with its assessment of rates and charges for transportation.

Hearing in this matter, if any is held, shall commence on or before February 22, 1978. The hearing shall include oral testimony and cross examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters at issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-25016 Filed 8-26-77;8:45 am]

V 42 167 AUG 29 77 UMI

FEDERAL POWER COMMISSION

[Docket No. RP77-110]

ALABAMA-TENNESSEE NATURAL GAS CO.

Order Rejecting Proposed PGA Tariff Revisions

AUGUST 18, 1977.

On July 19, 1977, Alabama-Tennessee Natural Gas Co. (Alabama-Tennessee) tendered for filing in the above docket certain proposed revisions to its tariff PGA clause [1], which are requested to become effective on August 18, 1977. For the reasons set forth below the Commission finds that Alabama-Tennessee's filing must be rejected.

In support of the proposed revisions to its PGA clause, Alabama-Tennessee states that it is "* * * engaged in efforts to supplement its present gas supply from Tennessee Gas Pipeline Co., its sole supplier, which has been subjected to severe curtailments in recent years. In order to contract for any new supply or supplies, it is necessary that Alabama-Tennessee be able to recoup from its customers the cost of such new supplies. The purpose of this filing is solely to accomplish this purpose."

Public notice of Alabama-Tennessee's filing was issued on August 3, 1977, providing for protests or petitions to intervene to be filed on or before August 15, 1977. On August 5, 1977, the Tennessee Valley Municipal Gas Association (TVM) [2] filed a petition to intervene in the proceeding and, in addition, protested Alabama-Tennessee's filing, requested that it be rejected, or in the alternative, that it be suspended for the maximum period of five months. Alabama-Tennessee answered in opposition to TVM on August 17, 1977. The Commission finds that the petitioners have demonstrated an interest in this proceeding warranting their participation and the petitions to intervene shall accordingly be granted.

TVM alleges that Alabama-Tennessee's proposed revisions to its PGA clause would be contrary to the Commission's regulations and policies and would result in unfair charges to the company's jurisdictional customers. TVM raises the following specific objections to the revisions proposed by Alabama-Tennessee:

"(a) Alabama-Tennessee would pass on to its customers the cost of demand charges paid by Alabama-Tennessee to its suppliers but would not credit the customers with demand charge credits received from these suppliers.

(b) Section 154.38(d)(4)(ii) of the Commission's Regulations requires separate provisions for adjustments of rates due to changes in the cost of gas purchased from producers and pipelines. Alabama-Tennessee proposes to provide for changes in the combined average cost of gas purchases from both producers and pipelines.

(c) The proposed PGA revision provides for rate adjustments related to changes in Alabama-Tennessee's average cost of gas due to changes in load factor.

(d) The proposed PGA revision would track transportation charges, although this is not provided for in the Commission's regulations."

TVM's objection stated in paragraph (a) above is without merit. Pursuant to section 22 of Alabama-Tennessee's tariff, the jurisdictional portion of demand charge credits received from its supplier are flowed through to the jurisdictional customers.

The objection stated in paragraph (b) above is also without merit. It is true that the applicable regulations require that the cost of gas purchased from producer and pipeline suppliers must be separately established. This is required because producer-related PGA rate adjustments can be filed only semi-annually, whereas pipeline related increases can be tracked at any time provided the change amounts to at least one mill. Separate computation is necessary to insure that no producer-related increases are included in PGA rate changes except semi-annually. Alabama-Tennessee acknowledges in its answer of August 17, 1977, that it will be necessary to compute individually the cost incurred in the purchase of gas from each supplier, and that such computations will be subject to the Commission's review and approval. It should be understood, however, that Alabama-Tennessee shall not be permitted to include producer-related cost changes except in its semi-annual filings.

The objection stated in paragraph (c) above is also without merit. Alabama-Tennessee is not permitted to file a PGA rate adjustment based solely on a change in the load factor at which it purchases gas from its pipeline supplier. However, in the event the supplier changes its rate, Alabama-Tennessee may give effect to the actual load factor in determining the unit charge in its own rates. This is the normal practice and is not inconsistent with the intent or specific terms of the Commission's PGA regulations.

The Commission is constrained to agree with the objection stated in paragraph (d) above. The Commission's PGA regulations simply do not provide for the inclusion of transportation charges as part of a pipeline's cost of purchased gas. Based on the fact that the proposed PGA clause revisions do not comply with the Commission's applicable regulations, the Commission finds that Alabama-Tennessee's filing must be rejected. The Commission shall so order.

The Commission orders:

(A) Alabama-Tennessee's filing in this docket is rejected without prejudice to its refiling without the inclusion of transportation charges.

(B) The above-named petitioners are permitted to intervene in this proceeding, subject to the Commission's rules and regulations.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24878 Filed 8-26-77;8:45 am]

[1] First Revised Sheet Nos. 33 and 34 and Original Sheet Nos. 34-A and 34-B to Third Revised Tariff Volume No. 1.

[2] The association consists of the following customers Alabama-Tennessee: Gas Department of the City of Athens, Alabama; Gas Department of the City of Decatur, Alabama; Gas Department of the City of Florence, Alabama; Gas Department of the City of Hartselle, Alabama; Natural Gas System of the City of Herntsville, Alabama; City of Iuka, Mississippi; Gas Board of the City of Russellville, Alabama; Gas Department of the City of Selmar, Tennessee; Power, Water and Gas Department of the City of Sheffield, Alabama; Gas Department of the City of Tuscumbia, Alabama.

[Docket No. CP77-555]

ARKANSAS LOUISIANA GAS CO.

Application

AUGUST 19, 1977.

Take notice that on August 8, 1977, Arkansas Louisiana Gas Company (Applicant), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP77-555 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission for and approval of the abandonment, during the 12-month period beginning on December 22, 1977, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction and abandonment of facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment would not exceed $3,000,000 and that the cost of any single project would not exceed $500,000. It is indicated that these costs would be financed by Applicant from cash on hand and from cash generated from normal internal sources and from short-term bank loans and other short-term borrowings utilized in the normal operation of Applicant's total business.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action

to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24891 Filed 8-26-77;8:45 a.m.]

[Docket No. ER77-553]

ARKANSAS POWER & LIGHT CO.

Filing of Letter Agreement

AUGUST 22, 1977.

Take notice that on August 11, 1977, Arkansas Power & Light Company (AP&L) tendered for filing a Letter Agreement dated August 1, 1977 between the Southwestern Power Administration (SPA) and AP&L. AP&L states that the Agreement provides for the sale by AP&L of firm capacity and associated energy to SPA for the period between August 1, 1977 and August 31, 1977. AP&L states that SPA shall pay the sum of $370,500.00 for the capacity purchased and that the energy charge is to be an amount per kilowatt-hour equal to the incremental cost of such energy experienced by the Middle South Utilities System during the month of August 1977, plus 10 percent thereof for administrative and overhead costs. AP&L requests an effective date of August 1, 1977, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 2, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24898 Filed 8-26-77;8:45 a.m.]

[Projected No. 2613]

BATES MANUFACTURING CO. AND AUGUSTA DEVELOPMENT CORP.

Application for Transfer of License and Approval of Lease

AUGUST 23, 1977.

Public notice is hereby given that an application was filed on June 15, 1977, under the Federal Power Act, 16 U.S.C. §§ 791a–825r, by Bates Manufacturing Company (Transferor) and Augusta Development Corporation (Transferee) (Correspondence to: Irving Isaacson, Esq., Brann and Isaacson, 140 Lisbon Street, Lewiston, Maine) for transfer of the Transferor's interest in the license for Project No. 2613. The project is located on Moxie Stream, a tributary of the Kennebec River, in Somerset County, in the vicinity of Skowhegan, Dower-Foxcraft, and Farmington, Maine. The other joint licensees of the project are Central Maine Power Co., Scott Paper Co., Kennebec River Pulp and Paper Co., and Milstar Manufacturing Corp.

Also included in the application was a request for approval of a lease of the Transferee's interest in the project to Edwards Manufacturing Co., Inc.

The project consists of a dam and reservoir with a surface area of 2,370 acres, and stores water and regulates stream flow for the benefit of downstream hydroelectric projects.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 3, 1977, file with the Federal Power Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24974 Filed 8-26-77;8:45 am]

[Docket No. ER77-558]

BOSTON EDISON CO.

Rate Supplement Filing

AUGUST 19, 1977.

Take notice that Boston Edison Company on August 15, 1977, filed a proposed rate supplement to impose a charge, which Edison states is designed to accomplish the mandate of the United States Court of Appeals for the District of Columbia Circuit in *Boston Edison Co. v. FPC*, Nos. 75–2123 and 76–1392, May 17, 1977. Edison states that the charge would recover the additional Rate S–4 revenues owed to Edison under the Court's decision with interest at 9 percent per annum. The Company requests that the proposed rate supplement be permitted to become effective 30 days from the date of filing. The affected wholesale customers are the Towns of Concord, Norwood and Wellesley, Massachusetts, and the Municipal Light Board of Reading, Massachusetts, which Edison states were served with copies of the filing. Rate S–4 is the subject of the proceedings in ER76–90.

Any person desiring to be heard or to protest said proposed rate supplement should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 6, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the proposed rate supplement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24882 Filed 8-26-77;8:45 am]

[Docket No. ES77-52]

CENTRAL ILLINOIS PUBLIC SERVICE CO.

Application

AUGUST 23, 1977.

Take notice that on August 11, 1977, the Central Illinois Public Service Company (Applicant), filed an application with the Commission, pursuant to Section 204 of the Federal Power Act, seeking authorization to issue from time to time its unsecured promissory notes to evidence borrowings of money to be made by it from banks and its unsecured promissory notes in the form of commercial paper in the aggregate principal amount not exceeding $120,000,000. The Applicant requests exemption of its securities from the competitive bidding requirements of the Commission Regulations.

Applicant is incorporated under the laws of the State of Illinois, with its principal business office at Springfield, Illinois and is engaged in the generation, transmission, distribution and sale of electrical energy within the State of Illinois.

Notes (with varying maturities) issued to commercial banks will mature not more than 12 months from the date of issue and will bear interest at a rate

V 42 167 AUG 29 77 UMI

which will be either the prime rate of interest prevailing at such bank on the date each such borrowing is made or the applicable prime rate or rates of interest prevailing at such bank during the term of the note, determined each three-month period of the note. All notes will bear final maturities of on or before December 31, 1979.

Notes issued to commercial paper dealers will have varying maturities of not more than nine months from the date of issue and will be issued and sold (in varying amounts or denominations of not less than $50,000 each) at a discount which will not exceed the discount rate per annum prevailing at the date of issue for commercial paper of comparable quality and maturity sold by issuers thereof to commercial paper dealers. All notes will bear final maturities of on or before December 31, 1979.

The proceeds from the issuance of the notes and/or commercial paper is expected to provide the Applicant with flexibility in meeting its financial requirements for its construction program for the remainder of 1977 and the years 1978 and 1979.

Any person desiring to be heard or to make any protest with reference to the Application should on or before September 9, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in a hearing must file petitions to intervene in accordance with the Commission's Rules. The Application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-24880 Filed 8-26-77;8:45 am]

[Docket No. CP77-562]

CITIES SERVICE GAS CO.

Application

AUGUST 22, 1977.

Take notice that on August 11, 1977, Cities Service Gas Company (Applicant), P. O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP77-562 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon the use of an existing meter as a direct sales facility and for a certificate of public convenience and necessity authorizing the operation of such meter as an additional town border meter for the city of Neodesha, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that in Docket No. G-14721, 20 FPC 460 (1958), Applicant was authorized to acquire certain facilities from Eastern Kansas Gas Company and provide natural gas service for resale to the City of Neodesha in Wilson County, Kansas, and to render direct interruptible service to the City of Neodesha Light Plant. This service has continued since that time, it is said.

Applicant indicates that at the time its "grandfather" certificate was issued in Docket No. G-298, (4 FPC 471 (1943)), Applicant was making a direct industrial sale to a refinery owned and operated by Standard Oil of Indiana near Neodesha, Kansas, and that this refinery was later operated by American Oil Company.

It is stated that in 1970, the refinery operation was closed down and the refinery was turned over to the City of Neodesha which planned to operate the refinery electric generating equipment as a peaking facility for power generation for the city. Applicant indicates that at such time, it amended its direct sale contract with the City of Neodesha to include the supply of gas on a direct sales basis for the operation of this auxiliary power plant through the existing refinery sales meter, and that due to inability to adapt the generator at the refinery to its operations, the City of Neodesha never began the operation of the auxiliary power plants as planned and the area was later turned into an industrial park. Gas was taken by the City of Neodesha at the existing sales meter at the refinery site and resold by the city to five small business establishments in the area, it is said.

Applicant states that it was unaware that this gas was not being used in the operation of the auxiliary power plant, as covered by its contract with the City of Neodesha, until it became necessary to activate its currently effective curtailment plan and the sales meter was curtailed on the basis of this being a sale to a power plant (Priority 5). Applicant indicates that at that time it was advised by the city that such curtailment was adversely affecting the small business establishments in the area.

Concurrently, Applicant proposes to operate existing sales meter at the former refinery site as an additional town border for the City of Neodesha, Kansas, and to abandon the use of such meter as a direct sales facility. Applicant indicates that future sales to the city through this meter would be made under the existing resale contract with the City of Neodesha and would be made under Applicant's FPC Gas Rate Schedule F-2.

No new facilities are necessary to effectuate this change, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 12, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-24881 Filed 8-26-77;8:45 am]

[Docket No. CP77-551]

CITIES SERVICE GAS CO.

Application

AUGUST 19, 1977.

Take notice that on August 4, 1977, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP77-551 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(c) of the Regulations thereunder (18 CFR 157.7(c)), for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1978, and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material change in the service presently rendered by Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $300,000, which cost would be financed from treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24885 Filed 8-26-77;8:45 am]

[Docket No. CP77-550]

CITIES SERVICE GAS CO.

Application

AUGUST 19, 1977.

Take notice that on August 4, 1977, Cities Service Gas Company (Applicant), PO Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP77-550 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction during the calendar year 1978, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers and other similar sellers thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the system of other pipeline companies which may be authorized to transport gas for the account of or exchange with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $7,000,000 with no single project to exceed a cost of $1,500,000. These costs would be financed from treasury cash, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1977, file wtih the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24881 Filed 8-26-77;8:45 am]

[Docket No. CP70-258]

CITIES SERVICE GAS CO.

Petition To Amend

AUGUST 19, 1977.

Take notice that on August 10, 1977, Cities Service Gas Company (Petitioner), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP70-258 a petition to amend the Commission's order of July 22, 1970, issued in the instant docket (44 FPC 149) pursuant to Section 7(c) of the Natural Gas Act so as to provide for the utilization of an existing exchange point located at the outlet of Petitioner's Hugoton Compressor Station in Grant County, Kansas, which point was previously used for delivery of exchange volumes of gas from Petitioner to Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska) also as a point for receipt of volumes of gas from Kansas-Nebraska to Petitioner, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner indicates that on July 22, 1970, it was authorized to exchange up to 150,000 Mcf of natural gas per day with Kansas-Nebraska pursuant to an exchange agreement dated March 27, 1970, and that under the terms of the exchange agreement, as amended, Petitioner delivers volumes of gas to Kansas-Nebraska at:

(1) The outlet of Petitioner's Hugoton Compressor Station, Grant County, Kansas;
(2) The Copeland Delivery Point, Haskell County, Kansas;
(3) The Unruh Delivery Point, Edwards County, Kansas;
(4) The Deerfield Delivery Point, Kearny County, Kansas;

and Kansas-Nebraska redelivers equivalent volumes of gas to Petitioner at the Haven Exchange Point, Reno County, Kansas.

It is stated that as a result of the exchange and transportation arrangement between Petitioner and Colorado Interstate Gas Company (CIG) certificated in Docket No. CP76-415 on May 9, 1977, which is now in operation, volumes of gas purchased by Petitioner in South Central Wyoming are being delivered by CIG to Kansas-Nebraska at the Deerfield Exchange Point for Petitioner's account. As Kansas-Nebraska is unable to redeliver all of the exchange volumes to Petitioner at the Haven Exchange Point, it has become necessary to make arrangements for another point of delivery of volumes of gas from Kansas-Nebraska to Petitioner, it is indicated. Consequently, Kansas-Nebraska has agreed to backflow volumes of gas from the Deerfield Exchange Point to the existing exchange point at the outlet of Petitioner's Hugoton Station and deliver exchange volumes to Petitioner at this point.

Petitioner states that it and Kansas-Nebraska have amended their existing exchange agreement to provide that the exchange point at the outlet of Petitioner's Hugoton Compressor Station may be used for either the delivery or receipt of gas by either party.

No new facilities are necessary to effectuate this proposal, it is said. Petitioner asserts that the subject proposals is necessary to bring additional volumes of gas purchased in the South Central Wyoming area into its pipeline system.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 12, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must

V 42167 A AUG 29 77 UMI

file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24909 Filed 8-26-77;8:45 am]

[Docket No. CP75-158]

CONSOLIDATED GAS SUPPLY CORP.

Petition To Amend

AUGUST 22, 1977.

Take notice that on July 29, 1977, Consolidated Gas Supply Corporation (Petitioner), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP75-158 a petition to amend pursuant to Section 7 of the Natural Gas Act the Commission's order of May 29, 1975 (53 FPC ____), as amended by orders issued August 18, 1976 (56 FPC ____) and May 25, 1977 (57 FPC ____) in the instant docket, so as to modify a previously certificated major pipeline replacement project by substituting an 1100 horsepower compressor facility for an 800 horsepower facility at Petitioner's Yellow Creek Station, Calhoun County, West Virginia, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is indicated that the May 29, 1975, order authorized the construction, during the years 1975 through 1979, of approximately 119 miles of pipeline and certain compressor facilities which were designed to replace the Petitioner's existing West Virginia wet gas transmission system. The May 25, 1977, order authorized Petitioner to construct and operate an 880 horsepower compressor station near Yellow Creek in lieu of the 1320 horsepower Burnt House station theretofore authorized, it is said.

Petitioner indicates that at the time the Yellow Creek station was designed, Petitioner believed that a suitable 880 horsepower engine was available which could be installed at the Yellow Creek facility. However, Petitioner asserts that it has recently learned that such engine is not available and wishes to use an engine of comparable size and quality (i.e., the Cooper-Bessemer GMV-10-TF 1100 horsepower compressor engine) which would cost approximately $873,100.

Petitioner states that the substitution of the 1100 horsepower compressor engine would cause no substantial changes in the design capacity and operating conditions reflected in the flow diagrams attached to the original application. Furthermore Petitioner anticipates that no significant changes in environmental impact would occur by reason of the proposed modification of the Yellow Creek Station project.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 8, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24894 Filed 8-26-77;8:45 am]

[Docket No. RP72-134; (PGA77-8) (PGA77-9)]

EASTERN SHORE NATURAL GAS CO.

Purchased Gas Cost Adjustment to Rates and Charges

AUGUST 22, 1977.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on July 27, 1977, tendered for filing the following revised tariff sheets:

First Revised Sheet No. 3B Superseding Substitute Original Sheet No. 3B.
Forty-Fifth Revised Sheet No. 3A Superseding Forthy-Fourth Revised Sheet No. 3A.
Second Revised Sheet No. 3B Superseding First Revised Sheet No. 3B.
Forthy-Fifth Revised PGA-1.

The First Revised Sheet No. 3B tracks reductions in rates to be effective April 1, 1977, filed by Eastern Shore's sole supplier, Transcontinental Gas Pipe Line Corporation (Transco) for sales of natural gas from its Washington Storage Field under the WSS rate schedule.

The Forty-Fifth Revised Sheet No. 3A and PGA-1 and the Second Revised Sheet No. 3B will increase the demand and commodity charges of Eastern Shore's Rate Schedules CD-1, CD-E, G-1, E-1, I-1, GSS-1, PS-1, LGA, and WSS-1. The proposed increases to Eastern Shore's rates track proposed increases to the demand and commodity charges to Transco's CD, G, E, PS, GGS, and LGA Rate Schedules, which were filed on July 1, 1977, in Docket No. RP77-108 and were accepted for filing and suspended for five months by the Commission's Order of July 20, 1977. Eastern Shore requests an effective date for its revised tariff sheets filed herein concurrent with the effective date ultimately assigned to Transco's revised tariff sheets to Second Revised Volume No. 1 and Original Volume No. 2 of its FPC Gas Tariff.

§ 923.51 Mediation.

Eastern Shore requests waiver of the notice requirements of Section 154.22 of the Commission's Regulations and of Section 20.2 of the General Terms and Conditions of its Tariff, to the extent necessary to permit the proposed tariff sheets to become effective on the dates requested, to coincide with the proposed effective dates of Transco's rate changes. In support of its request, Eastern Shore states that Transco did not mail its revised tariff sheets, filed in Docket No. RP77-108, to Eastern Shore until June 30, 1977.

Copies of this filing have been mailed to each of the Company's jurisdictional customers and to interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 29, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25010 Filed 8-26-77;8:45 am]

[Docket Nos. CP77-269, CP77-270, CP77-271, CP77-272, CP77-330, CP77-331, and CP77-332]

EL PASO EASTERN CO., EL PASO LNG TERMINAL CO., EL PASO NATURAL GAS CO., UNITED LNG CO., AND UNITED GAS PIPE LINE CO.

Availability of Final Environmental Impact Statement

AUGUST 23, 1977.

Notice is hereby given in the above dockets that on September 1, 1977, as required by Section 2.82(b) of Commission Order No. 415-C, a Final Environmental Impact Statement (FEIS) prepared by the staff of the Federal Power Commission was made available. The FEIS deals with the applications filed by El Paso Eastern Company (Docket Nos. CP77-330, CP77-331, CP77-270), El Paso LNG Terminal Company (Docket No. CP77-269), El Paso Natural Gas Company (Docket No. CP77-332), United LNG Company (Docket No. CP77-272), and United Gas Pipe Line Company (Docket No. CP77-271) which relate directly or indirectly to a proposal by El Paso Eastern Company, pursuant to Section 3 of the Natural Gas Act, to import liquefied natural gas (LNG) from Algeria to a terminal to be located in the vicinity of Port O'Connor, Texas, on Matagorda Bay. Approval of the applications would authorize the construction and operation of facilities necessary to unload, store, revaporize, and distribute the imported LNG. These facilities include unloading and service platforms, three 100,000 cubic meter storage tanks, vaporizer units, and other appurtenant structures. The use of seawater is proposed for regasifying the LNG; proposed initial dredging in connection with the terminal would total 29.3 million cubic yards. A total of 463 miles of pipeline would be required in order to transport the regasified LNG from the terminal to Waha, Texas.

This FEIS has been circulated to Federal, state, and local agencies and all parties to the proceeding. This FEIS has been placed in the public files of the Commission and is available for public inspection both in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426, and at its regional office located at 819 Taylor Street, Fort Worth, Texas 76102. Copies of the FEIS are available in limited quantities from the Federal Power Commission's Office of Public Information, Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24928 Filed 8-26-77;8:45 am]

[Docket No. RM77-14]

GAS RESEARCH INSTITUTE

Granting Petitions to Intervene

AUGUST 23, 1977.

Timely petitions to intervene in the above-captioned proceeding were filed by Colorado Interstate Gas Company, Boorklyn Union Gas Company, and Southern Natural Gas Company. Each of the petitioners alleges that it will be affected by the subject proceeding and that its interests will not adequately be represented by other parties. No objections to the petitions have been received.

Pursuant to Section 3.5(a) (30) of the Commission's General Rules, the above petitioners are hereby permitted to intervene in the captioned proceeding subject to the Commission's rules and regulations: *provided, however,* That participation of the intervenors shall be limited to the matters affecting asserted rights and interests specifically set forth in the petitions to intervene; *and provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order entered in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24981 Filed 8-26-77;8:45 am]

[Docket No. CP70-289]

INTER-CITY MINNESOTA PIPELINES LTD., INC.

Petition To Amend

AUGUST 23, 1977.

Take notice that on August 15, 1977, Inter-City Minnesota Pipelines LTD., Inc. (Petitioner), 612 Cloquet Avenue, Cloquet, Minn. 55720, filed in Docket No. CP70-289 a petition to amend the Commission's order of August 10, 1970, as amended, issued in the instant docket (44 FPC 262) pursuant to Section 3 of the Natural Gas Act so as to authorize the continued importation of natural gas from Canada at an increase import rate of $2.16 (United States) per million Btu's effective September 21, 1977, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is stated that pursuant to the Commission's order of August 10, 1970, ICG Transmission Limited (Transmission) was authorized, inter alia, to import into the United States up to 38,000 Mcf of gas per day (12,481,000 Mcf per year) from Canada through pipeline facilities crossing the international border near Sprague, Manitoba; to export to Canada up to 36,366 Mcf per day (12,144,000 Mcf per year) of this gas near Baudette; and to reimport up to 22,023 Mcf per day (7,715,000 Mcf per year) of this gas at International Falls, Minn. The National Energy Board of Canada (NEB) issued Licenses on August 4, 1970 with coincident authorizations, it is said.

Petitioner stated that by an order issued September 26, 1973, it was substituted for Transmission as holder of import-export authorization in the captioned docket, and authorization was granted to import an increased volume of 10,296 Mcf of gas per day (305,000 Mcf per year) at Sprague; export the increased amount at Baudette; and reimport at International Falls an increased volume of 9,500 Mcf of gas per day (985,000 Mcf per year). The NEB similarly modified the Licenses. Petitioner indicates that all natural gas imported and exported in accordance with the above authorizations is purchased from Transmission pursuant to agreement, as restated recently by amending agreement dated July 18, 1977.

It is stated that on July 21, 1977, the National Energy Board established a new border export price to be charged by Transmission of $2.16 (United States) per million Btu's effective September 21, 1977. Consequently, Petitioner request that the Commission amend its existing authorization to reflect the increased border price of $2.16 (United States).

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 13, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24973 Filed 8-26-77;8:45 am]

[Docket No. CP77-560]

KENTUCKY GAS STORAGE CO.

Application for Certificate of Public Convenience and Necessity and of Request for a Disclaimer of Jurisdiction

AUGUST 23, 1977.

Take notice that on August 11, 1977, Kentucky Gas Storage Company (Applicant), 100 St. Ann Building, Owensboro, Ky. 43201, filed in Docket No. CP77-560 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing (1) the construction and operation of certain facilities necessary to develop, operate, and maintain the White Plains Gas Field located in Hopkins and Muhlenburg Counties, Ky., as an underground storage reservoir to render natural gas storage service for certain natural-gas companies; (2) the operation of an existing 51-mile, 12-inch diameter pipeline for the transportation of natural gas in interstate commerce in connection with such storage service; (3) the transportation of gas to certain industrial customers and right-of-way grantors in Kentucky presently being served from the pipeline with gas produced and purchased in Kentucky; and (4) the transportation and delivery of the balance, if any, of the gas remaining in the White Plains Field, or its thermal equivalent, to Orbit Gas Co. (Orbit), at a rate of up to 3,000 Mcf per day. Take further notice that Applicant also requests, on behalf of certain producers in Kentucky who are presently selling gas for consumption within Kentucky, a disclaimer of jurisdiction with respect to the sale of gas by various producers to Orbit and the sale of gas by Orbit to certain industrial customers referred to above under the terms of existing contracts. The details of the proposals are more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant is a general partnership recently organized under the laws of Kentucky specifically to develop and operate the White Plains Gas Field as a natural gas storage reservoir, it is indicated. The application shows that the existing general partners of the organization are Bay State Energy Resources, Inc. (a subsidiary of Bay State Gas Co.), Storage Development Corp., and Gas Storage, Inc. (a subsidiary of the Southern Connecticut Gas Co.) and that Energy Storage Ventures, a Massachusetts partnership, would operate the storage system for Applicant. The application further states that the partnership would have a capital structure composed of 25 percent equity and 75 percent debt, with approximately 48 percent (or $2,600,000) of total required equity funds to be obtained from the three existing general partners. It is indicated that the remaining equity consisting of approximately $3,000,000, would be obtained

V 42 167 A AUG 29 77 UMI

from other utility customers, institutional investors, or other private investors who would become partners of Applicant.

Applicant states that it has acquired the working interest and storage rights in the presently producing White Plains Gas Field for the sum of $1,500,000, and seeks authorization to construct and operate the facilities necessary to convert the field to an underground natural gas storage facility with top storage capacity of 4,600,000 Mcf and to render long-term natural gas storage for the following companies: Bay State Gas Supply, Inc. (a subsidiary of Bay State Gas Co.), Chattanooga Gas Co., Fayetteville Gas System, Knoxville Utilities Board, Middle Tennessee Natural Gas Utility District, Nashville Gas Co., Inc., Natural Gas Utility District of Hawkins County, The Southern Connecticut Gas Co., United Cities Gas Co., and Volunteer Natural Gas Co. (hereinafter collectively referred to as Buyers). It is indicated that each of the Buyers would be permitted to inject into and withdraw from the storage field on the following basis:

Company	Maximum storage volume 1,000 ft³	Maximum daily quantity 1,000 ft³ per day
Bay State Gas Supply, Inc. (Bay State Gas Co.)	1,625,000	10,720
Chattanooga Gas Co.	550,000	3,640
Fayetteville Gas System	10,000	(a)
Knoxville Utilities Board	200,000	1,300
Middle Tennessee Natural Gas Utility District	30,000	200
Nashville Gas Co.	1,200,000	7,950
Natural Gas Utility District of Hawkins County	20,000	130
The Southern Connecticut Gas Co.	450,000	2,980
United Cities Gas Co.	400,000	2,650
Volunteer Natural Gas Co.	115,000	760
Total	4,600,000	30,429

Applicant proposes to purchase from these Buyers or on the open market 3,400,000 Mcf of cushion gas at an estimated cost of $1.78 per Mcf including the cost of transportation to Applicant's facilities. Buyers would supply the required compressor fuel to Applicant at no charge and would make available from existing interestate gas supply contracts an additional 4,600,000 Mcf to be stored in the White Plains Field for their account, it is said. Applicant proposes to render the service to Buyers during the initial injection and withdrawal periods on a best efforts basis, and on a firm basis thereafter. Under Applicant's proposed gas storage tariff, Buyers would pay Applicant a monthly demand charge of $14.083 per Mcf multiplied by the maximum daily quantity specified in the gas storage agreements for the storage service, it is indicated.

As an integral part of its storage program, Applicant seeks authority to operate an existing 51-mile, 12-inch diameter pipeline system which would connect the White Plains Field with the pipeline facilities of both Texas Gas Transmission Corp. (Texas Gas) and Midwestern Gas Transmission Co. (Midwestern) in Daviess County, Ky. Applicant states that it has entered into a contract to purchase the pipeline from the existing owner, National Pipeline Co., for the sum of $50,000 per mile and that the pipeline would be used to transport injection and withdrawal volumes to and from storage for the Buyers.

During the injection period, April 1 through October 31 of each year, it is stated that Buyers would request East Tennessee Gas Pipeline Co. (East Tennessee) and Tennessee Natural Gas Lines, Inc. (Tennessee Natural) to receive designated daily injection volumes at various existing points of delivery for transportation and delivery to Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (TGP). TGP would then transport all designated daily volumes so received for delivery to Texas Gas at an existing point of interconnection in Washington County, Miss., and Texas Gas would then transport all daily volumes so received for delivery to Applicant at a point of interconnection with Applicant's 51-mile pipeline to be constructed in Daviess County, Ky., it is said. Applicant states that it would then transport the volumes so received through the existing pipeline to the White Plains Field for injection and storage.

During the withdrawal period, November 1 through March 31 of each year, it is stated that Applicant would transport designated daily withdrawal volumes through the existing 51-mile pipeline to a point of interconnection with Midwestern to be constructed in Daviess County, Ky. Midwestern would transport the volumes received from Applicant at the new point of delivery to TGP at an existing point of delivery in Sumner County, Tenn., and TGP would then transport and deliver the withdrawal volumes received from Midwestern to East Tennessee and Tennessee Natural for redelivery to Buyers, it is said.

It is said that as a condition to the contract for the purchase of the 51-mile pipeline from National Pipeline Co., Applicant must obtain authorization to provide certificated transportation services for four industrial customers, National Southwire Aluminum Co., Southwire Co., National Aluminum Corp., and Borg Warner Corp., located adjacent to the pipeline. Applicant states that the four companies presently receive through the pipeline intrastate natural gas that is purchased in the White Plains Field from Orbit. Applicant further states that the production, transportation, and use of this gas is wholly within the Commonwealth of Kentucky and that the pipeline which Applicant proposes to acquire is the only means by which those customers can receive gas produced from the White Plains Field. In accordance with the stated contract condition, Applicant requests authority to transport up to 10,000 Mcf per day to the four companies at a rate of 0.14156¢ per Mcf per mile transported.

Applicant further requests a disclaimer of jurisdiction by the Commission over sales of gas by various producers to Orbit and over sales of gas by Orbit to the four industrial customers mentioned above under the terms of existing contracts. Applicant states that the requested exemptions are required as a condition to the contract for the purchase of the pipeline and that the exemptions would be limited to existing points of receipt and delivery.

Orbit retained ownership and production rights to the gas remaining in the White Plains Field when it transferred its storage rights in the field to National Steel Co., it is asserted. Applicant states that its contract with National Steel Co. for the purchase of the field provides that upon commencement of storage operations, Applicant must deliver the balance of gas remaining in the field, if any, or its thermal equivalent, to its owner, Orbit, or to existing customers of Orbit, at a rate of up to 3,000 Mcf per day. It is said that the exact volume of the reserved gas at the time Applicant commences operations would be determined by independent engineering analysis. The application further states that if the total volume of gas reserves belonging to Orbit equals or exceeds 200,000 Mcf, Applicant would purchase up to 300,000 Mcf from Orbit at a price of one dollar per Mcf, to be sold and delivered to existing right-of-way customers on behalf of Orbit. In accordance with the stated contract provision, Applicant requests authority to deliver to Orbit, or to existing customers of Orbit, the balance of any reserve gas or its thermal equivalent at a rate of up to 3,000 Mcf per day and states that it would meet its delivery obligation, if any, to Orbit from gas purchased for use as cushion gas in the field.

Applicant further states that Orbit presently renders gas service to 43 farm tap customers of the pipeline under regulation of the Kentucky Public Service Commission (KPSC). The application shows that the obligation to render this service was incurred under right-of-way agreements signed during original pipeline construction, and that currently eight commercial and 35 residential customers purchase approximately 18,000 Mcf per year under these agreements. The contract for the purchase of the pipeline provides that Applicant must obtain authority to continue transportation service to these right-of-way grantors, it is said. Therefore, Applicant requests authority to receive from Orbit and transport for delivery to the right-of-way grantors on behalf of Orbit sufficient quantities of gas to meet the terms of these agreements. It is stated that sales of gas to these grantors would continue to be regulated by the KPSC.

Applicant proposes to construct two compressor stations, a central meter station, one pipeline meter and regulating station, approximately 12 miles of various sized field gathering lines, small equipment, and administration buildings to implement its storage proposal. Fifteen of the existing 22 wells in the White Plains Field will be converted to injection/withdrawal wells, four to observation wells and three will be abandoned, it is said. In addition, Applicant proposes to drill 30 new injection/withdrawal wells and two new observation wells.

The application shows that the estimated cost of the proposed facilities, including acquisition, field development, and storage gas acquisition costs, is $22,242,300, and that the required development and construction funding would be obtained from conventional short-term lending institutions.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 14, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24979 Filed 8-26-77;8:45 am]

[Docket No. ER77-388]

LAKE SUPERIOR DISTRICT POWER CO.

Order Denying Motion for Reconsideration

AUGUST 22, 1977.

On June 24, 1977, the Commission issued an order in this docket which accepted the filing of proposed contracts between Lake Superior District Power Company (Lake Superior) and its customers, Medford Electric Utility and the City of Wakefield, and suspended the effectiveness of the proposed rates contained in the contracts for two months until September 1, 1977, when they are to become effective subject to refund.

On July 25, 1977, Lake Superior filed an "Application for Rehearing" of the June 24, 1977 order. Since the order is interlocutory, no application for rehearing is permitted.[1] However, the Commission will treat the application as a Motion For Reconsideration of the order. On July 27, 1977, Medford Electric Utility filed a response to Lake Superior's filing.

Lake Superior's Motion recites nine arguments in support of reconsideration. Many of the reasons set forth in the filing were considered by the Commission prior to the issuance of the June 24, 1977 order.[2] The remaining assertions by Lake Superior are either unfounded or unsubstantiated. Accordingly, the motion for reconsideration must be denied.

The Commission finds: Lake Superior's Motion For Consideration of July 25, 1977, should be denied.

The Commission orders:

(A) Lake Superior's Motion For Reconsideration of July 25, 1977, is hereby denied.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24910 Filed 8-26-77;8:45 am]

[Docket No. RP73-91 (PGA77-2b)]

McCULLOCH INTERSTATE GAS CORP.

Revised Purchased Gas Adjustment Rate Increase Filing

AUGUST 22, 1977.

Take Notice that on July 29, 1977, McCulloch Interstate Gas Corporation ("McCulloch Interstate") tendered for filing copies of Substitute Tenth Revised Sheet No. 32 to its FPC Gas Tariff Original Volume No. 1, as required under the Commission's Rules and Regulations under the Natural Gas Act.

McCulloch Interstate's Substitute Tenth Revised Sheet No. 32 provides for a Purchased Gas Adjustment rate increase of 23.31¢ per MMBtu, effective April 2, 1977. McCulloch Interstate's filing is made in order to: (1) recover the balance in McCulloch's Unrecovered Purchased Gas Cost Account as of December 31, 1975 and December 31, 1976 (2) to provide for a current Gas Cost Adjustment in order to permit McCulloch to recover the higher gas purchases, and (3) to recover a carrying surcharge of nine percent (9%) permitted under Ordering Paragraph (D) of Opinion 770.

This revised rate increase reflects the resolution of issues between McCulloch Interstate and the Commission staff, in an informal conference held on June 23, 1977, which was directed by the Commission in its Order of June 8, 1977, in this docket proceeding. (Paragraph C).

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 29, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25012 Filed 8-26-77;8:45 am]

[Docket No. CP77-567]

MICHIGAN WISCONSIN PIPE LINE CO.

Pipeline Application

AUGUST 19, 1977.

Take notice that on August 15, 1977, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Mich. 48226, filed in Docket No. CP77-567 an application pursuant to Section 7(c) of the Natural Gas Act, as amended, for a certificate of public convenience and necessity authorizing (1) the construction and operation of facilities necessary to connect to its existing offshore gathering system, gas reserves underlying South Marsh Island Area Blocks 136 and 137, offshore Louisiana (the Block 137 field), (2) the construction and operation of pipeline facilities necessary to reinforce said gathering system, and (3) the construction and operation of an interconnection between the existing pipeline systems of Applicant and United Gas Pipe Line Company (United) in St. Mary Parish, La. all as more fully set forth in the application on file with the Commission and open to public inspection.

The application indicates that as a result of active drilling and development programs in offshore Louisiana, proven reserves of approximately 143 Bcf in addition to potential reserves of 61 Bcf have been developed in the Block 137 field, and that of such proven and potential reserves, Continental Oil Company (Conoco) has agreed to sell to Applicant all of the gas atributable to Conoco's one-half (½) and one-third (⅓) interest in the reserves underlying Block 136 and Block 137 respectively pursuant to a contract which is currently being finalized. The remaining one-half

[1] See Section 1.34 of the Commission's Rules of Practice and Procedure, which requires a final decision or order before an application for rehearing can lie.

[2] The effect on the financial integrity of the Company, the fact that a shorter suspension period would still provide for refunds, the fact that Lake Superior previously had fixed-rate contracts with its customers, the fact that the suspension order will not modify proposed rates prior to the effective date.

V 42 N 167 AUG 29 77 UMI

(½) interest in Block 136 is committed to Texas Eastern Transmission Corporation (Texas Eastern), and the remaining two-thirds (⅔) interest in Block 137 is committed in equal portions to Texas Eastern and United.

Applicant states that a westerly leg of its existing offshore gathering system presently terminates in South Marsh Island Area Block 108, and that to connect the reserves underlying the Block 137 field, that it is proposing to construct approximately 13.5 miles of 16" O.D. pipeline connecting the "A" production platform for the Block 137 field and the westerly terminus of its existing offshore gathering system in Block 108. Applicant also proposes to install and operate on the "A" production platform gas measurement facilities and cause to have installed 1000 horsepower of compression. Applicant states that the cost associated with the aforementioned pipeline, measurement, compression, and associated appurtenances is estimated to be $10,436,520.

The application further indicates that Texas Eastern and United have expressed their intention to have their aforementioned dedicated supplies transported by Applicant and redelivered or exchanged for their accounts at mutually agreeable locations. Applicant states while the pipeline systems of Texas Eastern and Applicant are interconnected at various locations within the State of Louisiana, there presently are no existing interconnections between the pipeline systems of United and Applicant. Accordingly, to effectuate redelivery of the gas transported by Applicant for United, Applicant proposes to construct a new interconnection which will be located downstream of Applicant's Patterson Compressor Station in St. Mary Parish, Louisiana, which will comprise two (2) 10" meter runs, including associated appurtenances. Applicant estimates that the cost of the interconnection will be $346,070.

The application further indicates that to effectuate onshore deliveries from the Block 137 field and other offshore area blocks, provide additional transportation service for others, and to provide flexibility in the operation of its offshore system, that it further proposes to construct and operate 29.9 miles of 30" diameter pipeline paralleling and looping an existing section of 30" pipeline, the loop to be constructed between its existing Block 188 offshore compressor station and Eugene Island Area Block 77. Incident to the construction of the loop, Applicant states that it also will construct and operate a new manifold platform in Block 77 which will facilitate making the necessary tie-in of the proposed loop with its existing offshore pipeline system. The cost attributable to the proposed loop and platform is estimated by the Applicant to be $29,491,230.

The application indicates that the facilities for which authorization is requested are estimated in total to cost $40,352,400. Applicant contemplates that the construction will be financed with treasury funds, retained earnings, and other funds generated internally, together with borrowings from banks under short-term lines of credit as may be required. Applicant further anticipates that any bank borrowings will subsequently be permanently financed as market conditions permit.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 12, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24904 Filed 8-26-77;8:45 am]

[Docket Nos. CP75-278, CP75-283 and CP75-556]

MICHIGAN WISCONSIN PIPE LINE CO. ET AL.

Application and Consolidation

AUGUST 22, 1977.

Take notice that on August 8, 1977, PGC Coal Gasification Company (PGC) and Natural Gas Pipeline Company of America (Natural) (Applicants), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP77-556 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale by PGC to Natural of commingled natural gas and synthetic gas produced from coal; and authorizing Natural to file and make effective revisions in the general terms and conditions of its FPC Gas Tariff designed to permit recovery through Natural's purchased gas cost adjustment clause of all costs associated with the purchase of the commingled natural gas and synthetic gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that by an interim agreement dated March 11, 1977, PGC and ANG Coal Gasification Company (ANG) have agreed, subject to negotiation and execution of necessary joint ownership and other agreements, to construct a coal gasification plant in Mercer County, North Dakota, which would be capable of producing 125,000 Mcf per average day of high Btu synthetic gas owned by PGC and ANG, and that there would be an equal sharing of all costs, obligations, plant output and project revenues.

It is stated that pursuant to and subject to the provisions of a precedent agreement to be entered into by and between PGC, Natural, ANP, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), and Great Lakes Transmission Company (Great Lakes), PGC proposes to sell to Natural quantities of commingled natural gas and synthetic gas thermally equivalent to PGC's share of the synthetic gas produced by the plant less line loss and applicable fuel. The sale would take place at an existing point of delivery between Natural and Michigan Wisconsin near Woodstock, Illinois, and the synthetic gas would be transported from the plant to Thief River Falls, Minnesota through proposed facilities of Great Lakes, and, as part of a commingled stream, from Thief River Falls to Woodstock, through existing and proposed facilities of Great Lakes and Michigan Wisconsin. Applicants assert that the Mercer County coal gas would be used to meet requirements of Natural's existing customers and would offset increases in curtailments which would otherwise be experienced by the customers.

It is indicated that the gas purchase agreement to be entered into by Applicants provides for, inter alia:

(1) a charge designed to recover, during the construction and testing periods, the cost of funds invested in the project, including a 12 percent return on equity, and, during the testing period, operation and maintenance expenses, the cost of coal and transportation costs; and

(2) a charge designed to recover, during the operational period, the cost of service of the plant, including a 15 percent return on equity, the cost of coal and transportation costs.

Applicants state that in the event gas production falls below 75 percent of normal plant capacity for more than 25 consecutive days, the agreement provides for reduction (or if below 25 percent of normal plant capacity, elimination) of the return on equity. Natural requests authorization to file and make effective revisions in its purchased gas cost adjustment clause designed to permit current recovery of all charges incurred by Natural under the gas purchase agreement. Applicants state that these provisions, as well as federal loan guarantees, are necessary to permit financing of the coal gasification plant.

The instant application may involve common questions of law or fact with the applications pending in Docket No. CP75-278 in which PGC, ANP, and Michigan Wisconsin propose to undertake the coal gasification project and in Docket No. CP76-283 in which Great Lakes proposes to transport the commingled stream of gas. Therefore, the proceeding on the instant application is consolidated for hearing with the proceeding in Docket No. CP77-278, et al.

Any person desiring to be heard or to make any protest with reference to the application in Docket No. CP77-556 should on or before September 12, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Any person who has heretofore filed in the consolidated proceeding in Docket No. CP75-278, et al., need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24892 Filed 8-26-77;8:45 am]

[Docket No. CP70-24]

MIDWESTERN GAS TRANSMISSION CO.

Petition to Amend

AUGUST 19, 1977.

Take notice that on August 3, 1977, Midwestern Gas Transmission Company (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP70-24 a petition to amend pursuant to Section 7 of the Natural Gas Act the Commission's order issued April 30, 1970 in Docket No. CP70-19, et al. (43 FPC 635) so as to authorize the installation of a 3,260 horsepower Centaur Turbine-Centrifugal compressor unit to replace the originally installed 2,710 horsepower compressor unit at Compressor Station No. 2227, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states that the April 30, 1970 order authorized Petitioner to construct and operate a new Compressor Station No. 2227 on its northern system which would contain a 3,165 horsepower turbine-centrifugal type compressor, but due to the need for the prompt commencement of service and a limited availability of compressor equipment at the time, Petitioner installed a 2,710 horsepower Centaur Turbine - Centrifugal Solar compressor. Petitioner further states that it has been advised by the manufacturer of the 2,710 horsepower compressor that such unit was in need of immediate overhaul and that this overhaul would require approximately 45 days and cost an estimated $45,570 and that in overhauling such a unit certain of the component parts would be replaced with a resulting upgrading of the horsepower rating thereof to 3,260 horsepower. Furthermore, Petitioner was advised that in contrast to the estimated downtime of 45 days for the overhaul of the 2,710 horsepower unit and the resultant loss of system capacity for that period, Petitioner could replace the 2,710 horsepower unit with a new unit rated at 3,260 horsepower which would require a minimum amount of downtime and cost an estimated $77,000.

Accordingly, Petitioner seeks authorization to replace the 2,710 horsepower unit with a new 3,260 horsepower unit.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 9, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24890 Filed 8-26-77;8:45 am]

[Docket No. ER77-552]

MISSISSIPPI POWER & LIGHT CO.

Agreement for Purchase of Power

AUGUST 22, 1977.

Take notice that on August 11, 1977, Mississippi Power & Light Company (Mississippi) tendered for filing an unexecuted Agreement for Purchase of Power. Mississippi indicates that this Agreement provides for the sale of electric energy by Mississippi to Magnolia Electric Power Association (Magnolia), to be delivered to a point near McComb, Mississippi.

Mississippi states that its Rate Schedule REA-14 (revised) incorporated in the Agreement was heretofore filed with the Commission on October 6, 1976, as Company's service rate schedule applicable to all existing and new points of delivery. Mississippi further states that by order of the Commission on August 27, 1976, (Docket No. ER76-830), Rate Schedule REA-14 (Revised) became effective December 1, 1976, subject to refund.

Mississippi requests that the Commission waive applicable notice requirements and permit the Agreement to become effective on July 13, 1977, the date service was initially rendered.

Mississippi states that a copy of this filing has been mailed to Magnolia.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 2, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24913 Filed 8-26-77;8:45 am]

[Docket No. RI77-68]

MULLINS & PRICHARD

Amended Petition for Special Relief

AUGUST 19, 1977.

Take notice that on August 5, 1977, Mullins & Prichard, 416 Oil & Gas Building, New Orleans, Louisiana 70113, filed an amended petition for special relief in the above-captioned docket number. On May 2, 1977, Mullins & Prichard filed a petition for special relief seeking to increase the rate charged for gas from Well No. 1-A, Section 2-T18S-R11E, Shell Island Pass Field, St. Mary Parish, Louisiana, from 30.0988 cents per Mcf plus 7 cents tax reimbursement, to $1.20 per Mcf plus 7 cents tax reimbursement at 15.025 psia. By this amendment Mullins & Prichard seek to withdraw their request to receive $1.20 per Mcf, and to substitute therefor a rate of $1.10 per Mcf, plus reimbursement of all applicable severance or gathering taxes.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 12, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24887 Filed 8-26-77;8:45 am]

V42167A AUG 29 77 UMI

[Docket No. CP 77-537]

NATURAL GAS PIPELINE CO. OF AMERICA

Application

AUGUST 22, 1977.

Take notice that on July 29, 1977, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP77-537 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities for the receipt into its system of natural gas to be produced from reserves located in the S. E. Aylesworth Area, Bryan and Marshall Counties, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that Lone Star Gas Company, a Division of Enserch Corporation, (Lone Star) and Pioneer Gas Products Company (Pioneer) have entered into a twenty (20) year gas purchase contract (Pioneer Contract) dated February 24, 1977 providing for the sale and purchase of natural gas to be produced from gas reserves in the S. E. Aylesworth Area.

Applicant further states that pursuant to the Precedent Agreement dated May 6, 1971, between Lone Star and Applicant, Lone Star is required to tender for sale to Applicant any new gas reserves acquired by any Lone Star affiliate including the gas to be purchased by Lone Star under the Pioneer Contract, as authorized by order issued February 9, 1973, in Docket No. CP71-274. Furthermore, Lone Star, by Partial Assignment of a contract dated June 1, 1977, has assigned to Applicant 75 percent of such gas available from Pioneer, it is said

Applicant proposes to construct and operate measuring facilities, 8-inch tap connection and approximately twenty-seven (27) miles of 8-inch pipeline from the S. E. Aylesworth Area to Applicant's existing 10-inch pipeline in Section 7, Township 7 South, Range 3 East, Love County, Oklahoma. It is stated that the estimated cost of these facilities is $2,157,000, which cost will be met from funds on hand.

Applicant estimates that its share of the proved natural gas reserves committed by the contract to be approximately fifteen 15,000,000 Mcf with a deliverability of 6,000 Mcf per day.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 8, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24895 Filed 8-26-77;8:45 am]

[Docket No. CP77-539]

NATURAL GAS PIPELINE CO. OF AMERICA

Application

AUGUST 19, 1977.

Take notice that on August 1, 1977, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP77-539 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7 (g)) for a certificate of public convenience and necessity authorizing the construction and for permission and approval of the abandonment, for a twelve-month period commencing October 1, 1977, and the operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction and abandonment of facilitie which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment would not exceed $3,000,000 and that the cost of any single project would not exceed $500,000. Applicant states that these costs would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 8, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulation under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24883 Filed 8-26-77;8:45 am]

[Docket No. CP77-540]

NATURAL GAS PIPELINE CO. OF AMERICA

Application

AUGUST 19, 1977.

Take notice that on August 2, 1977, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP77-540 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction during the twelve-month period commencing October 1, 1977, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers and other similar sellers thereof who have received authorization from the Commission to sell natural gas to Applicant, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become

available from various producing areas generally co-extensive with its pipeline system or the system of other pipeline companies which may be authorized to transport gas for the account of or exchange with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $12,000,000, with no single onshore project to exceed a cost of $1,500,000, and with no single offshore project to exceed a cost of $2,500,000. It is stated that the proposed facilities would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 8, 1977, filed with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1,8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24912 Filed 8-26-77;8:45 am]

[Docket No. ER77-556]

NIAGARA MOHAWK POWER CORP.

Tariff Filing

AUGUST 22, 1977.

Take notice that Niagara Mohawk Power Corporation (Niagara), on August 15, 1977, tendered for filing as a rate schedule, a transmission agreement between Niagara and Consolidated Edison Company of New York, Inc. (Con Ed), dated May 27, 1977.

Niagara indicates that the service to be rendered by Niagara provides for the transmission of power and energy between Niagara's transmission connections with Rochester Gas and Electric Corporation (Rochester) and Niagara's transmission connection with Con Ed at the Pleasant Valley 345 Kv substation.

Niagara states that transmission capacity to be made available to Con Ed will be equivalent to that amount of power not to exceed 100 megawatts, which Con Ed will schedule on a daily basis for delivery from Rochester.

Niagara states that copies of this filing were served upon Con Ed and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 7, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24897 Filed 8-26-77;8:45 am]

[Docket No. CP77-557]

NORTHERN NATURAL GAS CO.

Pipeline Application

AUGUST 19, 1977.

Take notice that on August 9, 1977, Northern Natural Gas Co., (Applicant), 2223 Dodge Street, Omaha, Nebr., filed in Docket No. CP77-557 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to sell natural gas to Panhandle Eastern Pipe Line Co. (Panhandle). Northern also requests the Commission to grant a temporary certificate for the proposed sale, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant has contracted to purchase thirty-one and twenty-five hundredths percent (31.25%) of Exxon's production from Eugene Island Block 332 and thirty-three and one-third percent (33⅓%) of Mobil's interest in West Cameron Block 617, Offshore Louisiana. Applicant has entered into certain transportation arrangements with Panhandle and Trunkline Gas Company which provide for the transportation and redelivery of such gas to Applicant's system.

As partial consideration for the transportation of Applicant's offshore gas, Panhandle has a continuing option to purchase up to twenty percent (20%) of the volume of Applicant's Block 332 and Block 617 gas received by Trunkline.

Accordingly, Applicant proposes to sell natural gas to Panhandle for resale in interstate commerce. The gas will be sold to Panhandle on a monthly cost of service basis, which cost represents Applicant's cost of gas at the point of delivery to Trunkline. The estimated average cost of service per Mcf for the first year of operations is $2.15 for Block 332 and $2.07 for Block 617.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 12, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24908 Filed 8-26-77;8:45 am]

[Docket No. RP73-8 (PGA77-11)]

NORTH PENN GAS CO.

Proposed Changes in FPC Gas Tariff

AUGUST 22, 1977.

Take notice that North Penn Gas Co. (North Penn) on August 1, 1977, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA Clause for rates to be effective August 1, 1977.

North Penn states that the proposed decrease in rates reflects the decrease in rates filed by Consolidated Gas Supply Corp. on July 8, 1977 for effectiveness August 1, 1977, and will decrease North Penn's jurisdictional revenues by approximately $2.5 thousand annually.

North Penn is requesting a waiver of any of the Commission's Rules and Regulations in order to permit the proposed rates to go into effect as proposed.

V 42 167 AUG 29 77 UMI

Copies of this filing were served upon North Penn's jurisdictional customers, as well as interested state commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 30, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25011 Filed 8-26-77;8:45 am]

[Docket No. CP75-287]

NORTHWEST PIPELINE CORP.

Petition To Amend

AUGUST 19, 1977.

Take notice that on August 2, 1977, Northwest Pipeline Corp. (Petitioner), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP75-287, a petition to amend pursuant to Section 7 of the Natural Gas Act the Commission's order issued September 26, 1975 (54 FPC —), as amended on January 16, 1976 (55 FPC —), in the instant docket by authorizing an increase in the seasonal quantity of natural gas which it is authorized to sell and deliver pursuant to Petitioner's Storage Gas Service Rate Schedule SGS-1 and by authorizing a reallocation of the peak day, best efforts seasonal quantities of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Petitioner states that by the Commission's order of September 26, 1975, it was authorized to increase its firm winter service under its Rate Schedule SGS-1 from 240,000 Mcf up to 300,000 Mcf per day and to increase the seasonal quantity from 8,500,000 Mcf to 9,300,000 Mcf per winter season. It is stated that said order was amended January 16, 1976 by authorizing Petitioner to sell and deliver on a best efforts basis, up to an additional 71,800 Mcf on a daily basis for the period of October 16, 1975 through April 16, 1976.

It is stated that in response to its petition to amend further filed June 1, 1976, the Order of September 26, 1975, the Commission issued a temporary certificate on September 1, 1976 authorizing Petitioner, inter alia, to increase its seasonal SGS-1 service from 9,300,000 Mcf to 10,100,000 Mcf and set the matter for hearing. It is said that on October 15, 1976 the temporary certificate was amended to authorize the realloaction of SGS-1 sales and deliveries as proposed by Petitioner in its petition to amend filed September 3, 1976. Petitioner indicates that the hearings ordered by the Commission were held and the Administrative Law Judge issued his initial decision on May 18, 1977, recommending that certificates be issued granting the authorizations requested by Petitioner in the above-mentioned filings and the authorization requested by Washington Natural Gas Co. (Washington Natural), the Jackson Prairie Storage Project Operator, in its related filings in Docket No. CP75-110.

Petitioner requests in the instant Petition to Amend that the Commission's September 26, 1975 order be further amended to authorize an increase in the seasonal quantity which Petitioner is authorized to sell and deliver pursuant to its FPC Gas Rate Schedule SGS-1 from 10,100,000 Mcf to 10,800,000 Mcf and a reallocation of the peak day, best efforts and seasonal quantities which Petitioner proposes to sell and deliver pursuant to its FPC Gas Rate Schedule SGS-1 during the 1977-78 heating season.

It is said that the Eighth Revised Appendix C to the June 25, 1970 agreement among the three owners of Jackson Prairie set forth the contemplated expansion of Jackson Prairie which expansion will result in a Zone 2 inventory increase of 1,600,000 Mcf, of which 700,000 Mcf will be additional working gas and 900,000 Mcf will be additional cushion gas, for a total inventory of 26,900,000 Mcf consisting of 10,800,000 Mcf of working gas and 16,100,000 Mcf of cushion gas. No increase in the peak day or best efforts capability of the Jackson Prairie Project is proposed.

It is indicated that letter agreements between Petitioner and its SGS-1 customers have been executed reflecting the agreed upon allocations of the additional storage volumes for the 1977-78 heating season.

Petitioner indicates that the Washington Water Power Co. (Water Power), an owner of one-third of the current working gas inventory, has offered to release a portion, 7,824 Mcf daily and 281,679 Mcf seasonally, of its owned storage capacity to Petitioner so that Petitioner can make additional storage service available to Intermountain Gas Company, one of its other SGS-1 purchasers for the 1977-78 heating season.

The petition indicates the presently effective daily and seasonal allocations for the 1977-78 heating season, as temporarily authorized by the Commission's October 15, 1976 order are as follows:

	Daily quantity				Total daily quantity		Seasonal quantity	
	Firm		Best efforts					
	1,000 ft³	Therms	1,000 ft³	Therms	1,000 ft³	Therms	1,000 ft³	Therms
California-Pacific Utilities Co.	4,231	44,330	718	7,525	4,949	51,855	136,055	1,425,856
Cascade Natural Gas Co.	26,800	280,864	4,522	47,405	31,322	328,269	860,739	9,020,545
Intermountain Gas Co.	18,559	194,509	3,775	39,580	22,334	234,089	689,917	7,230,330
Northwest Natural Gas Co.	38,296	401,342	6,273	65,765	44,569	467,107	1,238,571	12,975,424
Peoples Natural Gas, Division of Northern Natural Gas Co.	514	5,387	120	1,254	634	6,641	17,313	181,440
Southwest Gas Corp.	11,600	121,568	2,775	29,095	14,375	150,663	399,533	4,092,786
Washington Natural Gas Co. and Washington Water Power Co., jointly	200,000	2,096,000	53,587	561,840	253,587	2,657,840	6,776,872	71,021,619
Total	300,000	3,144,000	71,770	752,464	371,770	3,896,464	10,100,000	105,848,000

The proposed reallocation for the 1977-78 heating season is as follows:

	Daily quantity				Total daily quantity		Seasonal quantity	
	Firm		Best efforts					
	1,000 ft³	Therms	1,000 ft³	Therms	1,000 ft³	Therms	1,000 ft³	Therms
California-Pacific Utilities Co.	4,231	44,330	718	7,525	4,949	51,855	145,925	1,529,290
Cascade Natural Gas Co.	26,800	280,864	4,522	47,405	31,322	328,269	923,272	9,675,891
Intermountain Gas Co.[1][2]	26,384	276,509	3,775	39,580	30,159	316,089	1,014,904	10,636,189
Northwest Natural Gas Co.	38,296	401,342	6,273	65,765	44,569	467,107	1,361,476	14,268,268
Peoples Natural Gas, Division of Northern Natural Gas Co.	514	5,387	120	1,254	634	6,641	18,503	193,914
Southwest Gas Corp.	11,600	121,568	2,775	29,095	14,375	150,663	417,600	4,376,448
Washington Natural Gas Co., and Washington Water Power Co., jointly [1][2]	192,175	2,014,000	53,587	561,840	245,762	2,575,850	6,918,320	72,504,000
Total	300,000	3,144,000	71,770	752,464	371,770	3,896,464	10,800,000	113,184,000

[1] The daily allocation set forth above reflects the release by water power of 82,000 therms (7,824 M ft³) of daily storage capacity.
[2] The seasonal allocations set forth above reflects the release by water power of 2,952,000 therms (281,629 M ft³) of seasonal storage capacity.

Petitioner asserts that the availability of the additional 700,000 Mcf of working gas inventory proposed herein can provide Petitioner's customers with additional volumes of natural gas to assure further adequate and reliable service within the market areas served by Petitioner's customers. Petitioner further asserts that the grant of the authorization requested would permit Petitioner to import additional volumes of natural gas during the summer months which would otherwise be lost to markets in the Pacific Northwest.

Applicant states that it does not propose any additional facilities to render the increased service and that additional volumes of gas to be delivered to Jackson Prairie for storage will be made available from Petitioner's present supply without curtailing any of Petitioner's customers' firm requirements.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 9, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24911 Filed 8-26-77;8:45 am]

[Docket No. CP77-536]

NORTHWEST PIPELINE CORP.

Application

AUGUST 22, 1977.

Take notice that on July 29, 1977, Northwest Pipeline Corp. (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP77-536 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and further authorizing a reallocation of natural gas service for Washington Natural Gas Co. (Washington Natural), an existing customer of Applicant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that Washington Natural proposes to reallocate natural gas service between the existing Redmond delivery point and a proposed Duvall-Cottage Lake delivery point in King County, Wash. and that Washington Natural has requested that Applicant help effectuate the proposed reallocation of service by reducing the daily contract quantity at the Redmond delivery point by 1,622 Mcf and by reallocating equivalent volumes to the proposed Duvall-Cottage Lake delivery point. It is said that without the proposed reallocation, Washington Natural would have to install four or five miles of supply main from the Clearview Gas Station to the Duvall-Cottage Lake area and enlarge the Clearview Gate Station which would cost approximately $370,000. Applicant further states that the reduction in the volumes of gas which Applicant is authorized to sell and deliver to Washington Natural at the Redmond delivery point would not affect Washington Natural's service to its existing customers in that area.

Applicant further seeks authorization to commence construction of the Duvall-Cottage Lake Meter Station which, it is said, would involve a combination 4 inch orifice type meter run and a positive displacement type meter with a 4 inch bypass, complete with appurtenances, adjacent to the right-of-way of the Applicant's existing 26 inch Ignacio to Sumas line located in Section 9, Township 26 North, Range 6 East, King County, Wash. Applicant estimates that the cost of constructing the facilities is $70,800 which cost would be reimbursed by Washington Natural to Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before Stepember 8, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24893 Filed 8-26-77;8:45 am]

[Docket Nos. ER76-319 and ER76-811]

PACIFIC GAS & ELECTRIC CO.

Compliance Filing

AUGUST 23, 1977.

Take notice that Pacific Gas & Electric (PG&E) on August 8, 1977, tendered for filing revised tariff sheets.

PG&E indicates that this filing is in compliance with the Commission Order Approving Settlement issued in the above-noted dockets on July 8, 1977.

PG&E states that copies of this filing have been served upon all parties in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C., 20426 in accordance with Section 1.10 of the Commission's Rules of Practice and Procedure (18 CFR, 1.10). All such protests should be filed on or before September 9, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-25009 Filed 8-26-77;8:45 am]

[Docket No. CP76-473]

PANHANDLE EASTERN PIPE LINE CO.

Petition To Amend

AUGUST 22, 1977.

Take notice that on August 8, 1977, Panhandle Eastern Pipe Line Co. (Petitioner), P.O. Box 1642, Houston, Tex. 77001, filed in Docket No. CP76-476 a petition to amend the Commission's order of November 3, 1976, issued in the instant docket (56 FPC ——) pursuant to Section 7 of the Natural Gas Act and Section 157.7(b) of the Commission's Regulations under the Act (18 CFR 157.7(b)) so as to authorize an increase in the total authorized expenditure limitation contained in Petitioner's presently effectively budget-type certificate to be raised to $12,000,000, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the Commission's order of November 3, 1976, issued in the instant docket the Commission authorized Petitioner to construct, during the twelve-month period commencing November 3, 1976, and operate facilities to take into its pipeline system new supplies of natural gas. Petitioner states that the total cost of all facilities constructed under such authorization is limited to $10,000,000.

Petitioner further states that due to the rising construction and material costs and a currently high level of well connection activity, it requests that the total expenditure limitation contained in its presently effective budget-type certificate be raised from $10,000,000 to $12,000,000.

Any person desiring to be heard or to make any protest with reference to said

V 42 N 167 AUG 29 77 UMI

petition to amend should on or before September 12, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commisison's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-24915 Filed 8-26-77;8:45 am]

[Docket No. RI77-111]

PENNZOIL CO.

Application for Increase Gathering Allowance

AUGUST 19, 1977.

Take notice that on June 28, 1977, Pennzoil Co. (Applicant), 3100 Pennzoil Place, Houston, Tex. 77002, filed an application in Docket No. RI77-111, pursuant to Federal Power Commission Regulation § 2.56(g).

Applicant seeks authorization to charge 34.37 cents per Mcf for the gathering and collecting of gas from numerous wells and small producers scattered throughout West Virginia; the subject gas is then sold to Consolidated Gas Supply Corp. Applicant's present gathering and compression allowance is 5.42 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 12, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24886 Filed 8-26-77;8:45 am]

[Docket No. ER77-554]

PUBLIC SERVICE CO. OF NEW MEXICO

Supplement to Interconnection Agreement

AUGUST 19, 1977.

Take notice that on July 29, 1977, Public Service Co. of New Mexico (PNM) tendered for filing a supplement to an Interconnection Agreement (designated PNM Rate Schedule FPC No. 31) with Plains Electric Generation and Transmission Cooperative, Inc. (Plains). PNM indicates that the supplement is in the form of a Service Schedule H providing reciprocal interruptible wheeling service for the delivery of both parties' electrical energy.

PNM states that no facilities will be installed or modified in order to perform the wheeling service described by Service Schedule H.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 7, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77 24876 Filed 8-26-77.8:45 am]

[Docket No. ER77-555]

PUBLIC SERVICE CO. OF NEW MEXICO

Agreement

AUGUST 19, 1977.

Take notice that Public Service Co. of New Mexico (PNM), on August 15, 1977, tendered for filing an Initial Rate Schedule and Agreement for Electric Service between PNM and the City of Farmington, N. Mex. (Farmington), providing for the sale of supplemental power and energy, and energy to meet the energy return requirement associated with U.S. Bureau of Reclamation peaking capacity, as well as for the interchange of emergency and economy energy. PNM indicates that the Agreement was executed on July 20, 1977, and PNM and Farmington desire that service commence on August 1, 1977, subject to FPC approval and PNM therefore requests that the Commission waive its notice requirements pursuant to Section 35.11 of the Commission's Rules of Practice and Procedure (18 CFR 35.11).

PNM states that the proposed rates have been agreed upon by the parties and are identical to those in PNM's filing in Docket ER77-464. PNM indicates, however, that in the event the Commission approves rates lower than those in Docket No. ER77-464, Farmington will be entitled to a refund under the terms of a Letter Agreement between the parties dated July 11, 1977.

According to PNM copies of this filing have been mailed to Farmington, to PNM's jurisdictional customers receiving similar service under a time-of-day tariff, and to the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 9, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24884 Filed 8-26-77;8:45 am]

[Docket No. ER77-471]

PUGET SOUND POWER & LIGHT CO.

Filing

AUGUST 19, 1977.

Take notice that on August 12, 1977, Puget Sound Power & Light Company ("Puget") tendered for filing as a Rate Schedule change an Exchange Agreement between Puget and the Bonneville Power Administration ("BPA").

Puget indicates that in changing said Exchange Agreement, the parties wish to (1) modify the exchange account and settlement provisions to reflect the presently effective BPA rates as filed with the Federal Power Commission, (2) allow for settlement on a monthly basis, rather than an annual basis and, (3) make certain other non-rate-related changes.

Puget states that the Exchange Agreement sets forth the terms and conditions under which the parties will exchange non-firm energy and provide emergency and breakdown relief for one another.

Puget indicates that although recently executed, the Exchange Agreement was made effective as of December 31, 1974, and Puget therefore, respectfully requests that this filing become effective on that date, and that the notice requirements set forth in the Commission's regulations be waived pursuant to 18 CFR § 35.-11. According to Puget a copy of the filing has been sent to BPA.

Any person wishing to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions should be filed on or before September 2, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants

parties to the proceeding. Any person wishing to become a party must file a petition to intervene, Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24880 Filed 8-26-77;8:45 am]

[Docket No. E-9602]

SOUTHERN CALIFORNIA EDISON CO.

Application for the Sale of Transmission Facilities

AUGUST 22, 1977.

Take notice that on August 10, 1977, Southern California Edison Company (Edison) and Pacific Gas and Electric Company (PG&E) have filed applications seeking authority pursuant to Section 203 of the Federal Power Act for Edison to sell and PG&E to acquire certain electric transmission facilities, known as the Kern-Magunden 220-KV transmission line, and associated rights-of-way located in the State of California.

Edison is incorporated under the laws of the State of California with its principal business office at Los Angeles, California, and is engaged in the electric utility business in 15 counties in southern California.

PG&E is incorporated under the laws of the State of California with its principal business office at San Francisco, California, and is engaged in the electric utility business in 48 counties in California.

The transmission line and related facilities which are the subject of the sale extend between PG&E's tower number 0/4 (0.42 miles north of PG&E's Kern Power Plant 230-KV bus) and Edison's tower number MO-T1 (approximately 208 feet north of Edison's Magunden Substation 220-KV bus). Said transmission line is no longer useful to Edison, and lies totally within PG&E's service territory.

The Kern-Magunden Transmission Line Sale Agreement between Edison and PG&E dated July 14, 1977 provides that Edison will be paid $750,000 for its transmission line and related facilities.

Any person desiring to be heard or to make any protests with reference to said applications should, on or before September 9, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure, 18 CFR 1.8, 1.10 (1976). The application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24899 Filed 8-26-77;8:45 am]

[Docket No. CP70-7]

SOUTHERN NATURAL GAS. CO.

Petition To Amend

AUGUST 19, 1977.

Take notice that on August 1, 1977, Southern Natural Gas Company (Petitioner), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP70-7 a petition to amend pursuant to Section 7 of the Natural Gas Act the Commission's order of October 29, 1969, issued in the instant docket, which authorized Petitioner to sell and deliver to the town of Fayette and to the town of Roxie, Mississippi contract demands of 1,800 Mcf and 875 Mcf of natural gas per day, respectively. Petitioner requests that said order be amended by authorizing a change in the applicable Rate Schedule from OCD-1 to G-1 for these two customers. Petitioner proposals are more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is indicated that Petitioner is currently rendering service to Roxie under its Rate Schedule OCD-1 pursuant to Second Revised Exhibit A to its Service Agreement and that it is rendering service to Fayette under its Rate Schedule OCD-1 pursuant to First Revised Exhibit A to its Service Agreement with Fayette.

At the request of Roxie and Fayette, Petitioner has agreed to execute and submit to the Commission for approval the Third Revised Exhibit A to the Service Agreement with the town of Roxie and the Second Revised Exhibit A to the Service Agreement with the town of Fayette to implement this change which will reduce the customers' purchased gas cost, it is said. It is stated further that these Revised Exhibit A's were executed by Petitioner on July 27, 1977 and are to become effective upon the date authorized by the Commission.

Petitioner states that the certificate modifications requested would not change the maximum amount of gas that Petitioner would be obligated to deliver to either Roxie or Fayette.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 8, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24901 Filed 8-26-77;8:45 am]

[Docket Nos. RP77-31 and RP73-64 (PGA77-2)]

SOUTHERN NATURAL GAS CO.

Order Accepting Revised Rates for Filing Subject to Adjustment and Denying Request for Deferred Accounting

AUGUST 18, 1977.

On June 29, 1977, as amended on July 18, 1977, Southern Natural Gas Company (Southern) filed in the above dockets certain revised rates proposed to be effective on July 1, July 2, and August 1, 1977. For the reasons set forth below the revised rate shall be accepted for filing and permitted to become effective on the dates requested, subject to the terms of this order.

In Docket No. RP77-31, Southern filed revised rates[1] in substitution for rates suspended until August 1, 1977, excluding costs associated with uncompleted construction and incorporating a PGA rate adjustment filed during the suspension period.

In Docket No. RP73-64, Southern filed revised rates in compliance with the Commisisons' order of June 30, 1977, excluding certain claimed costs disallowed by the Commission in its June 30 order, to be effective July 2, 1977, subject to refund.[2] In addition Southern filed rates to be effective on July 1, 1977, excluding, in addition to the amounts disallowed, all amounts associated with emergency purchases at rates in excess of those established in Opinion No. 770-A.[3] In support of its proposed July 1 rates, Southern states as follows:

[1] Substitute Twenty-Sixth Revised Sheet No. 4A to Sixth Revised Tariff Volume No. 1 and Third Revised Sheet No. 242 to Original Tariff Volume No. 2.

[2] Second Substitute Twenty Fifth Revised Sheet No. 4A.

[3] Substitute Twenty-Fifth Revised Sheet No. 4A.

The Commission's order further suspended for one day until July 2, 1977 Twenty-Fifth Revised Sheet No. 4A and prescribed the filing of evidence by Southern within 30 days relating to four emergency purchases which were at rates in excess of those established by Opinion No. 770-A. Therefore, Southern is filing substitute Twenty-Fifth Revised Sheet No. 4A, proposed to be effective July 1, 1977, which contains rates reflecting the exclusion of gas purchase costs above the Opinion No. 770-A rates. This adjustment makes $638,030 of emergency gas purchase costs subject to refund and results in reducing the effective July 1, 1977 Surcharge Rate by an additional .279 cents per Mcf. The Commission order does not provide for the filing of

V 42 167 AUG 29 77 UMI

a July 1, 1977 tariff sheet excluding these costs. Southern is doing so in reliance on past Commission precedent wherein such filings have been permitted in order to establish the amount of revenues subject to refund.

A review of Southern's filings reveals that the proposed rates have not been adjusted downward to reflect the lower PGA rates filed by two of its suppliers, United Gas Pipe Line Company (United) and Sea Robin Pipeline Company (Sea Robin) in Docket Nos. RP72-133 and RP73-89 respectively. On July 21, 1977, Southern submitted a letter requesting that it not be required to amend its proposed rates for the reductions of its suppliers but that it be permitted instead to account for the reductions by means of a credit to its unrecovered purchase gas cost account No. 191.

The Commission finds that good cause has not been shown to warrant Southern's request. The Commission finds, in view of the relatively large amount of rate reductions involved, which are estimated to be approximately $6 million in total, that Southern should be required to give immediate effect to such reductions. Use of the unrecovered purchase gas cost account would result in the deferral of actual reductions in Southern's rates until the time of its next PGA filing.

Except for Southern's failure to reflect the rate reductions associated with its purchases from United and Sea Robin, the proposed rates are in accordance with the Commission's prior orders in Docket Nos. RP77-31, and RP73-64. Southern's revised rates shall accordingly be accepted for filing, provided, however, that Southern shall be required to modify such rates to reflect the lower rates of United and Sea Robin. Southern's request to file firm rates to be effective on July 1, 1977, appears reasonable and is approved.

On July 15, 1977, Carolina Pipeline Company filed an untimely petition to intervene in Docket No. RP73-64. The Commission finds that the petitioner has demonstrated an interest in the subject proceeding and that the petition to intervene should be granted.

The Commission orders: (A) The proposals filed by Southern to be effective on July 1, July 2 and August 1, 1977, are accepted for filing subject to modification of the rates as required under paragraph (B) below.

(B) Southern shall within 15 days of the date of this order file revised rates to be effective July 1, July 2, and August 1, 1977, respectively, reflecting the reduced rates of United and Sea Robin.

(C) Carolina Pipeline Company is permitted to intervene in the proceeding in Docket No. RP73-64, subject to the Commission's rules and regulations.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24877 Filed 8-26-77;8:45 am]

[Docket No. RP77-120]

STINGRAY PIPELINE CO.

Proposed Changes

AUGUST 23, 1977.

Take notice that on August 15, 1977, Stingray Pipeline Company (Stingray) tendered for filing a notice of rate change (Tenth Revised Sheet No. 4) to increase its jurisdictional transportation revenues by approximately $7.2 million annually pursuant to its F.P.C. Gas Tariff, Original Volume No. 1. Stingray proposes that the rate increase be permitted to become effective on September 15, 1977. Stingray also requests that if the proposed rate increase is suspended by the Commission, the suspension period be shortened to coincide with the dates certain major offshore pipeline facilities are expected to be placed in service which date Stingray estimates to be December 1, 1977.

Stingray states that its rate filing is required by the Commission's November 8, 1974 order in Docket No. CP73-27, et al. Those proceedings authorize Stringray's initial construction and operation. As a result of Stringray's issuance of $145,000,000 of long-term debt representing the permanent financing of its initial and Phase II facilities authorized in the above docket, Stingray is required to file a rate change pursuant to Section 4 of the Natural Gas Act. The principal reason for Stingray's proposed rate increase, however, is Stingray's substantial investment in new facilities related to its transportation operations including increased operating costs, return and taxes.

Copies of this filing were served on Stingray's jurisdictional customers.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before September 8, 1977. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. This application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24977 Filed 8-26-77;8:45 am]

[Docket No. RI77-116]

SUN OIL CO. (DELAWARE)

Petition for Special Relief

AUGUST 19, 1977.

Take notice that on July 18, 1977, Sun Oil Company (Delaware) (Petitioner), P.O. Box 20, Dallas, Texas 75221, in Docket No. RI77-116 filed a petition for special relief pursuant to Section 2.76 of the Commission's General Policy and Interpretations (18 C.F.R. 2.76). Petitioner requests an increase of 12.5 cents per Mcf above the current rate of 31.577 cents per Mcf at 14.65 psia for natural gas sales to Panhandle Eastern Pipe Line Company from the Harrison Gas Unit, West Lorena Area, Texas County, Oklahoma. Petitioner states that the rate increase is necessary to recover the cost of installing a compressor in order that production and delivery of gas might be continued.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 12, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24889 Filed 8-26-77;8:45 am]

[Docket No. CP77-541]

TENNESSEE GAS PIPELINE CO.

Application

AUGUST 19, 1977.

Take notice that on August 3, 1977, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001 filed in Docket No. CP77-541 an application pursuant to Section 7 of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of natural gas pursuant to a transportation contract with Fruehauf Corporation (Fruehauf) whereby Applicant would receive for the account of Fruehauf daily volumes of natural gas up to the maximum daily quantity of 1,000 Mcf per day during the first year and 1,500 Mcf per day during the second year of deliveries hereunder and transport and deliver to Alabama-Tennessee Natural Gas Company (Alabama-Tennessee) for the account of Fruehauf equivalent daily volumes of natural gas up to the said maximum daily quantity, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that Fruehauf is an indirect customer of Alabama-Tennessee served by Alabama-Tennessee's resale customer, Decatur Gas Department (Decatur) and that Fruehauf has requested Columbia Gas Transmission Corporation (Columbia), Applicants, and Tennessee to render transportation services in order to enable Fruehauf to take delivery of volumes of natural gas which is produced from wells

wholly-owned by FrueKel, Inc. (FrueKel), the wholly-owned energy subsidiary of Fruehauf.

It is said that Fruehauf would arrange to have such daily volumes made available to Applicant by Columbia at the existing interconnection of the facilities of Applicant and Columbia at Tennessee's Main Line Valve No. 209-1 plus 9.9 miles, located in Guernsey County, Ohio. From such point Applicant would transport and deliver such volumes to Alabama-Tennessee for the account of Fruehauf at Applicant's existing Barton Sales Delivery Point to Alabama-Tennessee located in Colbert County, Ala. at Applicant's Main Line Valve No. 552-1 plus 6.11 miles, it is said.

It is asserted that Fruehauf would pay Tennessee each month for transportation service a demand charge to be determined by multiplying $1.38 by the maximum daily quantity, less any demand charge credit provided therein, if applicable and a volume charge equal to $17.55 per Mcf multiplied by the total of the scheduled daily volumes during such month or the number of days in said month multiplied by 66⅔ percent of the maximum daily quantity, whichever is greater, less any applicable annual minimum bill credit.

Applicant states that it has been advised by Fruehauf that the gas transported and delivered by Applicant would be used by Fruehauf for Priority 2 purposes to replace volumes actually being curtailed by Decatur. Applicant proposes to transport the gas only to the extent its operating conditions permit.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24879 Filed 8-26-77;8:45 am]

[Docket No. CP77-559]

TENNESSEE GAS PIPELINE CO.

Pipeline Application

AUGUST 19, 1977.

Take notice that on August 9, 1977, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) filed an application pursuant to Section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the transportation of natural gas for Continental Oil Company (Continental) from Eugene Island Block 257 (Block 257), Offshore Louisiana, all as more fully set forth in the application on file with the Commission and open to public inspection. Pursuant to a Gas Transportation Agreement (Agreement) dated November 3, 1972, as amended, Tennessee has agreed to transport for Continental, through existing facilities, natural gas produced from one-half of Continental's interest in Block 257, which portion was not dedicated to Tennessee under the terms of a Gas Purchase and Sales Agreement between Tennessee and Continental dated November 3, 1972. Tennessee will receive such transportation volumes from Continental's production platforms in Blocks 257 and 258, and will redeliver to Continental, at the Redelivery Points provided in the Gas Transportation Agreement, as amended, volumes equivalent to the volumes so received by Tennessee, less Tennessee's system fuel and use volumes required for said transportation service. Such Redelivery points will be located at (1) a valve on the inlet side of Continental's measuring facilities to be installed at a point adjacent to Tennessee's Sabine-Kinder thirty-inch (30") pipeline located approximately twenty-six miles west of Tennessee's compression station at Kinder, Calcasieu Parish, La. (Calcasieu Parish Redelivery Point No. 1), (2) the point of intersection of Continental's pipeline and Tennessee's Sabine-Kinder pipeline located in the Southeast Quarter of Section 20, Township 8 South, Range 10 West, Calcasieu Parish, La., approximately thirty-three miles west of Tennessee's Kinder compression station (Calcasieu Parish Redelivery Point No. 2), (3) the tailgate of Continental's Egan Plant located at Range 2 West, Township 9 South, Acadia Parish, La. (Acadia Parish Redelivery Point), and (4) such other points of redelivery as may be mutually agreed upon by Tennessee and Continental.

The Gas Transportation Agreement provides that the monthly charges to be paid to Tennessee by Continental for such transportation service for each of the aforementioned Redelivery Points will be as follows:

(1) A charge equal to 9.77¢ per each Mcf transported by Tennessee from Block 257 to the Calcasieu Parish Redelivery Point No. 1.

(2) A charge equal to 10.07¢ per each Mcf transported by Tennessee from Block 257 to the Calcasieu Parish Redelivery Point No. 2.

(3) A charge equal to 7.83¢ per each Mcf transported by Tennessee from Block 257 to the Acadia Parish Redelivery Point.

(4) In the event Tennessee and Continental desire to implement redeliveries at any other point, Tennessee will file an application for authorization therefor.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 12, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24906 Filed 8-26-77;8:45 am]

[Docket No. CP77-566]

TRANSCONTINENTAL GAS PIPE LINE CORP. AND MICHIGAN WISCONSIN PIPE LINE CO.

Application

AUGUST 23, 1977.

Take notice that on August 12, 1977, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Tex. 77001, and Michigan Wisconsin Pipe Line Company (Mich Wisc), One Woodward Avenue, Detroit, Mich.

V42167A AUG 29 77 UMI

48226 (Applicants), filed in Docket No. CP77-566 a joint application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants request authorization to exchange natural gas pursuant to the provisions of an exchange agreement dated July 11, 1977 between the two parties. It is stated that Transco would deliver or cause to be delivered up to 4,000 Mcf of gas per day to Mich Wisc at Vermilion Parish (Live Oak Field), La. and up to 2,000 Mcf of gas per day at Acadia Parish (West Mermentau Area), La., and Mich Wisc would deliver up to 1,000 Mcf per day to Transco at Vermilion Parish (Southeast Gueydan Field), La. Applicant states that any imbalance of exchange gas deliveries incurred at the above exchange points would be eliminated by appropriate adjustment of gas deliveries at the tailgate of Mobil Oil Corporation's Cameron Meadows Processing Plant, Cameron Parish, La. or at such other points of interconnection of Applicant's pipeline systems as mutually agreed upon. The term of the subject agreement would be for ten years from the date of first delivery and would continue thereafter until terminated by either party, it is said. Applicants indicate that the exchange of gas would be on an Mcf basis, and that no charge would be made by Transco or Mich Wisc for this exchange service.

It is stated that Applicants have agreed to the proposed exchange in order (i) to assist Transco in taking into its system natural gas which it would purchase in the Live Oak Field, Vermilion Parish, La. and gas which it would purchase in and transport from the West Mermentau Area, Acadia Parish, La, and (ii) to assist Mich Wisc in taking into its system certain of its natural gas in the Southeast Gueydan Field, Vermilion Parish, La. The proposed exchange would alleviate the necessity for the construction of unnecessary facilities by both Transco and Mich Wisc, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 15, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24976 Filed 8-26-77;8:45 am]

[Docket No. CP77-542]

TRANSCONTINENTAL GAS PIPELINE CORP.

Application

AUGUST 19, 1977.

Take notice that on August 3, 1977, Transcontinental Gas Pipeline Corporation (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP77-542 an application pursuant to Section 7 of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of up to 2,005 Mcf per day (at 14.65 psia) of natural gas on an interruptible basis for Adventure Knits, Inc.; Dynatex, Inc.; Facet Enterprises, Inc.; General Products Division; Galvan Industries, Inc.; Goodmark Foods, Inc.; Kings Mountain Mica Company, Inc.; Knitronic, Inc.; Minette Mills, Inc.; Sanford Finishing Corporation; Stonecutter Mills Corporation; Superba Print Works, Inc.; Uniglass Industries Division of United Merchants & Manufacturers, Incorporated; Wales Manufacturing Company, Inc.; and Wix Corporation (Buyers), all of which are existing industrial customers of Public Service Company of North Carolina, Inc. (PSNC), one of Applicant's resale customers served under Rate Schedule CD-2, pursuant to a transportation agreement dated July 5, 1977 among Applicant, Buyers (acting severally and not jointly by and through UGC Energy Corporation (UGC) as duly authorized agent), and PSNC which agreement shall continue in effect for a period of two years from the date of initial delivery, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is said that Buyers have purchased from Mitchell Energy Corporation (Mitchell) up to 2,005 Mcf per day (at 14.65 psia) of gas at a price of $2.00 per Mcf for the first contract year and $2.10 per Mcf thereafter, to be produced from the La Sal Vieja Field, Wallacy County, Tex. and that Buyers would arrange to have such quantities delivered to a mutually agreable point on Applicant's system in Willacy County, Texas, and Applicant would redeliver the transportation quantities to existing points of delivery to PSNC for the accounts of Buyers. It is stated that PSNC has agreed to transport such quantities of said gas delivered to it by Applicant for the accounts of Buyers to Buyers' respective plants.

It is asserted that the daily quantity to be transported to PSNC for Buyers shall not exceed PSNC's authorized daily entitlement under its Rate Schedule CD. It is further asserted that Applicant would charge Buyers, initially, 29.8 cents per Dekatherm (dt) equivalent for all quantities of gas delivered to PSNC for Buyers' account which rate would be subject to refund depending upon the resolution of the issues in Docket Nos. RP76-136 and RP77-26 concerning the appropriate method for determining the rates for interruptible transportation services on its system. Applicant states that it would retain, initially, 3.8 percent of the quantities received for transportation as make-up for compressor and fuel loss.

No additional facilities are required in order to render the proposed services, it is said.

It is indicated that the end use for each customer is process use with no technically feasible alternative fuel. This use is in Priority 3 as contained in 18 CFR Section 2.78 only for the reason that it was purchased on an interruptible basis and would otherwise qualify as Priority 2 use, it is said.

The volumes transported and the average total monthly end use for each customer is set forth below:

Customer	Volumes transported			Average total monthly end use (1,000 ft³)
	Peak day (1,000 ft³)	Average day (1,000 ft³)	Annual basis (1,000 ft³)	
Adventure Knits, Inc.	60	48	17,520	1,460
Dynatex, Inc.	55	37	13,505	1,125
Facet Enterprises, Inc., General Products Division	300	175	63,875	5,323
Galvan Industries, Inc.	75	60	21,900	1,825
Goodmark Foods, Inc.	50	40	14,600	1,217
Kings Mountain Mica Co., Inc.	110	85	31,025	2,585
Knitronic, Inc.	72	48	17,520	1,460
Minette Mills, Inc.	90	60	21,900	1,800
Sanford Finishing Corp.	250	164	60,000	5,000
Stonecutter Mills Corp.	60	40	14,000	1,217
Superba Print Works, Inc.	250	150	54,750	4,563
United Merchants and Manufacturing, Inc.	250	250	19,250	48,000
Wales Manufacturing Co., Inc.	58	40	14,600	1,278
Wix Corp.	325	167	60,955	5,080

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24902 Filed 8-26-77;8:45 am]

[Docket No. CP77-554]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

AUGUST 22, 1977.

Take notice that on August 8, 1977, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP77-554 an application pursuant to Section 7 of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of up to 1,500 Mcf of natural gas per day at 15.025 psia on an interruptible basis for Burlington Industries, Inc. (Burlington), and existing industrial customer of Piedmont Natural Gas Co., Inc. (Piedmont), Public Service Co. of North Carolina, Inc. (PSNC), North Carolina Natural Gas Corp. (NCNG), Virginia Pipe Line Co. (Virginia), Carolina Pipeline Co. (Carolina) and Public Service Electric and Gas Co. (PSEG), Applicant's CD customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to transport up to 1,500 Mcf of natural gas per day (at 15.025 psia) on an interruptible basis for Burlington pursuant to a transportation agreement dated July 8, 1977 among Applicant, Burlington, and Applicant's CD customers.

Applicant states that the gas which it proposes to transport for Burlington is gas that represents Burlington's working interest in gas to be produced from the Jefferson Island Prospect field, Iberia Parish, La. by an oil and gas exploration and development joint venture, in which Burlington is a participant and which is operated by C&K Petroleum Co. Applicant further states that Burlington would deliver or cause the gas to be delivered to Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), and Tennessee would deliver the gas to Applicant at an existing authorized interconnection between Tennessee and Applicant near Crowley, La., or at such other existing authorized points of interconnection or exchange as may be mutually agreed to by Applicant and Tennessee from time to time. Applicant indicates that it would redeliver equivalent quantities (less quantities retained for compressor fuel and line loss make-up) at existing delivery points on its system to Applicant's CD customers which would deliver the gas to Burlington at the following facilities:

Greensboro Finishing (including Greensboro, N.C. Meadowview)
Formed Fabrics, Greensboro, N.C.
Burlington House Fabrics Finishing, Burlington, N.C.
Wake Plant, Wake Forest, N.C.
Durham Plant, Durham, N.C.
Kernersville Finishing, Kernersville, N.C.
Mayfair Plant, Burlington, N.C.
Mooresville Finishing, Mooresville, N.C.
William G. Lord Plant, Cramerton, N.C.
Erwin Plant, Erwin, N.C.
Sheffield Plant, Rocky Mount, N.C.
Rocky Mount Plant, Rocky Mount, N.C.
K. M. Altavista, Hurt, Va.
Altavista Glass, Altavista, Va.
Brookneal Plant, Brookneal, Va.
Society Hill Plant, Society Hill, S.C.
James Fabric, Cheraw, S.C.
Westwood Industries, Paterson, N.J.

Applicant states that it would charge Burlington, initially, 29.8 cents per Dekatherm (dt) for all quantities delivered hereunder to PSNC, NCNG, Virginia and Carolina and 31.5 cents per dt for all quantities delivered hereunder to PSE&G. Additionally, Applicant states that it would also retain, initially, 4.4 percent of quantities received by it for transportation to PSE&G and 3.8 percent of volumes received by it for redelivery to Piedmont, PSNC, NCNG, Virginia and Carolina as make-up for compressor fuel and line loss. These percentages are based on Applicant's "company use" factor for pipeline throughout to and within its Rate Zones 2 and 3 in which the transportation deliveries proposed herein would be made, it is said.

Applicant indicates that no additional facilities are required to render the proposed service, which would be for a primary term of one year from the date of initial delivery hereunder and from year to year thereafter.

It is indicated that Burlington Industries, Inc., is the largest and most broadly diversified textile company in the United States, and that the company produces a wide assortment of apparel and home furnishing fabrics and industrial textile products, including, but not limited to, fabrics for men's women's and children's clothing, hosiery, uniform fabrics, ready-made draperies, towels, sheets, pillowcases, bedspreads, and carpeting. In addition, the company produces furniture, lamps and lighting fixtures, it is said. It is indicated that in general, unfinished fabrics are produced in what are referred to as greige mills, and are transported to other plants for dyeing and finishing. It is stated that the finishing plants are natural gas for open-flame processing, and essential Priority 2 uses, and that the principal open-flame processes requiring natural gas are singeing, drying, heat setting, thermosol dyeing and curing. It is further stated that these processes are essential to the finishing operations and any reduction in adequate fuel for such processes would soon seriously impact all other operation in the total production process.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 12, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24896 Filed 8-26-77;8:45 am]

V42167 AUG 29 77 UMI

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

AUGUST 19, 1977.

Take notice that on August 3, 1977, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP77-543 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 420 Mcf per day (at 14.73 psia) of natural gas on an interruptible basis for Libbey-Owens-Ford Co. (LOF), whose wholly owned subsidiary LOF Glass Inc. (Glass) is an existing industrial customer of North Carolina Natural Gas Corp. (NCNG), an existing resale customer of Applicant, pursuant to a transportation agreement dated June 22, 1977, between Applicant, LOF and NCNG, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that LOF would deliver or cause the gas to be delivered to Panhandle Eastern Pipe Line Co. (Panhandle) which would cause its wholly owned subsidiary, Trunkline Gas Co. (Trunkline), to deliver the gas to Applicant at Cow Island, La. or other mutually agreeable existing authorized exchange points between Trunkline's and Applicant's pipeline systems. Applicant would redeliver equivalent quantities (less quantities retained for compressor fuel and line loss make-up) at existing delivery points on its system to NCNG which would deliver the gas to Glass at Glass' Laurinburg, North Carolina plant.

It is said that the proposed interruptible transportation service is directly related to the curtailments in sales and deliveries which Applicant is now required to make due to a deficiency in flowing gas supply on its system, and is intended to make available to Glass from LOF's sources, up to those volumes of gas which it would otherwise not receive due to such curtailments.

Applicant asserts that it would charge LOF, initially, 29.8 cents per Dekatherm (dt) for all quantities delivered but that such rate is subject to refund depending upon the resolution of the issues in Docket Nos. RP76-136 and RP77-26 concerning the appropriate method for determining the rates for interruptible transportation services on its system. Applicant further asserts that it would retain, initially, 3.8 percent of quantities received by it for transportation as makeup for compressor fuel and line loss.

No additional facilities are required to render the proposed service, which would be for a term of eight years from the date of initial delivery subject to approval by the Commission, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24903 Filed 8-26-77;8:45 am]

[Docket No. CP77-495]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Petition for Declaratory Order

AUGUST 19, 1977.

Take notice that on August 8, 1977, Brooklyn Union Gas Company (Petitioner), a resale customer of Transcontinental Gas Pipe Line Corporation (Transco), 195 Montague Street, Brooklyn, New York 11201, filed in Docket No. CP77-495 a petition pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedures (18 CFR 1.7(c)) for a declaratory order declaring whether the Commission has jurisdiction over Petitioner, Petitioner's proposed activities in connection with the transaction proposed herein, and Petitioner's facilities to be used in connection with the transaction, all as more fully set forth in the petition on file with the Commission and open to public inspection.

Petitioner indicates that by an agreement dated June 8, 1977, it and Delmarva Power & Light Company (Delmarva), a Delaware distribution company and another resale customer of Transco, have entered into a contract for the sale by Petitioner and purchase by Delmarva of 500 billion Btu's of synthetic gas annually for a period of 3 years. Delmarva represents that the quantities of synthetic gas it has contracted to purchase are required for resale to its firm high priority customers, it is said. It is stated that the synthetic gas is to be sold by Petitioner at a price based upon a utility type cost of service.

Petitioner states that under the agreement between it and Delmarva, all synthetic gas is to be sold to Delmarva by Petitioner, unmixed with natural gas, at the tailgate or outlet of Petitioner's SG plant within its Brooklyn, New York service area, where ownership of the gas is to pass to Delmarva. Petitioner states that arrangements for the transportation of the gas from the delivery point to Delmarva's service area are to be the sole responsibility of Delmarva, except that Petitioner has agreed to assist in such arrangements, at no charge to Delmarva, by releasing quantities of gas thermally equivalent to those purchased by Delmarva, at appropriate New York delivery points of Transco.

It is stated that by a letter agreement dated May 24, 1977, in this proceeding, Delmarva and Transco have entered into a contract, agreed to by Petitioner, under which the synthetic gas sold by Petitioner would be transported and delivered by Transco for Delmarva's account by displacement, through reductions in Transco's deliveries to Petitioner and increases in Transco's deliveries to Delmarva, of quantities of gas thermally equivalent to the quantities of synthetic gas sold by Petitioner to Delmarva.

Petitioner indicates that it supports the issuance of the permanent authorization requested by Transco in this proceeding, and that Petitioner urges the issuance of such authorization on or before September 1, 1977 for the following reasons: (1) the synthetic gas sale and purchase Agreement between Petitioner and Delmarva is subject ot cancellation by either party if a certificate for transportation of the gas has not been issued by September 1, 1977; (2) because of the critical levels of curtailment in pipeline gas supplies, and the lead time necessary for the acquisition of alternative supplies (when alternative supplies can be acquired), Delmarva has advised it requires early assurance of the availability of the subject synthetic gas supply in order to plan its operations for the coming winter; and (3) Petitioner requires early certainty as to its supply obligations for the coming winter in order to schedule the annual start-up of its SG plant and operations and receipt of naphtha deliveries on the most efficient and economical basis, for the benefit of Petitioner's own customers and the customers of Delmarva.

Petitioner states that it believes that its proposed activities in connection with the transaction would not constitute either the transportation of natural gas in interstate commerce nor the sale in interstate commerce of natural gas for resale, and therefore do not require direct authorization by the Commission.

Therefore, Petitioner requests that the Commission issue a declaratory order disclaiming jurisdiction over Petitioner, Petitioner's proposed activities in connection with the transaction, and Petitioner's facilities to be used in that connection.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 12, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24905 Filed 8-2-77;8:45 am]

[Docket No. CP77-558]

UNITED GAS PIPE LINE CO.

Pipeline Application

AUGUST 19, 1977.

Taken notice that on August 9, 1977, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed an application for certificate of public convenience and necessity in Docket No. CP77-558, pursuant to Section 7(c) of the Natural Gas Act, requesting authorization to acquire, through assignment of lease, all rights and interests in a 1,000 Horsepower compressor facility and related equipment at Block 587, West Cameron Area, Offshore Louisiana. Furthermore, Sea Robin requests permission to reimburse the Operator of the subject block, Pennzoil Company, for all expenses incurred in the transportation, installation, operation, maintenance and rental of such compressor and equipment.

United states that it purchases gas from Pennzoil Offshore Gas Operators, Inc., Pinto, Inc., Cities Service Oil Corporation and Mobil Oil Corporation at Block 587, West Cameron Area. United further states that in order to increase production and to recover additional reserves it will be necessary to install compression at the Block 587 location. Both the subsequent accelerated production and enhanced recovery of volumes to be realized by such compression are vital to United's continued efforts to not only take all available steps toward assuring the continued availability of its current gas supply but also strive toward expediting the flow of gas volumes, whenever possible, all as more fully described in the application which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 12, 1977, should file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24907 Filed 8-26-77;8:45 am]

[Project No. 2075]

WASHINGTON WATER POWER CO.

Application for Change in Land Rights

AUGUST 23, 1977.

Public notice is hereby given that an application was filed on February 8, 1977 under the Federal Power Act, 16 U.S.C. §§ 791a-825r, by The Washington Water Power Company (Applicant) (Correspondence to: Mr. L. O. Falk, Assistant Secretary, The Washington Water Power Company, P.O. Box 3727, Spokane, Washington 99220) for a change in land rights at its constructed Project No. 2075 known as the Noxon Rapids Project. Project No. 2075 is located on the Clark Fork River in Sanders County, Montana.

Applicant proposed to grant an easement to the Bonneville Power Administration (BPA) for a 100-foot square parcel of land within the project boundary and the right to use a project road for access to the site. BPA intends to construct, operate and maintain a microwave relay station consisting of a tower, a small building, a fuel tank, and two beam paths consisting of 30-foot-wide strips of land 436 feet and 525 feet long extending towards the northwest and east, respectively, from the center of the tower. The construction and operation of the beam paths would include clearing the paths of all obstructions above elevation 2,270 feet, the approximate ground elevation at the tower site. Applicant states that BPA would use the proposed microwave communication system to help solve area stability problems.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 10, 1977, file with the Federal Power Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1977). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24975 Filed 8-26-77;8:45 am]

[Docket No. CP77-565]

WESTERN GAS INTERSTATE CO.

Application

AUGUST 23, 1977.

Take notice that on August 12, 1977, Western Gas Interstate Company (Applicant), 1800 First International Building, Dallas, Texas 75270, filed in Docket No. CP77-565 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas with Cities Service Gas Company (Cities), the continued use and operation of certain facilities to be used in connection with said exchange, and the sale of such gas to Southern Union Gas Company (Southern Union), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant and Cities Service were parties to a gas purchase contract dated November 14, 1949, as modified by an exchange agreement dated July 11, 1951. Applicant indicates that pursuant to the terms of said contract Cities Service was selling to and exchanging with Applicant certain volumes of natural gas in the Oklahoma Panhandle, and that a substantial deficit exchange balance due by Cities Service to Applicant arose under the July 11, 1951, exchange arrangement (approximately 131,000 Mcf as of January 1, 1977), although the exchange imbalance was reduced somewhat by an emergency exchange between Applicant and Cities Service for the period January 9, 1977 to March 9, 1977.

Applicant indicates that it and Cities Service entered into a new exchange agreement dated June 8, 1977, terminating the prior sale and exchange agreements between the two parties, although the deficit balance owed by Cities Service to Applicant under the prior arrangement is now owed by Cities Service to Applicant under the new exchange agreement. Pursuant to the terms of the new agreement, Applicant would deliver

V 42 N 167 A UG 29 77 UMI

at the wellhead to Cities Service for Applicant's account, the gas Applicant purchases from the Fanning No. 1 Well located in Texas County, Oklahoma, and Applicant would also deliver to Cities Service for Applicant's account volumes of gas at an existing point of interconnection of Applicant's and Cities Service's facilities near the northeast corner of Section 36, Township 4N., Range 14 E.C.M., Texas County, Oklahoma, it is indicated.

It is stated that Cities Service would deliver to Applicant for Cities Service's account volumes of gas at the following three points of interconnection of Cities Service's and Applicant's pipelines: (1) the interconnection located in the Northwest Quarter of Section 30, Township 5N., Range 19 E.C.M., Texas County, Oklahoma (the "Adams Delivery Point"); (2) the interconnection located in the Northeast Quarter of Section 4, Township 2N., Range 14 E.C.M., Texas County, Oklahoma (the "West Guymon Delivery Point"); and (3) the interconnection located on the center of the east line of Section 3, Township 1N., Range 12 E.C.M., Texas County, Oklahoma (the "Jones A and B Delivery Point"). Applicant indicates that the gas to be delivered at the Jones A and B Delivery Point is that gas purchased by Cities Service from the Jones A No. 1 and B No. 1 wells located in Sections 13 and 14, Township 1N., Range 12 E.C.M., Texas County, Oklahoma.

It is stated that in order to reduce the volumes of gas owed to Applicant by Cities Service, the new agreement also provides for volumes of gas to be delivered by Cities Service to Applicant in excess of the volumes delivered by Applicant to Cities Service, although under no circumstances would the total daily deliveries by Cities Service under the agreement exceed 1,500 Mcf.

Applicant states that all gas received by it from Cities Service under the foregoing arrangements would be sold by Applicant to Southern Union pursuant to existing certificates at various points of delivery along Applicant's transmission line in Beaver and Texas Counties, Oklahoma, and in Sherman County, Texas. Applicant further states that all such gas would be distributed and resold by Southern Union through existing distribution facilities to present and future customers of Southern Union. Such sales by Western to Southern Union would be made in accordance with Applicant's Rate Schedule G-N.

Applicant indicates that it requests authorization to continue to use the Adams' Tap and associated facilities, but that it does not propose to construct any new facilities in this instant docket.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 15, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24978 Filed 8-26-77;8:45 am]

[Docket No. CP77-531]

WESTERN GAS INTERSTATE CO.

Application

AUGUST 22, 1977.

Take notice that on July 27, 1977, Western Gas Interstate Company (Applicant), 1800 First International Building, Dallas, Tex. 75201 filed in Docket No. CP77-531 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of up to $500,000 of gas transmission facilities during the period ending March 31, 1978, and the operation of such facilities for the transportation of gas for Southern Union Supply Company (Susco) pursuant to the Gas Transportation Agreement dated July 31, 1977 between Applicant and Susco, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that the authorization requested is necessary to provide the means by which Applicant can transport to the interstate pipeline systems of El Paso Natural Gas Company (El Paso) gas produced from certain wells in which Susco has an interest. Susco desires to make such production available primarily to Southern Union Gas Company and Gas Company of New Mexico, both of which are distribution divisions of Susco's parent, Southern Union, it is said. The project is part of an expansion of Susco's first supplemental supply project which was approved by the Commission on April 20, 1977, it is stated.

Applicant indicates that the order of April 20, 1977 in Docket No. RI76-138, et al., approved the sale of gas produced from three wells in Lea County, N. Mex. to Southern Union, El Paso, and Applicant under separate purchase agreements. Applicant states that in order to allow the addition of new production sources to this supplemental supply project and to minimize the filing burden and delays that result if separate certificate applications are required for each new pipeline, it is hereby requesting authority to construct up to $500,000 of such gas transportation facilities as may be required and transport such gas pursuant to said Gas Transportation Agreement.

It is indicated that the Gas Transportation Agreement provides that Applicant would construct and operate the facilities necessary to deliver Susco's production to El Paso and other pipelines, if appropriate, for (a) further transportation by El Paso and such others and eventual sale by Susco to Southern Union and (b) sale to the transporting pipeline. It is said that the rate for such transportation would be calculated on a cost-of-service basis, that, after the initial rate period, the rate would be determined and filed every six months as part of Applicant's FPC Gas Tariff Original Volume No. 2, and that this cost-of-service approach would allow recovery of the actual costs of rendering the transportation service including a reasonable rate of return on investment and allowances for depreciation and income taxes. It is further stated that since the cost-of-service rates are to be based on actual data for six-month cost-determination period, and in the absence of actual data at the start-up of operations, the initial rate is to be 31.26 cents per Mcf, based on estimated data.

Applicant indicates that the first arrangement under the blanket certificate requested involves the production from two wells, (the Chaco No. 1 and No. 2 Wells) located in San Juan County, New Mexico, requiring approximately one mile of 2-inch pipeline, with appurtenances, commencing at the wellhead of each of the two wells and terminating at a point of interconnection with the El Paso line in the NE/4, Section 18, T-26-N, R-12-W, San Juan County, N. Mex. It is said that the total estimated cost of the Chaco Pipeline is $23,200 to be financed from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 8, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24900 Filed 8-26-77;8:45 am]

[Docket No. RI77-118]

W. R. YINGER (OPERATOR), ET AL.

Petition for Special Relief

AUGUST 19, 1977.

Take notice that on July 20, 1977, W. R. Yinger (Operator), et al. (Petitioner), 1000 City Center Building, Main and Broadway, Oklahoma City, Okla. 73102, filed in Docket No. RI77-118 a petition for special relief pursuant to Section 2.76 of the Commission's General Policy and Interpretations (18 C.F.R. § 2.76). Petitioner seeks to collect a rate of $1.32 per Mcf for the sale of natural gas to Cities Service Gas Company (Cities) from the Carlson 2-25 Well located in the Lookout Field, Woods County, Okla. Petitioner states that the subject well was previously connected to Signal Oil and Gas Company's (predecessor-in-interest to Aminoil USA, Inc.) gathering system. Petitioner further states that the gathering system was abandoned, and the subject well has been shut-in since October 1972. Petitioner proposes to construct a gathering line of 1¾ miles in length to Cities' pipeline and to install a compressor station.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 12, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-24888 Filed 8-26-77;8:45 am]

FEDERAL RESERVE SYSTEM

FIRST NATIONAL BOSTON CORP.

Acquisition of Bank

First National Boston Corporation, Boston, Massachusetts, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 per cent of the voting shares of the successor by merger to Blackstone Valley National Bank, Northbridge, Massachusetts. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 20, 1977.

Board of Governors of the Federal Reserve System, August 23, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-29948 Filed 8-26-77;8:45 am]

POLICY ON UNIONIZATION AND COLLECTIVE BARGAINING

The Board of Governors of the Federal Reserve System has adopted a policy on unionization and collective bargaining, effective August 22, 1977. The policy is set forth below.

SECTION 1. *Definition of a labor organization.* When used in this part, the term "labor organization" means any lawful organization of any kind, or any employee representation group, which exists for the purpose, in whole or in part, of dealings with the Board of Governors of the Federal Reserve System (hereinafter referred to as the "Board") concerning grievances, personnel policies and practices, or other matters affecting the working conditions of its employees, but the term shall not include any organization, (a) which asserts the right to strike or to take a job action against the Government of the United States, or any legal entity thereof regardless of form, or to assist or participate in any such strike or job action, or which imposes a duty or obligation to conduct, assist or participate in any such strike, or (b) which fails to agree to refrain from seeking or accepting support from any organization which employs coercive tactics, or (c) which advocates the overthrow of the constitutional form of the Government in the United States, or (d) which discriminates with regard to the terms or conditions of membership because of race, color, sex, creed, age or national origin.

SEC. 2. *Membership in a labor organization.* (a) Any employee of the Board is free to join and assist any existing labor organization or to participate in the formation of a new labor organization, or to refrain from any such activities, except however, Board staff who are executives, officials, and supervisory personnel, secretaries to officials and executives including Governors, administrative or confidential assistants to executives, and employees engaged in personnel work shall not be represented by any labor organization.

(b) The rights of employees described in paragraph (a) of this section do not extend to participation in the management of a labor organization, or acting as a representative of any such organization, where such participation or activity would be incompatible with law or the official duties of an employee.

(c) Notwithstanding anything stated in paragraph (a) of this section, professional employees of the Board shall not be represented by a labor organization which represents other employees unless a majority of the professional employees eligible to vote specifically elect to be represented by such labor organization. However, the professional employees of the Board may, if they so choose, be represented by a separate labor organization of their own, or by no labor organization at all.

SEC. 3. *Recognition of a labor organization.* (a) Any labor organization shall be recognized as the exclusive bargaining representative of the employees in an appropriate unit of the Board when that organization has been selected by the employees in said unit pursuant to the procedure set forth in Section 5. A unit shall be established only on the basis of a clear and identifiable community of interest among the employees concerned, and which unit will allow effective dealings and promote the efficiency of the Board's operations, but no unit shall be established solely on the basis of the extent to which employees in the proposed unit may have organized.

(b) When a labor organization has been recognized as the exclusive representative of employees in an appropriate unit, it will be entitled to act for and to negotiate agreements covering all employees in the unit and it shall be responsible for representing the interests of all such employees without discrimination and without regard to whether they are members of that labor organization or not. Such labor organization will have the opportunity to be represented at discussions between management and employees or employee representatives concerning grievances, personnel policies and practices, but not as to other matters effecting employees in the unit as defined herein or in Section 7(a)(2). The Board, through its Division of Personnel and such other authorized officials, will have the obligation to meet at reasonable times with representatives of a recognized labor organization to negotiate with respect to personnel policies and

V42167AUG297 7 UMI

practices and matters affecting general working conditions, but not with respect to such areas of discretion and policy as the purposes and functions of the Board, the compensation of and hours worked by employees, the budget, retirement system or any insurance plans, benefit plans or thrift plans, the determination as to the organization and assignment of personnel to particular work or position, or the manner of performing work or the internal security of the Board.

(c) Any labor organization seeking recognition shall, upon request, submit to the Board's Division of Personnel a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives.

(d) The exclusive recognition of a labor organization shall not preclude any employees, regardless of labor organization membership, from bringing matters of personal concern to the attention of appropriate officials in accordance with applicable law, rule, regulation, or established Board policy, or from choosing his or her own representative in a grievance or appellate action under applicable statutory authority.

SEC. 4. *Determination of appropriate bargaining unit.* The Board will be responsible for initially determining, in accordance with the guidelines previously set forth in Section 3, whether a unit is considered appropriate for purposes of recognition. However, if a labor organization claims that it holds cards requesting a representation election signed by at least 30 percent of the employees in a unit which that organization considers to be an appropriate bargaining unit, the labor organization and the Board shall each designate a representative who together shall request the American Arbitration Association (hereinafter referred to as the "Association") to submit to them from its National Panel of Professional Labor Arbitrators a list of seven impartial qualified professional Arbitrators. The two designated representatives shall meet promptly and by alternately striking names from the list, arrive at the remaining person who together with the two representatives shall constitute a Special Tribunal in connection with the particular union request to investigate the facts, hold hearings if necessary, and issue a decision as to the appropriateness of the unit for purposes of conducting a representation election for exclusive recognition and as to other related issues submitted for consideration. The impartial Arbitrator shall always act as the Chairman of any Special Tribunal duly constituted under this section. The expenses for this proceeding, including the fees of the Association and of the impartial Arbitrator, shall be borne equally by the labor organization and the Board. If either the Board or the labor organization should disagree with the Special Tribunal's decision, the party in disagreement may appeal to the Federal Reserve Board's Labor Relations Panel, as designated under Section 10, and the decision of the Labor Relations Panel shall be final and binding on the parties.

SEC. 5. *Elections.* (a) Once there has been a final determination of an appropriate bargaining unit under the procedure in Section 4 and a showing by a labor organization that it has cards signed by at least 30 percent of the employees in such unit requesting a representation election, an election shall be ordered by the Special Tribunal. A labor organization shall be recognized as the exclusive bargaining representative of the unit if the labor organization is selected by a majority of all the employees in the unit whether voting or not.

(b) If there is any dispute as to whether a labor organization holds cards signed by at least 30 percent of the employees in the unit designated as appropriate, the dispute shall be resolved by the Special Tribunal as previously constituted. The expenses of such procedure, including the impartial Arbitrator's fee, shall be borne equally by the labor organization and the Board. The decision of the Special Tribunal shall be final and binding and shall not be subject to appeal to the Federal Reserve Board's Labor Relations Panel.

(c) The election shall be held under the auspices of the Association, subject to its election rules and regulations. However, if there should be any conflict between such rules and regulations, and the provisions of this policy, the terms and conditions herein outlined shall be prevailing. The fees charged by the Association for this service shall be shared equally by the labor organization and the Board.

(d) An election to determine whether a labor organization should continue as the exclusive bargaining representative of a particular unit shall be held when requested by a petition or other bona fide showing by at least 30 percent of the employees of that unit. Any dispute as to whether at least 30 percent of the employees requested such an election shall be resolved by the same procedure as that set forth in paragraph (b) of this section. The election shall be held under the auspices of the Association in the same manner described in paragraph (c) of this section. The recognition of a labor organization as the exclusive bargaining representative of a unit shall be revoked if a majority of all the employees in the unit whether voting or not signify approval of such revocation.

(e) Only one election may be held in any unit in a twelve (12) month period to determine whether a labor organization should become, or continue to be recognized as, the exclusive representative of the employees in that unit.

(f)(1) Upon receipt of a request for an election from a labor organization supported by a prima facie showing of a 30 percent interest in the unit claimed appropriate by such labor organization, it shall be incumbent on the Board, labor organizations, and all others to refrain from any conduct, action, or policy that interferes with or restrains employees from making a fair and free choice in selecting or rejecting a bargaining representative consistent with the right of the Board, labor organizations, or employees to exercise privileges of free speech in expression of any views, argument or opinion, or the dissemination thereof, whether in written, printed, graphic or visual form.

(f)(2) The Special Tribunal shall consider and issue a decision relative to the allegations of any party that a violation of sub-section (f)(1) has affected the outcome of the election.

(f)(3) In the event of a proven violation of this section by the Board, labor organization, or by other individuals or organizations which are found sufficient to have prejudicially affected the outcome of an election, appropriate remedial action, such as the setting aside of the results of an election and the ordering of a new election, may be ordered by the Special Tribunal, subject to appeal to the Federal Reserve Board's Labor Relations Panel: *Provided, however,* That the Board cannot be required or directed to recognize a labor organization without an election.

(f)(4) The Federal Reserve Board Labor Relations Panel will have the authority, subject to approval by the Board of Governors, to draft a Code of Pre-Election Conduct for promulgation by the Board of Governors for the guidance of Special Tribunals in administering the provisions of this section.

SEC. 6. *Unfair labor practices.* (a) It shall be an unfair labor practice for the Board: (1) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in Section 2(a); (2) to dominate or interfere with the formation or administration of any labor organization, or to contribute financial or other support to it; (3) to encourage or discourage membership in any labor organization by discrimination in regard to hire or tenure of employment or any term or condition of employment; (4) to refuse to bargain collectively with the representatives of its employees subject to the provisions of Section 3(b).

(b) It shall be an unfair labor practice for a labor organization, its agents or representatives: (1) To restrain or coerce employees in the exercise of the rights guaranteed in Section 2(a); (2) to cause or attempt to cause the Board to discriminate against an employee in violation of paragraph (a)(3) of this section; (3) to refuse to bargain collectively with the Board, provided the labor organization is the representative of its employees.

(c) Notwithstanding anything previously stated in this section, the expression of any view, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice, if such expression contains no threat of reprisal or force, or promise of benefit.

(d) The Federal Reserve Board Labor Relations Panel will have the authority, subject to approval by the Board of Governors, to promulgate rules and regulations, including appropriate penalties, to remedy or prevent the unfair labor practices listed herein.

SEC. 7. *Approval of agreement and required contents.* (a) Any agreement entered into with a labor organization as the exclusive representative of employees in a unit must be approved by the Board of Governors. All agreements with labor organizations shall also be subject to the following requirements which shall be expressly stated in the agreement and shall be applicable to all supplemental, implementing, subsidiary or informal agreements between the Board and the labor organization:

(1) The administration of all matters covered by the agreement shall be governed by the provisions of applicable laws and the Federal Reserve Act of 1913, as amended, and all regulations, and the agreement shall at all times be applied subject to such laws and regulations.

(2) The management of the Board shall retain the right in accordance with applicable laws and regulations: To direct employees of the Board; to hire, promote, transfer, assign, and retain employees; to relieve employees from duties because of lack of work or for other legitimate reasons; to maintain the efficiency of the System and the operations entrusted to the Board by law; to determine the methods, means and personnel by which such operations are to be conducted; and to take whatever actions may be necessary to carry out the functions of the Board in situations of emergency.

SEC. 8. *Grievance Procedures.* (a) An agreement entered into with a labor organization as the exclusive representative of employees in a unit may contain grievance procedures applicable only to employees in such unit. However, these procedures may not in any manner diminish or impair any rights which would otherwise be available to any employee in the absence of an agreement providing for such procedures under applicable statute or regulation.

(b) Grievance procedures established by an agreement may include provisions for arbitration. However, such arbitration (1) shall be advisory in nature, with any decisions or recommendations subject to the approval of the Board of Governors; (2) shall extend only to the interpretation and application of existing provisions of such agreements and not to changes in or proposed changes in such agreements; (3) shall be invoked by a labor organization only with the express written approval of the individual employee or employees concerned.

SEC. 9. *Time for internal labor organization business, consultations and negotiations.* Solicitation of memberships, dues or other internal employee organization business shall be conducted during the non-duty hours of the employees concerned. Officially requested or approved consultation between management executives and representatives of labor organizations shall, whenever practicable, be conducted on official time, but the Director of the Division of Personnel, or his duly authorized representative, may require that negotiations with a labor organization be conducted during the non-duty hours of the Board.

SEC. 10. *Federal Reserve Board Labor Relations Panel.* There shall be established a Federal Reserve Board Labor Relations Panel which shall consist of three members: One member of the Board of Governors of the Federal Reserve System, who shall be Chairman of the Panel, and two public members, all of whom shall be selected by the Board of Governors: *Provided, however,* The public members shall not be connected with the Federal Reserve System in any way. The Panel shall be responsible for the duties assigned to it as set forth in this policy.

SECTION 11. *Amendment.* This policy may be amended upon appropriate legal notice to all labor organizations recognized, or seeking recognition, under this policy who shall promptly be informed of each change. In no instance shall an amendment be applied retroactively.

Board of Governors of the Federal Reserve System, August 24, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-25042 Filed 8-26-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

Meetings of Committees and Task Forces

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of Public Meeting of Committees and Task Forces.

SUMMARY: This notice is an Amendment to Notice of Meeting delivered August 17, 1977 for publication in the FEDERAL REGISTER as required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(a)). This document is intended to notify the general public of their opportunity to attend.

DATES: Task Force on the Administration and Operation of the Bureau of Occupational and Adult Education; Legislative Committee; Technical Assistance Committee; will meet on September 21, 1977 from 7:00–9:00 P.M. in the Ozark Rooms A and B of the Hyatt Regency O'Hare Hotel, 9300 Bryn Mawr, Rosemont, Illinois (Chicago). Manpower Task Force will meet on September 22, 1977 from 7:00–9:00 P.M. in the Pan Am Room B of the same Hotel.

Signed at Washington, D.C. on August 24, 1977.

REGINALD E. PETTY,
Executive Director, National Advisory Council on Vocational Education, 425 13th Street NW., Suite 412, Washington, D.C. 20004.

[FR Doc.77-24946 Filed 8-26-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing Federal Housing Commissioner

[Docket No. D-77-491]

CAMDEN, NEW JERSEY AREA OFFICE

Withdrawal of Certain Low-Income Housing Project Authority

AGENCY: Department of Housing and Urban Development.

ACTION: General Notice of Withdrawal Authority.

SUMMARY: This Notice withdraws certain Low-Income Housing Program Authority from the Camden, New Jersey Area Office with the result that the Newark Area Office will exercise the Authority for this Program previously exercised by the Camden Office.

EFFECTIVE DATE: August 29, 1977 through and including December 27, 1977.

SUPPLEMENTAL INFORMATION: The Secretary is withdrawing from the Camden, New Jersey Area Office Authority delegated (35 FR 16105, October 14, 1970 as amended 40 FR 39921, August 29, 1975) with respect to the Section 8 Housing Assistance Payments Program insofar as it relates to the New Jersey Housing Finance Agency, and is assigning responsibility for the Program throughout the State of New Jersey to the Newark Area Office. The objective is to achieve more consistency in administering the Program and to relieve imbalance between workload and staffing within these two offices. This transfer of responsibilities, however, is being adopted on a trial basis for 120 days.

Accordingly, there is withdrawn from the Director and Deputy Director of the Camden Area Office authority for housing assisted under the Section 8 Housing Assistance Payments Program insofar as it relates to the New Jersey Housing Finance Agency. Authority for this Program derives from the United States Housing Act of 1937, 42 U.S.C. 1437, including the power and authority under Sections 1(1) and 1(2) of Executive Order 11196 with certain exceptions.

(Sec. 7(d), Department of Housing and Urban Development Act, (42 U.S.C. 3535 (d)).)

Issued at Washington, D.C., August 23, 1977.

MORTON BARUCH,
General Deputy Assistant Secretary for Housing.

[FR Doc.77-25076 Filed 8-26-77;8:45 am]

Office of the Secretary

[Docket No. N-77-506]

PRIVACY ACT OF 1974

Adoption of New Notice of Systems of Records and Alteration of Existing Notice of System of Records

AGENCY: Office of the Secretary, HUD.

ACTION: Adoption of New Notice of Systems of Records and Alteration of Existing Notice of System of Records.

V 42 167 AUG 29 77 7 UMI

SUMMARY: As required by law (5 U.S.C. 552a), the Secretary is publishing two new systems of records and an altered system of records that will be maintained by the Department. The new records systems are "Privacy Act Requesters" and "Solar Energy Demonstration Survey Files". The change is necessary to convert the "Equal Opportunity Housing Complaints" records system from a manual to an automated system.

EFFECTIVE DATE: August 29, 1977.

ADDRESS: Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold Rosenthal, Departmental Privacy Act Officer, (202) 755-5192.

SUPPLEMENTARY INFORMATION: The new system of records entitled "Privacy Act Requesters" will result from processing requests made under the provisions of the Private Act. The "Solar Energy Demonstration Survey Files" system will consist of demographic, socio-economic, and housing characteristics of purchasers and renters of solar-heated residential dwellings and of occupants of non-solar-heated dwellings in the same development. The conversion from manual to automated processing of the "Equal Opportunity Housing Complaints" will improve complaint tracking and compliance review.

A notice proposing the two new systems of records and the alteration of the existing system of records was published in the FEDERAL REGISTER on May 16, 1977 at 42 FR 24771. No comments were received.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the address set forth above.

For the convenience of the public, the Department is reprinting the systems of records in their entirety.

HUD/DEPT-52

System name:

Privacy Act Requesters

System location:

Headquarters, Regional, Area, and Insuring Offices maintain files of this type. See Appendix A for a complete listing of these offices.

Categories of individuals covered by the system:

Individuals inquiring about existence of records about them, and requesting access to and correction of such records under provisions of the Privacy Act.

Categories of records in the system:

Personal identification of requester, nature of request, and disposition of the request by the Department.

Routine uses of records maintained in the system, including categories of users and purposes of such uses:

See Routine Uses paragraph in the prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

In file folders.

Retrievability:

Filed by case number and name of individual.

Safeguards:

Records maintained in locked and lockable file cabinets with access limited to authorized personnel.

Retention and disposal:

Records are primarily active. Inactive files are normally disposed of after a one-year period.

System manager and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories:

Subject individuals.

HUD/PD&R-2

System name:

Solar Energy Demonstration Survey Files

System location:

Headquarters

Categories of individuals covered by the system:

Purchasers and renters of solar heated or cooled housing under the demonstration program; comparative purchasers of conventional heated and cooled housing; prospective purchasers of housing marketed under the demonstration program.

Categories of records in the system:

Housing characteristics, reason for moving, utility expenditures, neighborhood characteristics, perception of housing and subdivision, housing costs and financing characteristics, marketing attitudes toward solar energy, operating experience with heating and cooling systems, socio-economic information.

Routine uses of records maintained in the system, including categories of users and purposes of such uses:

See Routine Uses paragraph in the prefatory statement. Other routine uses: Real Estate Research Corporation (Chicago, Ill.) for analysis and evaluation of solar energy use and its acceptance by the public.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

In file folders and on magnetic tape/disc/drum.

Retrievability:

Name; address; code number; and index.

Safeguards:

Computer facilities are secured and accessible only to authorized personnel. The name-address index file will be kept in the Department in lockable file cabinets, with access limited to key authorized personnel.

Retention and disposal:

Records will be maintained until follow-up interviews have been completed. Records of survey participants will be destroyed as each cycle ends or the participants leave the program. Hard copy questionnaires will be destroyed at the conclusion of the study, scheduled to end in approximately five years.

System manager and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures:

The Department's Rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters location. This location is given in Appendix A.

Contesting record procedures:

The Department's Rules for contesting the contents of records and appealing initials denials by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Record source categories:

Subject individuals.

HUD/DEPT-15

System name:

Equal Opportunity Housing Complaints.

System location:

Housing Discrimination files are located at the office where originated and may also be transferred to associated Area and/or Regional Offices, or the Department's Headquarters. For a complete listing of these with addresses, see Appendix A.

Categories of individuals covered by the system:

Individuals filing housing discrimination complaints; individuals, officials, and organizations complained about; managers; grant or project applicants; builders; developers; contractors; appraisers; property owners; mortgagors; candidates for positions; witnesses; attorneys; individuals in disaster and EO files; Titles VI, VIII and IX complainants. Does not include files on HUD employee complaints regarding their employment. Notices regarding these inquiries under the Privacy Act are published by the U.S. Civil Service Commission.

Categories of records in the system:

Allegations of housing discrimination; names of complainant and persons or organizations complained about; investigation information; details of discrimination cases; compliance reviews; marketing activity; complaints under Titles VI, VIII and IX; conciliation files; correspondence; affidavits; complaint status reports.

Routine uses of records maintained in the system, including categories of users and purposes of such uses:

See Routine Uses paragraph in prefatory statement.

Other routine uses: to non-federal EO-concerned agencies, the U.S. Department of Justice (including the Federal Bureau of Investigation), the U.S. Department of Labor (including the Office of Federal Contract Compliance), U.S. Courts, the Veterans Administration, the Farmers' Home Administration, complainants, respondents, and attorneys-for investigation, preparing litigation, and monitoring compliance.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Records kept in lockable desks and file cabinets and magnetic tape/disc/drum.

Retrievability:

Uusually retrievable by name of complainant and, in some instances, by case file number.

Safeguards:

Manual records are stored in lockable file cabinets; computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

Retention and disposal:

HUD handbooks establish procedures for retention and disposition of records. Generally retained for two years, then transferred to Federal Records Centers for an aditional five years.

System manager and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, SW.
Washington, D.C. 20410

Notification procedure:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures:

The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Record source categories:

Subject and other individuals; Federal and non-federal government agencies; law enforcement agencies; credit bureaus, financial institutions, current and previous employers; corporations or firms; EO counselors and witnesses.

System exempted from certain provisions of the Act:

Pursuant to 5 U.S.C. 552a(k)(2), all investigatory material, including conciliation files; in records contained in this System which meet the criteria of these subsections is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4), (G), (H), and (I), and (f)) of the agency regulations in order for the Department's Fair Housing and Equal Opportunity and legal staffs to perform their functions properly. (5 U.S.C. 552a, 88 Stat. 1896; sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).)

NOTE.—It is hereby certified that the economic and inflationary impacts of this Notice have been carefully evaluated in accordance with OMB Circular A-107.

Issued at Washingon, D.C., August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc.77-25081 Filed 8-26-77;8:45 am]

DEPARTMENT OF THE INTERIOR

National Park Service

HEADQUARTERS AREA, CANYON DE CHELLY NATIONAL MONUMENT, ARIZONA

Proposed Development Concept Plan Availability of Assessment of Alternatives

An assessment of the alternatives for directing orderly improvements, replacements, and further expansion of visitor and employee facilities at the headquarters area in Canyon de Chelly National Monument near Chinle, Apache County, Arizona, has been prepared by the National Park Service.

Specific issues addressed in the assessment include alternatives for limiting, improving and expanding concession facilities and road circulation. Also discussed are additions to the visitors center, improved monument and concessioner maintenance and storage and employee housing, development of a picnic area, an additional comfort station in the

V42167A AUG 29 77 UMI

campground, and a solid waste disposal system.

The assessment of alternatives is available at the following locations: Southwest Regional Office, National Park Service, 1100 Old Santa Fe Trail, Post Office Box 728, Santa Fe, New Mexico 87501; Navajo Lands Group Office, 111 North Behrend Avenue, Post Office Box 539, Farmington, New Mexico 87401; and from the Superintendent, Canyon de Chelly National Monument, Post Office Box 588, Chinle, Arizona 86503.

Comments on the assessment of alternatives should be sent to the Superintendent at the Chinle, Arizona address above by October 10, 1977. Following review of all public comments received, an alternative or combinations thereof will be selected and a decision will be made as to whether or not the proposals selected will sigificantly affect the environment.

Dated: August 9, 1977.

JOHN E. COOK,
Regional Director, Southwest Region, National Park Service.

[FR Doc.77-24927 Filed 8-26-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 76-53]

JAPAN ENGINEERING DEVELOPMENT CO.

Intent To Grant Foreign Exclusive Patent License

In accordance with the NASA Foreign Licensing Regulations, 14 C.F.R. 1245.405 (e), the National Aeronautics and Space Administration announces its intention to grant to the Japan Engineering Development Company, Tokyo, Japan, an exclusive patent license in Japan for the two NASA owned inventions covered by the Japanese counterparts of: (1) U.S Application for Patent Serial No. 463.837 for "Method of Improving Impact Resistance of Ceramic Bodies and Improved Bodies", filed by NASA on April 24, 1974 and (2) U.S. Patent No. 3.856.534 for "Anti-Fog Composition", issued to NASA on December 24, 1974. Copies of the above U.S. Patent Application can be purchased from the National Technical Information Service, Springfield, Virginia, 22161 at a cost of $3.75 a copy. Copies of the above identified U.S. Patent can be purchased from the U S. Patent and Trademark Office, Department of Commerce, Washington, D.C., 20231 for $.50 a copy. Interested parties should submit written inquiries or comments within 60 days to the Assistant General Counsel for Patent Matters, Code GP, National Aeronautics and Space Administration, Washington, D.C., 20546.

Dated: August 23, 1977.

S. NEIL HOSENBALL,
General Counsel.

[FR Doc.77-24956 Filed 8-26-77; 8:45a.m.]

NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

MEETINGS

The National Commission on Electronic Fund Transfers will meet on September 6, 7, and 8, and, as previously scheduled (41 FR 12356) September 9, 1977, at Chatham Bars Inn, Route 28 and Seaview Street, Cape Cod, Massachusetts, beginning at 1:00 p.m., Tuesday, September 6, 1977.

The purpose of the meetings is to consider the recommendations in the Commision's final report.

The meetings will be open to the public on a first-call basis to the extent space permits. Any person interested in attending the meetings should first contact Ms. Janet Miller at (202) 254-7400, to check on the availability of space.

Dated: August 24, 1977.

JAMES O. HOWARD, Jr.,
General Counsel.

[FR Doc.77-24950 Filed 8-26-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

TASK GROUP 3 OF THE NSF ADVISORY COUNCIL

Amendment To Notice of Meeting

Task Group No. 3 of the NSF Advisory Council will be meeting in Washington, D.C. on September 9, 1977.

Please change the room number from 421 to 536, 1800 G Street, N.W. The notice for this meeting originally appeared in the FEDERAL REGISTER on August 25, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

AUGUST 23, 1977.

[FR Doc 77-24951 Filed 8-26-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-341]

DETROIT EDISON CO. (ENRICO FERMI ATOMIC POWER PLANT, UNIT NO. 2

Order Extending Construction Completion Date

The Detroit Edison Company is the holder of Construction Permit No. CPPR-87 issued by the Atomic Energy Commission [1] on September 26, 1972, for construction of the Enrico Fermi Atomic Power Plant, Unit No. 2 presently under construction at the Company's site in Monroe County, Michigan.

On July 8, 1976, the Company filed a request for an extension of the completion dates because construction has been delayed due to (1) labor problems, (2) delivery problems, and (3) inadequate funds. This action involves no significant hazards consideration; good cause has been shown for the delay; and the requested extension is for a reasonable period, the bases for which are set forth in a staff evaluation, dated

Copies of the above documents and other related material are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Monroe County Library System, Reference Department, 3700 South Custer Road, Monroe, Michigan 48161.

It is hereby ordered that the latest completion date for CPPR-87 is extended from September 30, 1976 to January 1, 1982.

For the Nuclear Regulatory Commission.

Date of Issurance: August 18, 1977.

D. B. VASSALLO,
Assistant Director for Light Water Reactors, Division of Project Managment

[FR Doc.77-24958 Filed 8-26-77;8:45 am]

[1] Effective January 20, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and Permits in effect on that day were continued under the authority of the Nuclear Regulatory Commission.

[Docket Nos. STN 50-491, STN 50-492 and STN 50-493]

DUKE POWER CO. (CHEROKEE NUCLEAR STATION, UNITS 1, 2 AND 3)

Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR § 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this construction permit proceeding:

Alan S. Rosenthal, Chairman
Dr. John H. Buck
Richard S. Salzman

Dated: August 22, 1977.

ROMAYNE M. SKRUTSKI,
Secretary to the Appeal Board.

[FR Doc.77-24959 Filed 8-26-77;8:45 am]

[Docket No. 50-341]

ENRICO FERMI ATOMIC POWER PLANT, UNIT NO. 2

Negative Declaration Supporting: Extension of Construction Permit No. CPPR-87

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the Detroit Edison Company's (permittee) request to extend the expiration date of the construction permit for the Enrico Fermi Atomic Power Plant, Unit No. 2 (CPPR-87) which is located in Monroe County, Michigan. The permittee requested a six year extension to the permit through September 30, 1982 to allow for completion of construction of the Fermi plant.

The Commission's Division of Site Safety and Environmental Analysis (staff) has prepared an environmental impact appraisal relative to this change to CPPR-87. Based upon this appraisal, the staff has concluded that an environmental impact statement for this particular action is not warranted because pursuant to the Commission's regulations in 10 CFR Part 51 and the Council of Environmental Quality's Guidelines, 40 CFR 1500.6, the Commission has determined that this change to the construction permit is not a major federal action significantly affecting the quality of the human environment.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555; and at the Reference Department of the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Dated at Bethesda, Maryland, this 18th day of August, 1977.

For the Nuclear Regulatory Commission.

GEORGE W. KNIGHTON,
Chief, Environmental Projects Branch 1, Division of Site Safety and Environmental Analysis.

[FR Doc.77-24961 Filed 8-26-77;8:45 am]

[Docket No. 50-587]

GENERAL ELECTRIC CO. AND GENERAL ELECTRIC TECHNICAL SERVICES CO., INC.

Application for Consideration of Issuance of Facility Export License

Please take notice that General Electric Company and General Electric Technical Services Company, Incorporated (GETSCO), San Jose, California, have submitted to the Nuclear Regulatory Commission an application for a license to authorize the export of a boiling water reactor with a thermal power level of 2,894 megawatts to Switzerland and that the issuance of this license is under consideration by the Nuclear Regulatory Commission.

No license authorizing the proposed reactor export will be issued until the Nuclear Regulatory Commission determines that the export is within the scope of and consistent with the terms of an applicable agreement for cooperation arranged pursuant to Section 123 of the Atomic Energy Act of 1954, as amended (Act), nor until the Nuclear Regulatory Commission has found that:

(a) The application complies with the requirements of the Act and the Commission's regulations set forth in 10 CFR, Chapter 1, and

(b) The reactor proposed to be exported is a utilization facility as defined in the Act and the Commission's regulations.

Unless before September 28, 1977, a request for a hearing is filed with the Nuclear Regulatory Commission by the applicant, or a petition for leave to intervene is filed by any person whose interest may be affected by the proceeding, the Director of the Office of International Programs may, upon the determinations and findings noted above, cause to be issued to General Electric Company and GETSCO a facility export license and may cause to be published in the FEDERAL REGISTER a notice of issuance of the license. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Nuclear Regulatory Commission will issue a notice of hearing or an appropriate order.

A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

Dated at Bethesda, Maryland this 22nd day of August, 1977.

For the Nuclear Regulatory Commission.

MICHAEL A. GUHIN,
Assistant Director, Export/Import and International Safeguards, Office of International Programs.

[FR Doc.77-24962 Filed 8-26-77;8:45 am]

[Docket No. 50-281]

VIRGINIA ELECTRIC AND POWER CO., SURRY POWER STATION, UNIT NO. 2

Order for Modification of License

I

Virginia Electric and Power Company (the Licensee), is the holder of Facility Operating License No. DPR-37 which authorizes the operation of the nuclear power reactor known as Surry Power Station, Unit No. 2 (the facility) at steady state reactor power levels not in excess of 2441 thermal megawatts (rated power). The reactor is a pressurized water reactor (PWR) located at the Licensee's site in Surry County, Virginia.

II

On April 1, 1977, the staff issued an Order for Modification of License No. DPR-37 which addressed operation of Surry Power Station Unit No. 2 under conditions in which steam generator tubes have been plugged as a result of tube denting caused by corrosion of the tube support plate in the annular spaces between tube and the tube support plate. In order to perform an inspection of the steam generators, the April 1, 1977 Order limited operation to 4 equivalent months. The licensee's fuel cycle for Surry 2 will end on September 15, 1977, and the resulting shutdown will include performance of the required inspection. The NRC staff has evaluated the results of the previous inspection program and has assessed continued safe operation of the facility. This evaluation is set forth in the staff's concurrently issued Safety Evaluation relating to steam generator tube integrity.

With respect to the effect of increased stress in the tube support plate as a result of tube support plate growth, the staff, in their April 1, 1977, Safety Evaluation (SE), concluded that neither buckling of the tube support plate nor damage to the steam generator shell through the wrapper and channel spacer would develop.

Continued growth of the tube support plate continues to impose stresses on the tubes and may result in the development of stress corrosion cracks in denting locations. The staff has considered the effect of the development of stress corrosion cracking during the course of operation of this facility, and has assessed the effect of such cracks in conjunction with steam line break and loss of coolant accident events. The staff has concluded that under the limitations on tube leakage set forth in this Order, the effect of continued denting on the consequences of the steam line break event would be a fraction of Part 100, and the effect on continued denting on LOCA events, as stated in the April 1, 1977 SE, would not be significant. These events are of extremely low probability, and would be especially so for the limited period of approximately 29 days covered by this Order. The limitations set forth in this Order will provide reasonable assurance that the public health and safety will not be endangered.

After discussion with the staff the licensee has proposed in his July 29, 1977, submittal to continue the limitations applicable to this facility in the manner set forth in the April 1, 1977 Order. The NRC staff believes that the licensee's actions, under the circumstances are appropriate and should be confirmed by NRC order.

Copies of the following documents are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., 20555 and at the Swem Library, College of William and Mary, Willamsburg, Virginia, (1) Licensee's submittals of July 29, 1977 and August 9, 1977, (2) Order for Modification of License dated April 1, 1977, (3) this Order for Modification of License, In the Matter of Virginia Electric and Power Company, Surry Power Station, Unit No. 2, Docket No. 50-281, and (4) the Commission's concurrently issued Safety Evaluation supporting this Order.[1]

III

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that Facility Operating License No. DPR-37 is hereby amended by replacing in its entirety existing paragraph 3.E. of the license with the following:

E. *Steam Generator Inspection.*—(1) Unit No. 2 shall be brought to the cold shutdown condition by midnight, September 15, 1977 in order to perform an inspection of the steam generators. Nuclear Regulatory Commission approval shall be obtained before resuming power operation following this inspection.

(2) Primary coolant leakage from the primary system to the secondary system through the steam generator tubes shall be limited to 1.0 gpm for all three steam gen-

[1] A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

AUG 29 1977 UMI

erators and shall be limited to 0.3 gpm per steam generator, as described in the NRC Safety Evaluation of April 1, 1977. With any steam generator tube leakage greater than either limit the reactor shall be brought to the cold shutdown condition within 24 hours. Nuclear Regulatory Commission approval shall be obtained before resuming reactor operation.

(3) Reactor operation will be terminated if primary to secondary leakage which is attributable to 2 or more tubes occurs during a 20 day period. Nuclear Regulatory Commission approval shall be obtained before resuming reactor operation.

(4) The concentration of radioiodine in the primary coolant shall be limited to 1 μCi/gram during normal operation and to 10 μCi/gram during power transients as defined in Appendix A–1 to the Technical Specifications of the license. Appendix A–1 was issued with the April 1, 1977 Order and shall remain in effect through midnight September 15, 1977.

Dated in Bethesda, Maryland this 17th day of August 1977.

For the Nuclear Regulatory Commission.

EDSON G. CASE,
Acting Director,
Office of Nuclear Reactor Regulation.

[FR Doc.77-24960 Filed 8-26-77;8:45 am]

[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 28 to Facility Operating License No. 40 issued to Omaha Public Power District which revised Technical Specifications for operation of the Fort Calhoun Station, Unit No. 1, located in Washington County, Neb. The amendment is effective as of its date of issuance.

The amendment consists of changes to the Technical Specifications to allow alternate methods of monitoring and controlling doses to personnel authorized to enter high radiation areas and modifications to the reactor coolant sampling requirements.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated March 14, 1977 and August 13, 1976 (as revised by letter dated May 31, 1977), (2) Amendment No. 28 to License No. DPR–40, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Blair Public Library, 1665 Lincoln Street, Blair, Nebr. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md. this 19th day of August 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc 77 24963 Filed 8-26-77;8:45 am]

[Docket Nos. STN 50-546 and STN 50-547]

PUBLIC SERVICE CO. OF INDIANA, INC. (MARBLE HILL NUCLEAR GENERATING STATION) UNITS 1 AND 2

Reconstitution of Board

Dr. Marvin M. Mann was a member of the Atomic Safety and Licensing Board for the above proceeding. Dr. Mann is unable to continue his service on this Board.

Accordingly, Gustave A. Linenberger, whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appointed a member of this Board. Reconstitution of the Board in this manner is in accordance with Section 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Maryland this 23rd day of August 1977.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc 77 24964 Filed 8-26-77;8:45 am]

[Docket Nos. 50-259, 50-260 and 50-296]

TENNESSEE VALLEY AUTHORITY

Issuance of Amendments to Facility Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 31 to Facility Operating License No. DPR–33, Amendment No. 28 to Facility Operating License No. DPR–52, and Amendment No. 6 to Facility Operating License No. DPR–68 issued to Tennessee Valley Authority (the licensee), which revised Technical Specifications for operation of the Browns Ferry Nuclear Plant, Unit Nos. 1, 2 & 3 (the facility), located in Limestone County, Ala. The amendments were effective as of July 15, 1977, because of the circumstances involved in plant operation as a consequence of cooling tower operation. Formal issuance of the license amendments occurred on August 18, 1977.

These amendments revise the Environmental Technical Specification 2.1 contained in Appendix B to licenses. The change would temporarily increase the maximum temperature measured at the 5 foot depth of the downstream control point from 86° to 90°F.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an Environmental Impact Appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action.

For further details with respect to this action, see (1) the application for amendments dated July 15, 1977, (2) Amendment No. 31 to License No. DRP–33, Amendment No. 28 to License No. DPR–52, and Amendment No. 6 to License No. DPR–68, and (3) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Ala. 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 18th day of August 1977.

For the Nuclear Regulatory Commission.

THOMAS V. WAMBACH,
Acting Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-24965 Filed 8-26-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP NO. 1 OF THE SUBCOMMITTEE ON REACTOR SAFETY RESEARCH

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), Working Group No. 1 of the ACRS Subcommittee on Reactor Safety Research will hold a meeting on September 14–15, 1977 at the American Museum of Atomic Energy, South Tulane Avenue, Oak Ridge, TN 37830. The purpose of this meeting is to review various water reactor safety research programs relating to systems engineering and analytical development.

The agenda for subject meeting shall be as follows:

WEDNESDAY, SEPTEMBER 14, 1977

11:15 A.M. UNTIL CONCLUSION OF BUSINESS

The Working Group may meet in open Executive Session, with any of its consultants who may be present, to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Working Group will meet in open session to hear presentations by and to hold discussions with representatives of the NRC Staff, their consultants, and with representatives of other organizations participating in safety research on the PWR Blowdown Heat Transfer Program at Oak Ridge, TN.

THURSDAY, SEPTEMBER 15, 1977

9:00 A.M UNTIL THE CONCLUSION OF BUSINESS

The Working Group may meet in open Executive Session, with any of its consultants who may be present, to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Working Group may meet in open session to hear presentations by and to hold discussions with representatives of the NRC Staff, their consultants, and with representatives of other organizations participating in safety research on PWR Reflood Heat Transfer Programs carried out under the FLECHT Program.

At the conclusion of these sessions, the Working Group may caucus in an open session to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

In addition, it may be necessary for the Working Group to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Pub. L. 92–463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Working Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 readily reproducible copies to the Working Group at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than September 6, 1977 to Dr. Andrew L. Bates, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the beginning of the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on September 13, 1977 to the Office of the Executive Director of the Committee (telephone 202/634–1919, Attn: Dr. Andrew L. Bates) between 8:15 a.m. and 5 p.m., EDT.

(d) Questions may be asked only by members of the Working Group, its consultants, and the Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Dr. Andrew L. Bates, of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after September 22 and December 15, 1977, respectively, at the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: August 25, 1977.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-25051 Filed 8-26-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE GREENE COUNTY NUCLEAR POWER PLANT

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on the Greene County Nuclear Power Plant, will hold a meeting on September 21–22, 1977 at the Friar Tuck Inn, Highway 32, Catskill, NY 12424. The purpose of this meeting is to review the application of the Power Authority of the State of New York for a permit to construct the Greene County Nuclear Power Plant.

The agenda for subject meeting shall be as follows:

V 42 167 AUG 29 77 UMI

WEDNESDAY, SEPTEMBER 21 AND THURSDAY, SEPTEMBER 22, 1977

8:30 A.M. UNTIL CONCLUSION OF BUSINESS EACH DAY

The Subcommittee may meet in open Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will meet in an open session to hear presentations by and hold discussions with representatives of the NRC Staff, the Power Authority of the State of New York, and their consultants, pertinent to this review.

At the conclusion of these sessions, each day, the Subcommittee may caucus in an open session to determine whether the matters identified in the Executive Sessions have been adequately covered and whether the project is ready for review by the full Committee.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 readily reproducible copies to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than September 14, 1977, addressed to Mr. Robert L. Wright, Jr., ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Catskill Public Library, 1 Franklin Street, Catskill, N.Y. 12414.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on September 20, 1977 to the Office of the Executive Director of the Committee (telephone 202/634-1919 Attn: Mr. Robert L. Wright, Jr.) between 8:15 a.m. and 5:00 p.m., EDT.

(d) Questions may be asked only by members of the Subcommittee, its consultants, and Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. Robert L. Wright, Jr., of the ACRS office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after September 29 and December 29, 1977, respectively, at the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555 and at the Catskill Public Library, 1 Franklin Street, Catskill, NY 12414.

Copies may be obtained upon payment of appropriate charges.

Dated: August 25, 1977.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-25053 Filed 8-26-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE ATLANTIC GENERATING STATION

Meeting; Change in Agenda

The agenda for the meeting of the ACRS Subcommittee on the Atlantic Generating Station scheduled to be held August 31, 1977 has been changed as follows:

At the conclusion of the Executive Session, the Subcommittee will meet to hear presentations by representatives of the NRC Staff, the Public Service Electric and Gas Company, and their consultants, and will hold discussions with these groups pertinent to the review.

Notice of this meeting was published in the FEDERAL REGISTER on August 15, 1977, 42 FR 41193. All other matters pertaining to the meeting remain the same.

Dated: August 25, 1977.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-25054 Filed 8-26-77;8:45 am]

[Docket No. 50-571; License No. XR-118]

BABCOCK & WILCOX

Issuance of Facility Export License

On November 10, 1976 Babcock & Wilcox submitted an application to the Nuclear Regulatory Commission seeking a license to authorize the export of a pressurized water reactor with a thermal power level of 3,600 megawatts to the Federal Republic of Germany (FRG). Pursuant to 10 CFR 2.105, notice of the application was published in the FEDERAL REGISTER on December 16, 1976 (41 FR 55003).

On February 16, 1977, a timely petition was filed with the Commission on behalf of Burgeraktion Atomschutz Mittelrhein e.V. (Citizen Action Group for Nuclear Protection, Middle Rhine, Ltd.) for leave to intervene and for a hearing on the application for export of this utilization facility to the FRG.

On June 27, 1977 the Commission issued a memorandum and order in this matter which (1) found that

(a) The subject application meets all applicable licensing requirements of the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974;

(b) NEPA does not require the Commission to prepare an individual environmental statement assessing the site specific impacts of the particular proposed nuclear reactor export on territory within the sovereign jurisdiction of a foreign government;

(c) Insofar as the Commission must consider the impacts of the export on the United States and globally, the environmental impact statement on the effects of United States nuclear export activities previously prepared by the Energy Research and Development Administration (ERDA) satisfies all the Commission's NEPA obligations in the matter; and

(d) The Petitioner lacks standing to intervene in the licensing proceeding as a matter of right;

and (2) directed the Assistant Director for Export-Import and International Safeguards to issue the proposed license to Babcock & Wilcox.

On June 28, 1977, License Number XR-118, was issued to Babcock & Wilcox, Lynchburg, Virginia, authorizing the export of the power reactor to Rheinisch-Westfalisches Elektrizetatswerk, Essen, the Federal Republic of Germany.

The export of this reactor to the FRG is within the purview of the Agreement for Cooperation Between the Government of the United States of America and the Government of the Federal Republic of Germany.

Dated at Bethesda, Md., this 22nd day of August, 1977.

For the Nuclear Regulatory Commission.

MICHAEL A. GUHIN,
Assistant Director, Export/Import and International Safeguards, Office of International Programs.

[FR Doc.77-25055 Filed 8-26-77;8:45 am]

[Docket No. STN 50-560]

FLUOR PIONEER INC.

BOPSSAR Balance-of-Plant Standard Design and Its Relationship to the RESAR-41 Standard Design; Issuance of a Safety Evaluation Report and Preliminary Design Approval

Notice is hereby given that the staff of the Nuclear Regulatory Commission (the NRC staff) has issued a Safety Evaluation Report (SER) dated August 1977 and a Preliminary Design Approval No. PDA-11 dated August 17, 1977 for the reference system design of a balance-of-plant portion of a pressurized water reactor nuclear power plant, utilizing the Westinghouse RESAR-41 nuclear steam supply system design, and as described in the application by Fluor Pioneer Inc. (BOPSSAR). The BOPSSAR balance-of-plant design was reviewed by the NRC staff pursuant to Appendix O to 10 CFR Part 50. Notice of receipt of the BOPSSAR Safety Analysis Report was published in the FEDERAL REGISTER on February 6, 1976 (41 FR 5460).

The BOPSSAR Safety Analysis Report contains preliminary design information for the balance-of-plan portion of a standard plant. This SER presents the NRC staff's evaluation of the BOPSSAR design and its relationship to the RESAR-41 standard nuclear steam supply system design, described in the Westinghouse Electric Corporation Standard Safety Analysis Report (RESAR-41), Docket No. STN 50-480. A Safety Evaluation Report (NUREG 75/103) and a Preliminary Design Approval No. PDA-3 were issued in December 1975 for RESAR-41.

The Safety Evaluation Report documents the results of the NRC staff's review and evaluation of the BOPSSAR design, and its relationship to the RESAR-41 NSSS design, including Amendments 1 through 14 thereto, and addresses the comments of the Advisory Committee on Reactor Safeguards as reflected in its report to the Commission dated July 20, 1977.

PDA-11 provides NRC staff approval of the preliminary balance-of-plant design described in BOPSSAR and its relationship to the RESAR-41 NSSS design. By the issuance of PDA-11, the NRC staff has determined that the information provided in BOPSSAR (and its relationship to the RESAR-41 NSSS design) is acceptable for referencing in utility applications for construction permits. The BOPSSAR balance-of-plant design and the RESAR-41 NSSS design shall be utilized by and relied upon by the NRC staff and the Advisory Committee on Reactor Safeguards in their review of facility license applications for construction permits incorporating by reference BOPSSAR preliminary standard design, unless there exists significant new information which substantially affects the determinations in PDA-11 or other good cause.

Issuance of PDA-11 and the staff's Safety Evaluation Report does not constitute a commitment to issue a permit or license, or in any way affect the authority of the Commission. Atomic Safety and Licensing Appeal Board, Atomic Safety and Licensing Boards, and other presiding officers in any proceeding under Subpart G of 10 CFR Part 2. This action only approves, subject to the conditions set forth in PDA-11, the design of a facility for use for reference purposes in applications for permits to construct a nuclear power plant. It does not authorize the construction or operation of any nuclear power plant or any other facility. The environmental impacts associated with any facility proposed to be construction utilizing the approved reference design will be considered in accordance with the Commission's regulations in 10 CFR Part 51.

PDA-11 is effective as of its date of issuance and shall expire December 31, 1978, unless earlier superseded by issuance of an appropriate Final Design Approval for the BOPSSAR standard design, or unless extended by the NRC staff. The expiration of PDA-11 on December 31, 1978, shall not affect use of PDA-11 for reference in any construction permit application docketed prior to such date.

A copy of the (1) Preliminary Design Approval No. PDA-11 dated August 17, 1977; (2) the report of the Advisory Committee on Reactor Safeguards dated July 20, 1977; (3) the NRC staff's Safety Evaluation Report, NUREG-0315 dated August 1977; (4) Fluor Pioneer Inc.'s Standard Safety Analysis Report (BOPSSAR), including Amendments 1 through 14 thereto; and (5) WASH-1341, the Commission's "Programmatic Information for the Licensing of Standardized Nuclear Power Plants," dated August 1974, which also includes the Standardization Policy issued on March 5, 1973, are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20555. A copy of PDA-11 may be obtained upon request. The request should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management. Copies of the Safety Evaluation Report, NUREG-0315, may be purchased at current rates from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Bethesda, Md., this 17th day of August 1977.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc.77-25057 Filed 8-26-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.108, Revision 1, "Periodic Testing of Diesel Generator Units Used As Onsite Electric Power Systems at Nuclear Power Plants," describes a method acceptable to the NRC staff for complying with the Commission's regulations with regard to periodic inspection and testing of diesel electric power units to ensure that the diesel electric power systems will meet their availability requirements. This guide was

V 42 167 AUG 29 77 UMI

revised to reflect public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commissions Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 22nd day of August 1977.

For the Nuclear Regulatory Commission.

RAY G. SMITH,
Acting Director,
Office of Standards Development.

[FR Doc.77-25056 Filed 8-26-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a revised guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.59, Revision 2, "Design Basis Floods for Nuclear Power Plants," discusses the design basis floods that nuclear power plants should be designed to withstand without loss of capability for cold shutdown and maintenance thereof. The appendices to the guide provide methods for determining estimates for the probable maximum flood, seismically induced floods resulting from dam failures, and probable maximum surges on the Atlantic and Gulf coasts. A recently issued standard, ANSI N170-1976, "Standards for Determining Design Basis Flooding at Power Reactor Sites," contains methods previously included in Appendix A of this guide. The purpose of this revision is to replace the description of these methods with an endorsement of ANSI N170-1976.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Atttention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 23rd day of August 1977.

For the Nuclear Regulatory Commission.

RAY G. SMITH,
Acting Director,
Office of Standards Development.

[FR Doc.77-25058 Filed 8-26-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 9902 (811-2493)]

CAPITAL LIQUIDITY, INC.

Filing of Application for an Order Declaring That the Company Has Ceased To Be an Investment Company

AUGUST 22,1977.

Notice is hereby given that Capital Liquidity, Inc., 4201 Wilshire Boulevard, Los Angeles, California 90010 ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on August 1, 1977, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Applicant, a Maryland corporation, registered under the Act on June 25, 1974. The Applicant states that at a Special Meeting of the Shareholders held on March 4, 1977, 1,000 of the 1,094 outstanding voting shares of Applicant were voted in favor of a plan of liquidation and dissolution ("Plan"). Pursuant to the Plan the Applicant's assets were liquidated at their current market value, the expenses of the Applicant paid and the net assets distributed on a pro-rata basis to the shareholders on May 21, 1977. No shares were voted against the Plan. None of the costs and expenses of implementation of the Plan were borne by the Applicant.

Applicant also states that in accordance with the provisions of the Plan all of the net assets of the Applicant have been distributed to the Shareholders, and active operations of it have ceased. In addition, it is alleged that all liabilities of Applicant have been paid. Applicant filed its Articles of Dissolution with the Maryland State Department of Assessments and Taxation on May 16, 1977. This filing acted to dissolve Applicant in accordance with the requirements of Maryland law.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 19, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons, who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-24940 Filed 8-26-77;8:45 am]

[Release No. 9903 (811-2206)]

TUDOR INDUSTRIES CORPORATION

Filing of Application for Order Declaring That Applicant Has Ceased To Be an Investment Company

AUGUST 22, 1977.

Notice is hereby given that Tudor Industries Corporation, 733 Summer Street, Stamford, Conn. 06901, ("Applicant"), a company registered under the Investment Company Act of 1940 (the "Act") as a non-diversified, closed-end, management investment company, filed an application on May 2, 1977, and amendments thereto on June 16, 1977 and August 5, 1977, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Section 3(a)(3) of the Act includes within the definition of "investment company" any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. For purposes of Section 3(a)(3), the term "investment securities" is defined to include all securities except Government securities, securities issued by employees' securities companies, and securities issued by majority owned subsidiaries of the owner which are not investment companies.

Applicant states that in September, 1971, it registered under the Act because it owned or proposed to acquire investment securities having a value in excess of 40 percent of its assets. It further states that, as of April 28, 1977, it did not own any investment securities and that its assets of $11,809, as of January 1, 1977, to the extent not expended, are held as cash and have not been otherwise invested. Applicant's financial statements, submitted as an exhibit to the application, indicate that it had a federal income tax loss carryforward of approximately $262,900, of which $220,000 expired on June 30, 1977.

According to the application, at a meeting of shareholders held on May 23, 1977, Applicant's shareholders approved, inter alia, the execution, delivery and performance of a reorganization agreement ("Reorganization Agreement") whereby Applicant would acquire all of the outstanding stock of GS International Corporation ("GSI") from the stockholders of GSI in exchange for an aggregate of 1,106,117 shares of Applicant's common stock, such stock to be issued after Applicant's shareholders shall have approved, and Applicant shall have effectuated, a reverse stock split of its outstanding common stock on the basis of one share for each twenty shares presently outstanding. Applicant states that: (1) it had 5,530,585 shares of common stock outstanding prior to such reverse stock split, and (2) upon the issuance of Applicant's stock to the stockholders of GSI, the GSI stockholders will own approximately 80 percent of Applicant's then outstanding shares. Although the proxy solicitation made in connection with the above-referenced meeting of Applicant's shareholders stated that the deregistration of Applicant was a condition to the consummation of the reorganization with GSI, according to the application, all of the provisions of the Reorganization Agreement have been effectuated with the exception of the exchange of Applicant's shares for all of the stock of GSI, which exchange will not take place unless an order deregistering Applicant is granted.

Applicant states that GSI is a Connecticut corporation which was incorporated on May 6, 1976, and that the business activity of GSI consists of (1) the importation of consumer products into the United States for distribution and sale, such products at present being electronic calculators, LED watches and smoke detectors, and (2) the sale of materials, such as integrated circuits, LED displays and other semi-conductor items to foreign assemblers outside the United States. With respect to the importing of consumer products, Applicant states that GSI has entered into a marketing agreement with Minerva Distributors, Ltd. of Thailand ("Minerva") under the terms of which GSI acts as the exclusive distributor for all consumer type electronic products manufactured or assembled by Minerva and that, in addition, GSI makes direct sales of products as principal. Applicant further states that (1) for the period ended February 28, 1977, transactions with Minerva accounted for approximately 59 percent of the total sales of GSI, (2) Minerva also purchases from GSI material used by Minerva in the assembly of consumer products, and (3) substantially all of GSI's sales of materials to foreign assemblers are to Minerva. According to the application, GSI has established a subsidiary corporation operating in Singapore which will be selling in local markets many of the same products being sold by GSI in the United States.

Applicant states that GSI has 25 full-time employees, including its president, Eric Tang, its vice-president, Robert C. Leng, and assembly and supervisory personnel. It states also that for the period June 3, 1976 through February 28, 1977, GSI had sales of $908,921, commissions earned of $25,000, and interest income of $673, which after expenses of the company amounted to net income before federal income tax of $103,836. Applicant states that as of February 28, 1977, GSI had (1) assets of $576,542.50, consisting primarily of $257,325 in inventory and $246,820.42 in accounts receivable, (2) current liabilities of $346,347.56, (3) long-term loan payable of $22,500, and (iv) stockholder's equity of $207,694.94.

Notwithstanding the provisions of Section 3(a)(3) of the Act, summarized above, Section 3(b)(1) of the Act excludes from the definition of investment company any issuer primarily engaged, directly or through a wholly-owned subsidiary or subsidiaries, in a business or businesses other than that of investing, reinvesting, owning, holding or trading in securities.

Applicant submits that it owns no investment securities and that upon the consummation of the exchange of Applicant's stock for GSI stock, GSI will become a wholly-owned subsidiary of Applicant. It further submits that GSI is actively engaged in the business of importing and distributing consumer products and the sale of electronic components to assemblers outside the United States, and that such facts indicate that, upon consummation of the proposed reorganization, Applicant, through its wholly-owned subsidiary GSI, will be actively engaged in such business. Applicant states that since January 31, 1977, it has not engaged in any business other than actions taken to carry out the Reorganization Agreement.

Section 8(f) of the Act provides, in part, that where the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and that, upon the taking effect of such order, the registration under the Act of such company shall cease to be in effect. Section 8(f) further provides that, if necessary for the protection of investors, such an order may be made upon appropriate conditions.

Applicant has requested an order of the Commission pursuant to Section 8(f) of the Act declaring that it has ceased to be an investment company, and has agreed that such order may be conditioned upon: (1) an undertaking to retain Applicant's records for a period of five years from the date an order deregistering Applicant is issued, and (2) consummation of the reorganization with GSI.

Notice is further given that any interested person may, not later than September 16, 1977, at 5:30 P.M., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-24941 Filed 8-26-77;8:45 am]

V42167A AUG 29 77 UMI

SMALL BUSINESS ADMINISTRATION

MIAMI AND JACKSONVILLE DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Miami and Jacksonville District Advisory Council will hold a combined public meeting at 9 a.m., Friday, September 23, 1977, at the Gold Key Inn, 7100 S. Orange Blossom Trail, Orlando, Fla. 32809, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call Thomas A. Butler, District Director, U.S. Small Business Administration, 2222 Ponce de Leon Blvd., 5th Floor, Coral Gables, Fla. 33134 (305–350–5533).

Dated: August 18, 1977.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc.77-24929 Filed 8-26-77;8:45 am]

[Declaration of Disaster Loan Area No. 1362]

WEST VIRGINIA

Declaration of Disaster Loan Area

The Counties of Boone, Logan and Mingo and adjacent counties within the State of W. Va., constitute a disaster area as a result of damage caused by flooding which occurred on August 13–15, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 20, 1977, and for economic injury until the close of business on May 19, 1978, at:

Small Business Administration, District Office, 109 North Third Street, Clarksburg, W. Va.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 19, 1977.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc.77-24930 Filed 8-26-77;8:45 am]

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 563]

BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

Availability of Draft Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of State has prepared a draft environmental impact statement for the draft Panama Canal treaty being negotiated between officials of the Governments of the United States of America and the Republic of Panama.

When ratified, the Panama Canal treaty and its supporting agreements will provide a new basis for cooperation between the United States and Panama in the operation and defense of the Panama Canal. It will replace the United States-Panama Treaty of 1903, which has governed canal operations since the waterway's construction, and subsequent amendments.

Copies of the draft environmental impact statement may be obtained by writing to the Office of Environmental Affairs, Department of State, Room 7822, Washington, D.C. 20520. Written comments on the proposed action should be submitted to William H. Mansfield III, Office of Environmental Affairs, Department of State, Room 7820, Washington, D.C., no later than September 28, 1977.

For the Secretary of State.

LINDSEY GRANT,
Deputy Assistant Secretary for Environmental and Population Affairs.

AUGUST 26, 1977.

[FR Doc 77-25147 Filed 8-26-77;8:45 am]

Agency for International Development

AID MISSIONS AND OFFICES, LATIN AMERICA REGION—CLASS II

Redelegation of Authorities to the Field

SECTION I. DEFINITION

AID MISSIONS AND OFFICES

AID Missions and Offices subject to this redelegation of authorities shall be the AID Missions or Offices located in Barbados, Brazil, Ecuador, Guyana, and Uruguay.

SECTION II. AUTHORITIES

A. *Implementing Authorities* — Authority to negotiate, execute, and implement in accordance with applicable statutes and regulations, all loans, grants, guarantee agreements, and amendments thereto, to their respective countries, whether heretofore or hereafter authorized, including authority:

1. To sign project agreements, trust fund agreements, and grant agreements with foreign governments, foreign government agencies, and international organizations having a membership consisting primarily of such foreign governments;

2. To sign Project Implementation Orders (PIO's or PIPA's); and

3. To approve borrower/grantee contracts financed in whole or in part by an AID loan or grant provided that this approving authority shall be limited to contracts not to exceed $50,000.

B. *Excess Property*—In accordance with the provisions of Section 607 of the Foreign Assistance Act of 1961, as amended, ("the Act"), and of AID Handbook 16, and subsequent to my authorizing such assistance, authority:

1. To execute transfer or transfer/trust agreements with friendly countries or with international organizations having a membership primarily of foreign governments;

2. To make the determinations prescribed in subsection 607(b) of the Act.

C. *Special Development Activities*—Authority to use a total of $50,000 annually of Development Grant Funds for Special Development Activities undertaken pursuant to the provisions of AID Manual Order 1323.1.1 or such other amount as may be authorized by AID/W.

D. *Extension of Terminal Dates*—In accordance with AIDTO Circular A–268 dated July 15, 1977, and any amendments thereto, authority to extend:

1. The terminal date for signing a Project Agreement for a cumulative period not to exceed six months;

2. The terminal date for meeting initial conditions precedent for a cumulative period not to exceed six months;

3. The terminal date for requesting disbursement authorizations for a cumulative period not to exceed one year; and

4. The terminal date for completion of performing services and furnishing goods for a cumulative period not to exceed one year.

E. *Hiring of Third Country Nationals by Contractors*—Subject to the provisions of Section VII of AIDPR 7–6.5101, authority to approve waivers to permit employment by contractors under AID funded contracts of third country nationals on the basis of a written determination that the circumstances necessitated such employment.

SECTION III. REDELEGATION OF AUTHORITIES

Pursuant to the authorities delegated to me as Assistant Administrator for Latin America, I hereby delegate all of the authorities set forth in Section II hereof, retaining for myself concurrent authority to exercise any of the functions herein redelegated to the Director, AID Affairs Officer, or AID Representative, as appropriate, of Missions or Offices included in Section I.

SECTION IV. MISCELLANEOUS

A. The authorities redelegated pursuant to Section III hereof shall be exercised after consultation with a Regional Legal Advisor, or GC/LA, as appropriate, a Regional Contracting Officer or a Regional Engineer or SER/ENGR, as appropriate.

B. The authorities redelegated pursuant to Section III may be redelegated in the discretion of the principal AID Officer, to one additional officer or may be exercised by the person acting in the capacity of the respective Mission Director, AID Affairs Officer or AID Representative.

C. This redelegation of authorities shall become effective on the date of my execution of this document and shall supersede on that date all delegations of authority previously issued to the affected AID Missions or Offices or the United States Embassies by the Assistant Administrator for Latin America and the Deputy U.S. Coordinator of the Alliance for Progress; provided, however, that all actions taken under the delegations of authority which are hereby superseded shall remain valid and are hereby reaffirmed.

ABELARDO VALDEZ,
Assistant Administrator for Latin America.

[FR Doc.77-24989 Filed 8-26-77;8:45 am]

HOUSING GUARANTY PROGRAM FOR THE REPUBLIC OF KOREA

Information for Investors

The Agency for International Development (A.I.D.) has advised the Korea National Housing Corp. (KNHC) that upon execution by an eligible U.S. investor acceptable to A.I.D. of an agreement to loan the KNHC an amount not to exceed $5,000,000 and subject to the satisfaction of certain further terms and conditions by the KNHC, A.I.D. will guaranty repayment to the investor of the principal and interest on such loan. The guaranty will be backed by the full faith and credit of the United States of America and will be issued, pursuant to authority, contained in Section 221 of the Foreign Assistance Act of 1961, as amended. Proceeds of the loan will be used to finance lower income housing projects and the rehabilitation of squatter areas in the Republic of Korea. This project is referred to as 489–HG–006.

Eligible investors interested in extending a guaranteed loan to KNHC should communicate promptly with counsel for KNHC:

Duncan Cameron, Esquire, Cameron, Hornbostel & Adelman, 1707 H Street, NW., Washington, D.C. 20006.

Investors eligible to receive a guaranty are those specified in Section 238 (c) of the Act. They are: (1) U.S. citizens; (2) domestic corporations, partnerships or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for a guaranty, the loan must be repayable in full no later than the thirtieth anniversary of the first disbursement of the principal amount thereof and the interest rate may be no higher than the maximum rate to be established by A.I.D.

The KNHC projects a schedule of disbursements covering approximately 24 months from the date of the loan agreement and prospective investors should consider this in proposing a guaranteed loan to the KNHC. In addition, the investor must provide for the servicing of his loan, i.e., recordation and disposition of loan payments received from the KNHC.

Information as to eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from:

Director, Office of Housing, Agency for International Development, Room 625, SA–12, Washington, D.C. 20523.

This notice is not an offer by A.I.D. or by the KNHC. The KNHC and not A.I.D. will select an investor and negotiate the terms of the proposed loan.

Dated: August 11, 1977.

DONALD A. GARDNER,
Deputy Director, Office of Housing, Agency for International Development.

[FR Doc.77-24990 Filed 8-26-77;8:45 am]

Agency for International Development

AID MISSIONS AND OFFICES

Redelegation of Authorities to Field Latin America Region—Class I

SEC. I. *Definition—AID Missions and Offices.* AID Missions subject to this redelegation of authorities shall be the AID Missions located in Bolivia, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Haiti, Honduras, Jamaica, Nicaragua, Panama, Paraguay, Peru, and ROCAP.

SEC. II. *Authorities—A. Implementing Authorities.* Authority to negotiate, execute, and implement in accordance with applicable statutes and regulations, all loans, grants, guarantee agreements, and amendments thereto, to their respective countries, whether heretofore or hereafter authorized, including authority:

1. To sign project agreements, trust fund agreements, and grant agreements with foreign governments, foreign government agencies, and international organizations having a membership consisting primarily of such foreign governments;

2. To sign Project Implementation Orders (PIO's or PIPA's); and

3. To approve all borrower/grantee contracts financed in whole or in part by an AID loan or grant.

B. *Waiver Authorities.—Procurement of Commodities.* Authority to approve source waivers relating to procurement of commodities under AID loans and grants, subject to the provisions of Chapter 2 of AID Handbook 15, for:

1. Emergency procurement not in excess of $100,000 per transaction from countries included in AID Geographic Code 899;

2. Procurement not in excess of $25,000 per transaction from countries included in AID Geographic Code 899; and

3. Grant-financed procurement not in excess of $100,000 per transaction pursuant to subsection 2A8a.(1) of AID Handbook 15.

C. *Excess Property.* In accordance with the provisions of Section 607 of the Foreign Assistance Act of 1961, as amended, ("the Act"), and of AID Handbook 16, and subsequent to my authorizing such assistance, authority:

1. To execute transfer or transfer/trust agreements with friendly countries or with international organizations having a membership primarily of foreign governments;

2. To make the determination prescribed in subsection 607(b) of the Act.

D. *Special Development Activities.* Authority to use a total of $50,000 annually in Development Grant funds for Special Development activities undertaken pursuant to the provisions of AID Manual Order 1323.1.1 or such other amount as may be authorized by AID/W.

E. *Extension of Terminal Dates.* In accordance with AIDTO Circular A–268 dated July 15, 1977, and any amendments thereto, authority to extend:

1. The terminal date for signing a Project Agreement for a cumulative period not to exceed six months;

2. The terminal date for meeting initial conditions precedent for a cumulative period not to exceed six months;

3. The terminal date for requesting disbursement authorizations for a cumulative period not to exceed one year; and

4. The terminal date for completion of performing services and furnishing goods for a cumulative period not to exceed one year.

F. *Hiring of Third Country Nationals by Contractors.* Subject to the provisions of Section VII of AIDPR 7–6.5101, authority to approve waivers to permit employment by contractors under AID funded contracts of third country nationals on the basis of a written determination that the circumstances necessitate such employment.

SEC. III. *Redelegation of Authorities.* Pursuant to the authorities delegated to me as Assistant Administrator for Latin America, I hereby delegate all of the authorities set forth in Section II hereof, retaining for myself concurrent authority to exercise any of the functions herein redelegated, to the Director, AID Affairs Officer, or AID Representative, as appropriate, of Missions or Offices included in Section I.

SEC. IV. *Miscellaneous.* A. The authorities redelegated pursuant to Section III hereof shall be exercised after consultation with a Regional Legal Adviser or GC/LA, as appropriate, a Regional Contracting Officer, or a Regional Engineer or SER/ENGR, as appropriate.

B. The authorities redelegated pursuant to Section III hereof may, in the discretion of the principal AID officer, be further redelegated to one additional officer or may be exercised by the person acting in the capacity of the respective Mission Director, AID Affairs Officer or AID Representative while the latter is out of the country (with my prior approval).

C. This redelegation of authorities shall become effective on the date of my execution of this document and shall supersede on that date all delegations of authority previously issued to the affected AID Missions or Offices or to the United States Embassies by the Assistant Administrator for Latin America and/or the Deputy U.S. Coordinator of the Alliance for Progress; *Provided, however,* That all actions taken under the delegations of authority which are hereby superseded shall remain valid and are hereby reaffirmed.

Dated: July 27, 1977.

ABELARDO L. VALDEZ,
Assistant Administrator for Latin America.

[FR Doc.77-24983 Filed 8-26-77;8:45 am]

V42167 AUG 29 77 UMI

OFFICE OF AID REPRESENTATIVE, THE LEBANON

Redelegations of Authority Regarding Contracting Functions No. 99.1.90

Pursuant to authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the AID Representative, The Lebanon, the authority to sign U.S. Government contracts, grants, and amendments thereto provided that the aggregate amount of each individual contract or grant does not exceed $50,000 or local currency equivalent.

The authority herein delegated may be redelegated in writing, in whole or in part, by said AID Representative only to the person or persons designated by the AID Representative as Contracting Officer. Such redelegation shall remain in effect until such designated person ceases to hold the office of Contracting Officer for AID programs, or until the redelegation is revoked by the AID Representative, whichever shall first occur. The authority so redelegated by the AID Representative may not be further redelegated.

The authority delegated herein is to be exercised in accordance with AID regulations, procedures and policies in effect at the time this authority is exercised and is not in derogation of the authority of the Director, Office of Contract Management, to exercise any of the functions herein redelegated.

Redelegation of Authority 99.1.72 (40 FR 25077) dated June 3, 1975, is hereby revoked.

Any official actions taken prior to the effective date hereof by officers duly authorized pursuant to delegations revoked hereunder are hereby continued in effect, according to their terms, until modified, revoked, or superseded by action of the Representative to whom I have delegated relevant authority in this delegation.

The authority herein delegated to the AID Representative may be exercised by duly authorized persons who are performing the functions of the AID Representative in an acting capacity.

This redelegation of authority shall be effective on the date of signature.

Dated: August 12, 1977.

HUGH L. DWELLEY,
Director,
Office of Contract Management.

[FR Doc.77-24982 Filed 8-26-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

CITIZENS ADVISORY COMMITTEE ON AVIATION

Termination

Notice is hereby given of the termination of the Citizens Advisory Committee on Aviation. This committee was sponsored by the Office of Public Affairs of the Federal Aviation Administration (FAA) to advise FAA on problems and matters relating to civil aviation. The Secretary of Transportation has determined that this advisory committee is no longer in the public interest in connection with the performance of duties imposed on FAA by law.

Issued in Washington, D.C., on August 16, 1977.

E. NOOTENBOOM,
Acting Federal Aviation Administration Committee, Management Officer.

[FR Doc 77-24920 Filed 8-26-77;8:45 am]

FLIGHT INFORMATION ADVISORY COMMITTEE

Termination

Notice is hereby given of the termination of the Flight Information Advisory Committee. This committee was sponsored by the Air Traffic Service of the Federal Aviation Administration (FAA) to advise FAA on matters pertaining to national flight information products and services. The Secretary of Transportation has determined that continuation of this advisory committee is no longer in the public interest in connection with the performance of duties imposed on FAA by law.

Issued in Washington, D.C., on August 16, 1977.

E. NOOTENBOOM,
Acting Federal Aviation Administration Committee, Management Officer.

[FR Doc.77-24921 Filed 8-26-77;8:45 am]

MICROWAVE LANDING SYSTEM ADVISORY COMMITTEE

Termination

Notice is hereby given of the termination of the Microwave Landing System Advisory Committee. This committee was sponsored by the Systems Research and Development Service of the Federal Aviation Administration (FAA) to advise FAA concerning the microwave landing system development program. The Secretary of Transportation has determined that continuation of this advisory committee is no longer in the public interest in connection with the performance of duties imposed on FAA by law.

Issued in Washington, D.C., on August 16, 1977.

E. NOOTENBOOM,
Acting Federal Aviation Administration Committee, Management Officer.

[FR Doc.77-24917 Filed 8-26-77;8:45 am]

SOUTHERN REGION AIR TRAFFIC CONTROL ADVISORY COMMITTEE

Termination

Notice is hereby given of the termination of the Southern Region Air Traffic Control Advisory Committee. This committee was sponsored by the Air Traffic Division of the Federal Aviation Administration's (FAA's) Southern Region to provide a forum for discussion of mutual air traffic control problems, programs, and ideas of concern to the Southern Region. The Secretary of Transportation has determined that continuation of this advisory committee is no longer in the public interest in connection with the performance of duties imposed on FAA by law.

Issued in Washington, D.C., on August 16, 1977.

E. NOOTENBOOM,
Acting Federal Aviation Administration Committee, Management Officer.

[FR Doc.77-24919 Filed 8-26-77;8:45 am]

UNITED STATES ADVISORY COMMITTEE ON OBSTACLE CLEARANCE REQUIREMENTS

Termination

Notice is hereby given of the termination of the United States Advisory Committee on Obstacle Clearance Requirements. This committee was sponsored by the Flight Standards Service of the Federal Aviation Administration (FAA) to advise and assist the United States member of the International Civil Aviation Organization Obstacle Clearance Panel in developing and presenting a coordinated United States position concerning obstacle clearance matters under consideration by the panel. The Secretary of Transportation has determined that continuation of this advisory committee is no longer in the public interest in connection with the performance of duties imposed on FAA by law.

Issued in Washington, D.C., on August 16, 1977.

E. NOOTENBOOM,
Acting Federal Aviation Administration Committee, Management Officer.

[FR Doc.77-24925 Filed 8-26-77;8:45 am]

UNITED STATES TERMINAL INSTRUMENT PROCEDURES ADVISORY COMMITTEE

Termination

Notice is hereby given of the termination of the United States Terminal Instrument Procedures Advisory Committee. This committee was sponsored by the Flight Standards Service of the Federal Aviation Administration (FAA) to advise and assist FAA, United States Coast Guard, and the Department of Defense in developing criteria for the formulation, review, approval, and publication of instrument procedures for use in terminal areas of civil and military airports. The Secretary of Transportation has determined that continuation of this advisory committee is no longer in the public interest in connection with the performance of duties imposed on FAA by law.

Issued in Washington, D.C., on August 16, 1977.

E. NOOTENBOOM,
Acting Federal Aviation Administration Committee, Management Officer.

[FR Doc.77-24918 Filed 8-26-77;8:45 am]

UNITED STATES ADVISORY COMMITTEE ON VISUAL AIDS TO APPROACH AND LANDING

Termination

Notice is hereby given of the termination of the United States Advisory Committee on Visual Aids to Approach and Landing. This committee was sponsored by the Office of Airports Programs of the Federal Aviation Administration (FAA) to advise and assist the United States member of the International Civil Aviation Organization Visual Aids Panel in the development and presentation of a coordinated United States position concerning airport visual aids to approach and landing. The Secretary of Transportation has determined that continuation of this advisory committee is no longer in the public interest in connection with the performance of duties imposed on FAA by law.

Issued in Washington, D.C., on August 16, 1977.

E. NOOTENBOOM,
Acting Federal Aviation Administration Committee, Management Officer.

[FR Doc.77-24929 Filed 8-26-77;8:45 am]

National Highway Traffic Safety Administration

TRUCK AND BUS SAFETY SUBCOMMITTEES

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Truck and Bus Safety Subcommittees of the National Highway Safety Advisory Committee and the National Motor Vehicle Safety Advisory Council. The Subcommittees will meet on September 19 and 20 at the Hyatt House, 300 Fifth Street, Winston-Salem, N.C.

The Truck and Bus Safety Subcommittees are planning to make site visits to certain trucking firms in the Winston-Salem area on Monday, September 19 in order to collect information on implementation of FMVSS 121 through direct discussions with driver, maintenance and management personnel. Following these visits, at 1:30 to 5:00 p.m. on Monday, September 19, and again at 8:30 a.m. to 5:00 p.m., on Tuesday, September 20, the Subcommittees will hold business meetings at the Hyatt House to discuss their earlier site visits, to receive a status report on NHTSA-sponsored 121-related evaluation studies, to discuss findings from the August 16 and 17 technical meetings held under the auspices of the Subcommittees, and old or new business.

Attendance at the business meetings is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Any member of the public may present a written statement to the Subcommittees at any time. This meeting is subject to the approval of the appropriate DOT officials.

Additional information may be obtained from the NHTSA Executive Secretary, room 5215, 400 Seventh Street SW., Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C. on August 24, 1977.

WM. H. MARSH,
Executive Secretary.

[FR Doc.77-24984 Filed 8-26-77;8:45 am]

[Docket No. IP77-7; Notice 1]

HARBOROUGH CONSTRUCTION CO., LTD. ET AL.

Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

Harborough Construction Co., Ltd. and Crosby Valve and Engineering Co., Ltd. of Leicestershire, England, have petitioned to be exempted from the notification and remedy requirements of the National Traffic and and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.205, Motor Vehicle Safety Standard No. 205, Glazing Materials, on the basis that it is inconsequential as it relates to motor vehicle safety.

Petitioners manufactured 30 electric trucks according to specifications of the United States Postal Service which have been in operation in Cupertina, Calif., since March 1974. Motor Vehicle Safety Standard No. 205 allows glazing used in the front side windows in trucks to meet the requirements specified for AS-2 glazing. The trucks in question incorporate glazing made of plastic materials which cannot meet the requirements specified for AS-2 glazing. The reason for the nonconformance is that Postal Service specifications required a window unit larger than the standard sliding window unit in which "the window itself could, after being disengaged, drop down completely within the solid portion of the door frame. Since the sliding doors in the vehicles were curved the bottom section of the glazing material also had to be curved. * * * Glass glazing material could not be secured to accomplish this result, and resort to the plastic material above described was required. * * *" The petitioners argue that the noncompliance is inconsequential as the vehicles have been in active service for over 3 years with no complaints from the Postal Service of a safety nature.

Interested persons are invited to submit written data, views and arguments on the petition of Harborough and Crosby described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date: October 17, 1977.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on August 23, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.77-24985 Filed 8-26-77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 77-213]

CERTAIN CONTAINERS USED FOR THE TRANSPORTATION OF CIGARETTE PAPER, CIGARETTE TUBES AND CIGARETTE FILTER TUBING

Designation as Instruments of International Traffic

AUGUST 23, 1977.

It has been established to the satisfaction of the Customs Service that the following containers are substantial, suitable for and capable of repeated use, and are used in significant numbers in international traffic:

1. Wood trays; length 22¼ inches, width 3 inches, height 16½ inches; serial number punched in tray; used to transport cigarette papers.

2. Metal magazines; length 28 inches, width 4¼ inches, height 15½ inches; serial number punched in magazine; used to transport cigarette tubes.

3. Angle iron trucks; length 38 inches, width 29½ inches, height 68 inches; serial number punched in truck; used to transport trays and magazines mentioned above.

4. Wood reels; diameter 46 inches, width 15 inches; serial numbers punched in reel; used to transport cigarette filter tubing.

Under the authority of section 10.41 (a)(1), Customs Regulations, (19 CFR 10.41(a)(1)), I hereby designate the above-described containers as "instruments of international traffic" within the meaning of section 322(a), Tariff Act of 1930, as amended (19 U.S.C. 1322(a)). These articles may be released under the procedures set forth in section 10.41a, Customs Regulations (19 CFR 10.41a). (102315) (BOR-7-07)

J. P. TEBEAU,
Director, Carriers,
Drawback and Bonds Division.

[FR Doc.77-25039 Filed 8-26-77;8:45 am]

AUG 29 1977 UMI

[T. D. 77-214]

CERTAIN STYROFOAM TRAYS USED FOR TRANSPORTATION OF WORMS

Designation as Instruments of International Traffic

AUGUST 23, 1977.

It has been established to the satisfaction of the U.S. Customs Service that styrofoam trays measuring approximately 13 inches square by 4 inches in height, outside measurements, with no permanent markings and used for the transportation of worms, are substantial, suitable for and capable of repeated use, and are used in significant numbers in international traffic.

Under the authority of § 10.41a(a)(1), Customs Regulations, (19 CFR 10.41a (a)(1)), I hereby designate the above-described styrofoam trays as "instruments of international traffic" within the meaning of section 322(a), Tariff Act of 1930, as amended (19 U.S.C. 1322 (a)). These articles may be released under the provisions set forth in section 10.41a, Customs Regulations (19 CFR 10.41a). (102312) (BOR-7-07)

J. P. TEBEAU,
Director, Carriers, Drawback and Bonds Division.

[FR Doc.77-25040 Filed 8-26-77;8:45 am]

Internal Revenue Service

[Delegation Order No. 81 (Rev. 9); Amdt. 1]

DIRECTOR, PERSONNEL DIVISION

Delegation of Authority

AGENCY: Internal Revenue Service, Department of the Treasury.

ACTION: Delegation of authority.

SUMMARY: The authority granted the Commissioner of Internal Revenue by 5 U.S.C. 5108(e) to classify supergrade positions in Employee Plans and Exempt Organizations is delegated to the Director, Personnel Division. The text of the Delegation Order appears below.

EFFECTIVE DATE: August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Glory H. Washington, Room 723-Warner Building, 501 13th Street NW., Washington, D.C. 20004, 202-376-0515 (Not toll-free).

J. S. HENDERSON II,
Chief, Employment Branch, Personnel Division.

The authority granted the Commissioner of Internal Revenue by 5 U.S.C. 5108(e) to classify supergrade positions in Employee Plans and Exempt Organizations is delegated to the Director, Personnel Division.

This authority may be redelegated only to Chief, National Office Branch, Chief, Position Management Branch, Chief, Classification Section, and designated Position Classifiers.

This supplements Delegation Order No. 81 (Rev. 9), issued December 15, 1976, which is printed in the FEDERAL REGISTER dated December 20, 1976, Vol. 41, Number 245, Pages 55409-55411.

WILLIAM E. WILLIAMS,
Acting Commissioner.

AUGUST 19, 1977.

[FR Doc.77-25020 Filed 8-26-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 466]

ASSIGNMENT OF HEARINGS

AUGUST 24, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 125433 Sub 94, F-B Truck Line Co., now assigned September 16, 1977, at San Francisco, Calif., will be held in Room 2017, 2nd floor, Federal Bldg., 410 Golden Gate Avenue.

MC 134922 Sub 222, B. J. McAdams, Inc., now assigned September 19, 1977, at San Francisco, Calif., will be held in Room 510, 211 Main Street.

MC 107993 Sub 49, J. J. Willis Trucking Co., and MC 136762 Sub 12, Osborne Highway Express, now assigned September 20, 1977, at San Francisco, Calif., will be held in Room 510, 211 Main Street.

MC 121630 Sub 5, Lemore Transportation Inc., d.b.a. Royal Trucking Co., now assigned September 22, 1977, at San Francisco, Calif., will be held in Room 510, 211 Main Street.

MC 113678 Sub 659, Curtis, Inc., and MC 141804 Sub 44, Western Express, division of Interstate Rental, Inc., now assigned September 26, 1977 at San Francisco, Calif., will be held in Room 510, 211 Main Street.

MC 138018 Sub 33, Refrigerated Foods, Inc., now assigned September 20, 1977 at Denver, Colo., will be held in Tax Court Room, U.S. Federal Bldg., 1961 Stout Street.

MC 143109, Associated Diesel Service, Inc., now assigned September 22, 1977, at Denver, Colo., will be held in Tax Court Room, U.S. Federal Bldg., 1961 Stout Street.

MC 58035 Sub 13, Trans-Western Express, Ltd., now assigned September 26, 1977, at Denver, Colo., will be held in Room 158 U.S. Customs, House, 721 19th Street.

MC 120626 Sub 3, Law Farms and Cattle Co., d.b.a. Law Motor Lines, now assigned September 28, 1977, at Denver, Colo., will be held in Room 158, U.S. Customs House, 721 19th Street.

MC 71459 Sub 55, O.N.C. Freight Systems, now assigned October 3, 1977, at Denver, Colo., will be held in Room 595, U.S. Federal Bldg., 1961 Stout Street.

MC C-9615, Ridgeway Tours, Inc. v. Keys to Better Living, Inc. et al., now assigned October 5, 1977, at Harrisburg, Pa., will be held in Room 392, Federal Bldg., 228 Walnut Street.

MC 19227 Sub No. 236, Leonard Bros. Trucking Co., Inc., now being assigned September 14, 1977 (1 day) for hearing in Dallas, Tex., will be held in Room 5A15-17, Federal Building, 110 Commerce Street.

MC 134755 Sub 82, Charter Express, Inc., now assigned September 29, 1977, at Pittsburgh, Pa., will be held in Room 819, Post Office and Courthouse, Grant Street.

MC-F-13083, Short Freight Lines, Inc.—Purchase—Red Line Express, Inc., Philip R. Joelson, Trustee in Bankruptcy and MC 108382 Sub 26, Short Freight Lines, Inc.; MC-F-13047, Central Transport, Inc., et al.; V. Short Freight Lines, Inc., et al.; and MC-F-13051, Jones Transfer Company-v-Short Freight Lines, Inc., now assigned October 3, 1977, at Columbus, Ohio, will be held in Room 235, Federal Bldg., 85 Marconi Blvd.

MC 135874 Sub No. 88 LTL Perishables, Inc., now being assigned September 29, 1977 (2 days) for hearing at Omaha, Nebr., will be held in Room 616, Union Pacific Plaza, 110 North 14th Street, 14th and Dodge.

MC 142487 Sub 1, J. & K. K. Inc., now assigned September 7, 1977, at Olympia, Wash., is postponed to September 27, 1977 (3 days) on the 7th floor, Conference Room, Highways and Licenses Bldg., 12th and Capitol Way, Olympia, Wash.

MC 134477 Sub No. 157 Schanno Transportation, Inc., now being assigned October 3, 1977 (1 day) at St. Louis, Mo., will be held in Court Room 3, 5th Floor, U.S. Court & Customhouse, 1114 Market Street.

MC 139482 Sub No. 12 New Ulm Freight Lines, Inc., now assigned October 12, 1977, is postponed to November 8, 1977 (9 days) at Chicago, Ill., in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-25021 Filed 8-26-77;8:45 am]

[Notice No. 215]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30 days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to

why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77077, filed August 5, 1977. Transferee: MIDEAST EXPRESS, INC., 504 First National Bank Bldg., Johnstown, Pa. 15901. Transferor: W. H. MILLS, Jr. (Richard W. Mills and Mary C. Mills, Co-Executors), RD No. 3, Johnstown, Pa. 15904. Applicant's representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, Pa. 19107. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC-88249, issued August 21, 1950, as follows: Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials, and supplies used in the conduct of such business, between points and places in the territory bounded by a line beginning at Lock Haven, Pa., and extending in a southeasterly direction through Middleburg, Pa., to Selinsgrove, Pa., thence in a southwesterly direction through Newport and McConnellsburg, Pa., to Hancock, Md., thence in a southerly direction to Winchester, Va., thence in a westerly direction through Davis, W. Va., to Clarksburg, W. Va., thence in a northerly direction to New Castle, Pa., thence in a northeasterly direction through Franklin, Pa., to Kane, Pa., and thence in a southeasterly direction through Renovo, Pa., to Lock Haven, including points and places on the above-specified boundary line. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77174, filed June 13, 1977. Transferee: BARKLEY TRUCK LINES, INC., 604 Fourth St., P.O. Box 970, Watertown, S. Dak. 57201. Transferor: MARVIN M. BARKLEY, doing business as Barkley Truck Lines, 603 Fourth St., P.O. Box 970, Watertown, S. Dak. 57201. Applicant's representative: Val M. Higgins, Attorney at Law, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificates Nos. MC-97397 (Sub-No. 3), MC-97397 (Sub-No. 11), and MC-97397 (Sub-No. 12), issued July 22, 1975, February 8, 1973, and June 23, 1977, respectively, authorizing transportation of general commodities, with exceptions, between points in South Dakota, and meat and meat products, from Sioux City, Iowa, to Fargo, N. Dak., and from Fargo, N. Dak., to Watertown, S. Dak., and those set forth in Permit No. MC-128530, issued June 26, 1975, authorizing the transportation of seeds, flour, and animal and poultry feed, from Watertown, S. Dak., to specified counties in North Dakota and Minnesota. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b) of the Act.

No. MC-FC-77237, filed July 29, 1977. Transferee: MASSAPEQUA MOVERS, INC., 132 Lexington Avenue, West Babylon, N.Y. 11702. Transferor: MURPHY MOVING & STORAGE, INC., doing business as Murphy's Moving and Storage Corporation, 200 Middle Neck Road, Great Neck, N.Y. 11021. Applicant's representative: Ronald I. Shapss, Attorney at Law, 450 Seventh Avenue, New York, N.Y. 10001. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC-22208 issued April 30, 1959, as follows: Household goods, as defined by the Commission, between New York, N.Y. and points on Long Island, N.Y., on the one hand, and, on the other, points and places in Alabama, Kentucky, Michigan, Missouri, Tennessee, and Texas traversing Arkansas and Oklahoma for operating convenience only. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a (b).

No. MC-FC-77239 filed August 2, 1977. Transferee: WAEHLER TRUCKING SERVICE, INC., Route 1, Box 65, Lomira, Wis. 53048. Transferor: DONALD L. WAEHLER, doing business as Waehler Trucking Service, Route 1, Box 65, Lomira, Wis. 53048. Applicant's representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, Wis. 53705. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC-124809 (Sub-No. 2), issued June 9, 1977, as follows: Contractors' and construction materials and supplies (except commodities in bulk), and new household appliances, from the facilities of The Kindt Corporation at or near Greenville, Beaver Dam, and Lomira Wis., to points in Illinois, Indiana, Iowa, the Upper Peninsula of Michigan, and Minnesota; Kitchen cabinets from points in the Upper Peninsula of Michigan (except L'Anse and Dollar Bay), to the facilities of The Kindt Corporation, at or near Greenville, Beaver Dam, and Lomira, Wis.; Shingles, roofing materials, and driveway sealer, (except commodities in bulk) from points in Illinois to the facilities of The Kindt Corporation at or near Greenville, Beaver Dam, Lomira, and Sheboygan, Wis. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77248 filed July 31, 1977. Transferee: BOYD MESSER TRANSFER, INC., P.O. Box 19, Fulton, Kans. 66738. Transferor: BOYD MESSER, doing business as Boyd Messer Transfer, P.O. Box 19, Fulton, Kans. 66738. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Bldg., Kansas Ave., Topeka, Kans. 66603. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-59338 issued February 14, 1942, as follows: Agricultural implements and parts, building materials, feed, fencing materials, hardware and petroleum products in containers, from Kansas City, Mo., to Fulton, Kans., over specified regular routes; Petroleum products, in bulk, from Potwin, Kans., to Bronaugh, Mo.; Horses, from Yale, Iowa, and points and places within 15 miles of Yale, to Fort Scott, Kans.; Cotton seed feed, From Muskogee Okla., to Fulton, Kans., and points and places within 15 miles of Fulton; Hay, feed, and grain, from Fulton, Kans., and points and places within 15 miles of Fulton, to Nevada, Mo.; Livestock, between Fulton, Kans., and points and places within 15 miles of Fulton, on the one hand, and, on the other, Kansas City, Mo., and Muskogee, Okla.; and household goods and emigrant movables, between Fulton, Kans., and points and places within 15 miles of Fulton, on the one hand, and, on the other, points and places in Missouri, Iowa, and Kansas. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77259, filed August 9, 1977. Transferee: TAGGART SERVICE LTD., 2 Wilson St. West, Perth, Ontario, Canada K7H 2M6. Transferor: L. R. MCDONALD & SONS, LTS. 2 Wilson St. West, Perth, Ontario, Canada K7H 2M6. Applicant's representative: Herbert M. Canter, Benjamin D. Levine, 305 Montgomery St., Syracuse, N.Y. 13202. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC-118993 and 18993 Sub-Nos. 2, 8, and 10, issued February 18, 1960, April 19, 1960, October 19, 1964, and February 23, 1972, respectively as follows: *Boats*, not exceeding 20 feet in length, and *their accessories*, from ports of entry on the United States-Canada Boundary line, located in New York and Vermont, to points in New York, New Hampshire, Vermont, Maine and Massachusetts, with no transportation for compensation on return except as otherwise authorized. Also *boats*, not exceeding 20 feet in length, and *moulds thereof*, from Little Falls, Minn., to ports of entry on the United States-Canada Boundary line, located in Michigan, with no transportation for compensation on return except as otherwise authorized. Also *fertilizer*, in containers, from all ports of entry in New York on the United States-Canada Boundary line, to points in New York within 150 miles of Rooseveltown, N.Y.; and also *damaged shipments of fertilizer* and *empty fertilizer containers*, from points in New York within 150 miles of Rooseveltown, N.Y., to all ports of entry in New York on the United States-Canada Boundary line. Also *paper*, as described in Appendix XI to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, with restrictions, from Norfolk, N.Y., to the port of entry located on the United States-Canada Boundary line on the Cornwall-Massena International Bridge;

V 42 167 AUG 29 77 UMI

and also *waste paper*, and *commodities* used in the manufacture of paper, with restrictions, from port of entry located on the United States-Canada Boundary line on the Cornwall-Massena International Bridge, to Norfolk, N.Y. Also General commodities (with exceptions) between the port of entry on the United States-Canada Boundary line on the Cornwall-Massena International Bridge, on the one hand, and, on the other, points in Town of Massena, N.Y. Transferee is presently authorized to operate as a common carrier under Certificate No. MC-118993 and subs thereafter. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77266, filed August 17, 1977. Transferee: NELSON'S WRECKER SERVICE, INC., P.O. Box 323, 2400 N. 9th St. Rd., Lafayette, Ind. 47902. Transferor: GEORGE H. NELSON, doing business as Nelson Wrecker Service, P.O. Box 323, 2400 N. 9th St. Rd., Lafayette, Ind. 47902. Applicant's representative: Brent E. Clary, Attorney-at-Law, P.O. Box 1461, 68 Lafayette Bank and Trust Building, Lafayette, Ind. 47902. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC-139924 (Sub-No. 1), issued June 20, 1975, as follows: Wrecked, disabled, repossessed, and stolen motor vehicles, and replacement vehicles for wrecked, disabled, or stolen motor vehicles, by the use of wrecker equipment only, between points in Minnesota, Iowa, Missouri, Tennessee, Ohio, West Virginia, Pennsylvania, and Illinois, on the one hand, and, on the other, points in Tippecanoe, Benton, White, Carroll, and Warren Counties, Ind.; replacement vehicles for wrecked or disabled motor vehicles, by the use of wrecker equipment only, from points in Tippecanoe, Benton, White, Carroll, and Warren Counties, Ind., to points in Kentucky, Michigan, and Wisconsin, and wrecked, disabled, repossessed, and stolen motor vehicles, by the use of wrecker equipment only, from points in Kentucky, Michigan, and Wisconsin, to points in Tippecanoe, Benton, White, Carroll, and Warren Counties, Ind. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a (b) of the Act.

No. MC-FC-77270, filed August 18, 1977. Transferee: LAWRENCE TILLERY doing business as Abbs Transfer, P.O. Box 209, South Highway 79, Rapid City, S. Dak. 57701. Transferor: MEL ABBS doing business as Abbs Transfer, South Highway 79, Rapid City, S. Dak. 57701. Applicant's representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, S. Dak. 57701. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-139237, issued October 22, 1974, as follows: Used household goods between points in that part of South Dakota west of the Missouri River. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-25022 Filed 8-26-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Civic Aeronautics Board	1
Commodity Futures Trading Commission	2, 3
Federal Deposit Insurance Corporation	4
Federal Power Commission	5
Foreign Claim Settlement Commission	6
International Trade Commission	7, 8
Postal Rate Commission	9, 10
Securities and Exchange Commission	11

1

ADDITION OF ITEMS TO THE AUGUST 25, 1977 MEETING AGENDA

AUGUST 23, 1977.

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10:00 a.m., August 25, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 6a. Docket 29806, Notice of Proposed Rulemaking, EDR-304/SPDR-49; Amendment of minimum seat size for "split" charters (Memo No. 7338, OGC, BOR, BE, BIA).

6b. Docket 30221, Petition for discretionary review of the Initial Decision in the *DOD-Contract Eligible Certification Case* (Memo No. 7352, OGC)

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: At the August 23, 1977 Board meeting, the time allotted for the meeting did not permit discussion of all items on the agenda. Accordingly, the following members voted that agency business required that the above items be deleted from the August 23, 1977 meeting agenda and be rescheduled for the August 25, 1977 meeting and that no earlier announcement of change was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Elizabeth E. Bailey

[S-1189-77 Filed 8-24-77;3:28 pm]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10:00 a.m., August 30, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Proposed Revisions to the Commidity Option Rules.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1194-77 Filed 8-25-77;10:40 am]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:00 a.m., September 2, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Hearing Room.

Status: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1196-77 Filed 8-25-77;10:40 am]

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 9:30 a.m on Wednesday, August 31, 1977, the Federal Deposit Insurance Corporation's Board of Directors will meet, by telephone conference call, in closed session, by authority of section 552b (d) (4), (c) (4), (c) (8), (c) (9) (A) (ii), and (c) (10) of title 5, United States Code, to consider the application of the Anchor Savings Bank, New York (Brooklyn), New York, an insured mutual savings bank, for consent to merge under its charter and title with North New York Savings Bank, White Plains, New York, also an insured mutual savings bank, and to establish the five offices of North New York Savings Bank as branches of the resultant bank.

Dated: August 22, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-1186-77 Filed 8-24-77;1:23 pm]

5

AUGUST 24, 1977.

FEDERAL POWER COMMISSION.

TIME AND DATE: August 31, 1977, 10:00 a.m.

PLACE: 825 North Capitol Street.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda.)

*NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:
Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, room 1000.

POWER AGENDA—7671ST MEETING—AUGUST 31, 1977, REGULAR MEETING—PART I
(10:00 A.M.)

P-1—Docket No. ER77-535 Arkansas Power & Light Company.
P-2—Docket Nos. E-7738 and E-7784, Boston Edison Company.
P-3—Docket Nos. ER77-411, ER77-412, ER77-413, ER77-414, ER77-415, and ER77-416, Illinois Power Company.
P-4—Docket No. ER77-277, Pennsylvania Power Company.
P-5—Docket No. ER77-514, Central Power & Light Company.
P-6—Project No. 553, City of Seattle, Department of Lighting.
P-7—Project No. 120, Southern California Edison Company.

MISCELLANEOUS AGENDA—7671ST MEETING—AUGUST 31, 1977, REGULAR MEETING—PART I

M-1—Docket No. R-424, Accounting for Premium, Discount and Expense of Issue, Gains and Losses on Refunding, and Reacquisition of Long-Term Debt, and Interperiod Allocation of Income Taxes.
M-2—Docket No. RM76-15, Regulation of Small Producers.

GAS AGENDA—7671ST MEETING—AUGUST 31, 1977, REGULAR MEETING—PART I

G-1—Docket Nos. RP73-102, RP73-14, Michigan Wisconsin Pipe Line Corporation.
G-2—Docket No. RP72-6, El Paso Natural Gas Company.
G-3—Docket No. RP76-26, *Orange and Rockland Utilities Inc. v. Algonquin Gas Transmission Company*. Docket No. RP76-56, *New Bedford Gas and Edison Light Company v. Algonquin Gas Transmission Company.*
G-4—Docket No. RI75-109, Murphy Oil Corporation.
G-5—Phillips Petroleum Company, FPC Gas Rate Schedule Nos. 554, 555, 556, 557, 559,

V42167 AUG 29 77 UMI

560, Sun Oil Company, FPC Gas Rate Schedule Nos. 537, 538, 539, 561, 562, 567, 569, 572, 576, 577.
G-6—Docket No. CP75-195, Michigan Wisconsin Pipe Line Company.
G-7—Docket No. CP73-329, Chattanooga Gas Company, a division of Jupiter Industries, Inc. Docket Nos. CP73-336 and CP76-99, East Tennessee Natural Gas Company. Docket No. CP76-109, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Columbia Gas Transmission Corporation.
G-8—Docket No. CP77-496, Washington Gas Light Company. Docket No. CP77-497, Transcontinental Gas Pipe Line Corporation.

POWER AGENDA—7671ST MEETING—AUGUST 31, 1977, REGULAR MEETING—PART II

CP-1—Docket No. ER77-418, Northern Indiana Public Service Company.
CP-2—Docket No. ER77-310, Central Telephone & Utilities Corporation.
CP-3—Docket No. ES77-49, The Kansas Power & Light Company.
CP-4—Docket No. ES77-46, Interstate Power Company.
CP-5—Docket No. ES76-1, Commonwealth Edison Company.
CP-6—Project No. 2004, Holyoke Water Power Company.
CP-7—Project No. 2230, City and Borough of Sitka, Alaska.
CP-8—Docket No. ER77-311, Utah Power & Light Company.
CP-9—Docket Nos. ER77-411, ER77-412, ER77-413, ER77-414, ER77-415 and ER77-416, Illinois Power Company.
CP-10—Docket No. ER76-739, Public Service Company of Indiana, Inc.

MISCELLANEOUS AGENDA—7671ST MEETING—AUGUST 31, 1977, REGULAR MEETING—PART II

CM-1—Pacific Northwest River Basins Commission.
CM-2—Ohio River Basin Commission.

GAS AGENDA—7671ST MEETING—AUGUST 31, 1977, REGULAR MEETING—PART II

CG-1—Docket No. RP73-3 (PGA No. 77-3), Transcontinental Gas Pipe Line Corporation.
CG-2—Docket No. RP74-100, National Fuel Gas Supply Corporation.
CG-3—Docket Nos. RP71-125 and RP76-106 (PGA77-3 and AP77-1), Natural Gas Pipeline Company.
CG—4—Docket No. RP76-136, Transcontinental Gas Pipe Line Corporation.
CG-5—Docket No. RP73-8 (PGA No. 77-11), North Penn Gas Company.
CG—6—Chevron Oil Company, Western Division, FPC Gas Rate Schedule Nos. 3 and 48.
CG-7—Docket No. CI77-500, Hunt Oil Company.
CG-8—Docket No. CI76-597, Producer's Gas Company.
CG-9—Docket No. CP77-441, Mississippi River Transmission Corporation.
CG-10—Docket No. CP77-434, Southwest Gas Corporation.
CG-11—Docket No. CP77-298, National Fuel Gas Supply Corporation. Docket No. CP77-340, Transcontinental Gas Pipe Line Corporation. Docket No. CP77-394, Tennessee Gas Pipeline Company, a division of Tenneco Inc. Docket No. CP77-465, Columbia Gas Transmission Corporation. National Fuel Gas Supply orporation.
CG-12—Docket No. CP76-421, Colorado Interstate Gas Company. Docket No. CP76-456, Northern Gas Company, Operating as Peoples Natural Gas Division. Docket No. CP77-464, Panhandle Eastern Pipe Line Company.
CG-13—Docket No. CP77-452, Transcontinental Gas Pipe Line Corporation. Docket Nos. CP77-466, CP77-467 and CP77-468, United Gas Pipe Line Company.
CG-14—Docket No. CP77-489, Southern Natural Gas Company, Natural Gas Pipeline Company of America, Columbia Gulf Transmission Company, United Gas Pipe Line Company.
CG-15—Docket No. CP73-70, Columbia Gulf Transmission Company.
CG-16—Docket No. CP76-537, Michigan Wisconsin Pipe Line Company.
CG-17—Docket No. CP77-454, Florida Gas Transmission Company.
CG-18—Docket No. CP77-470, Texas Gas Transmission Corporation.
CG-19—Docket No. CP77-446, United Gas Pipe Line Company.
CG-20—Docket No. CP77-443, Northern Natural Gas Company.
CG-21—Docket No. CP77-429, Kentucky West Virginia Gas Company.
CG-22—Docket No. CP73-50, Lone Star Gas Company, a division of Enserch Corporation.
CG-23—Docket No. CP76-235, Panhandle Eastern Pipe Line Company.
CG-24—Docket Nos. CP75-17 and CP75-277, Transwestern Pipeline Company.
CG-25—Docket Nos. CS66-72, et al., Reserve Oil and Gas Company and Reserve Oil, Inc., et al.
CG-26—Docket Nos. G-4579, et al., Cities Service Oil Company, et al.
CG-27—Docket Nos. G-11587, et al., Atlantic Richfield Company, et al.
CG-28—Docket No. RP77-107, United Gas Pipe Line Company.
CG-29—Docket No. RP77-35, *Senator Howard M. Metzenbaum v. Columbia Gas Transmission Corporation.*
CG-30—Docket No. RP77-6, Sea Robin Pipeline Company.

KENNETH F. PLUMB,
Secretary.

[S-1187-77 Filed 8-24-77;1:24 pm]

6

[F.C.S.C. Meeting Notice No. 11-77]

FOREIGN CLAIMS SETTLEMENT COMMISSION.

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of routine Commission business and other matters specified, as follows:

Date, time, and subject matter

Wednesday, September 7, 1977, at 10:30 a.m., routine business.
Wednesday, September 14, 1977, at 10:30 a.m., routine business.
Wednesday, September 21, 1977, at 10:30 a.m., routine business.
Wednesday, September 28, 1977, at 10:30 a.m., routine business.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Executive Director, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. 20579. Telephone: 202/653-6156.

Dated at Washington, D.C. on August 23, 1977.

FRANCIS T. MASTERSON,
Executive Director.

[S-1188-77 Filed 8-24-77;3:28 pm]

7

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, September 6, 1977.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Status of Mr. P. Connelly—see memorandum from the Chairman (if necessary).
5. Investigation TA-201-25 (Cattle and Beef)—vote on remedy (if necessary).
6. Investigation AA1921-168 (Pressure-Sensitive Plastic Tape from West Germany (if necessary)).
7. Petitions and complaints (if necessary).
8. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1191-77 Filed 8-25-77;9:50 am]

8

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, August 30, 1977.

PLACE: Room 117, 701 E. Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public.

1. Reorganization.
2. Agenda.
3. Minutes.
4. Ratifications.
5. Petitions and complaints (if necessary).
6. Cattle and beef (Inv. TA-201-25)—vote on injury and approval of report.
7. Gas guzzler tax proposal (Inv. 332-88)—approval of report (if not approved in an action jacket).
8. "Factors affecting world petroleum prices to 1985"—see action jacket ID-77-58.
9. Any items left over from previous agenda.

Portions closed to the public:

1. Reorganization (portions regarding the selections of personnel).

CONTACT PERSON FOR MORE INFORMATION:

Secretary,
Kenneth R. Mason, Secretary, 202-523-0161.

[S-1192-77 Filed 8-25-77;9:50 am]

9

POSTAL RATE COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, August 31, 1977.

PLACE: Conference room, Room 500, 2000 L Street NW., Washington, D.C.

STATUS: Item No. 1—Open; Item 2—Closed.

MATTERS TO BE CONSIDERED:

Item 1: FL78 Budget.

Item 2: Draft of Tentative Decision Concerning the Officer of the Commission's Proposal to Revise the Eligibility Requirements for Bulk Third-Class Regular-Rate Mail, Docket No. MC76-3.

By recorded vote the Commission has determined that notice cannot be given at least one week prior to the meeting since Commission business requires that the meeting be called at an earlier time.

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, telephone 202-254-5614.

[S-1190-77 Filed 8-25-77;8:51 am]

10

POSTAL RATE COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:

42 FR 41522, August 17, 1977.

CHANGE OF MEETING SUBJECT MATTER:

The following closed item is added to the Commission meeting of August 24, 1977:

2. Draft of Recommended Decision Concerning "Request of the United States Postal Service for a Recommended Decision on Deferring the Implementation Date of the Minimum Size Prohibitions", Docket No. MC77-2.

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, telephone 202-254-5614.

[S-1195-77 Filed 8-25-77;10:40 am]

11

SECURITIES AND EXCHANGE COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 41952, August 19, 1977.

PREVIOUS ANNOUNCED TIME AND DATE: Thursday, August 25, 1977, 10 a.m.

CHANGES IN THE MEETING:

Additional item to be considered.

At the open meeting scheduled for Thursday, August 25, 1977, at 10 a.m., the following item will be considered by the Commission in addition to the agenda previously published:

Consideration of the request of George Wasson for a postponement of the effective date of his 45-day suspension from association with any broker or dealer to October 25, 1977.

Chairman Williams, Commissioners Loomis, Evans, and Pollack voted to approve the above change and determined that no earlier notice thereof was possible.

AUGUST 24, 1977.

[S-1193-77 Filed 8-25-77;9:50 am]

12

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Thursday, September 1, 1977.

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

10 a.m.—1. Commission Budget Mark-up (continuation of August 26 meeting) (Closed—Exemption 9).
2. Discussion of Draft Administration Bill for Nuclear Plant Licensing Reform (continuation of August 26 meeting) (Closed—Exemption 9).
2 p.m.—Briefing on Physical Security Requirements (Tentative) (Open).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated: August 25, 1977.

WALTER MAGEE,
Office of the Secretary.

[S-1201-77 Filed 8-26-77;9:44 am]

V42167 AUG 29 77 A UMI

V 42167 A AUG 29 77 UMI

register

MONDAY, AUGUST 29, 1977

PART II



federal

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

■

PART 135 REGULATORY REVIEW PROGRAM

Air Taxi Operators and Commercial Operators

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 121 and 135]

[Docket No. 16097; Notice No. 77-17]

PART 135 REGULATORY REVIEW PROGRAM

Air Taxi Operators and Commercial Operators

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes substantially revised requirements for operations by persons holding air taxi/commercial operator certificates issued by the FAA. The proposals would provide greater operational flexibility for the air taxi/commercial operator and a higher level of safety. The air taxi/commercial operator industry has grown substantially in recent years and this growth has been accompanied by use of larger and more complex aircraft. In addition, segments of that industry have advocated that they be permitted to operate larger aircraft under regulations developed to apply to those operations.

DATE: Comments must be received on or before November 28, 1977.

ADDRESS: Send written comments on the proposals in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 16097, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Donald A. Schroeder, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Telephone 202-755-8715.

SUPPLEMENTARY INFORMATION:

Comments Invited

All interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adoption of the proposals contained herein are invited and, to the fullest extent possible, should be supported by specific data. Communications should identify this regulatory docket and notice number (Docket No. 16097; Notice No. 77-17) and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. All communications received on or before November 28, 1977, will be considered by the Administrator before taking action on the proposed rules. The proposals contained in this notice may be changed in the light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the public docket.

Availability of NPRMs

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Background

On September 13, 1976, the FAA issued Notice No. 76-18 (41 FR 38778) announcing the Part 135 Regulatory Review Program. The FAA and industry had, for several years, recognized the need to upgrade Part 135 because of the increasing volume and complexity of air taxi operations. The Regulatory Review Program to revise Part 135 involved the development and compilation of proposals and the holding of a Regulatory Review Conference, to be followed by issuance of an NPRM, analysis of comments received, and adoption of appropriate amendments.

This program followed an Operations Review Program initiated in 1975, which included a conference held in December 1975, to discuss proposals covering various regulations including Part 135. The Operations Review Conference produced a considerable number of proposals to amend air taxi rules, of which many were included in the compilation of proposals to be discussed at the Part 135 Regulatory Review Conference. In addition, in 1972 the National Transportation Safety Board conducted a study of the air taxi industry and, based on its findings, submitted a number of recommendations to FAA, many of which were included in the compilation of proposals.

The Part 135 Regulatory Review Conference held in Denver, Colo., was attended by more than 400 persons and 112 proposals were discussed. Following the conference, more than 100 written comments were received. In the compilation of proposals, there were 42 proposed amendments to present regulations and 70 proposed new rules. Following the Conference, the FAA determined that it was appropriate to revise the form of the present Part 135 regulation in order to present effectively a proposal consisting of numerous amendments and new rules.

Revision of Part 135

During the conference, certain industry commenters expresed concern about the application of the proposals that pertained to large aircraft, turbine-powered aircraft, and commuter air carrier operations. According to these commenters, separate rules for different kinds of operations and types of aircraft would present problems in applicability and in compliance, especially where a certificate holder conducts commuter air carrier and on-demand charter operations, and operates turbine and reciprocating engine powered aircraft.

The FAA concluded that regulatory distinctions based upon type of operation or type of powerplant were not necessary at this time; however, since the proposed rules cover a broad range of aircraft relative to passenger carrying capabilities, for certain proposals a distinction is established based on seating capacity rather than by aircraft type or maximum take off gross weight.

In revising Part 135 to incorporate the present rules, amendments, and new rules effectively, the number of subparts proposed is increased to eleven, one of which is reserved for possible future use. This better arranges the regulations into related functional areas, e.g., training, flight operations, maintenance, etc. For example, the substance of Subpart F, which was in the compilation of proposals discussed at the Part 135 Regulatory Review Conference, was included in other subparts of the proposed Part 135. Proposals in this subpart covered commuter operators, turbine powered aircraft, aircraft certificated to carry ten or more passengers and certain aircraft having a maximum certificated take off weight of more than 12,500 pounds.

Other proposals discussed at the Conference provided for various requirements which depended upon whether an aircraft was certificated to carry ten or more passengers, excluding crew. This concept of classification was retained in the proposed Part 135 for certain rules, i.e., Subpart C—Aircraft and Equipment and Subpart K—Maintenance, Preventive Maintenance, and Alterations.

Several proposals included in the Part 135 Review and in the Operations Review were withdrawn from consideration. They are listed in Appendix I and Appendix II following the proposed rule changes in the notice. Proposals removed from consideration during the Operations Review Program in 1975 that pertained to Part 135 rules are listed in Appendix III.

Proposals in Notice 76-28

Five proposed amendments to Part 135 that were developed as part of the Operations Review Program in 1975, were published in miscellaneous amendment Notice No. 76-28 in December 1976. This notice included proposed revisions to various regulations including those pertaining to Part 135. Following that publication date, it was decided to include in the revision to Part 135 all present rules and proposed changes to the part. Therefore, the five Part 135 proposals in Notice 76-28 will be included in this Part 135 notice. Comments on these sections are requested to supplement those already received. These proposals are identified as follows: (new section numbers) § 135.57, § 135.69, § 135.73(b)(h), § 135.127 and § 135.229(g).

Equipment Requirements — Turbojet Powered Airplanes—10 or More Passengers

Included in this notice are proposals to require certain turbojet-powered airplanes to be equipped with Ground Proximity Warning Systems, (GPWS), Cockpit Voice Recorders (CVR), and Flight Recorders (FDR) for operations under Part 135.

The National Transportation Safety Board has recommended that all commercial passenger carrying aircraft have this equipment installed. The NTSB states that the GPWS would reduce approach and landing accidents and that use of the CVR and FDR during accident investigations would enhance safety.

In December 1976, the FAA issued two Special Federal Aviation Regulations (SFAR 30-1 and SFAR 33) authorizing airplanes having a maximum seating capacity of 30 seats or less, a maximum payload capacity of 7,500 pounds or less, and a maximum zero fuel weight of 35,000 pounds or less, to be operated until June 30, 1978, without this equipment. These SFARs were issued to provide additional time to determine whether or not new standards should be developed for operations conducted with those airplanes.

After further study, the FAA believes that consideration should be given to requiring the installation of this equipment in turbojet-powered airplanes, having 10 or more passenger seats, because of the complexity and high performance characteristics of those airplanes.

All interested persons are requested to provide comments concerning whether or not this equipment should be required in operations under Part 135. Comments should include information regarding installation and maintenance costs. This information will provide FAA additional data for use in reaching a decision concerning this equipment.

Petition To Amend Part 135

Air Illinois, Inc., Golden West Airlines, Inc., and Swift Aire Lines, Inc., petitioned for rulemaking to amend Part 135 to permit operation of aircraft with a gross certificated take off weight in excess of 12,500 pounds if such aircraft have a seating capacity of 30 seats or less, and a maximum payload capacity of 7,500 pounds or less.

The proposed revisions of Part 135 would permit aircraft having a maximum passenger capacity of 30 seats or less and a maximum payload capacity of 7,500 pounds or less to be operated under the rules of Part 135, as it is proposed to be amended. If the proposals are adopted the FAA believes that the relief requested by the petitioners would be accomplished.

Economic Impact

The FAA has evaluated estimates of the economic impact which might result from the proposal and has compared the estimates with the anticipated safety benefits. Only four proposals involve major additional costs.

The first is that which would require airborne thunderstorm detection equipment for all multiengine aircraft certificated to carry ten passengers or more, exclusive of flight crew. The FAA estimates that this additional equipment would be required on 250 aircraft now in operation at a total cost of 3.5 million dollars. The FAA believes that the enhancement in safety which will result from use of this equipment justifies the additional cost.

The second proposal is that which would require use of a continuous maintenance program for all aircraft certificated to carry ten passengers or more, exclusive of flight crew. These aircraft are more complex than smaller capacity aircraft and a higher quality maintenance level should result from use of a properly managed continuous maintenance program. It is estimated that the additional cost will be 3.1 million dollars and it is the FAA's opinion that the increased level of safety which will result justifies the additional cost.

The third proposal would require all aircraft that carry ten or more passengers to be certified in the transport category by 1984. There will be an estimated 300 aircraft affected by this proposal. The FAA has taken into consideration that those aircraft will either have to be modified to meet transport category requirements or phased out of Part 135 operations. The FAA estimates that the cost to modify or replace existing aircraft would be 50 million dollars per year from the effective dates until June 30, 1984. This is a final step to upgrade the airworthiness standards of this type of aircraft used in air taxi operations. The FAA believes that the cost to upgrade airworthiness standards will increase the level of safety in air taxi operations and is justified and is in the public interest.

The fourth proposal would require all turbojet aircraft having a passenger carrying capicity, excluding any pilot seat, of 10 or more passengers, to have installed a cockpit voice recorder, a flight data recorder, and a ground proximity warning system. The FAA estimates that this additional equipment would be required on 65 aircraft that are now in operation with a total cost of 1.8 million dollars.

Evaluation of other proposed requirements, including crew training and testing, flight and duty time limitations, weather operation standards, management structure, aircraft equipment, and additional personnel, indicated that their cost impact would not be major.

Regulatory Evaluation

In developing this notice of proposed rulemaking the FAA gave careful consideration to all comments which resulted from the Part 135 Regulatory Review Conference. As might be expected, some proposals discussed at the conference received favorable comments and others drew unfavorable comments.

The proposals in this notice reflect the FAA's effort to be responsive to the needs of Part 135 certificate holders by developing regulations which recognize the dynamic growth of the industry and which provide additional flexibility to that industry. At the same time, the principal goal of the proposals is to provide an overall higher level of safety for Part 135 operations. As a consequence, it may be that, in some cases, the judgments made by the FAA in striking a balance between responsibilities to industry needs on the on hand, and the need for a higher level of safety on the other hand, will evoke controversy. Therefore, the FAA believes that the proposals should be considered potentially controversial.

Redesignation of Part 135 Sections

In revising Part 135 to include proposed amendments to present rules and proposed new rules, it was necessary to redesignate the sections. For reference purposes, a table is included in this part of the preamble. It contains the new Part 135 section numbers, paragraphs within a section containing proposed amendments, the superseded section numbers and, in addition, proposal numbers used to develop the rule.

The proposal references show both Part 135 Regulatory Review and Operations Review proposal numbers. Proposal Numbers 1 through 110 indicate that the proposed revision came from the Part 135 Regulatory Review. Proposal numbers above 110 indicate that the proposed revision came from the Operations Review. It should be noted that some proposed rules list both Part 135 Regulatory Review and Operations Review proposal reference numbers. In these cases, informaton was extracted from both sources to develop the proposal. Several proposed changes do not have a proposal reference number. They were not developed in either the Part 135 Regulatory Review or Operations Review and were included because the FAA believes the proposed amendment is warranted. These are identified by the letters N/A (not applicable).

All Part 135 regulations as proposed to be redesignated are included in the rules portion of this notice. However, many are not amended except for a change in the section number designation. Since those are included in the notice to provide a complete rule for easy reference by persons reviewing the document, only comments on the new sections and the amended paragraphs of the present sections will be considered. In the reference table, only those paragraphs of present Part 135 section which contain proposed new or amended provisions are listed. For example, when all paragraphs in a section have been changed, the notation "all" will be shown in the column indicating all paragraphs are subject to comment, as would be the case if the proposed rule is new. The notation "none" in the amended section column notes that the rule was redesignated only and no amendment is proposed. Comments should not be submitted on the rules that have not been changed.

Also included in this notice is a proposed amendment to § 121.9. It is located at the front of the explanation and rules portions of the notice.

V 42 167 AUG 29 77 UMI

REFERENCE TABLE

New section No.	Amended portions of section	Old section No.	Proposal No.
	Subpart A.—General		
135.1	(135.1(a), (2), (3), (b)(2), (5), (6), (7))	135.1	1, 2 and 713.
135.2	(135.2(a), (b), (c), (d), (e))	135.2	3, 716 and 717.
135.3	(135.3(c))	135.3	N/A.
135.5	Deleted and Reserved	135.5	N/A.
135.7	(All)	135.9	5.
135.9	do	New	6.
135.11	do	135.11	7.
135.13	(135.13(b)(2))	135.13	8.
135.15	(All)	135.15	9.
135.17	None	135.17	N/A.
135.19	do	135.19	N/A.
135.21	(135.21(c))	135.7	718.
135.23	(135.23(a), (b)(1), (5), (6), (9 to 15), (18))	135.27	11, 381, 724, 721.
135.25	(135.25(a), (b))	135.31	12.
135.27	None	135.41	N/A.
135.29	do	135.17	N/A.
135.31	do	135.45	N/A.
135.33	do	135.69	N/A.
135.35	do	135.51	N/A.
135.37	(All)	New	41.
135.39	do	do	45.
135.41	do	do	46.
135.43	None	135.12	N/A.
135.45	(All)	New	N/A.
	Subpart B.—Flight Operations		
135.47	None	135.61	N/A.
135.49	(135.49(a), (1)(viii), (b), (c)(5), (6), (7), (8), (d)).	135.43	15, 735.
135.51	(All)	New	74.
135.53	do	135.119	32.
135.55	do	New	70.
135.57	do	do	69/751.
135.59	do	135.67	N/A.
135.61	None	135.49	N/A.
135.63	(All)	New	16.
135.65	do	do	4.
135.67	(135.67(a)(2))	135.29	N/A.
135.69	(All)	135.39	69/751.
135.71	None	135.71	N/A.
135.73	(135.73(b), (d), (h))	135.63	745, 746.
135.75	(135.75(a), (c)(2), (4), (5), (6), (7), (d), (e)).	135.117	31, 73, 783.
135.77	(All)	135.83	N/A.
135.79	do	135.114	30.
135.81	None	135.79	N/A.
135.83	(All)	135.33	13.
135.85	do	135.37	14.
135.87	None	135.59	N/A.
135.89	(All)	135.73	N/A.
135.91	(135.91(a))	135.75	21.
135.93	(135.93(a), (b), (c)(1))	135.77	22.
135.95	None	135.54	N/A.
135.97	do	135.55	N/A.
135.99	do	135.72	N/A.
135.101	do	135.53	N/A.
135.103	(All)	New	N/A.
135.105	do	135.81	18, 760.
135.107	None	135.64	N/A.
135.109	do	135.115	N/A.
135.111	do	135.89	N/A.
135.113	(All)	New	49.
	Subpart C.—Aircraft and Equipment		
135.115	None	135.141	N/A.
135.117	(135.117(c))	135.143	N/A.
135.119	None	135.32	N/A.
135.121	do	135.149	N/A.
135.123	do	135.151	N/A.
135.125	(135.125 (c), (d))	135.161	706.
135.127	(All)	135.165	815.
135.129	do	135.153	N/A.
135.131	do	135.157	N/A.
135.133	do	135.155	N/A.
135.135	(135.135 (f), (g), (h))	135.159	N/A.
135.137	None	135.163	N/A.
135.139	(135.139 (a)(14), (b))	135.141	40A.
135.141	(All)	New	N/A.
135.143	do	do	75.
135.145	do	do	48A.
135.147	do	do	75A.
135.149	do	do	N/A.
135.151	(135.151 (a) (1), (2), (b) (1), (2), (ii), (iii), (c)(1), (2)).	135.145	
135.153	None	135.147	N/A.
135.155	(All)	135.148	N/A.
135.157	(135.157(a))	135.167	41, 810.

New section No.	Amended portions of section	Old section No.	Proposal No.
	Subpart D.—VFR/IFR Operating Limitations and Weather Requirements		
135.159	(All)	New	N/A.
135.161	None	135.91	N/A.
135.163	do	135.93	N/A.
135.165	(All)	135.95	N/A.
135.167	(135.167(a)(2))	135.97	709, 770.
135.169	(135.169(a))	135.99	N/A.
135.171	(All)	135.65	20, 750.
135.173	do	New	748.
135.175	(135.175(a), (c), (d))	135.101	25.
135.177	None	135.103	N/A.
135.179	(All)	135.105	27, 773.
135.181	do	135.109	28, 777.
135.183	do	135.107	609, 775.
135.185	do	135.111	29, 778, 779.
135.187	do	135.85	23, 762, 765.
135.189	do	135.87	47.
	Subpart E.—Flight Crewmember Requirements		
135.191	do	New	NA.
135.193	do	135.121/123	785.
135.195	(Reserved)		
135.197	(All)	135.127	786.
135.199	do	New	707.
	Subpart F.—Flight Crewmember Flight and Duty Time Limitations and Rest Requirements		
135.200–135.211	do	135.136	37, 76, 791, 793, 799.
	Subpart G.—Crewmember Testing Requirements		
135.223	(All)	New	N/A.
135.225	(135.225(b)(c)(f))	135.138	39.
135.227	(135.227(c)(i))	135.139	N/A.
135.229	(135.229(c)(f)(g)(3))	135.131	789.
135.231	(All)	135.122	N/A.
135.233	do	135.133	N/A.
135.235	do	135.135	56.
	Subpart H.—Training		
135.247	(All)	New	50.
135.239	do	do	51.
135.241	do	do	53.
135.243	do	do	52.
135.245	do	do	58.
135.247	do	do	59.
135.249	do	135.140	40, 804.
135.251	do	New	54.
135.253	do	do	56.
135.255	do	do	57.
135.257	(135.257(a), (b))	135.55	17, 738, 739.
135.259	(All)	135.137	38.
135.261	do	New	60.
135.263	do	do	62.
135.265	do	do	61.
135.267	do	do	63.
135.269	do	do	N/A.
	Subpart I.—Airplane Performance		
135.271	(All)	New	79.
135.273	do	do	80.
135.275	do	do	81.
135.277	do	do	82.
135.279	do	do	83.
135.281	do	do	84.
135.283	do	do	85.
135.285	do	do	86.
135.287	do	do	87.
135.289	do	do	88.
135.291	do	do	89.
135.293	do	do	90.
135.295	do	do	91.
135.297	do	do	92.
135.299	do	do	93.
135.301	do	do	94.
135.303	do	do	95.
135.305	do	do	96.
	Subpart J.—[Reserved]		

V 42 167 A AUG 29 77 UMI

New section No.	Amended portions of section	Old section No.	Proposal No.
Subpart K.—Maintenance, Preventive Maintenance and Alterations			
135.333	(All)	New	97.
135.335	do	do	98, 805.
135.337	(135.337(a)(16), (e), (e), (f))	135.57	18, 741.
135.339	(135.339)(a))	135.59	19.
135.341	(135.341(a), (d)(3), (f))	135.60	97, 744.
135.343	(All)	New section	N/A.
135.345	do	do	99.
135.347	do	do	100.
135.349	do	do	101.
135.351	do	do	102.
135.353	do	do	103.
135.355	do	do	104.
135.357	do	do	106.
135.359	do	do	107.
135.361	do	do	108.
135.363	do	do	109.
135.365	do	do	110.

AMENDMENT EXPLANATIONS

Each proposed amendment has an explanation containing a justification or reason for the action taken. They are listed sequentially by title and regulation number. Each is followed by the pertinent proposal number(s) used in the amendment development. The following are the explanations for proposed amendments:

PART 121

§ 121.9 Operations of small aircraft and certain large aircraft

Section 121.9 governs the operation of small airplanes under Part 121. The title of § 121.9 is changed to refer to small aircraft and certain large aircraft and the first sentence of paragraph (a) would be revised to require aircraft having a maximum passenger capacity of 30 seats or less and a maximum payload capacity of 7,500 pounds or less to be operated under the rules of Part 135, excepting specified sections of Part 135. Those sections presently listed in § 121.9 would be changed, where necessary, to reflect the proposed redesignation of those sections in Part 135.

Ref Proposal No. 42, Part 135 Review.

PART 135

SUBPART A—GENERAL

§ 135.1 Applicability

The current Part 135 applies to air taxi operators and commercial operators using small aircraft. The proposed changes to this part include a number of proposals relating to the operation of aircraft with a maximum passenger capacity of 30 seats or less and maximum payload capacity of 7,500 pounds or less.

For many years § 1.1 of the Federal Aviation Regulations has defined a large aircraft as one of more than 12,500 pounds maximum certificated takeoff weight and a small aircraft as one of 12,500 pounds or less maximum certificated takeoff weight. Among other things the distinction between large and small aircraft determines the operating rules which apply to the operation of a particular aircraft. For example, § 135.2 (a) requires air taxi operators to comply with the operations requirements of Part 121 applicable to supplemental air carriers for operations conducted with any aircraft having a maximum certificated takeoff weight of more than 12,500 pounds. Conversely, § 121.9 requires air carrier operations conducted in small airplanes to be conducted in accordance with the rules of Part 135 applicable to air taxi operations.

Effective September 17, 1972, the Civil Aeronautics Board amended Part 298 of the Board's economic regulations to provide that for the Board's economic regulation purposes, a large aircraft was defined, with certain exceptions, as having a maximum passenger capacity of more than 30 seats or a maximum payload capacity of more than 7,500 pounds. This served to focus attention on the distinction between large and small aircraft in § 1.1 of the Federal Aviation Regulations. Moreover, continuation of this distinction was questioned from time to time by various persons and groups. The FAA has intensively studied the distinction between large and small aircraft and has considered the views expressed in the Part 135 Regulatory Review.

The FAA now proposes to increase the Part 135 aircraft size limitations to aircraft which have a maximum passenger capacity of 30 seats or less and a maximum payload capacity of 7,500 pounds or less, and to require Part 121 and § 135.2 operators to operate such aircraft under the rules of Part 135, upgraded as explained below.

The FAA believes that the level of safety in Part 135 should be upgraded to accommodate the larger aircraft which are proposed for operation under the rules of Part 135. In recent years there has been a substantial change in the type of operations conducted by air taxi operators and commercial operators under Part 135. In addition to providing service to off-line points for the convenience of individual passengers or providing emergency air service, an increasing number of air taxi operators are conducting operations as "Commuter Air Carriers."[1] Moreover, there has been a substantial increase in the number of air taxi and commercial operators conducting operations in small airplanes certificated to carry 10 or more passengers and in small complex multiengine turbine powered airplanes. Thus, while some operations under Part 135 are still conducted on an occasional, nonscheduled basis with small, low density airplanes, other operations are conducted with such frequency and regularity or utilize airplanes of such capacity and complexity that increased surveillance and standardization are necessary to maintain the required level of safety. Accordingly, one of the major goals of these proposals is to upgrade the overall level of safety under Part 135.

The applicability provision in § 135.1 (a) (3) would be revised to make Part 135 applicable to operations conducted in aircraft having a maximum passenger capacity of 30 seats or less and a maximum payload capacity of 7,500 pounds or less.

After consideration of factors relating to the scope of rescue operations conducted under the list of excepted operations contained in § 135.1, the FAA has concluded that safety warrants the inclusion of such operations among those operations governed by the rules of Part 135. Accordingly, rescue operations as contained in paragraph (b) (4) (v) would be deleted and the sub-items of this paragraph renumbered as necessary.

In addition, the contents for former paragraphs (b) (5), (6), and (7) would be deleted because the provisions contained in these paragraphs are no longer needed. Pursuant to revised paragraph (b) (5), sightseeing flights conducted in hot air balloons would be expected from compliance with Part 135 since, in light of present technology, hot air balloon flight operators cannot meet the requirements of Part 135. Similar to the exclusion in § 135.1(b) for nonstop sightseeing flights, revised paragraph (b) (6) would provide that nonstop flights, within a 25 statute mile radius of the airport of takeoff, carry persons for parachute jumping would no longer be covered under Part 135. However, sightseeing flights in hot air balloons and the parachute jumping flights would remain subject to the rules of Part 91. Pursuant to revised paragraph (b) (7), infrequent helicopter airlift operations conducted within a 25 statute mile radius of the airport of takeoff would not be covered under Part 135, provided that the restrictions and procedures prescribed in paragraph (b) (7) are followed. In addition, such operations would be subject to the rules of Part 91.

Ref. Proposal Nos. 1 and 2, Part 135 Review; Proposal No. 713, Ops. Review.

§ 135.2 Air taxi operations with large aircraft

Paragraph (a) of the proposed rule would be amended to refer to a new subparagraph (d) which would be added to § 135.2 to require air taxi operations in aircraft having a maximum passenger capacity of 30 seats or less and a maximum payload capacity of 7,500 pounds or less to be conducted in accordance with the rules of Part 135. Paragraph (d) would also provide that an operator required to operate under paragraph (d) may operate or continue to operate under the provisions of § 135.2(a) (1) and (2) if he applies for and is issued operations specifications for such operations under § 135.19.

Similarly, paragraph (b) of § 135.2 would be changed to provide that an air taxi operator who is required to comply with Subpart L of Part 121 pursuant to paragraph (a) may perform and approve maintenance, preventive maintenance, and alterations on aircraft having a maximum passenger capacity of 30 seats or less and a maximum payload capacity of 7,500 pounds or less as provided in Subpart L.

Editorial changes to § 135.2(c) are proposed to reflect the provisions in the proposed revised Part 135 which are the counterparts of the provisions in paragraph (c). The requirements of current paragraph (e) for a lockable door in certain turbojet-powered airplanes would be deleted from this section and reinserted in § 135.125 to apply to turbojet-powered airplanes having a passenger seating capacity, excluding any pilot seat, of 10 seats or more, operating under the rules of Part 135. A forward observer's seat would be included among certain other related requirements of § 135.63 and either it or an approved forward passenger seat, for use by the Administrator while conducting enroute inspections, would be required on all aircraft.

Paragraph (e) of the proposed rule would define certain terms pertinent to the operation of "large" aircraft under Part 135.

Ref. Proposal No. 3, Part 135 Review. Proposal Nos. 716 and 717, Ops. Review.

§ 135.3 Rules applicable to operations subject to this part

This section is currently § 135.3, redesignation is not necessary in the revised Part 135.

Present paragraph (b), which requires operations conducted under Part 135 outside the United States to comply, among other things, with Annex 2, Rules of the Air, to the Convention on International Civil Aviation, would not be changed. A new paragraph (c) would be added to provide for incorporation by reference of Annex 2 to the Convention on International Civil Aviation, Sixth Edition—September 1970, with amendments through Amendment 20 effective August 1976.

§ 135.5 Gyroplane operations

It is proposed to delete this provision. The rule is not needed because there are currently no gyroplanes presently certificated which are believed to be capable of being used in operations under Part 135.

§ 135.7 Certification and operations specifications required

This section, curently § 135.9 has been redesignated as § 135.7 and contains proposed amendments which would prohibit operations in large aircraft having a maximum passenger capacity of more than 30 seats or a maximum payload capacity of more than 7,500 pounds, without, or in violation of, operations specifications issued under Part 121. This change is necessary in order to implement the concept which would require aircraft having a maximum passenger capacity of 30 seats or less and a maximum payload capacity of 7,500 pounds or less to be operated under the rules of Part 135.

Ref. Proposal No. 5, Part 135 Review.

§ 135.9 Applicability of rules to unauthorized operators

Part 135 currently applies only to persons holding ATCO certificates. This proposal would make it a violation of each operating rule of Part 135 to conduct operations requiring an ATCO certificate and operations specifications without holding that certificate and operations specifications.

Ref. Proposal No. 6, Part 135 Review.

§135.11 Duration of certificate

There is no time specified in the current rule in which to return a suspended or revoked certificate to the Administrator.

This proposal would require a suspended or revoked ATCO certificate to be returned to the Administrator within 10 days after receipt of notice of suspension or revocation.

Ref. Proposal No. 7, Part 135 Review.

§ 135.13 Application and issue of certificate and operations specifications

This proposal would amend paragraph (b) (2) to provide clarification concerning the scope of operations authorized including the type of aircraft authorized in addition to category and class. In addition, the registration numbers of aircraft subject to a continuous airworthiness maintenance program and certain other maintenance related information would be included. These factors are considered relevant by the FAA and are spelled out in sufficient detail to clearly define the scope of the certificate holder's authority.

Ref. Proposal No. 8, Part 135 Review.

§ 135.15 Eligibility for certificate and operation specifications

The flush paragraph in § 135.15(a) (3) would be amended to change the reference to "large aircraft" to "large aircraft having a maximum passenger capacity of more than 30 seats or a maximum payload capacity of more than 7,500 pounds." This change is consistent with the proposal to increase the size of aircraft to be operated under the rules of Part 135. In addition, a new paragraph (b) would be added specifying the basis upon which the FAA may deny an applicant an ATCO certificate.

Operating experience has shown that the compliance disposition of an operator and persons serving in key positions is a reliable indication of future performance.

Ref. Proposal No. 9, Part 135 Review.

§ 135.17 Amendment of certificate

This section is currently § 135.17; Redesignation is not necessary in the revised Part 135.

§ 135.19 Amendment of operations specifications

This section is currently § 135.19; Redesignation is not necessary in the revised Part 135.

§ 135.21 Emergency operations

This section, formerly § 135.7, would be redesignated as § 135.21. The word "inflight" has been deleted, thus expanding the application of this section to ground as well as air emergencies, as in the case of pilot incapacitation requiring the use of a person not qualified under Sections 135.33, 135.52, or 135.53 for assistance with flight crewmember duties. In addition, minor editorial changes would be made to make this section consistent with Section 91.3 of Part 91 of this chapter.

Ref. Proposal No. 718, OPS Review.

§ 135.23 Manual requirements

This section, currently § 135.27, would be redesignated as § 135.23. In addition, this section would be revised by amending paragraph (a) to require each certificate holder who is required to have a manual to prepare a manual acceptable to the Administrator. Further, each flight, ground, and maintenance employee of the certificate holder would be required to use the manual in the conduct of the certificate holder's flight operations.

Paragraph (b) would be amended to require that each manual must be kept in a form acceptable to the Administrator. Paragraph (b) (1) would provide that in addition to the identity of each person in a management capacity who is authorized to act for the certificate holder, that person's duties, responsibilities and authority must also be outlined. Paragraph (b) (2) would be amended by changing the word "airplanes" to read "aircraft."

Paragraph (b) (6) would be amended to require reporting and recording mechanical irregularities that come to the attention of the pilot in command before, during, and after completion of a flight.

Present paragraphs (b) (9) through (b) (15) would be renumbered as paragraphs (b) (10) through (b) (16) respectively to allow the insertion of a new paragraph (b) (9) referring to procedures in accordance with § 135.149 for the release for, or continuation of flight if any item of equipment amenable to placement on an approved minimum equipment list becomes inoperative or unserviceable en route. This change is made necessary by the incorporation of a new § 135.149 which would provide regulatory authority for the use of a Minimum Equipment List in operations under Part 135 in multiengine aircraft.

[1] As defined in Part 298 of CAB Regulations, a "Commuter air carrier" is an air taxi operator which: (1) Performs at least five round trips per week, between two or more points and publishes flight schedules which specify the times, days of the week, and places between which such flights are performed, or (2) transports mail by air pursuant to contract with the United States Postal Service.

V 42 167 AUG 29 77 UMI

Renumbered subparagraph (b)(13) would be revised to require inclusion in the manual of a list of the functions assigned each category of required crewmembers in connection with emergency and emergency evacuation duties under § 135.113.

With respect to renumbered paragraph (b)(16), there have been instances in which ATCO certificate holders have inadvertantly accepted hazardous material on board an aircraft because the operator's employees did not recognize the material as hazardous. The amendment to this paragraph is, therefore, designed to ensure that ATCO certificate holders provide their employees sufficient guidance in the recognition and proper handling of hazardous material so that such materials can be selectively identified and accepted or refused for shipment without derogation of safety. In addition, an out-dated regulatory reference has been deleted and the current regulatory reference inserted in place thereof.

A new paragraph (c) would be added to provide that each certificate holder shall maintain at least one copy of its manual at its principal base of operations.

Ref. Proposal No. 11, Part 135 Review; Proposal Nos. 381, 721, and 724, OPS Review.

§ 135.25 Aircraft requirements

This section, currently § 135.31, would be revised and redesignated as § 135.25. In addition, present paragraphs (a) and (b) would be redesignated as paragraphs (b) and (c) respectively to permit the incorporation of a new paragraph (a) into this section to provide that an aircraft used in operations under this Part must be registered as a civil aircraft of the United States and carry an appropriate and current airworthiness certificate, and must be in an airworthy condition and meet the applicable airworthiness requirements, including those relating to identification and equipment. This provision is needed in Part 135 as questions have been raised concerning the use of foreign registered aircraft in operations under this Part. The final sentence of redesignated paragraph (b) would make it clear that a Part 135 certificate holder is not prohibited from using or authorizing the use of an aircraft for other than air taxi or commercial operations and is not required to have exclusive use of each aircraft that he uses.

Ref. Proposal No. 12, Part 135 Review.

§ 135.27—Business office and operations base

This section, currently § 135.41 would be redesignated as § 135.27 with no other changes.

§ 135.29 Use of business names

This section, currently § 135.47, would be redesignated § 135.29 with no other changes.

§ 135.31 Advertising

This section, currently § 135.45, would be redesignated § 135.31 with no other changes.

§ 135.33 Area limitations on operations

This section, currently § 135.69, would be redesignated § 135.33 with no other changes.

§ 135.35 Termination of operations

This section, currently § 135.51 would be redesignated § 135.33 with no other changes.

§ 135.37 Periodic financial status review

This proposal is a modified version of Proposal No. 44 which was presented in the Compilation of Proposals under the Part 135 Regulatory Review Conference held in Denver, Colo., November 8–11, 1976. While the original proposal would have required each certificate holder to submit certain financial data annually, this proposal would require each certificate holder to permit the Administrator to review its financial status annually. Data to be furnished by the certificate holder for review would include specified items needed to determine a company's financial condition and whether it has sufficient economic resources to support a safe operation. The information which must be furnished to the Administrator consists of the minimum financial data the FAA believes necessary to fulfill its safety responsibilities. It has long been the opinion of the FAA that financial capability is an essential ingredient of air safety. Operating experience has established the fact that the financial status of some ATCO certificate holders had a direct bearing on the willingness of those certificate holders to compromise safety in an effort to reduce operating costs. Such actions expose the public to needless safety hazards and not in the public interest. This factor has also been recognized by both the Civil Aeronautics Board and the National Transportation Safety Board. As a result, the FAA believes that the review of financial data of air taxi certificate holders is necessary to provide the FAA a more effective means of ensuring passenger safety in air taxi operations.

Ref. Proposal No. 44, Part 135 Review.

§ 135.39 Management personnel requirements.

This new proposal would require an ATCO certificate holder to have qualified management personnel in the positions of director of operations, chief pilot, and director of maintenance, and would provide for a modification of the above named positions if deemed appropriate by the Administrator. In addition, information concerning management personnel would be included in the certificate holder's manual. These changes are necessary to upgrade the level of safety in Part 135.

Ref. Proposal No. 45, Part 135 Review.

§ 135.41 Management personnel qualifications.

This proposal would prescribe certain qualifications which must be met before a person may serve as a director of operations, chief pilot, or director of maintenance for an ATCO certificate holder. The FAA wishes to ensure that persons selected to fill these positions have sufficient aeronautical and managerial experience to fulfill the purpose of the regulations. However, the Administrator may grant a deviation from the proposed requirements upon a finding that a person possesses aeronautical experience judged equivalent to the specified qualifications.

Ref. Proposal No. 46, Part 135 Review.

§ 135.43 Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.

This section currently § 135.12, would be redesignated § 135.43 with no other changes.

§ 135.45 Crewmember certificate: international operations: application and issue

This proposal would provide for the application for, and issuance of, crewmember certificates to persons employed as flight crewmembers or crewmembers on U.S.-registered aircraft engaged in international air commerce to facilitate entry and clearance into ICAO contracting states. Upon termination of the assignment in international air commerce, the certificate would be surrendered to the nearest FAA District Office. There are currently no such provisions in Part 135.

§ 135.47 General

This section, formerly § 135.61, would be redesignated § 135.47 with no other changes.

SUBPART B

§ 135.49 Recordkeeping requirements

This section, currently § 135.43, would be redesignated as § 135.49. With the exception of the redesignation of this section, the proposed changes result from experience which has shown that the current recordkeeping requirements for ATCO certificate holders are no longer adequate and need broadening. The recordkeeping requirements of current § 135.43 are not of sufficient scope to permit ready ascertainment of compliance with provisions of this Part. Paragraph (a) would be changed to permit the certificate holder to maintain the records required by this section at other than his principal business office, if approved by the Administrator. In addition, paragraph (a)(4)(vii) would be changed to require both flight and duty time records in sufficient detail to determine compliance with the flight and duty time limtiations of this Part. Paragraph (b) would be changed to require the retention of records for 12 months instead of 6 months. Paragraph (c) would be changed to apply to all multiengine aircraft operations. Paragraph (c)(5) would provide relief from compilation of the actual center of gravity if the aircraft is loaded according to a loading schedule or other approved method that assures that the center of gravity of the loaded aircraft is within approved limits. Additionally, paragraph (c) would be changed to require that a load manifest must be prepared for multiengine aircraft before each takeoff, and to incorporate the addition of proposed new subparagraphs (6), (7), and (8), to require a record of the registration or flight number of the aircraft used, the origin or destination, and the identification of crewmembers and their particular assignments.

Ref. Proposal No. 15, Part 135 Review; Proposal No. 735, Ops. Review.

§ 135.51 Flight in formation: facilities and services

This proposal would be designated as § 135.51. This proposed amendment would require each pilot in command to obtain specific kinds of information in preparation for a flight under this Part and to obtain during flight certain information that may be critical to the safety of that flight. This proposal embodies the FAA's view that all reasonable precautions must be taken to ensure the safety of flight. It is needed to emphasize the need for thorough preflight preparation and the inflight update of information essential to the safety of flight in operations under Part 135.

Ref. Proposal No. 74, Part 135 Review.

§ 135.53 Reporting of mechanical irregularities

This section, currently § 135.119, would be redesignated as § 135.53 and it would be amended to improve the maintenance records requirements. The necessity for improvement is based upon the FAA's review of procedures used by Part 135 certificate holders to determine airworthiness.

Each certificate holder would be required to provide an aircraft maintenance log for use of flight and maintenance personnel and each person taking action concerning a reported or observed failure or malfuction would be required to record that action in the aircraft maintenance log. The certificate holder would be required to establish and include in its manual a procedure for keeping adequate copies of the log in the aircraft. Before takeoff, the pilot in command would be required to ascertain the status of, and required corrective action concerning, each irregularity entered in the log at the end of the preceding landing. In addition, after each landing, the pilot in command would be required to enter in the log each defect or mechanical irregularity which came to his attention during the flight.

Ref. Proposal 32, Part 135 Review.

§ 135.55 Reporting potentially hazardous meteorological conditions and irregularities of communications or navigation facilities

There is currently no provision in Part 135 for the reporting by pilots of important safety information encountered during flight. This proposal would require the reporting to an appropriate ground radio station of information which may be critical to the safety of any other flight.

Ref. Proposal 70, Part 135 Review.

§ 135.57 Restriction or suspension of operations: continuation of flight in an emergency

As proposed, paragraph (a) would place the responsibility for restricting or suspending operations under conditions of known hazards on both the certificate holder and the pilot in command. Paragraph (d) is similar to § 121.551. Paragraph (b) would prohibit the pilot in command from continuing to an airport of intended landing under paragraph (a) unless in the opinion of the pilot in command there is no safer procedure available as an alternative to the continuation of flight in unsafe conditions.

Ref. Proposal No. 69, Part 135 Review; Proposal No. 751, OPS Review.

§ 135.59 Airworthiness check

This section, currently § 135.67, remains the same except for an editorial change of the reference "§ 135.60 to § 135.341."

§ 135.61 Inspections and tests

This section, currently § 135.49, would be redesignated § 135.61 with no other changes.

§ 135.63 Inspectors credentials: admission to pilot's compartment and forward observer's seat

This proposal would provide an inspector of the Federal Aviation Administration conducting an inspection with unrestricted access to the pilot compartment of an aircraft upon the presentation of an Aviation Safety Inspector credential, FAA Form 110A, to the pilot in command. Additionally, it would ensure that suitable seating arrangements are provided to permit the inspector to properly monitor the flight during an en route inspection.

Ref. Proposal No. 16, Part 135 Review.

§ 135.65 Responsibility for operational control

This proposal would place the responsibility for operational control (as defined in Part 1) on the certificate holder, and require the certificate holder to list in the required manual each person authorized to exercise operational control on its behalf.

Ref. Proposal No. 4, Part 135 Review.

§ 135.67 Flight locating requirements

This section, currently § 135.29 would be redesignated as § 135.69. The section is unchanged except for the deletion of the words "Establish a procedure" in paragraph (a)(2) and insertion of the word "Provide" in lieu thereof for clarification purposes.

§ 135.69 Informing personnel of operational information and appropriate changes

This section, currently § 135.39, would be redesignated as § 135.69. It would be amended by renumbering paragraphs (a), (b), (c) and (d) and amending renumbered paragraph (a)(4) to permit a Part 135 certificate holder conducting foreign operations to use a commercial publication containing the same information as to the International Flight Information Manual. A new paragraph (b) would be included to require each certificate holder to keep its operations personnel informed of changes associated with the use of navigation aids, air traffic control procedures and regulations, and other areas essential to the safety of flight operations.

Ref. Proposal No. 67, Part 135 Review; Proposal No. 731, Ops. Review.

§ 135.71 Operating information required

This section is currently § 135.71. Redesignation is not necessary. The section reference number in § 135.71(a)(5) was amended to § 135.151.

§ 135.73 Carriage of persons without compliance with the passenger-carrying provisions of this Part

This section, currently § 135.63, would be redesignated as § 135.73. In addition, it would be amended by revising paragraphs (b) and (d) and adding a new paragraph (h) to broaden the list of persons who may be carried without compliance with the passenger-carrying provisions of Part 135. Paragraph (d) also would be revised to include the current citation of the regulation where the definition of "hazardous materials" is found.

Ref. Proposal Nos. 745 and 746, OPS Review.

§ 135.75 Carriage of cargo including carry-on baggage

This section, currently § 135.117, would be redesignated as § 135.75. It would be amended to explicitly state that it applies to carriage of cargo on aircraft, as well as in aircraft. The word "occupants" would be substituted for the word "passengers" whever it appears in the present provisions in order to require protection for all persons in the aircraft. A new paragraph (c)(7) would be added to make paragraph (c)(4) not applicable to cargo only operations when certain emergency exit standards are met. In addition, a new paragraph (c)(6) would be added to require that cargo must be properly stowed for takeoff and landing. A new paragraph (d) would be added which would require each passenger seat under which baggage is stowed to be fitted with means of restraint meeting specified standards. This is intended to ensure that luggage will not impede emergency evacuation. A new paragraph (e) would be added to require cargo carried in cargo compartments to be loaded in such a manner as to permit entry of a crewmember to extinguish a fire.

Ref. Proposal Nos. 31 and 73, Part 135 Review; Proposal No. 783, OPS Review.

§ 135.77 Requirements for the use of oxygen

This section, currently § 135.83, would be redesignated as § 135.77. Since the present rule imposes the same requirements for both unpressurized and pressurized aircraft, and the use of supplemental oxygen relates primarily to cabin

V 42 167 AUG 29 77 UMI

pressure altitudes, it is believed no longer necessary to differentiate between pressurized and unpressurized aircraft at the altitudes referred to in paragraph (a). A pressurized aircraft, when it becomes depressurized or is being operated as an unpressurized aircraft, is for all practical purposes an unpressurized aircraft. Accordingly, paragraph (a) would be revised to apply to both pressurized and unpressurized aircraft.

Accumulated operating experience in turbojet-powered aircraft having pressurized cabins has shown the occurrence of sudden decompression to be very infrequent and if proper emergency procedures are followed, of no serious consequence up to the maximum altitudes now utilized as flight altitudes. Oxygen equipment has advanced in design to the point where it can and does meet the standards prescribed for the quick emergency use concept. Accordingly, paragraph (b) would be revised to reflect a level of safety equivalent to that of the present rule and in conformity with the supplement oxygen requirements of Part 121. Paragraph (b) would, however, remain specifically applicable to pressurized cabin aircraft.

§ 135.79 Oxygen for medical use by passengers

This section, currently § 135.114, would be redesignated as § 135.79 and would be amended to permit equipment for the storage, generation or dispensing of medical oxygen (other than in the form of a liquid), if of an approved type or in conformity with specific requirements of Title 49 CFR Parts 171, 172, and 173, except that there must be compliance with § 173.24(a)(1), governing the packaging, marking, labeling, and maintenance of oxygen, to be furnished by a person other than the certificate holder.

Concerning the use of liquid oxygen, the FAA believes that damage to dispensing equipment due to mishandling or during storage or servicing of liquid oxygen containers could result in malfunction of this equipment and could cause injury to persons on board the aircraft. Accordingly, the amendment as proposed would require that any liquid oxygen storage unit carried on board an aircraft under this section must have been maintained in accordance with an FAA approved maintenance program since its purchase new or since its last purging.

FAA has determined that a level of safety equivalent to that provided by the carriage of equipment furnished by the certificate holder and maintained in accordance with the certificate holder's approved maintenance program would be provided if a person trained in the use of medical oxygen is on board the aircraft to administer it during flight. Further, the FAA now believes that the requirement for a passenger to furnish a statement of need signed by a licensed physician may impose undue hardship on operators of flights carrying persons with a medical need for oxygen without contributing significantly to safety, particularly in connection with such flights conducted from remote areas. Accordingly, the requirement for a physician's statement would be deleted.

A new provision would be included to allow oxygen equipment furnished by a professional or emergency medical service to be carried on board an aircraft by a passenger requiring the use of oxygen in a medical emergency when accompanied by a person trained in the use of medical oxygen equipment. The FAA believes that portable oxygen equipment suitable for carriage on board an aircraft as used by professional or emergency medical services is given reasonable care and maintenance and may be safely carried and used on board an aircraft if a person trained in the use of medical oxygen is on board to administer it during flight. Accordingly, paragraph (d) as proposed would provide authority for deviation from specific provisions of paragraph (a)(1)(i) to permit the carriage and use of such oxygen equipment in a medical emergency when no other practical means of transportation is reasonably available and the person carried is accompanied by a person trained in the use of medical oxygen. Additionally, a new paragraph (e) would require each certificate holder who, under the authority of paragraph (d) deviates from the provisions of paragraph (a)(1)(i), to send a complete report of the deviation and the reasons for it to the certificate holding FAA Flight Standards District Office within 10 days. This should ensure that the emergency use of the deviation authority is not abused.

The FAA is aware of the objections of some persons in the past to the permissible carriage or use of oxygen equipment due to the difficulty in determining if the equipment has been properly serviced, altered, or repaired, or whether cleanliness has been observed in its servicing and whether it has been subjected to abuse and possible damage. However, there have been numerous instances under the present rule in which operators called upon to transport persons requiring such transportation, located in sparsely populated or remote areas, have been unduly burdened by the requirement that oxygen equipment used must be furnished by the certificate holder. In many such cases, the frequency of need for such transportation is not sufficient to justify the operator's expenditure to provide oxygen equipment for the limited use it would receive. The FAA is of the opinion that, except for liquid oxygen, the passenger should be permitted to provide the oxygen needed for an air ambulance flight under the conditions specified in this proposal.

The FAA believes that these proposed amendments would provide a measure of flexibility in the rule governing the carriage of oxygen for medical purposes, while providing a satisfactory level of safety. The standard of care in the operation of oxygen storage and dispensing equipment required by the provisions of this proposal in conjunction with the operating procedures specified in the certificate holder's manual would serve to ensure safety.

Ref. Proposal No. 30, Part 135 Review.

§ 135.81 Autopilot: minimum altitudes for use

This section, currently § 135.79, would be redesignated as § 135.81. The contents of the present section would be deleted and the contents of § 121.579 inserted in lieu thereof. The FAA believes that in upgrading the rules for air taxi certificate holders, regulations are needed to govern the approval of modern flight control guidance systems with automatic capability to touchdown. This proposal contains the safeguards the FAA deems necessary in view of the more complex aircraft which would be authorized under the terms of this proposal to operate under Part 135. However, since helicopters have historically been excepted from the minimum safe altitudes specified in the regulations for airplanes without adversely affecting safety, and autopilot or flight stabilization systems used in helicopters are more compatible with near surface operations than are many flight control guidance systems in airplanes, it is considered appropriate to except helicopters from the requirements of this section.

§ 135.83 Airmen: limitations on use of services

This section, currently § 135.33, would be redesignated as § 135.83. It would be revised to prohibit a certificate holder from using the services of any person as an airman unless that airman is qualified for the operation for which he is to be used and has the required appropriate and valid airman and medical certificate in his possession while engaged in operations under this Part.

Ref. Proposal No. 13, Part 135 Review.

§ 135.85 Aircraft and facilities for recent flight experience

This section, currently § 135.37, would be redesignated as § 135.85 and would be amended by deleting the words "those operations" and inserting the words "all operations for which the pilot is authorized" in place thereof. The purpose of the proposal is to ensure that each pilot employed by the certificate holder would be provided aircraft and facilities necessary to maintain and demonstrate his ability to conduct all operations for which the pilot is authorized.

Ref. Proposal No. 14, Part 135 Review.

§ 135.87 Composition of flight crew

This section, currently § 135.52, would be redesignated as § 135.87. It would be amended by deleting the word "airplane" in paragraph (b) and inserting the word "aircraft" in place thereof.

§ 135.89 Second in command required for IFR conditions

This section, currently § 135.73 would be redesignated at § 135.89. The references "135.75 and 135.77" would be changed to read "135.91 and 135.93" respectively.

§ 135.91 Exception to second-in-command requirements: limited IFR conditions

This section, currently § 135.75 would be redesignated as § 135.91.

It would be amended by deleting the words "airplane" in both the lead-in paragraph and paragraph (a) and inserting the word "aircraft" in place thereof to make this section applicable to all aircraft. In addition, the reference "Section 91.116(f)," in paragraph (b)(2)(ii) would be changed to read "Part 91."

Ref. Proposal No. 21, Part 135 Review.

§ 135.93 Exception to second-in-command requirement: approval for use of autopilot systems

This section, currently § 135.77, would be redesignated as § 135.93 and would be amended by changing the word "airplane" wherever found to read "aircraft" to make the section applicable to all aircraft. Autopilots installed in airplanes have long been recognized as a means of reducing the workload on crewmembers, thereby enhancing safety. Recently, autopilot systems which afford similar capability and reliability have been developed for rotorcraft and provisions for their use would be included in this proposal.

Ref. Proposal No. 22, Part 135.

§ 135.95 Flight attendant crewmember requirement

This section, currently § 135.54 would be redesignated § 135.95 with no other changes.

§ 135.97 Pilot-in-command or second-in-command: designation required

This section, formerly § 135.35, would be redesignated § 135.97, with no other changes.

§ 135.99 Second-in-command required in Category II operations

This section currently § 135.72, would be redesignated § 135.99, with no other changes.

§ 135.101 Passenger occupancy of pilot seat

This section, currently § 135.53, would be redesignated § 135.101, with no other changes.

§ 135.103 Manipulation of controls

This proposed new section would ensure that the level of safety under Part 135 is not derogated by the manipulation of the controls of an aircraft while in flight by unauthorized persons.

Ref. Proposal No. 68, Part 135 Review.

§ 135.105 Briefing of passengers before flight

This section, currently § 135.81, would be redesignated as § 135.105. Paragraph (a) would be revised to require a pretakeoff briefing of passengers by the pilot in command on specified safety matters. A new paragraph (b) would be added to paragraph (a) to require the briefing to include the location and operation of fire extinguishers carried on board the aircraft. Additionally, a new paragraph (c) would be added which would permit use of a printed card to supplement the oral briefing.

Ref. Proposal No. 68, Part 135 Review; Proposal No. 760, OPS Review.

§ 135.107 Prohibition against carriage of weapons

This section, currently § 135.115, would be redesignated § 135.107 with no other changes.

§ 135.109 Alcoholic beverages

This section, currently § 135.115, would be redesignated § 135.109 with no other changes.

§ 135.111 Helicopter operations: emergency landing areas

This section, formerly § 135.89, would be revoked and the assigned section number would be reserved. The FAA was considering issuing an NPRM to propose an amendment of Part 135 to revoke this section in response to a petition for rulemaking submitted by the Helicopter Association of America (HAA). HAA stated that present § 135.89, which prescribes emergency landing areas only for helicopters engaged in air taxi operations within congested areas, discriminates against helicopters. The minimum safe altitude requirements prescribed in § 91.79 of the chapter apply to all aircraft including helicopters. The FAA has carefully reviewed the justification of § 135.89 and now believes that it is no longer necessary and that the minimum safe altitude provisions of § 91.79 provide an acceptable level of safety.

§ 135.113 Emergency and emergency evacuation duties

This new section would require each certificate holder to assign to each category of required crewmember appropriate functions to be performed in an emergency and during emergency evacuation. This would make clear to individual crewmembers the action expected of them in an emergency. Prior assignment of duties would tend to minimize the confusion which sometimes results from unexpected situations occurring during an emergency. The assigned functions would be described in the manual required by § 135.23.

Ref. Proposal No. 49, Part 135 Review.

SUBPART C—AIRCRAFT AND EQUIPMENT

§ 135.115 Applicability

This section, currently § 135.141 would be redesignated § 135.115 with no other changes.

§ 1351.17 General requirements

This section, currently § 135.143 would be redesignated as § 135.117. Paragraph (b) would be amended by applying the requirement that instruments and equipment be in operable condition only to single-engine aircraft. This is a conforming change resulting from the proposal in § 135.149 for a minimum equipment list for multiengine aircraft. Paragraph (c) would be revised by deleting obsolete date references.

§ 135.119 [Reserved]

§135.121 Aircraft proving tests

This section, currently § 135.32 would be redesignated § 135.121 with no other changes.

§ 135.123 Dual controls required

This section, currently § 135.149 would be redesignated § 135.123 with no other changes.

§ 135.125 Equipment requirements: general

This section, currently § 135.151, would be redesignated as § 135.125. In addition, it would be revised by deleting the substance of present paragraph (c) and the addition of new paragraphs (d) and (e) to allow the incorporation of new requirements appropriate to the more complex and high performance airplanes which would be authorized to operate under Part 135.

In this respect, the operational history of turbojet airplanes has shown that a third attitude instrument, powered from a source independent of the airplane's electrical generating system, is desired for maintaining control of the airplane and would provide a margin of safety not otherwise available in the event of total failure of the electrical generating system. Accordingly, the substance of current paragraph (c) would be deleted and pursuant to revised paragraph (c), requirements for a third attitude instrument would be inserted in place thereof to be applicable to all turbojet-powered airplanes.

Similarly, the lockable cockpit door requirement is believed appropriate for airplanes having a seating capacity of 10 passengers or more to ensure the security of the flight crew. It would also provide a more professional atmosphere by separating the flight crew from the passenger compartment.

The requirement for cockpit voice recorder (CVR), flight data recorder (FDR) and ground proximity warning systems (GPWS), in airplanes being operated under the rules of Part 135 has been under consideration for some time. The National Transportation Safety Board (NTSB) has recommended that GPWS, CVR, and FDR equipment be installed on all aircraft being used in commercial passenger service. The NTSB stated the GPWS would reduce the approach and landing accidents and the usefulness of the CVR and FDR during accident investigation would enhance safety.

In December 1976, the FAA issued two Special Federal Aviation Regulations (SFAR 30-1 and SFAR 33) allowing certain large airplanes with a maximum passenger capacity of 30 seats or less, a maximum payload of 7,500 pounds or less, and a maximum zero fuel weight of 35,000 pounds to be operated under Part 135 and 121 rules without a GPWS, CVR,

V 42 167 AUG 29 77 UMI

and FDR until June 30, 1978. This extension of time was necessary to provide both FAA and industry additional time to study the matter of these requirements and determine if requirements for this equipment should be included in the upgrade of Part 135. Although it is evident that certain benefits would be realized by the use of this equipment, the FAA does not believe, at this time, that the installation of this equipment in all commercial passenger carrying aircraft is warranted. The FAA, however, believes that consideration should be given to requiring the GPWS, CVR, and FDR equipment on turbojet-powered airplanes with 10 or more passenger seats, because of the complexity and high performance characteristics of those airplanes.

This proposal includes the CVR, FDR, and GPWS equipment requirements to give interested parties an opportunity to provide input as to whether or not this additional equipment should be required in Part 135 operations. Information regarding installation and maintenance costs are requested together with other pertinent comments. This information will provide FAA additional data for use in reaching a decision on the matter.

The FAA is of the opinion that the regulations must be responsive to improvements in technology. Accordingly, for this purpose and to achieve consistency within the regulations, a public address system and a crewmember interphone system is deemed necessary for aircraft having a passenger seating capacity of more than 19 utilized under Part 135.

Therefore, new paragraph (e) would contain requirements for an aircraft passenger seating capacity of more than 19 persons to have installed a public address system and a crewmember interphone system approved in accordance with § 21.305 and which meets the requirements of §§ 121.318 and 121.319, respectively.

§ 135.127 Fire extinguishers: passenger-carrying aircraft

This section, currently § 135.161, would be redesignated as § 135.127. It would be revised to provide that the type and quantity of extinguishing agent must be suitable for the kind of fires likely to occur. In addition, it would require that at least one hand fire extinguisher be located on the flight deck for use by the flight crew and that at least one hand fire extinguisher be located in the passenger compartment of aircraft seating between 6 and 30 passengers, inclusive.

Ref. Proposal No. 815, OPS Review.

§ 135.129 Oxygen equipment requirements

This section, currently § 135.165, would be redesignated as § 135.129, and revised to require a pressure demand oxygen breathing system for flight operations at altitudes in excess of flight level 410, capable of supplying flight crewmembers a specified minimum mass flow of oxygen. Current operating experience with turbojet airplanes having pressurized cabins has shown the frequency of occurrence of sudden decompression to be very insignificant and of no serious consequence to the maximum altitudes now authorized. However, in view of the expanded use of turbojet aircraft in general aviation operations and their certification for operation at altitudes for which there is no operating experience, the FAA believes additional requirements concerning pressure demand oxygen breathing equipment is necessary to ensure an acceptable level of safety in Part 135. The need for oxygen in such operations far outweighs any economic burden that may be involved in the installation and maintenance of the oxygen dispensing equipment.

The requirement for a minimum of 83.8 mm. HG. of inspired oxygen partial pressure has been verified by human experimentation under ideal conditions. The practical application of this minimum, however, depends on human tolerance which diminishes rapidly as altitude increases. Above flight level 410, both the time element of useful consciousness and human tolerance become extremely critical and are deserving of the utmost consideration.

Because the requirements for the use of oxygen relate primarily to cabin pressure altitudes in both unpressurized and pressurized aircraft, as is the case under proposed § 135.77, it is considered appropriate to consolidate the requirements of the current rule and make these requirements applicable to both classifications of aircraft. Provisions also would be included requiring enough oxygen dispensers and oxygen to supply the oxygen required by § 135.77. Additionally, certain equipment standards would be required including a means to allow the flightcrew to readily determine, in flight, the amount of oxygen available and whether the oxygen is being delivered to the dispensing units, and to allow the flightcrew to use undiluted oxygen at their discretion.

§ 135.131 Equipment requirements: carrying passengers at night or under VFR over-the-top conditions

This section, currently § 135.153, would be redesignated as § 135.131. It would be amended by deleting the word "airplane" in paragraph (a) and inserting the word "aircraft" in place thereof. At the time § 135.153 was promulgated in 1964, the airplane was the only aircraft category for which full IFR certification was available. This situation no longer exists in view of the fact that several models of helicopters have now been certificated for full IFR operation. Therefore, since the substance of paragraph (b) is no longer appropriate, this paragraph would be deleted.

In line with the overall amendment of Part 135 and the FAA's desire to increase the level of safety in the broad scope of operations under this rule, it is considered appropriate to delete the exception currently provided in paragraph (c) of § 135.153. Therefore, paragraph (a) would be amended by deleting the words "Except as provided in paragraph (e) of this section," and paragraph (c) would be deleted. The section would then be relettered as shown.

§ 135.133 Radio and navigational equipment: carrying passengers under VFR at night, or over-the-top

This section, currently § 135.157, would be redesignated as § 135.133. Pursuant to revised paragraphs (a) and (b), it would specify radio communications and navigation equipment requirements for the carriage of passengers under VFR at night or over the top. The title would be revised accordingly. The word "airplane" in paragraph (a) would be deleted and the word "aircraft" inserted in place thereof to broaden the applicability of the proposed revision. All other provisions of the current rule would be deleted in their entirety. In the opinion of the FAA, the deleted portions of this rule have been difficult to enforce and are of questionable value from a safety standpoint.

§ 135.135 Equipment requirements: aircraft carrying passenger under IFR

This section, currently § 135.155, would be redesignated as § 135.135. In addition, this section would be amended by deleting the word "airplane" wherever it appears and inserting the word "aircraft" in place thereof, and by deleting the words "After March 6, 1965," in paragraph (e). The proposed amendment would broaden the scope of this section by making it applicable to all aircraft and delete a date reference no longer pertinent.

§ 135.137 Radio and navigational equipment: extended overwater or IFR operations

This section, currently § 135.159, would be redesignated as § 135.137. In addition, this section would be revised to set forth additional radio and navigational equipment requirements for the carriage of passengers in turbojet airplanes, airplanes capable of carrying 10 passengers or more, and multiengine airplanes being operated in commuter air service. Without a revision to this section, complex operations, such as those listed above, would be permitted to operate under IFR with but a single transmitter and two independent receivers for communications and navigation, since under the current rule two transmitters are required only for extended overwater operations. Under the present rule, the two independent navigation receivers need not be VOR receivers. The FAA believes that it is essential to have installed two transmitters and two navigational receivers capable of using the VOR as a means of navigation under IFR or in extended overwater operations. Therefore, paragraph (a), as revised, would be made applicable to turbojet airplanes, airplanes having a passenger seating capacity, excluding any pilot seat, of 10 seats or more, and multiengine airplanes carrying passengers being operated by a "commuter air carrier" as defined in Part 298 of the Board's regulations and would require at least two transmitters and two independent VOR receivers for navigation. Under the proposed revision, current paragraph (a)(7) and the flush paragraph immediately following it in the current rule would be deleted.

A new paragraph (b) would apply to all other aircraft. A new paragraph consisting of current paragraph (b) and the flush paragraph deleted above would be designated as paragraph (c) and amended as necessary to reference both paragraphs (a) and (b), as revised.

§ 135.139 Emergency equipment: extended overwater operations

This section, currently § 135.163, would be redesignated as § 135.139. This section would be rearranged as necessary to include proposed changes. It would be amended by revising paragraph (a) to prohibit the operation of an aircraft in extended overwater operations unless it carries a life preserver equipped with an approved survivor locator light, or another approved means of flotation, for each occupant of the aircraft. As proposed, the aircraft would be required to have installed enough life rafts of sufficient buoyancy to carry all occupants of the aircraft. These life rafts must contain at least the equipment currently listed in paragraphs (a)(2)(i) through (a)(2)(xix) clearly marked for easy identification.

Numbered paragraphs (a)(1) through (a)(19) would be redesignated as necessary for the rearrangement of this section. Pursuant to redesignated paragraph (a)(2)(xiv), a flashlight having at least two size "D" cells or equivalent would be required to ensure that an adequate source of light would be provided in an emergency situation. The date deference presently contained in paragraph (b) along with a portion of this paragraph, no longer appropriate, would be deleted.

These proposed changes would incorporate into Part 135 new and revised standards concerning emergency equipment requirements in extended overwater operations. These requirements are believed essential to the safety of persons carried on board an aircraft during extended overwater operations.

§ 135.141 Additional airworthiness requirements: certain large airplanes and ten or more passenger small airplanes

The section, currently § 135.144, would be redesignated as § 135.141. In addition, it would be amended to require large airplanes to meet certain additional special airworthiness requirements of Part 121 and require that after June 30, 1984, all reciprocating-engine and turbo-propeller powered small airplanes configured for ten or more passenger seats intended for use in operation under Part 135 be type certificated in the transport category. Specific phase-out dates would be established as set forth in the proposal. This is the final step of the regulatory program begun in July 1970 to upgrade the level of airworthiness for airplanes in Part 135 operations.

The FAA has determined that the present requirements which were established to upgrade the airworthiness standards of aircraft used in Part 135 operations, have served their purpose. This amendment sets forth a procedure for an orderly deletion of the three step regulatory program initiated in July 1970.

This program was designed to accomplish the phaseout of aircraft used in passenger-carrying service not certificated in the transport category. New paragraphs (c), (d), and (e) of this proposal would regulate the phaseout of the aircraft affected from operations under Part 135. The FAA has become aware of the increased utilization of a number of aircraft in operations under Part 135 by conversion to high-density seating which do not meet the certification requirements for transport category. Further, it is widely recognized that the modification of such aircraft to increase the passenger-carrying capacity decreases the performance to a marked degree. Therefore, the FAA is proposing a phaseout of any aircraft not certificated under transport category from operations under Part 135. The FAA believes that passenger safety far outweighs any mitigating factor which may otherwise be considered.

Proposed paragraph (c) would prohibit the introduction into Part 135 operation of small airplanes that—

(1) Have not been type certificated to Part 25,

(2) Have been type certificated with a seating configuration of 10 or more passengers, and

(3) Have never been operated under Part 135.

Proposed paragraph (d) would limit the passenger seating configuration of aircraft presently approved for Part 135 operations and having a seating capacity of 10 or more to the maximum seating capacity approved prior to August 19, 1977, for Part 135 operations. The FAA believes this proposal is necessary in order to upgrade the level of safety in Part 135 operations.

§ 135.143 Shoulder harness installation at flight crewmember stations

This new section would require that all turbojet aircraft or aircraft having a passenger seating capacity, excluding any pilot seat, of 10 seats or more be equipped with shoulder harnesses at the pilot-in-command and second-in-command pilot stations and that the shoulder harness must be worn by those flight crewmembers during takeoffs and landings unless the crewmember cannot perform his required duties with the shoulder harness fastened. The FAA is aware of the difficulty in installing shoulder harnesses in many of the present aircraft now in service.

However the FAA has determined, based on an evaluation of the expected benefits, that a significant improvement in the safety of occupants of aircraft covered by this proposal would be gained by the installation of shoulder harnesses at the pilot-in-command and second-in-command stations. The FAA is convinced that crewmembers restrained and protected by shoulder harnesses would be less likely to suffer injury in the event of an incident or accident occurring during takeoffs or landings and therefore would be more able to provide assistance to passengers in an emergency. The exception regarding inability to perform duties would take into consideration differences in the human anatomy and allow discretionary compliance by the crewmember when such human considerations would preclude the use of shoulder harnesses.

§ 135.145 Airborne thunderstorm detection equipment requirements

This new section would be incorporated into Part 135 to require that airborne thunderstorm detection equipment (such as radar) be installed and operative in multiengine aircraft having a passenger seating configuration excluding any pilot seat, of 10 seats or more when used in passenger carrying operations. The operational history of accidents involving serious injury or death to passengers of aircraft traversing severe weather areas is such that the requirement for equipment to detect thunderstorms is necessary.

The FAA is of the opinion that this equipment requirement will contribute to greater safety in operations since it will facilitate the early detection and location by the pilot of severe weather and enable him to avoid these areas or take other action necessary in the interest of safety. The geographical exclusions proposed are identical to the exclusions contained in § 121.357 of this chapter.

Ref. Proposal No. 75, Part 135 Review.

§ 135.147 Emergency equipment: more than 19 passenger airplanes

This new section would be incorporated into Part 135 to require certain emergency equipment aboard aircraft having a passenger seating capacity of more than 19 when used under this part and to provide for the inspection of that equipment. This equipment is considered the minimum necessary in order to provide adequately for the emergency needs of passengers when more than 19 passengers are carried in an aircraft.

Ref. Proposal No. 48A, Part 135 Review.

§ 135.149 Inoperable instruments and equipment for multiengine aircraft

§ 135.143, in part, currently prohibits operations unless all required instruments and equipment are in an operable condition. Part 135 does not, however, currently provide for the use of a Minimum Equipment List (MEL), as does Part 121, to allow operations under certain conditions with inoperable equipment and instruments. Because of this, Part 135 operators have been subjected to a significant burden since they are required to make expedited repairs

V 42 167 AUG 29 77 UMI

to provide scheduled service. In addition, passengers have been subjected to traveling delays because of the requirement to repair inoperable equipment that was not needed for the particular flight.

Based on information received as a part of this review program and on satisfactory experience with the use of MELs under Part 121, the FAA believes that Part 135 can be revised to provide for the use of MELs for multiengine airplanes operated under Part 135 without adversely affecting safety so long as certain conditions and limitations are met. Accordingly, it is proposed that a new § 135.149 be adopted to provide for the use of MELs under Part 135. Proposed §135.149(a) specifies certain kinds of equipment and instruments that are not amenable to placement on an MEL; and therefore those items must always be in an operable condition. Paragraph (b) of proposed § 135.149 specifies procedures to be followed in obtaining and using the MEL. It should be noted that, under this paragraph, the operator using the MEL would also hold a supplemental type certificate (STC) covering the MEL and, therefore, would be subject to the requirements of FAR Part 21 applicable to STC holders including those related to reporting of defects in § 21.3 and required design changes under § 21.99.

In connection with this proposal, reference should be made to Airworthiness Review Notice No. 4 (40 FR 22112; May 20, 1975) regarding present § 135.143. That proposal is still under consideration.

§ 135.151 Performance requirements: aircraft operated over the top or in IFR conditions

This section, currently § 135.145, would be redesignated as § 135.151. In addition, the word "airplane" would be deleted wherever it appears and the word "aircraft" inserted in place thereof in order to make the section applicable to the increasing number of rotocraft certificated for IFR flight.

Paragraph (b)(1) would be amended by the insertion of the words "or any combination thereof" between the words "forecasts" and "indicate" to provide for the use of more weather related information to determine the probability of flight under VFR. In addition, this paragraph would be amended by inserting the word "reporting" between the words "every" and "point" to clarify the intent of the requirement and provide a more realistic basis on which to base operating decisions.

§ 135.153 Performance requirement: land aircraft operated overwater

This section, currently § 135.147, would be redesignated § 135.153 with no other changes.

§ 135.155 Small airplane performance operating limitations

This section, currently § 135.148, would be redesignated as § 135.155. In addition, the references to sections of Part 121 would be changed to Part 135 references, as appropriate, in view of incorporation in Part 135 of operating limitations derived from Subpart I of Part 121. It should be noted that the applicability of this rule to small airplanes as defined in Part I remains unchanged from its applicability in former § 135.148.

§ 135.157 Empty weight and center of gravity: currenty requirements

This section, currently § 135.167 would be redesignated as § 135.157. The words "3 years" would be deleted where used and the words "36 calendar months" inserted in place thereof to avoid confusion by operators, to provide flexibility in the requirement, and to be consistent with other time requirements within this chapter.

Ref. Proposal No. 41, Part 135 Review; Proposal No. 819, OPS Review.

SUBPART "D"—VFR/IFR OPERATING LIMITATIONS AND WEATHER REQUIREMENTS

§ 135.159 Applicability

This section states the applicability of Subpart D, VFR/IFR flight operations and associated weather requirements for operations under Part 135.

§ 135.161 VFR: minimum altitudes

This section, currently § 135.91, would be redesignated § 135.161 without other changes.

§ 135.163 VFR: visibility requirements

This section, currently § 135.93, would be redesignated § 135.163 without other changes.

§ Part 135.165 VFR: helicopter surface reference requirements

This section, currently § 135.95, would be redesignated as § 135.165. Since helicopters are frequently operated over water as well as land, the word "ground" would be deleted wherever it appears and the word "surface" inserted in place thereof.

§ 135.167 VFR: fuel supply

This section, currently § 135.97, would be redesignated as § 135.167. In addition, paragraph (a)(2) would be amended by deleting "1 hour" and inserting "45 minutes" in place thereof. It would reduce the fuel requirement for VFR night operations to sufficient fuel to fly to the first point of intended landing, considering normal fuel consumption, and to fly thereafter for at least 45 minutes. The FAA believes that because of the increased cruise speed factor present in light airplanes and the availability of airports, this requirement would provide an acceptable fuel reserve under night VFR conditions.

Ref. Proposal Nos. 769 and 770, OPS Review.

§ 135.169 VFR: over-the-top carrying passengers: Operating limitations

This section, currently § 135.99, would be redesignated as § 135.169. The reference to § 135.145 would be deleted and § 135.151 would be inserted in place thereof. In addition, it would be amended to permit the use of either weather reports or forecasts or any combination thereof in determining the weather conditions expected en route.

§ 135.171 Weather reports and forecasts

This section, currently § 135.65, would be redesignated as § 135.171. In addition, this section would be revised to authorize the use of weather sources approved by the U.S. National Weather Service or approved by the Administrator and to make it clear that weather observations made and furnished to a pilot who is or will be conducting IFR operations at an airport must actually be taken at that airport rather than at some point near that airport. However, under paragraph (b), operations specifications may be issued permitting weather observations to be taken at a location other than on the airport if the Administrator finds that safety so permits. This would provide relief in cases where there is more than one airport with an approved instrument approach procedure in a control zone and only one such airport has a weather reporting station. The issuance of such operations specifications would be contingent upon historical experience establishing that the weather conditions at the airport having a weather reporting facility do not differ significantly from the weather conditions at the airport not having a weather reporting facility.

Current § 135.65 uses the term "accredited observer." Since that term is not defined in this chapter, it is deleted.

Ref. Proposal No. 20, Part 135 Review; Proposal No. 750, OPS Review.

§ 135.173 [Reserved]

§ 135.175 IFR: operating limitations

This section, currently § 135.101, would be redesignated as § 135.175. In addition, this section would be amended to permit a Part 135 certificate holder authorized to operate, under IFR, outside of controlled airspace to utilize approved instrument approach procedures at airports which are located in controlled airspace and to depart airports that do not have approved instrument procedures when the Administrator determines that such operations can be conducted safely. This procedure would be applicable only where the overlying airway structure, adjacent navigational facilities, and terrain considerations would permit such operations to be conducted safely.

Ref. Proposal No. 25, Part 135 Review.

§ 135.177 IFR: takeoff minimum

This section, currently § 135.103, would be redesignated § 135.177 without any change.

§ 135.179 IFR: destination airport weather minimums

This section, currently § 135.105, would be redesignated as § 135.179. It would be amended to include a prohibition against commencing an over-the-top operation in flight unless the weather conditions at the next airport of intended landing will be at or above IFR minimums at time of arrival.

Ref. Proposal No. 27, Part 135 Review, Proposal No. 773, Operations Review.

§ 135.181 IFR: alternate airport weather minimums

This section, currently § 135.109, would be redesignated as § 135.181. Additionally, it would be revised to permit the use of "weather reports and forecasts or any combination thereof", and to base the designation of an alternate airport, when necessary in operations under Part 135, on weather conditions expected at that airport at the estimated time of arrival. This proposed change is consistent with other related changes concerning the use of aviation weather services for operations under Part 135 and will provide a degree of flexibility without derogating from safety.

§ 135.183 IFR: alternate airport requirements

This section, currently § 135.107, would be redesignated as § 135.183. In addition, this section would be amended by revising the IFR alternate airport requirements to require that a specified amount of fuel be carried and to allow the use of a combination of weather reports and forecasts to provide greater latitude in the selection of an alternate airport. Paragraph (b) would provide that fuel to fly to the alternate airport would not be required if there is a Part 97 SIAP for the first airport of intended landing and certain ceiling and visibility minimums will exist from at least one hour before until one hour after the estimated time of arrival. Safety will not be adversely affected by these proposed changes because the alternate airport weather should always be equal to or better than basic VFR weather minimums of a ceiling of 1,000 feet and visibility of 3 miles.

Ref. Proposal Nos. 609 and 775, Ops. Review.

§ 135.185 IFR: take off approach, and landing minimums

This section, currently § 135.111, would be redesignated as § 135.185 and would be substantially amended. Under paragraph (a), no pilot may begin an instrument approach unless the airport has designated weather reporting facilities and the latest weather report indicates the weather is at or above IFR minimums. The weather reporting facility must be operated by the U.S. National Weather Service, a source approved by it, or a source approved by the Administrator. Paragraph (b) would be revised to prohibit a pilot from beginning the final approach segment of an instrument approach procedure at an airport unless the U.S. National Weather Service, a source approved by the U.S. National Weather Service, or a source approved by the Administrator, issues a weather report for that airport and unless the latest such weather report indicates that weather conditions are at or above the authorized IFR landing minimums for the airport where the approach is being conducted. A new paragraph (c) would be incorporatd in this section to outline the specific conditions under which a pilot may continue an instrument approach procedure, once initiated. Current paragraphs (c) and (d) would be redesignated as paragraphs (d) and (e) respectively. New paragraphs (f), (g) and (h) would be added to provide Part 135 certificate holders authority for lower than standard takeoff minimums by operations specifications when approved by the Administrator. Part 135 takeoff minimums are now published in the National Ocean Survey (NOS) and certain other instrument approach procedure charts/publications.

Ref. Proposal No. 29, Part 135 Review; Proposal Nos. 778 and 779, OPS Review.

§ 135.187 Icing conditions: operating limitations

This section, currently § 138.85, would be redesignated as § 135.187 and revised to make paragraphs (b) and (c) applicable to aircraft rather than airplanes, to delete the intensity conditions "light," "moderate," and "severe" as currently applied in the section, and to define the degree of ice protection required for flight under both VFR and IFR.

As proposed, pargaraph (a)(1) would be amended by the deletion of the words "rotorblade" and "propeller" from the list of aircraft components on which the adherance of frost, snow, or ice would prohibit takeoff. Paragraph (a)(3) would be revised to read as follows: "Any frost adhering to the wings, or stabilizing or control surfaces, or rotors or propellers of the aircraft, unless the wings, or stabilizing or control surfaces, or rotors or propellers have been smoothed to prevent the disruption by the frost of airflow over such surfaces." The revised paragraph would be more closely aligned with the intent of this section concerning the action necessary to treat frost adhering to the surface of an aircraft to permit a takeoff.

Paragraph (b) would be amended to prohibit takeoff for flight under VFR, or the continuation of flight under VFR, into known or forecast icing conditions unless the aircraft has installed functioning deicing or anti-icing equipment protecting each rotor blade, propeller, windshield, wing, stabilizing or control surface, and each airspeed, altimeter rate of climb, or flight altitude instrument system. The FAA believes it unnecessary to specify limiting icing conditions such as "light" or "moderate" for VFR flight operations if functioning deicing or anti-icing equipment is installed to protect the components of the aircraft on which ice accretion or formation would adversely affect its safety. Normally, there is ample opportunity to terminate VFR operations if icing of an intensity that would pose a hazard to the aircraft is reported, forecast, or encountered in flight.

Paragraph (c), as revised, would prohibit takeoff for flight under IFR, or the continuation of flight under IFR, into known or forecast icing conditions without regard to the intensity of the icing conditions unless the aircraft has installed functioning de-icing or anti-icing equipment which meets the certification requirements of Section 34 of SFAR No. 23, or Part 23 effective November 19, 1973, or the certification standards for transport category aircraft concerning ice protection. Under these certification requirements, it must be shown, among other things, that the aircraft is able to safely operate in maximum continuous and intermittent maxinum icing conditions determined as specified in the appropriate airworthiness certification regulations. The FAA believes these standards have proven adequate operational use under Part 121 and should be made applicable to Part 135. Current paragraph (d) would be retained as written to allow for changing weather conditions that obsolete a forecast before the next forecast is issued.

§ 135.189 Airport requirements and emergency lighting

This section, currently § 135.87, would be redesignated as § 135.189. Under the proposed change, the current rule would be deleted in its entirety and a new rule consisting of paragraphs (a) through (c) would be inserted in lieu thereof. Pursuant to paragraph (a) of the proposed revision, the certificate holder would be prohibited from using any airport unless it is properly equipped and adequate for the proposed operation, considering such items as size, surface, obstructions, facilities, public protection, and lighting. This provision is similar to the airport requirements of § 121.117 with the exception that navigational, and communications, and ATC items are not included to avoid preventing the use of a considerable number of general aviation airports where there are currently no navigation, communications, or ATC aids. In considering the requirements for a takeoff and landing site in operations under this part, the FAA believes the items listed are the minimum items needed to ensure an acceptable level of safety.

Pursuant to paragraph (b) of the proposed revision, except in case of an emergency, no person would be permitted to take off or land at night using flare pots or lanterns to mark or illuminate the take off or land at night using flare pots needed to preclude the routine use of flare pots or lanterns without imposing an undue burden on operations in remote areas where no other suitable means of airport lighting is available. Paragraph (c) as proposed would provide specific light spacing requirements for the emergency use of flare pots or lanterns to ensure that the takeoff or landing area is sufficiently illuminated when such lighting is used.

Pursuant to paragraph (d) of the proposed revision, except in case of an emergency, night takeoffs and landings in a large or turbojet-powered airplane would not be permitted when flare pots or lanterns have been substituted for more than 25 percent of the runway edge lights for the runway to be used. The FAA believes that more rigid requirements are necessary for the large and more complex airplanes which may be operated under the rules of this Part. On the other hand, it is believed unnecessary to apply the same requirements to large or turbine-powered helicopters because of the

V42167AUG2977 UMI

limited takeoff and landing area needed for such aircraft. Consequently, the rule as proposed would apply only to large or turbojet-powered airplanes.

Paragraph (e) as proposed would, except in case of an emergency, limit the lighting which may be used to illuminate a takeoff and landing area to flare pots and lanterns, and such other lighting as approved by the Administrator. This provision would preclude the use of lights from an automobile and other similar types of lighting which the FAA believes would be detrimental to safety.

SUBPART E—FLIGHT CREWMEMBER REQUIREMENTS

§ 135.191 Applicability

This proposed new section would prescribe the flight crewmember requirements for operations under this Part.

Pilot-in-command and second in command crewmember qualifications are currently prescribed in Subpart D, §§ 135.121, 135.123, 135.125, and 135.127, respectively, among others. However, the FAA believes that these qualifications as prescribed, should be revised to relate more specifically to VFR IFR operating conditions without regard to night or VFR over-the-top operating conditions as currently prescribed.

Accordingly, the above sections would be deleted and new qualifications prescribed by consolidating certain of these requirements into the new qualification requirements of Subpart E as proposed herein.

§ 135.193 Pilot in command qualifications

This proposed new section would prescribe pilot-in-command qualifications for both VFR and IFR operations under Part 135. As proposed, pertinent requirements of current §§ 135.121, 135.123, and 135.125 would be combined into one new section. The remaining and redundant requirements of the current sections would be deleted.

The FAA believes that it would be justified in requiring pilots of certain classifications of aircraft to possess an airline transport pilot certificate in order to serve as pilot in command under Part 135. This requirement, based in part on operational complexity and the number of persons carried, would provide a level of safety more comparable to that provided by Part 121. Accordingly, pursuant to paragraph (a) as proposed, in passenger-carrying operations, pilots in command of turbojet-powered airplanes, pilots in command of airplanes capable of carrying ten persons or more, and pilots in command of multiengine airplanes being operated in commuter air carrier service, must hold an airline transport pilot certificate with appropriate category and class ratings and, if required, an appropriate type rating for that aircraft.

Pursuant to paragraph (b) with respect to all other aircraft, a person serving as pilot in command under VFR would be required to hold a commercial pilot certificate with appropriate category and class ratings and, if required, an appropriate type rating for the aircraft flown. Additionally, the pilot must have at least 500 hours of flight time as a pilot, including at least 100 hours of cross-country flight time, at least 25 hours of which were at night, and, in the case of an airplane, he must hold an instrument rating or an airline transport pilot certificate with an airplane category; or, in the case of helicopter operations conducted VFR over-the-top, the pilot in command must hold a helicopter instrument rating or an airline transport pilot certificate with a category and class rating for helicopters not limited to VFR.

Pursuant to paragraph (c), with respect to all other aircraft, a person serving as pilot in command under IFR would be required to hold a type rating, if appropriate. This would also be the case for all turbojet and large airplanes since a type rating is required in such aircraft under § 61.31(a) of Part 61. The flight hour requirements of current § 135.125 would be retained and, in the case of an airplane, an instrument rating or an airline transport pilot certificate with an airplane category rating would be required. The requirement for 10 night takeoffs and landings would be deleted. In the case of a helicopter, a helicopter instrument rating or an airline transport pilot certificate with a category and class rating not limited to VFR would be required.

The FAA believes these qualification requirements are appropriate for the operations listed and will provide the degree of safety required in operations conducted under Part 135.

§ 135.195 [Reserved]

§ 135.197 Second in command qualifications

This proposed new section would prescribe second in command qualifications for flight operations under the rules of Part 135. This proposal is substantially the same as current § 135.127, except that the words "when a second in command is required by this chapter" have been deleted and, accordingly, any person who acts as second in command of an aircraft would be required to hold an appropriate category and class rating.

Ref. Proposal No. 786, Part 135.

§ 135.199 Pilot qualifications: recent experience

Part 135 does not currently prescribe pilot flight crewmember recent experience requirements, nor do the recent experience requirements of § 61.57 apply to operations conducted under Part 135 since such operations are specifically excepted by § 61.55(c). Therefore, this proposal, patterned after § 61.57, would prescribe recent experience requirements of three takeoffs and three landings in category, class, and type, as appropriate, within the preceding 90 days, before a person may serve as a pilot flight crewmember in operations under Part 135.

Ref. Proposal No. 707, OPS Review

SUBPART F—FLIGHT CREWMEMBER FLIGHT AND DUTY TIME LIMITATIONS REST REQUIREMENTS

§§ 135.200 through .221 Flight and duty time limitations rest requirements

This section, currently § 135.135, would be redesignated as a new Subpart F. Additionally, this subpart would be amended to include definitions of some of the more commonly used terms in Subpart F. It is expected that specific definitions will be an aid in eliminating extensive interpretations. Moreover, the FAA has determined that its traditional interpretation of what constitutes a valid rest period is needed herein so that each crewmember is given an opportunity to obtain sufficient rest without interruption to ensure his fitness for duty aloft. Accordingly, it is proposed to amend the flight time limitations requirements to include the definition of a "rest period" to mean a continuous period of time required by this subpart during which a crewmember is not on duty and is not required or obligated to perform any work for the certificate holder. The rest period does not include time spent in dead head transportation.

Limitations are proposed on the amount of flight time which may be accumulated in certain specified periods. The FAA believes that the flight time limitations proposed herein affecting flight crew assignments are reasonable in view of its knowledge of human factors and flight schedule patterns for all classes of operators under Part 135.

Flight crewmembers would also be relieved from duty for at least 24 consecutive hours during any seven consecutive days.

In recognition of the fact that some Part 135 certificate holders may wish to utilize augmented flight crews, Subpart F would prescribe limitations on the use of relief pilots comprising augmented flight crews.

Additionally, a condition would be added to provide for a maximum of 2 hours of extended duty time if the excess is due to reasons beyond the control of the certificate holder. The FAA believes that a 2 hour time interval would provide for a reasonable period of unanticipated en route delay.

The FAA's basic concern in prescribing flight and duty time limitations for flight crewmembers under Part 135 is that these limitations be realistic in consideration of current industry state-of-the-art, that crewmember rest periods not be infringed upon by any other duty assigned by the certificate holder; and that the flight time as opposed to the duty time be clearly defined.

Ref. Proposal Nos. 37 and 76, Part 135 Review; Proposal Nos. 791, 793, and 799, OPS Review.

SUBPART G—CREWMEMBER TESTING REQUIREMENTS

§ 135.223 Applicability

This subpart prescribes requirements for the tests and checks which would be required to be administered to pilot and flight attendant crewmembers, and persons issued check pilot authorization in operations under this Part.

§ 135.225 Initial and recurrent pilot testing requirements

This section currently, § 135.138, would be redesignated as § 135.225. Paragraphs (1) through (8) of paragraph (a) are believed to be representative of the scope of the initial and recurrent training program as proposed under new Subpart H, in which this section is included. Therefore, paragraph (a) would remain unchanged. However, in keeping with the FAA's express intent to upgrade Part 135 more in line with Part 121, paragraph (b) would be amended by deleting all references to maneuvers as set forth in Part 61 and related advisory circulars for pilot certification in the class of aircraft the pilot is to operate and, in lieu thereof, would permit the extent of the flight check, amended to read "competency check" where used throughout, to be determined by the Administrator. With respect to the term "competency check," the FAA considers this term more in keeping with present industry standards. An explanation would be added to paragraph (b) as proposed, to provide that for the purposes of this paragraph, type as used with respect to an airplane herein, means any one of a group of airplanes determined by the Administrator to have a similar means of propulsion, the same manufacturer, and no significantly different handling or flight characteristics.

Operational history and other empirical data has confirmed field and industry comments that as long as stringent training and oral or written tests are required for each type of multiengine airplane to be flown, then flight checks need be required in only one of a group of representative types without a degradation in the level of safety. This would also provide economic relief to the industry and conserve valuable energy.

The reference to § 135.131 in paragraph (c) would be deleted and § 135.229 would be inserted in place thereof. The words "6-month instrument" as used in paragraph (c) would be deleted and the words "instrument proficiency" inserted in lieu thereof to coincide with a similar change in § 135.229. Paragraph (e) would remain unchanged. A new paragraph (f) would permit portions of a required flight check to be given in an aircraft simulator or other appropriate device if approved by the Administrator.

§ 135.227 Initial and recurrent flight attendant crewmember testing

This section, currently § 135.139, would be redesignated as § 135.227. Paragraph (i) was added to present § 135.139 by amendment 135-44, issued on April 7, 1977 (41 FR 56280).

§ 135.229 Pilot in command: instrument proficiency check requirements

This section, currently § 135.131, would be redesignated as § 135.229. In keeping with present industry standards and related changes in other sections of Subpart H, the word "proficiency" would be inserted between the words "instrument" and "check" where appropriate throughout this section. Paragraph (c) would be amended to allow a flight check under actual IFR conditions. By an editorial change, the reference to § "135.138" would become § 135.225. Paragraph (c) would be further amended by adding the specification that the instrument proficiency check must include the procedures and maneuvers set forth for an airline transport pilot certificate in the particular type of airplane, if appropriate, in the case of a pilot in command of an airplane under § 135.193(a) and the procedures and maneuvers set forth for a commercial pilot certificate and an instrument rating and, if required, for the appropriate type rating, for all other pilots.

Paragraphs (d) and (e) would be unchanged except for the addition of the word "proficiency" between the words "instrument" and "check", where used.

Paragraph (f) would be amended by the addition of the word "proficiency" between the words "instrument" and "check" and by adding a provision to provide that the Administrator may authorize the use of a simulator or other training device to conduct portions of a check required by this section. This recognizes the advances in simulator or training device technology.

Paragraph (g) would be amended by the addition of a new paragraph (3) to require a demonstration of proficiency in the use of an autopilot once each 12 calendar months instead of once each 6 calendar months, as now required. In this respect, operating experience has shown that pilots generally retain their proficiency in the use of autopilots.

Paragraph (h) would remain unchanged except for the addition of the word "proficiency" between the words "instrument" and "check."

Ref. Proposal No. 789, Ops. Review.

FAR 135.231 Pilot In Command: line checks: routes and airways

This section, currently § 135.122, would be redesignated as § 135.231. It would be revised to incorporate requirements for a line check for pilots in command who are assigned to conduct VFR operations only and a line check for pilots in command who are assigned to conduct IFR operations. These line checks would be required annually and must be conducted over a portion of a route or airway and include takeoffs and landings at representative airports the pilot in command would normally be expected to use. The line checks must be given by an approved check pilot who is qualified in the aircraft used or by the Administrator, who must determine whether the pilot being checked satisfactorily performs the duties and responsibilities of a pilot in command in operations under Part 135, and so certify in the pilot's training record.

In addition to the line check requirement for pilots in command as noted, the certificate holder required to have a manual by § 135.23 would be required to establish, in that manual, a procedure for each pilot who has not flown over a route and into an airport within the preceding 90 days to familiarize himself with all available information concerning the route or airport, as the case may be, before conducting flight operations over that route or into that airport. Additionally, each qualifying pilot would be required to show to the satisfaction of the Administrator that he has adequate knowledge concerning the specific areas in which preflight preparation is believed essential.

In brief, the requirements of this section are designed to provide the check pilot or the Administrator with an opportunity to judge adequately a routine flight operation in terms of compliance with safe operating practices during preflight, takeoff, en route, and approach and landing.

Ref. Proposal No. 65, Part 135 Review.

§ 135.233 Crewmember tests and checks; grace provision; training to accepted standards

This section, currently § 135.133, would be redesignated as § 135.233. In addition, this section would be amended to delete the present reference to recurrent training since a similar provision, applicable to such training would be included under proposed § 135.239 of Subpart H.

There are currently no provisions in Part 135 to permit a person giving a pilot check under this Part to give additional training to a pilot who fails any of the required maneuvers during the course of the check. However, since this procedure is currently followed under § 121.441 without a derogation of safety, the FAA believes it should be permitted under Part 135. This proposal would, therefore, add a new paragraph to permit a person giving a check under Part 135 to give additional training to a pilot who fails any of the required maneuvers on the check.

This new paragraph would also prohibit use in Part 135 operations of a pilot who is unable to demonstrate satisfactory performance until such time as he passes the check.

§ 135.235 Check pilot authorization: application and issue

This section, currently § 135.135, would be redesignated as § 135.235. In addition, the reference to "§ 135.138" would be deleted and the words "this part" inserted in place thereof. This would avoid the necessity of an editorial amendment in the event of a future change of the section number containing the list of checks.

Ref. Proposal No. 56, OPS Review.

SUBPART H—TRAINING

§ 135.237 Applicability and terms used

This new section would define the applicability of new subpart H and would list the aircraft groups used as a basis for determining training requirements with regard to content and contain defi-

V 42 16 7 A AUG 29 77 UMI

nitions of terms which apply throughout this subpart. Subpart H contains requirements applicable to each certificate holder for establishing and maintaining an approved training program for crewmembers, check airmen and instructors, and other operations personnel, and for the approval and use of aircraft simulators and other training devices in the conduct of that program. Since a major emphasis in the upgrading of Part 135 is on training, the training requirements currently in effect are no longer considered adequate for operations envisioned under the proposed Part 135. The new training requirements would closely parallel those in Subpart N of Part 121. These new training requirements are considered essential to ensure the continued qualification of crewmembers involved in operations under Part 135.

Ref. Proposal No. 50, Part 135 Review.

§ 135.239 Training program: general

This new section would prescribe the scope of the training program which would be required for a particular certicate holder conducting operations under this Part. It would specify the conditions and limitations which would would apply and further the objective of the FAA to provide for the present and future development of effective and practical training programs. It would also encourage the use of simulation equipment under Part 135 by providing authority for the use of aircraft simulators and other training devices in the certificate holder's training program when specifically approved by the Administrator. The training requirements specified are believed necessary to ensure that each crewmember receives adequate trainin gto enable him to perform his assigned duties with the highest degree of proficiency.

Ref. Proposal No. 51, Part 135 Review.

§ 135.241 Training program and Revision: initial and final approval

This new section would prescribe the procedures which must be followed in order to obtain the initial and final approval of a training program or the approval of a revision to an approved training program. The new provisions would provide for a more orderly review process, based on an initial approval, after which there would be an evaluation period, followed by the final approval. In addition, the substance of current § 135.55(e) is included, as amended, relating to the Administrator's authority to require a revision to a certificate holder's approved training program.

Ref Proposal No. 53, Part 135 Review.

§ 135.243 Training program: curriculum

This new section would prescribe the scope of the certificate holder's training program curriculum. This requirement is similar to that specified in § 121.403. Application of this requirement will greatly aid in standardization of the certificate holder's training program. In addition, it will provide both the FAA and the certificate holders a common basis for program evaluation.

Ref.Proposal No. 52, Part 135 Review.

§ 135.245 Crewmember training Requirements

This new section would prescribe the scope of crewmember initial, transition, upgrade and recurrent training requirements, in both the ground and flight phases. This section summarizes those training elements that the certificate holder must include in its approved training program. Appropriate references to sections in Part 135 are included which provide specific information regarding each of the above mentioned training requirements.

Ref. Proposal No. 58, Part 135 Review.

§ 135.247 Crewmember emergency training

This new section would prescribe the scope of emergency training that the certificate holder must provide its crewmembers. It is designed to provide an in depth emergency training phase for all crewmembers with respect to each aircraft type and configuration, and each kind of operation conducted. The various drills using appropriate equipment and procedures are designed to familiarize the crewmembers, first hand, with each anticipated emergency situation and operation prior to its actual need to be performed.

Ref. Proposal No. 59, Part 135 Review.

§ 135.249 Training requirements: handling and carriage of hazardous materials

This section, currently § 135.140, would be redesignated as § 135.249. In addition, it would be amended by deleting the words "dangerous articles and magnetized materials" wherever they appear and inserting the words "hazardous materials" in place thereof, and by adding a new paragraph (c) to require each certificate holder that elects not to accept hazardous mataerials to ensure that each crewmember is adequately trained to recognize those items classified as hazardous materials.

There have been instances in which operators have inadvertently accepted hazardous materials on board an aircraft because the certificate holder's employees did not recognize the material as hazardous. The mishandling of hazardous materials has been identified as a causal factor in some aircraft incidents. This amendment is designed to ensure that all Part 135 certificate holders provide their employees sufficient guidance on the recognition and proper handling of hazardous material so that such materials can be accepted, handled, and shipped safely, or refused.

A new paragraph (d) would permit Part 135 certificate holders to use available labor for loading, unloading, and handling hazardous materials in remote areas where employees of the certificate holder or contract personnel are not available, provided the persons used would be supervised by a crewmember who is qualified under this section.

A new paragraph (e) would provide flexibility with respect to date of completion of training requirements for the handling or carriage of hazardous materials.

Ref. Proposal No. 40, Part 135 Review; Proposal No. 804, OPS Review.

§ 135.251 Approval of airplane simulators and other training devices

This new section would provide for the approval of the use of aircraft simulators and other training devices in a Part 135 certificate holder's approved training program. The FAA believes that this amendment is needed to allow greater use of aircraft simulators and other training devices in consideration of the present state-of-the-art concerning aircraft simulators and related training devices.

Ref. Proposal No. 54, Part 135 Review.

§ 135.253 Training program: check airmen and instructor qualifications

This new section would prescribe specific qualification and training requirements for check airmen and instructors used in connection with a Part 135 certificate holder's flight operation. These requirements will ensure that the persons used as check airmen and instructors are sufficiently trained to adequately check or instruct on those aspects of training required in Part 135 operations This section also would prescribe minimum qualifications for simulator instructors.

Ref. Proposal No. 56, Part 135 Review.

§ 135.255 Check airmen and flight instructors: initial and transition training

This new section would prescribe the scope of the initial and transition ground training for pilot check airmen, the initial and transition ground training for pilot flight instructors, and the initial and transition flight training for pilot check airmen and pilot flight instructors engaged in a Part 135 certificate holder's operation. The functions of check airmen and instructors are such that their impact on the safety of operations is considerable; therefore, it is imperative that their training is of sufficient scope and depth to ensure their initial and continuing ability to adequately train and check other airmen.

Ref. Proposal No. 57, Part 135 Review.

§ 135.257 Pilot and flight attendant crewmember training programs

This section, currently § 135.55, would be redesignated as § 135.257. In addition, paragraph (a) would be amended to require each certificate holder, other than one who uses only himself as a pilot, to establish and maintain an "approved" training program for both pilots and flight attendants whom he uses. The program must be appropriate to the operations to which each pilot and flight attendant is assigned. Current § 135.55 does not require an approved training program. The sophisticated aircraft and the increased passenger carrying capacity and the environment in which operations are conducted require a training program designed to adequately prepare crewmembers to function with a high degree of safety. The certificate holder would be required to ensure that each pilot and flight attendant is adequately trained to meet the knowledge and practical testing requirements of Part 135. A provision would be included to permit the Administrator to authorize a deviation from the requirements of this section, if deemed appropriate. This provision allowing a deviation is for the benefit of the smaller operation when safety would not be derogated by failure to comply with all or a part of the requirements of this section.

Paragraph (b) would be amended to reflect the scope of ground and flight training curricula the certificate holder must have in order to comply with § 135.257(a).

Paragraphs (c) and (d) of present §135.55 would remain unchanged. The substance of paragraph (e) would be relocated in proposed new § 135.241.

Ref. Proposal No. 17, Part 135 Review; Proposal Nos. 738 and 739, Ops Rev.

§ 135.259 Crewmember: initial and recurrent training requirements

This action, currently § 135.137, would be redesignated as § 135.259. In addition, it would be amended by inserting the word "crewmember" before the word "initial" in the title; by deleting the words "a pilot or flight attendant" as used in the section; and by deleting the last sentence containing the words: "This section does not apply to a certificate holder who uses only himself as a pilot".

The above changes are needed to make this section more compatible with other proposed revisions to this Part.

Ref. Proposal No. 38, Part 135 Review.

§ 135.261 Pilots: initial, transition, and upgrade ground training

This new section would prescribe the initial, transition, and upgrade ground training requirements for pilots which must be included in the particular certificate holder's approved training program.

§ 135.261 requires each certificate holder to have a training program. Such training requirements are further elaborated on in § 135.257. Accordingly, this section specifically outlines ground training requirements in the initial, transition, and upgrade phases of training. Such specifics are considered essential in view of the fact that previous training programs have had a tendency to summarize the various ground training aspects of the above referenced phases.

Ref. Proposal No. 60, Part 135 Review.

§ 135.263 Pilots: initial, transition, upgrade and differences flight training

This new section would prescribe the initial, transition, upgrade, and differences training requirements for pilots which must be included in a certificate holder's approved training program. This section would incorporate the concept of "training to a level of proficiency" and provide for the greater use of simulators or training devices which have the approval of the Administrator. Current Part 135 does not specify the use of simulators or training devices. The state-of-the-art has progressed to the point where this equipment may be used advantageously in training to reduce inflight training. It will result in a more economical and efficient operation without a deterioration in safety.

Ref. Proposal No. 62, Part 135 Review.

§ 134.265 Flight/Attendants: initial and tranition ground training

This new section would prescribe the initial and transition ground training requirements for flight attendants which must be included in a certificate holder's approved training program. Few, if any, operators presently utilize aircraft having a passenger seating capacity of more than 19, which under the regulations require a flight attendant. The section provides for training of flight attendants required with the anticipated advent of larger passenger carrying capacity aircraft.

Ref. Proposal No. 61, Part 135 Review.

§ 135.267 Recurrent training

This new section would prescribe the recurrent training requirements for crewmembers which must be included in the particular certificate holder's approved training program. Paragraph (c) of this section would provide authority for excepting a pilot from the requirements of this section if he has satisfactorily completed the check required by § 135.225 of Subpart G within the preceding 12 calendar months. Such recurrent training requirements are considered to be an integral part of a certificate holder's overall program because they perpetuate initial training and aid in standardization procedures.

Ref. Proposal No. 63, Part 135 Review.

SUBPART I—AIRPLANE PERFORMANCE

§ 135.271 Applicability

This proposed new section prescribes the applicability of this subpart. Certain terms used in this proposed subpart are defined.

Ref. Proposal No. 79, Part 135 Review.

§§ 135.273 through 135.305 Airplane performance

This explanation applies to this proposed new subpart as a whole. These proposed rules governing airplane performance operating limitations have been extracted from Subpart I of Part 121 with such changes as considered appropriate and would apply to the operation of the certain large airplanes which would be authorized to operate under Part 135.

Airplanes certificated under rules for transport category airplanes must be operated in accordance with the performance rules outlined in this subpart. Certification standards are incorporated into operating rules as airplane performance operating limitations to ensure that these airplanes are operated in accordance with the certification criteria.

The certain large nontransport category airplanes referred to herein were, upon certification, required to meet less stringent performance criteria. The proposed rules are needed to ensure that these airplanes are operated within limits which ensure the level of safety intended for transport category flight operations.

There are, however, certain airplanes that may be operated either as a small airplane or as a large airplane (such as the Learjet Model 24) by virtue of provisions of their airworthiness certification. These airplanes, if operated as a large airplane e.g., 12,500 pounds or more, would be required to comply with the requirements of Subpart I or, if operated as a small airplane e.g., 12,499 pounds or less, would be required to comply with provisions of § 135.155 which incorporates by reference certain of the requirements of Subpart I but did not the complete subpart. Likewise, certain airplanes (such as the DeHavilland Heron) which, although certificated in the transport category, were certificated as small airplanes would thereby be excluded from compliance with the requirements of Subpart I. However, these airplanes must comply with the requirements of § 135.155 and certain of the requirements of Subpart I as referenced in that section.

Ref. Proposal Nos. 80 through 96, Part 135 Review.

SUBPART "K"—MAINTENANCE, PREVENTIVE MAINTENANCE, AND ALTERATIONS

§ 135.333 Applicability

This proposal contains additional airworthiness requirements for two categories of air taxi aircraft. The aircraft categories are related to the passenger-carrying capacity of aircraft rather than takeoff gross weight or aircraft types. The increasing complexities of aircraft and air taxi operations make it necessary to ensure that air taxi maintenance requirements are properly identified and managed, and that the responsibilities and privileges are clearly defined. The requirements that are outlined are consistent with present day maintenance standards and techniques to manage aircraft airworthiness. Aircraft that are certificated for nine passengers or less will be required to meet the same inspection requirements of the present Part 135, plus additional maintenance requirements for the engine, propeller, rotor, and emergency equipment. These additional requirements are necessary to establish required maintenance for these components. Aircraft that are certificated for

V 42 I 167 AUG 29 77 7 UMI

ten passengers or more will be required to establish a maintenance program that is presently being used by air taxi operators of large aircraft and by air carriers. This system for the management of maintenance programs has proved effective in ensuring safety in air taxi operations using large aircraft and air carrier operations. Since it is recognized that time is a factor in the development of maintenance programs, the FAA invites comments addressed specifically to the appropriate compliance period necessary to ensure that no undue burden will be placed on the certificate holders operating under this part.

Ref. Proposal No. 97, Part 135 Review.

§ 135.335 Responsibility for airworthiness

This proposal places the responsibility for the airworthiness of ATCO aircraft on the certificate holder. The FAA believes that the certificate holder should be responsible for providing airworthy equipment. The proposal further outlines that a certificate holder operating aircraft certificated for a passenger seating configuration of 10 or more, which performs its own maintenance or has it performed by someone else, is responsible for having that maintenance performed in accordance with its manual, and the Federal Aviation Regulations. The manual referred to in this proposal references the manual which would be required by proposed § 135.349. Certificate holders operating aircraft certificated for a passenger seating capacity of nine or less are permitted under the present rules to use persons authorized in Part 43 to perform maintenance, preventive maintenance, and alterations. Those persons who perform maintenance, preventive maintenance, and alterations are responsible for performing maintenance in accordance with the regulations of this chapter. The certificate holder is responsible for having the aircraft inspected and maintained between inspections as required by this Part and Part 91.

Ref. Proposal No. 98, Part 135 Review, Proposal No. 805 Operations Review.

§ 135.337 Mechanical reliability reports

This section, currently § 135.57, would be redesignated as § 135.337. Paragraphs (a) and (c) would be amended by deleting the word "multiengine" and inserting the word "an" in place thereof. The purpose of this proposal is to broaden the scope of available data by which aircraft airworthiness standards are established with the object of increasing the level of safety in air taxi operations. This would include all air taxi aircraft. In addition, paragraph (e) would be amended to provide that the reports required by this section be transmitted in a form and a manner prescribed by the Administrator. The deletion of a specified form allows flexibility to the certificate holder and the FAA on the form and manner in which the reports are submitted.

Paragraph (f) would be amended by deleting the number "430" and inserting the number "830" in place thereof, to reflect current reporting requirements of the National Transportation Safety Board.

Ref. Proposal No. 18, Part 135 Review; Proposal No. 741, Ops. Review.

§ 135.339 Mechanical interruption summary report

This section, currently § 135.59 would be redesignated as § 135.339. The word "multiengine" would be deleted from the lead-in paragraph to broaden the scope of coverage to all aircraft. This proposal would provide for the reporting of mechanical interruptions which are not presently reported under present § 135.-59. The FAA believes that the additional reporting requirements are necessary to broaden the scope of available data by which aircraft airworthiness standards are established, with the object of increasing the level of safety in air taxi operations.

Ref. Proposal No. 19, Part 135 Review.

§ 135.341 Approved aircraft inspection program

This section, currently § 135.60, would be redesignated § 135.341. By transferring this section into Subpart K, all maintenance rules would be covered in one subpart. This proposal also adds a requirement for the certificate holder to include instructions and procedures for the correction and deferral of discrepancies found as a result of inspection. The FAA believes that this procedure is necessary to ensure that the certificate holder and maintenance personnel are aware of the proper action that is necessary to record and correct discrepancies found during an inspection before an aircraft may be returned to service in air taxi operations.

Ref. Proposal No. 97, Part 135 Review; Proposal No. 744, Ops Review.

§ 135.343 Additional maintenance requirements, aircraft certificated to carry nine or less passengers

This section provides additional maintenance requirements for aircraft certificated to carry nine or less passengers. The FAA believes that the requirement for a maintenance program for the engine, propeller, rotor and each item of emergency equipment is necessary for the airworthiness of these components on aircraft in air taxi operation.

There is at present no requirement for these items to be covered under a controlled maintenance program. This proposal would allow the certificate holder to use an established program developed by the manufacturer, or submit a program based on the certificate holder's experience to the FAA for approval.

§ 135.345 Maintenance preventive maintenance and alterations organization

The purpose of this proposal is to require the certificate holder to have an adequate maintenance organization for the accomplishment of maintenance, preventive maintenance, and alterations on his aircraft. The proposal also provides for the certificate holder to arrange with another person (as defined in Part 1) to accomplish the work, provided that the certificate holder determines that the person has an organization adequate to perform the work. The FAA also believes it is necessary to separate required inspection functions from other functions as proposed in paragraph (c) to ensure that those items directly affecting the safety of flight are satisfactorily inspected before flight.

Ref. Proposal No. 99, Part 135 Review.

§ 135.347 Maintenance, preventive maintenance and alteration programs

This section would establish the requirement for a certificate holder to have an inspection program and a program covering other maintenance, preventive maintenance, and alterations. This proposal also provides for accomplishment of maintenance, preventive maintenance and alterations by other persons in accordance with the certificate holder's manual. The FAA believes that a certificate holder who is required to have a maintenance program under this part should be responsible for having an adequate program and for ensuring that the program is properly accomplished regardless of the person or facility where maintenance is performed.

Ref Proposal No. 100, Part 135 Review.

§ 135.349 Manual requirements

This section would require the certificate holder to include in his manual a description of the organization required by proposed § 135.345 and a list of persons with whom he has arranged for the performance of any required inspections, other maintenance, preventive maintenance, or alterations. This manual must contain the programs required by proposed § 135.347, including the methods of performing required inspections, other maintenance, preventive maintenance, and alterations. This proposal would make it necessary for a certificate holder to provide a maintenance program in manual form to be used in his organization in performance of maintenance, preventive maintenance, and alteration programs. This manual is necessary to ensure that the certificate holder has provided an adequate maintenance program for the airworthiness of his aircraft and to inform his personnel, or other persons who perform maintenance, of their responsibilities regarding the performance of maintenance on his aircraft. In this proposal, the term "buy back procedures" refers to the system used for the disposition of required inspection items to ensure they are inspected after work has been performed on them.

Ref. Proposal No. 101, Part 135 Review.

§ 135.351 Required inspection personnel

This section proposes certain requirements for inspection personnel. It provides for specific qualifications and supervision of an inspection unit. This section also would require the listing of persons who have been trained, qualified, and authorized to conduct required inspections. The persons would be identified by name, occupational title, and the inspections that they are authorized to perform.

This proposal is necessary in order to provide competent and properly trained inspection personnel to perform the required inspections of this Part.

Ref. Proposal No. 102, Part 135 Review.

§ 135.353 Continuing analysis and surveillance

This section provides for the establishment by the certificate holder of a system to continually analyze the performance and effectiveness of the programs covering maintenance, preventive maintenance, and alterations. This section also provides for the correction of any deficiencies in those programs. Also included in this section is a provision whereby the Administrator may require the certificate holder to make changes in either or both of its programs described in paragraph (a) if those programs do not contain adequate procedures and standards to meet the requirements of this Part. This proposal is necessary to provide the certificate holder feedback on the performance and effectiveness of the certificate holder's programs covering maintenance, preventive maintenance, and alterations, so that deficiencies are corrected. The proposal for a procedure providing for changes required by the Administrator is similar to procedures included in other parts of the Federal Aviation Regulations and would ensure that deficient programs would be corrected promptly.

§ 135.355 Maintenance and preventive maintenance training programs

This proposal would require training programs which ensure that persons performing maintenance or preventive maintenance functions (including inspection personnel) would be fully informed about procedures, techniques, and new equipment in use and that those personnel are competent to perform their required duties.

§ 135.357 Certificate requirements

This section would establish the requirement that each person, other than a repair station certificated under the provisions of Subpart C of Part 145, who is directly in charge of maintenance, preventive maintenance, or alterations, and each person performing required inspections, hold an appropriate airman certificate. The FAA believes this is necessary to ensure the certificate holder is using maintenance personnel who have adequate knowledge of the regulations and hold an appropriate airman certificate.

Ref. Proposal No. 106, Part 135 Review.

§ 135.359 Authority to perform and approve maintenance, preventive maintenance and alterations

This section allows the Part 135 certificate holder to have maintenance performed by other persons. It also permits a certificate holder to perform maintenance for other certificate holders. This proposal allows the Part 135 certificate holder some flexibility for maintenance being performed by other persons when the certificate holder does not have the personnel or facilities to perform maintenance. It also requires that all major repairs and alterations must have been accomplished with data approved by the Administrator. The FAA believes the requirement for FAA approved data is necessary to ensure the airworthiness of aircraft operated by Part 135 certificate holders.

Ref. Proposal No. 107, Part 135 Review.

§ 135.361 Maintenance recording requirements

The proposed rule provides for the preparation, maintenance, and retention of certain records using the system specified in the certificate holder's manual. This proposal also specifies the length of time that the records must be retained and requires that the records be transferred with the aircraft at the time it is sold. It also would require the certificate holder to keep records of the total time on the engine and propeller, as well as the airframe. The FAA believes that the additional recordkeeping requirements, beyond those specified in § 91.173, are necessary in order to establish the continuous airworthiness history of the aircraft and its components.

Ref. Proposal No. 108, Part 135 Review.

§ 135.363 Transfer of maintenance records

The proposed rule would require the certificate holder to transfer certain maintenance records to the purchaser, at the time of the sale in either plain language form or in coded form. The coded form must provide for the preservation and retrieval of information in a manner acceptable to the Administrator. The purchaser may permit the seller to keep physical custody of the records; however, custody by the seller does not relieve the purchaser of the responsibility under § 135.361(e) to make the records available for inspection by a representative of the Administrator or authorized representatives of the National Transportation Safety Board.

This proposal is intended to ensure that a new owner receives all the records that are to be maintained by an operator as required in § 135.361.

Ref. Proposal No. 109, Part 135 Review.

§ 135.365 Airworthiness release or aircraft log entry

This proposed rule would require the certificate holder to prepare or cause to be prepared either an airworthiness release or an appropriate entry in the aircraft log after maintenance, preventive maintenance, or alterations. The airworthiness release or log entry must be prepared in accordance with the procedures set forth in the certificate holder's manual.

The FAA believes that this proposal is necessary to provide a system for employees of the certificate holder to determine the airworthiness status of an aircraft after maintenance has been performed. The person providing an airworthiness release or aircraft log entry would be required to determine that all the requirements for inspection and airworthiness are satisfied. This proposal also would aid the flight crew in determining the airworthiness of the aircraft prior to flight.

Ref. Proposal No. 110, Part 135 Review.

DRAFTING INFORMATION

The principal authors of this document are David W. Kress, Flight Standards Service and Richard C. Beitel, Office of the Chief Counsel.

PROPOSED AMENDMENTS

Accordingly, it is proposed to amend Parts 121 and 135 of the Federal Aviation Regulations as follows:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. By amending § 121.9 by amending the title and revising paragraph (a), to read as follows:

§ 121.9 Operations of small aircraft and certain large aircraft.

(a) No person may conduct operations with aircraft having a maximum passenger capacity of 30 seats or less and a maximum payload capacity of 7,500 pounds or less, unless he conducts those operations in accordance with the rules of Part 135 of this chapter except §§ 135.7, 135.19, 135.27, 135.29, 135.31, and 135.35 of Subpart A, and appropriate operations specifications, in lieu of Subparts E through V, of this Part 121. However, the holder of an air carrie operating certificate issued under this Part may maintain its aircraft operated under Part 135 of this chapter in accordance with a continuous airworthiness maintenance program that meets the requirements in Subpart L of this Part and operations specifications issued to it under this Part. Operations specifications issued under this section contain such operating limitations and requirements as the Administrator finds necessary.

* * * * *

2. Special Federal Aviation Regulation 23, which is published in full text under Part 135, would be republished without change.

3. By revising Part 135 to read as set forth below.

4. By amending § 1 of Appendix A to Part 135 by deleting the reference "§ 135.144(d)" and substituting for it the reference "§ 135.141(b)(4)".

V 42 I 167 A UG 29 77 UMI

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

Subpart A—General

Sec.
135.1 Applicability.
135.2 Air taxi operations with large aircraft.
153.3 Rules applicable to operations subject to this part.
135.5 [Reserved].
135.7 Certification and operations specifications required.
135.9 Applicability of rules to unauthorized operators.
135.11 Duration of certificate.
135.13 Application and issue of certificate and operations specifications.
135.15 Eligibility for certificate and operations specifications.
135.17 Amendment of certificate.
135.19 Amendment of operations specifications.
135.21 Emergency operations.
135.23 Manual requirements.
135.25 Aircraft requirements.
135.27 Business office and operations base.
135.29 Use of business names.
135.31 Advertising.
135.33 Area limitations on operations.
135.35 Termination of operations.
135.37 Periodic financial status review.
135.39 Management personnel required.
135.41 Management personnel qualifications.
135.43 Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.
135.45 Crewmember certificate: International operations; application and issue.

Subpart B—Flight Operations

135.47 General.
135.49 Recordkeeping requirements.
135.51 Flight information: Facilities and services.
135.53 Reporting of mechanical irregularities.
135.55 Reporting potentially hazardous meteorological conditions and irregularities of communications or navigation facilities.
135.57 Restriction or suspension of operations: Continuation of flight in an emergency.
135.59 Airworthiness check.
135.61 Inspections and tests.
135.63 Inspectors credentials: Admission to pilots comparment: Forward observer's seat.
135.65 Responsibility for operational control.
135.67 Flight locating requirements.
135.69 Informing personnel of operational information and appropriate changes.
135.71 Operating information required.
135.73 Carriage of persons without compliance with the passenger-carrying provisions of this part.
135.75 Carriage of cargo including carry-on baggage.
135.77 Requirements for use of oxygen.
135.79 Oxygen for medical use by passengers.
135.81 Autopilot: Minimum altitudes for use.
135.83 Airmen: Limitations on use of services.
135.85 Aircraft and facilities for recent flight experience.
135.87 Composition of flight crew.
135.89 Second in command required in IFR conditions.
135.91 Exception to second in command requirement: limited IFR conditions.
135.93 Exception to second in command requirement: approval for use of autopilot system.
135.95 Flight attendant crewmember requirement.
135.97 Pilot in command or second in command: designation required.
135.99 Second in command required in category II operations.
135.101 Passenger occupancy of pilot seat.
135.103 Manipulation of controls.
135.105 Briefing of passengers before flight.
135.107 Prohibition against carriage of weapons.
135.109 Alcoholic beverages.
135.111 [Reserved].
135.113 Emergency and emergency evacuation duties.

Subpart C—Aircraft and Equipment

135.115 Applicability.
135.117 General requirements.
135.119 [Reserved]
135.121 Aircraft proving tests.
135.123 Dual controls required.
135.125 Equipment requirements: General.
135.127 Fire extinguishers: Passenger-carrying aircraft.
135.129 Oxygen Equipment Requirements.
135.131 Equipment requirements: Carrying passengers under VFR at night or under VFR over-the-top conditions.
135.133 Radio and navigational equipment: Carrying passengers under VFR at night or under VFR over-the-top.
135.135 Equipment requirements: Aircraft carrying passengers under IFR.
135.137 Radio and navigational equipment: Under extended overwater or IFR operations.
135.139 Emergency equipment: Extended overwater operations.
135.141 Additional airworthiness requirements.
135.143 Shoulder harness installation at flight crewmember stations.
135.145 Airborne thunderstorm detection equipment requirements.
135.147 Emergency equipment requirements for aircraft having a passenger seating capacity of more than 19 passengers.
135.149 Inoperable instruments and equipment for multiengine aircraft.
135.151 Performance requirements: Aircraft operated over-the-top or in IFR conditions.
135.153 Performance requirements: Land aircraft operated over water.
135.155 Small airplane performance operating limitations.
135.157 Empty weight and center of gravity: Currency requirement.

Subpart D—VFR/IFR Operating Limitations and Weather Requirements

135.159 Applicability.
135.161 VFR: Minimum altitudes.
135.163 VFR: Visibility requirements.
135.165 VFR: Helicopter surface reference requirements.
135.167 VFR: Fuel supply.
135.169 VFR: Over-the-top carrying passengers: Operating limitations.
135.171 Weather reports and forecasts.
135.173 [Reserved].
135.175 IFR: Operating limitations.
135.177 IFR: Takeoff limitations.
135.179 IFR: Destination airport weather minimums.
135.181 IFR: Alternate airport weather minimums.
135.183 IFR: Alternate airport requirements.
135.185 IFR: Takeoff, approach, and landing minimums.
135.187 Icing conditions: Operating limitations.
135.189 Airport requirements and emergency lighting.

Subpart E—Flight Crewmember Requirements

135.191 Applicability.
135.193 Pilot in command qualifications.
135.195 [Reserved].
135.197 Second in command qualifications.
135.199 Pilot qualifications: Recent experience.

Subpart F—Flight Crewmember Flight and Duty Time Limitations and Rest Requirements

135.200 Applicability.
135.201 Definition of terms.
135.203 Flight and duty time limitations: all flight crewmembers.
135.205 Deadhead transportation.
135.207 Determination of applicable flight and duty time limitations.
135.209 Rest requirements.
135.211 Flight crew consisting of: One pilot.
135.213 Flight crew consisting of: Pilot in command and second in command.
135.215 Augmented flight crews.
135.217 Flight crew consisting of: Pilot in command, second in command, and relief officer.
135.219 [Reserved].

Subpart G—Crewmember Testing Requirements

135.223 Applicability.
135.225 Initial and recurrent pilot testing requirements.
135.227 Initial and recurrent flight attendant crewmember testing requirements.
135.229 Pilot in command: Instrument proficiency check requirements.
135.231 Pilot in Command qualifications: Line checks: Routes and airways.
135.233 Crewmember tests and checks: Grace provisions: Training to accepted standards.
135.235 Check pilot authorization: Application and issue.

Subpart H—Training

135.237 Applicability and terms used.
135.239 Training program: General.
135.241 Training program and revision: Initial and final approval.
135.243 Training program: Curriculum.
135.245 Crewmember training requirements.
135.247 Crewmember emergency training.
135.249 Training reqirements: Handling and carriage of hazardous materials.
135.251 Approval of airplane simulators and other training devices.
135.253 Training program: Check airmen and instructor qualifications.
135.255 Check airmen and flight instructors: Initial and transition training.
135.257 Pilot and flight attendant crewmember training programs.
135.259 Crewmember initial and recurrent training requirements.
135.261 Pilots: Initial, transition, and upgrade ground training.
135.263 Pilots: Initial, transition, upgrade and differences flight training.
134.265 Flight attendants: Initial and transition ground training.
135.267 Recurrent training.

Subpart I—Airplane Performance

135.271 Applicability.
135.273 General.
135.275 Large transport category airplanes: Reciprocating engine powered: Weight limitations.
135.277 Large transport category airplanes: Reciprocating engine powered: Takeoff limitations.

Sec.
135.279 Large transport category airplanes: Reciprocating engine powered: En route limitations: All engines operating.
135.281 Large transport category airplanes: Reciprocating engine powered: En route limitations: One engine inoperative.
135.283 Part 25 transport category airplanes with four or more engines: Reciprocating engine powered: En route limitations: Two engines inoperative.
135.285 Large transport category airplanes: Reciprocating engine powered: Landing limitations: Destination airport.
135.287 Large transport category airplanes: Reciprocating engine powered: Landing minimums: Alternate airport.
135.289 Large transport category airplanes: Turbine engine powered: Takeoff limitations.
135.291 Large transport category airplanes: Turbine engine powered: En route limitations: One engine inoperative.
135.293 Large transport category airplanes: Turbine engine powered: En route limitations: two engines inoperative.
135.295 Large transport category airplanes: turbine engine powered: Landing limitations: Destination airports.
135.297 Large transport category airplanes: Turbine engine powered: Landing limitations: Alternate airports.
135.299 Large nontransport category airplanes: Takeoff limitations.
135.301 Large nontransport category airplanes: En route limitations: One engine inoperative.
135.303 Large nontransport category airplanes: Landing limitations: Destination airport.
135.305 Large nontransport category airplanes: Landing limitation. Alternate airport.

Subpart J—[Reserved]

Subpart K—Maintenance, Preventive Maintenance, and Alterations

135.333 Applicability.
135.335 Responsibility for airworthiness.
135.337 Mechanical reliability reports.
135.339 Mechanical interruption summary reports.
135.341 Approved aircraft inspection program.
135.343 Additional maintenance requirements, aircraft certificated to carry nine or less passengers.
135.345 Maintenance, preventive maintenance and alteration organization.
135.347 Maintenance, preventive maintenance and alteration programs.
135.349 Manual requirements.
135.351 Required inspection personnel.
135.353 Continuing analysis and surveillance.
135.355 Maintenance and preventive maintenance training program.
135.357 Certificate requirements.
135.359 Authority to perform and approve maintenance, preventive maintenance and alterations.
135.361 Maintenance recording requirements.
135.363 Transfer of maintenance records.
135.365 Airworthiness release or aircraft log entry.

Subpart A—General

§ 135.1 Applicability.

(a) Except as provided in paragraph (b) of this section, this part prescribes rules governing—

(1) Air taxi operations conducted under the exemption authority of Part 298 of this title;

(2) The transportation of mail by aircraft conducted under a postal service contract awarded pursuant to Chapter 54 Section 5402c Title 39, United States Code;

(3) The carrying in air commerce by any person, other than an air carrier, of persons or property for compensation or hire (commercial operations) in aircraft having a maximum passenger capacity of 30 seats or less and a maximum payload capacity of 7,500 pounds or less; and

(4) Each person who is on board an aircraft being operated under this part.

(b) This part does not apply to—

(1) Student instruction;

(2) Nonstop sightseeing flights that begin and end at the same airport, and are conducted within a 25 statute mile radius of that airport;

(3) Ferry or training flights;

(4) Aerial work operations, including—

(i) Crop dusting, seeding, spraying, and bird chasing;

(ii) Banner towing;

(iii) Aerial photography or survey;

(iv) Fire fighting;

(v) Helicopter operations in construction or repair work (but not including transportation to and from the site of operations); and

(vi) Powerline or pipeline patrol;

(5) Sightseeing flights conducted in hot air balloons;

(6) Nonstop flight conducted within a 25 statute mile radius of the airport of takeoff carrying persons for the purpose of intentional parachute jumps;

(7) Helicopter flights conducted with a 25 statute mile radius of the airport of takeoff, if—

(i) Not more than two passengers are carried in the helicopter in addition to the required flightcrew;

(ii) Each flight is made only under VFR during the day;

(iii) The helicopter used is certificated in the standard category and complies with the 100-hour inspection requirements of Part 91 of this chapter;

(iv) The operator notifies the FAA District Office having jurisdiction over the area concerned, at least 72 hours before each flight and furnishes any essential information that the office requests;

(v) The number of flights does not exceed a total of six in any calendar year;

(vi) Each specific flight has been approved by the Administrator; and

(vii) Cargo is not carried in or on the helicopter.

(8) Operations conducted under the authority of Part 133 or 375 of this title; or

(9) Emergency mail service conducted under Section 405(b) of the Federal Aviation Act of 1958.

§ 135.2 Air taxi operations with large aircraft.

(a) Except as provided in paragraph (d) of this section, no person may conduct air taxi operations in large aircraft under an individual exemption and authorization issued by the Civil Aeronautics Board or under the exemption authority of Part 298 of this title, unless that person—

(1) Has complied with the certification requirements for supplemental air carriers as set forth in Part 121 of this chapter, except that he need not obtain, nor is he eligible for, a certificate under Part 121 of this chapter; and

(2) Conducts those operations in accordance with the rules of Part 121 of this chapter that are applicable to supplemental air carriers.

However, the Administrator may issue operations specifications which require an operator to comply with the rule applicable to domestic or flag air carriers, as appropriate, in lieu of the supplemental air carrier rules required by paragraph (a)(2) if he determines compliance with those rules necessary to provide an appropriate level of safety for the operation.

(b) The holder of an air taxi/commercial operator (ATCO) operating certificate who is required to comply with Subpart L of Part 121 of this chapter, "Maintenance, Preventive Maintenance, and Alterations" under paragraph (a) of this section, may perform and approve maintenance, preventive maintenance and alterations on aircraft having a maximum passenger capacity of 30 seats or less and a maximum payload of 7,500 pounds or less as provided in Subpart L of Part 121 of this chapter. These aircraft so maintained shall be identified by registration number in the operations specifications of the air taxi operator using the aircraft.

(c) Operations that are subject to paragraph (a) of this section are not subject to §§ 135.23 through 135.45 of Subpart A and Subparts B through K of this part. Seaplanes used in operations subject to paragraph (a) of this section are not subject to § 121.291(a) of this chapter.

(d) Air taxi operations conducted within aircraft having a maximum passenger capacity of 30 seats or less, and a maximum payload capacity of 7,500 pounds or less shall be conducted in accordance with the rules of this Part.

However, an operator who is currently conducting ATCO operations in aircraft described in paragraph (d) of this section may operate under the provisions of paragraph (a)(1) and (2) of this section if he applies for and is issued

V 42 167 AUG 29 77 UMI

amended operations specifications for such operations under § 135.19.

(e) For the purposes of this part—

(1) "Maximum payload capacity" means—

(i) In the case of an aircraft for which a maximum zero fuel weight is prescribed in FAA technical specifications, the maximum zero fuel weight, less empty weight, less all justifiable aircraft equipment, and less the operating load (consisting of minimum flight crew, foods and beverages and supplies and equipment related to foods and beverages, but not including disposable fuel or oil);

(ii) For all other aircraft, the maximum certificated takeoff weight of an aircraft, less the empty weight, less all justifiable aircraft equipment, and less the operating load (consisting of minimum fuel load, oil, and flight crew). The allowance for the weight of the crew, oil, and fuel is as follows:

(A) Crew—200 pounds per crewmember required under the Federal Aviation Regulations.

(B) Oil—350 pounds.

(C) Fuel—the minimum weight of fuel required by the Federal Aviation Regulations for a flight between domestic points 174 nautical miles apart under VFR weather conditions and not involving extended overwater operations.

(2) "Empty weight" means the weight of the airframe, engines, propellers, rotors, and fixed equipment. Empty weight excludes the weight of the crew and payload, but includes the weight of all fixed ballast, unusable fuel supply, undrainable oil, total quantity of engine coolant, and total quantity of hydraulic fluid; and

(3) "Maximum zero fuel weight" means the maximum permissible weight of an aircraft with no disposable fuel or oil. The zero fuel weight figure may be found in either the aircraft type certificate data sheet or the approved aircraft flight manual, or both.

(4) For the purposes of pargaraphs (e)(1)(i) and (ii), justifiable aircraft equipment means any equipment necessary for the operation of the aircraft. It does not include equipment or ballast specifically installed, permanently or otherwise, for the purpose of altering the empty weight of an aircraft to meet the maximum payload capacity specified in paragraph (d) of this section.

§ 135.3 Rules applicable to operations subject to this part.

Each person operating an aircraft in operations to which this Part applies shall—

(a) While operating inside the United States, comply with the applicable rules of this chapter; and

(b) While operating outside the United States, comply with Annex 2, Rules of the Air, to the Convention on International Civil Aviation or the regulations of any foreign country, whichever applies, and any rules of Parts 61 and 91 of this chapter and this Part that are more restrictive than the Annex or those regulations and can be complied with without violating that Annex or those regulations.

(c) Annex 2 to the Convention on International Civil Aviation, Sixth Edition—September 1970, with amendments through 20 effective August 1976, to which reference is made in this part is incorporated into this part and made a part hereof as provided in 5 U.S.C. 552 and pursuant to 1 CFR Part 51. Annex 2 (including a complete historic file of changes thereto) is available for public inspection at the Rules Docket, AGC-24, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. In addition, Annex 2 may be purchased from the International Civil Aviation Organization (Attention: Distribution Officer), P.O. Box 400, Succursale; Place de L'Aviation Internationale, 1000 Sherbrooke Street West, Montreal, Quebec, Canada H3A 2R2.

§ 135.5 [Reserved]

§ 135.7 Certificate and operations specifications required.

No person may operate an aircraft in operations to which this part applies without, or in violation of, an ATCO operating certificate and appropriate operations specifications issued under this part, or, in the case of operations with large aircraft having a maximum passenger capacity of more than 30 seats, or a maximum payload capacity of more than 7,500 pounds, without, or in violation of, operations specifications issued under Part 121 of this chapter.

§ 135.9 Applicability of rules to unauthorized operators.

The rules in this part which refer to a person certificated under § 135.7 apply also to any person who engages in any operation governed by this Part without the appropriate certificate and operations specifications required by § 135.7.

§ 135.11 Duration of certificate.

An ATCO certificate is effective until surrendered, suspended or revoked. The holder of an ATCO certificate shall return it to the Administrator within 10 days after receipt of notice of suspension or revocation.

§ 135.13 Application and issue of certificate and operations specifications.

(a) An application for an ATCO certificate and appropriate operations specifications is made on a form and in a manner prescribed by the Administrator and filed with the FAA District Office that has jurisdiction over the area in which the applicant's principal business office is located.

(b) An applicant who meets the requirements of this Part is entitled to—

(e) An ATCO certificate containing all business names under which he may conduct operations and the address of each business office used by the holder; and

(2) Separate operations specifications containing the type of operations authorized, the area of operation authorized, the type, category, and class of aircraft that he may us in those operations, registration numbers of aircraft that are inspected in accordance with an approved aircraft inspection program, registration numbers of the aircraft that are subject to a continuous airworthiness maintenance program, and maintenance items that are required by the Administrator under this Part, including time limitations or standards for determining overhaul or reference thereto, inspections and checks for airframes, aircraft engines, propellers, rotors, appliances, and emergency equipment, any authorized deviation from this part, and such other items as the Administrator may require or allow to meet any particular situation.

§ 135.15 Eligibility for certificate and operations specifications.

(a) To be eligible for an ATCO certificate and appropriate operations specifications, a person must—

(1) Be a citizen of the United States, a partnership of which each member is a citizen of the United States, or a corporation or association created or organized under the laws of the United States or any state, territory or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are citizens of the United States and in which at least 75 percent of the voting interest is owned or controlled by citizens of the United States or one of its possessions; and

(2) Show, to the satisfaction of the Administrator, that he is able to conduct each kind of operation for which he seeks authorization in compliance with applicable regulations, and

(3) Hold such economic authority as may be required by the Civil Aeronautics Board.

However, no person holding a commercial operator operating certificate issued under Part 121 of this chapter is eligible for an ATCO certificate unless he shows to the satisfaction of the Administrator that his contract carriage business in large aircraft, having a maximum passenger capacity of more than 30 seats or a maximum payload capacity of more than 7,500 pounds, will not result directly or indirectly from his air taxi business.

(b) The Administrator may deny any applicant a certificate under this part if he finds—

(1) That an air carrier or commercial operator certificate under Part 121 or an ATCO certificate previously issued to the applicant was revoked; or

(2) That a person who was employed in a position similar to general manager, director of operations, director of maintenance, chief pilot, or chief inspector, or who has exercised control with respect to any ATCO certificate holder, air carrier, or commercial operator whose operating certificate has been revoked, will be employed in any of those positions or a similar position, or will be in control of or have a substantial ownership interest in the applicant, and that the person's employment or control contributed materially to the reasons for revoking that certificate.

§ 135.17 Amendment of certificate.

(a) The Administrator may amend an ATCO certificate—

(1) On his own initiative, under section 609 of the Federal Aviation Act of 1958 (49 U.S.C. 1429) and Part 13 of this chapter; or

(2) Upon application by the holder of that certificate.

(b) An application to amend an ATCO certificate is submitted on a form and in a manner prescribed by the Administrator. The applicant must file the application with the FAA District Office having jurisdiction over the area in which the applicant's principal business office is located at least 15 days before the date that he proposes for the amendment to become effective, unless a shorter filing period is approved by that office.

The Administrator grants a request to amend an ATCO certificate if he determines that safety in air commerce and the public interest so allow.

(d) Within 30 days after receiving a refusal to amend, the holder may petition the Administrator to reconsider the refusal.

§ 135.19 Amendment of operations specifications.

(a) The Administrator may amend any operations specifications issued under this part if:

(1) He determines that safety in air commerce requires that amendment; or

(2) Upon an application by the holder, the Administrator determines that safety in air commerce allows that amendment.

(b) An application to amend operations specifications is submitted on a form and in a manner prescribed by the Administrator. The applicant must file the application with the FAA District Office having jurisdiction over the area in which the applicant's principal business office is located at least 15 days before the date that he proposes for the amendment to become effective, unless a shorter filing period is approved by that office.

(c) Within 30 days after a notice of refusal to approve a holder's application for amendment, the holder may petition the Administrator to reconsider the refusal to amend.

(d) When the Administrator amends operations specifications, he gives notice in writing to the holder of a proposed amendment to the operations specifications, fixing a period of not less than 7 days within which the holder may submit written information, views, and arguments concerning the proposed amendment. After consideration of all relevant matter presented, the Administrator notifies the holder of any amendment adopted, or a rescission of the notice.

The amendment becomes effective not less than 30 days after the holder receives notice of the adoption of the amendment, unless the holder petitions the Administrator for reconsideration of the amendment. In such a case, the effective date of the amendment is stayed pending a decision by the Administrator. If the Administrator finds that there is an emergency requiring immediate action with respect to safety in air commerce that makes the provisions prescribed by this paragraph impracticable, or contrary to the public interest, he notifies the holder of an amendment to the operations specifications without giving the 7 days notice, and the amendment becomes effective when the holder receives it.

§ 135.21 Emergency operations.

(a) In an emergency involving the safety of persons or property, the holder of an ATCO operating certificate may deviate, to the extent required to meet that emergency, from the rules of this part relating to aircraft and equipment and weather minimums.

(b) In an emergency involving the safety of persons or property, the pilot in command may deviate from any rule of this part to the extent required to meet that emergency.

(c) Each person who, under the authority of this section, deviates from a rule of this part shall, within 10 days after the deviation, send to the FAA District Office having jurisdiction over the area in which the certificate holder's principal business office is located, a complete report of the aircraft operation involved, including a description of the deviation and reasons for it.

§ 135.23 Manual requirements.

(a) Each certificate holder, other than one who uses only himself as a pilot, shall prepare and keep current a manual setting forth the certificate holder's procedures and policies acceptable to the Administrator. This manual must be used by the certificate holder's flight, ground, and maintenance personnel in conducting its operations. However, the Administrator may authorize a deviation from this paragraph if he finds that because of the limited size of the operation, all or part of the manual is not necessary for guidnace of flight, ground, or maintenance personnel.

(b) Each manual shall be kept in a form that is acceptable to the Administrator and easy to revise and shall have the date of the last revision on each revised page. The manual must include:

(1) The identity of each person in a management capacity who is authorized to act for the certificate holder in his assigned area of responsibility and his duties, responsibilities and authority;

(2) Procedures for ensuring compliance with aircraft weight and balance limitations and, in the case of multiengine aircraft, for assertaining compliance with the requirements of § 135.157;

(3) Copies of the certificate holder's operations specifications or appropriate extracted information, including area of operations authorized, category and class of aircraft authorized, crew complements, and types of operations authorized (such as VFR, IFR, day, night, passenger cargo);

(4) Procedures for complying with accident notification requirements;

(5) Procedures for ensuring that the pilot in command knows that required airworthiness inspections have been made and that the aircraft has been approved for return to service in compliance with applicable maintenance requirements.

(6) Procedures for reporting and recording mechanical irregularities that come to the attention of the pilot in command before, during, and after completion of a flight.

(7) Procedures to be followed by the pilot in command for ascertaining that mechanical irregularities or defects reported for previous flights have been corrected or that correction has been deferred;

(8) Procedures to be followed by the pilot in command to obtain maintenance, preventive maintenance, and servicing of the aircraft at a place where prior arrangements have not been made by the operator, when the pilot is authorized to so act for the operator;

(9) Procedures in accordance with § 135.149 for the release for, or continuation of, flight if any item of equipment required for the particular type of operation becomes inoperative or unserviceable en route.

(10) Procedures for refueling aircraft, eliminating fuel contamination, protection from fire (including electrostatic protection), and supervising and protecting passengers during refueling;

(11) Procedures to be followed by the pilot in command in the briefing required by § 135.105 of this part;

(12) Flight locating procedures, when applicable;

(13) Procedures for ensuring compliance with emergency procedures, including a list of the functions assigned each category of required crewmembers in connection with emergency and emergency evacuation duties under § 135.113 of this Part.

(14) En route qualification procedures for pilots, when applicable;

(15) The approved aircraft inspection program, when applicable;

(16) Procedures and instructions to enable personnel to recognize hazardous materials, as defined in Title 49 CFR, Subchapter C, and if these materials are to be carried, stored, or handled, procedures and instructions for including:

(i) Accepting shipment of hazardous material as required by Title 49 CFR, Subchapter C, to assure proper packaging, marking, labeling, shipping documents, compatibility of articles, and instructions on the loading, storage, and handling thereof.

(ii) Notification and reporting hazardous material incidents as required by Title 49 CFR § 175.45.

(iii) Notification of the pilot in command when there are hazardous materials aboard, as required by Title 49 CFR § 175.33.

(17) Procedures for the evacuation of persons who may need the assistance of another person to move expeditiously to an exit in the event of an emergency; and

(18) Other procedures and policy instructions pertinent to the certificate holder's operations, that are issued by the certificate holder.

V 42 167 AUG 29 77 UMI

(c) Each certificate holder shall maintain at least one copy of the manual at its principal operations base.

(d) The manual must not be contrary to any applicable Federal regulation, foreign regulation applicable to the certificate holder's operations in foreign countries, or the certificate holder's operations specifications, or operating certificate.

(e) A copy of the manual, or appropriate portions of the manual (and changes and additions thereto) shall be made available to maintenance personnel by the certificate holder and furnished to:

(1) Its ground operations personnel;

(2) Its crewmembers; and

(3) Representatives of the Administrator assigned to the certificate holder.

(f) Each person to whom a manual or appropriate portions of it are furnished under paragraphs (1) and (2) of paragraph (e) of this section shall keep it up to date with the changes and additions furnished to him.

(g) Except as provided in paragraph (h) of this section, each certificate holder shall carry appropriate parts of the manual on each aircraft when away from the principal base. The appropriate parts must be available for use of ground or flight personnel.

(h) If a certificate holder conducts inspections at specified stations where it keeps the approved inspection program manual, it is not required to carry the manual aboard the aircraft en route to those stations.

§ 135.25 Aircraft requirements.

(a) No certificate holder may operate an aircraft in operations to which this part applies unless that aircraft—

(1) Is registered as a civil aircraft of the United States and carries an appropriate and current airworthiness certificate issued under this chapter; and

(2) Is in an airworthy condition and meets the applicable airworthiness requirements of this chapter, including those relating to identification and equipment.

(b) Each certificate holder must have the exclusive use of at least one aircraft that meets the requirements for at least one kind of operation authorized in his operations specifications. In addition, for each kind of operation for which he does not have the exclusive use of an aircraft, he must have available for use under a written agreement (including arrangements for performing required maintenance) at least one aircraft that meets the requirements for that kind of operation. However, this paragraph does not prohibit the operator from using or authorizing the use of the aircraft for other than air taxi or commercial operations, nor require the certificate holder to have exclusive use of all aircraft that he uses.

(c) For the purposes of paragraph (b) of this section, a person has exclusive use of an aircraft if he has the sole possession, control, and use of it for flight, as owner, or has a written agreement (including arrangements for the performance or required maintenance), in effect when the aircraft is operated, giving him that possession, control, and use for at least 6 consecutive months.

§ 135.27 Business office and operations base.

(a) Each certificate holder shall maintain a principal business office.

(b) Each certificate holder shall, before establishing, or changing the location of any business office or operations base, except a temporary operations base, notify in writing the FAA District Office having jurisdiction over the area in which the certificate holder's principle business office is located.

(c) No certificate holder who establishes or changes the location of any business office or operations base, except a temporary operations base, may operate an aircraft in operations subject to this part unless he has complied with paragraph (b) of this section.

§ 135.29 Use of business names.

No certificate holder may operate an aircraft in operations subject to this part under a business name that is not on his ATCO certificate.

§ 135.31 Advertising.

No certificate holder may advertise or otherwise offer to perform operations subject to this part that are not authorized by his ATCO certificate and operations specifications.

§ 135.33 Area limitations on operations.

(a) No person may operate an aircraft in a geographical area that is not specifically authorized by appropriate operations specifications issued under this part.

(b) No person may operate an aircraft in a foreign country unless he is authorized to do so by that country.

§ 135.35 Termination of operations.

Within 30 days after a certificate holder ceases operations under this part, he shall surrender his operating certificate and operations specifications to the FAA District Office last having jurisdiction over these operations.

§ 135.37 Periodic financial status review.

(a) Each ATCO certificate holder shall permit the Administrator to review its financial status annually. Data made available to the Administrator for review must include:

(1) The latest fiscal reports that accurately reflect assets, liabilities, and net worth of the certificate holder;

(2) An itemization of liabilities more than 90 days past due on the applicable fiscal report, if any, showing each creditor's name and address, a description of the liability, and the amount and due date of the liability;

(3) A schedule of aviation insurance coverage in effect during the period covered by the fiscal report showing insurance companies, policy numbers, types, amounts, and periods of coverage, and special conditions, exclusions, and limitations;

(4) An itemization of claims in litigation or otherwise outstanding against the applicant, if any, on the date the financial information is submitted, and

(5) Profit and loss statement reflecting total operations for both the current and preceding reporting period.

§ 135.39 Management personnel required.

(a) Each certificate holder must have enough qualified management personnel in the following or equivalent positions to ensure safety in its operations:

(1) Director of operations.

(2) Chief pilot.

(3) Director of maintenance.

(b) Upon application by the certificate holder, the Administrator may approve different positions or numbers of positions than those listed in paragraph (a) of this section for a particular operation if the certificate holder shows that it can perform its operations safely under the direction of fewer or different categories of management personnel.

(c) Each certificate holder shall:

(1) Set forth the duties, responsibilities, and authority of the personnel required by this section in the manual required by § 135.23;

(2) List in the manual required by § 135.23 the name and address of the person or persons assigned to those positions; and

(3) Within 10 working days, notify the FAA District Office charged with the overall inspection of the certificate holder of any change made in the assignment of persons to the listed positions.

§ 135.41 Management personnel qualifications.

(a) No person may serve as director of operations unless he knows the contents of the manual required by § 135.23, the operations specifications, and the provisions of this Part and other pertinent regulations necessary to the proper performance of his duties and:

(1) Holds at least an airline transport pilot certificate, and has had at least three years of experience as pilot in command of aircraft operated under this Part, Part 121, or Part 127 of this chapter and;

(2) Has had at least three years of experience as director of operations with an ATCO certificate holder or air carrier or commercial operator operating under Part 121 or 127 of this chapter, or a position determined by the Administrator to be of comparable responsibility. However, the Administrator may grant a deviation from his requirement if he finds that the person has had equivalent aeronautical experience.

(b) No person may serve as chief pilot unless he:

(1) Knows the contents of the manual required by § 135.23, the operations specifications, and the provisions of this part necessary to the proper performance of his duties.

(2) Holds at least a current airline transport pilot certificate with appropriate ratings for at least one of the types of aircraft used; and

(3) Has had at least three years of experience as pilot in command of aircraft in operations under this Part, Part 121

or 127 of this chapter. However, the Administrator may grant a deviation from the requirement of this requirement if he finds that the person has had equivalent aeronautical experience.

(c) No person may serve as a Director of Maintenance unless he:

(1) Is familiar with the maintenance sections of the certificate holder's manual, operations specifications, and the Federal Aviation Regulations applicable to the specific operation.

(2) Has held a current mechanic certificate with both airframe and powerplant ratings for at least three years; and

(3) Has had at least three years of maintenance experience as a certificated mechanic on aircraft, including one year of current experience on the type of aircraft used in the certificate holder's operation, or at least three years of experience with a certificated airframe repair station, including one year in the capacity of approving aircraft for return to service; however, the Administrator may grant a deviation from the requirements of this subparagraph if he finds that the person has had equivalent aeronautical experience.

§ 135.43 Carriage of narcotic drugs, marihuana, and depresant or stimulant drugs or substances.

If the holder of a certificate issued under this part permits any aircraft owned or leased by that holder to be engaged in any operation that the certificate holder knows to be in violation of § 91.12(a) of this chapter, that operation is a basis for suspending or revoking the certificate.

§ 135.45 Crewmember certificate; international operations; application and issue.

(a) This section provides for the issuance of a crewmember certificate to United States citizens who are employed by ATCO certificate holders as flight crewmembers or crewmembers on United States registered aircraft engaged in international air commerce. The purpose of the certificate is to facilitate the entry and clearance of those crewmembers into ICAO contracting states. They are issued under Annex 9, as amended, to the Convention on International Civil Aviation.

(b) An application for a crewmember certificate is made on FAA Form 2116, "Application for Crewmember Certificate," to the FAA District Office having certificate responsibility for the ATCO certificate holder, by whom the applicant is employed. The certificate is issued on FAA Form 2116.1 "Crewmember Certificate."

(c) The holder of a certificate issued under this section, or the ATCO certificate holder by whom he is employed, shall surrender the certificate for cancellation at the nearest FAA District Office at the end of the holder's assignment in international air commerce with that carrier or operator.

Subpart B—Flight Operations

§ 135.47 General.

This subpart prescribes rules, in addition to those in Part 91 of this chapter, that apply to operations under this part.

§ 135.49 Recordkeeping requirements.

(a) Each certificate holder shall keep at his principal business office or at such other places as may be approved by the Administrator, and make available for inspection by the Administrator the following:

(1) His ATCO certificate;

(2) His operations specifications;

(3) A current list of the aircraft used or available for use by him in operations subject to this part and the operations for which each is equipped; and

(4) An individual record of each pilot used by him in operations subject to this part, including the following information:

(i) The full name of the pilot.

(ii) The pilot certificate (by type and number) and ratings that the pilot holds.

(iii) The pilot's aeronautical experience in sufficient detail to determine his qualifications to pilot aircraft in operations subject to this part.

(iv) The pilot's current duties and the date of his assignment to those duties.

(v) The effective date and class of the medical certificate that the pilot holds.

(vi) The date and result of each of the initial and recurrent proficiency tests and instrument and route checks required by this Part and the type of aircraft flown during that test or check.

(vii) The pilot's flight and duty time in sufficient detail to determine compliance with the flight and duty time limitations of this Part.

(viii) The pilot's check pilot authorization, if any.

(ix) Any action taken concerning the pilot's release from employment for physical or professional disqualification.

(x) The date of the completion of the initial phase and each recurrent phase of the training required by this part.

(b) Each certificate holder shall keep each record required by paragraph (a) (3) and (4) of this section for at least 12 months after it is made.

(c) For multiengine aircraft, each certificate holder is responsible for the preparation and accuracy of a load manifest in duplicate containing information concerning the loading of the aircraft. The manifest must be prepared before each takeoff and must include:

(1) The number of passengers;

(2) The total weight of the loaded aircraft;

(3) The maximum allowable takeoff weight for that flight;

(4) The center of gravity limits;

(5) The center of gravity of the loaded aircraft except, that the actual center of gravity need not be computed if the aircraft is loaded according to a loading schedule or other approved method that ensures that the center of gravity of the loaded aircraft is within approved limits. In such cases, an entry shall be made on the manifest indicating that the center of gravity is within limits in accordance with an identified loading schedule.

(6) Registration number of the aircraft or flight number;

(7) The origin and destination; and

(8) Identification of crew members and their crew position assignments.

(d) The pilot in command of an aircraft for which a load manifest is required to be prepared shall carry a copy of the completed load manifest in the aircraft to its destination and arrange at the takeoff airport for a copy to be mailed to the certificate holder or retained in a suitable place at the airport of takeoff until the flight is completed. The certificate holder shall keep copies of completed load manifests for at least 30 days at its principal operations base, or at another location used by it and approved by the Administrator.

§ 135.51 Flight Information: facilities and services.

(a) Before beginning a flight, each pilot in command shall obtain all available current reports or information on airport conditions and irregularities of navigation facilities that may affect the safety of the flight.

(b) During the flight, the pilot in command shall obtain any additional available information on meterological conditions and irregularities or facilities and services that may affect the safety of the flight.

§ 135.53 Reporting of mechanical irregularities.

(a) Each certificate holder shall provide a maintenance log for the use of flight and maintenance personnel in recording and correcting mechanical irregularities.

(b) Each person who takes action in the case of a reported or observed failure or malfunction of an airframe, powerplant, propeller, rotor, or appliance, shall record that action in the aircraft maintenance log.

(c) Before each takeoff, the pilot in command shall ascertain the status of each irregularity entered in the maintenance log at the end of the preceding landing and that corrective action has been taken, if required.

(d) After each landing, the pilot in command shall enter or have entered in the maintenance log of the aircraft each defect or mechanical irregularity that comes to his attention during flight time as that term is defined in Part 1 of this chapter.

(e) Each certificate holder shall have a procedure for keeping adequate copies of the record required in paragraphs (a), (b), (c) and (d) of this section in the aircraft for access by flight and maintenance personnel and shall include that procedure in the manual required by § 135.23.

V 42 167 AUG 29 77 UMI

§ 135.55 Reporting potentially hazardous meteorological conditions and irregularities of communications or navigation facilities.

Whenever a pilot encounters a potentially hazardous meteorological condition or an irregularity in a ground communications or navigational facility in flight, the knowledge of which he considers essential to the safety of other flights, he shall notify an appropriate ground radio station as soon as practicable and request that the information be disseminated.

§ 135.57 Restriction or suspension of operations: continuation of flight in an emergency.

(a) During operations under this part, if a certificate holder or pilot in command knows of conditions, including airport and runway conditions, that are a hazard to safe operations, the certificate holder or pilot in command, as the case may be, shall restrict or suspend operations as necessary until those conditions are corrected.

(b) No pilot in command may allow a flight to continue toward any airport of intended landing under the conditions set forth in paragraph (a) of this section, unless, in the opinion of the pilot in command, there is no safer procedure. In that event, the continuation toward that airport is an emergency situation as set forth in § 135.21.

§ 135.59 Airworthiness check.

The pilot in command may not begin a flight unless he determines that the airworthiness inspections required by § 91.169 of this chapter, or § 135.341, whichever is applicable, have been made.

§ 135.61 Inspections and tests.

Each certificate holder and each person employed by the certificate holder shall allow the Administrator, at any time or place, to make inspections or tests (including en route inspections) to determine the holder's compliance with the Federal Aviation Act of 1958, applicable regulations, his ATCO certificate, and his operations specifications.

§ 135.63 Inspectors credentials: admission to pilots' compartment: forward observer's seat.

(a) Whenever, in performing his duties of conducting an inspection, an inspector of the Federal Aviation Administration presents an Aviation Safety Inspector credential, FAA Form 110A, to the pilot in command of an aircraft operated by the ATCO certificate holder he must be given free and uninterrupted access to the pilot compartment of that aircraft.

(b) A forward observer's seat on the flight deck, or forward passenger seat with appropriate communications equipment nearby, must be provided for use by the Administrator while conducting en route inspections. The location of the seat and communications equipment, with respect to its suitability for use in conducting en route inspections, is determined by the Administrator.

§ 135.65 Responsibility for operational control.

Each certificate holder is responsible for operational control (the exercise of authority over initiating, conducting, or terminating a flight operation) and shall list, in the manual required by § 135.23, each person authorized by it to exercise operational control.

§ 135.67 Flight locating requirements.

(a) Each certificate holder must have procedures established for locating each flight, for which an FAA flight plan is not filed, that:

(1) Provide the certificate holder with at least the information required to be included in a VFR flight plan;

(2) Provide for timely notification of an FAA facility or search and rescue facility, if an aircraft is overdue or missing; and

(3) Provide the certificate holder with the location, date, and estimated time for reestablishing radio or telephone communications, if the flight will operate in an area where radio communications cannot be maintained.

(b) Flight locating information shall be retained at the certificate holder's principal place of business, or at such other places as may be designated by the certificate holder in the flight locating procedures, until the completion of the flight.

(c) Each certificate holder shall furnish the representative of the Administrator assigned to it with a copy of its flight locating procedures and any changes or additions thereto, unless those procedures are included in a manual required to be maintained under this part.

§ 135.69 Informing personnel of operational information and appropriate changes.

(a) Each certificate holder shall inform each person in his employment of the operations specifications that apply to his duties and responsibilities and shall make available to each of the pilots the following materials in current form:

(1) Airman's Information Manual (Airman's Guide in Alaskan and Pacific Regions) or a commercial publication that contains the same information.

(2) This part and Part 91 of this chapter.

(3) Aircraft Equipment Manuals, and Aircraft Owner's Manual, or Owner's or Flight Handbook.

(4) For foreign operations, the International Flight Information Manual or a commercial publication that contains the same information concerning the pertinent operational and entry requirements of the foreign country or countries involved.

(b) Each certificate holder shall keep its operations personnel informed of each change in equipment and operating procedures, including each known change in the use of navigation aids, airports, air traffic control procedures and regulations, local airport traffic control rules, and known hazards to flight, including icing and other potentially hazardous meteorological conditions and irregularities in ground and navigation facilities.

§ 135.71 Operating information required.

(a) The operator of an aircraft must provide the following materials, in current and appropriate form, accessible to the pilot at the pilot station, and the pilot shall use them:

(1) A cockpit checklist.

(2) In the case of multiengine aircraft or aircraft with retractable landing gear, an emergency cockpit checklist containing the procedures required by paragraph (c) of this section, as appropriate.

(3) Pertinent aeronautical charts.

(4) For IFR operations, each pertinent navigational en route, terminal area, and approach and letdown chart.

(5) In case of multiengine aircraft, one-engine-inoperative climb performance data and if the aircraft is approved for use in IFR or over the top operations, that data must be sufficient to enable the pilot to determine compliance with § 135.151(a)(2).

(b) Each cockpit checklist required by paragraph (a)(1) of this section must contain the following procedures: (1) Before starting engines; (2) Before takeoff; (3) Cruise; (4) Before landing; (5) After landing; (6) Stopping engines.

(c) Each emergency cockpit checklist required by paragraph (a)(2) of this section must contain the following procedures, as appropriate:

(1) Emergency operation of fuel, hydraulic, electrical, and mechanical systems.

(2) Emergency operation of instruments and controls.

(3) Engine inoperative procedures.

(4) Any other emergency procedures necessary for safety.

§ 135.73 Carriage of persons without compliance with the passenger-carrying provisions of this part.

The following persons may be carried aboard an aircraft without complying with the passenger-carrying requirements of this part:

(a) A crewmember.

(b) A person traveling to or from a crewmember or maintenance assignment, when the operator of the aircraft finds that other means of transportation are not practicable.

(c) A person necessary for the safe handling of animals on the aircraft.

(d) A person necessary for the safe handling of hazardous materials (as defined in Subchapter C of Title 49 CFR).

(e) A person performing duty as a security or honor guard accompanying a shipment made by or under the authority of the U.S. Government.

(f) A military courier or a military route supervisor carried by a military cargo contract air carrier or commercial operator in operations under a military cargo contract, if that carriage is specifically authorized by the appropriate military service.

(g) An authorized representative of the Administrator conducting an en route inspection.

(h) A person, authorized by the Administrator, who is performing a duty connected with a cargo operation of the certificate holder.

§ 135.75 Carriage of cargo including carry-on baggage.

No person may carry cargo in or on any aircraft unless—

(a) It is carried in an approved cargo rack, bin, or compartment installed in or on the aircraft;

(b) It is secured by means approved by the Administrator; or

(c) It is carried in accordance with each of the following:

(1) It is properly secured by a safety belt or other tie-down having enough strength to eliminate the possibility of shifting under all normally anticipated flight and ground conditions.

(2) It is packaged or covered to avoid possible injury to occupants.

(3) It does not impose any load on seats or on the floor structure that exceeds the load limitation for those components.

(4) It is not located in a position that obstructs the access to, or use of, any required emergency or regular exit, or the use of the aisle between the crew and the passenger compartment, or located in a position that obscures any passenger's view of the "seat belt" sign "no smoking" sign, or any required exit sign, unless an auxiliary sign or other approved means for proper notification of the passengers is provided.

(5) It is not carried directly above seated occupants.

(6) It is stowed in accordance with the provisions of this section for takeoff and landing.

(7) In the case of cargo only operations, paragraph (c)(4) of this section does not apply if the cargo is loaded in such a manner that at least one emergency or regular exit is available to provide all occupants of the aircraft a means of unobstructed exit from the aircraft in the event of an emergency.

(d) Each passenger seat under which baggage is permitted to be stowed shall be fitted with a means to prevent articles of baggage stowed under it from sliding forward under crash impacts severe enough to induce the ultimate inertia forces specified in the emergency landing condition regulations under which the aircraft was type certificated.

(e) When cargo is carried in cargo compartments that are designed to require the physical entry of a crewmember to extinguish any fire that may occur during flight, the cargo must be loaded in such a manner as to allow a crewmember to effectively reach all parts of the compartment with the contents of a hand fire extinguisher.

§ 135.77 Requirements for use of oxygen.

(a) No person may operate any aircraft—

(1) At cabin pressure altitudes between 10,000 feet (MSL) and 12,000 feet (MSL) inclusive, unless the required minimum flight crew is provided with and uses supplemental oxygen for that part of the flight at those altitudes that is of more than 30 minutes duration;

(2) At cabin pressure altitudes above 12,000 feet (MSL), unless the required minimum flight crew is provided with and uses supplemental oxygen during the entire flight time at those altitudes; and

(3) At cabin pressure altitudes above 12,000 feet (MSL), unless each passenger of the aircraft is provided with supplemental oxygen.

(b) Pressurized cabin aircraft. No person may operate an aircraft with a pressurized cabin—

(1) At flight altitudes above flight level 250, unless at least a 10-minute supply of supplemental oxygen required to satisfy paragraph (a) of this section, is available for each occupant of the aircraft for use in the event that a descent is necessitated by loss of cabin pressurization; and

(2) Unless one pilot at the controls of the airplane is wearing and using an oxygen mask that is secured and sealed, and that either supplies oxygen at all times or automatically supplies oxygen whenever the cabin pressure altitude of the airplane exceeds 12,000 feet (MSL), except that neither pilot need wear and use an oxygen mask while at or below flight level 410 if there are two pilots at the controls and each pilot has a quick-donning type of oxygen mask that can be placed on the face with one hand from the ready position within five seconds, supplying oxygen and properly secured and sealed.

(3) Notwithstanding paragraphs (1) and (2) of this paragraph, if for any reason at any time it is necessary for one pilot to leave his station at the controls of the aircraft when operating at flight altitudes above flight level 250, the remaining pilot at the controls shall put on and use his oxygen mask until the other pilot has returned to his station.

§ 135.79 Oxygen for medical use by passengers.

(a) Except as provided in paragraphs (d) and (e) of this section, no certificate holder may permit the carriage or operation of equipment for the storage, generation or dispensing of medical oxygen unless the unit to be carried is constructed so that all valves, fittings and gauges are protected from damage during such carriage or operation and unless the following requirements are met:

(1) The equipment must be: (i) Of an approved type or in conformity with the manufacturing, packaging, marking, labeling, and maintenance requirements of Title 49 CFR Parts 171, 172, and 173, except § 173.24(a)(1);

(ii) When owned by the certificate holder, maintained in accordance with the certificate holder's approved maintenance program;

(iii) Free of flammable contaminants on all exterior surfaces; and

(iv) Appropriately secured.

(2) When the oxygen is stored in the form of a liquid, the equipment must have been under the certificate holder's approved maintenance program since its purchase new or since the storage container was last purged.

(3) When the oxygen is stored in the form of a compressed gas as defined in Title 49 CFR § 173.300(a)—

(i) When owned by the certificate holder, it must be maintained under his approved maintenance program; and

(ii) The pressure in any oxygen cylinder must not exceed the rated cylinder pressure.

(4) The pilot in command must be advised when the equipment is on board, and when it is intended to be used.

(5) The equipment must be stowed, and each person using the equipment must be seated, so as not to restrict access to or use of any required emergency or regular exit, or of the aisle in the passenger compartment.

(b) No person may smoke and no certificate holder may allow any person to smoke within 10 feet of oxygen storage and dispensing equipment carried in accordance with paragraph (a) of this section.

(c) No certificate holder may allow any person other than a person trained in the use of medical oxygen equipment to connect or disconnect oxygen bottles or any other ancillary component while any passenger is aboard the aircraft.

(d) The provisions of paragraph (a)(1)(i) of this section which prohibit the carriage or operation of equipment for the storage, generation or dispensing of medical oxygen unless that oxygen equipment is of an approved type or in conformity with the manufacturing, packaging, marking, labeling and maintenance requirements of Title 49 CFR Parts 171, 172, and 173, except § 173.24(a)(1), do not apply when that equipment is furnished by a professional or medical emergency service for use on board an aircraft in a medical emergency when no other practical means of transportation (including any other properly equipped certificate holder) is reasonably available and the person carried under the medical emergency is accompanied by a person trained in the use of medical oxygen.

(e) Each certificate holder who, under the authority of this section, deviates from the provisions of paragraph (a)(1)(i) under a medical emergency shall, within 10 days after the deviation, send to the certificate holding FAA Flight Standards District Office a complete report of the operation involved, including a description of the deviation and the reasons for it.

§ 135.81 Autopilot: minimum altitudes for use.

(a) En route operations. Except as provided in paragraphs (b) and (c) of this section, no person may use an automatic pilot en route, including climb and descent, at an altitude above the terrain that is less than twice the maximum altitude loss specified in the aircraft flight manual for a malfunction of the automatic pilot under cruise conditions, or less than 500 feet, whichever is higher.

(b) Approaches. When using an instrument approach facility, no person

V 42 167 AUG 29 77 UMI

may use an automatic pilot at an altitude above the terrain that is less than twice the maximum altitude loss specified in the flight manual for a malfunction of the automatic pilot under approach conditions, or less than 50 feet below the approved minimum descent altitude or decision height for the facility, whichever is higher, except—

(1) When reported weather conditions are less than the basic VFR weather conditions in § 91.105 of this chapter, no person may use an automatic pilot with an approach coupler for ILS approaches at an altitude above the terrain that is less than 50 feet higher than the maximum altitude loss specified in the flight manual for the malfunction of the automatic pilot with approach coupler under approach conditions; and

(2) When reported weather conditions are equal to or better than the basic VFR minimums in § 91.105 of this chapter, no person may use an automatic pilot with an approach coupler for ILS approaches at an altitude above the terrain that is less than the maximum altitude loss specified in the flight manual for the malfunction of the automatic pilot with approach coupler under approach conditions, or 50 feet, whichever is higher.

(c) Notwithstanding paragraphs (a) or (b) of this section, the Administrator may issue operations specifications to allow the use, to touchdown, of an approved flight control guidance system with automatic capability, in any case in which—

(1) The system does not contain any altitude loss (above zero) specified in the flight manual for malfunction of the automatic pilot with approach coupler; and

(2) He finds that the use of the system to touchdown will not otherwise affect the safety standards required by this section.

(d) This section does not apply to operations conducted in rotorcraft under the rules of this part.

§ 135.83 Airmen: limitations on use of services.

(a) No certificate holder may use the services of any person as an airman unless the person performing those services:

(1) Holds an appropriate and current airman certificate issued by the FAA;

(2) Has the required appropriate and valid airman and medical certificate in his possession while engaged in operations under this part; and

(3) Is qualified, under this chapter, for the operation for which he is to be used.

§ 135.85 Aircraft and facilities for recent flight experience.

Each certificate holder shall provide aircraft and facilities to enable each of its pilots to maintain and demonstrate his ability to conduct all operations for which the pilot is authorized.

§ 135.87 Composition of flightcrew.

(a) No certificate holder may operate an aircraft with less than the minimum flight crew specified in the aircraft operating limitations or the Aircraft Flight Manual for that aircraft and required by this part for the kind of operation being conducted.

(b) No certificate holder may operate an aircraft without a second in command if that airplane has a passenger seating configuration, excluding any pilot seat, of ten seats or more.

§ 135.89 Second in command required in IFR conditions.

Except as provided in §§ 135.91 and 135.93 no person may operate an aircraft carrying passengers in IFR conditions, unless there is a second in command in the aircraft.

§ 135.91 Exception to second in command requirement: limited IFR conditions.

Unless two pilots are required by this chapter for operations under VFR, the pilot in command of an aircraft carrying passengers may:

(a) If unforecast weather conditions that are marginal or below the VFR minimums of this part are encountered while en route on a flight which was started and intended to be conducted under the VFR or VFR over-the-top requirements of this part (except for limited IFR operation as permitted under paragraphs (b) (1) and (2) of this section), operate an aircraft in IFR conditions without a second in command if weather reports and forecasts indicate that he will be able to return to VFR or VFR over-the-top operation before reaching a point 15 miles from the destination airport; and

(b) If weather reports and forecasts indicate that the weather along the planned flight route allows flight under the VFR or VFR over-the-top requirements of this part beginning at a point no more than 15 miles from the departure airport and extending to a point within 15 miles of the destination airport, without a second in command:

(1) Take off from the departure airport in IFR conditions and fly in IFR conditions to a point no more than 15 miles from the departure airport; and

(2) Make an IFR approach and land at the destination airport in IFR conditions if:

(i) The weather conditions allow flight, and he flies, clear of the clouds until reaching the prescribed initial approach altitude over the final approach facility; or

(ii) The approach is made with the use of radar as provided in Part 91 of this chapter.

§ 135.93 Exception to second in command requirement: approval for use of autopilot system.

(a) Unless two pilots are required by this chapter for operations under VFR, a person may operate an aircraft without a second in command if it is equipped with an operative autopilot system and the use of that system is authorized by appropriate operations specifications.

(b) The certificate holder may apply for an amendment of his operations specifications to authorize the use of an autopilot system in place of a second in command. The application must contain the make, model, and registration number of each aircraft in which an autopilot is installed and the make and model of each autopilot installed.

(c) The Administrator issues an amendment to the operations specifications authorizing the use of an autopilot system, in place of a second in command, if:

(1) The autopilot is capable of operating the aircraft controls to maintain flight and maneuver it about the three axes; and

(2) The certificate holder shows, to the satisfaction of the Administrator, that operations using the autopilot system can be conducted safely and in compliance with this part.

The amendment contains any conditions or limitations on the use of the autopilot system that the Administrator determines are needed in the interest of safety.

§ 135.95 Flight attendant crewmember requirement.

No certificate holder may operate an aircraft that has a passenger seating capacity of more than 19 unless there is a flight attendant crewmember on board the aircraft.

§ 135.97 Pilot in command or second in command: designation required.

Each certificate holder shall designate a: (a) Pilot in command for each flight; and

(b) Second in command for each flight requiring two pilots.

§ 135.99 Second in command required in Category II operations.

No person may operate an aircraft in a Category II operation unless there is a second in command of the aircraft.

§ 135.101 Passenger occupancy of pilot seat.

No certificate holder may operate an aircraft type certificated after October 15, 1971, that has a passenger seating configuration, excluding any pilot seat, for more than eight passengers if any person other than the pilot in command, a second in command, a company check airman, or an authorized representative of the Administrator, the National Transportation Safety Board, or the Post Office Department occupies a pilot seat.

§ 135.103 Manipulation of controls.

No pilot in command may permit any person to manipulate the flight controls of an aircraft during flight conducted under this part, nor may any person manipulate the controls during such flight unless he is:

(a) A qualified pilot employed by the certificate holder operating that aircraft; or

(b) An authorized safety representative of the Administrator who has the permission of the pilot in command, is qualified in the aircraft, and is checking flight operations.

§ 135.105 Briefing of passengers before flight.

(a) Before each takeoff each pilot in command of an aircraft carrying passengers shall ensure that all passengers have been orally briefed on:

(1) Smoking;

(2) Use of seat belts;

(3) The placement of seat backs in an upright position before takeoff and landing;

(4) Location and means for opening the passenger entry door and emergency exits;

(5) Location of survival equipment;

(6) If the flight involves extended overwater operation, ditching procedures and the use of required flotation equipment; and

(7) If the flight involves operations above 10,000 feet MSL, the normal and emergency use of oxygen;

(8) Location and operation of fire extinguishers.

(b) Before each takeoff the pilot in command shall ensure that each person who may need the assistance of another person to move expeditiously to an exit in the event of an emergency and his attendant, if any, has received a briefing as to the procedures to be followed in the event of an evacuation. The requirements of this paragraph do not apply to a person who has been given a briefing before a previous leg of a flight in the same aircraft.

(c) The oral briefing required by paragraph (a) of this section shall be given by the pilot in command or a member of the crew. It may be supplemented by printed cards for the use of each passenger containing:

(1) A diagram of, and method of operating the emergency exists; and

(2) Other instructions necessary for the use of emergency equipment on board the aircraft.

Each card used under this paragraph must be carried in the aircraft in locations convenient for the use of each passenger and must contain information that is appropriate to the aircraft on which it is to be used.

§ 135.107 Prohibition against carriage of weapons.

No person may, while on board van aircraft being operated by a certificate holder, carry on or about his person a deadly or dangerous weapon, either concealed or unconcealed. This section does not apply to:

(a) Officials or employees of a municipality or a State, or of the United States, who are authorized to carry arms; or

(b) Crewmembers and other persons authorized by the certificate holder to carry arms.

§ 135.109 Alcoholic beverages.

(a) No person may drink any alcoholic beverage aboard an aircraft unless the certificate holder operating the aircraft has served that beverage to him.

(b) No certificate holder may serve any alcoholic beverage to any person aboard its aircraft if that person appears to be intoxicated.

(c) No certificate holder may allow any person to board any of its aircraft if that person appears to be intoxicated.

(d) Each certificate holder shall report to the Administrator, within 5 days after its occurrence, any incident involving the refusal of any person to comply with paragraph (a) of this section, or any disturbance cause by a person who appears to be intoxicated aboard any of its aircraft.

§ 135.111 [Reserved]

§ 135.113 Emergency and emergency evacuation duties.

(a) Each certificate holder shall assign to each required crewmember for each type of aircraft as appropriate, the necessary functions to be performed in an emergency or in a situation requiring emergency evacuation. The certificate holder shall show that those functions can be practicably accomplished, and will meet any reasonably anticipated emergency including incapacitation of individual crewmembers or their inability to reach the passenger cabin because of shifting cargo in combination cargo-passenger aircraft.

(b) The certificate holder shall describe in the manual required under § 135.23 the functions of each category of required crewmembers assigned under paragraph (a) of this section.

Subpart C—Aircraft and Equipment

§ 135.115 Applicability.

This subpart prescribes aircraft and equipment requirements for operations under this part. The requirements of this subpart are in addition to the applicable aircraft and equipment requirements of Part 91 of this chapter. However, this part does not require the duplication of any equipment required by another part.

§ 135.117 General requirements.

(a) No person may operate an aircraft in operations to which this part applies unless that aircraft and its equipment meet the requirements of applicable regulations of this chapter.

(b) No person may operate an aircraft in operations to which this part applies, unless the required instruments and equipment in it have been approved and, for single engine aircraft, are in an operable condition.

(c) ATC transponder equipment must meet the performance and environmental requirements of any Class of TSO–C74b, or Class 1A or Class 1B of TSO–74c, as appropriate, except that the Administrator may approve the use of TSO–C74 or TSO–C74a equipment if the applicant submits data showing that such equipment meets the minimum performance standards of Class 1A or Class 1B of TSO–C74c, and the environmental conditions of the TSO under which it was manufactured.

§ 135.119 [Reserved]

§ 135.121 Aircraft proving tests.

(a) No certificate holder may operate a turbojet-powered airplane, or an aircraft for which two pilots are required by this chapter for operations under VFR, if it has not previously proved that aircraft or an aircraft of the same make and similar design in any operation to which this part applies unless, in addition to the aircraft certification tests, at least 25 hours of proving tests acceptable to the Administrator have been flown by that certificate holder including:

(1) Five hours of night time, if night flights are to be authorized;

(2) Five instrument approach procedures under simulated or actual instrument weather conditions, if IFR flights are to be authorized; and

(3) Entry into a representative number of en route airports as determined by the Administrator.

(b) No certificate holder may carry passengers in an aircraft during proving tests, except those needed to make the tests and those designated by the Administrator to observe the tests. However, pilot flight training may be conducted during the proving tests.

(c) For the purposes of paragraph (a) of this section, an aircraft is considered to be materially altered in design if the alterations include:

(1) The installation of powerplants other than those of a type similar to those with which it is certificated; or

(2) Alterations to the aircraft or its components that materially affect flight characteristics.

(d) This section does not apply to an aircraft of the same make and similar design as an aircraft operated more than 25 hours under this Part by the certificate holder before the date on which this section becomes effective with respect to his operation.

(e) The Administrator may authorize deviation from this section if he finds that special circumstances make full compliance with this section unnecessary.

§ 135.123 Dual controls required.

No person may operate an aircraft in operations requiring two pilots unless that aircraft is equipped with functioning dual controls. However, if the aircraft type certification operating limitations do not require two pilots, a throw-over control wheel may be used in place of two control wheels.

§ 135.125 Equipment requirements: general.

No person may operate an aircraft unless it is equipped with:—(a) A sensitive altimeter that is adjustable for barometric pressure;

(b) Heating or deicing equipment for each carburetor or, in the case of a pressure carburetor, an alternate air source; and

(c) In the case of turbojet-powered airplanes, in addition to two gyroscopic bank-and-pitch indicators (artificial horizons) for use at the pilot stations, a third such instrument that:

(1) Is powered from a source independent of the electrical generating system;

(2) Continues reliable operation for a minimum of 30 minutes after total failure of the electrical generating system;

V 4216 7 A AUG 29 77 UMI

(3) Operates independently of any other attitude indicating system;

(4) Is operative without selection after total failure of the electrical generating system;

(5) Is located on the instrument panel in a position that will make it plainly visible to, and useable by, any pilot at his station; and

(6) Is appropriately lighted during all phases of operation.

(d) In the case of turbojet-powered airplanes having a passenger seating capacity, excluding any pilot seat, of 10 seats or more;

(1) A lockable door between the pilot and passenger compartment.

(2) An approved cockpit voice recorder that—

(i) Is installed in accordance with the requirements of Part 25 of this chapter.

(ii) Is installed and operated continuously from the use of the check list prior to flight to completion of the final check at the termination of the flight; and

(iii) Has erasure features that may be used so that any time during the operation of the recorder, information recorded more than 30 minutes earlier may be erased or otherwise obliterated.

(iv) In the event of an accident, or occurrence requiring immediate notification of the NTSB which results in termination of the flight, the certificate holder shall keep the recorded information for at least 60 days or, if requested, by the Administrator or the Board, for a longer period. Information obtained from the record may be used to assist in determining the cause of accidents or occurrences in the connection with investigations. The Administrator does not use the record in any civil penalty or certificate action.

(3) An approved Flight Data Recorder from which time, airspeed, vertical acceleration and heading may be determined within the ranges, accuracies, and recording intervals specified in § 37.150 of this chapter and for which the following requirements must be met:

(i) Whenever a flight recorder required by this section is installed, it must be operated continuously from the instant the airplane begins the takeoff roll until it has completed the landing roll at an airport.

(ii) Each certificate holder shall keep the record data prescribed in paragraph (e)(2)(iv) of this section until the airplane has been operated a total of 25 hours of the operating time specified in paragraph (d)(2)(ii). A total of one hour of recorded data may be erased for the purpose of testing the flight recorder system. Any erasure made in accordance with this paragraph must be of the oldest recorded data accumulated at the time of the testing. Except as provided in paragraph (e) of this section, no record need be kept more than 60 days.

(iii) In the event of an accident or occurrence that requires immediate notification of the NTSB under part 830 of its regulations, which result in termination of the flight, the certificate holder shall keep the recorded data required by paragraph (d)(2)(ii) of this section at least 60 days or, if requested by the Board or the Administrator, for a longer period.

(iv) Each flight recorder must be installed in accordance with Part 25 of this chapter

(v) Each flight recorder required by this Part must have an approved device to assist in locating that recorder under water; and

(vi) Each recorder required by this section must record data from which the time of each radio transmission either to or from ATC can be determined.

(4) A Ground Proximity Warning System that meets the performance and environmental standards of § 37.201 and for which the following requirements must be met:

(i) For the Ground Proximity Warning System required by this section, the Airplane Flight Manual shall contain appropriate procedures for:

(A) The use of the equipment, (B) proper flight crew action with respect to the equipment, (C) deactivation for planned abnormal and emergency condition, (E) an outline of all input sources that must be operating.

(ii) No person may deactivate a Ground Proximity Warning System required by this section, except in accordance with procedures contained in the Airplane Flight Manual; and

(iii) Whenever a Ground Proximity Warning System is deactivated, an entry shall be made in the airplane maintenance record that includes the date and time of deactivation.

(e) In the case of aircraft having a passenger seating capacity of more than 19, a public address system and a crewmember interphone system, approved in accordance with § 21.205 of this chapter, which meet the requirements of §§ 121.318 and 121.319 respectively, of this chapter.

(f) In the case of turbine powered aircraft, such other equipment as the Administrator may require.

§ 135.127 Fire extinguishers: passenger-carrying aircraft.

No person may operate an aircraft carrying passengers unless it is equipped with hand fire extinguishers of an approved type for use in crew and passenger compartments in accordance with the following:

(a) The type and quantity of extinguishing agent must be suitable for the kinds of fires likely to occur.

(b) At least one hand fire extinguisher must be provided and conveniently located on the flight deck for use by the flight crew

(c) At least one hand fire extinguisher must be conveniently located in the passenger compartment of each aircraft having a passenger seating capacity of at least 6 but less than 31 passengers.

§ 135.129 Oxygen equipment requirements.

(a) No person may operate an aircraft in operations to which this part applies unless it is equipped with—

(1) A pressure demand oxygen breathing system capable of supplying the flight crewmembers the minimum mass flow of oxygen required for each flight crewmember to maintain, during inspiration, a minimum of 83.8 mm, HG, oxygen partial pressure when breathing 20 liters per minute BTPS (Body temperature conditions 37°c, ambient pressure, saturated air) at cabin pressure altitudes in excess of flight level 410; and

(2) Enough oxygen dispensers and oxygen to supply the oxygen required by § 135.77 when flying—

(i) At cabin pressure altitudes above 10,000 feet (MSL), up to and including 12,000 feet (MSL), oxygen to at least one occupant of the aircraft other than the pilots, for that part of the flight at those altitudes that is of more than 30 minutes duration; and

(ii) At cabin pressure altitudes above 12,000 feet (MSL), oxygen to each occupant of the aircraft, for one hour unless, at all times during flight above that altitude, the aircraft can safely descend to 14,000 feet (MSL) within 4 minutes, in which case only a 30-minute supply is required.

(b) The equipment required by this section must have a means—

(1) To enable the flight crew to readily determine, in flight, the amount of oxygen available in each source of supply and whether the oxygen is being delivered to the dispensing units; or

(2) In the case of individual dispensing units, to enable each user to make those determinations with respect to his oxygen supply and delivery; and

(3) To allow the flightcrew to use undiluted oxygen at their discretion.

§ 135.131 Equipment requirements: carrying passengers under VFR at night or under VFR over-the-top conditions.

No person may operate an aircraft carrying passengers under VFR at night or under VFR over-the-top, unless it is equipped with:

(a) A gyroscopic rate-of-turn indicator combined with a slip-skid indicator;

(b) A gyroscopic bank-and-pitch indicator;

(c) A gyroscopic direction indicator;

(d) A generator or generators able to supply all probable combinations of continuous inflight electrical loads for required equipment and for recharging the battery; and

(e) In the case of night flights—

(1) An anticollision light system;

(2) Instrument lights to make all instruments, switches, and gauges easily readable, the direct rays of which are shielded from the pilot's eyes; and

(3) A flashlight having at least two size "D" cells or equivalent. For the purposes of paragraph (d) of this section, a continuous electrical load includes one that draws current continuously during flight, such as radio equipment, electrically driven instruments, and lights, but does not include occasional intermittent loads.

§ 135.133 Radio and navigational equipment: carrying passengers under VFR at night or under VFR over-the-top.

(a) No person may operate an aircraft carrying passengers under VFR at night, or under VFR over-the-top, unless that aircraft has two-way radio communications equipment able, at least in flight, to transmit to, and receive from, ground facilities 25 miles away.

(b) No person may operate an aircraft carrying passengers under VFR at night, or under VFR over-the-top, unless it has radio navigational equipment able to receive radio signals from the ground facilities to be used.

§ 135.135 Equipment requirements: aircraft carrying passengers under IFR.

No person may operate an aircraft under IFR, carrying passengers, unless it has—

(a) A vertical speed indicator;

(b) A free-air temperature indicator;

(c) A heated pitot tube for each airspeed indicator;

(d) A power failure warning device or vacuum indicator to show the power available for gyroscopic instruments from each power source:

(e) An alternate source of static pressure for the altimeter and the airspeed and vertical speed indicators;

(f) In the case of a single-engine aircraft a generator or generators able to supply all probable combinations of continuous inflight electrical loads for required equipment and for recharging the battery;

(g) In the case of multiengine aircraft at least two generators each of which is on a separate engine, of which any combination of one-half of the total number are rated sufficiently to supply the electrical loads of all required instruments and equipment necessary for safe emergency operation of the aircraft; and

(h) Two independent sources of energy (with means of selecting either), of which at least one is an engine-driven pump or generator, each of which is able to drive all gyroscopic instruments and installed so that failure of one instrument or source does not interfere with the energy supply to the remaining instruments or the other energy source, unless, in the case of a single-engine aircraft, the rate-of-turn indicator has a source of energy separate from the bank and pitch and direction indicators. For the purpose of paragraph (f) of this section, a continuous electrical load includes one that draws current continuously during flight, such as radio equipment, electrically driven instruments, and lights, but does not include occasional intermittent loads. For the purpose of paragraph (h) of this section, in the case of a multiengine aircraft, each engine-driven source of energy must be on a different engine.

§ 135.137 Radio and navigational equipment: under extended overwater or IFR operations.

(a) No person may operate a turbojet airplane having a passenger seating capacity, excluding any pilot seat, of 10 seats or more, or a mutilengine airplane carrying passengers as a "Commuter Air Carrier" as defined in Part 298 of this title, under IFR or in extended overwater operations unless it has at least the following radio communications and navigational equipment appropriate to the facilities to be used which are capable of transmitting to, and receiving from, at any place on the route to be flown, at least one ground facility:

(1) Two transmitters; (2) two microphones; (3) two headsets on one headset and one speaker, (4) a marker beacon receiver, (5) two independent VOR receivers for navigation, (6) two independent receivers for communications.

(b) No person may operate an aircraft other than that specified in paragraph (a) of this section, under IFR or in extended overwater operations unless it has at least the following radio communication and navigational equipment appropriate to the facilities to be used and which are capable of transmitting to, and receiving from, at any place on the route; at least one ground facility:

(1) A transmitter, (2) two microphones, (3) two headsets or one headset and one speaker, (4) a marker beacon receiver, (5) two independent receivers for navigation, (6) two independent receivers or communications, (7) for extended overwater operations only, an additional transmitter

(c) For the purpose of paragraphs (a)(5) and (6), and (b)(5) and (6) of this section, a receiver is independent if the function of any part of it does not depend on the functioning of any part of another receiver. However, a receiver that can receive both communications and navigational signals may be used in place of a separate communications receiver and a separate navigational signal receiver.

§ 135.139 Emergency equipment: extended overwater operations.

(a) No person may operate an aircraft in extended overwater operations unless it carries, installed in conspicuously marked locations easily accessible to the occupants in the event of a ditching, the following equipment:

(1) A life preserver equipped with an approved survivor locator light, for an approved flotation means, for each occupant of the aircraft. The life preserver or other flotation means must be easily accessible to each seated occupant. If a flotation means other than a life preserver is used, it must be readily removable from the aircraft.

(2) Enough life rafts (with proper buoyancy) to carry all occupants of the aircraft, and at least the following equipment for each raft clearly marked for easy identification—

(i) One canopy (for sail, sunshade, or for rain catcher),

(ii) One radar reflector (or similar device),

(iii) One life raft repair kit;

(iv) One bailing bucket;

(v) One signaling mirror;

(vi) One police whistle;

(vii) One raft knife;

(viii) One CO_2 bottle for emergency inflation;

(ix) One inflation pump;

(x) Two oars;

(xi) One 75-foot retaining line;

(xi) One magnetic compass;

(xiii) One dye marker;

(xiv) One flashlight having at least two size "D" cells or equivalent;

(xv) At least one approved pyrotechnic signaling device;

(xvi) A two-day supply of emergency food rations supplying at least 1,000 calories a day for each person;

(xvii) One sea water desalting kit for each two persons the raft is rated to carry, or two pints of water for each person the raft is rated to carry;

(xviii) One fishing kit; and

(xix) One book on survival appropriate for the area in which the aircraft is operated.

(b) No person may operate an aircraft in extended overwater operations unless there is attached to one of the life rafts required by paragraph (a) of this section, a survival type emergency locator transmitter that meets the applicable requirements of § 37.200 of this chapter. Batteries used in this transmitter must be replaced (or recharged, if the battery is rechargeable) when the transmitter has been in use for more than 1 cumulative hour, and also when 50 percent of their useful life (or for rechargeable batteries, 50 percent of their useful life of charge), as established by the transmitter manufacturer under § 37.200(g)(2) of this chapter, has expired. The new expiration date for the replacement (or recharged) battery must be legibly marked on the outside of the transmitter. The battery useful life (or useful life of charge) requirements of this paragraph do not apply to batteries (such as water-activated batteries) that are essentially unaffected during probable storage intervals.

§ 135.141 Additional airworthiness requirements.

(a) No person may operate a large airplane in operations to which this Part applies unless that airplane meets the additional airworthiness requirements of §§ 121.213 through 121.283 and 121.307 and 121.312 of this chapter.

(b) No person may operate a reciprocating engine or turbopropeller powered small airplane in operations to which this Part applies that has a passenger seating configuration, excluding any pilot seat, of 10 seats or more unless that airplane is type certificated—

(1) In the transport category;

(2) Before July 1, 1970, in the normal category and meets special conditions issued by the Administrator for airplanes intended for use in operations under this part.

(3) Before July 19, 1970, in the normal category and meets the additional airworthiness standards in SFAR No. 23; or

(4) In the normal category and meets the additional airworthiness standards prescribed in Appendix A of this Part.

(c) No person may operate a small airplane that is type certificated in ac-

V42167 AUG 29 77 UMI

cordance with other than Part 25 of this chapter with a passenger seating configuration, excluding any pilot seat, of 10 seats or more, unless the airplane was approved for operations to which this part applies prior to August 19, 1977.

(d) No person may operate a small airplane that is type certificated in accordance with other than Part 25 of this chapter with a passenger seating configuration, excluding any pilot seat, of 10 seats or more, with a seating configuration greater than the maximum seating configuration approved for operations to which this part applies prior to August 19, 1977.

(e) Notwithstanding the provisions of paragraph (b) of this section, after June 30, 1984, no person may operate a reciprocating engine or turbopropeller powered small airplane in operations to which this part applies that has a passenger seating configuration, excluding any pilot seat, of 10 seats or more, unless that airplane is type certificated in the transport category. This kind of an airplane, if not type certificated in the transport category, may be operated—

(1) Until June 30, 1980, if the airplane was type certificated in the normal category and meets special conditions issued by the Administrator;

(2) Until June 30, 1982, if the airplane was type certificated in the normal category and meets the additional airworthiness standards of SFAR 23; or

(3) Until June 30, 1984, if the airplane was type certificated in the normal category and meets additional airworthiness requirements prescribed in Appendix A of this part.

§ 135.143 Shoulder harness installation at flight crewmember stations.

(a) No person may operate a turbojet-powered aircraft or an aircraft having a passenger seating capacity, excluding any pilot seat, of 10 seats or more in operations to which this part applies unless that aircraft is equipped with an approved shoulder harness installed for each front seat.

(b) Each flight crewmember occupying a seat equipped with a shoulder harness must fasten the shoulder harness during takeoff and landing, except that the shoulder harness may be unfastened if the crewmember cannot perform the required duties with the shoulder harness fastened.

§ 135.145 Airborne thunderstorm detection equipment requirements.

(a) No person may operate a multiengine aircraft that has a passenger seating configuration, excluding any pilot seat, of 10 seats or more under the rules of this part in passenger-carrying operations unless approved thunderstorm detection equipment has been installed in the aircraft.

(b) No person may begin a flight under IFR or night VFR conditions when current weather reports indicate that thunderstorms, or other potentially hazardous weather conditions that can be detected with airborne thunderstorm detection equipment, may reasonably be expected along the route to be flown, unless the airborne thunderstorm detection equipment is in satisfactory operating condition.

(c) If the airborne thunderstorm detection equipment becomes inoperative en route, the aircraft must be operated in accordance with the instructions and procedures specified in the manual required by § 135.23 for such an event.

(d) This section does not apply to aircraft used solely within the State of Hawaii or within the State of Alaska or within and that part of Canada west of longitude 130 degrees W, between latitude 70 degrees N, and latitude 53 degrees N, or during any training, test, or ferry flight.

(e) Notwithstanding any other provision of this part, an alternate electrical power supply is not required for airborne thunderstorm detection equipment.

§ 135.147 Emergency equipment requirements for aircraft having a passenger seating capacity of more than 19 passengers.

(a) No certificate holder may operate an aircraft having a passenger seating capacity of more than 19 passengers unless it is equipped with the following emergency equipment.

(1) One approved first aid kit for treatment of injuries likely to occur in flight or in a minor accident, which meets the following specifications and requirements:

(i) Each first aid kit must be dust and moisture proof, and contain only materials that either meet Federal Specifications GGK–319a, as revised, or as approved by the Administrator

(ii) Required first aid kits must be readily accessible to the cabin flight attendants.

(iii) At time of takeoff, each first aid kit must contain at least the following or other contents approved by the Administrator.

Contents:

	Quantity
Adhesive bandage compressors, 1 in	16
Antiseptic swabs	20
Ammonia inhalents	10
Bandage Compressors, 4 in	8
Triangular bandage compressors, 40 in	5
Burn compound, ⅛ oz. or an equivalent of other burn remedy	6
Arm splint, noninflatable	1
Leg splint, noninflatable	1
Roller bandage, 4 in	4
Adhesive tape, 1-in standard roll	2
Bandage scissors	1

(2) A crash axe carried so as to be accessible to the crew but inaccessible to passengers during normal operations

(3) Signs that are visible to all occupants to notify them when smoking is prohibited and when safety belts should be fastened. The signs must be so constructed that they can be turned on and off by a crewmember. They must be turned on for each takeoff and each landing and when otherwise considered to be necessary by the pilot in command;

(4) In the case of airplanes, the additional emergency equipment specified in § 121.310 of this chapter; and

(5) Each item of equipment must be inspected regularly in accordance with inspection periods established in the operations specifications to ensure its condition for continued serviceability and immediate readiness to perform its intended emergency purposes.

§ 135.149 Inoperable instruments and equipment for multiengine aircraft.

(a) No person may take off any multiengine aircraft for an operations to which this part applies unless the following instructions and equipment are in an operable condition:

(1) Instruments and equipment specifically required by the airworthiness requirements under which the aircraft is type certificated and which are essential for safe operations under all operating conditions.

(2) Instruments and equipment required by an airworthiness directive to be in operable condition unless otherwise provided in the airworthiness directive.

(3) Instruments and equipment, other than those covered under paragraph (a) (1) of this section, whose proper operation is necessary for the aircraft to continue to comply with the airworthiness requirements under which the aircraft is type certificated, except those requirements applicable to—

(i) Non-required instruments and equipment; and

(ii) Instruments and equipment not essential to the safe operation of the aircraft.

(b) No person may take off any multiengine aircraft to which this part applies with inoperable instruments or equipment installed, other than those covered under paragraph (a) of this section, unless the following requirements are met:

(1) An Approved Minimum Equipment list exists for the aircraft type.

(2) The aircraft has within it a letter of authorization, issued by the Flight Standards District Office having certification responsibility for that ATCO certificate holder, authorizing operation of the aircraft in accordance with the Minimum Equipment List.

The letter of authorization may be obtained by written request of the certificate holder. The Minimum Equipment List and the letter of authorization together constitute a supplemental type certificate for the aircraft.

(3) The approved Minimum Equipment List provides for the operation of the aircraft with the inoperable instruments and equipment inoperable.

(4) The aircraft records available to the pilot include an entry describing the inoperable instruments and equipment.

(5) The aircraft is operated in accordance with all applicable conditions and limitations contained in the Minimum Equipment List and in the letter authorizing the use of the list.

(c) Notwithstanding the requirements of paragraphs (a) (1), (a) (3), and (c) of this section, an aircraft with inoperable instruments or equipment may be operated under a special flight permit in accordance with the requirements of §§ 21.197 and 21.199 of this chapter.

§ 135.151 Performance requirements: aircraft operated over-the-top or in IFR conditions.

(a) Except as provided in paragraphs (b) and (c) of this section, no person may—

(1) Operate a single-engine aircraft carrying passengers over-the-top or in IFR conditions; or

(2) Operate a multiengine aircraft carrying passengers over-the-top or in IFR conditions at a weight that will not allow it to climb, with the critical engine inoperative, at least 50 feet a minute when operating at the MEAs of the route to be flown or 5,000 feet MSL, whichever is higher.

(b) Without regard to paragraph (a) (1) or (2) of this section—

(1) If weather reports and forecasts, or any combination thereof, indicate that the weather along the planned route (including takeoff and landing) allow flight under VFR under the ceiling (if a ceiling exists) and that ceiling is forecast to remain so at every reporting point ahead on the route until at least 1 hour after the estimated time of arrival at the point, a person may operate an aircraft in IFR conditions, or "over-the-top"; and

(2) If weather reports and forecasts or any combination thereof indicate that the weather along the planned route allows flight under VFR conditions under the ceiling (if a ceiling exists), beginning at a point no more than 15 miles from the departure airport and extending to a point within 15 miles of the destination airport, a person may—

(i) Take off from the departure airport in IFR conditions and fly in IFR conditions to a point no more than 15 miles from the departure airport;

(ii) Operate an aircraft en route over-the-top;

(iii) If unforecast marginal VFR weather conditions are encountered while en route on a flight which was started and intended to be conducted under the VFR or VFR over-the-top requirements of this part (except for limited IFR operation as permitted under subdivisions (i) and (iv) of this paragraph), operate an aircraft in IFR conditions if weather reports and forecasts or any combination thereof indicate that he will be able to return to VFR or VFR over-the-top operation before reaching a point 15 miles from the destination airport; and (iv) Make an IFR approach and land at the destination airport in IFR conditions if the weather conditions allow flight, and he flies, clear of the clouds from a point en route at least 15 miles from the destination airport until reaching the prescribed initial approach altitude over the final approach facility or if the approach is made with the use of radar as provided in Part 91 of this chapter.

(c) Without regard to paragraphs (a) (1) and (2) of this section, a person may operate an aircraft over-the-top under conditions allowing—

(1) In the case of a multiengine aircraft, descent or continuance of the flight under VFR if its critical engine fails; or

(2) In the case of a single-engine aircraft, descent under VFR if its engine fails.

§ 135.153 Performance requirements: land aircraft operated over water.

No person may operate a land aircraft carrying passengers over water unless—

(a) It is operated at an altitude that allows it to reach land in the case of engine failure;

(b) It is necessary for takeoff or landing;

(c) It is a multiengine aircraft operated at a weight that will allow it to climb, with the critical engine inoperative, at least 50 feet a minute, at an altitude of 1,000 feet above the surface; or

(d) It is a helicopter equipped with helicopter flotation devices.

§ 135.155 Small airplane performance operating limitations.

(a) No person may operate a reciprocating engine powered small transport category airplane unless he complies with the weight limitations prescribed in § 135.275 of this chapter, the takeoff limitations prescribed in § 135.277 (except paragraph (a) (3)), and the landing limitations prescribed in § 135.285 and § 135.287.

(b) No person may operate a turbine engine powered small transport category airplane unless he complies with the takeoff limitations prescribed in § 135.289 of this chapter (except paragraphs (d) and (f)) and the landing limitations prescribed in § 135.295 and § 135.298.

(c) No person may operate a reciprocating engine or turbopropeller powered small airplane that is certificated in accordance with paragraphs (b) (2), (3), and (4) of § 135.141, unless he complies with the takeoff weight limitations prescribed in the Airplane Flight Manual for operations under this part, and if the airplane is certificated in accordance with paragraph (b) (4) of § 135.141 with the landing weight limitations prescribed in the Airplane Flight Manual for operations under this part.

§ 135.157 Empty weight and center of gravity: currency requirement.

(a) No person may operate a multiengine aircraft in operations to which this part applies unless the current empty weight and center of gravity are calculated from values established by actual weighing of the aircraft within the preceding 36 calendar months.

(b) Paragraph (a) of this section does not apply to—

(1) Aircraft issued an original airworthiness certificate within the preceding 36 calendar months; and

(2) Aircraft operated under a weight and balance system approved in the operations specifications of the certificate holder.

Subpart D—VFR/IFR Operating Limitations and Weather Requirements

§ 135.159 Applicability.

This subpart prescribes the operating limitations for VFR/IFR flight operations and associated weather requirements for operations under this part.

§ 135.161 VFR: minimum altitudes.

Except when necessary for takeoff and landing, no person may operate, under VFR—

(a) An airplane—

(1) During the day, below 500 feet above the surface or less than 500 feet horizontally from any obstacle; or

(2) At night, at an altitude less than 1,000 feet above the highest obstacle within a horizontal distance of 5 miles from the course intended to be flown or, in designated mountainous terrain, less than 2,000 feet above the highest obstacle within a horizontal distance of 5 miles from the course intended to be flown; or

(b) A helicopter over a congested area at an altitude less than 300 feet above the surface.

§ 135.163 VFR: visibility requirements.

(a) No person may operate an airplane under VFR, in uncontrolled airspace at night, or in uncontrolled airspace during the day when the ceiling is less than 1,000 feet, unless flight visibility is at least 2 miles.

(b) No person may operate a helicopter under VFR in uncontrolled airspace at an altitude of 1,200 feet or less above the surface or in control zones unless the visibility is at least—

(1) During the day—½ mile; or

(2) At night—1 mile.

§ 135.165 VFR: helicopter surface reference requirements.

No person may pilot a helicopter under VFR unless he has visual surface reference or, at night, visual surface light reference, sufficient to safely control the helicopter.

§ 135.167 VFR: fuel supply.

(a) No person may begin a flight operation in an airplane under VFR unless, considering wind and forecast weather conditions, it has enough fuel to fly to the first point of intended landing and, assuming normal cruising fuel consumption—

(1) During the day, to fly thereafter for at least 30 minutes; or

(2) At night, to fly thereafter for at least 45 minutes.

(b) No person may begin a flight operation in a helicopter under VFR unless, considering wind and forecast weather conditions, it has enough fuel to fly to the first point of intended landing and, assuming normal cruising fuel consumption, to fly thereafter for at least 20 minutes.

V 42 167 AUG 29 77 UMI

§ 135.169 VFR Over-the-top carrying passengers: operating limitations.

Subject to any additional limitations contained in § 135.151, no person may operate an aircraft VFR over-the-top carrying passengers, unless—

(a) Weather reports and forecasts, or any combination thereof, indicate that the weather at the intended point of termination of over-the-top flight—

(1) Allows descent to beneath the ceiling under VFR and is forecast to remain so until at least 1 hour after the estimated time of arrival at that point; or

(2) Allows an IFR approach and landing with flight clear of the clouds until reaching the prescribed initial approach altitude over the final approach facility, unless the approach is made with the use of radar as provided in § 91.116(f) of this chapter; or

(b) It is operated under conditions allowing—

(1) In the case of multiengine aircraft, descent or continuation of the flight under VFR if its critical engine fails; or

(2) In the case of single-engine aircraft, descent under VFR if its engine fails.

§ 135.171 Weather reports and forecasts.

(a) Whenever a person operating an aircraft in operations to which this part applies is required to use a weather report or forecast, he shall use that of the U.S National Weather Service, a source approved by the U.S. National Weather Service, or a source approved by the Administrator. However, in the case of operations under VFR, the pilot in command may, if such a report is not available, use weather information based on his own observations or on those of other persons competent to supply appropriate observations.

(b) For the purposes of paragrah (a), weather observations made and furnished to pilots to control IFR operations at an airport must be taken at the airport where those IFR operations are conducted, unless the Administrator issues operations specifications allowing the use of weather observations taken at a location other than on the airport where the IFR operations are conducted. The Administrator issues such operations specifications whenever, after investigation by the U.S. National Weather Service and the FAA Flight Standards District Office having jurisdiction over the area in which the airport is located, it is found that the standards of safety for such an operation would allow the deviation from the requirements of this paragraph for a particular operation for which an ATCO operating certificate has been issued.

§ 135.173 [Reserved]

§ 135.175 IFR: operating limitations.

(a) Except as provided in paragraphs (b), (c) and (d) of this section, no person may operate an aircraft, under IFR, outside of controlled airspace or at any airport that does not have an approved standard instrument approach procedure.

(b) The Administrator may issue operations specifications to the certificate holder to allow him to operate IFR over routes outside controlled airspace if—

(1) The certificate holder shows the Administrator that his flight crew is able to navigate, without visual reference to the ground, over an intended track without deviating more than 5 degrees or 5 miles, whichever is less, from that track; and

(2) The Administrator otherwise determines that the proposed operations can be conducted safely.

(c) A person may operate an aircraft under IFR outside of controlled airspace when it is necessary for the conduct of an instrument approach to an airport for which there is in use a current approved standard or special instrument approach procedure; or when it is necessary to climb into controlled airspace during an approved missed approach procedure; or when it is necessary to make an IFR departure from an airport having an approved instrument approach procedure; and the certificate holder has been approved for such operations.

(d) The Administrator may issue operations specifications to the certificate holder to allow him to depart at an airport that does not have an approved standard instrument approach procedure when the Administrator determines that it is necessary to make an IFR departure from that airport and that the proposed operations can be conducted safely; however, the approval to operate at that airport does not include approval to make an IFR approach to that airport.

§ 135.177 IFR: takeoff limitations.

No person may take off an aircraft under IFR from an airport where weather conditions are at or above take off minimums but are below authorized IFR landing minimums unless there is an alternate airport within 1 hour's flying time (at normal cruising speed, in still air) of the airport of departure.

§ 135.179 IFR: destination airport weather minimums.

No person may take off an aircraft under IFR or begin an IFR or over-the-top operation unless the latest weather reports and forecasts, or any combination thereof, indicate that weather conditions, at the estimated time of arrival at the next airport of intended landing will be at or above authorized IFR landing minimums.

§ 135.181 IFR: alternate airport weather minimums.

No person may designate an alternate airport unless the weather reports and forecasts, or any combination thereof, indicate that the weather conditions will be at or above authorized alternate airport landing minimums for that airport at the estimated time of arrival.

§ 135.183 IFR: alternate airport requirements.

(a) Except as provided in paragraph (b) of this section, no person may operate an aircraft in IFR conditions unless it carries enough fuel (considering weather reports and forecasts) to—

(1) Complete the flight to the first airport of intended landing;

(2) Fly from that airport to the alternate airport; and

(3) Fly thereafter for 45 minutes at normal cruising speed.

(b) Paragraph (a)(2) of this section does not apply if Part 97 of this chapter prescribes a standard instrument approach procedure for the first airport of intended landing and, for at least one hour before and after the estimated time of arrival, the appropriate weather reports and forecasts, or any combination thereof, indicate that:

(1) The ceiling will be at least 1,500 feet above the lowest circling MDA, or;

(2) If circling is not authorized for the airport, the ceiling will be at least 1,500 feet above the lowest published minimum or 2,000 feet above the airport elevation, whichever is higher; and

(3) Visability for that airport is forecast to be at least three miles, or two miles more than the lowest applicable visibility minimums, whichever is the greater, for the instrument approach procedure to be used at the destination airport.

§ 135.185 IFR: takeoff, approach and landing minimums.

(a) No pilot may begin an instrument approach procedure to an airport unless:

(1) That airport has a weather reporting facility operated by the U.S. National Weather Service, a source approved by U.S. National Weather Service, or a source approved by the Administrator; and

(2) The latest weather report issued by that weather reporting facility indicates that weather conditions are at or above the authorized IFR landing minimums for that airport.

(b) No pilot may begin the final approach segment of an instrument approach procedure to an airport unless the U.S. National Weather Service, a source approved by the U.S. National Weather Service, or a source approved by the Administrator, issues a weather report for that airport and unless the latest weather reported indicates that weather conditions are at or above the authorized IFR landing minimums for that airport.

(c) If a pilot has begun the final approach segment of an instrument approach to an airport in accordance with paragraph (b) of this section and a later weather report indicating below minimum conditions is received after the aircraft is:

(1) On an ILS final approach and has passed the outer marker;

(2) On an ASR or PAR final approach and has been turned over to the final approach controller or;

(3) On a final approach using a VOR, NDB, or comparable approach procedure and:

(i) has passed the appropriate facility or final approach fix; or

(ii) where a final approach fix is not specified, has completed the procedure turn and is established inbound toward the airport on the final approach course within the distance prescribed in the procedure;

The approach may be continued and a landing made if the pilot finds, upon reaching the authorized MDA or DH, that actual weather conditions are at least equal to the minimums prescribed for the procedure.

(d) The MDA or DH and visibility landing minimums prescribed in Part 97 of this chapter or in the operator's operations specifications are increased by 100 feet and ½ mile respectively, but not to exceed the ceiling and visibility minimums for that airport when used as an alternate airport, for each pilot in command of a turbine-powered airplane who has not served at least 100 hours as pilot in command in that type of airplane.

(e) Each pilot making an IFR takeoff or approach and landing at a military or foreign airport shall comply with applicable instrument approach procedure and weather minimums prescribed by the authority having jurisdiction over that airport. In addition, no pilot may, at such an airport:

(1) Take off under IFR when the visibility is less than 1 mile; or

(2) Make an instrument approach when the visibility is less than ½ mile.

(f) If takeoff minimums are specified in Part 97 of this chapter for the takeoff airport, no pilot may take off an aircraft under IFR when the weather conditions reported by the U.S. National Weather Service, a source approved by the U.S. National Weather Service, or a source approved by the Administrator, are less than the takeoff minimums specified for the takeoff airport in Part 97 or in the certificate holder's operations specifications.

(g) Except as provided in paragraph (h) of this section, if takeoff minimums are not prescribed in Part 97 of this chapter for the takeoff airport, no pilot may take off an aircraft under IFR when the weather conditions reported by the U.S. National Weather Service, a source approved by the U.S. National Weather Service, or a source approved by the Administrator, are less than that prescribed in Part 91 of this chapter or in the certificate holder's operations specifications.

(h) At airports where straight-in instrument approach procedures are authorized, a pilot may take off an aircraft under IFR when the weather conditions reported by the U.S. National Weather Service, a source approved by the U.S. National Weather Service, or a source approved by the Administrator, are equal to or better than the lowest straight-in landing minimums, unless otherwise restricted, provided that:

(1) The wind direction and velocity at the time of takeoff are such that a straight-in instrument approach can be made to the runway served by the instrument approach;

(2) The system and the associated ground facilities and related airborne equipment upon which the landing minimums are predicated are in normal operation;

(3) The certificate holder has been approved for such operations; and

(4) The pilot meets the proficiency required by § 135.229.

§ 135.187 Icing conditions: operating limitations.

(a) No pilot may take off an aircraft that has: (1) Frost, snow, or ice adhering to any windshield or powerplant installation; or to an airspeed, altimeter, rate of climb or flight attitude instrument system;

(2) Snow or ice adhering to the wings, or stabilizing or control surfaces, or rotor, or propellers of the aircraft; or

(3) Any frost adhering to the wings, or rotors, or propellers of the aircraft, unless the wings, or stabilizing or control surfaces, or rotors or propellers have been smoothed to prevent the disruption by the frost of airflow over such surfaces;

(b) No pilot may take off an aircraft, for flight under VFR, or continue to operate an aircraft in flight under VFR, into known or forecast icing conditions unless the aircraft has installed functioning de-icing or anti-icing equipment protecting each rotor blade, propeller, windshield, wing, stabilizing or control surface, and each airspeed, altimeter, rate of climb, or flight attitude instrument system.

(c) No pilot may take off an aircraft, for flight under IFR, or continue to operate an aircraft in flight under IFR, into known or forecast icing conditions unless the aircraft has installed functioning de-icing or anti-icing equipment which meets the certification requirements of Section 34 of Special Federal Aviation Regulation No. 23, or Part 23 effective November 19, 1973, or those for transport category aircraft type certification as applicable to that aircraft.

(d) If current weather reports and briefing information relied upon by the pilot in command indicate the forecast icing condition that would otherwise prohibit the flight will not be encountered during the flight because of changed weather conditions since the forecast, the restrictions in paragraphs (b) and (c) of this section based on forecast conditions do not apply.

§ 135.189 Airport requirements and emergency lighting.

(a) No certificate holder may use any airport unless it is properly equipped and adequate for the proposed operation, considering such items as size, surface, obstructions, facilities, public protection, and lighting.

(b) Except in the case of an emergency, no person may conduct night operations with the use of flare pots or lanterns to mark the limits of the area to be used for takeoff or landing.

(c) In the case of the emergency use of flare pots or lanterns, the lighting provided must be spaced at a uniform interval of not more than 200-feet along both edges of the usable runway.

(d) Except under the provisions of paragraphs (b) and (c) of this section, no person may conduct night takeoffs and landings in a large or turbojet-powered airplane when flare pots or lanterns have been substituted for more than 25 percent of the runway edge lights for the runway to be used.

(e) Except as provided in paragraphs (b) (c) and (d) of this section, no person may operate an aircraft in operations to which this part applies using any type of lighting to mark the limits of the area to be used for takeoff or landing unless that type of lighting has been specifically approved by the Administrator.

Subpart E—Flight Crewmember Requirements

§ 135.191 Applicability.

This subpart prescribes the flight crewmember requirements for operations under this part.

§ 135.193 Pilot in command qualifications.

(a) No pilot, in passenger-carrying operations, may act as pilot in command of a turbojet-powered airplane, or an airplane having a passenger seating capacity, excluding any pilot seat, of 10 seats or more, or a multiengine airplane being operated by a "commuter air carrier" as defined in Part 298 of this title, unless he holds an airline transport pilot certificate with appropriate category and class ratings and, if required, an appropriate type rating for that aircraft.

(b) Except as provided in paragraph (a) of this section, no pilot may act as pilot in command of an aircraft under VFR unless:

(i) He holds at least a commercial pilot certificate with appropriate category and class ratings and, if required, an appropriate type rating for that aircraft;

(ii) He has had at least 500 hours time as a pilot, including at least 100 hours of cross-country flight time, at least 25 hours of which were at night; and

(iii) In the case of an airplane, he holds an instrument rating or an airline transport pilot certificate with an airplane category rating; or

(iv) In the case of helicopter operations conducted VFR over-the-top, he holds a helicopter instrument rating, or an airline transport pilot certificate with a category and class rating for that aircraft, not limited to VFR.

(c) Except as provided in paragraph (a) of this section, no pilot may act as pilot in command of an aircraft under IFR unless:

(i) He holds at least a commercial pilot certificate with appropriate category and class ratings and, if required, an appropriate type rating for that aircraft; and

V 42167 A AUG 29 77 UMI

(ii) He has had at least 1,200 hours of flight time as a pilot, including 500 hours of cross country flight time, 100 hours of night flight time, and 75 hours of actual or simulated instrument time, at least 50 hours of which were in actual flight; and

(iii) In the case of an airplane, he holds an instrument rating or an airline transport pilot certificate with an airplane category rating; or

(iv) In the case of helicopters, he holds a helicopter instrument rating, or an airline transport pilot certificate with a category and class rating for that aircraft, not limited to VFR.

§ 135.195 [Reserved]

§ 135.197 Second in command qualifications.

No person may act as second in command of an aircraft unless he holds at least a commercial pilot certificate with appropriate category and class ratings and an instrument rating. In the case of flight under IFR he must have met the recent instrument experience requirements of Part 61 of this chapter.

§ 135.199 Pilot qualifications: recent experience.

(a) No certificate holder may use any person nor may any person serve as a pilot flight crewmember, unless, within the preceding 90 days, that person has made at least three takeoffs and three landings as the sole manipulator of the flight controls in an aircraft of the same category and class and, if type rating is required, of the same type in which he is to serve.

(b) For the purposes of paragraph (a) of this section, if the aircraft is a tailwheel airplane, the takeoffs and landings must have been made to a full stop in a tailwheel airplane.

Subpart F—Flight Crewmember Flight and Duty Time Limitations and Rest Requirements

§ 135.200 Applicability.

This subpart prescribes flight and duty time limitations and rest requirements for flight crewmembers utilibed by air taxi and commercial operators certificated under this part.

§ 135.201 Definition of terms.

For the purposes of this subpart:—

"Augmented flight crew" means a flight crew which includes one or more relief officers in addition to the basic flight crew.

"Basic flight crew" means the minimum flight crew required by the aircraft type certificate.

"Boarding point or location" means the place at which passengers, cargo or crewmembers are enplaned for the purpose of flight, or are deplaned after a flight.

"Deadhead transportation" means transportation, not local in character, that a certificate holder requires and provides to transport a crewmember to or from a duty station.

"Duty period" means the time between successive, required rest periods during which a crewmember accumulates duty time.

"Duty time" means the time during which a flight crewmember performs any required assignment for a certificate holder or accumulates flight time in other commercial or military operations. Duty time also includes time spent on the ground between flights in the same duty period.

"Flight time" means the time during which a flight crewmember serves as either a pilot in command, or second in command, in any operations for a certificate holder, or in other commercial or military operations. Flight time begins when the aircraft departs the boarding point for the purpose of flight and ends when the aircraft arrives at a boarding point or location after landing, except that, in the case of rotorcraft, flight time means a period of time which begins when the rotor starts turning under engine power for the purpose of flight and ends when the engine is shut down at the end of the flight.

"Relief officer" means a flight crewmember who is scheduled to serve with an augmented flight crew and to accumulate flight time in relief of one or more flight crewmembers.

"Rest period" means a continuous period of time required by this subpart during which a crewmember does not accumulate any duty time. A rest period does not include time spent in deadhead transportation.

§ 135.203 Flight and duty time limitations: all flight crewmembers.

(a) No certificate holder may schedule a flight crewmember, and except as provided in paragraph (c) of this section, no flight crewmember may accumulate flight time in excess of:

(1) Any flight or duty time limitation of this subpart.

(2) 40 hours in any 168 consecutive hours.

(3) 120 hours in any calendar month.

(4) 1,000 hours in any calendar year.

(b) In scheduling a flight crewmember for flight and duty time under this subpart, a certificate holder shall use the time normally necessary for the performance of the flight or duty involved.

(c) A flight crewmember may serve in excess of any flight or duty time limitation of this subpart only if the excess time is due to reasons beyond the control of the certificate holder; however, a flight crewmember may not depart the boarding gate for the purpose of flight of his actual elapsed flight time, plus the flight time scheduled for the next flight, will cause him to exceed the applicable flight or duty time limitation by more than two hours.

§ 135.205 Deadhead transportation:

Deadhead transportation shall be considered duty time unless the deadhead transportation is followed immediately by a rest period. If a rest period is provided, it must be at least eight hours and may be provided concurrently with any other rest period required by this subpart.

§ 135.207 Determination of applicable flight and duty time limitations.

A flight crewmember, who accumulates flight time with more than one flight crew during a duty period, shall be governed by the flight and duty time limitations for the smallest numerical crew complement with which he serves in line operations for the certificate holder.

§ 135.209 Rest requirements.

(a) A certificate holder shall provide each flight crewmember with a rest period of not less than 24 hours at least once during every 168 consecutive hours. This 24 hour rest period may be provided concurrently with any other rest period required by this subpart.

(b) That period of time during which a crewmember, who is otherwise in a rest period, is required by the certificate holder to be available to receive a schedule of duty time may be considered part of a rest period.

(c) The rest period required by §§ 135.211, 135.213, and 135.217 must be at least twice the number of hours of flight time accumulated since the last rest period, but not less than eight hours.

§ 135.211 Flight crew consisting of: one pilot.

(a) This section applies to flight crews consisting of one pilot.

(b) No certificate holder may schedule a flight crewmember, and no flight crewmember may serve, in excess of eight hours of flight time, or 12 hours of duty time, without a rest period.

§ 135.213 Flight crew consisting of: pilot in command and second in command.

(a) This section applies to flight crews consisting of a pilot in command and a second in command.

(b) No certificate holder may schedule a flight crewmember, and no flight crewmember may serve, in excess of 10 hours of flight time, or 12 hours of duty time, without a rest period.

§ 135.215 Augmented flight crews.

(a) The pilot in command, as designated by the certificate holder under § 135.97 of this part, shall remain the pilot in command at all times during that flight.

(b) During operations involving one or more relief officers, either the pilot in command or the second in command, as designated by the certificate holder, shall be at a pilot station at all times.

§ 135.217 Flight crews consisting of: pilot in command, second in command, and relief officers.

(a) This section applies to flight crews consisting of a pilot in command, a second in command, and a relief officer.

(b) No certificate holder may schedule a flight crewmember, and no flight crewmember may serve, in excess of 12 hours of flight time, or 16 hours of duty time, without a rest period.

§ 135.219 [Reserved]

Subpart G—Crewmember Testing Requirements

§ 135.223 Applicability.

This subpart prescribes requirements for the tests and checks required for pilot and flight attendant crewmembers and for the approval of check pilots in operations under this part.

§ 135.225 Initial and recurrent pilot testing requirements.

(a) No certificate holder may use the services of a pilot, nor may any person serve as a pilot, unless, since the beginning of the 12th calendar month before that service, he has passed a written or oral test, given to him by the Administrator or an authorized check pilot, on his knowledge in the following areas:

(1) The appropriate provisions of Parts 61, 91, and 135 of this chapter and the operations specifications and the manual of the certificate holder;

(2) For each type of aircraft to be flown by the pilot, the aircraft powerplant, major components and systems, major appliances, performance and operating limitations, standard and emergency operating procedures, and the contents of the approved aircraft flight manual or owner's handbook, as applicable;

(3) For each type of aircraft to be flown by the pilot, the method of determining compliance with weight and balance limitations for takeoff, landing and en route operations;

(4) Navigation and use of air navigation aids appropriate to the operation or pilot authorization, including, when applicable, instrument approach facilities and procedures;

(5) Air traffic control procedures, including IFR procedures when applicable;

(6) Meteorology in general, including the principles of frontal system, icing, fog, thunderstorms, and windshear, and, if appropriate for the operation of the certificate holder, high altitude weather;

(7) Procedures for avoiding operations in thunderstorms and hail, and for operating in turbulent air or in icing conditions; and

(8) New equipment, procedures, or techniques, as appropriate.

(b) No certificate holder may use the services of a pilot, nor may any person serve as a pilot, in any aircraft unless, since the beginning of the 12th calendar month before that service, he has passed a competency check given to him by the Administrator or an authorized check pilot in that class of aircraft, if single-engine airplane other than turbojet, or that type of aircraft, if helicopter, multiengine, or turbojet, to determine the pilot's competence in practical skills and techniques in that aircraft or class of aircraft. The extent of the competency check shall be determined by the Administrator or authorized check pilot conducting the competency check. The competency check may include any of the maneuvers and procedures currently required for the original issuance of the particular pilot certificate required for the operations authorized and appropriate to the category, class and type of aircraft involved. For the purposes of this paragraph, type as used with respect to an airplane herein, means any one of a group of airplanes determined by the Administrator to have a similar means of propulsion, the same manufacturer, and no significantly different handling or flight characteristics.

(c) The instrument proficiency check required by § 135.229 may be substituted for the competency check required by this section for the type of aircraft used in the check.

(d) For the purpose of this part, competent performance of a procedure or maneuver by a person to be used as a pilot requires that he be the obvious master of the aircraft, with the successful outcome of the maneuver never in doubt.

(e) The Administrator or authorized check pilot certifies the competency of each pilot who passes the knowledge or flight check in the certificate holder's pilot records.

(f) Portions of a required competency check may be given in an aircraft simulator or other appropriate training device, if approved by the Administrator.

§ 135.227 Initial and recurrent flight attendant crewmember testing requirements.

No certificate holder may use the services of a flight attendant crewmember, nor may any person serve as a flight attendant crewmember, unless, since the beginning of the 12th calendar month before that service, the certificate holder has determined by appropriate initial and recurrent testing that the person is knowledgeable and competent in the following areas as appropriate to assigned duties and responsibilities:

(a) Authority of the pilot in comand;

(b) Passenger handling, including procedures to be followed in the event of the presence of deranged persons or other persons whose conduct might jeopardize the safety of other passengers;

(c) Crewmember assignments, functions, and responsibilities during ditching and evacuation of persons who may need the assistance of another person to move expeditiously to an exit in the event of an emergency;

(d) Briefing of passengers;

(e) Location and operation of portable fire extinguishers;

(f) Proper use of cabin equipment and controls;

(g) Location and operation of passenger oxygen equipment;

(h) Location and operation of all normal and emergency exits, including evacuation chutes and escape ropes; and

(i) Seating of persons who may need assistance of another person to move rapidly to an exit in the event of an emergency as prescribed by the certificate holder's operations manual.

§ 135.229 Pilot in command: instrument proficiency check requirements.

(a) No certificate holder may use a pilot, nor may any person serve as a pilot in command of an aircraft under IFR unless, since the beginning of the sixth calendar month before that use, he has passed an instrument proficiency check and the Administrator or an authorized check pilot has so certified in a letter of competency.

(b) No pilot may use any type of instrument approach procedure under IFR unless, since the beginning of the sixth calendar month before that use he has successfully demonstrated that procedure and the Administrator or an authorized check pilot has so certified in a letter of competency.

(c) The instrument proficiency check required by paragraph (a) of this section consists of an oral or written equipment test and a flight check under simulated or actual IFR conditions. The equipment test includes questions on emergency procedures, engine operation, fuel and lubrication system, power settings, stall speeds, best engine-out speed, propeller and supercharger operations, and hydraulic, mechanical, and electrical systems, as appropriate. The instrument proficiency check includes navigation by instruments, recovery from simulated emergencies, and standard instrument approaches involving navigational facilities that he is to be authorized to use. Each person taking the instrument proficiency check must show that standard of competence required by paragraph (d) of § 135.225. The instrument proficiency check must include at least:

(1) The procedures and maneuvers set forth for an airline transport pilot certificate in the particular type of airplane, if appropriate, in the case of a pilot in command of an airplane under § 135.193(a), on the procedures and maneuvers set forth for a commercial pilot certificate and an instrument rating and, if required, for the appropriate type rating for all other pilots. In the case of an ATCO certificate holder whose operations specifications limit its operations to VFR only, the instrument portion of the proficiency check is not required.

(2) It must be given by an authorized check airman or by the Administrator.

(d) If the pilot in command is assigned to pilot only one type of aircraft, he must take the instrument proficiency check required by paragraph (a) of this section in that type of aircraft.

(e) If the pilot in command is assigned to pilot more than one type of aircraft, he must take the instrument proficiency check required by paragraph (a) of this section in each type of aircraft to which he is assigned, in rotation, but not more than one flight check during each period described in paragraph (a) of this section.

(f) If the pilot in command is assigned to pilot both single-engine and multiengine aircraft, he must take the instrument proficiency checks required by paragraph (a) of this section alternately in multiengine and single-engine aircraft, but not more than one flight check during each period described in paragraph (a) of this section. Portions of a required flight check may be given

V 42167 AUG 29 77 UMI

in an aircraft simulator or other appropriate training device, if approved by the Administrator.

(g) If the pilot in command is authorized to use an autopilot system in place of a second in command, he must show, during the required instrument check, that he is able, (without a second in command) both with and without using the autopilot to:

(1) Conduct instrument operations competently; and

(2) Properly conduct air-ground communications and comply with complex air traffic control instructions.

(3) Each person taking the autopilot check must show that, while using the autopilot, the airplane can be operated as proficiently as it would be if a second in command were present to handle air-ground communications and copy air traffic control instructions. The autopilot check need only be demonstrated once every 12 calendar months during the instrument check required under paragraph (a) of this section.

(h) The Administrator or authorized check pilot issues a letter of competency to each pilot who passes the instrument proficiency check. The letter of competency contains a list of the type of instrument approach procedures authorized and, if the pilot passes the autopilot check, an authorization to use an autopilot system in place of a second in command.

§ 135.231 Pilot in command: line checks: routes and airways.

(a) No certificate holder may use a pilot, nor may any person serve, as a pilot in command of a flight under VFR unless, since the beginning of the 12th calendar month before that service, he has passed a flight check in one of the types of aircraft that he is to fly, given by an approved check pilot who is qualified in the aircraft, or by the Administrator, consisting of at least one flight over one route segment and including takeoffs and landings at one or more representative airports.

(b) No certificate holder may use a pilot, nor may any person serve, as pilot in command of a flight under IFR unless, since the beginning of the 12th calendar month before that service he has passed a flight check in one of the types of airplanes that he is to fly, given by an approved check pilot who is qualified in the aircraft, or by the Administrator, consisting of at least one flight over a federal airway or approved off-airway route, or portion thereof, including takeoffs and landings at two or more representative airports.

(c) The person who conducts the check shall determine whether the pilot being checked satisfactorily performs the duties and responsibilities of a pilot in command in operations under this Part, and shall so certify in the pilot training record.

(d) Each certificate holder shall establish in the manual required by § 135.23 a procedure whereby each pilot who has not flown over a route and into an airport within the preceding 90 days will, before beginning the flight, familiarize himself with all available information concerning that flight. This information must include the subjects listed in paragraph (d) of this section in regard to the routes to be flown and airports into which he is to operate.

(e) Each qualifying pilot shall show that he has adequate knowledge of the following:

(1) Weather characteristics appropriate to the seasons.

(2) Navigation facilities.

(3) Communication procedures.

(4) Kinds of terrain and obstruction hazards.

(5) Minimum safe flight levels.

(6) Pertinent air traffic control procedures including terminal area, arrival, departure, holding, and instrument approach procedures.

(7) Congested areas, obstructions, and physical layout of each area in the terminal area in which the pilot will operate.

§ 135.233 Crewmember: tests and checks, grace provisions; training to accepted standards.

(a) If a crewmember who is required to take a test or a flight check under this part, completes the test or flight check in the calendar month before or after the calendar month in which it is required, he is considered to have completed the test or check in the calendar month in which it is required.

(b) If a pilot being checked under this part fails any of the required maneuvers, the person giving the check may give additional training to the pilot during the course of the check. In addition to repeating the maneuvers failed, the person giving the check may require the pilot being checked to repeat any other maneuvers he finds are necessary to determine the pilot's proficiency. If the pilot being checked is unable to demonstrate satisfactory performance to the person conducting the check, the certificate holder may not use him nor may he serve in operations under this part until he has satisfactorily completed the check.

§ 135.235 Check pilot authorization: application and issue.

Each certificate holder desiring FAA approval of a check pilot shall submit his request in writing to the FAA District Office having jurisdiction over the area in which the holder's principal business office is located. The Administrator may issue a letter of authority to each check pilot if he passes the appropriate oral and flight test. The letter of authority lists the tests and checks in this part that the check pilot is qualified to give, and the category, class and type aircraft, where appropriate, for which the check pilot is qualified.

Subpart H—Training

§ 135.237 Applicability and terms used.

(a) This subpart prescribes requirements applicable for establishing and maintaining an approved training program for crewmembers, check-airmen and instructors, and other operations personnel, and for the approval and use of aircraft simulators and other training devices in the conduct of that program.

(b) For the purpose of this subpart, aircraft groups are as follows:

(1) Group I. Propeller driven, including: (i) reciprocating powered; and

(ii) Turbopropeller powered.

(2) Group II. Turbojet powered.

(c) For the purposes of ths subpart, the following terms and definitions apply:

(1) Initial training. The training required for crewmembers who have not qualified and served in the same capacity on another aircraft of the same group.

(2) Transition training. The training required for crewmembers who have qualified and served in the same capacity on another aircraft of the same group.

(3) Upgrade training. The training required for crewmembers who have qualified and served as second in command on a particular aircraft type, before they serve as pilot in command on that aircraft.

(4) Differences Training. The training required for crewmembers who have qualified and served on a particular type aircraft, when the Administrator finds differences training is necessary before a crewmember serves in the same capacity on a particular variation of that aircraft.

(5) Recurrent training. The training required for crewmembers to remain adequately trained and currently proficient with respect to each aircraft, crewmember position, and type of operation in which he serves.

(6) Inflight. Refers to maneuvers, procedures, or functions that must be conducted in the aircraft.

§ 135.239 Training program: general.

(a) Each certificate holder required to have a training program under § 135.257 of this Part shall:

(1) Establish, obtain the appropriate initial and final approval of, and provide a training program that meets the requirements of this subpart and that ensures that each crewmember, flight instructor, check airman, and each person assigned duties for the carriage and handling of hazardous materials, (as defined in 49 CFR 171.8) is adequately trained to perform his assigned duties.

(2) Provide adequate ground and flight training facilities and properly qualified ground instructors for the training required by this subpart,

(3) Provide and keep current with respect to each aircraft type used and if applicable, the particular variations within the aircraft type, appropriate training material, examinations, forms, instructions, and procedures for use in conducting the training and checks required by this subpart; and

(4) Provide enough flight instructors, check airmen, and simulator instructors to conduct required flight training and flight checks, and simulator training courses permitted under this subpart.

(b) Whenever a crewmember who is required to take recurrent training completes the training in the calendar month before, or the calendar month after the month in which that training is required, he is considered to have completed it in the calendar month in which it was required.

(c) Each instructor, supervisor, or check airman who is responsible for a particular ground training subject, segment of flight training, course of training, flight check, or competence check under this part shall certify as to the proficiency and knowledge of the crewmember, flight instructor, or check airman concerned upon completion of that training or check. That certification shall be made a part of the crewmember's record.

(d) Training subjects that are applicable to more than one aircraft or crewmember position and that have been satisfactorily completed in connection with prior training while employed by the certificate holder for another aircraft or another crewmember position, need not be repeated during subsequent training other than recurrent training.

(e) Aircraft simulators and other training devices may be utilized in the certificate holder's training program if approved by the Administrator.

§ 135.241 Training program and revision: initial and final approval.

(a) To obtain initial and final approval of a training program, or a revision to an approved training program, each certificate holder must submit to the Administrator:

(1) An outline of the proposed or revised curriculum, that provides enough information for a preliminary evaluation of the proposed training program or revision; and

(2) Additional relevant information as may be requested by the Administrator.

(b) If the proposed training program or revision complies with this subpart, the Administrator grants initial approval in writing after which the certificate holder may conduct the training in accordance with that program. The Administrator then evaluates the effectiveness of the training program and advises the certificate holder of deficiencies, if any, that must be corrected.

(c) The Administrator grants final approval of the proposed training program or revision if the certificate holder shows that the training conducted under the initial approval set forth in paragraph (b) of this section ensures that each person who successfully completes the training is adequately trained to perform his assigned duties.

(d) Whenever the Administrator finds that revisions are necessary for the continued adequacy of a training program that has been granted final approval, the certificate holder shall, after notification by the Administrator, make any changes in the program that are found necessary by the Administrator. Within 30 days after the certificate holder receives such notice, it may file a petition to reconsider the notice with the FAA District Office charged with the overall inspection of the certificate holder's operations. The filing of a petition to reconsider stays the notice pending a decision by the Administrator. However, if the Administrator finds that there is an emergency that requires immediate action in the interest of safety he may, upon a statement of the reasons, require a change effective without stay.

§ 135.243 Training program: curriculum.

(a) Each certificate holder must prepare and keep current a written training program curriculum for each type of aircraft with respect to each crewmember required for that type aircraft. The curriculum must include ground and flight training required by this subpart.

(b) Each training program curriculum must include the following: (1) A list of principal ground training subjects, including emergency training subjects, that are provided.

(2) A list of all the training devices, mockups, systems trainers, procedures trainers, or other training aids that the certificate holder will use.

(3) Detailed descriptions or pictorial displays of the approved normal, abnormal, and emergency maneuvers, procedures and functions that will be performed during each flight training phase or flight check, indicating those maneuvers, procedures and functions that are to be performed during the inflight portions of flight training and flight checks.

§ 135.245 Crewmember training requirements.

(a) Each certificate holder must include in its training program the following initial and transition ground training as appropriate to the particular assignment of the crewmember: (1) Basic indoctrination ground training for newly hired crewmembers including instruction in at least the:

(i) Duties and responsibilities of crewmembers as applicable;

(ii) Appropriate provisions of the Federal Aviation Regulations;

(iii) Contents of the certificate holder's operating certificate and operations specifications (not required for flight attendants); and

(iv) Appropriate portions of the certificate holder's operating manual.

(2) The initial and transition ground training specified in §§ 135.261 and 135.265, as applicable.

(3) Emergency training as specified in § 135.247.

(b) Each training program must provide the initial and transition flight training specified in § 135.263, as applicable.

(c) Each training program must provide recurrent ground and flight training as provided in § 135.267.

(d) Upgrade training as specified in §§ 135.261 and 135.263 for a particular type aircraft may be included in the training program for crewmembers who have qualified and served as second in command on that aircraft.

(e) In addition to initial, transition, upgrade and recurrent training, each training program must also provide ground and flight training, instruction, and practice as necessary to ensure that each crewmember:

(1) Remains adequately trained and currently proficient with respect to each aircraft, crewmember position, and type of operation in which he serves; and

(2) Qualifies in new equipment, facilities, procedures, and techniques, including modifications to aircraft.

§ 135.247 Crewmember emergency training.

(a) Each training program must provide the emergency training set forth in this section with respect to each aircraft type, model, and configuration, each crewmember, and each kind of operation conducted, insofar as appropriate for each crewmember and the certificate holder.

(b) Emergency training must provide the following: (1) Instruction in emergency assignments and procedures, including coordination among crewmembers.

(2) Individual instruction in the location, function, and operation of emergency equipment including.

(i) Equipment used in ditching and evacuation;

(ii) First aid equipment and its proper use; and

(iii) Portable fire extinguishers, with emphasis on the type of extinguisher to be used on different classes of fires.

(3) Instruction in the handling of emergency situations including:

(i) Rapid decompression.

(ii) Fire in flight or on the surface and smoke control procedures with emphasis on electrical equipment and related circuit breakers found in cabin areas;

(iii) Ditching and evacuation;

(iv) Illness, injury, or other abnormal situations involving passengers or crewmembers; and

(v) Hijacking and other unusual situations.

(4) Review of previous aircraft accidents and incidents pertaining to actual emergency situations.

(c) Each crewmember must perform at least the following emergency drills, utilizing the proper emergency equipment and procedures, unless the Administrator finds that, with respect to a particular drill, the crewmember can be adequately trained by demonstration:

(1) Ditching, if applicable.

(2) Emergency evacuation.

(3) Fire extinguishing and smoke control.

(4) Operation and use of emergency exits, including deployment and use of evacuation chutes.

(5) Use of crew and passenger oxygen.

(6) Removal of life rafts from the aircraft, inflation of the life rafts, use of life lines, and boarding of passengers and crew.

(7) Donning and inflation of life vests and the use of other individual flotation devices.

V 42 167 AUG 29 77 UMI

(d) Crewmembers who serve in operations above 25,000 feet must receive instruction in the following:
(1) Respiration.
(2) Hypoxia.
(3) Duration of consciousness without supplemental oxygen at altitude.
(4) Gas expansion.
(5) Gas bubble formation.
(6) Physical phenomena and incidents of decompression.

§ 135.249 Training requirements: handling and carriage of hazardous materials.

(a) No certificate holder may use any person to perform, and no person may perform, any assigned duties and responsibilities for the handling or carriage of hazardous materials, (as defined in 49 CFR 171.8) unless within the preceding 12 calendar months that person has satisfactorily completed initial or recurrent training in an appropriate training program established by the certificate holder, which includes instruction regarding the proper shipper certification, packaging, marking, labeling, and documentation for hazardous materials, and includes instruction regarding their compatibility, loading, storage, and handling characteristics.

(b) Each certificate holder shall maintain a record of the satisfactory completion of the initial and recurrent training given to crewmembers and ground personnel who perform assigned duties and responsibilities for the handling and carriage of hazardous materials.

(c) Each certificate holder that elects not to accept hazardous materials shall ensure that each crewmember is adequately trained to recognize those items classified as hazardous materials.

(d) Notwithstanding the provisions of paragraph (a) of this section, when operating into or out of airports at which employees or contract personnel are not available, a certificate holder may use persons not meeting the requirements of paragraph (a) and (b) of this section to load, offload, or otherwise handle hazardous materials provided these persons are supervised by a crewmember who is qualified under paragraphs (a) and (b) of this section.

(e) Whenever any person subject to the recurrent training requirements of paragraph (a) of this section completes the training in the calendar month before or the calendar month after the month in which that training is required, he is considered to have completed it in the calendar month in which it was required.

§ 135.251 Approval of aircraft simulators and other training devices.

(a) Training courses using aircraft simulators and other training devices may be included in the certificate holder's training program if approved by the Administrator.

(b) Each aircraft simulator and other training device that is used in a training course or in checks required under this subpart must meet the following requirements: (1) It must be specifically approved for:
(i) The certificate holder;
(ii) The type aircraft and, if applicable the particular variation within type, for which the training or check is being conducted; and
(iii) The particular maneuver, procedure, or crewmember function involved.
(2) It must maintain the performance, functional, and other characteristics that are required for approval.
(3) It must be modified to conform with any modification to the aircraft being simulated that results in changes in performance, functional, or other characteristics required for approval.

§ 135.253 Training program: check airmen and instructor qualifications.

(a) No certificate holder may use a person nor may any person serve as a flight instructor or check airman in a training program established under this subpart unless, with respect to the particular aircraft type involved, that person:
(1) Holds the airman certificate ratings that must be held in order to serve as a pilot in command in operations under this subpart;
(2) Has satisfactorily completed the appropriate training phases for the aircraft, including recurrent training, that are required in order to serve as a pilot in command in operations under this subpart;
(3) Has satisfactorily completed the appropriate proficiency or competency checks that are required in order to serve as a pilot in command in operations under this subpart;
(4) Has satisfactorily completed the applicable training requirements of § 135.255;
(5) Holds a Class I or Class II medical certificate as required in order to serve as a pilot in command in operations under this subpart; and
(6) In the case of a check airman, has been approved by the Administrator for the airman duties involved.

(b) No certificate holder may use a person nor may any person serve as a simulator instructor for a course of training given in an aircraft simulator as provided by this subpart unless that person:
(1) Holds at least a commercial pilot certificate; and
(2) Has satisfactorily completed for a check airman:
(i) Appropriate initial pilot ground training and ground training for a flight instructor as provided in this subpart; and
(ii) A simulator flight training course in the type simulator in which that person instructs as provided by this subpart.

§ 135.255 Check airmen and flight instructors: initial and transition training.

(a) The initial and transition ground training for pilot check airmen must include the following:
(1) Pilot check airman duties, functions, and responsibilities.
(2) The applicable Federal Aviation Regulations and certificate holder's policies and procedures.
(3) The appropriate methods, procedures, and techniques for conducting the required checks.
(4) Proper evaluation of pilot performance including the detection of:
(i) Improper and insufficient training; and
(ii) Personal characteristics that could adversely affect safety.
(5) The appropriate corrective action in the case of unsatisfactory checks.
(6) The approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures in the aircraft.

(b) The initial and transition ground training for pilot flight instructors, except for the holder of a valid flight instructor certificate, must include the following:
(1) The fundamental principles of the teaching-learning process.
(2) Teaching methods and procedures.
(3) The instructor-student relationship.

(c) The initial and transition flight training for pilot check airmen and pilot flight instructors must include the following:
(1) Enough inflight training and practice in conducting flight checks from the left and right pilot seats in the required normal, abnormal, and emergency maneuvers to ensure his competence to conduct the pilot flight checks and flight training required by this Part.
(2) The appropriate safety measures to be taken from either pilot seat for emergency situations that are likely to develop in training.
(3) The potential results of improper or untimely safety measures during training.

The requirements of paragraphs (2) and (3) may be accomplished inflight or in an approved simulator.

§ 135.257 Pilot and flight attendant crewmember training programs.

(a) Each certificate holder, other than one who uses only himself as a pilot, shall establish and maintain an approved pilot training program, and each certificate holder who uses a flight attendant crewmember shall establish and maintain an approved flight attendant training program, that is appropriate to the operations to which each pilot and flight attendant is to be assigned, and will ensure that he is adequately trained to meet the applicable knowledge and practical testing requirements of this Part in accordance with §§ 135.225 through 135.233. However, the Administrator may authorize a deviation from the requirements of this section if he finds that, because of the limited size and scope of the operation, safety will allow a deviation from these requirements.

(b) Each certificate holder required to have a training program by paragraph (a) of this section shall include in that program ground and flight training curriculums for—(1) Initial training; (2) Transition training; (3) Upgrade training; (4) Differences training; and (5) Recurrent training every 12 calendar months.

(c) Each certificate holder required to have a training program by paragraph (a) of this section shall provide current and appropriate study materials for use by each required pilot and flight attendant.

(d) The certificate holder shall furnish copies of the pilot and flight attendant crew-member training program, and all changes and additions thereto, to the representative of the Administrator assigned to it. If the certificate holder uses training facilities of other persons, a copy of those training programs or appropriate portions used for those facilities shall also be furnished. Curricula that follow FAA published curricula may be cited by reference in the copy of the training program furnished to the representative of the Administrator and need not be furnished with the program.

§ 135.259 Crewmember initial and recurrent training requirements.

No certificate holder may use the services of, nor may any person serve as a crewmember in operations under this part unless that crewmember has completed the appropriate initial or recurrent training phase of the training program appropriate to the type of operation in which he is to serve since the beginning of the 12th calendar month before that service

§ 135.261 Pilots: initial, transition, and upgrade ground training.

(a) Initial, transition, and upgrade ground training for pilots must include instruction in at least the following, as applicable to their duties:
(1) General subjects—(i) The certificate holder's flight locating procedures;
(ii) Principles and methods for determining weight and balance, and runway limitations for takeoff and landing;
(iii) Enough meterology to ensure a practical knowledge of weather phenomena, including the principles of frontal systems, icing, fog, thunderstorms, windshear and, if appropriate, high altitude weather situations;
(iv) Air traffic control systems, procedures, and phraseology;
(v) Navigation and the use of navigation aids, including instrument approach procedures;
(vi) Normal and emergency communication procedures;
(vii) Visual cues prior to and during descent below DH or MDA; and
(viii) Other instructions as necessary to ensure his competence.
(2) For each aircraft type—(i) A general description;
(ii) Performance characteristics;
(iii) Engines and propellers;
(iv) Major components;
(v) Major aircraft systems (i.e., flight controls, electrical, and hydraulic); other systems, as appropriate; principles of normal, abnormal, and emergency operations; appropriate procedures and limitations;
(vi) Procedures for avoiding severe weather situations and for operating in or near thunderstorms (including best penetrating altitudes), turbulent air (including clear air turbulence and low altitude wind shear), icing, hail, and other potentially hazardous meterological conditions;
(vii) Operating limitations;
(viii) Fuel consumption and cruise control;
(ix) Flight planning;
(x) Each normal and emergency procedure; and
(xi) The approved Aircraft Flight Manual.

§ 135.263 Pilots: initial, transition, upgrade, and differences flight training.

(a) Initial, transition, upgrade, and differences training for pilots must include flight and practice in each of the maneuvers and procedures set forth in the approved training program curriculum.

(b) The maneuvers and procedures required by paragraph (a) of this section must be performed inflight, except to the extent that certain maneuvers and procedures may be performed in an airplane simulator, an appropriate training device, or a static aircraft as permitted by this subpart.

(c) If the certificate holder's approved training program includes a course of training utilizing an aircraft simulator or other training device, each pilot must successfully complete—
(1) Training and practice in the simulator or training device in at least the maneuvers and procedures set forth in this subpart that are capable of being performed in the aircraft simulator or training device; and
(2) A flight check in the aircraft or the simulator or training device to the level of proficiency of a pilot in command or second in command, as applicable, in at least the maneuvers and procedures that are capable of being performed in an aircraft simulator or training device.

§ 135.265 Flight attendants: initial and transition ground training.

(a) Initial and transition ground training for flight attendants must include instruction in at least the following:
(1) General subjects—(i) The authority of the pilot in command; and
(ii) Passenger handling, including the procedures to be followed in the case of deranged persons or other persons whose conduct might jeopardize safety.
(2) For each aircraft type—(i) A general description of the aircraft emphasizing physical characteristics that may have a bearing on ditching, evacuation, and inflight emergency procedures and on other related duties;
(ii) The use of both the public address system and the means of communicating with other flight crewmembers, including emergency means in the case of attempted hijacking or other unusual situations; and
(iii) Proper use of electrical galley equipment and the controls for cabin heat and ventilation.

(b) Initial and transition ground training for flight attendants must include a competence check to determine ability to perform assigned duties and responsibilities.

§ 135.267 Recurrent training.

(a) Each certificate holder must ensure that each crewmember receives recurrent training and is adequately trained and currently proficient with respect to the type aircraft and crewmember position involved.

(b) Recurrent ground training for crewmembers must include at least the following:
(1) A quiz or other review to determine the crewmember's knowledge with respect to the aircraft and crewmember position involved.
(2) Instruction as necessary in the subjects required for initial ground training by this subpart, as appropriate, including emergency training.
(3) For flight attendants, a competence check as required by § 135.265(b).

(c) Recurrent flight training for pilots must include, at least, flight training in the maneuvers or procedures set forth in this subpart, except that satisfactory completion of the check required by § 135.225 within the preceding 12 calendar months may be substituted for recurrent flight training.

Subpart I—Airplane Performance

§ 135.271 Applicability.

(a) This subpart prescribes airplane performance operating limitations applicable to the operation of the categories of airplanes listed in § 135.273 when operated in accordance with the rules of this part.

(b) For the purpose of this Part, "effective length of the runway," for takeoff means the distance from the end of the runway at which the takeoff is started to the point at which the obstruction clearance plane associated with the other end of the runway intersects the runway centerline. For landing, it means the distance from the point at which the obstruction clearance plane associated with the approach end of the runway intersects the centerline of the runway to the far end thereof.

(c) For the purpose of this subpart, "obstruction clearance plane" means a plane sloping upward from the runway at a slope of 1:20 to the horizontal, and tangent to or clearing all obstructions within a specified area surrounding the runway as shown in a profile view of that area. In the plan view, the centerline of the specified area coincides with the centerline of the runway, beginning at the point where the obstruction clearance plane intersects the centerline of the runway and proceeding to a point at least 1,500 feet from the beginning point. Thereafter the centerline coincides with the takeoff path over the ground for the runway (in the case of takeoffs) or with the instrument approach counterpart (for landings), or, where the applicable

V 42 167 AUG 29 77 A UMI

one of these paths has not been established, it proceeds consistent with turns of at least 4,000-foot radius until a point is reached beyond which the obstruction clearance plane clears all obstructions. This area extends laterally 200 feet on each side of the centerline at the point where the obstruction clearance plane intersects the runway and continues at this width to the end of the runway; then it increases uniformly to 500 feet on each side of the centerline at a point 1,500 feet from the intersection of the obstruction clearance plane with the runway; thereafter it extends laterally 500 feet on each side of the centerline.

§ 135.273 General.

(a) Each certificate holder operating a reciprocating engine powered large transport category airplane shall comply with §§ 135.275 through 135.287.

(b) Each certificate holder operating a turbine engine powered large transport category airplane shall comply with applicable provisions of § 135.289 through 135.297, except that when it operates a turbopropeller powered large transport category airplane certificated after August 29, 1959, but previously type certificated with the same number of reciprocating engines, it may comply with §§ 135.275 through 135.287.

(c) Each certificate holder operating a large nontransport category airplane shall comply with §§ 135.299 through 135.305 and any determination of compliance must be based only on approved performance data.

(d) The performance data in the Airplane Flight Manual applies in determining compliance with §§ 135.275 through 135.297. Where conditions are different from those on which the performance data is based, compliance is determined by interpolation or by computing the effects of change in the specific variables, if the results of the interpolation or computations are substantially as accurate as the results of direct tests.

(e) No person may take off a reciprocating engine powered large transport category airplane at a weight that is more than the allowable weight for the runway being used (determined under the runway takeoff limitations of the transport category operating rules of this part) after taking into account the temperature operating correction factors in Section 4a. 749a–T or 4b. 117 of the Civil Air Regulations as in effect on January 31, 1965, and set forth in the applicable Airplane Flight Manual.

(f) The Administrator may authorize in the operations specifications deviations from the requirements in this subpart if special circumstances make a literal observance of a requirement unnecessary for safety.

(g) The ten-mile width specified in §§ 135.279 through 135.283 may be reduced to five miles, for not more than 20 miles, when operating VFR or where navigation facilities furnish reliable and accurate identification of high ground and obstructions located outside of five miles, but within ten miles, on each side of the intended track.

§ 135.275 Large transport category airplanes: reciprocating engine powered: weight limitations.

(a) No person may take off a reciprocating engine powered large transport category airplane from an airport located at an elevation outside of the range for which maximum takeoff weights have been determined for that airplane.

(b) No person may take off a reciprocating engine powered large transport category airplane for an airport of intended destination that is located at an elevation outside of the range for which maximum landing weights have been determined for that airplane.

(c) No person may specify, or have specified, an alternate airport that is located at an elevation outside of the range for which maximum landing weights have been determined for the reciprocating engine powered large transport category airplane concerned.

(d) No person may take off a reciprocating engine powered large transport category airplane at a weight more than the maximum authorized takeoff weight for the elevation of the airport.

(e) No person may take off a reciprocating engine powered large transport category airplane if its weight on arrival at the airport of destination will be more than the maximum authorized landing weight for the elevation of that airport, allowing for normal consumption of fuel and oil en route.

§ 135.277 Large transport category airplanes: reciprocating engine powered: takeoff limitations.

(a) No person operating a reciprocating engine powered large transport category airplane may take off that airplane unless it is possible:

(1) To stop the airplane safely on the runway, as shown by the accelerate stop distance data, at any time during takeoff until reaching critical-engine failure speed;

(2) If the critical engine fails at any time after the airplane reaches critical-engine failure speed V1, to continue the takeoff and reach a height of 50 feet, as indicated by the takeoff path data, before passing over the end of the runway; and

(3) To clear all obstacles either by at least 50 feet vertically (as shown by the takeoff path data) or 200 feet horizontally within the airport boundaries and 300 feet horizontally beyond the boundaries, without banking before reaching a height of 50 feet (as shown by the takeoff path data) and thereafter without banking more than 15 degrees.

(b) In applying this section, corrections must be made for any runway gradient. To allow for wind effect, takeoff data based on still air may be corrected by taking into account not more than 50 percent of any reported headwind component and not less than 150 percent of any reported tailwind component.

§ 135.279 Large transport category airplanes: reciprocating engine powered: en route limitations: all engines operating.

(a) No person operating a reciprocating engine powered large transport category airplane may take off that airplane at a weight, allowing for normal consumption of fuel and oil, that does not allow a rate of climb (in feet per minute), with all engines operating, of at least 6.90 Vso (that is, the number of feet per minute is obtained by multiplying the number of knots by 6.90) at an altitude of at least 1,000 feet above the highest ground or obstruction within ten miles of each side of the intended track.

(b) This section does not apply to large transport category airplanes certificated under Part 4a of the Civil Air Regulations.

§ 135.281 Large transport category airplanes: reciprocating engine powered: en route limitations: one engine inoperative.

(a) Except as provided in paragraph (b) of this section, no person operating a reciprocating engine powered large transport category airplane may take off that airplane at a weight, allowing for normal consumption of fuel and oil, that does not allow a rate of climb (in feet per minute), with one engine inoperative, of at least $0.079-\frac{0.106}{N}Vso^2$ (where N is the number of engines installed and Vso is expressed in knots) at an altitude of at least 1,000 feet above the highest ground or obstruction within 10 miles of each side of the intended track. However, for the purposes of this paragraph the rate of climb for transport category airplanes certificated under Part 4a of the Civil Air Regulations is 0.026 Vso^2.

(b) In place of the requirements of paragraph (a) of this section, a person may, under an approved procedure, operate a reciprocating engine powered large transport category airplane at an all-engines-operating altitude that allows the airplane to continue, after an engine failure, to an alternate airport where a landing can be made in accordance with Section 135.267, allowing for normal consumption of fuel and oil. After the assumed failure, the flight path must clear the ground and any obstruction within five miles on each side of the intended track by at least 2,000 feet.

(c) If an approved procedure under paragraph (b) of this section is used, the certificate holder shall comply with the following:

(1) The rate of climb (as prescribed in the Airplane Flight Manual for the appropriate weight and altitude) used in calculating the airplane's flight path shall be diminished by an amount, in feet per minute, equal to $0.079-\frac{0.106Vso^2}{N}$ (when N is the number of engines installed and Vso^2 is expressed in knots) for airplanes certificated under Part 25 of this chapter and by 0.026 Vso^2 for airplanes certificated under Part 4a of the Civil Air Regulations.

(2) The all-engine-operating altitude shall be sufficient so that in the event the critical engine becomes inoperative at any point along the route, the flight will be able to proceed to a predetermined alternate airport by use of this procedure. In determining the takeoff weight, the airplane is assumed to pass over the critical obstruction following engine failure at a point no closer to the critical obstruction than the nearest approved radio navigational fix, unless the Administrator approves a procedure established on a different basis upon finding that adequate operational safeguards exist.

(3) The airplane must meet the provisions of paragraph (a) of this section at 1,000 feet above the airport used as an alternate in this procedure.

(4) The procedure must include an approved method of accounting for winds and temperatures that would otherwise adversely affect the flight path.

(5) In complying with this procedure, fuel jettisoning is allowed if the certificate holder shows that it has an adequate training program, that proper instructions are given to the flight crew, and all other precautions are taken to ensure a safe procedure.

(6) The certificate holder and the pilot in command shall jointly elect an alternate airport for which the appropriate weather reports or forecasts, or any combination thereof, indicate that weather conditions will be at or above the alternate weather minimum specified in the certificate holder's operations specifications for that airport when the flight arrives.

§ 135.283 Part 25 transport category airplanes with four or more engines: reciprocating engine powered: en route limitations: two engines inoperative.

(a) No person may operate an airplane certificated under Part 25 and having four or more engines unless:

(1) There is no place along the intended track that is more than 90 minutes (with all engines operating at cruising power) from an airport that meets the requirements of § 135.287; or

(2) It is operated at a weight allowing the airplane, with the two critical engines inoperative, to climb at 0.013 Vso^2 feet per minute (that is, the number of feet per minute is obtained by multiplying the number of knots squared by 0.013) at an altitude of 1,000 feet above the highest ground or obstruction within 10 miles on each side of the intended track, or at an altitude of 5,000 feet, whichever is higher.

(b) For the purposes of paragraph (a) (2) of this section, it is assumed that:

(1) The two engines fail at the point that is most critical with respect to the takeoff weight;

(2) Consumption of fuel and oil is normal with all engines operating up to the point where the two engines fail with two engines operating beyond that point;

(3) Where the engines are assumed to fail at an altitude above the prescribed minimum altitude, compliance with the prescribed rate of climb at the prescribed minimum altitude need not be shown during the descent from the cruising altitude to the prescribed minimum altitude, if those requirements can be met once the prescribed minimum altitude is reached, and assuming descent to be along a net flight path and the rate of descent to be 0.013 Vso^2 greater than the rate in the approved performance data; and

(4) If fuel jettisoning is provided, the airplane's weight at the point where the two engines fail is considered to be not less than that which would include enough fuel to proceed to an airport meeting the requirements of § 135.287 and to arrive at an altitude of at least 1,000 feet directly over that airport.

§ 135.285 Large transport category airplanes: reciprocating engine powered: landing limitations: destination airport.

(a) Except as provided in paragraph (b) of this section, no person operating a reciprocating engine powered large transport category airplane may take off that airplane, unless its weight on arrival, allowing for normal consumption of fuel and oil in flight, would allow a full stop landing at the intended destination within 60 percent of the effective length of each runway described below from a point 50 feet directly above the intersection of the obstruction clearance plane and the runway. For the purposes of determining the allowable landing weight at the destination airport the following is assumed:

(1) The airplane is landed on the most favorable runway and in the most favorable direction in still air.

(2) The airplane is landed on the most suitable runway considering the probable wind velocity and direction (forecast for the expected time of arrival), the ground handling characteristics of the type of airplane, and other conditions such as landing aids and terrain, and allowing for the effect of the landing path and roll of not more than 50 percent of the headwind component or not less than 150 percent of the tailwind component.

(b) An airplane that would be prohibited from being taken off because it could not meet the requirements of paragraph (a) (2) of this section may be taken off if an alternate airport is selected that meets all of the requirements of this section except that the airplane can accomplish a full stop landing within 70 percent of the effective length of the runway.

§ 135.287 Large transport category airplanes: reciprocating engine powered: landing limitations: alternate airport.

No person may list an airport as an alternate airport in a flight plan unless the airplane (at the weight anticipated at the time of arrival at the airport), based on the assumptions in § 135.285, can be brought to a full stop landing, within 70 percent of the effective length of the runway.

§ 135.289 Large transport category airplanes: turbine engine powered: takeoff limitations.

(a) No person operating a turbine engine powered large transport category airplane may take off that airplane at a weight greater than that listed in the Airplane Flight Manual for the elevation of the airport and for the ambient temperature existing at takeoff.

(b) No person operating a turbine engine powered large transport category airplane certificated after August 26, 1957, but before August 30, 1959 (SR422, 422A), may take off that airplane at a weight greater than that listed in the Airplane Flight Manual for the minimum distance required for takeoff. In the case of an airplane certificated after September 30, 1958 (SR422A, 422B), the takeoff distance may include a clearway distance but the clearway distance included may not be greater than one-half of the takeoff run.

(c) No person operating a turbine engine powered large transport category airplane certificated after August 29, 1959 (SR422B), may take off that airplane at a weight greater than that listed in the Airplane Flight Manual at which compliance with the following may be shown:

(1) The accelerate-stop distance must not exceed the length of the runway plus the length of any stopway.

(2) The takeoff distance must not exceed the length of the runway plus the length of any clearway except that the length of any clearway included must not be greater than one-half the length of the runway.

(3) The takeoff run must not be greater than the length of the runway.

(d) No person operating a turbine engine powered large transport category airplane may take off that airplane at a weight greater than that listed in the Airplane Flight Manual:

(1) In the case of an airplane certificated after August 26, 1957, but before October 1, 1958 (SR422), that allows a takeoff path that clears all obstacles either by at least (35+0.01 D) feet vertically (D is the distance along the intended flight path from the end of the runway in feet), or by at least 200 feet horizontally within the airport boundaries and by at least 300 feet horizontally after passing the boundaries; or

(2) In the case of an airplane certificated after September 30, 1958 (SR422A, 422b), that allows a net takeoff flight path that clears all obstacles either by a height of at least 35 feet vertically, or by at least 200 feet horizontally within the airport boundaries and by at least 300 feet horizontally after passing the boundaries.

(e) In determining maximum weights, minimum distances and flight paths under paragraphs (a) through (d) of this section, correction must be made for the runway to be used, the elevation of the airport, the effective runway gradient, and the ambient temperature and wind component at the time of takeoff.

V 42 167 AUG 29 77 UMI

(f) For the purposes of this section, it is assumed that the airplane is not banked before reaching a height of 50 feet, as shown by the takeoff path or net takeoff flight path data (as appropriate) in the Airplane Flight Manual, and thereafter that the maximum bank is not more than 15 degrees.

(g) For the purposes of this section the terms, "takeoff distance," "takeoff run," "net takeoff flight path," have the same meanings as set forth in the rules under which the airplane was certificated.

§ 135.291 Large transport category airplanes: turbine engine powered: en route limitations: one engine inoperative.

(a) No person operating a turbine engine powered large transport category airplane may take off that airplane at a weight, allowing for normal consumption of fuel and oil, that is greater than that which (under the approved, one engine inoperative, en route net flight path data in the Airplane Flight Manual for that airplane) will allow compliance with subparagraph (1) or (2) of this paragraph, based on the ambient temperatures expected en route.

(1) There is a positive slope at an altitude of at least 1,000 feet above all terrain and obstructions within five statute miles on each side of the intended track, and, in addition, if that airplane was certificated after August 29, 1958 (SR422B), there is a positive slope at 1,500 feet above the airport where the airplane is assumed to land after an engine fails.

(2) The net flight path allows the airplane to continue flight from the cruising altitude to an airport where a landing can be made under § 135.297 clearing all terrain and obstructions within five statute miles of the intended track by at least 2,000 feet vertically and with a positive slope at 1,000 feet above the airport where the airplane lands after an engine fails, or, if that airplane was certificated after September 30, 1958 (SR422A, 422B), with a positive slope at 1,500 feet above the airport where the airplane lands after an engine fails.

(b) For the purpose of paragraph (a) (2) of this section, it is assumed that—

(1) The engine fails at the most critical point en route;

(2) The airplane passes over the critical obstruction, after engine failure at a point that is no closer to the obstruction than the approved radio navigation fix, unless the Administrator authorizes a different procedure based on adequate operational safeguards;

(3) An approved method is used to allow for adverse winds;

(4) Fuel jettisoning will be allowed if the certificate holder shows that the crew is properly instructed, that the training program is adequate, and that all other precautions are taken to ensure a safe procedure;

(5) The alternate airport is selected and meets the prescribed weather minimums; and

(6) The consumption of fuel and oil after engine failure is the same as the consumption that is allowed for in the approved net flight path data in the Airplane Flight Manual.

§ 135.293 Large transport category airplanes: turbine engine powered: en route limitations: Two engines inoperative.

(a) Airplanes certificated after August 26, 1957, but before October 1, 1958 (SR422): No person may operate a turbine engine powered large transport category airplane along an intended route unless he complies with either of the following:

(1) There is no place along the intended track that is more than 90 minutes (with all engines operating at cruising power) from an airport that meets the requirements of § 135.297.

(2) Its weight, according to the two-engine-inoperative, en route, net flight path data in the Airplane Flight Manual, allows the airplane to fly from the point where the two engines are assumed to fail simultaneously to an airport that meets the requirements of § 135.297, with a net flight path (considering the ambient temperature anticipated along the track) having a positive slope at an altitude of at least 1,000 feet above all terrain and obstructions within five statute miles on each side of the intended track, or at an altitude of 5,000 feet, whichever is higher.

For the purposes of paragraph (2) of this paragraph, it is assumed that the two engines fail at the most critical point en route, that if fuel jettisoning is provided, the airplane's weight at the point where the engines fail includes enough fuel to continue to the airport and to arrive at an altitude of at least 1,000 feet directly over the airport, and that the fuel and oil consumption after engine failure is the same as the consumption allowed for in the net flight path data in the Airplane Flight Manual.

(b) Airplanes certificated after September 30, 1958, but before August 30, 1959 (SR422A): No person may operate a turbine engine powered large transport category airplane along an intended route unless he complies with either of the following:

(1) There is no place along the intended track that is more than 90 minutes (with all engines operating at cruising power) from an airport that meets the requirements of § 135.297.

(2) Its weight, according to the two-engine-inoperative, en route, net flight path data in the Airplane Flight Manual, allows the airplane to fly from the point where the two egnines are assumed to fail simultaneously to an airport that meets the requirements of § 135.297 with a net flight path (considering the ambient temperatures anticipated along the track) having a positive slope at an altitude of at least 1,000 feet above all terrain and obstructions within five miles on each side of the intended track, or at an altitude of 2,000 feet, whichever is higher.

For the purpose of paragraph (2) of this paragraph, it is assumed that the two engines fail at the most critical point en route, that the airplane's weight at the point where the engines fail includes enough fuel to continue to the airport, to arrive at an altitude of at least 1,500 feet directly over the airport, and thereafter to fly for 15 minutes at cruise power or thrust, or both, and that the consumption of fuel and oil after engine failure is the same as the consumption allowed for in the net flight path data in the Airplane Flight Manual.

(c) Aircraft certificated after August 29, 1959 (SR422B): No person may operate a turbine engine powered large transport category airplane along an intended route unless he complies with either of the following:

(1) There is no place along the intended track that is more than 90 minutes (with all engines operating at cruising power) for an airport that meets the requirements of § 135.297.

(2) Its weight, according to the two-engine-in-operative, en route, net flight path data in the Airplane Flight Manual, allows the airplane to fly from the point where the two engines are assumed to fail simultaneously to an airport that meet the requirements of § 135.297, with the net flight path (considering the ambient temperatures anticipated along the track) clearing vertically by at least 2,000 feet all terrain and obstructions within five statute miles (4.34 nautical miles) on each side of the intended track. For the purposes of this paragraph, it is assumed that—

(i) The two engines fail at the most critical point en route;

(ii) The net flight path has a positive slope at 1,500 feet above the airport where the landing is assumed to be made after the engines fail;

(iii) Fuel jettisoning will be approved if the certificate holder shows that the crew is properly instructed, that the training program is adequate, and that all other precautions are taken to ensure a safe procedure;

(iv) The airplane's weight at the point where the two engines are assumed to fail provides enough fuel to continue to the airport, to arrive at an altitude of at least 1,500 feet directly over the airport, and thereafter to fly for 15 minutes at cruising power or thrust, or both; and

(v) The consumption of fuel and oil after the engine failure is the same as the consumption that is allowed for in the net flight path data in the Airplane Flight Manual.

§ 135.295 Large transport category airplanes: turbine engine powered: landing limitations: Destination airports.

(a) No person operating a turbine engine powered large transport category airplane may take off that airplane at such a weight that (allowing for normal consumption of fuel and oil in flight to the destination or alternate airport) the weight of the airplane on arrival would exceed the landing weight set forth in

the Airplane Flight Manual for the elevation of the destination or alternate airport and the ambient temperature anticipated at the time of landing.

(b) Except as provided in paragraphs (c), (d), or (e) of this section, no person operating a turbine engine powered large transport category airplane may take off that airplane unless its weight on arrival, allowing for normal consumption of fuel and oil in flight (in accordance with the landing distance set forth in the Airplane Flight Manual for the elevation of the destination airport and the wind conditions anticipated there at the time of landing), would allow a full stop landing at the intended destination airport within 60 percent of the effective length of each runway described below from a point 50 feet above the intersection of the obstruction clearance plane and the runway. For the purpose of determining the allowable landing weight at the destination airport the following is assumed:

(1) The airplane is landed on the most favorable runway and in the most favorable direction, in still air.

(2) The airplane is landed on the most suitable runway considering the probable wind velocity and direction and the ground handling characteristics of the airplane, and considering other conditions such as landing aids and terrain.

(c) A turbopropeller powered airplane that would be prohibited from being taken off because it could not meet the requirements of paragraph (b) (2) of this section, may be taken off if an alternate airport is selected that meets all the requirements of this section except that the airplane can accomplish a full stop landing within 70 percent of the effective length of the runway.

(d) Unless, based on a showing of actual operating landing techniques on wet runways, a shorter landing distance (but never less than that required by paragraph (b) of this section) has been approved for a specific type and model airplane and included in the Airplane Flight Manual, no person may take off a turbojet powered airplane when the appropriate weather reports and forecasts, or a combination thereof, indicate that the runways at the destination airport may be wet or slippery at the estimated time of arrival unless the effective runway length at the destination airport is at least 115 percent of the runway length required under paragraph (b) of this section.

(e) A turbojet powered airplane that would be prohibited from being taken off because it could not meet the requirements of paragraph (b) (2) of this section may be taken off if an alternate airport is selected that meets all the requirements of paragraph (b) of this section.

§ 135.297 Large transport category airplanes: Turbine engine powered: landing limitations: alternate airports.

No person may select an airport as an alternate airport for a turbine engine powered large transport category airplane unless (based on the assumptions in § 135.295(b)) that airplane, at the weight anticipated at the time of arrival, can be brought to a full stop landing within 70 percent of the effective length of the runway for turbopropeller powered airplanes and 60 percent of the effective length of the runway for turbojet powered airplanes, from a point 50 feet above the intersection of the obstruction clearance plane and the runway.

§ 135.299 Large nontransport category airplanes: Takeoff limitations.

(a) No person operating a large nontransport category airplane may take off that airplane at a weight greater than the weight that would allow the airplane to be brought to a safe stop within the effective length of the runway, from any point during the takeoff before reaching 105 percent of minimum control speed (the minimum speed at which an airplane can be safely controlled in flight after an engine becomes inoperative) or 115 percent of the power off stalling speed in the takeoff configuration, whichever is greater.

(b) For the purposes of this action—

(1) It may be assumed that takeoff power is used on all engines during the acceleration;

(2) Not more than 50 percent of the reported headwind component, or not less than 150 percent of the reported tailwind component, may be taken into account;

(3) The average runway gradient (the difference between the elevations of the endpoints of the runway divided by the total length) must be considered if it is more than one-half of one percent; and

(4) It is assumed that the airplane is operating in standard atmosphere.

§ 135.301 Large nontransport category airplanes: En route limitations: one engine inoperative.

(a) Except as provided in paragraph (b) of this section, no person operating a large nontransport category airplane may take off that airplane at a weight that does not allow a rate of climb of at least 50 feet a minute, with the critical engine inoperative, at an altitude of at least 1,000 feet above the highest obstruction within five miles on each side of the intended track, or 5,000 feet, whichever is higher.

(b) Notwithstanding paragraph (a) of this section, if the Administrator finds that safe operations are not impaired, a person may operate the airplane at an altitude that allows the airplane, in case of engine failure, to clear all obstructions within five miles on each side of the intended track by 1,000 feet. If this procedure is used, the rate of descent for the appropriate weight and altitude is assumed to be 50 feet a minute greater than the rate in the approved performance data. Before approving such a procedure, the Administrator considers the following for the route, route segment, or area concerned.

(1) The reliability of wind and weather forecasting.

(2) The location and kinds of navigation aids.

(3) The prevailing weather conditions, particularly the frequency and amount of turbulence normally encountered.

(4) Terrain features.

(5) Air traffic problems.

(6) Any other operational factors that affect the operations.

(c) For the purposes of this section, it is assumed that—

(1) The critical engine is inoperative;

(2) The propeller of the inoperative engine is in the minimum drag position;

(3) The wing flaps and landing gear are in the most favorable position;

(4) The operating engines are operating at the maximum continuous power available;

(5) The airplane is operating in standard atmosphere; and

(6) The weight of the airplane is progressively reduced by the anticipated consumption of fuel and oil.

§ 135.303 Large nontransport category airplanes: Landing limitations: Destination airport.

(a) No person operating a large nontransport category airplane may take off that airplane at a weight that—

(1) Allowing for anticipated consumption of fuel and oil, is greater than the weight that would allow a full stop landing within 60 percent of the effective length of the most suitable runway at the destination airport; and

(2) Is greater than the weight allowable if the landing is to be made on the runway—

(i) With the greatest effective length in still air; and

(ii) Required by the probable wind, taking into account not more than 50 percent of the headwind component or not less than 150 percent of the tailwind component.

(b) For the purpose of this section, it is assumed that—

(1) The airplane passes directly over the intersection of the obstruction clearance plane and the runway at a height of 50 feet in a steady gliding approach at a true indicated airspeed of at least 1.3 Vso;

(2) The landing does not require exceptional pilot skill, and

(3) The airplane is operating in standard atmosphere.

§ 135.305 Large nontransport category airplanes: Landing limitations: Alternate airport.

No person may select an airport as an alternate airport for a large nontransport category airplane unless that airplane (at the weight anticipated at the time of arrival), based on the assumptions contained in § 135.303, can be brought to a full stop landing within 70 percent of the effective length of the runway.

V42167A AUG 29 77 7 UMI

Subpart J—[Reserved]

Subpart K—Maintenance, Preventive Maintenance, and Alterations

§ 135.333 Applicability.

(a) This subpart prescribes rules in addition to those prescribed in other parts of this chapter for the maintenance, preventive maintenance and alterations for all ATCO Certificate holders as follows:

(1) Aircraft that are certificated for a passenger seating configuration, excluding any pilot seat, of nine seats or less, shall be maintained in accordance with part 91 and 43 of this chapter and §§ 135.337, 135.339 and 135.343 of this part. An approved aircraft inspection program may be used in accordance with the provision of § 135.341.

(2) Aircraft that are certificated for a passenger seating configuration, excluding any pilot seats, of ten seats or more, shall be maintained in accordance with a maintenance program set forth in §§ 135.337, 135.339, and 135.345 through 135.365 of this part.

(3) A certificate holder who is not otherwise required, may elect to maintain its aircraft in accordance with paragraph 135.333(a)(2) of this section.

§ 135.335 Responsibility for airworthiness.

(a) Each certificate holder is primarily responsible for the airworthiness of its aircraft, including airframes, aircraft engines, propellers, rotors, appliances, and parts thereof, and shall have its aircraft maintained as prescribed in this chapter, and shall have defects repaired between required maintenance as prescribed in part 43 of this chapter.

(b) The certificate holder who maintains its aircraft as prescribed by § 135.333(a)(2) of this part shall perform the maintenance, preventive maintenance, and alterations of its aircraft, including airframe, aircraft engine, propellers, rotors, appliances, emergency equipment, and parts thereof, in accordance with its manual and regulations of this chapter.

(c) A certificate holder who maintains its aircraft as prescribed by § 135.333(a)(2) of this part may make arrangements with another person for the performance of any maintenance, preventive maintenance, or alterations. However, this does not relieve the certificate holder of the responsibility specified in paragraph (a) of this section.

§ 135.337 Mechanical reliability reports.

(a) Each certificate holder shall report the occurrence or detection of each failure, malfunction, or defect in an aircraft concerning—

(1) Fires during flight and whether the related fire-warning system functioned properly;

(2) Fires during flight not protected by related fire-warning system;

(3) False fire-warning during flight;

(4) An exhaust system that causes damage during flight to the engine, adjacent structure, equipment, or components;

(5) An aircraft component that causes accumulation or circulation of smoke, vapor, or toxic or noxious fumes in the crew compartment or passenger cabin during flight;

(6) Engine shutdown during flight;

(7) Engine shutdown during flight when external damage to the engine or aircraft structure occurs;

(8) Engine shutdown during flight due to foreign object ingestion or icing;

(9) Shutdown of more than one engine during flight;

(10) A propeller feathering system or ability of the system to control overspeed during flight;

(11) A fuel or fuel-dumping system that affects fuel flow or causes hazardous leakage during flight;

(12) An unwanted landing gear extension or retraction or opening or closing of landing gear doors during flight;

(13) Brake system components that result in loss of brake actuating force when the aircraft is in motion on the ground;

(14) Aircraft structure that requires major repair;

(15) Cracks, permanent deformation, or corrosion of aircraft structures, if more than the maximum acceptable to the manufacturer or the FAA; and

(16) Aircraft components or systems that result in taking emergency actions during flight (except action to shut-down an engine).

(b) For the purpose of this section, "during flight" means the period from the moment the aircraft leaves the surface of the earth on takeoff until it touches down on landing.

(c) In addition to the reports required by paragraph (a) of this section, each certificate holder shall report any other failure, malfunction, or defect in an aircraft that occurs or is detected at any time if, in its opinion, the failure, malfunction, or defect has endangered or may endanger the safe operation of the aircraft.

(d) Each certificate holder shall send each report required by this section, in writing, covering each 24-hour period beginning at 0900 hours local time of each day and ending at 0900 hours local time on the next day to the FAA District Office having jurisdiction over the area in which the certificate holder's principal business office is located. The report must be mailed or delivered to that office on the following day. However, a report that is due on Saturady or Sunday may be mailed or delivered on the following Monday and one that is due on a holiday may be mailed or delivered on the next work day. For aircraft operated in areas where mail is not collected, reports may be mailed or delivered within 24-hours after the aircraft returns to a point where the mail is collected.

(e) The certificate holder shall transmit the reports required by this section on a form and in a manner prescribed by the Administrator, and shall include as much of the following as is available:

(1) The type and identification number of the aircraft.

(2) The name of the operator.

(3) The date.

(4) The nature of the failure, malfunction, or defect.

(5) Identification of the part and system involved, including available information pertaining to type designation of the major component and time since last overhaul, if known.

(6) Apparent cause of the failure, malfunction or defect (e.g., wear crack, design deficiency, or personnel error).

(7) Other pertinent information necessary for more complete identification, determination of seriousness, or corrective action.

(f) A certificate holder, that is also the holder of a Type Certificate (including a Supplemental Type Certificate), a Parts Manufacturer Approval (PMA), or a TSO authorization, or that is the licensee of a Type Certificate need not report a failure, malfunction, or defect under this section if the failure, malfunction, or defect has been reported by it under § 21.3 or § 37.17 of this chapter or under the accident reporting provisions of Part 830 of Regulations of the National Transportation Safety Board.

(g) No person may withhold a report required by this section even though all information required by this section is not available.

(h) When the certificate holder gets additional information, including information from the manufacturer or other agency, concerning a report required by this section, it shall expeditiously submit it as a supplement to the first report and reference the date and place of submission of the first report.

§ 135.339 Mechanical interruption summary report.

Each certificate holder shall mail or deliver, before the end of the 10th day of the following month, a summary report of the following occurrences in its aircraft for the preceeding month to the FAA District Office having jurisdiction over the area in which the certificate holder's principal business office is located:

(a) Each interruption to a flight, unscheduled change of aircraft enroute, or unscheduled stop or diversion from a route, caused by known or suspected mechanical difficulties or malfunctions that are not required to be reported under § 135.337.

(b) The number of propeller featherings in flight, listed by type of propeller and engine and aircraft on which it was installed. Propeller featherings for training, demonstration, or flight check purposes need not be reported.

§ 135.341 Approved aircraft inspection program.

(a) Whenever the Administrator finds that the aircraft inspections required or permitted under part 91 of this chapter are not adequate to meet the requirements of this part, or upon application by a certificate holder, the Administrator may amend the certificate holder's operations specifications, in accordance with § 135.19, to require or allow an approved aircraft inspection program for any make and model aircraft of which the certificate holder has the exclusive use of at least one aircraft (as defined in § 135.25(b)).

(b) A certificate holder who applies fir an amendment of his operations specifications to allow an approved aircraft inspection program must submit a program for approval by the Administrator with his application.

(c) Each certificate holder who is required by his operations specifications to have an approved aircraft inspection program shall submit a program for approval by the Administrator within 30 days of the amendment of its operations specifications or within such other period as the Administrator may prescribe in the operations specifications.

(d) The aircraft inspection program submitted for approval by the Administrator must contain the following:

(1) Instructions and procedures for the conduct of aircraft inspections (which must include necessary tests and checks), setting forth in detail the parts and areas of the airframe, engines, propellers, rotors, and appliances, including emergency equipment, that must be inspected.

(2) A schedule for the performance of the aircraft inspections under paragraph (1) of this paragraph expressed in terms of the time in service, calendar time, number of system operations, or any combination of these.

(3) Instructions and procedures for recording discrepancies found during inspections and correction or deferral of discrepancies including form and disposition of records.

(e) After approval, the certificate holder shall include the approved aircraft inspection program in the manual required by § 135.23.

(f) Whenever the Administrator finds that revisions to an approved aircraft inspection program are necessary for the continued adequacy of the program the certificate holder shall, after notification by the Administrator, make any changes in the program found by the Administrator to be necessary. The certificate holder may petition the Administrator to reconsider the notice to make any changes in a program. The petition must be filed with the representative of the Administrator assigned to it within 30 days after the certificate holder receives the notice. Except in the case of an emergency requiring immediate action in the interest of safety, the filing of the petition stays the notice pending a decision by the Administrator.

(g) Each certificate holder who has an approved aircraft inspection program shall have each aircraft that is subject to the program inspected in accordance with the program.

(h) The registration number of each aircraft that is subject to an approved aircraft inspection program must be include in the operations specifications of the certificate holder.

§ 135.343 Additonal maintenance requirements, aircraft certificated to carry nine or less passengers.

Each certificate holder who operates a single-engine aircraft or a multiengine aircraft certificated, excluding any pilot seat, for nine passengers or less, must comply with the manufacturer's recommended maintenance programs, or a program approved by the Administrator, for each aircraft engine, propeller, rotor, and each item of emergency equipment required by this chapter.

§ 135.345 Maintenance, preventive maintenance and alteration organization.

(a) Each certificate holder that performs any of its maintenance (other than required inspections), preventive maintenance, or alterations, and each person with whom it arranges for the performance of that work must have an organization adequate to perform the work.

(b) Each certificate holder that performs any inspections required by its manual in accordance with § 135.349(b)(2) or (3), (in this subpart referred to as "required inspections"), and each person with whom it arranges for the performance of that work, must have an organization adequate to perform that work.

(c) Each person performing required inspections in addition to other maintenance, preventive maintenance, or alterations, shall organize the performance of those functions so as to separate the required inspection functions from the other maintenance, preventive maintenance, and alteration functions. The separation shall be below the level of administrative control at which overall responsibility for the required inspection functions and other maintenance, preventive maintenance, and alteration functions is exercised.

§ 135.347 Maintenance, preventive maintenance, and alteration programs.

Each certificate holder shall have an inspection program and a program covering other maintenance, preventive maintenance, and alterations, that ensures that—

(a) Maintenance, preventive maintenance, and alterations performed by it, or by other persons, are performed in accordance with the certificate holder's manual;

(b) Competent personnel and adequate facilities and equipment are provided for the proper performance of maintenance, preventive maintenance, and alterations; and

(c) Each aircraft released to service is airworthy and has been properly maintained for operation under this part.

§ 135.349 Manual requirements.

(a) Each certificate holder shall put in its manual the chart or description of the certificate holder's organization required by § 135.345 and a list of persons with whom it has arranged for the performance of any of its required inspections, other maintenance, preventive maintenance, or alterations, including a general description of that work.

(b) Each certificate holder shall put in its manual the programs required by § 135.347 that must be followed in performing maintenance, preventive maintenance, and alterations of that certificate holder's aircraft, including airframes, aircraft engines, propellers, rotors, appliances, emergency equipment, and parts thereof, and must include at least the following:

(1) The method of performing routine and nonroutine maintenance (other than required inspections), preventive maintenance, and alterations.

(2) A designation of the items of maintenance and alteration that must be inspected (required inspections) including at least those that could result in a failure, malfunction, or defect endangering the safe operation of the aircraft, if not performed properly or if improper parts or materials are used.

(3) The method of performing required inspections and a designation by occupational title of personnel authorized to perform each required inspection.

(4) Procedures for the reinspection of work performed pursuant to previous required inspection findings ("buy-back procedures").

(5) Procedures, standards, and limits necessary for required inspections and acceptance or rejection of the items required to be inspected and for periodic inspection and calibration of precision tools, measuring devices, and test equipment.

(6) Procedures to ensure that all required inspections are performed.

(7) Instructions to prevent any person who performs any item of work from performing any required inspection of that work.

(8) Instructions and procedures to prevent any decision of an inspector regarding any required inspection from being countermanded by persons other than supervisory personnel of the inspection unit, or a person at the level of administrative control that has overall responsibility for the management of both the required inspection functions and the other maintenance, preventive maintenance, and alterations functions.

(9) Procedures to ensure that required inspections, other maintenance, preventive maintenance, and alterations that are not completed as a result of work interruptions are properly completed before the aircraft is released to service.

§ 135.351 Required inspection personnel.

(a) No person may use any person to perform required inspections unless the person performing the inspection is appropriately certificated, properly trained, qualified, and authorized to do so.

(b) No person may allow any person to perform a required inspection unless, at the time, the person performing that inspection is under the supervision and control of an inspection unit.

V 42 167 AUG 29 77 UMI

(c) No person may perform a required inspection if he performed the item of work required to be inspected.

(d) Each certificate holder shall maintain, or shall determine that each person with whom it arranges to perform its required inspections maintains, a current listing of persons who have been trained, qualified, and authorized to conduct required inspections. The persons must be identified by name, occupational title and the inspections that they are authorized to perform. The certificate holder (or person with whom it arranges to perform its required inspections) shall give written information to each person so authorized, describing the extent of his responsibilities, authorities, and inspectional limitations. The list shall be made available for inspection by the Administrator upon request.

§ 135.353 Continuing analysis and surveillance.

(a) Each certificate holder shall establish and maintain a system for the continuing analysis and surveillance of the performance and effectiveness of its inspection program and the program covering other maintenance, preventive maintenance, and alterations and for the correction of any deficiency in those programs, regardless of whether those programs are carried out by the certificate holder or by another person.

(b) Whenever the Administrator finds that either or both of the programs described in paragraph (a) of this section does not contain adequate procedures and standards to meet the requirements of this part, the certificate holder shall, after notification by the Administrator, make changes in those programs requested by the Administrator.

(c) A certificate holder may petition the Administrator to reconsider the notice to make a change in a program. The petition must be filed with the FAA District Office charged with the overall inspection of the certificate holder's operations within 30 days after the certificate holder receives the notices. Except in the case of an emergency requiring immediate action in the interest of safety, the filing of the petition stays the notice pending a decision by the Administrator.

§ 135.355 Maintenance and preventive maintenance training program.

Each certificate holder or a person performing maintenance or preventive maintenance functions for it shall have a training program to ensure that each person (including inspection personnel) who determines the adequacy of work done is fully informed about procedures and techniques and new equipment in use and is competent to perform his duties.

§ 135.357 Certificate requirements.

(a) Except for maintenance, preventive maintenance, alterations, and required inspections performed by repair stations certificated under the provisions of Subpart C of Part 145, of this chapter, each person who is directly in charge of maintenance, preventive maintenance, or alterations, and each person performing required inspections must hold an appropriate airman certificate.

(b) For the purpose of this section, a person "directly in charge" is each person assigned to a position in which he is responsible for the work of a shop or station that performs maintenance, preventive maintenance, alterations, or other functions affecting airworthiness. A person who is "directly in charge" need not physically observe and direct each worker constantly but must be available for consultation and decision on matters requiring instruction or decision from higher authority than that of the person performing the work.

§ 135.359 Authority to perform and approve maintenance, preventive maintenance and alterations.

(a) A certificate holder may make arrangements with other persons to perform maintenance, preventive maintenance, and alterations as provided in its maintenance manual. In addition, a certificate holder may perform these functions for another certificate holder as provided in the maintenance manual of the other certificate holder.

(b) A certificate holder may approve any airframe, aircraft engine, propeller, rotor, or appliance for return to service after maintenance, preventive maintenance, or alterations that are performed under paragraph (a) of this section. However, in the case of a major repair or alteration, the work must have been done in accordance with technical data approved by the Administrator.

§ 135.361 Maintenance recording requirements.

(a) Each certificate holder shall keep (using the system specified in the manual required in § 135.349) the following records for the periods specified in paragraph (b):

(1) All the records necessary to show that all requirements for the issuance of an airworthiness release under § 135.365 have been met.

(2) Records containing the following information:

(i) The total time in service of the airframe, engine, and propeller.

(ii) The current status of life-limited parts of each airframe, engine, propeller, rotor, and appliance.

(iii) The time since last overhaul of all items installed on the aircraft which are required to be overhauled on a specified time basis.

(iv) The indentification of the current inspection status of the aircraft, including the time since the last inspections required by the inspection program under which the aircraft and its appliances are maintained.

(v) The current status of applicable airworthiness directives, including the methods of compliance.

(vi) A list of current major alterations to each airframe, engine, propeller, rotor, and appliance.

(b) Each certificate holder shall retain the records required to be kept by this section for the following periods:

(1) Except for the records of the last complete overhaul of each airframe, engine, propeller, rotor, and appliance the records specified in paragraph (a) (1) of this section shall be retained until the work is repeated or susperseded by other work or for one year after the work is performed.

(2) The records of the last complete overhaul of each airframe, engine, propeller, rotor, and appliance shall be retained until the work is superseded by work of equivalent scope and detail.

(3) The records specified in paragraph (a) (2) of this section shall be retained and transferred with the aircraft at the time the aircraft is sold.

(c) The certificate holder shall make all maintenance records required to be kept by this section available for inspection by the Administrator or any representative of the National Transportation Safety Board (NTSB).

§ 135.363 Transfer of maintenance records.

Each certificate holder who sells a U.S. registered aircraft shall transfer to the purchaser, at the time of the sale, the following records of that aircraft, in plain language form or in coded form which provides for the preservation and retrieval of information in a manner acceptable to the Administrator: (a) The records specified in § 135.361(a)(2).

(b) The records specified in § 135.361 (a)(1) which are not included in the records covered by paragraph (a) of this section, except that the purchaser may permit the seller to keep physical custody of such records. However, custody of records by the seller does not relieve the purchaser of his responsibility under § 135.361(c) to make the records available for inspection by the Administrator or any representative of the National Transportation Safety Board (NTSB).

§ 135.365 Airworthiness release or aircraft log entry.

(a) No certificate holder may operate an aircraft after maintenance, preventive maintenance, or alterations are performed on the aircraft unless the certificate holder prepares, or causes the person with whom the certificate holder arranges for the performance of the maintenance, preventive maintenance, or alterations, to prepare:

(1) An airworthiness release; or

(2) An appropriate entry in the aircraft log.

(b) The airworthiness release or log entry required by paragraph (a) of this section must:

(1) Be prepared in accordance with the procedure set forth in the certificate holder's manual;

(2) Include a certification that: (i) The work was performed in accordance with the requirements of the certificate holder's manual;

(ii) All items required to be inspected were inspected by an authorized person who determined that the work was satisfactorily completed;

(iii) No known condition exists that would make the aircraft unairworthy;

(iv) So far as the work performed is concerned, the aircraft is in condition for safe operation; and

(3) Be signed by an authorized certificated mechanic or repairman except that a certificated repairman may sign the release or entry only for the work for which he is employed and for which he is certificated.

APPENDIX I.—PROPOSALS WITHDRAWN FROM THE 135 REVIEW PROGRAM HELD IN 1976

The proposals listed below were-withdrawn by the proponent, FAA, after the Part 135 Regulatory Review Conference in November 1976. The withdrawal of these proposals does not commit FAA to any future course of action.

Proposal No.:	*Rule content*
10---	Financial information required for issue of ATCO certificate.
26---	En route navigational facilities.
33---	Pilot-in-command qualifications: IFR flight.
34---	Pilot-in-command qualifications: IFR flight.
43---	Applicability.
48---	Flight following system.
64---	Pilot qualification: Certificate required.
66---	Responsibility for operational control.
71---	Engine inoperative: Landing: reporting.
77---	Line Checks.
78---	Proficiency Checks.
105--	Maintenance and preventive maintenance personnel duty time limitations.

APPENDIX II.—PROPOSALS WITHDRAWN FROM THE OPERATIONS REVIEW PROGRAM HELD IN 1975.

The proposals listed below regarding Part 135 were withdrawn by their proponents after the publication of the committee workbooks. Their withdrawal does not prevent the proponents or other interested persons from submitting similar proposals in the future. The withdrawal of FAA proposals does not commit the FAA to any future course of action.

Proposal No.:	*Proponent*
708---	Federal Aviation Administration.
710---	Do.
712---	Do.
720---	Do.
721---	Do.
723---	Do.
725---	Do.
726---	Do.
727---	Do.
729---	Do.
730---	Air Taxi and Commercial Pilots Association.
733---	Federal Aviation Administration.
734---	Do.
736---	Do.
740---	Do.
742---	Do.
749---	Do.
752---	Do.
753---	Do.
757---	Do.
758---	Do.
763---	Do.
766---	Do.
767---	Do.
768---	Do.
772---	Do.
774---	Do.
781---	Do.
784---	Do.
787---	Do.
792---	Do.
795---	Do.
796---	Federal Aviation Administration.
797---	Do.
798---	Do.
800---	Do.
801---	Do.
803---	Do.
806---	National Air Transportation Association.
807---	Federal Aviation Administration.
810---	Do.
817---	Do.

The text of these proopsals can be obtained from the Office of the Chief Counsel, Attention: Rules Docket (AGC-24), Docket No. 14322, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. (Operations Review Notice 75-9 [40 FR 24041]).

APPENDIX III.—PROPOSALS REMOVED FROM CONSIDERATION DURING THE OPERATIONS REVIEW PROGRAM IN 1975

Based on the FAA's review of the discussion at the Biennial Operations Review Conference and of the information submitted by interested persons, the following proposals considered by the Committee at the Operations Review Conference are removed from consideration for the reasons listed. The removal of these proposals from consideration does not commit the FAA to any future course of action.

Proposal No.:	*Proponent*
709---	Air Taxi and Commercial Pilots Association.
715---	Sam J. Corso.
719---	Secretariat General a L'Aviation Civile.
728---	Golden West Airlines.
737---	Association of Flight Attendants.
743---	Sam J. Corso.
747---	Air Taxi and Commercial Pilots Association.
754---	Air Line Pilots Association.
755---	Do.
756---	Air Tax and Commercial Pilots Association.
759---	Air Line Pilots Association.
764---	National Air Transportation Association.
771---	Do.
776---	Do.
778---	Do.
782---	Bransom Engineering Company, Inc.
785---	Air Line Pilots Association.
790---	Air Taxi and Commercial Pilots Association.
794---	National Air Transportation Association.
808---	Air Wisconsin, Inc.
809---	National Air Transportation Association.
811---	Air Taxi and Commercial Pilots Association.
812---	Sun Chemical Corporation.
812A--	Air Line Pilots Association.
814---	Thomson CSR and Sfena.
816---	Air Line Pilots Association.

Proposal No. 709. The proponent withdrew the first part of the proposal but retained that portion of the proposal which proposed deletion of the words "in air commerce" from the definition of "Commercial Operator." Adoption is inappropriate since Part 1 of the Federal Aviation Regulations defines "Commercial Operator" utilizing the term "in air commerce" which is consistent with the FAA's statutory safety authority.

Proposal No. 715. This proposal is one of a series which proposed the consolidation of all maintenance requirements within Part 43. The FAA, however, believes that where maintenance rules bear a specific applicability to a particular operation they should be retained within the part pertaining to the operation concerned to avoid confusion and promote clarity.

Proposal No. 719. The FAAct of 1958 requires a U.S. airworthiness certificate for aircraft used by U.S. operators and requires U.S. operators to use aircraft of U.S. registry. Only U.S. citizens can register aircraft on the U.S. registry. Adoption of this proposal would require amendment of the FAAct of 1958. Such action is beyond the scope of the Operations Review.

Proposal No. 728. The proposal would prohibit a Part 135 certificate holder from utilizing a pilot who has reached his 60th birthday. The FAA does not believe the proponent has presented sufficient justification for mandatory retirement age of 60 years for pilots-operating under Part 135.

Proposal No. 737. The proposal would require that flight attendants be provided on Part 135 aircraft having a passenger seating capacity of more than 15 instead of more than 19 as stated in the current rule. The FAA believes that the proponent did not present sufficient justification for a rule change.

Proposal No. 743. The proposal would remove the provisions of § 135.60 and place them in Part 91. The FAA believes that such a change is unwarranted as it would decrease the requisite flexibility presently available to Part 135 operators.

Proposal No. 747. This proposal would provide that the pilot in command would have joint authority with the certificate holder to authorize the carriage of arms aboard an aircraft. The justification offered by the proponent is that the proposal would make Part 135 consistent with Part 121. After review, the FAA considers the proposed change to be unnecessary.

Proposal No. 754. It was proposed to modify the second-in-command requirements on IFR flights conducted under Part 135 to apply to all flights. After review of these proposals the FAA has concluded that the level of safety provided by the current regulations is adequate.

Proposal No. 755—The proposal would delete the provisions of § 135.75. The FAA considers that the level of safety provided under the current rule is adequate and that the proposed change would not be in the public interest.

Proposal No. 756—This proposal would insert a requirement in § 135.77 which would authorize the pilot in command to determine whether the VFR flight could be operated safely without a second-in-command. Since, under current regulations, a pilot has the authority to refuse to operate an aircraft under any conditions which he considers unsafe, the FAA does not believe that sufficient justification exists for the amendment set forth in the proposal.

Proposal No. 759—The proposal would delete the autopilot exception to second-in-command requirement. The FAA considers that the current regulation provides an adequate level of safety and that the proposed change is unnecessary.

Proposal No. 764—The proposal would relax the current regulation concerning flight into known icing conditions. However, sufficient justification was not presented to change the current regulations which provide an adequate level of safety.

Proposal No. 771—The proposed relaxation of the regulation with respect to single-engine aircraft operating "VFR over-the-top" would result in a reduction of safety which is not justified.

Proposal No. 790—The proposal would require that a check pilot hold the appropriate Flight Instructor rating or Airline Transport Pilot Certificate. The FAA believes that the current standards which are equivalent

V 42 16 7 AUG 29 77 UMI

to PIC requirement for the operations authorized are adequate.

Proposal No. 794—The proposal would increase, in certain cases, the flight and duty time allowed crewmembers under § 135.136. This relaxation is unjustified and would result in an unacceptable standard of flight safety.

Proposal No. 808—The proposal would relax the current requirements by redefining the difference between large and small aircraft by allowing aircraft weight to be determined at zero fuel weight for operations under Part 135 instead of maximum certificated take off weight as is presently required. The proponent did not present sufficient justification for the proposed relaxation of the current rules.

Proposal No. 809—See comments on Proposal No. 771.

Proposal No. 811—The proposals would require that each aircraft operated under Part 135 be equipped with "a heated air source with sufficient capacity to enable crewmembers to perform their duties without discomfort or fatigue at at least 60 F." The FAA has determined that the proposed change is neither adequately justified nor technically or economically practicable at the present time. The proponent did not demonstrate that cockpit temperatures under current regulations pose a safety hazard.

Proposal No. 812—This proposal would prohibit Part 135 operations in an aircraft not equipped with an altimeter approved under Part 37. The FAA believes that this proposal is unduly restrictive and unnecessary. Current regulations require aircraft to be equipped with an approved altimeter for certification and provide specific maintenance standards.

Proposal No. 812A—This proposal would require that all night and "VFR over-the-top operations" be conducted pursuant to IFR equipment requirements. There has been no showing that the current regulation does not provide an adequate level of flight safety. Hence, in view of the economic ramifications of such a change, the FAA believes that the proposed change is unwarranted.

Proposal No. 814—The proposal would prohibit the use of runways for landing which were not equipped with either radio or visual approach slope deviation indication unless the aircraft is fitted with special equipment. The FAA is presently evaluating such equipment and will consider possible rule making at the completion of that evaluation.

Proposal No. 816—The proposal would replace the term "extended over-water operations" with the term "25 miles or more-over-water from an airport for landing." The FAA considers that the definition of "extended over-water operations," contained in § 1.1 is adequate and need not be changed for operations under Part 135.

The text of these proposals can be obtained at the Office of the Chief Counsel, Attention: Rules Docket (AGC-24), Docket No. 14322, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C., 20591. (Operations Review Notice 75 9 (39 F.R. 24041)).

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1355(a), 1421 through 1430, and 1502; Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 19, 1977.

R. P. SKULLY,
Director,
Flight Standards Service.

[FR Doc.77-24746 Filed 8-26-77;8:45 am]

federal register

MONDAY, AUGUST 29, 1977
PART III



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

NATIONAL FLOOD INSURANCE PROGRAM

Final Flood Elevation Determinations for Various Communities

federal

V42167 AUG 29 77 UMI

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2837]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Wickenburg, Maricopa County, Arizona

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Town of Wickenburg, Maricopa County, Ariz. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Town of Wickenburg, Maricopa County, Ariz.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for the Town of Wickenburg, Maricopa County, Ariz.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Wickenburg, Maricopa County, Ariz., are available for review at the Wickenburg Post Office, 55 East Yavapai, Wickenburg, Ariz.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Hassayampa River	Downstream corporate limit.	2,040
	Confluence within Sunset Wash.	2,043
	900 ft downstream from Center St.	2,038
	Center St.	2,047
	Confluence within Powder House Wash.	2,050
	Upstream corporate limit.	2,051
Powder House Wash	Confluence within Hassayampa River.	2,050
	Constellation Rd.	2,050
	250 ft upstream from Constellation Rd.	2,055
	600 ft upstream from Constellation Rd.	2,060
	800 ft upstream from Constellation Rd.	2,065
Sols Wash	River St.	2,050
	Highway 89	2,064
	1,000 ft upstream from Highway 89.	2,067
	Olander St. (extended).	2,081
	Park St. (extended)	2,085
	Upstream corporate limit.	2,093
Hospital Wash	Rose Lane	2,085
	550 ft upstream from Rose Lane.	2,090
	800 ft upstream from Rose Lane.	2,095
	Upstream corporate limits.	2,103
Cemetery Wash	Highway 89	2,064
	A.T. & S.F. RR.	2,068
	Adam St.	2,072
	Madison St.	2,076
	Jackson St.	2,082
	Navajo St.	2,088
	Avispa St.	2,093
	Cucoraeha St.	2,014
	Mariposa Dr.	2,115
	500 ft upstream from Mariposa Dr.	2,125
	1,000 ft upstream from Mariposa Dr.	2,135
	1,500 ft upstream from Mariposa Dr.	2,150
	Los Altos Rd. (extended).	2,158
	2,500 ft upstream from Mariposa Dr.	2,170
	Horseshoe Trail	2,180
	Buckskin Trail	2,185
	Horseshoe Trail	2,195
	Country Club Rd.	2,210
	Confluence with south branch, Cusundro Wash.	2,216
	Corporate limits	2,230
	do	2,247
	Park Pl.	2,251
	West Dr.	2,263
	Vulture Mines Rd.	2,272
	Upstream corporate limits.	2,277
South branch, Cusundro Wash.	U.S. Highway 60 and 70.	2,210
	Yucca Dr.	2,215
	Yaqui Dr.	2,263
	500 ft upstream from Yaqui Dr.	2,270
	Upstream corporate limit.	2,285
Flying E Wash	Downstream corporate limit.	2,288
	U.S. Highway 60 and 70.	2,291
	Wilshire Dr. (extended).	2,302
	Pike Dr. (extended)	2,309
	Sunset Dr. (extended).	2,315
	Upstream corporate limit.	2,321

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4011-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-23649 Filed 8-26-77;8:45 am]

[Docket No. FI-2790]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Venice, Madison County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Venice, Madison County, Ill. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Venice, Madison County, Ill.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for the City of Venice, Madison County, Ill.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128 and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Venice, Madison County, Ill., are available for review at the City Hall, Venice.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Mississippi River	West of levee	429
Local ponding	Near intersection of Bremen and Main Sts.	410
	Between Slough Rd. and Main St.	410
	Intersection of 4th and Hampden Sts.	409
	Intersection of Fillmore and 7th Sts.	411
	Intersection of Weaver and Bissel Aves.	411

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24650 Filed 8-26-77;8:45 am]

[Docket No. FI-2792]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Muscatine, Muscatine County, Iowa

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Muscatine, Muscatine County, Iowa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Muscatine, Muscatine County, Iowa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for the City of Muscatine, Muscatine County, Iowa.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Muscatine, Muscatine County, Iowa are available for review at the City Hall, 3rd and Sycamore Street, Muscatine.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Mississippi River	Highway 92 Bridge	560
Mad Creek	2d St.	560
	5th St.	560
	Washington St.	560
	Clay St. (upstream)	570
	Lake Park Blvd. (upstream).	573
	Old Highway 38 (upstream).	601
	North corporate limits.	606
Geneva Creek	Isett Ave.	567
	Bidwell Rd.	597
	Tipton Rd.	631
	North corporate limits.	643

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24651 Filed 8-26-77;8:45 am]

[Docket No. FI-2793]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Riverdale, Scott County, Iowa

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Riverdale, Scott County, Iowa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Riverdale, Scott County, Iowa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for the City of Riverdale, Scott County, Iowa.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Riverdale, Scott County, Iowa are available for review at the City Hall, Elmhurst Lane, Riverdale, Iowa.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Mississippi River	Downstream corporate limits.	574
	South Bellingham St. (extended).	574
	Upstream corporate limits.	575
Duck Creek	Aicon RR.	574
	Davenport, Rock Island & Northwestern RR.	576
	Upstream corporate limits.	579

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24652 Filed 8-26-77;8:45 am]

V 4216 7 A UG 29 77 UMI

[Docket No. FI-2795]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Leavenworth, Leavenworth County, Kans.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Leavenworth, Leavenworth County, Kans. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Leavenworth, Leavenworth County, Kans.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for the City of Leavenworth, Leavenworth County, Kans.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Leavenworth, Leavenworth County, Kans., are available for review at the bulletin board, City Clerks office, City Hall, Leavenworth.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Threemile Creek	Missouri Pacific R.R.	772
	2d St.	772
	3d St.	774
	4th St.	779
	5th St.	781
	6th St.	785
Thorncale Creek	7th St.	786
	Broadway St.	787
	Cherokee St.	788
	Shawnee St.	790
	10th St.	792
	Osage St.	800
	13th St.	803
	Ottawa St.	806
	18th St.	828
	20th St.	836
	Upstream corporate limits.	849
South branch of Threemile Creek.	At mouth	793
	Shawnee St.	797
	11th St.	799
	Cherokee St.	801
	14th St.	813
	18th St.	852
	19th St.	864
	20th St.	870
	Upstream corporate limits.	885
Fivemile Creek	At mouth	772
	Marion St.	773
	4th St.	779
	2d Ave.	781
	Limit St.	786
	Shrine Park Rd.	794
	Desoto Ave.	810
	New Lawrence Rd.	836
	Upstream corporate limits.	845
Missouri River	Downstream of limit study.	771
	Burlington Northern RR.	773
	Highway 92.	774
	Upstream corporate limits (extended).	774

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4011–4128); and Secretary's delegation of authority to Federal Insurance Administrator (34 FR 2680, February 27, 1969), as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24653 Filed 8-26-77;8:45 am]

[Docket No. FI-2825]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Rockville, Montgomery County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Rockville, Montgomery County, Md. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of Flood Insurance Rate Map for the City of Rockville, Montgomery County, Md.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for the City of Rockville, Montgomery County, Md.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Rockville, Montgomery County, Md., are available for review at the Bulletin Board at City Hall, Md., at Vinson Street, Rockville.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Cal in John Creek	Downstream corporate limits.	312
	Wheel of Fortune Rd.	312
	Leverton Rd.	338
	Edmonston Dr.	348
	Monroe St.	367
Rock Creek, tributary No. 1.	Downstream corporate limit.	288
	Wainwright Ave.	307
	Halpine Rd.	337
Rock Creek, tributary No. 2.	Downstream corporate limit.	293
	Atlantic Ave.	310
	Midway Ave.	320
	Ardennes Ave.	327
	LandBrook Pl. (extended).	338
Watts branch, tributary No. 3.	Nelson St.	372
	Madison St. (extended).	386
	Manakee St.	407
Cabin John Creek, tributary No. 4.	Leverton Rd. (extended).	345
	Edmonston Dr.	359
	Brice Rd.	375
	Jefferson St. (extended).	389
	Rockville Pike	399
Rock Creek, tributary No. 5.	Norbeck Rd.	368
	I-8S.	371
	Upstream culvert	380

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24654 Filed 8-26-77;8:45 am]

[Docket No. FI-1006]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Township of Warren, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Township of Warren, N.J. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Township of Warren, N.J.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Township of Warren. This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Warren are available for review at 46 Mountain Boulevard, Warren, N.J.

The final 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Passaic River	Old Stirling Rd.	215.7
	Stirling Rd.	215.1
	Hillcrest Rd.	215.1
Branch 1, Passaic River.	Mountain Ave.	227.9
	Footbridge	218.5
	Indian Rock Rd.	217.3
	Spring Rd.	215.3
Branch 2, Passaic River.	Mountain Ave.	236.9
Cory's Brook	Powder Horn Dr.	391.7
	Mount Bethel Rd.	389.7
	Dubois Rd.	378.6
	Reinman Rd.	329.4
	I-78	245.4
	Mountain Ave.	223.7
Dead River	Liberty Corner Rd.	223.3
	Dead River Rd.	217.8
	King George Rd.	215.7
East Branch Middle River.	Hardy Rd.	271.4
	Warrenville Rd.	264.7
	Green Valley Dr.	250.3
	Footbridge	235.4
	Morning Glory Rd.	241.2
	King George Rd.	229.4
Branch Stony Brook.	Fairfield Ave.	382.5
	Roseland Ave.	380.1
	Footbridge	376.6
	Stirling Rd.	366.8
Dock Watch Hollow Brook.	Heritage Dr.	396.2
	Lenape Trail	384.4
	Blazier Rd.	371.1
	Washington Valley Rd.	351.1
Branch Dock Watch Hollow Brook.	Private Rd.	382.6
	Ferguson Rd.	372.8
	do.	343.1

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2860, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77 24655 Filed 8 26–77;8:45 am]

[Docket No. FI-2807]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Village of Falconer, Chautauqua County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Village of Falconer, Chautauqua County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Village of Falconer, Chautauqua County, N.Y.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for the Village of Falconer, Chautauqua County, New York.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in floodprone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Falconer, Chautauqua County, N.Y., are available for review at the Community Building, 101 West Main Street, Falconer.

The final 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Chadakoin River	ConRail	1,251
	Phetteplace St.	1,255
	Dow St.	1,261
Moon Brook	West Main St.	1,258
	Richard Ave.	1,265

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24656 Filed 8-26-77;8:45 am]

[Docket No. FI-2651]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Gorham, Ontario County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Town of Gorham, Ontario County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

V 42 167 AUG 29 77 UMI

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Town of Gorham, Ontario County, N.Y.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for the Town of Gorham, Ontario County, N.Y.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Town of Gorham, Ontario County, N.Y. are available for review at the Town Hall entryway on the bulletin board, South Street, Gorham, N.Y.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Flint Creek	Tile Yard Rd	861
	Lake to Lake Rd	867
	Con Rail	872
	East Swamp Rd	879
Canadahgua Lake	Fisher gully	697
	Jones Rd. (extended)	695
	Gage gully	692
	Deep Run	693
	Turner Rd. (extended)	695

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24657 Filed 8-26-77;8:45 am]

[Docket No. FI-2806]

PART 1917—APPEALS FROM FINAL FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Village of Mayville, Chautauqua County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Village of Mayville, Chautauqua County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Village of Mayville, Chautauqua County, N.Y.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for the Village of Mayville, Chautauqua County, N.Y.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Mayville, Chautauqua County, N.Y., are available for review at the Village Hall, South Erie Street, Mayville.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Black Creek	ConRail Bridge	1,310
	Spillway	1,321
	East Chautauqua Street Bridge (Route 17).	1,322
	Culvert	1,338
	Farm lane	1,351
	Maple Drive Bridge	1,338
	Corporate limits	1,157
Black Creek (sheet-flow).	East Whallon St	(1)
Little Inlet	Mouth at Chautauqua Lake.	1,311
	East Whallon St	1,311
	Culvert	1,311
	do	1,321
	Confluence with Black Creek.	1,311
	Corporate limits	1,315
	ConRail Bridge	1,318
	Honeysette Road Bridge.	1,321
	Corporate limits	1,322
Mud Creek	Mouth at Chautauqua Creek.	1,311
	West Lake Road Bridge.	1,311
	Corporate limits	1,311
	ConRail Bridge	1,312
	Corporate limits	1,312
	Morris Street Bridge	1,318
	Corporate limits	1,319
Chautauqua Lake	Shoreline (contiguous to the village area extends for a distance of approximately 7,200 ft within the village limits).	1,311

[1] Estimated depth of 0.5.

NOTE.—A local flood hazard problem exists in the area between Chautauqua Lake and the intersection of Valley and West Marvin St. Since the flood hazard area is delineated by approximate methods, base flood elevations are not determined.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24658 Filed 8-26-77;8:45 am]

[Docket No. FI-2802]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Village of Richburg, Allegany County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Village of Richburg, Allegany County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Village of Richbury, Allegany County, N.Y.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for the Village of Richburg, Allegany County, N.Y.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Richburg, Allegany County, N.Y., are available for review at the Richburg Post Office, Main Street, Richburg.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Little Genesee Creek.	South corporate limits.	1,618
	Broad St	1,637
	Richardson St	1,644
	Mill St	1,661
	East corporate limits	1,692
West Notch Rd. tributary.	Evans St	1,659
	North corporate limits.	1,715

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24659 Filed 8-24-77;8:45 am]

in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Village of Richbury, Allegany County, N.Y.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for the Village of Richburg, Allegany County, N.Y.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Richburg, Allegany County, N.Y., are available for review at the Richburg Post Office, Main Street, Richburg.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Little Genesee Creek.	South corporate limits.	1,618
	Broad St	1,637
	Richardson St	1,644
	Mill St	1,661
	East corporate limits	1,692
West Notch Rd. tributary.	Evans St	1,659
	North corporate limits.	1,715

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24660 Filed 8-26-77;8:45 am]

[Docket No. FI-2830]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Village of South Dayton, Cattaraugus County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Village of South Dayton, Cattaraugus County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Village of South Dayton, Cattaraugus County, N.Y.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for the Village of South Dayton, Cattaraugus County, N.Y.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of South Dayton, Cattaraugus County, N.Y., are available for review at the Village Hall, Park Street, South Dayton, N.Y.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum 1929
West branch of Conemaugh Creek.	Downstream corporate limit.	1,290
	2d Ave. (extended)	1,291
	2d St. (extended)	1,292
	Upstream corporate limit.	1,294

[Docket No. FI-2812]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Village of Hunting Valley, Cuyahoga County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Village of Hunting Valley, Cuyahoga County, Ohio. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Village of Hunting Valley, Cuyahoga County, Ohio.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for the Village of Hunting Valley, Cuyahoga County, Ohio.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Hunting Valley, Cuyahoga County, Ohio, are available for review at the Village Hall, Hunting Valley.

V 42167 AUG 29 77 UMI

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Chagrin River	Northern corporate limits.	714
	Fairmont Rd.	756
	South Woodward Rd.	787
	Southern corporate limits.	750

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24661 Filed 8-26-77;8:45 am]

[Docket No. FI-2814]

PART 1917—APPEALS FROM FINAL FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Township of Concord, Delaware County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Township of Concord, Delaware County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Township of Concord, Delaware County, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for the Township of Concord, Delaware County, Pa.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Concord, Delaware County, Pa., are available for review at the Municipal Building, 250 Smithbridge Road, Concord.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
West Branch Chester Creek.	Smith Bridge Rd.	183
	Ivy Mill Rd.	192
	Baltimore Pike.	245
	Conchester Ave. (extended).	311
South Fork West Branch Chester Creek.	Concord Rd.	252
	Temple Rd.	270
	Smith Bridge Rd.	314
Green Creek	Glover Dr. (extended).	185
	Concord Rd.	192
	Cambridge Dr. (extended).	238

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128) and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24662 Filed 8-26-77;8:45 am]

[Docket No. FI-2612]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Township of Lumber, Cameron County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Township of Lumber, Cameron County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Township of Lumber, Cameron County, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Township of Lumber, Cameron County, Pa.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Lumber, Cameron County, Pa., are available for review at the Township Building, Sterling Run, Pa.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Driftwood branch, Sinnemahoning Creek.	South corporate limits.	906
	Sterling Run Rd.	911
	ConRail Bridge.	958
Hunts Run	Route 327	558
Sterling Run	Route 302	948
	Perpendicular to Sterling Run Rd., 3,000 ft upstream of Route 302.	940

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24663 Filed 8-26-77;8:45 am]

[Docket No. FI-2833]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Borough of Port Royal, Juniata County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Borough of Port Royal, Juniata County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Borough of Port Royal, Juniata County, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for the Borough of Port Royal, Juniata County, Pa.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–488), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Port Royal, Juniata County, Pennsylvania, are available for review at Juniata Valley National Bank, Port Royal office, Port Royal, Pa.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Juniata River	Southeast corporate limits.	438
	Milford St. (extended).	438
	North corporate limits.	439
Tuscarora Creek	ConRail	438
	Confluence within Licking Creek.	438
Licking Creek	Northwest corporate limits.	438

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24644 Filed 8-26-77;8:45 am]

[Docket No. FI-2816]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Township of Whitpain, Montgomery County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Township of Whitpain, Montgomery County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Township of Whitpain, Montgomery County, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for the Township of Whitpain, Montgomery County, Pa.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Whitpain, Montgomery County, Pa. are available for review at the Township Building, 960 Wenty Road, Blue Bell, Pa.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Stony Creek	Township Line Rd.	196
	Confluence within East tributary Stony Creek.	200
	Cortez Rd. (extended).	208
	Mauck Rd. (extended).	217
	North Wales Rd.	225
East tributary Stony Creek.	Confluence within Stony Creek.	200
	Erbs Mill Rd.	203
	Sylvan Dr. (extended).	204
	Daws St. (extended).	206
	Muhlenburg Dr. (extended).	208
	Sullivan Dr. (extended).	212
Wissahickon Creek	Butler Pike.	181
	Oak St. (extended).	184
	Mount Pleasant Rd.	188
	Mathers Rd.	196
	Confluence within Willow Run.	202
	Corporate limits	209
	...do.	217
	Blue Bell Pike.	229
	Upstream corporate limits.	235

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4011–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24665 Filed 8-26-77;8:45 am]

[Docket No. FI-2817]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the County of Loudoun, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in Loudoun County, Va. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for Loudoun County, Va.

V 42167 AUG 29 77 UMI

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

The Federal Insurance Administrator given notice of his final determinations of flood elevations for Loudoun County, Va.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Loudoun County, Va., are available for review at the County Administrator's office, 18 North King Street, Leesburg, Va.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
South fork, Catoctin Creek.	Confluence with north fork, Catoctin Creek.	340
	State Route 698	352
	State Route 9	388
	State Route 738	403
	State Route 287	430
	State Route 711	463
North fork, Catoctin Creek:	State Route 681	343
	State Route 287	409
	State Route 9	422
Tuscarora Creek	State Route 653	221
	State Route 654	268
	State Route 15	322
Dry Mill branch	Confluence with Tuscarora Creek:	327
	Leesburg corporate limits.	348
	State Route 699	369
Sycolin Creek	Confluence with Goose Creek.	236
	State Route 657	273
	State Route 643	292
	State Route 653	297
	State Route 642	312
	State Route 621	328
	State Route 650	359
	State Route 15	385
	State Route 797	388
	State Route 770	443
South fork, Sycolin Creek:	Confluence with Sycolin Creek.	372
	State Route 15	391
Broad Run	State Route 7 to Potomac River.	212
	Confluence with Beaverdam Run:	216
	Confluence with Cabin Branch No. 2.	219
	State Route 625	225
	State Route 607	226
	Confluence with Horsepen Run.	234
Broad Run	Confluence with Cabin Branch No. 1.	263
	Confluence with south fork Broad Run.	268
	State Route 659	274
	State Route 621	275
Russell branch	Confluence with Beaverdam Run.	216
	State Route 607	218
Beaverdam Run	Confluence with Broad Run.	216
	State Route 607	218
	Abandoned railroad	228
	State Route 641	258
Cabin Branch No. 1.	Confluence with Broad Run.	263
Cabin Branch No. 2.	Confluence with Broad Run.	219
	State Route 28	235
South fork, Broad Run.	Confluence with Broad Run.	268
	State Route 621	273
	U.S. Route 50	278
Sugarland Run	Potomac River Backwater.	200
	Thomas Ave.	229
	County limits	233

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974.)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24666 Filed 8-26-77;8:45 am]

federal register

MONDAY, AUGUST 29, 1977
PART IV



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

COASTAL ZONE MANAGEMENT PROGRAM APPROVAL REGULATIONS

V42167 AUG 29 77 UMI

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[15 CFR Part 923]

COASTAL ZONE MANAGEMENT PROGRAM APPROVAL REGULATIONS

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce

ACTION: Proposed rule.

SUMMARY: These proposed regulations revise and incorporate several sets of existing regulations dealing with approval of State coastal management programs. Since a substantial number of coastal States will seek program approval within the next year, it is appropriate to issue these revised regulations now, as they provide greater detail and clarity as to the approval requirements.

DATE: Deadline for submission of written comments: October 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Carol Sondheimer; State Programs Office; Office of Coastal Zone Management; Page Building 1; 3300 Whitehaven Street NW., Washington, D.C. 20235, 202-634-1672.

SUPPLEMENTARY INFORMATION: The National Oceanic and Atmospheric Administration (NOAA) is issuing these proposed revisions to the management program approval requirements, pursuant to section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.), hereafter referred to as the "Act," in response to requests from States, Federal agencies and other interested parties to clarify the requirements by removing any ambiguities in existing program approval regulations and by resolving any apparent conflicts between existing regulations and guidance issued by the Office of Coastal Zone Management (OCZM) in the form of threshold papers and individual letters to States.

These proposed regulations incorporate, revise and will supercede (when issued as final rules) the following sets of existing regulations related to management program approvals:

(1) Final Coastal Zone Management Program Approval Regulations published in the FEDERAL REGISTER on January 9, 1975 dealing with section 306 approval requirements;

(2) Interim Coastal Zone Management Federal-State Consultation Regulations published in the FEDERAL REGISTER on February 2, 1975 dealing with subsections 307(b) and 307(h) of the Act which have to do with Federal consultation, review and approval procedures, and mediation during program development and preliminary approval;

(3) Final Coastal Zone Management Program Approval Regulations Amendment published in the FEDERAL REGISTER on November 2, 1976 dealing with subsection 306(h) of the Act with respect to island segmentation; and

(4) Proposed Coastal Zone Management Program Approval Regulations Amendments published in the FEDERAL REGISTER on December 30, 1976 dealing with subsections 306(c)(2)(B), 306(g) and 312 of the Act which have to do with a continuing State-local consultation mechanism, performance review of approved management programs, amendments or refinements to approved management programs, and termination and withdrawal of funding of approved management programs.

While the revisions herein are numerous, especially in providing greater specificity and detail as to acceptable approaches to meeting the approval requirements, they do not represent a radical alteration to the basic approval requirements. In most summary form these requirements are that a State develop a management program that:

(1) Identifies and evaluates those coastal resources that require management;

(2) Reexamines existing policies and/or develops new policies to address these resources. These policies must be specific, comprehensive and enforceable, and must provide an adequate degree of predictability as to how coastal resources will be dealt with;

(3) Determines specific uses and special geographic areas to be subject to the management program based on the nature of earlier identified coastal concerns. The basis for managing these uses (and/or their impacts) and these areas should be based on resource capability and suitability analyses, socio-economic considerations and public preferences; and

(4) Identifies the inland and seaward areas subject to the management program.

To assure that the program in fact will be put into practice, there must be sufficient legal authorities and organizational structures to implement the program and to insure conformance to it.

In arriving at these substantive aspects of the management program, States are obliged to follow an open process which involves providing information to and considering the interests of the general public, special interest groups, local governments, and regional, State, interstate and Federal agencies.

MAJOR CHANGES

The most major change from the existing approval regulations is not so much a change as a shift in emphasis—to increased attention on enforceable management program policies. Where the existing regulations discuss policy requirements in section 923.4, these proposed regulations devote most of Subpart A to a discussion of policy requirements. States are expected to include policies directed at three broad categories: (1) Resource management, (2) coastal development, and (3) government processes. Included therein are requirements for dealing with wetlands and floodplain management, either directly or through control of impacts on either type of area. These specific requirements have been added in response to the President's Executive Orders of May 25, 1977.

Two other aspects that have received increased attention in these regulations are what constitute acceptable and enforceable legal authorities for program approval purposes (see sections 923.40–923.44 of Subpart E) and what constitutes adequate consideration of national interests affecting a State's coastal zone (see section 923.52 of Subpart F). The devised text and tables in section 923.52 indicate that adequate consideration of the national interest in planning for and siting of facilities which are more than local in nature involves consideration of national interests in resource conservation and preservation as well as national defense, energy, transportation and recreation requirements.

The definition of what constitutes excluded Federal lands has been revised to reflect recent guidance from the Justice Department. On August 10, 1976, the U.S. Department of Justice rendered an opinion concluding that all Federal lands were excluded from the coastal zone as result of section 304(1) of the Act. NOAA interpreted this opinion as being limited to Federal lands owned by the United States, while other Federal agencies argued that the exclusion covered all lands owned, leased or otherwise used by the Federal Government. During Federal interagency review of section 307 regulations, which also are published today elsewhere in the FEDERAL REGISTER, the issue was resubmitted to the Justice Department. NOAA was informally advised that the exclusion was to be applied broadly to cover all lands used by the Federal Government. Accordingly, section 923.33 now states that all lands owned, leased, held in trust by the United States or the use of which is otherwise by law subject solely to the discretion of the Federal Government, its officers or agents, are excluded from a State's coastal zone. However, this section also notes that (1) Federal land actions causing significant offsite effects on coastal zone resources are subject to the Federal consistency requirements of sections 307(c) and (d) of the Act, and (2) in excluding Federal lands from the coastal zone for the purposes of this Act, a State does not relinquish or in any way impair its rights or authority over Federal lands that exist outside of the context of the coastal management program.

New sections have been added providing guidance on the recommended format for the document States submit for management program review and approval (see section 923.71 of Subpart H), the information States should include in their environmental impact assessments (see section 923.62 of Subpart G), and the process by which State programs are reviewed by NOAA, other Federal agencies and the general public (see section 923.72 of Subpart H).

What follows is a more detailed discussion of changes by subpart:

SUBPART A—GENERAL

This subpart contains definitions of major terms and explains the general policy requirements. Existing section 923.2 contains definitions of "full approval" and "preliminary approval" which have been dropped in proposed section 923.2. Definition of these terms is no longer necessary or appropriate as part of section 306 regulations since preliminary approval, to which the definition of full approval is directly related, now is covered by Coastal Zone Management Program Development Regulations. (See 15 CFR 920.40–920.43.)

The definition of the following terms has been added: "relevant Federal agencies" and "principally affected Federal agencies." These two terms appear in subsections 306(c)(1) and 307(b) of the Act, respectively. These terms are defined in sections 925.2(e) and 925.3 of the interim Federal-State Coordination Regulations. In these proposed regulations, the Council on Environmental Quality and the Department of Justice have been dropped, by mutual consent, from the list of relevant Federal agencies that States must consult during program development, given that these two agencies do not have specific missions or programs that affect or could be affected by State coastal zone management programs.

Proposed section 923.3 revises and expands upon the requirements of existing section 923.4. In addition to the changes discussed above having to do with increased emphasis on policy specificity, comprehensiveness, enforceability and predictability, this proposed section differs from existing section 923.4 in placing an equal emphasis on the substance of the management program and on the procedures by which the substance was developed when the Associate Administrator reviews the program for approval purposes. This equal emphasis and the requirement for specific and substantive policies is reflective of NOAA's underlying philosophy of what implementation of State coastal management programs is meant to achieve—that programs should be specific enough to materially increase the predictability of land and water decisions affecting coastal resources that are made by affected parties and by public officials. They also should provide the citizen of the State with a clear idea of those coastal issues which have been determined to be of statewide concern, as well as the manner in which the State will address these issues.

SUBPART B—USES SUBJECT TO MANAGEMENT

This subpart replaces existing sections 923.12 dealing with permissible uses, 923.17 dealing with local regulations and uses of regional benefit and proposed section 923.19 dealing with an energy facility planning process.

The term permissible uses has been dropped because of the confusion created by that phrase. The requirements with respect to uses subject to management have been clarified. They are essentially two phased: A State must (1) identify uses or impacts from those uses that will be controlled by the management program and (2) then must explain how these uses (or impacts) will be managed (i.e., on the basis of what technical and legal underpinnings). These requirements are discussed in sections 923.11 and 923.12, respectively.

Section 923.17 of existing regulations indicate that, at a minimum, facilities in which there is a national interest in their planning or siting must be considered as uses of regional benefit. The proposed section 923.13 makes this optional and provides that uses of regional benefit need be defined only in terms of uses contained in areawide plans adopted by agencies designated pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966. A review of legislative history and recognition of the fact that the Act itself addresses consideration of national interests in some types of facilities (in subsection 306(c)(8) of the Act) separate from requirements related to uses of regional benefit (in subsection 306(e)(2)) leads NOAA to conclude that uses of regional benefit need not be defined as synonymous with facilities in which there may be a national interest in their planning or siting.

Proposed section 923.14 dealing with energy facility planning adopts the language of proposed section 923.19 (published December 30, 1976) with the addition and expansion of the commentary of 15 CFR 920.18(b)(1) which now appears as section 923.14(c). The purpose of this addition is to make clear the intent of this requirement given that the particular subsection of the Act—305(b)(8)—to which this section relates has been the subject of much discussion and misunderstanding. The intent of this requirement is to develop a clearly articulated process for dealing with energy facilities which may locate in or affect a State's coastal zone. The minimum requirement is that States develop a process for anticipating and managing energy facility impacts in the coastal zone. As a result of developing this required planning process, States should be able to specify the locational conditions that would either lead to or constrain the siting of particular energy facilities in a State's coastal zone.

When this section was published as proposed section 923.19 (on December 30, 1976), a number of comments were received to the effect that the required planning elements were inadequate and/or inappropriate. NOAA regards these as comments beyond the scope of these regulations as the planning requirements are addressed as part of the section 305 Program Development Regulations (15 CFR Part 920). As such, these requirements were subject to public review and comment (FEDERAL REGISTER, December 6, 1976) and the comments referred to above were addressed in the preamble to the revised, final Program Development Regulations, published in the FEDERAL REGISTER on April 29, 1977.

SUBPART C—SPECIAL MANAGEMENT AREAS

This subpart replaces existing sections 923.13 dealing with areas of particular concern, 923.14 dealing with guidelines on priorities, and 923.16 dealing with area designation for preservation and restoration, published January 9, 1975. This subpart also replaces proposed sections 923.18 dealing with shorefront access planning and 923.20 dealing with shoreline erosion/mitigation planning, published on December 30, 1976. This subpart also adds a new section 923.23 containing optional procedures for designating additional areas of particular concern beyond those required by subsection 305(b)(3) of the Act.

Together proposed sections 923.21 and 923.23 envision three categories of areas of particular concern, one of which is required; the other two are optional. The required designation, discussed in section 923.21, is for geographic areas, either generic or site specific, that require additional management beyond the general management controls provided in the management program and for which these additional management techniques are in place and ready to be implemented at the time of program approval. The second category of designation is optional and is discussed in section 923.23. This designation is of areas that the State recognizes require additional management but the nature of management and appropriate techniques will be developed after program approval. The third category is delevolpment of a procedure for designating areas of particular concern in the future after program approval. (See section 923.23.) Included in this third category is the procedure for designating areas for preservation and restoration called for in subsection 306(c)(9) of the Act. (See also section 923.24.) The reason for adding these optional procedures is a recognition of the ongoing nature of the coastal management process and the need to allow States to build into their management programs a process for responding in a responsible and timely manner to future management requirements.

Existing section 923.14 dealing with guidelines on priorities of uses, which is replaced herein with proposed section 923.22, is ambiguous as to whether such guidelines must be developed for the whole coastal zone or only for geographic areas of particular concern. In a threshold guidance paper issued by OCZM subsequent to the existing regulations, OCZM interpreted the existing requirement to apply throughout the coastal zone. However, these proposed regulations now indicate that the requirement to develop guidelines on priorities of uses, including uses of lowest priority, need apply only to areas of particular concern. This more limited interpretation of the requirement appears appropriate for two reasons. For one, while the language of subsection 305(b)(5) of the Act—from which this requirement is drawn—is somewhat ambiguous, it does refer to "particular areas" which can be read as being synonymous with the "areas of particular concern" referred to in subsection 305(b)(3) of the Act. Secondly, part of the purpose of the existing requirement—to establish Statewide priorities for the coastal zone

V 42167 AUG 29 77 UMI

generally—will now be accomplished by proposed section 923.3 which calls for the articulation of Statewide coastal zone policies.

Proposed sections 923.25 and 923.26 dealing with shorefront planning and erosion planning, respectively, adopt the language of proposed sections 923.18 and 923.20, published on December 30, 1976 with the minor change of title for proposed section 023.25 from shorefront access planning to shorefront access and preservation planning. This proposed title is a more accurate reflection of the requirements of that section.

Comments received on these two sections, as proposed in the FEDERAL REGISTER of December 30, 1976, with respect to the inadequacy of the planning requirements are beyond the scope of these regulations. Such comments were reviewed in connection with proposed amendments to the Program Development Regulations (FEDERAL REGISTER, December 6, 1976). NOAA's response to these comments is contained in the preamble to final Program Development Regulations, published April 29, 1977.

SUBPART D—BOUNDARIES

This subpart replaces existing section 923.11. The discussion of boundary requirements has been placed later in these proposed regulations than in the existing regulations as a reflection of the fact that the management boundary is a function, in large measure, of the uses and areas determined pursuant to Subparts B and C. Further, the delineation of the management boundary takes on significance only when the types of resources, uses and areas to be managed and the nature of their management have been determined, at least preliminarily.

Readers are referred to the discussion in Major Changes, above, of the changes made to exclude Federal lands in section 923.33 and the reasons therefor.

SUBPART E—AUTHORITIES AND ORGANIZATION

This subpart replaces and expands considerably existing Subpart C. The requirements of this proposed subpart have been subjected to extensive comment and questioning over the past several years. It is in response to these questions and comments that NOAA has expanded so substantially the discussions herein. Considerable attention is devoted to explaining what constitutes enforceable authorities and options available under the control techniques provided pursuant to subsection 306(e)(1) of the Act. (See section 923.42.)

Section 923.43 discusses acceptable means for assuring that local regulations will not unreasonably restrict or exclude uses of regional benefit (defined pursuant to section 923.13). While one obvious means for providing such assurance is a State override with respect to such uses, it is not the only acceptable means of providing such assurance, nor is it necessarily the most desirable.

The requirements in proposed section 923.44 for incorporation of air and water pollution control requirements pursuant to the Clean Air Act, as amended and the Federal Water Pollution Control Act, as amended are basically the same as those in the existing, equivalent section 923.44. Additional commentary has been provided in the proposed section to provide a clearer understanding of what constitute requirements under those two Acts.

Sections 923.45–923.47 of these proposed regulations deal with organizational requirements of the Act pursuant to subsections 305(b)(6), 306(c)(5) and 306(c)(6). The requirements of proposed section 923.45 regarding a description of how a State is organized to implement its management program is basically the same as the requirement in existing section 923.22. Reference in the existing section to gubernatorial certification of the establishment of the necessary organizational structure now appears in proposed section 923.47 which covers all documentation requirements that should appear in the Governor's transmittal accompanying the program submission. The discussion of the responsibilities of the State agency designated pursuant to subsection 306(c)(5) that appears in existing section 923.22 has been transferred to proposed section 923.46. Included in this proposed section, as part of the designated State agency's responsibilities, is the administrative capability to monitor and evaluate the effectiveness of the State and those given responsibilities under the management program to achieve management program objectives, including monitoring of adherence to the program policies.

SUBPART F—COORDINATION, PUBLIC INVOLVEMENT AND NATIONAL INTERESTS

This subpart replaces existing sections 923.15, 923.30–923.32, and 923.40 and 923.41 of final regulations published January 9, 1975, dealing with consideration of national interests, participation by relevant entities, consultation and coordination with other planning, and public hearings. This subpart also replaces sections 925.1–925.4 and 925.6 of existing interim regulations published February 28, 1975, dealing with Federal consultation and mediation during program development.

Proposed section 923.51 replaces existing section 925.4 (published as Interim Regulations on February 28, 1975) and deals with Federal consultation requirements pursuant to subsections 306(a)(1) and 307(b) of the Act. Basically this section adopts the thrust of the existing section with the following additional emphases:

(1) that Federal agency involvement begin early in program development and that it continue throughout the development process;

(2) that States have a responsibility to evaluate and accommodate, to the extent practicable, valid Federal agency views.

This proposed section now also discusses the Associate Administrator's responsibilities for considering Federal agency views prior to program approval.

After publication of Interim Federal-State Coordination Regulations on February 28, 1975, NOAA received a number of comments on section 925.4. These comments and NOAA's responses are noted below:

(1) One commentator recommended that there be an explicit requirement for States to consider Federal agency views of the national interests as part of the consultation procedure. NOAA RESPONSE: NOAA has accepted this recommendation in modified form. Proposed section 923.51(a)(4) requires States to evaluate Federal comments received during the program development process and, where appropriate, to accommodate the substance of relevant comments in the management program. Relatedly section 923.51(f)(2) encourages Federal agencies to provide States with their interpretations of various national interests. Additionally, proposed section 923.52(f) lists Federal agency statements regarding national interests as one source for deriving national interests to be considered during program development and implementation.

(2) One commentator recommended that NOAA reference, as part of the coordination requirements, the HUD–OCZM Interagency Agreement dealing with the interrelationship of the planning requirements of both agencies. NOAA response: Reference to this agreement, as well as other relevant interagency agreements, can be found in proposed section 923.56(c) dealing with plan coordination.

As indicated in the discussion of major changes above, the proposed section 923.52, which replaces existing section 923.15 and deals with consideration of the national interests called for in subsection 306(c)(8) of the Act, has been revised substantially. This revision is necessary and appropriate given the increased attention this subsection of the Act has received during public and Federal agency reviews of State programs recently approved or presently going through the approval process. This revision also is necessary and appropriate given the apparent confusion and differences of interpretation as to the requirements of existing section 923.15. Proposed section 923.52 recognizes that the national interest in the planning and siting of facilities that are more than local in nature, including energy facilities, is a function of consideration of the national need for those facilities in a State's coastal zone, siting requirements (including coastal dependency) of those facilities, and resource capability and conservation requirements. In effect then, adequate consideration of the national interest in facility siting involves a weighing of these varying and sometimes conflicting considerations. Accordingly the table in existing section 923.15 has been replaced in proposed section 923.52 with two tables that reflect both facility and resource considerations involved in determining the national interest in these facilities. In addition, the requirements with respect to subsection 306(c)(8) of

the Act have been clarified and now require of States that they:

(1) describe national interests considered during program development and the sources thereof;

(2) indicate how competing national interests have been weighed and the reflection of this in the management program, and

(3) describe a process for continued consideration of national interests during program implementation.

In addition, because subsection 306(c)(8) was amended in 1976 to include specific mention of energy facilities, proposed section 923.52(b) includes additional requirements for consideration of the national interest in energy facilities beyond those in section 923.52(a).

Proposed section 923.53 is new and requires States to include discussion of the Federal consistency procedures they will use to implement subsections 307 (c) and (d) of the Act after program approval. The addition of this requirement is in response to Federal agency requests that the State management programs include a discussion of the Federal consistency procedures in the management program document. The details on the consistency requirements pursuant to subsections 307 (c) and (d) and the mediation provisions pursuant to subsection 307(h) after program approval are being published elsewhere in the FEDERAL REGISTER as proposed in 15 CFR Part 930.

Proposed section 923.54 incorporates and somewhat revises existing section 925.6 which deals with mediation of serious Federal-State disagreements during program development or preliminary approval status (authorized under subsection 305(d) of the Act). Mediation of serious disagreements after program approval is dealt with as part of the Federal Consistency Regulations (15 CFR Part 930). Following is a list of comments received on section 925.6 when it was published as part of interim regulations on Feburary 28, 1975 and NOAA responses:

(1) Several reviewers objected to the designation of the Office of Management and Budget (OMB) as the agency which would cooperate with the Secretary in mediating serious disagreements. One reviewer suggested that the Council on Environmental Quality be designated to mediate disagreements regarding environmental issues. Another reviewer suggested that the Energy Resources Council mediate energy related disputes. Yet another reviewer recommended that the National Security Council handle national security disagreements.

NOAA Response: The term "OMB" has been replaced with the term "Executive Office of the President" to permit the Executive Office greater flexibility in designating the entity within that Office which will participate with the Secretary of Commerce in seeking to mediate serious disagreements.

(2) A number of reviewers objected to the cumbersome nature of the mediation process. In response to these comments, significant changes have been made. The reasons for these changes are contained in the preamble to the proposed Federal Consistency Regulations published elsewhere in today's FEDERAL REGISTER.

In addition, NOAA has determined that mediation efforts should be the responsibility of the Secretary and not the Associate Administrator as indicated in existing section 925.6. It was decided that the Office of the Secretary, which is responsible for administering the mediation and appeals system after program approval, should similarly take the lead in mediation efforts during program approval. Proposed section 923.54 reflects this position.

Proposed section 923.55 dealing with opportunities for full participation by governmental entities, interest groups and the general public replaces existing section 923.31 dealing with the same subject matter. The proposed section has been expanded to incorporate some recommendations from an OCZM threshold paper on alternative public involvement techniques.

Proposed section 923.56 dealing with plan coordination incorporates and slightly revises for the purpose of clarification the requirements of existing section 923.32. Continuing consultation requirements after program approval which are addressed in existing section 923.32 now are addressed in proposed section 923.57.

Proposed section 923.57 incorporates the continuing consultation requirements of existing section 923.32 as well as the specific State-local continuing consultation requirements of proposed section 923.42 (published December 30, 1976).

In response to comments on proposed section 923.42, NOAA has made the following changes:

(1) One commentator suggested that "management program decision" subject to the specific State-local consultation mechanism should be limited to those which are discretionary on the part of a State agency and should not include those decisions which are statutorily mandated. NOAA response: NOAA has accepted this suggestion and has revised the definition of "management program decision" in proposed section 923.57(c)(2) accordingly.

(2) One commentator objected to the definition of "conflict" with a local zoning ordinance because the definition leaves the determination of conflict up to the local government. NOAA response: The commentator's observation is correct. NOAA's rationale for so doing is in response to comments by a large number of coastal States (on a draft that preceded the December 30, 1976 proposed regulations) that to do otherwise would create enormous and undesirable burdens on the State agencies. Accordingly, no change has been made to proposed section 923.57(c)(3).

(3) Two comments were received on the definition of "local zoning ordinance, decision or other action." One commentator suggested the types of actions considered to fall within the definition should be further restricted; the other commentator recommended that the list of actions should be expanded. NOAA response: NOAA has not changed the definition in proposed section 923.57(c)(4). NOAA feels that the type of actions defined therein encompass major local zoning actions without placing an unwarranted requirement on either State or local governments.

(4) One commentator suggested that a "waiver" of a right by a local government to comment should be effected when there is a public statement by the appropriate local government official that the local government waives its right to comment or concurs with the State management program decision or that the local government intends to take a contradictory action thereby waiving its right to comment. NOAA response: NOAA has accepted the recommendation and has rewritten section 923.57(c)(6) accordingly. NOAA also has rewritten this section to indicate that, in addition to a written or oral waiver, a waiver of right to comment can occur when the local government takes an action that conflicts or interferes with the State management program decision.

(5) One commentator suggested that it be clarified whether the State management agency or the local government has the ultimate administrative authority to resolve conflicts. NOAA response: NOAA has added language to proposed section 923.57(f) to indicate that the State management agency has the ultimate administraive authority to resolve conflicts. This is in keeping with one of the basic purposes of the Act which is to encourage States to exercise effectively their responsibilities to achieve wise use of land and water resources in the coastal zone.

(6) One commentator objected, as too time-consuming, to the requirement that the State management agency inform the affected local government in writing of the outcome of State consideration of local government comments. NOAA response: NOAA does not feel it unreasonable to require a written outcome of the State's consideration of local comments. This written outcome does not have to be in the form of a specific letter to the affected local government but may take the form of notice in an agency newsletter or other public notice that normally would be seen by the affected local government. Accordingly, section 923.57(f)(2) has not been changed.

Proposed section 923.58 dealing with public hearing requirements replaces existing section 923.41. The language of 15 CFR 920.31 has been adopted because of its greater clarity and specificity. In response to questions, section 923.58 indicates that the public hearing required on the management program need not be on the document itself submitted to the Associate Administrator but must cover all aspects contained in the document.

SUBPART G—MISCELLANEOUS

Proposed section 923.61 deals with requirements for segment management programs and incorporates the requirements of existing section 923.43 as amended on November 2, 1976.

V 42167 AUG 29 77 UMI

Proposed section 923.62 is new and provides guidance on what items should be discussed in the environmental impact assessment which is part of the State's program submission. This addition has been made in response to repeated requests from States for guidance on this matter. The information in section 923.62 is based on an OCZM guidance memo issued August 1976.

SUBPART H—REVIEW/APPROVAL PROCEDURES

Proposed section 923.71 is new and provides a recommended format for program submissions. Again this guidance has been added in response to numerous requests from coastal States over the past few years. The recommended format is not mandatory. States may use a different format as long as it is discussed with and approved by OCZM.

In response to a comment on the Interim Federal-State Coordination Regulations issued February 2, 1975 that a State's management program should include specific Federal agency comments, proposed section 923.71(c)(4)(v) indicates that a summary of such comments should go into the body of the management program but copies of specific agency comment should be reserved for an appendix to the program document. It is optional on the part of the State whether specific comments are included in an appendix.

Proposed section 923.72 dealing with review/approval procedures replaces existing section 925.5 of interim regulations issued February 2, 1975. Revisions have been made to reflect more accurately the process by which the Associate Administrator decides whether to grant full approval to a State submission.

When section 925.5 was issued as part of interim regulations, the following comments were received:

(1) One reviewer argued that an environmental impact statement was not required prior to approval of a management program. NOAA response: NOAA has determined that the National Environmental Policy Act (NEPA) requires development of a statement prior to approval of a management program for a coastal State's entire coastline. Accordingly this requirement is reflected in the process described in section 923.72. In the case of segmented management programs, NOAA has determined that there may be instances where approval of the segment program will not have substantial envirnomental impacts. This situation is covered in proposed section 923.73 (a)(3).

(2) Another commentator recommended that, if a management program submitted for final approval included changes from the program as initially submitted, or contained new information, then any existing final environmental impact statement should be circulated for review and comment as a draft environmental impact statement. NOAA response: NOAA's procedures are in accordance with the Council on Environmental Quality's (CEQ) guidelines which specifically envison the option of an agency supplementing or amending "a draft or final environmental statement, * * * when substantial changes are made * * * or significant new information becomes available * * *" (40 CFR 1500.11(b)).

(3) One reviewer objected to the fact that the environmental impact statement process does not require a public hearing be held. NOAA response: While a public hearing is not required by NEPA, CEQ's guidelines encourage such hearing be held when a decision relates to a large scale program or project, or may be controversial. The Associate Administrator regards the decision to approve a State management program of sufficient scale and controversy to warrant a public hearing before making a final decision. Accordingly no change has been made.

Finally, the Associate Administrator has decided it is not necessary to publish notices of approval or disapproval of management programs in the FEDERAL REGISTER. Notice of the availability of draft and final environmental impact statements, however, will be published in the FEDERAL REGISTER. The findings of the Associate Administrator, in the event of approval, will be available upon request and will be sent as a matter of course to relevant Federal agencies. Section 923.72 reflects these statements.

Proposed section 923.73 entitled miscellaneous is new and deals with factors that may shorten the review timeliness discussed in section 923.72. Section 923.73 also indicates the procedures the Associate Administrator will follow in reviewing proposed amendments to a State's approved management program.

SUBPART I — APPLICATIONS FOR ADMINISTRATIVE GRANTS

Proposed Subpart I incorporates existing Subpart F dealing with the same subject matter. The following minor changes have been made:

(1) Where the Preapplication for Federal Assistance, Form SF-424, was required for the initial administrative grant, proposed section 923.86(a) now makes its use optional.

(2) Proposed section 923.83 dealing with allocation of portions of a State's grant to other entities has been revised to note restrictions on pass-throughs to local governments if a State is relying primarily on the direct State control technique provided for in subsection 306 (e)(1)(B) of the Act. This section also has been revised to indicate the conditions under which tribal governments may be allocated a portion of a State's administrative grant.

(3) Proposed section 923.85 dealing with eligible costs has been expanded to note that equipment purchases of more than five hundred dollars per item require NOAA approval prior to purchase and the basis on which such approvals will be made.

SUBPART J—REVIEW OF APPROVED MANAGEMENT PROGRAMS

This proposed subpart incorporates in somewhat revised form proposed Subpart G issued December 30, 1976. Following is a summary of comments received on the December 30 proposed Subpart G and NOAA's responses:

(1) One commentator suggested assessment of a State's performance should not be in terms of "adhering to the goals, objectives and policies contained in the management program" but rather in terms of a State's achieving goals and objectives in addition to adhering to the program policies. NOAA response: NOAA has accepted the recommended language change and has revised section 923.91(b)(1) accordingly.

(2) One commentator objected to reference to public interest groups in the section dealing with entities the Associate Administrator may consult in assessing State performance. This commentator noted that private interest groups, including representatives of industrial or development associations, should not be excluded arbitrarily as a potential evoluation source. NOAA response: NOAA concurs with the commentator's point and has deleted the word "public" from section 923.91(b)(4)(iv).

(3) Finally one commentator objected in general to the proposed performance review criteria as being too vague and not providing enough specific criteria. More specifically this commentator objected to the level of reporting detail being left to consultation between the Associate Administrator and the State. NOAA response: While it is difficult to know with any certainty in advanced of implementing the procedures contained in section 923.91 whether the procedures and criteria contained therein are too vague, NOAA does feel that the proposed regulations provide a reasonable and sufficiently clear basis on which to assess performance of approved management programs. As more State programs are approved, NOAA will gain more experience with performance reviews. If this experience indicates the proposed regulations are inadequate to serve their intended purpose, it would be appropriate, at that point in time, to amend the proposed criteria and procedures. Accordingly no major changes have been made to section 923.91.

Proposed section 923.92 incorporates proposed section 923.72 incorporates proposed section 923.72 (published December 30, 1976) dealing with amendments or modifications to approved management programs. In response to comments that the specific procedures to be followed in requesting an amendmend were not clearly described, section 923.92(c) has been added. In response to yet other comments that the statement that "Federal consistency * * * shall not apply to those parts of a State's coastal management program that are proposed for amendment * * *" was unclear, section 923.92(d) has been revised to indicate that unless and until an amendment to a management program is approved by the Associate Administrator, the Federal consistency provisions attach to all aspects of a State's management program, even those being proposed for amendment.

Proposed section 923.93 dealing with refinements to approved management programs incorporates proposed section 923.73 published December 30, 1976. This section has been expanded to include the procedures States shall follow in making program refinements. These procedures are in section 923.92(c) and have been added in response to requests from commentators on the December Proposed Regulations.

Proposed section 923.94 incorporates proposed section 923.74 (published December 30, 1976) dealing with termination and withdrawal of funding for programmatic reasons.

Environmental and inflationary impact statements: NOAA has reviewed these regulations pursuant to the National Environmental Policy Act of 1969 and has determined that promulgation of these regulations will not have a significant impact on the environment.

NOAA has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

Public review and comment: NOAA invites public review and comment on these proposed regulations so that they again may be modified, where necessary and legally permissible, to fully satisfy the requirements of the Act in a manner which addresses the concerns of all parties affected by the regulations. Written comments should be submitted to the State Programs Division, Attention: Carol Sondheimer, Office of Coastal Zone Management, Page Building 1, 3300 Whitehaven Street NW., Washington, D.C. 20235 on or before October 28, 1977. Following the close of the comment period, and after review of comments, these proposed regulations may be amended and will be published as final regulations in the FEDERAL REGISTER.

Dated: August 23, 1977.

T. P. GLEITER,
Assistant Administrator for Administration.

PART 923—COASTAL ZONE MANAGEMENT PROGRAM APPROVAL REGULATIONS

Subpart A—General

Sec.
923.1 Purpose.
923.2 Definitions.
923.3 General requirements.

Subpart B—Uses Subject to Management

923.10 General.
923.11 Uses subject to management.
923.12 Use permissibility.
923.13 Uses of regional benefit.
923.14 Energy facility planning process.

Subpart C—Special Management Areas

923.20 General.
923.21 Areas of particular concern.
923.22 Priorities of uses.
923.23 Other areas of particular concern.
923.24 Areas for preservation or restoration.
923.25 Shorefront access and preservation planning.
923.26 Shoreline erosion/mitigation planning.

Subpart D—Boundaries

Sec.
923.30 General.
923.31 Inland boundaries.
923.32 Seaward boundaries.
923.33 Excluded lands.
923.34 Interstate boundaries.

Subpart E—Authorities and Organization

923.40 General.
923.41 Identification of authorities.
923.42 Control techniques.
923.43 Authorities related to uses of regional benefit.
923.44 Air and water pollution control requirements.
923.45 Organizational structure.
923.46 Designated state agency.
923.47 Documentation.

Subpart F—Coordination, Public Involvement and National Interests

923.50 General.
923.51 Federal-State consultation.
923.52 Consideration of national interests.
923.53 Federal consistency procedures.
923.54 Mediation.
923.55 Full participation.
923.56 Plan coordination.
923.57 Continuing consultation.
923.58 Public hearings.

Subpart G—Miscellaneous

923.60 General.
923.61 Segmentation.
923.62 Environmental impact assessments.

Subpart H—Review/Approval Procedures

923.70 General.
923.71 Recommended format for program submissions.
923.72 Review/approval procedures.
923.73 Miscellaneous.

Subpart I—Applications for Administrative Grants

923.80 General.
923.81 Administration of the program.
923.82 State responsibility.
923.83 Allocation.
923.84 Geographic segments.
923.85 Eligible costs.
923.86 Application for initial grant.
923.87 Applications for subsequent grants.
923.88 Grant amendments.

Subpart J—Review of Approved Management Programs

923.90 General.
923.91 Review of performance.
923.92 Amendments or modifications to approved management programs.
923.93 Refinements to approved management programs.
923.94 Termination and withdrawal of administrative funding.

AUTHORITY: Secs. 306, 307 and 312, Coastal Zone Management Act of 1972, Pub. L. 92-583, 86 Stat. 1280, as amended by Pub. L. 94-370, 90 Stat. 1013.

Subpart A—General

§ 923.1 Purpose.

(a) The primary purpose of these regulations is to set forth the criteria by which State programs submitted to the Associate Administrator for management program approval pursuant to section 306 of the Act will be evaluated. These regulations also establish the procedures by which States meeting the approval criteria may apply for administrative grants pursuant to subsections 306 (a) and (h) of the Act. Also included in these regulations are the procedures by which programs submitted for approval will be reviewed; the criteria by which the performance of approved programs will be evaluated for subsequent administrative grants; the conditions under which approved programs may be altered; and the conditions under which grants may be terminated.

(b) Sections 305, 306 and 307 of the Act set forth various requirements which must be fulfilled as a condition of program approval. The specifics of these requirements are set forth below in these groupings: General Requirements; Uses Subject to Management; Special Management Areas; Boundaries; Authorities and Organization; Coordination, Public Involvement and National Interests; and Miscellaneous. All relevant sections of the Act are dealt with under one or more of these groupings but not necessarily in the order in which these sections appear in the Act.

(c) The 15 CFR Part 920 regulations pertaining to program development grants are incorporated herein by reference. Accordingly, the two sets of regulations should be read together. Where there are differences in the Part 920 and Part 923 regulations, the Part 923 regulations control.

(d) Care has been taken in the use of the following words: "must," "shall," "provided that," "may," and "should." Wherever possible the words "must", "shall," and "provided that" appear in sections entitled Requirement. However, even when such words appear in Comment sections, they shall be interpreted as requirements of these regulations. The words "should" or "may" are to be interpreted as recommendations, and not as requirements for program approval.

(e) Finally, States should note that, while they must meet the requirements of these regulations, the presentation of how these requirements are met—either to the Associate Administrator or to the public—need not be in the order of phraseology uses herein. (See Subpart H for further discussion of the program submission format.)

§ 923.2 Definitions.

(a) The term "Act" means the Coastal Zone Management Act of 1972, as amended.

(b) The term "Secretary" means the Secretary of Commerce or his/her designee, including especially the Associate Administrator for Coastal Zone Management based on duly executed delegations of authority from the Secretary to the Administrator of the National Oceanic and Atmospheric Administration (NOAA) by Amendment 5 of the Department of Commerce Organizational Order 25-5A, dated October 13, 1976; and from the Administrator to the Associate Administrator for Coastal Zone Management by NOAA Circular 76-82, effective October 13, 1976.

(c) The term "Associate Administrator" means the Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

V 42167 AUG 29 77 A UMI

(d) The term "relevant Federal agencies" means those Federal agencies with programs, activities, projects or regulatory, financing or other assistance responsibilities, in the following fields which could impact or affect a State's coastal zone:

(1) Energy production or transmission.
(2) Recreation of an interstate nature.
(3) Interstate transportation.
(4) Production of food and fiber.
(5) Preservation of life and property.
(6) National defense.
(7) Historic, cultural, esthetic and conservation values, and
(8) Mineral resources and extraction.

The following are defined as relevant Federal agencies:

Department of Agriculture	Department of Transportation
Department of Commerce	Environmental Protection Agency
Department of Defense	Energy Research and Development Administration
Department of Health, Education, and Welfare	Nuclear Regulatory Commission
Department of Housing and Urban Development	Federal Energy Administration
Department of the Interior	Federal Power Commission
	General Services Administration

Should governmental reorganization occur, relevant Federal agencies shall be those with programs, activities, projects or responsibilities in the fields cited above. States should include other relevant Federal agencies as appropriate to their program development or implementation efforts.

(e) The term "Federal agencies principally affected" shall mean the same as "relevant Federal agencies." The Associate Administrator may expand upon the term for purposes of reviewing the management program and environmental impact statement.

(f) The following terms, as used in these regulations, have the same definition as provided in section 304 of the Act.

(1) Coastal zone.
(2) Coastal waters,
(3) Coastal State,
(4) Estuary.
(5) Land use.
(6) Water use.
(7) Management program.

§ 923.3 General requirements.

(a) *Requirement.* In addition to the specific requirements related to individual elements of a State's coastal management program (such as those related to boundaries, areas of particular concern, legal authorities, etc.), the approvability of any State program, pursuant to section 306 of the Act, will be determined by the Associate Administrator in accordance with the following general requirements:

(1) That the management program is comprehensive. It must address and provide for the management of those significant resources, uses and areas that the State has determined, through its development process and in consultation with all relevant interests as required by the Act and these regulations, make its coastal zone a unique, vulnerable and/or valuable area requiring various forms of management;

(2) That the policies, standards, objectives and criteria upon which decisions pursuant to the program will be based are articulated clearly and are sufficiently specific to provide (i) a clear understanding of the content of the program, especially in identifying who will be affected by the program and how, and (ii) a clear sense of direction and predictability for decision makers who must take actions pursuant to or consistent with the management program; and

(3) That there are sufficient policies of an enforceable nature to insure the implementation of and adherence to the management program.

(b) *Requirement.* If a State's program does not provide for the management of those coastal resources that are unique, vulnerable and/or valuable or for the management of those uses which may have direct and significant impact(s) on those resources, the State must demonstrate to the satisfaction of the Associate Administrator that the absence of such provisions will not violate the Act's findings and its national policies of (i) achieving wise use of coastal land and water resources or (ii) preserving, protecting, developing and, where possible, restoring or enhancing the nation's coastal resources.

(c) *Comment.* Statutory Citation, Subsection 306(c)(1):

> Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that: (1) the state has developed and adopted a management program for its coastal zone • • • which is adequate to carry out the purposes of this title and is consistent with the policy declared in section 303 of this title.

(d) *Comment. Statutory Citation,* Section 303:

> The Congress finds and declares that it is the national policy (a) to preserve, protect, develop, and where possible, to restore or enhance the resources of the Nation's coastal zone for this and succeeding generations, (b) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development, (c) for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with state and local governments and regional agencies in effectuating the purposes of this title, and (d) to encourage the participation of the public, of Federal, state and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such management programs, it is the national policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action particularly regarding environmental problems.

(e) *Requirement.* Particular attention should be devoted to subsection 303(b) of the Act which calls for (i) the ability to manage coastal land and water resources based on (ii) ecological, historical, cultural, esthetic and economic considerations. It is impossible to specify by regulation the relevant scope, priority and type of such considerations for each coastal State, given significant differences in the bio-physical characteristics of the coastal zone, the quantity, quality and distribution of coastal resources located therein and the uses of or conflicts over use of these diverse resources. At a minimum, however, States shall include three broad classes of policies in their management program in order to provide a framework for the exercise of various management techniques governing coastal resources, uses and areas:

(1) *Resource policies* are directed toward the management and conservation of wetlands and floodplains as well as estuaries, intertidal areas, beaches, barrier islands, cliffs and bluffs, other areas subject to erosion or accretion, areas containing fishery, spawning and harvesting grounds, and such other areas or resources as the State deems require management;

(2) *Development policies* are those that address such matters as shorefront access, ports and harbors, energy facilities, coastal dependency of large-scale industrial, commercial, residential and institutional developments; and

(3) *Government process policies* are those which address such matters as State-local roles and responsibilities; clarification and simplification of regulatory and permitting procedures.

(f) *Comment.* Policies addressing appropriate uses of or in wetlands and floodplains located in a State's coastal zone, or policies addressing acceptable and non-acceptable impacts in those arms, are necessary in order to meet the Act and the directives of Presidential Executive Orders issued May 24, 1977. With respect to the Associate Administrator's responsibility for considering how a State has treated wetlands in its management program, the President's Executive Order states that:

> (1) Each agency shall provide leadership and take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands, in carrying out the agency's responsibilities for • • • conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating and licensing activities • • •
>
> (5) In carrying out the activities described in Section 1 of this Order, each agency shall consider factors relevant to a proposal's effect on the survival and quality of the wetlands. Among these factors are:
>
> (a) public health, safety, and welfare, including water supply, quality, recharge and discharge, pollution, flood and storm hazards, and sediment and erosion;
>
> (b) maintenance of natural systems, including conservation and long term productivity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish, wildlife, timber, and flood and fiber resources, and

(c) other uses of wetlands in the public interest including recreational, scientific and cultural uses.

With respect to the Associate Administrator's responsibility for how a State has treated floodplains in its management program, the Presidents' Executive Order states that:

> (1) Each agency shall provide leadership and shall take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying its responsibilities for • • • conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating and licensing activities.
>
> (2) In carrying out the activities described in Section (1) of this Order, each agency has a responsibility • • • to ensure that its planning programs and budget requests reflect consideration of flood hazards and flood plain management • • •
>
> (4) Each agency shall take floodplain management into account when formulating or evaluating any water and land use plans and shall require land and water resources use appropriate to the degree of hazard involved • • •
>
> (6) The term "floodplain" shall mean the lowland and relatively flat areas adjoining inland and coastal waters including floodprone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year.

Subpart B—Uses Subject to Management

§ 923.10 General.

This subpart deals with land and water uses which, because of their impacts on important coastal resources, including especially coastal waters, are subject to the terms of the management program. Determination of these uses will, in turn, assist in determining the appropriate coastal management boundary. This subpart deals in full with the requirements of subsections 305(b)(2), Uses Subject to Management and 305(b)(8), Energy Facility Planning, and deals in part with the requirements of subsection 306(e)(2), Uses of Regional Benefit.

§ 923.11 Uses subject to management.

(a) *Requirement.* The essential requirements of this subpart are: (1) To determine and identify which uses shall be subject to the terms of the management program;

(2) To establish the bases for policies and management authorities that will govern whether and how uses will be permitted, conditioned or denied; and

(3) To assure that these policies and authorities incorporate a sufficiently broad range of considerations to address the national concerns of sections 302 and 303 of the Act.

(b) *Comment.* In order to meet the requirements of (a)(1) above, States should inventory natural and manmade coastal resources and should analyze the quality, location, distribution and demand for these resources as well as the need for and nature of coastal management. Assessments derived from these inventories and analyses should form one basis for determining uses subject to the management program.

(c) *Comment.* In addition, States should consider the potential for direct and significant coastal impacts from the following types of uses, especially as they affect unique, vulnerable or valuable coastal resources:

(1) Residential and commercial developments such as subdivisions, high-rise apartments or hotels, trailer parks and second-home developments, and shopping centers, and associated transportation corridors;

(2) Industrial developments, such as tank farms and refineries, power plants, manufacturing complexes, industrial parks, onshore and offshore port facilities, mineral and sand extraction operations; liquified natural gas (LNG) facilities, petrochemical plants;

(3) Recreational facilities such as beaches, amusement parks, marinas and other boating facilities; and

(4) Public facilities and public works such as schools, hospitals, government buildings, dams and water treatment facilities.

(d) *Comment.* In determining if the managed uses and their management are sufficiently comprehensive, the Associate Administrator will rely primarily on whether major coastal-related issues raised by the public and/or governmental entities during the course of program development have been addressed.

§ 923.12 Use permissibility.

(a) *Requirement.* In order to meet the requirements of subsection 305(b)(2) of the Act, and the associated requirements of § 923.11(a)(2), States must develop policies and procedures by which uses, determined to be subject to the management program, will be permitted, conditioned, modified and/or prohibited. These policies and procedures regarding management of uses and/or their impacts must be capable of effective implementation at the time of program approval.

(b) *Comment.* Statutory Citation, Subsection 305(b)(2):

> The management program for each coastal state shall include • • • (2) A definition of what shall constitute permissible land uses and water uses within the coastal zone which have a direct and significant impact on the coastal water.

(c) *Comment.* The policies and procedures called for in paragraph (a) above should be based on the following types of analyses: (1) Capability and suitability of resources types to accommodate existing, projected or potential uses;

(2) Environmental impacts on coastal resources;

(3) Compatability of various uses with adjacent uses or resources;

(4) Evaluation of inland and other locational alternatives;

(5) Coastal dependency of various uses and other social and economic considerations.

(d) *Comment.* The procedures called for in paragraph (a) above can be satisfied by use of performance standards provided that such standards take into account the full range of considerations called for in sections 302, 303 and 307(f) of the Act. These considerations include, but are not limited to:

(1) Air and water quality;

(2) Aesthetics, in instances where the character of coastal development or historic preservation are particularly important concerns;

(3) Open space or recreational usage of the shoreline where increased access to the shorefront is a particularly important concern;

(4) Floral and faunal communities where loss of living marine resources or threats to endangered or threatened coastal species are particularly important concerns; and

(5) Coastal dependency of various activities and uses.

(e) *Comment.* To the extent a State's management program policies are generalized, performance standards that will be used to enforce these policies will need to be sufficiently explicit and specific that persons affected by the management program will have a reasonable understanding of what uses would be permitted in which locations of the coastal zone and under what conditions. Further, while performance standards represent an acceptable procedure for managing uses, they do not substitute for the requirement of § 923.11(a)(1) to identify uses subject to the management program.

§ 923.13 Uses of regional benefit.

(a) *Requirement.* In order to meet the requirements of subsection 306(e)(2) of the Act, State's must:

(1) Identify what constitute uses of regional benefit; and

(2) Identify those methods that shall be used to assure that unreasonable restrictions or exclusions of such uses by local land and water use regulations shall not occur.

(b) *Comment.* Statutory Citation, Subsection 306(e)(2):

> Prior to granting approval, the Secretary shall also find that the program provides • • • (2) for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

(c) *Comment.* States have a number of options with respect to identifying uses of regional benefit as required in (a)(1) above. States may define uses of regional benefit as uses that are more than local in nature as defined in plans adopted by areawide agencies designated pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966. Where States follow this procedure, they should coordinate the requirements of this section with those of § 923.56 having to do with plan coordination. Alternatively, States may choose to define uses of regional benefit to include facilities in which there may be a national interest in their planning or siting. In such cases, States should refer to § 923.52 which discusses consideration of facilities in which there may be a national interest in planning and siting. Another alternative would be for the State to identify those uses

V 42167 AUG 29 77 UMI

which it perceives will affect or produce some regional benefit defined in terms of providing services or other benefits to citizens of more than one unit of local, general-purpose government (excluding situations such as cities and counties that exercise jurisdiction over the same geographic areas).

(d) *Comment.* Once uses of regional benefit have been defined, States must provide a method for assuring local regulations do not unreasonably restrict or exclude such uses. Acceptable alternatives for meeting this requirement are discussed in § 923.43 of subpart E—Authorities and Organization.

§ 923.11 Energy facility planning process.

(a) *Requirement.* In order to meet the requirements of subsection 305(b)(8) of the Act, States must develop a planning process which is capable, at a minimum, of anticipating and managing the impacts from energy facilities in or affecting a State's coastal zone. This process must include the following elements:

(1) An identification of energy facilities which are likely to locate in, or which may significantly affect, a State's coastal zone;

(2) A procedure for assessing the suitability of sites for such facilities;

(3) Articulation of State policies for managing energy facilities and their impacts;

(4) A mechanism for coordination and or cooperative working arrangements, as appropriate, between the State coastal planning or management agency and other relevant State, Federal, local and interstate agencies involved in energy facility planning and/or siting, including conformity of siting programs, where they exist, with the coastal zone management program; and

(5) An identification of legal authorities and other management techniques that will be used to accomplish State policies.

(b) *Comment.* Statutory Citation. Subsection 305(b)(8) and (9):

The management program for each coastal state shall include * * * (8) A planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including, but not limited to, a process for anticipating and managing the impacts from such facilities * * *. (9) No management program is required to meet the requirements in paragraphs * * * (8) * * * before October 1,1978.

(1) The purpose of identifying energy facilities which may significantly affect the coastal zone is to assure the consideration of energy facilities as land or water uses likely to have direct and significant impacts on coastal resources and therefore subject to the management program. Since the specific planning process called for in this section is an integral part of the requirements of this subpart, many of the requirements contained in (a) (1) and (2) above can be met by completing the work called for in §§ 923.11 and 923.12. The coordination requirements in (a)(4) above can be fulfilled in large measure through adequate consultation pursuant to §§ 923.51 and 923.55. Further, because of the obvious linkage between subsections 305(b)(8) of the Act having to do with an energy facility planning process and 306(c)(8) having to do with consideration of national interests involved in planning for and siting of facilities, including energy facilities which may be more than local in nature, States should, to the extent possible, coordinate fulfillment of the requirements of this section with those of § 923.52—Consideration of National Interests.

(c) *Comment.* Since one of the objectives of implementing State coastal management programs is to bring about a greater degree of predictability with respect to what may occur in which areas of the coastal zone, and since many energy facilities are coastal dependent and may cause substantial impacts on coastal resources and adjacent land and water uses, States are encouraged, through establishment of this planning process, to be site-specific, especially in indicating areas appropriate for particular types of energy facilities. At a minimum, as a result of developing this required planning process, States should be able to specify the locational conditions that would either constrain or lead to the siting of particular energy facilities in a State's coastal zone. With this as an introduction, the remainder of this comment discusses a number of approaches States can use to meet the requirements of this section: A State can designate/reserve specific sites in or near the coastal zone for particular types of energy facilities. Alternatively, a State can develop performance standards, or other regulations, that energy facilities have to meet irrespective of their coastal zone location. Under this approach, no sites are specifically reserved but neither are any specifically excluded. A third option, a variant of the second, combines a performance standard approach with specific exclusions of all or particular types of facilities in selected coastal zone locations. These exclusions/restrictions can be based on findings related to the anticipated adverse environmental impacts in particular locations due to the value and/or the sensitivity of particular resources (e.g., exclusion due to thermal pollution of nuclear power plants in particular wetlands which are especially productive fish spawning/nursery grounds); the safety problems associated with the operation of specific facilities in particular locations: (e.g., exclusion of LNG terminals in densely populated areas because of safety risks; e.g., requirement for oil transfer by off-shore pipeline rather than on-shore tanker unloading); State policy determinations that certain types of energy facilities are not coastal dependent (e.g., requirement for petrochemical processing plants to be located inland from the coastal zone) and/or State policy determinations that certain energy facilities have environmental or fiscally unacceptable secondary or growth inducing impacts. There are numerous variations and mixes of the above approaches that can be used in developing an acceptable energy facility planning process and associated coastal zone management program policies. For example, a State could reserve sites for a number of specific types of energy facilities (e.g., electric power plants, deepwater terminals), restrict or exclude others from the coastal zone (e.g., nuclear power plants), and require still other types of facilities to meet certain performance criteria (i.e., pipeline siting, drilling techniques). Whatever approach is taken, it is critical to tie the outcome of the planning process to what may sometimes be two conflicting considerations: resource preservation/conservation and the need for energy production and transportation. The latter consideration may involve being responsive to not only the needs of energy users in the coastal zone but also energy needs of the State, region and the Nation. At the same time, other facilities or resources of national interest, such as recreation areas, commercial and sports fisheries and wildlife habitats must be provided for in the coastal zone. The relative importance of energy facilities in the coastal zone should reflect the importance of these other interests as well as the availability of energy resources and potential sites in—or outside of—the coastal zone. Essentially, a balancing of national interests between resource preservation and conservation, on the one hand, and energy needs, on the other hand, must be achieved in order to avoid unreasonable restrictions or exclusions of any interest. Particularly in determining greater than local energy needs, consideration must be given to (1) national and other projections of energy needs, (2) assessments of the best mix of energy sources (e.g., coal v. gas v. oil) to meet these needs and (3) techniques for reducing demands for energy (e.g., impact of energy conservation measures). Further, determination of whether the coastal zone or resources therein are required to serve greater than local needs should be based, in part, on consultation with relevant Federal agencies. (See §§923.51 and 923.52 for details on Federal Consultation and Consideration of National Interests.)

(d) *Comment.* States should refer to 15 CFR Part 920.18 which contains more detailed commentary and guidance on fulfilling the requirements of paragraph (a).

(e) *Comment.* Prior to October 1, 1978, a State may seek approval for its management program even if these energy facility planning requirements have not been completed. However, those States which have received full approval prior to that date must request an amendment to their management program covering these requirements by October 1, 1978 in order to maintain continued eligibility for section 306 funding. States submitting programs for full approval after October 1, 1978 must meet the requirements of this section at the time of program submission.

Subpart C—Special Management Areas

§ 923.20 General.

(a) This subpart deals with areas that are of particular concern because of their

coastal-related values, characteristics, or impacts on them, or that may face pressures which demand detailed attention beyond a State's general planning and regulatory system as proposed in the management program. As a result, these areas require special management attention within the terms of the State's overall coastal program. This subpart deals with the following interrelated subsections of the Act: 305(b)(3)—Geographic Areas of Particular Concern; 305(b)(5)—Guidelines on Priorities of Uses; 305(b)(7)—Shorefront Access and Protection Planning; 305(b)(9)—Shoreline Erosion Planning; and 306(c)(9)—Areas for Preservation and Restoration.

§ 923.21 Areas of particular concern.

(a) *Requirement.* In order to meet the requirements of subsections 305(b)(3) and (5) of the Act, States must:

(1) Designate geographic areas that are of particular concern, on a generic or site-specific basis or both;

(2) Indicate the nature of the concern and the basis on which designations are made;

(3) Describe how the management program applies enforceable policies and authorities to the designated areas; and

(4) Provide guidelines regarding priorities of uses in these areas, including guidelines on uses of lowest priority.

(b) Comment. Statutory Citation, Subsection 305(b)(3):

The management program for each coastal state shall include * * * (3) An inventory and designation of areas of particular concern within the coastal zone.

(c) *Comment.* The importance of designating areas or particular concern for management purposes and the number and type of areas that should be designated is directly related to the degree of comprehensive controls employed generally throughout a State's coastal zone. Accordingly, where a State's general coastal management policies and authorities are insufficient to address the nature of a State's concern in a particular area or type of area, then designation of areas of particular concern is especially important since that designation will include the more specific policies and authorities that also will govern management within those areas. Where a State's general coastal management policies and authorities are broad and address State and national concerns comprehensively, relatively less emphasis need be placed on designation of areas of particular concern.

(d) *Comment.* Designation.

(1) In developing the criteria for designating areas of particular concern and in making the designations, States shall review their natural and manmade coastal zone resources and shall consider whether the following represent areas of concern requiring special management:

(i) Areas of unique, scarce, fragile or vulnerable natural habitat, physical feature, historical significance, cultural value or scenic importance;

(ii) Areas of high natural productivity or essential habitat for living resources, including fish, wildlife and the various trophic levels in the food web critical to their well-being;

(iii) Areas of substantial recreational value and/or opportunity;

(iv) Areas where developments and facilities are dependent upon the utilization of, or access to, coastal waters;

(v) Areas of unique geologic or topographic significance to industrial or commercial development;

(vi) Areas of urban concentration where shoreline utilization and water uses are highly competitive;

(vii) Areas of significant hazard if developed, due to storms, slides, floods, erosion, settlement, etc.; and

(viii) Areas needed to protect, maintain or replenish coastal lands or resources including coastal flood plains, aquifer recharge areas, sand dunes, coral and other reefs, beaches, offshore sand deposits, and mangrove stands.

(2) Designation does not necessarily require specific gubernatorial or legislative action. Such action is necessary only to the extent the appropriate management of designated areas cannot be assured without such action.

(3) Designations may be generic (i.e., by type of area such as all wetlands, or all port areas) or they may be site-specific (as for example historic area x in county y) or they may be both. Irrespective of whether these designations are generic or site-specific, States must indicate the nature of the concern. This will accomplish two purposes: (i) indicate why areas or types of areas have been singled out for special management attention and (ii) provide a basis for articulating appropriate management policies and use guidelines.

(4) Once designated, areas of particular concern must be identified by location (if site specific) or category of coastal resources (if generic) in sufficient detail that affected landowners, governmental entities and the public can determine with reasonable certainty if a given area is or is not designated. Maps that indicate the general location of designated areas or types of areas are a desirable part of a State's program submission.

(5) Some States may wish to involve local governments, other State agencies, Federal agencies and/or the public in the process of designating areas of particular concern. Such efforts are encouraged provided that the State establishes guidelines which reflect the concerns around which such nominations can be submitted and selected.

§ 923.22 Priorities of uses.

(a) *Requirement.* At a minimum, priority of use guidelines must be established for areas of particular concern designated pursuant to § 923.21. States may establish priority use guidelines that apply throughout the coastal zone and are encouraged to do so, especially as an aid to resolving use conflicts.

(b) *Comment.* Statutory Citation, Subsection 305(b)(5):

The management program for each coastal state shall include * * * (5) Broad guidelines on priorities of uses in particular areas, including specifically those uses of lowest priority.

(c) *Comment.* Within areas of particular concern there are three main purposes of the guidelines on priority of uses will serve:

(i) to provide a basis for special management in areas of particular concern;

(ii) to provide a common reference point for resolving conflicts, and

(iii) to articulate further the nature of the interests in designated areas of particular concern and appropriate uses.

(d) *Comment.* One of the purposes in providing guidelines regarding uses of lowest priority in a specific area or for a specific type of area is to guide resolution of conflicts when two or more uses are competing for the same area. Where States are concerned about prohibiting or strictly controlling particular uses or types of uses in areas of particular concern, such uses should not be listed as uses of lowest priority but should be separately prohibited or restricted.

(e) *Comment.* Another purpose of priority use guidelines is to express the State's management concerns and policies on how resources should be protected and/or developed. When a certain use is determined to be of lowest priority in a certain geographic area, based on the results of resource inventories and analyses, program policies and other controls should be used to guide such uses to areas where the use will be more compatible with resource capability and suitability, and consequently will receive a higher priority.

(f) *Comment.* As with other guidelines of this general type, guidelines for priority of uses need not be determinative in all cases. However, they should be regarded as strongly advisory to decision makers carrying out the management program and the enforceable policies therein and may provide the basis for legal challenge to actions taken inconsistent with the guidelines.

§ 923.23 Other areas of particular concern.

(a) In addition to the designation of areas of particular concern required by § 923.21 prior to program approval, States also may designate two other categories of special management areas.

(1) One category comprises specific areas that are known to require additional or special management (e.g., urban waterfronts) but for which addition management techniques have not been developed or necessary authorities have not been established at the time of program approval. For this category of areas of particular concern it is assumed that the appropriate management techniques, that meet all the requirements of § 923.21(a) above, will be developed during program implementation. Where States designate areas of particular concern of this type, the Associate Administrator will review the designations to determine that the reason for designation has been clearly stated, that a rea-

V 42 167 AUG 29 77 UMI

sonable time frame and procedure have been established for developing and implementing appropriate management techniques, and that an agency (or agencies) capable of formulating the necessary management policies and techniques has been identified.

(2) The second category consists of a process for future designation of areas of particular concern after program approval. Establishment of such a process recognizes the evolving nature of management programs and the desirability of establishing a mechanism to address areas which may become a focus of State concern in the future. Included within this category are the procedures established for designating areas for preservation or restoration. (See the next section).

§ 923.24 Areas for preservation or restoration.

(a) *Requirement.* To meet the requirements of subsection 306(c)(9) of the Act, States must:

(1) Describe the criteria by which areas can be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological or esthetic values; and

(2) Describe the procedures by which such designations can be made.

(b) *Comment.* Statutory Citation, Subsection 306(c)(9):

Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that • • • (9) The management program makes provisions for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological or esthetic values.

(c) *Comment.* States that wish to establish a process for designating future areas of particular concern, that may be other than areas for preservation or restoration, shall describe the criteria and procedures by which such designations for other purposes can be made.

§ 923.25 Shorefront access and preservation planning.

(a) *Requirement.* In order to meet the requirements of subsection 305(b)(7) of the Act and to coordinate these requirements with those of subsections 305(b)(3) and 306(c)(9), States must develop a planning process that can identify public shorefront areas appropriate for access and or protection. This process must include:

(1) A procedure for assessing public areas requiring access or protection;

(2) A definition of the term "beach" and an identification of public areas meeting that definition;

(3) Articulation of State policies pertaining to shorefront access and/or protection;

(4) A method for designating shorefront areas (either as a class or site specifically) as areas of particular concern or areas for preservation or restoration, if appropriate;

(5) A mechanism for continuing refinement and implementation of necessary management techniques, if appropriate; and

(6) An identification of funding programs and other techniques that can be used to meet management needs.

(b) *Comment.* Statutory Citation, Subsection 305(b)(7):

The management program for each coastal state shall include • • • (7) A definition of the term "beach" and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological or cultural value.

(1) The basic purpose in focusing special planning attention on shorefront access and protection is to express more than local concern with respect to additional access or protection needs for public beaches and other public coastal areas of environmental, recreational, historic, esthetic, ecological or cultural value and to include these areas for special management attention within the purview of the State's management program. If appropriate, this special management attention may be achieved by designation of public shorefront areas requiring additional access or protection as areas of particular concern or areas for preservation or restoration. Since the specific planning requirements called for in this section are closely related to the broader requirements for areas of particular concern and areas for preservation and restoration, many of the requirements called for in paragraph (a) above can be met by completing the work called for in §§ 923.21 and 923.24.

(2) States should refer to 15 CFR 920.17 which contains more detailed commentary and guidance on fulfilling the requirements of paragraph (a).

(c) *Comment.* Statutory Citation, Subsection 305(b)(9):

• • • No management program is required to meet the requirements in paragraphs (7), (8) and (9) before October 1, 1980.

(1) Prior to October 1, 1978, a State may seek approval of its management program even if these shorefront planning requirements have not been completed. However, those States which have received full approval prior to that date must request an amendment to their management program meeting these requirements by October 1, 1978 in order to maintain continued eligibility for section 306 funding. States submitting programs for full approval after October 1, 1978 must meet the requirements of this section at the time of program submission.

§ 923.26 Shoreline erosion/mitigation planning.

(a) *Requirement.* In order to meet the requirements of subsection 305(b)(9) of the Act and to coordinate these requirements with those of subsections 305(b)(3) and 306(c)(9), States must include a planning process that can assess the effects of shoreline erosion. Evaluation can include assessment of ways to mitigate, control or restore areas adversely affected by erosion. This process must include:

(1) A method for assessing the effects of shoreline erosion;

(2) Procedures for managing erosion effects, including non-structural procedures;

(3) Articulation of State policies pertaining to erosion, including policies regarding preferences for non-structural, structural and/or no controls;

(4) A method for designating areas for erosion control, mitigation and/or restoration as areas of particular concern or areas for preservation and restoration, if appropriate;

(5) A mechanism for continuing refinement and implementation of necessary management policies and techniques, if appropriate; and

(6) An identification of funding programs and other techniques that can be used to meet management needs.

(b) *Comment.* Statutory Citation, Subsection 305(b)(9):

The management program for each coastal state shall include • • • (9) A planning process for (A) assessing the effects of shoreline erosion (however caused), and (B) studying and evaluating ways to control, or lessen the impact of, such erosion, and to restore areas adversely affected by such erosion.

(1) The basic purpose in developing a process to evaluate and, if appropriate, to control and mitigate shoreline erosion is to assure consideration of erosion impacts within the purview of a State's management program. Since the specific planning requirements called for in this section are closely related to the broader requirements of areas of particular concern and areas for preservation and restoration, many of the requirements called for in paragraph (a) above can be met by completing the work called for in §§ 923.21 and 923.24.

(2) States should refer to 15 CFR 920.19 which contains more detailed commentary and guidance on fulfilling the requirements of paragraph (a).

(c) *Comment.* Statutory Citation, Subsection 305(b)(9):

• • • No management program is required to meet the requirements in paragraphs (7), (8) and (9) before October 1, 1978.

(1) Prior to October 1, 1978, a State may seek approval of its management program even if these erosion planning requirements have not been completed. However, those States which have received full approval prior to that date must request an amendment to their management program meeting these requirements before October 1, 1978, in order to maintain continued eligibility for section 306 funding. States submitting programs for full approval after October 1, 1978 must meet the requirements of this section at the time of program submission.

Subpart D—Boundaries

§ 923.30 General.

(a) There are four elements to a State's boundary: The inland boundary, the seaward boundary, areas excluded from the boundary, and, in most cases, interstate boundaries. Specific requirements with respect to procedres for determining these boundaries, and means for identifying these boundaries are discussed in the sections of this subpart that follow.

(b) *Comment.* Statutory Citation, Subsection 305(b)(1):

The management program for each coastal state shall include • • • (1) An identification of the boundaries of the coastal zone subject to the management program.

(c) *Comment.* Statutory Citation, Subsection 304(1):

The term "coastal zone" means the coastal waters (including the lands therein and thereunder), and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other in proximity to the shorelines of the several coastal states, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

§ 923.31 Inland boundaries.

(a) *Requirement.* The inland boundary of a State's coastal management area must include:

(1) Those areas the management of which is necessary now or is likely to be necessary in the near future to control uses identified pursuant to § 923.11 of these regulations;

(2) Those special management areas identified pursuant to § 923.21;

(3) Transitional and intertidal areas—Areas subject to periodic inundation by tides, as well as adjacent areas where ecological systems are neither intertidal nor upland in nature but which are distinctly affected by coastal waters;

(4) Salt marshes and wetlands—Areas subject to periodic inundation of tidal salt (or Great Lakes) waters which contain marsh flora typical of the region.

(5) Islands—Bodies of land surrounded by water on all sides. In the case of Puerto Rico, the U.S. Virgin Islands, Hawaii, Guam, American Samoa and the Mariana Islands, all islands offshore from the main island(s) must be included. Interior portions of the main island(s) may be excluded if uses of these lands do not cause direct and significant impacts on coastal waters.

(6) Beaches—The area affected by wave action directly from the sea. Examples are sandy beaches and rocky areas usually to a vegetation line.

(b) *Comment.* While the above elements represent the minimum area that must be included in a State's landward coastal management boundary, a State also may include the following within the management area:

(1) Entire watersheds—A State may determine some uses within entire watersheds have direct and significant impact on coastal waters. In such cases it would be appropriate to define the coastal zone as including these watersheds. However, while it is clear that large rivers can have a substantial effect on coastal waters as they empty out into the sea or Great Lakes, taken to its logical conclusion, this also could mean vast areas of the interior might have to be included in the coastal zone. Therefore, along major rivers, such as the Mississippi, the Susequehanna, the Hudson, the Columbia and the Sacramento, the coastal zone need extend upstream only to the point of identified salt water intrusion, although States may delineate boundaries above this point if they choose.

(2) Waters under tidal influence—Waters containing a measurable quantity of seawater, generally 5 parts per 1000 or the salt wedge in east coast estuaries, must be included in the coastal boundaries. Areas of tidal influence that extend further inland, particularly in estuaries, deltas and rivers, may be included if uses further inland could have direct and significant impacts on coastal waters.

(3) Indian lands not held in trust by the Federal Government. Because such lands often are interspersed with trust lands (which must be excluded from the management area), it may be difficult to develop a discrete management program for non-trust lands alone. Moreover, in some cases, because of longstanding jurisdictional disputes, it often may be difficult to determine which lands are trust lands and which are non-trust lands. Accordingly, States have the option of including or excluding non-trust lands from the management program. (See § 923.33(e) regarding tribal participation in coastal management.

(c) *Comment.* Urban areas. In many urban areas or where the shoreline has been modified extensively, natural system relationships between land and water may be extremely difficult, if not impossible, to define in terms of "direct and significant impacts." In these areas, a State may define inland boundaries on the basis on other water-land factors such as, but not limited to, dependency of uses on water access, or visual relationships. While inland boundaries in urban areas may be more limited than in more natural, less developed portions of a State's coastal zone, how much more limited this boundary may be will depend on the extent of development or alteration, the nature of coastal-related issues of significance in urban areas, and the number, nature and location of water dependent uses in close proximity to the water.

(d) *Comment.* Direct and significant impacts.

(1) The purpose of determining "direct and significant impacts" on coastal waters or, more broadly, on coastal resources is to assist in a determination of uses subject to the management program and thereby included within the management boundaries. Determination of what constitute direct and significant impacts should occur early in the program development process.

(2) Certain uses may cause direct and significant impacts only in terms of water or air quality impacts. However, once such uses have been identified, because of these impacts, as being subject to the management program, their management must be based on the comprehensive policies of the program which will address more than just air and water quality considerations.

(3) While the substantive definition of direct and significant impact is a matter for each State to establish, the Associate Administrator will review this definition in terms of the method used to analyze various land and water uses and their impacts on coastal resources.

(e) *Requirement.* The inland boundary must be described in a manner which is sufficiently clear and exact to enable persons to determine whether property they use or an activity they propose to undertake in located in the area subject to management. Whether this description should be in narrative form or graphically depicted in the management program document depends on (i) the nature of the boundary and (ii) whether it is possible to determine if a use or an area is within the coastal zone within a reasonable period of time. States must be able to advise interested parties whether they are subject to the terms of the management program within 30 days of receipt of an inquiry.

(f) *Comment.* The primary purpose in defining the coastal zone boundary is to assist coastal residents and property owners, resource users and governmental entities to understand the geographic scope of the management program and to assist them in determining whether, where and how they are affected by the program. Accordingly, it is anticipated that the program submission should contain generalized maps, charts or other graphics appropriate to understanding the provisions and geographic scope of the management program.

(g) *Comment.* An inland coastal zone boundary defined in terms of political jurisdiction (e.g., county, township or municipal lines), cultural features (e.g., highways, railroads), planning areas (e.g., regional agency jurisdictions, census enumeration districts), or a uniform setback line is acceptable provided that such boundary includes the minimal areas of beaches, wetlands, islands, transitional and intertidal areas plus those uses identified pursuant to section 923.11 and those areas identified pursuant to section 923.21

§ 923.32 Seaward boundaries.

(a) *Requirement.* The seaward boundary is clearly defined in the Act. For States adjoining the Great Lakes, the seaward boundary is the international boundary with Canada or the boundaries with adjacent States. For all other States participating in the program, the seaward boundary is the outer limit of the United States territorial sea. The requirement can be met by a simple restatement of the limits defined in this section.

(b) *Comment.* The seaward limits as defined in this section are for purposes of this program only and represent the area within which the State's management program may be authorized and financed. These limits are irrespective

FEDERAL REGISTER, VOL. 42, NO. 167—MONDAY, AUGUST 29, 1977

V 42 167 AUG 29 77 UMI

of any other claims States may have by virtue of the Submerged Lands Act or any changes that may occur as a result of the Fisheries Conservation and Management Act of 1976.

(c) *Comment.* The seaward limits need not be defined in any more precise manner than that stated above provided that there are no water areas which immediately require a more exact delineation because of site specific policies associated with these areas. Examples of what would constitute critical areas that would require more precise delineation include, but are not limited to, those areas where a State specifically encourages or conditions construction of a monobuoy; designates marine sanctuaries, protected resource habitats or preserves; reserves corridors for pipelines; or reserves areas for creation of off-shore islands.

§ 923.33 **Excluded lands.**

(a) *Requirement.* States must exclude from their coastal management boundaries those areas owned, leased, held in trust or whose use is otherwise by law subject solely to the discretion of the Federal Government, its officers or agents. To meet this requirement, States must describe or map areas or types of areas owned, leased, held in trust or otherwise used by Federal agencies. The intent of this requirement is not to list or map every post office or Federal courthouse which is physically located in, but legally excluded from, a State's coastal zone but rather to indicate the large-scale holdings and types of areas excluded. Accordingly, a State may simply declare that, for example, all Department of Defense holdings in counties x, y and z are excluded.

(b) *Comment.* Where Federal agencies have provided information regarding the location of excluded holdings, these should be listed, usually as an Appendix to the management program. It will not always be necessary or appropriate to list these holdings in the format or detail provided by the Federal agencies. If Federal agencies have not provided sufficient information or detail regarding holdings that should be excluded, States may rely on such other information as they may be able to obtain.

(c) *Comment.* The exclusion of Federal holdings does not remove Federal agencies from the obligation of complying with the consistency provisions of section 307 of the Act when Federal actions on these excluded lands have spillover impacts that significantly affect coastal zone areas, uses or resources within the purview of a State's management program. In this connection, States are advised, but not required, to map the following types of excluded Federal holdings: (i) Large-scale holdings (of 10 or more acres), especially those that may have spillover effects; (ii) holdings near special management areas; and (iii) areas that may be declared surplus or excess in the near future, especially those for which the State has reuse priorities or policies.

(d) *Comment.* In excluding Federal lands from a State's coastal zone for the purposes of this Act, a State does not impair in any way any of its rights or authorities over Federal lands that exist separate from this program.

(e) *Comment.* Indian lands. While Indian lands held in trust by the Federal government must be excluded from a State's coastal zone, by definition in the Act, and while alienated (or non-trust) lands may be excluded from a State's program, it is not intended that such exclusions should deter tribes along coastal shorelines from developing and administering sound coastal management practices. Wise use and management of tribal land and water resources would complemet State management efforts and would further the national objectives of the Act. Accordingly, tribal participation in coastal management efforts shall be supported and encouraged provided that such efforts are compatible with a State's coastal management policies and are in furtherance of the national policies of section 303 of the Act. (For further guidance on tribal participation in coastal management activities, see § 923.83(d).)

§ 923.34 **Interstate boundaries.**

(a) *Requirement.* While it is not required that inland coastal management boundaries of contiguous States be coterminous, States must indicate that there has been consultation with adjoining coastal States during the program development process to manage a common resource compatibly or to minimize the possibility of incompatible uses occuring at the juncture of each State's boundary.

(b) *Comment.* A summary of State consultation efforts with neighboring States will suffice to meet this requirement. Also acceptable are minutes from meetings, copies of letters or other written material where interstate boundaries have been discussed. This information should be contained in an Appendix to the program document submitted for approval.

Subpart E—Authorities and Organization

§ 923.40 **General.**

(a) The authorities and organizational structure on which a State will rely to administer its management program are the crucial underpinnings for enforcing the policies which guide the management of the uses and areas identified according to the previous subparts. There is a direct relationship between the adequacy of authorities and the adequacy of the overall program. On the one hand, the authorities need to be broad enough to implement the enforceable policies called for by the program. On the other hand, these enforceable policies must be sufficiently comprehensive and specific to regulate land and water uses, control development, and resolve conflicts among competing uses in order to assure wise use of the coastal zone. (Issues relating to the adequate scope of the program are dealt with in § 923.3.)

(b) The entity or entities which will exercise the authorities required above is a matter of State determination and may be the State agency designated pursuant to section 306(c)(5) of the Act, other State agencies, regional or interstate bodies, and/or local governments. The major approval criterion is a determination that such entity or entities are required to exercise their authorities in conformance with the policies of the management program. Accordingly, the essential requirement is that the State demonstrate that there is a means of ensuring such compliance. This demonstration will be in the context of one or more of the three control techniques specified in section 306(e)(1) of the Act and as further described in section 923.42 of these regulations.

(c) The authorities requirements of the Act dealt with in this subpart are those contained in subsections 305(b)(4)—Means of Control; 306(c)(7)—Authorities; 306(d)(1)—Control Development and Resolve Conflicts; 306(d)(2)—Powers of Acquisition; 306(e)(1)—Techniques of Control; 306(e)(2)—Uses of Regional Benefit; and 307(f)—Air and Water Quality Control Requirements. The organizational requirements of the Act dealt with in this subpart are those contained in subsections 305(b)(6)—Organizational Structure; 306(c)(5)—Designated State Agency; and 306(c)(6)—Organization.

§ 923.41 **Identification of authorities.**

(a) *Requirement.* States must identify relevant constitutional provisions, statutes, regulations, case law (both judicial and administrative) and such other legal instruments (including executive orders and interagency agreements) that will be used to carry out the State's management program. This identification will include the authorities required pursuant to sections 306(d) and 306(e) of the Act.

(b) *Comment.* Statutory Citation, Subsection 305(b)(4):

> The management program for each coastal state shall include * * * (4) An identification of the means by which the state proposes to exert control over the land uses and water uses referred to in paragraph (2), including a listing of relevant constitutional provisions, laws, regulations, and judicial decisions.

(1) A clear identification of the authorities relied upon to implement the management program is necessary in order for the Associate Administrator to determine legal adequacy of the program. When, in the opinion of the Associate Administrator, there is serious question as to the enforceability of any of the authorities asserted to be part of the management program, the Associate Administrator may request the designated State agency (for program development purposes) to seek an opinion from the State's Attorney General.

(2) Another purpose of this listing is to assure that there is a clear identification of laws and other authorities which

expressly are a part of the management program and to which the Federal consistency provisions of the Act will be applied.

(c) *Requirement.* Irrespective of the control technique chosen pursuant to subsection 306(e)(1) of the Act, States must have adopted at the time of program approval the legal authorities called for in section 306(d) in order to assure that management of coastal land and water uses will be in accordance with and pursuant to the policies of the management program. These authorities must include the ability to:

(1) Administer land and water use regulations in conformance with the policies of the management program;

(2) Control such development as necessary to ensure compliance with the management program;

(3) Resolve conflicts among competing uses. At a minimum, the program submission shall describe how use conflicts can be resolved;

(4) Acquire appropriate interests in lands, waters or other property as necessary to achieve management objectives. Where acquisition will be a necessary technique for accomplishing particular management program policies and objectives, the management program must indicate for what purpose acquisition will be used (i.e., what policies or objectives will be accomplished); the type of acquisition (e.g., fee simple, purchase of easements, condemnation); and what agency (or agencies) of government have the authority for the specified type of acquisition.

(d) *Comment.* Statutory Citation, Subsection 306(c)(7):

> Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that * * * (7) The state has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

(e) *Comment.* Statutory Citation, Subsection 306(d):

> Prior to granting approval of the management program, the Secretary shall find that the state, acting through its chosen agency or agencies, including local governments, areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies, or interstate agencies, has authority for the management of the coastal zone, in accordance with the management program. Such authority shall include power:
>
> (1) to administer land and water use regulations, control development in order to ensure compliance with the management program, and to resolve conflicts among competing uses; and
>
> (2) to acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

(f) *Comment.* Examples of acceptable conflict resolution mechanisms, as referred to in (c)(3) above, include, but are not limited to, mediation procedures, an administrative review board, or judicial appeal provisions. Since the policies, standards and criteria of the management program will form the basis for conflict resolution, it will be important that these be clearly and specifically stated. This will be particularly true when the primary means of resolving conflicts is to be judicial.

(g) *Comment.* Where the acquisition technique, referred to in (c)(4) above, will be a significant element of a State's management program, the State may be required to submit a specific acquisition plan with evidence of the availability of adequate funding for those acquisitions.

(h) *Comment.* Given the provisions of section 315(2) of the Act authorizing acquisition funds for shorefront access and for preservation of islands. States should indicate in their management program the acquisition authorities available for these two purposes. Such a list also will help to meet the requirements of § 923.25(a)(6) for identifying techniques that can be used to meet shorefront access or island preservation needs.

§ 923.42 **Control techniques.**

(a) *Requirement.* A State must choose to implement and enforce its program through any one or a combination of the techniques provided for under section 306(e)(1) of the Act. The differences among the techniques raise different issues that States must resolve. These issues are discussed below.

(b) *Comment.* Statutory Citation, Subsection 306(e)(1):

> Prior to granting approval, the Secretary shall also find that the program provides:
>
> (1) for any one or a combination of the following general techniques for control of land and water uses within the coastal zone:
>
> (A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;
>
> (B) Direct state land and water use planning and regulation, or
>
> (C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any state or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

(c) *Comment.* Local implementation—Technique A

(1) Control technique 306(e)(1)(A) of the Act allows for State establishment of policies, criteria and standards for local implementation, subject to administrative review and enforcement of compliance. The critical issues related to this technique are:

(i) the degree of specificity required in the State criteria and standards,

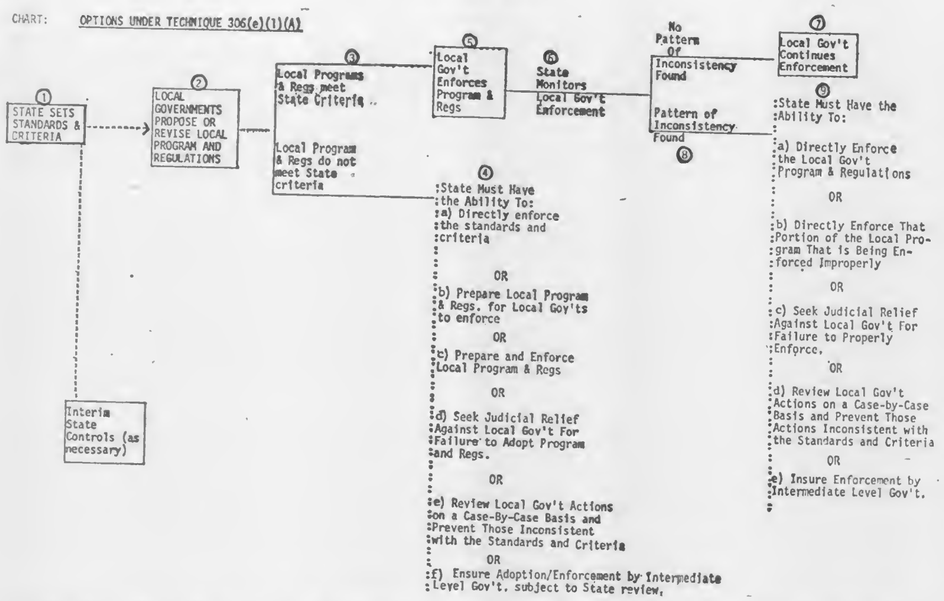
(ii) the extent to which local programs, ordinances or regulations must be in place prior to approval of the State's management program by the Associate Administrator, and

(iii) the means for State administrative review and enforcement of compliance.

The chart and discussions below are meant to guide State responses to these issues and to indicate the type and degree of latitude OCZM will find acceptable.

V 42 167 AUG 29 77 UMI

CHART: OPTIONS UNDER TECHNIQUE 306(e)(1)(A)



(2) *Specificity of standards.* Under Technique A the State establishes policies, standards and criteria regarding management of particular coastal resources, uses and areas for local governments to implement. (Item 1 on chart.) This implementation can consist of development or revision of local programs, laws, ordinances or regulations provided that these are based on the State policies, standards and criteria and are enforceable. The State policies, criteria and standards must be adopted as part of the coastal management program, either pursuant to legislation or binding executive action. These criteria must be adopted by the State at the time of submission of a program to the Associate Administrator for approval and must be sufficiently specific to provide those who will be affected by the management program with a reasonable understanding of how land and water activities and uses will be managed once local programs and/or ordinances are adopted. At a minimum, the State guidelines must provide for, or incorporate, at least the degree of specificity and predictability provided by the general State coastal policies developed pursuant to § 923.3 of these regulations. Following are two examples of State guidance to localities that is sufficiently specific:

(i) New development shall assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs;

(ii) The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designated to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

(3) States using Technique A may seek section 306 approval after all requisite local ordinances or programs have been reviewed and approved. In such cases, only items 5–9 of the chart apply.

(4) *Interim controls.* Alternatively, States may seek program approval prior to final approval of all local ordinances and programs provided that:

(i) a reasonable time and procedure for local compliance has been established (what constitutes a reasonable time period shall be agreed to by the State and the Associate Administrator);

(ii) the State policies, standards and criteria are sufficiently specific (as discussed in (2) above); and

(iii) there is sufficient interim authority to insure that land and water use decisions subject to the management program will be consistent with the policies, goals and objectives of the management program between the time of section 306 approval and the time when all local programs are adopted. The adequacy of these interim authorities will be judged on the same basis as specified for direct State controls (Technique B), discussed in (d) below, or as specified for case-by-case reviews (Technique C), as discussed in (e) below, as appropriate.

During the interim period while local programs, ordinances, etc. are being adopted or revised and approved, agencies and applicants must be consistent only with those State policies, standards, criteria and authorities that are in effect in the interim. However, as each local program, ordinance, etc. is adopted by the locality and approved by the appropriate State agency, thereafter consistency with approved local programs, ordinances, etc. will be required.

(5) *Review/Approval Process.* Once State policies, standards and criteria have been adopted, local governments propose plans, programs and/or regulations to implement the policies and standards. (Item 2 on chart.) This effort may include the preparation of new comprehensive plans, zoning ordinances, by-laws, subdivision regulations, special purpose regulations (as for example, sand dune protection ordinances), or the revision of existing plans, ordinances, or regulations. The State entity empowered by legislative or executive mandate to review local programs (which may include plans, laws, ordinances and/or regulations) must determine if the programs meet the requirements of the State policies, standards and criteria. (Item 3 on chart.) If the localities do not develop program consistent with the policies, standards and criteria, the State must have the authority to take action

to assure that management program is implemented, either by the State or by the local government. (Item 4 on chart.) To insure implementation, the State must have the ability to do at least one of the following:

(i) Directly enforce the State standards and criteria. To use this alternative, a State would need enough State authorities to be able to control directly land and water uses which have a direct and significant impact upon the coastal waters;

(ii) Prepare a local program for the local government to enforce. To use this alternative the State must have (a) statutory authority to prepare and adopt a program for a local government, and (b) a mechanism by which the State can cause the local government to enforce the State-created program. (See (iv) below for a potential enforcement mechanism);

(iii) Prepare and enforce a program and regulations on behalf of a local government. Here the State must have the authority to (a) prepare and adopt a plan, regulations, and ordinances for the local government and (b) enforce such plans, regulations and ordinances. The distinction between this approach and the preceding one is that in this case the State both adopts and implements while in the preceding case, the State adopts but the local government implements;

(iv) Seek judicial relief against the local government for failure to comply with a management program;

(v) Review local government actions on a case-by-case basis or on appeal, and prevent actions inconsistent with the standards and criteria. Under this option, when a local government fails to adopt an approvable program, the State must have the ability to review activities in the coastal zone subject to the management program and the power to prohibit, modify or condition those activities based on the policies, standards and criteria of the management program; or

(vi) If a locality fails to adopt a management program, the State could devise a procedure whereby the responsibility for preparing a program shifts to an intermediate level government, such as a county. If this intermediate level of government fails to produce a program, then the State must have the ability to take one of the actions described above. This alternative cannot be used where county government lacks the legal authority to adopt and implement regulations necessary to implement State policies, standards and criteria.

(6) *Enforcement.* Once a local program is approved, implementation and enforcement begin. (Item 5 on chart.) To ensure that local actions continue to comply with the State management policies, the State must establish a monitoring system. (Item 6 on chart.) While there is a more generalized discussion of monitoring in § 923.46, with specific reference to monitoring of local implementation the State agency designated pursuant to subsection 306(c)(5) of the Act will be responsible for establishing a monitoring system capable of detecting patterns of noncompliance. Given the substantive differences that can be expected in State programs with respect to what constitutes compliance with State policies, it will be up to each State to develop an appropriate monitoring system. The monitoring system and the determination of what constitutes a pattern of noncompliance should take into account such considerations as the number of activities improperly managed, the size and type of such activities, their proximity to coastal waters and to special management areas, and whether they constitute uses of regional benefit. Following are some monitoring techniques States may want to use, either singly or in combination. The list is not exhaustive and does not limit States to adopting only these techniques:

(i) Periodic reports—monthly reports submitted by each local government listing all building permits issued, variances and exceptions granted, subdivision plats approved, etc. during the preceding month,

(ii) Spot checks by State agency,

(iii) Procedures for submission of citizen complaints followed by State review of complaint,

(iv) Establishment of citizen "overview" committees, or

(v) Selective review of local decisions. The State would review only those decisions it defines as "major."

If no pattern of noncompliance is found, local governments continue implementation of local authorities and the State's role is confined to continued monitoring. (Item 7 on chart.) If, however, monitoring reveals a pattern of noncompliance, the State must be able to insure that its standards and criteria are adhered to. (Item 8 on chart.) The State need not assure this adherence each and every time improper enforcement occurs. The State must be capable of assuring such compliance only when a pattern of deviation is detected. (Item 9 on chart.) When State action is required because of failure by a local government to enforce its program, the State has the following options available to enforce compliance:

(i) Directly enforce the entire local program;

(ii) Directly enforce that portion of the local program that is being enforced improperly. State intervention here would be necessary only in those local government activities that are violating the policies, standards or criteria. For example, if a subdivision regulation were the only part of a program that was being enforced improperly, State enforcement could be limited to that regulation. In such a case, the State would need to have the statutory authority to ensure compliance of subdivision applications;

(iii) Seek judicial relief against local government for failure to properly enforce;

(iv) Review local government actions on a case-by-case basis or on appeal and the power to prevent those actions inconsistent with the policies and standards. The same authorities as those noted in connection with § 923.42(c)(5)(v) above would be necessary; or

(v) Provide a procedure whereby the responsibility for enforcing a program shifts to an intermediate level of government, assuming statutory authority exists to enable the immediate level of government to assume this responsibility.

(d) *Comment.* Direct state control—Technique B.

(1) Under Technique B, a State may control land and water uses subject to the management program on the basis of direct State authority. This authority may be derived from a single, comprehensive piece of legislation specific to coastal management and the requirements of this Act or on the basis of several different, often pre-existing, State authorities which are coordinated with and applied on the basis of comprehensive coastal management policies developed pursuant to § 923.3. This latter approach has been referred to informally as networking.

(2) *Comprehensive legislation.* While it is possible that a State will be able to put together into a single piece of legislation all the authorities needed to meet the requirements of this subpart, it is more likely that even a single, major piece of coastal legislation will be supplemented with other State authorities to meet all the legal requirements. Where this will be the case, States are advised to review the commentary on networking that follows. Also, in cases where a State will be relying primarily—but not exclusively—on a single piece of legislation, it is important to be explicit about those other authorities included in the management program as part of the listing called for in § 923.41.

(3) *Networking.* The critical issues related to networking are:

(i) the extent to which existing, special purpose laws adequately reflect and will be operated in conformity with the State's comprehensive management policies;

(ii) the extent to which and when rules and regulations of networked authorities need to be altered; and

(iii) the extent to which executive orders intradepartmental or interagency agreements, memoranda of understanding or agreement are binding and enforceable. Even though each agency is statutorily mandated to carry out its own, often more narrowly focused policies, the effect of networking is to tie the implementation of these individual authorities into a comprehensive framework that addresses more than the individual responsibilities of each agency and that makes these authorities part of an overall, unified strategy for managing coastal land and water resources. In applying existing authorities, the State must determine that they can be used to implement the full range of policies identified as necessary for coastal management purposes.

(4) *Enforceability.* Each State agency which exercises statutory authority that is to be incorporated into the management program must be legally bound to exercise its authority in conformance

V 42 167 AUG 29 77 UMI

with the State's coastal policies. This can be achieved through an executive order or an interagency agreement (including memoranda of understanding or agreement) provided that such order or agreement binds the affected parties to conformance with relevant management program policies. In States where affected agency heads report directly to the Governor and where the Governor has a legal policy making responsibility, an executive order will be an acceptable instrument to assure the coordination of networked activities.

(5) Interagency agreements (such as memoranda of understanding or agreement) must be binding and enforceable in order to constitute acceptable legal authorities. Interagency agreements will be considered enforceable if the management program and State authorities in support of the program provide grounds for bringing an action to ensure compliance of networked agencies with the program. It will be sufficient if any of the following can bring suit: the State agency designated pursuant to subsection 306(c)(5) of the Act, the State's Attorney General, another State agency, a local government, or a citizen.

(6) It is anticipated that executive orders and interagency agreements will focus on either or both of the following:

(i) tie in of an enforcement mechanism; as for example, tying in an existing enforcement mechanism of an agency to serve as the basic compliance mechanism for coastal management purposes, or, more likely;

(ii) establishment of conformance requirements of other State agency activities or authorities to management program policies. In order for interagency agreements to be considered binding, States should include the following:

(A) a description of how the networked agency, in implementing or enforcing its particular authorities, will operate those authorities in conformance with the management program's policies;

(B) a discussion of procedures to be followed to resolve conflicts between agency activities and management program policies or conflicts between agencies regarding what constitutes conformance with the policies;

(7) If networked State agencies can enforce the management program policies at the time of section 306 approval without first having to revise their operating rules and regulations, then any proposed revisions to such rules and regulations which would enhance or facilitate implementation need not be accomplished prior to program approval. However, where State agencies cannot enforce coastal policies without first revising their rules and regulations, then these reveisions must be made prior to program approval. An example clarifying the distinction between these two statements follows: Assume State X has established as a management program policy that only specified types of development henceforth will be permitted on barrier islands. Assume further that such a policy statement is contained in State legislation that proclaims such policy to be effective immediately and directs all State agencies to revise their existing operating procedures (including rules and regulations) within a certain time period to conform with the policy. In this case, the policy is enforceable at time of management program approval and the revision of associated rules and regulations could occur after program approval. Now, however, assume the same policy is part of the management program but the corresponding State legislation states the policy becomes effective when State regulations have been revised to reflect this policy mandate. In this example, rule revision would be necessary prior to program approval.

(e) *Comment.* Case-by-case reviews—Technique C.

(1) Under Technique C States review individual private or public plans or projects which have been defined in the management program as subject to review for consistency with the management program. The State must have the power to approve or disapprove such actions or the power to seek court review. The State must provide public notice of the action and must provide opportunity for a public hearing prior to rendering a decision. Under this technique the critical issues that must be addressed are:

(i) The basis on which the designated State agency will decided to review particular plans or projects;

(ii) The criteria by which plans and projects will be approved or disapproved; and

(iii) The procedures under which the case-by-case reviews will be conducted.

(2) This technique requires the greatest degree of policy specificity because compliance with the program will not require any prior actions on the part of anyone affected by the program. Specificity also is needed to avoid challenges that decisions (made pursuant to the management program) are unfounded, arbitrary or capricious.

(3) Under this technique it is not necessary that each and every plan or project be reviewed by the State agency but the authority to do so must exist. The State must define in the management program the type of actions or projects it will review, based on the significance of an action in terms of its impacts on coastal resources, its potential for incompatibility with the State's coastal management policies, and its greater than local significance.

(4) *Procedures.* Certain minimal procedural requirements are dictated by the lanaguage of section 306(e)(1)(C) of the Act. These are that:

(i) Prior to approving or disapproving the consistency of a development plan or project with the management program, public notice be provided. Such public notice should be provided in those communities most likely to be affected by the proposal. Further, such public notice should provide information on the nature of the proposal (such as size, location, type, etc.), where further information is available, and notice of hearing dates, if any;

(ii) There be the opportunity for hearings. Hearings may be defined as public hearings or such other hearings format as may be permitted under a State's Administrative Procedures Act or pursuant to an agency's administrative or operating regulations, or provisions for providing written comments.

§ 923.43 Authorities related to uses of regional benefit.

(a) *Requirement.* In addition to the requirement of section 923.13 to determine what constitute uses of regional benefit, States must provide for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit. In order to meet the requirements of this section, States must identify those techniques, including legal authorities, that will be used to assure that unreasonable restrictions or exclusions by local land and water use regulations shall not occur.

(b) *Comment.* Statutory Citation, Subsection 306(e)(2):

> Prior to granting approval, the Secretary shall also find that the program provides: * * * (2) for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

(c) *Comment.* Following are some examples of acceptable techniques that may be used to assure that local regulations do not unreasonably restrict or exclude uses of regional benefit. These examples are not exclusive, but rather are illustrative of approaches that will meet the requirements of this section:

(1) Statewide siting laws that supercede local regulations when necessary;

(2) Assurance that an adequate (or excessive) amount of specific sites are set aside to meet a projection of reasonable and forseeable demand for different uses of regional benefit through:

(i) State acquisition programs for sites as the need arises for particular uses of regional benefit;

(ii) provision of sites in local maps or ordinances; or

(iii) State guidelines defining uses of regional benefit and requiring their consideration as local implementation programs are developed.

If a State follows examples (ii) or (iii), that State must have the ability to assure that if local maps, ordinances or programs are changed, such changes will not result in an insufficient number of sites throughout the coastal zone to meet projected demands;

(3) Definition of what constitutes unreasonable restrictions or exclusions and establishment of an administrative or judicial mechanism to deal with such restrictions or exclusions as they occur. Under this approach, the two essential elements are:

(i) A specific definition of what constitutes an unreasonable restriction or exclusion in order to provide the basis for an appeal or other action to the administrative or judicial mechanism. States may wish to define "an unreasonable restriction or exclusion" along similar lines to what would constitute "arbitrary or capricious" zoning action in order to provide the same grounds for action;

(ii) Provision of standing to some party—either a State agency, a local government, a landowner, or an aggrieved party—to challenge an allegedly unreasonable restriction or exclusion.

§ 923.44 Air and water pollution control requirements.

(a) *Requirement.* In order to fulfill the requirements of section 307(f) of the Act, States must incorporate into their programs requirements established pursuant to the Federal Water Pollution Control Act (FWPCA) as amended, and the Clean Air Act (CAA) as amended.

(b) *Comment.* Statutory Citation, Subsection 307(f):

> Notwithstanding any other provision of this title, nothing in this title shall in any way affect any requirement (1) established by the Federal Water Pollution Act as amended, or the Clean Air Act as amended, or (2) established by the Federal Government or any state or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this title and shall be the water pollution control and air pollution control requirements applicable to such program.

(c) *Comment.* Incorporation. (1) With respect to the document submitted for approval, it is sufficient that the program state that the requirements of the FWPCA and CAA are the minimum water and air pollution control requirements applicable to the management program and are incorporated by reference. However, to be truly meaningful, incorporation of the air and water quality requirements should involve their consideration during program development, especially with respect to use determinations and designation of areas for special management.

(2) Following is a table of the most important Clean Air Act requirements. These requirements are categorized as either uniform, nationwide requirements or non-uniform requirements applicable to a specific State or local area. The first category of requirements is established in the Clean Air Act or by the Environmental Protection Agency (EPA), pursuant to provisions of the Act, and applies uniformly in all areas of the country. The second category of requirements is based on the nature of air quality problems that exist or are forecast in coastal areas, in locations where emission sources may affect air quality in coastal areas, and in other areas of a State. The majority of the second category of requirements will be included in the State Implementation Plans (SIPs) required by the Clean Air Act.

TABLE.—*Clean Air Act requirements*

Uniform, statewide requirements	*Nonuniform requirements (SIP's)*
National ambient air quality standards.	New source review.
Motor vehicle emission standards (except California).	Emissions or air quality standards more stringent than Federal standards.
New source performance standards.	Prevention of significant deterioration.
National emissions standards for hazardous air pollutants.	Prevention of deterioration in nonattainment areas.
	Other attainment or maintenance such as transportation control measures.

(3) Water quality standards are established by promulgation or EPA approval of State standards, taking into consideration public water supplies, protection and propagation of fish, shellfish and wildlife, recreation, agriculture, industry and navigation. EPA itself develops standards on effluent limitations, new source performance standards, pre-treatment standards and toxic pollutant discharge standards.

(4) More stringent standards must be incorporated into a management program where such are developed pursuant to procedures provided for in the Clean Air Act and Federal Water Pollution Control Act and where such standards can be enforced under State authorities.

(i) In such cases, if incorporation of these more stringent standards leads to the restriction or exclusion of some facilities in which there is a national interest in their siting, such exclusion or restriction is established pursuant to the requirements of the Clean Air Act and Federal Water Pollution Control Act in which there is also a national interest.

(ii) Where more stringent requirements are incorporated, these should be explicitly referenced as such in the management program. Whether or not the additional requirements per se must be included in the body of the management program document, as an appendix, or as a separate reference will depend on the nature and detail of these requirements. States should consult with OCZM on this matter.

§ 923.45 Organizational structure.

(a) *Requirement.* In order to fulfill the requirements of subsections 305(b)(6) and 306(c)(6) of the Act, States must describe the organizational structure that will be used to implement and administer the management program. This description must include a discussion of those State and other agencies, including local governments, that will have responsibility for administering, enforcing and/or monitoring those authorities or techniques required pursuant to the following subsections of the Act: 306(c)(2)(B); 306(c)(7); 306(d)(1) and (2); 306(e)(1) and (2) and 307(f). Further, the State must describe the relationship of these administering agencies to the State agency designated pursuant to subsection 306(c)(5) of the Act.

(b) *Comment.* Statutory Citation, Subsection 305(b)(6):

> The management program for each coastal state shall include * * * (6) A description of the organizational structure proposed to implement such management program including the responsibilities and interrelationships of local, areawide, state, regional and interstate agencies in the management process.

(c) *Comment.* Statutory Citation, Subsection 306(c)(6):

> Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that * * * (6) the state is organized to implement the management program required under paragraph (1) of this subsection.

(1) The main purpose of this requirement is to provide a clear understanding of the entities that have responsibility for administering various aspects of the management program and the interrelationship of these entities.

§ 923.46 Designated State agency.

(a) *Requirement.* In order to fulfill the requirement of subsection 306(c)(5) of the Act, the Governor must designate a single State agency to receive and administer section 306 grants. This State agency shall be fiscally and programmatically responsible for the grants and further must have the following capabilities:

(1) the fiscal and legal capability to accept and administer grant funds, to make contracts or similar arrangements (such as passthrough grants) with participating agencies for the purpose of carrying out specific management tasks and to account for the expenditure of implementation funds by any recipient of such monies.

(2) the administrative capability to monitor and evaluate the management of the State's coastal resources by the various agencies and/or local governments with specified responsibilities under the management program (irrespective of whether such entities receive section 306 funds); to make periodic reports to OCZM, the Governor, or the State legislature, as appropriate, regarding the performance of all agencies involved in the program. The agency must be capable of presenting evidence of adherence to the management program or justification for deviation from the program as part of the review of State performance required by section 312 of the Act; and

(3) the ability to request approval from the Associate Administrator for amendments or refinements to the management program, if and when appropriate.

(b) *Comment.* Statutory Citation, Subsection 306(c)(5):

V42167 AUG 29 77 UMI

Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that • • • (5) The Governor of the state has designated a single agency to receive and administer the grants for implementing the management program required under paragraph (1) of this section.

(c) *Comment.* The last two requirements in (a) above should be read in close conjunction with those of Subpart J—Review of Approved Management Programs, which reals with review of performance after approval, amendments, or refinements to management programs, and termination and withdrawal of funding.

(d) *Comment.* The 306 agency designation is designed to establish a single point of accountability for prudent use of administrative funds in the furtherance of the management program and for monitoring of management activities. Designation does not imply that this single agency need be a "super agency" or the principal implementation vehicle. It is, however, the focal point for proper administration and evaluation of the State's program and the entity to which OCZM will look when monitoring and re-evaluating a State's program during the administration phase.

(e) *Comment.* The requirements for the single designated agency contained herein need not be viewed as confining or otherwise limiting the role and responsibilities which may be assigned to this agency. It is up to the State to decide in what manner and to what extent the designated State agency will be involved in actual program implementation or enforcement. In determining the extent to which this agency should be involved in program implementation or enforcement, specific factors should be considered, such as the manner in which local, municipal and regional authorities are involved in program implementation, the administrative structure of the State, the authorities to be relied upon and the agencies administering such authorities. Because the designated State agency may be viewed as the best vehicle for increasing the unity and efficiency of a management program, the State may want to consider the following in arriving at a designation.

(1) Whether the designated State entity has a legislative mandate to coordinate other State or local programs, plans and/or policies within the coastal zone;

(2) To what extent linkages already exist between the entity, other agencies, and local governments;

(3) To what extent management or regulatory authorities affecting the coastal zone presently are administered by the agency; and

(4) Whether the agency is equipped to handle monitoring, evaluation and enforcement responsibilities.

§ 923.47 Documentation.

(a) *Requirement.* In order to fulfill the requirements of subsections 306(c)(4), (5), (6) and (7), documentation is required to the effect that the Governor:

(1) Has reviewed and approved as State policy the management program, and any changes thereto, submitted for the approval of the Associated Administrator;

(2) Has designatd a single State agency to receive and administer implementation grants;

(3) Attests to the fact that the State has the authorities necessary to implement the management program; and

(4) Attests to the fact that the State is organized to implement the management program.

This documentation may be contained in the transmittal signed by the Governor which accompanies the management program submission.

(b) *Comment.* This requirement for a statement of endorsement by the Governor is intended to make clear that the management program is an enforceable instrument of State policy and to assure gubernatorial commitment in carrying out the program.

Subpart F—Coordination, Public Involvement and National Interests

§ 923.50 General.

(a) Coordination with governmental agencies having interests and responsibilities affecting the coastal zone, and involvement of interest groups as well as the general public are essential elements in the development and administration of a coastal management program. The coordination requirements of this subpart are intended to lead to substantive inputs into the management program as submitted for approval. Evaluation and incorporation of these inputs is necessary to achieve a proper balancing of diverse interests. The policies of section 303 of the Act require that a balancing of varying, sometimes conflicting, interests be achieved, including:

(1) The preservation, protection, development and, where possible, the restoration or enhancement of coastal resources;

(2) The achievement of wise use of coastal land and water resources with full consideration having been given ecological, cultural, historic, and esthetic values and needs for economic development; and

(3) The involvement of the public, of Federal, State and local governments and of regional agencies in the development and implementation of coastal management programs.

(b) *Comment.* Statutory Citation, Section 303:

The Congress finds and declares that it is the national policy (a) to preserve, protect, develop, and, where possible, to restore or enhance the resources of the Nation's coastal zone for this and succeeding generations, (b) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development, (c) for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with state and local governments and regional agencies in effectuating the purposes of this title, and (d) to encourage the participation of the public, of Federal, state and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such management programs, it is the national policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action particularly regarding environmental problems.

(c) Coordination with and participation by various units and levels of government, interest groups and the general public shall begin early in the program development process and shall occur continuously throughout the process on a timely basis to assure that such efforts will result in substantive inputs into a State's management program. State efforts should be devoted not only to obtaining information necessary for developing the management program but also to obtaining views on what is proposed for implementation and to responding to concerns by interested parties. The requirements for intergovernmental coordination and public participation continue after program approval. This subpart, therefore, deals with requirements for coordination with governmental and private bodies to assure that their interests are fully articulated and considered during the program development process and that procedures are created to insure continued consideration of their viewpoints during program implementation. In addition, this Subpart deals with mediation procedures for serious disagreements that occur during program development. Accordingly, this Subpart deals with the following subsections of the Act: 306(c)(1)—Opportunity for Full Participation; 306(c)(2)(A)—Plan Coordination; 306(c)(2)(B)—Continued State-Local Consultation; 306(c)(3)—Public Hearings; 306(c)(8)—Consideration of National Interests; 307(b)—Federal Consultation; and 307(h)—Mediation.

§ 923.51 Federal-State consultation.

(a) *Comment.* The requirements of subsections 306(c)(1) and 307(b) of the Act and those of subsections 307 (c) and (d) establish reciprocal State-Federal relationships. It is in the context of these relationships that the requirements of this section should be read. In exchange for providing relevant Federal agencies with the opportunity for full participation during program development and for adequately considering the views of such agencies, States can effectuate the Federal consistency provisions of subsections 307 (c) and (d) of the Act (See 15 CFR Part 930).

(b) *Requirement.* In order to meet the requirements of section 306(c)(1) of the Act for the opportunity of full participation by relevant Federal agencies in the development of a State's management program and in order to meet the requirements of subsection 307(b) of the Act that the views of Federal agencies principally affected by a State's management program have been adequately considered, States must:

(1) Contact the office of each relevant Federal agency listed in § 923.2(d) and such other Federal agencies as may be relevant, owing to a State's particular circumstances, early in the development of its management program. The purpose of such contact is to develop mutual arrangements or understandings regarding that agency's participation during program development;

(2) Provide for Federal agency input on a timely basis as the program is developed. Such input shall be related both to information required to develop the management program and to evaluation of and recommendations concerning various elements of the management program;

(3) Summarize the nature, frequency and timing of contacts with relevant Federal agencies, including attempts to resolve differences, if any;

(4) Evaluate Federal comments received during the program development process and, where appropriate, accommodate the substance of relevant comments in the management program; and

(5) Indicate the nature of major Federal agency comments provided during program development (either by including copies of comments or by summarizing comments) and state any major comments or conflicts between the management program proposals and Federal views that have not been accommodated or resolved at the time of program submission and the reasons therefor.

(c) *Requirement.* With respect to the requirements of (b)(4) above, States must consider and evaluate relevant Federal agency views or comments about the following:

(1) The management of coastal resources for preservation, conservation, development, enhancement or restoration purposes, including statements of national interest policies or claims related thereto;

(2) Statements of national interests in the planning for or siting of facilities which are more than local in nature;

(3) Uses which are subject to the management program;

(4) Areas which are of particular concern to the management program; and

(5) Federally developed or assisted plans that must be coordinated with the management pursuant to subsection 306(c)(2)(A) of the Act. (See § 923.56 for more detail on this last requirement).

(d) *Requirement.* In order to fulfill his/her responsibilities under subsection 306(c)(1), the Associate Administrator shall find that adequate opportunity for full participation by relevant Federal agencies has been provided if a State has:

(1) Contacted relevant Federal agencies;

(2) Provided timely opportunities for relevant Federal agency participation and input; and

(3) Advised these agencies of public hearings on the management program.

(e) *Requirement.* In order to fulfill his/her responsibilities pursuant to subsection 307(b), the Associate Administrator shall determine whether State consideration of relevant Federal agency views, during program development, has been adequate, based on the nature and reasonableness of a State's evaluation of and response to relevant Federal agency views that relate to:

(1) The substantive requirements of the Act contained in section 305. These requirements pertain to boundaries, uses subject to management, areas of particular concern, legal authorities, guidelines on priorities of uses, organization, shorefront planning process, energy facility planning process, and erosion planning process;

(2) Federal agency statements of national interests. Federal agency assertions that inadequate consideration has been afforded their views, when such views relate to matters not within the purview of the Act or these regulations, will not deter the Associate Administrator from making the findings necessary pursuant to subsection 307(b) of the Act.

(f) *Comment.* Statutory Citation, Subsection 306(c)(1):

Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that:

(1) the state has developed and adopted a management program for its coastal zone • • • with the opportunity for full participation by relevant Federal agencies.

(1) Following are some procedures States should use to insure the effectiveness of their consultation efforts. Officially designated regional or field contacts of relevant Federal agencies should be informed early of the management program's overall design and specific applicable issues and should be briefed periodically at important stages in the program development process. Policies, criteria for determining use permissibility, designations or areas of particular concern and other major elements of the management program should be made available for agency review as these elements are developed and considered by the States. Individual consultation, as well as group presentations, should become more substantive and specific as the program moves toward submission. Individual consultations with relevant Federal agencies should be particularly useful as the State establishes its Federal consistency procedures and as it determines which Federal activities, projects, licenses, permits, and assistance it will want subject to the consistency requirements of subsection 307 (c) and (d) of the Act.

(2) At the earliest practicable time in the process of developing the management program relevant Federal agencies should advise the State agency of the extent of their interests in the development of the management program. In particular, Federal agencies should discuss with the State agency the extent to which Federal activities, projects, regulatory actions and/or assistance programs may affect coastal resources. Federal agencies are encouraged to provide the State agency with their interpretations of various national interests related to the planning for and siting of facilities that are more than local in nature and/or the conservation of various coastal resources. (See section 923.52 for more detail on national interest.) Federal agency statements on national interests should be directed to those policies and issues a State's management program proposes to address or those which a Federal agency believes the management program should address. Federal agencies should provide technical information and other forms of assistance to aid States in their program development efforts.

(g) *Comment.* Statutory Citation, Subsection 307(b):

The Secretary shall not approve the management program submitted by a State pursuant to section 306 unless the views of Federal agencies principally affected by such program have been adequately considered.

(1) In addition to the consideration of relevant Federal agency views required during program development, Federal agencies will have the opportunity to provide further comment during the program review and approval process. (See Subpart H for details on this process.) Moreover, in the event of a serious disagreement between a relevant Federal agency and designated State agency that relates to those elements required in a State's management program pursuant to subsection 305(b) of the Act or that relates to adequate consideration of national interests pursuant to subsection 306(c)(8) of the Act, the mediation provisions of subsection 307(h)(1) of the Act are available. (See § 923.54 for details on mediation.)

§ 923.52 Consideration of national interests.

(a) *Requirement.* The requirements of subsection 306(c)(8) to consider adequately the national interest involved in the planning for and siting of facilities which are necessary to meet other than local requirements must be met within the context of balancing a national interest in the planning for and siting of such facilities with other national interests related to coastal resource conservation and protection. This balancing is necessary to meet the national policy objectives of section 303 of the Act. Therefore, in meeting the requirements of this section, States must:

(1) Describe national interests considered during program development and the sources thereof;

(2) Indicate how competing national interests have been weighed and how this weighing is reflected in the substance of the management program;

(3) Describe a process for continued consideration of national interests during program implementation.

(b) *Requirement.* With specific reference to meeting the requirement for adequate consideration of the national interest in the planning for and siting of energy facilities in, or which significantly affect, a State's coastal zone, States shall, in addition to the requirements of (a) above:

(1) Consider any applicable interstate energy plan or program; and

V 42 167 AUG 29 77 UMI

(2) Meet the requirements for an energy facility planning process pursuant to the requirements of 923.14, except that:

(i) States seeking approval of a management program prior to October 1, 1978 that do not meet the requirements of subsection 305(b)(8) of the Act shall:

(A) Describe existing or developing management program standards or policies as these apply to energy facility planning and siting considered to be in the national interest; and

(B) Describe briefly the status of the planning process required pursuant to subsection 305(b)(8) of the Act and how it has dealt with or will deal with the consultation and evaluation that are necessary for the consideration of national interests related to energy facility planning and siting.

(c) *Comment.* The 1976 amendments to subsection 306(c)(8) of the Act stress adequate consideration of the national interest in the planning for and siting of energy facilities in or significantly affecting a State's coastal zone. The 1976 amendments also provide in subsection 305(b)(8) of the Act for a specific process related to energy facilities including a process for anticipating and managing the impacts for such facilities. The requirements for that planning process are set forth in section 923.14 and in more detail in 15 CFR 920.18. The Congress intended this planning process to complement the evaluation of varying national interests pursuant to subsection 306(c)(8) of the Act. It is for this reason that the more specific requirements of (b) above are imposed.

(d) *Comment.* Statutory Citation. Subsection 306(c)(8):

Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that: • • • (8) The management program provides for adequate consideration of the national interest involved in planning for, and in the siting of, facilities (including energy facilities in, or which significantly affect, such state's coastal zone) which are necessary to meet requirements which are other than local in nature. In the case of such energy facilities, the Secretary shall find that the state has given such considerations to any applicable interstate energy plan or program.

(e) *Comment.* In determining the nature of national interests associated with the planning for and siting of facilities that are more than local in nature, States should consult with Federal and other State agencies having responsibilities related to these interests as well as with industries and other relevant entities to determine the potential regional, interstate, national and/or international demand for such facilities in each State. Moreover, in determining the nature of national interests involved in the planning for and siting of certain facilities, States also should consult with Federal and other State agencies involved in resource conservation and protection as well as with other relevant entities to determine the nature of resource conservation and protection interests affecting siting considerations. Other factors that should enter into a State's consideration of national interests involved in planning for and siting of certain facilities are the configuration and size of a State's coastal zone; the quantity, quality and distribution of various coastal resources; and the coastal-dependent nature of those facilities. Below are two tables that list (1) uses that may have facilities associated with them, the planning for and siting of which may be in the national interest and (2) resources in which there may be a national interest. The basis for determining the nature of the national interests associated with these facilities and resources is discussed in the commentaries that follow.

TABLE 1.—*Facilities in which there may be a national interest in planning or siting*

Uses	Associated facilities	Associated Federal agencies
National defense and aerospace	Military bases and installations; defense manufacturing facilities; aerospace facilities.	Department of defense, National Aeronautics and Space Administration.
Energy production and transmission	Oil and gas rigs, storage, distribution and transmission facilities; power plants; deep-water ports; LNG facilities; geothermal facilities; coal mining facilities.	Federal Energy Administration, Federal Power Commission, Nuclear Regulatory Commission, Energy Research and Development Administration, Department of Interior, Department of Commerce, Department of Transportation, Corps of Engineers.
Recreation	National seashores, parks, forests; large and outstanding beaches and recreational waterfronts.	Department of Interior, Department of Agriculture.
Transportation	Interstate highways, railroads; airports; ports; aids to navigation.	Department of Transportation, Department of Commerce, Corps of Engineers.
Regional water treatment Plants.	Sewage treatment plants; desalinization plants.	Environmental Protection Agency

TABLE 2.—*Resources in which there may be a national interest*

Resource	Major related Federal legislation	Associated Federal agencies
Water	Federal Water Pollution Control Act	Environmental Protection Agency, Corps of Engineers.
Air	Clean Air Act	Environmental Protection Agency.
Wetlands	Federal Water Pollution Control Act; Fish and Wildlife Coordination Act.	Corps of Engineers, Environmental Protection Agency, Department of Interior, Department of Commerce.
Endangered flora and fauna	Endangered Species Act	Department of Interior, Department of Commerce.
Floodplains and erosion hazard areas.	Flood Insurance Act	Housing and Urban Development, Corps of Engineers, Department of Agriculture.
Barrier islands	Coastal Zone Management Act	Department of Interior, Department of Commerce.
Historic sites and districts	National Historic Preservation Act	Advisory Council on Historic Preservation.
Wildlife refuges and reserves	Pitman-Robinson Act; Dingall-Johnson Act; Land and Water Conservation Fund Act.	Department of Interior, Department of Commerce.
Areas of unique cultural significance.	National Historic Preservation Act	Advisory Council on Historic Preservation.
Minerals	Mineral Leasing Act	Department of Interior.
Prime agricultural lands	Homestead Act	Department of Agriculture.
Forests	National Forest Management Act	Department of Agriculture, Department of Interior.
Living marine resources	Fisheries Conservation and Management Act.	Department of Commerce, Department of Interior.

(f) *Comment.* The sources for deriving national interests to be considered during program development and implementation, as required in (a)(1) and (3) above, are numerous. In considering expressions of national interests, States should evaluate the following:

(1) Policy statements from the President, as for example the National Energy Plan; the National Environmental Message and associated executive orders on wetlands and floodplains; the National Outdoor Recreation Plan;

(2) Federal laws and legislation, as for example, the Federal Water Pollution Control Act; the Clean Air Act; the National Historic Preservation Act; the Outer Continental Shelf Lands Act; the Energy Production and Conservation Act;

(3) Statements from Federal agencies regarding national interests, including such statements as may be provided by NOAA;

(4) Plans, reports and studies from Federal, State, interstate agencies or from interstate groups, as for example interstate energy plans; Department of Interior's "Islands of America" report;

(5) Testimony from public hearings or other public input.

(g) *Comment.* The requirements of this section are intended to assure that national interests in facilities and resources are recognized and evaluated as part of the development of the management program and that these interests continue to be considered after a program is approved. Accordingly, in evaluating the adequacy of a State's consideration during program development of national interests involved in the planning for or siting of facilities which may be more than local in nature, the Associate Administrator shall assess the reasonableness of:

(1) The claims made and sources used to determine national interests;

(2) Consideration given in the management program to varying national interests, including the relative weighing of competing interests; and

(3) Responses to major siting concerns raised by Federal agencies or other

interested parties, including consideration of any applicable interestate energy plan or program.

States are not required to accommodate the siting of a particular facility in a specific location by virtue of these requirements. Thus, for example, adequacy of response to siting demands shall be evaluated within the requirements of the Federal Water Pollution Control Act, as amended, and the Clean Air Act, as amended, because of the requirements imposed on State programs by section 307(f) of the Act. Accordingly, restrictions or exclusions imposed on facilities in which there may be a national interest, that are result of adherence to the Federal Water Pollution Control Act or the Clean Air Act or are developed pursuant to the procedures of those Acts will not result in a finding of inadequate consideration of the national interest in the siting of such facilities.

§ 923.53 Federal consistency procedures.

States shall include in their management program submission the procedures they will use to implement the Federal consistency provisions of subsection 307(c) and (d) of the Act once their programs are approved. States also shall include listings of those Federal activities, development projects, licenses, permits, and assistance programs that will be subject to these provisions. For further guidance on structuring the implementing procedures, see 15 CFR Part 930.

§ 923.54 Mediation.

(a) The Act provides for the mediation of "serious disagreements" between any Federal agency and a coastal State during the development or initial implementation of a management program. This provision in the Act further reinforces Congress' acknowledgement that State-Federal differences may arise and should be resolved during program development or implementation. In certain cases, mediation by the Secretary or his/her designee, with the assistance of the Executive Office of the President, may be an appropriate forum for conflict resolution. This section describes the conditions of and processes for mediation of serious disagreements that may arise during program development. Mediation provisions for handling serious disagreements during full program implementation are quite similar and are discussed in 15 CFR Part 930.

(b) *Comment.* Statutory Citation, Subsection 307(h):

In the case of serious disagreement between any Federal agency and a coastal state:
(1) in the development or the initial implementation of a management program under section 305• • •

The Secretary, with the cooperation of the Executive Office of the President, shall seek to mediate the differences involved in such disagreement• • •

(c) State-Federal differences that arise during program development should be addressed initially by the parties involved. The Office of Coastal Zone Management shall be available to assist the parties to resolve informally any disagreement that may arise. Whenever such a disagreement is identified, the Federal and State parties shall inform the Associate Administrator in writing, stating the point(s) of disagreement, and the reason(s) therefor, and may request OCZM's informal assistance.

(d) In the event a serious disagreement persists, after having been subject to informal attempts at resolution, either the head of the Federal agency or the Governor or the head of the State agency designated pursuant to 15 CFR 920.52(b) may notify the Secretary in writing of the continued existence of the serious disagreement, and may request that the Secretary seek to mediate the disagreement. A copy of the written request must be sent to the disagreeing agency and to the Associate Administrator.

(e) Within 15 days following receipt of a request for mediation, the disagreeing agency shall transmit a written response to the Secretary, and to the agency requesting mediation indicating whether it wishes to participate in the mediation process. The Secretary will not provide mediation assistance unless all parties to the serious disagreement agree to participate.

(f) If both parties agree to mediation, the Secretary shall schedule a mediation conference to be attended by representatives from the Office of the Secretary, and the disagreeing Federal and State agencies. The Secretary shall provide the parties at least 10 days notice of the time and place set for the mediation conference.

(g) Secretarial mediation efforts shall last only so long as the parties agree to participate. The Secretary shall confer with the Executive Office of the President, as necessary, during the mediation process.

(h) Mediation shall terminate: (1) At any time the parties agree to a resolution of the serious disagreement, (2) if one of the parties withdraws from mediation, (3) in the event the parties fail to reach a resolution of the serious disagreement within 15 days following Secretarial mediation efforts, and the parties do not agree to extend mediation beyond that period, or (4) for other good cause.

(i) If the conflict resolution efforts described above do not resolve the disagreement, the Associate Administrator shall determine whether inclusion in the management program of the State agency's position in the disagreement affects the Associate Administrator's ability to approve the State's management program. The Associate Administrator shall communicate his/her determination in writing, with the reason(s) therefor, to the parties to the disagreement.

§ 923.55 Full participation.

(a) *Requirement.* In addition to consultation with Federal agencies, subsection 306(c)(1) of the Act requires that the opportunity for full participation in program development be provided State agencies, local governments, regional organizations, port authorities and other interested public or private parties. To meet this requirement, States shall:

(1) Develop and make available general information regarding the program design, its content and its status throughout program development;

(2) Provide a listing, as comprehensive as possible, of all governmental agencies, regional organizations, port authorities and public and private organizations likely to be affected by or have a direct interest in the development and implementation of the management program;

(3) Indicate the nature of major comments received from interested or affected parties and the nature of the State's response;

(4) Coordinate the contents of the management program with local, areawide or interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the State's management program is submitted to the Associate Administrator;

(5) Establish a mechanism to provide for continuing coordination with affected parties after program approval, including specifically establishment of a mechanism for State-local consultation with respect to State activities that may conflict with local zoning; and

(6) Hold public hearings during the development of the management program, at least one of which shall be on the entire program.

These requirements are discussed in greater detail in the commentary that follows and in the three sections that follow.

(c) *Comment.* Statutory Citation, Subsection 306(c)(1):

Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that: (1) the state has developed and adopted a management program for its coastal zone • • • with the opportunity of full participation by • • • state agencies, local governments, regional organizations, port authorities, and other interested parties, public and private • • •

(d) *Comment.* As noted in the general introduction to this subpart, the most effective means for assuring that the opportunity for full participation has been provided is to initiate appropriate activities early during program development and to continue such efforts on a timely basis throughout the program development process. Moreover, the requirement to provide opportunities for input from and participation by interested or affected parties does not end with program approval, as witness subsection 306(c)(2)(B) of the Act which requires the establishment of a mechanism for continuing State-local consultation on particular matters after program approval. (See § 923.57 for details on the requirements of subsection 306(c)(2)(B).)

(e) *Comment.* Public information may take many forms, among which the following should be given consideration:

(1) Brochures and reports made available in places of public congregation such as libraries, government buildings, stores or transit facilities;

(2) Radio, television and personal presentations;

(3) Press announcements;

(4) Public meetings or hearings;

(5) Exhibits;

(6) Telephone "hot lines;" and

(7) Films and slide shows.

V42167A AUG 29 77 UMI

(f) *Comment.* States should also consider establishing advisory committees and/or technical advisory boards comprised of public citizens representing specific interests, local government representatives, and/or State and Federal agency representatives. These committees and boards may serve a number of useful purposes: providing information needed to develop the management program; serving as a conduit and evaluator of public interests and concerns; and determining major program directions.

§ 923.56 Plan coordination.

(a) *Requirement.* In order to meet the requirements of subsection 306(c)(2)(A) of the Act and the associated requirements of § 923.55(a)(4), States shall coordinate the contents of the management program with local, areawide or interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the State's management program is submitted to the Associate Administrator for approval. Evidence of coordination shall be documented in the management program by:

(1) Identifying local governments, areawide agencies designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies or interstate agencies which have plans affecting the coastal zone in effect on January 1 of the year in which the management program is submitted.

(2) Listing or providing a general summary of substantive contacts with these entities to coordinate the management program with their plans; and

(3) Identifying conflicts with those plans of a regulatory nature that are unresolved at the time of program submission and the means that will be used to attempt further coordination.

(b) *Comment.* Statutory Citation, Subsection 306(c)(2)(A):

Prior to granting approval to a management program submitted by a coastal state, the Secretary shall find that • • •

(2) The State has: (A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the state's management program is submitted to the Secretary, which plans have been developed by a local government, and areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency • • •

(c) *Comment.* The process envisioned by this subsection of the Act should enable a State not only to avoid duplication of and conflict between its program and other plans applying within its coastal zone but also to draw upon the planning capabilities of and work already completed by a wide variety of local governments and other agencies. Particular attention shall be given to land use plans prepared pursuant to section 701 of the Housing and Urban Development Act of 1968, as amended; State and areawide waste treatment facility or management plans prepared pursuant to sections 201 and 208 of the Federal Water Pollution Control Act, as amended; plans and designations made pursuant to the Flood Insurance Act of 1974; and any interstate energy plans or programs adopted by a governmental entity as of January 1 of the year in which the management program is submitted. States shall take into consideration the contents of such Federal interagency agreements as OCZM has entered into with respect to this Act, as for example the OCZM–HUD; OCZM–EPA interagency agreements.

(d) *Comment.* In order to meet the requirements of (a) (2) and (3) above use of State and areawide clearinghouses, established pursuant to OMB Circular A–95 (revised) will suffice: (1) as a means of contacting all relevant entities provided that such entities are among the recipients of clearinghouse notices and (2) as a mechanism to provide for the identification and resolution of conflicts.

§ 923.57 Continuing consultation.

(a) *Requirement.* In order to meet the requirements of subsection 306(c)(2)(B) of the Act and the associated requirements of section 923.55(a)(5), States shall:

(1) Establish a mechanism which will provide for continuing consultation and coordination after program approval between local governments, regional, areawide, interstate and other State agencies with activities affecting the coastal zone and the State agency designated pursuant to subsection 306(c)(5) of the Act; and

(2) Establish a mechanism specifically designed to insure continued State-local government consultation on State management program decisions that would conflict with any local zoning ordinance, decision or other action.

(b) *Comment.* Statutory Citation, Subsection 306(c)(B):

Prior to granting approval to a management program submitted by a coastal state, the Secretary shall find that • • •

(2) The state has • • •

(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this section and with local governments, interstate agencies, regional agencies, and area-wide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title; except that the Secretary shall not find any mechanism to be "effective" for purposes of this subparagraph unless it includes each of the following requirements:

(i) Such management agency is required, before implementing any management program decision which would conflict with any local zoning ordinance, decision, or other action, to send a notice of such management program decision to any local government whose zoning authority is affected thereby.

(ii) Any such notice shall provide that such local government may, within the 30-day period commencing on the date of receipt of such notice, submit to the management agency written comments on such management program decision, and any recommendation for alternatives thereto, if no action is taken during such period which would conflict or interfere with such management program decision unless such local government waives its right to comment.

(iii) Such management agency, if any such comments are submitted to it, within such 30-day period, by any local government:

(I) is required to consider any such comments,

(II) is authorized, in its discretion, to hold a public hearing on such comments, and

(III) may not take any action within such 30-day period to implement the management program decision, whether or not modified or the basis of such comments.

(c) *Comment.* In meeting the requirement of (a)(1) above for establishing a general mechanism for continuing consultation and coordination, States should consider use of the OMB Circular No. A–95 (revised) Project Notification and Review System as the required mechanism provided that affected local governments, areawide, regional, interstate and other State agencies are part of the notification system.

(d) *Comment.* The purposes of the State-local consultation mechanism contained in subparagraphs (i), (ii) and (iii) of subsection 306(c)(2)(B) of the Act are:

(1) To provide explicitly in a State's management program for a mechanism to inform local governments with zoning authority of management program plans or policies which could conflict with such zoning authority;

(2) To allow local governments an opportunity to comment on State management program plans and policies which conflict with local government zoning;

(3) To require the State management agency to consider such comments, during which time it may hold a public hearing (at its discretion) on the matter, and to refrain from taking action to implement the proposed management program plan or policy during the comment period; and

(4) To permit the State management agency to implement the management program decision in the event the local government waives its right to comment, concurs with the proposed action, or takes action during the comment period which conflicts or interferes with the proposed State management program decision (in which case, a local government forfeits its right to comment).

(e) *Comment.* Coastal zone management development and implementation is a dynamic process. Congress recognized that an effective means for pursuing this process required not only increased efforts by coastal State governments, but also participation by local governments. In its amendment of section 306(c)(2)(B) of the Act, Congress specifically developed a provision that major State policies and plan decisions to be implemented pursuant to an approved State management program require notice to legal governments when such decisions could conflict with local government zoning. For the purposes of this section, the following terms shall have the following meanings:

(1) "Management agency" refers to the State agency designated by the Governor pursuant to subsection 306(c)(5) of the Act and to any other State agency responsible for implementing a management program decision;

(2) "Management program decision" refers to any major, discretionary policy decisions on the part of a management agency, such as the determination of permissible land and water uses, the designation of areas of particular concern or areas for preservation or restoration, or the decision to acquire property for public uses. Regulatory actions dictated by State legislation, such as individual permit actions, which are taken pursuant to these major decisions are not subject to the State-local consultation mechanism. Examples of what might constitute a major management program decision include, but are not limited to:

(i) A State management agency decision that a certain class of wetlands may not be filled and/or developed;

(ii) A decision prohibiting the development of non-water dependent facilities on certain shoreline areas;

(iii) A decision requiring that new development on the shoreline may not interfere with existing public rights of access to the sea, and that new developments of a certain magnitude are required to provide public access as part of the development;

(iv) A decision to acquire urban shoreland for recreational purposes; or

(v) Designation of coastal historic landmarks or natural areas as areas for preservation or restoration, when any of these are discretionary, and not legislatively mandated, decisions of a management agency.

(3) "Conflict" (with a local zoning ordinance, decision or other action). A State management program decision may be considered to be in conflict with a local zoning ordinance if the decision is incompatible with or contradictory to that ordinance. However, a State management program decision that consists of additional but different requirements shall not be considered to be in conflict with a local zoning ordinance, decision or other action;

(4) "Local zoning ordinance, decision or other action" refers to any local government land or water use action which regulates or restricts the construction, alteration or use of land, water or structures thereon or thereunder. These actions include zoning ordinances, variances, special exceptions, master plans and official maps. Accordingly, a local government has the right to comment on a State management program decision when such decision conflicts with the above specified actions;

(5) "Written comment" from local governments shall be submitted in writing to the State management agency and may include recommendations for alternative actions and/or a request for a public hearing on the management program decision.

(6) "Waiver" of the right of a local government to comment (thereby permitting a State agency to proceed immediately with implementation of the management program decision) shall result:

(i) following State agency receipt of a written statement on the part of local government:

(A) Waiving its right to comment; or

(B) concurring wth the management program decision; or

(C) Indicating the local government intends to take action which conflicts or interferes with the management program decision; or

(ii) Following a public statement by a local government to the effect of (A), (B) or (C) above; or

(iii) Following an action by a local government that conflicts or interferes with the management program decision.

A waiver of the right to comment or a waiver indicating concurrence may also be presumed if the local government fails to submit written comments to the State agency within the 30-day comment period. OCZM strongly encourages local governments not to effect a waiver by silence as this process causes needless delay in implementing a management program decision.

(f) *Comment.* The purpose of this notice and comment procedure is to enable State agencies and local governments to achieve a consensus, when appropriate and possible, with respect to proposed State land and water use decisions. Local governments are encouraged to submit comments to State agencies in order to try to assure that policies and plans developed at the State level have sufficient flexibility to accommodate the various and diverse needs of coastal communities. For example, in response to a State agency management decision proposing to prohibit development of non-water dependent commercial uses on the shoreline within the jurisdiction of a local government, that loacl government might comment that the restriction conflicts with an urban waterfront zoning ordinance that selectively permits such developments as a means of promoting the economic viability of a redeveloping area. Based on such comments, the State management agency might be persuaded to modify its original proposal. It should be noted, however, that the requirements of subsection 306(c)(2)(B) are not intended to deflect from one of the basic purposes of the Act—that of encouraging States to exercise effectively their responsibilities to achieve wise use of land and water resources of the coastal zone. Accordingly, while the purpose of this specific consultation requirement is to establish a process for discussion of differences, the ultimate administrative authority to resolve conflicts shall be the State management agency.

(1) State programs must detail a procedure whereby local governments with zoning authority are notified of management program decisions which will affect their jurisdiction. For purposes of this consultation mechanism, local governments are those defined in section 304(10) of the Act which have some form of zoning authority. Such notice must be in writing and must inform the local government of its right to submit comments to the State management agency in the event the proposed State management program decision conflicts with a local zoning ordinance decision or other action. States are encouraged to use, where possible, existing procedures such as those established in administrative procedures acts. The effect of providing such notice is to stay State action to implement its management decision for at least a thirty-day period unless the local government waives its right to comment.

(2) State management programs also must provide that the management agency adequately consider all comments received by local government(s). This consideration should include a written response by the management agency to the local government(s), within a reasonable period of time following receipt of local comments, as to the outcome of that agency's consideration of local comments. Such consideration may include a decision, at the discretion of the management agency, to hold a public hearing. The State management program also must set forth public notice and other hearing procedure requirements. In the event that a local government requests a public hearing and such a request is granted, the State management program may provide or require that the local government requesting such hearing shall provide the required public notice and/or meeting facility. In the event a public hearing is held, the management agency shall provide written response to the affected local government, within a reasonable period of time and prior to implementation of the management program decision, on the results of the agency's consideration of public hearing comments.

(3) State management programs shall include a provision indicating the procedures to be followed by a management agency regarding implementation of a management program decision following receipt of a local government's comments.

(4) State management programs are encouraged to include a provision requiring notification in writing from local governments to the appropriate State agency of any action taken during the 30-day comment period which conflicts or interferes with the proposed management program decision. State management programs also should include a provision for local governments to waive their right to comment. In those instances where the local government chooses to waive is opportunity to comment, or concurs with the State management decision, there is no need for further delay in implementing the proposed State management decision. In order to apprise the State agency of these views, local governments are strongly encouraged to transmit such views in writing to the State agency (using the procedure described in the State's management program). Otherwise, the State agency will be compelled to await unnecessarily the expiration of the 30-day comment period before proceeding with the proposed decision. A

V 42167 AUG 29 77 UMI

local government forfeits its right to comment on a proposed management agency decision and to request a public hearing when the local government takes action during the comment period which conflicts or interferes with the proposed management decision. Where a local government intends to take such conflicting or interfering action, OCZM strongly encourages local governments to so advise the State agency in writing.

(5) State management programs should indicate what action the State agency will take in the event a local government pursues a conflicting or interfering action. States are encouraged to develop their responses to conflicting local actions within the framework of sections 306(d)(1) and 306(d)(2) of the Act. Section 306(d)(1) of the Act provides, inter alia, that the State has the management authority to resolve conflicts among competing uses. Section 306(e)(2) of the Act requires that the management program provide for a method of assuring local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land or water uses of regional benefit.

§ 923.58 Public hearings.

(a) *Requirement.* In order to meet the requirements of subsections 306(c)(1) and (c)(3) and section 311 of the Act and the associated requirements of section 923.55(a)(6), States shall:

(1) Hold a minimum of two public hearings during the course of program development, at least one of which will be on the total coastal management program;

(2) Provide a minimum of 30 days public notice of hearing dates and locations; and

(3) Make available, at the time of public notice, all agency materials pertinent to the hearings.

(b) *Comment.* Statutory Citation, Subsection 306(c)(1):

> Prior to granting approval of a management program submitted by a coastal state the Secretary shall find that:
> (1) The state has developed and adopted a management program for its coastal zone • • • after notice • • •

(c) *Comment.* Statutory Citation, Subsection 306(c)(3):

> Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that • • •
> (3) The state has held public hearings in the development of the management program. •

(d) *Comment.* Statutory Citation, Section 311:

> All public hearings required under this title must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

(1) Notification of public hearings should provide the public the longest period of notice practical, but in no event should notice be less than the 30 day statutory minimum. Announcement of the hearings should be through media designed to inform the public—not merely to provide "technical notice." Therefore, in addition to any publication of legal notice as required by State law, resonably informative news releases should be made available to the news media in the affected communities.

(2) At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, the agenda for the hearings, and other data, must be made available to the public for review and study in the locale where the hearings are to be conducted.

(3) Hearings on the total management program do not have to be held on the actual document submitted to the Associate Administrator for section 306 approval. However, such hearing(s) must cover the substance and content of the proposed management program in such a manner that the general public, and particularly affected parties, have a reasonable opportunity to understand the impacts of the management program.

(4) Hearings should be held in those geographic areas which would be most affected by the issues under consideration at the hearing. Hearings on the total management program should be held in places within the State where all citizens of the State may have an opportunity to comment.

(5) In many cases, the population of the coastal zone fluctuates significantly with the seasons of the year. Efforts should be made to insure that hearings were held when those populations most likely to be affected are present.

(6) A verbatim transcript of the hearings need not be prepared but a comprehensive summary should be made available to the public within 45 days after the conclusion of the hearings. A copy of these summaries shall accompany the management program when it is submitted to the Associate Administrator for approval.

Subpart G—Miscellaneous

§ 923.60 General.

The purposes of this subpart are to provide guidance on (a) meeting the requirements of subsection 306(h) of the Act dealing with segmented management programs and (b) fulfilling the requirements for an environmental impact assessment which all management program submissions, whether for a State's total coastal zone or a segment, must contain.

§ 923.61 Segmentation.

(a) If a State intends to adopt its management program in two or more segments, it shall so advise the Associate Administrator as early as practicable, stating the reasons for segmenting the program and requesting the Assoicate Administrator's approval. In addition to meeting the approval requirements of these regulations, each segment of a management program must demonstrate that:

(1) The segment includes a geographic area on both sides of the coastal land-water interface;

(2) A timetable and budget have been established for the timely completion of the remaining segment(s); and

(3) The State will exercise policy control over each segment of its management program prior to and following its integration into a complete State management program. Demonstration of this control will include (i) completion of the management boundary determination for the entire coastal zone throughout the State and (ii) consideration of the national interest throughout the State's entire coastal zone in the planning for and siting of facilities cited in § 923.52.

(b) *Comment.* Statutory Citation, Section 306(h):

> At the discretion of the state and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas within the coastal zone which most urgently need management programs: Provided, that the state adequately provides for the ultimate coordination of the various segments of the management program into a single, unified program, and that the unified program will be completed as soon as reasonably practicable.

(1) This section of the Act reflects a recognition that it may be desirable for a State to develop and adopt its management program in segments rather than all at once because of a relatively long coastline, developmental pressures or public support in specific areas, or earlier regional management programs already developed and adopted. It is important to note, however, that the ultimate objective of segmentation is completion of a management program for the coastal zone of the entire State in a timely fashion. Segmentation is at the State's option, but requires the approval of the Associate Administrator. States should notify the Associate Administrator as early as possible regarding intention to prepare a management program in segments.

(c) *Comment.* Continuing involvement at the State as well as local level in the development and implementation of segmented programs is essential. This emphasis on State participation and coordination with the program as a whole should be reflected in the individual segments of a management program. Regional agencies and local governments may play a large role in developing and carrying out such segmented programs, but there must be a continuing State voice throughout this process. This State involvement shall be expressed in the first segment of the management program in the form of evidence that (i) the boundaries of the coastal zone for the entire State have been defined (pursuant to Subpart D) and (ii) there has been adequate consideration of the national interest involved in the planning for and siting of facilities necessary to meet requirements which are other than local in nature (pursuant to § 923.52) for the State's entire coastal zone. These requirements are designed to assure that

the development of a Statewide coastal Zone management program proceeds in an orderly fashion and that segmented programs reflect accurately the needs and capabilities of the State's entire coastal zone which are represented in that particular segment.

(1) It is recognized that small islands may form separate and unique ecological units for which a segment of the management program may be established with relatively few problems. The Associate Administrator may waive certain requirements under this section related to segmented approval for islands. The requirements that the State must (1) provide an adequate consideration of the national interest in the planning for and siting of facilities necessary to meet requirements which are other than local in nature for the State's entire coastal zone and (2) define the boundaries of the coastal zone for the entire State may be waived if the Associate Administrator determines that their completion would serve no useful purpose in evaluating the merits of the application for approval of a small island segment.

(d) *Comment.* One of the distinguishing features of a coastal zone management program is its recognition of the relationship between land uses and their effect upon coastal waters, and vice versa. Segments should likewise recognize this relationship between land and water by including at least the dividing line between them, plus the lands and waters on either side which are mutually affected. In the case of a segment which is predominantly land, the boundaries shall include those waters which are directly and significantly impacted by land uses in the segment. Where the predominant part of the segment is water, the boundaries shall include the adjacent shorelands strongly influenced by the waters, including at least islands, transitional and intertidal areas, salt marshes, wetlands and beaches (or similar such areas in Great Lakes States). A segmented management program shall not be developed solely for the purpose of protecting or controlling a single coastal resource or use, however desirable that may be.

(e) *Comment.* Segmented management programs submitted for approval will be reviewed and approved in exactly the same manner as programs for complete coastal zones, utilizing the same approval criteria, plus those of this section.

§ 923.62 Environmental Impact assessments.

(a) *Requirement.* All State management program submissions must contain an environmental impact assessment that, following Council on Environmental Quality guidelines, will address the following items (although not necessarily in the same order presented below):

(1) A description of the proposed action;

(2) A description of the environment affected;

(3) The relationship of the proposed action to land and water use plans, policies, and controls for the area;

(4) The probable impact of the proposed action on the environment;

(5) Alternatives;

(6) Probable adverse environmental effects which cannot be avoided;

(7) The relationship between local, short-term uses of the environment and the maintenance and enhancement of long-term productivity;

(8) Irrevocable or irretrievable commitments of resources that would be involved in the proposed action should it be implemented; and

(9) Consultation and coordination with others.

(b) *Comment.* A number of these items should already be addressed in the State's program submission. In these cases a simple cross-referencing will be sufficient:

(1) The State's "description of the proposed action" should focus on the issues that the managament program is designed to address and the means by which these issues will be addressed through implementation of the management program. This should already be part of the basic program submission. Accordingly in the environmental impact assessment appendix, this item can be cross-referenced to the appropriate page(s) or section(s) of the submission. If a State is following the format for submission suggested in § 923.71, references to relevant portions of the "Summary," "Framework of Program Development," and "Policies" would be appropriate.

(2) The "description of the environment affected"—the State's coastal zone and the natural and manmade resources therein—also should already be part of the program document submitted for approval. Cross-reference should be made to relevant sections. If following the format suggested in § 923.71, reference to "Framework of Program Development" would be appropriate.

(3) Again, cross-reference to relevant sections of the program submission should suffice to explain "the relationship of the proposed action to land and water use plans, policies and controls to the areas." Particular reference should be made to those sections addressing the requirements of §§ 923.3—General Requirements; 923.11—Uses Subject to Management; 923.13—Uses of Regional Benefit; 923.41—Identification of Authorities; 923.42—Control Techniques; 923.43—Authoritics Related to Uses of Regional Benefit; and 923.56—Plan Coordination.

(4) The discussion of "the probable impact of the proposed action on the environment" is the major aspect a State will need to address as part of the environmental impact assessment appendix attached to its submission. The purpose of this discussion is to indicate, to the extent possible given data and time constraints, the environmental, social and economic changes that can be expected to result from implementation of the State's management program. In turn, this will provide information, either explicitly or implicitly, on both the level and distribution of costs and benefits to affected parties. In effect, this discussion should make explicit many of the assumptions that have gone into developing and framing a State's management program. The environmental and corresponding socio-economic impacts that can be expected to result from program implementation will depend, in large measure, on the nature of proposed implementation techniques. Moreover, not all aspects of the State's management program will necessarily involve changes and/or environmental impacts. This may be so particularly where States will be relying on pre-existing management and regulatory techniques. However, to the extent these existing techniques are applied in new ways and thereby create new impacts (such as greater efficiencies in permit processing or, conversely, increased time required for permit reviews), these changes should be noted. The level of specificity regarding probable impacts will vary depending on (i) the level of specificity contained in the management program itself, (ii) the size of the area to be managed, and (iii) the amount of time, money and personnel allocated to this task.

(5) The discussion of "alternatives" should focus on those alternatives that have been considered seriously and reviewed at some length by OCZM. In addition, alternatives which raised substantial public debate as a result of consultation and public participation during program development should be discussed. Usually these alternatives will relate to management techniques, boundaries and uses subject to management. To the extent these alternatives are discussed in the body of the management program document, cross-reference will suffice.

(6) Since the program document probably will not contain an explicit discussion of "probable adverse environmental impacts which cannot be avoided," this aspect should be addressed in the environmental impact assessment appendix. Where the program encourages certain uses or development activities which may have a probable adverse environmental impact, these should be identified. In addition, since "environmental impacts" may include socio-economic impacts of an adverse nature, these also should be discussed. This discussion may be done in conjunction with a discussion of the "relationship between local, short-term uses of the environment and the maintenance and enhancement of long-term productivity." It is also possible to combine both of these discussions with that of "probable impact of the proposed action on the environment" provided that it is clearly stated that all three aspects have been combined into one discussion in the environmental impact assessment.

(7) In discussing the "relationship between local, short-term uses of the environment and the maintenance and enhancement of long-term productivity," it may be reasonable to assume that, while

V42I167 AUG 29 77 UMI

there may be short-term negative impacts on particular aspects of the environment, over the long-term, effectuation of the State's management program should contribute to maintenance, and possibly enhancement, of productivity. However, where short-term environmental disruptions can be identified, such identification should be made and discussed.

(8) Again, since the program document probably will not contain an explicit discussion of "irretrievable commitments of resources," this aspect should be addressed in the environmental impact assessment appendix. The option exists to include this discussion in with some of the other aspects indicated above.

(9) Discussion of "consultation and coordination with others" should already be addressed in the program document and/or as an appendix documenting opportunities for full participation. Accordingly, appropriate cross-referencing should be made, especially to those sections that address the requirements of Subpart F.

(c) *Comment.* OCZM will use the information provided in a State's environmental impact assessment and such other information as may be necessary to develop a draft environmental impact statement covering the Associate Administrator's proposed action of approving the management program, except in the case of segmented management programs where the information will be used to determine if an environmental impact statement is appropriate. The timing and review procedures for the environmental impact statement are discussed in § 923.72.

Subpart H—Review/Approval Procedures

§ 923.70 General.

The purpose of this subpart is to describe the process of State program review and approval following submission of a State's management program. Because the review process usually involves preparation and dissemination of draft and final environmental impact statements and lengthy Federal agency review, States should anticipate that it normally will take 7 months between the time a State first submits a draft management program to OCZM for threshold review and the point at which the Associate Administrator makes a final decision on approving the management program. Certain factors will contribute to lengthening or shortening this timetable; these factors are discussed in the sections that follow. In addition, this subpart provides guidance on a recommended format for the program document submitted to the Associate Administrator for review and approval.

§ 923.71 Recommended format for program submissions.

(a) This guidance is provided in response to requests from a number of States for a suggested format. States should note, however, that this format is not mandatory. As long as States address all the sections of the Act and associated requirements of these regulations, the presentation of their management program may be in such format as best suits their situation provided that such format has been discussed with and agreed to by OCZM.

(b) At a minimum, States should include an index with their program submission that indicates where in the management program document the information can be found which is necessary to make the findings required by the Act and associated requirements of these regulations. A chart is provided below of the findings required by the Act and associated requirements of these regulations. This chart should assist States in developing the index.

CHART.—*Findings necessary for sec. 306 approval*

Section of the act	*Associated section(s) of these regulations*
Sec. 306(a) which includes the requirements of sec. 305:	
305(b)(1): Boundaries	923.31, 923.32, 923.33, 923.34
305(b)(2): Uses subject to management	923.11, 923.12
305(b)(3): Areas of particular concern	923.21, 923.23
305(b)(4): Means of control	923.41
305(b)(5): Guidelines on priorities of uses	923.22
305(b)(6): Organizational structure	923.45
305(b)(7): Shorefront planning process [1]	923.25
305(b)(8): Energy facility planning process [1]	923.14
305(b)(9): Erosion planning process [1]	923.26
Sec. 306(c) which includes:	
306(c)(1): Notice; full participation; consistent with sec. 303	923.58, 923.51, 923.55, 923.3
306(c)(2)(A): Plan coordination	923.56
306(c)(2)(B): Continuing consultation mechanisms	923.57
306(c)(3): Public hearings	923.58
306(c)(4): Gubernatorial review and approval	923.47
306(c)(5): Designation of recipient agency	923.46, 923.47
306(c)(6): Organization	923.45, 923.47
306(c)(7): Authorities	923.41, 923.47
306(c)(8): Adequate consideration of national interests	923.52
306(c)(9): Areas for preservation restoration	923.24
Sec. 306(d) which includes:	
306(d)(1): Administer regulations, control development; resolve conflicts	923.41
306(d)(2): Powers of acquisition, if necessary	923.41
Sec. 306(e) which includes:	
306(e)(1): Technique of control	923.41, 923.42
306(e)(2): Uses of regional benefit	923.13, 923.41, 923.43
Section 306(h): Segments [2]	923.61
Section 307 which includes:	
307(b): Adequate consideration of Federal agency views	923.51
307(f): Incorporation of air and water quality requirements	923.44

[1] Not required before Oct. 1, 1978.
[2] Applicable only to segmented management programs.

(c) OCZM recommends the following format for coastal management program submissions: Summary; Framework of Program Development; Policies; and 306 Requirements. OCZM also recommends the following items as appendices: Documentation of Governmental Consultation and Public Participation Efforts; Summaries of Required Public Hearings; Text of Relevant Legal Authorities; Environmental Impact Assessment (EIA); and such other Technical Reports, Maps, Organizational Charts or other materials as a State feels would be useful in reviewing the management program. The elements of the main body of the management program are discussed in greater detail below:

(1) Summary—This section should serve as an executive summary of the program and should describe briefly the major elements of the State's management program and what the State seeks to accomplish pursuant to the management program if it is approved.

(2) Framework of Program Development—This section should address the major coastal issues and problems identified during the program development process, the nature of those issues and problems, and how the management program can help to resolve them. This section should include a discussion of the major coastal natural resources and human activities which are important, unique and/or subject to intense pressures or conflicts. A brief discussion of the institutional setting within which the program was developed and some of the major considerations or alternatives that led to particular management approaches is appropriate as part of this section. In addition, there should be a brief discussion of those issues and problems which the program may not address initially but which will be taken into consideration during program implementation and/or future program refinements.

(3) Policies—This section should contain those policies that provide the basis for a comprehensive, enforceable and predictable management program. These policies should be tied to issues and problems (discussed in (2) above) and to

legal authorities (discussed in (4) below). This section also should discuss the management programs goals and objectives, especially those that are quantifiable, that the State expects to achieve as a result of implementation of the management program.

(4) 306 Requirements—In this section States should demonstrate that the sections of the Act and these regulations necessary for approval have been met. The following contents are suggested:

(i) Boundaries—The requirements of subsection 305(b)(1) of the Act and Subpart D of these regulations should be addressed. States may want to indicate here, or as part of the EIA, major boundary alternatives considered. Generalized maps of the management boundaries and of excluded Federal lands, if provided, are recommended for inclusion in this section (or if more easily handled as a separate appendix, their location in the appendix should be indicated in this section).

(ii) Areas Subject to Management—The requirements of subsections 305(b)(2), 305(b)(8) and 306(e)(2) of the Act and related sections 923.11–923.14, 923.41 and 923.43 of these regulations should be addressed in terms of the process used to determine uses subject to the management program and how these uses will be managed.

(iii) Special Management Areas—The requirements of subsections 305(c)(3), 305(b)(5), 305(b)(7), 305(b)(9), and 306(c)(9) and the associated requirements of Subpart C of these regulations should be addressed. States are encouraged to include generalized maps locating designated Areas of Particular Concern.

(iv) Authorities and Organization—The requirements of subsections 305(b)(4), 305(b)(6), 306(c)(5)–306(c)(7), 306(d), 306(e) and 307(f) of the Act and the associated requirements of Subpart E of these regulations should be addressed through a narrative synopsis of the administrative and legal bases that will be used to implement and insure enforcement of and compliance with the policies and the use and area determinations of the management program. This section should include, as applicable, discussion of six types of legal authorities: State legislation, State agency regulations, gubernatorial executive orders, interagency agreements, significant judicial decisions and significant constitutional provisions. With respect to the organizational structure that will be used to implement the management program, this section should include a discussion of the roles and responsibilities during the program implementation of the State agency designated pursuant to subsection 306(c)(5) of the Act and of other State, local or regional agencies that will be involved in carrying out the management program. The relationship of the designated State agency to these other agencies also should be described.

(v) Consultation, Participation and National Interests—The requirements of subsections 306(c)(1)–306(c)(3), 306(c)(8) and 307(b) of the Act and the related requirements of Subpart F of these regulations should be addressed. Included herein should be a summary of consultation efforts with relevant Federal and State agencies, local governments, regional, areawide and/or interstate entities. A summary of public information and participation during program development should be included, including an indication of where and when required public hearings were held and a brief summary of those hearings. Also included herein should be discussions of national interest considerations; what procedures the State will use to implement the Federal consistency provisions of the Act; and what mechanisms will be used to insure continued governmental consultation and public participation after program approval. Detailed documentation regarding a number of the requirements addressed in this section can be reserved for appendices.

(vi) Miscellaneous—Normally, States will address the requirements of subsection 306(c)(4) and related § 923.41 in the gubernatorial transmittal that will accompany the program submission. For a segment submission, the same format should be used. All the requirements of the Act and these regulations apply unless otherwise noted in § 923.61. Segment submissions must also address the requirements of subsection 306(h) of the Act and the associated requirements of § 923.61.

§ 923.72 Review/approval procedures.

(a) Upon submission by a State of its draft management program, OCZM and NOAA will review the document to determine if it adequately meets the requirements of the Act and these regulations. These reviews normally will take three weeks or longer. Assuming positive findings are made and major revisions to the State's draft management program are not required, OCZM will prepare its portion of a Draft Environmental Impact Statement (DEIS). (If major revisions are necessary, this initial review period will extend beyond three weeks.) The DEIS will incorporate the State's program document. This combined document, hereinafter referred to as the DEIS, will be distributed to principally affected Federal agencies and DEIS reviewers. Preparation of the DEIS, printing of the document, notification of the Council on Environmental Quality, and publication in the FEDERAL REGISTER of notice of availability of the DEIS and notice of date and location of public hearing on the DEIS normally will take 45 days. Since States will be responsible for printing the DEIS, the time involved will vary depending on State printnig capabilities.

(b) From the time of receipt of the DEIS, each Federal agency, other person or entity normally has 45 days to provide comments, if any, on the management program and/or on the DEIS to the Associate Administrator. During this time period, a public hearing will be held in one or more locations in the coastal State whose program is under review. At least thirty days notice will be provided, including announcement of availability of the DEIS. Following the public hearing(s), the comment period normally will remain open for fifteen days.

(c) Following the close of Federal agency and DEIS comment periods, the Associate Administrator will review and evaluate comments received in keeping with the requirement of subsection 307(b) of the Act, that a State's management program not be approved unless the views of principally affected Federal agencies have been adequately considered, and in keeping with the requirements of the National Environmental Policy Act (NEPA). Preparation of response to comments, revisions to the State's management program (if appropriate), submission of a final program, and preparation and printing of a Final Environmental Impact Statement (FEIS) normally will take a minimum of three months. Factors that will vary this time frame are: the nature of comments received on the DEIS, the nature and extent of revisions necessary to the management program, and State capabilities with respect to printing the FEIS.

(d) Notice of the availability of the FEIS will be published in the FEDERAL REGISTER. The Associate Administrator shall send a copy of such statement to each Federal agency, other person or entity which received a copy of the DEIS. From the time of receipt, each receiving agency, entity or person has thirty days to review the statement prior to final action by the Associate Administrator.

(e) The Associate Administrator will review and evaluate any comments received during the thirty day review in keeping with the requirements of subsection 307(b) of the Act and with NEPA. The Associate Administrator shall then approve or disapprove a State's management program. In the event of approval, the Associate Administrator shall prepare a set of findings with respect to the requirements of the Act. These findings shall be available upon request.

§ 923.73 Miscellaneous.

(a) The timelines laid out in § 923.72 may be shortened if any of the following occur:

(1) reduction of the time alloted to review environmental impact statements is proposed consistent with applicable procedures and guidelines and concurrence is requested from the Council on Environmental Quality. Reductions in review time normally are limited to emergency circumstances or conditions which would result in impaired program effectiveness; or

(2) A draft environmental impact statement has been issued in connection with preliminary approval pursuant to subsection 305(d) of the Act (see 15 CFR 920.40) and a supplementary or final impact statement is all that is necessary for full approval pursuant to subsection 306(a) of the Act; or

(3) In the case of segmented programs only, a determination is made that the proposed segment management program will not significantly affect the environ-

V 42167 AUG 29 77 7 UMI

ment. In such cases a negative declaration will be prepared. The program submission still shall be sent to principally affected Federal agencies for their review and comment.

(b) The Associate Administrator shall follow the procedures of § 923.72 in reviewing for approval any amendments or modifications to an approved management program submitted by a State. (See Subpart J for details on amendment procedures).

Subpart I—Applications for Administrative Grants

§ 923.80 General.

(a) The primary purpose of administrative grants made pursuant to sections 306(a) or 306(h) of the Act is to assist coastal States in implementing coastal management programs following their approval by the Associate Administrator. The purpose of the guidelines in this subpart is to define the procedures by which grantees apply for and administer grants under the Act. These guidelines shall be used and interpreted in conjunction with the Grants Management Manual under the Coastal Zone Management Act, hereinafter referred to as the "Manual."

(b) The Manual incorporates a wide range of Federal requirements, including those of the Office of Management and Budget, the General Services Administration, the Department of the Treasury, the General Accounting Office and the Department of Commerce. In addition to specific policy requirements of these agencies, the Manual includes recommended policies and procedures for grantees to use in submitting a grant application.

(c) Grants awarded to a State must be expended for the administration of a management program that meets the requirements of the Act.

(d) Grants shall not exceed eighty per cent of the annual total cost of the program.

(e) For purposes of this subpart, the terms "administrative grant" and "implementation grant" are used interchangeably.

§ 923.81 Administration of the program.

The Congress assigned the responsibility for the administration of the Act to the Secretary of Commerce who has designated NOAA to manage the program. NOAA has established the Office of Coastal Zone Management for this purpose. Requests for information on grant applications and the applications themselves should be directed to:

National Oceanic and Atmospheric Administration, Office of Coastal Zone Management, Grants and Loans, Operations Staff, 3300 Whitehaven Street NW., Washington, D.C. 20235

§ 923.82 State responsibility.

(a) Applications for program administrative grants shall be submitted by the Governor of a participating State or by the head of the State agency or entity designated by the Governor pursuant to subsection 306(c)(5) of the Act.

(b) One State application will cover all program implementation activities, irrespective of whether these activities will be carried out by State agencies, areawide or regional agencies, local governments, or interstate entities.

(c) The designated State entity is fiscally responsible for all expenditures made under the grant, including expenditures by subgrantees and contractors.

§ 923.83 Allocation.

(a) A State may allocate a portion or portions of its administrative grant to other State agencies, local governments, areawide or regional agencies, interstate entities, or Indian tribes if the work to result from such allocation(s) contributes to the effective implementation of the State's management program.

(b) *Local governments.* Where a State will be relying on direct State controls as provided for in subsection 306(e)(1)(B) of the Act, pass-throughs to local governments for local planning, regulatory or administrative efforts cannot be made, unless they are subject to adequate State overview and are part of the approved management program. Where the approved management program provides for specified local activities or one-time projects, again subject to adequate State overview, then a proportional amount of administrative grant funds can be allocated to local governments.

(c) *Areawide agencies.* If a State wishes, it may allocate a portion of its administrative grant to an areawide agency, and absent State law to the contrary, preference shall be given to those agencies recognized or designated as areawide comprehensive planning or development agencies under the provisions of the Office of Managment and Budget Circular No. A–95, under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966.

(d) *Indian Tribes.* In furtherance of the policy enunciated in § 923.33(e), individual tribes or groups of tribes may be considered regional agencies and may be allocated a portion of a State's grant in the form of a contract or subgrant for the development of independent tribal coastal management programs or the implementation of specific management projects provided that:

(1) The State certifies that such tribal programs or projects are compatible with its approved coastal management policies; and

(2) On excluded tribal lands, the State demonstrates that the tribal program or project would or could directly affect the State's coastal zone.

(e) *Comment.* Statutory Citation, Subsection 306(f):

With the approval of the Secretary, a state may allocate to a local government, an areawide agency designated under section 204 Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of the grant under this section for the purpose of carrying out the provisions of this section: Provided, that such allocation shall not relieve the state of the responsibility of ensuring that any funds so allocated are applied in furtherance of such state's approved management program.

§ 923.84 Geographic segments.

Application procedures for a grant to be awarded pursuant to subsection 306(h) of the Act for a geographic segment of a State's coastal zone are the same as those set forth in this subpart for a grant to administer the approved management program of the entire coastal zone of a State.

§ 923.85 Eligible costs.

(a) Costs claimed must be beneficial and necessary to the objectives of the grant project. As used herein the terms cost and grant project pertain to both the Federal and the matching share. Allowability of costs will be determined in accordance with the provisions of Federal Management Circular (FMC) 74–4: Cost Principles Applicable to Grants and Contracts with State and Local Governments.

(b) Federal funds awarded pursuant to section 306 of the Act may not be used for construction or land acquisition purposes.

(c) Equipment purchases of more than five hundred dollars per item require NOAA approval prior to purchase. Such purchases may be deemed eligible costs if the State:

(1) Has examined lease, rental or other non-purchase alternatives and purchase represents an equal or lesser cost alternative, and

(2) The equipment is essential to management activities that are anticipated to continue for more than 1 year.

(d) States are encouraged to undertake administrative tasks that will resolve coastal problems and issues related to fisheries management, coastal hazards, resource protection, shorefront access and urban waterfronts, including ports.

(e) States are encouraged to coordinate administrative funding requests with funding possibilities pursuant to sections 308, 309, 310 and 315 of the Act. When in doubt as to the appropriate section of the Act under which to request finding, States should consult with OCZM.

§ 923.86 Application for initial grant.

(a) The form SF–424, Preapplication for Federal Assistance, may be used at the applicant's option. If used, the Preapplication form should be submitted 120 days prior to the beginning date of the requested grant. The preapplication shall include documentation, signed by the Governor, designating the State office, agency or entity to apply for and administer the grant. Copies of the approved management program are not required. The preapplication form may be submitted prior to the Associate Administrator's approval of the applicant's management program provided that, after consultation with OCZM, approval is anticipated within 60 days of submittal of the preapplication.

(b) All applications are subject to the provisions of OMB Circular A–95 (revised). The Form SF–424, Preapplication for Federal Assistance, will be transmitted to the appropriate clearinghouses at the time it is submitted to OCZM.

The Preapplication form shall include an attachment indicating the date copies of the preapplication form were submitted to the State and areawide clearinghouses. The Preapplication form may be used to meet the project notification and review requirement of OMB Circular A–95 with the concurrence of the appropriate clearinghouses. In the absence of such concurrence, the project notification and review procedures established by State and areawide clearinghouses should be implemented simultaneously with the distribution of the Preapplication form.

(c) The Form SF–424, Application for Federal Assistance (Non-Construction Programs) constitutes the formal application and must be submitted 60 days prior to the desired grant beginning date. The application must be accompanied by evidence of compliance with A–95 requirements including the resolution of any problems raised by the proposed project. OCZM will not accept applications substantially deficient in adherence to A–95 requirements.

(d) In Part IV—Program Narrative of the Form SF–424, the applicant shall describe clearly and briefly the activities that will be undertaken with grant funds in support of implementation and administration of the management program. This description shall include:

(1) An identification of those elements of the approved management program that are to be supported in whole or in part by the Federal and the matching share,

(2) A clear statement of the major tasks required to implement each element,

(3) For each task:

(i) Specify how it will be accomplished and by whom;

(ii) Identify any subgrantees or contractors that will be allocated responsibility for carrying out all or portions of the task, and indicate the estimated cost of the subgrant or contract for each allocation. Identify, if any, that portion of the task that will be carried out under contract with private firms or individuals and indicate the estimated cost of such contract(s);

(iii) Indicate the estimated total cost. Also indicate the estimated total person-months if any, allocated to the task from the applicant's staff;

(iv) Indicate the percent estimated to be completed during the grant period.

(4) The sum of all task costs in subparagraph (3) above should equal the total estimated grant project cost.

(5) Using two categories, Professional and Clerical, indicate the total number of personnel in each category on the applicant's staff that will be assigned to the grant project. Also indicate the number assigned full time and the number assigned less than full time in the two categories. Additionally, indicate the number of new positions created in the two categories as a result of the grant project.

§ 923.87 Applications for subsequent grants.

Second and subsequent year applications will follow the procedures set forth in this subpart except that:

(1) The Preapplication form may be used at the option of the applicant. If used, the procedures set forth in section 923.86(a) shall be followed:

(2) The Governor's document designating the State agency to receive and administer the grant is not required unless there has been an approved change of designation; and

(3) Copies of the approved management program or approved amendments or refinements are not required.

§ 923.88 Grant amendments.

Amendments to a grant award must be submitted to, and approved by, the Associate Administrator prior to initiation of the contemplated change. Requests for substantial changes should be discussed with the Associate Administrator well in advance. While all amendments to the grant must be approved in writing by the NOAA Grants Officer, approval may be presumed for minor amendments if the grantee has not been notified of objections within 30 working days of receipt of the request.

Subpart J—Review of Approved Management Programs

§ 923.90 General.

(a) This section establishes the procedures by which approved management programs will be reviewed annually pursuant to section 312 of the Act. This section also establishes the criteria and procedures by which funding for approved management programs may be made, pursuant to subsection 306(g) and section 312 of the Act, respectively.

§ 923.91 Review of performance.

(a) The primary purposes of a continuing review by States and the Associate Administrator of management programs approved pursuant to section 306 of the Act are to:

(1) Reassess and reconfirm the basic soundness and viability of a State's management program, given State and national goals and objectives;

(2) Evaluate State progress towards achievement of specific management goals through implementation of policies and other techniques described in the approved management program; and

(3) Provide an opportunity for amendment or refinement, if appropriate, of a State's management program.

Both the Associate Administrator and the States will be involved in this continuing review.

(b) *Comment.* Statutory Citation, Section 312(a)(1):

The Secretary shall conduct a continuing review of (1) The management programs of the coastal states and the performance of such states with respect to coastal zone management * * *

(1) The Associate Administrator's review of program performance will focus on both procedural and substantive aspects of coastal management. The Associate Administrator's primary concerns will be to assess a State's performance in achieving the goals and objectives contained in the approved management program, in adhering to the program policies, and in carrying out the work task items contained in a State's grant application/work program. Satisfactory performance will consist of determinations that the State's coastal management program is being implemented procedurally in the manner described in the State's approved management program and approved grant award, and further, that this implementation is effective in terms of operational efficiency. Determinations of substantive program performance will include findings that the State's coastal management program policies and implementation techniques are in fact addressing the coastal management problems, goals and objectives identified by the State in its management program, and further that adequate progress towards achievement of these goals has occurred over the course of the grant year. In setting these as the primary evaluation criteria, the Associate Administrator recognizes that these are not readily translatable into quantifiable indices of performance or progress, except to the extent a State's management program goals and objectives are quantifiable. To the extent States can set quantifiable goals, they are encouraged to do so. It is further recognized that the adequacy of State performance with respect to any one aspect of the management program must be assessed in the context to overall performance in all areas as well as in the context of time scales required to accomplish particular objectives.

(2) To assist the Associate Administrator in reviewing performance pursuant to its management program, a State should develop specific program evaluation objectives and criteria, in consultation with the Associate Administrator. In addition States should use their progress reports to the Associate Administrator and their grant refunding applications to discuss progress and/or problems encountered in achieving program goals, objectives and policies. The level of reporting detail necessary will be determined by consultation between the Associate Administrator and the State management agency designated pursuant to section 306(c)(5) of the Act.

(3) States must build into their management program their own monitoring systems for reviewing compliance by other State and local entities responsible for portions of program administration and implementation, for reporting violations of the management program, and for insuring public participation in the operation and evaluation of the management program. States may want to include a hearing and appeals procedure and/or a public hearing procedure as monitoring mechanisms.

V42167 AUG 29 77 7 UMI

(4) The Associate Administrator's assessment of State performance will consist of evaluation of the reports submitted by the State and periodic reviews, at the discretion of the Associate Administrator, of State implementation efforts, utilizing any of the following:

(i) Site visits by OCZM;

(ii) Meetings with or reviews by other State agencies and/or units of local governments involved in or affected by program implementation; and

(iii) Public hearings or meetings with interest groups and the general public.

In cases where meetings with Federal agencies, other State agencies, local governments or the general public are requested, the designated State management agency shall be a co-sponsor of such meetings. Where the Associate Administrator's assessment of State performance, particularly with respect to continued effectiveness and relevancy of the management program, differs from the State's assessment, the Associate Administrator shall so advise the designated State management agency in order that the State agency may further assess management program objectives and/or submit amendment or refinements, as and if appropriate, to the program.

§ 923.92 Amendments or modifications to approved management programs.

(a) Amendments or modifications to approved management programs may be justified if they are in response to changes in coastal zone needs, problems, issues, priorities, social or political expectations, or other factors bearing on the relevancy and viability of a State's coastal management program, provided that such amendments/modifications are consistent with the findings and policies of section 302 and 303 of the Act and with the requirements of section 306 of the Act.

(b) Amendments or modifications will represent one of these types of changes to the management program: (1) Changes in basic program goals, objectives or policies;

(2) Changes in techniques (for achieving goals, objectives or policies) that result in an environmental impact significantly different from previously approved techniques; or

(3) Changes in techniques (for achieving goals, objectives or policies) that result in significantly altered intergovernmental relationships not reviewed by and/or concurred with by affected agencies or units of government at the time of proposed modification.

(c) *Amendment procedures.* Prior to formal submission of an amendment, the State shall inform the public as well as affected parties of the proposed change in order to determine the degree and nature of public interest. Following evaluation of public and private reactions, if a State decides to proceed with a request for a program amendment, it shall submit the following to the Associate Administrator:

(1) A written request from the Governor for the amendment;

(2) A description of the proposed change;

(3) justification for the change in terms of the factors noted in (a) above;

(4) evidence of public notice and a discussion of the degree and nature of public interest; and

(5) discussion of the environmental impact of the proposed change.

The Associate Administrator then shall review the requested change pursuant to the requirements of subsection 306(g) of the Act. Pursuant to this section, amendments to approved management programs are to be reviewed and approved according to the same procedures utilized for initial management program approvals. The specifics of these procedures are contained in Subpart H. It should be noted that this procedure includes Environmental Impact Assessment (EIA) and Federal agency review requirements. The Associate Administrator will make a case-by-case determination as to the necessity of issuing an Environmental Impact Statement (EIS) prior to approving any amendments or modifications.

(d) *Comment.* Statutory Citation, Subsection 306(g):

> Any coastal state may amend or modify the management program which it has submitted and which has been approved by the Secretary, under this section, pursuant to the required procedures described in subsection (c).

(e) Federal consistency, as provided for in section 307 of the Act, shall not apply to proposed amendments unless and until such amendments are approved, pursuant to the procedures in Subpart H, and are thereby incorporated as part of the approved management program.

(f) In cases where an amendment relates to an already approved program goal, objective, policy, authority or other technique and the State acts to implement that amendment prior to approval by the Associate Administrator, such action may represent cause for notification by the Grants Officer of intent to terminate and withdraw financial assistance pursuant to § 923.94. In cases where an amendment relates to a new goal, objective, policy or authority not previously contained in a State's approved coastal management program, the State may initiate implementation of such amendment provided it does not conflict with or contradict any existing approved management program goal, objective, policy or authority and with the understanding that section 306 funding for and Federal consistency relative to that amendment are not available unless and until approval is conferred.

(g) States are encouraged to use their progress reports to inform the Associate Administrator in a timely manner of potential amendments or refinements (see § 923.93) and the reasons therefor.

(h) State management programs that have been or will be approved, pursuant to section 306 of the Act, prior to October 1, 1978, without meeting the requirements of subsection 305(b)(7), 980 and (9) and related §§ 923.14, 923.25 and 923.26 of these regulations will need to be amended to incorporate these three planning requirements into their approved management programs.

§ 923.93 Refinements to approved management programs.

(a) Since one of the primary purposes, as stated in § 923.91, of conducting a continuing review of program performance is to reassess and reconfirm the basis, soundness, and viability of a State's coastal management program, States may make minor refinements to their management programs without following the formal amendment procedures specified in § 923.92 and Subpart H. Such refinements may be made following consultation with and approval by the Associate Administrator.

(b) Refinements are changes relating to programs or techniques for attaining particular goals and objectives or for implementing particular policies (but not changes in these goals, objectives or policies themselves). In addition, these refinements will not have an environmental impact significantly different from previously approved programs or techniques and will not significantly alter previously approved intergovernmental arrangements with other State agencies, local governments and/or Federal agencies, unless the affected agencies/units of government and the Associate Administrator concur in these alterations.

(c) States shall use the following procedure in making refinements to their management programs:

(1) States shall consult with the Associate Administrator prior to proceeding with a formal request for a refinement to determine that the change represents a refinement rather than an amendment and that the change is both reasonable and justifiable.

(2) Upon such a determination, the State shall submit a written request from the head of the designated State agency which shall contain:

(i) A description of the proposed change;

(ii) Justification for the change;

(iii) Discussion of the parties most seriously affected by the change and their reactions to it; and

(iv) A determination that the proposed change will not have environmental impacts significantly different from the already approved management program.

§ 923.94 Termination and withdrawal of administrative funding.

(a) In addition to the provisions contained in FMC 74-7 relating to termination and withdrawal of funding awarded pursuant to a grant award, the Associate Administrator may recommend to the NOAA Grants Office that section 306 grant funding be terminated and withdrawn if the Associate Administrator determines that:

(1) A State has failed or is failing to adhere to and was or is not justified in deviating from its approved management program; and

(2) That State has been provided notice of intent to terminate and withdraw funding; and

(3) That State has been provided an opportunity to demonstrate adherence, or justification for program alteration or modification.

(b) *Comment.* Statutory Citation, Subsection 312(b):

> The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion of such assistance if (1) he determines that the state is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the state has been given notice of the proposed termination and withdrawal and given an opportunity to present evidence of adherence or justification for altering its program.

(1) Situations which may lead to notice of intent to terminate and withdraw funding include:

(i) In evaluating a State's performance as part of the continuing review function pursuant to section 312 of the Act, the Associate Administrator determines that the State has not adhered to its management program approved pursuant to section 306 of the Act, and such lack of adherence is not justified;

(ii) In evaluating a State's performance as part of the continuing review function, the Associate Administrator determines that the State is not adhering to its approved work program, and such lack of adherence is not justified;

(iii) In going through the amendment process where the amendment relates to a previously approved program goal, objective, policy, authority or other technique, a State acts to implement that amendment prior to approval by the Associate Administrator.

(2) In the event there is cause for terminating and withdrawing section 306 funding, notice in the form of written documents from the Associate Administrator and the NOAA Grants Officer to the Governor of the State in question or the head of the designated State agency shall be provided advising of the intent to terminate an approved grant and to withdraw any unexpended portions of funding assistance. Included in this notice will be the reasons for the proposed termination and withdrawal of funds as well as notice of opportunity for the State to present evidence of adherence or justification for alteration or refinement of its program. Such opportunity to present evidence as referred to in subsection 312(b) of the Act shall consist of a thirty day period, commencing on a receipt of notice, within which the State may respond by providing written materials demonstrating adherence to or justification for refining or modifying its program. Within this thirty day period, a State may request additional time beyond the thirty day period to present evidence of adherence or justification for alteration or refinement. Such additional time shall not extend beyond a subsequent thirty days from the termination of the first thirty day period. In total then, a State may have a maximum of sixty days, from receipt of notice, in which to respond. Following receipt and evaluation of a State's evidence with respect to adherence or justification for alteration, a final determination shall be made by NOAA with respect to termination and withdrawal of funding assistance. If termination and withdrawal of funding is deemed apropriate, the NOAA Grants Office shall take appropriate action to terminate or withdraw funds.

[FR Doc.77-24838 Filed 8-26-77;8:45 am]

V42167 AUG 29 77 UMI

federal register

MONDAY, AUGUST 29, 1977
PART V



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

FEDERAL CONSISTENCY WITH APPROVED COASTAL MANAGEMENT PROGRAMS

Proposed Policies and Procedures

V42167AUG 29 77
UMI

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[15 CFR Part 930]

FEDERAL CONSISTENCY WITH APPROVED COASTAL MANAGEMENT PROGRAMS

Proposed Policies and Procedures

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Proposed rule.

SUMMARY: These proposed regulations provide coastal States, Federal agencies and other affected parties with policies and procedures for the implementation of the Federal consistency provisions of the Coastal Zone Management Act of 1972, as amended.

DATE: Deadline for submission of written comments: October 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael E. Shapiro, Acting Chief, National Policy Development Branch, Federal Programs Division, Office of Coastal Zone Management, 3300 Whitehaven Street, Washington, D.C. 20235 (202–634–4249).

SUPPLEMENTARY INFORMATION:

I. EXPLANATORY STATE

The National Oceanic and Atmospheric Administration (NOAA) is reissuing today, in proposed form, regulations to implement the Federal consistency provisions of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.), hereafter referred to as the "Act." Proposed regulations for subsections 307(c) through (h) of the Act were originally published in the FEDERAL REGISTER on September 28, 1976 (41 FR 42879). The introductory material within that draft discussed the need for adoption of these regulations and in the intended effects of NOAA's proposed action. The reader is referred to that draft for background information.

Numerous comments were received on NOAA's proposed Federal consistency regulations. All comments were given full consideration, and while some recommendations were adopted in their entirety or in modified form, others were rejected as being inappropriate or legally impermissible. NOAA would like to take this opportunity to express its gratitude to each government agency, organization, and individual that submitted comments.

Extensive changes were made in the regulations in response to the comments. NOAA has determined that the significant modifications to the original draft warrant reissuance of the regulations in proposed form. This will provide the public with an additional opportunity to review and comment on the regulations prior to their issuance in final form. Numerous minor changes were made and will not be discussed. The discussion below addresses major comments and the changes made in the regulations in response to such comments.

II. DISCUSSION OF MAJOR COMMENTS AND NOAA RESPONSES

General Comments. A number of commentators urged NOAA to consult with other Federal agencies to assure that, in the event those agencies issued regulations related to the Federal consistency provisions of the Act, all regulations were uniform in nature and adhered to the requirements of the Act and to NOAA's regulations. A few commentators urged NOAA to retract its regulations and to permit States and other interested parties to rely upon the individual efforts of other Federal agencies to issue regulations implementing the consistency requirements of the Act. The latter recommendation was rejected because, in the absence of NOAA guidance, the issuance of numerous sets of independently developed consistency regulations can lead to confusion, unnecessary duplication of effort, lack of uniformity, and, in some instances, inadvertent failure to comply fully with the requirements of the Act. Responsibility for administering the Act is assigned to the Secretary of Commerce and, through delegation, to NOAA. In order to assure uniform understanding of an adherence to the consistency requirements of the Act by all Federal agencies and other parties subject to such requirements, NOAA has determined it necessary to issue these regulations. While strongly commending the efforts of other Federal agencies to issue regulations integrating their responsibilities with the requirements of the Act, NOAA requests other agencies to postpone issuance of proposed or final regulations related to the consistency provisions of the Act until these regulations are issued in final form, except in instances where NOAA waives the request.

Many commentators requested that the regulations include commentary and other clarification. Many sections of the regulations are now followed by comments, and this preamble contains examples and additional specific guidance.

Many commentators criticized the regulations for being too detailed, inflexible, administratively burdensome and likely to cause unnecessary delay in the administration of Federal programs. The regulations have been simplified and restructured to minimize these effects whenever appropriate.

A number of commentators requested broader public notice and public participation opportunities. The regulations now provide additional public notice and public participation requirements at several critical points.

A number of commentators pointed out that the regulations failed to discuss instances where more than one Federal agency would be undertaking an activity, or instances where more than one State would be affected. In response, we note that the consistency requirements of the Act apply in both these instances: each participating Federal agency must comply with the requirements of the Act (§ 930.41), and each affected coastal State with an approved management program is entitled to participate in the review of Federal actions (§ 930.59)).

A number of reviewers urged that Federal activities, licenses, permits and assistance should be subject to State agency review only if such actions "caused substantial and unacceptable adverse impacts on the coastal zone," "seriously threatened the quality of coastal zone resources," etc. Commentators argued that without some limitation on the ability of States to review activities, numerous inconsequential Federal actions would be delayed. Other reviewers pointed out that the imposition of qualifying requirements on the right of coastal States to review Federal actions could lead to numerous disputes over whether such actions were "substantial and adverse," "seriously threatening," etc., before State agency review would ever begin. The Act permits State review of (i) Federal activities "directly affecting" the coastal zone, and (ii) Federal license, permit and assistance activities "affecting" the coastal zone. These terms have been construed broadly (§§ 930.32, 930.53, 930.73, 930.93). The appropriate time for determining whether Federal actions will, in fact, cause "unacceptable adverse" effects on the coastal zone is during State agency review when the action is measured against the requirements of the management program. We note also that the regulations direct State agencies to list Federal actions which they wish to review (§§ 930.35, 930.54, 930.75) and, thus far, State program submissions indicate that States are selectively choosing to review only significant actions. In addition, the regulations provide an opportunity for States to issue "general concurrences" to avoid repeated review for minor Federally permitted activities which cumulatively cause substantial adverse effects on coastal resources (§ 930.67). Rather than limiting the ability of States to review Federal actions, the regulations adopt a process favoring State agency discretion to select significant activities subject to review (under NOAA supervision), with this discretion exercised in conjunction with cooperative efforts among State and Federal agencies and affected parties to facilitate expeditious review of selected activities.

In the September draft, NOAA requested comments on whether a State could incorporate into its coastal management program water and air quality standards more stringent than those established by the Environmental Protection Agency (EPA) under the Federal Water Pollution Control Act, as amended (FWPCA), and the Clean Air Act, as amended (CAA). In response, a few commentators argued against such inclusion while many others, including the EPA, argued that neither the Act, the FWPCA, nor the CAA limited the right of a State to establish water and air quality standards more stringent than those established by the EPA. NOAA has accepted

EPA's comments and references to this position will be made in NOAA's revisions to the regulations in 15 CFR Part 923 dealing with management program air and water pollution control requirements.

SUBPART A—OBJECTIVES

Subpart A has been significantly modified and now deals exclusively with the general "Objectives" of these regulations. The originally proposed sections in Subpart A covering "Definitions," "Requirements," "Authority," and "Purpose" have been either deleted to avoid repetition or set out in appropriate subparts of the regulations. The purpose of this restructuring is to simplify the regulations.

SUBPART B—GENERAL DEFINITIONS

Many of the earlier proposed definitions, and some new definitions, are now included within subparts where those terms have specific relevance. The subpart on "General Definitions" includes an index for these terms as well as definitions for terms which have general application.

In response to a number of comments, the term "OMB" (Office of Management and Budget) has been replaced with the term "Executive Office of the President" to permit the Executive Office greater flexibility in designating the entity within that Office which will participate with the Secretary in seeking to mediate serious disagreements which arise between a Federal and State agency (§ 930.14).

Some reviewers urged that the term "State agency" be defined to minimize the potential burden on Federal agencies and applicants for securing the views of State and local government agencies regarding the consistency of a proposed activity. Others argued that the regulations should be sufficiently flexible to allow State, regional or local units of government to be delegated authority in the management program to review the consistency of Federal activities. In response to these comments NOAA has provided for the delegation of consistency review responsibility to State, regional or local agencies subject to the qualification that the management program may not require submission of consistency information to more than one designated agency. The single reviewing agency, and not the Federal agency or applicant, will be responsible for soliciting comments from other interested agencies. In addition, only the single reviewing agency is authorized to declare a disagreement with a Federal agency or to object to the consistency of a Federal license, permit or assistance application. The regulations also point out that this qualification does not remove a party's responsibility for following procedures to secure State and local government permits when required in addition to a Federal permit (§ 930.18(c)). In order to avoid conflict of interest situations following delegation of consistency review responsibility to State, regional or local government agencies, the regulations also provide that the State agency designated pursuant to Section 306(c)(5) of the Act is responsible for reviewing the consistency of applications for Federal licenses, permits and assistance submitted by agencies that have received delegation authority (§ 930.18(d)).

A number of reviewers expressed concern that management programs may lack sufficient guidelines and criteria to use as a basis for making consistency determinations. Some reviewers urged that the definition of "management program" require that each program incorporate specific criteria to review Federal actions subject to State agency consistency review. No changes were made in response to these comments. NOAA's regulations regarding State qualifications for receiving administrative grants under section 306 of the Act (15 CFR Part 923) set forth the required elements which must be included within a management program. State agency consistency review is to be measured against these elements—such as requirements related to permissible land and water uses, areas of particular concern, wetland and floodplain protection, facility siting, prevention of shoreline erosion, beach access, air and water pollution control, etc. However, we note the following: The consistency obligations imposed by the Act are only as effective as the management program. Therefore, to the extent a Federal action relates to coastal issues which are not addressed by the requirements of the management program, the State agency will not have a basis for concurring with or objecting to the consistency of the proposed Federal action (§ 930.40 (b)(6)).

A number of reviewers objected to an earlier proposal directing each Federal agency, in consultation with States, to develop specific guidelines for assessing the consistency of their activities. The reviewers argued that this process could lead to Federal agency development of review standards at variance with the requirements of the management program. In response to these comments, the earlier proposal has been deleted. The basis for making a consistency determination is the management program (§ 930.19). Federal agencies are encouraged to seek State agency assistance in identifying the relevant management program requirements during their consistency assessments (§ 930.37).

Many reviewers requested further certification on the issue of excluded Federal lands. On August 10, 1976, the U.S. Department of Justice rendered an opinion concluding that all Federal lands were excluded from the coastal zone as a result of section 304(1) of the Act. NOAA interpreted this opinion as being limited to Federal lands owned by the United States, while other Federal agencies argued that the exclusion covered all lands owned, leased or otherwise used by the Federal Government. During Federal interagency review of these regulations the issue was resubmitted to the Justice Department and NOAA was informally advised that the exclusion was to be applied broadly to cover all lands used by the Federal Government. Accordingly, the definition of the term "coastal zone" now points out that all lands owned, leased or otherwise used by the United States are excluded from the coastal zone. However, the definition also notes that (i) Federal land actions causing significant offsite effects on coastal zone resources are subject to the Federal consistency requirements of this Part, and (ii) in excluding Federal lands from the coastal zone for the purposes of the Coastal Zone Management Act, a State does not relinquish or in any way impair its rights or authority over Federal lands that exist outside of the context of the coastal management program (§ 930.20).

Restructuring the Consistency Requirements. In the September draft, Subpart B included consolidated procedures for reviewing (i) direct Federal activities including development projects, (ii) Federal license and permit activities including those on the outer Continental Shelf, and (iii) Federal assistance to State and local governments. To simplify the regulations, each major type of Federal action is now covered by a separate subpart. The matrix diagram below portrays the distinctions among the various Federal actions subject to the consistency requirements of the Act, and highlights major procedural and substantive differences. The matrix also points out the distinction between use of the voluntary Secretarial mediation process following a serious disagreement between a Federal and State agency concerning the consistency of a Federal activity, and use of the Secretarial appellate review process following a State agency consistency objection to a proposed Federally licensed, permitted or assisted activity.

V42167 AUG 29 77 7 UMI

CZMA Section	307(c)(1) & (2) (Subpart C)	307(c)(3)(A) (Subpart D)	307(c)(3)(B) (Subpart E)	307(d) (Subpart F)
Federal Action	Direct Federal activities including development projects	Federally licensed and permitted activities	Federally licensed and permitted activities described in detail in OCS plans	Federal assistance to State and local governments
Coastal Zone Impact	"Directly affecting the coastal zone"	"Affecting land or water uses in the coastal zone"*	"Affecting any land use or water use in the coastal zone"*	"Affecting the coastal zone"*
Responsibility to notify State agency	Federal agency proposing the action	Applicant for Federal license or permit	Person submitting OCS Plan	A-95 Clearinghouse receiving State or local government application for Federal assistance
Notification procedure	Alternatives chosen by Federal agency (subject to NOAA regulations)	Consistency certification or equivalent procedure set forth in CZM Program	Consistency certification	OMB Circular A-95 notification procedure
Consistency requirement	Consistent to the maximum extent practicable with CZM Program	Consistent with the CZM Program	Consistent with the CZM Program	Consistent with the CZM Program
Consistency determination	Made by Federal agency (Review by State agency)	Made by State agency	Made by State agency	Made by State agency
Federal agency responsibility following a disagreement	Federal agency not required to disapprove action following State agency disagreement (unless judicially impelled to do so)	Federal agency may not approve license or permit following State agency objection	Federal agency may not approve Federal licenses or permits described in detail in the OCS Plan following State agency objection	Federal agency may not grant assistance following State agency objection

FEDERAL REGISTER, VOL. 42, NO. 167—MONDAY, AUGUST 29, 1977

Administrative Conflict resolution	Voluntary mediation by the Secretary (Subpart G)	Appeal to the Secretary by applicant or independent Secretarial review** (Subpart H)	Appeal to the Secretary by person or independent Secretarial review** (Subpart H)	Appeal to the Secretary by applicant agency or independent Secretary review** (Subpart H)
Associate Administrator Reporting of Inconsistent Federal Actions	(Subpart I)	(Subpart I)	(Subpart I)	(Subpart I)

FEDERAL CONSISTENCY

MATRIX DIAGRAM

*These terms all have the same meaning.

**Voluntary mediation by the Secretary is also available in certain cases.

FEDERAL REGISTER, VOL. 42, NO. 167—MONDAY, AUGUST 29, 1977

UMI

The remaining material in the preamble discusses specific comments as they relate to the newly proposed subparts.

SUBPART C—CONSISTENCY FOR FEDERAL ACTIVITIES

A number of commentators recommended that the terms "Federal activity" and "Federal development project" be defined in a simpler form. In response, Subpart C has a modified definition of the term "Federal activity" which includes examples (§ 930.31). The examples highlight the fact that the term "Federal activity" encompasses all Federal actions, including development projects, which are not subject to the consistency provisions of Section 307(c)(3) (Subpart D and E—Federal license or permit activities), or Section 307(d) (Subpart F—Federal assistance to State and local governments).

In response to comments requesting additional clarification, the term "directly affecting the coastal zone" has been defined (§ 930.32). The importance of this term is that only Federal activities "directly affecting the coastal zone" need be consistent to the maximum extent practicable with approved management programs. A precise definition for this term is impossible to develop. The legislative history of the Act does not express Congressional intent regarding the terms' interpretation. However, an analogy does exist. In its discussion of the coastal zone boundary determination, Congress expressed the intent to include shorelands the use of which have a "direct impact" on coastal waters. In construing this term, Congress indicated that "(t)he phrase 'direct impact' is intended to cover only those impacts of a *significant* nature." (Emphasis added). In addition, it is helpful to examine the origin of the Federal consistency provisions. The provisions first appeared as part of proposed national land use planning legislation which provided that "Federal projects and activities *significantly affecting* land use shall be consistent with State land use programs." (Emphasis added).

In light of the above, NOAA proposes to define the term "directly affecting the cosatal zone" in terms of the significance of the effects upon coastal resources. In this regard, we have followed the example provided within the Council on Environmental Quality's guidelines (40 CFR Part 1500) which deal with a similar provision under the National Environmental Policy Act (NEPA) (i.e., major Federal actions "significantly affecting" the quality of the human environment). The guildelines point out that significant effects include primary, secondary and cumulative impacts, and actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial. While we emphasize the similarity between these two requirements, it is also important to note the differences. For example, under the Coastal Zone Management Act the Federal activity need not be "major" in scope. It is sufficient that its effects are significant in terms of changes in or limitations on the use of coastal zone resources.

In response to comments, the terms "affecting land or water uses in the coastal zone" (Section 307(c)(3)(A)), "affecting any land use or water use in the coastal zone" (Section 307(c)(3)(B)), and "affecting the coastal zone" (Section 307(d)) have also been defined, all under the general heading of "affecting the coastal zone" (§§ 930.53, 930.73, 930.93). After reviewing the legislative history of the Act, NOAA has determined that these terms have all been used interchangeably and have the same meaning. Again, however, the precise meaning intended for these terms is left unclear. To distinguish this term from the term "directly affecting the coastal zone," NOAA proposes to permit States the option of using a more expansive definition of "significant effect" to cover a broad range of resource, social and economic effects which are considered in the management program to be significant.

An important point should be recognized with respect to the definitions of the terms "directly affecting the coastal zone" and "affecting the coastal zone." These terms describe a relationship between a Federal action and its impact upon the coastal zone which triggers a Federal agency's or applicant's responsibility to notify the State agency of the proposed action. The fact that signifcant coastal zone effects result from an activity does not lead to the conclusion that the activity is either consistent or inconsistent with the management program. This latter question is to be resolved during State agency review on the basis of applying the requirements of the management program to the proposed Federal action. Accordingly, a determination that proposed Federal action significantly affects the coastal zone leads to two important benefits. First, this finding requires the Federal agency or applicant to consider the consistency of the action with the approved management program and, second, the consistency notification (i.e., the Federal agency's consistency determination or the applicant's consistency certification) will provide the State agency with an opportunity to concur with or object to the proposed activity, and will assist the State in planning for and managing the significant coastal zone effects resulting from consistent Federal actions.

A number of commentators objected to the narrow manner in which the term "consistent to the maximum extent practicable" was defined. In response, NOAA has partially modified the definition, but has generally retained its narrow interpretation consistent with the guidance provided in the legislative history of the Act (§ 930.33). In addition a new subsection has been added to the definition in order to interrelate the term "consistent to the maximum extent practicable" with the provisions of Section 307(e) of the Act (§ 930.33(b)). Section 307(e) sets forth Congressional intent not to diminish, supersede, or modify existing Federal and State authority. When Section 307(e) is read in conjunction with the consistency requirements imposed upon Federal agencies, the result is that each Federal agency must undertake its activities consistent to the maximum extent practicable with an approved management program unless compliance with the management program is prohibited based upon the requirements of existing law. As noted in the earlier draft, "(t)he duty the Act imposes upon Federal agencies is not set aside by virtue of this Section (307(e)). The Act was intended to effect substantive changes in Federal agency decisionmaking within the context of the discretionary powers residing within such agencies."

In response to comments requesting clarification, Subpart C makes clear that Federal agencies, rather than coastal States, have the authority to determine whether their activities "directly affect" the coastal zone (§ 930.34), and if so, whether such activities are "consistent to the maximum extent practicable" with an approved management program (§ 930.37). The regulations include criteria, examples and procedures to guide Federal agencies in making these determinations in cooperation with State agencies. In essence, each Federal agency must measure its proposed activity against the objectives, policies, standards and other elements within the approved management program. Joint review with the State agency is encouraged as this agency has the expertise to identify the relevant requirements of the management program. In the exent of a serious disagreement between a Federal agency and a State agency over whether an activity (i) directly affects the coastal zone or (ii) is consistent to the maximum extent practicable with management program, either party may request the voluntary Secretarial mediation services provided in Subpart G (§§ 930.36, 930.44).

A number of commentators urged NOAA to clarify how the consistency requirements would apply to Federal activities commenced prior to approval of a management program but not completed at the time of approval. NOAA has proposed that ongoing Federal activities other than development projects (e.g., waste disposal practices) are subject to the consistency requirements of the Act when the activities are governed by statutory authority under which the Federal agency retains discretion to assess and modify the activity (§ 930.38(a)). In these cases regulations or regional directives may have to be revised and NOAA's regulations provide Federal agencies with a reasonable time following management program approval to take appropriate action. NOAA has also proposed that the consistency requirements apply to ongoing development projects whenever, following program approval, new, major project decisions are being made and such decisions are subject to Federal agency discretion to implement alternate means for completing the activity (§ 930.38(b)). For example, if project planning was completed prior to program approval but a major design decision is still to be made following approval, this

latter decision would be subject to the consistency review requirements. This provision, however, would not apply to a phased Federal project decision implemented after management program approval which was specifically described considered and approved prior to management program approval (e.g., in a final environmental impact statement issued pursuant to NEPA). Federal agencies should consult with State agencies during the management program development stage to ensure that the program, as finally approved, adequately considers ongoing Federal projects.

A number of commentators recommended that NOAA expand and clarify the discussion in the proposed regulations related to Federal agency responsibility to notify State agencies of their consistency decisions. In response, NOAA has restructured the regulations to direct Federal agencies to provide State agencies with either "negative determinations" (§ 930.35(c)) or "consistency determinations" (§ 930.39) for all Federal activities identified by a State agency as directly affecting the coastal zone. The regulations permit the State agency to list in the management program significant Federal activities which, in the opinion of the State agency, require consistency review, and the State agency may monitor unlisted activities to inform Federal agencies of additional significant actions which the State agency believes require consistency review. In the latter case, the State agency must notify the Federal agency within 45 days from notice of the Federal activity, otherwise it waives its right to request a consistency review (§ 930.35(b)). This proviso was added in response to a number of comments requesting a limited time period to assure timely requests for review for unlisted actions. Similar provisions have been added to apply to unlisted Federal license and permit activities (§ 930.55(a)), and to Federal assistance projects outside of the geographic area described in the management program (§ 930.99).

In response to comments requesting clarification, the regulations now point out that Federal agencies may choose whatever notification procedures they wish, such as the OMB A–95 process, NEPA environmental impact statements, memoranda of understanding, etc., so long as such procedures are modified or supplemented as necessary to satisfy the requirements of these regulations (§ 930.39). In this regard, a few Federal agency reviews indicated that they would rely upon the NEPA process to comply with the consistency requirement of the Act. NOAA again points out that NEPA and the Act do not have identical requirements and that those agencies intending to rely upon NEPA impacts statements will have to supplement their efforts in cases where an impact statement is not required but a consistency determination is required.

A number of commentators were concerned about the lack of certainty regarding the consistency notification and review period which a State agency would have. Some reviewers argued that the period should be at least six months, similar to the review period required for Federal licenses and permits. Others argued that the regulations should adopt the shorter review period recommended in the OMB A–95 process. Still others suggested that the period be flexible and left open to Federal and State agency agreement. To provide parties with certainty on this issue and to avoid needless and time-consuming disputes regarding the adequacy of notice, the regulations require the Federal agency to provide State agencies with a consistency notification at the earliest practicable time in the planning of an activity, and notification must in all cases be submitted at least 90 days before final approval of the activity unless the Federal and State agencies agree to an alternative notification schedule (§ 930.39). Federal and State agencies are encouraged to agree upon flexible procedures for extending the period beyond 90 days for major activities requiring a substantial period for adequate review, and for lessening the period for less significant activities.

In response to a request by one commentator, the regulations now explicitly indicate that in developing a consistency determination, Federal agencies may apply standards which are more restrictive than standards contained in the management program (§ 930.40(c)).

In response to a number of comments related to State agency response to Federal agency notifications, the regulations impose time limits within which the State agency must contact the Federal agency (§ 930.42). In the event the State agency disagrees with the Federal agency's consistency determination, the regulations require the State agency to describe (i) how the activity is inconsistent with specific elements to the management program, and (ii) alternative measures (if they exist) which, if adopted by the Federal agency, would allow the activity to be consistent with the management program (§ 930.43). Similar requirements are imposed regarding the content of State agency objections to Federal license and permit activities (§§ 930.66, 930.70) and Federal assistance projects (§ 930.91).

In response to a number of comments requesting explicit clarification within the regulations, NOAA has included commentary indicating that, in the event of State agency disagreement, Federal agencies are not required to suspend approval of Federal activities (§ 930.43). In cases of disagreement, Federal agencies are encouraged to suspend implementation of the activity beyond the 90–day notice period pending resolution of the disagreement. Neither coastal States nor the Secretary of Commerce are authorized by the Act to halt approval for Federal activities following a disagreement. In the event informal negotiations or voluntary Secretarial mediation efforts fail or are not utilized, judicial review where otherwise available by law may be sought by the State agency to enforce its position that the Federal agency is violating the consistency requirements of the Act (§ 930.116).

In response to numerous comments requesting additional clarification, the regulations have been modified and now provide that the voluntary Secretarial mediation services (Subpart G) may be used in the event of a serious disagreement between a Federal and State agency regarding a Federal activity which was previously reviewed and approved by the State agency but later determined by the State agency to be conducted in a substantially different and inconsistent manner (§ 930.45). Similar mediation provisions are provided for previously reviewed Federal license and permit activities (§ 930.69) and Federal assistance projects (§ 930.102). If there is a serious disagreement between a State and Federal agency regarding a previously reviewed Federal activity, license, permit or assistance project, the State agency must first request that the Federal agency take appropriate remedial action. If, after a reasonable time following a request for remedial action, the State agency continues to maintain that a serious disagreement exists, either party may request Secretarial mediation. Again, the availability of Secretarial mediation does not preyent the State agency from seeking to enforce its position through alternative proceedings.

SUBPART D. CONSISTENCY FOR ACTIVITIES REQUIRING A FEDERAL LICENSE OR PERMIT

Numerous comments were received regarding the manner of applying Federal consistency to oil and gas lease sales under the provisions of the Outer Continental Shelf (OCS) Lands Act. Some commentators argued that while Federal licenses and permits described in detail in OCS exploration and development plans were to be covered by Section 307(c)(3)(B) of the Act (see Subpart E), the issuance of individual leases to lessees was still to be considered a "Federal license or permit" action subject to the certification and appeal requirements of Section 307(c)(3)(A) of the Act (see Subpart D). Other commentators argued that by virtue of the 1976 Amendments to the Act, Congress intended that OCS leases were not to be treated as Federal license or permit activities. NOAA is considering a position which treats the Department of the Interior's pre-lease sale decisions, such as tract selections and choice of lease stipulations, as a "Federal activity" subject to the requirements of Section 307(c)(1) of the Act (see Subpart C). This proposal would require the Secretary of the Interior to initiate such decisions in a manner consistent to the maximum extent practicable with approved coastal management programs when those decisions would directly affect the coastal zone. The process of considering the coastal management program could be done concurrent with the environmental impact statement effort preceding the lease sale. Neither a lessee certification on individual leases nor an appeal to the Commerce Secretary would be applicable. The Office of the Solicitor within the Department of the Interior has issued an opinion arguing that the OCS

V 42167 A AUG 29 77 7 UMI

leasing process is neither covered by the "Federal license or permit section" nor the "Federal activity" section of the Act. In light of the present uncertainty regarding legislative intent, NOAA has decided to refrain from taking a position on this issue at the present time. The matter can be further considered at such time as OCS lease sales are proposed adjacent to States with approved management programs. More importantly, NOAA and the Department of the Interior are working with the Congress to clarify this issue in the form of amendments to the OCS Lands Act. NOAA welcomes further comments on this issue.

Numerous Federal agencies have commented that the term "applicant" should not be defined to include Federal agencies. These commentators have pointed out that (i) Congress has defined the term "person" to include Federal agencies and could have been similarly explicit if it intended the term "applicant" to include Federal agencies ("persons" are subject to the requirements of Subsection 307(c)(3)(B)—(§ 930.72)); (ii) while generally providing limited guidance, the legislative history of the Act suggests that only the provisions of Sections 307(c)(1) and (2) are meant to apply to direct Federal agency actions; and (iii) recent Supreme Court decisions (*EPA* v. *California*, 8 ERC 2089 (1976), *Hancock* v. *Train*, 8 ERC 2100 (1976)) have held that Federal agencies are not to be subjected to State procedural requirements (e.g., State review of consistency certifications or their equivalent) unless Congress directs such result in a clear and unambiguous manner—and such clarity is lacking in the Act. Other commentators have urged NOAA to retain Federal agencies within the definition of the term "applicant." These reviewers point out that Section 401 of the Federal Water Pollution Control Act, as amended (FWPCA), has a similar consistency provision regarding applicants for Federal licenses or permits, but the FPCA provision includes an explicit the FWPCA provision includes an explicit caveat stating that "No Federal agency shall be deemed to be an applicant * * *." (33 U.S.C. § 1341(a)(6)). No similar qualification is provided in the Coastal Zone Management Act. In light of these comments, NOAA proposes to exclude Federal agencies from the definition of "applicant" pending receipt of additional comments and further review of the issue (§ 930.52). In the interim, Federal agency activities requiring Federal licenses or permits are subject to the consistency requirements of Subpart C (Section 307(c)(1) and (2) "Federal activities"). Both the Federal permitting agency and the Federal agency conducting the activity should consult with the State agency to assess the consistency of such activities.

A number of commentators urged that the regulations exclude from State agency review Federal license and permit applications which were submitted prior to management program approval, but not yet approved at the time of program approval. NOAA has rejected this recommendation as the language in Section 307(c)(3)(A) does not compel this result. Until a party has received approval from the Federal permitting agency, the party is still an "applicant" for purposes of consistency review and may be required to provide a consistency supplement to the application (§ 930.52). "Applicant agencies" seeking Federal assistance (§ 930.92) are treated in a similar manner. Accordingly, the State agency may request that a Federal agency submit review applications pending at the time of management program approval. However, to assure timely action on pending applications, the regulations require the State agency to notify the Federal agency within 45 days of management program approval of a decision to review such applications, otherwise the State agency waives its rights to review such activities. Furthermore, if States choose to review pending applications, they must consider carefully the time and resources invested by the applicant prior to management program approval (§§ 930.56, 930.100).

In response to comments, the regulations now require that a management program listing of Federal license and permit activities subject to State agency review must be described not only in terms of type of activity (e.g., Coast Guard bridge permits, Corps of Engineers dredge and fill permits, etc.), but also in terms of general location when the State agency wishes to review activities outside of the coastal zone which are likely to significantly affect coastal resources (e.g., activities on excluded Federal lands, within coastal counties, etc.). The necessity for specifying location is to avoid consistency review for Federal license and permit activities unlikely to significantly affect the coastal zone. Refinements to the list are subject to prior consultation with the affected Federal agency and approval by the Associate Administrator (§ 930.54). A similar location provision is utlized in the Federal assistance Subpart (§ 930.95).

Many commentators requested modifications and further clarification regarding the responsibility of the applicant to submit sufficient information to support a consistency certification. The earlier draft of the regulations did not include any limitation on the authority of the State agency to require information from the applicant. In response to objections, the reulations now state that the State agency may not require submission of confidential and proprietary information (§ 930.58). However, applicants are encouraged to submit such information when it has relevance for making a consistency determination and when the State agency can ensure that such information will be protected from public disclosure (§ 930.60(d)).

In response to comments, the regulations include a new section encouraging applicants to consolidate for State agency review related Federal license and permit activities affecting the coastal zone (§ 930.61). Similarly, State agencies are encouraged to provide applicants with a one-stop multiple permit review system to minimize duplication of effort and to avoid unnecessary delays (§ 930.61).

In response to numerous comments, the Federal license and permit public notice requirements have been modified to provide States additional flexibility in this area. The public notice section now permits the State agency (i) to issue the public notice, (ii) to direct the applicant to provide the public notice, or (iii) to rely upon the public notice provided by the Federal permitting agency (§ 930.63).

In response to requests for explicit clarification within the body of the regulations, NOAA has indicated that following State agency concurrence with a consistency certification, the Federal permitting agency is not required to approve the license or permit application (§ 930.65(c)). For example, notwithstanding State agency concurrence, a proposed Federally permitted project may still require Federal agency rejection on NEPA, Endangered Species Act, Fish and Wildlife Coordination Act, or other overriding national interest grounds.

Numerous State agency reviewers criticized the original draft's procedure which in all cases required submission of a consistency certification by the applicant. Reviewers urged that a flexible system be permitted which would allow for the use of equivalent procedures to satisfy this requirement. In response to these comments, the regulations have been modified (i) to permit the State agency, at the request of the applicant, to assume the responsibility for developing a consistency certification (§ 930.60), and (ii) to permit the State to declare in the management program that an applicant's receipt of State or local government permits required in addition to the Federal permit is the equivalent of receiving a State agency concurrence for a consistency certification (§ 930.67). State agencies should bear in mind that the second option will be workable only when State or local government permits are also required for the proposed Federally permitted activity. If a Federal permit subject to State agency consistency review is required for an activity where no State or local government permit is required (e.g., on excluded Federal lands, on the outer Continental Shelf, on upland areas outside of the coastal permit jurisdiction, etc.) the State agency must rely upon the applicant's consistency certification or some other equivalent procedure to review the consistency of the proposed activity.

SUBPART E—CONSISTENCY FOR OUTER CONTINENTAL SHELF (OCS) EXPLORATION, DEVELOPMENT AND PRODUCTION ACTIVITIES.

Numerous industry reviewers commented that the application of consistency requirements to OCS activities could have a substantial adverse impact on the national effort to promote expeditious offshore energy development. Accordingly, these reviewers generally urged that the regulations be narrowly drafted to limit the ability of coastal States to use the consistency requirements to review OCS operations. NOAA has rejected this recommendation because it is contrary to the intent of the Act. All potentially affected coastal States have informed NOAA of their support for orderly and timely OCS development, subject to the provision of adequate protection for their coastal and marine environments and their existing economic resources and industries. In relation to this issue, the Act requires that management programs give adequate consideration to the national interest in the planning for and siting of facilities (including energy facilities) necessary to meet regional requirements. In addition, each management program must ensure that local land and water use regulations do not unreasonably restrict or exclude uses of regional benefit. With the cooperation of industry, Federal agencies and other interested parties, a policy for accommodating reasonable OCS activities can be reflected within coastal management programs. Through cooperative planning efforts and sound principles of management, OCS resources can be discovered and brought into production in a timely manner while at the same time valuable coastal resources and industries can be protected.

Finally, two additional elements within the Act may potentially promote and protect the interest of the oil and gas industry. First, in the 1976 amendments to the Act, Congress created the Coastal Energy Impact Fund (Section 308) to provide financial assistance to meet State and local needs resulting from new or expanded energy activity affecting the coastal zone. The legislative history indicates that fiscal inducements under Section 308 were provided to encourage prompt State approvals of OCS operations. Second, State agency objections to Federal license or permit activities described in detail in OCS plans may be reviewed by the Secretary of Commerce to determine whether such activities may nonetheless be approved based on overriding national interest grounds (see Subpart H). In light of the Act's many checks, balances, and incentives relating to energy development, NOAA believes that it is both unnecessary and inappropriate to limit the ability of coastal States to broadly utilize the consistency provisions with respect to OCS activities affecting the coastal zone.

In response to comments requesting further clarification, the term "Federal license or permit activity described in detail" has been defined to include those activities which the Secretary of the Interior requires to be described in detail within an OCS plan (§ 930.71). The significance of this term is that only activities described in detail within such plans are subject to the special requirements of Section 307(c)(3)(B) (Subpart E). Presently, the U.S. Geological Survey generally requires OCS plans to describe activities requiring permits for drilling, design plans for installation of platforms, and installation of gathering and flow lines. OCS-related permits which are not presently described within OCS plans can be reviewed by the State agency under Section 307(c)(3)(A) procedures (Subpart D) or, as described below, can be consolidated for consistency review with activities described in detail within OCS plans. Examples of OCS-related permits are: (i) Bureau of Land Management pipeline rights-of-way on the OCS, (ii) Corps of Engineers Section 10 Rivers and Harbors Act permits required for construction of any structures in navigable waters; (iii) Corps of Engineers Section 4(f) OCS Land Act permits required for artificial islands and fixed structures located on the OCS; (iv) Federal Aviation Administration permits for the construction of OCS-related towers which may affect air traffic safety, and (v) other OCS-related permits for waste discharge and dredging and transportation of dredged material, both offshore and onshore.

The legislative history of the Act indicates that consolidated review under the new OCS consistency provision can significantly expedite OCS oil and gas development: "* * * Federal permits are required for a large number of individual activities, including geophysical exploration, bottom sampling, well drilling for exploration or production, pipeline right-of-way, structure placement, waste discharge, and dredging and filling operations. Thus, separate consistency determinations on each activity, described in detail in an exploration, development or production plan, will not be necessary."

In response to comments requesting certainty regarding OCS information requirements, the regulations now include appendices which identify data and information which must be submitted along with the OCS plan to enable the State agency to assess the consistency of the proposed activities (Appendices A and B). Another important purpose of the appendices is to effectuate the objective, expressed by the Conferees to the 1976 Coastal Zone Management Act amendments, to "satisfy state needs for complete information, on a timely basis, about the details of the oil industry's offshore plans," thereby permitting states to plan for and manage coastal zone impacts caused by OCS activities.

To coordinate NOAA efforts with those of the Department of the Interior, the appendices state that OCS lessees and operators are encouraged, but not required, to submit interpretative data which, pursuant to regulations issued by the Secretary of the Interior, constitute confidential or privileged information. In addition, the Department of the Interior is presently in the process of amending its regulations (30 CFR Part 250) dealing with exploration, development and production plans, environmental assessments, and information to be provided to affected States. During the review and comment period on NOAA's proposed regulations, we intend to work closely with the Interior Department with a view towards consolidating into one set of Federal regulations the description of OCS-related information which is to be provided to affected coastal States. This consolidation effort will seek to eliminate confusing and possibly repetitious and inconsistent Federal requirements on this issue.

A number of commentators requested information on the effect of a State agency objection to some but not all of the license and permit activities described in detail in an OCS plan. The Act states that no Federal official shall grant "any" license or permit for an activity described in detail in an OCS plan until the State agency concurs or is conclusively presumed to concur with the consistency certification for the entire OCS plan, or until the Secretary of Commerce finds that "each" activity may be approved (Section 307(c)(3)(B)). Accordingly, the regulations preclude issuance of any of the license or permit activities described in detail in the plan until all have been approved by the State agency or the Secretary of Commerce (§ 930.81). However, an objection to the consistency certification for an OCS plan does not prevent the person from receiving Federal agency approval for those OCS-related license or permit activities not described in the plan which are found by the State agency to be consistent with the management program. Conversely, a State agency objection to one or more of the OCS-related permits submitted for consolidated review does not prevent Federal agency approval for other OCS-related permits found by the State agency to be consistent and for the permits described in detail within a consistent OCS plan (§ 930.82).

In response to comments, the regulations include a new section which addresses the issue of a person's failure to comply substantially with an approved OCS plan (§ 930.86). The section sets forth both criteria and procedures which the Secretary shall rely on in making this determination. The significance of this issue is that a finding of failure to comply substantially with an OCS plan leads to the requirement that the person submit to the Department of the Interior and the State agency a new or amended OCS plan accompanied by a new consistency certification. Prior to any Secretarial review on this matter, the State agency must first request the Department of the Interior to take appropriate remedial action.

SUBPART F—CONSISTENCY FOR FEDERAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

A number of reviewers objected to the fact that the term "Federal assistance" excluded coverage of assistance provided under the Coastal Zone Management Act. This initial position was proposed in light of the Act's language which states that Federal assistance "under other Federal programs" shall be subject to the consistency requirements. NOAA agrees that there is no justification for excluding Federal assistance under the Act from these requirements, particularly in view of the significant amount of coastal related Federal assistance to be granted under the Coastal Energy Impact Program (Section 308). Accord-

V 42167 AUG 29 77 UMI

ingly, the Federal assistance subpart has been modified to remove the exception (§§ 930.90, 930.91).

A number of commentators recommended that the Federal assistance procedures be modified to more fully adhere to the procedures utilized in the Office of Management and Budget Circular A-95 for the evaluation, review and coordination of Federal assisted programs. NOAA has followed this recommendation and the A-95 process is relied upon in the regulations (§§ 930.94, 930.96).

Some reviewers urged NOAA to require State and local government applicants for Federal assistance to consult with the State agency prior to commencement of the A-95 review process. No changes were made in response to these comments. However, NOAA strongly encourages early coordination efforts among the applicant agency, State and Federal agencies to ensure timely disbursement of Federal assistance. These efforts will be particularly critical when the assisted project will require a Federal license or permit subject to the consistency requirements discussed in Subpart D. The applicant agency, State agency and participating Federal agencies should consult at the earliest practicable time in the planning of the project to make certain that management program, Federal assistance, and Federal permit requirements will all be satisfied.

In response to comments to assure consistency for phased Federal assistance projects, the regulations require the applicant agency to use the OMB A-95 notification process for every major funding phase entailing substantial modifications to previously reviewed phases (§ 930.96(b)).

A number of Federal agencies expressed concern regarding the need to modify existing agency methods for reviewing Federal assistance proposals. In response, we point out that to the extent Federal agencies presently (i) use the OMB A-95 procedure and (ii) conform their decisions to State requirements affecting the proposal, then there would be no need to modify existing agency practices.

SUBPART G—SECRETARIAL MEDIATION

In response to numerous comments, a new subpart concerning Secretarial mediation has been added, and the mediation process has been significantly modified.

A number of reviewers pointed out that the consistency notification and review period would give the parties an adequate opportunity to informally resolve their differences; if conflict resolution did not occur within that period, the parties should have immediate access to Secretarial assistance. In response to these comments, the proposed mandatory 30-day waiting period prior to seeking mediation assistance has been deleted (§ 930.112).

In response to comments, the mediation process has been changed to indicate that Secretarial assistance will only be provided if all parties to the series disagreement agree to participate (§ 930.112). Reviewers pointed out that "mediation" (as opposed to binding arbitration) should be a voluntary process.

In response to comments, the public hearing procedures have been modified. The pre-hearing conference and the hearing officer proposed resolution procedures have been deleted. The hearing process is now constructed to foster an informal, information gathering proceeding (§ 930.113).

A number of reviewers objected to the excessive length of time that mediation would require. In response to these comments, unnecessary conflict resolution procedures have been deleted and the regulations now indicate that mediation efforts will last only so long as the parties agree to participate (§ 930.114).

A number of reviewers argued that the mediation provisions within the Act were not intended to preclude a party from seeking judicial enforcement to compel a Federal agency to adhere to the consistency requirements imposed by the Act. In response to these comments, the regulations now clearly indicate that judicial review where otherwise available may be sought by any party to a serious disagreement without first having exhausted the mediation process provided in the regulations (§ 930.116).

SUBPART H—SECRETARIAL REVIEW RELATED TO THE OBJECTIVES OR PURPOSES OF THE ACT AND NATIONAL SECURITY INTERESTS

In response to numerous comments, a new subpart concerning Secretarial review of Federal license and permit activities and Federal assistance projects has been added, and some changes in review procedures and criteria have been made.

A number of reviewers pointed out that the consistency certification review period would give the parties an adequate opportunity to informally resolve their differences; if informal negotiations failed, the applicant should have immediate access to Secretarial review. In response to these comments, the proposed mandatory 30-day waiting period prior to filing an appeal has been deleted (§ 930.125).

A number of reviewers objected to the excessive length of time that the appellate process would require. In response to these comments, the regulations declare that the Secretary shall make all reasonable efforts to complete consideration of an appeal within 90 days from the date of public notice (§ 930.130).

A number of reviewers objected to NOAA's proposed definition of the term "consistent with the objectives or purposes of the Act." This term represents one of the criteria which the Secretary uses to determine whether a State agency objection may be set aside. Some reviewers argued that the definition was too narrow and would limit the Secretary's ability to approve critical Federal activities which furthered the national interest. Other reviewers argued that the definition was too broad and would lead to Secretarial approval of Federal activities which could cause unjustified severe and harmful effects on coastal resources. A number of changes were made in response to these comments, and the term is now defined to permit Secretarial approval of a Federal activity when: (i) It furthers one or more of the competing national objectives or purposes contained in Sections 302 or 303 of the Act, (ii) when performed separately or when its cumulative effect is considered, it will not cause an adverse impact on the coastal zone substantial enough to outweigh its contribution to the national interest, (iii) it will not violate any requirements of the Clean Air Act or the Federal Water Pollution Control Act, and (iv) there is no reasonable alternative available which would permit the activity to be conducted in a manner consistent with the management program (§ 930.120).

On appeal to the Secretary, the appellant will normally be able to establish that the activity promotes one or more of the competing national objectives declared by Congress in the Act. This results because Congress has broadly defined the national interest in coastal zone management to include both protection and development of coastal resources. However, Congress has also declared that an objective of the Act is to permit coastal States to strike a balance between competing demands on coastal resources. Accordingly, while the appellant's proposed action may be among one of the many elements of the national interest described by Congress, the Secretary will not set aside a State agency objection unless she determines, on balance, that the national interest benefits of the proposed inconsistent activity significantly outweigh the negative effects upon coastal zone resources. In essence, the Secretarial role is to provide a variance when justified by overriding national interest grounds. The variance, however, may not be used to undermine the requirements of Federal law, particularly the requirements of the Clean Air Act (CAA) and the Federal Water Pollution Control Act (FWPCA) (see Section 307(b) of the Act).

After finding that proposed activity (i) is in the national interest, (ii) will not cause an adverse impact substantial enough to outweigh the benefits to the national interest, and (iii) will not violate the requirements of the CAA and FWPCA, the Secretary may set aside the State agency objection if the appellant also establishes that there is no reasonable alternative available. This last requirement was added based upon reviewer comments arguing that the Secretary should not find that an inconsistent activity is compatible with the intent of the Act if a reasonable alternative is available to the appellant.

In response to comments requesting clarification, the definition of the term "necessary in the interest of national security" has been modified. This term represents the second criterion which the Secretary may use to determine whether a State agency objection may be set aside. The regulations now indicate that the Secretary will consult with the Department of Defense and other interested Federal agencies to determine whether a national defense or other national security interest would be seriously threatened if an objected to Federal activity were not permitted to go forward as proposed (§ 930.122).

A number of reviewers requested clarification on how national security concerns would be addressed with regard to direct Federal activities (Subpart C) where no appellate review before the Secretary exists. In these cases the Federal agency in making its consistency determination will consider the extent to which national security requirements affect the agency's ability to undertake the activity in a manner consistent to the maximum extent practicable with the management program. Federal agency activities related to national security objectives may, at times, have to be undertaken in a manner inconsistent with an approved management program if existing law applicable to the agency's operations prohibits compliance with the program (§ 930.33(b)).

In response to the concerns of one commentator, the regulations clearly state that a Secretarial decision to override a State agency objection simply permits, but does not require, the Federal agency to approve the Federal license, permit or assistance application (§§ 930.128, 930.131(a)).

A number of reviewers requested a response to the following question. If a State refuses to issue a State or local government permit, and this denial is the equivalent of a State agency objection to the consistency of a Federal permit (§ 930.67), is the State compelled to issue its State or local government permit if the Federal permit applicant appeals to the Secretary of Commerce and she finds that the Federal permit may be issued on overriding national interest or national security grounds (Subpart H)? NOAA's answer to this questions is no. Throughout the legislative history of the Act, Congress clearly indicated that the Act was not intended to preempt existing State authority. By receiving Federal approval and assistance for its management program, a State does not consent to lose its existing authority to deny the issuance of coastal-related permits. NOAA considered two measures for addressing this issue. First, the regulations could require the Secretary to dismiss an appeal in the event the applicant failed to secure State or local government permits required in addition to the Federal permit. Second, the Secretary could review an activity notwithstanding State or local government permit denial, and could provide the applicant with an opportunity to secure a favorable Secretarial determination which could be used to persuade the State to grant the applicant an exception or variance. The latter approach was adopted. We point out that this issue does not arise in cases where concurrent State and local permits are not required (e.g., on the outer Continental Shelf, on excluded Federal lands, etc.)

A number of reviewers recommended that the regulations include a provision permitting direct appeals to the Secretary without awaiting review and objection by the State agency. Reviewers urged that this should be available in cases where the applicant declared in the consistency certification that the proposed activity would be inconsistent with the management program but would satisfy the objectives or purposes of the Act or be in the intrest of natioanl security. No changes were made in response to these comments. The regulations presently provide for independent Secretarial review of an activity, and this review need not be preceded by a formal State agency objection (§ 930.132). Accordingly, the Secretary in her discretion could initiate review when notified that State agency consideration may be unnecessary in light of the declared inconsistenecy of an activity. The initiation of review is left to the discretion of the Secretary to permit her to defer action when it appears that negotiations and discussions of alternatives during State agency review could lead to the activity going forward (§ 930.124). NOAA does not wish to encourage direct appeals to the Secretary which circumvent the public notice, review and accommodation efforts which take place during State agency review.

A number of commentators objected to the narrow grounds which the Secretary will use to review an appeal. Some reviewers urged that appellants should be able to argue on appeal that the State agency's consistency objection was not in accordance with the requirements of the management program. Other parties urged that the appeal process should be open to third-party challenges to State agency concurrences which violate the requirements of the management program. No changes were made in response to these comments, and the regulations now clearly indicate that the Secretary will only consider appeals which are based on grounds that the activity either (i) is consistent with the objectives or purposes of the Act, or (ii) is necessary in the interest of national security (§ 930.128). The Secretarial case-by-case review process created by Sections 307 (c) and (d) of the Act was only intended for the reviews of inconsistent Federal license, permit and assistance activities which may be eligible for Federal approval based upon the overruling national interest concerns cited above. The general manner in which a State agency implements its management program, including the manner in which consistency concurrences and objections are issued, shall be reviewed by the Office of Coastal Zone Management (OCZM) pursuant to its responsibilities under Section 312 of the Act, which requires the continuing review of management programs. Under this provision of the Act, OCZM will determine whether a State is failing to adhere to and is not justified in deviating from the approved program, and appropriate remedial action will be taken as necessary. Applicants and other interested parties may submit comments to OCZM regarding alleged State failure to properly implement a management program. Finally, the continuing OCZM review efforts do not preclude a person from seeking judicial relief where otherwise available in the event a State agency, in reviewing Federal license, permit, or assistance activities, fails to properly enforce management program requirements.

SUBPART I—ASSOCIATE ADMINISTRATOR REPORTING OF FEDERAL ACTIONS WHICH ARE NOT CONSISTENT WITH APPROVED MANAGEMENT PROGRAM

A number of reviewers recommended that the discussion of the Act's reporting requirements regarding inconsistent Federal actions not be included within the mediation discussions. In response to these comments, a new subpart has been added to the regulations. The new provisions invite the public to submit comments related to alleged inconsistent Federal actions (§ 930.141), and permit the Associate Administrator for Coastal Zone Management to issue advisory statements indicating whether a particular activity will be reported as being inconsistent with an approved management program (§ 930.143).

ENVIRONMENTAL AND INFLATIONARY IMPACT STATEMENTS

NOAA has reviewed these proposed regulations pursuant to the National Environmental Policy Act of 1969 and has determined that promulgation of these regulations will have no significant impact on the environment. NOAA has also determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

PUBLIC REVIEW AND COMMENT

NOAA invites public review of and comments on these proposed regulations so that they again may be modified, where neeessary and legally permissible, to fully satisfy the requirements of the Act in a manner which addresses the concerns of all parties affected by the Federal consistency provisions. Written comments should be submitted to the Federal Programs Division, Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 3300 Whitehaven Street NW., Washington, D.C. 20235, on or before October 28, 1977.

Following the close of the comment period and review of the comments, the Administrator may amend these regulations as necessary and will publish final regulations in the FEDERAL REGISTER.

THEODORE P. GLEITER,
Assistant Administrator for Administration.

AUGUST 23, 1977.

In consideration of the foregoing, it is proposed to add a new Part 930 to read as follows:

V42167 AUG 29 77 UMI

PART 930—FEDERAL CONSISTENCY WITH APPROVED COASTAL MANAGEMENT PROGRAMS

Subpart A—Objectives

Sec.
930.1 Overall Objectives.

Subpart B—General Definitions

930.10 Index to definitions.
930.11 Act.
930.12 Section.
930.13 Secretary.
930.14 Executive Office of the President
930.15 OCZM.
930.16 Associate Administrator.
930.17 Federal agency.
930.18 State agency.
930.19 Management program.
930.20 Coastal Zone.

Subpart C—Consistency for Federal Activities

930.30 Objectives.
930.31 Federal Activity.
930.32 Directly affecting the coastal zone.
930.33 Consistent to the maximum extent practicable.
930.34 Identifying Federal activities directly affecting the coastal zone.
930.35 Federal and State agency coordination.
930.36 Availability of mediation for negative determination disputes.
930.37 Federal agency consistency determinations for proposed activities.
930.38 Applicability to activities initiated prior to management program approval.
930.39 State agency receipt of consistency determinations.
930.40 Content of a consistency determination.
930.41 Multiple Federal agency participation.
930.42 State agency response.
930.43 State agency disagreement.
930.44 Availability of mediation for disputes concerning proposed activities.
930.45 Availability of mediation for previously reviewed activities.

Subpart D—Consistency for Activities Requiring a Federal License or Permit

930.50 Objectives.
930.51 Federal license or permit.
930.52 Applicant.
930.53 Affecting the coastal zone.
930.54 Management program license and permit listing.
930.55 Unlisted Federal license and permit activities.
930.56 Pending applications.
930.57 Availability of mediation for license or permit disputes.
930.58 State agency guidance and assistance to applicants.
930.59 Federal license and permit activities having interstate effects.
930.60 Consistency certifications.
930.61 Multiple permit review.
930.62 Commencement of State agency review.
930.63 Public notice.
930.64 Public hearings.
930.65 State agency concurrence with a consistency certification.
930.66 State agency objection to a consistency certification.
930.67 Management program equivalents for consistency review.
930.68 Federal permitting agency responsibility.
930.69 Availability of mediation for previously reviewed activities.

Subpart E—Consistency for Outer Continental Shelf (OCS) Exploration, Development and Production Activities

Sec.
930.70 Objectives.
930.71 Federal license or permit activity described in detail.
930.72 Person.
930.73 Affecting the coastal zone.
930.74 OCS plan.
930.75 OCS activities subject to State agency review.
930.76 State agency assistance to persons.
930.77 Submission of an OCS plan and consistency certification.
930.78 Commencement of State agency review; public notice.
930.79 State agency concurrence or objection.
930.80 Effect of State agency concurrence.
930.81 Federal permitting agency responsibility.
930.82 Multiple permit review.
930.83 Amended or new OCS plans.
930.84 Review of amended or new OCS plans; public notice.
930.85 Continuing State agency objections.
930.86 Failure to comply substantially with an OCS plan.

Subpart F—Consistency for Federal Assistance to State and Local Governments

930.90 Objectives.
930.91 Federal assistance.
930.92 Applicant agency.
930.93 Affecting the coastal zone.
930.94 OMB A-95 process.
930.95 Federal assistance geographic provision in the management program.
930.96 OMB A-95 project notification and review.
930.97 Consistency review.
930.98 Federal assisting agency responsibility.
930.99 Federally assisted projects outside of the described geographic area.
930.100 Pending applications.
930.101 Availability of mediation for Federal assistance disputes.
930.102 Availability of mediation for previously reviewed projects.

Subpart G—Secretarial Mediation

930.110 Objectives.
930.111 Informal negotiations.
930.112 Request for mediation.
930.113 Public hearings.
930.114 Secretarial mediation efforts.
930.115 Termination of mediation.
930.116 Judicial review.

Subpart H—Secretarial Review Related to the Objectives or Purposes of the Act and National Security Interests

930.120 Objectives.
930.121 Consistent with the objectives or purposes of the Act.
930.122 Necessary in the interest of national security.
930.123 Appellant.
930.124 Informal discussions.
930.125 Appeals to the Secretary.
930.126 Federal and State agency responses to appeals.
930.127 Public notice; receipt of comments.
930.128 Dismissal of appeals.
930.129 Public hearings.
930.130 Secretarial review.
930.131 Federal agency responsibility.
930.132 Secretarial review in the absence of an appeal.
930.133 Public notice; receipt of comments; public hearings.
930.134 Secretarial review; Federal agency responsibility.

Subpart I—Associate Administrator Reporting of Federal Actions Which Are Not Consistent With Approved Management Programs

Sec.
930.140 Objectives.
930.141 Notification to the Associate Administrator.
930.142 Associate Administrator reporting.
930.143 Associate Administrator advisory statements.

Appendix A—Information To Be Submitted With an OCS Exploration Plan

Appendix B—Information To Be Submitted With an OCS Development Plan

Authority: Sections 307, 316 and 317, Coastal Zone Management Act of 1972, Public Law 92-586, 86 Stat. 1280, 16 U.S.C. § 1451 et seq., as amended by Public Law 94-370, 90 Stat. 1013.

Subpart A—Objectives

§ 930.1 *Overall objectives.*

The objectives of these regulations are: (a) To describe the obligations of all agencies, individuals and other parties who are required to comply with the Federal consistency provisions of the Coastal Zone Management Act;

(b) To implement the Federal consistency provisions in a manner which strikes a balance between the need to ensure consistency for Federal activities with approval coastal zone management programs and the need to promote Federal programs affecting the coastal zone;

(c) To provide flexible procedures which foster intergovernmental cooperation and minimize duplicative effort and unnecessary delay, while making certain that the objectives of the Federal consistency provisions of the Act are satisfied;

(d) To interpret significant terms in the Federal consistency provisions so that they can be uniformly understood and adhered to by all agencies, individuals and other affected parties;

(e) To provide procedures to make certain that all Federal agency and State agency consistency determinations are directly related to the objectives, policies, standards and other criteria set forth in, or referenced as part of, approved coastal zone management programs;

(f) To provide procedures which the Secretary, in cooperation with the Executive Office of the President, may use to mediate serious disagreements which arise between Federal and State agencies during the administration of approved coastal zone management programs;

(g) To provide procedures which permit the Secretary to review Federal license or permit activities, or Federal assistance projects, to determine whether they are consistent with the objectives or purposes of the Act, or are necessary in the interest of national security; and

(h) To provide procedures which permit interested parties to notify the Associate Administrator for Coastal Zone Management of Federal actions believed to be inconsistent with approved coastal zone management programs, and for the reporting of such actions found by the Associate Administrator to be inconsistent with such programs.

Subpart B—General Definitions

§ 930.10 Index to definitions.

The following list includes all terms defined in Part 930 of his title keyed to the section or paragraph in which they are defined.

Term	*Section*
Act	930.11
Affecting the coastal zone	930.53, 930.73, 930.93
Appellant	930.123
Applicant	930.52
Applicant agency	930.92
Associate Administrator	930.16
Coastal Zone	930.20
Consistent to the maximum extent practicable	930.33
Consistent with the objectives or purposes of the Act	930.121
Development project	930.31(b)
Directly affecting the coastal zone	930.32
Executive Office of the President	930.14
Failure substantially to comply with an OCS plan	930.86(c)
Federal activity	930.31
Federal agency	930.17
Federal assistance	930.91
Federal license or permit	930.51
Federal license or permit activity described in detail	930.71
Management program	930.19
Necessary in the interest of national security	930.122
OCS plan	930.74
OCZM	930.15
OMB A-95 process	930.94
Person	930.72
Secretary	930.13
Section	930.12
State agency	930.18

§ 930.11 Act.

The term "Act" means the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 *et seq.*).

§ 930.12 Section.

The term "Section" means a section of the Coastal Zone Management Act of 1972, as amended.

§ 930.13 Secretary.

The term "Secretary" means the Secretary of the U.S. Department of Commerce.

§ 930.14 Executive Office of the President.

The term "Executive Office of the President" means the office, council, board, or other entity within the Executive Office of the President which shall participate with the Secretary in seeking to mediate serious disagreements which may arise between a Federal agency and a coastal State.

§ 930.15 OCZM.

The term "OCZM" means the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

§ 930.16 Associate Administrator.

The term "Associate Administrator" means the Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

§ 930.17 Federal agency.

The term "Federal agency" means any department, agency, board, commission, council, independent office or similar entity within the executive branch of the Federal Government, or any wholly owned Federal Government corporation.

§ 930.18 State agency.

(a) The term "State agency" means the agency designated pursuant to Section 306(c)(5) of the Act to receive and administer grants for an approved management program. The 306(c)(5) State agency is responsible for reviewing the consistency of Federal actions.

(b) The management program may permit the 306(c)(5) State agency to delegate the consistency review responsibility to:

(1) A single State agency or clearinghouse which will review all Federal actions;

(2) A number of State agencies with each reviewing certain types of Federal actions;

(3) Regional agencies (local, county, areawide) with each reviewing Federal actions affecting a particular region;

(4) Any combination of or alternative to the above examples which is approved by the Associate Administrator.

Unless otherwise noted, the term "State agency" shall be used throughout the remainder of this Part to mean the Section 306(c)(5) State agency as well as any other State, regional or local agency which has been delegated consistency review authority.

Comment: Section 306(e)(1)(A) of the Act permits "local implementation" of the management program subject to administrative review and enforcement of compliance by the section 306(c)(5) State agency.

(c) The management program may not require a Federal agency, applicant, or person to submit a consistency determination or certification to more than one agency. The single reviewing agency shall be responsible for securing necessary review and comment from other State, regional and local government agencies. Only the single reviewing agency is authorized to declare a disagreement with a Federal agency consistency determination issued for a Federal activity (see Subpart C), or object to the consistency of a Federal license, permit or assistance activity (see Subparts D, E and F).

Comment: This limitation does not remove the responsibility of an applicant or person to follow required procedures for securing State or local government permits when such permits are required in addition to a Federal permit.

(d) State, regional or local government agencies delegated consistency review responsibilities are prohibited from approving the consistency of their own applications of Federal licenses, permits and assistance which are subject to the requirements of this Part. Consistency review for such applications must be conducted by the State agency designated pursuant to Section 306(c)(5) of the Act.

§ 930.19 Management program.

(a) The term "management program" means a State coastal zone management program adopted by a coastal State in accordance with the provisions of Section 306 of the Act, approved by the Associate Administrator, and which includes objectives, policies, standards, State ad local government laws, rules, regulations, plans or other criteria set forth within or referenced as being part of the program, at the time of approval, subsequent amendment or refinement to guide public and private uses of resources within the State's coastal zone.

§ 930.20 Coastal zone.

(a) The term "coastal zone" means the coastal zone as defined in a State's management program.

(b) All lands owned, leased or whose use is otherwise by law subject solely to the discretion of the Federal Government, as well as lands held in trust by the Federal Government, are excluded from the coastal zone.

(c) Federal activities including development projects undertaken on excluded Federal lands which "directly affect the coastal zone," and Federal license, permit and assistance activities on such lands which "affect the coastal zone" are subject to the Federal consistency requirements of the Act and require review to determine consistency with approved management programs in accordance with the regulations in this Part.

(d) By excluding Federal lands from the coastal zone for the purposes of the Act, the coastal State does not relinquish or in any way impair its rights or authority over Federal lands that exist outside of the context of the coastal management program.

Subpart C—Consistency for Federal Activities

§ 930.30 Objectives.

The provisions of this Subpart are provided to assure that all Federal activities including development projects directly affecting the coastal zone are undertaken in a manner consistent to the maximum extent practicable with approved State coastal management programs.

(*Comment:* Statutory citation. Subsection 307(c)(1): "Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs."

Subsection 307(c)(2):

"Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with approved state management programs.")

§ 930.31 Federal activity.

(a) The term "Federal activity" means any functions performed by or on be-

V 42167 AUG 29 77 UMI

half of a Federal agency in the exercise of its statutory responsibilities.

(b) A Federal development project is a Federal activity involving the planning, construction or modification of public works, physical facilities, or other structures, and land and water resource development, or water resources.

(c) The term "Federal activity" does not include the issuance of a Federal license or permit to an applicant or person (see Subparts D and E), or the granting of Federal assistance to an applicant agency (see Subpart F).

(*Comment:* Federal activities other than development projects may be viewed as a residual category covering Federal actions which are neither direct Federal development projects nor activities covered by the license, permit and assistance Subparts.

Examples could include:

(1) Regulations regarding Federal waste management practices (not a development project);

(2) Federal agency activities requiring a Federal license or permit (not covered by the Federal license and permit Subpart);

(3) Federal assistance to entities other than State and local governments, such as to Indian tribes (not covered by the Federal assistance Subpart.)

§ 930.32 Directly affecting the coastal zone.

(a) The term "directly affecting the coastal zone" describes the coastal zone effect caused by a Federal activity which is sufficient to trigger Federal agency responsibility for making a consistency determination and notifying the State agency of such determnation.

(b) A Federal activity will directly affect the coastal zone if the activity causes significant (i) changes in the manner in which waters, lands or other coastal zone resources are used, (ii) limitations on the range of uses of coastal zone resources, or (iii) changes in the quality of coastal zone resources. The significance of the effect on the coastal zone shall be considered in terms of the primary, secondary and cumulative consequences of the activity. A Federal activity which causes significant changes in or limitations on coastal zone resources directly affects the coastal zone even when the activity causes both beneficial and detrimental effects, and on balance the Federal agency determines that the effect will be beneficial.

§ 930.33 Consistent to the maximum extent practicable.

(a) The term "consistent to the maximum extent practicable" describes the requirement for Federal activities directly affecting the coastal zone of States with approved management programs to be consistent with such programs except to the extent that deviations are justified because some unforeseen circumstance arising after the approval of the management program present the Federal agency with a substantial obstacle that prevents complete adherence to the approved program.

(*Comment:* The legislative history of the Act states that Congress does not anticipate "that there will be any considerable number of situations where as a practical matter a Federal agency cannot conduct or support activities without deviating from approved State management programs." This anticipated result stems from Congress' intent that Federal agencies consult with the Secretary and State agencies during program development so that "any aspects or phases of the proposed program which are deemed by any agency to be impractical to carry out or support will be brought to the attention of the Secretary and steps will be taken at that point to iron out whatever difficulties appear to be established." Congress, however, recognized a need to permit deviations from a management program in limited cases where (i) circumstances arise which were not foreseen at the time of program approval, and (ii) such circumstances create a substantial obstacle preventing complete adherence to approved program. Accordingly, complete consistency with the management program is the general rule with exceptions permitted only for the special circumstances described above.)

(b) The term "consistent to the maximum extent practicable" shall be construed in conjunction with the provisions of section 307(e). Sections 307(c) (1) and (2), and 307(e). When read together, preserve for each Federal agency the responsibility for carrying out its statutory obligations subject to the additional requirements imposed by the Act. Therefore, each Federal agency shall consider State management programs as supplement requirements to be adhered to in addition to existing agency mandates, and shall conduct Federal activities directly affecting the coastal zone in a manner consistent to the maximum extent practicable with approved management programs, unless compliance with the management program is prohibited based upon the requirements of existing law applicable to the agency's operations. If a Federal agency asserts that compliance with the management program is prohibited, it must clearly describe to the State agency the legislative provisions, legislative history, or other legal authority which limits the Federal agency's discretion to comply with the requirements of the management program.

(*Comment:* Statutory citation: Section 307(e): "Nothing in this title shall be construed: (1) To diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more states or of two or more states and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(2) As superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board, and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.")

§ 930.34 Identifying Federal activities directly affecting the coastal zone.

(a) Federal agencies shall determine which of their activities directly affect the coastal zone of States with approved management programs.

(b) Federal agencies shall consider all development projects within the coastal zone to be significant activities directly affecting the coastal zone. All other types of activities within the coastal zone are subject to Federal agency review to determine whether they directly affect the coastal zone.

(*Comment:* Some Federal activities, such as a particular resource procurement practice, may not have the potential for causing a significant effect upon the coastal zone even when undertaken within the coastal zone.)

(c) Federal activities outside of the coastal zone (e.g., on excluded Federal lands, on the outer Continental Shelf, or landward of the coastal zone) are subject to Federal agency review to determine whether they directly affect the coastal zone.

(*Comment:* Federal agencies should determine whether a Federal activity outside of the coastal zone directly affects coastal zone resources by considering the location, magnitude and type of activity contemplated. A direct effect usually will be found when the proposed activity is large in magnitude and is adjacent or in close proximity to the coastal zone. The smaller the magnitude of the activity and the further it is from the coastal zone, the less likely is the potential for significant effects on coastal zone resources. However, even in cases where a proposed activity is a great distance from the coastal zone, the Federal agency must still make a consistency determination and notify the State agency of such determination if the proposed activity will directly affect the coastal zone (e.g., upland stream modification significantly affecting the quality of coastal waters). Federal agencies are encouraged to refer to the Council on Environmental Quality's guidelines in 40 CFR Part 1500 for assistance towards developing a method for identifying Federal activities directly affecting the coastal zone.)

§ 930.35 Federal and State agency coordination.

(a) State agencies may list in their management programs Federal activities which, in the opinion of the State agency, directly affect the coastal zone and require a Federal agency consistency determination. Listed Federal activities shall be described in terms of type and general location (e.g., Federal reclamation projects in coastal counties). During management program development, Federal agencies are encouraged to develop agreements with State agencies regarding Federal activities directly affecting the coastal zone to be listed in the management program. This joint effort should be carried out with a view towards avoiding consistency reviews for Federal activities which will normally have minimal and insignificant impacts upon the coastal zone, both in an individual and cumulative sense.

(b) State agencies may monitor unlisted Federal activities (e.g., by use of OMB Circular A-95 review, review of National Environmental Policy Act (NEPA) environmental impact statements, etc.) and should notify Federal agencies of unlisted Federal activities which Federal agencies have determined are not subject to consistency review, but which in the opinion of the State agency directly affect the coastal zone and require a Federal agency consistency determination. State agencies must notify Federal agencies within 45 days from notice of the unlisted Federal activity, otherwise the State agency waives its right to request a consistency determination.

(c) If a Federal agency decides that a consistency determination is not required for a Federal activity (i) identified by a State agency on its list or through case-by-case monitoring, or (ii) which is the same as or similar to activities for which consistency determinations have been prepared in the past, the Federal agency shall provide the State agency with a notification, at the earliest practicable time in the planning of the activity, briefly setting forth the reasons for its negative determination. A negative determination shall be provided to the State agency at least 90 days before the proposed activity reaches a decision stage likely to restrict the use of alternative measures for undertaking the activity, unless both the Federal agency and the State agency agree to an alternative notification schedule.

(*Comment:* A determination that a proposed Federal activity directly affects the coastal zone leads to two significant benefits. First, this finding requires the Federal agency to review the activity to assure that it will be undertaken in a manner consistent to the maximum extent practicable with an approved management program and, second, the consistency determination will provide the State agency with an opportunity to review and comment on the proposed activity, and will assist the State in planning for and managing the anticipated coastal zone effects. Given the benefits to be derived from this process, Federal agencies are encouraged to construe liberally the "directly affecting" test in a manner which favors inclusion of activities subject to consistency review.)

§ 930.36 Availability of mediation for negative determination disputes.

In the event of a serious disagreement between a Federal agency and a State agency regarding a determination related to whether a proposed activity directly affects the coastal zone, either party may seek the voluntary Secretarial mediation services provided for in Subpart G.

§ 930.37 Federal agency consistency determinations for proposed activities.

(a) Federal agencies shall review their proposed Federal activities which directly affect the coastal zone in order to develop consistency determinations which indicate whether such activities will be undertaken in a manner consistent to the maximum extent practicable with approved State management programs. Federal agencies are encouraged to consult with State agencies during their efforts to assess whether such activities will be consistent to the maximum extent practicable with such programs.

(b) In cases where Federal agencies will be performing an activity other than a development project (e.g., issuing regulations or regional directives regarding resource management practices), the agency may develop one general consistency determination thereby avoiding the necessity of issuing separate consistency determinations for each incremental action controlled by the major activity. If a Federal agency decides to issue a general consistency determination, it shall thereafter periodically consult with the State agency to discuss the manner in which the major activity is being undertaken.

(c) In cases where the Federal agency has sufficient information to determine the consistency of a proposed development project from planning to completion, only one consistency determination will be required. However, in cases where major Federal decisions related to a proposed development project will be made in phases based upon developing information, with each subsequent phase subject to Federal agency discretion to implement alternative decisions based upon such information (e.g., planning, siting, and design decisions), a consistency determination will be required for each major decision. In cases of phased decision-making, Federal agencies shall ensure that the development project continues to be consistent to the maximum extent practicable with the State's management program.

§ 930.38 Applicability to activities initiated prior to management program approval.

(a) A consistency determination will be required for ongoing Federal activities other than development projects (e.g., resource management practices) initiated prior to management program approval, which are governed by statutory authority under which the Federal agency retains discretion to reassess and modify the activity. In these cases the consistency determination must be made by the Federal agency at the earliest practicable time following management program approval, and the State agency must be provided with a consistency determination no later than 120 days after program approval for ongoing activities which the State agency identifies as subject to consistency with the management program.

(*Comment:* In these cases Federal agencies should consider general modification of Federal regulations or regional directives to reflect the consistency obligations which result following approval of management programs.)

(b) A consistency determination shall be required for major, phased Federal development project decisions described in § 930.37(c) which are made following management program approval and are related to development projects initiated prior to program approval. In making these new decisions, Federal agencies shall consider coastal zone effects not fully evaluated at the outset of the project. This provision shall not apply to phased Federal decisions which were specifically described, considered and approved (e.g., in a final environmental impact statement issued pursuant to the National Environmental Policy Act) prior to management program approval.

§ 930.39 State agency receipt of consistency determinations.

(a) Federal agencies shall provide State agencies with consistency determinations for all Federal activities directly affecting the coastal zone. The Federal agency may provide the State agency with this information in any manner it chooses so long as the requirements of this Subpart are satisfied.

(*Comment:* Federal agencies are strongly encouraged to provide consistency determinations to State agencies through use of existing notification procedures (e.g., OMB Circular A-95, NEPA environmental impact statements, memoranda of understanding, etc.) in order to avoid waste, duplication of effort, and to reduce Federal and State agency administrative burdens. The use of existing procedures is permissible so long as such procedures are modified or supplemented as necessary to satisfy the requirements of this Subpart.)

(b) Federal agencies shall provide State agencies with a consistency determination at the earliest practicable time in the planning or reassessment of the activity. A consistency determination should be prepared following development of sufficient information to determine reasonably the consistency of the activity with the State's management program, but before the Federal agency reaches a significant point of decision-making in its review process. The consistency determination shall be provided to State agencies at least 90 days before the Federal activity reaches a decision stage likely to restrict the use of alternative measures for undertaking the activity, unless both the Federal agency and the State agency agree to an alternative notification schedule.

(*Comment:* Federal and State agencies are encouraged to agree upon flexible procedures for extending the notification requirement beyond 90 days for major activities requiring a substantial period for adequate review, and for lessening the notification period for minor activities.)

§ 930.40 Content of a consistency determination.

(a) The consistency determination shall include a statement indicating whether or not the proposed activity will be undertaken in a manner consistent to the maximum extent practicable with the management program and a discussion relating to coastal zone effects of the activity to the relevant elements of the management program. The consistency determination shall also include a detailed description of the activity and comprehensive data and information sufficient to support the Federal agency's consistency decision. The amount of detail provided in the description and in the supporting information shall be commensurate with the expected effects of the activity on the coastal zone.

(b) In making its consistency determination, the Federal agency shall be guided by the examples set out below (which are not meant to be exhaustive).

V 42167 AUG 29 77 UMI

The first three examples emphasize issues related to project siting, design and associated coastal zone effects. Examples 4 and 5 draw a distinction between functionally dependent, associated facilities (i.e., the use of the primary project is dependent upon the construction of the associated facility) and independent facilities induced by the primary project (i.e., the primary project can function independent of, and is not justified by, the induced facilities). In the former case, the existence of the inconsistent associated facility warrants a finding by the Federal agency that the primary project may not be declared to be consistent with the management program until the facility is modified or the proposal revised to substitute the associated facility with an acceptable activity. In the latter case, the example points out that the primary project may be declared to be consistent with the management program, and the inconsistent induced facilities can be controlled through alternate means. Finally, the last example highlights the situation where the Federal activity causes adverse effects upon coastal zone resources but the management program does not contain requirements related to these effects. In this instance the Federal agency may declare the activity to be consistent with the management program. The examples below do not address situations where the Federal agency determines that deviations from the requirements of the management program are justified in accordance with the exceptions permitted under § 930.33 ("Consistent to the maximum extent practicable").

(1) If the activity will not cause unacceptable adverse effects on coastal zone resources in terms of the requirements of the management program (e.g., the project is sited in a permissible area and meets management program performance standards), the Federal agency may declare the activity to be consistent with the management program;

(2) If the siting of the activity in the coastal zone, or its design, results in an unacceptable adverse effect on coastal zone resources (e.g., the project is sited in an area of particular concern where development is prohibited, or its design will violate wetland or floodplain protection policies), the Federal agency may not declare the activity to be consistent with the management program;

(3) If the siting of the activity is (i) permissible (e.g., a shoreline project is coastal-dependent and a permitted use), or (ii) not subject to the requirements of the management program (e.g., the facility is sited on excluded Federal lands), but the primary coastal zone effects do not conform to the requirements of the management program (e.g., the project as proposed would cause air or water quality violations), the Federal agency may not declare the activity to be consistent with the management program;

(4) If the siting of the project is permissible or not subject to the requirements of the management program (see Example 3), but a proposed associated, functionally dependent facility located in or primarily affecting the coastal zone is not consistent with the requirements of the management program (e.g., a proposed pipeline connection to the project does not meet erosion control performance standards), the Federal agency may not declare the project to be consistent with the management program until the necessary supporting facility is modified to conform to the requirements of the management program. If the proposed pipeline connection is redesigned to conform to erosion control requirements, or if the pipeline is replaced by an alternate, permissible transport method, the Federal agency may declare the project to be consistent with the management program;

(5) If the activity is permissible (e.g., Corps of Engineers harbor dredging) and this project creates an incentive for functionally independent residential development around the harbor area, and the onshore development will not conform to the requirements of the management program (noncoastal-dependent residential development limited by the management program), the Federal agency may nevertheless declare the primary activity to be consistent with the management program. This results because the proposed project has an independent purpose (e.g., rehabilitate the existing harbor channel to facilitate commercial (and incidental recreational) vessel traffic), and the additional onshore development demanded in response to increased recreational opportunities is neither a necessary associated facility (see Example 4) nor a justification for undertaking the dredging project. This result is not adverse since the State, through the requirements of the management program, has the authority to prohibit or control inconsistent onshore development (e.g., by restrictive zoning, by denying the issuance of State coastal permits, by objecting to the consistency of Federal permits that might be required, etc.);

(6) If the activity is not subject to the requirements of the management program (e.g., National Park Service expansion of recreation facility on excluded Federal lands) and this project creates an incentive for the development of motel and other commercial facilities in an adjacent coastal zone urban area, but the management program does not contain policies, objectives or standards controlling such urban development (e.g., not prohibited or controlled despite potential for adverse impacts), then the Federal agency may declare the primary activity to be consistent with the management program. This results because the State agency has no basis for objecting to the adverse effects since the management program does not address the issue.

(c) When Federal agency standards are more restrictive than standards or requirements contained in the State's management program, the Federal agency may continue to apply its stricter standards (e.g., restrict project development or design alternatives notwithstanding permissive management program policies). In such cases the Federal agency should inform the State agency in the consistency determination of the statutory, regulatory or other basis for the application of the stricter standards.

§ 930.41 Multiple Federal agency participation.

Whenever more than one Federal agency is involved in a Federal activity directly affecting the coastal zone, or is involved in a group of such activities related to each other because of their functional interdependence or geographic proximity, consideration should be given to the preparation of one consistency determination for all the Federal activities involved. In such cases, Federal agencies should consider joint preparation or lead agency development of the consistency determination. In either case, the consistency determination (i) must be transmitted to the State agency at least 90 days before major decisions are taken by any of the participating agencies, (ii) must indicate whether or not each of the proposed activities is consistent to the maximum extent practicable with the management program, and (iii) must include information on each proposed activity sufficient to support the consistency determination.

§ 930.42 State agency response.

(a) A State agency shall inform the Federal agency of its agreement or disagreement with the Federal agency's consistency determination at the earliest practicable time. If a final response has not been developed and issued within 45 days from receipt of the Federal agency notification, the State agency should at that time inform the Federal agency of the status of the matter and the basis for further delay. The Federal agency may presume State agency agreement if the State agency fails to provide a response within 45 days from receipt of the Federal agency notification.

(b) State agency agreement shall not be presumed in cases where the State agency, with the 45 day period, requests an extension of time to review the matter. Federal agencies shall approve one request for an extension period of 30 days or less. In considering whether a longer or additional extension period is appropriate, the Federal agency should consider the magnitude and complexity of the information contained in the consistency determination.

§ 930.43 State agency disagreement.

(a) In the event the State agency disagrees with the Federal agency's consistency determination, the State agency shall accompany its response to the Federal agency with its reasons for the disagreement and supporting information. The State agency response must describe (i) how the proposed activity will be inconsistent with specific elements of the management program, and (ii) alternative measures (if they exist) which, if adopted by the Federal agency, would allow the activity to proceed in a manner consistent to the maximum extent practicable with the management program.

(b) State agencies shall send to the Associate Administrator a copy of responses which describe disagreements with Federal agency consistency determinations.

(c) In the event of a disagreement, the Federal and State agencies should utilize the remaining portion of the 90-day notice period to attempt to resolve their differences. In cases of continuing State agency disagreement, Federal agencies are encouraged to suspend implementation of the activity beyond the 90-day period pending resolution of the disagreement.

§ 930.44 Availability of mediation for disputes concerning proposed activities.

(a) In the event of a serious disagreement between a Federal agency and a State agency regarding the consistency of a proposed Federal activity directly affecting the coastal zone, either party may request the voluntary Secretarial mediation services provided for in Subpart G.

§ 930.45 Availability of mediation for previously reviewed activities.

(a) The State agency shall request that the Federal agency take appropriate remedial action following a serious disagreement resulting from a State agency's objection to a Federal activity which was: (1) previously determined to be consistent to the maximum extent practicable with the State's management program, but which the State agency later maintains is being conducted or is having a coastal zone effect substantially different than originally proposed and, as a result, is no longer consistent to the maximum extent practicable with the State's management program, or (ii) previously determined not to be a Federal activity directly affecting the coastal zone, but which the State agency later maintains is being conducted or is having a coastal zone effect substantially different than originally proposed and, as a result, the activity directly affects the coastal zone and is not consistent to the maximum extent practicable with the State's management program.

(b) If, after a reasonable time following a request for remedial action, the State agency still maintains that a serious disagreement exists, either party may request the voluntary Secretarial mediation services provided for in Subpart G.

Subpart D—Consistency for Activities Requiring a Federal License or Permit

§ 930.50 Objectives.

The provisions of this Subpart are provided to assure that Federally licensed or permitted activities affecting the coastal zone are conducted in a manner consistent with approved management programs.

(*Comment:* Statutory citation: Subsection 307(c)(3)(A): "After final approval by the Secretary of a state's management program, any applicant for a required Federal license or permit to conduct an activity affecting land or water uses in the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed.")

§ 930.51 Federal license or permit.

The term "Federal license or permit" means any authorization, certification, approval, or other form of permission, and any removal thereof, which any Federal agency is empowered to issue to an applicant.

§ 930.52 Applicant.

The term "applicant" means any individual, public or private corporation, partnership, association, or other entity organized or existing under the laws of any State, or any State, regional, or local government, who has applied for but has not yet received a Federal license or permit to conduct an activity affecting the coastal zone. The term "applicant" does not include Federal agencies applying for Federal licenses or permits. Federal agency "activities" requiring Federal licenses or permits are subject to the consistency requirements of Subpart C.

§ 930.53 Affecting the coastal zone.

(a) The term "affecting the coastal zone" describes the coastal zone effect caused by a Federal license or permit activity which will trigger the applicant's responsibility for complying with the Federal consistency procedures of this Subpart. The criteria set forth within § 930.32 for determining whether a Federal activity "directly affects the coastal zone" apply to this determination. In addition, State agencies have the option of using a more expansive definition of "significant effect" to cover a broad range of resource, social and economic effects which are considered in the management program to be significant.

(*Comment:* If a State utilizes this term in a broad fashion, the result will be increased ability for State review of proposed Federal license and permit activities. This ability to review Federal license and permit actions should be distinguished from the issue of whether or not the proposed activity is consistent with the requirements of the management program. Concurrence with or objection to the consistency of the activity must still be related to the requirements of the management program. The benefit of an expansive application of this term is that it will assist the State in planning for and managing the significant coastal zone effects resulting from consistent Federal license and permit activities.)

§ 930.54 Management program license and permit listing.

(a) During management program development, Federal agencies should assist State agencies in identifying Federal license and permit activities affecting the coastal zone.

(b) State agencies shall develop a list of Federal license and permit activities affecting the coastal zone which the State wishes to review for consistency with the management program. The list shall be included as part of the management program, and the Federal license and permit activities shall be described in terms of the specific licenses or permits involved. In the event the State chooses to review Federal licenses and permits for activities outside of the coastal zone but likely to significantly affect the coastal zone, it must generally describe the geographic location of such activities.

(*Comment:* The location element should encompass only areas where Federal license and permit activities are likely to cause significant effects on coastal zone resources. For example, the management program could list a Federal landuse permit (e.g., Forest Service right-of-way permits for logging roads) and require review whenever such a permit is requested along riverine areas where development is likely to significantly affect downstream areas within the coastal zone. The State agency should exclude geographic areas outside of the coastal zone where Federal license and permit activities generally will have insignificant impacts on coastal zone resources both in an individual and cumulative sense.)

(c) The license and permit list may be refined by the Section 306(c)(5) State agency (see § 930.18) following consultation with the affected Federal agency and approval of additions or deletions by the Associate Administrator. The State agency shall provide copies of the list and any refinements to Federal agencies and shall make the information available to the public.

(d) No Federal license or permit on an approved list shall be issued by a Federal agency until the requirements of this Subpart have been satisfied.

§ 930.55 Unlisted Federal license and permit activities.

(a) State agencies should monitor unlisted Federal license and permit activities (e.g., by use of OMB Circular A-95 review, review of NEPA environmental impact statements, etc.) and shall immediately notify Federal agencies and applicants of unlisted activities significantly affecting the coastal zone which require State agency review. State agencies must inform the Federal agency and applicant within 45 days from notice of the license or permit application, otherwise the State agency waives its right to review the unlisted activity. Notification shall also be sent by the State agency to the Associate Administrator.

V 42167 AUG 29 77 UMI

(b) If the State agency notifies a Federal agency and applicant of an unlisted license or permit activity requiring State agency review, the Federal agency may not issue the license or permit until the requirements of this Subpart have been satisfied, unless the Associate Administrator disapproves the State agency's decision to review the activity. The Associate Administrator's approval shall be presumed if no objection is issued to the State agency by the Associate Administrator within 15 days from receipt of the notice. In the event of an objection, the Associate Administrator shall send copies to the applicant and Federal agency.

(c) Following receipt of the State agency notice and presumed approval by the Associate Administrator, the applicant shall comply with the consistency certification procedures of this Subpart. The State agency will be entitled to a 6-month review period beginning from the date of the original notice (see Subsection (a)) of the license or permit application.

§ 930.56 Pending applications.

(a) State agencies must notify Federal agencies, applicants and the Associate Administrator within 45 days of management program approval of a decision to review pending applications for listed or unlisted Federal licenses and permits, otherwise the State agency waives its right to to review such activities.

(b) If within the permitted time period the State agency notifies a Federal agency and applicant of its decision to review a pending application, the Federal agency shall not issue the license or permit until the requirements of this Subpart have been satisfied, unless the Associate Administrator disapproves the State agency's decision to review the activity. The Associate Administrator's approval or objection shall be indicated in accordance with the procedures described in § 930.55(b).

(c) Following receipt of the State agency notice and presumed approval by the Associate Administrator, the applicant shall comply with the consistency certification procedures on this Subpart. The State agency will be entitled to a 6-month review period beginning from the date of the original notice of the license or permit application, except that regardless of the notification date the State agency shall have, at a minimum, a period of review for the three months following management program approval.

(d) In instances where State agencies choose to review pending applications, they shall consider carefully the time and resources invested by the applicant prior to management program approval.

§ 930.57 Availability of mediation for license or permit disputes.

In the event of a serious disagreement between a Federal and State agency regarding whether a listed or unlisted Federal license or permit activity is subject to consistency review, either party may request the voluntary Secretarial mediation services provided for in Subpart G. The existence of a serious disagreement will not relieve the Federal agency from the responsibility for withholding approval of the license or permit application pending satisfaction of the requirements of this Subpart.

§ 930.58 State agency guidance and assistance to applicants.

As a preliminary matter, any applicant for a Federal license or permit selected for review by a State agency should obtain the views and assistance of that agency regarding the means for ensuring that the proposed activity will be conducted in a manner consistent with the State's management program. The State agency may develop requirements regarding the data and information necessary to assess the consistency of Federal license and permit activities. State agency information requirements are subject to approval by the Associate Administrator. Required data and information shall not include confidential and proprietary material.

§ 930.59 Federal license and permit activities having interstate effects.

(a) In preparing consistency certifications for a license or permit activity affecting the coastal zone of more than one State, the applicant should determine whether the requirements of the management programs are in conflict with each other with respect to the proposed activity. If such a determination is made, the applicant should notify the State agencies, the Federal agency and OCZM of such conflict at the earliest practicable time.

(b) Upon receiving notification from an applicant that a license or permit activity may be subject to conflicting requirements from more than one management program, the agencies identified in subsection (a) shall consult with each other and with the applicant in an attempt to identify alternative means for complying with the requirements of the management programs.

§ 930.60 Consistency certifications.

(a) Except in cases covered by the provisions within § 930.67 (management program equivalents for consistency review), all applicants for Federal licenses and permits subject to State agency review shall provide the Federal agency with a consistency certification along with the Federal application, and shall furnish the State agency with a copy of the consistency certification.

(b) The consistency certification shall describe whether or not the proposed activity will be conducted in a manner consistent with the State's management program and shall contain a discussion relating the coastal zone effects of the activity to the relevant elements of the management program. In developing the consistency certification, the applicant shall be guided by the examples described in § 930.40(b). Upon request of the applicant, the State agency may provide assistance for developing the consistency certification.

(c) The consistency certification shall be accompanied by a detailed description of the proposed activity and information and data sufficient to support the applicant's consistency certification. At the request of the applicant, the Federal agency or other interested parties may provide the State agency with all or part of the information required.

(d) When satisfied that adequate protection against public disclosure exists, applicants are encouraged to provide the State agency with confidential and proprietary information which the State agency maintains is necessary to make a reasoned decision on the consistency of a proposed activity. State agency requests for such information should be related to the necessity of having such information to assess adequately the coastal zone effects of the proposed activity.

§ 930.61 Multiple permit review.

(a) Applicants are encouraged to consolidate related Federal license and permit activities affecting the coastal zone for State agency review. State agencies should provide applicants with a "one-step" multiple permit review to minimize duplication of effort and to avoid unnecessary delays.

(b) A State agency objection to one or more of the license or permit activities submitted for consolidated review shall not prevent the applicant from receiving Federal agency approval for those license and permit activities found to be consistent with the management program.

§ 930.62 Commencement of State agency review.

Except as provided in §§ 930.55 and 930.56, State agency review of an applicant's consistency certification begins at the time the State agency receives a copy of the consistency certification, and information and data required pursuant to §§ 930.58 and 930.60.

§ 930.63 Public notice.

(a) Following receipt of the material decribed in § 930.62, the State agency shall ensure timely public notice of the proposed activity. At a minimum, public notice shall be provided in the immediate area of the coastal zone which is likely to be significantly affected by the proposed activity. Public notice shall be expanded in proportion to the degree of likely public interest resulting from the unique geographic area involved, the substantial commitment of or affect on coastal resources, the complexity or controversy of the proposal, or for other good cause.

(b) Public notice shall facilitate public comment by providing a summary of the proposed activity, by announcing the availability for inspection of the consistency certification and accompanying public information and data, and by requesting that comments be submitted to the State agency.

(c) A number of procedural options are available to State agencies to satisfy the public notice requirements of this Subpart. They include, but are not limited to:

(1) the State agency providing the public notice;

(2) the State agency requiring the applicant to provide the public notice; or

(3) the State agency relying upon the public notice provided by the Federal agency reviewing the application for the Federal license or permit (e.g., A–95 public notices, notice of availability of NEPA environmental impact statements) if such notice satisfies the minimum requirements set forth in subsections (a) and (d) above.

(d) Federal and State agencies are encouraged to issue joint public notices whenever possible to minimize duplication of effort and to avoid unnecessary delays.

§ 930.64 Public hearings.

(a) At the discretion of the State agency, public notice may include the announcement of one or more public hearings. Public hearings shall be scheduled with a view towards (1) allowing access to the consistency certification and accompanying public information within a reasonable time prior to the hearing, (2) facilitating broad public attendance and participation at the hearing, and (3) affording the applicant expeditious consideration of the proposed activity.

(b) Federal and State agencies are encouraged to hold joint public hearings in the event both agencies determine that a hearing on the action is necessary.

§ 930.65 State agency concurrence with a consistency certification.

(a) At the earliest practicable time, the State agency shall notify the Federal agency and the applicant whether the State agency concurs with or objects to a consistency certification. Concurrence by the State agency shall be conclusively presumed in the absence of a State agency objection within six months following commencement of State agency review.

(b) State agencies should restrict the period of public notice, receipt of comments, hearing proceedings and final decision-making to the minimum time necessary to inform the public, obtain sufficient comment, and develop a reasonable decision on the matter. If the State agency has not issued a decision within three months following commencement of State agency review, it shall notify the applicant and the Federal agency of the status of the matter and the basis for further delay.

(c) If the State agency issues a concurrence or is conclusively presumed to concur with the applicant's consistency certification, the Federal agency may approve the Federal license or permit application. Notwithstanding State agency concurrence with a consistency certification, the Federal permitting agency may deny approval of the Federal license or permit application.

§ 930.66 State agency objection to a consistency certification.

(a) If the State agency objects to the applicant's consistency certification within six mointh following commencement of review, it shall notify the applicant and Federal agency of the objection.

(b) State agency objections must describe (i) how the proposed activity is inconsistent with specific elements of the management program, and (ii) alternative measures (if they exist) which, if adopted by the applicant, would permit the proposed activity to be conducted in a manner consistent with the management program.

(c) During the period when the State agency is reviewing the consistency certification, the applicant and the State agency should attempt to agree upon conditions which, if met by the applicant, would permit State agency concurrence. The parties should also consult with the Federal agency responsible for approving the Federal license or permit to ensure that proposed conditions satisfy Federal as well as State management program requirements.

(d) A State agency objection may be based upon a determination that the applicant has failed to supply the information required pursuant to §§ 930.59 and 930.60. If the State agency objects on the grounds of insufficient information, the objection must describe the nature of the information requested and the necessity of having such information to determine the consistency of the activity with the management program. If necessary existing information is being withheld by the applicant, the parties should attempt to agree upon conditions which would permit submission of such information (e.g., State agency protection of confidential information from public disclosure). If sufficient information is simply not available at the time of State agency review, the parties should attempt to agree upon conditions for monitoring the activity, and for providing the State agency with furher information as it becomes available. In these special cases, the State agency may conditionally concur and reserve the right to object and compel modifications, or withdraw its concurrence if monitoring disloses that the activity is not consisent with the management program.

(e) A State agency objection shall include a statement informing the applicant of a right of appeal to the Secretary on the grounds described in Subpart H, and the State agency shall send a copy of the objection to the Associate Administrator.

§ 930.67 Management program equivalents for consistency review.

(a) A State agency may include within the management program equivalent procedures to satisfy the consistency review procedures of this Subpart. Any equivalent procedure adopted by a State agency must satisfy the public notice requirements of this Subpart. In addition, the State reviewing agency, regardless of the equivalent procedure used, must clearly indicate in writing to the applicant and the Federal agency that its affirmative or negative decision constitutes the equivalent of a concurrence with or objection to a consistency certification for the proposed Federal license or permit activity.

(b) Equivalent consistency review procedures may include, but are not limited to:

(1) Applicant receipt of State or local government permits which are required in addition to the Federal license or permit is declared to be the equivalent of receiving State agency concurrence with a consistency certification. In this instance the Federal agency could issue the Federal license or permit following the applicant's receipt of the State or local government permit;

(2) State review and approval of a Federal permit in accordance with review requirements of a Federal law other than the Act is declared to be the equivalent of receiving State agency concurrence with a consistency certification. For example, State certification of a Federal permit pursuant to the requirements of Section 401 of the Federal Water Pollution Control Act, as amended (FWPCA), could also serve as the State agency's procedure for declaring the consistency of the Federal permit so long as the review considered all management program requirements including those related to the FWPCA;

(3) Federal licenses and permits subject to a State agency "general concurrence" are declared to have received consistency certification approval. If a State agency wishes to avoid repeated review of and concurrence with consistency certifications required for minor Federally permitted activities which cumulatively cause substantial adverse effects on the coastal zone, the State agency, after developing conditions allowing concurrence for such activities, may issue a general public notice and general concurrence permitting similar minor work in the same geographic area to proceed without prior State agency review. In such cases, the State agency must notify the appropriate Federal agency that license or permit activities satisfying the conditions set forth in the general concurrence are consistent with the management program and do not require submission of a consistency certification.

§ 930.68 Federal permitting agency responsibility.

Following receipt of a State agency objection to a consistency certification or an objection under an equivalent procedure describe in the management program, the Federal agency shall not issue the Federal license or permit except as provided in Subpart H.

§ 930.69 Availability of mediation for previously reviewed activities.

(a) The State agency shall request that the Federal agency take appropriate remedial action following a serious disagreement resulting from a State agency objection to a Federally licensed or permitted activity which was: (i) Previously determined to be consistent with the State's management program, but which the State agency later maintains is being conducted or is having coastal zone effects substantially different than originally proposed and, as a result, is

V 42 167 AUG 29 77 UMI

no longer consistent with the State's management program; or (ii) previously determined not to be an activity affecting the coastal zone, but which the State agency later maintains is being conducted or is having coastal effects substantially different than originally proposed and, as a result, the activity affects the coastal zone in a manner inconsistent with the State's management program.

(b) If, after a reasonable time following a request for remedial action, the State agency still maintains that a serious disagreement exists with the Federal agency, either party may seek the voluntary Secretarial mediation services provided for in Subpart G.

Subpart E—Consistency for Outer Continental Shelf (OCS) Exploration Development and Production Activities

§ 930.70 Objectives.

The provisions of this Subpart are provided to assure that all Federal license and permit activities described in detail in OCS plans and which affect the coastal zone are conducted in a manner consistent with approved coastal zone management programs.

(*Comment:* Statutory citation: Subsection 307(c)(3)(B):

"After the management program of any coastal state has been approved by the Secretary under Section 306, any person who submits to the Secretary of the Interior any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331, 3t seq.) and regulations under such Act shall, with respect to any exploration, development, or production described in such plan and affecting any land use or water use in the coastal zone of such state, attach to such plan a certification that each activity which is described in detail in such plan complies with such state's approved management program and will be carried out in a manner consistent with such program. No Federal official or agency shall grant such person any license or permit for any activity described in detail in such plan until such state or its designated agency receives a copy of such certification and plan together with any other necessary data and information, and until:

(i) Such state or its designated agency, in accordance with the procedures required to be established by such state pursuant to subparagraph (A), concurs with such person's certification and notifies the Secretary and the Secretary of the Interior of such concurrence; or

(ii) Concurrence by such state with such certification is conclusively presumed, as provided for in subparagraph (A); * * *

"If a state concurs or is conclusively presumed to concur, * * *, the provisions of subparagraph (A) are not applicable with respect to such person, such state, and any Federal license or permit which is required to conduct any activity affecting land uses or water uses in the coastal zone of such state which is described in detail in the plan to which such concurrence * * * applies. If such state objects to such certification, * * * or if such person fails substantially to comply with such plan, as submitted, such person shall submit an amendment to such plan, or a new plan, to the Secretary of the Interior. With respect to any amendment or new plan submitted to the Secretary of the Interior pursuant to the preceding sentence, the applicable time period for purposes of concurrence by conclusive presumption under subparagraph (A) is 3 months.")

§ 930.71 Federal license or permit activity described in detail.

The term "Federal license or permit activity described in detail" means any activity requiring a Federal license or permit, as defined in § 930.51, which the Secretary of the Interior determines must be described in detail within an OCS plan.

§ 930.72 Person.

The term "person" means any individual, corporation, partnership, association, or other entity organized or existing under the laws of any State, the Federal government, any State, regional, or local government, or any entity of such Federal, State, regional or local government, who submits to the Secretary of the Interior, following management program approval, an OCS plan which describes in detail Federal license or permit activities.

§ 930.73 Affecting the coastal zone.

The term "affecting the coastal zone" describes the coastal zone effect caused by a Federal license or permit activity described in detail within an OCS plan which will trigger the person's responsibility for complying with the Federal consistency procedures of this Subpart. The criteria referenced and described within § 930.53 apply to this determination.

§ 930.74 OCS plan.

The term "OCS plan" means any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1331 et seq.), and the regulations under that Act, which is submitted to the Secretary of the Interior following management program approval and which describes in detail license or permit activities.

§ 930.75 OCS activities subject to State agency review.

(a) State agencies may include, pursuant to § 930.54, Federal license and permit activities described in detail in OCS plans on the management program list of Federal license and permit activities affecting the coastal zone which are subject to State agency consistency review.

(b) State agencies may monitor, pursuant to § 930.55, unlisted Federal license and permit activities described in detail OCS plans to identify and select individual cases where State agency consistency review is required.

§ 930.76 State agency assistance to persons.

As a preliminary matter, any person intending to submit to the Secretary of the Interior an OCS plan which describes in detail Federal license or permit activities selected for review by a State agency should obtain the views and assistance of that agency regarding the means for ensuring that such activities will be conducted in a manner consistent with the State's management program.

§ 930.77 Submission of an OCS plan and consistency certification.

Any person submitting to the Secretary of the Interior any OCS plan shall:

(a) Identify all Federal license and permit activities described in detail in the plan which are subject to State agency review;

(b) Provide the Secretary of the Interior with a consistency certification along with the OCS plan, and shall furnish the State agency a copy of the OCS plan (excluding proprietary information) and consistency certification. The consistency certification shall describe whether or not each of the proposed activities described in paragraph (1) will be conducted in a manner consistent with the State's management program and shall contain a discussion relating the coastal zone effects of each activity to the relevant elements of the management program. Upon request by the person, the developing the consistency certification;

(c) Accompany the consistency certification with data and information sufficient to (i) support the person's consistency determinaton and (ii) permit the State agency to plan for and manage coastal zone impacts caused by OCS activities. Such data and information shall include, but not be limited to, the material specified in Appendix A for exporation plans, and the material specified in Appendix B for development plans. At the request of the person, the Secretary of the Interior or other interested parties may provide the State agency with all or part of this information.

§ 930.78 Commencement of State agency review; public notice.

(a) Except as provided in § 930.55, State agency review of the person's consistency certification begins at the time the State agency receives a copy of the OCS plan, consistency certification, and required supporting data and information.

(b) Following receipt of the material described in subsection (a), the State agency shall ensure timely public notice of the proposed activities in accordance with the directives within §§ 930.63–930.64.

§ 930.79 State agency concurrence or objection.

(a) The State agency shall concur with or object to the person's consistency certification in accordance with the directives within §§ 930.65–930.66.

(b) If a State agency issues a concurrence for a person's consistency certification, the State agency shall notify both the Secretary of Commerce and the Secretary of the Interior of such concurrence.

(c) If a State agency objects to one or more of the Federal license or permit activities described in the consistency certification, it must provide a separate discussion for each objection in accordance with the directives within § 930.66 (b) and (d).

§ 930.80 Effect of State agency concurrence.

(a) If a State agency issues a concurrence or is conclusively presumed to concur with the person's consistency certification, the person will not be required to submit additional consistency certifications for State agency review at the time Federal applications are actually filed for the Federal licenses and permits to which such concurrence applies.

§ 930.81 Federal permitting agency responsibility.

Following receipt of a State agency objection to a consistency certification related to Federal license or permit activties described in detail in an OCS plan, the Federal agency shall not issue any of such licenses or permits except as provided in Subpart H.

§ 930.82 Multiple permit review.

(a) A person submitting a consistency certification for Federal license or permit activities described in detail in an OCS plan is strongly encouraged to work with other Federal agencies in an effort to include, for consolidated State agency review, consistency certifications and supporting data and information applicable to OCS-related Federal license and permit activities affecting the coastal zone which are subject to State agency consistency review (e.g., Corps of Engineer permits for the placement of structures on the OCS and for dredging and the transportation of dredged material, Environmental Protection Agency air and water quality permits for offshore operations and onshore support and processing facilities, etc.). In the event the person does not consolidate such OCS-related activities with the State agency's review of the OCS plan, such activities will be subject to individual State agency review under the requirements of Subpart D.

(*Comment:* Persons are encouraged to consolidate permits for State agency review as this process can (1) minimize the delay in the review and approval of both OCS plan and OCS-related Federal licenses and permits, (ii) provide the State agency with comprehensive information on all aspects of OCS operations, thereby assisting the State in planning for and managing these activities, and (iii) provide the person with added certainty regarding the manner in which all OCS operations may proceed consistent with the management program.)

(b) A State agency objection to one or more of the OCS-related Federal license or permit activities submitted for consolidated review shall not prevent the person from receiving Federal agency approval (i) for those OCS-related license or permit activities found by the State agency to be consistent with the management program, and (ii) for the license and permit activities described in detail in the OCS plan provided the State agency concurs with the consistency certification for such plan. Similarly, a State agency objection to the consistency certification for an OCS plan shall not prevent the person from receiving Federal agency approval for those OCS-related license or permit activities determined by the State agency to be consistent with the management program.

§ 930.83 Amended or new OCS plans.

If the State agency objects to the person's OCS plan consistency certification, and if, pursuant to Subpart H, the Secretary does not determine that each of the objected to Federal license or permit activities described in detail in such plan is consistent with the objectives or purposes of the Act, or is necessary in the interest of national security, the person shall submit an amended or new plan to the Secretary of the Interior and to the State agency along with a consistency certification and data and information necessary to support the new consistency determination. The data and information shall specifically describe modifications made to the original OCS plan, and the manner in which such modifications will ensure that all of the proposed Federal license or permit activities described in detail in the amended or new plan will be conducted in a manner consistent with the State's management program.

§ 930.84 Review of amended or new OCS plans; public notice.

(a) After receipt of a copy of the amended or new OCS plan, consistency certification, and accompanying data and information, State agency review shall begin.

(b) Following receipt of the material described in subsection (a), the State agency shall ensure timely public notice of the proposed activities in accordance with the directives within §§ 930.63–930.64.

(c) The State agency shall concur with or object to the person's consistency certification in accordance with the directives within § 930.79, except that the applicable time period for purposes of concurrence by conclusive presumption shall be three months instead of six months.

(d) If the State agency issues a concurrence or is conclusively presumed to concur with the person's new consistency certification, the person will not be required to submit additional consistency certifications for State agency review at the time Federal applications are actually filed for the Federal licenses and permits to which such concurrence applies.

§ 930.85 Continuing State agency objections.

If the State agency objects to the consistency certification for an amended or new OCS plan, the prohibition in § 930.81 against Federal agency approval of licenses or permits for activities described in detail in such a plan applies, further Secretarial review pursuant to Subpart H may take place, and the development of an additional amended or new OCS plan and consistency certification may be required pursuant to §§ 930.83–930.84.

§ 930.86 Failure to comply substantially with an approved OCS plan.

(a) If a State agency claims that a person is failing substantially to comply with an approved OCS plan subject to the requirements of this Subpart, and such failure allegedly involves the conduct of activities affecting the coastal zone in a manner that is not consistent with the approved management program, the State agency shall transmit its claim to the U.S. Geological Survey supervisor for the area involved. Such claim should include (i) a description of the specific activity involved and the alleged lack of compliance with the OCS plan, and (ii) a request for appropriate remedial action. A copy of the claim shall be sent to the Associate Administrator.

(b) If, after a reasonable time following a request for remedial action, the State agency still maintains that the person is failing to comply substantially with the OCS plan, the Governor or Section 306(c)(5) State agency (see § 930.18) may file a written objection with the Secretary. If the Secretary finds that the person is failing to comply substantially with the OCS plan, the person shall submit an amended or new OCS plan along with a consistency certification and supporting information to the Secretary of the Interior and to the State agency. Following such a finding by the Secretary, the person shall comply with the originally approved OSC plan pending approval of the amended or new OCS plan. The directives within §§ 930.83–930.85 shall apply to further State agency review of the consistency certification for the amended or new plan.

(c) A person shall be found to have failed substantially to comply with an approved OCS plan if the State agency claims and the Secretary finds that one or more of the activities described in detail in the OCS plan which affects the coastal zone are being conducted or are having a coastal zone effect substantially different than originally described by the person in the plan or accompanying information and, as a result, the activities are no longer being conducted in a manner consistent with the State's management program. The Secretary may make a finding that a person has failed substantially to comply with an approved OCS plan only after providing a reasonable opportunity for the person and the Secretary of the Interior to review the State agency's objection and to submit comments for the Secretary's consideration.

Subpart F—Consistency for Federal Assistance to State and Local Governments

§ 930.90 Objectives.

The provisions of this Subpart are provided to assure that Federal assistance to State and local governments for projects affecting the coastal zone is granted only when such activities are consistent with approved coastal zone managements programs.

(*Comment:* Statutory citation: Section 307(d):

"State and local governments submitting applications for Federal assistance under

V 42 167 AUG 29 77 UMI

other Federal programs affecting the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098) [which provides authority for the Office of Management and Budget Circular A-95 (41 FR 2052 (1976))]. Federal agencies shall not approve proposed projects that are inconsistent with a coastal state's management program • • •."

Although the Coastal Energy Impact Program (CEIP) under Section 308 of the Act is not a form of Federal assistance under an "other Federal" program, it will be the policy of OCZM to subject the CEIP to the consistency requirements of this Subpart.)

§ 930.91 Federal assistance.

The term "Federal assistance" means assistance provided under a Federal program to an applicant agency through grant or contractual arrangements, loans, subsidies, guarantees, insurance, or other form of financial aid.

§ 930.92 Applicant agency.

The term "applicant agency" means any unit of State or local government, or any related public entity such as a special purpose district, which intends to apply for, or which has applied for but has not yet received, Federal assistance.

§ 930.93 Affecting the coastal zone.

The term "affecting the coastal zone" describes the effect caused by a Federal assistance project which will trigger the applicant agency's responsibility for complying with the Federal consistency procedures of this Subpart. The criteria referenced and described in § 930.53 apply to this determination.

§ 930.94 OMB A-95 process.

The term "OMB A-95 process" describes the project notification and review procedures set forth in the Office of Management and Budget Circular A-95 for the evaluation, review and coordination of Federally assisted programs (41 FR 2052 (1976)).

§ 930.95 Federal assistance geographic provision in the management program.

(a) The State agency shall develop a Federal assistance provision within the management program generally describing the geographic area (e.g., within the coastal zone, within coastal counties, etc.) where Federal assistance projects will be deemed to affect the coastal zone. The provision may be refined by the Section 306(c)(5) State agency (see § 930.18) following approval by the Associate Administrator.

(*Comment:* State agencies are encouraged to include within the management program a listing of specific types of Federal assistance programs subject to consistency review. Such a listing, and any refinements, will require prior 306(c)(5) State agency consultation with affected Federal agencies and approval by the Associate Administrator.)

(b) The State agency shall provide copies of the Federal assistance provision, and any refinements, to Federal agencies, units of State or local government empowered to undertake Federally assisted projects within the described geographic area, and to the A-95 State and areawide clearinghouses.

§ 930.96 OMB A-95 project notification and review.

(a) Pursuant to the OMB A-95 process, an applicant agency shall notify the appropriate State and areawide clearinghouses of its intent to apply for Federal assistance for a project located in the described geographic area.

(b) The applicant agency shall utilize the OMB A-95 process for every major funding phase of the Federal assistance project entailing substantial modifications to previously reviewed phases (e.g., planning and design).

(c) The clearinghouses shall ensure that the State agency is afforded an opportunity to review a notification for a project located in the described geographic area to determine whether the project is consistent with the management program.

§ 930.97 Consistency review.

(a) If pursuant to the OMB A-95 process the State agency does not object to the proposed project, the Federal agency may grant the Federal assistance to the applicant agency. Notwithstanding State agency consistency approval for the proposed project, the Federal agency may deny assistance to the applicant agency.

(b) If pursuant to the OMB A-95 process, the State agency objects to the proposed project, the clearinghouse shall notify the applicant agency and the Federal agency of the objection.

(c) State agency objections must describe (i) how the proposed project is inconsistent with specific elements of the management program, and (ii) alternative measures (if they exist) which, if adopted by the applicant agency, would permit the proposed project to be conducted in a manner consistent with the management program.

(d) State agency objections shall include a statement informing the applicant agency of a right of appeal to the Secretary on the grounds described in Subpart H, and a copy of the objection shall be sent to the Associate Administrator.

§ 930.98 Federal assisting agency responsibility.

Following receipt of a State agency objection, the Federal agency shall not approve assistance for the project except as provided in Subpart H.

§ 930.99 Federally assisted projects outside of the described geographic area.

(a) State agencies should monitor proposed Federal assistance projects outside of the described geographic area (e.g., by use of the OMB A-95 process, review of NEPA environmental impact statements, etc.) and shall immediately notify applicant agencies, Federal agencies, and the appropriate clearinghouse of proposed projects significantly affecting the coastal zone which the State agency is reviewing for consistency with the management program. Notification shall also be sent by the State agency to the Associate Administrator. State agencies must inform the clearinghouse and other parties of objections within the time period permitted under the OMB A-95 process, otherwise the State agency waives its right to object to the proposed project.

(b) If within the permitted time period the State agency notifies the Federal agency of its objection to a proposed Federally assisted project, the Federal agency shall not provide assistance to the applicant agency except as provided in Subpart H, unless the Associate Administrator disapproves the State agency's decision to review the project. The Associate Adminstrator's approval shall be presumed if no objection is issued to the State agency by the Associate Administrator within 15 days from receipt of notice. In the event of an objection, the Associated Administrator shall send copies to the applicant agency and Federal agency.

§ 930.100 Pending applications.

(a) State agencies must notify Federal agencies, applicant agencies, State and areawide clearinghouses and the Associate Administrator within 45 days of management program approval of objections to pending applications for proposed Federal assistance projects affecting the coastal zone, otherwise the State agency waives its right to object to such projects.

(b) If within the permitted time period the State agency notifies a Federal agency of its objection to a proposed Federally assisted project, the Federal agency shall not provide assistance to the applicant agency except as provided in Subpart H, unless the Associate Administrator disapproves the State agency's decision to review the project. The Associate Administrator's approval or objection shall be indicated in accordance with the procedures described in § 930.99 (b).

(c) In instances where State agencies choose to review pending applications, they shall consider carefully the time and resources invested by the applicant agency prior to management program approval.

§ 930.101 Availability of mediation for Federal assistance disputes.

In the event of a serious disagreement between a Federal and State agency regarding whether a Federal assistance project is subject to consistency review, either party may request the voluntary Secretarial mediation services provided for in Subpart G. The existence of a serious disagreement will not relieve the Federal agency from the responsibility for withholding Federal assistance for the project pending satisfaction of the requirements of this Subpart.

§ 930.102 Availability of mediation for previously reviewed projects.

(a) The State agency shall request that the Federal agency take appropriate remedial action following a serious disagreement resulting from a State agency objection to a Federally assisted project which was: (i) Previously determined to be consistent with the State's management program, but which the State agency later maintains is being conducted or is having a coastal zone effect substantially different than originally proposed and, as a result, is no longer consistent with the State management program, or (ii) previously determined not to be a project affecting the coastal zone, but which the State agency later maintains is being conducted or is having a coastal zone effect substantially different that originally proposed and, as a result the project affects the coastal zone in a manner inconsisten with the State's management program.

(b) If, after a reasonable time following a request for remedial action, the State agency still maintains that a serious disagreement exists with the Federal agency, either party may seek the voluntary Secretarial mediation services provided for in Subpart G.

Subpart G—Secretarial Mediation

§ 930.110 Objectives.

The purpose of this Subpart is to describe mediation procedures which Federal and State agencies may use to attempt to resolve serious disagreements which arise during the administration of approved management programs.

(*Comment:* Statutory citation: Section 307(h):

"In case of serious disagreement between any Federal agency and coastal state • • •

(2) in the administration of management program approved under Section 306; the Secretary, with the cooperation of the Executive Office of the President, shall seek to mediate the differences involved in such disagreement. The process of such mediation shall, with respect to any disagreement described in paragraph (2), include public hearings which shall be conducted in the local area concerned.")

§ 930.111 Informal negotiations.

The availability of mediation does not preclude use by the parties of alternative means for resolving their disagreement. In the event a serious disagreement arises, the parties are strongly encouraged to make every effort to resolve the disagreement informally. OCZM shall be available to assist the parties in these efforts.

§ 930.112 Request for mediation.

(a) The Secretary or other head of a Federal agency, or the Governor or the Section 306(c)(5) State agency (see § 930.18), may notify the Secretary in writing of the existence of a serious disagreement, and may request that the Secretary seek to mediate the serious disagreement. A copy of the written request must be sent to the agency with which the requesting agency disagrees, and to the Associate Administrator.

(b) Within 15 days following receipt of a request for mediation the disagreeing agency shall transmit a written response to the Secretary, and to the agency requesting mediation, indicating whether it wishes to participate in the mediation process. The Secretary will not provide mediation assistance unless all parties to the serious disagreement agree to participate.

§ 930.113 Public hearings.

(a) If the parties agree to the mediation process, the Secretary shall appoint a hearing officer who shall schedule a hearing in the local area concerned. The hearing officer shall give the parties at least 30 days notice of the time and place set for the hearing and shall provide timely public notice of the hearing.

(b) At the time public notice is provided, the Federal and State agencies shall provide the public with convenient access to public data and information related to the serious disagreement.

(c) Hearings shall be informal and shall be conducted by the hearing officer with the objective of securing in a timely fashion information related to the disagreement. The Federal and State agencies, as well as other interested parties, may offer information at the hearing subject to the hearing officer's supervision as to the extent and manner of presentation. Unduly repetitious or irrelevant information may be excluded at the discretion of the hearing officer. Hearings will be recorded and the hearing officer shall provide transcripts to the Federal and State agency parties. The public may inspect and copy the transcripts provided to these agencies.

§ 930.114 Secretarial mediation efforts.

(a) Following the close of the hearing, the hearing officer shall transmit the hearing record to the Secretary. Upon receipt of the hearing record, the Secretary shall schedule a mediation conference to be attended by representatives from the Office of the Secretary, and the disagreeing Federal and State agencies. The Secretary shall provide the parties at least 10 days notice of the time and place set for the mediation conference.

(b) Secretarial mediation efforts shall last only so long as the parties agree to participate. The Secretary shall confer with the Executive Office of the President, as necessary, during the mediation process.

§ 930.115 Termination of mediation.

Mediation shall terminate (i) at any time the parties agree to a resolution of the serious disagreement, (ii) if one of the parties withdraws from mediation, (iii) in the event the parties fail to reach a resolution of the serious disagreement within 15 days following Secretarial conference efforts, and the parties do not agree to extend mediation beyond that period, or (vi) for other good cause.

§ 930.116 Judicial review.

The availability of the voluntary mediation services provided in this Subpart is not intended expressly or implicitly to limit the parties' use of alternate forums to resolve disputes. Specifically, judicial review where otherwise available by law may be sought by any party to a serious disagreement without first having exhausted the mediation process provided for in this Subpart.

Subpart H—Secretarial Review Related to the Objectives or Purposes of the Act and National Security Interests

§ 930.120 Objectives.

The provisions of this Subpart provide procedures by which the Secretary may find that a Federal license or permit activity, or a Federal assistance project, which is inconsistent with a management program, may be Federally approved because the activity is consistent with the objectives or purposes of the Act, or is necessary in the interest of national security.

(*Comment:* Statutory citations: Subsection 307(c)(3)(A):

"No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with objectives of this title or is otherwise necessary in the interest of national security."

Subsection 307(c)(3)(B):

"No Federal official or agency shall grant such person any license or permit for any activity described in detail in such [OCS] plan until such state or its designated agency receives a copy of such certification and plan, together with any other necessary data and information, and until—

(i) the State agency concurs;

(ii) the State agency is conclusively presumed to concur; or

(iii) the Secretary finds, pursuant to subparagraph (A), that each activity which is described in detail in such plan is consistent with the objectives of this title or is otherwise necessary in the interest of national security."

Section 307(d):

"Federal agencies shall not approve proposed projects that are inconsistent with a coastal state's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security."

§ 930.121 Consistent with the objectives or purposes of the Act.

The term "consistent with the objectives or purposes of the Act" describes a Federal license or permit activity, or a Federal assistance project which, although inconsistent with a State's management program, is found by the Secretary to be permissible because:

(a) The activity furthers one or more of the competing national objectives or purposes contained in Sections 302 or 303 of the Act,

(b) When performed separately or when its cumulative effect is considered, it will not cause an adverse impact on the coastal zone substantial enough to outweight its contribution to the national interest,

(c) The activity will not violate any requirements of the Clean Air Act or the Federal Water Pollution Control Act, and

V 42 167 AUG 29 77 UMI

(d) There is no reasonable alternative available which would permit the activity to be conducted in a manner consistent with the management program.

§ 930.122 Necessary in the interest of national security.

The term "necessary in the interest of national security" describes a Federal license or permit activity, or a Federal assistance project which, although inconsistent with a State's management program, is found by the Secretary to be permissible because a national defense or other national security interest would be seriously threatened if the activity were not permitted to go forward as proposed. Secretarial review of national security issues shall be aided by information submitted by the Department of Defense or other interested Federal agencies. The views of such agencies, while not binding, shall be given considerable weight by the Secretary. The Secretary will seek information to determine whether the objected to activity directly supports national defense or other essential national security objectives.

§ 930.123 Appellant.

The term "appellant" refers to an applicant, person or applicant agency submitting an appeal to the Secretary pursuant to the provisions of this Subpart.

§ 930.124 Informal discussions.

In the event the State agency informs the applicant, person or applicant agency that it intends to object to the proposed activity, the parties should consult informally to determine whether the proposed activity should nevertheless be approved by the State agency because it is consistent with the objectives or purposes of the Act, or is necessary in the interest of national security. The parties are encouraged to attempt to resolve the matter in a manner which avoids the necessity of appealing the issue to the Secretary. OCZM shall be available to assist the parties in these discussions.

§ 930.125 Appeals to the Secretary.

(a) An appellant may file a notice of appeal with the Secretary within 30 days of the appellant's receipt of a State agency objection. The notice of appeal shall be accompanied by a statement in support of the appellant's position, along with supporting data and information. The appeallant shall send a copy of the notice of appeal and accompanying documents to the Federal and State agencies involved.

(b) No extension of time will be permitted for the filing of a notice of appeal.

(c) The Secretary may approve a reasonable request for an extension of time to submit supporting information so long as the request is filed with the Secretary within the 30-day period. Normally, the Secretary shall limit an extension period to 15 days.

§ 930.126 Federal and State agency responses to appeals.

(a) Upon receipt of the notice of appeal and supporting information, the Federal and State agencies shall have 30 days to submit detailed comments to the Secretary. Copies of such comments shall be sent to the appellant and other agency within the same time period.

(b) Requests for extensions may be made pursuant to § 930.125(c).

§ 930.127 Public notice; receipt of comments.

(a) Upon receipt of the notice of appeal, the Secretary shall provide timely public notice of the appeal. At a minimum, public notice shall be provided in the immediate area of the coastal zone which is likely to be significantly affected by the proposed activity. At the time public notice is provided, the Federal and State agencies shall provide the public with convenient access to copies of the appellant's notice of appeal and accompanying public information, and to the public information in the agencies' detailed comments.

(b) Interested persons may submit comments to the Secretary within 30 days from the date of public notice, with copies provided to the appellant and to the Federal and State agencies within the same time period.

(c) Requests for extensions may be made pursuant to § 930.125(c).

§ 930.128 Dismissal of appeals.

The Secretary may dismiss an appeal for good cause. Good cause shall include, but is not limited to:

(a) Failure of the appellant to submit a notice of appeal within the required 30-day period;

(b) Failure of the appellant to submit the supporting information within the required period or approved extension period;

(c) Secretarial receipt of a detailed comment from the Federal agency stating that the agency will not approve the Federal license, permit or assistance even if the Secretary determines that the activity is permissible; and

(d) Failure of the appellant to base the appeal on grounds that the proposed activity either (i) is consistent with the objectives or purposes of the Act or (ii) is necessary in the interest of national security.

§ 930.129 Public hearings.

The Secretary may order a hearing independently or in response to a request. If a hearing is ordered by the Secretary it shall be guided by the procedures described within § 930.113.

§ 930.130 Secretarial review.

(a) In reviewing an appeal, the Secretary shall find that a proposed Federal license or permit activity, or a Federal assistance project, is consistent with the objectives or purposes of the Act, or is necessary in the interest of national security, when a preponderance of the information submitted supports this conclusion.

(b) The Secretary shall make all reasonable efforts to complete consideration of an appeal within 90 days from the date of public notice.

(c) Following consideration of the appeal, the Secretary shall issue a decision in writing to the appellant and to the Federal and State agencies indicating whether the proposed activity is consistent with the objectives or purposes of the Act, or is necessary in the interest of national security; the decision shall include the basis for such finding. The Secretary shall provide public notice of the decision.

(d) The decision of the Secretary shall constitute final agency action for the purposes of the Administrative Procedure Act.

§ 930.131 Federal agency responsibility.

(a) If the Secretary finds that the proposed activity is consistent with the objectives or purposes of the Act, or is necessary in the interest of national security, the Federal agency may approve the activity.

(b) If the Secretary does not make either of these findings, the Federal agency shall not approve the activity.

§ 930.132 Secretarial review in the absence of an appeal.

(a) In the absence of an appeal the Secretary may choose to consider whether a Federal license or permit activity, or a Federal assistance project, is consistent with the objectives or purposes of the Act, or is necessary in the interest of national security. If the Secretary decides to initiate independent review, notification shall be sent to the applicant, person or applicant agency, and to the Federal and State agencies, with a request for submission of detailed comments within 30 days from receipt of the notification. Copies of comments shall be exchanged among the parties.

(b) Requests for extensions may be made pursuant to § 930.125(c).

§ 930.133 Public notice; receipt of comments; public hearings.

(a) Upon receipt of detailed comments from the parties, the Secretary shall provide public notice and request comments in accordance with the provisions in § 930.127.

(b) The Secretary may order a hearing in accordance with the provisions in § 930.129.

§ 930.134 Secretarial review; Federal agency responsibility.

(a) Secretarial review shall be undertaken in accordance with the provisions in § 930.130.

(b) Federal agencies are responsible for adhering to the provisions in § 930.131 when deciding to approve or deny an application for an activity objected to by a State agency and independently reviewed by the Secretary.

Subpart I—Associate Administrator Reporting of Federal Actions Which Are Not Consistent With Approved Management Programs

§ 930.140 Objectives.

The provisions of this Subpart provide procedures (i) to permit interested parties to notify the Associate Administrator of any Federal activities including

development projects, Federal license or permit activities, or Federal assistance projects which are believed to be inconsistent with an approved management program, and (ii) for the reporting of any such actions found by the Associate Administrator to be inconsistent with such programs.

(*Comment:* Statutory citation: Subsection 316(a)(5):

"The Secretary shall prepare and submit to the President for transmittal to the Congress * * * a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 307, are not consistent with an applicable approved state management program * * *." The reporting responsibility under Section 316 of the Act has been delegated by the Secretary to the Associate Administrator for Coastal Zone Management.)

§ 930.141 Notification to the Associate Administrator.

(a) Interested parties are invited to submit to the Associate Administrator detailed comments related to the alleged inconsistency of Federal activities including development projects, Federal license or permit activities, and Federal assistance projects which are subject to the requirements of this Part. Copies of such comments should be sent to relevant Federal and State agencies, and to the applicant, person or applicant agency as appropriate.

(b) Comments need not conform to any particular form, but should be specific, substantive and factual, and should describe how the Federal action is or would be inconsistent with an approved management program.

(c) Commentators are encouraged to recommend modifications or alternatives to the existing or proposed action which would enable it to be consistent with the management program.

(d) The Associate Administrator shall assure that public information within such comments is made available for public inspection.

§ 930.142 Associate Administrator reporting.

After considering the views of interested parties, the relevant Federal agency, State agency, and the applicant, person or applicant agency, as appropriate, the Associate Administrator shall determine whether the Federal action will be included in the annual report listing of inconsistent Federal actions.

§ 930.143 Associate Administrator advisory statements.

Upon request, the Associate Administrator may issue an advisory statement prior to the issuance of the annual report indicating whether a Federal action will be listed within the annual report as being inconsistent with an approved management program.

APPENDIX A—INFORMATION TO BE SUBMITTED WITH AN OCS EXPLORATION PLAN

At the time of submission to the Secretary of the Interior of an OCS exploration plan which describes in detail Federal license or permit activities affecting the coastal zone of a State with an approved management program, the person must submit to the State agency a consistency certification accompanied by the nonproprietary information set forth below. This information, as well as the information described in Appendix B, is required in order to permit the State agency to (i) assess the consistency of the proposed activities and (ii) plan for and manage coastal zone effects caused by OCS activities.

It is recognized that the person may not be in possession of a significant amount of information relative to the proposed activities at the pre-exploration stage. Subject to this limitation, the person shall submit to the State agency all current and available information respecting the items decribed below unless the State agency informs the person that any part or all of such information will not be required. In addition, the person shall provide the State agency with updated nonproprietary information whenever in the course of exploration operations on the OCS leased area, or in conducting supporting operations nearshore or onshore, the person discovers new information or proposes major modifications significantly different than described in information earlier submitted to the State agency. At a minimum, the person shall consult with the State agency on a semiannual basis to inform the State agency of issued OCS Federal permits and licenses and to discuss new information and modifications to determine their significance in terms of likely effects upon coastal zone resources.

When satisfied that adequate protection against public disclosure exists, the person is encouraged, but not required, to provide the State agency with information which, pursuant to regulations promulgated by the Secretary of the Interior, is considered to be confidential or privileged. State agency requests for such information should be related to the necessity of having such information to assess adequately the coastal zone effects of the proposed activities. In making such requests, the State agency should consult with the appropriate field office of the U.S. Geological Survey.

The person shall provide the State agency with the following information to the extent that it was not previously supplied to the State agency:

(1) A description of the affected ocean area, including a general description of water depth, currents, water quality, submarine geology, weather patterns, and ambient air quality;

(2) With the greatest possible accuracy, the approximate number and locations of wells to be drilled;

(3) The estimated start-up date for the first well and the approximate completion date for the last well;

(4) A description of exploratory rigs, structures and associated equipment used offshore, describing their location and major features including those features pertaining to safety and to pollution prevention and control;

(5) A description of drilling procedures including the anticipated mud programs, blowout prevention and related well control equipment, and types of drilling fluids;

(6) A description of environmentally sensitive or hazardous areas discovered and a description of the alternatives considered and the actions to be taken to preserve or assure safety for such areas. Areas shall include, but are not limited to, those of cultural, biological (e.g., fisheries), archeological, or geological (e.g., seismic) significance;

(7) A description of procedures, personnel, and equipment for preventing, reporting, and cleaning up spills of oil or waste materials, including information on response time, capacity and location for equipment;

(8) A description of the affected onshore area including a description of the location, size and number of onshore support and storage facilities and their land requirements, including related rights-of-way and easements; a timetable describing when land areas are to be acquired and when facilities are to be acquired, constructed or expanded;

(9) The number of persons expected to be employed in support of offshore, onshore and transportation activities, the approximate number of local personnel who will be employed in such capacity indicating the major skills, services and crafts required, and the approximate number of new employees likely to move into the affected coastal area indicating an estimate of the resulting demand for housing, public services and public facilities; this information shall be broken down on a year-by-year basis and shall be described with regard to likely geographic impact;

(10) A description of the most likely travel routes for boat and aircraft traffic between offshore and onshore facilities, the frequency such routes will be traversed, on a monthly basis, and the probable onshore location of terminals;

(11) A description of the quantity and composition of air, liquid and solid waste pollutants likely to be generated by offshore, onshore and transport operations, and a description of treatment and disposal alternatives considered and actions to be taken to limit pollution effects;

(12) An estimate of any significant demand for major supplies, equipment, goods, services, water, aggregate, energy or other resources within coastal areas of the State, and a description of the types of major suppliers and contractors required to satisfy this demand; and

(13) The name, address and telephone number of an individual employee of the person to whom inquiries by the State agency may be made.

APPENDIX B—INFORMATION TO BE SUBMITTED WITH AN OCS DEVELOPMENT PLAN

At the time of submission to the Secretary of the Interior of an OCS development plan which describes in detail Federal license or permit activities affecting the coastal zone of a State with an approved management program, the person must submit to the State agency a consistency certification accompanied by the nonproprietary information and data set forth below unless the State agency informs the person that any part or all of such information will not be required. Submission of updated nonproprietary information and State agency consultation are required in accordance with the directives in Appendix A. In addition, the person is encouraged, but not required, to submit to the State agency the confidential and privileged information referenced in Appendix A.

The person shall provide the State agency with the following information to the extent that it was not previously supplied to the State agency:

(1) All nonproprietary information required by sections 1, 2, 3, 5, 6, 7, 10, 11, 12 and 13 in Appendix A as it relates to development/production operations, refined in more detail by new information developed during the exploration/discovery phase and by up-dated information developed during the development/production phase;

(2) A description of offshore development/production platforms, structures and associated equipment to be placed, constructed, expanded or more fully utilized, describing their location and major features including those features pertaining to safety and to pollution prevention and control; a descrip-

V 42 167 AUG 29 77 UMI

tion of offshore operations including any measures for offshore storage of oil and gas resources;

(3) The estimated timing and sequence of development/production operations, including: (i) the projected type and quantity of anticipated production, (ii) the anticipated timing and sequence for offshore and onshore development with an estimate of changing rates in production levels, and (iii) the likely timing for completion of production and abandonment activities;

(4) The alternatives considered and the means chosen to transport oil and gas to shore, the reasons for choosing the transport method, the routes such transportation will follow, and the estimated quantity of oil and gas moving along such routes; if pipeline transport is to be used, a description of pipeline protection and safety features, and mitigation measures designed to reduce interference with competing offshore and nearshore operations;

(5) A description of the location, design, number and size of onshore facilities to be placed, constructed, expanded or more fully utilized as a result of development, production, processing and disposition operations, including a description of staging areas, crew and supply bases, assembly plants, initial oil and gas processing facilities, storage depots, tank farms, refinery complexes, pipelines, and tanker facilities; the description shall include an estimate of the land required within coastal areas for such facilities, including acreage requirements for rights-of-way and easements; and

(6) The labor requirements for the support of offshore, onshore and transportation activities which shall include an estimate of (i) the approximate number of persons who will be employed in support of such activities, (ii) the approximate number of local personnel who will be directly or indirectly employed in support of such activities, disaggregated with an estimate of direct and indirect employment, with an indication of major skills, services, and crafts required, (iii) the approximate number of new employees who are likely to move to the affected coastal area, and an estimate of resulting demand for housing, public services and public facilities. This information shall be broken down on a year-by-year basis and shall be described with regard to likely geographic impact.

[FR Doc.77-24839 Filed 8-26-77;8:45 am]

federal register

MONDAY, AUGUST 29, 1977

PART VI



DEPARTMENT OF TRANSPORTATION

St. Lawrence Seaway Development Corporation

■

TARIFF OF TOLLS

Public Hearing on Proposed Revision

V42167A AUG 29 77 UMI

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corp.

TARIFF OF TOLLS

Public Hearing on Proposed Revision

The Saint Lawrence Seaway Development Corporation, after discussions with representatives of the Government of Canada, proposes to revise the tariff of tolls which the Corporation establishes and administers jointly with the St Lawrence Seaway Authority of Canada for the use of the St. Lawrence Seaway. The proposed action would expand the number of categories into which all cargo is classified and upon which tolls are assessed from two to six; reestablish commodity tolls on the all-Canadian Welland Canal section of the St. Lawrence Seaway and eliminate the present lockage [illegible]

COMMENTS INVITED

Persons or organizations who do not desire to be heard or will be unable to be heard or wish to supplement statements made at the hearings may present views or data on the subject matter of the hearings by filing written comments (in two legible copies) with the Corporation on or before October 31, 1977. If the hearings are continued to a date later than October 19, 1977, the date by which written comments may be filed will be extended to 10 days after the close of hearings.

The Corporation particularly urges the submission of comments relative to any negative affects the proposed action may have on the movement of waterborne commerce via the Seaway.

It is requested that data provided include total transportation costs for movements of cargo via the St. Lawrence Seaway and should result [illegible]

the 1970 navigation season; and that all vessels would have the option to calculate gross registered tons according to either Canadian or United States rules of measurement.

THE PROPOSAL

The subject matter of the presently scheduled hearings will be the rates of charges for transit of the Seaway under the Schedule to the St. Lawrence Seaway Tariff of Tolls. The Corporation and the Authority have agreed, for the purpose of the hearing, to propose a revision of the charges in the Tolls Schedule which will be subject thereafter to joint review to determine the extent to which the proposal will form the basis of recommendations to the Governments of the United States and Canada. To the extent that such recommendations are adopted by the Governments, they will become effective at the [illegible] of the

V 4216

tion of offshore operations including any measures for offshore storage of oil and gas resources;

(3) The estimated timing and sequence of development production operations, including: (i) the projected type and quantity of anticipated production, (ii) the anticipated timing and sequence for offshore and onshore development with an estimate of changing rates in production levels, and (iii) the likely timing for completion of production and abandonment activities;

(4) The alternatives considered and the means chosen to transport oil and gas to shore, the reasons for choosing the transport method, the routes such transportation will follow, and the estimated quantity of oil and gas moving along such routes; if pipeline transport is to be used, a description of pipeline protection and safety features, and mitigation measures designed to reduce interference with competing offshore and nearshore operations;

(5) A description of the location, design, number and size of onshore facilities to be placed, constructed, expanded or more fully utilized as a result of development, production, processing and disposition operations, including a description of staging areas, crew and supply bases, assembly plants, initial oil and gas processing facilities, storage depots, tank farms, refinery complexes, pipelines, and tanker facilities; the description shall include an estimate of the land required within coastal areas for such facilities, including acreage requirements for rights-of-way and easements; and

(6) The labor requirements for the support of offshore, onshore and transportation activities which shall include an estimate of (i) the approximate number of persons who will be employed in support of such activities, (ii) the approximate number of local personnel who will be directly or indirectly employed in support of such activities, disaggregated with an estimate of direct and indirect employment, with an indication of major skills, services, and crafts required, (iii) the approximate number of new employees who are likely to move to the affected coastal area, and an estimate of resulting demand for housing, public services and public facilities. This information shall be broken down on a year-by-year basis and shall be described with regard to likely geographic impact.

[FR Doc.77 24839 Filed 8 26 77.8 45 am.]

federal register

MONDAY, AUGUST 29, 1977

PART VI



DEPARTMENT OF TRANSPORTATION

St. Lawrence Seaway Development Corporation

■

TARIFF OF TOLLS

Public Hearing on Proposed Revision

V42167A AUG 29 77 UMI

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corp.

TARIFF OF TOLLS

Public Hearing on Proposed Revision

The Saint Lawrence Seaway Development Corporation, after discussions with representatives of the Government of Canada, proposes to revise the tariff of tolls which the Corporation establishes and administers jointly with the St. Lawrence Seaway Authority of Canada for the use of the St. Lawrence Seaway. The proposed action would expand the number of categories into which all cargo is classified and upon which tolls are assessed from two to six; reestablish commodity tolls on the all-Canadian Welland Canal section of the St. Lawrence Seaway and eliminate the present lockage charges on that section; provide for the assessment of tolls on the basis of metric tons (1000 kilograms, 2204.62 pounds) rather than short tons (2000 pounds); and increase the level of tolls.

Toll increases are necessary to meet increased costs in both countries. As a result of inflation since 1959, operating expenses have increased to the point where revenues are no longer adequate to meet the costs of the Seaway entities.

The U.S. Seaway Corporation expects to recover about $11 million per year as its new 29-percent share of revenues on the Montreal-Lake Ontario section. This recovery is expected to permit the Corporation to continue to meet its operations, maintenance and most of the other current expenses which are required by statute to be paid from charges on vessels and cargoes moving through the Corporation's facilities.

The Corporation will hold public hearings on the rates of tolls in Room 301, 800 Independence Avenue, S.W., Washington, D.C. on October 13, 1977, and in the Auditorium, 31st Floor, Federal Building, 1240 East 9th Street, Cleveland, Ohio on October 19, 1977. Both hearings will begin at 10:00 a.m. EDT and run until concluded, subject to adjournment from day to day or otherwise at the discretion of the Administrator. Oral presentations at both hearings will be limited to 15 minutes. Persons or organizations desiring to present testimony at the hearing shall submit to the Corporation on or before October 6, 1977, a written notice of their intent to appear.

Notices of appearance, views, data and supplementary statements may be submitted to the Saint Lawrence Seaway Development Corporation, 800 Independence Avenue, S.W., Washington, D.C. 20591 (Attention: Director, Office of Systems and Economic Analysis).

COMMENTS INVITED

Persons or organizations who do not desire to be heard or will be unable to be heard or wish to supplement statements made at the hearings may present views or data on the subject matter of the hearings by filing written comments (in two legible copies) with the Corporation on or before October 31, 1977. If the hearings are continued to a date later than October 19, 1977, the date by which written comments may be filed will be extended to 10 days after the close of hearings.

The Corporation particularly urges the submission of comments relative to any negative affects the proposed action may have on the movement of waterborne commerce via the Seaway.

It is requested that data provided include total transportation costs for movements of cargo via the St. Lawrence Seaway and should detail individually all pertinent components thereof including all inland freight costs (rail, truck or water), terminal or elevator charges and handling costs, ocean freight costs, and other significant transportation costs. It would be helpful if each analysis also detailed similar transportation costs by alternative routes in order that the potential for diversion can be adequately evaluated.

BACKGROUND

Pursuant to the authority contained in Section 12(a) of Public Law 358, 83rd Congress, approved May 13, 1954 (33 USC 988), the Corporation and the St. Lawrence Seaway Authority of Canada, on January 29, 1959, promulgated an agreement to levy tolls on vessels and cargo for use of the St. Lawrence Seaway. That agreement stipulated that the Seaway entities would subsequently review the Tariff and report to their respective Governments on the sufficiency of the tolls to meet statutory requirements no later than July 1, 1964. After the joint review of the first five Seaway navigation seasons, the toll review period was extended for two years by further agreement. Following public hearings in both Canada and the United States in May and June 1966, respectively, the Seaway entities filed reports to their Governments and subsequently agreed that the existing tolls schedule for the Montreal-Lake Ontario section of the St. Lawrence Seaway be continued unchanged; that the division of tolls received from operation of the Montreal-Lake Ontario section would be 73 percent to the Authority and 27 percent to the Corporation; that a lockage fee of $100 per lock, phased in over five (5) years, be instituted on the Welland Canal; that the sufficiency and division of tolls would be reviewed at the end of the 1970 navigation season; and that all vessels would have the option to calculate gross registered tons according to either Canadian or United States rules of measurement.

THE PROPOSAL

The subject matter of the presently scheduled hearings will be the rates of charges for transit of the Seaway under the Schedule to the St. Lawrence Seaway Tariff of Tolls. The Corporation and the Authority have agreed, for the purpose of the hearing, to propose a revision of the charges in the Tolls Schedule, which will be subject thereafter to joint review to determine the extent to which the proposal will form the basis of recommendations to the Governments of the United States and Canada. To the extent that such recommendations are adopted by the Governments, they will become effective at the opening of the 1978 navigation season.

Under the proposed action the corresponding toll charges per short ton (2,000 pound) for full transit of both the Montreal-Lake Ontario and Welland Canal sections of the Seaway would be: Bulk Cargo, 90¢; General Cargo, $1.95; Grain (a new classification, formerly charged as bulk cargo), 65¢; Containers (a new classification, formerly charged as general cargo), 90¢; and Government aid cargoes (a new classification, including cargoes which were formerly charged at both rates), 65¢. The existing lockage charge of $100 per vessel per each of the eight locks on the Welland Canal would be eliminated. A charge totaling 7¢ per gross registered ton would be assessed on vessels transiting each section of the Seaway.

DRAFTING INFORMATION

The principal authors of this document are Robert J. Lewis, Director, Office of Systems and Economic Analysis, and Robert D. Kraft, Deputy General Counsel.

FURTHER INFORMATION

Detailed information regarding the proposed revision to the St. Lawrence Seaway Tariff of Tolls may be acquired from the Corporation by contacting Mr. Lewis, at 202/426-2884 or Mr. Kraft at 202/426-3574.

NOTE.—The Saint Lawrence Seaway Development Corporation has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on August 24, 1977.

D. W. OBERLIN,
Administrator.

[FR Doc.77-24952 Filed 8-26-77;8:45 am]

V 42167 AUG 29 77 UMI

V42167 AUG 29 77 UMI



would you like to know

if any changes have been made in certain titles of the CODE OF FEDERAL REGULATIONS without reading the Federal Register every day? If so, you may wish to subscribe to the "Cumulative List of CFR Sections Affected," the "Federal Register Index," or both.

Cumulative List of CFR Sections Affected
$10.00
per year

The "Cumulative List of CFR Sections Affected" is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register, and is issued monthly in cumulative form. Entries indicate the nature of the changes.

Federal Register Index **$8.00**
per year

Indexes covering the contents of the daily Federal Register are issued monthly, quarterly, and annually. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

Note to FR Subscribers: FR Indexes and the "Cumulative List of CFR Sections Affected" will continue to be mailed free of charge to regular FR subscribers.

Mail order form to:
Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

There is enclosed $ _____ for _____ subscription(s) to the publications checked below:

_____ CUMULATIVE LIST OF CFR SECTIONS AFFECTED ($10.00 a year domestic; $12.50 foreign)

_____ FEDERAL REGISTER INDEX ($8.00 a year domestic; $10.00 foreign)

Name _____

Street Address _____

City _____ State _____ ZIP _____

Make check payable to the Superintendent of Documents

☆ GPO: 1977 O-58 000

V 42 167 AUG 29 77 UMI

168

Vol.42—No.168
8–30–77
PAGES
43615–43793

federal register

TUESDAY, AUGUST 30, 1977

highlights

NOTICE TO FEDERAL AGENCIES
Beginning October 1, 1977, Federal agencies must reimburse the Government Printing Office (GPO) for the cost of printing documents in the *Federal Register* and Code of *Federal Regulations*..... 43561

SUNSHINE ACT MEETINGS..... 43690

WOMEN'S EQUALITY DAY
Presidential proclamation..... 43615

ENDANGERED SPECIES
Endangered Species Scientific Authority publishes preliminary findings concerning export of Bobcat, Lynx, River Otter, and American Ginseng; comments by 10–31–77 (Part III of this issue)..... 43729

POSTAL SERVICE FEES
PS proposes to regulate charges for nonpostal services; comments by 9–29–77..... 43647

GRANTS TO STATES
HEW/HDO publishes allotments under the Social Security Act for Fiscal Year 1979..... 43670

RURAL ELECTRIC PROGRAM
USDA/REA proposes to revise bulletin on depreciation rates and procedures; comments by 9–16–77..... 43640

CAPITAL CONSTRUCTION FUND
Commerce/MA updates sample documents used in administration of program; effective 8–30–77..... 43632

VOLUNTARY CONSUMER PRODUCT INFORMATION LABELING PROGRAM
Commerce/Secy proposes to suspend fees and charges for participation; comments by 9–29–77..... 43641

PROCUREMENT FROM THE HANDICAPPED
Committee for purchase from the Blind and other Severely Handicapped proposes to add wall clocks to 1977 procurement list; comments by 9–30–77..... 43659

PUBLIC WORKS AND ECONOMIC DEVELOPMENT
Commerce/EDA changes certain procurement standards for State and local governments and sets forth procurement standards for nonprofit organizations (2 documents); effective 8–18–77; comments by 9–29–77..... 43618

CONTINUED INSIDE

V42 168 AUG 30 77 UMI

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202–523–5240.**

FEDERAL REGISTER, Daily Issue:	
Subscription orders (GPO)	**202**–783–3238
Subscription problems (GPO)	**202**–275–3050
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	**202**–523–5022
Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227

PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235
PUBLIC LAWS:	
Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

HOUSING CONTRACT APPEALS
HUD/Secy establishes Board, and prescribes jurisdiction, authority, and procedures; effective 9–29–77 43622

HISTORIC PLACES NATIONAL REGISTER
Interior/NPS notification of pending nominations; comments by 9–9–77 43675

ANIMAL FEED
HEW/FDA proposes to delete provisions on penicillin and announces opportunity for hearing on proposal approving withdrawal of application for all penicillin-containing premixes (2 documents); comments by 9–29–77 (Part IV of this issue) 43770, 43772

MALIC, AND ACONITIC ACID
HEW/FDA proposes to affirm GRAS status; comments by 10–31–77 (2 documents) 43642, 43644

COAL MINE HEALTH NOISE STANDARD
HEW/CDC announces public hearing on 9–29–77 on proposal regarding use of noise dosimeters for determining noise exposure in coal mines 43646

PHYSICIAN ASSISTANTS
HEW/PHS publishes interim requirements for training programs; comments by 10–31–77 43630

TREASURY NOTES OF SERIES T–1979
Treasury/Secy announces interest rates 43687

IMPORTED WOOL, HAIR, AND BRISTLES
USDA/APHIS proposes to delete certain restrictions; comments by 9–29–77 43640

CANNED PEAS
HEW/FDA extends comment period to 11–8–77 on proposed amendments to standards of identity, quality, and fill of container 43641

MEETINGS—
Administrative Conference of the United States: Committee on Rulemaking and Economic Regulation, 9–15–77 43651
CSC: Administrative Law Judge Advisory Committee, 9–23–77 43656
Commerce/NOAA: Caribbean Fishery Management Council and its Scientific and Statistical Committee, 9–20 thru 9–22–77 43658
New England Fishery Management Council's Scientific and Statistical Committee, 11–15 and 12–20–77 and 1–17–78 43658
DOD/AF: Scientific Advisory Board, Committee on Wide Area Munitions, 9–29 and 9–30–77 43659
HEW/ADAMHA: Drug Abuse Demonstration Review Committee, 9–19 thru 9–21–77 43667
NIH: Artificial Kidney-Chronic Uremia Advisory Committee, 10–11 and 10–12–77 43668
National Advisory Allergy and Infectious Disease Council, 10—12 thru 10–14–77 43669
National Advisory Council on Aging, 10–12 thru 10–14–77 43669
National Cancer Institute, Advisory Committees for month of 10–77 43669
Research Manpower Review Committee, 10–6–77 43670
PHS: Coal Mine Research Advisory Committee, 9–30–77 43671
OE: Financial Aid to Students Advisory Council, 9–27 and 9–28–77 43670
Interior/NPS: Midwest Regional Advisory Commission, 9–29 and 9–30–77 43675
National Parks, Historic Sites, Buildings, and Monuments Advisory Board, 9–22 thru 10–1–77 43675
NFAH/NEA: Music Advisory Panel, 9–14 thru 9–16–77 43686
Special Projects Advisory Panel, 9–17 and 9–18–77 43687
VA: Geriatric Research, Education, and Clinical Centers Advisory Committee, 9–15 and 9–16–77 43688

V42168 AUG 30 77 UMI

Voluntary Service National Advisory Committee, 10–26 thru 10–28–77 43688

CANCELLED MEETING—
DOD/AF: Scientific Advisory Board, Committee on the EF–111A, 9–20 and 9–21–77 43659

CANCELLED HEARING—
DOD/Secy: Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), 9–8 and 9–9–77 43659
Justice/LEAA: Juvenile Justice and Delinquency Prevention Advisory Committee, 8–31 thru 9–2–77 43684

CHANGED MEETINGS—
DOD/AF: Scientific Advisory Board, Committee on Cruise Missile Technology, 9–22–77 43659
HEW/NIH: Concensus Committee for Breast Cancer Screening; 9–14 thru 9–16–77 43670
National Arthritis Advisory Board, 9–7–77 43669

SEPARATE PARTS OF THIS ISSUE
Part II, HUD/FIA 43717
Part III, Endangered Species Scientific Authority 43729
Part IV, HEW/FDA 43769

contents

THE PRESIDENT

Proclamations
Special observances:
Women's Equality Day 43615

EXECUTIVE AGENCIES

ADMINISTRATIVE CONFERENCE OF UNITED STATES
Notices
Meetings:
Rulemaking and Economic Regulation Committee 43651

AGRICULTURAL MARKETING SERVICE
Proposed Rules
Grapes (Tokay) grown in Calif. ... 43639
Lemons grown in Ariz. and Calif. .. 43639
Olives grown in Calif. 43640

AGRICULTURE DEPARTMENT
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Farmers Home Administration; Rural Electrification Administration.

AIR FORCE DEPARTMENT
Notices
Meetings:
Scientific Advisory Board (3 documents) 43659

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION
Notices
Meetings:
Advisory Committees; September 43667

ANIMAL AND PLANT HEALTH INSPECTION SERVICE
Rules
Viruses, serums, toxins, etc.:
Chicken embryo inoculation test 43617
Fowl laryngotracheitis vaccine; CFR correction 43617
Proposed Rules
Animal and poultry import restrictions:
Animal byproducts and materials; wool, hair and bristles .. 43640

ARTS AND HUMANITIES, NATIONAL FOUNDATION
Notices
Meetings:
Music Advisory Panel 43686
Special Projects Advisory Panel .. 43687

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM
Notices
Procurement list, 1977; additions and deletions 43659

CIVIL AERONAUTICS BOARD
Rules
Accounts and reports for air freight forwarders and international air freight forwarders; uniform system:
Form 244, Schedules T–4, T–5, and T–6, eliminated 43619
Charters:
Cooperative shippers associations and air freight forwarders; correction 43620
Policy statements:
Air freight forwarders; long-haul motor carriers or rail carriers, application processing; correction 43620
Notices
Hearings, etc.:
International Air Transport Association (2 documents) 43652, 43653
Jugoslovenski Aerotransport ... 43654

CIVIL SERVICE COMMISSION
Rules
Excepted service:
State Department 43617
Notices
Meetings:
Administrative Law Judges Advisory Committee 43656
Noncareer executive assignments:
Commerce Department 43657
Community Services Administration (2 documents) 43657
Health, Education, and Welfare Department (3 documents) .. 43657
Interior Department (2 documents) 43657
Labor Department 43657
Navy Department 43657

COMMERCE DEPARTMENT
See also Economic Development Administration; Foreign-Trade Zones Board, Maritime Administration; National Oceanic and Atmospheric Administration.
Proposed Rules
Consumer product information labeling program, voluntary:
Participation; suspension of fees and charges 43641

DEFENSE DEPARTMENT
See also Air Force Department.
Notices
Civilian Health and Medical Program of Uniformed Services (CHAMPUS); hearing; correction 43659

DISEASE CONTROL CENTER
Proposed Rules
Coal mine health and safety:
Noise standards; integrating sound level meters (dosimeters) use; hearing 43646

DRUG ENFORCEMENT ADMINISTRATION
Notices
Registration applications, etc.; controlled substances:
Drug Abuse Institute, National .. 43683
Lilly, Eli, & Co 43684

ECONOMIC DEVELOPMENT ADMINISTRATION
Rules
Financial assistance requirements:
Nonprofit organizations, procurement standards 43618
Public works and development facilities program:
State and local governments, procurement standards 43618

EDUCATION OFFICE
Notices
Applications and proposals, closing dates:
Guidance and counseling services in elementary and secondary schools; grants; correction 43670
Meetings:
Financial Aid to Students Advisory Council 43670

EMPLOYMENT AND TRAINING ADMINISTRATION
Notices
Environmental statements: availability, etc.:
Job Corps center, Benton Air Force Base, Pa 43684
Job Corps center, Fremont Junior High School, Calif. 43685
Job Corps center, Turner Air Force Base, Ga 43685

ENDANGERED SPECIES SCIENTIFIC AUTHORITY
Notices
Export findings, preliminary:
Bobcat, lynx, river otter, and American ginseng 43729

ENVIRONMENTAL PROTECTION AGENCY
Notices
Pesticide registration:
Nitrosamines; correction 43660

FARMERS HOME ADMINISTRATION
Notices
Disaster and emergency areas:
Missouri 43651
Texas 43651

FEDERAL COMMUNICATIONS COMMISSION
Rules
Experimental broadcast services:
Type accepted equipment use; effective dates deferred 43635
FM broadcast stations; table of assignments:
Georgia 43635
Proposed Rules
Maritime services, land and shipboard stations:
Vessel Traffic Services radio protection areas; alleviation of frequency congestion 43649
Notices
Domestic public radio services; applications accepted for filing .. 43662
Hearings, etc.:
Klein, Alexander S., Jr., et al .. 43660

FEDERAL ELECTION COMMISSION
Notices
Advisory opinion requests 43664

FEDERAL ENERGY ADMINISTRATION
Notices
Environmental statements; availability, etc.:
Transco Gas Transmission Co. et al 43664

FEDERAL INSURANCE ADMINISTRATION
Proposed Rules
Flood Insurance Program, National:
Flood elevation determinations, etc. (18 documents) 43717

FEDERAL MARITIME COMMISSION
Notices
Casualty and nonperformance, certificates:
Companhia de Navegacao (2 documents) 43665
Agreements filed, etc.:
North Atlantic Continental Freight Conference 43665

FEDERAL RESERVE SYSTEM
Notices
Applications, etc.:
Allied Bancshares, Inc. (5 documents) 43665, 43666
First Guthrie Bancshares, Inc. 43666
Kremmling Holding Co 43667

FISH AND WILDLIFE SERVICE
Rules
Hunting:
Seney National Wildlife Refuge, Mich. (2 documents) .. 43637, 43638
Notices
Endangered and threatened species permits; applications 43673

FOOD AND DRUG ADMINISTRATION
Rules
Color additives:
B-carotene; effective date confirmed 43620
Carmine; effective date confirmed 43620
Food additives:
Styrene block polymers 43621
Proposed Rules
Animal drugs, feeds, and related products:
Penicillin in animal feeds 43770
GRAS or prior-sanctioned ingredients:
Aconitic acid 43642
Malic acid 43644
Peas, canned; identity, quality, and fill of container standards; extension of time 43641
Notices
Animal drugs:
Penicillin-containing premixes; hearing 43772
Committees; establishment, renewals, etc.:
Topical Analgesics Review Panel; consumer interests nonvoting representative, nominations 43668
GRAS status, petitions:
Glucose isomerase enzyme 43668

FOREIGN-TRADE ZONES BOARD
Notices
Foreign-trade zone applications:
Galveston, Tex 43657

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
See Alcohol, Drug Abuse, and Mental Health Administration; Education Office; Food and Drug Administration; Human Development Services Office; National Institutes of Health; Public Health Service; Social Security Administration.

HEARINGS AND APPEALS OFFICE, INTERIOR DEPARTMENT
Notices
Applications, etc.:
Bailey Mining Co 43676
Blue Diamond Mining, Inc. (2 documents) 43676, 43677
Clinchfield Coal Co 43677
Conrad Coal Co 43677
Coal Resources Corp 43678
Island Creek Coal Co. (4 documents) 43678, 43679
Johnson Mining Co 43680
K R & K Coal Co 43680
L & K Coal Co 43681
Little Hackney Creek Coal Co ... 43681
Orchard Coal Co 43681
Pontiki Coal Corp 43682
Ranger Fuel Corp 43682
S & N Coal Co 43682

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
See also Federal Insurance Administration.
Rules
Contract appeals 43622

HUMAN DEVELOPMENT SERVICES OFFICE
Notices
Social services; Federal allotments to States; 1979 fiscal year 43670

INTERIOR DEPARTMENT
See also Fish and Wildlife Service; Hearings and Appeals Office; Land Management Bureau; Mining Enforcement and Safety Administration; National Park Service; Reclamation Bureau.
Proposed Rules
Procurement; Indian preference in employment, training, and subcontracting 43647
Notices
Geothermal resources research and development operations; unleased lands under Interior Department jurisdiction 43683

INTERSTATE COMMERCE COMMISSION
Rules
Motor carriers and practice rules:
Freight and passenger tariffs and schedules; household goods; correction 43637
Railroad car service orders; various companies:
North Stratford Railroad Corp. 43637
Notices
Fourth section applications for relief 43688
Hearing assignments 43688
Petitions filing:
Norfolk & Western Railroad Co. et al 43689

JUSTICE DEPARTMENT
See Drug Enforcement Administration; Law Enforcement Assistance Administration.

V42168 AUG 30 77 UMI

LABOR DEPARTMENT

See also Employment and Training Administration; Occupational Safety and Health Administration; Pension and Welfare Benefit Programs Office; Wage and Hour Division.

Rules

Farm labor contractor registration:
Certificates of registration and employee identification cards, issuance by States ---- 43626

LAND MANAGEMENT BUREAU

Notices

Applications, etc.:
Wyoming (2 documents) - 43672, 43673
Authority delegations:
Utah State Office; Management Services Division, Records and Data Management Branch Chief ---- 43672
Environmental statements; availability, etc.:
Outer Continental Shelf; North Atlantic States; oil and gas leasing ---- 43672

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Notices

Meetings:
Juvenile Justice and Delinquency Prevention National Advisory Committee; canceled ---- 43684

MARITIME ADMINISTRATION

Rules

Capital construction fund ---- 43632

MINING ENFORCEMENT AND SAFETY ADMINISTRATION

Proposed Rules

Coal mine health and safety:
Noise standards; integrating sound level meters (dosimeters) use; hearing; cross reference ---- 43647

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notices

Patent licenses, foreign exclusive:
Japan Engineering Development Co ---- 43686

NATIONAL INSTITUTES OF HEALTH

Notices

Meetings:
Aging National Advisory Council ---- 43669
Allergy and Infectious Diseases National Advisory Council ---- 43669
Arthritis National Advisory Board; correction ---- 43669
Artificial Kidney-Chronic Uremia Advisory Committee ---- 43668
Breast Cancer Screening Concensus Committee; correction ---- 43670
Cancer Panel, President's et al - 43669
Research Manpower Review Committee ---- 43670

NATIONAL MEDIATION BOARD

Rules

Freedom of information ---- 43627

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Notices

Meetings:
Caribbean Fishery Management Council ---- 43658
New England Fishery Management Council ---- 43658

NATIONAL PARK SERVICE

Notices

Historic Places National Register; additions, deletions, etc ---- 43675
Meetings:
Midwest Regional Advisory Commission ---- 43675
National Parks, Historic Sites, Buildings and Monuments Advisory Board ---- 43675

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Rules

State plans for enforcement of standards:
Puerto Rico ---- 43628

PANAMA CANAL

Notices

Environmental statements; availability, etc.:
White amur fish, introduction to control submerged aquatic macrophyte ---- 43687

PENSION AND WELFARE BENEFIT PROGRAMS OFFICE

Rules

Reporting and disclosure requirements; correction ---- 43630

POSTAL SERVICE

Proposed Rules

Organization and administration:
Government agencies, Federal and State; reasonable fees and charges for nonpostal services performed ---- 43647

PUBLIC HEALTH SERVICE

See also Disease Control Center.

Rules

Grants:
Health research facilities construction, etc.; physician assistants training programs ---- 43630

Notices

Meetings:
Coal Mine Health Research Advisory Committee ---- 43671

RECLAMATION BUREAU

Notices

Environmental statements; availability, etc.:
Coronado Project, Ariz ---- 43683

RURAL ELECTRIFICATION ADMINISTRATION

Proposed Rules

Electric borrowers; depreciation rates and procedures; Bulletin 183-1 revision ---- 43640

SOCIAL SECURITY ADMINISTRATION

Notices

Authority delegations:
Sensitive Inquiries Division et al.; determinations of rights of individuals to benefits ---- 43671

TREASURY DEPARTMENT

Notices

Boycotts, international:
Guidelines; effective dates revised ---- 43687
Notes, Treasury:
T-1979 ---- 43687

VETERANS ADMINISTRATION

Notices

Meetings:
Geriatric Research, Education and Clinical Centers Advisory Committee ---- 43688
Voluntary Service National Advisory Committee ---- 43688

WAGE AND HOUR DIVISION

Notices

Learners, certificates authorizing employment at special minimum wages ---- 43686

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR

PROCLAMATIONS:
4515 ---- 43615

5 CFR

213 ---- 43617

7 CFR

PROPOSED RULES:
910 ---- 43639
926 ---- 43639
932 ---- 43640
1701 ---- 43640

9 CFR

113 (2 documents) ---- 43617

PROPOSED RULES:
95 ---- 43640

13 CFR

305 ---- 43618
309 ---- 43618

14 CFR

244 ---- 43619
296 ---- 43620
399 ---- 43620

15 CFR

PROPOSED RULES:
16 ---- 43641

21 CFR

73 (2 documents) ---- 43620
81 (2 documents) ---- 43620
177 ---- 43621

PROPOSED RULES:
155 ---- 43641
182 (2 documents) ---- 43642-43644
184 (2 documents) ---- 43642-43644
505 ---- 43770
510 ---- 43770
558 ---- 43770

24 CFR

20 ---- 43622

PROPOSED RULES:
1917 (18 documents) ---- 43718-43727

29 CFR

40 ---- 43626
1208 ---- 43627
1952 ---- 43628
2520 ---- 43630

30 CFR

PROPOSED RULES:
70 (2 documents) ---- 43646, 43647
71 (2 documents) ---- 43646, 43647

39 CFR

PROPOSED RULES:
259 ---- 43647

41 CFR

PROPOSED RULES:
14-1 ---- 43647
14-7 ---- 43647

42 CFR

57 ---- 43630

46 CFR

390 ---- 43632

47 CFR

73 ---- 43635
74 ---- 43635

PROPOSED RULES:
2 ---- 43649
81 ---- 43649
83 ---- 43649

49 CFR

1033 ---- 43637
1100 ---- 43637
1307 ---- 43637

50 CFR

32 (2 documents) ---- 43637, 43638

V 42168 AUG 30 77 UMI

CUMULATIVE LIST OF PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR

Ch. I 38891

3 CFR

EXECUTIVE ORDERS:

11126 (Amended by EO 12007) 42839
11221 (See EO 12007) 42839
11472 (Amended by EO 12007) 42839
11514 (See EO 12007 42839
11583 (Amended by EO 12007) 42839
11625 (Amended by EO 12007) 42839
11948 (Superseded in part by EO 12007) 42839
11962 (Revoked by EO 12007) 42839
12006 39081
12007 42839
12008 43373

MEMORANDUMS:

January 2, 1973 (Amended by Memorandum of August 1, 1977) 40169
April 26, 1973 (See Memorandum of August 1, 1977) 40169
December 13, 1973 (See Memorandum of August 1, 1977) 40169
October 29, 1974 (See Memorandum of August 1, 1977) 40169
May 20, 1975 (See Memorandum of August 1, 1977) 40169
August 5, 1975 (See Memorandum of August 1, 1977) 40169
March 25, 1976 (Superseded by Memorandum of August 1, 1977) 40169
April 14, 1976 (See Memorandum of August 1, 1977) 40169
November 5, 1976 (See Memorandum of August 1, 1977) 40169
November 19, 1976 (Supplemented by Memorandum of July 21, 1977) 41401
July 20, 1977 39083
July 21, 1977 41401
August 1, 1977 40169
August 5, 1977 40171
August 11, 1977 42677
August 12, 1977 42185
August 25, 1977 ..... 43375, 43377, 43379, 43381, 43383

PROCLAMATIONS:

4514 42299
4514 43615

4 CFR

105 38891

5 CFR

213 ..... 39085, 39657, 40173–40175, 40215, 40866, 40867, 41265–41267, 41813, 41814, 42301, 42302, 42679, 43051–43053, 43617
713 40175

PROPOSED RULES:

890 41866

7 CFR

2 39669
16 42841
27 40677
68 40868
246 43206
271 42302
301 42302

7 CFR—Continued

318 41267
354 41267
406 39953
409 39956
650 40114
725 40881
905 40882
908 ..... 38892, 39359, 39959, 40678, 41095, 41603 42841
909 42842
910 ..... 39085, 39359, 39669, 40882, 41814, 43086
918 40883
922 41268
926 40678
927 39670
929 40679
944 40885
945 ..... 40886, 43053
946 ..... 39671, 42679
947 41403
948 39360
958 39360
967 39361
980 40175
1011 40888
1040 41603
1205 41404
1260 43053
1421 ..... 40175–40185, 41269
1425 40187
1427 ..... 40421, 42308
1443 41269
1473 41269
1479 41269
1807 42843
1821 ..... 39085, 41815
1822 ..... 39361, 39362, 40679
1832 41815
1888 42843
1980 ..... 39362, 41816
2024 40680
2851 42309
2852 41843
2858 41846

PROPOSED RULES:

27 43088
220 40911
246 43224
657 42359
780 39223
905 43398
910 43639
917 ..... 39989, 42691
919 41431
926 ..... 41130, 43639
927 41644
929 39989
931 41866
932 43640
945 39395
946 38913
967 ..... 39108, 41431
981 42227
989 41867
991 42227
993 ..... 39672, 41644
1002 41582
1006 38913
1011 39108
1012 38913
1013 38913

7 CFR—Continued

PROPOSED RULES—Continued

1097 41873
1102 41873
1108 41873
1133 40216
1435 40216
1701 43640

8 CFR

235 41847
242 38892

PROPOSED RULES:

108 39672

9 CFR

82 39658
92 41848
112 41849
113 43617
160 41850
161 41850
319 42309
325 ..... 39086, 42309

PROPOSED RULES:

1 42044
3 42044
51 40911
77 43088
95 43640
381 41873

10 CFR

0 38893
50 43385
71 39364
140 43385
Ch. II 41095
202 41269
210 39959
211 ..... 39959, 41566, 42770
212 ..... 38894, 39195, 39959, 41566, 43054
213 39087
430 39964
460 41270

PROPOSED RULES:

73 42228
205 41242
210 40915
211 ..... 39914, 39395, 39990, 40448, 40915, 41242
212 ..... 39114, 40915, 41242, 41396, 41572
430 ..... 39114, 39673, 40217, 40701, 40826, 42361
450 41645

12 CFR

7 ..... 39969, 42537
202 ..... 39368, 40424
207 41604
220 41604
221 41604
224 41604
226 ..... 40424, 42843–42845, 43057
329 40425
343 40891
505 39368
545 39088
563 39198
563b 39088
571 42691
701 39369

12 CFR—Continued

PROPOSED RULES:

308 41130
311 41130
564 39115

13 CFR

120 40900
123 39970
301 39970
305 43618
309 43618
317 38896

PROPOSED RULES:

107 39992

14 CFR

1 ..... 41101, 42187
39 ..... 38896–38900, 39373–39377, 39971, 39972, 41102–41106, 41622–41625, 42188–42192, 42845–42846, 43385, 43386
45 41101
71 ..... 38901, 39378, 39379, 39972–39976, 40690–40693, 41107–41113, 41625–41627, 42192–42194, 42847, 43387, 43388
73 ..... 39379, 41113
75 39379
91 42187
97 ..... 39380, 41114, 41627, 42847
121 ..... 42194, 43388, 43390
135 ..... 42194, 43390
152 42849
244 43619
296 43620
378a 43389
399 43620
1204 41628
1241 42679

PROPOSED RULES:

25 41236
39 ..... 38917, 41131–41133, 41647, 43406, 43407
71 ..... 38917, 39993, 39994, 40710, 40711, 41134–41137, 41648, 42228, 43408
75 ..... 38917, 40711
91 43408
121 ..... 41649, 42874, 43408, 43490
123 ..... 41649, 43408
135 ..... 41649, 43408, 43490
207 43409
208 43409
221 43409
241 ..... 39115, 42691
245 ..... 39115, 42691
246 ..... 39115, 42691
371 43409
372 43409
372a 43409
373 43409
378 ..... 40450, 43409
378a 43409
399 42229

15 CFR

46 39976
70 38901

PROPOSED RULES:

16 43641
904 40711
923 43552
930 43586

16 CFR

2 ..... 39658, 42195
3 ..... 39658, 39977
4 42195
13 ..... 39198, 40681, 42309, 42850
18 39660
22 39660
27 ..... 41270, 43058
35 39660
47 39660
66 39660
105 39660
138 39660
177 39660
191 39660
206 39660
226 39660
433 40426
702 39381
1025 39089
1026 39089
1201 40188
1401 42780
1500 43390
1505 43391

PROPOSED RULES:

13 ..... 40714, 41297, 41431, 41649, 41874, 42692, 43091
423 42875
441 ..... 39995, 42693
453 41651
705 39223
801 ..... 39040, 39995, 41875, 43412
802 ..... 39040, 39995, 41875
803 ..... 39040, 39995, 41875
1500 39648
1605 39402

17 CFR

1 42748
140 39033
147 42851
200 ..... 40189, 40900
211 42310
231 ..... 42196, 43058
239 ..... 40900, 41405
240 ..... 38902, 39090, 40900, 41405, 42851
241 ..... 41022, 43058
249 40902
270 41405
271 ..... 42196, 43058

PROPOSED RULES:

1 ..... 39036, 42767
210 41433
211 41433
230 41875
231 41434
239 41139
240 ..... 41138, 41434
241 41434
270 41139
274 41139

18 CFR

1 40191
3 ..... 40191, 41276
4 40191
5 40191
6 40191
16 40191
35 ..... 39660, 41277
101 39661
104 39661
141 39661

18 CFR—Continued

154 ..... 41276, 41277
157 ..... 39090, 41276
201 39661
204 39661
260 39661

19 CFR

12 42683
114 42851
133 41278
153 ..... 39200, 41406
159 41630
205 40426
210 40428

PROPOSED RULES:

134 39227

20 CFR

416 ..... 39098, 40191
602 40192
702 42548
901 ..... 39200, 41115
902 39200

PROPOSED RULES:

404 38918
405 39995
653 43202

21 CFR

Ch. I 40904
6 39100
14 41851
20 42526
25 42526
73 ..... 43061, 43620
81 ..... 43061, 43620
133 39101
176 ..... 41852, 41853
177 43621
193 41279
310 ..... 41374, 43061
320 42311
450 43061
510 41854
520 ..... 41854, 42312
522 ..... 39103, 41855
558 41855
561 41279
640 43063
700 41374
801 40215
807 42526
809 42530

PROPOSED RULES:

101 43095
105 43091
131 43091
155 43641
172 43092
182 ..... 39117, 41299, 41876, 43642–43644
184 ..... 39117, 41299, 41876, 43642–43644
186 41299
312 41301
320 39675
431 42361
500 40217
505 43770
510 43770
514 42361
558 43770
808 41301
895 42000

V42168 AUG 30 77 UMI

22 CFR

123 ..... 39103, 41631, 42851
124 ..... 41631, 42852
127 42852
128 42853
202 40428
41 42856
404 41856

23 CFR

160 41279
655 ..... 41280, 41633

PROPOSED RULES:

Ch. I 41651
625 42876
630 42877

24 CFR

20 43622
25 40193
203 40430
803 42554
811 39209
880 ..... 39212, 42292
881 ..... 39212, 42292
883 39212
888 42554
1914 42312–42317
1915 42794
1917 43542–43549

PROPOSED RULES:

203 42693
204 42693
1917 43718–43727

25 CFR

141 40194
221 41116
252 40904
258 40904

PROPOSED RULES:

11 42694
54 41435
171 42695
177 42695
182 42695
183 42695

26 CFR

1 42318
7 ..... 39104, 42197
9 42198
11 ..... 39382, 41856

PROPOSED RULES:

1 ..... 38919, 39227, 39233, 39408, 39997, 43412
301 ..... 39227, 39233, 39997
404 ..... 39227, 39233, 39997

27 CFR

178 41116

PROPOSED RULES:

4 42230
181 ..... 39316, 40921, 42233

28 CFR

0 ..... 40433, 41407, 43392
2 ..... 39668, 39808, 41407
16 ..... 40905, 41408
17 39212
32 39386

PROPOSED RULES:

2 ..... 41435, 41436, 41878
540 41368

28 CFR—Continued

PROPOSED RULES—Continued

541 41368
548 41368
551 41368

29 CFR

4 43063
40 43626
102 41117
452 ..... 39105, 41280
1208 43627
1601 41280
1602 43065
1908 41386
1952 ..... 40194, 40195, 41857, 43628
2520 43630
2602 41858
2606 41858
2610 41858
2614 43066

PROPOSED RULES:

5 43098
70a 39997
97 43098
1061 42022
1601 43099
1910 39120
1960 43100
2608 39120
2610 42361

30 CFR

PROPOSED RULES:

70 ..... 42362, 43646, 43647
71 ..... 43646, 43647
2170 42540
2171 42540

31 CFR

51 41859

32 CFR

Ch. I 39213
191 42857
199 41118
286b 39214
290 40433
721 43070
806b 41409
852 42684

PROPOSED RULES:

114 39234
143 41306
286 40552
865 39999

32A CFR

PROPOSED RULES:

671 43038

33 CFR

110 ..... 39386, 40693, 40694
117 ..... 38903, 39386, 41118, 42199
183 41634
204 ..... 40196, 41281
207 40908
274 41118

PROPOSED RULES:

117 ..... 38919, 38920, 42234
154 39408
155 39408
156 39408
157 39999

34 CFR

231 40694

35 CFR

69 40196

36 CFR

67 40436
200 40438
292 39387

37 CFR

PROPOSED RULES:

2 40450
4 40450
201 ..... 41437, 41438, 42362

38 CFR

2 ..... 41409, 41410
13 41410
14 41410

PROPOSED RULES:

8 40452
17 ..... 39409, 41439

39 CFR

111 ..... 38904, 41634

PROPOSED RULES:

111 ..... 39411, 40219, 40922
241 42695
245 42695
246 42695
247 42695
248 42695
259 43647
265 42695

40 CFR

52 ..... 39389, 39664, 40695, 41121, 42218, 42219, 43078
55 41282
60 ..... 39389, 41122, 41424, 41754
61 41424
86 40697
136 39977
180 ..... 39977, 40909
204 41635
416 40697
610 40438

PROPOSED RULES:

20 39414
52 ..... 38920, 38921, 39235, 39415, 40220, 42879
61 40452
85 ..... 40221, 43412
123 42882
124 42882
125 42882
180 ..... 40715, 40922
205 43226
211 41139
700 39182
710 39182
762 42882

41 CFR

1–4 ..... 39215, 41635, 43079
1–8 43080
7–7 42689
Ch. 9 41128
29–1 40197
29–2 40201
29–3 40201
29–12 40205

41 CFR—Continued

29–26 40206
29–61 40206
101–11 43082
101–41 41128
101–42 40847
101–43 40847
101–44 40850
101–45 40852
101–46 40858
101–47 40698
105–63 40858
114–25 39978
114–60 42857

PROPOSED RULES:

9–4 40923
14–1 43647
14–7 43647
24–1 42234
60–4 41378

42 CFR

57 43630
101 ..... 42857, 43083

43 CFR

423 41122

PUBLIC LAND ORDERS:

5622 42199

PROPOSED RULES:

424 41440
426 43044
1880 40000

45 CFR

100a 40207
100b 42475
116d 43396
121a 42476
121m 42517
122a 42005
166 42016
173 40209
191 42754
194 40207
196 39218
1015 41282

PROPOSED RULES:

11 41140
146a 40221
170 40926
1601 43100

46 CFR

2 41636
10 39978
35 41636
151 41636
390 43632

PROPOSED RULES:

162 40000
176 43413
502 40452

47 CFR

0 42341
2 ..... 42203, 43084
15 39979
73 ..... 38905, 39665, 39981, 39982, 40210, 41123–41125, 41283, 42858, 43085, 43635
75 43635
76 ..... 41127, 41284, 42689
81 39666
87 38906
89 ..... 42203, 42343
91 42203
93 42343

PROPOSED RULES:

1 40715
2 43649
13 40939
43 40454
61 ..... 40002, 43108
63 39236
73 ..... 40003, 40454, 41141, 41302–41305, 41879, 42700
81 ..... 40223, 40224, 40455, 43649
83 ..... 40224, 43649
89 39560
90 39560
91 ..... 39560, 41143
93 39560
95 42362

49 CFR

99 39220
173 42206
178 42206
192 42865
195 42865
210 42343
268 43030
529 39983
571 ..... 39983, 39984, 42208
580 38906
581 38909

49 CFR—Continued

1033 ..... 39221, 39389, 39985, 41424, 43637
1036 40444
1051 40860
1057 39666
1100 ..... 40698, 42689, 43637
1104 40860
1108 39222
1109 ..... 39390, 39985
1251 39667
1254 39390
1307 ..... 42689, 43637

PROPOSED RULES:

172 43416
173 ..... 40003, 41651, 43416
174 ..... 40003, 41651, 43416
176 43416
178 ..... 40003, 41651
179 ..... 40003, 41651
193 42235
393 43414
571 43414
1047 40459
1082 40459
1106 39243
1241 42701
1249 42701
1307 41144

50 CFR

17 ..... 39985, 40682–40685, 42351
20 ..... 39106, 39667, 40211, 41636
21 42353
26 ..... 40213, 41425
32 ..... 38909–38912, 39391–39394, 40214, 40445–40447, 40690, 40861–40865, 41127, 41426–41429, 41642, 41861–41865, 42210–42215, 42354–42358, 42866–42873, 43085, 43086, 43393–43395, 43637, 43638
33 ..... 40214, 41426, 43396
216 ..... 39394, 41128, 41879
371 40866
601 42216
602 42216
611 ..... 39106, 41430
680 42216

PROPOSED RULES:

17 ..... 38921, 39121, 40716, 40823
20 41145
23 40459
26 42883
32 ..... 40465, 43108
260 41440

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	Date	Pages	Date	Pages	Date
38891–39080	Aug. 1	40677–40845	11	42185–42297	22
38081–39193	2	40847–41094	12	42299–42676	23
39195–39358	3	41095–41264	15	42677–42837	24
39359–39656	4	41265–41399	16	42839–43049	25
39657–39952	5	41401–41602	17	43051–43372	26
39953–40167	8	41603–41812	18	43373–43613	29
40169–40419	9	41813–42183	19	43615–43793	30
40421–40675	10				

V 42168 AUG 30 77 UMI

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

presidential documents

Title 3—The President

PROCLAMATION 4515

Women's Equality Day, 1977

By the President of the United States of America

A Proclamation

August 26, 1977, is the 57th anniversary of the adoption of the 19th Amendment to the Constitution guaranteeing that the right of United States citizens to vote shall not be denied or abridged by the Federal Government or any state on account of sex.

This was the successful culmination of the struggle of the American Women's Suffrage movement. The right to vote, to participate in the process of framing the laws under which we all live, is fundamental. But it was only the first step in achieving full equality for women. The late Dr. Alice Paul realized this, drafted the Equal Rights Amendment in 1923 and had it introduced in Congress over a period of 49 years, until it passed on March 22, 1972.

Dr. Paul and other early leaders of the movement who did not live to see their work completed were reviled and imprisoned, endured hunger strikes and force-feeding in order to further their cause. Their commitment is an inspiration to women and men today who seek to finally make their dreams a reality. Equal rights for women are an inseparable part of human rights for all.

Strong action is needed to guarantee women total equality in the areas of politics and government, education, employment and related benefits, health care, housing and justice. The needs, hopes and problems of a complex society demand the talents, imagination and dedication of all its citizens without regard to sex. As women achieve equality, men, too, are liberated from ancient prejudices and relieved of arbitrary barriers to personal fulfillment.

This is a crucial point in the struggle to achieve full equality for women under the law. Ratification of the Equal Rights Amendment must be completed by the required number of states by March 1979. The successes of the past were dearly bought, and this final effort will not be easy. Achievement of this goal is essential in order to secure meaningful equality for all our citizens.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim August 26, 1977, as Women's Equality Day and do hereby call upon the people of the United States to observe this day with appropriate ceremonies and activity. I further urge all our people to dedicate themselves anew to the goal of achieving equal rights for women under the law.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of August, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and second.

Jimmy Carter

[FR Doc.77-25340 Filed 8-26-77;3:24 pm]

EDITORIAL NOTE: The President's remarks of Aug. 26, 1977, on signing Proclamation 4515, are printed in the Weekly Compilation of Presidential Documents (vol. 13, no. 35).

V 42 168 AUG 30 77 UMI

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of State

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment extends the period of employment for the IBC temporary and intermittent field personnel from 130 to 180 working days as it more realistically reflects the amount of time required to accomplish the tasks of the position.

EFFECTIVE DATE: August 30, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3104(d)(1) is amended as set out below:

§ 213.3104 Department of State.

* * * * * *

(d) *International Boundary Commission, United States and Canada.*

(1) Temporary and intermittent field employees such as instrumentmen, foremen, recorders, packers, cooks, and axemen, for not to exceed 180 working days within any 1 calendar year.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25157 Filed 8-29-77;8:45 am]

Title 9—Animal and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS; ORGANISMS AND VECTORS

PART 113—STANDARD REQUIREMENTS

CFR Correction

In Title 9 of the Code of Federal Regulations, revised as of January 1, 1977, on page 306 the following material was inadvertently omitted.

§ 113.163 Fowl Laryngotracheitis Vaccine.

(d) * * *

(2) * * *

(i) Twenty-five 3 to 4 week old laryngotracheitis susceptible chickens shall be injected intratracheally with 0.2 ml of vaccine rehydrated at the rate of 30 mls for 1,000 doses. Chickens shall be observed each day for 14 days. Deaths shall be counted as failures. Two-stage sequential testing may be conducted if the first test (which then becomes stage one) has five, six, or seven failures.

(ii) The results shall be evaluated according to the following table:

Cumulative totals

Stage	Number of chickens	Failures for satisfactory serials	Failures for unsatisfactory serials
1	25	4 or less	8 or more.
2	50	10 or less	11 or more.

(iii) If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and repeated or in lieu thereof, the serial declared unsatisfactory.

PART 113—STANDARD REQUIREMENTS

Miscellaneous Amendments

AGENCY: Animal and Plant Health Inspection Service (APHIS).

ACTION: Final rule.

SUMMARY: Some extraneous pathogens can be detected in poultry vaccines by using a chicken embryo inoculation test, but success depends upon neutralizing the vaccine virus with a specific antiserum. The present regulations prescribe a repeat test if the first test is inconclusive although the fault may be due to the inability of the antiserum which is used to neutralize the vaccine virus. These amendments eliminate the necessity of repeating a useless and wasteful test.

EFFECTIVE DATE: This amendment becomes effective August 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. R. J. Price, 301–436–8245.

SUPPLEMENTARY INFORMATION: The present regulations in § 113.160(d)(1), § 113.162(d)(1), § 113.163(d)(1), and § 113.164(d)(1) include requirements that Avian Encephalomyelitis Vaccine, Bronchitis Vaccine, Fowl Laryngotracheitis Vaccine, and Newcastle Disease Vaccine be tested for pathogens by the chicken embryo inoculation test prescribed in § 113.37. If the test results are inconclusive because of a vaccine virus override, the chicken inoculation test in § 113.36 cannot be used as a substitute until the first test has been repeated and found inconclusive for the same reason.

A virus override occurs when the specific antiserum used in the test does not neutralize the vaccine virus. Since the success of this test depends upon the neutralizing ability of the antiserum, repeat testing using the same antiserum is useless and wasteful.

These amendments delete the necessity for a repeat chicken embryo inoculation test and permit the use of the chicken inoculation test as a substitute for the chicken embryo inoculation test when the results of the first test are inconclusive because of a vaccine virus override without repeating the inconclusive test.

Each word in the heading for § 113.160, § 113.162, § 113.163, and § 113.164 shall be capitalized.

Sections 113.160, § 113.162, § 113.163, and § 113.164 are amended as follows:

1. In § 113.160, paragraph (d)(1) is revised to read as follows:

§ 113.160 Avian Encephalomyelitis Vaccine.

* * * * * *

(d) * * *

(1) Final container samples from each serial shall be tested for pathogens by the chicken embryo inoculation test prescribed in § 113.37, except that, if the test is inconclusive because of a vaccine virus override, the chicken inoculation test prescribed in § 113.36 may be conducted and the vaccine judged accordingly.

* * * * * *

2. In § 113.162, paragraph (d)(1) is revised to read as follows:

§ 113.162 Bronchitis Vaccine.

* * * * * *

(d) * * *

(1) Final container samples from each serial shall be tested for pathogens by the chicken embryo inoculation test prescribed in § 113.37, except that, if the test is inconclusive because of a vaccine virus override, the chicken inoculation test prescribed in § 113.36 may be conducted and the vaccine judged accordingly.

* * * * * *

3. In § 113.163 paragraph (d)(1) is revised to read as follows:

§ 113.163 Fowl Laryngotracheitis Vaccine.

* * * * * *

(d) * * *

(1) Final container samples from each serial shall be tested for pathogens by the chicken embryo inoculation test prescribed in §113.37, except that, if the test is inconclusive because of a vaccine virus override, the chicken inoculation test prescribed in § 113.36 may be conducted and the vaccine judged accordingly.

* * * * * *

V 42168 AUG 30 77 UMI

4. In § 113.164 paragraph (d) (1) is revised to read as follows:

§ 113.164 Newcastle Disease Vaccine.

* * * * *

(d) * * *

(1) Final container samples from each serial shall be tested for pathogens by the chicken embryo inoculation test prescribed in § 113.37, except that, if the test is inconclusive because of a vaccine virus override, the chicken inoculation test prescribed in § 113.36 may be conducted and the vaccine judged accordingly.

* * * * *

(21 U.S.C. 151 and 154; 37 FR 28477, 28646; 38 FR 19141.)

These amendments make deletions in each of four test requirements to eliminate unnecessary and useless testing. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department. Further, in order for the amendments to be of maximum benefit, they must be made effective immediately.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure concerning these amendments are impracticable and unnecessary, and good cause is found for making these amendments effective less than 30 days after publication in the FEDERAL REGISTER.

The foregoing amendment shall become effective upon issuance.

Done at Washington, DC, this 23rd day of August, 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

NORVAN L. MEYER,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc.77-25091 Filed 8-29-77;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 305—PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAM

Procurement Standards for State and Local Governments

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: This regulation revises certain portions of an existing regulation on procurement standards for recipients of assistance under title I of the Public Works and Economic Development Act of 1965, as amended. These changes are made to conform the existing regulation with Federal Management Circular 74-7. The implementation of these changes will clarify the scope of applicability and the nature of the requirements of the present regulation.

DATES: Effective date: August 18, 1977. Comments by: September 29, 1977.

ADDRESSES: Send comments to: Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

James F. Marten, U.S. Department of Commerce, Room 7009, Washington, D.C. 20230 (202-377-5441).

SUPPLEMENTARY INFORMATION: The following changes are being made to § 305.95.

1. The title of this section now reads: "Procurement standards for State and local governments." This change specifies the types of recipients to whom these procurement standards apply.

2. Section 305.95(c)(3) is revised to follow more closely the language of FMC 74-7.

Because this regulation relates to the EDA grant and loan program, it is exempted from the procedures described in section 553 of the Administrative Procedure Act (5 U.S.C. 553). However, in the spirit of the public policy set forth in that Act, interested persons may submit written suggestions regarding this regulation to the above address.

EDA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Accordingly, 13 CFR 305.95 is amended to read as follows:

§ 305.95 Procurement standards for State and local governments.

* * * * *

(c) * * *

(3) "Positive efforts shall be made by the grantees to utilize small business and minority-owned business sources of supplies and services."

* * * * *

(AUTHORITY: Sec. 701, Pub. L. 89-136, 70 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organizatoin Order 10-4, as amended (40 FR 56702, as amended).)

Dated: August 18, 1977.

ROBERT T. HALL,
Assistant Secretary
for Economic Development.

[FR Doc.77-25112 Filed 8-29-77;8:45 am]

PART 309—GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

Procurement Standards for Nonprofit Organizations

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: This regulation sets forth procurement standards to be followed by nonprofit organizations receiving assistance under titles I, II, III, and IX of the Public Works and Economic Development Act of 1965, as amended. These standards have been established to comply with the requirements of OMB Circular A-110. The implementation of this regulation will promote consistency and uniformity in the administration of grants to non-profit organizations.

DATES: Effective date: August 18, 1977. Comments by: September 29, 1977.

ADDRESSES: Send comments to: Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

James F. Marten, U.S. Department of Commerce, Room 7009, Washington, D.C. 20230 (202-377-5441).

SUPPLEMENTARY INFORMATION: Because this regulation relates to the EDA grant and loan program, it is exempted from the procedures described in Section 553 of the Administrative Procedure Act (5 U.S.C. 553). However, in the spirit of the public policy set forth in that Act, interested persons may submit written suggestions regarding this regulation to the above address.

EDA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Accordingly, 13 CFR Part 309 is amended by adding a new § 309.28 to read as follows:

§ 309.28 Procurement standards for nonprofit organizations.

The following standards shall apply to nonprofit organizations receiving assistance under titles I, II, III and IX of the Act. Recipients may use their own procurement policies and procedures, provided that procurements made with Federal grant funds adhere to the following standards.

(a) The recipient shall maintain standards of conduct which shall govern the performance of its officers, employees or agents in awarding and administering contracts using Federal funds. Such standards shall include the following provisions.

(1) No employee, officer or agent shall participate in the selection, award or administration of a contract in which Federal funds are used, when, to his knowledge, he or his immediate family, partners, or an organization in which he or his immediate family or partners has a financial interest or with whom he is negotiating has any arrangement conaminer as evidence of the pilot's concerning prospective employment.

(2) The recipient's officers, employees, or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or potential contractors.

(3) The recipient's standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by the recipient's officers, employees or agents.

(b) All procurement transactions shall be conducted in a manner to provide, to the maximum extent practicable, open and free competition.

(c) In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals should be excluded from competing for such procurements.

(d) Awards shall be made to the bidder/offeror whose bid/offer is responsive to the solicitation and is most advantageous to the recipient, price and other factors considered.

(e) Solicitations shall clearly set forth all requirements that the bidder/offeror must fulfill in order for his bid/offer to be evaluated by the recipient. Any and all bids/offers may be rejected when it is in the recipient's interest to do so.

(f) Procurement procedures shall meet the following minimum requirements.

(1) They shall avoid unnecessary or duplicatory items.

(2) They shall contain a clear and accurate description of requirements ("Brand Name-or-Equal" may be used).

(3) They shall utilize small business and minority-owned business sources of supplies and services.

(4) The procurement contract shall be appropriate for the particular procurement and the project. The "cost-plus-a-percentage-of-cost" contract shall not be used.

(5) All proposed sole source contracts, or contracts for which only one bid or proposal is received and for which the aggregate expenditure is expected to exceed $5,000, shall be subject to prior approval at the discretion of the Federal sponsoring agency.

(6) Procurement records and files for purchases in excess of $10,000 shall include the following:

(i) The basis for contractor selection:

(ii) A justification for lack of competition when competitive bids or offers are not obtained; and

(iii) The basis for the award cost or price.

(g) The recipient shall include both of the following provisions in all contracts and sub-contracts in excess of $10,000:

(1) Provisions for administrative, contractual and legal remedies, and provisions for sanctions and penalties, as appropriate for instances in which contractors violate or breach contractual terms, and

(2) Provisions for termination by the recipient as well as provisions for termination for default and for circumstances beyond the control of the contractor.

(h) In contracts for construction or facility improvement for more than $100,000, recipients shall observe the bonding requirements provided in Attachment B to OMB Circular A-110.

(i) Contracts and subgrants of amounts in excess of $100,000 shall contain a provision requiring recipients to agree to comply with applicable standards, orders or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 1857 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) as amended. Violations shall be reported to the Federal sponsoring agency and to the Regional Office of the Environmental Protection Agency.

(Sec. 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended).)

Dated: August 18, 1977.

ROBERT T. HALL,
Assistant Secretary
for Economic Development.

[FR Doc.77-25113 Filed 8-29-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-1019, Amdt. 2]

PART 244—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR AIR FREIGHT FORWARDERS AND INTERNATIONAL AIR FREIGHT FORWARDERS; FILING OF REPORTS BY FOREIGN AIR FREIGHT FORWARDERS AND COOPERATIVE SHIPPERS ASSOCIATIONS

Elimination of Schedules T-4, T-5, and T-6 of CAB Form 244

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This amendment terminates the special reports (Schedules T-4, T-5, and T-6 of CAB Form 244) prescribed for long-haul motor and railroad air freight forwarders and those affiliated with them as set forth in Section 8 of Part 244. The rule implements a part of the Board's decision in the "Long-Haul Motor/Railroad Carrier Air Freight Forwarder Authority Case", Docket 26907, decided June 27, 1977, Order 77-6-126.

DATES: Effective: August 25, 1977. Adopted: August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5270).

SUPPLEMENTARY INFORMATION: In the "Motor Carrier-Air Freight Forwarder Investigation," Order 69-4-100, the Board authorized long-haul motor carriers of general commodities to engage in air freight forwarding and international air freight forwarding on a trial basis for a period of five years under a plan of monitored entry, including the submission of special reports, designed to assure that their participation would benefit rather than harm air transportation. The program was extended to railroad carriers in the "Southern Pacific-Santa Fe Air Freight Forwarder Case," Order 70-10-100. The program establishing the special reports was incorporated in Part 244 by ER-595 (November 12, 1969, 34 FR 19340) and ER-703 (October 12, 1971, 36 FR 20154).

In the "Long-Haul Motor/Railroad Carrier Air Freight Forwarder Authority Case," the Board reviewed the effectiveness of its experiment and decided, among other things, that the special reports called for by the program should be terminated. On page 7 of the Opinion in Order 77-6-126, the Board stated that technical amendments to Part 244 would be made in the near future to delete the special reporting requirements and that such requirements would not be enforced in the meantime. Since this amendment eliminates reporting requirements and imposes no burdens, it is being made effective immediately. Accordingly, the Civil Aeronautics Board amends Part 244 of the Economic Regulations (14 CFR Part 244) effective August 25, 1977 as follows:

Section 8 [Amended]

1. Amend Section 8—Reports as follows:

A. Delete the following lines from the "List of Schedules."

Schedule No.	Title	Applicability level		
		1	2	3
*	* * *	*	*	*
T-4	Originating Air Station Data.	(1)	(1)	(1)
T-5	Supplemental Operating Statistics	(1)	(1)	(1)
T-6	Analysis of Traffic by Weight Breaks.	(1)	(1)	(1)
*	* * *	*	*	*

B. Delete footnote 1 to the "List of Schedules."

2. Amend Section 8-1—General Instructions by revising paragraph (d) to read:

Sec. 8-1 General Instructions.

* * * * *

(d) The CAB Form 244 report shall be due at the Civil Aeronautics Board on February 15 of each year. If a due date falls on a Saturday, Sunday, or national holiday, the due date will change to the first following workday.

* * * * *

Sec. 8 [Amended]

3. Amend Section 8-2——Specific Instructions to delete the instructions for the following schedules in their entirety:

Schedule T-4—Originating Air Station Data. [Deleted]

Schedule T-5—Supplemental Operating Statistics—Long-Haul Motor Carriers or Railroad Carriers as Air Freight Forwarders. [Deleted]

Schedule T-6—Analysis of Traffic by Weight Breaks. [Deleted]

(Secs. 204(a), 407, Federal Aviation Act of 1958, as amended, (72 Stat. 743, 766, as amended, (49 U.S.C. 1324(a) 1377).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-25241 Filed 8-29-77;8:45 am]

V 42168 AUG 30 77 UMI

[Docket No. 26907 et al.; ER-1003, Amdt. 2]

PART 296—CLASSIFICATION AND EXEMPTION OF AIR FREIGHT FORWARDERS, INTERNATIONAL AIR FREIGHT FORWARDERS, AND COOPERATIVE SHIPPERS ASSOCIATIONS

Correction

AGENCY: Civil Aeronautics Board.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule that appeared at page 33274 in the FEDERAL REGISTER of Thursday, June 30, 1977 (FR Doc. 77-18769)..

EFFECTIVE DATE: August 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Gary J. Edles, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5206).

The following correction is made:

Effective: August 26, 1977.

Adopted: June 27, 1977.

A citation in the Supplementary Information on page one is incorrect. In the next to the last line the citation "ER-791 (October 12, 1970, 36 F.R. 20155)" should read "ER-701, October 12, 1971, 36 F.R. 20155)."

By the Civil Aeronautics Board.

Dated: August 25, 1977.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-25166 Filed 8-29-77;8:45 am]

SUBCHAPTER F—POLICY STATEMENTS

[Docket No. 26907 et al.; Reg. PS-74, Amdt. 53]

PART 399—STATEMENTS OF GENERAL POLICY PROCESSING OF APPLICATIONS OF LONG-HAUL MOTOR CARRIERS OR RAILROAD CARRIERS FOR AUTHORITY AS AIR FREIGHT FORWARDERS OR INTERNATIONAL AIR FREIGHT FORWARDERS

Correction

AGENCY: Civil Aeronautics Board.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule that apeared at page 33275, in the FEDERAL REGISTER of Thursday, June 30, 1977 (FR Doc. 77-18768).

EFFECTIVE DATE: August 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Gary J. Edles, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5205).

The following correction is made:

Effective: August 26, 1977.

Adopted: June 27, 1977.

The words "or railroad carriers" were inadvertently omitted from § 399.20(d) following the word "carrier" in line two. The provision should read:

"(d) *Applications for acquisition of control.* Where a long-haul motor carrier or railroad carrier applies for Board approval to acquire control of an air freight forwarder or international air freight forwarder, the Board's policy in ordinary circumstances will be as follows: * * *."

By the Civil Aeronautics Board.

Dated: August 25, 1977.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-25165 Filed 8-29-77;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

[Docket No. 77C-0126]

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

β-Carotene; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document confirms the effective date of August 2, 1977, of an order concerning the use of β-carotene in externally applied drugs and in cosmetics generally, including those drugs and cosmetics intended for use in the area of the eye.

DATE: Effective date confirmed: August 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Buerau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-472-5740).

SUPPLEMENTARY INFORMATION: A regulation published in the FEDERAL REGISTER of July 1, 1977 (42 FR 33722) amended § 73.1095 and added § 73.2095 in Subparts B and C, respectively, of Part 73 (21 CFR Part 73) to provide for the safe use of β-carotene in externally applied drugs and in cosmetics generally, including those drugs and cosmetics intended for use in the area of the eye. The regulation also amended § 81.1(g) (21 CFR 81.1(g)), by deleting carotene from the provisionally listed colors.

Under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), notice is given that no objections or requests for hearing were filed in response to the regulation of July 1, 1977. Accordingly, the amendments promulgated thereby became effective on August 2, 1977.

Dated: August 23, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-25046 Filed 8-29-77;8:45 am]

[Docket No. 77C-0198]

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

Carmine; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document confirms the effective date of July 26, 1977, of a regulation concerning the use of carmine in cosmetics generally, including those intended for use in the area of the eye.

DATE: Effective date confirmed: July 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-472-5740).

SUPPLEMENTARY INFORMATION: A regulation published in the FEDERAL REGISTER of June 24, 1977 (42 FR 32228) added § 73.2087 to Subpart C of Part 73 (21 CFR Part 73) to provide for the safe use of carmine in cosmetics generally, including those cosmetics intended for use in the area of the eye. The order also amended § 81.1(g) (21 CFR 81.1(g)), by deleting carmine from the provisionally listed colors.

Under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner (21 CFR 5.1), notice is given that no objections or requests for hearing were filed in response to the order of June 24, 1977. Accordingly, the amendments promulgated thereby became effective on July 26, 1977.

Dated: August 23, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-25047 Filed 8-29-77;8:45 am]

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 76F-0461]

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

Styrene Block Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: Based on a petition by Phillips Petroleum Co., the agency is amending the food additive regulations to provide for safe use of additional styrene block polymers.

DATES: Effective August 30, 1977; objections by September 29, 1977.

ADDRESS: Written objections to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-472-5690).

SUPPLEMENTARY INFORMATION: Notice was given in the FEDERAL REGISTER of January 4, 1977 (42 FR 855) that a petition (FAP 6B3171) had been filed by Phillips Petroleum Co., Bartlesville, OK 74004, proposing that § 177.1810 (21 CFR 177.1810) be amended to provide for the safe use of additional analogous styrene block polymers and to provide an alternate method for the determination of glass transition points of styrene block polymers.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, concludes that § 177.1810 should be amended as set forth below.

In the FEDERAL REGISTER of June 3, 1977 (42 FR 28533), subsequent to the filing of FAP 6B3171, § 177.1810 was amended in paragraph (b)(1) to provide for the safe use of additional analogous with 1,3-butadiene as a component of pressure sensitive adhesives intended to contact nonfatty foods. The Commissioner concludes that the proposed changes regarding extractable fraction, glass transition points, and analytical method are also applicable to the styrene block polymers used as a component of pressure sensitive adhesives subject to the use limitations prescribed in the text of item 1(ii) of § 177.1810(b).

Accordingly, § 177.1810 is being amended: (1) In the table in paragraph (b) by increasing the maximum extractable fraction of styrene block polymers with 1,3-butadiene in 50 percent ethanol at 150° F for 2 hours on a 0.075 inch thick sample from "0.005 mg/in² of surface" to "0.01 mg/in² of surface"; (2) in the same table by extending the ranges of glass transition points of styrene block polymers with 1,3-butadiene from "—86° C to —80° C and 92° C to 98° C" to "—98° C to —71° C and 86° C to 122° C" and of styrene block polymers with 2-methyl-1,3-butadiene from "—52° C to —47° C and 92° C to 98° C" to "—65° C to —47° C and 86° C to 122° C"; and (3) in paragraph (c)(2) by adding an alternate analytical method for the determination of glass transition points.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 177 is amended in § 177.1810 by revising paragraphs (b) and (c)(2) to read as follows:

§ 177.1810 Styrene block polymers.

* * * * *

(b) Specifications:

Styrene block polymers	Molecular weight (minimum)	Solubility	Glass transition points	Maximum extractable fraction in distilled water at specified temperatures, times, and thicknesses	Maximum extractable fraction in 50 pct ethanols at specified temperatures, times, and thicknesses.
1. (i) Styrene block polymers with 1,3-butadiene; for use as articles or as components of articles that contact food of types I, II, IV-B, VI, VII-B, and VIII identified in table 1 in sec. 176.170 (c) of this chapter under conditions of use D, E, F, and G described in table 2 in sec. 176.170(c) of this chapter.	29,000	Completely soluble in toluene.	−98° C to −71° C and 86° C to 122° C.	0.025 mg/in² of surface at reflux temperature for 30 min on a 0.075 in thick sample.	0.01 mg/in² of surface at 150° F for 2 hr on a 0.075 in thick sample.
(ii) Styrene block polymers with 1,3-butadiene; for use as components of pressure sensitive adhesives that contact food of types I, II, IV-B, VI, VII-B, and VIII identified in table 1 in sec. 176.170(c) of this chapter under conditions of use C, D, E, F, and G described in table 2 in sec. 176.170(c) of this chapter, provided the pressure sensitive adhesives be applied only to closure tapes for sealing containers having a capacity of not less than 5.5 fluid ounces and that the area of the adhesive exposed to food shall not exceed 0.625 in². The pressure sensitive adhesive may contain terpene resins as identified in sec. 175.125(b)(2) of this chapter.	29,000	do	do	do	Do.
2. Styrene block polymers with 2-methyl-1,3-butadiene; for use as articles or as components of articles that contact food of types I, II, IV-B, VI, VII-B, and VIII identified in table 1 in sec. 176.170(c) of this chapter under conditions of use D, E, F, and G described in table 2 in sec. 176.170(c) of this chapter.	29,000	do	−65° C to −47° C and 86° C to 122° C.	0.01 mg/in² of surface at reflux temperature for 2 hr on a 0.028 in thick sample.	0.01 mg/in² of surface at 150° F for 2 hr on a 0.028 in thick sample.
3. Styrene block polymers with 1,3-butadiene, hydrogenated; for use as articles or as components of articles that contact food of types I, II, IV-B, VI, VII-B, and VIII identified in table 1 in sec. 176.170(c) of this chapter.	16,000	do	−50° C to −30° C and 92° C to 98° C.	0.01 mg/in² of surface at reflux temperature for 2 hr on a 0.028 in thick sample.	Do.

(c) * * *

(2) *Glass transition points.* The glass transition points shall be determined by either of the following methods:

(i) ASTM Method D 2236-70 [1] modified by using a forced resonant vibration instead of a fixed vibration and by using frequencies of 25 to 40 cycles per second instead of 0.1 to 10 cycles per second.

(ii) Direct reading viscoelastrometric method [2] by which the glass transition points are determined in the tensile mode of deformation at a frequency of 35 hertz using a Rheovibron Model DDV-II (or equivalent) Direct Reading Viscoelastometer. Take maxima in the out-of-phase component of the complex modulus as the glass transition points. For block polymers of low styrene content or for simple block polymers, the polymer may be treated with 0.3 part per hundred dicumyl peroxide and cured for 30 minutes at 153° C to accentuate the upper transition point.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 29,

[1] Copies may be obtained from: American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19103.

[2] Copies may be obtained from: Director, Division of Food and Color Additives, Bureau of Foods (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204.

V42168A AUG 30 77 UMI

1977, submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 30, 1977.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348 (c)(1)))

Dated: August 22, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

NOTE.—Incorporation by reference provisions approved by the Director, Office of the Federal Register on April 29, 1974 and August 19, 1977. The incorporated provisions are on file in the Federal Register Library.

[FR Doc.77–25093 Filed 8–29–77;8:45 am]

Title 24—Housing and Urban Development

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R–77–285]

PART 20—BOARD OF CONTRACT APPEALS

Rules of Procedure for Handling Appeals

AGENCY: HUD Board of Contract Appeals.

ACTION: Final rule.

SUMMARY: This rule establishes a Board of Contract Appeals and prescribes its jurisdiction, authority, and procedures. The rule adopts, with appropriate changes for HUD's requirement, the Uniform Rules of Procedure for Boards of Contract Appeals drafted by the National Conference of Boards of Contract Appeals members. The changes are primarily editorial and are intended to improve clarity and to incorporate recent developments in the Board's organization.

EFFECTIVE DATE: September 29, 1977.

FOR FURTHER INFORMATION CONTACT:

B. Paul Cotter, Jr., Administrative Judge, HUD Board of Contract Appeals, Washington, D.C. 20410, (202–755–6318).

SUPPLEMENTARY INFORMATION: On May 12, 1977, the Secretary of the Department of Housing and Urban Development published a proposed rule (42 FR 24200) to revise the provisions establishing the HUD Board of Contract Appeals and its procedures (24 CFR Part 20). As the Secretary stated at the time, the original provisions were adopted shortly after the inception of the Board in February, 1975. Since 1975 the Uniform Rules of Procedure were issued, the Board's membership was expanded, and problems characteristic of HUD contract appeals have been identified. The primary purpose of the proposed change was to incorporate those three developments and to make the Board's Rules more understandable to the layman who elects to present his appeal to the Board himself.

No comments were received in response to the proposed changes. However, further editorial changes have been made in the final rule to make its provisions easier to understand. None of the editorial changes are substantive.

The Department has also determined in accordance with OMB Circular A–107 that this proposal does not have an economic impact. A copy of the Economic Finding of Inapplicability is also available for inspection at the above address.

Accordingly, 24 CFR Part 20 is amended to read as follows:

Subpart A—Department of Housing and Urban Development Board of Contract Appeals

Sec.
20.1 Scope of part.
20.2 Establishment of Board.
20.3 Organization, membership and location of the Board.
20.4 Jurisdiction and authority of the Board.
20.5 Procedure.

Subpart B—Rules of the Department of Housing and Urban Development Board of Contract Appeals

20.10 Rules.

PRELIMINARY PROCEDURES

Rule
1. How to appeal a contracting officer's decision.
2. Contents of notice of appeal.
3. Forwarding of appeals by the contracting officer.
4. Preparation, contents, organization, forwarding, and status of appeal file.
5. Service of documents.
6. Computation and extension of time limits.
7. Dismissal for lack of jurisdiction.
8. Pleadings and motions.
9. Amendments to pleadings or record.
10. Hearing election.
11. Prehearing briefs.
12. Prehearing or presubmission order and conference.
13. Submission of appeal without a hearing.
14. Optional accelerated procedure.
15. The record of the appeal.
16. Discovery—depositions.
17. Interrogatories to parties, admission of facts, production and inspection of documents.

HEARINGS

18. Time and place of hearing.
19. Notice of hearings.
20. Unexcused absence of a party.
21. Nature of hearings.
22. Examination of witnesses.
23. Copies of papers.
24. Posthearing briefs.
25. Transcript of proceedings.
26. Withdrawal of exhibits.

REPRESENTATION

27. The appellant.
28. The respondent.

DECISIONS

29. Decisions.
30. Motion for reconsideration.

DISMISSALS

31. Dismissal without prejudice.
32. Dismissal for failure to prosecute.

MISCELLANEOUS

33. Ex parte communications with the Board.
34. Sanctions.
35. Remand from court.

AUTHORITY: Sec. 7(d) of the Department of Housing and Urban Development Act; 42 U.S.C. 3535(d).

Subpart A—Department of Housing and Urban Development Board of Contract Appeals

§ 20.1 Scope of part.

This part establishes a Board of Contract Appeals, sets forth policies and procedures regarding matters to be considered by the Board, and prescribes the rules of the Board.

§ 20.2 Establishment of Board.

There is hereby established in the Office of the Secretary the Housing and Urban Development Board of Contract Appeals ("the Board").

§ 20.3 Organization, membership and location of the Board.

(a) *Organization and membership.* The Board shall be comprised of a Chief Administrative Judge, who shall be Chairman, and such other Administrative Judges as may be appointed by the Secretary. The Board shall employ support personnel as needed. All members of the Board shall be attorneys at law admitted to practice before the highest court of the District of Columbia or any State, commonwealth, or territory of the United States. Contract appeals are assigned to a panel of at least two (2) members of the Board. However, under the optional accelerated procedure set forth in Rule 14 of Subpart B of this Part 20, a decision may be rendered by a single Administrative Judge.

(b) *Location.* The Board is located in Washington, D.C., and its mailing address is U.S. Department of Housing and Urban Development, Board of Contract Appeals, Room 7150, 451 7th Street SW., Washington, D.C. 20410.

§ 20.4 Jurisdiction and authority of the Board.

(a) *Contract Appeals.* The Board shall consider and determine appeals from decisions of Contracting Officers arising under contracts which contain provisions requiring the determination of appeals by the Secretary of Housing and Urban Development or the Secretary's duly authorized representative or board. The Board has authority to determine contract appeals falling within the scope of its jurisdiction as fully and finally as might the Secretary.

(b) *Other matters.* The Board or its individual members shall have jurisdiction over other matters assigned to it by the Secretary. Determinations in other matters shall have the finality provided by applicable statute, regulation or agreement.

(c) *Decisions on questions of law.* When an appeal is taken pursuant to a Disputes clause in a contract which limits appeals to disputes concerning questions of fact, the Board, in its discretion, may hear, consider, and decide all questions of law necessary for the complete adjudication of the issues. If an appeal involves a claim which is not cognizable under the terms of the contract or applicable regulation, the Board may make findings of fact with respect to such a claim without expressing an opinion on the question of liability.

(d) *Board powers.* The Board shall have all powers necessary and incident to the proper performance of the duties assigned to it by this Part.

(e) *Final decision.* In each case, the Board shall make a final decision which is just and is supported by the record in the case and the law. The decision of a majority of a panel constitutes the decision of the Board. The Administrative Judge or Judges assigned to consider an appeal have authority to act for the Board in all matters with respect to such appeal. No Administrative Judge may act for the Board or participate in a decision if, prior to the time the appeal was filed, he or she has participated in the matter in any manner whatsoever.

(f) *Subpoena power.* Any Board member presiding over a contract appeal under § 20.4(a) may seek the issuance of subpoenas pursuant to 5 U.S.C. 304, for witnesses or documents relating to that appeal.

§ 20.5 Procedure.

(a) *Rules.* Appeals referred to the Board will be conducted in accordance with the rules of the Board set forth in Subpart B of this Part 20, unless otherwise provided by applicable statute or regulation. The provisions of the Administrative Procedure Act, 5 U.S.C. 551, et seq., as amended, shall not apply to contract appeals before the Board.

(b) *Administration and interpretation of rules.* These rules will be interpreted to secure a just and inexpensive determination of appeals without unnecessary delay. The Board shall decide procedural issues in accordance with the spirit of these rules, and, in its discretion, it may follow specific provisions of the Rules of Civil Procedure for the United States District Courts in dealing with such issues.

(c) *Preliminary procedures.* Preliminary procedures are provided to encourage full disclosure of relevant and material facts and to discourage unwarranted surprise.

Subpart B—Rules of the Department of Housing and Urban Development Board of Contract Appeals

§ 20.10 Rules.

These rules govern the procedure in all matters before the Department of Housing and Urban Development Board of Contract Appeals unless otherwise provided by applicable law or regulation. They shall be construed to secure the just, speedy, and inexpensive determination of every matter.

PRELIMINARY PROCEDURES

Rule 1. *How to appeal a Contracting Officer's decision.*

Notice of an appeal must be in writing, addressed to the Secretary, and the original, together with two copies, should be filed with the Contracting Officer from whose decision the appeal is taken. The notice of appeal must be mailed or otherwise filed, within the time specified therefor in the contract or allowed by applicable provision of directive, regulation or law.

Rule 2. *Contents of notice of appeal.*

A notice of appeal should indicate that an appeal is thereby intended, and should identify the contract by number, the headquarters, regional or area office cognizant of the dispute, and the decision from which the appeal is taken. The notice of appeal should be signed personally by the contractor taking the appeal ("the appellant"), or by an officer of an appellant corporation or member of an appellant firm, or by an appellant's authorized representative or attorney.

Rule 3. *Forwarding of appeals by the Contracting Officer.*

When a notice of appeal in any form has been received by the Contracting Officer, he shall endorse thereon the date of mailing of the notice by the appellant or date of receipt, if otherwise conveyed, and within 10 days shall forward the notice of appeal to the Board. Following receipt by the Board of the original notice of an appeal, whether through the Contracting Office or otherwise, the appellant, the Contracting Officer and Government ("respondent") counsel will be promptly notified of its receipt and docketing by the Board. The Board will furnish the contractor with a copy of these rules.

Rule 4. *Preparation, contents, organization, forwarding, and status of appeal file.*

(a) *Duties of Contracting Officer.* Within 30 days of receipt of notice that an appeal has been docketed, the Contracting Officer shall file with the Board an appeal file consisting of all documents pertinent to the appeal, including:

(1) The Contracting Officer's decision and findings of fact from which the appeal is taken;

(2) The contract, including pertinent specifications, amendments and plans and drawings;

(3) All correspondence between the parties pertinent to the appeal, including the letters of claim in response to which the decision was issued;

(4) Transcripts of any testimony taken during the course of proceedings, and affidavits or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board; and

(5) Any additional information considered pertinent. Within the 30 days specified above, the Contracting Officer shall furnish the appellant a list of each document he transmits to the Board, with a copy of each document not already in the contractor's possession except for lengthy documents described in subparagraph (d) below.

(b) *Duties of the appellant.* Within 30 days after receipt of a copy of the appeal file assembled by the Contracting Officer, the appellant may supplement the same by transmitting to the Board any documents not contained therein which it considers pertinent to the appeal and shall furnish two copies of such documents to the respondent's trial attorney.

(c) *Organization of appeal file.* Documents in the appeal file may be originals or legible facsimiles or authenticated copies thereof, and shall be arranged in chronological order where practicable, numbered sequentially, tabbed, and indexed to identify the contents of the file. The first two documents in every appeal file shall be the Contracting Officer's final decision and the contract.

(d) *Lengthy documents.* The Board may waive the requirement of furnishing to the other party copies of bulky, lengthy, or out-of-size documents in the appeal file when a party has shown that doing so would impose an undue burden. At the time a party files with the Board a document as to which such a waiver has been granted, he shall notify the other party that the same or a copy is available for inspection at the offices of the Board or of the party filing same.

(e) *Status of documents in appeal file.* Documents contained in the appeal file shall be, without further action by the parties, a part of the record upon which the Board will render its decision, unless a party objects to the consideration of a particular document in advance of hearing or, in the event there is no hearing on the appeal, of settling the record. If objection to a document is made, the Board will rule upon its admissibility into the record as evidence in accordance with rules 15 and 21, hereof.

Rule 5. *Service of documents.*

A copy of every written communication submitted to the Board shall be sent to every other party to the dispute. Such communications shall be sent by delivering in person or by mailing, properly addressed with postage prepaid, to the opposing party or, where the party is represented by counsel, to its counsel. Each communication with the Board shall be accompanied by a statement, signed by the originating party, saying when, how, and the name and address of the party to whom a copy of the communication was sent.

Rule 6. *Computation and extension of time limits.*

(a) *General.* All time limitations specified for various procedural actions are computed as maximums and are not to be fully exhausted if the action described can be accomplished in a lesser period. At the discretion of the Board, these time limitations may be extended in appropriate circumstances for good cause shown.

(b) *Computation.* Except as otherwise provided by law, in computing any period of time prescribed by these rules or by any order of the Board, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a legal holiday, in which event the period shall run to the end of the next business day.

V 42168 AUG 30 77 UMI

(c) *Extensions.* All requests for extensions of time shall be submitted to the Board in writing and shall state good cause therefor.

Rule 7. *Dismissal for lack of jurisdiction.*

Any motion addressed to the jurisdiction of the Board shall be promptly filed. Hearing on the motion shall be afforded on application of either party, unless the Board determines that its decision on the motion will be deferred pending hearing on both the merits of the appeal and the motion. The Board shall have the right at any time and on its own motion to raise the issue of its jurisdiction to proceed with a particular case and shall do so by an appropriate order, affording the parties an opportunity to be heard thereon.

Rule 8. *Pleadings and motions.*

(a) *Complaint.* Within 30 days after receipt of notice of docketing of the appeal, the appellant shall file with the Board an original and two copies of a complaint setting forth simple, concise and direct statements of each of its claims, alleging the basis, with appropriate reference to contract provisions, for each claim, and the dollar amount claimed. This pleading shall fulfill the generally recognized requirements of a complaint, although no particular form or formality is required. If the complaint is not received within the 30 days and, in the opinion of the Board, the issues before the Board are sufficiently defined, the appellant's claim and notice of appeal may be deemed to set forth its complaint, and the parties shall be so notified.

(b) *Answer.* Within 30 days from receipt of said complaint or a Rule 8(a) notice from the Board, respondent shall prepare and file with the Board an original and two copies of any answer thereto, setting forth simple, concise, and direct statements of respondent's defenses to each claim asserted by appellant. This pleading shall fulfill the generally recognized requirements of an answer and shall set forth any affirmative defenses or counter-claims as appropriate. Should the answer not be received within 30 days, the Board may, in its discretion, enter a general denial on behalf of the respondent, and the parties shall be so notified.

(c) *Motions.* (1) The Board may entertain any timely motion for an appropriate order. Application to the Board for an order shall be by motion which, unless made during a hearing, shall be made in writing, shall state with particularity the grounds therefore, and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.

(2) The Board may, on its own motion, initiate any action by notice to the parties.

(3) Unless otherwise specified by the Board, a party who receives a motion shall file any answering material within 20 days after the date of receipt. The Board may require the presentation of briefs or arguments. The Board shall make an order on each motion that is appropriate and just to the parties and upon conditions that will promote efficiency in disposing of the appeal.

(4) Affidavits in support of motions shall set forth such facts as would be admissible in evidence and shall show affirmatively that the affiant is competent to testify to the matters stated therein. When a motion is made and supported as probided in this rule, a party opposing the motion who is represented by counsel may not rest upon the mere allegations or denials of his pleading; his response, by affidavits or as otherwise provided in this rule, must show that there is a genuine issue of fact or of law for decision. Should it appear from the affidavits of a party opposing the motion that for reasons stated he cannot present by affidavit facts essential to justify his opposition, the Board may deny the motion or may order a continuance to permit affidavits to be obtained or discovery to be had or may make such other order as is just.

Rule 9. *Amendments of pleadings or record.*

(a) *Pleadings.* The Board upon its own initiative or upon application by a party may, in its discretion, order a party to make a more definite statement of the complaint or answer, or to reply to an answer. The application for such an order will suspend the time for responsive pleading. The Board may, in its discretion and within the proper scope of the appeal, permit either party to amend its pleading upon conditions just to both parties.

(b) *Record.* When an issue within the proper scope of the appeal, but not raised by the pleadings or the documentation described in Rule 4, is tried by consent of the parties or by permission of the Board, the issue shall be treated in all respects as if it had been raised therein. In that event a motion to amend the pleadings to conform to the proof may be made but is not required. If evidence is objected to at a hearing on the ground that it is not within an issue raised by the pleadings or the Rule 4 documentation (which shall be deemed part of the pleadings for this purpose), it may be admitted within the proper scope of the appeal, but the objecting party may be granted a continuance if necessary to enable him to meet such evidence.

Rule 10. *Hearing election.*

Upon receipt of a respondent's answer or of the notice that the Board has entered a general denial on behalf of the Government, appellant shall advise the Board in writing whether he desires a hearing as prescribed in Rules 18 through 26, or whether, in the alternative, he elects to submit his case on the record without a hearing, as prescribed in Rule 13. In appropriate cases, the appellant shall also elect whether he desires the optional accelerated procedure prescribed in Rule 14.

Rule 11. *Prehearing briefs.*

The Board may, in its discretion, require the parties to submit prehearing briefs in any case in which a hearing has been elected pursuant to Rule 10. In the absence of a Board requirement therefore, either party may, in its discretion and upon appropriate and sufficient notice to the other party, furnish a prehearing brief to the Board. In any case where a prehearing brief is submitted, it shall be furnished so as to be received by the Board at least 15 days prior to the date set for hearing, and a copy shall simultaneously be furnished to the other party as previously arranged.

Rule 12. *Prehearing or presubmission order and conference.*

(a) *Prehearing Order.* Normally, in cases set for hearing, the Board will issue an order requiring that, prior to the day of the hearing, the parties will:

(1) Exchange a list of witnesses giving titles and a brief description of the subject matter of the testimony;

(2) Exchange proposed exhibits and prepare an additional set of such exhibits to be delivered to the board member at the beginning of the hearing;

(3) Exchange a list of expert witnesses with a summary of their qualifications and testimony; and

(4) Explore the possibilities of agreements on settlement, facts or issues not in dispute, or ways of disposing of portions of the appeal.

Any of the foregoing requirements may be waived by the Board if they conflict with Rule 14 governing the optional accelerated procedure or if they will cause undue hardship to the appellant.

(b) *Complex Case Order.* In appropriate cases, the Board will issue a more comprehensive pretrial order. Examples of complex cases are where it appears that the issues are confused or complex, where the dollar amount involved is very large or the hearing will be unduly long for any other reason and also, in most cases involving quantum where the Board must decide the amount of money owed by either party. In addition to items (1), (2), (3) and (4) referenced in the preceding paragraph, the complex case order will require the parties to (5) submit a stipulation of all facts not in dispute; and (6) attempt preparation of an agreed statement of factual and legal issues and, failing therein, submit separate statements. Where the issue of the amount of money owed will be heard, the Board may issue an additional pretrial order requiring the parties to state the monetary claim in detail with accounting schedules and explanations. The parties shall exchange the statements called for by this paragraph, permit audits of their respective records relating to the contract, and exchange audit reports.

(c) *Conference.* Whether the case is to be submitted pursuant to Rule 13, or heard pursuant to Rules 18 through 26, the Board, upon its own initiative or upon the application of either party, may call upon the parties to appear before an Administrative Judge of the Board for a conference to consider:

(1) The simplification or clarification of the issues;

(2) The possibility of obtaining stipulations, admissions, agreements on documents, understandings on matters already of record, or similar agreements which will avoid unnecessary proof;

(3) The limitation of the number of expert witnesses and the avoidance of similar cumulative evidence, if the case is to be heard;

(4) The possibility of agreement disposing of all or any of the issues in dispute; and

(5) Such other matters as may aid in the disposition of the appeal.

The results of the conference shall be set forth in an appropriate order.

Rule 13. *Submission of appeal without a hearing.*

Either party may elect to waive a hearing and to submit its case upon the record before the Board, as settled pursuant to Rule 15. Submission of a case without hearing does not relieve the parties from the necessity of proving the facts supporting their allegations or defenses. Affidavits, depositions, admissions, answers to interrogatories, and stipulations may be employed to supplement other documentary evidence in the Board record. The Board may permit such submission to be supplemented by oral argument (transcribed if requested) and by briefs in accordance with Rule 24.

Rule 14. *Optional accelerated procedure.*

(a) *Application.* In appeals involving $25,000 or less, either party may elect to have the appeal processed under a shortened and accelerated procedure. The election shall be in writing filed with the Board prior to commencement of hearing or settlement of the record. For application of this rule the amount in controversy will be determined by the sum of the amounts claimed by each party against the other in the appeal proceeding. If no specific amount of claim is stated, a case will be considered to fall within this rule if the sum of the amounts which each party represents in writing that it could recover as a result of a Board decision favorable to it does not exceed $25,000. In addition, this optional accelerated procedure may be employed, at the discretion of the Board and regardless of the amount involved, for other reasons including, but not limited to financial hardship or location of appellant in an area of concentrated unemployment, underemployment, or substantial or persistent labor surplus. An accelerated case shall be processed under this rule unless the other party objects and shows good cause why the substantive nature of the dispute requires processing under the Board's regular procedures and the Board sustains the objection. In cases proceeding under this rule, parties are encouraged, to the extent possible and consistent with adequate presentation of their factual and legal positions, to waive pleadings, discovery, and briefs.

(b) *Decisions.* Written decisions by the Board in cases proceeding under this rule normally will be brief and contain summary findings of fact and conclusions of law only. The Board will endeavor to render its decision within 30 days after the appeal is ready for decision. Decisions will be rendered for the Board by a single Administrative Judge with the concurrence of the Chairman or a designated member. However in cases involving $5,000 or less where there has been a hearing, the single Administrative Judge presiding at the hearing may, in his discretion, at the conclusion of the hearing and after entertaining such oral arguments as he deems appropriate, render on the record oral summary findings of fact, conclusions of law and a decision of the appeal. In the latter instance, the Board will subsequently furnish the parties a typed copy of the oral decision for record and payment purposes and to establish the date from which the period for filing a motion for reconsideration under Rule 30 commences.

(c) *Applicable rules.* Except as modified herein, these rules apply to accelerated cases in all respects.

Rule 15. *The Record of the appeal.*

(a) *Contents.* The record upon which the Board's decision will be rendered consists of the appeal file described in Rule 4 and, to the extent the following items have been filed, pleadings, prehearing conference memoranda or orders, prehearing briefs, depositions and interogatories and answers to interogatories received in evidence, admissions, stipulations, transcripts of conferences and hearings, hearing exhibits, posthearing briefs, and documents which the Board has specifically made a part of the record. The record will at all reasonable times be available for inspection by the parties at the office of the Board.

(b) *Time of closing the record.* Except as the Board may otherwise order in its discretion, no proof shall be received in evidence after completion of the oral hearing of the appeal or, in cases submitted on the record, after notification by the Board that the case is ready for decision.

(c) *Weight of the evidence.* The weight to be attached to any evidence of record will rest within the sound discretion of the Board. The Board may in any case require either party, with appropriate notice to the other party, to submit additional evidence on any matter relevant to the appeal.

Rule 16. *Discovery—Depositions.*

(a) *Definition.* As used in these rules, the term "discovery" shall mean the methods described in this rule and Rule 17 whereby the appellant contractor or the respondent Government may require the other party to disclose the facts, documents, papers, things, and other information within that party's knowledge or possession prior to an oral hearing or a determination on the record.

(b) *General policy and protective orders.* The parties are encouraged to engage in voluntary discovery procedures. In connection with any deposition or other discovery procedure, the Board may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, and those orders may include limitations on the scope, methods, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents.

(c) *When depositions permitted.* After an appeal has been docketed and a complaint filed, the parties may mutually agree to, or the Board may, upon application of either party and for good cause shown, order the taking of testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purposes of discovery. The application for order shall specify whether the purpose of the deposition is discovery or for use as evidence.

(d) *Orders on depositions.* The time, place, and manner of taking depositions shall be as mutually agreed upon by the parties, or failing such agreement, governed by order of the Board.

(e) *Use as evidence.* No testimony taken by deposition shall be considered as part of the evidence in the hearing of an appeal unless and until such testimony is offered and received in evidence at the hearing. Testimony by deposition will not ordinarily be received in evidence if the deponent is present and can testify personally at the hearing. However, the deposition may be used to contradict or impeach the testimony of the witness given at the hearing. In cases submitted on the record, the Board may, in its discretion, receive depositions as evidence to supplement the record.

(f) *Expenses.* Each party shall bear its own expenses associated with discovery, unless, in the discretion of the Board, the expenses shall be apportioned otherwise.

Rule 17. *Interrogatories to parties, admission of facts, production and inspection of documents.*

(a) *General.* The scope and use of interrogatories to parties, admissions of facts and production and inspection of documents shall be controlled by Rule 16.

(b) *Interrogatories to parties.* After an appeal has been filed with the Board, a party may serve on the other party written interrogatories (that is, questions) to be answered separately in writing, signed under oath and returned within 30 days of receipt by the answering party. Upon timely objection by the party, the Board will determine the extent to which the interrogatories will be permitted.

(c) *Admission of facts.* After an appeal has been filed with the Board, a party may serve upon the other party a written request for the admission of specified facts. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. Within 30 days after receipt of the request, the party served shall answer each requested admission of fact or file objections thereto in writing. The factual propositions set out in the request shall be deemed admitted upon the failure of a party to respond to the request for admission within the time specified.

(d) *Production and inspection of documents.* Upon motion of any party showing good cause therefore, and upon notice, the Board may order the other party to produce and permit the inspection or photographing of any specifically identified documents or objects, not privileged, which are shown by the moving party either to be relevant to the subject matter of the appeal or to be reasonably calculated to lead to the discovery of admissible evidence.

HEARINGS

Rule 18. *Time and place of hearing.*

Hearings will ordinarily be held in Washington, D.C., except that upon timely request and for good cause shown, the Board may, in its discretion, set the hearing at another location. Hearings will be scheduled at the discretion of the Board with due consideration to the regular order of appeals and other pertinent factors. At the request of either party and for good cause shown, the Board may, in its discretion, advance a hearing.

Rule 19. *Notice of hearings.*

The parties shall be given at least fifteen (15) days notice of the time and place set for hearings. In scheduling hearings, the Board will give due regard to the desires of the parties and to the requirement for a just and inexpensive determination of appeals without unnecessary delay. Notices of hearing shall be promptly acknowledged by the parties.

Rule 20. *Unexcused absence of a party.*

The unexcused absence of a party at the time and place set for hearing will not be occasion for delay. In the event of such absence, the hearing will proceed and the case will be regarded as submitted by the absent party as provided in Rule 13.

Rule 21. *Nature of hearings.*

Hearings shall be as informal as may be reasonable and appropriate under the circumstances. Appellant and respondent may offer at a hearing on the merits such relevant evidence as they deem appropriate and as would be admissible under the Rules of Evidence for United States Courts and Magistrates, as amended, subject, however, to the sound discretion of the presiding Administrative Judge in supervising the extent and manner of presentation of such evidence. In general, admissibility will be decided on the grounds of relevancy and materiality. Letters or copies thereof, affidavits, or other evidence not ordinarily admissible under the above rules of evidence, may be admitted in the discretion of the presiding Administrative Judge. The weight to be attached to evidence presented in any particular form will be within the discretion of the Board, taking into consideration all the circumstances of the particular case. Stipulations of fact agreed upon by the parties may be used as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if the witness were present. The Board may in any case require evidence in addition to that offered by the parties.

Rule 22. *Examination of witnesses.*

Witnesses before the Board will be examined orally under oath or affirmation, unless the facts are stipulated, or the Board member shall otherwise order. If the testimony of a witness is not given under oath, the Board shall warn the witness that his statements may be subject to the provisions of Title 18, United States Code, Sections 287 and 1001, and any other provision of law imposing penalties for knowingly making false representations in connection with claims against the United States or in connection with any matter within the jurisdiction of any department or agency thereof.

Rule 23. *Copies of papers.*

When books, records, papers, or documents have been received in evidence, a true copy thereof or of such part thereof as may be

V 42 168 AUG 30 77 UMI

material or relevant may be substituted therefor, during the hearing or at the conclusion thereof.

Rule 24. *Posthearing briefs.*

Posthearing briefs may be submitted upon such terms as may be agreed upon by the parties and the presiding member at the conclusion of the hearing. Ordinarily, they will be simultaneous briefs, exchanged within 30 days after receipt of transcript.

Rule 25. *Transcript of proceeding.*

Testimony and argument at hearings shall be reported verbatim, unless the Board otherwise orders. Transcripts or copies of the proceedings shall be supplied to the parties without cost and to others at such rates as may be fixed by the Board.

Rule 26. *Withdrawal of exhibits.*

After a decision has become final the Board may, on its own motion or upon request and after notice to the other party, in its discretion, direct or permit the withdrawal of original exhibits, or any part thereof, by the party entitled thereto. The substitution of true copies of exhibits or any part thereof may be required by the Board in its discretion as a condition of withdrawal.

REPRESENTATION

Rule 27. *The appellant.*

An individual appellant may appear before the Board in person, a corporation by an officer thereof, a partnership or joint venture by a member thereof, or any of these by an attorney at law admitted to practice before the highest court of the District of Columbia or any state, commonwealth or territory of the United States. An attorney representing an appellant shall file a written notice of appearance with the Board. The Board in its discretion may authorize the appearance of other designated individuals.

Rule 28. *The respondent.*

Government counsel may, in accordance with their authority, represent the interest of the Government before the Board. They shall file notices of appearance with the Board. Whenever at any time it appears that the appellant and Government counsel are in agreement as to disposition of the controversy, the Board may suspend further processing of the appeal. However, if the Board is advised thereafter by either party that the controversy has not been disposed of by agreement, the case shall be restored to the Board's calendar without loss of position.

DECISIONS

Rule 29. *Decisions.*

Decisions of the Board will be rendered in writing, and copies thereof will be forwarded simultaneously to both parties. The rules of the Board and all final orders and decisions shall be open for public inspection at the offices of the Board in Washington, D.C. Decisions of the Board will be made solely upon the record, as described in Rule 15.

Rule 30. *Motion for reconsideration.*

A motion for reconsideration by either party, shall set forth specifically the ground or grounds relied upon to sustain the motion and shall be filed within 30 days from the date of the receipt of a copy of the decision of the Board by the party filing the motion.

DISMISSALS

Rule 31. *Dismissal without prejudice.*

In certain cases, appeals docketed before the Board are required to be placed in a suspense status, and the Board is unable to proceed with disposition thereof for reasons not within the control of the Board. In any case where the suspension has continued, or it appears in the discretion of the Board that it will continue, for a period in excess of one year, the Board may dismiss the appeal from its docket without prejudice to its restoration when the cause of suspension has been removed. Unless either party or the Board acts within three years from the date of dismissal to reinstate any appeal dismissed without prejudice, the dismissal shall automatically be converted to a dismissal with prejudice without further action by the parties or the Board.

Rule 32. *Dismissal for failure to prosecute.*

Whenever a record discloses the failure of either party to file documents required by these rules, respond to notices or correspondence from the Board, comply with orders of the Board, or otherwise indicates an intention not to continue the prosecution or defense of an appeal, the Board may issue an order requiring the offending party to show cause why the appeal should not be either dismissed or granted, as appropriate. If the offending party shall fail to show such cause, the Board may take such action as it deems reasonable and proper under the circumstances.

MISCELLANEOUS

Rule 33. *Ex parte communications with the board.*

Ex parte communications, that is, written or oral communications with the Board by or for one party only without notice to the other, shall not be permitted. No member of the Board or of the Board's staff shall entertain, nor shall any person directly or indirectly involved in an appeal submit to the Board or the Board's staff, off the record, any evidence, explanation, analysis, or advice, whether written or oral, regarding any matter at issue in an appeal. This provision does not apply to consultation among Board members nor to ex parte communications concerning the Board's administrative functions or procedures.

Rule 34. *Sanctions.*

If any party fails or refuses to obey an order issued by the Board, the Board may make such order in regard to the failure as it considers necessary to the just and expeditious conduct of the appeal, including dismissal with prejudice.

Rule 35. *Remand from Court.*

Whenever any matter is remanded to the Board from any court for further proceedings, each of the parties shall, within 20 days of such remand, submit a report to the Board, recommending procedures to be followed in order to comply with the court's order. The Board will review the reports and enter special orders governing the handling of matters remanded to it for further proceedings by any court. To the extent the court's directive and time limitations will permit, such orders will conform to these rules.

Issued at Washington, D.C.

JAY JANIS,
Under Secretary of Housing and Urban Development.

[FR Doc.77-25077 Filed 8-29-77;8:45 am]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 40—FARM LABOR CONTRACTOR REGISTRATION

Issuance by States of Certificates of Registration and Employee Identification Cards

AGENCY: Department of Labor.

ACTION: Final rule.

SUMMARY: The Farm Labor Contractor Registration Act of 1963, as amended, authorizes the Secretary to enter into agreements with Federal and State agencies to utilize their facilities and services, and to delegate to such agencies certain authority, other than rulemaking, as the Secretary deems necessary in carrying out the provisions of the Act. Under that authority, and by this final action, the Secretary is providing the method and procedure for entering into such agreements with any State.

DATES: This final rule is effective September 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Paul E. Myerson, Counsel for Employment Standards, Division of General Legal Services, Office of the Solicitor, Room N-2464, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210, telephone No. 202-523-8244.

SUPPLEMENTAL INFORMATION: The authority conferred by Section 8 of the Farm Labor Contractor Registration Act of 1963, as amended (7 U.S.C. 2047), does not require the issuance of regulations to authorize the Department to enter into agreements with States involving the use of their facilities and services. However, regulations are deemed necessary to inform the various States and the public in general that the Department will consider the execution of such agreements, and to explain the provisions thereof. Accordingly, a proposed regulation was published in the May 13, 1977, FEDERAL REGISTER, 42 FR 24289, which invited comments thereon. The only comment submitted in response to the invitation suggested combining paragraphs (d) and (e) of § 40.43 in the interest of clarity and brevity. This suggestion has been adopted. This document, representing final action on the rule, was prepared under the direction and control of Donald S. Shire, Associate Solicitor for General Legal Services, Office of the Solicitor, Department of Labor.

Accordingly, there is hereby added to 29 CFR Part 40 an amended § 40.41 and a new § 40.43.

1. Section 40.41 is amended to read as follows:

§ 40.41 Office of filing, action.

(a) Each application for a Certificate of Registration or a Farm Labor Contractor Employee Identification Card filed at any of the offices designated in §§ 40.11 and 40.31 respectively shall be transmitted promptly to the appropriate regional office of the Wage and Hour Division, Employment Standards Administration, except as provided in paragraph (b) of this section.

(b) Each application for a Certificate of Registration or a Farm Labor Contractor Employee Identification Card filed in a State authorized to issue such documents on behalf of the Administrator shall be processed by the appropriate State agency. See § 40.43 of this Part.

2. A new § 40.43 is added which reads as follows:

§ 40.43 Issuance of Farm Labor Contractor Certificates of Registration and Farm Labor Contractor Employee Identification Cards by States.

(a) Pursuant to Section 8 of the Act, the Secretary may enter into an agreement with any State authorizing that State to issue Certificates of Registration and Farm Labor Contractor Employee Identification Cards on behalf of the Administrator.

(b) Every agreement entered into pursuant to this Section shall require that Certificates of Registration and Farm Labor Contractor Employee Identification Cards be issued by the State in conformity with the provisions of the Act, and the regulations, interpretations and guidelines issued thereunder.

(c) Any agreement entered into pursuant to this Section shall be terminated, without hearing, after written notice by the Secretary, the Administrator, or the appropriate State official.

(d) Every Certificate of Registration and every Farm Labor Contractor Employee Identification Card, whether issued by a State pursuant to this Section or issued by the Administrator under § 40.42 of this Part, shall be valid in any State.

(e) The Secretary, in accordance with the provisions of this Section, has entered into an agreement with each State listed herein below:

New Jersey.

(f) Every agreement entered into pursuant to this Section is available for public inspection and copying in accordance with 29 CFR Part 70.

Signed at Washington, D.C., on this 25th day of August 1977.

RAY MARSHALL,
Secretary of Labor,
U.S. Department of Labor.

[FR Doc.77-25255 Filed 8-29-77;8:45 am]

CHAPTER X—NATIONAL MEDIATION BOARD

PART 1208—AVAILABILITY OF INFORMATION

Miscellaneous Amendments

AGENCY: National Mediation Board.

ACTION: Notice of final rulemaking.

SUMMARY: These amendments provide reference to the Chairman, National Mediation Board, for purposes of perfecting an appeal of a denied Freedom of Information Act request. An editorial change has been made to reflect the Board's current mailing address.

The amendments additionally provide revised fee schedules and procedures for the search and duplication of National Mediation Board and National Railroad Adjustment Board records which are available to the public under this part. In essence, the Board has determined that the direct cost of staff searches has increased to $1.80 per quarter-hour for clerical searches and $4.10 per quarter-hour for non-clerical searches. These costs are reflected in the subject regulations, as well as a duplication charge of fifteen cents per copy. No fee shall be charged for producing records pursuant to this part where the total direct cost to the agency is less than $5.00 or under other specified circumstances.

A notice of proposed rulemaking with respect to these amendments was published in the FEDERAL REGISTER on July 13, 1977. No comments were received from the public during the advance comment period which ended August 19, 1977. The final text reflects only minor non-substantive editorial changes from the proposed language.

DATES: The effective date of these regulations is August 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Rowland K. Quinn, Jr., Executive Secretary, National Mediation Board; Tel: 202-523-5920.

SUPPLEMENTARY INFORMATION: The regulations are issued pursuant to the authority of 5 U.S.C. 552(a)(4)(A) and 44 Stat. 577, as amended (45 U.S.C. 151 et seq.).

Dated: August 24, 1977.

ROWLAND K. QUINN, Jr.,
Executive Secretary.

29 CFR 1208.2 and 29 CFR 1208.6 are hereby amended to read as follows:

§ 1208.2 Production or disclosure of material or information.

(a) *Requests for identifiable records and copies.* (1) All requests for National Mediation Board records shall be filed in writing by mailing the request or delivering it to the Executive Secretary, National Mediation Board, Washington, D.C. 20572, except that requests for records of the National Railroad Adjustment Board shall be in writing and addressed to the Administrative Officer, National Railroad Adjustment Board, 220 South State Street, Chicago, Illinois 60604.

(2) The request shall reasonably describe the records being sought in a manner which permits identification and location of the records.

(i) If the description is insufficient to locate the records, the National Mediation Board will so notify the person making the request and indicate the additional information needed to identify the records requested.

(ii) Every reasonable effort shall be made by the Board to assist in the identification and location of the records sought.

(3) Upon receipt of a request for records the Executive Secretary shall maintain records in reference thereto which shall include the date and time received, the name and address of the requester, the nature of the records requested, the action taken, the date the determination letter is sent to the requester, appeals and action thereon, the date any records are subsequently furnished, the number of staff hours and grade levels of persons who spent time responding to the request and the payment requested and received.

(4) All time limitations established pursuant to this section with respect to processing initial requests and appeals shall commence at the time a written request for records is received at the Board's offices in Washington, D.C., except for requests directed to the National Railroad Adjustment Board pursuant to § 1208.2(a)(1) in which case the time limit shall commence when the request is received at the NRAB's office in Chicago.

(i) An oral request for records shall not begin any time requirement.

(b) *Processing the Initial Request.* (1) Time limitations. Within 10 working days (excepting Saturdays, Sundays, and working holidays) after a request for records is received, the Executive Secretary shall determine and inform the requester by letter whether or the extent to which the request will be complied with, unless an extension is taken under paragraph (b)(3) of this section.

(2) Such reply letter shall include:

(i) A reference to the specific exemption or exemptions under the Freedom of Information Act authorizing the withholding of the record, a brief explanation of how the exemption applies to the record withheld.

(ii) The name or names and positions of the person or persons, other than the Executive Secretary, responsible for the denial.

(iii) A statement that the denial may be appealed within thirty days by writing to the Chairman, National Mediation Board, Washington, D.C. 20572, and that judicial review will thereafter be available in the district in which the requester resides, or has his principal place of business, or the district in which the agency records are situated, or the District of Columbia.

(3) Extension of time. In unusual circumstances as specified in this paragraph, the Executive Secretary may extend the time for initial determination on requests up to a total of ten days (excluding Saurdays, Sundays, and legal public holidays). Extensions shall be granted in increments of five days or less and shall be made by written notice to the requester which sets forth the reason for the extension and the date on which a determination is expected to be dispatched. As used in this paragraph "unusual circumstances" means, but only to the extent necessary to the proper processing of the request:

(i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency or another division having substantial interest in the determination of the request, or the need for consultation among components

V 42 168 AUG 30 77 UMI

of the agency having substantial subject matter interest therein.

(4) Treatment of delay as a denial. If no determination has been dispatched at the end of the ten-day period, or the last extension thereof, the requester may deem his request denied, and exercise a right of appeal, in accordance with § 1208.2c. When no determination can be dispatched within the applicable time limit, the responsible official shall nevertheless continue to process the request; on expiration of the time limit he shall inform the requester of the reason for the delay, of the date on which a determination may be expected to be dispatched, and of his right to treat the delay as a denial and to appeal to the Chairman of the Board in accordance with § 1208.2(c) and he may ask the requester to forego appeal until a determination is made.

(c) *Appeals to the Chairman of the Board.* (1) When a request for records has been denied in whole or in part by the Executive Secretary or other person authorized to deny requests, the requester may, within thirty days of its receipt, appeal the denial to the Chairman of the Board. Appeals to the Chairman shall be in writing, addressed to the Chairman, National Mediation Board, Washington, D.C. 20572.

(2) The Chairman of the Board will act upon the appeal within twenty working days (excluding Saturdays, Sundays and legal public holidays) of its receipt unless an extension is made under paragraph (c)(3) of this section.

(3) In unusual circumstances as specified in this paragraph, the time for action on an appeal may be extended up to ten days (excluding Saturdays, Sundays and legal public holidays) minus any extension granted at the initial request level pursuant to § 1208.2(b)(3). Such extension shall be made by written notice to the requester which sets forth the reason for the extension and the date on which a determination is expected to be dispatched. As used in this paragraph "unusual circumstances" means, but only to the extent necessary to the proper processing of the appeal:

(i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency or another division having substantial interest in the determination of the request or the need for consultation among components of the agency having substantial subject matter interest therein.

(4) Treatment of delay as a denial. If no determination on the appeal has been dispatched at the end of the twenty-day period or the last extension thereof, the requester is deemed to have exhausted his administrative remedies, giving rise to a right of review in a district court of the United States as specified in 5 U.S.C. 552(a)(4). When no determination can be dispatched within the applicable time limit, the appeal will nevertheless continue to be processed; on expiration of the time limit the requester shall be informed of the reason for the delay, of the date on which a determination may be expected to be dispatched, and of his right to seek judicial review in the United States district court in the district in which he resides or has his principal place of business, the district in which the Board records are situated or the District of Columbia. The requester may be asked to forego judicial review until determination of the appeal.

(d) *Indexes of Certain Records.* (1) The National Mediation Board at its office in Washington, D.C. will maintain, make available for public inspection and copying, and publish quarterly (unless the Board determines by order published in the FEDERAL REGISTER that such publication would be unnecessary or impracticable) a current index of the materials available at the Board offices which are required to be indexed by 5 U.S.C. 552(a)(2).

(i) A copy of such index shall be available at cost from the National Mediation Board, Washington, D.C. 20572.

(2) The National Railroad Adjustment Board at its offices in Chicago, Illinois will maintain, make available for public inspection and copying, and publish quarterly (unless the Board determines by order published in the FEDERAL REGISTER that such publication would be unnecessary or impracticable) a current index of the materials available at the Board offices which are required to be indexed by 5 U.S.C. 552(a)(2).

§ 1208.6 Fees—duplication costs and search.

(a)(1) Unless waived in accordance with the provisions of § 1208.62, the following fees shall be imposed for the reproduction of any record disclosed pursuant to this part.

(i) *Copying of records.* Fifteen cents per copy of each page.

(ii) *Copying of microfilm.* Fifty cents per microfilm frame.

(iii) *Clerical searches.* $1.80 for each one quarter hour spent by clerical personnel searching for and producing a requested record, including time spent copying any record.

(iv) *Non-clerical searches.* $4.10 for each one quarter hour spent by professional or managerial personnel searching for and producing a requested record, including time spent copying any record.

(v) *Certification or authentication of records.* $1.00 per certification or authentication.

(vi) *Forwarding material to destination.* Postage, insurance and special fees will be charged on an actual cost basis.

(2)(i) No charge shall be assessed for time spent in resolving legal or policy questions relating to the documents or in examining records for the purpose of deleting nondisclosable portions thereof.

(ii) No charge shall be assessed for time spent in monitoring an individual who examines documents at the Board's offices.

(3) Payment shall be made by check or money order payable to "United States Treasury."

(b)(1) No fee shall be charged for disclosure of records pursuant to this part where:

(i) The cost of providing the records is less than $5.00.

(ii) The records are requested by a congressional committee or subcommittee, a Federal court, a Federal department or agency, or the General Accounting Office.

(2)(i) The Executive Secretary may waive payment of fees, in whole or in part, when he determines that the person making the request is indigent.

(ii) A person seeking such a determination shall petition the Executive Secretary in writing stating the reasons therefore.

(iii) Determinations made pursuant to this provision will be made within the discretion of the agency.

(3)(i) The Executive Secretary may reduce or waive payment of fees in whole or in part when he determines that such reduction or waiver is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(ii) Determinations pursuant to this provision shall be made within the discretion of the agency.

(4) No fee shall be charged if a record requested is not found or for any record that is determined to be totally exempt from disclosure.

[FR Doc.77-20543 Filed 8-29-77;8:45 am]

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Approval of the Puerto Rico Plan

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: The Puerto Rico plan for Occupational Safety and Health is hereby approved as a developmental plan under Section 18(c) of the Occupational Safety and Health Act of 1970. Under the approved plan, the Commonwealth of Puerto Rico will assume responsibility for the development and enforcement of occupational safety and health standards, with the exception of certain maritime issues, throughout the jurisdiction, with Federal enforcement continuing to the degree necessary to assure occupational safety and health protection to all employees in the Commonwealth.

EFFECTIVE DATE: August 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Mabel Stanton, Project Officer, U.S. Department of Labor, Occupational Safety and Health Administration, 200

Constitution Avenue NW., Room N-3112, Washington, D.C. 20210.

A copy of the plan may be inspected and copied during normal business hours at the following locations: Office of the Director, Federal Compliance and State Programs, Room N-3112, 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 3445, 1515 Broadway (1 Astor Plaza), New York, N.Y. 10036; Department of Labor, Occupational Safety and Health Office, 414 Barbosa Avenue, Sixth Floor, Hato Rey, Puerto Rico 00917.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667, hereinafter referred to as the Act), provides that a State (under section 4(a) of the Act, Puerto Rico is defined as a State) which desires to assume responsibility for the development and enforcement of occupational safety and health standards shall submit a plan to the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) describing in detail the proposed program. The Assistant Secretary will evaluate the proposed plan to determine whether it meets the criteria of the Act and the implementing regulations at 29 CFR 1902. The criteria generally require that a State plan must provide for occupational safety and health standards, and the enforcement of those standards, as least as effective as Federal occupational safety and health standards and enforcement.

The Commonwealth of Puerto Rico submitted a plan on February 25, 1977. After review by the Regional and National Offices of the Department of Labor, notice was published in the FEDERAL REGISTER of the submission of the Puerto Rico plan and its availability for public comment (June 7, 1977, 42 FR 29024).

ISSUES

The Puerto Rico Occupational Safety and Health Act is similar to the Federal Act and few issues were raised by either Regional or National Office review. However, the Puerto Rico Act does contain certain provisions which differ from the Federal. Among these are the administrative review of citations, abatement requirements, and proposed penalties, which is conducted by a Hearing Examiner appointed by the Puerto Rico Secretary of Labor. This differs from the comparable Federal provision which establishes a review commission, independent from the Assistant Secretary, to hear all contested cases, with appeal from the Review Commission directly to the U.S. Courts of Appeal.

An intra-agency review process has been approved in several State plans, including South Carolina (37 FR 25923), Maryland (38 FR 17837), and the Virgin Islands (38 FR 24896), with the requirement that investigative and prosecuting functions be clearly separated from the adjudicatory functions, and the Puerto Rico procedures are essentially identical to those approved in these States. Therefore the use of an agency administrative review process does not preclude initial plan approval, but the actual operation of the procedure will be carefully evaluated.

Further, the Puerto Rico Act provides an additional requirement that the owner of premises used as a place of employment comply with all occupational safety and health standards with respect to the parts of the premises under his control and not under the control of an employer, and a separate 15 day contest period for the citation and the notice of proposed penalties, rather than a single contest period which begins after the employer's receipt of the notice of proposed penalty, as in the Federal program.

Although the Federal Act contains no provision placing a compliance obligation on the owner of premises used for employment, it was determined that this provision could make the Puerto Rico Act more effective than the Federal. Further, since the fifteen day review period for contest under the Federal Act does not begin to run until after the receipt by the employer of the notice of proposed penalty, which occurs concurrent with, or shortly after the receipt of the citation, the dual time period provided by the Puerto Rico Act, will, in actual operation, operate essentially the same as the Federal provision, with the exception that employers in some cases could not wait for the notice of proposed penalty to exercise their contest rights to the citation. Therefore, it was determined that these differences do not preclude approval.

PUBLIC COMMENTS

In response to the June 7, 1977, notice, AIRCO, Inc., of Montrale, N.J., objected to the lack of an independent review commission, expressed concern over the use of two languages in Puerto Rico, and suggested that compliance materials and activities, as well as any notices, be in English. The Puerto Rico review system is discussed above. In addition, under the plan as approved, all significant materials, including the regulations, standards, Field Operations Manual and citations, will be available in both English and Spanish, which should alleviate AIRCO's concern.

The Puerto Rico Legal Services Unit also submitted comments objecting to the lack of an independent review commission and objected to the lack of a State advisory committee. In addition, they raised questions concerning public accessibility to hearings, pleadings and decisions of the hearing examiner and the Puerto Rico Secretary of Labor.

However, since no State has been required to have a State advisory committee as neither the Federal Act, nor the regulations require such a provision, and since Puerto Rico has provided assurances that it will adopt Federal standards and regulations essentially identical to 29 CFR Part 2200, which provide for public accessibility to review procedures and pleadings, and given assurance that all proceedings will be open to the public, these objections also do not preclude approval.

DECISION

After careful consideration, the Puerto Rico plan is hereby approved under section 18 of the Act and 29 CFR Part 1902.

The decision incorporates requirements of the Act and implementing regulations applicable to State plans generally. It also incorporates our intention as to continued Federal enforcement of Federal standards in areas covered by the plan and the State's developmental schedule as set out below. In addition, it incorporates our intention to continue to apply a sliding scale for "as effective as" evaluations which will require the State to continue to keep pace with improvements in all aspects of the Federal program. See 29 CFR 1902.3(d)(1), 1902.32 et seq. (40 FR 54780–86).

Pursuant to 29 CFR 1902.20(b)(1)(iii), the present level of Federal enforcement will not be diminished until the Puerto Rico plan has been determined to be operational under 29 CFR 1954.3. Thereafter, Federal enforcement activity will continue to be exercised to the degree necessary to assure occupational safety and health protection to employees in the Commonwealth of Puerto Rico.

Part 1952 is amended by adding a new Subpart FF, effective August 15, 1977, reading as follows:

Subpart FF—Fuerto Rico

Sec.
1952.380 Description of the plan.
1952.381 Where the plan may be inspected.
1952.382 Level of Federal enforcement.
1952.383 Developmental schedule.

AUTHORITY: Sec. 18, Pub. L. 91–596, 84 Stat. 1608; 29 U.S.C. 667.

Subpart FF—Puerto Rico

§ 1952.380 Description of the plan.

(a) The plan designates the Puerto Rico Department of Labor and Human Resources as the agency responsible for the administration and enforcement of the plan throughout the Commonwealth. This includes the responsibility for administration of a public employee program for which the same enforcement provisions and procedures used for the private sector will apply, with the exception of penalties. Penalties in the Commonwealth's Act for the private sector are essentially identical to those in the Federal Act, and Puerto Rico intends to adopt all Federal standards. The Commonwealth will exclude from coverage all industries included within the classifications of Marine Cargo Handling (SIC 4463) and Shipbuilding and Repairing (SIC 3713), but will adopt and enforce standards for boilers and elevators and other issues where no Federal OSHA standards exist. The plan provides that program personnel will be employed under a merit system and provides for a Management Information System. It also provides procedures for the development and promulgation of standards and procedures for the prompt restraint or elimination of imminent danger situations.

V 42168 AUG 30 77 7 UMI

(b) The Puerto Rico Occupational Safety and Health Act was enacted on July 7, 1975, and approved by the Governor on August 5, 1975. It is similar in most respect to the Federal Act. The Puerto Rico Act provides employers the right of administrative review of citations, abatement requirements, and proposed penalties, and employee review of abatement dates, by a hearing examiner appointed by the Puerto Rico Secretary of Labor. The decision by the Secretary may be appealed by the employer or employees to the civil courts. The plan contains a statement of support by the Governor and an opinion by the Secretary of Justice that the Act is consistent with the State's Law and Constitution. Federal procedural regulations will be incorporated into the Commonwealth's regulations and the Federal Compliance Manual will be adopted to fit Puerto Rico's Law. In addition, the Puerto Rico Act requires that a Spanish language version of OSHA standards be made available within three years of plan approval.

(c) The Puerto Rico Act provides for, among other things, inspections in response to employee complaints; an opportunity for employer and employee representatives to accompany inspectors in order to aid inspections, notification of employees or their representatives when no compliance action is taken as a result of a complaint; notification of employees of their protections and obligations; protection for employees against discharge or discrimination in terms and conditions of employment; adequate safeguards to protect trade secrets; sanctions against employers for violations of standards and orders; and review of citations by a hearing examiner, with appeal to the Secretary of Labor and the Commonwealth's courts.

(d) The plan also proposes a program of voluntary compliance by employers and employees, including a provision for on-site consultation.

(e) The Puerto Rico Plan includes the following documents as of the date of approval:

(1) The plan description documents, in two volumes.

(2) A copy of the enabling legislation as enacted on July 7, 1975, and signed by the Governor on August 5, 1975.

(3) An assurance of separability of the enforcement personnel from the hearing examiner.

(4) A letter of assurance of the authenticity of the English version of the Puerto Rico OSHA Act from John Cinque Sacarello, Assistant Secretary for Occupational Safety and Health, Puerto Rico Department of Labor, dated December 4, 1975.

§ 1952.381 Where the plan may be inspected.

A copy of the plan may be inspected and copied during normal business hours at the following locations: Office of the Director, Federal Compliance and State Programs, Room N-3112, 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 3445, 1515 Broadway (1 Astor Plaza), New York, N.Y. 10036; Department of Labor, Occupational Safety and Health Office, 414 Barbosa Avenue, Sixth Floor, Hato Rey, Puerto Rico 00917.

§ 1952.382 Level of Federal enforcement.

Pursuant to § 1902.20(b)(1)(iii) of this chapter, the present level of Federal enforcement in Puerto Rico will continue to be exercised to the degree necessary to assure occupational safety and health protection to employees in Puerto Rico.

§ 1952.383 Developmental schedule.

The Puerto Rico State plan is developmental. The following is the developmental schedule as provided by the plan:

(a) Translation of position description for State plan personnel by December 1978;

(b) Public Information Program (private sector), one month after plan approval;

(c) Analysis for inspection scheduling (private sector), one month after plan approval;

(d) Submit administrative regulations, two weeks after plan approval;

(e) Affirmative action plan by 1978;

(f) File and promulgate standards, one month after plan approval;

(g) Adopt the Field Operations Manual, one month after plan approval;

(h) Adopt Management Information System, upon plan approval;

(i) Internal training schedule, three months after plan approval;

(j) Employer, employee training schedule, six to twelve months after plan approval;

(k) Public information program (Government sector), six months after plan approval;

(l) Analysis for inspection scheduling (Government sector), seven months after plan approval;

(m) Implementation of public employee program, eight months after plan approval.

Signed at Washington, D.C., this 15th day of August 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-25285 Filed 8-29-77;8:45 am]

CHAPTER XXV—PENSION AND WELFARE BENEFIT PROGRAMS, DEPARTMENT OF LABOR

SUBCHAPTER C—REPORTING AND DISCLOSURE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

AGENCY: Department of Labor.

ACTION: Interim rule: corrections.

SUMMARY: This rule corrects certain headings in the interim rule, FR Doc. 76-22420 at page 32522 in the FEDERAL REGISTER of Tuesday, August 3, 1976.

EFFECTIVE DATE: August 3, 1976.

FOR FURTHER INFORMATION CONTACT:

Richard F. Aranow, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216, area code 202-523-8639.

In FR Doc. 76-22420 appearing at page 32522 in the FEDERAL REGISTER of Tuesday, August 3, 1976, the following corrections are made.

1. On page 32529 the centered heading "Subpart C" in the index is corrected to read as follows:

Subpart C—Annual Report Requirements

2. On page 32529, the centered heading "Subpart C" following the "Authority" paragraph is corrected to read as follows:

Subpart C—Annual Report Requirements

3. On page 32533 the heading for § 2520.103-9 is corrected to read as follows:

§ 2520.103-9 Direct filing rules for bank common and collective trusts and insurance carrier pooled separate accounts.

* * * * *

Dated: August 24, 1977.

IAN D. LANOFF,
Administrator of Pension and Welfare Benefit Programs.

[FR Doc.77-25284 Filed 8-29-77;8:45 am]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (INCLUDING MENTAL RETARDATION RESEARCH FACILITIES), TEACHING FACILITIES, STUDENT LOANS, EDUCATIONAL IMPROVEMENT AND SCHOLARSHIPS

Programs for Training of Physician Assistants

AGENCY: Public Health Service, HEW.

ACTION: Interim-final regulations.

SUMMARY: These regulations prescribe requirements for programs for the training of physician assistants pursuant to section 701(7)(B) of the Public Health Service Act (42 U.S.C. 292a(7)(B)), as amended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484). These requirements apply to all programs for the training of physician assistants supported under Title VII of the Public Health Service Act.

DATES: These regulations are effective immediately. As discussed below, comments on the regulations are invited. Comments must be received on or before October 31, 1977, in order to be considered.

ADDRESSES: Written comments preferably in triplicate, should be addressed to the Director, Bureau of Health Manpower, Health Resources Administration, 3700 East-West Highway, Center Building, 4th Floor, Hyattsville, Md. 20782. All comments received will be available for public inspection and copying at the Office of Program Operations, Bureau of Health Manpower, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Dr. Daniel N. Masica, Deputy Director, Division of Medicine, Bureau of Health Manpower, Room 4-44, at the above address. Telephone: 301-436-6424.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, hereby deletes 42 CFR Part 57, Subpart I, entitled "Grants for Construction of Teaching Facilities for Allied Health Professions Personnel"[1] and substitutes therefor a new Subpart I, as set forth below, entitled "Programs for the Training of Physician Assistants."

The purpose of this new subpart is to comply with the requirement in section 701(7)(B) of the Public Health Service Act (42 U.S.C. 292a (7) (B)) that the Secretary, after consultation with appropriate professional organizations, prescribe regulations for programs for the training of physician assistants. The statute provides that the regulations, at a minimum, must require programs for the training of physician assistants to (1) extend for at least one academic year and consist of supervised clinical practice, and at least four months (in the aggregate) of classroom instruction directed toward preparing students to deliver health care and (2) have an enrollment of not less than eight students.

A notice of intent to issue regulations for programs for the training of physician assistants was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15433). Interested persons were invited to comment on the issues raised by the statutory provisions, and approximately 20 comments were received. The Department has taken these comments into consideration in developing the regulations set forth below. In addition, the Department has consulted with representatives of the American Academy of Physician's Assistants, the Association of Physician's Assistant Programs, the National Commission on Certification of Physician's Assistants, the American Medical Association, and the Association of American Medical Colleges.

The following is a brief summary of the major features of the regulations

1. The regulations in this subpart will apply to all programs for the training of physician assistants supported under title VII of the Public Health Service Act. Consequently, physician assistant training programs supported in the current fiscal year under section 774(a) of the Public Health Service Act (42 U.S.C. 295-4(a)), and programs to be supported beginning in fiscal year 1978 under section 783(a)(1) of the Act, as added by Pub. L. 94-484, must comply with the requirements in this subpart. Section 774(a) authorizes grants and contracts for Health Manpower Education Initiative Projects, while section 783(a)(1), (42 U.S.C. 295g-3(a)(1)), authorizes grants beginning in fiscal year 1978 for projects to plan, develop, and operate or maintain programs for the training of physician assistants, as defined in section 701(7). Programs for the training of physician assistants receiving grants under section 774(a) are also subject to the regulations in 42 CFR Part 57, Subpart AA, pertaining to grants for Health Manpower Education Initiative Projects. The Department is currently developing proposed regulations governing the award of grants under section 783(a)(1) of the Act to be published in the FEDERAL REGISTER at the earliest possible date.

2. The regulations in this subpart require programs for the training of physician assistants, for purposes of Title VII of the Act, to be programs which train assistants to the primary care physician. It is the Secretary's view that this policy is consistent with the concern of Congress, as expressed in the findings and declaration of policy as well as the legislative history of Pub. L. 94-484, for the availability of adequate numbers of qualified health professions personnel to deliver primary care in the United States.

3. In addition to the other requirements in this subpart, a program for the training of physician assistants must (1) be accredited by the American Medical Association's Committee on Allied Health Education and Accreditation as a program for the Assistant to the Primary Care Physician, or (2) have received a Letter of Support from the Joint Review Committee on Educational Programs for Physician's Assistants for its plans for such a program.

4. The regulations require programs for the training of physician assistants to develop and use (1) methods designed to encourage graduates of the program to work in health manpower shortage areas and (2) methods for placing graduates in positions for which they have been trained in health manpower shortage areas. The purpose of these requirements is to implement both the Department's priorities and the intent of Congress with respect to alleviating the geographic maldistribution of health professions personnel engaged in the delivery of primary care.

Although the Department was unable to prescribe regulations for programs for the training of physician assistants within 180 days after the date of enactment of the statutory provision (Oct. 12, 1976), as required by section 701(7)(B) of the Act, the Department wishes to be as responsive as possible to the desire of Congress for the timely promulgation of these regulations. In addition, issuance of these regulations is necessary in order to make them applicable to grants for programs for the training of physician assistants under section 774(a) of the Act which must be awarded prior to the close of fiscal year 1977. For these reasons, the Secretary has determined pursuant to 5 U.S.C. 553 and Department policy that it would be impracticable and contrary to the public interest to follow proposed rulemaking procedures or to delay the effective date of these regulations.

Notwithstanding the omission of proposed rulemaking procedures, interested persons are invited to submit written comments, data, views, and arguments relating to these regulations to the Director of the Bureau of Health Manpower at the address given above. All relevant material received on or before October 31, 1977, will be considered, and following the close of the comment period the regulations will be revised as warranted by the public comments received. It is intended that any such revision will be published within 90 days of the close of the comment period.

The regulations as set forth below will be applicable and effective on August 30, 1977. Revisions thereto, although applicable to grants for physicians assistant training programs awarded after publication of these regulations, will be applicable only with respect to activities conducted under such grants on or after the date that the revisions become effective.

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement Under Executive Order 11821 and OMB Circular A-107.

Accordingly, the existing Subpart I of 42 CFR Part 57 is deleted, and a new Subpart I is added to 42 CFR Part 57 and is adopted as set forth below.

Dated: August 16, 1977.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: August 19, 1977.

HALE CHAMPION,
Acting Secretary.

Subpart I—Programs for the Training of Physician Assistants

Sec.
57.801 Purpose and scope.
57.802 Definitions.
57.803 Requirements.

AUTHORITY: Sec. 215, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 701(7)(B), 90 Stat. 2247 (42 U.S.C. 292a(7)(B)).

Subpart I—Programs for the Training of Physician Assistants

§ 57.801 Purpose and scope.

(a) Section 701(7)(B) of the Public Health Service Act (42 U.S.C. 292a(7)(B)) requires the Secretary to prescribe regulations for programs for the training of physician assistants. The purpose of this subpart is to comply with this requirement.

(b) The regulations in this subpart are applicable to all programs for the training of physician assistants supported under Title VII of the Public Health Service Act.

[1] The authority for making grants for construction of teaching facilities for allied health professions personnel (sec. 791, Public Health Service Act, 80 Stat. 1226, 42 U.S.C. 295h) has expired. Therefore, the regulations governing the award of such grants are deleted from the Code of Federal Regulations.

V42168 AUG 30 77 UMI

§ 57.802 Definitions.

For purposes of this subpart:

(a) "Academic year" means the approximately 9–12 month period of time during which the program is in session.

(b) "Full-time student" means a student who is enrolled in a program and pursuing a course of study which constitutes a full-time academic workload, as determined by the program, and which leads to a degree, diploma, or certificate of completion.

(c) "Health manpower shortage area" means (1) an area designated under section 332 of the Public Health Service Act or (2) prior to the designation of areas under section 332 of the Public Health Service Act, an area designated as a critical health manpower shortage area under section 329(b) of the Public Health Service Act, as in effect on September 30, 1977.

(d) "Medical director" means the individual responsible for providing competent medical direction of the program.

(e) "Physician assistant" means an individual who is qualified by academic and clinical training to provide primary care patient services under the supervision and responsibility of a doctor of medicine or osteopathy. At a minimum, the physician assistant is competent to:

(1) Do the initial and follow-up evaluation of a patient of any age group in any setting to elicit a detailed and accurate history, perform an appropriate physicial examination, and record and present pertinent data, including interpretive recommendations, in a manner meaningful to the physician;

(2) Perform or assist in the performance of routine laboratory and related studies as appropriate for a specific practice setting, such as blood studies, urinalyses, and electrocardiographic tracings;

(3) Perform routine therapeutic procedures such as injections, immunizations, and the assessment, suturing, and care of wounds;

(4) Instruct and counsel patients regarding physical and mental health, including matters such as nutrition, illness, treatment, normal growth and development, and age, sex, or lifestyle risk factors;

(5) Perform the following functions in a hospital setting: patient work-ups, making patient rounds, recording patient progress notes, accurately and appropriately transcribing or executing standing orders and other specific orders at the direction of the supervising physician, and compiling and recording detailed progress reports and narrative case summaries;

(6) Deliver or assist in the delivery of services, including the review and monitoring of treatment and therapy plans, to patients requiring initial or continuing care in settings other than a hospital, such as the home, nursing homes, and extending care facilities;

(7) Evaluate and treat life-threatening emergency situations; and

(8) Interact with those community health services and other community resources which will facilitate the patient's care and continuity of care.

(f) "Primary care" means health care which may be initiated by the patient or the provider, or both, in a variety of settings, and which consists of a broad range of personal health care services including promotion and maintenance of health, prevention of illness and disability, basic care during acute and chronic phases of illness, guidance and counseling of individuals and families, and referral to other health care providers and community resources when appropriate. In providing such services (1) The physical, emotional, social, and economic status of the patient is considered in the context of his or her cultural and environmental background, including the family and community, and (2) the patient is provided timely access to the health care system.

(g) "Supervised clinical practice" means direct participation in patient care by observation, examination, and performance of procedures as are appropriate for the assigned role of the student for the purposes of instruction, under the guidance and responsibility of a physician who holds a full and unrestricted license in the State in which the program is located.

§ 57.803 Requirements.

A program for the training of physician assistants must:

(a) (1) Be accredited by the American Medical Association's Committee on Allied Health Education and Accreditation as a program for the Assistant to the Primary Care Physician; or

(2) Have received a Letter of Support from the Joint Review Committee on Educational Programs for Physician's Assistants for its plans for a program for the Assistant to the Primary Care Physician:

(b) Have a medical director who is licensed to practice medicine or osteopathy in the State in which the program is located (or any State, if the program is conducted by a federal health facility) and who is experienced in the delivery of the type of health care services for which the program provides training;

(c) Have an enrollment of not less than eight full-time students in each class;

(d) Be a minimum of one academic year in length;

(e) Consist of supervised clinical practice and at least four months (in the aggregate) of classroom instruction;

(f) Develop and use methods designed to encourage graduates of the program to work in health manpower shortage areas, such as periods of supervised clinical practice in those areas;

(g) Develop and use methods for placing graduates in positions for which they have been trained, including methods for placing graduates in such positions in health manpower shortage areas and, to the extent possible, in the State in which the program is located;

(h) Develop and use a method for evaluating the effectiveness of the program in training physician assistants, including:

(1) Evaluation by faculty and students of the program in relation to its objectives,

(2) Evaluation of student performance in classroom instruction and supervised clinical practice, and

(3) Evaluation of the number of graduates employed and the characteristics of their employment, such as geographical location, setting, and functions performed; and

(i) Award a degree, diploma, or certificate of completion to individuals who have successfully completed the program.

[FR Doc.77-24553 Filed 8-29-77;8:45 am]

Title 46—Shipping

CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER K—REGULATIONS UNDER PUBLIC LAW 91-469

[G.O. 109, Rev., Amdt. 6]

PART 390—CAPITAL CONSTRUCTION FUND

Updating of Regulations

AGENCY: Maritime Administration, Department of Commerce.

ACTION: Final Rule.

SUMMARY: The appendices to the capital construction fund regulations contain sample documents used in the administration of the program. Since adoption of the regulations in 1976, changes have been made in the existing documents used and a new supplementary document has been developed. This document updates two of the appendices to reflect the current agency documents used in the program.

EFFECTIVE DATE: August 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Edward Uttridge, Department of Commerce, Maritime Administration, Washington, D.C. 20230, (202–377–4400).

SUPPLEMENTARY INFORMATION: The purpose of this action is to update two of the appendices to 46 CFR Part 390, the regulations which govern the administration of the Maritime Administration's CCF Program. Since adoption of the regulations in early 1976, changes have been made in the existing CCF documents and a new supplementary document has been developed.

To reflect these developments, the existing Appendices II and IV must be amended. Appendix II is amended by replacing the outdated sample CCF Agreement with the sample agreement presently in use. Appendix IV is amended to include the sample addendum to CCF agreements that is currently used. Prior to this amendment, Appendix IV was merely reserved and, consequently, included no sample addendum.

These amendments are being adopted without notice and opportunity for public comment because the CCF program

is exempted from the requirements of 5 USC 553. Furthermore, although it is the practice of the Maritime Administration to comply with such requirements on its own initiative, it has been determined that it is unnecessary to do so in this instance because these amendments are merely for informational purposes and do not involve changes in the substantive regulations. For these same reasons, it has also been determined that these amendments will be effective immediately.

Accordingly, Appendix II and Appendix IV of 46 CFR Part 390 are hereby amended as follows:

1. Amend Appendix II—Sample Capital Construction Fund Agreement, to read as follows:

APPENDIX II—SAMPLE CAPITAL CONSTRUCTION FUND AGREEMENT

[Contract No. MA/CCF—]

CAPITAL CONSTRUCTION FUND AGREEMENT WITH

This Capital Construction Fund Agreement ("Agreement"), made on the date hereinafter set forth, by and between the United States of America, represented by the Assistant Secretary of Commerce for Maritime Affairs ("Assistant Secretary"), and_____, a corporation organized and existing under the laws of the State of _____ ("Party"), a citizen of the United States of America.

Whereas: 1. The Party has applied for the establishment of a Capital Construction Fund ("Fund") under section 607 of the Merchant Marine Act, 1936, as amended ("Act");

2. The Party is the owner or lessee or has contracted for the construction of one or more eligible vessels as defined in section 607(k) of the Act, which vessels are listed in Schedule A hereof;

3. The Party has a program for the construction or acquisition of qualified agreement vessels as defined in section 607(k) of the Act, which program is described in Schedule B hereof;

4. The Assistant Secretary and the Party desire to enter into an Agreement for the purpose of providing replacement vessels, additional vessels, or reconstruction vessels, built in the United States and documented under the laws of the United States for operation in the United States foreign, Great Lakes, or noncontiguous domestic trade:

5. The Assistant Secretary has determined that the Party qualifies for an Agreement under the Act; and

6. The Assistant Secretary has authorized the award of an Agreement upon the terms and conditions set forth herein subject to the Act, as it may be amended from time to time, and such rules and regulations as shall be prescribed by the Secretary of Commerce or his delegate, either alone or jointly with the Secretary of the Treasury, as necessary to carry out the powers, duties, and functions vested in them by the Act ("rules and regulations").

Now, therefore, in consideration of the premises the Assistant Secretary and the Party hereby agree as follows:

1. *Establishment of a Fund:* (A) A fund is hereby established for the purposes set forth in Article 2 hereof, pursuant to such terms and conditions as shall be prescribed in this Agreement, the Act, or the rules and regulations.

(B) The Fund shall be established in the depositories listed in Schedule C hereof.

2. *Purpose of the Fund:* The Fund established hereunder shall be utilized to provide for replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States for operation in the United States foreign, Great Lakes, or noncontiguous domestic trade, and to provide for qualified withdrawals to achieve the program set forth in Schedule B hereof.

3. *Term of the Agreement:* This Agreement shall be effective on the date of execution by the Assistant Secretary and shall continue until terminated under Article 4

4. *Termination of Agreement.* (A) This Agreement may be terminated at any time under any of the following circumstances:

(1) Upon written mutual agreement by the parties;

(2) Upon written notice by the Party that a change has been made in the rules and regulations which would have a substantial effect upon the rights or obligations of the Party.

(B) This Agreement shall terminate upon completion of the program as set forth in Schedule B hereof.

(C) Upon termination of this Agreement pursuant to paragraphs (A) and/or (B) hereof all amounts remaining in the Fund shall be treated as if withdrawn in a nonqualified withdrawal (as that term is defined in the Act and the rules and regulations) on the date of termination of this Agreement.

5. *Deposits to be made into the Fund:* (A) Subject to any restrictions contained in the Act, the rules and regulations, or this Agreement, the Party may deposit, for each taxable year to which this Agreement applies, amounts representing:

(1) Taxable income attributable to the operation of the vessels listed in Schedule A or B hereof;

(2) The depreciation allowable under section 167 of the Internal Revenue Code of 1954 on the vessels listed in Section A or B hereof;

(3) The net proceeds from the sale or other disposition of any of the vessels listed in Schedule A or B hereof; and

(4) The net proceeds from insurance or indemnity attributable to the vessels listed in Schedule A or B hereof.

(B) The Party shall deposit for each taxable year to which this Agreement applies:

(1) All receipts from the investment or reinvestment of amounts held in the Fund, except that the Party shall not be permitted to deposit more than is necessary to complete its program set out in Schedule B hereof; and

(2) The net proceeds from the mortgage of any vessel listed in Schedule B hereof for which qualified withdrawals from the Fund have been made.

(C) Notwithstanding anything in paragraphs (A) or (B) hereof to the contrary, the Party shall make the minimum deposits set forth in Schedule D hereof at the time and in such amounts as may be set forth therein. The Party specifically agrees to deposit up to one hundred percent of allowable taxable income attributable to the operation of agreement vessels in order to meet its obligations under this paragraph.

(D) In the event that any leased vessel listed in Schedule A hereof is included in another capital construction fund agreement, the maximum amount of depreciation which the Party may deposit in respect to that vessel shall be calculated by using the allowable percentage of the depreciation ceiling listed for that vessel in Schedule A hereof.

6. *Withdrawals from the Fund:* (A) The Party may make such qualified withdrawals (as that term is defined in the Act and the rules and regulations) as shall be necessary to fulfill the obligations set forth in Schedule B hereof. Any such qualified withdrawal may be made without the consent of the Assistant Secretary, except as required by the rules and regulations.

(B) Any other withdrawal from the Fund shall be made only upon the prior written consent of the Assistant Secretary, as required by the rules and regulations.

7. *Investment of the Fund:* (A) The Party, at its discretion, may invest assets held in the Fund in accordance with the Act and the rules and regulations.

(B) The Party agrees, when investing assets held in the Fund, to make such investments as will insure that sufficient cash is available at the time qualified withdrawals are required in accordance with the program described in Schedule B hereof.

8. *Pledges, Assignments, and Transfers:* (A) The Party agrees not to assign, pledge, or otherwise encumber, either directly or indirectly or through any reorganization, merger, or consolidation, all or any part of this Agreement, the Fund, or any assets in the Fund without the prior written consent of the Assistant Secretary; provided, however, the Party may transfer the assets of the Fund, in whole or in part, to an investment trustee, as provided in the rules and regulations.

(B) The Party shall not obligate any assets in the Fund as a compensating balance.

(C) The Party may not sell, transfer, or otherwise dispose of any vessel, or part thereof, described in Schedule B hereof without the prior written consent of the Assistant Secretary.

9. *Records and Reports:* (A) The Party and each affiliate, domestic agent, subsidiary, or holding company connected with, or directly or indirectly controlling or controlled by the Party shall keep its books, records, and accounts relating to the maintenance, operation, and servicing of the vessel(s) and/or service(s) covered by this Agreement in such form as may be prescribed by the Assistant Secretary under the rules and regulations.

(B) The Assistant Secretary agrees not to require the duplication of books, records and accounts required to be kept in some other form by the Interstate Commerce Commission or the Secretary of the Treasury, so long as the information required in paragraph (A) hereof is made available to the Assistant Secretary.

(C) The Party agrees to file, upon notice from the Assistant Secretary, balance sheets, profit and loss statements, and such other statements of financial operations, special reports, charters, ships' logs, memoranda of facts and transactions, as in the opinion of the Assistant Secretary may affect the Party's performance under this Agreement.

(D) The Assistant Secretary may require by regulation that any of such statements, reports and memoranda shall be certified by independent certified public accountants acceptable to the Assistant Secretary.

(E) The Assistant Secretary may require the Party to establish and maintain systems of control of expenses and revenues in connection with the operation of the agreement vessel(s).

(F) The Party agrees to submit promptly to the Assistant Secretary any contract executed in connection with the program described in Schedule B hereof.

(G) The Assistant Secretary is hereby authorized to examine and audit the books, records, and accounts of all persons referred to in this Article whenever he may deem it necessary or desirable.

10. *Modification and Amendment:* This Agreement may be modified or amended at any time by mutual written consent.

11. *Incorporation of Schedules:* The attached Schedules A, B, C, and D are incor-

V 42 168 AUG 30 77 UMI

porated into and made a part of this Agreement.

12. *Liquidated Damages:* (A) In the event that the Party operates any qualified agreement vessel described in Schedule B hereof in geographic trades other than those permitted by section 607 of the Act, this Agreement, and/or the rules and regulations, the Party shall pay to the United States an amount of liquidated damages for each day of such impermissible geographic trading which shall constitute the time value of the deferral of Federal income tax which the Party has received. The amount shall be calculated in accordance with the rules and regulations.

(B) The Party agrees to pay the daily rate of liquidated damages to the Assistant Secretary, for deposit in the Treasury of the United States, within the time limits provided for in the rules and regulations.

(C) Nothing in this Article shall in any way be construed to diminish or waive any of the Assistant Secretary's other remedies for breach under the Act, the Agreement, or the rules and regulations.

(D) Notwithstanding the fact that the Agreement may be terminated pursuant to the provisions of Article 4 hereof, or otherwise, the provisions of this Article 12 shall continue in effect as follows:

(1) In the case of a vessel constructed or acquired within one year of final delivery from the shipyard after construction with the aid of qualified withdrawals, for a period of twenty (20) years from the date of such vessel's final delivery;

(2) In the case of a vessel reconstructed or acquired more than one year after final delivery from the shipyard after construction with the aid of qualified withdrawals, for a period of ten (10) years from the date of such vessel's final delivery from the shipyard after reconstruction or the date of such vessel's acquisition; and

(3) In the case of a vessel included in Schedule B hereof as a qualified agreement vessel in regard to which qualified withdrawals from the Fund have been made to pay existing indebtedness, for a period of ten (10) years from the date of the first qualified withdrawal in regard to such vessel, provided, however, that if such vessel was more than fifteen (15) years old on the date of the first qualified withdrawal in regard thereto, such conditions shall continue for a period of five (5) years in regard to such vessel.

13. *Warranties and Representations by the Party:* The Party hereby warrants and represents that:

(A) The Party is a citizen of the United States within the meaning of section 2 of the Shipping Act, 1916, as amended, and will continue to be so for the term of this Agreement. The Party agrees that each year, within thirty (30) days after the annual meeting of its stockholders, it shall file a supplemental affidavit as evidence of its continuing United States citizenship, provided that any changes in data last furnished with respect to officers, directors, and stockholders holding five percent or more of the issued and outstanding stock of each class or series which would result in a loss of the Party's status as a United States citizen shall be promptly reported to the Assistant Secretary.

(B) The Party owns, is the lessee, or has contracted for the construction of one or more eligible vessels (within the meaning of section 607(k) of the Act) as listed in Schedule A hereof.

(C) The qualified vessels described in Schedule B hereof: (1) Were or will be constructed or reconstructed in the United States, except as provided in the Act and the rules and regulations;

(2) Are or will be documented under the laws of the United States and will continue to remain so documented; and

(3) Will be operated in the foreign, Great Lakes or noncontiguous domestic trade of the United States within the meaning of the Act and the rules and regulations.

(D) The Party will meet its deposit obligations as agreed upon in Article 5 of this Agreement.

(E) The Party will promptly inform the Assistant Secretary, in writing, of any change in circumstances which would tend to adversely affect the ability of the Party to carry out its obligations under the Agreement.

(F) The Party will faithfully conform to all rules and regulations governing the Agreement and the Fund.

(G) Nothing of monetary value has been improperly given, promised, or implied for entering into this Agreement. The Party further warrants that no improper personal, political or other activities have been used or attempted in an effort to influence the outcome of the discussions or negotiations leading to the award of this Agreement. Breach of this warranty shall constitute an event of default for which the Assistant Secretary shall have the right, notwithstanding Article 4, to terminate this Agreement without liability to the United States.

14. *Default in Obligations:* (A) If the Assistant Secretary determines that any substantial obligation under this Agreement is not being fulfilled by the Party, he may, under the rules and regulations and after the Party has been given notice and an opportunity to be heard, declare a breach and treat the entire Fund, or any portion thereof, as an amount withdrawn in a nonqualified withdrawal.

(B) The Assistant Secretary shall provide an opportunity for the Party to cure a breach declared pursuant to Paragraph (A) of this Article 14.

(C) Events of breach by the Party shall include, but shall not be limited to: (1) Failure in any respect to use due diligence in performing the program set forth in Schedule B hereof;

(2) Obligating the assets in the Fund as a compensating balance;

(3) Failure to make deposits required in Schedule D hereof;

(4) Failure to secure written permission from the Assistant Secretary when such permission is required by the rules and regulations;

(5) Failure to submit reports and/or records on a timely basis as provided in Article 9 hereof;

(6) Any material misrepresentation made by the Party or any failure by the Party to disclose material information in connection with this Agreement whether before or after execution hereof and whether made in an application, report, affidavit, or otherwise; or

(7) Failure by the Party to comply with any provisions of section 607 of the Act, the rules and regulations, or this Agreement.

15. *Extension of Federal Income Tax Benefits:* The Assistant Secretary agrees that the Federal income tax benefits provided in the Act and the rules and regulations shall be available to the Party if the Party shall carry out its obligations under this Agreement.

(SEAL)	UNITED STATES OF AMERICA, ASSISTANT SECRETARY OF COMMERCE FOR MARITIME AFFAIRS
Attest:	
By ---------- (Secretary)	By ---------- (Contracting Officer)
(SEAL)	---------- (Date of Execution)
Attest:	By ---------- (President)
By ---------- (Secretary)	
Approved as to form:	
---------- (Assistant General Counsel, Maritime Administration)	

2. Delete "(Reserved)" from Appendix IV—Sample addendum to Maritime Administration Capital Construction Fund Agreement, and add the following:

APPENDIX IV—SAMPLE ADDENDUM TO MARITIME ADMINISTRATION CAPITAL CONSTRUCTION FUND AGREEMENT

This Agreement, made by the Assistant Secretary of Commerce for Maritime Affairs ("Assistant Secretary") and ---------- ("Party"), a citizen of the United States of America, as an Addendum to that certain agreement, Contract No. MA/CCF–

Whereas: 1. On ----------, the parties hereto entered into a Capital Construction Fund Agreement ("Agreement") under section 607 of the Merchant Marine Act, 1936, as amended ("Act");

2. The parties hereto desire to modify that Agreement in the manner hereinafter set forth;

3. The parties hereto have agreed to said amendment and desire to incorporate the same into the Agreement.

Now, therefore, in consideration of the premises the Assistant Secretary and the Party agree as follows:

Notwithstanding the provisions of Article 4(A)(2) of the Agreement, the Party may, within sixty (60) days after notice appears in the FEDERAL REGISTER that the Regulations jointly prescribed by the Secretary of the Treasury and the Secretary of Commece have been finalized, terminate the Agreement, if such Regulations have a substantial effect on the rights or obligations of the Party. Upon termination of the Agreement pursuant to this Addendum No. ---- the provisions of the Internal Revenue Code of 1954, the Act, and the rules and regulations shall apply to all funds remaining in the Fund as if such funds were withdrawn in a non-qualified withdrawal, as that term is defined in the Act and the rules and regulations.

In witness whereof, the Secretary and the Party have executed this addendum, in quadruplicate, effective as of the date indicated below.

UNITED STATES OF AMERICA, *Secretary of Commerce, Assistant Secretary of Commerce for Maritime Affairs*	
By ---------- (Contracting Officer)	By ----------
Date ----------	Title ----------
Attest:	Attest:
By ---------- (Secretary)	By ----------
(SEAL)	Title ---------- (SEAL)
Approved as to form:	
---------- (Assistant General Counsel Maritime Administration)	

(Sec. 204(b), 49 Stat. 1987, as amended, 46 U.S.C. 1114; Sec. 21(a), 84 Stat. 1026, 46 U.S.C. 1177.)

Dated: August 19, 1977.

By Order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-25285 Filed 8-29-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21237; RM-2538]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Wrens, Ga.; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This action assigns FM Channel 244A to provide a first local aural broadcast service to Wrens, Georgia, at the request of the Mayor of that city, J.J. Rabun. The assignment is based on a finding of first aural service, first FM service, need for an assignment, availability of a transmitter site, and statement of intention to construct and operate an FM station on the channel.

EFFECTIVE DATE: September 30, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James J. Gross, Broadcast Bureau, 202–632–7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast stations. (Wrens, Georgia).

REPORT AND ORDER

(PROCEEDING TERMINATED)

Adopted: August 16, 1977.

Released: August 22, 1977.

1. The Commission has before it the Notice of proposed rulemaking, 42 FR 26666 (pub. May 25, 1977) in this proceeding, proposing the assignment of FM Channel 244A to Wrens, Ga. (1970 pop. 2,204), as requested by Mayor J.J. Rabun (petitioner). Mayor Rabun states that this assignment would provide a first local aural service to Wrens, and a first FM service and first nighttime aural service to over 2,000 persons.

2. Wrens is located in Jefferson County (pop. 17,174) in eastern Georgia, about 24 kilometers (15 miles) north of Louisville, Ga. It is represented to be a manufacturing and industrial community which the petitioner informs us is increasing in population (a 35 percent increase between 1960 and 1970). The petitioner has also submitted demographic information on the businesses and institutions at Wrens to support his assertion of need for an assignment.

3. The petitioner has restated his intention to apply for a construction permit on Channel 244A if it is assigned to Wrens, and upon authorization to promptly construct and operate an FM broadcast station.

4. Because spacing limitations require use of a transmitter site at least 8 kilometers (5 miles) northwest of Wrens, the Notice requested a showing of the availability of such a transmitter site, free from obstructions from which a facility could serve Wrens. Petitioner has submitted an engineering study which indicates that there are several available sites meeting the Commission's spacing requirements which would permit a facility to provide an unobstructed principal city signal over the entire community of Wrens. Topographical maps confirm the fact that this area on the edge of the coastal plain of Georgia, is characterized by low hills and gentle slopes with no obstructions likely to interfere with FM transmission. The area is also primarily farm land and we are informed that several sites are available for purchase or lease for a broadcast station.

5. In consideration of the above showings, we find that it would be in the public interest to assign Channel 244A to Wrens, Georgia. This is consistent with our FM assignment priorities which place great importance on providing first aural service and first local FM assignments to small communities, where the need for such assignment is shown.

6. Authority for this action is contained in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules and regulations.

7. Accordingly, *it is ordered,* That effective September 30, 1977, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended, regarding the city named below, to read as follows:

§ 73.202 [Amended]

City:	*Channel No.*
Wrens, Georgia	244A

8. *It is further ordered,* That this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-25160 Filed 8-29-77;8:45 am]

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

Deferral of Effective Dates; Use of Type Accepted Equipment

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Order was issued to defer effective dates contained in Federal Communications Commission's Rules concerning the remote pickup broadcast and low power auxiliary stations. The affected rules were amended to provide an additional three months before the type acceptance requirements specified therein take effect. This action was taken to insure that sufficient time has been provided for manufacturers to receive Commission action on applications for transmitter type acceptance.

EFFECTIVE DATE: September 1, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Wilson A. LaFollette, Broadcast Bureau (202–632–9660).

SUPPLEMENTARY INFORMATION:

Adopted: August 19, 1977.

Released: August 24, 1977.

ORDER

Order. In the matter of deferral of effective dates set forth in Part 74, Subparts D and H, §§ 74.451(a), 74.451(d), 74.451(e), 74.452(d), 74.851(a), 74.851(d), 74.851(f), 74.852(c), and 74.861(b) of the Commission's rules concerning the use of type accepted equipment.

1. The above captioned rules all set forth dates concerning the use of type accepted equipment in the Remote Pickup Broadcast and Low Power Auxiliary

V42I168 AUG 30 77 UMI

Radio Services. For remote pickup broadcast stations, §§ 74.451(a), 74.451(d), 74.451(e), and 74.452(d) presently state:

Section 74.451 *Type acceptance of equipment.* (a) Applications for new remote pickup broadcast stations or systems or for changing equipment which are tendered after September 1, 1977, will not be accepted unless the equipment specified therein has been type accepted for use pursuant to provisions of this subpart, or which has been type accepted for licensing under Parts 21, 89, 91, or 93 of this chapter and which does not exceed the output power limits specified in § 74.461(b).

* * * * *

(d) All transmitters marketed after August 31, 1977, shall be type accepted by the Federal Communications Commission for use under this subpart. (Refer to Subpart I of Part 2 of the Commission's rules and regulations.)

(e) Remote pickup broadcast station equipment authorized to be used pursuant to an application accepted for filing prior to September 1, 1977, may continue to be used by the licensee or its successors or assignees: *Provided, however,* If operation of such equipment causes harmful interference due to its failure to comply with the technical standards set forth in this subpart, the Commission may, at its discretion, require the licensee to take such corrective action as is necessary to eliminate the interference.

Section 74.452 *Equipment changes.*

* * * * *

(d) All transmitters installed after August 31, 1977, must be type accepted for use in this service or other services as specified in § 74.451(a).

NOTE: Prior to September 1, 1977, Commission approval must be obtained before replacing an authorized transmitter with a transmitter which has not been type accepted for use in the remote pickup broadcast service or other services as specified in § 74.451(a).

2. Similar rules for low power auxiliary stations are contained in §§ 74.851 (a), 74.851(d), 74.851(f), 74.852(c), and 74.861(b) as follows:

Section 74.851 *Type acceptance of equipment.* (a) Applications for new low power auxiliary stations tendered after August 31, 1977, will not be accepted unless the equipment specified therein has been type accepted for use pursuant to provisions of this subpart. However, all applications specifying the use of the 174–216 MHz band must specify type accepted equipment.

* * * * *

(d) Low power auxiliary station equipment authorized to be used pursuant to an application accepted for filing prior to September 1, 1977, may continue to be used by the licensee or its successors or assignees: *Provided, however,* If operation of such equipment causes harmful interference due to its failure to comply with the technical standards set forth in this subpart, the Commission may, at its discretion, require the licensee to take such corrective action as is necessary to eliminate the interference.

* * * * *

(f) All transmitters marketed after August 31, 1977, shall be type accepted by the Federal Communications Commission for use under this subpart. (Refer to Subpart I of Part 2 of the Commission's rules and regulations.)

Section 74.852 *Equipment changes.*

* * * * *

(c) Prior to September 1, 1977, Commission approval must be obtained before replacing an authorized transmitter with a transmitter which has not been type accepted for use in the low power auxiliary broadcast service. Transmitters initially installed after August 31, 1977, must be type accepted for use in this service.

Section 74.861 *Technical requirements.*

* * * * *

(b) Each authorization for a new low power auxiliary station issued pursuant to an application accepted after August 31, 1977, shall require the use of type accepted equipment. Such equipment shall be operated in accordance with the emission specifications included in the type acceptance grant and as prescribed in paragraphs (c) through (k) of this section. However, all authorizations issued for the use of the 174–216 MHz band shall require the use of type accepted equipment.

3. The type-acceptance requirements set forth in §§ 74.451 and 74.452 as noted above for remote pickup stations were promulgated in the *Report and Order* of Docket 20189 (FCC 76-624) adopted June 29, 1976. The rules which were adopted therein had an effective date of August 31, 1976, and it was the Commission's intent to specify dates in the rules concerning type acceptance of equipment which would become effective one year from this date. Among other things, a year was deemed necessary to insure timely action by the Commission upon applications for type acceptance. However, due to a Petition for Reconsideration and a Motion for Stay of this Report and Order, the effective date of the new rules was postponed until November 22, 1976. As a result of this delay, the time frame has been insufficient for equipment manufacturers to design and build equipment, prepare type acceptance applications and receive Commission action on them by August 31, 1977. Therefore, there are no transmitters specifically type accepted pursuant to Part 74, Subpart D of the rules.

4. The type-acceptance requirements set forth in §§ 74.851, 74.852, and 74.861 as noted above for low power auxiliary broadcast stations were promulgated in the Report, Memorandum and Order of Docket 20195 (FCC 77–119), adopted February 10, 1977; the rules adopted in this proceeding became effective April 18, 1977. Also in this case, the Commission has not had sufficient time to act on applications for type acceptance which have been received, and, therefore, at this time there are no transmitters specifically type accepted pursuant to Subpart H, Part 74 of the rules.

5. To avoid hardship and inconvenience to applicants in the Remote Pickup and Low Power Auxiliary Radio Services, it is appropriate that the dates in these rules concerning type accepted equipment be deferred to provide additional time for Commission action. Prior notice of rulemaking and public participation thereon are unnecessary, pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. (b)(3)(B), inasmuch as the amendments contained below impose no additional burdens and raise no issue upon which additional comments would serve any useful purpose.

6. Since the action herein modifies a procedural rule in a manner which relieves a restriction, the rule amendments may be made effective with less than 30 days notice (see 5 U.S.C. 533(d)). *Therefore, it is ordered,* That pursuant to sections 4(i), and 303 (g) and (r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, Part 74 of the Commission's rules and regulations is amended as set forth below, effective September 1, 1977.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Section 74.451, paragraphs (a), (d), and (e) are amended to change the dates contained therein as follows:

EQUIPMENT

§ 74.451 Type acceptance of equipment.

(a) Applications for new remote pickup broadcast stations or systems or for changing transmitting equipment which are tendered after November 30, 1977, will not be accepted unless the equipment specified therein has been type accepted for use pursuant to provisions of this subpart or has been type accepted for licensing under Parts 21, 89, 91, or 93 of this chapter and does not exceed the output power limits specified in § 74.461(b).

* * * * *

(d) All transmitters marketed after November 30, 1977, for use under this Subpart shall be type accepted by the Federal Communications Commission. (Refer to Subpart I of Part 2 of the Commission's rules and regulations.)

(e) Remote pickup broadcast station transmitting equipment authorized to be used pursuant to an application accepted for filing prior to December 1, 1977, may continue to be used by the licensee or its successors or assignees: *Provided, however,* If operation of such equipment causes harmful interference due to its failure to comply with the technical standards set forth in this subpart the Commission may, at its discretion, require the licensee to take such corrective action as is necessary to eliminate the interference.

* * * * *

2. Section 74.452(d) and the Note is amended to change the dates contained therein as follows:

§ 74.452 Equipment changes.

* * * * *

(d) All transmitters initially installed after November 30, 1977, must be type accepted for use in this service or other services as specified in § 74.451(a).

NOTE.—Prior to December 1, 1977, Commission approval must be obtained before replacing an authorized transmitter with a transmitter which has not been type accepted for use in the remote pickup broadcast service or other services as specified in § 74.451(a).

3. Section 74.851, paragraphs (a), (d), and (f) are amended to change the dates contained therein as follows:

EQUIPMENT

§ 74.851 Type acceptance of equipment.

(a) Applications for new lower power auxiliary stations tendered after November 30, 1977, will not be accepted unless the transmitting equipment specified therein has been type accepted for use pursuant to provisions of this Subpart. However, all applications specifying the use of the 174–216 MHz band must specify transmitting equipment type accepted for licensing under Part 74 in this band.

* * * * *

(d) Low power auxiliary station equipment authorized to be used pursuant to an application accepted for filing prior to December 1, 1977, may continue to be used by the licensee or its successors or assignees: *Provided, however,* If operation of such equipment causes harmful interference due to its failure to comply with the technical standards set forth in this Subpart, the Commission may, at its discretion, require the licensee to take such corrective action as is necessary to eliminate the interference.

* * * * *

(f) All transmitters marketed after November 30, 1977, for use under this Subpart shall be type accepted by the Federal Communications Commission for this purpose. (Refer to Subpart I of Part 2 of the Commission's rules and regulations.)

4. Section 74.852(c) is amended to change the date therein as follows:

§ 74.852 Equipment changes.

* * * * *

(c) Prior to December 1, 1977, Commission approval must be obtained before replacing an authorized transmitter with a transmitter which has not been type accepted for use in the low power auxiliary broadcast service. Transmitters initially installed after November 30, 1977, must be type accepted for use in this service.

5. Section 74.861(b) is amended to change the date therein as follows:

TECHNICAL OPERATION AND OPERATORS

§ 74.861 Technical requirements.

* * * * *

(b) Each authorization for a new low power auxiliary station issued pursuant to an application accepted after November 30, 1977, shall require the use of type accepted transmitting equipment. Such equipment shall be operated in accordance with the emission specifications included in the type acceptance grant and as prescribed in paragraphs (c) through (k) of this section. However, all authorizations issued for the use of the 174–216 MHz band shall require the use of type accepted transmitting equipment.

* * * * *

[FR Doc.77-25242 Filed 8-29-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1262; Amdt. 1]

PART 1033—CAR SERVICE

North Stratford Railroad Corp. Authorized to Operate Over Certain Tracks Owned by State of New Hampshire

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Amendment to Service Order).

SUMMARY: Service Order No. 1262 authorizes the North Stratford Railroad Corporation to operate a line of railroad between North Stratford, New Hampshire, and Beecher Falls, Vermont, owned by the State of New Hampshire. Resumption of operation over this line restores rail service to shippers affected by its abandonment by the Maine Central, its former owner. Amendment No. 1 to Service Order No. 1262 extends for six months the emergency authority granted to the North Stratford Railroad for operation of this line.

DATES: *Effective:* August 31, 1977. *Expires:* October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202–275–7840, Telex 89–2742.

SUPPLEMENTARY INFORMATION: This order is printed in full below.

At a Session of the INTERSTATE COMMERCE COMMISSION, Railroad Service Board, held in Washington, D.C., on the 22nd day of August, 1977.

Upon further consideration of Service Order No. 1262 (42 FR 16780), and good cause appearing therefor:

It is ordered, That: Service Order No. 1262 be, and it is hereby, amended by substituting the following paragraph (f) for paragraph (f) thereof:

§ 1033.1262 Service Order 1262.

(a) North Stratford Railroad Corporation authorized to operate over certain tracks owned by the State of New Hampshire * * *

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., October 31, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., August 31, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies Secs. 1(10–17), 15 (4), and 17(2). 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-25161 Filed 8-29-77;8:45 am]

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. MC-19 (Sub. No. 30)]

PART 1100—GENERAL RULES OF PRACTICE

SUBCHAPTER D—TARIFFS AND SCHEDULES

PART 1307—FREIGHT RATE TARIFFS, SCHEDULES AND CLASSIFICATIONS OF MOTOR CARRIERS

Special Procedures for Tariffs Governing Rates and Charges on Household Goods

Correction

In FR Doc. 77-24465, appearing at page 42689 in the issue of Wednesday, August 24, 1977, the effective date should read, "October 25, 1977".

Title 50—Wildlife and Fisheries

CHAPTER 1—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Seney National Wildlife Refuge, Mich., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to big game hunting of Seney National Wildlife Refuge, Michigan is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1977 through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

John R. Frye, Refuge Manager, Seney National Wildlife Refuge, Seney, Michigan 49883, (906–586–9851).

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game hunting; for individual wildlife refuge areas.

Big game hunting is permitted on the Seney National Wildlife Refuge, Michigan, only on the areas designated by signs as being open to hunting. These

V42168A AUG 30 77 UMI

areas comprising 85,200 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Department of the Interior, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Bow and arrow hunting is permitted only on 33,525 acres of the refuge designated as Area B, from October 1 through November 14; and on the 85,200 acres of the refuge designated as Area A and Area B from December 1 through December 31.

2. Bear may be taken by archers only from October 1 through November 14 and by gun hunters only from November 15 through November 30. Bear may not be taken with the aid of dogs.

3. Camping is permitted only west of the Driggs River except in designated Wilderness Area during the gun season. A Camp Registration Permit, obtainable at refuge headquarters, is required.

4. All motorized conveyances are prohibited from traveling on dikes or off established roads and trails. Motorized bikes, All-Terrain Vehicles and Snowmobiles are not permitted on the refuge.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: August 22, 1977.

JOHN R. FRYE,
Refuge Manager.

[FR Doc.77–25068 Filed 8–29–77;8:45 am]

PART 32—HUNTING

Opening of Seney National Wildlife Refuge, Michigan to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to upland game hunting of Seney National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 15, 1977 through February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

John R. Frye, Refuge Manager, Seney National Wildlife Refuge, Seney, Michigan 49883, (906–586–9851).

SUPPLEMENTARY INFORMATION:

§ 32.22 Special Regulations; upland game hunting; for individual wildlife refuge areas.

Upland game hunting is permitted on the Seney National Wildlife Refuge, Michigan, only on the areas designated by signs as being open to hunting. These areas comprising 33,525 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Department of the Interior, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. That portion of the refuge designated as Area A is closed to all hunting until November 15.

2. All motorized conveyances are prohibited from traveling on dikes or off established roads and trails. Motorized bikes, All-Terrain Vehicles and Snowmobiles are not permitted on the refuge.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: August 22, 1977.

JOHN R. FRYE,
Refuge Manager.

[FR Doc.77–25069 Filed 8–29–77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 910]

LEMONS GROWN IN CALIFORNIA AND ARIZONA

Proposed Minimum Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comment on a proposed minimum size regulation of 1.82 inches in diameter for shipments of lemons grown in California and Arizona to become effective September 25, 1977. This proposed regulation is the same as the one currently in effect, and is needed to provide for orderly marketing in the interest of producers and consumers.

DATES: Comments must be received on or before September 14, 1977. Proposed effective dates: September 25, 1977, through September 23, 1978.

ADDRESSES: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: The proposed regulation was recommended by the Lemon Administrative Committee, established under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer its terms and provisions.

Shipments of lemons from the production area are now in progress, and such shipments are regulated by size through September 24, 1977, under Lemon Regulation 57 (41 FR 41918), which requires such lemons to be at least 1.82 inches in diameter. The proposed regulation, which would become effective September 25, 1977, would continue in effect this size requirement. The volume and size composition of the lemon crop in California and Arizona is such that ample supplies of the more desirable sizes are available to satisfy the demand in domestic fresh markets. The proposed regulation is designed to permit shipment of ample supplies of lemons of acceptable sizes, maturity, and juice content in the interest of both growers and consumers, and is necessary to maintain orderly marketing conditions and provide consumer satisfaction. Sales opportunities for very small fresh lemons in domestic markets are quite limited, as they have relatively low juice yields. Lemons failing to meet this minimum size requirement could be shipped to fresh export markets, left on the trees to attain further growth, or utilized in processing. The proposed regulation is consistent with the objective of the act of promoting orderly marketing and protecting the interest of consumers.

The proposed regulation reads as follows:

Order. (a) From September 25, 1977, through September 23, 1978, no handler shall handle any lemons grown in District 1, District 2, or District 3, which are of a size smaller than 1.82 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided*, That not to exceed 5 percent, by count, of the lemons in any type of container may measure smaller than 1.82 inches in diameter.

(b) As used in this section "handle", "handler", "District 1", "District 2", and "District 3" each shall have the same meaning as when used in said amended marketing agreement and order.

Dated: August 24, 1977.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77–25088 Filed 8–29–77;8:45 am]

[7 CFR Part 926]

TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

Proposed Extension of Effective Period for Regulation of the Grade and Container Markings

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice proposes to continue through December 31, 1977, the currently effective minimum grade requirements for Tokay grapes and the marking requirements for the containers in which the grapes are shipped. These requirements are necessary to ensure that the grapes shipped will be of suitable quality in the interest of consumers and producers.

EFFECTIVE DATE: Written comments must be received by September 16, 1977, Proposed effective dates: August 20, 1977, through December 31, 1977.

ADDRESSES: Comments may be addressed to: Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Two copies of all written comments should be submitted, and they will be made available for public inspection from the office of the Hearing Clerk during regular business hours (7 CFR 1.27 (b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250; telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: Tokay Grape Regulation 13 (§ 926.314; 42 FR 40678) sets forth the currently effective grade requirements on the handling of Tokay grapes and the marking requirements for the containers in which the grapes are shipped. This proposal would continue those requirements through December 31, 1977. Unless so continued, the regulation would end September 30, 1977. Under the regulation, Tokay grapes must meet the grade and size specifications of U.S. No. 1 Table grapes and at least 30 percent, by count, of the berries in the lower 25 percent, by count, of each bunch shall show characteristic color; and each container of such grapes must bear a Federal-State Inspection Service lot number in plain letters and figures on one outside end.

The proposed regulation was recommended by the Industry Committee under § 926.50 of the marketing agreement, as amended, and Order No. 926, as amended (7 CFR Part 926), regulating the handling of Tokay grapes grown in San Joaquin County, Calif. This program is effective under the Agriculture Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposal is to amend § 926.314 (42 FR 40678) to read as follows:

§ 926.314 Tokay Grape Regulation 13.

(a) During the period August 20, 1977, through December 31, 1977, no handler shall ship:

(1) Any Tokay grapes, grown in the production area, which do not meet the grade and size specifications of U.S. No. 1 Table Grapes and the following addi-

V 42 168 AUG 30 77 UMI

tional requirement: Of the 25 percent, by count, of the berries of each bunch which are attached to the lower part of the main stem, including laterals, at least 30 percent, by count, shall show characteristic color; and

(2) Any container of Tokay grapes, grown in the production area, unless such container bears, in plain letters and figures on one outside end, a Federal-State Inspection Service lot stamp number showing that such grapes have been inspected in accordance with the established grade set forth in this section.

(b) *Definition.* As used herein, the terms "handler', "ship", and "production area" shall have the same meaning as when used in the amended marketing agreement and order; "U.S. No. 1 Table Grapes" and "characteristic color" shall have the same meaning as when used in the United States Standards for Table Grapes (7 CFR 51.880–51.912).

Dated: August 24, 1977.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77–25089 Filed 8–29–77;8:45 am]

[7 CFR Part 932]

OLIVES GROWN IN CALIFORNIA

Proposed Expenses, Rate of Assessment and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on proposed expenses of $675,000, a rate of assessment of $12.00 per ton of olives for the functioning of the Olive Administrative Committee for the 1977–78 fiscal year, and approval to carryover unexpended funds from the previous fiscal year as a reserve. The Committee locally administers a Federal marketing order regulating the handling of olives grown in California. The regulation would enable the Committee to collect assessments from handlers of all assessable olives handled and to use the resulting funds for its expenses.

DATES: Comments must be received by September 14, 1977. Proposed effective dates: September 1, 1977, through August 31, 1978.

ADDRESSES: Comments may be addressed to: Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Two copies of all written comments should be submitted, and they will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: The proposal was submitted by the Olive Administrative Committee, established under marketing order No. 932 (7 CFR Part 932), regulating the handling of olives grown in California, under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer its terms and provisions.

The proposal would add a new section reading as follows:

§ 932.212 Expenses, rate of assessment, and carryover of unexpended funds.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Olive Administrative Committee during the period September 1, 1977, through August 31, 1978, will amount to $675,000.

(b) *Rate of assessment.* The rate of assessment for that period, payable by each first handler in accordance with § 932.39, is fixed at $12.00 per ton of olives.

(c) *Reserve.* Unexpended assessment funds in excess of expenses incurred during the fiscal period ending August 31, 1977, shall be carried over as a reserve in accordance with the applicable provisions of § 932.40.

Dated: August 24, 1977.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77–25087 Filed 8–29–77;8:45 am]

Rural Electrification Administration

[7 CFR Part 1701]

[REA Bulletin 183–1]

RURAL ELECTRIC PROGRAM

Depreciation Rates and Procedures

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule

SUMMARY: This action concerns the revision of REA Bulletin 183–1, Depreciation Rates and Procedures. A recent review of current industry depreciation rates and practices indicated that certain rates and procedures prescribed by REA were in need of revision. The revised bulletin provides current depreciation rates and procedures to be used by REA borrowers.

DATE: Comments on or before September 16, 1977.

ADDRESS: Submit written comments to the Director, A counting and Auditing Division, Rural Electrification Administration, Room 4307, South Building, U.S. Department of Agriculture, Washington, D.C. 20250; submissions are available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Sheldon Chazin, Director, Accounting and Auditing Division, Rural Electrification Administration, Room 4307, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–7221.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to revise REA Bulletin 183–1, Depreciation Rates and Procedures. Accordingly, REA proposes to amend 7 CFR Part 1701 as follows:

REVISED REA BULLETIN 183–1

A complete revision of Bulletin 183–1, was last issued in November 1969. The proposed revision incorporates changes announced since that time plus the following additional changes:

1. The prescribed rate for steam production plant is changed from 2.82 percent to 3.10 percent.

2. The prescribed rate for transmission lines is changed from 2.60 percent to 2.75 percent.

3. The prescribed range of rates for Account 364, Poles, Towers and Fixtures is changed from a range of 3.0 to 3.5 percent to a range of 3.0 to 4.0 percent.

The revised bulletin requires REA Electric Borrowers to analyze, on an annual basis, the adequacy of the accumulated provision for depreciation of distribution plant.

The revision also requires that a proposed composite depreciation rate for nuclear production plant be submitted to REA for approval. For joint participation projects in which the borrower is a minor participant, the rate being used by the other participant(s), shall be used. Justification, including supporting studies and regulatory commission's order, for the proposed rate, shall be submitted to REA.

Dated: August 22, 1977.

JOSEPH VELLONE,
Acting Administrator.

[FR Doc.77–25025 Filed 8–29–77;8:45 am]

Animal and Plant Health Inspection Service

[9 CFR Part 95]

UNRESTRICTED ENTRY OF WOOL, HAIR AND BRISTLES

Proposed Rulemaking

AGENCY: Animal and Plant Health Inspection, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would delete certain restrictions applicable to the importation of wool, hair, or bristles taken from animals at the time of slaughter and would permit the importation of wool and hair removed from live animals if such products are free from animal manure. This action is needed to clarify the regulations and to achieve uniform interpretation of requirements for entry of such products into the United States. The effect of this proposal is to update and clarify the regulations by deleting terms and provisions in the regulations which may be confusing and may no longer be necessary.

DATE: Comments on or before September 29, 1977.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Federal Building, Room 824, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. B. T. Deal, USDA, APHIS, VS, Room 824, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301–436–8379).

SUPPLEMENTARY INFORMATION: The regulations now state in 9 CFR 95.7 (b) that wool or hair clipped from live animals or pulled wool or hair may be imported without restrictions provided the said wool or hair is reasonably free from animal manure in the form of dung locks or otherwise. Use of the term "reasonably" has caused confusion and lack of uniformity in interpretation of requirements. To clarify the intent of the regulation and to eliminate questions as to what constitutes "reasonably" the term "reasonably" would be deleted. Further, the terms "clipped" and "pulled" would be changed to "removed" and the phrase "in the form of dung locks or otherwise" have been deleted for the purposes of simplification. Additionally, the regulations in 9 CFR 95.7(c) requires for the importation of wool, hair, or bristles taken from sheep, goats, cattle or swine that such animals were slaughtered in a specified abattoir and were free from anthrax, foot-and-mouth disease, and rinderpest at the time of slaughter and that a certificate accompany such products certifying that such requirements have been met. Wool, hair, or bristles reported to have been removed from animals at the time of slaughter have not been imported into the United States for several years. Therefore, it is believed that these requirements for such wool, hair, or bristles has questionable value and serves no useful purpose, and that section (c) should be deleted from the regulations.

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that, pursuant to sec. 2, 32 Stat. 794, as amended (21 U.S.C. 111), the Animal and Plant Health Inspection Service is considering amending Part 95, Title 9, Code of Federal Regulations, in the following respects:

In § 95.7, paragraph (c) would be deleted; paragraph (d) would be redesignated as paragraph (c); in the introductory paragraph the reference to paragraph (d) would be amended to refer to paragraph (c); and paragraph (b) would be amended to read:

§ 95.7 Wool, hair, and bristles; requirements for unrestricted entry.

(a) * * *

(b) Wool or hair removed from live animals may be imported without other restrictions if it is free from animal manure.

* * * * * *

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 824, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 24th day of August 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

NORVAN L. MEYER,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.77–25090 Filed 8–29–77;8:45 am]

DEPARTMENT OF COMMERCE

[15 CFR Part 16]

PROCEDURES FOR A VOLUNTARY CONSUMER PRODUCT INFORMATION LABELING PROGRAM

Proposed Amendment to Authorize the Secretary to Suspend Fees and Charges

AGENCY: Assistant Secretary of Commerce for Science and Technology, Commerce.

ACTION: Proposed amendment to rule.

SUMMARY: The proposed amendment to the Procedures for the Voluntary Consumer Product Information Labeling Program will authorize the Secretary at any time to suspend for any length of time the requirement for her to establish fees and charges for participation in the program. Accordingly, and in order to encourage participation by manufacturers and others in the program, it is the Secretary's intention to suspend such fees and charges at least for the duration of the program's pilot project.

DATES: Comments must be received on or before September 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–3221).

SUPPLEMENTARY INFORMATION: On May 25, 1977, the Department of Commerce announced in the FEDERAL REGISTER (42 FR 26647) procedures under which a Voluntary Consumer Product Information Labeling Program administered by the Department will function. The Department determined that the program would be instituted on a limited pilot project basis. Subsection 16.6(a) of the procedures provides that the Secretary shall establish fees and charges for use of the Department of Commerce Label and Mark on each product.

Upon further study of the need to establish such fees and charges, it has been determined that it is in the public interest to dispense with all fees and charges at least for the duration of the limited pilot project in order to encourage participation by manufacturers in the program.

Accordingly, in order to provide the Secretary with authority to suspend the fees and charges required by §16.6(a) of the procedures, it is proposed to amend the procedures by adding a new paragraph (d) to §16.6 as set forth below.

Interested persons are invited to submit written comments in four copies to the Assistant Secretary for Science and Technology, Room 3862, U.S. Department of Commerce, Washington, D.C. 20230 on or before September 29, 1977.

Dated: August 24, 1977.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

15 CFR Section 16.6 is proposed to be amended by adding a new paragraph (d) to read as follows:

§ 16.6 Establishment of fees and charges.

* * * * * *

(d) The establishment of fees and charges under this section may, at any time, be suspended by the Secretary for any length of time.

[FR Doc.77–25156 Filed 8–29–77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 155]

[Docket No. 75P–0322]

CANNED VEGETABLES

Canned Peas; Standards of Identity, Quality, and Fill of Container; Extension of Time for Comment

AGENCY: Food and Drug Administration.

ACTION: Extension of time for comment.

SUMMARY: The Food and Drug Administration (FDA), based upon a request for extension of time submitted by National Canners Association, is extending to November 8, 1977 the time for comment on the proposed amendments to the canned pea standards of identity, quality, and fill of container.

DATE: New deadline for comments, November 8, 1977.

ADDRESS: Written comments to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

V42168 AUG 30 77 UMI

FOR FURTHER INFORMATION CONTACT:

Prince G. Harrill, Bureau of Foods (HFF–411), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, (202–245–1164).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of June 7, 1977 (42 FR 29014), the Commissioner of Food and Drugs proposed amendments to the standards of identity, quality, and fill of container for canned peas. Comments were to be filed by August 8, 1977.

The Commissioner has received a request for an extension of the comment period from the National Canners Assocaition to provide time for the gathering of data to study the impact on the canning industry of the proposed reduction in the maximum level of alcohol-insoluble solids from 23.5 percent to 21 percent for early peas. The Commissioner concludes that the request for the extension should be granted and hereby extends the comment period on the proposal to November 8, 1977.

Interested persons may submit to the Hearing Clerk, Food and Drug Administration, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and comments shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the Hearing Clerk's office between 9 a.m. and 4 p.m., Monday through Friday.

(Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) under authority delegated to the Commissioner (21 CFR 5.1).)

Dated: August 23, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-25045 Filed 8-29-77;8:45 am]

[21 CFR Parts 182 and 184]

[Docket No. 77N-0035]

ACONITIC ACID

Proposed Affirmation of Gras Status as Direct Human Food Ingredient

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This is a proposal to affirm as generally recognized as safe (GRAS) aconitic acid as a direct human food ingredient. The safety of this ingredient has been evaluated pursuant to the comprehensive safety review being conducted by the agency. The proposal would list the ingredient as a direct food substance affirmed as GRAS.

DATES: Comments by October 31, 1977.

ADDRESSES: Written comments to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF–335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, (202–472–4750).

SUPPLEMENTARY INFORMATION: The Food and Drug Administration is conducting a comprehensive safety review of direct and indirect human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20040), initiating this review. Pursuant to this review, the safety of aconitic acid has been evaluated. In accordance with the provisions of § 170.35 (formerly § 121.40, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), the Commissioner proposes to affirm the GRAS status of this ingredient.

Aconitic acid, 1,2,3-propenetricarboxylic acid, occurs in the leaves and tubers of *Aconitum napellus* L. and other Ranunculaceae. It is also found in yarrow (Achillea sp.) and horsetails (Equisetum sp.) as well as in other plants such as beets and sugarcane. Depending on the natural source, aconitic acid is also called achilleic acid, citridic acid and equisetic acid.

Trans-aconitic acid can be isolated during the processing of sugarcane by precipitating it as the calcium salt from cane syrup or molasses. The concentration in molasses ranges from 1.8 to 2.5 percent. Aconitic acid may be synthesized from citric acid by dehydration with sulfuric acid, or by catalytic dehydration. The cis form is somewhat unstable and is easily rearranged to the trans form by heating.

Aconitic acid is listed in §182.60 (formerly §121.101(g), prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), as GRAS for use in food as a synthetic flavoring agent and adjuvant, pursuant to a regulation published in the FEDERAL REGISTER of May 9, 1961 (26 FR 3991), and subsequently recodified.

A representative cross-section of food manufacturers was surveyed to determine the specific foods in which aconitic acid was used and at what levels. Information from surveys of consumer consumption was obtained and combined with the manufacturing information to obtain an estimate of consumer exposure to this substance. It was reported that the amount of aconitic acid used in food in 1970 was 229 pounds. Also, the data indicate that the use of this substance in nonalcoholic beverages, baked goods, and frozen dairy products may have increased from 1964 to 1970.

Aconitic acid has been the subject of a search of the scientific literature from 1920 to the present. The parameters used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 79 abstracts was reviewed and 10 particularly pertinent reports have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (hereinafter referred to as the Select Committee), selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

The form of aconitic acid used in foods is trans-aconitic acid; its isomer, cis-aconitic acid, is an intermediate in the tricarboxylic acid cycle of cellular metabolism. The conversion of the trans to the cis form is an endothermic reaction and does not occur spontaneously. While an isomerase for the interconversion has been detected in *Pseudomonas* sp. and sugar cane, the enzyme has not been identified in mammalian tissues.

There are few definitive studies on possible toxicity of trans-aconitic acid. For many years aconitic acid has been implicated in the ruminant syndrome, grass tetany, because the acid is present in *Equisetum arvense*, the common horsetail, as well as several grasses and other plants. Grass tetany results in toxic symptoms in cattle, sheep, and horses. However, Camp et al. were not able to produce the syndrome in six pregnant ewes by oral administration of either the free acid or potassium aconitate as a 25 percent solution in water. The dose of potassium salt was 1.0 g per kg body weight per day for 7 days and subsequently increased in increments of 0.5 g per kg body weight for each week until a level of 4.5 g per kg was reached. In sheep receiving potassium aconitate, there was a decrease in serum magnesium level and an increase in the serum phosphate level. There was a significant decrease in the average serum potassium level of sheep similarly treated with trans-aconitic acid, but no significant changes in serum levels of magnesium or phosphate occurred. Animals killed by lethal doses of either the free acid or salt (4 g per kg) showed nonspecific changes in kidneys, liver, heart and lungs.

In another study, Kennedy fed sheep diets containing 0.1 and 0.2 mole per day (about 387 to 774 mg per kg of body weight) of partially neutralized trans-aconitic acid for five days. Experimental animals appeared healthy and exhibited normal levels of blood citrate, ketones, and aconitate but increased urinary citrate. Kennedy also injected 1.0 millimole per kg doses of neutralized trans-aconitic, cis-aconitic, and citric acid into the jugular vein of sheep. The intravenous injection of 1.0 millimole (192 mg per kg) of citric acid was lethal to one of the five experimental animals. No adverse reaction followed the intravenous injection of 1.0 millimole (174 mg per kg) of trans-aconitic acid. It rapidly disappeared from the serum; 40 percent of the injected material was recovered in the urine in 24 hours. Subsequent experiments indicated that injection of 57.6 mg per kg of citric acid (0.3 millimole) over a 20 minute period was "close to the toxic dose", and resulted in excessive urinary calcium and citrate excretion without marked change in urinary magnesium excretion. Metabolic changes or toxic reactions to cis-aconitic acid were not mentioned. In another experiment, Kennedy noted that trans-aconitate was not affected by incubation with rumen fluid in vitro, but disappeared from the rumen following intra-ruminal administration in vivo.

Metabolic studies with other animals are less extensive. Lomba et al. perfused rabbits intravenously with a number of organic acids. They observed that trans-aconitic acid had approximately one-tenth the toxicity of citric acid and was less active in disturbing electrolyte balance of the blood. Wright and Wolff reported that single oral doses of sodium trans-aconitate slightly reduced the blood serum magnesium levels of guinea pigs dosed at 666 mg per kg, but did not reduce serum magnesium of sheep given 0.29 moles of the salt by stomach tube (equivalent to about 2.1 g per kg). No other effects were observed. In other experiments, guinea pigs fed a diet containing 6.8 percent trans-aconitate did not show any ill effects after 13 days of feeding. Weight gains were comparable to controls. Labeled citrate injected into guinea pigs previously dosed with trans-aconitate (560 mg per kg) did not effect release of radioactive CO_2.

Trans-aconitic acid competitively inhibits the enzyme aconitase in vitro and thus blocks the conversion of citric acid to isocitric acid by way of the intermediary formation of cis-aconitic acid. Wright and Wolff indicate that this effect has not been observed in vivo although increases in citric acid excretion have been observed occasionally.

Sodium trans-aconitate, in vitro, markedly increased the clotting time of blood although the increase was less than that produced by citrate.

No reports are available to the Select Committee that contain information on possible carcinogenic, mutagenic, reproductive or teratogenic effects from feeding aconitic acid to animals or man.

All of the available safety information on aconitic acid has been carefully evaluated by qualified scientists of the Select Committee. It is the opinion of the Select Committee that:

The limited data on trans-aconitic acid indicate it to be less toxic than citric acid. Trans-aconitate salts appear to be excreted readily by the kidneys. There is no direct evidence that trans-aconitic acid is utilized as is the cis-aconitic acid isomer in mammalian metabolism although non-specific oxidation probably occurs.

It is the conclusion of the Select Committee that there is no evidence in the available information on aconitic acid that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future. Based upon his own evaluation of all available information on aconitic acid, the Commissioner concurs with this conclusion. The Commissioner therefore concludes that no change in the current GRAS status of aconitic acid is justified.

Copies of the scientific literature review on aconitic acid, and the report of the Select Committee are available for review at the office of the Hearing Clerk, Rm. 4–65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22151, as follows:

Title	Order No.	Price code	Price [1]
Aconitic Acid (scientific literature review)	PB-223-847/AS	A02	$3.50
Aconitic Acid (select committee report)	PB-254-534/AS	A02	3.50

[1] Price subject to change.

This proposed action does not affect the present use of aconitic acid for pet food or animal feed.

Therefore, under the Federal Food, Drug and Cosmetic Act (sec. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371 (a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that Parts 182 and 184 be amend as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.60 [Amended]

1. In § 18260 *Synthetic flavoring substances and adjuvants* by deleting the entry for "Aconitic acid (equisetic acid, citridic acid, achilleic acid)".

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. By adding new § 184.1007 to read as follows:

§ 184.1007 Aconitic acid.

(a) Aconitic acid [1,2,3,-propenetricarboxylic acid ($C_6H_6O_6$), CAS Reg. No. 000499-12-7] occurs in the leaves and tubers of *aconitum napellus* L. and other *Ranunculaceae*. Trans-aconitic acid can be isolated during sugarcane processing, by precipitation as the calcium salt from cane sugar or molasses. It may be synthesized by sulfuric acid dehydration of citric acid, but not by the methanesulfonic acid method.

(b) The ingredient meets the following specifications:

(1) *Assay.* Not less than 98.0 percent of $C_3H_3(COOH)_3$, using the Food Chemicals Codex, 2d Ed. (1972)[1] test for citric acid and a molecular weight of 174.11.

(2) *Melting point.* Not less than 195° C and the determination results in decomposition of aconitic acid.

(3) *Heavy metals (as Pb).* Not more than 10 ppm.

(4) *Arsenic (as As).* Not more than 3 ppm.

(5) *Oxalate.* Passes test.

(6) *Readily carbonizable substances.* Passes Food Chemicals Codex, 2d Ed. (1972)[1] test for citric acid.

(7) *Residue on ignition.* Not more than 0.1 percent as determined by Food Chemicals Codex, 2d Ed. (1972)[1] test for citric acid.

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

The substance should have infrared absorption bands at 3030, 2630, 1720, 1430, 1300, 1240, 910, 860, 780, and 750 cm^{-1} Also, an aqueous solution of the substance should have major absorption peaks at 411 and 432 nm with little or no absorption at 389 nm.

(c) The ingredient is used as a flavoring substance and adjuvant as defied in § 170.3(o)(12) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practices. Current good manufacturing practice results in a maximum level, as served, of 0.003 percent for baked goods as defined in § 170.3(n)(1) of this chapter, 0.002 percent for beverages and beverage bases, nonalcoholic as defined in § 170.3(n)(3) of this chapter, 0.0015 percent for frozen dairy products as defined in § 170.3(n)(20) of this chapter, 0.0035 percent for soft candy as defined in § 170.3(n)(38) of this chapter, and 0.0005 percent or less for all other food categories.

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of this ingredient in food under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Part 181 (21 CFR Part 181), incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before October 31, 1977, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably in quadruplicate) regarding this proposal. Received comments may be seen in the above office during working hours, Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under

V 42 168 AUG 30 77 UMI

Executive Order 11821 and OMB Circular A-107.

Dated: August 23, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-25049 Filed 8-12-77;8:45 am]

[21 CFR Parts 182, 184]

[Docket No. 77N-0178]

MALIC ACID

Proposed Affirmation of GRAS Status as Direct Human Food Ingredient

AGENCY: Food and Drug Administration.

ACTION: Proposal.

SUMMARY: This is a proposal to affirm as generally recognized as safe (GRAS) malic acid as a direct human food ingredient. The safety of this ingredient has been evaluated pursuant to a comprehensive safety review being conducted by the agency. The proposal would list the ingredient as a direct food substance affirmed as GRAS.

DATE: Comments by October 31, 1977.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-472-4750).

SUPPLEMENTARY INFORMATION: The Food and Drug Administration is conducting a comprehensive safety review of direct and indirect human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20040), initiating this review. Pursuant to this review, the safety of malic acid has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35, formerly 21 CFR 121.40 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), the Commissioner proposes to affirm the GRAS status of this ingredient.

Malic acid, 1-hydroxy-1,2-ethanedicarboxylic acid, is a white crystalline substance, the molecular structure of which (HOOC—CHOH—CH$_2$—COOH) contains one asymmetric carbon atom. The naturally occurring isomer, L(+) malic acid, referred to as L-malic acid, occurs in many common fruits, berries, and vegetables. L-malic acid also occurs in animal tissues and body fluids where it is an intermediary metabolite in the citric acid cycle. Racemic DL-malic acid does not occur naturally. Essentially all the malic acid added to foods in the United States is the synthetic racemic DL-malic acid, which is made commercially from fumaric acid or malic acid.

Malic acid is listed in § 182.1069 (21 CFR 182.1069, formerly listed in 21 CFR 121.101(d) prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), as FRAS for use as a miscellaneous or general purpose food additive, pursuant to a regulation published in the FEDERAL REGISTER of January 31, 1961 (26 FR 938) where the isomeric form is not specified. In addition L-malic acid is listed as GRAS in § 182.-60 (21 CFR 182.60), formerly listed in 21 CFR 121.101(g) prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), for use as a synthetic flavoring substance, pursuant to a regulation published in the FEDERAL REGISTER of May 9, 1961 (26 FR 3991).

A representative cross section of food manufacturers was surveyed to determine the specific foods in which malic acid was used and the levels of usage. Information from surveys of consumer consumption was obtained and combined with the manufacturing information to obtain an estimate of consumer exposure to this substance. It was reported that the amount of DL-malic acid used in food in 1970 was about 7 million pounds. Also, the data indicate that the annual use of this substance in all foods increased about eightfold from 1960 to 1970.

Malic acid has been the subject of a search of the scientific literature from 1920 to the present. The parameters used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 698 abstracts was reviewed and 62 particularly pertinent reports have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (hereinafter referred to as the Select Committee), selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

The metabolism of L-malic acid has been extensively investigated and is well documented in the biochemical literature. L-malic acid is synthesized via condensation of acetyl-CoA and glyoxylate and is oxidized to oxaloacetate in the Krebs cycle. Malic dehydrogenase, malic oxidase, and certain other enzymes of intermediary metabolism are specific for L-malic acid. However when grown on media containing D-malate, *Escherichia coli* can be induced to develop a D-malic acid enzyme which catalyzes an oxidative decarboxylation of D-malate to pyruvate and carbon dioxide. D-malic acid inhibits the soluble (non-mitochondrial) L-malic dehydrogenase, but a high D-malate/L-malate ratio is needed for a pronounced effect.

The fate of D-malic acid in mammals is not known. DL-malic acid given parenterally to rabbits and dogs resulted in the urinary excretion of D-malic acid. Incubation of DL-malic acid with muscle preparations in vitro showed that the L-isomer was preferentially metabolized. Although DL-malic acid added to diets low in carbohydrates resulted in increased liver glycogen of rats, the contribution of the D-isomer was not determined.

Relatively few studies are available in which the biological effects and toxicity of the D- and L-isomers of malic acid were compared, and unfortunately, in many studies of malic acid, the authors do not specify whether L-malic or DL-malic acid was used. Malic acid as a 0.25 N solution given intravenously to rabbits in a dose of 2.49 g per kg was acutely lethal. Intraperitoneal D-malic acid in rats at 1 g per kg was not lethal, but the same dose of D-malic acid killed rats within 20 to 25 minutes. DL-malic acid given subcutaneously to one rabbit in large amounts (3 g followed the next day by 1.5 g, and 1.5 g two days later with sacrifice four hours after the last dose) produced small areas of hemorrhage in the renal cortex, limited tubular degeneration, and some glomerular obliteration. Two other rabbits receiving similar subcutaneous doses showed increases in blood nonprotein nitrogen and decreases in phenolsulphonephthalein elimination rate. The authors considered that DL-malic acid was slightly nephropathic to rabbits. In view of the known nephrotoxicity of maleic acid, it is possible that the renal pathology could have been due to maleic acid residual from the preparation of DL-malic acid employed in these studies.

Rabbits receiving cholesterol, 70 mg per kg daily, were given malic acid intraperitoneally, 300 mg twice a week for five months. Animals receiving both malic acid and cholesterol developed twice as high blood cholesterol levels as did those receiving only cholesterol. No hypercholesterolemia resulted in a control group given malic acid without added dietary cholesterol, but degeneration of elastic fibers and the accumulation of acid mucopolysaccharides in the aorta, with atherosclerotic changes in the aortic wall, were noted. Similar pathological changes were noted in rabbit aortas when cholesterol feeding was combined with citric or fumaric acids, suggesting that these agents had similar deleterious effects.

When albino rats of the Charles River strain were fed DL-malic acid in the diet for 104 weeks at levels of 0.05, 0.5 and 5.0 percent, no significant pathology was noted. Beagle dogs fed diets with the same levels of added DL-malic acid for 104 weeks also showed no gross or microscopic pathological changes due to the consumption of DL-malic acid. The malic acid intake levels from these diets would be approximately 2, 20, and 200 mg per kg per day for rats after the eighth week, and 14, 140, and 1,400 mg per kg per day for the dogs. There were significant reductions in food consumption and weight gain in both male and female rats during the first year of receiving the highest malic acid diets, but no significant differences during the second year. Hematological, blood chemistry, and urine analyses did not show any compound-related effects in either rats or dogs. Male and female rats from all experimental and control groups primarily among those receiving the highest dosage of malic acid, exhibited hunched appearance and/or alopecia during the first year. In the second year, these signs were observed in most animals from all groups. Protruding eyes were noted in six male rats in the highest dosage group during the second year, but not in males of any other group. A few females from each test group and the controls also showed protruding eyes during the second year. Some organ weight and organ/body weight ratio variations of thyroid gland, heart, liver, spleen, kidneys, and testes were observed in male and female rats of the 5 percent dietary level groups. None of these changes was considered clearly related to malic acid intake and the gross and microscopic examinations revealed no histopathology or trends suggesting a direct relationship to the dose of malic acid ingested.

After either oral or intraperitoneal administration of doses of 2.5 mg per kg of L- or [^{14}C] DL-malic acid to rats, both forms were largely oxidized to carbon dioxide and less than 10 percent of the radioactivity was excreted in the urine. The author concluded that there should be no justification for discriminating against the use of D-malic acid as a food additive because the two preparations were metabolized at the same rate However, the doses used were relatively low, and it is possible that a limited capacity to metabolize D-malic acid might not have been detected by these experiments.

The injection of 1 mg or L-, or DL-malic acid into the yolks of chicken eggs showed a small but statistically significant increase in rumplessness (4.3±1.0 percent with L-malic acid and 3.9±1.0 percent with DL-malic acid) over the controls (1.3±0.5 percent). Injection of the D-isomer had no significant effect on the occurrence of rumplessness.

The permeability of mouse embryos to L-malic acid was studied by Wales and Biggers. Uniformly labeled [^{14}C] L-malic acid did not enter 2-cell embryos; the 8-cell embryos accumulated the labeled substrate and were able to convert some to CO_2. The data also suggested that the uptake of L-malic acid was by an active transport process.

In a reproduction study in rats, DL-malic acid added at levels of 0.1 and 1.0 percent of the diet (estimated intakes approximately 4 and 40 mg per kg per day) was fed for nine weeks before mating of the P_1 [F_1] generation and continued through the sacrifice of the F_2 pups at weaning. The appearance and behavior of the parental animals and their pups were generally comparable with the controls throughout the study. Reproduction indices of the test animals were similar to those of the controls. The F_2 fetuses delivered by Caesarean section showed no significant differences between the test and control groups in the number and placement of implantation and resorption sites, or the number, length and weight of the live fetuses. There were no dead fetuses, and no skeletal abnormalities or differences in skeletal development between the test and control fetuses.

Teratologic studies have been made on pregnant mice and rats following the oral administration of DL-malic acid. Commencing on day 6 of gestation, daily doses by intubation of up to 266 mg per kg for 10 days in mice, and up to 350 mg per kg for 10 days in rats had no clearly discernible effect on ndation or on maternal or fetal survival. The number of abnormalities in either soft or skeletal tissues of test animals did not differ from those occurring spontaneously in vehicle-treated controls.

Malic acid (isomeric form not indicated) did not show teratogenic activity when aqueous solutions were injected at levels if 100 to 200 mg per kg into the air cells or yolks of unincubated eggs and eggs after 96 hours of incubation. The LD_{50} of malic acid was estimated to be 230 mg per kg upon air cell injection in unincubated eggs; 8 mg per kg upon air cell injection after 96 hours of incubation.

Mutagenicity tests of DL-malic acid were conducted using *Salmonella typhimurium* and *Saccharomyces cerevisiae* microbial assays with and without the addition of mammalian metabolic enzyme preparation. DL-malic acid did not exhibit any mutagenic activity under the conditions employed in this invitro evaluation.

No information on possible carcinogenicity of L-, D-, or DL-malic acid was available to the Select Committee.

All the available safety information on malic acid has been carefully evaluated by qualified scientists of the Select Committee. It is the opinion of the Select Committee that:

In view of the natural occurrence of L-malic acid in a variety of fruits, vegetables, and certain other foods, its important role in intermediary metabolism as a component of the Krebs cycle, rather detailed knowledge of its formation and metabolism in animals and plants, its relatively low toxicity when given orally to animals, and its specialized uses in foods and nonalcoholic beverages as an acidulant or flavoring agent, there is no scientific basis for suspecting that the amounts of L-malic acid now added to foods would be hazardous. There is no indication that malic acid is added to any foods specifically designed for infant feeding.

The scientific literature is less satisfactory on D-malic acid, the unnatural isomer, and a co-constituent of the racemic DL-malic acid, which is the form now used as a food additive.

Very little is known about the metabolism, absorption, excretion, and biological effects of D-malic acid, or whether animal species differ in the way they can utilize and tolerate this compound. DL-malic acid was employed in several of the toxicological, reproductive, and teratological studies; results suggest that D-malic acid, as a component of DL-malic acid, is not likely to have adverse effects. Some concern has been expressed about the ability of young infants to metabolize D-malic acid, but fortunately, in current practice, this does not pose a problem since DL-malic acid is not now added to infant foods.

It is the conclusion of the Select Committee that for individuals beyond the age of infancy, there is no evidence in the available information on L-malic acid and DL-malic acid that demonstrates or suggests reasonable grounds to suspect a hazard to the public when they are used at levels that are now current or that might reasonably be expected in the future. Based upon his own evaluation of all available information on malic acid, the Commissioner concurs with this conclusion. The Commissioner therefore proposes to affirm the GRAS status of malic acid.

On the other hand, the Commissioner shares the concern of the Select Committee and the Food and Agriculture Organization/World Health Organization Expert Committee on Food Additives about the possible toxicity of D-malic acid as a component of DL-racemic malic acid when ingested by infants. It was reported that the enzyme responsible for converting D-malic acid to L-malic acid is deficient in infants. It was also reported, in a survey of food manufacturers on the use of GRAS ingredients in food, that DL-malic acid is not now added to infant foods. However, because DL-malic acid is being affirmed as GRAS for direct use in food, the Commissioner believes that he should emphasize that this GRAS affirmation does not apply to the addition of D- or DL-malic acid to infant foods.

Copies of the scientific literature review, mutagenic and teratogenic evaluations, and the report of the Select Committee on malic acid are available for review at the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, Va. 22151, as follows:

Document	Order No.	Price code	Price [1]
Malic acid (scientific literature review)	PB-223-865/AS	A05	$5.00
Malic acid (teratogenic evaluation)	PB-224-872/AS	A03	4.00
Malic acid (mutagenic evaluation)	PB-245-440/AS	A03	4.00
Malic acid (select committee report)	PB-262-662/AS	A02	3.50

[1] Price subject to change.

This proposed action does not affect the present use of malic acid for pet food or animal feed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. In Part 182, as follows:

§ 182.60 [Amended]

a. In § 182.60 *Synthetic flavoring substances and adjuvants,* by deleting the entry for "1-Malic acid."

§ 182.1069 [Deleted]

b. By deleting § 182.1069 *Malic acid.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. In Part 184, by adding new § 184.-1069, to read as follows:

§ 184.1069 Malic acid.

(a) Malic acid ($C_4H_6O_5$, CAS Reg. No. of L-Form 97-67-6, CAS Reg. No. of DL-form 617-48-1) is the common name for 1-hydroxy-1,2-ethanedicarboxylic acid. L(+) malic acid, referred to as L-malic acid, occurs naturally in various foods. Racemic DL-malic acid does not occur naturally, and it is made commercially by hydration of fumaric acid or maleic acid.

(b) The ingredients meet the specifications of the Food Chemicals Codex,

V 42 168 A AUG 30 77 UMI

2d Ed. (1972), as amended by the Second Supplement (1975).[1]

(c) The ingredients are used as a flavor enhancer as defined in § 170.3(o)(11) of this chapter, flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter, and pH control agent as defined in § 170.3(o)(23) of this chapter.

(d) The ingredients are used in food, except baby food, at levels not to exceed good manufacturing practice. Current good manufacturing practice results in a maximum level, as served, of 3.4 percent for nonalcoholic beverages as defined in § 170.3(n)(3) of this chapter; 0.8 percent for gelatins, puddings, and fillings as defined in § 170.3(n)(22) of this chapter; 0.9 percent for hard candy as defined in § 170.3(n)(25) of this chapter; 2.6 percent for jams and jellies as defined in § 170.3(n)(28) of this chapter; 3.5 percent for processed fruits and fruit juices as defined in § 170.3(n)(35) of this chapter; 3.0 percent for soft candy as defined in § 170.3(n)(38) of this chapter; and 0.7 percent for all other food categories.

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of these ingredients in food under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Part 181 (21 CFR Part 181), incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before October 31, 1977 submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A–107.

NOTE.—Incorporations by reference approved by the Director of the Office of the Federal Register on July 10, 1973 and June 20, 1977. Referenced materials are on file at the Federal Register's library.

Dated: August 23, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–25048 Filed 8–29–77;8:45 am]

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave, NW., Washington, D.C. 20037.

Center for Disease Control

[30 CFR Parts 70 and 71]

COAL MINE HEALTH NOISE STANDARD

Public Hearing

AGENCY: National Institute for Occupational Safety and Health (NIOSH).

ACTION: Notice of public hearing.

SUMMARY: This notice announces that a public hearing will be held under the provisions of section 101(g) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 811(g)). The hearing is in response to objections filed concerning amendments to 30 CFR Parts 70 and 71 which propose to permit the use of noise dosimeters for determining noise exposure in coal mines.

DATES: The hearing will be held on September 29, 1977, beginning at 9 a.m. Requests to participate in the hearing must be received by September 22, 1977.

ADDRESSES: The hearing will be held in Conference Room "G" of the Department of Health, Education, and Welfare's Parklawn Building, 5600 Fishers Lane, Rockville, Md.

Those persons wishing to make statements at the hearing should apply in writing to Regulations Assistant, NIOSH, Room 8–11, 5600 Fishers Lane, Rockville, Md. 20857, stating the issues upon which the person wishes to be heard and the time requested.

FOR FURTHER INFORMATION CONTACT:

Ms. Mary L. Hough, Regulations Assistant, NIOSH, Phone: 301–443–6268.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of June 2, 1977 (42 FR 28151), the Secretary of the Interior published proposed amendments to permit the use of noise dosimeters to meet the noise measurement requirements in Parts 70 and 71 of Title 30, Code of Federal Regulations. The proposed amendments had been transmitted to the Department of the Interior by the Secretary of Health, Education, and Welfare under section 101(d) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 811(d)).

Interested persons were afforded a period of 45 days within which to submit comments, suggestions, objections, and requests for public hearing. On August 23, 1977, the Secretary of the Interior published a notice specifying that prior to the last day of the period fixed for the submission of comments, he received written objections to the amendments, stating the grounds for such objections with sufficient particularity and requesting a public hearing on such objections (42 FR 42362).

Therefore, under section 101(g) of the Act, a public hearing will be held for the purpose of receiving relevant evidence on the following issues:

(1) Whether the proposed changes in the Coal Mine Health Noise Standard should not be promulgated until after the draft American National Standards Institute (ANSI) Standard Specification for Personal Noise Dosimeters S1.25 is finalized and approved;

(2) Whether the requirement in § 70.505, that sound level meters meet ANSI, "Specification for Sound Level Meters", S1.4–1971 (Type S2A) should be revised to require that only sound level meters certified by NIOSH be permitted to be used;

(3) Whether the noise dosimeter is a reliable and accurate instrument and whether its use in underground and surface coal mines is desirable; and

(4) Whether the cost of using noise doismeters to determine noise exposure in coal mines would be prohibitive.

The hearing will be conducted in an informal manner by a panel comprised of representatives from the National Institute for Occupational Safety and Health. The hearing will be chaired by Mr. B. Thomas Schelb, Acting Chief, Coal Mine Standards Activity, Division of Criteria Documentation and Standards Development, NIOSH.

Persons making statements need not be sworn or make affirmation. Each party shall be given an opportunity to make a statement concerning the issues under consideration, an opportunity to make supplementary statements which may include comments on or rebuttal of other parties' views, and an opportunity to make recommendations concerning the issues in any of his/her statements.

A verbatim transcript of the hearing proceedings will be maintained. All written statements, charts, tabulations, and other data shall be received in the record. The Chairman shall submit to the Secretary of Health, Education, and Welfare the verbatim transcript, including all charts, tabulations, and other exhibits that are part of the hearing record, together with recommended findings of fact. Within 60 days after the completion of the hearings, findings of fact concerning the issues presented at the hearing will be made public. Thereafter, amendments to 30 CFR Part 70, with such modifications as are appropriate, will be transmitted to the Secretary of the Interior for promulgation.

Dated: August 26, 1977.

WILLIAM A. FELSING, JR.,
Acting Director, National Institute for Occupational Safety and Health.

[FR Doc.77–25293 Filed 8–29–77;8:45 am]

DEPARTMENT OF THE INTERIOR

Mining Enforcement and Safety Administration

[30 CFR Parts 70 and 71]

COAL MINE HEALTH NOISE STANDARD

Public Hearing

CROSS REFERENCE: For a document relating to the above subject see FR Doc. 77–25293 appearing in the Proposed Rules section of this issue of the FEDERAL REGISTER.

POSTAL SERVICE

[39 CFR Part 259]

SERVICES PERFORMED FOR OTHER GOVERNMENT AGENCIES

Reimbursement of Postal Service for Nonpostal Services Performed

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: Under this proposed rule the Postal Service would elaborate in its regulations the policy it expects to follow in establishing reasonable fees and charges for nonpostal services performed for agencies of the Federal as well as state governments. Examples of these nonpostal services are the sale of food stamps, the sale of migratory bird stamps, the receipt of passport applications, performance of housing vacancy surveys for the Federal Home Loan Bank Board, etc. Our basic purpose in this matter is to devise a policy which will result in prices reasonably related to the services performed and in consistency of treatment among the various agencies for which services are provided.

DATE: Comments must be received on or before September 29, 1977.

ADDRESS: Written comments should be directed to Director, Office of Rates, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

Mr. Stuart J. Winston, (202–245–4422).

SUPPLEMENTAL INFORMATION: The proposed rule states that in establishing reasonable fees and charges for nonpostal services, the Postal Service "considers the value of the time of the personnel directly involved in the performance of the service, including direct supervision and supporting functions, plus the costs of materials and supplies specifically sold, used, or consumed." The Postal Service considers that the salaries, fringe benefits and expenses of the person performing the service would be encompassed by the phrase "value of the time of the personnel directly involved". We also consider that the time of these persons which is applicable to the service being priced would include any time spent preparing for and closing out after actual transactions. As to supervision, a portion of the time of only the first level of supervision would be included. However, a portion of the time of other personnel who are involved less directly in the service would be included, such as the time spent maintaining accounting or other records.

In accordance with standard principles of postal ratemaking, fees and charges for nonpostal services would also include a reasonable contribution to Postal Service overhead costs.

To carry out the above purposes the Postal Service proposes to delete the last sentence of 39 CFR 259.1(a), to add a new paragraph (b) describing the proposed procedure to be used for reimbursement of the Postal Service for services performed, and to redesignate existing paragraphs (b), (c) and (d).

Accordingly, although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions of title 39, Code of Federal Regulations:

In § 259.1 the last sentence of paragraph (a) is deleted; paragraphs (b), (c), and (d) are redesignated (c), (d), and (e) respectively; and new paragraph (b) is added reading as follows:

§ 259.1 Government.

* * * * *

(b) *Reimbursement.* The Postal Service establishes reasonable fees and charges for nonpostal services performed for agencies of the Federal as well as State governments. In establishing such fees and charges, the Postal Service considers the value of time of the personnel directly involved in the performance of the service, including direct supervision and supporting functions, plus the cost of materials and supplies specifically sold, used or consumed. Also included is an element representing a reasonable share of Postal Service general overhead costs which are not attributable or assignable specifically to any product or service. The establishment of such fees and charges shall be reasonably consistent with the methods employed in establishing rates and fees for postal services then in effect.

* * * * * *

(39 U.S.C. 401(2), 404(6), 411.)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.77–25072 Filed 8–29–77;8:45 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[41 CFR Parts 14–1, 14–7]

INDIAN PREFERENCE IN EMPLOYMENT, TRAINING, AND SUBCONTRACTING

Proposed Policies and Procedures

AGENCY: Department of the Interior.

ACTION: Proposed rule.

SUMMARY: The proposed rule prescribes policies and procedures to be added to the Interior Procurement Regulations to implement Sec. 7(b) of the Indian Self-Determination and Education Assistance Act. The rule proposed requires that preferences be given to Indians in employment, training, and subcontracting under certain types of contracts.

DATES: Comments on the proposed rule must be received in writing on or before September 29, 1977.

ADDRESS: Division of Procurement and Grants, Office of Administrative and Management Policy, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

William Opdyke (202–343–5914).

SUPPLEMENTARY INFORMATION: The primary author of this document is William Opdyke, Division of Procurement and Grants, Office of Administrative and Management Policy (202–343–5914).

Section 7(b) of the Indian Self-Determination and Education Assistance Act (Sec. 7(b), Pub. L. 93–638, 88 Stat. 2205, 25 U.S.C. 450e(b)), requires that any contract or subcontract entered into pursuant to certain specified Acts or Acts authorizing contracts with Indian organizations or for the benefit of Indians shall, to the greatest extent feasible, require that preferences and opportunities be given for training and employment of Indians in connection with such contracts and that preference be given in the award of subcontracts to Indian organizations and Indian-owned economic enterprises under such contracts. The proposed rule amends Parts 14–1 and 14–7 of 41 CFR Chapter 14 (Interior Procurement Regulations) by adding implementing regulations.

Proposed regulations were sent to approximately 250 tribal leaders for review and comment. Comments were received from four tribes and one law firm. In general, the comments received recommended a broad interpretation of the applicability of Section 7(b); addition of record, reporting, and sanction requirements to the Indian Preference clause; revision of employment notice requirements to Tribes; addition of complaint procedures; strengthening of reporting requirements under the Indian Preference Program clause and lowering the originally proposed $100,000 threshold for inclusion of the clause in certain contracts; and recognition of Tribal preference requirements in certain types of contracts. All comments received were thoroughly reviewed and considered, and all significant recommendations were taken into account in these proposed regulations.

NOTE.—The Department of the Interior has determined that this document does not contain a major rule requiring preparation of an Inflation Impact Statement under Executive Order 11821 or OMB Circular A–107.

Dated: August 19, 1977.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

Accordingly, pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, proposed amendments to

V 42168 AUG 30 77 UMI

41 CFR Parts 14–1 and 14–7 are as follows:

1. The Table of Contents of Part 14–1 is amended by adding a new § 14–1.354 as follows:

Subpart 14–1.3—General Policies

Sec.

* * * * *

14–1.354 Indian Preference in employment, training, and subcontracting opportunities.

2. Subpart 14–1.3 is amended by adding a new § 14–1.354 as follows:

Subpart 14–1.3—General Policies

§ 14–1.354 Indian preference in employment, training, and subcontracting opportunities.

(a) *Statutory requirements.* Section 7(b) of the Indian Self-Determination and Education Assistance Act (Sec. 7(b), Pub. L. 93–638, 88 Stat. 2205 (25 U.S.C. 450e(b))) requires that any contract or subcontract entered into pursuant to the Act; the Act of April 16, 1934 (48 Stat. 596, 25 U.S.C. 452), as amended, the Johnson-O'Malley Act; or any other Act authorizing contracts with Indian organizations or for the benefit of Indians shall require that, to the greatest extent feasible: (1) Preferences and opportunities for training and employment in connection with the administration of such contracts shall be given to Indians; and, (2) Preference in the award of subcontracts in connection with the administration of such contracts shall be given to Indian organizations and to Indian-owned economic enterprises as defined in Section 3 of the Indian Financing Act of 1974 (Sec. 3, Pub. L. 93–262, 88 Stat. 77, 25 U.S.C. 1452).

(b) *Applicability.* (1) The Indian Preference clause, set forth in § 14–7.5002 of this chapter, shall be included in all solicitations issued and contracts awarded by: (i) The Bureau of Indian Affairs, (ii) a procuring activity other than the Bureau of Indian Affairs when the contract is entered into pursuant to an act specifically authorizing contracts with Indian organizations and, (iii) a procuring activity other than the Bureau of Indian Affairs where the work to be performed is specifically for the benefit of Indians and is in addition to any incidental benefits which might otherwise accrue to the general public. (2) The Indian Preference Program clause, set forth in § 14–7.5003 of this chapter, should be included in all solicitations issued and contracts awarded by a procuring activity which may exceed $50,000, which contain the clause required by paragraph (b)(1) of this § 14–1.354 and where the work under the contract will be performed in whole or in part on or near an Indian reservation(s). The Indian Preference Program clause may also be included in solicitations issued and contracts awarded by a procuring activity which may not exceed $50,000, but which contain the clause required by paragraph (b)(1) of this § 14–1.354 and which, in the opinion of the procuring activity, offer substantial opportunities for Indian employment, training and subcontracting.

(c) *Definitions.* For purposes of this § 14–1.354, the following definitions shall apply:

(1) "Indian" means a person who is a member of an Indian Tribe; the contractor shall be responsible for determining whether a person is an Indian after coordination with the officials of the Indian Tribe concerned.

(2) "Indian Tribe" means an Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688, 43 U.S.C. 1601) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(3) "Indian organization" means the governing body of any Indian Tribe or entity established or recognized by such governing body for the purpose of the Indian Financing Act of 1974 (88 Stat. 77, 25 U.S.C. 1451); and

(4) "Indian-owned economic enterprise" means any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit provided that such Indian ownership shall constitute not less than 51 per centum of the enterprise.

(5) "Indian reservation" includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act, (85 Stat. 688, 43 U.S.C. 1601 et seq.).

(6) "On or near an Indian reservation" means on a reservation or the distance within that area surrounding an Indian reservation(s) that a person seeking employment could reasonably be expected to commute in the course of a work day.

(d) *Compliance enforcement.* (1) The procuring activity concerned shall be responsible for conducting periodic reviews to insure contractor compliance with the requirements of the clauses prescribed by §§ 14–7.5002 and 14–7.5003 of this chapter. These reviews may be conducted with the assistance of the Indian Tribe(s) concerned. (2) Complaints of noncompliance with the requirements of the clauses prescribed by §§ 14–7.5002 and 14–7.5003 which are filed in writing with the procuring activity shall be investigated and resolved by the contracting officer.

(e) *Tribal preference requirements.* Where the work under a contract is to be performed on an Indian reservation(s), the procuring activity may supplement the clause prescribed by § 14–7.5003 of this chapter by adding specific employment preference requirements of a Tribe or Tribes developed jointly between the procuring activity and the Tribe(s) to the extent such requirements are consistent with Federal laws and regulations. Any supplemental preference requirements to be added to the clause in § 14–7.5003 of this chapter shall be included in the solicitation and clearly identified in order to ensure uniform understanding of the additional requirements by all prospective bidders or offerors.

3. The Table of Contents of Part 14–7 is amended by deleting and reserving § 14–7.650–6 and by adding new §§ 14–7.5002 and 14–7.5003 as follows:

Subpart 14–7.6—Fixed Price Construction Contracts

Sec.

* * * * *

14–7.650–6 [Reserved]

* * * * *

Subpart 14–7.50—Special Contract Clauses

* * * * *

14–7.5002 Indian preference.
14–7.5003 Indian preference programs.

4. Subpart 14–7.6 is amended by deleting and reserving § 14–7.650–6 as follows:

Subpart 14–7.6—Fixed Price Construction Contracts

§ 14–7.650 Additional Interior contract clauses.

* * * * *

§ 14–7.650–6 [Reserved]

* * * * *

5. Subpart 14–7.50 is amended by adding new §§ 14–7.5002 and 14–7.5003 as follows:

Subpart 14–7.50—Special Contract Clauses

* * * * *

§ 14–7.5002 Indian preference.

The following clause shall be used as prescribed in § 14–1.354(b)(1) of this chapter:

INDIAN PREFERENCE

(a) The contractor agrees to give preferences to Indians who can perform the work required regardless of age, sex, religion, or tribal affiliation for training and employment opportunities under this contract and, to the extent feasible consistent with the efficient performance of this contract, training and employment preferences and opportunities shall be provided to Indians regardless of age, sex, religion, or tribal affiliation who are not fully qualified to perform under this contract. The contractor also agrees to give preference to Indian organizations and Indian-owned economic enterprises in the awarding of any subcontracts consistent with the efficient operation of this contract. The contractor shall maintain such records as are necessary to indicate compliance with this paragraph (a).

(b) In connection with the Indian employment preference requirements of this clause, the contractor shall also provide opportunities for training incident to such employment. Such training shall include on-the-job, classroom, or apprenticeship training which is designed to increase the vocational effectiveness of an Indian employee.

(c) If the contractor is unable to fill its training and employment needs after giving full consideration to Indians as required by this clause, those needs may be satisfied by selection of persons other than Indians in accordance with the clause of this contract entitled "Equal Opportunity."

(d) If no Indian organization or Indian-owned economic enterprises are available for awarding of subcontracts in connection with the work performed under this contract, the contractor agrees to comply with the provisions of this contract involving utilization of small business, labor surplus area, and minority business firms.

(e) As used in this clause: (1) "Indian" means a person who is a member of an Indian Tribe; the contractor shall be responsible for determining whether a person is an Indian after coordination with officials of the Indian Tribe concerned.

(2) "Indian Tribe" means an Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (85 Stat. 688, 43 U.S.C. 1601) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(3) "Indian organization" means the governing body of any Indian Tribe or entity established or recognized by such governing body for the purpose of the Indian Financing Act of 1974 (88 Stat. 77, 25 U.S.C. 1451; and

(4) "Indian-owned economic enterprise" means any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit provided that such Indian ownership shall constitute not less than 51 per centum of the enterprise.

(f) The contractor agrees to include the provisions of this clause including this paragraph (f) in each subcontract awarded under this contract.

(g) In the event of noncompliance with this clause, the contractor's right to proceed may be terminated in whole or in part by the contracting officer and the work completed in a manner determined by the contracting officer to be in the best interests of the Government.

§ 14–7.5003 Indian preference program.

The following clause shall be used as prescribed in § 14–1.354(b)(2) of this chapter:

INDIAN PREFERENCE PROGRAM

(a) In addition to the requirements of the clause of this contract entitled "Indian Preference," the Contractor agrees to establish and conduct an Indian preference program which will expand the opportunities for Indian organizations and Indian-owned economic enterprises to receive a preference in the awarding of subcontracts and which will expand opportunities for Indians to receive preferences for training and employment in connection with the work to be performed under this contract. In this connection, the Contractor shall:

(1) Designate a liaison officer who will (i) maintain liaison with the Government and the Tribe(s) on Indian preference matters, (ii) supervise compliance with the provisions of this clause, and (iii) administer the Contractor's Indian preference program.

(2) Advise its recruitment sources in writing and include a statement in all advertisements for employment that Indian applicants will be given preference in employment and training incident to such employment.

(3) Not less than twenty (20) calendar days prior to commencement of work under this contract, post a written notice, in the Tribal office of any reservations on which or near where the work under this contract is to be performed, which sets forth the contractor's employment needs and related training opportunities. The notice shall include the approximate numbers and types of employees needed; the approximate dates of employment; the experience or special skills required for employment, if any; training opportunities available; and all other pertinent information necessary to advise prospective employees of any other employment requirements. The contractor shall also request the Tribe(s) on or near whose reservation(s) the work is to be performed to provide assistance to the contractor in filling its employment needs and training opportunities. The contracting officer will advise the contractor of the name, location, and phone number of the Tribal officials to contact in regard to the posting of notices and requests for Tribal assistance.

(4) Give public notice of subcontracting opportunities and request the Tribe(s) on or near whose reservation(s) the work under this contract is to be performed to provide assistance and information on Indian organizations and Indian-owned economic enterprises which may serve as potential sources for subcontracted work. The contracting officer shall advise the contractor of the name, location, and phone number of Tribal officials to contact in regard to requests for Tribal assistance and information.

(5) Maintain written records under this contract which indicate: (a) The names and addresses of all Indians seeking employment for each employment position available under this contract; (b) the number and types of positions filled by (i) Indians and (ii) non-Indians, and the name, address and position of each Indian employed under this contract; (c) for those positions where there are both Indian and non-Indian applicants, and a non-Indian is selected for employment, the reason(s) why the Indian applicant was not selected; (d) actions taken to give preference to Indian organizations and Indian-owned economic enterprises for all subcontracting opportunities which exist under this contract; and (e) the names and addresses of all Indian organizations and Indian-owned economic enterprises (i) contacted, and (ii) receiving subcontract awards under this contract.

(6) The contractor shall submit to the contracting officer for approval a quarterly report which summarizes the contractor's Indian preference program and indicates (a) the number and types of available positions filled by (i) Indians and (ii) non-Indians and (b) the number and dollar amounts of all subcontracts awarded to (i) Indian organizations and Indian-owned economic enterprises and (ii) all other firms.

(7) The contracting officer or his authorized representative shall have access to the written records required by this clause during the period of this contract and up to one year after the completion of this contract.

(b) For purposes of this clause: the following definitions of terms shall apply:

(1) The terms "Indian," "Indian Tribe," "Indian organization," and "Indian-owned economic enterprise" are defined in the clause of this contract entitled "Indian Preference."

(2) "Indian reservation" includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act, (85 Stat. 688, 43 U.S.C. 1601 et seq.).

(3) "On or near an Indian reservation" means on a reservation or reservations or within that area surrounding an Indian reservation(s) where a person seeking employment could reasonably be expected to commute to and from in the course of a work day.

(c) The contractor agrees to insert in any subcontracts hereunder which may exceed $50,000 provisions which conform substantially to the language of this clause and to notify the contracting officer of such subcontracts.

(d) In the event of noncompliance with this clause, the contractor's right to proceed may be terminated in whole or in part by the contracting officer and the work completed in a manner determined by the contracting officer to be in the best interest of the Government.

[FR Doc.77-25084 Filed 8-29-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 81, and 83]

[Docket No. 21370; FCC 77-580]

COAST GUARD DESIGNATED VESSEL TRAFFIC SERVICES RADIO PROTECTION AREAS

Making Frequency 156.250 Available for Port Operations Purposes

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed rulemaking.

SUMMARY: Proposed amendment of the rules to make the frequency 156.250 MHz available for port operations purposes in certain Coast Guard designated Vessel Traffic Services (VTS) radio protection areas. As a result of the assignment of maritime mobile frequencies for exclusive use for VTS purposes in certain designated areas, this proposed amendment is deemed necessary to help alleviate the growing congestion on the remaining frequencies available.

DATES: Comments must be received on or before October 7, 1977, and Reply Comments must be received on or before October 17, 1977. Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert McNamara, Safety and Special Radio Services Bureau, 202–632–7197.

SUPPLEMENTARY INFORMATION:

In the Matter of amendment of Parts 2, 81, and 83 of the rules to make the frequency 156.250 MHz available for port operations purposes in certain Coast Guard designated Vessel Traffic Services radio protection areas.

Adopted: August 22, 1977.

Released: August 30, 1977.

1. Notice of Proposed Rulemaking is hereby given in the above-captioned matter.

2. As part of a program to implement the provisions of Title I of the "Ports and

V 42 168 AUG 30 77 UMI

Waterways Act of 1972" (Pub. L. 92–340, 86 Stat. 424, 46 U.S.C. 1551) the U.S. Coast Guard is establishing Vessel Traffic Services (VTS) systems for a number of the largest and busiest port areas in the United States. At the request of the Commandant, U.S. Coast Guard, the Commission amended the rules to make up to three frequencies available for exclusive use for VTS purposes within designated VTS radio protection areas (Docket No. 20444, FCC 75–1316). Due to the scarcity of suitable frequencies, it was necessary to assign frequencies previously authorized for commercial (156.–550 MHz) and port operations (156.600 and 156.700 MHz) purposes in the maritime mobile services. Although the subject frequencies were apparently extensively utilized, particularly in certain crowded navigational waters, the Commission believed it was expected by law, and in the public interest, to assist the Coast Guard in implementing the new legislation.

3. As traffic has shifted from the specified VTS frequencies to the remaining port operations and/or commercial frequencies in the designated VTS areas, usage of these remaining frequencies has been increasing. Therefore, as an initial step in providing some relief to licensees, we are proposing to make the frequency 156.250 MHz available for port operations purposes in designated VTS radio protection areas, other than New York, San Francisco, and Seattle, which are described in §§ 81.357 and 83.361 of the rules.

4. The frequency 156.250 MHz has not been previously assigned because of its band edge location and the resultant potential harmful interference with land mobile assignments on the adjacent highway maintenance service frequency 156.240 MHz. However, after carefully reviewing assignments in the various VTS areas (proposed as well as operational) it appears that the frequency 156.250 MHz can be utilized without harmful interference in some of the locations. In the port areas of New York, San Francisco, and Seattle, the use of the subject frequency is prohibited by possible intereference problems. In the remaining VTS areas (presently New Orleans and Houston) the frequency 156.–240 MHz is not assigned for highway maintenance purposes. Prior to such assignments in the future, coordination can be effected to ameliorate potential problems. Therefore, we believe it is in the public interest to provide in the rules for the use of this additional frequency where possible, to alleviate the communications burden imposed on licensees operating in VTS radio protection areas.

5. Accordingly, we propose to amend §§ 2.106, 81.356, 83.351, and 83.359 of the Commission's rules to indicate that the frequency 156.250 MHz (VHF Channel 5) is available for use for port operations purposes in the Coast Guard designated VTS radio protection areas, other than New York, San Francisco, and Seattle, which are described in §§ 81.357 and 83.–361 of the rules.

6. The proposed amendments to the Commission's rules as set forth in the attached Appendix, are issued pursuant to the authority contained in Sections 4(i) and 303 (c) and (r) of the Communications Act of 1934, as amended.

7. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before October 7, 1977, and reply comments on or before October 17, 1977. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

8. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs, or comments shall be furnished the Commission. All comments received in response to this Notice of Proposed Rulemaking, will be available for public inspection in the Docket Reference Room in the Commission's Offices in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Parts 2, 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. In § 2.106 the table is amended by adding in the band 156.250–157.0375 MHz, the frequency 156.250 MHz in column 10, and Maritime Mobile in Column 11, and further the NG footnotes and the table in the band 154.6375–156.250 MHz in Column 8, and the band 156.250–157.0375 MHz in column 11, are amended by adding NG ____ to read as follows:

§ 2.106 Table of frequency allocations.

* * * * *

Band (Megahertz)	Service	Frequency (Megahertz)	Nature (of services (of stations	
7	8	10	11	
*	*	*	*	*
154.6375 to 156.250	Land mobile (NG____)[1]	.....	Public safety.	
156.250 to 157.0375.	Maritime mobile.	156.250 156.275 156.300	Maritime Mobile, (NG____)[1] Do. Do.	
*	*	*	*	*

NG FOOTNOTES

* * * * *

[1] NG____ The frequency 156.250 MHz may be assigned to stations in the maritime mobile service for port operations within U.S. Coast Guard designated vessel traffic services (VTS) radio protection areas, other than the New York, San Francisco, and Seattle areas.

* * * * *

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

2. In § 81.356, paragraph (a) table under "Port Operations" is amended and (b) (2) is added to read as follows:

§ 81.356 Assignable frequencies in the band 156–162 MHz.

(a) * * *

Port operations				
05....	156.250	156.250	Coast to ship.....	2
65....	156.275	156.275	.....do.	12

* * * * *

(b) * * *

(2) Available for use within U.S. Coast Guard designated Vessel Traffic Services (VTS) radio protection areas described in § 81.357 other than the New York, San Francisco, and Seattle.

* * * * *

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

3. In § 83.351, paragraph (a) table is amended and (b) (12) is added to read as follows:

§ 83.351 Frequencies available.

(a) * * *

Carrier frequency (Kilohertz)			Conditions of use	
			Section	Limitations
*	*	*	*	*
(Megahertz)				
156.250	.....		83.359	12
*	*	*	*	*

(b) * * *

(12) Available for use within U.S. Coast Guard designated Vessel Traffic Services (VTS) radio protection areas described in § 83.361 other than the New York, San Francisco, and Seattle areas.

* * * * *

4. Section 83.359 is amended to read as follows:

§ 83.359 Frequencies in the band 156–162 MHz available for assignment.

* * * * *

Channel designator	Frequency Megahertz		Points of communication
	Ship	Coast	
*	*	*	*
Port Operations			
05.....	156.250	156.250	Intership and ship to coast.
65.....	156.275	156.275	Do.
*	*	*	*

[FR Doc.77–25159 Filed 8–29–77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

NOTICE TO FEDERAL AGENCIES

Beginning October 1, 1977, Federal agencies must reimburse the Government Printing Office (GPO) for the cost of printing documents in the FEDERAL REGISTER and Code of Federal Regulations.

The Legislative Branch Appropriation Act, 1978 (Pub. L. 95–94, August 5, 1977) amended the Federal Register Act to require Federal agencies to reimburse the Government Printing Office for the cost of printing, binding, and distributing the FEDERAL REGISTER and Code of Federal Regulations. The pertinent provisions of Pub. L. 95–94 amending 44 U.S.C. 1509 are contained in Appendix A to this document.

FEDERAL REGISTER

In order to make certain that statutory requirements for publication in the FEDERAL REGISTER can be met on and after October 1, 1977 agencies must submit a Printing and Binding Requisition (Standard Form 1) before September 15 to the following address:

Superintendent of Planning Service, Room C830, Government Printing Office, Washington, D.C. 20401.

CODE OF FEDERAL REGULATIONS

Every agency that has rules in the Code of Federal Regulations must submit a second Printing and Binding Requisition (Standard Form 1) to the Superintendent of Planning Service at the above address.

COMPUTATION OF COSTS-BILLING: FISCAL YEARS 1978, 1979

For fiscal year 1978 agencies will be charged $285 for each page of printed matter they publish in the FEDERAL REGISTER and $50 for each page in the Code of Federal Regulations. Fractions of pages published in the FEDERAL REGISTER will be counted on a column basis with a minimum charge of one column ($95). GPO will bill each agency monthly for the material the agency has printed in the previous month. Billing for the Code of Federal Regulations will be on an as printed basis.

For budget planning purposes, agencies are advised that current estimates for printing services in Fiscal Year 1979 are as follows: FEDERAL REGISTER $300 per page; Code of Federal Regulations $55 per page.

These prices cover the costs of composition, printing, binding and distribution.

INFORMATION AND ASSISTANCE

For information and assistance in filling out the Printing and Binding Requisition (Standard Form 1) and in computing your projected printing costs, call: Mr. William Rose 202–275–2867.

APPENDIX A

[Pub. L. 95–94 Approved Aug. 5, 1977]

* * * * *

"§ 1509. Costs of publication, etc.

"(a) The cost of printing, reprinting, wrapping, binding, and distributing the FEDERAL REGISTER and the Code of Federal Regulations, and, except as provided in subsection (b), other expenses incurred by the Government Printing Office in carrying out the duties placed upon it by this chapter shall be charged to the revolving fund provided in section 309. Reimbursements for such costs and expenses shall be made by the Federal agencies and credited, together with all receipts, as provided in scetion 309(b)."

* * * * *

(b) The amendments made by subsection (a) shall take effect on October 1, 1977.

* * * * *

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON RATEMAKING AND ECONOMIC REGULATION

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Ratemaking and Economic Regulation of the Administrative Conference of the United States, to be held at 10:30 a.m., September 15, 1977 in the library of the Administrative Conference, 2120 L Street, NW., Suite 500, Washington, D.C.

The Committee will meet to consider Professor Thomas Morgan's draft report on delay in ratemaking proceedings.

Attendance is open to the public, but limited to the space available. Persons wishing to attend should notify this office at least one day in advance. The Committee Chairman may, if he deems it appropriate, permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this Committee meeting contact Philip J. Harter, 202–254–7065. Minutes of the meeting will be available on request.

JOSEPH SCOTT,
Executive Director.

AUGUST 24, 1977.

[FR Doc.77–25140 Filed 8–29–77;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A495]

MISSOURI

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Nodaway County, Missouri, as a result of a severe wind and hailstorm on June 29, 1977.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Joseph P. Teasdale that such designation be made. Applications for emergency loans must be received by this Department no later than October 11, 1977, for physical losses and May 11, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 24th day of August, 1977.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc.77–25240 Filed 8–29–77;8:45 am]

[Notice of Designation Number A496]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Gray County, Texas, as a result of severe windstorms January 5 through March 30, 1977; drought March 1 through April 14, 1977; excessive rains April 15 through June 13, 1977; hailstorms May 16, 17, 18, 20, 21, 24, and June 13, 1977; and a tornado on May 17, 1977.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94–68, and the provisions of 7 CFR 1832.–3(b) including the recommendation of Governor Dolph Briscoe that such designation be made.

V 42 168 AUG 30 77 UMI

Applications for emergency loans must be received by this Department no later than October 11, 1977, for physical losses and May 11, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 23rd day of August 1977.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc.77-25086 Filed 8-29-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 29123; Agreement C.A.B. 26083 R-1 through R-19; Agreement C.A.B. 26232 R-4; Order 77-119]

IATA

Agreements Adopted Relating to South Pacific Passenger Fares; Order on Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 24th day of August, 1977.

By Order 77-2-32, February 4, 1977, the Board disapproved, for the most part, agreements among the carrier members of the International Air Transport Association (IATA) which proposed South Pacific passenger fares for effect January 1, 1977. The Board's disapproval was based on findings that the proposed increases were not warranted in that, with appropriate adjustments in passenger load factors, elasticity and fuel costs, Pan American World Airways, Inc. (Pan American), the only United States carrier providing service in the area, would realize earnings significantly in excess of the Board's 12-percent guideline. Pan American has filed a petition for reconsideration of that decision.

Pan American alleges that the Board's disapproval of the proposed fare increases was based on a mistaken application of a rate-of-return standard, contending that, implicit in the Board's findings, was the conclusion that the 12-percent rate-of-return standard for domestic passenger fares is equally applicable to South Pacific fares. Pan American states that this standard has no applicability to international operations because, inter alia, the risks associated with international operations are greater than those involved in domestic operations, and because the historical data upon which the cost of debt and equity capital were determined for purposes of developing that standard are now outdated. Pan American further claims that the standard was misapplied in the instant case because it was used as a maximum return rather than as a standard to be achieved on an average basis over the long run.

Pan American also contends that the Board's treatment of demand elasticity is incorrect. The carrier states that the Board permitted use of an elasticity factor in evaluating international fare agreements up to 1976 and has used, and continues to use, an elasticity factor in its consideration of domestic fare proposals. Pan American alleges that it properly applied the concept in the instant case by applying a —0.5 elasticity factor to expected earnings under the proposed fares despite the Board's conclusion that no elasticity adjustment should be recognized. It states that the Board's reasoning to the effect that elasticity estimates are not acceptable because they involve a great deal of speculation could equally be applied to other aspects of the carrier's forecasts which the Board routinely accepts.

Pan American takes issue with the Board's treatment of its forecast fuel expense and capacity, as well as the Board's treatment of its results on the domestic sectors of its mainland-South Pacific through services. The carrier claims that the Board's estimate of its fuel consumption and the downward adjustment made in its fuel prices were based on meaningless historical data. With respect to the Board's observations on its forecast capacity level, Pan American claims that the traffic-generating effect of planned additional capacity was ignored. Lastly, Pan American argues that its financial results on the domestic sectors of its through South Pacific flights should be included in evaluating the reasonableness of South Pacific fares, since the Board requires that through fares should not be higher than the sum of the local fares via Hawaii (west coast-Hawaii plus Hawaii-South Pacific). Since west coast-Hawaii fares are alleged to be unreasonably low, the fares beyond Hawaii must be relatively high to afford a reasonable overall return from its South Pacific service.

Upon consideration of the petition and all other relevant matters, the Board finds that, with one exception, the petition raises no issues not adequately dealt with in our previous decision or that warrant reconsideration, and consequently the petition will be denied. The exception concerns our adjustment of Pan American's fuel expense. Based upon information contained in the petition, we are now persuaded that Pan American's forecast fuel expense as originally set forth in its justification should be accepted. The estimate of 3,050 gallons per block-hour for fuel consumption of B-747SP aircraft used by Pan American in its original justification in support of the agreement appears reasonable in the light of Form 41 data now available, which show a 3,090 gallons per block-hour rate for Pan American's Pacific division for calendar year 1976. Acceptance of Pan American's forecast fuel expense would reduce the forecast return for its South Pacific international operations from 17.47 to 15.33 percent. This adjustment, however, does not alter the Board's decision to disapprove the proposed fare increases.

The Board employed the 12-percent rate-of-return standard developed in the Domestic Passenger-Fare Investigation (DPFI), Docket 21866, as a guideline in evaluating the South Pacific fare agreement, just as it has done in evaluating all international rate and fare agreements since 1972. Pan American apparently does not take issue with the concept of a rate-of-return guideline in evaluating international rate agreements but argues, rather, that 12 percent is not the correct level and that it should be higher, primarily to account for the greater risks allegedly involved in international operations. However, no showing has been made here which would justify an alternative, for present purposes, to the 12-percent return found reasonable in Phase 8 of the DPFI. The carriers incur debt and raise equity on a system or corporate basis and the data studied by the Board in Phase 8 therefore reflect international as well as domestic operations. Application of the 12-percent return as a benchmark in evaluating international operations therefore appears reasonable, based on information currently available. In any event, the Board has specifically requested the carrier parties to the North Atlantic Fare Investigation, Docket 27918, to address this issue in Order 77-7-4, July 1, 1977.

Pan American's conclusion that the Board applied the 12-percent rate-of-return guideline as a ceiling is both erroneous and unsubstantiated. The Board noted that Pan American's unadjusted data showed an expected 12.8-percent return, with the proposed higher fares, which supported the conclusion that a fare increase of the magnitude proposed was not warranted. The Board went on to point out that, with an adjustment to eliminate demand elasticity, the expected return would increase to 15.3 percent, and to 17.5 percent with the fuel-cost adjustment. Disapproval of a fare increase that would produce a return in the 15-17 percent range clearly does not reflect a rigid application of a 12-percent return ceiling.

Pan American's interpretation of the Board's position on price elasticity of demand appears to miss the central point.[1] In the Board's view, the case for a specific elasticity coefficient in any given international market has not been made to date. Given the complex international fare structure, with its myriad cross-elasticities, the differing mix of business and discretionary travel in the various markets, and the difficulty in forecasting economic and demographic variables for a large number of foreign countries, to cite some of the more obvious problems, it is not surprising that there is a lack of persuasive evidence on elasticity coefficients in the international arena.[2] The Board does not deny the existence of demand elasticity, but we find the entire subject of forecasting so speculative that the type of refinement involved in an elasticity adjustment, which is highly speculative in itself, is simply not acceptable.[3]

Pan American takes issue with the concern expressed by the Board over the capacity level the carrier intends to operate on its South Pacific route. Pan American claims that a portion of the traffic increase it forecasts is a result of the capacity increase it intends to introduce. The Board has never implied that there is no relationship between traffic volume and capacity offered. The Board merely pointed out that Pan American chose to maintain its existing 50-percent load factor despite a sharp increase in traffic (49-percent increase in revenue passenger-miles) through an equivalent increase in capacity. It is not apparent to us that such a capacity increase is necessary to achieve a significant increase in traffic on this route, particularly in view of the relatively low load factor currently prevailing in this market. Moreover, we see no basis for concluding that introduction of the B-747SP in this market requires a net increase in capacity, at least in the amount contemplated by Pan American.

Finally, Pan American argues that South Pacific fare agreements should be evaluated in the context of results on both the international and domestic sectors of its South Pacific through service, since the Board requires that through fares be no higher than the sum of the local sector fares.[4] Pan American claims that, since west coast-Hawaii fares are unreasonably low, fares beyond Hawaii must be relatively high in order to allow a reasonable through fare and return from the service. The carrier argues that the evening departure time of its flights from the mainland to Hawaii is determined by the requirements of its South Pacific service and is not optimum for the domestic market. Despite these scheduling difficulties, however, Pan American has not presented a persuasive case that it does not have a reasonable opportunity to earn a 12-percent return on its mainland-Hawaii services. The carrier has not satisfactorily explained why it cannot achieve load factors above 50 percent in this market through more careful management of capacity. For example, since almost one-third of its forecast international operations will be conducted with B-747SP aircraft which overfly Hawaii, it is reasonable to expect that the already high percentage of through passengers who travel via Hawaii because they wish to stop over there will increase further. This suggests that one option Pan American may have is to operate more turnaround services between the mainland and Hawaii and to institute turnaround operations between Hawaii and points in the South Pacific. An operation of this type would allow the carrier to improve the timing of its mainland-Hawaii flights thereby increasing load factors on these segments while, at the same time, reducing capacity on the thinner, Hawaii-South Pacific routes with a consequent load-factor improvement on these routes. This option is raised merely to underscore the fact that Pan American has not put forth a convincing case that it has explored all the available options in an attempt to improve the profitability of these services. We do not agree with Pan American that the Board's requirement that through fares be no higher than the sum of the local sector fares necessarily implies that through fares should be set to cover any earnings shortfall from mainland-Hawaii operations. It remains for Pan American to clearly demonstrate that its domestic sector results cannot be improved because they are inexorably entwined with through services in such a way that the carrier cannot be competitive with the other mainland-Hawaii carriers. In the absence of such a demonstration we are unable to conclude that mainland-Hawaii sector costs and revenues should be included in any evaluation of IATA agreements establishing international fares for the South Pacific.

We therefore find that the issues presented by Pan American are not sufficient to warrant reversal of our disapproval of fare increases in Order 77-2-32, and Pan American's petition will therefore be denied.

Accordingly, *it is ordered that:*

Except to the extent granted here, the petition of Pan American World Airways, Inc., for reconsideration of Order 77-2-32 be denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[5]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-25167 Filed 8-29-77;8:45 am]

[Docket 27813; Agreement C.A.B. 25711; Order 77-8-120]

IATA

Agreement Adopted Relating to South Pacific Passenger Fares; Order Denying Petition for Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 24th day of August, 1977.

By Order 77-5-133, May 24, 1977, the Board reaffirmed its approval of an agreement reached by the International Air Transport Association (IATA) which established first- and economy-class fares, between the U.S. mainland/Hawaii, on the one hand, and Australia/New Zealand, on the other, which exceeded the combination of the local sector U.S.-Pago Pago and Pago Pago-Australia/New Zealand fares. The Board conditioned its approval, however, to require that, where through travel involves a stopover at American Samoa, the applicable through fare will not exceed the sum of the local sector fares over Pago Pago. To this end, Pan American was directed to file appropriate tariff changes within 30 days.

Qantas Airways, Ltd. (Qantas) has petitioned for reconsideration of the Board's order, requesting reversal of that tariff filing requirement, or at least a delay in its implementation, until certain points raised in its petition can be reviewed by the Board. Mr. Donald L. Pevsner has filed in opposition to the petition.

Qantas contends that the Board's condition is contrary to its previously stated principle that an appropriate charge for stopovers should be imposed; and that if a stopover is made at Pago Pago, a charge should apply.[1] It also contends that, despite the Board's belief that little traffic and revenue diversion would occur, the fact that no stopover charge will apply, the substantial dollar savings from the higher through international fare, salubrious Samoan climate, and the opportunity to break an otherwise tedious journey make significant diversion to Pan American's Pago Pago services probable. Qantas estimates its annual loss at $10.2 million, and urges that the Board fully explore traffic and revenue drains on other carriers before implementation of its condition. Qantas states that this loss of traffic would be bearable if Qantas and Air New Zealand had traffic rights at Pago Pago, but argues that, since Pan American is the sole beneficiary, great violence is done to Qantas' ability to enjoy a "fair and equal opportunity to compete" under the terms of the United States-Australia bilateral agreement and that, while the

[1] In Order 77-2-32 the Board stated that there was no evidence that the carriers perform all the steps required for the proper application of an elasticity coefficient. In the instant petition, Pan American has provided information, in addition to that contained in its original justification, which indicates that the carrier has, in fact, followed the correct procedure in applying elasticity.

[2] The difficulties of producing reliable estimates of elasticity in international markets are stressed by most authors who attempt it. For a general discussion of these problems, see, for example, Guy Orcutt, "Measurement of Price Elasticities in International Trade," The Review of Economics and Statistics (May 1950), pp. 118-127. Furthermore, studies of the North Atlantic market indicate that the demand curve is relatively elastic within the range of observed prices. See, for example, M. Straszheim, The International Airline Industry (Washington: The Brookings Institution, 1969), M. H. Cooper and A. K. Maynard, The Price of Air Travel (London: The Institute of Economic Affairs, 1971), and W. Watkins and D. Kaylor, Forecast of Scheduled International Air Travel of U.S. Flag Carriers, 1971-1980 (Washington: Civil Aeronautics Board, 1971). The fact that the carriers use coefficients in the relatively inelastic range to adjust their traffic forecasts in this market and that they do not make corresponding adjustments to their forecast load factors, tends to support the Board's contention that the carriers' use of elasticity is somewhat self-serving.

[3] Although the Board employs an elasticity coefficient of —0.7 for domestic fares, which was developed pursuant to a full investigation in Phase 7 of the DPFI, it has virtually no effect on fares as long as the load factor adjustment is made.

[4] Pan American correctly points out that the Board erred in stating that the carrier enjoys a return well in excess of 12 percent on South Pacific sectors beyond Hawaii. The statement should have read that the carrier would earn such a return under the proposed increases.

[5] All Members concurred except Chairman Kahn and Member Bailey who did not participate.

[1] Qantas cites Orders 73-1-76 and 73-4-77.

V 42 168 AUG 30 77 UMI

Board has recognized the principle that international fares require the mutual consent of nations, the Board's tariff-filing requirement does little to maintain this principle.

Mr. Pevsner argues that grant of the petition would penalize passengers stopping over at Samoa by causing their payment of the higher through fare or a punitive stopover charge; that the number of passengers affected by the Board's condition is small since most South Pacific flights overfly Pago Pago; that any increased traffic to Pago Pago benefits both the local economy and the traveler; that if Qantas wishes to participate in this stopover traffic it may apply to serve the Australia-Pago Pago market or lower its through fare to the sum of the local sector fares. Mr. Pevsner contends that it seems hypocritical for a carrier to condone, or at least ignore for years, this long-standing undercut situation simply because the anomaly was unpublicized and then press strenuously for an arbitrary stop-over charge once the anomaly is publicized; and that both components of the double ticketing device are lawful and contained in legally filed tariffs in foreign air transportation.[2]

Upon full consideration of the petition, the answer and all other relevant matters, the Board has concluded that the petition is without merit and it will be denied.

Qantas has misconstrued the Board's position on charges for stopovers. The Board has advocated imposition of cost-related stopover charges on promotional fares.[3] However, the Board has disapproved application of stopover charges on normal first- and economy-class fares in the Pacific area, in view of the extremely high level of Pacific normal economy fares and the premium level of first-class fares which already reflect availability of unlimited free stopover privileges.[4] In any event, Qantas has not shown that one free stopover at Pago Pago at the lower fare level is uneconomic, nor has it suggested or justified what an appropriate stopover charge might be. Instead, the carrier appears to want a stopover charge solely to stem alleged diversion to the Pago Pago routing. Assuming, arguendo, that a stopover charge could be justified, we do not believe that it would meet Qantas' objective. The undercuts range up to several hundred dollars and to achieve Qantas' objective the charge would need to be extremely high—much higher than could be justified on cost alone.

Qantas also misconstrues the Board's statements in the May order on its concept of mutuality in international ratemaking. Ordinarily, a through fare which exceeds the sum of the local sector fares over an intermediate point is considered unreasonable per se. The Board could have required that the IATA through fares over a Pago Pago routing be no higher than the combination of local fares, as has been done in the case of Hawaii.[5] However, for a number of special reasons, and considering the mutuality of international ratemaking, the Board chose a more limited approach specifically directed at removing any possibility of unjust discrimination against the small number of passengers who genuinely desire a Samoan stopover. In any event, the combination of sector fares filed with the Board in the carriers' tariffs are valid for through transportation even though the IATA fare is undercut.

Accordingly, *it is ordered, that:* the petition of Qantas Airways, Ltd. for reconsideration of Order 77-5-133, May 24, 1977, in Docket 27813 be denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[6]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-25168 Filed 8-29-77;8:45 am]

[Docket 30256; Order 77-8-127]

JUGOSLOVENSKI AEROTRANSPORT

Application for Renewal of Foreign Air Carrier Permit; Order to Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 25th day of August, 1977.

Pursuant to Order 70-6-118, approved by the President on June 19, 1970, Jugoslovenski Aerotransport (JAT) was granted a permit authorizing the carrier, for a period terminating on June 19, 1973, to perform certain charter foreign air transportation between Yugoslavia and the United States and between certain European countries and the United States, the latter limited to charters originating in such countries. The permit was renewed pursuant to Order 74-9-23, approved by the President on September 5, 1974, for the period ending on December 31, 1976. JAT has timely filed for renewal of its permit.

JAT also holds a permit authorizing scheduled service between Belgrade and Zagreb, Yugoslavia, and New York, issued pursuant to Order 76-6-165 and renewed pursuant to Order 77-5-51. The JAT scheduled-service permit is based on provisional arrangements between the United States and Yugoslav governments concerning both scheduled and charter services contained in the exchange of Notes of May 14, 1976, and extended on June 30, 1977, until March 31, 1978. The provisional arrangements provided for inauguration of twice-weekly scheduled service to New York by JAT. In addition they imposed an annual limit of 80 charter movements by JAT under the Nonscheduled Air Service Agreement of September 27, 1973, which continues in effect. Accordingly, the annual limit of 80 charter movements by JAT is incorporated in the attached specimen form of permit.

The provisional arrangements were extended by the United States and Yugoslav governments until March 31, 1978, with the understanding that consultations will be held on a scheduled air transport services agreement during this period. It is expected that consultations will be held in the near future. In accordance with the request in JAT's application that the permit be renewed for one year or until a date agreed by the governments of the United States and Yugoslavia, it is proposed that the JAT permit be renewed with an expiration on March 31, 1978, the date on which JAT's scheduled permit and Pan American's operating permit from the Yugoslav government will expire. No answers have been filed to JAT's application.

On four occasions (Dockets 25581, 26078, 28732 and 30594), the Board found that JAT was substantially owned and effectively controlled by citizens of Yugoslavia, that it was financially and operationally fit, and that it was in the public interest to grant JAT's requests for renewed or new authority. We are aware of no changes in JAT's structure or operations which would require us to modify those findings. The Board finds, therefore, that it is in the public interest to direct all interested persons to show cause why JAT's charter foreign air carrier permit should not be renewed in the form indicated by the attached specimen permit.[1] Our tentative findings and conclusions in this regard are that:

(a) JAT is fit, willing, and able to properly perform the foreign air transportation proposed herein and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder;

(b) JAT is substantially owned and effectively controlled by citizens of Yugoslavia;

(c) It is in the public interest to renew in the form indicated by the attached specimen permit, the foreign air carrier permit issued to JAT pursuant to Order 74-9-23 for a period terminating on March 31, 1978, or such earlier date as the governments of the United States and Yugoslavia may provide by agreement;

(d) The public interest requires that the exercise of the privileges granted by

---

[2] As a consequence of a condition placed by Order 72-10-1, October 1, 1972, on IATA Resolution 001 (Permanent Effectiveness Resolution) the combination of sector fares filed with the Board in the carriers' tariffs are valid for transportation even though the IATA through fare is undercut.

[3] See e.g., Order 73-1-76, January 26, 1973.

[4] Order 77-3-63, March 11, 1977.

[5] Order 74-4-92, April 17, 1974.

[6] All Members concurred except Chairman Kahn and Member Bailey who did not participate.

[1] Upon the last renewal of JAT's charter permit, Order 74-9-23, Dockets 25581, 26078, Pan American World Airways, Inc. filed a Petition for Reconsideration urging that Condition 2(c) of the permit precluding commingling of U.S. originating charters (paragraph 1) with foreign originating charters under paragraphs 1, 2, and 5, should also apply to foreign originating charters under paragraph 4. Pan American's point is well taken. Accordingly, we tentatively find that its Petition for Reconsideration should be granted and the attached specimen form of permit be revised accordingly.

said permit be subject to the terms, conditions and limitations contained in the attached specimen form of permit, and to such other reasonable terms, conditions and limitations required by the public interest as may from time to time be prescribed by the Board; and

(e) A hearing on the application of Jugoslovenski Aerotransport is not required in the public interest.

We further find, pursuant to the environmental evaluation attached to JAT's application, that renewal of JAT's scheduled foreign air carrier permit would not be a major Federal action significantly affecting the quality of the environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, and will not be inconsistent with the policy objectives of the Energy Policy and Conservation Act of 1975.[2]

All interested persons will be given 15 days following the service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific issues and to support such objections with detailed analyses. If an evidentiary hearing is requested, each objector should name the specific markets or other issues about which a hearing is requested and should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing. Vague, general, or unsupported objections will not be entertained.

Accordingly, *it is ordered* That:

1. All interested persons be directed to show cause why the Board should not make final the tentative findings and conclusions set forth here and why an order should not be issued, subject to approval by the President pursuant to section 801 of the Act, renewing, in the form indicated by the attached specimen permit, the foreign air carrier permit issued to Jugoslovenski Aerotransport by Order 74-9-23 for a period terminating on March 31, 1978, or such earlier date as the governments of the United States and Yugoslovia may provide by agreement;

2. Any interested persons having objections to the issuance of an order making final these tentative findings and conclusions or to the issuance of the proposed foreign air carrier permit shall, within 15 days after service of this order, file with the Board and serve on the persons named in paragraph 5 a statement of objections specifying the part or parts of the tentative findings or conclusions objected to, together with a summary of testimony, statistical data and such evidence expected to be relied upon to support the statement of objections;

3. If timely and properly supported objections hereto are filed, full consideration will be accorded the matters or issues raised therein before further action is taken by the Board: *Provided,* That the Board may proceed to enter an order in accordance with the tentative findings and conclusions here if it determines that there are no factual issues presented that warrant the holding of an evidentiary hearing; [3]

4. In the event no objections are filed to this order, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions; and

5. This order shall be served upon Jugoslovenski Aerotransport, Pan American World Airways, Inc., the Ambassador of the Socialist Federal Republic of Yugoslavia, and the Department of State.

This order shall be published in the FEDERAL REGISTER and transmitted to the President.

By the Civil Aeronautics Board.[4]

PHYLLIS T. KAYLOR,
Secretary.

SPECIMEN

PERMIT TO FOREIGN AIR CARRIER
(AS AMENDED)

Jugoslovenski Aerotransport is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958, as amended, and the orders, rules, and regulations issued thereunder, to engage in charter foreign air transportation as follows:

1. Charter flights with respect to persons and their accompanied baggage between any point or points in Yugoslavia and any point or points in the United States.[5]

2. Charter flights with respect to persons and their accompanied baggage which originate at a point or points in any country other than the United States or Yugoslavia, and serve a point or points in the United States, provided that such flights include a stopover or stopovers in Yugoslavia.[5]

3. Planeload charter flights with respect to property between any point or points in Yugoslavia and any point or points in the United States, limited to ten one-way flights within any calendar year.

4. Charter flights (including inclusive tour charters with respect to persons and their accompanied baggage between any point or points in Austria, Belgium, Cyprus, Denmark, Finland, France, Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, Malta, Netherlands, Norway, Portugal, Spain, Sweden, and Switzerland, and any point or points in the United States, limited to charter flights which originate in a named European country.

5. Circle tour charter flights (including inclusive tour charters) with respect to persons and their accompanied baggage which originate and terminate at the same point in Austria, Belgium, Cyprus, Denmark, Finland, France, Federal Republic of Germany Greece, Ireland, Italy, Luxembourg, Malta, Netherlands, Norway, Portugal, Spain, Sweden, or Switzerland, and serve a point or points in the United States and also provide a stopover or stopovers en route at a point or points in any country other than a named European country, the United States, or Yugoslavia.

The holder may, with respect to Yugoslavia-originating charter flights authorized in paragraph 1, and flights authorized in paragraphs 2 and 5, above, grant stopover privileges en route in any country other than the United States or Yugoslavia: *Provided* That "stopover" shall mean a lapse of at least 36 hours between any deboarding and the next reboarding by the holder of the same passengers and their accompanied baggage whether the reboarding shall be pursuant to the same or separate group contracts.

This permit shall be subject to the following terms, conditions, limitations:

(1) With respect to passenger and property charter flights between the United States and Yugoslavia, authorized in paragraphs 1 and 3, above, the holder shall not engage in foreign air transportation between the United States and any point or points, other than a point or points in Yugoslavia (authorized stopovers excepted), or transport any person whose journey is under contract for a group movement by the holder to or from a point not in the United States or Yugoslavia: *Provided,* That this condition shall not [illegible] the holder under the authorization contained in paragraph 1 above, from [illegible] contracting for movement of United States originating inclusive tour charter, tour group charter, or study group charter traffic as a group or as groups on its scheduled air services between a point or points in Yugoslavia and a point or points beyond Yugoslavia, provided that at least 96 hours in total are spent by the group or groups in Yugoslavia before, or after, or before and after, such movements to and/or from the point or points beyond Yugoslavia.

(2) The holder shall not perform United States-originating passenger charter flights which at the end of any calendar quarter would result in the number of United States-originating passenger charter flights performed in the preceding 12 months exceeding by more than one-third (but in no event by more than 15) the number of passenger charter flights originating outside the United States performed in that 12-month period: *Provided,* That (a) A charter shall be considered to originate in the United States (or Yugoslavia, or elsewhere) if the passengers or property are first taken on board in that country, and shall be considered as one flight whether the charter be one-way, round-trip, circle-tour, or open-jaw, even if a separate contract is entered into for a return portion of the charter trip from Yugoslavia (or the United States, or elsewhere);

(b) In the case of a lease of aircraft with crew for the performance of a charter flight on behalf and under the authority of another carrier, the flight shall be included in the computation if the holder is the lessee and shall not be included if the holder is the lessor;

---

[2] Since no new services are to be performed, there will be no material increase in the utilization of fuel.

[3] Since provision is made for the filing of objections to this order, petitions for reconsiderations will not be entertained.

[4] All members concurred.

[5] The holder shall be authorized to performed those types of charters as are now, or may hereafter be, prescribed in Annex B of the Nonscheduled Air Service Agreement between the Government of the United States of America and the Government of the Socialist Federal Republic of Yugoslavia. Annex B currently authorizes those types of charters authorized pursuant to Parts 214 and 378 of the Board's Regulations, i.e., Single Entity Passenger, Pro Rata Affinity, Mixed (Entity/Pro Rata), Inclusive Tour, Study Group, Overseas Military Personnel, and Travel Group; and split passenger charters of the types set forth. In addition, for Yugoslavia-originating charters, and third country-originating charters with a stopover in Yugoslavia, Common Purpose, Advance Booking, and Inclusive Tour charters performed pursuant to Yugoslavia charter regulations, are also authorized.

V 42 168 AUG 30 77 UMI

(c) United States-originating charter groups on flights authorized in paragraph 1 shall not be commingled on the same aircraft at the same time with groups originating outside the United States authorized in paragraphs 1, 2, 4, and 5, above;

(d) Any inadvertent excess in United States-originating flights operated pursuant to the authorization contained in paragraph 1 above which might occur shall be corrected by contracting for sufficient flights originating outside the United States pursuant to the authorizations contained in paragraphs 1, 2, 4, and 5 above, and/or reducing contracting for United States-originating flights pursuant to the authorization contained in paragraph 1 above, in the first or first and second quarter years immediately following the period of excess so as to achieve conformity in the expanded five or six quarter year period;

(e) Condition (2) shall not apply to flights which originate exclusively at Detroit;

(f) Condition (2) shall not apply to flights which originate exclusively at Los Angeles for such time as no Yugoslav airline operates a scheduled air service to the United States and a United States airline operates a scheduled air service between the United States and Yugoslavia;

(g) Condition (2) shall not apply to flights utilizing the same aircraft which originate exclusively at both Los Angeles and Detroit for such time as no Yugoslav airline operates a scheduled air service to the United States and a United States airline operates a scheduled air service between the United States and Yugoslavia;

(h) The Board may by order, and without hearing, permit the applicability of (f) and (g) above, during periods when no United States airline operates a scheduled service between the United States and Yugoslavia.

(3) The exercise of the privileges granted by this permit, except with respect to third country-originating inclusive tour charters performed under the authorizations contained in paragraphs 4 and 5 above, shall be subject to the provisions of Parts 214 and 378 of the Board's Regulations, and all amendments and revisions thereof as the Board, by order or regulation and without hearing, may adopt: *Provided, however,* That advance booking charters, common purpose charters, and inclusive tour charters originating in Yugoslavia and performed under the authorization contained in paragraph 1 above, and such charters originating in third countries with a stopover in Yugoslavia performed under the authorization contained in paragraph 2 above, may be operated pursuant to the terms, conditions, and limitations contained in licenses issued by the Yugoslav Directorate of Civil Aviation in accordance with Yugoslavian charter regulations, in which event compliance with Parts 214 and 378 shall not be required. The authority of the holder to perform third country-originating inclusive tour charters performed under the authorizations contained in paragraphs 4 and 5 above shall be subject to the following conditions:

(a) Each tour shall provide overnight hotel accommodations at a minimum of three places other than the point of origin, such places to be no less than 50 air miles from each other.

(b) If more than one group is carried, each of the groups shall consist of 40 or more tour participants.

(c) The Board by order or regulation and without hearing, may waive conditions (a) and (b) in whole or in part.

(4) The holder shall operate no more than 80 revenue charter aircraft movements to or from the United States during the 12-month period expiring March 31, 1978, or for any 12-month period thereafter unless prior approval to operate a specific higher number of revenue charter aircraft movements is obtained from the Board.

(5) The Board, by order or regulation and without hearing, may require advance approval of any individual charter trips conducted by the holder pursuant to the authority granted by this permit, if it finds such action to be required.

(6) The holder shall not operate charters for or on behalf of air freight forwarders.

(7) The holder shall keep on deposit with the Board a signed counterpart of Agreement C.A.B. 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

(8) The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in Agreement C.A.B. 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

(9) By accepting this permit the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

(10) This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and the Socialist Federal Republic of Yugoslavia shall be parties.

(11) The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of the Socialist Federal Republic of Yugoslavia for Yugoslav international air service.

The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall become effective on ----------. Unless otherwise terminated, at an earlier date pursuant to the terms of any applicable treaty, convention or agreement, this permit shall terminate on March 31, 1978: *Provided, however,* That if prior to March 31, 1978, the operation of the charter foreign air transportation herein authorized becomes the subject of a renewed or revised Annex A to the Nonscheduled Air Service Agreement between the United States and Yugoslavia (or otherwise becomes the subject of a treaty, convention or agreement to which the United States and Yugoslavia are or shall becomes parties), then this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement, or amendment thereto, which shall have the effect of eliminating the charter foreign air transportation hereby authorized from the transportation which may be operated by carriers designated by the Government of Yugoslavia (or in the event of the elimination of part of the charter foreign air transportation hereby authorized, the authority granted herein shall terminate to the extent of such elimination), (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of Yugoslavia in lieu of the holder hereof, or (3) upon the termination or expiration of the Nonscheduled Air Service Agreement between the United States and Yugoslavia, effective September 27, 1973: *Provided, further,* That clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation herein authorized becomes the subject of any treaty, convention, or agreement to which the United States and Yugoslavia are or shall become parties.

IN WITNESS WHEREOF, the Civil Aeronautics Board has caused this permit to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the ----------.

Secretary.

(SEAL)

Issuance of this permit to the holder approved by the President of the United States on ----------, in ----------.

[FR Doc.77-25169 Filed 8-29-77;8:45 am]

CIVIL SERVICE COMMISSION

ADVISORY COMMITTEE ON ADMINISTRATIVE LAW JUDGES

Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92-463, the U.S. Civil Service Commission announces the following meeting:

NAME: Advisory Committee on Administrative Law Judges.

DATE AND TIME: September 23, 1977, 9:00 a.m., 4:00 p.m.

PLACE: U.S. Civil Service Commission, 1900 E Street, NW., Washington, D.C., Room: 5323.

TYPE OF MEETING: Open.

CONTACT PERSON:

Arthur L. Burnett, Assistant General Counsel, U.S. Civil Service Commission, 1900 E Street, NW., Washington, D.C., telephone 202-632-5421.

PURPOSE OF COMMITTEE: To address the future direction that the Committee will take in connection with governmental reorganization plans as they may affect Administrative Law Judges, continue its discussion of the overjudicialization of the administrative process, and consider adopting recommendations for legislative change relating to APA coverage of certain categories of cases.

Dated: August 30, 1977.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25155 Filed 8-19-77;8:45 am]

COMMERCE DEPARTMENT

Title Change in Noncareer Executive Assignment

By notice of December 13, 1973, FR Doc. 73-26383 the Civil Service Commission authorized the Department of Commerce to make a change in title for the position of Assistant Director for National Programs, Office of Minority Business Enterprise, authorized to be filled by noncareer executive assignment. This is notice that the title of this position is now being changed to Assistant Director for Program Resources, Office of Minority Business Enterprise.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25036 Filed 8-29-77;8:45 am]

COMMUNITY SERVICES ADMINISTRATION

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Community Services Administration to fill by noncareer executive assignment in the excepted service the position of Director, Office of Program Development, Office of Community Action.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25027 Filed 8-29-77;8:45 am]

COMMUNITY SERVICES ADMINISTRATION

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Community Services Administration to fill by noncareer executive assignment in the excepted service the position of Director, Office of Regional Operations, Office of Community Action.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25028 Filed 8-29-77;8:45 am]

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 920 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy General Counsel for Regulation Review, Office of Regulation Review, Immediate Office, Office of the General Counsel, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioner.

[FR Doc.77-25030 Filed 8-29-77;8:45 am]

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Director, Facilities Engineering and Construction Agency, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25033 Filed 8-29-77;8:45 am]

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Director, Office of Regulatory Review, Immediate Office of the Secretary, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25034 Filed 8-29-77;8:45 am]

INTERIOR DEPARTMENT

Revocation of Authority To Make Noncareer Executive Assignment

Under the authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Director, Office of Congressional Liaison, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25035 Filed 8-29-77;8:45 am]

INTERIOR DEPARTMENT

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Assistant to the Secretary and Director, Office of Congressional and Legislative Affairs, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25031 Filed 8-29-77;8:45 am]

LABOR DEPARTMENT

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Labor to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25032 Filed 8-29-77;8:45 am]

NAVY DEPARTMENT

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Navy to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Assistant Secretary of the Navy (Manpower, Research Affairs and Logistics), Office of the Assistant Secretary of the Navy (M,RA&L).

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-25029 Filed 8-29-77;8:45 am]

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 7-77]

CITY OF GALVESTON, TEXAS, BY THE BOARD OF TRUSTEES OF THE GALVESTON WHARVES

Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Galveston (the City), Galveston County, Tex., a municipal corporation, through the Board of Trustees

V 42 168 AUG 30 77 UMI

of the Galveston Wharves (Galveston Wharves), requesting a grant authority for the establishment of two foreign-trade zone sites on the Galveston Ship Channel in Galveston, within the Galveston Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81), and the regulations of the Board (15 CFR Part 400). It was formally filed on August 19, 1977. The City of Galveston is a municipal corporation under a Charter filed with the Texas Secretary of State on July 22, 1960. It was given authority, together with the Board of Trustees of the Galveston Wharves, to apply for and to establish and operate foreign-trade zones in the City of Galveston under Senate Bill 203 of the 65th Texas Legislature, dated April 25, 1977. By resolution, the City authorized the Galveston Wharves to make the application in its behalf.

The proposal calls for a zone consisting of two sites with a total area of 884 acres. One site is owned by the applicant and situated on an 8 acre tract on Galveston Island on which are three existing warehouses presently operated as Customs bonded facilities. The other site, just across the Galveston Ship Channel on Pelican Island, covers some 876 acres, most of which is owned by the Mitchell Development Corporation of the Southwest (Mitchell). The applicant owns some 50 acres of this site and has a leasing agreement with Mitchell for the remaining area. Both sites are served by all modes of transportation. The zone is intended to serve firms engaged in international trade-related activities.

The application includes economic data and information concerning the need for zone services. Among the anticipated zone tenants are firms dealing in metal products, refined petroleum products, chemicals, oil and gas production systems, automobile imports, agricultural and construction machinery, marine conversions and refurbishing, biomedical products and pollution control systems. These firms would use the zone for storage, inspection, light manufacture, processing, or assembly.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The committee consists of: Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, 14th and E Streets, NW., Washington, D.C. 20230; Ernest J. Gonsoulin, Director (Inspection and Control), Region VI, U.S. Customs Service, 500 Dallas Street, Suite 1240, Houston, Tex. 77002; and Colonel Jon C. Vanden Bosch, Army District Engineer, U.S. Army Engineer District Galveston, P.O. Box 1229, Galveston, Tex. 77553.

In connection with its investigation of the proposal, the Examiners Committee will hold a public hearing on September 21, 1977, beginning at 9:00 a.m., in the 2nd floor Courtroom, U.S. Federal Building, 20th and Postoffice Streets, Galveston, Tex. The purpose of the hearing is to help inform interested persons about the proposal, to provide an opportunity for their expression of views and to obtain information useful to the Examiners Committee.

Interested persons or their representatives will be given the opportunity to present their views at the hearing. Such persons should, by September 14, notify the Board's Executive Secretary, in writing at the address below, of their desire to be heard. In lieu of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the Examiners Committee, care of the Executive Secretary, at any time from the date of this notice through October 21, 1977. Any material submitted during the post-hearing period cannot be made part of the record unless it is new evidence. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Office of the District Director, U.S. Customs Service, Room 411, Post Office Building, 601 Rosenberg, Galveston, Tex. 77550.
Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 6886-B, 14th and E Streets NW., Washington, D.C. 20230.

Dated: August 23, 1977.

JOHN J. DA PONTE, Jr.,
Executive Secretary,
Foreign-Trade Zones Board.

[FR Doc.77-25117 Filed 8-29-77;8:45 am]

National Oceanic and Atmospheric Administration

CARIBBEAN FISHERY MANAGEMENT COUNCIL AND ITS SCIENTIFIC AND STATISTICAL COMMITTEE

Public Meeting

Notice is hereby given of a meeting of the Caribbean Fishery Management Council established by Section 302 and its Scientific and Statistical Committee established by Section 302(g) of the Fishery Conservation and Management Act of 1976 (P.L. 94-265).

The Caribbean Fishery Management Council has authority over fisheries within the fishery conservation zone adjacent to Puerto Rico and the Virgin Islands. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to fisheries within its area of authority, prepare comments on foreign fishing applications, and conduct public hearings.

The Scientific and Statistical Committee assists the Council in the development, collection, and evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to the Council's development and amendment of fishery management plans.

The meeting will be held Tuesday through Thursday, September 20-22, 1977, at the Hotel Pierre, 105 De Diego Avenue, Santurce, Puerto Rico. The meeting will convene at 9:00 a.m. on September 20, and adjourn at about noon on September 22, 1977. Daily sessions will normally start at 9:00 a.m. and adjourn at 5:00 p.m., except as otherwise noted. The meeting may be extended or shortened depending upon progress on the agenda.

PROPOSED AGENDA

1. Progress report on draft fishery management plan (FMP) preparation for Spiny Lobster and Swallow Water Reef Fishes.
2. Status of Scientific and Statistical Committee and Advisory Panel Membership Appointment of new member.
3. Report of Council Chairmen meeting in Portland, Oregon.
4. SSC Report on the initiation of work on New FMP's.
5. NOAA General Counsel Report on the legality of the Council's visit to St. Maarten to observe tuna long-line fisheries operations of the Curacao Pioneering Company.
6. Status of the Virgin Islands office of the Caribbean Fishery Management Council.
7. Reactions to the proposed plan by the Council to monitor the Entry of U.S. Commercial Fishing Boats into the Limited British Virgin Island waters.
8. Status of previous request by the Council that certain Coastal Pelagics not be considered highly migratory.
9. Administrative matters.
10. Other Council/Committee Business.

This meeting is open to the public, and there will be seating for a limited number of public members available on a first-come first-served basis.

Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meetings. To receive information on changes, if any, made to the agenda, interested members of the public should contact, on or about September 12, 1977:

Mr. Omar Munoz-Roure, Executive Director, Caribbean Fishery Management Council, P.O. Box 1001, Hato Rey, Puerto Rico 00919 (809-753-4926).

At the discretion of the Chairman interested members of the public may be permitted to speak at times which will allow the orderly conduct of official business. Interested members of the public who wish to submit written comments should do so by addressing the Executive Director at the above address. To receive due consideration and to facilitate inclusion of these comments in the record of the meetings, typewritten statements should be received within 10 days after the close of the meetings.

Dated August 24, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-25078 Filed 8-29-77;8:45 am]

NEW ENGLAND FISHERY MANAGEMENT COUNCIL'S SCIENTIFIC AND STATISTICAL COMMITTEE

Three Public Meetings

Notice is hereby given of three meetings of the Scientific and Statistical Committee of the New England Fishery Management Council, established by Section 302(g) of the Fishery Conservation and Management Act of 1976 (P.L. 94-265).

The New England Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the states of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to fishery management plans with respect to fisheries within its area of authority, prepare comments on foreign fishing applications, and conduct public hearings.

The Scientific and Statistical Committee assists the Council in the development, collection and evaluation of such statistical, biological, economic, social and other scientific information as is relevant to the Council's development and amendment of fishery management plans.

The first of the three Committee meetings will be held on November 15, 1977, from 9:00 a.m. to 4:00 p.m., at the Holiday Inn, Junction of Route 1 and 128, Peabody, Mass. The meeting may be extended or shortened depending on progress on the agenda.

PROPOSED AGENDA

Development of Silver Hake, Red Hake, Ocean Perch Plans.

The second of these Committee meetings will be held on December 20, 1977, from 9:00 a.m. to 4:30 p.m., at the JFK Building, Room 1112, Government Center, Boston, Mass. This meeting may be extended or shortened depending on progress on the agenda.

PROPOSED AGENDA

Development of Ocean Perch, Red Hake, Red Crab Plans.

The third in this series of Committee meetings will be held on January 17, 1978, from 9:00 a.m. to 4:00 p.m., at the Holiday Inn, Junction of Route 1 and 128, Peabody, Mass. The meeting may be extended or shortened depending on progress on the agenda.

PROPOSED AGENDA

Development of Ocean Perch, Red Hake, Red Crab Plans.

These meeting are open to the public and there will be seating at each meeting for approximately 20 public members available on a first-come first-served basis.

Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agendas, interested members of the public should contact on or about 10 days before each of these meetings:

Mr. Spencer Apollonio, Executive Director, New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Mass. 01960.

At the discretion of the Committee, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Committee business. Interested members of the public who wish to provide written comments should do so by submitting them to Mr. Apollonio at the above address. To receive due consideration and to facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of each Committee meeting.

Dated: August 25, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-25079 Filed 8-29-77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to Procurement List 1977 a commodity to be produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 30, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, (703-557-1145).

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodity listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity to Procurement List 1977, November 18, 1976 (41 FR 50975):

Class 6645

Clock, Wall, 6645-00-935-4244.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-25118 Filed 8-29-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting Date Change

AUGUST 19, 1977.

The USAF Scientific Advisory Board ad hoc Committee on Cruise Missile Technology scheduled to be held on September 23, 1977 from 9:00 a.m. to 5:00 p.m. at Langley Air Force Base, Virginia has been changed to September 22, 1977. All other information is the same. This meeting was advertised in 42 FR 39254, August 3, 1977.

For further information contact the Scientific Advisory Board secretariat at (202) 697-4648.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-25119 Filed 8-29-77;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

AUGUST 19, 1977.

The USAF Scientific Advisory Board ad hoc Committee on Wide Area Munitions will hold meetings at the Lawrence Livermore Laboratory, Livermore, California, on September 29 and 30, 1977 from 8:30 a.m. to 5:00 p.m. each day.

The committee will receive classified briefings and hold classified discussions on Air Force munitions programs and technology.

The meetings concern matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-25120 Filed 8-29-77;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Cancelled Meeting

AUGUST 22, 1977.

The USAF Scientific Advisory Board ad hoc Committee on the EF-111A meeting scheduled for September 20, and 21, 1977 at Kirtland AFB, New Mexico, has been cancelled. This meeting was published in 42 FR 41469 August 17, 1977.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison, Directorate of Administration.

[FR Doc.77-25121 Filed 8-29-77;8:45 am]

Office of the Secretary

CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS)

Opportunity for Oral Presentation of Views on CHAMPUS Regulation in DoD 6010.8-R

Notice is hereby given that the meeting dates published in Vol. 42 FR 41118, Monday, August 15, 1977, are being changed. It has been decided to cancel the hearings scheduled in the afternoon

V 42 168 AUG 30 77 UMI

of September 8 and all hearings on September 9. The other dates and times remain in effect.

MAURICE W. ROCHE,
Director, Correspondence and Directives Office of the Assistant Secretary of Defense (Comptroller).

AUGUST 26, 1977.

[FR Doc.77-25283 Filed 8-29-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 772-6; OPP-210007A]

OFFICE OF PESTICIDE PROGRAMS

Response to Petition To Suspend Certain Products Containing Nitrosamines

Corrections

In FR Doc. 22627 appearing at page 40009 in the issue for Monday, August 8, 1977, the following corrections should be made.

1. On line two of the footnote appearing at the bottom of the third column of page 40013, the word, "protecting", should read, "protection".

2. Line two of the first column on page 40014 reading, "recommended label alterations in this area.", should be removed, and placed as the final line of the footnote at the bottom of the third column on page 40013.

FEDERAL COMMUNICATIONS COMMISSION

[FCC 77R-77]

[Docket Nos. 20567—20569; File Nos. BPH-8905, BPH-9011, BPH-9156]

ALEXANDER S. KLEIN JR., ET AL.

Applications for Construction Permits; Memorandum Opinion and Order

In re applications of Alexander S. Klein, Jr., Media, Pennsylvania; Greater Media Radio Co., Media, Pennsylvania; Roberts Broadcasting Corp., Media, Pennsylvania, for construction permits.

Adopted August 23, 1977.

Released August 30, 1977.

1. This proceeding involves the mutually exclusive applications of Alexander S. Klein, Jr. (Klein), Greater Media Radio Company (Greater Media), and Roberts Broadcasting Corporation (Roberts) for authorization to construct a new FM broadcast station at Media, Pennsylvania. On February 14, 1977, after the record was closed, Klein filed a "Petition to Reopen the Record" [1] and a separate "Motion to Enlarge Issues," requesting the addition of Rule 1.65,[2] misrepresentation and financial issues against Greater Media. In an Initial Decision, FCC 77D-17, released April 14, 1977, Administrative Law Judge David I. Kraushaar granted Roberts' application, denied the two competing applications, and denied Klein's petition and motion. He concluded that since Greater Media ranked a distant third under his comparative evaluation of the applicants, the delay involved in considering the petition and motion on their merits would not be warranted.

2. We have reviewed the Initial Decision, the oral argument,[3] the parties' exceptions and the record. While we understand the considerations motivating the Administrative Law Judge to proceed to a final decision without ruling on Klein's request for enlargement of the issues, it is our view that the comparative situation is much closer than it appeared to the Judge, and that a full record should be compiled both for our own review and any review by the Commission which it may deem appropriate. Since we find, for the reasons stated below, that Klein has raised a substantial question regarding Greater Media's compliance with Rule 1.65, a remand of this proceeding for further hearing is required. In addition, we believe that neither Roberts nor Greater Media has established compliance with the Primer on Ascertainment of Community Problems by Broadcast Applicants,[4] and that, for the reasons to be given, they should be afforded an opportunity to correct these deficiencies prior to the remanded hearing.

3. *The Motion to Enlarge Issues.* Klein requested the addition of Rule 1.65, misrepresentation, and financial issues against Greater Media, upon the basis of the following facts relating primarily to the Greater Media proposal, that Daniel M. Lerner, Greater Media's principal stockholder, would obtain the necessary financing by selling his 25 percent interest in other broadcast interests to his brother, Arnold Lerner. The focus of the question is Arnold Lerner's capacity to make that purchase. Greater Media had originally filed its application as a sole proprietorship of Daniel Lerner. On January 10, 1975, prior to designation for hearing, the application was amended to show inter alia, that the applicant had been incorporated in the State of Pennsylvania, and that Lerner owned 95 percent of the stock. Greater Media relied for its financing upon a $50,000 investment and a $200,000 loan from Daniel Lerner. In order to obtain these funds, Daniel Lerner was to sell his 25 percent interest in two Massachusetts radio stations to his brother Arnold for $250,000. On April 9, 1975, also prior to the designation of the Greater Media application for hearing, the Great Down East Wireless Talking Machine Company, Inc. (Down East), of which Arnold Lerner was Treasurer, Chairman of the Board and 43 percent stockholder, filed an application for a construction permit for a new FM broadcast station in Auburn, Maine.[5] The Down East application contained a letter from a bank, dated April 3, 1975, indicating the bank's willingness to establish an $80,000 line of credit for Down East conditioned upon the personal endorsements of Arnold Lerner and two other Down East shareholders. Down East subsequently amended the application to reflect Arnold Lerner's commitment, by letter dated October 15, 1975, to endorse the bank loan for Down East, and his commitment to loan Down East $25,000. Down East's construction permit was granted on October 26, 1976 (FCC 76-954), and the license for that station, WWAV, was granted on April 6, 1977.[6]

4. On August 7, 1975, Greater Media's application was designated for hearing. A financial qualifications issue was designated to determine whether Arnold Lerner has sufficient net liquid assets to meet his $250,000 commitment to Daniel Lerner (40 FR 36805, published August 22, 1975). On October 29, 1975, Greater Media filed an amendment to its application (accepted by Order, FCC 75M-1932, released November 12, 1975), which included a "Partial Statement of Assets and Liabilities" of Arnold Lerner indicating a surplus of current and liquid assets over short term liabilities of $197,536, and two bank letters indicating a willingness to lend Arnold Lerner an additional $150,000. This amendment did not, however, report Arnold Lerner's interest in, or commitments to, Down East. On June 4, 1976, Greater Media filed another amendment (accepted by Order, 76M-841, released July 1, 1976), in which the applicant stated that Arnold Lerner was replacing his two prior bank loan commitments with a $200,000 commitment from another bank. Based on these facts, the Judge issued a partial summary decision favorably resolving the financial qualifications issue. (FCC 76M-1304, released October 12, 1976.)

[1] This petition only addresses the question of whether Klein timely filed its accompanying motion to enlarge issues. Klein maintains that it first became aware of the relevant information during the testimony at hearing.

[2] Rule 1.65 requires an applicant to amend its pending application whenever the information furnished therein "is no longer substantially accurate and complete in all significant respects" or whenever there is a "substantial change as to any other matter which may be of decisional significance in a Commission proceeding involving the pending application." The rule further provides that such amendment shall be made "as promptly as possible and in any event within 30 days, unless good cause is shown." (47 CFR 1.65.)

[3] Oral argument was held before a panel of the Review Board on August 2, 1977.

[4] 27 FCC 2d 650, 21 RR 2d 1507 (1971).

[5] In response to question 21 of the application form, which requires the applicant to report the interests in any other broadcast stations or pending applications of any member of the immediate family of a party to the application, Greater Media listed in both its original and amended applications that Daniel Lerner's brother, Arnold Lerner, owned interests in three existing broadcast stations in Massacusetts and Rhode Island. Klein's motion to enlarge the issues was based in part upon the failure of Greater Media to update its application to mention Arnold Lerner's interest in Down East. We do not think this omission warrants an issue under Section 1.65, since the omitted fact would not have been of decisional significance in the absence of a showing, not made on the record before us, that Arnold Lerner's broadcast interests should be attributed to Daniel Lerner.

[6] Down East is also the licensee of Station WLAM, Lewiston, Maine.

5. Klein's motion, unresolved by the Administrative Law Judge, asserted that the failure of Greater Media to report Arnold Lerner's financial commitments to Down East warranted issues under Section 1.65 and on misrepresentation, and that a financial issue was also required in view of Arnold Lerner's new liabilities. Thus, it is urged that Arnold Lerner's guarantee of Down East's $80,000 bank note and his $25,000 loan commitment reduced his assets to $105,000, and thus raised substantial questions as to Arnold Lerner's ability to buy Daniel Lerner's broadcast interests, questions which were hidden by the failure to disclose the matter by amendment of the Greater Media application. The Broadcast Bureau stated that it would support the addition of the requested issues should Greater Media be preferred under the standard comparative issue.

6. The Board will grant Klein's petition to reopen the record and its motion to enlarge the issues [7] in part under Section 1.65 (see footnote 5, supra), and deny Klein's requests for misrepresentation and financial issues. We note first that the significance of the failure to report Arnold Lerner's financial commitments to Down East must be evaluated as of the time these events occurred, while the financial qualification question is to be determined in light of the current situation. To take the Section 1.65 and misrepresentation aspects of the matter first, we find that Arnold Lerner's financial commitments to Down East were of potential decisional significance to Greater Media's qualifications to be a licensee. At the time these commitments were made (October 15, 1975), and prior to Greater Media's June 4, 1976 amendment, Arnold Lerner was shown to have net liquid assets plus available bank loans totalling $347,536 with which to purchase Daniel Lerner's broadcast interests. If a total of $105,000 in commitments to Down East were subtracted from Arnold Lerner's then available funds, he would have been more than $7,000 short of establishing his ability to meet the $250,000 purchase price for Daniel Lerner's stock. We must reject Greater Media's contention that Arnold Lerner's guarantee of Down East's $80,000 bank note need not have been reported since it was a triply contingent [8] and long-term liability.[9] The Board has consistently held that contingent liabilities should be reported to the Commission.[10] See Folkways Broadcasting Co., Inc., FCC 71R-63, 21 RR 2d 211, and Home Industries, Inc., 28 FCC 2d 454, 21 RR 2d 851 (Rev. Bd. 1971). From the limited information before us, we are unable to determine whether upon default the entire outstanding balance on the note becomes due and payable immediately, and whether each guarantor will immediately be jointly and severally liable. The terms of repayment of the loan provide no guidance on this point. Accordingly, a Rule 1.65 issue is warranted. However, we will add this issue on a comparative basis only, since there is no indication that Greater Media intended to conceal the unreported information in this proceeding. In this regard, we find it significant that the Down East application revealed to the Commission Arnold Lerner's commitments to both Down East and Greater Media, and Daniel Lerner admitted at hearing that his brother had an interest in Down East.[11]

7. The Board will deny Klein's requested issue concerning Arnold Lerner's ability to finance his purchase of Daniel Lerner's broadcast interests. As indicated above, at the time Arnold Lerner incurred the commitments to Down East, i.e., October 15, 1975, and until the June 4, 1976 amendment, Arnold Lerner may not have had sufficient current and liquid assets over current liabilities to meet his $250,000 commitment to Greater Media. However, the June 4, 1976 amendment, wherein Arnold Lerner substituted a $200,000 bank loan commitment for the two commitments totalling $150,000, cured any possible deficiency in this regard. Thus, Greater Media established that Arnold Lerner has available funds totalling $397,536 ($197,536 in net liquid assets and $200,000 in bank loan commitments). Even if we were to deduct all of Mr. Lerner's commitments to his brother ($250,000) and to Down East ($25,000 in loans and $80,000 as guarantor for the bank note), he would still have a surplus of available funds in excess of $42,000. Klein has failed to raise a substantial question as to the accuracy of these figures. We also reject the Bureau's contention that Arnold Lerner should not be credited with his $200,000 bank loan commitment, absent a statement from the bank that it is aware of his obligations to Down East. The Bureau's assertions that the bank may not have been informed of the obligations to Down East, and that it might not have been willing to make the loan commitment had it been aware of this obligation, are based on speculation and conjecture, and not supported by affidavits of a person or persons having personal knowledge thereof.[12] We therefore perceive no adequate basis for adding a financial issue. See Section 1.229(d) [13], and J. T. Parker, Jr., 7 FCC 2d 462, 9 RR 2d 897 (Rev. Bd. 1967).

8. *Ascertainment of Roberts.* By Memorandum Opinion and Order, 58 FCC 2d 105, 36 RR 2d 481 (Rev. Bd. 1976), the Review Board added the following limited ascertainment issue against Roberts:[14]

To determine whether the general public survey conducted by Roberts Broadcasting Corporation complies with the requirements set forth in the Commission's Primer.

On April 20, 1976, Roberts filed an amendment to its application (accepted by Order, FCC 76M-841, released July 1, 1976) which included the methods, procedures, and results of a new general public survey conducted in March 1976 by one of its principals. This survey consisted of telephone interviews with 105 Media residents, whose homes were chosen from every tenth name on Media's voter registration lists (Democratic, Republican and Independent). These lists contained 3,371 names. Roberts utilized an "Interviewee Identification Form" in order to check the "randomness" of its sample. The judge granted Roberts' motion for partial summary decision by Memorandum Opinion and Order, FCC 76M-1310, released October 12, 1976, concluding that its new general public survey met the randomness requirements of the Commission's Primer, supra, Q. & A. 13(b). Klein excepts to this ruling by the Judge.[15]

9. The Board is of the opinion that the Judge erred in granting Roberts' motion for partial summary decision.

[7] Klein has met the standard for filing such motions. It supported its motions with newly discovered evidence, not otherwise known or discoverable with due diligence at the time of the hearing, which, if true, would affect the decision. See Southeast Arkansas Radio, Inc., 61 FCC 2d 72, 38 RR 2d 1338 (1976). For it appears that Klein did not learn about Arnold Lerner's interest in Down East until the hearing held on January 31, 1977. His petition was filed on February 14, 1977.

[8] Greater Media contends that this guarantee was "triple-contingent" since it would only have become a liability of Arnold Lerner upon the occurrence of the following three events: (1) the grant of Down East's construction permit, (2) the failure of Down East to meet its repayment obligations, and (3) the failure of the other two co-guarantors to make their proportionate share of payments.

[9] Greater Media apparently categorizes the guarantee as long-term because principal repayments are deferred for the first year of the loan under the terms of the loan letter.

[10] We note that good accounting principles require disclosure of contingent liabilities in financial statements or notes thereto. See Accounting Research Bulletin No. 50, and APB Accounting Principles, Current Text as of December 1, 1971, (Section 5514). We need not decide whether the type of commitment made by Arnold Lerner should be held to diminish his current assets, since the issue of financial qualification no longer can turn on that question. But the matter appears to have been of substantial enough potential impact to warrant divulgence under Section 1.65 and examination by the Commission and other interested parties.

[11] For the same reasons we believe that the requested misrepresentation issue is unwarranted.

[12] In this regard, we note that the bank letter is dated May 18, 1976, seven months after Mr. Lerner made his commitments to Down East on October 15, 1975.

[13] Section 1.229(d) states that "motions [to enlarge issues], oppositions thereto, and replies to oppositions shall contain specific allegations of fact sufficient to support the action requested" and that such allegations "except for those of which official notice may be taken, shall be supported by affidavits of a person or persons having personal knowledge thereof."

[14] Roberts erroneously contends that Klein has waived his right to appeal this ruling by failing to oppose a supplemental pleading submitted by Roberts after Klein had originally opposed its motion for partial summary decision. *Abacoa Radio Corp.* v. *FCC*, 123 U.S. App. D.C. 218, 358 F.2d 849, 6 RR 2d 2066 (1966), cited by Roberts, is inapposite. That case merely held that the Court of Appeals will not entertain issues not previously raised before the Commission.

V 42 168 AUG 30 77 UMI

The Primer at Q. & A. 13(b) requires that a random sample of the general public be conducted. Roberts' use of Media's voter registration lists as the basis for its general public survey did not comply with this requirement. There cannot be a random sample of the public in a community if the base from which the sample is taken excludes a substantial portion of the public upon an arbitrary standard, particularly where, as is the case here, the standard relates to political conduct, i.e., whether a person registers to vote. Unlike telephone or city directories,[15] voter registration lists do not necessarily include a large percentage of a community's population. In fact, Media's registration lists contained only 3,371 names as compared to its 6,444 residents (according to the 1970 census). The exclusion of non-registered voters, we believe, is especially disturbing since at least some of those individuals obviously have different political priorities than others and quite concelvably have differing views of the community's problems than those registering. It is of no consequence that Roberts was unable to use the county's telephone directory, for there were other means available from which a random sample could have been made. Nor can this deficiency in Roberts' survey be cured by its assertion that since it was the homes of registered voters that were called, rather than the voters personally, contacts were not limited to the people on its lists. The interviewing process was distorted at the outset, and we have no way of knowing the likelihood of contacting a non-registrant at the home of a registrant.[16] However, in light of the novel question involved, i.e., the adequacy of voter registration lists as a basis for general public surveys, the fact that Roberts' survey complies with the Primer in all but this one easily correctable aspect, and the fact that this proceeding must be remanded on other grounds, the Board will allow Roberts the opportunity to amend its ascertainment showing within a reasonable period of time.

10. *Ascertainment of Greater Media.* On our own motion, the Board will add a limited ascertainment issue with respect to Greater Media. As previously noted, the Primer, supra, Q. & A. 13(b), requires each applicant to conduct a random sample of the general public. It also states that "* * * an applicant's principal obligation is to ascertain the problems of his community of license." (Q. & A. 6.) Although Greater Media has apparently conducted a random survey by interviewing 50 people taken from a county telephone directory, only one of those interviewed was listed as residing in Media. Thus, on its face, Greater Media's ascertainment effort with respect to its general public survey appears to be deficient.[17] However, since we are raising this question for the first time, Greater Media will be allowed an opportunity to amend its application to correct this deficiency within a reasonable period of time.[18]

11. ACCORDINGLY, *it is ordered,* that the petition to reopen the record filed February 14, 1977 by Alexander S. Klein, Jr. IS GRANTED; the motion to enlarge issues filed February 14, 1977 by Alexander S. Klein, Jr. is granted to the extent indicated herein, and is denied in all other respects; and the Memorandum Oponion and Order, FCC 76M–1310, released October 12, 1976, is vacated; and

12. *It is further ordered,* That the record herein is reopened; and that this proceeding is remanded to the presiding Administrative Law Judge for adduction of evidence on the following added issues and the issuance of such further Initial Decision as may be appropriate:

(a) To determine whether the general public survey conducted by Greater Media Radio Company complies with the requirements set forth in the Commission's Primer;

(b) To determine whether Greater Media Radio Company has failed to comply with the provisions of § 1.65 of the Commission's rules with respect to keeping the Commission advised of Arnold S. Lerner's financial commitments and, if so, the effect of such noncompliance on the applicant's comparative qualifications.

13. *It is further ordered,* That the burdens of proceeding with the introduction of evidence and proof under Issue (a) shall be on Greater Media Radio Company.

14. *It is further ordered,* That Greater Media Radio Company and Roberts Broadcasting Corporation are afforded 30 days from the release date of this opinion to amend their respective general public surveys."

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT. J. MULLINS,
Secretary.

[FR Doc.77-25115 Filed 8-29-77;8:45 am]

[15] In its Report adopting the Primer, the Commission specifically stated that a telephone directory was sufficient because of the "pervasiveness of the telephone in this country." 27 FCC 2d at 667, 21 RR 2d at 1525.

[16] Neither can we accept Roberts' assertion that its statistical breakdown of those interviewed reveals a generally random sample, in light of that sample's failure to encompass non-registered voter households. It is not enough to show that various population groups were included where one type of person was arbitrarily excluded.

[17] The Board has held that a survey of the general public outside of the principal community is not required by the Primer. See, e.g., Templar Broadcasting Co., 53 FCC 2d 643 (Rev. Bd. 1975).

[18] Should the problems elicited by either Greater Media or Roberts in their new showings dictate any changes in their proposed programming, we expect that such changes will be included in their respective amendments.

[19] Of course, the Judge may grant extensions of time upon a proper showing of good cause by either applicant.

[Report No. 872]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

AUGUST 22, 1977.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See § 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. [See § 1.227(b)(3) and 21.30(b) of the Commission's Rules.]

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21932–CD–P–(4)–77 Dial-A-Page, Inc., (KWU449) Resubmitted, C.P. to change antenna system operating on 35.22 MHz; Additional Control facilities to operate on 72.02 MHz. at Loc. No. 1: 100 Broadway, Oklahoma City; 35.22 MHz at a new site described as Loc. No. 2, to be located at 9301 South Sooner Road, Moore; 35.22 MHz at a new site described as Loc. No. 3: 3555 NW 58th Street, Oklahoma City, Okla.

21933–CD–P–(3)–77 James L. Munch (KOP 307), C.P. for additional facilities to operate on 152.06 (Base) and 459.300 MHz. Repeater to be located at Loc. No. 1: South Peak in Highwood Mountain, 8 miles NNE. of Raynesford; 454.300 MHz Control at Loc. No. 2; 814 5th Street, South, Great Falls, Mont.

21934–CD–P–77 Souris River Telephone Mutual Aid (KAI930), C.P. for additional to operate on 152.66 MHz at Loc. No. 1: 13.3 Miles South of Minot, N. Dak.

21935–CD–P–77 Adams Telephone Cooperative (new), C.P. for a new 1-way station to operate on 152.84 MHz to be located at Telephone Center Office, Golden, Ill.

21936–CD–MP–77 Service Unlimited, Inc. (KUS332), C.P. to relocate facilities operating on 43.22 MHz to be located at Wachovia Building, Winston-Salem, N.C.

21937–CD–P–77 Messages by Radio, Inc. (KEA200), C.P. to change antenna system operating on 152.03 at Loc. No. 2: 34 Madison Street, Spring Valley, N.Y.

21938–CD–P–(2)–77 Telephone and Radio Answering Service, Inc. (KFJ898), C.P. for additional facilities to operate on 454.325, 454.350 MHz, to be located 0.75 mile North of Highway 90 on River Road, Berwich, La.

21939–CD–MP–(4)–77 Radio Phone Communications, Inc., (KFJ888), C.P. to replace transmitter operating on 454.050, 454.100, 454.200 MHz: Near Northwest Intersection of Virginia Rte. No. 190 and Centerville Turnpike, Virginia Beach, Va.

21940–CD–TC–(2)–77 Ram Broadcasting of Washington, Inc., Consent to Transfer of Control from Ram Broadcasting of Washington, Inc., Transferor to Paul A. Matschiner, Transferees. Stations: KTR996, Renton, Washington; KUO584, Seattle, Wash.

21941–CD–P–77 Jefferson Telephone Company, (KAA691), C.P. to change antenna system, replace transmitter and relocate facilities operating on 35.54 MHz to be located West Central Avenue and North Walnut Street, Jefferson, Iowa.

21942–CD–P–77 Radio Call Company of Long Island, Inc., (KRM955), C.P. to relocate facilities operating on 158.70 MHz to be located 300' S. of Midvale Avenue E. Side of Adirondack Drive, Selden, N.Y.

21943–CD–P–77 ATS Mobile Telephone, Inc., (new), C.P. for a new 1-way station to operate on 35.22 MHz to be located at 1716 Wayne Street, Bellevue, Neb.

21944–CD–P–77 Carolina Telephone and Telegraph Company, (KFL937), C.P. to change antenna system operating on 152.51 MHz located at 501 Broad Street, New Bern, N.C.

21945–CD–P–77 Adams Telephone Cooperative, (new), C.P. for a new 2-way station to operate on 152.78 MHz to be located N.E. Corner of State and South Streets, Mendon, Ill.

21946–CD–P–77. Adams Telephone Cooperative, (new), C.P. for a new 1-way station to operate on 152.84 MHz to be located at NE. corner of State and South Streets, Mendon, Ill.

21947–CD–P–77 Southeast Mobilphone, Inc. (KLF611), C.P. for additional facilities to operate on 152.24 MHz at a new site described as Loc. No. 2 to be located at View Park Drive, Knoxville, Tenn.

21948–CD–P–77 New York Telephone Company, (new), C.P. for a new 1-way station to operate on 152.84 MHz to be located on Hillcrest Street, Lake Placid, N.Y.

21949–CD–MP–77 Mobilphone Service, Inc. (KJU811), C.P. to change antenna system operating on 72.18 MHz Loc. No. 1 located at 1.3 miles SE. of Intersection of Hwy. No. 523 and county road 792, Oyster Creek, Tex.

21951–CD–AL–77 Vincent W. Elliott, partner, d.b.a. Salem Radio Paging with Phil B. Ford and James F. Sproule, Consent to Assignment of License from Vincent W. Elliott, Partner, d.b.a. Salem Radio Paging with Phil B. Ford and James F. Sproule, Assignor to Vincent W. Elliott, Assignee. Station: KLF656, Salem, Oreg.

21952–CD–P–77 Page Boy, Inc. (KEA860), C.P. for additional facilities to operate on 35.22 MHz at a new site described as Loc. No. 6 to be located at Existing Tower at Westchester Community College, Valhalla, N.Y.

21953–CD–P–77 Christensen Broadcasting Co., Inc. (new), C.P. for a new 1-way station to operate on 35.58 MHz to be located at Humboldt, Iowa.

21954–CD–P–77 Christensen Broadcasting Co., Inc. (new), C.P. for a new 2-way station to operate on 152.15 MHz to be located 0.2 mile E. of Humboldt City limits on Hwy. No. 3, Humboldt, Iowa.

CORRECTION

21897–CD–TC–TC–77 South Georgia Telephone Company, Correct File number to read 21897–CD–TC–(4)–77, All other particulars remain the same as reported on PN: No. 871 dated August 15, 1977.

21900–CD–AL–(8)–77 Victor E. Duane d.b.a. Central Mobile Radio Phone Service, Correct to read Consent to Assignment of License from Victor E. Duane as Central Mobile Radio Phone Service, Assignor to Central Mobile Radio Phone Service, Inc., Assignee. All other particulars remain the same as reported on PN: No. 871 dated August 15, 1977.

21908–CD–TC–(2)–77 Anserphone of Goldsboro, Inc., Correct to read Consent to Assignment of License from Ferbee Land Patterson, Transferor to Hilda S. Patterson of Estate of Ferebee Land Patterson, Deceased, Tranferee. All other particulars remain the same as reported on PN No. 871 dated August 15, 1977.

21912–CD–P–77 Dorothy Faye Gallimore & Beverly Marin d.b.a. Pampa Communications Center (KLB497) Correct to add 152.15 MHz base facilities at Loc. No. 2; ¼ of Section 60, Block A–8, Wheeler, Texas. All other particulars remain the same as reported on PN No. 871 dated August 15, 1977.

RURAL RADIO SERVICE

60384–CR–P/ML–77 James D. and Lawrence D. Garvey (KEG48), Mod License for additional facilities to operate on 158.55 459.075 459.325 459.150 MHz to be located at any Temporary-Fixed location within the territory of the grantee.

60389–CR–P/ML–77 RCA Alaska Communications, Inc., (WAF826), Mod License for additional to operate 82.4 MHz and change antenna system located at Hoonah (WACS) Alaska.

60388–CR–P/ML–77 RCA Alaska Communications, Inc., (WGF35), Mod License for additional facilities to operate on 79.1 MHz and change antenna system located .2 mile SE of Gustavus Airfield, Gustavus, Alaska.

POINT TO POINT MIRCOWAVE RADIO SERVICE

3376–CF–P–77 RCA Alaska Communications, Inc. (New Res), 23.3 Km West of McGrath, Tatalina AFS, Alaska. Lat. 62°-55'47" N. Long. 156°00'43" W. C.P. for a new station on frequency 2112.4V MHz toward McGrath ES, Alaska on azimuth 86.1°.

3377–CF–P–77 Same (New Res), McGrath ES, 1 Mile ESE of McGrath, Alaska. Lat. 62°56'28" N., Long. 155°33'12" W. C.P. for a new station on frequency 2162.4V MHz toward Tatalina, Alaska on azimuth 268.1°.

3379–CF–MP–77 Mountain States Telephone and Telegraph Company (WPW76), Lands End, 7 Miles East of Palisade, (Mesa) Colorado. Lat. 39°05'27" N. Long. 108°13'-20" W. Mod. of C.P. (384–CF–P–77), to replace transmitters on frequencies 2115.2H MHz toward Grand Jct. Colorado 2115.2H MHz toward Mesa, Colorado, on azimuths 265.0° and 41.4° respectively.

3386–CF–P–77 American Telephone and Telegraph Company (KAA70), 909 High Street, Des Moines, (Polk) Iowa. Lat. 41°-35'17" N.. Long. 93°37'46" W. C.P. to add frequency 4190H MHz toward Collins Iowa.

3387–CF–P–77 Same (KAA85), 4 Miles ESE of Collins (Story), Iowa. Lat. 41°52'48" N. Long. 93°14'24" W. C.P. to add frequencies 4198H MHz toward Des Moines, Iowa and 4198H MHz toward Gilman, Iowa.

3388–CF–P–77 Same (KAA86), 4.4 Miles WNW of Gilman, (Marshall), Iowa. Lat. 41°54'26" N., Long. 92°51'03" W., C.P. to add frequencies 4190H MHz toward Collins, Iowa and 4190H MHz toward Chelsea, Iowa.

3389–CF–P–77 Same (KAA87), 2.4 Miles SSW of Chelsea, (Tama), Iowa. Lat. 41°53'-18" N. Long. 92°24'49" W, C.P. to add frequencies 4198H MHz toward Gilman, Iowa and 4198H MHz toward Homestead, Iowa.

3390–CF–P–77 Same (KAA65), 2 Miles ENE of Homestead, (Iowa), Iowa. Lat. 41°45'38" N. Long. 91°50'45" W. C.P. to add frequencies 4190H MHz toward Chelsea, Iowa and 4190H MHz toward Morse, Iowa.

3391–CF–P–77 Same (KAA64), 3 Miles ENE of Morse, (Johnson), Iowa. Lat. 41°48'26" N. Long. 91°22'23" W. C.P. to add frequencies 4198H MHz toward Homestead, Iowa and 4198H MHz toward Lowden, Iowa.

3392–CF–P–77 Same (KAA83), 1 Mile NW of Lowden, (Cedar), Iowa. Lat. 41°53'03" N. Long. 90°56'16" W. C.P. to add frequencies 4190H MHz toward Morse, Iowa and 4190H MHz toward Princeton, Iowa.

3393–CF–P–77 Same (KAA62), 3 Miles NW of Princeton, (Scott) Iowa. Lat. 41°42'21" N. Long. 90°23'19" W. C.P. to add frequency 4198H MHz toward Lowden, Iowa.

3405–CF–P–77 Wisconsin Telephone Company (KSP44), 45 N. Stevens Street, Rhinelander, (Oneida) Wisconsin. Lat. 45°38'19" N. Long. 89°24'41" W. C.P. to add a point of communication on frequency 11,605V MHz toward Harrison, Wisconsin on azimuth 212.5°; replace antennas on frequencies 5945.2H, 6063.8H MHz toward Parrish, Wisconsin.

3408–CF–P–77 Bell Telephone Company of Pennsylvania (KGO87), 1119 16th Street Altoona, (Blair) Pennsylvania. Lat. 40°30'-48" N. Long. 78°24'24" W. C.P. to replace transmitters and increase power output on frequencies 10755V 10915V 11075V MHz toward Wopsy Mtn., Pennsylvania via Cath Hill Passive Reflector.

3409–CF–P–77 Same (KGP36), Wopsy Mtn., 4 miles north of Altoona, (Blair), Pennsylvania. Lat. 40°34'00" N. Long. 78°26'38" W. C.P. to replace transmitters and increase power output on frequencies 11365V 11525V 11685V MHz toward Altoona, Pennsylvania via Cath. Hill Passive Reflector.

3428–CF–P–77 Northwestern Bell Telephone Company (WAN27), 118 First Street, SE, Mason City, (Cerro Cordo), Iowa. Lat. 43°09'05" N. Long. 93°11'54" W. C.P. to increase structure height and move antenna on frequency 5945.2V MHz toward Nora Springs, Iowa.

3430–CF–AL–(4)–77 Island Telepage Systems. Application for Consent to Assignment of Radio Station Licenses from Island Telepage Systems, Assignor, to Island Telepage Systems, Inc., Assignee, for stations WBA735, Bellingham, Washington; WBA-775, Oak Harbor, Washington; WBA774.

V 42 I 168 AUG 30 77 UMI

Blyn Mountain, Washington; and WAH585, Oak Harbor, Washington.

3443–CF–P–77 Offshore Telephone Company (WAU231) Block 513B, West Cameron, Gulf of Mexico. Lat. 28°23'53" N. Long. 93°-12'38" W. C.P. to add a point of communication on frequency 2179.85H MHz toward Block 487A, West Cameron, Gulf of Mexico on azimuth 22.4°.

3444–CF–P–77 Same (New Res), Block 487, West Cameron, Gulf of Mexico. Lat. 28°30'-37" N., Long. 93°13'14" W. C.P. for a new station on frequencies 2129.85H MZHz toward Block 513B, West Cameron, Gulf of MeZxico on azimuth 202.2° and 2113.45H MHz toward Block 436A, West Cameron, Gulf of Mexico on azimuth 339.2°.

3445–CF–P–77 Same (New Res), Block 436A, West Cameron, Gulf of Mexico. Lat. 28°39'-16" N. Long. 93°13'14" W. C.P. for a new station on frequency 2163.45H MZHz toward Block 487A, West Cameron, Gulf of Mexico on azimuth 159.2°.

FEDERAL ELECTION COMMISSION

[Notice 1977–46, AOR 1977–40]

ADVISORY OPINION REQUESTS

Pursuant to 2 U.S.C. § 437f(c) and the procedures reflected in Part 112 of the Commission's regulations, published on August 25, 1976 (41 FR 35954), Advisory Opinion Request 1977–40 has been made public at the Commission. Copies of AOR 1977–40 were made available on August 24, 1977. These copies of the advisory opinion request were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street, NW., Washington, D.C. 20463.

Interested persons may submit written comments on any advisory opinion request within ten days after the date the request was made public at the Commission. These comments should be directed to the Office of the General Counsel, Advisory Opinion Section, at the Commission. Persons requiring additional time in which to respond to any advisory opinion requests will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Public Law citations.

A description of the request recently made public as well as the identification of the requesting party follows hereafter:

AOR 1977–40: May Friends of Newt Steers, the principal campaign committee of Representative Newton I. Steers, Jr., accept contributions to retire a 1976 general election campaign debt from the Maryland Medical Political Action Committee and the American Medical Political Action Committee in an aggregate amount of $20,000 representing a maximum $5,000 contribution from each committee for the primary and general election? Requested by Representative Newton I. Steers, Jr., House of Representatives, Washington, D.C.

Dated: August 24, 1977.

THOMAS E. HARRIS,
Chairman for the Federal Election Commission.

[FR Doc.77–25075 Filed 8–29–77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

Intent To Prepare Environmental Impact Statements

AGENCY: Federal Energy Administration.

ACTION: Notice of Intent to prepare Environmental Impact Statements.

SUMMARY: The Federal Energy Administration (FEA) announces it has begun preparation of draft environmental impact statements (EIS's), in accordance with Section 102(2)(C) of the National Environmental Policy Act, for each of the following proposed projects:

(a) 1 site-specific EIS for the proposed Transco synthetic natural gas (SNG) plant in Chester Township, Pennsylvania;

(b) 3 "cluster" EIS's for groups of proposed crude oil storage sites in Texas and Louisiana for the Strategic Petroleum Reserve (SPR); and

(c) 4 site-specific EIS's and 1 "cluster" EIS for certain major fuel burning installations (MFBI's) issued construction orders under the Energy Supply and Environmental Coordination Act (ESECA).

Further information on these projects is provided below.

All interested agencies, organizations, or persons desiring to submit comments or suggestions for consideration in connection with the preparation of these draft EIS's are invited to do so. Upon completion of the draft EIS's their availability will be announced in the FEDERAL REGISTER, at which time public comments will again be solicited.

ADDRESS FOR COMMENTS AND CONTACT FOR FURTHER INFORMATION:

Robert J. Stern (Office of Environmental Impact), 12th and Pennsylvania Avenue NW., Room 7119, Washington, D.C. 20461 (202–566–9760).

SUPPLEMENTARY INFORMATION:

A. TRANSCO SNG PLANT

FEA is considering an allocation of naphtha to the Transco Gas Transmission Company to be used to manufacture SNG at a site in Chester Township, Pennsylvania, located immediately west of Chester City and northeast of Marcus Hook. FEA may either approve, deny, or adjust the requested allocation of approximately 56,000 barrels per day of naphtha feedstock.

The design capacity of the proposed SNG plant is 245 million cubic feet per day. The company intends to operate the plant 350 days per year. At full design operation, production will be 85.5 billion cubic feet of SNG annually.

The process facilities would occupy an area of 68 acres, and the feedstock and fuel storage facilities would occupy an area of the same size located about 400 yards west of the proposed plant. Feedstock would be delivered to the storage area by pipeline from an unloading facility on the Delaware River at Marcus Hook.

Major alternatives to be considered in the EIS include: other sources of gas; measures to reduce gas consumption; and alternative sites and facility designs.

B. SPR STORAGE SITES

FEA is preparing "cluster" EIS's for three groups of proposed storage sites for the SPR program. The proposed sites include nine undeveloped salt domes and five developed domes with expansion capacity. The arrangement of sites into clusters is based on their proposed connection to the major mid-continent crude oil distribution systems via the Texoma, Seaway, and Capline terminals. The location of the proposed sites and their maximum potential storage capacities are listed below:

1. *Texoma group*, comprised of four sites in Texas and Louisiana; West Hackberry site, Cameron Parish, Louisiana, 210 million barrels (MMB); Black Bayou site, Cameron Parish, Louisiana, 150 MMB; Vinton site, Calcasieu Parish, Louisiana, 50 MMB; and Big Hill site, Jefferson County, Texas, 100 MMB.

2. *Seaway group*, comprised of five sites in Texas: Bryan Mound site, Brazoria County, 163 MMB; Nash site, Fort Bend County, 100 MMB; Allen site, Brazoria County, 100 MMB; Damon Mound site, Brazoria County, 100 MMB, and West Columbia site, Brazoria County, 100 MMB.

3. *Capline group*, comprised of five sites in Louisiana: Chocahoula site, LaFourche Parish, 200 MMB; Bayou Choctaw site, Iberville Parish, 150 MMB; Weeks Island site, Iberia Parish, 180 MMB; Iberia site, Iberia Parish, 50 MMB; and Napoleonville site, Assumption Parish, 150 MMB.

C. CONSTRUCTION ORDERS FOR MFBI'S

Section 2 of ESECA, as amended, grants FEA authority to require MFBI's in the early planning process to be designed and constructed with coal burning capability.

FEA intends to prepare site-specific EIS's for MFBI's at the four plants listed in Section I below, and a "cluster" EIS to assess the site-specific and cumulative impacts of making effective construction orders for other MFBI's (listed in Section II below) at sites located in the same Air Quality Control Region (AQCR).

Although the proposed Federal action for each of these cases is strictly to require that each facility be constructed with coal-burning capability, FEA intends to analyze the environmental impacts of utilizing the coal capability in addition to analyzing the impacts of constructing that capability.

Alternatives to the proposed actions, which will be studied for each site, include: no Federal action (including voluntary conversion), conservation, electrification, cogeneration, fuel mix and alternate fuels.

Further information on each of the sites for which issuance of a Notice of Effectiveness of the construction order is proposed is provided below.

I. SITE-SPECIFIC EIS

1. Docket No.	1050–1–1.
Parent company	The Boeing Co.
MFBI	Boeing Vertol Co.
Number of units	1.
MFBI location	Ridley Township, Pa. (existing facility).
Industrial category.	045 (nonattainment,
AQCR	Aircraft. SO_x and TSP).
2. Docket No.	6650–5–1, 6350–5–2.
Parent company.	Shell Oil Co.
MFBI	Mobile chemical plant.
Number of plants.	2.
MFBI location	Mobile, Ala. (existing facility).
Industrial category.	Chemicals.
AQCR	005 (nonattainment, TSP).
3. Docket No.	3300–1–1.
Parent company.	Goodyear Tire and Rubber Co.
MFBI	Gadsden plant.
Number of units.	1.
MFBI location	Gadsden, Ala. (existing facility).
Industrial category.	Tires.
AQCR	003.
4. Docket Nos.	3090–2–1, 3090–2–2, 3090–2–3.
Parent company.	General Motors Corp.
MFBI	Proposed auto assembly plant.
Number of units.	3.
MFBI location.	Oklahoma City, Okla. (new facility).
Industrial category.	Motor vehicle bodies.
AQCR	184 (nonattainment, TSP).

II. "CLUSTER" EIS FOR 4 SITES IN AQCR No. 106

1. Docket No.	7230–1–1.
Parent company.	Texaco, Inc./Jefferson Chemical Co.
MFBI	Neches plant.
Number of units.	1.
MFBI location	Port Neches Tex. (existing facility).
Industrial category.	Chemicals.
2. Docket No.	8340–1–3, 8340–1–4, 8340–1–5.
Parent company.	Exxon Chemical Co.,
MFBI	Baton Rouge chemical plant.
Number of units.	3.
MFBI location	Baton Rouge, La. (existing facility).
Industrial category.	Chemicals, petroleum refining.
3. Docket No.	6650–4–1.
Parent company.	Shell Oil Co.
MFBI	Geismar chemical plant.
Number of units.	1.
MFBI location.	Geismar, La. (existing facility).
Industrial category.	Chemicals.
4. Docket No.	6650–6–1, 6650–6–2, 6650–6–3.
Parent company.	Shell Oil Co.
MFBI	Norco manufacturing complex.
Number of units.	3.
MFBI location	Norco, La.
Industrial category.	Chemicals, petroleum refining.

Issued in Washington, D.C., August 25, 1977.

ERIC J. FUGI,
Acting General Counsel, Federal Energy Administration.

[FR Doc.77–25108 Filed 8–29–77;8:45 am]

FEDERAL MARITIME COMMISSION

COMPANHIA DE NAVEGACAO, LLOYD BRASILEIRO

Security for the Protection of the Public, Indemnification of Passengers for Nonperformance of Transportation, Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Companhia de Navegacao, Lloyd Brasileiro, 17 Battery Place, New York, N.Y. 10004.

Dated: August 25, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77–25237 Filed 8–29–77;8:45 am]

COMPANHIA DE NAVEGACAO LLOYD BRASILEIRO

Security for the Protection of the Public, Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages, Issuance of Certificates (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89–777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

Companhia de Navegacao, Lloyd Brasileiro, 17 Battery Place, New York, N.Y. 10004.

Dated: August 25, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77–25238 Filed 8–29–77;8:45 am]

NORTH ATLANTIC CONTINENTAL FREIGHT CONFERENCE

Modification of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to Section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 19, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the Commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Howard A. Levy, Esq., Suite 727, 17 Battery Place, New York, N.Y. 10004.

Agreement No. 9214–23, among the members of the above-named conference, adds traffic from inland U.S. points via North Atlantic ports to the current scope of the agreement. The conference at present has such inland authority only with respect to interior points in Europe served via conference ports. The modification also provides that cargo transshipped at conference ports and moving on a through bill of lading from/to a port outside the scope of the agreement is not covered by the agreement.

By Order of the Federal Maritime Commission.

Dated: August 25, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77–25239 Filed 8–29–77;8:45 am]

FEDERAL RESERVE SYSTEM

ALLIED BANCSHARES, INC.

Acquisition of Bank

Allied Bancshares, Inc., Houston, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of The First National Bank of Newton,

V42168 AUG 30 77 UMI

Newton, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 21, 1977.

Board of Governors of the Federal Reserve System, August 24, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-25062 Filed 8-29-77;8:45 am]

ALLIED BANCSHARES, INC.

Acquisition of Bank

Allied Bancshares, Inc., Houston, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Addicks Bank, Addicks, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 21, 1977.

Board of Governors of the Federal Reserve System, August 24, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-25063 Filed 8-29-77;8:45 am]

ALLIED BANCSHARES, INC.

Acquisition of Bank

Allied Bancshares, Inc., Houston, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of American National Bank, Humble, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 21, 1977.

Board of Governors of the Federal Reserve System, August 24, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-25064 Filed 8-29-77;8:45 am]

ALLIED BANCSHARES, INC.

Acquisition of Bank

Allied Bancshares, Inc., Houston, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Gulf Coast State Bank, Winnie, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 21, 1977.

Board of Governors of the Federal Reserve System, August 24, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-25065 Filed 8-29-77;8:45 am]

ALLIED BANCSHARES, INC.

Acquisition of Bank

Allied Bancshares, Inc., Houston, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Hillcroft Bank, Houston, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 21, 1977.

Board of Governors of the Federal Reserve System, August 24, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-25066 Filed 8-29-77;8:45 am]

FIRST GUTHRIE BANCSHARES, INC.

Order Approving Formation of Bank Holding Company and Engaging in Insurance Agency Activities

First Guthrie BancShares, Inc., Guthrie, Okla., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company by acquiring 80 percent or more of the voting shares of The First National Bank of Guthrie, Guthrie, Okla. ("Bank").

Applicant has also applied for the Board's approval, pursuant to section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), to acquire 100 percent of the beneficial interest of a proposed business trust, First Guthrie Business Trust, Guthrie, Okla., which will in turn own 100 percent of First Guthrie Insurance Agency, Guthrie, Okla. ("Insurance"), a company that will engage in the activities of offering credit life insurance and credit accident and health insurance in connection with extensions of credit by Bank. Such activities have been determined by the Board to be closely related to banking (1 CFR 225.4(a)(9)).

Notice of the applications, affording opportunity for interested persons to submit comments and views on the applications, has been given in accordance with sections 3 and 4 of the Act (42 FR 31838). The time for filing comments and views has expired, and the Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act and the considerations specified in section 4(c)(8) of the Act.

Applicant is a non-operating corporation organized for the purpose of becoming a bank holding company by acquiring Bank, which holds deposits of $24.7 million.[1] Upon acquisition of Bank, Applicant would control the 99th largest commercial banking organization in the State of Oklahoma and approximately 0.2 percent of total deposits in commercial banks in that State.

Bank is the largest of seven banks in the relevant banking market, which is approximated by Logan County, and holds approximately 43.5 percent of the total commercial bank deposits in that market. Since Applicant has no other banking subsidiaries and Applicant's principals do not control any other banks, consummation of the proposal would not have any adverse effects upon either existing or potential competition nor would it increase the concentration of banking resources in any relevant area. Thus, the Board concludes that the competitive effects of the proposal are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, which are dependent upon those of Bank and Insurance, appear satisfactory and are regarded as being consistent with approval of the application to become a bank holding company. The debt to be incurred by Applicant in connection with this proposal appears to be serviceable without having adverse effects on the financial condition of either Bank or Insurance. Therefore, considerations relating to banking factors are regarded as being consistent with approval. While no major changes are contemplated in Bank's services, considerations relating to convenience and needs of the community to be served are also consistent with approval. Accordingly, it is the Board's judgment that Applicant's proposal to form a bank holding company would be consistent with the public interest and that the application should be approved.

[1] All banking data are as of December 31, 1976.

In connection with its application to become a bank holding company, Applicant has also applied for approval to acquire 100 percent of the beneficial interest in First Guthrie Business Trust, which in turn would own 100 percent of the voting shares of Insurance. Insurance would engage de novo in the sale of credit life and credit accident and health insurance in connection with the extensions of credit by Bank. Under Oklahoma State law, financial institutions may not act as agent for the sale of credit-related insurance, nor may an insurance agency pass its income on to any corporation not licensed as an agent. The Oklahoma Attorney General has ruled, however, that the prohibition of Oklahoma insurance statutes do not apply to a business trust. Approval of the application would provide a convenient source of credit-related insurance, and the Board views this as being in the public interest. It does not appear that Applicant's engagement in these activities would have any significant adverse effects on competition. Furthermore, there is no evidence in the record indicating that consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices or other adverse effects on the public interest.

Based on the foregoing and other considerations reflected in the record, the Board has determined that the considerations affecting the competitive factors under Section 3(c) of the Act and the balance of the public interest factors the Board must consider under Section 4(c)(8) of the Act both favor approval of Applicant's proposals.

Accordingly, the applications are approved for the reasons summarized above. The acquisition of Bank shall not be made before the thirtieth calendar day following the effective date of this Order. The acquisition of Bank and the commencement of the above-described insurance agency activities shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City pursuant to delegated authority. The approval of Applicant's credit-related insurance activities is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require reports by, and make examinations of, holding companies and their subsidiaries and to require such modification or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder or to prevent evasion thereof.

By order of the Board of Governors,[2] effective August 23, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-25070 Filed 8-29-77;8:45 am]

KREMMLING HOLDING CO.

Formation of Bank Holding Company

Kremmling Holding Company, Kremmling, Colo., has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent (less directors' qualifying shares) of the voting shares of Bank of Kremmling, Kremmling, Colo. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Kremmling Holding Company, Kremmling, Colo., has also applied, pursuant to Section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage de novo in the sale of credit life and credit accident and health insurance directly related to extensions of credit by Bank of Kremmling. Notice of the application was published on June 16, 1977, in Middle Park Times, a newspaper circulated in Grand County, Colo. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 20, 1977.

Board of Governors of the Federal Reserve System, August 23, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-25071 Filed 8-29-77;8:45 am]

[2] Voting for this action: Vice Chairman Gardner and Governors Wallich, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns and Governor Coldwell.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of September 1977:

DRUG ABUSE DEMONSTRATION REVIEW COMMITTEE

TIME: 9:30 a.m., September 19-21.

PLACE: Southwest Conference Room, 8th Floor, One Central Plaza, 11300 Rockville Pike, Rockville, Md. 20852. Open—September 19, 9:30-10:30 a.m. Closed—Otherwise.

CONTACT:—Thomas C. Voskuhl, Room 630, Rockwall Building, 11400 Rockville Pike, Rockville, Md. 20852 (301-443-4100).

PURPOSE: The Drug Abuse Demonstration Review Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to demonstration activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

AGENDA: From 9:30 a.m. to 10:30 a.m., September 19, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b (c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact person listed above. The NIDA Information Officer who will furnish summaries of the meeting and a roster of the Committee membership on request is Mr. Kenneth Howard, Director, Office of Communica-

V 42 168 AUG 30 77 UMI

tions and Public Affairs, 11400 Rockville Pike, Room 110, Rockville, Md. 20852 (301–443–6500).

Dated: August 23, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77-24871 Filed 8-29-77;8:45 am]

Food and Drug Administration

[Docket No. 77G-0199]

ICI UNITED STATES, INC.

Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: ICI United States, Inc., has filed a petition (GRASP 7G0087) proposing affirmation that the glucose isomerase enzyme derived from immobilized *Arthrobacter globiformis* used in the isomerization of dextrose-containing nutritive sweeteners and the resulting high-fructose corn syrup are generally recognized as safe (GRAS).

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202–472–4750).

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 (21 U.S.C. 321(s), 348, 371(a))) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35, formerly § 121.40, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), notice is given that a petition (GRASP 7G0087) has been filed by ICI United States, Inc., Concord Pike and New Murphy Rd., Wilmington, DE 19897, and placed on public display at the office of the Hearing Clerk, Food and Drug Administration, proposing affirmation that the glucose isomerase enzyme derived from immobilized *Arthrobacter globiformis* used in the isomerization of dextrose-containing nutritive sweeteners and the resulting high-fructose corn syrup are generally recognized as safe (GRAS).

Any petition that meets the format requirements outlined in § 170.35 is filed by the Food and Drug Administration. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for affirmation.

Interested persons may, on or before October 31, 1977, review the petition and/or file comments (four copies, identified with the Hearing Clerk docket number found in brackets in the heading of this document) with the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857. Comments should include any available information that would be helpful in determining whether the substance is, or is not, generally recognized as safe. A copy of the petition and received comments may be seen in the office of the Hearing Clerk, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 19, 1977.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.77-24872 Filed 8-29-77;8:45 am]

PANEL ON REVIEW OF TOPICAL ANALEGESICS INCLUDING ANTIRHEUMATIC, OTIC, BURN, SUNBURN TREATMENT AND PREVENTION DRUGS

Nominations for Nonvoting Representative of Consumer Interests

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document invites nominations for a nonvoting consumer representative to serve on the Panel on Review of Topical Analgesics Including Antirheumatic, Otic, Burn, Sunburn Treatment and Prevention Drugs of the Bureau of Drugs. Nominations will be accepted for the vacancy that currently exists.

DATE: Nominations by September 29, 1977.

ADDRESS: Written submissions to the Director, Office of Consumer Programs (HFG–1), Office of Professional and Consumer Programs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Audrey Wood, Office of Professional and Consumer Programs (HFG–1), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–1547).

SUPPLEMENTARY INFORMATION: The function of this committee is to review and evaluate available data concerning the safety and effectiveness of active ingredients, and combinations thereof, of currently marketed nonprescription drug products for human use that contain topical analgesics, including antirheumatic, otic, burn, and sunburn treatment and prevention drugs; to review and evaluate the adequacy of the drugs' labeling; to advise the Commissioner of Food and Drugs on the promulgation of monographs establishing conditions under which these over-the-counter (OTC) drug products are generally recognized as safe and effective and not misbranded; and to serve as a forum for the exchange of views regarding the prescription or nonprescription status of these various active ingredients and combinations thereof.

The final regulations providing for the OTC drug review under § 330.10 (21 CFR 330.10) include, under the procedure for establishing OTC drug monographs, a provision that advisory review panels may include persons chosen from lists submitted by organizations representing professional, consumer, and industry interests.

The nominations for and selection of the nonvoting member to represent consumer interests on the review panel in this notice shall be made pursuant to § 14.84 (21 CFR 14.84).

Any person interested may nominate one or more qualified persons as a nonvoting member for this committee. Although nominations from individuals will be accepted, individuals are encouraged to submit their nominations through consumer organizations as defined in § 14.84(c)(3).

Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the advisory committee, and appears to have no conflict of interest. A complete curriculum vitae of each nominee shall be included.

After the time for receipt of nominations has expired, the curriculum vitae for each nominee will be sent to each of the consumer organizations listed by the Director, Office of Consumer Programs, pursuant to § 14.84(c)(3), together with a ballot that must be filled out and returned to the Office of Professional and Consumer Programs, at the address given above, within 30 days.

The nominee receiving the most votes shall be selected as the nonvoting member. In the event of a tie, the Commissioner shall select the nonvoting member by lot from among those tied with the most votes.

This notice is issued under the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)) and Part 14 relating to advisory committees.

Dated: August 23, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner, for Compliance.

[FR Doc.77-25050 Filed 8-29-77;8:45 am]

ARTIFICIAL KIDNEY-CHRONIC UREMIA ADVISORY COMMITTEE

Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Artificial Kidney-Chronic Uremia Advisory Committee, National Institute of Arthritis, Metabolism, and Digestive Diseases, October 11–12, 1977. The meeting will be held in Building 31, Conference Room 9, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public from 8:45 a.m. to 9:30 p.m. each day to discuss administrative reports. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Title 5, U.S. Code 552b(c)(4) and 552b(c)(6), the meeting will be closed to the public from 9:30 a.m. to closing each day for review, discussion and evaluation of individual contract proposals. The proposals and the discussions could reveal trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals.

Messr. James N. Fordham or Leo E. Treacy, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland 20014, (301) 496–3583, will provide summaries of the meeting and rosters of the committee members.

(Catalog of Federal Domestic Assistance Program No. 13.894, National Institutes of Health.)

Dated: August 18, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-25097 Filed 8-29-77;8:45 am]

NATIONAL ADVISORY ALLERGY AND INFECTIOUS DISEASES COUNCIL

Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, October 12, 13, and 14, 1977, in Building 31C, Conference Room 10, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on October 12 from 1:30 p.m. until recess, and on October 13 from 9:00 a.m. until recess, to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Public Law 92–463, the meeting of the Council will be closed to the public on October 12 from 9 a.m. until 1:30 p.m., and on October 14 from 9 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Md., telephone (301) 496–5717, will provide summaries of the meetings and rosters of the Council members.

Dr. William I. Gay, Director, Extramural Activities Program, NIAID, NIH, Westwood Building, Room 703, telephone (301) 496–7291, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, 13.856, 13.857, and 13.858, National Institutes of Health.)

Dated: August 18, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-25098 Filed 8-29-77;8:45 am]

NATIONAL ADVISORY COUNCIL ON AGING

Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Council on Aging, Na- from 9 a.m. to 2 p.m. on October 12 13, and 14, 1977, in Building 31C, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public from 9 a.m. to 2 p.m. on on October 12 and from 9:00 a.m. to adjournment on October 13 and 14 for introductory remarks, status reports, and presentations by NIH Institute Directors. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92–463, the meeting will be closed to the public on October 12 from 2:00 p.m. to adjournment that day for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mrs. Suzanna Porter, Council Secretary, National Institute on Aging, Building 31, Room 5C–07, National Institutes of Health, Bethesda. Md., Area Code 301, 496–5345, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, National Institutes of Health.)

Dated August 18, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-25099 Filed 8-29-77;8:45 am]

NATIONAL ARTHRITIS ADVISORY BOARD

Meeting Time Change

Notice is hereby given of a change in the meeting time of the National Arthritis Advisory Board, National Institute of Arthritis, Metabolism, and Digestive Diseases, which was published in the FEDERAL REGISTER on August 9, 1977, 42 FR 40255.

The Board was to have convened at 9 a.m., September 7, 1977, but has been changed to convene at 8 p.m., September 7 to midnight, at the Key Bridge Marriott Hotel, Rosslyn, Virginia.

The entire meeting is open to the public and attendance is limited to space available.

Dated: August 22, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-25094 Filed 8-29-77;8:45 am]

NATIONAL CANCER INSTITUTE

Open Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute. These meetings will be entirely open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available. Meetings will be held at the National Institutes of Health. 9000 Rockville Pike, Bethesda, Md. 20014, unless otherwise stated.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014 (301–496–5708) will furnish summaries of the meetings and rosters of committee members upon request.

Other information pertaining to the meeting can be obtained from the Executive Secretary indicated.

PRESIDENT'S CANCER PANEL

Date and Time: October 11, 1977; 9:30 a.m.—adjournment.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Type of meeting: Open for the entire meeting.
Agenda: To hear reports of the Chairman, President's Cancer Panel and the Director, National Cancer Program, NCI.
Executive Secretary: Dr. Richard A. Tjalma. Building 31A, Room 11A46, National Institutes of Health. Phone: 301–496–5854.

SUBCOMMITTEE ON PREVENTION OF THE CANCER CONTROL AND REHABILITATION ADVISORY COMMITTEE

Date and Time: October 11, 1977; 9 a.m.—adjournment.
Place: Building 31C, Conference Room 10, National Institutes of Health.
Type of Meeting: Open for the entire meeting.
Agenda: To consider those interventions which staff might employ to lower the incidence of cancer through prevention.
Executive Secretary: Dr. Veronica L. Conley, Blair Building, Room 7A07, National Institutes of Health. Phone: 301–427–7941.

CANCER CONTROL AND REHABILITATION ADVISORY COMMITTEE

Date and time: October 12, 1977: 9 a.m.—adjournment.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Type of meeting: Open for the entire meeting.
Agenda: To discuss current and projected programs of the Division of Cancer Control and Rehabilitation.
Executive Secretary: Dr. Veronica L. Conley. Blair Building, Room 7A07, National Institutes of Health. Phone: 301–427–7941.

V 42 1168 A AUG 30 77 7 UMI

PLENARY SESSION OF THE CLEARINGHOUSE ON ENVIRONMENTAL CARCINOGENS

Date and time: October 31, 1977; 8:30 a.m.—adjournment.

Place: Building 31C, Conference Room 6, National Institutes of Health.

Type of meeting: Open for the entire meeting.

Agenda: To discuss the activities of the Clearinghouse and review the bioassay program.

Executive Secretary: Dr. James M. Sontag, Building 31A, Room 3A16, National Institutes of Health, Phone: 301–496–5108.

Dated: August 22, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77–25096 Filed 8–29–77;8:45 am]

RESEARCH MANPOWER REVIEW COMMITTEE

Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Research Manpower Review Committee, National, Heart, Lung, and Blood Institute, October 6–7, 1977, Conference Room 5A, Building 31, National Institutes of Health, Bethesda, Md.

This meeting will be open to the public on October 6, 1977, from 8:30 a.m. to approximately 9:30 a.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on October 6 and 7, 1977, from 9:30 a.m. until adjournment on both days, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the appliactions.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Room 5A03, Building 31, Bethesda, Md. 20014, phone 301–496–4236, will provide summaries of the meeting and a roster of the committee members.

Dr. Charles L. Turbyfill, Executive Secretary, NHLBI, NIH, Room 553, Westwood Building, Bethesda, Md. 20014, phone 301–496–7351 will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.838, National Institutes of Health.)

Dated August 19, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77–25095 Filed 8–29–77;8:45 am]

CONSENSUS COMMITTEE FOR BREAST CANCER SCREENING

Amended Notice of Meeting

Notice is hereby given of a change in the meeting place of the NIH Consensus Committee for Breast Cancer Screening (Temporary), National Institutes of Health, September 14–16, 1977, published in the FEDERAL REGISTER on August 12, (42 FR 40952). This meeting was to have been held in Wilson Hall, Building 1, NIH, but has been changed to Masur Auditorium, Clinical Center (Building 10), NIH. The meeting will be open to the public each day from 8:30 a.m. to 6 p.m., subject to available space.

Dated: August 25, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77–25294 Filed 8–29–77;8:45 am]

Office of Education

ADVISORY COUNCIL ON FINANCIAL AID TO STUDENTS

Public Meeting

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), that the next meeting of the Advisory Council on Financial Aid to Students will be held on September 28 and 29, 1977, from 9 a.m. to 5 p.m. at the Sheraton-North Shore Inn, Northbrook, Ill. Notice is also given that the Subcommittee on Student Aid (Grants and Work-Study) of the Advisory Council on Financial Aid to Students will hold its next meeting on September 26, 1977, from 1 p.m. to 5:30 p.m. and on September 27, 1977, from 9 a.m. to 5 p.m. at the same location.

The Advisory Council on Financial Aid to Students is established under Section 499(a) of the Higher Education Act of 1965, as amended (20 U.S.C. 1089). The Committee shall advise the Commissioner on matters of general policy arising in the administration by the Commissioner of programs relating to financial assistance to students and on the evaluation of the effectiveness of these programs.

All meetings shall be open to the public. The agenda of the Council meeting on September 27 and 28 includes:

1. Report of Subcommittee;
2. Election of Vice Chairperson; and
3. Discussion of papers prepared by Council members on policy issues in Federal student aid programs and in management of aid programs by U.S. Office of Education.

The agenda of the Subcommittee meeting on September 26 and 27 includes:

1. Report on Bureau of Census and U.S. Department of Labor data regarding disposable family income;
2. Report on determination of student financial eligibility for Federal aid by means other than currently utilized; and
3. Different legislative approach to entitlement concepts.

Records shall be kept of all Committee Proceedings and shall be available for public inspection at the Council's Office located in Room 3661, Regional Office Building No. 3, 7th and D Streets SW., Washington, D.C. 20202.

Signed in Washington, D.C. on August 25, 1977.

WARREN T. TROUTMAN,
OE Delegate.

[FR Doc.77–25114 Filed 8–29–77;8:45 am]

GUIDANCE AND COUNSELING

Closing Date for Receipt of Applications for Fiscal Year 1977

Correction

In FR Doc. 77–23549, appearing at page 41326, in the issue for Tuesday, August 16, 1977, in the first column on page 41327, the entry in the table for the State of Arizona should read:

Arizona	30,547

Office of Human Development Services

FEDERAL ALLOTMENT TO STATES FOR SOCIAL SERVICES EXPENDITURES PURSUANT TO TITLE XX OF THE SOCIAL SECURITY ACT

Promulgation for Fiscal Year 1979

Promulgation is made of the Federal allotment for Fiscal Year 1979 for purposes of grants to States under Title XX of the Social Security Act pursuant to Section 2002(a)(2) of the Act which provides that the Federal allotment shall be determined and promulgated in accordance with said section.

For Fiscal Year 1979, the allotment limits are based on the Bureau of the Census population statistics contained in its publication, "Current Population Reports" (Series P–25, No. 646, February 1977) which is the most recent satisfactory data available from the Department of Commerce at this time as to the population of each State and of all States.

It is hereby promulgated, for purposes of grants to States for social services under title XX, that the Federal allotment to each of the 50 States and the District of Columbia for the Fiscal Year ending September 30, 1979, as determined pursuant to the Act and on the basis of said population data, shall be as set forth below:

State:	*Federal allotment*
Alabama	$ 42,683,000
Alaska	4,450,000
Arizona	26,437,000
Arkansas	24,562,000
California	250,830,000
Colorado	30,083,000
Connecticut	36,302,000
Delaware	6,779,000
District of Columbia	8,176,000
Florida	98,074,000
Georgia	57,883,000
Hawaii	10,330,000
Idaho	9,679,000
Illinois	130,778,000
Indiana	61,750,000
Iowa	33,425,000
Kansas	26,903,000
Kentucky	39,9240,00
Louisiana	44,734,000
Maine	12,462,000
Maryland	48,263,000
Massachusetts	67,654,000
Michigan	106,030,000

State:	*Federal allotment*
Minnesota	46,178,000
Mississippi	27,416,000
Missouri	55,646,000
Montana	8,770,000
Nebraska	18,087,000
Nevada	7,104,000
New Hampshire	9,573,000
New Jersey	85,439,000
New Mexico	13,603,000
New York	210,613,000
North Carolina	63,694,000
North Dakota	7,490,000
Ohio	124,500,000
Oklahoma	32,214,000
Oregon	27,149,000
Pennsylvania	138,149,000
Rhode Island	10,796,000
South Carolina	33,170,000
South Dakota	7,989,000
Tennessee	49,079,000
Texas	145,428,000
Utah	14,302,000
Vermont	5,544,000
Virginia	58,805,000
Washington	42,067,000
West Virginia	21,208,000
Wisconsin	53,679,000
Wyoming	4,542,000
Total	$2,500,000,000

Dated: August 28, 1977.

MICHIO SUZUKI,
Acting Commissioner,
Administration for Public Services.

Approved: August 24, 1977.

ARABELLA MARTINEZ,
Assistant Secretary for
Human Development Services.

[FR Doc.77–25158 Filed 8–29–77;8:45 am]

Public Health Service

CENTER FOR DISEASE CONTROL, COAL MINE HEALTH RESEARCH ADVISORY COMMITTEE

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), the Center for Disease Control announces the following National Institute for Occupational Safety and Health Committee meeting:

NAME: Coal Mine Health Research Advisory Committee.

DATE: September 30, 1977.

PLACE: WVU Conference Room, Holiday Inn, 1400 Saratoga Avenue, Morgantown, W. Va. 26505.

TIME: 9 a.m.

TYPE OF MEETING: Open: 9 a.m to 2:30 p.m. on September 30. Closed: Remainder of meeting.

CONTACT PERSON:

Marilyn K. Hutchison, M.D., Executive Secretary, Park Building, Room 3–14, NIOSH, 5600 Fishers Lane, Rockville, Md. 20857 Phone: 301–443–6377.

PURPOSE: The Committee is charged with advising the Secretary, Department of Health, Education, and Welfare, on matters involving or relating to coal mine health research, including grants and contracts for such research.

AGENDA: Agenda items for the open portion of the meeting will include announcements, consideration of minutes of previous meeting, administrative and staff reports, review of the National Institute for Occupational Safety and Health (NIOSH) studies in coal and diesel research, status of new legislation affecting coal workers, and health implications of coal as the major energy source. Beginning at 2:45, the Committee will be performing the final review of coal research grant applications for Federal assistance, and this portion of the meeting will not be open to the public in accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Director, Center for Disease Control, pursuant to Public Law 92–463.

Agenda items are subject to change as priorities dictate.

The portion of the meeting so indicated is open to the public for observation and participation. Anyone wishing to make an oral presentation should notify the contact person listed above as soon as possible before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the presentation. Oral presentations will be scheduled at the discretion of the Chairperson and as time permits. Anyone wishing to have a question answered during the meeting by a scheduled speaker should submit the question in writing, along with his or her name and affiliation, through the Executive Secretary to the Chairperson. At the discretion of the Chairperson and as time permits, appropriate questions will be asked of the speakers.

A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: August 19, 1977.

WILLIAM H. FOEGE,
Director, Center for Disease Control.

[FR Doc.77–24870 Filed 8–29–77;8:45 am]

Social Security Administration

DIVISION OF SENSITIVE INQUIRIES, ET AL.

Redelegations of Authority to Make Various Findings of Fact, Decisions and Determinations on Cases Referred

Under titles II and XVI of the Social Security Act, as amended (the Act), the Secretary of Health, Education, and Welfare (the Secretary) may make various findings of fact, decisions and determinations affecting the rights of individuals to benefits under these titles of the Act. The Secretary is vested with similar authority to make findings of fact, decisions and determinations under Part B of title IV and related provisions of the Federal Coal Mine Health and Safety Act of 1969, as amended (the "Black Lung" Act). The Secretary has delegated his authority to perform the functions specified above to the Commissioner of Social Security (the Commissioner), with authority to redelegate (33 FR 5836–37, dated April 16, 1968 and 35 FR 7033–34, dated May 2, 1970). As appropriate, the Commissioner previously redelegated this authority to various positions in the Social Security Administration.

I. Notice is hereby given that the Commissioner has additionally redelegated, to the positions of Social Insurance Claims Examiner (Disability) and Social Insurance Claims Examiner (Retirement) located in the Division of Sensitive Inquiries, Office of the Assistant Bureau Director, Disability Operations, Bureau of Disability Insurance, Office of Program Operations, Social Security Administration, and to all positions in the direct line of supervision above these positions, the following authorities for exercise with respect to cases referred to the Division of Sensitive Inquiries for necessary action:

A. Pursuant to section 205(b) of the Social Security Act, as amended (the Act), authority to make findings of fact and decisions which constitute initial determinations, as defined in § 404.905 of Social Security Regulations No. 4. This excludes the following determinations:

1. Entitlement to hospital insurance benefits and supplementary medical insurance benefits;

2. Termination of entitlement to hospital insurance benefits and supplementary medical insurance benefits;

3. Existence or absence of disability, or periods of disability; and

4. Waiver of adjustment or recovery of overpayments of: monthly benefits; a lump sum; hospital insurance benefits; or supplementary medical insurance benefits;

B. Pursuant to section 205(b) of the Act, authority to make determinations which do not constitute initial determinations, as defined in § 404.906 of Social Security Regulations No. 4. This excludes the following determinations:

1. Approval or regulation of the amount of fee that may be charged or received by a representative for services before the Social Security Administration;

2. Disqualification or suspension of an individual from acting as a representative in a proceeding before the Social Security Administration; and

3. Determination, under the Federal Claims Collection Act of 1966 (31 U.S.C. 951–953), whether or not to compromise, or to suspend or terminate collection of, a claim for overpayment under title II of the Social Security Act, as amended, including the compromise amount and the time and manner of payment;

C. Pursuant to sections 1602, 1611, 1612, 1613, 1614, 1615, 1616, 1631 and 1633 of the Act, authority to make findings of fact and decisions affecting the eligibility of individuals under the Supplemental Security Income (SSI) program and the amount of SSI benefits;

d. Pursuant to section 1631(c) of the Act, authority to review initial determinations and render reconsideration determinations under the SSI program;

V 42 168 AUG 30 77 UMI

E. Pursuant to sections 402, 312 and 413 of the "Black Lung" Act, authority to make findings of fact and decisions concerning entitlement and continuing eligibility;

F. Pursuant to section 413(b) of the "Black Lung" Act, authority to make determinations concerning a claimant's reasonable medical expenses;

G. Pursuant to section 413(b) of the "Black Lung" Act, authority to make determinations of disability;

H. Pursuant to section 413(b) of the "Black Lung" Act, authority to review State disability determinations; and

I. Authority to make findings required by other government agencies for determining the rights of individuals to benefits.

II. Notice is hereby further given that the Commissioner has also redelegated, to the position of Social Insurance Claims Examiner (Disability) located in the Division of Sensitive Inquiries, Office of the Assistant Bureau Director, Disability Operations, Bureau of Disability Insurance, Office of Program Operations, Social Security Administration, and to all positions in the direct line of supervision above this position, the following authorities for exercise with respect to cases referred to the Division of Sensitive Inquiries for necessary action:

A. Pursuant to section 221(g) of the Act, authority to make Federal determinations of disability;

B. Pursuant to section 221(c) of the Act, authority to review State disability determinations;

C. Pursuant to sections 1614(a), 1631(a)(4)(B) and 1633 of the Act, authority to make findings of fact and decisions regarding presumptive SSI disability benefits, and authority to authorize payment of such benefits for not more than 3 months;

D. Pursuant to sections 1614, 1631 and 1633 of the Act, authority to make Federal findings of fact and decisions regarding the existence, absence, duration or continuation of disability or blindness;

E. Pursuant to sections 1614, 1631 and 1633 of the Act, authority to review State agency determinations of disability and blindness under title XVI of the Act, and authority to make certain findings of fact and decisions in such cases; and

F. Pursuant to section 1611(e)(3) of the Act, authority to determine whether individuals eligible for SSI benefits, and medically determined to be drug addicts or alcoholics, are complying with the terms and conditions of appropriate available treatment.

III. Notice is hereby given in addition that the Commissioner has also redelegated, to the position of Social Insurance Claims Examiner (Retirement) located in the Division of Sensitive Inquiries, Office of the Assistant Bureau Director, Disability Operations, Bureau of Disability Insurance, Office of Program Operations, Social Security Administration, and to all positions in the direct line of supervision above this position, the following authorities for exercise with respect to cases referred to the Division of Sensitive Inquiries for necessary action:

A. Pursuant to section 1612(b)(4) of the Act, authority to approve plans of self-support for individuals or spouses eligible for SSI benefits;

B. Pursuant to section 1611(d) of the Act, authority to determine gross income from a trade or business;

C. Pursuant to section 1613 of the Act, authority to find good cause for failure to dispose of resources, and authority to grant extensions of time for disposition of resources.

D. Pursuant to section 1631(e)(2) of the Act, authority to make determinations as to the existence of good cause or fault for failure or delay in reporting information; and

E. Pursuant to section 1631(e)(2) of the Act, authority to reduce SSI benefits for failure or delay in reporting information.

IV. The redelegations described in sections I. through III. above shall be effective as of the date that this General Notice thereof is published in the FEDERAL REGISTER. Any actions taken by incumbents of the positions identified in sections I. through III. above which, in effect, involve the exercise of authority delegated by this document prior to the date that this notice is published in the FEDERAL REGISTER, are hereby affirmed and ratified. These redelegations may not be further redelegated.

Dated: August 22, 1977.

JAMES B. CARDWELL,
Commissioner of Social Security.

[FR Doc.77-25106 Filed 8-29-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CHIEF, BRANCH OF RECORDS AND DATA MANAGEMENT

Redelegation of Authority by State Director

Pursuant to the authority contained in section 1.1 of BLM Order No. 701 dated July 23, 1964, as amended, authority is hereby redelegated to the Chief, Branch of Records and Data Management to take action under section 2.6(k) as to mining claim instruments filed for record with BLM under 43 CFR 3833, as follows:

(1) Accept and record instruments meeting recording requirements;

(2) Notify owners to take curative actions to complete defective filings;

(3) Reject instruments and void claims not filed within the prescribed time periods; and

(4) Reject filings and void claims located on lands not available for mineral location on dates of location.

This delegation is effective on August 30, 1977. The redelegation published August 16, 1977, FR document 77-23561 is revoked.

PAUL L. HOWARD,
State Director.

Approved: August 22, 1977.

GEORGE L. TURCOTT,
Acting Director.

[FR Doc.77-25067 Filed 8-29-77;8:45 am]

OUTER CONTINENTAL SHELF OFFSHORE THE NORTH ATLANTIC STATES

Availability of Final Environmental Statement Regarding Proposed Oil and Gas Lease Sale

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement relating to a proposed oil and gas lease sale of 178 tracts consisting of 410,112 hectares (1,013,386 acres) of submerged lands on the Outer Continental Shelf offshore the North Atlantic States (OCS Sale #42).

Single copies of the final environmental statement can be obtained from:

Office of the Manager, New York Outer Continental Shelf Office, Bureau of Land Management, 6 World Trade Center, Room 600–D, New York, New York 10048, and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the final environmental statement will also be made available for review in the following public libraries:

New York Public Library, 5th Avenue and 42nd Street, New York City; Nassau Library System, Lower Concourse, Roosevelt Field, Garden City, New York; Suffolk Cooperative Library System, 627 North Sunrise Service Road, Bellport, New York; Trenton Free Public Library, 120 Academy Street, Trenton, New Jersey; Atlantic City Free Public Library, Illinois and Pacific Avenues, Atlantic City, New Jersey; Free Public Library of Elizabeth, 11 South Broad Street, Elizabeth, New Jersey; Hartford Public Library, 500 Main Street, Hartford, Connecticut; Bridgeport Public Library, 925 Broad Street, Bridgeport, Connecticut; New Haven Free Public Library, 133 Elm Street, New Haven, Connecticut; Providence Public Library, 150 Empire Street, Providence, Rhode Island; Newport Public Library, Aquidneck Park, Newport, Rhode Island; Boston Public Library, Copley Square, Boston, Massachusetts; Provincetown Public Library, 330 Commercial Street, Provincetown, Massachusetts; Falmouth Public Library, Main Street, Falmouth, Massachusetts; Fall River Public Library, 104 North Main Street, Fall River, Massachusetts; Concord Public Library, 45 Green Street, Concord, New Hampshire; Manchester City Library, Carpenter Memorial Building, 405 Pine Street, Manchester, New Hampshire; Lithgow Library, 1 Winthrop Street, Augusta, Maine; Portland Public Library, 619 Congress Street, Portland, Maine.

Dated: August 11, 1977.

GEORGE L. TURCOTT,
Acting Director,
Bureau of Land Management.

Approved: August 25, 1977.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc 77-25060 Filed 8-29-77;8:45 am]

[Wyoming 60657]

WYOMING

Application

AUGUST 19, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185) the Northwest Pipeline Corporation of Salt Lake City, Utah filed an application for a right-of-way to construct a 4½" O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 24 N., R. 111 W.
Sec. 4, S½SW¼ and SW¼SE¼;
Sec. 5, NW¼SE¼ and S½SE¼.

The pipeline will transport natural gas within T. 24 N., R. 111 W., in Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-25141 Filed 8-29-77;8:45 am]

[Wyoming 60658]

WYOMING

Application

AUGUST 19, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah filed an application for a right-of-way to construct a 4½ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 24 N., R. 111 W.,
Sec. 3, lots 19, 20
Sec. 4, lot 13, NE¼SE¼.

The pipeline will transport natural gas within T. 24 N.; R. 111 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-25142 Filed 8-29-77;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: William A. Lowe, Route 4, Box 206, Beaver Dam, Wis. 53916.

OMB NO 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE
LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Propagation of cheetahs: I have negotiated a tentative purchase of a male and female cheetah from San Diego, California, and request a transportation permit for transporting to my residence.

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
William A. Lowe
Route 4, Box 206
Beaver Dam, WI 53916
Telephone: 414-885-9631
414-885-9346

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT 6' | WEIGHT 185 lbs.
DATE OF BIRTH 1-8-35 | COLOR HAIR brown | COLOR EYES blue
PHONE NUMBER WHERE EMPLOYED: Office 414-885-9346; Home 414-885-9631
SOCIAL SECURITY NUMBER 396-32-4608
OCCUPATION: Self-employed* (explained at right)
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
None

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Not applicable
*Arabian Horse Breeder - specializing in straight Egyptian breeding. Veal calf operation - currently own and operate 1800-calf facility. Breeder of certain zoo animals, such as cheetahs, Bengal tigers, llamas, leopards, fox, ferrets
NAME(S) AND ADDRESS(ES) AND NUMBER OF PRESIDENT, PRINCIPAL OFFICERS, AND DIRECTORS
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Cheetahs are kept in the NE¼ SE¼ of Section 35, T12n, R14E, Beaver Dam Township, Dodge County, Wisconsin.
William Lowe Farm
Route 4, Box 206
Beaver Dam, WI 53916

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number)
35-A-91

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of document(s))
State of Wisconsin Game Farm License and individual permits for tigers and leopards and cheetahs.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
Not applicable as purpose is propagation of cheetahs.

10. DESIRED EFFECTIVE DATE
Sept. 1, 1977

11. DURATION NEEDED
Six months if possible

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
Enclosed

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (Title and)
William A. Lowe
DATE 7-7-77

3-200
10/74)
GPO 895-042

V 42 168 AUG 30 77 UMI

(11) My wife, Janet, and I have raised Arabian horses since 1959. We have won national championships and are well recognized as serious breeders. Since 1973 we have specialized in horses of "Egyptian breeding," which has included three trips to Egypt for purchasing them.

In 1976 we acquired four Bengal tigers and two leopards from the Racine Zoo.

Our main purpose in acquiring the tigers and leopards was to gain expertise and recognition so that we would be granted the necessary permits to raise cheetahs.

Besides Arabian horses, cheetahs, tigers, and leopards, we raise llamas and have a large veal calf operation, currently housing 1,800 calves. The calves give us an excellent source of meat for our tigers and leopards and cheetahs.

In addition, our six children are raising fox, ferrets, and dogs.

(iii) We would be willing to work on a cooperative breeding program and will maintain stud books. Most zoos have been unsuccessful in breeding cheetahs because of lack of a proper facility. We hope to eventually work a breeding loan with some of them.

(iv) Transportation will be by air freight to Chicago and trucked to Beaver Dam, Wisconsin. The zoo crates are approximately 30" x 60" x 48". They are open on one end with one-inch pipe, 3 inches on center. Food and water will be fed between the pipes.

(7) Copy of sale contract is attached.

(8) Reasons why permit is justified:

(i) Intention of transporting two cheetahs from San Diego, California, to Beaver Dam, Wisconsin, for the purpose of propagation.

(ii) Transportation will be by air freight and truck carrying two zoo cages used for this purpose. Breeding facilities have been constructed and are in use by four cheetahs.

(iii) The purpose is propagation.

(iv) Eventually animals will be offered for sale to zoos or others who are interested in propagation.

Attachment (12) to Form 3-2000

17122

(a) Application for enclosed

(1) Cheetah (Acinonyx jubatus)
One (1) male--age one year
One (1) female--age three years
Activity sought to be authorized--transportation permit from California to Wisconsin for purposes of propagation.

(2) Both cheetahs were born in captivity

(3) This transaction would not affect the status of cheetahs in the wild. It would make room for more cheetahs to be propagated at this San Diego facility (Wild Animal Park).

(4) Born in captivity--San Diego, California 1976 and 1974 (Wild Animal Park)

(5) The cheetahs will be kept in the NE¼ of Sec. of Section 35, T12N, R14E, Beaver Dam Township, Dodge County, Wisconsin.

William A. Lowe Farm
Route 4, Box 206
Beaver Dam, Wisconsin 53916

The farm is 34 acres. It includes a home, five barns (four barnhouse approximately 50 Arabian horses, one barn houses 3 Bengal tigers and 2 leopards.)

(6) Live cheetahs will be housed in existing facilities.

(1) We have built the facilities on recommendations of Dr. Dolan so that we have the maximum potential for breeding the cheetahs. We are duplicating the facility and care used successfully by Dr. Dolan in breeding cheetahs in San Diego's Wild Animal Park. It is necessary to keep male and female cheetahs separate except for the breeding period. For this reason we built two facilities approximately 1/4 mile apart for the males and the females. The facilities are large enough to house additional cheetahs, as it is our desire to eventually have a large cheetah breeding operation. Each facility has a 8 foot high chain link wire (11 gauge) with an electric wire at the top, approximately 1½ acres, hexagonal shape, located on a moderate hill with several rock piles, including a heated and insulated 8' x 4' x 8' building for their optional use, and a ten-foot gate opening. There is a rock house with an opening to the east in each facility. We have also planted over 100 trees and shrubs in these facilities. (A diagram of the facility is on the next page.)

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1212-07; please refer to this number when submitting comments. All relevant comments received on or before September 29, 1977.

Dated: August 22, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-25144 Filed 8-29-77;8:45 am]

National Park Service

ADVISORY BOARD ON NATIONAL PARKS HISTORIC SITES, BUILDINGS AND MONUMENTS

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that meetings of the Advisory Board on National Parks, Historic Sites, Buildings and Monuments will be held September 22–29, during field inspections of areas in the Southwest Region of the National Park Service, and conclude with the regular fall business meeting, at LBJ State Park, Texas, on September 30 and October 1.

The purpose of the Advisory Board is to advise the Secretary of the Interior on matters relating to the National Park System, and the administration of the Historic Sites Act of 1935.

The Advisory Board will inspect various management and operational functions of the Southwest Region of the National Park Service as follows: September 22, Bandelier National Monument; September 23, subgroups will visit Pecos-Fort Union National Monuments; Chaco Canyon National Monument, and Canyon de Chelly National Monument; September 24–25 at Big Thicket National Preserve; September 26–28 Padre Island National Seashore. The inspection trip will be concluded on September 29 with a visit to the proposed San Antonio Missions National Historical Park.

The fall business meeting of the Advisory Board will convene at 10:30 a.m. on September 30 at the Lyndon B. Johnson State Historical Park, Texas, and will meet in general session to receive reports on the Alaska park proposals; National Heritage Trust Program, urban parks, and to discuss field trip matters. October 1, the Advisory Board will reconvene at 9 a.m. to receive reports on Redwoods National Park; Death Valley mining; land acquisition program, preservation easement program; to receive reports from the committee meetings; consideration of past and future Advisory Board activities; and to formulate its comments and recommendations.

The meetings will be open to the public. However, members of the public wishing to participate in the field inspection must provide their own transportation, food and accommodations, which are generally available on a commercial basis. Space and facilities to accommodate members of the public at the business meetings are limited and persons will be accommodated on a first-come, first-served basis. Any member of the public may file with the Advisory Board a written statement concerning the matters to be considered.

Persons wishing further information concerning the field inspection and business meeting, or who wish to submit written statements, may contact Robert M. Landau, Assistant for Advisory Boards and Commissions, National Park Service, Washington, D.C. 202-343-2012.

Summary minutes of the meeting will be available for public inspection 10 to 12 weeks after the meeting in Room 3013, Interior Building, Washington, D.C.

Dated: August 29, 1977.

ROBERT M. LANDAU,
Assistant for Advisory Boards and Commissions, National Park Service.

[FR Doc.77-25101 Filed 8-29-77;8:45 am]

MIDWEST REGIONAL ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Midwest Regional Advisory Committee will be held September 29 and 30 at Jefferson National Expansion Memorial National Historic Site in St. Louis, Mo.

The committee was established pursuant to Public Law 91-383 to provide for free exchange of ideas between the National Park Service and the public, and to facilitate the solicitation of advice or other counsel from the public on programs and problems pertinent to the Midwest Region of the National Park Service.

The members of the Advisory Committee are as follows:

Hon. Robert W. Berrey III (Chairman)
Mr. Wallace C. Dayton
Mr. John J. Franke, Jr.
Mr. Fred D. Hartley
Mr. William L. Lieber
Mr. Erwin D. Sias

The committee will meet in the Explorer Room of the Visitor's Center beneath the Gateway Arch at Jefferson National Expansion Memorial. The Thursday session will begin at 1:30 p.m. (CDT) and the Friday meeting at 8:30 a.m. (CDT). The committee will conduct a forum and hear case histories on the impacts of urban parks on neighboring communities.

The meeting is open to the public, and any member of the public may file with the committee a written statement concerning matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Bill W. Dean, Executive Assistant to the Regional Director, Midwest Regional Office at Area Code 402, 221-3481. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the Midwest Region, 1709 Jackson Street, Omaha, Nebraska 68102.

Dated: August 17, 1977.

MERRILL D. BEAL,
Regional Director, Midwest Region.

[FR Doc.77-25100 Filed 8-29-77;8:45 am]

NATIONAL REGISTER OF HISTORIC PLACES

Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 19, 1977. Pursuant to section 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted on or before September 10, 1977.

WILLIAM J. MURTAGH,
Keeper of the National Register.

ALABAMA

Hale County

Greensboro, *Greensboro Historic District (Addition: East Main Street)*, Boundary extension to include E. Main St. properties. HABS.

IOWA

Linn County

Cedar Rapids, *Calder Houses, The*, 1214 and 1216 2nd Ave., SE. HABS.

KENTUCKY

Jefferson County

Louisville, *Calvary Episcopal Church*, 821 S. 4th St.

Kenton County

Covington, *Linden Grove Cemetery*, 13th to 15th between Kavanaugh and Holman Sts.

MARYLAND

Washington County

Hagerstown (Fiddlesburg, Security), *Rockland Farm (Funk Farm; Davis House)*, 728 Antietam Dr.

MICHIGAN

Menominee County

Menominee, *First Street Historic District*, Boundary extension to include NE and NW corner of 1st St. and 10th Ave.

MISSISSIPPI

Lafayette County

Oxford, *Lafayette County Courthouse*, Courthouse Sq.

V42168 AUG 30 77 UMI

Washington County

Greenville, *Wetherbee House*, 509 Washington Ave.

Wilkinson County

Woodville, *Office and Banking House of the West Feliciana Railroad Company*, Depot St.

MISSOURI

Jackson County

Kansas City, *Corrigan, Bernard, Residence (Sutherland, Robert, Residence)*, 1200 W. 55th St.

Kansas City, *Loew's Midland Theater-Midland Building (Midland Office Building)*, 1232–1234 Main St., 1221–1233 Baltimore Ave.

NEBRASKA

Lincoln County

North Platte vicinity, *Scout's Rest Ranch (Buffalo Bill Ranch State Historical Park)*, NW of North Platte.

UTAH

Carbon County

Price, *Price Municipal Building*, Corner of East and Main Sts.

VIRGIN ISLANDS

St. Croix County

Christiansted vicinity, *Estate Judith's Fancy*, 2 mi. NW of Christiansted.

Christiansted vicinity, *Estate Little Princess*, 1.5 mi. NW of Christiansted at Long Reef.

Christiansted vicinity, *Estate St. John (St. Jan Plantage)*, 3 mi. NW of Christiansted below SR Bay.

Christiansted vicinity, *Friedensthal Mission (Friedensthal Moravian Church)*, SW of Christiansted.

Christiansted vicinity, *Richmond Prison, and Detention and Workhouse (Richmond Penitentiary)*, W of Christiansted at Richmond.

Frederiksted vicinity, *Bottler's Bay (Estate Butler Bay)*, 2 mi. N of Frederiksted.

Frederiksted vicinity, *Estate Grove Place (Grove Place Factory)*, 4 mi. E of Frederiksted off Centerline Rd.

Frederiksted vicinity, *Estate Hogansborg (Estate Hogensborg)*, 2.5 mi. E of Frederiksted off Centerline Rd.

Frederiksted vicinity, *Estate Mount Victory (Mount Pleasant)*, 2.5 mi. NE of Frederiksted.

Frederiksted vicinity, *Estate Prosperity*, 1 mi. N of Frederiksted.

St. John County

Cruz Bay vicinity, *Beverhoudt Plantage (Beverhoudtsberg)*, 1.5 mi. E of Cruz Bay off Center Line Rd.

St. John's Island vicinity, *HMS Santa Monica*, East End Rd. at Hansen Bay.

Mary's Point vicinity, *Whistling Cay Customs House*, W of Mary's Point on tip of Whistling Cay.

St. Thomas County

Capella Islands, *Buck Island Lighthouse*, On Buck Island at Capella Bay.

Charlotte Amalie vicinity, *Estate Bordeaux*, W of Charlotte Amalie at Bordeaux Bay.

Charlotte Amalie vicinity, *Estate Brewers Bay*, 2 mi. W of Charlotte Amalie at Brewers Bay.

Charlotte Amalie vicinity, *Estate Neltjeberg*, 3 mi. NW of Charlotte Amalie at North Bay.

Charlotte Amalie vicinity, *Hafensight (Havensight)*, S of Charlotte Amalie at Havensight Point.

Charlotte Amalie vicinity, *Malfolie Great House (Estate Mafolie)*, N of Charlotte Amalie at Lee Hill.

Charlotte Amalie vicinity, *Niesky (Nisky Moravian Mission; Estate Nisky)*, 1.5 mi. W of Charlotte Amalie off Harwood Hwy.

Charlotte Amalie vicinity, *Northern Hassel Island Historic District (Orkanshullet, Hurricanehole)*, Hassel Island.

Charlotte Amalie vicinity, *Perseverance*, 4.5 mi. W of Charlotte Amalie.

Charlotte Amalie vicinity, *Venus Hill (Mafolie Observatory; Venus Pillar)*, N of Charlotte Amalie at Lee Hill.

VIRGINIA

Albemarle County

Keene vicinity, *Plain Dealing*, E of Keene off VA 712. HABS.

Botetourt County

Buchanan, *Wilson Warehouse (Community House)*, N corner of Lower and Washington Sts. HABS.

Charles City

Charles City vicinity, *Woodburn (Woodbourne)*, 1.7 mi. NW of jct of VA 5 and VA 618. HABS.

Falls Church

Falls Church, *Birch House*, 312 E. Broad St.

Grayson County

Independence, *Grayson County Courthouse*, NE corner of U.S. 21/221 and U.S. 58 (Main St.). HABS.

Mecklenburg County

Baskerville vicinity, *Eureka*, SE of Baskerville between U.S. 1 and VA 709. HABS.

New Kent County

Providence Forge vicinity, *Olivet Presbyterian Church*, 2.7 mi. NW of Providence Forge on VA 618.

Northampton County

Wardtown vicinity, *Grapeland*, N of Wardtown. HABS.

Petersburg

Petersburg, *Bowers, William H., House (McGee's Drug Store)*, 254 N. Sycamore St. HABS.

Rockbridge County

Lexington vicinity, *Church Hill (Timber Ridge Plantation)*, 6.5 mi. NE of Lexington off U.S. 11 at I 64/81. HABS.

Surry County

Surry vicinity, *Warren House (Enos House)*, SW of Surry.

Wythe County

Wytheville vicinity, *St. John's Lutheran Church and Cemetery*, NW of Wytheville at US 21/52 and I 81. HABS.

[FR Doc.77–25073 Filed 8–29–77;8:45 am]

Office of Hearings and Appeals

[Docket No. 77–240]

BAILEY MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Bailey Mining Company, Drawer A, Bypro, Kentucky 41612, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its Mine No. 8, located in Floyd County, Kentucky.

The substance of Petitioner's statement is as follows:

1. The coal seam height at this mine is 38 inches, both the floor and roof are uneven thus causing the height to vary considerably. The electric face equipment averages in height as follows:

Cutting machine	34 in
Roof bolter	28 in
Coal drill	26 in
Scoop	34 in

2. Cable boards are used, further decreasing mining heights. Headers up to 6 inches are also used. The face equipment is approximately 6 years old and was never designed for cabs or canopies. In the No. 2 Elkhorn seam of coal which Petitioner is presently mining, Petitioner believes that if it were possible to adapt cabs or canopies to this equipment it would create an even greater hazard and result in a cramped and uncomfortable position for the operators. The technology for such compliance at this time is not available.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 29, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

August 19, 1977.

[FR Doc.77–25131 Filed 8–29–77;8:45 am]

[Docket No. M 77–2491]

BLUE DIAMOND MINING, INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Blue Diamond Mining, Incorporated, Leatherwood, Ky. 41756, has filed a petition to modify the application of 30 CFR 75.155(b) (1), qualified hoisting engineer; qualifications, to its Royal Diamond Mine, located in Leslie County, Ky.

The substance of Petitioner's statement is as follows:

1. Petitioner's mine is in the development stage and there is a current unavailability of experienced hoistmen in the geographical area of the mine.

2. Petitioner's employees will complete a special training program to train them in hoist operation and safety. This training program includes no less than 30 days instruction under the direct supervision of certified and qualified hoistmen.

3. Petitioner feels that those employees at the mine who will complete the training program and have been certified as hoistmen by the State of Kentucky will be capable of responsibility and safety performing the duties of hoistmen in a manner that will at all times guarantee

the same or greater safety of the miners as afforded by the standards.

4. Petitioner respectfully requests modification of the application of 30 CFR 75.155(b) (1) at the Royal Diamond Mine by waiving the requirement that a qualified hoistman have at least 1 year experience and substituting therefore the requirement that a qualified hoistman must complete a special training program and is a certified hoistman in the State of Kentucky to perform the duties of a qualified hoistman.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 29, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Apcpals.

AUGUST 19, 1977.

[FR Doc.77–25122 Filed 8–29–77;8:45 am]

[Docket No. M 77–250]

BLUE DIAMOND MINING, INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Blue Diamond Mining, Incorporated, Leatherwood, Ky. 41756, has filed a petition to modify the application of 30 CFR 77.105(a) (1), qualified hoistmen; slope or shaft sinking operation, qualifications, to its Royal Diamon Mine, located in Leslie County, Ky.

The substance of Petitioner's statement is as follows:

1. Petitioner's mine is in the development stage and there is a current unavailability of experienced hoistmen in the geographical area of the mine.

2. Petitioner's employees will complete a special training program to train them in hoist operation and safety. This training program includes no less than 30 days instruction under the direct supervision of certified and qualified hoistmen.

3. Petitioner feels that those employees at the mine who will complete the training program and have been certified as hoistmen by the State of Kentucky will be capable of responsibly and safely performing the duties of hoistmen in a manner that will at all times guarantee the same or greater safety of the miners as afforded by the standards.

4. Petitioner respectfully requests modification of the application of 30 CFR 77.105(a) (1) at the Royal Diamond Mine by waiving the requirement that a qualified hoistman have at least 1 year experience and substituting therefore the requirement that a qualified hoistman must complete a special training program and is a certified hoistman in the State of Kentucky to perform the duties of a qualified hoistmen.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 29, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

AUGUST 19, 1977.

[FR Doc.77–25123 Filed 8–29–77;8:45 am]

[Docket No. 77–241]

CLINCHFIELD COAL CO.

Petition for Modification of Appliction of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Clinchfield Coal Company, Dante, Va. 24237, has filed a petition to modify the application of 30 CFR 75.-1100–2(b), quantity and location of firefighting equipment, to its Moss No. 3 Mine Portal D, located in Dickenson County, Va.

The substance of Petitioner's statement is as follows:

1. The mine is opened by multiple drift entries into the Thick Tiller coalbed. One hundred and fifty men are employed on three shifts a day to produce an average of 1,200 tons of coal from four mechanized working sections.

2. In June 1975, new openings, referred to as 10 East located about one air mile from the main portals, were made. Subsequent to the 10 East openings, the main portals were abandoned and all material mined is now conveyed by 48-inch belts through the 10 East portal. The main ventilating fan is located at the 10 East openings and the operations of the main portal fan will soon be discontinued.

3. From the 10 East opening, the mined material is conveyed overland by a series of 48-inch belts to the 425-foot tunnel, a distance of about 13,300 feet. The belt conveyor continues through the tunnel and again overland to a railroad car loading facility. From this point, the material is transported over rail to a central preparation plant at South Clinchfield, Va.

4. The tunnel was made in the coalbed across a set to entries called 1 Left off 1 East. This set of entries was developed several years ago in a narrow ridge that jutted from the main coal boundry. Installation of a belt conveyor through the narrow ridge was the only logical means of connecting the two overland belt systems which provided a continual conveyance system from the 10 East portal to the railroad facilities.

5. The height of the coalbed in the tunnel averages 12 feet with an average width of 14 feet. An independent ventilating system will be installed and concrete block brattices will isolate the tunnel from the rest of the mine. The tunnel is more than 3 miles from any active underground working section and projections indicate that such workings will never be closer (see attached mine map of Moss No. 3 Mine Portal D[1]).

6. The Petitioner seeks modification of 30 CFR 75.1100–2(b) as it applies to the installation of a water pipe system with outlets and firehose along the 48-inch belt conveyor in the 425-foot tunnel. To comply with the provision, the Petitioner would be required to install and maintain a lengthy surface water pipe system to provide water to the tunnel, and to maintain this system would be very difficult during the winter months (note—the ground froze to a depth of 15 inches during January 1977).

7. In lieu of section 75.1100-(b) provisions, the Petitioner proposes the following alternate proposal which will at all times afford the same measure of protection for the miners:

A. Ten pound all-purpose fire extinguishers will be maintained and located as follows:

(1) One fire extinguisher at each entrance to the tunnel.

(2) One fire extinguisher at 100-foot intervals in the tunnel.

B. In the event any type of maintenance work is done in the tunnel the belt conveyor will be stopped and the conveyor control line (only power circuit in the tunnel) will be deenergized.

8. The map of Moss No. 3 Mine Portal D referred heretofore in the petition is on a 1,000 feet=1-inch scale and delincates the tunnel, active working section, 10 East Portal and the abandoned main portal. The map also shows the belt conveyance route from 10 East to the tunnel.[1]

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 29, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

AUGUST 19, 1977.

[1] The enclosed map is available for inspection at the address listed in the last paragraph of this notice.

[FR Doc.77–25132 Filed 8–29–77;8:45 am]

[Docket No. M 77–229]

CONRAD COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section

V 42 168 AUG 30 77 UMI

301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Conrad Coal Company, Weeksbury, Kentucky 41667, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its Mine No. 1, located in Floyd County, Kentucky.

The substance of Petitioner's statement is as follows:

1. The coal seam height at this mine is 38 inches. Both the mine floor and roof are uneven thus causing the height to vary considerably. The electric face equipment averages in height as follows:

Cutting machine	34 in.
Roof bolter	28 in.
Coal drill	26 in.
Scoop	34 in.

2. Cable boards are used. This decreases mining heights. Headers up to 6 inches are also used. The face equipment is approximately 6 years old and was never designed for cabs or canopies. In the No. 2 Elkhorn seam of coal which Petitioner is presently mining, Petitioner believes that if it were possible to adapt cabs or canopies to this equipment Petitioner would be creating an even greater hazard. An added problem is the cramped and uncomfortable position which the operator must assume. In Petitioner's opinion, the technology for such compliance is not available at the present time.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 29, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

AUGUST 19, 1977.

[FR Doc.77-25133 Filed 8-29-77;8:45 am]

[Docket No. M 77-242]

COAL RESOURCES CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Coal Resources Corporation, Coalgood, Kentucky 40818, has filed a petition to modify the application of 30 CFR 75.1710-1(5), cabs or canopies, to its Belmon Division Number Three Mine, located in Harlan County, Ky.

The substance of Petitioner's statement is as follows:

1. Petitioner's mine is located in the Wallins seam. The projected life of the mine is greater than 1 year.

2. The average thickness of the Wallings seam is 43 inches. The height on the present working section is 40 inches. The physical limitations of the coalbed are undulating bottom and varying seam height.

3. Petitioner's equipment consists of the following: 265HH Lee Norse continuous miners, TD31 and TD34 Lee Norse roof drills, 5L and 6L FMC Galis shuttle cars, AR5 and AR75 Elkhorn and S and S scoops. The equipment is less than 12 months old and equipped with the latest safety features.

4. The entries are normally driven on 70-foot centers with an entry width of 20 feet. The bolt spacings are on 4 to 5 feet centers using 5 bolts across the entry. The roof and rib conditions are good, and, since the beginning of their operation, the mine has not had an injury due to roof or rib falls.

5. A request was made by the employees of the mines to evaluate the cabs and canopies and to determine if they could be used safely. The following are the findings of the Safety Department of Coal Resources Corporation employees of the mine, and management.

(a) The present roof control used at the mines would be seriously weakened if cabs are used due to the uneven floor of the mine. The dislodgment of roof bolts by the canopies are frequent.

(b) The vision of the equipment operator is seriously impaired and could cause serious injury to fellow workmen or the operator. Some of the hazards are as follows:

(1) The section repairmen, ventilation personnel, miner helper, and general laborer are endangered with the movement of face equipment.

(2) The operator of equipment cannot effectively evaluate his roof due to the obstruction of a canopy or cab.

(3) The operator must place a portion of his body out of the deck in order to see.

(4) The impaired vision of the operator creates a hazard for other mobile face equipment.

(c) The cramped position the operator must arrange himself in makes it virtually impossible to operate the equipment safely.

(d) Undulating bottom is often encountered and makes it virtually impossible to operate the equipment on the section.

(6) The plans and devices listed below are in Petitioner's opinion adequate to maintain as high a safety factor as cabs or canopies.

(7) The mining method employed at the mines would be of a nature to insure as adequate room control as possible.

(8) The use of effective roof and rib control measures will be installed to prevent roof falls.

(9) A training program to inform the section employees of proper roof control techniques and safe operation of equipment will be initiated.

(10) Since the beginning of operation of these mines in 1976 there has been no serious or fatal injury that was related to a fall or roof or rib.

(11) In the opinion of the employees and management of the mine, the installation of cabs or canopies would seriously detract from safety and place the workman in a hazardous condition. Petitioner feels that this mine does not warrant cabs or canopies because of the past experience of the roof and rib conditions and the safety record maintained in connection with roof related injuries.

(12) Petitioner feels that the present technology used in the installation and design of cabs or canopies is inadequate to use in low seams.

(13) The first concern of Coal Resources Corporation is a safe working environment for its employees, and in this thought we urgently ask your attention to this request for modification.

(14) The personnel employed by the Belmon Division are not represented by any labor organization.

(15) This petition will be posted at the mine sites and discussed with mine personnel.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 29, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 19, 1977.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

[FR Doc.77-25124 Filed 8-29-77;8:45 am]

[Docket No. 77-244]

ISLAND CREEK COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Island Creek Coal Co., P.O. Box 11430, Lexington, Ky. 40511, has filed a petition to modify the application of 30 CFR 75.507, power connection points, to its Hamilton No. 1 Mine, located in Union County, Ky.

The substance of Petitioner's statement is as follows:

1. Pursuant to the plans set forth in the mine map depicting certain mining projections at Petitioner's mine, which map is annexed hereto as Exhibit A,[1] Petitioner desires to drive two, new and specially designed entries through an existing coal barrier in the subject mine. This action is necessary to maintain and upgrade the ventilation and belt haulage systems in the northern portion of the mine. The completion of this project will result in a greatly improved mine ventilation system and, consequently, will result in greater protection and safety for the miners employed in said mine.

2. Petitioner requests that the application of the Act and regulations be modified as they pertain to the project described and depicted in Exhibit A, in order that Petitioner may develop these entries in the manner set forth therein.

3. The alternative method proposed for developing these entries is contrary to the standard mining practices in the subject mine; however, Petitioner will accomplish such development with adequate safeguards to insure the continued protection of the health and safety of the miners pursuant to mining practices which will at all times guarantee the same, or a greater degree of protection as afforded by the standards set forth in the Act and regulations.

4. Petitioner states that it has discussed in detail the proposed project with the proper officials of the Kentucky Department of Mines and Minerals, and that it has obtained the Department's approval of this project with certain stipulations and requirements.

5. Petitioner states that it will take any and all other precautions which may lawfully and reasonably be prescribed by MESA to protect the health and safety of its employees in connection with this project.

REQUESTS FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 29, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

AUGUST 19, 1977.

[FR Doc.77-25125 Filed 8-29-77;8:45 am]

[1] The enclosed map is available for inspection at the address listed in the last paragraph of this notice.

[Docket No. 77-245]

ISLAND CREEK COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Island Creek Coal Co., P.O. Box 11430, Lexington, Ky. 40511, has filed a petition to modify the application of 30 CFR 75.327-1, velocity of air, to its Hamilton No. 1 Mine, located in Union County, Ky.

The substance of Petitioner's statement is as follows:

1. Pursuant to the plans set forth in the mine map depicting certain mining projections at Petitioner's mine, which map is annexed hereto as Exhibit A,[1] Petitioner desires to drive two, new and specially designed entries through an existing coal barrier in the subject mine. This action is necessary to maintain and upgrade the ventilation and belt haulage systems in the northern portion of the mine. The completion of this project will result in a greatly improved mine ventilation system and, consequently, will result in greater protection and safety for the miners employed in said mine.

2. Petioner requests that the application of the Act and regulations be modified as they pertain to the project described and depicted in Exhibit A, in order that Petitioner may develop these entries in the manner set forth therein.

3. The alternative method proposed for developing these entries is contrary to the standard mining practices in the subject mine; however, Petitioner will accomplish such development with adequate safeguards to insure the continued protection of the health and safety of the miners pursuant to mining practices which will at all times guarantee the same, or a greater degree of protection as afforded by the standards set forth in the Act and regulations.

4. Petitioner states that it has discussed in detail the proposed project with the proper officials of the Kentucky Department of Mines and Minerals, and that it has obtained the Department's approval of this project with certain stipulations and requirements.

5. Petitioner states that it will take any and all other precautions which may lawfully and reasonably be prescribed by MESA to protect the health and safety of its employees in connection with this project.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 29, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

AUGUST 19, 1977.

[FR Doc.77-25126 Filed 8-29-77;8:45 am]

[Docket No. 77-246]

ISLAND CREEK COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Island Creek Coal Co., P.O. Box 11430, Lexington, Ky. 40511, has filed a petition to modify the application of 30 CFR 75.327, aircourses and trolley haulage systems, to its Hamilton No. 1 Mine, located in Union County, Ky.

The substance of Petitioner's statement is as follows:

1. Pursuant to the plans set forth in the mine map depicting certain mining projections at Petitioner's mine, which map is annexed hereto as Exhibit A,[1] Petitioner desires to drive two, new and specially designed entries through an existing coal barrier in the subject mine. This action is necessary to maintain and upgrade the ventilation and belt haulage systems in the northern portion of the mine. The completion of this project will result in a greatly improved mine ventilation system and, consequently, will result in greater protection and safety for the miners employed in said mine.

2. Petitioner requests that the application of the Act and regulations be modified as they pertain to the project described and depicted in Exhibit A, in order that Petitioner may develop these entries in the manner set forth therein.

3. The alternative method proposed for developing these entries is contrary to the standard mining practices in the subject mine; however, Petitioner will accomplish such development with adequate safeguards to insure the continued protection of the health and safety of the miners pursuant to mining practices which will at all times guarantee the same, or a greater degree of protection as afforded by the standards set forth in the Act and regulations.

4. Petitioner states that it has discussed in detail the proposed project with the proper officials of the Kentucky Department of Mines and Minerals, and that it has obtained the Department's approval of this project with certain stipulations and requirements.

5. Petitioner states that it will take any and all other precautions which may lawfully and reasonably be prescribed by MESA to protect the health and safety of its employees in connection with this project.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 29, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

AUGUST 19, 1977.

[FR Doc.77-25127 Filed 8-29-77;8:45 am]

[Docket No. 77-247]

ISLAND CREEK COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of sections 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c)

[1] The enclosed map is available for inspection at the address listed in the last paragraph of this notice.

V 42 168 AUG 30 77 UMI

(1970), Island Creek Coal Co., P.O. Box 11430, Lexington, Ky. 40511, has filed a petition to modify the application of 30 CFR 75.326, aircourses and belt haulage entries, to its Hamilton No. 1 Mine, located in Union County, Ky.

The substance of Petitioner's statement is as follows:

1. Pursuant to the plans set forth in the mine map depicting certain mining projections at Petitioner's mine, which map is annexed hereto as Exhibit A,[1] Petitioner desires to drive two, new and specially designed entries through an existing coal barrier in the subject mine. This action is necessary to maintain and upgrade the ventilation and belt haulage systems in the northern portion of the mine. The completion of this project will result in a greatly improved mine ventilation system and, consequently, will result in greater protection and safety for the miners employed in said mine.

2. Petitioner requests that the application of the Act and regulations be modified as they pertain to the project described and depicted in Exhibit A, in order that Petitioner may develop these entries in the manner set forth therein.

3. The alternative method proposed for developing these entries is contrary to the standard mining practices in the subject mine; however, Petitioner will accomplish such development with adequate safeguards to insure the continued protection of the health and safety of the miners pursuant to mining practices which will at all times guarantee the same, or a greater degree of protection as afforded by the standards set forth in the Act and regulations.

4. Petitioner states that it has discussed in detail the proposed project with the proper officials of the Kentucky Department of Mines and Minerals, and that it has obtained the Department's approval of this project with certain stipulations and requirements.

5. Petitioner states that it will take any and all other precautions which may lawfully and reasonably be prescribed by MESA to protect the health and safety of its employees in connection with this project.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 29, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

AUGUST 19, 1977.

[1] The enclosed map is available for inspection at the address listed in the last paragraph of this notice.

[FR Doc.77-25128 Filed 8-29-77;8:45 am]

[Docket No. M 77-227]

JOHNSON MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Johnson Mining Co., Route No. 1, Bidwell, Ohio 45614, has filed a petition to modify the application of 30 CFR 75.1710–1, cabs or canopies, to its Johnson Mine, located in Jackson County, Ohio.

The substance of Petitioner's statement is as follows:

1. Petitioner requests the modification of the application of the mandatory safety standard 30 CFR 75.1710–1(a) with respect to the subject mines for the reason that the application of such standard will result in a diminution of safety to the miners.

2. Petitioner asserts that technology does not presently exist to enable it to equip its self-propelled electric face equipment with suitable canopies to protect and provide for the safety of the operators of said equipment. Petitioner further asserts that based upon its experience with presently available canopies, the use of such canopies results in diminution of safety to the miners in said mines.

3. The average mining height for the Alice Mine is 46 inches, varying from 36 inches to 55 inches. The coal seam also undulates and rolls resulting in ascending and descending grades that further limit and prevent the effective use of cabs or canopies.

4. Operators of face equipment, including shuttle car operators, are under MESA's approved plans for permanently and/or temporarily supported roof at all times. Such roof support is deemed satisfactory for all other personnel in the mines including the helpers on self-propelled electric face equipment and these helpers and other personnel freely move about the mines under the protection of approved roof support.

5. Petitioner's experience indicates the application of the mandatory standard will result in a diminution of safety to miners for the following reasons:

a. Several instances have occurred where canopies became edged against the roof, exposing employees who are not provided a canopy. There have been several near misses as a result of poor vision.

b. Employees strongly object to operating machinery so equipped and allege a diminution of safety resulting from impaired vision and being required to operate in cramped positions cause the following hazards and unsafe practices:

(1) Miners attempt to operate the machinery while standing between it and the rib, thus incurring a risk of being crushed should the machine slue.

(2) The combination of impaired vision and cramped positions cause the operator to expose his body and appendages, such as head and feet, to the risk of being crushed between the machine and rib.

(3) Ingress and egress from the cab is limited and effectively prevents quick escape when mining conditions warrant such escape.

(4) Impaired vision is given as a major cause by machine operators for the damaging or severing of power cables by running over them.

(5) Impaired vision subjects the operator and fellow employees to increased risks of injuries because the operator cannot adequately see other employees and/or equipment.

6. At present, Petitioner is unaware of any proposed commercially manufactured canopy which could be installed which would provide the same degree of safety to miners as the complete removal of the canopy would provide.

7. Hence, the alternate method Petitioner proposes to establish, in lieu of the mandatory standard, is the elimination of canopies on its face machinery, including shuttle cars, until such time as technology establishes beyond doubt that canopies can be safely used in Petitioner's mine, and have sufficient ground clearance to penetrate the Clarion 4–A seam of coal or if the mining height shall be in excess of 56 inches, that Petitioner would voluntarily install canopies.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 29, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

AUGUST 19, 1977.

[FR Doc.77-25137 Filed 8-29-77;8:45 am]

[Docket No. M 77-231]

K R & K COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), K R & K Coal Co., c/o John Kroh, 120 Main Street, Jollett, Pa. 17981, has filed a petition to modify the application of 30 CFR 75.301, air quality, quantity, and velocity, to its K R K Slope Mine, located in Schuylkill County, Ky.

The substance of Petitioner's statement is as follows:

1. Petitioner requests that section 75.-301 be modified for this anthracite mine to require, in part, that the minimum quantity of air reaching each working face shall be 1,500 cubic feet a minute, that the minimum quantity of air reaching the last open crosscut in any pair or set of developing entries shall be 5,000 cubic feet a minute, and that the minimum quantity of air reaching the intake end of a pillar line shall be 5,000 cubic feet a minute and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

2. This petition is submitted for the following reasons:

A. Air sample analysis history reveals that harmful quantities of methane are nonexistent in the mine.

B. Ignition, explosion, and mine fire history are nonexistent for the mine.

C. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

D. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

E. Extremely high velocities in small cross sectional areas of airways and manways required in friable anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

F. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines.

G. Difficulty in keeping miners on the job and securing additional mine help is due primarily to the conditions cited.

3. Finally, Petitioner avers that a decision in its favor will in no way provide less than the same measure of protection afforded the miners under the existing standard.

4. A copy of this petition will be posted at the mine by the operator.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 29, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

AUGUST 19, 1977.

[FR Doc 77-25135 Filed 8-29-77;8:45 am]

[Docket No. M 77-233]

L & K COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), L & K Coal Co., 14 West Main Street, Good Spring, Pa. 17981, has filed a petition to modify the application of 30 CFR 75.301, air quality, quantity, and velocity, to its Mammoth Slope Mine, located in Schuylkill County, Pa.

The substance of Petitioner's statement is as follows:

1. It is requested that section 75.301 be modified for this anthracite mine to require, in part, that the minimum quantity of air reaching each working face shall be 1,500 cubic feet a minute, that the minimum quantity of air reaching the last open crosscut in any pair or set of developing entries shall be 5,000 cubic feet a minute, and that the minimum quantity of air reaching the intake end of a pillar line shall be 5,000 cubic feet a minute and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

2. This petition requesting modification to 30 CFR 75.301 is submitted for the following reasons:

A. Air sample analysis history reveals that harmful quantities of methane are nonexistent in the mine.

B. Ignition, explosion, and mine fire history are nonexistent for the mine.

C. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

D. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

E. Extremely high velocities in small cross sectional areas of airways and manways required in friable anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

F. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines.

G. Difficulty in keeping miners on the job and securing additional mine help is due primarily to the conditions cited.

3. Finally, the Petitioner avers that a decision in its favor will in no way provide less than the same measure of protection afforded the miners under the existing standard.

4. A copy of this petition will be posted at the mine by the operator.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 29, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

August 19, 1977.

[FR Doc.77-25136 Filed 8-29-77;8:45 am]

[Docket No. M77-248]

LITTLE HACKNEY CREEK COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Little Hackney Creek Coal Co., Mouthard, Ky. 41548, has filed a petition to modify the application of 30 CFR 75.1710–1, cabs or canopies, to its Mine No. 50, located in Pike County, Ky.

The substance of Petitioner's statement is as follows:

1. Petitioner's mine has one working section in the Split-Eagle Seam. The coal is 32 to 42 inches in height and scoops and roofs bolters are used.

2. It would be more dangerous to use a cab or canopy because of the poor vision and the cramped position of the operator in the low coal.

3. A copy of this petition will be posted at the mine.

REQUEST FOR HEARINGS OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 29, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

AUGUST 19, 1977.

[FR Doc.77-25129 Filed 8-29-77;8:45 am]

[Docket No. M 77-219]

ORCHARD COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Orchard Coal Co., c/o Franklin Lucas, R.D. No. 3, Pine Grove, Pa. 17963, has filed a petition to modify the application of 30 CFR 75.301, air quality, quantity, and velocity, to its Orchard Slope Mine, located in Schuylkill County, Ky.

The substance of Petitioner's statement is as follows:

1. Petitioner requests that section 75.301 be modified for this anthracite mine to require, in part, that the minimum quantity of air reaching each working face shall be 1,500 cubic feet a minute, that the minimum quantity of air reaching the last open crosscut in any pair or set of developing entries shall be 5,000 cubic feet a minute, and that the minimum quantity of air reaching the intake end of a pillar line shall be 5,000 cubic feet a minute and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

2. This petition is submitted for the following reason:

A. Air sample analysis history reveals that harmful quantities of methane are nonexistent in the mine.

B. Ignition, explosion, and mine fire history are nonexistent for the mine.

V 42 168 AUG 30 77 UMI

C. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

D. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

E. Extremely high velocities in small cross sectional areas of airways and manways required in friable anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

F. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines.

G. Difficulty in keeping miners on the job and securing additional mine help is due primarily to the conditions cited.

3. Finally, Petitioner avers that a decision in its favor will in no way provide less than the same measure of protection afforded the miners under the existing standard.

4. A copy of this petition will be posted at the mine by the operator.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 29, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

AUGUST 19, 1977.

[FR Doc.77-25137 Filed 8-29-77;8:45 am]

[Docket Nos. M 77-184, M 77-166, M 77-105, M 77-150, M 77-151]

PONTIKI COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Pontiki Coal Corp., Box 57, Lovely, Ky. 41231, has filed additional information for its petitions to modify the application of 30 CFR 1710, cabs or canopies, electrical face equipment, to its No. 1 and No. 2 Mines located in Martin County, Ky.

The substance of Petitioner's statement is as follows:

1. The two Pontiki Mines are located in the Pond Creek Coal Seam in which the height is very irregular. According to the drilling results, it will retain this pattern throughout the lease. At the present time in the Pontiki No. 1 Mine there is an active section with a height of 34 to 38 inches. On the other section there is a height of 56 to 60 inches. In a geological survey, professional paper 507 by Huddle and Englund, it is stated that only 30 percent of the Pond Creek Seam is in the thickness category of more than 42 inches. Taking into consideration the additional roof support that it is necessary to use at this time, the height would be lessened even more.

2. Presently they have been able to maintain the canopies on the miners, on the roof bolters over the drill pot, and on the coal drills. The problem would be on the other equipment when lower coal is encountered. In order to remove the canopies the roof would have to be shot down. Variations have been encountered in the Pond Creek Seam with 40 inches on one side of a section and 60 inches within 150 feet of the 40-inch height.

3. At this time a map is being prepared of the lease in the Pond Creek Coal Seam. It will show the core drillings and the irregularity of the coal which the operator feels will have a great bearing on their situation. They request that the maps also be entered into the petition files.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 29, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Acting Director, Office of Hearings and Appeals.

AUGUST 19, 1977.

[FR Doc.77-25138 Filed 8-29-77;8:45 am]

[Docket No. M 77-181]

RANGER FUEL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Ranger Fuel Corp., % Robert C. Kota, Attorney, Lebanon, Va. 24266, has filed a petition to modify the application of 30 CFR 75.326, aircourses and belt haulage entries, to its Beckley No. 1 Mine, located in Wyoming County, W. Va.

The substance of Petitioner's statement was published in the FEDERAL REGISTER on July 19, 1977.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 29, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

AUGUST 19, 1977.

[FR Doc.77-25130 Filed 8-29-77;8:45 am]

[Docket No. M 77-237]

S & N COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), S & N Coal Co., R.D. No. 2, Box 504–A, Pottsville, Pa. 17901, has filed a petition to modify the application of 30 CFR 75.301, air quality, quantity, and velocity, to its Skidmore Slope Mine, located in Schuylkill County, Pa.

The substance of Petitioner's statement is as follows:

1. It is requested that section 75.301 be modified for this anthracite mine to require, in part, that the minimum quantity of air reaching each working face shall be 1,500 cubic feet a minute, that the minimum quantity of air reaching the last open crosscut in any pair or set of developing entries shall be 5,000 cubic feet a minute, and that the minimum quantity of air reaching the intake end of a pillar line shall be 5,000 cubic feet a minute and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

2. This petition requesting modification to 30 CFR 75.301 is submitted for the following reasons:

A. Air sample analysis history reveals that harmful quantities of methane are nonexistent in the mine.

B. Ignition, explosion, and mine fire history are nonexistent for the mine.

C. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

D. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

E. Extremely high velocities in small cross sectional areas of airways and manways required in friable anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

F. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines.

G. Difficulty in keeping miners on the job and securing additional mine help is due primarily to the conditions cited.

3. Finally, the Petitioner avers that a decision in its favor will in no way provide less than the same measure of protection afforded the miners under the existing standard.

4. A copy of this petition will be posted at the mine by the operator.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before September 29, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

AUGUST 19, 1977.

[FR Doc.77-25139 Filed 8-29-77;8:45 am]

Office of the Secretary

[INT FES 77-34]

CORONADO PROJECT

Availability of the Final Environmental Statement

Pursuant to the requirements of Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 7332), the Department of the Interior has prepared a final environmental statement for the Coronado Project.

The environmental statement desribes the environmental impacts associated with the Salt River Project's proposed electrical generating plant at St. Johns, Ariz., and associated facilities. The purpose of the project is to provide for the future electrical energy needs of the Phoenix metropolitan area in Maricopa County and for the increased electrical demands of the "Eastern Mining Area." Major facilities consist of a 1050-MW coal-fired electric generating station, associated 500-kV and 230-kV transmission lines, a railroad spur for carrying coal, well fields and pipelines to transport cooling water, service and process to the generating station, and a limestone source to provide limestone to the Air Quality Control System. The transmission lines consist of: one 500-kV line from the plant southwest 240 miles to the Kyrene Substation south of Phoenix which will share a common corridor with the Cholla-Saguaro 500-kV line through the Sitgreaves and Tonoto National Forests; a 76-mile 500-kV backup transmission line proposed to run from the Coronado Station to the Arizona Public Service Cholla Project near Holbrook, Ariz.; and a Silver King Substation 60 miles east of Phoenix proposed to distribute power along two 230-kV lines—one going to Goldfield Substation just east of Phoenix, and the other going to the Hayden Substation in Hayden, Ariz.

Copies of the final environmental impact statement are available for inspection at the following locations:

Office of the Assistant to the Commissioner—Ecology, Bureau of Reclamation, Room 7622, Department of the Interior, Washington, D.C. 20240. Telephone 202–343–4991, FTS 343–4991.

Division of Engineering Support, Technical Services and Publications Branch, E&R Center, Denver Federal Center, Denver, Colo. 80225. Telephone 303–234–3006, FTS 234–3006.

Office of the Regional Director, Lower Colorado Region, Bureau of Reclamation, P.O. Box 427, Boulder City, Nev. 89005. Telephone 702–293–8464, FTS 598–7464.

Single copies of the final statement may be obtained upon request to the Commissioner of Reclamation or the Regional Director. In addition, copies may be purchased from the Document Service, Environmental Law Institute, 1346 Connecticut Avenue NW., Washington, D.C. 20036. Please refer to the statement number above.

Dated: August 25, 1977.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc.77-25082 Filed 8-29-77;8:45 am]

[Order No. 3008]

GEOTHERMAL RESOURCES

Research and Development Operations on Unleased Lands

SUBJECT: Geothermal resources research and development operations conducted on unleased lands under the jurisdiction of the Secretary of the Interior.

SECTION 1. *Purpose.* The purpose of this Order is to insure that geothermal resources research and development operations, carried out pursuant to research, development, and technology demonstration programs on unleased lands under the jurisdiction of the Secretary of the Interior, are conducted in accordance with the same operational requirements as are applicable to geothermal resources operations conducted on lands leased pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001–1025).

SEC. 2. *Compliance with Operating Regulations.* Bureaus and Offices within the Department of the Interior having jurisdiction or control over unleased lands, as a condition of permitting entry on said lands by individuals, public or private agencies, institutions or organizations for the purpose of conducting any geothermal resources research and development program, shall require that all drilling, well testing, production or related activities be conducted in accordance with the provisions of Title 30 CFR 270 and the Geothermal Resources Operational (GRO) Orders issued pursuant to said regulations. As a further condition of permitting entry on unleased land for these purposes, the authorizing Bureau or Office shall require that the project area and all wells and facilities thereon be open at all reasonable times for inspection by appropriate officials of the permitting Bureau or Office who are responsible for enforcing compliance with Title 30 CFR 270 and the GRO Orders.

Bureaus and Offices within the Department who sponsor or conduct geothermal resources research and development projects on lands under their control or jurisdiction shall likewise insure that those operations are conducted in accordance with Title 30 CFR 270 and the GRO Orders.

SEC. 3. *Cooperation.* Bureaus and Offices within this Department, as a further condition of permitting entry on unleased lands under their control or jurisdiction for the purpose of conducting geothermal resources research and development projects, shall require the permittee to furnish the Director, Geological Survey, or his designated representative, a copy of all notices, reports, well logs, maps, plats, temperature surveys, geophysical and geological data, records, and all other information collected as a result of the activities conducted. Bureaus and Offices within the Department are likewise to furnish the Director, Geological Survey, with a copy of all such notices, reports, technical data, and information which are collected as a result of geothermal resources research and development projects which are sponsored or conducted by said Bureaus and Offices.

SEC. 4. *Information and Advice.* Except as specifically prohibited by statute or regulation, authorized employees of the Geological Survey may provide technical advice, and shall make available to appropriate individuals, agencies, institutions, or organizations, who are permitted entry in conformity with this Order, such records and information as may be necessary or appropriate for the most efficient performance of those activities and operations.

SEC. 5. *Fiscal.* Any necessary fiscal arrangements and personnel adjustments may be effected to accomplish the purposes of this Order.

SEC. 6. *Effective Date.* This Order is effective immediately and shall remain in effect until it is amended, superseded, or revoked.

Dated: August 19, 1977.

JAMES A. JOSEPH,
Acting Secretary.

[FR Doc.77-25061 Filed 8-29-77;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

IMPORTATION OF CONTROLLED SUBSTANCES

Application

Pursuant to Section 1008 of the Controlled Substance Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore in accordance with Section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on June 15, 1977, Research Technology Branch, Division of Research, National Institute on Drug Abuse, DHEW, 11400 Rockville Pike, Rockville, Md.

V42168 AUG 30 77 UMI

20852, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below to be imported for research purposes only:

Drug:	Schedule
Tetrahydrocannabinols	I
Marihuana	I
Lysergic acid diethylamide	I
Etonitozene	I
Psilocybin	I
Psilocyn	I
5-methoxy - 3,4 - methylenedioxy amphetamine	I
3,4,5-trimethoxy amphetamine	I
3,4-methylenedioxy amphetamine	I
4-bromo-2,5 - dimethoxyamphetamine	I
Dimethyltryptamine	I
Bufotenine	I
2,5 dimethoxyamphetamine	I
4-methyl-2,5-dimethoxy amphetamine	I
4-methoxyamphetamine	I
Buprenorphine	II

As to the basic classes of controlled substances listed above for which application for registration has been made, any other applicant therefor, and any existing bulk manufacturer registered therefor, may file written comments on or objection to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than September 28, 1977.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street NW., Washington, D.C. 20537.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in schedule I or II are and will continue to be required to demonstrate to the Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823 (a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: August 24, 1977.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.77-25243 Filed 8-29-77;8:45 am]

MANUFACTURE OF CONTROLLED SUBSTANCES

Application

Section 303(a)(1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823(a)(1) states:

The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part. In determining the public interest, the following factors shall be considered:

(1) Maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;

Pursuant to Section 1301.43 of Title 21 of the Code of Federal Regulations (CFR), notice is hereby given that on August 3, 1977, Eli Lilly & Co., Tippecanoe Lab., Box 685, Lilly Road, Lafayette, Ind. 47902, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substances listed below:

Drug:	Schedule
Methadone	II
Methadone-intermediate	II

Pursuant to Section 301 of the Controlled Substances Act (21 U.S.C. 821), and in accordance with 21 CFR 1301.43 (a), notice is hereby given that the above firm has made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substances indicated, and any other such person, and any existing registered bulk manufacturer of the above substances may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on the application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than September 28, 1977.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street NW., Washington, D.C. 20537.

Dated: August 24, 1977.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.77-25105 Filed 8-29-77;8:45 am]

Law Enforcement Assistance Administration

NATIONAL ADVISORY COMMITTEE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Meeting Cancellation

The National Advisory Committee for Juvenile Justice and Delinquency Prevention meeting, which was announced in the August 17, 1977 FEDERAL REGISTER and originally scheduled for Wednesday, August 31, 1977, Thursday and Friday, September 1 and 2, 1977, at the Monteleone Hotel, 214 Royale Street, New Orleans, La., has been cancelled.

Dated: August 24, 1977.

JAY A. BROZOST,
Attorney Advisor,
Office of General Counsel.

[FR Doc.77-25102 Filed 8-29-77;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

JOB CORPS

Proposed Job Corps Center at Benton Air Force Base, Red Rock Mountain, Pa.; Determination of Negative Environmental Impact

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice—Finding of Negative Environmental Impact.

SUMMARY: The purpose of this notice is to announce a determination by the Department under the Environmental Policy Act and 40 CFR Part 1500 that the establishment of a Job Corps center at Benton Air Force Base, Red Rock Mountain, Pa., does not constitute a major Federal action which will significantly affect the environment.

FOR FURTHER INFORMATION CONTACT:

John H. Stetson, Director, Job Corps, Room 6100, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213. Telephone 202-376-6995.

SUPPLEMENTARY INFORMATION: Title IV of the Comprehenesive Employment and Training Act of 1973, as amended (CETA), 29 U.S.C. 911 et seq., directs the Secretary of Labor to establish Job Corps centers to provide occupational training to disadvantaged youths ages 16 through 21. The Secretary has issued regulations published at 29 CFR Part 97a, implementing Title IV of CETA. Pursuant to his authority the Secretary is establishing a Job Corps center at the Benton Air Force Base location.

Pursuant to 40 CFR Part 1500, the Department of Labor has conducted an environmental assessment as part of a site utilization study and has determined that preparation of an environmental impact statement is not required since the establishment of this Job Corps center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR 1500.6(c). The proposed Benton Job Corps Center will be a training center with residential, nonresidential and educational facilities for approximately 250-300 disadvantaged youth, men, and women, ages 16 through 21, who need and can benefit from intensive employment-related services. The function of the center and the staff of approximately 100 will be to provide skill training in selected vocational courses and continuing and/or remedial education in academic subjects.

The proposed use of the facility is intended for essentially the same purpose as used by the previous occupant, specifically residential living and education.

The center will be a self-contained facility located on the top slopes of Red Rock Mountain approximatey 9 miles north of Benton, and 40 miles west of Wilkes-Barre, Pa. The site is located on approximately 100 acres of mountain land, of which 70-80 acres are cleared and enclosed by fencing. The facility consists of approximately 44 buildings, of which 31 buildings are proposed for utilization.

Onsite sewage treatment facilities will be upgraded as required to meet applicable Federal, State, and local standards. This will be accomplished either by the remodeling of the existing plan or by the installation of a new prepackaged plant with tertiary treatment.

The two deep wells operating onsite will more than adequately meet the volume requirements and standards for water supply. The system includes one 85,000 gallon exterior water tank and an interior 75,000 gallon storage reservoir utilizing charcoal bed water treatment in addition to an automatic chlorination and caustic soda treatment system.

The proposed Job Corps center will be operated in compliance with the Job Corps Environmental Standards published at 29 CFR 97a.116, and with applicable Federal, State, and local regulations concerning environmental health.

The proposed Job Corps center will comply with the water quality and related standards of the State and local Government, and with the standards established pursuant to the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., with Executive Order 11752, and with regulations and guidelines of the United States Environmental Protection Agency.

The center installation will be designed, operated, and maintained so as to conform to Federal air quality standards, including those found in Executive Order 11752 and 40 CFR Part 86.

Signed at Washington, D.C., this 19th day of August, 1977.

JOHN H. STETSON,
Director, Job Corps.

[FR Doc.77-25145 Filed 8-29-77;8:45 am]

JOB CORPS

Proposed Job Corps Center at Fremont Junior High School, San Bernardino, Calif.; Determination of Negative Environmental Impact

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice—Finding of Negative Environmental Impact.

SUMMARY: The purpose of this notice is to announce a determination by the Department under the Environmental Policy Act and 40 CFR Part 1500 that the establishment of a Job Corps center at Fremont Junior High School, San Bernardino, Calif., does not constitute a major Federal action which will significantly affect the environment.

FOR FURTHER INFORMATION CONTACT:

John H. Stetson, Director, Job Corps, Room 6100, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213. Telephone: 202-376-6995.

SUPPLEMENTARY INFORMATION: Title IV of the Comprehensive Employment and Training Act of 1973, as amended (CETA), 29 U.S.C. 911 et seq., directs the Secretary of Labor to establish Job Corps centers to provide occupational training to disadvantaged youths ages 16 through 21. The Secretary has issued regulations published at 29 CFR Part 97a, implementing Title IV of CETA. Pursuant to his authority the Secretary is establishing a Job Corps center at the Fremont Junior High School location.

Pursuant to 40 CFR Part 1500, the Department of Labor has conducted an environmental assessment as part of a site utilization study and has determined that preparation of an environmental impact statement is not required since the establishment of this Job Corps center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR Section 1500.6(c). The proposed Fremont Job Corps Center will be a training center with residential, nonresidential, and educational facilities for approximately 200 resident and 75 nonresident disadvantaged youth, men, and women, ages 16 through 21, who need and can benefit from intensive employment-related services. The function of the center and the staff of approximately 90 will be to provide skill training in selected vocational courses and continuing and/or remedial education in academic subjects.

The site utilization by the previous occupant, education, will be substantially continued but site modifications will be required to provide for residential living.

The center will be a self-contained facility located northwest of the City of San Bernardino, Calif. The facility is located on approixmately 17 acres of land consisting of 9 buildings and athletic facilities. Several new buildings will be constructed on the site to provide for residential living.

Domestic water and sewage collection systems to all existing buildings are provided from city mains. Modifications to site utility systems will be accomplished to provide utility service to new buildings. These utility systems, provided by the City of Muscoy, Calif., to the site, are adequate to meet the load capacity and standards for the proposed site utilizations.

The proposed Job Corps center will be operated in compliance with the Job Corps Environmental Standards published at 29 CFR 97a.116, and with applicable Federal, State, and local regulations concerning environmental health.

The proposed Job Corps center will comply with the water quality and related standards of the State and local Government, and with the standards established pursuant to the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., with Executive Order 11752, and with regulations and guidelines of the United States Environmental Protection Agency.

The center installation will be designed, operated, and maintained so as to conform to Federal air quality standards, including those found in Executive Order 11752 and 40 CFR Part 86.

Signed at Washington, D.C., this 19th day of August 1977.

JOHN H. STETSON,
Director, Job Corps.

[FR Doc.77-25146 Filed 8-29-77;8:45 am]

JOB CORPS

Proposed Job Corps Center at Turner Air Force Base, Albany, Ga.; Determination of Negative Environmental Impact

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice—Finding of Negative Environmental Impact.

SUMMARY: The purpose of this notice is to announce a determination by the Department under the Environmnetal Policy Act and 40 CFR Part 1500 that the establishment of a Job Corps center at Turner Air Force Base, Albany, Ga., does not constitute a major Federal action which will significantly affect the environment.

FOR FURTHER INFORMATION CONTACT:

John H. Stetson, Director, Job Corps, Room 6100, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213. Telephone: 202-367-6995.

SUPPLEMENTARY INFORMATION: Title IV of the Comprehensive Employment and Training Act of 1973, as amended (CETA), 29 U.S.C. 911 et seq., directs the Secretary of Labor to establish Job Corps centers to provide occupational training to disadvantaged youths ages 16 through 21. The Secretary has issued regulations published at 29 CFR Part 97a, implementing Title IV of CETA. Pursuant to his authority the Secretary is establishing a Job Corps center at the Turner Air Force Base Complex.

Pursuant to 40 CFR Part 1500, the Department of Labor has conducted an environmental assessment as part of a site utilization study and has determined that preparation of an environmental impact statement is not required since the establishment of this Job Corps center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR 1500.6(c). The proposed Turner Job Corps Center will be a training center with residential, nonresidential and educational facilities for approximately 700 disadvantaged youth, men, and women, ages 16 through 21, who need and can benefit from intensive employment-related services. The function of the center and the staff of approximately 230 will be to provide skill training in selected vocational courses and

V 42 168 AUG 30 77 UMI

continuing and/or remedial education in academic subjects.

It is intended that the center be used for essentially the same purposes as used by the previous occupant, specifically residential living and instruction, at a greatly reduced occupancy.

The center will be a self-contained facility located off of Turner Field Road, approximately 4½ miles northwest of downtown Albany, Ga. The portion of the facility to be utilized consists of approximately 74 acres of land consisting of 64 buildings, of which approximately 20 buildings will be occupied for the program.

Domestic water and sewage collection systems to all existing buildings are provided through the base utility systems. These utility systems, provided by the City of Albany, Ga., to the site, are adequate to meet the load capacity and standards for the proposed site utilization.

The proposed Job Corps center will be operated in compliance with the Job Corps Environmental Standards published at 29 CFR 97a.116, and with applicable Federal, State, and local regulations concerning environmental health.

The proposed Job Corps center will comply with the water quality and related standards of the State and local Government, and with the standards established pursuant to the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., with Executive Order 11752, and with regulations and guidelines of the United States Environmental Protection Agency.

The center installation will be designed, operated, and maintained so as to conform to Federal air quality standards, including those found in Executive Order 11752 and 40 CFR Part 86.

Signed at Washington, D.C., this 19th day of August 1977.

JOHN H. STETSON,
Director, Job Corps.

[FR Doc.77-25143 Filed 8-29-77;8:45 am]

Wage and Hour Division

CERTIFICATES AUTHORIZING THE EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM WAGES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act (52 Stat. 1062, as amended; U.S.C. 214), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and Administrative Order No. 1–76 (41 FR 18949), the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. For each certificate, the effective and expiration dates, number or proportion of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations; such conditions in certificates not issued under the supplemental industry regulations are as listed.

The following certificates were issued under the apparel industry learner regulations (29 CFR 522.1 to 522.9, as amended and 522.20 to 522.25, as amended). The following normal labor turnover certificates authorize 10 percent of the total number of factory production workers except as otherwise indicated.

College Casuals Company, Sheppton, Pa.; 4–23–77 to 4–22–78; 10 learners. (Ladies' slacks.)

Crane Mfg. Company, Republic, Mo.; 6–5–77 to 6–4–78; 10 learners. (Boys' and men's pants.)

Edison Textiles, Inc., Edison, Ga.; 3–29–77 to 3–28–78. (Toddler's and girls' sportswear.)

Flushing Shirt Mfg. Co., Inc., Waynesburg, Pa. 4–18–77 to 4–17–78; 10 learners. (Men's shirts.)

Freeland Sportswear Co., Inc., Freeland, Pa.; 5–27–77 to 5–26–78; 10 learners. (Men's jackets.)

Greenway Mfg. Co., Waynesburg, Pa.; 5–28–77 to 5–27–78. (Boys' and infants' shirts.)

Michael Berkowitz Co., Inc., Frostburg, Md.; 3–29–77 to 3–28–78; 10 learners. (Men's sleepwear.)

Pass Christian Industries, Inc., Pass Christian, Miss.; 5–1–77 to 4–30–78. (Ladies' shirts and jeans.)

Richfield Shirt Mfg. Co., Inc. Richfield, Pa.; 5–1–77 to 4–30–78. (Men's and boys' shirts.)

J. H. Rutter Rex Mfg. Co., Inc., Franklinton, La.; 4–24–77 to 4–23–78. (Men's and boys' pants.)

J. H. Rutter Rex Mfg. Co., Inc., Columbia, Miss.; 3–30–77 to 3–29–78. (Men's and boys' shirts and pants.)

Sancar Corporation, Harrisonburg, Va.; 4–22–77 to 4–21–78. (Ladies' underwear.)

The following certificate was issued under the knitted wear industry regulations (29 CFR 522.1 to 522.9, as amended and 522.30 to 522.35, as amended).

Louis Gallet, Inc., Uniontown, Pa.; 6–13–77 to 6–12–78; 5 learners for normal labor turnover purposes. (Boys' and men's sweaters.)

The following certificate was issued under the glove industry regulations (29 CFR 522.1 to 522.9, as amended and 522.60 to 522.65, as amended).

Galena Glove & Mitten Company, Dubuque, Iowa, 4–7–74 to 4–6–78; 10 learners for normal labor turnover purposes. (Work gloves.)

The following learner certificate was issued in Puerto Rico to the company hereinafter named. The effective and expiration dates, learner rates, occupation, learning period, and number of learners authorized to be employed are indicated.

General Cigar de Utuado, S. A., Utuado, P.R.; 6–15–77 to 6–14–78; 20 learners for normal labor turnover purposes is the occupation of cigar making machine operator for a learning period of 320 hours for the first 160 hours at the rates of $2.09 an hour and $2.19 an hour for the remaining 160 hours. (Tobacco.)

Each learner certificate has been issued upon the representations of the employer which, among other things were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificate may be annulled or withdrawn as indicated therein, in the manner provided in 29 CFR, Part 528. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof on or before September 14, 1977.

Signed at Washington, D.C., this 26th day of July 1977.

DONALD T. CRUMBACK,
Authorized Representative of the Administrator.

[FR Doc.77-25154 Filed 8-29-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 76-54]

JAPAN ENGINEERING DEVELOPMENT CO.

Intent to Grant Foreign Exclusive Patent License

In accordance with the NASA Foreign Licensing Regulations, 14 CFR 1245.405 (e), the National Aeronautics and Space Administration announces its intention to grant to the Japan Engineering Development Co., Tokyo, Japan, an exclusive patent license in Japan for the four NASA owned inventions covered by the Japanese counterparts of: (1) U.S. Application for Patent Serial No. 682,435 for "Method of Treating the Surface of a Glass Member," filed by NASA on May 3, 1976, (2) U.S. Application for Patent Serial No. 678,813 for a "Cubic-Interleaver," filed by NASA on April 21, 1976, (3) U.S. Application for Patent Serial No. 718,266 for "Absorption Detector," filed by NASA on August 27, 1976, and (4) U.S. Application for Patent Serial No. 694,407 for "A Reverse Osmosis Membrane of High Urea Rejection," filed by NASA on June 9, 1976. Copies of the above U.S. Patent Applications can be purchased from the National Technical Information Service, Springfield, Va. 22161, at a cost of $3.75 per copy. Interested parties should submit written inquiries or comments within 60 days to the Assistant General Counsel for Patent Matters, Code GP, National Aeronautics and Space Administration, Washington, D.C. 20546.

Dated: August 23, 1977.

S. NEIL HOSENBALL,
General Counsel.

[FR Doc.77-24957 Filed 8-29-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

MUSIC ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Music Advisory Panel (Folk/Ethnic Section) for the National Council on the Arts will be held on September 14–16, 1977, from 9:30 a.m. to 6 p.m., in Room 1422, Columbia Plaza Building, 2401 E Street NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on September 16, 1977, from 2 p.m. to 6 p.m. on a space available basis. The agenda for these sessions will include policy discussions.

The remaining sessions of this meeting on September 14–15, 1977, from 9:30 a.m. to 6 p.m. and September 16, 1977, from 9:30 a.m. to 2 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c)(4), (6), and 9(B) of section 552 (b) of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202–634–6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

AUGUST 24, 1977.

[FR Doc.77-25104 Filed 8-29-77;8:45 am]

SPECIAL PROJECTS ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Special Projects Advisory Panel (Folk Arts) for the National Council on the Arts will be held September 16, 1977, from 9:30 a.m. to 6 p.m. and September 17–18, 1977, from 9:30 a.m. to 5:30 p.m., in Room 1340, Columbia Plaza Building, 2401 E Street NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on September 16, 1977, from 2 p.m. to 6 p.m. on a space available basis. This portion of the meeting will be held in Room 1422 and will be a joint session with the Music Advisory Panel (Folk/Ethnic Section). The agenda for this session will include policy discussions.

The remaining sessions of this meeting on September 16, 1977, from 9:30 a.m. to 2 p.m. and September 17–18, 1977, from 9:30 a.m. to 5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c)(4), (6), and 9(B) of section 552(b) of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202–634–6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

AUGUST 24, 1977.

[FR Doc.77-25103 Filed 8-29-77;8:45 am]

PANAMA CANAL COMPANY

WHITE AMUR FISH; PROPOSED INTRODUCTION INTO GATUN LAKE AS BIOLOGICAL CONTROL FOR SUBMERGED AQUATIC MACROPHYTE

Availability of Draft Environmental Impact Statement and Notice of Public Hearings

Pursuant to Section 102(2)(c) of the National Environmental Policy Act, and the Panama Canal Company/Canal Zone Government procedures implementing said Act, the Environmental Quality Committee of the Panama Canal Company/Canal Zone Government has prepared a draft environmental impact statement for the proposed introduction of a biological agent (*Ctenopharyngodon idella*, white amur fish) to aid in the control of the submerged aquatic macrophyte, *Hydrilla verticillata*. The Committee has determined that this is an action which will significantly affect the quality of the human environment.

The Draft Environmental Impact Statement considers the biological, economic and social impact on the overall ecology of Gatun Lake, an artificial body of fresh water having a surface area of 431 Km^2, and the principal tributary river systems of the Republic of Panama, together with the project's effect relative to an increased reliance on chemical methods of control of aquatic weeds.

The Draft Environmental Impact Statement will be published and distributed on or about August 26, 1977, and thereafter a copy of same will be on file at the below-listed addresses and available for public inspection.

Dr. Paul Campanella, Secretary, Environmental Quality Committee, Panama Canal Company, Box M, Balboa Heights, Canal Zone; or
Secretary, Panama Canal Company, Room 312, Pennsylvania Building, 425 Thirteenth Street NW., Washington, D.C. 20004.

Copies of the Draft Environmental Impact Statement have been sent to various federal and local agencies for comment as outlined in the Council on Environmental Quality Guidelines. Comments are invited from others having knowledge of or special expertise on environmental impacts of the proposed project. In order to afford full opportunity for such comments in addition to written comments, a public hearing for the purposes of taking oral or written testimony on the matter will be held on September 30, 1977, at 2 p.m. in the Panama Canal Company Training Center, Building No. 0600, Room 4, Balboa Heights, Canal Zone.

Written comments concerning the proposed action or requests for additional information should be mailed, airmail, and addressed to:

Dr. Paul J. Campanella, Secretary, Environmental Quality Committee, Panama Canal Company, Box M, Balboa Heights, Canal Zone.

Comments must be received at the above address on or before October 17, 1977 and all comments so received will be considered prior to the preparation and distribution of a final environmental impact statement.

THOMAS M. CONSTANT,
Secretary, Panama Canal Company.

AUGUST 15, 1977.

[FR Doc.77-24947 Filed 8-29-77;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

PARTICIPATION IN OR COOPERATION WITH INTERNATIONAL BOYCOTT

Revised Effective Dates of Certain New Boycott Guidelines

On August 19, 1977, the Treasury Department announced a delay in the effective dates of answers H–8 and H–29 of the new boycott guidelines that were released on August 12, 1977 and that appeared in the FEDERAL REGISTER of August 17, 1977 (42 FR 41504)). These answers relate to letters of credit. The effective dates for the remainder of the new guidelines were left unchanged.

The guidelines relate to the provisions of the Tax Reform Act of 1976 which deny certain tax benefits for participation in or cooperation with international boycotts. The new guidelines superseded earlier sets of guidelines issued by the Treasury on November 4, 1976 and December 30, 1976.

Answers H–8 and H–29 of the new guidelines will be effective only for operations, requests, and agreements after September 21, 1977. In addition, in the case of operations carried out in accordance with the terms of a binding contract entered into before September 22, 1977, answers H–8 and H–29 will not be effective until after June 30, 1978.

Dated: August 24, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary for Tax Policy.

[FR Doc.77-25052 Filed 8-25-77;10:17 a.m.]

[Supplement to Dept. Circular Public Debt Series—No. 20-77]

TREASURY NOTES OF SERIES T–1979

Interest Rate

AUGUST 24, 1977.

The Secretary of the Treasury announced on August 23, 1977, that the in-

V42168 AUG 30 77 UMI

terest rate on the notes described in Department Circular—Public Debt Series—No. 20–77, dated August 12, 1977, will be 6⅝ percent per annum. Accordingly, the notes are hereby redesignated 6⅝ percent Treasury Notes of Series T–1979. Interest on the notes will be payable at the rate of 6⅝ percent per annum.

PAUL H. TAYLOR,
Deputy Fiscal Assistant Secretary.

[FR Doc.77-25080 Filed 8-29-77;8:45 am]

VETERANS ADMINISTRATION

GERIATRIC RESEARCH, EDUCATION AND CLINICAL CENTERS ADVISORY COMMITTEE

Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92–463 that a final meeting of the Geriatric Research, Education and Clinical Centers Advisory Committee, authorized by 38 U.S.C. 4101, will be held in Conference Room 119, Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, D.C., on September 15 and 16, 1977. The final meeting will be for the purpose of reviewing and evaluating the progress of the existing Geriatric Research, Education and Clinical Centers and to aid in the start-up of new Geriatric Research, Education and Clinical Center(s). The Committee has advised the Veterans Administration through the Assistant Chief Medical Director for Extended Care.

The meeting will be open to the public up to the seating capacity of the room from 8:30 a.m. to 4:30 p.m. on September 15 and from 8:30 a.m. to 1 p.m. on September 16. To assure adequate accomodations, those who plan to attend should contact Dr. Richard Filer, Assistant Departmental Committee Manager, Veterans Administration Central Office, Washington, D.C. 202–389–3854, prior to September 12, 1977.

By direction of the Administrator.

Dated: August 23, 1977.

RUFUS H. WILSON,
Deputy Administrator.

[FR Doc.77-25110 Filed 8-29-77;8:45 am]

VOLUNTARY SERVICE NATIONAL ADVISORY COMMITTEE

Meeting

The Veterans Administration gives notice that the annual meeting of the Veterans Administration Voluntary Service National Advisory Committee, composed of representatives of 46 national voluntary organizations, will be held at the Hyatt Regency Hotel, 400 New Jersey Avenue NW., Washington, D.C., October 26–28, 1977.

Registration of the conferees and preliminary meetings of the planning subcommittees will be held during the afternoon of October 26, 1977. The meeting will officially convene with a Plenary Session at 9 a.m., October 27, in the Yorktown Room of the hotel and will conclude at noon on Octobtr 28, 1977.

The purposes of the meeting are to instruct committee members and officials of their organizations in obligations they have accepted for volunteer recruitment, communications and program interpretation, and to seek the advice of the committee in further developing volunteer participation in the care and treatment of veteran patients throughout the Agency's nationwide medical program.

By direction of the Administrator.

Dated: August 23, 1977.

RUFUS H. WILSON,
Deputy Administrator.

[FR Doc.77-25109 Filed 8-29-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[No. 467]

ASSIGNMENT OF HEARINGS

AUGUST 25, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospeective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 103066 (Sub-No. 56), Stone Trucking Co., now being assigned October 12, 1977 (1 day), for hearing in Chicago, Ill., will be held in Court Room 704, Federal Building, 610 South Canal Street.

MC 113908 (Sub-No. 394), Erickson Transport Corp., now being assigned October 13, 1977 (2 days), for hearing in Chicago, Ill., will be held in Court Room 704, Federal Building, 610 South Canal Street.

MC 141511 (Sub-No. 1), Robert W. Rettig, DBA Protein Express, now being assigned October 17, 1977 (1 day), for hearing in Chicago, Ill., will be held in Court Room 704, Federal Building, 610 South Canal Street.

MC 138144 (Sub-No. 20), Fred Olson Co., Inc., now being assigned October 18, 1977 (2 days), for hearing in Chicago, Ill., will be held in Court Room 704, Federal Bldg., 610 South Canal Street.

MC 720 (Sub-No. 31), Bird Trucking Co., Inc., now being assigned October 20, 1977 (2 days), for hearing in Chicago, Ill., will be held in Court Room 704, Federal Building, 610 South Canal Street.

MC 66886 (Sub-No. 54), Belger Cartage Service, Inc., now assigned October 17, 1977, at Kansas City, Mo., will be held in Room 609, Federal Bldg., 911 Walnut St.

MC 26739 (Sub-No. 91), Crouch Freight Systems, Inc., now assigned October 19, 1977, at Kansas City, Mo., will be held in Room 609 Federal Bldg., 911 Walnut St.

MC 126118 (Sub-No. 36), Crete Carrier Corp., MC 128375 (Sub-No. 148), Crete Carrier Corp., and MC 128375 (Sub-No. 149), Crete Carrier Corp., now assigned October 12, 1977, at Kansas City, Mo., will be held in Room 609, Federal Bldg., 911 Walnut St.

MC 59957 (Sub-No. 50), Motor Freight Express, now assigned October 17, 1977, at Pittsburgh, Pa., will be held in Room 2218, Federal Bldg., 1000 Liberty Avenue.

MC 129903 (Sub-No. 7), Emporia Motor Freight, Inc., now assigned October 17, 1977, at Topeka, Kans., will be held in Room 480 Federal Bldg., U.S. Courthouse, 444 South Quincy.

FD 27421, Southern Pacific Transportation Co.—Common use of Terminal Facilities—Union Pacific Railroad Co. & Burlington Northern, Inc., now assigned October 31, 1977, at Portland Oreg., will be held in Room 103, Pioneer Courthouse, 555 SW. Yamhill Street.

MC 2202 (Sub-No. 525), Roadway Express, Inc., now being assigned November 15, 1977 (3 days), at Baton Rouge, La., in a hearing room to be later designated.

MC 140612 (Sub-No. 15), Robert F. Kazimour, now being assigned November 14, 1977 (1 day), for hearing in Chicago, Ill., in a hearing room to be later desingated.

MC 1934 (Sub-No. 39), The Arrow Line, Inc., now being assigned November 29, 1977 (4 days), for hearing in New Haven, Conn., in a hearing room to be later designated.

MC 108587 (Sub-No. 21), Schuster Express, Inc., now being assigned December 5, 1977 (1 week), for hearing in Hartford, Conn., in a hearing room to be later designated.

MC 143140, Seymour Bus Lines, Inc., now being assigned December 5, 1977 (1 week), for hearing in Knoxville, Tenn., in a hearing room to be later designated.

AB 19 (Sub-No. 32), The Baltimore & Ohio Railroad Co., abandonment near Green Spring and Petersburg in Hampshire, Hardy, and Grant Counties, W. Va., now being assigned October 17, 1977 (1 week), for hearing in Moorefield, W. Va., in a hearing room to be later designated.

MC 107515 (Sub-No. 1040), Refrigerated Transport Co., Inc., now assigned September 14, 1977, at Chicago, Ill., is postponed indefinitely.

AB 12 (Sub-No. 39), Southern Pacific Transportation Co., abandonment between Concord and Dougherty in Contra Costa and Alameda Counties, Calif., now being assigned November 1, 1977 (3 days), for hearing in Walnut Creek, Calif., in a hearing room to be later designated.

MC 113855 (Sub-No. 378), International Transport, Inc., now being assigned November 4, 1977 (1 day), for hearing in San Francisco, Calif., in a hearing room to be later designated.

MC 138018 (Sub-No. 35), Refrigerated Foods, Inc., now being assigned November 7, 1977 (2 days), for hearing in San Francisco, Calif., in a hearing room to be later designated.

No. 36626, *San Francisco Port Commission* v. *Delta Lines, Inc., et al*, now being assigned November 9, 1977 (3 days), for hearing in San Francisco, Calif., in a hearing room to be later designated.

MC 139495 (Sub-No. 218), National Carriers, Inc., now being assigned November 14, 1977 (1 week), for hearing in San Francisco, Calif., in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-25163 Filed 8-29-77;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

AUGUST 25, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before September 14, 1977.

FSA No. 43417—*Phthalic Anhydride from Texas City, Tex.* Filed by Southwestern Freight Bureau, Agent, (No. B–707), for interested rail carriers.

Rates on phthalic anhydride, in tankcar loads, as described in the application, from Texas City, Tex., to East St. Louis, Ill.

Grounds for relief—Market competition.

Tariff—Supplement 13 to Southwestern Freight Bureau, Agent, tariff 12–K, I.C.C. No. 5272.

Rates are published to become effective on September 24, 1977.

FSA No. 43418—*Joint Water-Rail Container Rates—Evergreen Line.* Filed by Evergreen Line (No. 1), for itself and interested rail carriers.

Rates on general commodities, between ports in Japan, Korea, Hong Kong, and Taiwan, and rail carriers terminals on the U.S. Atlantic and Gulf Coasts.

Grounds for relief—Water competition.

Tariffs—Evergreen Line tariffs I.C.C. Nos. 1 and 2.

Rates are published to become effective on September 17, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-25164 Filed 8-29-77;8:45 am]

[Finance Docket No. 28409]

NORFOLK & WESTERN RAILROAD CO. AND BALTIMORE & OHIO RAILROAD CO.; CONTROL OF DETROIT, TOLEDO & IRONTON RAILROAD CO.

Waiver of Requirements of Exhibits

Order. At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 15th day of August 1977.

Upon consideration of the petition filed on June 30, 1977, by Norfolk and Western Railway Co. (N&W), Chessie System, Inc., the Chesapeake and Ohio Railway Co. (C&O) and the Baltimore and Ohio Railroad Co. (B&O), seeking a waiver of the strict requirements of the regulation at 49 CFR 1111.2(b)(3)(i).

N&W and B&O have agreed, to purchase, in equal parts, all of the shares of stock of the Detroit, Toledo and Ironton Railroad Co. (DT&I) owned or under control of Pennsylvania Company. Petitioners plan to file a section 5(2) joint control application in the early fall of 1977. The regulation at 49 CFR 1111.2-(b)(3)(i) would require the submission of traffic studies for the period January 1, 1976, to December 31, 1976.

Petitioners seek a waiver of the requirements of the above-cited regulation and seek permission to submit traffic studies covering the period May 1, 1976 to April 30, 1977 with their application. Petitioners claim that the traffic patterns in the area changed substantially after April 1, 1976, when the Consolidated Rail Corporation (ConRail) began operating and when DT&I began serving the Cincinnati, Ohio Gateway via trackage rights over ConRail. Thus, in order to reflect the new traffic patterns and current revenues, petitioners allege that they should be permitted to submit traffic studies covering the period May 1, 1976, to April 30, 1977.

We believe that good cause has been presented to justify granting the waiver requested. We also believe that, in order for the Commission to make valid comparisons of traffic data to be submitted, we should require that all traffic studies to be submitted in the proposed proceeding must cover the period May 1, 1976, to April 30, 1977.

Since petitioners have not yet filed an application, and we realize that traffic studies take some time to prepare, we believe that notice of our action herein should be published in the FEDERAL REGISTER. In addition, petitioners should be required to specify the required time period for traffic studies in the notice that must be published when the application is filed.

It is ordered, That the petition for waiver be, and it is hereby, granted;

It is further ordered, That if petitioners file the above-described joint control application, all parties to the proceeding shall file required traffic studies covering the period May 1, 1976, to April 30, 1977; and that petitioner shall be required to state the period for traffic studies in the notice which must be published when their application is filed;

It is further ordered, That public notice of our action herein shall be given to the general public by delivery of a copy of this order to the Director, Office of the Federal Register, for publication therein;

It is further ordered, That this order shall be effective on the date of service.

By the Commission (Commissioner Hardin was absent and did not participate).

H. GORDON HOMME, Jr.,
Acting Secretary.

[FR Doc.77-25162 Filed 8-29-77;8:45 am]

V 42 168 AUG 30 77 UMI

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1
Equal Employment Opportunity Commission	2
Federal Power Commission	3

1

[M–48]

AUGUST 24, 1977.

CIVIL AERONAUTICS BOARD.

TIME AND PLACE: 10 a.m., September 1, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue, Washington, D.C. 20428.

SUBJECT: 1. Ratification of items Adopted by Notation.[1]

2. Docket 29193, Alamogordo's and Ponca City's petitions for reconsideration of Order 77–2–116 insofar as it granted Frontier's petition to overfly Ponca City and Alamogordo (Memo No. 6408–B, BOR).

3. Docket 30885, Northwest's application for Chicago-Washington "fill-up" authority (Memo No. 6980–C, BOR, OGC).

4. Dockets 27999 and 28000, United's Petition for an Order to Show Cause and Exemption Renewal for Nonstop Cleveland-New Orleans (Memo No. 7361, BOR).

5. Docket 29601, ATC agreement requiring travel agents to reimburse ATC for litigation expenses, Agreement CAB 16874–A53 (Memo No. 7366, BOR, OGC).

6. Dockets 29827 and 30034, Motion of Allegheny Airlines for Hearing on its application to extend its system to various Florida cities; and Motion of United Air Lines for Hearing on its application to add Orlando to its Route 51 between the Great Lakes and Florida (Memo No. 7156, BOR).

7. Docket 28194, *Eastern/Piedmont Route Exchange*, Notice of Target Date (Memo No. 7365, OGC).

8. Docket 24694, *Miami-Los Angeles Competitive Non-stop Case*. Order Reopening Proceeding (Memo No. 7354, OGC).

9. Docket 28196, *California-Alberta Route Proceeding*, Order on Discretionary Review (Memo No. 7332, OGC, BE).

10. Dockets 24582 and 29132, *Cincinnati-Washington Subpart M Proceeding* (Memo No. 5734–F, OGC, BE).

11. Comments on the "Redtape Reduction Act of 1977, H.R. 5880" (Memo No. 6844–A, OGC).

12. Docket 30783, Rulemaking Petition of Novo Airfreight (Novo) to permit cooperative shippers associations to use the services of air freight forwarders (Memo No. 7363, OGC).

13. Docket 30848, Motion to review the decision of the Director, BOE, dismissing third-party complaint in the matter of *James Ehrman* v. *Alitalia Airlines* (Memo No. 7369, OGC).

14. Docket 29139, Proposed Rule on overbooking and oversales (Memo No. 5963–G, No. 5963–H, OGC).

15. Docket 30182, *Iowa/Illinois-Atlanta Route Proceeding*, Order on reconsideration and consolidation (Memo No. 6950–A, BLJ, OGC).

16. Transmittal of responses to questions in conjunction with testimony before the Senate Committee on Foreign Relations on Protocols amending the Warsaw Convention and the Supplemental Compensation Plan, Order 77–7–85 (Memo No. 7178–D, BAS, OGC).

17. Docket 30240, Aviation Consumer Action Project Petition for Rulemaking to Amend Part 241 (Memo No. 7337, OGC, BE, BAS, BOE).

18. Nonacceptance of certain types of shipments proposed by Associated Air Freight, an air freight forwarder, effective September 5, 1977 (BFR).

19. Docket 31166, TWA complaint against Laker Airways Sky Train tariff (BFR).

20. Docket 29926, Notice of Proposed Rulemaking, SPDR–56—OTC Advance Purchase Period (For Information Memo No. 8/3, BIA, OGC, BOE, BE, BOR).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202–673–5068.

[S–1200–77 Filed 8–25–77;4:00 pm]

[1] The ratification process provides an entry in the Board's Minutes of items already adopted by the Board through the written Notation process (memoranda circulated to the Members sequentially). A list of items ratified at this meeting will be available in the Board's Public Reference Room (Room 710, 1825 Connecticut Avenue NW., Washington, D.C. 20428) following the meeting.

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S–1185–77.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (Eastern Time), Tuesday, August 30, 1977.

CHANGES IN THE MEETING: Addition of the following item to the portion open to the public:

3. *New Charge Intake and Backlog Procedures*. The Commission will consider the approval of the use of these new procedures by all of its district offices, under a phasing plan to be approved at a later date.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission requires this change and that no earlier announcement was possible.

The vote was as follows:

In favor of change: Eleanor Holmes Norton, Chair; Ethel Bent Walsh, Commissioner; Daniel E. Leach, Commissioner.

Opposed: None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202–634–6748.

This Notice Issued August 25, 1977.

[S–1202–77 Filed 8–26–77;10:08 am]

3

FEDERAL POWER COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published August 26, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: August 31, 1977, 10 a.m.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

G–9.—C177–306, Transco Exploration Company.

[S–1197–77 Filed 8–25–77;2:06 pm]

federal register

TUESDAY, AUGUST 30, 1977

PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

PROPOSED FLOOD ELEVATION DETERMINATIONS

V 42 168 AUG 30 77 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-3237]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Borough of Shippensburg, Cumberland County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Borough of Shippensburg, Cumberland County, Pa.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Shippensburg Borough Office, 60 West Burd Street, Shippensburg, Pa.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Walter K. Smith, Borough Manager of Shippensburg, P.O. Box 129, Shippensburg, Pa. 17257.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Borough of Shippensburg, Cumberland County, Pa. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Burd Run	U.S. Route 11	651
	Orange St.	654
Middle Spring Creek	North corporate limit.	640
	Spring House Rd	642
	West Burd Rd.	645
	West King St.	652
	West Orange St.	652
	Garfield St.	655
	South corporate limit.	661
Middle Spring Creek tributary.	Dykeman Rd.	664
	Conrail	660

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24677 Filed 8-29-77;8:48 am]

[24 CFR Part 1917]

[Docket No. FI-3238]

PROPOSED FLOOD ELEVATION DETERMINATIONS

City of Aberdeen, Brown County, S. Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Aberdeen, Brown County, S. Dak.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Aberdeen Municipal Building, on the first floor, 123 South Lincoln Street, Aberdeen, S. Dak.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Jeff Solem, Mayor of Aberdeen, P.O. Box 299, Aberdeen, S. Dak. 57401.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Aberdeen, Brown County, S. Dak., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Moccasin Creek	Confluence with Moccasin Creek tributary.	1,297
	3d Ave.	1,297
	6th Ave.	1,296
	8th Ave.	1,296
	10th Ave.	1,296
	Melgaard Rd.	1,295
	Brown County 14.	1,294
Moccasin Creek tributary.	8th Ave.	1,299
	B.N. RR.	1,298
	C.M. S.P. & P. RR.	1,298
	Confluence with Moccasin Creek.	1,297
Foot Creek	Melgaard Rd.	1,302
	Frontage Rd.	1,302
	U.S. 281	1,301
	Brown County 14.	1,300

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24668 Filed 8-29-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3239]

PROPOSED FLOOD ELEVATION DETERMINATIONS

City of Columbia, Brown County, S. Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Columbia, Brown County, S. Dak. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Columbia City Hall, Main Street, Columbia, S. Dak.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable Egon Buntrock, Mayor of Columbia, Columbia, S. Dak. 57433.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Columbia, Brown County, S.Dak. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
James River	Lavin Ave. (extended).	1,293
	County Rd. No. 11	1,292
	C. & N.W. RR.	1,292.5
	Stella St.	1,292

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24669 Filed 8-29-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3240]

PROPOSED FLOOD ELEVATION DETERMINATIONS

City of Athens, McMinn County, Tenn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Athens, McMinn County, Tenn. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review on the Bulletin Board, 815 North Jackson Street, Athens, Tenn.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. G. Isbell, P.O. Box 849, Athens, Tenn. 37303.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Athens, McMinn County, Tenn. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128; and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Oostanaula Creek	State Highway 30	459
	Madison Ave.	876
	Upstream corporate limits.	896
Walker Branch	Downstream side of Etowah Rd.	863
	Upstream side of Old Englewood Rd.	879
Black Branch	Upstream corporate limits.	815
	Downstream corporate limits.	814
Forest Branch	Downstream side of U.S. Highway 11	882
	Downstream side of Louisville & Nashville R.R.	891
	Kent St.	936
North Mouse Creek	Downstream side of State Highway 30	802
	Upstream Corporate limits	806
Blue Springs Branch	Upstream side of Old Decatur Rd.	801
	Upstream corporate limits.	811
Tributary No. 1 to North Mouse Creek	Downstream side of Private Dr. at Stream Mile 0.30.	808
	Upstream side of Private Dr. at Stream Mile 0.60	834
	Downstream side of Leyman Rd.	879

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation

V 42 168 AUG 30 77 UMI

of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24670 Filed 8-29-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3241]

PROPOSED FLOOD ELEVATION DETERMINATIONS

City of Morristown, Hamblen County, Tenn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Morristown, Hamblen County, Tenn. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Municipal Building, 144 West First North Street, Morristown, Tenn. 37814.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable John R. Johnson, Mayor of Morristown, P.O. Box 1499, Morristown, Tenn. 37814.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Morristown, Hamblen County, Tenn. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Turkey Creek	Fairview Rd. (downstream).	1,126
	Fairview Rd. (upstream).	1,130
	South Outer Dr. (downstream).	1,182
	South Outer Dr. (upstream).	1,186
	Davis Ave. (downstream).	1,218
	Davis Ave. (upstream).	1,221
	Cherokee Dr. (downstream.)	1,244
	Cherokee Dr. (upstream).	1,244
	West 3d North St. (downstream).	1,266
	West 3d North St. (upstream).	
	Morris Blvd., west fork, Turkey Creek (downstream).	1,283
	Morris Blvd., west fork, Turkey Creek (upstream).	1,284
	Sunrise Ave. (downstream).	1,303
	Sunrise Ave. (upstream).	1,303
	Freshour St.	1,318
	Corporate limits	1,372
West fork, Turkey Creek.	South Jackson St.	1,285
	Dice St. (downstream).	1,288
	Dice St. (upstream)	1,289
	Sulphur Springs Rd. (downstream).	1,297
	Sulphur Springs Rd. (upstream).	1,300
	Valley St. (downstream).	1,307
	Valley St. (upstream).	1,309
	Kennedy Circle (downstream).	1,332
	Kennedy Circle (upstream).	1,339
	Lincoln Ave. (downstream).	1,351
	Lincoln Ave. (upstream).	1,356
	Corporate limits	1,358
Stubblefield Creek	do	1,212
	North Liberty Rd. (downstream).	1,220
	North Liberty Rd. (upstream).	1,228
	U.S. Highway 11E bypass (downstream).	1,260
	U.S. Highway 11E bypass (upstream).	1,271
	Trade St. (downstream).	1,282
	Trade St. (upstream).	1,282
	Merwin St. (downstream).	1,285
	Merwin St. (upstream).	1,288
	Forgey Ave. (downstream).	1,311
	Forgey Ave. (upstream).	1,318
	Algonquin Dr. (downstream).	1,328
Stubblefield Creek	Algonquin Dr. (upstream).	2,334
	Bacon Lane (downstream).	1,345
	Bacon Lane (upstream).	1,346
	Hillvale Dr. (downstream).	1,373
	Hillvale Dr. (upstream).	1,373
	Corporate limits	1,371
Harley Springs branch.	Corporate limits (downstream).	1,144
	Corporate limits (upstream).	1,155
	Turkey Bridge Rd.	1,181
	Corporate limits	1,191
	do	1,192
	do	1,203
	do	1,222
	do	1,225
	Walters Dr. (downstream).	1,230
	Walters Dr. (upstream).	1,235
	Walters Dr. (downstream).	1,250
	Walters Dr. (upstream).	1,252
	North Economy Rd. (downstream).	1,271
	North Economy Rd. (upstream).	1,272
Unnamed tributary to Turkey Creek.	Confluence with Turkey Creek.	1,307
	Lincoln Ave. (downstream).	1,331
	Lincoln Ave. (upstream).	1,335
	Union Ave. (downstream).	1,311
	Union Ave. (upstream).	1,315

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24671 Filed 8-29-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3242]

PROPOSED FLOOD ELEVATION DETERMINATIONS

City of Allen, Collin County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Allen, Collin County, Texas.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Allen, Texas.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Frank Dugger, P.O. Box 487, Allen, Texas 75002.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Allen, Collin County, Texas in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Rowlett Creek	Upstream of Greenville Ave. (State Highway 5).	576
	Upstream of Rowlett Dr.	622
Cottonwood Creek	Downstream of Jupiter Rd.	603
	Upstream of Main St. (Farm Rd. 2170).	611
	Upstream of Stacey Rd.	655
Stream 2G1	Upstream of Allen Heights Dr.	622
	Upstream of Main St. (Farm Rd. 2170).	649
Stream 2G2	Jupiter Rd.	602
	Upstream of Greenville Ave. (State Highway 5).	628
Stream 2G3	Upstream Southern Pacific R.R.	645
	Allen Dr.	652
Stream 2D15	Upstream of Chapperal Rd.	598
Stream 2D16	Approximately 0.8 mi south of Bethany Rd. at the crossing of an unnamed road.	601

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Watters Branch	Upstream of Main St. (Farm Rd. 2170).	617
	Upstream of Rowlett Dr.	649
	Downstream of State Highway 121.	693
Stream 2F1	Upstream of Main St. (Farm Rd. 2170).	616
West Rowlett Creek.	Downstream of State Highway 121.	641
Russell Creek	Downstream of Custer Rd.	655

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24672 Filed 8-29-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3243]

PROPOSED FLOOD ELEVATION DETERMINATIONS

City of Del Rio, Val Verde County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Del Rio, Val Verde County, Texas.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 109 West Broadway, Del Rio, Texas 78840.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable Alfredo Gutierrez, Jr., Mayor of Del Rio, City Hall, 109 West Broadway, Del Rio, Texas 78840.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Del Rio, Val Verde County, Texas in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical, datum
San Felipe Creek	Southeast corporate limit.	922
	Academy St.	936
	Canal St.	949
	Tani St.	956
	Margarite Ave.	958
	U.S. Route 90	965
Calaveras Creek	Confluence with San Felipe Creek.	924
	Tani St. (extended)	931
	Brodbent Ave.	934
	U.S. Route 277	947
	Vitela St. (extended)	955
	Sanchez St. (extended).	966
	Southern Pacific RR.	998
	Most upstream corporate limit.	1,013
Stream 1	Confluence with Calaveras Creek.	937
	Bowie St.	946
	San Felipe Ave.	954
	U.S. Route 277	958
	Vitela St.	964
Stream 2	Western corporate limit.	975
	Lenora Ave.	983
	Wildcat Dr.	1,005
Canta Branch	Western corporate limit.	1,000
	Kings Way	1,006
	Alta Vista Rd.	1,017
	Margaret Lane	1,025
	Gayle Ave.	1,030
	U.S. Routes 277, 90, 377.	1,034
	Lausen Rd.	1,036
	Ohio St. (extended)	1,039
	Kings Way (extended).	1,042
Stream 3	Kings Way (southern crossing)	1,010
	Amistad Blvd.	1,031
	Kings Way (northern crossing).	1,064

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance

V 42168 A AUG 30 77 UMI

Administrator 34 F.R. 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-24673 Filed 8-29-77;8:45 am]

[24 CFR Part 1917]

(Docket No. FI-3244)

PROPOSED FLOOD ELEVATION DETERMINATIONS

City of Lavilla, Hidalgo County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of LaVilla, Hidalgo County, Texas.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, LaVilla, Texas.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Gileerto M. Hinojosa, P.O. Box 38, LaVilla, Texas 78562.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of LaVilla, Hidalgo County, Texas in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Shallow flooding	Intersection of Tully and Jill Sts.	57
	Intersection of Lackland and Lull Sts.	57
	Intersection of East Ave. and Parker St.	58
	Center St. (between Branch St. and Yarbrough Ave.).	58

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-24674 Filed 8-29-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3245]

PROPOSED FLOOD ELEVATION DETERMINATIONS

County of Amherst, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the County of Amherst, Va.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the County Courthouse, Amherst, Va. 24521.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Roy C. Mayor, County Administrator of Amherst County, P.O. Box 390, Amherst, Va. 24521.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the County of Amherst, Va. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
James River	County boundary	421
	Allens Creek, Nelson County.	421
	Walker Ford Creek	449
	Christian Mill Creek	453
	Partridge Creek	468
	Beck Creek	476
	Appomattox County and Campbell County.	481
	Chesapeake & Ohio RR.	491
	Norfork & Western RR.	500
	Campbell County & Lynchburg City.	508
	Williams Run	512
	Norfork & Western RR.	522
	U. S. Route 29	526
	Alternate Route 29	528
	Lynchburg Dam	532
	Harris Creek	534
	Reusens Dam	567
	Holcombs Rock Dam	592
	Wilderness Creek	596
	Wilderness Creek	596
	Coleman Falls Dam	612
	State Route 647	622
	Big Island Dam	625
	Blue Ridge Parkway	631
	Bedford Dam	644
	U.S. Route 501	651
	Onshaw Dam	670
	Chesapeake & Ohio RR.	673
	Corporate limits and Rockbridge County.	718

Source of flooding	Location	Elevation in feet above mean sea level
Piney Rivr	Virginia Blue Ridge RR.	602
	Maple Run	612
	State Route 665	638
	State Route 151	644
	Mine Quarry Rd.	692
	Indian Creek	698
	State Route 778	739
	Little Piney River	773
	State Route 698	785
	State Route 767	829
	State Route 666	858
Pedlar River	Maple Creek	618
	Clark Creek	649
	State Route 130	672
	State Route 635	690
	State Route 644	707
	Dancing Creek	729
	State Route 610	740
	Love Lady Creek	741
	State Route 610	762
Buffalo River	U.S. Route 29	555
	Old Dam	558
	Tribulation Creek	567
	Old Dam	568
	Huff Creek	574
	State Route 616 (extended).	584
	Mill Creek	601
	Beaver Creek	620
	State Route 778	626
	Stonehouse Creek	637
	Thrashers Creek	664
	Private Rd.	670
	U.S. Route 60	680
	Puppy Creek	687
	U.S. Route 610	690
	Long Branch	740
	Private road	855
	State Route 635	879
	U.S. Route 60	937
Williams Run	End of Ragland Rd	632
	Private bridge	654
	State Route 622	659
	State Route 681	678

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24675 Filed 8-29-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3246]

PROPOSED FLOOD ELEVATION DETERMINATIONS

City of Salem, Independent City, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Salem, Independent City, Va.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Bulletin Board, Engineering Department, Salem Municipal Building, 19 North College Avenue, Salem, Va.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. William J. Paxton, City Manager of Salem, P.O. Box 869, Salem, Va. 24153.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Salem, Independent, City, Va., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain maagement requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Roanoke River	Eastern corporate limits.	983
	Norfolk & Western RR.	990
	U.S. Route 11 (Apporson Dr.).	993
	Virginia State Route 419.	996
	Colorado St	1,006
	Eddy Ave	1,010
	Mill Lane	1,020
	Diuguids Lane	1,049
Mason Creek	Norfolk & Western RR.	987
	Roanoke Blvd	996
	Lynchburg Turnpike	1,013
	East Main St	1,023
	Garst St	1,047
	Sycamore Dr. (extended).	1,065
	Corporate limits	1,087
Gish Branch	Kesler Mill Rd	1,029
	Chamberlain Lane	1,045
	Parkdale Dr	1,050
	Virginia Route 631	1,085
Williams Branch	7th St	1,012
	6th St	1,013
	4th St	1,024
	2d St	1,022
	Burwell St	1,044
	Clay St	1,053
	Market St	1,064
	Hawthorne Rd	1,081
Snyder Branch	Alabama St	1,040
	Roanoke Blvd	1,043
	College Ave	1,059
	Main St	1,057
	Clay St	1,062
High School Branch	Mill Lane	1,026
	Norfolk & Western Ry.	1,036
Dry Branch	4th St	1,022
	Burwell St	1,039
	U.S. Route 460	1,047
	Carrolton Ave	1,108
	Corporate limits	1,141
Cole Hollow Brook	Hunt Rd	1,031
	Norfolk & Western Ry.	1,036
	U.S. 11 and 460	1,043
	Horner Lane	1,046
	Windsor Dr	1,073
	Litchell Rd	1,092
Paint Bank Branch	Salem Industrial Dr	1,042
	West Main St	1,053
	Valley Dale Rd	1,107
	Texas Hollow Rd	1,126
Butt Hollow	Downstream city limits	1,057
	Main St	1,072
	Butt Hollow Rd	1,108
Bowman Hollow	Riverside Dr	1,002
	U.S. Route 11 (Apperson Dr.)	1,012
	Kimball Ave	1,020
	Franklin St	1,070
Barnhardt Creek	Roanoke River to city limits.	984

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24676 Filed 8-29-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3247]

PROPOSED FLOOD ELEVATION DETERMINATIONS

City of Toppenish, Yakima County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Toppenish, Yakima County, Wash.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second pub-

V 42 168 AUG 30 77 UMI

lication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, Toppenish, Wash. 98948.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable Fred K. Mutch, Mayor of Toppenish, City Hall, Toppenish, Wash. 98948.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Toppenish, Yakima County, Wash., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to polices established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Yakima River.....	Intersection of East Toppenish Ave. and L St.	752
	Intersection of East Toppenish Ave. and H St.	753
	Intersection of East Toppenish Ave. and A St.	755
	Intersection of Chehalis Ave. and North Beach St.	757
	Intersection of Chehalis Ave. and North Elm St.	760
	Intersection of Buena Way and Idaho Ave.	763
	Buena Way at north corporate limit.	765

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24677 Filed 8-29-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3248]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Town of Henderson, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Henderson, W. Va. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Henderson, W. Va.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Carolyn Rainey, Town Hall, Henderson, W. Va. 25106.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Henderson, W. Va., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980 which, added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River.....	Silver Memorial Highway.	570
Kanawaha River...	New York Central R.R.	570
	West Virginia State Route 2.	570

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24678 Filed 8-29-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3249]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Village of Gays Mills, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Gays Mills, Wis. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Village Hall, Gays Mills, Wis.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Bernard Watson, President, Village of Gays Mills, Village Hall, Gays Mills, Wisc. 54631.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Gays Mills, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Kickapoo River....	Dam	703
	Main St.	702

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24679 Filed 8-29-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3250]

PROPOSED FLOOD ELEVATION DETERMINATIONS

City of Glendale, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Glendale, Wis. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 5909 North Milwaukee River Parkway, Glendale, Wis.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Norbert J. Hynek, City Hall, 5909 North Milwaukee River Parkway, Glendale, Wis. 53209.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Glendale, Wis., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Milwaukee River...	Fort Washington Rd	620
	U.S. 141	620
	Hampton Ave	622
	Chicago & Northwestern R.R.	622
	Silver Spring Dr.	635
	Bender Rd	631
	Chicago & Northwestern R.R.	632
	Green Tree Rd	636
	Good Hope Rd	638

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787; January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24680 Filed 8-29-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3251]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Village of Cleveland, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevation (100-year flood) listed below for selected locations in the Village of Cleveland, Wisconsin.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Veterans of Foreign Wars Building, Park Lane, Cleveland, Wisconsin.

V 42 168 AUG 30 77 UMI

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Robert Wagner, Village President, Village of Cleveland, 334 East Washington Avenue, Cleveland, Wisconsin 53015.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Cleveland, Wisconsin, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Centerville Creek tributary	Linden St	643
	Hickory St	655
	Chicago & Northwestern RR	633
	Washington Ave	631
	Center St	628
Centerville Creek	Footbridge	654
	U.S. Highway 141	610
	Dam	597
	County Trunk Highway LS	581

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968); effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24681 Filed 8-29-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3252]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Jefferson County, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Jefferson County, Wisconsin.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adpot or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at County Courthouse, 320 South Main Street, Jefferson, Wisconsin.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Robert Baier, County Administrator, Jefferson County, County Courthouse, 320 South Main Street, Jefferson, Wisconsin 53549.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Jefferson County, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at ay time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Rock River	County Trunk Highway CW bridge.	847
	State Highway 135 bridge.	842
	County Trunk Highway P bridge.	837
	Chicago, Milwaukee, St. Paul, and Pacific Ry. bridge.	826
	Chicago and Northwestern Ry. bridge.	793
	State Highway 106 bridge.	789
Koshkonong Creek	County Trunk Highway O bridge.	843
	Chicago and Northwestern Ry. bridge.	838
	U.S. Highway 18 bridge.	831
	Rockdale Road Bridge	796
Whitewater Creek	Town Road Bridge	798
	Fremont Rd at Cold Spring.	788
Ocononowoc River.	Morgan Road (county line).	849
	Elm Drive Bridge	847
	River Road Bridge (upstream side).	843
Bark River	County Trunk Highway D bridge.	789
Crawfish River	County Trunk Highway A bridge.	792
	U.S. Highway 18 bridge.	799

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24682 Filed 8-29-77;8:45 am]

[24 CFR Part 1917]

(Docket No. FI-3253)

PROPOSED FLOOD ELEVATION DETERMINATIONS

Sheboygan County, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Sheboygan County, Wisconsin.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Sheboygan County Courthouse, 615 North 6th Street, Sheboygan, Wisconsin.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Leo Tresp, Sheboygan County Board Chairman, 615 North 6th Street, Sheboygan, Wisconsin 53081.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Seboygan County, Wisconsin, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
North Branch Milwaukee River.	Farm bridge	811
	State Trunk Highway 144.	811
	Farm bridge	815
	County Trunk Highway SS.	817
	Cascade Rd	820
Silver Creek	Farm bridge	809
	Camp Awana Rd	819
	County Trunk Highway DE.	847
	Creek Rd	849
Batavia Creek	County Trunk Highway SS.	817
	Farm bridge	819
	State Trunk Highway 28.	842
Black River	Evergreen Rd	584
	Indian Mound Rd	588
Black River tributary 1.	Lakeside Dr	585
	County Trunk Highway KK.	593
Black River tributary 2.	County Trunk Highway KK.	595
	County Trunk Highway EE.	617
Sheboygan River	Chicago and Northwestern RR.	590
	State Trunk Highway 28.	594
	State Trunk Highway 23.	686
	Meadowlark Rd	691
	County Trunk Highway TT.	704
	Alpine Rd	716
	County Trunk Highway O.	739
	County Trunk Highway M.	742
	Rio Rd	748
	Woodland Rd	753
	County Trunk Highway J.	759
	County Trunk Highway JM.	771
	County Trunk Highway JJ.	783
	County Trunk Highway A.	798
	Old County Trunk Highway A.	802
	County Trunk Highway FF.	808
	Frankland Rd	814
	County Trunk Highway MM.	820
	Willow Rd	825
	County Trunk Highway EH.	828
	County Trunk Highway MC.	841
	Old bridge	843
	State Trunk Highway 57.	844
Onion River	Ourtown Rd	669
	County Trunk Highway V.	695
	County Trunk Highway V.	695
	County Trunk Highway OO.	704
	State Trunk Highway 32.	711
Mullet River	Chicago and Northwestern RR.	677
	County Trunk Highway PP.	677
	Sumac Rd	724
	County Trunk Highway M.	739
	Willow Rd	754
	State Trunk Highway 57 North.	777
	State Trunk Highway 57 South.	778
	Pleasant View Rd	783
	County Trunk Highway AC.	786
	Chicago, Milwaukee, St. Paul and Pacific RR.	789
	County Trunk Highway PP.	804
	Short Cut Rd	806
	State Trunk Highway 67.	817
	Terrace Ave	840
	State Trunk Highway 67.	841
	Woodland Rd	860
	Private road	868
	Abandoned bridge	884
La Budde Creek	Chicago, Milwaukee, St. Paul and Pacific RR.	884
Pigeon River	County Trunk Highway LS.	585
	Chicago and Northwestern RR.	591
	Mill Rd	594
	U.S. Highway 141	615
	Golf course bridge	625
	County Trunk Highway Y.	638
	Golf course bridge	670
	County Trunk Highway J.	673
	Range Line Rd	677
	Playbird Rd	682
Fisher Creek	County Trunk Highway A.	707
	Farm bridge	716
	County Trunk Highway FF.	724

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: JULY 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24683 Filed 8-29-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3254]

PROPOSED FLOOD ELEVATION DETERMINATIONS

City of Stoughton, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Stoughton, Wis. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 381 East Main Street, Stoughton, Wis.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Liniel H. Cooper, City Hall, 381 East Main Street, Stoughton, Wis. 53589.

V 4 2 1 6 8 AUG 30 77 UMI

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Stoughton, Wisconsin, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Yahara River	4th Street Culvert	835
	Stoughton Dam	842
	Forton Street Bridge	842
	Main Street Bridge	842
	Chicago, Milwaukee, St. Paul & Pacific RR Bridge.	843

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–24684 Filed 8–29–77;8:45 am]

federal register

TUESDAY, AUGUST 30, 1977

PART III



ENDANGERED SPECIES SCIENTIFIC AUTHORITY

■

EXPORT OF BOBCAT, LYNX, RIVER OTTER AND AMERICAN GINSENG

Preliminary Findings and Request for Comment

V42168 AUG 30 77 UMI

ENDANGERED SPECIES SCIENTIFIC AUTHORITY

EXPORT OF BOBCAT, LYNX, RIVER OTTER, AND AMERICAN GINSENG

Preliminary Findings and Request for Comment

AGENCY: Endangered Species Scientific Authority.

ACTION: Notice.

SUMMARY: This notice summarizes current findings of the Endangered Species Scientific Authority (ESSA) on commercial international export of certain Appendix II species under the Convention on International Trade in Endangered Species of Wild Fauna and Flora. In particular, notice is given of preliminary ESSA findings on a State-by-State basis for the 1977–78 season for the international commercial export of bobcat (*Lynx rufus*, excluding the Mexican bobcat, *L. r. escuinapae*), lynx (*Lynx canadensis*), river otter (*Lutra canadensis*), and American ginseng (*Panax quinquefolius*). Because the export of Appendix II specimens may be permitted only if the ESSA is able to find that the export will not be detrimental to the survival of the species, and because the biological, commercial, and legal classification of the named species varies among the States, a State-by-State analysis was considered necessary. It is hoped that this notice will encourage comment and the submission of substantive information, which may be used to supplement or modify the conclusions drawn herein.

DATE: All interested persons are invited to comment on these preliminary findings at any time. Comments received by October 31, 1977 will be considered in a general republication of ESSA findings within the next few months. However, the ESSA will publish revised findings at any time if new information indicates that modification of particular findings are appropriate.

ADDRESS: Comments should be addressed to the Executive Secretary, Endangered Species Scientific Authority, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Dr. William Y. Brown, Executive Secretary, Endangered Species Scientific Authority, 18th and C Streets NW., Washington, D.C. 20240. (202–343–5687).

BACKGROUND

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convention) and its implementing regulations, 50 CFR Part 23, control international trade in animal and plant species included in each of three Appendices, listed in § 23.23. It is emphasized that the Convention Appendices are distinct from the list of species issued under the Endangered Species Act of 1973, 16 U.S.C. 1531–1543. Whereas listings under the Act include species endangered by any factor, species on the Convention Appendices must be actually or potentially endangered by international trade. Listed in Appendix II are generally those species not necessarily now threatened with extinction, but which may become so unless trade in them is subject to strict regulation.

The Convention required the establishment of a Scientific Authority whose purpose is to insure the scientific soundness of governmental decisions concerning trade in listed species of plants and animals. Therefore, the Endangered Species Scientific Authority (ESSA) was established by Executive Order 11911 on April 13, 1976. On July 11, 1977, the ESSA published an Interim Charter and other information essential to its operation (42 FR 35799). In that notice, the ESSA requested interested persons to comment on the Interim Charter as well as to provide biological and trade information on Convention species.

Before the Federal Wildlife Permit Office of the U.S. Fish and Wildlife Service, that serves as the U.S. Management Authority (MA) for the Convention, can issue permits for foreign export of Appendix II species taken from the wild, the ESSA must first find and advise the MA that the export will not be detrimental to the survival of the species (Convention, Article IV 2(a)). The ESSA has established in its Interim Charter the following general criteria for determining whether an export (or purpose of import or introduction from the sea) will not be detrimental to the survival of a species:

> 1. Whether similar export, import or introduction from the sea has occurred in the past, and has not reduced the numbers or distribution of the species, nor caused signs of ecological or behavioral stress within the species, or in other species of the affected ecosystem.
>
> 2. Whether life history parameters of the species and the structure and function of its ecosystem indicate that the present frequency of export, import, or introduction from the sea will not appreciably reduce the numbers or distribution of the species, nor cause signs of ecological or behavioral stress within the species or in other species of the affected ecosystem.
>
> 3. Whether such export, import, or introduction from the sea is expected to increase, decrease, or remain constant in frequency.
>
> (ESSA Interim Charter, Article IV. C., 42 FR 35801)

The U.S. Fish and Wildlife Service is currently reviewing the status of the bobcat, lynx, river otter, and American ginseng to determine whether they should be proposed as Endangered or Threatened under the Endangered Species Act of 1973. On July 13, 1977 the Service published a notice of review for the bobcat and the lynx (42 FR 35996); on July 28, 1977 the Service published a notice of review for the river otter (42 FR 38395); and on August 11, 1977 the Service published a notice of review for the American ginseng (42 FR 40823). In all three of these notices of review the Service requested interested parties to submit comments concerning the status of these species. As indicated in 42 FR 40979–40980 on August 12, 1977, findings of the ESSA on commercial international export of these species for the 1977–78 season will be based on a State-by-State assessment of the status of each species. The variation among the States in species status indicated that such an individualized approach would best give the ESSA the necessary basis for finding whether export would not be detrimental to the survival of the species. The ESSA usually reviews applications on a case-by-case basis, but the large volume of trade in these species calls for general findings. Interested parties were advised in the August 12 Notice that the ESSA would publish a subsequent notice indicating the States or origin from which commercial international export of subsequently obtained pelts and roots must be prohibited by the MA in the 1977–78 season, and indicating the appropriate level of exports of any species for which commercial international export was not initially prohibited. Interested persons were further advised that the ESSA would monitor any export and would notify the MA when it can no longer find that export from particular States will not be detrimental to the survival of the species, and therefore further commercial international exports must be barred by the MA.

The purpose of this notice is to present the ESSA's evaluation of the State-by-State biological status of the four named species, and to state the ESSA's preliminary findings on commercial international export. The ESSA seeks substantive comments which may serve to supplement or modify conclusions drawn from the available information. Of special interest are actual population censuses and trends, recent changes in habitat availability, Statewide trade and the legal status and impact of the international market on the named species. Comments received by October 31, 1977, will be considered in a republication of ESSA findings this Fall. However, these preliminary findings represent the best data available to the ESSA, and although little harvest of these species is expected for the next few months, these preliminary findings are effective immediately to prevent last minute stockpiling of pelts and roots. Because the ESSA cannot find in favor of international export without supporting evidence, foreign export cannot be permitted from States for which sufficient data and adequate regulatory mechanisms are lacking. The ESSA is hopeful that it will have most available information on these species by the end of the comment period, for incorporation into the republication of ESSA findings for 1977–78.

Regulation of bobcat, lynx, and river otter harvest varies considerably from State to State. Hunters, trappers, and dealers usually must be licensed by the State. Although methods of reporting vary from State to State, the most common means are dealer reports of purchases or sales, and surveys based on voluntary trapper reports of take. Such estimates may not accurately reflect the harvest or trends in the harvest (cf.

Colorado and South Dakota State analyses). Analyses of State harvests are further complicated by changes in State regulations, and trapping and hunting seasons. Currently, tagging of pelts is required in only 9 States for bobcat and 5 States for river otters, but several additional States have plans or proposals to implement such systems in the near future. Several States require tagging of fur shipments but not pelts.

The bobcat is completely protected by 12 States, the lynx by 9 States, and the river otter by 23 States. Most States allowing harvest have defined hunting or trapping seasons.

No States have established seasonal limits on total legal harvest of any of these species.

Few States regulate the harvest of American ginseng. The plant is completely protected by New York State law, except for collecting by private landowners. The plant is also protected by Michigan, although commercial harvest is allowed under State permit. Only the State of Wisconsin has established a collecting season. Certain counties in North Carolina and West Virginia require the consent of the landowner or an authorized agent before American ginseng may be collected. In addition, many States require consent of landowners or approval of authorized State agents for general plant collecting on private or public lands.

It cannot be overemphasized that the development of more adequate management and regulation of these species in many States would lead the ESSA to many more findings in favor of international commercial export than is now possible. Many of the negative ESSA findings in this notice are compelled by the lack of data and adequate regulatory mechanisms, rather than by positive evidence of declining populations. The ESSA strongly encourages the States to establish and enforce biologically justifiable limits on the harvest of these species, and to require tagging of every pelt, and issue documentation on all American ginseng taken in the State. Although in certain instances the ESSA may accept less than this for international export in 1977–78, it is unlikely that less will be accepted in 1978–79. Implementation of these requirements is a vital component of the Federal-State cooperation essential to the success of the Convention.

PRE-NOTICE SPECIMENS

Although these preliminary ESSA findings require the MA to prohibit or restrict international commercial export of pelts and roots taken in 1977–78, the ESSA expressly finds that the export of any pelts and roots of the four named species will not be detrimental to the survival of the species if the pelts and roots were obtained from the wild before the date of this notice.

The ESSA recognizes that exporters may have obtained Appendix II specimens taken during the 1976–77 season, or earlier without awareness of impending export regulations under the Convention, which became generally effective on May 23, 1977. For this reason, and because the impact on wild populations of the 1976–77 season is now past, the ESSA will allow export of this inventory without the same degree of scrutiny that will be required hereafter.

However, because of the danger of claims that pelts and roots taken after the date of this notice were taken before, general ESSA approval of these pre-notice commercial international exports will expire November 1, 1977, giving more than six months for export of the bulk of pelts and roots taken in the 1976–77 season or before, yet requiring discharge of inventory before the 1977–78 season is advanced. After November 1, applications for international export of allegedly pre-notice specimens are discouraged. Such applications will be closely scrutinized on a case-by-case basis and a positive finding will be made only if proof such as State tags or documents issued by authorized State officials leaves no reasonable doubt that the pelts or roots in question were acquired before the date of this notice.

Exporters should note that no ESSA approval is required for exports of pelts and roots under certificates of exemption issued by the MA. These certificates may be issued for various reasons stated in § 23.13 of Title 50, Code of Federal Regulations. Specifically encompassed are cases where pelts or roots were acquired by an exporter before the Convention became effective for the species in question, specifically July 1, 1975 for American ginseng and February 4, 1977 for bobcat, lynx, and river otter, or cases where roots are from cultivated plants.

FINDINGS IN GENERAL

Prior to November 1, 1977, the ESSA for its part approves commercial international export of all American ginseng roots, bobcat, lynx, and river otter pelts obtained from the wild prior to the date of this notice. In addition, the ESSA approves the commercial international export of river otters and American ginseng taken subsequent to this notice, but only if the applicant can prove that the pelts were obtained from one of the 17 States named below in the river otter section, or from Michigan in the case of American ginseng, and only to the extent authorized in that section for each State. Furthermore, all shipments of pelts and roots must carry as an attachment to the required permit copy the information requested by the joint U.S. Fish and Wildlife Service/ESSA notice of August 12, 1977 (42 FR 40979). For river otter pelts and American ginseng roots taken after the date of this notice, such attachments must state for each pelt and pound of roots the State of origin and the season taken. For American ginseng, copies of Michigan permits must be attached also, accounting for all roots. For pelts and roots taken before the date of this notice, this same information must be stated to the extent that it is known. The ESSA will monitor international exports of river otters and American ginseng taken in authorized States, and if necessary will establish dates for each State based on limits stated herein or in any revised findings, after which no further international commercial exports will be allowed of pelts and roots taken in the 1977–78 season. Findings for 1978–79 will be developed after the close of the 1977–78 season.

BOBCAT

Data base. In evaluating the bobcat, the ESSA relied in part on State fur harvest and price reports summarized in Fur Catch in the United States, 1934–70, and more recently on answers to a questionnaire circulated to State agencies by the Fur Resources Committee of the International Association of Fish and Wildlife Agencies, 1970–71 until the present. Data on the number of bobcats killed and recovered per fiscal year were provided by the Federal Animal Damage Control Division (ADC) of the U.S. Fish and Wildlife Service, 1958-present. Other data were obtained from the States and miscellaneous other sources. Little population census information is available (e.g., see 1 and 2).

As noted, fur harvest and price reporting systems vary widely among the States. Therefore, express interstate comparisons should not be made. Where known changes in State policy may have influenced harvest figures, these have been discussed.

Although ADC recovery has been used unqualifiedly by some as an indicator of bobcat population trend (see 3 and 4), the take may reflect certain other factors as well. For example, the number of ADC field people has declined from about 750 in the 1960's to about 400 people at present (see 5). Therefore, it can be inferred that the effort expended has also declined somewhat. To what extent the often tenfold decrease in ADC recovery can be directly attributed to a less than twofold decrease in personnel is unclear.

In addition, it has further been reported that within the past ten years the sheep industry has declined in the West. This occurrence might have led to decline in ADC recovery, because of fewer bobcat-rancher confrontations. Furthermore, ADC implemented a policy change in 1973 which may have influenced recovery at that time, but which would have had no effect on the take in prior years.

Although certain factors not directly related to bobcat abundance may have influenced the ADC recovery, they may not completely account for the general pattern of long-term, substantial decline. Therefore, the ADC figures have been presented as possible but uncertain indicators of bobcat population trend.

Discussion. The bobcat is a secretive animal, widely distributed across the lower forty-eight States, and occupying many habitat types (see 5). In recent years, greatly increased fur prices, far above any measure of inflation, have contributed to an increase in hunting and trapping pressure on the bobcat. In addition, it is generally acknowledged among wildlife professionals that bobcats are easily trapped. For example, Mil-

V42168 AUG 30 77 UMI

ton Caroline, of Texas ADC reported (see 6): "Bobcat psychology is such that, unlike coyote, an experienced trapper can cut into the population without much difficulty."

Population dynamics of bobcat in seven northwestern States (Washington, Oregon, Idaho, Montana, Wyoming, North Dakota, South Dakota) are apparently influenced by densities of rabbit, a primary prey, which fluctuate, although not in predictable cycles (see 1 and 3).

Superimposed on this fluctuating pattern is a possible overall decline in population size as reflected by ADC recovery data, from the early 1960's until the present, perhaps brought by decline in available habitat, reaction to control efforts against other predators (especially coyote; see 7), and especially increased hunting and trapping pressure, particularly from the late 1960's until the present (see 3, 8, 9, and 10).

The intensive trapping effort of the 1970's brought by the sudden increase in price has been imposed on populations subject to natural fluctuations in numbers and possibly involved in a general, long-term decline. Although reported harvest in the 1970's has been great in the northwestern States, recent reported harvests do not always reflect the continual rising price. The inability of State harvests to keep and maintain pace with rising price suggests that bobcat may be already overharvested in at least some States.

The status of the bobcat is more variable outside of the northwest, and discussion is deferred to analysis by State. However, the patterns of the northwestern States occur in whole or part in many other States, and several of these States have initiated protective actions. Increasing harvest in California and in the southern States suggests that peak harvest may not yet have been reached, perhaps because of lower price than in the North.

The recent history of soaring price followed by rise and then, in some States, drop or destabilization of harvest, coupled with the apparent general lack of adequate State management of harvest, leaves the ESSA without grounds for approval of any commercial bobcat export for the 1977–78 season.

Findings. For the reasons discussed above and analyzed by State below, the ESSA is unable to find that international commercial export of bobcat pelts or products of animals taken from the wild during the 1977–78 season anywhere in the United States after the date of this notice will not be detrimental to the survival of the species. All Convention export permits presently in force or subsequently issued by the MA must conform with this finding. For bobcat pelts and products of animals taken from the wild before the date of this notice, the ESSA finds that export prior to November 1, 1977 will not be detrimental to the survival of the species, but the ESSA is unable to make this general finding for such exports after that date, for reasons stated above.

Lynx

Data base. In evaluating the lynx, the ESSA has relied in part on State fur harvest and price reports summarized in Fur Catch in the United States, 1934–19, and more recently on answers to a questionnaire circulated to State agencies by the Fur Resources Committee of the International Association of Fish and Wildlife Agences, 1970–71 until the present. Other useful data were obtained from the States and miscellaneous other sources. ADC data on lynx were too scanty to be of any value. As in the case of bobcat, little population census information was available. Use of these data was constrained by the same considerations discussed for the bobcat, above.

Discussion. It has been widely documented that populations of lynx cycle in response to changes in density of snowshoe hare, a major prey (see 11, 12, and 13). Early post partum mortality of kittens (probably starvation related) and reduced conception rates among yearlings may contribute to the decline in lynx population (see 13).

Based on radio tracking data which show that lynx in Alaska range further and spend more time hunting during years of low prey density, Berrie (see 12) postulated that lynx are disproportionately vulnerable to trapping in "low" years. If trapping during those years is not prohibited, he predicted that a progressive dampening in amplitude of the lynx cycle would result, because the time lag between increases of hare and lynx would lengthen. Eventually lynx might be reduced to isolated pockets in the most remote parts of Alaska.

A similar prediction has been made by C. Brand, University of Wisconsin. Brand stated orally that for lynx in Alberta, Canada, the time lag between hare and lynx expansions, which has been about one year in the past, will lengthen due to increased trapping pressure. Unless the season is completely closed during years of lows and expansion, local and regional extinctions may occur. Brand has recommended that the Alberta government close the season now, because this year the population of hares should begin to expand.

More recently, Berrie (see 14) reported that in central Alaska, lynx should be emerging from a low in 1977–78. Although there is apparent asynchrony in cycles between different populations of Alaska lynx (see also 15), the next high is not expected until 1981 or 1982. A price per pelt of up to $350.00 led to an intensive trapping effort last season. This year, with the pipeline construction efforts decreasing, Berrie predicted an increase in the trapping force because of rising unemployment. In addition, Berrie reported that the capacity of individual trappers utilizing snowmobiles and new oil roads has apparently increased three times beyond the capacity of the most ambitious trapper utilizing dogs.

Lynx are much less widely distributed throughout the lower 48 States and have been reported extirpated in Massachusetts, New York, North Dakota, and South Dakota (see 16). Where they do occur, lynx are generally scarce on transient, but have been subject to increased trapping pressure recently due to increased pelt prices. Discussion of lynx status in the lower 48 States is deferred to the analyses by State.

Finding. For the reasons discussed above and analyzed by State below, the ESSA is unable to find that international export of lynx pelts or products of animals taken from the wild during the 1977–78 season anywhere in the United States after the date of this notice will not be detrimental to the survival of the species. All Convention export permits presently in force or subsequently issued by the MA must conform with this finding. For lynx pelts and products of animals taken from the wild before the date of this notice, the ESSA finds that export prior to November 1, 1977 will not be detrimental to the survival of the species, but the ESSA is unable to make this general finding for such exports after that date, for reasons stated above.

River Otter

Data base. In evaluating the river otter, the ESSA has relied in part on State fur harvest and price reports summarized in Fur Catch in the United States, 1934–70, and more recently on answers to a questionnaire circulated to State agencies by the Fur Resources Committee of the International Association of Fish and Wildlife Agencies, 1970–71 until the present. The use of these data was constrained by the considerations discussed under bobcat above. Other useful data were obtained from several States and miscellaneous other sources. As in the cases of bobcat and lynx, no real population censuses were available.

Discussion. River otters are carnivorous mammals occurring in fresh and brackish water. They are widely distributed across the United States, but have experienced range reductions in certain areas (e.g., see 17). Probably because of the river otter's role in the aquatic food chain, varying levels of pesticides have been found in their tissue, but the ultimate effects of these toxins are generally unknown (see 18).

River otter fur has traditionally been highly valued, and the price has been high but relatively constant, excepting a general increase in 1976–77. Besides price incentives, the annual harvest of river otter may reflect availability and price of other more easily taken furbearers (e.g., muskrat and nutria), which may deflect trapper interest. In addition, trapping of river otter is apparently much easier in periods of drought and low water level (see 19). Low water levels often concentrate fish preys of river otter in creeks and rivers where river otters are trapped, leading to increased concentration of river otters in given areas. This increased concentration facilitates greater and possibly excessive harvests.

According to available information, the river otter is fully protected in 23 of 50

States. The river otter has been reported as extirpated in Colorado, Indiana, Kansas, Kentucky, Nebraska, North Dakota, Oklahoma, and West Virginia (see 16). In the remaining States, few patterns in reported harvest have emerged, and discussion of these is deferred to the analyses by State. In numerous States, reported harvests suggest no danger to populations from continued international export: *Provided*, That export is monitored and limited.

Finding. For the reasons discussed above and analyzed by State below, the ESSA is unable to find that international export of river otter pelts or products of animals taken from the wild during the 1977–78 season from 33 of the 50 United States after the date of this notice will not be detrimental to the survival of the species. All Convention export permits presently in force or subsequently issued by the MA for commercial export of river otters originating in these 33 States must conform with this finding.

For the reasons discussed above and analyzed by State below, the ESSA is able to find that international commercial export of river otter pelts or products of animals taken in the following States during the 1977–78 season will not be detrimental to the survival of the species, if State harvests are limited to the number specified:

State:	*Allowable export*
Alaska	2,114
Delaware	37
Georgia	335
Louisiana	3,923
Maine	354
Maryland	165
Masssachusetts	68
Michigan	551
Montana	36
New Hampshire	114
New York	272
North Carolina	1,195
Oregon	249
South Carolina	430
Virginia	396
Washington	618
Wisconsin	458

No actual population estimates were available, and the export limits have been based upon reported harvest. Because the fur harvest data used in computation of the appropriate limits are subject to the vaguaries discussed above, the approach used by the ESSA has been conservative, to insure that the specified limits will not be detrimental to the survival of the species.

To compute a statistic indicating what total take for the 1977–78 season in each State would not be detrimental to the survival of the species, the following procedure was used:

1. The mean annual river otter fur harvest of all seasons reported in the State's record was computed. In certain cases, unusually high harvests were not included in computing the mean.
2. Seasons which were followed by at least a 25 percent decrease in take the following season and whose harvests exceeded the mean computed in step 1 were determined.
3. The mean annual river otter fur harvest was recomputed, eliminating the harvests of the seasons determined in step 2 from the calculation. This final mean is considered a safe take for the 1977–78 season, having eliminated the skewing influence of seasons whose takes may have been detrimentally excessive. It has been reported that 99+ percent of raw American wild furs (excluding mink) are exported for processing overseas. Therefore, the final means, as computed above for each State, should serve as adequate export limits.

All Convention export permits presently in force or subsequently issued by the MA for commercial export of river otter originating in these 17 States must conform with this finding. Exports of river otter taken from the wild during the 1977–78 season from these 17 States will be permitted until the ESSA determines that these limits have been reached. Such exports will also be conditional on adequate documentation on State of origin and season of taking.

For river otter pelts and products of animals taken from the wild before the date of this notice, the ESSA finds that export prior to November 1, 1977, will not be detrimental to the survival of the species, but the ESSA is unable to make this general finding for such exports after that date, for reasons stated previously.

American Ginseng

Data base and discussion. American ginseng is closely related to *Panax ginseng*, a plant whose roots have been used as a panacea (hence the generic name) and an aphrodisiac in the Far East for thousands of years (see 20 and 21). The American plant was discovered in Canada by a Jesuit in the early 18th century after he read of the medicinal qualities attributed to the Asian species (see 22, 23, and 24). Soon after the discovery, the Jesuits began to export the American roots to China.

Exports continued until the middle of the 18th century, when a lot collected out of season was shipped to China without proper drying. This resulted in a distrust of the American product causing the market to crash. However, the export trade was soon picked up by the American colonies as American ginseng was discovered with the expanding settlement of Eastern North America. In 1788, Daniel Boone collected more than 12 tons in what is now West Virginia and Kentucky to sell in Philadelphia.

By the late 19th century, much of the original habitat for American ginseng, hardwood forests, had been cut and more than 150 years of collecting pressure had taken its toll. Depletion of the plant prompted enactment of several Province and State statutes in Canada and the United States, to protect private resources and to establish collecting seasons (e.g., Acts and Joint Resolutions of Virginia 1875–1876, Chapter 90, and Acts of West Virginia, 11th session, 1872–73, Chapter 158). In 1898, Nash (see 25) noted: "It (American ginseng) grew abundantly over large areas in these States (he listed 28), but it has been so energetically hunted, and at the same time the forest area has been so diminished, that the supply is greatly reduced. In Canada it is pretty generally distributed throughout Ontario and Quebec, but it has now become rather scarce."

There is a large volume of botanical literature qualitatively documenting the impact of habitat modification and collecting on American ginseng. In 1848, Asa Gray (see 26), in the first edition of "A Manual of the Botany of the Northern United States", noted that the plant was "not common." Eight years later he noted in the second edition (see 27) that it was "becoming rare." In 1931, Harned (see 28) wrote: "At the present rate of foreign shipment it is only a matter of a short time when wild ginseng will be almost as rare in the United States as it is now in China." Other botanists (see 29, 30, and 31) have commented on the increasing rarity of American ginseng.

To meet the demand for the American roots a boom in commercial cultivation took place in the late 19th century. However, by 1904 overproduction, disease, and the slow growth of the plants (up to 2 years to germinate and 5–7 years to maturity), ruined many of the get-rich-quick ginseng farmers.

Despite the numerous initial difficulties encountered, American gingseng was successfully cultivated and continues to be exported along with roots obtained from the wild. The following table shows total exports in pounds of wild and cultivated plants, average prices per pound in dollars, and total exports in dollars.

V 42 168 AUG 30 77 UMI

Table of Exports of American Ginseng from the United States[1]

Year	Pounds exported	Average price	Total value
1822	153,717	$0.42	$313,943
1841	640,967	.71	437,245
1861	346,577	.84	292,899
1871	114,221	1.04	119,385
1881	338,841	1.65	561,545
1891	283,000	3.39	959,992
1901	149,069	5.38	801,672
1911	153,999	7.06	1,089,202
1921	182,000	8.28	1,507,000
1931	265,000	7.26	1,922,000
1941	129,000	8.51	1,098,000
1916	186,000	12.10	2,251,000
1951	76,999	17.58	1,353,282
1954	112,347	15.26	1,714,191
1960	179,523	18.22	3,281,989
1961	131,000	17.65	2,322,000
1962	141,000	17.60	2,481,000
1963	136,000	20.65	2,844,000
1964	138,000	19.65	2,732,000
1965	116,791	23.72	2,887,310
1966	173,405	25.13	4,358,542
1967	116,135	30.84	4,507,152
1968	133,701	32.61	4,359,524
1969	145,292	38.06	4,433,408
1970	162,689	30.81	5,016,951
1971	168,835	34.51	5,827,289
1972	227,549	39.21	8,922,426
1973	183,136	48.30	8,846,112
1974	216,832	51.37	11,116,787
1975	249,854	50.61	12,595,062
1976	239,754	53.93	17,856,435
1977 (through May)	51,672	62.29	3,218,540

[1] Export totals from 1951 and 1965–76 are from U.S. Bureau of Census Records (see 32). Average prices were calculated. Export totals and average prices from 1822–61, excluding 1954, are from Hardacre (see 24).

It is important to note that the figures from 1881 to present represent sums of both wild and cultivated roots. Thus the average prices do not indicate the increasing price differences between wild roots and cultivated roots. Prices have traditionally varied with the origin and quality of the roots. The most desirable are the wild roots that are in the shape of a man.

Unfortunately, continuous data are not available to determine the quantities of wild roots exported. In 1974, Patty (see 33 and 34) noted that the U.S. Census of Agriculture reported an 88,600 pound harvest of cultivated American ginseng in 1954 (after 1954, Agriculture did not solicit data on American ginseng production). Thus in 1954, at least 23,747 pounds of wild roots were exported. In the same references, Patty estimated that over half of the roots then being exported were cultivated. In 1976, Patty (see 35) estimated that 65,000 pounds of wild roots were exported in the 1975–76 season.

Almost all of the cultivated and wild American ginseng produced in the United States is exported (see 33 and 36) to the Far East, primarily Hong Kong (see also 32). However, there appears to be a growing domestic market (presumably as a result of the increased interest in natural foods and medicines) (see 37). Much of the domestic market is satisfied by products derived from cultivated *P. ginseng* imported from South Korea. If adequate processing facilities are developed in the United States, cultivated American ginseng could become a larger factor in the domestic market.

The domestic market may never compete with the high prices offered in the Far East for wild American ginseng as long as exports continue Geczi (see 38) noted that while cultivated roots were priced at $20–$25 a pound in 1970, wild roots were bringing $40–$45. By 1974 wild roots were up to $70 per pound while cultivated were slightly less than the 1970 prices. One dealer stated orally that prices reached $125 per pound for wild American ginseng in the 1975–76 season. Another dealer stated orally that he had not paid less than $86 per pound for roots collected in the summer of 1977. Wild *P. ginseng* has been sold by the individual root for thousands of dollars (see 21, also oral communication with a dealer).

Wild American ginseng appears to be second in desirability only to wild *P. ginseng*. Whereas the market for cultivated ginseng is limited (see 39) and subject to competition from South Korea and other countries (see 33, 34, 35, and 36) there is no reason to suspect that the demand for the wild product will cease (see 21).

Traditionally American ginseng collectors have promoted the conservation of the species by digging only mature plants in the fall, and by planting the seeds (see 40). Often stands have been maintained in the forest (woodsgrown) to ensure a steady yield of roots that would simulate the desirable wild type.

However, Patty (see 34, also 40) noted: "In interviewing representatives of the U.S. trade, it appears that there is scarcity of U.S. supply of ginseng from the wild. The major reason is that gatherers tend to dig roots too early in the season—before seeds have been produced or when the roots are too young. There are also too few plants left for reproduction purposes. The high prices prevailing probably encourage this overgathering."

The ESSA is aware of similar abuses in the summer of 1977. At present large stocks of wild American ginseng are being accumulated by dealers before the plants have had a chance to fruit. It is apparent that voluntary conservation measures are not adhered to in the face of prices approaching $100.00 per pound.

Other factors causing concern for the current status of the American ginseng are the origins of the plants and the legal conditions under which the plants are gathered. Most States have trespass statutes pertaining to the protection of private plant resources. Usually these laws require, at minimum, oral permission from the landowners before wild plants can be removed from private property and in some cases require written documentation for the removal and transport of such plants. The removal of resources from most public lands similarly require written documentation. In addition, wild American ginseng is protected in at least Michigan and New York, and Wisconsin has established a collecting season. Most State officials concede that such protective statutes are difficult to enforce and are not generally adhered to by collectors. Appropriate Federal control of wild American ginseng exports may vitalize the State regulatory mechanisms.

The ESSA has received some information indicating that the number of individuals who collect American ginseng has decreased. Dr. Arnold Krochmal, U.S.D.A. Forest Service (see 41), among others, has commented that many Appalachians who traditionally collected American ginseng have moved to urban areas. Although such migrations may lessen collecting pressure in certain areas, they may or may not alleviate overall collecting pressure. In Ohio, recent Appalacian emigrants are reported to be the primary collectors. It also has been suggested that collectors are decreasing because young people do not take up the practice.

In assessing the status of the American ginseng the ESSA has relied heavily on qualitative and quantitative information in the literature, and data and opinions from professional botanists, State officials, persons involved in the ginseng trade, and other interested persons. Detailed knowledge of the distribution and population sizes of American ginseng is not available except for a few States, such as Maine, where the plant apparently has been practically extirpated.

The ESSA is aware that opinions of the plant's status vary with field experience. For example, professional botanists may be less familiar with the plant and its habitat than collectors and may be more inclined to consider the plant rare.

State lists of endangered, threatened, rare, or otherwise specially designated species are noted herein when it was known whether they included or excluded American ginseng. Most of these lists were compiled by one or more professional botanists; however, it is obvious that the content of such lists and their meaning vary depending on the expertise, experience, and the intent of the author(s). Thus, such lists and the terms used must be examined critically. (For a more thorough discussion of the problems involved in compiling such lists and the use of the descriptive terms, see 42.) In addition, although these lists are often produced by State agencies, they have

varying legal meaning. When known, legal implications will be noted along with State statutes that require written documentation for the collection of American ginseng (excluding general laws pertaining to public lands).

As previously discussed, the MA has been issuing permits for the export of wild American ginseng under the conditions specified in 42 FR 40979.

Numerous applications for permits specified the States from which roots were to be obtained. Although these applications are referred to in the State summaries, they are only referenced to indicate that the State is a commercial source.

Finding. The ESSA is unable to find that the export of American ginseng collected in the wild, except in Michigan, during the 1977–78 season after the date of this notice will not be detrimental to the survival of the species. American ginseng may be relatively abundant in some sections of some States. However, the ESSA has no alternative to this finding, in view of the overall decline in the abundance of this plan, the sustained market demand, increasing prices, continuing habitat modification, general lack of management programs or regulatory mechanisms to promote its conservation, and, most importantly, the lack of any positive evidence that the plant will not further decline because of continued export.

The ESSA is sensitive to the fact that many of the people who collect American ginseng are indigent. However, it should be clear that sustained, uncontrolled harvests of the plant cannot continue forever. As was previously discussed, there is no reason to suspect that the market for wild American ginseng will not continue. Thus the ESA urges the States to establish conservation programs and regulatory mechanisms that will enable the ESSA to modify this or future findings. The ESSA is willing to assist the States (as appropriate and within its means) in developing suitable conservation programs and regulatory mechanisms.

For the State of Michigan, the ESSA finds that export of American ginseng collected in the wild after the date of this notice in the 1977–78 season, within the State and in compliance with State law, will not be detrimental to the survival of the species. This finding results primarily from the development of a promising regulatory program by the State, for the purposes of establishing the plant's status and monitoring its harvest, to be elaborated on in the State's analysis below. However, approval of export may be withdrawn at any time, and all shipments must be accompanied by copies of Michigan permits, accounting for all roots.

Analyses by State

Below are discussions and preliminary findings by State for the bobcat, lynx, river otter, and American ginseng. Available data on season, State harvest, price, and ADC recovery (of bobcats only) are summarized for each State in a table with asterisks and associated footnotes providing additional inofrmation. Unless otherwise specified, State harvest data and price are either from Fur Catch in the United States, 1934–70, or from responses to the questionnaire of the Fur Resources Committee, International Association of Fish and Wildlife Agencies. Tabular data by State is not available for American ginseng.

Following tabular information, a narrative section is provided on each species. First, the conclusions of available scientific literature are summarized without critique. Next, a brief but critical discussion is given of available data, including the tabulated data, summarized literature, and data from other sources. For American ginseng, these two sections are combined. Last, a finding is stated. If the ESSA is unable to find that any export will not be detrimental to the survival of the species for pelts or roots taken in the State during the 1977–78 season, then the finding will be stated as "negative." A negative finding may be compelled primarily by lack of evidence, rather than evidence of a stressed or declining population, and, in such instances, the lack of adequate data will be stated in the discussion. If the ESSA finds that some level of export will not be detrimental to the survival of the species, in this notice limited to river otter pelts taken from 17 States and American ginseng collected in Michigan during the 1977–78 season, then the finding will be stated as "positive," and the allowable international export will be stated as a condition to the positive finding. For example, a finding might read: "Positive; total international export of animals taken in State X during the 1977–78 season after the date of this notice may not exceed 400."

In some cases, available information indicates that a species does not occur or is accidental or is completely protected in a State. In such cases, this fact will be stated in the discussion and the finding will be negative. Apparently, none of these four species presently occur in the District of Columbia or has ever occurred in the territories and possessions of the United States, and only for this reason are no analyses given for these jurisdictions.

Alabama

Season	Bobcat		River Otter	
	State Harvest	Price per pelt	State Harvest	Price per pelt
1960 to 1961	6	----------	296	----------
1961 to 1962	19	----------	190	----------
1962 to 1963	50	----------	440	----------
1963 to 1964	50	----------	339	----------
1964 to 1965	30	----------	196	----------
1965 to 1966	83	----------	219	----------
1966 to 1967	90	$1.46	321	$15.65

Bobcat

Literature Review. D. Miller, Auburn University, stated orally that bobcats in Alabama are more dense on southern managed quail plantations than on river bottom, their ideal habitat. They are less dense in the northern part of the State. Miller thought that bobcats are common despite heavy trapping. In 1971, Jenkins (see 43) noted that bobcats are widely hunted at night with lights, apparently making serious inroads in the population in certain areas of Southern Alabama.

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in Alabama.

In addition, Alabama has not established an annual limit on bobcat harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

Lynx

Discussion. The lynx apparently does not occur in Alabama (see 16).

Finding. Negative.

River Otter

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of river otter taken in Alabama.

In addition, Alabama has not established an annual limit on river otter harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

American Ginseng

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in Alabama.

Mohr (see 44, also 45) in 1890 noted that American ginseng was: "Not infrequent in rich woods through N. half of the State. Commanding a high market price, considerable quantities are exported from the mountainous region of the Tennessee basin." More recently, Delcourt and Delcourt (see 46) noted herbarium records for four counties and literature references to two additional counties.

American ginseng is included as an endangered species in "Endangered and Threatened Plants and Animals of Alabama" (see 47). Steve Guy, Alabama State Forester's Office, stated orally that American ginseng is restricted to northern Alabama and that it is rare.

The MA has forwarded to the ESSA one permit application for international export of wild American ginseng collected in Alabama.

V 42 168 A AUG 30 77 UMI

In addition, Alabama has neither management programs nor regulatory mechanisms to promote the conservation of American ginseng and to regulate harvest.

Finding. Negative.

Alaska

Season	Lynx		River otter	
	State harvest	Price per pelt	State harvest	Price per pelt
1934	723		3,807	
1935	1,338		3,224	
1936	2,421		3,235	
1937	2,089		3,007	
1938	2,139		2,892	
1941	781		2,188	
1942	639		2,821	
1943	713		1,547	
1944	960		2,772	
1945	922		1,721	
1946	691		3,361	
1947	883		2,809	
1949	854		2,287	
1950	680		2,660	
1951	900		2,400	
1952	600		2,950	
1953	900		2,340	
1954 to 1955	3,100		3,100	
1955 to 1956	2,900		2,300	
1956 to 1957	2,200		3,300	
1957 to 1958	1,500		3,890	
1958 to 1959	605		1,657	
1959 to 1960	782		3,660	
1960 to 1961	900		3,500	
1961 to 1963	1,100		1,200	$17
1962 to 1963	2,500		3,060	22
1963 to 1964	4,700		2,300	25
1964 to 1965	3,957	$22	2,781	26
1965 to 1966	6,196	35	3,960	28
1966 to 1967	3,000	35	4,000	28
1967 to 1968	1,590	35	3,380	25
1968 to 1969	2,009	45	2,000	30
1970 to 1971	1,490	35	1,500	35
1971 to 1972	3,200	50	2,000	50
1972 to 1973	5,130	115	2,570	55
1973 to 1974	8,970	125	2,540	45
1974 to 1975	3,846	200	2,074	50
1975 to 1976	[1] 2,676			
1976 to 1977	[1] c.2000	[2] $350		

[1] Personal comm., R. Hinmann, Alaska Department of Fish and Game, Aug. 11, 1977.
[2] Personal comm., P. Berrie, July 15, 1977.

BOBCAT

Discussion. The ESSA has no information that the bobcat occurs in Alaska.

Finding. Negative.

LYNX

Literature Review. Several studies have documented that populations of lynx cycle in response to changes in density of snowshoe hare, a major prey (see 11, 12 and 13). Early post partum mortality of kittens (probably starvation related) and reduced conception rates among yearlings may contribute to the decline in lynx populations (see 13).

Based on radio tracking data indicating that lynx in Alaska ranged further and spent more time hunting during years of low prey density, Berrie (see 12) postulated that lynx are disproportionately vulnerable to trapping in "low" years. If trapping during low years is not prohibited, he predicted that the time lag between increases of hare and lynx would lengthen causing a progressive dampening in amplitude of the lynx cycle. Thus, lynx might be reduced to isolated pockets in the remote parts of Alaska.

The last population low occurred about 1967–1970, but the fur harvest was about double that of previous lows, apparently because of increased fur prices (see 15). Most recently, Peter M. Berrie in a letter to the ESSA (see 14) reported that the lynx in central Alaska should be emerging from a low in 1977–78, complicated by apparent asynchrony of different populations in Alaska between lynx cycles (see also 15). The next general high is not expected until 1981 or 1982. A price of $350.00 per pelt prompted an intensive trapping effort last season. This year, with the pipeline construction nearing completion, Berrie predicts an increase in trapping force from rising unemployment. In addition, the capacity of individual trappers utilizing snowmobiles and new oil roads has apparently increased three times beyond the capacity of the most ambitious trapper utilizing dogs.

Discussion. State harvest records from 1934 until the present indicate a large scale variable harvest, consistently high since 1962. The trapping season was extended by two months in 1963 to meet demand for the prime pelts available in February and March, and available price information shows a high level fur price from 1965 until the present. For these reasons, current high take figures reflect increased interest in lynx fur rather than increase in population size.

In 1975, the reported State harvest dropped to 3846 following a reported harvest of 8970, the highest on record, while the price rose from $125 to $200. Although this decline may reflect a normal cyclic decline in lynx abundance, it may also reflect an overstressed population.

Alaska lynx populations appear to be at a low, probably because of normal cyclic decline, perhaps coupled with trapping pressure. Considering that lynx populations may disproportionately vulnerable to trapping in low years and that high pelt price is likely to cause intense trapping pressure in 1977–78, it is impossible to conclude that continued international export of lynx from Alaska will not be detrimental to the survival of the species.

In addition, Alaska has not established an annual limit on lynx haverst based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

RIVER OTTER

Discussion. The reported State harvest over the past forty years varied from 1200–4000, although harvest since 1968 has been generally more uniform and lower than previously.

Because reported harvest has been relatively stable and because pelt price has risen only gradually over the past 15 years, the wild population apparently can support an annual harvest. However, the consistently low yield since 1968 gives some cause for concern, and may reflect low population levels or decreased trapping effort. Because the ESSA cannot distinguish between these two factors, a positive export finding will be made but will be based upon the last 9 years reported harvest alone.

Finding. Positive; total international export of river otters taken in Alaska during the 1977–78 season after the date of this notice may not exceed 2114.

AMERICAN GINSENG

Discussion. The ESSA does not have any information that American ginseng occurs in Alaska.

Finding. Negative.

Arizona

Season	Bobcat		
	State harvest	Price per pelt	ADC recovery
1957 to 1958			444
1958 to 1959			282
1959 to 1960			292
1960 to 1961			411
1961 to 1962			740
1962 to 1963			678
1963 to 1964			701
1964 to 1965			347
1965 to 1966			292
1966 to 1967			279
1967 to 1968			238
1968 to 1969			287
1969 to 1970			291
1970 to 1971			119
1971 to 1972			164
1972 to 1973			127
1973 to 1974			192
1974 to 1975			47
1975 to 1976			67
1976 to 1977	7,272		

Literature Review. In 1971, Small (see 49) reported no evidence of interspecific competition for food between bobcat and coyote or grey fox.

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in Arizona.

The major decrease in ADC recovery since 1964 suggests actual population decline in Arizona, but the inadequacy of these data draw into question any conclusions based upon them.

Robert Jackson, Arizona Game and Fish Commission, stated orally that Arizona will establish a season for the bobcat in 1977–78 and will require a trapping license for the first time in 1978, in part to restrict trapper immigration from adjoining States. However, Arizona has not established an annual limit on bobcat harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

LYNX

Discussion. The ESSA has no information that the lynx occurs in Arizona.

Finding. Negative.

RIVER OTTER

Discussion. The river otter is completely protected by Arizona law (see 54).

Finding. Negative.

AMERICAN GINSENG

Discussion. The ESSA has no information that American ginseng occurs in Arizona.

Finding. Negative.

Arkansas

Season	Bobcat			River otter	
	State harvest	Price per pelt	ADC recovery	State harvest	Price per pelt
1958 to 1959			16		
1959 to 1960			276		
1960 to 1961			237		
1961 to 1962	93		62		
1962 to 1963	79		179	71	
1963 to 1964	129		290	438	
1964 to 1965			359		
1965 to 1966	277	$1.00		64	$17.00
1966 to 1967	192	1.40		121	17.00
1968 to 1969	212	3.29		73	19.31
1969 to 1970	169	3.19		89	18.40
1970 to 1971	185	4.79		56	13.40
1971 to 1972	190	6.55		38	13.84
1972 to 1973	348	10.73		76	24.06
1973 to 1974	520	19.85		25	23.03
1974 to 1975	761	17.15		57	19.51

BOBCAT

Literature Review. In 1971, Jenkins (see 43) reported that: "Bobcat is common and widespread • • • It is generally considered a nuisance animal in Arkansas."

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in Arkansas.

The reported State harvest for 1972 exceed all previous reports in the last two decades, and apparently correlate directly with pelt price. In addition, Arkansas has not established an annual limit on bobcat harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in Arkansas (see 16).

Finding. Negative.

RIVER OTTER

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of river otter taken in Arkansas.

The reported river otter harvest in Arkansas has been less than 100 since 1967. Furthermore, the last two years reported harvest were exceptionally low (25, 37), although pelt price was relatively high. This suggests that the population may be declining.

In addition, Arkansas has not established an annual limit on river otter harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in Arkansas.

Crow (see 50) noted in the "Arkansas Natural Area Plan": "Ginseng has been dug and sold to dealers in drug plant materials over a period of many years. The extremely high prices paid for the roots of ginseng in recent years have no doubt contributed to its depletion in some sections of the State. It is still locally abundant in many upland sections of the State but is difficult to find in many areas where it formerly grew."

In a letter to the U.S. Fish and Wildlife Service (see 51), Dr. Edwin B. Smith, University of Arkansas, commented: "*Panax quinquefolius L.* is rare in Arkansas, and • • • occurs in small populations. The populations are small enough (perhaps 5–20 plants) that it is certainly in danger of local extinction. On the other hand, the few times I have seen it have always been times when I was collecting in remote areas (difficult to get into); so it may be protected more or less by its remoteness from well-traveled areas." Dr. Smith provided a map indicating the occurrence of American ginseng in 12 Arkansas counties (see also 46), but advised that the plant may occur elsewhere.

In contrast, Dr. Gary E. Tucker, Arkansas Tech University, commented (see 52) that based on his field experience, American ginseng was locally common in many upland areas of the State and the plant's present distribution was not significantly different from its historic distribution. However, he added that the plant should be protected based on its status throughout its historical range and not on a State-by-State basis. He expressed concern that substantial collecting pressures may develop in Arkansas if wild American ginseng exports were banned for numerous other States while exports were allowed for roots collected in Arkansas.

Botanists that commented on the status of wild American ginseng in Arkansas vary widely in their opinions. Some sections of Arkansas may be capable of supporting a sustained harvest of American ginseng. However, Arkansas has neither management programs nor regulatory mechanisms to promote the conservation of American ginseng and to regulate a harvest.

Finding. Negative.

V 42 168 AUG 30 77 UMI

California

Season	Bobcat		
	State harvest	Price per pelt	ADC recovery
1934	1,994		
1935	1,436		
1936	2,190		
1938	2,292		
1943 to 1944	2,898		
1944 to 1945	2,036		
1945 to 1946	1,730		
1946 to 1947	1,072		
1947 to 1948	689		
1948 to 1949	169		
1949 to 1950	375		
1950 to 1951	293		
1951 to 1952	239		
1952 to 1953	336		
1953 to 1954	144		
1954 to 1955	223		
1955 to 1956	228		
1956 to 1957	256		
1957 to 1958	202		[1] 2,687
1958 to 1959	142		[1] 3,444
1959 to 1960	175		3,664
1960 to 1961	301		3,364
1961 to 1962	205	$3.27	3,375
1962 to 1963	295	2.75	[1] 3,366
1963 to 1964	361	3.35	[1] 3,327
1964 to 1965	221	4.15	
1965 to 1966	221	4.15	
1966 to 1967	192	7.97	2,386
1967 to 1968	244	13.59	2,094
1968 to 1969	281	13.93	1,363
1969 to 1970	588	10.58	
1970 to 1971	319	10.780	1,147
1971 to 1972	588	18.80	936
1972 to 1973	686	29.30	142
1973 to 1974	1,234	45.00	144
1974 to 1975	1,293	50.00	105
1975 to 1976	2,103	133.50	347

[1] Lynx and bobcat.

BOBCAT

Discussion. The data available to the ESSA are insufficient to suport a positive finding for international export of bobcat taken in California.

The major decrease in ADC recovery since 1964 suggests actual poulation decline in California, but the inadequacy of these data draw into question any conclusions based upon them. The reported State harvest declined from a high in 1943–1944 and remained low until the 1970's, when it began to rise at the same time that pelt price increased. Apparently high pelt price has intensified trapper effort.

In addition, California has not established an annual limit on bobcat harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in California (see 16).

Finding. Negative.

RIVER OTTER

Discussion. The river otter is completely protected by California law (see 54).

Finding. Negative.

AMERICAN GINSENG

Discussion. The ESSA has no information that American ginseng occurs in California.

Finding. Negative.

Colorado

Season	Bobcat		
	State harvest	Price per pelt	ADC recovery
1943 to 1944	1,146		
1944 to 1945	1,019		
1945 to 1946	833		
1946 to 1947	348		
1947 to 1948	689		
1948 to 1949	169		
1949 to 1950	375		
1950 to 1951	293		
1951 to 1952	239		
1952 to 1953	103		
1953 to 1954	46		
1954 to 1955	61		
1955 to 1956	397		
1956 to 1957	2,283		
1957 to 1958	119		2,654
1958 to 1959	328		2,535
1959 to 1960	2,186		2,035
1960 to 1961	1,116		2,286
1961 to 1962	1,396	$4.75	1,616
1962 to 1963	1,457		1,672
1963 to 1964	2,113	6.18	1,913
1964 to 1965	1,950	11.62	1,734
1965 to 1966	1,966	12.50	1,379
1966 to 1967	1,477	15.50	1,068
1967 to 1968	1,620	22.50	779
1968 to 1969	1,760	15.69	598
1969 to 1970	565	13.67	449
1970 to 1971 [1]	2,166	15.89	190
1971 to 1972	2,391	24.25	171
1972 to 1973	2,174	44.68	173
1973 to 1974	2,967	61.79	21
1974 to 1975	804	48.84	0

[1] Harvest and price data since 1970, personal comm., R. Tully, Colorado Division of Wildlife, Aug. 15, 1977.

Literature Review. In 1971, Sandfort and Tully described the bobcat as "very common," and noted that it appeared to "hold its own despite reductions induced by predator control programs" (see 55).

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in Colorado.

The major decrease in ADC recovery since 1958 suggests actual population decline in Colorado, but the inadequacy of these data draw into question any conclusions based upon them. State reported harvest, based upon pelts sold within the State, showed a significant drop in the 1974–75 season. However, Robert J. Tully, Colorado Department of Natural Resources, has stated orally that surveys of hunters and trappers indicated a harvest of 3678 pelts in 1974. The decreased reported State harvest in 1974–75 could have resulted from declining population, decreased sales within the State, or decreased trapper effort. Decreased trapper effort is unlikely because of high pelt price, but either decreased population size or decreased sales within the State may have contributed to the drop in reported harvest, and the ESSA is unable to distinguish between these factors. The uncertain relationship between actual harvest and reported harvest, that may be considerably lower, weakens further the usefulness of the data.

In addition, Colorado has not established an annual limit on bobcat harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

LYNX

Discussion. The lynx is completely protected by Colorado law (see 54).

Finding. Negative.

RIVER OTTER

Discussion. The river otter is apparently extirpated and completely protected by Colorado law (see 16 and 54).

Finding. Negative.

AMERICAN GINSENG

Discussion. The ESSA has no information that American ginseng occurs in Colorado.

Finding. Negative.

Connecticut

Season	River Otter	
	State harvest [1]	Price per pelt
1961 to 1962	2	
1962 to 1963	3	
1963 to 1964	15	
1964 to 1965	1	
1965 to 1966	7	
1966 to 1967	4	
1967 to 1968	4	
1968 to 1969	11	
1969 to 1970	15	
1970 to 1971	7	$35
1971 to 1972	14	30
1972 to 1973	7	40
1973 to 1974	10	20
1974 to 1975	15	25
1975 to 1976	11	
1976 to 1977	6	

[1] Personal comm., D. DeCarli, Connecticut Department of Environmental Protection, Aug. 8, 1977.

BOBCAT

Discussion. The bobcat is completely protected by Connecticut law (see 54).

Finding. Negative.

LYNX

Discussion. The lynx is completely protected by Connecticut law (see 54).

Finding. Negative.

RIVER OTTER

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of river otter taken in Connecticut.

Reported State harvest in Connecticut is very low, probably indicating a small river otter population, though perhaps also reflecting lack of trapper effort (see 54).

In addition, Connecticut has not established an annual limit on river otter harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in Connecticut.

American ginseng is included as a State Endangered species in "Rare and Endangered Species of Connecticut and Their Habitats" (see (56): "Formerly common in rich woods and on rocky hillsides, this species is now local and rare throughout most of its range. Extermination by commercial root hunters has been held principally responsible for its present rarity in the East. Recent reports show it to be very rare and local in Connecticut." Theodore Bampton, Connecticut Department of Environmental Protection, stated orally that he was not aware of any commercial collecting activities in the State.

In addition, Connecticut has neither management programs nor regulatory mechanisms to promote the conservation of American ginseng and to regulate harvest.

Finding. Negative.

Delaware

Season	River Otter	
	State harvest	Price per pelt
1960 to 1961	40	
1961 to 1962	26	
1962 to 1963	26	
1963 to 1964	40	
1964 to 1965	30	
1965 to 1966	50	
1966 to 1967	50	
1967 to 1968	50	
1968 to 1969	40	
1969 to 1970	30	
1970 to 1971	30	
1971 to 1972	25	
1972 to 1973	25	
1973 to 1974	25	
1974 to 1975	25	
1975 to 1976 [1]	50	c.30.00
1976 to 1977 [1]	50	c.30.00

[1] Harvest and price data, personal comm., L. Alexander, Aug. 8, 1977.

V 42 168 AUG 30 77 UMI

BOBCAT

Discussion. The bobcat apparently does not occur in Delaware (see 16 and 57).

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in Delaware (see 16 and 57).

Finding. Negative.

RIVER OTTER

Discussion. The reported Delaware harvest since 1960 has never exceeded 50 and has been fairly regular, although based on rough estimates. In addition, the reported pelt price is not exceptionally high.

In a letter to the ESSA, H. Lloyd Alexander (see 57), Delaware Department of Natural Resources and Environmental Control, noted that river otter populations in Delaware were low during the 1960's, possibly because of pesticides. He further noted that the river otter population has recovered since the late 1960's and that trapping effort is not intense in the State.

Consequently, the ESSA is able to find that international export of river otter taken in Delaware during the 1977–78 season will not be detrimental to the survival of the species in that State. However, the total international export may not exceed a quota established by the method described in the species summary for river otter.

Finding. Positive; total international export of river otters taken in Delaware during the 1977–78 season after the date of this notice may not exceed 37.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in Delaware.

In 1941, Tatnall (see 58) noted that American ginseng was infrequent in the woodlands of two valleys in one county in Delaware. Dr. C. W. Dunham, University of Delaware stated orally that American ginseng has always been rare in Delaware and that he was not aware of any commercial collecting in the State.

In addition, Delaware has neither management programs nor regulatory mechanisms to promote the conservation of American ginseng and to regulate harvest.

Finding. Negative.

Florida

Season	Bobcat		River Otter	
	State harvest	Price per pelt	State harvest	Price per pelt
1941			506	
1942			816	
1943			609	
1944			271	
1945			199	
1946 to 1947	672		379	
1947 to 1948	1,028		375	
1948 to 1949	538			
1949 to 1950	566			
1950 to 1951	360			
1951 to 1952	300		200	
1952 to 1953	300		200	
1953 to 1954	300		800	
1954 to 1955	400		600	
1955 to 1956	400		600	
1956 to 1957	400		500	
1957 to 1958	400		500	
1958 to 1959	300		1,000	
1959 to 1960	250		750	
1960 to 1961	450		1,450	
1961 to 1962	450		1,550	
1962 to 1963			1,720	
1963 to 1964	13		2,611	
1964 to 1965	23		3,773	
1965 to 1966	23		3,800	
1966 to 1967	2		204	
1967 to 1968	400	$10.00	7,000	$25
1968 to 1969	20		226	

BOBCAT

Literature Review. In 1971, Jenkins reported that the bobcat was "common" throughout Florida, and is "in little danger," although widely hunted (see 43).

Discussion. The data available to ESSA are insufficient to support a positive finding for international export of bobcat taken in Florida.

The reported State harvest data are insufficient to assess the current status of bobcat in Florida. In addition, Florida has not established an annual limit on bobcat harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in Florida (see 16).

Finding. Negative.

RIVER OTTER

Literature Review. In 1963, McDaniel reported that low water levels increase the number of river otters harvested, by concentrating their prey, fish, and restricting their habitat in creeks and rivers. He recommended that trapping season be shortened during drought. McDaniel expressed doubt as to the value of State harvest reports in showing the actual harvest in Florida. In one case, a dealer revealed that he had purchased

4500 hides in 1961–1962, exceeding the harvest for the entire State (see 19).

Discussion. The data available to ESSA are insufficient to support a positive finding for international export of river otter taken in Florida.

Although Florida may be capable of supporting a sustained yield of river otter, the data are inadequate to assess the status of the species in the State. In addition, Florida has not established an annual limit on river otter harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

AMERICAN GINSENG

Discussion. The ESSA has no information that American ginseng occurs in Florida.

Finding. Negative.

Georgia

Season	Bobcat		River otter	
	State harvest	Price per pelt	State harvest	Price per pelt
1937	16		202	
1938	36		152	
1945 to 1946	574		(1)	
1947 to 1948	499		(1)	
1948 to 1949	1,000		(1)	
1949 to 1950	1,000		(1)	
1950 to 1951	1,000		110	
1951 to 1952	1,000		100	
1952 to 1953	1,000		100	
1953 to 1954	1,000		100	
1954 to 1955	1,200		200	
1955 to 1956	[2] 1,500		400	
1956 to 1957	1,500		350	
1958 to 1959			54	
1959 to 1960	12			
1961 to 1962	16		94	
1962 to 1963	20		100	
1963 to 1964			336	
1964 to 1965			866	$26.00
1965 to 1966	44		2,000	
1966 to 1967	25	$2.00	415	
1967 to 1968	300	2.50	468	22.00
1968 to 1969	300	4.00	500	22.00
1969 to 1970			713	25.00
1970 to 1971			670	22.84
1971 to 1972			222	31.17
1972 to 1973			585	30.48
1973 to 1974		19.84	453	25.49
1974 to 1975	427	16.80	624	21.87
1975 to 1976	422	17.54	496	22.82
1976 to 1977	864	40.02	947	34.13

[1] No open season.
[2] Prior to this season, trappers were not required to report.

BOBCAT

Literature Review. In 1971, Jenkins reported that bobcat was common across Georgia, but particularly in the coastal plain and where protected (see 43).

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in Georgia. Although Georgia may be capable of supporting a sustained yield of bobcat, the data are inadequate to assess the status of the species in the State. In addition, Georgia has not established an annual limit on bobcat harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in Georgia (see 16).

Finding. Negative.

RIVER OTTER

Literature Review. In 1962, Golley reported that river otters were fairly common on the coastal plain and in the salt marshes, rare on piedmont just above the fall line, and absent in the northern piedmont region and in the mountains (see 59).

Discussion. The reported Georgia harvest has been consistently higher in the 1960's and 1970's than in previous years, but no specific patterns emerge that give cause for concern. Pelt price has risen only gradually over the last 10 years. Consequently, the ESSA is able to find that international export of river otters taken in Georgia during the 1977–78 season will not be detrimental to the survival of the species in that State. However, the total international export may not exceed a quota established by the method described in the species summary for river otter, excluding the 1965–66 harvest which was the second highest reported for the State.

Finding. Positive; total international export of river otters taken in Georgia during the 1977–78 season after the date of this notice may not exceed 335.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of ginseng collected in Georgia.

Delcourt and Delcourt (see 46) noted American ginseng herbarium records for seven counties and literature references to two additional counties. However, in a letter to the U.S. Fish and Wildlife Service (see 60), Jerry McCollum, Georgia Department of Natural Resources, noted that the plant occurred in 26 counties. McCollum also noted that he did not consider the plant to be endangered currently, but that he thought commercial collection should be regulated to prevent the plant's status from deteriorating.

American ginseng has been included in several lists of rare and endangered Georgia plants: "Rare and Endangered Vascular Plants of Georgia," Wilbur H. Duncan (see 61); "Rare and Endangered Plant Species of Georgia," Georgia Botanical Society (see 62); and "Endangered Species of Georgia" (listed as Endangered), McCollum (see 63).

The MA has forwarded to the ESSA one permit application for international export of wild American ginseng collected in Georgia.

Mellinger (see 64) referred to the extirpation of American ginseng in one location in Georgia. The State was mentioned as a major commercial source of the roots in Wigginton (see 40).

The Georgia Wildflower Preservation Act of 1973 (see Ga. laws 1973, p. 373 et seq.) provides substantially for the conservation of plants listed as Endangered or Threatened by the Georgia Department of Natural Resources or the U.S. Department of the Interior. American ginseng is not listed under the Georgia Act; however, Jerry McCollum has stated orally that his Department was formally petitioned to list the species.

American ginseng has been considered a rare and endangered species by several professional and amateur botanists familiar with the Georgia flora. However, some sections of Georgia may be capable of supporting a sustained harvest of the plant. The Georgia Act generally prohibits taking, transport, or commerce in listed species except by permits issued by the Georgia Department of Natural Resources. Currently, American ginseng is not protected by the Georgia Act, and there is insufficient evidence to support a positive finding by the ESSA for export of wild American ginseng collected from the State. In the event American ginseng is listed under the Georgia Act, or protected by other mechanisms that would provide for its conservation and regulate its harvest in the State the ESSA may modify its finding for the 1977–78 season or subsequent seasons.

Finding. Negative.

HAWAII

Discussion. The ESSA has no information that the bobcat, lynx, river otter, or American ginseng occur in Hawaii.

Finding. Negative.

V 42 168 AUG 30 77 UMI

Idaho

Season	Bobcat			Lynx	
	State harvest	Price per pelt	ADC recovery	State harvest	Price per pelt
1931	11			44	
1944	[1] 1,190				
1945	700			8	
1946	800			11	
1947 to 1948				5	
1956 to 1957	316				
1957 to 1958	675		1,371	8	
1958 to 1959	802		1,418	1	
1959 to 1960	1,478		1,288	8	
1960 to 1961	1,173		985	6	
1961 to 1962	756	$1.23	925	1	
1962 to 1963	861	5.18	1,076	12	
1963 to 1964	752	5.56	886	28	
1964 to 1965	856	7.10		50	$5.61
1965 to 1966	1,161	18.10	47	4	38.50
1966 to 1967	938	10.56	301	5	23.33
1967 to 1968	935	18.62	346	6	17.80
1968 to 1969	1,191	21.38	357	20	21.82
1969 to 1970	1,318	11.02	251	70	15.29
1970 to 1971	1,318	11.02	256	70	15.29
1971 to 1972	901	21.71	101	65	22.44
1972 to 1973	901	18.101	98	52	56.19
1973 to 1974	1,178	77.66	37	17	70.37
1974 to 1975	668	58.09	20	15	82.66
1975 to 1976	467	100.21	18		228.51
1976 to 1977		156.02			214.11

[1] Lynx and bobcat

BOBCAT

Literature Review. Bailey (see 1) studied the bobcat in a rugged area of southeastern Idaho, and he found that few kittens were trapped following a crash in the local rabbit population during the winter of 1971–72.

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in Idaho.

The major decrease in ADC recovery since 1958 suggests actual population decline in Idaho, but the inadequacy of these data draw into question any conclusions based upon them.

The last two State harvest reports are the lowest since 1957 despite the highest prices ever offered for bobcat pelts in Idaho. Although not conclusive, this suggests an overstressed population.

In addition, Idaho has not established an annual limit on bobcat harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

LYNX

Literature Review. In 1971, Nellis reported that lynx were "rare to common" in Idaho: "Data are not extensive enough to show whether the lynx in the northwest is cyclic or not, but drastic fluctuations in numbers do occur." Nellis reported that the population had increased over the past thirty years, with most animals in the northern half of the State (see 65).

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of lynx taken in Idaho.

Fur harvest from 1969–1975 suggests either that the population is cyclic and was at a low phase in 1974–1975 or that trapping pressure in the early 1970's, due to high prices, has reduced the population. In either case, the lynx in Idaho may be particularly vulnerable to trapping pressure at present.

In addition, Idaho has not established an annual limit on lynx harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

RIVER OTTER

Discussion. The river otter is completely protected by Idaho law (see 54).

Finding. Negative.

AMERICAN GINSENG

Discussion. The ESSA has no information that American ginseng occurs in Idaho.

Finding. Negative.

ILLINOIS

BOBCAT

Discussion. The bobcat is completely protected by Illinois law (see 54).

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in Illinois (see 16).

Finding. Negative.

RIVER OTTER

Discussion. The river otter is completely protected by Illinois law (see 54).

Finding. Negative.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of wild American ginseng collected in Illinois.

American ginseng was considered "infrequent" in Illinois in 1876 by Patterson (see 66). Jones and Fuller (see 67) noted that American ginseng had been collected in 29 counties. Dr. Charles Sheviak, Endangered Plant Project/Natural Land Institutes supplied herbarium records (see 68) of the plant from 57 counties. In 1959, Mohlenbrock and Voigt (see 69) noted that in southern Illinois American ginseng "is rare in moist woods. It has become uncommon because of mass collections of its roots during past years."

The Illinois Nature Preserves Commission has included American ginseng as a threatened species in an interim list of plant species, "Endangered, Vulnerable, Rare, and Extirpated Vascular Plants in Illinois" (see 61). Dr. Charles Sheviak has stated orally that the plant is rare throughout the State and could be easily extirpated except in southern Illinois. He added, however, that plant had been considered too common for inclusion in the list of endangered plants being developed by the Endangered Plant Project.

The MA has forwarded to the ESSA three permit applications for international export of wild American ginseng collected in Illinois. The State was also mentioned as a commercial source in Wigginton (see 43).

Some sections of southern Illinois may be capable of supporting a sustained harvest of American ginseng. However, the State has neither management programs nor regulatory mechanisms to promote the conservation of American ginseng and to regulate a harvest.

Finding. Negative.

INDIANA

BOBCAT

Discussion. The bobcat is completely protected by Indiana law (see 70).

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in Indiana (see 16).

Finding. Negative.

RIVER OTTER

Discussion. The river otter is apparently extirpated in Indiana and is completely protected by Indiana law (see 18, 54).

Finding. Negative.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in Indiana.

Coulter in 1900 (see 71) noted: "Found (American ginseng) only in the southern half of the State and rapidly disappearing because of its commercial value." "It is still abundant in Brown County upon the authority of W. S. Blutchley and is reported as not rare in Fayette County by Dr. Hessler. Its quantity, however, has been so greatly reduced that the 'sang' gatherers have disappeared." Coulter mentioned seven counties where the plant had been found. Forty-six years later Deam (see 72) noted: "Formerly frequent to common in rich woods throughout the State. From the earliest times it was dug for its large roots which were shipped mostly to China for use as a medicine. The earliest pioneers received

twenty-five cents a pound for the dried roots. The fact that the price has steadily advanced, until it now sells for about $15.00 a pound, has resulted nearly in its extinction."

In correspondence to the U.S. Fish and Wildlife Service (see 73), Robert D. Feldt, Indiana Department of Natural Resources, supplied several documents and correspondence concerning the flora of Indiana. Maryanne Newsom, McCormick Creek State Park (see 74) noted: "In the three years I have been at McCormick's Creek, I have seen ginseng go from being fairly easy to find to being practically non-existent. With this rapid decline in the park itself, I can well imagine what is happening to the plant in other unprotected areas. Without some form of control over the indiscriminate * * * harvesting of this plant, ginseng will very soon join the list of Endangered plants, possibly within the next five years if something is not done."

Lois M. Gray, Spring Mill Park (see 75) regarded American ginseng as abundant; however, she expressed the same concerns as Ms. Newsom.

In addition, Mr. Feldt supplied a preliminary State list entitled "Rare and Endangered Plants in Indiana," that was compiled by William B. Barnes, Director, Division of Nature Preserves. This list was limited to those plants that were recorded to occur in six or fewer counties. American ginseng was not included.

In a letter to the U.S.D.A. Foreign Agricultural Service, Andy Irbe, Danville, Indiana, commented that American ginseng does not emerge every year and the plant was producing harvestable amounts in sections of Indiana where he collected it (see 76).

Mr. Edward Hanson, Indiana Department of Natural Resources, stated orally that American ginseng under collecting pressure in certain local areas of Indiana and that the collection appeared to occur year-round.

The MA has forwarded to the ESSA three permit applications for international export of wild American ginseng collected in Illinois.

American ginseng has declined in Illinois and this decline has been attributed to collecting pressure. Some sections of Indiana may be capable of supporting a sustained harvest of American ginseng. However the State has neither management programs nor regulatory mechanisms to promote the conservation of American ginseng and to regulate harvest.

Finding. Negative.

IOWA

BOBCAT

Discussion. The bobcat is completely protected by Iowa law.

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in Iowa (see 16).

Finding. Negative.

RIVER OTTER

Discussion. The river otter is only occasionally trapped in Iowa and is or soon may be completely protected by State law.

Finding. Negative.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in Iowa.

In 1899, Fitzpatrick (see 77) noted that American ginseng was "* * * becoming infrequent" (he listed nine counties where the plant occurred). Dean Roosa, Iowa Conservation Commission, stated orally that he considered the plant threatened. He further noted that he had observed it in central Iowa and that it was probably more prevalent in the more densely wooded northeastern Iowa.

The MA has forwarded to the ESSA two permit applications for international export of wild American ginseng collected in Iowa.

Some sections of Iowa may be capable of supporting a sustained harvest of American ginseng. However, the State has neither management programs nor regulatory mechanisms to promote the conservation of American ginseng and to regulate a harvest.

Finding. Negative.

KANSAS

BOBCAT

Discussion. The bobcat is completely protected by Kansas law (see 54).

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in Kansas (see 16).

Finding. Negative.

RIVER OTTER

Discussion. The river otter is completely protected by Kansas law (see 54).

Finding. Negative.

AMERICAN GINSENG

Discussion. The ESSA has no information that American ginseng occurs in Kansas.

Finding. Negative.

KENTUCKY

BOBCAT

Discussion. The bobcat is completely protected by Kentucky law (see 76).

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in Kenuteky (see 16).

Finding. Negative.

RIVER OTTER

Discussion. The river otter is virtually extirpated and is completely protected by Kentucky law. (See 54 and 78).

Finding. Negative.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in Kentucky. Braun (see 79) in 1943 recorded American ginseng in eleven counties in Kentucky. Twenty-eight years later Wharton and Barbour (see 80) noted: "The dried roots, long in demand in Chinese folk medicine and bringing a high price, have been sought, dug, and sold for export. As a result, this native species, once common in most of rich forest of the state, has been exterminated in many places and is now rare throughout Kentucky, as well as in other States. The species should be protected by law from further exploitation, and any plants to be sold should be propagated and grown commercially."

In a letter to the Smithsonian Institution (see 41), Dr. Arnold Krochmal, U.S.D.A. Forest Service supplied the following comments: "I have lived in the Appalachian region over a period of 40 years now, 17 as a student and botanist. Ginseng has always been hard to find, contributing to its high cost. The collection of gingseng has been much reduced in the past twenty years by the outmigration of Appalachian population to urban areas." He also noted that he had "seen increases in ginseng populations in Kenutcky, and * * * (could not) * * * consider it in any way endangered."

American ginseng is included as a threatened species in "A List of Rare, Threatened, or Endangered Flora in Kentucky" (see 61). The plant was not included in the "Endangered Plants and Animals of Kentucky" (see 81).

The MA has forwarded to the ESSA six permit applications for international export of wild American ginseng collected in Kentucky. Wigginton (see 40) also mentioned Kentucky as a commercial source.

The ESSA has received conflicting information on the status of American ginseng in Kentucky. The more recent comments by Krochmal indicate there may be some sections of Kentucky capable of supporting a sustained harvest of the plant. However, the State has neither management programs nor regulatory mechanisms to promote the conservation of American ginseng and to regulate a harvest.

Finding. Negative.

V 42168 AUG 30 77 UMI

Louisiana

Season	Bobcat		River otter	
	State harvest	Price per pelt	State harvest	Price per pelt
1934			780	
1935			780	
1936			650	
1937			780	
1943 to 1944	918		2,404	
1944 to 1945	628		1,912	
1945 to 1946	1,430		2,367	
1946 to 1947	385		2,832	
1947 to 1948	69		5,078	
1948 to 1949	622		2,222	
1949 to 1950			2,968	
1950 to 1951	58		4,801	
1951 to 1952	35		4,849	
1952 to 1953	21		4,198	
1953 to 1954	5		3,884	
1954 to 1955	542		5,407	
1955 to 1956	102		4,653	
1956 to 1957	31		5,056	
1957 to 1958	200		4,382	
1958 to 1959	126		5,166	
1959 to 1960	252		5,559	
1960 to 1961	20		3,602	$17.00
1961 to 1962	41	$0.50	4,195	16.00
1962 to 1963	110	2.00	8,484	17.00
1963 to 1964	26		4,274	18.00
1964 to 1965	51	2.00	3,288	25.00
1965 to 1966		2.00	3,588	20.00
1966 to 1967	10	2.00	4,118	18.00
1967 to 1968			3,466	14.00
1968 to 1969	50	5.00	5,426	.0.00
1969 to 1970	110		6,631	23.00
1970 to 1971	55		4,808	25.00
1971 to 1972	196	[1] c. 6.00	5,440	
1972 to 1973	481	[1] c.12.00	7,668	
1973 to 1974	953	[1] c.20.00	5,989	32.55
1974 to 1975	775	[1] c.25.00	6,118	
1975 to 1976	1,269	[1] c.50.00	5,730	[1] c.23.00
1976 to 1977	5,255	[1] c.50.00	11,900	[1] c.45.00

[1] Personal comm., G. Linscombe, Louisiana Wildlife Fisheries Commission, Aug. 1, 1977.

BOBCAT

Literature Review. In 1971, Jenkins reported that bobcats in Louisiana were common and widespread (see 43). In 1976, O'Neil and Linscombe (see 82) reported that the number of bobcat pelts taken was formerly insignificant, but the increased interest in long haired furs has brought higher price and increased harvest. In 1974, Lowry reported that the bobcat was widely distributed over the State and still occurred in nearly all heavily wooded regions (see 83).

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in Louisiana.

Increased pelt price in the 1970's has apparently brought a dramatic and unprecedented rise in bobcat harvest. Although Louisiana may be capable of supporting a sustained yield of bobcat, the data are inadequate to assess the status of the species in the State.

In addition, Louisiana has not established an annual limit on bobcat harvest based on the animal's populations status, although the State does tag shipments but not individual pelts.

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in Louisiana (see 16).

Finding. Negative.

RIVER OTTER

Literature Review. In 1974, Lowry commented that river otters were probably once distributed statewide in Louisiana, but have become local in occurrence because of major alterations in habitat. Lowry suggested that trapping in southern Louisiana does not appear to adversely affect otter numbers, but that it may be detrimental in the northern part of the State (see 83).

Discussion. Reported State harvest has been high and comparatively regular since 1944, and pelt price has changed little since 1965, excluding 1976–77. Reported State harvest and pelt price both doubled for the 1976–77 season. Greg Linscomb, Louisiana Wildlife and Fisheries Commission, stated orally that the increased harvest was probably caused by an abundance of young river otters rather than increased trapper effort. Consequently, the ESSA is able to find that international export of river otters taken in Louisiana during the 1977–78 season will not be detrimental to the survival of the species in that State. However, the total international export may not exceed a quota established by the method described in the species summary for river otter, excluding the 1976–1977 harvest, which was the highest ever recorded for the State.

Finding. Positive; total international export of river otters taken in Louisiana during the 1977–78 season after the date of this notice may not exceed 3923.

AMERICAN GINSENG

Literature Review and Discussion. Data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in Louisiana.

In a letter to the U.S. Fish and Wildlife Service, Dr. Mary G. Curry, VTN Louisiana Inc. (sec 84) commented that American ginseng is known definitely from only one parish in Louisiana, where it is

considered rare (see also 46 and 85). She further noted: "The species should be considered threatened, if not endangered in Louisiana" (see also 85).

In addition, Louisiana has neither management programs nor regulatory mechanisms to promote the conservation of American ginseng and to regulate harvest.

Finding. Negative.

Maine

Season	Bobcat		River Otter	
	State harvest	Price per pelt	State harvest	Price per pelt
1934	644		148	
1935	911		170	
1936	687		164	
1937	400		166	
1942	133		129	
1943	103		89	
1944	184		120	
1945	1044		121	
1946	181		199	
1947 to 1948	178		197	
1948 to 1949	489		184	
1949 to 1950	[1] 100		195	
1950 to 1951	[1] 203		114	
1951 to 1952	[1] 83		153	
1952	438			
1953	504		271	
1954	688			
1955	667		350	
1955 to 1956			570	
1956 to 1957	[1] 695			
1957	263		442	
1958	198		416	
1960	221		357	
1961 to 1962	278	$3.35	414	$21.53
1962 to 1963	231	1.81	466	21.26
1963 to 1964	588	2.78	471	20.00
1964 to 1965	209	8.74	504	25.00
1965 to 1966	152	5.50	391	22.85
1966 to 1967	233	5.79	425	23.29
1968 to 1969	153	8.17	444	27.08
1970 to 1971	730	9.88	588	25.78
1971 to 1972	654	11.78	637	32.48
1972 to 1973	641	17.58	593	39.89
1973 to 1974	573	36.00	871	35.92
1974 to 1975	554	26.00	1007	31.52
1975 to 1976	373		[2] 446(896)	
1976 to 1977	[2] 436		[2] 531	

[1] Lynx and bobcat.
[2] Number tagged (total harvest).

BOBCAT

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in Maine.

Hunt (see 86) has estimated the total Maine bobcat population to be about 4200. In 1976–77, the State established a limited season on bobcat and began requiring tags on every pelt. Furthermore, a bobcat management plan for the State would establish an ultimate management objective of 1000 bobcats harvested per year, or about 25 percent of the population.

Bobcat pelt price has recently increased in Maine, as across the United States. The potential exists for intensified trapping effort in Maine, although reported harvest has not increased since 1975, but has dropped somewhat. It would appear that Maine may be able to support a sustained annual yield of several hundred bobcats without adversely impacting the population. However, in a March 3, 1977 memorandum to the U.S. Fish and Wildlife Service, Regional Director, the U.S. Fish and Wildlife Service State Supervisor for Maine advised that overharvest may be occurring in many areas (see 87). Widespread demand for bobcat pelts may particularly increase for bobcats in any States for which international export is allowed in 1977–78. Maine has already projected harvest level by management units, and tagging of pelts is required. If Maine would establish appropriate direct limitations on harvest that would prevent overharvest from increased demand, the ESSA would approve international export of pelts taken legally in Maine and carrying Maine tags. Pending this action, the ESSA is unable to find that such international export will not be detrimental to the survival of the species.

Finding. Negative.

LYNX

Discussion. The lynx is completely protected by Maine law (see 88).

Finding. Negative.

RIVER OTTER

Discussion. The reported State harvest of river otter from 1961 through 1970 was fairly regular. From 1971 through 1975 State harvest nearly doubled with generally higher prices per pelt, and the 1974–75 season exceeded the river otter management objective for Maine by about 25 percent (see 89). The reported river otter harvests in the last two seasons returned to more typical levels, but were based on tagging data for the first time, apparently giving lower estimates than the previous reporting methods.

Maine has developed a management plan for river otter on a unit-by-unit basis, and has established a harvest of 800 animals as a management objective. However, the management plan notes that the river otter may be overexploited in some units, suggesting a need to regulate harvest by these areas, and the management plan indicates that Maine may limit the harvest in the near future to allow river otter increase. In addition, Maine now requires a tag on every river otter pelt taken in the State.

Consequently, the ESSA is able to find that international export of river otters taken in Maine during the 1977–1978 season will not be detrimental to the survival of the species in that State. However, the total international export may not exceed a quota established by the method described in the species summary for river otter. Maine may have information justifying modification of this quota, and the ESSA encourages the State to submit comments on this point so that the quota will be tailored as closely as possible to the status of the river otter in Maine.

Finding. Positive; total international export of river otters taken in Maine during the 1977–78 season after the date of this notice may not exceed 354.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in Maine.

In 1976, Eastman (see 90), in a report on American ginseng prepared for Maine's Critical Areas Program, noted that American ginseng was collected in Maine in the 1920's and that most of the plants in the State have been destroyed because of logging operations and ginseng collectors. In reviewing the status of the plant, Eastman found that: "A thorough review of the literature, consultations with professional and amateur botanists, and field checking indicated references to 14 stations in Maine" (eight counties; see also 91). Several professional botanists contacted by Eastman were not aware of any American ginseng in the areas of the State with which they were familiar. Eastman found only four stations which still had plants, none of which occupied more than 100 square meters.

Kartesz (see 61) noted that American ginseng was included as a rare species in "Types of Critical Areas in Maine Phase I Report." This report was prepared by Garret C. Clough and Paul R. Adamus in 1976.

Two of the four known stands of American ginseng have been registered as "Critical Areas" by the State and a third is also being considered for such designation. "Critical Areas," as designated by Maine's State Planning Office, are natural areas of Statewide importance because of their unusual natural, scenic, scientific or historical significance. Except for the registration process, the program is essentially nonregulatory.

Based on a review conducted under the direction of the Maine State Planning Office, only four stations of wild American ginseng are known in Maine. The State has recognized these stations as valuable State resources. Thus it is clear that exports of wild American ginseng

V 42 168 AUG 30 77 A UMI

collected in Maine, should not be approved by the ESSA for the 1977–78 collecting season.

Finding. Negative.

Maryland

Season	River Otter	
	State harvest	Price per Pelt
1949 to 1950	48	
1950 to 1951	329	
1951 to 1952	234	
1952 to 1953	55	
1953 to 1954	71	
1954 to 1955	98	
1955 to 1956	113	
1956 to 1957	149	
1957 to 1958	131	
1958 to 1959	99	
1959 to 1960	149	
1960 to 1961	150	
1961 to 1962	216	
1962 to 1963	241	
1963 to 1964	303	
1964 to 1965	376	
1965 to 1966	495	
1966 to 1967		
1967 to 1968	167	$18.75
1968 to 1969	319	21.00
1969 to 1970	271	25.00
1970 to 1971	131	42.00
1971 to 1972	360	55.00
1972 to 1973	218	45.00
1973 to 1974	208	40.00
1974 to 1975	141	40.00
1975 to 1976	105–130	50.00
1976 to 1977	[1] 181	[1] c.50.00

[1] Preliminary estimate, D. Pursley, Maryland Fish and Wildlife Administration, Aug. 17, 1977.

BOBCAT

Discussion. The bobcat apparently does not occur in Maryland (oral communication, D. Pursley, Maryland Fish and Wildlife Administration).

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in Maryland (see 16).

Finding. Negative.

RIVER OTTER

Discussion. Reported State harvest has varied irregularly since 1949, rarely exceeding 300 river otters per year. Although the reported harvest has been relatively low since 1973, this has been attributed to a decline of trapper interest in river otter. Duane Pursley stated orally that nutria and muskrat are currently very marketable in Maryland, and provide a higher return per trapper effort than river otter.

Maryland is one of the few States requiring a tag on each river otter pelt that is exported, and the reported harvest suggests that Maryland can support a limited sustained yield of river otters.

Consequently, the ESSA is able to find that international export of river otters taken in Maryland during the 1977–1978 season will not be detrimental to the survival of the species in that State. However, the total international export may not exceed a quota established by the method described in the species summary for river otter.

Finding. Positive; total international export of river otters taken in Maryland during the 1977–78 season after the date of this notice may not exceed 165.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in Maryland.

Shreve (see 92) in 1910 noted that American ginseng occurred throughout the mountain and midland zones, but was absent from the coastal zone. He further noted the plant was abundant in some areas, but was rare to infrequent in others, particularly in the midland zone. Bernard F. Halla, Maryland Wildlife Administration, stated orally that American ginseng was found in the three western counties of Maryland and that it was not abundant.

The MA has forwarded to the ESSA one permit application for international export of wild American ginseng collected in Maryland.

In addition, Maryland has neither management programs nor regulatory mechanisms to promote the conservation of American ginseng and to regulate harvest.

Finding. Negative.

Massachusetts

Season	Bobcat		River Otter	
	State harvest	Price per Pelt	State harvest	Price per Pelt
1934	83			
1935	212			
1936	186			
1937	76			
1940	266			
1941	86			
1942	108			
1943	39			
1944	110			
1945				
1946	139			
1947	27			
1948	86			
1949 to 1950	75			
1950 to 1951	76			
1960 to 1961			92	
1961 to 1962			63	
1962 to 1963			48	
1963 to 1964			77	
1964 to 1965			34	
1965 to 1966			82	
1966 to 1967			82	$25.00
1967 to 1968			47	20.00
1968 to 1969				20.00
1969 to 1970			76	20.00
1970 to 1971			76	27.00
1972 to 1973			53	30.00
1973 to 1974			71	40.00
1974 to 1975	9	$40.00	66	40.00
1975 to 1976	8	21.00	66	38.30
1976 to 1977	11	[1] 41.50	[1] 103	[1] 33.68
	[1] 13	[1] 78.00	[1] 108	[1] 60.96

[1] Personal comm., C. McCord, Massachusetts Department of Environmental Resources, Aug. 2, 1977.

BOBCAT

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in Massachusetts.

Recent reported State harvests have been relatively low despite high prices. Massachusetts is now studying the bobcat and, effective 1977–78, will require tags on all pelts.

However, Massachusetts has not established an annual limit on bobcat harvest based upon the animal's population status.

Finding. Negative.

LYNX

Discussion The lynx is apparently extirpated in Massachusetts (see 16).

Finding. Negative.

RIVER OTTER

Discussion. Reported State harvest has varied irregularly since 1960, never exceeding 100 river otters until 1975–76. Price increased only gradually until last season, when it more than doubled. Apparently Massachusetts can support a limited sustained yield of river otters.

Consequently, the ESSA is able to find that international export of river otters taken in Massachusetts during the 1977–78 season will not be detrimental to the survival of the species in that State. However, the total international export may not exceed a quota established by the method described in the species summary for river otter.

Finding. Positive; total international export of river otters taken in Massachusetts during the 1977–78 season after the date of this notice may not exceed 68.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in Massachusetts.

Dr. Norton Nickerson, Tufts University, stated orally that American ginseng was harvested in Massachusetts by the bushel in the early 20th century, but it is very scarce now (for references concerning the occurrence of the plant in Massachusetts before 1915, see 93, 94, 95, and 96).

American ginseng is included as a rare species in the "List of Plant Species Which are Rare, Endangered, or Have Undetermined Status in Massachusetts" prepared by Robert W. Franzen and Henry J. Ritzer, USDA, Soil Conservation Service (see 61). The authors considered a species rare if because of its small numbers, it may become threatened with extinction due to further deterioration of the environment or other factors.

In addition, Massachusetts has neither management programs nor regulatory mechanisms to promote the conservation of American ginseng and to regulate harvest.

Finding. Negative.

MICHIGAN

Season	Bobcat		River Otter	
	State Harvest	Price per pelt	State Harvest	Price per pelt
1936				
1937	1,134			
1941 to 1942	811			
1943 to 1944	1,629			
1944 to 1945	2,358		154	
1945 to 1946	2,802		160	
1946 to 1947	2,910		349	
1947 to 1948	2,363		322	
1948 to 1949	2,174			
1949 to 1950	2,063		103	
1950 to 1951	754		157	
1951 to 1952	942		339	
1952 to 1953	990		315	
1953 to 1954	1,138		329	
1954 to 1955			533	
1955 to 1956	696		434	
1956 to 1957	847		663	
1957 to 1958	880		577	
1958 to 1959			855	
1959 to 1960	200		836	
1960 to 1961			750	
1961 to 1962			923	
1962 to 1963		$2.00	625	$18.00
1963 to 1964	688	2.00	587	20.00
1964 to 1965	494		485	20.00
1965 to 1966	265		825	25.00
1966 to 1967			825	25.00
1967 to 1968	400	1.50	642	16.50
1968 to 1969		2.00	815	18.00
1969 to 1970		2.00	815	18.00
1970 to 1971	300	2.00	500	20.00
1971 to 1972	300		584	
1972 to 1973	300		859	
1973 to 1974	300		1,152	
1974 to 1975	300		459	
1975 to 1976 [1]	300		609	
1976 to 1977			914	
	341	40–125.00	910	

[1] From Burt (see 97).
[2] Data since 1975, personal comm., J. Bogt, Michigan Department of Natural Resources, Aug. 8, 1977.

BOBCAT

Literature Review. In 1946, Burt (see 97) noted that bobcats were formerly distributed over the entire State, but were confined to the Upper Peninsula and the northern half of the lower peninsula by 1946. He stated that they were "not too common."

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in Michigan.

Reported State bobcat harvest has declined nearly tenfold in Michigan since a high of 2910 in 1945–1946, despite rising price since 1970. However, bounties paid from 1936 to 1965 rarely exceeded 500 (with the exception of 1247 in 1935; oral statement of Joe Bogt, Michigan Department of Natural Resources, 8 August 1977). From removal of the bounty in 1965 until establishment of a tagging requirement in 1976–1977, harvest was roughly estimated from informal surveys. Overall, reported bobcat harvest in Michigan is of questionable value in assessing actual population status. Although Michigan may be capable of supporting a sustained yield of bobcat, the data are inadequate to assess the status of the species in the State.

Michigan now requires a tag on all bobcat pelts, completely protects bobcat in the southern portion of the State, and limits the open season on bobcat to the north. However, Michigan has not established an annual limit on bobcat harvest based upon the animal's population status.

Finding. Negative.

LYNX

Discussion. The lynx is completely protected by Michigan law (see 54).

Finding. Negative.

RIVER OTTER

Literature Review. In 1946, Burt noted that the river otter was once formerly distributed over the entire State and had become restricted to less densely populated areas in the Upper Peninsula and northern part of the Lower Peninsula.

He noted that the season was closed in 1925 because of reduced numbers, but it was reopened in 1940 (see 97).

Discussion. Michigan is one of the few States requiring a tag on each river otter pelt and also establishes a bag limit (one river otter per trapper in 1976–1977). These regulations, combined with the fairly regular reported harvest, suggest that Michigan can support sustained yield of river otters.

Consequently, the ESSA is able to find that international export of river otters taken in Michigan during the 1977–1978 season will not be detrimental to the survival of the species in that State. However, the total international export may not exceed a quota established by the method described in the species summary for river otter.

Finding. Positive; total international export of river otters taken in Michigan during the 1977–78 season after the date of this notice may not exceed 551.

AMERICAN GINSENG

Literature Review and Discussion. In 1881, Wheeler and Smith (see 98) noted that American ginseng grew throughout Michigan: "Usually rare, but so common in places that it has been dug for profit, and nearly exterminated." They further noted the plant occurred in great abundance in one county, but eleven years later (see 99) the observation was modified, "formerly in great abundance." In 1961, Smith (see 100) noted that the plant was once very common in Michigan, but that by 1961 itwas quite rare due to overcollecting.

The MA has forwarded to the ESSA one permit application for international export of wild American ginseng collected from Michigan.

Wagner et al. (see 101) reported that American ginseng is an official Threatened species in the State of Michigan. The Michigan Endangered Species Act of 1974 (Act Number 203) considers a threatened species as one "which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range." American ginseng was originally considered for endangered status; however, information acquired by the Department indicated that threatened status might be more appropriate. The Michigan Endangered Species Act of 1974 contains several provisions for the conservation of animals and plants either listed by the Department of the Interior or by the Director of the Michigan Department of Natural Resources. Section 6(1) of the Michigan Act states: "Except as otherwise provided in this Act a person shall not take, possess, transport, import, export, process, sell, or offer for sale, buy or offer to buy, nor shall a common carrier transport or receive for shipment, any species of fish, plants, or wildlife appearing in the following lists • • •"

The Michigan Department of Natural Resources is issuing collecting permits for American ginseng provided the permit holders supply the Department with data concerning the amount of plants collected, distribution and population sizes of the plants, and the name and address of the purchaser(s) and date(s) of sale(s), with the understanding that the data would not be made public. The Department intends to use the data to more accurately assess the status of the species in Michigan and to establish the appropriate collecting controls.

Because Michigan has initiated a program designed to conserve American ginseng and to regulate the harvest in order to prevent overexploitation, the ESSA is anxious to give the State's program a fair chance to become functional. However, care must be taken to ensure

V 42 168 AUG 30 77 UMI

that the approval of exports from this one State does not result in overcollection.

Thus, Michigan roots may only be exported if copies of the relevant Michigan permit(s) are attached to the copy of the U.S. Fish and Wildlife Service permit that must accompany each shipment. Also, as an attachment to the U.S. Fish and Wildlife Service permit, the exporter must state the number of pounds of roots included that were collected under each Michigan permit. As it becomes available, the U.S. Fish and Wildlife Service periodically will supply this information to the Michigan Department of Natural Resources.

The ESSA is working with the Michigan Department of Natural Resources to establish an appropriate quota for exports of roots collected in the 1977–78 season. Because roots are already being collected in the State and the status of the plant has not been adequately ascertained by State officials and the ESSA, the quota for this collecting season will be conservative.

When the ESSA determines the quota has been met, exports of roots collected in Michigan after the date of this notice will be closed. Because the demand for wild American ginseng is high, the quota may be filled before revised ESSA export findings are published in the Fall.

Export quotas for future collecting seasons will be determined based on current biological and commerical data including data generated by the Michigan permit system. In addition, the ESSA will require that future international exports be collected in an appropriate collection season to ensure mature plants have had adequate opportunity to reproduce.

Finding. Positive.

Minnesota

Season	Bobcat		Lynx	
	State harvest	Price per pelt	State harvest	Price per pelt
1934	58		10	
1935	271		84	
1937	487		114	
1938	1,017		156	
1942	231		55	
1943	450		33	
1944	1,880		20	
1945	3,085		56	
1946	2,010		77	
1947	1,294		64	
1948	1,255		24	
1949	1,805		38	
1950	2,360		0	
1951	860		137	
1952	1,519		327	
1953	1,969		70	
1954	1,392		134	
1955	1,080		135	
1956	449		283	
1956 to 1957	449		283	
1957 to 1958	[1] 1,067		0	
1958 to 1959	[2] 717		2	
1959 to 1960	441		1	
1960 to 1961	502		50	
1961 to 1962	450	$3.00	66	
1962 to 1963	264	4.00	287	
1963 to 1964	350	2.75	281	
1964 to 1965	13	17.50	33	
1965 to 1966	136	5.50	40	
1966 to 1967	70	5.00	50	
1968 to 1969	80	8.50	90	$45
1969 to 1970	75		10	
1970 to 1971	130	8.00	11	
1971 to 1972	135	12.00	175	
1972 to 1973	198	15.00	400	
1973 to 1974	111	35.00	72	
1974 to 1975	175	80.00		

[1] All harvest data after 1968–69, personal comm., David Uesall, Minnesota Division Game and Fish, Aug. 15, 1977.
[2] Number bounties.

BOBCAT

Literature Review. In 1975, the Minnesota Department of Natural Resources (see 102) reported that bobcats were formerly more abundant in southern than northern Minnesota. However, cutting of forests in northern and increased agriculture in southern have made the bobcat more common in the north, with animals now occurring only occassionally in the south. The Department report stated that annual take had dropped drastically during the past twenty years. Population apparently fluctuated with the food supply, although the bobcat population had never been studied in the State.

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in Minnesota.

Reported State bobcat harvest has declined over tenfold in Minnesota since a high of 3085 in 1945. Bounties may have generated the large harvest of the early years. However, reported State harvest has remained low since 1970, despite rising and quite high pelt price.

Minnesota will require tagging of bobcat pelts in 1977–78. However, the data are inadequate to assess the status of the species in the State and give cause for concern.

Finding. Negative.

LYNX

Literature Review. In 1975, the Minnesota Department of Natural Resources (see 102) reported that the lynx is a "species of changing or uncertain status, • • • Some (usually less than 100) are still taken each year by hunters and trappers." The report stated that lynx numbers have fluctuated considerably in recent years, possibly because of changes in abundance of rabbits and rodents on which it feeds, and that the species would benefit from protection by the State.

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of lynx taken in Minnesota.

Finding. Negative.

RIVER OTTER

Discussion. David Uesall, Minnesota Division of Game and Fish, stated orally that the river otter will be completely protected by Minnesota law in 1977–1978.

Finding. Negative.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in Minnesota.

In 1884 Upham (see 103) noted that American ginseng occurred "throughout the State, exception northwestward; local, wanting in some districts, rare northward; frequent, occasionally abundant, in the region of the upper Mississippi, and in • • • (he listed five counties)." In 1892, MacMillan (see 104) found the plant "• • • not very abundant in the Minnesota Valley." By 1969, Morley (see 105) noted that American ginseng was "now exterminated or nearly so by herb hunters • • •" in Minnesota. Monserud and Ownbey (see 106) concurred, "Now extremely rare."

American ginseng was included in the "Rare and Engandered Plants of Minnesota" prepared by Dr. Thomas Morley, University of Minnesota, in 1972 (see 61).

The Minnesota Department of Natural Resources (see 102) listed the American ginseng as a "Species of Special Interest," that is not presently endangered or threatened but is apt to become so in the near future:

• • • (Ginseng) was once common in mature forests. It has long been collected, and is largely extirpated by people who dig for its • • • roots • • •. Clearing of forests has also been a factor • • •. Preservation of undisturbed areas of hardwood forest, and possibly some planting, should help retain it as a wild plant • • •. Ginseng should be placed on the protected wild flower list so that collection of the roots from public lands can be regulated.

In a letter to the U.S. Fish and Wildlife Service, Carrol L. Henderson (see 107), Minnesota Department of Natural Resources, commented that Dr. Morley and Dr. John Moyle both favored restrictions on international trade to protect American ginseng from overcollecting. Mr. Henderson further noted that based on the opinions of these botanists, and on other available data, his Department endorses prohibition of exports of wild American ginseng collected in Minnesota.

Both Upham (see 103) and Nash (see 25 referred to Minnesota as a large producer of American ginseng. Upham quoted the price at about one dollar per pound. The MA has forwarded to the ESSA two permit applications for export of wild American ginseng collected in Minnesota.

Besides the lack of data that would support a positive finding by the ESSA for international export of wild American ginseng collected in Minnesota, the State endorses a prohibition on export.

Finding. Negative.

Mississippi

Season	Bobcat		River Otter	
	State harvest	Price per pelt	State harvest	Price per pelt
1960 to 1961	126		126	
1961 to 1962	88		88	
1962 to 1963	100		100	
1971 to 1972	553			
1972 to 1973	774			
1973 to 1974	1,374			
1974 to 1975	1,783			
1975 to 1976	4,374			

BOBCAT

Literature Review. In 1971, Jenkins reported that the bobcat was found in all parts of Mississippi in good numbers and it was not in any danger at that time (see 43).

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in Mississippi.

Reported State harvest in Mississippi has risen dramatically since 1972. In addition, Mississippi has not established an annual limit on bobcat harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in Mississippi (see 16).

Finding. Negative.

RIVER OTTER

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of river otter taken in Mississippi. In addition, Mississippi has not established an annual limit on river otter harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in Mississippi.

In 1971, Lowe (see 108) noted that American ginseng occurred in five counties in Mississippi. Delcourt and Delcourt (see 46) reported herbarium records for eight counties, and found literature references to four additional counties.

The plant is included in a preliminary checklist of "Rare and Endangered Species in Mississippi," compiled by Dr. Thomas M. Pullen, University of Mississippi (see 109).

In addition, Mississippi has neither management programs nor regulatory mechanisms to promote the conservation of American ginseng and to regulate harvest.

Finding. Negative.

MISSOURI

BOBCAT

Discussion. Effective with the 1977–78 trapping season, the bobcat has been given complete protection by Missouri law (see 110).

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in Missouri (see 110).

Finding. Negative.

RIVER OTTER

Discussion. The river otter is completely protected by Missouri law (see 110).

Finding. Negative.

AMERICAN GINSENG

Literature Review and Discussion. In 1886, Tracy (see 111) regarded American ginseng as "common in rich woodland. • • •" 77 year later, Steyermark (see 112) noted that the plant was: "Frequent throughout the Ozark section and in extreme eastern Missouri, rare elsewhere in the State. • • •" He further added: "The demand for this plant • • • has threatened it with extinction in many parts of Missouri. • • • Usually at any given locality in Missouri, the plants are few to several in number, and occur as scattered individuals, well separated from one another."

American ginseng is not included in the *Rare and Endangered Species of Missouri* (see 113). In a letter to the U.S. Fish and Wildlife Service, John E. Wylie (see 114), Missouri Department of Natural Resources, commented that American ginseng had reportedly become "noticeably scarcer in the last year • • •" He further noted that the decline in status may be attributed to recent drought and collecting for the foreign and domestic markets. Wylie concluded by stating that his Department would recommend a ban on American ginseng exports for at least three years. In a letter to the ESSA, Allen Brohn (see

V42I168 AUG 30 77 UMI

115), Missouri Department of Natural Resources, commented that American ginseng is not considered endangered in the State, but that "* * * it is subject to substantial exploitation and numbers may be dwindling." He concurred with John E. Wylie that there should be a prohibition against the exportation of the plant.

The MA has forwarded to the ESSA four permit applications for international export of wild American ginseng collected in Missouri. Wigginton (see 40) also mentions Missouri as a commercial source.

Besides the lack of data that would support a positive finding of the ESSA for international export of wild American ginseng collected in Missouri, the State endorses a prohibition on exoprt.

Finding. Negative.

Montana

Season	Bobcat			Lynx		River Otter	
	State harvest	Price per pelt	ADC recovery	State harvest	Price per pelt	State harvest	Price per pelt
1950 to 1951	461			2			
1951 to 1952	835			17			
1952 to 1953	927			8			
1953 to 1954	1,097			21			
1954 to 1955	1,320			16			
1955 to 1956	1,399			21			
1956 to 1957	808			45			
1957 to 1958	890		841	9			
1958 to 1959	1,180		716	32			
1959 to 1960	2,000		1,115	43			
1960 to 1961	1,657		818	44		59	
1961 to 1962	855		590	35		45	
1962 to 1963	928	$4.62	565	76		51	
1963 to 1964	1,500	6.18	759	380		65	$15.85
1964 to 1965	1,220	5.46		157	$7.21	32	22.17
1965 to 1966	2,000	15.29	231	170	7.21	54	20.41
1966 to 1967	1,660	10.06	126	102	13.91	42	17.66
1967 to 1968	1,075	10.17	126	60	12.51	25	18.80
1968 to 1969	1,740	20.62	106	42	21.98	27	24.17
1969 to 1970	1,364	[1] 15.54	123	65		32	
1970 to 1971	1,364	[1] 16.85	78	65		32	
1971 to 1972	1,228	[1] 22.58	56	43	[1] 35.63	24	[1] 23.77
1972 to 1973	2,472	[1] 45.97	122	301	[1] 48.42	34	[1] 32.19
1973 to 1974	2,257	[1] 68.92	65	260	[1] 76.09	48	[1] 25.25
1974 to 1975	1,404	[1] 55.55	55	163	[1] 83.66	42	[1] 20.60
1975 to 1976	1,068	[1] 154.36		[1] 244	[1] 174.47	28	[1] 29.28

[1] Personal comm., J. Egans, Montana Fish and Game Department, Aug. 3, 1977.

BOBCAT

Literature Review. In 1977, the Montana Department of Fish and Game (see 116) commented that available data indicate that the bobcat population in Montana is "going downhill faster than Jean Claude Killy." The Department further noted that State regulation of harvest is called for.

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in Montana.

The major decrease in ADC recovery since 1960 suggests actual population decline in Montana, but the inadequacy of these data draw into question any conclusions based upon them.

Reported State bobcat harvest for 1950–72 frequently exceeded 1000 but not 2000 animals. However, reported harvest exceeded 2000 for two consecutive years in 1972–74, at the same time that pelt price increased dramatically, and then dropped from 1974–76, even though pelt price continued a sharp increase. These data give concern that the population may be overharvested.

In addition, Montana has not established an annual limit on bobcat harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

LYNX

Literature Review. In 1969, Hoffman reported that lynx were most frequent in the northwestern and northcentral areas of the State, and less frequent to the south and east, being rarest in the southeast corner of Montana. This corresponds in general with the abundance of snowshoe hares in the State. Hoffman further reported that lynx had reached a peak in 1963–64, and since then had declined (see 117). In 1971, Nellis reported that lynx were "common" in Montana (see 65).

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of lynx taken in Montana.

It has been reported that prior to 1940, trapping pressure probably decreased the distribution and abundance of lynx in Montana, suggesting that the lynx population, probably cyclic, is vulnerable to heavy trapping (see 65). The extremely high pelt price at present is likely to stimulate intense trapper effort.

In addition, Montana has not established an annual limit on lynx based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

RIVER OTTER

Discussion. Reported river otter harvest in Montana has never exceed 65 and has been fairly regular. In addition, price has not risen markedly.

Consequently, the ESSA is able to find that international export of river otters taken in Montana during the 1977–1978 season will not be detrimental to the survival of the species in that State. However, the total international export may not exceed a quota established by the method described in the species summary for river otter.

Finding. Positive; total international export of river otters taken in Montana during the 1977–1978 season after the data of this notice may not exceed 36.

AMERICAN GINSENG

Discussion. The ESSA has no information that American ginseng occurs in Montana.

Finding. Negative.

Nebraska

Season	Bobcat		
	State harvest	Price per pelt	ADC recovery
1943 to 1944	100		
1944 to 1945	133		
1945 to 1946	48		
1946 to 1947	14		
1947 to 1948	98		
1948 to 1949	170		
1949 to 1950	266		
1950 to 1951	33		
1951 to 1952	67		
1952 to 1953	45		
1953 to 1954	46		
1954 to 1955	84		
1955 to 1956	80		
1956 to 1957	68		
1957 to 1958	21		
1958 to 1959	90		
1959 to 1960	59		
1960 to 1961	59		
1961 to 1962	60		
1962 to 1963	14	$4.50	
1963 to 1964	129	4.49	
1964 to 1965	29	3.83	
1965 to 1966	87	9.75	
1966 to 1967	70	12.33	
1967 to 1968	96	15.38	
1968 to 1969	129	18.37	
1969 to 1970	98	14.07	
1970 to 1971	31	12.75	
1971 to 1972	49	17.50	
1972 to 1973	79	25.62	
1973 to 1974	180	53.25	
1974 to 1975	186	41.16	

BOBCAT

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in Nebraska.

The major decrease in ADC recovery since 1964 suggests actual population decline in Nebraska, but the inadequacy of these data draw into question any conclusions based upon them.

From 1944 through 1975 the reported State harvest has varied irregularly from 14 to 266. The harvests from 1973–75 were the highest reported since 1950, and in light of the general rising trend in pelt price, these data suggest that the Nebraska bobcat may be under increased trapper pressure.

In addition, Nebraska has not established an annual limit on bobcat harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in Nebraska (see 16).

Finding. Negative.

RIVER OTTER

Discussion. The river otter apparently is extirpated in Nebraska and is completely protected by State law (see 16 and 54).

Finding. Negative.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in Nebraska.

Pound and Clements in 1900 (see 118) and Winter in 1936 (see 119) have stated that American ginseng is rare in Nebraska. In a letter to the U.S. Fish and Wildlife Service, Mr. Curtis M. Twedt (see 120), Nebraska Parks Commission commented that American ginseng occurs in three eastern counties in Nebraska. Mr. Twedt also stated orally that he was not aware of commercial harvests of ginseng in the State and that the plant was being considered for listing under the Nebraska Nongame and Endangered Species Conservation Act.

There is no evidence that would support a finding by the ESSA approving exports of wild American ginseng collected in Nebraska.

Finding. Negative.

Nevada

Season	Bobcat			River Otter	
	State harvest	Price per pelt	ADC recovery	State harvest	Price per pelt
1957 to 1958	303		3,465		
1958 to 1959			3,629		
1959 to 1960			4,077		
1960 to 1961			3,756		
1961 to 1962			2,175		
1962 to 1963			2,707		
1963 to 1964			2,636		
1964 to 1965					
1965 to 1966			1,844		
1966 to 1967			1,125		
1967 to 1968			1,029		
1968 to 1969	543		632	33	
1969 to 1970	1,473	$15.82	443	6	
1970 to 1971	1,421	15.82	382		
1971 to 1972	1,442	23.36	56		
1972 to 1973	1,517	47.75	268		
1973 to 1974	2,051	77.81	128		
1974 to 1975	1,345	58.44	34		
1975 to 1976			29		
1976 to 1977					

BOBCAT

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in Nevada.

The major decrease in ADC recovery since 1960 suggests actual population decline in Nevada, but the inadequacy of these data draw into question any conclusions based upon them.

As in many other States, reported State bobcat harvest in Nevada has been high, probably largely reflecting increase in pelt price. It cannot be determined from these data whether Nevada can sustain this level yield, or greater.

In addition, Nevada has not established an annual limit on bobcat harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in Nevada (see 16).

Finding. Negative.

RIVER OTTER

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of river otter taken in Nevada.

Glen K. Griffith, Nevada Department of Fish and Game, stated orally that his Department estimate 500 river otters are in Nevada, and that the population could support a sustained annual harvest of 40 to 60.

However, Nevada has not established an annual limit on river otter harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

AMERICAN GINSENG

Discussion. The ESSA has no information that American ginseng occurs in Nevada.

Finding. Negative.

New Hampshire

Season	River Otter	
	State harvest	Price per pelt
1935	45	
1936	54	
1937	37	
1938	21	
1942	40	
1943	28	
1944	45	
1945 to 1946	40	
1946 to 1947	52	
1945 to 1948	61	
1948 to 1949	116	
1949 to 1950	111	
1950 to 1951	98	
1951 to 1952	120	
1952 to 1953	107	
1953 to 1954	109	
1954 to 1955	133	
1955 to 1956	95	
1956	102	
1957	93	
1959	124	
1960	122	
1961	167	
1961 to 1962	189	
1962 to 1963	182	
1963 to 1964	196	
1964 to 1965	181	$21.27
1965 to 1966	157	23.82
1966 to 1967	119	21.28
1967 to 1968	110	21.34
1968 to 1969	150	26.56
1970 to 1971	135	26.48
1971 to 1972	157	32.26
1972 to 1973	208	36.61
1973 to 1974	186	32.73
1974 to 1975	170	29.30
1975 to 1976	181	

BOBCAT

Discussion. Mason Butterfield, New Hampshire Fish and Game Department, stated orally that the State has established a two year moratorium on bobcat harvest for 1977–1979.

Finding. Negative.

LYNX

Discussion. Mason Butterfield stated orally that the lynx is completely protected by New Hampshire law.

Finding. Negative.

RIVER OTTER

Discussion. The reported harvest of river otter in New Hampshire gradually increased from 1935 until the early 1960's, declined somewhat in the latter 1960's, then returned to the high level of the early 1960's. The price has risen little since first reported in 1964–65.

V 42 168 AUG 30 77 A UMI

Consequently, the ESSA is able to find that international export of river otters taken in New Hampshire during the 1977–78 season will not be detrimental to the survival of the species in that State. However, the total international export may not exceed a quota established by the method described in the species summary for river otter.

Finding. Positive; total international export of river otters taken in New Hampshire during the 1977–78 season after the date of this notice may not exceed 114.

AMERICAN GINSENG

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in New Hampshire.

In 1924, Pease (see 121) noted two stations of American ginseng in Coos County, and regarded the plant as scarce and nearly exterminated in the State. Eight additional stations in New Hampshire are documented by herbarium specimens at the New England Botanical Club, Cambridge, Massachusetts and at the University of New Hampshire.

American ginseng was included as an endangered species in the list, "Endangered Plants of New Hampshire" developed by Albion Hodgon, University of New Hampshire (see 61).

Finding. Negative.

NEW JERSEY

BOBCAT

Discussion. The bobcat is completely protected by New Jersey law (see 122).

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in New Jersey (see 16).

Finding. Negative.

RIVER OTTER

Discussion. The river otter is completely protected by New Jersey law (see 54).

Finding. Negative.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in New Jersey.

In 1889, Britton (see 123) noted that American ginseng was very rare in New Jersey.

In 1973, Fairbrothers and Hough (see 124) listed American ginseng as a rare species in Rare or Endangered Vascular Plants of New Jersey. The authors noted that the plant occurred in three counties.

Santiago Porcella III, New Jersey Department of Environmental Protection, commented in a letter to the U.S. Fish and Wildlife Service (see 125) that American ginseng should be considered rare. He noted that the plant occurred in five counties.

Finding. Negative.

New Mexico

Season	Bobcat		
	State harvest	Price per pelt	ADC recovery
1942	7,292		
1943	3,989		
1944	4,000		
1945	5,276		
1946 to 1947	4,500		
1947 to 1948	4,000		
1948 to 1949	4,000		
1949 to 1950	3,000		
1950 to 1951	3,600		
1951 to 1952	3,500		
1952 to 1953	3,000		
1953 to 1954	2,500		
1954 to 1955	1,379		
1955 to 1956	2,075		
1956 to 1957	1,000		
1957 to 1958	201		
1958 to 1959	663		
1959 to 1960	319		1,812
1960 to 1961	367		1,873
1961 to 1962	628		1,631
1962 to 1963	732		1,240
1963 to 1964			1,388
1964 to 1965	200		1,128
1965 to 1966			839
1966 to 1967	1,500	$12.00	1,109
1967 to 1968			742
1968 to 1969			715
1969 to 1970	300	13.59	686
1970 to 1971	1,589	13.59	619
1971 to 1972			403
1972 to 1973			366
1973 to 1974	3,137	51.39	398
1974 to 1975	1,945	48.16	276
1975 to 1976			284
1976 to 1977	5,077	150.87	

Literature Review. In 1975, Findley et al, reported that bobcats are found throughout the State in almost all habitats, are probably rare on the eastern plains and at higher altitudes in the northern mountains, and are perhaps most common in rocky country from desert through the ponderosa forest (see 126).

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in New Mexico.

The major decrease in ADC recovery since 1961 suggests actual population decline in New Mexico, but the inadequacy of these data draw into question any conclusions based upon them.

William S. Huey, New Mexico Department of Game and Fish, stated orally that his Department estimates approximately 50,000 bobcats are in the State and that an annual harvest of 5,000 bobcats would not be excessive. He further noted that most bobcats are taken incidental to coyote trapping, primarily conducted in habitat not optimal for the bobcat. Huey also thought that pelts should be tagged to facilitate monitoring of international exports.

New Mexico may be able to support a sustained yield of bobcat. However, the State has not established an annual limit on bobcat based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in New Mexico (see 16).

Finding. Negative.

RIVER OTTER

Discussion. The river otter is completely protected by New Mexico law (see 54).

Finding. Negative.

AMERICAN GINSENG

Discussion. The ESSA has no information that American ginseng occurs in New Mexico.

Finding. Negative.

New York

Season	Bobcat		River Otter	
	State harvest	Price per pelt	State harvest	Price per pelt
1934	92		242	
1935	106		215	
1936	77		500	
1937	63		163	
1938				
1939	163			
1940	220			
1941	210			
1942	72			
1943				
1944	257			
1945	158			
1946				
1947	209			
1948	251			
1949	199		128	
1950	142		78	
1951	194		217	
1952			[1] 127	
1953			292	
1954			310	
1954 to 1955			301	
1955 to 1956			301	
1956 to 1957			301	
1957 to 1958			357	
1958 to 1959			215	
1959 to 1960			308	
1960 to 1961			387	
1961 to 1962				
1962 to 1963	[2] 760 (?5800)		176	
1963 to 1964			300	
1964 to 1965			318	
1965 to 1966			244	
1966 to 1967			249	
1967 to 1968			256	
1968 to 1969			255	
1969 to 1970			263	
1970 to 1971			171	
1971 to 1972			229	
1972 to 1973	161		413	
1973 to 1974			405	
1974 to 1975			496	
1975 to 1976			533	

[1] Spring season only.
[2] Gunning figure only.
[3] Unpublished estimate.

BOBCAT

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in New York. In 1976, the bobcat was first classified as a game animal and tagging of pelts became required. However, New York has not established an annual limit on bobcat harvest based upon the animal's population status.

Finding. Negative.

LYNX

Discussion. The lynx is apparently extirpated in New York (see 16).

Finding. Negative.

RIVER OTTER

Discussion. The reported State harvest varied irregularly between 78 and and 287 since 1949. Only in the last three reported years has the take exceeded 400 per year, perhaps because of somewhat higher prices. However, the annual reported harvest has remained fairly regular for an extended period. Apparently New York can support a sustained yield of river otters. Consequently, the ESSA is able to find that international export of river otters taken in New York during the 1977-78 season will not be detrimental to the survival of the species in that State. However, total international export may not exceed a quota established by the method described in the species summary for river otter.

Finding. Positive; total international export of river otters taken in New York during the 1977-78 season after the data of this notice may not exceed 272.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in New York.

In 1924, House (see 127) noted that American ginseng was "frequent as local, at least formerly so, northward in the State. Less common or rare southward to Rockland County and westward to Lake Erie." Zander (see 128) documented the distribution of American ginseng in 12 western New York counties and noted that the plants were "found at scattered locations in rich woods."

Dr. Richard S. Mitchel, New York State Museum of Science, stated orally that American ginseng has been extirpated in many areas of New York and

V 42 168 AUG 30 77 UMI

that it was currently restricted to relatively inaccessible areas. He further stated his understanding that the plants were collected only when mature, but he thought much of the collecting took place on public lands.

Effective September 1, 1974, New York law prohibited taking of American ginseng, without the landowner's consent, and since May 25, 1976, a collecting permit has been required, issued by the New York Department of Environmental Conservation. Permits are granted for purposes of scientific research or salvage, but not for commercial harvest.

The MA has forwarded to the ESSA six permit applications for international export of wild American ginseng collected in New York.

The taking of American ginseng in New York State is generally prohibited by State law.

Finding. Negative.

North Carolina

Season	Bobcat		River Otter	
	State harvest	Price per pelt	State harvest	Price per pelt
1941	230			
1942	153			
1943	169			
1945	100			
1946 to 1947	120			
1947 to 1948	33			
1948 to 1949	65			
1949 to 1950	36			
1950 to 1951	64			
1951 to 1952	63			
1952 to 1953	28			
1953 to 1954	9			
1954 to 1955	19			
1955 to 1956	30			
1956 to 1957	23			
1957 to 1958	9			
1958 to 1959	24			
1960 to 1961	80		1130	
1961 to 1962	105		1234	
1962 to 1963	116		1456	
1963 to 1964	148		1739	
1964 to 1965	166	$0.50	13.28	$23
1965 to 1966	180	2.50	1443	25
1966 to 1967			1351	23
1967 to 1968	108	2.50	1115	16
1968 to 1969	316	4.00	16.5	23
1969 to 1970	179	3.75		
1970 to 1971	179	3.75		
1971 to 1972	299	7.00	606	9
1973 to 1974	745	14.70	968	
1974 to 1975	712	20.00	893	25
1975 to 1976	867		878	
1976 to 1977	1100		1390	

BOBCAT

Literature Review. In 1971, Jenkins reported that the bobcat was rare or absent in much of the Piedmont, but frequent to common in the mountains and in the eastern coastal counties (see 43).

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in North Carolina.

Before 1971–72, reported bobcat harvest in North Carolina exceeded 200 only in two separate seasons. However, reported harvest has increased substantially since 1973, reaching 1100 in 1976–77, and has been associated with rising price.

In addition, North Carolina has not established an annual limit on bobcat harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in North Carolina (see 16).

Finding. Negative.

RIVER OTTER

Discussion. The reported State harvest of river otter from 1961–69 was high and regular. Reported harvest declined in the early 1970's, then rose to previous levels in 1976–77. The drop in reported harvest may have been related to low price, although the data are very inadequate on this point. Apparently North Carolina can support a sustained yield of river otters.

Consequently, the ESSA is able to find that international export of river otters taken in North Carolina during the 1977–78 season will not be detrimental to the survival of the species in that State. However, total international export may not exceed a quota established by the method described in the species summary for river otter.

Finding. Positive; total international export of river otters taken in North Carolina during the 1977–78 season after the data of this notice may not exceed 1195.

AMERICAN GINSENG

Literature Review and Discussion. Radford et al. (see 129) noted that American ginseng occurred in 14 counties in the mountains and piedmont of North Carolina; Delcourt and Delcourt (see 46) noted herbarium records for one county and literature references to 17 additional counties; and Hardin (see 130) noted the plant occurred in 9 counties (see also 131).

Radford et al. (see 129) regarded American ginseng as rare in North Carolina. This opinion was shared by Hardin (see 132) who noted that the plant's status was the result of overcollecting.

Hardin also (see 130) included American ginseng as a species threatened throughout its range and exploited in "Endangered and Threatened Plants and Animals of North Carolina". He further noted that collecting wild American ginseng "is a very old but recently growing business which could lead to the eradication of the species in native habitats * * *" In contrast, Arnold Krochmal, U.S.D.A. Forest Service commented in a letter to the Smithsonian Institution (see 41), that he has seen increases in ginseng populations in North Carolina (refer to summary for Kentucky).

The MA has forwarded to the ESSA eight permit applications for international export of wild American ginseng collected in North Carolina. Wigginton (see 40) also noted the State was a major commercial source.

Bogue (see 133) quoted one individual who said that American ginseng was stolen from Great Smokey National Park where it was plentiful. Dr. Susan Bratton, National Park Service, stated orally that poachers are a current problem in the Park and that the plant does not occur in much of the habitat that appears suitable.

North Carolina State law (Section I, 14–129) requires written permission from landowners or an authorized agent before American ginseng can be collected in certain counties.

Some sections of North Carolina may be capable of supporting a sustained harvest of American ginseng. However, the State has neither management programs nor regulatory mechanisms to promote the conservation of American ginseng and to regulate a harvest.

Finding. Negative.

North Dakota

Season	Bobcat		
	State harvest	Price per pelt	ADC recovery
1943 to 1944	[1] 127		
1944 to 1945	[1] 42		
1945 to 1946	[1] 90		
1946 to 1947	[1] 52		
1947 to 1948	[1] 10		
1948 to 1949	[1] 15		
1949 to 1950	[1] 9		
1950 to 1951	[1] 27		
1951 to 1952	6		
1952 to 1953	[1] 27		
1953 to 1954	[1] 25		
1954 to 1955	238		
1955 to 1956	54		
1956 to 1957	46		
1957 to 1958	51		7
1958 to 1959	14		13
1959 to 1960	77		4
1960 to 1961	64		11
1961 to 1962	67	$4.99	19
1962 to 1963	135	5.06	17
1963 to 1964	135	5.29	8
1964 to 1965	71	2.82	
1965 to 1966	178	8.92	
1966 to 1967	67	6.04	1
1967 to 1968	23	9.10	
1968 to 1969	52	10.25	
1969 to 1970	101	5.88	1
1970 to 1971	38	8.37	
1971 to 1972	91	14.89	3
1972 to 1973		38.08	0
1973 to 1974	232	50.78	0
1974 to 1975	181	43.88	0
1975 to 1976	75	94.10	
1976 to 1977			

[1] Lynx and bobcat.

BOBCAT

Literature Review. In 1961, Adams (see 134) reported that bobcats were common only in the counties adjoining the Little Missouri, Heart, Cannonball, and Missouri Rivers, occasionally along the Red River in eastern and northern North Dakota, and rare in the prairie pothole region. Because of their scarcity, they were of no major economic importance.

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in North Dakota.

Apparently, bobcats have never been abundant in North Dakota. The reported State harvest has generally been low and irregular over the past thirty years, and the ADC recovery for the past twenty years has been miniscule or absent.

In addition, North Dakota has not established an annual limit on bobcat harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

LYNX

Discussion. The lynx is apparently extirpated in North Dakota (see 16).

Finding. Negative.

RIVER OTTER

Discussion. The river otter is apparently extirpated in North Dakota (see 16).

Finding. Negative.

AMERICAN GINSENG

Discussion. The ESSA has no information that American ginseng occurs in North Dakota.

Finding. Negative.

OHIO

BOBCAT

Season:	State harvest
1969–70	0
1970–71	0
1971–72	0
1972–73	0
1973–74	0
1974–75	0
1975–76	0

Literature Review. In 1973, Smith et al. reported that the bobcat in Ohio was "rare" (see 135).

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in Ohio.

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in Ohio (see 16).

Finding. Negative.

RIVER OTTER

Discussion. The river otter is completely protected by Ohio law (see 54).

Finding. Negative.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in Ohio.

Schaffner in 1914 (see 136) considered American ginseng generally distributed in Ohio (for references concerning the occurrence of the plant in Ohio in the 19th century, see 137 and 138). Eighteen years later Schaffner (see 139) noted: "General, but now scarce."

Richard S. Moseley, Ohio Division of Natural Areas and Preserves, stated orally that American ginseng occurred in 25 counties in Ohio and that he knows of several areas in the State where the plant has been eradicated in the last eight years. He further noted that the plants were primarily collected by emigrants from West Virginia. A similar opinion was stated orally by Bob McCance and Dennis Anderson, Ohio Natural Heritage Program. Moseley added that the plant had started to flower this year in the first week of July (substantial collecting was taking place in Ohio at that time).

Dr. Thomas Cooperrider, Kent State University, stated orally that American ginseng was potentially threatened in Ohio and that commercial collecting in the State should be stopped. Dr. Charles C. King, Ohio Biological Survey, stated orally that the plant was not common and that it was being collected in parks.

In a letter to the U.S. Fish and Wildlife Service (see 140), Dennis Anderson commented that one record from the major herbaria within Ohio was dated 1892 with a note "becoming rare." He further added: "The verbal responses of a few knowledgeable field people concerning the current status and trend of the species in Ohio yielded partially conflicting reports from 'definately declining' to 'remaining about constant'. No one reported population increases and most agreed that diggers had reduced populations in at least local areas."

Wistendahl et al. (see 141) included American ginseng as an endangered species in "Rare and Endangered Plant Species of the Central Ohio Valley; A Contribution Toward a Comprehensive List for Ohio," and noted that it occurred in three counties. The plant was also included in a "Preliminary List of Rare and Endangered Species in Ohio Dicotyledoneae," compiled by Dr. Thomas S. Cooperrider (see 142).

The MA has forwarded to the ESSA seven permit applications for international export of wild American ginseng collected in Ohio.

Ohio has neither management programs nor regulatory mechanisms to promote the conservation of American ginseng and to regulate harvest.

Finding. Negative.

Oklahoma

Season	Bobcat		
	State harvest	Price per pelt	ADC recovery
1942 to 1943	76		
1943 to 1944	142		
1945 to 1946	70		
1946 to 1947	66		
1947 to 1948	37		
1948 to 1949	20		
1949 to 1950	10		
1950 to 1951	22		
1952 to 1953	31		
1953 to 1954	12		
1954 to 1955	15		
1955 to 1956	71		
1956 to 1957	25		
1957 to 1958			198
1958 to 1959	3		273
1959 to 1960			247
1960 to 1961	12		185
1961 to 1962			216
1962 to 1963	8		167
1963 to 1964	12		372
1964 to 1965	14	$0.82	254
1965 to 1966	20	.88	216
1966 to 1967	20	.88	239
1967 to 1968	7	.75	202
1968 to 1969	50	3.50	147
1969 to 1970	45	3.75	198
1970 to 1971	45	3.75	190
1971 to 1972	49	6.21	250
1972 to 1973	199		167
1973 to 1974	725		123
1974 to 1975	1,458		98
1975 to 1976	2,302	37.28	106
1976 to 1977	3,548	55.49	

Discussion. The data available to ESSA are insufficient to support a positive finding for international export of bobcat taken in Oklahoma.

Reported bobcat harvest in Oklahoma has generally been very low, except for an enormous increase since 1972, apparently stimulated by rising price. Although Oklahoma may be capable of supporting a sustained yield of bobcat, the data are inadequate to assess the status of the species in the State.

Ken Van Hoozer, Oklahoma Department of Wildlife Conservation, stated orally that Oklahoma will restrict the open season on bobcat in 1977–78 and is considering implementation of a tagging requirement. However, Oklahoma has not yet established an annual limit on bobcat harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

LINX

Discussion. The lynx apparently does not occur in Oklahoma (see 16).

Finding. Negative.

RIVER OTTER

Discussion. The river otter is extirpated in Oklahoma and is completely protected by State law (see 16).

Finding. Negative.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng taken in Oklahoma.

V 42 168 AUG 30 77 UMI

In a letter to the U.S. Fish and Wildlife Service (see 143), Dr. Jerry J. Crockett, Oklahoma State University, commented: "There is only one reported herbarium specimen of American ginseng in Oklahoma." Although believing the plant still occurs in the State, he considered it rare and in need of protection.

American ginseng is designated "Rare-1" in "Rare and Endangered Vertebrates and Plants of Oklahoma" (see 144). Rare-1 is defined as a species that "although not presently threatened with extinction, is in such small numbers that it may be endangered if its environment worsens."

Finding. Negative.

Oregon

Season	Bobcat			River Otter	
	State harvest	Price per pelt	ADC recovery	State harvest	Price per pelt
1938	1,382				
1943 to 1944	1,022			120	
1944 to 1945	810			160	
1945 to 1946	1,113			216	
1946 to 1947	867			186	
1947 to 1948	732			240	
1948 to 1949	584			156	
1949 to 1950	369			139	
1950 to 1951	456			182	
1951 to 1952	533			188	
1952 to 1953	377			201	
1953 to 1954	399			161	
1954 to 1955	492			269	
1955 to 1956	458			188	
1956 to 1957	544			282	
1957 to 1958	570		2,830	292	
1958 to 1959	1,188		2,774	284	
1959 to 1960	945		2,366	313	
1960 to 1961	1,143		2,155	350	
1961 to 1962	314	$3.73	1,989	358	$19.65
1962 to 1963	324	4.57	2,621	272	19.63
1963 to 1964	481	5.78	2,221	291	21.71
1964 to 1965	481	5.78		296	21.71
1965 to 1966	801	8.92		369	
1966 to 1967	552	14.53	1,100	281	19.30
1967 to 1968	976	17.21	937	262	25.21
1968 to 1969	984	17.21	827	262	25.21
1969 to 1970	1,099	13.66	741	260	23.60
1970 to 1971	1,110	13.66	511	198	23.60
1971 to 1972	1,123	20.96	319	265	31.84
1972 to 1973	1,369	39.43	335	331	46.80
1973 to 1974	1,645	53.55	144	285	35.77
1974 to 1975	1,463	36.97	84	339	34.44
1975 to 1976	1,720	102.94	51	275	41.97
1976 to 1977	1,980	100.00		435	57.13

BOBCAT

Literature Review. In 1971, Ebert (see 81) reported: "The statewide population of bobcats is currently estimated to be the lowest in twenty years, *particularly in eastern Oregon.*" Ebert noted that the State bounty was removed in 1961, but ten counties continued to pay bounties of $2.00 to $4.00 in 1971. Ebert further noted that increased price had stimulated trapping of bobcat.

Discussion. The data available to ESSA are insufficient to support a positive finding for international export of bobcat taken in Oregon. The major decrease in ADC recovery since 1957 suggests actual population decline in Oregon, but the inadequacy of these data draw into question any conclusions based upon them.

The reported State harvest has varied widely since 1938, but has risen to particularly high levels in the 1970's in association with dramatic price increase. Robert Stein, Oregon Fish and Wildlife Commission, stated orally that taking of bobcat may be prohibited in eastern Oregon, where pelts are most valuable, and restricted in the West, in 1977–78.

However, Oregon has not established an annual limit on bobcat harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

LYNX

Literature Review. In 1971, Nellis reported that lynx were "very rare" in Oregon (see 65).

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of Lynx taken in Oregon.

Finding. Negative.

RIVER OTTER

Discussion. The reported harvest of river otter in Oregon has been fairly regular, with no apparent relationship to price, except perhaps in 1976–1977, when both reported harvest and price were the highest ever reported.

Robert Stein, Oregon Fish and Wildlife Commission, stated orally that the river otter was doing well in Oregon, and was particularly common in the central part of the State. Apparently, Oregon can support a sustained yield of river otters.

Consequently, the ESSA is able to find that international export of river otters taken in Oregon during the 1977–1978 season will not be detrimental to the survival of the species in that State. However, total international export may not exceed a quota established by the method described in the species summary for river otter.

Finding. Positive; total international export of river otters taken in Oregon during the 1977–78 season after the date of this notice may not exceed 249.

AMERICAN GINSENG

Discussion. The ESSA has no information that American ginseng occurs in Oregon.

Finding. Negative.

PENNSYLVANIA

BOBCAT

Discussion. The bobcat is completely protected by Pennsylvania law (see 122).

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in Pennsylvania (see 16).

Finding. Negative.

RIVER OTTER

Discussion. The river otter is completely protected by Pennsylvania law (see 54).

Finding. Negative.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in Pennsylvania.

In 1852, Noll (see 145) noted that American ginseng was not common in Pennsylvania. Other botanists have also concurred with Noll that the plant is rare or becoming so in the State (see 146, 147, 148, and 149).

Maurice K. Goddard, Pennsylvania Department of Environmental Resources, stated orally that American ginseng is common throughout Pennsylvania on specific sites; and that he did not consider collection pressure to be a significant problem at present. He further noted that most collectors are careful to conserve the plant. The MA has forwarded to the ESSA six permit applications for international export of wild American ginseng collected in Pennsylvania.

Some sections of Pennsylvania may be capable of suporting a sustained harvest of American ginseng. However, the State has neither management programs nor regulatory mechanisms to promote the conservation of American ginseng and to regulate a harvest.

Finding. Negative.

RHODE ISLAND

BOBCAT

Discussion. The bobcat is completely protected by Rhode Island law (see 70).

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in Rhode Island (see 18).

Finding. Negative.

RIVER OTTER

Discussion. The river otter is completely protected by Rhode Island law (see 54).

Finding. Negative.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in Rhode Island.

Dr. Irene H. Stuckey, University of Rhode Island, stated orally that although there are herbarium records of American ginseng in Rhode Island, she considers the plant possibly extinct in the State (see also 61).

Finding. Negative.

South Carolina

Season	Bobcat		River Otter	
	State harvest	Price per pelt	State harvest	Price per pelt
1960 to 1961			460	
1961 to 1962			450	
1962 to 1963			614	
1963 to 1964	50		284	
1964 to 1965	26		300	
1965 to 1966	30		415	
1966 to 1967	63		490	
1967 to 1968	72	$0.50	490	$14
1968 to 1969	125	2.50	746	20
1969 to 1970	27		184	
1973 to 1974	30		200	
1974 to 1975	217		526	
1975 to 1976	371	25.00	699	35
1976 to 1977	661		788	
	1,368		1,351	

BOBCAT

Literature Review. Radio tracking proved a satisfactory technique in determining bobcat movements and home ranges, but too few animals were studied over too short a span of time to contribute information useful in assessing bobcat status in South Carolina (see 150).

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in South Carolina.

Reported harvest of bobcats in South Carolina has increased dramatically since 1973, apparently in response to rising pelt price.

In a letter to William C. Hickling, Area Manager, U.S. Fish and Wildlife Service, the Executive Director of the South Carolina Wildlife and Marine Resources Department, James A. Timmerman, Jr., stated that the bobcat is a game animal in South Carolina and is taken for sport hunting (see 151).

Timmerman stated that a 1972 survey indicated bobcats were common in 30 counties, occasional in 16 and nowhere rare. He added that specific population data does not exist. Kenneth B. Stansell of the same Department stated orally that bobcat as game animals cannot be sold commercially in South Carolina.

Although South Carlina may be capable of supporting a sustained yield of bobcat, the data are inadequate to assess the status of the species in the State.

In addition, South Carolina has not established an annual limit on bobcat harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in South Carolina (see 16).

Finding. Negative.

RIVER OTTER

Discussion. Reported river otter harvest in South Carolina has varied irregularly since 1960, only twice exceeding 500 before 1973. Since 1973, the reported State harvest has risen from 526 to 1351, with nearly a doubling in the last season.

South Carolina requires a tag on every river otter pelt taken, and the reported harvest suggests that South Carolina can support a sustained yield of river otters.

Consequently, the ESSA is able to find that international export of river otters taken in South Carolina during the 1977–78 season will not be detrimental to the survival of the species in that State. However, total international export may not exceed a quota established by the method described in the species summary for river otter, excluding last year's unprecedented harvest which may have been caused by high pelt price.

Finding. Positive; total international export of river otters taken in South Carolina during the 1977–78 season after the date of this notice may not exceed 430.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in South Carolina.

In Wigginton (see 40), John Drayton of South Carolina is cited as saying in 1798: "It (American ginseng) is so much sought after by the Cherokees for trade it is by no means as plentiful as it used to be in this State." Radford et al. (see 129) noted that the plant was rare in the mountains and lower piedmont of two counties in South Carolina.

In a letter to the U.S. Fish and Wildlife Service (see 152), Kenneth B. Stansell, South Carolina Wildlife and Marine Resources Department, commented that the higher plant committee of a recent symposium on endangered species, which was sponsored by Mr. Stansell's Department, designated American ginseng as threatened in South Carolina. Mr. Stansell added "this represents a consensus of opinion from extremely knowledgeable individuals in the plant field."

V 42 168 A UG 30 77 UMI

Dr. J. A. Timmerman, South Carolina Wildlife and Marine Resources Department, stated orally that he did not think there was much commercial activity in American ginseng in South Carolina. The MA has forwarded to the ESSA three permit applications for international export of wild American ginseng collected in the State.

Finding. Negative.

South Dakota

	Bobcat			
	State harvest	Bounty	Price per pelt Commercial	ADC recovery
1957 to 1958	730	$10		44
1958 to 1959	650	10		58
1959 to 1960	500	10		61
2960 to 1961	400	10		61
1961 to 1962		5		60
1962 to 1963		5		49
1963 to 1964	150	5		69
1964 to 1965	650	5		
1965 to 1966	700	5		92
1966 to 1967	650	5	$4.00	56
1967 to 1968		5		
1968 to 1969		5		17
1969 to 1970	108	5	11.36	40
1970 to 1971	198	5	11.36	35
1971 to 1972		5		13
1972 to 1973		5		
1973 to 1974	1,438		68.00	11
1974 to 1975	1,597		37.95	
1975 to 1976	921		132.26	
1976 to 1977	1411		165.00	

[illegible] R. Dewey, South Dakota [illegible] Pierre, Aug. 23, 1977.

BOBCAT

Literature Review. In 1976, Anderson (see 9) reported that bobcats are most abundant in the Black Hills area and breaks of the Grand, Moreau, Belle Fourche, Cheyenne, Bad and White River systems, but were quite uncommon in eastern South Dakota. He further noted that conservation officers, hunters and trappers have reported that bobcat numbers have decreased dramatically.

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in South Dakota.

Reported State harvest in South Dakota is based on the number of transactions conducted by licensed fur dealers. Thus, the reported harvest may not accurately reflect the actual take in the State. For example, Ronald Fowler stated orally that the actual bobcat harvest for the 1976–77 season has been calculated to be 418. Analysis of the State harvest is further complicated by a reduction over the last three years in the length of the bobcat trapping season.

Kay Cool, South Dakota Department of Game, Fish, and Parks, stated orally that the Department is "extremely concerned" with the status of the bobcat in South Dakota. The State has established a limited season from December 15 to January 15 in 1977–78. The State will also require presentation of all animals to a State conservation officer and fixing of metal tags on all pelts before sale. In addition, teeth will be collected and used to analyze age and sex structure, and to facilitate further State regulatory decisions on bobcat.

In addition, the State has not established an annual limit based on the animal's population status.

Finding. Negative.

LYNX

Discussion. The lynx is apparently extirpated in South Dakota (see 16).

Finding. Negative.

RIVER OTTER

Discussion. The river otter is completely protected by South Dakota law (see 54).

Finding. Negative.

AMERICAN GINSENG

Discussion. The ESSA has no information that American ginseng occurs in South Dakota.

Finding. Negative.

Tennessee

	Bobcat	
	State harvest	Price per pelt
1954 to 1955	6	
1955 to 1956	11	
1956 to 1957	17	
1957 to 1958	4	
1958 to 1959	4	
1959 to 1960	9	
1960 to 1961	6	
1961 to 1962	101	$1.11
1962 to 1963	93	1.28
1963 to 1964	80	1.76
1964 to 1965	109	3.27
1965 to 1966	111	1.55
1967 to 1968	57	3.21
1968 to 1969	372	6.06
1969 to 1970	12	3.44
1970 to 1971	12	
1974 to 1975	607	8.80

[1] Report from resident buyers only.

Literature Review. In 1971, Jenkins (see 43) reported that bobcat were scarce in the Nashville area, but were present over most of the rest of the State, in small numbers in the west and in Reelfoot Lake area, and common in the Great Smokies.

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in Tennessee. Reported State harvest in Tennessee has been very irregular, but was highest in 1969 and 1975, when reported price was highest.

William Yambert, Tennessee Wildlife Resources Agency, stated orally that the status of the bobcat in Tennessee is uncertain, but expressed concern and thought that prohibition of international exports might be called for.

In addition, Tennessee has not established an annual limit on bobcat harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in Tennessee (see 16).

Finding. Negative.

RIVER OTTER

Discussion. The river otter is completely protected by Tennessee law (see 54).

Finding. Negative.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in Tennessee.

In 1887, Gattinger (see 153, also 154) noted that American ginseng occurred "over the State but everywhere rare." Delcourt and Delcourt (see 46) noted herbarium records for 25 counties in Tennessee. Sharp (see 155) included American ginseng in "Rare Plants of Tennessee"; U.S.D.A. Soil Conservation Service included the plant in "Rare, Threatened, or Endangered Plant Species of Tennessee" (as rare) in 1975 (see 61); and Collins et al. (see 156) included the plant as threatened in "The Rare Vascular Plants of Tennessee."

Dr. Robert Kral, Vanderbilt University, stated orally that American ginseng is no longer found in many of the areas where it has occurred or should occur in central Tennessee. He further noted that it is probably more common in eastern and western Tennessee.

The MA has forwarded to the ESSA four permit applications for international export of wild American ginseng collected in Tennessee. Wigginton (see 40) also noted that the State was a commercial source.

Bogue (see 133) quoted one individual who said that American ginseng was stolen from Great Smokey National Park where the plant was plentiful. Dr. Susan Bratton, National Park Service, stated orally that poachers are a current problem in the Park and that the plant does not occur in much of the habitat that appears suitable.

Some sections of Tennessee may be capable of supporting a sustained harvest of American ginseng. However, the State has neither management programs nor regulating mechanisms to promote the conservation of American ginseng and to regulate a harvest.

Finding. Negative.

Texas

Season	Bobcat			River Otter	
	State harvest	Price per pelt	ADC recovery	State harvest	Price per pelt
1938	1,082				
1941	[1] 3,607				
1944	1,293				
1945	136				
1946	[2] 1,508				
1947	152				
1948	90				
1949	33				
1950	16				
1951	5				
1953	27				
1956 to 1957	3				
1957 to 1958			3,058		
1958 to 1959	52		3,436		
1959 to 1960	10		4,162		
1960 to 1961	66		4,527	149	
1961 to 1962	80	$1	4,710		
1962 to 1963	28	1	3,472		
1963 to 1964	31	1	2,956		
1964 to 1965	77	1	2,478		
1965 to 1966	31		1,788		
1966 to 1967	16		1,744		
1967 to 1968	41		1,530		
1968 to 1969	206		1,979	3	
1969 to 1970	207		2,001		
1970 to 1971			1,845		
1971 to 1972			1,772		
1972 to 1973	1,393	12	2,237		
1973 to 1974	7,145	20	1,892		
1974 to 1975	11,874	25	1,363	3	$26
1975 to 1976	9,454		1,067		
1976 to 1977	[3] 15,000				

[1] Approximately 50 pct of dealers reported
[2] Approximately 80 pct of dealers reported
[3] Preliminary data, personal comm. Uzzel, Aug. 15, 1977.

EOBCAT

Literature Review. In 1971, Russell (see 157) reported that bobcat occurred in "relatively high stable numbers throughout the State, in spite of habitat changes and hunting pressures." He considered the species reasonably secure.

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in Texas.

Over the last decade, reported State bobcat harvest in Texas has increased nearly a thousandfold, presumably reflecting increased pelt price. Although Texas may be capable of supporting a sustained yield of bobcat, the data are inadequate to assess the status of the species in the State.

In addition, Texas has not established an annual limit on bobcat harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in Texas (see 16).

Finding. Negative.

RIVER OTTER

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of river otters taken in Texas.

Finding. Negative.

AMERICAN GINSENG

Discussion. The ESSA has no information that American ginseng occurs in Texas.

Finding. Negative.

UTAH

BOBCAT

Discussion. Donald A. Smith, Utah Division of Wildlife Resources, stated orally that the bobcat will be completely protected by Utah law in 1977–78.

Finding. Negative.

LYNX

Discussion. The lynx is completely protected by Utah law (oral statement, D. A. Smith, and see 16).

Finding. Negative.

RIVER OTTER

Discussion. The river otter is completely protected by Utah law (oral statement, D. A. Smith, and see 16).

Finding. Negative.

AMERICAN GINSENG

Discussion. The ESSA has no information that American ginseng occurs in Utah.

Finding. Negative.

V42I168 AUG 30 77 UMI

Vermont

Season	Bobcat		River Otter	
	State harvest	Price per pelt	State harvest	Price per pelt
1937	15			
1964 to 1968	[1] 261			
1968 to 1969	155			
1969 to 1970	[2]			
1972 to 1973			11	
1973 to 1974			27	
1974 to 1975			28	
1975 to 1976 [3]	81			

[1] Bountied animals only.
[2] Bounty removed.
[3] 1st yr that hunter and trapper reports required.

BOBCAT

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in Vermont.

Walter Cabell, Vermont Fish and Game Department, stated orally that beginning in the 1977–78 season, tags will be required on all bobcat pelts. However, almost no data is available on State harvest, and Vermont has not established an annual limit on bobcat harvest based on the animal's population status.

Finding. Negative.

LYNX

Discussion. Walter Cabell, Vermont Fish and Game Department, stated orally that lynx are completely protected by Vermont law.

Finding. Negative.

RIVER OTTER

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of river otters taken in Vermont.

Finding. Negative.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in Vermont.

In 1900, Brainerd et al. (see 158, also 25 and 159) noted that although American ginseng was "formerly common," it was then "rapidly disappearing." In 1967, Seymour (see 160) expressed a similar opinion regarding collectors as the primary reason for the decline. He further noted that the plant occurred in seven counties.

Brian Stone, Vermont Department of Forests, Parks and Recreation, after consulting with several botanists familiar with the State's flora, stated orally that American ginseng could be considered a marginally threatened species in Vermont. The plant appears to be neither rare nor common and collecting pressure is apparently light. Designation as a threatened species would primarily be justified by the potential threat of additional collecting pressure as there is substantial habitat available. One botanist told Stone the plant is probably increasing. Opinions differed as to whether the primary collectors were those that had collected the roots for years or individuals who had become recently interested in the alleged medicinal values of the plant.

Vermont requires written permission from private landowners or authorized agents for public lands before more than one individual plant or two cuttings of protected species can be removed. American ginseng is not included in the list of protected plants.

Some sections of Vermont may be capable of supporting a sustained harvest of American ginseng. However, the State has neither management programs nor regulatory mechanisms to promote the conservation of American ginseng and to regulate a harvest.

Finding. Negative.

Virginia

Season	Bobcat		Otter	
	State harvest	Price per pelt	State harvest	Price per pelt
1938			148	
1942	123			
1943	134		210	
1944	189		1,279	
1945	157		555	
1947 to 1948	100		217	
1948 to 1949	146		332	
1949 to 1950	68		508	
1950 to 1951	56		469	
1951 to 1952	75		313	
1952 to 1953	39		387	
1953 to 1954	27		456	
1954 to 1955	39		476	
1955 to 1956	37		319	
1956 to 1957	36		298	
1957 to 1958	13		285	
1958 to 1959			209	
1959 to 1960	24		256	
1960 to 1961	3		432	
1961 to 1962	37		346	
1962 to 1963	29		351	
1963 to 1964	51		1,136	
1964 to 1965	98		1,800	
1965 to 1966	135		1,290	
1966 to 1967	117	$1.42	1,406	$20.34
1967 to 1968	78	1.45	559	15.10
1968 to 1969	47		807	
1970 to 1971	59	2.98	890	23.43
1971 to 1972	82		648	
1972 to 1973	255	15.97	682	31.50
1973 to 1974	232	22.71	575	29.22
1974 to 1975	370		612	
1975 to 1976	451	27.56	594	27.35

BOBCAT

Literature Review. In 1971, Jenkins (see 43) reported that the bobcat was common in the mountains of Virginia, but uncommon over most of the rest of the State.

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in Virginia.

Reported bobcat harvest in Virginia has been irregular and never exceeded 189 before 1972. Since 1972, reported harvest has steadily risen along with increasing pelt price. Although Virginia may be capable of supporting a sustained yield of bobcat, the data are inadequate to assess the status of the species in the State.

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in Virginia (see 16).

Finding. Negative.

RIVER OTTER

Discussion. Reported Virginia harvest of river otters has varied irregularly since 1938. Mr. McInteer, Virginia Commission of Game and Inland Fisheries, stated orally that State harvest reports above 1000 are suspect and probably reflect multiple sales of individual pelts rather than actual harvest. He also stated that river otters in Virginia are in fairly good shape and locally abundant.

Apparently, Virginia can support a limited sustained yield of river otters. Consequently, the ESSA is able to find that international export of river otters taken in Virginia during the 1977–1978 season will not be detrimental to the survival of the species in that State. However, total international export may not exceed a quota established by the method described in the species summary for river otter, but omitting from the calculation all reported harvests in excess of 1000, which may be artifactual.

Finding. Positive; total international export of river otters taken in Virginia during the 1977–78 season after the date of this notice may not exceed 396.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in Virginia.

Massey (see 161) noted that American ginseng occurred in 13 counties in Virginia, and Harvill (see 162) noted the plant was local in the piedmont in 4 counties.

American ginseng was included as a depleted species in the list "Endangered Status of Virginia Flowering Plants," developed by Dr. Leonard V. Uttal, Virginia Polytechnic Institute and State University in 1972 (see 61).

The MA has forwarded to the ESSA seven applications for international export of wild American ginseng collected from Virginia.

In addition, Virginia has neither management programs nor regulatory mechanisms to promote the conservation of American ginseng and to regulate harvest.

Finding. Negative.

V 42 168 AUG 30 77 UMI

Washington

Season	Bobcat			Lynx		River Otter	
	State harvest	Price per pelt	ADC recovery	State harvest	Price per pelt	State harvest	Price per pelt
1937	[1] 24						
1941 to 1945	1,305						
1946	1,151						
1947	1,905						
1948 to 1949	156						
1949 to 1950	71						
1956 to 1957	1,674						
1957 to 1958			75				
1958 to 1959	1,673		119				
1959 to 1960	1,584		133				
1960 to 1961	1,427		129			595	
1961 to 1962	211		107	2		121	
1962 to 1963	211		91	8		512	
1963 to 1964	381		109	9		1,002	
1964 to 1965	386	$1.00	26			788	$20.00
1965 to 1966	811	6.00	81	9		718	
1966 to 1967	770	5.00	77	23		1,110	26.00
1967 to 1968	410	10.00	51	8		740	18.00
1968 to 1969	705	23.00	57	9		876	28.00
1969 to 1970	416		46	15		350	32.00
1970 to 1971	416		11	15		350	
1971 to 1972	844		11	12		597	
1972 to 1973	511		11	10		597	
1973 to 1974	1,087		9	7		625	
1974 to 1975	820		7	78		624	
1975 to 1976 [2]	1,035	[3] 160.95 [4] 67.74		55	150.91	664	55.10
1976 to 1977	1,650			100	203.51	1,200	70.09

[1] Dealer reports only.
[2] Data since 1975, personal comm., R. Lauer, Washington Department of Game.
[3] East
[4] West

BOBCAT

Literature Review. In 1971, Sweeney (see 10) analyzed bobcat bounty, hunter and trapper harvest records for Washington State from 1935–76, discussing several factors he considered pertinent to an assessment of the current bobcat status. From 1963–64 to 1971–72, the projected number of bobcats harvested (a statistic compiled from number of bobcats reported, number of trappers licensed, number of trappers reporting) increased statewide, while the number of trappers decreased. Therefore, the catch per trapper was found to increase throughout the period.

In 1972, the number of licensed trappers increased (781 to 1100) and continued to increase through 1974. This may have been due to an increase in bobcat fur prices ($13.10 in 1970; $106.95 in 1975–76) or a general increase in trapper income in 1971–72. While the bobcat harvest continued to rise after 1972, the number of bobcats per trapper levelled off and then decreased through 1975–76. If individual trapping effort (which the author did not measure) had increased, the decrease in trapper success is even more dramatic.

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in Washington.

The major decrease in ADC recovery since 1960 suggests actual population decline in Washington, but the inadequacy of these data draw into question any conclusions based upon them.

Reported bobcat harvest in Washington reached a peak of 1650 animals in 1976–77, at the same time pelt prices rose to an unprecedented level. Furthermore, Ralph Larson, Washington Department of Game, stated orally that this figure represented trapping alone, and that another 4,400 animals were taken by hunting.

Although Washington may be capable of supporting a sustained yield of bobcat, the data are inadequate to assess the status of the species in the State.

In addition, Washington has not established an annual limit on bobcat harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

LYNX

Literature Review. In 1971, Nellis reported that the lynx were "rare to common" in Washington (see 65).

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of lynx taken in Washington.

Reported harvest of lynx in Washington has been generally low and irregular, but has risen over the last three years, presumably in response to high prices.

In addition, Virginia has not established an annual limit on lynx harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

RIVER OTTER

Discussion. Reported harvest of river otters in Washington has varied irregularly since 1960 and generally exceeded 500 but seldom a thousand individuals. Apparently Washington can support a sustained yield of river otters, although the very high reported harvest of 1976–77, in association with the highest price reported, suggests the need for close monitoring of the population in the future.

Consequently, the ESSA is able to find that international export of river otters taken in Washington during the 1977–78 season will not be detrimental to the survival of the species in that State. However, total international export may not exceed a quota established by the method described in the species summary for river otter, excluding the 1976–77 reported harvest which is the highest on record.

Finding. Positive; total international export of river otters taken in Washington during the 1977–78 season after the date of this notice may not exceed 618.

AMERICAN GINSENG

Discussion. The ESSA has no information that American ginseng occurs in Washington.

Finding. Negative.

Season	Bobcat	
	State harvest	Price per pelt
1937	575	
1943	81	
1944	53	
1945	69	
1946	88	
1948	50	
1949	23	
1951	11	
1953	1	
1954	9	
1955	7	
1955 to 1956	7	
1957 to 1958	3	
1958 to 1959	2	
1960 to 1961	18	
1961 to 1962	74	$1.43
1962 to 1963	20	1.38
1963 to 1964	53	1.56
1964 to 1965	15	2.00
1965 to 1966	32	1.66
1966 to 1967	20	1.91
1967 to 1968	47	3.22
1968 to 1969	49	3.78
1969 to 1970	36	3.32
1970 to 1971	36	3.33
1971 to 1972	72	5.48
1972 to 1973	79	12.27
1973 to 1974	157	20.97
1974 to 1975	272	15.08
1975 to 1976 [2]	308	34.38
1976 to 1977	446	46.95

[1] Not including fur sold out of State.
[2] Data since 1975, personal comm., J. Ruckel, West Virginia Department of Natural Resources, Aug. 8, 1977.

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in West Virginia.

Reported harvest of bobcat in West Virginia has varied irregularly and, excepting 1937, did not exceed 100 until 1973–74. Since 1973–74 the reported harvest has risen to 446, apparently in response to rising price.

Jim Ruckel, West Virginia Department of Natural Resources, stated orally that West Virginia requires tagging of bobcat pelts and plans to establish a bag limit of two animals per trapper in 1977–78. However, West Virginia has not established an annual limit on bobcat harvest based on the animal's population status.

Finding. Negative.

LYNX

Discussion. The lynx apparently does not occur in West Virginia (see 16).

Finding. Negative.

RIVER OTTER

Discussion. The river otter is apparently extirpated in West Virginia and is completely protected by State law (see 16, 54).

Finding. Negative.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in West Virginia.

In 1950, Core (see 163) noted that American ginseng was found throughout West Virginia, but that it was "becoming rare." Straughsbaugh and Core (see 164) concurred and added that the decline was due to collectors.

In a letter to the U.S. Fish and Wildlife Service, Dr. Dale E. Pike (see 165), West Virginia Department of Natural Resources, supplied information that American ginseng occurred in 23 counties, based on herbarium records, the literature, and sightings. He also commented:

Undoubtedly ginseng is much more widespread in West Virginia than the records we have indicate. It is our feeling that the species could become very rare in the state, if not completely extirpated in some localities because of commercial collecting. It may be of interest that a check of our morning paper's classified section contained an advertisement offering $72 a pound for ginseng. We have no idea of how many persons in the State deal in this product—certainly there are several around the state.

Core (see 166) included American ginseng in "Rare and Endangered Plant Species in West Virginia": "rare in most sections because of digging of the roots * * * It was probably found in every county in this State at one time."

The MA has forwarded to the ESSA eight permit applications for international export of wild American ginseng collected in West Virginia. Wigginton (see 40) also noted that West Virginia is a commercial source.

West Virginia law requires written permission from landowners or appropriate agents before any plants can be damaged or collected within 100 yards of any public road, or possessed or transported on public roads in the State. (Acts of West Virginia 11th session 1872–73 Chap 158 also requires the consent of landowners in Pocahontas, Greenbrier and Webster Counties before ginseng or other medical roots can be collected on their land.)

Although West Virginia may be capable of supporting a sustained yield of American ginseng, the data are inadequate to assess the status of the species in the State.

In addition, West Virginia has neither management programs nor regulatory mechanisms to promote the conservation of American ginseng and to regulate harvest.

Finding. Negative.

Wisconsin

Season	Bobcat		River Otter [1]	
	State harvest	Price per pelt	State harvest	Price per pelt
1927 to 1928			52	
1928 to 1929			68	
1929 to 1930			338	
1930 to 1931			402	
1931 to 1932			361	
1932 to 1933			198	
1933 to 1934	[2] 302		268	
1934 to 1935	[2] 428		175	
1935 to 1936	[2] 513		224	
1936 to 1937	[2] 461		314	
1937 to 1938	[2] 593		156	
1938 to 1939			142	
1939 to 1940			444	
1940 to 1941			188	
1941 to 1942			203	
1942 to 1943			117	
1943 to 1944	[2] 191		135	
1944 to 1945	[2] 763		171	
1945 to 1946	[2] 364		291	
1946 to 1947	[2] 1048		484	
1947 to 1948	[2] 577			
1948 to 1949	[2] 427		324	
1949 to 1950	[2] 437		472	
1950 to 1951	[2] 482		497	
1951 to 1952	[2] 525		461	
1952 to 1953	[2] 724		643	
1953 to 1954	[2] 740		607	
1954 to 1955	[2] 361			
1956 to 1957	[2] 524		574	
1957 to 1958	321		1,366	
1958 to 1959			1,097	$22.39
1959 to 1960	479		737	20.05
1960 to 1961	869		842	19.16
1961 to 1962			267	19.25
1962 to 1963			498	20.00
1963 to 1964			841	22.00
1964 to 1965			571	20.00
1965 to 1966			759	20.00
1966 to 1967			620	21.60
1967 to 1968			958	21.50
1968 to 1969			535	30.00
1969 to 1970	148		561	24.25
1970 to 1971	148		483	30.00
1971 to 1972	147		960	38.55
1972 to 1973	1,087		1,179	42.74
1973 to 1974			1,472	
1974 to 1975	205		1,209	
1975 to 1976	233	$49.51	853	

[1] River otter data, before 1970, from Wisconsin Dept. Nat. Res.
[2] Bobcat and lynx.

BOBCAT

Literature Review. Jackson (see 167) reported that whereas in 1850 bobcats were distributed throughout the State, in 1961 they were found chiefly above the 45° N. latitude. Jackson claimed that bobcats cycle in abundance, and that in peak years there are "possibly some 2500–3000 bobcats in the entire State."

In 1976, the Wisconsin Department of Natural Resources published a report, written by William A. Creed and James E. Ashbrenner, on the status of the bobcat in the State (see 168). The authors noted that the status of the bobcat was considered "questionable" by the Department's Endangered Species Committee in 1973, but they concluded that the species is apparently stable, with potential for population increase because of increasing favorable habitat. Creed and Ashbrenner further noted that additional restrictions on harvest did not appear necessary at that time, although they expressed concern that female bobcats appeared to be particularly susceptible to trapping. They concluded that the bobcat is "currently secure in Wisconsin, and that current regulations (including mandatory registration) should be continued until new information indicates further restrictions are needed."

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in Wisconsin.

In a letter to the ESSA (see 169), Anthony S. Earl, Wisconsin Department of Natural Resources, stated that the "harvest of bobcat is somewhat consistent, and we do not feel it is necessary to curtail out state shipments of Wisconsin bobcat pelts, * * *"

Wisconsin has established a two and a half month season on the bobcat in 1977–78, and requires a tag on every pelt.

Bobcat pelt price has recently increased in Wisconsin, as across the United States. The potential exists for intensified trapping effort in the State, although reported harvest has not increased over the last several years. It would appear that Wisconsin may be able to support a sustained annual yield of bobcats without adversely impacting the population. However, widespread demand for bobcat pelts may particularly increase for bobcats in any States for which international export is allowed in 1977–78. If Wisconsin would establish appropriate direct limitations on harvest that would prevent overharvest from increased demand, the ESSA would approve international export of pelts taken legally in Wisconsin and carrying Wisconsin tags. Pending this action, the ESSA is unable to find that such inter-

V 42 1168 AUG 30 77 UMI

national export will not be detrimental to the survival of the species.

Finding. Negative.

LYNX

Discussion. The lynx is completely protected by Wisconsin law (see 169 and 170).

Finding. Negative.

RIVER OTTER

Literature Review. Jackson (see 167) noted that river otters were formerly not uncommon throughout Wisconsin, but were almost extirpated by the early 1900's. In 1956, Knudson (see 171) noted that trappers' responses to questionnaires suggested that the otter population had increased to at least a few thousand individuals in spite of an annual trap harvest of 300–600 individuals.

The Wisconsin Department of Natural Resources has published a report on the status of river otter in the State (see 172). The report noted that the river otter population has been increasing, but that there was no practical way to estimate population sizes except based on harvest records. The report recommended that the river otter populations be "observed more scientifically than in the past and if a large decrease in the population is noted that steps be taken to giving the animal complete or partial protection for a few trapping seasons."

Discussion. Reported State harvest has varied since 1928, usually not exceeding 900 river otters per year. Since 1972, harvests have been consistently high with the general rise in pelt prices, except for a drop in the 1975–76 season. Wisconsin requires a tag on every pelt. Because the reported State harvest has been relatively stable, it appears that Wisconsin can support a limited sustained yield of river otters.

Consequently, the ESSA is able to find that international export of river otters taken in Wisconsin during the 1977–78 season will not be detrimental to the survival of the species in that State. However, total international export may not exceed a quota established by the method described in the species summary for river otter.

Finding. Positive; total international export of river otters taken in Wisconsin during the 1977–78 season after the date of this notice may not exceed 458.

AMERICAN GINSENG

Literature Review and Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of American ginseng collected in Wisconsin.

In 1938, Fassett (see 173) noted that American ginseng was becoming rare in Wisconsin. (For references concerning the occurrence of the plant in Wisconsin in the 19th century, see 174 and 175.)

American ginseng is listed as a threatened species in "Endangered and Threatened Vascular Plants in Wisconsin" (see 176).

In a memorandum to Ron Nicotera, Wisconsin Department of Natural Resources (see 177), Robert H. Read, Wisconsin Department of Natural Resources, commented that although American ginseng is rare in Wisconsin, he knew of a few places, all on public land, where it was somewhat common. He expressed concern about the threat of collecting, but did not know if there were enough plants in the State to make collecting economically worthwhile.

The MA has forwarded to the ESSA three permit applications for international export of wild American ginseng collected in Wisconsin.

Destruction or removal of certain plants from private or public lands is prohibited by Wisconsin law unless written permission is obtained from the landowner or appropriate agent. American ginseng is not one of the protected plants. However, Wisconsin (94.36) has established a collecting season from August 1 to January 1.

Some sections of Wisconsin may be capable of supporting a sustained harvest of American ginseng. However, the State does not have adequate management programs nor regulatory mechanisms to promote the conservation of American ginseng and to regulate a harvest.

Finding. Negative.

Wyoming

Season	Bobcat		
	State harvest	Price per pelt	ADC recovery
1957 to 1958	1,566		1,880
1958 to 1959	104		1,995
1959 to 1960	167		2,244
1960 to 1961			2,273
1961 to 1962	37		1,362
1962 to 1963	73		1,556
1963 to 1964	12		1,706
1964 to 1965	63	$10.00	1,398
1965 to 1966	4,600		1,024
1966 to 1967	2,294	[1] 20.00	789
1967 to 1968	4,000		669
1968 to 1969	3,212		882
1969 to 1970	3,033	[1] 36.00	1,189
1970 to 1961			906
1971 to 1972			379
1972 to 1973			513
1973 to 1974	3,032		393
1974 to 1975			222
1975 to 1976			201
1976 to 1977	2,659		

[1] From Crowe, 1975.

BOBCAT

Literature Review. In 1975, Crowe (see 3) reported that in Wyoming, most bobcats mate in March and most young are born within two weeks of June 1. Analysis of 81 reproductive tracts indicated that all females including those born the previous spring ovulated during the breeding season, and that litter size averaged 2.79 kittens. Crowo suggested that annual mortality is less than three percent, among adults in unexploited populations, and concluded that in exploited populations high trapping mortality would obscure such a low death rate during early adulthood. However, Crowe reported that mortality among juveniles is highly veriable, with years of low and years of high juvenile survival directly associated with prey densities.

Crowe assumed that ADC recovery represents a constant percentage of the wild population. He concluded that increased trapping pressure requires more sophisticated management, and that as of 1974, bobcat numbers were at a low point.

Discussion. The data available to the ESSA are insufficient to support a positive finding for international export of bobcat taken in Wyoming.

Bobcat populations in Wyoming appear to vary inversely with density of prey populations and with trapping pressure. The major decrease in ADC recovery since 1961 suggests actual population decline in Wyoming, but the inadequacy of these data draw into question any conclusions based upon them. Although Wyoming may be capable of supporting a sustained yield of bobcat, the data are inadequate to assess the status of the species in the State.

In addition, Wyoming has not established an annual limit on bobcat harvest based on the animal's population status, nor has the State established a tagging system to enforce such limits.

Finding. Negative.

LYNX

Discussion. Earl Thomas, Wyoming Game and Fish Department, stated orally that the lynx is completely protected by State law.

Finding. Negative.

RIVER OTTER

Discussion. The river otter is completely protected by Wyoming law (see 54).

Finding. Negative.

AMERICAN GINSENG

Discussion. The ESSA has no information that American ginseng occurs in Wyoming.

Finding. Negative.

Publication of these preliminary findings has been approved unanimously by the members of the Endangered Species Scientific Authority.

Dated: August 24, 1977.

WILLIAM Y. BROWN,
Executive Secretary, Endangered Species Scientific Authority.

BIBLIOGRAPHY

1. Bailey, T. N. 1974. Social Organization in a Bobcat Population. Journal of Wildlife Management. 38(3): 435–446.

2. Provost, E. E., C. A. Nelson, and A. D. Marshall, 1973. Population Dynamics and Behavior in the Bobcat. In The World's Cats. R. L. Eaton (Editor). World Wildlife Safari. Winston, OR. p. 42–67.

3. Crowe, D. M. 1975. A Model for Exploited Bobcat Populations in Wyoming. Journal of Wildlife Management. 39(2): 408–415.

4. Defenders of Wildlife. 1977. Petition for Classification of the Bobcat (*Lynx rufus*) under the Endangered Species Act of 1973.

5. Young, S. E. 1958. The Bobcat of North America. The Stackpole Company. Harrisburg, Pa. 193 pp.

6. Caroline, M. 1976. Animal Damage Control Annual Report for Texas. U.S. Fish and Wildlife Service.

7. Linhart, S. B. and W. B. Robinson. 1972. Some Relative Carnivore Densities in Areas Under Sustained Coyote Control. Journal of Mammalogy. 53(4): 880–884.

8. Ebert, P. W. 1971. The Status and Management of the Felids in Oregon. In Proceedings of a Symposium on the Native Cats of North America—Their Status and Management. S. E. Jorgensen and L. D. Mech (Editors). 36th North American Wildlife and Natural Resources Conference. Portland, OR. p. 68–71.

9. Anderson, L. 1976. The Bobcat—What is the Status of Our Most Valuable Furbearer? South Dakota Conservation Digest. 43(6): 16–17.

10. Sweeney, S. J. 1977. An Analysis of Bobcat Bounty, Hunter, and Trapper Harvest Records for Washington State, 1935–76: Implications for Future Management of the Bobcat Harvest in Washington. Unpublished Manuscript.

11. Elton, C. and M. Nicholson. 1942. The Ten Year Cycle in Numbers of the Lynx in Canada. Journal of Animal Ecology 11: 215–244.

12. Berrie, P. M. 1973. Ecology and Status of the Lynx in Interior Alaska. In The World's Cats. R. L. Eaton (Editor). World Wildlife Safari. Winston, OR. p. 4–41.

13. Brand, C. J., L. B. Keith, and C. A. Fischer, 1976. Lynx Responses to Changing Snowshoe Hare Densities in Central Alberta. Journal of Wildlife Management. 40(3): 416–428.

14. Berrie, P. M. Letter dated 17 July 1977. Fairbanks, Alaska.

15. Burris, O. 1971. Lynx Management in Alaska. In Proceedings of a Symposium on the Native Cats of North America—Their Status and Management. S. E. Jorgensen and L. D. Mech (Editors). 36th North American Wildlife and Natural Resources Conference. Portland, OR. p. 29–33.

16. Fur Resources Committee of the International Association of Fish and Wildlife Agencies. 1977. Questionnaires to States, 1970–71 through 1975–76. Unpublished data.

17. Barbour, R. W. and W. H. Davis. 1974. Mammals of Kentucky. University of Kentucky Press. Lexington, KY. 322 pp.

18. Kennelly, J. J. and R. L. Applegate (Editors). 1976. Cooperative Research Unit, Fishery and Wildlife Annual Report, 1974–75. U.S. Department of the Interior.

19. McDaniel, J. 1963. Investigation of Non-Game Species. Florida Management Area Research. Project No. W–41–R–10. Job No. 5–A. (Procedure 4).

20. Lewis, W. H. 1977. Medical Botany Plants Affecting Man's Health. John Wiley and Sons, Inc. New York, NY. 515 pp.

21. Massey, J. S. 1976. Ginseng, Folklore Cure-all is Being Regarded Seriously. Smithsonian. 6(11): 104–111.

22. Kimmens, A.C. 1975. Tales of the Ginseng. William Morrow and Co., Inc. New York, NY. 208 pp.

23. Embodden, W. A. 1974. Bizarre Plants Magical, Monstrous, Mythical. MacMillan Publishing Co., Inc. New York, NY. 214 pp.

24. Hardacre, V. 1968. Woodland Nuggets of Gold; the Story of American Ginseng Cultivation. Vantage Press. New York, NY. 304 pp.

25. Nash, G. V. 1898. American Ginseng: Its Commercial History, Protection, and Cultivation. United States Department of Agriculture Bulletin No. 16—Revised Edition. 32 pp.

26. Gray, A. 1848. A Manual of the Botany of the Northern United States. James Monroe and Co. Boston and Cambridge, MA. John Chapman. London. 710 pp.

27. Gray, A. 1856. A Manual of the Botany of the Northern United States. George P. Putman and Co. New York, NY. 799 pp.

28. Harned, J. E. 1931. Wild Flowers of the Alleghanies. Privately Published. Oakland, MD. 670 pp.

29. Small, J. K. 1933. Manual of the Southeastern Flora. Privately Published. New York, NY. 1554 pp.

30. Gleason, H. A. and A. Cronquist. 1963. Manual of Vascular Plants of Northeastern United States and Adjacent Canada. D. Van Nostrand Co. New York, NY. 810 pp.

31. Rickett, H. W. 1965. Wild Flowers of the United States. Vol. 1. Pt. 1. The New York Botanical Garden and McGraw-Hill Book Company. New York, NY. 230 pp.

32. U.S. Bureau of the Census. 1909–. Schedule B. Statistical Classification of Domestic and Foreign Commodities Exported from the United States.

33. Patty, G. E. 1974. Demand Spurs U.S. Exports of Ginseng to Asia. Foreign Agriculture. 12(46): 11 and 16.

34. ——— 1974. U.S. Ginseng in the Far East Market. FASM–261. U.S.D.A. Foreign Agriculture Service. 11 pp.

35. ——— 1976. New Developments in U.S. Ginseng. Unpublished Manuscript. 9 pp.

36. ——— 1976. Orient Prizes Quality U.S. Ginseng Exports. Foreign Agriculture. 14(20): 12.

37. Anonymous. 1977. Now You Can Take Part in the Ginseng Research Project. (Advertisement). Lady's Circle. 14(1): 65.

38. Geczi, M. L. 1975. Lowly Ginseng Plant is One Root to Profit for Some Americans. The Wall Street Journal. 186(49): 10.

39. Williams, L. 1973. Growing Ginseng. United States Department of Agriculture Farmer's Bulletin No. 2201. 8 pp.

40. Wigginton, E. (Editor). Ginseng. In Foxfire 3. Anchor Press. New York, NY. pp. 245–273.

41. Krochmal, A. Letter dated 26 May 1976. U.S.D.A. Forest Service.

42. Dumond, D. M. 1973. A Guide for the Selection of Rare, Unique, and Endangered Plants. Castanea. 38(4): 387–395.

43. Jenkins, J. H. 1971. The Status and Management of the Bobcat and Cougar in the Southeastern States. In Proceedings of a Symposium on the Native Cats of North America—Their Status and Management. S. E. Jorgensen and L. D. Mech (Editors). 36th North American Wildlife and Natural Resources Conference. Portland, OR. p. 86–91.

44. Mohr, C. 1890. The Medicinal Plants of Alabama. Privately Published. Mobile, AL. 17 pp.

45. Mohr, C. T. 1901. Plant Life of Alabama. Reprint. Contributions from the U.S. National Herbarium Vol. 6. United States Department of Agriculture. Montgomery, AL. 921 pp.

46. Delcourt, H. R. and P. A. Delcourt. 1975. The Blufflands: Pleistocene Pathway into the Tunica Hills. American Midland Naturalist. 94(2): 385–400.

47. Thomas, J. L. 1976. Plants. In Endangered and Threatened Plants and Animals of Alabama. University of Alabama. University, AL. 93 pp.

48. Anonymous. 1968. Status of the Fur Industry in Alaska. Alaska Wildlife Investigations. Federal Aid in Wildlife Restoration Projects W–6–R–7 and W–13–R–1. Job No. 1 (W–13–R–1). Period covered: October 1, 1965–June 30, 1966.

49. Small, R. L. 1971. Interspecific Competition Among Three Species of Carnivora on the Spider Ranch, Yavapai Co., Arizona, M. S. Thesis. University of Arizona. Tucson, AZ. 78 pp.

50. Crow, C. T. 1974. Arkansas Natural Area Plan. Arkansas Department of Planning. Little Rock, AR. 248 pp.

51. Smith, E. B. Letter dated 11 July 1977. University of Arkansas.

52. Tucker, G. Letter dated 26 July 1977. Arkansas Tech University.

53. Crocket, J. J. Letter dated 18 July 1977. Oklahoma State University.

54. Woodstream Corporation. 1977. Trapping Laws and Regulations. Vol. I and II. Lititz, PA.

55. Sandfort, W. W. and R. V. Tully. 1971. Status and Management of the Mountain Lion and Bobcat in Colorado. In Proceedings of a Symposium on the Native Cats of North America—Their Status and Management. S. E. Jorgensen and L. D. Mech (Editors). 36th North American Wildlife and Natural Resources Conference. Portland, OR. p. 72–85

56. Dowhan, J. J. and R. J. Craig. 1976. Rare and Endangered Species of Connecticut and Their Habitats. Department of Environmental Protection Report of Investigations. No. 6. The Natural Resources Center. State Geological and Natural History Survey of Connecticut. Hartford, CT. 137 pp.

57. Alexander, H. L., Jr. Letter dated 2 August 1977. Delaware Department of Natural Resources and Environmental Control.

58. Tatnall, R. R. 1946. Flora of Delaware and the Eastern Shore. The Society of Natural History of Delaware. 313 pp

59. Golley, F. B. 1962. Mammals of Georgia. University of Georgia Press. Athens, GA. 218 pp.

60. McCollum, J. Letter dated 25 July 1977. Georgia Department of Natural Resources.

61. Kartesz, J. T. and R. Kartesz. 1977. The Biota of North America Part 1: Vascular Plants. Volume I: Rare Plants. Biota of North America Committee. Pittsburgh, PA. 361 pp.

62. Georgia Botanical Society. 1973. Rare and Endangered Plant Species of Georgia. Unpublished List. 1 p.

63. McCollum J. L. (Editor). 1974. Endangered Species of Georgia. Georgia Department of Natural Resources. Atlanta, GA. 66 pp.

64. Mellinger, M. B. 1973. Georgia's Rare and Endangered Wildflowers. The Georgia Conservancy Magazine. Summer. p. 5.

65. Nellis, C. H. 1971. The Lynx in the Northwest. In Proceedings of a Symposium on the Native Cats of North America—Their Status and Management. S. E. Jorgensen and L. D. Mech (Editors). 36th North American Wildlife and Natural Resources Conference Portland, OR. p. 23–28.

66. Patterson, H. N. 1876. Catalogue of the Phaenogamous and Vascular Cryptogamous Plants of Illinois. University of Illinois Press. Urbana, IL. 54 pp.

67. Jones, G. N. and G. D. Fuller. 1955. Vascular Plants of Illinois. Native and Introduced. Spectator Print. Oquawka, IL. 593 pp.

68. Sheviak, C. Letter dated 18 July 1977. Natural Land Institute.

69. Mohlenbrock, D. H. and J. W. Voigt. 1959. A Flora of Southern Illinois. Southern Illinois University Press. Carbondale, IL. 390 pp.

70. Faulkner, C. E. 1971. The Legal Status of the Wildcats in the United States. In Proceedings of a Symposium on the Native Cats of North America—Their Status and Management. S. E. Jorgensen and L. D. Mech (Editors). 36th North American Wildlife and Natural Resources Conference. Portland, OR. p. 123–125.

71. Coulter, S. 1900. A Catalogue of the Flowering Plants and of the Ferns and Their Allies Indigenous to Indiana. Reprinted from Indiana Department of Geology and Natural Resources Report. 1899. Indianapolis, IN. p. 554–1002.

V42168 AUG 30 77 UMI

72. Deam, C.C. 1940. *Flora of Indiana*. Indiana Department of Conservation, Division of Forestry. Indianapolis, IN. 1236 pp.

73. Feldt, C. Correspondence dated 29 December 1976. Indiana Department of Natural Resources.

74. Newsom, M. Letter dated 2 December 1976. Indiana Department of Natural Resources.

75. Gray, L. M. Letter dated 8 November 1976. Indiana Department of Natural Resources.

76. Irbe, A. Letter dated 19 July 1977. Danville, IA.

77. Fitzpatrick, T. J. 1899. Manual of the Flowering Plants of Iowa Part 1 Polypetalae. Privately published. Lammont, IA. 69 pp.

78. Mitchell, A. L. Letter dated 8 August 1977. Kentucky Department of Fish and Wildlife Resources.

79. Braun, E. L. 1943. An Annotated Catalog of Spermatophytes of Kentucky. John S. Swift Co., Inc. Cincinnati, NY. etc. 161 pp.

80. Wharton, M. E. and R. W. Barbour. 1971. A Guide to the Wildflowers and Ferns of Kentucky. University Press of Kentucky. Lexington, KY. 344 pp.

81. Babcock, J. V. 1977. Endangered Plants and Animals of Kentucky. University of Kentucky. Lexington, KY. 128 pp.

82. O'Neill, T. and G. Linscombe. 1976. The Fur Animals, the Alligator and the Fur Industry. Louisiana Wildlife and Fisheries Commission. 66 pp.

83. Lowry, G. H., Jr. 1974. The Mammals of Louisiana and its Adjacent Waters. Louisiana State University Press. 565 pp.

84. Curry, M. G. Letter dated 14 July 1977. VTN Louisiana, Inc.

85. Allen, M., M. G. Curry, and B. F. Martin. 1975. A Vascular Flora of St. Helena and West Feliciana Parishes, Louisiana. The University of Southwestern Louisiana Research Series No. 39 Biology. 80 pp.

86. Hunt, J. H. No date. Bobcat Management Plan. Maine Department of Inland Fisheries and Wildlife. Augusta, ME. Unpublished Report.

87. Orambel, F. Memorandum dated 3 March 1977. State Supervisor, U.S. Fish and Wildlife Service.

88. Hurley, Jr. F. B. Letter dated 4 August 1977. Maine Department of Inland Fisheries and Wildlife.

89. Hunt, J. H. No date. Otter Management Plan. Maine Department of Inland Fisheries and Wildlife. Augusta, ME. Unpublished Report.

90. Eastman, L. M. 1976. Ginseng, Panax quinquefolius L., in Maine and its Relevance to the Critical Areas Program. Maine State Planning Office, Planning Report No. 16. Augusta, ME. Unpublished Report.

91. Bean, R. C., C. D. Richards, and F. Hyland. 1966. Checklist of the Vascular Plants of Maine. (Revised Edition). Bulletin of the Josselyn Botanical Society, No. 8. 71 pp.

92. Shreve, F., M. A. Chrysler, F. H. Blodgett, and F. W. Beasley. 1910. The Plant Life of Maryland. The Johns Hopkins Press, Baltimore, MD. 533 pp.

93. Dewey, C. 1810. Report on the Herbaceous Flowering Plants of Massachusetts. The Commissioners on the Zoological and Botanical Survey of the State. 277 pp.

94. Tuckerman, E. and C. Frost. 1875. A Catalogue of Plants Growing Without Cultivation Within Thirty Miles of Amherst College. Edwin Nelson. Amherst, MA. 98 pp

95. Jackson, J. 1883. Catalogue of the Phaenogamous and Vascular Cryptogamous Plants of Worcester County Massachusetts. Natural History Society. Worcester, MA. 48 pp.

96. Stone, G. E. 1913. A List of Plants Growing Without Cultivation in Franklin, Hampshire, and Hampton Counties, Massachusetts. Press of Carpenter and Morehouse. Amherst, MA. 72 pp.

97. Burt, W. H. 1946. The Mammals of Michigan. University of Michigan Press. Ann Arbor, MI. 288 pp.

98. Wheeler, C. F. and E. F. Smith. 1881. Catalogue of the Phaenogamous and Vascular Cryptogamous Plants of Michigan. W. S. George and Co. Lansing, MI. 105 pp.

99. Beal, W. J. and C. F. Wheeler. 1892. Michigan Flora. Robert Smith and Co. Lansing, MI. 180 pp.

100. Smith, H. V. 1961. Michigan Wildflowers. Cranbrook Institute of Science. Bloomfield Hills, MI. 465 pp.

101. Wagner, W. H., E. G. Voss, J. H. Beaman, E. A. Bourdo, F. W. Case, J. A. Churchill, and P. W. Thompson. 1977. Michigan's Endangered and Threatened Species Program. Endangered, Threatened, and Rare Vascular Plants in Michigan. The Michigan Botanist. 16: 99–110.

102. Minnesota Department of Natural Resources. 1975. Animals and Plants Which Merit Special Consideration and Management . . . the Uncommon Ones. 32 pp.

103. Upham, W. 1884. Catalogue of the Flora of Minnesota. In The Geological and Natural History Survey of Minnesota, Part VI. Johnson, Smith, and Harrison. Minneapolis, MN. 193 pp.

104. MacMillan, C. 1892. The Metaspermae of the Minnesota Valley. Geological and Natural History Survey of Minnesota. Reports of the Survey, Series I. Minneapolis, MN. 826 pp.

105. Morley, T. 1969. Spring Flora of Minnesota. University of Minesota Press. Minneapolis, MN. 283 pp.

106. Monserud, W. and G. B. Ownbey. 1971. Common Wild Flowers of Minnesota. University of Minnesota Press. Minneapolis, MN. 331 pp.

107. Henderson, C. L. Letter dated 1 August 1977. Minnesota Department of Natural Resources.

108. Lowe, E. N. 1921. Plants of Mississippi: A List of Flowering Plants and Ferns. Mississippi State Geological Survey Bulletin 17. 292 pp.

109. Pullen, T. M. 1975. Rare and Endangered Plant Species in Mississippi. A Preliminary Unpublished List. 2 pp.

110. Noren, C. R. Letter dated 4 August 1977. Missouri Department of Conservation.

111. Tracy, S. M. 1886. Catalogue of the Phaenogamous and Vascular Cryptogamous Plants of Missouri. Tribune Printing Co. Jefferson City, MO. 106 pp.

112. Steyermark, J. A. 1963. Flora of Missouri. The Iowa State University Press. Ames, IA. 1725 pp.

113. Holt, F. T., J. F. Keefe, W. H. Lewis, W. L. Pflieger, and M. H. Sullivan. 1974. Rare and Endangered Species of Missouri. Missouri Department of Conservation and U.S.D.A. Soil Conservation Service. 79 Unnumbered Pages.

114. Wylie, J. E. Letter dated 28 July 1977. Missouri Department of Conservation.

115. Brohn, A. Letter dated 9 August 1977. Missouri Department of Natural Resources.

116. Montana Department of Fish and Game. 1977. Bringing the Bobcat Back. In The Catchall. Montana Outdoors. 8(3): 11–12.

117. Hoffman, R. S., P. L. Wright, and F. C. Newby. 1969. Distribution of Some Mammals in Montana. I. Mammals Other Than Bats. Journal of Mammalogy. 50(3): 579–604.

118. Pound, R. and E. Clements. 1900. The Phytogeography of Nebraska. I. General Survey. Second Edition. University of Nebraska. Lincoln, NE. 442 pp.

119. Winter, J. M. 1936. An analysis of the Flowering Plants of Nebraska. The Botanical Survey of Nebraska. New Series Number X. 203 pp.

120. Twedt, C. M. Letter dated 14 July 1977. Nebraska Game and Parks Commission.

121. Pease, A. S. 1924. Vascular Flora of Coos County, New Hampshire. Proceedings of the Boston Society of Natural History. 37: 39–388.

122. Ryden, H. 1976. Goodbye to the Bobcat? Reader's Digest. 109(665): 233–239.

123. Britton, N. L. 1889. Catalogue of Plants Found in New Jersey. From Final Report of the State Geologist. Vol. II. John L. Murphy Publishing Co. Trenton, N.J. 642 pp.

124. Fairbrothers, D. E. and M. Y. Hough. 1973. Rare or Endangered Vascular Plants of New Jersey. New Jersey State Museum Science Notes, No. 14. 53 pp.

125. Porcella III, S. Letter dated 18 July 1977. New Jersey Department of Environmental Protection.

126. Findley, J. S., A. H. Harris, D. E. Wilson, and C. Jones. 1975. Mammals of New Mexico. University of New Mexico Press. Albuquerque, N.M. 360 pp.

127. House, H. D. 1924. Annotated List of the Ferns and Flowering Plants of New York State. University of the State of New York Museum Bulletin No. 254. 759 pp.

128. Zander, R. H. 1976. Floristics and Environmental Planning in Western New York and Adjacent Ontario. Occasional Papers of the Buffalo Society of Natural Sciences No. 1. Buffalo, N.Y. 47 pp.

129. Radford, A. E., H. E. Ahles, and C. R. Bell. 1964. Guide to the Vascular Flora of the Carolinas. University of North Carolina. Chapel Hill, N.C. 383 pp.

130. Hardin, J. W. 1977. Vascular Plants. In Endangered and Threatened Plants and Animals of North Carolina. J. E. Cooper, S. S. Robinson, and J. B. Funderburg (Editors). North Carolina State Museum of Natural History. Raleigh, N.C. In Press.

131. Curtis, M. A. 1867. Botany; Containing a Catalogue of the Indigenous and Naturalized Plants of the State. Geological and Natural History Survey of North Carolina. Part III. 156 pp.

132. Hardin, J. W. 1968. Commercial Herbs, Roots and Poliens of North Carolina. Agricultural Station North Carolina State University Bulletin 435. Raleigh, N.C. 76 pp.

133. Bogue, C. 1975. The Plants. In Ginseng. E. Wigginton (Editor). Foxfire 3. Anchor Press. New York, NY. p. 245–273.

134. Adams, A. W. 1961. Furbearers of North Dakota. State Game and Fish Department. Bismarck, ND. 102 pp.

135. Smith, H. G., R. K. Burnhard, E. E. Good, and J. M. Keener. 1973. Rare and Endangered Vertebrates of Ohio. Ohio Journal of Science. 73(5): 257–271.

136. Schaffner, J. A. 1914. Ohio Biological Catalog of Ohio Vascular Plants. Ohio State University Bulletin. 1(2): 247 pp.

137. Lea, T. G. 1849. Catalogue of Plants, Native and Naturalized, Collected in the Vicinity of Cincinnati, Ohio During the Years 1834–1844. T. K. and P. G. Collins. Philadelphia, PA. 77 pp.

138. Wright, A. A. 1889. Preliminary List of the Flowers and Fern Plants of Lorain County, Ohio. F. J. Goodrich. Oberlin, OH. 30 pp.

139. Schaffner, J. H. 1932. Revised Catalog of Ohio Vascular Plants. Ohio State University Bulletin. 36(9): 215 pp.

140. Anderson, D. Letter dated 20 July 1977. Ohio Natural Heritage Program.

141. Wistendahl, W. A., J. D. Wistendahl, and K. P. Lewis. No date. Rare and Endangered Plant Species of the Central Ohio Valley; A Contribution Toward a Comprehensive List for Ohio. Unpublished List. 22 pp.

142. Cooperrider, T. S. 1975. Preliminary List of Rare and Endangered Species in Ohio—Dicotyledoneae. Unpublished List. 8 pp.

143. Crockett, J. J. Letter dated 18 July 1977. Oklahoma State University.

144. Lewis, J. C., J. L. Crockett, F. J. Fortney, B. P. Glass, J. Miller, A. Moore, H. W. Robison, N. E. Smola, E. C. Snook, J. L. Teate, and R. J. Tyrl. 1975. Rare and Endangered Vertebrates and Plants of Oklahoma. U.S.D.A. Soil Conservation Service. 44 pp.

145. Noll, H. R. 1852. The Botanical Class—Book and Flora of Pennsylvania. O. N. Worden, Printer. Lewisburg, PA. 452 pp.

146. Darlington, W. 1837. Flora Cestrica. Published Privately. West-Chester, PA. 640 pp.

147. Miller, J. 1923. Flora of Erie County, Pennsylvania. Rochester, PA. 47 pp.

148. Stone, H. E. 1945. A Flora of Chester County, Pennsylvania. The Academy of Natural Sciences. 640 pp.

149. Schaeffer, R. L. 1949. The Vascular Flora of Northampton County Pennsylvania, University of Pennsylvania. PA 702 pp.

150. Marshall, A. D. and J. H. Jenkins. 1966. Movements and Home Ranges of Bobcats as Determined by Radio-Tracking in the Upper Coastal Plain of West Central South Carolina. In Proceedings of the 20th Annual Conference Cooperative Wildlife Disease. p. 206–214.

151. Timerman, J. A. Letter dated 5 August 1977. South Carolina Wildlife and Marine Resource Department.

152. Stansell, S. B. 1977. Letter dated 19 July 1977. South Carolina Wildlife & Marine Resources Department.

153. Gattinger, A. 1887. The Tennessee Flora with Special Reference to the Flora of Nashville. Privately Published. 109 pp.

154. ———. 1901. The Flora of Tennessee and a Philosophy of Botany. Gospel Advocate Publishing Co. Nashville, TN. 296 pp.

155. Sharp, A. J. 1974. Rare Plants of Tennessee. The Tennessee Conservationist. 40(7): p. 20–21.

156. Collins, J. L., H. R. DeSelm, A. M. Evans, R. Kral, B. E. Wofford. No date. The Rare Vascular Plants of Tennessee. Unpublished Manuscript. 26 pp.

157. Russell, D. N. 1971. History and Status of the Fields of Texas. In Proceedings of a Symposium on the Native Cats of North America—Their Status and Management. S. E. Jorgensen and L. D. Mech (Editors). 36th North American Wildlife and Natural Resources Conference. Portland, OR. p. 53–58.

158. Brainerd, E., L. R. Jones, and W. W. Eggleston. 1900. Flora of Vermont. Contributions to the Botany of Vermont, 8. 113 pp.

159. Flynn, N. F. Flora of Burlington and Vicinity. Contributions of Botany of Vermont, 9. 124 pp.

160. Seymour, F. C. 1969. The Flora of Vermont. Fourth Edition. Agricultural Experiment Station Bulletin 660. The University of Vermont. Burlington, VT. 393 pp.

161. Massey, A. B. 1961. Virginia Flora. Virginia Agricultural Experiment Station Technical Bulletin 155. Blacksburg, VA. 258 pp.

162. Harvill, A. M. 1970. Spring Flora of Virginia. McClain Printing Company. Parsons, WV. 240 pp.

163. Core, E. L. 1950. A Checklist of the Vascular Plants of West Virginia. West Virginia University, Morgantown, WV. 71 pp.

164. Strausbaugh, P. D. and E. L. Core. 1958. Flora of West Virginia, Part 3. West Virginia University Bulletin. Series 58. No. 12–3. p. 571–1075.

165. Pike, D. E. Letter dated 19 July 1977. West Virginia Department of Natural Resources.

166. Core, E. L. No date. Rare and Endangered Plant Species in West Virginia. West Virginia Department of Agriculture. Charleston, WV. 7 pp.

167. Jackson, H. H. T. 1961. Mammals of Wisconsin. University of Wisconsin Press. Madison, WI. 504 pp.

168. Creed, W. A. and J. E. Ashbrenner. 1976. Status Report on Wisconsin Bobcats, 1975. Department of Natural Resources Research Report 87. Madison, WI.

169. Earl, A. E. Letter dated August 8, 1977. Wisconsin Department of Natural Resources.

170. Keener, J. M. 1971. The Status and Management of the Bobcat and Canada Lynx in Wisconsin. In Proceedings of a Symposium on the Native Cats of North America—Their Status and Management. S. E. Jorgensen and L. D. Mech (Editors). 36th North American Wildlife and Natural Resources Conference. Portland, OR. p. 34–36.

171. Knudsen, G. J. 1956. Preliminary Otter Investigations. State of Wisconsin Project No. W–79–R–1 (Phase E). Job No. I–A.

172. Wisconsin Department of Natural Resources. Otter in Wisconsin. Unpublished Report. Madison, WI. 16 Unnumbered Pages.

173. Fassett, N. C. 1936. Spring Flora of Wisconsin. Democrat Printing Co. Madison, WI. 176 pp.

174. Lapham, I. A. 1849. Plants of Wisconsin. Reprinted from Proceedings of the American Association of Science. p. 19–62.

175. Swezey, G. D. 1877. Catalogue of the Exogenous, Endogenous, and Acrogenous Plants of Wisconsin. Beloit Free Press Print. Bloit, WI. 32 Unnumbered Pages.

176. Read, R. H. 1976. Endangered and Threatened Vascular Plants in Wisconsin. Scientific Areas Preservation Council Technical Bulletin No. 92. Wisconsin Department of Natural Resources. 58 pp.

177. Read, R. H. Memorandum dated 1 August 1977. Wisconsin Department of Natural Resources.

[FR Doc.77-24873 Filed 8-29-77;8:45 am]

V 42 168 AUG 30 77 UMI

federal register

TUESDAY, AUGUST 30, 1977
PART IV



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

PENICILLIN

Use in Animal Feed

V42168 AUG 30 77
UMI

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 505, 510, 558]

[Docket No. 77N-0231]

PENICILLIN IN ANIMAL FEEDS

Proposed Rulemaking

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposal would amend regulations to delete provisions that provide for use of penicillin in animal feeds.

DATE: Written comments by September 29, 1977.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Gerald B. Guest, Bureau of Veterinary Medicine (HFV-130), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3410).

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the FEDERAL REGISTER, under Docket No. 77N-0230, the Director of the Bureau of Veterinary Medicine is issuing a notice of opportunity for hearing on a proposal to withdraw approval of the new animal drug applications (NADA's) for all penicillin-containing premixes on the grounds that new evidence not available until after such applications were approved, evaluated together with the evidence available when the applications were approved, shows that such drug is not shown to be safe for subtherapeutic use, that certain applicants have failed to establish and maintain required records and reports, and that new information demonstrates there is a lack of substantial evidence of effectiveness for these products.

Consistent with this action, the Director is hereby proposing to amend the regulations to delete the provisions that provide for the use of such drugs.

The Director has carefully considered the environmental effects of this action, and because it will not significantly affect the quality of the human environment, he has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration. Moreover, in a proposal published in the FEDERAL REGISTER of May 27, 1977 (42 FR 27264), the Commissioner of Food and Drugs requested data concerning the potential environmental impact of a series of regulatory actions designed to restrict the subtherapeutic use of antibacterials in animal feeds. If the public discussion and information gathered warrant, a comprehensive environmental impact statement will be prepared, evaluating the impact of all the actions as a single program.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 512, 59 Stat. 463 as amended, 82 Stat. 343-351 (21 U.S.C. 357, 360b)) and under authority delegated to the Commissioner (21 CFR 5.1) and redelegated to the Director (21 CFR 5.84), it is proposed that Parts 505, 510, and 558 of Chapter I of Title 21 of the Code of Federal Regulations be amended, as follows:

PART 505—INTERPRETIVE STATEMENTS RE: WARNINGS ON ANIMAL DRUGS FOR OVER-THE-COUNTER SALE

1. By amending the introductory paragraph of § 505.10 to read as follows:

§ 505.10 Animal drug warning and caution statements required by regulations.

Animal feed containing streptomycin, dihydrostreptomycin, chlortetracycline, tetracycline, or bacitracin, with other drugs. (See § 510.515 of this chapter.)

* * * * *

PART 510—NEW ANIMAL DRUGS

§ 510.5 [Amended]

2. By amending § 510.5 *Certification of new animal drugs containing any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, or bacitracin, or derivative thereof,* as follows:

a. By deleting from paragraph (b) the word "Penicillin," appearing immediately following the italicized heading, and accordingly, capitalizing the word "Streptomycin".

b. By deleting from paragraph (c) the word "penicillin" appearing in the sentence following the italicized heading.

3. By amending § 510.515: (a) By deleting from the indtroductory paragraph the phrase "penicillin, streptomycin in combination with penicillin,"; (b) by deleting from paragraph (b) (7) (i) the concluding phrase 66, or not less than 90 grams nor more than 180 grams of penicillin and streptomycin in a combination containing 16.7 percent penicillin"; (c) by revoking paragraph (b)(7)(i)(c); (d) by revising paragraph (b)(10); (e) by revoking and reserving in the table in paragraph (c) items 1, 4, 5, 6, and 7; and (f) by deleting from the table in paragraph (c) the phrase "or procaine penicillin" from items 8, 9, and 10. Section 510.515 is set forth with the revised introductory paragraph, revised paragraphs (b)(7)(i) and (b)(10) and the amendments to the table in paragraph (c) to read as follows:

§ 510.515 Animal feeds bearing or containing new animal drugs subject to the provisions of section 512(n) of the act.

Animal feeds that bear or contain chlortetracycline, feed grade zinc bacitracin, and bactracin methylene disalicylate, with or without added suitable nutritive ingredients are exempt from the certification requirements of section 512 of the act provided they are the subject of and in compliance with regulations for their use in Part 558 of this chapter, or any one of the paragraphs of this section:

* * * * *

(b) * * *

(7) (i) It is intended for use solely as a treatment for complicated, chronic respiratory disease (air-sac infection), infectious sinusitis, blue comb (non specific infectious enteritis, mud fever), and hexamitiasis in poultry, and/or bacterial swine enteritis; its labeling contains adequate directions and warnings for such use; and it contains, per ton of feed, not less than 100 grams of chlortetracycline, or oxytetracycline, or a combination of such drugs.

* * * * *

(c) [Revoked].

* * * * *

(10) It is intended for use solely in the treatment of chronic respiratory disease (air-sac infection), infectious sinusitis, and blue comb (nonspecific infectious enteritis) in poultry and/or bacterial swine enteritis; its labeling bears adequate directions and warnings for such use; and it contains, per ton of feed, the equivalent of either not less than 100 grams and not more than 500 grams of bacitracin (as zinc bacitracin), or not less than 100 grams and not more than 200 grams of bacitracin (as bacitracin methylene disalicylate); except that, if it is intended for the treatment of bacterial swin enteritis, it contains, per ton of feed, 100 grams of bacitracin (as zinc bacitracin or bacitracin methylene disalicylate). When intended for the use specified in this paragraph (b)(10), it may also contain, in the amount specified, one, but only one, of the ingredients prescribed by paragraph (a) of this section: *Provided, however,* That the level of antibiotic or antibiotic combination present is not greater than the minimum amount specified therefor in this paragraph (b)(10).

* * * * *

(c) * * *

Product	Species	Use levels	Indications for use
1 [Reserved]			
* * *	* *	* *	
4-7 [Reserved]			
8 Furazolidone and bacitracin methylene disalicylate or—Zinc bacitracin.			
9 Furazolidone and bacitracin methylene disalicylate or—Zinc bacitracin.			
10 Furazolidone and bacitracin methylene disalicylate or—Zinc bacitracin			
* * *	* *	* *	

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.15 [Amended]

4. By amending 558.15 *Antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals,* as follows: a. By deleting from the table in paragraph (g)(1):

i. The entry of Merck Sharp & Dohme Research Labs. for the drug premix procaine penicillin.

ii. The entry of E. R. Squibb & Sons, Inc., for the drug premix procaine penicillin.

iii. The entry of Pfizer, Inc., for the drug premix penicillin.

iv. The entry of Pfizer, Inc., for the drug premix of penicillin and streptomycin.

v. The entry of Merck Sharp & Dohme Research Labs. for the drug premix procaine penicillin and streptomycin sulfate.

vi. The entry of American Cyanamid Co. and Rachelle Labs, Inc., for the drug premix chlortetracycline, sulfamethazine, and penicillin.

vii. The entry of Diamond Shamrock Corp. for the drug premix chloretetracycline, sulfathiazole and penicillin.

b. By deleting from the table in paragraph (g)(2): i. The eight entries of Merck Sharp & Dohme Research Labs. and Pfizer, Inc., for procaine penicillin, streptomycin combination.

ii. The entries of Merck Sharp & Dohme Research Labs. for procaine penicillin, streptomycin, arsanilic acid combination; nicarbazin, procaine penicillin; nicarbazin, procaine penicillin, 3-nitro-4-hydroxyphenylarsonic acid; amprolium, procaine penicillin; amprolium, procaine penicillin, 3-nitro-4-hydroxyphenylarsonic acid; and amprolium, ethopabate, procaine penicillin, erythromycin.

iii. The entry of Merck Sharp & Dohme Research Labs. for amprolium, ethopabate, procaine, penicillin, 3-nitro-4-hydroxyphenylarsonic acid.

iv. The two entries of Pfizer, Inc., for penicillin, streptomycin combinations.

v. The entries of Dow Chemical Co. for zoalene, penicillin; zoalene, 3-nitro-4-hydroxyphenylarsonic acid, penicillin; and zoalene, arsanilic acid, penicillin.

vi. The phrase "or procaine penicillin" from the entry of Norwich Pharmacal Co. for furazolidone and bacitracin methylene disalicylate or-zinc bacitracin or procaine penicillin.

§ 558.55 [Amended]

5. By amending § 558.55 *Amprolium* by deleting from the table in paragraph (e)(2) the two entries in items (i), (ii) and (iv), respectively, for the combinations with penicillin, and the combination with penicillin plus streptomycin.

§ 558.58 [Amended]

6. By amending § 558.58 *Amprolium and ethopabate* by deleting from the table in paragraph (e)(1) the entries in item (iv) for the combination with penicillin, and the combination with penicillin plus streptomycin.

§ 558.76 [Amended]

7. By amending § 558.76 *Bacitracin methylene disalicylate* by deleting from the table in paragraph (e)(1) the entry in items (v) and (vi) for the combination with penicillin.

§ 558.78 [Amended]

8. By amending § 558.78 *Bacitracin, zinc* by deleting from the table in paragraph (e)(1) the entry in items (v) and (vi) for the combination with penicillin.

§ 558.105 [Amended]

9. By amending § 558.105 *Buquinolate* by deleting and reserving paragraph (f)(1)(iv) and (vi).

§ 558.145 [Revoked]

10. By revoking § 558.145 *Chlortetracycline, procaine penicillin and sulfamethazine.*

§ 558.155 [Revoked]

11. By revoking § 558.155 *Chlortetracycline, procaine penicillin, and sulfathiazole.*

§ 558.274 [Amended]

12. By amending § 558.274 *Hygromycin B* by deleting from the table in paragraph (e)(1) the three entries in item (i) for the combinations in which penicillin is an ingredient.

§ 558.460 [Revoked]

14. By revoking § 558.460 *Penicillin.*

§ 558.530 [Amended]

15. By amending §558.530 *Roxarsone* by deleting and reserving paragraph (e)(4)(xvi).

§ 558.680 [Amended]

16. By amending § 558.680 *Zoalene* by deleting from the table in paragraph (e)(1) the entries in items (i) and (ii) for the combinations containing arsanilic acid plus penicillin, penicillin, and penicillin plus roxarsone.

Interested persons may, on or before September 29, 1977, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: August 24, 1977.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.77-24970 Filed 8-29-77;8:45 am]

V 42168 AUG 30 77 UMI

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 77N–0230]

DIAMOND SHAMROCK CHEMICAL CO., ET AL.

Penicillin-Containing Premixes; Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Noticc.

SUMMARY: This is a notice of opportunity for a hearing on the proposal by the Director of the Bureau of Veterinary Medicine to withdraw approval of new animal drug applications (NADA's) for all penicillin-containing premixes intended for use in animal feed on the grounds that (1) new evidence shows that the penicillin-containing products have not been shown to safe for subtherapeutic use as required by section 512(e)(1)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)(1)(B)) and § 558.15 (21 CFR 558.15); (2) the applicants have failed to establish and maintain records and make reports as required by section 512(e)(2)(A) of the act (21 U.S.C. 360b(e)(2)(A)) and § 558.15; and (3) new evidence shows that there is a lack of substantial evidence that penicillin-containing premixes are effective for therapeutic uses under section 512(e)(1)(C) of the act (21 U.S.C. 360b(e)(1)(C)).

DATES: Written appearances requesting a hearing must be submitted by September 29, 1977. Data and analysis upon which a request for a hearing relies must be submitted by October 31, 1977.

ADDRESS: Written appearances and data and analysis to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Gerald B. Guest, Bureau of Veterinary Medicine (HFV–130), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–3410).

SUPPLEMENTARY INFORMATION

RELATED ACTIONS

In a notice published elsewhere in this issue of the FEDERAL REGISTER, the Director of the Bureau of Veterinary Medicine is proposing to delete the provisions that provide for the use of penicillin in animal feeds by amending § 505.10 *Animal drug warning and caution statements required by regulations* (21 CFR 505.10); § 510.5 *Certification of new animal drugs containing any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, or bacitracin, or derivative thereof* (21 CFR 510.5); § 510.515 *Animal feeds bearing or containing new animal drugs subject to the provisions of section 512(n) of the act* (21 CFR 510.515); § 558.15 *Antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals* (21 CFR 558.15); § 558.55 *Amprolium* (21 CFR 558.55); § 558.58 *Amprolium and ethopabate* (21 CFR 558.58); § 558.76 *Bacitracin methylene disalicylate* (21 CFR 558.78); § 558.78 *Bacitracin, zinc* (21 CFR 558.78); § 558.105 *Buquinolate* (21 CFR 558.105); § 558.145 *Chlortetracycline, procaine penicillin and sulfamethazine* (21 CFR 558.145); § 558.155 *Chlortetracycline, procaine penicillin and sulfathiazole* (21 CFR 558.155); § 558.274 *Hygromycin B* (21 CFR 558.274); § 558.460 *Penicillin* (21 CFR 558.460) § 558.530 *Roxarsone* (21 CFR 558.530); and § 558.680 *Zoalene* (21 CFR 558.680).

DISCUSSION

Since the Director's discussion of the issues involved in this matter is necessarily detailed, he is setting forth, for the reader's convenience, an outline of the discussion as follows:

I. THE DRUG

II. INTRODUCTION

A. *Regulatory Background*

B. *Safety Concerns*

III. SUMMARY OF THE ARGUMENT

IV. STUDIES RELEVANT TO HUMAN AND ANIMAL HEALTH SAFETY CRITERIA

A. *Transfer of Drug Resistance (Criterion 1). The Pool of R-Plasmid-Bearing Organisms Is Increasing*

1. Background.
2. Criterion.
3. Studies Relevant to Transfer of Drug Resistance:
(a) R-plasmid-bearing *E. coli* develop in domestic animals that are fed subtherapeutic levels of antibiotics, including penicillin.
(b) *E. coli* contribute their R-plasmids to man through several mechanisms.
(i) Direct contact with animals.
(ii) Contact with *E. coli*-contaminated food.
(iii) Widespread presence in the environment.
(c) R-plasmid-bearing human and animal strains of bacteria overlap.
(i) Epidemiological investigations—*E. coli* serotyping.
(ii) Direct ingestion evidence.
(iii) In vivo studies show that R-plasmids transfer from *E. coli* to pathogens.
(iv) R-plasmid compatibility studies.
(v) Hazards.
4. Director's Conclusions.

B. *Shedding and Resistance Characteristics of Salmonella (Criterion 2)*

1. Background.
2. Criterion:
(a) Shedding.
(b) Resistance characteristics.
3. AHI Studies on the Effects of Subtherapeutic Levels of Penicillin in Animal Feed in Chickens:
(a) Experimental design.
(b) AHI's summary of the results:
(i) Shedding.
(ii) Resistance characteristics.
(c) The Director's analysis:
(i) Shedding.
(ii) Resistance characteristics.
4. AHI Studies on the Effects of Subtherapeutic Levels of Penicillin in Animal Feed in Swine:
(a) Experimental design:
(i) Shedding.
(ii) Resistance characteristics.
(b) AHI's summary of the results:
(i) Shedding.
(ii) Resistance characteristics.
(c) Director's analysis:
(i) Shedding.
(ii) Resistance characteristics.
5. Questions Raised by Other Studies of Salmonella: (a) CDC reports; (b) FDA survey; (c) Neu, Cherubin, Longo, Flouton, and Winter studies; (d) Smith and Tucker studies; (e) Kablan, Gustafson study; (f) Other studies.
6. Director's conclusions.

C. *Compromise of Therapy (Criterion 2(c))*

1. Background and Criterion.
2. AHI's Compromise of Therapy Study in Chickens: (a) Experimental design; (b) AHI's summary of the results; (c) Director's analysis.
3. AHI Compromise of Therapy Study in Swine: (a) Experimental design; (b) AHI's summary of the results; (c) Director's analysis.
4. Questions Raised by FDA Funded Research: (a) Experimental design; (b) Director's analysis.
5. Director's Conclusions.
6. Optimal Level of Effectiveness (Criterion 4).

D. *Pathogenicity (Criterion 3)*

1. Background and Criterion.
2. Walton study.
3. Falkow study: (a) In vitro transfer; (b) In vivo transfer.
4. Questions Raised by Other Studies.
5. Director's Conclusions.

E. *Tissue Residues (Criterion 4)*

1. Background.
2. Criterion.
3. Data Submitted.
4. Director's Analysis and Conclusions.

V. EFFECTIVENESS

VI. CONCLUSION

I. THE DRUG

Name. Procaine penicillin G (benzylpenicillin) or feed grade penicillin, alone or in combination with other drugs.

Dosage form. Feed premix.

Approvals. The following companies hold or have effective approvals that are covered by this notice:

NADA 39–077; CSP 250 (chlortetracycline, sulfathiazole, and procaine penicillin); Diamond Shamrock Corp., 1100 Superior Ave., Cleveland, OH 44114.

NADA 35–688, Aureo SP–250 Feed Premix (Chlortetracycline, sulfamethazine, and procaine penicillin); American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540.

NADA 46–667; Micro-Pen and Streptomycin Sulfate Premixes, (procaine penicillin G and streptomycin sulfate). Micro-Pen 6.25 and Streptomycin Sulfate 18.75, Micro-Pen and Streptomycin Sulfate 75, Micro-Pen and Streptomycin Sulfate 45, Micro-Pen and Streptomycin Sulfate 150; Elanco Products Co., Division of Eli Lilly Co., Indianapolis, IN 46206.

DESI 0072NV; Micro-Pen and MicroPen 100 (procaine penicillin G); Elanco Products Co.

NADA 35–207; Amprolium, Ethopabate and Penicillin; Merck, Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., Rahway, NJ 07065.

NADA 46–598; Pro-Pen 50% Penicillin Mixture Medicated, Pro-Pen "20" Penicillin Mixture Medicated, Pro-Pen 90% Penicillin Mixture Medicated, and Pro-Pen "100" Penicillin Mixture Medicated; Merck, Sharp & Dohme Research Laboratories.

NADA 9–476; Nicarbazin, Penicillin with/or without Roxarsone; Merck, Sharp & Dohme Research Laboratories.

NADA 46–981 Pro-Strep (procaine penicillin, streptomycin sulfate); Merck, Sharp & Dohme Research Laboratories.

NADA 46–726; Streptomycin and Procaine Penicillin Premix 15+5, Streptomycin and Procaine Penicillin Premix 18.75+6.25, Streptomycin and Procaine Penicillin Premix 45+15, Streptomycin and Procaine Penicillin Premix 75+25; Pfizer, Inc., New York, NY 10017.

NADA 46–668; Penicillin Premix P–4, Penicillin Premix P–50, and Penicillin Premix P–100; Pfizer, Inc.

NADA 49–287; Chlorachel 250-Swine (chlortetracycline, sulfamethazine, and procaine penicillin G): Rachelle Laboratories, Inc., 700 Henry Ford Ave., P.O. Box 2029, Long Beach, CA 90801.

NADA 91–668; Super Chlorachel 250-Swine (chlortetracycline, sulfamethazine, and procaine penicillin G); Rachelle Laboratories, Inc.

NADA 46–666; Penicillin G Procaine for Animal Feeds 50 percent and Penicillin G Procaine for Animal Feeds 100 percent; E. R. Squibb & Sons, Inc., P.O. Box 4000, Princeton, NJ 08540.

Under section 108(b)(2) of the Animal Drug Amendments of 1968 (Pub. L. 90–399), any approval of a new animal drug granted prior to the effective date of the amendments whether through approval of a new drug application, master file, antibiotic regulation, or food additive regulation, continues in effect until withdrawn in accordance with the provisions of section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b). Many such approvals were issued long ago, and some may never have been used by the holder of the approval. Consequently, the current files of the Food and Drug Administration (FDA) may be incomplete and may fail to reflect the existence of some approvals. Also, many approvals have been withdrawn by other agency actions, e.g., FDA's rulemaking procedure published in the FEDERAL REGISTER of February 25, 1976 (41 FR 8282). The burden of coming forward with documentation of unrecorded approvals in such circumstances is therefore properly placed on the person claiming to hold such approvals so as to permit definitive revocation or amendment of the regulations.

The Director of Bureau of Veterinary Medicine knows of no approvals affected by this notice other than those named herein. Any person who intends to assert or rely on such an approval that is not listed in this notice shall submit proof of its existence within the period allowed by this notice for opportunity to request a hearing. The failure of any person holding such an approval to submit proof of its existence within that period shall constitute a waiver of any right to assert or rely on it. In the event that proof of the existence of such an approval is presented, this notice shall also constitute a notice of opportunity for hearing with respect to that approval, based on the same grounds set forth in this notice.

Conditions of use. All uses of penicillin in penicillin and penicillin-containing combination drug products as cited in: Sections 510.515, 558.15, 558.55, 558.58, 558.76, 558.78, 558.105, 558.145, 558.155, 558.274, 558.460, 558.530 and 558.680.

II. INTRODUCTION

A. Regulatory Background

Antibacterial drugs have been used at subtherapeutic levels (lower levels than therapeutic levels needed to cure disease) in animal feed for over 25 years. Growth benefits from this use were first observed when animals were fed the discard products from the fermentation process that was originally used in the manufacture of chlortetracycline. The precise mechanism of action, however, remains unclear.

Initially, certifiable antibiotics for use in animal feed such as penicillin were regulated under the provisions of section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357). Unlike the basic private licensing system applicable to new drugs, the provisions of section 507 created a public regulation or monograph system for regulating these products, in part because of the complexities in manufacturing the products and the lack of knowledge of their chemical structures. Antibiotic residues in food from food-producing animals were then regulated under the provisions of the act dealing with adulteration and misbranding. After enactment of the Food Additives Amendment of 1958 (Pub. L. 85–929), however, residues were principally regulated by section 409 of the act (21 U.S.C. 349), which also established a public monograph system of premarket approval. Under the antibiotic monograph procedure, the pioneer manufacturer generated and submitted the basic safety and effectiveness data in an FD Form 5 (now FD–1675). A regulation was subsequently published setting forth the standards of identity, strength, quality, and purity and the packaging and labeling requirements that the product must meet. FDA approval of the same product made by another manufacturer was then conditioned solely upon a demonstration that it met the requirements of the regulation, and this is normally accomplished by batch certification. Section 507(c) of the act (21 U.S.C. 357(c)), however, permits the agency to exempt by regulation any drug or class of drugs from the certification requirement when it concludes that certification is unnecessary for the manufacture of the drugs. Antibiotics for use in animal feeds as feed ingredients were exempted from the certification requirements in 1951 (see the FEDERAL REGISTER of April 28, 1951 (16 FR 3647)), and those for use as drugs were exempted in 1953 (see the FEDERAL REGISTER of April 22, 1953 (18 FR 2335)). These are now set out in §§ 510.510 and 510.515 (21 CFR 510.510 and 510.515).

Congress enacted the Animal Drug Amendments of 1968 (Pub. L. 90–399) and consolidated the provisions of the act dealing with the premarket approval of drugs intended for use in animals (sections 409, 505, 507) into one new section, section 512 (21 U.S.C. 360b), to regulate these articles more efficiently and effectively (Senate Committee on Labor and Public Welfare, Animal Drug Amendments of 1968, S. Rep. No. 1308, 90th Cong., 2d Sess. (1968)). This legislation also brought the manufacture of antibiotics under the private license system for new drugs (id.; Hearing on S. 1600 and H.R. 3639 Before the Subcommittee on Health of the Senate Committe on Labor and Public Welfare, 90th Cong., 2d Sess. (1968)). To efficiently accomplish this change, the amendments contained a transition clause (section 108(b)) which provided that all prior approvals continue in effect and be subject to change in accordance with the provisions of the basic act as amended. In summary, all persons legally marketing antibiotics under the provisions of sections 409, 505, and 507 of that act on August 1, 1969, the effective date of the Animal Drug Amendments of 1968, were considered as holding the equivalent of an approved new animal drug application; however, all holders of such approvals are also subject to all applicable requirements of the act and regulations.

B. Safety Concerns

In the mid-1960's, FDA became concerned about the safety to man and animals of subtherapeutic antibiotic use; it studied the effects of low-level subtherapeutic feeding of antibiotics for some years. The agency supported research, held symposia, and consulted with outside experts to review these nonmedical uses of antibiotics in animal feeds. Following a report issued by the British Government Joint Committee (the Swann Committee) "On the Use of Antibiotics in Animal Husbandry and Veterinary Medicine," the Commissioner of Food and Drugs in April 1970 established a Task Force of scientists, with consultants from government, universities, and industry, to review comprehensively the use of antibiotic drugs in animal feeds. Its conclusions were published in a notice of proposed rule making published in the FEDERAL REGISTER of February 1, 1972 (37 FR 2444), which initiated the mandatory testing procedure to resolve conclusively the issues of safety surrounding the subtherapeutic use of antibiotics in animal feeds.

The principal conclusions of the Task Force were the following: (1) The use of antibiotics and sulfonamide drugs, especially in growth promotant and subtherapeutic amounts, favors the selection and development of single and multiple antibiotic-resistant and R-plasmid-bearing bacteria;

(2) Animals that have received either subtherapeutic and/or therapeutic amounts of antibiotic and sulfonamide drugs in feeds may serve as a reservoir of antibiotic resistant pathogens and nonpathogens. These reservoirs of pathogens can produce human infections.

(3) The prevelance of multiresistant R-plasmid-bearing pathogenic and nonpathogenic bacteria in animals has increased and has been related to the use of antibiotics and sulfonamide drugs.

(4) Organisms resistant to antibacterial agents have been found on meat and meat products.

V 42168 AUG 30 77 UMI

(5) There has been an increase in the prevalence of antibiotic- and sulfonamide-resistant bacteria in man.

In its report to the Commissioner, the Task Force also identified three areas of primary concern: Human health hazards, animal health hazards, and antibiotic effectiveness; and guidelines were established to show whether use of any antibiotic or antibacterial agent in animal feed presents a hazard to human and animal health.

The February 1972 proposal also announced that all currently approved subtherapeutic uses of antibiotics, nitrofurans, and sulfonamides in animal feeds would be revoked unless data were submitted to resolve conclusively the issues concerning safety to man and animals in accordance with the Task Force guidelines. That notice also proposed to establish a time table for filing commitments, conducting studies, and submitting relevant data and information. Based on the guidelines, the agency then began developing specific criteria by which safety and effectiveness of each antibiotic product might be established. The notice further suggested that protocols be submitted to the agency for comment. The criteria and studies to address them may be summarized as follows:

HUMAN AND ANIMAL HEALTH SAFETY CRITERIA

1. Transfer of drug resistance: (a) An antibacterial drug fed at subtherapeutic levels to animals must be shown not to promote increased resistance to antibacterials used in human medicine. Specifically, increased multiple resistance capable of being transferred to other bacteria in animals or man should not occur. (b) If increased transferable multiple resistance is found in coliforms, studies may be done to show whether this resistance is transferable to man.

2. The *Salmonella* reservoir: The use of antibacterial drugs at subtherapeutic levels in animal feed must be shown not to result in (a) an increase in quantity, prevalence or duration of shedding of Salmonella in medicated animals as compared to nonmedicated controls; (b) an increase in the number of antibiotic resistant Salmonella or in the spectrum of antibiotic resistance; (c) disease (caused by Salmonella or other organisms) that is more difficult to treat with either the same medication or other drugs.

3. The use of subtherapeutic levels of an antibacterial drug should not enhance the pathogenicity of bacteria, e.g., by increasing enterotoxin production. The association of toxin production characteristics with transfer factors must be investigated in well-designed studies. (Final resolution of this question was not expected within the 2-year period. Drug sponsors were expected to show evidence of work underway which would lead toward answers to this question.)

4. An antibacterial drug used at subtherapeutic levels in the feed of animals shall not result in residues in food ingested by man which may cause either increased numbers of pathogenic bacteria or an increase in the resistance of pathogens to antibacterial agents used in human medicine. Hypersensitivity to residues was to be addressed by a literature survey.

The Commissioner promulgated a final order that was published in the FEDERAL REGISTER of April 20, 1973 (38 FR 9811), and at that time the requirements imposed by the regulation became legally binding on all firms marketing antibacterial drugs used at subtherapeutic levels in feed. In the FEDERAL REGISTER of August 6, 1974 (39 FR 2839), the Commissioner proposed withdrawal of all approvals held by persons who had not complied with the initial requirements, and all these approvals were withdrawn by his order, published in the FEDERAL REGISTER of February 25, 1976 (41 FR 8282). Therefore, only those products listed in Part 558 (21 CFR Part 558) can be legally marketed at this time.

By April 20, 1974, the Bureau of Veterinary Medicine (Bureau) had begun a review of the data required by § 558.15 which was applicable to the principal antibiotics used subtherapeutically in animal feeds (penicillin and tetracycline), and by April 20, 1975, data concerning the safety and efficacy criteria for all antibiotic and sulfonamide drugs had been received. To assist the Bureau, the Commissioner asked the agency's National Advisory Food and Drug Committee (NAFDC) to review the data and issues involved and to make recommendations to him on the future uses of subtherapeutic antibiotics in animal feeds. A subcommittee of three members, the Antibiotics in Animal Feeds Subcommittee (AAFS), was appointed to work in conjunction with four expert consultants from disciplines related to the issue. The Bureau prepared 2 days' presentations concerning penicillin during which comments were heard from the drug industry, animal scientists, and other interested parties. The Bureau also prepared a comprehensive summary report with tentative recommendations for the subcommittee. (An identical procedure was carried out for the tetracyclines.) Two additional meetings were held during which subcommittee deliberations were conducted and other statements given.

In September 1976, the AAFS presented its preliminary recommendations to the parent NAFDC, and in January 1977, the subcommittee's final report was submitted to the NAFDC. The parent committee reviewed the recommendations on penicillin and accepted them. NAFDC recommended that FDA immediately withdraw approval for the subtherapeutic uses of penicillin, i.e., growth promotion/feed efficiency, and disease control.

In view of these recommendations and since the information submitted in response to § 558.15 following the guidelines and criteria had failed to resolve conclusively the issues of safety concerning subtherapeutic uses of penicillin in animal feeds, the Director of the Bureau of Veterinary Medicine is therefore proposing to withdraw approval of all subtherapeutic uses of penicillin alone and in combination with other drugs in animal feeds. Because the National Academy of Sciences/National Research Council Drug Efficacy Study Group concluded that the therapeutic use of penicillin in animal feed lacked substantial evidence of effectiveness, he is also proposing to withdraw approval of all penicillin use in animal feed.

III. SUMMARY OF THE ARGUMENT

Soon after his advisory of penicillin, Sir Arthur Fleming noted that some bacterial organisms could become resistant to the antibiotic. As the use of antibiotics has increased, the number and types of bacterial resistance have also multiplied. There is a serious concern that, in time, this will lead to declining usefulness of antibiotics in the treatment of both human and animal diseases.

The Bureau's primary concern is with that portion of increased antibiotic resistance in the ecological system which may result from the practice of using subtherapeutic levels of penicillin and other antibiotics in animal feed for prolonged periods. This practice, which sometimes produces increases in growth promotion/feed efficiency, provides an ideal environment for selective pressure to operate. When exposed to an antibiotic, the organisms that are drug resistant survive while the growth of other (drug-sensitive) bacteria is inhibited. Eventually, the antibiotic-resistant organisms predominate in the bacterial population, and continuous antibiotic pressure perpetuates this abnormal situation.

Bacterial antibiotic resistance is primarily determined by genetic elements termed "R-plasmids" (R-factors, R+). The Bureau's specific concern, therefore, is with the health hazard that may arise through an increase in the pool of R-plasmids in the animal population and the potential transfer of these R-plasmids and R-plasmid-bearing organisms to the human population and surrounding environment.

R-plasmids are small lengths of DNA that are separate from the bacterial chromosome. These R-plasmids carry transferable genes for drug resistance as well as the capacity to reproduce themselves. Plasmids may determine resistance to more than one antibiotic, and resistance to several antibiotics is common. Moreover, plasmids can transfer from one bacteria to another and from nonpathogenic to pathogenic strains. Transfer occurs, although with varying frequency among all members of the enteric bacteria and also to members of other families of bacteria. The pool of normal Gram-negative bacterial intestinal flora (largely *Escherichia coli*) serves as a reservoir of R-plasmids; the R-plasmid-bearing bacteria interchange among animals, man, and the environment. The potential for harm increases as the R-plasmid reservoir increases because the probability of R-plasmid transfer to pathogens increases. When the Commissioner required all holders of approved NADA's for the subtherapeutic use of penicillin in animal feed to submit data to resolve the safety questions raised, he was principally concerned with the effect of the antibiotics approved for subtherapeutic use in animal feed on the emergence of transferable drug resistance in the Salmonella reservoir and the *E. coli* of animals. In the Director's opinion, the results of the studies submitted and the data available are clear; the affected parties have failed to answer the safety questions raised.

Evidence demonstrates that the use of subtherapeutic levels of penicillin and other antibiotics in animal feed contributes to the increase in antibiotic resistant *E. coli* and in the subsequent transfer of this resistance to Salmonella. Further, many strains of *E. coli* and Salmonella infect both man and animals.

The holders of approved NADA's have submitted no evidence to demonstrate that the observed strains of *E. coli* and Salmonella in man and animals are mutually exclusive; in fact, the evidence is overwhelming to the contrary. Furthermore, in some cases the R-plasmids as well as the resistance genes from humans and animal sources are indistinguishable. Thus, the potential for harm exists, as illustrated by the studies submitted and verified by evidence from studies conducted by independent scientists. No evidence has been submitted by any NADA holder to resolve conclusively the safety questions raised by this potential in accordance with the requirements of § 558.15.

The holders of approved NADA's were also required to submit studies demonstrating that the subtherapeutic use of penicillin in animal feed would not compromise subsequent antibiotic therapy in man or animals, but animal studies submitted on their behalf by the Animal Health Institute to determine whether subtherapeutic penicillin use compromised subsequent therapy with related drugs were inconclusive because the studies were improperly designed. Thus, holders also failed to show conclusively that subtherapeutic penicillin use is safe in accord with that criterion.

Additionally, the NADA holders were required to prove that the subtherapeutic use of penicillin would not increase the pathogenicity of the infecting organism. They have submitted no adequate studies on the issue, and other recent evidence now suggests that the genetic determinants for toxic production may become linked with drug resistance genes. Thus, the sponsors failed to satisfy that criterion also.

No studies have ever been submitted on the issues of the safety of penicillin residues in food or the effect of long-term use on the penicillin levels needed to maintain their subtherapeutic effectiveness.

Finally, the National Academy of Sciences/National Research Council Drug Efficacy Study Group evaluated the effectiveness claims for the penicillin premixes and concluded that there was a lack of substantial evidence that the premixes were effective for their therapeutic claims. No adequate and well-controlled investigations showing that these products are effective have been submitted.

None of the specified human and animal health safety criteria have been satisfied, and the premixes lack substantial evidence of effectiveness for their therapeutic claims. For all the foregoing reasons, the Director is proposing to withdraw approval of all NADA's for the use of penicillin and combination products, e.g., chlortetracycline-sulfamethazine-penicillin, in animal feed.

IV. STUDIES RELEVANT TO HUMAN AND ANIMAL HEALTH SAFETY CRITERIA

A. *Transfer of Drug Resistance (Criterion 1). The Pool of R-Plasmid-Bearing Organisms is Increasing*

1. *Background.* One of the most important animal and human health safety criteria (number 1., set forth in II. B. above) concerns the role of subtherapeutic antibiotic use on the selection for and increase in the pool of microbial plasmids determining multiple drug resistance, and in the transfer of these plasmids among bacteria in animals and man. Resistance to antibiotics has been known as long as the antibiotics themselves have been known. Until 1959 it was believed that antibiotic resistance was a result of chance mutation and natural selection alone. However, in 1959, Japaneses investigators (Ref. 1) discovered that resistance to several common antimicrobial agents could be transferred simultaneously from one bacterium to another by cell-to-cell contact (conjugation). This was shown to be due to the transfer of extrachromosomal resistance determinants called R-plasmids, i.e., R-factors, or R+. Resistance produced by R-plasmids generally involves the production of enzymes that inactivate the antibiotic. For example, R-plasmid mediated penicillin resistance is due to the production of an enzyme, penicillinase, that inactivates the penicillin molecule. This same enzyme is also active against many semisynthetic penicillins, including ampicillin. R-plasmids may carry as many as nine drug resistance genes. The plasmids also carry other genes that determine the R-plasmid's replication, independent of the host chromosome, as well as information for transfer of the R-plasmids from one bacterium to another by conjugation. R-plasmids are transferred by conjugation to virtually all Enterobacteriaceae as well as to such unrelated Gram-negative bacteria as *Vibrio, Pseudomonas,* and *Pasteurella.* Thus, resistance may pass from strain to strain, species to species, and most importantly, from nonpathogen to pathogen. R-plasmids are now known to be the predominant cause of antibiotic resistance in Gram-negative organisms that cause human disease, e.g., *E. coli, Salmonella, Shigella,* etc.

While the development of antibiotics revolutionized the treatment of infectious disease in both man and animals, the magnitude of this achievement has been diminished by the widespread emergence of antibiotic resistant bacteria. R-plasmid mediated resistance is particularly ominous since selection of resistance to a single antibiotic may also lead to the simultaneous selection of resistance to a wide spectrum of other antibiotics. In recent years, antibiotic resistance has emerged in important pathogens; for example, in *Haemophilus, Neisseria gonorrhoeae,* and *Salmonella typhi.* R-plasmid mediated resistance has been identified in epidemics around the world, e.g., *Salmonella typhimurium.* Some of these organisms have acquired both ampicillin and chloramphenicol resistance, producing disease that will no longer respond to therapy. Hence, drug-resistant organisms have become an important concern in both human and veterinary medicine. (Ref. 2 and 3).

Because the use of antibiotics is extensive, an effort must be made to assure the future utility of these lifesaving products. In 1960, the annual production of antibiotics in the United States was 4.16 million pounds, of which 2.96 million pounds were used for therapeutic purposes in human and veterinary medicine and 1.20 million pounds in animal feed additives. By 1970, 9.6 million pounds were being used for human and veterinary medicine pharmaceuticals; for animal feed additives, 7.3 million pounds were being used. Moreover, according to "Synthetic Organic Chemicals. United States Production and Sales (1971–1975)" (U.S. International Trade Commission Publication 804), the 5-year average production for 1971 through 1975 was 11.16 million pounds for medicinal uses and 7.68 million pounds for nonmedicinal uses, including feed additive uses. Over those 5 years, the aggregate average of the total production for those nonmedicinal uses was 40.8 percent—but 48.6 percent in 1975. Thus the use of antibiotics in animal feeds is a considerable element in the overall use of antibiotics in this country and consequently must be considered a potentially significant contributor to the resistance problem.

REFERENCES

1. Watanabe, R., "Infective Heredity of Multiple Drug Resistance in Bacteria," Bacteriological Reviews, 27:87–115, 1963.

2. Simmons, H. and P. D. Stolley, "This is Medical Progress?" Journal of the American Medical Association, 222:1023–1028, 1974.

3. Linton, A. H., "Antibiotic Resistance: The Present Situation Reviewed," Veterinary Record, 100:354–360, 1977.

2. *Criterion.* The FDA Task Force concluded that a human health hazard exists if the subtherapeutic use of antibiotics in animal feeds leads to an increase in R-plasmid-bearing organisms, if these antibiotics used subtherapeutically are also used in human clinical medicine, and if R-plasmids subsequently appear in bacteria in man. It was the intent of the Task Force as well as the intent of § 558.15 to reduce the total load of resistant organisms in the environment and to ensure the effectiveness of antibiotics in the treatment of disease in man and animals. Accordingly, § 558.15 required the following:

An antibacterial drug fed to animals shall not promote an increase of coliforms that are resistant to antibacterial drugs used in human clinical medicine and capable of transferring this resistance to bacteria indigenous to the intestinal tract of man. Studies must be undertaken to assess the occurrence and significance of these events:

a. Controlled studies shall be undertaken to determine whether or not the administration of an antibacterial drug at low and/or intermediate levels to target animals results in an increase in the numbers of coliforms bearing R-

V 42168 AUG 30 77 UMI

plasmids present in the intestinal tract of the animal or a change in the resistance spectrum of these organisms compared to those found in controls receiving no antibacterial drug. The resistance spectrum must be determined to ascertain whether or not there are determinants present for resistance to antibacterial drugs used in human clinical medicine.

b. If the resistance determinants indicated in a. are found, a sponsor may elect to conduct additional studies to determine if such multiple drug resistance is transferable to the indigenous coliforms in the intestinal tract of man.

In addition to the FDA Task Force, many other scientists were concerned that the use of antibiotics at subtherapeutic levels in feed might lead to the development of R-plasmid-bearing organisms in food animals, which might then spread to man. The normal enteric organisms that can serve as this reservoir are the coliforms, in particular *E. coli*. These *E. coli* can donate the R-plasmids to other bacteria, including pathogens, e.g., pathogenic *E. coli*, *Salmonella*, etc.

3. *Studies Relevant to Transfer of Drug Resistance*—(a) *R-plasmid-bearing E. coli develop in domestic animals that are fed subtherapeutic levels of antibiotics, including penicillin.* Many investigators have reported the presence of R-plasmid-bearing *E. coli* in domestic animals such as chickens, swine and cattle. The influence of antibiotic-supplemented feed in increasing the number of resistant organisms has been extensively documented. Mercer et al. (Ref. 1) showed that 394 of 491 isolates (80 percent) from animals exposed to antibiotics in feed, including penicillin, were resistant strains, and in contrast, only 14 of 64 isolates (21.9 percent) obtained from animals not exposed to antibiotics in feed were resistant strains. Mercer also reported that plasmid-mediated ampicillin resistance occurred more frequently in animals that were exposed to subtherapeutic levels of penicillin in their feed than in nonmedicated animals. Seigel et al. (Ref. 2) Smith and Tucker (Ref. 3), Katz et al. (Ref. 4), and others have also shown that the addition of penicillins to feed at subtherapeutic levels causes a significant increase in the R-plasmid-bearing coliform population of the intestinal flora of animals. Even the data submitted by the drug industry on the effect of subtherapeutic use of penicillin on the *E. coli* flora of poultry, which will be discussed in depth in part IV. B. 3. below, also show an increase in drug-resistant *E. coli*.

Accordingly, the Director has concluded that subtherapeutic use of penicillin in animal feed produces a high level of antibiotic resistant *E. coli* and that the subtherapeutic use of penicillin selects for R-plasmid-containing bacteria in animals (human health criteria 1.(a) set forth in II. B. above), i.e., the antibiotic pressure of subtherapautic penicillin use allows microbial R-plasmid-containing populations to predominate. These populations appear to be stable and persistent, even in the absence of penicillin pressure. Once the reservoir of R-plasmids develops, the initial cause of the R-plasmid buildup, whether the subtherapeutic use of penicillin or another drug (or drug combinations), is irrelevant to the R-plasmids' transferability or movement from animals to humans. Therefore, all studies on the movement of R-plasmids and resistant bacteria are germane to this issue even though penicillin was not always used as the specific antibiotic.

REFERENCES

1. Mercer, H. D., D. Pocurul, S. Gaines, S. Wilson, and J. V. Bennett, "Characteristics of Antimicrobial Resistance of *Escherichia coli* from Animals: Relationship to Veterinary and Management Uses of Antimicrobial Agents," Applied Microbiology, 22:700–705, 1971.

2. Seigel, D., W. G. Huber, and F. Enloe, "Continuous Nontherapeutic Use of Antibacterial Drugs in Feed and Drug Resistance of the Gram-negative Enteric Flora of Food-Producing Animals," Antimicrobial Agents and Chemotherapy, 6:697–701, 1974.

3. Smith, H. W., and J. F. Tucker, "The Effect of Antibiotic Therapy on the Faecal Excretion of *Salmonella typhimurium* by Experimentially Infected Chickens," Journal of Hygiene, 75:275–292, 1975.

4. Katz, S. E., C. A. Fassbender, P.S. Dinnerstein, and J. J. Dowling, Jr., "Effects of Feeding Penicillin to Chickens," Journal of the Association of Official Analytical Chemists, 57:522–526, 1974.

(b) *E. coli contribute their R-plasmids to man through several mechanisms.* There has been much debate over the extent to which *E. coli* in the animal community act as a source of R-plasmid-bearing strains for man. This is perhaps the most controversial and most difficult aspect of R-plasmid ecology to assess. Drug-resistant bacteria originating in animals may reach man (1) by direct contact with animals, (2) through the food chain, and (3) because of their widespread occurrence in the environment.

(i) Direct contact with animals: A number of studies have shown that humans in contact with animals receiving medicated feed, including subtherapeutic levels of penicillin, have a higher incidence of drug-resistant organisms in their flora than do control populations without this direct contact. Linton et al. (Ref. 1) found a higher incidence of drug-resistant *E. coli* in adults employed with livestock husbandry than other rural or urban adults. Wells and James (Ref. 2) found a higher incidence of drug-resistant *E. coli* in humans in contact with pigs given certain antibiotics than in humans in contact with pigs that had not been given antibiotics.

Seigel et al. (Ref. 3) compared the proportion of resistant organisms in fecal samples from: (*a*) people working on farms who were continuously in contact with the predominantly resistant flora of animals receiving subtherapeutic levels of penicillin; (*b*) people residing on the same farms with no direct exposure to the farm animals; (*c*) people treated with antibacterial drugs; (*d*) untreated people residing with treated individuals; (*e*) untreated people with no exposure to farm animals or treated individuals.

The data (Ref. 3) indicate that the enteric flora of individuals not directly exposed to the selective effects of antibiotics can be affected by contact with animals; furthermore, these individuals may be affected by contact with other people who have a predominantly resistant flora as a result of their exposure to subtherapeutic levels of antibacterials in feeds.

A study sponsored by the Animal Health Institute, Levy et al. (Ref. 4), examined the change in intestinal microflora of chickens, farm dwellers, and their neighbors before and after a tetracycline-supplemented feed was introduced on the farm. Within 1 week after introduction of this antibiotic in their diet, the *E. coli* of the chickens were almost entirely tetracycline resistant. Subsequently, at a slower rate, increased numbers of antibiotic-resistant bacteria appeared in the flora of the farm dwellers. No such increase was observed in the farm neighbors, who were not exposed to the animals fed subtherapeutic antibiotics. Within 5 to 6 months, 31.3 percent of weekly fecal samples from farm dwellers contained greater than 80 percent tetracycline-resistant bacteria compared to 6.8 percent of the samples from the neighbors. This is statistically significant ($P<0.001$). Using a specially marked resistance gene to identify a particular plasmid, Levy was also able to demonstrate the direct spread of resistant organisms from chickens to chickens and from chickens to man (Ref. 5).

Although penicillin was not used in this study, resistance to both penicillin and tetracycline is plasmid mediated; therefore, the study is germane to the question of the transfer of resistant organisms from animals to man. These studies demonstrate that the subtherapeutic use of certain antibiotics increases the pool of R-plasmid-bearing *E. coli*, and they define one route by which antibiotic-resistant strains can enter the human population. While this route is of great importance to farm dwellers, the majority of the population has no contact with live animals. For this segment of individuals, a more important route of exposure by which resistant bacteria can pass to man is by the handling and ingestion of meat and poultry products contaminated with R-plasmid-bearing *E. coli* of animal origin.

REFERENCES

1. Linton, K. B., P. A. Lee, M. H. Richmond, W. A. Gillespie, J. J. Rowland, and V. N. Baker, "Antibiotic Resistance and Transmissible R-factors in the Intestinal Coliform Flora of Healthy Adults and Children in an Urban and Rural Community," Journal of Hygiene, 70:99–104, 1972.

2. Wells, D. M., and O. B. James, "Transmission of Infectious Drug Resistance from Animals to Man," Journal of Hygiene, 71:209–215, 1973.

3. Siegel, D., W. G. Huber, and S. Drysdale, "Human Therapeutic and Agricultural Uses of Antibacterial Drugs and Resistance of the Enteric Flora of Humans," Antimicrobial Agents and Chemotherapy, 8:538–543, 1975.

4. Levy, S. B., G. B. Fitzgerald, and B. S. Macone, "Change in Intestinal Flora of Farm Personnel After Introduction of a Tetracycline-Supplemented Feed on a Farm," New England Journal of Medicine, 295:583–588, 1976b.

5. Levy, S. B., G. B. Fitzgerald, and A. B. Macone, "Spread of Antibiotic Resistant Plasmids From Chicken to Chicken and from Chicken to Man," Nature, 260:40–42, 1976a.

(ii) Contact with *E. coli*-contaminated food: To assess adequately the significance of the problem of human food contaminated with *E. coli*, Howe and Linton (Ref. 1) described four factors that must be measured: (*a*) The incidence of R-plasmid-bearing *E. coli* in food-producing animals; (*b*) the load and frequency of excretion of *E. coli* from these animals; (*c*) the degree and source of contamination of carcasses at slaughter; and (*d*) the overlap of *E. coli* serotypes in various host animals with those commonly found in humans. A number of surveys have clearly documented that pigs, calves, and poultry carry a large reservoir of antibiotic-resistant *E. coli*. These include investigations by Anderson; Loken; Mercer; Smith; Howe, Linton and Osborne; Smith and Crabb (Refs. 2 through 8, and 15). In these surveys, animals excrete large numbers of *E. coli* organisms resistant to a wide range of clinically useful antibiotics, and these animals clearly constitute a reservoir "rich" in R-plasmids. Moreover, they excrete a large variety of distinct serotypes of *E. coli*.

During the slaughtering process, contamination of carcasses with intestinal microorganisms cannot be prevented. Meat and meat products are often contaminated with antibiotic-resistant *E. coli*, and these often reach the human consumer. Walton (Ref. 9) demonstrated that 52 percent of the bovine (beef) and 83 percent of porcine (pork) carcasses slaughtered at commercial abattoirs were contaminated with *E. coli*. Walton and Lewis (Ref. 10) isolated resistant *E. coli* from 21 of 50 specimens of fresh meat and from 4 of 50 specimens of cooked meat. Babcock et al. (Ref. 11) isolated multiresistant *E. coli* from 80 percent of 98 samples of dressed beef. Resistance in most cases was found to be transmissible.

Similar incidents of *E. coli* contamination occur with the slaughter of chickens. Kim and Stephens (Ref. 12) found a high incidence of R-plasmid-bearing *E. coli* in "ready to cook" broiler chickens. The greatest number of *E. coli* isolated were obtained from the fluid and abdominal cavity, suggesting that the principal source of these microorganisms is the intestines. Furthermore, poultry meat has been incriminated as a source of *E. coli* for patients in hospitals (Cooke et al., and Shooter et al. (Refs. 14 and 18)).

The presence of antibiotic-resistant (R-plasmid-bearing) *E. coli* in the animal intestinal tract and on the carcass does not conclusively prove that the *E. coli* are identical organisms. However, recent studies using serotyping methods have characterized resistant and sensitive *E. coli* isolated from the animal intestinal tract and carcass (Refs. 13, 15, 16, and 17) and have found that the resistant O-serotypes on the carcasses of pigs, calves, and poultry frequently are identical to those isolated from the fecal contents of the same animal. Moreover, Linton, Howe, et al. (Ref. 17) showed that a large number of *E. coli* found on table-ready thawed chickens were resistant to therapeutically important antibiotics. The organisms reaching the kitchen included a wide diversity of O-serotypes of antibiotic-resistant *E. coli*. Similarly, Shooter et al. (Ref. 13) described the distribution and serotype of strains of *E. coli* from a poultry packing station and an abattoir. Shooter concluded that "results in both the abattoir and the poultry packing station indiacte that there is transfer of strains from the faeces of the animals to the environment and that the strains of *E. coli* found on the carcasses of poultry, cattle and beef will originate from the feces of the animal and from the environment and will reffect the history of the carcass."

Foodborne *Salmonella* infections in man are a well-recognized and continuing problem. Animal meat products that serve as a primary source of *Salmonella* infections in humans also serve as a source of other bacteria for man including R-plasmid-bearing enteric bacteria (Ref. 19). Based on this evidence, the Director must conclude that man is exposed to R-plasmid-bearing intestinal bacteria through contact with contaminated food. Because the drug resistance of these bacteria is increased by feeding the animals subtherapeutic levels of antibiotics, such feeding enhances the likelihood of transmitting R-factor-bearing bacteria to man through contact with contaminated food.

REFERENCES

1. Howe, K., and A. H. Linton, "The Distribution of O-Antigen Types of *Escherichia coli* in Normal Calves, Compared with Man, and Their R-plasmid Carriage," Journal of Applied Bacteriology, 40:317–330, 1976.

2. Anderson, E. S., "The Ecology of Transferable Drug Resistance in the Enterobacteria," Annual Review of Microbiology, 22:131-180, 1968.

3. Howe, K. A., H. Linton, and A. D. Osborne, "A Longitudinal Study of *Escherichia coli* in Cows and Calves with Special Reference to the Distribution of O-Antigen and Antibiotic Resistance," Journal of Applied Bacteriology, 40:331–340, 1976a.

4. Loken, K. I., L. W. Wagner, and C. L. Henke, "Transmissible Drug Resistance in Enterobacteriaceae Isolated From Calves Given Antibiotics," American Journal of Veterinary Research, 32:1207–1212, 1971.

5. Mercer, H. D., D. Pocurull, S. Gaines, S. Wilson, and J. V. Bennett, "Characteristics of Antimicrobial Resistance of *Escherichia coli* from Animals: Relationship to Veterinary and Management Uses of Antimicrobial Agents," Applied Microbiology, 22:700–705, 1971.

6. Smith H. W., "The Effect of the Use of Antibacterial Drugs, Particularly as Food Additives, on the Emergence of Drug Resistant Strains of Bacteria in Animals," New Zealand Veterinary Journal, 15:153–166, 1967.

7. Smith, H. W., "The Effect of the Use of Antibacterial Drugs on the Emergence of Drug-Resistant Bacteria in Animals," Advances in Veterinary Science and Comparative Medicine, 15:67–100, 1971.

8. Smith, H. W., and W. E. Crabb, "The Effect of the Continuous Administration of Diets Containing Low Levels of Tetracyclines on the Incidence of Drug-Resistant *Bacterium coli* in the Faeces of Pigs and Chickens: The Sensitivity of *Bact. coli* to Other Chemotherapeutic Agents," Veterinary Record, 69:24–30, 1957.

9. Walton, J. R., "Contamination of Meat Carcasses by Antibiotic-Resistant Coliform Bacteria," Lancet, 2:561–563, 1970.

10. Walton, J. R., and L. E. Lewis, "Contamination of Fresh and Cooked Meats by Antibiotic Resistant Coliform Bacteria," Lancet, 2:255, 1971.

11. Babcock, G. F., D. L. Berryhill, and D. H. Marsh, "R-Factors of *Escherichia coli* from Dressed Beef and Humans," Applied Microbiology, 25:21–23, 1973.

12. Kim, T. K., and J. F. Stephens, "Drug Resistance and Transferable Drug Resistance of *E. coli* Isolated from 'Ready-to-Cook' Broilers," Poultry Science 51:1165–1170, 1972.

13. Shooter, R. A., E. M. Cooke, S. O'Farrell, K. A. Bettelheim, M. E. Chandler, and F. M. Bushrod, "The Isolation of *Escherichia coli* from a Poultry Packing Station and an Abattoir," Journal of Hygiene, 73:245–247, 1974.

14. Cooke, E. M., A. L. Braeden, R. A. Shooter, and S. M. O'Farrell, "Antibiotic Sensitivity of *Escherichia coli* Isolated from Animals, Food, Hospital Patients, and Normal People," Lancet, 2:8–10, 1971.

15. Howe, K., A. H. Linton, and A. D. Osborne, "An Investigation of Calf Carriers Contamination from *Escherichia coli* from the Gut Contents at Slaughter," Journal of Applied Bacteriology, 41:37–45, 1976b.

16. Linton, A. H., B. Handley, A. D. Osborne, B. G. Shaw. T. A. Roberts, and W. R. Hudson, "Contamination of Pig Carcasses at Two Abattoirs by *Escherichia coli* with Special Reference to O-Serotypes and Antibiotic Resistance," Journal of Applied Bacteriology, 42:89–111, 1977.

17. Linton, A. H., K. Howe, C. L. Hartley, and H. M. Clements, "Antibiotic Resistant and Sensitive *Escherichia coli* O-serotypes in the Gut and on the Carcass by Commercially Slaughtered Broiler Chickens and the Potential Public Health Implications," in press, 1977.

18. Shooter, R. A., S. A. Rousseau, E. M. Cooke, and A. L. Braeden, "Animal Sources of Common Serotypes of *Escherichia coli* in the Food of Hospital Patients," Lancet, 2:226–228, 1970.

19. FDC Docket No. 77N-0156, Environmental Impact Analysis and Assessment Reports (EIAR/EAR) for Chlortetracycline-Penicillin-Sulfonamides (CSP) and Penicillin-Streptomycin Premix Combinations.

(iii) Widespread presence in the environment: Many studies (Ref. 1 through 6) have shown that intestinal bacteria (e.g., *E. coli* and *Salmonella*) carrying R-plasmids are widespread in the environment. Resistant strains reach the environment from raw and treated municipal, hospital, and animal wastes. The number of R-plasmid-bearing bacteria reported in sewage and the effects of sewage treatment vary. Most surveys indicate that hospital sewage contains more drug-resistant coliforms, more R-plasmids, and a greater proportion of R-plasmids carrying multiple resistance than sewage from domestic and other sources. However, hospitals do not constitute a large proportion of total sewage. Therefore, Linton et al. (Ref. 4) compared the contributions of hospital and domestic sources to the total pooled sewage output of the city of Bristol, and they concluded that industrial and domestic sources, rather than the hospital population, appear to be by far the greatest contributors to the reservoir of R-plasmids in the community (Ref. 7).

V 4216 8 A AUG 30 77 UMI

R-plasmid-containing bacteria also occur in rivers and sea water, and some authors have urged stricter control of discharges to surface waters. Feary et al. (Ref. 2) examined the incidence of antibiotic-resistant *E. coli* present at sites along a fresh water river system and within the salt water bay into which it empties. Antibiotic-resistant coliforms were detected in nearly all the fresh water sites sampled and in about 50 percent of the salt water sites. Feary found that 20 percent of the 194 strains tested contained R-plasmids carrying multiple antibiotic resistance which could be transferred to sensitive *Salmonella typhimurium, Shigella dysenteriae,* and *E. coli.* They also isolated coliforms containing R-plasmid carrying resistance to chloramphenicol. Transferable chloramphenicol resistance is a significant health concern since chloramphenicol is often the antibiotic of choice for the treatment of typhoid fever. In Feary's study, the incidence of coliform organisms appeared higher around heavily populated areas, but coliforms were also recovered with ease from rural areas. In one case where particularly high counts were obtained, the sample was taken below a large cattle feedlot.

The high levels of resistant coliforms may be of more consequences in the salt water since certain sections are utilized heavily by fishermen in harvesting fish, shrimp, clams, and oysters. Oysters and clams are of primary concern because they continuously filter water and concentrate bacteria in their gut and they are often eaten uncooked.

Recent reports by Cooke (Ref. 1) have also described a high incidence of resistant coliforms in marine shellfish and freshwater mussels.

Therefore, the Director must conclude that the environment is heavily contaminated with bacteria containing transferable R-plasmids. Man is exposed to the danger of acquiring R-plasmid-bearing coliforms from the environment, and the relative number of R-plasmid-bearing bacteria is increased both by the subtherapeutic use of antibiotics in animal husbandry and the use of antibiotics in human medicine. Antibiotic-resistant bacteria are now so widely distributed in the general environment that it is difficult to relate their appearance to a particular use, but any unnecessary practice that results in the ineffectiveness of antibiotics for the treatment of disease should be eliminated.

REFERENCES

1. Cooke, M.D., "Antibiotic Resistance among Coliform and Fecal Coliform Bacteria Isolated from Sewage, Seawater, and Marine Shellfish," Antimicrobial Agents and Chemotherapy, 9:897–884, 1976

2. Feary, R. W., A. B. Sturtevant, and J. Lankford, "Antibiotic-Resistant Coliforms in Fresh and Salt Water," Archives of Environmental Health, 25:215–220; 1972.

3. Grabow, W. O. K., and O. W. Prozesky, "Drug Resistance of Coliform Bacteria in Hospital and City Sewage," Antimicrobial Agents and Chemotherapy, 3:175–180, 1973.

4. Linton, K. B., M. H. Richmond, R. Bevan, and W. A. Gillespie, "Antibiotic Resistance and R Factors in Coliform Bacilli Isolated from Hospital and Domestic Sewage," Journal of Medicine Microbiology, 7:91–103, 1974.

5. Richmond, M. H., "R factors in Man and His Environment," in "Microbiology—1974," edited by D. Schlessinger, American Society for Microbiology, Washington, D.C., 1975.

6. Smith, H. W., "Incidence in River Water of *Escherichia coli* Containing R Factors," Nature, 288:1286–1289, 1970b.

7. FDC Docket No. 77N–0156, EIAR for CSP.

(c) *R-plasmid-bearing human and animal strains of bacteria overlap.* Typing of surface bacterial antigens is used as a means of identifying bacterial strains. Three types of specific surface antigens are associated with the *E. coli* cell: An "O" cell wall lipopolysaccharide antigen, a "K" capsular or envelope antigen, and an "H" flagellar protein antigen which occurs among mobile organisms. The antigens are characteristic of a specific organism, and they serve to identify distinct bacterial types (serotypes) within species. Their presence is detected by the ability of *E. coli* organisms to interact with specific antiserums.

(i) Epidemiological investigations—*E. coli* serotyping: (a) Despite the widespread occurrence of R-plasmids in the environment, some workers (Bettelheim et al., Ref. 1) suggested that human *E. coli* and animal *E. coli* were distinct. These workers argued that there were marked differences in serotype distribution in strains isolated from man and animals; they also suggested than animal strains of *E. coli* were not reaching the human population or were failing to implant in the bowel. More recently, however, this same group, Bettelheim et al. (Ref. 2), compared the serotypes of 13,139 strains of *E. coli* isolated from humans with the serotypes of 1,076 animal strains of *E. coli;* 708 different O/H serotype combinations were found. Of these, 520 were found in human strains only, 130 from animal strains only, and 58 O/H serotypes from humans and animals. The authors concluded:

> At first glance the results described in this paper would indeed support the view that human and animal strains of *E. coli* are largely distinct. Second thoughts, however, suggest a little caution in accepting the opinion too firmly.
>
> However thoroughly human or animal stools are examined, only a minute fraction of the total bacterial content is examined, and inevitably strains recorded as being isolated tend to be those that predominate. It is always probable that if examination is continued, further strains may be isolated but after an amount of work that is impracticable in any ordinary investigation. If this is so, it is possible that many of the strains recorded as coming from humans only or from animals only might, with more diligent examination, be recorded as present in both man and animals.

REFERENCES

1. Bettelheim, K. A., A. M. Bushrod, E. Chandler, E. M. Cooke, S. O'Farrell, and R. A. Shooter, "*Escherichia coli* Serotype Distribution in Man and Animals," Jounral of Hygiene, 73:467–471, 1974.

2. Bettelheim, K. A., N. Ismail, R. Shinebaum, R. A. Shooter, E. Moorehouse, and Wendy Farrell, "The Distribution of Serotypes of *Escherichia coli* in Cow-Pats and Other Animal Material Compared with Serotypes of *E. coli* Isolated from Human Sources," Journal of Hygiene, 76:403–406, 1976.

(b) Linton, Howe, Richmond, and their collaborators (Refs. 1 through 4) also conducted extensive epidemiological investigations. They found a wide range of resistant and sensitive O-serotypes of *E. coli* in calves, pigs, and poultry, and they compared these serotypes with those found in the human intestine. The authors found that many O-serotypes common to man were also common to one or more of the three animal species examined. Thus, they concluded that it is impossible to make a clear distinction between "animal" and "human" intestinal strains of antibiotic-resistant *E. coli* based on O-serotyping alone. More importantly, the studies suggest a considerable overlap in the distribution of R-plasmid-bearing O-serotypes in man and in animals. Moreover, the same resistant serotypes, which predominate in the *E. coli* populations from healthy human and animal fecal sources, were also prevalent among R-plasmid-bearing strains from clinical material (Ref. 5).

Because the use of O-serotyping alone as an epidemiological tool has been criticized on the grounds that it is incomplete and inadequate, Howe and Linton (Ref. 2) examined *E. coli* for the K and H antigens as well as the O antigen. They studied 90 strains, 17 chosen at random from human urinary tract infections, 17 from human feces, and 56 from calf feces, all belonging to O-types 8, 9, and 101. The authors found the same K and H antigens in certain strains of the same O-types from each of the three *E. coli* sources. Additionally, K and H antigens associated with these O-serotypes were not specific to antigens associated with these O-serotypes were not specific to *E. coli* isolated from humans or from calves. Although further subdivision of the three O-scrotypes was possible by this means, the authors concluded that O-serotyping alone provided a very useful means of distinguishing strains of *E. coli* in a general survey.

These studies show that a similar range of drug-resistant R-plasmid-bearing O-serotypes of *E. coli* have been found in man and the various animal species examined. Furthermore, the studies show that the ratio of drug-resistant to drug-sensitive isolates was much higher in animals than in man (Ref. 2 and 6). Thus the abundance and diversity of drug-resistant R-plasmid-bearing O-serotypes in animals are much greater than that currently found in man, and the serotypes overlap.

REFERENCES

1. Hartley, C. L., K. Howe, A. H. Linton, K. B. Linton, and M. H. Richmond, "Distribution of R-Plasmids Among the O-Antigen Types of *Escherichia coli* Isolated from Human and Animal Sources," Antimicrobial Agents and Chemotherapy, 8:122–131, 1975.

2. Howe, K., and A. H. Linton, "The Distribution of O-Antigen Types of *Escherichia coli* in Normal Calves, Compared with Man and Their R-Plasmid Carriage," Journal of Applied Bacteriology, 40:317–330, 1976.

3. Howe, K., A. H. Linton, and A. D. Osborne, "A Longitudinal Study of *Escherichia coli* in Cows and Calves with Special Reference to the Distribution of O-Antigen and Antibiotic Resistance," Journal of Applied Bacteriology, 40:331–340, 1976a.

4. Linton, A. H., B. Handley, A. D. Osborne, B. G. Shaw, T. A. Roberts, and W. R. Hudson, "Contamination of Pig Carcasses at Two Abbattoirs by *Escherichia coli* with Special Reference to O-Serotypes and Antibiotic Resistance," Journal of Applied Bacteriology, 42:89–111, 1977.

5. Petrochellou, V., and M. H. Richmond, "Distribution of R-Plasmids Among the O-Antigen Types of *Escherichia coli* Isolated from Various Clinical Sources," Antimicrobial Agents and Chemotherapy, 9:1–5, 1976.

6. Howe, K., A. H. Linton, and A. D. Osborne, "The Effect of Tetracycline on the Coliform Gut Flora of Broiler Chickens with Special Reference to Antibiotic Resistance and O-Serotypes of *Escherichia coli*," Journal of Applied Bacteriology, 41:453–464, 1976c.

(ii) Direct ingestion evidence: Direct ingestion experiments have also been conducted to show that R-plasmid-bearing *E. coli* of farm origin can colonize the human intestinal tract. In 1969, Smith (Ref. 1) concluded that animal *E. coli* strains were poorer at colonizing the intestine of man than were human *E. coli* strains. However, his observations were based on a single volunteer (himself) and a small number of *E. Coli* strains. Cooke in 1972 (Ref. 2), on the other hand, reported that it was relatively easy to produce temporary colonization of the intestine by *E. coli* strains from both human and animal sources. She reported the persistence of an *E. coli* infection of animal origin in a human volunteer for 120 days following the ingestion of a very large dose.

Other experimental studies (Refs. 3 and 4) confirm that temporary colonization occurs provided a large dose of the organisms is taken, but there is a great deal of biological variation between colonization for different strains and for different human individuals. In normal individuals the carriage of intestinal *E. coli* seems to follow a characteristic pattern. Each person carries one or two resident strains that establish themselves and multiply for months or years. In addition, four or more transient strains are present for a few days or weeks. Strains disappear and are replaced by others. Sometimes, under antibiotic pressure, a new strain suddenly takes over, later disappearing. Strains of *E. coli* thus differ in their abiilty to colonize man. Although some strains are not well adapted to colonize man, others are able to live in human as well as in animal intestines. The greater the diversity of R-plasmid-bearing O-serotypes that reach the consumer, the greater the probability that one more of these antibiotic-resistant strains will be capable of colonizing man.

Recently, Linton, Howe, Bennet, et al. (Ref. 5) demonstrated that antibiotic-resistant *E. coli* found on a commercially prepared chicken carcass colonized the intestinal tract of a human volunteer. Two strains present on the chicken carcass handled and eaten by the human volunteer were subsequently excreted by her. Both strains were undetectable in the human before contact with the chicken carcass. The strains were shown to be identical in chicken and man by comparing their serotypes (O, K, and H antigens) and R-plasmids. The plasmid complements were determined to be identical by electron microscopy and restriction endonuclease patterns. Restriction endonucleases are enzymes that cleave DNA at specific sites. Physiochemical techniques then visualize these plasmid fragments. The identity of these plasmids can be determined by a comparison of the DNA fragments generated using restriction enzymes with different recognition sequences. The Linton study also suggested that the handling of the uncooked carcass provided a greater opportunity for transmission than does eating cooked meat. The strains persisted for 10 days and the process occurred without feeding any antibiotics to the volunteer during the study. This is consistent with reports of Salmonella infections from animal sources.

REFERENCES

1. Smith, H. W., "Transfer of Antibiotic Resistance from Farm Animals and Human Strains of *Escherichia coli* to Resident *E. coli* in the Alimentary Tract in Man," Lancet, 1:1174–1176, 1969.

2. Cooke, E. M., I. G. T. Hettiaratchy, and C. A. Buck, "Fate of Ingested *Escherichia coli* in Normal Persons," Journal of Medical Microbiology, 5:361–369, 1972.

3. Anderson, J. D., W. A. Gillespie, and M. H. Richmond, "Chemotherapy and Antibiotic-Resistance Transfer between Enterobacteria in the Human Gastro-intestinal Tract," Journal of Medical Microbiology, 6:461–473, 1973.

4. Anderson, J. D., L. C. Ingram, M. H. Richmond, and B. Wiedemann, "Studies on the Nature of Plasmids Arising from Conjugation in the Human Gastro-intestinal Tract," Journal of Medical Microbiology, 6:475–486, 1973.

5. Linton, A. H., K. Howe, P. M. Bennett, M. H. Richmond, and E. J. Whiteside, "The Colonization of the Human Gut by Antibiotic Resistant *Escherichia coli* from Chickens," in press, 1977.

(iii) In vivo studies show that R-plasmids transfer from *E. coli* to pathogens: The ingestion of R-plasmid-containing bacteria can result in in vivo R-plasmid transfer to the normal intestinal flora. When this occurs, the *E. coli* constitute a reservoir of organisms capable of transferring R-plasmids to intestinal pathogens, e.g., Salmonella. The in vivo transfer of R-plasmids has been demonstrated in sheep, mice, calves, pigs, chickens, turkeys, and in the human alimentary tract (Refs. 1 through 8). Generally, in vivo transfer is not as readily detectable as in vitro transfer. In the absence of drug selection, the rate of in vivo R-factor transfer is generally low, and large numbers of resistant donors may be required for transfer (Refs. 1 and 6). Demonstrations of in vivo transfer have usually been achieved by first modifying the normal flora of the alimentary tract by feeding antibiotics, by starvation, or by using germ-free mice or newly hatched chicks, and these procedures probably counteract the inhibitory effects of bile salts, fatty acids, acid pH, and anaerobic conditions of the normal intestinal tract.

These experimental results may not be a true indication of the extent of R-plasmid transfer in natural populations since they often involve individuals who are exposed to restricted numbers and types of donor and recipient organisms. In some instances the methods were not suitable for the detection of low level transfer. However, Smith and Tucker (Ref. 9) studied the effect of antibiotic therapy on the fecal excretion of Salmonella by experimentally infected chickens. The authors found that R-plasmid resistance developed in the indigenous *E. coli* and that very similar resistance patterns then developed in the Salmonella. These results were duplicated in some of the studies submitted by the Animal Health Institute, which are also discussed in depth under Part IV. B. below.

Regardless of the frequency with which R-plasmid transfer occurs in the absence of modifying influences, it has occurred and given rise to antibiotic resistance in bacteria, including pathogens. The conditions of the Smith and Tucker studies mimic those brought about by the practice of feeding subtherapeutic levels of penicillin and other antibiotics to animals. That practice leads to an increase in and selection for R-plasmid-bearing organisms, and it therefore increases the probability of in vivo R-plasmid transfer to pathogens.

REFERENCES

1. Anderson, J. D., W. A. Gillespie, and M. H. Richmond, "Chemotherapy and Antibiotic-Resistance Transfer between Enterobacteria in the Human Gastro-intestinal Tract," Journal of Medical Microbiology, 6:461–473, 1973.

2. Guinee, P. M., "Transfer of Multiple Drug Resistance from *Escherichia coli* to *Salmonella typhimurium* in the Mouse Intestine," Antonie van Leeuwenhoek; Journal of Microbiology and Serology, 31:314–322, 1965.

3. Kasuya, M., "Transfer of Drug Resistance between Enteric Bacteria Induced in the Mouse Intestine," Journal of Bacteriology, 88:322–331, 1964.

4. Nivas, S.C., M. D. York, and B. S. Pomeroy, "In Vitro and In Vivo Transfer of Drug Resistance from *Salmonella* and *Escherichia coli* Strains in Turkeys," American Journal of Veterinary Research, 37:433–437, 1976.

5. Salzman, T. C., and L. Klemm, "Transfer of Antibiotic Resistance (R-factor) in the Mouse Intestine," Proceedings of the Society for Experimental and Biological Medicine, 128:392–394, 1968.

6. Smith, H. W., "Transfer of Antibiotic Resistance from Farm Animals and Human Strains of *Escherichia coli* to Resident *E. coli* in the Alimentary Tract in Man," Lancet 1:1174–1176, 1969.

7. Smith, H. W., "The Transfer of Antibiotic Resistance between Strains of Enterobacteria in Chickens, Calves, and Pigs," Journal of Medical Microbiology, 3:165–180, 1970a.

8. Walton, J. R., "In Vivo Transfer of Infective Drug Resistance," Nature, 211:312–313, 1966.

9. Smith, H. W., and J. F. Tucker, "The Effect of Antibiotic Therapy of the Faecal Excretion of *Salmonella typhimurium* by Experimentally Infected Chickens," Journal of Hygiene, 75:275–292, 1975.

(iv) R-plasmid compatibility studies: Another FDA study (Ref. 1) examined the compatibility properties of more than 100 R-plasmids from *E. coli* and *Salmonella* isolated from animals in or-

V 42168 AUG 30 77 UMI

der to determine whether the plasmids are related to those isolated from man. The usual method of genetically classifying plasmids is based on their ability to exist with each other in the same bacterium. Genetically unrelated plasmids can exist in the same host, and they are called compatible. On the other hand, related plasmids cannot coexist, and they are called incompatible. Plasmids belonging to the same incompatability group are presumed to be related.

The FDA study showed that the R-plasmid incompatibility groups seen in animal isolates show the same distribution as those found in human isolates. This suggests that human and animal bacterial populations contain the same plasmids.

A more direct apporach for examining the relationships between plasmids is to measure the proportion of DNA sequences (that is, the number of similar or identical genes) that are common to any two plasmids (DNA–DNA hybridization). R-plasmids belonging to the same incompatibility groups of human and animal origin are identical when examined by DNA–DNA hybridization techniques (Refs. 2 and 3). Restriction endonuclease activity has also confirmed the similarity of R-plasmids isolated from enteric organisms of human and animal sources (Ref 4). Therefore, the Director must conclude that R-plasmids of human origin are indistinguishable from those of animal origin.

REFERENCES

1. FDA contract 223–73–7210.
2. Anderson, E. S., G. O. Humphreys, and G. A. Willshaw, "The Molecular Relatedness of R-factors in Enterobacteria of Human and Animal Origin," Journal of General Microbiology, 91:376–382, 1975.
3. Grindley, N. D. F., G. O. Humphreys, and E. S. Anderson, "Molecular Studies of R-factor Compatibility Groups," Journal of Bacteriology, 115:387–398, 1973.
4. Crosa, J., J. Olarte, L. Mata, L. Lultrop and M. Penaranda, "Characterization of an R-plasmid Associated with Ampicillin Resistance in *Shigella dysenteriae* Type 1," Antimicrobial Agents and Chemotherapy, 11: 553–558.

(v) Hazards: Although antibiotic-resistant *E. coli* in the intestinal tract of humans may generally cause no immediate problems to an individual, under proper circumstances their presence may lead to dangerous situations. For example, *E. coli* is the most common cause of urinary tract infections in man and commonly arises from a person's own intestinal flora. While sulfonamides are generally the drug of choice, a significant number of infections with sulfonamide-resistant strains are now reported, necessitating treatment with penicillin.

Resistant *E. coli* in the intestine of man also constitute a reservoir of organisms capable of transferring R-plasmids to intestinal pathogens. Perhaps the greatest hazard to human health arising from the use and misuse of antibiotics is the large reservoir of plasmid-mediated resistance genes in the normal flora of animals and man and present in the environment—resistance that can be transferred from nonpathogenic to pathogenic organisms.

In recent years the emergence of R-plasmid-mediated resistance in dangerous pathogens has been identified in epidemics around the world. A strain of *Salmonella typhi* carrying an R-plasmid-mediating resistance to chloramphenicol caused an epidemic of typhoid fever in Mexico. Transferable chloramphenicol resistance has also become common in *S. typhi* isolated in India, Vietnam, and Thailand (Ref. 1). The recent epidemic of drug-resistant *Shigella dysenteria* infection in Central America (Ref. 2) is another example of an epidemic disease that was no longer susceptible to treatment by the antibiotics that had previously been used for its treatment. Plasmid-mediated resistance has been reported in strains of *Bordetella bronchiseptica* (Ref. 3), and FDA scientists have demonstrated plasmid-mediated resistance to penicillin, tetracycline, streptomycin, and sulfonamide in strains of *Pasteurella multocida* and *P. haemolytica*, both of which cause serious diseases in animals (Refs. 3 and 4).

Recent studies (Refs. 5 through 12) have also shown that the genes specifying resistance to ampicillin, tetracycline, kanamycin, chloramphenicol, trimethoprim, and streptomycin reside on DNA sequences that are able to translate or move from plasmid to plasmid as a discrete unit, or from a plasmid to the bacterial chromosome. Therefore, in addition to movement of resistant bacteria from animals to man and the transfer of R-plasmids between bacteria, the genes that reside on the plasmids can themselves migrate from plasmid to plasmid by translocation. Furthermore, an R-plasmid does not have to be maintained stably within a cell to donate its resistant genes to a recipient chromosome or an indigenous plasmid.

Most bacterial species possess indigenous plasmid gene pools. In fact, plasmids have been found in all species of bacteria examined. The function of these plasmids is often unknown, but they could serve as effective recipients for the insertion of translocatable genes. The recent emergence of ampicillin-resistant strains of *Haemophilus influenzae* and penicillin-resistant strains of *Neisseria gonorrheae* represent alarming examples of the extension of the R-plasmid gene pool (Refs. 13 and 14). The resistance genes found in both species are identical to those previously found only in *E. coli* and other enteric organisms.

The World Health Organization prophetically warned (Ref. 15):

> The point will ultimately be reached at which the transfer of resistance to pathogens becomes inevitable and the larger the pool, the greater is this possibility. Moreover, the wide the distribution of R+ (R-factor) enterobacteria the greater the possibility that R-plasmids may emerge that can cross biological barriers so that they can perhaps enter bacterial species and genera apparently widely different from their original enterobacterial hosts.

REFERENCES

1. Anderson, E. S., G. O. Humphreys, and G. A. Willshaw, "The Molecular Relatedness of R-factors in Enterobacteria of Human and Animal Origin," Journal of General Microbiology, 91:376–382, 1975.
2. Gangarosa, E. J., D. Penerea, L. Mata, C. Morrison, G. Guzman, L. Reller, "Epidemic Shiga Bacillus Dysentery in Central America. II. Epidemiologic Studies in 1969," Journal of Infectious Diseases, 122:181, 1970.
3. Terakado, N. H. Azechi, K. Ninomiya, and T. Shimizu, "Demonstration of R-factors in *Bordetella bronchiseptica* Isolated from Pigs," Antimicrobial Agents and Chemotherapy, 3:555–558, 1973.
4. Sliver, R. P., B. Leming, C. Hjerpe, "R-plasmids in *Pasteurella multocida*," Bact. Proc., p. 141, 1977.
5. Barth, P. T., N. Datta, R. W. Hedges, and N. J. Grinter, "Transposition of a Deoxyribonucleic Acid Sequence Encoding Trimethoprim and Streptomycin Resistances from R483 to Other Replicons," Journal of Bacteriology, 125:800–810, 1976.
6. Berg, D. E., J. Davies, B. Allet, and J. D. Rochaix, "Transposition of R-factor Genes to Bacteriophage," *Proceedings of the National Academy of Sciences of the U.S.A.*, 72:3628–3632, 1975.
7. Foster, T. J., T. G. B. Howe, and M. H. Richmond, "Translocation of Tetracycline Resistance Determinant from R100–1 to the *Escherichia coli* K–12 Chromosome," Journal of Bacteriology, 124:1153–1158, 1975.
8. Gottesman, M. M., and J. L. Rosner, "Acquisition of a Determinant for Chloramphenicol Resistance by Coliphage Lambda," Proceedings of the National Academy of Sciences of the U.S.A., 72:5041–5045, 1975.
9. Hedges, R. W., and A. E. Jacob, "Transposition of Ampicillin Resistance from RP4 to Other Replicons," Molecular and General Genetics, 132:31–40, 1974.
10. Heffron, F., R. Sublett, R. W. Hedges, A. Jacob, and S. Falkow, "Origin of the TEM Beta-lactamase Gene Found on Plasmids," Journal of Bacteriology, 122:250–256, 1975.
11. Kleckner, N., R. K. Chan, B. K. Tye, and D. Botstein, "Mutagenesis by Insertion of a Drug Resistance Element Carrying an Inverted Repetition," Journal of Molecular Biology, 97:561–515, 1975.
12. Kopecko, D. J., and S. N. Cohen, "Site-Specific RecA Independent Recombination Between Bacterial Plasmids: Involvement of Palinodromes at the Recombination Loci," Proceedings of the National Academy of Sciences of the U.S.A., 72:1373–1377, 1975.
13. Elwell, L. P., J. deGraaff, D. Seibert, and S. Falkow, "Plasmid-Linked Ampicillin Resistance in *Haemophilus influenzae* Type "D," Infection and Immunity, 12:404–410, 1975.
14. Elwell, L. P., M. Roberts, L. W. Mayer, and S. Falkow, "Plasmid-mediated B-lactamase Production in *Neisseria gonorrheae*," Antimicrobial Agents and Chemotherapy, 11, 1977.
15. W.H.O. Report "Public Health Aspect of Antibiotic Resistance in Environment," Regional Office for Europe, Copenhagen, 1976.

4. *Dirrctor's conclusions.* The holders of the approved NADA's for subtherapeutic penicillin-containing products were required to show that the subtherapeutic use of penicillin does not increase drug resistance (increase the pool of R-plasmid-bearing) organisms in animals. If they were unable to show that subtherapeutic penicillin use does not increase the pool of R-plasmid-bearing organisms in animals, the holders were then required to show that the R-plasmids are not transferable from animals to man. They failed to do any of this.

The evidence shows that the pool of R-plasmid-bearing organisms, particularly in *E. coli*, is increasing, and that the increase is due at least in part to the subtherapeutic use of penicillin in animal feed. Further evidence shows that *E. coli* contribute their R-plasmids to man through his direct contact with animals, through his direct contact with *E. coli*-contaminated food, and by widespread presence of the R-plasmids in bacteria in the environment. Studies also show that there is no strict distinction between the *E. coli* that colonize animals and those that infect man. On the contrary, there is considerable overlap in these strains, and there is also an overlap in the enteric bacterial R-plasmid population in humans and animals. This evidence is derived from epidemiology studies, bacterial ingestion studies, and compatibility studies of the normal intestinal flora of man and animals. These bacteria may donate their R-plasmid to pathogens in man and animals even when transient, and the NADA holders have submitted no evidence on the degree of colonization, if any, that is necessary for this transfer to occur. Accordingly, the Director concludes that the holders of the approvals for the subtherapeutic penicillin-containing products for use in animal feeds have failed to satisfy the requirements of § 558.15 and criterion 1 of this notice.

B. Shedding and Resistance Characteristics of Salmonella (Criterion 2)

1. *Background.* A second area of concern, related to the increase in the pool of R-plasmid-bearing bacteria, is the possibility that the subtherapeutic use of antibiotics in animal feeds may lead to an increase in the duration or quantity of live *Salmonella* excreted by the animal receiving the drug(s), which will increase contamination of the environment with pathogens. This concern was generated in part by reports that antibiotic therapy in human salmonellosis patients had resulted in prolonged *Salmonella* shedding and favored the acquisition of resistence in *Salmonella*.

Aserkoff and Bennett (Ref. below), for example, presented data on the effect of antibiotic therapy on the excretion of *Salmonella* in the feces of human infected with acute salmonellosis. Following a large *S. typhimurium* epidemic caused by eating contaminated chicken, feces of untreated patients and patients treated with tetracycline, ampicillin, and chloramphenicol were examined for *Salmonella*, and the antibiotic susceptibility of the *S. typhimurium* strains was determined. Patients generally received the recommended regimen of antibiotic therapy (1 gram per day). Fecal samples from 87 patients not receiving medication and 185 patients treated with antibiotics were examined. Of the patients treated with antibiotics, 65 percent were shedding *Salmonella* 12 days after infection, and 27 percent were positive 31 days after infection. In the untreated patients, however, *Salmonella* shedding was observed in 42.5 percent at day 12 and 11.5 percent at day 31.

Antibiotic therapy also favored the acquisition of drug resistance by the infecting strain of *Salmonella*, which was initially susceptible to antibiotics. Of the patients receiving antibotics, 18 excreted resistant *Salmonella*, while none of the 87 untreated patients excreted resistant *Salmonella* ($P<.05$). The antibiotic resistance acquired in the *Salmonella* strain was shown to be transferable. Because antibiotic treatment increased shedding in human salmonellosis, FDA became concerned that subtherapeutic antibiotic, penecillin) administration in animal feeds would prolong *Salmonella* shedding in animals, and for this reason the agency established criterion 2.

REFERENCE

Aserkoff, B., and J. V. Bennett, "(Effect of Antibiotic Therapy in Acute Salmonellosis on the Fecal Excretion of Salmonella," New England Journal of Medicine, 281:636–640, 1969.

2. *Criterion*—(a) *Shedding.* Controlled studies were to be designed to determine whether the administration of an antibacterial drug at subtherapeutic levels would result in an increase in the relative quantity, prevalence, or duration of shedding of *Salmonella* that are pathogens in animals. *Salmonella* are often found in the intestinal tract of man and animals, and the small intestine and colon are the primary sites of multiplication. After penetrating the epithelial lining, they multiply and elicit an inflammatory response. Most *Salmonella* infections are limited to the gastrointestinal tract, producing the clinical symptom termed "gastroenteritis." One of the more common strains, *Salmonella typhimurium*, causes diseases in both man and animals.

When an animal is infected with these bacteria, the live organisms are excreted in the feces ("shedding"). The quantity of *Salmonella* in the feces can be determined by a bacteriological procedure termed a "standard plate count." A specific amount of fecal material is diluted and spread on a semisolid bacterial growth medium which is selective for the growth of *Salmonella*. After a sufficient time for growth, individual colonies are counted and recorded as the number of *Salmonella* per gram of wet feces. The proportion of antibiotic resistant *Salmonella* in fecal specimens is independent of the quantity of Salmonella shed.

(b) *Resistance characteristics.* Controlled studies were to bedesigned to determine whether the administration of penicillin at subtherapeutic levels would result in an increase in the proportion of antibiotic resistant *Salmonella*. *Salmonella* isolated from feces can be tested for their susceptibility to various antibiotic drugs. *Escherichia coli*, a normal component of the intestinal flora, were also to be examined to determine their resistance spectrum sinffice oral administration of certain antibiotics, whether at therapeutic or subtherapeutic levels, has been shown to result in an increased proportion of indigenous *E. coli* that contains R-plasmids. These *E. coli* can serve as a reservoir of R-plasmids that can be transferable to other *E. coli* or to *Salmonella*.

3. *AHI Studies on the Effects of Subtherapeutic Levels of Penicillin in Animal Feed in Chickens.* On behalf of the NADA holders, the Animal Health Institute submitted the following study to address the criterion.

(a) *Experimental design.* The Animal Health Institute submitted an experiment in which the effects of subtherapeutic levels of procaine penicillin (with or without streptomycin) in feed were investigated. The duration, quantity and antibiotic susceptibility of a *Salmonella* strain inoculated into chickens were compared in medicated and nonmedicated chickens.

Also, FDA specified that prestudy (baseline) *E. coli* antibiotic resistance levels should be under 20 percent. This value was thought to provide a reasonable level for detecting any change in the amount of antibiotic resistance resulting from administration of subtherapeutic antibiotic levels since, if the initial R-plasmid level is too high, a small change in resistance is difficult to detect.

While others served as environmental controls, 1-day-old chicks were divided into six groups, artificially infected with *Salmonella*. Each group received medicated or nonmedicated diet, according to the following plan:

Room	Group	Inoculation of salmonella 1.6×10^{9}	Antibiotics and levels used in feed	Number of chickens in experimental group
1	A	Yes	None	
2	B[1]	Yes	Procaine penicillin 50 g/ton	10
	B[1]	Yes	Procaine penicillin 12.5 g/ton, streptomycin 37.5 g/ton	10
3	C	No[1]	None	10
	D[1]	No[1]	Procaine penicillin 50 g/ton	5
	D[1]	No[1]	Procaine penicillin 12.5 g/ton, streptomycin 37.5 g/ton	5
				5

[1] Environmental controls.

Groups A and B were used to determine the influence of penicillin or penicillin-streptomycin on shedding after experimental infection and the development of drug resistance by *Salmonella* and *E. coli*, with group A serving as a nonmedicated control group. Groups C and D were controls used to monitor the environment, and the effects of the drugs in the absence of experimental infection. To assure the absence of naturally occurring Salmonella prior to the study, the sponsors examined prestudy fecal samples. The samples were grown in a selective media, brilliant green agar, and serotyping was also done. By

V 42 168 AUG 30 77 UMI

this procedure, the birds were determined to be negative for Salmonella before the experiment began, and any bacteria suspected were further tested biochemically and serologically.

The infecting *Salmonella* (*S. typhimurium* 289–1, a poultry strain, chromosomally resistant to nalidixic acid and sulfonamides) was given by oral gavage. Fecal specimens from each chicken were diluted in phosphate buffered saline and appropriate dilutions were spread on growth medium selective for the nalidixic acid-resistant *S. typhimurium* used to infect the birds. The number of Salmonella growing on the medium was recorded as the number of *S. typhimurium* per gram of wet feces.

Presumptive *E. coli* isolates were obtained from EMB plates inoculated with diluted fecal material. The antibiotic resistance spectrum for *E. coli* isolates was also measured in accordance with the Standardized Disc Susceptibility Test set forth in § 460.1(c)(2) (21 CFR 460.1(c)(2)) for ampicillin, tetracycline, chloramphenicol, kanamycin, nitrofurantoin, streptomycin, sulfathiazole, and triple sulfa. The *E. coli* isolates were tested only twice prior to infections and once at the termination of the study (28 days), while the Salmonella isolates were tested nine times during the study.

Salmonella isolates were selected from the selective medium, brilliant green agar plates containing nalidixic acid, and were serotyped. Antibacterial susceptibility tests for ampicillin, tetracycline, chloramphenicol, kanamycin, nitrofurantoin, streptomycin, sulfathiazole, and triple sulfa were carried out in accordance with the Standardized Disc Susceptibility Test in § 460.1(c)(2). The isolates were tested on days 2, 4, 6, 8, 10, 13, 14, 21, and 28 of the experiment.

Clinical records were maintained on body weights, disease symptoms, mortality, and gross and microscopic pathology.

(b) *AHI's summary of the results.* (i) Shedding: Initially, on day 2, group B, (penicillin 50 grams/ton) shed a geometric mean number of 10^6 Salmonella per gram of feces; and during the remainder of the study, the geometric mean shed by the group decreased steadily. At the end of the study, the number shed was below the reliable limit of quantitation, less than 10^5 organisms per gram of feces. Group A, the nonmedicated control group, on the other hand, shed 10^7 organisms on day 2, and continued to shed a greater number of organisms than the treatment group ($P<.05$) throughout the remainder of the study. None of the environmental control groups, groups C and $D_{1,2}$ shed detectable amounts of Salmonella.

The prevalence of *S. typhimurium* was estimated by comparing the fraction of Salmonella positive fecal samples in the penicillin treatment group (group B_1) to that for the nonmedicated control group (group A) from all samplings. Thus, 69 out of 90 specimens (77 percent) examined from nonmedicated (control) animals were positive for *S. typhimurium*, while only 36 of 81 specimens (41 percent) in the penicillin treatment group were positive for *S. typhimurium*. The results represent statistically significant differences ($P<.01$) between the incidence of Salmonella positive samples in the treatment group and in the nonmedicated control group.

Duration of shedding was measured by determining the length of time that fecal samples were positive for Salmonella, or analyzing the time required for quantities of Salmonella shed to reach a common value. At least three nonmedicated birds shed Salmonella in their feces throughout the experiment, and four were positive 28 days after infection. In contrast, by day 12, only one bird receiving penicillin was positive, and none were positive on day 28. The length of time positive counts persisted was significantly longer ($P=.05$) in nonmedicated controls than for the penicillin-treated group.

Liver, spleen, and cecal tissues from all animals were necropsied, and samples tested for Salmonella. All tissues were negative.

The AHI concluded that feeding a diet containing a subtherapeutic level (50 grams/ton) of penicillin to chickens that were experimentally infected with *S. typhimurim* did not increase the quantity, shedding, or prevalence of Salmonella in fecal specimens, nor did it increase the quantity of Salmonella isolated from liver, spleen, or cecal tissue. In the opinion of the AHI, the evidence from this study suggests that subtherapeutic use of penicillin in chickens reduced the quantity, shedding, and prevalence of Salmonella.

(ii) Resistance characteristics: (*a*) *E. coli.* According to the two pretreatment samples, the proportion of *E. coli* isolates that were drug resistant was low (below 6 percent), except for resistance to sulfonamides which was greater than 85 percent. But at the experiment's end, AHI found that the resistance to ampicillin, chloramphenicol, kanamycin, and nitrofurantoin was significantly higher ($P<.01$) in the penicillin environmental control groups (D_1) than the control birds (C). Ampicillin resistance also significantly increased in the infected birds that received penicillin. Resistance to sulfonamides remained at the pretreatment level of greater than 85 percent, although the figure in the environmental control groups decreased.

(*b*) *Salmonella.* Prior to inoculating the birds, the infecting strain of *S. typhimurium* was resistant only to sulfonamides and nalidixic acid, the nontransferable marker. *S. typhimurium* strains showed a significant increase in ampicillin resistance on days 12 ($P < .01$) and 14 ($P < .05$). No other significant increases were observed for the other antimicrobials in the test.

The AHI then concluded that the penicillin supplemented diets significantly increased the percentage of *E. coli* that were resistant to ampicillin. In the Salmonella, the AHI found no significant difference in drug-resistant isolates when all the chickens in the trial were considered. But among the animals shedding Salmonella, i.e., the medicated groups, the nonmedicated control, the birds exposed to subtherapeutic antibiotic pressure (both penicillin and penicillin-streptomycin), a significantly greater proportion shed Salmonella that were resistant to ampicillin than in the nonmedicated groups.

(c) *The Director's analysis.* (i) Shedding: (*a*) The Director does not disagree with some conclusions drawn by AHI about this study. Feeding a subtherapeutic level of penicillin did not apparently increase the quantity of Salmonella shed in fecal material; it did not appear to increase the number of Salmonella in liver, spleen, and cecal tissue; and it did not increase the number of positive chicken tissues.

The Director, however, disagrees with the conclusion of AHI that feeding penicillin at 50 grams/ton did not increase the duration or prevalence of Salmonella shedding because the procedures that were used to determine these parameters were inadequate. The information necessary to determine Salmonella duration and prevalence is whether Salmonella are present in the feces, not the quantity of Salmonella in the feces. After the animals were infected with Salmonella in this experiment, fecal specimens were processed by diluting them and then plating on the surface of agar plates. Clones growing on the plates were subsequently counted to provide information on number of Salmonella per gram of feces. As the study progressed, however, the number of Salmonella shed decreased in both groups, and this procedure is inadequately sensitive to detect small numbers of Salmonella. Good microbiological practice requires the use of an enrichment procedure for culturing. An enrichment procedure involves the incubation of a fecal sample in a selective broth to increase the number of Salmonella before plating on the agar. This increases the likelihood that Salmonella will be detected because other genera are being simultaneously inhibited. The enrichment procedure is recommended for examination of fecal specimens where small numbers of Salmonella may be present, as in the case of subjects in the carrier state. In its section about processing of specimens from the bacterial family, Enterobacteriaceae (Salmonella is a member of this family), the "Manual of Clinical Microbiology," 2d edition, American Society for Microbiology, Washington, D.C., p. 194 (1974) is clear:

> It always is advisable to employ enrichment media in the examination of various kinds of specimens, and their use is practically essential when dealing with fecal specimens from carriers of suspected carriers.

In an FDA experiment, the agency studiesd Salmonella shedding by swine (Ref. below). Through careful study, 28 percent more samples (136 rather than 94 from the 151 examined) were determined to be Salmonella positive when an enrichment procedure was used. In another similar study by FDA, 95 percent rather than 60 percent of 242 samples were found Salmonella positive by media enrichment. Enrichment procedures had been requested by FDA

during the protocol development stage; thus, the AHI determination of prevalence and duration for this study was considered inadequate.

REFERENCE

Rollins, L. D., FDA Project 108.

(*b*) The shedding study was conducted in three rooms. The chickens that were experimentally infected with *S. typhimurium* were maintained in two separate rooms, and the third room housed the noninfected environmental control animals. In one of the rooms containing infected birds, the chickens received only nonmedicated feed. However, all birds that were infected with Salmonella and receiving medication were placed in the same room. These birds received one of three different medicated diets, either penicillin, penicillin plus streptomycin, or sulfaquinoxaline. Although the chickens were maintained in separate cages within the same room, no birds were placed in this room to determine if bacteria from one study group were flowing to another study group within the room (environmental control). The rise in levels of resistance to antibiotics in noninfected, nonmedicated group A, as well as in the antibiotic-treated groups B_1 and B_2, suggests that some cross-contamination might have occurred or that contamination from the environment might have occurred. Such contamination of control groups makes it more difficult to detect differences in the increase of drug resistance between the experimental and control animals.

An FDA-sponsored contract (71–269) showed the relative ease by which cross-contamination occurs between various study groups. These groups were under similar or more adequate isolation conditions than the chickens in the AHI study.

Nevertheless, analysis of drug resistance data obtained from bacteria isolated from the various groups maintained in Room 2 of the AHI study indicates there are differences in drug resistance between groups. This suggests that when R-plasmids are present, regardless of their source, they may be transferred even in the absence of antibiotic pressure.

(c) When the shedding studies were initially requested, the optimum duration of such studies was unknown, although the 28-day duration appeared adequate. Data later generated under FDA sponsorship (contract 71–269) show that shedding patterns change after 30 to 50 days, longer than the length of the 28-day AHI experiment. Some studies have shown Salmonella shedding to be decreasing in both medicated and nonmedicated groups early in the experiment, with the shedding initially decreasing faster in the medicated group. In several of these experiments, approximately 55 days after initiating the experiment, the Salmonella shedding patterns reversed and shedding in the medicated birds increased, while shedding in the nonmedicated birds remained constant or continued to decrease. In the Director's opinion, the phenomenon is easily explained. Initially, the antibiotic attacks sensitive organisms and as these predominate, little shedding is observed. But, as the antibiotic-resistant organisms remain and become dominant in the population, shedding increases.

(*d*) The 28-day duration of the chicken studies should also be considered in relation to the life of a commercial broiler chicken, usually about 7 to 8 weeks. Although some changes in shedding pattern occurred beyond 6 weeks, in normal commercial production, groups of broilers are raised continuously with one group immediately following another. The production facilities may be cleaned between groups; however, the facilities are not sterilized. Bacteria left from a preceding group of birds are available to infect the birds that follow, and some of the microbiological changes that occur may be perpetuated in subsequent birds. Thus, if an antibiotic is used in the feed of each group of birds, it would have an opportunity to act over a long period of time. For these reasons, the Director now believes it is necessary to use an experimental design that allows sufficient evaluation of the effect of time of antibiotic usage on shedding.

(ii) Resistance characteristics: (*a*) *E. coli.* A major concern about occurrence of drug resistance in *E. coli* that are indigenous to the digestive tract is their potential for donating drug resistance to pathogens such as Salmonella. The Director agrees with the AHI analysis that feeding chickens the penicillin supplemented diet significantly increased ($P<.05$) the number of *E. coli* isolates that were resistant to ampicillin. But other aspects of the drug resistance characteristics of *E. coli* are also critical to an appropriate analysis of the data. Although the proportion of *E. coli* resistant to sulfonamides was high in all the groups before treatment and before inoculating the chickens with Salmonella, the bacteria were relatively susceptible to the other antibiotics tested. Results from one sample collected from each bird after penicillin treatment and inoculation with *S. typhimurium*, however, indicate that the proportion of *E. coli* resistant to streptomycin and tetracycline increased in all groups—environmental controls, nonmedicated controls, and treatment groups. This suggests bacteria that were resistant to tetracycline, streptomycin, and perhaps sulfonamides colonized the animals in the experimental facility.

(*b*) *Salmonella.* Although the total quantity of Salmonella shed decreased, the percentage of drug-resistant Salmonella shed increased, which is crucial. For birds that were shedding Salmonella, feeding penicillin[5] resulted in a significantly greater proportion of Salmonella resistant to ampicillin ($P<.05$), which is consistent with the AHI analysis. The Director agrees with AHI that feeding subtherapeutic penicillin resulted in a significant increase in both the proportion of ampicillin-resistant *E. coli* and Salmonella.

For all of the foregoing reasons, the Director concludes that the study has failed to prove that the subtherapeutic use of penicillin in chickens satisfies the criterion and has failed to show that such use is safe.

4. *AHI Studies on the Effects of Subtherapeutic Penicillin in Animal Feed in Swine*—(a) *Experimental design.* To measure Salmonella shedding in swine and the transfer of drug resistance to Salmonella, AHI submitted a study that was similar in design to the previously described chicken study. This study was also subject to the same experimental conditions that FDA imposed on the chicken study, i.e., the base line incidence of resistance to drugs used in human clinical medicine in the indigenous flora of the test animals was not to exceed 20 percent.

Swine were divided into six groups, three of which were infected with Strain No. 58 DO 13C *Salmonella typhimurium* (swine) characterized as sulfonamide resistant. One noninfected and one infected group received diets containing either no medication, procaine penicillin, or procaine penicillin plus streptomycin according to the following design:

Room number	Group	Antibiotic and level used in feed	Inoculation of salmonella (1.3×10^{11} dose)	Number of pigs in experimental group
1	A	None	Yes	10
2	B_1	Procaine penicillin (50 g/ton)	Yes	10
	B_2	Procaine penicillin (12.5 g/ton), streptomycin (37.5 g/ton)	Yes	10
3	C	None	No	5
	D_1	Procaine penicillin (50 g/ton)	No	5
	D_2	Procaine penicillin (12.5 g/ton), streptomycin (37.5 g/ton)	No	5

(i) Shedding: Groups B_1 and B_2 were used to test the influence of penicillin on shedding and resistance of Salmonella in the test animals, with group A serving as a nonmedicated control group. Groups C, D_1 and D_2 were used as environmental controls to monitor whether swine administered the drug but not inoculated remained Salmonella free.

Orally via the diet, 6-week-old pigs were experimentally infected with an inoculation of 1.3×10^{11} Salmonella, 5 days after beginning their test diet. Preinfection fecal specimens were free of naturally occurring Salmonella for all test animals. For all pigs in each group, fecal samples were taken on days 2, 4, 6, 8, 10, 12, 14, 21, and 28 postinfection to quantitate the Salmonella. One-gram samples of fecal specimens from each test animal were diluted in phosphate-saline solution and plated in duplicate on brilliant green agar containing 0 and 20 micrograms/milliliter of streptomycin. After incubation, characteristic clones of Salmonella were recorded as total counts/

V 42 168 AUG 30 77 UMI

gram of wet feces. All pigs were killed and necropsied 28 days after the infection.

One-gram samples of aseptically collected liver, spleen, ileocecal lymph node, and cecum were minced and incubated in tetrathionate brillant green broth, and subsequently plated on brilliant green agar to determine the presence of Salmonella. Clinical records were maintained on body weights, mortality, and gross and microscopic pathology.

(ii) Resistance characteristics: (*a*) *E. coli*. Coliform counts were obtained from EMB plates inoculated with homogenized fecal samples. One gram of each sample was plated in duplicate on EMB agar containing 0 and 20 milligrams/milliliter of streptomycin. Antibiotic susceptibility tests were conducted on clones obtained from two prestudy samples and one poststudy sample from each animal in accordance with the Standardized Disc Susceptibility Tests in § 460.1(c)(2). Five cones from each specimen were selected from the streptomycin plates and were tested for susceptibility to ampicillin, tetracycline, chloramphenicol, streptomycin, kanamycin sulfate, nitrofurantoin, and sulfathiazole.

(*b*) *Salmonella*. Five clones of *Salmonella* selected from the brilliant green fecal count plates were tested for antibacterial susceptibility to ampicillin, tetracycline, chloramphenicol, streptomycin, kanamycin sulfate, and nitrofurantoin, sulfathiazole, and triple sulfa, in accordance with the Standardized Disc Susceptibility Test in § 460.1(c)(2). When there were less than five clones of *Salmonella*, the number of clones picked corresponded to the actual number present on the plates.

(b) *AHI's summary of the results.* (i) *Shedding:* AHI reported that the number of *Salmonella* receovered per gram of wet feces diminished with time in all groups, and the number of organisms recovered from the medicated groups after day 2 was consistently less than the numbers recovered from the nonmedicated control group. These numbers represent average counts of clones growing on agar that did not contain streptomycin since no *Salmonella* grew on plates containing . streptomycin. No *Salmonella* were isolated throughout the experiment from any of the environmental control animal (Groups C, D_1, and D_2). From this the AHI concluded that the presence of antibacterials in animal feeds reduces the quality and persistence of *S. typhimurium* in experimentally infected pigs.

(ii) Resistance characteristics: (*a*) *E. coli*. AHI concluded that penicillin supplemented diets significantly increased ($P<.01$) the number of *E. coli*. resistant to chloramphenicol. Similarly, penicillin/streptomycin supplemented diets significantly increased ($P<.05$) the number of *E. coli*. resistant to streptomycin.

(*b*) *Salmonella*. When the experimentally infected pigs in the medicated groups were compared to the nonmedicated control group, AHI concluded that feeding penicillin or penicillin/streptomycin at subtherapeutic levels did not increase the percent of pigs carrying resistant *Salmonella*. It also concluded that there were no significant differences in the percentage of resistant clones isolated from pigs in the penicillin group and the control group when all the pigs were considered (nonmedicated controls, environmental controls, and treatment groups).

(c) *Director's analysis.* (i) Shedding: The Director again does not totally disagree with AHI's conclusions concerning *Salmonella* shedding in swine. He agrees that, in this case, feeding a subtherapeutic level of penicillin apparently neither increased the quantity of *Salmonella* being shed in the pig's fecal material, nor increased the number of *Salmonella* in liver, spleen, ileocecal lymph node and cecum. Feeding penicillin also did not increase the number of swine tissues (liver, spleen, ileocecal lymph node and cecum) that were positive for *Salmonella*. However, the Director disagrees with the AHI conclusion that feeding swine penicillin at 50 grams/ton did not increase the duration or prevalence of *Salmonella* sheeding, because the procedures that were used to determine these parameters were inadequate. The information necessary to determine duration and prevalence of *Salmonella* shedding is whether feces contain any *Salmonella*, even in very low numbers, rather than the quantity of *Salmonella* present in the feces, which AHI measured. After the animals were infected with Salmonella, fecal specimens were processed by diluting and then plating the dilutions on the surface of agar plates. Enrichment procedures were not used.

(ii) Resistance characteristics: (*a*) *E. coli*. As in the chicken study, the data available on the occurrence of various drug resistances in *E. coli* are limited; nevertheless, they are sufficient to draw general conclusions. Susceptibility tests from streptomycin-containing plates show a high proportion of multiple-resistant *E. coli* in all groups prior to treatment, i.e., treatment groups, nonmedicated controls, and environmental controls. This is contrary to the recommendations of the FDA guidelines established for these studies. Data from post-treatment plate counts (one for each pig) indicate that the proportion of *E. coli* resistant to streptomycin remained high throughout the experiment and was similar for both the penicillin treatment group (group B_1) and the nonmedicated group (group A). The results are not unexpected because the high initial proportion of drug-resistant organisms makes it difficult to detect differences in the proportion of drug-resistant organisms caused by antibiotic administration.

A more acceptable procedure for determining the proportion of isolates resistant to a particular drug is to select clones from drug-free agar plates for susceptibility testing. A higher proportion of drug-resistant bacteria will be isolated on antibiotic-containing agar than with the random choice of a standard drug susceptibility test using normal agar.

Further, AHI has injected an element of bias in reporting the *E. coli* information. Only the clones that were growing on the streptomycin-containing agar plates were tested for susceptibility to multiple antibiotics. This procedure will reveal the drugs in addition to streptomycin to which the isolate was resistant, but a high proportion of the streptomycin-resistant isolates were also resistant to tetracycline and the sulfonamides.

Selecting clones from streptomycin-containing agar for further susceptibility testing is acceptable for determining what resistances, in addition to streptomycin, may be present. Only those cells resistant to streptomycin, alone or in a pattern with other antibiotics, will grow on agar containing streptomycin. However, cells may be present in the population that are susceptible to streptomycin but are resistant to one or more other drugs. For example, ampicillin-resistant bacteria might be missed. These cells would not grow on the agar containing streptomycin, and the procedures used by the AHI would not report them.

(*b*) *Salmonella*. *Salmonella* were isolated from both the nonmedicated control group (group A) and the penicillin treatment group (group B_1). Isolates that were singly and multiply drug resistant were observed, as well as isolates with resistance to ampicillin, tetracycline, chloramphenicol, nitrofurantoin, kanamycin, and stretomycin. The strain of *Salmonella* used to infect the animals was initially resistant only to sulfonamides when the animals were inoculated. In both the nonmedicated control group and the penicillin treatment group, the proportion of *Salmonella* isolates that were resistant to each drug tested was similar, and a significant proportion of *Salmonella* isolates were resistant to at least one of the following: ampicillin, tetracycline, and streptomycin.

The principal purpose of this experiment was to determine whether feeding of penicillin at subtherapeutic levels results in an increase of drug-resistant *Salmonella*. One way by which *Salmonella* become resistant is by transfer of drug resistance from the indigenous flora, e.g., *E. coli*, of the gut; therefore, the proportion of indigenous organisms in the gut carrying drug resistance directly affects the ability to detect differences due to antibiotic treatment. For this reason the effect that subtherapeutic penicillin has on increasing the proportion of drug-resistant *E. coli* was initially analyzed.

A high porportion of indigenous *E. coli* were drug resistant before treatment, which minimized or negated the observable effect that antibiotic treatment would have on the indigenous gut flora. Since the effect of antibiotic pressure on the indigenous flora was the initial step in the process under study, the study is invalid for demonstrating in a precise manner the effect of feeding subtherapeutic levels of penicillin on occurrence of resistance in *Salmonella*.

An unexplained inconsistency also invalidating the study is the fact that during the study no streptomycin-resistant *Salmonella* grew on the brilliant green agar (BGA) containing streptomycin. However, in subsequent sensitivity testing in the experiment it was determined that many of the *Salmonella* clones isolated at different times on plain BGA were indeed resistant to streptomycin as determined by the standard Kirby-Bauer disc susceptibility test.

A third deficiency undermines the validity of the study. The Director found that 70 to 100 percent of the indigenous *E. coli* in the test swine were resistant to tetracycline, streptomycin, and sulfonamide, and 20 to 50 percent were resistant to ampicillin and kanamycin. He also found that resistance to chloramphenicol and nitrofurantoin had occurred, but to a lesser extent. Nevertheless, in both the medicated animals and nonmedicated animals, the Director found that the resistance paterns corresponded.

Before the study began, the *Salmonella* were resistant only to the sulfonamides. On the basis of the disc susceptibility test, the Director found the following resistance pattern had evolved during the course of the study:

Percent resistant salmonella isolates

Drug	Non-medicated group A	Penicillin treatment group B_1
Streptomycin	53.0	48.0
Tetracycline	43.0	41.0
Ampicillin	60.8	58.0
Kanamycin	12.0	18.0
Chloramphenicol	3.6	5.6
Nitrofurantoin	8.0	3.6
Number of isolates	217.0	195.0

Resistance was transferred to *Salmonella* in the nonmedicated group at a rate at least equal to that of the medicated group. It is thus apparent that *Salmonella* readily became resistant to ampicillin, tetracycline, and streptomycin when exposed to the R-plasmids of *E. coli* present in the gut. This reaffirms the results observed in the chicken study, as well as the studies by Pocurull et al., Neu et al., and Smith and Tucker (Refs. 2, 3, and 6). Once a sufficient number of R-plasmid-bearing bacteria, principally *E. coli*, are present, the *E. coli* donate their R-plasmids in the absence of antibiotic pressure. Accordingly, the Director concludes that the presence and proportion of R-plasmid-bearing donors were responsible for the resistance in *Salmonella*.

Another safety question may be raised by the high *E. coli* resistance found in the swine used in this study; 70 to 100 percent of the *E. coli* were resistant to tetracycline, streptomycin, and sulfonamides, and 20 to 50 percent resistant to kanamycin and ampicillin. Yet, in the Gustafson study cited below (Ref. 7), in typical swine going to slaughter, there were no *E. coli* resistant to ampicillin, although 17 of 31 isolates were multiply resistant to other antibiotics.

For all of the foregoing reasons, the Director concludes that this study has failed to prove conclusively that subtherapeutic penicillin use in swin satisfies the criterion and has thus failed to show that such use is safe.

5. *Questions Raised by Other Studies of Salmonella*—(a) *CDC reports.* The Center for Disease Control (CDC) has maintained a national *Salmonella* surveillance program since 1963. The reported incidence of salmonellosis increased until approximately 1973, when it reached 27,000. The level of reported cases averaged 10.77 per 100,000 population from 1970 through 1974, and true incidence may be far higher because of underreporting. But the reported cases from antibiotic resistant *Salmonella* have continued to increase. *Salmonella typhimurium*, which is the most common *Salmonella* strain in animals, is the resistant strain most often reported in man and animals. More importantly, the number of antibiotic resistant strains of *S. typhimurium* isolated and reported almost doubled between 1967 and 1975, and the increase in antibiotic resistance in other *Salmonella* serotypes almost tripled during that period. Further, in addition to the fact that the number of *Salmonella* strains resistant to 6 or more antibiotics increased almost 10 times, the percentage of multiply resistant strains that are "super resistant" (containing resistance to 6 or more antibiotics) increased almost 7 times (Refs. 1 and 1a).

(b) *FDA survey.* Pocurull, Gaines, and Mercer (Ref. 2), in a 1971 survey, report that *Salmonella* strains isolated from outbreaks of salmonellosis in animals were bearing R-plasmid-mediated resistance to antibiotics. *Salmonella* isolates gathered in diagnostic laboratories of most States from outbreaks of salmonellosis in pigs, cows, chickens, and turkeys were tested for their susceptibility to ampicillin, tetracycline, dihydrostreptomycin, cephalothin, sulfamethoxypyridazine, colistin, chloramphenicol, furazolidone, neomycin, polymyxin, and nalidixic acid. Of the 1,251 strains studied, 75 percent were resistant to one or more antibacterial drugs, 40 percent were resistant to two or more antibacterials, and 21 percent were resistant to three or more antibacterials. But an even higher incidence of multiply resistant cultures was observed in *S. typhimurium*, which was again the most commonly isolated pathogen.

(c) *Neu, Cherubin, Longo, Flouton, and Winter studies.* Recently, Neu et al. (Ref. 3) examined the antimicrobial susceptibility of 718 *Salmonella* isolates from humans and 681 from animals. They compared the current prevalence of antibiotic resistance in *Salmonella* isolates from humans with their previous studies in 1968–1969 and with the resistance patterns of *Salmonella* isolates from animals.

Thirty percent of all human isolates were resistant to one or more antibiotic(s). Again, *S. typhimurium* was the most common pathogen and 58 percent were resistant to at least one antibiotic. More than 50 percent of the *S. typhimurium* were resistant to four to five antibacterials. The fraction of all *Salmonella* strains resistant to kanamycin rose from 3 percent to 12.5 percent. When these results were compared with a 1965 national survey conducted by Gill and Hook (Ref. 4), the authors found that the percentage of isolates of all serotypes resistant to ampicillin had increased fourfold by 1973, and the incidence of resistance to tetracycline and streptomycin had approximately doubled. Resistance in *S. typhimurium* had increased from 19 percent to 58 percent of isolates, and resistance to ampicillin has increased from 23 percent to 37 percent. Moreover, the resistance to ampicillin, tetracycline, chloramphenicol, streptomycin, sulfisoxazole, and kanamycin was transferable among the various *Salmonella* strains.

In animals, *S. typhimurium* accounted for 70 percent of the isolates, and 80 percent were resistant to one or more antimicrobial agents. R-plasmids were found in 86 percent of the *S. typhimurium*, and resistance to ampicillin, tetracycline, chloramphenicol, streptomycin, sulfisoxazole, and kanamycin was transferable. Generally, the resistance patterns were similar to those encountered in the *Salmonella* isolated from humans.

The authors conclude that the high incidence of transferable resistance in man and animals suggests that most resistant strains seen today contain complete R-plasmids, and that strains unable to mobilize resistance determinants are less common than was formerly thought. They further conclude that comparison of the resistance of *Salmonella* isolates from humans with that of *Salmonella* from animals shows that tetracycline resistance is greater among the strains from animals, as in the case with sulfonamide and streptomycin resistance. While the resistance to ampicillin is higher in *S. typhimurium* strains isolated from humans than those isolated from animals, the reverse is true for other serotypes. This difference may reflect the greater current use of tetracyclines, sulfonamides, and streptomycin in animals.

Finally, the authors conclude that the survey clearly demonstrates that resistance to antibiotics is increasing in *Salmonellae* isolated from both humans and animals, and since there are great similarities in the resistance patterns of human and animal isolates, it would be useful to know whether the R-plasmids are of a similar nature since this would suggest that animal strains have contributed to the human pool of resistant organisms.

(d) *Smith, H., and J. F. Tucker studies.* Smith and Tucker (Ref. 5) studied the effect of antibiotic therapy on the fecal excretion of *S. typhimurium* by experimentally infecting 3-day-old chicks. There were 3 different treatment regimens studied; 9 different antibiotics were used with experimental groups of 40 during each study. One or two groups in each experiment were fed nonmedicated feed throughout. The following antibacterials were tested: Ampicillin, oxytetracycline, chloramphenicol, furazolidone, neomycin, polymixin, spectinomy-

V42168 AUG 30 77 UMI

cin, streptomycin, and a mixture of trimethoprim and sulfadiazine. The regimens were: (1) continuous antibiotic administration in the diet for 61 days at 100 milligrams/kilogram of animal feed (subtherapeutic); (2) continuous antibiotic administration in the diet at 500 milligrams/kilogram of animal feed for 44 days (therapeutic); (3) continuous antibiotic administration in the diet for 9 or 18 days at 500 milligrams/kilogram of animal feed while observing for 65 days.

In each preceding experimental group, except the furazolidone group, when chickens were fed subtherapeutic drugs, the *E. coli* became multiply resistant with R-plasmids having the same pattern of resistance that developed shortly thereafter in the *Salmonella* of the same groups. No antibiotic resistant *Salmonella* were ever isolated from the fecal specimens taken from the chicks fed antibiotic-free diets, although high concentrations of antibiotic-resistant populations always developed in the *S. typhimurium* and *E. coli* from groups fed antibiotics.

Smith and Tucker found that although many of the antibiotics brought about a profound reduction in the concentration of fecal *E. coli*, it was usually short-lived because of the emergence of antibiotic-resistant populations of *E. coli*, even in the group receiving subtherapeutic levels of the antibacterials. Most of the resistance to ampicillin, oxytetracycline, chloramphenicol, streptomycin and spectinomycin are due to R-plasmids found initially in the entire chicken population, with the same patterns of antibiotic resistance (ampicillin, streptomycin, tetracycline, chloramphenicol) which were selected, transferred and subsequently appeared in the *S. typhimurium* populations of each different dietary regimen selected for any one drug.

Although penicillin was not used in the study, the principles that apply to the emergence of transferable drug resistance in this study apply to R-plasmids that emerge from use of penicillin. Further, ampicillin is a penicillin, which in sufficient quantity will produce the effects of penicillin G on drug resistance in Gram-negative bacteria.

Antibiotics have been used to such an extent in certain animal species that organisms that are well adapted to their digestive tract are now drug resistant. The selective pressure of antibiotics is one of the primary factors that results in an increase in the number of organisms carrying transferable drug resistance, and the selective pressure may be from either therapeutic or subtherapeutic antibiotic use. Although the procedures used to gather the information from the AHI chicken study were inadequate according to the current state of the art, nevertheless, the AHI chicken study exemplifies the interaction between the pool of R-plasmid donors and drug-susceptible pathogens in chickens; it also demonstrates the effect of subtherapeutic penicillin pressure on the development of resistance to ampicillin. Other recent literature such as the Smith and Tucker studies and contract studies confirm these findings. The Director concludes that there is no evidence to show that safety hazards do not exist as a consequence of the subtherapeutic use of penicillin in animal feed.

(e) *Kobland, Gustafson study.* Kobland, Gustafson et al. (Ref. 7) of American Cyanamid performed a survey of three major swine producing areas for the Animal Health Institute to determine the extent of the naturally occurring antibiotic-resistant Salmonella reservoir in hogs; subtherapeutic levels of antimicrobials were routinely used in animal feeds in the area. Fecal contents were sampled from market-age hogs obtained from slaughter houses in Pennsylvania, Iowa, and Georgia, and these samples returned to the laboratory for Salmonella isolation procedures. *E. coli* were also isolated to obtain information regarding antibiotic resistance status of indigenous coliforms.

The first survey was made in Lancaster County, Pennsylvania. Out of 151 animals sampled, 54 (35 percent) were positive for Salmonella, and all isolates tested (653) were sensitive to the 10 antimicrobial agents that were tested. Of 31 *E. coli* isolates, 17 were multiply resistant.

In the second study, in Iowa, 26 hogs (10 percent) were positive for Salmonella out of 251 sampled. Examination of 219 isolates yielded 10 (5 percent) resistant isolates, but all from 1 hog. Again, most of the coliforms (*E. coli*) were multiply resistant.

Finally, in the Georgia survey, Salmonella was isolated from 215 (84 percent) out of 256 animals sampled, i.e., 78 hogs (36 percent) carried drug-resistant Salmonella; and of 622 isolates, 145 (23 percent) carried tetracycline resistance singly or with streptomycin.

Four Salmonella serotypes were identified in Pennsylvania, eight in Iowa, and seven in Georgia. The Salmonella strains that were resistant to more than one antimicrobial were able to transfer resistance to an *E. coli* recipient. When the sponsors tested representative drug-sensitive Salmonella isolates for their ability to receive R-plasmids, four *S. worthington* and two *S. newington* isolates acquired resistance after a 24-hour mating. None of 28 other isolates as tested accepted an R-plasmid. Only two samples represented *S. typhimurium*, the most frequently isolated serotype from animal and human sources and a good donor of R-plasimds.

In summary, (i) 40 percent of ceca from animals in Pennsylvania, Iowa, and Georgia contained Salmonella; (ii) None were antibiotic-resistant in Pennsylvania, 4 percent in Iowa, and 23 percent in Georgia; and (iii) none of the Salmonellae from any of the three States were ampicillin-resistant. For *E. coli*, (i) 7 percent of the swine sampled from Pennsylvania were ampicillin-resistant, (ii) 31 percent from Iowa, and (iii) 39 percent from Georgia. Only certain Salmonella serotypes were shown to be good recipients for the *E. coli* R-plasmids in transfer studies done in conjunction with the surveys, and none acquired ampicillin resistance. On this basis, AHI concluded that naturally occurring Salmonella are neither R-plasmid-bearing nor willing R-plasmid recipients.

The survey alone, however, is inadequate to support a conclusion that the background level of drug-resistant Salmonella is not increasing because there is no documentation that the sites selected for sampling provide a random representative sample of the total swine population. The authors explained neither how they determined that the sampled swine had been exposed to antibiotic pressure nor which antibiotics were involved. Of 22 Georgia isolates that were resistant only to tetracycline, not one transferred its resistance, and for this reason, the authors assert that the gene coding for tetracycline resistance was probably located on the bacterial chromosome rather than on a plasmid. This assertion is contrary to current information which indicates that naturally occurring tetracycline resistance is invariably plasmid mediated (Ref. 8). Tetracycline resistance in a bacterial strain can be taken to indicate the presence of an R-plasmid because no evidence has ever shown tetracycline resistance to be chromosomally mediated in naturally occurring strains of enteric bacteria (Ref. 9). The plasmid may, however, be small and not self-transmissible, as was apparently the case in the Gustafson study.

American Cyanamid's in vitro tests for Salmonella R-plasmid recipient activity are also inadequate. Cyanamid tested only "representative" sensitive Salmonella isolates, and four *S. worthington* and two *S. newington* isolates acquired resistance. Although none of the other 28 isolates tested accepted an R-plasmid in these tests, only a single R-plasmid-bearing *E. coli* donor was used, and the compatability properties of the donor R-plasmid were never presented. It is well recognized that certain species of Salmonella are generally neither good donors nor recipients of R-plasmid in the laboratory. The ability of a particular Salmonella to act as a recipient is dependent on the compatability properties of the donor R-plasmid. For example, in recent years most R-plasmids isolated from naturally occurring Salmonella have been of incompatibility groups H and I, and many Salmonella are not good recipients for F II R-plasmids, a common type encountered in *E. coli*. Therefore, without data on incompatability groupings, the Director believes that this aspect of Gustafson's study is of little value.

(f) *Other studies.* Wilcock et al. (Ref. 10), found far greater levels of antibiotic resistance in clinical isolates of *Salmonella typhimurium* (95 percent were tetracycline-resistant) than in isolates of *S. choleraesuis* (18 percent). These strains accounted for 90 percent of the 63 isolates definitely associated with swine salmonellosis. The greater accessibility of *S. typhimurium* to intestinal *E. coli* in contrast to the systemic *S. choleraesuis* infection may explain this difference.

In a survey of 5 Canadian abattoirs by Groves and Barnum et al. (1970, Ref. 11), 20 percent of 462 hogs were Salmonella positive. Tetracycline-resistant Salmonella were found in isolates from 11 of the 94 (11.7 percent) mesenteric lymph node samples of marketed swine, in 2 of 15 (13.3 percent) isolates from the abattoir environment, and in only 1 of 25 (4.5 percent) isolates from a farm supplying the abattoir. Thus, 14 of 134 isolates (10.5 percent) were at least tetracycline resistant. Of the 14 resistant Salmonella, 5 were *S. typhimurium* and 8 were *S. schwarzengrud*. Single or multiple tetracycline resistance was present in all 14 resistant Salmonella. Out of 110 strains studied, 22 were *S. typhimurium*. Other prevalent serotypes included *S. heidelberg, S. muenster* and *S. anatum*. Voogd (1973, Ref. 12) charted various Salmonella serotypes, and a large percentage of resistance was seen in *S. typhimurium* (25 percent in 1971), *S. anatum* (29 percent) and *S. panama* (25 percent), although resistance in other serotypes such as *S. derby, S. infantis, S. dublin*, or *S. chloraecuis* was lower. As mentioned earlier, most surveys have clearly shown an increase in drug-resistant Salmonella in recent years, and the strains surveyed in those studies have obviously encountered R-plasmids which bacteria can accept and stably maintain. This is clearly demonstrated by the results of the AHI studies and the other evidence discussed earlier.

6. *Director's Conclusions.* Questions raised by the CDC reports, and the studies conducted by Ryder, Pocurull et al., Neu et al., and Smith and Tucker (Refs. 1 through 3, and 5) show precisely the same pattern of resistance and in the same sequence that was observed in the *E. coli* and Salmonella isolates from the AHI chicken and swine studies. Resistance occurred in the *E. coli*, and a corresponding pattern of resistance subsequently occurred in the Salmonella after exposure to the R-plasmid-bearing *E. coli*. Despite the absence of antibiotic pressure (in the nonmedicated animals), initially high numbers of resistant *E. coli* in all of the test animals did transfer R-plasmids to the antibiotic-sensitive Salmonella.

Furthermore, because most of the animals in the AHI studies were harboring drug-resistant R-plasmid-bearing *E. coli*, which was contrary to FDA criteria, the studies may be considered invalid for determining the effect of feeding subtherapeutic penicillin on the emergence of drug-resistant Salmonella. Moreover, the procedures used to gather the data on Salmonella prevalence and duration were inadequate. The studies nevertheless demonstrate that the reservoir of R-plasmid-bearing Salmonella increased in direct correlation with the resistance patterns observed in the drug-resistant *E. coli*. These results confirm the results observed in the literature. R-plasmid-bearing bacteria are widespread in the environment, and they can transfer their R-plasmids to pathogens, even in the absence of antibiotic pressure. Under § 558.15, the holders of approved NADA's were required to submit data to prove conclusively that the subtherapeutic use of penicillin in animal feed does not increase the duration and prevalence of Salmonella, and that such use does not contribute to the development of R-plasmid-bearing organisms. Because subtherapeutic use of penicillin contributes both to R-plasmid buildup and transfer, the data lead to the conclusion that the subtherapeutic use of penicillin has not been shown to be safe.

REFERENCES

1. Ryder, R., M. Meerson, R. Pollard, and E. Gangarosa, "Salmonellosis in the United States 1968–1974," Journal of Infectious Diseases, 133:483–486, 1976.

1a. Ryder, R., J. Bennett. Personal communication to FDA, June 18, 1976 and July 26, 1977.

2. Pocurull, D. W., S. A. Gaines, and H. D. Mercer, "Survey of Infectious Multiple Drug Resistance among Salmonella Isolated from Animals in the United States," Applied Microbiology, 21:358–362, 1971.

3. Neu, H. C., C. E. Cherubin, E. D. Longo, B. Flouton, and J. Winter, "Antimicrobial Resistance and R Factor Transfer among Isolates of Salmonella in the Northeastern United States: A Comparison of Human and Animal Isolates," Journal of Infectious Diseases, 132:617–622, 1975.

4. Gill, F. A., and E. W. Hook, "Salmonella with Transferable Antimicrobial Resistance," Journal of the American Medical Association, 198:1267–1269, 1966.

5. Smith, H. W., and J. F. Tucker, "The Effect of Antibiotic Therapy on the Faecal Excretion of *Salmonella typhimurium* by Experimentally Infected Chickens," Journal of Hygiene, 75:275–292, 1975.

6. Smith, H. and J. F. Tucker, "The Effect of Feeding Diets Containing Permitted Antibiotics on the Faecal Excretion of *Salmonella typhimurium* by Experimentally Infected Chickens," Journal of Hygiene, 75:293–301, 1975.

7. Kobland, J., R. Gustafson, P. Langner, "Antibiotic Sensitivity of *Salmonella* Isolated from Healthy Market Hogs," A57, Paper presented at the 76th Annual Meeting, American Society for Microbiology, May 2–7, 1976, Atlantic City.

8. Franklin, T., "Resistance of *Escherichia coli* to Tetracyclines Changes in Permeability to Tetracyclines in *E. coli* Bearing Transferable Resistance Factors," Biochemical Journal, 105:371, 1967.

9. Benvenisti, R., and J. Davies, "Mechanisms of Antibiotic Resistance in Bacteria," Annual Review of Biochemistry, 42:471–506, 1973.

10. Wilcock, B. P., C. H. Armstrong and H. J. Olander, "The Significance of the Serotype in the Clinical and Pathological Features of Naturally Occurring Porcine Salmonellosis," Canadian Journal of Comparative Medicine, 40:80–88, 1976.

11. Groves, B. I., N. A. Fish, D. A. Barnum, "An Epidemiological Study of Salmonella Infection in Swine in Ontario," Canadian Journal of Public Health, 61:396–401, 1970.

12. Voogd, C. E., P. A. M. Guinoe, A. Manten and J. J. Valkenbrug, "Incidence of Resistance to Tetracycline, Chloramphenicol and Ampicillin among Salmonella Species Isolated in the Netherlands in 1969, 1970 and 1971," Antonie van Leeuwenhoek; Journal of Microbiology and Serology, 39:321–329, 1973.

C. *Compromise of Therapy (Criterion 2 (c))*

1. *Background and criterion.* The 1972 FDA Task Force was concerned that the continuous feeding of antibiotics to animals might compromise the treatment of certain animal diseases. It concluded that additional information was needed, and FDA accordingly determined that epidemiological and controlled challenge studies were to be carried out to determine the relationship of the use of antibiotics in animal feed to the effectiveness of subsequent treatment of animal disease, which is criterion 2(c) of this notice. To answer this criterion with regard to subtherapeutic use of penicillin, the Animal Health Institute submitted two studies. The first, carried out in chickens, involved treatment of a systemic *E. coli* infection by oxytetracycline after subtherapeutic use of penicillin in feed. The second study, in swine, dealt with treatment of a *Salmonella choleracsuis* infection by nitrofurazone, after subtherapeutic use of penicillin in feed.

2. *AHI Compromise of Therapy Study in Chickens.*—(a) *Experimental design.* Day-old-chicks were placed on subtherapeutic levels of penicillin (50 grams/ton) for 21 days. On day 21 the birds were infected by the intramuscular (I.M.) route with *E. coli* at 4.5×10^7 CFU (colony forming units). Subsequent treatment was with oxytetracycline (12.5 milligrams given I.M. for 3 days).

(b) *AHI's summary of the results.* The highest mortality (60 percent) occurred in the group of chickens receiving neither penicillin nor oxytetracycline treatment, as compared with no mortality in the group receiving penicillin in feed and subsequent oxytetracycline treatment. Penicillin-supplmented diets reduced mortality in chickens with systemic *E. coli* infections by 38 percent. The use of oxytetracycline treatment alone was enough to reduce mortality from 60 percent to 13 percent. The penicillin-fed groups showed better weight gain than the control groups.

Based upon the data presented, when mortality, feed consumption, weight gain, and feed efficiency are considered, AHI concluded that the subtherapeutic use of procaine penicillin at 50 grams/ton did not compromise subsequent therapy of artifically induced systemic *E. coli* in chickens, when oxytetracycline 12.5 milligrams I.M. was the therapeutic agent.

(c) *Director's analysis.* The experimental design used was inappropriate to address whether the subtherapeutic use of penicillin in animal feed will compromise therapy in diseased chickens. The establishment of a clinical infection by giving *E. coli* orally in chickens presents some practical problems, whereas challenge via intramuscular injection resulted in a more uniform clinical effect. However, infection by the intramuscular route prevented the interaction, on the intestines, of the infecting organism (*E. coli*) and resident *E. coli*, a combination that is known to be necessary for selection of drug resistance. Therefore, the Director must conclude that this work in chickens presented by AHI fails to address appropriately and to satisfy animal health criterion 2(c). The work provides no evidence that sheds any light on the compromise of therapy issue.

V 42 168 AUG 30 77 UMI

3. *AHI Compromise of Therapy Study in Swine.*—(a) *Experimental design.* Weanling swine were placed on a trial diet (penicillin 30 grams/ton) for 21 days. On day 21 the swine were orally infected with *Salmonella cholcraesuis* (2.1×10^9 CFU) via stomach tube, following a 24-hour fast. Treatment was with nitrofurazone (110 parts per million in drinking water) when the first clinical signs of salmonellosis appeared.

(b) *AHI's summary of the results.* The highest mortality (30 percent) occurred in the group of swine receiving no penicillin feed and no subsequent treatment as compared with 10 percent in the group receiving penicillin in feed but no subsequent treatment. No mortality occurred in the groups receiving nitrofurazone treatment, regardless of whether penicillin was absent or present in the diet. The scouring index was higher in the negative control group receiving neither penicillin in the diet nor nitrofurazone treatment, while it was significantly lower in the remaining groups. Weight gain and feed efficiency were higher in the medicated groups than in the control groups.

Although differences in mortality between groups was not significant when other parameters, such as weight gain, feed efficiency, and scour index are observed, AHI concluded that the subtherapeutic feeding of procaine penicillin at 30 grams/ton will not compromise subsequent nitrofurazone therapy of artificially included *Salmonella choleraesuis* in swine.

(c) *Director's analysis.* Any study of compromise of therapy requires a determination of whether the subtherapeutic use of a drug results in an increase in the number of bacteria bearing R-plasmids that are capable of donating these R-plasmids to pathogens. The object of the AHI swine study was ostensibly to determine whether the subtherapeutic use of penicillin would compromise nitrofuran therapy. However, the resistances most commonly found to result from penicillin use in *E. coli* are resistance to ampicillin, tetracycline, sulfonamides, and streptomycin in various combinations. Rarely will the subtherapeutic use of penicillin result in an increased incidence of transferable resistance to nitrofurazone (Ref. 1). For this reason a study that attempts to measure compromise of therapy against nitrofurazone alone will be biased by design against showing a compromise. The nitrofurazone group is useful to show that the disease is treatable by an antibacterial. However, the study requires a group treated with a drug whose resistance is frequently mediated by R-plasmids to measure any compromise of therapy, particularly because penicillin would not be used to treat an *S. choleraesuis* infection. Even though nitrofurazone may be one drug of choice for treatment of *S. chloraesuis* infection in swine, it use alone in the study of compromise of therapy is inappropriate because nitrofurazone resistance is not one that would ordinarily become a problem from penicillin use; moreover, because of questions about carcinogenicity, the Director, in a notice published in the FEDERAL REGISTER of August 17, 1976 (41 FR 34899), proposed to withdraw approval of NADA's for the use of nitrofurazone on the grounds that it has not been shown to be safe.

The study should have been designed with treatment of the disease by a drug to which subtherapeutic use of penicillin may cause increased resistance, e.g., ampicillin or tetracycline, to provide a more accurate reflection of what may occur in the field. This study is of no value in showing that subtherapeutic penicillin feed does not compromise therapy by related drugs such as ampicillin or by drugs to which resistance would commonly occur along with that of resistance on an R-plasmid. For example, ampicillin, tetracycline, sulfonamide, and streptomycin resistance are commonly linked on R-plasmids.

4. *Questions Raised by FDA Funded Research.* Due to the complexity and importance of the compromise of therapy issue, FDA sponsored a study to develop a disease model with antibiotic susceptible organisms in a manner that would provide suspectible pathogenic *E. coli* with the opportunity to interact in the intestinal tract with R-plasmid-bearing organisms and develop drug resistance (Ref. 2). A University of Missouri survey for a tetracycline-susceptible pathogenic *E. coli*, however, failed to locate a susceptible strain in swine, and a compromise of therapy experiment using tetracycline-resistant pathogenic *E. coli* was performed according to the following design.

(a) *Experimental design.* Swine were fed an unmedicated diet and two diets containing subtherapeutic levels of the combination chlortetracycline, sulfamethazine, and penicillin; the investigators then measured the effectiveness of therapeutic levels of chloramphenicol and chlortetracycline.

Group	Number of animals	Infection with *E. coli*	Oral therapeutic agent (per kilogram of animal)
DIET 1—Unmedicated			
1	18	No	None.
2	20	Yes	Do.
3	28	Yes	Chloramphenicol 50 mg.
4	30	Yes	Chlortetracycline 50 mg.
DIET 2—Chlortetracycline (20 g/ton of feed), sulfamethazine (20 g/ton of feed), and penicillin (10 g/ton of feed)			
1	17	Yes	None.
2	21	Yes	Chloramphenicol—50 mg.
3	23	Yes	Chlortetracycline—50 mg.
DIET 3—Chlortetracycline (100 g/ton of feed), sulfamethazine (100 g/ton of feed), and penicillin (50 g/ton of feed)			
1	14	Yes	None.
2	10	Yes	Chloramphenicol—50 mg.
3	12	Yes	Chlortetracycline—50 mg.

(b) *Director's analysis.* In each diet, chloramphenicol treatment was significantly more effective for the treatment of the disease than was treatment with chlortetracycline. In fact, the results show that chlortetracycline treatment was no more effective than either the untreated control group or the groups fed the combination of subtherapeutic antibiotics in the ration, i.e., the latter were ineffective.

The Missouri study indicates that animal therapy may be compromised where the pathogen is resistant to the antibiotic used for treatment.

5. *Director's Conclusion.* The potential for harm resulting from compromise of therapy is clear, and no evidence has been submitted that adequately addresses the basic issue, the potential for subtherapeutic penicillin use to compromise therapy, since the studies submitted contained design deficiencies. For these reasons, the Director concludes that the sponsors have failed to resolve the issue and thereby show that the subtherapeutic use of penicillin is safe in animal feed.

REFERENCES

1. Anderson, E. S., "The Ecology of Transferable Drug Resistance in the Enterobacteria," Annual Review of Microbiology, 22:131–180, 1968.

2. FDA Contract 71–306, University of Missouri.

6. Optimal Level of Effectiveness (Animal Health Criterion 4). This was originally stated as a separate criterion as follows:

> The optimum usage level for each indication of use of the antibacterial drug at subtherapeutic levels shall not increase significantly with continued use.
>
> Once the optimum level is established, a study shall continue over succeeding generations or populations of animals to determine if this same level continues to yield the same measurable effect.

No data were submitted on this issue for penicillin or penicillin-containing products. The failure to submit these data was in part due to the inability to design such studies that would be meaningful in the 2-year period designated for study. A study begun in 1972 was submitted by AHI which compares the effectiveness of four antibiotics (chlortetracycline, tylosin, bacitracin, and virginiamycin) to a nonmedicated group in swine (Ref. below). The study was conducted at only one location; tests at several locations are necessary to provide any evidence they may have general application to the swine industry. Moreover, the antibiotics were not fed to the swine at graded dosage levels (dosage titration), which is necessary to determine the optimal level of the drug's effectiveness. That is the first step in attempting to address the concerns. Without that evidence, the Director cannot make any determination about the role of R-plasmid-bearing organisms in the continuing effectiveness and safety of subtherapeutic use of any tested antibiotic in animals, including penicillin.

REFERENCE

Langlois, B., G. Cromwell, V. Hays, "Influence of Antibacterial Agents in Feed in the Incidence and Persistence of Antibiotic-Resistant Members of the Family Enterobacteriaceae *E. coli* Isolated from Swine," final report to Animal Health Institute, April 14, 1976.

D. *Pathogenicity (Criterion 3)*

1. *Background and Criterion.* It is clear that bacterial plasmids contribute significantly to an organism's capacity to produce disease and to survive within the host organism (Ref. 1). The production of enterotoxin, for example, is an essential factor in the pathogenicity of *E. coli* strains of porcine origin, and Smith and Halls (Ref. 2) demonstrated that this property was governed by a plasmid, termed ENT. Similarly, the genetic determinants for enterotoxin production in *E. coli* isolated from calves and lambs have also been shown to be controlled by transmissible plasmid (Ref. 3). Recent studies support the premise that enterotoxin-producing strains of *E. coli* are also responsible for a significant proportion of previously undiagnosed human diarrheal disease (Refs. 4 through 6). Corresponding to these studies in domestic animals, researchers have now shown that the ability of *E. coli* strains of human origin to elaborate enterotoxin is mediated by a transmissible plasmid (Refs. 7 and 8).

In addition to toxins, other plasmid-mediated virulence factors have been described. One of the characteristics of the diarrheal disease caused by enterotoxigenic *E. coli* in man or animals is the ability of large numbers of the bacteria to colonize the small bowel. There is evidence that a surface associated antigen K88, on *E. coli* toxigenic for pigs facilitates colonization since the antigen functions to overcome intestinal motility and other clearing mechanisms (Refs. 9 through 13). Further, Orskov et al. (Ref. 14) showed that K88 production is governed by a transmissible plasmid. A similar antigen, K99, has been described for calves (Refs. 15 through 17). Moreover, these K-antigens play a role in the host specificity of these pathogens. The K88 antigen from porcine isolates is unable to produce adhesion to the calf intestine, and the K99 calf antigen is unable to adhere to the pig intestine (Ref. 15). A similar plasmid-controlled surface antigen has recently been described in a strain of *E. coli*, causing severe human diarrheal disease (Ref. 18).

Another way plasmids can contribute to virulence is exemplified by the colicin V plasmid (Ref. 19). Colicin V is the most common colicin produced by *E. coli*, and pathogenic *E. coli* containing the colicin V plasmid have a greater ability to resist the host species' defense mechanism (Ref. 19). Such *E. coli* also tend to be more refractory to the bactericidal effects of undefined components in serum. In addition, Smith's experiments in chickens and in humans reveal that the colicin V R-plasmid confers on organisms an increased ability to survive in the alimentary tract as well as in the tissue (Ref. 20). On the basis of this evidence, the Director believes that other plasmid-mediated factors that enhance pathogenicity may well be found in the future.

Although pathogenicity is generally determined by more than one factor, the addition of a single specific character to a nonvirulent organism can endow that organism with virulence, and the potential dangers of this character being mediated by a transmissible element are apparent. Because R-plasmids and virulence plasmids can reside in the same bacterial cell, the possibility is increasing that plasmids that contribute to pathogenicity may become more widely disseminated among bacterial species due to the selection of the large reservoir of R-plasmids within enteric organisms.

For these reasons, FDA established Human and Animal Health Safety Criterion 3: "The use of low and/or intermediate levels of an antibacterial drug shall not enhance the pathogenicity of bacteria."

FDA's guidelines required a series of well designed studies to determine if the use of antibacterial drugs in animal feeds enhances pathogenicity of Gram-negative bacilli. First, the sponsors were to determine if plasmids coding for toxin production could become linked to an R-plasmid and be transferred in vitro. If this was demonstrated in germ-free animals, experiments were to be conducted in conventional animals.

Due to the progressional nature of the studies, the Director did not require the sponsors to complete the studies during the time alloted by § 558.15. The sponsors were committed to conduct such studies and to submit reports on the studies at regular intervals. The AHI did submit a study conducted by Dr. John Walton to examine the association of plasmid-mediated toxin production with R-plasmids, and data were also obtained from FDA contracts with Dr. Stanley Falkow and Dr. Carlton Gyles.

2. *Walton Study.* The Walton study (Ref. 21) reported in vitro transfer experiments using a donor organism bearing both the enterotoxin plasmid and R+ factors antibiotic resistance plasmids and a recipient organism that lacks an R-plasmid. Walton concluded that subsequent selection of R+ transconjugants does not select for enterotoxin production.

The Director finds that the study contained major shortcomings in the procedures used, and he rejects Walton's conclusions as inadequately supported. The enterotoxin-producing strains (containing plasmids termed ENT) used in the experiment were inadequately examined for the frequency of transfer of their ENT plasmids and the number of R+ transconjugants tested for ENT transfer (20) was insufficient since only a frequency of 5 percent or greater could be detected. From each mating, 20 transconjugant colonies were pooled and subcultured into 100 milliliters of nutrient broth; then they were grown overnight to obtain cells and supernatant fluid to test for toxin production. However, no positive control was included in the experiment to show that, in screening, 1 known ENT + colony, out of 20 colonies, would produce a positive reaction for toxin production. For these reasons, the Director concludes that the study neither conclusively resolves the issue nor even provides adequate evidence to support the conclusion that selection for R+ transconjugants does not select for enterotoxin production.

3. *Falkow Study*—(a) *In vitro transfer.* On the other hand, Falkow (FDA Contract 73–7210) unequivocally demonstrated that ENT and R-plasmids do cotransfer and that drug selection for the R-plasmid and subsequent clonal screening for ENT was an adequate laboratory tool for detection of cotransfer.

In an in vitro mating, *E. coli* K12 (containing a bovine ENT plasmid, a K-antigen-determining plasmid (K99), and an R-plasmid coding for tetracycline and streptomycin) was crossed to three drug-sensitive *E. coli* K12 recipient strains. The recipient strains were rifampicin resistant, and the donor was rifampicin sensitive. The rifampicin-resistant recipient that received the tetracycline-streptomycin plasmid were recovered on rifampicin-tetracycline drug plates; these recombinant clones were then scored for coinheritance of ENT and K99. Of 225 clones tested (75 from each of the 3 crosses), 2 clones (0.88 percent) received both ENT and K99+. Thus, cotransfer of K99 and ENT plasmid for pathogenicity with the tetracycline-streptomycin drug resistance plasmid was of a low but detectable incidence.

In another in vitro mating study, a bovine enterotoxigenic nonlactose-fermenting *E. coli* isolate (B44) (containing the following plasmids: ENT, K99, and an R-plasmid (R_1) containing genes coding for ampicillin, chloramphenicol, kanamycin, and streptomycin resistance) was crossed with a lactose fermenting strain of *E. coli*, K92 strain 1485. Lactose-fermenting and chloramphenicol-resistant transconjugants were scored for K99 and ENT.

The incidence of K99 plasmid transfer was 3/37 (8 percent) and the incidence of the ENT plasmid transfer was 9/37 (24.3 percent). Furthermore, the incidence of K99, ENT, and R_1 cotransfer was 3/37 (8 percent).

(b) *In vivo transfer.* Falkow fed B44 *E. coli* bearing resistance (R_1), ENT, and K99 plasmids to baby calves, and in vivo transfer of the (R_1) plasmid to indigenous microflora was monitored. In one experiment, ENT plasmid was cotransferred at an incidence of 3/39 (7.7 percent); however, K99 was not transferred. In another in vivo transfer experiment, the ENT was cotransferred at an incidence of 1/88 (1.1 percent) and cotransfer of K99 did not occur. But detection of K99 cotransfer was hampered by the autoagglutination of 50 percent of the transconjugants when slide agglutinations with K99 antisera were performed.

From these experiments, Falkow concluded that possession of an R-plasmid by an enteropathogenic strain does not guarantee cotransfer of ENT or K99; nevertheless, the implications of cotransfer at even a low incidence in the intesti-

V 42168 AUG 30 77 UMI

nal tract of an animal, should the animal be exposed to the same antibiotics to which the enteropathogen is resistant, has potent public health consequences.

4. *Questions raised by other studies.* (a) Naturally occurring toxigenic strains of *E. coli* are often multiply resistant, and during a recent hospital outbreak of infantile diarrhea in Texas, Wachsmuth et al. (Ref. 23) reported that plasmid-mediated toxin production and multiple antibiotic resistance was demonstrated. Transfer of a 67 × 10^6 and 30 × 10^6 dalton plasmid was associated with the transfer of resistances and enterotoxin production, respectively. Moreover, when antibiotics were used to select *E. coli* K12 recipients from a one-step bacterial cross, all the resistances were concurrently transferred, and 36 percent of these drug-resistant recipient organisms also transferred their ENT plasmids and produced enterotoxin. Clearly, the Director must conclude that R-plasmid transfer can enhance the possibility of ENT transfer and the production of enterotoxin.

(b) Translocation is believed to be the primary mechanism for the dissemination of resistance genes in vivo. Under FDA Contract 223–73–7210, Falkow has been able to show the translocation of antibiotic resistance genes to ENT plasmids in vitro. He also demonstrated that ENT plasmids can acquire resistance genes from R-plasmids if they inhabit the same cell. Ampicillin, sulfonamide, and streptomycin plasmids constructed in vitro by translocation are indistinguishable from such ampicillin plasmids obtained from clinical isolates of *E. coli* and *Salmonella* (Ref. 24).

More recently, Gyles (FDA Contract 223–73–7219) demonstrated the in vivo transfer of ENT plasmids in the intestinal tract of pigs, using the selection of tetracycline-resistant recipient organisms as a basis for screening ENT+ recipient colonies. All of the 35 tetracycline-resistant recipient colonies obtained were shown to bear the ENT plasmid. Gyles also showed that tetracycline resistance and enterotoxin biosynthesis reside on the same plasmid.

5. *Director's Conclusions.* The evidence from both in vitro and in vivo experiments demonstrates that ENT plasmids and R-plasmids can become linked. Only Dr. Walton's study describes data to the contrary; however, his study is inadequate for the reasons discussed. Accordingly, the Director concludes that the existing evidence demonstrates that R-plasmids can increase the pathogenicity of organims, and inadequate evidence has been submitted to prove the contrary.

REFERENCES

1. Falkow, S., "Infectious Multiple Drug Resistance," Pion, Ltd., London, 1975.

2. Smith, H. W., and S. Halls, "The Transmissible Nature of the Genetic Factor in *Escherichia coli* That Controls Enterotoxin Production," Journal of General Microbiology, 52:319–334, 1968.

3. Smith, H. W., and M. A. Linggood, "The Transmissible Nature of Enterotoxin Production in a Human Enteropathogenic Strain of *Escherichia coli*," Journal of Medical Microbiology, 4:301–305, 1971a.

4. Gorbach, S. L., "Acute diarrhea—'toxin' disease?" New England Journal of Medicine, 283:44–45, 1970.

5. Gorbach, S. L., and C. M. Khurana, "Toxigenic *Escherichia coli:* Cause of Infantile Diarrhea in Chicago," New England Journal of Medicine, 287:791–795, 1972.

6. Dupont, H. L., S. B. Formal, R. B. Hornick, M. J. Snyder, J. P. Libonati, D. G. Sheahan, E. H. LeBrec, and J. P. Kalas, "Pathogenesis of *Escherichia coli* Diarrhea," New England Journal of Medicine, 285:1–9, 1971.

7. Skerman, F. J., S. B. Formal, and S. Falkow, Plasmid-Associated Enterotoxin Production in a Strain of *Escherichia coli* Isolated from Humans," Infection and Immunity, 5:622–624, 1972.

8. Smith, H. W., and M. A. Linggood, "The Transmissible Nature of Enterotoxin Production in a Human Enteropathogenic Strain of *Escherichia coli*," Journal of Medical Microbiology, 4:301–305, 1971a.

9. Orskov, I., F. Orskov, W. J. Sojka, and J. M. Leach, "Simultaneous Occurrence of *Escherichia coli* B and L Antigens in Strains from Diseased Swine," Acta Pathologica et Microbiologica Scandinavica, 53:404–422, 1961.

10. Orskov, I., F. Orskov, W. J. Sojka, and W. Wittig, "K Antigens K88ab(L) and K88ac (L) in *E. coli*. A New O Antigen: 0141 and a New K Antigen K89(B)," Acta Pathologica et Microbiologica Scandinavica, 62:439–447, 1964.

11. Smith, H. W., and M. A. Linggood, "Observations on the Pathogenic Properties of the K88 Hly and Ent Plasmids of *Escherichia coli* with Particular Reference to Porcine Diarrhea," Journal of Medical Microbiology, 4:467–485, 1971b.

12. Jones, G. W. and J. M. Rutter, "Role of the K88 Antigen in the Pathogenesis of Neonatal Diarrhea Caused by *Escherichia coli* in Piglets," Infection and Immunity, 6:918–927, 1972.

13. Hohmann, A., and M. R. Wilson, "Adherence of Enteropathogenic *Escherichia coli* to Intestinal Epithelium in Vivo," Infection and Immunity, 12:866–880, 1975.

14. Orskov, I., and F. Orskov, "Episome-Carried Surface Antigen K88 of *Escherichia coli* I. Transmission of the Determinant of the K88 Antigen and Influence on the Transfer of Chromosomal Markers," Journal of Bacteriology, 91:69–75, 1966.

15. Smith, H. W., and M. A. Linggood, "Further Observations on *Escherichia coli* Enterotoxins with Particular Regard to Those Produced by Atypical Piglet Strains and by Calf and Lamb Strains: The Transmissible Nature of These Enterotoxins and of a K Antigen Possessed by Calf and Lamb Strains," Journal of Medical Microbiology, 5:243–250, 1972.

16. Orskov, I., F. Orskov, H. W. Smith, and W. J. Sojka, "The Establishment of K99, a Thermolabile, Transmissible *Escherichia coli* Antigen, Previously Called 'Kco,' Possessed by Calf and Lamb Enteropathogenic Strains," Acta Pathologica et Microbiologica Scandinavica, 83:31–36, 1975.

17. Burrows, M. R., R. Sellwood, and R. A. Gibbons, "Haemagglutinating and Adhesive Properties Associated with the K99 Antigen of Bovine Strains of Escherichia coli," Journal of General Microbiology, 96:269–275, 1976.

18. Evans, D. G., R. P. Siver, D. J. Evans, Jr., D. G. Chase, and S. L. Gorbach, "Plasmid-Controlled Colonization Factor Associated with Virulence in *Escherichia coli* Enterotoxigenic for Humans," Infection and Immunity, 12:656–667, 1975.

19. Smith, H. W., "A Search for Transmissible Pathogenic Characters in Invasive Strains of *Escherichia coli:* the Discovery of a Plasmid-Controlled Toxin and a Plasmid-Controlled Lethal Character Closely Associated, or Identical, with Colicin V," Journal of General Microbiology, 83:95–111, 1974.

20. Smith, H. W., and M. B. Huggins, "Further Observations on the Association of the Colicin V Plasmid of *Escherichia coli* with Pathogenicity and with Survival in the Alimentary Tract," Journal of General Microbiology, 92:335–350, 1976.

21. Walton, J. and C. E. Smith, "Transfer of Ent Plasmids," Microbial Genetics Bulletin, 38:10, 1975.

22. Meyers, J. A., and L. L. Ehnes, K. Cottingham, S. Falkow, "Incidence of Cotransfer of Ent, K99 and R-Plasmids," Microbial Genetics Bulletin, 39:13, 1975.

23. Wachsmuth, I. K., S. Falkow, and R. W. Ryder, "Plasmid-Mediated Properties of an Enterotoxigenic *Escherichia coli* Associated with Infantile Diarrhea," Infection and Immunity, 14:403–407, 1976.

24. Heffron, F., C. Rubens, and S. Falkow, "Transposition of a Plasmid Deoxyribonucleic Acid Sequence that Mediates Ampicillin Resistance: Identity of Laboratory-Constructed Plasmids and Clinical Isolates," Journal of Bacteriology, 129:530–533, 1977.

E. *Tissue Residues (Criterion 4)*

1. *Background.* FDA has established zero tolerances in tissues of chickens, swine, pheasants, and quail, in milk and eggs for penicillin, its salts and residues. Negligible tolerances of 0.05 part per million exist for the uncooked edible tissues of cattle and turkeys. In all cases the tolerances are a function of the lowest limit that the penicillin assay methods can reliably measure; therefore, the agency in effect permits no residue of penicillin in human food. FDA established these "zero" tolerances because there is no scientific evidence to support a no-effect level for penicillin or its metabolites on the human or animal intestinal flora or on the induction of hypersensitivity. Violative, over tolerance, penicillin residues are regularly reported by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service residue monitoring programs. The FDA followup investigations on the reported violations demonstrate that two routes of administration are primarily responsible for the violations, injection and feed use; and most of the violations are caused by the product misuse, including failure to follow the labeled withdrawal period.

2. *Criterion.* FDA's guidelines requested the following for antibiotics:

Controlled studies • • • to determine whether or not an antibacterial drug used as subtherapeutic levels in the feed of animals results in residues of the parent compound, metabolites, or degradation products in the food ingested by man which are capable of causing (1) an increase in the prevalence of pathogenic bacteria; (2) an increase in the resistance of pathogenic bacteria to antibacterial drugs used in human clinical medicine.

Controlled studies in appropriate test animals shall be conducted to determine whether the consumption of food produced by animals receiving antibacterial drugs will result in:

(a) An increase in the intestinal flora of the prevalence of pathogenic bacteria;

(b) An increase in the degree and spectrum of resistance of the intestinal flora to drugs used in human clinical medicine.

Experimental procedures shall include appropriate consideration of maximum use level, minimum withdrawal time and established tolerances.

In addition, a literature survey shall be conducted to determine the incidence of reports of hypersensitivity resulting from antibacterial drugs in food. The literature survey shall include information regarding hypersensitivity reactions occurring as a result of parenteral or topical exposure to antibacterial drugs as well as those ingested in food. When hypersensitivity has been shown, experiments in appropriate laboratory animals must be conducted to develop estimates of what level of antibacterial drugs in food will cause the production of hypersensitivity.

3. *Data submitted.* Because there is a "zero" tolerance for penicillin and no residues are expected when penicillin-containing products are used in accordance with their labeled withdrawal periods, the sponsors of penicillin were exempted by the Director from submitting the test data. Thus, no data have been provided by the sponsors to show whether the consumption of food produced by animals receiving subtherapeutic levels of penicillin will result in an increase of pathogenic bacteria in the intestinal flora of animals or an increase in the degree and spectrum of resistance of the intestinal flora to drugs used in human clinical medicine.

The firms were required and did, in fact, provide literature data on hypersensitivity reactions to penicillin. These documented the well known alergic and anaphylactic reactions occurring from the penicillins and their degradation products. Human reactions to milk residues after treatment of infections of mammary glands with penicillin was a frequent cause of allergic response; consequently, withdrawal periods from drug usage have been developed before edible products are marketed. One instance (Ref. 1) was cited of a severe hypersensitivity reaction to ingested pork containing penicillin residues.

4. *Director's Analysis and Conclusions.* A study carried out by Katz et al. (Ref. 2) examined the effect of feeding penicillin on the development of residues in edible tissues and the nature of the residues. Although no tissues contained detectable penicillin or its degradation products, penicillin and its degradation products were detected in the crop, proventriculus, gizzard, and duodenum, but not in the small intestine from where it might be absorbed into other body tissues. At the same time chicken feces contained high levels of antibiotic resistant Gram-negative lactose-fermenting organisms (presumably *E. coli*), although no penicillin was present in the feces.

The study, however, raises a question about the safety of penicillin. Although no tissue residues were detected, the feces of broilers fed growth promotant levels of penicillin in their diet exhibited a fairly high percentage of antibiotic-resistant, lactose-fermenting organisms. The resistance was found in spite of the fact that no antibiotic activity could be found in the duodenum of the birds. Accordingly, Katz undertook to investigate the ability of penicilloic acid, one of the major degradation products, to stimulate the development of resistant organisms in the intestinal tract. Groups of birds on three rations were studied, a basal ration, a ration of 50 grams penicillin per ton of feed, and a ration of 50 grams of penicilloic acid of feed. Two resistance markers, tetracycline and streptomycin, were separately incorporated in the agar to act as indicators of resistance.

The percentage of lactose-fermenting organisms in the feces of birds on the basal ration remained relatively low for the period of the experiment, but the birds on the penicillin and penicilloic acid diets showed a markedly higher level of such organisms in their feces. Although the results exhibit some variation due to several experimental factors, the resistance pattern of the lactose-fermenting organisms isolated showed a continuous rise in the percent resistance as reflected in the streptomycin marker. The resistance pattern reflected by the tetracycline marker was more variable, but definitely present. However, the levels of drug resistant lactose-fermenting organisms found in the feces of birds from both the penicillin and penicilloic acid supplemented feeds are at least four times greater than the levels found from birds fed the basal ration. Although not statistically proven, the marked increase in resistance reflected by the marker strongly supports the premise that penicilloic acid can stimulate the development of resistance.

Accordingly, the Director must conclude that feeding subtherapeutic levels of penicillin to chickens may cause an increase in resistant lactose-fermenting organisms. Since the principal lactose-fermenting organisms are *E. coli*, and antibiotic resistant *E. coli* have been demonstrated to transfer R-factors to pathogens, the Director must conclude that the subtherapeutic use of penicillin may contribute to an increase in the prevalence of pathogenic bacteria in the intestinal flora of chickens which is contrary to the criterion established. No data have been submitted to rebut this, and for this reason also the Director must conclude that penicillin has not been shown to be safe.

REFERENCES

1. Tschevschner, I., "Penicillin Anaphylaxis Following Pork Consumption," Zeitschrift für Haut-und Geschlichts-Krankheiten, 47: 591, 1972.

2. Katz, S. B., C. A. Fassbender, P. S. Dinnerstein, and J. J. Dowling, Jr., "Effects of Feeding Penicillin to Chickens," Journal of the Association of Official Analytical Chemists, 57:522–526, 1974.

V. EFFECTIVENESS

In the FEDERAL REGISTER of July 17 and 21, 1970 (35 FR 11533, 11647, 11650) FDA announced the conclusions of the National Academy of Sciences/National Research Council Drug Efficacy Study Group concerning the penicillin-containing premixes intended for subtherapeutic and therapeutic use in animal feeds. The NAS/NRC evaluated these preparations as probably effective for growth promotion and feed efficiency and concluded that for the remaining claims the products lack substantial evidence of effectiveness that each ingredient designated as active makes a contribution to the total effectiveness claimed for the drug.

The agency concurred with these evaluations, and it provided the manufacturers of these products 6 months to submit adequate documentation of the effectiveness.

Section 512 of the act (21 U.S.C. 360b) requires that a new animal drug have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling. For fixed combination drugs, § 514.1(b)(8)(v) (21 CFR 514.1(b)(8)(v)) requires that each ingredient designated as active in any new animal drug combination must make a contribution to the effect in the manner claimed or suggested in the labeling. Furthermore, if in the absence of express labeling claims of advantages for the combination such a product purports to be better than either component alone, the sponsor must establish that the new animal drug has that purported effectiveness. The requirement of effectiveness includes the requirement that the most effective level for each compound be used. In the case of drug combinations for concurrent therapy, the requirement of effectiveness includes the requirement that the dosage of each component is such that the combination is safe and effective for a population of significant size specifically described in the labeling as requiring such concurrent therapy. Therefore, to demonstrate that the penicillin-containing premixes are effective for therapeutic use, the sponsors must submit, in accordance with section 512(d)(3) of the act, substantial evidence consisting of adequate and well controlled investigations, as defined by § 514.111(a)(5) 21 CFR 514.111(a)(5)), including field investigations, satisfying these requirements.

No interested person has ever submitted substantial evidence that the penicillin-containing premixes are effective for the claimed therapeutic uses. For this reason the Director concludes that there is a lack of substantial evidence that the products are effective for therapeutic use in animal feed. Moreover, this action will assure that these levels are not used illegally to replace the subtherapeutic uses that are also being withdrawn.

VI. CONCLUSION

Pursuant to § 558.15, the holders of approved NADA's for penicillin-containing drug products intended for subtherapeutic use in animal feeds have the burden of establishing that this use is safe in accordance with the criteria and guidelines established by that regulation in addition to the basic requirements imposed by the general safety provisions of the Federal Food, Drug, and Cosmetic Act. The Director in this notice has set forth in detail the basis for the criteria and guidelines implementing the regu-

V 4 2 1 6 8 AUG 30 77 UMI

lation and this action. The holders of the approved NADA's have failed to satisfy the legal requirements imposed by the regulations, and they have failed to resolve the basic safety questions that underlie the subtherapeutic use of penicillin in animal feed.

(a) The pool of R-plasmid-bearing organisms is widespread in the environment of man and animals, and antibiotic resistance is increasing in pathogenic and nonpathogenic *E. coli* and Salmonella. The resistance patterns observed in these *E. coli* and Salmonella isolated from animals are similar, and these patterns are similar to the resistance patterns observed in the strains isolated from man. The R-plasmids found in organisms isolated in man and animal are indistinguishable, and common serotypes of these organisms infect both man and animals.

The studies submitted by the holders of approved NADA's through the Animal Health Institute confirm the prevalence of R-plasmid-bearing organisms and the ability of these organisms to transfer R-plasmids to other strains, even in the absence of antibiotic pressure. The AHI studies were also inadequate to measure the duration and prevalance of the Salmonella infections because demonstrably inadequate measuring techniques were used to gather the information.

(b) The potential for harm arising from a compromise of therapy is well documented. None of the studies submitted on compromise of therapy address the fundamental issue—the ability of R-plasmid-bearing organisms to interact and donate these plasmids to other organisms in the intestinal tracts of animals and to acquire resistance to a drug related to the subtherapeutic drug given. Furthermore, no evidence was submitted to show that the effectiveness of subtherapeutic penicillin use over time is not being altered by the development of R-plasmid-bearing organisms.

(c) The evidence demonstrates that R-plasmids controlling pathogenicity, drug resistance, and intestinal motility can and do cotransfer in vitro and in vivo.

(d) Subtherapeutic doses of penicillin and penicillanic acid in chickens causes an increase in drug-resistant lactose-fermenting organisms, e.g., *E. coli*, in their feces. This phenomenon demonstrates a potential for harm, and adequate refuting evidence has not be submitted. In addition, inadequate evidence has been submitted to negate questions on the potential for harm associated with penicillin hypersensitivity and subtherapeutic penicillin use.

(e) Under § 558.15, the holders of approved NADA's were required both to file commitments to conduct studies that would conclusively resolve the safety of the subtherapeutic use of antibiotics in animal feeds and actually to conduct those studies. To ensure compliance with the letter requirement, the regulation required holders of the approved NADA to file periodic progress reports on the studies. The Director is proposing to withdraw approval of all NADA's for which evidence was submitted in accord with § 558.15 purporting to resolve the safety issues, and he is unaware of any sponsor that filed a commitment to conduct the requisite studies but that submitted no evidence. Nevertheless, the Director concludes that the approval of any NADA for which a commitment to conduct appropriate studies was filed but whose holder filed no evidence should be withdrawn on the grounds that the holder of the NADA has failed to establish and maintain records and make reports as required by appropriate regulation.

Additionally, under section 512 of the act, the holders of the approved NADA's have the burden of demonstrating that the products are effective for their indications of use. Based on the evidence now before him, the Director is unaware of any adequate and well controlled investigations demonstrating that the penicillin-containing premixes are effective for the therapeutic uses.

On the basis of the foregoing analysis, the Director is unaware of evidence that satisfies the requirements for the safety of penicillin-containing premixes as required by section 512 of the Federal Food, Drug, and Cosmetic Act and § 558.15 of the agency's regulations. Accordingly, he concludes, on the basis of new information before him with respect to these drug products, evaluated together with the evidence available to him when they were originally approved, that the drug products are not shown to be safe under the conditions of use prescribed, recommended, or suggested in their labeling. The evidence, in fact, indicates that such penicillin use may be unsafe, particularly if the higher or therapeutic levels of penicillin should be used as substitutes for the levels currently used subtherapeutically.

Therefore, the Director announces he is proposing to withdraw all approvals for penicillin-containing premix products intended for use in animal feed whether granted under section 512 of the act or section 108(b) of the Animal Drug Amendments of 1968 (Pub. L. 90-399) on the grounds that they have not been shown to be safe, and lack substantial evidence of effectiveness for therapeutic use. Notice is hereby given to holders of the approvals listed above and to all other interested parties. If a holder of an approval or any other interested person elects to avail himself of an opportunity for hearing pursuant to sections 512(e)(1)(B), 512(e)(1)(C), and 512(e)(2)(A) and § 514.200 (21 CFR 514.200), the party must file with the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, a written appearance requesting such a hearing by September 29, 1977, giving reasons why approval of the application should not be withdrawn and providing a well-organized and full-factual analysis of the scientific and other investigational data that such person is prepared to prove in support of its opposition to the Director's proposal within 60 days. Such analysis shall include all protocols and underlying raw data and should be submitted in accordance with the requirements of § 314.200 (c)(2) and (d) (21 CFR 314.200 (c)(2) and (d)).

The Director will soon issue a separate notice in the FEDERAL REGISTER proposing to withdraw approval of all tetracycline-containing new animal drug products intended for certain subtherapeutic uses in animal feeds on the grounds that they have not been shown to be safe under section 512(c)(1)(B) of the act and § 558.15. Data addressing the safety and effectiveness issues for the tetracycline component of those products should be submitted at that time.

The failure of a holder of an approval to file timely written appearance and request for hearing as required by § 514.200 constitutes an election not to avail himself of the opportunity for a hearing, and the Director of the Bureau of Veterinary Medicine will summarily enter a final order withdrawing the approvals.

A request for a hearing may not rest upon mere allegations of denials, but it must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that there is no genuine and substantial issue of fact that precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person who requests a hearing, making findings and conclusions, denying a hearing.

Four copies of all submissions pursuant to this notice must be filed with the Hearing Clerk. Except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, responses to this notice and copies of published literature cited in this notice not appearing in journals designated by 21 CFR 310.9 and 510.95 may be seen in the office of the Hearing Clerk, Food and Drug Administration, between 9 a.m. and 4 p.m., Monday through Friday.

If a hearing is requested and is justified by the applicant's response to this notice of opportunity for hearing, the issues will be defined, an administrative law judge will be assigned, and a written notice of the time and place at which the hearing will commence will be issued as soon as practicable.

The Director has carefully considered the environmental effects of this action, and because it will not significantly affect the quality of the human environment, he has concluded that an environmental impact statement is not required for this notice. A copy of the environmental impact assessment is on file with the Hearing Clerk. Moreover, in a notice published in the FEDERAL REGISTER of May 27, 1977 (42 FR 2739) the Commissioner of Food and Drugs requested data concerning the potential environmental impact of a series of regulatory actions, including this one, designed to restrict

the subtherapeutic use of antibacterials in animal feeds. If the public discussion and information gathered warrant, a comprehensive environmental impact statement will be prepared, evaluating the impact of all the actions as a single program.

NOTE.—The Director has also carefully considered the inflation impact of the notice, and no major inflation impact, as defined in Executive Order 11821, OMB Circular A-107, and Guidelines issued by the Department of Health, Education, and Welfare, has been found. A copy of the FDA inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

(Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-361 (21 U.S.C. 360b)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84).)

Dated: August 24, 1977.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.77-24971 Filed 8-29-77;8:45 am]

V 42 168 A AUG 30 77 7 UMI

V42168 AUG 30 77
UMI

Just Released

CODE OF FEDERAL REGULATIONS

(Revised as of November 1, 1975)

Quantity	Volume	Price	Amount
———	Title 18—Power and Water Resources (Part 150–end)	$4.00	$———
———	Title 20—Employees' Benefits (Parts 400–499)	5.00	———
———	Title 24—Housing and Urban Development (Parts 0–499)	5.00	———
———	Title 24—Housing and Urban Development (Part 500–end)	5.25	———
———	Title 26—Internal Revenue (Part 1, §§ 1.301–1.400)	3.75	———
———	Title 26—Internal Revenue (Parts 30–39)	3.75	———
		Total Order	$———

[A Cumulative checklist of CFR issuances for 1977 appears in the first issue of the Federal Register each month under Title 1]

PLEASE DO NOT DETACH

MAIL ORDER FORM To:
Superintendent of Documents, Government Printing Office, Washington, D.C. 20402

Enclosed find $ ..... (check or money order) or charge to my Deposit Account No. .....

Please send me ..... copies of:

PLEASE FILL IN MAILING LABEL BELOW

Name .....
Street address .....
City and State ..... ZIP Code .....

FOR USE OF SUPT. DOCS.
Enclosed
To be mailed later
Subscription
Refund
Postage
Foreign Handling

FOR PROMPT SHIPMENT, PLEASE PRINT OR TYPE ADDRESS ON LABEL BELOW, INCLUDING YOUR ZIP CODE

SUPERINTENDENT OF DOCUMENTS
U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON, D.C. 20402

OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U.S. GOVERNMENT PRINTING OFFICE
375
SPECIAL FOURTH-CLASS RATE BOOK

Name .....
Street address .....
City and State ..... ZIP Code .....

V 42 1 68 AUG 30 77 UMI

169

Vol.42—No.169
8–31–77
PAGES
43795–43955

federal register

WEDNESDAY, AUGUST 31, 1977

highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Workshops include a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

OUT OF TOWN WORKSHOPS PREVIOUSLY ANNOUNCED

Boston, Mass., 9–7, 9–8, 9–9
(Details: 42 FR 37261, 7–20–77)
For reservations call: Mrs. Louise Conboy at (617) 223–7121

Saint Paul, Minn. 9–13, 9–14, 9–15
(Details: 42 FR 40999, 8–12–77)
For reservations call: Chuck McDew at (612) 291–6421

St. Louis, Mo. 9–28 and 9–29–77
(Details: 42 FR 42719, 8–24–77)
For reservations call: Delores O'Guin at (314) 425–4106

SUNSHINE ACT MEETINGS 43903

CITIZENSHIP DAY AND CONSTITUTION WEEK
Presidential proclamation 43797

NATIONAL HISPANIC HERITAGE WEEK
Presidential proclamation 43795

ENERGY CONSERVATION PROGRAM FOR APPLIANCES
FEA proposes test procedures for vented home heating equipment; comments by 10–25–77 (Part V of this issue) 43929

MANDATORY CRUDE OIL ALLOCATION PROGRAM
FEA extends current allocation quarter through September 1977; effective 9–1–77 43821

COAL UTILIZATION PROGRAM
FEA proposes amendments to regulations; comments by 9–29–77 and announces public hearing on 9–21–77 43859

VETERANS BENEFITS
VA excludes proceeds of group life insurance from consideration as income in determinations of entitlement to gratuitous benefits; effective 8–1–74 43834

CONTINUED INSIDE

V42169 AUG 31 77
UMI

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202–523–5240.**

FEDERAL REGISTER, Daily Issue:	
Subscription orders (GPO)	**202**–783–3238
Subscription problems (GPO)	**202**–275–3050
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	**202**–523–5022
Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227
PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235
PUBLIC LAWS:	
Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

VETERANS MORTGAGE LIFE INSURANCE
VA amends regulations relating to lifetime maximum amount of coverage; effective 8–24–77 ... **43834**

BROADCAST LICENSEES
FCC amends regulations regarding nondiscrimination in employment policies and practices; effective 8–31–77 ... **43848**

HEALTH SPAS
FTC changes hearing dates to 9–15, 10–17 and 11–28–77 on proposed trade regulation rule ... **43868**

NONMAILABLE MATTER
PS proposes rule providing additional protection for members of the public who receive commercial solicitation in the form of a bill or invoice; comments by 9–30–77 ... **43868**

REWARDS
PS increases maximum amount for information and services leading to arrest and conviction of any person for certain postal offenses; effective 8–31–77 ... **43836**

FARM CREDIT SYSTEM
FCA amends charters of associations, loan policies of banks for cooperatives and certain funding aspects of banks of the system; effective 8–15–77 ... **43823**

GRANTEE PROGRAM
CSA issues final rule on monitoring and reporting program performance; effective 8–31–77 ... **43842**

CONTRACT OPERATIONS
GSA clarifies and updates practices; effective 8–31–77 ... **43837**

RIGHTS-OF-WAY
Interior/FWS issues general regulations; effective 9–30–77 (Part III of this issue) ... **43915**

PRIVACY ACT OF 1974
FDIC notice of new systems and changes to existing systems of records; effective 8–31–77 (Part VI of this issue) ... **43947**

RAILROAD WORKERS
DOT/FRA amends regulations on blue signal protection; effective 9–30–77 ... **43853**

MEETINGS—
Manpower Policy National Commission: Net Employment effects on public service employment program, 9–20 and 9–21–77 ... **43890**
NASA: Space Program Advisory Council (SPAC) Applications Committee, 9–20–77 ... **43890**
New Technological Uses of Copyrighted Works National Commission, 9–15 and 9–16–77 ... **43891**

SEPARATE PARTS OF THIS ISSUE
Part II, HUD/FIA ... **43905**
Part III, Interior/FWS ... **43915**
Part IV, ICC ... **43923**
Part V, FEA ... **43929**
Part VI, FDIC ... **43947**

V 42 169 AUG 31 77 7 UMI

contents

THE PRESIDENT

Proclamations

Citizenship Day and Constitution Week ---------- 43797
Hispanic Heritage Week, National ---------- 43795

EXECUTIVE AGENCIES

AGRICULTURAL MARKETING SERVICE

Proposed Rules

Milk marketing orders:
Central Arkansas; Fort Smith, Ark.; and Memphis, Tenn.; extension of time ---------- 43859
Upper Florida, Tampa Bay and Southeastern Florida ---------- 43855

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Forest Service.

ALCOHOL, TOBACCO AND FIREARMS BUREAU

Rules

Firearms and ammunition, commerce in:
Ammunition recordkeeping requirements; correction ---------- 43833

ARMY DEPARTMENT

Rules

Supplies and equipment:
Loan and sale procedures, Army-owned property ---------- 43799

CIVIL AERONAUTICS BOARD

Rules

Charters:
Advance booking; minimum seat size for split charters ---------- 43830
Foreign air carriers; minimum seat size for split charters (2 documents) ---------- 43828
Inclusive tour; minimum seat size for split charters ---------- 43831
One-stop inclusive tours; minimum seat size for split charters ---------- 43831
Study groups; minimum seat size for split charters ---------- 43831
Travel groups; minimum seat size for split charters ---------- 43831
Trips and special services; minimum seat size for split charters ---------- 43827
Supplemental air transportation; minimum seat size for split charters ---------- 43828
Tariffs of air carriers and foreign air carriers; construction, publication, etc.:
Disabled persons; emergency evacuation of aircraft ---------- 43828

Notices

Hearings, etc.:
British Airtours Ltd ---------- 43873
Continental Air Lines, Inc ---------- 43873

COMMUNITY SERVICES ADMINISTRATION

Rules

Uniform Federal standards:
Monitoring and reporting program performance ---------- 43842

COMMERCE DEPARTMENT

See Domestic and International Business Administration; Maritime Administration; National Oceanic and Atmospheric Administration.

COPYRIGHTED WORKS, NEW TECHNOLOGICAL USES, NATIONAL COMMISSION

Notices

Meetings ---------- 43891

DEFENSE DEPARTMENT

See Army Department.

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Notices

Scientific articles; duty free entry:
Mayo Foundation ---------- 43874
University of Chicago ---------- 43874
Yale University School of Medicine ---------- 43875

EDUCATION OFFICE

Proposed Rules

Higher educational facilities; financial assistance for construction, reconstruction, or renovation; correction ---------- 43870

ENVIRONMENTAL PROTECTION AGENCY

Rules

Marine sanitation device standards:
Minnesota ---------- 43837
Water pollution; effluent guidelines for certain point source categories:
Petroleum refining; extension of time ---------- 43837

Proposed Rules

Air quality implementation plans; various States, etc.:
South Carolina ---------- 43868
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions:
Chlordecone (Kepone) ---------- 43869

Notices

Grants, State and local assistance:
Treatment works; construction; class deviations ---------- 43880
Pesticide applicator certification and interim certification; State plans:
Maine ---------- 43882
Utah ---------- 43884
Pesticide registration:
Applications ---------- 43876
Pesticides; specific exemptions and experimental use permits:
California Department of Food and Agriculture ---------- 43875
Clemson University; correction ---------- 43880
Forest Service et al.; correction ---------- 43882
Freers Elm Arrestor et al.; correction ---------- 43882
ICI United States Inc., et al.; correction ---------- 43882
Idaho State Department of Agriculture ---------- 43881
Michigan Department of Agriculture ---------- 43886
Mobay Chemical Corp. et al ---------- 43883
Thompson-Hayward Chemical Co ---------- 43884
3M Co. et al ---------- 43884
Washington State Department of Agriculture ---------- 43886
Water pollution control; safe drinking water; public water systems designations:
South Carolina ---------- 43885
Tennessee ---------- 43885

FARM CREDIT ADMINISTRATION

Rules

Charters, Farm Credit System associations; bank loan policies and bank fundings, etc ---------- 43823

FEDERAL COMMUNICATIONS COMMISSION

Rules

FM broadcast stations; table of assignments:
Alaska ---------- 43847
Kansas ---------- 43849
Organization and functions:
General Counsel Office ---------- 43846
Radio broadcast services:
Nondiscrimination in employment policies of broadcast licensees ---------- 43848

Proposed Rules

FM broadcast stations; table of assignments:
Arkansas ---------- 43870

FEDERAL DEPOSIT INSURANCE CORPORATION

Notices

Privacy Act; systems of records ---------- 43947

FEDERAL ENERGY ADMINISTRATION

Rules

Petroleum allocation regulations, mandatory:
Crude oil buy/sell program; extension of allocation quarter through September; special rule for transition period ---------- 43821
Crude oil buy/sell program; limitation of scope; correction ---------- 43821

Proposed Rules

Coal utilization program:
Administrative procedures and sanctions, allocation, new powerplants, and utilization ---------- 43859
Energy conservation program, appliances:
Vented home heating equipment; test procedures ---------- 43929

FEDERAL INSURANCE PROGRAM

Rules

Flood Insurance Program, National:
Communities eligible for sale of insurance ---------- 43832
Flood elevation determinations, etc. (16 documents) ---------- 43906–43914

FEDERAL RAILROAD ADMINISTRATION

Rules

Railroad operating rules; blue signal protection of workmen ---------- 43853

FEDERAL RESERVE SYSTEM

Notices

Applications, etc.:
National City Corp ---------- 43887
United Rock Construction, Inc ---------- 43887

FEDERAL SUPPLY SERVICE

Rules

Procurement:
Contract operations, etc ---------- 43837

FEDERAL TRADE COMMISSION

Rules

Prohibited trade practices:
Walgreen Co ---------- 43832

Proposed Rules

Consent orders:
Providers Benefit Co., et al ---------- 43864
Health spas; hearing date changed ---------- 43868
Hearing aid industry; trade regulation proceeding; Presiding Officer's report filed ---------- 43867

FISH AND WILDLIFE SERVICE

Rules

Fishing:
Charles M. Russell, National Wildlife Range and UL Bend National Wildlife Refuge, Mont ---------- 43853
Hunting:
Charles M. Russell National Wildlife Range and UL Bend National Wildlife Refuge, Mont ---------- 43850
Necedah National Wildlife Refuge, Wis ---------- 43851
Pocasse National Wildlife Refuge, S. Dak. (2 documents) ---------- 43850, 43851
Sand Lake National Wildlife Refuge, S. Dak. (3 documents) ---------- 43849, 43850, 43851
Seedskadee National Wildlife Refuge, Wyo. (2 documents) ---------- 43852, 43853
Tamarac National Wildlife Refuge, Minn ---------- 43852
Land use management:
Rights-of-way ---------- 43915
Public access, entry, use, and recreation:
Charles M. Russell National Wildlife Range, Mont ---------- 43849

FOREST SERVICE

Notices

Environmental statements; availability, etc.:
Francis Marion National Forest, Land Management Plan, S.C ---------- 43873
Environmental statements; availability, etc.:
Winema and Fremont National Forests, Klamath Basin Working Circle Timber Resource Plan, Oreg ---------- 43873

GENERAL ACCOUNTING OFFICE

Notices

Regulatory reports review; proposals, approvals, etc ---------- 43888

GENERAL SERVICES ADMINISTRATION

See also Federal Supply Service.

Notices

Property management regulations, temporary:
Authority delegation to Interior Department Secretary ---------- 43888

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Education Office.

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Insurance Administration.

INTERIOR DEPARTMENT

See Fish and Wildlife Service; Land Management Bureau.

INTERNAL REVENUE SERVICE

Notices

Meetings:
Commissioners Advisory Group ---------- 43892

INTERNATIONAL TRADE COMMISSION

Notices

Import investigations:
Fastener assemblies, plastic ---------- 43890

INTERSTATE COMMERCE COMMISSION

Proposed Rules

Freight forwarders:
Foreign commerce movements tariff filing requirements; inquiry ---------- 43872

Notices

Abandonment of railroad services, etc.:
Chicago & Illinois Midland Railway Co ---------- 43924
Denver & Rio Grande Western Railroad Co ---------- 43926
Hearing assignments ---------- 43892
Motor carriers:
Irregular route property carriers; gateway elimination ---------- 43893
Transfer proceedings ---------- 43902
Railroad car service rules, mandatory; exemptions ---------- 43892
Rerouting of traffic:
Grand Trunk Western Railroad Co ---------- 43893

JUSTICE DEPARTMENT

Notices

Pollution control; consent judgments; U.S. versus listed companies:
du Pont de Nemours, E. I., & Co., Inc ---------- 43890

LAND MANAGEMENT BUREAU

Rules

Public land orders:
New Mexico (2 documents) ---------- 43840, 43841
South Dakota ---------- 43842

Notices

Applications, etc.:
Wyoming (2 documents) ---------- 43889, 43890
Authority delegations:
Wyoming State Office; Records and Data Management Branch Chief ---------- 43889
Withdrawal and reservation of lands, proposed, etc.:
Arizona ---------- 43889

MANAGEMENT AND BUDGET OFFICE

Notices

Clearance of reports; list of requests ---------- 43891

MANPOWER POLICY, NATIONAL COMMISSION

Notices

Meetings ---------- 43890

MARITIME ADMINISTRATION

Notices

Construction-differential subsidy ship construction program; machinery and electric plant spare parts cost; predetermined limit; correction ---------- 43875

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notices

Meetings:
Space Program Advisory Council; Applications Committee ---------- 43890

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Notices

Environmental statements and fishery management plans; availability, etc.:
Billfish (Pacific) and sharks; hearing change ---------- 43875
Marine mammal permit applications, etc.:
Exhibits, Inc ---------- 43875
St. Paul Como Park Zoo ---------- 43875

NUCLEAR REGULATORY COMMISSION

Rules

Nuclear material, special:
Export license requirements; exemptions from cooperation agreements; certain diluted material ---------- 43821

POSTAL SERVICE

Rules

Organization and administration:
Reward increases for information leading to conviction for postal offenses ---------- 43836

V 42 169 AUG 31 77 UMI

CONTENTS

Proposed Rules

Postal Service Manual:
Nonmailable matter; solicitations in guise of bills, invoices, or account statements 43868

TREASURY DEPARTMENT

See Alcohol, Tobacco and Firearms Bureau; Internal Revenue Service.

VETERANS ADMINISTRATION

Rules

Adjudication; pensions, compensation, dependency, etc.:
Veterans group life insurance; character of income; exclusions and estates 43834
Life insurance:
Mortgage; lifetime maximum amount of coverage 43834

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR

PROCLAMATIONS:
4516 43795
4517 43797

7 CFR

PROPOSED RULES:
1006 43855
1012 43855
1013 43855
1097 43859
1102 43859
1108 43859

10 CFR

70 43821
211 (2 documents) 43821

PROPOSED RULES:
303 43859
305 43859
307 43859
309 43859
430 43930

12 CFR

611 43824
614 43824
615 43824

14 CFR

207 43827
208 43828
212 43828
214 43828
221 43828
371 43830
372a 43831
373 43831

14 CFR—Continued

378 43831
378a 43831

16 CFR

13 43832

PROPOSED RULES:
13 43864
440 43867
443 43868

24 CFR

1914 43832
1917 43906

27 CFR

178 43833

32 CFR

621 43799

33 CFR

3 43834
8a 43834

39 CFR

233 43836

PROPOSED RULES:
111 43868

40 CFR

140 43837
419 43837

PROPOSED RULES:
52 43868
180 43869

41 CFR

5A–1 43838
5A–2 43839

41 CFR—Continued

5A–3 43839
5A–7 43839
5A–11 43839
5A–16 43839
5A–19 43839
5A–72 43840
5A–73 43840
5A–76 43840

43 CFR

PUBLIC LAND ORDERS:
1168 (Amended by PLO 5623) 43842
2508 (Revoked by PLO 5625) 43841
5623 43842
5624 43840
5625 43841

45 CFR

1050 43842

PROPOSED RULES:
170 43870

47 CFR

0 43846
73 (3 documents) 43847–43849

PROPOSED RULES:
73 43870

49 CFR

218 43853

PROPOSED RULES:
Ch. X 43872

50 CFR

26 43849
29 43916
32 (11 documents) 43849–43853

CUMULATIVE LIST OF PARTS AFFECTED DURING AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR

Ch. I 38891

3 CFR

EXECUTIVE ORDERS:
11126 (Amended by EO 12007) 42839
11221 (See EO 12007) 42839
11472 (Amended by EO 12007) 42839
11514 (See EO 12007 42839
11583 (Amended by EO 12007) 42839
11625 (Amended by EO 12007) 42839
11948 (Superseded in part by EO 12007) 42839
11962 (Revoked by EO 12007) 42839
12006 39081
12007 42839
12008 43373

MEMORANDUMS:
January 2, 1973 (Amended by Memorandum of August 1, 1977) 40169
April 26, 1973 (See Memorandum of August 1, 1977) 40169
December 13, 1973 (See Memorandum of August 1, 1977) 40169
October 29, 1974 (See Memorandum of August 1, 1977) 40169
May 20, 1975 (See Memorandum of August 1, 1977) 40169
August 5, 1975 (See Memorandum of August 1, 1977) 40169
March 25, 1976 (Superseded by Memorandum of August 1, 1977) 40169
April 14, 1976 (See Memorandum of August 1, 1977) 40169
November 5, 1976 (See Memorandum of August 1, 1977) 40169
November 19, 1976 (Supplemented by Memorandum of July 21, 1977) 41401
July 20, 1977 39083
July 21, 1977 41401
August 1, 1977 40169
August 5, 1977 40171
August 11, 1977 42677
August 12, 1977 42185
August 25, 1977 ..... 43375, 43377, 43379, 43381, 43383

PROCLAMATIONS:
4514 42299
4515 43615
4516 43795
4517 43797

4 CFR

105 38891

5 CFR

213 ..... 39085, 39657, 40173–40175, 40215, 40866, 40867, 41265–41267, 41813, 41814, 42301, 42302, 42679, 43051–43053, 43617
713 40175

PROPOSED RULES:
890 41866

7 CFR

2 39869
16 42841
27 40677
68 40868

7 CFR—Continued

246 43206
271 42302
301 42302
318 41267
354 41267
406 39953
409 39956
650 40114
725 40881
905 40882
908 ..... 38892, 39359, 39959, 40678, 41095, 41603, 42841
909 42842
910 ..... 39085, 39359, 39669, 40882, 41814, 43086
918 40883
922 41268
926 40678
927 39670
929 40679
944 40885
945 ..... 40886, 43053
946 ..... 39671, 42679
947 41403
948 39360
958 39360
967 39361
980 40175
1011 40888
1040 41603
1205 41404
1260 43053
1421 ..... 40175–40185, 41269
1425 40187
1427 ..... 40421, 42308
1443 41269
1473 41269
1479 41269
1807 42843
1821 ..... 39085, 41815
1822 ..... 39361, 39362, 40679
1832 41815
1888 42843
1980 ..... 39362, 41816
2024 40680
2851 42309
2852 41843
2858 41846

PROPOSED RULES:
27 43088
220 40911
246 43224
657 42359
780 39223
905 43398
910 43639
917 ..... 39989, 42691
919 41431
926 ..... 41130, 43639
927 41644
929 39989
931 41866
932 43640
945 39395
946 38913
967 ..... 39108, 41431
981 42227
989 41867
991 42227
993 ..... 39672, 41644
1002 41582
1006 ..... 38913, 43855

7 CFR—Continued

PROPOSED RULES—Continued
1011 39108
1012 ..... 38913, 43855
1013 ..... 38913, 43855
1097 ..... 41873, 43859
1102 ..... 41873, 43859
1108 ..... 41873, 43859
1133 40216
1435 40216
1701 43640

8 CFR

235 41847
242 38892

PROPOSED RULES:
108 39672

9 CFR

82 39658
92 41848
112 41849
113 43617
160 41850
161 41850
319 42309
325 ..... 39086, 42309

PROPOSED RULES:
1 42044
3 42044
51 40911
77 43088
95 43640
381 41873

10 CFR

0 38893
50 43385
70 43821
71 39364
140 43385
Ch. II 41095
202 41269
210 39959
211 ..... 39959, 41566, 42770, 43821
212 ..... 38894, 39195, 39959, 41566, 43054
213 39087
430 39964
460 41270

PROPOSED RULES:
73 42228
205 41242
210 40915
211 ..... 39114, 39395, 39990, 40448, 40915, 41242
212 ..... 39114, 40915, 41242, 41396, 41572
303 43859
305 43859
307 43859
309 43859
430 ..... 39114, 39673, 40217, 40701, 40826, 42361, 43930
450 41645

12 CFR

7 ..... 39969, 42537
202 ..... 39368, 40424
207 41604
220 41604
221 41604
224 41604
226 ..... 40424, 42843–42845, 43057

V 42169 AUG 31 77
UMI

12 CFR—Continued

329 40425
343 40891
505 39368
545 39088
563 39198
563b 39088
571 42691
611 43824
614 43824
615 43824
701 39369

PROPOSED RULES:

308 41130
311 41130
564 39115

13 CFR

120 40900
123 39970
301 39970
305 43618
309 43618
317 38896

PROPOSED RULES:

107 39992

14 CFR

1 ..... 41101, 42187
39 ..... 38896–38900, 39373–39377, 39971, 39972, 41102–41106, 41622–41625, 42188–42192, 42845–42846, 43385, 43386
45 41101
71 ..... 38901, 39378, 39379, 39972–39976, 40690–40693, 41107–41113, 41625–41627, 42192–42194, 42847, 43387, 43388
73 ..... 39379, 41113
75 39379
91 42187
97 ..... 39380, 41114, 41627, 42847
121 ..... 42194, 43386, 43390
135 ..... 42194, 43390
152 42849
207 43827
208 43828
212 43828
214 43828
221 43828
244 43619
296 43620
371 43830
372a 43831
373 43831
378 43831
378a 43389, 43831
399 43620
1204 41628
1241 42679

PROPOSED RULES:

25 41236
39 ..... 38917, 41131–41133, 41647, 43406, 43407
71 ..... 38917, 39993, 39994, 40710, 40711, 41134–41137, 41648, 42228, 43408
75 ..... 38917, 40711
91 43408
121 ..... 41649, 42874, 43408, 43490
123 ..... 41649, 43408
135 ..... 41649, 43408, 43490
207 43409
208 43409
221 43409

14 CFR—Continued

PROPOSED RULES—Continued

241 ..... 39115, 42691
245 ..... 39115, 42691
246 ..... 39115, 42691
371 43409
372 43409
372a 43409
373 43409
378 ..... 40450, 43409
378a 43409
399 42229

15 CFR

46 39976
70 38901

PROPOSED RULES:

16 43641
904 40711
923 43552
930 43586

16 CFR

2 ..... 39658, 42195
3 ..... 39658, 39977
4 42195
13 ..... 39198, 40681, 42309, 42850, 43832
18 39660
22 39660
27 ..... 41270, 43058
35 39660
47 39660
66 39660
105 39660
138 39660
177 39660
191 39660
206 39660
226 39680
433 40426
702 39381
1025 39089
1026 39089
1201 40188
1401 42780
1500 43390
1505 43391

PROPOSED RULES:

13 ..... 40714, 41297, 41431, 41649, 41874, 42692, 43091, 43864
423 42875
440 43867
441 ..... 39995, 42693
443 43868
453 41651
705 39223
801 ..... 39040, 39995, 41875, 43412
802 ..... 39040, 39995, 41875
803 ..... 39040, 39995, 41875
1500 39648
1605 39402

17 CFR

1 42748
140 39033
147 42851
200 ..... 40189, 40900
211 42310
231 ..... 42196, 43058
239 ..... 40900, 41405
240 ..... 38902, 39090, 40900, 41405, 42851
241 ..... 41022, 43058
249 40902
270 41405
271 ..... 42196, 43058

17 CFR—Continued

PROPOSED RULES:

1 ..... 39036, 42767
210 41433
211 41433
230 41875
231 41434
239 41139
240 ..... 41138, 41434
241 41434
270 41139
274 41139

18 CFR

1 40191
3 ..... 40191, 41276
4 40191
5 40191
6 40191
16 40191
35 ..... 39660, 41277
101 39661
104 39661
141 39661
154 ..... 41276, 41277
157 ..... 39090, 41276
201 39661
204 39661
260 39661

19 CFR

12 42683
114 42851
133 41278
153 ..... 39200, 41406
159 41630
205 40426
210 40428

PROPOSED RULES:

134 39227

20 CFR

416 ..... 39098, 40191
602 40192
702 42548
901 ..... 39200, 41115
902 39200

PROPOSED RULES:

404 38918
405 39995
653 43202

21 CFR

Ch. I 40904
6 39100
14 41851
20 42526
25 42526
73 ..... 43061, 43620
81 ..... 43061, 43620
133 39101
176 ..... 41852, 41853
177 43621
193 41279
310 ..... 41374, 43061
320 42311
450 43061
510 41854
520 ..... 41854, 42312
522 ..... 39103, 41855
558 41855
561 41279
640 43063
700 41374
801 40215

21 CFR—Continued

807 42526
809 42530

PROPOSED RULES:

101 43095
105 43091
131 43091
155 43641
172 43092
182 ..... 39117, 41299, 41876, 43642–43644
184 ..... 39117, 41299, 41876, 43642–43644
186 41299
312 41301
320 39675
431 42361
500 40217
505 43770
510 43770
514 42361
558 43770
808 41301
895 42000

22 CFR

123 ..... 39103, 41631, 42851
124 ..... 41631, 42852
127 42852
128 42853
202 40428
41 42856
404 41856

23 CFR

160 41279
655 ..... 41280, 41633

PROPOSED RULES:

Ch. I 41651
625 42876
630 42877

24 CFR

20 43622
25 40193
203 40430
803 42554
811 39209
880 ..... 39212, 42292
881 ..... 39212, 42292
883 39212
888 42554
1914 ..... 42312–42317, 43832
1915 42794
1917 ..... 43542–43549, 43906

PROPOSED RULES:

203 42693
204 42693
1917 43718–43727

25 CFR

141 40194
221 41116
252 40904
258 40904

PROPOSED RULES:

11 42694
54 41435
171 42695
177 42695
182 42695
183 42695

26 CFR

1 42318
7 ..... 39104, 42197

26 CFR—Continued

9 42198
11 ..... 39382, 41856

PROPOSED RULES:

1 ..... 38919, 39227, 39233, 39408, 39997, 43412
301 ..... 39227, 39233, 39997
404 ..... 39227, 39233, 39997

27 CFR

178 ..... 41116, 43833

PROPOSED RULES:

4 42230
181 ..... 39316, 40921, 42233

28 CFR

0 ..... 40433, 41407, 43392
2 ..... 39668, 39808, 41407
16 ..... 40905, 41408
17 39212
32 39386

PROPOSED RULES:

2 ..... 41435, 41436, 41878
540 41368
541 41368
548 41368
551 41368

29 CFR

4 43063
40 43626
102 41117
452 ..... 39105, 41280
1208 43627
1601 41280
1602 43065
1908 41386
1952 ..... 40194, 40195, 41857, 43628
2520 43630
2602 41858
2606 41858
2610 41858
2614 43066

PROPOSED RULES:

5 43098
70a 39997
97 43098
1061 42022
1601 43099
1910 39120
1960 43100
2608 39120
2610 42361

30 CFR

PROPOSED RULES:

70 ..... 42362, 43646, 43647
71 ..... 43646, 43647
2170 42540
2171 42540

31 CFR

51 41859

32 CFR

Ch. I 39213
191 42857
199 41118
286b 39214
290 40433
621 43799
721 43070
806b 41409
852 42684

32 CFR—Continued

PROPOSED RULES:

114 39234
143 41306
286 40552
865 39999

32A CFR

PROPOSED RULES:

671 43038

33 CFR

110 ..... 39386, 40693, 40694
117 ..... 38903, 39386, 41118, 42199
183 41634
204 ..... 40196, 41281
207 40908
274 41118

PROPOSED RULES:

117 ..... 38919, 38920, 42234
154 39408
155 39408
156 39408
157 39999

34 CFR

231 40694

35 CFR

69 40196

36 CFR

67 40436
200 40438
292 39387

37 CFR

PROPOSED RULES:

2 40450
4 40450
201 ..... 41437, 41438, 42362

38 CFR

2 ..... 41409, 41410
3 43834
8a 43834
13 41410
14 41410

PROPOSED RULES:

8 40452
17 ..... 39409, 41439

39 CFR

111 ..... 38904, 41634
233 43836

PROPOSED RULES:

111 ..... 39411, 40219, 40922, 43868
241 42695
245 42695
246 42695
247 42695
248 42695
259 43647
265 42695

40 CFR

52 ..... 39389, 39664, 40695, 41121, 42218, 42219, 43078
55 41282
60 ..... 39389, 41122, 41424, 41754
61 41424
86 40697
136 39977

V 42 169 AUG 31 77 UMI

40 CFR—Continued

140 ... 43837
180 ... 39977, 40909
204 ... 41635
416 ... 40697
419 ... 43837
610 ... 40438

PROPOSED RULES:

20 ... 39414
52 ... 38920, 38921, 39235, 39415, 40220, 42879, 43868
61 ... 40452
85 ... 40221, 43412
123 ... 42882
124 ... 42882
125 ... 42882
180 ... 40715, 40922, 43869
205 ... 43226
211 ... 41139
700 ... 39182
710 ... 39182
762 ... 42882

41 CFR

1-4 ... 39215, 41635, 43079
1-8 ... 43080
5A-1 ... 43838
5A-2 ... 43839
5A-3 ... 43839
5A-7 ... 43839
5A-11 ... 43839
5A-16 ... 43839
5A-19 ... 43839
5A-72 ... 43840
5A-73 ... 43840
5A-76 ... 43840
7-7 ... 42689
Ch. 9 ... 41128
29-1 ... 40197
29-2 ... 40201
29-3 ... 40201
29-12 ... 40205
29-26 ... 40206
29-61 ... 40206
101-11 ... 43082
101-41 ... 41128
101-42 ... 40847
101-43 ... 40847
101-44 ... 40850
101-45 ... 40852
101-46 ... 40858
101-47 ... 40698
105-63 ... 40858
114-25 ... 39978
114-60 ... 42857

PROPOSED RULES:

9-4 ... 40923
14-1 ... 43647
14-7 ... 43647
24-1 ... 42234
60-4 ... 41378

42 CFR

57 ... 43630
101 ... 42857, 43083

43 CFR

423 ... 41122

PUBLIC LAND ORDERS:

1168 (Amended by PLO 5623) ... 43842
2508 (Revoked by PLO 5625) ... 43841
5622 ... 42199

43 CFR—Continued

PUBLIC LAND ORDERS—Continued

5623 ... 43842
5624 ... 43840
5625 ... 43841

PROPOSED RULES:

424 ... 41440
426 ... 43044
1880 ... 40000

45 CFR

100a ... 40207
100b ... 42475
116d ... 43396
121a ... 42476
121m ... 42517
122a ... 42005
166 ... 42016
173 ... 40209
191 ... 42754
194 ... 40207
196 ... 39218
1015 ... 41282
1050 ... 43842

PROPOSED RULES:

11 ... 41140
146a ... 40221
170 ... 40926, 43870
1601 ... 43100

46 CFR

2 ... 41636
10 ... 39978
35 ... 41636
151 ... 41636
390 ... 43632

PROPOSED RULES:

162 ... 40000
176 ... 43413
502 ... 40452

47 CFR

0 ... 42341, 43846
2 ... 42203, 43084
15 ... 39979
73 ... 38905, 39665, 39981, 39982, 40210, 41123-41125, 41283, 42858, 43085, 43635, 43847-43849
75 ... 43635
76 ... 41127, 41284, 42689
81 ... 39666
87 ... 38906
89 ... 42203, 42343
91 ... 42203
93 ... 42343

PROPOSED RULES:

1 ... 40715
2 ... 43649
13 ... 40939
43 ... 40454
61 ... 40002, 43108
63 ... 39236
73 ... 40003, 40454, 41141, 41302-41305, 41879, 42700, 43870
81 ... 40223, 40224, 40455, 43649
83 ... 40224, 43649
89 ... 39560
90 ... 39560
91 ... 39560, 41143

47 CFR—Continued

PROPOSED RULES—Continued

93 ... 39560
95 ... 42362

49 CFR

99 ... 39220
173 ... 42206
178 ... 42206
192 ... 42865
195 ... 42865
210 ... 42343
218 ... 43853
268 ... 43030
529 ... 39983
571 ... 39983, 39984, 42208
580 ... 38906
581 ... 38909
1033 ... 39221, 39389, 39985, 41424, 43637
1036 ... 40444
1051 ... 40860
1057 ... 39666
1100 ... 40698, 42689, 43637
1104 ... 40860
1108 ... 39222
1109 ... 39390, 39985
1251 ... 39667
1254 ... 39390
1307 ... 42689, 43637

PROPOSED RULES:

172 ... 43416
173 ... 40003, 41651, 43416
174 ... 40003, 41651, 43416
176 ... 43416
178 ... 40003, 41651
179 ... 40003, 41651
193 ... 42235
393 ... 43414
571 ... 43414
Ch. X ... 43872
1047 ... 40459
1082 ... 40459
1106 ... 39243
1241 ... 42701
1249 ... 42701
1307 ... 41144

50 CFR

17 ... 39985, 40682-40685, 42351
20 ... 39106, 39667, 40211, 41636
21 ... 42353
26 ... 40213, 41425, 43849
29 ... 43916
32 ... 38909-38912, 39391-39394, 40214, 40445-40447, 40690, 40861-40865, 41127, 41426-41429, 41642, 41861-41865, 42210-42215, 42354-42358, 42866-42873, 43085, 43086, 43393-43395, 43637, 43638, 43849-43853
33 ... 40214, 41426, 43396
216 ... 39394, 41128, 41879
371 ... 40866
601 ... 42216
602 ... 42216
611 ... 39106, 41430
680 ... 42216

PROPOSED RULES:

17 ... 38921, 39121, 40716, 40823
20 ... 41145
23 ... 40459
26 ... 42883
32 ... 40465, 43108
260 ... 41440

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	Date
38891-39080	Aug. 1
39081-39193	2
39195-39358	3
39359-39656	4
39657-39952	5
39953-40167	8
40169-40419	9
40421-40675	10
40677-40845	11
40847-41094	12
41095-41264	15
41265-41399	16
41401-41602	17
41603-41812	18
41813-42183	19
42185-42297	22
42299-42676	23
42677-42837	24
42839-43049	25
43051-43372	26
43373-43613	29
43615-43793	30
43795-43955	31

V 42 169 AUG 31 77 UMI

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

DOT/CG—Drawbridge operation regulations:
Lake Washington, Wash.. 38903; 8–1–77
Wishkah and Hoquiam Rivers, Wash. 38903; 8–1–77
FAA—Airworthiness directives
Pratt and Whitney JT8D turbo-fan engines..... 41103; 8–15–77
Bell Model 212 helicopters..... 38896; 8–1–77
Dowty Rotol Ltd., Type R 245/4–40–4.5/13, R 259/4–40–4.5/17 and R 209/4–40–4.5/2 propellers. 38898; 81–77
Hawker Siddely Aviation, Ltd. Model DH–104 airplanes..... 38899; 8–1–77
FCC—Providing for use of frequencies 530, 1606, and 1612kHz by stations in local government radio services for transmission of certain kinds of information to traveling public..... 35960; 7–13–77
SEC—Tender offers; filing and disclosure requirements..... 38341; 7–28–77
Beneficial ownership disclosure requirements..... 40900; 8–12–77
[First published at 42 FR 12342, 3–3–77]

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT
Agricultural Marketing Service—
Almonds grown in Calif.; salable and reserve percentages for 1977–78 crop year; comments by 9–7–77. 42227; 8–22–77
Almonds grown in Calif.; expenses of the Board and rate of assessment for the 1977–78 crop year; comments by 9–7–77. 42227; 8–22–77
Hops; expenses and rate of assessment; comments by 9–7–77. 42227; 8–22–77
Raisins produced from grapes grown in California; improvement of administrative operating procedures; comments by 9–9–77. 41867; 8–19–77

ARTS AND HUMANITIES, NATIONAL FOUNDATION
National Endowment for the Arts—
Theatre Research Project, New York, N.Y., 9–9–77..... 42932; 8–25–77

COMMODITY FUTURES TRADING COMMISSION
Futures commission merchants; minimum financial requirements; comments by 9–8–77.... 42767; 8–24–77

CONSUMER PRODUCT SAFETY COMMISSION
Identification of certain toys and other articles presenting potential puncture or laceration injury hazards due to sharp points; comments by 9–6–77. 39648; 8–4–77
Power lawn mowers safety standard; reply comments by 9–6–77. 34892; 7–7–77
[First published at 42 FR 23052, May 5, 1977]
Toys; puncture or laceration hazards; comments by 9–6–77. 39648; 8–4–77

ENVIRONMENTAL PROTECTION AGENCY
Air quality implentation plans:
Massachusetts; comments by 9–8–77. 40220; 8–9–77
Oklahoma; comments by 9–6–77. 39415; 8–4–77
Certification of pollution control facilities to conform to Tax Reform Act of 1976; comments by 9–6–77. 39414; 8–4–77
Pollution control facilities; certification; comments by 9–6–77. 39414; 8–4–77

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Designation of 706 Agency; Sioux Falls (S.D.) Human Relations Commission; comments by 9–9–77. 43099; 8–26–77
Procedural regulations; comments by 9–8–77..... 42022; 8–19–77

FEDERAL COMMUNICATIONS COMMISSION
Pulsed carrier emissions; low power Business Radio Service frequencies; reply comments by 9–9–77. 41143; 8–15–77
VHF maritime mobile public correspondence channels; assignment to coast stations; comments by 9–6–77. 40455; 8–10–77

FEDERAL ENERGY ADMINISTRATION
Exemption of motor gasoline from mandatory petroleum allocation and price regulation; environmental assessment; comments by 9–6–77. 40915; 8–12–77
Gasoline Marketing Advisory Committee, Ad Hoc Subcommittee, Washington, D.C. (open with restrictions), 9–9–77. 42895; 8–25–77
Mandatory petroleum allocation; crude oil buy/sell program; comments by 9–9–77..... 42770; 8–24–77
Motor gasoline; exemption from mandatory petroleum allocation and price regulations; comments by 9–6–77. 40915; 8–12–77
Propane and other natural gas liquids; allocation and pricing; comments by 9–8–77..... 41242; 8–15–77

FEDERAL MARITIME COMMISSION
Subpena and discovery procedures, and appeals; comments by 9–9–77. 40453; 8–10–77

FEDERAL POWER COMMISSION
Natural gas flared prior to coal mining operations; exemption from certificate regulation; comments by 9–7–77. 37005; 7–19–77

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Food and Drug Administration—
Cultured and acidified buttermilk, yogurts, milks, and eggnog; identity standards; comments by 9–8–77. 29919; 6–10–77
Frozen desserts; identity standards and confirmation of effective date; comments by 9–6–77. 35152; 7–8–77

INTERIOR DEPARTMENT
Bureau of Land Management—
Payments in lieu of taxes to local governments; comments by 9–7–77..... 40000; 8–8–77
Range management and technical services; grazing administration and trespass; comments by 9–6–77. 35334; 7–8–77
National Park Service—
Historic preservation certifications; additional interim procedures; comments by 9–9–77. 40436; 8–10–77

INTERSTATE COMMERCE COMMISSION
Aircraft transportation; property and passengers; comments extended to 9–7–77..... 35174; 7–8–77
[First published at 42 FR 26667, May 25, 1977]

LABOR DEPARTMENT
Office of the Secretary—
Protection of individual privacy records; comments by 9–7–77. 39997; 8–8–77

NATIONAL SCIENCE FOUNDATION
Advisory Council, Task Group No. 3, Washington, D.C. (open), 9–9–77. 42932; 8–25–77

POSTAL SERVICE
Business reply mail; format; comments by 9–10–77..... 40219; 8–9–77
Second and bulk third-class mail; use of pressure sensitive package labels; comments by 9–10–77. 40922; 8–12–77

SECURITIES AND EXCHANGE COMMISSION
Investment, and management investment companies; plans for deregistration and quarterly reports; comments by 9–4–77.... 38187; 7–27–77
Securities confirmations; comments by 9–9–77..... 41434; 8–17–77
[First published at 42 FR 33348, June 30, 1977]

SMALL BUSINESS ADMINISTRATION
Investment companies; expenditures pending disposition and for prior mortgage interest; comments by 9–7–77..... 39992; 8–8–77

TRANSPORTATION DEPARTMENT
Federal Aviation Administration—
Airworthiness directives:
Avions Marcel Dassault-Brequet Aviation model Falcon 10 airplanes; comments by 9–8–77. 37824; 7–25–77

Dowty Rotol, Ltd., Type R193/4–30–4/50 and R193/4–30–4/61 Propellers; comments by 9–13–77..... 38917; 8–1–77
Messerschmitt - Bolkow (MRB) model BO–105A and BO–105C helicopters; comments by 9–6–77..... 37416; 7–21–77
Rolls Royce Dart Engines; comments by 9–6–77. 39398; 8–4–77
Alteration and extension of Federal airways; San Antonio, Tex.; comments by 9–5–77. 39401; 8–4–77
Federal airway; alteration; comments by 9–5–77..... 41648; 8–18–77
Federal Airways; San Antonio, Tex.; comments by 9–5–77. 39401; 8–4–77
Transition area:
Columbia, Miss.; comments by 9–6–77..... 39994; 8–8–77
Materials Transportation Bureau—
Hazardous materials; conversion of exemptions to generally applicable rules; comments by 9–6–77. 40003; 8–8–77
Office of the Secretary—
Indiana; standard time zone; boundary relocation; comments by 9–9–77..... 34341; 7–5–77

VETERANS ADMINISTRATION
Medical information programs; comments by 9–6–77.... 39409; 8–4–77
Medical information; grants for exchange; comments by 9–6–77. 39409; 8–4–77
Service Disabled Veterans Insurance; application on behalf of mentally incompetent veterans; comments by 9–9–77..... 40452; 8–10–77

Next Week's Meetings

AGRICULTURE DEPARTMENT
Agricultural Marketing Service—
Shippers Advisory Committee, Lakeland, Fla. (open), 9–8–77. 42239; 8–22–77
Cooperative State Research Service—
Committee of Nine, Fargo, N.D. (open), 9–8–77.... 39417; 8–4–77

CIVIL RIGHTS COMMISSION
Advisory Committees:
Illinois, Chicago, Ill. (open), 9–6–77. 39692; 8–5–77
Minnesota, St. Paul, Minn. (open), 9–9–77..... 39693; 8–5–77

COMMERCE DEPARTMENT
Bureau of the Census—
Census Advisory Committees on the 1980 Census on: The Black Population; the Spanish Origin Population; and the Asian and Pacific Americans Population, Alexandria, Va. and Suitland, Md. (open), 9–8 and 9–9–77..... 41461; 8–17–77
Domestic and International Business Administration—
Computer Systems Technical Advisory Committee, Hardware Subcommittee, Washington, D.C. (closed), 9–7–77..... 41892; 8–19–77
Computer Systems Technical Advisory Committee, Technology Transfer Subcommittee, Washington, D.C. (closed), 9–8–77.. 41893; 8–19–77
Computer Systems Technical Advisory Committee, Washington, D.C. (partially closed), 9–8–77. 42704; 8–24–77
Exporters' Textile Advisory Committee; Washington, D.C. (open), 9–8–77..... 41318; 8–16–77
Maritime Administration—
Practical Firefighting Facility, New Orleans, Ohio (open), 9–9–77. 38626; 7–29–77
National Oceanic and Atmospheric Administration—
Gulf of Mexico Fishery Management Council, Dallas, Tex. (partially closed), 9–7 thru 9–9–77. 42367; 8–23–77
New England Fishery Management Council, Peabody, Mass. (open), 9–7 and 9–8–77.. 41655; 8–18–77
Pacific billfish and sharks; preliminary fishery management plan, Kailua-Kona, Hawaii (open), 9–10–77..... 40755; 8–11–77

DEFENSE DEPARTMENT
Air Force Department—
Scientific Advisory Board Ad Hoc Committee on Wide Area Munitions; Eglin AFB, Fla. (closed), 9–7 and 9–8–77..... 41469; 8–17–77
Scientific Advisory Board Aerospace Vehicles Panel Ad Hoc Committee on CX5A Structural Information, Marietta, Ga. (open), 9–7 and 9–8–77..... 41469; 8–17–77
Navy Department—
Board of Visitors to the United States Naval Academy, Annapolis, Md. (open), 9–9 and 9–10–77. 38015; 7–26–77
Office of the Secretary—
Advisory Group on Election Devices, Working Group C, New York, N.Y. (closed), 9–7–77.... 40008; 8–8–77
Defense Intelligence Agency Scientific Advisory Committee, Rosslyn, Va. (closed), 9–9–77.... 38930; 8–1–77
Freedom of Information Act; procedures for requests; comments by 9–9–77..... 40552; 8–10–77
Office of the Secretary—
Wage Committee, Washington, D.C. (closed), 9–6–77.... 35183; 7–8–77

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
Low-head hydroelectric energy, Durham, N.H. (open with restrictions), 9–7 thru 9–9–77..... 41906; 8–19–77

FEDERAL COMMUNICATIONS COMMISSION
Implementation of allotment by World Maritime Administrative Radio Conference, Geneva, 1974; assignment of radiotelephone frequencies; comments by 9–6–77..... 40224; 8–9–77
Personal Use Radio Advisory Committee, Task Area Group on General Mobile Radio Service, Washington, D.C. (open), 9–9–77..... 42709; 8–24–77
Radio Technical Commission for Marine Services, Special Committee No. 70, New York, N.Y. (open with restrictions), 9–8–77..... 41908; 8–19–77
Radio Technical Commission for Marine Services, Technical Specs Working Group, New York, N.Y. (open with restrictions), 9–7–77. 41908; 8–19–77

GENERAL SERVICES ADMINISTRATION
Architectural and Engineering Services Regional Public Advisory Panel, Chicago, Ill. (open), 9–9–77. 42380; 8–23–77

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Alcohol, Drug Abuse, and Mental Health Administration—
Mental Health National Advisory Council, Rockville, Md. (partially open), 9–7 and 9–9–77.... 39720; 8–5–77
National Institutes of Health—
Aging Review Committee, Bethesda, Md. (open), 9–8 and 9–9–77. 40253; 8–9–77
Arthritis National Advisory Board, Rosslyn, Va. (open), 9–7 and 9–8–77..... 40255; 8–9–77
National Cancer Institute, Committee of Cancer Immunotherapy, Bethesda, Md. (partially open), 9–6 thru 9–8–77..... 40255; 8–9–77
National Large Bowel Cancer Project Working Cadre, Houston, Tex. (partially open), 9–8 and 9–9–77. 40255; 8–9–77
Office of the Secretary—
Child and Family Development Research Review Committee, Washington, D.C. (closed), 9–7 thru 9–10–77..... 40779; 8–11–77
Education of Disadvantaged Children National Advisory Council, Washington, D.C. (open with restrictions), 9–8 thru 9–10–77. 41668; 8–18–77
Education of Disadvantaged Children, National Advisory Council, Washington, D.C. (open), 9–9 and 9–10–77..... 2386; 1–11–77
Protection of Human Subjects of Biomedical and Behavioral Research National Commission, Bethesda, Md. (open), 9–9 and 9–10–77. 42716; 8–24–77

JUSTICE DEPARTMENT
Immigration and Naturalization Service—
Hispanic Advisory Committee on Immigration and Naturalization, New York, N.Y. (open), 9–7 and 9–8–77..... 41932; 8–19–77

NUCLEAR REGULATORY COMMISSION
Reactor Safeguards Advisory Committee, Washington, D.C. (partially open), 9–8 thru 9–10–77..... 42266; 8–22–77
Reactor Safeguards Advisory Committee, Reactor Safety Research Subcommittee, Washington, D.C. (partially open), 9–7–77..... 42268; 8–22–77
Reactor Safeguards Advisory Committee, Reactor Safety Research Subcommittee, Washington, D.C. (open with restrictions), 9–7–77.. 42262; 8–22–77

V 42 169 AUG 31 77 UMI

Reactor Safeguards Advisory Committee, Subcommittee on Reactor Safety Research, Working Group No. 6; Washington, D.C. (open with restrictions), 9–7–77..... 42263; 8–22–77

Reactor Safeguards Advisory Committee, Subcommittee on Regulatory Activities (partially open), 9–7–77. 42267; 8–22–77

Reactor Safeguards Advisory Committee, Subcommittee on Regulatory Activities; Washington, D.C. (open with restrictions), 9–7–77. 42264; 8–22–77

SECURITIES AND EXCHANGE COMMISSION

Advisory Committee on Corporate Disclosure, Washington, D.C. (open), 9–6–77 ..... 38451; 7–28–77

STATE DEPARTMENT

Office of the Secretary—

Law of the Sea Advisory Committee, Washington, D.C. (closed), 9–9–77. 42274; 8–22–77

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Washington, D.C. (open), 9–7 and 9–8–77..... 40803; 8–11–77

U.S. National Committee for the International Radio Consultative Committee, Study Group 5, Washington, D.C. (open), 9–9–77..... 40803; 8–11–77

SUSQUEHANNA RIVER BASIN COMMISSION

South Harrisburg local flood protection project; Harrisonburg, Pa. (open), 9–6–77..... 41338; 8–16–77

TELECOMMUNICATIONS POLICY OFFICE

Frequency Management Advisory Council, Washington, D.C. (open), 9–9–77. 42719; 8–24–77

TRANSPORTATION DEPARTMENT

Coast Guard—

Chemical Transportation Industry Advisory Committee, Subcommittee on Ships' Stores, Washington, D.C. (open), 9–7–77.... 42275; 8–22–77

National Highway Traffic Safety Administration—

Motor Vehicle Safety National Advisory Council, Washington, D.C. (open with restrictions), 9–8 and 9–9–77..... 41693; 8–18–77

VETERANS COMMITTEE

State Committee on Educational Allowances, Nashville, Tenn. (open), 9–8–77..... 40806; 8–11–77

Wage Committee, Washington, D.C. (closed), 9–8–77.... 31214; 6–20–77

Next Week's Public Hearings

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

Pacific billfish and sharks; preliminary fishery management plan, Honolulu, Hawaii (open), 9–7–77..... 40755; 8–11–77

Prohibiting take of bowhead whales; draft environmental impact statement, Washington, D.C. (open), 9–8–77..... 41655; 8–18–77

DEFENSE DEPARTMENT

Office of the Secretary—

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); implementation; Washington, D.C. (open with restrictions), 9–7 and 9–8–77. 41118; 8–15–77

ENVIRONMENTAL PROTECTION AGENCY

Discharges into navigable waters in Illinois, Chicago, Ill. (open), 9–7–77. 39421; 8–4–77

FEDERAL ENERGY ADMINISTRATION

Motor gasoline; exemption from mandatory petroleum allocation and price regulations, various states (open), 9–6 thru 9–8–77..... 40915; 8–12–77

INTERNATIONAL TRADE COMMISSION

Stainless steel and alloy tool steel, Washington, D.C. (open), rescheduled to 9–7–77..... 37258, 7–20–77 [First published at 42 FR 32323, 6–24–77]

NATIONAL CAPITAL PLANNING COMMISSION

Draft environmental impact statement on location and program for the proposed Washington Civic Center; Washington, D.C. (open), 9–8–77..... 40998; 8–17–77

TRANSPORTATION DEPARTMENT

Coast Guard—

Proposed bridge across the Nehalem River, mile 6.5, Nehalem, Oreg. (open), 9–8–77.. 38461; 7–28–77

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

presidential documents

Title 3—The President

PROCLAMATION 4516

National Hispanic Heritage Week, 1977

By the President of the United States of America

A Proclamation

The Hispanic heritage of over sixteen million Americans, representing a broad diversity of cultures, has enriched our Nation by contributing to the advancement of art and science and by affirming the importance of family bonds and community spirit.

Today, Americans have come to recognize the important role of the Hispanic community both in the life and work of the United States and in our efforts to achieve understanding, mutual respect and common purpose with the Spanish-speaking nations of this hemisphere.

In recognition of our Hispanic heritage, the Congress, by joint resolution approved September 17, 1968 (36 U.S.C. 169f), has requested the President to issue annually a proclamation designating the week including September 15 and 16 as National Hispanic Heritage Week.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim the week beginning September 11, 1977, as National Hispanic Heritage Week and call upon the people of the United States, especially the educational community, to observe it with appropriate ceremonies and activities; to reflect on the influence of Hispanic culture in our land; and to encourage the full participation of Hispanic Americans in every phase of American life.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of August, in the year of our Lord Nineteen hundred seventy-seven, and of the independence of the United States of America the two hundred and second.

Jimmy Carter

[FR Doc.77–25559 Filed 8–29–77;4:02 p.m.]

V 42 169 AUG 31 77 UMI

PROCLAMATION 4517

Citizenship Day and Constitution Week, 1977

By the President of the United States of America

A Proclamation

On July 4, 1976, we joyfully celebrated the 200th anniversary of our Nation's independence. Now, on September 17, 1977, we commemorate the 190th anniversary of a quieter but equally momentous event: the signing of the Constitution of the United States, at Independence Hall, Philadelphia.

The Constitution audaciously proposed a new plan of government—a government through which the new Nation's people could, in the words of the Preamble, "form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity . . ."

With amendments, notably the Bill of Rights, that Constitution has endured these 190 years as the supreme law of our land. We are its inheritors—the "posterity" whose liberty the Founding Fathers wished to secure—and it is fitting for us to mark the anniversary of what they did.

By a joint resolution of February 29, 1952 (36 U.S.C. 153), Congress designated September 17 as Citizenship Day, in commemoration of the formation and signing of the Constitution and in recognition of all who, by coming of age or by naturalization have attained the full status of citizenship, and authorized the President to issue annually a proclamation calling upon officials of the Government to display the flag on all Government buildings on that day. By a joint resolution of August 2, 1956 (36 U.S.C. 159), the Congress authorized the President to designate the period beginning September 17 and ending September 23 of each year as Constitution Week and to issue a proclamation calling for the observance of that week.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, call upon appropriate Government officials to display the flag of the United States on all Government buildings on Citizenship Day, September 17, 1977, the 190th anniversary of the signing of the Constitution. I urge Federal, State and local officials, as well as leaders of civic, educational and religious organizations to conduct related ceremonies and programs on that day.

I also designate as Constitution Week the period beginning September 17 and ending September 23, 1977, and urge all Americans to observe that week with ceremonies and activities in their schools, churches and in other suitable places in order to foster a better understanding of the Constitution, and of the rights and duties of United States citizens.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of August, in the year of our Lord nineteen hundred and seventy-seven, and of the Independence of the United States of America the two hundred and second.

Jimmy Carter

[FR Doc.77-25628 Filed 8-30-77;10:35 am]

V 42 169 AUG 31 77 UMI

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 32—National Defense

CHAPTER V—DEPARTMENT OF THE ARMY

SUBCHAPTER H—SUPPPLIES AND EQUIPMENT

[AR 725–1]

PART 621—LOAN AND SALE OF PROPERTY

Procedures and Responsibilities

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: This amendment revises procedures concerning the loan of Army-owned property to recognized National Veterans' Organizations for use at National and State conventions, and adds new rules assigning responsibilities and prescribing procedures on the sale of Ordnance property to individuals, non-Federal Government agencies, institutions and organizations; and provides information relative to issue, loan or donation of Government property to the Boy and Girl Scouts of America. This revision and addition was necessary due to the recent reorganization and the deletion of material no longer pertinent to the subject matter.

EFFECTIVE DATE: August 1, 1977.

ADDRESSES: Commander, US Army Materiel Development and Readiness Command, ATTN: DRCMM–SP, 5001 Eisenhower Avenue, Alexandria, VA 22333.

FOR FURTHER INFORMATION CONTACT:

Mrs. Caryl L. Veth, 274–9617/9674.

SUPPLEMENTARY INFORMATION: The rule is being adopted without a commenting period because it implements pertinent statutes, regulations in support of Federal and civilian agencies. Therefore, it is not considered necessary to invite public comment.

By authority of the Secretary of the Army,

ROME D. SMYTH,
Colonel, United States Army, Director, Administrative Management, The Adjutant General Center.

Accordingly, 32 CFR 621 is amended by revising § 621.1 and adding § 621.2 through § 621.4 as follows:

Sec.

621.1 Loan of Army/Defense Logistics Agency (DLA) owned property for use at national and State conventions.
621.2 Sales of ordnance property to individuals, non-Federal government agencies, institutions, and organizations.
621.3 Accounting for arms and accouterments loaned to other government agencies.
621.4 Issues, loans, and donations for scouting.

1. Present § 621.1 is revised as follows:

§ 621.1 Loan of Army/Defense Logistics Agency (DLA) owned property for use at national and State conventions.

(a) *General.* This section—

(1) Prescribes procedures for loan of Army-owned property to recognize National Veterans' Organizations for National or State conventions as authorized by Pub. L. 193, 81st Congress.

(2) Request for loans for National Youth Athletic or recreation tournaments sponsored by veterans' organizations listed in the "Veterans Administration Bulletin 23 (ALPHA)," will be processed by parent veterans' organizations.

(3) Loans are not authorized for other types of conventions or tournaments.

(b) *Items authorized for loan.* If available, the following items may be loaned for authorized veterans' organizations requirements.

(1) Unoccupied barracks.
(2) Cots.
(3) Mattresses.
(4) Mattress covers.
(5) Blankets.
(6) Pillows.
(7) Chairs, folding.
(8) Tentage, only when unoccupied barracks are not available.

(c) *Requests for loan.* (1) Requests by authorized veterans' organizations for loan of authorized Government property will be submitted to the appropriate CONUS Army Commander of the area in which the convention will be held or the Commander, Military District of Washington (MDW) if within his area.

(2) The tenure of loan is limited to 15 days from the date of delivery, except unusual circumstances. A narrative explanation will be provided to support loan requests for more than 15 days duration.

(3) Loan requests should be submitted by letter at least 45 days prior to required date, if practicable.

(4) Requests for loans will contain the following information:

(i) Name of veterans' organization requesting the loan.
(ii) Location where the convention will be held.
(ii) Dates of duration of loan.
(iv) Number of individuals to be accommodated.
(v) Type and quantity of equipment required.
(vi) Type of convention (State or National).
(vii) Complete instructions for delivery of equipment and address of requesting organizations.
(viii) Other pertinent information necssary to insure prompt delivery.

(d) *Responsibilities.* The Army or MDW Commander will:

(1) When the availability of personal and real property is determined, notify the requesting veterans' organization of the following:

(i) The items and quantities available for loan and the source of supply.
(ii) No compensation will be required by the Government for the use of real property.
(iii) No expense will be incurred by the United States Government in providing equipment and facilities on loan.
(iv) Costs of packaging, packing, transportation and handling from source of supply to destination and return will be borne by the requesting organization.
(v) All charges for utilities (gas, water, heat, and electricity) based on meter readings or such other methods determined will be paid by the veterans' organization.
(vi) Charges which may accrue from loan of DLA/GSA material in accordance with paragraph III, AR 700–49/DSAR 4140.27, and GSA Order 4848.7 and Federal Property Management Regulations, subparagraph 101–27.5.
(vii) The Army will be reimbursed for any material not returned.
(viii) Costs of renovation and repair of items loaned will be borne by the requesting organization. Renovation and repair will be accomplished in accordance with agreement between the Army Commander and the loanee to assure expeditious return of items.
(ix) Transportation costs in connection with the repair and renovation of property will also be at the expense of the using organization.
(x) Assure that sufficient guards and such other personnel necessary to protect, maintain, and operate the equipment will be provided by the loanee.
(xi) The period of loan is limited to 15 days from date of delivery, except as provided for in paragraph (c) of this section.
(xii) Any building or barracks loaned will be utilized in place and will not be moved.
(xiii) Upon termination of use, the veterans' organization will vacate the premises, remove its own property therefrom, and turn over all Government property.

(2) Specify a bond in an amount to insure safe return of real and personal property in the same condition as when borrowed. (In the case of personal property, this amount will be equal to the

V 42 I 169 A UG 31 77 UMI

total value of the items based on current acquisition costs.)

(i) An agreement will be executed between the Army Commander and the Veterans' Organization if the terms of the loan are acceptable. A sample loan agreement is shown at Figure 7–5 of this subchapter.

(ii) When the agreement has been executed and the bond furnished, requisitions will be submitted to the appropriate source of supply. Requisitions will indicate shipping destination furnished by the veterans' organization. Transportation will be by commercial bills of lading on a collect basis.

(iii) Appoint a Property Book Officer to maintain accountability for the Government property furnished under this regulation.

(3) Property Book Officer will:

(i) Assume accountability from the document used in transferring property to the custody of the veterans' organization.

(ii) Perform a joint inventory with the veterans' organization representative. Survey any shortage or damages disclosde by the joint inventory in accordance with AR 735–11.

(iii) Maintain liaison with the veterans' organization representative, an inventory of property being returned. Certify all copies of the receipt document with the veterans' organization representative.

(v) Insure the return of all property at the expense of loanee to the supply source or to repair facilities.

(vi) Obtain a copy of receipted shipping document from the installation receiving the property.

(vii) Determine cost and make demand on the loanee for:

(A) Items lost, destroyed, or damaged.

(B) Costs of repair or renovation. Estimated costs will be obtained from the accountable activity.

(C) Comply with instructions contained in AR 700–49/DSAR 4140.27 in the application of condition A and/or B, C, and T items utilized.

(D) Ascertain that items lost in transit are reconciled prior to assessing charges. Where the loss is attributable to other than the loanee, charges should not be borne by the borrower.

(viii) Request payment from the loanee. Checks are to be made payable to the Treasurer of the United States. Upon receipt of payment(appropriate fiscal accounts will be credited. The Property Transaction Record will be closed and the Stock Record Accounts audited.

(ix) Deposit collections in accordance with instructions contained in AR 37–103. In the event payment is not received within a reasonable period, Report of Survey Action will be initiated in accordance with AR 735–11.

(x) Reimburse DLA/GSA for the cost of any repair, reconditioning and/or materiel not returned.

§ 621.2 Sales of ordnance property to individuals, non-Federal government agencies, institutions, and organizations.

(a) *General.* This Section—

(1) Cites the statutory authority for, and prescribes the methods and conditions of sale of certain weapons, ammunition, and related items as specified herein.

(2) Applies to all sales of weapons and related material to individuals, organizations, and institutions, when authorized by the US Army Armament Materiel Readiness Command (ARR COM), and overseas commanders.

(3) Provides that sales under this section will be limited to quantities of an item which authorized purchasers can put to their own use. It is not intended that property be sold under the provisions of this section for the purpose of resale or other disposition.

(4) Does not apply to sales of property determined to be surplus. See AR 755–series.

(b) *Price.* Except as noted below, when sales of the Army property are made and the title thereto passes from the US Government, the prices charged will be the standard list price contained in the SC 1305/30 Management Data List series, plus cost of packing, crating, and handling and administrative charges.

(c) *Condition of sale.* Provisions apply to sales under this section, as follows:

(1) Sales will be made without expense to the Government.

(i) All costs incident to sales (including packing, crating, handling, etc.) will be paid in advance by the purchaser.

(ii) All costs incident to shipment (transportation, parcel post charges, etc.) will also be paid by the customer.

(iii) Payment for items and charges incident to sale will be made only by cashier's check, certified check, bank money order, or postal money order made payable to the Treasurer of the United States.

(iv) For other than items of ammunition and ammunition components, cash will be acceptable when consignee pickup is authorized or purchase is made in person.

(2) All financial transactions will be accomplished in accordance with applicable Department of the Army directives and regulations. Moneys collected for cost of items, as well as packing, crating, and handling will be deposited as an appropriate reimbursement as prescribed in applicable regulations.

(3) Generally, all sales are final and, normally, the US Government assumes no obligation or responsibility for repair, replacement or exchange, except as provided in AR 920–20. Purchasers will be so advised prior to making the sale. All weapons sold, however, will be safe for firing.

(4) Weapons sold at standard price will be supplied with equipment. Weapons sold at less than standard price will be supplied less equipment.

(5) Sales of specific items may be suspended at any time by the direction of CDR, ARRCOM.

(d) *Purchasing procedure.* (1) Except as provided in paragraph (e) of this section, all requests originating within CONUS for the purchase of small arms weapons, repair parts, cleaning, preserving, and target material will be submitted to the Commander, ARRCOM, Rock Island, IL 61201.

(i) Upon approval, these items will be shipped from Army depots stocking such material, based upon availability of material. Customers will be furnished instructions for submission of remittance.

(ii) Upon receipt of proper remittance from eligible customers ARRCOM will issue the necessary documents directing shipment from an Army depot where the items are available.

(2) In implementing the subchapter, oversea commands should designate installations within the oversea command to which requests for purchase of ammunition and related material will be directed.

(3) Depots shipping weapons to individuals, Director of Civilian Markmanship (DCM) affiliated rifle and pistol clerk, museums, veterans' organizations, and other US Government agencies will annotate shipping documents with the serial number of all the weapons they ship. Firearms shipped will be reported to Commander, ARRCOM, ATTN: DR SAR–MMD–D, Rock Island, IL 61202, using DA Form 3535 (Weapons Sales Record). DA Form 3535 may be obtained from Commander Letterkenny Army Depot, ATTN: DRXLE–ATD, Chambersburg, PA 17201.

(i) The transportation officer will ascertain estimated transportation security measures (costs) for shipment to destination. Such information will be transmitted by letter to consignee with request for acknowledgement that shipment will be accepted based on costs submitted.

(ii) Shipment will not be made unless consignee agrees to accept shipments. Refusal to accept shipment shall be reported to ARRCOM.

(4) CDR, ARRCOM is responsible for maintaining a record by serial number of all weapons reported by depot in accordance with paragraph (d)(3) of this section. He will establish procedures to screen purchase requests to insure compliance with any limitations established by this section.

(e) *Sales to individuals, organizations, and institutions.* (1) Sales of small arms weapons and ammunition are limited by statute (10 U.S.C. 4308) to members of the National Rifle Association (NRA). Such sales will be made in accordance with the provisions of this section and with other rules and regulations approved by the Secretary of the Army.

(2) Sales will be limited to M1 service rifles, either national match grade or

service grade. Only one such rifle and spare parts for it will be sold to an individual. No ammunition will be sold to individuals.

(3) Junior marksmanship clubs and junior marksmanship division affiliated within the Director of Civilian Marksmanship (DCM) pursuant to AR 920–20 may purchase limited quantities of .22 caliber ammunition.

(4) The DCM will determine the maximum quantity of such ammunition that clubs will be permitted to purchase in each fiscal year.

(5) Approved, non-profit summer camp organizations which are of a civic nature and are chartered or recognized by the NRA are allowed to purchase from the DCM at cost plus shipping and handling charges, 300 rounds of .22 caliber ammunition for each junior who is participating in a summer camp marksmanship program.

(6) Requests for purchase of ammunition by marksmanship clubs and summer camp organizations will be submitted to the DCM for approval. If he approves, the application will be forwarded to ARRCOM for processing. If it is disapproved, it is returned to applicant with reason(s) stated for disapproval.

(f) *Eligibility of purchasers.* In order to purchase a rifle under this program, an individual must:

(1) Be a member of the NRA as required by statute.

(2) Be a member of a marksmanship club affiliated with the DCM (AR 920–20).

(3) Based upon regular competitive shooting, have an established status as a marksman as determined by the DCM.

(g) *Purchase procedure.* (1) Individual members of the NRA desiring to purchase National Match grade M1 service rifles will submit requests to the Director of Civilian Marksmanship, Department of the Army, Washington, DC, 20315.

(i) The request should contain the name and address of the shooting club with which the purchaser is affiliated and appropriate evidence of status as a competitive marksman.

(ii) The individual's current NRA membership card (or exact facsimile thereto) will be forwarded with the request, accompanied by a self-addressed stamped envelope for return of the membership card.

(2) Upon receipt of a request, the Director of Civilian Marksmanship will forward to the individual a Certificate for Purchase of Firearms in the suggested format at figure 5–1 be completed, notarized and returned. When returned with check or arrangements for payment, the Certificate will be referred for appropriate verification in the records of US Government agencies and for other investigation as required. This is done to insure that the sale of a weapon to the applicant is not likely to result in a violation of law. The Privacy Act Statement for Certificate of Purchase of Firearms (figure 5–2) will be made available to the individual supplying data on the Certificate for Purchase of Firearms (suggested format, figure 5–1). Prior to requesting the individual to supply data on the Certificate for Purchase of Firearms (suggested format, figure 5–1) the Privacy Act Statement for Certificate will be made available to the individual concerned. The Privacy Act Statement will be reproduced locally on 8 x 10½ inch paper.

(i) A purchase application will be denied if the applicant fails to meet all the conditions required in the Certificate.

(ii) If an application is denied, the applicant will be informed of the action and will be given an opportunity to submit additional information justifying approval of the application.

(iii) If the results of the investigation are favorable, the application will be forwarded to ARRCOM for processing.

(h) *Targets and spare parts.* Marksmanship clubs affiliated with the DCM and individuals who are members of National Rifle Association are authorized to purchase from the Army targets of types not otherwise available from commercial sources. Request for such purchases will be submitted to the Director of Civilian Marksmanship for approval and processing. Individuals who are members of the National Rifle Association and who have in the past purchased rifles from the Army under the authority of 10 U.S.C. 4308(a)(5), may purchase spare parts for those rifles if the parts are available. Requests for purchase of spare parts will be submitted to the Director of Civilian Marksmanship for approval. If he approves the application, he will forward it to ARRCOM for processing. If he disapproves the application, he will return it to the applicant stating the reasons for disapproval. Current DA transportation security measures for weapons will be applied under procedures contained in paragraph (d)(1)(i) and (ii) of this section.

(i) *Cadets, US Military Academy.* (1) When approved by the CDR DARCOM, the Superintendent, US Military Academy may sell to cadets upon graduation from the Academy those sabers which no longer meet prescribed standards of appearance and/or serviceability.

(2) Application to purchase sabers under these provisions will be made in accordance with procedures established by the Superintendent.

(j) *Reserve Officer's Training Corps (ROTC) and National Defense Cadet Corps (NDCC).* Supplies required by educational institution for the training of units and individuals of the Reserve Officer's Training Corps and National Defense Cadet Corps, in addition to authorized items normally furnished to ROTC and NDCC schools, may be sold when available (10 U.S.C. 4627). Such purchasers will be in accordance with AR 145–2.

(k) *Manufacturers and designers.* (1) Under the provisions of title 10 U.S.C. Section 4506, the Secretary of the Army is authorized to sell to contractors or potential contractors such samples, drawings, and manufacturing and other information as he considers best for national defense. Procedures for such sale are contained in APP 13–1502.

(2) Under the provisions of title 10, U.S.C. Section 4507, the Secretary of the Army may sell to designers who are nationals of the United States, serviceable ordnance and ordnance stores necessary in the devolpment of designs for the Armed Forces. Designers will submit application to purchase to the appropriate Commodity Command.

(3) If any item normally requiring demilitarization pursuant to the Defense Disposal Manual (DoD 4160.21–M) and the AR 755-series is sold, a special condition of sale will prohibit further disposition by the purchaser without prior approval of the Deputy Chief of Staff for Logistics, Department of the Army.

(l) *Sales of individual pieces of US armament for sentimental reasons.* Under the provisions of title 10, U.S.C., Section 2574, individual pieces of US armament, which are not needed for their historical value and can be advantageously replaced, may be sold at a price not less than cost when there exists for such sale sentimental reasons adequate in the judgement of the Secretary of the Army.

(m) *Method of sale.* (1) Applications to purchase under the provisions of this act will be submitted to Deputy Chief of Staff for Logistics, ATTN: DALO–SMS, Department of the Army, with a complete identification including serial number, and location of desired items, if known.

(2) Approved applications for major items will be forwarded through Commander, US Army Materiel Development and Readiness Command, ATTN: DRCMM–SP, to the Commander, US Army Armament Materiel Readiness Command.

§ 621.3 Accounting for arms and accouterments loaned to other government agencies.

(a) *General.* This section —

(1) Prescribes procedures governing the accounting for arms and accouterments loaned to another agency of the Government by DARCOM for the protection of public money and property under the provisions of Title 10 U.S.C. 4655.

(2) Applies to DARCOM and those activities and installations thereof responsible for shipment of materiel and processing of supply documents for loans of arms and accouterments to other Government agencies.

(3) Issue of arms and accouterments to other Government agencies should be pursuant to section 601, Economy Act of 1932, (47 Stat. 417; 31 U.S.C. 686) as amended by the act of 26 June 1943 (57 Stat. 219).

(4) The Secretary or Under Secretary of the Army is the approving authority for loans covered by this section. Loans will be approved or disapproved after consideration of the purpose and proposed duration of the loan, and such factors as stock position, programmed Army requirements, and type classification with pending changes thereto.

(5) Unless otherwise approved by the Secretary or Under Secretary of the

V 42 169 A UG 31 77 UMI

Army, loan agreements will be for a maximum of one year.

(b) *Requests.* (1) Requests for an initial loan of material or for the extension of an existing loan will be forwarded by the head of the agency involved to the Secretary Under Secretary of the Army. Only those items which are available in on-hand stocks will be considered for approval. Procurement of materiel required to satisfy a loan requirement is not authorized.

(2) Normally, request for loan of weapons items which are type classified standard (Logistics Control Code A or B), will not be approved when a similar item or lower type classification is available.

(c) *Issue, cost and care.* (1) Loaned materiel will be returned to the Army in the same condition in which it was received.

(2) Cost of packing, handling, and transportation will be borne by the borrowing agency.

(3) Borrowing agencies are fully responsible for the care, custody, and paper use of material loaned, and for payment for material lost, damaged or destroyed.

(d) *Responsibilities.* (1) Under the provisions of statute cited in paragraph (a)(1) of this section, CDR DARCOM will require the maintenance of a stock record account, as specified in AR 735-5, for the purpose of reflecting accountability for property loaned pursuant to this regulation.

(2) Commander, ARRCOM, ATTN: DRSAR-MMD, has been designed by Commander, DARCOM as the activity to maintain accountable property records for these loans.

(e) *Processing loan requests.* (1) Requests for loan of arms and accouterments received in DARCOM or other Army activity supply channels will be returned to the originating agency for referral in accordance with paragraph (b)(1) of this section. Those approved by the Secretary or Under Secretary will be sent to ARRCOM for execution of a formal loan agreement.

(2) Requests for loans will specify the responsible official, consignee, specific need for material, proposed duration of the loan, a citation of funds to cover the cost of packing, handling, and transportation, and that facilities are available to keep firearms in locked security when not in use.

(f) *Shipment procedure.* (1) Inventory control points will initiate material release orders in accordance with AR 725-50. Concurrently with initiation of the material release order, the consignee will be furnished notice that shipment has been directed, a list of the DOD Single Line Item Release/Receipt Documents (DD Form 1348-1), and instructions as follows:

(i) *Special note to consignee.* Upon receipt of the articles listed herein, the following certificate will be signed on three copies and forwarded with receiving document (DD Form 1348-1) to (insert name and address of responsible official).

"I certify that the articles listed on (insert number) copies of attached DD Form 1348-1, numbered as follows: (list number of each Release/Receipt Document) were received in apparent good condition, except as noted. Serial numbers have been verified. (Omit second sentence if not applicable).

(Signed) _____
(Typed) _____".
(Date) _____"

(ii) Special note to responsible official.

(A) Upon receipt of signed copies from the consignee, another certificate as given in (B) below will be prepared and signed, with one copy to (insert name and address of accountable property officer) and one copy retained for file.

(B) When the requirement for these articles no longer exists, disposition instructions will be requested from (insert inventory control point). (The next sentence will be varied to fit cases where items are furnished on a nonreimbursable basis and can be disposed of in accordance with regulations of the borrowing agency; and cases where weapons, through furnished on a nonreimbursable basis, must be returned to Army control for demilitarization prior to disposal.)

"I certify that desponsibility for articles listed on (insert number) copies of attached DD Form 1348-1, numbered as follows: (list number of each Release Receipt Document) is acknowledged, except as noted.

(Signed) _____
(Typed) _____
(Date) _____"

(2) All shipments will be documented on DoD Single Line Item Release/Receipt Document (DD Form 1348-1). Transportation, packing, and handling costs will be shown on all copies as will serial numbers in the case of weapons shipments.

(3) In addition to the normal distribution of DD Form 1348-1 to the consignee, one copy will be mailed to the designated responsible official of the agency concerned, and one to the pertinent inventory control point.

(g) *Accounting.* (1) Copies of the DD Form 1348-1 transmitted by the supplying installations as prescribed in paragraph (f)(1) of this section will be used as a basis for establishing accountability for the items on loan.

(2) *Hand receipt accounts.* The signature of the responsible official of the agency on DD Form 1348-1 will constitute a valid hand receipt in the accounts of the Army accountable property officer.

(3) *Annual settlements.* If a loan has been approved for a period longer than one year, property officers will reconcile loan accounts with responsible officials each 12 months. An Inventory Adjustment Report, DA Form 444, will be prepared in quadruplicate by the accountable property officer, listing items and quantities on loan to each agency. Three copies will be forwarded to the responsible official concerned requesting verification of the listing and return of two signed copies.

(h) *Returns.* (1) The responsible property officer normally will request disposition instructions from the accountable property officers when materiel is no longer needed or upon expiration of the established loan period. However, property may be drawn from the borrowing agency at any time to satisfy military requirements.

(2) The accountable property officer will issue shipping instructions for the return of property to a designated installation. The letter of instruction will contain a MILSTRIP document number (AR 725-50) for each line item to be returned, to be used for the shipment. The shipper will be directed to cite this document number on the shipping document.

(3) The accountable property officer will prepare and submit to the receiving installation a prepositioned materiel receipt card (DoD Materiel Receipt Document (DD Form 1486)) (document identifier DWC) as advance notice of the shipment.

(i) Exception data will be annotated as follows: "Return of Loan from other Government Agency-Report Receipt of Arms and Accouterments Accountable Property Officer, ATTN: DRSAR-MMD".

(ii) A copy of the letter of shipping instructions (paragraph (h)(2) of this section) will be inclosed with the prepositioned materiel receipt card for information.

(4) Upon receipt at the receiving installation, property will be inspected immediately. Cost of repairing unserviceable items and cost of replacement, if irreparable, will be determined at time of inspection. The MILSTRIP receipt card will be mailed to the accountable property officer with estimated damage cost and detail materiel conditions as exception data.

(5) Upon notification of material receipt, the accountable property officer will clear the loan record with a credit entry and process the receipt to the inventory records as an increase on-hand to asset balance.

(6) The accountable property officer will furnish receipted copies of the receiving document to the consignor and the responsible property officer closing the transaction. Billing action, when required, will be initiated as prescribed below by paragraph (i) of this section.

(i) *Fiscal procedure.* Inventory control points will be responsible for initiating billing and collection upon receipt of documents specified in paragraphs (g) and (h) of this section.

(1) Collection of amounts due the Department of the Army under this section will be in accordance with the procedures set forth in paragraph 5, AR 37-27. The same procedure will be followed whether collections are to cover the cost of packing handling, and transportation; the value of property lost or irreparably damaged; or the cost of repair.

(2) Collections will be credited to the appropriation out of which similar materiel will be procured, or similar services rendered.

(3) Standard Form 1080 (Voucher for Transfer between Appropriations and/or Funds) will be annotated to indicate that collections are to reimburse Department of the Army appropriations in accordance with 10 U.S.C. 4655.

§ 621.4 Issues, loans, and donations for scouting.

(a) *General.* This section provides information relative to issue, loan or donation of Government property to the Boy Scouts of America and the Girl Scouts of America.

(b) *Guidance.* (1) Issues are made under the provisions of the loan agreement and reimbursement is made for adjusted shortages and damages.

(2) Provisions for donations of surplus property to Scout organizations, including, hadnling, and transportation; the ing lists of classes of donable property, are contained in Chapter III, Part 3, Defense Disposal Manual (DOD 4160.21M).

(3) The loan of certain Army, Navy, Air Force and DLA equipment and the provision of transportation and other services for Jamborees is initially provided for by Pub. L. 92-249. Implementation on a current basis is made in DoD Directive 7420.1. Army implementation is provided as follows:

(i) Army stock fund in paragraph 2-6b (4), AR 37-111, Working Capital Fund-Army Stock Fund Uniform Policies, Principles and Procedures Governing Army Stock Fund Operations.

(ii) Non-stock fund in paragraph 2-17a, AR 310-34, Equipment Authorization Policies and Criteria, and Common Table of Allowances.

(c) *Procedure.* Loan agreements are mutually developed preceding the actual lending of the equipment. Paragraph 1-16, AR 735-5, General Principles, Policies and Basic Procedures, is used as the guide for preparation of loan agreements. Authority for commanders to participate in World and National Jamborees is included in paragraph (d) of this section; Procedure for Loan of Equipment and Providing of Transportation and Other Services to the Boy Scouts of America for World and National Jamborees is included in paragraph (j); and sample loan agreement to be executed by area commanders is included as figure 7-5.

(d) *World and National Boy Scout Jamborees.* The Act of 10 March 1972 (Public Law 92-249; 86 Stat 62.) and (86 Stat 63.) authorized the Secretary of Defense to lend equipment and provide transportation and other services to the Boy Scouts of America in support of World and National Jamborees. The Secretary of Defense has delegated his authority and responsibility for the support of Jamborees to the Secretary of the Army. The Commander DARCOM, ATTN: DRCMM-SP, has been assigned to monitor the program for the Secretary of the Army.

(e) *Group travel and visits.* Many Scouts and Leaders will travel in groups and their itinerary will provide for visits to places of interest in CONUS enroute to and from Jamborees. Such group travel may begin in June and extend into September and October of the Jamboree year. In keeping with Department of the Army policies, commanders of Army Installations may extend an invitation to and honor requests from Scout groups enroute to and from the Jamboree to visit and encamp at their installations.

(f) *Commissary and post privileges.* Installation commanders are authorized to provide commissary and post exchange privileges to Scout groups enroute to and from the Jamboree for food items such as bread, meat, and dairy products. These privileges will be extended only to Scout groups which are enroute to or from the Jamboree, and who are encamped or quartered at the installation or the Jamboree site. Commissary and post exchange privileges extended to Scout groups while encamped at the Jamboree site for supply and food items will only be honored upon-application by officials of the Boy Scouts of America to supplement supplies and rations not considered adequate for American Scouts or Scouters.

(g) *Arrangements.* Regional Scout Executives have been informed by the National Headquarters of the contents of this subchapter and that arrangements pursuant to this subchapter must be made in advance directly with the installation commanders. However, commanders will consider factors of extenuation or emergency which may preclude advance arrangements.

(h) *Hospitalization.* Boy Scouts and Scout Leaders attending Jamborees are considered designees of the Secretary of the Army for the purpose of receiving medical care at US Army Medical facilities. The reciprocal rate will not be charged. Subsistence charges will be at the rate of $1.80 per day for hospitalized patients, but will not be collected locally. Each Boy Scout and Leader participating in Jamborees and hospitalized in Army medical treatment facilities will be reported to The Surgeon General, ATTN: DASG-SGRE-SSC, Department of the Army, Washington, DC 20314, on DD Form 7 (Report of Treatment Furnished Pay Patients; Hospitalization Furnished (Part A)). No local collections are authorized.

(i) *Service coordination.* (1) The Departments of the Navy and the Air Force and the Defense Logistics Agency will assist the Department of the Army in providing necessary equipment, transportation, and services in support of the Boy Scouts of America attending Jamborees. The Secretary of the Army or his designee will maintain liaison, as appropriate, with such agencies to avoid duplication of effort.

(2) Other departments (agencies) of the Federal Government are authorized under such regulations as may be prescribed by the Secretary (Administrator) thereof, to provide to the Boy Scouts of America (BSA), equipment and other services, under the same conditions and restrictions prescribed for the Secretary of Defense.

(j) *Procedure for loan of equipment and providing of transportation and other services to the Boy Scouts of America for world and national jamborees.* (1) In accordance with the provisions of Pub. L. 92-249, 92d Congress, H.R. 11738, 10 March 1972, and Secretary of Defense Memo of 17 May 1972, subject: Loan of Equipment and Providing of Transportation and Other Services to the Boy Scouts of America for Boy Scout Jamborees; Memo of 23 January 1973, subject: Military Transportation Support for Boy Scout Jamborees; and Memo of 19 August 1974, subject: Military Transportation Support for Boy Scout Jamborees, the DOD is authorized to lend certain items and provide transportation and certain other services to such Jamborees. Prior to the loan of property and providing transportation and other services, an appropriate agreement will be executed between the United States of America and the activity to be supported. A bond (fig. 7-6), in an amount specified by the Commander, DARCOM, based on statute will be taken by the Commander-in-Chief/Commander, Major Army Command (MACOM), and held until termination of the encampment and final settlement is made for each Jamboree.

(2) The Commander-in-Chief/Commander, MACOM designated, on behalf of the Commander, DARCOM, representing the Secretary of Defense will enter into legal arrangements with the Boy Scouts of America for the loan of equipment and the providing of transportation and certain other services for Boy Scouts World and National Jamborees. National Jamborees include Jamborees conducted by and within the United States and also those conducted by and within foreign nations.

(3) The Commander-in-Chief/Commander, MACOM, will appoint a Property Book Officer who will maintain separate stock records in order to provide for a single final billing to the supported activity (Boy Scouts of America) for items consumed, lost, damaged or destroyed. The Department of the Army will not be billed for items obtained from other than Army sources, except medical supply losses. Bills for medical supply losses will be submitted to the US Army Area Surgeon for payment. He will establish liaison with the activity to be supported. The property book account will be established in accordance with section 2, chapter 2, AR 710-2.

(4) The Commander-in-Chief, MACOM, will task the Army Areas Surgeon for Medical Supply Support to the Jamborees. Each Surgeon designated should appoint an accountable officer and furnish the name, location, and routing identifier of a project office wherein medical supply problems can be resolved.

(5) The Property Book Officer is authorized direct communication with the source of supply, other military department liaison personnel and DARCOM ICP's to resolve routine supply problems.

(k) *Preparing bills of material.* (1) The activity (BSA) will submit a list of equipment and supplies desired to the Commander-in-Chief/Commander, MACOM. This list will be edited during and subsequent to preliminary conferences with representatives of the activity and furnished to Commander, DARCOM, ATTN: DRCMMSP.

(2) HQ, DARCOM, will convert the informal list to a tentative Bill of Material

V 42169 AUG 31 77 UMI

and will furnish the respective Commodity Command that part of the Bill of Material for their items of logistical responsibility. A suggested format for the Bill of Material is included as figure 7–1. Local reproduction is authorized. Copies of the entire tentative Bill of Material will also be furnished to each of the military departments authorized to participate in the support of the encampments. The Bill of Material forwarded to the Commander-in-Chief/Commander, MACOM will be screened to determine in-house availability prior to placing requisitions on CONUS supply points.

(3) At such time as item availability information is on hand and the sources to be used are determined (paragraph (m) of this section, a Bill of Material (figure 7–1) will be prepared by HQ, DARCOM, and forwarded to the Commander-in-Chief/Commander, MACOM.

(4) The Bill of Material will list, by commodity command (military department); all items desired, identified by National Stock Number (NSN) description, quantity desired and required delivery date. The NSN will provide identification of the items required. Items will be identified by the Property Book Officer to the responsible commodity command or military department as indicated below:

(i) ECOM	1	US Army Electronics Command.
(ii) TSARCOM	2	US Army Troop and Aviation Materiel Readiness Command.
(iii) ARRCOM	3	US Army Armament Materiel Readiness Command.
(iv) TARCOM	4	U.S. Army Tank-Automotive Materiel Readiness Command.
(v) DLA	5	Defense Logistics Agency.
(vi) Navy	N	Department of the Navy.
(vii) Air Force	F	Department of the Air Force.
(viii) Other Installations	A	

The Bill of Material will be screened to insure that radioactive items restricted for military use are not included.

(l) *Establish property transaction records.* (1) A Property Transaction Record reflecting complete information about each item loaned to the activity will be established and maintained by the Property Book Officer (figure 7–2) and the respective commodity command military department (figure 7–3). Suggested formats for the Property Transaction Records are found in figures 7–2, 7–3, and 7–4, Local reproduction is authorized.

(2) The Property Book Officer will also establish and maintain separate Property Transaction Records for items obtained from supply sources other than Army commodity commands, i.e., other Army installations, Department of the Navy, Department of the Air Force (figure 7–4).

(3) Each entry on the Property Transaction Record will be supported by appropriate documentation (commodity command: copies of shipping documents, copies of return documents and copies of surveillance inspection report—Property Book Officer: Requisition voucher files and hand receipt cards. This is particularly important for reconciliation purposes in order that all property received from each source will be returned to that source upon termination of each encampment.

(m) *Locating and obtaining equipment and supplies.* (1) The respective commodity commands (military departments) will screen the tentative Bill of Material (paragraph (k)(2)) and determine availability and source of supply identified by Routing Identifier Code. They will advise HQ, DARCOM, ATTN: DRCMM–SP, of availability, appropriate substitute items when the requested items are not available in sufficient quantity, and the source of supply for requisitioning purposes.

(2) Concurrently, the Bill of Material will be screened within the MACOM to determine those items that can be obtained from assets available in the command.

(3) The Property Book Officer will requisition equipment and supplies from the source of supply as indicated by Commander, DARCOM in accordance with AR 725–50 or other separately furnished instructions. The requisition number, quantity requisitioned, stock number and source of supply will be entered in the Property Transaction Record. Requisitions will cite the appropriate project code assigned and appropriate activity address code on all requisitions submitted. Project codes will be assigned by Commander, Logistic Systems Support Activity, ATTN: DRXLS–LCC, Chambersburg, PA, 17201 and distributed by message to all interested addressees.

(4) Loan of General Services Administration (GSA) General Supply Fund Material—The Federal Property and Administrative Service Act of 1949, as amended, authorizes the Administrator GSA to loan GSA General Supply Fund Material to the Department of Defense and other federal agencies. Loan shall be made to the extent that items are readily available and that such loans will not jeopardize the GSA stock inventory. The loan of GSA General Supply Fund Material shall normally be limited to 90 calendar days. Requisitions for GSA material should be submitted to the nearest GSA Regional Office by the CINC/CDR MACOM.

(5) Formal accountability for all items shipped to the site of the activity will be retained by the appropriate accountable activity. Property and financial accounting will be in accordance with respective military department regulations governing loans.

(6) The shipping depot or other source will furnish a copy of the shipping document to the respective commodity command (military department) where the quantity charged, date shipped, condition of the property and total value will be posted to the Property Transaction Record.

(7) Upon receipt of the advance copy of the shipping document, the commodity command (military department) will post information to his Transaction Record, by source as in paragraph (l)(1) of this section.

(8) When the shipment is received, the Property Book Officer will inspect the property. A narrative statement of condition will be prepared if condition of the property is other than that indicated on the shipping document and referenced to the condition entry on the Property Transaction Record. The source of supply, as appropriate, will be immediately notified of overages or shortages and verified in condition, as provided in Chapter 8, AR 735–11. The Property Book Officer will enter on the shipping document the quantity actually received when it differs from quantity shown as shipped and will post the quantities received to the property book record.

(9) Discrepancies between the quantity shipped by the depot and that received by the Property Book Officer and variance in condition will be reconciled as rapidly as possible and appropriate records will be brought into agreement. When shortage or damage is not attributable to the carrier, the Property Book Officer will immediately contact the responsible source of supply, furnishing the stock number and document number involved, together with an explanation of the discrepancy. Reconciliation is particularly important in order to ensure a common point of departure in determining charges to be assessed upon termination of the activity. Replacement shipments, when required, will be covered by appropriate shipping documents.

(10) Special Instructions for Defense Logistics Agency, Clothing and Textile Items. (See DSAR 4140.27/AR 700–49).

(n) *Transportation.* (1) Transportation of equipment and supplies—The responsibility of coordinating movement of equipment and supplies placed on loan to the Boy Scouts of America during National and World Jamborees is delegated to the Commander, US Army Materiel Development and Readiness Command, ATTN: DRCMM–ST.

(2) All requisitions for items in question, will cite the appropriate project code and will be shipped by commercial bill of lading on a collect basis to all National Jamborees and World Jamborees held in the United States.

(3) Shipments to Boy Scout contingents at World Jamborees in foreign countries will be by Government bills of lading, unless otherwise specified by the Boy Scouts of America.

(4) All shipments directed to Boy Scout Jamborees will be routed by the most feasible means as determined by the shipper. Shipments will be consolidated to the maximum extent possible to assure the lowest charges available to the Boy Scouts of America.

(5) Separate shipping instructions will be provided for each Jamboree to assure that correct consignee and railhead addresses are furnished.

(6) Movement of Boy Scouts, Scouters, and officials living in the United States of America to a Jamboree within the United States of America or to a Jamboree in an oversea area shall be the responsibility of the Boy Scouts of America or the individuals concerned.

(7) No authority exists under Public Law 92–249 for the movement of Boy Scouts, Scouters, and officials via military capabilities other than those of the Military Airlift Command or the Military Sealift Command.

(o) *Transportation by vessels of the Military Sealift Command (MSC).* (1) The MSC does not operate any ships suitable for carriage of passengers on transoceanic routes. Although pertinent directives and Public Law 92–249 authorize the movement of Boy Scouts on Military Vessels, the MSC has no capability to provide such transportation.

(2) The MSC is an industrial-funded organization and charges the military service for sealift services provided in accordance with established rates. The host command will be responsible to compensate the MSC for any equipment or material moved on MSC ships. The limitations inherent in Public Law 92–249 stipulate that transportation support provided will be at no cost to the Government. Under these directions, Boy Scout equipment or materiel is not authorized movement on a space available basis without prior approval of the Secretary of Defense. Such approval is not anticipated.

(3) All billings for transportation provided by MSC will be forwarded to the appropriate Commander-in-Chief/Commander of the support major Army command (MACOM). Reimbursement will be requested by the MACOM Commander from the Boy Scouts of America.

(p) *Transportation of oversea based scouts, scouters, and other authorized personnel by military airlift to national or international jamborees.* (1) Space required reimbursable transportation by Military Airlift Command (MAC) airlift over established MAC channels is authorized from points outside the Continental United States (OCONUS) to aerial ports within CONUS, or to other oversea locations and return. Such transportation will be provided only to the extent that it does not interfere with the requirements of military operations, and only to those Boy Scouts of America (BSA) as representing the BSA at the Jamboree. Certification by the BSA will be in the form of a letter identifying each such individual as their authorized representative at the Jamboree. This letter of authorization must be presented to the sponsoring overseas command.

(2) Boy Scouts, Scouters, officials and their equipment will be moved after all space required traffic, but before any space available traffic.

(3) Each passenger is authorized the normal accompanying free baggage allowance of 66 pounds while traveling on MAC aircraft. It is not contemplated that any excess baggage allowance will be authorized.

(4) Transportation of Boy Scouts, Scouters, officials, and their equipment provided by MAC controlled aircraft will be reimbursed at the common user tariff rates assessed US Government Traffic, as contained.

(5) On the basis of letters of authorization issued by the BSA, the BSA will monitor services provided by the Department of Defense. One copy of each BSA letter of authorization will be forwarded to the Commander, US Army Materiel Development and Readiness Command, ATTN: DRCMM–SP, 5001 Eisenhower Avenue, Alexandria, VA 22333, for planning purposes. This letter of authorization should specify whether one way or round trip transportation is requested.

(6) DACROM responsibilities include the following:

(i) Compiling a passenger forecast to be submitted to MAC in accordance with AR 59–8/OPNAVINST 4630.18C/AFR 76–38/MCO 4630.6B.

(ii) Providing Military Traffic Management Command (MTMC) an information copy of the passenger forecast.

(iii) Submitting all passenger requirements for one way and round trip transportation originating overseas to the appropriate overseas command.

(7) The responsibilities of the sponsoring overseas command include:

(i) Verifying that Scout passengers are officially authorized representatives of BSA in accordance with paragraph (p)(1) of this section.

(ii) Making all necessary passenger reservations with MAC, for transportation originating overseas, in accordance with AR 55–6, AFR 76–5, OPNAVINST 4630.23, and MCO P4630.11. The oversea command will submit CONUS outbound return passenger requirements to command, Military Traffic Management Commander, ATTN: MTMC–PTO–P, Washington, DC 20315.

(iii) Issuing each passenger a MAC Transportation Authorization (DD Form 1482) for transportation from the overseas location and return, when round trip transportation has been requested. The customer identification code, item (7) of the DD Form 1482, should be designated—JBWJ—which was approved by MAC as the permanent CIC for direct

V 42 169 AUG 31 77 UMI

billing purposes to HQ, Boy Scouts of America, North Brunswick, New Jersey, 08902.

(iv) Insuring that each Scout passenger has a completed DD Form 1381, signed by a parent, guardian or other legally responsible individual.

(v) Evaluating the use and necessity of military airlift within or between overseas locations. This evaluation will include such factors as reasonable travel time, number of connections required, and assurance of Scout group integrity. Surface transportation will normally be used for travel within an overseas area.

(8) The responsibilities of the MTMC include:

(i) Evaluating the return outbound passenger requirements and making the necessary transportation arrangements so as to maintain Scout group integrity at all times.

(ii) Assisting the BSA in completing required documentation and insuring that passengers are ready prior to the return flight.

(iii) Pub. L. 92-249 does not provide authorization for the use of the Department of Defense transportation by Scouts, Scouters, and Officials of foreign nations. All requests to transport such persons should be forwarded through the unified command channels to the Office of the Assistant Secretary of Defense (Public Affairs). However, DOD does not contemplate authorization for the use of MAC aircraft for other than US Scouts, Scouters, and Officials.

(iv) Use of military helicopters in support of medical evacuation, VIP, press and photo-services—The Director of Army Aviation, the Department of the Army Staff Judge Advocate, and the Comptroller of the Army have furnished the general opinion that Public Law 92-249 authorizes the use of Military helicopters in support of the above described services to the extent they are reasonably available and permits the use of appropriated funds.

(q) *Determination of charges and settlement.* (1) All property on which repair cost is claimed will be held at the depot or post, camp or station until final charges are determined and a release is given by CDR, DARCOM, Department of the Army.

(2) The commodity command (military department) will prepare the following information and statement and forward them to CDR, DARCOM, Department of the Army, for final review:

(i) Complete Property Transaction Record and supporting documents.

(ii) Proper accounts for which reimbursement received for shortages and repairs are to be deposited.

(iii) The following statement: "The losses and/or damages indicated on the Property Transaction Report in the amount of $------ represent the total claim by (appropriate commodity command or military department) relative to commodity command or military department property loaned to (Boy Scouts of America). Upon settlement and deposit to the proper account, the CDR of the commodity command or military department releases the (Boy Scouts of America) from further obligations."

(iv) Statements as to the general type of repair, e.g., tentage, repair tears, insert new panels, replace grommets will be reported on separate addendum to the Property Transaction Record for items requiring repair.

(3) The CINC/CDR, MACOM, will prepare the following information and statement for property furnished for assets in the command and will forward this to CDR, DARCOM:

(i) Same as (q)(2)(i) of this section.

(ii) Same as (q)(2)(ii) of this section.

(iii) The following statement: The losses and/or damages indicated on the Property Transaction Record in the amount of $------ represent the total claim by (appropriate Army) relative to (appropriate Army) property loaned to (Boy Scouts of America). Upon settlement and deposit to the proper account, the CINC/CDR, MACOM releases the (Boy Scouts of America) from further obligations.

(iv) Same as (q)(2)(iv) of this section.

(4) CDR, DARCOM, will review the charges, inspect property to be repaired, if necessary, reconcile any discrepancies and determine final charges to be levied against the supported activity. Approved list of charges will be forwarded to the CINC/CDR, MACOM, for collection, and property being held for repair will be released.

(5) The CINC/CDR, MACOM, will prepare and dispatch a letter to the supporting activity and request payment made payable to the Treasurer of the United States. Upon receipt of payment, collection documents will be prepared and appropriate fiscal accounts, as furnished by the commodity command (military departments) (q) (2) and (3) of this section) credited. The MACOM Surgeon will take action to reimburse the DLA stock fund for expendable medical supply losses reported. The CINC/CDR, MACOM, will close the Property Transaction Record Account.

(6) The CINC/CDR, MACOM, will advise the CDR, commodity command (military departments and CDR, DARCOM, DA) that settlement has been accomplished. Commodity (military department) Property Transaction Records will be closed upon receipt of the foregoing advice.

(7) The CDR, DARCOM will advise the CINC/CDR, MACOM, to return the bond to Boy Scouts of America.

(8) In the event of unsatisfactory settlement, the proceeds of the bond will be used to satisfy the claim. The Power of Attorney executed in connection with the agreement will be envoked and proceeds collected from the bond (fig. 7-7).

CERTIFICATE FOR PURCHASE OF FIREARMS

I hereby certify that I am a citizen of the United States of America; that I was born on _____ (date) at _____ (place); that my Social Security Account number is _____; that I am not a member of any organization which has as any part of its program the attempt to overthrow the Government of the United States by force or violence; that I am not under indictment or information for nor have I been convicted of a crime for which the maximum penalty imposable by law (whether or not actually imposed) is imprisonment for a term exceeding one year, or a crime involving use of a firearm or assault against the person, or a violation of Federal ,State, or local firearms regulations; that I am not a fugitive from justice; that I am not now or ever have been under medical care for psychiatric reasons (statement from psychiatrist may be attached for consideration); that my previous purchases of weapons from the US Government are as listed below; that I am a member of the National Rifle Association, Membership Card No. _____ Expiration Date _____; that I am an active member of _____ club, affiliated with the Director of Civilian Marksmanship; that I have been active for _____ years in competitive marksmanship activity (evidence attached); that I desire to purchase _____ (exact description of item(s) to be purchased) for my personal use and not for resale or other disposition; that I will use this weapon in competitive marksmanship programs which promote practice in the use of rifled arms; that I have complied with all State and local requirements relative to the acquisition of firearms (evidence of compliance must be attached); and that I will comply with the Federal and National Firearms Acts and all State and local laws concerning the possession and use of firearms.

_____
(Signture)

_____
(Name—print or type)

_____
(City) (State) (Zip)

_____
(Notary Public)

_____
(Day) (Month) (Year)

Previous Purchases:

MAKE	MODEL	CALIBER	SERIAL NO.	DATE OF PURCHASE

Notes.

1. No weapon will be sold to an individual under 18 years of age.
2. This certificate will be signed in the presence of and attested to by a Notary Public.
3. The purchaser's attention is directed to 18 U.S.C. 1001, which provides as follows:

"Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device of material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both."

Figure 5-1. Suggested Format.

V42169 AUG 31 77 UMI

DATA REQUIRED BY THE PRIVACY ACT OF 1974
(5 U.S.C. 552a)

TITLE OF FORM	PRESCRIBING DIRECTIVE
Certificate of Purchase of Firearms	AR 725-1

1. AUTHORITY

Title 10 U.S. Code, Section 4308 - Sale of Firearms

2. PRINCIPAL PURPOSE(S)

Information is required to establish eligibility for sale of firearms to competitive NRA Shooters who are U.S. citizens.

3. ROUTINE USES

This form is sent to the Department of Treasury: Bureau of Alcohol, Tobacco, and Firearms; to the Federal Bureau of Investigation; and to local police offices for security checks of eligible individuals applying for purchase of firearms.

4. MANDATORY OR VOLUNTARY DISCLOSURE AND EFFECT ON INDIVIDUAL NOT PROVIDING INFORMATION

The Department of Army is only authorized to sell firearms to competitive NRA Shooters who are U.S. Citizens; consequently the information required on the form is necessary to comply with this statute in ascertaining individual eligibility. Disclosure of Social Security Numbers is voluntary. The social security number is necessary solely for identification purposes. The routine uses made of the social security number are the same as those named under #3 above. However Failure to provide social security number will result in disapproval of the application.

Privacy Act Statement - 26 Sep 75

GPO 893-882

Figure 5-2

DATE _____

BILL OF MATERIAL

_____
(Activity)

Item No.	NSN	Description	Quantity	Date required	Quantity available	Unit price	Located at

Notes. 1. Separate sheets will be kept for the property of each Commodity Command (Military Department).
2. Item numbers will be listed vertically. If an item has components that are susceptible to loss or damage and are normally accounted for separately, for example, tent pins and poles, they will be listed separately.
3. The availability and location columns will be completed by each Commodity Command (Military Department).

Figure 7-1

V 42 169 A AUG 31 77 UMI

PROPERTY TRANSACTION RECORD

(Accountable Property Officer—Commodity Command Property)[1]

(1) Item No.	(2) NSN	(3) Description	(4) Unit price	(5) Requisition No.	(6) Quantity requisitioned	(7) Depot shipped	(8) Quantity charged (received)	(9) Date received	(10) Condition
(11) Return doc #	(12) Total value	(13) Quantity credited (shipped)	(14) Depot receiving	(15) Condition	(16) Quantity over	(17) Quantity short	(18) Dollar value over (−) short (+)	(19) repair cost	(20) Stock status	(21) Total charge

Notes. 1. Separate sheets will be maintained for each Commodity Command.
2. Item numbers will be listed vertically.
3. If items have components that are susceptible to loss or damage and are normally accounted for separately, for example, tent pins poles, and they will be listed separately.
4. Column 21 is determined by adding columns 18 and 19. Column 19 will not be included in the computation if the items are Commodity Command excess.

Figure 7–2

PROPERTY TRANSACTION RECORD

(Commodity Command—Military Department)

(1) Item No.	(2) NSN	(3) Description	(4) Unit price	(5) Depot shipping	(6) Quantity charged (shipped)	(7) Date shipped	(8) Condition	(9) Shipping doc #	(10) Total value
(11) Quantity credited (returned)	(12) Depot receiving	(13) Return doc #	(14) Condition	(15) Quantity over	(16) Quantity short	(17) Dollar value over (−) short (+)	(18) Repair cost	(19) Stock status (excess req)	(20) Total charge

Notes. 1. Item numbers will be listed vertically.
2. If items have components that are susceptible to loss or damage and are normally accounted for separately, for example, tent pins and poles, they will be listed separately.
3. Column 20 is determined by adding columns 17 and 18. Column 18 will not be included in the calculation if the items are Commodity Command (Military Department) excess.

Figure 7–3

V 42 169 A AUG 31 77 UMI

PROPERTY TRANSACTION RECORD

(Accountable property Officer—Property from Source other than Army Commodity Command ICP's)

(1) Item No.	(2) NSN	(3) Description	(4) Unit price	(5) Requisition No.	(6) Quantity requisitioned	(7) Shipping source	(8) Quantity charged (received)	(9) Date received	(10) Condition	(11) Other source credit voucher No.
	•	•		•	•	•		•	•	

(12) Account debit voucher No.	(13) Total value	(14) Quantity credited (shipped)	(15) Receiving point	(16) Account credit voucher No.	(17) Condition	(18) Quantity over	(19) Quantity short	(20) Dollar value over (-) short (+)	(21) Repair cost	(22) Stock status	(23) Total charges

Notes. 1. A separate sheet will be maintained for each of the following sources of equipment: post, camp and station; Department of Navy, Department of Air Force.
2. Item numbers will be listed vertically.
3. If items have components which are susceptible to loss or damage and they are normally accounted for separately, for example, tent pins and poles, they will be listed separately.
4. Column 23 will not be completed by the Accountable Property Officer on sheets for property from posts, camps and stations. The US Army Materiel Command will determine stock status at the time of final review.
5. Column 23 is calculated by adding columns 20 and 21. Column 21 will not be included in the calculation if the items are excess to a military department.

Figure 7-4

SAMPLE

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE BOY SCOUTS OF AMERICA IN CONNECTION WITH EQUIPMENT LOANED AND TRANSPORTATION AND OTHER SERVICES PROVIDED FOR WORLD AND NATIONAL JAMBOREES

Agreement made this __ day of ____, 197__, in duplicate by and between the United States of America, hereinafter referred to as the Party of the First Part, and the Boy Scouts of America, North Bunswick, New Jersey 08902, a corporation organized and existing under and by virtue of the laws of the District of Columbna, hereinafter referred to as the Party of the Second Part.

This agreement shall bind the successors and assigns of the Party of the Second Part.

Pursuant to Section 133(d), Title 10, United States Code, The Secretary of the Army has been delegated authority with power of successive delegation to act as the representative of the Secretary of Defense. The authority to enter into this agreement has been further delegated to the commanders of the appropriate MACOM.

1. The Party of the First Part agrees to lend such equipment as may be necessary for the accommodation of the Boy Scouts and Officials at World and National Jamborees to be held during specified periods at appropriate site.

2. This agreement by the Party of the First Part is predicated upon the performance by the Party of the Second Part of the following conditions precedent:

a. Before delivery of any property or the provision of any transportation and other services by the Party of the First Part, the Party of the Second Part shall post a bond acceptable to the Party of the First Part in the amount of _____ in the form attached hereto, for the same return of such property in good order and condition and for reimbursement of transportation provided and the whole without expense to the United States.

b. The Party of the Second Part shall make a formal request for such equipment and transportation as may be useful or necessary in connection with the World and National Jamborees. The Party of the First Part will make formal determination of the availability of requested equipment and propriety of providing any transportation and incidental services in accordance with existing Federal Statutes and Department of the Army Regulations and Directives.

3. The Party of the Second Part agrees:

a. To appoint a representative for the purpose of making joint inventories of all equipment at the time of the receipt and return thereof, respectively. Said representative shall be authorized to, and shall, execute

Figure 7-5

V 42 169 AUG 31 77 UMI

receipted shipping documents for the equipment, upon delivery, and shall certify as to the correctness of the inventory of all equipment returned.

b. To provide such personnel as may be necessary to maintain and operate the equipment loaned, such necessity to be determined by the Party of the First Part.

c. To permit and facilitate inspection by representatives of the Party of the First Part at any and all times both of the equipment loaned and of the provisions made by the Party of the Second Part for compliance with the paragraphs numbered 3*a* and 3*b* hereof.

d. To turn back to the Department of the Army within 60 days, but not later than the termination of the Jamboree, except in case of emergency, after demand therefor by the Party of the First Part, all equipment loaned in accordance with this Agreement in good order and condition, reasonable wear and tear excepted, and the whole without expense to the Party of the First Part.

e. To pay transportation costs of all equipment loaned from source of supply to destination and return and passenger transportation provided from oversea areas to CONUS or to other areas and return.

f. To pay upon demand of the Party of the First Part reasonable and necessary expense of rehabilitation of equipment after use at world and National Jamborees, such rehabilitation to be accomplished in a manner satisfactory to the Party of the First Part. Rehabilitation shall not be deemed required when equipment has suffered only reasonable wear and tear. Transportation charges incurred by the Party of the First Part in connection with said rehabilitation shall be paid as part of said expense.

g. To pay upon demand by the Party of the First Part for all items lost, destroyed or damaged beyond prospect of economical repair as reasonably determined by the Party of the First Party.

h. To save the Party of the First Part from all expense in the loan of equipment and the provision of transportation and other services and from any incidental loss, expense, damage, claims, or liability whatsoever not specifically mentioned herein arising in connection with said loan of equipment and provision of transportation and other services.

i. To take specific measures to protect the interests of the Party of the First Part by procuring comprehensive insurance for all property loaned, including motorized equipment covered for liability, property damage, fire, theft, and deductible collision, and to file duplicate copies of such insurance policy or policies with the Party of the First Part.

4. The Party of the Second Part further agrees that no member of or delegate to Congress shall be admitted to any share or part of such contract or agreement or to any benefit to arise therefrom.

In Witness Whereof the Party of the First Part has executed these presents as of the day and year above written.

Figure 7-5—Continued.

THE UNITED STATES OF AMERICA

By: _____
Commander, United States Army
Appropriate MACOM

In Witness Whereof the Party of the Second Part has executed these presents as of this _____ day of _____.

BOY SCOUTS OF AMERICA

By: _____
Name
Chief Scout Executive

By: _____
Name
Director, National Events
Jamboree Administrator

Figure 7-5—Continued.

V 42 169 AUG 31 77 UMI

SAMPLE

BOND FOR SAFEKEEPING OF PUBLIC SUPPLIES, EQUIPMENT AND MEANS OF TRANSPORTATION ISSUED TO THE BOY SCOUTS OF AMERICA UNDER PUBLIC LAW 92-249, 92D CONGRESS APPROVED 10 MARCH 1972

Know all men by these presents, that the Boy Scouts of America in the City of North Brunswick and the State of New Jersey, as obligor is held and firmly bound unto the United States of America in the penal sum of _____, lawful securities of the United States, for the payment of which sum, well and truly to be made to the United States, without relief from evaluation or appraisement laws said organization binds itself, its successors and assigns firmly by these presents.

The condition of the above obligation is such, that whereas the Boy Scouts of America is a corporation to which by Public Law 92-249, 92d Congress, approved 10 March 1972, the Secretary of Defense is authorized to lend, under such regulations as he may prescribe, such equipment and provide such transportation as may be necessary and useful for the accommodation of the Boy Scouts and officials at World and National Jamborees of the Boy Scouts of America to be held at (appropriate site), subject to the provision that before delivering such property he shall take from the Boy Scouts of America a good and sufficient bond for the safe return of such property in good order and condition and the whole without expense to the United States.

Now, therefore, if as to all the property of the United States to be issued to the Boy Scouts of America shall take good care of, safely keep and account, and shall, when required by the Secretary of Defense or his authorized representative, safely return to Department of the Army all said property issued and covered by this bond within 60 days from the conclusion of said Jamboree, the whole without expense to the United States, in as good order and in the same condition as that in which the equipment and property existed at the date of delivery, reasonable wear excepted, or upon formal demand make adequate monetary compensation for items lost or damaged beyond prospect of economic repair as well as for costs or renovation or repair of items accomplished at Government repair facilities and for transportation provided from oversea areas to CONUS and return or to other oversea areas and return or as more fully set forth and defined in the agreement dated _____ between the United States of America and the Boy Scouts of America, then this obligation shall become inoperative and void, otherwise to remain in full force and virtue.

The above-bounded obligor, in order to more fully secure the United States in the payment of the aforementioned sum, hereby pledges as security therefor, in accordance with the provisions of Section 1126 of the Revenue Act of 1926, as amended, Government securities in the principal amount of _____ which are numbered serially, are in the denominations and amounts, are otherwise more particularly described as follows:

Figure 7-6

United States of America Treasury Bonds 2½% due _____ _____.

Interest on said securites shall accrue and be paid to the Boy Scouts of America except and unless there occurs a default as defined herein and said securities are sold and applied to the satisfaction of such default as provided herein. Said securities have this day been deposited with the Finance and Accounting Officer, (appropriate US Army) and his receipt taken therefor.

Contemporaneously herewith the undersigned have also executed an irrevocable power of attorney and agreement in favor of the Finance and Accounting Officer, (appropriate US Army), acting for and in behalf of (appropriate US Army) authorizing and empowering said officer as such attorney to disburse said funds so deposited, or any part thereof, in case of any default in the performance of any of the above-named conditions or stipulations.

In Witness Whereof, this bond has been signed, sealed, and delivered by the above-named obligor, this _____ day of _____ 197__.

BOY SCOUTS OF AMERICA

_____ SEAL
Name
Chief Scout Executive

_____ SEAL
Name
Comptroller

Signed, sealed, and delivered in the presence of:

_____ (Name) _____ (Addréss)

_____ (Name) _____ (Address)

Before me, the undersigned, a Notary Public within and for the County of Middlesex, in the State of New Jersey, personally appeared _____, Chief Scout Executive, and for and in behalf of said Boy Scouts of America, a corporation, acknowledged the execution of the foregoing bond.

Witness my hand and notarial seal this _____ day of _____, 197__.

Notarial Seal _____
(Notary Public)

My commission expires _____
(Date)

Figure 7-6—Continued.

V 42 169 AUG 31 77 UMI

SAMPLE

POWER OF ATTORNEY

Know all men by these presents, that the Boy Scouts of America is a corporation, having its principal office in the City of North Brunswick, State of New Jersey. does hereby constitute and appoint the Finance and Accounting Officer, (appropriate US Army), acting for and in behalf of the (Commander, appropriate US Army), and his successors in office as attorney for said corporation, or its authorized representatives, for and in the name of said corporation to collect or to sell, assign and transfer certain securities described as follows:

United States of America Treasury Bonds 2½% due _____ such securities having been deposited by it, pursuant to authority conferred by Section 1126 of the Revenue Act of 1926, as amended, and subject to the provisions thereof and of Treasury Department Circular No. 154, dated February 6, 1935, as security for the faithful performance of any and all of the conditions or stipulations of a certain obligation entered into by it with the United States, under date of _____ which is hereby made a part hereof, and the undersigned agrees that, in case of any default in the performance of any of the conditions and stipulations of such or any part thereof, or to sell, assign, and transfer said securities or any part thereof without notice, at public or private sale, free from equity of redemption and without appraisement or evaluation, notice of right to redeem being waived, and to apply the proceeds of such sale or collection, in whole or in part, the satisfaction of such default and the undersigned further agree that the authority herein granted is irrevocable.

And such corporation hereby for itself, its successors and assigns, ratifies and confirms such action as is proper, taken within the scope of this Power.

In Witness Whereof, the Boy Scouts of America, the corporation herein-above named by its Chief Scout Executive and Comptroller duly authorized to act in the premises, has executed this instrument and caused the seal of the corporation to be affixed this _____ day of _____, 197__.

BOY SCOUTS OF AMERICA

By: _____
Name
Chief Scout Executive

By: _____
Name
Comptroller

Figure 7-7

Before me, the undersigned, a Notary Public within and for the County of Middlesex in the State of New Jersey, personally appeared _____, Chief Scout Executive, and _____, Comptroller, and for and on behalf of said Boy Scouts of America, a corporation, acknowledged the execution of the foregoing power of attorney.

Witness my hand and notarial seal this _____ day of _____, 19__.

NOTARIAL SEAL _____
(Notary Public)

Figure 7-7—Continued

V 42 169 AUG 31 77 UMI

SAMPLE

COMPTROLLER'S CERTIFICATE

I, _____, certify as follows:

(1) I am the Comptroller of the Boy Scouts of America identified as the Party of the Second Part in the foregoing agreement;

(2) _____ who signed said agreement on behalf of Boy Scouts of America as Chief Scout Executive of said corporation on the day he signed said agreement for and on behalf of said corporation;

(3) _____ who also signed said agreement on behalf of said corporation was the Director of National Events of said corportion on the day he signed said agreement for and on behalf of said corporation;

(4) _____ and _____, on the day they signed this agreement were acting pursuant to authority granted to them by the said corporation's Executive Board and that the execution hereof is within the scope of the said corporation's corporative powers.

In witness whereof, I have hereunto set my hand and seal of said corporation this _____ day of _____, 19__.

_____
Name
Comptroller, Boy Scouts of America

Figure 7-8

[FR Doc.77-25317 Filed 8-30-77;8:45 am]

Title 10—Energy

CHAPTER I—U.S. NUCLEAR REGULATORY COMMISSION

PART 70—SPECIAL NUCLEAR MATERIAL

Issuance of Licenses; Amendment

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Interim rule.

SUMMARY: NRC is amending its regulations on an interim basis to exempt exports of special nuclear material which is diluted in such a way that it is no longer usable for any nuclear activity relevant from the point of view of safeguards, or is practicably irrecoverable, from the requirement that the export be subject to an agreement for cooperation. This amendment would conform NRC export regulations to internationally recognized standards and eliminate an unnecessary administrative burden.

EFFECTIVE DATE: August 31, 1977.

COMMENT PERIOD EXPIRES: October 17, 1977.

ADDRESSES: Send comments to: Secretary, Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

FOR FURTHER INFORMATION CONTACT:

Mr. R. Neal Moore, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: 301-492-7984.

SUPPLEMENTARY INFORMATION: Section 57 d. of the Atomic Energy Act of 1954, as amended (Act), authorizes the Commission to "exempt certain classes or quantities of special nuclear material or kinds of uses or users from the requirements for a license * * * when it makes a finding that the exemption * * * would not be inimical to the common defense and security and would not constitute an unreasonable risk to the health and safety of the public."

In November 1976, the Commission received a request from the Kerr-McGee Nuclear Corporation to export to Mexico less than 5 grams of low enriched uranium (special nuclear material) as an entrapped contaminant in 15 pieces of used standard laboratory testing equipment and fuel fabrication machinery which had been sold to the Instituto Nactional de Energia Nuclear (INEN) in Mexico, D.F. Recently, the NRC staff was further informed by NUSAC, Inc., the agent for Kerr-McGee Nuclear Corporation, that its client holds a letter of credit issued by INEN which expires August 31, 1977.

Under present regulations, the Commission is precluded from issuing an export license for this material because there is no agreement for cooperation with Mexico pursuant to Section 123 of the Atomic Energy Act.

Under other circumstances, small quantities of special nuclear material could be exported to countries which do not have an agreement for cooperation with the United States by exporting the material under the auspices of the United States/International Atomic Energy Agency (IAEA) Agreement for Cooperation. However, the IAEA system for the application of safeguards provides that "safeguards shall terminate on nuclear material * * * upon determination by the Agency that it has been consumed, or has been diluted in such a way that it is no longer usable for any nuclear activity relevant from the point of view of safeguards, or has become practically irrecoverable." (INFCIRC/153 and INFCIRC/66/Rev. 2) In such cases, therefore, no useful purpose would be served and an unnecessary administrative burden would be entailed in bringing such exports under the U.S./IAEA Agreement for Cooperation.

A letter dated August 17, 1977, from the Department of State has forwarded the Executive Branch view favoring issuance of the proposed license to Kerr-McGee Nuclear Corporation and an appropriate exemption under Section 57d. of the Act for this case.

While this is the first such case which has arisen, the Commission recognizes that there could be future proposed exports of special nuclear material which is diluted in such a way as to have no relevance from the point of view of safeguards, or is practicably irrecoverable. As with the present case, it is expected that future cases would also involve small quantities of material. At any rate, no such export license would be issued unless the Commission had determined that the proposed export would not be inimical to the common defense and security. Therefore, the Commission has decided to exercise the authority granted under Sections 53, 54, and 57d. of the Act to facilitate such material exports.

The Commission has determined that such action would not be inimical to the common defense and security and would not constitute an unreasonable risk to the health and safety of the public.

In view of the longstanding pendency of this minor case, the Executive Branch's view on the merits of the export license application, the need for timely action expressed by the applicant, the insignificant amounts of the material involved, the fact that the material is practicably irrecoverable and not relevant from the safeguards standpoint, and the fact that the amendment will relieve a restriction, the Commission has also found that the customary 30-day notice of proposed rulemaking and public procedure thereon are unnecessary and contrary to the public interest and that good cause exists why this regulation should be made effective on an interim basis upon publication in the FEDERAL REGISTER without the customary 30-day notice.

This interim rule will expire on March 1, 1978, unless extended by the Commission. The Commission expects to make a decision by March 1, 1978, on whether the interim rule should be made permanent.

All interested persons who desire to submit written comments or suggestions for consideration in connection with making the interim rule permanent should send them to the Secretary of the Commission, Washington, D.C. 20555, Attention: Docketing and Service Section by October 17, 1977. Copies of comments on the interim amendment may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of Title 5 of the United States Code, the following amendment to Title 10, Chapter 1, Code of Federal Regulations, Part 70 is adopted on an interim basis and published as a document subject to codification and effective August 31, 1977.

Section 70.31(e) of 10 CFR Part 70 is amended to read as follows:

§ 70.31 Issuance of licenses.

* * * * *

(e) "When a license is sought to authorize the export of special nuclear material, the Commission will determine whether the export is under the terms of an agreement for cooperation, except for proposed exports on or before March 1, 1978, of special nuclear material which is diluted in such a way that it is no longer usable for any nuclear activity relevant from the point of view of safeguards, or is practicably irrecoverable. No license authorizing export of special nuclear material will be issued if the Commission finds that the issuance of such license would be inimical to the interests of the United States."

(Secs. 53, 161, Pub. L. 83-703, 68 Stat. 930, as amended, 948, as amended, (42 U.S.C. 2073, 2201); Sec. 57d., Pub. L. 93-377, 88 Stat. 475 (42 U.S.C. 2077); Sec. 201, Pub. L. 93-438, 88 Stat. 1243 (42 U.S.C. 5841.)

Dated at Washington, D.C., this 26th day of August, 1977.

SAMUEL J. CHILK,
Secretary for the Commission.

[FR Doc.77-25411 Filed 8-30-77;8:45 am]

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Revision of Crude Oil Buy/Sell Program

Correction

In FR Doc. 24503 appearing as Special Part V at page 42769 in the issue for Wednesday, August 24, 1977, the following correction should be made.

On page 42775, in the first column, line 20 of § 211.65, the date, "August, 1977", should read, "August 24, 1977".

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Extension of Crude Oil Buy/Sell Program Current Allocation Quarter Through September 1977

AGENCY: Federal Energy Administration.

V 42169 AUG 31 77 UMI

ACTION: Final Rule.

SUMMARY: This rule amends, effective September 1, 1977, the Mandatory Crude Oil Allocation Program (the "buy/sell program") by the addition of a special rule which extends the program's June through August 1977 allocation quarter through the month of September 1977 as a transition between the current program and the revised program which will be implemented on October 1, 1977. Under the special rule, refiner-buyers that purchased their allocations in the current quarter will be permitted to purchase a pro-rata amount thereof in the month of September from the same refiner-sellers from which they purchased crude oil in the current quarter.

EFFECTIVE DATE: September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Ed Vilade (Media Relations), 12th & Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461 (202–566–9833); Robert G. Bidwell, Jr. or H. William Gottfried (Program Office), 2000 M. Street NW., Room 6128P, Washington, D.C. 20461 (202–254–9707); Samuel M. Bradley or Jeffrey C. Conrad (Office of General Counsel); 12th and Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461 (202–566–9565—Bradley); (202–566–2087—Conrad).

SUPPLEMENTARY INFORMATION:

A. BACKGROUND

On August 8, 1977 (42 FR 40448, August 10, 1977) FEA issued a notice of proposed rulemaking and public hearing concerning the addition of a Special Rule No. 9 in the Appendix of Subpart C of Part 211 that would extend the crude oil buy/sell program's June through August 1977 allocation quarter for the month of September 1977 as a transition between the current program and the then-proposed revised program. On August 19, 1977 FEA issued a final rule amending the crude oil buy/sell program effective October 1, 1977 (42 FR 42770, August 24, 1977). FEA determined that it would be necessary to extend the current allocation quarter through September because there was not adequate time to implement a new program between the date of the hearing on the proposed revised program, August 9, 1977, and September 1, 1977, the start of a new allocation quarter under the present regulations. At the same time, FEA did not consider it desirable to initiate a new allocation quarter under the present regulations, since it anticipated that a revised program could be ready for implementation on October 1, 1977.

Under the proposed special rule, refiner-buyers that purchased part or all of their allocations in the current allocation quarter would be permitted to purchase a pro-rata amount of their purchased allocations in the month of September 1977 from the same refiner-sellers from which they purchased crude oil in the current quarter. In addition to requesting comments on the substance of the proposed special rule, FEA also requested comments on whether it would be desirable to extend the current allocation period on a pro-rata basis for the month of October, as well as the month of September, to permit the thirty-day period between the publication of the first buy/sell notice and the beginning of the first allocation period under the new program, October 1, 1977.

The public hearing scheduled with respect to this proposal was cancelled for lack of interest. Comments on the proposal were invited through August 23, 1977, and written comments were received by FEA from nine large integrated refiners and one small refiner. The large refiners commenting generally supported the proposed special rule. One large refiner recommended that refiner-sellers be required to sell crude oil only on a best-efforts basis since pipeline and marine schedules for September are, in most cases, already finalized, and therefore refiner-sellers might experience difficulty in securing crude oil to replace any crude oil that FEA directs to be sold to refiner-buyers in September. FEA is not persuaded to modify the proposal in this regard since refiner-sellers were given notice of FEA's intention to extend the current allocation quarter through September in the July 21 proposal to modify the buy/sell program and therefore have had sufficient time to make appropriate arrangements for sales of allocated crude oil in September.

Two firms, including the small refiner, recommended that the current allocation quarter be extended through both September and October to provide FEA more time to evaluate the applications for allocations under the revised buy/sell program and to provide adequate time for small refiners ineligible under the revised program to establish other sources of crude oil supply. FEA believes that a two-month extension of the current allocation quarter is not necessary since it anticipates that the revised buy/sell program will be ready for implementation effective October 1. In addition, FEA believes that small refiners that are excluded or ineligible for an allocation under the revised program have had sufficient time since the issuance on July 21 of the proposed revision of the buy/sell program to make arrangements for alternative crude oil supplies. In the event that FEA determines that it is necessary and desirable to postpone the effective date of the revised program until November 1, it will issue an amendment on or before September 19, 1977 to the Special Rule No. 9 adopted today extending the current allocation quarter through October 1977. In that event, the allocations for the first allocation period under the revised buy/sell program would be pro-rated over a five-month allocation period.

The small refiner commenting also recommended that refiner-buyers should be permitted to purchase a pro-rata amount of their allocation in the current allocation quarter rather than their actual purchases in the current quarter, as proposed. This comment has not convinced FEA to modify its proposal. Small refiners that were able to secure adequate supplies of crude oil outside the buy/sell program in the current quarter should be able to continue to acquire such supplies in the month of September.

3. SPECIAL RULE NO. 9

Based on its analysis of the material submitted in the written comments, and upon all other information available to it, FEA has determined to adopt Special Rule No. 9 essentially as proposed.

Special Rule No. 9 generally provides that refiner-sellers and refiner-buyers during the June through August allocation quarter will continue in such capacities for September 1977. Refiner-buyers that entered into contracts prior to August 1, 1977 pursuant to the May 25, 1977 buy/sell notice (42 FR 26694) will have the option of continuing those seller/buyer relationships on a pro-rata basis during September 1977. A refiner-seller will be required to offer for sale in September to such a refiner-buyer a volume of crude oil equal to 30/92 of the total volume of crude oil purchased by that refiner-buyer from that refiner-seller. Special Rule No. 9 provides dates by which contracts for the sale of crude oil pursuant to Special Rule No. 9 will have to be executed.

FEA has determined that extending the seller/buyer relationships established during the current allocation quarter is a rational basis upon which to allocate crude oil for the month of September 1977. The relative positions of most refiners, vis-a-vis the national supply to capacity average, should not change dramatically when measured on a June–September basis as compared with June–August. FEA recognizes, however, that unusual circumstances may affect individual companies such that they may have experienced a dramatic change in their crude oil supply situation since the May 25, 1977 buy/sell notice was published. FEA will entertain requests for exceptions where the effect of extending the current quarter buyer/seller relationships would work a severe hardship due to any such dramatic shifts in levels of crude availability among individual refiners.

Because the purpose of Special Rule No. 9 is to provide immediate guidance and information with respect to the allocation of crude oil for September 1977 (prior to the implementation of a revised crude oil allocation program), FEA finds that good cause exists for making these amendments effective in less than 30 days.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, and Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 211 of Chapter II, Title 10, Code of Federal Regulations, is amended as set forth below, effective September 1, 1977.

Issued in Washington, D.C., August 26, 1977.

ERIC J. FYGI,
Acting General Counsel.

Subpart C of 10 CFR Part 211 is amended by adding a Special Rule No. 9 in the Appendix thereof to read as follows:

SPECIAL RULE NO. 9

1. *Scope.* This special rule applies to all refiners which were refiner-buyers and refiner-sellers during the crude oil allocation quarter under the buy/sell program commencing June 1, 1977.

2. *Purpose.* Nothwithstanding the provisions of § 211.65, this special rule suspends the crude oil allocation quarter which would otherwise commence September 1, 1977, and establishes a new rule for the allocation of crude oil during the month of September 1977.

3. *Special allocation rule for September 1977.* For the month of September 1977 the allocation of crude oil among refiners shall be made as follows:

(a) Each refiner-seller and refiner-buyer as determined for the allocation quarter commencing June 1, 1977, shall continue in such capacity in September 1977.

(b) Each refiner-seller shall sell in the month of September 1977 to each refiner-buyer to which sales of crude oil were made by the refiner-seller pursuant to the allocation quarter commencing June 1, 1977, including sales directed by the FEA pursuant to 10 CFR 211.65(h), a volume of crude oil equal to 30/92 of the total volume of crude oil sold to that refiner-buyer by that refiner-seller. Refiner-buyers shall have the option of exercising their respective purchase opportunities authorized under this paragraph.

(c) Prior to September 5, 1977, each refiner-seller shall notify each refiner-buyer of the volume of crude oil to be sold to such refiner-buyer by the refiner-seller pursuant to paragraph (b) of this rule.

(d) Prior to September 9, 1977, refiner-sellers and refiner-buyers shall enter into sales contracts for the delivery and purchase of crude oil pursuant to paragraph (b) of this rule.

(e) For purposes of adjusting refiner-sellers' sales obligations for allocation periods subsequent to September 30, 1977, FEA will calculate a total primary sales obligation for the month of September 1977 based on 30/92 of the total primary sales obligation in the allocation quarter commencing June 1, 1977. Each refiner-seller's imputed sales obligations for the month of September 1977 will be calculated according to the procedures provided in § 211.65(d), and refiner-sellers' unsold primary obligations from the allocation quarter commencing June 1, 1977 and the September 1977 allocation period will be carried forward to the allocation period commencing October 1, 1977; *Provided*, That, the volume of unsold sales obligations of each refiner-seller so carried over shall be reduced as provided in § 211.65 (f)(3) adopted on August 19, 1977.

(f) The provisions of § 211.65 (f) and (g) and § 212.94 are applicable to all sales made pursuant to this rule.

(g) The provisions of Subpart C of Part 211 (including but not limited to the procedures and reporting requirements of § 211.66) shall remain in full force and effect except as expressly modified by the provisions of this rule.

(h) FEA will not entertain applications for allocations of crude oil for future refining capacity submitted pursuant to § 211.65 (b) for the month of September 1977.

[FR Doc.77-25378 Filed 8-30-77;8:45 am]

Title 12—Banks and Banking

CHAPTER VI—FARM CREDIT ADMINISTRATION

ORGANIZATION; LOAN POLICIES, AND OPERATIONS; FUNDING AND FISCAL AFFAIRS

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration, by its Federal Farm Credit Board, took final action to amend its regulations pertaining to amendments to charters of the associations of the Farm Credit System, loan policies of the banks for cooperatives, and certain funding aspects of the banks of the Farm Credit System. The changes in the regulations covering amendments to association charters are being made to clarify certain existing rules. In view of a study by the Capital and Credit Committee of the Banks for Cooperatives, the regulations covering loan policies are being made more responsive to the changing financial posture of the banks. The regulations on funding are redefined to more accurately reflect the ratio requirements of the banks of the Farm Credit System. In addition, the funding regulations are being amended to provide for the issuance of a Farm Credit Systemwide consolidated bond in book-entry form only and to parallel regulations issued by the Treasury Department.

EFFECTIVE DATE: August 15, 1977.

FOR FURTHER INFORMATION CONTACT:

John F. Greeneisen, Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza, SW., Washington, D.C. 20578 (202–755–2181).

SUPPLEMENTARY INFORMATION: The Farm Credit Administration, by its Federal Farm Credit Board, took final action on amendments to its regulations which (1) in a transfer of territory from one association to another, require prompt notification to all stockholders and borrowers whose operations are located in the adjusted territories; (2) provide for adjusting the lending limits of the banks for cooperatives semiannually instead of annually; (3) redefine the debt to capital ratio requirements of the banks of the Farm Credit System; (4) prescribe the form and denomination of consolidated bonds, consolidated Systemwide notes, and consolidated Systemwide bonds issued by Farm Credit banks; (5) reflect the liability of each bank of the Farm Credit System in connection with the issuance of consolidated or Systemwide obligations made on its behalf; (6) redefine the terms used in the subpart on issuance of book-entry and definitive Farm Credit securities; (7) clarify the authority of Reserve Banks to issue and otherwise handle book-entry Farm Credit securities; (8) redescribe the scope and effect of the book-entry procedure; (9) redescribe the transfer or pledge of book-entry Farm Credit securities; (10) redescribe the procedure for withdrawal of Farm Credit securities from a Reserve Bank; (11) clarify the liability of the Federal Reserve Banks in connection with book entries of Farm Credit securities; (12 specify the authority of the Federal Reserve Banks to maintain book-entry Farm Credit securities for member banks; (13) set forth the requirements for identification of book-entry accounts; (14) clarify the procedures for servicing book-entry Farm Credit securities; (15) make the regulations of the Treasury Department and the U.S. statutes governing lost, stolen, destroyed, mutilated or defaced U.S. Securities applicable to Farm Credit Systemwide obligations; (16) provide for restrictive endorsement of Farm Credit Systemwide obligations; (17) provide for loss from payment of spurious consolidated obligations to be shared by the 12 Federal intermediate credit banks; and (18) clarify the requirements under which Farm Credit securities may be illustrated in informational and educational materials.

By notice published in the FEDERAL REGISTER on June 20, 1977, interested persons were afforded the opportunity to file written comments or suggestions on these proposed regulations. Ten responses were received commenting on §§ 611.1120(b)(1), 614.4354, and 615.5220. Nine of these were either in favor of or had no objection to the proposed regulations. The other response recommended a change in § 611.1120(b)(1) to make provision for a situation where, in a territorial adjustment among Farm Credit associations, the transferee association does not have like kinds of equities as the transferor association. The proposed regulation was revised to provide, in such instances, for an offering of similar equities which will not adversely affect the interests of the owner and was adopted by the Federal Farm Credit Board as changed.

Of the twenty-six responses received on §§ 615.5450 to 615.5498, twenty-two were in favor of or had no objection to the proposed regulations. The other four comments were directed primarily to language clarification, and several minor technical changes were made in the proposed regulations. All responses received were considered in arriving at the final regulations. As changed, the proposed regulations were adopted by the Federal Farm Credit Board.

Chapter VI of Title 12 of the Code of Federal Regulations is amended by revising §§ 611.1120(b)(1) and 614.4354; renumbering §§ 615.5106, 615.5107, 615.5108, and 615.5109 to be §§ 615.5495, 615.5496, 615.5497, 615.5498 respectively; revising § 615.5220; deleting § 615.5230; renumbering §§ 615.5450, 615.5455, 615.5460, 615.5465, 615.5470, 615.5475, 615.5480 to be §§ 615.5460, 615.5465, 615.5470, 615.5475, 615.5480, 615.485, 615.5494 respectively; adding new §§ 615.5450, 615.5451, 615.5452, 615.5453; revising §§ 615.5460, 615.5465, 615.5470, 615.5475, 615.-

V 42169 AUG 31 77 UMI

5480, 615.5485; adding new §§ 615.5490, 615.5492, and revising §§ 615.5494, 615.5495, 615.5496, 615.5497, 615.5498 as follows:

PART 611—ORGANIZATION

§ 611.1120 Amendments of association charters.

* * * * *

(b) *Other charter amendments.* (1) Territorial adjustments may be made among like associations subject to the approval of the bank board and the Farm Credit Administration, provided, however, that the Governor shall have the power to direct at any time such changes in a charter as he finds necessary for the accomplishment of the purposes of the Farm Credit Act of 1971. All stockholders and all borrowers whose operations are located in the adjusted territories shall be informed in writing of the change and notified that their loans are being transferred to and related equities exchanged for equities of like kinds and amounts in the transferee association. If a like kind of equity is not available in the transferee association, similar equities shall be offered which will not adversely affect the interests of the owner. At that time, each stockholder shall also be informed that the latest association financial and related information will be made available for review upon the stockholder's written request. The Agreement of Transfer of Territory and the notice to stockholders shall provide for a 60-day period from date of stockholder notification during which they may, by written notice to either association, decline to accept the equities of the transferee association and elect to remain with the transferor association for normal servicing until the current loan is paid. Any application by the borrower for renewal or additional credit shall be made to the transferee association, except for those applications permitted under § 614.4070 of this chapter.

* * * * *

PART 614—LOAN POLICIES AND OPERATIONS

§ 614.4354 Banks for cooperatives.

(a) *District banks.* Loans outstanding at any one time to any one borrower, exclusive of participations sold to others shall be limited to the following percentages of the net worth of a district bank as of the preceding June 30 or December 31, whichever is more recent or at an interim date determined by the Farm Credit Administration as a result of material changes in a bank's net worth.

* * * * *

(3) Net worth for the calculation of lending limits at December 31 shall exclude 20 percent of the bank's undistributed earnings and shall not include any portion of Central Bank for Cooperative's undistributed earnings.

(4) Loans made within the established lending limits that become excessive because of a subsequent decrease in the bank's net worth shall be reduced to the lending limits in an orderly manner over a reasonable period.

* * * * *

(d) * * *

(1) Determine its balance sheet net worth total as of the preceding June 30 or December 31, whichever is more recent, or at any interim date determined by the Farm Credit Administration as a result of material changes in the bank's net worth.

* * * * *

PART 615—FUNDING AND FISCAL AFFAIRS

§ 615.5220 Ratio requirements.

(a) A bank shall not incur aggregate liabilities exceeding 20 times its capital and surplus, except with the specific written approval of the Farm Credit Administration. Such approval shall not be granted if the consolidated ratio for all like banks will exceed 20 to 1. When such an exception occurs, all other like banks shall be notified by the Farm Credit Administration. A bank shall notify the Farm Credit Administration whenever its aggregate liabilities exceed 18 times its capital and surplus.

(b) An issue of notes, bonds, debentures, or other similar obligations by a bank or banks shall not be approved by the Farm Credit Administration if such issue together with the aggregate of all other liabilities exceeds 20 times the capital and surplus of the bank or banks which will be primarily liable on the proposed issue. If more than one bank will be primarily liable on the proposed issue, the capital and surplus of the banks involved shall be calculated on a consolidated basis.

(c) The term "capital and surplus," as used in this section, represents total net worth including undistributed earnings or losses but excluding valuation reserves and liability reserves. The term "aggregate liabilities," as used in this section, represents all amounts owed to others.

§ 615.5230 [Deleted]

* * * * *

Subpart O—Issuance of Book-Entry and Definitive Farm Credit Securities

Sec.

615.5450 Consolidated bonds.
615.5451 Consolidated Systemwide notes.
615.5452 Consolidated Systemwide bonds.
615.5453 Liability.
615.5460 Definition of terms for book-entry issuance of Farm Credit securities.
615.5465 Authority of Reserve Banks.
615.5470 Scope and effect of book-entry procedures.
615.5475 Transfer or pledge.
615.5480 Withdrawal of Farm Credit securities.
615.5485 Delivery of Farm Credit securities.
615.5490 Classes of accounts.
615.5492 Identification of accounts.
615.5494 Servicing book-entry Farm Credit securities: Payment of interest, payment at maturity or upon call.
615.5495 Lost, stolen, destroyed, mutilated or defaced Farm Credit securities, including coupons.
615.5496 Restrictive endorsement of bearer securities.
615.5497 Loss from payment of spurious consolidated bonds.
615.5498 Farm Credit securities as illustrations.

AUTHORITY: Secs. 5.9, 5.12, 5.18, 85 Stat. 619, 620, 621.

Subpart O—Issuance of Book-Entry and Definitive Farm Credit Securities

§ 615.5450 Consolidated bonds.

(a) The 12 Federal land banks issue consolidated bonds in definitive form in denominations of $1,000, $5,000, $10,000, $50,000, $100,000, and $500,000, or in book-entry form in denominations of $1,000 or multiples thereof.

(b) The 12 Federal intermediate credit banks issue consolidated bonds in definitive form in denominations of $5,000, $10,000, $50,000, $100,000, and $500,000, or in book-entry form in denominations of $5,000 or multiples thereof.

(c) The 13 banks for cooperatives issue consolidated bonds in definitive form in denominations of $5,000, $10,000, $50,000, $100,000, and $500,000, or in book-entry form in denominations of $5,000 or multiples thereof.

§ 615.5451 Consolidated Systemwide notes.

The 12 Federal land banks, the 12 Federal intermediate credit banks, and the 13 banks for cooperatives issue consolidated Systemwide notes only in bearer definitive form in denominations of $50,000, $100,000, and $1,000,000.

§ 615.5452 Consolidated Systemwide bonds.

The 12 Federal land banks, the 12 Federal intermediate credit banks, and the 13 banks for cooperatives issue consolidated Systemwide bonds only in book-entry form in denominations of $1,000 or multiples thereof for issues with an original maturity over 1 year and 1 month and $5,000 or multiples thereof for issues with an original maturity of under 1 year and 1 month.

§ 615.5453 Liability.

Each bank of the Farm Credit System is primarily liable for the portion of any issue of consolidated or Systemwide obligations made on its behalf and is jointly and severally liable for the payment of any additional sums as called upon by the Farm Credit Administration in order to make payments of interest or principal which any bank primarily liable therefor shall be unable to make. Such calls shall be made first upon the other banks operating under the same title of the Farm Credit Act of 1971 as the defaulting bank, and second upon banks operating under other titles of the Act, taking into consideration the capital, surplus, bonds, debentures, or other obligations which each may have outstanding at the time of such assessment.

§ 615.5460 Definition of terms for book-entry issuance of Farm Credit securities.

In this subpart, unless the context otherwise requires or indicates:

(a) "Reserve Bank" means a Federal Reserve Bank and its branches acting as agent for the banks of the Farm Credit System and, where indicated, acting in its individual capacity.

(b) "Banks of the Farm Credit System" means the 12 Federal land banks, the 12 Federal intermediate credit banks, the 13 banks for cooperatives, or all of them.

(c) "Farm Credit securities" means consolidated note, bonds, debentures, or other similar obligations of the 12 Federal land banks, the 12 Federal intermediate credit banks, or the 13 banks for cooperatives, and Systemwide notes, bonds, debentures, or similar obligations of the 37 banks of the Farm Credit System, issued under the Farm Credit Act of 1971, or laws repealed thereby, the completion and delivery of which is or has been undertaken by a Reserve Bank as agent of the banks of the Farm Credit System.

(d) "Definitive Farm Credit security" means a Farm Credit security issued in engraved or printed form by the Federal Reserve Bank of New York as agent of the banks of the Farm Credit System.

(e) "Book-entry Farm Credit security" means a Farm Credit security issued in the form of an entry made as prescribed in this subpart on the records of a Reserve Bank.

(f) "Convertible" means a definitive Farm Credit security convertible into a book-entry Farm Credit security or vice versa.

(g) "Pledge" includes a pledge of, or any other security interest in, Farm Credit securities as collateral for loans or advances or to secure deposits of public monies or the performance of an obligation.

(h) "Member bank" means any national bank, or State bank, or other bank or trust company which is a member of a Reserve Bank.

(i) "CUSIP number" is a unique identification for each security issue established by the Committee on Uniform Security Identification Procedures.

§ 615.5465 Authority of Reserve Banks.

Each Reserve Bank is hereby authorized in accordance with the provisions of this subpart to:

(a) Issue book-entry Farm Credit securities by means of entries on its records, which shall include the name of the bank's depositor, the latter's employer identification number, where appropriate, and the amount, maturity date and CUSIP number of each loan.

(b) Effect conversions between book-entry Farm Credit securities and definitive Farm Credit securities, if convertible.

(c) Otherwise service and maintain book-entry Farm Credit securities.

(d) Issue a confirmation of transaction in the form of an advice (serially numbered or otherwise), which specifies the amount, maturity date, and CUSIP number of the loan as well as the date of the transaction.

§ 615.5470 Scope and effect of book-entry procedure.

(a) A Reserve Bank as agent for the banks of the Farm Credit System may apply the book-entry procedure provided for in this subpart to any Farm Credit securities which may be issued either in book-entry or definitive form, which have been or are hereafter deposited for any purpose, or maintain Farm Credit securities which may only be issued in book-entry form, in accounts with it in its individual capacity under terms and conditions which indicate that the Reserve Bank will continue to maintain such deposit accounts in its individual capacity notwithstanding application of the book-entry procedure to such securities. This paragraph shall be applicable but not limited to Farm Credit securities deposited or maintained:

(1) As collateral pledged to a Reserve Bank (in its individual capacity) for advances by it.

(2) For a member for its sole account.

(3) For a member bank held for the account of its customers.

(4) In connection with deposits in a member bank of funds of States, municipalities, or other political subdivisions.

(5) In connection with the performance of an obligation or duty under Federal, State, municipal, or local law, or judgments or decrees of courts.

The application of the book-entry procedure or the maintenance of book-entry Farm Credit securities under this paragraph shall not derogate from or adversely affect the relationships that would otherwise exist between a Reserve Bank in its individual capacity and the entities for which accounts are maintained. Whenever the book-entry procedure is applied to such Farm Credit securities, the Reserve Bank is authorized to take all action necessary in respect of the book-entry procedure to enable such Reserve Bank in its individual capacity to perform its obligations as depository with respect to such Farm Credit securities.

(b) A Reserve Bank as agent of the banks of the Farm Credit System shall apply the book-entry procedure to Farm Credit securities deposited as collateral pledged to the United States under Treasury Department Circulars Nos. 92 and 176; both as revised and amended, and may apply the book-entry procedure, with the approval of the Secretary of the Treasury, to any other Farm Credit securities deposited with a Reserve Bank as Fiscal Agent of the United States.

(c) Any person having an interest in Farm Credit securities which are deposited with a Reserve Bank (in either its individual capacity or as agent of the banks of the Farm Credit System) for any purpose shall be deemed to have consented to their conversion to book-entry Farm Credit securities pursuant to the provisions of this subpart and in the manner and under procedures prescribed by the Reserve Bank.

(d) No deposit shall be accepted under this section on or after the date of maturity or call of the Farm Credit securities.

§ 615.5475 Transfer or pledge.

(a) *Reserve Bank records.* A transfer or a pledge of book-entry Farm Credit securities to a Reserve Bank, or to any transferee or pledgee eligible to maintain an appropriate book-entry account in its name with a Reserve Bank under this subpart, is effected and perfected, notwithstanding any provision of law to the contrary, by a Reserve Bank making an appropriate entry in its records of the Farm Credit securities transferred or pledged. The making of such an entry in the records of a Reserve Bank shall:

(1) Have the same effect as the delivery of Farm Credit securities in bearer definitive form;

(2) Have the effect of a taking of delivery by the transferee or pledgee;

(3) Constitute the transferee or pledgee a holder;

(4) If a pledge, effect a perfected security interest therein in favor of the pledgee. A transfer or pledge of book-entry Farm Credit securities effected under this paragraph shall have priority over any transfer, pledge, or other interest, theretofore or thereafter effected or perfected under paragraph (b) of this section or in any other manner.

(b) *Member banks and others.* A transfer or a pledge of book-entry Farm Credit securities, or any interest therein, maintained by a Reserve Bank (in its individual capacity or as agent of the Farm Credit banks) in a book-entry account under this subpart, including Farm Credit securities in book-entry form under § 615.5470(a)(3), is effected, and a pledge is perfected, by any means that would be effective under applicable law to effect a transfer or to effect and perfect a pledge of Farm Credit securities, or any interest therein, if the securities were maintained by the Reserve Bank in bearer definitive form. For purposes of transfer or pledge hereunder, book-entry Farm Credit securities maintained by a Reserve Bank shall, notwithstanding any provision of law to the contrary, be deemed to be maintained in bearer definitive form. A Reserve Bank maintaining book-entry Farm Credit securities, either in its individual capacity or as agent of the Farm Credit banks, is not a bailee for purposes of notification of pledges of those securities under this paragraph, or a third person in possession for purposes of acknowledgment of transfers thereof under this paragraph. Where Farm Credit securities are recorded on the books of an entity for account of the pledgor or transferor thereof and such securities are on deposit or are maintained with a Reserve Bank in a book-entry account hereunder, such entity shall, for purposes of perfecting a pledge of such securities or effecting their delivery to a purchaser under applicable provisions of law, be the bailee to which notification of the pledge of the securities may be given or the third person in possession from which acknowledgment of the holding of the securities for the purchaser may be obtained. A Reserve Bank will not accept notice or advice of a transfer or pledge effected or perfected under this paragraph, and

V 42 169 AUG 31 77 UMI

any such notice or advice shall have no effect. A Reserve Bank may continue to deal with its depositors in accordance with the provisions of this subpart, notwithstanding any transfer or pledge effected or perfected under this paragraph.

(c) *Filing and recording unnecessary.* No filing or recording with a public recording office or officer shall be necessary or effective with respect to any transfer or pledge of book-entry Farm Credit securities or any interest therein.

(d) *Conversion.* A Reserve Bank shall, upon receipt of appropriate instructions, convert book-entry Farm Credit securities into definitive Farm Credit securities, if convertible, and deliver them in accordance with such instructions. No such conversion shall affect existing interests in such Farm Credit securities.

(e) *Transfer by Reserve Banks.* A transfer of book-entry Farm Credit securities within a Reserve Bank shall be made in accordance with the procedure established by the Bank not inconsistent with this subpart. The transfer of book-entry Farm Credit securities by a Federal Reserve Bank may be made through a telegraphic transfer procedure.

(f) *Timeliness of requests.* All requests for transfer, withdrawal or any authorized transaction, must be received prior to the maturity or date of call of the security.

§ 615.5480 Withdrawal of Farm Credit securities.

(a) A depositor of book-entry Farm Credit securities may withdraw them, if convertible, from a Reserve Bank by requesting delivery of like definitive Farm Credit securities to itself or on its order to a transferee.

(b) Farm Credit securities which can be delivered upon withdrawal will be issued in bearer form only.

§ 615.5485 Delivery of Farm Credit securities.

A Reserve Bank which has received Farm Credit securities and effected pledges, made entries regarding them, or transferred or delivered them according to the instructions of its depositor is not liable for conversion or for participation in breach of fiduciary duty even though the depositor had no right to dispose of or take over action in respect of the securities. A Reserve Bank shall be fully discharged of its obligations under this subpart by the transfer or delivery of Farm Credit securities in book-entry or definitive form to its depositor or upon the order of such depositor. Customers of a member bank or other entity (other than a Reserve Bank) may obtain Farm Credit securities in definitive form if convertible only by causing the depositor of the Reserve Bank to order the withdrawal thereof from the Reserve Bank.

§ 615.5490 Classes of accounts.

Reserve Banks are authorized to maintain book-entry Farm Credit securities for member banks for securities the member banks hold for their own account, or hold for the account of their customers, and as otherwise specified in § 615.5470. Purchasers of book-entry Farm Credit securities, on original issue or otherwise, may have such securities maintained at member banks, or in accounts maintained at entities providing securities safekeeping services for customers (e.g., nonmember banks or thrift institutions, or securities dealers) which have related accounts at member banks.

§ 615.5492 Identification of accounts.

Book-entry accounts may be established in such form or forms as customarily permitted by the entity (e.g., member bank, or other banking or thrift institution, or a securities dealer) maintaining them, except that each account should include data to permit both customer identification by name, address and taxpayer identifying number, as well as a determination of the Farm Credit securities being held in such account by amount, maturity date and CUSIP number, and of transactions relating thereto.

§ 615.5494 Servicing book-entry Farm Credit securities: Payment of interest, payment at maturity or upon call.

(a) Interest becoming due on book-entry Farm Credit securities shall be charged to the appropriate Farm Credit bank account at the Federal Reserve Bank of New York on the interest-due date and remitted or credited in accordance with the instructions from the member bank or other Reserve Bank depositor for whose account the securities shall have been maintained.

(b) Book-entry Farm Credit securities shall be redeemed and charged to the appropriate Farm Credit bank account at the Federal Reserve Bank of New York and the redemption proceeds, principal, and interest shall be disposed of in accordance with the instructions from the member bank or other Reserve Bank depositor for whose account the securities shall have been maintained.

§ 615.5495 Lost, stolen, destroyed, mutilated or defaced Farm Credit securities, including coupons.

(a) *Basis of relief.* The statutes of the United States, now or hereafter in force, and the regulations of the Treasury Department, now or hereafter in force, governing relief on account of the loss, theft, destruction, mutilation or defacement of U.S. securities, and the regulation of the Treasury Department, now or hereafter in force, governing the payment of mutilated or defaced coupons of U.S. securities, insofar as such statutes and regulations may be applicable, and as modified to relate to the consolidated or Systemwide obligations of the Farm Credit banks and coupons of such obligations shall govern the granting of relief on account of lost, stolen, destroyed, mutilated or defaced consolidated or Systemwide obligations of the Farm Credit banks and mutilated or defaced coupons of such obligations.

(b) *Claims and proof of loss.* Claims shall be presented to the Claims Branch of the Division of Securities Operations, Bureau of the Public Debt, Washington, D.C. 20226, and proof shall be made to the Bureau of Public Debt, by applicants for relief on account of the loss, theft, destruction, mutilation or defacement of consolidated or Systemwide obligations of the Farm Credit banks and the mutilation or defacement of coupons of such obligations, in accordance with the statutes of the United States, now or hereafter in force, and the regulations of the Treasury Department, now or hereafter in force, with respect to securities of the United States, and coupons of such securities.

§ 615.5496 Restrictive endorsement of bearer securities.

When consolidated and Systemwide obligations of the Farm Credit banks are being presented to Reserve Banks, for redemption, exchange, or conversion to book entry, such obligations may be restrictively endorsed. The restrictive endorsement shall be placed thereon in substantially the same manner and with the same effects as prescribed in United States Treasury Department regulations, now or hereafter in force, governing like transactions in United States bonds; and consolidated or Systemwide obligations of the Farm Credit banks so endorsed shall be prepared for shipment and shippe din the manner prescribed in such regulations for United States bonds. (See 31 CFR 328.1–328.6)

§ 615.5497 Loss from payment of spurious consolidated bonds.

Each of the 12 Federal intermediate credit banks agreed, by resolution adopted by its board of directors, to share in any loss resulting from the payment of counterfeit, forged, or unauthorized consolidated obligations. The agreement provides that such loss shall be shared by the 12 Federal intermediate credit banks in the same ratio as their respective participations in such obligations issued during the 12 months preceding the date of payment of such counterfeit, forged, or unauthorized obligations.

§ 615.5498 Farm Credit securities as illustrations.

Illustrations of Farm Credit securities may appear in information and educational materials if printed in black and white, but not in color, and must be less than ¾ actual size or more than 1½ times the actual size of the original security. Motion picture and microfilms and slides of such securities are permitted in black and white or color for projection on a screen or for use in telecasting.

(Secs. 5.9, 5.12, 5.18, 85 Stat. 619, 620, 621.)

DONALD E. WILKINSON,
Governor,
Farm Credit Administration.

[FR Doc.77-25376 Filed 8-30-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER–1015, Amdt. 11]

[Docket No. 29806; Reg. ER–1015, Amdt. 11]

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

Minimum Seat Size for Split Charters

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: This final rule reduces to 20 seats the minimum size for split charters transported on aircraft with 80 or fewer seats, when there are no more than two charter contracts for the entire capacity of the aircraft. The amendment changes all split charter rules to conform with that adopted for the Advance Booking Charter (ABC), and is at the initiative of the Board.

DATES: Effective: September 30, 1977. Adopted: August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Simon J. Eilenberg, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202–673–5442).

SUPPLEMENTARY INFORMATION: With the exception of the ABC rules contained in Part 371 of the Special Regulations, the Board's charter rules, as set forth in Parts 207, 208, 212, and 214 of the Economic Regulations, and in Part 372a, 373, 378, and 378a of the Special Regulations, require that on a split charter flight, each charter group be of a minimum size of 40 seats, regardless of the capacity of the aircraft. On September 1, 1976, the Board adopted SPR–110 which established the ABC rules, and provided that in small aircraft having fewer than 80 seats, where the aircraft is utilized by no more than two ABC groups, one of those groups may have as few as 20 seats. This exception for small aircraft was at the suggestion of the local service carriers.

The Board then issued Notice of Proposed Rulemaking, EDR–304/SPDR–49, dated September 21, 1976, stating its tentative conclusion that a similar exception should be provided for all types of split charters which utilize small aircraft. Comments in general support of the proposed rule were received from the Civil Aeronautics Board's Office of the Consumer Advocate (OCA), and Texas International Airlines (TXI). Comments in general opposition were filed by Trans World Airlines (TWA), on the grounds that the proposed rule goes too far, and by Trans International Airlines (TIA) and World Airways (World), on the ground that the proposed rule does not go far enough.

Upon consideration, the Board has decided to adopt the rule as proposed, with several modifications discussed below. The tentative findings and conclusions set forth in EDR–304/SPDR–49 are incorporated and made final, except as modified. All requests contained in the comments are denied unless specifically granted.

Since the origin of the Board's charter rules, domestic charter travel has been limited primarily to the long-haul, large vacation markets. It has simply been uneconomic for the charter operators to arrange charters from small cities or to lesser-known vacation areas. Small tour operators have also found it difficult to arrange tours of smaller groups, with accommodations at the smaller hotels. One of the reasons for these problems is the 40 seat minimum for split charters imposed by the charter regulations. This minimum has also given the domestic trunk and supplemental air carriers somewhat of a marketing advantage over the local service carriers, which use smaller aircraft, in competing for charter transportation.

By reducing the minimum group size for split charters, the rule would encourage the local service carriers to participate more actively in charter flights and would allow the small tour operators, in combination with these carriers, to develop new markets and tours and offer them to a wider range of travelers. This expansion of charter service availability to the traveling public is consistent with the Board's continuing efforts to encourage low-cost air transportation.

In its comments, TWA opposes the amendment, stating that the smaller a charter group becomes, the easier it is to satisfy the individual travel requirements of each of its members, and thus, in turn, to increase the attractiveness and diversion potential of charter service. However, considering the small size of the aircraft involved, and that all other restrictions on the charters remain in effect, the Board agrees with OCA that this amendment is unlikely to cause undue diversion from scheduled service, or to impair the distinction between charter and individually-ticketed service.

Two supplemental carriers, TIA and World, filed a joint comment that opposes changing the minimum size of the charter groups unless the amendment is extended to include all aircraft, and not just the small aircraft operated by the local service carriers. They argue that this change would give the local service carriers a competitive advantage over carriers such as TIA and World, which operate only the larger aircraft. Alternatively, these supplemental carriers contend that the proposed rule should be modified so as to permit at least one group of 20 passengers on any "split" charter flight, regardless of aircraft size. Such a change, they argue, would give all carriers needed additional flexibility in the charter market, and would permit maximum use of all aircraft. We have determined to reject these supplemental carriers' arguments, since they raise issues far beyond the narrow scope of this proceeding, in which we are considering only the issue of conforming all split charter rules to the special exception that the ABC rule already provides for small aircraft.[1]

TXI has proposed a modification which would specifically designate the DC 9–10 as a small aircraft for the purpose of this rule, regardless of its seating capacity. With 80 seats as the cut-off point, TXI contends that the rule, as worded, precludes the operation of the reduced "split" charter group on some aircraft which the exception is intended to cover. TXI states that the rule is intended to apply to small jet aircraft operated by the local service carriers, such as the BAC–111 and the DC 9–10, which are generally configured for 75 seats, but that since TXI also provides scheduled service and has modified its small aircraft by adding an extra row of seats, its small aircraft achieve a capacity of 80 seats and would thus be unable to benefit from the new rule that literally applies only to aircraft having "less than" 80 seats. The Board has accepted the suggestion of TXI, and has modified the rule to state specifically that its benefits will apply to aircraft having "80 seats or fewer."

For consistency, the Board is amending the ABC rule concerning "split" charters on small aircraft to read "80 or fewer" seats; and it is also making clarifying changes to the text of Parts 372a, 373, 378, and 378a, so as to follow the exact text of the Part 371 provision, unambiguously stating that only one group of 20 seats is allowed under the exception for small aircraft.

Finally, we have determined that this special split charter rule for small aircraft should not be restricted by a novel prohibition against combining different types of charters on the same aircraft. Since there was no opposition in the comments to deleting this restriction from the proposed rules, we are deleting it also from Part 371.

Accordingly, 14 CFR Part 207 is amended as follows:

Revise the proviso at the end of paragraph (c) of § 207.11 to read as follows:

§ 207.11 Charter flight limitations.

* * * * * *

(c) * * *

Provided, That with respect to paragraph (c) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats, except that, if the entire capacity of an aircraft having 80 or fewer seats is engaged by no more than two persons described in paragraph (c), then either one of such persons may contract and pay for a minimum of 20 seats: *And provided further,* That paragraph (c) shall not be construed to apply to movements of property.

[1] By EDR–329/SPDR–59, dated July 21, 1977, the Board issued an Advance Notice of Proposed Rulemaking in Docket 30766 to reexamine its requirements for the minimum group size for all types of charter flights, and that proceeding will encompass such issues as those raised by the TIA/World proposals.

V 42 169 AUG 31 77 UMI

(Secs. 101, 204, 401, 416, Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743, 754, 771; (49 U.S.C. 1301, 1324, 1371, 13860)).

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-25385 Filed 8-30-77;8:45 am]

[Docket No. 29806; Reg. ER-1016, Amdt. 11]

PART 208—TERMS, CONDITIONS AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

Minimum Seat Size for Solit Charters

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: This final rule reduces to 20 seats the minimum size for split charters transported on aircraft with 80 or fewer seats unless there are no more than two charter contracts for the entire capacity of the aircraft. The amendment changes all split charter rules to conform with that adopted for the Advance Booking Charter (ABC), and is at the initiative of the Board. Supplementary information concerning this amendment is given in the preamble to ER-1015, which is being issued simultaneously.

DATES: Effective: September 30, 1977. Adopted: August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Simon J. Eilenberg, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5442).

Accordingly, 14 CFR Part 208 is amended as follows:

Revise the proviso at the end of paragraph (c) of § 208.6 to read as follows:

§ 208.6 Charter flight limitations.

* * * * * * *

(c) * * *

Provided, That with respect to paragraph (c) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats, except that, if the entire capacity of an aircraft having 80 or fewer seats is engaged by no more than two persons described in paragraph (c), then either one of such persons may contract and pay for a minimum of 20 seats: *And provided further*, That paragraph (c) shall not be construed to apply to movements of property.

(Secs. 101, 204, 401, 416, Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743, 754, 771; (49 U.S.C. 1301, 1324, 1371, 1386).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc 77-25386 Filed 8-30-77,8:45 am]

[Docket No. 29806; Reg. ER-1017, Amdt. 21]

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

Minimum Seat Size for Split Charters

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule reduces to 20 seats the minimum size for split charters transported on aircraft with 80 or fewer seats when there are no more than two charter contracts for the entire capacity of the aircraft. The amendment changes all split charter rules to conform with that adopted for the Advance Booknig Charter (ABC), and is at the initiative of the Board. Supplementary information concerning this amendment is given in the preamble to ER-1015, which is being issued simultaneously.

DATES: Effective: September 30, 1977. Adopted: August 25. 1977.

FOR FURTHER INFORMATION CONTACT:

Simon J. Eilenberg, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5442).

Accordingly, 14 CFR Part 212 is amended as follows:

Revise the proviso at the end of paragraph (b) of § 212 8 to read as follows:

§ 212.8 Charter flight limitations.

* * * * * * *

(b) * * *

Provided, That with respect to paragraph (b) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats, except that, if the entire capacity of an aircraft having 80 or fewer seats is engaged by no more than two persons described in paragraph (b), then either one of such persons may contract and pay for a minimum of 20 seats: *And provided further*, That paragraph (b) shall not be construed to apply to movements of property.

(Secs. 101, 204, 402, 416, Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743, 757, 771; (49 U.S.C. 1301, 1324, 1372, 1386).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-25387 Filed 8-30-77;8:45 am]

[Docket No. 29806; Reg. ER-1018, Amdt. 19]

PART 214—TERMS, CONDITIONS AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY

Amendment of Minimum Seat Size for Split Charters

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: This final rule reduces to 20 seats the minimum size for split charters transported on aircraft with 80 or fewer seats when there are no more than two charter contracts for the entire capacity of the aircraft. The amendment changes all split charter rules to conform with that adopted for the Advance Booking Charter (ABC), and is at the initiative of the Board. Supplementary information concerning this amendment is given in the preamble to ER-1015, which is being issued simultaneously.

DATES: Effective: September 30, 1977. Adopted: August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Simon J. Eilenberg, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5442).

Accordingly, 14 CFR Part 214 is amended as follows:

Revise the proviso at the end of paragraph (b) of § 214.7 to read as follows:

§ 214.7 Charter flight limitations.

* * * * * * *

(b) * * *

Provided, That paragraph (b) of this section shall not apply with respect to any foreign air carrier to the extent that its permit authorizes it to engage in "planeload" charter foreign air transportation of persons: *Provided, however*, That with respect to paragraph (b) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats, except that, if the entire capacity of an aircraft having 80 or fewer seats is engaged by no more than two persons described in paragraph (b), then either one of such persons may contract and pay for a minimum of 20 seats.

(Secs. 101, 204, 402, 416, Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743, 757, 771; (49 U.S.C. 1301, 1324, 1372, 1386).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-25388 Filed 8-30-77;8:45 am]

[Docket No. 23904; Reg. ER-1020, Amdt. 39]

PART 221—CONSTRUCTION, PUBLICATION FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Emergency Conditions; Transportation of Disabled Persons Needing Assistance

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule requires all U.S. certificated air carriers to include in their tariffs all rules and regulations relating to the transportation of disabled persons who may need assistance in evacuating an aircraft under emergency conditions. These carrier rules and regulations are to conform to those recently adopted by the Federal Aviation Administration.

DATES: Effective: September 30, 1977. Adopted: August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Daniel D. Campbell, Rates and Agreements Division, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5437).

SUPPLEMENTARY INFORMATION: Section 1111 of the Federal Aviation Act of 1958 (14 U.S.C. 1511) provides as follows:

> Subject to reasonable rules and regulations prescribed by the Administrator, any such carrier may also refuse transportation of a passenger or property when, in the opinion of the carrier, such transportation would or might be inimical to safety of flight.

In the absence of Federal Aviation Regulations providing safety standards relating to the transportation of physically handicapped persons, certificated air carriers have had in effect for a number of years a tariff rule under which they may refuse to accept for transportation any person whose physical condition is such as to render him incapable of caring for himself without assistance, unless the person is accompanied by an attendant for the duration of the flight.[1] In addition, the Board has approved, pursuant to section 412 of the Act, an intercarrier agreement which provides certain criteria for the interline transportation of physically handicapped persons.[2]

Due to concern about the availability of adequate air carriage for handicapped persons in the United States, the Civil Aeronautics Board on October 14, 1971, issued an Advance Notice of Proposed Rulemaking (EDR-215/PSDR-33) to notify the public of the Board's consideration of rulemaking action to amend its Economic Regulations (14 CFR Part 221) and Policy Statements (14 CFR Part 399) to provide for terms and conditions governing the carriage by air of physically handicapped persons. Subsequent to the issuance of our advance notice, the CAB referred the matter to the Department of Transportation and the Federal Aviation Administration (FAA) for a determination by the Secretary and the Federal Aviation Administrator as to the need for safety rules (under section 1111) concerning the carriage of disabled persons. The Federal Aviation Administration undertook, by its own rulemaking, to answer the questions thus posed. (See Notice 73-16, 38 FR 14747, June 5, 1973; Notice 74-25, 39 FR 24667, July 2, 1974.) Thereafter, on August 9, 1974, the Board issued a Notice of Proposed Rulemaking (EDR-215A) which proposed the adoption of a regulation that would require that all tariffs applicable to the transportation of physically handicapped persons be in conformance with the forthcoming regulations of the Secretary of Transportation, and which further proposed to prohibit the filing of tariff rules that would permit a carrier to refuse transportation to a handicapped person other than under circumstances governed by the FAA regulations.

Comments directed to the Board's August 9, 1974, notice have been received from a number of individuals and from the groups, organizations and agencies listed below.[3] Many of these comments were directed to safety issues, were reflective of the then outstanding FAA proposal (Notice 74-25, supra), and reiterated complaints or points of view made to that agency. The rules now adopted by the FAA (see below) are substantially different from those of the original proposal and many of the comments thus appear to have had an indirect impact on the outcome of that proceeding. The substance of the remaining comments which were not addressed to safety issues (generally dealing with free and reduced rate transportation for attendants and the Board's responsibility under section 1002 of the Act) are addressed below.[4]

On March 25, 1977, the Federal Aviation Administration issued its final rules (effective May 16, 1977) regarding the carriage of handicapped persons. (42 FR 18392, April 7, 1977.) The regulations adopted by the FAA provide that a passenger may not be refused transportation on the basis that his transportation would or might be inimical to safety of flight unless the air carrier has established procedures (including reasonable notice requirements) for the carriage of passengers who may need the assistance of another person to move expeditiously to an exit in the event of an emergency. Moreover, if the air carrier has these procedures, it may not refuse to carry the passenger unless: (1) The passenger fails to comply with the notice requirements in the air carrier's procedures; or (2) the passenger cannot be carried in accordance with the established procedures. A copy of the procedures must be provided to the FAA district office charged with overall inspection of the certificate holder's operation. The regulation further provides that whenever the Administrator finds that revisions in any air carrier's procedures are necessary in the interest of safety or in the public interest, the air carrier can be required, after notification by the Administrator, to make any changes that are found necessary.

With the adoption of the FAA rules outlined above, it is now appropriate to take action on the Board's August, 1974, Notice of Proposed Rulemaking.[5] After consideration of the comments filed in response to that proposal, and in view of the comprehensive nature of the FAA rules, we believe the appropriate action is to finalize our rule essentially as proposed. Thus, 15 days after the effective date of this rule, all certificated air carriers shall be required to file in their tariffs those rules and regulations required by the Federal Aviation Administration relating to carriage of persons who may need assistance to evacuate an aircraft during an emergency.[6]

There are several matters regarding the finalization of this proposal that require some comment. The most important of these matters is to set out our understanding of the manner in which the resulting arrangement between the Federal Aviation Administration and this agency will operate. Under the FAA rules, the carriers have a duty to provide the FAA with proposed rules and practices, and these rules will be reviewed by that agency to determine their consistency with "the interest of safety * * * (and) * * * the public interest * * *" Thus, the rules and practices which will ultimately become tariff rules under the primary jurisdiction of this agency, will have been first reviewed for safety and fairness by the Federal Aviation Administration. This is an obvious but impor-

---

[1] Airline Tariff Publishers, Inc., Agent, Rules Tariff, PR-6, C.A.B. 142, Rule 15(a)(2).

[2] Agreement C.A.B. 16614, approved by Order E-19154, December 31, 1962.

[3] Air Medic; Members of the Air Transport Association; the Council of State Administrators of Vocational Rehabilitation; the Departments of Transportation of the States of California and New Jersey; Flying Wheel Tours; Handi-Action, Minnesota; the National Center for Law and the Handicapped, Inc.; the National Federation of the Blind of California; the National Paraplegia Foundation; and the President's Committee on Employment of the Handicapped.

[4] It is appropriate, however, to respond to one individual comment at this point. The rule proposed in EDR-215A contains a negative statement prohibiting rules that would permit refusal to transport handicapped persons on any grounds related to their handicap other than those contained in the rules adopted by the FAA. One comment requested that this phrasing be remolded so as to become an affirmative statement of a carrier's obligation to provide carriage and make necessary arrangements. While we believe that the rule as stated is the appropriate method of directing the content of tariff rules and their application, we agree with the substance of the comment. As we have said before, the basic obligation of an air carrier under section 404 is to provide transportation upon reasonable request, and the fact that a passenger is handicapped or disabled in some fashion does not make his or her request unreasonable.

[5] We note that the Secretary of Health, Education, and Welfare has recently adopted final rules (42 FR 22676 *et seq.*, May 4, 1977) implementing section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, and will soon be promulgating model rules for the guidance of other Federal agencies, as provided by Executive Order 11914, 41 FR 17871 (1976). While the Board has determined not to postpone action in this proceeding until the HEW model rules have been received and evaluated, those carriers receiving Federal financial assistance from the Board should be aware that additional regulations implementing section 504 may be proposed in the near future.

[6] The 45 day period for filing that is granted will pose no burden on carriers and, as these rules are presumptively in effect now, the travelling public will not be harmed. We also request that all initial tariffs containing these rules be marked for effectiveness 45 days after filing in order to provide sufficient time for a complete analysis of industry practices.

V 42 169 AUG 31 77 UMI

tant point. The Civil Aeronautics Board does not have the staff nor the experience to judge the requirements of aircraft safety. Consequently, we are concerned that any such rules which are permitted to become tariff material (and thus to define the contract of carriage between passenger and airline) are reviewed by the appropriate authority. However, since the procedure adopted by the Federal Aviation Administration provides for such a review (see 14 CFR 121.586(c)) we are confident that an adequate review mechanism has been established. Nonetheless, the duty of air carriers to provide air transportation on a nondiscriminatory basis is so fundamental that it should be made clear that we are not in any way relinquishing our responsibility to suspend and/or investigate any such rule where it can be demonstrated that the review by the FAA has not been taken or that the tariffs are otherwise in violation of the public interests standards of the Federal Aviation Act of 1958.

CAB Agreement 16614 also requires some comment. The agreement concerns certain rules and practices governing online and interline (two or more different carriers) travel by handicapped or disabled persons. The agreement has been adopted by nearly all U.S. air carriers and provides certain guidelines for the acceptance for air travel of physically handicapped persons. Under the present arrangement there are several criteria through which an originating air carrier makes a determination of whether a physically handicapped passenger should be permitted to fly. The agreement also provides that once a passenger is accepted by the originating carrier, all other carriers will accept the passenger at least to the point of first stopover.

While this agreement has apparently been of value to the carriers and the travelling public, it contains a number of provisions which must now be reconsidered in the light of the new FAA rules. Particularly, the criteria for acceptance or nonacceptance of passengers will need reconsideration and reformation so as to be made consistent with the rules that are accepted by the FAA and thereafter filed as tariffs with this Board. As we read Section 1111 of the Federal Aviation Act of 1958 and the FAA's rulemaking thereunder, no disabled or handicapped person can be denied transportation on the grounds of disability other than when done in accordance with rules that have been filed with and accepted by the FAA. At a minimum, Agreement 16614 will have to be amended to reflect this fact. However, it is not our intention to disapprove this agreement at this time. Certain of its features—especially the fact that it requires continued acceptance of an interline passenger who has commenced his or her journey—are obviously in the public interest and should be preserved. Thus, for the present we will simply recommend that the carrier parties to Agreement 16614 take whatever steps are necessary to conform that agreement to operations under the new FAA rules.[7]

A final matter that requires some comment is the issue of free or reduced-rate transportation for attendants accompanying handicapped or disabled persons. The Board stated its conviction at the outset of this proceeding that free or reduced-rate transportation for attendants could not be required since the Federal Aviation Act has been construed to prohibit rate discrimination aimed at broad social policies not included in the particularized objectives of the Act itself.[8] Most of the comments that have been addressed to this issue recognize that this construction of the Act has been firmly established by the judiciary and is not subject to serious challenge. Instead, several parties have attempted to demonstrate that reduced rates for the attendants of disabled passengers do, in fact, advance some specific public interest standard found in the Act.[9] We have recently had occasion to consider similar arguments in connection with proposals for Senior Citizen Standby Fares for travel in the State of Hawaii. As was the case in that proceeding, the arguments presented in this rulemaking reduce to the proposition that a particular need for less expensive transportation entitles some class to a discriminatory fare. The "Senior Citizens Standby Fares" case concluded that:

> It may well be socially desirable that seniors in Hawaii have an opportunity to travel to visit relatives, to obtain medical care, to celebrate religious customs, and for recreation. Clearly, however, Congress has given the Board no authority to consider such factors. In "Transcontinental", the Board argued that youth fares could be justified because youths are financially dependent, still in schools frequently great distances from home, and correspondingly in need of rapid transportation during long holiday periods. In response, the court stated, "The essential difficulty with this position is that it is predicated solely on the status of the traffic, and is unrelated to transportation." [10]

The same conclusion—that the status of traffic as especially deserving of a reduced rate will not justify the rate—is equally applicable to the carriage of handicapped or disabled persons and their attendants. Considerations of this type involve questions of social policy which need legislative rather than administrative solutions.

[7] Nothing herein should be interpreted to permit operations under the agreement where the provisions of the agreement conflict with a carrier's rules under FAR 121.

[8] Transcontinental Bus System, Inc. v. C.A.B. 383 F.2d 466 (5th Cir. 1967).

[9] See, especially, the comments of the National Center for Law and the Handicapped, Inc. The statutory standards governing airline rate regulation are contained in sections 102 and 1002 of the Federal Aviation Act, 49 U.S.C. 1302, 1482.

[10] Hawaiian Airlines, Inc., Senior Citizens Standby Fares, Order 76-9-147, September 28, 1976, at 7 (footnote omitted).

Accordingly, the Board hereby amends Part 221 of its Economic Regulations (14 CFR Part 221), effective September 30, 1977, as follows:

Amend paragraph (a) of § 221.38 by adding thereto a new subparagraph (8) to read as follows:

§ 221.38 Rules and Regulations.

(a) *Contents.* Except as otherwise provided in this part, the rules and regulations of each tariff shall contain:

* * * * *

(8) For certificated air carriers, the rules and regulations relating to the transportation of persons who may need assistance to evacuate the aircraft during an emergency. All such provisions shall be in conformity with Part 121 of the Federal Aviation Regulations (14 CFR Part 121), as amended or revised from time to time: *Provided*, That no provision of the Board's regulations issued under this part or elsewhere shall be construed to permit the filing of any tariff rules limiting or conditioning a carrier's obligation to proivde transportation and services in connection therewith upon reasonable request therefor to a person who may require assistance of another person in expeditiously moving to an emergency exit of the aircraft in the event of an evacuation, except as provided for in said Part 121.

(Secs. 204(a), 403, 404, 412, 1111, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758 (as amended) 760, 770, 75 Stat. 467 (49 U.S.C. 1324, 1373, 1374, 1382, 1511).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-25389 Filed 8-30-77;8:45 am]

SUBCHAPTER D—SPECIAL REGULATIONS

[Docket No. 29806; Reg. SPR-131, Amdt. 6]

PART 371—ADVANCE BOOKING CHARTERS

Minimum Seat Size for Split Charters

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule is a technical amendment concerning split charters transported on small aircraft when there are no more than two charter contracts for the entire capacity of the aircraft. The amendment changes the definition of such small aircraft from an aircraft having "fewer than 80" seats to an aircraft with "80 or fewer" seats, and removes the prohibition against combining an ABC with another type of charter on the same aircraft. This change is initiated by the Board so that the ABC rule conforms with the other charter rules which are also being amended. Supplementary information concerning this amendment is given in the preamble to ER-1015, which is being issued simultaneously.

DATES: Effective: September 30, 1977. Adopted: August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Simon J. Ellenberg, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202-673-5442).

Accordingly, 14 CFR Part 371 is amended as follows:

Amend § 371.10 by revising the proviso at the end of paragraph (b), so that the paragraph reads as follows.

§ 371.10 Advance booking charter general requirements.

* * * * *

(b) The charter contract must be for 40 or more seats: *Provided*, That where an aircraft having 80 or fewer seats is utilized for not more than two charter groups, the ABC charter contract may be for not less than 20 seats.

* * * * *

(Secs. 101, 204, 401, 402, 416, Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743, 754, 757, 771 (49 U.S.C. 1301, 1324, 1371, 1372, 1386).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-25390 Filed 8-30-77;8:45 am]

[Docket No. 29806; Reg. SPR-132, Amdt. 17]

PART 372a—TRAVEL GROUP CHARTERS

Minimum Seat Size for Split Charters

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule reduces to 20 seats the minimum size for split charters transported on aircraft with 80 or fewer seats when there are no more than two charter contracts for the entire capacity of the aircraft. The amendment changes all split charter rules to conform with that adopted for the Advance Booking Charter (ABC), and is at the initiative of the Board. Supplementary information concerning this amendment is given in the preamble to ER-1015, which is being issued simultaneously.

DATES: Effective: September 30, 1977. Adopted: August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Simon J. Ellenberg, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5442).

Accordingly, 14 CFR Part 372a is amended as follows:

Amend § 372a.10 by adding a proviso at the end of paragraph (b), so that the paragraph reads as follows:

§ 372a.10 Travel group charter general requirements.

* * * * *

(b) The charter contract must be for 40 or more seats: *Provided*, That where an aircraft having 80 or fewer seats is utilized for not more than two charter groups, the travel group charter contract may be for not less than 20 seats.

* * * * *

(Secs. 101, 204, 401, 402, 416, Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743, 754, 757, 771; (49 U.S.C. 1301, 1324, 1371, 1372, 1386))

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-25391 Filed 8-30-77;8:45 am]

[Docket No. 29806; Reg. SPR-133, Amdt. 15]

PART 373—STUDY GROUP CHARTERS BY DIRECT AIR CARRIERS AND STUDY GROUP CHARTERERS

Minimum Seat Size for Split Charters

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule reduces to 20 seats the minimum size for split charters transported on aircraft with 80 or fewer seats when there are no more than two charter contracts for the entire capacity of the aircraft. The amendment changes all split charter rules to conform with that adopted for the Advance Booking Charter (ABC), and is at the initiative of the Board. Supplementary information concerning this amendment is given in the preamble to ER-1015, which is being issued simultaneously.

DATES: Effective: September 30, 1977. Adopted: August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Simon J. Ellenberg, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5442).

Accordingly, 14 CFR Part 373 is amended as follows:

Amend § 373.2 by adding a second proviso to subparagraph (4) of the definition of "study group charter," so that the subparagraph reads as follows:

§ 373.2 Definitions.

* * * * *

"Study group charter" means * * *

(4) An aircraft under charter to one study group charterer may carry any number of study groups: *Provided*, That if more than one group is carried, the charter contract for each of the groups shall be for 40 or more seats: *Provided, however*, That where an aircraft having 80 or fewer seats is utilized for not more than two charter groups, the charter contract may be for not less than 20 seats.

* * * * *

(Secs. 101, 204, 401, 402, 416, Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743, 754, 757, 771, 775 (49 U.S.C. 1301, 1324, 1371, 1372, 1386).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-25392 Filed 8-30-77;8:45 am]

[Docket No. 29806; Reg. SPR-134, Amdt. 18]

PART 378—INCLUSIVE TOUR CHARTERS

Minimum Seat Size for Split Charters

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule reduces to 20 seats the minimum size for split charters transported on aircraft with 80 or fewer seats when there are no more than two charter contracts for the entire capacity of the aircraft. The amendment changes all split charter rules to conform with that adopted for the Advance Booking Charter (ABC), and is at the initiative of the Board. Supplementary information concerning this amendment is given in the preamble to ER-1015, which is being issued simultaneously.

DATES: Effective: September 30, 1977. Adopted: August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Simon J. Ellenberg, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202-673-5442).

Accordingly, 14 CFR Part 378 is amended as follows:

Amend § 378.2 by adding a second proviso to subparagraph (5) of paragraph (b), so that the subparagraph reads as follows:

§ 378.2 Definitions.

* * * * *

(b) "Inclusive tour" means * * *

(5) An aircraft under charter to one tour operator or foreign tour operator may carry any number of tour groups: *Provided*, That if more than one group is carried, the charter contract for each of the groups shall be for 40 or more seats: *Provided, however*, That where an aircraft having 80 or fewer seats is utilized for not more than two charter groups, the charter contract may be for not less than 20 seats.

* * * * *

(Secs. 101, 204, 401, 402, 416, Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743 754 757, 771; (49 U.S.C. 1301, 1324, 1371, 1372, 1386).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 77-25393 Filed 8-30-77;8:45 am]

[Docket No. 29806; Reg. SPR-135, Amdt. 12]

PART 378a—ONE-STOP-INCLUSIVE TOUR CHARTERS

Minimum Seat Size for Split Charters

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: This final rule reduces to 20 seats the minimum size for split charters transported on aircraft with 80 or fewer seats when there are no more than two charter contracts for the entire capacity

V 42 169 AUG 31 77 A UMI

of the aircraft. The amendment changes all split charter rules to conform with that adopted for the Advance Booking Charter (ABC), and is at the initiative of the Board. Supplementary information concerning this amendment is given in the preamble to ER-1015, which is being issued simultaneously.

DATES: Effective: September 30, 1977. Adopted: August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Simon J. Ellenberg, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C.20428 (202-673-5442).

Accordingly, 14 CFR Part 378a is amended as follows:

Amend §378a.10 by adding a proviso to paragraph (b), so that the paragraph reads as follows:

§ 378a.10 One-stop-inclusive tour charter general requirements.

* * * * *

(b) The charter contract must be for 40 or more seats: *Provided*, That where an aircraft having 80 or fewer seats is utilized for not more than two charter groups, the charter contract may be for not less than 20 seats.

* * * * *

(Secs. 101, 204, 401, 402, 416, Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743, 754, 757, 771; (49 U.S.C. 1301, 1324, 1371, 1372, 1386.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-25394 Filed 8-30-77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2897]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Walgreen Co.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Deerfield, Ill., retail drug store chain, to cease disseminating advertisements that offer any item for sale, unless such item is available for sale at or below advertised price, in reasonably sufficient quantities to meet anticipated demands. Further, respondent is required to conspicuously post advertisements and disclosure statements at designated locations; maintain specified business records; and institute a surveillance program designed to ensure that its stores comply with the terms of the order.

DATES: Complaint and order issued August 3, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

Stephanie W. Kanwit, Regional Director, Federal Trade Commission, Chicago Regional Office, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603 (312-353-4423).

SUPPLEMENTARY INFORMATION: On Wednesday, May 25, 1977, there was published in the FEDERAL REGISTER 42 FR 26661 a proposed consent agreement with analysis In the Matter of Walgreen Co., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 C.F.R., are as follows:

Subpart—Advertising Falsely or Misleadingly: *§ 13.10 Advertising falsely or misleadingly; § 13.10-1 Availability of merchandise and/or facilities.*

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45).)

JAMES A. TOBIN,
Acting Secretary.

[FR Doc.77-25318 Filed 8-30-77;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI 3321]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to list communities wherein the sale of flood insurance as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) will be suspended because of noncompliance with the program regulations (24 CFR Part 1909 et seq.).

DATES: The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The last date that appears in the fourth column of the table is provided in order to designate the effective date of the suspension of the sale of flood insurance in the area under the emergency or the regular phase of the National Flood Insurance Program.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234) requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified by the Secretary of Housing and Urban Development.

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program and insurance is purchased. Accordingly, for communities listed under this Part such restriction exists as of the effective date of suspension because insurance, which is required, cannot be purchased.

Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities suspended in this notice no longer meet that statutory requirement. Accordingly, the communities are suspended on the effective date in the list below:

The entry reads as follows:

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
*	*	*	*	*	*
MN	Hennipin	St. Louis Park, city of	Dec. 22, 1972, emergency; June 15, 1977, regular; Sept. 1, 1977, suspended.	May 25, 1973	270184A
PA	Cameron	Grove, township of	March 4, 1974, emergency; July 18, 1977, regular; Sept. 1, 1977, suspended.	Nov. 8, 1974 July 9, 1976	421128B
Do.	Schuylkill	Pottsville, city of	June 28, 1973, emergency; July 5, 1977, regular; Sept. 1, 1977, suspended.	Aug. 2, 1974	420785B
Do.	Delaware	Radnor, township of	Feb. 25, 1972, emergency; Aug. 1, 1977, regular; Sept. 1, 1977, suspended.	Feb. 1, 1974 June 11, 1976	420428B
Do.	Luzerne	White Haven, borough of	Apr. 4, 1973, emergency; Aug. 1, 1977, regular; Sept. 1, 1977, suspended.	Oct. 26, 1973	420630A

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001-4128) and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25344 Filed 8-30-77;8:45 am]

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

[T.D. ATF-45]

PART 178—COMMERCE IN FIREARMS AND AMMUNITION

Ammunition Recordkeeping Requirements; Correction

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Correction notice to Treasury Decision ATF-45.

SUMMARY: This document corrects a final rule that appeared at page 41116, in the FEDERAL REGISTER of Monday, August 15, 1977 (FR Doc. 77-23507). That document revised ammunition recordkeeping requirements by exempting all Federal licensees from recording retail sales of certain types of ammunition.

EFFECTIVE DATE: August 15, 1977.

FOR FURTHER INFORMATION:

A. N. Stickney, Research and Regulations Branch, Regulations and Procedures Division (Regulatory Enforcement), Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226 (202-566-7626)

The following correction is made:

The title to the bound record format in paragraph (c) of § 178.125 on page 41117 which reads "DISPOSITION RECORD FOR PISTOLS, REVOLVERS, AND INTERCHANGEABLE AMMUNITION" is corrected to read "DISPOSITION RECORD OF INTERCHANGEABLE AMMUNITION AND HANDGUN AMMUNITION". The format, moreover, is set in type as set forth below.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

V42169 AUG 31 77 UMI

Date	Manufacturer	.22 Caliber Rifle: Enter only a (✓) if 10 boxes or less. Enter number of boxes if more than 10.	Other: Caliber, gauge, or type of component	Other: No. of boxes	Purchaser: Name and address	Purchaser: Date of birth	Color a (✓) in the "Known" column if purchaser is personally known to you. Otherwise, establish the purchaser's identification: Known	Color a (✓) in the "Known" column if purchaser is personally known to you. Otherwise, establish the purchaser's identification: Driver's License	Color a (✓) in the "Known" column if purchaser is personally known to you. Otherwise, establish the purchaser's identification: Other type (specify)

Dated: August 23, 1977.

REX D. DAVIS,
Director.

[FR Doc.77-24972 Filed 8-30-77;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 3—ADJUDICATION

Subpart A—Pensions, Compensation, and Dependency and Indemnity Compensation

CHARACTER OF INCOME; EXCLUSIONS AND ESTATES

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: The Veterans Administration has determined to exclude proceeds of Veterans' Group Life Insurance from consideration as income in determinations of entitlement to Veterans Administration gratuitous benefits. The need for this change was brought to our attention by a VA regional office inquiry.

EFFECTIVE DATE: August 1, 1974, the date the Veterans' Group Life Insurance program became law (Pub. L. 93-289).

FOR FURTHER INFORMATION CONTACT:

Mr. T. H. Spindle, Jr., Chief, Regulations Staff, Compensation and Pension Service, Department of Veterans Benefits 202-389-3005.

SUPPLEMENTARY INFORMATION: On page 34528 of the FEDERAL REGISTER of July 6, 1977, there was published a notice of proposed regulatory development to amend § 3.261 to exclude proceeds of Veterans' Group Life Insurance from consideration as income in determinations of entitlement to Veterans Administration gratuitous benefits.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulation. No written comments have been received and the proposed regulation is hereby adopted without change and is set forth below.

NOTE.—The Veterans Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Approved: August 23, 1977.

By direction of the Administrator:

RUFUS H. WILSON,
Deputy Administrator.

In § 3.261, paragraph (a) (20) is revised to read as follows:

§ 3.261 **Character of income; exclusions and estates.**

The following factors will be considered in determining whether a claimant meets the requirements of §§ 3.250, 3.251 and 3.252 with reference to dependency, income limitations and corpus of estate.

(a) Income:	Dependent only (parents)	Dependency and indemnity compensation (parents)	Pension; protected (veterans, widows, and children)	Pension; Public Law 86-211 (veterans, widows, and children)
• • • • •				
(20) Veterans Administration payments:				
Pension	Excluded	Excluded	Excluded	Excluded.
Compensation and dependency and indemnity compensation	do	do	do	Do.
Work-study allowance	do	Included	do	Included.
U.S. Government life insurance or national service life insurance for disability or death, maturity of endowment policies, and dividends, including premiums waived on account of disability	do	Excluded	do	Excluded.
Servicemen's group life insurance	do	do	do	Do.
Veterans' group life insurance	do	do	do	Do.
Servicemen's indemnity	do	do	do	Do.
Subsistence allowance (38 U.S.C. ch. 31)	Included	Included	Included	Included.
Veterans educational assistance in excess of amounts expended for training (38 U.S.C. ch. 34)	do	do	do	Do.
Educational assistance (38 U.S.C. ch. 35)			Excluded	Excluded.
Special allowance under 38 U.S.C. 512(a).	Excluded	Included	do	Included.
Statutory burial allowance	do	Excluded	do	Excluded.
Accrued	do	Included, except accrued as reimbursement.	do	Included, except accrued as reimbursement.
• • • • •				

[FR Doc.77-25304 Filed 8-30-77;8:45 am]

PART 8a—VETERANS MORTGAGE LIFE INSURANCE

Lifetime Maximum Amount of Coverage

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: The Veterans Administration is amending its Veterans Mortgage Life Insurance regulations relating to the lifetime maximum amount of insurance coverage. The Veterans Administration also makes minor editorial changes in these regulations. The amendments are intended to make the regulations conform to the amendment to the law authorizing Veterans Mortgage Life Insurance. The editorial changes are intended to reflect the agency's policy of using precise terms for gender in its regulations.

EFFECTIVE DATE: August 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Murray J. Zuckerman, Veterans Administration Center (290B), P. O. Box 8079, Philadelphia, Pa. 19101, 215-951-5733.

SUPPLEMENTARY INFORMATION: On page 30392 of the FEDERAL REGISTER of June 14, 1977, there was published a notice of proposed regulatory development to amend §§ 8a.1, 8a.2, 8a.3 and 8a.4 relating to Veterans Mortgage Life Insurance. Pub. L. 94-433 (90 Stat 1374) increased the lifetime maximum amount of coverage authorized for each eligible veteran from $30,000 to $40,000.

Interested persons were given 30 days in which to submit comments, suggestions or objections regarding the proposed regulations. One written comment has been received which was favorable. A suggestion was also made to allow service-disabled veterans to apply on a one-time only basis for $10,000 of additional life insurance. This suggestion would require enabling legislation by Congress. The proposed regulations are hereby adopted without change and are set forth below.

NOTE.—The Veterans Administration has determined that this document does not contain a major proposal required preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Approved: August 24, 1977.

By the direction of the Administration.

RUFUS H. WILSON,
Deputy Administrator.

1. In § 8a.1, paragraphs (a), (c) and (e) are revised and paragraph (h) is revoked. The revised materials reads as follows:

§ 8a.1 **Definitions.**

(a) The term "eligible veteran" means any veteran who is or has been granted assistance in securing a suitable housing unit under chapter 21 of title 38, United States Code, and who has not attained his or her 70th birthday.

• • • • •

(c) The term "housing unit" means a family dwelling or unit, together with the necessary land therefor, that has been or will be purchased, constructed, or remodeled with a grant to meet the needs of an eligible veteran and of his or her family, and is or will be owned and occupied by the eligible veteran as his or here home, or a family dwelling or unit, including the necessary land therefor, acquired by an eligible veteran to be used as his or her residence after selling or otherwise disposing of title to the housing unit for which his or her grant was made.

• • • • •

(e) The term "initial amount of insurance" means the amount of insurance corresponding in amount to the unpaid principal of a mortgage loan outstanding on a housing unit owned or to be acquired by an eligible veteran on August 11, 1971, or on the date of approval of his or her grant made under chapter 21 of title 38, United States Code, whichever is the later date.

• • • • •

h [Revoked]

2. In § 8.2, paragraphs (a), (b) (1), (4), (5), (6) and (8) are revised and paragraphs (b) (9) and (c) are added so that the revised and added material reads as follows:

§ 8a.2 **Maximum amount of insurance.**

(a) Effective October 1, 1976, each eligible veteran is authorized a lifetime maximum amount of insurance under section 806 of title 38, United States Code, not to exceed $40,000, to be used as needed for insurance on his or her life during periods he or she is obligated under a mortgage loan. Whenever insurance on the life of an eligible veteran is reduced because of a reduction of the principal of his or her mortgage loan, or in accordance with the amortization schedule of his or her mortgage loan, his or her lifetime maximum of $40,000 is permanently reduced by such an amount, except in the case of a reduction of the principal of the mortgage loan resulting from a sale of the property or a refinancing of the loan.

(b) The maximum amount of insurance in force on any one life at one time shall not exceed the lesser of the following amounts:

(1) $40,000.

• • • • • •

(4) Where the grant was approved prior to August 11, 1971, but had not been fully disbursed on that date, the amount of the unpaid principal of the mortgage loan outstanding on that date on a housing unit then owned and occupied by the eligible veteran, or on a housing unit then in the process of construction or remodeling for the eligible veteran, and such initial amount of insurance may be adjusted upward, subject to the maximum insurance available to the eligible veteran, or downward, depending upon the amount of the mortgage loans outstanding on the date of full disbursement of the grant, or on the date of the final settlement of the purchase, construction, or remodeling agreement, which ever date is the later date.

(5) Where the grant is approved on or after August 11, 1971, the amount of the unpaid principal of the mortgage loan outstanding on the date of approval of the grant on a housing unit then owned and occupied by the eligible veteran, or on a housing unit being or to be constructed or remodeled for the eligible veteran, and such initial amount of insurance may be adjusted upward, subject to the maximum insurance available to the eligible veteran, or downward, depending upon the amount of the mortgage loans outstanding on the date of full disbursement of the grant, or on the date of final settlement of the purchase, construction, or remodeling agreement, whichever date is the later date.

(6) Where an eligible veteran ceases to own the housing unit purchased in part with a grant, or a subsequently acquired housing unit which was subject to a mortgage loan that resulted in his or her life being insured under Veterans Mortgage Life Insurance, and becomes obligated under a mortgage loan on another housing unit occupied or to be occupied by the eligible veteran, the amount of the unpaid principal outstanding on the mortgage loan on the newly acquired housing unit on the date insurance hereunder is placed in effect.

• • • • • •

(8) Where the title to a housing unit is or will be vested in an eligible veteran and his or her spouse, the amount of insurance shall not exceed the principal amount of the outstanding mortgage loans. If title to an undivided interest in a housing unit is or will be vested in a person other than the spouse of an eligible veteran, the amount of Veterans Mortgage Life Insurance on his or her life shall be computed to be such part of the total of the unpaid principal of the loan outstanding on the housing unit as is proportionate to the undivided interest of the veteran in the entire property.

(9) All claims, arising out of the deaths of insured veterans occurring prior to October 1, 1976, shall be subject to the $30,000 lifetime maximum amount of insurance then in effect.

(c) Any eligible veteran who prior to October 1, 1976, was covered by $30,000 Veterans Mortgage Life Insurance and who on that date became eligible to have his or her coverage increased may elect to retain the lesser amount of coverage he or she had in effect prior to that date.

3. Section 8a.3 is revised to read as follows:

§ 8a.3 **Effective date.**

(a) Where the grant was approved prior to August 11, 1971, Veterans Mortgage Life Insurance shall be effective August 11, 1971, if on that date, the eligible veteran was obligated under a mortgage loan, and any such eligible veteran is automatically insured, unless he or she elects in writing not to be insured, or fails to respond within 60 days after the date a final request is made or mailed to the eligible veteran for information on which his or her premium can be based.

(b) Where the grant is approved on or after August 11, 1971, Veterans Mortgage Life Insurance shall be effective on the date of approval of the grant, if on that date the eligible veteran is obligated under a mortgage loan, and any such eligible veteran is automatically insured, unless he or she elects in writing not to be insured, or fails to respond within 60 days after the date a final request is made or mailed to the eligible veteran for information on which his or her premium can be based.

(c) In any case in which a veteran would have been eligible for Veterans Mortgage Life Insurance on August 11, 1971, or on the date of approval of his or her grant, whichever date is the later date, but such insurance did not become effective because he or she was not obligated under a mortgage loan on that date, or because he or she elected in writing not to be insured, or failed to timely respond to a request for information on which his or her premium could be based, the insurance will be effective on a date agreed upon by the veteran and the Administrator, but only if the veteran files an application in writing with the Veterans Administration for such insurance, submits evidence that he or she meets the health requirements of the Administrator, together with information on which his or her premium can be based, and is or becomes obligated under a mortgage loan upon the date agreed upon as the effective date of his or her insurance.

(d) In any case in which an eligible veteran disposes of the housing unit purchased, constructed or remodeled in part with a grant, or a subsequently acquired housing unit, and becomes obligated under a mortgage loan on another housing unit occupied or to be occupied by the eligible veteran, the insurance will be effective upon a date requested by the veteran and agreed to by the Administrator, but only if the eligible veteran

V42169 AUG 31 77 UMI

files an application for such insurance, submits evidence that he or she meets the health requirements of the Administrator, furnishes information on which his or her premium can be based, and is or becomes obligated under a mortgage loan on the date the insurance is to become effective.

(e) In any case where an eligible veteran insured under Veterans Mortgage Life Insurance, refinances the mortgage loan which is the basis for such insurance on his or her life, any increase in the amount of insurance or any delay in the rate of reduction of insurance will be effective only if the eligible veteran files an application for insurance, submits evidence that he or she meets the health requirements of the Administrator, and furnishes information on which his or her premium can be based.

4. In § 8a.4, paragraphs (b), (c) and (d) are revised to read as follows:

§ 8a.4 • Coverage.

* * * * *

(b) The $40,000 lifetime maximum amount of Veterans Mortgage Life Insurance available to an eligible veteran shall be permanently reduced, and the amount of such insurance in force on his or her life at any one time shall be reduced simultaneously (1) with the reduction in the principal of the mortgage loan, whether or not the mortgage loan is amortized, and (2) in addition, if the mortgage loan is amortized, according to the schedule for the reduction of the principal of the mortgage loan whether or not the scheduled payments are timely made.

(c) If the amount of the mortgage loan exceeds $40,000, or the reduced maximum amount of insurance available to an eligible veteran, whichever amount is the lesser, the amount of insurance in force on the life of the veteran shall remain at a constant level until the principal amount of the mortgage loan which is basis for establishing the amount of insurance is reduced to $40,000, or to the amount of the reduced maximum amount of insurance available to the veteran, at which time the amount of insurance in force on his or her life shall be reduced in accordance with the schedule for the reduction of the principal of the mortgage loan, and whether or not the scheduled payments are timely made.

(d) Subject to the $40,000 lifetime maximum amount of insurance, and to the reduced maximum amount of insurance available to the eligible veteran, he or she is entitled to be insured under Veterans Mortgage Life Insurance or to apply for such insurance as often as he or she becomes obligated under a mortgage loan or a refinanced mortgage loan on a housing unit or a successor housing unit owned and occupied by the eligible veteran. Where a veteran who is not automatically insured under Veterans Mortgage Life Insurance applies for such insurance, he or she shall be required to meet the health standards and other conditions established by the Administrator for such insureds.

[FR Doc.77-25305 Filed 8-30-77; 8:45 am]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 233—INSPECTION SERVICE AUTHORITY

Rewards

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The primary purpose of this rulemaking is to amend Postal Service regulations to increase the maximum amount of rewards for information and services leading to the arrest and conviction of any person for the following postal offenses: Robbery; mailing of bombs or explosives; mailing of poison or controlled substances; burglary of post office; obstruction of mail; or offenses involving mail orders. A number of minor, technical and conforming amendments are also made to the regulations.

EFFECTIVE DATE: August 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Donald L. Diseroad, 202-245-5465.

SUPPLEMENTARY INFORMATION:

Accordingly, 39 CFR is amended as follows:

§ 233.1 [Amended]

1. In paragraph (b)(1) of § 233.1 by deleting the words "Sign 32" and inserting "Notice 96" in lieu thereof.

2. In note following paragraph (b)(2) of § 233.1 by deleting the words "Sign 32" and inserting "Notice 96" in lieu thereof.

3. By revising the text of Notice 96 in the note following paragraph (b)(2) of § 233.1 to read as follows:

The United States Postal Service will pay a reward for information and services leading to the arrest and conviction of any person for the following offenses:

ROBBERY

1. Not to exceed $5,000 for robbery or attempted robbery of any custodian of any mail, or money or other property of the United States under the control and jurisdiction of the United States Postal Service, if such custodian is wounded or killed, or the custodian's life jeopardized; but not to exceed $2,000 if the custodian is not wounded or killed, or his life jeopardized.

BOMBS OR EXPLOSIVES

2. Not to exceed $5,000 for mailing or causing to be mailed any bombs or explosives which may kill or harm another, or injure the mails or other property, or the placing of any bomb or explosive in a postal facility, vehicle, depository or receptacle established, approved, or designated by the Postmaster General for receipt of mail.

POISONS AND CONTROLLED SUBSTANCES

3. Not to exceed $1000 for mailing or causing to be mailed any poison or other controlled substance.

BURGLARY OF POST OFFICE

4. Not to exceed $500 for breaking into or attempting to break into a post office, station, branch, or a building used wholly or partially as a post office with intent to commit a larceny or other depredation in that part used as a post office.

THEFT OF MAIL

5. Not to exceed $500 for the theft or attempted theft of any mail, or the contents thereof, or the theft of money or any other property of the United States under the custody and control of the United States Postal Service, from any custodian, postal vehicle, railroad depot, airport, or other transfer point, post office or station or receptacle or depository established, approved, or designated by the Postmaster General for the receipt of mail.

OBSTRUCTION OF MAIL

6. Not to exceed $500 for obstructing or retarding the passage of mail, or any carrier or conveyance carrying the mail.

OFFENSES INVOLVING MONEY ORDERS

7. Not to exceed $500 for the altering, counterfeiting, forging, and unlawful uttering or passing of postal money orders.

GENERAL PROVISIONS

8. The United States Postal Service will also pay rewards as stated above for information and services leading to the arrest and conviction of any person:

(a) As an accessory to any of the above crimes;

(b) For receiving or having unlawful possession of any mail, money, or property secured through the above crimes;

(c) For conspiracy to commit any of the above crimes.

9. When a person has been adjudged a juvenile delinquent or processed through a formal pre-trial diversion program for having committed any of the above crimes, the same reward may be paid as though such person had been convicted of such crime.

10. The term "custodian" as used herein includes any person having lawful charge, control, or custody of any mail matter, or any money or other property of the United States under the control and jurisdiction of the United States Postal Service.

11. A reward may be paid for the conviction of a person for an offense listed above, even though arrested for committing another offense.

12. When an offender is killed while committing a crime listed above or in resisting lawful arrest, the same reward may be paid to a person rendering information and services as though the offender had been arrested and brought to conviction.

13. The amount of the reward to be paid will be based on the importance of services rendered, character of the offender, risks and hazards involved, time spent, and expenses incurred. Maximum rewards will be paid only when services were of the maximum value.

14. The Postal Service will reject a claim where there has been collusion, or improper methods have been used to effect an arrest or to secure a conviction. It has the right to allow only one reward where several persons were convicted of the same offense, or one person was convicted of several offenses.

15. A written claim must be submitted to the Postal Inspector in charge of the Division in which the crime was committed within six months from the date of conviction of an offender, or the date of formally deferred prosecution or the date of his death, if killed in committing a crime or resisting arrest. Applications for the filing of claims may be obtained from the Inspector in Charge.

(39 U.S.C. 401(2), 404(8), 410(b)(2))

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.77-25330 Filed 8-30-77; 8:45 am]

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER D—WATER PROGRAMS

[FRL 765-2]

PART 140—MARINE SANITATION DEVICES

Regulation To Prohibit the Discharge of Vessel Wastes State of Minnesota

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Section 312(f)(4) of the Federal Water Pollution Control Act (Pub. L. 92-500) states that, "If the Administrator determines upon application by a State that the protection and enhancement of the quality of specified waters within such State requires such a prohibition, he shall by regulation completely prohibit the discharge from a vessel of any sewage (whether treated or not) into such waters." The following regulation prohibits the discharge from a vessel of any sewage, whether treated or not, into the Boundary Waters Canoe Area (BWCA), a wilderness area within the Superior National Forest, at the northern border of the State of Minnesota.

EFFECTIVE DATE: August 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Kenneth M. Mackenthun, Director, Criteria and Standards Division (WH-585), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202-755-0100).

SUPPLEMENTARY INFORMATION: On March 18, 1977, a notice of proposed rulemaking was published by the Administrator, Environmental Protection Agency, to amend the present regulations in 40 CFR 140.4 (42 FR 15079). The proposed rulemaking was issued as a result of application to the Administrator by the State of Minnesota, pursuant to Section 312(f)(4) of the Federal Water Pollution Control Act Amendments of 1972, that he prohibit, by regulation, the discharge from a vessel of any sewage, whether treated or not, into the Boundary Waters Canoe Area (BWCA) of the State of Minnesota.

The BWCA is used entirely for recreation; the majority of travel on the waters of the BWCA is by canoe. Motorized vessels are allowed only on certain specified lakes, and on such lakes motors must be less than ten horsepower. The State reports that canoeists routinely take drinking water from all lakes within the BWCA and use it with no treatment. One comment was received by the Agency in response to the notice of proposed rulemaking; the commenter was in favor of the prohibition of the discharge of sewage from vessels into the BWCA.

In consideration of the foregoing, 40 CFR, Chapter I, Subchapter D, § 140.4 is hereby amended by the addition of a new paragraph (b)(1) that lists those waters, the quality of which the Administrator has determined require the complete prohibition of the discharge from a vessel of any sewage (whether treated or not) for their protection and enhancement.

Dated: August 22, 1977.

DOUGLAS M. COSTLE,
Administrator.

§ 140.4 Complete prohibition.

* * * * * *

(b) * * *

(1) For the following waters the discharge from a vessel of any sewage (whether treated or not) is completely prohibited:

Boundary Waters Canoe Area, formerly designated as the Superior, Little Indian Sioux, and Caribou Roadless Areas, in the Superior National Forest, Minnesota, as described in 16 U.S.C. 577-577d1.

[FR Doc.77-25257 Filed 8-30-77; 8:45 am]

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 782-8]

PART 419—PETROLEUM REFINING POINT SOURCE CATEGORY

Pretreatment Standards for Existing Sources; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period.

SUMMARY: This action further extends the deadline for the receipt of comments on the interim final rulemaking establishing pretreatment standards for existing sources for the petroleum refining point source category (42 FR 15684). Comments submitted not later than October 21, 1977 will be considered.

EFFECTIVE DATE: August 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Harold B. Coughlin, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202-426-2560).

SUPPLEMENTARY INFORMATION: On March 23, 1977, the Agency published a notice of interim final rulemaking establishing pretreatment standards for the petroleum refining point source category (42 FR 15684). This notice stated that the Development Document and Economic Impact Analysis were available to the public and provided for a 60 days public comment period. On July 8, 1977, a notice appeared in the FEDERAL REGISTER (42 FR 35159) that extended the comment period until August 15, 1977, due to lack of availability of the two documents. There has been a further delay in the printing of the Development Document which necessitates a further extension of the comment period. Therefore the comment period is being extended to October 21, 1977.

Dated: August 22, 1977.

JOHN T. RHETT,
Acting Assistant Administrator for Water and Hazardous Materials.

[FR Doc.77-25260 Filed 8-30-77; 8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 5A—FEDERAL SUPPLY SERVICE, GENERAL SERVICES ADMINISTRATION

[FSS P 2800.8B CHGES 8-14]

PROCUREMENT REGULATIONS

Miscellaneous Amendments

AGENCY: Federal Supply Service, General Services Administration.

ACTION: Final rule.

SUMMARY: This amendment of the General Services Administration Procurement Regulations (GSPR 5A) revises or deletes contract clauses to comply with Federal acts and requirements, and revises or adds instructions to contracting officers to standardize contract operations. The intent of this regulation is to clarify and update contracting practices of GSA.

EFFECTIVE DATE: August 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Einar Windingland, Director, Policy and Procedures Division, Office of Procurement, Federal Supply Service, General Services Administration, Washington, D.C. 20406 (703-557-8344).

SUPPLEMENTARY INFORMATION:

1. The Cargo Preference Act of 1954 requires that at least 50 percent of the gross tonnage of Government supplies transported by ocean carrier be shipped on privately owned U.S. flag commercial vessels. Regulations issued by the Maritime Administration require the submission to that agency of reports regarding the weight of cargoes transported by privately owned U.S. flag commercial vessels and foreign flag commercial vessels. A recent amendment to the Federal Procurement Regulations prescribed a contract clause which requires contractors to provide data necessary for agency reports through the submission of copies of bills of lading. This GSPR 5A amendment implements the Federal Procurement Regulations and deletes the GSPR 5A clause on this subject.

2. A clause applicable to the procurement of hazardous substances is revised to reflect the current requirements of the Federal Hazardous Substances Act and the Hazardous Materials Transportation Act.

3. A clause which acknowledged the imposition of a California Sales and Use Tax on tangible personal property leased to the Federal Government was deleted

V42169A AUG 31 77 UMI

as a result of a court ruling that the tax was unconstitutional.

4. To emphasize the importance of coordination with legal counsel in appropriate cases, a new section is added which lists specific contracting circumstances requiring legal review before final action.

5. Instructions regarding the approval of contract awards are revised to authorize GSA regional counsels to approve mistake-in-bid cases and permit withdrawal of bids when the evidence is clear and convincing as to the existence of a mistake disclosed before award. This change is based on a recent amendment to the Federal Procurement Regulations authorizing a decentralization of controls in cases of this type.

6. Instructions regarding notifications of contract awards are revised to emphasize the importance of notifying the Federal Supply Schedule Management Division of awards under the Federal Supply Schedule Program to enable that activity to provide up-to-date information to schedule users upon request.

PART 5A–1—GENERAL

The table of contents for Part 5A–1 is amended to add new §§ 5A–1.450, 5A–1.7301–2, and 5A–1.7301–3, and to revise the title of § 5A–1.7301–1 as follows:

Subpart 5A–1.4—Procurement Responsibility and Authority

Sec.

5A–1.450 Participation of legal counsel in the procurement process.

Subpart 5A–1.73—Preparation and Distribution of Contract Documents

5A–1.7301–1 General.
5A–1.7301–2 Related orders.
5A–1.7301–3 Purchasee order numbering.

Subpart 5A–1.4—Procurement Responsibility and Authority

Section 5A–1.450 is added as follows:

§ 5A–1.450 Participation of legal counsel in the procurement process.

(a) In addition to other required reviews or approvals, contracting officers shall request legal advice from assigned counsel when one or more of the following procurement situations are present. Such requests shall be made after an examination of all the pertinent facts has been made and recorded by the contracting officer.

(1) Mistakes in bids §§ 1–2.406 and 5A–2.406).

(2) Protests against award §§ 1–2.407–8 and 5A–2.407–8).

(3) Disputes (§§ 1–1.318 and 5A–1.318–1); terminations, including cure letters (§§ 1–8.6, 5A–8.6, and 5A–53.472); and contract claims.

(4) Novation and change of name agreements (§ 1–26.4).

(5) Assignment of claims (§§ 1–30.700 and 5A–30.706).

(6) Substantive modifications of contracts (§ 1–1.219).

(7) Requests for information under the Freedom of Information Act and Privacy Act.

(8) Proposed awards to other than the low evaluated bidder (§§ 1–2.404–2 and 5A–2.404–2).

(9) Proposed no-awards for reasons other than excessive prices (§§ 1–2.404 and 5A–2.404).

(10) Proposed consideration of late bids (§ 1–2.201), late offers (§ 1–3.802–1), and late modifications of bids (§ 1–2.305), when it is anticipated that the circumstances involved may result in protest.

(11) Findings and determinations to support negotiations (§§ 1–3.3 and 5A–3.301).

(12) Determinations of nonresponsibility (§§ 1–1.1204 and 5A–1.1205) and nonresponsiveness (§§ 1–2.301 and 5A–2.301).

(13) Memoranda of position and appeal files in Board of Contract Appeals cases (§ 5A–60.205–1) and other matters pertaining to litigation.

(b) When legal assistance is requested, the contracting officer shall brief counsel regarding the facts and points at issue to facilitate prompt resolution.

(c) Attorneys shall be requested to participate in conferences where it is expected that legal problems or contract provisions will be considered, and in meetings attended by legal representatives of private parties or other Government agencies. Assigned procurement counsel should be requested to participate in the drafting of correspondence involving controversial or sensitive contractual matters.

Subpart 5A–1.11—Qualified Products

Section 5A–1.1101–70 is amended by deleting paragraph (c).

Subpart 5A–1.73—Preparation and Distribution of Contract Documents

1. Sections 5A–1.7301 and 5A–1.7301–1 are revised and §§ 5A–1.7301–2 and 5A–1.7301–3 are added as follows:

§ 5A–1.7301 Purchase order forms.

(a) GSA Form 300, Purchase Order, illustrated in § 5A–16.950–300, is a 15-part form which incorporates the 2nd, 3rd, and 4th copies as the direct delivery invoice. GSA Form 300 may be used as a purchase order, a delivery order, or as an award document. Special instructions for preparation of GSA Form 300 are set forth in § 5A–16.950–300–1.

(b) GSA Form 2875, GSA Stock Item Direct Delivery Order, illustrated in § 5A–16.950–2875, is for ordering stock items that are to be delivered by the vendor direct to the consignee. See the HB, Supply Operations, FSS P 2900.3, ch. 9.

(c) GSA Form 3014, Order for Supplies or Services, illustrated in § 5A–16.950–3014, is a 10-part form designed for computer and manual preparation. It is used primarily for stock replenishment and nonstock direct delivery purchase orders against established sources.

§ 5A–1.7301–1 General.

The purchase order numbering system prescribed below shall apply to all orders issued by FSS except for those issued by the Special Programs Division (FPZ) of the Office of Procurement and the Contract Operations Division (FJM) of the Office of Property Management. FPZ may use the incoming agency requisition number in lieu of the numbering system prescribed below.

§ 5A–1.7301–2 Related orders.

Orders should combine related national stock numbers (NSN's) going to the same location at the same time from the same contract source where feasible. Each separate delivery requires a separate order number. Different suffixes may be used for this purpose; e.g., 6PN–D–54391–1, 6PN–E–54391–2, and 6PN–E–54391–3 denotes three separate deliveries under number 54391.

§ 5A–1.7301–3 Purchase order numbering.

The purchase order number is a four-group, hyphenated number (see below) for orders issued by procuring or inventory management activities. The heart of the numbering system is the five-digit case number and the suffix denoting the number of orders/deliveries issued against the case.

Example	Prefix			Type of order	Basic case number					Suffix	
Box number.....	1	2	3	4	5	6	7	8	9	10	11
Procurement.....	6	P	N	E	A	5	4	3	9	2	B
Inventory management.		K		W	K	Ø	Ø	Ø	1	1	A

(a) *Prefix (Boxes 1, 2, 3).* The prefix will contain a three-position code for procuring activities and inventory management stock direct deliveries from the codes listed in § 5A–76.320, and a one-position code for inventory management stock replenishment from the codes listed in the HB, FSS P 2900.3.

(b) *Type of order (Box 4).* The type of order shall be shown by an alpha code from the codes listed in § 5A–76.320.

(c) *Basic case number (Boxes 5, 6, 7, 8, 9).* The basic case number shall be a five-position series of alpha numeric designations within the range of A0001 through Z9999 excluding I, O, and Q. Numbers shall be assigned and controlled by each procuring activity. A different basic case number shall be assigned for each destination where feasible. Case numbers assigned to 8(a) contracts, by inventory management, shall be within the range of 0001A through Z999Z.

(d) *Suffix (Boxes 10, 11).* The suffix consists of two positions. The first position is the number of orders written against the case file. The first purchase order shall be number "1" regardless of the total number of orders/deliveries issued with subsequent purchase orders numbered sequentially through 9. If the number of purchase orders exceeds 9, additional orders shall be identified by alphabetical designations. The letters I, O, and Q may not be used as alphabetical designations. The second position is the number of amendments issued to the order number.

2. Section 5A–1.7304 is revised as follows:

§ 5A–1.7304 Bills of lading.

(a) When Government bills of lading are prepared by procuring activities,

preparation and distribution shall be in accordance with applicable freight traffic management provisions (see FPMR 101–41.3). Additionally, procuring activities shall forward a memorandum copy of the Government bill of lading to the appropriate regional Transportation Services Division (FZT). This memorandum copy shall be annotated on the bottom, as follows:

FOR ENTRY INTO TRIPS

(b) When contracts require a USDA Certificate of Quality and Condition with delivery of canned fruits and vegetables and products thereof, including juices, with delivery of dried fruits, and where procurement of at least 10,000 pounds of roasted whole bean coffee is involved, the statement contained in § 5A–72.304 and § 5A–72.305 shall be placed on Government bills of lading covering such shipments.

PART 5A–2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 5A–2.4—Opening of Bids and Award of Contract

1. Section 5A–2.403(c) is revised as follows:

§ 5A–2.403 Recording of bids.

* * * * *

(c) Abstracts shall be annotated with (1) the size of the bidder ("S" for small business, "O" for large), and (2) the status of the bidder (manufacturer or dealer).

* * * * *

2. Section 5A–2.406–3(a)(2) is revised as follows:

§ 5A–2.406–3 Other mistakes disclosed before award.

(a) * * *

(2) Cases arising in regional offices (or in Central Office operations which are serviced by Regional Counsel) shall be processed by the contracting officer through channels to the Regional Counsel, who will review the case for technical accuracy of the findings and determination, and general adequacy of the supporting evidence. A determination may be made permitting the bidder to withdraw his bid where the bidder requests permission to do so and where clear and convincing evidence establishes the existence of a mistake. The Regional Counsel will be the approving authority on these mistakes in bid cases, but will transmit all other cases with applicable recommendations to the appropriate office of General Counsel (e.g., the Assistant General Counsel for Procurement).

* * * * *

PART 5A–3—PROCUREMENT BY NEGOTIATION

The table of contents for Part 5A–3 is amended to add § 5A–3.7004, *Recording of bids.*

Subpart 5A–3.70—Solicitation of Offers

Section 5A–3.7004 is added as follows:

§ 5A–3.7004 Recording of bids.

Bids will be abstracted in accordance with § 5A–2.403.

PART 5A–7—CONTRACT CLAUSES

The table of contents for Part 5A–7 is amended to add § 5A–7.103–97, Special direct delivery requirement.

Subpart 5A–7.1—Fixed-Price Supply Contracts

1. Section 5A–7.103–84 is revised as follows:

§ 5A–7.103–84 Hazardous substances.

The following clause shall be included in all contracts that provide for packaged items subject to the Federal Hazardous Substances Act and the Hazardous Materials Transportation Act.

HAZARDOUS SUBSTANCES

(a) Federal Hazardous Substances Act—If the packaged items to be delivered under this contract are of a hazardous substance and ordinarily are intended or considered to be for use as a household item, the contract shall be subject to the Federal Hazardous Substances Act, as amended (15 U.S.C. 1261–1274), implementing regulations thereof (16 CFR Chapter II(c)), and Federal Standard No. 123, Marking for Shipment (Civil Agencies), issue in effect on the date of Invitation for Bids or Solicitation for Offers.

(b) Hazardous Materials Transportation Act—The packaged items to be delivered under this contract shall be subject to the preparation of shipping documents, the preparation of items for transportation, shipping container construction, package marking, package labeling, when required, shipper's certification of compliance, and transport vehicle placarding in accordance with Parts 170 through 189 of 49 CFR.

(c) Without exception, the minimum packaging acceptable for packaging Department of Transportation regulated hazardous materials shall be those prescribed in Part 173, Title 49, Transportation, CFR. However, packages which exceed the packaging requirements of the CFR are acceptable.

(d) Data Submission Requirement—Contractors are required to complete "Material Safety Data Sheet" (DD Form 1813) as required by Federal Standard 313 (Material Safety Data Sheets, Preparation and Submission of), issue in effect on the date of Invitation for Bids or Solicitation of Offers, and as required by Section 1916.57, Title 29, Labor, CFR. The "Material Safety Data Sheet" shall be submitted to the quality assurance specialist on or before the date the first shipment is made on each contract.

2. Section 5A–7.103–97 is added as follows:

§ 5A–7.103–97 Special direct delivery requirement.

The following clause shall be included in all direct delivery solicitations.

SPECIAL DIRECT DELIVERY REQUIREMENT

Contractors are required to enclose a duplicate (facsimile) of the resultant purchase/delivery order with each shipment.

PART 5A–11—FEDERAL, STATE, AND LOCAL TAXES

Subpart 5A–11.4—Contract Clauses

Section 5A–11.401–71 is revised as follows:

§ 5A–11.401–71 Federal, State, and local taxes—Federal Supply Schedules.

The following clause shall be included in all multiple award Federal Supply Schedule (including New Item Introductory Schedules) solicitations and resultant schedules:

STATE AND LOCAL TAXES

Notwithstanding the provisions of Clause 27 of GSA Form 1424, GSA Supplemental Provisions, the contract price excludes all State and local taxes levied on or measured by the contract or sales price of the services or completed supplies furnished under this contract. Taxes excluded from the contract price pursuant to the preceding sentence shall be separately stated on the Contractor's invoices and the Government agrees either to pay to the Contractor amounts covering such taxes or to provide evidence necessary to sustain an exemption therefrom.

PART 5A–16—PROCUREMENT FORMS

The table of contents for Part 5A–16 is amended to add the following new entries:

Sec.

5A–16.950–1678 GSA Form 1678, Contract Delivery Status Record.
5A–16.950–2875 GSA Form 2875, GSA Stock Item Direct Delivery Order.
5A–16.950–3024 GSA Form 3024, Contract Information Multiple Award Federal Supply Schedule.

Subpart 5A–16.9—Illustrations of Forms

1. Sections 5A–16.950–300, 5A–16.950–300A, and 5A–16.950–1602 are revised to illustrate new editions of forms.

2. Sections 5A–16.950–1678, 5A–16.950–2875, and 5A–16.950–3024 are added to illustrate GSA Forms 1678, 2875, and 3024, respectively.

PART 5A–19—TRANSPORTATION

The table of contents for Part 5A–19 is amended to add § 5A–19.108–2, Contract clause.

Subpart 5A–19.1—General

1. Section 5A–19.108–1 is revised as follows:

§ 5A–19.108–1 Use of privately owned U.S.-flag commercial vessels.

See § 1–19.108–1.

2. Section 5A–19.108–2 is added as follows:

§ 5A–19.108–2 Contract clause.

Insert the clause prescribed by § 1–19.108–2 under the conditions set forth therein.

3. Section 5A–19.108–50(a)(2) is revised as follows:

V 42 169 AUG 31 77 UMI

§ 5A-19.108-50 Shipments by foreign-flag vessels in Cuban or North Vietnam trade.

(a) • • •

(2) The regional Transportation Services Division, FSS, shall (i) ensure that they are on the FEDERAL REGISTER mailing list and (ii) if necessary, supply ocean freight forwarders under contract with GSA the published listing of ineligible vessels.

• • • • •

PART 5A-72—PROCUREMENT OF STOCK ITEMS

Subpart 5A-72.2—Requirements Contracts for Stock Replenishment

1. Section 5A-72.206 is amended by adding paragraph (c), as follows:

§ 5A-72.206 Inspection.

• • • • • •

(c) Where origin inspection is specified, it is essential that copies of documents furnished to quality control activities show the location from which the material will be shipped. When a modification is issued which provides for an inspection point(s) other than that of the original contract, the contracting officer shall identify the new inspection point(s) to assist the appropriate regional Quality Control Division. The following example illustrates how the Standard Form 30, Amendment of Solicitation/Modification of Contract, should be annotated:

Inspection point is changed from: Alotour, Inc., 7918 Hart Road, Oxon Hill, MN., Region 5.

Inspection point is changed to: Andrew & James, Inc., 223 Tennessee Ave., Alexandria, Ga., Region 4.

2. Section 5A-72.218 is amended by adding paragraph (h), as follows:

§ 5A-72.218 Quantity pack requirements.

• • • • • •

(h) Solicitations covering stock items which specify palletization for which quantity pack per pallet has not been established shall include a request (but not a requirement) for bidders to state the quantity pack they are offering per pallet. The quantity pack information received in response to a solicitation containing such a request may not be considered a factor in determining award.

Subpart 5A-72.4—Direct Delivery of Stock Items

Section 5A-72.401 is amended by adding paragraph (c), as follows:

§ 5A-72.401 General.

• • • • • •

(c) In many instances agency incoming requisitions are combined on a single purchase order. Direct deliveries require contractual provisions to ensure that contractors send a duplicate (facsimile) copy of the purchase delivery order with each shipment to facilitate identification for the consignee. (See § 5A-7.103-97.)

PART 5A-73—FEDERAL SUPPLY SCHEDULE PROGRAM

The table of contents for Part 5A-73 is amended to revise the titles of the following sections:

Sec.
5A-73.302 Notification of contractor of contract awards.
5A-73.303 Other notifications of contract awards.

Subpart 5A-73.3—Evaluation of Offers and Award of Contracts

1. The title of section 5A-73.302 is revised as follows:

§ 5A-73.302 Notification of contractor of contract awards.

• • • • • •

2. Section 5A-73.303 is revised as follows:

§ 5A-73.303 Other notifications of contract awards.

(a) Commerce Business Daily (see §§ 1-1.1004 and 5A-1.1004).

(b) Substantial awards. If the award is estimated to exceed $250,000, compliance with the provisions of § 5A-2.407-84 is required.

(c) Notifications by the activity responsible for preparing the Federal Supply Schedule. To enable the Federal Supply Service to provide schedule status information to schedule users upon request, the Federal Supply Schedule Management Division (FPS) is the focal point for assembling this information. The following forms and formats shall be completed by the contracting officers as indicated and furnished to FPS immediately upon award of a national-scope Federal Supply Schedule contract.

(i) GSA Form 1535, Recommendation for Award(s), regardless of whether the schedule is prepared by FPS or by a regional or Central Office procuring activity.

(ii) Additional information on the format set forth in § 5A-76.332. The use of this format for submitting schedule information for schedule preparation is mandatory when FPS prepares the schedule and optional when the schedule is prepared by an activity other than FPS. However, in the latter instance and if the format is not used, the information to be furnished FPS must be as complete as possible to serve the intended purpose, especially with regard to the details on awards pending, no bids received, and no awards.

(iii) GSA Form 3024, Contract Information Multiple Award Federal Supply Schedule. This form is mandatory in all multiple award cases when FPS prepares the schedule and optional when the schedule is prepared by an activity other than FPS. If an activity chooses not to use this form, it is still necessary that the information required by the form be furnished to enable FPS to provide complete answers on all national-scope Federal Supply Schedule contracts, upon request.

PART 5A-76—EXHIBITS

The table of contents for Part 5A-76 is amended to add the following new entries:

Subpart 5A-76.3—Miscellaneous Exhibits

Sec.
5A-76.332 Format for submitting schedule information for schedule preparation.

Subpart 5A-76.4—Procurement Assignments

Sec.
5A-76.405 U.S. Department of State special support items.

Subpart 5A-76.3—Miscellaneous Exhibits

1. Section 5A-76.306 is amended to require that the handlist of bidders be annotated to indicate the firm's size and status.

2. Section 5A-76.307 is amended to reflect current paying offices to be shown on purchase orders for stock and nonstock direct deliveries.

3. Section 5A-76.320 is amended to reflect the applicable codes and format for numbering purchase orders.

4. Section 5A-76.332 is added to illustrate a format for furnishing information for use in schedule preparation.

Subpart 5A-76.4—Procurement Assignments

Subpart 5A-76.4 is revised to reflect current procurement assignments.

NOTE.—Copies of the forms illustrated in Part 5A-16 and copies of the exhibits shown in Part 5A-76 are filed with the original document.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).)

Dated: July 25, 1977

ROBERT P. GRAHAM,
Commissioner, Federal Supply Service.

[FR Doc.77-25337 Filed 8-30-77;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

[Public Land Order 5624]

[NM 22873]

NEW MEXICO

Transfer of Jurisdiction

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This document establishes a trust under which the United States will hold 120,681 acres of federally owned land in New Mexico for the Navajo Tribe of Indians for irrigation project.

EFFECTIVE DATE: Upon publication.

FOR FURTHER INFORMATION CONTACT:

Stella Gonzales, New Mexico State Office, Santa Fe, NM, 505-988-6211.

Pursuant to Pub. L. 87-483 (78 Stat. 96) of June 13, 1962, as amended by Pub. L. 91-416 (84 Stat. 867) of September 25, 1970, it is ordered as follows:

Subject to valid existing rights, and in consideration of payment of the full appraised value of the lands in this order, excluding the value of minerals subject to leasing under the Act of February 25, 1920, 30 U.S.C. 181, et seq., the following described lands are hereby held in trust for the Navajo Tribe of Indians for the Navajo Indian Irrigation Project:

NEW MEXICO PRINCIPAL MERIDIAN

T. 26 N., R. 11 W.,
Sec. 3, lots 1 thru 4, S½N½, SE¼;
Sec. 4, SE¼;
Sec. 5, lots 1 thru 4, S½N½, S½;
Sec. 6, lots 1 thru 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1 thru 4, E½ and E½W½;
Sec. 8;
Sec. 9, E½;
Sec. 10;
Secs. 15 thru 17;
Sec. 18, E½;
Secs. 20 thru 22.
T. 27 N., R. 11 W.,
Sec. 4, lots 6, 7, 10, 11, 13, W½SW¼;
Sec. 5, lots 1 thru 4, S½N½, S½;
Sec. 6, lots 1 thru 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 8;
Sec. 9, lots 2, 3, 6, 7, W½, W½SE¼;
Sec. 10, lot 1;
Sec. 15, lots 2, 3, 7, 8, NW¼SW¼, S½SW¼;
Sec. 17;
Sec. 18, lots thru 4, E½, E½W½;
Secs. 20 and 21;
Secs. 27 thru 29;
Sec.30, lots 1 thru 4, E½, E½W¼;
Sec. 33, E½, NW¼;
Sec. 34.
T. 28 N., R. 11 W.,
Sec. 30, lots 2, 3, 4, NE¼, SE¼NW¼, E½SW¼, N½SE¼, SW¼SE¼;
Sec. 31, lots 1 thru 4, W½NE¼, E½W½, SE¼;
Sec. 32, S½NE¼, S½;
Sec. 33, lots 3, 6, and 7.
T. 24 N., R. 12 W.,
Sec. 5, lots 7 thru 10, 15 thru 18;
Sec. 6, lots 8 thru 23;
Sec. 7, lots 5 thru 16;
Sec. 8, lots 3 thru 6;
Sec. 18, lots 7 thru 10.
T. 25 N., R. 12 W.,
Sec. 2, lots 1 thru 4, S½N½, S½;
Sec. 7, lots 3, 4, E½SW¼;
Sec. 10, NE¼, S½;
Sec. 11;
Sec. 18, lots 1 thru 4, E½, E½W½;
Sec. 19, lots 1 thru 4, E½W½;
Sec. 30, lots 1 thru 4, E½, E½W½;
Sec. 31, lots 1 thru 4, E½, E½W½.
T. 26 N., R. 12 W.,
Sec. 2, lots 1 thru 4, S½N½, S½;
Sec. 3, lots 1 thru 4, S½N½, SE¼;
Sec. 4, lots 1 thru 4, S½N½, S½;
Sec. 5, lots 1 thru 4, S½N½, S½;
Sec. 6, lots 3 thru 7, SE¼NW¼, E½SW¼;
Sec. 7, lots 1, 2, E½W½, SE¼;
Secs. 8 and 9;
Sec. 10, S½;
Sec. 11, W½;
Sec. 12, NE¼;
Sec. 14, W½;
Sec. 15;
Sec. 16, N½, SE¼;
Sec. 17;
Sec. 18, E½, E½NW¼;
Sec. 19, lots 1 thru 4, E½, E½W½;
Sec. 20;
Sec. 21, N½;
Sec. 22, N½, SE¼;
Sec. 23, NW¼, S½;
Sec. 27, NE¼, S½;
Sec. 29;
Sec. 30, lots 1 thru 4, E½, E½W½;
Sec. 31, lots 1 thru 4, E½, E½W½;
Sec. 32 less 1 acre described as follows:
Beginning at a point 1,560 feet east and 89 feet north of the southwest corner of sec. 32, T. 26 N., R. 12 W., N. Mexico Principal Meridian; thence N. 55°00' W. a distance of 208.7 feet; thence N. 35°00' E. a distance of 208.7 feet; thence S. 55°00' E. a distance of 208.7 feet; thence S. 35°00' W. a distance of 208.7 feet to the point of beginning and containing 1 acre more or less, within the SE¼SW¼ of said Sec. 32.
Sec. 33, NW¼, SE¼;
Sec. 34, NE¼, S½.
T. 27 N., R. 12 W.,
Sec. 1 lots 1 thru 4, S½N½, S½;
Sec. 2, lots 1 thru 4, S½N½, S½;
Sec. 3, lots 1 thru 4, S½N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 5, lots 1 and 2, S½NE¼, S½;
Sec. 8;
Secs. 11 and 12;
Secs. 16 and 17;
Sec. 19, lots 1 thru 4, E½, E½W½;
Sec. 21, E½;
Sec. 22;
Sec. 25, S½;
Sec. 26, S½;
Secs. 27 and 28;
Sec. 29, E½, NW¼;
Sec. 30, lots 1 thru 4, E½, E½W½;
Sec. 31, lots 1 thru 4, E½, E½W½;
Sec. 32, E½, SW¼;
Secs. 33 and 34;
Sec. 35, W½;
Sec. 36.
T. 28 N., R. 12 W.,
Sec. 13, SW¼SW¼;
Sec. 14, E½SW¼, SW¼SW¼, SE¼;
Sec. 21, NW¼, SE¼;
Sec. 22 and 23;
Sec. 24, W½NW¼, SW¼, SW¼SE¼;
Secs. 25 thru 26;
Sec. 29, E½;
Secs. 32 thru 36.
T. 24 N., R. 13 W.,
Sec. 1, lots 1 thru 4, S½N½, SW¼, N½SE¼;
Sec. 12, W½;
Sec. 13, N½.
T. 25 N., R. 13 W.,
Sec. 1, lots 1 thru 4, S½N½, S½;
Sec. 2, lots 1 thru 4, S½N½, S½;
Sec. 3, lots 1 thru 4, S½N½, S½;
Sec. 4, lots 1 thru 4, S½N½, S½;
Sec. 5 lots 1, 2, 3, 5, 6, 8, 9, S½N½, S½;
Secs. 8 thru 17;
Secs. 20 thru 25;
Secs. 35 and 36.
T. 26 N., R. 13 W.,
Sec. 1, lots 1 thru 4, S½N½, S½;
Sec. 2, lots 1 thru 4, S½N½, S½;
Sec. 3, lots 1 thru 4, S½N½, S½;
Sec. 4, lots 1 thru 4, S½N½, S½;
Sec. 5, lots 1 thru 4, S½N½, S½;
Sec. 6, lots 1 thru 14, S½NE¼, SE¼;
Sec. 7, E½;
secs. 8 thru 11;
Sec. 12, E½, NW¼;
Secs. 14 thru 17;
Sec. 18, E½;
Secs. 20 thru 23;
Sec. 24, NE¼, S½;
Secs. 25 thru 29;
Secs. 32 thru 36.
T. 27 N., R. 13 W.,
Sec. 2, lots 1 thru 4, S½N½, S½;
Sec. 3, lots 1 thru 4, S½N½, S½;
Sec. 4, lots 1 thru 4, S½N½, S½;
Sec. 6, lots 1 thru 14, S½NE¼, SE¼;
Sec. 7, lots 3, 4, 9, 10;
Secs. 9 and 10;
Secs. 15 and 17;
Sec. 18, lots 1 thru 12, E½;
Sec. 19, lots 1 thru 12, E½;
Sec. 21, N½;
Sec. 22, N½;
Sec. 23, E½, NW¼;
Secs. 24 thru 29;
Sec. 30, lots 1 thru 12, E½;
Sec. 31, lots 1 thru 12, E½;
Secs. 32 thru 36.
T. 28 N., R. 13 W.,
Sec. 16, W½NE¼, W½, SE¼;
Sec. 17;
Sec. 18, lots 1 thru 4, E½, E½W½;
Sec. 19, lots 1 thru 4, E½, E½W½;
Secs. 20 and 21;
Sec. 22, SE¼NE¼, W½NE¼, W½, SE¼;
Secs. 27 and 28;
Sec. 29, N½;
Sec. 30, lots 1 thru 4, NE¼, E½W½;
Sec. 31, lots 1 thru 4, E½W½, SE¼;
Secs. 33 and 34.

Containing 120,681.25 acres.

GUY R. MARTIN,
Assistant Secretary of the Interior.

AUGUST 23, 1977.

[FR Doc.77-25328 Filed 8-30-77;8:45 am]

[Public Land Order 5625]

[NM-25103]

NEW MEXICO

Partial Revocation of Air Navigation Site Withdrawal No. 51; Revocation of Public Land Order No. 2508

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This order will restore 130 acres of public lands to the operation of the public land laws.

EFFECTIVE DATE: Publication date.

FOR FURTHER INFORMATION CONTACT:

Michael T. Solan, Chief, Division of Technical Services, Bureau of Land Management, Santa Fe, N. Mex. 87501 (505-988-6204).

By virtue of the authority contained in section 204 of the Act of October 21, 1976, 90 Stat. 2743, 43 U.S.C. 1701, et seq., it is ordered as follows:

1. The Secretary's Order of February 3, 1931, and Public Land Order No. 2608 of February 12, 1962, withdrawing lands for Air Navigation Site No. 51, and for maintenance of air navigation facilities, respectively, are hereby revoked so far as they relate to the following described lands:

NEW MEXICO PRINCIPAL MERIDIAN

T. 27 S., R. 18 W.,
Sec. 34, E½NW¼.
T. 27 S., R. 18 W.,
Sec. 30, SW¼NE¼SE¼, S½NW¼SE¼, W½SE¼SE¼.

The areas described aggregate 130 acres in Grant and Hidalgo Counties.

The lands lie in the extreme southwestern part of the State near the village of Hachita, N. Mex. The lands are moderately to steeply sloping with rough, broken land and rock-land soil associations. Vegetation of this desert mountain area is a sparse cover of grama grasses, snakeweed, various annuals, mesquite, and various species of cacti.

2. At 10 a.m. on September 28, 1977, the lands shall be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid

V 42169 A AUG 31 77 UMI

applications received at or prior to 10 a.m. on September 28, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands will be open to location under the United States mining laws at 10 a.m. on September 28, 1977. They have been open to applications and offers under the mineral leasing laws.

GUY R. MARTIN,
Assistant Secretary of the Interior.

AUGUST 23, 1977.

[FR Doc.77-25256 Filed 8-30-77;8:45 am]

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5623]

[Montana 37274]

SOUTH DAKOTA

Modification of Public Land Order No. 1168

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: Modification of PLO No. 1168 to withdraw certain forest lands from operation of the mining laws only.

EFFECTIVE DATE: When published.

FOR FURTHER INFORMATION CONTACT:

Eldon G. Hayes, 202-343-8731.

By virtue of the authority contained in section 204 of the Act of October 21, 1976, 90 Stat. 2743, 43 U.S.C. 1701, et seq., it is ordered as follows:

Public Land Order No. 1186 of June 15, 1955, which withdrew certain public lands within the Black Hills National Forest from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws, is hereby modified to delete the following words: "all forms of appropriation under the public land laws, including" so far as it relates to the following described lands:

BLACK HILLS NATIONAL FOREST

BLACK HILLS MERIDIAN

T. 2 S., R. 5 E.,
Sec. 1, NW¼SE¼, W½NE¼SE¼.
Containing 60 acres.

The above described lands remain withdrawn from the operation of the general mining laws.

GUY R. MARTIN,
Assistant Secretary of the Interior.

AUGUST 23, 1977.

[FR Doc.77-25331 Filed 8-30-77;8:45 am]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

[CSA Instruction 6800-9]

PART 1050—UNIFORM FEDERAL STANDARDS

Monitoring and Reporting Program Performance

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration is filing its final rule on grantee program progress reporting. This rule is required in order to implement the provisions of the Uniform Federal Standards. It will assure conformity with program reporting requirements of other Federal grant-in-aid projects also operated by CSA grantees.

DATE: This rule becomes effective August 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Ms. Jacqueline G. Lemire, Community Services Administration, Office of Operations, Policy Development and Review Division, 1200 19th Street NW., Washington, D.C. 20506, tel. (202) 254-5670.

SUPPLEMENTARY INFORMATION: On April 28, 1977 the Community Services Administration published a proposed rule (42 FR 21623) revising its policy on program progress reporting with a 30 day comment period. Twenty-four grantees, including two State Economic Opportunity Offices, responded to the proposed rule. In addition, staff from three CSA Regional Offices and one Headquarters Program Office also commented.

The majority of the comments dealt with grantee concerns in two areas; (1) the 15 (working) day deadline for submitting progress reports, and (2) the requirement for reporting "unit cost" on the revised CSA Form 440. Most commentors noted that, in the words of one grantee, "(It is) impossible to get meaningful input from a large number of people, obtain governing board approval, and finally to submit the report within 15 working days." Or, as another grantee succinctly put it, "(It is) patently absurd." Of the eleven who made specific suggestions for changing the deadline, seven recommended 30 working days and two recommended 45 working days. Two others recommended 60 working days for the annual report. In reviewing these specific suggestions CSA concluded that the deadline could be extended to 30 working days and still impact both the development, and subsequent review by CSA Administering Offices, of the grantee's work program for the next Program Year. § 1050.80-3(c) has been revised to reflect this change.

There was agreement among most respondents that in general the Form 440 is an improvement over the form in current use. However, there was one major exception, i.e. twelve respondents expressed concern regarding item 6. (Unit Cost) on the Form 440. Although several grantees noted that they felt that it is important that CSA begin to be able to generate service unit cost data they and the other respondents generally forcused on the need for clarification of what CSA means by unit cost to assure that we are not counting "apples and oranges;" one grantee questioned whether current methods for determining unit costs are sophisticated enough to reflect actual costs versus actual service delivered; and one SEOO noted that "Most CAAs do not have program and cost information sufficiently quantified to provide unit cost data that is comparable to data from other programs and other agencies. This is a particular concern where there are no uniform service definitions • • •."

As a result of these comments CSA has concluded that too much ambiguity exists to implement this requirement and is accepting the suggestion made by one grantee that "• • • a separate process should be initiated, after careful study, incorporating specific instructions on how to arrive at unit costs and how to operationally define service units." CSA Form 440 has been revised to eliminate the unit cost item.

Other substantive changes:

Section 1050.80-3(c)(1)(i) has been amended to provide flexibility in adjusting reporting dates when both the Administering Office and grantee officials so agree. However, only in cases where it is clearly to accommodate the grantee may the period covered by the PPR not coincide with the period(s) covered by financial reports.

Section 1050.80-3(c)—a new section covering the reporting format has been added which includes an optional reporting format for research and demonstration grants in order to deal with the innate uniqueness of many of the Section 232 grants.

The following recommendations were received but not implemented for the reason(s) stated:

Three grantees (two urban) noted that reporting on goals rather than programs/projects would be an enormous undertaking since their work programs contain hundreds of individual goals. Conversely, one grantee recommended that the goal statement should be more general and that accomplishments should reflect the indicated activities on the work program. The latter recommendation was rejected since we fund projects and goals not activities. Although we also are not revising the regulations to implement the first concern noted above, a section has been added which gives Administering Offices and grantees flexibility to adjust reporting dates or reduce frequency of reporting. Under this section an Administering Office which monitors a grantee with an extensive work program could accept, for example, an annual full scale evaluation undertaken by the grantee as a fulfillment of its reporting requirement and in this way reduce drain on staff, board, etc. (However, the Administering Office must keep in mind that it is responsible for determining the extent to which the standards of effectiveness have been met prior to renewing or supplementing funding and, therefore, must have some mechanism in place in this situation to provide the data necessary for such a determination.)

Several recommendations for change were made which are already CSA policy. However, we feel that they are important enough to highlight in case there are other grantees who have similar misconceptions.

One grantee requested that a provision be included prohibiting CSA from imposing other reporting requirements. This prohibition already exists and is specifically stated in CSA Instruction 6800-1. We recommend that grantees familiarize themselves with the provisions of that Instruction including the section under question and the schema of the Instructions which implement the Uniform Federal Standards.

There also appears to be some misunderstanding of the reporting areas on the new Form 440. We would like to reiterate that the form was revised to eliminate duplicative and unnecessary information and that the information/data to be reported on the form is that previously required by OEO Instruction 7031-1 in narrative form. Also the self-evaluation process has not changed. There is, all in all, very little new under the sun.

We would like to advise the grantee who believes that Instruction 6710-1, Change 11, requires submission of the work program 180 days prior to the end of the Program Year, that this is not accurate. Eligible documents are to be in order and available at 180 days, but the required time for work program submission remains 90 days prior to PYE.

Grantees should also note that only in exceptional circumstances are reports required quarterly. Routine situations require the submission of two reports—one to cover 6 months and the other to cover 12 months.

As noted in the proposed rule, Section 231 grants will now be covered by the project progress reporting requirements. However, this subpart will not apply to grantees funded under Title VII since a separate subpart will be issued at a future date which will apply to them. In the meantime, existing project progress reporting procedures will remain in effect for grantees operating with Title VII funds.

GRACIELA (GRACE) OLIVAREZ,
Director.

AUTHORITY: Sec. 602, 78 Stat. 530 (42 U.S.C. 2942).

45 CFR Part 1050 is amended by adding a new subpart as follows:

Sec.

1050.80-1 Applicability.
1050.80.2 Standard.
1050.80-2 Standard.
1050.80-3 CSA Implementing policies and procedures.

§ 1050.80-1 Applicability.

This subpart applies to all grants made to public and private organizations/agencies under Titles II and III-B of the Economic Opportunity Act of 1964, as amended when such assistance is administered by the Community Services Administration.

§ 1050.80-2 Standard.

(a) *Monitoring responsibilities (grantee).* (1) Grantees shall monitor their performance under grants and other agreements and, where appropriate, ensure that time schedules are being met, projected work units by time periods are being accomplished, and other performance goals are being achieved. This review shall be made for each project, function, or activity of each agreement as set forth in the approved application or awarded document.

(2) Grantees shall submit a performance report for each agreement that briefly presents the following information for each project, function, or activity involved as prescribed by CSA.

(i) A comparison of actual accomplishments with the goals established for the period, the findings of the investigator or both. If the output of programs or projects can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.

(ii) Reasons why established goals were not met.

(iii) Other pertinent information including, where appropriate, analysis and explanation of cost overruns of high unit costs.

(3) (NOTE.—See CSA's implementing regulations (§ 1050.80-3) for further details.)

(b) *Submission of Performance Reports.* (1) The Uniform Federal Standards require, except as provided in paragraph (b)(1)(i), (ii), and (iii), of this section, that grantees shall submit performance reports to CSA covering the same reporting period as the Financial Status Report. CSA will require that performance reports be submitted to cover the same period as the financial reports but with less frequency. (See § 1050.80-3 for frequency of reports and reporting dates.) CSA will also require a final performance report for grants with a fixed termination date. However, neither CSA nor any other Federal sponsoring agency may require reports more frequently than quarterly or less frequently than annually.

(2) CSA may waive the requirement that performance reports be submitted with the financial reports under the following circumstances:

(i) When the grantee is required to submit a performance report with a continuation or renewal application.

(ii) When CSA determines that on-site technical assistance and certified completion data will be sufficient to evaluate construction projects.

(iii) When CSA finds it necessary to get an annual progress report on a calendar basis although its usual submission requirements are based on the grantee's program year or other funding period.

(c) *Special reporting requirements (Grantee).* (1) Between the required performance reporting dates, events may occur that have significant impact upon the project or program. In such instances, the grantee shall inform the appropriate CSA administering office by letter as soon as the following types of conditions become known;

(i) Problems, delays or adverse conditions that will materially affect the ability to attain program objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project work units by established time periods. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any Federal assistance needed to resolve the situation.

(ii) Favorable development or events that enable time schedules to be met sooner than anticipated or more work units to be produced than originally projected.

(2) If any performance review conducted by the grantee discloses the need for change in the budget estimates in accordance with the criteria established in 1050.100 (CSA Inst. 6800-11) the grantee shall submit a request for budget revision.

(d) *On-Site Review (CSA).* CSA will make site visits as frequently as practicable to:

(1) Review program accomplishments and management control systems; and

(2) Provide such technical assistance as may be needed.

§ 1050.80-3 CSA implementing policies and procedures.

(a) *Policy.* (1) CSA would like to see its grantees established as independent, self-reliant and viable institutions within their communities. At the same time it recognizes a need for strengthening the accountability of grantees both to their communities and to CSA as the funding agency.

(2) CSA believes that regular internal self-assessments of project progress conducted by or under the direction of the grantee board or governing officials are essential to the effective operation of community-based anti-poverty programming and requires that grantees report the results of such self-assessments to the appropriate CSA Administering Office. (See paragraph (c) of this section.)

(b) *What is a Project Progress Review?* (1) A Project Progress Review (PPR) is the last link in closing the circle which includes planning, grant application, and implementation. A Project Progress Review requires that a grantee look both to the past and to the future—to the past to the conditions which existed before applying for CSA funds, what the board said it was going to do in the application for funds in order to deal with those conditions, and what has been done; and to the future to determine how the information gathered in the Review and the conclusions reached can be used to revise the goals for the remainder of the Program Year if necessary and/or affect the work program for the coming Program Year(s).

(2) *Definition.* A Project Progress Review (PPR) is a process carried out by a grantee in order to determine:

(i) What has been accomplished in meeting the locally set goals as shown in the grantee's work program;

V42169 AUG 31 77 UMI

(ii) The extent to which the grantee is achieving the broad purposes of community action as set forth in the Economic Opportunity Act and, for CAAs, the "Mission of the Community Action Agency";

(iii) The extent to which the grantee is meeting the general and specific standards of effectiveness described in CSA Instruction 7850-1a; and

(iv) How efficiently grantee planning, project management and overall administration is carried out in addressing the problems of poverty.

(3) What a PPR System Should Contain. (i) The grantee Board of Directors or Governing Officials should assure that the grantee has developed a project review system that contains, at a minimum, the following:

(A) A clear statement of the roles of all participants in the Review process, i.e. the Board itself (or governing officials, where appropriate), the executive director, other grantee staff, policy advisory committee(s), target area residents, and the community-at-large;

(B) The assignment of responsibilities and allocation of resources for designing the Review, gathering the information and analyzing it, developing the final report(s), and deciding how the findings will be used in making decisions;

(C) An adequate system for routinely collecting data which can be useful in the Reviews;

(D) A description of how the findings and recommendations from the reviews will be used in making or planning changes to on-going or future projects and to improve the management of these projects and the agency as a whole; and

(E) A schedule for holding regular Project Progress Reviews and special reviews of issues and projects that are or have become a priority in the Community.

(ii) Board members should activeiy participate in each Project Progress Review. In addition, the poor must also be involved in all phases including the preparation and review of the PPR reports. (See OEO Instruction 6005-1.)

(c) *How and when to submit reports*—(1) *Reporting Format.* (i) Grantees will prepare reports using CSA Form 440. (See Attachment A.) Each PPR report will provide an analysis of accomplishments in relation to each goal on the grantee's currently approved work program and will detail problems, planned changes and training and technical assistance needs. In addition, effectiveness of each goal will be assessed by relating the progress made toward achieving the goal to the appropriate Standard(s) of Effectiveness.

(ii) Grantees funded under Section 232 may be requested by the Administering Office to prepare a report in narrative form instead of using CSA Form 440. In such cases the requirement will be stated in the Special Conditions attached to the grant. These Conditions will also detail the information required which will include, at a minimum, a comparison of actual accomplishments with goals of the work program and an assessment of effectiveness.

(2) *Frequency*—(i) *Submission dates.* (A) Except as indicated in paragraph (c) (2) (ii) and (iii) of this section each grantee is responsible for submitting to the appropriate CSA Administering Office a semi-annual and an annual Project Progress Report. Reports will be submitted 30 working days following the end of the second and fourth quarters of the grantee's Program Year of Program Account 01. (If not funded for PA 01, grantee should use its highest funded Program Account as a reference point for submission of PPR reports.)

(B) Administering Offices and grantee officials may jointly agree in writing, to adjustments in the above reporting dates where this will make local progress reviews more meaningful and supportive of the mutual program direction and review objectives of the grantee and administering office. Also the administering office may reduce the frequency of reporting. However, except at the request of the grantee, the period covered by the PPR must always conform to that covered by the financial reports.

(ii) *Grants with termination dates.* If a grant has a termination date, the grantee also is responsible for filing a final Project Progress Report, within 90 calendar days following the termination date.

(iii) *Special requirements.* There may be instances where more frequent reporting will be required, e.g. in the cases of developmental grants; when the grantee has a history of poor performance; etc. In these instances the funding office may require, as a condition of the grant, that Project Progress Reports be filed on a quarterly basis. However, in keeping with the Standards, reporting can not be required more frequently than quarterly unless an exception is obtained by CSA (Headquarters) from OMB. It should be noted that more frequent reporting is not intended to be imposed routinely but rather on an exception basis such as when the aforementioned circumstances exist.

(3) *Number of Copies.* One copy of the report is to be sent to the appropriate CSA Administering Office. (Grantees receiving grants which are administered by both a Regional Office and a Headquarters Program Office will send a copy of the PPR to each.) Additionally, grantees receiving funds under Sections 221 and 222(a) of the Act shall send one copy to the appropriate SEOO for information.

(4) *Availability of CSA Form 440.* Supplies of CSA Form 440 may be ordered from:

CSA Distribution Center, 49 "L" Street SE., Washington, D.C. 20003.

ATTACHMENT A
Page 1

Page ___ of ___

COMMUNITY SERVICES ADMINISTRATION
PROJECT PROGRESS REVIEW REPORT

(Check applicable box) ☐ 1st Qtr. ☐ ANNUAL ☒ 2nd Qtr. ☐ 3rd Qtr. ☐ FINAL

Reserved for OMB Approval

DATE SUBMITTED

NAME OF GRANTEE

GRANTEE NO.

PROGRAM ACCOUNT | PROJECT TITLE: Information, Referral and Follow-up

PROJECT GOAL --To provide outreach, referral and follow-up services to 650 low-income target area residents using neighborhood center staff, Policy Advisory Committees and minimum of 25 volunteers.

STANDARD(S) OF EFFECTIVENESS (No.) A-II, III, IV, V

1. ACCOMPLISHMENTS

A. MEASURABLE --During this period, 30 volunteers assisted CAA in performing outreach and home visitations. Overall, information on community programs was given directly to 500 residents; 350 were referred to other organizations for assistance; follow-up was conducted on 200 of these.

B. NON-QUANTIFIABLE --The County Department of Human Services has formally requested the CAA to perform outreach for Title XX, Community Development and Food Stamp programs. CAA is doing preliminary eligibility screening for these programs to speed up processing. County-wide computerized I&R system is being considered by County Commission.

2. PROBLEMS

Low attendance at Policy Advisory Committee meetings. No quorum for three of last four meetings. Three PAC positions are vacant. Follow-ups hampered by (a) inadequate record-keeping in two centers and (b) lack of travel funds.

3. PLANNED CHANGES *

Elections will be held early next month to fill vacant PAC positions. After this SEOO will conduct training for PAC members on their roles and responsibilities. Recordkeeping system is being computerized to facilitate client "tracking." Budget is being revised to allocate more funds to travel.

4. TRAINING & TECHNICAL ASSISTANCE NEEDS *.

Outreach supervisors need training in planning center activities. PAC members need motivation; contact with Federal officials would help.

5. ASSESSMENT OF EFFECTIVENESS

Service delivery remains generally efficient (Standard A- II,) but lack of participation by low-income (Std A-III) causes concern. Greater involvement of volunteers (Stds A-IV and A-V) has improved CAA's "image" in community.

* Do not complete when filing final report or in annual reports for individual projects which will not be refunded.

CERTIFICATION

The undersigned certifies that this report has been completed in accordance with applicable instructions; that it is true to the best of his/her knowledge, information and belief; and that it has been approved, or reviewed and approved, as indicated in Item 6, below.

6. THIS REPORT HAS BEEN (Check appropriate box.)
☐ APPROVED BY GRANTEE'S GOVERNING BOARD ☐ REVIEWED BY GRANTEE'S ADMINISTERING BOARD AND APPROVED BY ITS GOVERNING OFFICIALS

7. DATE OF APPROVAL

8. TYPED NAME & TITLE OF PRINCIPAL GOVERNING OFFICIAL OR PRINCIPAL OFFICER OF GOVERNING BOARD | 9. SIGNATURE | 10. DATE

CSA FORM 440 (REV. JUL 77) (REPLACES CSO FORM 440, DATED AUG 72, WHICH IS OBSOLETE)

SAMPLE

V 42 169 AUG 31 77 UMI

INSTRUCTIONS FOR COMPLETING CSA FORM 440

There should be a brief report for each project goal listed on the approved CSA Form(s) 419. Therefore, there should be a separate CSA Form 440 for each goal. (Note: The annual report also should give a separate summary for the entire program year for the project as a whole in addition to progress toward each goal. In this case, mark SUMMARY in the Project Goal box.)

In addressing topics 1 through 5 on the Form 440, the following information should be included for each goal:

ITEM

1. *Accomplishments:*

a. Measurable.—Describe achievements in relation to approved goals in measurable terms; include unanticipated benefits to community or target groups,

b. Nonquantifiable.—Give brief description on nonquantifiable accomplishments.

2. *Problems.*—Reasons for failure to reach project goals.

3. *Planned Changes.*[1]—Indication of planning or project management changes scheduled as a result of PPR analysis.

4. *Training and Technical Assistance Needs.*[1]—Description of assistance needed from CSA or other sources.

5. *Assessment of Effectiveness.*—Assessment of grantee status with respect to general and or specific standards of effectiveness applicable to this goal. Appraise effectiveness in light of costs and other uses of resources.

6-10. (Certification section).—Complete this section on page 1 only of your report.

[FR Doc.77-25342 Filed 8-30-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 77-578]

PART 0—COMMISSION ORGANIZATION

Reorganization of the Office of General Counsel

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Part O of the Commission's Rules and Regulations pertaining to the Office of the General Counsel amended to transfer from the Litigation and Enforcement Division to the Legal Research and Treaty Division the responsibility for representation of the Commission before the District Courts of the United States. At the same time the Legal Research and Treaty Division is renamed the Research and Trial Division, and the Litigation and Enforcement Division is renamed Litigation Division.

EFFECTIVE DATE: September 9, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mr. Bernard I. Kahn, Management Systems Division, 632-7513.

SUPPLEMENTARY INFORMATION:

Adopted: August 22, 1977.

Released: August 30, 1977.

Order. In the matter of amendment of Part O rules and regulations.

1. The Commission has before it for consideration proposed amendments and an addition to § 0.42, involving the units of the Office of General Counsel, and §§ 0.43, 0.44, 0.46 and 0.47 respecting the functions and responsibilities of the Immediate Office of the General Counsel, the Litigation and Enforcement Division, the Legal Research and Treaty Division, the Administrative Rules and Procedure Division, and the addition of Section 0.48, establishing the Public Access Divislon.

2. In order to promote efficiency and a more cohesive alignment of the functions within the Office of General Counsel, the Commission is hereby transferring certain duties among three of the divisions of said Office involving principally the enforcement and defense of Commission actions, responsibility for the representation of the Commission before the district courts of the United States and matters arising under the Freedom of Information Act, the Privacy Act and the Government in the Sunshine Act all as more particularly described in the Appendix attached hereto. The internal handling of these matters will in part be handled by the Public Access Division.

3. *Accordingly, it is ordered,* That §§ 0.43, 0.44, 0.46 and 0.47 of the rules and regulations involving the functions of the Litigation and Enforcement Division, the Legal Research and Treaty Division and the Administrative Rules and Procedure Division are hereby amended as set forth in the Appendix attached hereto and made a part hereof. As a consequence of our action herein, the Litigation and Enforcement Division is hereby renamed the Litigation Division and the Legal Research and Treaty Division is likewise renamed the Research and Trial Division. Section 0.42 is also revised to reflect the amendments adopted herein.

4. *It is further ordered,* That § 0.48 be added to the rules and regulations to state the functions assigned to the new Public Access Division, as listed below and made a part hereof.

5. *It is further ordered,* That the amendments herein adopted are issued pursuant to sections (4)(i), 5(b), and 303(r) of the Communications Act of 1934, as amended, effective September 9, 1977.

6. Since the amendments adopted herein concern Commission organization, they are not subject to the notice and effective date requirements of 5 U.S.C. 553.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part O of Chapter I of Title 47 of the Code of Federal Regulations is hereby amended to read as follows:

1. Section 0.42 is revised as follows:

§ 0.42 Units in the Office.

The Office of General Counsel is structured into the following units:

(a) Immediate Office of the General Counsel.
(b) Litigation Division.
(c) Legislation Division.
(d) Research and Trial Division.
(e) Administrative Rules and Procedure Division.
(f) Public Access Division.
(g) Equal Employment Opportunity Unit.

2. Section 0.43 is revised as follows:

§ 0.13 Immediate Office of the General Counsel.

The Immediate Office of the General Counsel directs and coordinates the functions of said Office including the assignment and ultimate supervision of all appellate and trial litigation in which the Commission is a party or otherwise possesses a public interest in the question involved.

3. Section 0.44, headnote and text are revised to read as follows:

§ 0.44 Litigation Division.

The Litigation Division has the following duties and responsibilities:

(a) To advise and represent the Commission in all appellate proceedings, including actions before the Supreme Court of the United States, in which the Commission is a party or otherwise possesses a public interest in the question involved, including such other trial litigation as the General Counsel may, from time to time, assign.

(b) To advise the Commission as to any legal questions involved in proposed actions and policies in the light of past and pending appellate or trial litigation, and to coordinate research in legal matters as may be directed by the General Counsel.

4. Section 0.46, headnote and text are revised to read as follows:

§ 0.46 Research and Trial Division.

The Research and Trial Division has the following duties and responsibilities:

(a) To conduct research in legal matters and prepare legal memoranda as may be directed by the General Counsel.

(b) To advise and represent the Commission in all actions and proceedings commenced in the district courts of the United States in which the Commission is a party or otherwise possesses an interest in the question involved, except as the General Counsel may, from time to time, otherwise direct.

(c) To participate in international conferences and in the implementation of international agreements, and to interpret international agreements and international regulations affecting the Commission.

(d) To cooperate and consult with the Common Carrier Bureau and the Office of Chief Engineer on matters regarding satellite and international communications.

(e) To perform any additional functions assigned to it by the General Counsel.

5. In § 0.47, paragraphs (a), (c) and (g) are amended and (f) is added to read as follows:

§ 0.47 Administrative Rules and Procedure Division.

The Administrative Rules and Procedure Division has the following duties and responsibilities:

(a) To prepare and coordinate recommendations concerning rules of general procedural applicability, and to maintain liaison with Government agencies and private organizations concerned with improving the Commission's procedures.

(b) To interpret statutes and executive orders affecting the Commission's national defense responsibilities, and to perform the functions of the Office of General Counsel involving implementation of such statutes and executive orders.

(c) To perform all legal functions involved in administering and enforcing the rules and regulations of the Commission pertaining to the Experimental Radio Service (Part 5 of this chapter), Radio Frequency Devices (Part 15 of this chapter), the Industrial, Scientific, and Medical Service (Part 18 of this chapter), and type approval and type acceptance of radio equipment, including educational functions directed toward obtaining voluntary compliance with the provisions of Parts 15 and 18 of this chapter.

(d) To perform all legal functions with respect to leases, contracts, tort claims and such other internal legal problems as may arise.

(e) To prepare the bound volumes of the FCC Reports.

(f) To coordinate all rule making matters and proceedings which affect more than one Bureau.

(g) In cooperating with the Office of Chief Engineer, to participate in general frequency allocation proceedings affecting more than one Bureau.

(h) To perform any additional functions assigned to it by the General Counsel.

6. Section 0.48 is added as follows:

§ 0.43 Public Access Division.

The Public Access Division has the following duties and responsibilities for all matters arising under the administration of the Freedom of Information, Privacy and Sunshine Acts:

(a) To serve as principal adviser to the General Counsel and the Commission in the implementation and administration of the Freedom of Information, Privacy and Sunshine Acts.

(b) To provide legal guidance and assistance to the Executive Director, in formulating agency policy on the administration of the Freedom of Information and Privacy Acts. Prepare interpretations of the Acts, Commission rules implementing the Acts and decisions affecting them by other Government agencies and the Federal Courts.

(c) To advise Bureaus/Offices in their preparation of responses to initial requests under the Freedom of Information and Privacy Acts. Provide legal advice to the General Counsel concerning the approval of all initial OIA denials and assure that actions are consistent with the statute and Commission's rules.

(d) To provide legal advice to Bureaus/Offices relative to whether a Commission meeting should be open or closed. Advise the General Counsel on the legal basis of all requests for closing meetings.

(e) To provide legal advice to the Consumer Assistance Office concerning various aspects of Commission's programs.

[FR Doc.77-25383 Filed 8-30-77;8:45 am]

[Docket No. 21118, RM-2794; RM-2795; RM-2804; RM-2805; RM-2807]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Yakutat, Alaska; Changes made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order.

SUMMARY: Action herein grants petition for reconsideration, in which Lakeside Broadcasting Inc., requests consideration of the Commission's Report and Order denying the assignment of a first Class A FM assignment to Yakutat, Alaska. Commission states that since Lakeside Broadcasting, Inc., has now furnished the documents regarding establishment of the corporation to operate an educational station there is no reason for refusing to grant the assignment to Yakutat.

EFFECTIVE DATE: October 11, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

MEMORANDUM OPINION AND ORDER—PROCEEDING TERMINATED

Adopted: August 24, 1977.

Released: August 26, 1977.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (McConnelsville, Ohio: St. Marys, West Virginia; Boulder City, Nevada; Canadian, Texas; *Yakutat, Alaska,* Docket No. 21118, RM-2794, RM-2795, RM-2804, RM-2805, *RM-2807.*

1. The Commission here considers a Petition for Reconsideration submitted by Lakeside Broadcasting, Inc., ("petitioner") requesting reconsideration of the Report and Order[1] in Docket No. 21118 which denied the requested assignment of FM Channel 280A to Yakutat, Alaska.

2. The Yakutat portion of this proceeding was initiated on a petition for rule making filed by Lakeside Broadcasting, Inc., in which it sought the assignment of Channel 280A to Yakutat, Alaska, as a first FM assignment. Petitioner stated it intended to apply for an FM 10-watt educational[2] station. In the Notice,[3] the petitioner was requested to provide information regarding its eligibility as an educational entity or to state its willingness to operate with minimum power for a Class A commercial FM station. However, the petitioner failed to furnish the requested information, and it was on this basis that the petition was denied. Although the petition for reconsideration provides no basis indicating that the Commission was in error in denying the proposed assignment, the needed information has now been submitted, and we see no reason to refuse making the assignment. Petitioner has now furnished the Commission with copies of its Articles of Incorporation and by-laws which indicated that the corporation was established to operate an educational station. However, any judgment about whether Lakeside is in fact eligible for an educational authorization can only be made after review of its application for such a station.

3. We believe that the public interest would be served by the assignment of Channel 280A to Yakutat, Alaska, since it would provide for a first local aural broadcast service to the community, and there is a demand for its use. In view of the petitioner's continued interest in an FM station, we will, therefore, assign Channel 280A to Yakutat, Alaska.

4. The Canadian Government has given its concurrence to the proposed assignment to Yakutat, Alaska.

5. *Accordingly, it is ordered,* That effective October 11, 1977, the FM Table of Assignments (§ 73.202(b)) of the Commission's rules is amended as to the named community to read as follows:

City:	*Channel No.*
Yakutat, Alaska	280A

6. *It is further ordered,* That the Petition for Reconsideration filed by Lakeside Broadcasting, Inc., is granted.

7. Authority for the action taken herein is found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934 as amended, and § 0.281 of the Commission's rules.

8. *It is further ordered,* That this proceeding is terminated.

---

[1] Do not complete when filing final or annual reports for individual projects which will not be continued or renewed in the next Program Year.

[1] FM Channel Assignments, *Yakutat, Alaska,* 42 FR 29011.

[2] In Alaska there are no reserved educational FM channels.

[3] 42 FR 10857, February 11, 1977.

V 42 I 169 AUG 31 77 UMI

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-25382 Filed 8-30-77;8:45 am]

[Docket No. 20550; FCC 77-582]

PART 73—RADIO BROADCAST SERVICES

Nondiscrimination in Employment Policies and Practices of Broadcast Licensees

AGENCY: Federal Communications Commission.

ACTION: Final Order.

SUMMARY: The exemption of broadcast stations with ten or less employees from the Commission's equal employment opportunity reporting requirements is rescinded, and the Commission's rules are amended to require the filing of that information by all stations with five or more employees. In adopting EEO rules in 1970, the Commission exempted stations with less than five employees from the reporting requirements imposed. In 1976 the Commission adopted more detailed reporting requirements, but determined that all stations with ten or less employees would be exempt. On appeal, the Court decided that the ten or less exemption was unreasonable. The Commission is therefore returning to the less than five exemption. All broadcasters with five or more full-time employees will therefore be required to file EEO reports.

EFFECTIVE DATE: August 31, 1977.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Martin Blumenthal, Broadcast Bureau (202-632-7542).

SUPPLEMENTARY INFORMATION:

SECOND REPORT AND ORDER

Adopted: August 19, 1977.

Released: August 31, 1977.

In the matter of: nondiscrimination in the employment policies and practices of broadcast licensees, Docket No. 20550.

1. The Commission has before it for consideration its "Report and Order" in Docket No. 20550, "Nondiscrimination in the Employment Policies and Practices of Broadcast Licensees," 60 FCC 2d 618 (1976), together with a decision of the United States Court of Appeals for the Second Circuit in "Office of Communications of the United Church of Christ, et al v. FCC," Case Number 76-4187, decided August 5, 1977.

2. The "Report and Order" established new guidelines for the preparation of written equal employment opportunity programs to be filed by broadcast renewal and other applicants. In adopting the "Model Equal Employment Opportunity Program," the Commission also revisited the exemption, based upon the number of full-time employees, from filing written equal employment opportunity programs. In 1970, we exempted those licensees employing fewer than five full-time employees from filing a written program. "Nondiscrimination in Employment Practices of Broadcast Licensees," 23 FCC 2d 430 (1970). In Docket No. 20550 we determined that the exemption to the new, more detailed renewal reporting requirements should be extended to all stations with ten or less employees because: (1) Commission resources had proven inadequate to administer the previous standards, and, with the submission of more detailed information, the new exemption would make enforcement efforts more efficient; (2) stations with ten or less employees generally did not have formal personnel procedures calling into question the utility of formal EEO reporting and statistics for such stations are not reliable because of the small numbers involved; (3) where EEO programs would serve such a little purpose, they are not justified by the burden on the licensee; and (4) the great majority of employees in the broadcast industry remain covered by the Commission's new reporting requirement.

3. The Court, in "Office of Communications of the United Church of Christ, et al, v. FCC," supra, found that the enlarged exemption was not adequately justified by the Commission, and set aside the "Report and Order," only insofar as the exemption is concerned. In so doing, with particular regard to the burden on smaller licensees and the effectiveness of programs at stations with between five and ten employees, the Court noted that the Commission's policies permit variations in the comprehensiveness of EEO programs according to the size and location of the station, but the submission of written programs by such stations would enable them to focus upon the best method of assuring effective EEO procedures in terms of their individual situations. The decision concluded that: "* * * No matter how informal a station's procedures, the requirement that it periodically think about its EEO efforts seems wholly reasonable * * *" Therefore, the Court set aside our Order in Docket No. 20550 only "* * * insofar as it alters the threshold for stations large enough to be required to submit EEO programs."[1]

4. In accord with the decision of the Court in "Office of Communications of the United Church of Christ, et al. v. FCC," supra, the ten (10) or fewer full-time employee exemption set forth in our "Report and Order" in Docket No. 20550[2] To this end, §§ 73.125, 73.301, 73.599, 73.680 and 73.793 of the Commission's rules will be amended to reflect this change, effective the release date of this Order.[3] In addition, the EEO sections of our various broadcast application forms—FCC Forms 301, 303, 303-R, 309, 311, 314, 315, 340 and 342—will subsequently be modified in accordance with the revised threshold for submission of written EEO programs.

5. *Accordingly, it is ordered*, That §§ 73.125, 73.301, 73.599, 73.680, and 73.793 of the rules of the Federal Communications Commission are amended as set forth below, in accordance with the Order of the Court in "Office of Communications of the United Church of Christ, et al v. FCC," Case Number 76-4187, decided August 5, 1977, by the United States Court of Appeals for the Second Circuit, effective August 31, 1977.

(Secs. 4, 303, 307, 403, 48 Stat., as amended, 1066, 1082, 1083, 1094 (47 U.S.C. 154, 303, 307, 403).)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

§§ 73.125, 73.301, 73.595, 73.680 and 73.793 [Amended]

In §§ 73.125, 73.301, 73.599, 73.680 and 73.793, paragraph (c) is revised to read as follows:

§ ------ Equal employment opportunities.

* * * * *

(c) Applicants for a construction permit for a new facility, for assignment of license or construction permit or for transfer of control (other than pro forma or involuntary assignments and transfers), and applicants for renewal of license who have not previously done so, shall file with the Commission programs designed to provide equal employment opportunities for Negroes, Orientals, American Indians, Spanish-surnamed Americans, and women, or amendments to such programs. Guidelines for the preparation of such programs are set forth in the Commission's "Report and Order, Nondiscrimination in the Employment Policies and Practices of Broadcast Licensees," 60 FCC 2d 618 (1976). A program need not be filed by any station having less than five full-time employees or with respect to any minority group which is represented in

[1] In this regard, the Court noted that the Commission's decision concerning the information requirements of the new model program was reasonable.

[2] The next group of licensees to file for renewal after the date of the Court's Order are those located in Washington, Oregon, Alaska, Hawaii, and Guam. Those renewal applications are due October 1, 1977.

[3] The rule change thus reflected does not require a formal notice and rulemaking procedure pursuant to Section 553 of the Administrative Procedure Act (5 U.S.C. 553). The Court vacated the "ten or less" exemption adopted in 1976, thereby returning to the "under five" exemption adopted in 1970. The action taken herein is therefore purely ministerial, conforming the written rules to the mandate of the Court. See 47 U.S.C. 402 (h). Accordingly, a formal rulemaking is unnecessary.

such insignificant numbers in the area that a program would not be meaningful. In the latter situation, a statement of explanation should be filed.

[FR Doc.77-25384 Filed 8-30-77;8:45 am]

[Docket No. 21260; RM-2860]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Hoisington, Kans.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action herein assigns first Class A FM channel to Hoisington, Kansas. Petitioners, Paul F. Kelly, David C. Hollis, and Elmer H. Davis, state that the assignment will provide Hoisington with its first local broadcast service.

EFFECTIVE DATE: October 11, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—PROCEEDING TERMINATED

Adopted: August 24, 1977.

Released: August 26, 1977.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Hoisington, Kansas), Docket No. 21260, RM-2860.

1. The Commission has under consideration the Notice of Proposed Rulemaking, adopted May 25, 1977, 42 FR 29027, proposing the assignment of Channel 265A to Hoisington, Kansas, as a first FM assignment to that community. The Notice was issued in response to a petition filed by Paul F. Kelly, David C. Hollis and Elmer H. Davis ("petitioners"). Petitioners reiterated their intention to apply for a station if the channel is assigned and to promptly construct a station if authority is granted. No oppositions to the petition were filed.

2. Hoisington (pop. 3,710), situated in Barton County (pop. 30,663),[1] is located approximately 161 kilometers (100 miles) northwest of Wichita, Kansas. There is no local broadcast service in Hoisington.

3. In support of their proposal, petitioners submitted information with respect to Hoisington which is persuasive as to its need for a first FM channel assignment.

4. Upon careful consideration of the proposal herein, the Commission believes it would be in the public interest to assign Channel 265A to Hoisington, Kansas. A demand has been shown for its use and it would provide the community with a first local aural broadcast service. It can be made without affecting any existing assignment and would be consistent with the applicable minimum spacing requirements.

5. Authority for the adoption of the amendment contained herein appears in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

6. In view of the foregoing: *It is ordered*, That effective October 11, 1977, § 73.202(b) of the Commission's rules, the FM Table of Assignments, as regards Hoisington, Kansas, is amended to read as follows:

City:	Channel No.
Hoisington, Kans.	265A

7. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303)).

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-25377 Filed 8-30-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 26—PUBLIC ENTRY AND USE

Closing the Charles M. Russell National Wildlife Range and the UL Bend National Wildlife Refuge, Montana, to the Unauthorized Operation of Aircraft at Low Altitudes

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the unauthorized operation of aircraft at low altitudes over the Charles M. Russell National Wildlife Range and the UL Bend National Wildlife Refuge is incompatible with the objectives for which the area was established.

DATES: Year around (September 1, 1977 through August 31, 1978).

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Charles M. Russell, National Wildlife Range, P.O. Box 110, Lewistown, Montana 59457; telephone: 406-538-8707.

SUPPLEMENTARY INFORMATION:

§ 26.32 Operations of aircraft; over individual wildlife refuge areas.

The unauthorized operation of all aircraft below 1,000 feet above the ground or the landing of aircraft on the Charles M. Russell National Wildlife Range and the UL Bend National Wildlife Refuge is prohibited. The boundaries of these areas are delineated on maps available at the refuge headquarters, Lewistown, Montana, and from the office of the Area Manager, U.S. Fish and Wildlife Service, Federal Building, 316 North 26th Street, Billings, Mont. 59101.

The provisions of this special regulation supplement the regulations which govern restricted or prohibited acts on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 26. The public is invited to offer suggestions and comments at any time.

NOTE: The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

LARRY L. CALVERT,
Refuge Manager, Charles M. Russell, National Wildlife Range, Lewistown, Montana.

AUGUST 18, 1977.

[FR Doc.77-25319 Filed 8-30-77;8:45 am]

PART 32—HUNTING

Opening of Sand Lake National Wildlife Refuge, South Dakota, to Upland Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to upland game hunting of Sand Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: December 12, 1977 through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Sand Lake NWR, Columbia, S. Dak. 57433 (605-885-6320).

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; Upland Game Hunting; for individual wildlife refuge areas.

Upland game hunting is permitted on the Sand Lake National Wildlife Refuge, South Dakota, only on the areas designated by signs as being open to hunting. These areas comprising 20,000 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, PO Box 25486, Denver Federal Center, Denver, Colo. 80225. Upland Game Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. The open season for hunting pheasants on the refuge is from December 12, 1977 through December 31, 1977.

2. Hunters will not be allowed to drive on the refuge, but may park their vehicles outside the refuge and hunt on foot.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

[1] Population figures are taken from the 1970 U.S. Census.

V42169 AUG 31 77 UMI

NOTE: The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

SAM WALDSTEIN,
Refuge Manager,
Sand Lake National Wildlife Refuge.

AUGUST 23, 1977.

[FR Doc.77-25324 Filed 8-30-77;8:45 am]

PART 32—HUNTING

Opening of Charles M. Russell National Wildlife Range and the UL Bend National Wildlife Refuge, Montana, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION Special regulation.

SUMMARY: The Director has determined that the opening to hunting of the Charles M. Russell National Wildlife Range and the UL Bend National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunities to the public.

DATES: September 10 through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Charles M. Russell National Wildlife Range, P.O. Box 110, Lewistown, Mont. 59457; telephone (406-538-8707).

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

The hunting of migratory game birds is permitted on the Charles M. Russell National Wildlife Range and the UL Bend National Wildlife Refuge, Montana, only on the areas designated by signs as open to hunting. These areas comprising approximately 700,000 acres are delineated on maps available at the refuge headquarters in Lewistown, Montana, and from the office of the Area Manager, U.S. Fish and Wildlife Service, Federal Building, 316 North 26th Street, Billings, Montana 59101. All hunting shall be in accordance with all applicable state regulations and the following condition:

1. Vehicle travel is permitted only on designated roads and trails.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

§ 32.22 Special regulations; upland game birds; for individual wildlife refuge areas.

Sage grouse, sharp-tailed grouse, gray partridge, and ring-necked pheasant may be hunted on the Charles M. Russell National Wildlife Range and the UL Bend National Wildlife Refuge in Montana only in those areas designated by signs as open to hunting. These areas comprise approximately 700,000 acres and are delineated on maps available at the refuge headquarters in Lewistown, Montana, and from the office of the Area Manager, U.S. Fish and Wildlife Service, Federal Building, 316 North 26th Street, Billings, MT 59101. Hunting shall be in accordance with all applicable state regulations and subject to the following condition:

1. Vehicle travel is permitted only on designated roads and trails.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Antlered elk and antlered mule deer may be hunted with firearms on the Charles M. Russell National Wildlife Range and the UL Bend National Wildlife Refuge in accordance with all applicable state regulations. Either sex whitetailed deer may also be hunted in Phillips, Valley, and Garfield Counties. In addition, either sex elk, mule deer, and white-tailed deer archery hunting is permitted from September 10, 1977 to October 16, 1977. These areas comprise approximately 750,000 acres and are delineated on maps available at refuge headquarters in Lewistown, Montana, and from the office of the Area Manager, U.S. Fish and Wildlife Service, Federal Building, 316 North 26th Street, Billings, MT 59101. All hunting shall be in accordance with applicable state regulations and will be subject to the following condition:

1. Vehicle travel is permitted only on designated roads and trails and all off-road vehicle traffic is prohibited; including the retrieval of downed game.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE: The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

LARRY L. CALVERT,
Refuge Manager, Charles M. Russell National Wildlife Range, Lewistown, Montana.

AUGUST 10, 1977.

[FR Doc.77-25322 Filed 8-30-77;8:45 am]

PART 32—HUNTING

Opening of Sand Lake National Wildlife Refuge, South Dakota, to Migratory Game Bird Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The director has determined that the opening to migratory game bird hunting of Sand Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1977 through December 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Sand Lake NWR, Columbia, SD, 605-885-6320.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory birds; for individual wildlife refuge areas.

Migratory game bird hunting is permitted on the Sand Lake National Wildlife Refuge, South Dakota, only on the areas designated by signs as being open to hunting. These areas comprising 275 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colo. 80225. Migratory game bird hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. The open season for hunting geese on the refuge is from October 1, 1977 through December 11, 1977.

2. The open season for hunting ducks and coots on the refuge is from October 8, 1977 through November 13, 1977 and from November 19, 1977 through December 6, 1977.

3. Hunting will be from established blinds only, without cost, with each site restricted to no more than two hunters, on a first come, first served basis. Blind sites and their use are more specifically described on a map and a list of regulations available at Refuge Headquarters and at each of the hunting sites.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

SAM WALDSTEIN,
Refuge Manager,
Sand Lake National Wildlife Refuge.

AUGUST 23, 1977.

[FR Doc.77-25323 Filed 8-30-77;8:45 am]

PART 32—HUNTING

Opening of Pocasse National Wildlife Refuge, S. Dak., to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The director has determined that the opening to migratory game bird hunting of Sand Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1977 through December 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Sand Lake NWR, Columbia, SD, 605-885-6320.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory birds; for individual wildlife refuge areas.

Migratory game bird hunting is permitted on the Sand Lake National Wildlife Refuge, South Dakota, only on the areas designated by signs as being open to hunting. These areas comprising 275 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colo. 80225. Migratory game bird hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. The open season for hunting geese on the refuge is from October 1, 1977 through December 11, 1977.

2. The open season for hunting ducks and coots on the refuge is from October 8, 1977 through November 13, 1977 and from November 19, 1977 through December 6, 1977.

3. Hunting will be from established blinds only, without cost, with each site restricted to no more than two hunters, on a first come, first served basis. Blind sites and their use are more specifically described on a map and a list of regulations available at Refuge Headquarters and at each of the hunting sites.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

SAM WALDSTEIN,
Refuge Manager,
Sand Lake National Wildlife Refuge.

AUGUST 23, 1977.

[FR Doc.77-25325 Filed 8-30-77;8:45 am]

PART 32—HUNTING

Opening of Pocasse National Wildlife Refuge, S. Dak., to Upland Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to upland game hunting of Pocasse National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 19, 1977 through November 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Sand Lake NWR, Columbia, S. Dak. 57433 (605-885-6320).

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; Upland Game Hunting; for individual wildlife refuge areas.

Upland game hunting is permitted on the Pocasse National Wildlife Refuge, S. Dak., only on the areas designated by signs as being open to hunting. These areas comprising 2540 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, PO Box 25486, Denver Federal Center, Denver, Colo. 80225. Upland Game Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. The open season for hunting pheasants on the refuge is from November 19, 1977 through November 27, 1977.

2. Hunters will not be allowed to drive on the refuge, but may park their vehicles outside the refuge and hunt on foot.

The provisions of this special regulation supplement the regulations which govern upland game hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

SAM WALDSTEIN,
Refuge Manager, Sand Lake National Wildlife Refuge.

AUGUST 23, 1977.

[FR Doc.77-25326 Filed 8-30-77;8:45 am]

PART 32—HUNTING

Opening of Sand Lake National Wildlife Refuge, S. Dak., to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to big game hunting of Sand Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 1, 1977 through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Sand Lake NWR, Columbia, SD 57433 (605-885-6320).

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game hunting; for individual wildlife refuge areas.

Big game hunting is permitted on the Sand Lake National Wildlife Refuge, S. Dak., only on the areas designated by signs as being open to hunting. These areas comprising 20,000 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, PO Box 25486, Denver Federal Center, Denver, Colo. 80225. Big game hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. The open seasons for hunting deer on the refuge are:

a. Archery season—November 1, 1977 through November 18, 1977 and December 12, 1977 through December 31, 1977.

b. Firearms season:

(1) Muzzle loading rifles—November 19, 1977 through November 25, 1977.

(2) Rifle and other legal firearms—November 26, 1977 through November 29, 1977, November 30, 1977 through December 4, 1977 and December 5, 1977 through December 11, 1977.

2. All hunters must exhibit their hunting license, deer tag and vehicle contents to Federal and State Officers upon request.

3. Hunters are allowed to drive in the refuge only at times designated by the refuge manager. A list of the regulations is available at Refuge Headquarters.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

SAM WALDSTEIN,
Refuge Manager, Sand Lake National Wildlife Refuge.

AUGUST 23, 1977.

[FR Doc.77-25327 Filed 8-30-77;8:45 am]

PART 32—HUNTING

Opening of Necedah National Wildlife Refuge, Wis., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to hunting of Necedah National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 17, 1977 to December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

V42169 AUG 31 77 UMI

James M. Carroll, Jr., Refuge Manager, Necedah, Wis., Telephone No. AC 608–565–2551.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer and unprotected mammal species as listed in the 1977 Wisconsin Big Game hunting regulations on the Necedah National Wildlife Refuge, Wisconsin is permitted with bow and arrow from September 17 through November 13, 1977 and December 3 through December 31, 1977 and with firearms from November 19 through November 27, 1977, but only on those areas designated by signs as open to hunting. These open areas comprising approximately 39,000 acres are delineated on a map available at the refuge headquarters, Necedah, Wis. and from the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State regulations subject to the following condition:

1. The use of permanent blinds, platforms or scaffolds is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

JAMES M. CARROLL, JR.,
Refuge Manager.

AUGUST 19, 1977.

[FR Doc.77-25332 Filed 8-30-77;8:45 am]

PART 32—HUNTING

Opening of Tamarac National Wildlife Refuge, Minn., to Resident Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening of Tamarac National Wildlife Refuge to resident game hunting is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide recreational opportunity to the public.

DATES: Ruffed grouse—September 17 through December 31, 1977. Rabbits and hares—September 17, 1977, through February 28, 1978. Gray and fox squirrels—September 17 through December 31, 1977. White-tailed deer—November 5 through November 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Omer N. Swenson, Refuge Manager, Tamarac National Wildlife Refuge, Rochert, Minn. 56578; telephone No. 218–847–4355.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of ruffed grouse, gray and fox squirrels, cottontail, jack rabbit and snowshoe hare on the Tamarac National Wildlife Refuge, Rochert, Minn., is permitted in the area designated by signs as public hunting area. This area comprising 12,500 acres is delineated on maps available at the Refuge Headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

An additional area of 18,000 acres will be open for public hunting of ruffed grouse only. This ruffed greuse only area is delineated on a map available at the Refuge Headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

Hunting shall be in accordance with all applicable State regulations during the seasons specified above. The hunting of other upland species as may be authorized by Minnesota State regulations is prohibited.

The following special conditions apply:

1. No person shall trap on Tamarac National Wildlife Refuge without first obtaining such permits as may be required and issued by the Refuge Manager.

2. No person shall, for the purpose of hunting or trapping, enter or leave the refuge except by designated access roads.

3. All hunters and trappers shall comply with further regulations which the Refuge Manager may prescribe.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of white-tailed deer with legal firearms on the Tamarac National Wildlife Refuge is permitted over the entire Refuge with exception of those areas posted as "Area Beyond This Sign Closed." The open area includes 40,200 acres. Areas open for deer hunting are delineated on maps available at the Refuge Headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. No taking of black bear or bow hunting is permitted on any portion of the Refuge.

2. No person shall, for the purpose of hunting, enter or leave the refuge except by designated access roads.

3. All hunters shall comply with further regulations which the Refuge Manager may prescribe.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: August 23, 1977.

OMER N. SWENSON,
Refuge Manager.

[FR Doc.77-25333 Filed 8-30-77;8:45 am]

PART 32—HUNTING

Opening of Seedskadee National Wildlife Refuge, Wyoming, to Public Hunting of Mule Deer

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to public hunting of Mule Deer on Seedskadee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 15, 1977, through October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

H. J. Johnson, Refuge Manager, Seedskadee National Wildlife Refuge, Fontenelle Route, Via Kemmerer, Wyo. 83101, 307–877–6334.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of Mule Deer is permitted on Seedskadee National Wildlife Refuge, Wyoming. All of the refuge area, comprising 14,284 acres, and so designated by signs, is open to hunting. Maps of the area are available at the refuge office, Fontenelle Route, Via Kemmerer, Wyo. 83101 and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, CO 80225. Hunting shall be in accordance with all applicable State regulations governing the hunting of Mule Deer.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

H. J. JOHNSON,
Refuge Manager.

AUGUST 22, 1977.

[FR Doc.77–25334 Filed 8–30–77;8:45 am]

PART 32—HUNTING

Opening of Seedskadee National Wildlife Refuge, Wyoming, to Public Hunting of Migratory Game Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to public hunting of Migratory Game Birds on Seedskadee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1977, through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

H. J. Johnson, Refuge Manager, Seedskadee National Wildlife Refuge, Fontenelle Route, Via Kemmerer, Wyo. 83101 307–877–6334.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of Migratory Game Birds is permitted on Seedskadee National Wildlife Refuge, Wyoming. All of the refuge area, comprising 14,284 acres, and so designated by signs, is open to hunting. Maps of the area are available at the refuge office, Fontenelle Route, Via Kemmerer, Wyo. 83101 and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, CO 80225. Hunting shall be in accordance with all applicable State regulations governing the hunting of Migratory Game Birds.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

H. J. JOHNSON,
Refuge Manager.

AUGUST 22, 1977.

[FR Doc.77–25335 Filed 8–30–77;8:45 am]

PART 33—SPORT FISHING

Opening of the Charles M. Russell National Wildlife Range and the UL Bend National Wildlife Refuge, Montana, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of the Charles M. Russell National Wildlife Range and the UL Bend National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1, 1977 through August 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Charles M. Russell National Wildlife Range, P.O. Box 110, Lewistown, Montana 59457; telephone 406–538–8707.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted year-round on all waters of the Missouri River, Musselshell River, and Fort Peck Reservoir within the Charles M. Russell National Wildlife Range and the UL Bend National Wildlife Refuge, Montana. These fishing areas comprise approximately 250,000 acres and are delineated on maps available at the refuge headquarters in Lewistown, Montana, and from the Area Manager, U.S. Fish and Wildlife Service, Federal Building, 316 North 26th Street, Billings, Montana 59101. All sport fishing shall be in accordance with all applicable state regulations and subject to the following regulations:

1. Portable icehouses and other structures expressly used for ice fishing are permitted within the Charles M. Russell National Wildlife Range only from December 1 through March 31 of the following year. These structures must be removed from the Wildlife Range entirely by March 31 each year. In addition, each structure must be labeled with the owner's name and permanent address in a prominent location on an outside sidewall.

Violations of this regulation will be treated under the provisions of Parts 26.18 and 26.22 of Title 50 of the Code of Federal Regulations dealing with unauthorized private structures and abandoned property. Penalties described in Part 27 will be applicable.

The provisions of these special regulations supplement the regulations which govern sport fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

LARRY L. CALVERT,
Refuge Manager, Charles M. Russell National Wildlife Range.

AUGUST 15, 1977.

[FR Doc.77–25338 Filed 8–30–77;8:45 am]

Title 49—Transportation

CHAPTER I—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. RSOR–3, Notice 11]

PART 218—RAILROAD OPERATING RULES

Blue Signal Protection of Workmen

AGENCY: Federal Railroad Administration, DOT.

ACTION: Grant of Petition for Reconsideration: Amendment of rule.

SUMMARY: On January 11, 1977, the Federal Railroad Administration (FRA) issued a final rule amending existing regulations concerning blue signal protection of railroad workmen (42 FR 2318). These amendments were chiefly in response to the Federal Railroad Safety Authorization Act of 1976 (Pub. L. 94–348) which required the Secretary of Transportation to issue regulations within 180 days of the Act's effective date to assure that manually operated switches providing access to tracks on which workmen are working are lined against movement to that track and locked with an effective locking device. The rule provided that a locked derail positioned at least 150 feet from the equipment to be protected could be used as an alternative to the lining and locking of the manually operated switch. Three railroads, the Southern Railway System, the Norfolk and Western Railroad, and the Missouri Pacific Railroad, petitioned requesting that the 150 foot distance at which the derail was to be placed be reduced to 50 feet in locomotive servicing facilities. The FRA has decided to grant this petition, provided that speeds within such facilities are restricted to not more than 5 miles per hour. Additionally, the FRA has decided to make a clarifying amendment to assure that uniform notification procedures are utilized when workmen are performing tasks on both hump-yard tracks and other than hump-yard tracks.

EFFECTIVE DATE: This amendment becomes effective on September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Principal authors:

Principal Program Person: John A. McNally, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, (202–426–9178).

Principal Attorney: Lawrence I. Wagner, Office of the Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590, (202–426–8836).

SUPPLEMENTARY INFORMATION: The final rule issued by FRA incorporated a provision allowing the use of a locked derail placed at least 150 feet from the equipment on which the workmen are working (42 FR 2321). The 150 foot distance was not included in the notice of proposed rulemaking, but was added to the final rule in response to comments submitted by one of the parties to the

V42169 AUG 31 77 UMI

rule making. The FRA agreed with that party that such a "buffer zone" was necessary in order to assure that the derail accomplished its intended purpose of preventing moving equipment from coming into contact with other equipment being inspected, tested or serviced by railroad workmen.

The petitioners noted that the 150 foot requirement was added in the final rule making subsequent to the close of the comment period so that other parties did not have the opportunity to comment upon that distance or to submit evidence in support of an alternative distance. They further pointed out that the prescribed distance would create a problem in locomotive servicing facilities. These servicing areas are generally located in congested terminals and, therefore, have been designed to minimize the amount of space required. The locking of the entrance switch would result in the loss of the use of a substantial amount of the available capacity of the servicing area thus significantly reducing the efficiency and productivity of locomotive servicing operations. The alternative use of a locked derail does not eliminate this problem if it must be located at least 150 feet from the equipment. The petitioners alleged that in many instances the derail would have to be placed on the other side of the entrance switch in order to comply with the 150 foot requirement because of the shortness of the servicing tracks. The redesign and reconstruction of these tracks, where possible, would be extremely expensive, and in many instances would be impossible because of the lack of available land in these already congested yard and terminal areas. For these reasons, the petitioners requested that the 150 foot distance for location of the derail be reduced to 50 feet within locomotive servicing facilities. They contend that such a distance, given a maximum speed of 5 miles per hour for operations within the facility, will not diminish the safety of such operations.

The FRA has reviewed the petitions and has concluded that the operations within a locomotive servicing area can be addressed separately, provided there is a strict restriction of operating speeds within the area. Where speed is restricted to a maximum of 5 miles per hour, the FRA believes that a "buffer zone" of 50 feet will provide the intended protection for workmen and thus allow for both safe and efficient use of locomotive servicing area tracks.

The FRA has also reviewed several issues that have been raised concerning specific provisions of the existing regulation. These issues prompted the FRA to grant a postponement of the effective date of the amendments to this regulation. This postponement was provided for on June 29, 1977, when the FRA issued a public notice in the FEDERAL REGISTER (42 FR 33037) granting the initial petition for reconsideration filed by the Association of American Railroads.

In reviewing the requests for clarification concerning several provisions, in order to assure a uniform understanding throughout the industry, FRA has determined that a technical amendment is appropriate.

The existing regulation provides for a notification procedure that must be utilized before workmen may perform tasks on, under or between rolling equipment on a track where the switches providing access to that track are remotely controlled. That provision is contained in § 218.27(a)(4). Section 218.27 by its terms is limited to hump-yard tracks. FRA inadvertently failed to include this same notification procedure in the provisions that relate to tracks located in places other than a hump-yard. The provisions relating to other than hump-yard tracks are contained in § 218.25.

Consequently, the FRA has concluded that a clarifying amendment in § 218.25, to provide an identical notification procedure, is the appropriate way to resolve the potential for ambiguity created by the failure to clearly specify notification procedures for both hump-yard and other than hump-yard tracks. A conforming amendment to § 218.29 is, in turn, necessitated by this change to the provisions of § 218.25. This conforming amendment merely reflects the insertion of the notification procedure in the provisions of § 218.25.

One aspect of this amendment relieves railroads from the requirement to provide a 150 foot "buffer zone" because this distance will not be needed since the speed restriction of 5 miles per hour and a "buffer zone" of 50 feet will provide the intended degree of protection. Consequently, the railroads will not experience a significant reduction in the efficiency and productivity in the operation of their locomotive servicing facilities. The other aspect of this amendment serves to clarify the existing regulation by removing a potential ambiguity arising from the structure of the regulatory language. The amendment, therefore, reduces the economic impact of the regulation and is not a major proposal requiring economic impact analysis as prescribed in Executive Orders 11821 and 11949. In addition, the impact of the amendment is considered to be so minimal that this rule making action does not warrant a cost-benefit analysis under the Secretary's Policies to Improve Analysis and Review of Regulations (41 FR 16200) and is not considered to be a major Federal action significantly affecting the quality of the human environment.

In light of the foregoing, Part 218 of Title 49 of the Code of Federal Regulations is amended as follows:

1. By revising paragraph (a) of § 218.25 to read as follows; and by adding a new paragraph (e)(4) to read as follows:

§ 218.25 Workmen on track other than a hump-yard track.

(a) When workmen are on, under, or between rolling equipment on a track other than a hump yard track:

(1) A blue signal must be displayed at each entrance to the track, and each manually operated switch, including any crossover switch, providing access to the track on which equipment is located must be lined against movement to that track and secured by an effective locking device which may not be removed except by the class or craft of workmen performing the work; or

(2) The person in charge of the workmen must have notified the operator of the remotely-controlled switches, of the work to be performed, and have been informed by the operator that each remotely-controlled switch providing access to the track on which equipment is located has been lined against movement to that track and locked as prescribed by § 218.29(a).

* * * * *

(e) * * *

(4) If speed is restricted to not more than 5 miles per hour within the designated locomotive servicing area, a derail capable of restricting access to that portion of a track within the servicing area on which the locomotive is located will fulfill the requirements of a manually operated switch in compliance with paragraphs (1) and (2) of this subsection when positioned at least 50 feet from the end of the locomotive to be protected by the blue signal, when locked in a derailing position with an effective locking device, and when a blue signal is displayed at the derail.

2. By revising paragraph (a) of § 218.29 to read as follows:

§ 218.29 Remotely-controlled switches.

(a) After the operator of the remotely-controlled switches has received the notification required by § 218.25(a)(2) or § 218.27(a)(4), he must line each remotely-controlled switch against movement to that track and apply an effective locking device to the lever, button or other device controlling the switch before he may inform the employee in charge of the work to be performed that protection has been provided.

* * * * *

(Sec. 202, 84 Stat. 971, 45 U.S.C. 431 and § 1.49 (n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49 (n).)

This amendment is effective September 30, 1977. Earlier compliance with these regulations is authorized.

Issued in Washington, D.C. on August 29, 1977.

JOHN M. SULLIVAN,
Administrator.

[FR Doc.77-25448 Filed 8-29-77; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 1006, 1012, 1013]

[Docket Nos. AO-356-A16, AO-347-A19, and AO-286-A27]

MILK IN UPPER FLORIDA, TAMPA BAY, AND SOUTHEASTERN FLORIDA MARKETING AREAS

Decision on Proposed Amendments to Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This final decision proposes certain changes in the three Florida Federal milk orders, based on a handler proposal considered at a public hearing in June 1977. The proposed amendments would provide for the use of a single butterfat differential for adjusting the value of producer milk in all uses according to the butterfat content of the milk. This change would improve competitive relationships between milk processors regulated under the Florida orders and those regulated under other nearby orders.

Dairy farmer cooperatives will be polled to determine whether producers favor issuance of the proposed amended orders.

FOR FURTHER INFORMATION CONTACT:

Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250 (202-447-7311).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing—issued June 13, 1977; published June 16, 1977 (42 CFR 30627).

Recommended Decision—Issued July 26, 1977; published August 1, 1977 (42 FR 38913).

PRELIMINARY STATEMENT

A public hearing was held upon proposed amendments to the marketing agreements and to the orders regulating the handling of milk in the Upper Florida, Tampa Bay, and Southeastern Florida marketing areas. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Orlando, Fla., on June 29, 1977, pursuant to notice thereof.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Administrator, on July 26, 1977, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein.

The material issue on the record of the hearing relates to whether the orders should provide a single butterfat differential.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

Adoption of a single butterfat differential. A single butterfat differential, 11.5 percent of the Chicago Grade A butter price for the month, should be used to adjust the class prices and the uniform prices of the Upper Florida, Tampa Bay, and Southeastern Florida milk orders.

Presently, the Upper Florida and Tampa Bay orders provide for three different butterfat differentials. That for Class I is fixed at 7.5 cents (for each one-tenth percent of butterfat above or below 3.5 percent); for Class II it is 11.5 percent of the Chicago Grade A butter price for the month. The butterfat differential used in adjusting the uniform price is the average of the butterfat differentials for the two classes, weighted by the proportion of butterfat in producer milk assigned to each class. The provisions are the same in the Southeastern Florida order, except that a Class III butterfat differential, identical to that for Class II, is provided.

A handler proposed that the Class I butterfat differential be 11.5 percent of the Chicago Grade A butter price for the month, thereby resulting in a single butterfat differential for adjusting the class prices and the uniform prices of the three Florida orders. This is the same butterfat differential that is applicable to fluid milk products priced under all other Federal orders throughout the eastern part of the United States. No testimony in opposition to the proposal was presented at the hearing.

The proponent operates a plant under each of the Florida orders and distributes a full line of fluid milk products from each. This includes homogenized (whole) milk, at least two kinds of lowfat fluid milk products, skim milk, buttermilk, chocolate milk and chocolate flavored milk drink. The handler operates no retail routes, but disposes of fluid milk products through wholesale customers and institutions, such as chain stores, hospitals, and schools.

The proposal to make the Class I butterfat differential for the Florida orders the same as for most other orders stems from competition experienced with handlers located outside the three Florida markets. Proponent contended that if the three Florida markets operated in a vacuum there would be no particular adverse competitive effect in maintaining the present Class I butterfat differeintial. As it is, however, proponent supplies its own stores northward along the Georgia coast to Savannah, and inland to Wycross, Ga., from its plant at Jacksonville, Fla., regulated by the Upper Florida order. In doing this, proponent is not competitive with handlers regulated by the Gorgia order whose cost for the skim milk component of Class I fluid milk products under such order is significantly less than it is for proponent under the Upper Florida order. In May 1977, for example, the Georgia butterfat differential was 11.6 cents as compared with the 7.5 cent Class I butterfat differential under the Florida orders.

The record establishes, also, that other handlers regulated by the Upper Florida order and located in Tallahassee complete with Georgia handlers both in Georgia and in Florida. In this connection, in April 1977, about 2.3 million pounds of packaged Class I fluid milk products were disposed of by handlers regulated by the Upper Florida order to locations inside the Georgia marketing area. This was about 4 percent of the total Class I sales for the Upper Florida market. Moreover, fluid milk products are distributed in the Upper Florida marketing area from Georgia regulated plants at Columbus, Ga., and Spartanburg, S.C.

In the disposition of Class I fluid milk products in competition with Georgia handlers, Florida handlers do not enjoy any particular offsetting advantage from the fact that the Florida Class I butterfat differential is lower than the Georgia Class I butterfat differential. This stems from the fact that there are no relatively high-fat Class I products any more.

Indicative of the declining proportion of butterfat in Class I sales is the continuous decline in the average test of fluid milk products sold in Federal order marketing areas. In 1967, for example, the average butterfat test in 67 Federal order markets for such sales was 3.46

V 42 169 AUG 31 77 UMI

percent.[1] This percentage declined yearly, and in 1975, the latest full year for which data are available, the comparable average butterfat test for 55 markets was 3.01 percent. On a percentage basis, the average butterfat content of these fluid milk products declined 13 percent from 1967 to 1975.

The declining average butterfat content of packaged fluid milk product sales in the three Florida markets has been similar to the national trend. In 1967, the average butterfat content of fluid milk products in the three markets was 3.58 percent.[2] The comparable average test for 1975 was 3.07 percent, a decline of 14 percent. The increasing demand for fluid milk products with lower butterfat content can be expected to result in a continuing decline in the average butterfat content of such products under the three Florida orders. Adopting the butterfat differential proposed, as provided in this decision, gives recognition to actual or potential competition in the sale of lowfat fluid milk products between Florida handlers and those regulated by other Federal orders, particularly the Georgia order.

The price difference per gallon of milk between Georgia and Upper Florida handlers increases substantially as the butterfat test of the milk decreases. At a test of 3.5 percent butterfat, the difference is 4.73 cents per gallon, which reflects the difference in the Class I price differentials for the two orders, with Upper Florida having the higher price. For a gallon of skim milk, this difference increases to 17.13 cents, reflecting the differing values for skim milk stemming from the fixed butterfat differential of 7.5 cents provided in the Upper Florida order and the 11.6-cent differential provided in the Georgia order for May 1977.

On the basis of data for April 1977, the butterfat test of packaged Class I disposition for the Upper Florida market averaged 2.76 percent. On this basis, Order 6 handlers were disadvantaged by about 2.6 cents per gallon in competing with Georgia regulated handlers. Proponent emphasized that milk sales are won or lost on the basis of a fraction of one cent. With a disadvantage of the size indicated, the long-term result could be a loss of fluid milk outlets, not for Upper Florida handlers but for producers in the market as well.

The fixed 7.5-cent butterfat differential was adopted in the Florida orders at a time when the price of butter was substantially lower. The fixed differential was provided in the Upper Florida order about a decade ago. For the other Florida orders, it was provided earlier than that. At the time, the fixed Class I differential was higher than the Class II butterfat differential, and approximated the Class I butterfat differentials then provided in other Federal milk orders. This is no longer the case. For May 1977, for example, the Class I butterfat differential for the Georgia order as well as the Class II differential for the Florida orders, was 11.6 cents compared with 7.5 cents for the Florida orders. The Georgia differential was based on a Chicago Grade A butter price of $1.01 per pound, an increase of 49 percent from even 5 years ago when such price was 67.7 cents per pound.

The Class I butterfat differential adopted herein would provide the same value for Class I butterfat in the Florida orders as is provided in the Georgia order. This will result in placing both Georgia and Florida regulated handlers on a comparable basis in the disposition of fluid milk products.

The record establishes that adverse competitive conditions exist only between handlers regulated by the Upper Florida order and those regulated by the Georgia order. Nevertheless, the single butterfat differential should be adopted for all three Florida orders. If the Tampa Bay and Southeastern Florida orders were not included, the same competitive conditions would be created between handlers regulated by the Upper Florida order and handlers under the other two Florida orders that now exist between handlers regulated by the Upper Florida order and those regulated by the Georgia order.

Since the Class I butterfat differential for each of the Florida orders is fixed at 7.5 cents, it is of course known at the time of the advance announcement of Class I prices. This no longer would be the case. The differential adopted in this decision would be based on the butter price for the current month and thus would not be known until the 5th day of the following month, which is the case now for the Class II butterfat differentials for the three orders and the Class III butterfat differential for the Southeastern Florida order.

Since the same butterfat differential would apply to all classes of milk, it is necessary that each order provide only for a producer butterfat differential. No handler butterfat differentials for adjusting class prices need be set forth as such in the orders, nor is there any need for pooling the value of butterfat in each class. All producer "differential" butterfat received by handlers will be priced the same to all handlers regardless of the class in which the butterfat is used. Accordingly, the orders should be modified to provide only for the announcement and use of a producer butterfat differential.

Rulings on Proposed Findings and Conclusions

A brief and proposed findings and conclusions were filed on behalf of an interested party. The brief, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by the interested party are inconsistent with the findings and conclusions set forth herein, the request to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

No exceptions were received.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a MARKETING AGREEMENT regulating the handling of milk, and an ORDER amending the orders regulating the handling of milk in the aforesaid specified marketing areas, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the orders as hereby proposed to be amended by the attached order, which is published with this decision.

[1] Official notice is taken of the January 1973 and January 1977 Summary of Federal Milk Order Statistics issued by the Dairy Division, AMS, USDA.

[2] Official notice is taken of the Annual Summary for 1968 and 1976, Federal Milk Order Market Statistics, Statistical Bulletins No. 437, 5575 issued by the Dairy Division, C&MS and AMS, USDA.

Determination of Producer Approval and Representative Period

June 1977 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the orders, as amended and as hereby proposed to be amended, regulating the handling of milk in the aforesaid specified marketing areas, is approved or favored by producers, as defined under the terms of each of the orders (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the respective marketing areas.

Signed at Washington, D.C., on August 25, 1977.

JERRY C. HILL,
Deputy Assistant Secretary.

Order[3] amending the orders, regulating the handling of milk in certain specified marketing areas

Findings And Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid orders:

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid specified marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937 as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in each of the specified marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the orders, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending each of the specified orders contained in the recommended decision issued by the Acting Administrator on July 26, 1977, and published in the FEDERAL REGISTER on August 1, 1977 (42 FR 38913), shall be and are the terms and provisions of this order, amending the orders, and are set forth in full herein:

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

1. In § 1006.50, the preamble and paragraph (a) are revised to read as follows:

§ 1006.50 Class prices.

Subject to the provisions of § 1006.52, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.85.

* * * * *

2. Section 1006.53 is revised to read as follows:

§ 1006.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II price for the preceding month.

3. Section 1006.55 is revoked.

§ 1006.55 [Revoked]

4. In § 1006.60, paragraph (b) is revised to read as follows:

§ 1006.60 Handler's value of milk for computing uniform price.

* * * * *

(b) Add the amount obtained from multiplying the overage deducted from each Class pursuant to § 1006.44(a)(11) and the corresponding step of § 1006.44 (b) by the applicable class prices, as adjusted by the butterfat differential specified in § 1006.74;

* * * * *

5. In § 1006.61, paragraph (b) is revoked and the preamble is revised to read as follows:

§ 1006.61 Computation of uniform price.

For each month, the market administrator shall compute a uniform price for milk of 3.5 percent butterfat content as follows:

* * * * *

6. Section 1006.62 is revised to read as follows:

§ 1006.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the uniform price for such month.

7. In § 1006.71, paragraph (a)(2)(i) is revised to read as follows:

§ 1006.71 Payments to the producer-settlement fund.

(a) * * *

(2) * * *

(i) The value of such handler's producer milk at the uniform price, as adjusted pursuant to § 1006.75; and

* * * * *

8. Section 1006.74 is revised to read as follows:

§ 1006.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A bulk butter per pound at Chicago, as reported by the Department for the month.

9. In § 1006.76, paragraphs (a)(2)(i) and (b)(4) are revised to read as follows:

§ 1006.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(2) * * *

(i) The gross payments made by such handler, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1006.74, for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

* * * * *

(b) * * *

(4) Combine the amounts of skim milk and butterfat remaining into one total; and

* * * * *

PART 1012—MILK IN THE TAMPA BAY MARKETING AREA

1. § 1012.50, the preamble and paragraph (a) are revised to read as follows:

[3] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

V 42 169 AUG 31 77 UMI

§ 1012.50 Class prices.

Subject to the provisions of § 1012.52, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.95.

* * * * *

2. Section 1012.53 is revised to read as follows:

§ 1012.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II price for the preceding month.

3. Section 1012.55 is revoked.

§ 1012.55 [Revoked]

4. In § 1012.60, paragraph (b) is revised to read as follows:

§ 1012.60 Handler's value of milk for computing uniform price.

* * * * *

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1012.44(a) (11) and the corresponding step of § 1012.44 (b) by the applicable class prices, as adjusted by the butterfat differential specified in § 1012.74;

* * * * *

5. In § 1012.61, paragraph (b) is revoked and the preamble is revised to read as follows:

§ 1012.61 Computation of uniform price.

For each month the market administrator shall compute a uniform price for milk of 3.5 percent butterfat content as follows:

* * * * *

6. Section 1012.62 is revised to read as follows:

§ 1012.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the uniform price for such month.

7. In § 1012.71, paragraph (a) (2) (i) is revised to read as follows:

§ 1012.71 Payments to the producer-settlement fund.

(a) * * *

(2) * * *

(i) The value of such handler's producer milk at the uniform price, as adjusted pursuant to § 1012.75; and

* * * * *

8. Section 1012.74 is revised to read as follows:

§ 1012.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A bulk butter per pound at Chicago, as reported by the Department for the month.

9. In § 1012.76, paragraphs (a) (2) (i) and (b) (4) are revised to read as follows:

§ 1012.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(2) * * *

(i) The gross payments made by such handler, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1012.74, for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

* * * * *

(b) * * *

(4) Combine the amounts of skim milk and butterfat remaining into one total;

* * * * *

PART 1013—MILK IN THE SOUTHEASTERN FLORIDA MARKETING AREA

1. In § 1013.50, the preamble and paragraph (a) are revised to read as follows:

§ 1013.50 Class prices.

Subject to the provisions of § 1013.52, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $3.15.

* * * * *

2. Section 1013.53 is revised to read as follows.

§ 1013.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

3. Section 1013.55 is revoked.

§ 1013.55 [Revoked]

4. In § 1013.60, paragraph (b) is revised to read as follows:

§ 1013.60 Handler's value of milk for computing uniform price.

* * * * *

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1013.44(a) (12) and the corresponding step of § 1013.44 (b) by the applicable class prices, as adjusted by the butterfat differential specified in § 1013.74;

* * * * *

5. In § 1013.61, paragraph (b) is revoked and the preamble is revised to read as follows:

§ 1013.61 Computation of uniform price.

For each month the market administrator shall compute a uniform price for milk of 3.5 percent butterfat as follows:

* * * * *

6. Section 1013.62 is revised to read as follows:

§ 1013.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the uniform price for such month.

7. In § 1013.71, paragraph (a) (2) (i) is revised to read as follows:

§ 1013.71 Payments to the producer-settlement fund.

(a) * * *

(2) * * *

(i) The value of each handler's producer milk at the uniform price, as adjusted pursuant to § 1013.75; and

* * * * *

8. In § 1013.73, paragraph (a) (3) is revised to read as follows:

§ 1013.73 Payments to producers and to cooperative associations.

(a) * * *

(3) On or before the 15th day of the following month, to each producer an amount equal to not less than the uniform price computed pursuant to § 1013.-61 adjusted pursuant to §§ 1013.74 and 1013.75, multiplied by the total pounds of milk received from such producer, subject to the following adjustments:

* * * * *

9. Section 1013.74 is revised to read as follows:

§ 1013.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A bulk butter per pound at Chicago, as reported by the Department for the month.

10. In § 1013.76, paragraph (a) (2) and (b) (4) are revised to read as follows:

§ 1013.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(2) From this obligation there will be deducted the sum of:

(i) The gross payments made by such handler, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1013.74, for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

(ii) Payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) * * *

(4) Combine the amounts of skim milk and butterfat remaining into one total; and

* * * * *

[7 CFR Parts 1108, 1102, 1097]

[Docket Nos. AO–243–A32, AO–237–A28, AO–219–A34, AO–243–A32–R01, AO–237–A28–R01, AO–219–A34–R01]

MILK IN CENTRAL ARKANSAS, FORT SMITH, ARKANSAS AND MEMPHIS, TENNESSEE MARKETING AREAS

Extension of Time for Filing Exceptions to Recommended Decision on Proposed Amendments to Tentative Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service.

ACTION: Extension of time for filing exceptions.

SUMMARY: This notice extends the time for filing exceptions to the July 21, 1977, decision recommending a merger of the Central Arkansas, Fort Smith, and Memphis orders (7 CFR Parts 1108, 1102, and 1097) and expansion of the marketing area to include additional areas in Arkansas, Tennessee, and Mississippi.

DATE: Comments now are due on or before September 15, 1977.

ADDRESS: Exceptions (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (220–447–4824).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notices of Hearing: Issued November 19, 1976, published November 24, 1976 (41 FR 51819); issued February 11, 1977, published February 17, 1977 (42 FR 9674); issued March 3, 1977, published March 8, 1977 (42 FR 13024); and issued March 25, 1977, published March 31, 1977 (42 FR 17130).

Extension of time for filing briefs: Issued May 18, 1977, published May 23, 1977 (42 FR 26[illegible]).

Recommended Decision: Issued July 21, 1977, published July 26, 1977 (42 FR 38070).

Extension of time for filing exceptions: Issued August 12, 1977, published August 19, 1977 (42 FR 41873).

Notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Central Arkansas, Fort Smith, Ark., and Memphis, Tenn., marketing areas which was issued July 21, 1977 (42 FR 38070) is hereby extended to September 15, 1977.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing in the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C., on August 25, 1977.

WILLIAM T. MANLEY,
Deputy Administrator
Program Operations.

[FR Doc.77-25291 Filed 8-30-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Parts 303, 305, 307, 309]

COAL UTILIZATION PROGRAM REGULATIONS

Proposed Amendments and Public Hearing

AGENCY: Federal Energy Administration.

ACTION: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The Federal Energy Administration hereby gives notice of proposed amendments to the regulations implementing the coal utilization program as authorized by the Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. 791 et seq. (Supp. V, 1975), as amended by Pub. L. 95–70 (July 21, 1977).

The proposed amendments are discussed under six headings: the scope of prohibition and construction orders and a revised definition of "primary energy source"; the criteria used to determine whether the cost of burning coal in lieu of petroleum products or natural gas is reasonable; the criteria used to determine whether a powerplant or major fuel burning installation (MFBI) has the capability and necesary plant equipment to burn coal; the criteria used in selecting candidates for prohibition orders; the amendment to the design firing rate requirements for potential construction order recipients; and miscellaneous changse, including the amendment to FEA's procedures involving MFBI's in the early planning process and amendments to reflect the extension of FEA's order issuing authority.

DATES: Comments by September 29, 1977, 4:30 p.m.; public hearing on September 21, 1977, 9:30 a.m.; requests to speak by September 13, 1977, 4:30 p.m.

ADDRESSES: Comments and requests to speak should be sent to: Executive Communications, Room 3317, Box PC, Federal Energy Administration, 12th and Pennsylvania Avenue, Washington, D.C. 20461; Hearing location: Room 2105, 2000 "M" Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Joseph Vanzant, Office of General Counsel, Federal Energy Administration, Room 6144, 12th & Pennsylvania Avenue NW., Washington, D.C. 20461 (202–566–9296).

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

The Energy Supply and Environmental Coordination Act (ESECA), 15 U.S.C. 791 et seq. (Supp. V, 1975), as amended by Pub. L. 95–70 (July 21, 1977), authorizes the Federal Energy Administration (FEA) to prohibit certain existing powerplants and major fuel burning installations (MFBI's) from burning natural gas or petroleum products as their primary energy source. ESECA also authorizes FEA to require that certain powerplants and major fuel burning installations in the early planning process be designed and constructed so as to be capable of using coal as their primary energy source. FEA published in the FEDERAL REGISTER regulations implementing its authority under ESECA on May 9, 1975 (40 FR 20462), and amended these regulations on May 6, 1977 (42 FR 23132), to reflect the amendments to ESECA effectuated by the Energy Policy and Conservation Act, Pub. L. 94–163. FEA now proposes further amendments to its regulations. The proposed amendments can best be explained in the groupings discussed below.

II. DISCUSSION

SCOPE OF PROHIBITION AND CONSTRUCTION ORDERS AND THE DEFINITION OF PRIMARY ENERGY SOURCE

The most significant change to the regulations would be the addition of a new § 305.6. Under proposed § 305.6 FEA will be able to issue prohibition orders permitting the burning of limited amounts of oil and gas as primary energy sources when FEA finds it is not feasible for a combustor to replace 100 percent of the oil and gas it uses with coal. This proposed change is based on FEA's determination that issuing prohibition orders only to combustors which can convert totally to coal has resulted in limiting the amount of oil and gas which can be conserved under ESECA. Combustors which have the capability of burning coal but which, for one reason or another, cannot feasibly burn 100 percent coal should not be permitted to continue using that amount of oil and gas which can feasibly be replaced by coal. FEA believes that a significant number of combustors fall into this latter category and proposes to issue such combustors prohibition orders under the proposed § 305.6.

V 42169 AUG 31 77 UMI

Under proposed §305.6, if 100 percent of the gas and oil used by a combustor as primary energy sources can be replaced with coal and the replacement coal can be burned in compliance with all applicable air pollution requirements and FEA can make the findings contained in § 305.3(b) or § 305.4(b), then a prohibition order will be issued to prohibit the use of all petroleum products or natural gas as primary energy sources, except for those minimum amounts specified in § 305.6(d).

If, however, FEA cannot make the findings in § 305.3(b) or § 305.4(b) for a 100 percent prohibition, FEA will determine the maximum prohibition of natural gas and petroleum products for which such findings can be made. Therefore, REA may prohibit the use of only certain amounts of natural gas and petroleum products as primary energy sources: *Provided*, That the coal replacing those amounts of petroleum products and natural gas can be burned in compliance with all applicable air pollution requirements.

The Environmental Protection Agency of course will continue to have the duty under section 2(b) of ESECA to determine when an order recipient can burn coal in compliance with all applicable air pollution requirements. FEA recognizes as part of this statutory authority EPA's continued responsibility for approving the control strategy which will be utilized by a combustor to comply with applicable air pollution requirements. FEA does not interpret the proposed addition of § 305.6 as requiring EPA to sanction any particular control strategy, such as intermittent control systems.

This proposed new section clearly states that FEA does not consider that fuel used for startup, flame stabilization and control, and testing, and for process fuel use is fuel utilized as a primary energy source within the meaning of ESECA. Therefore, fuel used for such limited purposes is not affected by FEA's orders.

FEA proposes to revise paragraph (a) of § 307.3 to explain further the scope of construction orders in the body of the regulations. As explained in the preamble to the regulations issued May 9, 1975, combustors issued construction orders are required to have in place at the completion of construction and before entering into service all equipment and facilities, including air pollution control systems, necessary to use exclusively coal except for purposes of start-up, flame stabilization and control, and testing, and for process fuel use. The process fuel use exemption eliminates from the scope of construction orders those fuel uses for which it is not technically feasible to burn coal. The requirement that a combustor be designed and constructed so as to be capable of using coal as its primary energy source will still be satisfied if the combustor can use coal as its only primary energy source or as one of several alternative primary energy sources.

Since the proposed §§ 305.6 and 307.3 will control the scope of any future prohibition and construction orders, respectively, it is no longer necessary to maintain the current, complicated definition of "primary energy source." By eliminating from the definition the exceptions which FEA proposes to place in § 305.6 and § 307.3, FEA expects the proposed revised definition to make clear that FEA's actions will affect only that fuel which is utilized as a heat source in a combustor.

REASONABLENESS

The proposed addition of §§ 305.3(b)(2)(iii) and 305.4(b)(2)(iii) is for the purpose of incorporating in the regulations criteria FEA employs in determining the reasonableness of burning coal in lieu of natural gas or petroleum products in a powerplant or major fuel burning installation.

The proposed paragraphs describe an analytical calculation that is employed by FEA and applied to candidate powerplants and MFBI's. FEA performs this calculation by adding the annual costs which would be incurred in converting to coal, such as annualized additional capital costs (including the annual cost of capital) and increased annual operating and maintenance costs. In the case of powerplants, FEA includes in its calculation a consideration of an allowed rate of return on capital investment. In order to annualize these additional costs, FEA determines the remaining useful service life of the combustor based on a presumed useful service life of 35 years for powerplants and 40 years for MFBI's, or on such other useful service life that FEA determines is reasonable.

FEA then subtracts from or adds to the annual conversion costs the decrease or increase in annual fuel costs. In order to calculate estimated fuel usage, FEA will project a capacity factor based on the combustor's average annual capacity factor based on the combustor's average annual capacity factor for the most recent three year period for which data are available, or on such other evidence as FEA considers probative.

If the resulting net figure shows a decrease in annual costs, then FEA finds that the costs of burning coal in lieu of natural gas and petroleum products are reasonable. If the resulting figure shows a net increase in annual costs then FEA further analyzes the costs to be incurred by the owner of the powerplant or MFBI. It does so by dividing the net increase in annual costs by the amount of petroleum products or natural gas which FEA has determined it is feasible to replace annually with coal. The resulting figure represents the "cost per barrel of petroleum product or MCF of natural gas saved."

The reasonableness of the cost per barrel of petroleum product or MCF of natural gas is determined on a case by case basis. With respect to a powerplant, FEA analyzes the potential cost impact upon the powerplant's customers. With respect to powerplants and MFBI's, FEA analyzes the financial capability of the owner of the powerplant or MFBI to effectuate coal conversion, as determined in accordance with §§ 305.3(b)(2)(i) and 305.4(b)(2)(i), and considers the amounts of oil and gas that would be saved if an order were issued. FEA also considers any other factors which it determines are appropriate in a particular case.

COAL CAPABILITY AND NECESSARY PLANT EQUIPMENT

ESECA requires that before FEA issues a prohibition order to a powerplant or major fuel burning installation, FEA must find that the combustor on June 22, 1974, had in place, or thereafter acquires or is designed with, the "capability and necessary plant equipment" to burn coal or that the combustor has been issued a construction order. For those candidates which have not received construction orders, FEA evaluates several factors before making the "capability and necessary plant equipment" finding.

FEA proposes to amend §§ 305.3 and 305.4 to incorporate the standards FEA employs to determine whether a combustor has the capability and necessary plant equipment to burn coal. If on or after June 22, 1974, a combustor has, as a minimum, the requisite furnace configuration for using coal, including the necessary configuration for ash removal from the furnace, and, in the case of a boiler, the proper tube spacing to permit coal burning, then for the purposes of ESECA the combustor has the requisite coal firing capability and necessary plant equipment.

FEA also evaluates coal and ash handling facilities and other equipment, as well as the availability of land for coal storage. The absence of any one or combination of these facilities or equipment, however, does not prevent the FEA from making a finding as to coal firing capability and necessary plant equipment. Rather, the cost of any such facilities or equipment which must be refurbished or acquired is included when FEA considers the practicability of the combustor's burning coal in lieu of natural gas or petroleum products.

PROHIBITION ORDER CANDIDATE SELECTION CRITERIA

The proposed revision of § 305.4(c) will replace the factors listed in the current § 305.4(c) as those which FEA will consider in selecting an MFBI for a prohibition order with the broad consideration of unique and extraordinary environmental and physical constraints to coal burning. The installation's location will still be considered as a possible environmental constraint. The installation's output and the purpose for which coal will be used already are adequately considered under the definitions of "primary energy source" and "process fuel use" since FEA's actions will affect only fuels used as heat sources in a combustor and exclude those process uses for which coal is not a technically feasible fuel alternative. As discussed above, FEA will include the quantity of gas or oil saved when the reasonableness of costs of conversion is determined. Finally, in its first

round of prohibition orders issued to MFBI's on June 30, 1977, FEA was not presented with any evidence as to the effects of short-term variation of demand for an installation's output on the practicability of burning coal. Therefore, FEA proposes to eliminate this factor as a separately stated consideration. The proposed new paragraph 305.3(c) sets out the criteria which FEA would consider in selecting potential powerplant candidates for prohibition orders.

The combined effect of these new paragraphs and the existing provisions of Part 305 would be as follows: (1) FEA may commence, on its own initiative, a proceeding to prohibit a powerplant or MFBI from burning oil or gas as its primary energy source only if the combustor, individually or in aggregation with other combustors at the same location, has a design firing rate of at least 100 million Btu's per hour; and, (2) before selecting the recipient of a prohibition order FEA will consider any unique or extraordinary environmental or physical constraints to burning coal which have been brought to FEA's attention and any other factors which may disqualify the combustor from receiving a prohibition order.

FEA notes that the selection methodology which appeared in the MFBI prohibition order Notices of Intention issued in May 1977, stated that FEA would eliminate or defer an MFBI from consideration if the MFBI's remaining useful life as of January 1, 1978, would be less than one year, if the MFBI's utilization factor was less than 20 percent, or if the MFBI (referring to all combustor's at the MFBI location) used significantly less than 2×10^{12} Btu's of petroleum products or natural gas in the latest year for which data are available. Those thresholds were employed exclusively for purposes of administrative convenience in choosing the first group of MFBI's to receive prohibition orders and do not constitute criteria used in selecting prohibition order candidates.

DESIGN FIRING RATE REQUIREMENTS FOR CONSTRUCTION ORDERS

In the amendments to its regulations published on May 6, 1977, FEA included in § 307.6(b) a minimum design firing rate requirement of 100 million Btu's per hour which must be met before FEA will issue a construction order to an MFBI. FEA also included in its May 6, 1977, amendments an aggregation provision under which the 100 million Btu per hour threshold can be met by aggregating the design firing rates of all those combustors at the same location which were in the early planning process on or after December 27, 1976, and which individually have design firing rates of at least 50 million Btu's per hour.

FEA now believes that a 50 million Btu per hour minimum for purposes of aggregation should not be employed. Such an artificial minimum may encourage unreasonable, energy inefficient changes in construction plans motivated primarily by a desire to evade FEA's construction order jurisdiction.

Therefore, FEA proposes to eliminate any reference to a minimum design firing rate which will be considered in the aggregation of such rates under § 307.6(b).

MISCELLANEOUS CHANGES

FEA also proposes to amend several provisions in Part 303 to reflect the extension of FEA's order issuing authority to December 31, 1978, effected by Pub. L. 95–70. The proposed amendments all relate to the deadline by which powerplants and MFBI's must filed their applications for prohibition and construction orders. These applications must be received by FEA at least 30 days before the expiration of FEA's order issuing authority in order to assure processing of the applications prior to the statutory deadline.

The final proposed change concerns the time limitations imposed by FEA on its processing of data received from major fuel burning installations in the early planning process. FEA proposes to make clear that FEA requests only such information as is needed to make the findings and adequately consider the factors contained in § 307.3. Under the proposed amendment to § 307.6, if FEA requires a combustor to file a Schedule A–3, FEA will so notify the combustor within 60 days after receipt of properly completed Schedules A–1 and A–2. FEA will determine whether a form has been properly completed.

If no Schedule A–3 is requested from a combustor by FEA, a Notice of Intention (NOI) to issue a construction order must be issued to that combustor within 90 days of receipt of properly completed Schedules A–1 and A–2. If FEA requests the filing of a Schedule A–3, FEA has 90 days after its receipt of the properly completed form to issue an NOI. Should no NOI be issued within the relevant 90 day period, the combustor may consider itself beyond FEA's construction order jurisdiction.

FEA also proposes to add a paragraph of § 307.6 noting that delay in filing information requested by FEA will not prevent FEA from proceeding with its order issuance process using the information that is available. FEA of course will still be able to utilize its enforcement authority against the uncooperative MFBI as FEA deems appropriate.

III. COMMENT PROCEDURES

WRITTEN COMMENTS

Interested persons are invited to participate in this proceeding by submitting written data, views, or arguments with respect to the proposed amendments to the coal utilization regulations set forth in this notice to Executive Communications, Federal Energy Administration, Room 3317, Box PC, Washington, D.C. 20461. These comments may be hand-delivered to Room 3317, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Comments should be identified in the outside envelope and on the face of the documents submitted to FEA, Executive Communications, with the designation "Amendments to ESECA Regulations"; 15 copies should be submitted. All comments should be received by September 29, 1977, before 4:30 p.m., to assure full consideration by FEA before final action is taken on the proposed amendments.

PUBLIC HEARING

A public hearing on this proposed rulemaking will be held beginning at 9:30 a.m. on September 21, 1977, in Room 2105, 2000 "M" Street NW., Washington, D.C., to receive oral presentations of data, views, and arguments from interested persons. Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request for an opportunity to make oral presentation.

That request should be directed to Executive Communications, FEA, Room 3317, Box PC, Washington, D.C. 20461 and must be received before 4:30 p.m., September 13, 1977. The request may be hand-delivered to Room 3317, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

The person making the request for oral presentation should describe the interest concerned; if appropriate, state why he or she is a proper representative of a group or class of persons which has such an interest; and give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through September 20, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m., September 15, 1977, to confirm receipt of the written request. Fifty copies of their proposed presentation should be sent by the speakers to Executive Communications, FEA, Room 3317, Box PC, Washington, D.C. 20461, before 4:30 p.m., September 20, 1977.

The FEA reserves the right to limit the number of representatives of a particular group or class of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the meeting. The length of time allocated to each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. It will not be a judicial or evidentiary type hearing.

Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

V 42169 AUG 31 77 UMI

A transcript of the hearing will be made. The entire record of the hearing, including the transcript, will be retained by the FEA and made available for inspection at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

NOTE.—The Federal Energy Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A-107.

Pursuant to section 7(c) of the Federal Energy Administration Act of 1974, as amended, 15 U.S.C. 761 et seq., FEA has sent a set of these proposed amendments to the Environmental Protection Agency (EPA) for comment. EPA's comments are as follows:

EPA believes that the change in the definition of "primary energy source" to allow prohibition of less than 100 percent of oil and gas use may necessitate revision of a few State implementation plans that do not presently have applicable regulations for burning of fuel mixtures, as contemplated by the proposed amendments. In addition, the proposed amendments will increase the number of sources eligible for prohibition orders. This will result in increased coal burning causing additional air pollution. This situation may result in existing State implementation plans being inadequate to attain and maintain the national ambient air quality standards, thereby necessitating revisions to the applicable State implementation plan.

In addition, EPA believes that the definition of "primary energy source" should exclude such minimum amounts of fuel required to enable such sources to comply with applicable primary standard conditions prescribed by EPA in accordance with 40 CFR 55.04.

Although FEA has clarified its selection criteria, FEA should make extraordinary environmental constraints minimum criteria for exclusion as a candidate for an order rather than merely "considering" such factors.

(Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319) (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163 and Pub. L. 95-70; Federal Energy Administration Act of 1974 (Pub. L. 93-275) (15 U.S.C 761 et seq.), as amended by Pub. L. 94-385 and Pub. L. 95-70; E.O. 11790 (39 FR 23185).)

In consideration of the foregoing, it is proposed to amend Parts 303, 305, 307, and 309 of Chapter II, Subchapter B of Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., August 25, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

PART 303—ADMINISTRATIVE PROCEDURES AND SANCTIONS

10 CFR Part 303 is amended as follows:

1. The citation of authority following the Table of Contents to Part 303 is amended by inserting the words "and Pub. L. 95-70" between "as amended by Pub. L. 94-163" and ";" and between "as amended by Pub. L. 94-385" and ";".

2. Section 303.2 is amended by deleting the definition of "primary energy source" and inserting the following in lieu thereof:

§ 303.2 Definitions.

* * * * * * *

"Primary energy source" means any energy source which is utilized as a heat source in a combustor.

* * * * * * *

§ 303.33 [Amended]

3. Section 303.33 is amended by deleting "June 1, 1977" and inserting "December 1, 1978" in lieu thereof.

§ 303.36 [Amended]

4. In § 303.36 paragraph (a)(3) is amended by deleting "June 1, 1977" and inserting "December 1, 1978" in lieu thereof.

§ 303.38 [Amended]

5. In § 303.38 paragraph (d) is amended by deleting "June 1, 1977" and inserting "December 1, 1978" in lieu thereof.

§ 303.13 [Amended]

6. Section 303.43 is amended by deleting "June 1, 1977" and inserting "December 1, 1978" in lieu thereof.

§ 303.46 [Amended]

7. In § 303.46 paragraph (a)(3) is amended by deleting "June 1, 1977" and inserting "December 1, 1978" in lieu thereof.

§ 303.47 [Amended]

8. In § 303.47 paragraph (c) is amended by deleting "June 1, 1977" and inserting "December 1, 1978" in lieu thereof.

§ 303.18 [Amended]

9. In § 303.48 paragraph (c) is amended by deleting "June 1, 1977" and inserting "December 1, 1978" in lieu thereof.

PART 305—COAL UTILIZATION

10 CFR Part 305 is amended as follows:

10. The citation of authority following the Table of Contents to Part 305 is amended by inserting the words "and Pub. L. 95-70" between "as amended by Pub. Law 94-163" and ";" and between "as amended by Pub. L. 94-385" and ";".

11. Section 305.2 is amended by deleting the definition of "primary energy source" and inserting in lieu thereof the following:

§ 305.2 Definitions.

* * * * * * *

"Primary energy source" means any energy source which is utilized as a heat source in a combustor.

* * * * * * *

12. In § 305.3, paragraph (b)(1) is revised; paragraph (b)(2) has a new subdivision (iii) added; paragraph (c) is redesignated (d); and a new paragraph (c) inserted so that this section reads as follows:

§ 305.3 Powerplants.

* * * * * * *

(b) * * *

(1) The powerplant: (i) on June 22, 1974, had, or thereafter acquires or is designed with, the "capability and necessary plant equipment" to burn coal, or (ii) has been issued a construction order pursuant to Parts 303 and 307 of this chapter. FEA will conclude that a powerplant has the capability and necessary plant equipment to burn coal if the powerplant had in place as of June 22, 1974, or thereafter acquires or is designed with, a boiler which has, as a minimum, the requisite furnace configuration to burn coal, including the necessary configuration for ash removal from the furnace, and the requisite tube spacing to burn coal.

(2) * * *

(iii) In order to determine whether the costs of converting to coal will be reasonable, FEA will analyze the total increase or decrease in costs due to burning coal in lieu of natural gas or petroleum products. To determine such costs FEA will calculate the annualized increased capital costs, an allowed rate of return on the additonal investment, and the increased annual operating and maintenance costs. In order to annualize these additional costs, FEA will determine the remaining useful service life of the combustor based on a presumed useful service life of 35 years, or on such other useful service life that FEA determines is reasonable. The decrease or increase in annual fuel costs will be either subtracted from or added to such annualized costs. In order to calculate estimated fuel usage, FEA will project a capacity factor based on the combustor's average annual capacity factor for the most recent three year period for which data are available, or on such other evidence as FEA considers probative. In cases where there will be a resultant net decrease in annual costs, the reasonableness of issuing the prohibition order will be presumed. In cases where there will be a resultant net increase in annual costs, such costs will be divided by the amounts of petroleum products and natural gas which FEA has determined it is feasible to replace annually with coal, thereby providing a "cost per barrel of petroleum product or Mcf of natural gas saved." In determining whether this increased cost is reasonable FEA will consider the following factors:

Net impact upon the customers of the utility; the financial capability of the powerplant owner as analyzed in accordance with § 305.3(b)(2)(i); amounts of petroleum product and natural gas saved; and other factors that FEA deems appropriate to consider under the circumstances of the case.

* * * * * * *

(c) FEA may commence, on its own initiative, a proceeding to issue an order prohibiting a powerplant from burning natural gas or petroleum products as its primary energy source only if the powerplant has a design firing rate of at least 100 million Btu's per hour. In selecting a powerplant for an order prohibiting that plant from burning natural gas or petroleum products as its primary energy source, the FEA shall consider any unique or extraordinary environmental or physical constraints to coal burning by the powerplant and any other factors which might disqualify the powerplant from receiving a prohibition order.

* * * * * * *

13. In § 305.4, paragraph (b)(1) is revised; a new subdivision (iii) is added to paragraph (b)(2); and paragraph (c) is revised so that this section reads as follows:

§ 305.4 Major fuel burning installations.

* * * * * * *

(b) * * *

(1) The major fuel burning installation has a design firing rate of 100 million Btu's per hour or greater and (i) on June 22, 1974, had, or thereafter acquires or is designed with, the "capability and necessary plant equipment" to burn coal, or (ii) has been issued a construction order pursuant to Parts 303 and 307 of this chapter. FEA will conclude that a major fuel burning installation has the capability and necessary plant equipment to burn coal if the major fuel burning installation had in place as of June 22, 1974, or thereafter acquires or is designed with, a boiler or combustor which has, as a minimum, the requisite furnace configuration to burn coal, including the necessary configuration for ash removal from the furnace, and, in the case of a boiler, the requisite tube spacing to burn coal.

(2) * * *

(iii) In order to determine whether the costs of converting to coal will be reasonable, FEA will compute a net operating cost differential (NOCD). The NOCD will be calculated by first adding the annualized increased capital costs and increased annual operating and maintenance costs. In order to annualize these additional costs, FEA will determine the remaining useful service life of the combustor based on a presumed useful service life of 40 years, or on such other useful service life that FEA determines is reasonable. The decrease or increase in annual fuel costs then will be either subtracted from or added to such annualized costs. In order to calculate estimated fuel usage, FEA will project a capacity factor based on the combustor's average annual capacity factor for the most recent three year period for which data are available, or on such other evidence as FEA considers probative. In cases where there will be a resultant net decrease in annual costs, the reasonableness of issuing the prohibition order will be presumed. In cases where there will be a resultant net increase in annual costs, the NOCD will be divided by the amounts of petroleum products and natural gas which FEA determined it is feasible to replace annually with coal, thereby providing a "cost per barrel of petroleum product or Mcf of natural gas saved." In determining whether this increased cost is reasonable FEA will consider the following factors:

The financial capability of the owner of the major fuel burning installation as analyzed in accordance with § 305.4(b)(2)(i); amount of petroleum product or natural gas saved; and other factors that FEA deems appropriate to consider under the circumstances of the case.

* * * * * * *

(c) In selecting a major fuel burning installation for an order prohibiting that installation from burning natural gas or petroleum products as its primary energy source, the FEA shall consider any unique or extraordinary environmental or physical constraints to coal burning by the major fuel burning installation and any other factors which might disqualify the major fuel burning installation from receiving a prohibition order.

* * * * * * *

14. Section 305.6 is deleted and the following is inserted in lieu thereof:

§ 305.6 Scope of prohibition orders.

(a) FEA shall prohibit the use by a powerplant or major fuel burning installation of the maximum amount of natural gas or petroleum products burned as a primary energy source which it is feasible under the requirements of paragraph (b) of this section to replace with coal.

(b) It shall be considered feasible to replace natural gas and petroleum products being used as primary energy sources with coal if the replacement coal can be burned by the powerplant or major fuel burning installation in compliance with all applicable air pollution requirements and if FEA can make the findings contained in § 305.3(b) or § 305.4(b), as applicable.

(c) If FEA cannot make the findings contained in § 305.3(b) or § 305.4(b) for the replacement with coal of 100 percent of the natural gas and petroleum products used by a powerplant or major fuel burning installation as primary energy sources (except as provided in paragraph (d) of this section), then FEA shall prohibit use of the maximum amount of natural gas and petroleum products which it is feasible under the requirements of paragraph (b) of this section for the powerplant or major fuel burning installation to replace with coal.

(d) For the purposes of ESECA, natural gas and petroleum products will not be considered to be used as primary energy sources when employed in the minimum amounts required for startup, flame stabilization and control, and testing, and when employed for process fuel use.

PART 307—NEW POWERPLANTS AND NEW MAJOR FUEL BURNING INSTALLATIONS

10 CFR Part 307 is amended as follows:

15. The citation of authority following the Table of Contents to Part 307 is amended by inserting the words "and Pub. L. 95-70" between "as amended by Pub. L. 94-163" and ";" and between "as amended by Pub. L. 94-385" and ";".

16. Section 307.2 is amended by deleting the definition of "primary energy source" and inserting in lieu thereof the following:

§ 307.2 Definitions.

* * * * * * *

"Primary energy source" means any energy source which is utilized as a heat source in a combustor.

* * * * * * *

17. Section 307.3(a) is amended so that the following sentence is inserted between the current second and third sentences:

§ 307.3 Use of coal as the primary energy source.

(a) * * * Combustors issued construction orders will be required to have in place at the completion of construction and before entering into service all equipment and facilities, including air pollution control systems, necessary to use exclusively coal except for purposes of start-up, flame stabilization and control, and testing, and for process fuel use. * * *

* * * * * * *

18. In § 307.6, paragraph (b)(1)(ii) is revised; new paragraphs (b)(1)(iii) and (iv) are added; paragraph (b)(3) is deleted and new paragraph (b)(3) is inserted in lieu thereof; and paragraph (b)(6) is deleted so that the section reads as follows.

§ 307.6 Reporting requirement for powerplants and major fuel burning installations.

* * * * * * *

(b) (1) (i) * * *

(ii) FEA Form C-607-S-0 is divided into Schedules A-1, A-2 and A-3. One Schedule A-1 must accompany each submission of one or more Schedule A-2's. One Schedule A-2 must be filed at the address provided in § 303.12 of this chapter for each major fuel burning installation which meets the requirements in paragraph (b)(1)(i) of this section. If necessary, FEA shall request in writing that a major fuel burning installation file a Schedule A-3. If FEA requests that a Schedule A-3 be filed, such request shall be sent to the major fuel burning installation within 60 days after receipt by FEA of properly completed (as determined by FEA) Schedules A-1 and A-2.

(iii) If FEA does not request that a Schedule A-3 be filed, FEA shall issue a notice of intention to issue that major fuel burning installation a construction order no later than 90 days after receipt of properly completed Schedules A-1 and A-2. If a Schedule A-3 has been requested, FEA shall issue a notice of intention to issue that installation a construction order no later than 90 days after receipt by FEA of the properly

V42169 AUG 31 77 UMI

completed Schedule A–3. Failure by FEA to issue a notice of intention within the specified 90 day period shall be deemed to be notice that the major fuel burning installation is no longer a candidate for a costruction order.

(iv) In the event that a major fuel burning installation fails to comply with requests for additional information, FEA may decide, notwithstanding the other provisions of this section, to issue a notice of intention to issue a construction order based on available information, in addition to or in place of taking action under Subpart Q of Part 303 of this chapter.

* * * * *

(3) The "design firing rate requirements" referred to in § 307.3(b) and in this paragraph are met for each major fuel burning installation that: (i) has a design firing rate of 100 million Btu's per hour or greater, or (ii) has a design firing rate of 100 million Btu's per hour or greater when taken in the aggregate with other major fuel burning installation at the same location which were in the reporting interval as of December 27, 1976, or thereafter entered the reporting interval.

* * * * *

PART 309—ALLOCATION OF COAL

10 CFR Part 309 is amended as follows:

19. The citation of authority following the Table of Contents to Part 309 is amended by inserting the words "and Pub. L. 95–70" between "as amended by Pub. L. 94–163" and ";" and between "as amended by Pub. L. 94–385" and ";".

20. Section 309.2 is amended by deleting the definition of "primary energy source" and inserting in lieu thereof the following:

§ 309.2 Definitions.

* * * * *

"Primary energy source" means any energy source which is utilized as a heat source in a combustor.

* * * * *

[FR Doc.77-25270 Filed 8-30-77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 762 3087]

PROVIDERS BENEFIT CO., ET AL.

Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices, and unfair methods of competition, this provisionally accepted consent order, among other things, would require a Philadelphia, Pa. consumer credit corporation and its subsidiaries to cease failing to provide consumers, in connection with the extension of credit, such materials and disclosures as are required by Federal Reserve System regulations; and to cease misrepresenting or failing to inform customers of the optional nature of credit insurance. Further, the order requires the firms to offer customers the opportunity to cancel such insurance and to make appropriate refunds as specified.

DATE: Comment must be received on or before October 28, 1977.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Richard A. Givens, Director, New York Regional Office, Federal Trade Commission, 2243–EB Federal Building, 26 Federal Plaza, New York, N.Y. 10007, (212–264–1207).

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the FTC Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

[File No. 762 3087]

In the matter of Providers Benefit Co., Provident Consumer Discount Co., Inc., and Provident Credit Corp., corporations, and Frederick I. Robinson, George Billings, individually and as an officer of Provident Consumer Discount Co., Inc. and Provident Credit Corp.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Providers Benefit Company, Provident Consumer Discount Company, Inc., and Provident Credit Corp., corporations, and Frederick I. Robinson, individually and as an officer of the latter two corporations, hereinafter sometimes referred to as proposed respondents, and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Providers Benefit Co., Provident Consumer Discount Co., Inc., and Provident Credit Corp., corporations, and Frederick I. Robinson, and George Billings individually and as officers of Provident Consumer Discount Co., Inc. and Provident Credit Corp., corporations, and Frederick counsel for the Federal Trade Commission, that:

1. Proposed respondent Providers Benefit Co. is the parent corporation of Provident Credit Corp., a wholly-owned subsidiary. Provident Consumer Discount Co., Inc. is a wholly-owned subsidiary of Provident Credit Corp. All three corporations are organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania. The office and principal place of business of Providers Benefit Co. is located at 8045 West Chester Pike, Upper Darby, Pa. 19082. The office and principal place of business of Provident Consumer Discount Co., Inc., and Provident Credit Corp., is located at 42 South 15th Street. Philadelphia, Pa. 19102.

2. Proposed respondents Frederick I. Robinson and George Billings are officers of corporate respondents Provident Consumer Discount Co., Inc. and Provident Credit Corp. They formulate, direct and control the policies, acts and practices of said corporations.

3. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

4. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

5. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

6. This agreement is for settlement purposes only and does not constitute and admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing the complaint and decision containing the agreed-to order to respondent's address as stated in Paragraph 1 of this agreement shall constitute service, and respondent hereby waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Proposed respondents have read the proposed complaint and order contemplated hereby, and they understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

For purposes of this order, the following definitions of terms shall apply:

(a) "Consumer credit transactions in open status" refers to those consumer credit transactions in which payments at least totaling the amount of one regular monthly payment have been made by the obligor in the last six months.

(b) "Delinquent account" refers to those accounts which are more than 30 days past due for an amount which equals the amount of one regular monthly payment.

(c) "Penetration rate" refers to the percentage of all loans eligible for credit insurance on which charges for such insurance are made.

(d) "Refund method" refers to an accounting method to compute refunds of insurance premiums in connection with cancellation of insurance coverage which method makes use of both the Rule of 78 and a pro rata computation. As an example, the Rule of 78 would operate on a 12-month loan as follows: The numbers 1 through 12 added together provide the figure 78. This is the denominator. The sum of the months expired at the date of cancellation supplies the numerator. The first month of a 12-month loan is considered as 12 because the outstanding balance is 12 times as large during the first month as it is for the last month. The second month is 11, and so on, to 1. The portion of insurance premiums which must be refunded, is for cancellation during the first month, 78/78–12/78 or second month 66/78–11/78 or 55/78; and so on down to the 12th month. The numerator for a 24-month contract is obtained by beginning with 24, instead of 12, as for a 12-month contract, or 36 in the case of a 36-month contract or any other number denoting the total number of months or periods in a particular contract. To the amount of any refund due in connection with any credit transaction as determined by use of the Rule of 78 will be added an amount which is equal to 40% of the difference between said Rule of 78 amount and that amount which would be due if said refund were to be computed on a pro rata basis. Said pro rata amount refers to an amount which shall be at least as great a proportion of the total insurance premiums collected by respondents in connection with any credit transaction as the number of remaining monthly payments, scheduled to follow the installment date nearest the date of cancellation as explained below, bears to the total number of monthly payments scheduled by the obligor's contract. Any cancellation made on or before the fifteenth day following an installment date shall be deemed to have been made on the installment date immediately preceding the date of cancellation. Any cancellation made after the fifteenth day following an installment date shall be deemed to have been made on the installment date immediately following the date of cancellation. Any obligor making cancellation on or before the fifteenth day following consummation of the transaction shall receive a refund or credit for the full amount of insurance premiums in connection with said transaction. Cancellation for purposes of computing the amount of any refund or credit due shall be as of the date of receipt by respondents of the notice set forth in Attachment C of this order or as of the date of receipt by respondents of any other communication from the borrower under the terms of this order indicating his desire to cancel his insurance coverage.

(e) "Time of closing" refers to that period of time during which loan documents are presented to the borrower for consummation of a loan transaction whereby the borrower becomes obligated to make payments to respondents to satisfy said loan.

I. It is ordered that respondents Providers Benefit Co., Provident Consumer Discount Co., Inc. and Provident Credit Corp., corporations, their successors and assigns, and their officers, and Frederick I. Roinson, and George Billings, individually and as officers of Provident Consumer Discount Co., Inc., and Provident Credit Corp., and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of consumer credit subject to the provisions of Regulation Z (12 CFR 226) of the Truth In Lending Act (Pub. L. 90–321, 15 U.S.C. §§ 1601–65 (1970), as amended 15 U.S.C. §§ 1601–65a. (Supp. IV, 1974)), do forthwith cease and desist from:

1. In connection with a credit sale, as applicable:

(a) Failing to make required disclosures in a clear and conspicuous manner using the terminology as required by Section 226.6(a) of Regulation Z.

(b) Failing to print the term "finance charge" more conspicuously than other terminology as required by Section 226.6(a) of Regulation Z.

(c) Failing to make all of the disclosures together on either the contract or other instrument evidencing the obligation on the same side of the page, or on one side of a separate statement which identifies the transaction, as required by Section 226.8 (a) (1) or Section 226.8(a) (2) of Regulation Z.

(d) Failing to accurately disclose the finance charge expressed as an annual percentage rate, using the term "annual percentage rate" as required by Section 226.8 (b) (2) of Regulation Z.

(e) Failing to disclose the sum of the payments scheduled to repay the indebtedness using the term "total of payments" as required by Section 226.8(b)(3) of Regulation Z.

(f) Failing to use the term "cash price" to describe the price at which the creditor offers, in the ordinary course of business, to sell for cash the property or services which are the subject of the consumer credit transaction as required by Section 226.8(c)(1) of Regulation Z.

(g) Failing to use the term "cash downpayment" to describe the amount of the downpayment of money, using the term "cash downpayment", as required by Section 226.8(c)(2) of Regulation Z.

(h) Failing to use the term "total downpayment" to describe the sum of cash downpayment in money and the downpayment in property, usingthe term "total downpayment" as required by Section 226.8(c)(2) of Regulation Z.

(i) Failing to use the term "unpaid balance of cash price" to describe the difference between the cash price and total downpayment, as required by Section 226.8(c)(3) of Regulation Z.

(j) Failing to use the term "unpaid balance" to describe the sum of the unpaid balance of cash price and all other charges which are included in the amount financed but which are not part of the finance charge, as required by Section 226.8(8)(5) of Regulation Z.

(k) Failing to use the term "amount financed" to describe the amount of credit of which the customer will have actual use determined in accordance with Section 226.8 (c)(7) of Regulation Z.

(l) Failing to disclose the method of computing any unearned portion of the finance charge in the event of prepayment in full of an obligation which includes precomputed finance charges, a statement of the amount or method of computation of any charge that may be deducted from the amount of any rebate of such unearned finance charge that will be credited to an obligated or refunded to the customer, and if no rebate of unearned finance charges upon prepayment in full is made, the disclosure of such fact.

2. Failing, when the charges for credit life insurance, credit disability insurance, automobile medical insurance and/or automobile club plan are not included in the finance charge for a consumer credit transaction:

(a) To present to the obligor as the first document at the time of closing, which document shall be the first document to be completed by respondents and the first document to be signed by the obligor(s) at the time of said closing in respondents' offices, or to mail to the obligor, who is consummating his credit transaction through the mail, at the same time as consummation papers are to be mailed, a separate, written, personal insurance authorization form which sets forth clearly and conspicuously:

(i) the obligor has received credit approval up to a specified amount;

(ii) the obligor's decision with regard to the various forms of insurance coverage available through respondents is not considered in granting the credit;

(iii) the purchase of any form of credit insurance is optional and is not required by the creditor, in connection with the credit transaction;

(iv) the amount of the total premium for credit life insurance, the amount of the total premium for credit disability insurance, the amount for automobile medical insurance and the amount for the automobile club plan (which if elected will be added to the "amount financed");

(v) the amount financed options applicable to the transaction which would result from the obligor's election to consummate the credit transaction, set forth in the following order from left to right across the document: (1) without either credit life insurance or credit disability insurance, (2) with credit life insurance only, (3) with credit disability insurance only, (4) with both credit life insurance and credit disability insurance, (5) with other available forms of credit insurance offered by respondent, except that, in addition to providing the required information for the above stated four options, respondent need only provide the required information for one other option if the obligor has indicated an interest in such an option;

(vi) a signature and date line for each option set forth in (v) above for the obligor(s) to indicate his election;

V42169 AUG 31 77 UMI

(viii) The obligor authorizes respondents on behalf of the obligor to pay the insurance premiums to the insurance company for such insurance coverage which has been chosen.

(b) To send to mail order obligors, at the same time and along with the papers to consummate said credit transaction, a separate written statement containing the notice, in no less than 12 point bold type and easily legible, which this order requires to be displayed at respondents' office.

(c) To make the disclosures required by subparagraph (a) above on a separate document which contains no other printed or written material.

(d) To make disclosures required by subparagraphs (i), (ii) and (iii) above in not less than 12 point type. A form substantially in conformance with Attachment A herein will be considered as in compliance with the provisions of subparagraphs (a), (b) and (c) above. Respondents shall maintain the original statement for two years following its execution and provide the customer with an executed copy thereof.

3 Making any marks or otherwise instructing obligor where to sign or date the separate insurance authorization form required by subsection 2(a) above in advance of the obligor's free and independent choice for such insurance.

4 Misrepresenting, orally or otherwise, directly or by implication, that credit life insurance, credit disability insurance, automobile medical insurance and or automobile club plan membership are required as a condition of obtaining credit from respondents.

5 Discouraging, by misrepresentation, oral or otherwise, directly or by implication, the declination of credit life insurance, credit disability and or automobile club plan membership.

6 Representing, orally or otherwise, directly or indirectly, that the obligor's failure to elect credit insurance coverage will result in a delay in processing his credit transaction or in his receiving the proceeds thereof.

7 Failing, in any consumer credit transaction or advertisement, to make all disclosures in accordance with Section 226.4 and 226.5 of Regulation Z, in the manner, form and amount required by Section 226.6, 226.8, 226.9 and 226.10 of Regulation Z.

II. It is further ordered that respondents display at their place of business, at each booth, or at or near each desk or other location where transactions are consummated, in such a manner and in such dimensions so as to be easily viewed and read by the obligor from his seated or other normal position in such booth or at such desk or other location and which shall not be in close proximity to any other written or display material, the following notice:

"NOTICE TO CREDIT CUSTOMERS. THE PURCHASE OF CREDIT INSURANCE IS OPTIONAL. IT IS NOT REQUIRED BY THIS COMPANY. YOUR DECISION IS NOT CONSIDERED IN THE GRANTING OR DENYING OF CREDIT TO YOU."

III. It is further ordered that respondents maintain records on a state by state basis (covering each state in which they do business) of the penetration rate of (a) credit life insurance for transactions; and (b) credit disability insurance for transactions. Such records shall be maintained on a yearly basis and submitted to the Commission each year for a period of five years, and thereafter from time to time as the Commission may request.

IV. It is further ordered that within forty-five (45) days after the date this order becomes final respondents mail to all existing obligors to whom credit life insurance, credit disability insurance, auto club membership and or auto medical payment insurance, were sold prior to the date this order becomes final and the premium(s) or fee(s) for same were not included in the finance charge, and who did not receive death benefits or health benefits under said insurance policies, in connection with respondents' consumer credit transactions in open status on the date this order becomes final, notwithstanding the sale or assignment of any or all of said transactions to a third party, the two notices set forth in Attachments B and C of this order, together with a self-addressed, postpaid, return envelope.

Provided however, that: (1) respondents shall not be required to forward the two notices set forth in Attachments B and C of this order to any obligor who has already received the above mentioned notices prior to the date this order becomes final, and where any and all follow-up provisions required by this order with respect to said notices, including the making of refunds or the crediting of accounts, where applicable, have been or will be accomplished by respondents within the time periods specified in this order; and (2) respondents shall not be required to forward the two notices set forth in Attachments B and C of this order to any obligor who, for any transaction consummated prior to the date this order becomes final, received from respondents during the time of closing of said transaction, the personal insurance authorization form required by Section 2(a) of this order and where any and all requirements connected with said form as required by this order have been accomplished by respondents.

V. It is further ordered that a record of mailing by respondents of the notices set forth in Attachment B and C of this order be kept by respondents and that said record be available for examination by Commission personnel in connection with any compliance obligations arising out of this order. Respondents' obligations under Paragraph IV of this order shall not be fulfilled until each obligor affected by said Paragraph has received the notices, or been contacted, as specified therein; provided however, that respondents shall be deemed to have complied with said Paragraph IV if respondents can demonstrate that they expended reasonable efforts, in writing or orally, to deliver such notices or make such contact according to the terms of this order.

VI. It is further ordered that all requests for refunds of credit life insurance and or credit disability insurance premiums under the terms of this order be calculated by respondents based on the "Refund Method" as defined in subpart (d) of the definitions in this order; and all requests for refunds of premiums for auto club and auto medical insurance coverage be calculated by respondents on a pro rata basis; and that said refunds be accomplished by respondents within thirty (30) days of receipt by respondents, within the time period specified in this order, of the notice set forth in Attachment C of this order or receipt by respondents of any other form of communication from obligors indicating their desire to cancel their coverage.

VII. It is further ordered that respondents shall make refunds in cash to all obligors requesting refunds, except those obligors whose accounts are "delinquent accounts". Respondents shall have the option to either make refunds to delinquent accounts in accordance with the terms of this order or to credit said accounts for the full amount of any refund due.

VIII. It is further ordered that respondents, when making cash refunds or when crediting any account with the full amount of any refund due following receipt of the notice set forth in Attachment C of this order, mail or deliver the refund or credit said account within thirty (30) days of the receipt by respondents of said notice. The above mentioned credit shall be reflected on the next account status statement to be sent to the obligor following the above mentioned crediting of his account.

Provided however, that respondents shall not be required to make refunds or to credit accounts with respect to any cancellation notice, as so set forth in Attachment C of this order, or any cancellation request, received by respondents later than sixty (60) days following the date of said notice's receipt by the obligor or later than sixty (60) days from the date that respondents otherwise notified the obligor of his cancellation prerogatives.

IX. It is further ordered that respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents involved in consummating consumer credit obligations, and that respondents secure a signed statement acknowledging receipt of said copy of this order from each such person.

X. It is further ordered that no provision of this order shall apply to an entity which is neither related to nor has any continuity of interest with any respondent named herein other than being assignee or holder of respondent's consumer credit transactions.

Provided however, that the provisions of this paragraph shall not be interpreted to excuse any assignee of any liability imposed by Section 115 of the Truth-in-Lending Act, or to excuse any respondent from complying with any obligation imposed by this order with regard to the consumer credit transactions so assigned.

XI. It is further ordered that respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

XII. It is further ordered that each individual respondent named herein promptly notify the Commission of each change in the respondent's business or employment status, which includes discontinuance of the respondent's present business or employment, and each affiliation with a new business or employment, for five (5) years following the effective date of this order. Such notice shall include the address of and a description of the business or employment with which each respondent is newly affiliated as well as a description of each respondent's duties and responsibilities in connection with that business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

XIII. It is further ordered that the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

Signed this _____ day of _____, 1977

PROVIDERS BENEFIT COMPANY, a corporation

By _____ (Title)

_____ (Street)

_____ (City and State)

PROVIDENT CONSUMER DISCOUNT COMPANY, INC., a corporation

By _____ (Title)

_____ (Street)

_____ (City and State)

ATTACHMENT A

PERSONAL CREDIT INSURANCE AUTHORIZATION

Your application for credit has been approved in the amount of _____.

Credit life or credit accident and health (disability) insurance is not required in connection with this extension of credit to you and your decision with regard to the personal insurance will not affect the total amount of credit which has already been approved for you.

If you elect credit insurance these premiums will be added to the amount of credit approved for you.

Credit Life $_____ (for term of transaction).

Credit A & H (disability) $_____ (for term of transaction).

I have received a fully completed and executed copy of this form. I have reviewed the amount financed options set forth below and understand that if I choose an amount financed option that includes any of the insurance coverages I am authorizing the creditor to pay the insurance premiums on my behalf. I have voluntarily chosen the following amount financed option:

OPTION 1

Amount Financed Without Personal Credit Insurance $_____
No. of Months_____

_____ (Borrower)

_____ (Borrower)

_____ (Date)

OPTION 2

Amount Financed With Credit Life Only $_____
No. of Months_____

_____ (Borrower)

_____ (Borrower)

_____ (Date)

OPTION 3

Amount Financed With Credit A & H (Disability) Only $_____
No. of Months_____

_____ (Borrower)

_____ (Borrower)

_____ (Date)

OPTION 4

Amount Financed With Credit Life and A & H (Disability) $_____
No. of Months_____

_____ (Borrower)

_____ (Borrower)

_____ (Date)

ATTACHMENT B

_____ Name of Creditor

_____ Address of Creditor

DEAR CUSTOMER: As part of your current credit transaction with us charges were made for credit life insurance, credit disability insurance, auto medical payment insurance and auto club membership [mention as applicable], in the following amounts:

Type of coverages	*Amount charged*
Credit Life Insurance	$_____
Credit Disability Insurance	_____
Auto Medical Payments Insurance	_____
Auto Club Membership	_____

Because many of our customers may not have been fully aware of the voluntary nature of this insurance coverage (and membership) at the time they purchased it, we are offering you the opportunity to cancel your insurance coverage (and membership). If you decide to cancel your insurance (and/or membership), the company will credit your account with the balance of the premiums or fees due if your account is delinquent. If your account is current we will make a cash refund of the balance due. This amount will be based on a schedule which takes into account the remaining time period on your transaction and the protection which you have already received. If you cancel this insurance, your protection will end as of the date we receive your written notice of cancellation.

If you desire to cancel your insurance coverage (and/or membership), please complete the enclosed form and return it within two weeks in the enclosed envelope which requires no stamp. If you want your insurance (and membership) to remain in force, you need not return the enclosed form or take any other action in connection with this matter.

Sincerely,

ATTACHMENT C

From (Name of Borrower):
To (Name of Creditor):

At the time I entered into my transaction, I did not understand that credit insurance (and other benefits listed below) were voluntary. Please cancel the benefits checked below and refund to me the applicable portion of the premium(s) and/or fee(s) shown on this form. I understand that the company reserves the right to credit my account with such refund if my account is in delinquent status.

CHECK COVERAGE TO BE CANCELLED

( ) Cancel my credit life insurance (list applicable coverages).
( ) Cancel my credit disability insurance.
( ) Cancel my auto medical payments insurance.
( ) Cancel my auto club membership.

(NOTE.—Do not sign or return this form if you want your benefits to remain in force.)

Date_____

_____ (Obligor)

PROVIDERS BENEFIT COMPANY, ET AL.

[File No. 762 3087]

Analysis of proposed consent order to aid public comment

The Federal Trade Commission has accepted an agreement containing a consent order from Provident Credit Corp., 45 South 15th St., Philadelphia, Pa., its wholly-owned subsidiary, Provident Consumer Discount Co., Inc., located at the same address, and the parent corporation, Providers Benefit Co., 8045 West Chester Pike, Upper Darby, Pa.

The respondents maintain operating offices in the States of Pennsylvania and New Jersey.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested parties and the public. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges that respondents violated the Truth in Lending Act by failing to make certain required credit cost disclosures and failing to use required terminology on their credit contracts.

The complaint also alleges that respondents induce its obligors to incur charges for credit life insurance, credit disability insurance, automobile medical insurance and for automobile club plan membership without adequately advising them that the insurance is optional.

The consent order protects consumers by requiring respondents to provide customers with all of the required credit cost information in the proper manner and form prior to consummation of an agreement.

The consent order also requires that respondents advise customers of the optional nature of the credit insurance through the use of notice and a separate credit insurance election form to be signed by the obligor. Respondents are required to contact all customers with obligations outstanding and to offer them the opportunity to cancel their insurance coverage and receive a partial refund of the insurance premium paid.

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any of their terms.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc.77-25287 Filed 8-30-77;8:45 am]

[16 CFR Part 440]

HEARING AID INDUSTRY

Publication of Presiding Officers Report Regarding Proposed Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Publication of Presiding Officer's Report.

SUMMARY: On December 30, 1975 the Presiding Officer published in the FEDERAL REGISTER (40 FR 59746) final notice of the proposed trade regulation rulemaking proceeding. The Presiding Officer's Report, required by the Commission's rules of practice for rulemaking (16 CFR 1.13(f)) consisting of his summary, findings and conclusions with regard to the proposed rule and to those issues designated by the Presiding Officer and such other findings and conclusions as he saw fit to make, has been made public and placed on Public Record No. 215-44. When completed, the staff's report on the rulemaking record and its recommendations to the Commission also will be made public and notice thereof published in the FEDERAL REGISTER. The Presiding Officer's Report has not been reviewed or adopted by either the Bureau of Consumer Protection or the Commission itself and its publication should not be interpreted as reflecting the present views of the Commission or any individual Commissioner.

DATE: The sixty-day period which the rules of practice for rulemaking (16 CFR 1.13(g)) provide for public comment on both the Presiding Officer's and the staff's report will not commence until the staff's report has been made public and placed on the public record. Therefore, comment on the Presiding Officer's report alone would be considered premature at this time.

FOR FURTHER INFORMATION CONTACT:

V 42169 AUG 31 77 UMI

G. Martin Shepherd, Presiding Officer, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202–724–1180).

Issued: August 25, 1977.

ALBERT H. KRAMER,
Director,
Bureau of Consumer Protection.

[FR Doc.77-25288 Filed 8-30-77;8:45 am]

[16 CFR Part 443]

HEALTH SPAS

Change in Hearing Date Concerning Proposed Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Change in hearing date.

SUMMARY: The hearings concerning the proposed Health Spas Trade Regulation Rule scheduled to commence in Atlanta, Ga., on September 12, 1977, have been rescheduled to commence on September 15, 1977.

DATES: Hearings commence: Atlanta, Ga., September 15, 1977; San Francisco, Calif., October 17, 1977; New York, N.Y., November 28, 1977. Statements of testimony or comprehensive written outlines and exhibits due for hearings at Atlanta, by August 22, 1977; San Francisco, by September 26, 1977, New York by November 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Jack Cothran, 404–881–4836, Federal Trade Commission, Atlanta Regional Office, 1718 Peachtree Street NW., Room 1000, Atlanta, Ga., 30309.

SUPPLEMENTARY INFORMATION: The Presiding Officer's final notice published in the FEDERAL REGISTER (42 FR 26432) on May 24, 1977 established, among other things, the commencement date for hearings in Atlanta, Ga. That Final Notice is revised as follows: Section B—Public Hearings, Dates and Places, paragraph 1, is changed to read September 15, 1977 vice September 12, 1977. All other information contained in the Final Notice remains the same.

Issued: August 29, 1977.

ROGER J. FITZPATRICK,
Presiding Officer.

[FR Doc.77-25341 Filed 8-30-77;8:45 am]

POSTAL SERVICE

[39 CFR Part 111]

NONMAILABLE MATTER—WRITTEN, PRINTED AND GRAPHIC MATTER

Solicitations in the Guise of Bills, Invoices, or Statements of Account

AGENCY: United States Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule would provide additional protection for members of the public who receive mail which is in the form of a bill or invoice, but which constitutes, in fact, a commercial solicitation. The proposed rule would prescribe how a statutory notice should be placed on such mail to identify it as a solicitation and to warn that the recipient is under no obligation to make any payment unless the offer is accepted.

DATES: Comments must be received on or before September 30, 1977.

ADDRESSES: Assistant General Counsel, Consumer Protection Division, Law Department, United States Postal Service, Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

George C. Davis, 202–245–4385.

SUPPLEMENTARY INFORMATION: Under 39 U.S.C. 3001(d), mail which is in the form of, and reasonably could be interpreted to be a bill, invoice, or statement of account due, but which constitutes, in fact, a solicitation for the order by the addressee of goods or services, is mailable only if it bears on its face a notice which identifies it as a solicitation and warns that the recipient is under no obligation to make any payment unless the offer is accepted. The required notice may take one of two forms. Under 39 U.S.C. 3001(d)(2)(A), the mail may bear on its face, in a manner prescribed by the Postal Service, the following notice:

> This is a solicitation for the order of goods or services, or both, and not a bill, invoice, or statement of account due. You are under no obligation to make any payments on account of this offer unless you accept this offer.

Because of administrative oversight, the Postal Service has never issued any regulations prescribing the typography, layout, color, or other requirements applicable to this statutory notice.

As an alternative, under 39 U.S.C. 3001(d)(2)(B), the mailer may place on the solicitation a notice to the same effect prescribed by the Postal Service. Acting under paragraph (2)(B), the Postal Service has issued regulations contained in Postal Service Manual 123.41 which permit any solicitation in the guise of a bill, invoice, or statement of account to bear on its face the disclaimers, "This Is Not A Bill", and "This Is A Solicitation. You Are Under No Obligation To Pay Unless You Accept This Offer." the regulations also set forth in detail the location, size of print, color, and other requirements pertaining to the disclaimers.

There has been little or no use of the disclaimers prscribed in Postal Service Manual 123.41. Instead, mailers sending solicitations in the form of bills or statements of account have tended merely to place the statutory notice of 39 U.S.C. 3001(d)(2)(A) on their mailings, in a manner little calculated to bring the notice to the attention of the recipients of the solicitations. The Postal Service has received numerous complaints regarding this practice from postal customers, trade groups, and Members of Congress.

In order to insure that the public receives the full protection afforded by 39 U.S.C. 3001(d), the Postal Service proposes to establish specific regulatory requirements concerning the color and size of type used to present the statutory notice of 39 U.S.C. 3001(d)(2)(A).

Although exempted from the requirements of the Administrative Procedure Act, 5 U.S.C. 553(b), (c), regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revision of the Postal Service Manual:

PART 123—NONMAILABLE MATTER—WRITTEN, PRINTED AND GRAPHIC MATTER

1. In 123.41, delete the subsection designation "c.", thereby incorporating former subsection c. into subsection b.

2. In 123.41, add new subsection c. as follows:

* * * * *

c. In lieu of the requirements in a. and b., the solicitation may bear on its face the disclaimer prescribed by 39 U.S.C. 3001(d)(2)(A) in boldface capital letters of a color prominently contrasting with the background against which it appears, including all other print on the face of the solicitation, and at least as large and as bold as any other print on the face of the solicitation, but not smaller than 30-point type.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

(39 U.S.C. 401(2), 3001(d)(2).)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.77-25329 Filed 8-30-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 782-7]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

South Carolina: Proposed Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: It is proposed to revise the South Carolina implementation plan by eliminating stack height provisions from its emission limiting regulations and by adding provisions for mandatory continuous monitoring by certain existing sources. The first change is made to respond to judicial decisions on the issue of tall stacks; the second change is in response to new implementation plan requirements promulgated by EPA in October, 1975.

DATE: Comments must be received on or before September 29, 1977.

ADDRESSES: Written comments on the proposed revisions should be addressed to Mr. Tom Helms of EPA's Region IV Air Programs Branch in Atlanta (see address below). Copies of materials submitted by South Carolina may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, EPA (PM–213), 401 M Street SW., Washington, D.C. 20460.

EPA—Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308.

South Carolina Bureau of Air Quality Control, 2600 Bull Street, Columbia, S.C. 29201.

FOR FURTHER INFORMATION CONTACT:

Mr. Tom Helms, Chief, Air Programs Branch, EPA—Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308.

SUPPLEMENTARY INFORMATION: On May 31, 1972 (37 FR 10842), the Administrator approved the South Carolina plan to attain and maintain the national ambient air quality standards in that State. The original South Carolina plan, in common with a number of other State implementation plans, contained emission limiting regulations which were based in part on stack height. Specifically, existing fuel burning sources of particulates with a rated heat input of 350 million btu per hour or more were allowed to emit at a higher rate if equipped with taller stacks than would otherwise be the case. For example, a source with a heat input capacity of 5,000 million btu per hour was limited to 0.2 lb/MMbtu if equipped with a stack 225 feet tall, whereas a facility of the same size was allowed to emit 0.6/lb-MMbtu if fitted with a stack of 600 feet.

On February 8, 1974, in the case of *National Resources Defense Council* v. *EPA* (6 ERC 1248), the U.S. Court of Appeals for the Fifth Circuit found that the use of dispersion enhancement techniques such as tall stacks was not a valid control strategy in cases where constant emission controls were available. This finding was subsequently confirmed by other court decisions; the legal issues are discussed in EPA's Stack Height Increase Guideline of February 18, 1976 (41 FR 7450). In keeping with the implications of these judicial decisions, the State of South Carolina, after notice and public hearing, revised its particulate emission limits for fuel combustion in such a way as to eliminate stack height as a basis for determining allowable emissions. The revised regulations (Regulations 62.6, Standard No. 2, Section 2A) provide a limit of 0.6 pounds of particulate per million btu heat input for sources with a rated capacity of 10 to 1300 million btu per hour. For larger sources, a sliding and descending scale applies, expressed by the Formula $E=57.84p^{-0.67}$, where "E" is the allowable emission rate in pounds per million btu input and "P" is the heat input expressed in millions of btu per hour. For example, a source with a heat input of 5000 million btu per hour would be allowed to emit only 0.2547 lb/MMbtu.

The revised emission limiting regulations were submitted to EPA as a proposed plan revision on January 13, 1977. On March 30, 1977, the South Carolina Department of Health and Environmental Control submitted an amendment to the plan's particulate control strategy in support of the new limits. For seven facilities, this amendment indicates, application of the revised limits would result in allowable emissions greater than those allowed under existing regulations. Because of the problems anticipated in maintaining standards in two areas, two of these facilities have been issued operating permits specifying they must meet the limits established by the old regulations—International Paper Company in Georgetown and the South Carolina Electric and Gas Company's Hagood Plant in Charleston. Mathematical modeling of four of the remaining facilities at the new emission limits showed that resulting air quality would remain below secondary standards; the seventh was not modeled since the increase allowed (1.5%) was not felt to be significant in view of the source's location, an isolated area where standards are being met.

The South Carolina regulations dealing with particulate emissions from fuel burning were also amended to provide for the continuous monitoring of the opacity of emissions from existing large sources (250 million btu or more), pursuant to the continuous monitoring requirements promulgated by the Agency on October 6, 1975 (40 FR 46240) as Appendix P to 40 CFR Part 51. Under the guidelines set in Appendix P, continuous monitoring of other pollutants is not indicated. Moreover, there are no facilities of the other categories (size) covered—nitric and sulfuric acid plants, petroleum cracking plants—in the State of South Carolina.

The public is invited to participate in this rulemaking by submitting written comments (see under DATE and ADDRESSES above) on these revisions in the South Carolina plan. Final action on these revisions will take into account any pertinent comments received within the time allotted.

(Sec. 110(a), Clean Air Act, (40 U.S.C. 1857c-5(a)).)

Dated: July 15, 1977.

JOHN A. LITTLE,
Acting Regional Administrator.

[FR Doc.77-25261 Filed 8-30-77;8:45 am]

[40 CFR Part 180]

[FRL 783-2; OPP-260027]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON AGRICULTURAL COMMODITIES

Proposed Revocation of Tolerances for Decachlorooctahydro - 1,3,4 - metheno-2H-cyclobuta[cd]pentalen-2-one

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed revocation of tolerance for the insecticide decachlorooctahydro - 1,3,4-metheno-2*H*-cyclobuta[*cd*] pentalen-2-one (acceptable common chemical name chlordecone; trade name Kepone) contained in 40 CFR 180.287.

SUMMARY: The evidence before the Agency has prompted the EPA to propose that 40 CFR 180.287, which contains a tolerance for chlordecone residues in or on bananas, be revoked. The Agency has recently taken action to cancel the registrations of peticide products containing chlordecone. There is, however, the risk of use of existing stocks of this pesticide by foreign countries. It is also possible that future availability of chlordecone from another source may result in use on raw agricultural commodities in foreign countries and the subsequent importation of these treated commodities into the United States. The revocation of the chlordecone tolerance for bananas would, in effect, prevent introduction of any foreign grown bananas containing chlordecone residues into the United States. Thus, the possibility of future exposure to the public from this source will be prevented.

DATES: An advisory committee may be requested on or before September 29, 1977. Comments on the proposal may be submitted on or before September 29, 1977.

ADDRESSES: Requests for an advisory committee should be addressed to: Hearing Clerk, Environmental Protection Agency, 401 M Street SW., East Tower, Room 1019, Washington, D.C. 20460. Comments on the proposal should be addressed to the Federal Register Section, Technical Services Division (WH–569), Office of Pesticide Programs, EPA, Room 401, East Tower, at the same street address.

FOR FURTHER INFORMATION CONTACT:

Mr. Frederick Hageman, Office of Special Pesticide Reviews (WH–566), Office of Pesticide Programs, EPA, at the above address or by telephone at 202–755–5755.

SUPPLEMENTARY INFORMATION: On March 25, 1976, the Environmental Protection Agency (EPA) published notices and rebuttable presumption against registration and continued registration of pesticide products containing chlordecone (Kepone) (41 FR 12333). The basis for the presumption was the observed chronic oncogenic effect of chlordecone in laboratory animals.

The Agency evaluated the rebuttal information and other comments received in response to the notices, performed a benefit/risk evaluation of the use of registered chlordecone products, and drafted a proposed action which was reviewed by the United States Department of Agriculture and the Scientific Advisory Panel, EPA (created under Section 24(d) of the Federal Insecticide, Fungicide and Rodenticide Act). After considering USDA and SAP comments, EPA issued a notice of intent to cancel the registrations of pesticide products containing

V 42 169 AUG 31 77 A UMI

chlordecone (42 FR 18885). Material before the Agency indicated that continued registration of these pesticide products appeared to pose substantial questions of safety amounting to an unreasonable risk to man and the environment. The terms of the cancellation, effective May 11, 1977: *Provided*, That the distribution, sale, and use of existing stocks of inaccessible chlordecone products could continue. Inaccessible chlordecone products are defined as all-enclosed Kepone traps made from metal or plastic as well as metal stakes containing enclosed Kepone bait which are hammered into the ground. However, the continued distribution, sale, and use of existing stocks of accessible chlordecone products is not permitted since use of existing stocks of these products is judged to pose an unreasonable adverse effect to man. Accessible products are defined as those which in normal use would be removed from their containers, as well as foil or cardboard covered traps.

The notices of presumption against registration and continued registration of pesticide products containing chlordecone and subsequent cancellation actions were conducted in accordance with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136 et seq.).

For the reasons stated in the notices of rebuttable presumption against registration (41 FR 12333) and the notices of intent to cancel the registrations (42 FR 18385), the Agency is proposing to revoke the tolerance for chlordecone. 40 CFR 180.287 contains a tolerance, or maximum permissible residue level, of 0.01 part per million (ppm) of chlordecone in or on bananas. Chlordecone use on bananas has been primarily a foreign use. The petitioner for the tolerance for chlordecone in or on bananas was United Fruit Co., Miami, Fla. 33145, which filed petition PPOE0919. The tolerance was proposed (35 FR 16980) and established (36 FR 6496) in accordance with the provisions of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 346a(e)).

The recent chlordecone contamination of the James River and Chesapeake Bay has resulted in the establishment of action levels for residues of the pesticide which may occur in seafood. Action levels are established by the Food and Drug Administration (FDA). Both tolerances and action levels are enforced by the FDA. Action levels are applied when inadvertent residues are discovered in or on raw agricultural commodities or processed food or feed. Such residues may occure unexpectedly due to accidents or misuse and when factors required to be considered before promulgation of a tolerance are rapidly changing. A tolerance implies a zero health risk; action levels, while not established at levels known to be hazardous to health, do accept some risk.

The risks and benefits associated with consumption of Chesapeake Bay seafood were assessed and action levels were established after considering safety and unavoidability of contamination. Action levels are in effect for the edible portion of crabs at 0.4 ppm, and other shellfish (oysters and clams) and finfish at 0.3 ppm.

Cancellation of the sole chlordecone product registered for use on bananas (at the voluntary request of the registrant; 41 FR 24624) ensures the absence of risk from residues in or on bananas grown in this country and its possesisons, primarily Puerto Rico. (Diazinon is currently registered by EPA as an alternative to chlordecone for control of the banana root borer on bananas.)

There remains, however, in spite of the cancellation, the risk of use of existing stocks of chlordecone products by foreign countries and the possible future availability of chlordecone from another source for use on raw agricultural commodities in foreign countries which could result in the subsequent importation of treated commodities into the United States. The revocation of the only chlordecone tolerance, i.e. for bananas, would, in effect, prevent introduction into the United States of any foreign grown commodities with chlorodecone residues. Thus, the possibility of future exposure to the public in this manner will be prevented.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed hercin may submit a request to the Hearing Clerk for this proposal to be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this proposal to revoke 40 CFR 180.287 to the office of the Federal Register Section at the above address. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in reviewing them. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section.

Dated: August 17, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

(Sec. 408 (e), (m), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a (e) and (m)).)

It is proposed that 40 CFR Part 180 be amended by revoking § 180.287.

§ 180.287 [Removed]

[FR Doc.77-25259 Filed 8-30-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 170]

FINANCIAL ASSISTANCE FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF HIGHER EDUCATION FACILITIES

Correction

In FR Doc. 23370 appearing at page 40926 in the issue for Friday, August 12, 1977, the following corrections should be made.

1. In the first column on page 40927, line 7 of the first paragraph under the heading, "SUMMARY OF COMMENTS AND RESPONSES", reading, "was published in the FEDERAL REGISTER", should be deleted.

2. Line 14 of the first full paragraph in the first column on page 40932, now reading, "of a public institution of higher educa-", should also be deleted.

3. Line 5 of the first paragraph under § 170.11 in the second column on page 40932, now reading, "novation meet the requirements specified", should read, "novation must meet the requirements specified".

4. In the first column on page 40933, paragraph (d) (1) should appear before the authority citation and there should also be a paragraph (d) (2) which reads as follows;

(d) * * *

(2) The application is recommended by the State Commission in accordance with the priority system established in the State plan.

5. In the middle column of page 40935, the following line should be inserted between lines 12 and 13 of § 170.42: "appropriate, each application will be".

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19879; RM-2020; RM-2064; RM-2113; RM-2226; RM-2177; RM-2264; RM-2288; RM-2299; RM-2305; RM-2313; RM-2381; RM-2404; RM-2387; RM-2527]

FM BROADCAST STATIONS IN FAYETTEVILLE AND SPRINGDALE, ARKANSAS

Request for Supplemental Information

AGENCY: Federal Communications Commission.

ACTION: Request for Supplemental Information; proposed rule.

SUMMARY: This request seeks more information from parties proposing Class C assignments at Springdale and Fayetteville, Arkansas, so that the Commission can resolve the conflicts and determine if such assignments would be in the public interest. Although the assignments would be contrary to certain Commission FM assignment policies, exceptions have been permitted on showing of special circumstances such as a large amount of first aural service.

DATES: Comments must be filed on or before October 3, 1977, and reply comments on or before October 25, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mark N. Lipp or James J. Gross, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION: This proceeding also involves 14 other Arkansas communities. Actions on the proposals affecting those communities were taken in a separate Report and Order, adopted August 16, 1977; 42 FR 42858 (1977).

Adopted: August 19, 1977.

Released: August 24, 1977.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Little Rock, Benton, Batesville and Mountain View, Ark. Also Cherokee Village, Dardanelle, Dumas, Fayetteville, Lonoke, Malvern, Morrilton, Ozark,[1] Pine Bluff, Russellville, Sheridan, Springdale,[1] and Van Buren, Arkansas and Neosho, Mo., Docket No. 19879; RM-2020, RM-2064, RM-2113, RM-2226, RM-2177, RM-2264, RM-2288, RM-2299, RM-2305, RM-2313, RM-2381, RM-2404, RM-2387, RM-2527.

1. The Commission here requests further information in conjunction with the Further Notice and Order to Show Cause, released April 24, 1975 (40 FR 18452), as well as the recent Report and Order, adopted August 16, 1977, in this proceeding. Except for the communities of Fayetteville and Springdale, Arkansas, the Report and Order resolves the various proposals and counterproposals for FM assignments at each of the communities, including those previously in conflict with these two proposals. However, additional data is needed in order to resolve the remaining questions regarding the Fayetteville and Springdale, Arkansas, proposed assignments.

2. Vernon B. Fitzhugh proposed the assignment of Class C Channel 300 to Fayetteville as a third FM assignment to that community. Kessler Mountain Broadcasting Co., Inc., licensee of FM Station KNWA (Channel 280A), Fayetteville, requested the substitution of Class C Channel 281 for its Class A channel and modification of its license to specify the Class C channel. Johnson Communications, Inc., licensee of Station KCIE-FM, Springdale, Arkansas, proposed to substitute Channel 300 for Channel 285A at Springdale,[2] and to modify its license accordingly.

[1] This community has been added to the caption.

[2] Channel 300 cannot be assigned to both Fayetteville and Springdale consistent with our mileage separation rule which requires a distance of 290 kilometers (180 miles for co-channel Class C stations. See § 73.207(a) of the Commission's Rules.

3. Fayetteville (pop. 30,729), seat of Washington County (pop. 77,370), is located in northwest Arkansas. It presently has two daytime-only AM stations (KFAY and KHOG) and two commercial FM stations (KKEG, Channel 221A, and KNWA, Channel 280A). Springdale (pop. 16,783) also in Washington County, is located approximately 13 kilometers (8 miles) north of Fayetteville. It has a full-time AM station (KBRS), petitioner's daytime-only AM station (KSPR), and petitioner's Class A FM station (KCIE, Channel 285A). Recent estimates place the present population at approximately 20,000.

4. Regarding the preclusive impact of the proposed assignment, a Fayetteville Channel 300 assignment would not foreclose future assignments to any communities without Class C assignments which would normally warrant such an assignment. A Channel 300 assignment at Springdale would not deny any city with a population over 10,000 a first Class C allocation, nor would it preclude any Class A assignments. Channel 281 substituted for Channel 280A at Fayetteville would foreclose future channel assignments at Heavener (pop. 2,566), Wilberton (pop. 2,280), Stigler (pop. 2,347), and Quinton (pop. 1,262), Oklahoma, and Marshall, Arkansas (pop. 1,397).

5. As it now stands, the record is inadequate to support the proposed Class C assignments at Fayetteville or Springdale. Before a Class C channel could be assigned to Springdale we would need assurance that it would be designed to serve that community rather than the nearby and larger community of Fayetteville. See Berwick Broadcasting Co., 20 F.C.C. 2d 393 (1973). Additionally, we would need to consider whether it would be appropriate to modify the licenses of the existing Class A stations to specify operation on a Class C channel as has been proposed. Since the Commission issued its decision in the lead case in this area (Cheyenne, Wyoming, 62 F.C.C. 2d 63 (1976)) after the deadline for comments in this proceeding, the parties have not had an opportunity to offer their views on the implications of that case in the present context.

6. We also need additional comments on another aspect of the proceeding, and that is the allegation of first and second aural service. Such information is important because without it we would not be able to justify any of the requested Class C assignments. The Commission's assignment criteria provide that communities with populations of less than 50,000, such as Fayetteville should normally be assigned not more than two FM channels. The Commission also has a policy of avoiding the assignment of a Class C channel which would result in the inter-mixture of that assignment with one or more existing Class A channels in a community as would be the case in Fayetteville. Typically, communities the size of Springdale would not be assigned a wide coverage Class C channel without a compelling showing of need that could not be met by an available Class A channel.

7. Exceptions, however, have been made to each of these policy considerations when a strong showing of public benefit has been made. For instance, provision of a first aural service has been recognized as a very high priority in FM assignment cases, and could weigh in favor of the assignment of a Class C channel, if a sufficient showing were made. See Anamosa-Iowa City, Iowa, 46 F.C.C. 2d 520 (1974); Oak Ridge, Tenn., 32 F.C.C. 2d 937, 940-947 (1972); Parkersburg, W. Va., 37 F.C.C. 2d 54 (1972). Since we do not have adequate information regarding the extent of first aural service which could be provided by each of the proposals, we are offering this additional opportunity for the parties to provide sufficient information. Comments should address the issues mentioned above, so that the Commission can decide if it is possible to justify any of the requested Class C channels.

8. The information now before us includes an Anamosa[3] showing of aural service for one of the three proposals.[4] However, the data submitted concerning the Fayetteville Channel 281 and Springdale Channel 300 proposals, is confined to the extent of first and second FM service, rather than a showing of first aural service which could be provided by those proposals.[5] We therefore seek an Anamosa analysis of any first aural service which these proposals could provide taking into account existing AM broadcast stations. This showing should indicate the extent of any first aural service which would be provided by Class A channels available for assignment at these communities.

9. It should be noted by all interested parties that this Request for Supplemental Information relates only to the issues specifically referred to in paragraphs 5, 6 and 7, supra. Any counterproposals or comments on other issues are untimely and will not be considered.

10. Interested parties may file comments on or before October 3, 1977, and reply comments on or before October 25, 1977 All submissions by parties to this proceeding or persons acting on behalf of such parties shall be made in written comments, reply comments, or other appropriate pleading.

11. An original and 4 copies of all comments, reply comments, pleadings, briefs and other documents shall be furnished the Commission. All filings made in this

[3] Anamosa-Iowa City, Iowa, supra.

[4] Fitzhugh asserts that a Fayetteville station operating on Channel 300 with 100 kW and 162 meters (530 feet) HAAT antenna could provide a first aural service to 9,412 persons, and a second aural service to 35,200 persons.

[5] Kessler asserts that Channel 281 at Fayetteville, operating at 100 kW and 156 meters (510 feet) HAAT, could provide a first FM service to 4,211 persons and a second FM service to 21,679 persons. Johnson Communications at Springdale claims that a Channel 300 station operating at 75 kW and 153 meters (500 feet) HAAT, could provide a first FM service to 5,224 persons and a second FM service to 27,913 persons.

V42169 AUG 31 77 UMI

proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-25276 Filed 8-30-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Chapter X]

FREIGHT FORWARDERS—TARIFF FILING REQUIREMENTS FOR MOVEMENTS IN FOREIGN COMMERCE

Advance Notice of Proposed Rulemaking

AGENCY: Interstate Commerce Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Interstate Commerce Commission is considering proposing a rule which would provide that freight forwarders authorized by the Interstate Commerce Commission to provide transportation in foreign commerce from or to points within the United States must file tariffs with the Commission setting forth all charges for the total transportation services which they hold themselves out to provide, with that portion of the charges attributable to transportation services performed within the United States separately stated. The purpose of such a rule would be to resolve possible ambiguities concerning the tariff filing obligations of freight forwarders providing international transportation services.

DATES: Comments by interested persons are invited, and must be filed with the Secretary of the Commission on or before October 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Martin E. Foley, Director, Bureau of Traffic, Interstate Commerce Commission, 12th and Constitution Ave. NW., Washington, D.C. 20423 (202-275-7348).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 402(6) of the Interstate Commerce Act, 49 U.S.C. 1002(6), provides in relevant part that "interstate commerce" means transportation "from or to any point in the United States to or from any point outside thereof, but only insofar as such transportation takes place within the United States."

The requirements for the publishing and filing of freight forwarder tariffs are set out in Section 405 of the Act, 49 U.S.C. 1005, which provides in relevant part:

(a) Every freight forwarder shall file with the Commission and print, and keep open to public inspection, tariffs showing its rates and charges for service subject to this part, and all classifications, rules, regulations, and practices with respect thereto. Such tariffs shall become effective only after thirty days' notice, and shall plainly state the points between which property will be transported, the classification of property, and, separately, all terminal charges, or other charges which the Commission shall require to be so stated, all privileges or facilities granted or allowed, and any rules or regulations which in any wise change, affect, or determine any part or the aggregate of such rates or charges, or the value of the service rendered to the shipper or consignee.

(b) All rates and charges of freight forwarders for service subject to this part shall be stated in lawful money of the United States. The Commission shall by regulations prescribe the form and manner in which the tariffs to which this section applies shall be published, filed, and posted; and the Commission is authorized to reject any tariff filed with it which is not in accordance with this section and with such regulations. Any tariff so rejected by the Commission shall be void and its use shall be unlawful.

The Commission has noted that there may be some question concerning the tariff filing obligations of freight forwarders engaged in international movements. The Commission is considering proposing a comprehensive rule which would require such freight forwarders to file tariffs with the Commission showing (1) total charges for all transportation provided, and (2) a separate statement of the domestic portion of those total charges.

COMMENTS

By this Advance Notice we are soliciting the views of all interested parties in the hope that relevant issues can be raised prior to the Commission's determination whether to propose such a rule. We invite interested parties thoroughly to address the practical ramifications of such a rule, including the nature of the services which freight forwarders involved in international movements usually hold themselves out to perform, and issues relating to the Commission's jurisdiction to require filing of such tariffs and to regulate such transportation services. Attention should also be given to the circumstance of movements within a commercial zone, ordinarily exempt from regulation, where that movement is part of an international movement. Interested parties are also invited to comment on any other matter that may bear upon the subject of this Notice. No oral hearing is contemplated at this time.

Interested parties should file an original and 15 copies of their comments with the Secretary of the Commission at the following address:

Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc 77-25370 Filed 8-30-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

FRANCIS MARION NATIONAL FOREST LAND MANAGEMENT PLAN

Notice of Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Francis Marion National Forest Land Management Plan, South Carolina, USDA-FS-R8-FES (Adm.) 77-10.

This unit contains 249,412 acres of National Forest land located in Berkeley and Charleston Counties, S.C. Major actions are harvesting timber products, development and maintenance of wildlife improvements, development of recreation facilities for dispersed recreation and construction and reconstruction of roads.

This final environmental statement was transmitted to CEQ August 22, 1977. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service; South Agriculture Bldg., Rm. 3210, 12th St. and Independence Ave. SW., Washington, D.C. 20250.
USDA, Forest Service, 1720 Peachtree Road NW., Room 804, Atlanta, Ga. 30309.
USDA, Forest Service, Francis Marion and Sumter National Forests, 1801 Assembly Street, Columbia, S.C. 29201.

A limited number of single copies are available upon request to Forest Supervisor, Francis Marion and Sumter National Forests, 1801 Assembly Street, Columbia, S.C. 29201.

Copies of the environmental statement have been sent to various Federal, State, and Local agencies as outlined in the CEQ guidelines.

Dated: August 22, 1977.

ROBERT F. WILLIAMS,
Regional Environmental Coordinator.

[FR Doc.77-25306 Filed 8-30-77;8:45 am]

KLAMATH BASIN WORKING CIRCLE TIMBER RESOURCE PLAN

Notice of Availabiilty of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Klamath Basin Working Circle Timber Resource Plan, USDA-FS-R6-DES(Adm) -77-13.

The environmental statement concerns a proposed revision of the 10-year Timber Resource Plan for 1,617.511 acres of National Forest land within the Klamath Basin Working Circle of the Winema and Fremont National Forests.

The draft environmental statement was transmitted to CEQ on August 23, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th and Independence Ave. SW., Washington, D.C. 20250.
USDA, Forest Service, Pacific Northwest Region, 319 SW. Pine Street, Portland, Oreg. 97204.
USDA, Forest Service, Winema National Forest, Post Office Building, Klamath Falls, Oreg. 97601.
USDA, Forest Service, Fremont National Forest, 34 North D St., Lakeview, Oreg. 97630.

A limited number of single copies are avaliabel upon request to Forest Supervisor, Robert J. Chadwick, P.O. Box 1390, Klamath Falls, Oreg. 97601.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor, Robert J. Chadwick, P.O. Box 1390, Klamath Falls, Oreg. 97601. Comments must be received by October 22, 1977 in order to be considered in the preparation of the final environmental statement.

Dated: August 23, 1977.

CURTIS L. SWANSON,
Regional Environmental Coordinator, Planning, Programing and Budgeting.

[FR Doc.77-25302 Filed 8-30-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 30402]

BRITISH AIRTOURS LTD.

Prehearing Conference

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on September 27, 1977, at 9:30 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut, NW., Washington, D.C., before Administrative Law Judge Richard V. Backley.

Dated at Washington, D.C., August 24, 1977.

HENRY M. SWITKAY,
Acting Chief Administrative Law Judge.

[FR Doc.77-25374 Filed 8-30-77;8:45 am]

[Order 77-8-123; Docket Nos. 22859, 26838]

CONTINENTAL AIR LINES, INC.

Order of Suspension of Investigations

In the matter of general increase in air freight rates proposed by Continental Air Lines, Inc. Domestic Air Freight Rate Investigation: Docket 22859; Priority Reserved Air Freight Rates Investigation: Docket 26838.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 25th day of August, 1977.

By tariff revisions[1] bearing a posting date of July 29 and marked to become effective September 12, 1977, Continental Air Lines, Inc. (Continental) proposes a systemwide increase in bulk and container general and specific commodity rates as follows:

Between Mainland points by 8 percent; From Mainland points to Hawaii by 10 percent; From Hawaii to Mainland points by 15 percent.

The proposal would increase Continental's domestic freight revenues by 8.8 percent.

In support of the proposal, the carrier asserts that it has experienced cost increases of 8.9 percent in the past year; that during the first five months of 1977, the carrier's Hawaiian operations suffered operating losses on freight of $230,000; that even if the proposed rates had been in effect during that period, it would have earned operating profits of $236,000 for an after-tax return on investment of only 5.86 percent; that current rates in Hawaiian markets are significantly below rates in Mainland markets of similar distances, particularly eastbound; and that the greater increases in Hawaiian markets are, therefore, justified.

All of the proposed rates either come within the scope of the *Priority Reserved Air Freight Rates Investigation (PRAFRI)*, Docket 26838 or are subject to the Board's decision in the *Domestic Air Freight Rate Investigation (DAFRI)*.[2]

[1] Revisions to Airline Tariff Publishing Company, Agent, Tariffs C.A.B. Nos. 169 and 227.

[2] The Board issued its decision in *DAFRI* in Order 77-8-62, served August 18, 1977.

V42169 AUG 31 77 UMI

The Board finds that many of the proposed priority-service minimum charges exceed 130 percent of the regular-service minimum charge, which the Board has found to be the maximum premium for priority service that should be permitted pending final decision in *PRAFRI*.[1] We will, therefore, suspend these rates. We will also supend a number of bulk specific commodity rates that exceed the corresponding general commodity rates, which are the basic rates for transportation.[2] Specific commodity rates, except for commodities that are more costly to transport, should not exceed the rates for the general run of commodities. None of the specific commodities to be suspended are alleged by the carrier to involve extra costs.

Certain of the remaining rates proposed by Continental, while conforming to the standards the Board has used before its decision in *DAFRI*, may exceed the ceiling imposed by our opinion in that case. If that proves to be the case,[3] those rates will have to be cancelled on February 14, 1978 pursuant to Order 77–8–62.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 2–4(a), 403, 404, and 1002 thereof.

It is ordered, that: 1. Pending hearing and decision by the Board, the increased rates, charges, and provisions described in Appendix A[4] be suspended and their use deferred to and including December 10, 1977, unless otherwise ordered by the Board, and that no change be made during the period of suspension, except by order or special permission of the Board; and

2. Copies of this order shall be filed with the tariffs and served upon Continental Air Lines, Inc.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77–25377 Filed 8–30–77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

MAYO FOUNDATION

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77–00202. Applicant: Mayo Foundation, 200 First Street SW., Rochester, Minn. 55901. Article: Electron Microscope, Model EM 400HTG with High Tilt Goniometer and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article will be used for studies of biological materials that will include human and animal tissues and cells from normal as well as a variety of spontaneous and experimentally induced pathological states. Materials will also encompass non-cellular biologicals ranging from urine sediment to tissue fluid extracts, plasma proteins and coagulation factors. Many of the studies will include solid tissues such as kidney and skin biopsies, and others will include macromolecular biological specimens ranging from cell free DNA to purified enzymes. Non-cellular biological materials would include crystals of inorganic compounds and virus particles.

The experiments to be conducted will include: consideration of the normal function, biochemistry and ultrastructure of cells in culture and surgically obtained tissues; a consideration of subcellular enzyme activity and localization in a variety of disease states including cancer, atherosclerosis and hematologic disorders; the analysis for clinical diagnosis of kidney, cardiac and soft tissue tumor biopsies; the description and characterization through high resolution electron microscopy of enzyme, DNA, and virus structure; the intracellular localization of specific antigens or substances stored within cells (such as catecholamines, or inorganic ions); a description of plasma membrance changes associated with cell transformation or experimental manipulation; and the localization of specific subcellular sites of action of transforming chemicals.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered (December 7, 1976). Reasons: The description of the applicant's research and/or educational purposes establishes the fact that a conventional transmission electron microscope comparable to the foreign article is pertinent to the purposes for which the article is intended to be used. We know of no conventional transmission electron microscope which was being manufactured in the United States at the time the foreign article was ordered. ("Conventional transmission electron microscopes" are not to be confused with "scanning electron microscopes" which were manufactured domestically at the time the article was ordered and are still being manufactured in the United States.)

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc 77–25271 Filed 8–30–77;8:45 am]

UNIVERSITY OF CHICAGO

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77–00207. Applicant: University of Chicago, Billings Hosp., Department of Pathology, 950 East 59th Street, Chicago, Ill. 60637. Article: Electron Microscope, Model EM 201 and accessories. Manufacturer: Philips Electronics Instruments NVD. The Netherlands. Intended use of article: The article is intended to be used in the investigation of atherosclerosis and atherosclerotic heart disease. Research is performed mainly on experimental animals and also utilizes some human tissues obtained at autopsy. The article will also be used for the training of future scientists and physicians.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered (December 7, 1976). Reasons: The description of the applicant's research and/or educational purposes establishes the fact that a conventional transmission electron microscope comparable to the foreign article is pertinent to the purposes for which the article is intended to be used. We know of no conventional transmission electron microscope which was being manufactured in the United States at the time the foreign article was ordered. (Conventional transmission electron microscopes" are not to be confused with "scanning electron microscopes" which were manufactured domestically at the time the article was ordered and are still being manufactured in the United States.)

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77–25272 Filed 8–30–77;8:45 am]

YALE UNIVERSITY SCHOOL OF MEDICINE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77–00196. Applicant: Yale University School of Medicine—Section of Cell Biology, 333 Cedar Street, New Haven, Conn. 06510. Article: Electron Microscope, Model JEM–100CX/SEG and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of Article: the article is intended to be used to carry on research on tissues, cells, subcellular components from a variety of sources. The structure, surface morphology, and interaction of cells and subcellular components with physiological and experimental ligands will be investigated. Experiments to be conducted will cover analysis of structural aspects of basic functions, e.g., vessel (capillary) permeability; secretory process in cells producing digestive enzymes and hormones; membrane biogenesis in hepatic cells, and membrane biogenesis as altered by neoplastic transformation in mouse leukemia cells. The article will also be used for advanced training and research of graduate students, postdoctoral fellows, and research associates.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the U.S. Customs Service received this application (April 21, 1977). Reasons: The article provides a guaranteed resolution of 3 Angstroms and is equipped with a scanning transmission electron microscope attachment which provides a guaranteed resolving power of 15 Angstroms.

The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated June 24, 1977, that the characteristics of the article described above are pertinent to the applicant's intended purposes. HEW further advises that it knows of no domestic instrument which provides the pertinent features at the time the U.S. Customs Service received this application.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the U.S. Customs Service received this application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Program Division.

[FR Doc.77–25273 Filed 8–30–77;8:45 am]

Maritime Administration

TITLE V—CONSTRUCTION-DIFFERENTIAL SUBSIDY SHIP CONSTRUCTION PROGRAM

Proposed Predetermined Limitation Policy

Correction

In FR Doc. 77–16769, appearing at page 30231 in the issue of Monday, June 13, 1977, the seventh entry in the last column of the table on page 30232 should read, "8.0".

National Oceanic and Atmospheric Administration

EXHIBITS, INC.

Withdrawal of Permit Application for Marine Mammals

On May 10, 1977, notice was published in the FEDERAL REGISTER (41 FR 23674), that an application had been filed with the National Marine Fisheries Service by Exhibits, Inc., Dorney Park Road, Allentown, Pa. 18104, for a public display permit to take three (3) California sea lions (*Zalophus californianus*).

Notice is hereby given that Exhibits, Inc., has requested to withdraw the application, and that the request to withdraw was acknowledged and accepted by the National Marine Fisheries Service on August 8, 1977.

Dated: August 25, 1977.

WINFRED H. MEIBOHM,
Acting Deputy Director, National Marine Fisheries Service.

[FR Doc.77–25299 Filed 8–30–77;8:45 am]

PRELIMINARY FISHERY MANAGEMENT PLAN FOR PACIFIC BILLFISHES AND SHARKS

Public Hearing Change; Draft Environmental Impact Statement

Notice is hereby given of a change in the time of a hearing as published in the FEDERAL REGISTER on August 11, 1977 (42 FR 40755) for a public hearing concerning a draft environmental impact statement for the proposed implementation of a preliminary fishery management plan for Pacific billfishes and sharks.

The hearing scheduled for September 10, 1977, in the Kamakahonu Ballroom, King Kamehameha Hotel, Kailua-Kona, Hawaii will commence at 7 p.m., rather than 8:30 p.m. as originally scheduled.

Dated: August 26, 1977.

WINFRED H. MEIBOHM,
Associate Director. National Marine Fisheries Service.

[FR Doc.77–25297 Filed 8–30–77;8:45 am]

ST. PAUL COMO PARK ZOO

Issuance of Permit for Marine Mammals

On April 11, 1977, notice was published in the FEDERAL REGISTER (42 FR 18882), that an application had been filed with the National Marine Fisheries Service by St. Paul Como Park Zoo, St. Paul, Minn. 55103, for a Permit to take eight (8) California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that on August 24, 1977, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit to St. Paul Como Park Zoo subject to cerain conditions set forth therein. The Permit is available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731.

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Mass. 01930.

Dated: August 24, 1977.

WINIFRED H. MEIBOHM,
Associate Director. National Marine Fisheries Service.

[FR Doc.77–25298 Filed 8–30–77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 783–1; OPP–180135]

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

Issuance of a Specific Exemption to Use Methidathion To Control the Artichoke Plume Moth

The Environmental Protection Agency (EPA) has granted a specific exemption to the California Department of Food and Agriculture (hereafter referred to as the "Applicant") to use Supracide 2E (methidathion) in ground application to control the artichoke plume moth on 10,470 acres of artichokes in the counties of Santa Barbara, Monterey, and Santa Cruz in California. This exemption was granted in accordance with, and is sub-

[1] See, e.g., Orders 76–10–14, 75–12–98, and 75–12–28.

[2] See Orders 76–10–90, 75–6–70, and 74–12–128.

[3] The rates shown in our *DAFRI* decision to illustrate the costing methodology we adopted reflected cost data for the year ended September 30, 1976. It will be necessary to update those costs to make a definitive evaluation of Continental's rates.

[4] Appendix A filed as part of the original document.

V 42 169 AUG 31 77 UMI

ject to, the provisions of 40 CFR part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St. S.W., Room E–315, Washington, D.C. 20460.

Accordingly to the Applicant, approximately 10,470 acres of artichokes are grown in Santa Barbara, Monterey, and Santa Cruz counties; the artichoke plume moth (*Platyptilia carduidactyla*) is the most serious pest in all of these counties. EPA has been informed that the University of California at Davis has been working on the plume moth problem for several years. Resistance to ethyl parathion has been extreme; methyl parathion has given up to 30% control; ethylmethyl parathion combinations have given better control but 45–65% damage has been common. The Applicant stated that an additional problem with ethylmethyl parathion sprays has been that leafminers have increased in large numbers because of the ineffectiveness of these pesticides on leafminers; therefore, the leafminers became a public health hazard. Supracide 2E has demonstrated effectiveness on leafminers, and the artichoke plume moth, according to the Applicant. Up to 100% damage occurs if no pesticides are used.

Parathion, methyl parathion, and phosalone are currently registered for use to control the artichoke plume moth. However, as discussed above, the pest has developed resistance to parathion and methyl parathion. Currently application of these products is made at two week intervals; losses still approach the 50–75% level in secondary pest resurgence of the chrysanthemum leafminer. Phosalone is not significantly more effective than these products and is much more expensive. In addition, up until April 15, 1977, the county commissioner had suspended the use of any pesticide on artichoke fields because of severe bee losses that appear to be an indirect result of the frequent application of parathion and methyl parathion. The Applicant stated that field trials performed highly effective against the artichoke plume moth. Methidathion is also toxic to bees, but has demonstrated greater than 90% effectiveness for control of the plume moth after 4 or 5 applications.

The Applicant proposed to use the product Supracide 2E (methidathion), manufactured by Ciba-Geigy, EPA Reg. No. 100–501. The application rate will be one pound active ingredient/50–70 gallons of water/acre per application by ground spray. A maximun of 6 applications of Supracide 2E will be made prior to bud formation. A maximum of 62,820 pounds of active ingredient will be applied.

During the coming year, approximately 10,470 acres of artichoke crop will be grown in Santa Cruz, Santa Barbara, and Monterey counties. The Applicant estimated that growers will incur an economic loss of about $5,800,000 from crop damage caused by the artichoke plume moth unless methidathion is made available to control the pest.

Supracide 2E is registered for use in California on alfalfa grown for seed, oranges, and grapefruits; in the western United States on peaches; in the southeastern United States on pecans; and throughout the United States on sunflowers, tobacco, and walnuts. These uses are for ground or aerial application.

No tolerance has been set for methidathion for use on artichokes. However, after reviewing available data, the proposed use and dosage rate, EPA has determined that a methidathion residue level of 0.1 parts per million (ppm) would be adequate to protect the public health. Since application will be prior to bud formation, and no methidathion will be applied to the edible portion of the plant, little translocation of residue within the plant to the maturing bud is expected.

After reviewing the application and other available information, EPA has determined that: (a) A serious economic loss has been experienced by growers because of damage caused by the artichoke plume moth on artichokes in Santa Cruz, Santa Barbara, and Monterey counties; (b) there is no pesticide presently registered and available for use to control the artichoke plumme moth in California; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the artichoke plume moth is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until May 15, 1978, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Supracide 2E (methidathion), EPA Reg. No. 100–501, manufactured by Ciba-Geigy, is authorized;

2. Application rate shall be one pound active ingredient/50–70 gallons of water/acre per application by ground spray;

3. Up to a maximum of six applications of Supracide 2E prior to bud formation shall be made;

4. A maximum of 10,470 acres of artichoke crop located in the two counties previously mentioned may be treated;

5. A maximum of 62,820 pounds active ingredient may be applied;

6. The duration of the application period shall be from the beginning of May 1977 until May 15, 1978;

7. Applications may be made by growers;

8. The Applicant shall be responsible for making initial determinations of Supracide 2E application; they shall advise the county agricultural commissioners, county agricultural agents, and growers about dosages, application techniques, and other program criteria. A special permit from the county agricultural commissioners shall be required prior to the use of this product under this exemption;

9. The following precautionary labeling shall be in the possession of the user at the time of pesticide application: "Do not allow spray drift to artichoke fields with buds present;"

10. A residue level of methidathion in or on artichokes not exceeding 0.1 ppm has been deemed adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

11. All lable precautions must be followed;

12. A final report shall be submitted to EPA by the end of 1978, summarizing the results of this program; and

13. The Applicant shall inform EPA immediately of any adverse effects resulting from this program and shall be responsible for the performance of all provisions of this exemption.

STATUTORY AUTHORITY: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Dated: August 19, 1977.

LOWELL E. MILLER,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-25254 Filed 8-30-77;8:45 am]

[OPP 33000, 516, 517, 518 & 519, FRL 785-5]

CITIES SERVICE CO.

Receipt of Applications for Pesticide Registration, Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement which were effected by the enactment of the recent amendments to FIFRA on November 28, 1975 [Pub. L. 94–140], and the new regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street SW., Washington, D.C. 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH–567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH–567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, 13—202/755-9315
PM 21 and 22—202/426-2454
PM 24—202/755-2196
PM 31—202/426-2635
PM 33—202/755-9041
PM 15, 16, and 17—202/426-9425
PM 23—202/755-1397
PM 25—202/755-2632
PM 32—202/426-9486
PM 34—202/426-9490

The Interim Policy Statement requires that claims for compensation be filed on or before October 31, 1977. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made on or before September 30, 1977.

Dated: August 25, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED (OPP–33000/516)

EPA Reg. No. 1109–21. Cities Service Co., Minerals Group, P.O. Box 50360, Atlanta GA 30302. Copper Sulfate. Active Ingredients: Copper Sulfate (Pentahydrate) 99%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added Uses. PM24

EPA File Symbol 1109–GG. Cities Service Co. Copper Sulfate Monohydrate. Active Ingredients: Copper sulfate monohydrate 98%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA File Symbol 1471–RRN. Elanco Products Co., A division of Eli Lilly and Co., P.O. Box 1750, Indianapolis IN 46206. Nibroxane. Active Ingredients: 5-Bromo-2-methyl-5-nitro-m-dioxane 100.0%. Method of support: Application proceeds under 2(a) of interim policy. PM33

EPA Reg. No. 1603–15. Reefer-Galler, 4044 Park Ave., St. Louis MO 63110. Pressurized Sla Cedar Scented Spray. Active Ingredients: Pyrethrins 0.15%; Allethrin (Allyl Homolog of Cinerin 1) 0.15%; N-Octyl Bicycloheptene Dicarboximide 0.25%; Technical Piperonyl Butoxide 0.50%; Petroleum Distillates 52.95%; Essential Cedar Oils 0.50%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 1839–13. Onyx Chemical Co., Div. of Millmaster Onyx Corp., 190 Warren St., Jersey City NJ 07302. BTC 2125. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benxyl ammonium chlorides 25%; n-Alkyl (50% C12, 30% C14, 17% C16, 3% C18) dimethyl ethylbenzyl ammonium chlorides 25%. Method of Support: Application proceeds under 2(a) of interim policy. PM31

EPA Reg. No. 1839–23. Onyx Chemical Co. BTC 824. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 50%. Method of Support: Application proceeds under 2(a) of interim policy. PM31

EPA Reg. No. 1839–32. Onyx Chemical Co. BTC–835. Active Ingredients: n-Alkyl (C12 40%, C14 50%, C16 10%) Dimethyl Benzyl Ammonium Chlorides 50%; Method of Support: Application proceeds under 2(a) of interim policy. PM31

EPA File Symbol 2169–ELA. Patterson Chemical Co., Division of Curry-Cartwright, Inc., 1400 Union Ave., Kansas City MO 64101. Patterson's Green-up 45% Chlordane Termite Control. Active Ingredients: Technical Chlordane 45%; Aromatic Petroleum Hydrocarbons 50%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA Reg. No. 2224–43. Mobil Chemical, P.O. Box 26683, Richmond VA 23261. Mocap 15% Granular Nematicide-Insecticide. Active Ingredients: O-Ethyl S,S-Dipropyl Phosphorodithioate 15%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added Uses. PM16

EPA File Symbol 2342–IU. Kerr-McGee Chemical Corp./Kerr-McGee Center, Oklahoma City OK 73125. Fasco Dipel 110 Dust. Active Ingredients: Bacillus thuringiensis, Berliner Potency of 240 International Units per mg. (0.11 billion International Units per pound). Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 2498–79. Blackhawk Chemical Corp., 4100 E. Washington Blvd., Los Angeels CA 90023. Mevinphos Insecticide. Active Ingredients: Alpha Isomer of 2-Carbomethoxy-1-methylvinyl dimethyl phosphate 75%; related compounds 25%. Method of Support: Application proceeds under 2(a) of interim policy. PM10

EPA Reg. No. 3125–111. Chemagro, Agriculture Div., Mobay Chemical Corp. Box 4913, Kansas City MO 64121. Metasystox-R Spray Concentrate Systemic Insecticide. Active Ingredients: S-[2-(Ethylsulfinyl) ethyl] *O,O*-dimethyl phosphorothioate 25%; Aromatic Petroleum Distillate 14%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM16

EPA Reg. No. 3125–111. Chemagro Agriculture Division Metasystox-R Spray Concentrate Systemic Insecticide. Active Ingredients: *S*-[2-Ethyisulfinyl) ethyl] *O,O*-dimethyl phosphorothioate 25%; Aromatic Petroleum Distillate 14%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added uses. PM16

EPA Reg. No. 3125–210. Chemagro Agriculture Div. Dylox 4 Insecticide. Active Ingredients: Dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate 39%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM16

EPA Reg. No. 3125–236. Chemagro Agricultural Division. Nemacur 15% Granular. Active Ingredients: Ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate 15%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM21

EPA Reg. No. 3125–237. Chemagro Agricultural Division. Nemacur 10% Granular. Active Ingredients: Ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate 10%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM21

EPA Reg. No. 3125–283. Chemagro Agricultural Division. Nemacur 3. Active Ingredients: Ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate 35%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM21

EPA Reg. No. 3286–28. Ferd Staffel Co., 331 Burnet St., San Antonio TX 78205. Staffel's Bio-Spray Dipel. Active Ingredients: Bacillus thuringiensis, Berliner, 4,320 International Units of potency per milligram. At least 6.75 billion viable spores per gram 0.86%. Method of Support: Application proceeds under 2 c) of interim policy. Republished: Revised offer to pay statement. PM17

EPA Reg. No. 4313–51. Carroll Co., 2900 W. Kingsley Rd., Garland TX 75041. Super Ocide Hospital Cleaner-disinfectant. Active Ingredients: Isopropanol 13.50%; Potassium ortho-benzyl-para-chlorophenate 10.10%; Potassium ortho-phenylphenate 4.90%; Potassium para-tertiary-amylphenate 2.50% Tetrasodium ethylenediamine tetraacetate 0.39%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM32

V42169 AUG 31 77 UMI

EPA File Symbol 4822-RLE. S. C. Johnson & Son., Inc., 1525 Howe St., Racine WI 53403. Raid Treatment for Crawling Insects. Active Ingredients: Chloropyrifos [0,0-diethyl 0-(3,5,6-trichloro-2-pyridyl) phosphorothioate], 0.50%, petroleum distillate, 0.75%. Method of Support: Application proceeds under 2(b) of interim policy. PM12

EPA Reg. No. 5167-25. Kem Mfg. Corp., 2075 Tucker Industrial Rd., Tucker GA 30084. Kem Quickcide. Active Ingredients: Pyrethrins 0.30%; Technical Piperonyl Butoxide 1.50%; Petroleum Distillate 18.20%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA Reg. No. 6125-13. Dixon Chemical Co., 59-19 97th Pl., Corona NY 11368. Mint Disinfectant. Active Ingredients: Isopropyl Alcohol 10.00%; sodium o-phenylphenate 3.95%; sodium o-benzyl-p-chlorophenate 5.65%; sodium dodecyl-benzene sulfonate 2.85%; tetrasodium ethylene diamine tetraacetate 0.23%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 7078-I. Arbrook, Inc., 2500 Arbrook Blvd., Arlington TX 76010. Cidex PD Precleaning and Decontamination Solution. Active Ingredients: Alkaline Glutaraldehyde 1.8%. Method of Support: Application proceeds under 2(a) of interim policy. PM33

EPA File Symbol 7182-U. 3M Company, 3M Center Bldg., St. Paul MN 55101. 3M Brand Disinfecting and Sterilizing Solution. Active Ingredients: Glutaraldehyde 2%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement. PM33

EPA File Symbol 7885-RR. Zoe Chemical Co., 1801 Falmouth Ave., New Hyde Park NY 11040. Zoe Personal Insect Repellent Spray. Active Ingredients: N,N-diethyl-m-toluamide 6.65%; Other isomers 0.35%; N-octyl bicycloheptene dicarboximide 2.00%; 2,3:4,5-Bi (2-butylene) tetrahydro-2-furaldehyde 0.50%; Di-n-propyl isocinchomeronate 0.50%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement. PM17

EPA File Symbol 9198-GO. The Andersons, Lawn Fertilizer Section, d.b.a. Free Flow Fertilizer, P.O. Box 119, Maumee, OH 43537. Turf Care Dursban 2.5G Granular Insecticide. Active Ingredients: Chloropyrifos [0,0-diethyl 0-(3,5,6-trichloro-2-pyridyl) phosphorothioate] 2.5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement. PM12

EPA Reg. No. 9782-20. Woodbury Chemical Co., P.O. Box 4319, Princeton, FL 33030. Dursban 2E Insecticide. Active Ingredients: Chloropyrifos (0,0-diethyl 0-(3,5,6-trichloro-2-pyridyl) phosphorothioate) 22.4%; Aromatic petroleum derivative solvent 42.1%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM12

APPLICATIONS RECEIVED (OPP-33000 517)

EPA Reg. No. 239-2418. Chevron Chemical Co., Ortho Div., 940 Hensley, Richmond, CA 94804. Orthene 75 S Soluble Powder. Active Ingredients: Acephate (O,S-Dimethyl acetylphosphoradmidothiate) 75%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM16

EPA Reg. 270-110. Farnam Co., Inc., 2230 E. Magnolia St., Phoenix, AR 85036. Super-Swat Fly Repellent. Active Ingredients: Pyrethrins 0.36%, Piperonyl Butoxide 2.32% (equivalent to 0.58% (Butylcarbityl) 6-Propylpiperonyl) Ether and 0.14% of related compounds) N-octyl bicycloheptene dicarboximide 1.20%; 2,3,4,5-bis (2 butylene tetrahydro-2-furalydehyde 1.00%; Butoxypolypropylene Glycol 10.00%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Change in formulation. PM17

EPA Reg. No. 352-342. E. I. du Pont de Nemours and Co., Attn: M. B. Lore, Legal Dept., Wilmington, DE 19898. Du Pont Lannate Methomyl Insecticide. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added Use. PM12

EPA Reg. No. 352-370. E. I. duPont de Nemours and Co. Du Pont Lannate L Methonyl Insecticide. Active Ingredients: S-methyl-N-[(methylcarbamoyl)oxy]thioacetimidate 24%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added Use. PM12

EPA Reg. No. 352-372. E. I. du Pont de Nemours and Co., Biochemical Dept. Vydate L Oxamyl Insecticide/Nematicide for use on apples. Active Ingredients: Methyl *N N* dimethyl *N* [(methylcarbamoyl)oxy]) 1-thiooxamimidate 24%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM12

EPA Reg. No. 400-90. Uniroyal Chemical, Div. of Uniroyal, Inc., 14 Amity Rd., Bethany, CT 06525. Plantvax-5L. Active Ingredients: (5,6-dihydro-2-methyl-1,4-oxathiin-3-carboxanilide-4,4-dioxide) 5.0. Method of Support: Application proceeds under 2(a) of interim policy. PM21

EPA Reg. No. 464-131. The Dow Chemical Co., PO Box 1706, Midland, MI 48640. Dowicide B Antimicrobial. Active Ingredients: Sodium 2,4,5-trichlorophenate 85%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA Reg. No. 524-308. Monsanto Co., Agricultural Products, 800 N. Lindbergh Blvd., St. Louis, MO 63166. CP70139 Herbicide by Monsanto. Active Ingredients: Isopropylamine salt of Glyphosate 41.5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM25

EPA File Symbol 538-RGG. O. M. Scott & Sons Co., Marysville, OH 43040. Proturf Fertilizer Plus Systemic Fungicide. Active Ingredients: Thiophanate-ethyl Dimethyl 4,4' o-phenylenebis 3-thioallophanate 2.22%. Method of Support: Application proceeds under 2(b) of interim policy. PM21

EPA File Symbol 538-RGG. O. M. Scott & Sons Co., Marysville, OH 43040. Proturf Fertilizer Plus Systemic Fungicide. Active Ingredients: Thiophanate-methy Dimethyl 4,4' o-phenylenebis 3-thioallophanate 1.75%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM21

EPA File Symbol 623-UN. United Chemical Co., Inc., Kansas City, MO 64130. Hospitals. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 6.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 6.25%; Tetrasodium ethyenediamine tetraacetate 3.60%; Sodium Carbonate 3.00%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement. PM31

EPA Reg. No. 655-532. Prentiss Drug & Chemical Co., 363 7th Ave., New York, NY 10001. Prentox Pyronyl Poultry House & Barn Fly Spray. Active Ingredients: Pyrethrins 2.00%; Piperonyl Butoxide, Technical 4.00%; N-octyl bicycloheptene dicarboximide 6.66%; Petroleum Distillates 87.34%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement. PM17

EPA File Symbol 769-ULI. Woolfolk Chemical Works, Inc., PO Box 938, Fort Valley, GA 31030. Security Weed and Brush Killer X-L 1. Active Ingredients: (5-bromo-3-sec-butyl-6-methyluracil) 11.50%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement. PM25

EPA File Symbol 23948-E. Johnson Wholesale, PO Box 781, Punta Gorda FL 33950. Jonco Bleach. Active Ingredients: Sodium Hypochlorite 5.25%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 33968-T. Johnson Wholesale, PO Box 781, Punta Gorda FL 33950. Johnco Bleach. Active Ingredients: Sodium Hypochlorite 5.25%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 33968-T. Colorado Dept. of Agriculture, 1525 Sherman St., Denver CO 80203. WC90. Active Ingredients: Sodium Monofluoroacetate 90.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM11

EPA File Symbol 39697-R. Mountain High Diatomaceous Earth, 477 Chester St., Ogden UT 84404. Mountain High Diatomaceous Earth. Active Ingredients: Diatomaceous Earth 100%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 40329-R. Mother Lode Mines, PO Box 9671, Ogden UT 84403. Desikil Diatomaceous Earth. Active Ingredients: Diatomaceous Earth 80%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 40513-R. Aqua-Phenn Inc., PO Box 13499, Arlington TX 76013. Sanitizer 256. Active Ingredients: Isopropanol 14.9%. Sodium o-benzyl-p-chlorophenate 8.5% Tetrasodium ethylene-diamine tetraacetate 5.0%; Sodium-O-phenylphenate 4.3%; Sodium p-Tert-amylphenate 2.8%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 40526-R. Ava Water Treatment & Analysis, Inc., PO Box 557704, Miami FL 33155. MC-5. Active Ingredients: Poly(oxyethylene (dimethyliminio) ethylene-dimethyliminio) ethylene dichloride) 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40783-R. Eagle Chemical Corp., PO Box 172, Edison NJ 08817. Formula 1200. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimetahyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

APPLICATIONS RECEIVED (OPP-33000 518)

EPA Reg. No. 100-501. Agricultural Division, Ciba-Geigy Corporation, PO Box 11422, Greensboro NC 27409. Supracide 2E Insecticide-miticide. Active Ingredients: Methidathion: O,O-dimethyl phosphorodithioate, S-ester with 4-(mercaptomethyl)-2-methoxy-Δ2-1,3,4-thiadiazolin-5-one 24.4%; Aromatic petroleum derivative solvent 67.3%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised use directions on alfalfa. PM12

EPA Reg. No. 239-2186. Chevron Chemical Co., Ortho Division, 940 Hensley St., Richmond CA 94804. Ortho Paraquat CL. Active Ingredients: Paraquat dichloride (1,1'-dimethyl-4,4'-bipyridinium dichloride] 29.1%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added Use. PM25

EPA Reg. No. 400-89. Uniroyal Research & Development, Bethany CT 06525. Omite-6E. Active Ingredients: Propargite 2-(p-tert-butylphenoxy) cyclohexyl 2-propynyl sulfite 68.1%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added Use. PM13

EPA Reg. No. 499-109. Whitmire Research Laboratories, Inc., 3568 Tree Court. Industrial Blvd., St. Louis MO 63122. Flys-off-Insect Repellent for Dogs. Active Ingredients: Butoxypolypropylene Glycol 17.589%; Rotenone 0.084%; Isopropanol 13.200%; Technical Piperonyl Butoxide (equivalent to 0.300% of (Butylcarbityl)-6-Propylpiperonyl) Ether, and 0.075% of related compounds) 0.375%; Pyrethrins I & II 0.136%; Petroleum Distillate 8.090%; Triethylene Glycol 0.080%; Paradisobutylphenoxy-ethoxyethyl Dimethyl Benzyl Ammonium Chloride 0.200%; Propylene Glycol 0.080%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA Reg. No. 499-181. Whitmire Research Laboratories, Inc. Ticks-off-Repellent. Active Ingredients: Rotenone 0.136%; other cube resins 0.272%; butoxypolypropylene glycol 9.592%; dimethyl phthalate 8.00%; N,N-diethyl-metatoluamide 1.900%; other isomers 0.100%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA File Symbol 10349-RA. Nalco Chemical Co., PO Box 87, Sugarland TX 77478. Nalco Visco 3991. Active Ingredients: 2,2-Dibromo-3-nitrilopropionamide 20%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 10623-E. Metropolitan Chemical Co., 733 W. 14 St., Long Beach CA 90813. Sanamine-X. Active Ingredients: n-Alkyl (50% C14, 40% C12, 10% C16) dimethyl benzyl ammonium chloride 5.0%; Sodium metasilicate 3.0%; Tetrasodium salt of ethylene diamine teraacetic acid 1.8%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 11994-R. Vanguard Chemical Corp., 730 North Monticello Avenue, Skokie IL 60076. Vanguard Swimming Pool Clearcide Concentrate. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 11994-E. Vanguard Chemical Corp. Vanguard Cooling Tower Algi-Treat 100. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene-(dimethyliminio) ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 11994-G. Vanguard Chemical Corp. Vanguard Swimming Pool Clearcide. Active Ingredient: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 12310-RI. Misco International Chemicals, Inc., 1021 S. Noel, Wheeling IL 60090. CD 112-47A Disinfectant Bowl Cleaner. Active Ingredients: Octyl decyl dimethyl ammonium chloride 1.250%; Dioctyl dimethyl ammonium chloride 0.625%; Didecyl dimethyl ammonium chloride 0.625%; Alkyl amino betaine 1.000%; Hydrogen chloride 8.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 13808-U. South Dakota Dept. of Agr., Anderson Bldg., Pierre SD 57501. Stock Protector. Active Ingredients: Sodium Monofluoroacetate 90.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM11

EPA File Symbol 26764-R. Miller Machinery & Supply Co., PO Box 52-604, Biscayne Annex, Miami FL 33152. Sodium Hypochlorite Solution. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 34164-T. Lonza Inc., 22-10 Route 208, Fair Lawn NJ 07410. Action Disinfectant. Active Ingredients: Alkyl (60% C14; 30% C16; 5% C18) Dimethyl Benzyl Ammonium Chlorides 1.28%; Alkyl (68% C12; 32% C14) Dimethyl Ethylbenzyl Ammonium Chlorides 1.28%; Sodium carbonate 2.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 36306-U. Hadco East Chemical Corp., 35 Ralph Ave., Copiague NY 11726. Bowl Kleen. Active Ingredients: Hydrogen Chloride 23.98%; n-Alkyl (60% C14; 30% C16; 5% C12; 5% C18) dimethyl benzyl ammonium chlorides 0.75%; n-Alkyl (68% C12; 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.75%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 38093-R. American Dish Service, 12570 68th St. N., Largo FL 33540. 190X. Active Ingredients: Sodium Hypochlorite 5.25%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 38716-R. Poogie Pools, 9855 W. Sample Rd., Coral Springs FL 33065. Super-Ten. Active Ingredients: Sodium Hypochlorite 9.2%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 39851-R. Kratz Laboratories, Div. of Kratz Engineering Inc., 17 Country Life Acres, St. Louis MO 63131. Swim Chem 100 Chlorinating Tabs. Active Ingredients: Trichloro-s-triazinetrione 100.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40738-R. Elements Illustrated, Inc., PO Box 1645, Hickory NC 28601. CWT-501. Active Ingredients: Poly-[oxyethylene (dimethyliminio) ethylene-(dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40739-R. Tender Loving Care Pool, 6043 Miramar Pkwy., Miramar FL 33023. Lanechlor. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40812-R. Ciba-Geigy Corp., Plastics & Additives Div., 444 Saw Mill River Rd., Ardsley NY 10502. Irgarol BI 547. Active Ingredients: Triphenyl-lead acetate 90.0%. Method of Support: Application proceeds under 2(a) of interim policy. PM24

EPA File Symbol 40823-R. Stern Chemical Co., 1120-24 Congress St. N.E., Washington DC 20002. Lemon-Aide. Active Ingredients: n-Alkyl (50% C14, 40% C12, 10% C16) dimenthyl benzyl ammonium chloride 9.0%; Sodium carbonate 4.0%; Tetrasodium salt of ethylene diamine tetraacetic acid 2.0%. Method of Support: Application proceeds under (b) of interim policy. PM31

EPA File Symbol 40823-E. Stern Chemical Co., Inc., 1120-24 Congress St. N.E., Washington DC 20002. Crystal-Kleer Cooling Tower Treatment. Active Ingredients: n-Alkyl (50% C14; 40% C12; 10% C16) dimethyl benzyl ammonium chloride 10%. Method of Support: Application proceeds under (b) of interim policy. PM31

EPA File Symbol 40823-U. Stern Chemical Co., Inc. Sani-Terg. Active Ingredients: n-Alkyl (50% C14; 40% C12; 10% C16) dimethyl benzyl ammonium choloride 5.0%; Sodium metasilicate 3.0%; Tetrasodium salt of ethylene diamine tetraacetic acid 1.8%. Method of Support: Application proceeds under (b) of interim policy. PM31

EPA File Symbol 40867-R. Winston Chemical Co., 3287 W. Sussex Way, Fresno CA 93711. Al-P Algaecide. Active Ingredients: Poly [oxyethylene (dimenthyliminio) ethylene-(dimethyliminio) ethylene dichloride] 6.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40867-E. Winston Chemical Co. Al-B Algaecide. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 6.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

APPLICATIONS RECEIVED (OPP-33000 519)

EPA Reg. No. 100-523. Ciba-Geigy Corp., Agricultural Div., PO Box 11422, Greensboro NC 27409. Tolban 4E Herbicide. Active Ingredients: Profluralin; N-(cyclopropylmethyl)-a,a,a-2,6-dinitro-N-propyl-p-toluidine 43.6%; Related compounds 1.9%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM24

EPA File Symbol 1307-REE. Magnolia Chemical Co., Inc., 2646 Rodney Lane, Dallas TX 75229. Magnolia Algaeban. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 10.0%. Method of Support. Application proceeds under (b) of interim policy. PM34

EPA File Symbol 1307-REG. Magnolia Chemical Co., Inc. Magnolia Cooling Tower Algaecide. Active ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under (b) of interim policy. PM34

EPA Reg. No. 1839-25. Onyx Chemical Co., Div. of Millmaster Onyx Corp., 190 Warren St., Jersey City NJ 07302. BTC 471. Active Ingredients: n-Alkyl (50% C12, 30% C11, 17% C16, 3% C18) dimethyl ethylbenzyl ammonium chlorides 50%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added uses. PM31

EPA Reg. No. 1839-25. Onyx Chemical Co., BTC-8358. Active Ingredients: n-Alkyl (C12 40%, C14 50%, C16 10%) Dimethyl Benzyl Ammonium Chlorides 80%; Ethyl Alcohol 10%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added uses. PM31

EPA Reg. No. 1839-33. Onyx Chemical Co. BTC-8248-80%. Active Ingredients: n-Alkyl (C14 60%, C16 30%, C12 5%, C18 5%) Dimethyl Benzyl Ammonium Chlorides 80.0%; Ethyl Alcohol 10.0%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added uses. PM31

EPA File Symbol 2342-OTU. Kerr-McGee Chemical Corp., Kerr McGee Center, Box 25861, Oklahoma City OK. Grotonie Mole Cricket Bait. Active Ingredients: Chlorpyrifos [O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate] 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM12

EPA Reg. No. 3125-234. Chemagro, Division of Baychem Corp., Box 4913, Kansas City MO 64120. Mesurol 2% Bait. Active Ingredients: 4-(Methylthio)-3,5-xylyl methylcarbamate 20%. Method of Support: Application proceeds under 2(b) of interim policy PM12.

V 42169 AUG 31 77 UMI

EPA File Symbol 3367-TO. Reily Chemical Co., 450 Mandeville Rd., New Orleans LA 70117. R977. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 3367-IN. Reily Chemical Co. R-1077. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene-(dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 4643-GA. Dearborn Chemical, 300 Genesee St., Lake Zurich IL 60047. Microbiotreat 6252. Active Ingredients: Poly (oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride) 40.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 4643-GT. Dearborn Chemical. Microbiotreat 6253. Active Ingredients: Poly (oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride) 50.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 4643-GI. Dearborn Chemical. Microbiotreat 6254. Active Ingredients: Poly (oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride) 60.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 4643-GO. Dearborn Chemical. Microbiotreat 6255. Active Ingredients: Poly (oxethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride) 20.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 3429-ELL. The Cello Chemical Co., 8200 Fischer Rd., Baltimore MD 21222. Bluko Wonder Cleaner, Sanitizer and Deodorizer. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.048; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.048; Sodium Metasilicate Anhydrous 0.072; Tetrasodium ethylenediamine tetraacetate 0.075; Essential oils 0.003. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 5813-RR. The Clorox Co., 850 42nd Ave., Oakland CA 94601. Soft Scent Clorox. Active Ingredients: Sodium Hypochlorite 5.25%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 6125-GL. Bixon Chem. Co., 50-19 97th Place, Corona NY 11373. Quat No. 10. Active Ingredients: Didecyl dimethyl ammonium chloride 2.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium carbonate 1.5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement. PM31

EPA File Symbol 7152-EU. Seaboard Industries, 185 Van Winkle Ave., Hawthorne, NJ 07507. Sea/Chlor 2 oz. Slow Dissolving Chlorine Tablets for all swimming pools. Active Ingredients: Trichloro-s-Triazinetrione 100%; Available chlorine 85%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 14923-G. C-E Minerals, Combustion Engineering Inc., 901 E. 8th Ave., King of Prussia PA 19406. CMB-5B Microbiocide. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 15057-RN. Vitrex Chemical, Inc., 5000 Track Rd., Cleveland OH 44127. Vitex Water-Treet. Active Ingredients: Didecyl dimethyl ammonium chloride 50%; Isopropyl alcohol 20%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 38719-U. Airco Industrial Gases, Rare & Specialty Gases Depart., Murray Hill NJ 07914. Ethylene for Witchweed Control. Active Ingredients: Ethylene 98% (by wt.). Method of Support: Application proceeds under 2(b) of interim policy. PM25

EPA File Symbol 39910-U. Triple E Systems Engineering, Inc., PO Box 7011, Hollywood FL 33021. Eeese Systems Super Algaego Concentrate. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 39910-L. Triple E Systems Engineering, Inc. Eese Systems Pool Algaecide. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene dimethyliminio) ethylene dichloride]. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40266-R. Aqua Laboratories and Chemical Co. Inc., PO Box 5725, Longview TX 75604. Alco-Cide W. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40738-R. Elements Illustrated, Inc., PO Box 1645, Hickory NC 28601. CWT-501. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40856-R. Kuka Kill Chemicals, Inc., 2165 General del Valle, Santurce PR 00913. Kuka-Kill Roach Killer Cucarachicida. Active Ingredients: Boric acid 99%. Method of Support: Application proceeds under 2(b) of interim policy. PM16

EPA File Symbol 40914-R. Elhorn Engineering Co., 302 South Waverly Rd., Lansing MI 48917. Microbiocide-E. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethlene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40923-R. C-E Minerals, Combustion Engineering Inc., 901 E 8th Ave., King of Prussia PA 19406. CMB-5C Microbiocide. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40923-E. C-E Minerals, CMB-5 Microbiocide. Active Ingredients: Poly [oxyethylene dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40923-U. C-E Minerals, CMB-5A Microbiocide. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

[FR Doc.77-25381 Filed 8-30-77;8:45 am]

[FRL 785-1 OPP-180125A]

CLEMSON UNIVERSITY

Issuance of a Specific Exemption To Use Terramycin to Control Bacterial Spot on Peaches; Correction

In FR Doc. 77-19222 appearing at page 34907 in the issue of Thursday, July 7, 1977, the last line of item number 9 in the third column beginning "* * * tion with" is corrected to read "* * * tion with him."

Dated: August 25, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-25371 Filed 8-30-77;8:45 am]

[FRL 754-6]

GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

Class Deviations

Notice is hereby given that under the authority of 40 CFR 30.1000, EPA has issued class deviations from the provisions of 40 CFR 35.935-12(c) and 35.935-13(a) for segmented and multiple facility construction grant projects awarded under section 201 of the Federal Water Pollution Control Act Amendments of 1972.

On May 6, 1976, a class deviation was issued from 40 CFR 35.935-13(a) concerning the compliance schedules of the industrial cost recovery (ICR) system requirements for segmented projects and multiple facility projects. User charges (UC) are often contained in the same local municipal ordinance; and consequently, it was considered to be advantageous to preserve the close ties of the compliance schedules of these two systems. Therefore, a class deviation was issued on September 30, 1976, from the user charge requirements of 40 CFR 35.-935-13(a). These deviations stated, in effect, that if several Step 3 grants are all part of a phased project and if none of the new facilities constructed are operable until all phases have been completed, then payments do not have to be held at 80 percent of the individual grants, but they must be held at 80 percent of the aggregate of these Step 3 grants pending UC/ICR approvals. If any element of the treatment works has been placed in operation prior to reaching 80 percent of the aggregate, no further payments can be made (whatever percentage payment) until the UC/ICR systems are approved.

A class deviation was approved on August 24, 1977 to apply a similar policy to the 80 percent payment-holding requirements for the sewer use ordinance in 40 CFR 35.935-16 and the 50 and 90 percent payment-holding requirements for submission and final approval of the operation and maintenance manual in 40 CFR 35.935-12(c).

In accordance with EPA's newly established policy to publish all class deviations in the FEDERAL REGISTER at the time of approval, the deviations are published as part of this Notice. The May 6, 1976, and September 30, 1976, deviations are published at this time because of the similarity of the three deviations.

The deviations as granted do not contain limits on the duration of the deviation. However, a review will be made within six to nine months to determine the ned for either continuing the deviations or promulgation of regulatory amendments.

FOR FURTHER INFORMATION CONTACT:

Alexander J. Greene, Director, Grants Administration Division (PM-216), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, telephone number: 202-755-0850.

Dated: August 18, 1977.

WILLIAM DRAYTON, JR.,
Assistant Administrator for Planning and Management (PM-208).

JULY 26, 1977.

THOMAS C. JORLING,
Assistant Administrator for Water and Hazardous Materials (WH-556).

ENVIRONMENTAL PROTECTION AGENCY

Subject: Class Deviation from 40 CFR 35.935-13(a).

From: Harvey G. Pippen, Acting Director, Grants Administration Division (PM-216).

To: Regional Administrators.

MAY 6, 1976.

40 CFR 35.935-13(a) provides that no more than 80% of the Federal share of any Step 3 project shall be paid unless an industrial cost recovery system has been approved by the Regional Administrator. This requirement is readily implementable when the treatment works to be constructed is under a single grant and consists of a single treatment facility which is operable upon completing construction. However, at times, grants are awarded for projects which are not operable or, only partially operable, upon completion. Such projects generally fall into two categories—segmented projects and multiple facility projects. For those projects, this 80% requirement requires clarification.

Appropriate clarification of this requirement has been included in the recently issued Industrial Cost Recovery Guidelines. An amendment to the regulations is being prepared, to be promulgated with the technical amendments, to incorporate the clarification in the Title II regulations. In the interim, the following class deviation is approved:

1. In projects where segmenting of an operable treatment works has occurred, payment of more than 80% of the total of all Step 3 segments is not permitted unless the ICR system proposed by the grantee is approved by the Regional Administrator.

2. In projects where an element or elements of the treatment works have been completely constructed and placed in operation by the grantee, additional payment on a Step 3 grant is not permitted unless the ICR system (or that portion of the ICR system associated with the operating elements of the treatment works) proposed by the grantee is approved by the Regional Administrator.

ENVIRONMENTAL PROTECTION AGENCY

Subject: Class Deviation from 40 CFR 35.935-13(a), User Charges System Requirements.

From: Alexander J. Greene, Director, Grants Administration Division (PM-216).

To: Regional Administrators.

SEPTEMBER 30, 1976.

40 CFR 35.935-13(a) provides that no more than 80% of the Federal share of any Step 3 project shall be paid unless an industrial cost recovery and user charge systems have been approved by the Regional Administrator. This requirement is readily implementable when the treatment works to be constructed is under a single grant and consists of a single treatment facility which is operable upon completing construction. However, at times, grants are awarded for projects which are not operable or, only partially operable, upon completion. Such projects generally fall into two categories—segmented projects and multiple facility projects. For those projects, this 80% requirement requires clarification.

On May 6, 1976, a class deviation was issued from 40 CFR 35.935-13(a) concerning the compliance schedules of the industrial cost recovery system requirement for segmented projects and multiple facility projects. User charges are often contained in the same local municipal ordinance as the industrial cost recovery and considerations for monitoring, billing, and updating are often very closely linked between the two systems. Consequently, it is advantageous to preserve the close ties of the compliance schedules of these two systems. Therefore, a class deviation is approved as follows:

1. In projects where segmenting of an operable treatment works has occurred, payment of more than 80% of the total of all Step 3 segments is not permitted unless the user charges system proposed by the grantee is approved by the Regional Administrator.

2. In projects where an element or elements of the treatment works have been completely constructed and placed in operation by the grantee, additional payment on a Step 3 grant is not permitted unless the user charge system (or that portion of the user charge system associated with the operating elements of the treatment works) proposed by the grantee is approved by the Regional Administrator.

ENVIRONMENTAL PROTECTION AGENCY

Subject: Class Deviations from 40 CFR 35.935-12(c) and 35.935-16.

From: Alexander J. Greene, Director, Grants Administration Division (PM-216).

To: Regional Administrators.

AUGUST 24, 1977.

40 CFR 35.935-12(e) provides that not more than 50 percent of the Federal share of any Step 3 project shall be paid unless the grantee has furnished a draft of the operation and maintenance manual for review, or adequate evidence of timely development of such a draft or not more than 90 percent of the Federal share unless the grantee has furnished a satisfactory final operation and maintenance manual. 40 CFR 35.935-16 provides that not more than 80 percent of the Federal share of any Step 3 project shall be paid unless the Regional Administrator has approved the grantee's sewer use ordinance, and the grantee is complying with the sewer system evaluation and rehabilitation schedule incorporated in the grant agreement.

The above requirements are readily implementable when the treatment works to be constructed is under a single grant and consists of a single treatment facility which is operable upon completing construction. However, at times, grants are awarded for projects which are not operable or, only partially operable, upon completion. Such projects generally fall into two categories, segmnted eprojects and multiple facility projects.

Class deviations have been granted from the 80 percent payment holding requirements for the industrial cost recovery and user charge (UC/ICR) requirements. These deviations stated, in effect, that if several Step 3 grants are all part of a phased project and if none of the new facilities constructed are operable until all phases have been completed, then payments do not have to be held at 80 percent of the individual grants, but they must be held at 80 percent of the aggregate of these Step 3 grants pending UC/ICR approvals. If any piece of the construction becomes operable prior to reaching 80 percent of the aggregate, no further payments can be made (what ver percentage payment) until the UC/ICR systems are approved.

A class deviation is hereby approved to apply the same policy to the 80 percent payment-holding requirements for the sewer use ordinance in section 35.935-16 and the 50 and 90 percent payment-holding requirements for submission and final approval of the operation and maintenance manual in section 35.935-12(c):

1. In projects where segmenting of an operable treatment works has occurred:

(a) Payments of more than 80 percent of the total of all Step 3 segments is not permitted unless the sewer use ordinance has been approved by the Regional Administrator.

(b) Payments of more than 50 percent of the total of all Step 3 segments is not permitted unless the grantee has furnished a draft of the operation and maintenance manual for review, or adequate evidence of timely development of such a draft, and

(c) Payments of not more than 90 percent of the total of all Step 3 segments is not permitted unless the grantee has furnished a satisfactory final operation and maintenance manual.

2. In projects where an element or elements of the treatment works have been completely constructed and placed in operation by the grantee, additional payment on a Step 3 grant is not permitted unless the sewer use ordinance and the operation and maintenance manual (or those portions associated with the operating elements of the treatment works) submitted by the grantee are approved by the Regional Administrator.

[FR Doc.77-25258 Filed 8-30-77;8:45 am]

[OPP-180143, FRL 785-4]

IDAHO STATE DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use Ethyl Parathion To Control Pea Aphid, Bean Aphid, and Vetch Aphid on Lentils

The Environmental Protection Agency (EPA) has granted a specific exemption to the Idaho State Department of Agriculture (hereafter referred to as the "Applicant") to use ethyl parathion to suppress populations of the pea aphid, the bean aphid, and the vetch aphid which are threatening the commercial lentil crop on 26,000 acres in ten (10) northern Idaho counties. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of information required by regulation to be

V42169 AUG 31 77 UMI

included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, approximately 26,000 acres of lentils in the counties of Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone in northern Idaho could suffer thirty (30) percent potential yield loss due to infestations of pea aphid, bean aphid, and vetch aphid.

Malathion is the only insecticide registered for use on lentils. According to the Applicant, malathion provided only marginal or ineffective control of aphid pests last year; whereas, parathion, which was applied to lentils under a specific exemption in 1976, proved satisfactory.

The Applicant proposes to use parathion at an application rate of one-half (0.5) pound active ingredient per acre by air and ground. If the exemption is approved, two (2) applications will be made to lentil fields beginning immediately and terminating by August 15, 1977. Application of parathion will be restricted to State-licensed commercial applicators and a few growers who may elect to apply parathion on their own property.

The currently available data for parathion, emulsifiable concentrate formulations, show no detectable residues (less than 0.2 ppm, depending on the crop substrate) in any crop which has the edible portion of the plant protected from direct application of the pesticide (such as peas, corn, and soybeans). Based on these data, the EPA concludes that residue levels resulting from the proposed use are not likely to exceed 0.2 ppm, if emulsifiable concentrate formulations are used and a fourteen (14) day pre-harvest interval is observed. The EPA has determined that lentils bearing residues of parathion which do not exceed 0.2 ppm will not pose a hazard to the public health.

The Fish and Wildlife Service, U.S. Department of the Interior (USDI), has advised EPA that three endangered species, American Peregrine Falcon, Grizzly Bear, and Northern Rocky Mountain Wolf, and one proposed endangered species, the Northern Bald Eagle, are resident to one or more of the Idaho counties where parathion will be applied.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of pea aphid, bean aphid, and vetch aphid has occurred; (b) there is no pesticide presently registered and available for use to control these aphids in Idaho; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if these aphids are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant as been granted a specific exemption to use the pesticide noted above until August 15, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. A parathion EC formulation containing four (4) pounds of active ethyl parathion per gallon and appropriately labeled for method of application (ground or air) will be used;
2. Rate of application will be one-half (0.5) pound of active ethyl parathion per acre per application for a maximum of two (2) applications;
3. Lentil acreages to be treated are limited to those counties previously mentioned in this notice;
4. Lentil crop residues which have been treated with parathion may not be used for food, feed or fodder. Livestock may not graze in treated lentil fields;
5. Lentils with parathion residues not exceeding 0.2 ppm will not pose a hazard to the public health and may be offered in interstate commerce. The Food and Drug Administration, U.S. Department of Heath, Education, and Welfare, has been advised of this action;
6. A fourteen (14) day preharvest interval will be observed;
7. A one-hundred (100) foot buffer zone will be maintained around bodies of water which are inhabited by fish and/or waterfowl;
8. EPA has been advised that three (3) endangered species (American Peregrine Falcon, Grizzly Bear, and Northern Rocky Mountain Wolf) and one (1) proposed endangered species (Northern Bald Eagle) may be found in one or more of the Idaho counties where parathion will be applied and may be at risk. Therefore, according to Section 7 of the Endangered Species Act, the Applicant must consult with the Endangered Species Program, Fish and Wildlife Service, USDI, Region I, Portland, Oregon, prior to applying parathion to lentil fields;
9. Every precaution shall be taken to avoid or minimize spray drift to non-target areas;
10. Liaison shall be established among the Idaho State Departments of Agriculture, Fisheries, and Game to minimize any adverse effects on fish and wildlife resources;
11. The Idaho Department of Agriculture is responsible for supervising applications of parathion;
12. All applicable directions, restrictions, and precautions on the EPA-registered label will be followed;
13. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with this exemption; and
14. A final report shall be submitted within one (1) year of the granting of the exemption.

Dated: August 25, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc 77-25380 Filed 8-30-77;8:45 am]

(FRL 783-6); (OPP-50310A)

ISSUANCE OF EXPERIMENTAL USE PERMITS

Correction

In FR Doc. 77-20563 appearing at page 37030 in the issue of Tuesday, July 19, 1977, in experimental use permit No. 10182-EUP-6, the following States were omitted from the Notice: Colorado, Florida, Georgia, Illinois, Indiana, Idaho, Iowa, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Texas, Vermont, Virginia, Washington, West Virginia, and Wisconsin.

Dated: August 25, 1977.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc.77-25250 Filed 8-30-77;8:45 am]

[FRL 783-7; OPP-50308A]

ISSUANCE OF EXPERIMENTAL USE PERMITS

Correction

In FR Doc. 77-19096 appearing at page 34532 in the issue of Wednesday, July 6, 1977, in experimental use permit No. 10182-EUP-3, the following States were omitted from the Notice: South Carolina, Tennessee, and Texas.

Dated: August 25, 1977.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc.77-25249 Filed 8-30-77;8:45 am]

[FRL 782-3; OPP-50293A]

ISSUANCE OF EXPERIMENTAL USE PERMITS

Correction

In FR Doc.77-12830 appearing at page 22905 in the issue of Thursday, May 5, 1977, in experimental use permit No. 5857-EUP-2, the seventh line beginning "360.000 • • •" is corrected to read "1,000,000 • • •"

Dated: August 22, 1977.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc.77-25248 Filed 8-30-77;8:45 am]

[OPP-42031A; FRL 782-4]

MAINE

Approval of State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and the implementing regulations of 40 CFR Part 171, require each state desiring to certify applicators to submit a plan for its certification program. Any State certification program under this section shall be maintained in accordance with the State Plan approved under this section.

On September 28, 1976, notice was published in the FEDERAL REGISTER (41 FR 42698) of the intent of the Regional Administrator, Environmental Protection Agency (EPA) Region I, to approve on a contingency basis, the Maine State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticide (Maine State Plan). Contingent approval was requested by the State of Maine pending promulgation of additional implementing regulations necessary to permit Maine to carry out FIFRA responsibilities.

Complete copies of the Maine State Plan (except for sample examinations) were made available for public inspection at the following locations: Maine Department of Agriculture, Augusta, Maine; U.S. Environmental Protection Agency, Region I, Boston, Massachusetts; and the U.S. Environmental Protection Agency, Federal Register Section, Technical Services Division, Office of Pesticide Programs, Washington, D.C.

The National Canners Association provided the only comments received on the State Plan during the 30-day comment period. Four objections were raised that pertain to (1) a consideration of Extension Service Funding for training purposes as a part of the State Plan budget, (2) inadequate consideration of all pesticide use situations in selection of subcategories, (3) use of fees charged for certification to support plan activities, (4) inclusion of a requirement for proof of financial responsibility by commercial applicators.

Maine officials have reviewed each of the specific comments and prepared a response which together with EPA remarks are summarized below.

1. Maine believes that a training program for applicators, especially for those in the private class, is essential to the implementation of the State Plan and the FIFRA. EPA notes, in further explanation, funds provided for support of the Maine Extension Service were not specifically identified as included in the State Plan budget and hence were not considered by the Agency in its review of the budget for adequacy.

2. Maine believes the subcategories indicated in the State Plan are adequate to accommodate applicator needs and therefore sees to immediate need to amend the subcategory designations and their descriptions. EPA believes the Maine officials are in the best position to make this decision. Maine can also later amend the plan if experience in certifying applicators indicates a need for redefinition of subcategories.

3. Maine officials have noted that funds expended to complete the States' certification program are largely derived from State appropriations and those provided by funding allocated by EPA. Private applicators are not assessed a fee for certification; only commercial applicators are assessed a fee, which is determined on a company basis, with fees waived for State, Federal and Municipal employees. It is EPA's view that this option of whether to charge a fee is strictly a matter for the State to decide.

4. Maine officials advise that proof of financial responsibility has been a requirement of commercial applicators operating on a custom basis for 10 years. The State Statutes were further revised very recently to further clarify the exempted status of commercial applicators operating on a noncustom basis.

Since the Notice of Intent to Approve the Maine State Plan was published on September 28, 1976, the Legislature has made certain beneficial statutory changes in Title 22 MSRA Chapter 258-A. Further, the Maine Department of Agriculture, through actions of the Board of Pesticide Control, has promulgated amendments to its regulations correcting previously determined deficiencies. In view of this recent action EPA believes it would not serve any useful purpose to proceed with approval of the Maine State Plan on a contingency basis, but rather believes it should proceed directly with action toward final approval and hereby provides public notice of such action.

It has been determined that the Maine State Plan satisfies the requirements of section 4(a)(2) of the amended FIFRA and 40 CFR 171. Accordingly, the Maine State Plan is approved.

The Maine State Plan will remain available for public inspection in the Department of Agriculture, Division of Inspections, Room 601, State Office Building, Augusta, Maine 04330.

Effective date: Pursuant to section 4(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), the Agency finds that there is good cause for providing that the approval granted herein to the Maine State Plan shall be effective upon signature of this notice. Neither the Maine State Plan itself nor this Agency's approval of the Plan creates any direct or immediate obligation on pesticide applicators or other persons in the State of Maine. Delays in starting the work necessary to implement the Plan, such as may be occasioned by providing some later effective date for this approval, are inconsistent with the public interest. Accordingly, this approval shall become effective immediately.

Dated: August 12, 1977.

WILLIAM R. ADAMS, JR.,
Regional Administrator, Region I.

[FR Doc.77-25247 Filed 8-30-77;8:45 am]

[FRL 783-4; OPP-50321]

MOBAY CHEMICAL CORP. ET AL.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 3125-EUP-141. Mobay Chemical Corporation, Kansas City, Missouri 64120. This experimental use permit allows the use of 3,800 pounds of the insecticide S-[2-(Ethyl-sulfinyl)ethyl] 0,0-dimethyl phosphorothioate on sorghum to evaluate control of aphids and mites. A total of 2,500 acres is involved; the program is authorized only in the States of Kansas, Nebraska, New Mexico, Oklahoma, and Texas. The experimental use permit is effective from July 18, 1977, to July 18, 1978. A permanent tolerance for residues of the active ingredient in or on sorghum has been established (40 CFR 180.330). A food additive tolerance for residues of the active ingredient in milled fractions of sorghum (except flour) has been established (21 CFR 561.234).

No. 352-EUP-89. E. I. du Pont de Nemours and Company, Wilmington, Delaware 19898. This experimental use permit allows the use of 2,080 pounds of the insecticide oxamyl on apples, citrus, peanuts, and potatoes to evaluate control of aphids, mites, nematodes, and thrips. A total of 1,340 acres is involved; the program is authorized only in the States of Alabama, Arizona, California, Colorado, Florida, Georgia, Idaho, Maine, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Oregon, Oklahoma, Pennsylvania, South Carolina, Texas, Virginia, Washington, and Wisconsin. The experimental use permit is effective from July 6, 1977, to July 6, 1978. Temporary tolerances for residues of the active ingredient in or on apples, citrus, peanuts, and potatoes have been established.

No. 7479-EUP-1. Lancaster Laboratories, Inc., Lancaster, Pennsylvania 17601. This experimental use permit allows the use of 719 pounds of the algacide copper sulfate monohydrate in 14 small lakes and ponds to evaluate control of algae. The program is authorized only in the State of Pennsylvania. The experimental use permit is effective from July 14, 1977, to December 31, 1978. An exemption from the requirement of a tolerance in eggs, fish, meat, milk, irrigated crops, and shellfish has been established (40 CFR 180.1021).

No. 39508-EUP-2. New Mexico State University, Las Cruces, New Mexico 88003. This experimental use permit allows the use of 70 pounds of the insecticide N-[[(4-chlorophenyl) amino]carbonyl]-2,6-difluorobenzamide on rangeland to control range caterpillars. A total of 5,000 acres is involved; the program is authorized only in the State of New Mexico. The experimental use permit is effective from July 8 1977, to July 8, 1978. This permit is being issued under the condition that livestock not be allowed to graze on treated rangeland for the residual life of the pesticide on rangegrass and then only breeder livestock may be grazed. Rangegrass must be tested for residues and found below the method of sensitivity prior to allowing the grazing of breeder livestock.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW. Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

STATUTORY AUTHORITY: Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Dated: August 25, 1977.

DOUGLAS D. CAMPT.
Acting Director, Registration Division.

[FR Doc.77-25252 Filed 8-30-77;8:45 am]

V 42 169 AUG 31 77 UMI

[FRL 783-5; OPP-50318]

THOMPSON-HAYWARD CHEMICAL CO.

Issuance of Experimental Use Permit and Solicitation of Public Views

The Environmental Protection Agency (EPA) has issued an experimental use permit to Thompson-Hayward Chemical Company, Kansas City, Kansas 66110. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 148-EUP-22) allows the use of 3,821.5 pounds of insecticide N-[[(4-chlorophenyl) amino]carbonyl]-2,6-difluorobenzamide (Dimilin) on cotton to evaluate control of the boll weevil. A maximum of 7,333 acres is involved; due to limitations of the permit, only that acreage will be treated that is economically feasible to be destroyed if tolerances are not set. The program is authorized only in the States of Alabama, Arizona, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, Oklahoma, North Carolina, South Carolina, Tennessee, and Texas. The experimental use permit is effective from June 8, 1977, to June 8, 1978.

A toxicology review of the data submitted indicates there may be evidence of possible carcinogenicity in an 80 week mouse study; in addition, one of the break-down products of Dimilin (p-chlorophenylurea) has a chemical structure similar to Monuron for which residue tolerances were revoked in 1973 due to evidence of carcinogenicity in rats and mice (38 FR 16780). Therefore, this permit was issued on a crop destruct basis in order to allow Thompson-Hayward to gather the efficacy, environmental chemistry, and residue data necessary to support registration. The crop destruction restriction will allow for the protection of the public health pending review of additional studies submitted in connection with the question of carcinogenicity. This permit has been issued under the condition that cottonseed from treated cotton will not be used for food, feed, or oil purposes. Treated cottonseed will be 1) destroyed, 2) used for seed purposes only, or 3) segregated and held until such time as a temporary tolerance may be established. The Agency is currently in the process of reviewing additional new toxicology data submitted by Thompson-Hayward Company and is awaiting the results of a carcinogenesis bioassay study, being conducted on one of the metabolites of Dimilin, by the National Cancer Institute. This study is expected to be completed by January of 1978. In the event that additional information shows that tolerances should not be established for residues of Dimilin and its metabolites in or on cottonseed then the seed must be 1) destroyed, 2) used for research purposes, or 3) used for seed purposes.

In light of the above, perhaps controversial items, the Agency is soliciting public comment. We are soliciting comments now rather than prior to issuance since timing of application was critical to the gathering of data this season. That data may also have an impact on the U.S. Deprtment of Agriculture's plans for eradication programs in the future.

All interested parties are invited to submit written comments pertinent to this experimental use permit. Comments should be forwarded to the Federal Register Section, Room E-401, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, 401 M Street, SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting the submissions. The comments must be received within 30 days after date of publication of this notice in the FEDERAL REGISTER, and should bear the identifying notation OPP-50318. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. during normal work days.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, at the same address mentioned above. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. This file will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

STATUTORY AUTHORITY: Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Dated: August 25, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-25251 Filed 8-30-77;8:45 am]

[FRL 783-3; OPP-50322]

3M CO. ET AL.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 7182-EUP-17. 3M Company, St. Paul, Minnesota 55105. This experimental use permit allows the use of 1,260 pounds of the herbicide perfluidone on tobacco to evaluate control of nutsedge, annual grasses and broadleaf weeds. The experimental use permit is effective from July 21, 1977, to September 1, 1978.

No. 7182-EUP-18. 3M Company, St. Paul, Minnesota 55101. This experimental use permit allows the use of 280 pounds of the herbicide perfluidone on tobacco to evaluate control of nutsedge, annual grasses and broadleaf weeds. A total of 995 acres is involved for both this permit and the one above; the programs are authorized only in the States of Georgia, North Carolina, South Carolina, and Virginia. This experimental use permit is also effective from July 21, 1977, to September 1, 1978. The permits will use the same active ingredient, but different formulations.

No. 10065-EUP-9. Fisons Corporation, Bedford, Massachusetts 01730. This experimental use permit allows the use of 585 pounds of the insecticide 2,2-dimethyl-1, 3-benzodioxol-4-yl methylcarbamate on turf to evaluate control of turf insects. A total of 308 acres is involved. The experimental use permit is effective from July 18, 1977, to July 18, 1978.

No. 10065-EUP-10. Fisons Corporation, Bedford, Massachusetts 01730. This experimental use permit allows the use of 152 pounds of the insecticide 2,2-dimethyl-1, 3-benzodioxol-4-yl methylcarbamate on turf to evaluate control of turf insects. A total of 76 acres is involved. The experimental use permit is also effective from July 18, 1977, to July 18, 1978.

No. 10065-EUP-11. Fisons Corporation, Bedford, Massachusetts 01730. This experimental use permit allows the use of 152 pounds of the insecticide 2,2-dimethyl-1, 3-benzodioxol-4-yl methylcarbamate on turf to evaluate control of turf insects. A total of 76 acres is involved; this program and the two above are authorized only in the States of California, Florida, Georgia, Illinois, Indiana, Kansas, Maryland, Massachusetts, Mississippi, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, and Texas. This experimental use permit is also effective from July 18, 1977, to July 18, 1978. The permits will use the same active ingredient, but different formulations.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

STATUTORY AUTHORITY: Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Dated: August 25, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-25253 Filed 8-30-77;8:45 am]

[FRL 784-2; (OPP-42040B)]

STATE OF UTAH

Approval of State Plan for Certification of Pesticide Applicators

Section 4(a)(2) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended 86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 et seq.) and the implementing regulations of 40 CFR Part 171, require each state desiring to certify applicators to submit a plan to EPA for its certification program. Any state certification program under this section shall be maintained in accordance with the State Plan approved under this section.

On January 31, 1977, a summary of the Utah State Plan for Certification of Pesticide Applicators (Utah State Plan) and a notice of intent of the Regional Administrator, EPA Region VIII, to approve the Utah State Plan were published in the FEDERAL REGISTER (42 FR 5747). This intent to approve the Utah State Plan was contingent upon promulgation of necessary regulations and enactment of amendments to the Utah Pesticide Control Act of 1971. The Utah State Plan was granted contingency approval on April 11, 1977 (42 FR 18893). The necessary amendments to the Utah Pesticide Control Act of 1971 became effective May 11, 1977 and the necessary regulations were promulgated on July 10, 1977. Having reviewed the revised Utah legal authorities and finding that all requisite legal authorities required by FIFRA and 40 CFR Part 171 are now enacted and promulgated, the Regional Administrator, EPA Region VIII, hereby gives notice that the Utah State Plan is now a fully approved State Plan.

Dated: August 22, 1977.

JOHN A. GREEN,
Regional Administrator,
Region VIII.

[FR Doc.77-25246 Filed 8-30-77;8:45 am]

[FRL 782-5]

STATE OF TENNESSEE

Determination of Primary Enforcement Responsibility

This public notice is issued pursuant to section 1413 of the Safe Drinking Water Act, Pub. L. 93-523, December 16, 1974, and 142.10 of the National Interim Primary Drinking Water Regulations, published in the FEDERAL REGISTER on January 20, 1976.

An application, dated June 27, 1977, has been received from the Commissioner, Tennessee Department of Public Health, requesting that the Division of Water Quality Control of the Tennessee Department of Public Health be granted primary enforcement responsibility for water systems in the State of Tennessee, in accordance with the provisions of this Act.

In response, I have determined that the Division of Water Quality Control has met all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for water systems in the State of Tennessee. The State—

(1) Has adopted drinking water regulations which are no less stringent than the National Interim Primary Drinking Water Regulations;

(2) Has adopted and will implement adequate procedures for the enforcemnet of such State regulations, including adequate monitoring and inspections;

(3) Will keep such records and make such reports as required;

(4) If it permits variances or exemptions from the requirements of its regulations, will issue such variances and exemptions in accordance with the provisions of the National Interim Primary Drinking Water Regulations;

(5) Has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances.

All documents relating to this determination are available for public inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Division of Water Quality Control, Department of Public Health, Cordell Hull Bldg., room 621, Nashville, Tenn. 37219.
Regional Administrator, Environmental Protection Agency, Region IV, 345 Courtland St. NE., Atlanta, Ga. 30308.

All interested parties are invited to submit written comments on this determination and may request a public hearing. Written comments and/or a request for a public hearing must be submitted on or before September 30, 1977. A request for a public hearing shall include the following information:

(1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing.

(2) A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing.

(3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made on or before September 30, 1977, a public hearing will be held. The Regional Administrator will give further notice in the FEDERAL REGISTER and in a newspaper or newspapers of general circulation in the State of Tennessee of any hearing to be held pursuant to a request submitted by an interested person, or on his own motion. Notice of the hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. In addition to publication as described above, notice will be sent to the person requesting a hearing and to the State. Notice of the hearing will include a statement of the purpose of the hearing, information regarding the time and location for the hearing, and the address and telephone niumber of an office at which interested persons may obtain further information concerning the hearing.

After receiving the record of the hearing, the Regional Administrator will issue an order affirming or rescinding his determination. If the determination is affirmed, it shall become effective as of the date of this order.

If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective on September 30, 1977.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

Dated: July 21, 1977.

HOWARD ZELLER,
Deputy Regional Administrator,
Environmental Protection Agency, Region IV.

[FR Doc.77-25244 Filed 8-30-77;8:45 am]

[FRL 782-6]

STATE OF SOUTH CAROLINA

Determinant of Primary Enforcement Responsibility

This public notice is issued pursuant to section 1413 of the Safe Drinking Water Act, Pub. L. 93-523, December 16, 1974, and 142.10 of the National Interim Primary Drinking Water Regulations, published in the FEDERAL REGISTER on January 20, 1976.

An application, dated June 29, 1977, has been received from the Deputy Commissioner of the Office of Environmental Quality Control requesting that the Division of Water Supply of the South Carolina Department of Health and Environmental Control be granted primary enforcement responsibility for water systems in the State of South Carolina, in accordance with the provisions of this Act.

In response, I have determined that the Division of Water Supply has met all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for water systems in the State of South Carolina. The State—

(1) Has adopted drinking water regulations which are no less stringent than the National Interim Primary Drinking Water Regulations;

(2) Has adopted and will implement adequate procedures for the enforcement of such State regulations, including adequate monitoring and inspections;

(3) Will keep such records and make such reports as required;

(4) If it permits variances or exemptions from the requirements of its regulations, will issue such variances and exemptions in accordance with the provisions of the National Interim Primary Drinking Water Regulations;

(5) Has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances.

All documents relating to this determination are available for public inspection between the hours of 8:30 a.m. and 4:45 p.m., Monday through Friday, at the following offices:

Office of Environmental Quality Control, Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201.
Regional Administrator, Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, Ga. 30308.

All interested parties are invited to submit written comments on this deter-

V 42169 AUG 31 77 UMI

mination and may request a public hearing. Written comments and/or a request for a public hearing must be submitted on or before September 30, 1977. A request for a public hearing shall include the following information:

(1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing.

(2) A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing.

(3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made on or before September 30, 1977, a public hearing will be held. The Regional Administrator will give further notice in the FEDERAL REGISTER and in a newspaper or newspapers of general circulation in the State of South Carolina of any hearing to be held pursuant to a request submitted by an interested person, or on his own motion. Notice of the hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. In addition to publication as described above, notice will be sent to the person requesting a hearing and to the State. Notice of the hearing will include a statement of the purpose of the hearing, information regarding the time and location for the hearing, and the address and telephone number of an office at which interested persons may obtain further information concerning the hearing.

After receiving the record of the hearing, the Regional Administrator will issue an order affirming or rescinding his determination. If the determination is affirmed, it shall become effective as of the date of this order.

If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective on September 30, 1977.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

Dated: July 21, 1977.

HOWARD ZELLER,
Deputy Regional Administrator, Environmental Protection Agency, Region IV.

[FR Doc.77-25245 Filed 8-30-77;8:45 am]

[FRL 785-2; OPP-180133A]

MICHIGAN DEPARTMENT OF AGRICULTURE

Amendment to Specific Exemption To Use Terramycin To Control Bacterial Spot on Peaches and Apricots

In May, 1977, the Environmental Protection Agency (EPA) granted a specific exemption to the Michigan Department of Agriculture (hereafter referred to as the "Applicant") for use of Terramycin by ground equipment to control bacterial spot caused by a pathogenic bacterium, *Xanthomonas pruni*, on 6,000 acres of peaches and apricots in the following counties of Michigan: Allegan, Berrien, Lapeer, Kent, Mason, Oceana, and Van Buren. Notice of the granting of the exemption was published in the FEDERAL REGISTER on July 6, 1977 (42 FR 37996).

The Applicant has requested a fifteen (15) day extension of the subject exemption. The Applicant states that in the case of the more northern counties and in those cases where growers have planted longer maturing varieties, applications must be made later than the July 31 expiration date. There will be no increase in the acreage treated, the number of applications or the amount of Terramycin applied, beyond that which was previously authorized by the subject exemption.

After reviewing the application and other available information, EPA has determined that the specific exemption granted may be amended to include the following:

1. The expiration date of the specific exemption is changed from July 31, 1977, to August 15, 1977; and

2. All other restrictions pursuant to the original specific exemption remain in force.

Dated: August 25, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-25372 Filed 8-30-77;8:45 am]

[OPP-180141, FRL 785-3]

WASHINGTON STATE DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use Carbofuran To Control Root Weevil on Cranberries

The Environmental Protection Agency (EPA) has granted a specific exemption to the Washington State Department of Agriculture (hereafter referred to as the "Applicant") to use a maximum of 560 pounds of carbofuran to control populations of root weevils which are threatening the commercial cranberry crop on 140 acres in Pacific and Grays Harbor Counties, Washington. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Room E-315, Washington, D.C.

According to the Applicant, the primary pest is the Black Vine Weevil (*Otiorhynchus sulcatus*). Other weevils which may be present are the Strawberry Root Weevil (*O. ovatus*), the Rough Strawberry Weevil (*O. rugostriatus*), and the Obscure Root Weevil (*Sciopithes obscurus*). These pests occur principally in those cranberry bogs which are not flooded at harvest. Of the 1200 acres of cranberries grown in Washington State, about 700 acres are not flooded. The Applicant estimated that approximately twenty percent of the dry harvest bogs, about 140 acres, may need treatment with carbofuran this year.

These pests are indigenous to the area. Wildlands adjacent to the cranberry bogs contain alternate hosts which serve as reservoirs for new infestations. The larvae, which feed on the roots, may destroy virtually every cranberry plant as the pest spreads. Recovery can be expected only if the weevils are controlled before the damage becomes extensive. The Applicant stated that recent experience indicates that infestations will increase rapidly and cause widespread damage within the next two to five years.

There appear to be no alternative registered pesticides or non-chemical methods of control currently available to control these pests; malathion, registered for strawberry weevil control on cranberries, is of questionable efficacy, according to the Applicant. Flooding will control these pests, but bogs which are dry-harvested cannot be flooded because of slope or unevenness of the land. Prior to their cancellation, chlorinated hydrocarbon insecticides were registered for control of root weevils.

The Applicant proposed the use of two applications of the product Furadan 10G at a rate of two pounds of active ingredient per acre per application. A preharvest interval of at least sixty days will be observed. Broadcast applications will be made by State-certified commercial and private applicators using ground equipment in accordance with instructions provided by the Washington State University Cooperative Extension Service. Treatment will be limited to non-flooded bogs where infestations have been confirmed. According to the Applicant, nearly complete control can be obtained with two applications of the Furadan granules at the rate proposed.

Even with the carbofuran treatments this year, presently existing damage is expected to cause a 2 to 3 percent loss of production in the non-flooded bogs. Without the treatment in 1977, the loss is expected to increase to 10 or 15 percent by 1978, and probably much more in the next two to five years.

The Applicant estimated that if 15 percent of 700 acres of cranberries require replanting in 1978, the total loss over the next ten years to the industry could be as high as $1,900,000. These losses could force some growers out of business.

EPA has determined that cranberries bearing residues of carbofuran which do not exceed 0.2 part per million (ppm) will not pose a hazard to the public health. Cranberries comprise only about 0.1 percent of the human diet, and the request was for only 140 acres of the 25,000 acres of cranberries grown in the United States; therefore, actual risk is minimal. Although Furadan 10G poses a serious hazard to wildlife, particularly waterfowl, the treatment does not pose an unacceptable environmental hazard, due to the small acreage involved and the facts that (a) following application, the granules are expected to go through the thick mat of cranberry vines to the soil where they would be unavailable to birds, and (b) the application period should miss the time when nesting waterfowl will be utilizing nest sites.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of root weevils has occurred; (b) there is no pesticide presently registered and available for use to control the root weevils threatening the cranberry crop in Pacific and Grays Harbor Counties; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the root weevils are not controlled; and (e) the time available for action to mitigate the problems is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until August 1, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Carbofuran applications will be limited to non-flooded bogs, where infestations have been confirmed by Washington State University research or extension personnel or fieldmen from the Ocean Spray Cranberry Company;
2. The dosage rate shall not exceed two pounds of active ingredient per application;
3. A maximum of 560 pounds active carbofuran will be applied;
4. The number of applications shall not exceed two;
5. A sixty day pre-harvest interval will be observed;
6. The pesticide will be applied by broadcast ground equipment;
7. All applicable directions and precautions on the registered label will be observed;
8. All applications of carbofuran shall be restricted to cranberries which are watered by sprinkler irrigation;
9. EPA has determined that residues of carbofuran, its carbamate metabolite and its phenolic metabolites resulting from this use will not exceed 0.2 ppm, a level which has been determined adequate to protect the public health. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare, has been advised of this action;
10. All applications will be made by commercial and private applicators certified by the Applicant;
11. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with this exemption; and
12. The pesticide will not be applied in bogs which are being utilized by waterfowl as nesting or feeding sites.

AUTHORITY: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 et seq.).

Dated: August 25, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-25379 Filed 8-30-77;8:45 am]

FEDERAL RESERVE SYSTEM

NATIONAL CITY CORP.

Order Approving Acquisition of Bank

National City Corporation, Cleveland, Ohio, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under § 3(a)(3) of the Act (12 U.S.C. § 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of the successor by merger to National Union Bank, Columbiana, Ohio ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant, the third largest banking organization in Ohio, controls five banks with total deposits of $1.8 billion representing 5.5 per cent of total deposits in commercial banks in the State.[1] Consummation of the proposed acquisition would increase Applicant's share of Statewide deposits by 0.1 per cent without changing its ranking in the State. Thus, consummation of the proposal would have no appreciable effect upon the concentration of banking resources in Ohio.

Applicant proposes to enter the Salem banking market[2] by acquiring Bank $32.5 million in deposits), the third largest of eight banking organizations in the market, holding 16.3 per cent of total market deposits.[3] Inasmuch as Applicant's closest subsidiary bank is located 65 miles away in another banking market, approval of the application would not eliminate significant existing competition. The Salem market does not appear particularly attractive for de novo entry; moreover, following consummation additional points of entry would remain available. In light of the above, the Board concludes that the proposed acquisition would not have significant adverse effects on either existing or potential competition.

The financial and managerial resources of Applicant and Bank are regarded as satisfactory and the future prospects for each appear favorable. Although Applicant will incur debt in connection with this proposal, it appears that Applicant will be able to service the debt without placing an undue strain on Bank. Thus, banking factors are consistent with approval of the application.

It appears that the banking needs of the Salem banking market are being adequatly served at the present time. Although the acquisition of Bank by Applicant is not likely to result in any immediate changes in Bank's operations, the affiliation will enable Bank to offer its customers additional and improved services. Accordingly, convenience and needs considerations are consistent with approval of the proposed transaction. On the basis of all the facts of record, it is the Board's judgment that consummation of the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Board of Governors,[4] effective August 24, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-25280 Filed 8-30-77;8:45 am]

UNITED ROCK CONSTRUCTION, INC.

Order Granting Determination Under the Bank Holding Company Act

United Rock Construction, Inc., Omaha, Nebraska ("United"), a bank holding company within the meaning of section 2(a) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. § 1841(a)), by virtue of its ownership of over 99 percent of the issued and outstanding voting shares of National Security Bank of Superior, Superior, Nebraska, has requested a determination, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. § 1841(g)(3)) ("the Act"), that United is not in fact capable of controlling either Harold S. Myers, or David C. Myers ("Myers Brothers"), individuals to whom it

[1] Unless otherwise indicated, all banking data are as of December 31, 1976, and reflect all bank holding company formations and acquisitions approved as of June 30, 1977.

[2] The Salem banking market is approximated by the northern two thirds of Columbiana County along with Green and Goshen Townships in Mahoning County.

[3] All market data are as of June 30, 1976.

[4] Voting for this action: Vice Chairman Gardner and Governors Wallich, Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Coldwell.

V 42 169 AUG 31 77 UMI

transferred its stockholdings in M&M Investment Company, Omaha, Nebraska ("M&M"), company engaged in farming operations, notwithstanding the fact that the individuals are officers and directors of United.

Under the provisions of section 2(g)(3) of the Act, shares transferred after January 1, 1966, by any bank holding company to a transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, are deemed to be indirectly owned or controlled by the transferor unless the Board, after opportunity for hearing, determines that the transferor is not in fact capable of controlling the transferee.

Notice of an opportunity for hearing with respect to United's request for a determination under section 2(g)(3) was published in the FEDERAL REGISTER (41 FR 28360). The time provided for requesting a hearing has expired. No such request has been received by the Board, nor has any evidence been received to show that United is in fact capable of controlling the two individual transferees.

It is hereby determined that United is not, in fact, capable of controlling the Myers Brothers. This determination is based upon the evidence of record in this matter, including the following facts. United is a closely-held Nebraska corporation in which the Myers Brothers, each hold a 50 percent stock interest and serve as its only officers and directors. Under § 4(a)(2) of the Bank Holding Company Act United is required to divest its farming operations by 1981. In anticipation of such a divestiture, M&M was organized to hold United's farming operations, and its shares were spun off to the Myers Brothers on a pro rata basis. Thus, United's interest in M&M has terminated. The Myers Brothers are the only stockholders in M&M and are also its only directors and officers, and the divestiture does not appear to have been a means for perpetuating United's control over the divested farming operations. On the basis of the above and other facts of record the Board concludes that control of both United and M&M resides with the Myers Brothers as individuals and that United does not control and is not in fact capable of controlling the Myers Brothers in their capacity as transferees of M&M's stock or otherwise.

Accordingly, it is ordered, That the request of United for a determination pursuant to section 2(g)(3) be and hereby is granted. This determination is based upon the representations made to the Board by United and the Myers Brothers. In the event the Board should hereafter determine that facts material to this determination are otherwise than as represented, or that United or the Myers Brothers has failed to disclose to the Board other material facts, this determination may be revoked, and any change in the facts or circumstances relied upon by the Board in making this determination could result in the Board reconsidering the determination made herein.

By order of the Board of Governors, acting through its General Counsel, pursuant to delegated authority (12 C.F.R. § 265.2(b)(1)), effective August 24, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-25281 Filed 8-30-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on August 24, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FEA request are invited from all interested persons, orangizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before September 19, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

The FEA request clearance of new Form FEA-U535-A-O, Energy Savings Report. Form FEA-U535-A-O will be used to collect data on actual energy savings achieved each year as a result of State participation in the State Energy Conservation Program (SECP). Each State participating in the SECP will submit an annual Energy Savings Report consisting of one Form FEA-U535-A-O for each program measure in its State plan. FEA estimates a complete report will consist of approximately 5 to 100 forms per State depending on the number of program measures in the State's plan. The forms will be partially completed by FEA based on information available within the State plans and will then be distributed to participating States annually for final completion and submission to FEA by October 31 of each year.

Data from Form FEA-U535-A-O will be used to construct a data base for compilation and dissemination of information on SECP program measures, for use by the FEA and the States to evaluate the relative effectiveness of different conservation strategies, and for FEA's annual reporting requirements to the President and Congress. FEA estimates that respondents are the 50 States and 5 Territories and that reporting burden will average 540 hours per annual response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-25289 Filed 8-30-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.: Temporary Reg. D-60]

SECRETARY OF THE INTERIOR

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of the Interior to appoint uniformed guards of the Department of the Interior as special policemen for duty in connection with the policing of the Haskell Indian Junior College, Lawrence, Kans.; Fort Sill Indian School, Lawton, Okla.; Riverside Indian School Reserve, Anadarko, Oklahoma; Concho Indian School Reserve, El Reno, Oklahoma; and Chilocco Indian School Reserve, Kay County, Okla., which are under the administration of the Department of the Interior.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* (a) Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, and the Act of June 1, 1948 (62 Stat. 281), as amended, authority is hereby delegated to the Secretary of the Interior to appoint uniformed guards as special policemen, to make all needful rules and regulations, and to annex to such rules and regulations such reasonable penalties (not to exceed those prescribed in 40 U.S.C. 318c) as will ensure their enforcement for the protection of persons and property at the Haskell Indian Junior College, Lawrence, Kans.; Fort Sill Indian School, Lawton, Okla.; Riverside Indian School Reserve, Anadarko, Okla.; Concho Indian School Reserve, El Reno, Okla.; and Chilocco Indian School Reserve, Kay County, Okla., over which the United States has exclusive jurisdiction.

(b) The Secretary of the Interior may redelegate this authority to the appropriate officers or employees of the Department of the Interior.

(c) This authority shall be exercised in accordance with the limitations and requirements of the above-cited acts and the policies, procedures, and controls prescribed by the General Services Administration.

Dated: August 22, 1977.

JOEL W. SOLOMON,
Administrator of General Services.

[FR Doc.77-25274 Filed 8-30-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AR 030451]

ARIZONA

Notice of Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

The United States Army, Corps of Engineers, filed application Serial Number AR 030451 on February 28, 1961, for a withdrawal in relation to the following described lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 5S., R. 28 E.,
Sec. 36, $SE\frac{1}{4}$, unsurveyed.
T. 6S., R. 28 E.,
Sec. 1, Lots 1 and 2, $S\frac{1}{2}NE\frac{1}{4}$, and unsurveyed $W\frac{1}{2}$, $SE\frac{1}{4}$;
Sec. 2, $S\frac{1}{2}$, unsurveyed;
Sec. 11, $N\frac{1}{2}$, unsurveyed;
Sec. 12, $N\frac{1}{2}NE\frac{1}{4}$, $NW\frac{1}{4}$, and $N\frac{1}{2}SW\frac{1}{4}$, unsurveyed.
T. 5 S., R. 29 E.,
Sec. 7, $W\frac{1}{2}E\frac{1}{2}$, $E\frac{1}{2}W\frac{1}{2}$, and $SW\frac{1}{4}NW\frac{1}{4}$;
Sec. 11, $E\frac{1}{2}NE\frac{1}{4}$, $S\frac{1}{2}SW\frac{1}{4}$, $SE\frac{1}{4}$;
Sec. 12, Lot 1, Lots 5 to 16 inclusive, $NW\frac{1}{4}NW\frac{1}{4}$, $S\frac{1}{2}NW\frac{1}{4}$, $SW\frac{1}{4}$, and Patented Mineral Survey 1029B to 1033B, inclusive;
Sec. 13, $NW\frac{1}{4}NW\frac{1}{4}$;
Sec. 14, $SW\frac{1}{4}NE\frac{1}{4}$, $N\frac{1}{2}NE\frac{1}{4}$, $W\frac{1}{2}$;
Sec. 15, $E\frac{1}{2}NE\frac{1}{4}$, $S\frac{1}{2}SW\frac{1}{4}$, $SE\frac{1}{4}$;
Sec. 16, $SE\frac{1}{4}SE\frac{1}{4}$;
Sec. 18, $N\frac{1}{2}$, $E\frac{1}{2}SW\frac{1}{4}$, $SE\frac{1}{4}$;
Sec. 19, $W\frac{1}{2}E\frac{1}{2}$, and $E\frac{1}{2}W\frac{1}{2}$;
Sec. 21, $NE\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$, $SE\frac{1}{4}$;
Sec. 22, $N\frac{1}{2}$, $NW\frac{1}{4}SW\frac{1}{4}$, $S\frac{1}{2}S\frac{1}{2}$;
Sec. 25, Lots 2 and 3, Lots 5 to 16, inclusive, $S\frac{1}{2}NW\frac{1}{4}$, $SW\frac{1}{4}$;
Sec. 26, All;
Sec. 27, $N\frac{1}{2}$, $N\frac{1}{2}N\frac{1}{2}SW\frac{1}{4}$, $SE\frac{1}{4}$;
Sec. 28, $N\frac{1}{2}N\frac{1}{2}$;
Sec. 29, $NE\frac{1}{4}$, $S\frac{1}{2}NW\frac{1}{4}$, $W\frac{1}{2}SW\frac{1}{4}$, $N\frac{1}{2}SE\frac{1}{4}$;
Sec. 30, All;
Sec. 31, $N\frac{1}{2}NE\frac{1}{4}$, $W\frac{1}{2}$;
Sec. 32, $NW\frac{1}{4}NW\frac{1}{4}$;
Sec. 35, $N\frac{1}{2}N\frac{1}{2}$;
Sec. 36, Lots 1 and 2.
T. 6 S., R. 29 E.,
Sec. 6, $NW\frac{1}{4}$, $W\frac{1}{2}SW\frac{1}{4}$, unsurveyed;
Sec. 7, $NW\frac{1}{4}NW\frac{1}{4}$, unsurveyed.
T. 5 S., R. 30 E.,
Sec. 6, Lots 3 to 6, 8, 9, 12, 13, 14, 15, 16, 17, 19, 20, 23, and 24, inclusive, and Mineral Survey 1654B;
Sec. 7, Lots 1 to 4, inclusive, and $NE\frac{1}{4}NW\frac{1}{4}$;
Sec. 30, Lots, 2, 3, 4, $SE\frac{1}{4}NW\frac{1}{4}$, and $E\frac{1}{2}SW\frac{1}{4}$;
Sec. 31, Lot 1, $NW\frac{1}{4}NE\frac{1}{4}$, $S\frac{1}{2}NE\frac{1}{4}$, $E\frac{1}{2}W\frac{1}{2}$, $SE\frac{1}{4}$;
Sec. 32, $S\frac{1}{2}NW\frac{1}{4}$, $SW\frac{1}{4}$;
Sec. 33, $SE\frac{1}{4}NE\frac{1}{4}$, $S\frac{1}{2}$;
Sec. 34, $SW\frac{1}{4}NW\frac{1}{4}$, $W\frac{1}{2}SW\frac{1}{4}$.
T. 6 S., R. 30 E.,
Sec. 1, Lots 5 to 12, inclusive;
Sec. 2, Lots 1 to 12, inclusive;
Sec. 3, Lots 1 to 7, inclusive;
Sec. 4, Lots 1 to 6, inclusive, the North 9.44 acres of Lot 7, $SE\frac{1}{4}NW\frac{1}{4}$, and the Gila River between the meander lines of said lots of Secs. 1, 2, 3, and 4.

The area described above aggregates approximately 13,062.91 acres in Graham and Greenlee Counties.

The applicant desires that the lands be reserved for the construction operation and maintenance of the Camelback Dam and Reservoir, a structure designed to control floods on the Gila River.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on September 7, 1962, Volume No. 27, Page No. 8927, Document No. 62-8963.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before October 10, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before October 10, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining and the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-25307 Filed 8-30-77;8:45 am]

CHIEF, BRANCH OF RECORDS & DATA MANAGEMENT DIVISION OF MANAGEMENT SERVICES WYOMING STATE OFFICE

Redelegation of Authority by State Director

JULY 22, 1977.

Pursuant to the authority contained in section 1.1 of BLM Order No. 701 dated July 23, 1964, as amended, authority is hereby redelegated to the Chief, Branch of Records and Data Management to take action under section 2.6(k) as to mining claim instruments filed for record with BLM under 43 CFR 3833, as follows:

(1) Accept and record instruments meeting recording requirements;

(2) Notify owners to take curative actions to complete defective filings;

(3) Reject instruments and void claims not filed within the prescribed time periods; and

(4) Reject filings and void claims located on lands not available for mineral location on dates of location.

This delegation is effective May 31, 1977.

Dated: August 24, 1977.

DELMAR D. VAIL,
Associate State Director.

Approved:
GEORGE L. TURCOTT,
Acting Director.

[FR Doc.77-25301 Filed 8-30-77;8:45 am]

Bureau of Land Management

[Wyoming 039851]

WYOMING

Application

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Marathon Pipe Line Company of Casper, Wyo., filed an application for right-of-way to construct a rectifier, cable and ground bed on the Ainsworth to Bonanza 7 inch and 8 inch line in the Bonanza-Manderson District across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING
T. 49 N., R. 91 W.,
Sec. 21, $N\frac{1}{2}NW\frac{1}{4}$.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1700 Robertson Avenue, P.O. Box 119, Worland, Wyo. 82401.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-25309 Filed 8-30-77;8:45 am]

[Wyoming 60659]

WYOMING

Application

AUGUST 22, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application for a right-of-way to construct a 4½-inch

V42169 AUG 31 77 UMI

O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 24 N., R. 111 W., sec. 4, NW¼SE¼.

The pipeline will transport natural gas within T. 24 N., R. 111 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-25310 Filed 8-30-77;8:45 am]

[Wyoming 60663]

WYOMING

Application

AUGUST 22, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo., filed an application for a right-of-way to construct a 2-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 19 N., R. 97 W.,
Sec. 8, NW¼NE¼.

The pipeline will transport natural gas from a well in section 5 to present facility in section 8, T. 19 N., R. 97 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-25311 Filed 8-30-77;8:45 am]

U.S. INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-36]

CERTAIN PLASTIC FASTENER ASSEMBLIES

Preliminary Conference

In the matter of certain plastic fastener assemblies.

Notice is hereby given that a Preliminary Conference will be held in connection with the above styled investigation at 12:00 Noon on Tuesday, September 6, 1977, in the Hearing Room of the Administrative Law Judge, Room 610, Bicentennial Building, 600 E Street NW., Washington, D.C. Notice of this investigation was published in the FEDERAL REGISTER on August 11, 1977 (42 FR 40786). The purposes of this preliminary conference are to familiarize counsel with Commission procedures, to discuss pending motions, and to resolve any other matters necessary to the conduct of this investigation.

If any questions should arise not covered by these instructions, the parties or their counsel shall call Mr. Robbins Pancake, Advisory Attorney to the Presiding Officer, at 202—724-0070.

The Secretary shall serve a copy of this notice upon all parties of record and shall publish it in the FEDERAL REGISTER.

Issued: August 25, 1977.

ITALO H. ABLONDI,
Presiding Officer.

[FR Doc.77-25339 Filed 8-30-77;8:45 am]

DEPARTMENT OF JUSTICE

E. I. DUPONT DE NEMOURS & CO., INC., LAPLACE, LOUISIANA

Proposed Consent Decree (Federal Water Pollution Control Act)

In accordance with Departmental Policy, 28 C.F.R. § 50.7, 38 Fed. Reg. 19029, notice is hereby given that on August 9, 1977, a proposed consent decree in *United States v. E. I. duPont de Nemours & Company, Inc.*, C. A. 77-2258 Session G, was lodged with the United States District Court for the Eastern District of Louisiana. The proposed decree extends the deadline for compliance with certain effluent limitations until December 15, 1977, and provides for the payment to the United States of $210 for each day until that date that the discharge exceeds these effluent limitations.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. E. I. duPont de Nemours & Company, Inc.*, D.J. Ref. 90-5-1-1-865.

The proposed amended consent decree may be examined at the office of the United States Attorney for the Eastern District of Louisiana, New Orleans, Louisiana 70130; at the Region VI office of the Environmental Protection Agency, Enforcement Division, 1201 Elm Street, Dallas, Texas 75270; and at the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed amended consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division, Department of Justice.

JAMES W. MOORMAN,
Acting Assistant Attorney General Land and Natural Resources Division.

[FR Doc.77-25303 Filed 8-30-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (77-551)]

SPACE PROGRAM ADVISORY COUNCIL (SPAC), APPLICATIONS COMMITTEE

Meeting

The ad hoc informal Subcommittee on Satellite Telecommunications of the SPAC Applications Committee will meet on September 20, 1977, at NASA Headquarters, Federal Office Building 10B, Room 226A, 600 Independence Avenue SW., Washington, D.C.

Members of the public will be admitted to the meeting at 9:00 a.m. on a first-come first-served basis. The seating capacity of the room is 35 people. Visitors will be requested to sign a visitor's register.

This Subcommittee, comprised of 7 members including the Chairman, Mr. Thomas Rogers, serves in an advisory capacity only and will recommend a satellite telecommunications program to NASA.

For further information regarding the meeting, please contact Mr. Louis B. C. Fong, (202) 755-8617. The approved agenda for the meeting on September 20, 1977, is as follows:

Time	*Topic*
9 a.m.	Opening remarks by Chairman.
9 a.m.	Satellite telecommunications program. The subcommittee will continue its discussions on and review of the National Resource Council—Space Applications Board Report on Satellite Communications and will review its progress for the past meetings. The chairman will present a draft report covering the subcommittee's findings and conclusions to date for the member's approval.
4 p.m.	Adjourn.

KENNETH R. CHAPMAN,
Assistant Administrator for DoD and Interagency Affairs.

AUGUST 25, 1977.

[FR Doc.77-25275 Filed 8-30-77;8:45 am]

NATIONAL COMMISSION FOR MANPOWER POLICY

MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (P.L. 92-463; 86 Stat. 770) notice is hereby given that the National Commission for Manpower Policy will conduct a field review on the net employment effects of the public service employment (PSE) program on September 20 and September 21, 1977. The meeting will be held in the Rainbow Plaza Room of the Seattle Airport Hilton Hotel located at 17620 Pacific Highway, South, Seattle, Wash. The reviews will commence at 9:00 a.m. and conclude at 4:00 p.m. on both days.

The National Commission for Manpower Policy was established pursuant to Title V of the Comprehensive Employment and Training Act of 1973 (P.L. 92-203). The Act charges the Commission with the broad responsibility of advising the Congress, the President, the Secretary of Labor, and other Federal agency heads on national manpower issues. The Commission is specifically charged with reporting annually to the President and the Congress on its findings and recommendations with respect to the Nation's manpower policies and programs. The Emergency Jobs Programs Extension Act of 1976 directs the Commission to study and report to Congress on the net employment effects of PSE programs under Title II and Title VI of the Comprehensive Employment and Training Act.

The purpose of the hearing is to elicit the views of those at the State and local level (in and out of government) on the effects and effectiveness of the public service employment program. Among the issues to be addressed are:

1. What goals and objectives are developed by State and local governments for the PSE programs? How are these goals developed so that they are supportive of national goals; provide needed public services; and are supportive of other public services?

2. To what extent has PSE resulted in an increase in the provision of services by State or local governments? Has PSE been instrumental in maintaining the level of services where they would have otherwise been curtailed due to revenue reductions, increased costs or other factors? What types of services are being provided through the PSE programs? What types of agencies (e.g., public safety, sanitation, education) received PSE jobs? If the PSE program were reduced or phased out, to what extent would these services also be reduced or terminated?

3. To what extent has PSE resulted in an increase in the services provided by nonprofit community organizations? How has this changed as a result of the requirements of the Emergency Jobs Programs Extension Act of 1976? What types of services are being provided by community organizations with the employment provided by PSE?

4. What is the ability of State and local governments to absorb additional PSE jobs? To what extent can this be expanded by increased utilization of nonprofit community organizations? What has been the experience in implementing and increasing the PSE programs to date? What are the constraints to further increasing the size of the program?

5. What effect has the presence of the PSE program had on the personnel practices of State and local governments? Have changes been made to provide PSE employees with improved access to regular (i.e., non-PSE) jobs? Has the PSE program resulted in any changes in the composition of the regular employment of the employing jurisdiction in terms of race, sex, education, experience, or other characteristics? Can PSE be used as a means of training the hard-to-employ and then obtaining access for them to permanent, unsubsidized employment?

6. What should be the areas of concern in consideration of phasing out or phasing down the current PSE programs? What areas should be considered if the target populations or mode of operation of the current programs are to be modified? To what extent and how do changes in the scale, mode of operation, target population and/or continuity of the program effect the delivery of needed public services?

Members of the general public or other interested individuals may attend the Commission field reviews. Members of the public desiring to submit written statements to the Commission that are germane to the agenda may do so, provided such statements are in reproducible form and are submitted to the Director no later than 2 days before and 7 days after the meeting.

Additionally, members of the general public may request to make oral statements to the Commission to the extent that the time available for the meeting permits. Such oral statements must be directly germane to the announced agenda items and written application must be submitted to the Director of the Commission 3 days before the meeting. This application shall identify the following: the name and address of the applicant, the subject of his or her presentation and its relationship to the agenda; the amount of time requested; the individual's qualifications to speak on the subject matter; and shall include a justifying statement as to why a written presentation would not suffice. The Chairman reserves the right to decide to what extent public oral presentation will be permitted at the meeting. Oral presentations shall be limited to statements of fact and views and shall not include any question of Commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting, working papers, and other documents prepared for the meeting will be available for public inspection 5 working days after the field review at the Commission's headquarters located at 1522 K Street NW., Room 300, Washington, D.C.

Signed at Washington, D.C., this 26th day of August 1976.

ELI GINZBERG,
Chairman, National Commission for Manpower Policy.

[FR Doc.77-25321 Filed 8-30-77;8:45 am]

NATIONAL COMMISSION ON NEW TECHNOLOGICAL USES OF COPYRIGHTED WORKS

NOTICE OF MEETING

A meeting of the National Commission on New Technological Uses of Copyrighted Works (CONTU) will be held at 10:30 a.m. on Thursday, September 15, 1977, and at 9:30 a.m. on Friday, September 16, 1977, in room 2119 of the Federal Building located at 210 South Dearborn Street in Chicago, Ill. The proceedings will be devoted to testimony on the Commission reports concerned with copyright protection for computer software and automated data bases, and witnesses on the photocopying issue. The meeting will be open to the public.

Full transcripts of the meeting will be available for purchase from the National Technical Information Service in November 1977; ordering information may be obtained from the Commission.

All members of the public, including representatives of groups concerned, are invited to submit written comments relating to any matters under the Commission's consideration. All such comments should be addressed to Dolores K. Dougherty, Administrative Officer, National Commission on New Technological Uses of Copyrighted Works, Washington, D.C. 20558.

ARTHUR J. LEVINE,
Executive Director, National Commission on New Technological Uses of Copyrighted Works.

[FR Doc.77-25316 Filed 8-30-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on August 24, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Office of Human Development, Typology and Service Assessment of Runaway Youth Unable or Unwilling to Return Home, single time, clients of funded runaway projects and service providers, Sunderhauf, M. B., 395-6140.

DEPARTMENT OF LABOR

Labor Management and Service Administration, Impact of Training Survey, LMSA-40-T, single time, past participants of DOL labor-relations course, Strasser, A., 395-5867.

V42169 AUG 31 77 UMI

Employment and Training Administration, Men in WIN, MT-283, single time, food stamp registrants ES staff, Maria Gonzalez, 395-5867.

REVISIONS

VETERANS ADMINISTRATION

Application for servicemen's group life insurance—retired reservists, VAF 29-871, on occasion, retired reservists, Marsha Traynham, 395-4529.

U.S. CIVIL SERVICE COMMISSION

Data for nonsensitive or noncritical-sensitive position, SF-83, on occasion, applicants for nonsensitive & noncritical positions, Marsha Traynham, 395-4529.

Security Investigation Data for Sensitive Position: SF-86, on occasion, applicants for critical-sensitive positions, Marsha Traynham, 395-4529.

Inquiry for U.S. Government use only, educational data for NACI of 50, on occasion, educational institutions, Marsha Traynham, 395-4529.

Identification and personnel data for employment of U.S. Citizen, ILB-2, on occasion, individuals, Marsha Trynham, 395-4529.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, application for teacher exchange program, OE 356, on occasion, American teachers, Warren Topelius, 395-5872.

EXTENSIONS

GENERAL SERVICES ADMINISTRATION

Background Information for Consideration of Membership in the National Defense Executive Reserve, GSA 9009, on occasion, individuals, professionals, businessmen, Marsha Traynham, 395-4529.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration, Regulations—Community Facilities—loans to associations (Exc. for water and waste disposal), on occasion, business firms, Lowry, R. L., 395-3772.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-25262 Filed 8-30-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

COMMISSIONER'S ADVISORY GROUP

Notice of Open Meeting

There will be meeting of the Commissioner's Advisory Group on September 15 and 16, 1977, in Room 3313 of the Internal Revenue Service Building. The building is located at 1111 Constitution Avenue, NW., Washington, D.C. The meeting will begin at 10:00 a.m. on September 15 and 9:00 a.m. on September 16. The agenda will include the following topics:

THURSDAY, SEPTEMBER 15, 1977

Oversight and the IRS.
Administrative Appeals—Single Level of Appeals.
Use of Administrative Procedure Act Approach to the Issuance of Rulings and Other Policy Announcements.
Revision of Form W-4.
Regulation 9100. What standards should the Service adopt regarding elections?
Information Returns Program.

FRIDAY, SEPTEMBER 16, 1977

Image of the IRS.
Authorization for Payment of Attorneys Fees in Tax Cases.
Possible Excessive Requirement for Power of Attorney.
IRS and New Taxpayer Gambits—What techniques does IRS use to keep abreast of new taxpayer gambits.

The meeting, which will be open to the public, will be in a room that accommodates approximately 50 people. After the Committee members finish discussing the items on the agenda, there may be time for statements by non-members. If you want to make a statement at the meeting, please contact Thomas V. Glynn before the meeting, so that he can set up a schedule. If you would like the Committee to consider a written statement, please send it to the Executive Secretary, Room 3011, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Thomas V. Glynn, Assistant to the Commissioner, (202) 566-4073 (not toll free).

JEROME KURTZ,
Commissioner.

AUGUST 24, 1977.

[FR Doc.77-25583 Filed – -77; : am]

INTERSTATE COMMERCE COMMISSION

[No. 468]

ASSIGNMENT OF HEARINGS

AUGUST 26, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 139876 Sub No. 3 A B C Transit, Co., Inc., now assigned September 8, 1977 in Omaha, Nebr. is canceled and application dismissed.

MC 117940 Sub No. 194 Nationwide Carriers, Inc., now assigned September 20, 1977 in Washington, D.C., is canceled and application dismissed.

MC 119777 Sub No. 334 Ligon Specialized Hauler, Inc., now being assigned September 29, 1977 (1 day) for hearing in Dallas, Tex. will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 13455 Sub No. 106 Charter Express, Inc., now being assigned September 30, 1977 (1 day) for hearing in Pittsburgh, Pa., will be held in Room 819, Post Office & Courthouse, Grant Street.

MC 19227 Sub 227, Leonard Bros. Trucking Co., Inc.; MC 32882 Sub 77, Mitchell Bros. Truck Lines; MC 60014 Sub 43, Aero Trucking Inc.; MC 73165 Sub 394, Eagle Motor Lines, Inc.; MC 74321 Sub 124 B. F. Walker, Inc.; MC 83539 Sub 449, C & H Transportation Co., Inc.; MC 106644 Sub 225, Superior Trucking Co., Inc.; MC 109397 Sub 330, Tri-State Motor Transit Co.; MC 111545 Sub 232, Home Transportation Co., Inc.; MC 112304 Sub 108, Ace Doran Hauling & Rigging Co.; MC 113855 Sub 366, International Transport, Inc.; MC 114211 Sub 296, Warren Transport, Inc.; MC 117574 Sub 277, Daily Express, Inc.; MC 124211 Sub 286, Hilt Truck Line, Inc.; MC 124692 Sub 173, Sammons Trucking; MC 123048 Sub 355, Diamond Transportation System, Inc.; MC 125433 Sub 89, F-B Truck Line Co.; MC 128762 Sub 16, P. L. Lawton, Inc.; and MC 142059 Sub 2, Cardinal Transport, Inc., now assigned November 7, 1977, at San Francisco, Calif., will be held in Room 510, 211 Main Street; and now assigned November 14, 1977, at Atlanta, Ga., will be held in Room 305, 1252 W. Peachtree St. NW.

MC 134755 Sub No. 106 Charter Express, Inc., now being assigned September 30, 1977 (1 day) for hearing in Pittsburgh, Pa., will be held in Room 819, Post Office & Courthouse, Grant Street.

MC 42487 Sub 860, Consolidated Freightways Corp., now assigned October 3, 1977, at Atlanta, Ga., will be held in Room 305, 1252 W. Peachtree St. NW.

MC 130442, Shelmont, Inc., now assigned October 5, 1977, at Atlanta, Ga., will be held in Room 305, 1252 West Peachtree St. NW.

MC 2900 Sub 298, Ryder Truck Lines, Inc., now assigned October 12, 1977, at Atlanta, Ga., will be held in Room 305, 1252 West Peachtree, St. NW.

MC 129537 Sub 19, Reeves Transportation Co., now assigned October 17, 1977, at Atlanta Ga., will be held in Room 305, 1252 West Peachtree St. NW.

MC 135316 Sub 5, Air Truck Service, Inc., dba Kanawha Valley Air Freight, now assigned October 18, 1977, at Columbus, Ohio, will be held in Room 235, Federal Bldg., 85 Marconi Blvd.

H. G. HOMME, Jr.
Acting Secretary.

[FR Doc.77-25349 Filed 8-30-77;8:45 am]

EXEMPTION UNDER PROVISION OF RULE 19 OF THE MANDATORY CAR SERVICE RULES ORDERED IN EX PARTE NO. 241

Eleventh Revised Exemption No. 129

AUGUST 26, 1977.

It appearing, That the railroads named herein own numerous 40-ft. plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 404 issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

Chicago, West Pullman & Southern Railroad Company.
Reporting Marks: CWP.
Chicago, Rock Island and Pacific Railroad Company.
Reporting Marks: RI-ROCK.
Detroit and Mackinac Railway Company.
Reporting Marks: D&M-DM.
Illinois Terminal Railroad Company.
Reporting Marks: ITC.
Louisville, New Albany & Corydon Railroad Company.
Reporting Marks: LNAC.
Missouri-Kansas-Texas Railroad Company.
Reporting Marks: MKT.
Missouri Pacific Railroad Company.
Reporting Marks: CEI-MI-MP-TP.
New Hope and Ivyland Railroad Company.
Reporting Marks: NHIR.
Richmond, Fredericksburg and Potomac Railroad Company Reporting Marks: RFP.
St. Louis-San Francisco Railway Company.
Reporting Marks: SLSF.
Southern Railway Company.
Reporting Marks: CG-NS-SA-SOU.

Effective 12:01 a.m., September 1, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., August 23, 1977.

INTERSTATE COMMERCE COMMISSION.
JOEL E. BURNS,
Agent.

[FR Doc.77-25356 Filed 8-30-77;8:45 am]

[I.C.C. Order No. 36; Rev. S.O. 1252]

GRAND TRUNK WESTERN RAILROAD CO.

Rerouting of Traffic

TO ALL RAILROADS:

In the opinion of Joel E. Burns, Agent, the Grand Trunk Western Railroad Company will be unable to transport traffic routed via its car ferry between Milwaukee, Wisconsin, and Muskegon, Michigan, because of necessary repairs to its boat to commence after completion of trips scheduled for September 2, 1977.

It is ordered, That:

(a) *Rerouting traffic.* The Grand Trunk Western Railroad Company being unable to transport traffic routed via its car ferry between Milwaukee, Wisconsin, and Muskegon, Michigan, because of necessary repairs to its boat to commence on September 19, 1977, that carrier is hereby authorized to divert and reroute such traffic over any available route to expedite the movement regardless of the routing shown on the waybill. The billing covering all such cars rerouted shall carry a reference to this order. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Traffic which may be rerouted.* (1) This order shall apply to traffic routed via the ferry for movements via ferry trips scheduled to depart Milwaukee or Muskegon after September 16, 1977.

(c) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(d) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(e) Inasmuch as the diversion or rerouting of traffic by said Agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(f) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportations applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(g) Effective date. This order shall become effective at 12:01 a.m., August 29, 1977.

(h) Expiration date. This order shall expire at 11:59 p.m., October 31, 1977, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 25, 1977.

INTERSTATE COMMERCE COMMISSION.
JOEL E. BURNS,
Agent.

[FR Doc.77-25316 Filed 8-30-77;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

AUGUST 26, 1977.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission within 10 days from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successfully filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 8973 (Sub-No. E34), filed May 16, 1974. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th St., North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* (except commodities in bulk), (A)(1) from points in Essex County, N.J., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Maryland, Virginia, District of Columbia, Ohio, and Delaware. (2) From points in Essex County, N.J., to points in that part of Connecticut on, north and east of a line beginning at the Connecticut-Massachusetts State line and extending along Connecticut Highway 12 and south through Grosvenordale thence through Putnam to junction U.S. Highway 44, thence east to the Connecticut-Rhode Island State line. (3) From points in Essex County, N.J., to that portion of Pennsylvania on and west of a line beginning at the New York-Pennsylvania State line near Sayre and extending south along U.S. Highway 220 to junction Pennsylvania Highway 487, thence along Pennsylvania Highway 487 to junction Pennsylvania Highway 239, thence along Pennsylvania Highway 239 to junction Pennsylvania Highway 93, thence along Pennsylvania Highway 93 to junction Pennsylvania Highway 309, thence along Pennsylvania Highway 309 to junction Pennsylvania Highway 143, thence along Pennsylvania Highway 143 to junction Pennsylvania Highway 73, thence along Pennsylvania Highway 73 to Boyertown, thence east along Pennsylvania Highway 73 to junction Pennsylvania Highway 29 to junction Pennsylvania Highway 63 to junction Pennsylvania Highway 463 to junction U.S. Highway 202 to Doylestown, thence along U.S. Highway 202 to junction Pennsylvania Highway 32 to the Pennsylvania-New Jersey State line near Washington Crossing. (4) From that part of Essex County, N.J. embracing the City of Newark; the City of East Orange; the Town of Irvington; the Town of Belleville; and Port Newark,

V42169 AUG 31 77 UMI

N.J., to points in Pennsylvania. (5) From points in Essex County, N.J., to points in that part of New York on, north, and west of a line extending from the New York-Pennsylvania State line near Waverly, thence north along New York Highway 34 to junction New York Highway 224, thence east along New York Highway 224 to junction New York Highway 96, thence north along New York Highway 96 to junction New York Highway 13, thence east on New York Highway 13 to New Woodstock, N.Y., thence northeast along unnamed creek to Peterboro, thence east along an unnumbered highway from Peterboro to junction New York Highway 46, thence north along unnumbered highway to junction New York Highway 12B, thence north along New York Highway 12B to junction New York Highway 8, thence north along New York Highway 8 to a point approximately eight (8) miles north of Griffin, N.Y., thence east along New York Highway 8 to junction unnumbered highway to Thurman, N.Y., thence east along unnumbered highway to junction New York Highway 28 to junction U.S. Highway 9 north of Warrensburg, thence east along U.S. Highway 9 to Bolton, thence east along Lake George to Pilot Knob, thence east along unnumbered highway to Comstock, N.Y., to junction U.S. Highway 4 to junction New York Highway 22, thence east along New York Highway 22 to the New York-Vermont State line near Granville.

(B) (1) From points in Hudson County, N.J., to points in Maine, New Hampshire, Maryland, Virginia, District of Columbia, Pennsylvania, Ohio, and Delaware. (2) From points in Hudson County, N.J., to that portion of New York on, north and west of a line commencing at the Pennsylvania-New York State line near Hale Eddy, thence north along New York Highway 17 to junction New York Highway 17 to junction New York Highway 8, thence north along New York Highway 8 to junction New York Highway 51, thence north along New York Highway 51 to junction New York Highway 205, thence north along New York Highway 205 to junction New York Highway 28, thence east along New York Highway 28 to junction New York Highway 80, thence north along New York Highway 80 to Van Hornesville, thence north along an unnamed creek to Newville, N.Y., thence east along an unnumbered highway to New York Highway 5–S, thence east along New York Highway 5–S to a point directly across the Mohawk River, from Saint Johnsville and New York Highway 5, thence north along an unnumbered highway to junction New York Highway 29, thence east along New York Highway 29 to junction New York Highway 10, thence north along New York Highway 10 to Caroga Lake, thence east along an unnumbered highway through Benson, N.Y., to junction New York Highway 30, thence south along New York Highway 30 to Northville, thence east along an unnumbered highway to Edinburg, thence north along unnumbered highway through Conklingville to junction New York Highway 9–N near Hadley, thence north on New York Highway 9–N to Lake George, thence north along New York Highway 9–L to Cleverdale, thence east along to Comstock, thence east on New York Highway 22 to New York-Vermont State line near Granville. (3) From points in that portion of Hudson County, N.J., embracing the city of Jersey City; Town of Kearny; Boro of East Newark; and Town of Harrison, to points in Rhode Island. (4) (a) From points in Hudson County, N.J., to that portion of Massachusetts on, south and east of an unnumbered highway commencing at Buzzards Bay and extending north to Cape Cod Bay at Sagamore. (b) From point in Hudson County, N.J., to points in Massachusetts, on, north, and east of a line beginning at the Massachusetts-New Hampshire State line near Winchendon, Mass., thence south and east along Massachusetts Highway 12 to junction Massachusetts Highway 2A to Lexington, thence east along Massachusetts Highway 60 to Revere, thence east to Massachusetts Bay. (5) From that portion of Hudson County, N.J., embracing the City of Bayonne; the Town of Harrison; the Town of Kearny; the Boro of East Newark; to points in Massachusetts.

(6) From points in Hudson County, N.J., to that portion of Vermont on, north and east of a line commencing at the New York-Vermont State line near West Arlington, Vt. and extending along Vermont Highway 313 to junction U.S. Highway 7 near Arlington, Vt., thence east on unnumbered highway to junction Vermont Highway 100, thence south on Vermont Highway 100 to junction Vermont Highway 112, thence south along Vermont Highway 112 to the Massachusetts-Vermont State line. (7) From points in that portion of Hudson County, N.J. that embraces the City of Jersey City; the Town of Kearny; and the City of Hoboken; the Town of Harrison; the City of Bayonne; and the Boro of East Newark; to points in Vermont. (C) (1) From points in Union County, N.J., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Maryland, Virginia, District of Columbia, Ohio and Delaware. (2) From points in Union County, N.J. to that portion of Connecticut on, north and east of a line commencing at the New York-Connecticut State line west of North Wilton, Conn., to Cannondale, Conn., thence south and east along Connecticut Highway 33 to junction U.S. Highway 7, to junction Connecticut Highway 53, to Southport on Long Island Sound. (3) From that part of Union County, N.J., embracing the Townships of Scotch Plains, Berkeley Heights, Cranford; and Clark; the Cities of Linden, Rahway, Plainfield, and Summit; and the Boroughs of New Providence, Mountainside, Garwood, Fanwood, and the Town of Westfield, to points in Connecticut. (4) From points in Union County, N.J., to points in that portion of New York, on, north and west of a line commencing at the New York-Pennsylvania State line near Hancock, N.Y., thence east along New York Highway 17 to junction New York Highway 30, thence north on New York Highway 30 to junction New York Highway 28, thence east along New York Highway 28 to Kingston, thence across the Hudson River to Rhinecliff, thence south and east along New York Highway 308 to junction unnumbered highway to Taconic State Parkway to junction U.S. Highway 44, thence south along the Taconic State Parkway to junction New York Highway 55, thence south and east along New York Highway 55 to junction New York Highway 22, thence south along New York Highway 22 to Patterson, N.Y., to the New York-Connecticut State line near Squantz Pond. (5) From that portion of Union County, N.J., embracing the Townships of Hillside and Clark and the City of Linden; the City of Rahway, and the City of Elizabeth, to points in New York.

(6) From points in Union County, N.J., to that part of Pennsylvania on south and west of a line commencing at the New York-Pennsylvania State line near Equinunk, thence south on unnumbered highway to junction Pennsylvania Highway 371, thence west along Pennsylvania Highway 371 to junction Pennsylvania Highway 247, thence south along Pennsylvania Highway 247 to junction Pennsylvania Highway 171, thence south along Pennsylvania Highway 171 to junction U.S. Highway 6, thence south along U.S. Highway 6 to junction Pennsylvania Turnpike Extension at Scranton, thence south along the Pennsylvania Turnpike Extension to junction unnumbered highway south of Bear Creek, thence south and west along said unnumbered highway to junction Pennsylvania Highway 93 to junction U.S. Highway 209 and thence west on U.S. Highway 209 to junction Pennsylvania Highway 309, thence south and east on Pennsylvania Highway 309 to junction Pennsylvania Highway 143, thence west on Pennsylvania Highway 143 to junction Pennsylvania Highway 863, thence south and west along Pennsylvania Highway 863 to junction Pennsylvania Highway 737, thence south on Pennsylvania Highway 737 to Pennsylvania Highway 73, thence south on Pennsylvania Highway 73 to junction Pennsylvania Highway 100, thence south along Pennsylvania Highway 100 to junction U.S. Highway 422, thence east and south on U.S. Highway 422 to junction with the Pennsylvania Turnpike at Norristown, thence east on the Pennsylvania Turnpike to the New Jersey-Pennsylvania State line north of Bristol, Pa. (7) From that portion of Union County, N.J. embracing the Boroughs of Mountainside, Garwood, Kenilworth, Roselle Park, and Roselle; Townships of Clark, Cranford, Union, and Hillside; and Cities of Elizabeth, Linden and Rahway; and the Town of Westfield, to points in Pennsylvania. (D) (1) From points in Somerset County, N.J., to points in Connecticut, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Virginia and Ohio. (2) From that portion of Somerset County, N.J. embracing the Boroughs of Watchung, North Plainfield, Bounde Brook, Township of Green Brook, and Town of Somerset in Franklin Township, to points in Delaware.

(3) From points in Somerset County, N.J., to points in that part of Pennsylvania on and west of a line commencing at the New York-Pennsylvania State line at Austinburg, thence south along Pennsylvania Highway 349 to junction U.S. Highway 6, thence west along U.S. Highway 6 to junction Pennsylvania Highway 144, thence south along Pennsylvania Highway 144 to Hammersley Fork, thence south along Kettle Creek to Alvin R. Bush Dam, thence south along Alvin R. Bush Dam to Cooks Run, thence south and west along the Susquehanna River to Karthaus, Pa., thence south along an unmarked river between Karthaus and Phillipsburg, thence south along Pennsylvania Highway 350 to Sandy Ridge, thence south along Pennsylvania Highway 350 to Water Street, thence south on U.S. Highway 22 to junction Pennsylvania Highway 866, thence east and south along Pennsylvania Highway 866 to junction Pennsylvania Highway 36, thence east on Pennsylvania Highway 36 to junction Pennsylvania Highway 26, thence south along Pennsylvania Highway 26 to junction Interstate Highway 70, thence east and south along Interstate Highway 70 to the Maryland-Pennsylvania State line near Warfordsburg, Pa. (4) From points in Somerset County, N.J. to that portion of New York on, north and west of a line commencing at the Pennsylvania-New York State line at Lawrenceville, extending north along U.S. Highway to junction unnumbered highway to junction New York Highway 225, thence north on New York Highway 225 to junction New York Highway 414, thence north on New York Highway 414 to Beaver Dams, thence east on the Chemung County line to junction New York Highway 14, thence north on New York Highway 14 to junction New York Highway 414, thence north on New York Highway 414 to Romulus, thence east on an unnumbered highway to Cayuga Lake to Aurora, thence north along New York Highway 90 to Levanna, thence east on an unnumbered highway to New York 34, thence north on New York 34 to junction New York Highway 5 near Auburn, thence north and east along New York Highway 5 to Syracuse, N.Y., thence south and east along New York Highway 92 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction New York Highway 51, thence south on New York Highway 51 to junction unnumbered highway at West Exeter, thence east on the unnumbered highway to junction New York Highway 28 at Schuyler Lake, thence south on New York Highway 28 to junction New York Highway 7, to junction New York Highway 23 to Prattsville, thence along New York Highway 23 to New York Highway 82, thence east and south on New York Highway 82 to Ancramdale, thence south on unnumbered highway to junction New York Highway 199 north of Millerton, thence south on New York Highway 199 to the Connecticut-New York State line near Millerton.

(5) From that portion of Somerset County, N.J., on, south and east of a line commencing at the Middlesex-Somerset County line, south and west on Cedar Grove Road to junction Amwell Road, thence east on Amwell Road to South Middlebush Road, thence south on South Middlebush Road, to junction Vliet Road, thence south and west to a joint on Copper Mine Road south of Griggs Town Heights, thence south along New Jersey Highway 533 to junction U.S. Highway 206, thence north and west along U.S. Highway 206 to junction Orchard Road, thence west on Orchard Road to junction Burnt Hill Road, thence north on Burnt Hill Road to junction Skillman Road, thence west on Skillman Road, when it becomes Camp Meeting Ave., and west on Camp Meeting Ave., to Hollow Road, thence west to the Somerset-Mercer County line; to points in New York. (6) (a) From points in Somerset County, N.J., to that part of Maryland on and west of a line commencing at the Pennsylvania-Maryland State line near the town of State Line, Pa., thence south along U.S. Highway 11 to Hagerstown, thence south on Maryland Highway 65 to the West Virginia-Maryland State line near Antietam, Md. (b) From points in Somerset County, N.J., to that part of Maryland on and south of a line commencing at the Potomac River, thence east to Marbury, to junction Maryland Highway 225, thence south and east along Maryland Highway 225 to junction Maryland Highway 6, thence east along Maryland Highway 6 to junction Maryland Highway 235 near Charlotte Hall, thence south on Maryland Highway 235 to California, thence east to Chance, Md., thence east along Maryland Highway 363 to junction U.S. Highway 13, thence south of Princess Anne, Md., thence east on U.S. Highway 13 to junction Maryland Highway 366, thence east on Maryland Highway 366 to Chincoteague Bay and the Atlantic Ocean.

(7) From the Town of Somerset in Franklin Township; the Boroughs of Bound Brook and South Bound Brook, and that part of Somerset County, N.J., located on and east of a line beginning at the Morris-Somerset County line south along New Jersey Highway 527 to Mt. Bethel, thence south on King George Road, to the Middlesex-Somerset County line, to points in Maryland. (8) From points in Somerset County, N.J. (except the Town of Blawenburg), to the District of Columbia. (E) (1) From points in Bergen County, N.J., to points in Maryland, Virginia, District of Columbia, Ohio, and Delaware. (2) From points in Bergen County, N.J., to points in that part of New Hampshire on, north and east of a line commencing at the Vermont-New Hampshire State line at or near Lyme, thence south on unnumbered highway to U.S. Highway 4, thence east on U.S. Highway 4, to junction U.S. Highway 3, thence east and south of U.S. Highway 3 to Concord, thence east on U.S. Highway 4 to New Castle to the Atlantic Ocean. (3) From that portion of Bergen County, N.J. embracing the Boroughs of Fairlawn, East Paterson, Wallington, Wood Ridge, Rutherford, and North Arlington; the townships of Saddle Brook, and Lyndhurst and the City of Garfield, to points in New Hampshire. (4) From points in Bergen County, N.J., to points in that part of Vermont on, east and north of a line commencing at the International Boundary between the United States and Canada near Lake Memphremagog, south along the west shore of the lake to junction U.S. Highway 5, thence south on U.S. Highway 5 to junction Vermont Highway 16, thence north on Vermont Highway 16 to junction Vermont Highway 5A, thence south on Vermont Highway 5A to Westmore, thence north and east along unnumbered highway to junction Vermont Highway 105, thence south and east along Vermont Highway 105 to the Vermont-New Hampshire State line. (5) From that portion of Bergen County, N.J., embracing the Township of Lyndhurst; and the Boroughs of Rutherford and North Arlington, N.J., to points in Vermont. (6) From the Borough of North Arlington, Bergen County, N.J., to points in Rhode Island.

(7) From points in Bergen County, N.J., to points in that part of Pennsylvania on, south and west of a line commencing at the New York-Pennsylvania State line near Lawrenceville, thence south along U.S. Highway 15 to junction Pennsylvania Highway 14, thence north on Pennsylvania Highway 14 to junction unnumbered highway south of Bodines, thence east along unnumbered highway to junction Pennsylvania Highway 864, thence east on Pennsylvania Highway 864 to junction U.S. Highway 220, thence east on U.S. Highway 220 to junction Pennsylvania Highway 42; thence south on Pennsylvania Highway 42 to junction Pennsylvania Highway 61, thence east and south along Pennsylvania Highway 61 to junction Pennsylvania Highway 662, thence east on Pennsylvania Highway 662 to junction Pennsylvania Highway 29, thence south on Pennsylvania Highway 29 to junction Pennsylvania Highway 663, thence north and east along Pennsylvania Highway 663 to junction Pennsylvania Highway 313, thence south on Pennsylvania Highway 313 to Dublin, thence east on unnumbered highway from Dublin to New Hope to the Pennsylvania-New Jersey State line. (8) From points in Bergen County, N.J., to those points in New York on and west of a line commencing at the Pensylvania-New York State line near Lawrenceville, Pa., thence north along U.S. Highway 15 to junction New York Highway 17, thence south on New York Highway 17 to junction New York Highway 414, thence north on New York Highway 414 to junction New York Highway 14, thence north on New York 14 to junction New York Highway 96, thence south on New York Highway 96 to a point west of Waterloo, thence north along unnumbered highway to Clyde, thence east and north along unnumbered highway to Spring Lake, thence east along unnumbered highway to

V42169 AUG 31 77 UMI

Conquest, thence north on New York Highway 38 to junction New York Highway 104, at Hannibal, thence north along New York Highway 104 to Fruit Valley, and New York Highway 104 A, thence east on New York Highway 104A to Oswego and Lake Ontario. The purpose of this filing is to eliminate the gateway of the warehouse and plantsite facilities of Alcan Aluminum Corporation at Woodbridge, N.J.

No. MC 21170 (Sub-No. E190) (partial correction), filed February 3, 1975, published in the FEDERAL REGISTER issues of May 2, 1975 and June 11, 1975 and republished as corrected, this issue. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prokuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meats and packinghouse products.*

NOTE.—The purpose of this partial correction is to state the correct commodity description by deleting the restriction "except commodities requiring refrigeration" that was erroneously added when this gateway elimination letter-notice was published. The remainder of this letter notice remains as previously published.

No. MC 40215 (Sub-No. E25) (correction), filed May 17, 1974, published in the FEDERAL REGISTER issue of May 26, 1977, and partially republished, as corrected, this issue. Applicant RICHARDSON TRANSFER & STORAGE CO., INC., 246 North Fifth Avenue, Salina, Kans. 67401. Applicant's representative: James F. Flint, Suite 600, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (4) from points in Oklahoma on and east of a line beginning at the Oklahoma-Kansas State line and extending along U.S. Highway 54/64, thence along U.S. Highway 54 to the Oklahoma-Texas State line, to points in Colorado (7A) from points in Oklahoma to points in Illinois on and north of a line beginning at the Missouri-Illinois State line, and extending east and southeast along Illinois Highway 177, to junction Illinois Highway 15, thence east along Illinois Highway 15 to the Illinois-Indiana State line. (16A) From points in Oklahoma and east and north of a line beginning at the Oklahoma-Kansas State line, and extending south along U.S. Highway 183 to junction Oklahoma Highway 51, thence east along Oklahoma Highway 51 to junction Oklahoma Highway 33, thence east along Oklahoma Highway 33 to the Oklahoma-Arkansas State line, to points in New Mexico. (B) From points in Oklahoma on and east of a line beginning at the Kansas-Oklahoma State line and extending south along U.S. Highway 183 to junction U.S. Highway 66, thence east along U.S. Highway 66 to junction U.S. Highway 281, thence south along U.S. Highway 281 to the Texas-Oklahoma State line, to points in New Mexico on and north of a line beginning at the New Mexico-Texas State line, and extending along U.S. Highway 60 to the New Mexico-Arizona State line. (18) From points in Oklahoma on and west and north of a line beginning at the Oklahoma-Arkansas State line, and extending along U.S. Highway 59, to junction U.S. Highway 259, thence south along U.S. Highway 259 to the Oklahoma-Texas State line, to points in North Carolina. (21) From points in Oklahoma on and north and west of a line beginning at the Oklahoma-Arkansas State line, and extending west along Oklahoma Highway 33, to junction U.S. Highway 75, to junction Interstate Highway 40, thence along Interstate Highway 40 to junction U.S. Highway 81, thence south along U.S. Highway 81 to the Oklahoma-Texas State line, to points in Tennessee. The purpose of this filing is to eliminate the gateways of points in Kansas and Ohio in Section 16, and in all other sections, points in Kansas.

NOTE.—The purpose of this partial republication is to correct the territorial descriptions. The remainder of this letter-notice remains as previously published.

No. MC 60014 (Sub-No. E154) (partial correction), filed August 28, 1976, published in the FEDERAL REGISTER issue of May 18, 1977, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils* (except commodities requiring special equipment), between: points in Wisconsin north and west of a line commencing on U.S. Highway 51 at Beloit, Wisconsin, thence north on U.S. Highway 51 to Janesville, thence north on Wisconsin Highway 26 to Fort Atkinson, thence east on Wisconsin Highway 106 to the intersection of Wisconsin Highway 106 to the intersection of Wisconsin Highway 107 and Wisconsin Highway 67, thence south on Wisconsin Highway 67 to Eagle, thence north on Wisconsin Highway 59 to Waukesha, thence east on Wisconsin Highway 59 to Milwaukee, Wisconsin, on the one hand, and, on the other, points in Massachusetts.

NOTE.—The purpose of this partial correction is to delete the (F) in the territorial description. The gateways to be eliminated should remain as previously published.

No. MC 60014 (Sub-No. E170) (partial correction), filed August 28, 1976, published in the FEDERAL REGISTER issue of May 18, 1977, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, (the transportation of which, because of their size or weight, require the use of special equipment), between points in Pennsylvania, on the one hand, and, on the other, points in Ohio on and southwest of a line beginning at Lake Erie, and extending along Ohio Highway 306 to junction U.S. Highway 322, thence along U.S. highway 322 to the Ohio-Pennsylvania State line. Gateways to be eliminated: (1) Pennsylvania, (2) Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio, (3) points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line (except points in Licking County, Ohio).

NOTE.—The purpose of this correction is to correct the gateways to be eliminated.

No. MC 60014 (Sub-No. E173) (correction), filed August 28, 1976, published in the FEDERAL REGISTER issue of May 18, 1977, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts tubing and wire in coils* (the transportation of which, because of their size or weight, require the use of special equipment), between points in Indiana on and north of a line beginning at the Indiana-Illinois State line and extending along Indiana Highway 18 to juction U.S. Highway 52, thence along U.S. Highway 52 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 421, thence along U.S. Highway 421 to junction U.S. Highway 25, thence along U.S. Highway 25 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Interstate Highway 69, to junction U.S. Highway 6, thence along U.S. Highway 6 to the Indiana-Ohio State line, on the one hand, and, on the other, points in Ohio on and west of a line beginning at the Kentucky-Ohio State line and extending along U.S. Highway 23 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Ohio Highway 37, thence along Ohio Highway 37 to junction U.S. Highway 40,thence along U.S. Highway 40 to junction Ohio Highway 79, thence along Ohio Highway 79 to junction Ohio Highway 13, thence along Ohio Highway 13 to junction U.S. Highway 30, thence along

U.S. Highway 30 to the Ohio-Pennsylvania State line. Gateways to be eliminated: Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E183) (correction), filed August 28, 1976, published in the FEDERAL REGISTER issue of May 18, 1977, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment) between points in New Jersey on and east of a line beginning at the Pennsylvania-New Jersey State line, and extending along New Jersey Highway 94 to junction New Jersey Highway 521, thence along New Jersey Highway 521 to junction New Jersey Highway 519, thence along New Jersey Highway 519 to junction New Jersey Highway 23, thence along New Jersey Highway 23 to junction New Jersey Highway 284, thence along New Jersey Highway 284 to the New Jersey-New York State line, on the one hand, and, on the other, points in Vermont on and east of a line beginning at the International Boundary line between the United States and Canada and extending along Vermont Highway 105 to junction Vermont Highway 101, thence along Vermont Highway 101 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction Vermont Highway 15/15A, thence along Vermont Highway 15/15A to junction Vermont Highway 15, thence along Vermont Highway 15 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction U.S. Highway 302, thence along U.S. Highway 302 to junction Vermont Highway 110, thence along Vermont Highway 110 to junction Vermont Highway 14, thence along Vermont Highway 14 to junction Vermont Highway 107, thence along Vermont Highway 107 to junction Vermont Highway 12, thence along Vermont Highway 12 to junction Vermont Highway 106; thence along Vermont Highway 106; thence along Vermont Highway 106 to junction Vermont Highway 131, thence along Vermont Highway 131 to the Vermont-New Hampshire State line; points in New Hampshire on and northeast of a line beginning at the Vermont-New Hampshire State line and extending along New Hampshire Highway 12/103, thence along New Hampshire Highway 12/103 to junction New Hampshire Highway 11/103, thence along New Hampshire Highway 11/103 to junction New Hampshire Highway 31, thence along New Hampshire Highway 31 to junction New Hampshire Highway 10, thence along New Hampshire Highway 10 to junction New Hampshire Highway 12, thence along New Hampshire Highway 12 to the New Hampshire-Massachusetts State line, points in Rhode Island on and north of Interstate Highway 6. Gateways to be eliminated: (1) Points in New York, points in Connecticut, (2) within 10 miles of Greenwich, Connecticut, and (3) Points in Massachusetts on and east of U.S. Highway 5, (4) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

NOTE.—The purpose of this correction is to state the correct territorial description and to include the gateway, Part (4), that was omitted in the May 18, 1977 publication.

No. MC 60014 (Sub-No. E197) (correction), filed August 28, 1976, published, in the FEDERAL REGISTER issue of May 18, 1977, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils* (except commodities requiring special equipment), between points in New Jersey, on the one hand, and, on the other, points in Maine. Gateways to be eliminated: (1) New York, (2) Within 10 miles of Greenwich, Connecticut, (3) Points in Massachusetts on and east of U. S. Highway 5, (4) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

NOTE.—The purpose of this correction is to state the correct gateway points.

No. MC 60014 (Sub-No. E201) (partial correction), filed August 28, 1976, published in the FEDERAL REGISTER issue of May 26, 1977, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils* (except commodities requiring special equipment), from points in New York on and south of a line beginning at Lake Erie extending along U.S. Highway 20 to the junction New York Highway 12, thence along New York Highway 12 to the junction New York Highway 23, thence along New York Highway 23 to the junction of New York Highway 8, thence along New York Highway 8 to the junction of New York Highway 206, thence along New York Highway 206 to the junction of New York Highway 30, thence along New York Highway 30 to the junction New York Highway 28, thence along New York Highway 28 to the Junction of New York Highway 199, thence along New York Highway 199 to junction of U.S. Highway 44, thence along U.S. Highway 44 to the New York-Connecticut State line, to points in Maine on and east of a line beginning at the International Boundary line between the United States and Canada along Maine Highway 11 to the junction of Interstate Highway 95, thence along Interstate Highway 95 to the junction of U.S. Highway Alternate 1, thence along U.S. Highway Alternate 1 to the junction of U.S. Highway 1, thence along U.S. Highway 1 to Penobscot Bay.

NOTE.—The purpose of this partial correction is to state the correct highway to read as "New York Highway 28" instead of "New York Highway 26." The gateways to be eliminated remains as previously published.

No. MC 60014 (Sub-No. E205) (partial correction), filed August 28, 1976, published in the FEDERAL REGISTER issue of May 26, 1977, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, between points in Michigan on the one hand, and, on the other, points in New York, New Jersey, Delaware, those in Pennsylvania south of a line beginning at the New York-Pennsylvania State line extending along Pennsylvania Highway 277 to the junction of Pennsylvania Highway 77, thence along Pennsylvania Highway 77 to the junction of U.S. Highway 6/322, thence along U.S. Highway 6/322 to the junction of U.S. Highway 322, thence along U.S. Highway 322 to the Pennsylvania-Ohio State line.

V42169 AUG 31 77 UMI

NOTE.—The purpose of this partial correction is to eliminate the District of Columbia as part of the destination point. The gateways to be eliminated remains as previously published.

No. MC 60014 (Sub-No. E238) (partial correction), filed August 28, 1976, published in the FEDERAL REGISTER issue of May 26, 1977, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils* (the transportation of which because of size or weight, requires the use of special equipment).

NOTE.—The purpose of this partial correction is to state the correct commodity description. The remainder of this letter-notice remains as previously published in the May 26 1977 FEDERAL REGISTER issue.

No. MC60014 (Sub-No. E232) (correction), filed August 28, 1976, published in the FEDERAL REGISTER issue of May 26, 1977, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in West Virginia on and north of a line beginning at the West Virginia-Ohio State line extending along West Virginia Highway 95 to junction of West Virginia Highway 47, thence along West Virginia Highway 47 to junction of U.S. Highway 33/119, thence along U.S. Highway 33/119 to junction of U.S. Highway 33, thence along U.S. Highway 33 to the West Virginia-Virginia State line, on the one hand, and, on the other, points in Alabama on and west of a line beginning at the Alabama-Tennessee State line extending along U.S. Highway 231/431 to junction U.S. Highway Alternate 72 to junction of U.S. Highway 31, thence along U.S. Highway 31 to junction of Interstate Highway 65, thence along Interstate Highway 65 to junction of Alabama Highway 69, thence along Alabama Highway 69 to junction Alabama Highway 14, thence along Alabama Highway 14 to junction Alabama Highway 10, thence along Alabama Highway 10 to junction of Alabama Highway 47, thence along Alabama Highway 47 to junction Alabama Highway 83, thence along Alabama Highway 83 to junction Alabama Highway 84, thence along Alabama Highway 84 to the Alabama-Georgia State line. Gateways to be eliminated: (1) Wheeling, West Virginia.

NOTE.—The purpose of this correction is to correct the territorial description.

No. MC 60014 (Sub-No. E240) (partial correction) filed August 28, 1976, published in the FEDERAL REGISTER issue of May 26, 1977, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa.. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils* (except commodities requiring special equipment) from points in Rhode Island to points in Tennessee on and west of a line beginning at the Kentucky-Tennessee State line extending along Tennessee Highway 216 to the junction of Tennessee Highway 52, thence along Tennessee Highway 52 to junction of Tennessee Highway 136, thence along Tennessee Highway 136 to the junction of Tennessee Highway 42, thence along Tennessee Highway 42 to the junction of U.S. Highway 70S, thence along U.S. Highway 70S to the junction of Tennessee Highway 55, thence along Tennessee Highway 55 to junction U.S. Highway Alternate 41, thence along U.S. Highway Alternate 41 to the junction of U.S. Highway 64, thence along U.S. Highway 64 to the junction of Tennessee Highway 97, thence along Tennessee Highway 97 to the Tennessee-Alabama State line.

NOTE.—The purpose of this partial correction is to correct the highway. The gateways to be eliminated remains as previously published.

No. MC 60014 (Sub-No. E246) (partial correction), filed August 28, 1976, published in the FEDERAL REGISTER issue of May 26, 1977, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, same as above). Authority sought to operate as a *common carrier*, by motor vehicle. over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils* (except commodities requiring special equipment) from points in Massachusetts to points in Tennessee on and west of a line beginning at the Kentucky-Tennessee State line extending along U.S. Highway 31E/231 to the junction of U.S. Highway 231, thence along U.S. Highway 231 to the junction of U.S. Highway 41, thence along U.S. Highway 41 to the junction of Tennessee Highway 55, thence along Tennessee Highway 55 to the junction of U.S. Alternate Highway 41, thence along U.S. Alternate Highway 41 to the junction of U.S. Highway 64, thence along U.S. Highway 64 to the junction of Tennessee Highway 97, thence along Tennessee Highway 97 to the Tennessee-Alabama State line.

NOTE.—The purpose of this partial correction is to state the correct highway. The gateways to be eliminated remains as previously published.

No. MC 60014 (Sub-No. E248) (partial correction), filed August 28, 1976, published in the FEDERAL REGISTER issue of May 26, 1977, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils* (except commodities requiring special equipment) from points in Massachusetts on and east of a line beginning at the Vermont-Massachusetts State line, extending along Massachusetts Highway 8A to the junction of Massachusetts Highway 116, thence along Massachusetts Highway 116 to the junction of Massachusetts Highway 112, thence along Massachusetts Highway 112 to the junction of U.S. Highway 20, thence along U.S. Highway 20 to the junction of U.S. Highway 202, thence along U.S. Highway 202 to the junction of Massachusetts Highway 10, thence along Massachusetts Highway 10 to the Massachusetts-Connecticut State line, to points in Kentucky.

NOTE.—The purpose of this partial correction is to state the correct highway. The gateways to be eliminated remains as previously published.

No. MC 60014 (Sub-No. E249) (partial correction), filed August 28, 1976, published in the FEDERAL REGISTER issue of May 26, 1977, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils* (except commodities requiring special equipment) from points in Massachusetts on and east of a line beginning at the Vermont-Massachusetts State line extending along Massachusetts Highway 8A, to the junction of Massachusetts Highway 116, thence along Massachusetts Highway 116 to the junction of Massachusetts Highway 112, thence along Massachusetts Highway 112 to the junction of U.S. Highway 20, thence along U.S. Highway 20 to the junction of U.S. Highway 202, thence along U.S. Highway 202 to the Massachusetts-Connecticut State line, to points in Alabama.

NOTE.—The purpose of this partial correction is to state the correct highway. The

gateways to be eliminated remains as previously published.

No. MC 60014 (Sub-No. E260) (correction), filed August 28, 1976, published in the FEDERAL REGISTER issue of May 18, 1977, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in Vermont on the one hand, and, on the other, points in Connecticut on and east of a line beginning at the Connecticut-Massachusetts State line extending along Connecticut Highway 12 to the junction of Connecticut Highway 2, thence along Connecticut Highway 2 to the Connecticut-Rhode Island State line. Gateways to be eliminated: (1) between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.)

NOTE.—The purpose of this correction is to state the correct territorial description.

No. MC 60014 (Sub-No. E263) (partial correction), filed August 28, 1976, published in the FEDERAL REGISTER issue of May 18, 1977, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in Barnstable, Dukes, and Nantucket Counties, Mass.).

NOTE.—The purpose of this partial correction is to state the correct highway territory. The gateway to be eliminated remains as previously published.

No. MC 60014 (Sub-No. E267) (partial correction), filed August 28, 1976, published in the FEDERAL REGISTER issue of May 18, 1977, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire coils*, between points in New Hampshire on the one hand, and, on the other, points in Pennsylvania north and west of a line beginning at the Ohio-Pennsylvania State line and extending along Pennsylvania Highway 58, thence along Pennsylvania Highway 58 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction of Pennsylvania Highway 77, thence along Pennsylvania Highway 77 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction of Pennsylvania Highway 27, thence along Pennsylvania Highway 27 to the Pennsylvania-New York State line and those points in Pennsylvania north and east of a line beginning at the New York-Pennsylvania State line extending along Interstate Highway 84, thence along Interstate Highway 84 to junction of Pennsylvania Highway 6, thence along Pennsylvania Highway 6 to junction of Pennsylvania Highway 590, thence along Pennsylvania Highway 590 to junction of Pennsylvania Highway 435, thence along Pennsylvania Highway 435 to junction of U.S. Highway 11, thence along U.S. Highway 11 to junction of U.S. Highway 6, thence along U.S. Highway 6 to junction of U.S. Highway 220, thence along U.S. Highway 200 to the Pennsylvania-New York State line.

NOTE.—The purpose of this partial correction is to state the correct highway territory. The gateway to be eliminated remains as previously published.

No. MC 60014 (Sub-No. E280) (partial correction), filed August 28, 1976, published in the FEDERAL REGISTER issue of May 18, 1977, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P. O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof parts, tubing, and wire coils*, between points in New York on and north of a line beginning at the St. Lawrence River and extending along New York Highway 58, thence along New York Highway 58 to junction New York Highway 184, thence along New York Highway 184, to junction of New York Highway 68, thence along New York Highway 68 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction of New York Highway 374, thence along New York Highway 374 to the New York-Canada International Boundary, on the one hand, and, on the other, points in Connecticut on and east of a line beginning at the Massachusetts-Connecticut State line and extending along Interstate Highway 91, thence along Interstate Highway 91 to the Atlantic Ocean.

NOTE.—The purpose of this partial correction is to state the correct highway. The remainder of this letter remains as previously published. (The gateways to be eliminated).

No. MC 60014 (Sub-No. E290) (partial correction), filed August 28, 1976, published in the FEDERAL REGISTER issue of June 2, 1977, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof parts, tubing, and wire coils*, between points in New York on and north of a line beginning at the St. Lawrence River and extending along New York Highway 58, thence along New York Highway 58 to junction New York Highway 184, thence along New York Highway 184, to junction of New York Highway 68, thence along New York Highway 68 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction of New York Highway 374, thence along New York Highway 374 to the New York-Canada International Boundary, on the one hand, and, on the other, points in Connecticut on and east of a line beginning at the Massachusetts-Connecticut State line and extending along Interstate Highway 91, thence along Interstate Highway 91 to the Atlantic Ocean.

NOTE.—The purpose of this partial correction is to state the correct territorial description. The gateways to be eliminated should remain as previously published.

No. MC 60014 (Sub-No. E296) (partial correction), filed August 28, 1976,

V 42 169 AUG 31 77 UMI

published in the FEDERAL REGISTER issue of June 2, 1977, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, between points in New York on and west of a line beginning at the Pennsylvania-New York State line extending along New York Highway 14, thence along New York Highway 14 to junction of New York Highway 13, thence along New York Highway 13 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction of New York Highway 12, thence along New York Highway 12 to junction New York Highway 5, thence along New York Highway 5 to junction of New York Highway 30A, thence along New York Highway 30A to junction of New York Highway 29, thence along New York Highway 29 to junction of New York Highway 22, thence along New York Highway 22 to the New York-Vermont State line, on the one hand, and, on the other, points in Connecticut on and east of a line beginning at the Connecticut-Massachusetts State line extending along Connecticut Highway 12, thence along Connecticut Highway 12 to junction of Connecticut 2, thence along Connecticut Highway 2 to junction of Connecticut Highway 1A, thence along Connecticut Highway 1A to the Atlantic Ocean.

NOTE.—The purpose of this partial correction is to state the correct territorial description. The remainder of the letter-notice stating the gateways to be eliminated remains as previously published.

No. MC 92983 (Sub-No. E58) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of April 28, 1976 partially republished, as corrected, this issue. Applicant: AMERICAN BULK TRANSPORT CO., 818 Grand Ave., P.O. Box 2508 Kansas City, Mo. Applicant's representative: H. B. Foster (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Inedible animal oils*, in bulk, in tank vehicles (10) (a) From points in Wyoming on and north of a line beginning at the Wyoming-Nebraska State line, and extending along U.S. Highway 20, to junction U.S. Highway 26, thence along U.S. Highway 26 to junction Wyoming Highway 22, thence along Wyoming Highway 22 to the Wyoming-Idaho State line, to points in Michigan in and east of Dickinson, Menominee, Delta and Algar Counties, and those points in Wisconsin in, and east and south of Vernon, Monroe, Juneau, Wood, Portage, Shawano, Menominee, Oconto and Marinette Counties. (10) (b) From points in Wyoming on and south of a line beginning at the Wyoming-Nebraska State line, and extending along U.S. Highway 20 to junction U.S. Highway 26, thence along U.S. Highway 26 to junction Wyoming Highway 22, thence along Wyoming Highway 22 to the Wyoming-Idaho State line, to points in Michigan, and points in Wisconsin located in, and east and south of Trempleaeau, Eau Claire, Clark, Taylor, Price and Iron Counties. The purpose of this filing is to eliminate the gateway of East Dubuque, Ill (in the Dubuque, Iowa Commercial zone).

NOTE.—The purpose of this republication is to insert Section 10, previously omitted. The remainder of this letter-notice remains as previously published.

No. MC 114019 (Sub-No. E258), filed May 25, 1974, Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Ill. 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned goods*, from points in that part of New York on and east of a line beginning at Windsor Beach, N.Y., and extending to Rochester, N.Y., thence along U.S. Highway 15 to Wayland, N.Y., thence along New York Highway 245 to Dansville, N.Y., thence along New York Highway 36 to junction New York Highway 21, thence along New York Highway 21 to Andover, N.Y., and thence along New York Highway 17 to the New York-Pennsylvania State line, to points in the Lower Peninsula of Michigan. Gateway to be eliminated: points in Ohio. (2) *Foodstuffs*, from points in that part of New York on and east of a line beginning at Windsor Beach, N.Y., and extending to Rochester, N.Y., thence along U.S. Highway 15 to Wayland, N.Y., thence along New York Highway 245 to Dansville, N.Y., thence along New York Highway 36 to junction New York Highway 21, thence along New York Highway 21 to Andover, N.Y., and thence along New York Highway 17 to the New York-Pennsylvania State line, to Detroit and Grand Rapids, Mich. Gateway to be eliminated: Toledo, Ohio.

No. MC 114019 (Sub-No. E396), filed May 31, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Ill. 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, glass covers, glass caps and glass accessories* for glass containers (1) from points in Indiana on and south of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 24 to Huntington, Ind., thence along U.S. Highway 224 to the Indiana-Ohio State line and points in Indiana on and north of a line beginning at the Illinois-Indiana State line at or near Terre Haute, Ind. and extending along Indiana Highway 46 to junction Indiana Highway 7 at Columbus, Ind., thence along Indiana Highway 7 to the Indiana-Kentucky State line and from points in Ohio on and South of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 224 to Van Wert, Ohio, thence along U.S. Highway 30 to Delphos, Ohio, thence along U.S. Highway 30N to Mansfield, Ohio, thence along U.S. Highway 30 to Massillon, Ohio, thence along U.S. Highway 21 to the Ohio-West Virginia State line, to points in Iowa, Minnesota, Nebraska, North Dakota and South Dakota. Gateway to be eliminated: Streator, Ill. (2) from Sparrows Point and Baltimore, Md., New York, N.Y., and points within 30 miles of New York, N.Y., points in that part of New Jersey, Delaware, and Maryland, which are located within 30 miles of Philadelphia, Pa., points in that part of New York on and west of a line beginning at Windsor Beach, N.Y., and extending to Rochester, N.Y., thence along U.S. Highway 15 to Wayland, N.Y., thence along New York Highway 245 to Dansville, N.Y., thence along New York Highway 36 to junction New York Highway 21, thence along New York Highway 21 to Andover, N.Y., and thence along New York Highway 17 to the New York-Pennsylvania State line, and points in West Virginia and Pennsylvania, to points in Iowa, Minnesota, Nebraska, North Dakota, and South Dakota. Gateways to be eliminated: points in Ohio on and south of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 224 to Van Wert, Ohio, thence along U.S. Highway 30 to Delphos, Ohio, thence along U.S. Highway 30N to Mansfield, Ohio, thence along U.S. Highway 30 to Massillon, Ohio, thence along U.S. Highway 21 to the Ohio–West Virginia State line and Streator, Ill.

No. MC 114019 (Sub-No. E481), filed May 31, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Ill. 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, toilet preparations and toilet articles*, from New York, N.Y. and points within 30 miles of New York, N.Y., to Kansas City, Mo. The purpose of this filing is to eliminate the gateways of Conneaut, Ohio and Buffalo, N.Y.

No. MC 114019 (Sub-No. E482), filed May 31, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Ill. 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, as described in the Appendix to the report in *Modification of Permits of Motor Contract Carriers of Packing House Products*, 46 M.C.C. 23, between points in Minnesota, on the one hand, and, on the other, points in Pennsylvania on and east of a line beginning at Lake Erie, and extending along Pennsylvania Highway 8 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Pennsylvania Highway 34, thence along Pennsylvania Highway 34 to the Pennsylvania-Maryland State line.

The purpose of this filing is to eliminate the gateways of Muscatine, Iowa and Cutting, N.Y.

No. MC 124211 (Sub-No. E48) (partial correction), filed May 7, 1974, published in the FEDERAL REGISTER issue of September 17, 1975, and republished as corrected, this issue. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (7) *foods and food products* (except frozen foods, meat by-products, dairy products, and articles distributed by meat packinghouses, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 and commodities in bulk), from St. Paul, Minn., to those points in Alabama on and south of U.S. Highway 84 and points in Florida on and south of U.S. Highway 90. The purpose of this filing is to eliminate the gateways of Waverly and Milford, Nebr.

NOTE.—The purpose of this partial correction is to state the correct territorial description. The remainder of this letter-notice remains as previously published.

No. MC 124211 (Sub-No. E60), filed May 13, 1974. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen bakery goods* (except commodities in bulk), (1) between Sioux City, Iowa, on the one hand, and, on the other, points in Arkansas, Kansas, Louisiana, Mississippi, Oklahoma, Texas, and Tennessee (except Bells, Humboldt, Jackson, Milan, and Memphis, and points in its commercial zone as defined by the Commission); and (2) from Sioux City, Iowa, to points in Alabama, Arkansas, Connecticut, Delaware, District of Columbia-Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, Missouri, New Hamsphire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia, and to points in Indiana (except points on and west of Indiana Highway 19 and north of U.S. Highway 24), points in Michigan (except points in the upper peninsula and points in Michigan on and west of of U.S. Highway 131 and south of Michigan Highway 43), and to those points in Iowa on and south of Interstate Highway 80, those points in Wisconsin on and east of a lie beginning at the Illinois-Wisconsin State line, thence north over U.S. Highway 51 to Madison, Wis., thence over U.S. Highway 151 to junction U.S. Highway 41 at Fond du Lac, thence over U.S. Highway 41 to the Wisconsin-Michigan State line, and to Bells, Humbolt, Jackson, Milan, and Memphis, Tenn. The purpose of this filing is to eliminate the gateways of points in Dakota County, Nebr. and Lincoln and Omaha, Nebr.

No. MC 124211 (Sub-No. E89), filed August 3, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk and except hides and liquid commodities in bulk, in tank vehicles), (a) from Topeka, Kans., to points in Nebraska on, west and north of a line beginning at the Nebraska-South Dakota State line, and extending south along U.S. Highway 81 to junction Nebraska Highway 84, thence west along Nebraska Highway 84 to junction Nebraska Highway 14, thence south along Nebraska Highway 14 to junction U.S. Highway 30, thence west along U.S. Highway 30 to junction U.S. Highway 281, thence south along U.S. Highway 281 to junction U.S. Highway 6, thence west along U.S. Highway 6 to junction U.S. Highway 183, thence north along U.S. Highway 183 to junction Nebraska Highway 23, thence west along Nebraska Highway 23 to the Nebraska-Colorado State line. The purpose of this filing is to eliminate the gateway of Grand Island, Nebr. (b) from Topeka, Kans., to points in South Dakota on and west of a line beginning at the South Dakota-North Dakota State line and extending south along South Dakota Highway 65 to junction U.S. Highway 212, thence west along U.S. Highway 212 to junction South Dakota Highway 79, thence south along South Dakota Highway 79 to junction Interstate Highway 90, thence along Interstate Highway 90 to Rapid City, thence along South Dakota Highway 79 to Hot Springs, thence south along South Dakota Highway 71 to the South Dakota-Nebraska State line. The purpose of this filing is to eliminate the gateways of Grand Island, Nebr. and points in Saunders County, Nebr. (c) from Topeka, Kans., to points in North Dakota on, west and north of a line beginning at the United States-Canada International Boundary near Maida, N. Dak., and extending south along North Dakota Highway 1 to junction North Dakota Highway 17, thence west along North Dakota Highway 17 to junction North Dakota Highway 20, thence south along North Dakota Highway 20 to Devils Lake, thence west along U.S. Highway 2 to junction North Dakota Highway 14, thence south along North Dakota Highway 14 to junction U.S. Highway 10, thence west along U.S. Highway 10 to junction North Dakota Highway 6, thence south along North Dakota Highway 6 to the North Dakota-South Dakota State line. The purpose of this filing is to eliminate the gateways of Grand Island, Nebr. and points in Saunders County, Nebr.

No. MC 124211 (Sub-No. E90), filed August 3, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by products*, and *articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk and except liquid commodities, in bulk, in tank vehicles), (a) from points in Nebraska on, west and south of a line beginning at the Nebraska-Kansas State line and extending along U.S. Highway 281 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to Alliance, Nebr., thence south along U.S. Highway 385 to junction U.S. Highway 26, thence west along U.S. Highway 26 to the Nebraska-Wyoming State line, to points in Wisconsin. The purpose of this filing is to eliminate the gateways of the plant sites of Cornland Dressed Beef Company at or near Lexington and Minden, Nebr. (b) from points in Nebraska on and west of U.S. Highway 281 to (except points in Franklin and Webster Counties), to points in Missouri on and south of U.S. Highway 50. The purpose of this filing is to eliminate the gateway of the plant site of Cornland Dressed Beef Company at or near Minden, Nebr. (c) from points in York County, Nebr., on and west of U.S. Highway 81, to points in Missouri on and south of U.S. Highway 50. The purpose of this filing is to elimiate the gateway of the plant site of Cornland Dressed Beef Company at or near Minden, Nebr. (d) from Fairbury, Nebr., to Milwaukee, Wis. The purpose of this filing is to eliminate the gateway of the plant site of Cornland Dressed Beef Company at or near Minden, Nebr.

No. MC 124211 (Sub-No. E91), filed August 3, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, and except liquid commodities, in bulk), (a) from points in Nebraska (except points in Nemaha and Richardson Counties, Nebr., to points in Kentucky. (b) From points in Nemaha County, Nebr., to points in Kentucky on and east of U.S. Highway 41. (c) From points in Richardson County, Nebr., to points in Kentucky on and east of U.S. Highway 23. The purpose of this finding is

V 42169 AUG 31 77 UMI

to eliminate the gateway of Lincoln, Nebr.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-25347 Filed 8-30-77;8:45 am]

[Notice No. 215]

MOTOR CARRIERS TRANSFER PROCEEDINGS

AUGUST 31, 1977.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC 77274. By application filed August 22, 1977, MOTEK TRANSPORT, INC., P.O. Box 239, 2250 Maple Avenue, Hatfield, PA 19440, seeks temporary authority to transfer a portion of the operating rights of MOTEK TRANSPORT SYSTEMS, INC., by Southeast National Bank of Pennsylvania, d/b/a MOTEK TRANSPORT SYSTEMS, INC., 400 Avenue of the States, Chester, PA 19013, under section 210a(b). The transfer to MOTEK TRANSPORT, INC., of the operating rights of MOTEK TRANSPORT SYSTEMS, INC., by Southeast National Bank of Pennsylvania, d/b/a MOTEK TRANSPORT SYSTEMS, INC., is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77 25348 Filed 8-30-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

Contents

	Item
Civil Aeronautics Board	3
Federal Communications Commission	1, 2

1

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: Follows 10:30 a.m. Open Meeting, Wednesday, August 31, 1977.

PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.

STATUS: Closed Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No. and Subject

Hearing—1—Appeals from interlocutory ruling of Administrative Law Judge that Commission is not authorized by statute to award punitive damages in common carrier actions under Section 206 of the Communications Act (Docket No. 20831).

Hearing—2—Petitions (1) to re-admit licensee's counsel, Benedict P. Cottone, (2) to set aside all proceedings conducted by former Administrative Law Judge Nash, and (3) for immediate action on (1) and (2) in the Puyallup, Washington, standard broadcast renewal proceeding (Docket No. 18929).

Hearing—3—Appeals from interlocutory orders of Administrative Law Judges in the San Diego, California, FM license renewal proceeding (Docket No. 20971) and the Lancaster, Pennsylvania, TV license renewal proceeding (Docket No. 21034).

General—1—Discussion of litigation of the Execunet case, *MCI v. FCC* (Case No. 75-1635).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone 202-632-7260.

Issued: August 24, 1977; August 26, 1977.

[S-1198-77; Filed 8-26-77;4:52 pm]

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10:30 a.m., Wednesday, August 31, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No. and Subject

General—1—Request for oral argument filed by American Radio Relay League, Inc., in the proceeding concerning marketing of external frequency amplifiers (Docket No. 21116).

General—2—Request for oral argument filed by American Radio Relay League, Inc., in the proceeding concerning type acceptance of equipment marketed for use in the Amateur Radio Service (Docket No. 21117).

General—3—International radiotelephone and radiotelegraph regulations for fishing vessels: Draft of (IMCO) Convention on Safety of Fishing Vessels (Docket No. 20122).

General—4—Zero-Based Budgeting—Commission-wide Priorities.

Common Carrier—1—Notice of Proposed Rule Making relating to amendment of Annual Report Forms M for telephone companies, O for wire-telegraph and ocean-cable carriers and R for radiotelegraph carriers (RM-2765).

Common Carrier—2—Request filed on June 21, 1977 by Carpenter Radio that the Commission furnish it hearing transcripts without charge (Docket No. 21256).

Cable Television—1—Petition for special relief filed by Lower Bucks Cablevision, Inc., operator of a cable television system serving discrete areas of Bristol Borough, Bristol Township and Middletown Township, Pennsylvania.

Cable Television—2—Application[s] for Certificate[s] of Compliance (CAC-6504-6509), filed by Mid-Hudson Cablevision, Inc., operator of existing cable systems at the Village and Town of Catskill, the Village and Town of Athens, City of Hudson, and Town of Greenport, New York.

Assignment of License and Transfer of Control—1—Application for consent to voluntary transfer of control of Westport Television, Inc., licensee of UHF station KBMA-TV, Kansas City, Missouri, from Benno C. Schmidt and BMA Properties, Inc., to Scripps-Howard Broadcasting Company (BTC-8303).

Renewal—1—Petition to deny, filed by Vincent L. Hoffart against the pending broadcast license renewal applications of Dena Pictures, Inc. and Alexander Broadcasting Co., d.b.a. Kaye-Smith Enterprises, for Stations WUBE and WUBE-FM, Cincinnati, Ohio (BR-278, BRH-471).

Complaints and Compliance—1—Petition for reconsideration, filed May 31, 1977, by Musical Heights, Inc., licensee of station WZYQ-FM, Braddock Heights, Maryland, of a Commission By Direction letter granting a short-term license renewal to radio station WZYQ-FM (BRH-2761).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone 202-632-7260.

Issued: August 24, 1977; August 26, 1977.

[S-1205-77 Filed 8-26-77;4:52 pm]

3

CIVIL AERONAUTICS BOARD.

Notice of addition to the September 1, 1977 meeting agenda.

TIME AND DATE: 10:00 a.m., September 1, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue, Washington, D.C. 20428.

SUBJECT: 11a. Board comments on Interstate Commerce Commission rulemaking, "Motor Transportation of Property Incidental to Transportation by Aircraft," No. MC-C-3437, and "Motor Transportation of Passengers Incidental to Transportation by Aircraft," No. MC-C-4000 (Memo No. 7380, OGC, BE, BOR)

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, ((202) 673-5068).

SUPPLEMENTARY INFORMATION: This item concerns Board comments that are to be submitted to the Interstate Commerce Commission on September 7, 1977. The only scheduled meeting of the Board before September 7, 1977, is September 1, 1977. Therefore, the following Board Members have voted that agency business requires the addition of item 11a. to the meeting agenda for the September 1, 1977 meeting and that no earlier announcement of the addition was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West

[S-1206-77 Filed 8-26-77;4:52 pm]

V 42 169 AUG 31 77 UMI

federal register

WEDNESDAY, AUGUST 31, 1977

PART II



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

NATIONAL FLOOD INSURANCE PROGRAM

Final Flood Elevation Determinations for Various Communities

V 42169 AUG 31 77 UMI

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2496]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Marysville, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Marysville, Calif. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Marysville, Calif.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Marysville are available for review at City Hall, Marysville, Calif.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-775-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Marysville.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Feather River	10th St.	71
	5th St.	70
Yuba River	Simpson Lane	72
	Southern Pacific RR.	71
	E St.	70
Jack Slough	Highway 70	71
	Southern Pacific RR.	71

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24687 Filed 8-30-77;8:45 am]

[Docket No. FI-2715]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Novato, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Novato, Calif. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Novato, Calif.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Novato.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Novato are available for review at City Hall, Sherman and DeLong, Novato, Calif.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Arroyo Avichi	Novato Blvd.[1]	13
	Arthur Dr.[1]	37
	do.[2]	39
Wilson Creek	Center Rd.[2]	49
	McClay Ave.[2]	57
Vineyard Creek	Center Rd.[1]	51
	Wilson Ave.[2]	61
	Trumbull Rd.	90
	Mill St.	108
Pacheco Creek	Northwestern Pacific RR.[1]	22
	do.[2]	27
	Bolling Dr. (southern crossing).	71
	Bolling Dr. (northern crossing).	53
	Marin Valley Dr.[2]	80
	U.S. 101[2]	99
Novato Creek	Sonoma Valley branch, Northwestern Pacific RR. Bridge.	8
	State Highway 37	8
	Northwestern Pacific RR.	10
	Old U.S. Highway 101 Bridge.	12
	Diablo Avenue Bridge[2]	21
	Tamalpais Ave.[1]	29
	Grant Ave.	35
	Simmons Lane	48
	South Novato Blvd.	71
	Sutro Ave.	87
Warner Creek	South Novato Blvd.[1]	11
	Diablo Ave.[2]	16
	Tamalpais Ave.[2]	25
	McClay Ave.[2]	37
Arroyo San Jose	Bel Marin Keys	19
	Northwestern Pacific RR.	23
	Ignacio Blvd.[2]	38
	Alameda de la Loma[2]	66
	Fairway Dr.[2]	86
	Capitano Dr.[2]	151
	St. Andrews Dr.[2]	189
Ignacio Creek	Ignacio Blvd. (eastern crossing).	63
	Ignacio Blvd. (western crossing)[2]	102
	Indian Way (eastern crossing).	129
	Indian Way (western crossing).	110

[1] Downstream.
[2] Upstream.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24688 Filed 8-30-77;8:45 am]

[Docket No. FI-2577]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for Alamosa County, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in Alamosa, Colo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for Alamosa County, Colo.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Alamosa County are available for review at Alamosa County Office Building, Alamosa, Colo.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for Alamosa County, Colo.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980 ,which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the Community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeal presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Rio Grande	D&RGW RR. Bridge.	7,537
	State Street Bridge	7,541

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24689 Filed 8-30-77;8:45 am]

[Docket No. FI-2875]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Commerce City, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Commerce City, Colo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Commerce City, Colo.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Commerce City are available for review at City Hall, 5291 East 60th Avenue, Commerce City, Colo. 80022.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Commerce City.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sand Creek	Brighton Blvd	5,147
	Chicago Burl & Quincy RR.	5,150
	Union Pacific RR.	5,150
	do.	5,151
	Chicago Burl & Quincy RR.	5,157
	Vasquez Blvd. (U.S. 6 and 85).	5,163
	Dahlia St.	5,199
	49th Dr.	5,214
	49th Ave.	5,222
	Quebec St.	5,250
South Platte River	I-270	5,115
	Northwestern Terminal RR.	5,120
	York St.	5,128
	Franklin St.	5,137

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24690 Filed 8-30-77;8:45 am]

[Docket No. FI-2576]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Steamboat Springs, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Town of Steamboat Springs, Colo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Town of Steamboat Springs, Colo.

V42169 AUG 31 77 UMI

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Steamboat Springs are available for review at Town Offices, Steamboat Springs, Colo.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of Steamboat Springs.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Yampa River	Steele Dr	6,676
	Third St	6,686
[illegible]	Lincoln Ave. (U.S. 40)	6,700
	13th St	6,715
	Pine St	6,731
	Grove Pl	6,741
	Logan Av	6,749
[illegible] Creek	Oak St	6,758
	[illegible]	6,761
[illegible]	Lincoln Ave. (U.S. 40)	6,764
	Oak St	6,773
	Vaughan Dr	6,790
Fish Creek	U.S. Highway 40	7,011
Walton Creek	do	6,734
Burgess Creek	do [1]	6,747
	Spring Rd	6,752
	Pine RR	6,768
	Yampa Water Rd	6,782
	South Meadows	7,008

[1] Downstream side of road.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effection January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24691 Filed 8-30-77;8:45 am]

[Docket No. FI-2520]

PART 1917—APPEALS FROM FINAL FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Jacksonville, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Jacksonville, Fla. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Jacksonville, Fla.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Jacksonville.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) day has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Jacksonville are available for review at City Hall, 228 East Bay Street, Jacksonville, Fla.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
St. Johns River	I-95	6
	Fuller Warren Bridge	6
	Acosta Bridge	6
	Main Street Bridge	6
	Matthews Bridge	6
	Seaboard Coastline RR. Bridge.	7
Intracoastal Waterway	Beach Blvd	4
	Atlantic Blvd	5
Paldo Creek, Sawmill Slough	Beach Blvd	10
Trout River	Kings Rd	11
	Seaboard Coastline RR	8
	New Kings Rd	7
	Lem Turner Rd	7
Ribault Bay [illegible] Mile Creek	Kings Rd	12
	Southern RR	9
	New Kings Rd. (U.S. 1)	8
Strawberry Creek	Merrill Rd	40
	Expressway (I-95)	12
Pearl-Isle Creek	Beaver St	15
	Bowden Rd	11
	Leach Blvd	11
Hogan Creek	Broad St	10
	Pearl St	10
	Main St	9
	Newnan St	9
	Duval St	6
McCoys Creek	Seaboard Coastline RR	10
	Stockton St	8
	Seaboard Coastline RR	7
	I-95	6
Southwest Prong of McCoys Creek	Post St	13
McGirt Creek	Seaboard Coastline RR	61
	Chaffee Rd	62
	Timuquana Rd	76
Cedar River	Seaboard Coastline RR	16
	Normandy Blvd	12
	Blanding Blvd	6
Wills Branch	Normandy Blvd	30
	Middleburg Rd	11
	Lane Ave	8
Julington Creek	Florida East Coast RR	11
	old St. Augustine Rd.	6
	Highway 13	6

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24692 Filed 8-30-77;8:45 am]

[Docket No. FI-2783]

PART 1917—APPEALS FROM FINAL FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Perry, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Perry, Ga.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Perry, Ga.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Perry.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Perry are available for review at City Hall, P.O. Drawer A, Perry, Ga.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Big Indian Creek	Interstate 75	293
	U.S. Highway 41	292
Bay Creek	Valley Dr	297
Tributary 1	Main St [1]	316
	do [2]	311
	Tucker Rd [1]	302
	do [2]	292
Tributary 2	Perimeter Dr	319
	Ball St [1]	312
	do [2]	301
Tributary 4	Central of Georgia RR [1]	328
	do [2]	309
Tributary 5	Elko Rd	287
Tributary 6	Tucker Rd	346
	Satterfield Rd	289

[1] Upstream side.
[2] Downstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24693 Filed 8-30-77;8:45 am]

[Docket No. FI-2824]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Valdosta, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Valdosta, Ga. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Valdosta, Ga.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Valdosta.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Valdosta are available for review at City Hall, Valdosta, Ga.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dukes Bay Canal, west of Patterson St.	St. Augustine Rd	193
	Myddleton Rd	192
	Georgia Southern & Florida RR.	192
	do	191
	Bay St	191
Dukes Bay Canal, east of Patterson St.	Cypress St	204
	Georgia Southern & Florida RR.	206
	Hill Ave	205
	Seaboard Coastline RR.	204
	Georgia Southern & Florida RR.	203
	Lake Park Rd	193
	Troupe St	193
	Lee St	193
	Wiseblaker Lane	191
One Mile Branch	Lakeland Ave	200
	Park Ave	200
	Vallotton Dr	196
	Lee St	195
	Ashley St	193
	Iola Dr	189
	Williams St	189
	Patterson St	189
	Oak St	179
	Sustella Dr	171
	Walnright Dr	162
	Lankford Dr. or Melody Lane.	160
	Edgewood St	157
	West Gordon St	157
	Georgia Southern & Florida RR.	154
Two Mile Branch	Dennis Rd	218
	Seymour St	213
	University Dr	199
	North Ashley St	195
	Patterson St	185
	Oak St	181
	Berkley Dr	156
	J ray Jones Rd	118
Sugar Creek	3d Ave	190
	21st Ave	188
	West St	185
	Lamar St	175
	Hightower St	167
	Georgia Southern & Florida RR.	167
	Baytree Rd	115
	Georgia Southern & Florida RR.	110
	Cuanto Rd	103
Withlacoochee River	Georgia Southern & Florida RR.	103
	Interstate 75	103

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[Docket No. FI-2701]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Township of Frenchtown, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Township of Frenchtown, Mich. These base flood elevations are the basis for the flood plain management measures that the commu-

V 42169 AUG 31 77 UMI

nity is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Township of Frenchtown, Mich.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Township of Frenchtown.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Frenchtown are available for review at Frenchtown Township, 2744 Vivian Road, Monroe, Mich.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
River Raisin	7,800 ft from mouth	600
	20,500 ft from mouth	602
	30,700 ft from mouth	604
	31,600 ft from mouth	605
Saddy Creek	North Dixie Highway	581
	Interstate 75	592
	Vivian Rd	595
	U.S. 25	601
Stony Creek	North Dixie Highway	578
	Interstate 75	595
	War Rd	595
	U.S. 24 (U.S. 25)	598
	C&O RR	600

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24695 Filed 8-30-77;8:45 am]

[Docket No. FI-2863]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Springfield, Nebr.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Springfield, Nebr. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Springfield, Nebr.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Springfield are available for review at City Hall, Springfield, Nebr.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Springfield.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Springfield Creek	County Road Bridge (south of Main St.).	1,642
	Main Street Bridge	1,651
	County Road Bridge (north of Main St.).	1,658

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24696 Filed 8-30-77;8:45 am]

[Docket No. FI-2631]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Township of Maurice River, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Township of Maurice River, N.J. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Township of Maurice River, N.J.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Maurice River are available for review at Municipal Hall, Leesburg, N.J.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Township of Maurice River.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Manumuskin River.	Timber Bridge	63
	Mays Landing Rd	61
	Old Mays Landing Rd.	60
	Route 49 Dam	33
	Camp Hollybrook Rd.	13
	Pennsylvania Reading Seashore Line RR.	9
	Delsea Dr.	9
Tuckahoe River	Dorothy Rd	65
	Cumberland Ave	54
	Route 49	27
Manantico Creek	Route 55	9
	Delsea Dr	9
Muskee Creek	Route 548	9
	Delsea Dr.	9
Maurice River	Mauricetown Station	9
Little Mill Creek	Delsea Dr.	9
West Creek	Pepper Mill Rd.	9
Delaware Bay	Delsea Dr. and Whitney Point Rd.	9

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24697 Filed 8-30-77;8:45 am]

[Docket No. FI-2735]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Urbana, Steuben County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Town of Urbana, Steuben County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Town of Urbana, Steuben County, N.Y.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of Urbana, Steuben County, N.Y.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Urbana, Steuben County, N.Y., are available for review at the Curtis Museum Building Hammondsport, N.Y.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Keuka Inlet	Wheeler Ave. (extended).	724
	Vine St. (extended)	723
	Route No. 54A	722
Keuka Lake	Cross Rd. (extended)	721
	Silvernail Rd. (extended).	721
	Urbana Gulch Rd. (extended).	721
	Northern Corporate limit.	721

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24698 Filed 8-30-77;8:45 am]

[Docket No. FI-2338]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Gastonia, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Gastonia, N.C. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Gastonia, N.C.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Gastonia are available for review at City Hall, Gastonia, N.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Gastonia.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.)

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

V 42169 AUG 31 77 UMI

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Indians Circle	Redbird Dr.	[illegible]
	Franklin Blvd.	887
	Oak Rd.	857
Tributary D 1	Monticello Dr.	[illegible]
Tributary D 3	Franklin Blvd.	[illegible]
Tributary D 4	Gardner Park Dr.	783
Tributary D 4	Avondale Dr.	744
	Fairfax Dr.	733
Tributary D 7	Franklin Blvd.	701
	Dunham Rd.	720
Tributary D 9	Belmont Rd.	731
Crumbaugh Creek	Hoffman Rd.	684
	South Marietta St.	711
	Overhill St.	720
Tributary C 7	Tipman Rd.	757
Tributary C 7	Hudson Blvd.	708
	Laurel Lane	778
Tributary C 8	Sheck	767
	Scotch Dr.	790
Tributary C 10	Nadick Dr.	791
Tributary C 11	Fred Rd.	760
Tributary C 12	Osceola St.	758
	Plymouth St.	744
Tributary C 14	10th Ave.	758
	9th Ave.	784
Tributary C 15	Horse Trail	756
Avon Circle	Gatewood Blvd.	788
	Maple Ave.	740
Tributary A 1	3d Ave.	741
Crowder's Circle	Longwood Rd.	756
Tributary B 1	Scots Road Ext.	750
	Chapel Grove Rd.	781
Tributary B 2	W. Road Rd.	756
	Carondelet	[illegible]
Tributary B 3	Kings Mountain Rd.	[illegible]
	Blackwell	[illegible]
	Nogales Rd.	[illegible]
Tributary B 5	Wilkinson Blvd.	740
Blackwood Circle	Davis Park Rd.	781
	Old West Lane	768
	5th Ave.	768
Tributary B 3	Lyndhurst Dr.	795
	Clyde St.	782
Tributary B 6	Fenwar Dr.	760
	Idlewild Rd.	741
Tributary B 8	Sassafras St.	741
	Longbeach St.	751
	New Hope Rd.	757
	I-85 Highway 29/49	787
Tributary L 1	Rocky Creek Tributary	727
	Rd.	[illegible]
Tributary L 1	Medlock St.	[illegible]
Tributary L 1	Dixie Rd.	696
	Dixie Terrace Ave.	741
Tributary L 1	Rocky Creek Rd.	[illegible]
	Caldwell St.	743
	Harmont St.	774
Tributary L 1	Cedar St.	748
Tributary L 1	Morris St.	750
Tributary L 1	Tuttle Dr.	774
	Dayton St.	820
Tributary L 1	Yorkshire Rd.	772
Tributary L 2	Ware Ave.	757
Tributary L 11	Sharon Rd.	797

[Downstream corporate limit.
[Upstream corporate limit.]

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24699 Filed 8-30-77;8:45 am]

[Docket No. FI-2361]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Borough of Port Carbon, Schuylkill County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Borough of Port Carbon, Schuylkill County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Borough of Port Carbon, Schuylkill County, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Borough of Port Carbon, Schuylkill County, Pa.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Port Carbon, Schuylkill County, Pa. are available for review at the Community Hall, First Street, Port Carbon.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Left	Right
Schuylkill River	Upstream corporate limit	615	30	[illegible]
	Pike St.	633	1,400	500
	Mill Creek confluence	633	1,400	500
	Route 209 and Coal St.	632	1,150	300
	ConRail Bridge	629	1,500	50
	Downstream corporate limits	617	1,600	600
Mill Creek	Upstream corporate limit	611	30	250
	Pottsville St.	637	110	[illegible]
	1st St. (extended)	633	230	1,050
	Washington St.	633	390	1,000
	Coal St.	633	500	750

[Corporate limit.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24700 Filed 8-30-77;8:45 am]

[Docket No. FI-2384]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Township of Springfield, Delaware County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Township of Springfield, Delaware County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Township of Springfield, Delaware County, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 220–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Township of Springfield, Delaware County, Pa.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Springfield, Delaware County, Pa., are available for review at the Municipal Building lobby, 50 Powell Road, Springfield, Pa.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Left	Right
Darby Creek	Septa Lines RR.	140	-	480
	State Route 1 bypass	151	-	20
	Burmont Rd.	159	-	750
Crum Creek	Chester Rd.	47	100	-
	Wallingford Rd.	76	80	-
	Baltimore Pike	81	90	-
	Paper Mill Rd.	88	80	-
	Beatty Rd	102	50	-

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24701 Filed 8-30-77;8:45 am]

[Docket No. FI-2818]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Vinton, Roanoke County, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Town of Vinton, Roanoke County, Va. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Town of Vinton, Roanoke County, Va.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Vinton, Roanoke County, Va. are available for review at the Council Chambers, Town Hall, 227 South Pollard Street, Vinton.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 220–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of Vinton, Roanoke County, Va.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum 1929
Roanoke River	Downstream corporate limit.	885.0
	Upstream corporate limit.	904.0
Tinker Creek	N&W RR	904.0
	Virginia Ave.	911.0
	Wise Ave.	914.3
	Upstream corporate limit.	918.3
Glade Creek	At mouth	911.3
	Vinton Mill Rd.	913.0
	N&W RR.	922.5
	do.	905.0
Wolf Creek	Niagara Rd.	996.5
	Virginia Route 631 bridge.	1,057.5
	Highway 24 (west line).	1,057.5

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-24702 Filed 8-30-77;8:45 am]

V 42169 AUG 31 77 UMI

Federal Register

WEDNESDAY, AUGUST 31, 1977

PART III



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

■

RIGHTS-OF-WAY

General Provisions

V 42169 AUG 31 77 UMI

Title 50—Fish and Wildlife

CHAPTER I—FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 29—LAND USE MANAGEMENT

Rights-of-Way General Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to incorporate requirements of two acts passed since the initial publication of the regulations in 1969. These are the act to amend section 28 of the Mineral Leasing Act of 1920 (Pub. L. 93–153; 87 Stat. 576), and the National Wildlife Refuge System Administration Act Amendments Act of 1974 (Pub. L. 93–509; 88 Stat. 1603). The amendment to section 28 of the Mineral Leasing Act establishes special requirements for pipeline rights-of-way for oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom. The requirement in this law for reimbursement to the United States for costs incurred in processing applications, monitoring construction and terminating rights-of-way is extended to cover all rights-of-way requests over lands administered by the Fish and Wildlife Service. The National Wildlife Refuge System Administration Act Amendments Act establishes criteria for payment for rights-of-way. Previously, special requirements for electric power transmission line rights-of-way were included in the regulation by reference to 43 CFR 2851.1–1. These requirements are now written into the regulation. A new requirement for applicants to furnish environmental information so as to enable the Fish and Wildlife Service to comply with section 102(2)(C) of the National Environmental Policy Act of 1969 has been included. Other amendments have been included to clarify the regulation.

EFFECTIVE DATE: These regulations shall become effective on September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard E. Corthell, Division of Realty, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202–343–6649).

SUPPLEMENTARY INFORMATION: On March 18, 1976, the Fish and Wildlife Service published in the FEDERAL REGISTER a notice and text of proposed miscellaneous amendments to Part 29, Subpart B, of Title 50, Code of Federal Regulations. Interested persons were given until April 19, 1976, to submit comments, suggestions, or objections to the proposed amendments. Fourteen comments were received and considered in the final rulemaking process.

Five of the comments objected to the method whereby the United States would recover costs for processing and monitoring easements or permits as being open ended and without limitation as to probable charges for the recovery of costs. Initially it was proposed to charge an application fee of $100, plus actual costs for processing over and above that amount, and to charge actual costs for monitoring the construction of facilities. Previously, on April 23, 1975, the Bureau of Land Management of the Department of the Interior, did publish regulations in 40 FR 17842 for the recovery of costs for processing applications and for monitoring the construction, operation, maintenance and termination of facilities on lands administered by the Bureau of Land Management. These regulations provide for a schedule of fees based on length and/or size, except that actual costs may be recovered when such costs exceed the scheduled amount plus the costs to keep actual cost records. They also provide for an estimate of costs in advance upon request. The proposed regulation in § 29.21–2(a) (2) and (3) has been changed to adopt the same schedule and method of recovery of costs as was published by the Bureau of Land Management.

Six comments objected to the requirement that applicants furnish an environmental assessment, primarily on the ground that duplication may be required of applicants when an environmental impact assessment may be available from a "lead agency." Also one comment pointed out the Regional Directors' responsibility to protect historic, architectural, archeological, and cultural resources. Accordingly, the proposed regulation § 29.21–2(a) (4) has been changed to permit the Regional Director, at his discretion, to rely on an environmental impact statement and/or assessment prepared by a "lead agency," and to include citation of the various acts, regulations, and Executive Orders relating to the protection of historic, architectural, archeological, and cultural features.

One comment objected to the limitation of an easement or permit to 30 years for pipelines for the transmission of oil, natural gas synthetic liquid or gaseous fuels, or any refined product therefrom and to the limitation of the width of the right-of-way to 50 feet plus the width of the pipe when section 28 of the Mineral Leasing Act as amended (Pub. L. 93–153) provides for the right-of-way to also include related facilities. The 30-year limitation on rights-of-way is statutory, 30 U.S.C. 185(n). The proposed regulation, § 29.21–3(a), has been changed to include related facilities in the right-of-way width.

One comment expressed concern that the Regional Director, under the proposed regulation, would be authorized to impose additional stipulations and/or conditions on a holder after an easement or permit had been granted. The proposed regulation, § 29.21–4(b), has been clarified by making the stipulations and/or conditions applicable in the "right-of-way, easement, or permit document."

Two comments objected to the strict liability requirement in § 29.21–4(b)(7) of the proposed regulation. The regulation has been changed to provide that for lands under the exclusive jurisdiction of the United States, the holder, or his employees, contractors, or agents shall be liable to third parties for injuries incurred in connection with the easement or permit area. The regulation is further changed to provide, in the case of special hazards, a limitation of $1,000,000 for liability without fault for injury and damage to land of the United States.

Two comments express concern that the proposed regulation provided for occupancy by the Fish and Wildlife Service of rights-of-way, easement or permit areas not actually occupied by facilities. This is presently a requirement of 50 CFR 29.21–4(b)(13). However, we have changed the regulation to provide for occupancy and use by the Fish and Wildlife Service only "to the extent that it does not interfere with the full and safe utilization thereof by the holder."

Three comments expressed concern that the requirement in § 29.21–4(b)(14) of the proposed regulation would require a holder to modify or adapt a facility if such were found to be necessary by the Regional Director. This condition is included in the existing regulation in 50 CFR 29.21–4(b)(14). It was suggested that such modifications, if necessary, not unduly interfere with the continuity of energy transportation and delivery requirements. The proposed regulation has been modified to add a new sentence at the end stating: "Any such modifications will be planned and scheduled so as not to unduly interfere with or to have minimal effect upon continuity of energy transportation and delivery requirements."

Three comments expressed concern about the requirement for, and system of making, charges for rights-of-way, easement, and permits. This is a requirement of the present regulation in 50 CFR 29.21–7 (a) and (b) and the proposed change is primarily editorial in nature to include statutory requirements of Pub. L. 93–509. Four comments objected to a new § 29.21–7(c) which would authorize the Regional Director to require mitigation measures adjacent to or within the right-of-way, or replacement land, to make the proposed use compatible with the purposes for which the area was established. We believe this section is in the interest of industry. Otherwise, there may be instances where the Secretary or his designee (Regional Director) would be prohibited by law from granting an easement or permit. However, to make the purpose clear, the last sentence has been modified to read * * * "Such mitigation measures and/or the replacement of land are solely for the purpose of complying with the requirement of the National Wildlife Refuge System Administration Act that the use be compatible with the purpose for which the area was established and shall be in addition to the payment of fair market value."

One comment requested that gathering lines and associated structures used in the production of oil and gas under valid leases be excluded from the regulations. A new sentence has been added to the end of the proposed regulation § 29.21–9—"Gathering Lines and associated structures used solely in the production

of oil and gas under valid leases on the lands administered by the Fish and Wildlife Service are excepted from the provisions of § 29.21–9." An added provision has been included, § 29.21–9(a), that provides, in cases where pipelines, etc., will cross lands administered by more than one Federal agency and/or more than one Bureau or Office of the Department of the Interior, a single application shall be filed with the appropriate State Director of the Bureau of Land Management, Department of the Interior. This provision is statutory in Pub. L. 93–153.

A few other comments were received concerning certain regulatory requirements as they relate to pipelines, § 29.21–9(a)(2), 29.21–9(b), 29.21–9(c), and 29.21–9(d). The letter designations in these sections have been changed (a) to (b), (b) to (c), (c) to (d), and (d) to (e). These requirements are statutory pursuant to Pub. L. 93–153. Therefore, the proposed regulation cannot be changed as to those matters.

One comment suggested that the requirement for a bond in § 29.21–9(f) be limited as to time in some manner. This letter designation has been changed from (f) to (g) and the proposed regulation is changed by adding the following words at the end—"not to exceed the period of construction plus one year or longer period if necessary for the pipeline to stabilize."

Two comments obected to the authority of the Regional Director to suspend activity within the right-of-way or permit area if necessary to protect public health and safety or the environment prior to an administrative hearing. This provision is permitted by statute, 30 U.S.C. 185(o)(2). We interpret such a suspension to be exercised in an emergency and, as such, the Project Manager should have the authority to act in an emergency. The regulation in § 29.21–9(g), now (h), has been changed by substituting "Project Manager" for "Regional Director" in the first sentence and by adding the following two sentences at the end—"The Regional Director must make a determination and notify the holder in writing within 15 days from the date of the suspension as to whether the suspension should continue and list actions needed to terminate the suspension. Such suspension shall remain in effect for only so long as the emergency condition continues."

Two comments expressed concern that additional rights-of-way could be granted that may overlap rights-of-way previously granted without consulting with the holder. Section 29.21–9(h), now (i) has been changed by adding the following words at the end—"after giving notice to the holder and an opportunity to comment."

Four comments objected to the common carrier requirements in the proposed regulation in §§ 29.21–9(i), 29.21–9(i)(A), 29.21–9(ii)(B), and 29.21–9(iii). The numbering of the section is not clear and is therefore corrected as follows: Paragraph "(i)(A)" is changed to "(j)(2)(A)"; paragraph "(ii)(A)" to "(j)(3)(A)"; and paragraph "(iii)" to "(j)(4)." Since the requirements of § 29.21–9(i), now (j), are statutory pursuant to Pub. L. 93–153, no further change is made.

Several comments objected to §§ 29.21–9 (j), (k), and (l) of the proposed regulation. These letter designations have been changed, (j) to (k), (k) to (l), and (l) to (m). Since the requirements are statutory pursuant to Pub. L. 93–153, no change is made.

Several comments objected to the hearings and appeals procedures in §§ 29.22, 29.22–1, 29.22–2, 29.22–3, and 29.22–4 as being narrow and restrictive and that except for certain specified instances the actions of the Regional Director could not be appealed. These sections are deleted and the old procedures in 50 CFR 29.22 are retained with editorial changes to bring it in line with current citations.

The Fish and Wildlife Service has prepared an environmental assessment concerning these regulations. Based on a review and evaluation of the information contained in the assessment, it has been determined that the proposed amendments to the general right-of-way regulations of 50 CFR, Chapter I, Part 29, Subpart B, do not constitute a major Federal action which would signficantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmetnal Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, the preparation of an environmental impact statement on this action is not required.

The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

The primary author of this document is Richard E. Corthell, Division of Realty, Fish and Wildlife Service.

Accordingly, Title 50 CFR, Part 29, Subpart B, Chapter I is amended as follows:

Section 29.21 is amended by revising paragraph (h) and by adding new paragraph (i).

§ 29.21 Definitions.

* * * * *

(h) "Compatible" means that the requested right-of-way or use will not interfere with or detract from the purposes for which units of the National Wildlife Refuge System are established. The term "inconsistent" in section 28(b)(1) of the Mineral Leasing Act of 1920, as amended by Pub. L. 93–153, shall be deemed to mean a use that is "not compatible", as "compatible" is defined herein.

(i) "Department" means U.S. Department of the Interior unless otherwise specified.

Section 29.21–1 is amended by revising paragraphs (a) and (c) to read as follows:

§ 29.21–1 Purpose and scope.

* * * * *

(a) *National Wildlife Refuge System lands.* Applications for all forms of rights-of-way on or over such lands shall be submitted either under authority of Pub. L. 89–669 (80 Stat. 926; 16 U.S.C. 668dd), as amended, or for oil and gas pipelines under section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449; 30 U.S.C. 185) as amended by Pub. L. 93–153, following application procedures set out in § 29.21–2. No right-of-way will be approved unless it is determined by the Regional Director to be compatible. See section 29.21–8 for additional requirements applicable to rights-of-way for electric power transmission lines and section 29.21–9 for additional requirements applicable to rights-of-way for pipelines for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom.

* * * * *

(c) *Other lands outside the National Wildlife Refuge System.* Rights-of-way on or over other lands will be granted in accordance with controlling authorities cited in 43 CFR Part 2800, or for oil and gas pipelines under section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449; 30 U.S.C. 185) as amended by Pub. L. 93–153. See section 29.21–8 for additional requirements applicable to rights-of-way for electric power transmission lines and section 29.21–9 for additional requirements applicable to rights-of-way for pipelines for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any other refined product produced therefrom. Applications will be submitted in accordance with procedures set out in section 29.21–2.

Section 29.21–2 is amended by revising paragraph (a)(2), and by adding new paragraphs (a)(3), and (a)(4).

§ 29.21–2 Application procedures.

(a)(1) * * *

(2)(i) All applications filed pursuant to this subpart in the name of individuals, corporations, or associations must be accompanied by a nonreturnable application fee. No application fee will be required of (A) State or local governments or agencies or instrumentalities thereof except as to rights-of-way, easements, or permits under section 28 of the Mineral Leasing Act of 1920, as amended by Pub. L. 93–153, or (B) Federal Government agencies.

(ii) Application fees will be in accordance with the following schedule:

(A) For linear facilities (e.g., powerlines, pipelines, roads, etc.).

Length	*Payment*
Less than 5 miles	$50 per mile or fraction thereof.
5 to 20 miles	$500.
20 miles and over	$500 for each 20 miles or fraction thereof.

(B) For nonlinear facilities, $250 for each 40 acres or fraction thereof.

(C) Where an application includes both linear and nonlinear facilities, payment will be the aggregate of amounts under paragraphs (a)(2)(ii) (A) and (B) of this section.

(D) When an application is received, the Regional Director will estimate the

V42169 AUG 31 77 UMI

costs expected to be incurred in processing the application. If the estimated costs exceed the payments under paragraphs (a)(2)(ii) (A), (B), or (C) above by an amount greater than the cost of maintaining actual cost records, the Regional Director shall require the applicant to make periodic payments in advance of the incurrence of such costs by the United States except for the last payment which will reflect final reimbursement for actual costs of the United States in processing the application. Overpayments may be refunded or adjusted by the Regional Director as appropriate.

(E) The Regional Director shall, on request by an applicant or prospective applicant, give an estimate based on the best available cost information, of the costs which would be incurred by the United States in processing an application. However, reimbursement will not be limited to the estimate of the Regional Director if the actual costs exceed the estimate. Prospective applicants are encouraged to consult with the Regional Director in advance of filing an application in regard to probable costs and other requirements.

(3)(i) By accepting an easement or permit under this subpart, the holder agrees to reimburse the United States for reasonable costs incurred by the Fish and Wildlife Service in monitoring the construction, operation, maintenance, and termination of facilities within or adjacent to the easement or permit area. No reimbursement of monitoring costs will be required of (A) State or local governments or agencies or instrumentalities thereof except as to rights-of-way, easements, or permits granted under Section 28 of the Mineral Leasing Act of 1920 as amended by Pub. L. 93-153, or (B) Federal Government agencies.

(ii) Within 60 days of the issuance of an easement or permit the holder must submit a nonreturnable payment in accordance with the following:

(A) For linear facilities (e.g., powerlines, pipelines, roads, etc.).

Length	*Payment*
Less than 5 miles	$20 per mile or fraction thereof.
5 to 20 miles	$200.
20 miles and over	$200 for each 20 miles or fraction thereof.

(B) For nonlinear facilities, $100 for each 40 acres or fraction thereof.

(C) Where an easement or permit includes both linear and nonlinear facilities, payment will be the aggregate amounts under paragraphs (a)(3)(2)(ii) (A) and (B) of this section.

(D) When an easement or permit is granted the Regional Director shall estimate the costs, based on the best available cost information, expected to be incurred by the United States in monitoring holder activity. If the estimated costs exceed the payments under paragraphs (a)(3)(2)(ii), (A), (B), or (C) of this section by an amount which is greater than the cost of maintaining actual cost records for the monitoring process, the Regional Director shall require the holder to make periodic payments of the estimated reimbursable costs prior to the incurrence of such costs by the United States. Overpayments may be refunded or adjusted by the Regional Director as appropriate.

(E) Following the termination of an easement or permit, the former holder will be required to pay additional amounts to the extent the actual costs to the United States have exceeded the payments required by paragraphs (a)(3)(ii)(A), (B), and (C) of this section.

(4) All applications filed pursuant to this subpart must include a detailed environmental analysis which shall include information concerning the impact of the proposed use of the environment including the impact on air and water quality; scenic and esthetic features; historic, architectural, archeological, and cultural features; wildlife, fish and marine life, etc. The analysis shall include sufficient data so as to enable the Service to prepare an environmental assessment and/or impact statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and comply with the requirements of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469 et seq.), Executive Order 11593 "Protection and Enhancement of the Cultural Environment" of May 13, 1971 (36 FR 8921), and "Procedures for the Protection of Historic and Cultural Properties" (36 FR 800). Concerning the National Environmental Policy Act, the Regional Director may, at his discretion, rely on an environmental assessment or impact statement prepared by a "lead agency."

(b) * * *

(c) * * *

Section 29.21-3(a) is revised to read as follows:

§ 29.21-3 Nature of interest granted.

(a) Where the land administered by the Secretary is owned in fee by the United States and the proposed use is compatible with the objectives of the area, a permit or easement may be approved and granted by the Regional Director. Generally an easement or permit will be issued for a term of 50 years or so long as it is used for the purpose granted, or for a lesser term when considered appropriate. For rights-of-way granted under authority of Section 28 of the Mineral Leasing Act of 1920, as amended, for pipelines for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom, the grant may be for a term not to exceed 30 years and the right-of-way may not exceed 50 feet, plus the area occupied by the pipeline and its related facilities unless the Regional Director finds, and records the reasons for his finding, that, in his judgment, a wider right-of-way is necessary for operation and maintenance after construction, or to protect the environment or public safety. Related facilities include but are not limited to valves, pump stations, supporting structures, bridges, monitoring and communication devices, surge and storage tanks, terminals, etc. However, a temporary permit supplementing a right-of-way may be granted for additional land needed during construction, operation, maintenance, or termination of the pipeline, or to protect the natural environment or public safety.

* * * * *

Section 29.21-4 is amended by revising paragraphs (b), (b)(1), (b)(2), (b)(4)-(b)(7), (b)(9), (b)(10), and (b)(13)-(b)(15).

§ 29.21-4 Terms and conditions.

* * * * *

(b) An applicant, by accepting an easement or permit agrees to such terms and conditions as may be prescribed by the Regional Director in the granting document. Such terms and conditions shall include the following, unless waived in part by the Regional Director, and may include additional special stipulations at his discretion. See § 29.21-8 for special requirements for electric powerlines and § 29.21-9 for special requirements for oil and gas pipelines.

(1) To comply with State and Federal laws applicable to the project within which the easement or permit is granted, and to the lands which are included in the easement or permit area, and lawful existing regulations thereunder.

(2) To clear and keep clear the lands within the easement or permit area to the extent and in the manner directed by the project manager in charge; and to dispose of all vegetative and other material cut, uprooted, or otherwise accumulated during the construction and maintenance of the project in such a manner as to decrease the fire hazard and also in accordance with such instructions as the project manager may specify.

* * * * *

(4) To take such soil and resource conservation and protection measures, including weed control on the land covered by the easement or permit as the project manager in charge may request.

(5) To do everything reasonably within his power, both independently and on request of any duly authorized representative of the United States, to prevent and suppress fires on or near lands to be occupied under the easement or permit area, including making available such construction and maintenance forces as may be reasonably obtainable for the suppression of such fires.

(6) To rebuild and repair such roads, fences, structures, and trails as may be destroyed or injured by construction work and, upon request by the Regional Director, to build and maintain necessary and suitable crossings for all roads and trails that intersect the works constructed, maintained, or operated under the easement or permit.

(7) To pay the United States the full value for all damages to the lands or other property of the United States caused by him or his employees, contractors, or agents of the contractors, and to indemnify the United States against any liability for damages to life, person, or property arising from the occupancy or use of the lands under the easement or permit, except where the easement or permit is granted hereunder to a State or other governmental agency which has no legal power to assume such a liability with respect to damages caused by it to lands or property, such agency in lieu thereof agrees to repair all such damages. Where the easement of permit involves lands which are under the exclusive jurisdiction of the United States, the holder or his employees, contractors, or agents of the contractors, shall be liable to third parties for injuries incurred in connection with the easement or permit area. Grants of easements or permits involving special hazards will impose liability without fault for injury and damage to the land and property of the United States up to a specified maximum limit commensurate with the foreseeable risks or hazards presented. The amount of no-fault liability for each occurrence is hereby limited to no more than $1,000,000.

* * * * *

(9) That all or any part of the easement or permit granted may be suspended or terminated by the Regional Director for failure to comply with any or all terms and conditions of the grant, or for abandonment. A rebuttable presumption of abandonment is raised by deliberate failure of the holder to use for any continuous 2-year period the easement or permit for the purpose for which it was granted or renewed. In the event of noncompliance or abandonment, the Regional Director will notify in writing the holder of the easement or permit of his intention to suspend or terminate such grant 60 days from the date of the notice, stating the reasons therefor, unless prior to that time the holder completes such corrective actions as are specified in the notice. The Regional Director may grant an extension of time within which to complete corrective actions when, in his judgment, extenuating circumstances not within the holder's control such as adverse weather conditions, disturbance to wildlife during breeding periods or periods of peak concentration, or other compelling reasons warrant. Should the holder of a right-of-way issued under authority of the Mineral Leasing Act, as amended, fail to take corrective action within the 60-day period, the Regional Director will provide for an administrative proceeding pursuant to 5 U.S.C. 554, prior to a final Departmental decision to suspend or terminate the easement or permit. In the case of all other right-of-way holders, failure to take corrective action within the 60-day period will result in a determination by the Regional Director to suspend or terminate the easement or permit. No administrative proceeding shall be required where the easement or permit terminates under its terms.

(10) To restore the land to its original condition to the satisfaction of the Regional Director so far as it is reasonably possible to do so upon revocation and/or termination of the easement or permit, unless this requirement is waived in writing by the Regional Director. Termination also includes permits or easements that terminate under the terms of the grant.

* * * * *

(13) That the grant of the easement or permit shall be subject to the express condition that the exercise thereof will not unduly interfere with the management, administration, or disposal by the United States of the land affected thereby. The applicant agrees and consents to the occupancy and use by the United States, its grantees, permittees, or lessees of any part of the easement or permit area not actually occupied for the purpose of the granted rights to the extent that it does not interfere with the full and safe utilization thereof by the holder. The holder of an easement or permit also agrees that authorized representatives of the United States shall have the right of access to the easement or permit area for the purpose of making inspections and monitoring the construction, operation and maintenance of facilities.

(14) That the easement or permit herein granted shall be subject to the express covenant that any facility constructed thereon will be modified or adapted, if such is found by the Regional Director to be necessary, without liability or expense to the United States, so that such facility will not conflict with the use and occupancy of the land for any authorized works which may hereafter be constructed thereon under the authority of the United States. Any such modification will be planned and scheduled so as not to interfere unduly with or to have minimal effect upon continuity of energy and delivery requirements.

(15) That the easement or permit herein granted shall be for the specific use described and may not be construed to include the further right to authorize any other use within the easement or permit area unless approved in writing by the Regional Director.

Section 29.21-5 is revised as follows:

§ 29.21-5 Construction.

(a) If construction is not commenced within two (2) years after date of right-of-way grant, the right-of-way may be canceled by the Director of the U.S. Fish and Wildlife Service at his discretion.

(b) Proof of construction: Upon completion of construction, the applicant shall file a certification of completion with the Regional Director.

Section 29.21-6(b) is revised to read as follows:

§ 29.21-6 Disposal, transfer or termination of interest.

* * * * *

(b) *Transfer of easement or permit.* Any proposed transfer, by assignment, lease, operating agreement, or otherwise, of an easement or permit must be filed in triplicate with the Regional Director and must be supported by a stipulation that the transferee agrees to comply with and be bound by the terms and conditions of the original grant. A $25 nonreturnable service fee must accompany the proposal. No transfer will be recognized unless and until approved in writing by the Regional Director.

* * * * *

§ 29.21-7 is revised to read as follows:

§ 29.21-7 Payment required.

(a) Payment for use and occupancy of lands under the regulations of this subpart will be required and will be for fair market value as determined by appraisal by the Regional Director. At the discretion of the Regional Director, the payment may be a lump sum payment or an annual fair market rental payment, to be made in advance. If any Federal, State or local agency is exempted from such payment by and any other provision of Federal law, such agency shall otherwise compensate the Service by any other means agreeable to the Regional Director, including, but not limited to, making other land available or the loan of equipment or personnel, except that any such compensation shall relate to, and be consistent with the objectives of the National Wildlife Refuge System. The Regional Director may waive such requirement for compensation if he finds such requirement impracticable or unnecessary.

(b) When annual rental payments are used, such rates shall be reviewed by the Regional Director at any time not less than 5 years after the grant of the permit, right-of-way, or easement or the last revision of charges thereunder, The Regional Director will furnish a notice in writing to the holder of an easement or permit of intent to impose new charges to reflect fair market value commencing with the ensuing charge year. The revised charges will be effective unless the holder files an appeal in accordance with § 29.22.

(c) In instances where damage to a unit of the National Wildlife Refuge System will result, the Regional Director may require mitigation measures, as determined by him, within the easement or permit area or on adjacent Service land or replacement land to make the proposed use compatible with the purposes for which the unit of the system was established. Such mitigation measures, and/or the replacement of land, are solely for the purpose of complying with the requirement of the National Wildlife Refuge System Administrative Act that the use be compatible with the purpose for which the area was established and shall be in addition to the payment of fair market value.

Section 29.21-8 is revised to read as follows:

§ 29.21-8 Electric power transmission line rights-of-way.

By accepting a right-of-way for a power transmission line, the applicant thereby agrees and consents to comply with and be bound by the following terms and conditions, except those which the Secretary may waive in a particular case, in addition to those specified in Section 29.21-4(b).

(a) To protect in a workmanlike manner, at crossings and at places in prox-

V 42 169 AUG 31 77 UMI

imity to his transmission lines on the right-of-way authorized, in accordance with the rules prescribed in the National Electric Safety Code, all Government and other telephone, telegraph and power transmission lines from contact and all highways and railroads from obstruction and to maintain his transmission lines in such manner as not to menace life or property.

(b) Neither the privilege nor the right to occupy or use the lands for the purpose authorized shall relieve him of any legal liability for causing inductive or conductive interference between any project transmission line or other project works constructed, operated, or maintained by him on the servient lands, and any radio installation, telephone line, or other communication facilities now or hereafter constructed and operated by the United States or any agency thereof.

(c) Each application for authority to survey, locate, commence construction work, and maintain a facility for the generation of electric power and energy or for the transmission or distribution of electric power and energy of 66 kilovolts or higher under this subpart shall be referred by the Regional Director to the Secretary of the Interior to determine the relationship of the proposed facility to the power marketing program of the United States. Where the proposed facility will not conflict with the program of the United States, the Regional Director, upon notification to that effect, will proceed to act upon the application. In the case of necessary changes respecting the proposed location, construction, or utilization of the facility in order to eliminate conflicts with the power marketing program of the United States, the Regional Director shall obtain from the applicant written consent to, or compliance with, such requirements before taking further action on the application: *Provided, however*, That if increased cost to the applicant will result from changes to eliminate conflicts with the power marketing program of the United States, and it is determined that a right-of-way should be granted, such changes will be required upon equitable contract arrangements covering costs and other appropriate factors.

(d) The applicant shall make provision, or bear the reasonable cost (as may be determined by the Secretary) of making provision, for avoiding inductive or conductive interference between any transmission facility or other works constructed, operated, or maintained by it on the right-of-way authorized under the grant and any radio installation, telephone line, or other communication facilities existing when the right-of-way is authorized or any such installation, line or facility thereafter constructed or operated by the United States or any agency thereof. This provision shall not relieve the applicant from any responsibility or requirement which may be imposed by other lawful authority for avoiding or eliminating inductive or conductive interference.

(e) An applicant for a right-of-way for a transmission facility having a voltage of 66 kilovolts or more must, in addition to the requirements of § 29.21–2, execute and file with the application a stipulation agreeing to accept the right-of-way grant subject to the following conditions:

(1) In the event the United States, pursuant to law, acquires the applicant's transmission or other facilities constructed on or across such right-of-way the price to be paid by the United States shall not include or be affected by any value of the right-of-way granted to the applicant under authority of the regulations of this part.

(2) The Department of the Interior shall be allowed to utilize for the transmission of electric power and energy any surplus capacity of the transmission facility in excess of the capacity needed by the holder of the grant (subsequently referred to in this paragraph as "holder") for the transmission of electric power and energy in connection with the holder's operations, or to increase the capacity of the transmission facility at the Department's expense and to utilize the increased capacity for the transmission of electric power and energy. Utilization by the Department of surplus or increased capacity shall be subject to the following terms and conditions:

(i) When the Department desires to utilize surplus capacity throught to exist in the transmission facility, notification will be given to the holder and the holder shall furnish to the Department within 30 days a certificate stating whether the transmission facility has any surplus capacity not needed by the holder for the transmission of electric power and energy in connection with the holder's operations and, if so, the amount of such surplus capacity.

(ii) Where the certificate indicates that there is no surplus capacity or that the surplus capacity is less than that required by the Department, the authorized officer may call upon the holder to furnish additional information upon which its certification is based. Upon receipt of such additional information, the authorized officer shall determine, as a matter of fact, if surplus capacity is available and, if so, the amount of such surplus capacity.

(iii) In order to utilize any surplus capacity determined to be available, or any increased capacity provided by the Department at its own expense, the Department may interconnect its transmission facilities with the holder's transmission facility in a manner conforming to approved standards of practice for the interconnection of transmission circuits.

(iv) The expense of interconnection will be borne by the Department, and the Department will at all times provide and maintain adequate protective equipment to insure the normal and efficient operation of the holder's transmission facilities.

(v) After any interconnection is completed, the holder shall operate and maintain its transmission facilities in good condition, and, except in emergencies, shall maintain in a closed position all connections under the holder's control necessary to the transmission of the Department's power and energy over the holder's transmission facilities. The parties may by mutual consent open any switch where necessary or desirable for maintenance, repair or construction.

(vi) The transmission of electric power and energy by the Department over the holder's transmission facilities will be effected in such manner as will not interfere unreasonably with the holder's use of the transmission facilities in accordance with the holder's normal operating standards, except that the Department shall have the exclusive right to utilize any increased capacity of the transmission facility which has been provided at the Department's expense.

(vii) The holder will not be obligated to allow the transmission of electric power and energy by the Department to any person receiving service from the holder on the date of the filing of the application for a grant, other than statutory preference customers including agencies of the Federal Government.

(viii) The Department will pay to the holder an equitable share of the total monthly cost of that part of the holder's transmission facilities utilized by the Department for the transmission of electric power and energy, the payment to be an amount in dollars representing the same proportion of the total monthly cost of such part of the transmission facilities as the maximum amount in kilowatts of the power transmitted on a scheduled basis by the Department over the holder's transmission facilities bears to the total capacity in kilowatts of that portion of the transmission facilities. The total monthly cost will be determined in accordance with the system of accounts prescribed by the Federal Power Commission, exclusive of any investment by the Department in the part of the transmission facilities utilized by the Department.

(ix) If, at any time subsequent to a certification by the holder, or determination by the authorized officer, that surplus capacity is available for utilization by the Department, the holder needs for the transmission of electric power and energy in connection with its operations the whole or any part of the capacity of the transmission facility theretofore certified or determined as being surplus to its needs, the holder may request the authorized officer to modify or revoke the previous certification or determination by making application to the authorized officer not later than 36 months in advance of the holder's needs. Any modification or revocation of the certification or determination shall not affect the right of the Department to utilize facilities provided at its expense or available under a contract entered into by reason of the equitable contract arrangements provided for in this section.

(x) If the Department and the holder disagree as to the existence or amount of surplus capacity in carrying out the terms and conditions of this paragraph, the disagreement shall be decided by a board of three persons composed as follows: The holder and the authorized officer shall each appoint a member of the board and the two members shall appoint a third member. If the members appointed by the holder and the authorized officer are unable to agree on the designation of the third member, he shall be designated by the Chief Judge of the United States Court of Appeals of the circuit in which the major share of the facilities involved is located. The board shall determine the issue and its determination, by majority vote, shall be binding on the Department and the holder.

(xi) As used in this section, the term "transmission facility" includes (A) all types of facilities for the transmission of electric power and energy and facilities for the interconnection of such facilities, and (B) the entire transmission line and associated facilities, from substation or interconnection point to substation or interconnection point, of which the segment crossing the lands of the United States forms a part.

(xii) The terms and conditions prescribed in this paragraph may be modified at any time by means of a supplemental agreement negotiated between the holder and the Secretary of the Interior or his designee.

Section 29.21–9 is added as follows:

§ 29.21–9 Rights-of-way for pipelines for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom.

(a) Application procedure. Applications for pipelines and related facilities under this section are to be filed in accordance with § 29.21–2 of these regulations with the following exception:

When the right-of-way or proposed facility will occupy Federal land under the control of more than one Federal Agency and/or more than one Bureau or Office of the Department of the Interior, a single application shall be filed with the appropriate State Director of the Bureau of Land Management in accordance with regulations in 43 CFR Part 2800.

Any portion of the facility occupying land of the National Wildlife Refuge System will be subject to the provisions of these regulations.

(b) Right-of-way grants under this section will be subject to the special requirements of Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended, as set forth below. Gathering lines and associated structures used solely in the production of oil and gas under valid leases on the lands administered by the Fish and Wildlife Service are excepted from the provisions of § 29.21–9.

(1) *Pipeline safety.* Rights-of-way or permits granted under this section will include requirements that will protect the safety of workers and protect the public from sudden ruptures and slow degradation of the pipeline. An applicant must agree to design, construct, and operate all proposed facilities in accordance with the provisions of Parts 192 and/or 195 of Title 49 of the Code of Federal Regulations and in accordance with the Occupational Safety and Health Act of 1970, Pub. L. 91–596, including any amendments thereto.

(2) *Environmental protection.* An application for a right-of-way must contain environmental information required by section 29.21–2(a)(4) of this subpart. If the Regional Director determines that a proposed project will have a significant affect on the environment, there must also be furnished a plan of construction, operation, and rehabilitation of the proposed facilities. In addition to terms and conditions imposed under § 29.21–4, the Regional Director will impose such stipulations as may be required to assure: (i) restoration, revegetation and curtailment of erosion of the surface; (ii) that activities in connection with the right-of-way or permit will not violate applicable air and water quality standards or related facilities siting standards established by law; (iii) control or prevention of damage to the environment including damage to fish and wildlife habitat, public or private property, and public health and safety; and (iv) protection of the interests of individuals living in the general area of the right-of-way or permit who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes.

(c) *Disclosure.* If the applicant is a partnership, corporation, association, or other business entity it must disclose the identity of the participants in the entity. Such disclosure shall include where applicable (1) the name and address of each partner, (2) the name and address of each shareholder owning 3 percentum or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote, and (3) the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.

(d) *Technical and financial capability.* The Regional Director may grant or renew a right-of-way or permit under this section only when he is satisfied that the applicant has the technical and financial capability to construct, operate, maintain, and terminate the facility. At the discretion of the Regional Director, a financial statement may be required.

(e) *Reimbursement of costs.* In accordance with Section 29.21–2(a)(3) of this subpart, the holder of a right-of-way or permit must reimburse the Service for the cost incurred in monitoring the construction, operation, maintenance, and termination of any pipeline or related facilities as determined by the Regional Director.

(f) *Public hearing.* The Regional Director shall give notice to Federal, State, and local government agencies, and the public, and afford them the opportunity to comment on right-of-way applications under this section. A notice will be published in the FEDERAL REGISTER and a public hearing may be held where appropriate.

(g) *Bonding.* Where appropriate the Regional Director may require the holder of a right-of-way or permit to furnish a bond, or other security satisfactory to him, to secure all or any of the obligations imposed by the terms and conditions of the right-of-way or permit or by any rule or regulation, not to exceed the period of construction plus one year or a longer period if necessary for the pipeline to stabilize.

(h) *Suspension of right-of-way.* If the Project Manager determines that an immediate temporary suspension of activities within a right-of-way or permit area is necessary to protect public health and safety or the environment, he may issue an emergency suspension order to abate such activities prior to an administrative proceeding. The Regional Director must make a determination and notify the holder in writing within 15 days from the date of suspension as to whether the suspension should continue and list actions needed to terminate the suspension. Such suspension shall remain in effect for only so long as an emergency condition continues.

(i) Joint use of rights-of-way. Each right-of-way or permit shall reserve to the Regional Director the right to grant additional rights-of-way or permits for compatible uses on or adjacent to rights-of-way or permit areas granted under this section after giving notice to the holder and an opportunity to comment.

(j) *Common carriers.* (1) Pipelines and related facilities used for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom shall be constructed, operated, and maintained as common carriers.

(2)(i) The owners or operators of pipelines subject to this subpart shall accept, convey, transport, or purchase without discrimination all oil or gas delivered to the pipeline without regard to whether such oil or gas was produced on Federal or non-Federal lands. (ii) In the case of oil or gas produced from Federal lands or from the resources on the Federal lands in the vicinity of the pipeline, the Secretary may, after a full hearing with due notice thereof to the interested parties and a proper finding of facts, determine the proportionate amounts to be accepted, conveyed, transported or purchased.

(3)(i) The common carrier provisions of this section shall not apply to any natural gas pipeline operated by any person subject to regulation under the Natural Gas Act or by any public utility subject to regulation by a State or municipal regulatory agency having jurisdiction to regulate the rates and charges for the sale of natural gas to consumers within the State or municipality. (ii) Where natural gas not subject to State regulatory or conservation laws governing its purchase by pipelines is offered for sale, each such pipeline shall purchase, without discrimination, any such

V42169 AUG 31 77 UMI

natural gas produced in the vicinity of the pipeline.

(4) The Regional Director shall require, prior to granting or renewing a right-of-way, that the applicant submit and disclose all plans, contracts, agreements, or other information or material which he deems necessary to determine whether a right-of-way shall be granted or renewed and the terms and conditions which should be included in the right-of-way. Such information may include, but is not limited to: (i) conditions for, and agreements among owners or operators, regarding the addition of pumping facilities, looping, or otherwise increasing the pipeline or terminal's throughput capacity in response to actual or anticipated increases in demand; (ii) conditions for adding or abandoning intake, offtake, or storage points or facilities; and (iii) minimum shipment or purchase tenders.

(k) *Limitations on export.* Any domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to Section 28 of the Mineral Leasing Act of 1920, except such crude oil which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, shall be subject to all of the limitation and licensing requirements of the Export Administration Act of 1969.

(l) *State standards.* The Regional Director shall take into consideration, and to the extent practical comply with, applicable State standards for right-of-way construction, operation, and maintenance.

(m) *Congressional notification.* The Secretary shall notify the House and Senate Committees on Interior and Insular Affairs promptly upon receipt of an application for a right-of-way for a pipeline 24 inches or more in diameter, and no right-of-way for such a pipeline shall be granted until 60 days (not including days on which the House or Senate has adjourned for more than three days) after a notice of intention to grant the right-of-way together with the Secretary's detailed findings as to terms and conditions he proposes to impose, has been submitted to the Committees, unless each Committee by resolution waives the waiting period.

Section 29.22 is revised to read as follows:

§ 29.22 **Hearing and appeals procedure.**

An appeal may be taken from any final disposition of the Regional Director, to the Director, U.S. Fish and Wildlife Service and from the latter's decision to the Secretary of the Interior. Such appeals may be taken pursuant to 43 CFR Part 4, Subpart G.

Dated: August 16, 1977.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc.77-25336 Filed 8-30-77;8:45 am]

federal register

WEDNESDAY, AUGUST 31, 1977

PART IV



INTERSTATE COMMERCE COMMISSION

■

CHICAGO & ILLINOIS MIDLAND RAILWAY CO. AND DENVER & RIO GRANDE WESTERN RAILROAD CO.

System Diagram Maps

V42169 AUG 31 77 UMI

INTERSTATE COMMERCE COMMISSION

[AB 198 (SDM)]

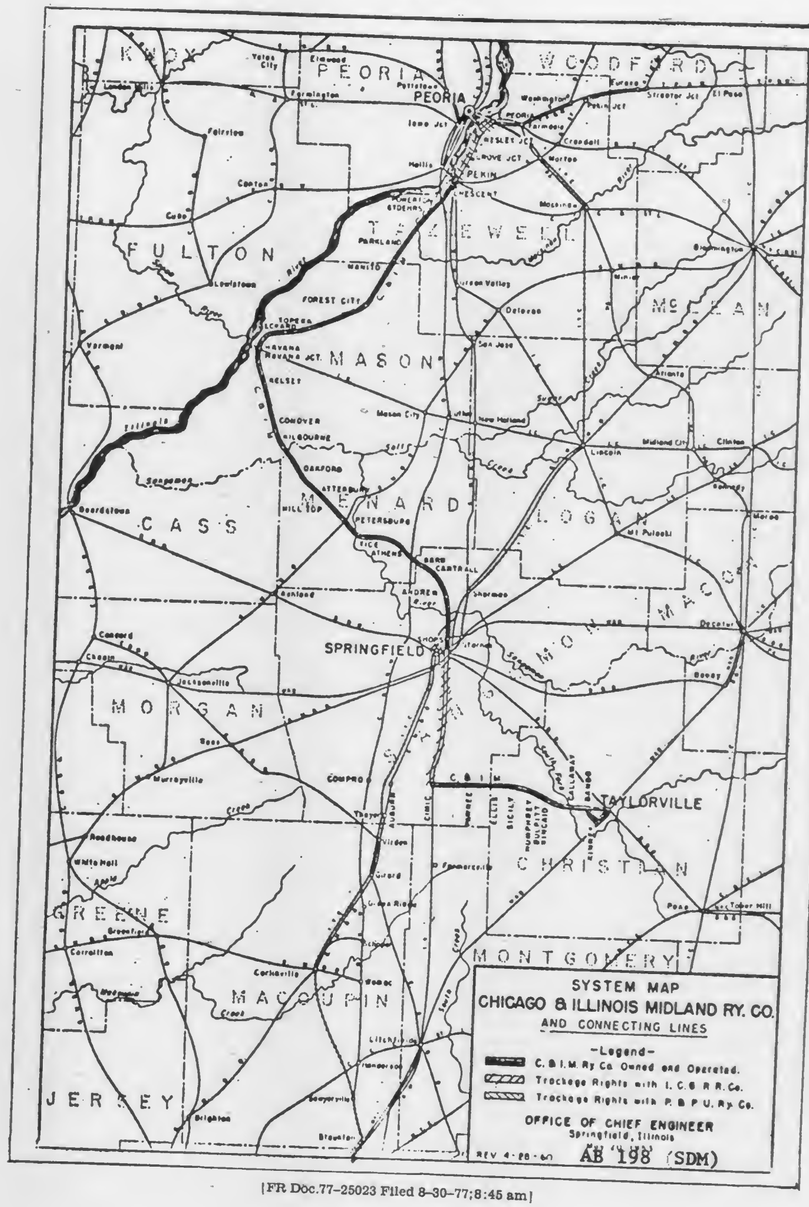
CHICAGO & ILLINOIS MIDLAND RAILWAY CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Chicago & Illinois Midland Railway Co., has filed with the Commission its color-coded system diagram map in docket No. AB 198 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 198 (SDM).

H. G. Homme, Jr.,
Acting Secretary.



[FR Doc.77-25023 Filed 8-30-77;8:45 am]

V 42 169 AUG 31 77 UMI

[AB 8 (SDM)]

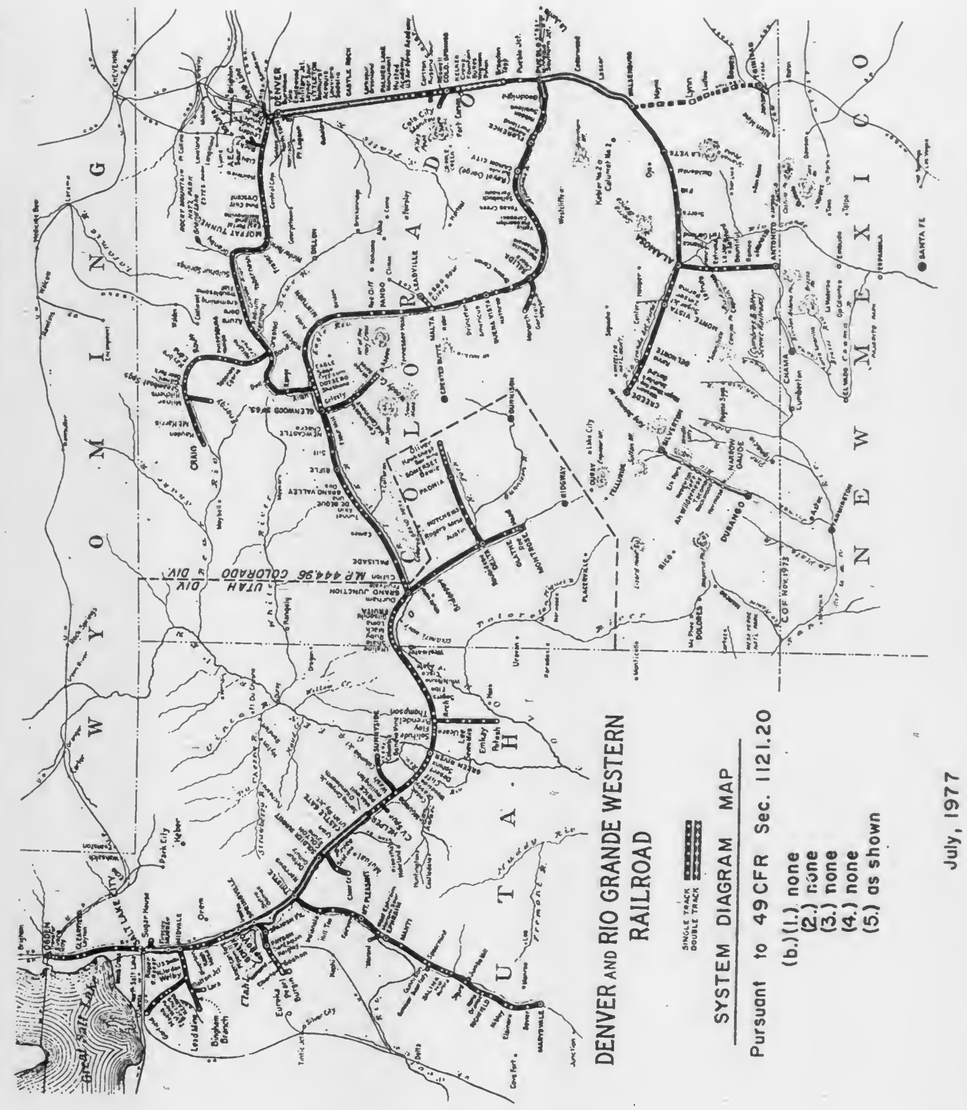
THE DENVER & RIO GRANDE WESTERN RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Denver & Rio Grande Western Railroad Co., has filed with the Commission its color-coded system diagram map in docket No. AB 8 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 8 (SDM).

H. G. HOMME, JR.,
Acting Secretary.



[FR Doc.77-25024 Filed 8-30-77;8:45 am]

V42169 AUG 31 77 UMI

federal register

WEDNESDAY, AUGUST 31, 1977
PART V



FEDERAL ENERGY ADMINISTRATION

ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Notice of Proposed Rulemaking and Public Hearing

V42169 AUG 31 77
UMI

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 430]

ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Notice of Proposed Rulemaking and Public Hearing

AGENCY: Federal Energy Administration.

ACTION: Proposed rule.

SUMMARY: The Federal Energy Administration hereby proposes to amend its regulations in order to prescribe test procedures for vented home heating equipment under the Energy Policy and Conservation Act. The Act requires that standard methods for testing vented home heating equipment a class within the type "home heating equipment not including furnaces," be prescribed as part of the energy conservation program for appliances. The intended effect of this proposal is to implement the Act's requirements for the solicitation of public comments before the test procedures are prescribed. The Federal Energy Administration is hereby also scheduling a further public hearing on the proposed energy efficiency improvement target for home heating equipment, not including furnaces.

DATES: Comments by October 25, 1977, 4:30 p.m.; requests to speak by October 21, 1977, 4:30 p.m.; statements by November 1, 1977, 4:30 p.m.; hearing for proposed test procedures to be held on November 2, 1977, at 9:30 a.m., and for proposed energy efficiency improvement target on November 2, 1977, at 1:30 p.m.

ADDRESSES: Requests to speak at the hearings to: Executive Communications, Room 3317, Federal Energy Administration, Box OQ (for the proposed test procedures) or Box NU (for the proposed target), Washington, D.C. 20461. Oral Statements to: Regulations Management, Room 2214, Federal Energy Administration, 2000 M Street NW., Washington, D.C. 20461.

HEARINGS HELD AT: Federal Energy Administration, Room 2105, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

James A. Smith (Program Office), Old Post Office Building, Room 307, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202–566–4635).

Robert C. Gilette (Hearing Procedures), 2000 M Street NW., Room 222A, Washington, D.C. 20461 (202–566–5201).

Jim Merna (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461 (202–566–9833).

Laurence J. Hyman (Office of the General Counsel), 12th and Pennsylvania Avenue NW., Room 7146, Washington, D.C. 20461 (202–566–9750).

SUPPLEMENTARY INFORMATION:

A. *Background.*

The Federal Energy Administration (FEA) proposes to amend Chapter II of title 10, Code of Federal Regulations, in order to prescribe test procedures for vented home heating equipment, a class within the product type "home heating equipment, not including furnaces," pursuant to section 323 (42 U.S.C. 6293) of the Energy Policy and Conservation Act (Act) (Pub. L. 94–163). The adoption of test procedures does not mean that actual testing must be conducted. The procedures merely establish standard methods for testing when testing is otherwise required by the Act itself or by regulations implementing other parts of the program. For example, the Federal Trade Commission (FTC) may require that all or part of the test procedure be conducted in exercising its appliance energy efficiency labeling authority regarding a particular appliance type.

By notice issued May 10, 1976 (41 FR 19977, May 14, 1976), FEA proposed to establish Part 430, entitled "Energy Conservation Program for Appliances," in Chapter II of Title 10 of the Code of Federal Regulations. That notice proposed a Subpart A to Part 430, containing general program provisions, and a Subpart C, containing proposed energy efficiency improvement targets. By notice issued July 22, 1976 (41 FR 31237, July 27, 1976), FEA proposed an amendment to proposed Part 430 to add a Subpart B which would contain the appliance test procedures required to be prescribed by section 323 of the Act. Subparts A and B were established by notice issued on May 24, 1977 (42 FR 36648, July 15, 1977) withdrawing the original proposal of Subpart C and reproposing a new Subpart C containing proposed energy efficiency improvement targets for the products listed in 1–10 of section 322(a) of the Act. Energy efficiency improvement targets for the products listed in 11 and 12 of section 322(a) were proposed by separate notice (42 FR 40701, August 11, 1977).

Proposed test procedures for each product listed in 1–10 of section 322(a) of the Act were published prior to the hearing on the proposed energy efficiency improvement target for each product with the exception of vented home heating equipment. Because FEA believes that reference to proposed test procedures can facilitate public comment on the proposed targets, FEA has, by recent FEDERAL REGISTER notice (42 FR 42361, August 23, 1977), extended the deadline for written comment on the improvement target for home heating equipment (not including furnaces) to October 25, 1977 and has announced the holding of an additional hearing. This hearing, to be held at the time and place specified above, supplements the hearing on the home heating equipment (not including furnaces) improvement target held on August 19, 1977.

The notice issued on May 24, 1977 included final test procedures for room air conditioners. By notice issued March 17, 1977 (42 FR 15423, March 22, 1977) FEA proposed test procedures for dishwashers. This notice also included certain program definitions which have not yet been finalized. Proposed test procedures for water heaters, television receivers, refrigerators and refrigerator-freezers, freezers and clothes dryers were issued on April 21, 1977 (42 FR 21576 et seq., April 27, 1977). Proposed test procedures for unvented home heating equipment were issued on May 4, 1977 (42 FR 23860, May 11, 1977), and proposed test procedures for automatic and semi-automatic clothes washers were issued on May 11, 1977 (42 FR 25329, May 17, 1977), including a determination that test procedures cannot be developed for any other class of clothes washers. Proposed test procedures for humidifiers and dehumidifiers were issued on May 25, 1977 (42 FR 27941, et seq., June 1, 1977). Proposed test procedures for central air conditioners were issued on June 7, 1977 (42 FR 30401, June 14, 1977), and were followed by proposed test procedures for conventional ranges, cooking tops and ovens, as well as microwave ovens, which were issued on June 9, 1977 (42 FR 30627, June 16, 1977). The latter notice included a determination to delay the publication of test procedures for any other class of the type "kitchen ranges and ovens." The proposed test procedures for furnaces were issued on July 28, 1977 (42 FR 40826, August 11, 1977). By this notice, FEA is proposing test procedures for vented home heating equipment.

Section 323(a)(2) of the Act requires FEA to direct the National Bureau of Standards (NBS) to develop, for specifically named types of covered products, test procedures for the determination of the estimated annual operating costs and at least one other useful measure of energy consumption which FEA determines is likely to assist consumers in making purchasing decisions. Pursuant to the Act, FEA directed NBS to develop test procedures for FEA's use in prescribing test procedures under the Act. As part of this undertaking, NBS evaluated existing test procedures for measuring energy consumption of vented home heating equipment.

Current testing and rating requirements for vented home heating equipment are described in a number of standards, including: American National Standards Institute (ANSI) Z21.48–1976 for gas fueled gravity and fan type floor furnaces; ANSI Z21.49–1975 for gas fueled gravity and fan type vented wall furnaces; Z21.11.1–1976 for gas fueled vented room direct vent wall furnaces; Underwriters Laboratory (UL) 729–1974 for oil fueled floor furnaces; and UL 730–1974 for oil fueled wall furnaces. These standards measure the steady state efficiency of vented home heating equipment but do not account for any part load or seasonal performance effects. In order to estimate the seasonal efficiency and annual operating cost of fossil fuel vented home heating equipment, it is

necessary to account for the various heating system losses under cyclic or part load operating conditions and for the effect of combustion and draft control air on infiltration. The test procedures and calculation methods formulated by NBS and proposed herein today, account for these factors.

Under the requirements of section 32 of the Federal Energy Administration Act of 1974 (15 U.S.C. 761 et. seq.), as amended by section 9 of the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95–70), the Administrator must name in the notice of rulemaking any non-governmental organization which promulgated commercial standards contained in, authorized by, or required to be used by, a proposed rule. Additionally, the Administrator must ascertain the extent to which the named organization is structured, in membership and in standards-development procedures, to allow for public participation and representation, and render a determination as to whether or not the organization achieves the degree of public participation called for by section 32 (b) of the Act.

Following recommendations made by NBS, the FEA has incorporated commercial standards promulgated by the following organizations in this proposed rulemaking: American National Standards Institute, American Society for Testing and Materials, and Underwriters Laboratory. An additional standard, American Wire Gauge, which was developed by the now defunct Brown and Sharpe Company, has also been incorporated. None of these orgaizations had memberships, at the time of the promulgation of the standards, which were sufficiently balanced as to allow effective representation of all interested persons within the meaning of section 32(b). In this regard, the Administrator has determined that these organizations do not provide for the full range of public participation that section 32(b) sets forth.

In this rulemaking, FEA is providing interested persons an opportunity to comment on the appropriateness of these standards as used in the vented home heating equipment test procedure. Comments are specifically requested on any specific changes the person commenting believes are necessary to make the standards appropriate for the purposes of testing vented home heating equipment.

Today's proposal adds to § 430.2 a definition of "vented home heating equipment" and amends the definition in § 430.2 of "Basic Model" by adding a subparagraph (15) applying specifically to vented home heating equipment. In addition, § 430.2 contains definitions promulgated or proposed previously (42 FR 15423, March 22, 1977) some of which are applicable to the test procedures for vented home heating equipment. Comments on these definitions are timely as provided below.

B. *Measures of Energy Consumption.*

The Act requires FEA to prescribe test procedures for the determination of estimated annual operating costs and at least one other useful measure of energy consumption which the Administrator determines is likely to assist consumers in making purchasing decisions. The estimated annual operating cost for vented home heating equipment in proposed § 430.22(o) is based upon the average annual energy consumption of the vented home heating equipment and the representative average unit cost of energy.

NBS has developed a method of calculating a typical annual cost of operation for vented home heating equipment which takes into account the annual fuel utilization efficiency, the heating load hours, the residence design heat loss, the auxiliary electrical energy used by circulating air fan motors, powered burner motors, and the pilot input rate if applicable.

Also proposed in § 430.22(o) are test procedures regarding the estimated annual operating cost by geographic region of the United States, since energy consumption and annual operating cost of vented home heating equipment are directly related to geographic location. Annual cost of operation by geographic location may be useful for consumers in making purchasing decisions with respect to vented home heating equipment in addition to the single national average value applicable to any specific unit under proposed § 430.22(o). Also proposed in § 430.22(o) are test procedures for calculating annual operating costs for several standardized design heating requirements for each region in order to facilitate the comparison of operating costs of different sizes of vented home heating equipment.

The proposed test procedures for regional costs will incorporate a map of the continental United States with regional "heating load hours" for adjusting the representative average use cycle (typical annual usage) of vented home heating equipment by geographic location. These regional values of "heating load hours" are based on the average number of degree days and the outdoor design temperature for each region.

An additional proposed measure of energy consumption in § 430.22(o) that is likely to assist consumers in making purchasing decisions is the fuel utilization efficiency. This efficiency is the ratio of the heater's annual output of useful energy to the annual fuel energy input of the heater multiplied by 100. The test procedures are designed to measure the fuel utilization efficiency at a part load operating condition in order to account for both on-cycle energy losses and off-cycle energy losses. Both types of losses can be influenced by the design characteristics and features of the heating equipment.

On-cycle losses include:

(1) Energy contained in the combustion gases which are discharged outdoors through the flue;

(2) The loss of heated room air used for combustion at the burner and for dilution of hot combustion gases through the integral draft diverter or barometric draft regulator.

Off-cycle losses include:

(1) The loss of heat stored in the metal of the heat exchanger when the burner and circulating warm air blower shuts off;

(2) The loss of heated room air which escapes through the open heater stack pipe to the outdoors;

(3) Fuel input to a continuously burning gas pilot.

FEA recognizes that there may be additional useful measures of energy consumption for vented home heating equipment other than the measures described above. Accordingly, today's proposal, in proposed § 430.22(o), provides for the addition of other useful measures which the Administrator determines are likely to assist consumers in making purchasing decisions. These measures, however, must be derived from the application of the uniform test methods proposed today as Appendix O to Subpart B. Vented home heating equipment manufacturers would, if required, only have to perform different computations with the data generated by the existing test methods contained in Appendix O.

C. *Laboratory Methodology.*

The proposed test procedures are based upon the heat loss method, in which the sensible and latent heat losses through the stack are determined. Since these losses will depend upon such factors as load, cycling rate, chimney height, oversizing, the type of draft control device, the infiltration characteristics of a residence and the weather profile, it is desirable to measure in the laboratory quantities which characterize the performance of a vented heater under standardized laboratory test conditions and then to calculate its performance under typical field conditions. This has the advantage of simplifying the amount of experimental laboratory data required and thereby reducing the costs of testing.

The test procedures require measurement of the steady-state performance of a vented heater in order to calculate a steady-state efficiency. For vented heaters without integral draft diverters, this is accomplished by measuring the steady-state flue gas temperature and the concentration by volume of carbon dioxide in the flue gas. For vented heaters utilizing integral draft diverters, the steady-state performance is determined by measuring the steady-state stack gas temperature and the concentration by volume of carbon dioxide in the dry stack gas. This latter method is employed because of the difficulty in accurately measuring flue gas temperatures and concentrations of carbon dioxide in units with integral draft diverters.

The test procedures account for cyclic effects by measuring flue gas temperatures during warm-up from a cold start (for gas fueled heaters) and during cool-down from steady-state operation. As noted above, actual flue gas temperature measurements on vented heaters with integral draft diverters are difficult to make. However, for purposes of accounting for transient effects, it was determined that flue gas temperatures could be measured by blocking the integral draft diverter relief opening, replacing

V42169 AUG 31 77 UMI

the 5 foot stack with a 2 foot length of pipe, and measuring the temperature and CO_2 concentration of the flue gas. The flue gas temperature profiles are determined by making two discrete flue gas temperature measurements during warm-up and three discrete measurements during cool-down. The use of discrete warm-up and cool-down temperature measurements reduces the amount of data required and greatly simplifies the process of data reduction. The times at which these discrete flue gas temperature measurements are made were chosen to minimize the errors involved in calculating the on-cycle losses.

In addition to the above mentioned tests, certain factors, which describe the flow rates through the flue and stack during the on and off-periods, are assigned according to the type of equipment under test. The factor S/F, which is the ratio of stack gas mass flow rate to flue gas mass flow rate under steady-state operation and at an average outdoor temperature of 42° F (5.56° C), is used to estimate the infiltration losses during both the on and off-cycles. By assigning values which are based upon field data, the need to simulate field conditions in the laboratory (e.g., a high chimney, a low outdoor temperature, a typical barometric draft regulator setting, etc.) is avoided. A factor D_F represents the ratio of the gas mass flow rate through the flue during the off-cycle to the gas mass flow rate through the flue during the on-cycle at identical temperatures. A similar quantity, D_S, is the ratio of the stack gas mass flow rates during the on-period to the stack gas mass flow rate during the off-period at identical temperatures. The values of D_F and D_S depend upon whether the system being tested employs a stack damper and/or a power burner. If a unit is equipped with a stack damper, its effectiveness is determined by measuring the amount of stack area which the damper blocks during the off-cycle. Vented heaters using power burners may employ an assigned power burner factor of D_P=0.30 or measure D_P directly by employing a tracer gas to determine the mass flow rate in the flue while the power burner is off.

Wherever possible the test methods recommended herein have been based upon existing consensus standards and procedures presently employed by manufacturers to evaluate the performance of vented home heating equipment. This was done to reduce the amount of duplicate testing required and to obtain a set of performance tests which would be within the capabilities of the entire home heating industry.

A step-by-step calculation procedure for determining fuel utilization efficiency based upon an average U.S. weather pattern is given in sections 4.1 and 4.2 for gas and oil fueled vented heaters. This efficiency factor is used to estimate the annual cost of operation in different climatic regions and an average operating cost for the country. The technical background, assumptions and equations which form the basis for the fuel utilization efficiency calculation and annual operating cost calculation are contained in Appendix A of the NBS test procedure review document. A worksheet is illustrated which may be used to keep track of the experimental data and the various step-by-step calculations.

Assigned values of the factors S/F, D_F and/or D_S are given in Tables 1 and 2. The factor ϕ is the fraction of combustion and draft control air which contributes to additional residential infiltration. NBS has determined this factor typically equals 0.70 for vented heaters using indoor air. The quantity $(1+\alpha)$ is the ratio of the heater's steady-state output to the design heating requirement of a typical residence and is set equal to 1.70 for the purpose of calculating a fuel utilization efficiency and an average national operating cost.

The steady-state latent and sensible heat losses and the steady-state efficiency, η_{ss}, are also calculated in section 4.1. The flue-gas and stack-gas temperature profiles, corresponding to warm-up from a cold start and cool-down from steady-state operation, are then approximated by simple exponential functions having the form

$$(ae^{-t/\tau}+b).$$

The parameters in these functions

$$\tau_{ON},\ \tau_{OFF},\ \theta_{F,0,X},\ \psi_{F,0,X},\ \psi_{F,\infty,X},\ \psi_{S,0,X},$$

and

$$\psi_{S,\infty,X}$$

are determined from the warm-up, cool-down and steady-state flue temperature measurements and are corrected for the effect of cycling to obtain the flue-gas and stack-gas temperature-vs-time profiles which would exist if the unit were operating in the field at a heating load factor equal to 22.5 percent. For units designed to use outdoor air for combustion and draft control, a further adjustment to these profiles are made using a correction factor C, to account for the fact that the air used to combustion has an average temperature of 42° F (5.56° C).

The flue-gas and stack-gas temperature-vs-time profiles are employed, along with the factors describing the on- and off-cycle air flow rates, to calculate the dynamic system losses $L_{E,on}$, $L_{E,off}$, $L_{I,on}$, and $L_{I,off}$ at the average heating load factor and the average outdoor temperature of 22.5 percent and 42° F (5.56° C), respectively. These losses, together with the latent heat loss, jacket loss on outdoor units, and the pilot light energy loss during the nonheating season, are then used to calculate an annual fuel utilization efficiency, $EFFY_A$.

D. *Representative Average Use Cycle.*

Section 323(b)(2) (42 U.S.C. 6293(b)(2)) of the Act provides that test procedures for determining estimated annual operating costs of any covered product shall be calculated from measurements of energy use in a representative average-use cycle (as determined by the Administrator) and from representative average unit costs (as provided by the Administrator) needed to operate such product during such cycle. FEA has determined that the representative average-use cycle for vented home heating equipment is 2,080 heating load hours per year. This determination is based upon an NBS recommendation to FEA. The NBS recommendation is included in the NBS test procedure review document which is available for inspection as provided for later in this notice.

The average use cycle of 2,080 heating load hours for vented heaters was derived in an analysis performed by NBS which considered outdoor temperature data extending over a 25 year period at locations in each of the 48 states in the continental United States and the District of Columbia. In addition, the number of housing units in each state using gas or oil as the primary fuel for heating as reported in the 1970 U.S. Census, was also used in the analysis.

Using the number of housing units by state as a weighting factor, and the average outdoor design temperature at each location, a national average outdoor design temperature was calculated to be 5° F. A similar computation was performed using average annual heating degree day values for each state resulting in a national average of 5,200 heating degree days. The average annual heating load hours was then calculated by multiplying the average number of degree days by 24 and dividing that result by the temperature difference between 65° F and the average outdoor design temperature; the result being 2,080 heating load hours per year.

FEA has developed representative average unit costs of energy needed to calculate the annual operating cost for the representative average use cycle. This information was provided by notice issued July 11, 1977 (42 FR 36549, July 15, 1977).

E. *Number of Units to be Tested.*

Proposed § 430.23(o) would provide for sampling of each basic model to be tested when testing of vented home heating equipment is required by the Act or by program regulations of agencies responsible for administering the Act. This provision is intended both to provide an acceptable level of assurance that test results are applicable to any entire basic model for which testing is required and to minimize the testing burden on manufacturers. FEA believes that the sampling approach proposed today will enable consumers to make meaningful comparisons of information appearing on appliance labels, and also will meet the requirements of section 323(b) of the Act that test procedures not be unduly burdensome to conduct.

Under proposed § 430.23 (o), a sample of sufficient size of each basic model would be tested to assure that, for each measure of energy consumption described in § 430.22(o), there is a 95 percent probability that the mean of the values of these measures of the sample is within 5 percent of the true mean of these measures of the basic model. The size of the sample of a particular basic model will depend upon the following factors:

(1) the level of confidence required (set at 95 percent in the proposed regulations);

(2) the maximum allowable difference between the sample mean and the mean of the basic model (expressed in the proposal as a percent of the true mean and set at 5 percent); and

(3) the relationship of the mean and standard deviation of the basic model.

The relationship of the mean and standard deviation of the basic model can be determined from data available to manufacturers. With this information and using standard statistical techniques, manufacturers can determine the number of units required to be tested. In any case, at least 1 unit of each basic model must be tested. Sample units would be selected randomly from the production stream.

Manufacturers and other interested persons are encouraged to comment on the sampling approach. Manufacturers are especially encouraged to submit any data which relates to the size of the samples which the provision would require to be tested. Comments alleging that the sampling provision is burdensome should include a full discussion of the facts upon which such allegation is based.

F. *Request for Particular Comments.*

While FEA is soliciting comments on all aspects of the proposed test procedures for vented heaters, FEA is particularly interested in receiving comments on the following subjects:

1. Other useful measures of energy consumption or data on typical consumer usage of vented home heating equipment in addition to those proposed today.

2. Definitions already promulgated or proposed in § 430.2 which may affect the testing of vented home heating equipment. Comments with respect to such definitions are timely until the close of the written record as specified below.

In addition to the definition of basic model for vented home heating equipments, the following definitions are proposed today: vented home heating equipment; vented wall furnace; vented floor furnace; vented room heater; and direct vent system.

The following definitions previously proposed in § 430.2 (41 FR 19377) are hereby withdrawn: vented gas and oil fired room heater; vented circulator; fan type vented circulator; and vented overhead heater.

G. *Comment Procedure.*

1. *Written Comment.* Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposed test procedures for vented home heating equipment or the proposed target hearing set forth in this notice to Executive Communications, Room 3317, Federal Energy Administration, Box OQ, (proposed test procedure) or Box NU (proposed target), Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA with the designation "Vented Home Heating Equipment—Proposed Test Procedures" or "Home Heating Equipment—Proposed Target," respectively. Fifteen copies should be submitted. Comments received by October 25, 1977, before 4:30 p.m., and all other relevant informaion, will be considered by FEA before final action is taken on the proposed test procedures.

Any information or data considered confidential by the person furnishing it must be so identified in writing, and only one copy of the information need be submitted. FEA reserves the right to determine the confidential status of the information or data and treat it according to its determination.

2. *Public Hearings.* (a) *Request procedure.* The time and place of these public hearings are indicated at the beginning of this preamble. The hearings will be continued, if necessary, on November 3, 1977.

FEA invites any person who has an interest in the proposed rulemaking issued today, or who is a representative of a group or class of persons that has an interest, to make a written request for an opportunity to make an oral presentation. Such a request should be directed to the address indicated at the beginning of this preamble and must be received before 4:30 p.m., on October 21, 1977. Such a request may be hand delivered to such address, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. A request should be labeled both on the document and on the envelope "Venter Home Heating Equipment—Proposed Test Procedures" or "Home Heating Equipment—Proposed Target", respectively.

The person making the request should briefly describe the interest concerned; if appropriate, state why she or he is a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a telephone number where she or he may be contacted through November 2, 1977

FEA will notify each person selected to appear at the hearing before 4:30 p.m., October 26, 1977. Each person selected to be heard must submit 50 copies of her or his statement to the address and by the date given in the beginning of this preamble. In the event any person wishing to testify cannot meet the 50 copy requirment, alternative arrangements can be made with the Office of Regulations Management in advance of the hearing by so indicating in the letter requesting an oral presentation or by calling the Office of Regulations Management at 202-254-3345.

(b) *Conduct of Hearings.* FEA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination of persons presenting statements. Any decision made by FEA with respect to the subject matter of the hearings will be based on all information available to FEA. At the conclusion of all initial oral statements at each hearing, each person who has made an oral statement will be given the opportunity if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearings to Executive Communications, FEA, before 4:30 p.m., October 25, 1977. FEA will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any person who makes an oral statement and who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer. The presiding officer, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of each hearing will be made and the entire record of each hearing, including the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter. A copy of NBS's recommendations concerning test procedures for vented home heating equipment, and technical and economic papers relating to the proposed efficiency improvement target will be made available for inspection at the FEA Freedom of Information Office.

H. *Environmental and Inflationary Review.*

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator has no comments.

The National Environmental Policy Act of 1969 requires FEA to assess the environmental impacts of any proposal by the Agency for "major Federal actions significantly affecting the quality of the human environment." Since test procedures under the conservation program for appliances will be used only to standardize the measurement of energy usage and will not affect the quantity or distribution of energy usage, FEA has determined that the action of prescribing test procedures, by itself, will not result in any environmental impacts. On this basis, FEA has determined that, with

V 42 169 AUG 31 77 UMI

respect to prescribing test procedures under the conservation program for appliances, no environmental impact statement is required.

The proposal has been reviewed in accordance with Executive Order 11821 as amended by Executive Order 11949, and OMB Circular No. A-107 and has been determined not to be a major proposal requiring evaluation of its economic impact as provided for therein.

(Energy Policy and Conservation Act, Pub. L. 94-163, as amended by Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, it is proposed to amend Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., August 22, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 430.2 is amended by adding a subparagraph (15) as part of the definition of "basic model" and by adding the definitions of "vented home heating equipment," "vented wall furnace," "vented floor furnace," "vented room heater" and, "direct vent system," to read as follows:

§ 430.2 Definitions.

* * * * *

"Basic model" means all units of a given type of covered product manufactured by one manufacturer and:

* * * * *

(15) With respect to furnaces, having the same primary energy source and essentially identical functional physical and electric characteristics.

* * * * *

"Vented home heating equipment" or "vented heater" means a class of home heating equipment, not including furnaces, designed to furnish warmed air to the living space of a residence, directly from the device without duct connections (except that boots not to exceed 10 inches beyond the casing may be permitted) and includes: vented wall furnace, vented floor furnace, and vented room heater.

"Vented wall furnace" means a self-contained vented heater complete with grilles or the equivalent, designed for incorporation in or permanent attachment to the structure of a residence and furnishing heated air circulated by gravity or by a fan directly into the space to be heated through openings in a casing.

"Vented floor furnace" means a self-contained vented heater suspended from the floor of the space being heated, taking air for combustion from outside this space. The vented floor furnace supplies heated air circulated by gravity or by a fan directly into the space to be heated through openings in the casing.

"Vented room heater" means a self-contained, free standing, nonrecessed, vented heater for furnishing warmed air to the space in which it is installed. The vented room heater supplies heated air circulated by gravity or by a fan directly into the space to be heated through openings in the casing without duct connections.

"Direct vent system" means a system consisting of a vented heater and combustion air and flue gas connections between the vented heater and the outside atmosphere, and constructed so that all air for combustion is obtained from the outside atmosphere and all flue gases are discharged to the outside atmosphere.

2. Section 430.22 is amended by adding paragraph (o), to read as follows:

§ 430.22 Test Procedures for Measures of Energy Consumption.

* * * * *

(o) *Vented home heating equipment.* (1) The estimated annual operating cost for vented home heating equipment shall be the sum of: (i) the product of the average annual fuel energy consumption in Btu's per year, determined according to 4.7 of Appendix O of this subpart, and the representative average unit cost in dollars per Btu for gas or oil, as appropriate as provided by the Administrator plus (ii) the product of the average annual auxiliary electric energy consumption in kilowatt-hours per year, determined according to 4.8 of Appendix O of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting sum then being rounded off to the nearest dollar per year.

(2) The annual fuel utilization efficiency for vented home heating equipment, expressed in percent, shall be the ratio of annual output of useful energy delivered to the heated space to the annual fuel energy input to the vented heater determined according to 4.1.33 of Appendix O of this subpart.

(3) The estimated regional annual operating costs for vented home heating equipment computed for minimum and maximum standardized design heating requirements shall be the sum of: (i) the product of the regional annual fuel energy consumption for the minimum or maximum standardized design heating requirement, as appropriate, in Btu's per year for gas or oil vented heaters determined according to 4.16 or 4.17 of Appendix O of this subpart, and the representative average unit cost in dollars per Btu for gas or oil, as appropriate, as provided by the Administrator plus (B) the product of the regional annual auxiliary electrical energy consumption in kilowatt-hours per year determined according to 4.18 or 4.19, as appropriate, of Appendix O of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting sum then being rounded off to the nearest dollar per year.

(4) The estimated regional annual operating cost for vented home heating equipment shall be the sum of: (i) the product of the regional annual fuel energy consumption in Btu's per year determined according to 4.10 of Appendix O of this subpart, and the representative average unit cost in dollars per Btu for gas or oil, as appropriate, as provided by the Administrator plus (ii) the product of the regional auxiliary electrical energy consumption in kilowatt-hours per year, determined according to 4.11 of Appendix O of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting sum then being rounded off to the nearest dollar per year.

(5) Other useful measures of energy consumption for vented home heating equipment shall be those measures of energy consumption which the Administrator determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix O of this subpart.

3. Section 430.23 is amended by adding a paragraph (o) to read as follows:

§ 430.23 Units to be tested.

* * * * *

(o) *Vented home heating equipment.* (1) When testing of vented home heating equipment is required for a measure or measures of energy consumption described in § 430.22(o) of this subpart, a sample of sufficient size of each basic model shall be tested to ensure that, for each such measure of energy consumption, there is a 95 percent probability that the mean of the sample is within 5 percent of the true mean of such measures of the basic model, except that a minimum of 1 unit of each basic model shall be tested.

(2) The sample selected for paragraph (o)(1) of this section shall be a simple random sample drawn from the production stream of the basic model being tested.

(3) A basic model having dual voltage ratings shall be separately tested at each design voltage such that the requirements of paragraph (o)(1) of this section is satisfied at each rating.

* * * * *

APPENDIX O—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF VENTED HOME HEATING EQUIPMENT

1.0 DEFINITIONS.

1.1 "Steady-state conditions for vented home heating equipment" means equilibrium conditions in the flue or stack gas as indicated by temperature changes of not more than plus or minus 5° F (2.8° C) in three successive temperature readings taken 15 minutes apart.

1.2 "Flue gases" means reaction products resulting from the combustion of a fuel with the oxygen of the air, including the inerts and any excess air.

1.3 "Excess air" means air which passes through the combustion chamber and the vented heater flues in excess of that which is theoretically required for complete combustion.

1.4 "Flue" means a conduit between the flue outlet of a vented heater through which the flue gases pass prior to the point of draft relief.

1.5 "Flue outlet" means the opening provided in a vented heater for the exhaust of the flue gases from the combustion chamber.

1.6 "Flue losses" means the sum of sensible and latent heat losses above room temperature (70° F) of the flue gasses leaving a vented heater.

1.7 "Stack" means the portion of the exhaust system downstream of the barometric draft regulator or integral draft diverter.

1.8 "Stack gases" means the flue gases combined with dilution air that enters at the barometric draft regulator or integral draft diverter.

1.9 "Barometric draft regulator" means a mechanical device designed to maintain a constant draft in a vented heater.

1.10 "Air shutter" means an adjustable device for varying the size of the primary air inlet(s) to the combustion chamber.

1.11 "Power burner" means a burner which supplies either gas or air or both at pressures exceeding, for gas, the line pressure, and for air, atmospheric pressure, or a burner which depends on the draft induced by a fan for proper operation.

1.12 "Vent limiter" means a device which limits the flow of air from the atmospheric diaphragm chamber of a gas pressure regulator to the atmosphere. A vent limiter may be a limiting orifice or other limiting device.

1.13 "Exhaust air intake terminal" means a device which is located on the outside of a building and is connected to a vented heater by a system of vents. It is composed of an air intake terminal through which the air for combustion is taken from the outside atmosphere, and a vent terminal from which flue gases are discharged.

1.14 "Induced draft" means a method of drawing air into the combustion chamber by mechanical means.

1.15 "Plenum" means an air compartment, that is attached to, or is an integral part of, a vented heater and which is designed to either distribute the heated air after it leaves the heat exchanger in the case of a supply plenum, or collects the air which enters the return inlet in the case of a return plenum.

1.16 "Heat input" (Q_{in}) means the rate of energy supplied in a fuel to a vented heater, operating under steady state conditions, expressed in Btu's per hour. It includes any input energy to the pilot light and is obtained by multiplying the measured rate of fuel consumption by the measured higher heating value of the fuel.

1.17 "Higher heating value" (HHV) means the heat produced per unit of fuel when complete combustion takes place at constant pressure and the products of combustion are cooled to the initial temperature of the fuel and air and the water vapor formed during combustion is condensed. The higher heating value is usually expressed in Btu's per cubic foot for gaseous fuel, or Btu's per gallon for liquid fuel.

1.18 "Integral draft diverter" means a device which is an integral part of a vented heater, which is designed to (1) provide for the exhaust of the products of combustion in the event of no draft, back draft, or stoppage beyond the draft diverter, (2) prevent a back draft from entering the vented heater, (3) neutralize the effect of stack action of the chimney or gas vent upon the operation of a vent heater.

1.19 "Vent damper" means a device intended for installation in the exhaust system of a vented heater, and which is designed to open the exhaust system when the vented heater is in operation and to close off the exhaust system when the vented heater is in a stand-by condition.

1.20 "Vent pipe" means passages and conduits in a direct vent system through which gases pass from the combustion chamber to the outdoor air.

1.21 "Infiltration parameter" means that portion of unconditioned outside air drawn into the heated space as a consequence of loss of conditioned air through the exhaust system of a vented heater.

1.22 "Vaporizing type oil burner" means a device consisting of an oil vaporizing bowl or other receptacle into which liquid fuel oil may be fed in controllable quantities, the heat of combustion being used to vaporize the fuel, with provision for admitting air and mixing it with the oil vapor in combustible proportions.

1.23 "Air tube" means a tube which carries combustion air from the fan to the burner nozzle, for combustion.

2.0 TESTING CONDITIONS.

2.1 *Installation of Test Unit.*

2.1.1 Vented Wall Furnaces (including direct vent systems). Gas fueled vented wall furnaces shall be installed for test as specified in Sections 2.1.3 and 2.1.4 of ANSI Z21.49-1975. Gas fueled wall furnaces with direct vent systems shall be installed for test as described in 2.1.2 and 2.1.4 of ANSI Z21.44-1973. Oil fueled vented wall furnaces shall be installed as specified in UL-730-1974, Section 33. Oil fueled vented wall furnaces with direct vent systems shall be installed as specified in UL-730-1974, section 34.

2.1.2 Vented Floor Furnaces. Vented floor furnaces shall be installed for test as specified in Sections 35.1 through 35.5 of UL standard 729-1974.

2.1.3 Vented Room Heaters. Installation shall be made in accordance with manufacturer's instructions.

2.2 *Flue and Stack Requirements.*

2.2.1 Gas fueled vented home heating equipment employing integral draft diverters.

For the steady state performance test described below, gas fueled vented home heating equipment employing integral draft diverters with vertically discharging outlets shall have attached to and vertically above the outlet, a stack having a diameter the same size as the outlet and shall be covered with insulation having an R value of not less than 7 (°F-HR-FU/Btu) and an outer layer of aluminum foil. The stack shall extend not less than 5 feet nor more than five feet six inches above the highest point of the outlet. Vented heaters having a horizontally discharging outlet shall have attached to an insulated 90 degree elbow, the same size as the outlet, and sufficient vertical insulated black iron pipe so that the pipe outlet is not less than five feet nor more than five feet six inches above the highest point of the heater outlet. A horizontal section of pipe may be used on the floor furnace between the diverter and the elbow if necessary to clear any framing used in the installation. The length of this section of pipe shall be the minimum needed. The stack and elbow shall be covered with insulation having an R value of not less than 7 (°F-HR-Ft²/Btu) and an outer layer of aluminum foil.

The tests for measuring flue gas temperatures during warmup and cooldown, and for the steady state test of section 3.1.1.3, shall be conducted by replacing the five to five feet six inch pipe of the previous paragraph with a two foot vertical pipe. The pipe shall be covered with insulation having an R value of not less than 7 (°F-HR-Ft²/Btu) and an outer layer of aluminum foil.

2.2.2 Gas fueled vented home heating equipment which does not employ integral draft diverters. Gas fueled vented home heating equipment which does not employ integral draft diverters shall have a two foot long insulated pipe attached to the vertically discharging flue outlet for the steady state test and the tests to measure flue temperatures during warm-up and cool-down. For units having a horizontally discharging outlet, an elbow and a two foot long vertical insulated pipe shall be attached to the outlet. All insulation shall have an R value not less than 7 (°F-HR-FT²/Btu) and an outer layer of aluminum foil.

2.2.3 Oil Fueled Vented Home Heating Equipment. Flue connections for oil fueled vented floor furnaces shall be specified in Section 35 of UL-729-1974, Section 34.10 through 34.18 of UL-730-1974 for oil fueled vented wall furnaces and Sections 36.2 and 36.3 of UL-896-1973 for vented room heaters.

There shall be no opening on the oil heater between the heater and the point where the flue gas sample is to be taken or the flue gas temperature is to be measured. If a barometric draft regulator is incorporated in the heater, it shall be sealed during all tests.

2.2.4 Direct Vent Systems. The exhaust/air intake system supplied by the manufacturer shall be in place during all tests. A vented heater employing a direct vent system shall not be connected to a chimney or induced draft source, but shall depend for venting of the gas solely on the provision for venting incorporated in the heater and the exhaust/air intake system supplied with it. On units which are not designed to preheat the incoming air, the first 18 inches of vent pipe downstream of the heater outlet shall be insulated with a layer of insulation having an R value of 7 (°F-HR-FT²/Btu) and the insulation material covered by a layer of aluminum foil.

2.3 *Fuel Supply.*

2.3.1 Natural Gas. For a vented heater utilizing natural gas, maintain the gas supply to the unit under test at a normal inlet test pressure immediately ahead of all controls at 7 to 10 inches water column. The regulator outlet pressure at normal test pressure shall be approximately that recommended by the manufacturer. Use natural gas having a specific gravity of approximately 0.6 and a higher heating value within ±5% of 1025 Btu per standard cubic foot. Determine the actual higher heating value in Btu's per standard cubic foot for the natural gas to be used in the test with an error no greater than one percent.

2.3.2 Propane Gas. For a vented heater utilizing propane gas, maintain the gas supply to the unit under test at a normal inlet pressure of 11 to 13 inches water column and a specific gravity of 1.55. The regulator outlet pressure at normal test pressure shall be approximately that recommended by the manufacturer. Use propane having a specific gravity of approximately 1.55 and a higher heating value within ±5% of 2500 Btu's per standard cubic foot. Determine the actual higher heating value in Btu's per standard cubic foot for the propane to be used in the test with an error no greater than one percent.

2.3.3 Other Test Gas. The characteristics of other test gases shall be maintained as described in Section 2.2, Table VII, of ANSI Standard Z21.11.1-1974. Their measured higher heating value shall be within ±5% of the values specified in the above ANSI standard.

2.3.4 Oil Supply. For a vented heater utilizing fuel oil, the fuel oil type used shall be No. 1 fuel oil for vaporizing type burners and as specified by the manufacturer for mechanical atomizing type burners. The No. 1 fuel oil viscosity shall be as specified in UL-730-1974, Section 36.9. The specification of other fuel oils shall be as defined in ANSI Z11.203-1970.

The higher heating value of the test fuel oil shall be measured with an error no greater than one percent.

2.3.5 Electrical Supply. For an auxiliary electric component of a vented heater, maintain the electrical supply to the test unit within one percent of the nameplate voltage for the entire portion of the test cycle. If a voltage range is used for nameplate voltage, maintain the electrical supply within one percent of the center of the nameplate voltage range.

2.4 *Burner Adjustments.*

2.4.1 Gas Burner Adjustments. Burners of gas fueled vented heaters shall be adjusted to their maximum Btu ratings at normal test pressure. All such adjustments shall be within ±2 percent of the hourly Btu rating specified by the manufacturer as measured after 15 minutes of operation starting with all parts of the furnace at room temperature. The primary air shutters shall be set for proper combustion, or as determined by manufacturer's recommendation, and the burner input flow rate shall be corrected to standard conditions of 60° F and 30 inches mercury barometric pressure.

If a vent limiting means is provided on a gas pressure regulator, it shall be in place during all tests.

2.4.2 Oil Burner Adjustments. The burners of oil fueled vented heaters shall be adjusted to give the best CO_2 reading and a hourly Btu input, during the steady-state performance test described below, which is within plus or minus 2 percent of the heater manufacturer's specified normal hourly Btu input rating. Smoke in the flue shall not exceed a No. 2 smoke during the steady-state performance test as measured by the procedure in ANSI Standard Z11.182-1965 (R1971) (ASTM D 2156-65 (1970)). The averge draft over the fire and in the flue during the steady-state performance test shall be that recommended by the manufacturer and draft fluctuations shall not exceed 0.005 inches of water gauge. No additional adjustments to the burner shall be made during the required series of performance tests. The instruments and measuring apparatus for this test are described in Section 6.3 of ANSI Standard Z91.1-1972.

2.5 *Circulating Air Adjustments.*

2.5.1 Forced Air Vented Wall Furnaces (including direct vent systems). During tests the air flow through the heater shall be as specified by the manufacturer and the heater shall be operated with the outlet air temperature between 80°F and 130°F above room temperature. If adjustable air discharge registers are provided, they shall be adjusted so as to provide the maximum possible air restriction. Air discharge temperature shall be measured as specified in Section 2.14 of ANSI Z21.49-1975.

2.5.2 Fan Type Vented Room Heaters and Floor Furnaces. During tests on fan type furnaces and heaters, the air flow through the heater shall be as specified by the manufacturer.

2.6 *Thermocouple Installation.*

2.6.1 Gas Fueled Vented Home Heating Equipment (not including direct vent systems). For units employing an integral draft diverter, install nine thermocouples in a horizontal plane in the five foot length stack at 4 feet 6 inches above the highest point of the heater outlet.

Install one thermocouple in the center of the stack. Install eight thermocouples along imaginary lines intersecting at right angles in this horizontal plane at points one third and two thirds of the distance between the center of the stack and the stack wall.

For those tests requiring a 2 foot length of pipe install one thermocouple in the center of the 2 foot length of insulated flue pipe at the midpoint (i.e., one foot of from the end).

For units which do not employ an integral draft diverter, install nine thermocouples in a horizontal plane 12 inches from the outlet of the 2 foot length of insulated pipe. Install one thermocouple in the center of the pipe and eight thermocouples along imaginary lines intersecting at right angles in this horizontal plane at points one third and two thirds of the distance between the center of the pipe and the pipe wall.

"Use bead-type thermocouples having wire size not greater than No. 24 American Wire Gauge (AWG).

Thermocouples whall be installed for measuring conditioned warm air in the numbers and locations decribed in ANSI Z21.49-1975, section 2.14. The temperature of the inlet air shall be established by means of a single No. 24 AWG bead-type thermocouple, suitably shielded from direct radiation and located in the center for the plane of each inlet air opening.

2.6.2 Oil Fueled Vented Home Heating Equipment (not including direct vent systems). Thermocouples shall be installed as described in Section 37.16 of UL 896 "Oil Burning Stoves" for vented room heaters or Section 36.11 of UL 729 for oil fueled vented floor furnaces, or 35.11 or UL 73 for oil fueled vented wall furnaces.

2.6.3 Vented Wall Furnaces with Direct Vent Systems. For vented heaters that are designed to preheat combustion air, install nine thermocouples along two imaginary lines intersecting at right angles inside the vent pipe in a plane parallel to and one inch (25.4mm) from the outlet of the vent pipe. The lines shall be oriented so that they will divide the internal area into quadrants. One thermocouple shall be located at the intersection of the two lines. Eight thermocouples shall be located in sets of two along each line at points one third and two thirds of the distances from the intersection to the periphery. Use beadtype thermocouples not larger than 24 AWG, at the specified locations.

For units not designed to preheat combustion air, locate the nine thermocouples in a plane one foot from the outlet of the heater and in the configuration described above.

2.7 *Combustion Measurement Instrumentation.* The samples of stack and flue gases for vented heaters shall be analyzed to determine the concentration by volume of carbon dioxide present in the dry gas with instrumentation which will result in a reading having an accuracy of ±3 percent.

2.8 *Energy Flow Instrumentation.* Install one or more energy flow instruments to measure the quantity of gas flow or fuel oil supplied to the vented heater, and electrical energy, if appropriate, with an error no greater than one percent.

2.9 *Room Ambient Temperature.* Maintain the test room at an ambient air temperature between 65°F and 75°F. Use the procedure outlined in section 2.1.14 of ANSI Standard Z21.47-1973 to measure room temperature.

2.10 *Equipment Used to Measure Mass Flow Rate in Flue and Stack.* The tracer gas chosen for this task should have a density which is approximately equal to the density of air. It shall be of different chemical species or different concentration from the flue or stack gas to be measured and shall be unreactive with the environment to be encountered. Instrumentation used to measure the concentration of tracer gas may be either the batch or continuous type with an accuracy of ±2% of the value of the concentration measured.

3.0 TESTING AND MEASUREMENTS.

3.1 *Steady-State Testing*

V 42 169 AUG 31 77 UMI

3.1.1 Gas Fueled Vented Home Heating Equipment (not included direct vent systems).

3.1.1.1 Stack Gas Temperature and CO_2 Measurements. The vented heater shall be set up as specified in sections 2.1, 2.2, and 2.3. Begin the steady-state performance test by operating the burner and the circulating air blower with the adjustments specified in 2.4 and 2.5 until a steady-state temperature is attained in the stack gas as measured by the center thermocouple located in the 5 foot stack as specified in 2.6.1 for units employing integral draft diverters.

On units employing integral draft diverters, record the steady-state stack gas temperature ($T_{v,ss}$). Measure a sample of dry stack gasses for CO_2 ($Xco_{2,s}$) in the plane of measurement used for measuring flue gas temperature in accordance with ANSI Z21.48 1976, section 2.1.2., Z21-49-1975 section 2.1.2., Z21-11-1976 section 2.8, and Z21-44-1973 section 2.1.1. Measure heat input rate (Q_{in}) including the pilot input and the electrical power input at steady-state conditions and record.

The steady-state heat input rate (Q_{in}) including pilot gas shall be determined by multiplying the measured higher heating value of the test gas by the steady-state gas input rate corrected to standard conditions of 60° F and 30 inches of mercury. Measure gas input temperature and pressure at the meter and the barometric pressure. Correct the metered gas flow rate to standard conditions of 60° F and 30 inches mercury.

Measure the steady-state electric power to the circulating air blower (BE) and to the power burner (PE) on units so equipped and record the data.

3.1.1.2 Flue Gas Temperature and CO_2 Measurements. After the above test measurements have been completed on units employing integral draft diverters, the 5 to 5½ foot long black iron pipe used in the steady state test shall be removed, the draft diverter relief opening shall be blocked and a 2 foot length of pipe installed as described in section 2.2.1. A single bead-type thermocouple not larger than No. 24 AWG shall be located in the center of the flue pipe and 12 inches from its top. After equilibrium conditions are again achieved, as indicated by changes in the flue gas temperature of not more than 5° F (2.8° C) between readings 15 minutes apart, the steady-state flue gas temperature ($T_{F,ss}$) shall be measured using this single thermocouple and a sample of the flue gases shall be taken in the same plane of measurement. The sample of the flue gases shall be analyzed to determine the concentration by volume of CO_2 ($Xco_{2,F}$) present in the dry flue gas.

On units not employing an integral draft diverter, the steady-state flue gas temperature shall be measured in the 2 foot long flue pipe as described in Section 2.6 and a sample of the flue gas shall be taken in the plane of measurement. The sample of flue gases shall be analyzed to determine the concentration of CO_2 ($Xco_{2,F}$), present in the dry flue gas.

3.1.2 Vented Wall Furnaces with Direct Vent Systems. The vented heater shall be set up and adjusted as specified in sections 2.1, 2.2.4, 2.3, 2.4, 2.5 and 2.6. Flue temperature ($T_{F,ss}$) and CO_2 ($Xco_{2,F}$) measurements shall be performed at steady-state conditions as prescribed in 3.1.1. with the following exception:

Temperature measurements shall be made at a location which is determined by the design provisions of the vented heater for preheating the incoming air as prescribed in section 2.6.3 for thermocouple location.

3.1.3 Oil Fueled Vented Home Heating Equipment (not including direct vent systems). The vented heater shall be set up and adjusted as specified in sections 2.1, 2.2.3 and 2.3.4. Begin the steady-state performance test by operating the burner and the circulating air blower with the adjustments specified by 2.4.2 and 2.5.1. When steady-state temperature ($T_{F,ss}$) is attained in the flue gas, measure the average flue gas temperature and measure CO_2 ($Xco_{2,F}$) in a sample of the flue gas at the location described in figure 37.4 of UL Std. 896. There shall be no opening between the heater and the point where the flue gas sample is to be measured. If a barometric draft regulator is incorporated in the heater, it shall be sealed during all tests.

Measure and record the steady-state heat input rate (Q_{in}). Measure steady-state electrical power to the air blower (BE) and to the power burner (PE) and record these data.

3.2 *Flue Temperature Measurements—Cool Down Test.*

3.2.1 Vented Home Heating Equipment (not including direct vent systems). After steady-state testing is completed, all units shall have the main burner turned off and the flue gas temperature measured at 1.5 ($T_{F,OFF(t_1)}$) and 9.0 ($T_{F,OFF(t_2)}$) minutes after the burner shuts off. Units employing stack dampers shall have the damper control by-passed so that the damper remains open during the cool down test. During this off-period the indoor air circulating blower shall be made to operate during the first three minutes of the off period and shall then be turned off unless the vented heater employs a single motor to drive a power burner and an indoor air circulating blower in which case both shall be turned off together. The main burner(s) shall remain off until equilibrium conditions are attained, as indicated by temperature changes in the flue gas of not more than 3°F (2.8°C) between readings 15 minutes apart. For units employing a continuously burning pilot light, a third flue gas temperature measurement shall then be made to determine the off-period minimum flue gas temperature ($T_{F,OFF(\infty)}$). For units not employing a continuously burning pilot light, $T_{F,OFF(\infty)}$ is assumed to equal 70° F (21.1° C). During this cool down test, the energy input rate to the pilot light (Q_p), if the unit is so equipped, shall also be measured to within an accuracy of ±3%. Record all measured values.

3.2.2 Vented Home Heating Equipment with Direct Vent Systems. After steady-state testing has been completed, turn the main burner off and measure the flue gas temperature at 1.5 ($T_{F,OFF(t_1)}$) and 9.0 ($T_{F,OFF(t_2)}$) minutes after the burner is shut off using nine bead-type thermocouples, not larger than 24 AWG, in the locations prescribed in section 2.6.3. During this off-period, the indoor air circulating blower shall be made to operate during the first 3 minutes of the off-period and shall then be shut off unless the vented heater employs a single motor to drive a power burner and an indoor air circulating blower, in which case both shall be turned off. The main burner(s) shall remain off until equilibrium conditions are attained, as indicated by changes in the flue gas temperature of not more than 3°F (2.8°C) between readings 15 minutes apart. For units employing a continuously burning pilot light, a third flue gas temperature measurement shall then be made to determine the off-period minimum flue gas temperature ($T_{F,OFF(\infty)}$). For units not employing a continuously burning pilot light $T_{F,OFF(\infty)}$ is assumed to equal 70° F (21.1° C). During this cool down test, the energy input rate to the pilot light (Q_p), if the unit is so equipped, shall also be measured to within an accuracy of ±3%. Record all measured values. If a vented heater with a direct vent system employs an automatic stack damper, it shall be closed during this cool down test.

3.3 *Flue Gas Temperature Measurements Heat Up Test for Vented Home Heating Equipment.* After equilibrium conditions are achieved following the cooldown test and the required measurements performed, the vented heater shall be turned on and the flue gas temperature measured at the locations specified in section 3.2 of this Appendix, at 0.5 ($T_{F,ON(t_1)}$) and 2.5 ($T_{F,ON(t_2)}$) minutes after the main burner(s) comes on. The indoor air circulating fan shall remain off during the first 1.5 minutes of this warm up test and shall then be turned on unless the vented heater employs a single motor to drive a power burner and an indoor air circulating blower, in which case both shall be started together. Record the measured temperatures. Vaporizing type oil burners need not have this test performed.

3.4 *Jacket Loss Measurement.* A jacket loss test is specified only for vented floor furnaces. Measure the jacket loss (L_J) in accordance with the ANSI standard Z21.48-1976 Section 2.12, and record the total jacket loss and the ambient room temperature during the test.

3.5 *Measurement for Determining Effectiveness of Automatic Stack Damper.* The effectiveness of an automatic stack damper (D_F), in vented heaters so equipped shall be determined by measuring the cross sectional area of the stack (A_S), the net area of the damper plate (A_D) (the area of the damper plate minus the area of any holes in the plate), and the angle Ω which is the angle the damper plate makes when closed with a plane perpendicular to the axis of the stack. The equation in section 4.2 is then employed to calculate D_F.

3.6 *Measurement for Determining D_F for Systems Equipped with Power Burners.* On power burner systems not employing automatic stack dampers or power burner systems with a stack damper and an integral draft diverter, the flue gas temperature during the off-period ($T_{F,OFF}$) may be measured during the cool-down test described in section 3.2. The procedures to be used for measuring ($T_{F,OFF}$) are described below.

On systems equipped with both power burners and stack dampers, and not employing an integral draft diverter, D_F (the ratio of the rate of flue gas mass flow through the vented heater during the off-period to the rate of flue gas mass flow through the vented heater during the on-period) shall be measured during a separate cool-down test. This separate cool-down test shall be conducted after the warm-up test described in Section 3.3 for determining the on-period flue gas temperature. It shall be conducted by letting the unit run after the warm-up test is completed until steady-state conditions are reached, as indicated by temperature changes in the flue gas or not more than plus or minus 5° F (2.8° C) between readings 15 minutes apart, and then shutting the unit off with the stack damper controls by-passed or adjusted so that the stack damper remains open during the resulting cool-down period. If a draft was maintained in the flue during the steady state performance test described in Section 3.1 the same draft (within ±0.01 inches of water gauge of the average value measure during the steady-state tests) shall be maintained during this cool-down period.

The flue gas mass flow rate during the off-period ($m_{F,OFF}$) may be measured at a specific off-period flue gas temperature and then corrected to obtain its value at a flue gas temperature at steady-state ($T_{F,SS}$), using the procedure described below.

Within one minute after the unit is shut off to start the cool down test for determining D_F, begin feeding a tracer gas into the combustion chamber at a constant flow rate of $\dot{V}_T$, and at a point which will allow for the best possible mixing with the air flowing through the chamber. On units equipped with an oil fueled power burner, the best location for injecting this tracer gas is through a hole drilled in the air tube. The value of $\dot{V}_T$ shall be periodically measured with an instantaneously reading flow meter having an accuracy of ±3 percent of the quantity measured and shall be less than 1 percent of the air flow rate through the vented heater. If a combustible tracer gas is used, there should be a delay period between the time the unit is shut off and the time the tracer gas is first injected to prevent ignition of the tracer gas.

Between 5 and 6 minutes after the unit is shut off to start the cool-down test, the percent volumetric concentration of tracer gas, C_T, in the flue gas and the flue gas temperature, $T_{F,OFF}$, shall be measured in the center of the flue pipe on the vented heater side of the draft regulator and not more than 12 inches from the heater flue-gas outlet. In addition, the barometric pressure, P_S, shall also be determined. A single bead-type thermocouple, not larger than No. 24 AWG, shall be used to make the temperature measurement. The concentration of tracer gas shall be obtained using an instrument which will result in an accuracy of ±2 percent in the value of C_T measured and may be either a batch or continuous reading type instrument. If the sampling arrangement for the instrument results in a delay time between the drawing of a sample and its analysis, this delay should be taken into account so that the temperature measurement and the measurement of tracer gas concentration coincide.

The rate of the flue gas mass flow through the vented heater and the factors D_F, D_S, and D_S are calculated by the equations in sections 4.3.1, 4.3.2 and 4.3.3 of this Appendix.

4.0 CALCULATION OF DERIVED RESULTS FROM TEST MEASUREMENTS.

4.1 *Annual Fuel Utilization Efficiency for Gas or Oil Vented Home Heating Equipment.* The following calculations are to be performed to determine the annual fuel utilization efficiency of gas or oil vented home heating equipment. Figure 10 provides an illustration of a worksheet which may be used to tabulate the results of test measurements and calculations.

4.1.1 System number. Determine the system number for the type of vented heater being tested in accordance with Table 1 or 2.

4.1.2 Ratio of combustion air mass flow rate to stoichiometric air mass flow rate. Determine the ratio of combustion air mass flow rate to stoichiometric air, mass flow rate, $R_{T,F}$, from Figure 1 for the test fuel, by using the value of dry flue gas CO_2 concentration, $Xco_{2,F}$, determined in accordance with section 3.1 of this Appendix.

4.1.3 Ratio of combustion and relief air mass flow rate to stoichiometric air mass flow rate. For systems 1, 2, 5, or 6, employing an integral draft diverter, determine the ratio of the sum of combustion and relief air mass flow rate to stoichiometric air mass flow rate $R_{T,S}$, from Figure 1 for the type of test fuel, by using the value of dry stack gas CO_2 concentration, $Xco_{2,S}$, determined in accordance with section 3.1 of this Appendix.

4.1.4 Average sensible heat loss at full-load steady state operation. For systems 1, 2, 5, or, 6, employing an integral draft diverter, determine the average sensible heat loss at full-load steady-state operation, $L_{S,SS,A}$, expressed as a percent, from Figure 2 using the value of $R_{T,S}$ determined in 4.1.3, the type of test fuel, and $\Delta T_{S,SS}$, where

$$\Delta T_{S,SS} = T_{S,SS,X} - 70,$$

where

$T_{S,SS,X}$ = measured stack gas temperature at full-load steady-state operation determined in accordance with section 3.1 of this Appendix, in degrees Fahrenheit.

70 = assumed indoor average conditioned air temperature, in degrees Fahrenheit

For systems 3, 4, or, 7 through 12, determine the average sensible heat loss at full-load steady-state operation, $L_{S,SS,A}$, expressed as a percent; from Figure 2 using the value of $R_{T,F}$ determined in 4.1.2, the type of test fuel, and $\Delta T_{S,SS}$, where

$$\Delta T_{F,SS} = T_{F,SS} - 70$$

where

$T_{F,SS}$ = flue gas temperature at full-load steady-state operation determined in accordance with section 3.1 of this Appendix, in degrees Fahrenheit.

70 = as defined above

4.1.5 Steady-state efficiency. Calculate the steady-state efficiency (excluding jacket loss), η_{SS}, expressed in percent and defined as

$$\eta_{SS} = 100 - L_{L,A} - L_{S,SS,A}$$

where

$L_{L,A}$ = average latent heat loss of the test fuel determined in accordance with Table 3, in percent.

$L_{S,SS,A}$ = as defined in 4.1.4.

4.1.6 Average ratio of stack gas mass flow rate to flue gas mass flow rate at full-load steady-state operation. Determine the average ratio of stack gas mass flow rate to flue gas mass flow rate at full-load steady-state operation, $S/_F$, from Table 1 or 2 for the system number to be tested.

4.1.7 Equivalent field stack gas temperature at full-load steady-state operation. Calculate the equivalent field stack gas temperature at full-load steady-state operation, $T_{S,SS}$, expressed in degrees Fahrenheit and defined as:

$$T_{S,SS} = \frac{1}{S/_F}[T_{F,SS} - 70] + 70,$$

where

$T_{F,SS}$ as defined in 4.1.4

70 as defined in 4.1.4

$S/_F$ as defined in 4.1.6

4.1.8 On-cycle time constant. Calculate the on-cycle time constant, τ_{on}, expressed in minutes and defined as:

$$\tau_{on} = \frac{t_2 - t_1}{\ln\left[\frac{T_{F,SS} - T_{F,on(t_1)}}{T_{F,SS} - T_{F,on(t_2)}}\right]}$$

where

t_1 = 0.5 minutes

t_2 = 2.5 minutes

$T_{F,on(t_1)}$ = flue gas temperature measured at time (t_1) from a cold start-up of the system burner determined in accordance with section 3.3 of this Appendix, in degrees Fahrenheit

$T_{F,on(t_2)}$ = flue gas temperature measured at the time (t_2) from a cold start-up of the system burner determined in accordance with section 3.3 of this Appendix, in degrees Fahrenheit

$T_{F,SS}$ = as defined in 4.1.4

For vaporizing type oil burners, $\tau_{on} = 0$.

4.1.9 Effective gas temperature difference at start-up. Calculate the effective flue gas temperature difference at start-up of the system burner, $\Theta_{F,O,X}$, expressed in degrees Fahrenheit and defined as:

$$\Theta_{F,O,X} = [T_{F,SS} - T_{F,on(t_1)}]\, e^{\frac{t_1}{\tau_{on}}}$$

where:

$T_{F,SS}$ as defined in 4.1.4

$T_{F,on(t_1)}$ as defined in 4.1.8

t_1 as defined in 4.1.8

on as defined in 4.1.8

For vaporizing type oil burners, $\Theta_{F,O,X} = 0$.

4.1.10 Off-cycle time constant. Calculate the off-cycle time constant, τ_{off}, expressed in minutes and defined as

$$\tau_{OFF} = \frac{t_4 - t_2}{\ln\left[\frac{T_{F,OFF(t_2)} - T_{F,OFF(\infty)}}{T_{F,OFF(t_1)} - T_{F,OFF(\infty)}}\right]}$$

where

t_2 = 1.5 minutes

t_4 = 9.0 minutes

$T_{F,OFF(t_2)}$ = flue gas temperature measured at time (t_2) after shut-down from steady-state operation of the system burner determined in accordance with section 3.2 of this Appendix, in degree Fahrenheit.

$T_{F,OFF(t_1)}$ = flue gas temperature measured at time (t_4) after shut-down from steady-state operation of the system burner determined in accordance with section 3.2 of this Appendix, in degree Fahrenheit.

4.1.11 Effective flue gas temperature difference at shut-down. Calculate the effective flue gas temperature difference at shut-down of the system burner, $\Psi_{F,O,X}$, expressed in degrees Fahrenheit and defined as:

$$\Psi_{F,O,X} = T_{F,OFF(t_3)} - T_{F,OFF(\infty)}\, e^{\frac{t_3}{\tau_{OFF}}}$$

where

$T_{F,OFF(t_3)}$ as defined in 4.1.10

$T_{F,OFF(\infty)}$ as defined in 4.1.10

t_3 as defined in 4.1.10

τ_{OFF} as defined in 4.1.10

4.1.12 Minimum flue gas temperature difference above room temperature. Calculate the minimum flue gas temperature difference above room temperature, $\Psi_{F,\infty,T}$, expressed in Fahrenheit and defined as:

$$\Psi_{F,\infty,X} = T_{F,OFF(\infty)} - 70,$$

where

$T_{F,OFF(\infty)}$ as defined in 4.1.10

70 as defined in 4.1.4

4.1.13 Minimum stack gas temperature difference above room temperature. Calculate the minimum stack gas temperature difference above room temperature, $\Psi_{S,\infty,X}$ expressed in degrees Fahrenheit and defined as:

For systems numbered 1-4

$$\Psi_{S,\infty,X} = \frac{(D_F)\,(\Psi_{F,\infty,X})}{(S/_F)\,(D_S)}$$

where

D_F = off-cycle flue gas draft factor selected from Table 1, for units with power burners where D_F is measured, determined in accordance with section 4.4.2 of this Appendix, in degrees Fahrenheit.

D_S = off-cycle stack gas draft factor selected from Table 1, or, for units with power burners where D_F is measured, determined in accordance with section 4.4.3 of this Appendix, in degrees Fahrenheit.

$S/_F$ = as defined in 4.1.6

$\Psi_{F,\infty,X}$ = as defined in 4.1.52

for systems numbered 5-8:

$$\Psi_{S,\infty,X} = \Psi_{F,\infty,X}$$

where

$\Psi_{F,\infty,X}$ as defined in 4.1.12

4.1.14 Effective stack gas temperature difference at shut-down. Calculate the effective stack gas temperature difference at shut-down, $\Psi_{S,O,X}$ expressed in degrees Fahrenheit and defined as:

for systems numbered 1-4:

$$\Psi_{S,O,X} = \frac{(D_F)\,(\Psi_{F,O,X})}{(S/_F)\,(D_S)}$$

where

D_F as defined in 4.1.13

$\Psi_{F,O,X}$ as defined in 4.1.11

$S/_F$ as defined in 4.1.13

D_S as defined in 4.1.13

for systems numbered 5-8:

$$\Psi_{S,O,X} = \Psi_{F,O,X}$$

where

$\Psi_{F,O,X}$ as defined in 4.1.11

4.1.15 Correction factors for direct vent systems. Calculate a correction factor which corrects for the use of outdoor air for combustion instead of air at room temperature, C_S, defined as

$$C_S = 1 + \frac{(70-42)\,\eta_{SS}}{(T_{F,SS} - 70)\,100}$$

where

42 = average outdoor temperature corresponding to 5200 degree day location, in degrees Fahrenheit

η_{SS} as defined in 4.1.5

T_F as defined in 4.1.4

70 as defined in 4.1.4

The correction factor which corrects for the effect of outdoor air passing through the heat exchanger during the off-period, C'_S, defined as:

$$C'_S = 1.22$$

4.1.16 Multiplication factor for sensible heat loss during burner on-cycle. Calculate a multiplication factor for sensible heat loss during burner on-cycle, $K_{S,on}$, defined as:

$$K_{S,on} = \frac{100\; C_P[1 + (R_{T,F})\,(A/F)]}{HHV_A}$$

Where

C_P = 0.24 Btu per pound-degree Fahrenheit, specific heat of air as defined in 4.1.2

$R_{T,F}$

$A/_F$ = stoichiometric air/fuel ratio determined in accordance with Table 3

HHV_A = average higher heating value of the test fuel determined in accordance with Table 3, in Btu's per pound.

4.1.17 Multiplication factor for sensible heat loss during burner off-cycle. Calculate a multiplication factor for sensible heat loss during burner off-cycle, $K_{S,OFF}$, defined as:

for systems numbered 1-4:

$$K_{S,OFF} = \frac{(T_{F,SS} + 460)^{1.19}\,(D_F)\,(K_{S,on})}{(T_{F,SS} - 70)^{0.56}}$$

where

460 = conversion factor to convert degrees Fahrenheit to degrees Rankine

$T_{F,SS}$ as defined in 4.1.4

70 as defined in 4.1.4

D_F as defined in 4.1.13

$K_{S,on}$ as defined in 4.1.16

for systems numbered 5-8:

$$K_{S,OFF} = \frac{(T_{S,SS} + 460)^{1.19}\,(D_S)\,(S/_F)\,(K_{S,on})}{(T_{S,SS} - 42)^{0.56}}$$

where

$T_{S,SS}$ as defined in 4.1.7

D_S as defined in 4.1.13

$S/_F$ as defined in 4.1.6

$K_{S,on}$ as defined in 4.1.16

460 as defined in 4.1.17

42 as defined in 4.1.15

for systems numbered 9-12:

$$K_{S,OFF} = \frac{(T_{S,SS} + 460)^{1.19}\,(D_F)\,(K_{S,on})}{(T_{S,SS} - 42)^{0.56}}$$

where

$T_{S,SS}$ as defined in 4.1.7

D_F as defined in 4.1.13

$K_{S,on}$ as defined in 4.1.16

460 as defined in 4.1.17

42 as defined in 4.1.15

4.1.18 Multiplication factor for infiltration loss during burner on-cycle. Calculate a multiplication factor for infiltration loss during burner on-cycle, $K_{I,on}$, defined as:

for systems numbered 1-18:

$$K_{I,on} = (\Phi)\,(S/_F)\,(K_{S,on})$$

where

Φ = 0.7 infiltration parameter

$S/_F$ as defined in 4.1.6

$K_{S,on}$ as defined in 4.1.16

4.1.19 Multiplication factor for infiltration loss during burner off-cycle. Calculate a multiplication factor for infiltration loss during burner off-cycle $K_{I,on}$, defined as:

for systems numbered 1-8:

$$K_{I,OFF} = \frac{(T_{S,SS} + 460)^{1.19}\,(K_{I,on})\,(D_S)}{T_{S,SS} - 42)^{0.56}}$$

where

$T_{S,SS}$ as defined in 4.1.7

460 as defined in 4.1.17

42 as defined in 4.1.15

$K_{I,on}$ as defined in 4.1.18

D_S as defined in 4.1.13

4.1.20 Ratio of average burner on-time per cycle to on-cycle time constant. Calculate the ratio of average burner on-time per cycle to on-cycle time constant, T_{on}/τ_{on}, defined as:

$$\frac{t_{on}}{\tau_{on}}$$

where

t_{on} = 3.87 minutes, the average burner on-time per cycle, based on 5 cycles per hour at half load.

τ_{on} = as defined in 4.1.8

4.1.21 Ratio of average burner off-time per cycle to off-cycle time constant. Calculate the ratio of average burner off-time per cycle to off-cycle time constant, T_{off}/τ_{off}, defined as:

$$\frac{t_{off}}{\tau_{off}}$$

where

t_{off} = 13.3 minutes, the average burner off-time per cycle, based on 5 cycles per hour at half load.

τ_{off} = as defined in 4.1.10

4.1.22 Effective flue gas temperature difference at burner start-up, corrected for burner cycling effect. Calculate the effective flue gas temperature difference at burner start-up, corrected for burner cycling effect, $\Theta_{F,O}$, expressed in degrees Fahrenheit and defined as: when

$$(t_{on}/\tau_{on}) \leq (t_{off}/\tau_{off})$$

for systems numbered 1-8:

$$\Theta_{F,O} = \Theta_{F,O,X}$$

for systems numbered 9-12:

$$\Theta_{F,O} = (C_S)\,(\Theta_{F,O,X})$$

when

$$(t_{on}/\tau_{on}) > (t_{off}/\tau_{off});$$

for systems numbered 1-8:

$$\Theta_{F,O} = \Theta_{F,O,X}\left(1 - e^{-\frac{t_{off}}{\tau_{off}}}\right)$$

for systems numbered 9-12:

$$\Theta_{F,O} = (C_S)\,(\Theta_{F,O,X}\left(1 - e^{-\frac{t_{off}}{\tau_{off}}}\right)$$

where

t_{on}/τ_{on} as defined in 4.1.20

t_{off}/τ_{off} as defined in 4.1.21

$\Theta_{F,O,X}$ as defined in 4.1.9

C_S as defined in 4.1.15

4.1.23 Effective flue gas temperature difference at burner shut-down, corrected for burner cycling effect. Calculate the effective flue gas temperature difference at burner shut-down, corrected for burner cycling effect, $\Psi_{F,O}$.

when

$$(t_{on}/\tau_{on} \leq (t_{off}/\tau_{off}):$$

for systems numbered 1-8:

$$\Psi_{F,O} = (\Psi_{F,O,X})\left(1 - e^{-\frac{t_{on}}{\tau_{on}}}\right)$$

for systems numbered 9-12:

$$\Psi_{F,O} = (C'_S)\,(\Psi_{F,O,X})\left(1 - e^{-\frac{t_{on}}{\tau_{on}}}\right)$$

where

$(t_{on}/\tau_{on})\;(t_{off}/\tau_{off})$

for systems numbered 1-8:

$$\Psi_{F,O} = \Psi_{F,O,X}$$

for systems numbered 9-12:

$$\Psi_{F,O} = (C'_S)\,(\Psi_{F,O,X})$$

V 42 169 AUG 31 77 UMI

where
t_{on}/τ_{on} as defined in 4.1.20
t_{off}/τ_{off} as defined in 4.1.21
$\Psi_{F,O,\ X}$ as defined in 4.1.11
C_S as defined in 4.1.15

4.1.24 Effective minimum flue gas temperature difference above room temperature, corrected for burner cycling effect. Calculate the effective minimum flue gas temperature difference above room temperature, $\Psi_{F,\infty}$, corrected for burner cycling effect, expressed in degrees Fahrenheit and defined as:

for systems numbered 1-8:

$$\Psi_{F,\ \infty} = \Psi_{F,\ \infty,\ X}$$

for systems numbered 9-12:

$$\Psi_{F,\ \infty} = (C_S)\ (\Psi_{F,\ \infty,\ X})$$

where
C_S as defined in 4.1.15
$\Psi_{F\ \infty,X}$ as defined in 4.1.12

4.1.25 Effective stack gas temperature difference at burner shut-down, corrected for burner cycling effect. Calculate the effective stack gas temperature difference at burner shut-down, corrected for burner cycling effect, $\Psi_{S,O}$, expressed in degrees Fahrenheit and defined as:

when

$$(t_{on}/\tau_{on}) \leq (t_{off}/\tau_{off})$$

for systems numbered 1-8:

$$\Psi_{S,\ O} = \Psi_{S,\ O,\ X}\left(1-e^{-\frac{t_{on}}{\tau_{on}}}\right)$$

when

$$(t_{on}/\tau_{on}) \leq (t_{off}/\tau_{off})$$

For systems numbered 1-8:

$$\psi_{S,\ O} = \psi_{S,\ O,\ X}\left(1-e^{-\frac{t_{on}}{\tau_{on}}}\right)$$

when

$$t_{on}/\tau_{on} > (t_{off}/\tau_{off})$$

for systems numbered 1-8:

$$\Psi_{S,\ O} = \Psi_{S,\ O,\ X}$$

when
t_{on}/τ_{on} as defined in 4.1.20
t_{off}/τ_{off} as defined in 4.1.21
$\Psi_{S,O,X}$ as defined in 4.1.14

4.1.26 Off-cycle sensible heat loss integration factors. For systems numbered 1-4, determine off-cycle sensible heat loss integration factors, *F3* and *F4*, from Figures 3 and 4, respectively, using values of $\Psi_{F,O}$ defined in section 4.2.23, and t_{off}/τ_{off} defined in section 4.1.21.

For systems numbered 5-12, determine, off-cycle sensible heat loss integration factors, *F5* and *F6*, from Figures 5 and 6, respectively, using values of $\Psi_{F,O}$ defined in section 4.1.23, and t_{off}/τ_{off} defined in section 4.1.21.

4.1.27 Off-cycle infiltration heat loss integration factors. For systems numbered 1-8, determined off-cycle infiltration heat loss integration factors, *F7* and *F8*, from Figures 7 and 8, respectively, using values of $\Psi_{S,O}$ defined in section 4.1.25, and t_{off}/τ_{off} defined in section 4.1.21.

4.1.28 On-cycle sensible heat loss. Calculate the on-cycle sensible heat loss of the system, $L_{S,ON}$, expressed in percent and defined:

for systems numbered 1-8:

$$L_{S,\ ON} = L_{S,\ SS} - (K_{S,\ ON})\ (\Theta_{F,O})\left(\frac{1}{t_{on}/\tau_{on}}\right)\left(1-e^{-\frac{t_{on}}{\tau_{on}}}\right),$$

for systems numbered 9-12:

$$L_{S,\ ON} = (C_S)\ (L_{S,\ SS,\ A}) - (K_{S,\ ON})\ (\Theta_{F,\ O})\left(\frac{1}{t_{on}/\tau_{on}}\right)\left(1-e^{-\frac{t_{on}}{\tau_{on}}}\right)$$

where
C_S as defined in 4.1.15
$L_{S,\ SS,\ A}$ as defined in 4.1.4
$K_{S,ON}$ as defined in 4.1.16
$\Theta_{F,O}$ as defined in 4.1.22
t_{on}/τ_{on} as defined in 4.1.20

4.1.29 Off-cycle sensible heat loss. Calculate the off-cycle sensible heat loss of the system, $L_{S,\ OFF}$, expressed in percent and defined as:

for systems numbered 1-4:

$$L_{S,\ OFF} = (K_{S,\ OFF})\left(\frac{t_{off}}{t_{on}}\right)(F3) + (\Psi_{F,\ \infty})\ (F4),$$

for systems numbered 5-12:

$$L_{S,\ OFF} = (K_{S,\ OFF})\left(\frac{t_{off}}{t_{on}}\right)(F5) + (\Psi_{F,\ \infty})\ (F6),$$

where
$K_{S,OFF}$ as defined in 4.1.17
t_{off} as defined in 4.1.21
t_{on} as defined in 4.1.20
F3, *F4*, *F5*, and *F6* as defined in 4.1.26
$\Psi_{F,\infty}$ as defined in 4.1.24

4.1.30 On-cycle infiltration heat loss. Calculate the on-cycle infiltration heat loss of the system, $L_{I,ON}$, expressed in percent and defined as:

for systems numbered 1-8:

$$L_{I,\ ON} = K_{I,\ ON}\ (70-42),$$

where
$K_{I,ON}$ as defined in 4.1.18
70 as defined in 4.1.4
42 as defined in 4.1.15

for systems numbered 9-12:

$$L_{I,\ ON} = 0$$

4.1.31 Off-cycle infiltration heat loss. Calculate the off-cycle infiltration heat loss of the system $L_{I,\ OFF}$, expressed in percent and defined as:

for systems numbered 1-8:

$$L_{I,\ OFF} = K_{I,\ OFF}\ (70-42)\left(\frac{t_{off}}{t_{on}}\right)(F7) + (\Psi_{S,\ \infty,\ X})\ (F8)$$

where
$K_{I,\ OFF}$ as defined in 4.1.19
70 as defined in 4.1.4
42 as defined in 4.1.15
t_{off} as defined in 4.1.21
t_{on} as defined in 4.1.27
F7, *F8* as defined in 4.1.27
$\Psi_{S,\infty,X}$ as defined in 4.1.13

for systems numbered 9-12:

$$L_{I,\ OFF} = 0$$

4.1.32 Part-load fuel utilization efficiency. Calculate the part-load fuel utilization efficiency, expressed in percent and defined as:

for indoor units—

$$\eta_u = 100 - L_{L,\ A} - \left[\frac{t_{on}}{t_{on}+\frac{Q_P}{Q_{in}}\ (t_{off})}\right] \times [L_{S,\ ON}+L_{S,\ OFF}+L_{I,\ ON}+L_{I,\ OFF}],$$

for vented floor furnaces

$$\eta_u = 100 - L_{L,\ A} - C_i(L_i) - \left[\frac{t_{on}}{t_{on}+\left(\frac{Q_P}{Q_{in}}\right)(t_{off})}\right] \times [L_{S,\ ON}+L_{S,\ OFF}+L_{I,\ ON}+L_{I,\ OFF}]$$

where
C_i =3.3 for vented floor furnaces
Q_P =pilot flame fuel input rate determined in accordance with section 3.2 of this Appendix, in Btu's per hour
Q_{IN} =full-load input rate (including pilot flame fuel input rate) determined in accordance with section 3.1 of this Appendix, in Btu's per hour
L_i =jacket loss determined in accordance with section 3.4 of this Appendix, in percent
$L_{L,A}$ as defined in 4.1.5
t_{on} as defined in 4.1.20
t_{off} as defined in 4.1.21
$L_{S,ON}$ as defined in 4.1.28
$L_{S,OFF}$ as defined in 4.1.29
$L_{I,ON}$ as defined in 4.1.30
$L_{I,OFF}$ as defined in 4.1.31

4.1.33 Annual fuel utilization efficiency. Calculate the annual fuel utilization efficiency, $EFFY_A$, defined as:
where

$$EFFY_A = \frac{(\eta_{SS})\ (\eta_u)\ (5200)}{(\eta_{SS})\ (5200)+(2.5)\ (\eta_u)\left(\frac{Q_P}{Q_{in}}\right)(1.7)\ (4600)}$$

where
5200 = the average number of annual heating degree days for the United States
4600 = the average number of non heating season hours per year that the energy to the pilot light is assumed wasted
1.7 =average vented heater sizing factor
η_{SS} =as defined in 4.1.5
η_u =as defined in 4.1.32
Q_P =as defined in 4.1.32
Q_{IN} =as defined in 4.1.32

4.2 *Additional Requirements for Vented Home Heating Equipment Utilizing a Stack (or Flue) Damper.* Calculate the stack (or flue) damper effectiveness, D_e, defined as:

when $A_D \cos\Omega > 0.59\ A_S$:

$$D_e = \frac{2.24\left[1-\frac{A_D\cos\Omega}{A_S}\right]}{\sqrt{1-\left[1-\frac{A_D\cos\Omega}{A_S}\right]^2}}$$

when $A_D \cos\Omega \leq 0.59\ A_S$:
$D_e = 1$,
where
A_S = cross sectional area of the stack determined in accordance with section 3.5 of this Appendix, in square inches
A_D = net area of the damper plate determined in accordance with section 3.5 of this Appendix, in square inches
Ω = the angle the damper plate makes when closed with a plane perpendicular to the axis of the stack

4.3 *Additional Requirements for Vented Home Heating Equipment Utilizing Indoor Air for Combustion and Draft Control.* For units obtaining combustion air and draft control air from inside the residence, the appropriate factor describing the ration of on-cycle stack flow to on-cycle flue flow (S/F), the ratio of off-cycle flue flow to on-cycle flue flow at identical temperatures (D_F), and the ratio of off-cycle stack flow to on-cycle stack flow at iednticaI temperatures (D_S) shall be determined from Table 2.

4.3.1 Optional procedure for determination of D_F for vented home heating equipment employing a power burner. Calculate the ration (D_F), of the rate of flue gas mass flow through the vented heater during the off period, $m_{F,OFF}$ ($T_{F,SS}$), to the rate of flue gas mass flow during the on-period, $\dot{m}_{F,SS}$ ($T_{F,SS}$), and defined as:

$$D_P = \frac{\dot{m}_{F,\ OFF}\ (T_{F,\ SS})}{\dot{m}_{F,\ SS}\ (T_{F,\ SS})},$$

where

$$m_{F,OFF}\ (T_{F,\ SS}) = m_{F,\ OFF}\ (T_{F,\ OFF}) \times \left[\frac{T_{F,\ SS}-42}{T_{F,\ OFF}-42}\right]^{0.56}\left[\frac{T_{F,\ OFF}+460}{T_{F,\ SS}+460}\right]^{1.19}$$

where
$T_{F,SS}$ as defined in 4.1.4
$T_{F,\ OFF}$ = flue gas temperature during the off-period measured in accordance with section 3.6 of this Appendix, in degrees Fahrenheit

$$\dot{m}_{F,\ OFF}\ (T_{F,\ OFF}) = \frac{100\dot{V}_T}{C_T}\ q_F,$$

where
$\dot{V}_T$ = flow rate of tracer gas through the vented heater measured in accordance with section 3.6 of this Appendix, in cubic feet per minute
C_T = concentration by volume of tracer gas present in the flue gas sample measured in accordance with section 3.6 of this Appendix, in percent
$q_F = \frac{1.325\ P_B}{460+T_{F,OFF}}$

where
$T_{F,OFF}$ as defined above
P_B = barometric pressure measured in accordance with section 3.6 of this Appendix, in inches of mercury

$$m_{F,\ SS}\ (T_{F,\ SS}) = \left[(R_{T,\ F})\ \frac{A}{F}+1\right]\frac{Q_{in}}{HHV_A},$$

where
$R_{T,F}$ as defined in 4.1.2
A/F as defined in 4.1.16
Q_{in} as defined in 4.1.32
HHV_A as defined in 4.1.16

4.3.2 Optional procedure for determination of off-cycle draft factor for flue gas flow for vented home heating equipment employing a power burner. Calculate the off-cycle draft factor for flue gas flow, D_F, defined as:

for systems numbered 2, 4, or 10: $D_F = (D_F)$

for system number 12: $D_F = (D_F)\ (D_e)$,

where
D_F as defined in 4.3.1
D_e as defined in 4.2

4.3.3 Optional procedure for determination of off-cycle draft factor for stack gas flow for vented home heating equipment employing a power burner. Calculate the off-cycle draft factor for stack gas flow, D_S, defined as:

for system number 2: $D_S = D_F = 0.55$

for system number 4: $D_S = D_F = .40$

for system number 8: $D_S = (D_F)\ (D_e)$

where
D_P as defined in 4.3.1
D_e as defined in 4.2

4.4 *Additional Requirements for Vented Home Heating Equipment Utilizing a Direct Vent System.* For vented heaters utilizing a direct vent system or intended for outdoor installation, the appropriate S/F factor and D_F factor shall be determined from Table 2. If a unit is equipped with a power burner, D_F, may be calculated using the value of D_F determined in section 4.3.1 of this section.

4.5 *Additional Requirements for Vented Home Heating Equipment which Modulate or Vary Fuel Input without Controlling Excess Combustion Air.* A vented heater which is equipped with a mechanism for reducing the rate of fuel input but does not provide a means for controlling excess combustion air, shall be tested at its maximum firing rate in accordance with test procedures in section 3. These test results shall be used to calculate a seasonal efficiency and an annual operating cost which is based upon a single fixed fuel input rate.

4.6 *National Average Number of Burner Operating Hours.* Calculate the average number of burner operating hours, BOH, defined as:

$BOH = (A)\ (2080)$ (design heating requirement) $- B$,
where
2080 = national average annual heating load hours design heating requirement

$$= \frac{(Q_{in})\ (0.5)}{1000}$$

0.5 =approximate value for the ratio of steady state efficiency to 100 times the average heater sizing factor.
1000 = conversion factor to convert Btu's per hour to kilo-Btu's per hour
Q_{IN} = as defined in 4.1.32

$$A = \frac{100{,}000}{(341{,}300)\ (PE+yBE)+(Q_{in}-Q_F)\ \eta_u}$$

$B = (0.0416)\ (Q_P)\ (\eta_u)\ (A)$
PE = power burner electrical energy input rate at full-load steady-state operation determined in accordance with section 3.1 of this Appendix, in kilowatts.
BE = circulating-air blower (or circulating water pump electrical energy input rate at full-load steady-state operation determined in accordance with section 3.1 of this Appendix, in kilowatts
y = 1.00 for vented heaters employing a single motor to drive a power burner and air circulating fan or blower, (i.e., the ratio of average blower or pump on-time to average burner on-time) and 1.38 for all other vented heaters.
Q_{IN} = as defined in 4.1.32
Q_P = as defined in 4.1.32
η_u = as defined in 4.1.32

4.7 *Average Annual Fuel Energy Consumption for Vented Home Heating Equipment.* Calculate the average annual fuel energy consumption for vented heaters, E_F, expressed in Btu's per year, and defined as:

$$E_F = (Q-Q_{INP})\ (BOH)+(8760)\ (Q_P),$$

where
Q_{IN} as defined in 4.1.32
Q_P as defined in 4.1.32
BOH as defined in 4.6
8706 as defined in 4.1.33

4.8 *Average Annual Auxiliary Electrical Energy Consumption for Vented Home Heating Equipment.* Calculate the average annual auxiliary electrical energy consumption, E_{AE}, expressed in kilowatt-hours per year and defined as:

$$E_{AE} = (PE+y\ BE)\ (BOH)$$

where
PE as defined in 4.6
BE as defined in 4.6
y as defined in 4.6
BOH as defined in 4.6

4.9 *Average Number of Burner Operating Hours in Different Geographic Regions of the United States.* Calculate the average number of burner operating hours by geographic region of the United States, BOH_R, defined as:

$BOH_R = (A)\ (HLH)$ (design heating requirement) $- B$,
where
A as defined in 4.6
HLH = heating load hours for a specific geographic region determined in accordance with the heating load hour map in Figure 9

Design heating requirement = as defined in 4.6

$$B = \frac{(2)\ (HLH)\ (A)\ (Q_P)\ (\eta_u)}{100{,}000},$$

where
100,000 = Factor that accounts for percent and KBTU.
(2) = ratio of average length of heating season to heating load hours.
HLH = as defined above
A as defined in 4.6
Q_P as defined in 4.1.32
u as defined in 4.1.32

4.10 *Average Annual Fuel Energy Consumption for Vented Home Heating Equipment by Geographic Region of the United States.* Calculate the average annual fuel energy consumption by geographic region of the United States, $E_{F,R}$, expressed in Btu's per year, and defined as:

$$E_{F,\ R} = (Q_{IN}-Q_P)\ (BOH_R)+(8760)\ (Q_P),$$

where
Q_{in} as defined in 4.1.32
Q_P as defined in 4.1.32
BOH_R as defined in 4.9
8760 as defined in 4.1.33

4.11 *Average Annual Auxiliary Electrical Energy Consumption for Vented Home Heating Equipment in Different Geographic Regions of the United States.* Calculate the average annual auxiliary electrical energy consumption for different geographic regions of the United States, $E_{AE,\ R}$, expressed in kilowatt-hours per year and defined as:

$$E_{AE,\ R} = (PE+y\ BE)\ (BOH_R),$$

where
PE as defined in 4.6
BE as defined in 4.6
Y as defined in 4.6
BOH_R as defined in 4.9

4.12. *Minimum Standardized Design Heating Requirement.* Calculate the minimum standardized design heating requirement, DHR_{MIN}, expressed in Btu's per-hour for which a regional annual operating cost could be computed, defined as:

$$DHR_{MIN} = \frac{(\eta_{ss})\ (Q_{in})}{200}$$

4.13 *Maximum Standardized Design Heating Requirement.* Calculate the maximum standardized design heating requirement, DHR_{MAX}, expressed in Btu's per-hour, for which a regional annual operating cost could be computed, defined as:

$$DHR_{MAX} = \frac{(\eta_{ss})\ (Q_{in})}{110}$$

4.14 *Average Number of Burner Operating Hours by Geographic Region of the United States for the Minimum Standardized Design Heating Requirement.* Calculate the average number of burner operating hours by geographic region of the United States for the minimum standardized design heating requirement, $BOH_{R\text{-}MIN}$, defined as:

$$BOH_{R\text{-}MIN} = A(HLH)\ (DHR_{MIN}) - B$$

where
A as defined in 4.6.
HLH as defined in 4.9
DHR_{MIN} as defined in 4.12
B as denfied in 4.9

4.15 *Average Number of Burner Operating Hours by Geographic Region of the United States for the Maximum Standardized Design Heating Requirement.* Calculate the average number of burner operating hours by geographic region of the United States for the maximum standardized design heating requirement, $BOH_{R\text{-}MAX}$, defined as:

$$BOH_{R\text{-}MAX} = A(HLH)\ (DHR_{MAX}) - B,$$

where
A as defined in 4.6
HLH as defined in 4.9
DHR_{MAX} as defined in 4.13
B as defined in 4.9

4.16 *Average Annual Fuel Energy Consumption for Vented Home Heating Equipment by Geographic Region of the United States for the Minimum Standardized Design Heating Requirement.* Calculate the average annual fuel energy consumption by geographic region of the United States for the minimum standardized design heating requirement, $E_{F,R\text{-}MIN}$ expressed in Btu's per year and defined as:

$$E_{R,\ R\text{-}MIN} = (Q_{in}-Q_F)\ (BOH_{R\text{-}MIN}) + (8760)\ (Q_P),$$

where
Q_{in} as defined in 4.1.32
Q_P as defined in 4.1.32
$BOH_{R\text{-}MIN}$ as defined in 4.14
8760 as defined in 4.1.33

4.17 *Average Annual Fuel Energy Consumption for Vented Home Heating Equipment by Geographic Region of the United States for the Maximum Standardized Design Heating Requirement.* Calculate the average annual fuel energy consumption by geographic region of the United States for the maximum design heating requirement, $E_{F,\ R\text{-}MAX}$ expressed in Btu's per year and defined as:

$$E_{F,\ R\text{-}MAX} = (Q_{IN}-Q_P)\ (BOH_{R\text{-}MAX}) + (8760)\ (Q_P),$$

where
Q_{IN} as defined in 4.1.32
Q_P as defined in 4.1.32
$BOH_{R\text{-}MAX}$ as defined in 4.15
8760 as defined in 4.1.33

4.18 *Average Annual Auxiliary Electrical Energy Consumption for Vent Home Heating Equipment by Geographic Region of the Minimum Standardized Design Heating Requirement.* Calculate the average annual auxiliary electrical energy consumption by geographic region of the United States for the minimum standardized design heating requirement, $E_{AE,R\text{-}MIN}$, expressed in kilowatt-hours per year and defined as:

$$E_{AE,\ R\text{-}MIN} = (PE+y\ BE)\ (BOH_{R\text{-}MIN}),$$

where
PE as defined in 4.6
Y as defined in 4.6
BE as defined in 4.6
$BOH_{R\text{-}MIN}$ as defined in 4.9

4.19 *Average Annual Auxiliary Electrical Energy Consumption for Vented Home Heating Equipment by Geographic Region of the United States for the Maximum Standardized Design Heating Requirement.* Calculate the average annual auxiliary electrical energy consumption by geographic region of the United States for the maximum standardized design heating requirement, $E_{AE,R-MAX} = (PE+y\ BE)\ (BOH_{R-MAX})$,
where
PE as defined in 4.6
y as defined in 4.6
BE as defined in 4.6
BOH_{R-MAX} as defined in 4.15

V 42 169 AUG 31 77 UMI

TABLE 1.—*Factors describing air flow rate for gas and oil-fueled vented home heating equipment utilizing indoor air for combusion and draft control*

Type of Burner	Units without a stack damper but with								Units with a stack damper and							
	Integral draft diverter				Barometric draft regulator				Integral draft diverter				Barometric draft regulator			
	System No.	S/F	D_F	D_S	System No.	S/F	D_F	D_S	System No.	S/F	D_F	D_S	System No.	S/F	D_F	D_S
Vaporizing	1	2.4	1.0	1.0	3	1.4	1.0	1.0	5	2.4	.....	D_S	7	1.4	.....	D_S
Power	2	2.4	.3	.85	4	1.4	.30	.70	6	2.4	.....	D_S	8	1.4	.....	0.30 X

NOTE.—The above factors were developed by the National Bureau of Standards and are based upon information in the public literature, laboratory and computer simulation studies conducted at NBS, and laboratory and field data obtained by several research firms under contract to NBS and FEA.

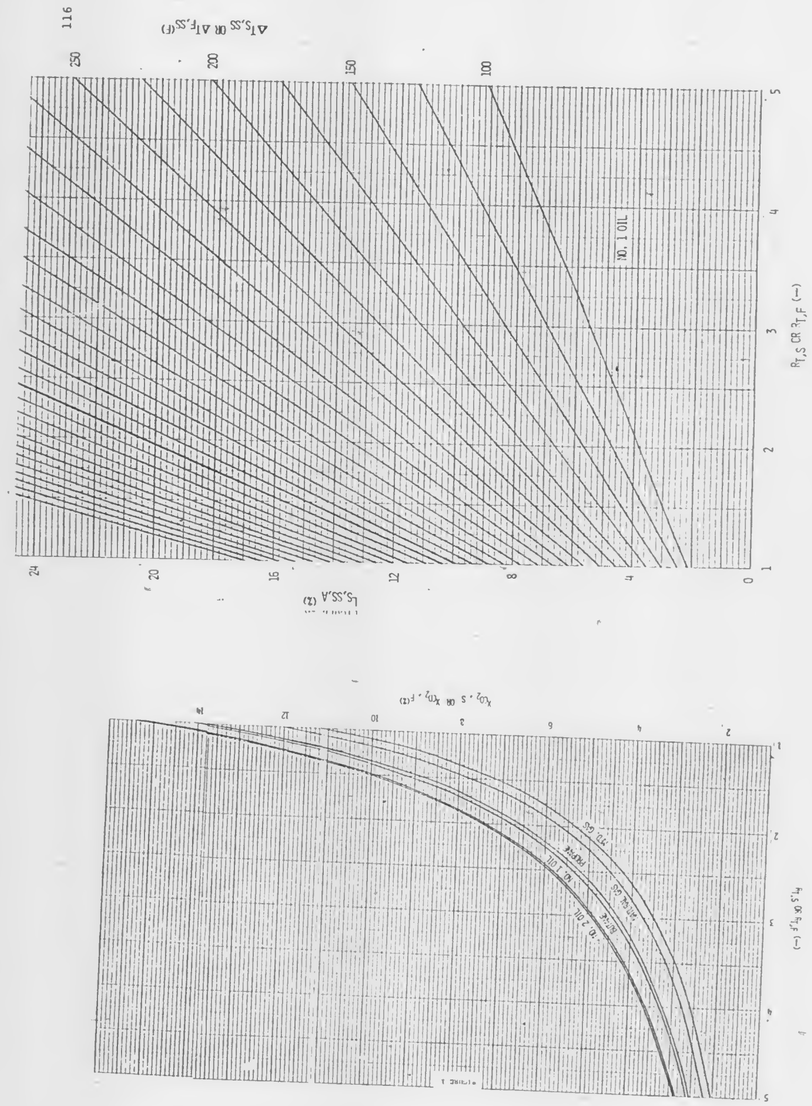
TABLE 2.—*Factors describing air flow rates for Gas or oil-fueled vented floor furnaces or home heating equipment with a direct vent system*

Type of burner	Units without a stack or flue damper		Outdoor units with a flue damper or indoor units with a stack damper		Type of draft	S/F
	System No.	D_F	System No.	D_F		
Vaporizing	9	1.00	11	D_s	None	1
Power	10	.30	12	$0.30xD_s$	Barometric draft regulator	1.4
					Integral draft diverter	2.4

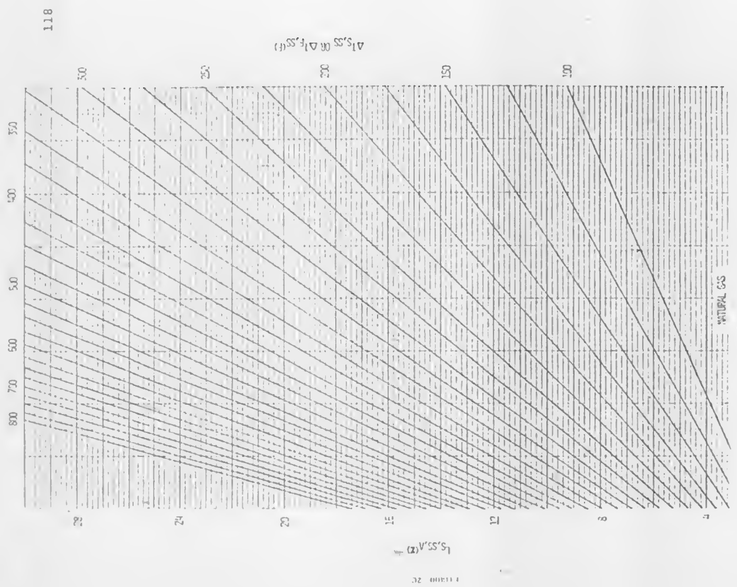
NOTE.—The above factors were developed by the National Bureau of Standards and are based upon information in the public literature, laboratory and computer simulation studies conducted at NBS, and laboratory and field data obtained by several research firms under contract to NBS and FEA.

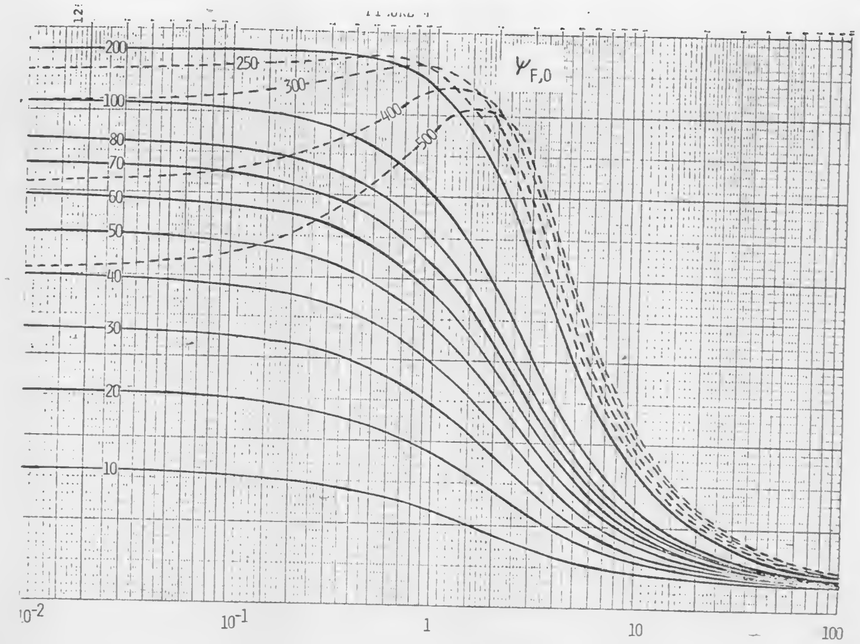
TABLE 3.—*Values of higher heating value (HHV), Stoichiometric air/fuel ratio (A/F), and latent heat loss ($L_{L,A}$) for typical fuels*

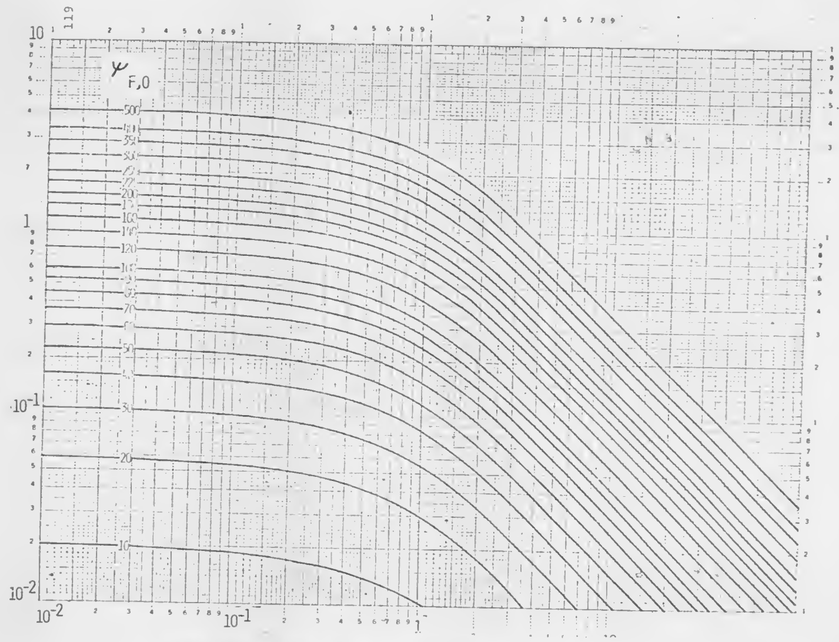
Fuels	HHV_A (British thermal unit per pound)	$A/F(..)$	$L_{L,A}$ (percent)
No. 1 oil	19,800	14.58	6.55
No. 2 oil	19,500	14.51	6.50
Natural gas	21,800	16.04	9.91
Manufactured gas	18,500	11.83	10.16
Propane	21,500	15.60	8.00
Butane	20,890	15.38	7.30



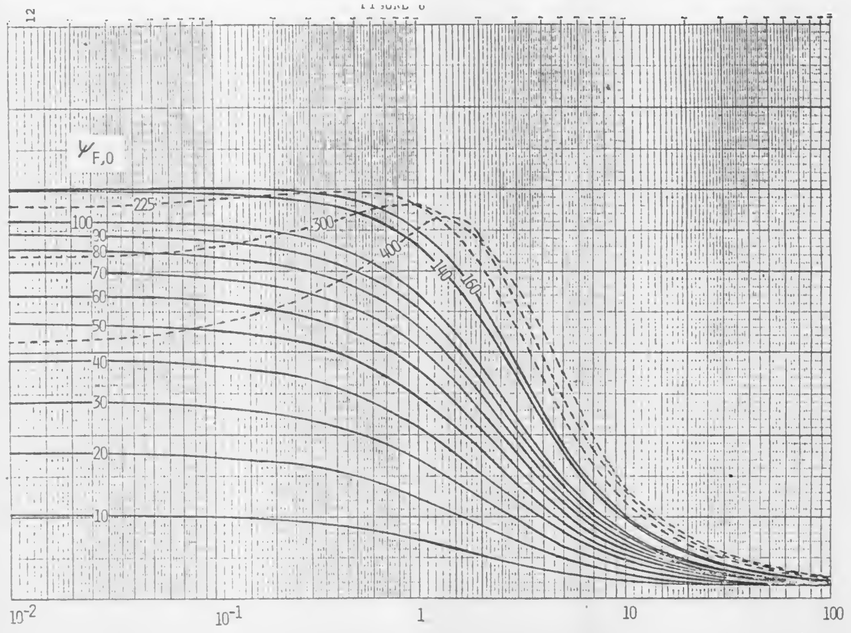
V 42 169 AUG 31 77 UMI







V42169 AUG 31 77 UMI



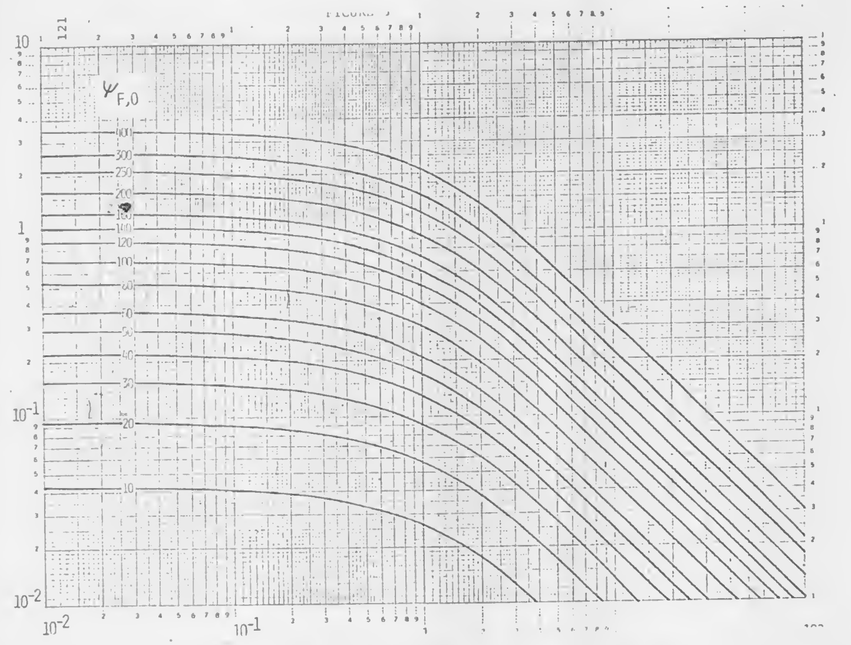


FIGURE 8

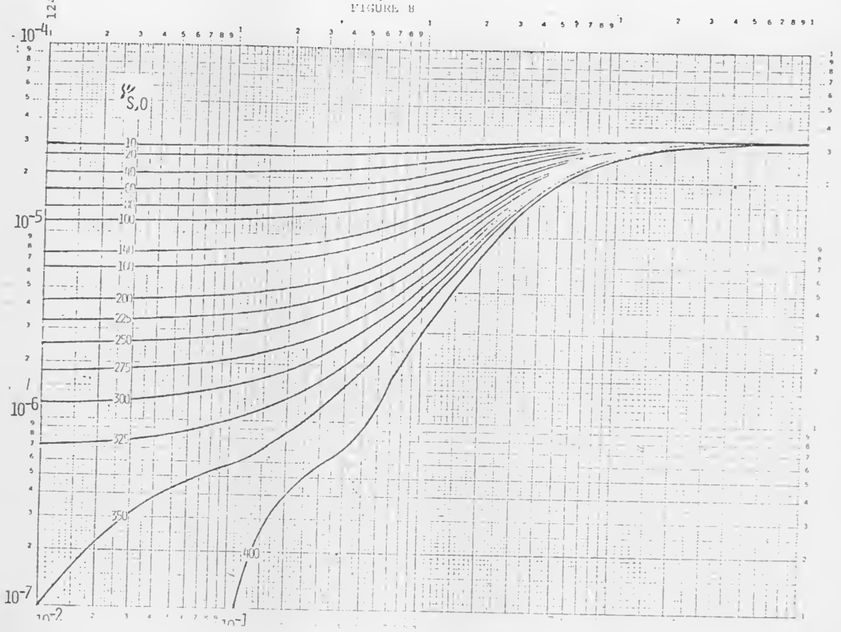
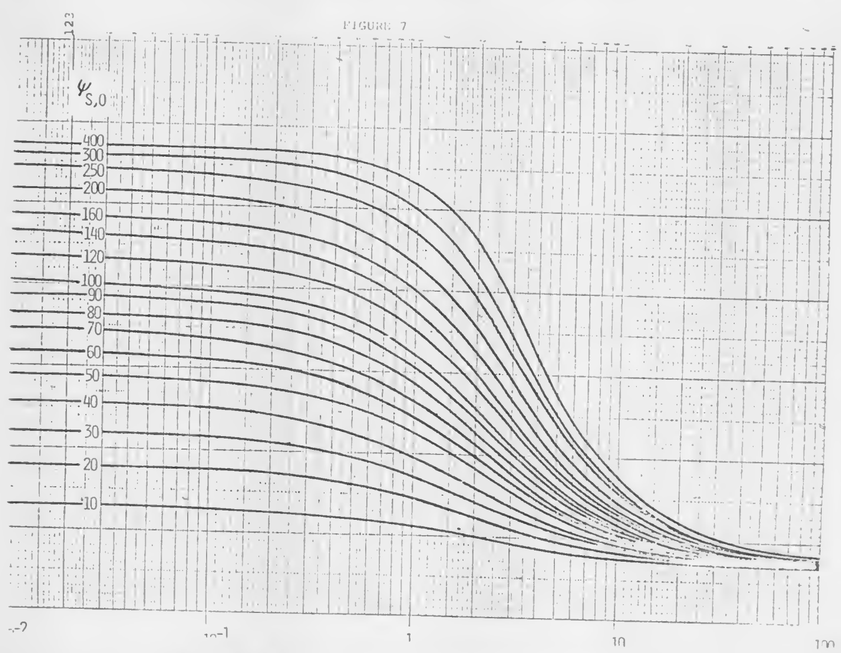


FIGURE 7



V42169A AUG 31 77 UMI

1	2	3	4	5	6	7	8
$SSSR$ (-)	T^{EQUIL} (-)	MHC Btu/lb$_m$	Q_{ref} Btu/hr.	Q_{ref} Btu/hr.	PE kJ	BE kJ	$^{\Delta}CD2-S$ F
9	10	11	12	13	14	15	16
$^{T}S,SS,X$ F	$^{\Delta}S,F$ F	$^{T}F,HC(C)2$ F	$^{T}F,HC(C)2$ F	$^{T}F,OFF(C)-2'$ F	$^{T}F,OFF(C)3$ F	$^{T}F,OFF^{L}4/$ F	$^{T}F,OFF(C)$ F
17	18	19	20	21	22		
L_J (-)	S/F (-)	L_F (-)	L_S (-)	δ (-)	α (-)		

Derived System Parameters

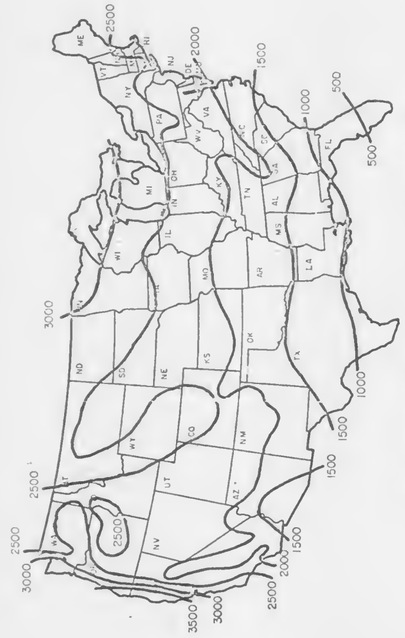
23	24	25	26	27	28	29	30
Fr (-)	$^{\Delta}HRA$ Btu/lb$_m$	A/F (-)	$L_{F,A}$ ft	$\frac{L}{L}$ ft	$R_{F}^{L}F$ (-)	$L_{S,SS}$ ft	^{n}SS F
31	32	33	34	35	36	37	38
$^{T}S,SS$ F	^{T}OH F	$^{T}H,O,X$ F	^{T}OFF minutes	$^{T}F,O,X$ F	$^{T}F,O,X$ F	$^{V}S,F,X$ F	$^{T}S,O,X$ F

39	40	41
^{n}S (-)	$^{\Delta}S,ON$ (C)/F	$^{\Delta}S,OFF$ (C)/F 0.37

42	43
$^{T}I,ON$ (C)/F	$^{T}I,OFF$ (C)/F 0.37

Calculation of System Losses and Annual Fuel Utilization Efficiency

44	45	46	47	48	49	50	51
^{T}OA F	^{t}ON minutes	^{t}OFF minutes	$^{t}ON/^{t}ON$ (-)	$^{t}OFF^{2}/^{t}OFF$ (-)	$^{T}F,O$ F	$^{V}F,O$ F	$^{V}F,=$ F
52	53	54	55	56	57	58	59
$^{T}S,O$ F	$^{T}S,=$ F	$f3$ R 0.37	$f4$ R=0.63	$f5$ R=0.37	$f6$ R=0.63	$f7$ R=0.63	$f8$ R=1.63
60	61	62	63	64	65	66	67
$L_{S,ON}$ %	$L_{S,OFF}$ %	$L_{I,ON}$ %	$L_{I,OFF}$ %	η_u %	DD °F-days	HR hours	EFF_A %



This map is reasonably accurate for most parts of the United States but is necessarily highly generalized, and consequently not too accurate in mountainous regions, particularly in the Rockies

[FR Doc.77-24958 Filed 8-30-77;8:45 am]

federal register

WEDNESDAY, AUGUST 31, 1977
PART VI



FEDERAL DEPOSIT INSURANCE CORPORATION

■

PRIVACY ACT OF 1974

Systems of Records

V42169 AUG 31 77 UMI

FEDERAL DEPOSIT INSURANCE CORPORATION

[26887]

PRIVACY ACT OF 1974

Notice of New Systems and Changes to Existing Systems of Records

Pursuant to the requirements of the Privacy Act of 1974, 5 U.S.C. 552a(e)(4), 88 Stat. 1896, 1899-1900, the Federal Deposit Insurance Corporation ("FDIC") published, on October 6, 1975, final notice of thirteen systems of records maintained by the FDIC (40 FR 46288). On December 3, 1975, the FDIC published notice of one additional system of records, thereby increasing its total number of systems to fourteen (40 FR 56479).

Since that time, the FDIC has discovered various needed changes in its systems of records. Therefore, on April 12, 1977, notice was published in the Federal Register (42 FR 19209) by the FDIC proposing to adopt two new systems of records, to withdraw one existing system of records, to adopt new routine uses for existing systems of records, and to revise the format of some existing systems of records. Interested parties were given the opportunity to submit, not later than May 12, 1977, data, views, and recommendations regarding the proposed notices. No unfavorable comments were received.

The FDIC's changes and amendments are numerous and, therefore, to avoid a piecemeal approach that may be confusing to the public, the FDIC is republishing its entire systems of records. Although no substantive changes have occurred to many of the systems, the format and wording have been revised in many instances. These changes are intended to clarify and more accurately reflect the information pertaining to the various systems.

Besides structural changes to the existing systems, the FDIC has found that one system, the "Employee Confidential Statements of Employment and Financial Interests," is encompassed by the Civil Service Commission's published notice of its systems of records (See 41 FR 42158). In order to avoid duplication and the resulting confusion to the public, this system is, therefore, being withdrawn from the FDIC's published notice of systems of records.

The FDIC also is publishing two new systems of records. The first new system is the "Medical Records and Emergency Contact Information System." This system was inadvertently overlooked when the FDIC originally published its systems of records. The system contains information compiled in the course of an FDIC employee's visit to the nurse's station of the Health Unit for medical aid. The information contained in this system is accessed only by the nurse and her substitute, and is maintained in order to aid the nurse in prescribing medical treatment.

The second system is titled the "Municipal Securities Principals and Representatives System." For many years participants in the offer and sale of municipal securities were exempted from regulation under the securities laws. In 1975, Congress changed this with the addition of a new Section 15B of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4). The amendments established a Municipal Securities Rulemaking Board ("MSRB"), and vested it with authority to promulgate rules for the municipal securities industry. However, the MSRB does not have authority to enforce its rules. This authority is distributed among several agencies, and the FDIC is responsible for enforcing compliance by insured State-chartered banks that are not members of the Federal Reserve System, and any subsidiaries, departments or divisions thereof, which are municipal securities dealers. 15 U.S.C. 78r. Under the amendments to the Securities Exchange Act, the MSRB is directed to promulgate rules regarding persons associated with municipal securities dealers as either municipal securities principals or representatives. Pursuant to this directive, the MSRB requires each municipal securities dealer to obtain certain background information on the individuals who are currently, or are seeking to be, associated with the dealer. The FDIC proposes to require each dealer, which is under FDIC supervision, to file with the FDIC a form explaining the background information for each person associated with the dealer as a municipal securities principal or representative. The "Municipal Securities Principals and Representatives System" will be the result of the data collection. In addition to using this system for its own enforcement, the FDIC, along with the Comptroller of the Currency and the Board of Governors for the Federal Reserve System for their respectively supervised dealers, would forward the information to the National Association of Securities Dealers ("NASD") for computer processing. The NASD currently maintains data on personnel in the securities industry, and it is expected that portions of disciplinary and qualification data supplied by the bank regulatory agencies will be interfaced with the existing NASD securities personnel data bank. Under this arrangement, the FDIC would have access to disciplinary, qualification and employment information on individuals who have moved between banking institutions or between banking institutions and general securities firms or nonbank municipal securities dealers. Access to such information would assist the FDIC in determining if a person is qualified to act as a municipal securities principal or representative. The FDIC also would provide a municipal securities dealer, for which the FDIC is the appropriate regulatory agency, with any disqualifying information contained in the system about a person seeking to be associated with the dealer as a principal or representative.

In addition to these new systems, there are two new routine uses for information contained in certain of the existing FDIC systems of records. The first of these will allow disclosure to the Civil Service Commission of personnel related records necessary to fulfill its program management responsibilities. In order to permit this disclosure, it is necessary for the Corporation to amend the routine use of each of its personnel related systems to provide for transmission to the Commission of personnel information necessary for its governmentwide studies of personnel management. The second new use will allow disclosure to a Congressional office in response to any inquiry from that office regarding the individual initiating that inquiry. This routine use is in order to assure that the Corporation's notices do not have the effect of denying individuals the benefit of Congressional assistance which they may request. It will be permitted only where the individual has initiated the inquiry in question.

A few technical corrections have been made to the systems of records as proposed on April 12, 1977. These proposed systems, with the corrections, are adopted as set forth below and are effective August 31, 1977.

By Order of the Board of Directors, June 27, 1977.

[SEAL]

Alan R. Miller,
Executive Secretary.

Systems of Records Maintained by the Federal Deposit Insurance Corporation

30—64—0001 Attorney-Legal Intern Applicant System. (This system is subject to exemption pursuant to 12 CFR Sec. 310.13(b), to the extent it contains information provided by confidential sources.)

30—64—0002 Bank, and Proposed Bank Irregularity Record System. (This system is subject to exemption pursuant to 12 CFR Sec. 310.13(a), to the extent it contains material compiled for law enforcement purposes.)

30—64—0003 Board of Directors' Actions System.

30—64—0004 Changes in Bank Control Ownership Records.

30—64—0005 Consumer Complaint and Inquiry Records.

30—64—0006 (Reserved)

30—64—0007 Employee Education System.

30—64—0008 (Reserved)

30—64—0009 Examiner Training and Education Records. (This system is subject to exemption pursuant to 12 CFR Sec. 310.13(c).)

30—64—0010 Graduate Fellowship Applications.

30—64—0011 Legal Compliance and Enforcement Records (This system is subject to exemption pursuant to 12 CFR Sec. 310.13(a), to the extent it contains material compiled for law enforcement purposes.)

30—64—0012 Payroll and Employee Financial Records.

30—64—0013 Savings Bond Payroll Deduction System.

30—64—0014 Travel Voucher System.

30—64—0015 Unofficial Personnel System.

30—64—0016 Municipal Securities Principals and Representatives System.

30—64—0017 Medical Records and Emergency Contact Information System.

30—64—0001

System name: Attorney—Legal Intern Applicant System—FDIC.

System location: Office of the General Counsel, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Categories of individuals covered by the system: Applicants for the position of attorney or legal intern with the General Counsel's office of the FDIC.

Categories of records in the system: Contains correspondence from the applicants and individuals whose names were provided by the applicants as references, applicants' resumes, application forms, and, in some instances, comments of individuals who interviewed applicants.

Authority for maintenance of the system: Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure of information may be made: (1) in requesting information of individuals or concerns whose names were supplied by the applicant as references and/or past or present employers; (2) to the Civil Service Commission concerning pay, benefits, retirement deductions, and other information necessary for the Commission to carry out its government-wide personnel management functions; (3) to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of the individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Indexed by name.

Safeguards: Maintained in locked metal file cabinets.

Retention and disposal: Records of unsuccessful applicants are retained two years after their submission; records of successful applicants are retained four years after the successful applicant leaves the employ of FDIC.

System manager(s) and address: General Counsel, Legal Division, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Notification procedure: Executive Secretary, Records Unit, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: The information is obtained from the applicants, references supplied by the applicants, current and/or former employers of the applicants, and FDIC employees who interviewed the applicants.

Systems exempted from certain provisions of the act: Pursuant to section 310.13(b) of the FDIC's Rules and Regulations, investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Corporation employment may be withheld from disclosure to the extent that disclosure of such material would reveal the identity of a source who furnished information to the Corporation under a promise of confidentiality.

30—64—0002

System name: Bank and Proposed Bank Irregularity Record System—FDIC.

System location: Operations Branch, Division of Bank Supervision, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Categories of individuals covered by the system: Directors, officers and employees of FDIC insured banks who have been involved in reported irregularities. Directors and officers of noninsured banks and organizers of proposed banks which have applied for Federal deposit insurance and who have been involved in reported irregularities. Customers of FDIC insured banks, and other individuals, who have been involved in reported irregularities at such banks. In addition, the system may contain information on individuals who have been the subject of background checks designed to uncover irregularities bearing on these individuals' fitness to be directors, officers, or employees of the banks or to control its management. These individuals may include the following: directors, officers and employees of FDIC insured banks; directors and officers of uninsured banks and organizers of proposed banks which have applied for Federal deposit insurance; and controlling shareholders of banks endeavoring to gain control over FDIC insured banks.

Categories of records in the system: Contains interagency correspondence, intra-agency memoranda and reports of investigation. May contain newspaper clippings. May contain Federal or State criminal law enforcement agency investigatory and/or arrest and conviction reports.

Authority for maintenance of the system: Secs. 5, 6, 9, 18 and 19 of the Federal Deposit Insurance Act (12 U.S.C. 1815, 1816, 1819, 1828, 1829).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) In the event that information contained in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal or State, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (2) In the event of litigation, the appropriate records may be presented to the appropriate court, magistrate, or administrative tribunal as evidence, or to counsel for the presentation of evidence and/or in the course of discovery; (3) Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of the individual; (4) Disclosure may be made to the bank affected by a discovered irregularity.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on file cards and in file folders.

Retrievability: Indexed by name.

Safeguards: Indexed cards and file folders are maintained in lockable metal cabinets.

Retention and disposal: Permanent retention with periodic review of contents of record and destruction, by shredder, of excess or outdated information.

System manager(s) and address: Director, Division of Bank Supervision, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Notification procedure: Executive Secretary, Records Unit, FDIC, 550 17th Street, NW., Washington, D.C. 20429. Inquiries must provide the full name of the inquirer. All inquiries must include a notarized statement attesting to the identity of the inquirer.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: FDIC insured banks and applicants for Federal deposit insurance; Federal and State banking supervisory authorities; Newspapers; Federal and State criminal law enforcement and prosecutorial agencies.

Systems exempted from certain provisions of the act: Pursuant to section 310.13(a) of the FDIC's Rules and Regulations, investigatory material compiled for law enforcement purposes, concerning irregularities involving officers, directors, employees, customers, or other individuals at FDIC insured banks; directors and officers of noninsured banks; or organizers of proposed banks which have applied for Federal deposit insurance, is exempted from the accounting provisions of section 310.10(d)(2) of the FDIC's Rules and Regulations and may be withheld from disclosure to the extent that such disclosure may interfere with the investigation and preparation of any civil, criminal, or administrative law enforcement proceedings. Federal criminal law enforcement investigatory reports maintained as part of this system may be the subject of exemptions imposed by the originating agency pursuant to 5 U.S.C. 552a(j)(2).

30—64—0003

System name: Board of Directors' Actions System—FDIC.

System location: Office of the Executive Secretariat, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Categories of individuals covered by the system: Individuals who have been subject to administrative actions by the FDIC Board of Directors.

Categories of records in the system: Contains minutes of the FDIC Board of Directors' meetings, intra-agency memoranda, orders of the Board of Directors, and correspondence with the subject individual.

Authority for maintenance of the system: Sec. 2, 8, and 19 of the Federal Deposit Insurance Act of (12 U.S.C. 1812, 1818, 1829); Sec. 506 of the Federal Records Act of 1950 (44 U.S.C. 3101).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of the individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Card file index and minute ledger.

Retrievability: Card files indexed alphabetically by name.

Safeguards: Card files are stored in lockable metal filing cabinets, minute ledgers are stored in vault.

V42169 AUG 31 77 UMI

Retention and disposal: Permanent.

System manager(s) and address: Executive Secretary, Records Unit, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Notification procedure: Same as System manager above.

Record access procedures: Same as System manager above.

Contesting record procedures: Same as System manager above.

Record source categories: Intra-agency records.

Systems exempted from certain provisions of the act: None.

30—64—0004

System name: Changes in Bank Control Ownership Records—FDIC.

System location: Operations Branch, Division of Bank Supervision, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Categories of individuals covered by the system: Individuals who have been involved in the change of bank control or ownership in FDIC insured banks and/or have obtained loans from insured banks, when such loans are secured by 25 percent or more of the outstanding stock of an insured bank.

Categories of records in the system: Contains the name of the individual seller or purchaser of shares of stock, the number of shares of stock involved and outstanding, the name of the bank whose control has changed, the purchase price of the stock, the names of beneficial owners if the shares are registered in another name, the total number of shares owned by the seller, purchaser, or beneficial owner both before and after the transaction. In the case of loans, contains the name and location of the lending bank, the name and address of the borrower, the amount of the loan and the name of the bank issuing the stock securing the loan and the number of shares securing the loan.

Authority for maintenance of the system: Sec. 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) The name of the bank whose control has changed, the seller and purchaser, and the number of shares involved may be distributed to periodicals for publication; (2) In the event that the system of records indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether Federal or State, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (3) In the event of civil, criminal, or administrative law enforcement proceedings, the relevant records may be disclosed to the appropriate court and/or counsel for purposes of discovery and the development of the proceedings; (4) Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of the individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders and on index cards.

Retrievability: Indexed by name.

Safeguards: Maintained in lockable metal filing cabinets.

Retention and disposal: Permanent retention.

System manager(s) and address: Director, Division of Bank Supervision FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Notification procedure: Executive Secretary, Records Unit, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: The bank in which control has changed and the bank which makes a loan secured by 25 percent or more of the outstanding voting stock of an insured bank.

Systems exempted from certain provisions of the act: None.

30—64—0005

System name: Consumer Complaint and Inquiry Records—FDIC.

System location: Office of Bank Customer Affairs, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Categories of individuals covered by the system: Consumers who have filed complaints or inquiries concerning activities and practices of FDIC insured banks.

Categories of records in the system: Contains consumers names and the nature of their complaints or inquiries. Contains correspondence and records of other communications between the FDIC and the customer, and may contain correspondence between the FDIC and the bank in question and/or Federal or State bank supervisory authorities. May contain copies of supporting documents supplied by the complainant and intra-agency memoranda.

Authority for maintenance of the system: Sec. 202 of Title II of the Federal Trade Improvement Act (15 U.S.C. 57a(f)); Sec. 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Since records are compiled and used for investigation and resolution of consumer inquiries and complaints, disclosure may be necessary to the institution which is the subject of the complaint; (2) Resolution of the complaint or inquiry may also require disclosure limited to the name of the inquirer and the nature of the inquiry, to third party sources during the course of the investigation; (3) Transmittal may be made to the Federal or State supervisory authority that has direct supervision over the financial institution that is the subject of the complaint; (4) In the event that the system of records indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system may be referred to the appropriate agency, whether Federal or State, charged with the responsibility of investigating or prosecuting such violations or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (5) In the event of civil, criminal or administrative proceedings, the relevant records may be disclosed to the appropriate court and/or counsel for purposes of discovery and the development of the proceedings; (6) Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of the individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders and on computer discs and tapes.

Retrievability: Indexed by name.

Safeguards: Maintained in lockable metal filing cabinets; computer tapes and discs are accessed only by authorized personnel.

Retention and disposal: Records are retained for three years after resolution or answer of the complaint and then correspondence files are destroyed by shredder, computer tapes and discs are erased.

System manager(s) and address: Director, Office of Bank Customer Affairs, FDIC, 650 17th Street, NW., Washington, D.C. 20429.

Notification procedure: Executive Secretary, Records Unit, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: The information is obtained from the individual on whom the record is maintained; institutions that are the subject of the complaint; the appropriate agency, whether Federal or State, with supervisory authority over the institution; Congressional offices that may initiate the inquiry; and other third party sources mentioned in "Routine use" above.

Systems exempted from certain provisions of the act: None.

30—64—0006

(Reserved)

30—64—0007

System name: Employee Education System—FDIC.

System location: Office of Education, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Categories of individuals covered by the system: All present and former FDIC employees.

Categories of records in the system: Contains the educational history of employees prior to their employment with the FDIC, and educational progression of employees while employed by the FDIC. Information includes employee's schools of attendance, courses completed or enrolled in, dates of attendance, tuition fees and expenses, and may include per diem and travel expenses.

Authority for maintenance of the system: Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); Exec. Order No. 9397, "Numbering System for Federal Accounts Relating to Individual Persons" (Nov. 22, 1943).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to: (1) the Civil Service Commission concerning pay, benefits, retirement deductions, and other information necessary for the Commission to carry out its government-wide personnel management functions; (2) to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of the individual; (3) to educational institutions for purposes of enrollment and verification of employee attendance and performance.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and computer discs.

Retrievability: File folders—alphabetically by name; computer discs—social security number.

Safeguards: File folders are stored in lockable metal cabinets, computer discs are accessed by only authorized personnel.

Retention and disposal: Permanent retention.

System manager(s) and address: Director, Office of Employee Relations, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Notification procedure: Executive Secretary, Records Unit, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: The information is obtained from the employee on whom the record is maintained and the training institution in which the employee is enrolled.

Systems exempted from certain provisions of the act: None.

30—64—0008

(Reserved)

30—64—0009

System name: Examiner Employment, Training, and Education Records—FDIC.

System location: Division of Bank Supervision Training Center, FDIC, 1701 N. Fort Myer Drive, Arlington, Virginia 22200.

Categories of individuals covered by the system: FDIC assistant examiners who have been candidates for determination of progress to become a commissioned bank examiner (Progress Evaluation Candidates). FDIC examiners who attend, or have attended, graduate schools of banking (Graduate School of Banking Students).

Categories of records in the system: Progress Evaluation Candidates—contains a statement of the candidate's education, home address, date and place of birth, and experience, a Report of Evaluation of a Progress Evaluation Panel, the consolidated findings of each Progress Evaluation Panel member, the candidate's case studies, basic work papers, and responses, and, in the case of an unsuccessful candidate, the candidate's complete work papers and responses, as well as the individual findings of each Progress Evaluation Panel member.

Graduate School of Banking Students—contains the student's name, enrollment data, record of attendance, record of completion or graduation and general correspondence between the FDIC and the student's school of enrollment.

Authority for maintenance of the system: Sec. 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to: (1) the Civil Service Commission concerning pay, benefits, retirement deductions, and other information necessary for the Commission to carry out its government-wide personnel management functions; (2) to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of the individual; (3) to educational institutions for purposes of enrollment and verification of employee attendance and performance.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All categories are stored in file folders.

Retrievability: All categories are indexed by name.

Safeguards: All categories are maintained in lockable metal filing cabinets.

Retention and disposal: Progress Evaluation Candidates' records maintained two years for the successful candidate and then destroyed by shredder, records of unsuccessful candidate retained until the candidate's successful completion or until the candidate leaves the FDIC's employ. Graduate School of Banking student records are permanently retained.

System manager(s) and address: Director, Division of Bank Supervision, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Notification procedure: Executive Secretary, Records Unit, FDIC, 550 17th Street, NW., Washington, D.C. 20429. Inquirers must provide their full name and identify the category or categories of which they are inquiring.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: Progress Evaluation Candidates—the candidate, the candidate's personnel record, and members of the candidate's Progress Evaluation Panel. Graduate School of Banking Students—the student, the student's school, and the student's personnel record.

Systems exempted from certain provisions of the act: Pursuant to section 310.13(c) of the FDIC's Rules and Regulations, testing material used solely to assess individual qualifications for appointment or promotion, the disclosure of which would compromise the objectivity or fairness of the testing, evaluation or examination process, may be withheld from disclosure.

30—64—0010

System name: Graduate Fellowship Applications—FDIC.

System location: Division of Management Systems and Economic Analysis, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Categories of individuals covered by the system: Applicants for FDIC fellowships for graduate study in banking, finance and economics.

Categories of records in the system: Contains correspondence from applicants and from individuals whose names were provided by the applicants as references, application forms, applicants' grade transcripts, samples of written work, and, in some instances, comments of individuals who interviewed applicants.

Authority for maintenance of the system: Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); Sec. 506 of the Federal Records Act of 1950 (44 U.S.C. 3101).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure of information on the applicant may be made: (1) in requesting information of individuals or concerns whose names were supplied by the applicant as references and/or past or present employers; (2) to the Civil Service Commission concerning pay, benefits, retirement deductions, and other information necessary for the Commission to carry out its government-wide personnel management functions; (3) to a Congressional office from the record of the individual in response to an inquiry from the Congressional office made at the request of the individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Indexed by name.

Safeguards: Maintained in metal file cabinets with a combination lock.

Retention and disposal: Supporting documents in applications of unsuccessful applicants are retained until completion of review and then destroyed. Complete files of fellowship winners are retained until the expiration of the fellowship grant periods.

System manager(s) and address: Director, Division of Management Systems and Economic Analysis, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Notification procedure: Executive Secretary, Records Unit, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: Information is obtained from the applicants, references supplied by the applicants, college documents, current and/or former employers, and FDIC employees who interviewed the applicants.

V 42 169 AUG 31 77 UMI

Systems exempted from certain provisions of the act: None.

30—64—0011

System name: Legal Compliance and Enforcement Records—FDIC.

System location: Office of the General Counsel, FDIC. 550 17th Street, NW., Washington, D.C., 20429.

Categories of individuals covered by the system: Directors or officers of FDIC insured State nonmember banks who have been the subject of an indictment, information or complaint for a felony involving dishonesty or breach of trust. Directors or officers of FDIC insured State nonmember banks who are suspected of committing violations of law, rule or regulation, or of a final cease-and-desist order, or of committing acts, omissions or practices constituting a breach of fiduciary duty. Individuals who have sought FDIC consent to serve as an officer, director, or employee of an FDIC insured State nonmember bank after having been convicted of a crime involving dishonesty or breach of trust.

Categories of records in the system: Contains the indictment, information, or complaint filed against the subject individual, and any court order or resolution of such indictment, information, or complaint. Contains newspaper clippings on subject individuals. Contains affidavits of the subject individual and bank employees. Contains intra-agency memoranda and general correspondence between the FDIC and the subject individual and/or his/her attorney. Contains final administrative orders issued by the FDIC.

Authority for maintenance of the system: Secs. 8 and 19 of the Federal Deposit Insurance Act (12 U.S.C. 1818, 1829).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) In the event that the system of records indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system may be referred to the appropriate agency, whether Federal or State, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (2) In the event of civil, criminal or administrative proceedings, the relevant records may be disclosed to the appropriate court, magistrate, or administrative tribunal as evidence, or to counsel for the presentation of evidence and/or in the course of discovery; (3) Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of the individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in a file folder and on computer discs.

Retrievability: Indexed by name.

Safeguards: Maintained in lockable metal filing cabinets in a secured room; computer discs are accessed by only authorized personnel.

Retention and disposal: Permanent retention.

System manager(s) and address: General Counsel, Legal Division, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Notification procedure: Executive Secretary, Records Unit, FDIC, 550 17th Street, NW., Washington, D.C. 20429. Inquirers must provide their full name and the name of the bank with which they were associated. Inquiries must include a notarized statement attesting to the individual's identity.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: Information is obtained from the individual on whom the record is maintained, the employer of the individual, newspaper articles, and individuals interviewing during the investigation. Federal and State prosecuting authorities and Federal and State financial institution supervisory authorities are also sources of information.

Systems exempted from certain provisions of the act: Pursuant to section 310.13(a) of the FDIC's Rules and Regulations, investigatory material compiled as a part of this system for law enforcement purposes is exempted from the accounting provision of section 310.10(d)(2) of the FDIC's Rules and Regulations and may be withheld from disclosure, to the extent that such disclosure may interfere with the investigation and preparation of any civil, criminal or administrative law enforcement proceedings.

30—64—0012

System name: Payroll and Employee Financial Records—FDIC.

System location: Accounting and Budget Branch, FDIC, 1709 New York Ave., NW., Washington, D.C. 20429 and the appropriate FDIC Regional Office for employees working out of field offices. (See Appendix A for the location of FDIC Regional Offices).

Categories of individuals covered by the system: All current and former FDIC employees.

Categories of records in the system: Consists of various forms and computer retrievable data which disclose employee: mailing address and home address; rate and amount of pay, leave, and hours worked, and leave balances; life insurnace, health insurance and retirement deductions; tax exemptions; and payroll deduction authorizations.

Authority for maintenance of the system: Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819): Exec. Order 9397, "Numbering System for Federal Accounts Relating to Individual Persons" (Nov. 22, 1943).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Information developed from these records is routinely provided to State, City, and Federal income tax authorities, including, at the Federal level, the Internal Revenue Service and the Social Security Administration, and, to other recipients, as authorized by the employee, including the United States Treasury Department, savings institutions, insurance carriers and charity funds; (2) Records are periodically made available for inspection to auditors employed by the General Accounting Office; (3) Relevant records in this system of records may be referred, as a routine use to the appropriate agency, whether Federal or State, charged with the responsibility of investigating or prosecuting any violation of law, rule or regulation: (4) In the event of litigation, relevant records may be presented to the appropriate court, magistrate, or administrative tribunal as evidence or to counsel for the presentation of evidence and/or in the course of discovery; (5) Disclosure may be made to the Civil Service Commission concerning pay, benefits, retirement deductions, and other information necessary for the Commission to carry out its government-wide personnel management functions; (6) Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of the individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, record cards and computer discs.

Retrievability: File folders and record cards indexed by name; computer discs are indexed by social security number.

Safeguards: File folders and record cards are stored in lockable metal cabinets; computer discs are accessed only by the authorized personnel.

Retention and disposal: Year-end trial balances (the individual earnings record) are retained during the employment and then transferred to the Federal Records Center, where the records are maintained indefinitely. Deduction authorizations and documents used to develop the records are retained for the period of use and up to an additional three years after which they are disposed of by shredding or burning.

System manager(s) and address: Controller, Office of the Controller, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Notification procedure: Executive Secretary, Records Unit, 550 17th Street, NW., Washington, D.C. 20429.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: The information is obtained from the employee on whom the record is maintained.

Systems exempted from certain provisions of the act: None.

30—64—0013

System name: Savings Bond Payroll Deduction Systems—FDIC.

System location: Accounting and Budget Branch, FDIC, 1709 New York Ave., NW., Washington, D.C. 20429.

Categories of individuals covered by the system: All current and former FDIC employees who have authorized payroll deductions for the purchase of United States Savings Bonds.

Categories of records in the system: Consists of the name and address of the employee; the amount of the employee's salary to be

withheld; the denomination of bond to be purchased; the series of the bond; the owner's name, address and social security number; the designated co-owner or beneficiary, and their social security number.

Authority for maintenance of the system: section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); Exec. Order 9397, "Numbering System for Federal Accounts Relating to Individual Persons" (Nov. 28, 1943).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made to: (1) the United States Treasury Department for the preparation of savings bonds; (2) to the Civil Service Commission concerning pay, benefits, retirement deductions, and other information necessary for the Commission to carry out its government-wide personnel management function; (3) to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of the individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, index cards, and computer discs.

Retrievability: File folders and record cards are indexed by name; computer discs are indexed by social security number.

Safeguards: File folders and record cards are stored in lockable metal cabinets; computer discs are accessed only by authorized personnel.

Retention and disposal: Records are retained for two years and then destroyed.

System manager(s) and address: Controller, Office of the Controller, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Notification procedure: Executive Secretary, Records Unit, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: The information is obtained from the employee on whom the record is maintained.

Systems exempted from certain provisions of the act: None.

30—64—0014

System name: Travel Voucher System—FDIC.

System location: Accounting and Budget Branch, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Categories of individuals covered by the system: FDIC employees who travel on official business.

Categories of records in the system: Contains records relating to employee's claims for reimbursement of official travel expenses including travel authorizations, advances, and vouchers showing amounts claimed, exceptions taken as a result of audit, advance balances applied, and amounts paid.

Authority for maintenance of the system: Sec. 10(a) of the Federal Deposit Insurance Act (12 U.S.C. 1820(a)); Travel Expense Act of 1949 (5 U.S.C. 5701-5709); Exec. Order 9397, "Numbering System for Federal Accounts Relating to Individual Persons" (Nov. 22, 1943).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Records are periodically made available for inspection to auditors employed by the General Accounting Office; (2) In the event that information contained in this system of records indicates a violation or potential violation of the law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, or State, charged with the responsibility of investigating, or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (3) In the event of litigation, the records may be presented to the appropriate court, magistrate, or administrative tribunal as evidence or to counsel for the presentation of evidence and/or in the course of discovery; (4) Disclosure may be made to the Civil Service Commission concerning pay, benefits, retirement deductions, and other information necessary for the Commission to carry out the government-wide personnel management function; (5) Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of the individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and computer discs.

Retrievability: Files indexed by name; computer discs by social security number.

Safeguards: File folders stored in a lockable room; computer discs are accessed by only authorized personnel

Retention and disposal: Records are maintained for seven years, then file folders are shredded and computers discs are erased.

System manager(s) and address: Controller, Office of the Controller, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Notification procedure: Executive Secretary, Records Unit; FDIC, 550, 17th Street, NW., Washington, D.C. 20429.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: The information is obtained from the employee on whom the record is maintained.

Systems exempted from certain provisions of the act: None.

30—64—0015

System name: Unofficial Personnel System— FDIC.

System location: Personnel Branch, FDIC, 1709 New York Avenue, NW., Washington, D.C. 20429. In addition records are maintained at the Division or Office levels in the FDIC Washington Office and at the FDIC Regional Offices. (See Appendix A for the location of FDIC Regional Offices.)

Categories of individuals covered by the system: All current and former FDIC employees.

Categories of records in the system: This system consists of personnel-related records that are maintained in addition to those kept in the Official Personnel folder pursuant to the Federal Personnel Manual Suppl. 296-31, Table 8, Sec. 1. (The records contained in the Official Personnel Folder are covered, with regard to the Privacy Act of 1974, by the Civil Service Commission's published "General Personnel Records," C.S.C./Gov.-3, notice.) This system contains records of various types. They are: (1) records maintained in the Washington and regional offices which may contain information on individuals relating to: birthday; Social Security Number; past and present salaries, grades, and position titles; home address and telephone number; emergency contacts, addresses and telephone numbers; employment history; original applications, resume, and letters of reference; statement of bank loans and stock ownership; record of equipment and material issued to the individual; record of leave and time-and-attendance; written notes or memoranda on employee performance; counseling; and data documenting reasons for personnel actions, decisions, or recommendations made about an employee; (2) parking permit records containing information (name, address, and type of automobile) about FDIC employees who have applied for (or are members of the applicants' carpool) a parking permit in the FDIC's Washington Office garage; (3) American Red Cross blood donor records containing information including donors name, Social Security Number, date of birth, age, sex, home address and phone number, whether the donation was accepted, and whether the Red Cross would recruit the donor again for blood; (4) FDIC personnel awards including information supporting the employee's nomination for one of these awards; (5) dental insurance records including information on earnings, number and name of dependents, sex, birth date, home address, and Social Security Number; and (6) employee locator records containing the employee's name, Social Security Number, Division or Office assignment, office telephone number and office room number.

Authority for maintenance of the system: Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1819); Sec. 506 of the Federal Records Act of 1950 (44 U.S.C. Sec. 3101).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: With regard to category (1) above, the records are primarily maintained to be used by the employee's supervisor for preparation of general personnel action; however, in the case of categories (1), (2), and (4) disclosure may be made, where relevant:

(a) to financial and credit institutions for loan and credit reference purposes (solely to verify the employee's employment with the FDIC, date of employment, and pay grade);

(b) to the Civil Service Commission in the event of any grievance procedures;

V 42169 AUG 31 77 UMI

(c) to the Civil Service Commission concerning pay, benefits, retirement, deductions, and other information necessary for the Commission to carry out its government-wide personnel management functions;

(d) in the levent of litigation, to the appropriate court, magistrate, or administrative tribunal as evidence, or to counsel for the presentation of evidence and/or in the course of discovery;

(e) to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of the individual;

(f) to State authorities regarding reasons for a former employee's separation from FDIC service, where the inquiry is made pursuant to the former employee's application for unemployment compensation;

(g) to Federal and State regulatory agencies, for reasons related to FDIC business, as to the temporary work location of FDIC bank examiners.

In the case of category (3) above, disclosure may be to the American Red Cross from the information contained in the blood donor records. Disclosure may be made, in the case of category (5) above, to the dental insurance carrier in support of a claim for dental insurance benefits. In category (6) above, except for the employee's Social Security Number, all information in the record is available to the public.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on file cards and in file folders. Category (6) is maintained on computer discs.

Retrievability: Indexed alphabetically by name.

Safeguards: Maintained in lockable metal cabinets.

Retention and disposal: Records are destroyed when no longer relevant to the purpose for which they were compiled and maintained. Generally, records are destroyed when the employee no longer works in the Division or Office which compiled and maintained the information. Parking permit records are kept for one year and then destroyed. American Red Cross blood donor records are kept for four years and then destroyed.

System manager(s) and address: Director, Office of Employee Relations, FDIC, 550 17th Street, NW., Washington, D.C. 20429, for Corporation level records. For FDIC Division or Office levels, the Head of the appropriate Division or Office; for FDIC Regional Offices, the Regional Director. (See Appendix A for the location of FDIC Regional Offices); For Parking Permit Records and Employee Locator Records, the Controller, Office of the Controller, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Notification procedure: Executive Secretary, Records Unit, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: Individuals to whom the records pertain; their immediate supervisors or persons at other supervisory levels; other fellow employees.

Systems exempted from certain provisions of the act: None.

30—64—0016

System name: Municipal Securities Principals and Representative System—FDIC.

System location: Operations Branch, Division of Bank Supervision, FDIC, 550 17th Street, NW., Washington, D.C. 20429. Records stored in computerized files are maintained off premises on a contract basis with the National Association of Securities Dealers, 1735 L Street, NW., Washington, D.C. 20036.

Categories of individuals covered by the system: Persons who are or seek to be a municipal securities principals or municipal securities representatives associated with municipal securities dealers which are FDIC insured State banks, not members of the Federal Reserve System, or are a subsidiary, a department, or a division of such bank.

Categories of records in the system: These records may contain identifying information as well as educational, employment, and disciplinary information, if any, and, where applicable, information regarding termination of employment of individuals covered by the system. Identifying information includes name, addresses, date and place of birth, and may include social security account number.

Authority for maintenance of the system: Sections 15B, 23 and 32(a) of the Securities Exchange Act of 1934, as amended (15 U.S.C. Sec. 78), and Section 2 of the Federal Reports Act of 1942 (44 U.S.C. Sec. 3501).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records may be used: (1) To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate governmental authority, whether Federal, State, local, or foreign, or a self-regulatory organization, as defined in Section 3(a)(26) of the Securities Exchange Act of 1934 (15 U.S.C. Sec. 78c(a)(26)); (2) To refer, in the event of litigation, whether civil, criminal, or regulatory in nature, to the appropriate court, magistrate, or administrative law judge as evidence, or to counsel for the presentation of evidence and/or in the course of discovery; (3) To assist in any proceeding in which the Federal securities or banking laws are in issue or a proceeding involving the propriety of a disclosure of information contained in the information, in which the FDIC or one of its past or present employees is a party; (4) To disclose to a Federal, State, local, or foreign governmental authority or a self-regulatory organization if necessary in order to obtain information relevant to a Federal Deposit Insurance Corporation inquiry concerning a person who is or seeks to be associated with a municipal securities dealer described in Categories of individuals covered by the system as as municipal securities principal or representative; (5) To respond to a request from a Federal, State, local, or foreign government authority or a self-regulatory organization for information in connection with the issuance of a license or other benefit to the extent that such information is relevant and necessary; (6) To disclose to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual; (7) To disclose to a registered dealer, a registered broker or a registered municipal securities dealer that is a past or present employer of an individual that is the subject of a record, or to which such individual has applied for employment, for purposes of identity verification or for purposes of investigating the qualifications of the subject individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders and on computer discs.

Retrievability: Indexed by name.

Safeguards: File folders are stored in locked metal cabinets and computer discs are accessed only by authorized personnel.

Retention and disposal: Permanent retention with periodic review of contents of record and destruction of excess and dated information.

System manager(s) and address: Director, Division of Bank Supervision, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Notification procedure: Executive Secretary, Records Unit, FDIC, 550 17th Street, NW., Washington, D.C. 20429. Inquirers must provide the full name, date, and place of birth of the inquirer. Inquirers may be required to include a notarized statement attesting to identity.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: Individuals on whom the records are maintained as well as municipal securities dealers described in Categories of individuals covered by the system and Federal, State, local, and foreign governmental authorities and self-regulatory agencies which regulate the securities industry.

Systems exempted from certain provisions of the act: None.

30—64—0017

System name: Medical Records and Emergency Contact Information System—FDIC.

System location: Health Unit, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Categories of individuals covered by the system: Medical records of the employee, including the date of visit to the Health Unit, the diagnosis, and the treatment administered. Attached to this record is a separate sheet containing the name and telephone number of the person to contact in the event of an emergency involving the employee.

Authority for maintenance of the system: Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1819); Sec. 506 of the Federal Records Act of 1950 (44 U.S.C. Sec. 3101).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: No disclosure (including intra-agency disclosure) of information contained in the medical files is made without the prior written consent of the employee concerned. In the event of an emergency, the emergency contact would be notified.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: On 8" x 10" cards with a separate emergency contact sheet attached to it.

Retrievability: Indexed alphabetically by name.

Safeguards: Kept in lockable metal cabinets in the nurse's office of the Health Unit. Only the nurse and substitute nurse are allowed access to the files. The Health Unit is locked whenever the nurse is absent.

Retention and disposal: Kept for the duration of the employee's tenure with the FDIC, and for 5 years thereafter, then destroyed.

System manager(s) and address: Director, Office of Employee Relations, 550 17th Street, NW., Washington, D.C. 20429.

Notification procedure: Executive Secretary, Records Unit, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

Record access procedures: Same as "Notification" above.

Contesting record procedures: Same as "Notification" above.

Record source categories: The medical records are compiled by the employee and the nurse during the course of visits to the Health Unit for treatment. The information on the emergency contact sheet is supplied by the employee.

Systems exempted from certain provisions of the act: None.

APPENDIX A

FEDERAL DEPOSIT INSURANCE CORPORATION REGIONAL OFFICES

Atlanta Regional Office, FDIC
2 Peachtree Street, NW.
Suite 3030
Atlanta, Georgia 30303

Boston Regional Office, FDIC
2 Center Plaza, Room 810
Boston, Massachusetts 02108

Chicago Regional Office, FDIC
Sears Tower, 233 S. Wacker Dr.
Suite 6116
Chicago, Illinois 60606

Columbus Regional Office, FDIC
37 West Broad Street
Suite 600
Columbus, Ohio 43215

Dallas Regional Office, FDIC
300 North Ervay Street
Suite 3300
Dallas, Texas 75201

Madison Regional Office, FDIC
1st Wisconsin Plaza
1 South Pinckney St.
8th Floor
Madison, Wisconsin 53703

Memphis Regional Office, FDIC
165 Madison Avenue
Suite 1010
Memphis, Tennessee 38103

Minneapolis Regional Office, FDIC
730 Second Avenue, South
Suite 266
Minneapolis, Minnesota 55402

New York Regional Office, FDIC
345 Park Avenue
21st Floor
New York, New York 10022

Omaha Regional Office, FDIC
1700 Farnam Street
Suite 1200
Omaha, Nebraska 68102

Philadelphia Regional Office, FDIC
5 Penn Center Plaza
Suite 2901
Philadelphia, Pennsylvania 19103

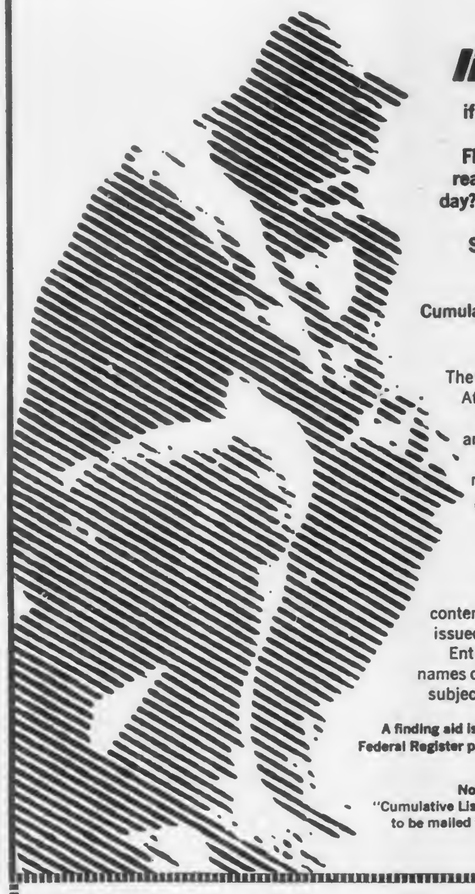
Richmond Regional Office, FDIC
906 E. Main Street
Suite 435
Richmond, Virginia 23219

St. Louis Regional Office, FDIC
720 Olive Street
Suite 2909
St. Louis, Missouri 63101

San Francisco Regional Office, FDIC
44 Montgomery Street
Suite 2600
San Francisco, California 94104

[FR Doc.77-18830 Filed 8-30-77;8:45 am]

V42169 AUG 31 77 UMI



would you like to know

if any changes have been made in certain titles of the CODE OF FEDERAL REGULATIONS without reading the Federal Register every day? If so, you may wish to subscribe to the "Cumulative List of CFR Sections Affected," the "Federal Register Index," or both.

Cumulative List of CFR Sections Affected
$10.00
per year

The "Cumulative List of CFR Sections Affected" is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register, and is issued monthly in cumulative form. Entries indicate the nature of the changes.

Federal Register Index **$8.00**
per year

Indexes covering the contents of the daily Federal Register are issued monthly, quarterly, and annually. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

Note to FR Subscribers: FR Indexes and the "Cumulative List of CFR Sections Affected" will continue to be mailed free of charge to regular FR subscribers.

Mail order form to:
Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

There is enclosed $_____ for _____ subscription(s) to the publications checked below:

..... **CUMULATIVE LIST OF CFR SECTIONS AFFECTED ($10.00 a year domestic; $12.50 foreign)**
..... **FEDERAL REGISTER INDEX ($8.00 a year domestic; $10.00 foreign)**

Name _____

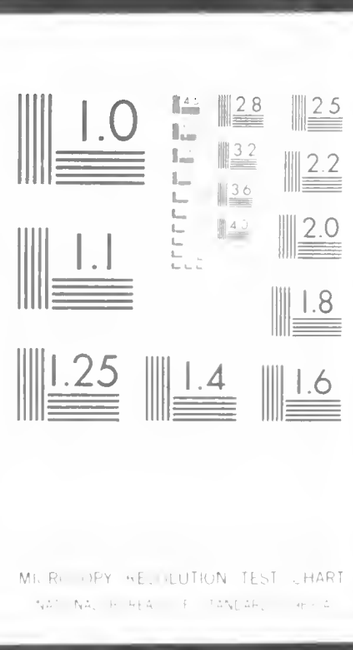
Street Address _____

City _____ **State** _____ **ZIP** _____

Make check payable to the Superintendent of Documents

V 42 1 69 AUG 31 77 UMI

RESOLUTION CHART



100 MILLIMETERS

INSTRUCTIONS Resolution is expressed in terms of the lines per millimeter recorded by a particular film under specified conditions. Numerals in chart indicate the number of lines per millimeter in adjacent "T-shaped" groupings.

In microfilming, it is necessary to determine the reduction ratio and multiply the number of lines in the chart by this value to find the number of lines recorded by the film. As an aid in determining the reduction ratio, the line above is 100 millimeters in length. Measuring this line in the film image and dividing the length into 100 gives the reduction ratio. Example: the line is 20 mm. long in the film image, and 100 ÷ 20 = 5.

Examine "T-shaped" line groupings in the film with microscope, and note the number adjacent to finest lines recorded sharply and distinctly. Multiply this number by the reduction factor to obtain resolving power in lines per millimeter. Example: 7.9 group of lines is clearly recorded while lines in the 10.0 group are not distinctly separated. Reduction ratio is 5, and 7.9 x 5 = 39.5 lines per millimeter recorded satisfactorily. 10.0 x 5 = 50 lines per millimeter which are not recorded satisfactorily. Under the particular conditions, maximum resolution is between 39.5 and 50 lines per millimeter.

Resolution, as measured on the film, is a test of the entire photographic system, including lens, exposure, processing, and other factors. These rarely utilize maximum resolution of the film. Vibrations during exposure, lack of critical focus, and exposures yielding very dense negatives are to be avoided.